UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS
SECOND SESSION

VOLUME 122—PART 13

MAY 25, 1976 TO JUNE 3, 1976
(PAGES 15251 TO 16632)

MAR 12 1979

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1976

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

SENATE—*Tuesday, May 25, 1976*

The Senate met at 10 a.m. and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of all grace and goodness, we seek Thee because Thou hast first sought us. Our hearts are ever restless until they rest in Thee. Thou art the home of our souls when we are most truly ourselves. We would know Thy nearness amid the uncertainties, contentions, and contests of these decisive days. Spare us from despair, defeatism, frustration, or acceptance of less than the best. Work through us Thy purposes for this Nation and the world. Confirm our faith in that spiritual power at the heart of the universe which works for justice and righteousness, however frail our human efforts. May we feel each hour the upward tug of God-inspired hope and the luminous vision of Thy coming kingdom.

We pray in the name of the King of Kings and Lord of Lords. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 25, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 24, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet today until 12 noon, or the end of morning business, whichever comes later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMODITY FUTURES TRADING COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 850.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3051) to amend the Commodity Futures Trading Commission Act of 1974, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

SECTION 1. Section 2(a) (5) of the Commodity Exchange Act, as amended (7 U.S.C. 4a), is amended by striking out ", by and with the advice and consent of the Senate,".

SEC. 2. Section 4c of the Commodity Exchange Act, as amended (7 U.S.C. 6c), is amended by striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved".

SEC. 3. Section 4g(3) of the Commodity Exchange Act, as amended (7 U.S.C. 6g), is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

SEC. 4. Section 4n of the Commodity Exchange Act, as amended (7 U.S.C. 6n), is amended by striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively.

SEC. 5. Section 4o(1) of the Commodity Exchange Act, as amended (7 U.S.C. 6o), is amended by striking out "registered under this Act" and inserting in lieu thereof the following: "who is or should be registered under this Act".

SEC. 6. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend the Commodity Exchange Act, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–894), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND AND NEED FOR LEGISLATION

I

The Commodity Futures Trading Commission Act of 1974 made extensive changes in the Commodity Exchange Act, bringing under Federal regulation all agricultural and other commodities, goods, and services traded on exchanges, and otherwise strengthening the regulation of the Nation's $600 billion commodity futures industry. The Commodity Exchange Act is designed to insure fair practices and honest dealing on the commodity exchanges.

Perhaps the most significant change made by the 1974 Act was the creation of the Commodity Futures Trading Commission, an independent regulatory agency consisting of a Chairman and four other Commissioners.[1] The Act requires that the Commissioners be appointed by the President, by and with the advice and consent of the Senate.

S. 3051 makes certain technical changes in law to facilitate the regulation of futures trading by the Commodity Futures Trading Commission. S. 3051 is legislation requested by the Commission.

II

The 1974 Act provides, among other things, that the Commission is to have "an Executive Director, who shall be appointed by the Commission, by and with the advice and consent of the Senate, and serve at the pleasure of the Commission."

In approving the Commodity Futures Trading Commission Act of 1974 on October 23, 1974, President Ford stated that the Act provided for the appointment of the executive director in a manner not contemplated by the Constitution.

In *Buckley* v. *Valeo*, 96 Sup. Ct. 612 (1976), the Supreme Court held that the Federal Election Commission could not perform Executive Branch functions and at the same time have members of the Commission appointed by Congress. The Court, in holding that the method of appointing the Commission violated the separation of powers, considered the Appointments Clause of the Constitution (Article II, Clause 2) and concluded that—

---

[1] The Commission's report of its activities during its first year of operation is contained in Appendix 1 of this report.

> "Unless their selection is elsewhere provided for in the Constitution, all officers of the United States are to be appointed in accordance with the Clause. Principal officers are selected by the President with the advice and consent of the Senate. Inferior officers Congress may allow to be appointed by the President alone, by the heads of departments, or by the judiciary. No class or type of officer is excluded because of its special functions. 96 Sup. Ct. at 688."

The existing law for the appointment of the executive director of the Commodity Futures Trading Commission does not, of course, violate the doctrine of the separation of powers. However, to remove any Constitutional question regarding the appointment of the executive director, S. 3051 deletes the requirement that the appointment be made "by and with the advice and consent of the Senate".

III

S. 3051 also would enable the Commodity Futures Trading Commission to grant "use" immunity to witnesses in proceedings before the Commission. The Commodity Exchange Authority, the agency which regulated futures trading prior to the enactment of the Commodity Futures Trading Commission Act of 1974, was able to grant such immunity since it was a division of the Department of Agriculture, an "executive department" within the context of section 6001 of title 18 of the United States Code.

S. 3051 would simply add the Commission to the list of agencies authorized to grant immunity according to provisions of title 18.

IV

S. 3051 also makes certain technical changes in the Commodity Exchange Act.

Section 4c of the Act is amended to make it conform with other provisions of the Act relating to the affirmative approval of exchange rules by the Commission. Prior to the enactment of the 1974 Act, rules were subject only to disapproval by the Secretary of Agriculture.

Section 4g(3) of the Act is amended to make it clear that floor brokers (not simply "brokers") are the persons required to maintain daily trading records in a special manner and form.

Section 4n of the Act is amended to delete the provisions that the registration of any commodity trading advisor or commodity pool operator is to "become effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine." It has been the experience of the Commission that 30 days is an insufficient period of time for the completion of a thorough fitness check of applicants.

Section 4o of the Act generally makes it unlawful for any commodity trading advisor or commodity pool operator "registered under this Act" to defraud any client or participant. S. 3051 strikes the phrase "registered under this Act" and substitutes therefor the phrase "who is or should be registered under this Act." The intent of section 4o would be thwarted if persons conducting themselves as commodity trading advisors or commodity pool operators could escape the applicability of the prohibitions in the section by not registering. The bill, therefore, makes it clear that the antifraud provisions apply to those persons who are required by the Act to be registered as trading advisors or pool operators but who have in fact not registered.

SECTION-BY-SECTION ANALYSIS

Section 1. Senate confirmation of CFTC Executive Director

Section 1 of the bill amends section 2(a)(5) of the Commodity Exchange Act by repealing the requirement that the appointment of the executive director of the Commodity Futures Trading Commission be subject to confirmation by the Senate.

Section 2. Approval of contract market rules

Section 2 of the bill conforms section 4c(a) of the Commodity Exchange Act with other provisions in the Act requiring the Commission's prior approval of contract market rules.

Section 3. Maintenance of trading records by floor brokers

Section 3 of the bill substitutes the words "Floor brokers" for "Brokers" in section 4g(3) of the Act, which requires the maintenance of daily trading records in a specified manner and form. The term "floor broker" is defined in section 2(a)(1) of the Act, and the word "broker" does not appear in any section of the Act other than section 4g(3).

Section 4. Registration of commodity trading advisors and commodity pool operators

Section 4 of the bill amends section 4n of the Commodity Exchange Act by repealing the provision that the registration of any commodity trading advisor or commodity pool operator is to become effective 30 days after the Commission's receipt of the application. The amendment will allow the Commission the same period of time to make fitness checks as is applicable to other commodity trading professionals under the Act. (The amendment is not in any way intended to delay the registration of applicants. The Commission is to complete fitness checks on all applicants as expeditiously as possible.)

Section 5. Antifraud provisions relating to commodity trading advisors and commodity pool operators

Section 5 of the bill amends section 4o of the Commodity Exchange Act to make it clear that the antifraud provisions in that commodity pool operators also apply to persons who are required by the Act to register as such but who have in fact not so registered.

Section 6. Grant of immunity to witnesses

Section 6 of the bill amends title 18 of the United States Code to enable the Commodity Futures Trading Commission to grant "use" immunity to witnesses appearing before the Commission, consistent with the practice of other independent regulatory agencies.

The **ACTING PRESIDENT** pro tempore. Does the acting minority leader seek recognition?

THE NOMINATION OF S. JOHN BYINGTON

Mr. **GRIFFIN**. Mr. President, I am deeply disappointed by the action of the Senate yesterday when, by a vote of 37 to 33, with 30 Senators absent, the nomination of John Byington to be a member of the Consumer Product Safety Commission was rejected. I am disappointed in the Senate for several reasons.

First, I know that Mr. Byington, being from my State and a personal acquaintance, is well qualified. Indeed, I know that he is better qualified than many other nominees who have been routinely approved by the Senate.

I am disappointed and disturbed by the Senate's action yesterday; and I wonder what it means. The President acceded to the desires of some on the Commerce Committee by withdrawing the nomination for a 7-year term and resubmitting it for a 2½-year term, recognizing that Congress would be concerned, perhaps, that the nomination would extend into the future for a considerable period of time. In view of the absence of any solid reason to vote against Mr. Byington other than that some did not feel he was enough of a consumer advocate, which seems to me a very tenuous kind of objection, I am even more concerned about the Senate's action. Are we going to have a crippled Government operating for the rest of this year, with nominees for office rejected on such a basis as this?

I rather suspect that many Senators voted automatically, without considering some of the implications of the outcome or without the opportunity either of looking into the qualifications of and so-called objections to Mr. Byington.

I think it was a sad day for the Senate. I hope that we will have the opportunity to reconsider this nomination, and that a majority of the Senate will see fit to correct the situation as it stands now.

Mr. **TAFT**. Mr. President, will the Senator from Michigan yield?

Mr. **GRIFFIN**. I am happy to yield to the Senator from Ohio.

Mr. **TAFT**. I appreciate the Senator's remarks. I, too, am disturbed by the decision here. I do not know what the implications are.

I do wish to bring up at the same time the fact that there has been pending before the Labor Subcommittee of the Committee on Labor and Public Welfare of the Senate the appointment of an attorney named Roger Uruchuk to the Legal Services Corporation Board. This gentleman has been to visit me; I know him personally; he is highly qualified and an eminent member of the bar. He has visited various members of the committee on both sides of the aisle. I know of no objections to him personally; but rather, there seems to be some feeling that apparently he does not fit some kind of a pattern apparently desired by some Members, so nothing has happened. There have been no hearings in which his name has been brought up, despite requests on my part, and I wonder, too, if this does not represent a pattern the Senate ought to take cognizance of at this time.

If a decision is being made along these lines, let us make it; but to leave these appointments hanging in the wind seems to me to be a very questionable policy as far as this body is concerned.

Mr. **GRIFFIN**. Mr. President, I appreciate the contribution of the Senator from Ohio. He calls to mind a number of other nominations pending in the Committee on Commerce. I know of one important nomination to the Interstate Commerce Commission, a Commission which needs to be at full strength and has a large amount of work to do. In that particular case, nothing has happened. The nominee was a very effective and able attorney general of the State of New Hampshire; yet no action has been taken.

Mr. President, it would be my hope

that we could have a vote on reconsideration tomorrow or Thursday at the latest, when the Senate would have a larger attendance and, could perhaps, recoup itself.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho (Mr. McClure) is recognized for not to exceed 15 minutes.

BUDGETARY IMPLICATIONS OF ECONOMIC FORECASTS

Mr. McCLURE. Mr. President, I take this time to discuss for a few minutes the implications of the budget process and some of the economic forecasts that have been made.

Mr. President, the new congressional budget process has, to date, yielded two budgets. In each case, those budgets contained massive deficits. In fiscal year 1976, the anticipated level of the deficit is approximately $76 billion, while in fiscal year 1977, the anticipated level of deficit exceeds $50 billion. The reduction in the deficit from one fiscal year to another is a trend which must be maintained. Federal deficits are basically consumption deficits rather than investment deficits. As such, over time, they reduce the rate of investment growth in the private sector and ultimately restrict job creation, productivity improvement and the potential for noninflationary economic growth.

The relationship between the performance of the economy and the level of the Federal deficit is now becoming widely understood. It is clear that the Federal Government will spend whatever the revenue structure will produce. It is also apparent that Federal expenditures are difficult to reduce in short term. Consequently, when the economy fails to perform at high levels of capacity, a revenue reduction in combination with an inflexible rate of expenditure growth spawns a deficit. This phenomenon is well illustrated by the fact that the Congressional Budget Office has estimated that had the economy been performing at its full potential and the unemployment rate been reduced to 4 percent, the fiscal 1976 deficit would not have been $76 billion, but would have rather been $800 million. There are many observers who hold a different view with respect to the magnitude of the above-mentioned figures, but no one will deny that a healthy economy, a growing economy, provides the best and most effective method by which deficit reduction may be achieved.

The need for budgetary balance is clear. In 16 of the last 20 years the Federal budget has been in deficit. As a result of these continued deficits, total Federal debt has doubled over the past 20 years. The national debt rose from $272 billion in fiscal 1956 to $623 in fiscal 1976. The Federal budget, which produced these deficits, developed its own disturbing trends. For example, an examination of the budget would indicate that total spending has grown at a faster rate than the economy as a whole. Therefore, the percentage of GNP devoted to Federal expenditures has increased from 17 percent of GNP in 1956 to 24 percent of GNP in 1976. Within this expanding percentage, certain trends in expenditures and receipts have been established. For example, defense spending has declined as a percentage of total spending, and payments to individuals, State, and local governments have risen. Payroll taxes have become a more important source of Federal revenue, while corporate and excise taxes have declined as a percentage of that revenue.

While deficits have been the rule rather than the exception during the past 20 years, we are not condemned to future deficits except as a matter of choice.

The Congressional Budget Office has constructed a projection of Federal revenues and expenditures from 1977 through 1981. I will submit that analysis of that projection for the Record. Those CBO projections indicate that as we move from 1977 through 1981, revenues and expenditures come closer together and budgetary balance is nearly achieved, under either path A or path B economic assumptions, by the year 1981. The figures themselves have been constructed on a current policy base, or on the assumption that existing spending and taxing policies are unchanged, and no new initiatives in a legislative sense or in a tax sense are adopted over the period. To be more specific, the CBO assumes that present tax provisions remain in force. With respect to spending programs, CBO has made three assumptions. First, all programs are extended except those programs which are clearly temporary, such as study commissions. Thus, general revenue sharing and temporary employment assistance programs are assumed to be renewed. Second, the CBO assumes that all programs are adjusted for inflation except in those few cases where present law fixes dollar ceilings. Finally, CBO assumes that interest on the public debt and social security payments respond to assumed economic conditions and demographic changes in the future, as they have done in the past.

The budgetary scenario which is presented by CBO indicates that spending will increase some 50 percent; or at an average annual rate of 8 percent. Therefore, Federal expenditures will rise from $375 billion in fiscal year 1976 to approximately $560 billion in fiscal year 1981. Receipts rise somewhat more rapidly than do expenditures due to the effect of inflation within the context of our progressive tax structure. Thus, the share of Federal revenues accounted for by income tax collections rises from 44 percent in fiscal year 1976 to over 50 percent of Federal revenues in 1981. Likewise, the share of total revenue derived from the corporate profits tax rises slightly by 1981. The relative growth in collections from payroll taxes ceases. The CBO report then concludes:

> Under the economic assumptions of Path B, deficits continue through Fiscal Year 1981 although they would decrease in size.

In short, if we are to achieve near budgetary balance by 1981, we must have a level of growth in the economy which is compatible with the projections of CBO. In addition, we must assume that no net new spending initiatives are generated at the Federal level. It can be seen that the achievement of a balanced budget as far away as 1981 is very dependent on an expanding economy.

Let me turn briefly then to a review of the leading econometric forecasts relating to the levels of economic growth which can be anticipated in 1976 and 1977. Let me note at this point that Path B economic assumptions do not represent a CBO foreuast of the actual behavior of the economy. It simply provides a high growth context within which to view revenue and expenditure developments over the period 1977 through 1931. However, we should note that to the extent that actual economic performance fails to meet the CBO scenario assumed in Path B, Federal revenues and expenditures will be quite different than those depicted by CBO. That is to say revenues may be lower and outlays higher. Path B assumes an average rate of real economic growth throughout the forecast period of about 5 percent. It assumes an unemployment rate of less than 6 percent, and an inflation rate somewhat lower than 7 percent. Thus, it assumes current dollar growth in GNP of approximately 11 percent per year.

Econometric model forecasts are now available which project the performance of these same key elements through the final quarter of 1977. It is interesting to note that while CBO's assumptions tend to be compatible with these forecasts for calendar 1976, the forecasts diverge significantly from CBO's assumptions for calendar year 1977. For example, CBO Path B assumes that real economic growth from the fourth quarter of 1976 to the end of 1977 will range between 5 and 6½ percent. The major models project growth rates between 3.9 and 5.1 percent for the same period.

Mr. President, I ask unanimous consent that table I, entitled "Annual Growth Rates—Real GNP," be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Table 1—Annual growth rates—real GNP

	1975:4–1976	*1976:4–1977:4*
Wharton	5.56	3.44
DRI	5.70	5.12
Chase	5.95	3.93
CBO	5.5–7.0	5.0–6.5

Mr. McCLURE. Mr. President, in much the same way, CBO's assumptions with respect to inflation in 1977 are seriously understated. CBO assumes inflation rates of 4.7 to 6.2 percent for the calendar year 1977, while the other major forecasts predict inflation rates from 5.9 to 7.3 percent for the same period.

Mr. President, I ask unanimous consent that table II, relating to "Annual Rate of Change of GNP Deflator," be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE II

Annual rate of change of GNP deflator

	1975:4–1976:4	1976:4–1977:4
Wharton	7.42	7.27
DRI	5.03	5.89
Chase	5.34	6.68
CBO	5.0–6.5	4.7–6.2

Mr. McCLURE. Mr. President, it is important to recognize that none of the major models, to include CBO's own forecast, conform to the economic assumptions implicit in path B's approach to budget balance in 1981.

It is my position that a balanced budget must be achieved long before 1981. A balanced Federal budget will provide for a level of private investment which can spark rates of economic growth consistent with full employment and rising real incomes. It is within the power of this Congress to insure a balanced Federal budget no later than fiscal 1979. But, the Congress cannot rely-solely on an improving economy to bail out the budget in the sense of creating a growth in Federal revenues which is consistent with the achievement of budgetary balance. If we are to achieve a balance in the budget, we must know function-by-function what it is that drives expenditures ever upward.

For example, a particular function within the budget may be driven almost totally by legislation as is function 300—natural resources and the environment. Another functional total in the budget may be driven totally by economic conditions. For example, the interest function, function 900. In certain instances, the function may be driven by a combination of the legislative base which exists and economic conditions which prevail. Such would be the case for function 600—income maintenance.

Once the Congress understands those factors which determine the level of expenditures within each function of the budget, we may approach the goal of a balanced budget by setting interim targets for growth in particular functions in 1978 and 1979. Those goals or caps will demand in some cases substantive legislative change. To the extent that Congress is unable or unwilling to engage in such a process, a balanced budget becomes highly unlikely.

Mr. President, I ask unanimous consent to have several tables printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FEDERAL BUDGET OUTLAYS FISCAL YEAR 1975 AND ESTIMATED OUTLAYS FISCAL YEARS 1976-81 UNDER PATH A AND PATH B ECONOMIC ASSUMPTIONS

[Billions of dollars, fiscal years]

Source	Path A economic assumptions							
	1975 actual	1976 estimate	Transition quarter estimate	Projections				
				1977	1978	1979	1980	1981
Path A—6 percent real GNP growth:								
National defense	86.6	91.9	24.8	103.4	115.0	119.6	130.8	141.3
Benefit payments for individuals	141.4	165.5	43.7	180.5	192.9	213.3	235.5	261.0
Grants to State and local governments	34.7	45.7	13.1	49.6	51.6	51.9	51.6	52.6
Net interest	23.3	26.9	7.9	32.1	34.9	35.4	36.5	37.5
Other Federal operations	38.6	44.9	12.2	53.6	54.9	60.2	64.3	68.0
Total budget outlays	324.6	374.9	101.7	419.4	449.2	480.4	518.7	560.4
	Path B economic assumptions							
Path B—5 percent real GNP growth:								
National defense	86.6	91.9	24.8	103.4	114.5	118.0	127.2	135.6
Benefit payments for individuals	141.1	165.5	43.7	184.8	203.3	221.5	239.6	258.0
Grants to State and local governments	34.7	45.7	13.1	50.5	52.9	53.4	52.6	52.1
Net interest	23.3	26.9	7.9	33.2	39.4	43.9	48.3	51.6
Other Federal operations	38.6	44.9	12.2	52.6	54.4	58.7	61.7	66.1
Total budget outlays	324.6	374.9	101.7	424.5	464.3	495.5	529.4	563.5

Note: These projections are consistent with budget classifications used in the Presidential budget documents for 1976, and differ slightly from those in the 1977 Presidential budget documents.

FEDERAL BUDGET RECEIPTS FISCAL YEAR 1975 AND ESTIMATED RECEIPTS FISCAL YEARS 1976-81 UNDER PATH A AND PATH B ECONOMIC ASSUMPTIONS

[Billions of dollars fiscal years]

Source	Path A economic assumptions							
	1975 actual	1976 estimate	Transition quarter	1977	1978	1979	1980	1981
Individual income taxes	122.4	135.0	38.7	175.5	206	241	282	330
Corporate profits tax	40.6	38.5	11.3	59.0	71	81	88	95
Social insurance taxes and contributions	86.4	92.6	26.5	113.0	130	144	160	178
Excise taxes	16.6	16.9	4.8	17.6	19	20	22	22
Estate and gift taxes	4.6	4.6	1.3	5.5	6	7	8	9
Customs duties	3.7	4.3	1.2	4.7	6	6	7	7
Miscellaneous receipts	6.7	7.9	2.2	8.0	8	9	11	11
Total	281.0	300.8	86.0	383.3	445	509	577	652
	Path B economic assumptions							
Individual income taxes	122.4	135.0	38.7	159.8	186	212	242	273
Corporate profits taxes	40.6	39.5	11.3	54.5	59	67	72	78
Social insurance taxes and contributions	86.4	92.6	26.5	110.2	121	133	144	159
Excise taxes	16.6	16.9	4.8	17.5	18	18	18	19
Estate and gift taxes	4.6	4.6	1.3	5.4	6	6	7	7
Customs duties	3.7	4.3	1.2	4.6	5	5	5	5
Miscellaneous receipts	6.7	7.9	2.2	8.0	8	8	9	9
Total	281.0	300.8	86.0	360.0	401	448	497	550

Note: See text for definition of the current-services receipts concept.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio is recognized for not to exceed 15 minutes.

Mr. McCLURE. Mr. President, I wonder whether I may reserve the remainder of my time in order that we may have a quorum call on my time.

Mr. ROBERT C. BYRD. Mr. President, how much time does the Senator have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. ROBERT C. BYRD. I am afraid that we could not have a quorum call for 1 minute.

Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged against Mr. TAFT.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFENSE AUTHORIZATION

Mr. TAFT. Mr. President, I have reserved this time this morning to discuss the defense authorization bill. As one who participated in the process which produced this bill, I believe that it is a reasonable, prudent, and adequate response to the request of the Defense Department.

The members of the Armed Services Committee have worked long and hard on this piece of legislation, and all have made major contributions to it. I would particularly like to extend my personal thanks and appreciation to the chairman of the Armed Services Committee, the Senator from Mississippi, for the great amount of thought and effort which he has devoted to the committee's work. As the chairman I am sure will agree, we worked under very severe time constraints this year. But thanks to the chairman's able leadership and tireless devotion to the committee's work, we have reported out a solid and well-considered bill.

I would also like to express my appreciation to the ranking minority member of the committee, the distinguished Senator from South Carolina; and to two other members of the committee, who, as chairmen of the subcommittees, did great work for the committee: The Senator from Georgia and the Senator from New Hampshire.

I am particularly familiar with and appreciate the work the Senator from New Hampshire has done in the difficult and critical area of research and development. As the ranking minority member on the Research and Development Subcommittee, I know how much skill and effort Senator MCINTYRE devotes to this subcommittee. Thanks to his work, the section of this bill dealing with research and development is solid and well considered. I support fully the R. & D. section of this bill. R. & D. is one of the most critical areas we deal with, because it determines where we will stand in the future in relation to our adversary, the Soviet Union. It is clear that we cannot be superior to the Soviet Union in terms of manpower in the Armed Forces. Increasingly, we are also outnumbered in terms of numbers of weapons. Therefore, the only area where we can be superior is in quality of our systems and our thinking, and this is largely a function of research and development.

The bill before us provides adequately for our R. & D. effort. It will ensure an efficient and effective increase in our R. & D. program. I believe it is both needed, and adequate to our needs.

With regard to R. & D. in the naval field, the administration, in its supplemental request that came in after the committee really had considered the naval field, asked for an additional $200 million. The committee did not turn that down, but they did not feel that they were in a position to act on it at this time. I believe it may well be justified, and I hope the committee will continue to consider this proposal of the administration.

There are three specific actions by the R. & D. subcommittee that I would particularly like to note. None involve large sums of money, but all three are important in that they are increases by the committee over and above the request of the Department of Defense. The first adds $4 million to the program to develop a multiple rocket launcher, a system we badly need to increase our seriously questionable artillery capability. The Army has not been overly enthusiastic about this concept, despite its success in the Soviet Army. The subcommittee has taken the lead in getting this needed system developed.

The subcommittee also recommended the addition of $10 million for a new program to evaluate foreign weapons systems for possible production in the United States for our own forces. The committee adopted this recommendation. This is an important step toward reducing the waste within the NATO alliance because of duplication of effort—a waste estimated as high as $15 billion. The third item I would mention is an amendment I offered in the subcommittee to add $200,000 for studies of new battlefield concepts for employment of systems, the studies to be done not by the services, but by qualified outside consultants. We badly need to get fresh conceptual thinking underway, not only in terms of equipment design, but also in terms of tactics—how we use our forces and equipment. It appears that all too often the services are wedded to old, perhaps outdated concepts.

In contrast, the Soviets have in recent years developed and employed highly effective systems based on new concepts of employment of systems—their ground-based antiaircraft system is an example. This amendment would provide for bringing outside defense experts, people not imbued with existing doctrine, into our thought process. The amount of money involved is small, but anything that can open the door to new ideas, is, in my view, significant.

I would also like to express my support for the standardization amendments contained in this bill. Standardization of equipment among the NATO allies is both one of our most important objectives and one of our most frustrating problems. As the committee report notes, "The current status of weapon standardization is not good." This produces a major advantage for the Warsaw Pact, where all equipment is fully standardized. While the NATO partners waste billions of dollars in peacetime and risk logistical chaos in war, the Warsaw Pact has fully coordinated R. & D., procurement, and logistical plans.

Senator CULVER took the lead last year in directing the committee's attention more clearly to this problem, and the most useful amendment which he offered at that time, and which was accepted, is again included in this bill. In addition, Senators NUNN and CULVER joined with me to offer a joint amendment, strengthening some additional aspects of the move for standardization. The section of that amendment which I originated urges that the development of any new weapons system by NATO be proceeded by the development of a common NATO definition of the requirement, including a common definition of the threat. We have seen that the root of much of the standardization problem is in separate national requirements and definitions of the threat. Naturally, when you begin with different requirements, you end up with nonstandard weapons systems. I think this amendment could make a real contribution to the drive for better standardization, by beginning the standardization process at the beginning of the whole weapons system development process. I would like to express my sincere appreciation of the Senator from Georgia and the Senator from Iowa for their leadership and assistance on this problem.

I would like now to discuss what I consider to be the single most critical part of this bill, as relating to general purpose forces. That is the shipbuilding program. What the Congress does this year in terms of shipbuilding will materially influence the shape of our Navy for the next 30 years. It will determine whether we begin to move toward the new concepts and new ship designs we must have if we are to meet the Soviet Naval challenge, or whether we retain a fleet structure that was developed 35 years ago to meet the challenge offered by imperial Japan.

Both the Navy and the House of Representatives have, in their proposals and their actions on this year's shipbuilding program, demonstrated their continued adherence to outdated concepts. They have even gone so far as to revive a concept dead since 1942, when Japanese aircraft sank the *Repulse* and the *Prince of Wales*—the independent mission for a ship which is not primarily a platform for aircraft. This "pocket battleship" concept is embodied in the proposed strike cruiser.

The House of Representatives has outdone the Navy in proposing ships reflective of outworn concepts. The Navy is aware that not all major warships require or even benefit substantially from nuclear propulsion. The House, on the other hand, seems willing to authorize anything that can carry a reactor. The epitome of this failure to consider all aspects of a ship's design, as related to the mission requirement and the concept of employment, are our current and building nuclear powered cruisers—formerly called DLGN's. These ships are nuclear powered. But their armament is so minimal that they compare very unfavorably overall to smaller Soviet cruisers. A typical ship of this type is the U.S.S. *California*, commissioned in 1974.

The *California* is armed with: no helicopters, no antiship missiles, two antiaircraft missile launchers, two 5″ guns, four torpedo tubes, and one 8-tube antisubmarine launcher.

In contrast, the Soviet *Kara*, which was launched in 1973, and which displaces about 2,000 tons less than the *California*, is armed with: one helicopter, eight antiship missiles, eight antiaircraft missile launchers, four 76 millimeter plus four 30 millimeter guns, 10 torpedo tubes, and two 16-tube plus two 6-tube ASW rocket launchers.

The *California* is nuclear powered; the *Kara* is not. But which is the more effective ship? This illustrates clearly what should be the obvious fact that choice of propulsion plant is only one among many factors which must be considered in ship design. To focus our main attention on nuclear power is to miss many more important considerations.

By putting such heavy emphasis on nuclear power, the House commits us to a fleet based on a small number of individually expensive ships. Contrary to some arguments, we cannot call these effective ships, simply because they carry nuclear power; we have just illustrated that point. They are, however, expensive, and they are large; they are large not because of the armament they carry—although some, such as the submarines and the carriers, carry effective armament—but because we do not have a nuclear powerplant suitable for a small ship. Because the ships must be large, they are expensive, and we cannot procure them in large numbers.

What, some may ask, is wrong with a navy based on a small number of expensive ships? The problem is that, with the development of such weapons as antiship missiles, the vulnerability of any individual ship has increased greatly over the last 10 to 15 years. Small ships armed with antiship missiles, and nuclear submarines armed with missiles or torpedos, can cripple or sink large expensive ships. The balance between offense and defense has shifted.

The Soviet Navy has taken full advantage of this shift. They have designed a navy that packs tremendous offensive punch for use in a preemptive attack. Their whole concept is based on the idea that we will continue to spend our resources on a small number of expensive ships—and they can saturate a small number of ships with enough incoming missiles to do the job.

If we are to meet the Soviet challenge, we cannot do so by continuing with our current concept. We must diversify our striking power into a much larger number of platforms, each capable individually, but each not overly expensive. The shipbuilding program in this bill sets the stage for that kind of a shift, as is clear when we examine exactly what is proposed here.

The first thing this bill does is strike from the law title VIII, which is the requirement that all major warships be nuclear powered. This of course does not mean that some ships should not be nuclear powered. The advantages of nuclear power for submarines is clear, for example. But title VIII is a blanket requirement that tilts our whole thinking in the direction of a fleet small in ship numbers, with individually expensive, nuclear-powered ships. In my view, it also puts too much weight on what is only one factor in warship design—the powerplant. Repeal of title VIII means that nuclear power will have to be justified on the basis of the facts, on the basis of a careful and objective examination of costs and benefits in the case of each proposed type of ship.

The bill then delays long lead funding for an additional *Nimitz* class aircraft carrier, establishing at the same time a joint House-Senate special committee to examine the future of the aircraft carrier task force concept, with emphasis on alternatives to existing carrier designs and escorts. This is by no means a decision against building another large aircraft carrier. Personally, I favor taking whatever action is necessary to keep 12 large carriers in the fleet until VSTOL aircraft achieve approximate performance comparability with catapult-launched aircraft. But at the same time, I believe we need to diversify our aircraft strength into a larger number of platforms, through the rapid construction of a large number of VSTOL support ships. This approach and all other approaches could and would be investigated by the special committee. We would look before we leap—we would study the alternatives before committing ourselves to another *Nimitz* class carrier. Given the intense debate over what our Navy should look like, it seems only prudent that we not foreclose the debate by authorizing another carrier before the issue can be examined. The committee action would assure that all the alternatives were studied before action was recommended to the Congress.

One of the aspects of the bill I support most strongly is the deletion of the proposed strike cruiser. As I noted earlier, this ship is a return to the battleship concept. Because it is not primarily an aircraft platform, it would be highly vulnerable, in the independent role, to hostile aircraft. Like all ships of the cruiser type, it would at all times be an attractive and very vulnerable target to a submarine. In the carrier escort role, this ship is justified as a platform for the Aegis antiaircraft antimissile system. Yet serious questions can be raised as to the effectiveness of this system against projected, and possibly even current, Soviet antiship missile systems.

Viewing the ship again in the independent role, the Aegis was never designed as a self-defense system for a ship; it is an area defense system. In sum, the strike cruiser is an ill-conceived departure from fundamental principles of war at sea. It is at best a misguided attempt to copy the Soviet cruisers—ignoring the differing missions of the United States and Soviet Navies. The lead ship in this class would cost $1.4 billion, and subsequent ships would cost close to $1 billion each. It is not clear that this enormous expenditure would purchase any real capability. The bill before us deletes all funding for this pocket battleship, and I strongly support the committee's recommendation for the deletion.

The remainder of the shipbuilding program reflects the problems we face in backlogs of ships already ordered and of needing adequate justification for sudden proposed increases in the construction of certain classes.

The important point is that the program as a whole opens the door to new concepts and new ship designs. There are two ways of insuring Soviet naval supremacy: Doing nothing, and doing the wrong thing. This bill proposes a program that says "no" to some wrong things, and that gives encouragement to a new look at the structure of our Navy. It is a progressive program, and I urge the Senate to support it. I particularly urge my colleagues to support it during and, if necessary, after the conference with the House.

As I noted at the beginning of these remarks, the bill is a reasonable, prudent, and adequate response to the request of the Department of Defense. I would like to make it clear, however, that I feel there were many questionable aspects to that request. The request was probably about adequate in purely dollar terms, in my view. But in terms of the qualitative issues—the questions of where we spend our money, and for what—I am not at all satisfied that the current structure of our defense establishment is either as efficient or as effective as it could be or as it needs to be.

I recently outlined my views on how our Defense establishment should be structured in a white paper, copies of which the Members of this body have received. As that white paper states, the fundamental fact from which we should begin when talking about general purpose forces is that the United States is, by nature, a seapower, not a land power. We face no land enemies on our borders. Our economy is dependent on overseas exports and imports. Our culture is oriented primarily trans-Atlantically. We cannot even bring land forces to bear on an opponent unless we first control the seas. By all criteria, sea power is our primary requirement.

However, we now find ourselves with a Defense establishment where land power and sea power receive approximately equal resources: In this budget before us now, the land forces—the Army plus Marine Corps—cost about $31 billion, the Navy minus the Marine Corps costs about $34 billion. Despite the fact that we face no direct land threat, our total land forces are the third largest in the world.

If this division of resources gave us sufficient Naval power, and if the land forces we purchased with this funding were all of an effective type, then perhaps this situation could be tolerated. In fact, we do not have adequate Naval power, and almost half of our land forces are of a type that are largely useless in the theaters where we would most probably face a conflict.

Thanks in part to the Soviets' willingness to develop new concepts of naval warfare and ship design where we have not, and thanks in part to a low level of investment in shipbuilding over the past 10 years, it is my belief that the Soviet Navy is now more capable of performing its mission—cutting our vital sea lines of communication—than we are capable of performing our mission of keeping those sea lanes open. The Soviet Navy today equals or outnumbers the U.S. Navy in every ship category except aircraft carriers. Most critically, the Soviets have by far the largest submarine fleet in the world, and the submarine is the ideal weapon for attacking naval units and commercial shipping. The Soviets today have a fleet of about 335 submarines; all the rest of the countries in the world, including the United States, have 444. As I noted in my additional views to this committee report, our antisubmarine warfare efforts have serious deficiencies, both quantitatively and qualitatively.

To meet the Soviet naval challenge, we need a massive new technology, new concept building program for naval ships. That does not mean just building any type of ship; as I have already noted, I opposed a number of the ships proposed by the Navy in this year's programs, because they would not be effective in dealing with the Soviet challenge. We need new concepts and new ship designs to support the new concepts. That involves the painful task of admitting that many of our existing ships, including some very new ones such as the nuclear cruisers, are of marginal value at best. It also involves a major increase in the shipbuilding budget.

If we look at the structure of our land forces, we see how to pay for the increase we need in shipbuilding. We are first a sea power, then a land power, so that even if we had to reduce effective land forces to pay for shipbuilding, that would be the logical action. However, of the 19 divisions in our active land forces, 9 are foot infantry, a type of force suitably only for Vietnam-type conflicts. We are not likely to fight another Vietnam war, and to devote the vast manpower expense that these divisions require to preparing for another infantry war in some jungle makes little sense. Modern high-intensity conflict requires armored and mechanized forces. The Soviet Army, by the way, has no foot infantry. Except for a few airborne divisions, all Soviet divisions are armored or mechanized.

As I proposed in my white paper, we should convert three of the existing foot infantry divisions—two Marine Corps and one Army—to mechanized or armored divisions, which would significantly increase our genuinely usable land forces. One marine foot infantry division should be retained to deal with minor incidents, such as the *Mayaguez*. The remaining foot divisions should be phased out. While this would not diminish our useful land power—indeed, it would increase it—it would provide savings enough to pay for the naval program we need. The savings would also pay for the mechanization of the three foot divisions to be converted, and for a major program to upgrade the equipment, maintenance, and training of our valuable National Guard and Reserve Forces.

Neither the budget proposed by the Department of Defense nor this bill addresses these fundamental issues of strategy and force structure. Yet, we are going to have to address them. We cannot continue funding a force structure which reflects intra-institutional interests far more than the objective needs of this Nation. During this coming year, I am going to continue to work to get people, here and elsewhere, to become aware of these basic issues. While this bill does a very solid job of addressing the request submitted by the Department of Defense, ultimately either the Department of Defense or, that failing, the Congress itself must take the lead in restructuring our general purpose forces. We cannot delude ourselves into believing that we can build modern equivalents of the maginot line and, just because we spend money, we are buying adequate defense. The qualitative issues must be addressed.

I thank the chairman again for his invaluable leadership and tireless work on this bill.

Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes each.

COMMITTEE MEETINGS DURING SENATE SESSION THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow and Thursday and Friday, all committees may be authorized to meet until the hour of 12 o'clock noon or until the close of the morning business, whichever is later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHANGE OF REFERENCE—H.R. 1762

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 1762, which has been referred incorrectly to the Committee on Veterans' Affairs, be rereferred to the Committee on the Judiciary.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I notice this is the second time in many days that bills have been rereferred on the basis that they were originally referred to the wrong committee.

I am curious as to who makes the judgment that they were not correctly referred in the first instance. Is it the Parliamentarian who discovers the mistake or is someone else deciding that they were incorrectly referred? I do not have any knowledge at all of this particular bill, but just as a matter of interest and orderly procedure, I am wondering about it.

Mr. ROBERT C. BYRD. In this instance, this is a bill which I introduced for the relief of an individual. It was improperly referred to the Veterans' Affairs Committee, and some days ago I received unanimous consent to rerefer it to the Judiciary Committee.

Now the House companion bill has come over, and it would be necessary for me to take the same action. I cannot explain how——

Mr. GRIFFIN. This is a private bill?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I have no particular concern in this instance.

Mr. ROBERT C. BYRD. I can appreciate the distinguished Senator's concern. I do not know how it came to be wrongly referred in the first instance.

Mr. GRIFFIN. I thank the Senator from West Virginia.

The ACTING PRESIDENT pro tempore. Without objection, the bill is rereferred.

AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET AT 3:30 P.M.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet at 3:30 this afternoon until the conclusion of their business, which is to make a determination on a Federal Energy Agency ruling, and that should be made today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker pro tempore has signed the following enrolled bills:

S. 2679. An act to establish a Commission on Security and Cooperation in Europe.

H.R. 12132. An act to extend as an emergency measure for 1 year the District of Columbia Medical and Dental Manpower Act of 1970.

H.R. 12527. An act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 2:10 p.m., a message from the House of Representatives by Mr. Hackney announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia; and

H.R. 13121. An act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplment V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.

The message also announced that the House has agreed to the concurrent resolution (H. Con. Res. 640) authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the United States House of Representatives," in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 5:05 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker pro tempore has signed the following enrolled bills:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority.

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were each read twice by their titles and referred to the Committee on the District of Columbia:

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia; and

H.R. 13121. An act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.

The concurrent resolution (H. Con. Res. 640) authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the United States House of Representatives" was referred to the Committee on Rules and Administration.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. Leahy) laid before the Senate the following petitions, which were referred as indicated:

A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Finance:

"Concurrent Resolution

Memorializing Congress to Enact H.R. 8318 in Order that Certain Citizens Will not be Deprived of Medicaid and Other Benefits

"Whereas, effective July 1, 1976, many citizens of this State, as well as many other states, will become ineligible to receive Medicaid and certain other benefits because of cost of living increases in benefits from Social Security or other federally funded programs; and

"Whereas, a Bill, H.R. 8318, is now pending in the United States Congress which would remedy this problem. Its title reads "A Bill to amend the Social Security Act to make certain that recipients of supplemental security income benefits, recipients of aid to families with dependent children, and recipients of payments under the veterans' benefit programs and certain other Federal and federally assisted programs will not have the amount of such benefits, aid, or payments reduced because of increases in monthly social security benefits." Now, therefore,

"*Be it resolved* by the Senate, the House of Representatives concurring:

"That Congress is hereby memorialized to enact H.R. 8318 in order that many deserving citizens throughout the United States will not be deprived of Medicaid and certain other benefits because of cost of living increases in Social Security benefits and other federally funded programs.

"*Be it further resolved* that copies of this resolution be forwarded to the Clerk of the United States Senate, the Clerk of the United States House of Representatives and to each member of Congress from South Carolina."

Senate Joint Resolution No. 9 adopted by the Legislature of the State of Connecticut; to the Committee on Banking, Housing and Urban Affairs:

"Senate Joint Resolution No. 9

"Resolution memorializing the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the United States Congress to equalize deposit rate ceilings in the State of Connecticut

Resolved by this Assembly:

"Whereas, legislation has been passed in the 1973, 1974 and 1975 sessions of the Connecticut Legislature granting to thrift institutions in the State of Connecticut many of the rights and responsibilities formerly granted only to commercial banks, including the right to offer personal checking accounts, the right to offer credit cards and revolving lines of credit and the right to perform limited trust functions including the establishment of individual retirement accounts and Keogh plan trusts; and

"Whereas, federal law and regulations now permit thrift institutions to pay their depositors a higher maximum rate of interest than the amount which commercial banks can now pay on savings and time deposits, including individual retirement accounts; and

"Whereas, in view of the passage of said state legislation it is deemed appropriate that federal law and regulations should be reviewed; and

"Whereas, the citizens of the State of Connecticut would greatly benefit by the elimination of the present inequitable law and regulations which, as they apply to Connecticut, penalize those depositors who choose to deposit their funds in a commercial bank by denying them equal interest rates.

"Now, therefore, be it resolved, that we, the members of this assembly unite in registering our concern and dissatisfaction with the existing federal law and regulations and urge and petition the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Comptroller of the Currency and the Congress of the United States to expedite their consideration of various plans of restructuring and reordering the banking system, especially as it applies to interest rate authorization in the State of Connecticut, to assure that the federal law and regulations provide a fair, competitive banking system for all financial institutions in Connecticut, including ceilings set on the rates paid on deposits.

"Be it further resolved, that the clerks of the House and Senate cause copies of this resolution to be sent to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Federal Reserve Board, to the Federal Deposit Insurance Corporation, to the Federal Home Loan Bank Board, to the Comptroller of the Currency, to the Coordinating Committee of Financial Institutions and to each member of the Connecticut congressional delegation."

A resolution adopted by the County Board of Washington County, Ill., relating to protective flashing signals at railroad crossings; to the Committee on Commerce.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Leahy) laid before the Senate the following letters, which were referred as indicated:

Approval of Loan by the Rural Electrification Administration

A letter from the Acting Administrator of the Rural Electrification Administration transmitting a report, pursuant to law, on the approval of a loan by the REA to South Texas Electric Cooperative, Inc., of Victoria, Tex. (with accompanying papers); to the Committee on Agriculture and Forestry.

Final Determination of the Indian Claims Commission

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report on the final determination by the Commission in the case of the Lipan Apache Tribe, et al., in Docket No. 22–C (with an accompanying report); to the Committee on Appropriations.

Report of the Assistant Secretary of Defense

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a listing of contract award dates for the period May 15, 1976 to August 15, 1976 (with accompanying papers); to the Committee on Armed Services.

Report of the General Services Administration

A letter from the Deputy Administrator of General Services transmitting, pursuant to law, the semiannual stockpile report to the Congress on the Strategic and critical materials stockpiling program for the period July 1 to December 31, 1975 (with an accompanying report); to the Committee on Armed Services.

Publication of the Federal Power Commission

A letter from the Chairman of the Federal Power Commission transmitting a publication entitled "Statistics of Privately Owned Electric Utilities in the United States, 1974" (with an accompanying publication); to the Committee on Commerce.

Proposed Legislation by the Federal Trade Commission

A letter from the Chairman of the Federal Trade Commission transmitting, pursuant to law, a proposed amendment to the authorization of appropriation legislation for the Federal Trade Commission for the fiscal year 1978 (with accompanying papers); to the Committee on Commerce.

Distribution of Indian Judgment Funds

A letter from the Under Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use of the funds awarded to the Confederated Salish and Kootenai Tribes by the Court of Claims (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Research Contracts of the Department of the Interior

Two letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, two proposed contracts for research projects (with accompanying papers); to the Committee on Interior and Insular Affairs.

Refund for Annual Rentals by the Department of the Interior

A letter from the Secretary of the Interior reporting, pursuant to law, on a determination that Standard Oil Co. of California is entitled to a refund for annual rentals; to the Committee on Interior and Insular Affairs.

Reports of the Federal Energy Administration

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report on changes in market shares for petroleum products (with an accompanying report); and a letter from the Administrator of Federal Energy transmitting, pursuant to law, a report on the reevaluation of mandatory petroleum allocation and price regulations (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **STEVENSON**, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 3084. A bill to extend the Export Administration Act of 1969, as amended (together with additional views) (Rept. No. 94-917).

By Mr. **MAGNUSON** (for Mr. Pastore), from the Committee on Commerce, with amendments:

S. 2054. A bill to amend sections 203 and 204 of the Communications Act of 1934 (Rept. No. 94-918).

By Mr. **MAGNUSON** (for Mr. Pastore), from the Committee on Commerce, without amendment:

S. 2347. A bill to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations (Rept. No. 94-919).

By Mr. **MAGNUSON** (for Mr. Pastore), from the Committee on Commerce, with an amendment:

S. 2343. A bill to amend the Communication Act of 1934, as amended, with respect to penalties and forfeitures (Rept. No. 94-920).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. **SPARKMAN**, from the Committee on Foreign Relations:

John H. Reed, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Maldives.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, John H. Reed.
Post, Sri Lanka.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, See Exhibit A.
2. Spouse, Cora D. Reed, None.
3. Children and Spouses: Cheryl D. Reed, None; Ruth Reed Duford and Gerald P. Duford, None.
4. Parents: Mrs. Eva S. Reed, None. Mr. Walter M. Reed, Sr. (Deceased).
5. Grandparents: Mr. and Mrs. Linwood R. Seeley (Deceased); Mr. and Mrs. Philo H. Reed (Deceased).
6. Brothers and Spouses: See Exhibit B.
7. Sisters and Spouses: See Exhibit B.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

John H. Reed.

Exhibit A

1. John H. Reed—Contributions:

1972

Amount, date, and donee

$100, January 15, 1972, Maine Republican Finance Committee.
$50, January 30, 1972, Republican National Finance Committee.
$100, April 3, 1972, Finance Committee for the Reelection of the President.
$100, June 26, 1972, Chafee for '72 Committee.
$100, October 2, 1972, Cohen for Congress Committee.
$100, October 17, 1972, Maine Finance Committee to reelect the President.

1973

$25, January 6, 1973, Republican National Finance Committee.
$100, February 19, 1973, Maine Republican Finance Committee.
$100, October 5, 1973, Victory 72-74 Committee.
$100, December 10, 1973, Victory 72-74 Committee.
$15, December 30, 1973, Republican National Finance Committee.

1974

$50, January 1, 1974, Victory 72-74 Dinner Committee.
$100, April 20, 1974, Maine Republican Finance Committee.
$15, July 7, 1974, Republican National Finance Committee.
$100, July 22, 1974, Victory 74 Committee.
$100, September 14, 1974, Maine Republican State Committee.

1975

$15, January 4, 1975, Republican National Finance Committee.
$100, February 5, 1975, Victory 74 Committee.
$100, March 1, 1975, David Emery Committee.
$100, April 21, 1975, Maine Republican Finance Committee.
$50, May 31, 1975, Maine Republican Finance Committee.
$15, December 29, 1975, Republican National Finance Committee.

1976

$100, January 27, 1976, Maine Republican Finance Committee.

EXHIBIT B

6. Brother and Spouse:

Walter M. Reed, Jr., and Dolly L. Reed—none.

Amount, date, and donee

$50, September 16, 1972, William D. Hathaway.
$55, September 16, 1972 William S. Cohen.
$100, April 20, 1974 William S. Cohen.

7. Sister and Spouse: Ruth R. Mraz and Arthur J. Mraz—joint contribution.

Amount, date, and donee

$5, September 18, 1972, William S. Cohen.
$30, April 20, 1974, William S. Cohen.
$25, September 15, 1975, William S. Cohen.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 25, 1976, he presented to the President of the United States the enrolled bill (S. 2679) to establish a Commission on Security and Cooperation in Europe.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. **CASE** (for himself and Mr. Williams):

S. 3482. A bill to amend section 4942(g)(2) of the Internal Revenue Code. Referred to the Committee on Finance.

By Mr. **LAXALT**:

S. 3483. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications or services. Referred to the Committee on Commerce.

By Mr. **MONDALE**:

S. 3484. A bill for the relief of Peter Poon on Wong; and

S. 3485. A bill for the relief of Orlando Garzon. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CASE (for himself and Mr. Williams):

S. 3482. A bill to amend section 4942(g)(2) of the Internal Revenue Code. Referred to the Committee on Finance.

Mr. CASE. Mr. President, Senator Williams and I are introducing a bill to amend section 4942(g)(2) of the Internal Revenue Code, the so-called set-aside provision under which amounts set aside by private foundations for future payment may be treated as qualifying distributions under the Tax Reform Act of 1969.

The Robert Wood Johnson Foundation, one of the Nation's largest foundations, has encountered a severe problem owing to the Internal Revenue Service's administration of section 4942 and specifically 4942(g) of the code. These sections were added by the Tax Reform Act of 1969.

Section 4942 requires that a foundation pay out either all of its investment income or a statutorily determined percentage—6 percent in 1975—of its asset value, or be subject to a penalty tax. At issue is the ability of the foundations to use the set-aside method of grantmaking described in section 4942 (g) to meet the payout requirement of section 4942.

When a foundation makes a grant, one method of funding, of course, is by awarding the entire amount of the grant at the beginning of the project. In many cases, however, this is not the most desirable approach; some projects, by their very complexity, require regular monitoring and frequent evaluation. In these cases, foundations often prefer the set-aside approach, that is, setting funds aside for annual payments over the term of the grant, that is, 5 years, rather than by actual total payout at the inception of the grant period.

Under section 4942(g), in order for funds granted but set aside for future payout to be treated as qualifying distributions in the year of the award, the Internal Revenue Service must affirm that the purpose of the grant can be better accomplished by the set-aside method rather than by immediate payment of the full amount. This involves a separate determination by the Service, for each grant, that is not only a programatic, judgmental decision, rather than a factual test, but is also a cumbersome and time-consuming process.

The problem that this poses for the Robert Wood Johnson Foundation is unique, because of the foundation's substantial increase in assets on the death of Robert Wood Johnson in 1968. While other major foundations had numerous major funding commitments made in previous years, the Robert Wood Johnson Foundation had no similar commitments, no backlog of prior approved grants. This meant that in order to meet the payout requirements of section 4942, the foundation had to secure affirmative IRS approval of its set-aside grants every year.

The bill we are introducing permits foundations to set aside for subsequent grants sums that might otherwise be required to be paid out immediately in order to avoid the penalty tax; further, our bill will not mean any revenue loss to the Treasury. The bill will merely relieve the Treasury of the responsibility of passing on the merits of each set-aside.

Our bill is consistent with legislative intent as expressed in the 1969 act, since Congress at that time both imposed the payment requirement and provided for the set-aside method of meeting it. What was unforeseen in 1969 was that a new foundation, or one whose assets were suddenly multiplied many times over—such as the Robert Wood Johnson Foundation—would find it impossible to meet the requirement initially while using the set-aside methods, unless each set-aside grant was specifically approved by the Treasury. Our bill, then, will make possible the orderly growth and management of philanthropy by new and greatly enlarged foundations.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Section 4942 (g) (2) of the Internal Revenue Code of 1954 (relating to definition of qualifying distributions) is amended to read as follows:

(2) CERTAIN SET-ASIDES.—For all taxable years beginning on or after January 1, 1975, subject to such terms and conditions as may be prescribed by the Secretary or his delegate, an amount or amounts set aside for a specific project which comes within one or more purposes described in section 170(c) (2) (B) may be treated as a qualifying distribution, but only if,

(A) the amount will be paid for the specific project within five years, and

(B) either

(i) at the time of the set-aside the private foundation establishes to the satisfaction of the Secretary or his delegate that the project is one which can better be accomplished by such set-aside than by immediate payment of funds, or

(ii) (a) the project will not be completed before the end of the taxable year of the foundation in which the grant is made,

(b) the private foundation in each taxable year beginning after December 31, 1975 (or after the end of the fourth taxable year following the year of its creation, whichever is later) shall disburse amounts, in cash or its equivalent, equal to the distributable amount under subsection (d) (without regard to subsection (i)) for purposes described in section 170(c) (2) (B) (including but not limited to payments with respect to set asides which were treated as qualifying distributions in a prior year or years),

(c) the private foundation shall have distributed during the four taxable years immediately preceding its first taxable year beginning after December 31, 1975, or the fifth taxable year following the year of its creation, whichever is later, an aggregate amount, in cash or its equivalent, equal to the sum of the following (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in a prior year or years): 80% of the first preceding taxable year's distributable amount; 60% of the second preceding taxable year's distributable amount; 40% of the third preceding taxable year's distributable amount; 20% of the fourth preceding taxable year's distributable amount, and

(d) the foundation notifies the Secretary or his delegate in writing of the amount or amounts set aside and terms and conditions of the grant within 90 days after the award of the grant.

(e) If, for any taxable year to which paragraph (b) applies, the private foundation fails to disburse in cash or its equivalent amounts equal to those required by paragraph (b) and (1) the failure to disburse said amounts was not willful and was due to reasonable cause and (2) the foundation distributes an amount in cash or its equivalent equal to the difference between the amounts required to be distributed under paragraph (b) and the amounts actually disbursed in cash or its equivalent during that taxable year within the initial correction period provided in subsection (j) (2) hereof, such distribution in cash or its equivalent shall be treated for the purposes of this subparagraph as made during said year.

(f) (1) If, for the taxable years in the adjustment period for which the organization is a private foundation, the foundation disburses amounts in cash or its equivalent which exceed the amount required to be distributed under subparagraph (d) (including but not limited to payments with respect to set asides which were treated as qualifying distributions in prior years), then for the purposes of this subsection the disbursement required under subparagraph (b) for the taxable year shall be reduced by an amount equal to such excess.

(2) For the purposes of paragraph (1) with respect to any taxable year of a private foundation the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after December 31, 1975, and immediately preceding the taxable year.

By Mr. LAXALT:

S. 3483. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications, or services. Referred to the Committee on Commerce.

Mr. LAXALT. Mr. President, in the past several months, I have received from the southern part of my State, literally hundreds of letters expressing outrage at the skewed distribution of electric power rates caused by the slowness and inequity of Federal Power Commission procedures. Those procedures which particularly outraged my constituents were: the automatic passthrough of wholesale rate requests albeit on a temporary basis; the passthrough of additional requests before the final determination of initial ones had been made; and the undue delay which has frequently stretched into many years.

To be sure, in southern Nevada, there are additional complications involving very intricate relations between two utility companies, one of which does not generate power but instead must purchase it from the other. But even so, all parties concerned are agreed that a good deal of the skewed rate problem can be attributed to the above listed FPC procedures. That problem has now gotten so bad that retail customers in Henderson, Nev., pay power rates 39 percent higher than residents of nearby Las Vegas for power coming from the same source.

Section 205(e) of the Federal Power Act allows the FPC to suspend the operation of any newly proposed schedule of rates for up to 5 months. After that, however, the rates go into effect temporarily pending the outcome of a full hearing to determine the lawfulness of proposed changes. Thus, the present system allows the FPC by simple inaction to grant rate increases which violate at least the spirit of the Administrative Procedures Act and the requirements of due process in that they are passed through on an interim basis prior to any judgment as to their lawfulness.

As if this were not bad enough, the Commission's hearing and review process has become increasingly cumbersome and complicated with the result that consideration of many rate proposals frequently drags on for years—the Nevada case in point began over a year ago and there is still no end in sight. The FPC argues that wholesale purchasers forced to pay pending temporary rates have a right to refunds as do consumers should the proposed rate ultimately be determined to be unreasonable. But, in practice, refunding has frequently proven to be of little use to the consumer because, under present law, the refund provisions are optional at the discretion of the FPC and utilities frequently pancake additional requests one on top the other in such a way that final refunds are even further delayed, if they are granted at all. Of course, refunds, which may or may not come through at some future time, also do little to comfort the small business or residential consumer faced with mounting present bills.

To assist in dealing with some of those problems, I am today introducing legislation to expedite and render more equitable FPC procedures for handling rate increases. My bill would amend section 205(e) of the Federal Power Act in the following way:

First. It would provide for an interim hearing process to assess the lawfulness of any proposed rate increase prior to commencement of the initial hearing. This interim hearing would be between the FPC and the relevant utility for an assessment of reasonableness and would take place within the first 30 days after the filing of the rate increase schedule;

Second. It would require that full hearings be commenced within 90 days of the filing of the rate increase schedule;

Third. It would require, as opposed to leaving optional, the maintenance of accurate records and the granting of refunds in the event a proposed increase proved to be unlawful; and

Fourth. It would prohibit what has come to be known as pancaking; that is the procedure by which utilities seek further increases before the FPC has disposed of previous ones.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205(e) of the Federal Power Act (16 U.S.C. 824d(e)) is amended to read as follows:

"(e)(1) Whenever any such new schedule is filed the Commission shall at once, but upon reasonable notice, enter upon a preliminary hearing solely with the public utility or utilities filing such schedule concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility or utilities affected thereby a statement in writing of its reasons for such suspension, shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, until the effective date of such decision which shall not be later than sixty days after the date on which such schedule would otherwise go into effect. Following the completion of such preliminary hearing the Commission shall issue such temporary orders with respect to such schedule as it deems appropriate and within thirty days thereafter shall initiate full hearings upon such schedule and such temporary orders. Upon the completion of such hearings the Commission shall issue such final orders with respect to such schedule as are proper in a proceeding initiated after it has become effective. After any suspension pursuant to this subsection the proposed change of rate, charge, classification, or service may be placed into effect in accordance with such temporary orders as provided above, but in case of a proposed increased rate or charge, the Commission shall by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the full hearing and final decision shall by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

"(2) A public utility may not file a schedule which seeks to increase a rate or charge so long as the Commission has pending before it for final determination any schedule previously filed providing for such an increase by such public utility.".

ADDITIONAL COSPONSORS

S. 495

At his own request, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 495, a bill to establish certain Federal agencies.

S. 3069

At the request of Mr. BUCKLEY, the Senator from Arizona (Mr. FANNIN), the Senator from Utah (Mr. GARN), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3069, the Antidiscrimination Act of 1976.

S. 3084

At the request of Mr. STEVENSON, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 3084, to extend the Export Administration Act of 1969.

S. 3144

At the request of Mr. BUCKLEY, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3144, a bill to amend title 39, United States Code, to increase, to the fullest degree possible, competition in the delivery of mail, and for other purposes.

S. 3280

At the request of Mr. MATHIAS, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3280, to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service.

S. 3402

At the request of Mr. ABOUREZK, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3402, the Special Lebanon Relief Act.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN MILITARY SALES ACT—S. 3439

AMENDMENT NO. 1700

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK. Mr. President, I am today submitting an amendment to the International Security Assistance and Arms Export Control Act of 1976–77. The purpose of the amendment is to add a new section to the legislation that would provide authorization for humanitarian assistance to Lebanon. The amendment is identical to legislation which I have introduced (S. 3402), and which Chairman SPARKMAN has subsequently introduced (S. 3450).

Mr. President, I am hopeful that the floor manager of the bill will be able to accept this amendment, so that assistance to Lebanon can begin as quickly as possible.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1700

On page 78, after line 2, insert the following new section, and renumber succeeding section accordingly:

"Special Lebanon Relief Act

"Sec. 422. (a) This may be cited as the 'Special Lebanon Relief Act.' "

(b) LEBANON RELIEF AND REHABILITATION. The Foreign Assistance Act of 1961, as amended, is further amended by adding at the end of Chapter 9 of Part I, relating to international disaster assistance, a new section as follows:

"SEC. 495C. LEBANON RELIEF AND REHABILITATION.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from civil strife in Lebanon and to restore the confidence of the people of Lebanon, hereby authorizes the President to furnish assistance, on such terms and conditions as he may determine including the issuance of housing guaranties in accordance with the authority and within the limitation of Section 221 of this Act, for the relief and rehabilitation of refugees and other needy people in Lebanon.

"(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000 which amount is authorized to remain available until expended.

"(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

"(e) Not later than 60 days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section."

ANTITRUST IMPROVEMENTS ACT OF 1976—H.R. 8532

AMENDMENT NO. 1702

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

TRUTH IN OCTANE—S. 1508

AMENDMENT NO. 1703

(Ordered to be printed and referred to the Committee on Commerce.)

THE PUBLIC NEEDS THE TRUTH ABOUT OCTANE

Mr. HATHAWAY. Mr. President, on April 23, 1975, Senator McIntyre introduced S. 1508, the truth in octane bill. A number of my respected colleagues joined in cosponsorship of this bill.

The purpose of this bill is to assist the public in its purchases of gasoline, so that people neither waste money or energy by purchasing gasoline that is of too high an octane, nor damage their automobile engines by consistently using gasoline that is of too low an octane.

The bill has been through hearings before the Commerce Committee's Subcommittee on Consumers. My respected colleague, the Senator from Indiana, Mr. Hartke, made a number of valuable suggestions for improving the bill; I wish to thank him for dedicating his time and effort, and that of committee staff members, for the work they did to help make this a better bill.

Using the suggestions and information developed in the hearings chaired by Mr. Hartke, Senator McIntyre and I have worked together in recent months to revise certain sections of the bill.

We are submitting an amendment to S. 1508 today. We believe that it is a vast improvement over the original S. 1508. We have taken into account the views of several officials of the Federal Energy Administration and the Environmental Protection Agency, as well as the testimony and comments of citizens' groups and individuals. This bill does not require any additional layer of bureaucracy, nor the hiring of any inspectors, nor paperwork to individuals and small business people. Today I join Senator McIntyre in asking that the Subcommittee on Consumers and the full Committee on Commerce act speedily to report this needed bill, and we hope our colleagues will pass it without delay.

Mr. President, at this time I ask unanimous consent to have the amended version of the bill printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1703

On page 1, between lines 4 and 5, insert: "PURPOSES".

On page 1, between lines 10 and 11, insert: "DEFINITIONS".

On page 2, line 1, strike out all through page 6, line 22, and insert in lieu thereof the following:

(1) "person" means an individual or corporation;

(2) "Gasoline" means gasoline as defined by the American Society for Testing Materials Standards D 439-75, used in automobile engines, but does not include fuel dispensed for use in airplane engines, marine engines, or other engines used in nonautomotive forms of transportation;

(3) "automobile" means any vehicle, propelled by an internal combustion engine fueled with gasoline, manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails;

(4) "consumer" means any person who purchases gasoline for an automobile for purposes other than resale;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Panama Canal Zone, American Samoa, and the Trust Territories of the Pacific;

(6) "interstate commerce" means commerce between any place in a State and any place in another State, and between places in the same State through another State;

(7) "octane rating" means the measurement of the antiknock characteristics of gasoline for use as an automobile fuel, measured as half of the sum of the research octane number plus the motor octane number as described in the American Society for Testing Materials Standards Specifications for Gasoline, D 439-75 rounded off to the nearest whole number;

(8) "Commission" means the Federal Trade Commission;

(9) "gasoline fuel grade" means gasoline in the following octane ratings and the following corresponding names, or such other names and ranges as the Federal Trade Commission after public hearings, shall deem appropriate:

(A) leaded gasoline of octane rating 87 through 89 shall be labeled "economy";

(B) leaded gasoline of octane rating 90 through 92 shall be labeled "regular";

(C) leaded gasoline of octane rating 93 through 94 shall be labeled "middle premium";

(D) leaded gasoline of octane rating 95 and above shall be labeled "premium";

(E) unleaded gasoline of octane rating 87 through 89 shall be labeled "unleaded economy";

(F) unleaded gasoline of octane rating 90 through 92 shall be labeled "unleaded-regular";

(G) unleaded gasoline of octane rating 93 through 94 shall be labeled "unleaded middle premium";

(H) unleaded gasoline of octane rating 95 and above shall be labeled "unleaded premium";

(10) "retail distributor of gasoline" means a person who sells gasoline to a consumer; and

(11) "spot test" means such test methods as defined by the American Society for Testing Materials Test Methods D 2699-70 and D 2700-70.

PROVISION OF FUEL INFORMATION

Sec. 4 (a) Any person who offers for sale, to any person other than a consumer, for resale or distribution, gasoline which has been shipped in interstate commerce, and who fails to certify in writing to the purchaser of any such gasoline the fuel grade of any such gasoline at or prior to the time of delivery of such gasoline to such purchaser shall be subject to a civil penalty not in excess of $5,000 for each day in which any delivery of such gasoline is made by such person.

(b) Any person who offers gasoline for sale to any consumer and who fails to affix to the unit from which such gasoline is dispensed to the consumer a label clearly stating the gasoline fuel grade and the corresponding octane rating of all gasolines dispensed through such unit shall be subject to a civil penalty not in excess of $100 for each day on which any sale of such gasoline was made without display of the appropriate gasoline fuel grade information by such person.

(c) Any person who offers to sell to a purchaser any automobile manufactured after the effective date of this section which has been manufactured, shipped, or transported in interstate commerce and who fails to state to the purchaser the gasoline fuel grade appropriate for the use in the engine of such automobile shall be subject to a civil penalty not in excess of $300 for any such sale and not in excess of $100 for the sale of an automobile by a person other than the manufacturer, except that this subsection shall not apply to the sale or an offer to sell by an individual who is not regularly engaged in the business of buying or selling automobiles.

(d) The information required to be disclosed under subsections (a) and (b) shall need such requirements as to form and content, and any label required to be displayed shall be affixed in such location on the unit from which gasoline is dispensed, as the Commission shall by regulation prescribe.

(e) The information required to be disclosed under subsection (c) shall be posted in or on the automobile and included in literature furnished by the manufacturer of the automobile to the first retail purchaser of the automobile, or both, as the Commission shall by regulation prescribe.

(f) All such civil penalties under this section shall be covered into the Treasury of the United States, and shall be recoverable in a civil suit brought by the Commission in the name of the United States in any district court of the United States which would otherwise have jurisdiction thereof.

STANDARDS AND ENFORCEMENT

Sec. 5. (a) The Federal Trade Commission—

(1) shall establish standard methods to measure octane and establish other methodologies and testing procedures to insure the purity and content of gasoline, or delegate such authority to another authority of the Federal Government by memorandum of understanding; and

(2) may perform spot tests of the quality of gasoline moving in interstate commerce or in commerce affecting interstate commerce, and maintain public records on the results disclosed by such tests, or delegate such authority to another authority of the Federal government, by memorandum of understanding, or by contract permit an authority of any State to make such tests within any such State.

(b) The Environmental Protection Agency shall inspect retail gasoline outlets and shall enforce section 4(b) of this Act.

(c) Gasoline fuel grades shall be utilized uniformly throughout the United States.

(d) Violation of any provision of this Act or any regulation promulgated under this Act is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act.

TIME FOR ISSUANCE OF REGULATIONS

Sec. 6. The Commission shall issue regulations prescribing the form, content, and location of the information required under section 4 not later than 6 months after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

Sec. 8. Sections 4(a) and 4(b) of this Act shall take effect one year after the date of enactment of this Act.

NOTICE OF HEARINGS AND MEETINGS

Mr. METCALF. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

June 3, full committee: 10 a.m., room 3110, business meeting, pending calendar business.

June 7, full committee: 10 a.m., room 3110, hearing, oversight hearing on coal reserve figures from the Bureau of Mines.

June 8, minerals, Materials and Fuels Subcommittee: 10 a.m., room 3110, hearing, status report on U.N. Law of the Sea Conference.

June 10, full committee: 10 a.m., room 3110, hearing, oversight hearing on implementation of Alaska Native Land Claims Settlement Act.

June 11, Indian Affairs Subcommittee: 10 a.m., room 3110, hearing, oversight hearing on Quechan Tribe land issue.

ADDITIONAL STATEMENTS

CLEAN AIR ACT AMENDMENTS

Mr. MOSS. Mr. President, economic growth is essential to this Nation. Nothing will get this country moving better than some certainty in our building industry. The builders can boost the economy if they can be turned loose to build. I believe Senator Muskie's Clean Air Act Amendments of 1976 are a detriment to economic growth. My amendments should be adopted to give us more information. The National Home Builders agree with me. I ask unanimous consent that their resolution of support for the Moss amendments be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Special Committee on Federal Governmental Affairs, National Commission on Air Quality Study

Whereas, the Senate is considering legislation (S. 3219) which would, among other things, enact provisions designed to prevent the significant deterioration of air quality in those areas of the country whose air quality is cleaner than any existing ambient air standard, and

Whereas, no reliable information exists on the impact the proposed significant deterioration provisions will have on the economic growth of the nation;

Whereas, Senator Moss has proposed amendments to S. 3219 which will strike the section dealing with significant deterioration and will direct the National Commission on Air Quality to conduct a one-year study on the economic, technological and environmental effects of preventing significant deterioration of air quality; Now, therefore, be it

Resolved, that the National Association of Home Builders urges the Senate to adopt the Moss amendments to S. 3219.

BEHOLD—THE AMERICAN FARMER

Mr. CURTIS. Mr. President, when consumers complain about high prices at the supermarkets and when grain embargoes are used as political tools, too little concern is shown for the real victim in these cases, the American farmer.

And the real victim is, in fact, the real hero. He works hours most of us would shudder at, and for no set annual wage. Indeed he, more than anyone else in our private enterprise economy, is dependent on so many outside forces that affect what his earning power will be—weather, fuel prices, interest rates, transportation, insects, soil conditions. He learns to live with the lean years and appreciate the good ones.

And he feeds us all.

I was happy to see the article that appears in this week's U.S. News & World Report, "The Nation's Greatest Success Story," because it points out the significance of rural America to this Nation's economy.

As the article states, this year the American farmer will:

provide food to American families for about 17 percent of their take-home pay—the smallest by this measure of any country in the world; export more than any other U.S. industry; spend more money than any other business; and—each farmer will feed himself and 48 other Americans.

I urge my colleagues to read this article carefully because it has impact on all our constituents, those who produce and those they feed.

And we have a responsibility to be aware of these facts whenever we consider legislation that affects, even indirectly, the rural sector of our economy.

Mr. President, I ask unanimous consent that the article appearing in the May 31 issue of U.S. News & World Report be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

From Mid-America: The Nation's Greatest Success Story

Des Moines, Ia.—What you are told out here is that the wonder of America is not its space spectaculars, its 100 million autos or its skyscrapers—it is the American farmer.

Furthermore, you learn that the "hick" of yesterday is today the most potent force in the entire U.S. economy—producing more, buying more, exporting more goods by far than any other business in the country.

Here in the heart of the rich corn belt, at the start of another crop year, farmers are again setting in motion the world's most efficient food-production system.

Spirits are high. Planting conditions have rarely been better. A dry spring enabled field work to jump off to a head start of two to three weeks. Then came the rains, just in time to dispel worry that a widespread drought was taking hold.

For some wheat farmers in the Southwest, the rains were too late to revive land scoured by wind and blowing dust. But for most, the moisture should produce a wheat crop approaching last year's record.

CROP PROJECTIONS

Over all, prospects are good for a harvest that will equal the 1975 outpouring of 202 million tons of corn and other livestock feed grains, 71 million tons of wheat and rice, 253 million tons of hay and silage 8 million bales of cotton, 16 million tons of potatoes, and vast quantities of fruit, vegetables, meat and dairy products.

That is good news for the world, much of which is fed from the U.S. breadbasket. American farms now supply fully half of all the grain moving in world trade.

Projected grain exports in the year that ends June 30 are 79 million metric tons, a whopping increase over the 64 million of the previous year.

American grain pouring into ships destined for foreign ports keeps the nation's trade balance from sinking deep into the red, and thus underpins the U.S. dollar.

Total sales of agricultural products abroad this year will bring in an estimated 22 billion dollars—far and away the largest single source of U.S. sales abroad. Chemical exports last year were a distant second at 9 billion.

Without this 22 billion dollars from export farm sales, Washington would be hard put to pay for the foreign oil that must be had to keep the U.S. economy humming. The oil-import bill in 1975 was 25 billion and will approach 30 billion in 1976.

Farmers have got off the taxpayers' backs. They no longer are paid billions from the U.S. Treasury for not growing crops.

Such payments climbed steadily from 2.5 billion dollars a year in 1965 to a peak of $5 billion in 1972, and dropped to $2.6 billion in 1973.

In the current year, Government checks to farmers are expected to total less than half a billion dollars. Most of that will be paid out under disaster-relief programs to those hit by drought, floods, other catastrophes.

Government no longer stores a glut of grain at taxpayers' expense. At one time, this cost approached 1 million dollars a day. Farmers now hold their own grain until they are ready to sell on the open market.

MOST PRODUCTIVE INDUSTRY

Productivity on family farms outstrips that of every other industry in the country. Output per man-hour has increased 65.2 per cent since 1965. By comparison, output per man-hour in U.S. factories is up by 14.6 per cent in that time.

Each farmer produces the food and fiber to supply 49 Americans. On top of that, he turns out the products that move into export markets. Ten years ago, each farmer provided for the needs of 35 people in this country.

To put it another way—there now are 10 per cent more Americans, and they are fed by 22 per cent fewer farmers.

Thanks to this high productivity, American families eat for less of their take-home pay than the people of any other country in the world.

In 1975, the average U.S. family spent 17.1 per cent of its income after taxes on food—up from a low of 16.3 per cent in 1972 and 1973 because of a two-year run-up in food prices.

That still is a bargain when compared with other nations. Latest available figures, 1972, show that the French spend 23.4 per cent of take-home pay on food. In West Germany, the figure is 24.2 per cent, in Japan, 26 per cent, Britain 29.8 per cent, and Italy 33.6 per cent. In Russia, food takes 35 per cent of consumer expenditure.

Farmers are the nation's biggest private spenders, laying out billions for tractors, combines, trucks, fertilizer, fuel, barbed wire and countless other supplies.

In 1975, U.S. farmers had a gross income of 99.2 billion dollars, of which they spent 75.5 billion on production expenses, winding up with net realized income of 23.7 billion.

That was considerably under their best year ever, 1973, when net income hit 30 billion dollars.

Average net income per farm in 1975 was $8,440, down from $10,549 in 1973. Such averages are far exceeded by many of the family farms here in mid-America.

PROFIT PICTURE

The story of one highly capitalized and efficient farm of more than 1,000 acres in Illinois is reported on page 55.

Not all farmers operate on such a large scale. Vernon and Helen Johnson say that only after 30 years of grinding work are they beginning to make a comfortable living on their place near Boone, La. They own 226 acres and rent another 300 acres, feeding a few cattle and raising corn and soybeans that are sold for cash.

In 1974, the Johnson farm grossed $48,902. By the time expenses and taxes were paid, they were left with a net income of $12,353.

In 1975, the Johnsons' gross income jumped by more than $14,000 to $63,637. But expenses and taxes increased so much that net income was trimmed to $16,192. Mr. Johnson figures that gave him a return of about 5 per cent on his total investment.

Vernon Johnson has talked about expanding the size of his farm, but decided against it. He says:

"If I rented more acreage, I'd have to hire more help and I wouldn't be able to get the same percentages return on my investment. I would also have to buy more equipment. It seems to me that when you farm too big, you end up working for the farm-equipment companies and not yourself.

"The stakes in this business are getting too high for comfort. It used to be when spring came around I was content if I had a couple thousand dollars in the bank. But today, with the high cost of chemicals fuel and fertilizer, I can't plant my farm unless I have at least $15,000 on hand. As a matter of fact, I just spent $1,500 today so I'll be able to sleep better this summer—I bought hail insurance."

Mr. Johnson, like most farmers, is angry over what he sees as undue influence by Government, big grain dealers and meat-packers on the prices he gets. His attitude helps explain why President Ford appears to be in trouble across the farm belt.

Farmers are still bitter over the President's moratorium on grain sales to Russia last autumn. At that time prices plunged and have not yet recovered to earlier levels.

"It was a sellout to labor, who thought it would mean lower food prices," says Mr. Johnson, "and I probably won't vote for Ford, even if he is nominated."

Recurrent fears that corporation farming will take over in the U.S. are brushed aside by those who till the land and by economists who know the business from first-hand experience. Says Don Paarlberg, No. 1 economist in the U.S. Department of Agriculture:

"The family farm has great resilience. In hard times, the family farmer can tighten his belt, work for nothing. He will hold onto his land for a return of as little as 3 to 4 per cent—less if need be.

"The corporation farm can't do that. Its workers punch a time clock. They won't stay up all night to plant a corn crop or tend a sow through farrowing a litter of pigs. If they don't get paid, they quit. The trend to corporation farming in this country will be gradual, selective, but never total. In some types, where costs can be rigidly controlled, corporations will do well. They have almost totally taken over production of broiler chickens. They do well in California where irrigation takes the weather risk out of farming. But in many places, the corporations have fallen flat on their faces."

PASSING IT ON

There are growing numbers of incorporated farms in the U.S., Mr. Paarlberg notes, but 9 out of 10 of them are farm families that have incorporated to facilitate passing on the business to heirs.

More young people are entering or staying in agriculture. Not long ago, the average age of farm operators was 52 years. Now that is dropping. Almost 20 per cent of farm operators now are under 35 years of age, compared with 15 per cent in 1970.

The future appears bright for farmers—and for their customers at home and abroad. The Agriculture Department projects that U.S. farmers—with present technology—can by 1985 increase production of wheat and feed grains by 50 per cent, soybeans by one third and beef output by 40 per cent.

And the American farmers will do better than that if agricultural scientists come up with promised new varieties of hybrid seed, new livestock-management practices and improved cropping techniques.

Above all, the ever-growing strength of agriculture is based on a renewable resource. This spring you can see that renewal here in mid-America where new crops of wheat, corn, feed, grains, soybeans, calves, pigs and chicks are again creating new wealth for America.

American farmers in 1976 will:

Provide food to American families for about 17 per cent of their take-home pay—the smallest by this measure of any country in the world;

Export more than any other U.S. industry—$22 billion in sales abroad equaled 20 per cent of total exports last year;

Top others in growth of productivity—output Per Man-Hour 1965–75—on farms, up 65.2%, in factories, up 14.6%;

Take in more money than any other business—gross income of All Farmers (including value of housing and home-grown food) in 1975, $99.2 billion;

Spent more money than any other business—outlays for Machinery, Feed, Fertilizer and Other Production Expenses Last Year, $75.5 billion;

Earn a net income comparable to 1975 level, of $23.7 billion;

And—each farmer will feed himself and 48 other Americans.

CAPUCHINS AND MOBIL

Mr. ABOUREZK. Mr. President, in our debate over how to insure that the actions of major oil and gas companies serve the public interest, we go over and over the same ground. I recently read a newsletter on "Catholic Church Investments for Corporate Social Responsibility" which puts together some old facts in new ways. For one thing, the newsletter describes the efforts of religious congregations to find out who controls three of the major oil corporations. The oil companies tell us that they are owned by millions of "average Americans," and that their modest profits are nothing less than income supplements for widows and orphans. But the same companies that print this appealing information in magazines, can and do refuse to let their own shareholders know just who the top corporate owners are.

Not many people have the time or the knowledge to look behind the statements in oil company ads. Even Senators with staffs at their disposal cannot spend the time it would take to uncover the particulars hidden in the generalities and parables that make the oil companies sound good in their corporate propaganda. I think that the particulars show a lot more about how the oil companies operate. And they might also show that the corporate interest is a great deal more limited and private than the ads lead us to believe.

Mr. President, the article in vol. III, No. 4 of the Justice and Peace Center's newsletter shows some of the particulars behind certain Mobil Oil Co. ads. I ask unanimous consent that it be printed in the Record, both for the facts it reveals and so others can see that concern about corporate behavior extends outside the Halls of Congress.

There being no objection the article was ordered to be printed in the Record, as follows:

Capuchins and Mobil

The precipitating reason that brought the Detroit Capuchins into dialog with Mobil Oil Corporation was a June 17, 1975 "Op-Ed" advertisement by Mobil entitled, "Big Oil, Little People." This quarter-page article was part of the $5 million Mobil spent on print ads in 1975 for "idea advertising." These print ads have appeared in up to one hundred newspapers on a weekly basis. They are part of a broader, $10 million effort of Mobil to influence public opinion on items of interest to the company. This advertising campaign, which has been recognized by many as the best in the whole industry, won for Mobil's chairperson and chief executive officer Advertising Age's "Adman of the Year" award for 1975.

To run the ad in the *Wall Street Journal's* national edition for one time costs $10,489.50. To run the same ad in a large metropolitan paper like the *Milwaukee Journal* as part of a series of ads costs around $850.00. Since Mobil runs its "op-ed" thoughts in 25–100 metropolitan papers regularly, an average of 60 papers at $850.00 would be $51,000. With the *Wall Street Journal edition*, Mobil spent $61,000 to explain to the average American its side of the story. The company is willing to expend such amounts because it finds such ads have a "high readership" among the target group.

A person reading such an ad could conclude, with Mobil, that its stock is distributed quite evenly among millions of people. Furthermore, one could conclude the company had gone overboard in trying to be objective. "And nobody was counted twice." However, Senators Muskie and Metcalf report Mobil's top thirty shareholders own 29% of the corporation (almost all in the name of nominees). With 5% ownership constituting control of a company and 1% indicating "undue influence" (according to the Government) Mobil's protestations (to the point of $50,000+) of objectivity might be called into question.

Why would this company, the fifth largest corporation in the United States and the sixth largest in the world spend $10 million in the name of objectivity and yet not share objective truth with American readers? Perhaps an article describing Mobil's "Advocacy Ads" in *The Wall Street Journal* (May 14, 1975), with a subtitle "Is It Brainwashing Public?", gives further information as to Mobil's motivation. According to Rawleigh Warner, the purpose of Mobil's public-affairs program is to "defend the oil industry against 'slander.'" The Vice President for Public Affairs states the purpose for the ads in another way: "We want others to see Mobil as we do."

A recent survey by Opinion Research Corporation, found that 67% of the public has a "low approval" of big companies compared with 47% ten years ago. About 33% of the public feel that oil companies "fall down the most" in their ethical practices, up from 6% only three years ago. And 72% think oil companies make too much profit. Given such public opinion, it is little wonder that Mobil would want others to see it "as we do."

A recent example of the difference of perspectives between some of the public and Mobil and how it came to a head is evidenced in the scenario that developed between Mobil and WNBC's series on the oil industry that ran during the week of February 23–27 in New York. Even though it had refused the station's invitation to respond to the series "in fairness to ourselves" (because it felt its response would be edited out or watered down) Mobil took out a full-page ad in the New York Times on March 5 to give its side of the story. "Like a lot of folks in the Channel 4 viewing area," Mobil began, "we tuned in the local news show last week to catch Liz Trotta's highly promoted five-part series on the price of gasoline. The show—it was hardly news—left us dismayed, concerned, and angry." "What we say," the ad declared, "really shook our confidence that objectivity is of paramount concern to some journalists. We saw a parade of warmed-over distortions, half-truths and downright untruths . . ." The company then proceeded to take each of the five days' presentations and point out the "Hatchet Job" done by the commentator, with an accompanying "Fact" presenting Mobil's point of view.

This Newsletter does not want to give the impression that Mobil had not justification to be angry at distortions, half-truths and downright lies that may have been included in the report. Yet an understanding of some of the issues that brought Mobil's hostility indicates that it might be also said that this Mobil ad was "inaccurate, unfair and a disservice to the people."

In the WNBC show, one of Ms. Trotta's guests stated that the crisis was a "rip-off" and that the oil companies "taught the Organization of Petroleum Exporting Countries how to raise their prices." Calling such a statement the "Hatchet Job," Mobil responded. "Aside from the fact that no oil company spokesman on the show was asked to rebut this particularly nasty attack" (although it later refused an invitation to do so), "the fact remains that a few years ago, when Mideast oil sold for about $2.00 a barrel, the oil companies earned about 35 cents on each barrel produced. Today, with Middle East Oil selling for over $11.50 a barrel, industry profits on this oil are averaging just under 20 cents a barrel."

WHAT MOBIL DIDN'T SAY

This response about the pricing of Mideast Oil finds us wondering about Mobil's claim to objectivity. On March 5, when the Mobil ad appeared, the company owned 7.5% of the 40% interest in Aramco Oil Company that represented four American companies (Exxon, Texaco, Standard of California and Mobil).

How they figure Arabian oil prices

When an Aramco customer—usually one of the four owning companies—buys crude oil, it pays Aramco the posted price per bbl	$11.65
The posted price is calculated to give Saudi Arabia the $7 per bbl. it demands from Aramco in two ways:	
Royalty (12½%) posted	1.46
Taxes	5.54
The posted price also includes the profit the Saudis allow Aramco owners per bbl	.45
It also includes Aramco's cost of producing a barrel of oil	.13
Total	7.58
To make this price possible, Aramco refunds through dividends to its owning companies the difference between the market and posted prices	4.07
Grand total	11.65

Since the four US energy companies owned 40% of Aramco at the time of Mobil's ad, 40% of the $.45 allowed the industry for profits by the Saudis would come to "just under 20 cents a barrel."

Yet, while this is true, Mobil found reason to discuss the 40% of the dividends allowed to the owners of Aramco that the Saudis allowed. 40% of $4.07 brings an additional $1.63 to the "just under 20 cents a barrel" for a total of $1.83.

According to *The Wall Street Journal*, (3-28-74/13), the way the "dividend" works to the benefit of the oil industry finds that "transactions between Aramco and its owner companies take weird paths:"

"'. . . The owner company takes one million barrels of Aramco crude, paying Aramco $11.65 a barrel cash, or a total of $11,650,000. The owner company sells the oil for perhaps as much as $10 a barrel, giving it a 'loss' of $1,650,000.

"Aramco, meanwhile, has paid the Saudi government $7 million (at $7 a barrel) and has operating costs totaling $150,000 for the million barrels. It therefore has netted a 'profit' of $4.5 million, or $4.50 a barrel.

"But Aramco then declares a 'dividend' perhaps equal to $3.50 a barrel after retaining something for capital expansion—giving the owner company $3.5 million on the million barrels. Subtracting its earlier 'loss' of $1,650,000 on the transaction, the owner company has come out with a profit of $1.85 million."

Yet, in the interest of information that is accurate, fair and a service to the people, Mobil states that "industry profits on this oil are averaging just under 20 cents a barrel."

Another problem Mobil had with Ms. Trotta was her "pitch about the oil industry's 'generous tax benefits and tremendous government influence, not only in Washington but in most capitals of the world.'" To this Mobil responded, "How can one reconcile 'generous tax benefits' with major oil companies' loss of the depletion allowance—still permitted other extractive industries? Or with the cut-back in foreign tax credits—again, only for oil companies? Moreover, the oil industry is the only one in the nation still under the price controls initiated back in 1971—another fact Ms. Trotta never mentioned. And where's the vaunted political clout of an industry that's had its prices rolled back, is fighting divestiture at home, and watching its properties become nationalized?"

It is hard to believe that such a beleaguered company would make profits of $1.047 billion in 1974 and would pay US taxes of 5.3% when the average corporate taxes are supposed to be 48%. This is particularly difficult to fathom when Mobil boasts it paid 68% in taxes on its worldwide revenues. The royalties and taxes account for most of the so-called posted price. Saudi Arabia requires Aramco to sell to its owners at the posted price. Yet this gives the owners a tax advantage, according to Sen. Frank Church, because the payments to Saudi Arabia are credited dollar-for-dollar against US income taxes. In addition, the owners' profits in Aramco enable them to conduct other operations at a reduced profit, giving them an advantage over rivals. This is one of the situations that led Sen. Church to conclude that Aramco and similar arrangements have effectively eliminated "free enterprise, the competitive market." Between 1969 and 1973, Aramco's pay-out of dividends rose 350%. In the same period, the royalties and income taxes collected by Saudi Arabia also rose by 350%.

FREE ENTERPRISE

In light of such actions, Sen. Church concluded that Aramco was able to eliminate the free enterprise system and the competitive market. Yet Mobil shows that, with so many refineries, the talk of seven companies monopolizing the industry is preposterous. The Church committee investigating the transnational corporations showed that profits of the refining dimension enabled companies to take losses at other levels of operations, a great occurrence among vertically-integrated companies such as Mobil which controls every operational level; producing, refining, transporting and marketing.

When Mobil questions the allegations of its vaunting "political clout of an industry that's had its prices rolled back, is fighting divestiture at home, and watching its properties become nationalized overseas" one cannot forget Mobil's threat in early 1974 that if foreign tax credits for oil companies were eliminated in tax legislation then pending, "We would have to take every step we could to get out of US jurisdiction." Needless to say, the foreign tax credit remained.

In a meeting with Mobil officials, Tim Smith of ISSR, Steve Abrecht and Moke Locher of Corporate Data Exchange, Inc. and Rev. Michael Crosby (representing his Capuchin community as filers of the resolution) were told by Mobil officials that Mobil's unique 1974 profits resulted from filling its reserves at the earlier posted price of $5.11 and selling at $11.65 with $6 additional pure profit. This $6 bbl profit was not passed on to the consumer and little was passed on to the shareholders. Mobil used this money, along with borrowings to purchase Montgomery Ward for $800 million. As the official indicated, otherwise they would have had to pay taxes on such huge profits. Once the resources were depleted, they had to be filled, so Mobil had to borrow to pay the $11.65. Even though future sales would balance the purchases at the $11.65 price. Mobil paid only 5.6% in US taxes. At the same time it was among those claiming that it needed billions in profits to develop new energy sources. Reflecting on these facts, Malcolm Forbes commented: "If crude-short Mobil hadn't bought Marcor, all of us, including the Congress, would be more moved by the Big Oil's plea that they need billions in profits to find and develop vitally needed new energy resources. But when one of them can use $800 million to take over a major retailer of bedsheets, shirts, stoves (Montgomery Ward) and bags and boxes (Container Corp. of America), how can one believe that their money will go toward more energy?"

The difficulty about believing Mobil is thus not only shared by some shareholders; it is shared by the editor of one of the country's most influential business magazines.

Despite spending $5 million in print media advertising so the public can see Mobil as Mobil does, it stated on March 9, 1975, "We don't want to control the press. But we do believe a way should be found to provide adequate, timely, and economic channels of communication whereby individuals and organizations can correct demonstrably inaccurate reporting . . ."

In light of such a statement, it seems inconceivable that Mobil would refuse to make available to shareholders information about the concentration of its shareholdings. This Newsletter has demonstrated that Mobil inaccurately reported the full meaning of its shareholdings. These must be seen not only from a common denominator. Even more importantly, its holdings must be seen from the viewpoint of concentration which indicates where real power lies. When this was presented to Mobil officers by Mike Crosby, they indicated that to find out who the voting holders were would be a great expense, even though it has been shown at least $50,000 was spent showing that "nobody was mounted twice" in the division of its stock to 14 million Americans.

The problem that faces church groups as minority shareholders in the corporation is best summarized by Mobil itself: "What about the organizations and individuals who cannot afford to buy any advertising space to try to set the record straight?"

What of us? $50,000 would be one-third the budget of ICCR to deal with all corporations on all issues. It would be 7 times the budget for the seventeen-member Corporate Responsibility Action Group of which the Capuchins are but one member.

A representative will go to the shareholders' meeting of Mobil, knowing that Mobil not only would not write a letter to the various banks and institutions holding its large blocks of stock (as did Exxon in response to the Marianists' request), but opposes the resolution. In addition, the large banks and institutions will vote against the resolution as well. And while SEC laws would allow the Capuchins only 200 words to explain why it proposed the resolution, as the bloc of institutional shareholders increases to the growing disenfranchisement of the average shareholder (remember the 14 million—it decreased 18.3% since 1970 due to a feeling of helplessness in the face of the large institutional investors), Mobil will urge shareholders to vote against the resolution. And since Mobil will have all the words it wants, plus the prestige of the company who has convinced shareholders to see it as Mobil does, the Capuchins will consider it a "victory" if they receive 3% of the vote.

DESEGREGATION AND THE CITIES—PART IX:

LOCAL LEADERSHIP AND EDUCATIONAL CHANGE IN MINNEAPOLIS

Mr. JAVITS. Mr. President, the list of major American cities where there has been active and constructive leadership at the local level in devising and implementing a citywide desegregation plan is very short. The largest is Minneapolis, where the task was undertaken under the leadership of Superintendent John Davis. The result has been an unusually intelligent, thoughtful, and creative approach to school desegregation bringing with it new educational options for children and their families. Minneapolis has not solved all of its problems—no school system will until other social and economic injustices are repaired—but it is working on them peacefully and with imagination and determination.

Minneapolis has only about a fifth of minority children, but this is approximately the number the Boston schools had in the mid-1960's when that city's politics first became almost completely dominated by the desegregation issue. Minneapolis great advantages were that it had educational leadership that treated desegregation as the educational challenge and opportunity it is and that most of the State and local political leaders refused to abandon their support for desegregation. The Governor, State school officials, the city's Congressman, DON FRASER, and others held to their principles when the conflict became most intense. Good public leadership and the good sense of the local voters kept the school board in the hands of those who wanted desegregation to work well, not the forces that often waste years of effort and hundreds of thousands of dollars in useless appeals trying to reverse the Constitution.

Minneapolis plan is not perfect and the city has confronted difficult problems of building new educational approaches more responsive to diverse demands of different groups of parents. The city does, however, provide a fine example of educational leadership and commitment of school officials to building genuinely integrated schools.

Today's inserts are a number of articles from the Minneapolis Tribune and one from the Milwaukee Journal describing the desegregation process as it unfolded in Minneapolis.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Sept. 2, 1974]

LARGEST DESEGREGATION PHASE SET WEDNESDAY

(By Gregor W. Pinney)

The fourth and largest phase of compulsory racial desegregation in the Minneapolis Public Schools begins Wednesday when the schools open for the fall term.

Nearly 12,000 students will be bused to schools outside their neighborhoods for desegregation. In those schools, many new alternative educational programs will start at the same time. The total cost for busing and for people to handle desegregation and alternatives in the coming year will come to more than $3 million.

It will be the largest phase because the biggest concentrations of minorities are in the elementary schools, and the entire program to eliminate that segregation will go into effect this fall.

In addition, another of a series of steps of the secondary school desegregation plan will be carried out. Earlier steps were taken in 1972 and 1973 and, because of the one-grade-at-a-time method used in the secondary schools, the full rearrangement of students will not be completed until 1977. But most of the impact will be felt this year.

Strictly speaking, the elementary segment of the plan will not be completed this year either because three school complexes, which were designed as part of the plan, will not be finished until late 1975 or early 1976. But the students in those areas will be rearranged in a desegregated pattern in existing buildings this fall and simply will move as units eventually into the new complexes.

Those actions will complete the current desegregation plan, which is supposed to lower the racial minority percentage in all schools to what has been set as an acceptable level—35 percent.

But because the number of minority students is increasing while the white population declines, the minority percentages in some schools probably will rise above the acceptable level in the future.

That may bring pressure for more shuffling of students.

Indeed, it might bring an order for further action from U.S. District Judge Earl R. Larson, who has given himself continuing jurisdiction over all local desegregation matters as the result of a court case two years ago.

In three years of desegregation, there has been no reported violence that could be attributed to compulsory racial mixing. And none is expected this fall.

Compulsory desegregation has been going on in Minneapolis since 1971 when the school board undertook the first cautious step—the parting of Field and Hale Elementary Schools.

But even as that pairing began, pressures for more desegregation came from the state Department of Education and local integrationists, who had filed a lawsuit. So the school board drew up a comprehensive desegregation plan and adopted it in April 1972. A month later, Judge Larson found the city guilty of official segregation and, essentially, ordered the board to put its own plan into effect over the next several years.

So there could be no turning back.

The first part of the comprehensive plan—a few secondary boundary changes that affected relatively few students—went into effect that fall. A larger part of the secondary plan went into operation in the fall of 1973. That left more of the secondary plan and all of the elementary part for this fall.

Desegregation this fall will mean that additional thousands of students will not go to the schools that traditionally have served their neighborhoods. Instead, they will be assigned to schools that usually are farther away and that have a more diverse array of students. If the distance is too far to walk, as it usually is, the students will be bused at public expense.

In some areas, the old neighborhood schools have been closed. The students might go to new facilities or to other existing schools that have space because of dwindling enrollments.

The most prevalent technique for desegregation in Minneapolis, however, does not require closing old buildings or opening new ones. It is called "grade reorganization" and it means that the areas served by two or more schools are merged. One school takes certain grades (say, kindergarten through third) from the whole area while the other school takes other grades (fourth through sixth). One school might have been heavily black and the other heavily white, but they end up with mixed populations after the reorganization.

This technique has brought new words into the urban vocabulary: "pairing" for two merged schools and "clustering" for more than two.

And it means that most students do get to attend their neighborhood school some of the time—during those years when they are in the grades that the school still serves. But the students do not stay in that school for as many years as they would have in the past.

In Minneapolis, there is no "cross-busing" in which individual students in a school are identified by race and then are exchanged for individuals of an opposite race in another school.

The balancing act in Minneapolis is done by putting together certain areas of town or even whole school attendance areas that encompass both white and minority residents. Attendance boundary lines are redrawn in the process, and some of the shapes that emerge on the map resemble the results of gerrymandering.

The effect on the racial balance of the schools is the same as in cross-busing. But the techniques used in Minneapolis mean that neighborhood friends usually are not separated. Even if one youngster is black and another white, if they live near each other and are in the same school grade, they probably will get on the same bus and go to their new school together.

Also in Minneapolis, there has been no attempt to scatter the minority students evenly among all the schools of the city. That would require much more busing, and over considerably longer distances.

Furthermore, school officials see no virtue in reducing the minority percentage as low as possible. They think it is a good thing to have a significant number of minority students in a school—enough to carry some weight in the affairs of the school.

As a result, real racial mixing is limited to less than half of the schools of the city.

[From the Minneapolis Tribune, Sept. 9, 1974]

DESEGREGATION PLAN CHANGES CITY'S SCHOOLS

(By Gregor W. Pinney)

The extensive desegregation carried out last week in Minneapolis schools has profoundly affected the shape of education in the city, probably more than any other single force in the history of the school system.

The educational pattern in the city used to be a simple one: The city was divided into about 70 neighborhoods, and each one had a neighborhood elementary school in the middle. It was often the focus of that neighborhood's identity. And there were clear divisions between elementary schools, junior highs and senior highs.

But now, many of the boundary lines have been erased. Some of the buildings are gone, and so is some of the identity. The school grades are arranged in a variety of ways now that do not easily fit into the old three-level mold.

The school district used to issue just two maps to show attendance areas, one for elementary and one for secondary. But this year, a series of six maps was produced to show the new configurations, and they still are confusing.

The sight of children walking to and from school in the morning and afternoon is part of the city scene, but there is far less of it this year as the orange bus becomes a more important tool of education. One-third of the city's students ride to school this year.

Desegregation also has had a heavy impact on the substance of education. As students and teachers were rearranged, the faculties often took the opportunity to change the way education was offered. The faculties at Hale and Field schools, for example, after the more traditional-minded teachers had departed, decided to offer a continuous progress program with teams of teachers and a lot of specialties.

The programs not only were changed, they were enriched to make desegregation more attractive. Hale and Field each got five extra teachers in 1971, and the programs they offered put a glow on those schools that attracted scores of students from outside. Others were driven away, nevertheless.

There is some enrichment with this year's desegregation, but it is not as rich as Hale's and Field's because school officials say they do not have that kind of money anymore. Even Hale and Field do not have all the extras they once had.

Most of all, desegregation opened the door for citywide alternatives. The alternatives system, which offers several styles of learning and gives each student a choice, got started in the city in 1971 with the federally funded Southeast Alternatives project. And the school board, battered by antagonistic pressures over desegregation, took up the idea of alternatives as a way of giving all factions at least some of what they want.

As desegregation went into effect this fall, so did a lot of new alternative programs, with the prospect that the entire school system someday may offer choices of educational styles to students. In some cases this fall, alternatives are the sole technique for desegregation. Instead of assigning students to schools, officials simply have allowed students to choose, hoping that the races will balance themselves.

Although there has been no major violence in desegregating the schools, there has been public protest. There was a tremendous uproar at a school board meeting on the night in 1970 when the first desegregation policy was adopted by the Board of Education. And there were clamorous meetings after that, but the decibels dwindled. And after the federal court put legal sanction on desegregation, the protest seemed virtually to disappear.

There was a political protest, too. For a while, it threatened to throw out the liberal board majority and to oust the administration of Superintendent John B. Davis Jr. in the process. Two antibusing candidates were elected handily in the 1971 election. But by 1973, the issue had worn thin, and the voters elected two moderate candidates who promised not to interfere with the court-ordered desegregation.

Although desegregation technically is being carried out under a court order, the real thrust for desegregation in Minneapolis has not come from the courts. It has come from what could be called the liberal establishment of the city and from the school board and the school administration.

The liberal belief was—and is—that sending youngsters of different races to school together is the best hope ultimately for bringing racial harmony. . . . They want better human relations. They want blacks and whites and Indians to grow up together and learn how to get along. And the fact that there has been no real trouble as a result of desegregation in Minneapolis is taken as proof that it is working.

Opponents maintain, however, that true human relations have not developed between the races in schools. And some research in other cities has supported that position, although the accuracy of that research has been challenged.

The research, however, tends to get shoved aside, and desegregation moves ahead largely as a matter of faith.

[From the Minneapolis Tribune, Unpublished Column, Oct. 23, 1974]

WHY IT WORKED

(By Gregor W. Pinney)

If there is a race riot in the Minneapolis Public schools tomorrow, please consider this column inoperative.

But assuming there will not be a riot, I want to offer some theories about why school desegregation here has gone so smoothly.

Probably the most important single factor is the leadership of the school board and the administration of Supt. John B. Davis Jr. They were not always skillful molders of popular opinion, and they did not always move as fast as the city's integrationists wanted. But Davis and majority of the school board had an unswerving belief that integration was right.

Whether it was right or not is another question. They thought it was right. They were not just going along with it because of political pressure. And the deepness of their belief tended to soften the opposition.

Most important, it kept the opposition from getting up any hope that the board and the superintendent could be persuaded to change their minds. Consequently, a lot of people simply resigned themselves to desegregation and went about other things.

The board and the administration, however, had many things in their favor. One was that the comparative size and dispersal of Minneapolis' minorities meant that desegregation here was not really a big deal. Only one-fourth of the students have been forced to go to a school outside their neighborhood, and fewer than half of the city's schools are affected in any way. And nearly all those involved are elementary and junior high schoolers—not senior high youths who know how to stage a big riot.

The busing is so limited that most whites do not have to worry about being involved. Indeed, most of the furor over desegregation in Minneapolis came in the early stages when no one knew who would be caught up in it and just about everybody feared that they might be.

Throughout the whole desegregation experience, there has been no Boston-style hypocrisy. The liberals who pushed for desegregation did not escape it themselves. Indeed, the thing they wanted most was to get their own children into racially mixed schools. Some of the strongest backers came from the wealthy Kenwood area, where the superintendent and some board members live. The Kenwood children now are being mixed with some of the poorest black youngsters in the city.

In the midst of it all came the federal court decision by Judge Earl R. Larson, declaring the city in violation and ordering the board to put its desegregation plan into effect. That gave legal sanction to what the board had been trying to do voluntarily, and it seemed to make it impossible to reverse.

Alternative styles of education, which are offered in some desegregated schools, might also have helped, because they gave parents something to think about besides busing. And then there was politics. The opponents, overconfident after their big victory in winning two school board seats in 1971, put all their hopes in winning two more in 1973, which would have given them a majority. They became surprisingly calm in those two years, so much so that desegregation did not seem to be a desperate issue by the time the 1973 elections rolled around. The opponents lost.

I hate to say it, but they might have fared better in the election if they had kept things stirred up. They definitely would have fared better if all seats on the school board were open for election every two years as they are in Boston. An entirely anti-busing board would have been elected in 1971, and resistance would have been intense. But the school election laws of Minnesota require long, staggered terms just for occasions like this. Schools here are intentionally insulated from short-lived public pressures.

Another factor that led to the opponents loss in the election of 1973—and that contributed to the city's acceptance of desegregation—was the political hocus-pocus of the forces that won. They largely were liberal pro-busing people who cast themselves as moderates. They got two candidates—Jack Mason and Carol Lind—who had not previously spoken out either for or against busing, and cast them as anti-busing candidates. And through some means that I still find baffling, they got the support of organized labor, even though it was the conservative side that had served labor unflinchingly in the past.

The liberal-moderates won. The back of resistance was broken. The issue has become almost moot.

Last week, I happened to see one of the strongest anti-busing leaders, Norm Selby, as he was out campaigning for the State legislature. His seventh-grade daughter, whom he had once taken out of Field elementary School to avoid busing, is now attending Anthony Junior High as part of the desegregation program.

Is she being bused?

"Isn't everybody?" he replied.

[From the Minneapolis Tribune, Sept. 19, 1975]

TWO AREAS TO JOIN CITY SCHOOL PLAN FOR DESEGREGATION

(By Gregor W. Pinney)

Children from two white areas of Minneapolis will be brought into the city's school desegregation program when schools open for the fall term on Wednesday. But these moves will be small compared with the extensive busing and mixing of students that has begun in the past several years and will continue this year.

Approximately half of the city now is touched by school desegregation as public officials attempt to use gasoline to overcome the effects of human nature. This fall, 41 of the city's 82 public elementary and secondary schools will be involved to one degree or another, and more than 11,000 of the district's 53,000 students will be bused out of their neighborhoods for racial mixing. (An additional 13,000 will be bused for other reasons. That includes 4,000 who will get publicly supported rides to private schools.)

The two new areas are the Putnam Elementary School neighborhood in northeast Minneapolis and the Calhoun Elementary School neighborhood in the Hennepin-Lake district of south Minneapolis. Calhoun closed in June.

Both areas are being brought in so that their predominantly white student populations will lower the minority proportions at other schools as required by U.S. District Judge Earl R. Larson. The previous rounds of desegregation failed to do the job.

Putnam, a 91-percent white school at 1616 NE. Buchanan St., will send about 240 kindergartners and first- and second-graders this fall to Bethune Elementary School at 919 Emerson Av. N. That is three miles away, on the heavily black near North Side. Bethune, even though busloads of white students were brought in last fall, still had a minority enrollment of 47 percent, with 44 percent black.

That violated Judge Larson's new guidelines of no more than 35 percent of any one minority and no more than 42 percent of all minorities.

In turn, about 30 fourth-graders from the Bethune area will go to Putnam this fall. Next year, fourth and fifth graders will be at Putnam, and sixth graders will be involved in 1977.

Bethune also will send about 80 students—most of them black—in the western part of its neighborhood northward to Lowell and Hawthorne schools.

When all the youngsters have been sorted out this fall, Bethune is expected to have a 28-percent minority enrollment (compared with 87 percent two years ago) and Putnam is to have 16-percent.

In south Minneapolis, the closing of the 88-year-old Calhoun School at 3016 Girard Av. S. means that all of the approximately 400 students (85-percent white) in that area will be mixed into the four schools of the West Cluster. Exactly where they go will depend on their grade level and the kind of program they want—open, traditional or continuous progress. Without Calhoun's help, one or more of the schools might have been over the 42-percent maximum. They definitely would have been over Judge Larson's old 35-percent guideline, which was in effect last December when the board decided to bring in Calhoun.

Last spring, it appeared that 10 schools might be over the limit this fall. But now that Judge Larson has raised the limit and ordered prompt action to desegregate Bethune, officials are predicting that only two schools will be in violation.

Those are Irving and Greeley Elementary schools, which are just south of downtown Minneapolis in an area with some blacks and many Indians. School officials say they can eliminate that segregation when they move the youngsters into the new Hans Christian Andersen complex next year and invite white students in from the outside. They persuaded Judge Larson to give them time to try.

Desegregation caused a community uproar when it first was undertaken by the Minneapolis School Board five years ago. But there has been relatively little commotion in the last two years.

Some people in the Putnam area—traditional, white ethnic, northeast Minneapolis—voiced strong protests at two meetings last spring when they learned that their children were to be taken to the North Side. But those voices have died down.

"When we first went around to get support to stop it, people said they didn't like it, but they sure hoped we wouldn't have a Boston here," said Gerald O. Wegner of 1306 NE. Lincoln Ct., one of the leaders of a parents group last spring.

They soon realized that they could not stop the plan, "So we thought we'd do what we could to make the best of a bad situation," he said.

Wegner, 34, whose second-grade son Byron will ride a bus to Bethune, now is working to form a new parents' association, for Bethune School. Working with him is Mildred Ogisi, a black parent from the Bethune area, whose daughter Alefo also will be in second grade.

Mrs. Ogisi said, "On the whole, I think it should go rather smoothly. We desegregated at Bethune last year with no problems."

As for forming a new parents' association, she said, "I have found the Putnam parents very oriented to parent grouping."

Contrary to "outside prejudice," there are some pro-busing people in northeast Minneapolis, said Wegner, and he estimated that about half the parents are neutral. The rest are against it, with only a relative few adament about it.

"I'm basically anti-busing," he added, "for a number of reasons that I think have very little to do with black prejudice."

One reason is that he bought a house that is just across a park from the neighborhood school, "but now the school is across town."

Wegner, who is a Univac computer programmer, said his son's education will not be harmed at Bethune— unless parents cause trouble.

[From the Milwaukee Journal, June 12, 1975]

INTEGRATION COMES QUIETLY TO MINNEAPOLIS

(NOTE.—As background for a decision expected this year in a Milwaukee school desegregation suit, reporters in other cities were commissioned to describe the experiences of their school systems with court suits and, in most cases, court orders to desegregate. This story on Minneapolis, Minn., was written by Milton Coleman, a reporter for the Minneapolis Star.)

MINNEAPOLIS, MINN.—In 1971, the Minneapolis School Board began an experimental program of forced desegregation in two of the city's 94 public schools. Some parents shouted protests, others quietly packed up their families and moved away. And two anti-integration candidates won easy victories in that year's board elections.

Now the schools are nearing completion of the final phase of an expanded three year desegregation program under the supervision of the Federal Court.

And Marilyn Borea, a 37 year old white housewife who rode the crest of the anti-integration wave to victory in 1971, is spending more time urging an expanded girls' athletic program than answering phone calls from parents hassled by desegregation.

"No one discusses the pros and cons of desegregating anymore. It's a moot issue," she said recently. "By and large, it's working." Besides, Mrs. Borea added, "the court ruling has said that this is the way it's going to be."

SOME PROGRESS

But W. Harry Davis, the 52 year old black chairman of the board, is cautious. "There has been progress," he acknowledged. "But there hasn't been enough for us to sit back on our laurels."

Parents and school officials are waiting to see how and if academic achievement will change. They're also pondering the fate of one-third of the system's schools that are still nearly all-white and unaffected by the court ruling.

And in the local American Indian community, there are fears that dispersal of Indian students throughout the district is jeopardizing positive cultural identity.

Minneapolis, a city of 434,400, has a relatively small minority population: 4.4% of the people are black, 1.3% American Indian and seven-tenths of 1% Asian and Latin, according to the 1970 US census.

But similar to other urban areas of the country, minority enrollment in Minneapolis public schools is disproportionately high and growing higher.

CAMPAIGN BEGAN IN '60S

In 1963, there were 4,708 minority pupils, comprising 6.6% of the city's 71,530 students. By last fall, minority enrollment had increased to 10,722 or 19.1%, while total enrollment decreased to 56,161. There were 7,040 blacks, 2,676 American Indians, 583 Latins and 423 Asians.

The campaign of local blacks to desegregate public schools began quietly in the 1960s, without the citywide boycotts and spot demonstrations on construction sites that marked similar efforts in Milwaukee.

The School Board adopted a voluntary busing program in 1967 and established guidelines for voluntary desegregation in 1970. But it was not until the following year that the first attempt at forced desegregation was made on an experimental basis.

Two elementary schools on the city's South Side—Hale School, mostly white, and Field School, mostly black—were paired into a single attendance district. All students in kindergarten through third grade went to Hale, while those in foutrh through sixth grades attended Field.

LITTLE RACIAL CONFLICT

Despite frequent parent protests before the program began, there was virtually no racial conflict once it got underway.

The following year, the board adopted a sweeping plan for forced desegregation in 53 schools, following many hearings throughout the city at which throngs of parents—most of them white—criticized the proposal.

At the same time the board was deliberating the plan, Federal Judge Earl R. Larson was hearing a class action suit brought by the local NAACP on behalf of three black children.

DISTRICT COURT RULING

One month after the board adopted the plan, Larson ruled that the board had maintained segregated schools through its pupil and staff assignment, school construction and pupil transfer policies. He also said that housing patterns helped foster racial isolation in the city's schools.

But Larson rejected the plaintiff's request for city desegregation immediately, and instead said he would supervise the board's adopted plan which would phase in desegregation over a three year period.

The plan called for the redrawing of high school district boundaries beginning in the first year, and complete desegregation of 13 junior high schools, including the busing of 2,800 students, in the second year. Last fall, elementary schools were added to the operation in the third and final phase. Now 11,000 children on buses and 4,000 others attend schools outside their immediate neighborhoods.

The board included pairing and clustering schools into larger attendance areas in the fashion pioneered in the Field-Hale experiment of 1971.

This approach was feasible in part because the city's black population is centered in two separate areas, a highly concentrated one on the near North Side and a more dispersed one throughout South Side areas.

The linchpin of Larson's original decision was that by the end of the current school year, there be no school in the city where minority enrollment exceeded 35%, roughly twice the percentage of minority enrollment in the district as a whole at the time of the decision.

Before the ruling, 19 schools had minority enrollments greater than that figure.

NINE SCHOOLS ABOVE LIMIT

The board, claiming it was working as diligently as possible, nevertheless expected nine schools to still be above the 35% minority limit next fall. School officials said the primary reasons were delays in school construction and failure of magnet programs to attract enough whites to racially mixed schools.

The desegregation program was successful, however, in reducing the concentration of minorities. Two schools that previously had minority enrollments of 88% and 67%, for instance, were cut to 47% and 49% respectively.

Charles Quaintance, attorney for the plaintiffs, criticized the school system for relying so heavily on the concept of magnet schools to desegregate. He said it was unlikely to attract enough whites and that progress under the program was too slow.

Quaintance asked Larson in April to require the board to comply more closely with the original court order.

LEVEL RAISED TO 42 PERCENT

In response, on May 7, Larson raised the 35% level to 42%, with the provision that no single minority such as blacks could constitute more than 35% of a school's population.

Larson said he made the adjustment because of the growth of the city's minority population since 1972, particularly the growth of the Indian community.

Raising the ceiling left only one school potentially above the 42% legal limit for next fall. And on May 27, the School Board adopted a proposal to add another school, 91% white, to the desegregation plan. Judge Larson approved this plan and presumably the action will bring the district into full compliance by fall.

AIMED AT BLACK SCHOOLS

The entire court effort has been aimed primarily at desegregating schools that were predominantly black. It has done nothing about many schools that are mostly white. Of 86 schools in the city, 28 have minority enrollments of less than 10%, a fact that worries Supt. John B. Davis.

The superintendent and the board have always contended that housing patterns affected school segregation. One place where that is most evident is in northeast Minneapolis, a tight ethnic enclave of Poles and Swedes across the Mississippi River from the main portion of the city.

Of more than 17,000 blacks living in the city in 1970, only 16 lived in the northeast; seven of the 28 schools with minimal minority enrollment are in that part of the city.

INDIAN COMMUNITY

Although the Indian population, which is also located in two different sectors of the city, was included in the court order, it has not greeted the desegregation program with all-out enthusiasm.

The activist American Indian Movement (AIM) has its national headquarters here, and its organizing has sparked a general cultural awakening among Indians.

Some Indians have requested transfers to schools where they are collectively in greater numbers. And at one point last year, there were some confrontations, but no violence, between blacks and Indians at one high school.

MINORITY STAFFING

Larson's order also affected minority staffing, which had previously been concentrated in schools with the highest minority enrollments.

Now every elementary school has at least one black teacher, and the minority staff ratio in each secondary school is at least 6%.

Several studies of student achievement have been made during the three years of the Field-Hale program. Officials say they show that black achievement has been improved and white achievement has not been harmed.

TWO STUDIES CRITICAL

The bulk of the citywide program started last fall, and few evaluations have been made since then. However, two conceptual studies of the desegregation plan released in October were sharply critical.

One report, undertaken by a school administration task force, concluded that both the voluntary and mandatory busing plans were perpetuating values of white superiority.

The second report, compiled by the Atlanta based firm of Tillman Associates, said the board's program was more concerned with meeting constitutional requirements of the court order than eradicating the root causes of racism in the schools.

[From the Minneapolis Tribune,
Aug. 11, 1971]

Suit to Integrate City Schools Filed

(By Greg Pinney, Staff Writer)

Pro-integration forces filed a lawsuit against the Minneapolis School District Tuesday in an attempt to force the integration of schools across the city in the fall of 1972.

The suit was filed in U.S. District Court in Minneapolis by Charles Quaintance Jr., a Minneapolis attorney who is representing the Committee for Integrated Education and the Minneapolis Chapter of the National Association for the Advancement of Colored People (NAACP).

Quaintance was formerly a trial lawyer for five years in the Civil Rights Division of the U.S. Department of Justice and handled successful lawsuits against school boards in Pasadena, Calif.; Tulsa, Okla.; Montgomery, Ala.; and Wilcox and Choctaw Counties in Alabama.

* * * * *

In a press release yesterday, the pro-integration forces said the Field-Hale pairing is a step in the right direction.

"But it is only a step . . . (and) equal educational opportunity should not come in steps," the release added. The pairing involves only middle-class areas "and does not touch the most difficult integration problems in Minneapolis, including the existence of four majority black schools (Hay, Bethune, Willard and Harrison) on the near North Side," it said.

* * * * *

Individuals on the board and in the administration have said privately in recent months that they would not be at all upset if a court were to order a speed-up in integration of the schools.

Officials have proceeded cautiously—the Field-Hale pairing is the only compulsory integration so far—because of intense opposition.

No school official is known, however, to have encouraged a pro-integration lawsuit.

The plaintiffs in the new lawsuit are two black girls, Jeanette Booker, 10, a 5th grader at Aggasiz School, and Montez Willis, 13, a 9th grader at Ramsey Junior High, and a white boy, David G. Hage, 16, a junior at Marshall-University High School.

Acting for the three youths are their parents or guardians. Curtis C. Chivers, grandfather of Miss Booker, is advertising manager of the Minneapolis Spokesman and is on the NAACP education committee; James M. Willis, father of Miss Willis, is a local attorney, and George S. Hage, is a University of Minnesota journalism professor and cochairman of the Committee for Integrated Education.

The basic allegation in the lawsuit is that the school board has discriminated by race and has, therefore, deprived the plaintiffs of equality of educational opportunity and of equal protection of the laws and liberty without due process of the laws—all in violation of federal and state laws and constitutions.

Specifically, the complaint says, the board has assigned students to schools by methods that have resulted in segregation in some schools, it has drawn attendance areas "built on residential areas that are racially segregated as a result of both public and private discrimination" and it has located some new schools and additions in such a way as to increase segregation.

The complaint also says the board has assigned teachers and other professional persons on the basis of race and has failed to hire and promote black persons on the same basis as whites.

The suit asks the court to order the school board to develop, adopt and implement an integration plan by the fall of 1972.

[From the Minneapolis Tribune, Oct. 8, 1973]

Desegregation Effort Sparks Little Friction

(By Sam Newlund)

It was almost a month to the day since busing for racial balance began in Minneapolis junior high schools, and "Mr. Cool," a black student at Ramsey Junior High, had something to say.

"I was really kind of scared to come to this school, in a way," he admitted.

His fear, he said, was that white students would try to jump the incoming blacks, and he would have to fight.

"Now," he said, "I feel like whites ain't no different from blacks. And besides, color is only skin deep."

Mr. Cool is Gene Gates Jr., a ninth-grader who lives at 3400 5th Av. S. The nickname was coined spontaneously and effectionately by a Ramsey staff member who admires the youth's self-assured, straight-forward manner and his potential for leadership in making integration work at Ramsey.

Last year, Gates went to Bryant Junior High, near his home in a heavily black neighborhood. Lake many of his classmates, he would have preferred Bryant this year to busing to increase Ramsey's minority enrollment.

Now he's not sure. White students at Ramsey, he said in an interview last week, "seem more friendly than they did at Bryant."

Gates is one of about 2,800 junior high school students being bused out of their neighborhoods this fall to satisfy a court-ordered desegregation decree.

If statements like his are typical—and there's no certainty that they are—then desegregation is working.

If his professed change in attitude proved universal, then desegregation would achieve one of its goals: To defuse racial antagonism by allowing youngsters to learn from experience that "whites ain't no different from blacks."

But it's too early for such a rosy report. As one black parent at Ramsey put it recently: "I don't think kids have had enough time to choose sides. It might take another two or three weeks before they do."

Nevertheless, a series of interviews last week turned up not a single report of serious racial problems in the affected schools. The interviews were with administrators, teachers, students and with "conflict resolution aides" who were hired specifically to befriend students and smooth out difficulties.

The aides are working in Anthony, Bryant, Franklin, Jefferson, Jordan, Lincoln, Phillips and Ramsey junior highs, and in North High School, which this year has a class of ninth-graders.

All the aides interviewed, as well as other staff people, said integration has been virtually faultless. It is typical, however, that black and Indian students still tend to stick together in the lunchrooms and on the playgrounds.

Douglas Hill, 12, a black seventh-grader bused into predominantly white Jordan Junior High, was asked during a noon hour last week why he was surrounded by other blacks at his lunchroom table.

"We don't know anybody else yet," he said.

Tracy Sullivan, 14, a white ninth grader at Ramsey, said she discovered that the bused-in black students are "pretty nice kids. . . . If you sit next to them, they're really nice to you."

Antionette Jacobs, 14, a black eighth-grader who lives near Bryant, had a different view. She said she disliked the reduction in the percentage of black students caused by the influx of white students.

"Every class I go to," she complained, "I'm the only black one in there."

At Ramsey, Albert Durand, one of the school's two social workers, said there is a "healthy coexistence" between indigenous students and outsiders. But it could turn unhealthy, he recognizes, and he sees young Gates and another bused-in student from the Bryant neighborhood as black leaders who could tip the balance either way.

The other student is Kevin Patterson, 14, 4337 Portland Av. S.

Patterson, a sports enthusiast, said his attitude when told he would have to leave Bryant and ride the bus to Ramsey was that "I wasn't going to do nothing at Ramsey." He was not, in other words, going to participate in sports like football or basketball, which he loves.

But like Gates, Patterson says his attitude has changed since school began Sept. 5—partly because, to his surprise, the teachers and staff are interested in, concerned about, and tuned in to the new students and their needs.

Their reputations as leaders of the incoming group came along with Gates and Patterson, and adults like Durand are determined to help channel that leadership into a positive force.

Patterson said he was surprised to find that teachers he didn't know actually knew who he was and would call him by name in the halls.

"I said to myself: 'Wow! Is my reputation that big?' " he confided, adding: "It makes you feel good."

Last week Durand and aide Karlyce Pestello asked for a meeting with Gates and Patterson to learn about whatever problems the newcomers might have.

Durand said the youths entered the 90-minute meeting hating all white and emerged feeling that such an attitude may be wrong. Durand is black and Mrs. Pestello is white.

Interviewed later, the two youths acknowledged a change in attitude.

"For all the years I've been a student," Gates said, "this year, I really feel like a student."

[From the Minneapolis Tribune, Oct. 8, 1973]

Minnesota Poll: School Busing Not a Burning Issue in 1973

Busing of school children to another neighborhood for racial balance does not appear to be the explosive issue in Minneapolis that it was two years ago, even though residents list it first among the important problems facing the public school system.

That is the finding of a special survey by the Minneapolis Tribune's Minnesota Poll, based on the interviews with 605 Minneapolis men and women.

The survey also shows that a majority of city residents rate the school system as "pretty good" to "excellent" in providing a good education. But many give the system a lower standing than suburban schools.

Other findings:

Half of the city's residents are not sure what the most important issue is in the school board election Nov. 6.

A bare majority favors the idea of open schools at the high-school level, but two-thirds are opposed to such schools at the elementary level.

A third of the respondents said that too little attention is given to teaching the basics, such as reading, writing and arithmetic, while almost half said that enough attention is given to enrichment, remedial and other special programs.

When people were asked what was the one most important issue to them in voting for school board candidates, 49 percent said they didn't know.

One adult in four (24 percent) said busing and integration is the key issue as far as they are concerned. In 1971 strong antibusing sentiments helped elect two conservatives to the school board.

Eleven percent said replacing the conservative influence on the school board with more progressive thinking is the high-priority consideration.

Others mentioned the qualifications of the candidates themselves, getting financial support for schools, and a variety of concerns that got scattered mention.

The attitude of city residents toward their public school system is shown in the replies to two survey questions:

"How would you rate the Minneapolis school system in respect to giving the city's children a good education—would you say that in this regard the school system is excellent, pretty good, only fair, or poor?"

[In percent]

Excellent	11
Pretty good	40
Only fair	21
Poor	11
Not sure	17
	100%

FUNDING OF VETERANS' ACTIVITIES FOR FISCAL YEAR 1977

Mr. MOSS. Mr. President, on April 3, 1976, the Senate Budget Committee reported the first concurrent resolution of the Budget for fiscal year 1977—Senate Concurrent Resolution 109. In the brief interlude before April 8 when the resolution was considered by the Senate, unfortunately some incorrect information was circulated that the Senate Budget Committee had voted to cut veterans' benefits. That information was incorrect, but the circulation of such erroneous information precipitated many letters directed to me and other members of the Budget Committee expressing concern about the alleged budget cuts. I have always been a staunch supporter of veterans' programs and if such a cut had been proposed I would have strongly opposed it.

As Members know, the Senate Budget Committee originally recommended a VA budget of $19.3 billion for fiscal year 1977. This amount provided for cost-of-living increases for veterans' pensions, compensation payments and readjustment benefits. It was an increase of $2.1 billion over the President's budget, $1.8 billion over the Appropriations Committee recommendation, and over a billion dollars higher than the amount proposed by the House Budget Committee. However, the House figure was subsequently amended during the floor debate in the House to provide for a higher amount. Accordingly, during the joint House-Senate Budget Conference we reached agreement on a figure of $19.5 billion for fiscal 1977. This was indicated in my statement to the Senate on May 12 when I submitted the conference report.

Mr. President, in replying to the letters addressed to me on this matter I attempted to clarify the situation by summarizing the facts, pointing out the significant funding for the VA budget provided in Senate Concurrent Resolution 109 which the Budget Committee had recommended and enclosing a copy of my statement before the Senate on April 9 when the Cranston amendment to the budget resolution was considered and tabled. I replied in this manner to a letter I received from Mrs. Vivian Talbott of Humboldt, S. Dak. I have now received a second letter from Mrs. Talbott in which she expressed her gratitude for my letter "clearing up" the situation and which she indicated "clearly explains that no actual cuts in veterans' programs or benefits are being made." Mr. President, I ask unanimous consent to have Mrs. Talbott's letter printed in the RECORD in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HUMBOLT, S. DAK.,
May 13, 1976.

DEAR SENATOR MOSS: Thank you, for clearing up any incorrect information that was circulated concerning the Senate Budget Committee's vote to cut veterans benefits.

Thank you, also for the enclosed statement of the Congressional Record of April 9, 1976.

It explains clearly, that no actual cuts in veterans programs or benefits are being made, and why you voted to table this resolution.

Thank you for your kindness, time and support in this matter.

Sincerely,

MRS. VIVIAN TALBOTT.

Mr. MOSS. Mr. President, I recognize that disagreements or differences may arise from time to time in our attempts to reach the right decisions on the many important matters that come before us. However, I think it is of the utmost importance that any such differences be those of judgment and not of recitation of "facts" upon which the judgments are based. As one who has consistently supported veterans programs I am pleased to have had the opportunity to clarify the picture regarding funding of veterans activities in fiscal 1977.

EFFECTS OF POPULATION GROWTH

Mr. MATHIAS. Mr. President, one of the world's most pressing, unresolved problems is the unprecedented rate of population growth in the urban areas of developing nations. William S. Gaud, national chairman of the Population Crisis Committee, and a distinguished public servant whose career has given him a profound personal knowledge of the stress created by unrestrained population growth in the light of finite resources addressed this problem. He spoke in terms of the impact of population policies on human settlements, in a speech that he delivered May 6 at a meeting of the Council of Washington Representatives on the UN, UNA-USA. Mr. Gaud's remarks, and the subject to which they were addressed, merit public attention, and I ask unanimous consent that the text of his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

The Impact of Population Policies on Human Settlements

Toward the end of a long day of meetings recently, where many of the interrelated problems of the world had been discussed, and one wondered if the world would stay glued together, a friend sitting next to me started to smile. Afterwards I asked him what on earth he had found to smile about. He replied that as a child he had decided that when he grew up he would be a "problem solver." Then, in his teens, he worried a great deal that all the problems in the world would be solved before he grew up. That's what he was smiling about.

Well, he needn't have worried. Unsolved problems are one thing we've got plenty of. And today, I want to talk about one of our most urgent and pressing unsolved problems—namely, the world's unprecedented rate of population growth in the urban areas of the developing nations.

First, let's look at the problem of global population growth in general. It took all of history until about the year 1830 for the world to reach a population of 1 billion. Then, in 1930—only a hundred years later—the world's population reached 2 billion. In April of this year, the Population Reference Bureau tells us, the population reached 4 billion.

This remarkable population growth is due to one simple fact: a rapid reduction in death rates—a reduction for which we can all be thankful—that has not been matched by a corresponding reduction in birth rates. Furthermore, staggering though this rate of growth may seem, we are not through yet. There are many countries in which half or more of the population is under 15 years of age. In addition, death rates are still falling in many areas. So we can look forward to further large population increases no matter how successful we are in our efforts to control fertility.

As we all know, the rate of population growth is much higher in the developing countries than in the developed countries. Indeed, for many years population growth rates have been steadily declining in the developed countries. But they have been increasing in many of the developing countries. As a result, the proportion of the world's population living in the developing countries has steadily increased. Those countries now contain 70 percent of the world's people, and that figure is rising every day. As one writer has put it, population has a perverse logic—it grows most rapidly in those areas of the world least equipped to handle larger numbers of people.

I need not dwell on the pressures that this kind of population growth puts on physical and social resources of the countries where it is occurring. Those pressures are already overwhelming. Today—thanks to population growth and despite all of the world's development efforts—there are in absolute numbers more people illiterate, miserably housed and malnourished than ever before in the history of mankind. It is estimated that from 10 to 20 million children die from starvation or malnutrition each year. And many of those who survive are irreversibly damaged—physically, intellectually and psychically.

Take India, for example, a country which cannot adequately feed, clothe, house, educate and find jobs for its present population of over 600 million. With 2.4 percent of the world's land area, India has about 15 percent of the world's people. The Indian writer, Dom Moraes, presented the Indian situation very graphically when he said: "Every 30 seconds an Indian child comes crying into a world that does not want it." If the average family size in India remains constant at the 1970 estimated level of 5.4 children per family—and pray heaven that it does not—the population will be way over a billion by the year 2000. Dr. Karan Singh, Indian Minister of Health and Family Planning said only last month:

"It is estimated that our population . . . is now rising at the rate of well over one million per month . . . Indisputably we are facing a population explosion of crisis dimensions which has largely diluted the fruits of the remarkable economic progress that we have made over the last two decades. If the future of the nation is to be secured, and the goal of removing poverty to be attained, the population problem will have to be treated as a top national priority and commitment."

It is no wonder that Maurice Williams, Chairman of the Development Assistance Commitee, has said: "This may be the last generation that can deal with the population problem through measures compatible with human dignity." And indeed, some of the Indian States with exceptionally high fertility rates are already threatening to resort to enforced sterilization after three children.

So much for population growth rates generally. Now for a look at the population problem of the cities. Whereas the total populations of developing countries are doubling every 25 or so years, the populations of many of the large cities in those countries are doubling every 10 to 15 years, and the populations of their urban slums are doubling every 5 or so years.

The extent of this growth is almost unbelievable. In 1800, the total urban population of the world was around 25 million, which is equal to the combined present population of Tokyo and New York—the world's two largest cities. Now, the acceleration in urban growth is so rapid that the United Nations Population Division estimates that in the year 2000, perhaps as many as one-half the world's people will be living in urban areas.

If the urban deluge and present rate of population growth continues, there could be in the Third World by the year 2000 one or more gigantic metropoles of more than 25 million inhabitants each—Mexico City, for example, or Sao Paulo, or Jakarta. If that sounds far-fetched, let me remind you that Mexico City's population has increased from 1,000,000 in 1930 to 8,500,000 in 1975—and it is still growing by leaps and bounds.

How does one handle a city of 25 million or more inhabitants? In many cities, the amenities are already stretched to—or even beyond—the breaking point. In Calcutta it is estimated that 600,000 people sleep in the streets at night. Robert McNamara says that about one-third of the population in most cities of the developing world lives in slums that are either wholly without or inadequately served by public water, sewerage, transport, education and housing.

The Indonesian journalist, Moctar Lubis, uses a haunting phrase for the already large cities in the developing world. He calls them Miseropoli. And when one thinks of the proliferating tensions and social disorders such as the crowding, the unemployment, the atomising effect on traditional family values, alienation, juvenile delinquency, drug addiction, prostitution, sexually transmitted diseases and all the other by-products of life in the slums of the great urban areas, we have miseropoli indeed.

None of this is to say that the cities in the developed world don't have their problems, too. They do—definitely. But, by and large, their efforts to solve their problems are not frustrated, or complicated, by rapid population growth. On the contrary, many cities in the developed countries are losing population rather than gaining it.

This is very different from the situation that exists in the mushrooming cities of Latin America, Asia and Africa. About half their growth is due to natural population increase—that is, births minus deaths—within the cities themselves. Most of the other half is due to population migration from the rural areas—migration that is attributable to the high birth rates, economic and social stagnation of the countryside, its dreadful poverty and the belief that things are better in the city than in the country.

In short, just as the increase in world population is not evenly distributed between the developed and the developing countries, so—within the developing countries—the increase in population is not evenly distributed between the urban and the rural areas. And the imbalance is growing at a rapid rate as the Third World becomes more and more urbanized.

What's to be done? Fortunately, as you know, a good deal is already being done about over-all population growth although the United States unfortunately has cut back its support for international family planning programs for the last few years. Even less, I fear, has been done about the urban problem.

Insofar as the population problem as a whole is concerned, although much still remains to be done, the past 10 years have seen considerable progress. An excellent analysis of the last decade of major population events has just been published by the Population Reference Bureau, called World Population Growth and Response. Let me take just a minute to remind you of the progress that has been made in those ten years by the three organizations that are now most active in this field.

Ten years ago, the United Nations Fund for Population Activities (the UNFPA) did not exist. It was established in 1967 with a mere $3 million in contributions from a handful of countries to respond to requests from governments. In the current year it expects contributions totaling some ninety million dollars from 42 countries. Currently it is supporting over 1200 projects in a hundred countries through direct grants to private organizations with special expertise.

Ten years ago the International Planned Parenthood Federation (the IPPF) had a budget of under two million dollars and was working through affiliates in 56 countries. Today, the IPPF has affiliates in 93 countries, and a budget of just under forty million dollars.

Equally dramatic has been the growth of population activities on the part of the Agency for International Development (AID) here in the United States. Early in 1967, when I was Administrator of AID, I established the first operational population office in the Agency. It was an important beginning—prior to that time there had been only four employees, and a budget of a couple of million dollars committed to population programs. Today, there are some 113 employees and the budget has for five years been in excess of $100 million per year.

One cannot measure progress in an area such as this entirely by the number of dollars appropriated and spent. But I believe that anyone familiar with the facts would agree that, fast as the three agencies just mentioned have grown, they and the many other agencies working in this field have not been able to keep pace with the requests for assistance from the developing world. There exists today a far greater awareness of population problems than was the case ten years ago. Some 37 developing countries—which together account for about 80 percent of the population of the developing world—today have official government policies to reduce their rates of population growth, and are carrying out programs designed to do just that.

It is estimated that only about one woman in seven in these countries is yet being satisfactorily reached by family planning programs. To be successful, these programs must make available to many millions of additional women—many of them illiterate and living far from any urban center—the knowledge and the means that will enable them to control the number and the spacing of their children. New type family planning programs involving community based systems for supplying means and information direct to users are showing that much can be done at low cost, getting around the chronic shortage of doctors.

I personally am convinced that the motivation to bear fewer children is there. To cite just one bit of evidence to support this conclusion, the National Academy of Sciences estimates that 40 million unwanted pregnancies are terminated by induced abortions world-wide every year. Some organizations cite a figure of 50–55 million. But whatever the figure many of these abortions are illegal, take place under the most dreadful conditions, and lead to countless unnecessary deaths. I don't believe for a minute that women would resort to measures of this kind if they had access to safe and effective means of fertility control. And the experience of a number of developing countries which have succeeded in reducing their population growth rates bears this out. Birth rates tumble wherever the full range of family planning services is made convenient and acceptable and available at low or no cost.

Everything that has been done and that is now being done to reduce population growth rates in the developing countries will help solve the problems of their growing cities. But other policies are also needed. On the one hand, a major attack must be mounted on the urban front to improve the quality of life for city dwellers—those now existing and those who will exist in the future. On the other hand, an intensive effort must be made to cut down the rate of migration from the rural areas to the urban areas. For unless this is done there is no way of ameliorating urban problems in the long run.

The rapid growth of European and American cities during and after the Industrial Revolution was due in the main to the need of industry and commerce for labor. There was a "pull" being exercised by urban communities. Today, by contrast, the cities of the developing world are growing because people are being "pushed" towards them from the rural areas. They have no jobs waiting for them, and no clear notion of where they can live or what they can do. They are simply desperate people who believe that life must have more to offer than they have found in the country.

The best way to cut off the flow of these people to the cities is to make the countryside more viable for them—and to create incentives that will keep them and their children from wanting to leave. This demands a commitment on the part of the leaders of developing countries to move promptly on far-reaching, integrated rural development programs.

It means the adoption and carrying out of policies through which farmers are paid the going market price for their product—rather than a low price rigged to avoid unrest in the cities. With the proper price they can afford to use more fertilizer and improved seeds so that they can produce more and can pay better wages to the landless. Rural development also means organizing credit systems for seeds, fertilizers and tube wells, and creating institutions in which farmers can protect their savings. It means expanded cooperatives, workable land reform systems, physical infrastructures such as irrigation works and low-cost farm to market roads, and inducements for development of local industries.

Rural development programs require the establishment and support of centers for research and training in a vast array of skills, in order to transfer technology to the village and small farmer level. This includes training in, among other things, livestock and small animal development, better fishing techniques, improved storage facilities, disease and insect control, watershed management, methods of getting potable water to village pumps, irrigation, soil management practices, clearing of currently uncultivated land, multiple cropping and reforestation. Since women produce more than half the food in many developing countries, it is important that women be included in these training programs. To the extent that women are offered opportunities independent from childbearing, these efforts should also reduce fertility.

A revitalization of the countryside will have to include the creation of institutions to overcome the bonds of ignorance, malnutrition and disease. This calls for courses on all levels in at least functional literacy, decent nutrition and disease control. Large numbers of paramedics and para-veterinarians must be trained. Women, particularly, should be trained in those roles—as paraprofessionals in mother-and-child health delivery services and as midwives, family planning purveyors and the like in the fashion of the Frontier Nurses in Appalachia and the barefoot doctors in China.

On May 31 there will open in Vancouver, Canada, the United Nations Conference on Habitat—more colloquially, the United Nations Conference on Human Settlements. It is being convened as a result of the United Nations Conference on the Human Environment that was held in Stockholm in 1972, and takes its place in the chain of conferences that have been held since including the World Population Conference, the World Food Conference, the International Women's Year Conference, and so on.

This will be one of the largest UN conferences ever held—and certainly one of the most ambitious. The Conference Secretary General, Enrique Penalosa has described it as "a global inquiry into man's future." The general purpose of the Conference, like that of the other UN Conferences I have just referred to, is to improve the quality of life for mankind as a whole. In this instance with particular reference to the conditions—population growth, unbalanced economic development, rapid unplanned urbanization, rural dispersion, to cite only a few—which have made life unacceptable for vast numbers of people whether they live in the city or in the country.

The Conference is expected to adopt a Declaration of Principles, National Plans of Action, and International Plans of Action. No one believes, I am sure, that representatives from 140 countries gathering for 12 days can come forward with concrete and specific solutions to the many complex problems which will bring them together in Vancouver. But the Conference can, as was said by a representative of the United States in a preparatory meeting, "stimulate governments, increase the interest and involvement of individuals and private organizations, chart new directions and set things in motion which can eventually bring about improvements in the quality of life."

There will be a great temptation in Vancouver to concentrate on the most obviously visible of the problems in human settlements: the sprawling urban nightmare. But it is to be hoped that the delegates will resist this temptation. The Conference has as much to do with rural affairs—and with population growth rates—as with urban affairs. For unless the first two are effectively addressed there can be little prospect of progress in improving life in the cities.

The Conference in Vancouver will air many problems, and produce numerous resolutions relating to those problems. It will also, I trust, stimulate many people and governments to take action on the urban front, on the rural front and on the population front. And this is most important. For it will take continued political activism on the part of all of us—not just those of us who go to Vancouver—if objectives of the Conference are to be achieved.

We must do all we can, for example, to see that the mandate of the World Population Plan of Action is carried out: that the millions of people in the developing countries who still do not have access to the means to control their fertility are given that access.

We must do all we can to persuade all countries to commit themselves to proper town planning supported by adequate rural development programs in which population and family planning activities are fully integrated, and to tackle the many problems that have made so many of the world's urban and rural areas such unsatisfactory places in which to live.

The primary role in achieving these objectives belongs to the developing countries themselves. Ours is a secondary role—to stand in the wings and lend encouragement and assistance. To do this successfully we need two things: first, an understanding of the problems faced by the peoples of the Third World and, second, a strong and effective aid program (both bilateral and multilateral) that will help them solve those problems.

You and the organizations you represent are in a unique position to generate around the country a greater awareness of the needs of the developing countries, and to build a strong constituency for our aid program. I hope you will give this high priority.

SURVIVING A NUCLEAR WAR

Mr. GARN. Mr. President, last week I responded in some detail to arguments raised by Senators KENNEDY and CRANSTON against continued production of the Minuteman III intercontinental ballistic missile. Today I would like to consider one other point raised by their "Dear Colleague" letter of May 17, because it reflects a concern that is widely expressed, and a misconception that is even more widely held.

On the second page of their letter, my colleagues make the following statement:

> Our deterrent capability is unquestioned, its destructive capacity many times over that needed to effectively destroy the Soviet Union.

To begin with, Mr. President, our deterrent capability is not unquestioned. Indeed, that is what the whole strategic debate is all about. It is precisely because our deterrent capability has been called in question that we engage in these exercises. Contrary to the belief of some, it is not because we enjoy spending billions of dollars of the taxpayers hard-earned money. We do it because we have serious questions about the deterrent capability of the United States.

The question of our capability has been raised by observers far more experienced and expert than the junior Senator from Utah. Former Secretary of Defense James Schlesinger raised these questions, in fact raised them so sharply and insistently that he is no longer Secretary of Defense. These questions have been raised by Gen. Donald Graham, former Director of the Central Intelligence Agency, a man perhaps uniquely placed to be able to judge deterrent capability and effectiveness. The questions have also been raised by the Honorable Paul Nitze in his influential article in Foreign Affairs, where the question was perhaps analyzed most systematically. And of course, many other Senators on both sides of the aisle have joined the junior Senator from Utah in trying to explore these questions.

What Senators KENNEDY and CRANSTON are talking about, I am sure, is the supposed "overkill" ability which the United States is assumed to have. I say "assumed," because it is not at all clear that the assumption is justified, and that is what I would like to look at this morning.

History tells of many nations which fell, and great armies which were defeated, because those in command acted on assumptions which did not conform to the facts. To find an example, we need look no further into the past than the war in Vietnam. The belief that the United States possesses the power to destroy the Soviet Union and much of its population with our arsenal of nuclear weapons is just such as assumption. We are told, by those who subscribe to this belief, that the United States has the capability of massive "overkill." We are told that, therefore, we can relax complacently behind this mighty arsenal. We are told that we need do little more to make this Nation's future secure.

Let us examine the validity of the statistical roots from which this overkill legend has grown. As an example, I cite an article in the April 6, 1975, "Bulletin of the Atomic Scientists." The author of this article tells us that, with its present stockpile of nuclear weapons, the United States could destroy the world's population "12 times over." He arrived at this remarkable conclusion by extrapolating from the casualties per kiloton produced by the atomic bombs dropped on Hiroshima and Nagasaki in World War II. He ignores the fact that these casualties were sustained in abnormally high-density areas, by populations which had no warning and no knowledge of the need for survivors to protect themselves from fallout.

By applying an equally valid line of reasoning, we can show that the entire population of North and South Vietnam should have been killed during the war in Southeast Asia. After all, the more than 25 billion pounds of TNT dropped there amounted to an average of some 730 pounds for every Vietnamese man, woman, and child. Similarly, during World War II, more than 50 pounds of TNT per inhabitant were dropped on Germany, Japan, and Italy, much of it in densely populated areas. The result, if we were to employ the logic of those who talk overkill, should have been told annihilation of the entire population of these countries.

Such logic is crucial to those who adhere to the doctrine of mutual assured destruction, that doctrine whose acronym, MAD, so perfectly expresses its essence. In brief, the doctrine holds that in the event of a first strike by either side, the other side could launch a counterstrike against population centers that would essentially wipe out the civilian population of the attacking nation. There are, of course, serious problems with this concept as an instrument of policy, but apart from its moral shortcomings, it has been rendered increasingly untenable technically. Some of the developments which have undermined it have been the development of incredibly accurate missiles, missiles with very large warheads, and the continued emphasis on civil defense measures by the Soviet Union.

On this last point, I quoted some figures a few weeks ago by Mr. O. C. Boileau of Boeing Corp. which demonstrate dramatically the effort being made by the Soviet Union in civil defense. Mr. Boileau notes that a year ago, 23 million Soviet youth were mobilized for military-sport games; that the Soviet Civil Defense establishment consists of 72,000 people, most of them military; that the Civil Defense commanders in each Soviet republic are major generals or lieutenant generals; and that the Soviet police force of 500,000 could easily be mobilized to augment this permanent force.

In a column that appeared in the Washington Post yesterday, Rowland Evans and Robert Novak made much the same point. They repeated excerpts from testimony received by a special panel of the House Armed Services Committee on this subject. The members of this panel, not normally noted for their hawkishness, unanimously recommended an increase in civil defense authorizations, from $71 million to $110 million, following this testimony. I ask unanimous consent that the Evans and Novak column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVIVING A NUCLEAR WAR

(By Rowland Evans and Robert Novak)

With "detente" now stricken from the administration's lexicon and Congress unwilling to challenge President Ford's record-high defense program, this country's increasing danger on the civil defense front is under belated attack from an unlikely combination of hawks and doves.

What is astonishing is that defense of the homeland against possible nuclear attack—"thinking the unthinkable," in the words of former Secretary of Defense James Schlesinger—has been a virtual no-no topic of serious political debate for 15 years.

But this stark warning from a dovish House Armed Services Committee panel signals belated change.

"The panel received truly alarming estimates . . . about the comparative casualties in the event of nuclear attack if the Soviets had evacuated their people during the crisis period and we were unable to do so: The Soviets would lose about 10½ million people; the United States would lose about 90 million people."

The chairman of the three-man panel is Democratic Rep. Robert L. Leggett of California, a moderate dove. Also on the panel is moderate Republican Donald Mitchell of New York and one of the most dovish freshman Democrats in the House, Rep. Robert Carr of Michigan. Their unanimous recommendation: that the misery $71 million civil defense program be increased to $110 million at once.

Even such an increase would not come close to the long-time Soviet spending level on civil defense, which the panel estimated at $1 billion a year. Before he was fired as Defense Secretary, Schlesinger was deeply worried over the low level of civil defense preparedness in this country, for a fundamental and frightening reason: Soviet ability to "survive"—and U.S. ability not to survive—a nuclear exchange with an enemy.

Soviet survival is based on rapid evacuation of the cities, on vast subterranean fallout shelters in the evacuated areas and on war plants capable of continuing operations after a nuclear exchange by virtue of "hardened" sites or geographic dispersal in remote areas.

Lacking even skeleton programs for these "war-survival" measures (often called passive defense), the U.S. could find itself prohibitively out-psyched if deadlock between Moscow and Washington became the prelude to a possible nuclear exchange. Rather than risk such an exchange from a position of proven inferiority in terms of the ability to withstand it, the U.S might be forced to yield.

Indeed, ability to absorb a nuclear attack and continue as a nation is regarded by some experts as only marginally less important than possession of rough "equivalence" in nuclear striking force. That is why a Soviet diplomatic agent—openly and above board—attended all 11 sessions of the Leggett panel. What the U.S. does in civil defense is of paramount importance to Moscow.

The heart of the panel's report warned that "the size and the reach of the Soviet effort coupled with its aggressive buildup of arms, raise profound questions about the appropriate defensive counter-actions to be taken by the United States."

That conclusion fits a totally separate warning by former ambassador to the Soviet Union Foy D. Kohler, now a professor at the School for Advanced International Study at Miami University; a hard-line hawk, Kohler, who ran the U.S. embassy in Moscow from 1962 to 1966, states in the foreword to a just-published book ("War Survival in Soviet Strategy," by Dr. Leon Goure, published by Miami University):

"The Soviet Union has stepped up in very substantial ways its war-survival program since the advent of the detente relationship with the U.S. in May, 1972, and is today steadily increasing its attention and resource allocations to the program."

To Kohler, the essential and dangerous difference between American and Soviet response to the terrifying possibility of nuclear war is that Americans really believe no exchange will ever occur because neither nation will risk its own destruction; but the Soviets "have never accepted the 'overkill' concept or the concept of 'mutual assured destruction' . . . the Soviet emphasis has rather been on survivability and indeed on the possibility of victory in a nuclear war."

With knowledgeable hawks like Schlesinger and Kohler and dovish Democrats like Carr and Leggett in basic agreement, perhaps the time has come when this country will stop playing the most dangerous kind of Russian roulette with a totally unpredictable future.

Mr. GARN. Mr. President, the peculiar mathematics which has led to the overkill concept assumes that the entire Soviet population will be collected in great density in prime target areas, will be held there to await its fate, and will be permitted no shelters during or after the attack. This hypothesis contradicts the strategic planning of the Soviet Union and leaves the United States in a peculiar moral position.

Soviet military doctrine, as defined in its published material, does not subscribe to the concept of overkill, nor does it accept the idea that nuclear war would result in mutually assured destruction. Its civil defense program and its in-depth air defenses, are designed to insure both Soviet survivability and Soviet victory if war should come. The Soviet's own estimates show that the losses it expects to sustain from a nuclear war amount, at maximum, to 10 million people.

We may scoff at the Soviet estimates, but this misses the cardinal point. If the Soviet Union believes it can survive a nuclear exchange, then its leaders may be willing to accept the risks involved in a direct confrontation with the United States. Against the Soviet belief that it can survive and emerge victorious from a nuclear exchange, our deeply held belief in the overkill concept is a two-edged sword. If in the midst of a major crisis, America finally recognized that the Soviets were indeed serious in their belief, we would have little choice but to back down. If, on the other hand, we were to persist in our assumption of "overkill," we would underestimate the willingness of the Soviets to escalate to nuclear war. As a result, we might well pursue a course which would lead to a nuclear war that the Soviets are prepared to survive and we are not.

I submit that the time has come for us to take off our blinders, to examine realistically the capability of our present nuclear arsenal. While it is clear that we have made nuclear war unthinkable for ourselves, there is serious doubt that we have made nuclear war unthinkable for the Soviet Union. We must take whatever measures are necessary to insure that nuclear war will be unthinkable not just to one side, but to both sides. This, certainly, will reduce the risk of future confrontations brought about by Soviet adventurism. That risk will be further reduced if we in the Congress are willing to insist that our Nation maintain the conventional strength necessary to discourage Soviet initiatives.

Unless we are willing to do these things, I foresee the day when our confidence in the efficacy of nuclear overkill will lead us into a trap from which the only escape is retreat.

INNER CITY RENOVATION IN WASHINGTON

Mr. **HATFIELD**. Mr. President, the crisis of urban housing for the poor is a problem of growing intensity in almost every American city. Housing experts at all levels of government have found low-income housing to be the most unprofitable and the most unmanageable of all their projects. Faced with increasing costs, housing officials are now anxious to unload and even destroy low-income housing projects.

Despite millions of dollars of Federal, State, and local funds, housing needs of low-income Americans have not been alleviated, but in fact ascerbated. Literally thousands of housing units in our cities are vacant due to absentee landlords, vandalism, and neglect. The abandonment of such housing units not only erodes the tax base of our cities, but it also contributes to crime, drug abuse, and the general deterioration of our urban neighborhoods.

In defiance of this rather bleak outlook for urban housing, a group called "Jubilee Housing," located here in the Nation's Capital, is in the process of proving housing experts wrong. They are proving that low-income housing can be provided to the urban poor, and that such projects can work.

Peggy Smeeton Stanton, in the April 25, 1976, edition of the Washington Post, wrote an article called: "Inner City Renovation: It's Hardly a Case of No Sweat." This article tells of the mission of Jubilee Housing. Jubilee is a mission—not designed for profit—but is intent upon providing people with structurally sound, clean, decent housing. After some 3 years of work, over 50,000 volunteer work-hours, the vision of Jubilee Housing is beginning to shine. The thrust of Jubilee Housing is beginning to be felt here in Washington and other cities as well.

Mr. President, I commend to my colleagues' attention the news article by Peggy Smeeton Stanton. The story of Jubilee Housing needs to be told in every American city, for it is a story of hope.

Mr. President, I ask unanimous consent that this newspaper article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INNER CITY RENOVATION: IT'S HARDLY A CASE OF NO SWEAT

(By Peggy Smeeton Stanton)

Amid the scarred and graffitied ruins of Washington's inner city, a change is taking place. It has defied common sense and previous experience, and it raises a serious question. Is this an answer to Washington's housing crisis?

Bankers denied loans. Insurance companies were frankly incredulous. Government experts said it couldn't be done. But in three years, more than 1,000 volunteers, donating 50,000 work-hours totaling $125,000 in "sweat equity," have renovated several houses, three slum buildings and 140 apartment units. Now even the most skeptical observers are reassessing their opinions.

And it all began because 25-year-old Carolyn Cresswell spent a sleepless night.

The daughter of a wealthy real estate developer, brought up in the lush landscapes and easy privilege of San Francisco society, Cresswell came to Washington to work for Sen. Mark Hatfield (R-Ore.) and drifted into her father's profession.

One day a friend asked her to appraise a property in near Northeast.

The three-story townhouse had four bedrooms and 16 occupants. A semi-retired carpenter and his housekeeper-wife lived there with their four children and their grandchildren. Only two floors were habitable. The top floor had been ravaged by fire. Rather than repair the gaping hole in the roof, the landlord merely promised not to raise the rent. Tarps and plastic sheeting were the only barriers against the rain and snow. The walls were a montage of peeling paint and falling plaster. Newspapers covered the broken windows. Holes in the floor bared the ground beneath.

"Don't you have rats?" Cresswell asked the grandmother, who was folding clothes on the sofa. As if on cue, a giant rodent appeared from nowhere and raced across the woman's lap.

That scene replayed itself in Cresswell's mind all that night. The next day she related the story to fellow parishioners at the Church of the Savior, 2025 Massachusetts Ave. NW, an innercity mission. "What are you going to do about it?" they asked. "I'm going to buy it," she said.

With her small amount of savings and some stocks that her parents had given her, she went into partnership with her pastor, the Rev. Gordon Cosby. "We only had about $3,000," Cresswell said, "and most of it was borrowed from friends." No lending institution would initial the risks. "These kinds of projects never work," bank officials told them. But fellow parishioners readily gave them long-term, no-interest loans. They bought the house for $9,000 and poured $20,000 into renovation. Before they knew it, they owned three houses on the street, all of which they rehabilitated without raising the rent.

That was the beginning.

The group with whom Cresswell had initially shared her concern set the wheels in motion for the establishment of a nonprofit corporation: Jubilee Housing. "The church," recalls Cresswell, "had talked for years about doing something in the Adams-Morgan area where nonaffluent families were being forced out of their homes. I was sort of commissioned to scout the area for a suitable property to buy." She targeted the Ritz and the Mozart, whose combined units comprised 90 apartments. "They had experienced a very rapid decline," she says. "The kids in the neighborhood and the teachers in the nearby schools told us the situation in these buildings was particularly rough. A lot of drug traffic and several murders."

Jubilee set out to buy the dwellings from the owner, H. Grady Gore.

Despite the condition of the properties, Gore, whose daughter Louise was then on the threshhold of a gubernatorial campaign in Maryland, negotiated for a year and a half until he got top dollar. Gore bought the buildings for $224,000. Sitting in his office next to the Gore family's Jockey Club restaurant, he finally agreed to sell Cresswell the Ritz and the Mozart for $600,000 in cash. Cresswell was so anxious to have the apartments, she signed the contract on the spot. She had no idea where she was going to get the money. "You have," she told her friends at the Church of the Savior," 60 days to pray for $600,000."

James Rouse, the builder of Columbia, Md., turned out to be the answer to the prayer. He took out a $600,000 mortgage in his name and leased the dwellings to Jubilee until Jubilee can purchase the property. Then he joined the board. "We held our first meetings in the front room of the Ritz," Cresswell remembers. "Jim Rouse had good cause to wonder about his investment. Every meeting was interrupted by the arrival of the police or the fire trucks.

The first Saturday we owned the buildings, there was a shooting in each one. One person died. Sunday morning, Jubilee volunteers went in and cleaned up the blood that was spilled all down the stairway."

Nobody had expected it to be easy. Jubilee went to the federal government; the group went to foundations, but the coffers were empty. There was no money for renovation. They had no choice but to do the work themselves.

In order to keep the costs at rock bottom, they begged, borrowed and cajoled materials. Driving down the street one day. Cosby spotted a paint store having a close-out sale. "How much will you charge me for everything?" he asked the retiring owner. The startled proprietor had no idea what to ask. "Two hundred dollars," he blurted impulsively, "if you have everything out by tomorrow." The next day, a caravan of Jubilee cars pulled up and without any concern for colors or wallpaper selections, emptied the store of its entire inventory.

"It was chaos at first," a Jubilee member admits. "We just knocked on doors and asked where the worst problems were. The first apartment took two months. Some places were done so badly (by us) that they fell apart and we had to do them all over again. One day we were so proud. We had finished four apartments. Then a pipe burst on the top floor and flooded apartments in that whole tier all the way down to the basement. So we had four done that day, and four wiped out."

Janet Colwell, a CBS administrative assistant, joined the effort and order eventually prevailed, according to Cresswell. "She went to every family and cataloged their needs. She brought them color samples and wallpaper swatches. When the workers arrived, they found typed-up instructions and the materials ready and waiting. She would arrive at 9 a.m., an hour before the crews. She'd get the families up. Sometimes she'd dress the children. Some parents would take off and we not only had an apartment to renovate, but five children to look after. And it was Janet who saw to it that they were taken care of. I don't know if we ever would have accomplished what we did without her."

Under Colwell's supervision, the amateur workmen sanded floors, scraped walls, replastered, painted, rewired; with expert help, they replaced the risers and tiers in the elevators. David "Dave the Bugman" Marsh, 22, a volunteer, exterminated the roaches and rats. In two years, all 90 apartments had been renovated.

Out of the restoration program, "mini-institutions" grew. Jubilee collected clothing and distributed it on a chit basis to resident children who helped with the work; a preschool was established: There were classes in ballet, photography and cooking. Ritz-Mozart children now run a bakery coop; they bake bread and pastries and sell it to the Potter's Coffee House, to the residents and to Jubilee volunteers. "They make really good stuff," Cresswell claims.

From the seeds of Jubilee's labors at the "Ritz-Art" grew the desire to buy another property.

(A second, separate Church of the Savior group, Eighth Day Community Inc., has bought an Adams-Morgan apartment house, too, but is involved in litigation with the tenants over the occupancy.

Rev. Tom Nees resigned his pastoral post at the affluent First Church of the Nazarene and formed a new congregation around the rehabilitation of the Cresthill apartments at 1430 Belmont St. NW. His flock numbers 10. Nees, 38, is soft spoken and wears aviator glasses. A deep crease pierces his cheek when he smiles, which is often. The call to action at 1430 was a formidable task. Thirty tons of garbage populated by rats and snakes rested on the backside of the apartments. "There are some jobs," Nees laughs, "that can only be done in big groups." A group of students "did" the 30 tons of garbage. "It sounded like a football game out there," he recalled. "I heard them clapping and cheering and I wondered what was going on. I went out and discovered that what they were doing was killing rats. Every time a kid would kill a rat, he or she would hold it up by the tail to great applause."

Below the first floor, a plumbing pipe had burst and had not been repaired. "When I first walked into that basement," Nees says grimly, "there was six inches of raw sewage and garbage waist high."

Another problem was security. There were no exterior doors to speak of. "People could just come in off the streets and victimize the tenants." Heavy doors are now in place and one of the residents has been employed as a security guard.

In one year, Nees and his volunteer crew have eliminated all the trash, repaired the roof and the boiler, replaced windows, secured doors and renovated, in a major or minor way, all 48 apartments. One-and two-bedroom units with crumbling plaster shredded floors and scorched and sooty walls have been transformed into clean, resurfaced, refinished and brightly painted "homes."

In the end, it is a resident who tells the best story. Sheilah Royster is the resident manager of the Crestwell apartments and worked for the previous landlord. "I've been here five years," she says. "The time that I moved here, there was trash everywhere, in the halls, in the stairwells, in the basement. There was a janitor service, but it was inadequate 'til a year ago. Before we could even move into our apartment, my husband had to do all the plastering and painting and the carpentry work just to make it liveable for us to move in."

She is frank to admit that the tenants were highly skeptical of the new owners. They had had years of broken promises. They were expecting more.

Today, she says, "The attitude has changed dramatically. April 15, 1975, we had the ribbon cutting and they've been working ever since. Just a constant thing of improving everyone's apartment and helping everyone insofar as personal problems are concerned . . . all the doubts and fears have been put aside. Everyone has pitched in and helped. Someone said to me, we never knew you had to scrape the walls before you put the paint on. They were so used to someone coming in and slapping paint on the walls and that was the end of it. A fever just developed through the entire building.

"Before," she adds, "it was just a cycle, a first of the month cycle." When a renter with a broken faucet or a faulty radiator came to her, "I'd say, I'll talk to the agent, and nothing would happen. Now that Jubilee is here, if someone comes and tells me their commode is stopped up, I can have it fixed almost immediately, because the materials are here and the help is here. This has changed my life altogether. I almost feel unchained. Now I can be a woman of my word. No more hiding behind the door."

NUCLEAR ARMS

Mr. BUCKLEY. Mr. President, since Congress ratified the Strategic Arms Limitation Accords in 1972, we have witnessed the repeated failure of the Soviet Union to comply with the terms of those agreements as defined in associated agreed understandings and in unilateral interpretations by the United States prior to their ratification.

The Soviet Union has conducted an 18-month test program that could upgrade its SA-5 surface-to-air missile antiaircraft system into an antiballistic missile system, a program undertaken covertly before congressional protest caused the Soviet Union to desist. Nevertheless, it is entirely possible that, as a result of this breach of the ABM treaty, the Soviet Union could now possess a 1,000 launcher antiballistic missile system already in place. The Soviet Union has also attempted to frustrate the United States technical means of verifying Soviet compliance by attempts to camouflage its military research and development facilities as well as its construction of ICBM's and submarines. This morning, on the radio, I heard a report that the Soviets have violated still another provision of the Accords by launching ballistic missile launching submarines without dismantling the land-based ICBM's they are to replace.

I have just learned, Mr. President, of still another possible violation that could be of profound importance. During the SALT ratification debate in 1972, we were specifically assured that the Soviet Union would not be allowed, under the terms of the Interim Agreement, to deploy a land-mobile ICBM—and that if it did, the United States would consider such deployment a violation of the accords. The significance of this matter derives from the fact that it is exceedingly difficult to monitor the deployment of a mobile ICBM because of the ease with which it can be hidden.

For the past several months I have been following reports on the R. & D. program of the most recent Soviet strategic missile, the SS-20, which was originally believed to have only an intermediate range. However, recent assessments indicate that this missile may have intercontinental capabilities.

Because the SS-20 is a land-mobile system, and because the most recent U.S. intelligence estimates suggest that it may have a range capable of hitting targets in the continental United States, we are faced with what may be a significant violation of the 1972 accords, as understood by the Congress.

This new development points out, once again, the magnitude of the military threat which faces the United States, a threat which is a direct consequence of the aggressive R. & D. and procurement programs being pursued by the Soviet Union.

The only program now underway that can augment the U.S. strategic nuclear capabilities is the deployment of the Minuteman III ICBM's. It is the only strategic weapon delivery system that we are currently producing.

The administration has appealed to Congress to fund continuation of the Minuteman III production so that we may be able to deploy improved ICBM's that will, in part, offset the growth in the Soviet Union's strategic capabilities.

It is unthinkable that the Congress should do other than fully fund the program proposed by the administration and supported by the Armed Services Committee; a program that will keep the Minuteman III in production.

We will not have another ICBM available until the 1980's when the M-X will be completed. In the interim we must be prepared to improve our ICBM capability so that our security interests, with respect to maintaining strategic balance and deterring Soviet nuclear blackmail, is fully maintained.

THE GREENING OF VOCATIONAL EDUCATION

Mr. JAVITS. Mr. President, Marvin J. Feldman, who serves as president of the Fashion Institute of Technology which is located in New York City, recently addressed the joint meeting of the National and State Advisory Councils on Vocational Education. Mr. Feldman has distinguished himself for many years as an active and eloquent spokesman for vocational education. I have found President Feldman's address particularly worthwhile, and believe it deserves the attention of all those interested in the contributions of career and vocational education to our citizens and American education.

The idea of relating the world of education and the world of work has been an important part of American society since our country's founding. In recent years, the need to relate education and work more effectively has been reflected all too clearly in the levels of unemployment and underemployment that have affected so many millions of our citizens.

Mr. Feldman's address responds to the critics of vocational education and emphasizes the successful emergence of career-oriented education. I commend Mr. Feldman for the spirit of his address, and the challenge it sets forth.

Mr. President, I ask unanimous consent that the address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Greening of Vocational Education

(By Marvin J. Feldman)

Last fall, no less highbrow a publication than the Harvard Educational Review, two professors—W. Norton Grubb of Berkeley and Martin Lazerson of the University of British Columbia—fired a thunderous broadside at career education and vocational education.

It was a shot heard round the educational world. While vocational educators seethed and sputtered, the Washington Post and the New York Times applauded. The article was as widely quoted as any I can remember. At the very time when work-related education was finally ascendant in the public consciousness, the article was cited as evidence that the vocational emphasis in education was illicit and ineffective.

I know most of you have encountered the Grubb-Lazerson article. I want to use it as a point of departure for a couple of assertions of my own. The article is essentially wrong, but it is wrong in a useful way. The authors and the reaction to their work exposed a couple of dangerous weaknesses in vocational education.

These weaknesses are not the ones Grubb and Lazerson meant to expose or thought they were exposing. In fact, I expect they are puzzled by the uses to which their piece is being put.

Grubb and Lazerson make a point which falls far outside the mainstream of the debate about the place of work-related education in the larger scheme of American life. They are not so much upset by what work-related education does, but by what they believe it fails to do.

They are principally troubled because career education and vocational education have failed to set right certain "crimes committed by the economic structure."

Now for one thing, this is not the language of scholarship; it is the language of the soap-box. For another, the authors have trouble with the relationship between career education and vocational education considering the former the successor to the latter. But, leaving these problems aside, the authors describe the "crimes" which career education fails to correct as follows:

"Capitalism is an economic system in which capital is central. As part of the drive for profits . . . managers in an economic system like ours endlessly divide, simplify and eliminate jobs. This results in a constant status of underemployment for most workers." Needless to say, this indictment of the market economy is not new. Marx wrote in Das Kapital over a century ago:

"In manufacture, the enrichment of . . . capital, is dependent upon the impoverishment of the workers." And, in another place,

"Manufacture transforms the worker into a cripple, a monster, by forcing him to develop some highly specialized dexterity at the cost of a world of productive impulses and faculties . . ."

In short, Grubb and Lazerson assert that what are most commonly called Marxian social ideals are not best achieved by career or vocational education. Or, even, that work-related education interferes with the realization of these ideals—that, like religion, it is a kind of "opiate" of the working class.

And in this assertion, of course, the authors are absolutely right. The concept of career education, and the practice of vocational education have not contributed to the overthrow of the capitalist economic order. This was not an oversight. This has never, to my knowledge, been our intention.

The editor's summary puts the matter succinctly. "Grubb and Lazerson conclude that the ills career education proposes to solve . . . are intrinsic to our economic system."

The point is, of course, that we propose to solve an entirely different ill—the dependency-creating lack of skills to make a living. We don't believe people are enslaved when they learn skills. We believe they are enslaved when they have no skills. Nor do most of us believe that a tendency to "cripple" wage earners is "intrinsic" to our economic system. We do not advocate work-related education as a way to correct this imaginary tendency.

A recent book by Samuel Bowles and Herbert Gintis titled Schooling in Capitalist America broadened the indictment. "Since its inception," they write, "the public school has been seen as a method of disciplining children in the interest of producing a properly subordinate adult population."

In short, schooling is designed to produce a docile work force for the capitalist.

Now it is true that both schools and work places have only slowly been freeing themselves from the ancient supposition that hierarchical organization and repressive discipline were the best way to get results from people. But to call this coincidence a conspiracy is fanciful. It was the simple result of an error common to both schooling and business management. As Christopher Jencks points out, schools where hierarchical and repressive when wage labor was practically unknown, when most white citizens were self-employed.

Where it seems fair to ask, are Grubb and Lazerson's ideals achieved? Where is the model? It is, we find in a footnote, in Communist China where work and school are "logically" integrated. There, "the production of goods and food is meaningful." But in the United States where goods are produced "for the profit of the few," the integration, presumably, is not logical. "A strong sense of community and purpose also serves to animate work among the Chinese people," while in the United States "almost all jobs are motivated by external reward—primarily wages, and secondarily status and power."

Now these authors seem to know more about the Chinese experience than the rest of us. In my opinion, the carefully controlled evidence that has reached us so far does not support any generalization. There is the much longer, somewhat more accessible Soviet experience but it does not, on the whole, invite emulation.

The dialectical extravagance of Grubb and Lazerson is out of place in a serious discussion of the goals and achievements of career and vocational educators. The authors, of course, are entitled to believe what they want to. The market system is far from perfect; but, the Marxian forecast notwithstanding, there is simply no evidence that it has in practice offered progressively less satisfying work to fewer and fewer people.

Many educators, including vocational educators, see the need for enormous improvements in workplaces, and are often among the severest critics of the inhuman use of human beings by organizations of all sorts. But few would agree that there is an inherent, inexorable tendency toward such abuses under capitalism so that the only durable remedy is some elemental systemic change.

Thus the principal assertion of Grubb and Lazerson is not arguable. Marxian social ideals are not, as they say, best achieved by career or vocational education.

But many of the assertions the authors make in support of this major contention are uninformed or wrong-headed or both, and have contributed to a misunderstanding of the goals and practices of vocational education, and this is what has disturbed members of NACVE.

The authors imply, for example, that career education comprises a monolithic position which can be readily and rigidly characterized. The fact is that career education has never spoken with a single voice. Yet Grubb and Lazerson not only assert that it does, but attribute to it an elaborate set of intentions and attitudes. To begin a sentence with "Career educators believe . . ." is already to mistake the character of the career education "movement."

What are some of the attitudes the authors attribute to career educators? Here are a few:

That "they have been aggressive in refusing to define career education precisely."

That they "call for a dramatic re-orientation of the entire educational system . . . so that all phases of the curriculum would be job-oriented."

That they "stress that too many pupils unnecessarily go on to college."

That they "see retraining as distinctly subordinate to the reform of elementary and secondary education."

That they believe "schools make work into an abstract concept."

That they "place great faith in the moral benefits of work."

That they "claim all work can have equal dignity and meaning."

That they assume "jobs are both increasing in technical sophistication and requiring less education."

Some educators may share some of these beliefs; a few may hold all of them. But the authors present no evidence, except a few quotations from a handful of sources, to support their contention that "career educators" as a whole rally 'round this elaborate rationale.

Grubb and Lazerson assert without evidence that "career educators have gone to great lengths to dissociate career education from traditional vocational education." Their purpose, apparently, is to set the stage for a synthetic conspiracy not unlike the stage-managed rape in The Fantasticks. I am not aware that anyone has gone to any length at all to dissociate career from vocational education. Everyone I know acknowledges their unmistakable philosophical connectedness.

We are treated to a fanciful interpretation of the origins of vocational education. It was, the authors tell us, "part of a movement by the educational system to embrace the goals, structure, and methods of corporate capitalism." This is simply silly.

Vocational education, they say, has failed. "In terms of status, income, job mobility, unemployment, and job satisfaction, vocationally trained students did no better and often did worse than students in academic programs." This is demonstrably untrue.

The article throughout is factually undernourished. The authors present thunderous generalizations without evidence. "Most work," they say flatly, "is boring." "The degradation of work," they assert, "has been continuous."

This is not the American reality—not nearly. Our economic system (really it is a non-system) has provided an ever-expanding number of jobs. Real wages have risen dramatically. 85% of the cash flow generated by business is paid in wages. Hours are shorter. The four-day week, once a pipe-dream, has become a reality for many workers, the three-day week for some. Work places are safer and cleaner. Machinery has eliminated the most back-breaking and repetitive tasks and is continuing to do so. And the humanization of work-places is gathering new momentum. A new book, The Future of the Workplace, catalogs this growing phenomenon.

This is not to say that everything is swell. Of course it isn't. But the contention that American workers are being progressively and inexorably degraded, exploited and dehumanized, is not to be taken seriously.

When Gallup asks people, "Is your work satisfying?", 80%–90% consistently say "Yes."

The famous Work in America report to the Secretary of Health, Education, and Welfare in 1972 reported that 80% of all American workers say they would keep on working even if they inherited money and didn't have to.

But what is most remarkable about the article is the confusion it created in the ranks of both career and vocational educators. Many felt abused and defenseless.

We are not guilty of the particular sins of which these particular authors accused us, but many of us weren't sure at first whether we were or not. Whenever our legitimacy is challenged, we are angry and disarmed. "Whom the gods would destroy, they first make mad."

The attack exposed a serious vulnerability. We have no systematic rationale. We have no solid sense of identity and purpose. We do not always have a sure sense of our relationship to the other necessary aspects of education. And if there is a national policy toward vocational education, I would like somebody to tell me what it is.

Our rationale has too often been simplistic and superficial. We have been inner-directed. We have talked to ourselves. We have been sitting in the back of the bus, seething and grumbling. We have been evangelists—too often depending more on emotional appeals than on reason.

Some of us in vocational education have complained for years that the world sees us as a subordinate second to liberal education. I certainly have.

Some of us wallow in the knowledge that we are maligned and misunderstood. I certainly do.

But lately I have been thinking that perhaps we have invited these demeaning characterizations because we ourselves have a limited vision of vocational education. I think we have misunderstood ourselves. Vocational education has a soggy sense of identity and is desperately in need of consciousness raising.

We in vocational education need our own liberation movement, and the first step is to liberate ourselves from a limiting definition of what we are and what we can do.

If a person thinks in his heart that he is second rate, he is trapped by that definition, as surely as if he were. He will be second rate. He cannot go beyond it.

I see signs that vocational education is suffering from a serious identity crisis. Things vocational educators have said for years are becoming the new universals.

We have a great and growing role to play in modern society. But we are not responding fully. We have accepted the submissive, subordinate role so long we have grown comfortable in it. We have been riding in the back of the bus so long we have grown comfortable there. We have become the Uncle Toms of the educational establishment. The world has at last taken a different view of us. Now we must take a different view of ourselves.

A wise man once pointed out that the specialist's most common error was to stretch the relevance of his specialty beyond its natural limits. We have, in our desperation for support and attention, too often implied that vocational education would solve all the problems of the world—from ingrown toenails to peace of soul.

Vocational education has clearly outgrown its original rationale and achieved a new maturity. It needs a mature rationale to match.

We have been proudly "practical," forgetting that this practicality has a rationale with roots in Aristotle.

Academic educators speak of liberal arts as if a vocational emphasis were somehow illiberal. Vocational education is liberating. It liberates from an enslaving limitation—dependence on degrading toil. Many of the most stirring and permanent works of art are the work of anonymous craftsmen. Artisans extend the range of choice, enlarge the human experience.

We are told that the liberal arts liberate the artisan from the narrowness of his special skill. That is true. It is also true that liberal arts are lifeless without practical expression and thus the practical arts are equally essential to the civilizing process.

The Grubb-Lazerson article seems to underline another necessity—the need to cultivate a wider audience. We have traditionally spoken almost exclusively to the consumers of vocational education. That will forever be our first, favored constituency. That is the source of our particular strength.

But we have clearly neglected other constituencies. We have, perhaps because of a sense of inferiority, neglected the academic community.

In 1968, NACVE mounted a campaign to change the attitudes of parents and students toward vocational education. That effort was a success. Vocational education isn't perceived as a program for somebody else's kids anymore. In my state—New York—half the students in secondary schools and community colleges are enrolled in vocational education. Nationally our enrollment now exceeds 13 million. The nation now spends $3 billion a year for vocational education.

We've achieved many of the goals we dreamed about in the Fifties. Vocational education is becoming the dominant mode of education in America.

This new status brings problems and responsibilities of a new and unfamiliar order.

We need a new outreach to the nation's thought leaders. We need a new rationale, solidly rooted in sound scholarship. We need a coherent national policy.

The Bicentennial Conference in Minneapolis this Fall can be a crucial first step toward these new imperatives. I hope its planners will give it maximum depth and that all of us in vocational education will give it our full support.

And I think we should, at least in private, thank God for scholars like Grubb and Lazerson who take vocational education seriously enough to criticize it extensively. We can only profit from such attention.

Thank you.

DAVID LUKE HOPKINS

Mr. MATHIAS. Mr. President, David Luke Hopkins proved the rule that a man does not have to hold public office in order to be a public servant. In a lifetime of deep personal interest in his community he touched the lives of more people than many who bear official titles and carry public responsibility. His concern for the Nation was expressed in his strong support for a number of our more essential institutions. He understood that intellectual and moral strength are the bulwarks of genuine national security and he acted upon this principle through his support for higher education and for the church.

At his funeral in the Church of the Redeemer in Baltimore, one of the hymns sung, "Fight the Good Fight," included the appropriate line—"Lay hold on life, and it shall be thy joy and crown eternally."

That is just what Luke Hopkins did and no better words could have been chosen to describe him.

In all his efforts he had the encouragement and help of a wonderful family to whom he was devoted. Mrs. Hopkins and their children, C. A. Porter Hopkins, David L. Hopkins, Jr., Mrs. Charles A. Borda and Mrs. Charles H. Mellon III have been an example for the rest of us in the affection that bound them together and the way they could attack problems as a family team. While Luke Hopkins will be sorely missed in many places, he will be represented by a family that will carry on the tradition of individual responsibility for public affairs that he has left them. The Washington Post published an Associated Press report on Mr. Hopkins' death on May 18 and the Baltimore Sun published an editorial tribute to one of that community's most outstanding citizens. I ask unanimous consent that these items be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Washington Post, May 18, 1976]

Md. Banker D. Luke Hopkins, Presidential Medal Winner

Baltimore, May 17.—D. Luke Hopkins, 77, banker, Johns Hopkins University trustee and winner of the Presidential Medal for Merit, died yesterday at the Greater Baltimore Medical Center following an apparent heart attack.

Mr. Hopkins, a Baltimore native who served as chairman of the board of Maryland National Bank from 1964 to 1966, had remained a member of the board until last year. He also had served as chairman of the finance and trust committees of the bank.

He became a trustee of the Johns Hopkins University in 1933. His work with the university's Applied Physics Laboratory during World War II won him the Presidential Medal in 1946, and a building bearing his name was dedicated at the laboratory last month.

Mr. Hopkins also served in 1952 and 1953 as an assistant secretary general of the North Atlantic Treaty Organization, and was a member of the Atomic Energy Commission Security Survey Panel from 1950 until 1952.

A member of the Maryland Port Authority from 1956 to 1964, he served as its vice chairman for a time and was named to the Permanent International Association of Navigational Congresses.

Mr. Hopkins, the father of state Sen. C. A. Porter Hopkins (R-Baltimore County), was educated at the Jefferson and Marston schools and graduated from Princeton University in 1921.

Mr. Hopkins served as director and member of the executive committees of the Chesapeake & Potomac Telephone Co. of Maryland, the Fidelity and Deposit Co. of Maryland, the Savings Bank of Baltimore and the West Virginia Pulp and Paper Co.

He also served on the boards of the Johns Hopkins Hospital, the Harriett Lane Home for Invalid Children and the Evergreen House Foundation and was chairman of the board of the Walters Art Gallery here from 1963 to 1971. He also was a member of the board and chairman of the Greater Baltimore Medical Center.

Mr. Hopkins is survived by his wife, the former Katherine Disston; two sons, Sen. Hopkins and David L. Hopkins Jr. of Mount Kisco, N.Y.; two daughters, Mrs. Charles A. Borda of Wayne, Pa., and Mrs. Charles H. Mellon III of Fair Hills, N.J.; a sister, Mrs. F. Barton Harvey of Ruxton, Md., and 16 grandchildren.

[From the Baltimore Sun, May 18, 1976]

D. Luke Hopkins

Shortly before his death this week at the age of 77, D. Luke Hopkins was present at the dedication of a building named in his honor at the Johns Hopkins University Applied Physics Laboratory. The ceremony had a dual significance. It was a tribute to Mr.

Hopkin's wartime work in the development of the proximity fuse, a breakthrough device that helped shorten the war. It was also a tribute to his continuous service as a Hopkins University trustee since 1933. Endurance and an extraordinarily wide range of endeavor were characteristics of this Baltimorean.

A banker wise in the ways of business and a civic leader acutely conscious of his obligations to the community, Mr. Hopkins was a member of boards governing such diverse institutions as the Maryland National Bank and the Family Welfare Association, the Walters Art Gallery and the Greater Baltimore Medical Center. Yet he was never a "board sitter" and always a "board worker"—someone ready to take on the onerous chore of fund-raising or overseeing a new project. While most persons would have been driven frantic with a fraction of Mr. Hopkin's activities, he was an exceptionally calm and well-ordered man. One wartime associate recalled fondly that he could "make an impossible job seem easy."

Mr. Hopkins was never a seeker of publicity, and got very little. If responsibility came to him, it was because of his obvious capacity to perform well. Thus, in 1952, he became assistant secretary general of NATO, an impressive post by any light. Yet after a suitable hitch Mr. Hopkins was happy to come home where he felt there was more to do. Maryland and many of its institutions were fortunate that he did.

CLEAN AIR AMENDMENTS OF 1976

Mr. McCLURE. Mr. President, the Senate will turn to consideration of the Clean Air Amendments of 1976 sometime in early June. During the past several weeks substantial concern has been generated over the "significant deterioration" provision contained in S. 3219 as reported from the Senate Public Works Committee.

On Friday, May 21, Senator Howard Baker, ranking minority member of that committee, summed up what I think is the concern of all of us who worked to develop this provision about the information that is circulating regarding its potential impact.

I think his statement helps to clarify our intent in the drafting of this provision and I ask unanimous consent that Senator Baker's statement before the Aluminum Association be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Howard Baker

I want to applaud the recently announced campaign of the Aluminum Association to establish an effective communications program to inform government about the Aluminum industry. There are several legislative proposals evolving in Congress which will have an important impact upon your industries and upon which your association can have a major impact.

It is always of great concern to me that Congress obtain sufficient information and background from industry regarding the potential economic impacts of our actions in order that we may accurately and intelligently assess their effect. This is especially true in the area of environmental policy.

By the same token if Congress is to be responsive to the industrial sector it is imperative that the actions of Congress also be accurately conveyed to industrial representatives.

This is a matter of serious current concern to me in view of reaction to the clean air legislation recently reported by the Senate Public Works Committtee and the House Interstate and Foreign Commerce Committee—especially the significant deterioration provisions of these bills.

I want to speak to you regarding my observations on significant deterioration—not only because it is a major environmental policy of tremendous potential importance to your industry, but because it is a significant case study on the subject of industry-government communication.

For background: In 1972 the Supreme Court affirmed the judicial interpretation of an ambiguous policy statement in the Clean Air Act and created the concept of significant deterioration. The Court's decision set in motion regulatory machinery at EPA and the situation has been in litigation and confusion ever since.

In frustration environmentalists, industry and public officials turned to Congress demanding clarification of the situation.

Congressional consideration of the issue began, as it should, with a thorough review of the philosophy underlying the policy. In drafting the air pollution strategy of the 1970 Act, Congress had given careful consideration to the need for cleaning up dirty areas, but development of a policy for protection of the vast clean air regions of the nation was largely overlooked.

Early in the debate last year the Senate Committee decided unanimously that such a strategy was unacceptable. It certainly was not and is not the intent of Congress in specifying national standards which identify potentially dangerous air quality conditions to make those levels the targets or goals for pollution control efforts in the nation's clean air areas.

Having made this decision the hard work of developing a workable strategy for protecting clean air areas began.

The Senate Committee and its environmental subcommittee held 45 markup sessions on proposed Clean Air Act Amendments during this and the previous session of Congress. Many of these were spent in discussion and revision of the significant deterioration provision. These discussions utilized background developed in hearings held on the issue in each session of Congress from 1972 to 1975.

Amazingly notwithstanding this careful study, it is suggested that we postpone enactment of a clear significant deterioration strategy and study the matter further. And the Moss Amendment, which makes this proposal, has apparently gained some support among major industrial groups included under the coverage of the bill's program.

If the Moss Amendment passes two things will most certainly happen which should be of substantial concern to all industry. The court-ordered EPA regulations will remain in effect, and litigation pending against those regulations will continue to cloud long range prospects regarding the construction of major industrial facilities for years.

But, gentlemen, I am dismayed at the opposition to the Committee's bill for a further reason. There has been substantial confusion over the proposal and much of the criticism I have read and heard misconstrues its effect. The import of the criticism is that the members of the Committee have given little regard to the economic and energy implications of their action. That is totally inaccurate.

Let me briefly tell you what the bill does and does not do—especially in reference to the EPA regulations which the Moss Amendment would leave in effect.

All of the proposals advanced so far including the Senate bill contain a provision for stringent protection of certain areas such as national parks, which are designated Class I areas.

EPA's regulations provide that any federal area can be designated a Class I area at the sole discretion of the Federal Land Manager in Washington. Early proposals offered in our Committee would have designated almost every imaginable national area a Class I area—parks, wildlife refuges, recreation areas, monuments, even meandering scenic rivers and seashores.

The Committee bill specifically limits Class I to certain major parks and wilderness areas. The total land area included under the Senate provision comprises slightly more than 1% of the United States and no federal land may be redesignated Class I unless the State government concurs.

There has been a great deal of concern about so-called buffer zones around these Class I areas. These buffer zones are the radius around Class I areas in which construction of major facilities will be predictably curtailed because of the application of arbitrary pollution limitations within the area.

EPA's regulations and the subcommittee bill both provided for these buffer zones.

The Committee bill rejected these arbitrary limitations and bases protection of parks upon a specific finding that emissions will cause actual harm to the values for which the area was established on a case by case basis.

Additionally, the Committee proposal would turn the EPA permit program over to the States with specific direction that economic and energy impacts be given appropriate consideration in the development of technological requirements.

State control, flexibility and clarity of application are the hallmarks of the Committee's effort on significant deterioration. The Committee carefully and I believe skillfully redrafted the provision to assure that while it provides real protection to clean air areas it allows for realistic industrial growth. And the Committee provided for continuing review of the program to assure that appropriate "mid-course corrections" can and will be made to assure that our significant deterioration mechanism accurately tracks this goal.

I am convinced that the confusion over significant deterioration will be resolved and a rational, workable strategy enacted.

But the problem of coordinating Congressional environmental activities with industrial interests remains.

Over the past several years both government and industry have gained valuable experience under the first generation of environmental programs. That experience has often indicated the need for "mid-course corrections."

Unfortunately our knowledge of environmental issues has gotten ahead of our ability to coordinate and communicate that information in the legislative process—as is evident from the experience with significant deterioration.

I am encouraged that organizations like the Aluminum Association have begun an earnest effort to mobilize the mechanism for presenting industry's case to Congress.

I would leave you with two thoughts which I hope will be helpful in this effort:

First, many, I believe a majority, in Congress are determined to focus our environmental programs on rational goals consistent with economic and energy realities. But make no mistake, the environment remains a real and vital issue across the nation.

Second, among the members most instrumental in drafting environmental legislation there is a fervent desire for objective, knowledgeable input on environmental programs and issues. Much of the effort in drafting environmental legislation has been spent in interpretation of overstated or biased information. The organization that establishes the competence to understand environmental programs and the restraint to speak forthrightly on environmental issues will find an eagerly receptive ear in Congress and can play a significant role in evolving the second generation of major environmental laws.

THE B–1 BOMBER

Mr. GOLDWATER. Mr. President, the Senator from Wisconsin (Mr. PROXMIRE) has made his sixth and last statement on the B–1 and I answered him last week. Since that time the Department of the Air Force from the Office of the Secretary has also prepared an answer covering the points the Senator was trying to make. I ask unanimous consent that this rebuttal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., May 24, 1976.
Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: With your sixth B-1 speech, your arguments against the B-1 have come full cycle. Your latest presentation was little more than a summary of earlier assertions and criticisms which we have repeatedly answered. Therefore, in my response to the last in your announced series of six speeches, I would like to close out the discussion by returning to the two central issues which have been the master threads of your critique: cost and capability.

Throughout our exchange, I have consistently emphasized the need for accuracy, proper context, and comparable bases when discussing system costs. The Air Force has never claimed that the B-1 was inexpensive. What we have claimed is that the B-1 is an essential system providing a premium capability with far greater cost effectiveness than any other alternative. The development program has been well managed, life cycle costs will be much less than for the B-52 fleet, and even during peak procurement years, the B-1 program will account for less than 2% of the defense budget. We consider this an eminently reasonable investment for modernizing that component of our Triad which accounts for the delivery capability of half our megatonnage.

Your counter-arguments have repeatedly inflated the true B-1 cost by burdening the analysis with imaginary requirements such as a new fleet of strategic tankers. Moreover, your case for various alternatives generally compares B-1 costs, calculated with inflation compounded out into the 1980s, with dated, unsupported, and highly optimistic estimates which ignore future inflation.

Even with such a misleading cost methodology, your case still remains unconvincing because your nominal alternatives simply cannot adequately perform the critical mission for which the B-1 was optimized. As the Joint Strategic Bomber study established and your colleagues on the Senate Armed Services Committee recently confirmed, "... the B-1 will accomplish the required mission in a manner superior to any of the proposed alternatives. In fact, the B-1 will be a capable system against targets that cannot be successfully attacked with proposed alternatives."

In the final analysis, these considerations of cost effectiveness and mission capability must be the pivotal issues for decisions on our strategic forces. I have welcomed the opportunity to express for the record the Department of Defense's logic and rationale for the B-1. I am confident that your colleagues in both Houses of Congress will consider the merits of our respective positions and register a consensus which will support the security interests of our nation.

Sincerely,

THOMAS C. REED.

SENATOR PROXMIRE	FACT
At a time when there is a national debate about defense programs there should be a different method of judging relative need. Each program should be measured against competing programs from the other services. Only with this type of internal competition will the most efficient alternatives be selected.	We agree with Senator Proxmire that each program must be measured against competing programs from other services. The DOD programming and budgetary process does exactly that and allocates resources accordingly. In that process, the B–1 has competed successfully with other programs both within the Air Force and within the entire Department of Defense. The program has been constantly supported on its merits at all decision levels.
Cost of B–1 has increased $200 million in the last 3 years.	We assume the Senator is referring to the last 3 months. The FY76/TQ Appropriation Act cut the RDT&E program by $74.5M. This reduction, and attendant Air Force actions resulted in a net increase to the program of $125.5 million dollars.
The current unit cost is $88.6M and indications are that this will grow to $100M.	In real terms, B–1 Program cost has increased 12% since 1970. This average growth of 2% per year since 1970 marks the B–1 as one of the best managed programs in DOD history. Inflation accounts for the remaining 88% of cost growth in the program to date. The current unit cost estimate ($88.6M) includes provisions for economic escalation over the entire production program.
When Congress was first briefed on the B–1 bomber in June 1969, the total program costs were $8.8 billion.	Prior to 1970 a number of bomber studies were performed. The first B–1 cost baseline was the development estimate established in June 1970 at $11.2 billion dollars.
"Examining the full life cycle costs of the B–1 results in a $91 billion total in current dollars by the Brookings Institution . . ."	Even the Brookings Institution did not purport their $91 billion figure to be the life cycle cost of the B–1. Rather, it is the Brookings Institution notion of bomber and tanker program costs for the period 1976–1985 assuming advanced tankers, too many weapons, and as they admit, some "cavalier" costing assumptions. The Brookings Institution study (Senator Proxmire's Table III) shows $91 billion as the cost over the 1976–1985 time period, of the total bomber-tanker force mix of B–52s, FB–111s, KC–135s, ATCAs and missiles, as well as the B–1. Less than one-twelfth of the aircraft (one-sixth of the bombers) operated in Table III are B–1s. Furthermore over 44% of the $91 billion is for indirect operating and other investment costs that were allocated to this bomber-tanker force and have no direct relationship to the force shown. In dealing with costs of major weapons systems which are procured and operated and supported over a period of three decades, it is necessary to work with a constant value of measurement to assure meaningfulness and provide for comparison with competing weapon systems. In constant FY 1976 dollars the total Life Cycle Cost (LCC) of the B–1 fleet is $26.8 billion. This includes a nominal 20 years of full fleet operations, roughly FY 86–FY 2005. Most of the research and development funding has been appropriated. Therefore, the unsunk LCC is $23.4 billion. The then-year dollar LCC of the B–1 fleet has not been derived since we do not have means to predict economic escalation through the year 2005. Moreover it is our view that inflation compounded over more than three decades—which would be applied to GNP, to revenues, and to all purchases—not just defense purchases—would obscure the real cost of manpower and material required.
For the $21 billion direct costs of the B–1 program; the Nation could fund 10 invulnerable Trident submarines.	Procurement of additional Trident submarines would violate the current strategic arms limitation limit on MIRVed delivery vehicles or cause a radical change in the ICBM forces. Both of these situations are undesirable, the first from the standpoints of international reaction, the second because of the downgrading of the TRIAD concept.

SENATOR PROXMIRE	FACT
I ask . . . that various tables from the Brookings Institution Study . . . be printed in the RECORD . . . as Tables II, III, and IV.	Tables II, III and IV used by Senator Proxmire bear little relationship to one another. The major weapon system acquisition dollars shown in Table II do not match the major weapon system acquisition dollars in Table III. The procurement quantities shown in Table IV do not lead to the operating quantities shown in Table III (nor do they match the program in Table I).
We should postpone the B–1. Ten years from now we can build a better, more efficient one. We will continue to have superiority over the Soviet Union; if there is a gap it will be on their side.	It will take sixteen years from B–1 design to full operational capability. To begin a new program ten years from now will place its full operational capability at the year 2000, well beyond the effective life of the B–52 alone. The Department of Defense has not asserted that there is a bomber gap; however, it is well known that the superiority of our bomber force allowed us to accept some asymmetries with respect to missile forces under the Arms Limitation Agreements.
The B–1 is not the plane the Air Force told Congress it wanted in 1969 . . . characteristics have slipped.	The B–1 design is based on the development estimate made in 1970 and the current capability of the B–1 compares very well with that development estimate. It can effectively perform the same combat mission as originally envisioned for the B–1. Same mission profile. Same penetration speed and altitude. Same accuracy. Same payload. More importantly the aircraft completely covers the target structure of the future, as it did then. The present B–1 remains the most advanced high quality strategic system, notably capable of performing any assigned mission.
There is ample time to wait before making a major new bomber decision. There are promising new technologies that could be incorporated into a new bomber design. The age of the manned strategic penetrating bomber is over.	These notions appear to contradict themselves. They reflect more the Senator's opposition to the B–1 than any clearly perceived alternative.
. . . we can build a better bomber than the B–1 if we wait 5 years or 10 years from now, that we will be able to build a bomber that will be faster, that will be more economical, that will have greater range and penetration ability, and that would be a better weapons system in every way.	The B–1, as currently designed, will be capable of defeating the threat postulated for the mid to late 1980's. It is designed to be a viable weapon system through the 1990's and into the 21st century. If we started today to build a bomber for the 1990's, it would closely resemble the B–1. This aircraft now incorporates the latest technology available for heavy strategic bombers.
B-1 takeoff distance has been degraded.	Takeoff distance is an extremely important factor in escaping the home base, and the tremendous improvement the B–1 provides over the B–52G (the most numerous B–52 model) is very significant. In takeoff distance alone, the B–52G requires a 40% greater takeoff roll and for a great portion of the year requires water augmentation. More importantly, the significant factor is that fully loaded B–1's will be able to use more than twice as many runways as B–52's. In addition there are more runways capable of handling B–1's than the number of B–1's currently envisioned to be procured.
Delivery of the first B–1 has been delayed six months. The initial operational capability of the aircraft has been delayed 14 months until mid-1982.	The six months delay in the delivery of the first production aircraft is a direct result of the Congressional reduction in long lead funds requested in FY 1976/Transition Quarter. The 14 month delay in the Initial Operational Capability date is also due to this reduction, as well as the FY 1975 Congressional funds reduction, increased material lead time, and revisions to production planning.
Testing to date has revealed a number of problems with the B–1. Power sources to start the engines have failed in cold weather. According to the GAO, there is a mechanical breakdown in the coupling of gearboxes and auxiliary power units at a rate of 25 percent. Furthermore, starting the engines takes longer than estimated. This is a particularly crucial failure since it makes the B–1 more vulnerable on the ground. The GAO states that the Air Force and Rockwell agree that this problem will not be fixed before a production decision is made.	The GAO report on which Senator Proxmire bases his remarks included data to October 1975. The report is now almost seven months out of date. We have already incorporated design refinements into the aircraft which have significantly increased the gearbox to Auxiliary Power Unit coupling reliability. Even under the longer engine starting conditions imposed by unfavorable weather, the B–1 will reach a safe escape point faster than the B–52 due to the B–1's short takeoff roll, high flyout speed and resistance to nuclear effects. Nevertheless the Air Force is studying alternatives. Among these are a change in operational procedures in which two engines would be started initially and the other two while taxiing, a new APU with more power, and a change in engine-to-Auxiliary Power Unit gear ratio. The correction poses no real technical problems.
The B-1 program is violating the fly-before-you buy philosophy.	The B–1 program adheres to the principles of the fly-before-you-buy philosophy. The critical items which effect aircraft performance will be thoroughly tested and evaluated prior to production contract award. Indeed, most of this testing has already been accomplished. The aircraft's structural integrity has been proven by extensive ground testing, the aircraft's engines have exhibited excellent performance both on the ground and in the air, and the aircraft's flying qualities and handling characteristics have been judged to be superior. These are the parameters of importance in an aircraft test program and the B–1 has lived up to its expectations in all of them.
The B–1 go ahead decision in November of 1976 will be made without testing a number of critical capabilities of that aircraft including all weather capability, weapons delivery and defensive avionics.	Weapons delivery capability will be demonstrated prior to the production contract award. All weather capability is not a critical issue and will pose no problems, therefore, testing has been deferred until later in the program but prior to delivery of the first production aircraft. The Air Force deferred development of defensive avionics until late in the program in order to better define the system and reduce costs. The development of this system is proceeding well, and we expect no difficulty. Aircraft/defensive avionics interfaces will be defined and incorporated into the first production aircraft such that the equipment can be easily installed when it is available.

SENATOR PROXMIRE	FACT
For example the automatic terrain-following radar in the B–1 is its most critical navigational component. Without the ability to hug the ground while it penetrates Soviet airspace, the B–1 would be a sitting duck. The General Accounting Office has noted that the terrain-following radar has only been installed in aircraft No. 3 and that 400 feet is the lowest clearance altitude to be tested before the production decision. In other words, the B–1 will not have a test of this system at its operational altitude before November. Furthermore, the production decision will be made without testing of the automatic terrain-following radar at night, in bad weather, or in extremely mountainous terrain.	The ability of the automatic terrain following radar is not an issue. It has been exhaustively tested in the F–111 and has been operational in that aircraft for some time. Sufficient testing will be conducted in the B–1 to verify the compatibility of this radar with the remainder of the offensive avionics system.
The GAO also points out that the entire airplane will not undergo electromagnetic pulse testing before the production decision. This type of testing is designed to see how well the aircraft survives in a nuclear blast environment. Although various components will be tested, if the entire aircraft is in any way deficient, there could be large redesign costs associated with any required fix. It would be much wiser to have the results of the full test before moving to production.	The B–1 is the first aircraft specifically designed to be resistant to nuclear effects. Extensive engineering analysis and component testing have already been accomplished to determine the aircraft's resistivity to nuclear effects. From the results of this activity, the Air Force has high confidence that the design criteria will be met.
Reference also needs to be made to the unexpected buffeting and vibration of the B–1 test aircraft. Severe buffering could interfere with the operation of offensive avionics equipment. The severity of the current problem is difficult to assess at present.	Isolation of vibration sources are a part of any flight test program. Engineering analysis showed the possibility of vibration levels which would exceed the allowable specifications under certain conditions. However, standard practice is to withhold corrective action until actual levels are confirmed by flight testing. This was the case for the B–1. Correction of the minor vibration experienced in the B–1 can be done in several ways. One of the easiest fixes involves mounting a small piece of metal in such a way as to disrupt air flow patterns. Others include shock mounting of components or movement of components. The Air Force plans to conduct further testing before the most effective option is selected. Even if nothing is done, the vibration encountered to date would not affect the ability of the production aircraft to perform its mission.
Although it may be startling to most Americans who have heard about the supersonic capabilities of the B–1 bomber, this speed is not likely to be used on many missions.	The B–1's supersonic, high altitude capability, although not the primary tactic, can be highly effective against some targets. A supersonic capability also provides another effective defensive measure during portions of bomber's penetration to a low altitude descent point and withdrawal after striking its assigned targets. Not to be forgotten is the possibility that the B–1 might be used in roles other than its primary mission, a highly flexible option provided by the manned bomber. When an aircraft is designed to have a lifetime spanning three decades, it is important to retain as much flexibility as economically possible to cope with unforeseen and unforecast situations. Without a supersonic capability this option is lost forever, no matter how desirable supersonic, high altitude flight might become. Tactical flexibility, including the supersonic option, remains a definite plus to the B–1's cost-effectiveness. The supersonic capability of the B–1 would require an enemy to maintain an air defense system capable of coping both with a supersonic, high altitude and high speed, low altitude threat. The cost of air defense is high—and resources devoted to air defense, which does not place our country at risk, are not available for more threatening pursuits; such as, more advanced ICBMs, SLBMs or bombers. Deployment of the B–1, possessing very effective low and high altitude penetration characteristics, will further compound the defensive problem of our adversaries.
Using the afterburners on the B–1 will create an observable heat source that could bring destruction from heat seeking missiles. Second, supersonic speed consumes so much fuel that it cannot be used for long periods of time.	If a high altitude, supersonic penetration tactic is employed, the B–1 would be routed to avoid enemy defenses to the maximum extent possible. SRAM would be employed to attack objectives without penetration of the defended area, or if required, to destroy defenses which could not be avoided. The B–1 will carry infrared decoy flares, which are automatically dispensed, for protection against infrared guided missiles. Additionally, the B–1's low radar cross section and advanced ECM will seriously degrade enemy surveillance and tracking radars necessary for the employment of defensive missiles and interceptors. The supersonic segment of such a mission is only required during transit of the higher threat areas, as a result, high fuel consumption resulting from the high speed penetration would only be required for relatively short periods of time.
The lack of importance of supersonic speed is indicated by the Air Force decision to cut it in half from mach 2.2 to mach 1.6. This means at the lower speed of mach 1.6, the B–1 could not outrun many of the Soviet Union's modern fighters.	The Air Force performed a detailed analysis of the difference in capability provided by a Mach 2.2 B–1 and a Mach 1.6 B–1. It was determined when all of the B–1 characteristics were considered, the difference in effectiveness was small, and that the Mach 1.6 speed still stressed the enemy defenses. Based on cost effectiveness considerations, the decision was made to not install the Air Induction Control Inlets, which allow the higher supersonic speeds, on the production aircraft saving about $240 million. While we do not consider the marginal loss in effectiveness resulting from 0.6 decrease in Mach to be serious, we do consider the Mach 1.6 supersonic capability to be of significant value. Furthermore the Air Force has preserved the option to return to the Mach 2.2 speed with a relatively simple modification, should that become necessary in the future.

Senator Proxmire	Fact
	Basing a bomber's effectiveness on its ability to "outrun" a fighter grossly over simplifies the issue. In fact, it is highly unlikely that the bomber and fighter aircraft would ever be in relative positions for such a "race". The actual problem is one of the enemy being able to detect, track and guide a fighter into position to successfully deliver its weapons. The B-1's low radar cross section and advanced ECM combined with the high altitude supersonic speed will severely complicate those tasks. Even if the controlling radar systems could guide the fighter into close proximity to the B-1, it's Mach 1.6 speed and countermeasures would pose an additional problem for the defenses. As a bomber's speed approaches that of the interceptor, which is the case for the B-1 at both low and high altitude, the margin for error by the defenses is reduced or eliminated making an effective attack very difficult and complicating the air defense battle management because of the need for backup interceptors. Also, the more severe intercept problem decreases a missile's probability of successfully striking the bomber, even if a launch is possible.
If the Air Force had recognized the lack of value in supersonic capability earlier, they could have avoided building the B-1 around that requirement. The result would have been an aircraft designed with better range and payload capacity than the existing B-1.	The B-1's supersonic capability is a fall-out of a design which provides for rapid escape from its take-off base, a high degree of hardness to the effects of a nuclear burst, and for penetration at very low altitude at near the speed of sound. The required bomber characteristics for safe escape, hardness, and low altitude, high subsonic penetration speed, coupled with the requirement to operate from relatively short runways (as compared to a B-52) result in a swing-wing design, a compact fuselage, a very strong structure, and afterburning engines—the same aircraft characteristics which support supersonic high altitude flight. Since the B-1 has been designed with the criteria of high survivability against nuclear effects and a *primary* penetration tactic of very low altitude, very high subsonic speed—the weight, cost, complexity and subsonic performance degradation attributable to the secondary supersonic penetration capability are very slight. In fact, if the supersonic mission were eliminated in a newly designed B-1, a decrease in weight and an increase in range of less than 2% would result.
Flying missions into the heart of the U.S.S.R. with gravity bombs is virtually a suicidal flight. Modern technology can supply us with enough cruise missiles to saturate any known Soviet targets.	Studies have demonstrated that all cruise missile forces do not do as well as B-1s when applied against the *same* targets and defenses. An air defense that had *only* to contend with cruise missiles would likely develop a capability against the launch platform as well as with cruise missiles.
Cruise missiles are cheap weapons which are able to evade radar, evade hostile attack and saturate the area.	Cruise missiles fly where they are programmed to fly. The programmer can take them around known defenses except where those defenses protect targets. Mobile SAMs and fighter interceptors cannot be anticipated by the programmer, they pose a severe threat to a stand-off cruise missile force. Saturation of an area does not necessarily put more weapons on target. Because of its low effectiveness the price of an all stand-off cruise missile system would be too high.
"Re-engining the B-52G and H fleet at a cost of $2.1 billion, which will give them longer life, improved range, takeoff distance, and payload capacity."	Aside from the cost estimate which is out of date, re-engining the B-52G and H does not extend the life of the airplane nor does it increase its payload capacity.
Purchase new wide-bodied jets for use as stand-off bombers carrying up to 60 cruise missiles each.	The Senator supports a major defense acquisition that the Department of Defense has determined, against the same Soviet threat, to be both less effective and less cost effective than the B-1.
During the 1980's we will continue to have superiority over the Soviet Union in long-range bombers. Today we have substantial superiority over the Soviet Union; some say four times as many. Whether it is four times or two times as many, we do have more. It is true they are developing the so-called Backfire bomber, but there are many questions about the Backfire bomber, about its range and whether it would qualify as a long-range bomber capable of attacking this country.	It is true that today the United States possesses a clearly superior bomber force, both in numbers and quality of aircraft, as well as the proven operational experience to effectively employ the bomber in a combat environment. It is this effective bomber force that contributes so heavily to essential equivalence since the Soviets possess more ballistic missiles than the US under the SAL I agreement. However, the Soviets have not phased out their bomber and tanker force, in fact, they are currently deploying the intercontinental, swing wing, supersonic BACKFIRE B in both their Long Range Aviation (LRA) and Naval Aviation (SNA) forces. There is no question within the Department of Defense as to the intercontinental capabilities of this modern bomber, which is much larger than our FB-111, almost the size of the B-1. This fact was explicitly addressed by the Secretary of Defense during his annual report to Congress: "Even without aerial refueling or staging from bases in the Arctic, BACKFIRE bombers could cover virtually all of the U.S. on one-way missions, with recovery in third countries. Using Arctic staging and refueling, they could achieve a similar target coverage and still return to their staging bases in the Soviet Union." In January, the Secretary also revealed the current estimate that over 50 BACKFIREs had been produced with most of them deployed. Should the Soviets choose to continue BACKFIRE production, and there is no reason to believe otherwise, they could possess an almost totally modernized bomber force equaling ours in size (including the B-1) in the 1980s. Faced with these *facts* and the increasing threat to our current bomber force, failure to deploy the B-1 could result in both a numerically and qualitatively superior Soviet strategic bomber force in the 1980s.

CIA ISSUES NEW REGULATION ON CONTACT WITH MISSIONARIES ABROAD

Mr. HATFIELD. Mr. President, on December 15, 1975, I introduced legislation prohibiting Federal intelligence agency contact with missionaries and clergymen. That legislation was prompted by the failure of the executive branch to prohibit these contacts despite their revelation in disturbing press accounts last summer. Those stories reported, and former CIA Director Colby confirmed, that the CIA has made it a regular practice over the years to use missionaries, clergy, and members of religious organizations for intelligence purposes. As I said at the introduction of my bill, S. 2784, I believe such collaboration quite rightly tarnishes the image of the United States in foreign countries, prostitutes the church, and violates the first amendment's separation of church and state.

At the time of the bill's introduction, our distinguished majority leader, Senator MANSFIELD, expressed his approval of the idea, and Senator CRANSTON later joined as a cosponsor of the bill. I am grateful for their support.

After the introduction of my bill I continued to correspond with CIA Director George Bush in hopes of reaching a satisfactory solution to the problem. Due to his cooperation and concern for the fundamental principles involved, the Central Intelligence Agency has issued a new regulation restricting agency contacts with the clergy, missionaries, and members of religious organizations. I ask unanimous consent that a copy of that new regulation be printed at this point in the RECORD.

There being no objection, the regulation was ordered to be printed in the RECORD, as follows:

NEW CIA REGULATION

(M) CLERGYMEN AND MISSIONARIES

In light of the special Constitutional concern with church-state relationships, CIA shall establish no secret, paid or unpaid contractual relationship with any American clergyman or missionary. This restriction applies to any person whether or not ordained who is sent out by a mission or church organization to preach, teach, heal, or proselyte. In addition, American church groups will not be funded nor used as funding cutouts for CIA purposes. The CIA will, however, continue to welcome information volunteered by American clergymen or missionaries. If, in the determination of a senior Agency official, such individuals might possess important foreign intelligence information, the Agency might initiate contact so as to afford an opportunity for channeling this information to the Government. Such initiatives, however, shall not be taken abroad.

Mr. HATFIELD. Mr. President, I emphasize that the regulation broadly defines the role of a missionary, prohibits any secret paid or unpaid contractual relationship with any American minister or missionary, and prohibits the CIA from initiating contact with clergy or missionaries abroad for intelligence purposes. The prohibition is essentially the same as that pertaining to contact with Peace Corps volunteers and Fulbright scholars.

The new regulation also applies to Americans performing missionary work for organizations which are technically not controlled by denominational or interdenominational church bodies, but whose ultimate sponsorship comes from religious organizations. This is made clear in Mr. Bush's letter time of April 12. I ask unanimous consent that that letter and other correspondence pertinent to this new development be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, I am very pleased that Mr. Bush recognized the special problems caused by CIA contact with missionaries abroad, and has taken this remedial action. I trust that the churches and missionary organizations will also remain attentive to the difficulties association with U.S. intelligence agencies can cause, and will direct their workers to refrain from contact with these agencies.

Because of the new CIA regulation, Mr. President, I do not intend to press for committee action on my bill.

EXHIBIT 1

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., May 14, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: I was very pleased to receive your letter of 5 May 1976 summarizing our understanding regarding CIA relationships with American clergymen and missionaries abroad.

Your offer to withdraw your legislation is especially appreciated, and I believe our agreement in this area has led to an effective and equitable resolution of the problem. I do not feel any further announcement on my part is needed at this time.

I am enclosing for your information a copy of the recently implemented CIA regulation outlining the Agency's policy on relationships with American clergymen and missionaries. As you can see, this regulation reflects the understanding reached with you that the CIA shall not establish any secret contractual relationships with any American clergyman or missionary, and henceforth shall not take the initiative abroad to provide a channel for such individuals to convey information to the Government.

I trust that this fully covers any remaining questions you might have regarding this important matter. Your cooperation in resolving this issue is most appreciated by myself personally and on behalf of the Agency. I look forward to working closely with you on other matters of mutual concern.

With warm regards,
Sincerely,

GEORGE BUSH,
Director.

U.S. SENATE,
Washington, D.C., May 5, 1976.

Hon. GEORGE BUSH,
Director, Central Intelligence Agency,
Washington, D.C.

DEAR GEORGE: Thank you for your letter of April 12 following up on our discussion of April 8 concerning CIA involvement with clergymen and missionaries abroad.

I believe the ideas expressed in our discussion and stated as new CIA policy in your letter will resolve our differences and protect the special relationship missionaries have with the people they serve. I am pleased that you have seen fit to prohibit CIA initiation of contact with American missionaries abroad, as is presently the case with Peace Corps volunteers and Fulbright scholars, and have also agreed to extend this policy to Americans performing similar work for organizations technically not controlled by denominational or interdenominational church bodies, but whose ultimate sponsorship comes from religious organizations.

As I mentioned in our discussion, I will be happy to withdraw my legislation in view of this agreement. If you wish to make a public statement on this new policy, I will withhold any statement on my part until you have done so. If you do not wish to make an announcement, please let me know so that I can proceed to inform my colleagues of the new policy.

Again, George, thank you for your cooperation in reaching this agreement.

Warmest regards.
Sincerely,

MARK O. HATFIELD,
U.S. Senator.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., April 12, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: I found our conversation on Thursday regarding CIA contacts with the clergy and missionaries very useful. As is the case with almost any written formulation of policy, my 11 February 1976 statement on this subject can lead to reasonable questions regarding precise definitions, scope and intent.

As I said in my earlier letter to you of 6 April 1976, we do not intend to define "missionary" in a narrow sense but to include anyone sent abroad "to preach, teach, heal, or proselyte." Responding to your concern about Americans performing similar work for organizations which are technically not controlled by denominational or interdenominational church bodies, I would include them in our policy provided their ultimate sponsorship comes from religious organizations.

In regard to CIA initiatives to request an American clergyman or missionary to supply foreign intelligence information on a voluntary basis, I shall provide in our implementing regulations that CIA will not take any such initiative abroad.

In light of the special constitutional concern with church-state relationships, I believe it appropriate for this Agency to limit its contacts with American clergymen and missionaries to this extent. At the same time, it leaves them the right to volunteer information to their government on an individual basis, each as his own conscience dictates.

Sincerely,

GEORGE BUSH,
Director.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., April 6, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: Thank you for your letter of 17 March 1976 seeking further clarification of this Agency's policy regarding contacts with clergy and employees of religious or church-related organizations.

I share your interest in assuring that the Agency's policy in this area is clearly understood by the Congress and the American public. This Agency's position on your bill, S. 2784, is being coordinated within the Executive Branch prior to transmittal to Chairman Stennis, but I do want to respond to the specific questions you raised in your 17 March letter.

The term "contractual relationship" is used to apply to any regularized, specific agreement involving services or information provided by an individual. In light of my 11 February statement, let me reiterate that it is Agency policy not to maintain any secret, paid or unpaid, contractual relationships with American clergy or missionaries.

That policy does not apply, however, to American employees of religious or church-related organizations who are not members of the clergy or missionaries, nor does it preclude relationships with such individuals as mentioned in your letter. Any arrangements of this nature would be private and voluntary and would not involve the use of their organizations or positions for U.S. Government purposes.

The policy restrictions apply to any person whether or not ordained who is sent out by a mission or church organization to preach, teach, heal, or proselyte. I am assured that American church groups have never been funded or served as funding cutouts for Agency purposes and I can assure that this will continue to be the policy of the CIA.

The ban on secret paid or contractual relationships applies only to American clergy or missionaries.

The CIA will continue to welcome information volunteered by American clergymen or missionaries. If, in the determination of a senior Agency official, such individuals might possess important foreign intelligence information, the Agency might initiate contact so as to afford an opportunity for channeling this information to the Government.

Rgulations regarding Agency relations with American churchmen currently are being drafted and I will have forwarded to you a copy of this unclassified regulation as soon as it is issued. In the interim, Agency officials have been notified of the policies set forth in my 11 February statement. Your deep interest in this matter is appreciated and it is my intent that you shall be informed if there is any change in the policies reflected herein.

If this letter and our comments on S. 2784 are not fully responsive to your concerns, do not hesitate to let me know and I will be happy to discuss them with you at a convenient time.

Sincerely,

George Bush,
Director.

March 17, 1976.

Hon. George Bush,
Director, Central Intelligence Agency,
Washington, D.C.

Dear George: Thank you for your letter of February 25, clarifying your Agency's position relative to the employment of churchmen for intelligence purposes. I very much appreciate your making clear that the CIA has no secret paid or contractual relationships with any American clergymen or missionaries at present and that this practice will be continued as a matter of policy.

In order to be absolutely sure that the new policy falls within what I would consider an acceptable church/state framework, however, I would like to clarify a few points with the following questions:

(1) Does your understanding of "contractual relationship" include only a relationship in which a salary or stipend is paid for services rendered, or does it extend to long-term, regularized, routine relationships with churchmen or missionaries on a voluntary, non-paid basis?

(2) Does the ban also apply to American employees of religious or church-related organizations, who are not members of the clergy or missionaries? Some examples would be an administrator of a missionary program or a relief worker for Church World Service or International Voluntary Service or a refugee worker with Catholic Relief Services.

(3) Does the ban also apply to missionaries who are not ordained?

(4) Does the ban forbid American Church groups (as opposed to individuals), including demonstrations, relief and charity organizations, and missionary societies, from receiving, directly or indirectly, CIA funds or serving as a funding conduit or cut-out for CIA funds?

(5) Does the ban apply in any way to foreign members of the clergy, missionaries (ordained or not) or church groups?

(6) Will the CIA continue to seek out American members of the clergy and missionaries who wish to voluntary provide information or will the CIA now only take information from those who take the initiative in approaching the CIA?

Since the CIA's internal directives are not normally available to members of the Senate, I would appreciate it if you could send me a copy of the internal directive issued in connection with your February 11 statement terminating the CIA's paid use of American members of the clergy and missionaries and copies of any other internal CIA directives concerning use of these people.

Finally, I would also appreciate receiving your personal assurance that if any of the CIA directives regarding members of the clergy and missionaries are changed once again, I will be promptly notified.

Warmest regards.

Sincerely,

Mark O. Hatfield,
U.S. Senator.

Central Intelligence Agency,
Washington, D.C., February 25, 1976.

Hon. Mark Hatfield,
U.S. Senate,
Washington, D.C.

Dear Mark: Thank you for your thoughtful letter of 30 January 1976 asking me to reconsider the position of my predecessor with respect to CIA contacts with missionaries abroad.

I have given this matter a great deal of thought and have discussed the issue of contacts with members of the news media, churches and missionary organizations, with a number of people. I wanted to be in touch with you earlier on this but unfortunately I was out of town last week although my Legislative Counsel, George Cary, did provide Keith Kennedy, of your staff, a copy of my 11 February press statement on this subject.

Let me just summarize some of the thoughts in that statement. Over the years, CIA has indeed had relationships with individuals in many walks of American life. Many of these have been of a voluntary and unpaid nature, reflecting the sincere desire of patriotic Americans to be of assistance to their country. It is my understanding that the sole purpose of such contacts by the Agency was to satisfy its foreign intelligence responsibilities, not to influence or act against the interests of any American institution. Despite the concern that has recently been expressed about CIA's relationships with members of the clergy, I am unaware of any impropriety on the Agency's part in its limited contact with individuals in church and missionary organizations.

In recognition of the special status afforded these institutions and in the interest of avoiding even the slightest appearance of impropriety, I concluded it was important to publicly enunciate an Agency policy which makes it clear that the Agency has no secret paid or contractual relationships with any American clergymen or missionaries and this practice will be continued as a matter of policy.

At the same time we recognize that members of these groups may wish to provide information to the Agency on matters of foreign intelligence of interest to the U.S. Government and we will continue to welcome information volunteered by such individuals. If various religious organizations do not wish to have their members associating with Government intelligence organizations, this is a matter strictly within the purview of instructions from those organizations to their members and should not be the subject of legislation. I would be happy to discuss this matter further with you at your convenience and am enclosing with this letter an additional copy of the press release which we issued on this subject on February 11.

We are drawing up a position on your bill, S. 2784, and will provide specific comments on it when they are coordinated within the Executive Branch.

Sincerely,

George Bush,
Director.

CIA-Missionaries,
January 30, 1976.

Hon. George Bush,
Director, Central Intelligence Agencey,
Washington, D.C.

Dear George: Although it is early in your term of service to be asking for a reversal of your predecessor's policies, I am most deeply concerned about CIA contacts with missionaries abroad, and urge you to issue a directive prohibiting such contact.

You are no doubt familiar with my letters to Mr. Colby and the President on this matter, and their responses. Copies of this correspondence are attached for your review. Also, I assume you know of my legislation, S. 2784, to prohibit CIA-clergy contacts.

Most recently, Mr. Colby responded to Mr. Claire Randall and Mr. Eugene Stockwell of the National Council of Churches, relative to their request for a similar prohibition by internal directive. I question two apparent inconsistencies between that letter and earlier correspondence with me.

First, in his September 13 letter to me, Mr. Colby states that "in many countries of the world representatives of the clergy, foreign and local, play a significant role and can be of assistance to the United States . . ." Mr. Buchen agrees in his letter, saying that "clergymen throughout the world are often valuable sources of intelligence . . ." Both statements certainly imply that the CIA makes more than infrequent use of clergymen in the performance of its mission. Yet in his January 16 letter to Messrs. Randall and Stockwell, Mr. Colby states that "CIA has very few such contacts" and "our contacts with foreign clergy are also very limited." I believe a clarification is needed.

Second, Mr. Colby stated to me his firm belief that clergy could be of assistance to the United States in an intelligence operation "with no reflection upon their integrity nor their mission." Irrespective of the nearly unanimous disagreement with this statement that I have received from church organizations and individuals, I would raise the following question: if CIA contacts with various organizations and individuals in the field do not jeopardize the mission of those organizations or individuals, why was it found necessary to issue an internal directive prohibiting CIA operational contact with ACTION volunteers or with Fulbright scholars? Is there a difference between the "taint" that could possibly affect those individuals and the "taint" that hinders missionary work?

I would be most appreciative of your response to these questions as soon as the press of your new duties allows. Also, I would welcome a discussion of this whole issue at any time.

Kind personal regards.

Sincerly,

Mark O. Hatfield,
U.S. Senator.

LOUIE ALLEN

Mr. MATHIAS. Mr. President, one of Washington's best-known personalities, Louie Allen, died May 9. Mr. Allen was a television weather forecaster here for 26 years, most of them at WMAL, and the last 2 at WTOP. He was more, however, than just another TV weatherman. He was a professional meteorologist, highly respected in his field, both on and off television. The Washington Post paid editorial tribute to Louie Allen, in an editorial in its May 14 editions. The Washington Star, on May 17, published a letter to the editor from Walter A. Scheiber, executive director of the Metropolitan Washington Council of Governments, who added another perspective to Louie Allen's service to the Washington community. I ask unanimous consent that both these items be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 14, 1976]

LOUIS P. "LOUIE" ALLEN

In the mercurial world of broadcast programming, where the stars of the airwaves rise and fall so unpredictably, Washington weather newsman Louis P. (Louie) Allen, who died Sunday, managed with ease to remain a popular fixture here for 26 years. What endeared him to generations of Washingtonians was his rare blend of warmth and expertise—talents not so much of a "television personality" as of a person whose counsel was respected enough to be sought and welcomed nightly in the home. Much like the kindly uncle patiently sharing knowledge with a fascinated youngster, Louie Allen relied on a routine of simple humor, doodles and familiar gestures to tell us all about the elements, and why they acted that way.

"If I can establish a curiosity about how the weather works, I think I'm doing my job right," Mr. Allen told an interviewer last year, explaining his lifelong love of meteorology. Indeed, it was his work in weather that brought him to television—not the other way around. Born in Washington and graduated from Central High School and Wilson Teachers College here, Mr. Allen was a teacher before he began weather forecasting in 1944, while serving as a Navy lieutenant in World War II. During that time, he forecast the weather for the invasions of Iwo Jima and Okinawa. Later, Mr. Allen became chief civilian meteorologist for the Navy Hydrographic Office and also worked for the Office of Naval Research. In addition to a master's degree in meteorology from UCLA, Mr. Allen earned a master's degree in mathematics from the University of Maryland.

His broadcasting career began here in 1948, with WNBW, whose call letters were later to be WRC–TV. His relationship to the station, like his repertoire, was to develop casually. Mr. Allen started as an unpaid freelancer; after three years, he joined Channel 9. In 1955, he moved to WMAL, remaining there until his return to WTOP radio and television in 1974. In addition to his broadcasts, he operated the Allen Weather Corp., which he founded in 1955.

At WTOP, Mr. Allen's return was thought to have quite a lot to do with a rise in the station's ratings, which in broadcasting is the standard gauge of a performer's success. But what really counted was the deep loyalty and affection that Louie Allen earned so justly throughout his years of electronic visits with the people of his hometown.

[From the Washington Star, May 17, 1976]

THE DEATH OF A REAL PROFESSIONAL

While Washingtonians everywhere were saddened by the untimely passing of Louie Allen, we at the Council of Governments had special reason.

As COG worked with extra effort in recent years to focus attention on the Washington area's air pollution problem, it found a willing ally in Louie. What impressed us was not only his interest but his conscientiousness in learning all he could about this complex subject so he could do a better job of reporting the story.

We heard from Louie often, particularly in the summer months with their high air pollution potential. He came to our office for a lengthy briefing. He later asked for a tour of an air pollution monitoring station. We took him, and for two hours he asked the technicians there the questions he felt he had to learn about. There was no camera crew to film it for broadcasting, just Louie trying to learn more so he could be a better weather reporter. We talked to him every day, and if we didn't call him first, he called us.

And that's what impressed us most about Louie Allen—not just that he was a good guy and good company, but that he was a conscientious professional working extra hard, on his own time, without fanfare, trying hard to cover a difficult subject well.

That was the Louie Allen we knew at the Council of Governments. And that's why we'll miss him.

WALTER A. SCHEIBER,
Executive Director, Metropolitan Washington Council of Governments.
WASHINGTON, D.C.

OIL INDUSTRY EARNINGS

Mr. GARN. Mr. President, a few days ago I placed in the RECORD the summary of a study of the oil industry by the Energy Policy Research Project of George Washington University. The conclusions of the research indicated the continuing competitive nature of the industry.

Confirming those conclusions, I have now received a copy of a study by Dr. Sherman Clark, done under the auspices of the Rose Institute of State and Local Government of Claremont Men's College. Dr. Clark's study, entitled "Oil Industry Earnings," is fairly technical, and I will not put much of it in the RECORD. I would simply like to pull out a quote or two, and then urge my colleagues to look at the entire study, which has been sent to every Senator's office. I think these quotes give a good quick look at the nature of the industry:

> The oil industry's payments of dividends as a percentage of net income have consistently been below the average of all manufacturing industries.
>
> The oil industry not only distributed dividends conservatively, but it still failed to generate sufficient profits to provide all the funds necessary for capital investment without increasing its debt burden. . . .
>
> The competitive nature of the petroleum industry is unchanged from the 1960s when a surplus existed, price wars were prevalent, and the rate of return was below the average for all industry.
>
> The oil industry is actually less concentrated than most other large industries.
>
> There is now overwhelming evidence that oil (and gas) production is a rising cost industry.

These findings are, of course, of particular interest as we consider general antitrust legislation, and as the Judiciary Committee completes action on various "divestiture" bills aimed specifically at the oil industry. They suggest, at the least, that there is no overwhelming need for such legislation, and that extreme caution should be used before dismantling a tremendously productive industry.

Dr. Clark does not ignore the charges leveled against big oil. In fact, on the question of profits, he responds directly to two recent books, "Highway Robbery," by Allvine and Patterson, and "Competition in the U.S. Energy Industry," by Duchesneau.

Allvine and Patterson charge that even though oil's rate of return is not unreasonable, special tax treatment has enabled the industry to accumulate assets not reported in earnings statements. Dr. Clark notes that no facts are asserted to prove the statement, and presents his own facts showing that asset accumulation by oil is not out of line with such accumulation in all industry.

Duchesneau's charge is that the existence of excess capacity is evidence of a lack of competition. Dr. Clark finds that argument also to be without merit, pointing out that the excess capacity existed to meet national defense needs, and was the conscious policy of the regulators who are so prevalent in the oil industry.

In short, Mr. President, Dr. Clark's study is a useful antidote to much of the nonsense spouted by commentators and politicians these days. It is, of course, somewhat technical, demanding and difficult. For that reason it is not accessible to the average citizen, but it should be digested by our lawmakers, if they are to avoid the mistakes of the past.

REBECCA HAGE, HIGH SCHOOL STUDENT IN ST. CLOUD, MINN., WINS ESSAY CONTEST

Mr. MONDALE. Mr. President, Americans are becoming increasingly aware of the tremendous potential of the physically and mentally handicapped. They are also becoming more aware of the tremendous obstacles and prejudices that the handicapped individual in our society faces. Past policies of isolation have created unnecessary and cruel personal hardships and deprived many individuals of fruitful and creative lives. These past policies represent nothing less than a national scandal.

The President's Committee for Employment of the Handicapped deserves our highest commendation for its efforts to bring to the fore the situation of the handicapped and for its leadership in integrating the handicapped into the Nation's work force. To help inform the country of the urgent needs of the handicapped, the committee sponsors an essay contest called, Ability Counts, among students throughout the country. I am especially delighted that this year's national winner is a young student from Minnesota, Miss Rebecca Hage.

Miss Hage is a high school student in St. Cloud, Minn. She is in every way an outstanding young woman who has devoted many, many hours of her time in helping those who are handicapped. She has contributed over 400 hours as a candy striper in the St. Cloud Hospital and, for the past 3 years, she has worked as a volunteer for the Stearns County Social Services where, under the direction of a physical therapist, she provides therapy for seriously retarded children.

For her excellent essay, Rebecca received a savings bond from the Minnesota State Council for the Handicapped and attended the President's Annual Meeting on Employment of the Handicapped here in Washington, D.C. I was pleased that I had the opportunity to meet with Rebecca and her parents, Mr. and Mrs. Orval K. Hage, at that time.

Rebecca is certainly a fine young student who deserves our heartfelt thanks for her daily efforts in helping those less fortunate than herself and for her essay which sensitively depicts one man's struggle to find the strength to approach life and to succeed.

I commend Miss Hage's essay to my colleagues and ask unanimous consent that a copy of her essay be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

A Profile of Achievement: How a Handicapped Person Approaches Life

(By Rebecca Hage)

October 16, 1972.—John Wertz: an achiever. Husband; Senior High School Social Studies teacher; swimmer; avid sports enthusiast.

October 17, 1962—John Wertz: intensive care, U. of Minn. Hospital critical list; crushed chest cavity; excessive internal bleeding; multiple leg fractures; severed spinal column; diagnosed paraplegic.

John Wertz was riding his motorcycle. He was full of life and energy and was tasting the freedom of speed and the satisfaction of physical exertion. Perhaps, he was thinking that sometimes it seemed that there was nothing he couldn't accomplish in life. Perhaps, he was thinking of his parents silly warning, "to write a will." Maybe, that was when the drunken driver ran him off the road, and changed it all. . . .

For John's wife Sharon, there was only one concern, "Would John live?" She held on to the belief that because John was crisis oriented, if he would live, everything would work out. The doctors informed John's family that he would never walk again. For them, it was a time of little hope.

Sharon remembers crying together with John. She remembers the sadness and the depression. She also remembers that, because of John, this dark time lasted only a few days.

Hope, and a time for a new beginning, came for John when he came to the conclusion, "I must continue to achieve. I will not lower my standards for what I expect of myself." For John, this was the first step in the process of learning what real achievement is.

Sharon said, "Adjusting after the accident was hard; but I was not living with a crippled man, I was living with John." For John, some of the most difficult things were learning that independence does not always mean being in complete control, and that freedom cannot always be defined in physical terms.

John was, and remains, the only paraplegic teacher in the Saint Cloud school district. For many of his colleagues, it was a new experience and was hard to accept. It's different when it's faculty in a wheelchair, rather than a student, and teaching from his chair forced John to face many new challenges. Again, this was the beginning of a process of redefinition. He was forced to redefine his vocational achievement. John concluded, "So much of it is my own attitude. If I assume it's going to be awkward, it is." John also realized that the school wouldn't go out and look for a handicapped teacher, and that if he lost his job it would be difficult to find another. Because of this, John believes that, "being in school, being handicapped, helps the students." One of his dreams for achievement was to serve as a special example.

One of his students, Barkley Carrier, said, "His handicap doesn't bother the students, and because of his unique personality, they're comfortable with him." Another student remarked, "Mr. Wertz was the first handicapped person I was exposed to. Until Mr. Wertz, I always thought of them as freaks. I wish all students could have the opportunity to relate to him." His presence is also a model for handicapped students. He helps them with their problems and they know that he is really committed to a fight for the rights of other handicapped people.

Margaret McCormick student—taught with him the first quarter after he returned from the accident. She couldn't imagine how it was going to work. However, "he set the tone and gave a base to react to. He was very open. The wheelchair didn't slow him down at all. I know he never wanted pity and he was always student-oriented. The student came first. He has continued many of his relationships with students after they graduate."

John's closest friends summarized their fears and pointed out some of the obstacles that they were afraid he couldn't face. They worried that he would lose his job, would give up all of his activities, wouldn't be able to support his family, and perhaps the biggest fear was that his accident had taken away his masculinity.

John has proven his friends' fears false. Mr. John Kjera remarked, "I could see that he was self-supportive and that he had discovered his real inner resources. He is definitely more of a man because of it."

One friend summed it up, "After the accident he had more depth, and more substance as a person. He seemed to think more of other people and seemed to know his own needs more."

John said, "I don't usually compare myself before and after. I see myself as two different people, one died in 1972, one was born. They were two different lives, two different lifestyles. Looking back, I can see that I didn't lose anything that I really value. I value being able to communicate, and to form close personal relationships. I value my hands as a tool, and I value my teaching."

Some of Sharon's thoughts about John's new life were, "Before the accident he was getting more withdrawn. Now he laughs and jokes more, and seems to really enjoy life."

John's original commitment that he could not lower his standards for achievement are echoed in his remarks that he doesn't see himself as having any greater handicap than anyone else, some peoples' are physical, some are emotional, and some are mental. John's achievements, even according to his own tough standards, are impressive. Some of his activities include membership in the Equity enough. This is not compatible with the Affirmative Action Program. He is also a member of the Saint Cloud Tenants Association and an executive for the District Seventeen Democratic Party.

John Wertz is an example of "achievement redefined". As his friend, John Kjera, puts it, "being around John makes you realize, that a real handicapped person is someone who refuses to try, either physically or mentally."—John Wertz is not handicapped.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. HRUSKA. Mr. President, within the next several days, the Senate will be considering S. 2212, the bill extending the authorization of the Law Enforcement Assistant Administration.

As part of the debate on that matter, it is likely that reference will be made to recent news stories concerning two reports critical of LEAA.

Since the reports have surfaced since hearings on S. 2212 were closed, the Judiciary Comimttee's report does not deal with them. They have, however, been the subject of discussion in the appropriations subcommittee with jurisdiction over LEAA.

At our hearing on May 18, our colleague, Senator Pastore, the distinguished chairman of the subcommittee, asked the Administrator of LEAA, Richard Velde, to comment on the two reports. Mr. Velde provided the subcommittee with a description of the unusual set of circumstances surrounding the press story regarding the report entitled, "Law and Disorder IV."

He noted that copies of the report are not available. The Associated Press had received only a draft report in "raw" form, and which was represented to be "subject to change." Entire chapters were reportedly missing. The report's author, a Washington attorney, has based many of her criticisms of LEAA on a distortion of the contents of a lengthy, careful, and independent study made public by LEAA more than 2 months ago. Her conclusions, which were given wide circulation by the media, are certainly subject to dispute. Administrator Velde reasonably suggested that LEAA be judged by an objective review of the facts; not on the basis of an "unavailable draft report."

During the same subcommittee hearing, Mr. Velde responded to the chairman's questions regarding a study entitled, "Law Enforcement: The Federal Role," released by the Twentieth Century Fund Task Force. The task force states that its goal is to provide an up-to-date, independent evaluation of the Law Enforcement Assistance Administration.

Mr. Velde's response included a summary of the most serious errors of the task force report. His comments suggest the report is in no sense a comprehensive examination of LEAA, and many of the task force statements indicate a serious misunderstanding of how LEAA operates and of LEAA's mission, as mandated by its enabling legislation, the Omnibus Crime Control and Safe Streets Act of 1968.

Mr. President, in order that Senators may have the benefit of the testimony taken by our subcommittee, on these matters, I ask unanimous consent to have printed in the Record the prepared statements of Mr. Velde.

There being no objection, the statements were ordered to be printed in the Record, as follows:

RESPONSE TO NEWSPAPER REPORTS CONCERNING A REPORT BY THE CENTER FOR NATIONAL SECURITY STUDIES

(By Richard W. Velde)

Earlier this month the Associated Press distributed a story based upon a so-called "independent study" which was sharply critical of the Law Enforcement Assistance Administration.

The article noted that the study is to be published by the Center for National Security Studies, that it was to be called "Law and Disorder IV," and that it was part of a series all highly critical of the LEAA program.

I would like to call your attention to the unusual set of circumstances surrounding this Associated Press story.

The first I heard about the criticism was when I read about it in the newspaper, since neither the Associated Press nor the report's author, a Washington lawyer named Sarah C. Carey, had called to LEAA's attention the fact that such a report existed. Had they done so I would have been happy to have commented on the document, which would have cleared up many errors that Ms. Carey had fallen into and which the Associated Press and its member newspapers had thereupon repeated.

As a matter of fact, the Associated Press had received only a draft report, in "raw" form, and which was represented to be "subject to change." Indeed, entire chapters were reportedly missing, making it difficult for anyone to evaluate its findings.

Shortly after the Associated Press story was printed in the newspapers, we and other Federal officials made various attempts to obtain the report so that we would be prepared to respond to questions about it from the Congress and from the public, to whom we are accountable.

When we called Ms. Carey's office the day the story appeared we were told that Ms. Carey was not available. When we called the Center for National Security Studies we were told to call Ms. Carey. When an official of the Office of Management and Budget also called the Center for National Security Studies he was told that the Center had a copy of the draft report but "Sarah Carey had ordered that the report not be given to any Government agency."

In the meantime, we receive requests for comment about Ms. Carey's charges. How could we respond when we had only secondhand and thirdhand accounts of what she was supposed to have alleged?

(The International Association of Chiefs of Police also requested a copy of the report draft, as it had heard of erroneous remarks in it attributed to the Association. However, the IACP was told it would have to wait 6 to 8 weeks.)

The unfairness of this situation—being forced by media attention to respond to an "unavailable document"—makes this attack most difficult to address. I appreciate the opportunity to try to reintroduce some objectivity into the discussion of LEAA's effectiveness.

LEAA conducts its business in the open. It expects to be criticized when it is wrong. It expects to account for its actions in all responsible forums. However, it has a right to expect that its critics adhere to common standards of truth and fairplay. This, I might add, includes news reporters as well as those who would attempt to evaluate our efforts.

I believe it is important that the Congress and the public know that neither the Center for National Security Studies nor Ms. Carey has an established reputation for expertise in criminal justice matters.

The sponsor of the report, The Center for National Security Studies is, according to the Congressional Research Service, supported by the Fund for Peace, of New York City, which, in turn, is supported by the Abalard Foundation, the Field Foundation, and the Stearne Foundation. The Center has never to my knowledge interviewed LEAA officials or discussed Ms. Carey's report with us.

The author of the report, Sarah Carey is an attorney. To the best of my knowledge she has little or no experience in the improvement of state and local criminal justice systems. Indeed, the basis for many of her criticisms of LEAA is a distortion of the contents of a lengthy, careful and independent study made public by LEAA more than two months ago. It was a comprehensive analysis by the MITRE Corporation of our High Impact Anticrime program. However, Eleanor Chelimsky, who heads the MITRE Corporation's Criminal Justice System Research Department and who wrote the High Impact analysis, has come to a conclusion directly opposite to the one reached by Ms. Carey. In a recent letter, Ms. Chelimsky commented that abolishing LEAA "would not help, it would just set the fight back by 3 years" to where we were before the program began.

Ms. Chelimsky pointed out, in addition, that it "is really not credible to say that LEAA has not made serious improvements in the criminal justice system. Just looking at Impact alone, we have seen a quantum jump in system capability, in planning and evaluation, in coordination. We have seen community involvement develop where there was none before, and we have seen crime rate decreases now, in four Impact cities (Atlanta, Baltimore, Newark and Portland) while Denver and Dallas have improved, contrary to press reports.

"These facts, however, have been overlooked by Carey. Further, the scope and arduousness of the problems confronting LEAA escape her simplistic, subjective approach.

"Subjectivity, that is the real problem. Carey makes no effort at objectivity, yet this is an essential quality of the evaluator she claims to be, or of any social scientist for that matter. Carey, however, is not a social scientist, her approach is neither scientific nor objective, she is a lawyer, concerned with prosecution. But if she is not objective, and makes no effort to be so, then there is not confidence that her conclusions are based on fact rather than fancy, on performance rather than politics."

As it happens, Ms. Chelimsky has spent some time with Ms. Carey, and this is what she said about her: "What bothers me most about [Ms. Carey's] remarks is their simplistic nature: her utterances would lead to the belief that people are either heroes or villains, frauds or saints, fascist pigs or great liberals, nothing in between. In the same way, her remarks show little understanding of the complexities involved in the planning, organization, management, implementation, coordination and evaluation of a program like Impact. Even more importantly, however, she wants no part of such understanding. On the contrary, she is quite comfortable with her monolithic view that crime is a simple problem and that we can make it go away if we just belong to the right political denomination or get rid of the bad guys. The proof of this is that she makes no suggestions as to what should be done differently and/or better to reduce crime. This, of course, is because she doesn't know. But why then, should we take seriously her opinion that LEAA 'should be abolished' if she doesn't know what to put in its place? Would she let crime continue to rise unchecked? And why would one abolish LEAA because crime rates are up? This is like abolishing NIMH because there is more schizophrenia or DOD because we have lost a battle."

My own view is that LEAA is a pioneer working in what is largely an uncharted area. It can provide a relatively limited amount of assistance—less than 5 percent of the total amount spent annually for law enforcement—and cannot reasonably be expected to reduce crime single-handedly.

But LEAA funding has stimulated state and local governments into re-thinking about many of their basic law enforcement programs. It has supported demonstration projects involving new criminal justice concepts. It has permitted the states and localities to select for funding those criminal justice programs that address their most pressing needs.

LEAA believes that program has been successful and should be judged on an objective review of the facts; not on the basis of an "unavailable draft report."

RESPONSE TO A REPORT BY THE TWENTIETH CENTURY FUND TASK FORCE

The Twentieth Century Fund Task Force recently released a study entitled: "Law Enforcement: The Federal Role." The Task Force, in the report's introduction, said its goal was to provide an up-to-date, independent evaluation of the Law Enforcement Assistance Administration.

LEAA certainly has no misgivings about a constructive analysis of its operations. A reasonable and thoughtful discussion of what LEAA is doing can only result in more effective programs for LEAA and contribute to better government, which is in the interest of LEAA and, more importantly, the nation. LEAA expects public scrutiny—indeed, welcomes it—for that is one of the most effective ways to resolve problems, especially when dealing with the complexities of the criminal justice field.

The major recommendation of the report deals with the reorganization of LEAA. The basic premise of this recommendation was proposed by the Administration three years ago and was rejected by the Congress. The proposal to employ special revenue sharing was presented by the Attorney General before Subcommittee No. 5 of the House Judiciary Committee on March 15, 1973. Here is an excerpt from that testimony:

"(The) block grant concept gave the state and local governments the leading voice in how to set up their crime reduction programs and use the funds. (It) represented an excellent first step.

"However, local control was not totally assured under block grants. And the President is now seeking special law enforcement revenue sharing to complete the course toward a fully rational criminal justice assistance program for the state and local governments.

"Under the new proposal for LEAA, special revenue sharing for law enforcement would include those funds LEAA now awards for block action grants as well as the present special grants for planning, general law enforcement training, organized crime prosecutorial training, corrections programs, technical assistance, manpower development, and education."

Congress flatly rejected the proposal and retained the block grant action program.

RED TAPE

Included in the report's revenue sharing proposal is a recommendation for the abolition of LEAA's ten regional offices. We respectfully disagree with this recommendation. These offices are very small with a heavy workload of not only administering block grants by LEAA but categorical programs as well. LEAA shares the concern of the Twentieth Century Fund about "red tape" and the Congress also has agreed.

During the Congressional oversight hearings in 1973, the Committees received testimony which was primarily concerned with delays in the receipt of funds. Only occasionally did the testimony mention paperwork requirements.

In response to these concerns, LEAA's legislation was amended to require that states either approve or disapprove any application from a local government unit within 90 days of the receipt of the application by the state criminal justice planning agency. All states have developed procedures and are in compliance with this requirement. In addition, requirements were placed upon LEAA that state plan submissions be approved or disapproved within 90 days of their submission to LEAA. Likewise, action on such state plans have all been well within the 90 day statutory limit.

LEAA also has initiated a red-tape reduction project to streamline operations as much as possible and to reduce unnecessary paperwork.

This Committee should also be aware of the following errors in fact in the Twentieth Century Fund report that LEAA in good conscience must correct for the record:

"The printed guidelines for state plans are 200 pages long." The highest number of pages ever for the guidelines was 71, generally they are 20 to 30 pages long.

"Some state plans are the work of outside consultants. . . . to LEAA's knowledge, only two states have ever used outside consultants. One state used consultants for two years, the other for one year.

Some red tape is imposed upon us by statute. LEAA has three major areas of regulation: civil rights compliance, audit and privacy and security. In two areas, civil rights compliance and privacy and security, the report states that LEAA is not doing enough. This is not compatible with the overall view of the Task Force which advocates cutting down red tape. And although the Twentieth Century Fund does not mention "Audit," this is a federal oversight program common to all federal programs including general revenue sharing.

One final note on "red tape." The Twentieth Century Fund Task Force recommends that payments be made directly to individuals in the Law Enforcement Education Program (LEEP) instead of to educational institutions.

A measure was introduced in 1973 in the Senate that would have ordered LEAA to distribute LEEP funds directly to the students as the Task Force recommends. The proposal received only two votes, indicating that the Congress, too, could foresee the morass of "red tape" that such a program would entail.

In addition, evaluations of programs that make payments directly to students indicate that abuse under these plans is significant. Such a plan would remove some of the existing incentives for schools to strengthen the quality of their crime-related programs. It is conservatively estimated this would require 400 additional personnel to monitor just this function. LEAA's total staff is about 700 people.

RESEARCH

The recommendations of the Twentieth Century Fund are superficial when the Task Force addresses research. There is one side of the recommendation with which we agree and that is the need of continued and more in-house facilities.

First, the National Institute of Law Enforcement and Criminal Justice already supports a program of Research Fellows which attracts talented researchers who come to the Institute to work on innovative projects of their own design. Secondly, the Institute in its past experimented with an in-house research component and found that it was not practical with existing staffing allocations. It was not the inability to attract good researchers, but rather the immediacy of the program development monitoring demands for the external research program which quickly eroded the time of even the small staff which was concentrating on its own research. The Research Fellowship Program assures that researchers have maximum freedom to manage their own research. Given an ideal situation in which staff resources matched the demands of the program, the Institute would welcome an expansion of an in-house research capability.

The charge that "little attempt has been made to incorporate findings into the criminal justice systems at state and local levels" is false.

The fact is that the Task Force's proposals have been carried on by the Institute ever since its existence. They were strengthened with the 1973 amendments that directed the Institute, "where possible," to determine the impact of LEAA's criminal justice assistance programs. To achieve that, the Institute established an Office of Evaluation to evaluate the management and performance of selected LEAA programs, help state and local agencies to improve their evaluation capabilities and develop new evaluation tools and methodologies. It also established a National Evaluation program to assess the effectiveness of special approaches to criminal justice problems.

In addition, the Model Program Development Division of the Institute has been providing basic information to state and local units of government concerning what works and what does not work in law enforcement and criminal justice. Today, more than 5,000 practitioners and policy makers have received training as part of this program.

The Task Force claims that "too much reliance on outside research has made LEAA's research program too diffuse and unmanageable . . . little Institute sponsored research has found its way down to the states, far less to the streets . . . the Institute has been reluctant to build up their staff of in-house researchers, on the theory that first-rate talent will not want to work for the government."

The entire section relating to "in-house research" is without factual basis. Unlike the comprehensive assessments of LEAA and the Institute currently under way by the Advisory Commission on Intergovernmental Relations and the National Academy of Sciences, no staff were interviewed, no résumés were examined, no grants and contracts examined, no state and local officials surveyed. The specific statement regarding the reluctance to have in-house researchers is totally inaccurate and without foundation.

SYSTEMS AND STATISTICS

To turn to the area of data collection, LEAA agrees completely with the necessity to develop a "systematic regularized, reliable set of criminal justice statistics." The recommendation to analyze the needs and validity of existing crime statistics has already been addressed by LEAA. The National Criminal Justice Information and Statistics Service is now in the process of completing a five-year master plan for the development of improved criminal justice statistics dealing not only with the incidence of crime but the flow of the offender through the criminal justice system. In the crime reporting area, LEAA has funded the improvement of state Uniform Crime Reporting through the Comprehensive Data System program to enable the states to provide high quality crime statistics to the national collection effort. As a result of LEAA's investment in this area, 31 state statistical analysis centers are now beginning to collect good criminal justice statistics in their respective states.

As a result of efforts initiated by Project SEARCH, LEAA has created and is funding the development of a nationwide statistical system based on the flow of offenders through the criminal justice process. The strategy for implementation of this nationwide improved criminal justice statistical program focuses on the development of improved collection and analytical capabilities in the states themselves, rather than mandating a federal program.

Efforts are also under way to correlate the LEAA victimization statistics with uniform crime reports to compare victim experiences with crimes known to the police. Based on models developed with LEAA funds, state judicial information systems and offender-based corrections information systems are being implemented in many states with the requirement that these systems produce the offender-related criminal justice statistics so badly needed in the nation. The entire Comprehensive Data System program is under continual review and new guidelines are currently being issued.

The Task Force alludes to discussions over the control of a nationwide computerized criminal histories network and alleges that conflict exists between the FBI and LEAA in control of this system. This is clearly not the case. LEAA has funded the National Law Enforcement Telecommunications System to help the states exchange information not provided by the National Crime Information Center operated by the FBI. The Department of Justice has already created the Task Force-recommended review board to deal with the policy for operation of any and all systems funded or operated by Department of Justice agencies. Further, the National Crime Information Center has an advisory policy board representative of the criminal justice community to deal with these issues.

ORGANIZED CRIME

We generally agree with the Task Force's comments in the area of organized crime, but we respectfully suggest that LEAA's activities are somewhat more extensive than the report reflects. Also, this is a type of program that takes time—a lot of time—and this would hardly be possible under the one-year extension of the LEAA that the Twentieth Century Fund recommends.

POLITICS

We violently disagree with the Task Force report allegations that partisan politics has played a part in the allocation of LEAA funds.

First, the block grant concept, the population formula under which LEAA distributes most of its funds, leaves no room for political partisanship at all. Also, over the years, the agency has dealt with hundreds of state and local government officials of all political persuasions.

An overwhelming majority of those officials have in fact been members of a different political party to the Administration in Washington.

As for the specific charge that there was political pressure brought to bear in Philadelphia, I have no personal knowledge of this alleged incident. Although I was at LEAA at the time, I was not privy to any discussions or negotiations, if in fact there were any. Also, our subsequent relationships with Philadelphia suggest there was no partisanship. Our largest grant has gone to the courts. The next largest went to the special prosecutor for the investigation of official corruption in the City of Philadelphia.

PRIVACY AND SECURITY

LEAA has a complete set of privacy and security regulations and requires that in LEAA-funded criminal justice information systems, certain basic security and privacy considerations be followed.

It should be pointed out that LEAA has executed this rigorous and extensive program governing the privacy and security of information collected and disseminated as a consequence of LEAA funding. However, the serious constitutional issues involved in this area are more properly the province of Congress. Since 1971, the Department of Justice and LEAA have repeatedly offered legislative proposals to resolve these issues, but the proposed legislation has failed in Congress.

COMPREHENSIVE PLANNING

Here is an instance where the Twentieth Century Fund Task Force is for a program, and at the same time is against it! The Task Force criticizes the annual plan review, but on the other hand suggests that the comprehensive planning process be placed on a five-year cycle. This of course makes no sense at all when you consider that the Task Force has recommended in the first instance a one-year extension of the LEAA program. In the past, LEAA has favored multi-year plans which could be updated by annual plan submissions. Current LEAA guidelines permit a single plan to become the basis for multi-year funding with annual updates of changed portions of the plans.

GMIS

The LEAA grants management information system, contrary to the Task Force report, was set up to permit the effective management of the LEAA grant program, rather than in response to earlier criticisms. The grant descriptions are indeed submitted by the grantees, and properly so, and are now being checked for accuracy in the editorial process. During the last year, LEAA has undertaken a substantial effort to improve the accuracy and completeness of this record of grants. The fact that the data is not completely and accurately entered into the computer does not imply that such data is not available in manual form.

Again, LEAA has already undertaken the revision of the coding procedures and the design of the system to provide more rigorous and complete descriptive data on all categorical and block grants. The agency does require, and will increasingly insist, that grantees provide data for the system in a timely fashion. While this system does not provide all of the fiscal data required for the effective management of the program, other information systems and manual systems do exist to account for the expenditure of funds.

ONE-YEAR REAUTHORIZATION

Not only would this proposal of the Twentieth Century Fund have the effect of changing the nature of the LEAA program to the type of short-term and limited efforts which have been criticized by the Congress and others on several occasions previouly, but would also have other adverse effects on the objectives of the Safe Streets Act.

It should be emphasized that the Administration's proposal for renewing LEAA's authorization was submitted in compliance with Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974. That legislation has as one of its primary objectives the development of a long-range planning capability by the Federal Government, with program expectations stated for five years. Extension of the LEAA program for five years would be consistent with this Congressional objective and would assure stability in this aspect of federal assistance.

One of the key features of the current LEAA program is the comprehensive planning process which I mentioned earlier. This planning, to be effective, must necessarily have long-range implications.

A one-year program and the uncertainty as to future assistance would have adverse effects on state and local efforts.

The nature of the projects supported could change significantly in form, from innovative efforts expected to have permanent beneficial effects, to projects which merely continue the status quo and support normal operational expenses.

Jurisdictions would be hesitant to make a commitment to many significant undertakings because of the possibility of abrupt loss of support.

Short-term programs would also encourage the purchase of equipment by localities since a tangible benefit lasting for some time would be guaranteed. Equipment purchases would also be attractive since they require no follow-up planning or evaluation.

There could additionally be a chilling effect on the raising of matching funds by localities. Local officials may not wish to make a substantial investment in a program which could possibly remain in existence for a brief period, or which might be drastically changed in nature.

One particularly striking example of the negative results which might occur because of a reauthorization limited to one year is in the area of LEAA's corrections effort. The objective of our corrections program is to develop and utilize hypotheses concerning techniques, methods, and programs for more effective correctional systems and improved capabilities of corrections, with special attention to offender rehabilitation and diversion of drug abuse offenders. Developing and demonstrating innovative, system-oriented programs and monitoring and evaluating the outcome of such efforts requires substantial time, effort, and funding commitments. One year is an unrealistic period to accomplish such objectives.

OVERSIGHT

This paper catalogues some of the most serious errors of the Task Force report. Apparently the authors of the report do not understand the provisions of the Act which created LEAA. This is particularly distressing to LEAA because the agency spent many hours filling the requests for information by the Twentieth Century Fund. It is in no sense a comprehensive examination of the LEAA program and many of the Task Force statements indicate a serious misunderstanding of how the LEAA operates and of the LEAA's mission—as set forth by Congress in the enabling legislation.

Moreover, to quote the report, the "Task Force urges that Congress exercise more vigorous oversight regarding LEAA." The impression is that LEAA has rarely—if ever—been questioned by Congress on its programs and projects. That is patently nonsense. Both the House and Senate Judiciary Committees held oversight hearings on LEAA in 1970, 1973, and 1975. Each year, LEAA undergoes oversight before both the House and Senate Appropriation Committees. The House Governmental Operations Committee conducted extensive oversight hearings on LEAA. In fact, the testimony is 1,000 pages long! And the General Accounting Office has audited scores of LEAA programs and projects. In relation to juvenile delinquency, the Senate Judiciary Subcommittee and the House Education and Labor Committee conducted hearings in 1973 and 1974. LEAA has undoubtedly undergone a thorough scrutiny in the last eight years—not to mention the hearings representatives of the agency have testified at this year.

CONCLUSION

What is the role of LEAA? In the seven years the Agency has been in operation, there has been confusion over whether it is crime reduction or system improvement. This confusion began with President Johnson's crime message of 1967 and was continued in certain respects into the Nixon Administration. LEAA should not be held responsible for crime reduction objectives. Congress understood this and our legislation clearly and repeatedly states that the basic responsibility for improvement of the criminal justice system rests with state and local governments. They do most of the work, as well as supply most of the funds. The Law Enforcement Assistance Administration is clearly only responsible for system improvement.

Under the Crime Control Act, LEAA cannot dictate to state and local governments how to run their criminal justice systems. LEAA neither approves nor disapproves specific projects a state or city may want to support with block grant funds—unless the proposal is inconsistent with the provisions of the state's comprehensive plan. Each state makes those decisions on the basis of its own evaluation of needs and priorities. These are statutory requirements to which LEAA must adhere.

STOCK MARKET RECORD COMPARISONS

Mr. HUMPHREY. Mr. President, claims by one political party or another during an election year can sometimes be seriously misleading. I believe it is important to set the record straight on the condition of the stock market during respective Democratic and Republican administrations of recent years.

The facts of the matter are that the Nixon-Ford administration has put the stock market on a roller coaster ride that has left the investing public and corporate America with a severe case of financial motion sickness.

The 1976 Economic Report of the President, on page 266, presents Standard and Poor's common stock data and discloses that during the 8-year period, 1961-68, the years of the Kennedy-Johnson administrations, the stock market was not only stable but followed an overall growth trend which increased by 50 percent the average composite price of industrial, public utility, and railroad shares.

On the other hand, the Nixon-Ford administration years, 1969-75, are represented by a list of composite average common stock prices that begin at a slightly lower price level than was attained in 1968, zoom up for a 2-year gain in 1972 and 1973, and then plummet to a point well below the price level of 1968.

This is not exactly what you could call a great example of stability and prosperity for the investing public and the Nation's publicly owned corporations. In point of fact, a fair segment of the investing public got out of the market altogether during this period.

Mr. President, let us examine the different trends in the stock market during Democratic and Republican administrations, which are graphically indicated by the President's Economic Report of 1976. What follows is the yearly composite average price for industrial, public utilities and railroad stocks as compiled by Standard and Poor's. The list represents the year-to-year action among 500 stocks accounting for most of the value of all common stocks traded on the New York Stock Exchange. First, the period

1961–1968 when Democratic administrations served the Nation:

1961	$66.27
1962	62.38
1963	69.87
1964	81.37
1965	88.17
1966	85.26
1967	91.93
1968	98.70

Compare this with the roller coaster years of the Nixon-Ford administration:

1969	$97.84
1970	83.22
1971	98.29
1972	109.20
1973	107.42
1974	82.85
1975	86.16

Mr. President, I invite the investing public to trade in its economic motion sickness for the comfortable, steady growth and prosperity enjoyed by all the people of the Nation during the years when Democratic administrations served the country.

CONGRESSIONAL ARCHIVES

Mr. **HRUSKA**. Mr. President, on May 6 of this year, in the assembly room of the Dirksen Congressional Research Center in Pekin, Ill., a symposium concerned with various aspects of congressional archives was held under the auspices of the Lilly Foundation. Some 60 archivists, historians, and librarians attended.

My colleagues will recall that the Dirksen Center was established in memory of the late Senator Everett McKinley Dirksen. Its board of directors, under the able and dedicated leadership of James Unland, president of the Dirksen Endowment Fund, has undertaken an ambitious program to develop the center as a unique archival library and research center serving legislative scholars and historians.

It was in furtherance of that goal that the symposium had as its keynote speaker the distinguished Archivist of the United States, James B. Rhoads.

Other participants included:

John E. Velde, Jr., Commissioner, National Commission on Libraries and Information Science;

Robert A. Jones, Director, Cullam-Davis Library, Bradley University;

Philip Weinberg, Director, Center for Learning Resources;

Sylvia Faibisoff, Professor, Graduate School of Library Science, University of Illinois;

William C. McCully, Jr., Archivist and Administrator, Dirksen Congressional Research Center;

Charles O. Jones, Professor, University of Pittsburgh.

In addition to the presentation of formal papers, extemporaneous presentations were made by Richard A. Baker, Historian of the U.S. Senate, and Max M. Gilstrap of the Richard B. Russell Library at the University of Georgia.

Dr. Baker was kind enough to send me a summary of his notes of the symposium.

Mr. President, in order that Senators who are considering the disposition of their own papers may have some understanding of the considerations involved, and to further an appreciation of the exciting work being undertaken at the Dirksen Center, I ask unanimous consent to have printed in the Record the introductory remarks of President Unland, the keynote address of Dr. Rhoads, and the summary notes of Dr. Baker.

There being no objection, the material was ordered to be printed in the Record, as follows:

Seminar on Congressional Archives, Pekin, Ill., May 6, 1976

Welcome by Mr. James M. Unland, President of the Board of Directors of the Everett McKinley Dirksen Endowment Fund:

We are delighted to have you all in Pekin, Illinois, at the home of the Pekin Public Library which is combined with the Dirksen Congressional Research Center.

The Research Center has been financed with private funds. Those of you who knew the late Senator Dirksen, whether you agreed with his political philosophy or not, I'm sure all agree that he was a very human person. And he had a dream that he wanted to humanize the history of the legislative process, and this is the beginning of his dream. Through your attendance, your participation, and your input, we hope as Board members to become better acquainted with this subject and implement his dream.

A little bit about our organization—We are a Board consisting of lay people, a rather heterogeneous group. We have an assistant to the president of a large insurance company as a member, a practicing attorney, a corporate executive, an architect, a home builder, a public relations consultant, two owners of insurance agencies, the widow of the late Senator, the chairman of the United Jewish Appeal of the United States, a housewife and civic leader, a retired corporate executive, and a United States Senator. We are going to broaden our base of individuals; we need additional talent. We want this to be non-partisan. It was not the Senator's desire nor that of anyone connected with the Dirksen family that this be a partisan Republican operation, and so we are going to continue to work in that regard.

We have one full-time employee, Mrs. Marie White, who has some archival background and has her master's degree in history. . . . We have several part-time employees whom we use as guides in the Exhibition Hall. We've had about 6000 people through this Exhibition Hall in the last several months. We were not really open until late fall. We're looking forward to quite a crowd this summer when tourism hits Illinois. With the Bicentennial flavor and with some improvements we've made, we'll be on the Tourism map of the state. We hope you will browse through the Exhibition Hall. Upstairs, on the second floor of this structure, is the area where we hope we will some day have the Senator's papers classified, and it will be the home of the Research Center. Upstairs are many items of memorabilia and artifacts, and as time goes on, we'll have more of those items on display downstairs.

I have three or four messages that I would like to read to you. The first is from the Senator's widow:

Dear Jim: You know, of course, that I deeply regret not being with all of you at the Seminar on Thursday. Please extend my best wishes to all in attendance and my thanks and appreciation for their taking time from busy schedules to visit the Dirksen Center.

Through the combined efforts of all concerned, I know that one day soon Everett's dream of a living educational Research Center will be realized.

Sincerely,

Louella.

Dear Jim: It is a matter of keen regret to me that the Senate schedule precludes my being with you at the Seminar on Congressional Archives in Pekin on May 6.

Your program and the impressive list of speakers and conferees indicate a well planned and productive meeting.

I am looking forward to a report on your deliberations and conclusions.

Please extend my best wishes to those attending the seminar and convey my sincere regret that I cannot be there.

With kind personal regards,

Sincerely,

Roman L. Hruska,
U.S. Senator.

As you could have guessed, he is the United States Senator who is a member of our Board. He is retiring from the Senate from the state of Nebraska this year and has volunteered to become quite active in this enterprise, and we're delighted.

Dear Jim: I want you to know how impressed I am with the seminar you and your colleagues have put together for the 6th of May. This event should, in my view, mark an important step in the progress not only of the Dirksen Library, but of the science of legislative archives as well.

I am vitally interested in the concept being discussed, and want to take this opportunity to wish you a most successful day, and to express my sincere regrets that the press of Congressional business—which I suppose may be thought of as archiving—prevents me from being in Pekin myself for the seminar.

With every good wish to you and all of the seminar participants.

Sincerely,

Robert H. Michel,
Member of Congress.

The last of the telegrams, addressed to Mrs. Dirksen, has just arrived:

My thought will be with you and the other prominent citizens who will be participating in the congressional leadership seminar at the Everett M. Dirksen Center. As a longtime friend and great admirer of your husband, I am delighted that the center which bears his name is dedicating itself to the study of a skill in which he was a master. I hope that it will be a most rewarding and productive experience for all.

Gerald R. Ford.

You will recall that President Ford and the late Senator were team-mates as minority leaders in the House and in the Senate. The President has been most interested and has contributed financially to this project.

We have, we think, a very excellent program to present to you. Throughout the day we will have members of our Board introduce the speakers.

Address of Dr. James B. Rhoads, Archivist of the United States

I am pleased and honored to be asked to keynote this symposium on Congressional Archives here at the fine new facility of the Dirksen Center. Senator Dirksen certainly exemplified the ideal of politics as the art of the possible. Working within a consistent framework of his own political philosophy, Everett Dirksen was always available to his colleagues, be they fellow Republicans or his honorable opposition, to fashion compromise and conflict into workable national policy. It is proper and fitting that his papers are preserved for the use of historians in interpreting his era.

We have just come through a period in our national history that has been characterized by an emphasis on Presidential politics. Arthur Schlesinger, Jr., has called it an imperial Presidency; George Reedy thinks we are in the twilight of the Presidency. But now, in the calm after the turmoil of the recent past, we see a growing interest in the Congress as a countervailing force to the executive branch. Public and scholars alike are turning their attention to the Congress, evaluating its performance, calculating its strengths and weaknesses, appraising its past and speculating upon its future.

During the last 15 years, research on American legislative behavior has turned increasingly to quantitative and statistical analyses. This important trend has produced significant new ways to look at American politics. The Midwest boasts an outstanding center for such statistical research on the political process—the Survey Research Center of the University of Michigan. Devoted to the accumulation of statistical data on various aspects of political behavior, the Michigan center has fostered a rich literature of sophisticated analysis.

Yet, as the distinguished political scientist Thomas Dye has written, "Quantification necessitates a simplification of what may be a very complex question." One of the best ways to balance a tendency toward over-simplification is to use manuscript materials—the personal papers of the Members of Congress and the records of congressional committees.

But locating such materials may prove frustrating to the researcher. The National Archives and Records Service of the General Services Administration receives the official records of the Congress, and, with the consent of the Congress, we make them available for research.

The National Archives also holds some personal papers of Members of Congress in our Presidential libraries system—the late Wright Patman, for example, left his papers to the Johnson Library; Bourke Hickenlooper and Gerald Nye have deposited theirs in the Hoover Library; Thomas P. O'Neill has announced that he intends to place his papers in the Kennedy Library. In addition, we have the papers of Presidents Truman, Kennedy, and Johnson from their years in Congress. However, we in the National Archives are not actively seeking to collect a broad range of personal papers of Members of Congress—our mission is to preserve the official records of the United States.

Many state historical societies and state archives collect papers of the Congressmen and women of the state, but to my knowledge there is no institution devoted solely to the acquisition and preservation of the papers of congressional leaders.

Recently the Senate has appointed a Senate historian among whose announced projects is the production of a directory of the locations of the papers of all past and present Senators. Such a directory will help, but the scholar will still have to travel from one manuscript repository to another seeking the pieces. Obviously, research trips will never be completely eliminated, but a center supporting a collecting and reference program such as the Dirksen center proposes will certainly eliminate some of the expensive research burden. It is somehow appropriate that, just as many of our most eminent political leaders in recent decades have come from the Middle West, important centers of statistical and documentary research on the political process are to be located here.

I am not suggesting that the Dirksen Center either solicit the papers of every Member of Congress or save every piece of paper from every collection acquired. The resources to accomplish such a project are beyond the scope of even the Federal Government. An archives should not save everything, and congressional papers are often replete with voluminous materials of at best marginal historical value. The cost of preserving this chaff is unreasonable, but in candor I must warn you that even the process of throwing away is a costly one as it must be done carefully and wisely to serve the needs of future generations as well as our own.

And yet within many congressional collections is extremely valuable material. Such documents reflect the informal structure of Congress, the demands of constituents and lobbyists, the expectations and perceptions of the Congresman himself. It is this material that the Dirksen Center archivists must identify, preserve, and make available to scholars. These papers show what makes Congress tick and what makes the Congressman tick.

But to hear these ticks and make sense of them—to get a melody out of the disconnected notes—it is important to use many sets of congressional papers at once. Woodrow Wilson made that point in his classic Congressional Government written in 1885 when he said, "Like a vast picture thronged with figures of equal prominence and crowded with elaborate and obtrusive details, Congress is hard to see satisfactorily and appreciatively in a single standpoint." The Dirksen Center can contribute to the larger understanding by acquiring and maintaining a diverse collection of materials that, used together, will illuminate the larger picture.

As a fellow archivist, I feel that I must alert the archivists here at the Center of a new development that may soon further complicate the already serious difficulties encountered in making the decisions of what to save and what to preserve. I refer to the possibility that a future Congress will pass legislation that will circumscribe the Federal official's freedom to do with his papers as he will.

Much of the controversy of recent years, from the Pentagon papers to the Watergate tapes, has focused on the ownership and control of documentation. Former President Nixon's well-publicized claim of personal property in his Presidential materials resulted in Congress passing a law seizing these materials and keeping them in Government custody. A second—and lesser known—element of that same legislation called into being a Public Documents Commission to examine the broad legal and political aspects of ownership of papers of Federal officials and to make recommendations to the Congress for a new national policy on their disposition.

It seems to me that the problem posed by the papers of public officials involves three important issues overlapping and partly in conflict.

One is the value of preservation of the historically significant material; another is the need to make the preserved documents available for research; still a third is the necessity to protect the privacy and the political liberties of the public official who created the papers and those who corresponded with him. It is imperative that in any new national policy we meet these three demands.

While it is risky to predict what the recommendations of the Public Documents Commission on the question of ownership of the papers of Federal officials will be, it is possible that in the future Federal officials will be asked to make a distinction between the portions of their papers that are public papers and the portions that are private. It is important that both papers deemed private and those deemed public are preserved, but the result of the legislation stemming from the Commission recommendations may well be that different guidelines will cover access to the public and private portions. As archivists we may be called upon to suggest to public officials a better means of filing and sorting their papers and to make certain that the distinction between private and public portions is clear when the papers are deposited in an archival institution. It is even possible that Federal officials may ask archivists to make the determination of which materials are public and which are private, a consideration that will entail a greatly different approach to processing papers than the one now commonly employed. Any institution planning to collect large quantities of the papers of Federal officials must be aware of the Commission's work and of the complex problem it is addressing.

As the Dirksen Center well knows, the enterprise upon which it has embarked is going to be exceedingly expensive. Archival processing is a slow deliberate work that includes identifying the major segments of the collection; determining and maintaining, where possible, the original filing order; arranging the material in labeled containers; undertaking necessary preservation activities, and describing the completed arrangement as accurately and intelligibly as possible. The jargon of the archival profession calls all of this activity "processing," but that simple word requires the archivist to be part detective (how was the Senator's office file arranged?), part chemist (is this paper with a high acid content that needs deacidification?), and part patient laborer (how many newspaper clippings are there to mount?)

The tools of the trade are relatively simple and inexpensive—archival boxes, brass staplers, and the like—but the time required to complete processing makes the activity a very costly one.

Not only is archival processing an expensive business, but so, too, is the procedure of making holdings known and available to the user. A comprehensive list of holdings should be produced, published, and distributed; entries for such standard sources guides as the National Union Catalog of Manuscript Collections or the so-called Hamer Guide must be prepared; detailed finding aids for each collection of papers must be produced for use in the research room. Eventually a depository might undertake documentary publication, but whether in letterpress or microform, cost must be very carefully considered before plunging into such a major project. So, too, should the use of computerized retrieval and transmittal be prudently considered before investing great sums—computer programs can try both men's souls and men's pocketbooks. Finally, personal contact cannot be surpassed as a way to make holdings more widely known. Participating in the Society of American Archivists, attending meetings of various national historical organizations, sponsoring conferences at the Center, perhaps even giving modest prizes for publications utilizing the Center holdings are all important necessary public relations techniques to publicize Center services.

While short term funds for archival projects may be available from foundations and other eleemosynary institutions, it is very difficult to find long term sources of support. At the risk of confusing you with the names and activities of two different Federal commissions, I do want to call your attention to a second commission important to the fate of the historical materials of our country. This is the National Historical Publications and Records Commission, a standing commission established by Congress of which the Archivist of the United States is Chairman. This Commission is charged with the preservation and publication of important historical materials throughout the nation. Over the past several decades, the Commission has sponsored numerous publication projects—you may have heard of the publication project on the papers of the illustrious Adams family, the product of which formed the basis of the recent educational television production on the Adams family.

Originally established to support documentary publication projects, the Commission's responsibilities were greatly enlarged in 1974 when Congress passed legislation enabling the Commission to make grants to support the full range of activities relating to the preservation and use of historical materials—archival processing, if you will. No funds, however, have been requested by the administration or appropriated by the Congress specifically for these new preservation grants. Currently such grants as are made come out of the Commission's regular budget. If the experience of the earlier publications program holds true, at least $2 of non-Federal funds will be generated by every dollar of Federal grant money. Yet even so, the amount appropriated for the Commission is simply inadequate to support a major archival program such as the one envisioned by the Dirksen Center.

Putting aside the problems of funding, the National Historical Publications and Records Commission is justly proud of its role in creative federalism. At the Commission's request, the Governors of nearly 40 states have appointed State Historical Records Coordinators, and in nearly 30 states State Historical Records Advisory Boards have been nominated by Governors and approved by the Commission. These boards provide a state-level mechanism to evaluate grant applications and to set priorities to see that the most critical needs are identified and funded The records program is not another case of the Federal Government telling states, local governments, and non-profit institutions what to do and how to do it. Instead, the Commission relies heavily upon the advice of professionals and other interested citizens at the state and local level to do that. I regret to report that the State of Illinois has not yet chosen to participate in this program. Those of you here today may want to investigate the possibility of Illinois joining the Commission family and then to support its work in the public interest of the citizens of your state. It would be an appropriate activity for all those interested in history in this bicentennial year.

In conclusion, I would like to voice my support for the collecting program of the Dirksen Center. We in the National Archives do not believe that all papers of Federal officials must be deposited in the National Archives system. Many non-Federal institutions have repeatedly demonstrated their ability to preserve, protect, and make available just such material. We do seek to assure the public that this material will be preserved and that it will be made available in a timely and orderly fashion. If the Congress at some time in the future decides that the National Archives should have hegemony over the papers of Federal officials, we would gladly undertake an advisory oversight role, but we have no wish to hold all of them in our buildings in Washington. We believe that a cooperative Federalism to preserve the past will be our most effective instrument. Somehow, I believe that Everett McKinley Dirksen would have agreed.

Seminar on Congressional Archives

GENERAL

This day-long conference was called to discuss the feasibility of developing a "regional Congressional Leadership Research Center" at the Dirksen Library. Approximately 60 archivists, historians and librarians attended. Most were from the Illinois area. Seven papers were presented. The proceedings were recorded and may be published at some future date.

SUMMARY OF PREPARED REMARKS

James Unland, President, Dirksen Endowment Fund

The Center's primary objective is to "humanize the history of the legislative process."

6,000 person have visited since the fall of 1975.

It strives to be non-partisan.

John Velde, Member, National Commission on Libraries and Information Science (NCLIS)

There are major barriers to institutional cooperation among libraries. They include unstable funding, lack of clear and universal guidelines for service, negative public attitude toward changes in library service patterns and institutional jealousies.

These barriers can be overcome. NCLIS is leading the drive for cooperation and standardization.

Robert Jones, Librarian, Bradley University, Peoria, Illinois

Proliferation of information has created severe problems of access and control.

The Dirksen Center needs to tie into the information networks and professional staffs of academic libraries.

Philip Weinberg, Center for Learning Resources, Bradley University

At present congressional papers tend to be left unprocessed, isolated and randomly located.

Need a centralized agency to integrate collections bibliographically.

The midwest has many valuable collections of papers of legislative leaders. Perhaps a trend could start here.

Discussion of central Illinois' "Electronic Highway" that offers high-volume, high-speed, low cost transmission of documentary source material.

Yet much remains to be done. The time-frame for arrival of this electronic information transfer capacity is uncertain.

Initial processing of the Dirksen (and similar) collections is labor-intensive and costly. However, subsequent distribution and processing can be achieved at low cost.

James B. Rhoads, Archivist of the United States

In recent years there is a greater emphasis on Congress as a countervailing force to the Executive Branch. Scholars are appraising and evaluating Congress in great detail.

Need to have manuscript materials available to balance the tendency to oversimplification resulting from recent trend toward quantitative analysis of legislative behavior.

Congressional papers contain much valuable material for evaluation of how Congress and its individual members operate. The problem is that an effective evaluation results only when scholars can make use of many sets of congressional papers at the same time.

Public Documents Commission—its recommendations may mean that "some future Congress will pass legislation that will circumscribe the federal official's freedom to do with his papers as he will."

The papers of public officials raise "three important issues, overlapping and partly in conflict."

"The value of preservation of historically significant material."

"The need to make the preserved documents available for research."

"The necessity to protect the privacy and political liberties of the public official who created the papers and those who corresponded with him."

Any new national policy must meet these three demands.

Thoughts on the Dirksen Center.

Processing of Dirksen papers will be exceedingly expensive and time consuming.

Must give careful consideration to methods of making holdings known and available to the user. Letterpress or microfilm reproduction of documents is expensive and requires careful deliberation. Use of computers is also tricky and expensive in terms of cost-benefit ratio.

Personal contact is a good way to publicize collections. Give prizes for publications utilizing the Center's holdings and sponsor conferences.

Discussion of National Historical Publications and Records Commission.

Sylvia Faibisoff, Professor, Graduate School of Library Science, University of Illinois

The anticipations of the Center are "ambitious". To establish a computer network, you must consider the parameters of the situation. How does one organize the material found in the 1300 boxes? Material is mixed in nature and does not lend itself to easy classification and description.

There are different types of data bases. What are the characteristics of the Center's? What will it contain? Must interpret what is going into the data base. How complete? Will it grow? What data elements should be included? What type of access is desired? Who will be using it? What do you want it to produce? Does the Center have the personnel to organize, compile and update the data base?

Problem of compaibility with other data bases in U.S. Need to be able to search many files simultaneously. As papers of Dirksen's colleagues become available, they will shed much light on Dirksen's career, as his will on theirs. Thus, coordinate indexing, in depth, will allow a researcher to compare views of a number of congressional leaders at the same time on the same subject. This would put the researcher and congressional scholarship far ahead of their present situation.

The cost of "human intervention" or in-depth indexing of papers is very great. Information storage and retrieval presents many problems but they are not insurmountable.

The Dirksen Center should examine existing data bases, for much has been done. The Center is not starting fresh.

How much is the Center prepared to spend for indexing? Is a computer available? How much will computer access cost? Does the Center have funds for experimentation?

Charles Jones, Professor, Department of Political Science, University of Pittsburgh

Political scientists use congressional archives for three basic purposes.

Analysis of individual behavior. How did members of Congress relate to their districts and to their Washington responsibilities?

Analysis of leadership. There is a need for more comparative analysis of leadership (House v. Senate). What are the elements of congressional leadership?

Analysis of public policy. How is a problem recognized, studied and resolved legislatively? Is the process haphazard?

The Dirksen Center should keep these uses in mind as it considers the organization of its collections. At all costs, the Center must beware of uncontrolled development. It must think beyond its current collection to what and how the material might be used.

Archivists must strive for the establishment of codes and classifications governing how and when material is to be made available. He cautioned that we are now in a "test period". The liberality influenced by a climate of "moral fervor" may be subject to questioning and possible "backlash" in the future.

He discussed the desirability of affiliation with the University of Michigan's Inter-university Consortium on Political Research. They have many good data collections. The Dirksen Center should consider using them in its work.

ENERGY ACTION NO. 2

Mr. JOHNSTON. Mr. President, on May 24 the Senate Committee on Interior and Insular Affairs held a hearing on the Federal Energy Administration proposal—Energy Action No. 2—to modify the exemption for small refiners from the requirement to purchase crude oil entitlements. At that hearing I asked that the FEA supply for the Record the answers to a number of questions relating to this issue. Late this afternoon most of the FEA responses to these questions were received in the offices of the Interior Committee. Because of the substantial interest among members on this issue, I asked unanimous consent that a copy of the responses received be printed in the Record for the use and information of my colleagues.

There being no objection, the material was ordered to be printed in the Record, as follows:

Federal Energy Administration,
Washington, D.C., May 25, 1976.

Hon. J. Bennett Johnston, Jr.,
Acting Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The enclosed material is transmitted for the record in response to the written questions submitted following the hearing on May 24, 1976, regarding Energy Action No. 2. Several of the questions are still being answered and will be handcarried as soon as they are completed.

If I may be of further assistance, please let me know.

Sincerely,
Gorman C. Smith,
Assistant Administrator, Regulatory Programs.

Enclosures.

I–1. Does FEA have any data to support the contention that some small refiners received, under the exemption, benefits "disproportionate to their actual needs"? Who? How much?

FEA has given ample opportunity to all small refiners to make a case of serious financial hardship resulting from entitlement purchase obligations. We consider that any small refiner who failed to have such a hardship claim examined by the FEA clearly does not require exemption benefits. A substantial group of refiners receiving greater than 5 cents per gallon benefit from the exemption in a given month had either never filed for exception relief or had exception requests denied because they could not make a showing of financial hardship.

The following list identifies those refiners receiving exemption benefits greater than 5 cents per gallon who had not filed for exception relief or who had exception requests denied during April through September, 1975:

OCTOBER

No exception application filed	*¢/Gal Benefit*
Dow	7.9
Fletcher	6.3
Little America	5.4
Saber (Texas)	10.8

Exception denied:	*¢/Gal. Benefit*
Evangeline	5.6
Howell	8.0

In total, 16 refiners received exemption benefits in October greater than 5 cents per gallon.

NOVEMBER

No exception application filed	*¢/Gal Benefit*
Caribou	5.1
Fletcher	7.0
Little America	5.3
Placid	7.6

Exception denied:	*¢/Gal. Benefit*
Evangeline	13.8
Howell	11.5
LaGloria	7.4
West Coast	8.6

In total, 20 refiners received exemption benefits greater than 5 cents per gallon.

DECEMBER

No exception application filed	*¢/Gal Benefit*
Golden Eagle	19.8
Southwestern	14.1

Exception denied:	*¢/Gal. Benefit*
Howell	11.3
Evangeline	6.8
LaGloria	5.2
West Coast	9.6

In total, 18 refiners received exemption benefits greater than 5 cents per gallon.

JANUARY

No exception application filed	*¢/Gal Benefit*
Caribou	6.4
Mountaineer	7.3
Union Texas	7.7

Exception denied:	*¢/Gal. Benefit*
Evangeline	5.1
Howell	9.0
LaGloria	6.5

In total, 19 refiners received exemption benefits greater than 5 cents per gallon.

FEBRUARY

No exception application filed	*¢/Gal Benefit*
Canal	6.1
Giant	12.9
Little America	12.7
Southwestern	7.1

Exception denied:	*¢/Gal. Benefit*
Evangeline	10.8
Howell	7.0

In total, 16 refiners received exemption benefits greater than 5 cents per gallon.

I–2. In deciding this, did the FEA consider fully diseconomies of scale, tax benefits available or not available, and any other factors beside the price paid for crude oil?

ANSWER

The FEA received considerable evidence concerning economies of scale in its proceedings on the issue. The modification before the Congress reflects industry statements that, although small refiners' costs are greater than large refiners', as refining capacity increases diseconomies of scale decrease. In our examination, we concluded that those refiners benefiting from the EPCA exemption are, as a class, no more in need of subsidies than small refiners not benefiting from the rule when diseconomies of scale alone are considered. Tax benefits were not considered, and the various other benefits available to small refiners through other government programs—such as preference in sales of government royalty oil—were not discounted in formulating the modification. The FEA cannot form rules to protect the most needy member of a class because, if that were done, less needy members would be unduly advantaged by the same rule. Certain small refiners who will realize decreased benefits under the FEA modification (as compared to the EPCA exemption) will be eligible for additional relief through the exceptions process if their circumstances warrant.

I–3. Does FEA have any data which supports a market shift toward marketers supplied by independent refiners, which shift is due to Special Rule No. 6?

ANSWER

The FEA does not collect data detailed enough to allow a close analysis of this question. However, we believe that changes in market shares have limited value in measuring the effect of Special Rule No. 6. A change in relative price between competitors frequently has the effect of causing the marketer whose price competitiveness has deteriorated to respond to his weakened competitive position by sacrificing a part of his profit margin in an attempt to minimize his volume loss. Under this case, the marketer suffers financial injury, but the loss of sales dollar volume will not be reflected in market share information.

I–4. Does FEA have any data to suggest that an exempt small refiner has increased its refining capacity or normal refining runs due to the benefits it has received under Special Rule 6?

ANSWER

FEA has aggregated data on all exempt refiners as to possible increases in receipts of old oil. The question you asked is phrased in terms of increases in runs, while benefits from Special Rule 6 actually increase only as a result of greater quantities of old oil as a portion of total receipts and runs. There have been unusual increases in old oil receipts of 10 exempted refiners, and compliance action has been initiated. Because compliance investigations have not been completed, we are not providing the names of the specific firms. Of these ten firms, eight have received benefits in excess of five cents per gallon in one or more months of the exemption.

I–5. Does FEA have any data to support the assertion that Special Rule 6 has provided an incentive to small refiners to curtail their refining runs? Have any small refiners curtailed their runs due to this exemption?

I–6. Does FEA have any evidence or data to support the assertion that the exemption has acted as a disincentive for small refiners to expand their refining capacity? Since December 22, 1975, have any refiners failed to expand their refining capacity due to this exemption?

ANSWER

It should be noted that the FEA's proposal did not state that the entitlements exemption under Special Rule 6 is causing a net reduction in such refiners' runs or capacity expansion, but that the exemption as structured contains inherent incentives to those ends. When considered in light of the extensive monetary benefits flowing to exempted firms, the incentives against expansion by an exempted small refiner over the 100,000 barrel per day limit are obvious. In addition, increasing crude runs above the 50,000 barrel per day level would operate to increase an exempted firm's crude oil costs for each barrel of product produced. If market conditions did not permit the recovery of these increased costs, the incentive in many cases would be to maintain crude run levels below the 50,000 barrel per day level. FEA's further consideration of such incentives led it to the conclusion that these incentives would be inconsistent with the aims and objectives of the entitlements program as well as specified objectives set forth in section 4(b)(1) of the EPAA. No data, records or documents further expanding on this analysis are available.

II–1. Is it true that as early as January 12, 1976, officials of FEA gave newspaper interviews in which they pledged their efforts to do away with this exemption? (John Hill alleged made such remarks to a New York Times reporter according to a Jan. 12 article in the New York Times.)

Answers to this question have not yet been received from FEA.

II–2. Throughout consideration of enacting a small refiner exemption, Congress was concerned that FEA implement the exemption in a manner which would not increase the *cost to small refiner sellers of entitlements*. What did FEA do to minimize this increase in cost when Special Rule 6 was issued?

ANSWER

When the small refiner exemption was issued, FEA spread the increased cost across all non-exempt refiners. This was in contrast to the method used when purchase obligations were phased in during the first several months of the entitlement program. Then, the added cost runs spread only across entitlement sellers, while entitlement purchase obligations remained fixed. The exemption method reduces the cost to small refiner sellers compared to the earlier treatment.

In the House Report on the House version of the EPCA, it states "the Committee wishes to make clear its intent that any entitlements exempted by this section (403) shall be treated just as the FEA treats entitlement purchasers which it has excepted through administrative procedures, i.e., by disregarding the old oil to which such entitlement purchases would apply when calculating the National Adjusted Old Oil Supply Ratio."[1] In the U.S. District Court decision of March 18, 1976, in Crown Central Petroleum Corporation, et al. vs Federal Energy Administration, et al., Judge Gesell concluded:

"The procedure followed by FEA here under attack is admittedly in strict conformity to the position taken in the House Report just quoted. This legislative history sequence appears the most authoritative among many scattered references and is entitled to special weight when opposed to Senate discussions of an earlier bill, ex post facto letters, or remarks of an ambiguous kind made in floor debate."

II–2A. Did Congress give FEA the authority to completely revoke the small refiner exemption?

Answers to this question have not yet been received from FEA.

II–3. Less than two months after issuing Special Rule 6, FEA issued a rulemaking proposal to modify Special Rule 6. Do you believe the small refiner exemption has been in operation long enough to accurately gauge its effects?

ANSWER

FEA's initial proposal to modify Special Rule 6 was issued on February 28, in anticipation of the fairly lengthly process of public hearing and comment, review, final rulemaking and Congressional review. It was relatively certain that the entitlement notice to be issued in June was the first month in which implementation of a modification was likely, and thus, six months under the exemption would already have been experienced in the marketplace. FEA was urged by those refiners who opposed the exemption (and those who wanted a larger small refiner bias) to initiate the rulemaking process as quickly as possible because each month of the exemption imposed marketing difficulties on them. FEA has been gathering data on the exemption and small refiner bias benefits, although it is extremely difficult to isolate marketing disparities directly caused by Special Rule 6.

II–4. What did FEA propose in its proposed rulemaking issued on February 28. How does that differ from what FEA proposed in its communication to the Congress on May 12? Does this not make a sham of FEA's public comment procedure?

The February 28 FEA proposal would have limited benefits received by a small refiner under the EPCA exemption to one cent per gallon over benefits received by a small refiner seller of entitlements of similar size. The major deficiency of this proposal was that it did not include small refiner sellers of entitlements in the benefits, so that they would have continued to be competitively disadvantaged among refiners of comparable size. The earlier proposal also did not apportion the benefits to small refiners based upon crude runs. The present proposal includes both refiner buyers and sellers of entitlements and scales benefits according to refiner size.

The FEA modification is based upon a close review of written and oral comments. These comments resulted in the development of the two changes noted above. Without the benefit of these hearings and written comments, which highlighted the severe division of opinion among small refiners on the EPCA exemption, the FEA might have made the mistake of not proposing a modification of the exemption.

II–5. Will FEA allow sufficient time for small refiners to seek relief from this modification if they deem relief necessary immediately and retroactively to the beginning of this new role?

ANSWER

In its proposal to modify the small refiner exemption appearing in the Federal Register of March 4, FEA invited any small refiner which felt it might incur financial hardship were the modification adopted to file a request for exception by April 1, 1976. In response to requests for an extension, FEA extended verbally the deadline to April 21 at the hearings on the proposal on March 24. Subsequently, the formal notice appearing in the April 7 Federal Register further extended the date for submission of exception requests to May 3. As Assistant Administrator Gorman Smith indicated in testimony yesterday, in the event that no final action is taken on a request for exception filed by a small refiner for entitlement program hardships, he will be granted a stay on any purchase requirements until his exception decision is completed.

III–1. How many refiners are there in the United States?

ANSWER

In the month of February 1976, 140 refiners reported receipts and/or runs of crude oil for the entitlements program.

2. How many are small refiners (under 175,000 bb/d capacity)? What share of the market do they represent? What share of the gasoline market do they represent?

ANSWER

There are 116 small refiners with capacity under 175 MB/D as of January 1, 1974. Based on receipts of crude oil to their refiners, they comprise 19.2% of the petroleum products market.

3. How many are small refiners (under 100,000 bb/d capacity)? What share of the market do they represent? What share of the gasoline market do they represent?

ANSWER

There are 109 small refiners with capacity of 100 MB/D or less. Based on receipts of crude oil to their refineries, they comprise 12.4% of the petroleum products market. It is unknown at this time what share of the gasoline market is attributable to small refiners under 100,000 B/D capacity. However, Lundberg Survey, Inc. (North Hollywood, CA), using sales data collected by state taxation agencies, has stated that for the first six months of the 1975 calendar year, 5% of the gasoline market was held by refiners with less than 100,000 B/D capacity. Many small refiners do not make gasoline at all.

4. How many small refiner purchasers are there? What percentage of them are under 50,000 B/D of capacity? Under 30,000 B/D capacity? Under 10,000 B/D capacity? What share of the market do each represent? What share of the gasoline market do each represent?

For the month of February, 1976 there were 56 small refiner purchasers who had runs of 100,000 B/D or less. Of these, 82% were under 50,000 B/D of capacity; 70% had capacities under 30,000 B/D and 34% had capacities under 10,000 B/D.

FEA believes that market share data derived from product sales might be misleading because many small refiners purchase finished product from majors. Since the entitlements program and the FEA modification are based on runs to stills we have analyzed small refiners' runs as a percentage of all runs for February, 1976. On this basis, refiners with runs under 50,000 B/D represented 5.4% of the market; refiners with runs under 30,000 B/D represented 2.9%, and those with runs under 10,000 B/D represented 0.7% of the market.

We do not have data on the shares of the gasoline market held by the various categories.

III–5. What evidence and data do you have that branded gasoline dealers are being hurt by the small refiners exemption?

Basically, the evidence that FEA has concerning the adverse impacts Special Rule #6 has on branded gasoline dealers is from written and oral testimony presented at FEA's public hearings and from voluminous correspondence. For further discussion of this subject, please see answer to Question III–7.

III–6. Have you studied the allegation that the problems facing the branded dealers is based more on the pricing policies of the major refiners than on the small refiner exemption? Have you investigated the allegation that major refiners are putting the squeeze on branded dealers to convert their stations into company owned stations?

Pricing policies by the major oil companies to their branded dealers are the same as they have been for the past 30 years. They are based on a dealer tank wagon price for a particular market area. FEA investigations into major oil companies show that stations owned and operated (salaried) by the seven largest refiner/marketers numbered 2,500 in 1974 and 2,900 in 1975 out of a total of 62,300 stations supplied by these majors in 1974 and 56,800 in 1975. On the other hand, stations owned and operated by all other refiner/marketers numbered 10,700 in 1974 and 11,500 in 1975. The total number of stations supplied by these refiner/marketers was 123,400 in 1974 and 112,000 in 1975. We have not found major oil companies pressuring their dealers to change to salaried operations.

III–7. Does FEA have data to indicate that gasoline marketed at independent refinery stations has been markedly reduced in price due to the small refiner exemption?

Although FEA does not have definitive studies showing that the small refiner exemption has resulted in drastically lower prices at stations supplied by exempt small refiners, there is a definite indication that small refiner/marketers have increased their share of the market generally during FEA controls. A study of five major cities shows that the independent share of the gasoline market went from 13.6% in 1973 to 23.6% in 1975, an increase of over 58%. Average prices for these five cities show major branded independent dealers' prices for regular leaded gasoline at 58.6 cents per gallon, while independent marketer-controlled stations had an average price of 53.5 cents per gallon. This 5.1 cents per gallon price differential would give the independent marketer a distinct price advantage over the branded independent dealer and would seem to mitigate against providing large added advantages to select small refiners. We have no means of correlating existing differences with the exemption. (Figures above are from the Lundberg Survey for May 7, 1976.)

IV–1. Under the FEA modification, how much money will be transferred from small refiner purchasers to sellers of entitlements?

IV–2. Which refiners will receive the majority of this money?

---

[1] House Report No. 94–340, 94th Congress 1st Session 48 (1975).

IV-3. How much will the major refiners receive?

ANSWER

Under the FEA modification, the net effect of the redistribution of benefits through revocation of the exemption and increase of the bias is to spread approximately an additional $275 million among all refiners. Because this redistribution serves to increase the national ratio upon which entitlements are issued, those refiners with the greatest crude runs receive the greatest amount of cost reduction, however, the per barrel benefit of this redistribution is identical for *all* refiners.

The attached table elaborates the breakdown of the redistributed benefits.

Estimated distribution of annual reduction in benefits to currently exempt refiners

[Dollars in millions]

	Dollars	*Percent*
1. Small, previously exempt refiners, 0–50 MBD runs	$14.6	5.3
2. Small refiner sellers, 0–50 MBD runs	8.0	2.9
3. Small, previously partially exempt refiners, 50–100 MBD runs	11.6	4.2
4. Small refiner sellers, 50–100 MBD runs	4.4	1.6
5. Other small refiners, 100–175 MBD runs	14.3	5.2
6. Large independent refiners, 175 MBD and more runs	30.7	11.2
7. Major refiners	191.4	69.6
Total amount	275.0	100.0

Most of redistributed benefits will go to:

Branded independent jobbers.

Branded independent dealers.

Customers.

Who are supplied by:

Major refiners.

Large independent refiners.

Small refiners who are entitlement sellers because their crude oil costs are high.

IV. 4. Does FEA have any assurances that the benefits received by the sellers of entitlements will be reflected in lower prices paid by the ultimate consumer? How?

FEA has exactly the same assurances regarding sellers of entitlements that Congress had regarding purchasers of entitlements when Section 403(a) of the EPCA was enacted. The EPCA Exemption provided added benefits to many purchasers who had not requested exceptions relief from the purchase of entitlements and who would therefore be obtaining benefits for which no justification had been provided.

Under FEA price regulations the cost of entitlements purchases is treated as product cost, and the revenue from entitlements sales is treated as an offset against product costs. Refiners must reflect product cost increases or decreases either by increasing or reducing banked costs or by increasing or reducing their product prices (all other costs being equal). These rules provide assurances that entitlement benefits will be passed on to the consumer in the form of price decreases eventually. FEA audits refiners as budget limitations permit to ensure that cost decreases are appropriately passed through.

FEA does not propose exemption of products from controls unless it finds that supplies are ample and that competition exists in the market for these products. The existence of these two conditions exercises downward pressure on prices and assures that benefits over and above those needed for reasonable profitability are passed on to consumers.

IV. 5. Does the present small refiner exemption favor historic refiners over firms which have gotten into the refining business more recently?

ANSWER

Because of the December 1, 1973 freeze on crude oil supplier/purchaser relationships, almost all old oil is controlled by refiners who were in existence on that date. New or substantially expanded refiners, who have come into operation since that date, have little if any old oil. Because entitlement purchase obligations arise primarily from old oil receipts, the historic refiners receive benefits under the exemption that are not available to new refiners.

IV-6. Will the small refiner bias you propose satisfy most of the economic problems which will be faced by small refiner purchasers?

ANSWER

The proposed added small refiner bias is more than adequate to compensate for the economic disadvantages faced by small refiners by virtue of their size. For those specific refiners whose unique circumstances cause severe financial hardship attributable to FEA regulations, FEA grants exceptions taking the particular circumstances into account.

IV-7. Do you anticipate a surge in requests for exceptions by small refiner purchasers? Isn't this the situation FEA faced before Congress enacted the small refiner exemption?

ANSWER

Please refer to the answer to II-5 and Administrator Zarb's letter of May 25, 1976, to Chairman Johnston. The text of the letter follows.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 25, 1976.

Hon. J. BENNETT JOHNSTON, Jr.,
Acting Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to set out FEA's policy with respect to requests for exception from entitlement purchase requirements by those refiners now benefiting from Special Rule No. 6 in the event FEA's proposed modification becomes effective.

As you may be aware, those small refiners who would incur purchase obligations by the adoption of the FEA proposed modification were put on notice by publication in the *Federal Register* of March 4, 1976, that they should file a request for exception with FEA not later than April 1, 1976, if the FEA proposed modification would, in their judgment, impose on them either a serious financial hardship or a gross inequity. One extension to April 21 was granted verbally in late March, and by *Federal Register* notice on April 7 the deadline for submission was extended to May 3, 1976. Twenty-five refiners filed under this provision by the due date and four submissions were received subsequently. It is our objective to have the decisions on all 29 applications made in time to be reflected in the entitlements list that will be issued in June 1976.

However, to avoid the possibility of imposing any undue financial hardship on any small refiner whose application may not have been decided in time for the June entitlements list, any refiner whose application is now on file with FEA and who complies in a timely manner with FEA's request for supplementary information will be granted a stay of any purchase requirements until its application has been decided, if that decision is not made in time to be reflected in the entitlements list issued in June 1976.

FEA will also assure that having received benefits under Special Rule No. 6 will not prejudice either a recipient's qualification for future exception relief or the amount of exception relief for which it qualifies in the future.

At present, exceptions decisions are made based on an extensive analysis of annual earnings projections submitted by applicants. Applicants who received benefits under Special Rule No. 6 will be afforded the opportunity of requesting exception relief from entitlement purchase obligations on the basis of either annual earnings projections or projections for that portion of their fiscal year exclusive of the period during which Special Rule No. 6 was effective, whichever the firm chooses.

I trust this is responsive to the concerns you expressed at the hearings and confirms the Agency's position as set out in Mr. Gorman C. Smith's testimony this morning.

Thank you for your consideration.

Sincerely,

FRANK G. ZARB,
Administrator.

IV—8. Does FEA have sufficient manpower to quickly and properly decide the merits of requests for exceptions on this subject?

IV—9. Is there any truth to the assertion that your modification forces those who are least equipped financially and manpower-wise to enter the costly and time consumming exceptions and appeal process of your agency?

Answers to these questions have not yet been received from FEA.

V—1. Explain the range in benefits per gallon to small refiner purchasers under Special Rule No. 6. Who receives the reported 21.4 cent per gallon benefits? What does this refiner produce? How big is it? With whom does it compete?

ANSWER

The data on each refiner's exemption identifies the range of benefits to exempted purchasers. In February, West Coast Oil Company had exemption benefits of 21.4 cents per gallon of runs.

This refiner produces residual fuel oil and middle distillates for sale in the southern California market.

V—2. Does the three-tier pricing program actually result in a decrease in the small refiner bias as alleged by at least one small refiner?

ANSWER

The three-tier pricing program does not affect the small refiner bias. Very simply, the bias is a direct function of crude runs to stills. The impact the three-tier program will have on refiners with receipts of upper tier crude oil is to slightly increase their entitlement costs, reflecting the lower cost of price-controlled upper tier crude oil since the February rollback.

V-3. What did small refiner purchasers who benefited under the present small refiner exemption do with their benefits?

FEA does not have sufficient time to attempt to answer specifically for each benefiting small refiner purchaser. Under the price rules, these benefits must be applied to reduce product costs. The reduction in product costs could then have been used:

a. To reduce banked costs, if they existed, while keeping product prices constant; or

b. To reduce prices.

V-4. Q. Who testified at your hearings? How many could be said to be major refiners or controlled by major refiners?

A. At the public hearings held on March 23 and 24 of this year, 30 groups testified. These groups included 7 major refiners, 19 small refiners, and 4 trade associations (none of which were controlled by major refiners).

VI-1. The FEA proposal relating to Special Rule No. 6—the Small Refiners' exemption—was transmitted to the Congress on May 12, 1976. However, this proposal was not printed in the Federal Register until May 18. What was the reason for this delay?

ANSWER

The Special Rule 6 proposal to Congress was issued on the evening of May 12. It was transmitted to the Federal Register the next morning. The normal publication lag is approximately four days; thus, the delay in publishing this notice was not unusual.

VI-2. What analysis has FEA made which justifies the size of the change in the small refiners' bias which is an integral part of this proposal? You increased the bias for refiners at 10,000 B/D from 2 cents per gallon to 4 cents per gallon. Is this increase enough? Is it too much? How did you arrive at this value for the increase?

ANSWER

FEA received considerable testimony regarding diseconomies of scale and refining costs at varying levels of refiner size. The rationale for increasing the bias to more than 4 cents for refiners having runs of 10,000 B/D or less is that this level gives these refiners the benefit of the doubt resulting from substantially competing testimony. The FEA received some allegations that cost differences at this size justified this additional benefit, and also received some data indicating that cost differences did not justify benefits of this magnitude. In giving these smallest refiners the added benefit, FEA recognizes that even if this added benefit is slightly higher than necessary to offset added costs, it will not result in significant competitive distortions.

VI-3. Do you feel that the Congress and the oil industry have been given sufficient time to consider the merits of the proposal, which was only published for the first time in the *Federal Register* on May 18, 1976?

VI-4. Do you think that the financial consequences of this proposal on small refiners are different from those of your previous proposal which was published in February of this year?

VI-5. Wouldn't a new comment period and hearing be appropriate before coming to the Congress with this?

ANSWER

The exemption has now been in effect since December 1975 for entitlements from October 1975 forward. FEA held two sets of hearings on the issue (January 22 and March 23 and 24 of this year) and also solicited written comments at both these times. In the March hearings alone, the agency received 126 comments (30 oral and 96 written) from 117 organizations. Many comments were also directed to the issue at FEA hearings on February 17 and 18 concerning the reevaluations of the regulation, and the agency has received voluminous correspondence on the topic, much of it from Members of Congress. FEA does not believe that it would receive additional information of substantial value by delaying further.

The FEA modification proposal on small refiners will have different financial results than the previous proposal because it redistributes the benefits on a sliding scale considering refiner size and is weighted toward providing the greater benefits for the smaller refiners. The previous proposal would not have accomplished this. The modification before the Congress also provides benefits to refiner sellers of entitlements whereas the March proposal and Section 403(a) of the EPCA only provides benefits to purchasers of entitlements. These two features result from public comments at previous hearings.

Because we have analyzed the effects of the EPCA exemption, the previous FEA proposal, and the FEA modification as thoroughly as we believe essential, held public hearings and solicited written comments twice, received further comments at other hearings, and received large volumes of correspondence on the matter, FEA believes it would be unnecessary and dilatory to hold additional hearings on this issue.

VI-6. What studies or research has FEA conducted indicating that the small refiners exemption is causing small refiners to increase market share at the expense of other small refiners?

ANSWER

FEA believes that a market share analysis would not provide any conclusive evidence that the small refiners exemption has caused some small refiners to increase their market share at the expense of other small refiners. Furthermore, due to the apparent crude oil cost disparities and competitive inequities caused by Special Rule #6, FEA did not deem it appropriate to wait until the market had been distorted by the exemption before proposing corrective action. Timely action to correct the inequities caused by Special Rule #6 was considered essential in view of the evidence of inequity already available.

VI-7. When Congress enacted the Small Refiner Entitlement Purchase Exemptions, it provided equal benefits for all small refiners up to 50,000 B/D capacity. Why is this proposal does FEA sharply curtail benefits to refiners beginning at the 30,000 B/D level?

ANSWER

The exemption does not do what the question states that it does. It provides benefits to 56 of 112 refiners having runs of 100,000 B/D or less, and to 42 of 88 refiners having up to 50,000 B/D capacity. Why in this protreatment is the point of the FEA modification. The modification curtails benefits to refiners having runs of more than 30,000 B/D in order to follow the logic of the small refiner bias—the idea that there is an inversely proportionate relationship between economy of scale and refiner size.

VI-8. Is it true that FEA's proposal will reduce the overall monthly benefits to small refiners as a group from approximately $58 million per month to $38 million per month? This amounts to nearly one-quarter billion dollars a year being transferred from small refiners to large refiners. How do you justify adding income to large refiners who are recording record or near-record profits?

VI-9. Hasn't FEA decontrolled residual fuel oil, and have you not proposed to decontrol middle distillates soon, and gasoline thereafter? If refined products are decontrolled, won't the majors be able to keep all of this quarter billion dollars as profits?

ANSWER

The benefits transferred to 56 of 112 refiners having runs of 100,000 B/D or less from refiners having runs greater than this would have been about $22.3 million less in February 1976 under the FEA modification than under the EPCA exemption. Annualized, the difference would be about $275.0 million. This reduction in the transfer to refiners having runs of 100,000 B/D or less from the larger small and independent refiners (as that term is defined in the EPAA) and from major integrated refiners reflects a lack of justification for the higher level of benefits. In February, refiners having runs of 100,000 B/D or less had combined runs of 58,832,130 barrels or about 2,028,694 B/D. The total per barrel benefit transferred at the value level represented by the exemption was about $1.06. Under the FEA modification the per barrel benefit transferred would have been about $0.69. By refiner size categories the differences are:

Refiner category [1]	Runs (barrels)	Added benefits			
		Exemption		Modification	
		Total	Per barrel	Total	Per barrel
0 to 10	5,630,727	12,544,505	2.23	10,064,739	1.79
10 to 30	15,945,909	22,581,269	1.42	18,000,652	1.13
30 to 50	13,130,460	17,357,599	1.32	7,428,939	.57
50 to 100	24,125,034	10,145,391	.42	4,812,585	.20

[1] In million barrels per day.

The FEA modification does not add income to larger refiners—it merely proposes to take less away and reflects the fact that many of these larger refiners are small and independent refiners whose competitive interests the FEA is obliged to consider.

The existence of a highly competitive marketplace and the entitlements bias for small refiners will provide an incentive for majors to keep product prices competitively low even for decontrolled products.

VI-10. In evaluating the impact of the small refiners exemption, has FEA calculated the total effects of all other FEA programs? For example, has the agency considered the counteractive effects of the recent change in pricing under the mandatory buy/sell program, which helps majors and entitlement sellers rather than exempted buyers? The FEA received testimony on March 24, 1976 that this FEA program, among others, would diminish the actual effect of the small refiners entitlement exemption. What action has the agency taken to follow-up on this testimony?

ANSWER

In evaluating the impact of the small refiner exemption, FEA has considered the impact of all other FEA programs. Because the calculation of the complete effect of all FEA programs on all refiners is an extremely complex problem, this has not been done.

The purpose of the Crude Oil Buy/Sell Program has always been to allow access to crude oil for small refiners at reasonable prices, rather than to provide a direct economy benefit such as the small refiner bias in the Entitlements Program. The recent changes in buy/sell pricing were designed to accomplish this and to avoid a complex certification process in the Entitlements Program for this oil. In March, the first month the new pricing took effect, the average costs of receipts of crude oil for sellers in the buy/sell program were as follows:

Crude oil sellers (Major oil companies)

	Barrel
Approximate Buy/Sell Pricing Impact prior to March 1, 1976:	
Average cost of crude oil receipts	$10.04
Entitlement effect on buyer	+.50
Net cost to buyer	10.54
Approximate buy/sell pricing impact from March 1, 1976:	
Average cost of imported crude oil receipts	13.55
Entitlement effect on buyer	2.82
Net cost to buyer	10.73

The difference of 19¢ per barrel arises from the 21¢ advantage provided in the entitlement program for domestic crude oil. Without this the Buy/Sell Program would, since the marginal barrel is imported, encourage the use of imported crude oil instead of domestic.

Entitlement Effects for Buyers on Total Crude Oil Receipts:

	Barrel
37.25% Old×$5.067	$1.88
25.77% Upper tier×$1.332	−.34
36.98% Imported×−$2.824	−1.04
	+.50
On Imported Crude Oil Receipts	−2.82
March 1976 Entitlement Effects on Crude Oil:	
On Old Oil:	
Purchase 1 entitlement when received	7.89
Credit when run (DOSR+Entitlement Price) $7.89×.3578	2.823
	+5.607
On Upper Tier Oil:	
Purchase .1890 entitlement when received	1.491
Credit when run	−2.823
	1.332
On Imported Oil:	
Credit when run	−2.823

VI–11. In your comparison of crude oil costs of small refiners, do you take into account the wide disparity in the quality of crude oil purchased? How can you calculate a true cost comparison without considering this factor?

ANSWER

We did not consider this factor because low gravity, high sulfur crude oil results in low-quality, low-priced product; and high-gravity, low-sulfur crude oil produces high-quality, high-priced product. The equalization factor is a matter of refining and marketing economics which does not require FEA intervention. However, even on the basis of very large quality differential factors such as 5 cents per degree API gravity and 5 cents per 0.1% sulfur, we could probably find cost differences as great as $3.50 per barrel. This is far less than the difference of over $10.00 per barrel the FEA has identified as resulting from the small refiner exemption.

VI–12. Has FEA included in its calculations of how much relief per gallon its proposal would supposedly provide given the fact that increasing the Small Refiner Bias has the effect of reducing the National Adjusted Domestic Oil Supply Ratio? One rough calculation suggests that as much as 25% of the projected increase in benefits you predict will be lost because of this impact.

ANSWER

The FEA calculations include only the direct effect of the benefits under the entitlements bias and exemption. Because the increase in the bias is coupled with a reduction in the exemption, the total effect of these is to reduce crude oil costs by 5.5¢ per barrel or .13¢/gal. for all refiners. This increases the benefit by approximately $1 million to refiners under 100,000 barrels per day capacity who previously did not have the exemption and reduces the lost benefits by approximately $2.1 million for those refiners who previously had the benefit of the exemption.

VI–13. Why, at a time when we should be doing everything we can to encourage energy independence, would the FEA propose an act that clearly discourages small refiners from doing anything to increase their production above the 30,000 B/D level?

ANSWER

The FEA modification does not contain the clear disincentive to increase runs over 30,000 B/D that the question infers. Refiner choices as to run levels are a function of many factors—bias benefits among them. The question suggests that all decisions as to run levels are a function of per barrel gross profits, which is clearly not the case. Per barrel net profit, total gross profit, total net profit, crude oil availability, refinery maintenance needs, product marketability and a host of other considerations enter into the decision. For example, a refiner would not necessarily choose a run level which would produce a net profit of 10 cents per barrel and a total net profit of $100,000 over a run level which would produce a net profit of 9 cents per barrel and a total net profit of $110,000.

VI–14. More than a year ago, the FEA admittedly recognized the inadequacy of the small, independent refiner bias, but failed to act promptly when the need was apparent. How can the small, independent refiner be assured the FEA will respond timely to the competitive requirements of their particular segment of the industry as directed by Congress?

ANSWER

We believe the question refers to the issuance of Special Rule #3 and the emergency amendment to this rule. In adopting this rule, FEA recognized that the immediate imposition of the full entitlements purchase requirements of the program might have a severe short-term economic impact on certain small refiners whose runs contain a higher percentage of old oil than the national average and that serious cash flow problems might be posed for small refiners required to purchase entitlements. The Special Rule was intended to assist small refiners in arranging any necessary financing and in structuring their marketing operations for compliance with the requirements. While FEA realized the short-term economic impact of the program on certain small refiners, it believed the small refiner bias would be adequate to preserve the competitive viability of small refiners over the long run.

VI–15. When Congress enacted the Small Refiner Entitlement Purchase Exemptions it provided equal benefits for all small refiners up to 50,000 b/d capacity. Why in this proposal does the FEA sharply curtail benefits to refiners beginning at the 30,000 b/d level?

Answers to this question have not yet been received from FEA.

ISRAELI SETTLEMENTS IN OCCUPIED ARAB TERRITORY

Mr. STEVENSON. Mr. President, the Israeli settlements in the occupied Arab territory have been justified by some on military grounds. But for reasons explained in an article, "Israel: Borders and Security" by Col. Merrill A. McPeak in the current issue of Foreign Affairs, the post 1967 boundaries may aggrevate the dangers to Israel's security. I invite the attention of my colleagues to this article and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ISRAEL: BORDERS AND SECURITY

(By Col. Merrill A. McPeak)

"Israel," as Mrs. Meir put, it "is entitled to defensible borders." But where might such borders be drawn? The lines on which Israel's army stood at the end of the war of June 1967 seemed formidable, but have disappeared into history. The U.N. Security Council, in its celebrated Resolution 242 of November 1967, visualized that "secure and recognized boundaries" might be placed essentially along the lines obtained before the outbreak of the June hostilities. Although it has refused to "draw maps," Israel has made it plain that the old lines will not do, in part owing to security concerns. But genuine security depends on regional accommodation, which the Arab states say cannot occur until all of the occupied territory is returned. All parties agree that some kind of demilitarization arrangement in returned territory would be needed in any overall settlement, but little serious public attention has been given to ways in which comprehensive demilitarization might be useful as a security safeguard in the context of comprehensive territorial return.

Today, Israel continues to hold something like 90 percent of the territory taken in 1967; that it has evacuated as much as 10 percent is one of the concrete achievements of the current "step-by-step" diplomacy. But this diplomacy seems to have lost momentum, and, in any case, has produced harmful side effects, including a new, and perhaps shortsighted, kind of demilitarization. Israel's borders are now anything but "secure and recognized"; defense of the present lines seems to require the attainment of new levels of sophistication in an arms race, the cost of which Israel can no longer shoulder alone. We even hear claims that Israel's security may soon require that it move to the stage of nuclear confrontation with its Arab adversaries.

II

Things looked a great deal different as the dust of the June War settled, for it seemed that Israel had solved its security problem by creating a new geography. To review the changes briefly, the total land area under Israeli control had grown about four times, but the length of demarcation lines had actually shortened and, in general, the new lines were based on natural features. At the Suez Canal, Israel had the best "tank ditch" in the Middle East. The Gaza Strip, long a nursery for Egyptian-supported terrorism reaching to within a few miles of Tel Aviv, had come under Israeli administration. On the Golan, Israel at last held the high ground. The bulge of the West Bank, an implicit threat that Israel would be cut in two, had been superseded by the line of the Jordan River. More important, the air threat to Israel had disappeared, at least for the moment. Tel Aviv had been 12 minutes flying time from Egyptian bases in the northern Sinai. Now, launched from the most forward bases in Egypt, many Soviet-supplied aircraft either could not reach Tel Aviv, or could do so only with reduced bomb loads or by using flight profiles which would make them easy targets for Israeli interceptors. Moreover, with radars in the Sinai, Israel could rely on 30 minutes warning of Egyptian air attack. As the International Institute for Strategic Studies summed up the new situation: "The six-day war left Israel with a degree of security she had never known before, and one that required no external guarantee."

However, within a week of the June 11 ceasefire, Israeli and Syrian ground forces were skirmishing on the Golan Heights; by July 1, fighting had erupted along the Canal. On October 21, after just four and a half months of "ceasefire," Israel's largest warship, the destroyer *Eilat*, was hit by Egyptian missiles and sunk near Port Said with great loss of life. Artillery duels, commando raids and terrorist attacks all along the new frontiers escalated to the full-scale war of attrition in 1969–70. Israel's casualties during the roughly three-year period from the end of the June War to the renewed, United States-sponsored ceasefire of August 1970 were at least 700 killed and 2,600 wounded, about the same as for the June War itself.

Perhaps, however, the new lines, so much more easily defended, would permit a reduction in the heavy burden of Israel's defense expenditures. Not so. In both absolute and relative terms, Israel's defense burden increased between 1965 and 1972, and increased dramatically, as the following figures indicate:[1]

Defense spending

[In millions of dollars]

1965	288
1966	365
1967	562
1968	730
1969	955
1970	1,278
1971	1,370
1972	1,375

Defense spending

[Percent of GDP]

1965	7.9
1966	9.8
1967	14.7
1968	17.0
1969	19.7
1970	23.6
1971	22.6
1972	20.6

Israel's standing military establishment, cadre and conscript, also expanded during this period. Total, full-time forces numbered 71,000 at the end of the June War, increased to 75,000 by mid-1970 and to 115,000 by mid-1973, with each component growing and the Air Force roughly doubling.

These trends might have been even more adverse for Israel had it simply withdrawn from the occupied territories without obtaining suitable security arrangements. However, in view of the importance attached to human loss, and considering national requirements for development funds and skilled manpower, these indexes—casualties, defense spending, men under arms—have the highest significance for Israel. And none of them signaled improved security.

III

In retrospect it seems clear that Israel's larger security interests were not well served by a unilateral redrawing of its boundaries in conformance with perceived defense requirements. But it remained for the war of October 1973 to demolish this notion entirely. It fades from memory, now, how impressively the Israelis "won" what is sometimes called the Yom Kippur War. The sights and sounds of Egypt's stranded Third Army have somehow been erased in the aftermath of a strategic setback which Israelis, most of all, recognize.

But it is also clear that Israel has a legitimate security interest in what happens in the occupied territories. Israelis wonder how much worse it might have been in October 1973 had the Arab attack been launched from the old lines. Perhaps, then, it may be in order to try to describe the character of Israel's security interests in each of the territories, and to ask how these interests might be protected.

Taking the territories one at a time, two practical invasion corridors lead through the Sinai from Egypt to Israel. The traditional route is a relatively narrow coastal passageway through El Arish and Gaza. Alternately, Egypt has access through the Mitla and Gidi Passes to the central Sinai and thence to the Negev. Military leaders naturally prefer to cut hostile invasion routes as far forward as possible and the Suez Canal seems ideally suited to this purpose. But the Canal line was first breached by Egypt in the October War and then abandoned when Israel accepted withdrawal in the "first step" Disengagement Agreement of January 1974. The next best line, which would include physical occupation of the Sinai passes, was relinquished by Israel in the "second step" agreement of September 1975.

In any case, severing the invasion routes has never been the real test for Israel. Control of the air makes it possible to cut these lines at any desired point. The problem has been to prevent a concentration of Egyptian forces near Israel's borders. A forward buildup of men and matériel would theoretically enable Egypt, acting in concert with other Arab states, to defeat Israel in a lightning stroke even with its rear communications disrupted by Israeli air attack. But for the purpose of preventing military concentration close to Israel, what matters most is not how much of the Sinai is handed back to Egypt, but whether what is handed back is effectively demilitarized or not.

Incidentally, further disengagement "steps" in the Sinai would seem to require that Israel give up its forward operating base at Bir Gifgaga. Here, Israel has a heavy investment in facilities which, while not absolutely necessary for defensive purposes, do greatly enhance Israel's capability to conduct air opeartions against interior Egypt. Evidence of Israeli reluctance to part with this base may be seen in the way the lines were drawn in the September agreement. North of the passes, Israel's line runs due west, back toward the Canal for nearly 20 kilometers, then curves around again to the north, leaving space for operations at Bir Gifgaga.

Finally, with respect to the Sinai, there is the problem of Sharm-el-Sheikh. That Israel must control the southern tip of the Sinai Peninsula has become an article of faith among Israeli political and military leaders because Arab closure of the Gulf of Aqaba played a key role in the wars of 1956 and 1967. However, Sharm-el-Sheikh itself has little more than symbolic significance. The Gulf of Aqaba, nowhere more than about 15 miles wide, can be closed by modern artillery posted at any point along its shoreline. Accordingly, some argue that Israel must retain not just Sharm-el-Sheikh but also a land corridor south from Elath to the tip of the Peninsula. It is as logical to argue that Israel should control both shorelines, since the Gulf can be closed from either side, but this would require that Jordan and Saudi Arabia give up territory, as well as Egypt. And there is no end to aspirations which might be based on such an argument. The Gulf of Aqaba is itself bottled up by the Red Sea, making Israel's maritime access to the Indian Ocean dependent on the situation at the Strait of Bab el Mandeb. But, for the moment, Israel must rely on the threat of retaliatory action and such international support as can be mustered to deter hostile occupation of the Red Sea exit. If this course of action is sensible and reliable farther south, there is no reason why it cannot be applied to Sharm-el-Sheikh. Again, Israel's security requirement is not so much to retain control as that control not be passed under conditions of active hostility to another power; in brief, that there be peace, or barring that, effective demilitarization.

Atop the Golan Heights the situation can be viewed in at least two different ways, leading to opposed conclusions. According to one view, Israeli dispositions are a source of *strength* because Israel now commands the ridge line. The resulting ability to see from the ground into Syria is obviously a net advantage. In addition, the sporadic shelling of Israeli settlements in the Hula Valley has been ended. However, events of the October War call into question the value of these advantages. Israeli observation did not prevent the Syrians from achieving a degree of strategic surprise. Syrian possession and use of short range missiles showed that it is not necessary to hold the Heights in order to bombard northern Israel.

The principal strategic justification for retaining the Golan has been that it constitutes a geographic cushion, outside Israel, in which a Syrian attack could be dealt with—absorbed and contained if not stopped completely—until Israel mobilizes. The logic of this strategy has been fatally undercut by the decision to permit Jewish settlement of the Heights. The Golan long ago ceased to be a strategic buffer in which the Israeli Army was free to trade space for time. As this is written, the number of farming settlements established has climbed into the mid-twenties and despite the disruption of the October War Israel has pushed through a Five Year Plan for the Golan which includes development of rural centers and tourist facilities and the opening of a number of small plants and mines. These assets must now be defended just as any part of Israel, and the Golan itself requires a protective buffer.

Thus the second view of Israel's Golan position—that the settlements and forces assembled there are terribly exposed, their backs not to a wall but to an abyss. Reinforcement is difficult and time-consuming; the roads up which reinforcements must come are exposed and vulnerable. The requirement to evacuate civilians from the settlements adds a demanding mission just when the army is bound to be most heavily committed. The opportunity for the kind of fluid warfare at which Israel excels seems reduced; Israel's forces must stand and fight in place, as they did with great gallantry during the October War. Nevertheless it was a near thing. The Syrians came quite close to breaking through and creating the possibility of a disaster before they were held and then pushed back. It is no surprise that in the October War Israel had first to deal with the situation on the Golan before turning to the problem along the Canal, a reversal of the 1967 priorities. In present circumstances, the Golan will continue to receive top priority.

Lately there has been speculation that, should Syria attack again, Israel might regain the military initiative by moving through northern Jordan to envelop Syria's south flank. (Jordanian force deployments seem to take account of this danger.) Nor should the possibility of a move against Syria through Lebanon be overlooked. Of course, implementing such measures would more or less automatically widen and complicate any future war with Syria. If such plans exist they constitute further evidence of the strategic shortcomings of Israel's Golan position.

Thus, from a military point of view, Israel's holdings in the Golan can be seen as either an asset or a liability. Assuming that the territory under Israel's direct control is not forcibly enlarged to provide room for maneuver, it is at least arguable that Israel would be better off withdrawing from this exposed position. Moreover, the situation is made worse rather than better if Israel withdraws from some rather than all of the territory. As Prime Minister Rabin reportedly declared regarding further "steps" with Syria, there is room on the Heights for no more than "cosmetic" adjustment. Again, Israel's security would seem to dictate not occupation of the Golan, but its demilitarization.

IV

In the extraordinarily complex problem of the West Bank, emotion and history are more important determinants than security. To the extent that security aspects can be isolated, it is clear that demography is of far greater significance than geography. That is, Israel's security problems center on returning the population, not the territory, to Arab control. The Gaza Strip presents a similar problem, and these areas may be lumped together for purposes of analysis.

---

[1] *World Armaments and Disarmament SIPRI Yearbook 1975,* Stockholm International Peace Research Institute. Figures are based on constant 1970 prices and exchange rates.

One can imagine three possible outcomes for the West Bank and Gaza Strip. Israel can return all, some or none of these territories to Arab control. Each of these alternatives poses challenges which are, for the most part, variations on the theme of *internal* security. This is so because consideration of these territories approaches the heart of the matter: How may Jews and Arabs live together?

Suppose Israel determines to incorporate all of the West Bank and Gaza Strip, either through outright annexation, as is already the case in East Jerusalem, or through continued military occupation which has a provisional veneer but de facto permanence. Assuming that a large number of Arabs are not simply expelled, this action would add about a million people to the already sizable Arab minority in Israel. Moreover, the natural rate of increase of the Arab population is about double that of the Jews. Thus, while there is little near-term likelihood that the Arabs can "drive Israel into the sea," there is a real possibility that they might submerge it demographically within present defense perimeters.

Already the "Right of Return" does not extend to non-Jews; Arab Israelis may not serve in the armed forces; and Arabs in the occupied territories are denied effective political organization and participation in government. No doubt these measures embarass many Israelis, but they are necessary. In an Israel where Arabs constitute an increasingly large fraction of population, there can be no doubt that to accord Arabs full rights of citizenship would mean the eventual end of Israel as a Zionist state. On the other hand, institutionalizing a set of repressive measures designed to control a growing Arab population means the end of Israel as a democracy. Those who define Israel's security as requiring the preservation of both the Jewish and the democratic character of the state understand that at least some of the West Bank/Gaza Strip must be returned.

How is this to be done? One possibility is to find a formula for returning as much of the population and as little of the territory as possible. If, say, Israel were to retain the Gaza Strip, and in the West Bank to return only the string of Arab towns—Nablus, Ramallah, Hebron—along the Judean/Samarian hilltops, together with a link to Jordan at Jericho, Israel might take in upwards of half a million fewer Arabs, and population dynamics would be manageable, at least for a long time. (With an additional provision for a chain of Israeli strongpoints along the Jordan River, this plan looks something like the one offered in 1968 by Yigal Allon.)

Israel might be able to find someone to whom control could be handed on such terms. But, regardless of the extent of territory returned, or to whom it is handed over, terrorist attacks on Israel originating from the returned area would certainly occur. The record shows that such attacks have been stopped neither by Israeli administration of captured territories nor by Israel's reprisal policy (which therefore clearly requires review). Thus, for Israel, the relevant security problem is how to reduce terrorism in circumstances of renewed Arab control of the population.

Two aspects of this matter make it particularly troublesome. First, a feature of Israel's rather enlightened occupation policy has been to encourage Arabs and Jews to cross the old lines for economic and cultural purposes. For Israel to reverse this policy following restoration of Arab control would be wrongheaded and, in the degree to which Israel has become dependent on Arab labor, economically unsound. But, if relative freedom of movement is continued, terrorist infiltration is bound to be difficult to manage, no matter whether all, or only some, of the West Bank/Gaza Strip territories are returned.

Second, Israel has made clear its expectation that Jews are settled permanently in the occupied territories. This holds true with special force for Jewish holy places like Hebron and in Jerusalem itself and may also be the case with the settlements around Gaza and on the Golan. No one knows how many Jews actually would stay behind to live under Arab rule, but if a considerable number were to do so, then we would have a situation rather like an exchange of hostages, or the ancient practice of enemies drinking wine from the same glass. Under such conditions, each side has an interest in making its actions acceptable to the other and the key question is the degree of control exercised by the respective authorities. In brief, can the parties keep someone from poisoning the wine?

These considerations argue that, in any case, but especially if a Jewish population of any size is left behind, Israel has an interest in passing control to an authoritative Arab administration. The best, perhaps the only, way to control Arab terrorism is for Arabs to do the controlling. However, by retaining portions of the occupied territories, Israel would bequeath a legacy of political weakness. The cry would arise immediately for further, complete return—"every inch"—creating an inflammatory issue, diminishing the authority of any Arab government cooperating in partial return, and threatening Jews left behind. Terrorism would receive an additional stimulus while at the same time Arab ability to deal with it would be reduced.

Thus, Israel's security may well require the return of all, or substantially all, of the West Bank and Gaza Strip in order to confer legitimacy on the restored Arab government and enable it to exercise real control. Even so, the prognosis for curtailing terrorism remains bleak. Around the world, none of the most vulnerable targets—the industrial democracies—has a ready answer. Israel's special problem in this regard may gradually subside as the Palestinians come to accept whatever political arrangements are worked out in their behalf. Until such reconciliation occurs, Israel's best prospect of controlling terrorism is that strong Arab governments materialize in the returned territories.

Strong government in the returned territories also means that Israel must accept the presence there of Arab forces: regular Jordanian forces (and possibly Egyptian forces in the Gaza Strip) if control reverts to former Arab authorities; regular Palestinian forces if a separate Palestinian entity is established. However, such forces need not constitute a threat to Israel if they are limited in size and equipage. Here again the security problem focuses not on the extent of territory returned but on the nature and degree of demilitarization.

V

If this analysis is correct, Israel does not have a strong case, on the narrow argument of its own physical security requirements, for retaining any of the territory occupied after June 1967. All things considered, no set of borders seems a great deal better from a security standpoint than the armistice lines established in 1949—that is, the pre-June 5, 1967 borders. Indeed, if complete return of the occupied territories opened the prospect of peace, Israel's security interest, broadly defined, would require this step. However, Israel cannot be sure that peace would accompany withdrawal. Its experience leads to the contrary expectation. There is much truth in the Israeli contention that each of the five wars of Israel's modern history was thrust upon it.

In these wars the performance of Israeli's armed forces has been remarkable. However, if the purposes of armed strength are first to deter conflict and only second to end such conflict as does occur on terms favorable to the nation, then Israel's impressive success must be laid alongside impressive failure. Reserving consideration of nuclear weapons for a moment, we have no reason to believe that the Arabs will ever be deterred by Israel's military power, even if its record and reputation are reinforced by a succession of new victories. The question of how to defeat the Arabs has been answered five times; the question of how to deter them awaits an answer.

This is not to say that the strength and competence of Israel's armed forces are unimportant or have somehow become irrelevant. On the contrary, Israel's security will continued to be linked with its military capabilities relative to the Arab states; these capabilities must be preserved to ensure its survival. Note, however, that none of the qualities which the world who come to associate wtih Israeli arms—movement, flexibility, imagination—relies on the possession of specific territory. To discover the true composition of Israel's security, ask an Israeli general whether he would trade these fighting qualities for the chance to occupy a strong position.

Generals rightly resist such choices. Indeed, no general worth his stars is likely to think of these as exclusive alternatives; he will want both a fine fighting force and a strong opening position, as well as any other advantage available. But maintaining or increasing military advantage relative to Arab countries which now have access to growing technical and financial resources is a cruel task for a state as small as Israel. For this reason, and to avoid the risks seen in a condition of increasing dependence on the United States, Professor Robert W. Tucker has argued that Israel is likely soon to reconsider its stance on nuclear weapons—and indeed that it should do so.[2]

While official statements have understandably avoided unnecessary precision, Israel's policy on nuclear arms seems to rest now on two elements: a commitment not to be the "first to introduce" nuclear weapons into the Middle East and the avowed intention to retain the "option" to develop such weapons, should they be required. Each of these policy elements is essentially meaningless. In a crisis Israel could claim that nuclear-capable systems had already made an appearance in the region—that no chastity remained for Israel to protect. Moreover, the circumstances in which Israel might require nuclear arms are not those which would allow an elaborate development program to be undertaken at the time. If an "option" is indeed to be possessed, it means that development must take place in advance, with only final loading and arming steps, at best, postponed.

To date, Israel has seen the advantage of a strong conventional posture backed up by the deliberate ambiguity of a nuclear "option." Professor Tucker suggests that, for Israel, the attractions of a declaratory strategy of nuclear deterrence may soon become irresistible. Among other claimed benefits, Tucker argues that such a strategy would permit de-emphasis of conventional force, thereby reducing defense spending, and would markedly diminish preoccupation with secure borders, thereby creating more flexibility on return of occupied territory.

There are a number of both theoretical and practical reasons, which can be mentioned here in summary form only, why Israel should not adopt such a policy. On the level of theory, the first problem is stability. Whereas so far the Arab states seem able to ignore Israel's nuclear “option,’ no one should doubt that they will be obliged to follow suit if Israel declares a policy of nuclear deterrence. We should not assume that both sides will move immediately to secure, second-strike systems; more likely they will retrace the path taken by every nascent nuclear power. Accordingly, we should expect a gradual evolution from exposed, first-strike, to survivable, second-strike systems. Survivability is always relative and, in general, the more survivable a system is the more it costs. As the parties move closer to true second-strike postures, they are likely to see postulated defense savings evaporate. In view of resource limitations, the evolution to second-strike posture will be fitful, with extended periods during which capabilities are grossly asymmetrical and in which there is a fair measure of uncertainty about opposing capabilities There will be powerful voices on each side urging that the other's resolve be tested, and on each side urging that resolve be shown. These conditions—asymmetry, uncertainty, provocation—provide a textbook definition of instability.

---

[2] Robert W. Tucker, "Israel and the United States: From Dependence to Nuclear Weapons?" *Commentary*, November 1975.

Nor should we assume that the eventual existence of balanced, second-strike postures will automatically produce stable deterrence. Such stability as exists in the U.S.-Soviet relationship has been a product of rational and conservative behavior, with each side accepting limitations on objectives as well as means. Some may claim that it is characteristic of nuclear balance to produce rational and conservative behavior, but this is not a hypothesis we should wish to see tested in the Middle East. What is immediately at stake in the Middle East—territorial integrity, physical security, cultural identity—are survival values par excellence. Values of similar magnitude have not been a day-to-day issue between powers possessing balanced nuclear strength. On those rare occasions when the stakes were raised—e.g., the Cuban missile crisis—the world reached points of maximum danger. Moreover, the Arab-Israeli conflict displays some aspects of a fight between brothers. That this is so offers a hope of reconciliation, but it also means that emotions are likely to outrun careful calculation. It is the family arguments—Greek versus Turkish Cypriot, Catholic versus Protestant Irish, North versus South Korean—that we should least like to see nuclear-armed.

Even if the sides were to settle into stable deterrent conditions, this might provide cold comfort for Israel. To attain such conditions, each side must prepare protected, essentially symmetrical second-strike capabilities. That is, stability requires that each side stand wholly exposed to the destructive power of the other. It is an interesting question whether Israel would find such “equivalence” agreeable. Though they have threatened Israel's extinction, the Arab states have never had a reasonable prospect of making good the threat. This would change if the term “military balance” in the Middle East acquired a literal meaning in lieu of its current usage as a euphemism for Israeli superiority.

In addition, it is by no means proven that in conditions of approximate equivalence, nuclear weapons deter all levels of conflict. If the Arab states were to opt for a strategy of territorial recovery in small increments by conventional means, Israel's dilemma would be whether to risk certain national destruction by immediate resort to nuclear weapons, or to fall back on a conventional defense. Now, however, Israel would find its conventional forces weakened by the previous decision to adopt a “new look” in defense, and its conventional options constrained by the Arab nuclear deterrent.

As for practical difficulties, no acknowledged nuclear power has had to solve the problems associated with very small territorial etxent. Israel's impact is such that we sometimes forget that it is about the size of New Jersey. The smallest nuclear power, the United Kingdom, is more than ten times as large, not including its overseas possessions, and the United Kingdom is itself smaller than Oregon. Configuring a survivable nuclear strike force requires considerable ingenuity in any case, but such small size creates enormous additional difficulty. For example, basing considerations probably rule out missile-firing submarines of the type we are used to thinking about. Only one Israeli port from which modern strike submarines might operate springs readily to mind, and even if others were to be developed the number would always be small. It would be altogether too easy for Arab attack submarines to shadow Israeli boats as they left home port; unexplained “accidents” at sea could too quickly claim a major portion of Israel's deterrent force.

If, through mobility, concealment and hardening, strike-force survivability could be reasonably assured, Israel would still confront the problem of locating nuclear weapon manufacture and storage sites. There are few locations in Israel where these tasks can be accomplished with some assurance of security. None of the locations is far removed from Arab territory, and the Arabs can probably make some plausible guesses about likely hiding places. Mobility is not much help with this problem, and concealment and hardening are in some respects mutually incompatible. In another round of fighting which opens conventionally, Israel would be obliged to consider nuclear production and storage facilities threatened at the outset. This would be doubly so if Israel's conventional capabilities were neglected. Ironically, a nuclear strategy would seem to require retention of occupied territory in order to protect nuclear facilities in the context of reduced conventional strength.

All of these arguments may be swept aside if, as Tucker asserts, historic and technological imperatives must in any case drive the sides to nuclear confrontation. Perhaps Israel and the Arab states cannot be persuaded that their own interests are best served by avoiding nuclear strategies, but the United States need not encourage such a development. As a matter of policy, we should continue to design military and economic aid programs which promote conventional military postures in the region. Moreover, our assistance actions should not be open to misunderstanding; the parties must make no mistake about our intentions in this regard. If this has the ring of free advice, recall the recent flap over the Pershing missile, or the promise of a nuclear power station for Egypt.

VI

But deterrence need not rely solely on military strength, nuclear or conventional. Any combination of factors making attack repugnant can deter. For the Middle East, the best deterrent measure at hand is the establishment of demilitarized zones, manned by neutral observers, through which either side would be extremely reluctant to attack.

U.N. Security Council Resolution 242, the consensus framework for overall settlement, acknowledges the requirement for demilitarization. Moreover, there seems to be widespread agreement that demilitarization provisions might endure if placed in an international peacekeeping context and backed by appropriate guarantees. For example, writing in these pages more than five years ago, John C. Campbell offered an outline proposal, based on Resolution 242, calling in part for demilitarized zones on both sides of future frontiers and for total demilitarization of the Gaza Strip, the Golan Heights and Sharm-el-Sheikh, all with international peacekeeping and guarantees.[8]

Campbell's proposal has stood up well over the years but, in common with many peace plans, it says too little about functional arrangements for demilitarization. Naturally, final technical details would have to be worked out by the parties in direct negotiations, but as things now stand such negotiations would quickly break down. On the technical details of size of demilitarized zones and strength and composition of Arab forces permitted to return, we may expect directly opposed views, with compromise carrying nearly as much danger for Israel as no agreement at all. On the issue of offsetting demilitarization, for example, there is room in Israel for little more than symbolic demilitarized zones. But if the Arabs match only the small size of postulated Israeli demilitarized zones, the shield erected would be too thin to permit relaxation of Israeli fears.

The way out of these difficulties is for the parties to accept in advance a formula of total return and total demilitarization. By agreeing to total return, Israel would accept the reassertion of authority by Arab governments in all of the occupied territories; by consenting to total demilitarization, Arab governments would accept limitations on their authority in the returned areas, limitations aimed at safeguarding Israel's security.

If such a formula were accepted, operational details of demilitarization could be worked out without difficulty, perhaps along lines such as the following:

(a) A ceiling would be set on Arab military forces allowed to reenter each of the territories. Very small forces, perhaps as few as 1,000 men each, would be allowed in the Sinai and on the Golan Heights, where their main purpose would be to show the flag. Larger but still quite modest forces would be needed in the West Bank and Gaza Strip to ensure public order.

(b) No heavy weapons or combat aircraft would be permitted to re-enter. Equipment for returning Arab forces would be restricted to small arms and automatic weapons below .50 caliber, but no mortars, artillery or missiles, trucks and armored personnel carriers, but no tanks; helicopters, liaison and cargo aircraft, but no overflight or basing of fighters or bombers.

(c) No intrusion of armed ships into waters adjacent to returned territories would be permitted.

(d) Both sides would accept international verification and inspection of the limits established. If Israel were unwilling to accept international, U.N.-sponsored inspection, the United States should be willing to assist with this function for a limited time. Inspection and verification by “national means”—that is, reconnaissance flights by the parties over the demilitarized zones—would not be permitted.

(e) The limitations outlined above would apply to the entire West Bank and Gaza Strip. On the Golan Heights, they would apply to all the ground still under Israeli control. They would apply to the entire Sinai, including areas from which Israel has withdrawn or been expelled already and the small salient near Port Fuad not captured by Israel in 1967. Demilitarization provisions should not apply inside Israel's pre-June 5 borders. However, if this were to constitute a final stumbling block, Israel should agree to face-saving provisions involving token demilitarization inside its borders.

---

[8] John C. Campbell, “The Arab-Israeli Conflict: An American Policy,” *Foreign Affairs*, October 1970.

Such a proposal aims at removing strategic obstacles to an overall settlement by creating the possibility of an effective deterrent to war. Egypt is the key; without Egyptian participation, other Arab governments would likely be deterred from major attack. And Egypt could not attack Israel because it could not concentrate forces east of the Canal. To be foolproof, however, the checkpoint for Egyptian personnel and equipment would have to be at the Canal. Once into the Sinai, it is just conceivable that equipment could be hidden and forces prepared for a surprise build-up. That is why demilitarization of areas already returned is an important consideration in the Sinai and less so on the Golan. With total demilitarization, no Egyptian demand for removal of observer forces could produce a sudden crisis, as was the case in 1967. Moving Egyptian forces across the full expanse of the Sinai would require time in which Israel could mobilize and international pressures could come into play. Even so, the sides should be urged to accept the sensible provision that neither be able to dictate removal of observer forces.

Since it is acknowledged that Israel's security ultimately rests on the strength of its armed forces, it is of more than passing interest that the proposal outlined here would have the effect of perpetuating Israel's local military superiority. Israel would be able to defeat quickly Arab forces of the kind permitted to return and would be able to do so without major new, and potentially destabilizing, developments in the arms race. The Arabs understand this fact, which is at the bottom of their stated unwillingness to demilitarized returned territory without offsetting demilitarization in Israel. An outsider cannot know whether this is a serious, as opposed to a negotiating, position. Israel could counted by pointing out that most of the demilitarization would take place on territory it now, in fact, controls. If military forces of the sides were to draw back in step from present positions until Israel's Army was camped on the pre-June 5 lines, Cairo and Amman would be demilitarized, and Damascus nearly so.

But it is the enormous appeal of total return which must be relied upon to produce an Arab concession on demilitarization. Thus, each milestone passed in an extended step-by-step diplomacy successively reduces the incentive to demilitarize. For the years ahead, we should like to help create a situation in which Arab leaders would be able to stress to their domestic audiences that, no matter how much all would enjoy another round with Israel, it is just not possible, and that this situation arose necessarily out of the requirement to regain territory. This line will be credible only if territorial return is more or less sudden and total.

This is not to say that total return is a straightforward proposition. Like demilitarization, the concept needs to be fleshed out. At Latrun and elsewhere the old lines require mutually agreed modification—"minor rectification" is a term often used. Minor rectification of the borders contains in itself a network of problems, each dauntingly complicated. But, with demilitarization of returned territory, these problems could be seen for what they are: a variety of disputes involving history, emotion, religious belief and property rights, not security.

In addition to calling for a change of focus from incremental to overall settlement, this analysis suggests the possibility of a defect in the specifics of the step-by-step procedure as executed to date. "Step diplomacy" has been attacked cogently on a number of grounds, notably by George Ball.[4] But the possible impact of the steps on prospects for eventual demilitarization has not drawn widespread comment. The first Egypt-Israel Disengagement Agreement (January 18, 1974) reportedly authorized Egypt to leave 7,000 troops, 36 artillery pieces and 30 tanks on the Sinai side of the Canal. The Second Agreement (September 4, 1975), in addition to enlarging the area under Egyption control, specified that Egypt could station eight standard infantry battalions, 75 tanks and 72 artillery pieces east of the Canal, with total manpower limited to 8,000 men. Reconnaissance aircraft of either side may fly up to the midpoint of the buffer zone between their forward positions. The Israel-Syria Disengagement Agreement (May 31, 1974) also reportedly permits the limited reintroduction of tanks and artillery into Golan areas evacuated by Israel.

All this is the stuff of which renewed tension is made. But the greater danger is that such a process, if continued in future steps, will lead to the "remilitarization" of the territories. Moreover, if, as seems likely, demilitarization arrangements are a desired element in any future overall settlement, then the situation is complicated rather than simplified by the steps already taken. For example, for the Arabs to agree to the type of total demilitarization proposed here would mean that they must withdraw heavy equipment already in place. Psychologically, at least, this is a more painful step than simple agreement not to reintroduce such equipment. For this reason, even if the United States is unable to move the parties toward an overall settlement now, it is essential that we have some vision of the final settlement we hope to help construct. Otherwise, we may unwittingly create impediments to an overall settlement during the step-by-step process.

VII

It has not been the purpose of this analysis to offer yet another comprehensive Arab-Israeli peace plan, but rather to deal with security-related territorial concerns. Regarding this limited aspect of the problem, it should be understood that Israel must make the important concessions. It is Israel that is being asked to depart East Jerusalem, the Golan Heights, the Gaza Strip and Sharm-el-Sheikh. Israel has vowed never to leave any of these places and it is by no means certain that it can be induced to forsake this vow. For it to do so would require at a minimum both great statesmanship in Israel and considerable pressure from the United States.

On the other hand, a comprehensive settlement would call for the Arabs to make far-reaching, but largely intangible, concessions—in particular, to recognize Israel and normalize relations. In extracting these concessions, it is territorial return which constitutes Israel's chief bargaining counter. But the suggestion here is that, insofar as security is concerned, what Israel requires in exchange for territory is demilitarization. Following an overall settlement in which Israel trades territory for Arab pledges to end belligerency, obstacles to normalization are sure to crop up; renewed tension is a believable forecast. Having giving up cash for credit, Israel is likely to feel betrayed if relations subsequently deteriorate. But it need not feel threatened, provided only that returned territories are demilitarized.

Note.—Neither the Department of Defense nor any agency of the U.S. government bears any responsibility for the opinions expressed herein, which are entirely those of the author.

THE ADMINISTRATION'S FULL EMPLOYMENT GOAL: AN EXPENSIVE STANDARD FOR UNDERACHIEVEMENT

Mr. HUMPHREY. Mr. President, the failure of the Ford administration to achieve its own unpublicized standard for a full employment economy will cost the Federal Government and the taxpayers of the Nation at least $112.4 billion during the next 4 years.

That total is tens of billions more than the estimated cost of achieving a real full employment economy under provisions of H.R. 50 and S. 50, as amended, the Full Employment and Balanced Growth Act of 1976 during the same period.

While testifying in support of H.R. 50 and S. 50, Jacob Clayman, Secretary-Treasurer of the Industrial Union Department of the AFL–CIO, revealed that the Department of Health, Education, and Welfare last year established a 5-percent jobless rate as its full employment—no recession—standard and proceeded to determine the cost of failing to achieve that objective in terms of welfare and unemployment insurance program expenditures.

Mr. President, H.R. 50 and S. 50, introduced by Representative Augustus Hawkins and myself, is designed to establish the framework for coordinated and comprehensive economic policy and program planning by Congress and the administration to attain a mandatory adult unemployment rate of no more than 3 percent by the end of 1980.

The savings that would result from reductions in welfare and unemployment insurance program expenditures and the increase that would occur in tax revenues following enactment of H.R. 50 and S. 50 are far greater than those that would be reached by the limited goal of the HEW study. In my judgment, a 5-percent unemployment rate is totally unacceptable.

Mr. Clayman testified that the HEW study indicated that with the current unemployment rate of 7.5-percent, expenditures made under aid for dependent children, food stamps, general welfare assistance, medicaid, and unemployment insurance programs would be $26.1 billion higher than would otherwise be the case if the unemployment rate was at the Ford administration's own 5 percent full employment standard during all of 1976.

If the administration's own unemployment projections for the next 4 years are applied to these expenditures, the total cost of failing to meet the 5-percent standard is $48 billion during that time span.

Moreover, the failure to meet its own full employment standard during the next 4 years will mean a loss of $64.4 billion in tax revenues, a conclusion based on the fact that each percentage point in the jobless rate results in a reduction of $14 billion in tax payments.

The two sums, $48 billion in additional welfare and unemployment insurance expenditures, and $64.4 billion in lost tax revenue, add up to a total of $112.4 billion for the 4-year period, 1977–80.

---

[4] Mr. Ball's fullest and most recent discussion is in "Kissinger's Paper Peace: How Not to Handle the Middle East," *The Atlantic*, February 1976.

Data presented by Mr. Clayman indicates the following expenditures for welfare and unemployment insurance programs would be made under a 7.5-percent jobless rate as compared to a 5-percent rate *during 1976, according* to the unpublicized HEW study—billions of dollars:

Unemployment rate	*Program cost*
AFDC	
7.5 percent	$14.211
5.0 percent	8.996
Total	5.215
AFDC-UP	
7.5 percent	.742
5.0 percent	.312
Total	.430
FOOD STAMPS	
7.5 percent	5.516
5.0 percent	4.552
Total	.864
GENERAL ASSISTANCE	
7.5 percent	1.523
5.0 percent	1.029
Total	.494
MEDICAID	
7.5 percent	15.468
5.0 percent	12.128
Total	3.540
UNEMPLOYMENT INSURANCE	
7.5 percent	20.632
5.0 percent	4.904
Total	15.728
TOTAL COST OF PROGRAMS IN 1978	
7.5 percent	58.092
5.0 percent	31.921
Total	26.171

The administration's own projections for unemployment during the next 4 years are as follows:

	Percent
1977	7.2
1978	6.5
1979	5.8
1980	5.1

On the basis of HEW data presented by Mr. Clayman, each additional percentage point of unemployment will result in expenditures totaling $10.4 billion for welfare and unemployment insurance programs. Application of the administration's unemployment projections to the 1976 HEW data produces the following increases in total expenditures for these programs above the levels that would otherwise be the case if the administration met its own full employment standard—billions of dollars:

1977	$23.1
1978	15.6
1979	8.3
1980	1.0
Total	48.0

Based on the loss of $14 billion in tax revenue for each percentage point of the unemployment rate, the following reductions in tax revenue would occur during each of the following 4 years as a result of the administration's failure to meet its own full employment standard—billions of dollars:

1977	$30.8
1978	21.0
1979	11.2
1980	1.4
Total	64.4

MORE ON EQUITABLE'S INEQUITY

Mr. METCALF. Mr. President, on April 26, 1976, I placed in the RECORD, at pages 11177, an article from the Insurance Forum on a plan by the Equitable Life Assurance Society of the United States to institute a new dividend policy which would favor newer policyholders over old policyholders. This May 1976 issue of the Insurance Forum contains a further explanation of Equitable's disturbing and discriminatory new dividend policy.

I ask that this article be printed in the RECORD for the benefit of concerned Members of Congress and the public.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORE ON EQUITABLE'S DIVIDENDS

In the April 1975 issue of The Insurance Forum, in an article entitled "Great News—Except for Equitable's Old Policyholders," we discussed the use by The Equitable Life Assurance Society of the United States of an investment year method in its 1976 dividend scale. To place this development in perspective, consider the following analogy:

In 1960, Mr. A deposited $1,000 in a regular savings account in The Hypothetical Mutual Savings Bank, and he has left it there to compound. In 1970, Mr. B deposited $1,000 in a regular savings account in the same bank, and he has left it there to compound. Since 1970, both accounts have been credited annually with 5 percent interest.

In 1976, because of higher interest rates being earned by the bank on its investments, the bank decided to increase the amount of interest paid on its savings accounts. At the same time, the bank introduced a new system of allocating investment income among its depositors. The system is called "the investment year method," and it gives recognition to such things as the year in which deposits are received, the interest rates earned by the bank on investments made in different years, and the rollover of the bank's investments. The net effect of the changes was that new and relatively recent deposits would be credited with a higher rate of interest, and that older deposits would receive the same rate of interest that was credited prior to 1976. As things worked out, Mr. B's account was credited with 6 percent interest in 1976, and Mr. A's account was credited with 5 percent. The explanation was that the bank has been earning a higher rate of return on funds deposited in more recent years.

Now, back to life insurance. Suppose Messrs. C and D bought participating straight life policies from the Equitable in 1960 and 1970, respectively. Since 1970, the same dividend interest rates have been credited to both policies in the company's dividend calculations. Beginning in 1976, however, Mr. D's policy is being credited with a larger dividend interest rate, while Mr. C's policy is being credited with the same dividend interest rate used in 1975. We do not know the dividend interest rates, because neither the company nor the New York Insurance Department has disclosed this information as yet.

There are major differences between accounts in mutual savings banks and policies in mutual life insurance companies. Mr. A probably would learn of the change, withdraw his funds, and redeposit them to get the benefit of the higher interest rate. Mr. C, however, is unlikely to learn of the change. Neither the company nor the New York Insurance Department has made a public announcement of the change. Indeed, one policyholder recently corresponded with the Equitable and was unable to obtain any information suggesting that such a change had been made.

Furthermore, even if he learns of the change, Mr. C may be "locked in," for several reasons. He may have an insurability problem, which would make it difficult or impossible to replace his old policy with a new one. Even if he has no insurability problem, by replacing his old policy with a new one he would incur another front-end load. Also the suicide clause in the new policy would be in effect for two years, and the new policy would be contestable for two years.

In short, it appears that a savings bank would not be able to get away with using the investment year method, but that the Equitable is in a position to carry it off. The question is whether the Equitable could succeed if the old policyholders of the company were informed of what is being done to them.

SOCIAL SECURITY LEGISLATION

Mr. BENTSEN. Mr. President, last January I introduced a bill to insure that our Nation's social security system remains fiscally sound. When I introduced that bill I claimed that it would cut the projected long-term deficit for the social security system in half without denying anyone the benefits which they had earned the right to receive.

Yesterday, the administration presented its annual report on the status of the social security trust funds to Congress. This report confirmed that my bill would indeed halve the deficit that is projected for the system under current law.

Mr. President, the bill which I introduced last January (S. 2901) corrects an unintentional side effect of the social security amendments passed in 1972. The purpose of the 1972 legislation was to assure that people already receiving social security benefits have these benefits updated to reflect increases in the cost of living. I supported this legislation because it guaranteed that there would be no delay between increases in the cost of living and increases in the social security benefit upon which over 31 million Americans depend.

However, it is now clear that the 1972 legislation has a far greater effect than was ever intended. In the long run, as a result of this legislation, a person could receive as much as two and a half times his preretirement earnings in the form of a social security benefit. Currently, people with low average monthly earnings during their working years receive a social security benefit that replaces about 62 percent of their preretirement earnings. People with very high earnings during their working years receive a social security benefit that replaces about 29 percent of their preretirement earnings. This kind of stable relationship between earnings during the working years and the social security benefit is the cornerstone of our social security system.

Our social security system was not designed to alleviate dependency but rather to prevent dependency for those who had worked hard and contributed to our Nation's prosperity. The system was never intended to provide benefits that exceeded a person's earnings during his working years.

However, as the social security trustees' report reveals, by the year 2050, under current law a person with low earnings during his lifetime would receive a social security benefit 2½ times larger than his preretirement earnings. A person with very high earnings during his working years could receive a social security benefit that replaced fully 95 percent of his preretirement earnings.

Mr. President, with 100 million Americans contributing over $66 billion of their earnings to the social security system in a single year, I cannot stand by and let a flaw in the law, an unintentional side effect of otherwise good legislation, jeopardize the stability of the system and the confidence of people in this system. We cannot allow young workers to contribute so much of their earnings to social security without being able to assure them that upon their retirement, they will receive an equitable benefit that bears the same relation to their earnings as the benefits received by the generation which preceded them.

Therefore, I urge my colleagues to support the legislation which I introduced last January and which the trustees' report now confirms will cut the projected long term deficit in half and will stabilize the relationship between a person's preretirement earnings and the social security benefit which he eventually receives. My bill will not tamper with the automatic cost-of-living increases to social security benefits that a person receives after he has retired. It will simply assure that the relationship between a person's preretirement earnings and his social security benefit remains constant.

Mr. President, even the trustees of the social security system recognize the need for this legislation. They say:

> . . . the (social security) benefits projected to materialize . . . reach unreasonably high levels for persons who first become entitled to benefits in the next century. Historically legislative action has been taken to bring projected future income to and disbursement from the trust funds into balance, and it is clearly imperative that legislative changes be made to prevent these projected benefit levels from materializing.

As I am sure my colleagues will agree, reducing the size of the social security system's long term deficit and stabilizing replacement rates—the proportion of a worker's earnings that is replaced by his social security benefit—are compelling enough reasons to amend the current law governing the old age survivors and disability insurance system. However, there is another equally vital issue to add to this list—the size of the contributions by employers and employees that will be required to keep this system solvent. Under the most pessimistic economic assumptions, fully 15.32 percent of total taxable payroll in this country will be needed by the year 2000 to finance the social security system. By the year 2050 this figure soars to an unbelievable 46.02 percent of taxable payroll. This means that nearly half of all earnings that can be taxed under social security will have to be diverted to the financing of our social security system in that year. This is clearly an intolerable and irrational direction for our country's social insurance system to be moving. Currently, social security is supported by taxes equaling 9.9 percent of taxable payroll—with half of this amount paid by the employer and half by the employee.

Mr. President, the statement I made last January when I introduced my bill, S. 2901, to make more rational and equitable the method of computing benefits under the old age, survivors and disability insurance system, has been confirmed by the social security system's actuaries. The legislation will cut the long term deficit projected for the system in half and will stabilize replacement rates without tampering with the automatic cost-of-living adjustments for people already drawing benefits. I urge my colleagues to support this legislation and act with all possible speed to restore the integrity of and confidence in our Nation's social security system. I ask unanimous consent that a copy of my bill, S. 2901, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Amendments of 1976".

COMPUTATION OF PRIMARY INSURANCE AMOUNT

Sec. 2. (a) Section 215(a) of the Social Security Act is amended to read as follows:

"(a) The 'initial primary insurance amount' of an insured individual shall be determined as follows:

"(1) Subject to the conditions specified in subsection (b) of this section and except as provided in paragraphs (2), (4), (5), (6), and (7) of this subsection, such initial primary insurance amount shall be computed for whichever of the following first occurs: the year in which the individual first becomes entitled to a disability insurance benefit, the year in which the individual dies, or the year in which the individual attains age 62 (or 1978, if later): *Provided,* That (A) no such initial primary insurance amount shall be determined with respect to an individual who was entitled to an old-age insurance benefit or a disability insurance benefit for December 1977 (other than such an individual whose disability insurance benefit terminated by no longer being under a disability, but then only with respect to an event of disability, death, or attainment of age 62 occurring thereafter) or who died prior to 1977 and (B) with respect to an individual whose disability insurance benefit terminates because he is no longer under a disability, a new determination of such initial primary insurance amount shall be made upon subsequent disability, death, or attainment of age 62. The amount of such initial primary insurance amount shall be determined from the following formula for individuals who first become entitled to disability insurance benefits in 1978, who die in 1978 and have not attained age 62 and were not entitled to a disability insurance benefit for the month before the month in which they died, or who attain age 62 in 1978 or had attained age 62 prior to 1978 and were not entitled to a disability insurance benefit for the month before the month of attainment of age 62 or, if later, for December 1977:

"(C) 81 percent of the first $175 of average indexed monthly earnings, plus

"(D) 29 percent of the next $865 of average indexed monthly earnings, plus

"(E) 15 percent of average indexed monthly earnings in excess of $1,040.

With respect to individuals who first become entitled to a disability insurance benefit for a month in a year after 1978, who die in a year after 1978 and have not attained age 62 and were not entitled to a disability insurance benefit for the month before the month in which they died, or who attain age 62 in a year after 1978 and were not entitled to a disability insurance benefit for the month before the month of attainment of age 62, the applicable formula shall be obtained by multiplying each of the three dollar factors in the foregoing formula by the ratio of (F) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year preceding such year to (G) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1977 (with such resulting factors being rounded to the nearest cent). On or before November 1 of each year after 1977, the Secretary shall publish in the Federal Register the applicable benefit formula for the benefit determination year (as defined in subsection (b)(5) of this section) applicable to individuals becoming disabled, dying, or attaining age 62 in the following calendar year.

"(2) Such initial primary insurance amount shall be $101.40 (as increased after application of any cost-of-living increases in benefits under subsection (i) which have occurred after such dollar amount was established as the minimum primary insurance amount and the date the individual's initial primary insurance amount is determined) in any case in which such amount is higher than the individual's initial primary insurance amount as determined under paragraph (1).

"(3) The 'primary insurance amount' of an individual whose initial primary insurance amount was determined under this subsection shall be such initial primary insurance amount for all months up to and including the May of the year for which such initial primary insurance amount is determined. For all subsequent months, the primary insurance amount shall be determined in accordance with subsection (i).

"(4) In the case of an individual who was entitled to a disability insurance benefit for the first month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, such primary insurance amount shall be the primary insurance amount to which such individual would have been entitled if he had been entitled to a disability insurance benefit for such first month.

"(5) Such primary insurance amount shall be an amount equal to $9 multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under the preceding paragraphs of this subsection.

"(6) In the case of any individual who attains age 62 prior to 1987, the initial primary insurance amount of an insured individual as determined under the preceding paragraphs of this subsection shall not be less than the primary insurance amount which would have been determined under the provisions of this section as it was applicable for December 1977 (without the application of any cost-of-living increases in benefits under subsection (i) after 1977).

"(7) The initial primary insurance amount of an insured individual who was entitled to old-age or disability insurance benefits for December 1977, or who died before 1978 shall be the primary insurance amount on which such old-age or disability insurance benefit for December 1975, was based, or in the case of deaths before 1978, the primary insurance amount for December 1977 on which an old-age or disability insurance benefit would have been based if such deceased individual had not died before 1978. Such initial primary insurance amount shall, for purposes of paragraph (3), be deemed to have been determined for January 1978.

For purposes of paragraph (5), an individual's 'years of coverage' is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by $900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(C)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year.".

(b) Section 215 of such Act is amended by striking out subsections (c) and (d).

(c) Section 215(f) of such Act is amended by striking "subsections (a)(1)(A) and (C) and (a)(3)" and inserting in lieu thereof "subsection (a)".

(d) Section 215(i) of such Act is amended by striking out "subsection (a)(3)" in subparagraph (2)(A)(ii) and inserting in lieu thereof "subsection (a)(5)" and by striking out all that follows the first sentence of subparagraph (2)(D).

(e) Such section 215(i) is further amended by adding the following new paragraph at the end thereof:

"(4) The primary insurance amount that is used to determine the monthly insurance benefits for survivors under subsections (d), (e), (f), (g), and (h) of section 202 for a month shall be the primary insurance amount which would be applicable to the insured individual for that month if he were then alive and entitled to a disability insurance benefit or to an old-age insurance benefit.".

AVERAGE INDEXED MONTHLY EARNINGS

SEC. 3. (a) Section 215(b)(1) of the Social Security Act is amended to read as follows:

"(1) For the purposes of the formula for the initial primary insurance amount contained in subsection (a), an individual's 'average indexed monthly earnings' shall be the quotient obtained by dividing—

"(A) the total of his indexed earnings (as defined in paragraph (5)) credited to his 'benefit computation years' (determined under paragraph (2)), by

"(B) the number of months in such years.".

(b) Section 215(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(5) An individual's 'indexed earnings' for any year after 1950 shall be the product of (A) the total of his wages paid in such year and self-employment income credited for such year and (B) the 'earnings index' applicable to such year to the individual's 'benefit determination year', with such product, if not a multiple of $1, being rounded to the next higher $1 where such product is a multiple of 50 cents but not of $1 and to the nearest multiple of $1 in any other case. An individual's 'benefit determination year' shall be the year before the year for which his initial primary insurance amount is to be determined (in accordance with subsection (a)). The 'earnings index' for any particular year prior to an individual's benefit determination year shall be the ratio of (C) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such benefit determination year to (D) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such particular year, with such ratio being rounded to five decimal places; the 'earnings index' for the individual's benefit determination year and for subsequent years shall be 1.00000.".

(c) Section 203(a) of such Act is amended—

(1) in the matter preceding clause (1) thereof, by striking out "the amount appearing in column V of the table in (or deemed to be in) section 215(a) on the line on which appears in column IV such individual's primary insurance amount" and inserting in lieu thereof "such insured individual's 'maximum family benefits amount' (meaning an amount equal to 150 per centum of the first $205 of such individual's primary insurance amount, plus 275 per centum of the next $95 of his primary insurance amount, plus 135 per centum of the next $85 of his primary insurance amount, plus 175 per centum of so much of his primary insurance amount as exceeds $385)", and

(2) in clause (1) thereof, by striking out "the last figure in column V of the table appearing in section 215(a)" and inserting in lieu thereof "the maximum family benefits amount (as hereinbefore defined in this subsection) for the highest primary insurance amount that would be payable for such month".

(d) Section 203(a)(5) of such Act is amended to read as follows:

"(5) during the 10-year period beginning on the date of enactment of this Act, whenever the first sentence of this subsection would result in a lower maximum family benefit than would have resulted under the provisions of section 215 of the Social Security Act as it was applicable for December 1977, but without the application of any cost-of-living increases to the benefit table in subsection (a) of such section as a result of subsection (i)(2)(D) of such section for any subsequent months (but with the application of cost-of-living benefit increases as a result of subsections (i)(2)(A) and (i)(2)(B) of such section to individuals entitled to monthly benefits after December 1977 for all periods after the first month of entitlement).".

(e) Section 224(a) of such Act is amended by striking out "average monthly wage" in clause (A) and inserting in lieu thereof "average indexed monthly earnings".

EFFECTIVE DATE PROVISIONS

SEC. 4. The amendments made by sections 2 and 3 shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1977 and with respect to lump-sum death payments under section 202(i) of such Act in the case of deaths occurring after such month.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks recognition, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 10:41 a.m., recessed until 10:56 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. LEAHY).

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS FOR 3 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 3 minutes.

There being no objection, the Senate, at 10:57 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. LEAHY).

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to the consideration of H.R. 8532, which will be stated by title.

The assistant legislative clerk read as follows:

Calendar 781 (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the following staff members be permitted the privilege of the floor during consideration of H.R. 8532 and any vote thereon: Tom Brennan of Senator MCCLELLAN's staff, and Charles Kern of Senator FONG's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Emory Sneedon of my staff be granted privilege of the floor during consideration and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I ask unanimous consent that David Rubenstein of Senator BAYH's staff be given the privilege of the floor during the proceeding on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. HRUSKA. Mr. President, I ask unanimous consent that Peter Chumbris of the staff of the Committee on the Judiciary be permitted privilege of the floor during the debate and voting on this measure and all related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1701

Mr. PHILIP A. HART. Mr. President, on behalf of myself and Senator HUGH SCOTT, I send to the desk an amendment in the nature of a substitute to H.R. 8532. The amendment substitutes the text of S. 1284 reported by the committee.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HRUSKA. Reserving the right to object——

The legislative clerk read as follows:

The Senator from Michigan (Mr. PHILIP A. HART) for himself and Mr. HUGH SCOTT proposes an amendment in the nature of a substitute.

Mr. PHILIP A. HART. Mr. President, I ask that further reading of the substitute be dispensed with and that I be permitted to make an explanation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment will be printed in full in the RECORD.

The amendment is as follows:

SHORT TITLE

SEC. 101. This Act may be cited as the "Hart-Scott Antitrust Improvements Act of 1976".

TITLE I—DECLARATION OF POLICY

SEC. 102. (a) It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement of the antitrust laws, to improve and modernize antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

(b) The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free, democratic society;

(2) the decline of competition in the economy could contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(5) vigorous and effective enforcement of the antitrust laws, and reduction of anticompetitive practices in the economy, can contribute to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms.

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

SEC. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Subsection (a) of section 2 is amended by inserting "and" after the semicolon at the end of subparagraph (1), by striking subparagraph (2) thereof, and by renumbering subparagraph (3) and striking therefrom "(A)" after the words "with respect to," substituting a semicolon for the comma after the words "trade or commerce" and striking the remainder of the subparagraph.

(b) Subsection (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities preparatory to a merger, acquisition, joint venture, or similar transaction, which may lead to any antitrust violation;".

(c) Subsection (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including any natural person or entity acting under color or authority of State law;".

(d) Subsection (h) of section 2 is amended by striking out the words "antitrust document".

(e) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation or to competition in a Federal administrative or regulatory agency proceeding, he may, prior to the institution of a civil or criminal proceeding thereon or during the pendency of an agency proceeding, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning such information, or to furnish any combination thereof.".

(f) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the investigation and the provision of law applicable thereto or the Federal administrative or regulatory agency proceeding involved; and

"(2)(A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) propound with definiteness and certainty the written interrogatories to be answered; and

"(ii) prescribe a date or dates at which time answers to the written interrogatories shall be made; and

"(iii) identify the custodian to whom such answers shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examination, and the custodian to whom the transcript of such examination shall be given.".

(g) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any information that would be privileged from disclosure if demanded by, or pursuant to, a subpena issued by a court of the United States in aid of a grand jury investigation; and

"(2)(A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(h) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand *or of* any petition filed under section 5 of this Act may be made upon any person who, in the opinion of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, is not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(i) Section 3 is further amended by inserting the following new subsections immediately after subsection (h), as redesignated:

"(i) The production of documentary material in response to a demand for production thereof shall be made under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed or, if the person to which the demand is directed is not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer, and the answers shall be submitted under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed, or if the person to which the demand is directed is not a natural person, by a person or persons responsible for the answers, to the effect that all information requires by the demand and in the possession, custody, or control of the person to whom the demand is directed, or within the knowledge of such person, has been furnished.

"(k)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the custodian. The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts personal business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) When the testimony is fully transcribed, the witness shall be afforded an opportunity to examine the transcript, in the presence of the officer, for errors in transcription. Any corrections of transcription errors which the witness desires to make shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The witness also may clarify or complete answers otherwise equivocal or incomplete on the record, which shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded an opportunity to examine it, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the custodian. Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

"(4) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer any question on grounds of privilege or other lawful grounds; but he shall not otherwise interrupt the examination. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such person had refused to answer such question after having been subpenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(5) Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person, not the subject of an antitrust investigation (or an officer, director, employee or agent thereof), who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.".

(j) Subsection (a) of section 4 is amended by striking the words "antitrust document", and by inserting immediately after the word "custodian" the words "of documentary material demanded, answers to written interrogatories served, or transcripts of oral testimony taken, pursuant to this Act".

(k) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(l) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "any" the word "such", by inserting in the first sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the second sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the third sentence immediately after the word "material", in both places where it appears, the words "or information", by inserting in the fourth sentence immediately before the word "documentary" the word "such", and by adding after the fourth sentence the following new sentence: "Such documentary material and answers to interrogatories may be used in connection with any oral testimony taken pursuant to this Act.".

(m) Subsection (d) of section 4 is amended to read as follows:

"(d)(1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding such attorney shall return to the custodian any such materials so delivered that have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony shall deliver to the Federal Trade Commission, in response to a written request, copies of such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any investigation or proceeding under its jurisdiction unless the Assistant Attorney General in charge of the Antitrust Division determines that it would not be in the public interest to provide such material to the Commission. Upon the completion of any such investigation or proceeding, the Commission shall return to the custodian any such materials so delivered that have not been introduced into the record of such case or proceeding before the Commission. While such materials are in the possession of the Commission, it shall be subject to any and all restrictions and obligations which this Act places upon the custodian of such materials while in the possession of the Antitrust Division of the Department of Justice.".

(n) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of—

"(1) the antitrust investigation for which any documentary material was produced pursuant to this Act; and

"(2) any such case or proceeding,

the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(o) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection(c) of this section) so produced by such person.".

(p) Subsection (g) of section 4 is amended to read as follows:

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced, answers to written interrogatories served, or transcripts of oral testimony taken, under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material, answers to interrogatories, or transcripts of oral testimony, and (2) transmit in writing to the person who submitted the documentary material notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

(q) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(r) The first sentence of subsection (b) of section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator or investigators named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(s) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: "*Provided*, That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(t) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(u) Subsection (c) of section 5 is amended by striking out the word "delivered" and by inserting immediately after the word "material" the words "or answers to interrogatories delivered, or transcripts of oral testimony given".

(v) The third paragraph of section 1505 of title 18, United States Code, is amended by inserting between the words "any" and "documentary" the words "oral or written information or any", and by inserting between the third and fourth paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

Sec. 202. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October 15, 1914 (15 U.S.C. 16), is amended by adding at the end thereof the following new subsections:

"(j) A plea of nolo contendere in a criminal proceeding under the antitrust laws shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

"(k) The Attorney General, unless he determines it would be contrary to the public interest shall upon written request from the Federal Trade Commission, after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding or after the termination of any grand jury proceeding which does not result in the institution of such a proceeding, permit the Commission to inspect and copy any documentary material produced in and the transcripts of such grand jury proceeding. While such materials are in the possession of the Commission, the Commission shall be subject to any and all restrictions and obligations placed upon the Attorney General with respect to the secrecy of such materials.

"(l) Any person that institutes a civil action under this Act may, upon payment of reasonable charges therefor and after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding, inspect and copy any documentary material produced in and the transcript of such grand jury proceeding concerning the subject matter of such person's civil action. Any action or proceeding to compel the grant of access under this subsection shall be brought in the United States district court for the district in which the grand jury proceeding occurred. The court may impose conditions upon the grant of access and protective orders that are required by the interests of justice.".

Sec. 203. The provisions of this title shall be effective on the date of enactment of this Act, and the provisions providing for the production of documents or information may be employed in respect of acts, practices, and conduct that occurred prior to the date of enactment thereof.

TITLE III—MISCELLANEOUS AMENDMENTS

AFFECTING COMMERCE

Sec. 301. (a) Sections 2 and 3 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 13 and 14) and section 3 of the Act entitled "An Act to amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (15 U.S.C. 13a), are amended by striking out the words "in commerce" wherever the term appears and inserting in lieu thereof the words "in or affecting commerce".

(b) Section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 18), is amended by striking out in the first sentence thereof the words "engaged in commerce" and "engaged also in commerce,"; by striking out in the second sentence thereof the words "engaged in commerce,"; by inserting in the first sentence thereof after the word "corporation", third appearance, the words ", where the activities of either corporation are in or affect commerce and"; by inserting in the first sentence thereof a comma between the words "where" and "in"; by inserting in the second sentence thereof after the word "corporations" the words ", where the activities of either corporation are in or affect commerce and"; and by inserting in the second sentence thereof a comma between the words "where" and "in".

(c) Section 6 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 6), as amended, is amended by striking the words "and being in the course of transportation from one State to another, or to a foreign country", and inserting in lieu thereof the words "and being in or affecting commerce among the several States, or with foreign nations".

COMPLEX CASES

Sec. 302. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12), is amended by adding at the end thereof the following new section:

"Sec. 27. (a) In any civil action brought in any district court of the United States under the antitrust laws, or any other Acts having like purpose that have been or hereafter may be enacted, the chief judge of the district court or the trial judge assigned to hear and determine the case—

"(1) may, upon application of either party to the proceeding, or upon his own motion, designate the case as a complex antitrust case; and

"(2) shall, upon the filing of a certificate by the Attorney General that, in his opinion, the case is a complex antitrust case, designate the case as a complex antitrust case.

It shall be the duty of the chief judge, and the trial judge designated to hear and determine any case designated as a complex antitrust case, to set the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. Special masters, economic experts, and other personnel may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters.

"(b) Such special masters, economic experts, and other personnel as may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters, also may serve as expert witnesses. They may be used by the court in all phases of the trial, including the preparation and analysis of plans for relief. They (1) may be furnished with all evidence introduced by any party; (2) may provide additional evidence subject to objection by any party; (3) may provide an analysis of issues with particular reference to proposed orders to restore effective competition; (4) may recommend provisions for proposed orders to restore effective competition; and (5) shall be subject to cross-examination and rebuttal.

"(c) In any case designated as a complex antitrust case, the provisions of section 604 of title 28, United States Code, providing for the payment of expenses and compensation shall apply in order to provide compensation to such master, expert or other personnel that may be appointed.".

FOREIGN ACTIONS

Sec. 303. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12), is amended by adding at the end thereof the following new section:

"Sec. 28. In any civil action or proceeding before any court of the United States, involving any Act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies, in which the court orders any party (or any officer, director, employee, agent, subsidiary, or parent thereof within the jurisdiction of the court) to furnish discovery, evidence, or testimony in the custody, possession, or control of such party (or officer, director, employee, agent, subsidiary, or parent thereof) and such party (or officer, director, employee, agent, subsidiary, or parent thereof) refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance by such party (or officer, director, employee, agent, subsidiary, or parent thereof) with such order, the court may enter an order against such party dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party: *Provided*, That where in any such action or proceeding the court orders any party to furnish discovery, evidence, or testimony in the custody, possession, or control of any officer, director, employee, agent, subsidiary, or parent of such party not subject to the jurisdiction of such court and such party refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance by such person or entity with such order, the court shall order such party to make a good faith effort to secure a waiver from such law. If the court determines that such effort has been made and a waiver is not secured, it shall not on the basis of such refusal, declination, or failure enter an order against such party dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party.".

ATTORNEYS' FEES

SEC. 304. Section 16 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 16, 1914 (15 U.S.C. 26), is amended by adding at the end thereof the following new sentence: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.".

SEVERABILITY

SEC. 305. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Section 301 of this title shall apply to acts, practices, and conduct occurring after the date of enactment of this Act.

(b) Section 302 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed.

(c) Section 303 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Nothing contained in this subsection shall be deemed to limit the authority of any court to reenter any discovery order heretofore entered, and thereby make such section 303 applicable thereto.

(d) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

TITLE IV—PARENS PATRIAE AMENDMENTS

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4B the following new sections:

"SEC. 4C. (a) (1) Any attorney general of a State may bring a civil action, in the name of such State in any district court of the United States having jurisdiction of the defendant, to secure monetary and other relief as provided in this section in respect of any damage sustained, by reason of the defendant's having done anything forbidden in the Sherman Act, by the natural persons residing in such State, or any of them: *Provided*, That no monetary relief shall be awarded in respect of such damage that duplicates any monetary relief that has been awarded or is properly allocable to (i) such natural persons who have excluded their claims pursuant to subsection (b) (2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in subsection (a) (1) of this section; such other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act; and the cost of suit, including a reasonable attorney's fee and other expenses of the litigation.

"(b) (1) In any action brought under subsection (a) (1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person may elect to exclude from adjudication in an action brought under subsection (a) (1) of this section the portion of the State claim for monetary relief attributable to him. He shall do so by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b) (1) of this section.

"(3) The final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this Act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b) (2) of this section.

"(c) (1) In any action brought under subsection (a) (1) of this section, and in any case action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

"(2) In any action brought under subsection (a) (1) of this section, the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"(d) An action brought under this section shall not be dismissed or compromised without approval of the court after providing such notice to persons affected thereby as the court shall direct in the interests of justice.

"(e) In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"SEC. 4E. (a) In any action under section 4 or 4C of this Act, the State or any other plaintiff shall be entitled to recover treble damages in respect to the full amount of overcharges incurred or other monetary damages sustained in connection with expenditures under a federally funded program, notwithstanding the fact that the United States funded portions of the amounts claimed.

"(b) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(c) Out of any damages recovered pursuant to this section, the United States shall be entitled to the portion of the overcharges or other monetary damages, untrebled, that it sustained or funded. Whenever another Federal statute or law provides a specified method of settlement of accounts between the State and Federal governments, in respect of such recovery, such method shall be used. Otherwise, the court before which the action is pending shall determine the method.

"(d) In the event of multiple actions in respect of the same alleged overcharges or other damages relating to a federally funded program, the defendant shall not be assessed, in total, more than threefold such damages.

"SEC. 4F. For the purposes of sections 4C, 4D, and 4E of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and shall include the Corporation Counsel of the District of Columbia.

"(2) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1), as amended or as may be hereafter amended.".

SEC. 402. Section 4B of such Act is amended by striking out the words "sections 4 or 4A" and inserting in lieu thereof the words "sections 4, 4A, or 4C".

SEC. 403. Section 5(i) of such Act is amended by striking out the words "private right of action" and inserting in lieu thereof the words "private or State right of action"; and by striking out the words "section 4" and inserting in lieu thereof the words "sections 4 or 4C".

SEC. 404. If any provision of this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by such holding.

SEC. 405. This title shall apply to all civil actions filed under the antitrust laws in which a person representing a class of natural persons or a State is plaintiff, including those in which the cause of action accrued before the date of enactment of this title, but shall not apply to any civil action alleging a violation previously alleged in any civil action filed on behalf of a class of consumers.

TITLE V—PREMERGER NOTIFICATION AND STAY AMENDMENTS

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 7A to read as follows:

"SEC. 7A. (a) Notwithstanding any other provision of law, except as exempted pursuant to subsection (b) (4) of this section, until expiration of the notification and waiting period specified in subsection (b) (1) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce, and—

"(1) stock or assets of a manufacturing company with annual net sales or total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(2) stock or assets of a non-manufacturing company with total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(3) stock or assets of a person or persons with annual net sales or total assets of

$100,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $10,000,000 or more.

"(b) (1) The notification and waiting period required by this section shall expire thirty days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') duplicate originals of the notification specified in paragraph (3) of this subsection, or until expiration of any extension of such period pursuant to subsection (c) (2) of this section, whichever is later, except as the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c) (4) of this section.

"(2) Notwithstanding any other provision of law or the applicability of subsection (a) of this section, except as exempted pursuant to subsection (b) (4) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if—

"(A) the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce; and

"(B) the Federal Trade Commission, with the concurrence of the Assistant Attorney General, by general regulations requires, after notice and submission of views, pursuant to section 553 of title 5, United States Code, that such person or persons, or any class or category thereof, shall not do so until the expiration of thirty days following the filing of a notification (specified pursuant to paragraph (3) of this subsection), or until the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c) (4) of this section, whichever occurs first.

"(3) (A) The notification required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The fact of the filing of the notification required by this section and all information and documentary material contained therein shall be considered confidential under section 1905, title 18, United States Code, until the fact of such filing or of the proposed merger or acquisition is public knowledge, at which time such notification, information, and documentary material shall be subject to the provisions of section 552(b), title 5, United States Code. Nothing in this section is intended to prevent disclosure to any duly authorized committee or subcommittee of the Congress, to other officers or employees concerned with carrying out this section or in connection with any proceeding under this section.

"(4) (A) The Federal Trade Commission, with the concurrence of the Assistant Attorney General, is authorized and directed to define the terms used in this section, to prescribe the content and form of reports, by general regulation to except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not inconsistent with the purposes of this section, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The following classes of transactions are exempt from the notification requirements of this section:

"(i) goods or realty transferred in the ordinary course of business;

"(ii) bonds, mortgage, deeds of trust, or other obligations which are not voting securities;

"(iii) interests in a corporation at least 50 per centum of the stock of which already is owned by the acquiring person or a wholly owned subsidiary thereof;

"(iv) transfers to or from a Federal agency or a State or political subdivision thereof;

"(v) transactions exempted from collateral attack under section 7 of this Act if approved by a Federal administrative or regulatory agency: *Provided,* That duplicate originals of the information and documentary material filed with such agency shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(vi) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), as amended, or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1824), as amended;

"(vii) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended, section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), as amended, or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended: *Provided,* That duplicate originals of the information and documentary material filed with such agencies shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least thirty days prior to consummation of the proposed transaction;

"(viii) acquisitions, solely for the purpose of investment, of voting securities, if, at the time of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(ix) acquisitions of voting securities, if, at the time of such acquisition, the securities acquired do not increase, directly or indirectly, the acquiring person's share of outstanding voting securities of the issuer; and

"(x) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, other than voting securities or other voting share capital, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business.

"(C) For the purpose of subsection (b) (4) (B) of this section, 'voting security' means any security presently entitling the owner or holder thereof to vote for the election of directors of a company or, with respect to unincorporated issuers, persons exercising similar functions.

"(c) (1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the periods specified in subsection (b) (1) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) The Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsection (b) (1) of this section for an additional period of up to twenty days after receipt of the information and documentary material submitted pursuant to subsection (c) (1) of this section.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that a proposed acquisition or merger violates section 7 of this Act, or section 1 or 2 of the Sherman Act (15 U.S.C. 1–2), and the Federal Trade Commission or the Assistant Attorney General (i) files a motion for a preliminary injunction against consummation of such acquisition or merger pendente lite, and (ii) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(1) upon the filing of such certification the chief judge of such district court shall enter an order temporarily restraining consummation of such proposed acquisition or merger until final disposition of the motion for a preliminary injunction; and shall immediately notify the chief judge of the United States court of appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes;

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited;

"(3) a preliminary injunction shall issue restraining consummation of such proposed acquisition or merger until the order of the Federal Trade Commission in respect thereof or the judgment entered in such action has become final unless the defendants show that the Federal Trade Commission or the United States does not have a reasonable probability of ultimately prevailing on the merits, or that they will be irreparably injured by the entry of such an order, in which case the court may deny, modify, or subject such preliminary injunction to such conditions as the court shall deem just in the premises: *Provided,* That a showing of loss of anticipated financial benefits from the proposed acquisition or merger shall not be sufficient to warrant denial, modification, or conditioning of such an injunction; and

"(4) if a decision by the district court on such motion for a preliminary injunction is not issued within sixty days after issuance of the order temporarily restraining consummation of such proposed acquisition or merger, under paragraph (1) of this subsection, such order shall be vacated unless, for good cause, the chief judge of the United States court of appeals for such circuit extends such order.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b) (1) and (b) (2) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to such acquisition, at any time under any provision of law.

"(f)(1) Whenever any person violates or fails to comply with the provisions of subsection (a) of this section, such person shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Whenever any person fails to furnish information required to be submitted, pursuant to subsection (c)(1) of this section, such person shall be liable for the penalties provided for noncompliance with the provisions of the Federal Trade Commission Act or the Antitrust Civil Process Act, as the case may be.

"(g) In any proceeding instituted or action brought by the Federal Trade Commission or the United States alleging that an acquisition violates section 7 of this Act, or sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), upon application of the Federal Trade Commission or the Assistant Attorney General to the United States district court within which the respondent resides or carries on business, or in which the action is filed, such court shall, as soon as practicable, enter an order establishing the purchase price of the acquired stock or assets, requiring the person or persons to maintain the personnel, assets, stock or firm being acquired as a separate entity unless the interests of justice require otherwise, and may enter an order requiring the profits of the acquired firm, stock, or assets to be placed in an escrow account, pending the outcome of the proceeding or action. Upon entry of a final order or judgment of divestiture under section 7 of this Act, or sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), the court shall order that the divestiture be accomplished expeditiously. To the extent practicable, the court may deprive the violator of all benefits of the violation including tax benefits.".

SEC. 502. The provisions of this title shall be effective one hundred and twenty days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized and directed to carry out the requirements of sections 7A (b)(3) and (b)(4) of the Clayton Act, as amended by this Act.

Mr. HRUSKA. May I ask what the nature of the amendment is?

Mr. PHILIP A. HART. It is S. 1284, as reported by the Judiciary Committee. This is the bill which was the subject of considerable hearing and discussion.

Mr. HRUSKA. And the amendment consists of the text of that bill, except for the number and the title, am I correct?

Mr. PHILIP A. HART. I believe there is no change, save in the title and number.

May I ask the Parliamentarian if that is correct?

The PRESIDING OFFICER. There is no change.

Mr. PHILIP A. HART. No change.

Mr. HRUSKA. Then the number will be a Senate number?

Mr. PHILIP A. HART. No, the number will be the House bill. The amendment substitutes all after the enacting clause. Is that correct?

Mr. HRUSKA. And, of course, it is subject to debate.

Mr. PHILIP A. HART. It is subject to debate.

The PRESIDING OFFICER. It has the effect of becoming S. 1284 with the House title and number.

Mr. PHILIP A. HART. I thank the Senator.

Mr. President, since 1890 and the passage of the Sherman Act, this Nation has been wary of great stores of economic power. The antitrust laws set forth the tenets of diffused economic power and the concept that competing forces, rather than the Government itself, should offer the balance in a free market society.

The legislation that we begin debate on today acknowledges those tenets. If our economy has fallen short, and it has, it is not because those principles have failed, but rather because we failed to provide legislatively enforcement methods that are effective.

The distinguished minority leader (Mr. HUGH SCOTT) and I believe that the deterrent effect and enforcement of our antitrust laws can be significantly improved. This amendment is designed to strengthen both the public and private system of antitrust enforcement.

It does not change substantive standards. It does not make anything illegal which is not already illegal.

It will make violations easier to detect and it will increase the exposure of violators. In the words of one businessman, white collar crime still does pay:

> When you're doing $30 million a year and stand to gain $3 million by fixing prices, a $30,000 fine doesn't mean much. Face it, most of us would be willing to spend 30 days in jail to make a few extra million dollars. Business Week (June 2, 1975)

Under this amendment, that businessman would stand a greater chance of being forced to pay back that $3 million trebled.

It may be suggested that the committee did not carefully consider the provisions of this legislation. I believe the record clearly demonstrates otherwise. More than 40 witnesses submitted testimony that can be described fairly as exhaustive. Their testimony and related materials are sufficient to fill three volumes. In addition, the amendment was subjected to 16 hours of markup in the full committee—a near record during my tenure in that body.

The amendment consists of five interrelated, but separate, titles. However, the more important provisions—for which there are counterparts in the House—are contained in titles II, IV, and V.

TITLE II—ADDITIONAL INVESTIGATIVE POWERS FOR THE DEPARTMENT OF JUSTICE

Title II would grant additional powers to the Department of Justice to investigate violations of the antitrust laws. Under present law, if the Antitrust Division has reasonable cause to believe that a criminal violation has occurred, it may convene a Federal grand jury to conduct an investigation. Understandably, the courts have frowned on the use of grand juries to investigate conduct which constitutes a civil—and not a criminal—violation. And, some of our antitrust statutes, the Clayton Act and portions of the Robinson-Patman Act, for example, contain no criminal sanctions. In these instances, the Department must rely upon the voluntary cooperation of the parties being investigated or use the limited provisions of the Antitrust Civil Process Act of 1962. Under the 1962 law, the Attorney General may compel the production only of documentary material from nonnatural persons, usually corporations who are the targets of the investigations. The Attorney General may not compel the production of relevant information from third parties who are not subjects of the investigation. Third parties may be trade associations who have market share data or suppliers, customers, or competitors who may be able to shed light on a particular business practice. In addition, the Attorney General is prohibited from issuing written interrogatories or taking oral depositions under this statute. And, what is even more troublesome, the Department may not investigate mergers under the Antitrust Civil Process Act until after the transaction has taken place. After an illegal merger has taken place, securing adequate relief is extremely difficult. Once the eggs of the two companies have been scrambled, it becomes difficult, if not impossible, to pull them apart.

There is a third option available to the Department with respect to civil investigations. The Division could go ahead on the basis of sketchy information and file a complaint, and then use the discovery provisions of the Federal Rules of Civil Procedure to gather evidence. Obviously, this is not a responsible way for any Government agency to proceed. It puts the Department in the position of pretending to bring charges in order to determine whether or not actual charges should be brought. Moreover, once a complaint is filed, it is not always easy to dismiss. There is resistance in any institution to admitting you were wrong in the first place.

Facts are of paramount importance in attempting to decide whether or not a violation has taken place. Effective antitrust enforcement requires full and comprehensive investigation before formal proceedings are filed. Incomplete investigation may mean proceedings not justified by more careful search and study.

Title II attempts to remedy these defects in the Department's precomplaint investigative process. It would amend the Antitrust Civil Process Act to authorize the Division to:

First, issue a civil investigative demand to investigate mergers and acquisitions prior to consummation;

Second, issue a civil investigative demand to obtain relevant evidence from natural persons and third parties;

Third, take oral testimony and written interrogatories, in addition to obtaining documentary evidence, pursuant to a CID; and

Fourth, issue a civil investigative demand to obtain relevant competitive evidence for use in ongoing regulatory agency proceedings.

The Federal Trade Commission, Department of Labor, Internal Revenue Service, and practically every other Federal regulatory agency already possess the investigatory powers that title II would authorize for the Department of Justice. Nonetheless, some object to the grant of this additional authority to the Department of Justice because, unlike other executive branch or regulatory agencies, it is also the prosecutor for criminal violations. To protect against potential abuse, title II would require a court order to enforce any Department request. In other words, no civil investigative demand could be enforced against any person until the Department went before a district court judge and sought an order requesting compliance. The person against whom the order is sought may defend and appeal any order entered against him. A Federal district court is interposed between the Government and the public before any compliance may be forced.

TITLE II—ACCESS TO GRAND JURY MATERIALS BY PRIVATE PLAINTIFFS

In addition to the Department of Justice and the Federal Trade Commission, Congress has relied upon private suits to aid antitrust enforcement since the passage of the original antitrust statute, the Sherman Act, in 1890. The private antitrust suit blends antitrust policy with private compensatory law. It enlists the aid of an injured private party in enforcing the antitrust laws by allowing threefold the recovery of damages. In recent years, the number of private suits filed far exceeds the number of cases filed by the Antitrust Division. When the Government does sue, however, it is not uncommon for private parties to file suit on essentially the same set of facts. If these facts were developed by a Federal grand jury investigation, the private plaintiff may have to spend a good deal of time and effort in order to get access to them. Under existing law, a private plaintiff must file a motion to inspect the transcripts of grand jury testimony and the documents in the district court where the investigation took place. The judge has the discretion to grant access upon a showing of "particularized and compelling need." In recent years the trend has been to grant access rather than have the private plaintiff start from scratch and duplicate the work of the grand jury.

Title II would amend section 5 of the Clayton Act to provide that a private plaintiff shall automatically have access to grand jury testimony and documents after the Government has completed whatever case arose out of those proceedings. So what we are really suggesting is that the prevailing practice in most courts be codified while leaving some discretion to the courts. The court may condition its grant of access if the interests of justice so require. Generally, this provision would apply when the Government case has been terminated by a plea of guilty, nolo contendere, or by the entry of a consent decree. In instances in which the Government case went to trial, this same evidence would, of course, be spread upon the public record.

TITLE IV—PARENS PATRIAE

Title IV is the parens patriae section of the amendment. It would give State attorneys general a meaningful cause of action for consumers in their States who have been damaged by violations of the Sherman Act. It is designed to deter antitrust violations, to prevent violators from retaining the fruits of the offense, and to provide compensation to as many victims of the offense as the State can find.

Under existing law, State attorneys general can now sue for treble damages on behalf of consumers who have been injured by a violation of the antitrust laws if two requirements are met. First, the State must have been injured in its own business or property. In other words, the State must have been a purchaser of the goods or services involved in the violation and injured in its own right. Only then can it sue on behalf of consumers. Second, such a suit must be a class action with the State attorney general representing the class of individual consumers, and it must meet all of the requirements of rule 23 of the Federal Rules of Civil Procedure. It is this latter requirement which generally denies consumers an effective remedy. When rule 23 was amended in 1966, it was hoped that this would be the means whereby consumers could recover damages for violations which were individually small but widespread; violations where no individual consumer had a large enough stake to sue. Unfortunately, this has not been the case.

Generally, rule 23 class actions which are based on the same alleged violation are first consolidated for trial before one Federal district court, then the judge makes a determination as to whether or not the class actions filed met the tests of rule 23. These tests are designed to insure that questions of law and fact are predominantly the same for all individual members of the class and that the action is manageable. In antitrust cases, defendants take the position that the questions of fact are not similar on the grounds that one consumer may have been damaged more than another. Generally, the defendants also insist that they have the right to cross-examine each individual consumer as to whether or not he or she was damaged and how much. If the judge sees himself faced with the prospect of holding thousands, or conceivably millions, of minitrials as to each individual class member, he generally finds that common questions of fact do not prevail and that the action is simply unmanageable.

Most rule 23 consumer class actions get thrown out of court at this early stage.

Even if the class action gets by this hurdle, some courts have also required that if the names and addresses of the consumers can be found, individual notice must be sent by mail to each member of the class. If the consumer damage is widespread, this requirement makes the cost of bringing an action prohibitive. In one case, the cost of notice by mail under the 8 cent stamp would have been $315,000, enough to make the filing of suit impossible for all practical purposes.

Title IV attempts to give consumers a meaningful remedy and thereby create an effective deterrent to violations which cause individually small but widespread harm. It would create a new statutory cause of action whereby the State attorney general could sue for treble damages and other relief on behalf of consumers who had been injured by violations of the Sherman Act. The State, itself, no longer would be required to be an injured consumer. The amendment would provide that damages may be proved and assessed in the aggregate without separately proving the fact and amount of injury to each person. In other words, it would tell the courts that each individual purchaser need not be brought before the court to establish that he or she was damaged and the amount of such damage if other proofs are available. Generally, corporations want to know how well their products are selling. They usually keep accurate records on the sales byproduct line in a certain State or region. The amendment contemplates that the violation and amount of the overcharge would be established by other evidence and then multiplied by the number of units sold during the time period in question, with this calculation readily available from company records. To summarize, in an action brought by the State attorney general under this title, the State has the burden of proving that:

First, the defendants violated the Sherman Act;

Second, that consumers were injured by the violation or that some of the overcharge was passed on to them; and

Third, the approximate amount of such damage.

The difference between rule 23 consumer class actions and suits brought under title IV is that under the latter approach, if the State has the necessary evidence, the consumers who actually bought the product and were injured need not be identified until after the treble damage fund has been recovered.

The amendment then would direct the State attorney general to return to those injured consumers he can identify their pro rata share of the treble damage fund. Not all of the treble damage award will be claimed by consumers, and the court would be authorized to distribute the excess in accordance with State law or for some public purpose benefiting as closely as possible the class of injured consumers. This procedure for distributing damages has been used in some of the few successful rule 23 class action cases.

In the tetracycline settlement, more than $28 million was distributed directly to more than 1 million consumers. The average consumer recovery amounted to $200, with some claimants receiving as much as $12,000. The first settlement resulted in $8 million being distributed to 36,000 consumers. The second settlement by the remaining States in tetracycline benefited from the experience and experimentation of the first distribution effort. In settlement No. 2, improved techniques resulted in $30 million being distributed to 1 million consumers in six States. The unclaimed funds were used for expansion of State-sponsored health programs, medical research, the training of nurses and paramedical personnel, the staffing of medical and rehabilitation clinics and other similar programs.

It is also interesting to note that after the institution of suit by the Department of Justice, the Federal Trade Commission, States and other private plaintiffs, the price of tetracycline dropped from about $51 per 100 tablets in 1961 to about $5 per 100 tablets 10 years later. That is a decrease of 90 percent.

Title IV attempts to give some flexibility to the court on the notice to be given individual consumers in Parens Patriae actions—even where they can be identified by name and address. Notice by publication would be authorized, but the court could direct further notice, including individual notice, to prevent manifest injustice. Since the State attorney general is a public figure with access to the media, it is hoped that individual notice by mail would not be necessary, at least at the outset of the proceedings.

The amendment also would make the aggregation of damages provisions applicable to rule 23 class actions on behalf of consumers which are filed by private attorneys. In the event a consumer or group of consumers does not wish to be represented by the State attorney general, consumers could file a notice with the court indicating that they have elected to file their own private suit.

TITLE V—PREMERGER NOTIFICATION FOR LARGE MERGERS

Title V consists of the premerger notification and stay provisions. The substantive law dealing with mergers is section 7 of the Clayton Act (15 U.S.C. 18). That section prohibits mergers and acquisitions, the effect of which "may be substantially to lessen competition or tend to create a monopoly" in any line of commerce in any section of the country. Once again, title V would not change this standard with respect to what is or is not an illegal merger. It does, however, set up a procedure whereby advance notification must be given to the Department of Justice and the Federal Trade Commission for very large mergers prior to their consummation.

Under existing law, the Department of Justice can neither compel production of information relating to a merger until after it has occurred, nor can the Department or the Federal Trade Commission force a delay of the merger until after they have had a chance to gather the necessary information and make an evaluation. Although both agencies have the power to seek preliminary injunctions, these efforts will be unsuccessful if they are unable to obtain the necessary evidence. The injunctive powers of both agencies can be frustrated by so-called midnight mergers which are consummated before either the Division or Commission can learn of them. Even if the Department is aware of a proposed merger, for all practical purposes little can be done to block it. In a special report on the Burmah-Signal Oil Co. merger, the Special Subcommittee on Integrated Oil Operations of the Senate Interior Committee found as follows:

> Thus, according to the Justice Department's own account, they were apparently snared in a classical "Catch 22": (1) They needed factual evidence to obtain a restraining order; (2) Rules governing the issuance of civil subpoenas limited their ability to gain such evidence; (3) In any event they needed time for an investigation; and (4) Burmah and Signal refused their requests for time.

Continuing from that committee report.

> In view of the record developed before us in the Burmah-Signal case, it is abundantly clear that the participants, Burmah and Signal, afforded the Government precious little time to pass upon the proposed transaction in advance. The Government was not even able to gather the requisite factual support to obtain a temporary restraining order against the merger. If antitrust enforcement is to be effective, the agencies charged with this function must, at a minimum, be empowered with the ability to collect the necessary information to carry out their role. This, of course, could be accomplished if the appropriate governmental agency were granted the authority to approve or disapprove all mergers in advance.
>
> The circumstances surrounding the Burmah-Signal merger could be better avoided in the future were the Congress to consider once again requiring either the Justice Department or the Federal Trade Commission to pass upon the legality of all proposed acquisitions over a stipulated size, in advance of formal consummation. This is, of course, not a new or novel idea. It was first proposed as early as 1941, when the Temporary National Economic Committee made a similar recommendation.

Again, Mr. President, I have read from a section of the special report filed by the special committee of the Committee on Interior and Insular Affairs rather recently.

Once the merger has been consummated, the odds are that adequate relief will never be obtained. Years may elapse before the trial and appeals are over. Horror stories abound, with the 17-year history of the El Paso Natural Gas case generally taking the cake. The average merger case takes 5 to 6 years, during which time assets may be scrambled, key employees may be lost, and the goodwill of the acquired firm may be dissipated. If divestiture is ordered 5 years after the merger, the acquired company is bound to be a weaker competitor. Divestiture can be a painfully slow process, and in some cases never occurs at all. Locating an appropriate buyer willing to purchase at a reasonable price is frequently difficult. Also, the firm under the divestiture order may deliberately delay in order to reap the benefits of the unlawful merger. It is estimated that El Paso derived profits of $10 million for every year it retained the illegally acquired company.

Under title V, corporations that wished to merge would have to notify the antitrust authorities 30 days in advance if the transaction involved a firm with sales or assets in excess of $100 million and a firm with sales or assets in excess of $10 million. Using the last 5 years as a guide, this standard would require advance notification for roughly 100 of the 3,000 mergers that take place every year. If a proposed merger appeared not to violate the law, the antitrust authorities could waive any or all of the 30-day period. If either the Department of Justice or the Federal Trade Commission decided it needed additional information in order to determine whether or not proposed acquisition violated the law, further documentary materials could be requested from the merging partners and the waiting period would be extended 20 days after the receipt of such material.

TITLE V—PRELIMINARY INJUNCTION PROVISIONS IN MERGER CASES

Title V would also change the standard by which preliminary injunctions sought by the Government in all merger cases are granted or denied. During the last 20 years, the Department of Justice has sought roughly three preliminary injunctions a year in merger cases.

Under existing law, when the Department decides to try to block a merger, it asks for—and usually gets—a temporary restraining order. At the same time the Department seeks the temporary restraining order, it also files an application for a preliminary injunction which is set down for a hearing at the earliest possible time. The temporary restraining order automatically dissolves in 10 days. It may be extended for an additional period not to exceed 10 days, for good cause shown, or it may be extended for an even longer period if the other parties consent. At the hearing on a motion for a preliminary injunction, the Government has the burden of proving that it will probably succeed on the merits at trial. Usually, the Government loses at this stage. During the last 20 years, the Department has been unsuccessful in over two-thirds of its applications for a preliminary injunction. Yet the Department ultimately prevails 84 percent of the time when the case reaches the trial stage. Given the very difficult problem of securing adequate relief after trial and the fact that the Division usually wins on the merits at trial, Senator Scott and I believe a change in the standard is in order.

Title V would provide that the Department of Justice or the Federal Trade Commission could get a temporary restraining order which would remain in effect for 60 days or until the motion for the preliminary injunction is decided, whichever is less. The 60-day temporary restraining order could only be extended by the chief judge of the circuit court of appeals for good cause shown. During the hearing on the motion for the preliminary injunction, the burden would be shifted to the merging parties to prove (1) that the Division or Commission probably would fail on the merits at trial, or (2) that the corporations would be irreparably injured by the granting of the injunction. However, the fact that the acquiring firm would lose the profits of the acquired firm until trial would not constitute a showing of irreparable injury. And even though the terms of the merger agreement could look less attractive by the time the case is disposed of at trial, that too would fail to constitute irreparable injury.

No doubt some will think it unfair to place the burden on the defendants during the preliminary injunction hearings. However, the formulation suggested by Senator Scott and myself pales by comparison to some of the recommendations of others who have studied the problems associated with mergers. Back in 1941, the Temporary National Economic Committee recommended that legislation be enacted "to halt the merger process in its inception, rather than continue to attempt to do so through case-by-case litigation after the event." The Temporary National Economic Committee proposed "that the Federal Trade Commission be given authority to be fixed by the Congress to forbid the acquisition of the assets and property of competing corporations over a certain size unless it be made to appear that the purpose and apparent effect of such consolidation would be desirable." The Temporary National Economic Committee suggested that the burden be placed on the proponents of a merger to satisfy six criteria before approval would be given, including a demonstration that the acquisition was in the public interest and would "be promotive of greater efficiency and economy of production, distribution and management."

In addition to recommending mandatory premerger notification, the Neal Commission White House Task Force Report on antitrust policy under President Johnson urged a complete ban on all mergers between big companies and companies who were leaders in a concentrated industry. Big companies were firms with sales in excess of $500 million or assets in excess of $250 million. Leading companies were those with more than 10 percent of sales in an industry in which the top four possessed 50 percent or more of the market.

In our judgment, 60 days would, in the majority of cases, permit courts to come to grips with the complex issues presented in a merger case. An analysis of the time periods taken by judges in deciding preliminary injunctions in merger cases shows that a period less than 60 days would, in many cases, be inadequate. During the past 20 years, there have been 24 cases in which a temporary restraining order was followed by a decision on a motion for a preliminary injunction. Only eight were decided in 30 days or less; six were decided in from 30 to 50 days; five in from 50 to 70 days; and five in from 103 to 149 days. The average time period amounted to 55 days.

Again, why do we need this amendment? The trend toward economic concentration continues. In 1941, approximately two-thirds of all the manufacturing assets in the United States were controlled by 1,000 corporations. By 1969 approximately two-thirds of all our manufacturing assets were controlled by the top 200 corporations.

A merger, in and of itself, is not necessarily bad. Some do offer efficiencies as well as fostering competition. But, an important issue we must consider today is that with our economy neither operating as advertised nor delivering as promised, some have begun to ask whether competition is at the end of the line as the force that makes our economy work.

Is it? The sponsors of this amendment say no. The principles are sound, the framework is solid, but it needs some repair work to eliminate cold drafts. Enforcement tools of greater efficiency and manageability would offer a more significant and effective deterrent to potential abuse of economic power. Mischief that runs counter to social and economic principles is as undesirable in corporate boardrooms as it is on city streets.

Can we justify a double standard—a standard that accepts certain principles and rejects the tools appropriate to do the job? And are we tougher on city streets than we are on corporate boardrooms?

Mr. President, the amendment, which more easily can be described as Senate bill 1284, in our judgment, while not changing the rules with respect to what may and may not be done under antitrust laws, does insure that violations of those laws more likely may be identified and sanctions applied. Because of this, it makes less likely the engagement by those who would otherwise be tempted in conduct not acceptable under antitrust laws.

We do not propose to change the rules with respect to antitrust practices. We do suggest, Mr. President, by the enactment of this substitute, that those rules will be more widely respected and, in the instance of violation of those rules, the violator more likely apprehended. I hope that the Senate will support the effort to achieve both of those, I think, appropriate ends.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, at the request of the minority leader, Mr. Hugh Scott, who is out of the country on official Senate business, I ask unanimous consent that a statement by Mr. Scott on H.R. 8532 be printed in the Record immediately following the statement of Senator Philip A. Hart.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Hugh Scott

The people of the United States have been well served by the free enterprise system. Dynamic and aggressive American businessmen and women have set the pace for the rest of the world, and the U.S. economy, as a result of this enterprising leadership, has become the world's most efficient and creative.

No other economic system allocates resources and labor as effectively, or distributes the products of labor to the ultimate consumer as well. We must ensure that we do nothing to hamper the operation of this system. Unnecessary government regulation handcuffs the creativity and competitive spirit of American business.

The Sherman and Clayton Acts represent the basic guidelines of our free enterprise system. But they are not enough. For a variety of reasons, concentration in the American economy has rapidly increased and monopoly power exists in many industries. Two hundred corporations now control two-thirds of all manufacturing assets in the United States.

The lack of effective competition in important sectors of the economy has taken its toll on the American consumer. Traditional monetary and fiscal policies no longer seem to work, and it is difficult to check inflation and reduce unemployment no matter how hard the Government tries. Some of our basic industries have stagnated and no longer seem able to innovate. According to Thomas E. Kauper, the Assistant Attorney General in charge of the Antitrust Division, "The ultimate target of antitrust enforcement has been estimated in terms of billions of dollars of inflated prices."

The United States clearly is at an economic crossroads. Free enterprise must be restored if our nation is to prosper and maintain its leadership in the industrialized world. Curtailment of oppressive government regulation is possible only if it goes hand-in-hand with vigorous enforcement of the antitrust laws, so that free market forces—not conspiracies or other anticompetitive practices—determine the price and quality of our goods and services.

We believe that the time has come to enact the third major Antitrust Act, one designed primarily to improve not the substance of the antitrust laws, but the procedures for enforcing them. We have introduced a bill that will be of great help to all honest businessmen and women, who of course comprise the vast majority.

Our legislation will enhance the vitality of competition throughout the land. The American consumer will see the benefit of greater competition in lower prices, better service, higher quality, and more diverse and innovative products. All businessmen and businesswomen we know who are worth their salt thrive on strong, healthy competition. It keeps everyone on their toes.

In essence, S. 1284 pulls together in an onmbius bill the basic tools to strengthen the most glaring deficiencies of present law. It is an enforcement bill that upgrades existing investigatory, enforcement, and procedural aspects of present law. It is designed to make the Sherman and Clayton Antitrust Acts work.

We urge that our colleagues support us in this worthwhile endeavour.

Mr. ABOUREZK. I thank the Chair.

First, I express my thanks to the Senator from Michigan (Mr. Philip A. Hart) for the very long effort he has applied to this legislation. He and Mr. Scott of Pennsylvania have worked very hard against very determined opposition to bring this bill out on the floor and try to do something to remedy the situation with respect to the antirust laws.

The public is often confused by the legal jargon which lawyers and economists use to describe the antitrust laws. This is unfortunate because the antitrust laws are the basic charter of our free enterprise system. Without the antitrust laws, competition in the economy would surely diminish. Only when there is vigorous competition between businesses will the free enterprise system result in wide distribution of economic benefits to the consumer. Therefore, every American has a vital interest in the effective enforcement of these antitrust laws.

The antitrust laws prohibit conspiracies in restraint of trade, such as agreements to fix prices or divide markets. These conspiracies directly result in higher prices for the consumer. In fact, the present Assistant Attorney General for Antitrust, Tom Kauper, has estimated that the cost to the consumer of the lack of effective competition in our economy is $80 billion a year. Eighty billion dollars is 10 percent of what consumers spend each year. In other words, if we had monopoly-free competition, consumers would buy at least 10 percent more without any increase in their income.

The realities of the concentration of economic power which lead to these overcharges are staggering.

First. Although there are approximately 40,000 manufacturing corporations in the United States, the 200 largest control two-thirds of all manufacturing assets. That's a greater share of assets than the thousand largest manufacturing corporations controlled in 1941.

Second. Industries in which four or fewer firms control 50 percent or more of sales account for one-fourth to one-third of all manufacturing sales. This fact is especially significant as many economists consider an industry to be a shared monopoly or oligopoly, when 50 or more percent of the sales for that industry are accounted for by the top four firms. Therefore, one-fourth to one-third of all manufacturing sales come from monopolies or shared monopolies.

Third. We now have five corporations whose sales exceed the total budget of our most populous State, California. Only a few countries in the free world have budgets larger than Exxon or GM.

Fourth. The rapid trend toward concentration is illustrated by the fact that between 1962 and 1968 alone, 110 of the 500 largest industrial firms disappeared in mergers. Between 1948 and 1968, some 1,200 manufacturing companies, each with assets of $10 million or more, were merged with other firms.

I firmly believe that this concentration of economic power is one of the root causes of the country's present economic difficulties. This concentration of power is the structural cause of our simultaneous inflation and depression.

The reason why concentration of economic power necessarily leads to inflation is that these large busines enterprises have great discretion to distort the pricing process by maintaining, or even increasing, prices in the face of falling demand. Similarly these enterprises fail to lower their prices when they enjoy productivity gains. These decisions directly contradict the normal rules of supply and demand. Because of this use of market power, it is not feasible to attain full employment by resorting only to monetary or fiscal policy. This is one reason why the present administration's economic policy has failed. This assumption is that only supply and demand are the causes of the economic depression.

It is essential that we now take steps to see that our antitrust laws are vigorously enforced. Because S. 1284 will significantly augment the enforcement of antitrust laws, it is important that this bill be passed.

The most important feature of S. 1284 is contained in title IV. That title would allow State attorneys general to sue violators of antitrust law on behalf of their citizens and to recover triple damages.

I would like to make a few crucial points with respect to title IV which demonstrate that the concept of this title is both necessary and eminently reasonable:

The bill creates no new antitrust liability. It merely provides an effective mechanism for enforcement of the existing antitrust laws. Companies which are not now violating the antitrust laws will have absolutely nothing to fear in the passage of this bill. Only companies which are presently violating the antitrust laws with impunity have a reason to fear this bill.

There is presently no effective remedy for the average consumer who is the victim of antitrust violations, such as price fixing. There is no way, for example, that an individual consumer could ever bring suit for a year's overcharge on the bread he purchased, even though the aggregate overcharge for all individuals in a State may run into the tens of millions of dollars.

The bill makes it possible for a State attorney general to vindicate the claims of individual consumers by bringing a class action on their behalf, but the legislation does not reduce the burden of the State atttorney general to prove that an antitrust violation has, in fact, occurred. The bill makes it possible to bring these class actions by providing that "damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods * * * without separately proving the fact or amount of individual injury or damage" to each member of the class. This provision is the heart of this title.

Proof of the extent of damages is the very last event in a long trial. Before the State attorney general even addresses the issue of the extent of damages, he must first prove that the defendants violated the antitrust laws, that consumers were damaged and that the defendant's violation caused that damage. Only once all of this has been established do the provisions in this legislation have any effect.

If a company is found to have violated the antitrust laws and to have caused injury to consumers, it is absurd to argue that the company should escape payment of damages to these consumers. Cearly it makes no sense to bring an antitrust case if the only result is a declaration of guilt without any monetary recovery. It is precisely this sterile result which this provision is intended to avoid.

Furthermore, when a State attorney general does employ statistical and sampling methods to prove the extent of damages. The methods he uses must be sufficient to actually prove the extent of the damages. If the methods used are not used properly or if use of more sophisticated and precise statistical and sampling methods is appropriate. A court can hold that the State attorney general has not met his burden of proving the extent of damages. The point is that this bill does nothing to reduce the burden of proof of the State attorney general.

At the end of a successful antitrust case, the consumers injured by any antitrust violations will each receive their share of the damage recovery. In the tetracycline case over one million consumers received $28 million in damages. No legislation being considered by Congress will provide such a direct and justified benefit to consumers.

By giving State attorneys general this new mechanism for enforcing the antitrust laws, Congress will significantly strengthen our Federal structure of government. States are closer to their citizens than the Federal Government and closer to the economic transactions which violate the antitrust laws. It is clearly appropriate then that States be given the power and responsibility to protect their own citizens.

I would also like to make a few brief comments about title II of the bill. Title II would broaden the civil investigative demand authority of the U.S. Department of Justice. Although the Justice Department and the Federal Trade Commission have equal responsibility for enforcing the antitrust laws, the Justice Department has far less authority than the Commission to investigate antitrust violations prior to bringing a compliant against a company. This discrepancy makes no sense. Furthermore, if the Department is going to be able objectively to determine whether or not there is reason to believe that an antitrust violation has occurred, the Department must have the basic investigative authority needed to learn the facts. Again the only businesses with reason to fear this investigative authority are businesses which are violating the antitrust laws. In fact, the only way for law abiding businesses to prevent the Department from bringing cases where it may not eventually prevail on the merits is to grant the Department full investigative authority.

In closing, I return to my first point that only companies which violate the antitrust laws should fear this bill. Predictably it is precisely this kind of company which opposes this bill. The principle opponent of the bill is the Business Roundtable, the lobbying arm of 157 of the Fortune 500 companies. This group includes the largest automobile manufacturers, the three largest banks, seven of the largest oil companies, as well as IBM and ATT. Within the last 10 years alone nearly half of these companies, 73 to be exact, have been found to violate the antitrust laws, have admitted to have violated antitrust laws, or have charges pending.

The other leading opponent of this legislation is the National Association of Realtors. As with the Business Roundtable, it should be noted that numerous price fixing complaints by the Justice Department against boards of realtors are already on the public record and settled by consent decrees. Opposition to this bill by these companies is utterly lacking in credibility. It is clear that they have every reason to resist any measure which would strengthen enforcement of the antitrust laws.

I ask unanimous consent that list of these companies be printed in the RECORD.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

"A" LIST—JUNE 16, 1975.—THE BUSINESS ROUNDTABLE

POLICY COMMITTEE

Chairman

*Mr. John D. Harper, Chairman, Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, Pa. 15219.

---

*Indicates companies which have been found to violate antitrust laws, have admitted to violating the antitrust laws, or have charges pending

Cochairman

*Mr. John D. deButts, Chairman, American Telephone & Telegraph Co., 195 Broadway, New York, N.Y. 10007.

*Mr. Howard J. Morgans, Chairman, Executive Committee, The Procter & Gamble Co., P.O. Box 599, Cincinnati, Ohio 45201.

*Mr. William O. Beers, Chairman, Kraftco Corp., Kraftco Court, Glenview Ill. 60025.

*Mr. Frank T. Cary, Chairman, International Business Machines Corp., Old Orchard Road, Armonk, N.Y. 10504.

Mr. Alden W. Clausen, President, Bank of America, Bank of America Center, San Francisco, Calif. 94120.

Mr. E. M. de Windt, Chairman, Eaton Corp., 100 Erieview Plaza, Cleveland, Ohio 44114.

*Mr. Charles D. Dickey, Jr., Chairman, Scott Paper Co., Scott Plaza, Philadelphia, Pa. 19113.

Mr. Edward R. Eberle, Chairman, Public Service Electric & Gas Co., 80 Park Place, Newark, N.J. 07101.

*Mr. Robert S. Hatfield, Chairman, Continental Can Company Inc., 633 Third Avenue, New York, N.Y. 10017.

Mr. William A. Hewitt, Chairman, Deere & Co., John Deere Road, Moline, Ill. 61265.

*Mr. Frederick G. Jaicks, Chairman, Inland Steel Co., 30 West Monroe Street, Chicago, Ill. 60603.

*Mr. J. K. Jamieson, Chairman, Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10020.

*Mr. Reginald H. Jones, Chairman, General Electric Co., Fairfield, Conn 06431.

*Mr. Robert E. Kirby, Chairman, Westinghouse Electric Corp., Gateway Center, Pittsburgh, Pa. 15222.

*Mr. William F. LaPorte, Chairman, American Home Products Corp., 685 Third Avenue, New York, N.Y. 10017.

*Mr. Ralph Lazarus, Chairman, Federated Department Stores, Inc., 222 West Seventh Street, Cincinnati, Ohio 45202.

Mr. Ian K. MacGregor, Chairman, AMAX Center, Greenwich, Conn. 06830.

*Mr. Robert H. Malott, Chairman, FMC Corp., 200 East Randolph Drive, Chicago, Ill. 60601.

Mr. C. Peter McColough, Chairman, Xerox Corp., Stamford, Conn. 06904.

Mr. Louis W. Menk, Chairman, Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Minn. 55101.

*Mr. Frank R. Milliken, President, Kennecott Copper Corp., 161 East 42nd Street, New York, N.Y. 10017.

Mr. Roger Milliken, President, Deering Milliken, Inc., P.O. Box 3167, Spartanburg, S.C. 29302.

*Mr. Thomas A Murphy, Chairman, General Motors Corp, General Motors Building, Detroit, Mich. 48202.

Mr. David Packard, Chairman, Hewlett-Packard Co., 1501 Page Mill Road, Palo Alto, Calif. 94303.

*Mr. Charles J. Pilliod, Jr., Chairman, The Goodyear Tire & Rubber Co., 1144 East Market Street, Akron, Ohio 44316.

*Mr. Irving S. Shapiro, Chairman, E. I. du Pont de Nemours & Co., Wilmington, Del. 19898.

Mr. Mark Shepherd, Jr., President, Texas Instruments, Inc., P.O. Box 5475, Dallas, Tex. 75222.

*Mr. J. Stanford Smith, Chairman, International Paper Co., 220 East 42nd Street, New York, N.Y. 10017.

*Mr. Edgar B. Speer, Chairman, United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230.

*Mr. George A. Stinson, Chairman, National Steel Corp., Grant Building, Pittsburgh, Pa. 15219.

*Mr. O. Pendleton Thomas, Chairman, The B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318.

Mr. W. Reid Thompson, Chairman, Potomac Electric Power Co., 1900 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

Mr. C. C. Tillinghast, Jr., Chairman, Trans-World Airlines Inc, 605 Third Avenue, New York, N.Y. 10016.

*Mr. Lynn A. Townsend, Chairman Chrysler Corp. 341 Massachusetts Avenue, Detroit, Mich. 48231.

*Mr. Rawleigh Warner, Jr., Chairman, Mobil Oil Corp., 150 East 42nd Street, New York, N.Y. 10017.

Mr. F. Perry Wilson, Chairman Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.

Mr. J. Robert Wilson, President Roadway Express Inc., 1077 Gorge Boulevard, Akron, Ohio 44309.

Mr. Arthur M. Wood, Chairman, Sears, Roebuck and Co., Sears Tower—Department 702, Chicago, Ill. 60684.

*Mr. Walter B. Wriston, Chairman, First National City Corp., 399 Park Avenue, New York, N.Y. 10022.

Counsel

Mr. Roger M. Blough, White & Case, 14 Wall Street, New York, N.Y. 10005.

MEMBERSHIP LIST

"B" list

Allis-Chalmers Corp., 1126 South 70th Street, Milwaukee, Wis. 53201.

*Aluminum Company of America, Alcoa Building, Pittsburgh, Pa. 15219.

*American Can Co., American Lane, Greenwich, Conn. 06830.

*American Home Products, 685 Third Avenue New York, N.Y. 10017.

Amax Inc., Greenwich, Conn. 10017.

ASARCO Inc., 120 Broadway, New York, N.Y. 10005.

*American Telephone and Telegraph Co., 195 Broadway, New York, N.Y. 10007.

*The Anaconda Co., 25 Broadway, New York, N.Y. 10004.

Arizona Public Service Co., P.O. Box 21668, Phoenix, Ariz. 85036.

*Armco Steel Corp., 703 Curtis Street, Middletown, Ohio 45042.

Armstrong Cork Co., Lancaster, Pa. 17604.

*Atlantic Richfield Co., 515 South Flower Street, Los Angeles Calif. 90071.

Babcock and Wilcox, 161 East 42d Street, New York, N.Y. 10017.

Bank of America, Bank of America Center, San Francisco, Calif. 94120.

*The Bendix Corp., 10650 Civic Center Drive, Southfield, Mich. 48075.

*Bethlehem Steel Corp., 701 East Third Street, Bethlehem, Pa. 18016.

*The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.

*Boise Cascade Corp., P.O. Box 200, Boise, Idaho 93701.

*Borg-Warner Corp., 200 South Michigan Avenue, Chicago, Ill. 60604.

*Burlington Industries, Inc., Box 21207, Greensboro, N.C. 27420.

Burlington Northern Inc., 176 East 5th Street, St. Paul, Minn. 55101.

Campbell Soup Co., Camden, N.J. 08101.

Carolina Power and Light Co., Raleigh, N.C. 27602.

Carrier Corp., Carrier Tower, Syracuse, N.Y. 13201.

Carter Hawley Hale Stores, Inc., 600 South Springs Street, Los Angeles, Calif. 60014.

*Caterpillar Tractor Co., 100 N.E. Adams Street, Peoria, Ill.

*Certain-Teed Products Corp., P.O. Box 860, Valley Forge, Pa. 19842.

*Champion International Corp., 777 Third Avenue, New York, N.Y. 10017.

Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York, N.Y. 10005.

* Chrysler Corp., P.O. Box 1919, Detroit, Mich. 48231.

Cincinnati Gas & Electric Co., 4th & Main Streets, Cincinnati, Ohio 45201.

* Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.

Clark Equipment Co., 324 East Dewey Street, Buchanan, Mich. 49107.

Cleveland-Cliffs Iron Co., Union Commerce Building, Cleveland, Ohio 44101.

Cleveland Electric Illuminating, P.O. Box 5000, Cleveland, Ohio 44101.

* The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.

Columbia Gas System, 20 Montchanin Road, Wilmington, Del. 19807.

* Continental Can Co., 633 Third Avenue, New York, N.Y. 10017.

* Continental Oil Co., High Ridge Park, Stamford, Conn. 06904.

* Corning Glass Works, Corning, N.Y. 14380.

Crown Zellerbach Corp., One Bush Street, San Francisco, Calif. 94104.

Cyclops Corp., 650 Washington Street, Pittsburgh, Pa. 15228.

* Dart Industries, Inc., P.O. Box 3157, Terminal Annex, Los Angeles, Calif. 90051.

Dayton Power & Light Co., 25 North Main Street, Dayton, Ohio 45401.

Deere & Co., John Deere Road, Moline, Ill. 61265.

Deering-Milliken Inc., P.O. Box 3168, Spartanburg, S.C. 29302.

Detroit Edison Co., 2000 2d Avenue, Detroit, Mich. 48226.

Dow Chemical Co., Midland, Mich. 48640.

* Dresser Industries, Inc., Republic National Bank Building, Dallas, Tex. 75221.

* E. I. du Pont de Nemours & Co., Market Street, Wilmington, Del. 19898.

Eastern Air Lines, 10 Rockfeller Plaza, New York, N.Y. 10020.

Eaton Corp., 100 Erieview Plaza, Cleveland, Ohio 44114.

Eli Lilly & Co., 740 South Alabama Street, Indianapolis, Ind. 46225.

Esmark Inc., 55 East Monroe Street, Chicago, Ill. 60603.

* Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10020.

* Federated Department Stores, 222 West 7th Street, Cincinnati, Ohio 45202.

* Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, Ohio 44317.

* First National City Bank, 399 Park Avenue, New York, N.Y. 10022.

* FMC Corp., 200 East Randolph Drive, Chicago, Ill. 60601.

* Ford Motor Co., The American Road, Dearborn, Mich. 48121.

* GAF Industries, 140 West 51 Street, New York, N.Y. 10020.

General Cable Corp., 500 West Putnam Avenue, Greenwich, Conn. 06830.

* General Dynamics Corp., Pierre Laclede Center, St. Louis, Mo. 63105.

* General Electric Co., Fairfield, Conn. 06431.

* General Foods, Inc., 250 North Street, White Plains, N.Y. 10602.

* General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis, Minn. 55440.

* General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.

* General Tire & Rubber Co., Akron, Ohio 44309.

* The B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318.

* Goodyear Tire & Rubber Co., 1144 East Market Street, Akron, Ohio 44316.

* The Greyhound Corp., Greyhound Tower, Phoenix, Ariz. 85077.

* Gulf Oil Corp., Gulf Building, Pittsburgh, Pa. 15230.

Gulf States Utilities Co., P.O. Box 2951, Beaumont, Tex. 77704.

*Halliburton Co., 3211 Southland Center, Dallas, Tex. 75201.

The Hanna Mining Co., 100 Erieview Plaza, Cleveland, Ohio 44114.

H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230.

*Hercules, Inc., 910 Market Street, Wilmington, Del. 19899.

Hewlett-Packard Co., 1501 Page Mill Road, Palo Alto, Calif. 94304.

Hoover Worldwide Corp., North Canton, Ohio 44720.

*Ideal Basic Industries, Inc., 821 17th Street, Denver, Colo. 80202.

Ingersoll-Rand Co., Woodcliff Lake, N.J. 07675.

*Inland Steel Co,. 30 West Monroe Street, Chicago, Ill. 60603.

*International Business Machines, Old Orchard Road, Armonk, N.Y. 10504.

*International Harvester Corp., 401 North Michigan Avenue, Chicago, Ill. 60611.

*International Nickel Co., 1 New York Plaza, New York, N.Y. 10004.

*International Paper Co., 220 East 42d Street, New York, N.Y. 10017.

Iowa-Illinois Gas & Electric Co., Davenport, Iowa. 52802.

Irving Trust Co., One Wall Street, New York, N.Y. 10005.

Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.

Kaiser Industries Corp., 300 Palesode Drive, Oakland, Calif. 94604.

*Kennecott Copper Co., 161 East 42d Street, New York, N.Y. 10017.

Koppers Co., Koppers Building, Pittsburgh, Pa. 15219.

*Kraftko Corp., Kraftco Court, Glenview, Ill. 60025.

Libbey-Owens Ford, 811 Madison Avenue, Toledo, Ohio 43624.

McGraw-Edison Co., 333 West River Road, Elgin, Ill. 60120.

R. H. Macy & Co., 151 West 35th Street, New York, New York, 10001.

Marcor Inc., P.O. Box 6541, Chicago, Ill. 60607.

*3M Co., 3M Center, St. Paul, Minn. 55101.

Middle South Services, P.O. Box 61000, New Orleans, La. 70161.

*Mobile Oil Corp., 150 East 42d Street, New York, N.Y. 10017.

Monanto Co., 800 North Lindburgh Boulevard, St. Louis, Mo. 63166.

Nabisco, Inc., 425 Park Avenue, New York, N.Y. 10022.

NL Industries, Inc., 111 Broadway, New York, N.Y. 10006.

*National Steel Corp., Grant Building, Pittsburgh, Pa. 15219.

The Norton Co., One New Bond Street, Worcester, Mass. 01616.

Olin Corp. 120 Long Ridge Road, Stamford, Conn. 06904.

Owens-Corning Fiberglas Corp., 717 Fifth Avenue, New York, N.Y. 10022.

*Owens-Illinois, Inc., Madison Avenue & St. Clair Street, Toledo, Ohio 43666.

Pacific Gas & Electric Co., 77 Beale Street, San Francisco, Calif. 94106.

Pacific Power & Light Co., Public Service Building, Portland, Oreg. 97204.

J. C. Penney Co., 1301 Avenue of the Americas, New York, N.Y. 10019.

Pennzoil United Inc., 900 Southwest Tower, Houston, Tex. 77002.

*Phillips Petroleum Co., Phillips Building, Bartlesville, Okla. 74004.

*PPG Industries, One Gateway Center, Pittsburgh, Pa. 15222.

*Procter & Gamble Co., P.O. Box 599, Cincinnati, Ohio 45202.

Public Service Co. of Colorado, P.O. Box 840, Denver, Colo.

Public Service Indiana, 1000 East Main Street, Plainfield, Ind. 46168.

Public Service Co. of Oklahoma, Box 201, Tulsa, Okla. 74102.

Public Service Electric & Gas Co., 80 Park Place, Newark, N.J. 07101.

Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63102.

RCA Corp., 30 Rockefeller Plaza, New York, N.Y. 10020.

*Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

*Reynolds Metals Co., 6601 Broad Street, Richmond, Va. 23229.

R. J. Reynolds Industries, Inc., Winston Salem, N.C. 27102.

Roadway Express, Inc., 1077 George Boulevard, Akron, Ohio 44309.

*Rockwell International Corp., 600 Grant Street, Pittsburgh, Pa. 15219.

Rohr Industries, Inc., P.O. Box 878, Chula Vista, Calif. 92012.

*Scott Paper Co., Scott Plaza, Philadelphia, Pa. 19113.

Sears, Roebuck & Co., Sears Tower, Department 702, Chicago, Ill. 60684.

*Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.

SIFCO Industries, Inc., 970 East 64th Street, Cleveland, Ohio 44103.

A. O. Smith Co., Milwaukee, Wis. 63216.

Southern California Edison Co., P.O. Box 800, Rosemead, Calif. 91770.

Southern Co., 64 Perimeter Center East, Atlanta, Ga. 33036.

*Standard Oil Co. of Indiana, 200 East Randolph Drive, Chicago, Ill. 60601.

*Stauffer Chemical Co., Westport, Conn. 06880.

Sundstrand Corp., 751 Harrison Avenue, Rockford, Ill. 61101.

TRW Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.

Tenneco, Inc., P.O. Box 2511, Houston, Tex. 77001.

*Texaco Inc., 135 East 42d Street, New York, N.Y. 10017.

Texas Gulf Sulphur Co., 200 Park Avenue, New York, N.Y. 10017.

Texas Instruments, Inc., P.O. Box 5474, Dallas, Tex. 75222.

Texas Power & Light Co., Fidelity Union Life Building, Dallas, Tex. 75201.

Trans World Airlines, 605 Third Avenue, New York, N.Y. 10016.

Texas Gas Transmission Corp., 3800 Frederica Street, Owensboro, Ky. 42301.

*Union Camp Corp., 1600 Valley Road, Wayne, N.J. 07470.

Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.

Union Electric Co., P.O. Box 87, St. Louis, Mo. 63166.

*Uniroyal Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.

*United Aircraft Corp., 400 Main Street, East Hartford, Conn. 06108.

*U.S. Steel Corp., 600 Grant Street, Pittsburgh, Pa., 15230.

Utah International Inc., 550 California Street, San Francisco, Calif. 94104.

*Westinghouse Electric Corp., Gateway Center, Pittsburgh, Pa. 15222.

*Weyerhaeuser Co., Tacoma Building, Tacoma, Wash. 98401.

Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, Pa. 15230.

Semon E. Knudsen, White Motor Corp., 100 Erieview Plaza, Cleveland, Ohio 44114.

Xerox Corp., Stamford, Conn., 06904.

Price Fixing Complaints Against Boards of Realtors on the Public Record and Settled by Consent Decrees

U.S. v. Atlanta Real Estate Board, Civil Action No. 14744, (CCH 1972, Trade Cases ¶73,787).

U.S. v. Cleveland Real Estate, Civil Action No. C70 731 (ND Ohio), (CCH 1972, Trade Cases ¶74,020).

U.S. v. Long Island Board of Realtors, Inc., Civil Action No. 70C1418 (E.D.N.Y., 1970), (CCH 1972, Trade Cases ¶74,068).

U.S. v. Los Angeles Realty Board, Southwest Branch Hollywood—Wilshire Division, Pacific Palisades Division and Westwood Division, Civil No. 70–2855CC, (CCH 1973, Trade Cases ¶74,366).

U.S. v. Memphis Board of Realtors, Civil Action No. 72–218, (CCH 1972, Trade Cases ¶74,056).

U.S. v. The Real Estate Board of New York, Inc. and Tennant Owed Apartment Association, Inc., Civil Action No. 73 civ. 2719, (CCH 1974–2, Trade Cases ¶73,350).

U.S. v. Multiple Listing Service, Portland Board of Realtors, Washington County Board of Realtors, Clackamas County Board of Realtors, Civil No. 72–68, (CCH 1972, Trade Cases ¶74,221 and CCH 1973–1, Trade Cases ¶74,515).

U.S. v. Prince Georges County Board of Realtors, Inc., Civil Action No. 21545 (MD) 1969, (CCH 1971, Trade Cases ¶73,393).

U.S. v. Real Estate Board of Rochester, New York, Inc., Civil Action No. 74–535, (CCH 1974–2, Trade Cases ¶75,355).

U.S. v. Real Estate Board of Metropolitan St. Louis, Civil Action No. 72–C–793 (3), (CCH 1973–2, Trade Cases ¶74,744).

U.S. v. Metro MLS, Inc., Civil Action No. 210–73–N, (CCH 1974–2, Trade Cases ¶75,137).

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Haskell). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Brian Southwell of Senator Burdick's staff be allowed the privileges of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 1:06 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Garn).

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the minority position and in opposition to the provisions of H.R. 8532 and S. 1284.

Last week on May 19 and again on May 21, I alerted the Senate to the dangers of this bill and read into the Record editorials of large papers in my home State of South Carolina. All are unanimous in their opposition to H.R. 8532 and S. 1284. Today I give an overview of the minority's position in opposition to this bill and make known the President's views on H.R. 8532 when it was considered in the House of Representatives. In considering the legislation before us, it is important to consider the scholars' views and the impact of the legislation upon the small businessman. This bill is labeled a big business tamer. It is particularly significant to note the number of small businesses opposed to this legislation.

Mr. President, the so-called Hart-Scott Antitrust Improvements Act of 1976 is a hodge-podge of unrelated, complex, and highly technical provisions, which collectively would enact the most revolutionary revisions of the antitrust laws since the Clayton Act of 1914.

Notwithstanding its far-reaching impact, S. 1284 is the defective product of hasty and ill-considered action by the Judiciary Committee's Subcommittee on Antitrust and Monopoly. The majority of this subcommittee is embarked on an ambitious program to restructure the economic system of the United States in this Bicentennial Year of 1976, precluding essential consideration and analysis of the contents and implications of S. 128 and other revolutionary legislative proposals.

As a result, particularly due to the subcommittee's failure to afford adequate deliberation and the subcommittee's disregard of the evidence in the hearing record, S. 1284 is unjustified, unnecessary, unfair, and unconstitutional in critical respects—for the reasons to be detailed in the minority report.

Mr. President, over the objection of Senators to the packaging of important, diverse, and complex provisions into a confusing 35-page legislative proposal thwarting careful analysis in the subcommittee hearings, the subcommittee held just 5 hearing days in May and June 1975. Extensive statements of key Government officials became available to Senators only on the very day of their testimony, preventing meaningful study and examination of the witnesses.

Despite the aim of key provisions to reorder court priorities, and to change established practice under the Federal Rules of Civil Procedure, and notwithstanding the bill's foreseeably substantial impact upon the judicial system, the judiciary branch was not consulted or invited by the subcommittee to contribute recomendations and views from the standpoint of judicial resources or judicial administration.

Without any explanatory report by the majority, a substantially revised version of the bill, containing many complicated and broadening revisions, was published on July 28, 1975 as a committee print. These July 23, 1975 changes were never analyzed or explained to subcommittee members. Important and unexplained revisions included extensions of the so-called parens patriae provisions in title IV to permit State-retained private attorneys to bring large antitrust actions on behalf of State residents, and provisions to facilitate large money recoveries by overturning established indicial safeguards in private antitrust class actions even without State participation.

These subcomittee actions were deplored in a resolution by the American Bar Association on October 16 and 17, 1975, as follows:

> * * * The American Bar Association expresses its profound concern over the apparent departure from established legislative procedures for the consideration of matters of such importance as S. 1284, in that a number of the provisions within the conglomeration of substantive and procedural changes to the antitrust laws which the bill would make, including the findings and declaration of policy: (i) have not been the subject of full legislative hearings or any meaningful analysis as to their potential consequences upon the free enterprise system (title I, sections 701, 704); (ii) have been offered for serious legislative consideration despite the absence of any showing of compelling need which would justify such significant changes (portions of title II, III, and VII).

On subsequent request by Senators, 3 more days of hearings were held in February and March 1976, to hear nine witnesses expressing opposition to the bill as modified by the committee print. Neither the chairman nor any member of the subcommittee majority attended.

Accepting some minor or cosmetic modifications, and dropping some provisions, the majority voted on April 6 to recommend enactment of the entire S. 1284 package.

Significantly, the 135-page majority report, which purports to explain and justify the 77-page fine print of this complex legislation, fails to quote or refer to any of the 1976 testimony or statements filed subsequently in opposition to the revised S. 1284. The majority report likewise ignores the testimony and statements by the American College of Trial Lawyers, the American Bar Association, Prof. Milton Handler, the U.S. Chamber of Commerce, and others opposing the bill in most respects in the 1975 hearings.

Surprisingly, the majority report purports to claim the support of the President and the administration for S. 1284, notwithstanding the President's expressed opposition on March 17, 1976, to key provisions of title IV as contained in companion House proposals. The report also ignores major modifications, partially responsive to the administration's concerns, adopted by the House prior to its passage on March 18 of H.R. 8532, a substantially modified "parens patriae" proposal which eliminates some of the most objectionable features of S. 1284's title IV. For example, the House bill expressly bans parens patriae actions by State-employed private lawyers on contingency fees, applies important provisions only to State-filed parens patriae actions rather than in private antitrust class actions generally, and authorizes "aggregated" damage recoveries only in willful price-fixing cases rather than all possible "restraints of trade."

In our view, therefore, the deficient legislative procedures followed by the subcommittee produced a thoroughly defective and objectionable bill, to be detailed in the textual discussion under the following captions:

FUNDAMENTAL DEFECTS MAKE S. 1284 UNFAIR, UNJUSTIFIED, UNCONSTITUTIONAL, AND UNWORTHY OF ENACTMENT

Each of S. 1284's four substantive titles is built on the defective foundation of title I, and contains additional substantive, procedural, and constitutional infirmities demonstrated in the subcommittee's hearing record.

Title IV's parens patriae concept politicizes antitrust enforcement by giving "White Horse" State attorneys general the power to bankrupt business firms with multimillion dollar antitrust claims.

First. Private attorneys bringing antitrust damage actions for millions of State residents will reap huge fees by fomenting litigation and "blackmail settlements."

Second. Title IV penalizes far more than price fixing and extends to the entire Sherman Act, thereby creating huge exposures for unforeseeable violations particularly by smaller firms and professional or service groups, and even media or labor unions, under recent court interpretations.

Third. Title IV unconstitutionally awards heavy recoveries without proof of injury, not only in actions by the State, but in all private class actions, and destroys essential safeguards against class action abuses.

Fourth. The constitutional defects of title IV are aggravated by its blatantly unconstitutional retroactive forfeitures penalizing business conduct long predating enactment.

Fifth. The heavy contingent liabilities of business firms subject to huge parens patriae actions will inevitably hurt business financing, threatening expansion and employment, while the lawyers collect large fees and the public foots the bill through higher prices.

Sixth. Further proliferation of large antitrust actions stirred up by title IV will overwhelm already overloaded court dockets, draining judicial resources, and thwarting speedy criminal trials.

Seventh. Since the 1974 stiffened criminal antitrust penalties now provide effective deterrence for willful antitrust violators, all antitrust remedies should be reassessed in an objective study by experts who are removed from the self-serving pressures of ambitious State officials and enterprising antitrust lawyers advocating title IV.

Title II confers powers of secret inquisition on the Justice Department that Congress rejected just 14 years ago, in the face of evidence that refutes any legitimate need for their adoption now, and arbitrarily destroys the historic secrecy of grand jury proceedings to facilitate private antitrust treble damage suits.

First. As Congress recognized 14 years ago, granting the investigatory powers of the FTC and other independent regulatory agencies to the prosecutorial arm of the Federal Government is alien to our traditions and susceptible to abuse.

Second. The Department of Justice has not demonstrated sufficient need for title II to justify its burdens and potential for abuse.

Third. Title II dilutes even the 1962 act's existing safeguards, which thus become wholly inadequate to protect against abuse of the new powers.

Fourth. Title II arbitrarily abolishes traditional grand jury secrecy, in order to facilitate private antitrust treble damage actions, and for no public purpose.

Title V would give the Government arbitrary fiat powers to prevent any business acquisition regardless of size or competitive impact, and runs counter to basic antitrust policies by inhibiting the competitive, efficient formation and allocation of capital resources.

First. The automatic stay provisions, permitting the Government to stop and kill any acquisition, are contrary to fundamental concepts of fairness and due process.

Second. The Bank Merger Act, involving a totally regulated industry is no precedent for automatic stays of acquisitions in free and competitive sectors of the economy.

Third. Title V's premerger notification provisions are unjustifiably broad, reaching too many transactions and delaying them too long.

Fourth. Since the so-called merger problem is a myth, and the Government already has adequate powers to prevent anticompetitive mergers, title V is a deadly cure for an imaginary disease.

Lacking any justification or showing of need, title III is an ill-conceived mishmash of unrelated amendments which unwisely expose local business transactions to Federal antitrust sanctions, inflict shocking new antitrust forfeitures, change court procedures in disregard of the judiciary's views, and authorize more antitrust lawyers' fees.

First. Extension of the Clayton Act to local transactions is unjustified and unnecessary, and the ill-conceived Sherman Act amendments would create shocking forfeitures.

Second. No justification exists for legislative reordering of court priorities and procedures, without the judiciary's advice and without providing required appropriations.

Third. The provision to compel information protected by foreign laws was universally opposed before the committee, by the Justice Department, by the State Department, by the Federal Trade Commission, by the American Bar Association and others.

Fourth. Provision of mandatory legal fees in private injunction actions can only foment more antitrust litigation.

Title I's declaration of policy underlying S. 1284's substantive titles is based on myths and misconceptions about concentration, which expose the faulty foundation upon which the entire edifice is built.

Mr. President, I shall now present to the Senate a memorandum of certain constitutional questions arising with respect to fluid recovery provisions of title IV of S. 1284, which was prepared by Erwin N. Griswold, a former dean of Harvard Law School and former Solicitor General of the United States:

On March 2, 1976, four representatives of the Section of Antitrust Law of the American Bar Association appeared before the Committee on the Judiciary of the U.S. Senate in opposition to certain provisions of S. 1284. One of the persons who appeared was Allen C. Holmes, of Cleveland, Ohio, who is a member of the Council of the Antitrust Section. Mr. Holmes is my partner in the firm of Jones, Day, Reavis & Pogue, and, at his request, I have prepared this memorandum dealing with certain constitutional questions which appear to me to be involved with the so-called "fluid recovery" provisions of title IV.

In this connection, I have read the testimony given by Philip A. Lacovara, Esq., on March 3, and the memorandum subsequently filed by Mr. Lacovara with the committee. Although Mr. Lacovara refers to some of the same authorities as those relied on in this memorandum, they are presented here from a different point of view, and with sepcial emphasis on the constitutional aspect of the questions which are raised by title IV.

Title IV of S. 1284 is entitled "Parens Patriae Amendments." It undertakes to amend the Clayton Act by adding a new section 4C(a), which provides for suits by State attorneys general to recover damages for Sherman Act violations on behalf of the natural persons residing in such State, or any of them.

The amendments contain a further provision, in paragraph (c)(1) of section 4C, which reads as follows:

> (c)(1) In any action brought under subsection (a)(1) of this section, and in any class action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

This paragraph is applicable not only to the parens patriae suits authorized by section 4C(a)(1), but also to private antitrust suits brought on a class basis. It purports to authorize the so-called fluid recovery in both types of antitrust suits. More specifically, it provides for the award of damages against the defendant in favor of persons who are not in court, are not notified, except by publication, and who are not required to prove either that they were injured, or the amount of their injuries.

These provisions raise serious constitutional questions which should be carefully examined and considered before the Congress starts down so novel and draconian a road. I will endeavor in the following pages of this memorandum to summarize three aspects of these questions in terms of basic constitutional requirements.

A. "FLUID RECOVERY" IS NOT WITHIN THE CONSTITUTIONAL JURISDICTION OF THE FEDERAL COURTS, WHICH ARE LIMITED TO THE CONSIDERATION OF "CASES AND CONTROVERSIES" INVOLVING ACTUAL PARTIES PROPERLY BEFORE THE COURT

The law of "case or controversy" may fairly be said to be lawyers' law. But it is real. It reflects the language of the Constitution; and the language is not accidental. It was carefully chosen, and it was designed to limit the Federal courts to consideration of cases of "a judiciary nature," that is, to the decision of controversies between parties who are before the court, and subject to appropriate rules of proof.

In the case of "fluid recovery," the "case or controversy" requirement is not met, for the persons on whose behalf recovery is obtained make no claim, are not parties to the case, and provide no proof. For the most part, they are simply unknown.

Although no precise authority on this question is known—probably because the possibility of such a contention has seemed so farfetched—it seems obvious that a claim on behalf of such persons does not meet the requirements of article III of the Constitution, limiting the jurisdiction of the Federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

There are a number of decisions which go far to show that this question under article III is a substantial one which would be given serious consideration by the courts. One of these is *Eisen v. Carlisle & Jacquelin*, 479 F. 2d 1005 (C.A. 2d, 1973), decision vacated on other grounds, 417 U.S. 156 (1974). That case involved an effort to obtain a "fluid recovery" on behalf of all persons who had bought or sold odd lots on the New York Stock Exchange between May 1962 and June 1966. It was estimated that there were 6,000,000 members of this group, of whom 2,250,000 could be identified. The basic question in the case was who should bear the cost of giving notice to the members of the class who could be identified. The court of appeals held that this burden could not be put on the defendant, under a proper construction of rule 23 of the Federal Rules of Civil Procedure; and this conclusion was affirmed by the Supreme Court. But the court of appeals went further in an opinion by Judge Medina, and discussed the impropriety of "fluid recovery," which had been suggested by the district court as a possible solution to the manageability problem posed by the case (479 F. 2d at 1018):

> Even if amended Rule 23 could be read so as to permit any such fantastic procedure, the courts would have to reject it as an unconstitutional violation of the requirement of due process of law. . . . We hold the 'fluid recovery" concept and practice to be illegal, inadmissable as a solution of the manageability problems of class actions and wholly improper.

It is, of course, quite true that this passage does not speak in terms of the article III limitations of "case and controversy." It seems equally clear, though, that the factors to which the court referred are those which are involved in determining whether there is a case or controversy, that is, whether the matter to be undertaken by the court is truly "of a judiciary nature."

There are other recent decisions which point in the same way. *In Re Hotel Telephone Charges*, 500 F. 2d 86

(C.A. 9th, 1974), is an example. In this case, it was estimated that the class—all hotel guests who had been subjected to a surcharge—would number more than 40 million persons. The court held that this was not appropriate for a class action. Although it did not put the decision specifically on any constitutional ground, it said (500 F. 2d at 92):

> The antitrust laws focus on the compensation of parties actually injured, presupposing that a plaintiff can prove that he was in fact injured as a proximate result of an antitrust violation.

Another case reaching a similar result is *Kline* v. *Coldwell, Banker & Co.*, 508 F. 2d 226 (C.A. 9th, 1974). This case involved a suit against real estate brokers brought by the plaintiffs, "on behalf of themselves and all sellers of residential real estate in Los Angeles County." It was estimated that the number of persons in the class was "upwards of 400,000," and possibly more. The court held that this was not appropriate for a class action.

Again, its conclusion was not put on constitutional grounds, but much of its language would support the contention that the effort to bring in so large and indefinite a class was inconsistent with the "case or controversy" limitation of article III of the Constitution. Judge Duniway's concurring opinion is particularly relevant. He referred to the suit before the court as a "judicial juggernaut" (508 F. 2d at 236), while recognizing the possibility that class action suits might be brought on behalf of classes made up of: "truly and actively aggrieved plaintiffs." 508 F. 2d at 239. This is language that is apt to the consideration of the question of "case or controversy." He also said (508 F. 2d at 238):

> "It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each 'plaintiff.'"

Here again, it can fairly be contended that without such proof there is no "case" within the constitutional sense of that word as it is used in article III.

The recent decision of the Supreme Court in the case of *Warth* v. *Seldin*, 422 U.S. 490 (1975), is of especial importance on this question. That case turned on an issue of "standing," which is closely related to the "case or controversy" question. The case was a suit brought by organizations and residents of Rochester, N.Y. to contest the validity of a zoning ordinance in the town of Penfield, adjacent to Rochester. The contention was that this ordinance excluded persons of low and moderate income from living in Penfield. The suit was originally filed by an organization called Metro-Act of Rochester, Inc., and eight individual plaintiffs, "on behalf of themselves, and all persons similarly situated." The Supreme Court held that the plaintiffs did not have the requisite standing to maintain the suit.

In reaching this conclusion, the Court said (422 U.S. at 478–499):

> In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. The inquiry involves both *constitutional limitations on federal-court jurisdiction* and prudential limitations on its exercise. *E.g., Barrows* v. *Jackson*, 346 U.S. 249, 255–256 (1953). In both dimensions it is founded in concern about the proper—and properly limited—role of the courts in a democratic society. See *Schlesinger* v. *Reservists to Stop the War*, 418 U.S. 208, 221–227 (1974); *United States* v. *Richardson*, 418 U.S. 166, 188–197 (1974) (Powell, J., concurring).
>
> In its constitutional dimension, standing imports justiciability: whether the plaintiff has made out a "case or controversy" between himself and the defendant within the meaning of Art. III. This is the threshold question in every federal case, determining the power of the court to entertain the suit. As an aspect of justiciability, the standing question is whether the plaintiff has "alleged such a personal stake in the outcome of the controversy" as to warrant *his* invocation of federal-court jurisdiction and to justify exercise of the courts' remedial powers on his behalf. *Baker* v. *Carr*, 369 U.S. 186, 204 (1962). The Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party, even though the court's judgment may benefit others collaterally. [First emphasis supplied; second emphasis in original.]

The Court also said (422 U.S. at 499) that "even when the plaintiff has alleged injury sufficient to meet the 'case or controversy' requirement, this Court has held that the plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties."

This decision makes it plain that the Court is fully aware of the fundamental importance of the "case or controversy" requirement of article III, and that it regards this constitutional limitation on judicial power as "the threshold question in every Federal case." The Congress should be as careful as the courts to see that remedies provided are within the role that our courts can properly play in our constitutional system.

This does not mean that there cannot be representative suits, where there is a clear relationship between the representative and the person he represents. A trustee can represent his beneficiary, a guardian can represent his ward, and a parent may appear as the next friend of his child. In each such case, though, there is a clear and directly adverse claim of injury and the burden is on the plaintiff to produce the facts which will prove the injury and the amount of the damages, by a preponderance of the evidence.

Nor does this mean that there cannot be class actions, even, sometimes, with rather large classes, where there is some sort of coherence between the members of a reasonably circumscribed and defined class. For example, a suit may be brought on behalf of all the shareholders in a corporation. A suit might, in some circumstances, be brought on behalf of the members of a church, or the students in a school. In such cases, there is a clear relationship between the members of the class, and the class is finite and readily determinable. Moreover, in many class suits, if not most, the object is to seek an injunction. If an injunction is obtained by some plaintiffs, this will inure to the benefit of all persons similarly situated, since a decision in favor of some plaintiffs would operate on behalf of all, under ordinary principles of stare decisis. In such cases, there is no "recovery" by the plaintiff. The fact of injury to any individual plaintiff, or the amount of that injury, is irrelevant, as long as some of the plaintiffs before the Court show the requisite grounds for injunctive relief. It is suits of this kind in which expansive notions of the scope of a proper class have taken root.

When there is a claim for money damages, however, the situation is entirely different. The purpose of having a class is for the convenience of the court, to avoid multiplicity of litigation, and needless repetition of the same issue. But this does not negate the constitutional requirement that there must be a case or controversy with respect to all members of the class, who must in some way—for example, through actual notice, or appearance in court—be before the court. Similarly, it does not mean that there is a case or controversy with respect to any member of the supposed class whose actual identity is completely vague and uncertain, and who does not provide proof that he has been injured, and proof of the damages he has sustained from such injury. Surely the fact that some members of the class may be properly before the court does not mean that there is a case or controversy with respect to other members of the class. The fact that there is a case or controversy with respect to a named or identified plaintiff, does not give the court jurisdiction to decide other and hypothetical or abstract questions. Thus, a plaintiff that is properly before the court could not say: "And, by the way, we would like to have you declare this other, unrelated, statute unconstitutional." Cf. *Muskrat* v. *United States*, 219 U.S. 346 (1911). Similarly, the fact that proof is provided by some members of the class who are before the court does not necessarily mean that there is a case or controversy with respect to other members of the class who make no proof at all, either of actual injury, or of damages. The fact that others may seek to provide some sort of proof on their behalf does not mean that there is an actual controversy on such matters before the court. Under article III, the court has no constitutional power to decide such collateral questions, on behalf of parties not before the court, and making no claims, and the Congress should not seek to assign such powers to the courts under our constitutional system.

B. THE PROVISIONS OF SECTION 4(C)(1) VIOLATE THE GUARANTEE OF THE FIFTH AMENDMENT AGAINST TAKING PROPERTY WITHOUT DUE PROCESS OF LAW

A substantial constitutional argument can also be made against the provisions of title IV on the ground that they provide for taking the defendant's property without due process of law, insofar as they authorize the award of damages on behalf of some members of the class, without proof of injury, and without proof of the actual extent of damage sustained by those members of the class.

Congress cannot constitutionally provide that the property of A shall be taken from him and given to B, without complying with the requirements of due process. As the Supreme Court said in *Warth* v. *Seldin* (422 U.S. at 499):

> The Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party . . .

There should be no recovery on behalf of a plaintiff who has provided no proof of injury or damages. Recovery in such a case is a clear violation of due process. See also the recent decision of the Supreme Court in *Eisen* v. *Carlisle & Jacquelin,* 417 U.S. 156 (1974).

This is especially true when it is known in advance that a substantial part of the recovery will not, in fact, go even to the members of the class. That this is the intended effect of title IV is evident from the provision of section 4C(c)(2) which provides that—

> The court shall distribute . . . any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize.

The purpose of this provision is to legislate that any unused portion of the fund—that is, any "monetary relief" in excess of that actually proven by a known and existing plaintiff—should be used to benefit others, in some way, even though many of the others will not be members of the same class on whose behalf the suit was brought. Thus, in the Tetracycline litigation, unused funds—obtained in a settlement—were, in effect, distributed cy pres to hospitals and other charities. And in *Eisen* v. *Carlisle & Jacquelin,* 479 F. 2d 1005, it was proposed that the unclaimed funds relating to past odd lot traders should be used to reduce costs for future odd lot traders, many of whom would not be members of the original class.

It is said that the defendant has done wrong, and he should be made to disgorge. But, consistently with due process, damages cannot be awarded in vacuo. A person can be mulcted for wrongdoing only pursuant to a criminal statute imposing a fine, or pursuant to a statute imposing a civil penalty or forfeiture, subject to proper requirements and standards of proof. This is not the purport of title IV. And it would not satisfy some of the proponents of title IV, since it would not provide a fund for distribution, or for the payment of attorneys' fees.

The contention is made that the allocation of the funds to charity, or to other groups, is simply an example of escheat; and the case of *Mullane* v. *Central Hanover Trust Co.,* 339 U.S. 306 (1950) is pointed to. But the Mullane case is distinguishable. In the first place, the case required service of process, where the claimants could be identified. Moreover, the case involved specific amounts held by a bank in a company trust fund. There was no contention that the bank did not hold the money for the beneficiaries. There was no issue either as to liability, or as to the amount of the liability. The money was held by the bank without any claim to keep it. The issue in the case was the protection of the bank against future claims by beneficiaries, and it was held that the bank would not be protected unless there was actual notice to all beneficiaries who could be identified.

Thus, the decision in the Mullane case with respect to notice by publication related to the defendant bank only with respect to its protection against a further suit by a beneficiary. The persons to be protected there were the persons who made the payments to the common trust fund. Thus, the defendant bank was not deprived of anything without proof of its liability; and the beneficiaries were not deprived of their rights without actual notice when that would be given.

I am quoting from a memorandum, as I stated in the beginning, of Erwin N. Griswold, former dean of the Harvard Law School and former Solicitor General of the United States. That is what he says about this bill:

C. THE PROVISIONS OF TITLE IV VIOLATE THE PROHIBITION IN THE FIFTH AMENDMENT AGAINST THE TAKING OF PRIVATE PROPERTY FOR PUBLIC USE WITHOUT JUST COMPENSATION

It is plain that title IV provides no compensation to the defendant for the property taken from him. In the ordinary case, under title IV, of course, the property is taken from the defendant for the benefit of an indefinite class, a large part of which will, in fact, never be specified. Insofar as the property is taken for the benefit of this class, and the property is taken without proof of actual damage, or the amount of damage, it is in fact a taking of private property for private use, and this is an a fortiori case within either the due process clause or the just compensation clause of the fifth amendment.

Insofar as the property taken is applied cy pres for some public use or benefit, it can well be contended that this is a violation of the just compensation clause. It is a taking of the property of the defendant, not for any identified plaintiff, on proof of his injury and damages, but, in effect, for public use and benefit. The fifth amendment provides that private property shall not be taken for public use without just compensation. Since private property is taken under title IV without compensation and proof that any identified person has been injured, a serious question can be raised under the just compensation provision of the fifth amendment.

CONCLUSION

For the reasons indicated, a strong case can be made that the provisions of title IV violate the Federal Constitution: First, with respect to the "case or controversy" requirement of article III; second, with respect to the due process clause of the fifth amendment; and third, with respect to the just compensation clause of the fifth amendment. These constitutional reasons against the enactment of title IV should be given full consideration, in addition to the practical arguments which have been advanced by other witnesses before the committee.

Now, Mr. President, Mr. Richard A. Posner, from the University of Chicago Law School, wrote a letter to the chairman of the subcommittee, Mr. PHILIP A. HART, dated March 3, 1976. I feel that the Senate should have the benefit of this letter. It reads as follows:

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, Ill., March 3, 1976.

Senator PHILIP A. HART,
Chairman, Senate Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR SENATOR HART: I am writing to express my views on S. 1284 which is pending before your subcommittee. I request that the statement which follows be made a part of the record of your subcommittee's deliberations on this bill:

My name is Richard A. Posner. I am a professor of law at the University of Chicago Law School and I have taught and written extensively in the field of antitrust law.

I believe that the enactment of S. 1284, which would allow state attorneys general to bring suits under Section 1 of the Sherman Act to recover damages for injury to residents of their states, would be a serious mistake. It is important to provide effective damage remedies for violations of the antitrust laws; and where the injury inflicted by such a violation is widely diffused, no individual may have a substantial incentive to bring a damage action, even though the aggregate injury imposed by the violation may be very great. Because antitrust violations frequently do impose such diffuse injuries, procedural innovation is necessary if there is to be effective redress of antitrust violations. I am persuaded, however, that the most effective innovation is the modern consumer class action, which permits the aggregation of many small claims. That is not to say that the class action is free from opportunities for abuse on the one hand, and inadequacies and insufficiencies on the other; but it seems to me the best of the available procedures. S. 1284 would be among the worst:

1. State attorneys general might file groundless antitrust suits designed for purposes of political self-aggrandizement. We must be realistic and recognize that attorneys general are politicians who have been known to use their office to advance a political career. The temptation to file a multimillion-dollar suit for publicity purposes would in some cases, I fear, prove overwhelming. It is a salutary limitation on the powers of the attorney general of the United States that he is not empowered to bring money actions under the antitrust laws (other than for actual damages to the United States in its proprietary capacity). I fear, in short, that S. 1284 would turn the antitrust laws into a political football.

2. Calculating the damage to a state's residents from an antitrust violation would be fraught with uncertainty. It is difficult enough to estimate the injuries suffered by a class of individuals or firms doing business with the antitrust violator. To trace out the possible economic ramifications of the violation throughout a state's economy—which is what would be necessary in order to measure the injury to the state's residents—would strain the capacities of the economic science and the judicial process, and would violate the traditional limitation of damages to those that are foreseeable.

3. The piecemeal creation of antitrust remedies is a great mistake. Congress has recently increased the public penalties for antitrust violations but has not, to my knowledge, attempted to evaluate the effects of that change in law. Nor have I seen evidence that Congress has carefully considered the effect on compliance with the antitrust laws of alternative remedies such as the consumer class action. Your subcommittee has not, to my knowledge at least, considered how S. 1284 would fit in as part of a cohesive, general system of public and private penalties. In these circumstances its enactment would be premature even if, considered alone, it did not

have the two disabling disadvantages that I have identified.

In sum, I urge you not to report favorably on S. 1284. I may add that in offering these views I am speaking as an individual and not as the representative of any group or interest.

Sincerely,

RICHARD A. POSNER.

Now, Mr. President, I would like to bring to the attention of the Senate a letter that was written to Honorable ROMAN L. HRUSKA, U.S. Senator from Nebraska, and a member of the Judiciary Committee, in fact, the ranking minority member, from Allen P. Stults, chairman of the board and former president of the Bankers Association. He is chairman of the board of the American National Bank and Trust Co. of Chicago.

AMERICAN NATIONAL BANK &
TRUST CO. OF CHICAGO,
Chicago, Ill., February 12, 1976.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: I understand that the Congress will shortly vote on proposed legislation which would authorize the Attorneys General of the States to bring antitrust treble damage actions in the Federal courts on behalf of all or large groups of residents of a State claiming damages from violations of the antitrust laws.

In this connection, I wish to stress the importance for the national economy of a careful assessment as to how potentially huge contingent liabilities, particularly of smaller firms named as co-conspirators in such antitrust actions, may affect their access to financing and capital markets.

I understand that antitrust class actions in the past have asserted multi-million dollar claims for which all named co-conspirators are jointly and severally liable, including one recorded case in California claiming $750 million in joint and several liabilities against 2,000 real estate brokers.

In view of SEC disclosure requirements in the financial statements of public corporations which incur material contingent liabilities in pending antitrust litigation, it is my considered opinion that such antitrust actions may have a substantial adverse impact on the financing opportunities particularly of smaller firms named in such actions.

This is so because banks and other financial institutions will necessarily take such substantial contingent liabilities into account in their lending decisions.

ALLEN P. STULTS,
Chairman of the Board.

(Former President, The American Bankers Association).

Now, Mr. President, some people wish to point to this antitrust bill as an anti-big-business bill. Well, I guess it makes no difference whether you call it an anti-big-business bill or what kind of bill it is called. We have to go to the heart of it and see what it does.

Here is a letter from a very prominent man, chairman of the board of a big bank in Chicago, which says that "actions of this kind will have a substantial adverse impact on the financing opportunities of small firms."

So this is not a bill that is an anti-big-business bill necessarily, although to some extent it may be because it is anti-any-kind of business, it is anticonsumer, it is antipublic. This bill is not in the best interest of the consumer; it is not in the best interests of the public, and it is certainly not in the best interest of small business.

Mr. President, on March 12, 1976, Ward S. Bowman, Jr., Ford Foundation professor of law and economics of the Yale Law School, wrote Senator HART, the chairman of the subcommittee, a letter which I feel should be brought to the attention of the Senate. It says:

YALE LAW SCHOOL,
New Haven, Conn., March 12, 1976.

Re: Title IV, S. 1284 (Parens Patriae).

Senator PHILIP A. HART,
Chairman, Senate Subcommittee on Antitrust and Monopoly, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HART: As an economist who has spent most of his adult life working with lawyers on problems of competition and monopoly, I write to express my gravest apprehensions about the enactment of S. 1284.

I have long shared the consumer interest concern which S. 1284 purports to support. But allowing state attorneys general to bring suits under the Sherman Act to recover damages for their state residents would create more problems than would or could be resolved. Important as it is to deter collusive activity among competitors when total injury is substantial but injury to individual consumers is minimal, I am confident that alternative means of deterrence are far better means of enforcement. Included are high fines, better case priority for prosecutions by the Antitrust Division, state antitrust laws and their more stringent enforcement, and private class actions. As to the latter, the proposed legislation seems to be attempting to undo the effects of recent federal court decisions without at all clarifying what would or should make these cases go the other way were state attorneys general to represent a class.

Furthermore, I must emphasize what, for me, is an even more basic problem—increasing deterrence for antitrust violations which are inconsistent with efficient use of resources to the benefit of consumers. In recent years much antitrust activity has centered on protection of competitors rather than protecting the competitive process. Thus, both public and private actions under the Sherman Act, and particularly its Section 1, have had the effect of making illegal actions which lead to efficiency and lower costs, making for consumer benefit rather than consumer harm. As I read S. 1284, and the arguments in support of it, there seems to me to be a presumption that all antitrust actions that state attorneys general might bring would be reasonably exact facsimilies of horizontal price fixing agreements or division of fields agreements which would clearly be adverse to the interest of consumers.

I see nothing in S. 1284, however, which would limit state action to such obvious consumer cases. As my 1973 book, *Patents and Antitrust Law, a Legal and Economic Appraisal,* analyzes in detail, all violations of antitrust law under current standards are not consumer benefiting. And your S. 1284 ignores or seriously underplays the deficiencies in existing antitrust law. To be specific, I see nothing which would prevent state attorneys general from bringing actions based on such antitrust precedent as *Schwinn, Von's Grocery, Topco,* or *Brown Shoe.* And I must restress, as I, and others, including the Solicitor General of the United States[2] have long contended, such cases are undeserving of antitrust support, much less treble damages from either private action or class suits brought on behalf of state attorneys general.

My conclusion, therefore, supports the position taken by Professor Richard Posner of the University of Chicago in his letter to you dated March 3, 1976. All of his valid arguments apply to such obviously consumer harming activity as collusive price fixing agreements. That S. 1284 is not limited to such arrangements makes it worse not better.

Sincerely,

WARD S. BOWMAN, Jr.,
Ford Foundation Professor of Law and Economics.

Mr. President, that letter from Mr. Bowman at the Yale Law School in New Haven, Conn., I think clearly sets out his position. He feels this bill is not in the best interests of the people of this country.

Mr. President, on March 17, 1976, the President of the United States, the Honorable Gerald R. Ford, wrote to the minority leader in the House of Representatives, the Honorable JOHN J. RHODES, and this letter contains views which I feel should be brought to the attention of the Senate. It says:

THE WHITE HOUSE,
Washington, March 17, 1976.

Hon. JOHN J. RHODES,
Minority Leader,
House of Representatives,
Washington, D.C.

DEAR JOHN: As I outlined to you on Tuesday, March 16, I support vigorous antitrust enforcement, but I have serious reservations concerning the parens patriac concept set forth in the present version of H.R. 8532.

I question whether federal legislation is desirable which authorizes a state attorney general to sue on behalf of the state's citizens to recover treble damages that result from violations of the federal antitrust laws. The states have the ability to amend their own antitrust laws to authorize parens patriae suits in their own courts. If a state legislature, acting for its own citizens, is not convinced the parens patriae concept is sound policy, the Administration questions whether the Congress should bypass the state legislatures and provide state attorneys general with access to the federal courts to enforce it.

In addition to my reservations about the principle of parens patriae, I am concerned about some specific provisions of the legislation developed by the House Judiciary Committee.

The present bill is too broad in its reach and should be narrowed to price fixing violations. This would concentrate the enforcement on the most important antitrust violations.

In addition, the Administration is opposed to mandatory treble damage awards in parens patriae suits, preferring instead a provision which would limit awards only to the damages that actually result from the violation. The view that federal penalties were inadequate, which has been used to justify mandatory treble damages in the past, is no longer justifiable given the substantial increases in these penalties in recent years.

The Administration opposes extension of the statistical aggregation of damages, beyond parens patriae legislation, to private class action suits because this is outside of the appropriate reach of this legislation.

Finally, the Administration prefers discretionary rather than mandatory award of attorney's fees, leaving such awards to the discretion of the courts.

During the last two years, the Administration has sought to improve federal enforcement efforts in the antitrust area and the resources devoted to antitrust enforcement have increased substantially. In December 1974, I signed the Antitrust Penalties and

---

[2] See, for example, *Crisis in Antitrust,* by Robert H. Bork and Ward S. Bowman, Jr., Fortune Magazine, December 1963.

> Procedures Act which increased maximum penalties from $50,000 to $1 million for corporations and $100,000 for individuals. As I indicated above, I support vigorous antitrust enforcement, but I do not believe H.R. 8532 is a responsible way to enforce federal antitrust laws.
>
> Sincerely,
>
> GERALD R. FORD.

Mr. President, here is a letter from the President of the United States in which he states clearly in his own words that he supports vigorous antitrust enforcement, but he does not believe that H.R. 8532 is a responsible way to enact Federal antitrust laws.

Mr. President, I hope the Members of the Senate will take his views into consideration when this bill comes to a vote in the Senate.

Mr. President, without encouraging any mail on this subject, any wires to be sent, or any communications, the people of my State—and I think the people of my State are typical of the other States of the Nation—have shown their opposition and their resentment to this dangerous piece of legislation by the many communications I have received.

I am going to quote from a few of these communications, because it would take all day long to read the many objections I have received from my constituents on this topic.

Here is a letter from Greenville, S.C., that says:

> I strongly urge you to oppose bill S. 1284 now being considered by the Senate Judiciary Committee.

It is signed Wade H. Stephens, Jr., 414 McIver Street, Greenville, S.C.

Here is a letter from Gerald J. Dix, a senior vice president of the National Bank of South Carolina, Sumter, S.C.:

> DEAR SENATOR THURMOND: The referenced Senate Bill appears to be designed to create more law business for attorneys. It would most certainly create more harassment of business even without identification of aggrieved individual(s). It also appears to hand to state Attorney Generals unnecessary and quite broad powers to bring class action suit against "alleged violators" of federal antitrust laws on behalf of residents of their states with possible treble damages.
>
> As a practical matter, this legislation will necessarily increase the cost to business and any similar legislation would do likewise. It simply follows that costs for all consumers will increase.
>
> Senator, I strongly urge you to do everything to expose such impractical legislation that cannot on the long term serve our nation well. I assume you do oppose this legislation. May your opposition be successful as it surely must be.
>
> May I hear from you on this?
>
> Most respectfully,
>
> GERALD J. DIX,
> *Senior Vice President.*

Next, Mr. President, I have a letter from Thomas & Howard Co., Columbia, S.C.

> DEAR SENATOR THURMOND: I would sincerely request that you oppose the Hart-Scott Antitrust Improvements Act, S.1284.
>
> This bill will cause additional hazards and difficulties with which businessmen will have a difficult time complying. Should this bill be passed, prices will have to go up so that businesses can pay the damages.
>
> With kindest regards, I am
>
> Very truly yours,
>
> HOWARD TIMBERLAKE.

Mr. President, Howard Timberlake is the president of Thomas & Howard Co.

Mr. President, here is a businessman. He says that if this bill passes, prices will go up so that businesses can pay the damages.

Mr. President, who is losing here? They are speaking about hitting big business. They are not hitting big business probably as much as little business. But there is one thing for sure: they are going to hit the consumer and they are going to hit him right in the middle of his forehead. This is an anticonsumer bill, and I want the people of this country to know that. It is being labeled as an anti-big-business bill. This is an anticonsumer bill. All of the letters and communications I have received from people in little busines, consumers and others, see it so.

Mr. President, I have a letter from Steel Heddle, Greenville, S.C. It reads:

> We understand that on April 6 the above bill will come before your committee and we urge you to oppose this bill in the best interest of overall business and the country as a whole. As we see it, the only parties that are going to benefit from the passage of such a bill would be—

Who? Consumers? No. Little business? No. Who does he say will benefit from it? The lawyers, the lawyers who will be delegated the power to bring suits in the thousands, in the hundreds of thousands and in the millions of dollars and will impose expenses on businesses which will have to be passed on to the consumers.

Then he goes on to say those who benefit will be:

> lawyers, with business and individual consumers suffering in the long run. We certainly hope you will concur with us.
>
> Sincerely,
>
> B. BOWEN,
> *Executive Vice President.*

Mr. President, I have a letter from the First National Bank of Holly Hill, S.C.:

> DEAR SENATOR THURMOND: You have before your committee the Hart-Scott Antitrust Act.
>
> I am certain you are aware of the many dangers in a bill including such provisions as this act.
>
> If you can help in keeping this act from becoming law, it will be appreciated.
>
> Wtih kind personal regards, I am
>
> Sincerely yours,
>
> H. D. FOLK,
> *Chairman of the Board.*

Mr. President, I have a wire from a gentleman in Greenwood, S.C.:

> GREENWOOD, S.C.
>
> S. 1284 is another giant step toward turning the DOJ into a complete anarchy, and favors "private interest" law firms. Another Boondoggle to harass private enterprise and will have reverse effect on economic goals it's designed to achieve. Kill it quick.
>
> LARRY THOMPSON.

Mr. President, I have another wire, one from Lancaster, S.C.:

> Urge your opposition to S. 1284. It is another step toward complete government takeover of business.
>
> R. H. COLLINS.

Mr. President, I am sure that the Senators who are listening today will understand that these communications are from all strata of life, all types of businesses. Most are small businessmen. They are deeply concerned that it is just another step to let the Government take over and assume more power, more Federal power. Federal power is entirely too strong now. The flow of power ought to be reversed. It ought to be turned back to the States and back to the people. Instead, with the passage of this type of legislation, more and more power will be brought to Washington. In the end, it brings tyranny to the people.

This gentleman, Mr. Collins, is afraid that this type of bill will lead to Government takeover of business, and he may be right.

Mr. President, I have a letter from a gentleman in Anderson, S.C., by the name of Cordes G. Seabrook, Jr.

> DEAR SENATOR: I would like to express my opposition to SR–1284. I feel confident you are against this bad legislation, and I hope you and those who think like you will keep this from becoming law.
>
> Sincerely,
>
> CORDES.

I have a wire here from Columbia, S.C., which reads:

> We earnestly solicit our opposition to omnibus antitrust bill S. 1284. Southeastern Safety Supplies, John G. Farmer, Columbia, South Carolina.

I have a letter here from Sumter, S.C.:

> DEAR MR. THURMOND: I hope you will oppose the antitrust improvements act S. 1284. The passage of such an act would not at all improve business competition. In fact it would discourage business growth.
>
> Thank you in advance for opposing bill S. 1284.

Mr. President, here we are, all considering how we can get people back to work, how we can provide more employment, how we can provide more jobs, and yet we have a letter from a businessman, a businessman who gives employment to people, a man who provides for people, a man who enables the head of a family to feed his family, and here is what he says:

> The passage of such an act would not at all improve business competition. In fact, it would discourage business growth.

How are we going to increase employment if we do not have business growth, if we do not expand the economy and provide more jobs, unless we let the Government do it? That is what some people want to do today. They want the Government to assume responsibility in every facet of people's lives, and to inject the Federal Government into every phase of activity.

In my opinion, private enterprise will provide most of the jobs for our people if we will unshackle private enterprise and quit loading it down with more and more regulations and harassing it, as is now being done, by so many agencies of this Government under the acts created by this body.

Now, Mr. President, I have a letter here from Clinton Mills:

> DEAR SENATOR THURMOND: I am calling to your attention S. 1284.
>
> This bill will only seriously shackle further every business in this country with unnecessary involvement of government in private industry.

> Business may in some cases, need government investigation, but most American business needs to be let alone.
>
> Everyone wants to have a better country, and most business is trying harder than anyone to make it better. Business is getting fed up with overregulation and unnecessary government interference.

That is exactly what we have in this bill. This gentleman has put his finger on it. He says business is getting fed up with overregulation and unnecessary Government interference.

He adds:

> I hope you will ask for detailed explanation of every facet of this bill. Hopefully you will move to kill it.

Mr. President, I have a letter here from Terry Construction Co., Greenville, S.C.:

> Dear Senator Thurmond: Would you please use your influence to defeat Anti-Trust Bill S1284 which I understand is now on your Committee's Agenda. In my opinion this is another "back door" attempt to break up our free enterprise system in America.
>
> Some of the ills of this proposed legislation are as follows:
>
> 1. Give the Department of Justice power to subpoena innocent individuals for interrogation under oath, without direct court supervision or formal complaint.

Mr. President, that is what this bill does. It gives some little lawyer here in the Justice Department the power to subpena anybody he wants to in this country and bring him into Washington, or he can go down to his business and talk to him there, and swear him.

He can put him under oath, and if he puts him under oath and if he makes a misstatement or a mistake—he may not have a lawyer there, and may not have all his records—if he makes a mistake, then that lawyer will be ready to prosecute him for perjury.

Mr. President, we have never had anything like this in this country before. Ordinarily, if a man is charged with a violation of law, he goes into a court of justice and is tried under a criminal proceeding. If he has to go to court on a civil case, he knows what the controversy is about before he goes to court, and there he can answer. Under this bill he is put under oath and asked anything concerning his business. This is purely a fishing expedition type of bill, to try to find something against business that some little lawyer or bureaucrat may not like. It is purely harassment of the individual and harassment of business.

His next point:

> Give State Attorney Generals power to sue alleged violators and collect triple damages without proving individual claims.

Mr. President, that is what this bill does. It gives the State attorney general or anybody in his office, or any attorney he chooses anywhere in his State—you can just see these defense lawyers now, looking out to get to bring these suits. It would give them the right to sue for alleged violations; and injury need not be proved. Just so there is a violation on the part of an individual or company, the business can be sued and treble damages can be collected. And who does it go to? Well, there is nobody injured, so it would not go to the injured. Then the judge would determine whether to give it to some charitable institution, or something like that.

It is purely a way of taking money away from one private company and giving it over to some charitable organization or some other organization, and there is no provision in the Constitution of the United States to allow that.

His next point:

> Give private Attorneys power to bring anti-trust class actions for triple damages without proving individual claims.

That is what it does. They do not have to prove the claims; all they have to prove is that there is a violation on the part of the defendant, and they can get damages, and not only damages but triple damages.

This gentleman says:

> We do not need any more power in the hands of the Department of Justice and neither do we need to encourage public interest law firms.

The letter is signed John R. Terry, Jr.

Mr. President, I have a letter here from the Greater Rock Hill Chamber of Commerce, Rock Hill, S.C.:

> Dear Senator Thurmond: We are opposed to S. 1284, because the charge of anti competitive business behavior given as the basis for this legislation is not true.
>
> The burden of proving the charge is on the proponents of this legislation. We don't believe they have done this. It appears that they are attempting to make their case by naked assertion without reliable evidence.
>
> In our judgement, added power in the Department of Justice is unnecessary. Needed information may be obtained under existing Civil Investigative Demand authority and under court supervision by grand jury or during actual litigation.
>
> The Department of Justice does not stand in the same position as other agencies which may need compulsory powers for regulatory functions like rate making. Added powers would allow the Department of Justice to prosecute corporations criminally without going through protective grand jury process. This is especially significant in light of recent amendments raising Sherman Act violations from misdemeanor to felony level.
>
> We hope you will oppose S. 1284 and actively work for its defeat.

Signed Clint R. Carpenter, Jr., CCE.

Mr. President, I have a telegram here from Sumter, S.C.:

> Urge your strong opposition to S. 1284.
>
> H. G. Martin, Jr.,
> *President, First Federal Savings & Loan Co., North Main St., Sumter, S.C.*

I have a letter here from Robert P. Stirm, Greenville, S.C.:

> Although I am not familiar with all of its provisions, the so-called "Antitrust Improvements Act" (S. 1284) now before the Senate Judiciary Committee would appear to be another attempt to foister legislation not in the best interest of the country and its economy as a whole, and particularly the business community. If the limited information I have is correct, the bill would enhance the ability of certain government agencies, encouraged and supported by anti-business special interest groups, to harass corporations of their choice and thereby impede continued recovery of the economy. Moreover, it would seem that the bill may well raise certain constitutional issues of due process.
>
> Unless my information is completely erroneous, I would urge your opposition to S. 1284 and your insistence that each of its provisions be fully debated before the Committee and appropriate disclosure thereof be made public through the national media.

Signed Robert P. Stirm.

Mr. President, I have a letter from Greenville, S.C.:

> Subject: Omnibus Antitrust Bill (S. 11284)
>
> My Dear Senator: Would appreciate anything you can do in your power toward defeating S. 1284).

Signed J. M. Clary. He is with the Britt-Clary Co., food brokers.

Mr. President, I have a wire here from Laurens, S.C.:

> We urge you to oppose anti-trust bill S. 1284.
>
> Morris J. Crump,
> *Southern States Lumber Co., Inc., Box 265, Laurens, S.C.*

I have a letter here from Columbia, S.C.:

> Dear Senator Thurmond: In the near future you and the Judiciary Committee will be making a decision on the bill known as the "Antitrust Improvements Act". The bill I am referring to is S. 1284.
>
> The information I have read concerning this legislation could not only do permanent damage to our private enterprise system but would create an expense to business the ultimate consumer would end up paying. It is my opinion we have more than enough laws and regulatory agencies governing industries.
>
> As for those persons and organizations who feel that the business world is the enemy of our society, let them also pause and consider where they would be without businesses.
>
> I solicit your support by voting against S. 1284. Thank you.

Signed W. N. Carroll, Treasurer, Dreher Packing Co., Columbia, S.C.

Mr. President, I have a wire here from Fort Mill, S.C., just south of the North Carolina line.

> I am advised that H.R. 8532 and S. 1284 antitrust bills may be up for votes in a few days. I am not opposed to vigorous enforcement of our present laws against anticompetitive restraints of trade, but I am opposed to this legislation. Rather than freeing the marketplace of counterproductive influences, these bills seek to add such influences, namely, among others, harrassment from every career promoting assistant U.S. attorney and assistant State attorney general in the country. This legislation simply opens the way for political blackmail. If your aim is an efficient market wherein the best produce the most at the least cost, this is not the way to get it.

Signed Dan M. Byrd, Jr., Spring Mills, Inc., White Street, Fort Mill, S.C.

Mr. President, I have a letter here from Florence, S.C., the Home Furnishing Co.

> Re S. 1284.
>
> Dear Senator Thurmond: No one in their right mind would quarrel with any real improvements in this bill. My concern is that some are trying to sell the bill as a cure for inflation, unemployment and other economic problems.
>
> I seriously question this.
>
> It looks like more government regulations and harrassment and office expense because of "government enforcers; state attorneys general; and "public interest" law firms".
>
> Government Enforcers, FTC: Few Government agencies are more insatiable in their demands for confidential business information than the FTC.
>
> State Attorneys General: The bill is made to order for ambitious state attorneys general.

> "Public Interest" Law Firms: Among those watching the bill with greatest anticipation are self-styled "public interest" law firms.
>
> As a member of the Judiciary Committee, I request that you study carefully what this bill will do and what the end results and effects will be.
>
> How can you stimulate business by limiting it's ability to grow and provide jobs?
>
> How can you increase the income tax collections if you reduce the volume of business and the number of people they employ?
>
> If we want to come out of this recession, we need to put a halt to new regulations on business. Allow them to catch their breath and move ahead in what is left of the Free Enterprise System.
>
> Yours truly,
>
> J. MADISON RAINWATER.

Mr. President, again, I repeat, although this is called an anti-big business bill, this bill will have greater effect on the little businesses of this country and the little people than it will anyone else.

Here is a little businessman in my State, and here is a whole page that he wrote to me opposing this bill. He would not have taken the time to sit down, study this bill, and write me about it if he did not feel it was against the best interest of small business.

The Members of this Senate pride themselves on being for small business. If the Members of this body are really for small business, now is the time for them to show their true colors and stand up and oppose this bill.

Mr. President, I have a letter here from a man from Columbia, S.C., Bagnal Builders, and they are small business people.

I cannot imagine the Senator from South Dakota taking the position he is taking, because he has the reputation of being for the little man. But here he is pushing through a bill that will help destroy the little man.

I read the letter from Mr. Bagnal:

> DEAR SENATOR THURMOND: As a member of the Judiciary Committee I hope you are not in favor of Senate Bill 1284. The man in business today is being regulated out of business. All new buiness regulations add more cost of doing business and the ultimate consumer has to pay for it.
>
> The small or large business cannot win a lawsuit today under any condition. It is time to stop all of the legislation that is being passed against private enterprise, after all this is the group that are paying the bulk of the taxes in this country today. Unless something is done to stop it the incentive to make money will soon be gone, then who will pay the taxes?
>
> Your consideration with regard to Senate Bill 1284 will be appreciated.
>
> Sincerely yours,
>
> M. R. BAGNAL, Jr.

Mr. President, I could talk on this bill all day and all night, and if necessary to do so in order to stop it, I would not hesitate. But I am going to close now. Others wish to speak on this bill.

I have tried, in the time available to me here today, to demonstrate that there are two sides to S. 1248. This bill is not a panacea to solve antitrust problems.

It is a bill disguised in the cloak of consumer legislation, when in reality it is a lawyers' bonanza—more government by overregulation. Finally, it is a bill which will set back the economic recovery of this country.

All I ask here today is that the Members of this body inform themselves very carefully on both sides of the issue upon which they must vote.

Mr. BELLMON. Mr. President, I oppose the passage of S. 1284. This bill has many flaws that make its substantive terms unwise or unconstitutional. In addition to those defects, it also threatens to interfere with other more important values in our system of justice by needlessly and recklessly contributing to the already critical problem of court congestion.

It comes as no surprise to learn that our courts are in crisis. Each year the caseload cast upon overworked Federal judges increases significantly. Later, I will put into the RECORD some statistics showing how rapidly this court load has increased. Each year, the Chief Justice plaintively calls for restraint and circumspection by Congress in the creation of whole new categories of cases to be dumped into the Federal courts. Each year, Congress nevertheless adds more and more burdens to the Federal courts. As a result, the Federal judiciary, which was designed to be the great bulwark of constitutional interpretation and implementation, is being steadily transformed into an institution distracted by petty claims and overwhelmed by massive and incomprehensible economic confrontations.

I will give the Senate some idea of the impact that the changes in the law have had on our legal system in the last 15 years insofar as the Federal district court system is concerned.

Since 1960, the number of civil cases in Federal district court has increased more than 100 percent, to a total of more than 117,000 cases in 1975 alone.

Let me repeat that: During the years since 1960, the number of civil cases commenced in Federal district courts increased more than 100 percent, and in the year 1975 reached the level of 117,320 cases. From 1960 to 1975, in the district court civil caseload, Federal question cases, grew from 13,175 to 52,688, and this was a 400-percent increase.

Diversity case filings were up from 17,000 to 30,631 and this was a 79-percent increase. From 1960 to 1975, the number of civil antitrust cases filed in the Federal court system increased by 278 percent.

From 1960 to 1975, social security cases in the district courts increased by almost 1,000 percent—986 percent, to be precise. This increase was due to several amendments to the social security laws and the enactment of new legislation.

In addition, between 92,000 and 93,000 social security cases are now pending before administrative law judges, and between 14,000 and 15,000 cases are pending before the Appeals Council.

The Narcotic Addict Rehabilitation Act of 1966 produced many cases. When it comes to civil acts cases, in the civil caseloads, three laws are primarily responsible for increasing the work of the district courts: the Civil Rights Act of 1960, the Civil Rights Act of 1964, and the Equal Employment Opportunity Act of 1972. These three laws yielded a total of 10,392 cases in calendar year 1975 alone. This amounted to 8.9 percent of the total civil caseload in the district courts.

The National Environmental Policy Act of 1969 became law on January 1, 1970. In 1973, which is the first year for which statistics are available, 270 environmental cases were filed. In 1974, the number increased to 343 and in 1975 to 406. This is an increase of 50 percent in just 2 years.

These cases represent complex issues, and they consume a disproportionately high number of judicial work hours.

Truth-in-lending laws passed in 1968 and 1970 began to make their impact on the civil caseload of the district courts in 1970, when 101 such cases were filed.

In 1975, just 5 years later, there were 2,237 of these cases. That is more than a 2,000-percent increase in those 5 years.

Labor law case increases grew by 212 percent in the years between 1960 and 1975.

One of the most remarkable increases has occurred in the area of prisoner petitions, which have increased by 786 percent.

The Consumer Products Safety Act became effective late in 1972, and already thousands of cases have been filed under that legislation.

The Freedom of Information Act, the National Flood Control Insurance Act of 1968, the Motor Vehicle Information and Cost Savings Act, the Equal Credit Opportunity Act Amendments of 1976, and the Consumer Leasing Act of 1976 all have added to the caseload of our Federal legal system. The criminal caseload of the district courts was burdened additionally by laws dealing with weapons and firearms. Two laws particularly relevant are the Omnibus Crime and Safe Streets Act of 1968 and the Gun Control Act of 1968, which have made their impact.

From 1965 to 1975 there was a great deal of activity concerning selective service due to the Vietnam war. The criminal caseload was augmented by 380 such cases in 1965. That figure rose steadily to 1972, when there was a peak of 5,142 cases, 1,200 percent over the number filed in 1965. With the end of the war, there was a dramatic increase, to the point where there were only 242 cases in 1975.

Mr. President, these figures demonstrate that already Congress has seriously overloaded the Federal court system, and now we come along with a bill such as S. 1248, which, as I have said, is going to bring massive and incomprehensible cases to the courts that will further make it impossible for the Federal judiciary to deal with this burden.

S. 1284 would continue this deplorable trend and would add a number of new and unjustified burdens to those already staggering the Federal courts. Chief among these new burdens is title IV which would create a whole new type of proceeding in which the financial interest of hundreds of thousands or millions of people would be litigated in suits brought by State attorneys general.

Mr. President, as a former Governor who served with an elected attorney general who was ambitious to be the next Governor of the State, I can imagine how much fun he would have with an act such as this. This man would be able to get a headline every day and could cause tremendous burdens on the Federal courts, just to serve his own selfish political interests.

If we were to pass such a bill such as this—and God forbid that we do let this become law—we would be handing to ambitious attorneys general the very finest vehicle ever conceived to give them opportunities to forward their own political ambitions, at tremendous cost not only to the taxpayers, who would pay the bill for their litigation, but also to the consumers, who would have to pay increased costs for every product they bought, because those kinds of lawsuits would be costly to defend on the part of the manufacturer.

The pretext for this new device is that there may be antitrust violations that cause injuries that are so small that individual planitiffs would not bother to come forward to assert any claims. This bill would aggregate all those claims and let the attorney general sue for them and then try to distribute the money to those uninterested individuals. It is time we realized, however, that the Federal courts can be made the instruments of relentless pursuit of such insignificant claims only if we are willing to sacrifice other more important interests that will necessarily be set back by the influx of massive parens patriae suits.

Even since Congress first established the federal courts in 1789, it has provided a minimum dollar amount for bringing most cases into a Federal court under either the diversity jurisdiction or the "Federal question" jurisdiction. This amount today is $10,000, and many commentators and judges say that in light of modern inflation the amount should be raised to $25,000 or even $50,000.

The minimum "jurisdictional amount" reflects a sound and sensible principle; namely, that it is foolish to treat the courts of the United States as if they were "small claims courts" obliged to hear every dispute, even a dispute allegedly involving some Federal question. The jurisdictional amount principle has worked well through our history. If the amount in controversy does not rise to that minimum level of significance, then the Federal courts should not be burdened with it. Instead, if anyone is interested, there should be resort to the State courts which are fully competent to hear even Federal claims, subject, of course, to possible review by the Supreme Court if some serious error of Federal law has been committed.

If the amount in controversy is so small that the supposedly injured person would not even bother to sue for it, this hardly demonstrates that Congress should invent a new device for turning the Federal courts into a super-collection agency. It is not the function of the Federal courts to dun alleged antitrust violators for grossly aggregated sums and then for them to supervise inevitably futile efforts to track down the hundreds of thousands or millions of disinterested citizens in whose name the case was brought. It is a very wise and ancient principle of Anglo-American jurisprudence: "De minimis non curat lex"—"The law does not concern itself with trifles."

If, as the proponents of the parens patriae device assert, there are some antitrust violations which injure consumers in amounts that are not sufficiently large for consumers to notice or care about, that does not lead me to agree that the law should attempt to deal with this problem as a matter of civil damages. If a wrong is being done to that large a group, it can be treated as a public wrong and handled accordingly. Barely 2 years ago, Congress increased the penalties for violations of the antitrust laws—I call the Senate's attention to section 1 of the Sherman Act, 15 U.S.C., section 1—making conviction for an antitrust violation a felony punishable by a $100,000 fine and 3 years in prison for an individual defendant and by a fine of $1 million for a corporation. These penalties apply to each violation, of course, and thus can cumulatively be even much higher on each count.

In our system, we deal with public wrongs by having the public prosecutor file criminal charges and exact stern punishment. The criminal penalties for antitrust violations were raised dramatically less than 2 years ago and there has been no evidence produced to suggest that the criminal process is not adequate to deal with any widespread injuries inflicted in wilfull violation of the antitrust laws.

Furthermore, where there is illegal conduct causing widespread damage but where the damage to individuals is small, our law already has a remedy which is tailored to this situation. The remedy is, in short, an injunction which can be sought by the Department of Justice or by any other person aggrieved by the alleged violation. Where the injury is broad but not deep, the primary concern should be with expeditious and efficient judicial action to halt the misconduct. Creation of a damage remedy on behalf of countless numbers of consumers, as worthwhile as it may seem in the abstract, is simply an unwise course which is not calculated to achieve any real justice and can be attempted only at great expense.

Much has been said by the proponents of parens patriae about the injustice of allowing antitrust violators who inflict many small injuries to retain their "ill-gotten gains." It is doubtful whether this is nearly as substantial a problem in reality as it is in the imagination of the proponents of this bill. The spectacle of huge businesses gorging themselves on illegal profits without challenge is, I suggest, largely fantasy. Certainly we have seen no evidence of these massive, unredressed wrongs that should impel us to accept the parens patriae device.

It must be recognized that most of the defendants who are sued in consumer actions are businesses that deal with other business enterprises before their products ever reach consumers. As a consequence, it is rare—if not impossible—to find a situation in which only a damage suit brought in the name of consumers can prevent a violator from keeping unjust profits. Rather, if there are grounds for believing that a manufacturer has engaged in some conduct that violates the antitrust laws, it is almost inevitable that one or more businesses with whom that company dealt will be in the position to bring a well-financed and competent lawsuit presenting those allegations.

If there has, in fact, been a violation, treble damages will be awarded to the company directly injured. The mythical specter of a violator retaining huge illegal profits because of the absence of a consumer damage suit dissolves.

And it is important in this context to bear in mind that the Supreme Court held in the Hanover Shoe case (*Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.*, 392 U.S. 481 (1968)) that a defendant charged with an antitrust violation cannot defeat the recovery by the injured company by alleging that the financial loss had been "passed on" to someone else, like consumers.

This decision is totally consistent with a historic principle of our jurisprudence: the principle of proximate causation. In Hanover Shoe, the Court quoted from an earlier decision by Justice Oliver Wendell Holmes, who explained:

> The general tendency of the law, in regard to damages at least, is not to go beyond the first step.

Justice Holmes further explained why the dilemma advanced by the proponents of the parens patriae device is a false one when they say that actions in the name of consumers must be created lest a violator retain his ill-gotten gains. Holmes said:

> The [violator] ought not to be allowed to retain his illegal profit, and the only one who can take it from him is the one that alone was in relation with him, and from whom the [violator] took the sum.

Nowhere in the law do we attempt to assign to the courts the metaphysical function of trying to trace every remote consequence that may flow from an individual's action. In the law of negligence, for example, if a driver causes an accident that injures a pedestrian and keeps him out of work, we allow the injured pedestrian to sue for his damages. But we do not allow his employer to attempt to show that his business suffered in some amount because of the employee's enforced absence. And it would be even more ludicrous to ask the courts to determine an amount in which a customer of the injured pedestrian's employer was damaged because the absence had delayed the performance of a contract.

That type of endlessly speculative inquiry is what the parens patriae bill would force the courts to pursue in trying to trace all of the unfortunate economic consequences that may theoretically flow down to consumers because of an antitrust violation at the manufacturing level. From the standpoint of the consumer, the situation is indistinguishable from the consequences that may flow from a breach of contract at that level. For example, let us assume that a manufacturer of washing machines has a supply contract under which a supplier is to sell him gaskets at a particular price, but the *supplier reneges on this* contract and forces the manufacturer to secure the parts elsewhere at a higher price. It is possible that when the washing machine is ultimately sold to a consumer it will cost more. We do not know that it will inevitably cost more because of all of the intervening pricing decisions that are made by the washing machine manufacturer, by the jobber to whom he sells, by the wholesaler who buys the product from him, and by the retailer who finally sells it to the consumer.

It would be absurd to consider giving the individual consumer the right to sue the gasket supplier who had breached his contract to allow the consumer to try to prove that the breach of that contract had actually injured him because of the passing on of the higher price for the gasket through each level in the distribution system. It would be even more complicated and unwieldy to attempt to establish the amount by which any of the price differential had been passed on to him.

Indeed, in Hanover Shoe the Supreme Court upheld the claim of the business directly injured by a violation, because of the very impracticability of trying a lawsuit to determine whether the financial effects of an antitrust violation have been passed on to an individual consumer. The Court's opinion stated expressly:

> Treble damage actions would often require additional long and complicated proceedings involving massive evidence and complicated theories.

One of the most prominent and respected commentators on antitrust law problems, Prof. Richard Posner of the University of Chicago Law School has exposed this basic flaw in the parens patriae bill in his March 3, 1976 letter to Senator HART. He said.

> Calculating the damage to a state's residents from an antitrust violation would be fraught with uncertainty. It is difficult enough to estimate the injuries suffered by a class of individuals or firms doing business with the antitrust violator. To trace out the possible economic ramifications of the violation throughout a state's economy—which is what would be necessary in order to measure the injury to the state's residents—would strain the capacities of economic science and the judicial process, and would violate the traditional limitation of damages to those that are foreseeable.

And it certainly would be no answer to say that instead of letting the individual consumer come into the Federal court to make such a damage claim, we will authorize a State attorney general to sue on behalf of all of the hundreds of thousands or millions of people who may have bought those washing machines in his State over a period of several years.

It is clear therefore that the parens patriae title of S. 1284 is wholly out of phase with our jurisprudence in disregarding the sensible principle that the courts ought not to be given the elusive or indeed impossible task of going beyond the person whose injury was proximately caused by a violation of law and trying to determine whether or not a more remotely situated consumer finally sustained some injury, and if so, how much. Indeed, if it were ever feasible to make this sort of inquiry, which the Supreme Court in Hanover Shoe said the courts are ill equipped to make it would not be in the antitrust field. One need not be an expert antitrust lawyer to know that this is perhaps the most complex field of law. The statutory terms—"unreasonable," "tendency," and so forth—are about as vague as any in the law, and the principles and concepts that have been developing over the past 85 years remain unsettled and evolutionary. Moreover, the facts at issue in the typical antitrust case are highly complex, and the key elements of defining the "relevant market" and determining the cross-elasticity of other products provides riddles that two experts rarely agree in resolving.

Title IV of S. 1284 would thus assign to the Federal courts a function which is difficult in a simple context and is practically impossible in the antitrust context—determining whether huge numbers of consumers, who may have purchased their products through dozens or hundreds or even thousands of different channels, sustained financial injury, and if so, by how much. If the individual interests involved were substantial and if the alternatives were nonexistent, perhaps this approach could be taken seriously, but as I have explained, the amounts involved are admitted to be trivial on an individual basis, and there are other more rational and more efficient remedies for coping with the problem in the aggregate. Thus, it would be reckless indeed to create a new kind of legal proceeding which could only have disastrous consequences on the administration of justice in the Federal courts.

As I have already mentioned, Mr. President, the Federal courts are already heavily overburdened, and Congress continues to add to their load. Here comes a bill that would add greatly to the already crushing burden of the courts and for practically no benefit to anyone concerned.

Quite recently, at the urging of the Chief Justice of the United States, a conference was held in St. Paul, Minn., to commemorate the 70th anniversary of Dean Roscoe Pound's historic speech on the reasons underlying popular mistrust of the courts. Many distinguished lawyers and judges attended this conference in April of this year. The meeting was termed the "National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice." One of the principal speakers at the conference was Francis R. Kirkham, one of the county's leading trial lawyers and coauthor of the definitive treatise on "The Jurisdiction of the Supreme Court of the United States." Mr. Kirkham was formerly a member of the Attorney General's Committee on Revision of the Antitrust Laws and of the recent Commission on Revision of the Federal Court Appellate System. Mr. Kirkham's topic was "Promlems of Complex Civil Litigation," and his excellent analysis of the problems in this area deserves to be considered in its entirety.

However, I would like to refer specifically to various portions of Mr. Kirkham's address in the balance of my remarks to show how unwise it would be to inflict the parens patriae proceeding on the Federal courts. Our courts are already struggling under a killing case load that is interfering with the ability of litigants in civil and criminal cases to get expeditious justice where truly substantial interests are at stake. And let us keep in mind Justice Felix Frankfurter's pointed observation that "justice delayed is justice denied."

Mr. Kirkham observed:

> Owing in part to the office the courts have played in protecting civil liberties, and in part to the recent traumatic disclosures of misconduct reaching to highest office, respect for lawmakers and the executive has reached a low eb, while courts emerge as the most trusted organ of Government. With this, however, has come an unhappy concomitant. The source of many if not most of the problems which attend civil litigation today lies in our tendency to assume that through litigation we can solve any problem and right any wrong, however remote and whatever the source.

Similarly perceptive comments made recently by a distinguished judge of the U.S. Court of Appeals for the Ninth Circuit, Shirley Hufstedler, who explained why the courts are so overburdened:

> We want courts to sustain personal liberty, to end our racial tensions, to outlaw war, and to sweep the contaminants from the globe. We ask courts to shield us from public wrong and private temptation, to penalize us for our transgressions and to restrain those who would transgress against us, to adjust our private differences, to resuscitate our moribund businesses, to protect us prenatally, to marry us, to divorce us, and, if not to bury us, at least to see to it that our funeral expenses are paid. These services, and many more, are supposed to be quickly performed in temples of justice by a small priestly caste with the help of a few devoted retainers and an occasional vestal virgin. We are surprised and dismayed because the system is faltering.

Judge Hufstedler's remarks are to be found in her 1971 article entitled "New Blocks for Old Pyramids: Reshaping the Judicial System," printed in volume 44 of the Southern California Law Review beginning at page 901.

As a result of this passion to assign every perceived social problem to the courts, Congress has joined private interests in placing before our courts questions of the most monumental significance. The process itself is becoming burdensome and expensive in the extreme. In an article not long ago, Fortune magazine described litigation as a "growth industry." I refer to Mr. Carruth's April 1974 article entitled "The 'Legal Explosion' Has Left Business Shell-Shocked."

Many observers of the American judicial system find it today to be in a state of "crisis." In his state of the judiciary address in 1975 Chief Justice Burger outlines the overwhelming increase which has taken place in the business of the

Federal courts in recent years. He notes that since 1968, there has been an "extraordinary 80-percent increase in cases per judgeship" in the courts of appeals. See Chief Justice Burger's article, "The State of the Judiciary—1975," in Volume 61 of the American Bar Association Journal (April 1975) at pages 439, 440. According to the Chief Justice's report for 1975 the increase rose to 113 percent.

The number of civil cases filed in Federal district courts in 1975 was nearly 100 percent greater than the number filed in 1960, and was 34 percent greater than the number filed in 1970. Complex litigation was a highly significant factor in this group. Between 1970 and 1975, the number of antitrust cases commenced increased from 929 to 1,431 cases, an increase of 54 percent, and between 1974 and 1975, antitrust class action filings increased from 114 to 190, an increase of 60 percent. In 1960 there were 228 treble damage and private injunction cases filed under the antitrust laws. By 1975 the filings had jumped about 600 percent to 1,375 such cases.

Apart from illustrating the great stress placed on the Federal courts by these cases, these figures, taken from the most recent report of the Director of the Administrative Office of the U.S. Courts, demonstrate that it is simply false to argue that existing remedies and procedures under the antitrust laws are not adequate or effective to combat any violations.

Mr. President, this upsurge in cases in the Federal trial courts is of course accompanied by a comparable increase in the case load of the Supreme Court. This makes it possible for the Supreme Court to review on the merits and hear arguments in only about 3 percent of the cases presented to it. As a result many cases where truly important issues are at stake cannot be heard, simply because of the time the justices must spend wading through the hordes of cases flowing upward toward them.

The American Bar Foundation recently conducted a study of the Supreme Court's workload. The report notes nearly a fourfold increase in the number of review petitions since 1935, and a doubling since the late 1950's—Casper & Posner, A Study of the Supreme Court's Caseload, 1974 Research Contributions of the American Bar Foundation, No. 7, pages 339–341. The report also notes an increase between 1957 and 1972 of the percentage of cases involving constitutional issues—page 349. This suggests that as to all but the most important nonconstitutional questions, the circuit courts are increasingly becoming the final courts. The Second Circuit determined that presently only 2 percent of its decisions are reviewed. See Judge Oake's opinion, dissenting from court's denial of rehearing in *Eisen* v. *Carlisle & Jacquelin* (2 Cir. 1973) 497 F.2d 1005, 1026.

Mr. President, the Commission on Revision of the Federal Court Appellate System recently made the extreme recommendation that Congress create a brandnew court, a National Court of Appeals, to deal with the large number of instances in which important questions, including conflicts in the circuits, necessarily now go unresolved by the Supreme Court. It seems to me that we should first consider what we can do to stem the tide of unproductive litigation before we decide whether new courts or other structural changes are warranted.

We have all heard about the lawsuit filed by former Justice Arthur Goldberg in the U.S. Court of Claims on behalf of at least 80 Federal judges. Their basic complaint is that their salaries have not nearly kept pace with the cost of living over recent years, and that as a result the constitutional guarantee that a judge's salary not be decreased has been violated. But beyond that the growing problem is recruiting top-caliber lawyers to the Federal bench and in keeping them from resigning must also be related to the mushrooming workload imposed upon these men and women. As Mr. Kirkham put it:

> The true measure of the mounting congestion in the Federal district courts is the increase in pending cases per authorized judgeship. Between 1970 and 1975, pending cases in the district courts increased from 285 per judgeship to 355, an increase of 70. The significance of this fact is the more striking when it is noted that the number of judgeships has not increased and the total number of cases disposed of has increased substantially. In fact, according to the Annual Report for 1975 of the Director of the Administrative Office of the United States Courts, the actual number of authorized judgeships declined by one between 1970 and 1975, and the number of disposals per judgeship increased from 292 to 371, an increase of 79 cases.
>
> The increase in the number of pending cases per authorized judgeship is attributable almost entirely to civil cases. From 1970 to 1975, the number of pending criminal cases increased from 20,910 to 22,411, a case load difference of less than four cases per authorized judgeship, while pending civil cases jumped from 93,207 to 119,767, a case load increase of nearly 67 cases per authorized judgeship. Civil cases thus accounted for 94.5% of the increase, and of these, complex cases continued to expand. In the period 1970 to 1975, pending antitrust cases increased 30%.

And it is not merely numbers of cases that must concern us, but their complexity. The complex case, of course, consumes vastly more time than other types of litigation. Between 1970 and 1975, the number of complex cases pending for 3 years or more increased nearly 43 percent. In 1975, 1,814 or 24 percent of all cases pending for more than 3 years were in this category. In 1975, 134 of the antitrust cases which were terminated had been pending approximately 5 years.

Mr. President, again I emphasize that figure, that in calendar year 1975, 135 of the antitrust cases which were terminated had been pending for 5 years.

This means that litigants had waited a total of 5 years or longer for settlement of their grievances.

In 1972 the American College of Trial Lawyers conducted a study of class actions in the southern district of New York, which is the leading district for filing antitrust and securities cases, and determined that in 1972 over half the class actions filed in 1966, and 60 percent of those filed in 1967, were still pending 5 or 6 years later.

In fact, the tetracycline antibiotic drug litigation, which the proponents of the parens patriae device point to as a model proving that cases of this sort are manageable has been in the courts for 15 years. It was manageable only because the defendants were "blackmailed" into settling it. The Eisen case, which the Supreme Court termed a "Frankenstein monster posing as a class action" (417 U.S. at 169) has been in court for nearly 10 years, with eight reported decisions (41 F.R.D. 147; 370 F. 2d 119; 391 F. 2d 555; 50 F.R.D. 471; 52 F.R.D. 253; 54 F.R.D. 565; 479 F. 2d 1005; 417 U.S. 156).

All of these problems are going to become more and more acute in light of the Speedy Trial Act of 1974, Public Law 93–619, 88 Stat. 2076, adding sections 3152 through 3156, and 3161 through 3174 to title 18 of the United States Code and adding section 604 to title 28. That act requires criminal trials to be commenced within a short period after a suspect is arrested or an indictment filed. As a result of this act, which reflects basic constitutional values about the right of both the accused and of society to have criminal charges tried promptly, many districts are experiencing even greater difficulty in giving civil litigants a reasonably expeditious hearing. Let us keep in mind that if we enact parens patriae, we will be contributing to what is already a massive problem of judicial overload. Encouraging a flood of new kinds of cases all across the country where the interests of hundreds of thousands of persons are allegedly involved can only have the effect of interfering directly and substantially with the ability of the Federal courts to deal effectively with cases where the interests of the individual parties are sufficiently large and important to them to induce them to call upon the Federal courts for help.

It would be foolish and unfair to drown such litigants beneath a flood of cases where, by definition, no individual has an interest significant enough to bother about.

This is not merely speculation. These same concerns have been voiced by the Judicial Conference of the United States, the very agency established by Congress to monitor the effectiveness of the Federal courts in administering justice.

I remind my colleagues that under section 331 of title 28 of the United States Code, the Judicial Conference of the United States is given the responsibility to "make a comprehensive survey of the condition of business in the courts of the United States," and it is expressly empowered to make recommendations concerning legislation.

Senator HRUSKA asked the Chief Justice of the United States to obtain the conference's views on the impact that enactment of S. 1284 would have on the Federal judiciary. He was subsequently advised that on April 7, 1976, the Judicial Conference had endorsed a statement relating to the workload of the courts submitted to the staff of the conference committee considering the parens patriae bill. I would like to quote from that report at some length. It is entitled the "Report of the General Counsel of the Administrative Office to the Committee on Court Administration" and it begins:

> In connection with the committee's review of S. 1284 relating to the antitrust laws, the General Counsel's Office has prepared the following statement relating to the current workload of the federal courts to which would be added the burdens imposed by S. 1284.

That statement endorsed by the entire Judicial Conference reads as follows—I shall omit the citations to the elaborate tables that accompanied the statement:

> There has been a dramatic increase in absolute number of the civil antitrust cases filed in the federal court system; 1431 civil antitrust actions were filed in 1975, up 54% from 929 actions in 1970. In the thirteen districts where at least thirty private antitrust actions were filed, seven show a rise in private antitrust filings between the years 1973 and 1975, ranging from 3% to 167%.
>
> While the absolute number of class action cases filed is quite small, five of those districts have seen their class action antitrust cases grow strikingly; rising in 1975 to three and four times the level filed in 1973. The figures of pending private antitrust litigation are also substantial for those districts. Nine of the thirteen districts have grown sharply. Seven of those districts reflect an increase in class actions pending ranging from 50% to 1300%.
>
> In evaluating the impact of further increases in private antitrust actions filed in federal courts as a result of this Act, cognizance must be taken of the present critical shortage of judgeships in both the district and circuit courts. In the ten years between 1965 and 1975 the total number of cases filed in appellate courts rose 146%, while only nineteen additional judgeships were provided (an increase of 24%). The number of district court cases docketed rose nearly 60% in the last 10 years. The present shortage of judgeships is calculated at 13 circuit court judgeships and 52 district court judgeships. The estimated cost to adjust this shortage on an annual basis is $2,119,000 and $10,816,000 respectively.
>
> The treble damage and notice provisions of this Act appear certain to engender a greater volume of private antitrust litigation. The most significant measure of the ramifications of that higher volume of private antitrust cases is the fact that the median time interval involved in the disposition of a private antitrust litigation is *twice* the time expended for other civil cases. [Emphasis in original].
>
> The time factor of increased private antitrust litigation, noted above, may seriously affect the processing of criminal caseloads. It is worth noting that several of the districts which entertain most of the private antitrust filings have a higher than average criminal docket. For example, the nationwide criminal cases represent 15.8% of the total pending caseload, yet the Central District of California has had criminal case loads of 33%, 27%, and 31% respectively, in the years 1973–1975.

Mr. President, you will notice that is roughly double the national average.

> In 1975, four of the thirteen districts which have a high concentration of private antitrust litgation had above average criminal dockets. In 1973 and 1974, more than half of those districts had above average criminal case loads. In sum, the present strain on the already underplenished resources of the judicial system will be further exacerbated by a proliferation of private antitrust litigation. As a consequence, the capability of the courts to meet the mandates of the Speedy Trial Act may be decreased.

That ends the relevant portion of the Judicial Conference report on the bill we now have before us.

How can we responsibly enact this parens patriae measure in light of this chilling assessment of its consequences, as provided by the very agency established to provide objective and expert analysis of the administration of justice in the Federal courts?

If there were convincing proof that there is a massive problem that cannot be dealt with in any other way, perhaps we should give serious consideration to doing so, however reluctantly. But it is simply unjustified and unjust to contribute a major new ingredient to the already staggering problem of court congestion in the Federal courts, when we have yet to see any evidence that the need for this legislation even remotely equals the deleterious consequences that would flow from its enactment. Nor have we been given any convincing explanation why other approaches, like increased criminal investigation and prosecution or creation of a simplified civil fine, could not satisfy the objectives of the bill with far fewer burdens.

These burdens are real and would intensify a disturbing trend in antitrust litigation. Many observers have commented that, for a number of reasons, antitrust cases are becoming more and more complex and less and less manageable. And, of course, a case alleging that hundreds of thousands of consumers in a State were injured by an antitrust violation will inevitably lead to major problems of court administration. It is obvious that if one State attorney general brings a parens patriae action of the type authorized by S. 1284, dozens of other attorneys general will feel obliged to do the same. This is the history of this type of case, whether it is styled a parens patriae suit or a consumer class action. Sometimes as many as 45 States are suing on behalf of their consumers.

This means that the Federal courts in 45 States must initially begin processing these massive cases. Although there is a mechanism for the transfer of all of the cases to a single district or to several districts for the coordination of pretrial discovery and other proceedings, that transfer by the Judicial Panel on Multi-District Litigation under 28 U.S.C. section 1407 simply means that one or more Federal judges will be occupied virtually full time for a number of years administering these mammoth monstrosities. These problems of unmanageability, coupled with a realistic recognition of how small the interests are of individual consumers, has increasingly led the courts to refuse to entertain these creations of ambitious lawyers. The proponents of this bill must frankly concede that they are trying to overrule a series of court decisions, some of which were rendered by the Supreme Court itself, exposing the major flaws in trying to handle these allegations in treble-damage cases. The cases to which I refer of course include the Supreme Court's decision in Hawaii against Standard Oil Co., Eisen against Carlisle & Jacquelin, and Hanover Shoe against United Shoe Machinery; the second circuit's decision in Eisen III; and the ninth circuit's decisions in the Frito-Lay case, the Telephone Charges case, and the real estate brokerage commission case—Kline against Caldwell Banker.

Although I consider the notice provisions of this bill plainly unconstitutional, I am prepared to assume that the courts will do their constitutional duty and attempt to provide actual notice to the hundreds of thousands or millions of people whose tiny interests are allegedly being litigated in their name. The administration of such a notice program is itself a horrendous burden for the Federal courts, including the staffs of the clerks' offices. Moreover, while I also question whether this bill can constitutionally dispense with the need to prove individual injury to the consumers on whose behalf claims are being made, even the bill's provisions for consumers to make ex parte claims against the fund mulcted from the defendants would involve an administrative nightmare. The Federal courts must necessarily retain administrative supervision over the submission of claims, the proof of the fact or amount of injury, and the allocation of a pro rata share.

If a significant percentage of the huge masses of people who allegedly have small financial interests actually come forward, it is not hard to imagine the staggering burden that will be imposed on the Federal judges. And of course if no significant number do come forward, we must ask ourselves again why we have created this device in the first place.

The bill recognizes what has proven to be the case in the past, namely that the lofty goal of consumer compensation is a myth. The same disinterest which leads consumers not to bother bringing their own claims or joining in someone else's lawsuit under the traditional class action rules makes it impractical in many instances to track down the individuals whose interests are allegedly at stake. In the vast majority of situations where they are given actual notice of the opportunity to make a claim, they disregard the opportunity because it is not worth the trouble.

As a result, it has been necessary for the courts to use their ingenuity in figuring out what to do with all the money left over that remained unclaimed. Under title IV of the pending bill, the Federal judge would be directed to distribute the balance "either in accordance with State law or as the district court may in its discretion authorize." It strikes me as quite inappropriate to saddle a Federal judge with the responsibility for serving in effect as the director of a statewide "Community Chest" or "United Givers Fund." I believe it is both unwarranted and improper to require Federal judges to act as charitable dispensers of largesse to be sprinkled around the community in any way they determine in their "discretion." The Federal courts were set up to decide important Federal constitutional questions and to adjudicate the substantial Federal rights of our citizens. It is a great disservice to the Federal judiciary to impose upon it the kind of functions this bill would mandate.

In his remarks before the National Conference on the Causes of Popular Dissatisfaction with the Courts, April, Francis Kirkham gave a number of concrete illustrations of the problems that I have mentioned and I would like to call attention to some of these points. He stated that the courts and members of the bar who face litigations involving massive discovery "are deeply concerned with the trend in recent years toward ever-expanding discovery in complex civil litigation." He continued:

> For example, the Judicial Panel for Multidistrict Litigation recently refused to consolidate a case with the IBM-Control Data litigation, in part because of its belief that in the latter case "hundreds of millions of documents will be produced." See In Re IBM Antitrust Litigation (J.P.M.L. 1971) 328 F. Supp. 509, 510.
>
> The electrical equipment litigation involved 1.5 million documents (Peterson, Jr. & McDermott, Multidistrict Litigation: New Forms of Judicial Administration, 56 A.B.A. Jour. (1970) 737, 738). The recently concluded Western Asphalt Litigation (N.D. Cal., Civ. No. 50173) involved several hundred thousand documents; the trial exhibits alone numbered in excess of 20,000. One might be well within the realm of common sense to suggest that the gathering and perusal of 100 million documents—let me repeat that figure: 100 million documents, whatever the dispute, is beyond the scope of reasonable discovery. But attempts, at least, for such unlimited discovery are not unusual.

Mr. Kirkham pointed to a recent case filed by the attorney general of California alleging antitrust violations. California's "first"—preliminary—set of interrogatories in that case, he observed, makes clear that a description and summary of hundreds of millions of documents are involved, and that the defendants were required to inspect and translate millions of documents of hundreds of companies operating in numerous foreign countries on every inhabited continent of the globe.

Mr. Kirkham then continued:

> Computerized processing of documents has become commonplace. Many companies now market software for the processing of large numbers of documents, enabling retrieval by subject, date, and even subject matter by keyword. This type of automated handling is expensive, costing from $1 to $2 per document for input, together with search and storage costs based upon total volume. Control Data reportedly spent $3 million for pretrial computerization of its documents in its suit against IBM (S. Rept. 94-498, 94th Cong., 1st Sess., p. 4).

Naturally the document discovery is only part of the story. The depositions in complex cases impose heavy burdens on the parties and also on the courts, with whom they are filed and before whom are presented hundreds of disputes and objections. For example, the recently settled Western Asphalt Litigation, involved some 290 depositions, taken in approximately 40 locations, totaling some 30,000 transcript pages. In Control Data Corp. agaist IBM, 248 depositions were taken totaling 126,000 transcript pages; in Telex against IBM, there were 233 depositions, totaling 107,000 transcript pages, and in United States against IBM, 1,265 depositions, totaling 144,000 transcript pages.

Discovery of such magnitude is enormously costly. Although information regarding the total costs of civil litigation to private litigants is difficult to obtain, some figures are available on the costs to the Government. As a result of many factors, the Government's costs are probably substantially less than comparable costs to private litigants. In its case against IBM, the antitrust division in 1975 already had spent $4 million; the division expects to spend $3.6 million in its suit against A.T. & T. The division estimates that Control Data spent $15 million getting ready for a trial against IBM.

And, of course, the costs of these enormous suits will inevitably be borne by consumers—in the form of taxes when the plaintiff is the Department of Justice or a State attorney general, and in the form of higher prices for the goods manufactured or sold by the private parties. To talk about such cases as unburdening consumers is economic nonsense.

As early as 1951, the Prettyman Report, prepared under the guidance of the late chief judge of the District of Columbia Circuit, E. Barrett Prettyman, recognized that the sheer dimensions of the complex case threatened the judicial process itself:

> [Complex cases], especially antitrust * * *, while not numerous, are of sufficient frequency to create an acute major problem in the current administration of justice. Unnecessary consumption of time and energy, delay in disposition of disputes, and enormous expenditures of money are among the vices reulting from the circumstances described, but the principal vice is that such conditions create confusion, magnify uncertainty, multiply the possibilities of error, and otherwise tend to make less certain and less accurate, the judicial determination of disputed issues. The latter vices, if permitted to continue to exist, might threaten the judicial process itself in respect to complex controversies. See "(Procedure In Anti-Trust And Other Protracted Cases," 13 F.R.D. 62, 64).

As Mr. Kirkham pointed out:

> Since that time massive and virtually uncontrolled discovery has proliferated. This poses several questions: Is the social value of such discovery worth the demonstrably enormous work and burden upon the courts and parties? Is such discovery essential to the resolution of issues cognizable by a court? And, if the answers to these questions are in the negative or even doubtful, what can be done to bring discovery within reasonable bounds?

While these problems continue to fester it would be most unwise, in my opinion, to create a whole new class of massive lawsuits to drag the Federal judiciary deeper into the morass.

These problems are not new to Congress. Just a few years ago we considered and refused to enact proposed legislation that would have permitted large classes of consumers to bring lawsuits. For example, S. 3201, as reported by the Commerce Committee in the 91st Congress, would have created a private right to sue anyone engaging in a deceptive trade practice and would have required a defendant to pay the cost of notice to the class members in consumer class actions brought under the bill. The bill would have permitted an award of damages to the class, even on behalf of persons who did not come forward to claim recovery. S. 3201 was but one of numerous bills which have considered generally the scope and purpose of the class action device. That bill, just like the pending parens patriae bill would have eliminated the present procedural protections provided in the carefully balanced provisions of rule 23 of the Federal Rules of Civil Procedure governing class actions. We did not pass that bill, and for similar reasons we should not tamper with rule 23 by creating the parens patriae device. We should remember what Justice Thurgood Marshall said on behalf of the Supreme Court in Hawaii against Standard Oil Co.:

> Parens patriae actions may be, in theory, be related to class actions, but the latter are definitely preferable in the antitrust area. Rule 23 provides specific rules for delineating the appropriate plaintiff-class, establishes who is bound by the action, and effectively prevents duplicative recoveries.

Certainly no one can accuse Justice Marshall of being hostile to the interests of consumers or friendly toward antitrust violators. We should be quite reluctant to disregard his sound, solid judgment, which reflects the great weight of authority in the Federal courts in recent years.

Although the proponents of the parens patriae bill argue that rule 23 is inadequate to handle massive consumer class actions, that argument begs the question. If the careful standards of rule 23 cannot be satisfied, on such questions as adequate notice to interested parties and sheer manageability of the litigation, then the answer is not the creation of a new device short-cutting these protections and forcing the courts to shoulder these crushing burdens. Rather, the clear message is that this kind of contrived dispute does not belong in the Federal courts at all.

Some of Mr. Kirkham's recent observations bear on this. As he explained, speaking of massive consumer classes:

> Typically, the hundreds of thousands or millions who are brought into the class have never had an interest in enforcing their claims; disregard or are baffled by the notices they receive; and in most cases even fail to respond when settlements on their behalf have been made and moneys are available for distribution.

For example, according to Mr. Kirkham's survey, some of the responses in the tetracycline antibiotic drug litigation, which the proponents of the parens patriae bill hail as a model, included the following:

> Dear Mr. Clerk: I would like to know why I am a party to this action that I don't know nothing about. Who made me a party to anything? (I am a Democrat).
>
> Dear Sir: Our son Bill is in the Navy stationed in the Caribbean some place. Please let us know exactly what kind of drugs he is accused of taking. From a mother who will help if properly informed. A worried mother Jane Doe.

It is obvious that that person had no idea what in the world they were talking about, and she assumed it had something to do with her son and with some drugs.

> Dear Mr. Morgan: I received your card about the lawsuit and I would like to know how much I owe and can I pay it off by the month so I won't have to go to court? If I

can pay by the month, I will do just that as soon as I hear from you.

So here is a case where a person thought that rather than being entitled to receive some money the court was asking him to pay some kind of fine.

These examples are taken from the article written by David Shapiro, the lead counsel for the plaintiff State attorneys general in that case, entitled "Processing the Consumer's Claim," and printed in volume 41, Antitrust Law Journal, 1971–72, at pages 257, 267.

It would be almost humorous to glimpse these responses if they were not so pathetic. In that litigation, barely one-fourth of all the money put up by the companies to settle the cases actually reached individual consumers—and it remains highly questionable whether most of that portion reached consumers who had bona fide claims. We shall never know the answer because the claims were processed ex parte, not through the ordinary adversary process, since the defendants agreed to pay over the settlement fund without regard to the merit or lack of merit of any individual claims.

In the antibiotic drug case, according to Mr. Kirkham, some 885,000 claims were honored. As he reports, however, claim forms were sent to some 10,700,000 households and the amounts paid into the settlement funds were divided pro rata among the 885,000 claimants. The claim notice in that case was entitled, "Cash Refund Message," and in effect advised its recipients that a check was awaiting them. In bold letters it advertised that a fund of more than $20 million awaited distribution, urging recipients to "claim your fair share" and emphasizing that proof of purchase was not needed (see Lebedoff, Operation Money Back, 4 Class Action Rptr. (1975) 156–157, 160).

I question whether Congress should deliberately put the Federal courts into the business of being parties to what in many instances will be part of a massive "sting" in which millions of dollars in legal fees are awarded to enterprising lawyers who put these suits together and more millions are paid out to dubious claimants. There is an almost frantic effort to get rid of the money simply to avoid the embarrassment of having too much money left over for the Federal judge to have to dispose of for some purposes he considers worthwhile.

Just last year in the Blue Chip Stamp case, in 421 U.S. at page 723, the Supreme Court narrowed the class of persons entitled to bring suits under the securities laws by alleging misrepresentations in the purchase or sale of stock. The Court said that expanding the class of potential plaintiffs to an almost limitless number was intolerable. The Court explained:

> A rule allowing this type of open-ended litigation would itself be an invitation to fraud.

The same point applies to parens patriae actions. Any device or procedure that attempts to exact huge sums of money from a defendant to be payable to an amorphous class of anonymous claimants is bound to lead to the most unwholesome abuses. This is especially true when the procedures cavalierly and brazenly dispense with the need to prove either the fact or the amount of damages and are frankly unconcerned about what happens to the money after it is stripped from the defendants. I do not regard such a process as worthy of the Federal judiciary and I am confident that most Federal judges will regard this process as not only oppressive but also demeaning.

The mythical nature of the parens patriae device as a realistic way to compensate consumers is further illustrated by the experience where similar attempts have been made in other consumer class actions. The results are consistent in demonstrating that the plaintiff's lawyers get rich, the courts are bogged down, but few consumers—whether deserving or not—get anything. For example, in *Cherner* v. *Transitron Electronic Corp.* (D. Mass. 1962) 201 F. Supp. 934, approximately 150,000 notices of settlement of a securities case were mailed but only 33,000 claims were approved, about 20 percent.

In *Korn* v. *Franchard Corp.* (2 Cir. 1972) 456 F. 2d 1206, some 1,154 notices were mailed with a claim form, 111 persons opted out and some 212 persons filed some form of a claim. In *City of Detroit* v. *Grinnell Corp.* (2 Cir. 1974) 495 F. 2d 448, 454, 89,000 written notices were mailed, and 14,156 persons filed claims, significantly less than 20 percent.

Thus, actual experience confirms in practice what we could deduce from logic—that despite the tremendous overhead costs and court processing problems, from 60 to 90 percent of the people on whose behalf these cases are allegedly brought are not sufficiently interested in their tiny pro rata shares even to bother responding to the notice that they may get something for nothing.

Judge Gibbons of the U.S. Court of Appeals for the Third Circuit put this whole problem into perspective not long ago in this opinion in *Hackett* v. *General Host Corp.*, 455 F. 2d 618, 625–26:

> If the public interest issue involved in the individual suit is so insignificant that neither a private nor public attorney deems it worthy of pursuit, despite the availability of attorneys' fees in the event of success, then the public interest may well be so insignificant that the redress of the nine dollar wrong should from a policy viewpoint be left to the realm of private ordering. Our scarce Federal judicial resources cannot be allocated on the assumption that they must provide a forum for the vindication of every individual wrong however slight.

This same theme was echoed by one of the Federal judiciary's most distinguished jurists, Circuit Judge Henry Friendly, former chief judge of the U.S. Court of Appeals for the Second Circuit, where so many of these consumer class actions and parens patriae suits have confounded the courts. He wrote in his 1973 book "Federal Jurisdiction: A General View":

> Something seems to have gone radically wrong with a well-intentioned effort. Of course an injured plaintiff should be compensated, but the federal judicial system is not adapted to affording compensation to classes of hundreds of people with $10 or even $50 claims. The important thing is to stop the evil conduct. For this an injunction is the appropriate remedy, and an attorney who obtains one should be properly compensated by the defendant, although not in the astronomical terms fixed when there is a multimillion dollar settlement. If it be said that this still leaves the defendant with the fruits of past wrongdoing, consideration might be given to civil fines, payable to the government, sufficiently substantial to discourage engaging in such conduct, but not so colossal as to produce recoveries that would ruin innocent stockholders or, what is more likely, produce blackmail settlements.

In sum, therefore, Congress is being asked to give statutory legitimacy to a most unworthy creature—the parens patriae device. There are simply no compelling justifications to add what would undeniably be a major new burden to the workload of the Federal courts. Our courts have too many important functions to perform to distract them with the mythical promises contained in the parens patriae title. Title IV of S. 1284 should therefore be rejected categorically.

In addition, I have letters from some constituents in Oklahoma, and I ask unanimous consent that these letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Fleming Companies, Inc.,
Oklahoma City, Okla., April 8, 1976.

Hon. Henry Bellmon,
U.S. Senate,
Washington, D.C.

Dear Senator Bellmon: The Antitrust Improvements Act of 1975 (S. 1284), frequently referred to as the Omnibus Antitrust Bill, is difficult legislation to justify. I hope that you share this view and that you will join in opposing its passage.

The punitive provision allowing state attorneys general as well as private attorneys suing on behalf of a class of persons the right to sue and collect treble damages on behalf of individual state residents without the necessity of proving individual claims, is an awesome power. Such initiation of antitrust cases against business would be a literal bonanza for politically ambitious attorneys general and a potential gold mine for private attorneys who would share in windfall recoveries through contingent fee arrangements.

Additionally, the bill would permit notification by publication in newspapers, allow proof of damages by statistics and estimates without actual proof of damage, and generally remove all safeguards which have been built up to prevent unjustified and unmanageable class actions.

The almost unlimited harm of "parens patriae" law is made even more alarming by provisions which

1. Limit the right to challenge unlawful FTC subpoenaes and orders to file reports and raise the penalty for failure to comply by fines from $1,000 to $5,000 per day.
2. Authorize the Department of Justice to subpoena individuals for interrogation under oath prior to institution of a suit and without the protection of judicial supervision.
3. Require up to sixty days notice of mergers involving a company with $10 million or more and if the government files an antitrust action the merger can be postponed pending final determination by the Court.

While the stated purpose of the proposed law is to stimulate business competition, the effect would be a disastrous change in our judicial system.

Please let me urge you to take all appropriate action in opposing this bill.

Thank you very much, Senator Bellmon.

Sincerely,

R. D. Harrison.

Harold Jones Co., Realtors,
Oklahoma City, Okla., April 19, 1976.

Senator Henry Bellmon,
Post Office Building,
Oklahoma City, Okla.

Dear Senator Bellmon: I am writing to you, pertaining to Bill (S. 1284) which, if passed, would allow the states' attorneys generals to sue business firms for triple damages if they "appeared" to be guilty of anti-trust violations. I consider this bill the most serious single threat to the continued survival of private business proposed in this congress.

The following reasons that I want you to consider and hopefully support my viewpoints are:

(1) The selective power of enforcement which the states would have could enable them to bankrupt any business they decided to attack.

(2) Existing anti-trust enforcement powers better serve the intended purpose.

(3) The new power could enable politically oriented attorney generals to blackmail politically and coerce business.

(4) The amount of money recovered by an individual citizen could amount to pennies, but the total fine could result in the bankruptcy of the business firm.

I therefore urge and demand that you vote "NO" and actively urge your constituents to support this viewpoint, when the bill comes up for consideration.

Sincerely,

J. Mike Jones,
President.

ADDITIONAL STATEMENT SUBMITTED

Mr. TOWER. Mr. President, what we have here, I am afraid, is a bill founded on false premises and full of false promises.

The bill begins with a boldly presumptuous "declaration of policy." Fairy godmothers wave their wands and turn frogs into princes. We wave our gavel and turn economic theory into fact.

How simple our jobs could be if that only worked:

Congress could "find and declare" that abuses by our intelligence agencies were caused by a lack of congressional oversight, and "presto," end abuses by creation of an oversight committee.

Congress could "find and declare" that the United States is unsurpassed militarily and, "presto," eliminate the need for increased defense appropriations.

"The Congress finds and declares," this bill pompously states, that diminished competition and increased concentration in the marketplace have led to unemployment, inflation, inefficiency, reduced exports, underutilized economic capacity and had an adverse effect on our balance of payments.

About the only thing it is not blamed for causing is swine flu.

Yet, "presto," pass S. 1284 and it will reduce prices, unemployment, and inflation while preserving our democratic institutions and personal freedoms.

I admire the sardonic wit of columnist James J. Kilpatrick's recent description of title I's finding of facts. "Unhappily," he noted, "some of these facts have never been found."

For title I states as fact some highly specious economic theories on which noted and learned economists disagree. It is assertion, not fact, that the country suffers from diminished competition and increased concentration. It is theory, not fact, that these factors have fueled inflation.

Not only does the policy statement strike me as disturbingly antibusiness; I am appalled at the way Congress is attempting to shift the burden of responsibility. Certainly if the business sector must bear guilt for our economic problems, it is a blame which must be shared with this free-spending Congress.

Yet even worse than pious and superfluous declarations of policy are some of the substantive provisions which would be made law by this bill.

Title II, for example, must be the most regressive measure ever to gain such widespread support from supposed civil libertarians. It merely empowers the Department of Justice to coerce information from anyone, anywhere, about virtually anything. Safeguards in present law which guard against unwarranted harassment are weakened. Opportunities for intrusions into individual privacy are increased. The resulting potential for abuse is alarming.

Title IV, also known as the Attorney General's Political Assistance Act, would authorize State attorneys general to file antitrust suits in behalf of the State's residents. What, in abstract, may look to be a protective boon for consumers, in reality would be a boondoggle for politically ambitious attorneys general. Antitrust enforcement would be greatly politicized. Consumers, who are being promised price benefits by supporters of the bill, are instead likely to find themselves paying higher prices to cover contingent liabilities and costly litigation. Furthermore, the States have the power to enact such parens patriae provisions on their own should they so desire.

A final aspect of this bill I feel compelled to speak against is the premerger notification and stay provision. The bureaucratic redtape alone would be a burden, but it pales in light of the Justice Department's ability to delay a merger indefinitely pending court review. In view of the critical timing normally involved, this bill in effect gives the Government veto power over private business mergers without any necessity of a finding of illegality.

In this election year, to pass S. 1284, an antitrust bill promising lower prices, inflation, and unemployment, is to engage in legislative sloganeering. While our antitrust laws need vigorous enforcement and, in some areas, revision, S. 1284 has not proven to be the proper vehicle for change.

Mr. McCLURE obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not to exceed 5 minutes, without the Senator losing his right to the floor, to the consideration of certain measures on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BADLANDS NATIONAL MONUMENT, S. DAK.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 862, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1068) to designate certain lands in the Badlands National Monument, South Dakota, as wilderness.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 1, in line 6, strike out "fifty-eight thousand nine hundred and twenty-four" and insert in lieu thereof "sixty-four thousand two hundred and fifty".

On page 1, in line 9, strike out "137/20,010 A and dated July 1972," and insert in lieu thereof "137/20,010 B and dated May 1976,".

On page 1, beginning in line 11, strike out:

The lands which comprise about five thousand three hundred and twenty six acres, designated on such map as "Potential Wilderness Additions", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, hereby designated wilderness.

On page 3, beginning at line 1, strike out:

Sec. 4. Within the wilderness area designated by this Act, (1) the Secretary may construct and maintain wildlife watering devices, as he deems necessary; and (2) the driving of livestock, where established prior to the effective date of this Act shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Badlands National Monument, which comprise about sixty-four thousand two hundred and fifty acres, and which are depicted on the map entitled "Wilderness Plan, Badlands National Monument, South Dakota", numbered 137/20,010 B and dated May 1976, are hereby designated wilderness.

Sec. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such description and map may be made.

Sec. 3. The wilderness area designated by this Act shall be known as the "Badlands Wilderness" and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Mr. ABOUREZK. Mr. President, I want to thank Senator JOHNSTON, Senator HANSEN, and the rest of the Interior Committee for the cooperation I have received on this bill.

I want to urge the Senate to pass S. 1068, the Badlands Wilderness bill. This legislation designates 64,250 acres of the Badlands National Monument as wilderness under provisions of the Wilderness Act of 1964. The Badlands National Monument is located in southwest South Dakota and is visited by over 1 million persons each year.

The bill will preserve large expanses of flat to rolling prairie grasslands which contain a variety of native wildlife habitats including mesic grasslands, wet meadows, and bare Badlands walls. Numerous types of wildlife exist within the Badlands area including antelope, western painted turtles, white-tail deer, and the reintroduced buffalo and Rocky Mountain big horn sheep.

In addition to habitat and wildlife, there is a great deal of scientific value in the fossils belonging to the Oligocene epoch and Cretaceous period. To paleontologists, this area is world renowned for its fossils and erosion patterns which reflect a geological story of constant natural change.

The administration introduced this wilderness legislation in the 92d Congress because it recognized the importance of preserving these lands from permanent development. Shelters, hostels, or other permanent structures would be prohibited, permitting the wilderness traveler to enjoy the backcountry in its primitive condition.

The Badlands Wilderness area designated by this act will be administered by the Department of the Interior in accordance with the provisions of the Wilderness Act of 1964.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT TO TITLE III OF THE BANKHEAD-JONES FARM TENANTS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 799, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2485) to amend title III of the Bankhead-Jones Farm Tenant Act as amended to eliminate the necessity of referring loans made with resource conservation and development funds in excess of $250,000 to congressional committees for approval.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That the third sentence of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(e)), is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Alaska (Mr. STEVENS) I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan, for Senator STEVENS and others, proposes an amendment:

At the appropriate place at the end of the bill add the following:

That (a) section 310B (a) of Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932 (a)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "and the conservation, development, and utilization of water for aquaculture purposes.".

(b) Such section is further amended by adding at the end thereof a new sentence as follows: "As used in this subsection, the term 'aquaculture' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes; or public agencies or state or local governments for scientific purposes; or the culture and growing of fish by private industry, public agencies, or a state or local government for the purpose of creating or augmenting publicly owned and regulated stocks of fish in streams or rivers.".

Mr. STEVENS. Mr. President, my amendment to S. 2485, the Farm Tenant Act, is designed to correct a deficiency in Department of Agriculture directives which inadvertently prohibits the Department of Agriculture from granting loans for certain types of fish aquaculture and hatchery facilities.

The Department of Agriculture, through its business and industrial loans program of the Farmers Home Administration, already grants loans for aquaculture projects. This program is a very fine one which has brought aquaculture facilities to many parts of the United States. When this program was created aquaculture was envisioned only as a fish farming operation in which the fish were held throughout their life cycle in a closed system. In recent years, the state of the science of aquaculture has advanced markedly.

Scientists now tell us that anadromous fish are among the most successfully raised aquaculture crops. Salmon, for example, has been raised in the New England area and many streams in New England now are again inhabited by Atlantic salmon. In my home State, Alaska, we hope that salmon hatchery facilities will be able to rebuild the salmon stocks depleted by foreign fishermen.

The definition of aquaculture established by the Department of Agriculture now prohibits funding for those aquaculture projects, such as salmon, which release juvenile fish into public waterways. This effectively precludes industry from engaging in those aspects of aquaculture which we now believe to be potentially the most beneficial to the economies of many regions of the United States.

Mr. President, I would urge each of my colleagues here in the Senate to vote favorably on this amendment.

I want to emphasize that we are not creating a new program here, nor are we asking for new funding. This amendment merely corrects a deficiency in the Department of Agriculture's definition of aquaculture which has arisen as a result of advancements in the state of the science of aquaculture.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2485) was passed, as follows:

S. 2485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(e)), is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

SEC. 2. (a) Section 310B(a) of subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "and the conservation, development, and utilization of water for aquaculture purposes.".

(b) Such section is further amended by adding at the end thereof a new sentence as follows: "As used in this subsection, the term 'aquaculture' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes; or public agencies or State or local governments for scientific purposes; or the culture and growing of fish by private industry, public agencies, or a State or local government for the purpose of creating or augmenting publicly owned and regulated stocks of fish in streams or rivers.".

The title was amended so as to read:

A bill to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to increase the amount of any loan for which funds may be appropriated without prior approval of such loan by congressional committees.

LAND AND WATER RESOURCE CONSERVATION ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 851, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2081) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Land and Water Resource Conservation Act of 1976".

FINDINGS

SEC. 2. (a) The Congress finds that—

(1) There is a growing demand on the land, water, and related resources of the Nation to meet present and future needs for food and fiber, rural and urban development, agricultural, industrial, and community water supply, fish and wildlife habitat, recreational facilities, and other needs of the people.

(2) These resources are essential to the Nation's economic and social well being, and they must be conserved, protected, and enhanced to promote their wise use and to avoid their loss, misuse, and damage.

(3) It has been the continuing policy of Congress to maintain and improve the resource base of the United States while using the resources to meet the needs of the Nation.

(4) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(5) Resource appraisal is basic to wise land and water conservation. Since individual and governmental decisions concerning land and water resources often transcend administrative boundaries and reflect other programs and decisions, a coordinated appraisal and program framework are essential.

DECLARATIONS OF POLICY AND PURPOSE; PROMOTION THEREOF

SEC. 3. (a) In order to further the conservation of land, water, and related resources, which for the purpose of this Act shall include those resources coming within the scope of the program administered and participated in by the Secretary of Agriculture through the Soil Conservation Service, it is declared to be the policy of the United States and purpose of this Act to achieve and maintain—

(1) quality, quantity, and productivity of the natural resource base for sustained multiple uses;

(2) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and

(3) quality in the standard of living based on community improvement and adequate income.

(b) Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this Act.

(c) The varying demands on the Nation's land and water resources often present conflicts between competing interests and, as a consequence, planning for the conservation and use of such resources should reflect an understanding of, and a concern for, the respective interests involved.

(d) The Secretary shall promote the attainment of the policies and purpose expressed in this Act by—

(1) appraising on a continuing basis the land, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the land, water, and related resources of the Nation; and

(3) providing to Congress and the public, through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 6.

APPRAISAL

SEC. 4. (a) In recognition of the importance of and need for obtaining and maintaining information on the current status of land, water, and related resources, the Secretary is authorized and directed to carry out, through the Soil Conservation Service, a continuing appraisal of the land, water, and related resources of the Nation. The appraisal shall include, but not be limited to:

(1) data on the quality and quantity of land, water, and related resources;

(2) an analysis of the potential of those resources for various uses;

(3) a determination of the changes in the status and condition of those resources resulting from various uses; and

(4) a discussion of current laws, policies, programs, rights, regulations, ownerships, and other considerations associated with the land.

(b) The appraisal shall utilize data collected under this Act and pertinent data and current information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integated system capable of using combinations of resource data to determine the quality and potential for alternative uses of the resource base and to identify areas of local, State, and national concerns pertaining to land conservation, resource use and development, and environmental improvements.

(c) The appraisal shall be made in cooperation with conservation districts and with State soil and water conservation agencies and other appropriate State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) A report of the appraisal shall be completed by December 31, 1977, by December 31, 1979, and at each five-year interval thereafter.

LAND AND WATER CONSERVATION PROGRAM

SEC. 5. (a) In order to establish a framework for achieving the national land and water policy and purpose of this Act, the Secretary is hereby authorized and directed to develop, through the Soil Conservation Service, a National Land and Water Conservation Program (hereinafter called the "program") for furthering land and water conservation on the private and non-Federal lands of the Nation. The program shall set forth the direction for future soil and water conservation efforts based on the current land, water, and related resource appraisal developed in accordance with section 4 of this Act, taking into consideration both the long- and short-term needs of the Nation. The program shall also include, but not be limited to:

(1) analysis of the Nation's land, water, and related resource problems;

(2) analysis of existing authorities and adjustments needed;

(3) an evaluation, based on a system to determine the effectiveness of the soil and water conservation on-going programs and the progress being achieved in meeting the soil and water conservation objectives of this Act;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of land and water resources, in the context of specific time frames, and a recommendation of the preferred alternative; and

(5) analysis of the Federal and non-Federal inputs required to implement the program.

(b) The Secretary, in the development of the program shall provide for participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means.

(c) The program plan shall be completed not later than December 31, 1977, be updated by December 31, 1979, and at each five-year interval thereafter.

REPORT TO CONGRESS

SEC. 6. (a) On the first day Congress convenes in 1978, in 1980, and at each five-year interval thereafter, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal report and the program as required by sections 4 and 5 of this Act, together with a detailed statement of policy intended to be used in framing budget requests of the Administration for Soil Conservation Service activities. Following the transmission of such appraisal report, program, and statement of policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such statement of policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such appraisal report, program, and statement of policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the statement of policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period. Notwithstanding any other provision of this Act, Congress may revise or modify the statement of policy transmitted by the President, and the revised or modified statement of policy shall be used in framing budget requests.

(b) Commencing with the fiscal budget for the year ending September 30, 1979, requests presented by the President to the Congress governing Soil Conservation Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so represented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser program or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974, Public Law 93–344.

(c) The Secretary, during budget preparation for fiscal year 1979, and annually thereafter, shall prepare a report which evaluates the program's effectiveness in attaining the purposes of this Act. The report, prepared in concise summary form with appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 4 of this Act, shall set forth the progress in implementing the program required to be developed by section 5 of this Act, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

DEFINITIONS

Sec. 7. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "land, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "land and water conservation program" means a framework for attaining the purposes of this Act.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 8. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

EFFECTIVE DATE

Sec. 9. The provisions of this Act shall take effect on October 1, 1976.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RELIEF OF POSTMASTERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 737.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6512) for the relief of certain postmasters charged with postal deficiencies.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, there is an amendment at the desk which I will offer, and I call it up at this time on behalf of Mr. Muskie.

The PRESIDING OFFICER. The amendment will be stated when it is available.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further consideration of the bill be postponed for the moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later in the day the following proceedings occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 737, which request has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state it.

The assistant legislative clerk read as follows:

Calendar No. 737, H.R. 6512, an Act for the relief of certain Postmasters charged with postal deficiencies.

Mr. ROBERT C. BYRD. Mr. President, there is an amendment at the desk by Mr. Muskie. I understand it has been cleared on both sides of the aisle.

On behalf of Mr. Muskie, I call up that amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) on behalf of Mr. Muskie, and Mr. Hollings, Mr. Johnston, and Mr. Hatfield, proposes an amendment:

At the end thereof add the following new section:

Sec. 3. (a) Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) An individual who is entitled to an annuity upon separation from service as a Congressional employee may be allowed credit for service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee if such employee makes the deposit provided for in section 8334(c) of this title with respect to Congressional employees for such service. The period of service which may be credited under this subsection by any individual shall not exceed 10 years.".

(b) The amendment made by this section shall take effect on October 1, 1976, and shall apply to individuals who are entitled to annuities upon separation from service as Congressional employees on or after October 1, 1976.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

So the bill (H.R. 6512), as amended, was passed.

The title was amended so as to read:

"For the relief of certain postmasters charged with postal deficiencies, and to amend title 5 of the United States Code to allow Congressional employees to credit certain service for purposes of the civil service retirement system.".

EXTENSION OF THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken on S. 3147, a bill to extend the Marine Protection, Research, and Sanctuaries Act for 2 years, be reconsidered; that the third reading be rescinded; that an amendment in the nature of a substitute be considered as adopted; that the bill be considered as read a third time and passed; and that a motion to reconsider be laid on the table.

The amendment is as follows:

That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "fiscal year 1976,"; and

(2) by adding immediately after "September 30, 1976)," the following: "and not to exceed $4,800,000 for fiscal year 1977,".

Sec. 2. Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended—

"(1) by striking out "Administrator shall" and inserting in lieu thereof "Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually";

"(2) by striking out "June 30 of each year" and inserting in lieu thereof "March 1 of each year".

Sec. 3. The last sentence of section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by inserting immediately before the period the following: ", and not to exceed $5,600,000 for fiscal year 1977".

Sec. 4. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "fiscal year 1976,"; and

(2) by adding immediately after "September 30, 1976)" the following ", and not to exceed $500,000 for fiscal year 1977".

Mr. ROBERT C. BYRD. The reason for this request is as follows: It appears that the bill as filed with the clerk was not the bill that was reported by the Committee on Commerce. This error was not caught, even though the committee report had the correct version of the bill. As a result, the wrong bill was passed, and it is for the purpose of correcting this matter that I have presented the request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his courtesy in yielding.

Mr. McCLURE. The Senator from West Virginia is welcome.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. McCLURE. Mr. President, I ask unanimous consent that Margo Carlisle, of my staff, have the privilege of the floor during all stages of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the

parens patriae title of S. 1284 is more a lawyer's welfare bill than a remedy for consumers. It should come as no surprise to realize that the people who have the greatest financial interest in the enactment of this bill are not consumers, and maybe not even American businesses. Instead, the interest group that has the most to gain from passage of parens patriae is the relatively small group of private lawyers who specialize in bringing antitrust cases against American companies.

It is no wonder that these lawyers have been among the most vigorous advocates of this bill. Representatives of the so-called plaintiffs' bar have testified before the Judiciary Committee. They have visited the offices of Members of the Senate to sing the praises of this legislation. And they have worked with the committee staff to draft its provisions and to formulate the arguments in favor of the bill. I doubt that anyone can question the accuracy of these statements any more than I doubt the ardor with which the plaintiffs' bar has pressed this legislation upon us.

The key to understanding this legislation is, in short, the contingent fee system. Under that system lawyers who bring cases like this are given fees representing a sizeable percentage of any amount recovered—or more typically, of the amount they are able to extract as a settlement.

A few months ago a distinguished lawyer with nearly 50 years of private practice and public service gave a major paper at the conference convened by the Chief Justice on the "Causes of Popular Dissatisfaction with The Courts." That lawyer, Francis R. Kirkham, served in the 1950's on the Attorney General's Committee on the Revision of the Antitrust Laws and then just a few years ago served with the group headed by Senator HRUSKA, the National Commission on the Reform of the Federal Appellate Court System. Mr. Kirkham told the conferees about the vice inherent in big antitrust cases where damages of mind-boggling size are claimed from the defendants, and where, as he put it:

> No matter how sincere is their belief in the innocence of their acts, they have little practical alternative but to settle.

He then continued:

> In the nearly half century of my practice I have never seen a single other circumstance which has created the cynicism at the bar that has arisen from the settlement negotiations in these cases and the accompanying maneuvering for fees. Nor have I ever seen before anything to equal the consternation of unbelieving businessmen, large and small, when told that the law literally does not provide them with a process for determining the merits of their defense; that any settlement within their purse, as a practical matter, may be their only chance for survival.
>
> It is not the finest hour of a profession that produced a Lord Coke to challenge the Crown, and a David Dudley Field to challenge the right even of a Lincoln to suspend the writ of *habeas corpus*.

Later in his remarks, Mr. Kirkham put his finger on the core problem with this legislation:

> The hard truth, of course, is that virtually all, if not all, large consumer class actions are inspired by lawyers seeking the fees engendered by converting a de minimis claim of a handy client into a multimillion dollar law suit.

This is hardly one man's opinion. For example, in testimony before the Committee on the Judiciary, given in 1970 by the then Assistant Attorney General in charge of the Antitrust Division, Richard W. McClaren, Judge McClaren stated quite candidly:

> Adding to the burden on the courts are the built-in incentives to initiate a greater number of suits than might be otherwise warranted. The size of the settlement which big companies might pay to avoid any significant risk of loss in a suit involving a large consumer class, could well be an inducement to harassing actions. In addition, where damages to individual consumers are comparatively small the aggregate fees flowing to attorneys representing the class make them by far the largest single parties in interest, and provide a potent incentive to press suit.
>
> This was demonstrated last year when a successful suit was brought in California on behalf of 460,000 lifetime members of the Playboy Club, contending that they were not required to pay an annual maintenance fee. Reportedly, each of the members was given an $8 chit redeemable in trade over 2 years; the lawyers received a fee of $275,000.

Judge McClaren's point has been echoed by others, including Professors Charles Alan Wright and Arthur R. Miller, who have published the definitive multivolume treatise on "Federal Practice and Procedure." In the most recent supplement to their treatise, Wright and Miller warn:

> The class action device must be protected against the taint that it is the source of strike suits promoted by attorneys who simply are seeking fat fees.

Earlier in the same work they had cautioned that—

> [U]ndue generosity might encourage some members of the bar to seek out clients and encourage litigation that otherwise might not reach the courts. Were this to become a widespread practice both the American system of civil litigation and the legal profession might fall into public disrepute.

This prediction has come true. The allure of huge fees to be reaped from settlement awards has led to the filing of numerous massive antitrust cases that might otherwise never have been brought—not because no plaintiffs could have afforded to bring the suits but because the merits of the case might not have justified the plaintiffs' investment of any of their own resources.

Awards of contingent fees to plaintiffs' lawyers in amounts exceeding $1 million have become almost commonplace in the last 10 years. And the prospect of bringing actions as assistants to State attorneys general, hired on a contingent fee basis, demanding damages for injuries allegedly done to millions of consumers, must be making the blood run hot in the veins of many a "plaintiffs' lawyer."

I wish to provide just a few examples of the enormous fees awarded to private counsel who filed cases on the basis of contingent fee agreements. The proponents of this system emphasize that it is subject to some supervision by the courts, who ultimately decide how much will be set aside as the fee for counsel. But it is only fair to note that, as Francis Kirkham recently put it, "control of fees has been administered with a gentle hand."

In the Gypsum Wallboard cases a few years ago, for example, the defendants were forced to settle the massive claims against them—without a trial—for $75,000,000. District Judge Zirpoli was then confronted with applications from the various law firms who represented various groups of plaintiffs, including governmental units. Many of the firms, by the way, are those that show up in case after case of this type. Even though Judge Zirpoli termed their demand for legal fees of over $20,000,000 "exaggerated and untenable" and described his function in doling out the huge sums as "distasteful," he finally awarded the various plaintiffs' lawyers over $9,000,000 in fees.

In the Library Book litigation, the fees on settlement exceeded $1,100,000 awarded to the lawyers who represented the class. In another antitrust case, city of Detroit against Grinnel in 1974, it was only the intervention of the court of appeals that overturned a district judge's award of fees to plaintiffs' counsel that worked out to a rate of $635 per hour. The court had the temerity not to be persuaded by counsel's argument that the award was really modest, because in another case he had been compensated at a rate of over $3,500 an hour.

In Ellis against Flying Tiger Corp., the court of appeals refused to go along with the district court's award amounting to more than $1,000 an hour. These instances of appellate correction of especially outrageous awards cannot mask the fact that, by any standards, the rewards to the lawyers who take these cases on a contingent fee basis are astronomical.

The proponents of the parens patriae title of this bill contend that it is simply codifying what the courts have done in cases like the Tetracycline Antibiotic Drug litigation. There, private lawyers were hired on a contingent fee basis by the attorneys general of virtually all of the 50 States to represent the governmental units and consumers in those States. In that litigation, the defendants were forced to pay over $213,000,000 in settlements. This monumental settlement was made even though they insisted they had not violated the antitrust laws and even though, in those few cases that have gone to trial because the plaintiffs' lawyers refused to settle and demanded even more, the defendants have been exonerated. Of that $213,000,000, the courts involved have approved attorneys' fees in the fantastic amount of nearly $42,000,000. In the early years of our country, our entire national budget was less than the courts have awarded to private lawyers under contingent fee arrangements in just that one litigation.

That case also illustrates who really benefits from these cases. Only about $28 million is actually being paid to consumers, out of about $61 million earmarked for them but unclaimed. These nationwide figures show what in some States is even more dramatic: that in the litigation that is supposed to show the desirability of the parens patriae approach, the private lawyers made far more than the consumers are receiving. Indeed, in some cities and States, the lawyers' fees are 5 or 10 times the amount actually reaching consumers.

In the tetracycline litigation, it appears that the law firm that served as lead counsel will alone net over $6 million.

In the Library Books cases, which I mentioned a few moments ago, Judge Decker criticized what he called the "contingent fee syndrome" but felt constrained to go along with it. Nevertheless, he commented that—

> [T]he attorneys who are taking advantage of class actions to obtain lucrative fees will find themselves vulnerable to the criticism expressed in the Italian proverb, "A lawsuit is a fruit tree planted in a lawyer's garden."

The parens patriae mechanism is precisely that sort of delectable bonanza for private lawyers. It seeks to achieve the awesome momentum and financial scale of the massive class actions that have so deeply troubled the courts, without any of the basic safeguards applicable to rule 23 class actions. Because of the similarities, though, it is fair to consider what some courts have candidly said about the rule nature of class actions brought in the name of hundreds or thousands of people who have only tiny individual financial interests.

For example, *Cotchett* v. *Avis Rent-A-Car System, Inc.* (S.D.N.Y. 1972), 56 F.R.D. 549, was an action seeking to recover a $1 surcharge on automobile rentals. The district court refused to certify a class of 1½ million persons, stating:

> The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of the class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this lawsuit (56 F.R.D. 554).

A similar point was made several years ago by District Judge Charles R. Richey, in Washington, who refused to be bound by a contingent fee arrangement which would have entitled plaintiffs' counsel to one-third of the pensions of each of hundreds of coal miners. Judge Richey found the contingent fee agreements there "null and void as against public policy." The Judge said:

> The question of appropriate counsel fees has been tied to the apron strings of the contingent fee percentage for too long. (*Kiser* v. *Miller*, 364 F. Supp. 1311, 1315).

The Judge then commented:

> To justify the contingent fee percentage in class actions on the grounds that the recovery is a "windfall" to the class, and, therefore, there would be a "windfall" award to the attorney is without logical merit.

He explained cogently that the first premise of this reasoning is faulty because the individuals who actually get something back get only insignificant sums which can hardly be termed a "windfall." He then explained:

> Furthermore, the second premise implies a selfishness unbecoming to the legal profession. This thinking is all the more unacceptable when one remembers that the purpose of the suit was to restore the rights of a deprived class. In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute a substitution of one fiduciary wrongdoer with another.

The multidistrict Hotel Telephone Charges case in the Ninth Circuit, 2 years ago, 500 F. 2d 86, was a class action in the name of 40 million persons suing 47 hotel chains and 600 individual hotels for alleged overcharges on telephone calls. The individual claims were approximately $2. The court of appeals reversed the certification of a class, saying:

> In view of the nonexistent, or miniscule, recoveries that are likely to accrue to the supposedly intended beneficiaries, it is not surprising that most of the named plaintiffs are attorneys acting as counsel for themselves. Considering that this action has been primarily generated and financially supported by the lawyers who possibly stand to realize astronomical fees, and not by the individuals whose potential claims in any event are *de minimis*, we find the Court's conclusion in *Berley* v. *Dreyfus Co.* * * * applicable here:
>
> '[W]e think that subparagraph (b)(3) [of Rule 23] read as a whole reflects a broad policy of economy in the use of society's difference-settling machinery. One method of achieving such economy is to avoid creating lawsuits where none previously existed. * * * If a class of interested litigants is not already in existence the court should not go out of its way to create one without good reason.' (500 F. 2d 91).

And in *Kline* v. *Coldwell, Banker & Co.* (9th Cir. 1974), 508 F. 2d 226, Judge Duniway, in a concurring opinion, reminded counsel that "in California, barratry is a crime" (508 F. 2d 237, 238), and said:

> The real bonanza in a case like this, if it is won, will go to counsel * * * I venture to suggest that none of the class action features of this case was dreamed up by the named plaintiffs, but that all of them were the brainchildren of their attorneys. (508 F. 2d 238).

It is undeniable, I believe, that because of the difficulty, or impossibility, of distributing any significant amount of money to individual consumers, the real beneficiaries in cases like these are the private lawyers. In this connection, we should bear in mind an observation made by the court of appeals in the Eisen case and quoted in Justice Powell's opinion for the Supreme Court. The court of appeals there expressed its concern about the manageability and utility of a massive lawsuit nominally brought on behalf of hundreds of thousands of potential claimants. The court said it was "reluctant to permit actions to proceed where they are not likely to benefit anyone but the lawyers who bring them."

Congress should have no less concern about the wisdom and fairness of passing this lawyers' bill, which is expressly designed to require what the courts in Eisen and other cases have refused to do. It is hard to see how anyone who takes a hard, objective look at reality can deny *that, in addition to all its other flaws,* the parens patriae title would be a gigantic boondoggle for private lawyers. There are problems enough with the contingent fee syndrome in class actions that can presently be maintained under rule 23 of the Federal Rules of Civil Procedure. I urge my colleagues not to extend this bounty to a new and inevitably more lucrative and more dangerous inducement to bring lawsuits that do not deserve to be brought.

To create and legitimize parens patriae and to allow this theory to be used by private lawyers who are willing to file suits on a contingent fee basis is to give too potent a weapon. This power to bring lawsuits in the name of hundreds of thousands or millions of consumers, seeking millions, or hundreds of millions, or billions of dollars is too easy to abuse. Even at present, when it is somewhat harder to put together a lawsuit in which the alleged claims will aggregate those stupendous amounts, there is ample evidence of abuse. There is ample evidence that lawsuits seeking vast sums are brought because the plaintiffs' lawyer knows that the businessman is likely to have little choice other than to settle. Antitrust litigation is costly. It is time consuming. And it is uncertain.

So even if the corporate defendant is willing to settle the case only for 10 cents on the dollar, it is all clear profit to the plaintiff's lawyer who will take from 10 to 30 percent of that settlement. If $20 million was demanded—and this is not a particularly large claim any more—the lawyer hired on a contingent fee can thus look forward to an amount ranging from $200,000 to $600,000.

Francis Kirkham, in the paper to which I have referred, described what happens today, and I would like to quote his remarks:

> A further hard fact to face in appraising the social value of consumer class actions is the use of such actions to coerce settlements. The pattern is familiar to every attorney involved in these actions, for the plaintiffs and for the defense. The certification of the class immediately creates an uncertain and enormous exposure, often large enough to bankrupt a defendant. In antitrust cases the period for which liability may be imposed is open-ended but to join in any settlement by the larger companies or be left with a potential liability measured by the total damages a jury might find to have been inflicted by all defendants, trebled, less only the settlement amounts.
>
> The *Kline* court [considering the real estate brokerage commission case] recognized the tremendous power of the massive exposure which accompanies a large class action antitrust case as a vehicle to induce settlement. In a concurring opinion Judge Duniway said:
>
> "* * * I doubt that plaintiffs' counsel expect the immense and unmanageable case that they seek to create to be tried. What they seek to create will become (whether they intend this result or not) an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust." (508 F.2d 238).
>
> And the Second Circuit in *Eisen* said:
>
> "There is reason to believe that the practical effect of these procedures, and the fact that possible recoveries run into astronomical amounts, generate more leverage and pressure on defendants to settle, even for millions of dollars, and in cases where the merits of the class representative's claim is to say the least doubtful, than did the old-fashioned strike suits made famous a generation or two ago by Clarence H. Venner." (479 F. 2d 1019).
>
> "Plaintiffs' lawyers have frankly argued," Mr. Kirkham continues, quoting one plaintiff's lawyer, "that there is 'nothing so conducive to settlement of complex litigation as

> the establishment by the court of a class,' and have urged that for this reason the court should sustain the class action."

Similar candor was exhibited by the lawyer for the plaintiffs in the Newark Gasoline cases in seeking certification of a class of 8 million gasoline users. His candid comments, as quoted in an article in volume 55 of the Federal Rules Decisions entitled "Class Actions—Useful Tool Or Engine of Destruction," were these:

> I have seen nothing so conducive to settlement of complex litigation as the establishment by the court of a class.
>
> * * * * *
>
> When two very competently represented and major litigants have settled, I think it shows this. *It shows that the problem is manageable.* It shows that they feel that this is the way that the litigation can be disposed of by settlement, namely, by having a class; whereas, if there were no class, it would not be disposed of by settlement. So I think that you sow the seed for the possibility of a settlement.

Prof. Milton Handler, a distinguished antitrust law teacher and practitioner for nearly half a century has responded to the argument that the inevitability of a settlement shows that massive consumer cases are manageable:

> [T]he rationalization suffers from a fundamental flaw. Any device which is workable only because it utilizes the threat of unmanageable and expensive litigation to compel settlement is not a rule of procedure—it is a form of legalized blackmail. If defendants who maintain their innocence have no practical alternative but to settle, they have been de facto deprived of their constitutional right to a trial on the merits. The distinctions between innocent and guilty defendants and between those whose violations have worked great injury and those who have done little if any harm become blurred, if not invisible. The only significant issue becomes the size of ransom to be paid for total peace.

These comments rather clearly show what most antitrust litigation is about—making demands that are so imposing that a settlement, in some amount, is inevitable. It is undeniable that very, very few large antitrust cases are tried. And no large consumer-class case has ever been tried.

I can predict with some confidence that no parens patriae case would ever be tried. Instead, cases seeking damages on an unprecedented scale will be filed, several years will be spent sparring, and finally the companies will be forced into a settlement, even if they believe they are innocent. And experience shows that it is the private lawyers representing the plaintiffs who will have the biggest direct stake in the settlement fund.

These factors have led to the other body, in considering a similar bill, to bar contingent fee arrangements in parens patriae cases. Although I certainly do not suggest that we should automatically defer to the other body on matters of legislative policy, this is an instance where they have clearly reached a sound position. There has been intense pressure on this side to overturn the action of the other body by blocking any limitation on contingent fees. I urge that, instead, we join with the other body and provide the protection the courts and commentators have been seeking.

The whole premise of parens patriae is to treat alleged antitrust violations that may have caused widespread—but individually small—injuries as public wrongs. For this reason the chief law enforcement officers of the States would be authorized to bring these actions in the name of the State on behalf of those hundreds of thousands or millions of citizens of the State. This bill would therefore grant overwhelming power to the States to pursue American businesses they suspect of violating the antitrust laws. This power is too awesome to be yielded to private lawyers. And the power ought not to be perverted for the private gain of private lawyers.

Where large consumer class suits have been brought in the name of the State on behalf of consumers, it has been typical for the State attorneys general to contract away their authority. What they do is appoint private practitioners who specialize in bringing big cases, making them special assistant attorneys general. Those private lawyers file the suits, conduct the discovery, handle the inevitable settlement negotiations, and take a huge contingent fee from the settlement. The State, in whose name the case is ostensibly brought, and the State attorney general who is supposed to attend to the public responsibilities of the State government, have very little to do with the case. Rather, the case is in reality simply a good gamble being taken by an enterprising private lawyer.

This illustrates the potential for abuse here. Because the State attorney general is not committing his own time or the resources of his office to the case, he is inevitably less concerned about the merits of the case. For him, it is a no risk venture. The State attorney general immediately reaps favorable publicity by announcing that he has authorized the filing of an antitrust suit as the champion of the rights of the people. That is good politics. It costs the office nothing to allow the case to be filed in the name of the State. And the State may eventually get some share in the settlement fund. After the private lawyers contingent fee is deducted of course.

It is a wonderful system. Everybody wins. Everybody gets rich. Except of course for the American businesses that are exposed to this sort of tactic. And we cannot be content ourselves that it is just some giant, impersonal corporation that ultimately suffers that burden of the contingent fee system. A corporation is, after all, the stockholders who own it. And that includes thousands and thousands of people who count on the dividends their stock should pay. And it is hundreds of thousands of people whose pension plans are invested in the company's stock and depend on its earnings to pay decent pensions.

And finally it is millions of consumers who buy its products. The tremendous costs of litigation and settlements necessarily show up ultimately in higher prices the company is forced to charge for its products in order to cover these most unproductive and socially useless costs.

There is already too much baseless litigation around, fomented by lawyers who have a direct financial stake pegged to the size of the demands they make and the settlements they can exact. If the parens patriae concept is to be given legislative recognition, we should at least cooperate with the other body in guarding against the abuse of this power and preventing the use of contingent fee retainers.

It is sometimes said that the State attorneys general do not have experienced antitrust lawyers to bring the cases that have merit. Perhaps this was once true, but it is not true any longer. Many States in recent years have substantially increased their antitrust enforcement capacity.

In any event, that objection misses the point. The theory of the parens patriae suit is that a wrong is being done to the people of the State. For this reason, it would be the public duty of the State attorney general to take action. If he believes a claim has enough merit to justify filing a lawsuit, he should be prepared to commit public resources to the case. If this means hiring special counsel to assist his office, perhaps he should do so—as long as the initiative comes from the attorney general and as long as the special counsel is given no contingent financial interest in the claim. In this way, the State official will have the practical incentive to make a careful judgment whether the case has substantial merit and to supervise closely the services rendered by the special counsel, which the State is paying for.

If the State attorney general is not willing to commit the resources of the State to the case, then the case should not be filed at all.

And if the argument is made that the State attorney general may not have adequate resources to bring big antitrust cases on behalf of the citizens of his State, that should not lead us to tolerate contingent fee arrangements. The Congress should not be in the position of forcing the States to bring parens patriae actions. If the elected legislatures of the States do not want to provide the funds to bring these claims on behalf of their own citizens, that is a policy judgment we should respect.

The views of the House Judiciary Committee are well stated on this point. In explaining why the committee voted to ban contingent fees in parens patriae actions—a position adopted by the other body in the bill it passed—the House committee noted the importance of developing State antitrust enforcement capabilities, but then continued:

> Nonetheless, the Judiciary Committee believes that certain types of fee arrangements between States and private attorneys may inhibit the development of State antitrust capabilities. The definition of State attorney general, therefore, specifically prohibits parens patriae cases to be brought by "any person employed or retained on a contingency fee basis."
>
> Suits in the name of a State are an exercise of State power. The committee believes that the State should exercise control over the use of State power not only in theory but in fact. If a State attorney general were able to delegate this function to private counsel on a contingency fee basis, the political and financial stake he would experience in otherwise prosecuting the action

would be substantially diminished. And thus State power would be exercised without the guarantee of State supervision.

The committee bill excludes the use of fee arrangements whereby a State agrees to pay a private attorney a percentage of the recovery if the attorney wins the parens patriae case for the State. H.R. 8532 also prohibits any contracts which made the outside counsel's fee or the amount thereof contingent on the amount, if any, of the recovery or on whether there is a recovery.

For similar reasons, we should go no further than allowing parens partiae suits to be brought by State attorneys general—and I think even that is going too far. We should leave it to the people of the various States, speaking through their elected legislatures, to decide whether this power should be exercised. If this protective condition is not imposed on the use of the parens patriae power, the whole concept should be rejected.

Mr. McCLURE. Mr. President, I am happy to yield to the Senator from West Virginia for an unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding.

TIME-LIMITATION AGREEMENTS—H.R. 12384

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the amendment by Mr. GARY HART is called up to the military procurement bill there be a time limitation thereon of 30 minutes to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow at such time as an amendment by Mr. GLENN is called up there be a time limitation thereon of 20 minutes to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as an amendment by Mr. HATHAWAY is called up on tomorrow to the military procurement bill there be a time limitation of not to exceed 2 hours to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Minuteman missile amendment by Mr. KENNEDY tomorrow, Mr. BARTLETT be recognized to call up an amendment on which there be a time limitation of 90 minutes to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, that request is granted and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Mr. DOLE calls up his amendment tomorrow there be a limitation of debate thereon of 1 hour to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. THURMOND to the military procurement bill tomorrow there be a time limitation of 40 minutes to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding.

Mr. McCLURE. The Senator from West Virginia is always welcome.

PRIVILEGE OF THE FLOOR—H.R. 12438

Mr. STENNIS. Mr. President, I ask unanimous consent that during the consideration of H.R. 12438, the Department of Defense Appropriations Authorization Act, 1977, Mr. Don Lynch of the staff of the Committee on Armed Services, under special circumstances under which I am working, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that the following members of my staff have the privilege of the floor during the consideration of H.R. 12438, the military procurement bill, on Wednesday, May 26, 1976: Craig Peterson, James Bruce, and Lewis Ashley.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW—MILITARY PROCUREMENT BILL (H.R. 12438)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order providing for the resumption of consideration of the military procurement bill 1 hour following the convening of the Senate tomorrow remain the order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. LEAHY be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business not extending beyond the hour of 9:30 a.m., with statements limited therein to 5 minutes each, and that at the hour of 9:30 a.m., rather than 1 hour after the convening of the Senate, the Senate resume consideration of the military procurement bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—BYINGTON NOMINATION

Mr. ROBERT C. BYRD. Mr. President, on yesterday the Senate rejected, by a vote of 37 to 33, the nomination of S. John Byington, of Virginia, to be a Commissioner on the Consumer Products Safety Commission. A Member on the other side of the aisle is prepared to move to reconsider the vote by which that nomination was rejected. The various parties on both sides of the aisle have consulted, realizing that a motion to reconsider that vote would be made. I believe that it is agreeable that the following request would be accepted by both sides of the aisle and by parties on both sides of the question.

I ask unanimous consent, as in executive session, that the Senate, on tomorrow, at 12:30 p.m., go into executive session; that there immediately occur a vote on a motion to table the motion to reconsider the vote by which the nomination was rejected; that if that motion to table the motion to reconsider fails, the vote on the motion to reconsider then occur immediately without intervening motion or debate, and that if the vote on the motion to reconsider carries that such vote on the nomination occur 30 minutes after the disposition of the amendment by Mr. BARTLETT to the military procurement bill, with the 30 minutes of time being equally divided between Mr. MAGNUSON and the distinguished Senator from Michigan (Mr. GRIFFIN). This would mean, therefore, that immediately at 1 o'clock in the event the motion to reconsider carried the Senate would return to legislative session and upon the disposition of the Bartlett amendment the Senate would immediately go into executive session and for 30 minutes would debate that nomination, would immediately vote on the nomination and, upon the disposition of that vote, the Senate would resume legislative session and return to the consideration of the military procurement bill.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not wish to have to object, it occurs to me that it would take time there that would run on over into the time set for the Kennedy amendment at 1 p.m. Furthermore, taking this time out on Wednesday, as far as the military authorization bill, would mean it will be that much more time. If we are going to pass it before the recess, we certainly have to stay with it. Will the Senator comment on the time running byond 1 o'clock? He used the term Bartlett amendment. Did he intend to say Kennedy amendment?

Mr. ROBERT C. BYRD. No. The request, if agreed to, would not impinge upon the taking up of the Kennedy amendment, nor would it impinge upon the time allotted for debate on that amendment. Nor would it impinge upon the time for debate on the Bartlett amendment. It would consume a little time, but it may be, let us say, would probably be, even that there will be only one vote, that the motion to table the motion to reconsider would carry, in which event it would only take 15 minutes.

Mr. GRIFFIN. Does the Senator mind a little dissent to that?

Mr. ROBERT C. BYRD (laughing). Yes.

Mr. STENNIS. At what time did the Senator say the proceeding in executive session would begin?

Mr. ROBERT C. BYRD. We would begin at 12:30, without debate, and immediately have a rollcall vote. If that vote on the motion to table failed, the Senate would immediately, without debate, vote on the motion to reconsider. I think very likely that would be the end of it; but it is possible that a third vote would be required, in which event that vote would not occur until 30 minutes following the disposition of the Bartlett amendment.

Mr. STENNIS. If the Senator will yield further, what is becoming of the Kennedy amendment in the meantime? That is set for 1 o'clock.

Mr. ROBERT C. BYRD. The Kennedy amendment would be taken up at 1 o'clock, would be debated, and would be voted upon.

Mr. STENNIS. Well, the Senator is more experienced than I am. I do not care.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, there is a possibility, I would say, without knowing who is going to be absent or anything else, of taking up the nomination and the vote on it on Thursday, in the event it is necessary to do that, which would not cut in quite so much on the military procurement bill on Wednesday. We would only, then, have the votes on reconsideration, and then we would know whether or not we had to have a vote on Thursday on the nomination. I would be willing to go along with that, even though I do not know what the absentee situation would be.

Mr. ROBERT C. BYRD. Could we agree on a time for a vote, in the event on the motion to reconsider carries, and also agree, in the event the chairman of the Armed Services Committee wishes not to have further interference with action on the military procurement bill tomorrow, that the vote on the nomination itself could occur on Thursday?

Mr. ABOUREZK. Mr. President, let me reserve the right to object on that. There is time reserved Thursday and Friday for the antitrust bill.

Mr. ROBERT C. BYRD. Would the Senator think it would be all right if the vote on the motion to table the motion to reconsider failed? It probably would not take 45 minutes; and the chances are at least 50–50 that the vote tomorrow would be the close of it.

Mr. ABOUREZK. I could not agree; I would have to object without Senators KENNEDY and HART concurring in it, because we were acting together.

Mr. GRIFFIN. Well, then we are back to Wednesday.

Mr. ROBERT C. BYRD. I just want to try to be accommodating here.

Mr. STENNIS. Mr. President, if the Senator will yield, then, to be certain, his request now is just for two rollcall votes tomorrow, which may consume not over 30 minutes, but he is just asking for two rollcall votes?

Mr. ROBERT C. BYRD. I thought we had, or were about to get, an agreement on the whole package. I know the Senator from Mississippi had not objected.

Mr. STENNIS. No, I am not objecting.

Mr. GRIFFIN. We do not want to mislead them, though. In the event we prevail on those first two votes there would be an additional 45 minutes later in the afternoon.

Mr. ROBERT C. BYRD. We understand that.

Mr. STENNIS. On Wednesday or Thursday?

Mr. ROBERT C. BYRD. On Wednesday.

Mr. GRIFFIN. I was willing to shift it to Thursday, but the Senator from South Dakota is not willing.

Mr. STENNIS. What would be the limit then? How much more time would it take?

Mr. GRIFFIN. Forty-five minutes.

Mr. ROBERT C. BYRD. The absolute limit on all three rollcall votes would be 1 hour and 15 minutes, and I think there is a better than 50–50 chance that it will not go beyond the first. But it could.

Mr. GRIFFIN. I hope the Senator from West Virginia is wrong.

Mr. CANNON. He seldom is.

Mr. STENNIS. Mr. President, reserving the right to object, this nomination is a matter the Senate has already taken up, and we want to finish it off, but I do not think we can overemphasize the importance, under our rules, of a number of bills, under the Budget Committee's bill, and resolutions which we have to agree to. This military procurement bill just ought to be disposed of this week, I mean passed, and I judge as a practical matter there is no use to count Friday; there will be a great number of absentees, most probably.

I am willing to stay here Wednesday, Wednesday night, and Thursday, but I want to insist, after this, that this military bill be given preference, subject to the antitrust promises that the Senator has made.

Mr. ROBERT C. BYRD. I think that is fair enough. I agree with the distinguished chairman that the Senator has spent a great deal of time already on the military procurement bill. Senators had an opportunity to call up their amendments yesterday and did not. Fortunately we have been able to get agreements on time with respect to the bill that was named.

I join with the Senator from Mississippi in hoping the Senate can and will complete action on the military procurement bill no later than Thursday, keeping in mind the commitment that we also have to Senator HART, Senator KENNEDY, and Senator ABOUREZK on the antitrust measure.

The PRESIDING OFFICER (Mr. GLENN). Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I have cleared this request with Senators on both sides of the aisle, that the Senate now resume the consideration of the military procurement authorization bill.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, the only thing I want to insure is that the opposition to the antitrust bill has agreed to that, and that they do not want to discuss it any more today, the antitrust bill.

Mr. ROBERT C. BYRD. Both sides have agreed to this request. I have contacted Senators on both sides of the question.

Mr. ABOUREZK. In other words, the Members of the opposition to the antitrust bill do not wish to discuss that any more today? Because this was the day reserved for the antitrust bill.

Mr. ROBERT C. BYRD. They have no objection to this request. I have cleared it with Senators on both sides of the aisle and on both sides of the question.

Mr. ALLEN. Mr. President, reserving the right to object, I would not want the distinguished Senator from South Dakota to assume that the opponents of the antitrust legislation are through talking, or that they do not desire at this time to talk. The Senator from Alabama is against that measure, and wishes to discuss it at length.

The overriding interest right now, however, is getting back on the military procurement bill. It is not that the opposition to the bill does not wish to discuss it. The point is that the overriding interest is to take action on military procurement.

Mr. ROBERT C. BYRD. Mr. President, may I say that I hope the Senator will not mind my taking issue with the one word "overriding." It is not exactly overriding. I have indicated to both sides that the leadership is perfectly willing to go on for the rest of this day on the antitrust legislation; but I have approached both sides to see if it was agreeable, after 5 o'clock, to return to the military procurement bill, and I found that it was agreeable on both sides of the question.

Mr. ALLEN. The Senator from Alabama, of course, has a right to describe military procurement as of overriding interest. That is the way he views it; and it was at the request of the distinguished Senator from West Virginia that we did agree that we would be willing to lay aside the antitrust legislation so that we could get to the other. Apparently the distinguished Senator from West Virginia must feel it is of overriding interest, or he would not have made that request.

Mr. ROBERT C. BYRD. No, no, the Senator from West Virginia does not consider it to be overriding at all.

I have to interpret my own feelings in the matter as I see them. I can understand that the Senator from Alabama might for his purposes wish to interpret them otherwise, but I can assure him it is not overriding. It is perfectly agreeable with me to continue on the antitrust legislation longer today, as long as any Senator on either side of the aisle wishes to discuss it.

But what I am saying is that I feel I have a duty to try to press forward with both pieces of legislation to the best of my ability. It was with this purpose in mind that I have approached Senators on both sides of the aisle.

I hope we will not delay the Senate now in trying to interpret this or that and trying to put the burden on one side or the other. I take the full responsibility at this time for attempting to go to the military procurement bill, but it is in the interest of making progress on that as well as on the antitrust legislation.

Mr. ALLEN. I understand the Senator from South Dakota was seeking to make it appear that the opponents of the antitrust legislation did not wish to go forward at this time, and the only reason that the Senator from Alabama agreed to go forward with the military procurement legislation was because he felt that the overriding interest was to move on with the military procurement legislation.

Mr. ABOUREZK. No.

Mr. ROBERT C. BYRD. It is not overriding, but I have to say on behalf of the Senator from Alabama that it was agreeable on both sides that the leadership proceed to take up the military procurement legislation at this time. I found that Senators on both sides were quite willing to continue the debate on the antitrust legislation for the rest of the day also.

Mr. ALLEN. Yes.

Mr. ABOUREZK. The only purpose I rose to reserve the right to object was to make certain that the opponents of this antitrust bill have every opportunity to discuss it, and if they voluntarily give up that opportunity that is, of course, up to them.

Mr. ALLEN. It was at the request of the leadership that we willingly suspended.

Mr. ABOUREZK. It is up to the opposition of the antitrust bill whether or not they wish to accede to the leadership's request. But I simply wish to make sure that Senators have every chance to discuss this bill.

Mr. ALLEN. We appreciate that and hope the Senator will so vote when an effort is made to cutoff debate.

Mr. ABOUREZK. One of these days we will wish to cutoff debate and we want Senators to have every opportunity.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank Senators on both sides of the question for their courtesy and cooperation in acceding to the request of the leadership that the Senate now resume consideration of the military procurement bill.

Mr. STENNIS. Mr. President, may we have enough attention in the Senate that we may hear now on the legislation?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Without objection, the unanimous-consent request is agreed to.

The bill will be stated by title.

Mr. ABOUREZK. Mr. President, reserving the right to object, was that——

The PRESIDING OFFICER. The request has been agreed to, unless the Senator objects. It is too late.

Mr. ABOUREZK. It is not too late to reserve my right to object.

The PRESIDING OFFICER. The Chair has ruled on that.

Mr. ROBERT C. BYRD. The Chair has ruled on it, but——

The PRESIDING OFFICER. The Chair had ruled on this and called the clerk to report the bill.

Mr. ABOUREZK. The only thing I wish to clarify is this. If I might obtain a point of information, that means that the order for Thursday and Friday for the antitrust bill to be brought up has not been rescinded because of this request.

Mr. ROBERT C. BYRD. That has not been disturbed.

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. That is the only thing I wished to ask.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

The PRESIDING OFFICER. By unanimous-consent agreement, the Senate will now resume consideration of H.R. 12438, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

AMENDMENT NO. 1695

Mr. TOWER. Mr. President, I call up my amendment No. 1695, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment No. 1695.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . Notwithstanding any other provision of law, the Secretary of the Navy is authorized to assign Rear Admiral J. Edward Snyder, Jr. (retired), to a command status as the Oceanographer of the Navy.

Mr. TOWER. Mr. President, this amendment was recommended in the form of separate legislation from Navy, but due to the time and attention required for the authorization bill, the committee has not reached this as a separate item.

What this amendment does is to permit the Navy to assign Rear Adm. J. Edward Snyder, Jr., retired, as Oceanographer of the Navy. Admiral Snyder has already served brilliantly as Oceanographer of the Navy but assumed the retired status as of July 1, 1975. As a technical matter, since the position of oceanographer is a command position, Admiral Snyder cannot be assigned as oceanographer in a retired status without this special statutory exemption.

Mr. President, this amendment involves no additional cost to the Government and is highly desired by the Navy.

At this point I ask unanimous consent to print in the RECORD the official transmission of the proposed legislation from the Secretary of the Navy strongly urging its enactment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., May 7, 1975.

HON. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposed legislation "To permit the recall to active duty of Rear Admiral J. Edward Snyder, Jr., upon retirement in a command status as the Oceanographer of the Navy."

This proposal is a part of the Department of Defense Legislative Program for the 94th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The proposed legislation would permit the recall to active duty of Rear Admiral J. Edward Snyder, Jr., USN upon retirement in a command status as the Oceanographer of the Navy.

There are two existing statutes pertinent to this issue:

a. 10 USC 5955: "Retired officers of the Navy shall be withdrawn from command."

b. 10 USC 5982(a): "In time of war, the President, by and with the advice and consent of the Senate, may detail retired officers of the Navy on active duty to the command of squadrons and single ships, if he believes that the good of the service requires that they be so detailed."

The Oceanographer of the Navy is described in U.S. Navy Regulations, 1973, in article 0315 as:

"The Oceanographer of the Navy, under the command of the Chief of Naval Operations, shall act as the Naval Oceanographic Program Director under the policy direction of the Secretary of the Navy. He shall be responsible for an integrated and effective Naval Oceanographic Program and the management of all national oceanographic facilities and efforts assigned to the Department of the Navy."

In this capacity he commands the Office of the Oceanographer of the Navy and is the immediate superior in command of the Commander, Naval Oceanographic Office, a field activity of the Oceanographer. In view of this command status and the statutes cited above, a retired officer is not eligible to serve on active duty as the Oceanographer of the Navy.

As director of the Naval Oceanographic Program, the Oceanographer of the Navy is the interconnection of a vast series of complex and disparate activities whose purpose is to explore and to lay the basis for exploitation of the ocean and its boundaries for Naval applications to enhance security and support other national objectives. The exercise of this patent necessarily transcends the precisely defined requirements of national defense in order to be responsible to the broader demands of national security. No more cogent case in point can be cited than the current economic sensitivity to potential offshore resource and energy supplies, with the attendant technological imperatives to develop and protect them. Given this setting of undersea technology and national security, it is a matter of concern that the duties and responsibilities of the Oceanographer of the Navy be vested in an officer who, in addition to the qualities of leadership and character expected of a flag officer, has the requisite tenure to provide continuity of leadership and the technical experience to make effective and cooperative use of the Navy's considerable capital investment in the oceans.

Rear Admiral J. Edward Snyder, Jr., the incumbent Oceanographer of the Navy, will be retired as of July 1, 1975. Throughout the last decade of a distinguished Naval career, Rear Admiral Snyder has been a prime mover in the evolution of federal oceanography, beginning with the landmark deliberations of the President's Scientific Advisory Committee and the Stratton Commission in the Sixties, extending to the current assessment of National Ocean Policy by the U.S. Senate. His involvement has been total and sophisticated to a point wherein his contributions to the national dialogue on the oceans are unique. Accordingly, the Secretary of the Navy considers the recall of Rear Admiral Snyder to active duty in a command status as Oceanographer of the Navy to be in the best interest of the Navy and the Nation.

Cost and Budget Data

The enactment of this legislation will result in no additional expenditures.

Sincerely yours,
J. William Middendorf II,
Secretary of the Navy.

Mr. TOWER. The last portion of the Secretary's letter reads as follows, which is highly pertinent:

> Throughout the last decade of a distinguished Naval career, Rear Admiral Snyder has been a prime mover in the evolution of federal oceanography, beginning with the landmark deliberations of the President's Scientific Advisory Committee and the Stratton Commission in the Sixties, extending to the current assessment of National Ocean Policy by the U.S. Senate. His involvement has been total and sophisticated to a point wherein his contributions to the national dialogue on the oceans are unique. Accordingly, the Secretary of the Navy considers the recall of Rear Admiral Snyder to active duty in a command status as Oceanographer of the Navy to be in the best interest of the Navy and the Nation.

To make a long story short, Mr. President, this simply enables a retired officer to be appointed to a command position. It is not an unusual or unprecedented thing. Admiral Snyder is a man of unusual talent and ability.

For my part, I have always been concerned about the up and out policy that we have in the armed services. We lose a lot of superior talent that way.

I think that this is an amendment the Senate can agree with.

I may say I discussed this amendment with the distinguished chairman of the Committee on Armed Services and the distinguished chairman of the Subcommittee on Manpower, the Senator from Georgia (Mr. Nunn). And I believe all are in agreement that the amendment should be agreed to.

Mr. STENNIS. Mr. President, I yield such time to the Senator from Georgia as he may wish.

Mr. NUNN. Mr. President, I think this is a good amendment. I have talked to the Senator from Texas about the amendment. It makes sense.

I am afraid, as I told the Senator from Texas, that we have in our up and out policy now in the military too much up and too much out and too quickly, and we are leaving ourselves without the talent necessary to run a complicated, complex technologically oriented Defense Establishment.

So I think this is a sensible move. Certainly Admiral Snyder has demonstrated the capabilities to assist the Navy in this particular endeavor, and I think it makes sense from every point of view. I recommend that our committee and the full Senate accept the amendment.

Mr. STENNIS. Mr. President, I shall take 1 minute to say that it often troubles me very much that very fine talent is being turned out of all the services, so far as that is concerned, while these persons are still in their prime. I think this is the case where legislation is necessary. The Senator from Texas says it ought to be agreed to. For my part I support the amendment.

The PRESIDING OFFICER (Mr. Robert C. Byrd). The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreeed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1690

Mr. GLENN. Mr. President, I call up my amendment No. 1690, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Glenn) proposes an amendment.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 37, after line 19 insert the following:
>
> Sec. . Prior to March 1, 1977, the Secretary of Defense shall conduct a study as to how greater utilization of civilian faculty may be accomplished in the service academies, intermediate and senior war colleges. This study shall recommend an equitable ratio between civilian and military faculty in general academic subjects. The report shall identify those subjects in the curriculum classified as in the general academic area. Professional military instructors shall be retained for solely military and naval subjects. The results of this study shall be forwarded to the Committees on Armed Services of the House of Representatives and the Senate.

Mr. GLENN. Mr. President, this amendment is very simple, and it should take only a few minutes. We have cleared it with the leadership, and I believe it is agreeable to them.

The amendment would require a study by the Secretary of Defense as to how we can better utilize civilian faculty in service academies, with particular emphasis in those areas wherein military expertise is not required.

In the military academies now, we can only give a general education. The liberal arts aspects vary from one academy to another. However, there are requirements, for example, for the teaching of literature, English, mathematics, and so on, with the very basics of education, which do not require military instructor expertise to perform.

It has been thought for some time that we would save considerable money if the academies could move toward utilizing their regular civilian instructor staffs that might be available for those basics of education—retaining, of course, the military instruction for military officers who have had more experience in that area.

The necessity to bring officers back and requalify them for this type of advanced instruction in the basics of education is expensive. It means permanent change of station orders. It means moving their families across country and sometimes from overseas. It means retraining and requalifying them to perform the tasks they have been assigned to, which would not be necessary if we could utilize in those basics more of a permanent cadre of civilian instructors and professors.

This amendment would require the Secretary of Defense to conduct a study for that type utilization and make a recommendation for the ratio and the positions in which money could be saved and at the same time give better educational opportunities in the academies because of increased expertise that the civilian faculty would have.

I believe the leadership on both sides of the aisle are prepared to accept the amendment. I do not require a rollcall vote.

Mr. STENNIS. Mr. President, I yield to the Senator from Georgia. This matter relates to personnel.

Mr. NUNN. Mr. President, I have talked to the junior Senator from Ohio, and my staff has talked to his staff about this amendment.

There probably are a considerable number of ways in which we can increase the effectiveness and the efficiency of the dollars spent in training at the academies. The distinguished junior Senator from Ohio is probably better informed on that subject than is any other Member of the Senate.

I believe this amendment would be a positive step in determining whether we can make efficiency and effectiveness and improvements in instruction at the military academies, and I recommend that the Senate and the Committee on Armed Services accept the amendment.

Mr. STENNIS. I support the amendment as outlined by the distinguished Senator from Ohio.

Mr. GLENN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the distinguished Senator from Ohio (Mr. GLENN).

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, the bill is open to further amendment. The committee is prepared to take up any amendment that a Senator may wish.

Only one amendment is set for a time certain, and that is the Kennedy amendment with respect to the Minuteman III money, and it is set for tomorrow at 1 p.m.

The committee is ready and will be glad to take up any other amendment at this time.

(At this point, Mr. GLENN assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the resumption of consideration of the military procurement bill tomorrow at 9:30 a.m., the distinguished Senator from Colorado (Mr. GARY HART) be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There is a time limitation on the Hart amendment of 30 minutes. Presumably, there will be a rollcall vote.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GOLDWATER. Is that the amendment pertaining to gas?

Mr. STENNIS. This amendment pertains to the A–7D. The Senator from Texas can explain this amendment.

Mr. TOWER. The Hart amendment would delete the authorization for the procurement of 24 additional A–7D's. It was put in the bill by the committee.

Mr. GOLDWATER. I wanted to make it clear, because Senator HART has at least two amendments. One has to do with gas stored off the end of the runway of Peterson Field in Denver, and the other relates to the A–7.

Mr. TOWER. The amendment referred to is the A–7D amendment.

Mr. STENNIS. Mr. President, there are no other Hart amendments to this bill.

Mr. ROBERT C. BYRD. Mr. President, hopefully, upon the disposition of the amendment by Mr. HART tomorrow, the distinguished Senator from Ohio (Mr. GLENN) or the distinguished Senator from Maine (Mr. HATHAWAY) or the distinguished Senator from Kansas (Mr. DOLE) will be prepared to call up an amendment.

I have discussed this matter with the distinguished Senator from Ohio (Mr. GLENN) and he is going to make every effort, if things can be worked out overnight, to be in a position to call up his amendment at that time. However, this does not bind him at the moment. However, he has indicated that it is his hope that early tomorrow he will be in a position to call up his amendment.

I express the same hope on behalf of Mr. HATHAWAY and Mr. DOLE, but I am in no position to commit any one of the three at this point.

Mr. STENNIS. Mr. President, if the Senator will yield, I believe that we already have a time agreement on the Dole amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. As to the Hathaway amendments—there are several, largely on the same subject—staff members of the committee and his staff have been working on those amendments today and are on the verge of having something special to submit to the Senate. However, other Senators who are interested have not had an opportunity to go into the staff conclusions. They will be ready in the morning, I understand.

The committee is ready on all pending amendments. I appreciate the cooperation of the leadership and of the membership in bringing up these matters. There is no reason why we cannot dispose of a great number of them tomorrow. There is a disposition to agree to a short time, once we can get them lined up and the Senators can be here. I think we can move rather fast tomorrow.

Mr. ROBERT C. BYRD. I hope so.

Mr. GRIFFIN. Mr. President, if the Senator will yield for a question, I do not believe there is any problem, but I want to be sure.

In view of the fact that there is no time allotted for debate and we will proceed right to a vote tomorrow on a motion to table and a motion to reconsider, may it be presumed that such a motion to table and such a motion to reconsider have been offered, in effect, and are encompassed in the agreement, and we will proceed right to a motion to table a motion to reconsider, so that those motions do not have to be made? They are already before the Senate, in the agreement.

Mr. ROBERT C. BYRD. Yes. The agreement assumes, quite correctly, I think, that the motion to reconsider has been made, that the motion to table the motion to reconsider has been made.

Mr. GRIFFIN. And we proceed right to a vote?

Mr. ROBERT C. BYRD. Proceed immediately to a vote on the motion to table.

As I indicated when I presented the request, a Senator on the other side of the aisle has at the desk a motion to reconsider. The Senators on this side of the aisle know that that motion is going to be made. So, rather than go through the motions of making those motions, the Senators have agreed to the votes at the times allotted.

Mr. GRIFFIN. Does the Senator suppose the Parliamentarian understands it that way, too?

Mr. ROBERT C. BYRD. I am sure the Senator would like to have the Chair respond to that.

Mr. GRIFFIN. I make such a parliamentary inquiry.

The PRESIDING OFFICER. For the purposes of this agreement, the question would come on the motion of the Senator from West Virginia to table the motion of the Senator from Maryland to reconsider the nomination.

I am sure that is clear.

Mr. ROBERT C. BYRD. I thank the Chair.

NOMINATION OF S. JOHN BYINGTON—ORDER FOR YEAS AND NAYS

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to order the yeas and nays with one showing of seconds at any time tomorrow as in executive session on the various votes that may occur in connection with the nomination of Mr. S. John Byington.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

STANDING ORDER FOR PLACEMENT OF PROGRAM IN RECORD

Mr. ROBERT C. BYRD. Mr. President, is there a standing order that the statement of the program will appear just prior to the motion to adjourn daily?

The PRESIDING OFFICER. There is such an order.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE YEAS AND NAYS—SENATOR GARY HART'S AMENDMENT TO H.R. 12438

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment by Mr. GARY HART to be voted on tomorrow morning.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

NOMINATION OF S. JOHN BYINGTON—YEAS AND NAYS

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask for the yeas and nays on the votes that will be required, depending upon developments, in connection with the nomination of Mr. S. John Byington.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR YEAS AND NAYS ON AMENDMENTS TO H.R. 12438

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at any time on other amendments prior to the taking up of the Kennedy amendment tomorrow, and that one show of second will be sufficient for any number of votes during the morning, unless there is objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. LEAHY will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m., with statements limited therein to 5 minutes each.

At the hour of 9:30 a.m., the Senate will resume consideration of the military procurement bill, H.R. 12438. At that time, the distinguished junior Senator from Colorado (Mr. GARY HART) will be recognized to call up his amendment, on which there is a time limitation of 30 minutes, to be equally divided and controlled in accordance with the usual form. A rollcall vote will occur on the disposition of that matter.

On the disposition of that amendment, it is hoped that other Senators will be prepared to call up their amendments, among which are the following: Mr. GLENN's, on which there is a time limitation of 20 minutes, to be equally divided and controlled in accordance with the usual form; Mr. THURMOND's, on which there is a time limitation of 40 minutes, to be so equally divided and controlled; Mr. DOLE, who has a 1-hour limitation on his amendment, to be so equally divided and controlled.

At the hour of 12:30 p.m., the Senate will go into executive session and, without any intervening debate or motion, will vote by rollcall, which will be ordered, undoubtedly, on a motion by the Senator from West Virginia (Mr. ROBERT C. BYRD) to table the motion by Mr. MATHIAS to reconsider the vote by which the nomination of Mr. S. John Byington was rejected on yesterday.

If the motion to table prevails, the Senate will resume legislative session immediately and will pursue further consideration of the military procurement bill. If the motion to table fails, a vote will occur immediately, without intervening debate or motion, on the motion to reconsider the vote by which the nomination of Mr. Byington was rejected on yesterday.

If the motion to reconsider fails, the Senate will immediately resume legislative session and will continue consideration of the military procurement bill. If the motion to reconsider carries, that vote on the nomination will occur 30 minutes following the disposition of the Bartlett amendment later in the afternoon, such 30 minutes being equally divided between both sides on the question.

At 1 p.m. tomorrow, the Senate will proceed to consideration of the Kennedy amendment on the Minuteman missile. There is a time limitation for debate thereon of 2 hours, to be equally divided and controlled in accordance with the usual form. At the expiration of that time, which, if allowed to run, would put the Senate at 3 o'clock p.m., the Senate will vote on the Kennedy amendment.

Upon the disposition of that amendment, the Senate will proceed to the disposition of the amendment by Mr. BARTLETT to the military procurement bill, on which there is a 90-minute time limitation, to be equally divided and controlled in accordance with the usual form.

Mr. President, numerous rollcall votes will occur tomorrow. The first rollcall vote could occur as early as 10 o'clock a.m.

Mr. GOLDWATER. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. Actually, we are all interested in the passage of the military authorization bill. I was wondering if the leader is now prepared to tell this body how late we shall stay in to accomplish that?

Mr. ROBERT. C. BYRD. Mr. President, I cannot respond with specificity to the distinguished Senator. I can only say that the leadership is prepared to stay in late tomorrow evening if it will further the objective of the Senator and the Senate in completing action on the military procurement bill tomorrow evening. I hope that will occur. I have some reason to doubt that that final action will occur tomorrow evening, but as the distinguished chairman of the committee has so appropriately stressed, it is certainly hoped that if action is not completed tomorrow evening, at least an agreement can be reached by tomorrow evening which would see final action on the bill before the Senate recesses for the Memorial Day weekend.

Mr. GOLDWATER. I ask that because those of us who live in the West have a very difficult problem of travel these days. It is getting more and more difficult to get airline reservations to the West. We have been sitting here now, Monday and Tuesday, with no action at all, no action last Friday, nothing on Saturday. I am committed very deeply, and have been all week, in my home State, which commitments I have canceled. I have to be there on Thursday. I do not care personally how late we stay in tomorrow night. I think there have been 30-odd Senators out of this body, at home attending to their fences and so forth. Maybe it would not hurt if we looked forward to a late session so those of us who have made the sacrifice by staying here and doing nothing might be able to make reservations to get home.

I hope that sometime tomorrow night, even if it takes until midnight, we can get rid of this bill.

Mr. ROBERT C. BYRD. I agree with the distinguished Senator. As long as there is some reasonable hope that the Senate is disposed to complete action on this bill tomorrow evening, the leadership is certainly willing to stay to achieve that end.

The distinguished Senator from Arizona has been here and been available for votes and certainly is within his rights in pointing out that various Senators could have called up amendments on yesterday but, for one reason or another, did not choose to do so. I hope that action will be completed tomorrow and, if not tomorrow, certainly on Thursday, keeping in mind our commitment on the antitrust legislation.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. I hate for there to be any inference that we have not been ready to pursue business today.

If all of those who want to get through could just stay here and keep impressing their fellow Senators with the need for it, I think that would have a psychological effect. We got down to the proposition today of being ready to take up a matter and vote on it and dispose of it, but it went off on the idea of postponing it so a trip could be taken and then postponing the vote tomorrow until a certain time. With such actions as that, we are not going to get anywhere.

I think if we come here and stay on the floor and exhort our fellows to be ready, that will do some good.

Mr. ROBERT C. BYRD. Mr. President, the distinguished chairman of the committee (Mr. STENNIS) has certainly done everything within his power to bring matters to a conclusion on the military procurement bill. He has stood ready at all times to debate amendments and even to agree to a firm vote. He stands ready now.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow morning.

The motion was agreed to; and at 5:55 p.m., the Senate adjourned until tomorrow, Wednesday, May 26, 1976, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, May 25, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Cast your burden on the Lord and He will sustain you.—Psalms 55: 22.

Our Father who art in heaven, in the Earth and in the hearts of men, hallowed be Thy name, Thy kingdom come, Thy will be done in us and in all Thy children. During these days when what we value most seems so often to be at the mercy of what we value least, we pray for ideas great enough, spirits good enough and motives genuine enough to make us more than a match for the mood of our modern movements.

Grant unto us the leading of Thy spirit as we seek for peace and for justice at home and abroad. With faith and fortitude may we live our lives, make our decisions and conduct our business here that coming generations may be thankful for the contribution we are making today.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and without objection, announces to the House his approval thereof.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a resolution of the following title:

H. Res. 452

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Honorable Torbert H. Macdonald, late a Representative from the State of Massachusetts.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

A QUESTION OF PERSONAL PRIVILEGE

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER. The gentleman from Ohio is recognized for 1 hour on his point of personal privilege.

Mr. HAYS of Ohio. Mr. Speaker, the morning press has carried a story stating that the Justice Department is investigating me and my conduct as chairman of the Committee on House Administration on certain allegations that a person is on the payroll for reasons other than working.

This story appeared in the paper on Sunday, and on Sunday afternoon the FBI was out at the homes of staff members questioning them. That, Mr. Speaker, is the fastest FBI inquiry on record; much faster than when the bank I am chairman of was robbed of $122,000 2 weeks ago.

I think what precipitated it was an exchange of letters which I had neglected to put in the Record and which I had promised to put in the Record, between myself and the Deputy Assistant Attorney General of the United States. I think it is appropriate that I read them to the membership, and I will then place them in the Record.

The first letter is from the Deputy Assistant Attorney General or the Assistant Attorney General—that is the title—of the Criminal Division, dated April 6, 1976. It says:

Department of Justice,
Washington, D.C., April 6, 1976.

Hon. Wayne Hays,
House of Representatives,
Washington, D.C.

Dear Congressman Hays: My attention has been directed to the April 1, 1976 Congressional Record which quotes you during debate at page 9100 as follows:

"Let me give some evidence. We had two Members in this House who, I believe inadvertently and unknowingly, took some corporate funds from the Gulf Oil Co. One was our colleague from Oklahoma who got $1,000. The other one was our colleague from Pennsylvania on the other side, who got $6,000.

"Our colleague from Oklahoma was prosecuted on an information charge but with respect to the gentleman from Pennsylvania, they allowed the statute of limitations to run. The Deputy Attorney General (sic) who is also from Pennsylvania and also from Pittsburgh according to the press said:

'He is a friend of mine. I could not prosecute him.'

That is the kind of independent Justice Department that we have."

May I take this opportunity to correct your perception in this regard.

Contrary to the suggestion in the quoted passage, I took no part whatsoever in any of the decisions respecting the Congressmen from Oklahoma or Pennsylvania. Nor could I. By law both matters are within the exclusive jurisdiction of the independent Watergate Special Prosecutor's Office and not the Criminal Division.

As to the purported quote from "the press", I must respectfully request from you the source of the quotation so that I may correct the reporter who authored it. Needless to say, no such statement was ever made by me.

Our system of criminal justice depends upon an even-handed process for making decisions as to whether prosecution is justified in any particular case. It is my belief, borne out by my record, both as United States Attorney in Pittsburgh for six years and in my present position, that these decisions must always depend upon the evidence alone and can never be influenced by personal or political considerations. This remains my strongly held personal view and will remain that of the Criminal Division so long as I run it.

It is evident that nothing I say will dissuade you from your apparently low opinion of this Department at the present time. But inasmuch as you have seen fit gratuitously and without foundation to impugn my integrity, I would request—having no other means of redress—that you have the courtesy to place this letter in the Congressional Record.

Very truly yours,
Richard L. Thornburgh,
Assistant Attorney General.

I am handing the letter to the Clerk.

My reply was somewhat late, due to the Easter recess. It was dated May 6, 1976, to Mr. Thornburgh, and it says:

Mr. Richard L. Thornburgh,
Assistant Attorney General, Department of Justice, Washington, D.C.

Dear Mr. Thornburgh: This is in response to your letter of April 6, 1976 regarding my statement in the Congressional Record of April 1st pertaining to the Gulf Oil corporate contributions and the selective prosecution of those Members of Congress alleged to have received such contributions. Please excuse the delay in responding to your letter as I was away for the Easter Recess.

You make a number of points in your letter. First, that my statement regarding your friendship with Congressman Heinz is inaccurate, and request the source of my information; second, that you lack jurisdiction in this case; and last, you request that your letter be placed in the Congressional Record.

First, I would call your attention to the *Philadelphia Evening Bulletin* of Friday, March 12th, wherein you yourself are quoted as saying, "If the Justice Department were responsible for the case, I would recuse myself"—r-e-c-u-s-e. That is a new word for me. I thought it was a misprint, but there is such a word—"because of a 10-year friendship with John Heinz." The story further goes on to indicate that John Heinz was chairman of your own unsuccessful bid for the U.S. House of Representatives and in fact, contributed several thousand dollars to the campaign. I hardly think that I have misrepresented your relationship with Congressman Heinz.

As to your claim that you lack jurisdiction, I can only say that you missed the point. The fact remains that one Member of Congress, a Democrat, was prosecuted while another Member of Congress, a Republican, was not prosecuted for exactly the same alleged offense. The American people are too smart to ignore this blatant lack of impartial justice. If, in fact, the Special Watergate Prosecutor has jurisdiction, you might try to find out why he has taken no action. Surely he must be accountable to someone in the Justice Department, or is he so independent that he answers to no one?

Lastly, I will be happy to place your letter in the Record as you requested along with my response and the article from the *Bulletin.* However, I stand by my original position that such blatant unfairness—which allowed for the prosecution of Democratic Congressman James R. Jones on the same charges for which the Administration allowed the statute of limitations to run for Republican John Heinz III—does nothing to enhance the people's faith in American justice.

Sincerely,
Wayne L. Hays,
U.S. Congressman.

I put this letter down for the reporter to check his notes against.

I do not have all of the data here, but there have been statements in the press that the prosecutor, the Federal prosecutor, from Philadelphia, who is a Republican, resigned because he was told by Mr. Thornburgh to get Mayor Rizzo.

In fact, his exact quote as the press carried it was: "Get that s.o.b. Rizzo." I do not know whether he did say that or whether he did not. The fact remains that I have not researched it. I have had a letter from Mayor Rizzo or from his staff saying that it is so. I wish to place the article in the RECORD.

Mr. Speaker, I ask unanimous consent for permission to place in the RECORD at this point an article from the Philadelphia Evening Bulletin dated March 12, 1976, relative to this subject matter and an article from the Sunday Bulletin dated February 1, 1976, headed "2 Former Pa. Prosecutors Clash Over Perjury Ruling."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The articles referred to follow:

[From the Evening Bulletin, Mar. 12, 1976]

THORNBURGH: CANNOT PROBE GULF FUNDS

(By Gerald J. McCullough)

The U.S. Justice Department has no current authority to investigate a political scandal involving the Gulf Oil Corp., Assistant Attorney General Richard L. Thornburgh said yesterday.

Thornburgh said the Gulf scandal, which has become an issue in the 1976 Pennsylvania Republican primary election, is entirely in the hands of the Watergate special prosecutor's office.

The scandal involves some $10.3 million in illegal corporate political funds which were allegedly distributed to dozens of congressmen and senators.

SCOTT AND HEINZ

The recipients allegedly included outgoing Senate Minority Leader Hugh Scott (R-Pa) and U.S. Rep. H. John Heinz 3d, of Pittsburgh, a candidate for the GOP nomination to succeed Scott.

Thornburgh's role in the handling of the Gulf investigation has been questioned by George R. Packard, a former Bulletin editor, who is also seeking the GOP nomination for the Senate seat.

Former Philadelphia District Attorney Arlen Specter, a third candidate seeking the GOP nomination for the Senate seat, also has talked of the failure of law enforcement officials to prosecute, but has refrained from questioning federal officials.

Packard this month sent a letter to U.S. Attorney General Edward H. Levi asking why Heinz, who admitted receiving $6,000 from Gulf in 1971 and 1972, had escaped federal scrutiny.

In the letter, Packard noted that the special prosecutor's office had indicted U.S. Rep. James R. Jones (D-Okla), for failing to report a similar contribution of between $1,000 and $2,000 in 1972.

FRIEND OF HEINZ

Packard also noted that Thornburgh, who heads the Justice Department's criminal division, was a friend and political ally of Heinz in Pittsburgh.

Thornburgh said yesterday that the congressional authorization, which established the special prosecutor's office, specifically prevented him from taking jurisdiction of the Gulf matter.

"When the special prosecutor's office was established, the idea was to separate the Justice Department from the investigation of the Watergate scandal," said Thornburgh, who was in Philadelphia yesterday to address the Philadelphia Bar Association.

"Congress specifically gave the special prosecutor's office responsibility for 1972 campaign abuses and matters related thereto," he said.

"Congress also ordered that the operations of the special prosecutor's office be totally separate and apart from the Department of Justice."

CITES FRIENDSHIP

Thornburgh said he has no communication with Special Prosecutor Charles F. C. Ruff concerning the Gulf investigation.

"If the Justice Department were responsible for the case, I would recuse myself because of a 10-year friendship with John Heinz," said Thornburgh, a former U.S. Attorney in Pittsburgh. Thornburgh said that Heinz was chairman of his own unsuccessful campaign for Congress in 1966 and contributed about $3,000 to the race.

Heinz disclosed last December that his office received a $4,000 contribution from Gulf in 1972 and a $2,000 contribution from Gulf in 1971. He said he was not personally aware of the contributions.

Heinz wrote a personal check this month to the Gulf firm to repay the illegal contributions.

The once busy and heavily manned special prosecutor's office now has only two full-time attorneys on its staff and both are reportedly working on the Gulf case.

Ruff works in the office on a part-time basis.

[From the Sunday Bulletin, Feb. 1, 1976]

2 FORMER PA. PROSECUTORS CLASH OVER PERJURY RULING

(By L. Stuart Ditzen)

Washington—Two of Pennsylvania's best known former prosecutors came into conflict here last week when one—Samuel Dash—accused the other—Richard L. Thornburgh—of the following:

"Incompetence, carelessness or indifference . . . shallow and skimpy analysis . . . creating the appearance of impropriety . . . unexplainable negligence . . . (conducting) a flimsy and unprofessional investigation . . ." and,

Permitting a suspected perjurer to succeed in "flouting the lawful authority" of the Federal Power Commission in a case involving natural gas supplies.

Dash is former chief counsel to the Senate Watergate Committee and one-time district attorney of Philadelphia.

Thornburgh is assistant attorney general in charge of the Justice Department's Criminal Division and former crime-busting U.S. attorney in Pittsburgh.

EXPERT WITNESS

Dash's attack came in the form of "expert witness" testimony he gave before the subcommittee on investigations of the House Committee on Interstate and Foreign Commerce.

At issue was whether a Texas businessman had perjured himself last March before the FPC.

The businessman, Sidney T. Walker, vice president of the Mitchell Energy Corp., of Houston, Tex., had been called to the FPC to explain why his company had failed to meet its contract deadlines to supply natural gas to a pipeline company.

Dash and Thornburgh agreed that Walker did not reply factually to questions at the FPC. The difference of opinion revolves around whether Walker should be prosecuted.

Walker's testimony in March, 1975, was given during an FPC investigation of whether natural gas suppliers had purposely held back on deliveries in late 1974 in order to benefit from a FPC-approved rate increase that took effect in January, 1975.

Walker showed up at the FPC without his company records—although the records had been subpenaed—and told the FPC he didn't have any records.

Later, the House subcommittee opened its own inquiry and discovered that Walker had detailed records that explained his firm's inability to supply gas at contracted deadlines.

The subcommittee recommended to the Justice Department last summer that Walker's case be examined for possible perjury and obstruction of justice.

On Jan. 14, Thornburgh sent a letter to the subcommittee chairman Rep. John E. Moss (D-Calif) declining to prosecute Walker on the grounds that the facts were not strong enough.

Piqued, the subcommittee hired Dash to review the facts and give an opinion of Thornburgh's decision.

Dash testified that Thornburgh had given "shallow and skimpy analysis" to the case and his decision not to prosecute Walker "reflects a surprising degree of incompetence, carelessness or indifference."

FLOUTING CHARGED

Dash said:

"The case represents a serious decision by a congressional subcommittee to seek the assistance of the Justice Department to enforce the criminal law so a regulatory agency and a congressional committee can more effectively perform their functions."

But, he said, "the record in this case leaves no doubt about one thing—Mitchell Energy Corp., through its representative, Sidney T. Walker, succeeded in flouting the lawful authority of the Federal Power Commission."

Dash raised the question of possible conflict of interest, saying Walker "may be at the moment a member of a favored class by the present Administration. He is a representative of the powerful energy industry which the Administration courts and is loath to offend.

"This raises the question that . . . there may be conflicts of interest. This may not be such a case. Unfortunately, it creates the appearance of such a case."

Thornburgh declined to respond to Dash's comments. He said through a spokesman that he would let his decision on the case stand on the contents of his Jan. 14 letter to Moss.

In his letter, Thornburgh said the full record of Walker's testimony before the FPC and the later findings of the subcommittee were reviewed. He said three other employes of the Mitchell firm were called before a grand jury.

Thornburgh said he didn't think it was possible to prove that Walker intended "to obstruct the Federal Power Commission proceeding."

He said Walker appeared to have been "ill-prepared and possibly confused" when he testified before the FPC.

Thornburgh said perjury charges could not be brought against Walker because his alleged false answers were in response to "imprecise" questions by FPC attorneys.

Dash disputed the idea that Walker was confused before the FPC.

"I have read the record thoroughly and have found that Mr. Walker was anything but ill prepared or confused," Dash said. "He seemed never at a loss for an answer . . . Indeed, he was an unshakeable witness."

Dash also said numerous persons who knew details about Mitchell Energy Corp.'s operations and records were never interviewed by the Justice Department.

"The failure to talk to these witnesses is not mere omission or inadvertence," Dash said, "but unexplainable negligence."

The only other thing I can say at this time, Mr. Speaker, is that yesterday I made a decision. I was unable yesterday to get in touch with Chairman FLYNT, who was enroute to Georgia, but I got in touch with him this morning, and I prepared a letter. I told him verbally and I have in writing asked his Ethics Committee to investigate all the allegations concerning me. I said that I will be glad to appear before them and have any of my staff appear before them if they want.

Until that time, I am studying whether I have any grounds at all for a lawsuit under the Supreme Court decision in Sullivan against the New York Times—I am speaking from memory—in which case the Court said in effect that any Member of Congress or any public official by running for office and accepting that office laid himself open to any statement that anybody wanted to make about him so long as it was not done maliciously.

Now, I am told by three of the best lawyers here in this House as of yesterday that that is about the toughest thing there is to prove in any court of law. I am meeting this afternoon with one of the best lawyers in town on that subject, and I will lay the case out to him and I will be guided by his advice. My best guess, however, is that if I spend $50,000 to file a suit and perhaps an untold additional amount, if I have it, to fight it, in view of that decision, I would lose it.

So it looks as though I will have to take my case to the Ethics Committee and to the people of my district. I regret the unfavorable publicity brought down on this House, which I love and admire and respect, but I would ask you to read other newspapers aside from the Washington Post. I would respectfully suggest that you find out what Frank Sinatra said about the Judith Exner matter, which might apply in many cases.

Mr. Speaker, I do want to say in closing that any Member of this House or of the other body is wide open to anyone who wants to make malicious statements about him and who wants to write a book or wants to get in Playboy magazine. The statements do not have to be true necessarily for any of those purposes.

Mr. Speaker, I yield back the balance of my time.

MONITORING OF THE CONCORDE SOUND LEVELS

(Mr. **PREYER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **PREYER**. Mr. Speaker, along with the gentleman from California, Mr. LEO RYAN, chairman of the Subcommittee on Conservation, Energy, and Natural Resources of the Committee on Government Operations, I had the opportunity of observing the recording of the sound levels of the Concorde landings yesterday. The recordings were made at an official FAA monitoring site approximately 1½ to 2 miles from the end of the runway.

I thought the Members would be interested in the unofficial readings, along with those of subsonic aircraft that arrived imediately before or after the Concorde.

The unofficial readings, in order of the plane arrivals, were as follows:

Boeing 727, 113.2 decibels.

Beechcraft Bonanza, 108 decibels.

Douglas DC–9, 112 decibels.

British Concorde, 116.5 decibels.

French Concorde, 112.7 decibels.

Boeing 707, 118 decibels.

The FAA plans to monitor every Concorde flight during the 16 months' trial period and to make monthly reports on environmental effects of the Concorde available to the public.

This should assure that any final decision on Concorde will be made on a solid data base.

UPON INTRODUCTION OF A RESOLUTION TO EXPRESS THE SENSE OF THE HOUSE OF REPRESENTATIVES IN THE STORAGE OF HELIUM BY THE GOVERNMENT

(Mr. **SEBELIUS** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SEBELIUS**. Mr. Speaker, the necessity for the development of new techniques and alternative energy resources to meet the Nation's vast energy needs is something which we as Members of Congress must face daily. In the first session of this Congress, I introduced the Helium Storage Act of 1975, a bill intended to meet those projected energy needs by conserving and storing a vital natural resource—helium.

H.R. 1503 would authorize and direct the Secretary of the Interior to store non-Federal helium in the Government underground storage facility near Amarillo, Tex. Since introduction of this bill, the Bureau of Mines, after years of delay and numerous lawsuits by helium conservation contractors, saw fit to begin offering contracts to store privately owned helium. I commend the Bureau of Mines for that action. However, after this initial and what I believed to be a giant step forward, I find that the amount of helium being contracted for storage is minimal. Certainly, the negligible amount presently being contracted will be nowhere near enough to supply the expected needs of the Nation for this vital natural resource in the coming years. The exhaustion of our helium resources which are vented into the air if not conserved and stored would wipe out critical research efforts in the fields of low temperature and solid state physics, as well as superconductive powerlines and magnets.

Therefore, Mr. Speaker, I am introducing a resolution today to express the sense of the House of Representatives that the President of the United States should direct the Secretary of the Interior to conserve the helium which is now being extracted from natural gas and then wasted into the atmosphere. I am hopeful that my efforts as well as those of my colleagues in the Senate, particularly Senator DOMENICI who was successful in having a similar resolution approved by the Senate on May 13, 1976, will result in a concerted effort by the Government to store and conserve helium in the future.

PROVIDING FOR CONSIDERATION OF H.R. 10138, YOUNG ADULT CONSERVATION CORPS ACT

Mr. **PEPPER**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1209 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1209

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10138) to create the Young Adult Conservation Corps to complement the Youth Conservation Corps. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

CALL OF THE HOUSE

Mr. **LONG** of Maryland. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

Mr. **HALEY**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 301]

Abzug
Allen
Anderson, Ill.
Andrews, N.C.
Ashley
AuCoin
Bell
Bergland
Bingham
Boggs
Breaux
Brown, Mich.
Butler
Carter
Cederberg
Clay
Conlan
Conyers
de la Garza
Dent
Derwinski
Diggs
Duncan, Oreg.
Edwards, Ala.
Erlenborn
Esch
Fisher
Flynt
Ford, Tenn.
Fraser
Giaimo
Goldwater
Gonzalez
Goodling
Hamilton
Hébert
Helstoski
Hinshaw
Hungate
Jarman
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
McCloskey
McKay
Madden
Mazzoli
Miller, Calif.
Mills
Mineta
Morgan
Mosher
Neal
Nix
O'Hara
O'Neill
Patten, N.J.
Quillen
Rees
Reuss
Rhodes
Riegle
Risenhoover
Rodino
Roncalio
Rose
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Stanton,
  James V.
Steelman
Stuckey
Sullivan
Symington
Teague
Thornton
Udall
Walsh
Waxman
Weaver
Wydler
Young, Alaska
Zeferetti

The **SPEAKER** pro tempore. On this rollcall 344 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

YOUNG ADULT CONSERVATION CORPS ACT

The SPEAKER pro tempore. Prior to the rollcall the Chair had recognized the gentleman from Florida (Mr. PEPPER) for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1209 provides for an open rule, with 1 hour of general debate on H.R. 10138 to be equally divided and controlled by the chairman and ranking minority member of the House Committee on Education and Labor. After general debate has been completed, the bill shall be read for amendment under the 5-minute rule. House Resolution 1209 makes in order the consideration for amendment of the committee substitute now printed in the bill as an original bill.

The Young Adult Conservation Corps Act, which I cosponsored, complements the Youth Conservation Corps enacted in 1970. The bill would create a year-round program to provide employment and other benefits to young adults while reducing the large inventory of conservation work and completing many urgently needed other projects of a public nature on the lands and waters of the Nation.

The total appropriation authorized by the bill for fiscal years 1977 through 1981 is $9,150 million. An estimated 1,200,000 jobs would be provided over that 4-year period.

Young adults ages 19 to 24 shall be employed under the law a maximum period of 12 months, either in one continuous period or two or more periods which together total 12 months and shall be paid the current Federal minimum wage set forth in section 6(a) (1) of the Fair Labor Standards Act of 1938. Preference for employment shall be given to those individuals residing in counties having an unemployment rate equal to or in excess of 6 percent for 3 consecutive months, as determined by the Secretary of Labor.

The legislation also extends the grant program for State projects required by section 104 of the act to allow State participation in the development and preservation of non-Federal public land and water within the States.

The Secretaries of the Interior and Agriculture are instructed to formulate a plan to implement the act and to submit such a plan to the Congres not later than the 240th day following enactment for approval by either House within 60 days. The plan is to give priority to control of insects, diseases, soil erosion, floods and forest fires, trail and campground improvements, reforestation and timber stand improvements on public lands of the United States.

Mr. Speaker, I recall the great depression of the thirties when President Franklin D. Roosevelt proposed the Civilian Conservation Corps. This program provided, as we will recall, 3 million jobs for young men and enriched our land with the completion of many parks and conservation projects.

Mr. Speaker, the assets conserved more than any other was the lives and health and the character of the young men who got the benefit of that CCC program.

Since that time, unemployment especially among minority youth has continued to concern the Congress and it has been exacerbated by the recent recession. There is no dispute about the fact that a large percentage of the unemployed youth are school dropouts, and the chief of police of the city of Miami told me that 9 out of 10 of the school dropouts were, shortly after they dropped out of school, incarcerated in programs under the jurisdiction of the courts because of their commission of serious crimes. I have been told further that 50 percent of the young people who are involved in the juvenile courts for serious crimes eventually wind up in the major penal institutions of this country. There is no dispute about the fact that a large percentage of unemployed youth are school dropouts and the idleness and despair of these young people drive many of them to the commission of crime. According to the FBI Selected Crime Index, a study of total arrests during 1973 revealed that youth under the age of 25 accounted for 55.2 percent of the total arrests recorded nationally. The index includes crimes of murder, forced rape, theft, and' auto theft. Juveniles under the age of 18 accounted for 44.8 percent of the total arrests in the Nation and 50.8 percent of all arrests involving property.

The Young Adult Conservation Corps Act, I am confident, will have a significant impact on the reduction of crime.

Mr. Speaker, I want to say that having been chairman of the House Select Committee on Crime under the authority of this great House, I have discovered that the most productive returns that we get for the expenditure of public moneys with respect to crime is money spent toward the prevention of crime.

We all know that we have got to have courts, and I hope the Committee on the Judiciary—if I may say so here with respect—will very shortly report out the omnibus judges bill so that there will be the necessary judges in the Federal courts of this country to handle the criminal cases that are pending before those courts. Of course, we need courts; of course, we need law enforcement officials; of course, we need penal institutions; of course, we need instruments of reform, but as I say, I believe experience all over the country indicates that the best return we get on the dollar spent against crime is in the prevention of crime.

We must try to keep these young people from becoming criminals, getting involved in crime, and the best way to do that is to try to turn their lives from a negative approach, which leads to crime, to a positive approach, which leads to good citizenship and the making of valuable contributions.

Before our committee there was a witness who told of two instances which I think might be of interest. One was a juvenile judge in Fort Lauderdale, Fla., by the name of Judge Orlando. This judge took 10 young people out of the juvenile court and put them into a program of special instruction having to do with maritime affairs. Now, remember, these boys had bad records in the juvenile court of Judge Orlando. After they got into this maritime training program, at the end of 11 months the judge said that not one of them committed any crime; not one of them had dropped out of the training program; one of them had gotten a job paying $5,000 per year in Orlando, Fla., and the other 11 were approaching graduation, having learned something that would enable them to get a decent job when they got out. The point was that after 11 or 12 months they had all stayed in the program, and were headed for a good life.

The second instance was that of a nationally known man who made a lot of money in the realty field. That man took five boys who had bad records, and with one assistant accompanying them, took those five boys on a 6-month trip from the Pacific to the Atlantic by canoe. Not a single one of those boys dropped out of the program. Not one was involved in crime during the course of that 6 months, and the probability was that he may have turned those boys around and made useful citizens out of them instead of dangerous criminals.

So, this bill we have here today is very meaningful, not only toward the public land and waters of this country, but for conserving—even more importantly—the youths of this country. This Congress must provide programs to take our Nation's unemployed youth off the streets, off unemployment insurance, off food stamps, and off welfare.

This legislation provides one means to do this by putting these young people to work on projects that are essential to the preservation of our Nation's resources, and will benefit all America. I hope, therefore, Mr. Speaker, that this rule will be adopted by the House and that we may proceed to the consideration—and I hope the enactment—of this very meaningful program brought out by the Committee on Education and Labor.

Mr. PEPPER. Mr. Speaker, I now yield to the able gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman from Florida for yielding to me, and for his explanation of the rule and the bill. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1209 provides for the House to resolve itself into the Committee of the Whole for consideration of H.R. 10138, the Young Adult Conservation Corps Act, under a 1-hour, open rule. The rule further makes in order the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for purposes of amendment.

The objective of H.R. 10138 is to create the Young Adult Conservation Corps, an expansion of the Youth Conservation Corps. The Secretaries of Interior and Agriculture are instructed to extend the Youth Conservation Corps to make possible year-round employment of young adults ages 19 to 24. To carry out such work projects as control of insects, diseases, soil erosion, floods, and forest fires, trail and campground improvements, reforestation, and timber stand improvement on public lands in the United States, the Secretaries are authorized to submit a plan to Congress not later than the 240th day following enactment for approval by either House within 60 days.

Enrollees in the corps will be paid for a maximum of 12 months at the current Federal minimum wage. Preference for employment will be given to those individuals residing in counties having an unemployment rate equal to or in excess of 6 percent for 3 consecutive months. Finally, the bill extends the grant program for State projects to allow State participation in the development or preservation of non-Federal public land and water within the States.

The estimated cost of this legislation is $9.150 billion over the next 4 years. It is my understanding, however, that amendments will be offered when the bill is considered on the floor to reduce this authorization level.

Mr. Speaker, there are no objections to the passage of this rule of which I am aware; and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10138) to create the Young Adult Conservation Corps to complement the Youth Conservation Corps.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Dominick V. Daniels).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10138, with Mr. Bennett in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. Dominick V. Daniels) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. Quie) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Dominick V. Daniels).

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10138, a bill to create the Young Adult Conservation Corps to complement the present Youth Conservation Corps, which provides employment to youths age 15 through 18 for no more than 90 days during the summer months.

The purpose of this legislation is to provide year-round employment for young adults, age 19 to 24, in environmental work on public lands of the United States. This bill represents a major national commitment to place unemployed young Americans in job opportunities in conservation activities that currently go unfilled. The provision of meaningful employment for young adults should alleviate the growing rate of crime among our jobless youth.

There is a backlog of unmet needs for improvement in the national parks, in reforestation, in insect, flood, disease, and erosion control, and forest fire fighting. The bill under consideration today provides the vehicle for matching out-of-work young people with jobs that, absent this legislation, would go undone.

There is ample precedent for this measure. First, we have the example of the highly successful Civilian Conservation Corps initiated during the depression by President Franklin D. Roosevelt. That first Conservation Corps served this Nation well in the 1930's by providing much-needed productive jobs for the unemployed. The results of this early program can still be seen today in our national parks and other public lands.

The American Forestry Association, testifying before the Manpower, Compensation, and Health and Safety Subcommittee on November 20, 1975, stated that some of the greatest gains on national forests and other public lands in American history were made by the Civilian Conservation Corps. The saving of human resources through the availability of work opportunities in the CCC is incalculable, but certainly it is of equal importance.

In 1970, this subcommittee considered, and Congress passed, a pilot Youth Conservation Corps, Public Law 91–378, patterned after the earlier CCC. The pilot program provided gainful summer employment for young people age 15 through 18 in the national parks, forests, and other public lands and waters. This program proved so successful on the national level that in 1971 Congress passed Public Law 92–597 which added a pilot grant program for State projects.

By 1974, it was readily apparent that the Youth Conservation Corps had demonstrated a high degree of success as a pilot program. Accordingly, Congress passed Public Law 93–408 to make the YCC a permanent program to further the development and maintenance of the natural resources by the youth of America, and in so doing to prepare them for the ultimate responsibility of maintaining and managing these resources for the American people.

Today, this committee is bringing before you H.R. 10138, a bill which will augment the existing summer program aimed at serving the group of Americans who face the greatest problems in finding productive employment—young adults. Pages 1 and 2 of the committee report No. 94–1146 detail the devastating statistics on youth employment. During 1975, the jobless rate of young people age 20 to 24 was 13.6 percent. The official estimate of the unemployment rate for young people age 16 to 19 was 19.9 percent.

These statistics are no less than a national disgrace. What these figures cannot adequately portray are the young lives that are wasted or the hopes and ambitions that are frustrated because no meaningful work opportunities are available. Such frustrations and thwarted ambitions often doom these young Americans to a life of crime, and the repercussions of their criminal activities adversely impact our entire society.

H.R. 10138 would provide these young people with jobs in conservation projects on public lands of the United States. In addition, grants can be made to States to assist them in developing projects to employ young adults for preservation and maintenance of non-Federal public lands and waters within the States.

The manpower, compensation, and Health and Safety Subcommittee held 2 days of hearings on H.R. 10138 and related bills in November 1975. The bill was reported by the subcommittee on April 29, 1976; and, on May 6, 1976, H.R. 10138, as amended was reported by the full committee.

The bill will be administered by the Secretaries of the Interior and Agriculture. The current Summer Youth Conservation Corps is administered by these two departments, and the experience gained with the YCC will insure the efficient and rapid implementation of this new program. Let me assure my colleagues that H.R. 10138 will not alter the present summer YCC program nor is it the intention of this committee that appropriations for the present YCC be diminished or that the Departments of Interior and Agriculture reduce their efforts in administering the YCC.

One amendment adopted by the full committee provides that, in addition to young adults age 19 through 23, young people ages 16 through 18 who are high school graduates are also eligible. In the case of young people age 16 through 18 who have dropped out of school, sections 202(1)(B) and 204(1)(B) authorizes the Secretaries of the Interior and Agriculture to establish criteria to determine that such individuals did not drop out of school for purpose of obtaining employment in the Young Adult Conservation Corps.

It is the intent of the committee to provide useful work opportunities for young adults age 16 through 18 since many of these teenagers are unemployed. However, the bill is not designed to encourage dropouts to interfere with young people receiving high school education. It is important, therefore, that the departments' secretaries who administer this act carefully review applications of young adults age 16 through 18, who have not completed high school, to insure that such individuals did not leave school for the purpose of obtaining employment in the Young Adult Conservation Corps.

The committee believes that this new 12-month program for young adults will have two desired results. First, to the extent that the young people enrolled in the program would have been unemployed, on welfare roles, or food stamps, H.R. 10138 will have a positive social effect by providing productive employment and giving young adults work experience and firsthand knowledge of the many activities that need doing in the Nation's public lands.

Second, the consequences of the work of these young adults will be of lasting benefit to all Americans. The many tourists, for example, who will visit our national parks and forests in this Bicentennial Year may find, much to their dismay, that such facilites are understaffed, that paths and trails and bridges are in disrepair, that water is polluted, and there are inadequate facilities to accommodate backpackers and other tourists. It is tragic that in this great country which is blessed with such beautiful and diverse resources that the administration's budget belt-tightening is hindering the enjoyment of these natural wonders.

There has been some criticism that this bill does not meet the needs of disadvantaged youth, nor does it train young people for long-term jobs. Let me say that we already have legislation in effect designed to serve the disadvantaged youth through training and work experience. I thoroughly support the programs under the Comprehensive Employment and Training Act and believe that the administration should join me in advocating a massive infusion of funds into CETA for its youth employment programs.

The bill before us is designed to provide an additional and different type of employment opportunity for young adults—an opportunity not provided under CETA. Because the conservation projects will be conducted in national parks and public lands, this program is rightly administered by the Departments of the Interior and Agriculture rather than the Department of Labor which is responsible for CETA programs. H.R. 10138 does target its efforts at areas of high unemployment by giving preference to young adults who reside in counties which have an unemployment rate of 6 per cent or more for 3 consecutive months.

Finally, this bill will enable all regions of the country to have Young Adult Conservation Corps projects through a grant program to States for projects to provide employment to young adults to develop, preserve, and maintain non-Federal public lands and waters within the States. This will be an incentive for those States which do not have large Federal parks or other Federal lands to develop their own projects to employ young adults.

I urge my colleagues to support H.R. 10138, it is time for this Congress to declare its commitment to meet the needs of millions of young adults for meaningful employment and to simultaneously help reduce the backlog of work on our public lands.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I certainly want to compliment the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) for his leadership in the enactment of this very important legislation.

Mr. Chairman, I am pleased to rise in support of H.R. 10138 which would create the Young Adult Conservation Corps to provide a year-round program of employment for young adults in conservation projects on our Nation's public lands and waters.

The Young Adult Conservation Corps is patterned after the existing Youth Conservation Corps program. I am sure all of us are familiar with the overwhelming success and popularity of the Youth Conservation Corps through the individual projects within our own States. The Youth Conservation Corps was originally enacted by the Congress in 1970 as a pilot program to provide employment during the summer months for young men and women in conservation work in Federal forests and parks. Young men and women between the ages of 15 and 18 years of age work, earn, and learn together by doing projects which further the development and conservation of our natural resources. The Corps is open to youth of both sexes and youth of all socioeconomic and ethnic backgrounds.

Because of the unqualified success of the Youth Conservation Corps, the Congress in 1974 made it a permanent program and expanded it to include State participation for conservation programs on non-Federal public lands and waters. States are eligible to receive this grant which provides 80 percent Federal funding with only 20 percent State matching.

The purpose of H.R. 10138 is to complement the Youth Conservation Corps by creating a year-round program called the Young Adult Conservation Corps to provide employment and other benefits to young adults in conservation projects on our Nation's public lands and waters. H.R. 10138 would serve the dual purposes of alleviating the chronic unemployment situation among young adults while at the same time reducing the backlog of work on our public lands and waters.

According to the Department of Labor, the overall unemployment rate for young adults aged 20 to 24 was 13.6 percent in 1975. The unemployment rate for minority youths is much higher. While these young people go jobless, the backlog of conservation work on our public lands continues to increase. H.R. 10138 would provide the opportunity for effective and productive employment for our young adults between the age of 20 to 24.

I am also pleased that the bill allows for State participation in the Young Adult Conservation Corps with the same matching requirements provided under the Youth Conservation Corps. I hope all States will take advantage of this important new program.

For these reasons, I urge my colleagues to vote for H.R. 10138.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I thank the gentlewoman from Hawaii (Mrs. MINK) for her comments.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to commend the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) for his leadership in this very important matter and for his statement.

I support H.R. 10138.

H.R. 10138 reinstitutes the concept that was so successful during the depression under the name of the Civilian Conservation Corps, the CCC. President Roosevelt created the CCC to combat the idleness and despair that attended the massive unemployment of the day. Three million young people regained their self-respect along with regular paychecks and steady work. In the process, our national parks and forests were bettered immeasurably.

Today, in the midst of the current recession and despite the slow, painstaking drop in unemployment nationwide, unemployment remains high in certain regions and for certain parts of the population. Most heavily represented in the latter group, as my own area is in the former, is youth. In the 16 to 19 age group nationally, 19.9 percent are unemployed. In the grouping, 35.4 percent of nonwhite boys and 38.5 percent of nonwhite girls are without jobs. In the 20 to 24 age group, the national unemployment rate is 13.6 percent; unemployment for nonwhite males is 22.9 percent, for nonwhite females 22.5 percent.

Mr. Chairman, while our Nation's youth are idle, projects ranging from major reforestation to garbage collection are put off or neglected because of the lack of people to do them. Many of these needs cannot be met by members of the highly successful Youth Conservation Corps because the projects in question are seasonally unreachable by YCC workers. Often too, activities require peak and weekend concentrations of labor that neither park service nor YCC staff can handle.

The needs on both sides of this equation, therefore, are such that a Young Adult Conservation Corps to complement and assist our present effort in the national park system is greatly needed. My own experience with the CCC convinces me that such a program can be rewarding, richly rewarding, for these young people and, in particular, for the millions of Americans who use our park and forest system each year. In this year of our celebration of the Nation's 200th birthday, when so many more Americans and foreign visitors will be using these great natural resources, it behooves us to make a greater effort to make the Bicentennial an occasion truly worthy of the buildup we have given it. I believe that the Young Adult Conservation Corps will assist us in our Bicentennial housekeeping. More important, it will relieve the pressure we now experience in so many of our national recreational facilities in serving those who use them. Most important of all, the YACC can further dampen the impact of unemployment as it reinforces the self-respect of the youths who will be involved in its operations. I urge a favorable vote on this outstanding proposal. Its worth is well established by its predecessor organizations. May we all be able to enjoy the fruits of the YACC's operations in the near future.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, let me compliment the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. DOMINICK

V. DANIELS), for bringing before the committee such an important piece of legislation.

To my way of thinking, one of the great failures of the Congress has been its refusal to inaugurate an effective conservation program for the public lands and forests for the improvement, operation, and maintenance of our public parks, utilizing the hundreds of thousands of young people 16 years of age through 25 years of age who are out of school, unemployed and looking for job opportunities.

In 1961 the House Education and Labor Committee reported my bill H.R. 8354 to authorize training and employment programs through the establishment of a youth conservation corps. Although no action was taken by the full House, the following year the House Education and Labor Committee reported my bill H.R. 10682 to accomplish this purpose. Only on a small scale did we finally authorize youth conservation work in the national parks and forests as a component of the Jobs Corps. In 1962 the number of youth between the ages that would benefit from such legislation that were out of work and out of school were 700,000, reflecting an unemployment rate for that group of 13 percent. As we consider this legislation the corresponding numbers for youth unemployment at this time are even more significant—an unemployment rate of almost 20 percent.

Every year each of us can point to situations in which it would have been greatly to the public benefit if we had in place a youth conservation corps. During the past several weeks a prolonged dry spell has produced a serious threat of fire in the Daniel Boone National Forest and the actual number of outbreaks have exceeded any of those that I can recall in the past two decades. Our Nation's forests, our Nation's streams, our Nation's soil lying within our public forests and lands are a precious trust that we owe future generations an obligation to preserve and enhance. Our youth are also a precious trust which we must not waste when the opportunity for constructive employment, useful training presents itself in conservation and preservation, public work or our public lands and forests.

Two years ago in a bill sponsored by the gentleman from Washington (Mr. MEEDS), myself and others, we passed on a small scale the Youth Conservation Corps bill for the summer months. But this is the first legislation that will enlarge upon that experience and give us a year-round program.

Mr. Chairman, this is an outstanding piece of legislation and I would urge each member of the committee to support it.

Mr. Chairman, H.R. 10138 creates a year-round program of work projects on the public lands and waters of the United States. Those eligible are all young adults age 19 to 24, and those age 16 to 19 who have completed high school or have otherwise left school and can satisfactorily demonstrate that they did not do so in order to seek employment under this act. The type of work to be performed will include: erosion control and flood damage projects; recreation development, rehabilitation and maintenance; wildlife habitat improvements; range management improvements, tree nursery operations, planting, pruning and thinning; forest insects disease controls; road and train improvements; wildlife preservation; and general sanitation, clean-up and maintenance of public lands. All projects are required to be relatively labor intensive and productive.

The work in national parks and forests will be administered by the Departments of Interior and Agriculture, respectively. A certain percentage of the funds appropriated under this legislation will be set aside for distribution to States in order for them to establish similar kinds of programs in State parks, forests and other State lands and waters. The targeted amount of this set-aside is 30, but this may be subject to later adjustment if, in the reports setting forth plans for implementing this legislation, the Secretaries of Interior and Agriculture recommend a different figure which, in turn, is accepted by the Congress.

Section 202 of this bill establishes the eligibility requirements for employment. In addition to the age requirements I have already mentioned, the bill requires that applicants be determined to be physically capable of carrying out the work of the Corps, that they may be employed for not more than 12 months, and that a preference for employment be given to young adults residing in counties having an unemployment rate of 6 percent or more.

Section 203 establishes the type of work to be undertaken, which is as I have already described, and establishes the authority of the Secretaries of the Interior and Agriculture to operate these programs to provide transportation, lodging, and other services and equipment deemed necessary or appropriate. They are also directed to use military and other Federal facilities, where appropriate, which have unused space available for housing Corps members. This section also requires that young adults be paid not less than the Federal minimum wage.

Section 204 enables States to establish projects and programs on non-Federal public lands and waters within their boundaries similar to those being conducted by the Secretaries of Interior and Agriculture on Federal lands and waters. The section requires that 30 percent of the funds appropriated each year be reserved for this purpose, subject to such adjustments as Congress may later make after receiving the recommendations of the Secretaries of Agriculture and Interior.

Section 205 requires the Secretaries to jointly prepare and submit a report to the President and the Congress on February 1 of each year detailing the activities carried out under this new title for each fiscal year. This report should also contain their recommendations for any changes they deem appropriate in the operation of the program.

Section 206 directs the Secretaries of the Interior and Agriculture to prepare a plan to carry out the activities authorized by the new title. The plan must contain estimated annual costs, the procedure for selecting candidates, and a list and description of the proposed work projects along with the site locations and facilities. The Secretaries have been instructed to plan for the employment of 100,000 young adults during the first year of operation, 300,000 during the second year, 400,000 during the third year, and 500,000 during the fourth year.

Section 207 contains authorizations of appropriations—$50 million is authorized to be appropriated for the start-up costs of planning, site preparation, et cetera. The bill, as reported, contains specific dollar authorizations, but these will be stricken by an amendment to be offered by Mr. QUIE which will substitute in their place authority to appropriate "such sums as may be necessary."

Mr. Chairman, the unemployment statistics among our young people are staggering. It is so important that we find work for these people, and I can think of very few things that would be more rewarding or satisfying than to perform useful and needed projects on the public lands and waters of the United States. The pride and sense of accomplishment that comes from performing a worthwhile job well is something we should nurture wherever we can. I urge your support for this bill.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I want to thank the distinguished gentleman from Kentucky (Mr. PERKINS), the chairman of the full Committee on Education and Labor, for his support and contributions toward this legislation.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, I rise in support of this bill.

With the amendments to be proposed by Messrs. PERKINS, QUIE, and MEEDS, I believe it can be a fitting vehicle for providing jobs and—hopefully—job training for a group of young people just starting out.

Like many of our Members, I entered the world of work during the depression. In my case there was no work.

It was a period of hopelessness, of frustration.

And it was a time in my life when a job—any job—was beyond my grasp.

I am a product of the Civilian Conservation Corps, and the months spent in the group provided the means of keeping body and soul together.

One of my primary objections to public service projects is that they are dead-end jobs, providing no lasting benefit to the jobholder or the taxpayer.

We are in a period now when we must decide whether Federal policy will encourage maintenance of our free market economy. Too much attention is being devoted to a patch-and-paste approach.

I remain committed to private sector job creation but this bill is an exception.

While I question the cost estimate of the Congressional Budget Office, and believe the jobs can be provided at a lower figure, there are certain positive features in the legislation.

Highly desirable projects in our National Parks and National Forests will be completed.

Young men and women will acquire

some skills, and will know the satisfaction of reward for work performed.

It is my intention to support this bill if not incumbered by unacceptable amendments, and urge my colleagues to, also.

It is unusual for me, Mr. Chairman, to support public service jobs because they usually lead to a dead end, or that has been my experience, but I was a member of the CCC. I might add also, Mr. Chairman, that I had an extra stint with them because I was the pitcher on the baseball team.

But that was a good program and I believe this is a good program. I believe this will take the people that the gentleman from New Jersey has been alluding to off the streets. I believe those people can do a productive job in this type of environment.

As the gentleman from Kentucky (Mr. PERKINS) said, there is a great need at the present time for us to enhance our forests and our national parks. I think this is good legislation. I think this is good legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I thank the gentleman from Virginia (Mr. DAN DANIEL) for his comments. I wish to assure the gentleman that I am personally well aware of the fine work done by the Civilian Conservation Corps in the 1930's. In fact, I was responsible for assisting and helping many young men enroll in that program. I have seen those young men return home to my district and become some of the leading citizens in the community.

Mr. DAN DANIEL. Mr. Chairman, may I say further that it provided this Member the means of holding body and soul together. I thank the gentleman for his efforts.

Mr. QUIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, later on when we get into the amending process, I am going to offer some amendments that I think will correct the difficulty I have with H.R. 10138 and in talking to the Members on both sides of the aisle I think we have got it worked out so that there will not be any great controversy over the amendments that I will offer, but I will talk about them later.

Mr. Chairman, let me talk first at this time to indicate to the Members that I think the concept of the legislation is good. I thing the concept is good for two reasons. The first reason is that we have on public lands in this country, federally owned, where work needs to be done that is not being accomplished. For instance, the planting of trees. Right now about half of the land that is cut over because the timber is ripe and is harvested is being replanted; 3 million acres needs to be replanted. The rule of thumb, as I understand it, is that about 30 percent of the forest lands of this country are privately owned and produce about 70 percent of the timber, and that about 70 percent of the forest land is publicly owned and produces only about 30 percent of the timber. Part of the reason for this undoubtedly is that the more productive forest lands may be privately held, but if we did provide the kind of work for the improvement of the forest lands that is needed I believe we could dramatically increase the amount of timber produced in this country.

If any of the Members here have talked to some of the homebuilders who have been around town this week, they will know that the price of timber is going up, and those prices will continue to move upward if we continue to handle the public timberland the way we have been doing in the past, the prices will keep going up more and more because we will not have enough timber.

It will represent a tremendous asset for this Nation if we would produce more timber on the publicly held lands. If we were to consider only the production of timber, this bill would be a good bill, but one only has to go to our national parks to see that many are overpopulated by visitors and it is a very difficult matter in these national parks to keep the pollution down and to handle them in a way that will not destroy our national parks. The same is true with some of the wilderness areas and other jurisdictions of our Forest Service that are being used for recreational purposes.

We need people to go out and police the campsites in order to make certain that they are handled right so that they will not be ruined by too many people, by too many horses, or by any other thing that is destroying them.

The second reason for this bill is the employment of young people that we recognize that of the unemployed in this country, which stands at 7½ percent, half of them are below the age of 25. I repeat half of the unemployed are below the age of 25. This bill addresses itself to those individuals, and many young adults are having a difficult time getting employment. Many unemployed over 25 are sort of waiting out the slowdown of the economy so that they can get called back onto their old jobs again. But of those unemployed under 25, most have not been employed before, or have only held dead end jobs.

But the opportunity for employment in this program, under the Young Adult Conservation Act is to gain work experience and work skills. We combine work on public land which needs to be accomplished and young people who need employment so I think we have an excellent piece of legislation here.

It has been bothering me for years as I have seen the Forest Service reduce the summer employment of young people and reduce the effort on maintaining trails, reduce their effort on erosion control, reduce their effort really on improving timber stands. The Department of Agriculture, in just the Forest Service alone could employ youth totaling 260,000 man-years right now without any additional preparation. With funds appropriated, they are ready to hire right now.

The Department of the Interior indicates they could hire about 750,000 man-years. Also the bill also adds here at the beginning of the program that 30 percent of the money will be used for State forestation and State parks.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

In full committee I had to oppose this particular piece of legislation. I did so primarily because there was a tremendous buildup in expenditures from $50 million to $9.1 billion, over a period of 4 years. It appeared to me that we were going about the whole thing in reverse. The need was now and the need may not be in 1978 and 1979.

If the gentleman's amendment is adopted, I understand it would call for funding of this particular year's operation.

Mr. CHAIRMAN. The time of the gentleman has expired.

Mr. QUIE. Mr. Chairman, I yield myself 2 additional minutes, and I yield to the gentleman from Pennsylvania.

Mr. GOODLING. We would have to then come back after we see how it is working and how the economy is moving for any future requests. For that reason, then, even though I realize that we are not going to create permanent jobs through this effort, we are going to take the chance that we can provide jobs for young people at the present time so that they can do something constructive, rather than provide opportunities for them to continue a life of pot, frustration, and destruction. If the gentleman's amendment is approved, then I can wholeheartedly support the program for our initial year's effort to see whether or not we can make a difference at this particular time.

Mr. QUIE. I thank the gentleman. What the gentleman is referring to is that we have the $50 million that is in the budget resolution and, therefore, the $50 million for planning and getting started on these sites in this bill is within the budget resolution.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I was wondering was there any testimony before the committee by the Department of the Interior or the Department of Agriculture with respect to BLM and Forest Service lands, say, on timber thinning or stand improvement, and so forth, whether this work could be done so they could get farther with the same amount of money if they just allowed them to contract out to subcontractors, and not actually run a conservation corps, but if the forest rangers had the funds and could subcontract out the jobs, the end result would be the same.

Mr. QUIE. I do not recall on that. If the gentleman from Washington would like to respond to that question, I will yield to him. That is on the question of the difference in cost by running it through the Young Adult Conservation Act as compared to contracting it out. My own information that I have outside of the testimony would be that it would be less expensive under the Young Adult Conservation Act.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I will yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

The gentleman is absolutely correct. It would be substantially less expensive this way, and it would also fill the other need which the gentleman from Minnesota discussed, that is, the unemployment of young people below the age of 25.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Idaho.

Mr. SYMMS. I appreciate the gentleman yielding.

I was just wondering about this. The gentleman from Washington says it is substantially less expensive but it is hard for me to fathom how it would be when we would have to pay to transport the worker from Baltimore, Md., to headquarters in Idaho on something like this.

Mr. QUIE. If the gentleman will stop right there, there is no requirement in this bill that we would have to pay the transportation of the person from Baltimore, Md. out to Idaho.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. QUIE. Mr. Chairman, I yield myself 3 additional minutes.

Mr. SYMMS. Mr. Chairman, if the gentleman will yield further, the gentleman from Washington may be right. I know there is a great deal of work that could be done on timber stand improvements in our national forestland. What we are trying to get at is, does the forest ranger have a few employees turned over to him or are they working for the Department of HEW?

Mr. QUIE. They will work for the forest rangers.

Mr. SYMMS. So the ranger would have slots for those jobs and people could apply for the jobs. But it would not be done on the basis of subcontracting out to do so much timber, or something like that?

Mr. QUIE. That is right.

Mr. SYMMS. I thank the gentleman for the clarification.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first let me compliment the gentleman from Minnesota for supporting such an important piece of legislation.

The gentleman well knows that the timber stands and the ripe timber in the national forests and in the national parks today are to a great extent over-ripe and much of it is just falling down. Without being cut up or marketed or anything else this timber represents millions of dollars every year which is going to waste because of this situation. We should have done something about this problem years ago, but we have neglected to do anything about the ripe timber that is just falling down in the forests and parks.

To my way of thinking this alone will save the Government tremendous amounts of money in the long run. Unless we go about it this way and have the crews on hand through the Young Adult Conservation Corps, we are not going to have the people to do the conservation work that needs to be done in the national forests and the national parks. The proof of the pudding is the fact that nothing has been done along this line except to a very limited degree over the past 15 or 20 years.

Is my statement correct?

Mr. QUIE. Yes, I would say the gentleman is correct.

I have indicated earlier that if this was the only thing in the bill that it would be very worthwhile but let me add for the gentleman from Massachusetts, and I want to point out to Members from other areas as well, that this may be closer to home than some of the Members may realize. One point is the Fish and Wildlife Service will be able to pick up some of the young adults, and while Federal forests or national parks may not be in the area of the gentleman, there may be a river where the Fish and Wildlife Service has a responsibility in part and they will be able to hire some of the younger people.

Also some of the Members in the rural areas of America have noted the tremendous work the Soil Conservation Service has done. The Soil Conservation Service has been pulled down to a point where they do not have the personnel necessary to do the work to prevent soil erosion, and other soils work. They too would be able to use some of these young people in the Soil Conservation Service.

I am laying this out for the other Members so they will understand there is really a very worthwhile work that the young people of this Nation can do to help our country and this program will not have the problems that makes Public Service Employment of the Comprehensive Employment and Training Act so expensive, ineffective and generally a waste of Federal money.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to join the gentleman in the well. I cosponsored this bill with the gentleman from Washington (Mr. MEEDS).

Mr. Chairman, I rise in support of the bill to create the Young Adult Conservation Corps (H.R. 10138).

I am so pleased to see a piece of legislation that I have advocated ever since I entered this Congress in 1959 come to the floor. We have moved in all directions to counter our serious rate of unemployment. However, we have yet to come up with a program that will do more than create "make-work" jobs. Passage of the Public Works Capital Development and Investment Act of 1976 (H.R. 12972) which was the resurrected title I of the vetoed major public works bill is a positive step forward. That legislation will result in the construction of public buildings that will last for a long time. We are still using many of the buildings erected during the WPA programs in the 1930's and 1940's. This is the most effective manner to combat unemployment. It results in an obvious benefit to those employed and a substantial return on investment for taxpayers.

This is exactly what the legislation before us will do. Just as the WPA was the successful predecessor of our modern public works programs—the CCC or civil conservation corps is the predecessor of the legislation now before us. Just as I was cosponsor of the public works bill, I am a cosponsor of this legislation to create the Young Adult Conservation Corps.

We have been pleased at the tremendous success of the Youth Conservation Corps which employs young Americans across the country on projects to restore the natural beauty of our wildlife reserves and national parks during the summer months. This legislation will serve as a means to maintain our national parks and wildlife refuges on an annual basis.

It is most important to note that the jobless rate among the 20- to 24-year-olds is now in excess of 13.5 percent nationwide. This legislation could serve to reduce that rate by employing these young citizens in our national parklands, by teaching them important skills and substantially assisting the maintenance programs on these Federal lands. At present, the national parks are severely understaffed. The conditions that exist in some areas are deplorable. I urge Members to read the report at pages 2–4 which describes the serious conditions in our national parks.

I should now like to just highlight one point made in the report which illustrates the need for this legislation. Montana's Glacier National Park had 72 permanent personnel and 291 part-time seasonal personnel in 1963 to handle and "pick up after" 800,000 visitors. In 1975, the visitors had doubled to 1.6 million while full time staff decreased to 56 and part-time personnel were cut to 273. The end result is obvious. The parks are not being adequately patrolled for fire hazards, grounds are not being adequately maintained, and necessary bridges and buildings are not being repaired. This condition must not continue.

This legislation can solve an urgent need. The Director of the National Park Service so aptly described the state of affairs when he said, "the Service has a case of growing pains just at the point when our fiscal policy prescribed belt tightening." This legislation will work to reverse the problem in our national parklands as well as reducing a tremendously high rate of unemployment suffered by young Americans. Additionally, this legislation will teach skills that can be used after the employee leaves the program.

I have been an advocate for employment legislation since my early days in the Massachusetts Senate in the early 1950's. I have always been concerned about the effectiveness of the Comprehensive Educational and Training Act—CETA—because it did not seem to be responsive to the needs of the people in several programs. For a long period of time during our most severe periods of unemployment, CETA was all we had. It is certain that our main objective is to put food on the table. However, our next consideration must be to make the employment effective for the employee and beneficial to the taxpayer. This legislation is responsive in all three regards.

I urge my colleagues to adopt this legislation.

I thank the chairman.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, first, let me thank the gentleman from New Jersey, the chairman of the subcommittee and the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Minnesota (Mr. QUIE) for their invaluable help in the passage of this legislation.

Mr. Chairman, 40 years ago, when this Nation faced a more critical problem than it does today, President Roosevelt proposed an overwhelmingly sensible approach to one aspect of that problem, the aspect of unemployment. That solution was the Civilian Conservation Corps, which I think is one of the better programs that the Government has ever been involved in. The monuments of that program still stand as near as Skyline Drive in Virginia and as far as the mountains of Alaska. But more important was the permanent enrichment of the lives of those who were touched by that program; those who became later our national leaders, as we saw one of our colleagues, a former Member. His life and the lives of other people were made meaningful because of that program and our land was enhanced manifold. The productivity of the land and the productivity of the people paid for the CCC program many times over.

Now, we are not in as bad a condition today as we were in the 1930's, but unemployment among young people is almost as bad today as it was then. The unemployment rate of young people below 25 years of age is almost triple the national average, almost triple. Among young blacks and young black females it is as high as 40 percent. These young people are languishing on street corners, in unemployment compensation halls, in food stamp lines. They would much rather be doing something productive. At the same time, there are countless jobs that need doing in this country. There are three and a half million acres in the national forests alone which have been cut over and never replanted. We could increase the allowable cut in our softwood areas by up to 40 percent by the right kind of management, which could be done by members of the Young Adult Conservation Corps in this bill. We need to rehabilitate thousands of miles of trails in our parks and national forests. We need to build campgrounds and parking areas. Every year millions of tons of good fertile soil is washed out to our seas and oceans and our estuaries, which could be prevented by soil erosion control programs, and the State and local lands are the same.

As the gentleman from Florida pointed out, 55 percent of all the indexed crime in this country in 1973 was committed by young people under the age of 25.

On the program "Meet the Press" a reporter asked six of the Nation's chiefs of police if they could do one thing, just one thing to cut crime in the major cities of this Nation, what would it be. Four of the chiefs said, "Put young people to work." Four of the six hardbitten chiefs of police, whom one might have expected to say, "Bigger police forces, more lights, more cars, more jails," said, "Put young people to work." That is the single most important thing that could be done.

Now, I am not saying that this bill is going to cure all the problems of crime and unemployment in the Nation—obviously, it will not—but it addresses itself to that age group which is most involved in crime today. More than 83 Members of this House of Representatives, bipartisan support, agree with these chiefs of police, and have cosponsored this legislation or legislation similar to it such as that sponsored by the gentleman from Oregon (Mr. DUNCAN), who sponsored one of the bills considered by the committee. I want to commend and thank him for his help and support.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 3 additional minutes to the gentleman from Washington.

Mr. MEEDS. These bills are copied after the experience of the Youth Conservation Corps and the old Civilian Conservation Corps of the thirties. They will take young people between the ages of 19 and 24 off the streets and put them into project jobs on Federal and State lands.

This bill starts modestly with a plan. In other words, we did not come here and ask to place all these young people in these jobs immediately, but we want a plan developed which shows where the projects are going to be, what kind they are, how the selection is going to be made, and so forth. Then, that plan comes back to us here in the Congress and it will be implemented later. In the first operational year, we ask jobs for 100,000 young people; in the second year, 300,000; the third year, 400,000; and in the fourth year, 500,000. That is a total of 1.2 million young people, which seems like a lot, but the Forest Service alone has a backlog of needed work of 1 million man-years.

They will work for 12 months at a minimum wage, and 30 percent of the funds will be available for State-Federal cost sharing programs. I want to emphasize that this is not a program to take jobs from people who already have jobs, nor is it a program to take jobs from those who might conceivably have jobs in the future, under almost any circumstances. These are jobs that are not presently being done, and it is not contemplated that they will be done. They are jobs which need to be done to improve the resources of this Nation.

It is not in competition with the State, county, and municipal employees. It is not in competition with those who have jobs.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to my colleague from Washington.

Mr. PRITCHARD. Mr. Chairman, I want to compliment the gentleman from Washington for his leadership in bringing this measure before the House. The potential benefits for people and for the forest areas, not only of the Nation, but particularly the Northwest, are just invaluable.

I have not been enthusiastic about Federal jobs, but if there is one area where it makes just plain good sense, this is it. I compliment the gentleman in the well because he has been a leader in bringing this legislation to the floor. It is a tribute to the good work and good sense he has shown in the Congress.

Mr. MEEDS. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

Mr. QUIE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman from Minnesota for yielding to me.

Mr. Chairman, I just wanted to take this time to indicate that there will be an amendment proposed by the gentleman from Minnesota which will make such sums the amount, rather than the specific dollar amounts, which are enumerated in the bill.

I think this is a good idea because we do not really know the exact cost of this program. We costed it out with some estimates, at $7,000 per enrollee-year. We think it possibly can be done for less than that. In any event, that plan is going to come back from the Forest Service, from the Interior, telling us where, when, how, and how much it will cost. I think it is better to reserve the sums until such time as we know what sums will really be necessary, and I will therefore support the amendments offered by the gentleman from Minnesota.

Finally, Mr. Chairman, this is, I think, the single best opportunity that this Congress will have to respond to the twin problems in our society, youth unemployment and the degradation of our natural resources. This program puts young people to work at jobs that need doing.

Mr. GONZALEZ. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. QUIE. I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, the bill we have before us today which I have also sponsored, the Young Adult Conservation Corps Act, is probably one of the most important pieces of legislation we will consider in this Congress because it brings hope to many unemployed young people across this land.

Through this legislation we will employ young adults between the ages of 19 and 24 on a year-round basis. There are jobs on public lands such as reforestation, trail and camp ground improvement and insect, flood, and disease control that need to be done. These are labor intensive jobs which I am sure many of our unemployed young people will be more than happy to do.

And while I feel this is an excellent program and support it completely, I cannot help feeling that we need to expand this program. According to U.S. Department of Labor statistics, an estimated 2,266,000 of our young people between the ages of 19 to 24—the ages covered under this new program—were unemployed as an average during 1975. Yet the legislation we are considering today would only provide for the employment of 100,000 persons during the first fiscal year of operation and 300,000, 400,000, and 500,000 persons in the 2d, 3d, and 4th fiscal years respectively. While this is indeed a good beginning, it would still leave approximately 1,766,000 young people between the ages of 19 to 24 unemployed. Therefore, I would hope that this would be just a beginning toward a more comprehensive program to help solve one of our Nation's most critical problems.

I believe that we should be considering a program that provides jobs in other fields as well. We should be considering having young people working in community services where they can assist the social agencies in our urban and rural areas, lending their aid to the needy who seek help through these agencies. These young people who are so eager to feel a part of our society by being productive could also help out in clinics and other medical facilities as well as assist in day care centers and schools.

Of course, the main drawback to such a wide range program is the cost. But can we afford to be so cautious in investing in the future of our young people, and with them our Nation?

When we consider what the criminal justice system and welfare cost our society today, should we not consider the possibility that if we had adequately employed those presently in prison or receiving welfare when they were young and had given them a direction for the future perhaps our efforts would have proven to be cost effective?

I am sure most people would agree that it would be better to spend tax money on a program to provide jobs than to spend the same money on rehabilitating a criminal or drug addict. And while it is extremely hard to adequately measure the effectiveness of job corps programs I think that the success of the program in the thirties speaks for itself. We have many successful adults in our society today who I am sure give credit to the Civilian Conservation Corps for helping them keep their self-esteem during those troubled times.

Mr. Chairman, we cannot afford to waste the energy and skills of the young people in our Nation who have an honest desire to work and contribute to their communities. Let us give them this opportunity through a meaningful program that will fulfill their hopes and ambitions for a brighter tomorrow.

Mr. QUIE. Mr. Chairman, I yield back the balance of my time.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania (Mr. Gaydos).

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, you will remember, as I do, that in the first few hours of the 94th Congress, the Democratic majority proposed that the establishment of additional and necessary public service jobs made more sense than providing additional funds for economically nonproductive and personally unsatisfying unemployment compensation.

Today, we have an opportunity to put our words into actions in a way which is consistent with the American spirit and tradition.

I rise in support of the Young Adult Conservation Corps Act for I represent a large number of Rhode Islanders who, from firsthand experience, remember the social benefits and the economic boost which was provided in an era of high unemployment by the old Civilian Conservation Corps.

Unemployment in the State of Rhode Island is now in double figures and it is my feeling that the Young Adult Conservation Corps will again be a timely attack on the high unemployment statistics, not by the back door with broader compensations but by the direct approach of providing jobs to those who need and want them.

The Young Adult Conservation Corps will not only reduce the backlog of conservation projects on public land. The Corps will take from the unemployment lines those individuals who deserve a decent start and, importantly, will give all Americans a renewed hope that Congress is active in addressing the needs of our Nation. I strongly urge the passage of this legislation.

Mr. GAYDOS. Mr. Chairman, I rise in support of H.R. 10138, the Young Adult Conservation Act, legislation which I was proud to cosponsor with many of my colleagues in this House. I wish to commend my good friend and colleague, the gentleman from the State of Washington, Lloyd Meeds, for his leadership in bringing this bill before us today.

H.R. 10138 is directed at solving two of the most pressing problems of our society today: First, the need for widespread conservation activities, such as reforestation, soil erosion, flood control, and fire prevention on public lands; and second, the lack of sufficient employment for those young Americans in the 16 to 24 age bracket, where unemployment is most serious.

The legislation before us seeks to build on the existing Youth Conservation Corps which was initially enacted into law in 1970 as a pilot program to provide summer employment for young Americans between 15 and 19 performing conservation work for the U.S. Departments of Agriculture and Interior.

The success of this program is attested to by the fact that the original act has been twice amended and expanded so that now States are eligible for Federal grants to provide summer employment for teenagers, 16 to 19, for conservation work on non-Federal public lands and waters.

The bill before us does not disturb this existing program, but rather seeks to provide year-round conservation work in both Federal as well as state lands and waters for those young Americans age 19 to 24, or age 16 to 19 in the case of persons who have completed or left high school. Preference would be given to those persons living in counties with high unemployment. Those selected for the program would be eligible for up to one year of employment.

The genesis for this legislation is obviously that embodied in the Civilian Conservation Corps—CCC—which spanned the period 1933–42.

Many of us here today remember the CCC as a very popular and highly successful program which provided benefits to many young Americans and preserved the very fragile fabric of so many American families suffering from excessive unemployment of the 1930's. Furthermore, the value of the work performed by the 3 million young Americans who enrolled in the program far exceeded the total cost of the program of $2.3 billion. It has been estimated that the value of the work performed in reforestation, plant disease and insect control, forest fire control and prevention and the treatment of soil erosion exceeded $100 billion. The program was terminated in 1942 simply because the available source of manpower ceased to exist; it was siphoned off by the needs of the Armed Forces, national defense industries, and the farm community to substantially expand agricultural production.

During the 34 years since the termination of the CCC, the conservation needs of the Nation have been at best only partially met. As a result, there is today a growing need for conservation work in the national forests and national parks of, by a conservative estimate, in excess of 1 million man-years of work for reforestation, timber management, soil control, and fire prevention and control. The tremendous demand for forest products places an even greater urgency on the need for an immediate conservation program. Thirty-three percent of the land area or 754 million acres of the United States is forest land. One hundred and eighty-three million acres are located in the national forest system, which contains 50 percent of the Nation's standing softwood used for housing and construction. It is estimated by the U.S. Forest Service that by the year 2000, the demand for timber products will almost double. If we are to meet this demand, we must begin immediately, a massive reforestation and timber management program, which involves relatively unskilled but highly labor-intensive jobs.

In addition to the work on Federal lands, there is a substantial backlog of similar conservation work on State-owned lands.

Mr. Chairman, one of the more enduring legacies of the Vietnam war is the feeling of alienation and cynicism of too many of the youth of America who experienced the tragedy of national divisiveness during their teenage years. Narcotic addiction and an ever-increasing crime rate has been the plight of too many young Americans who have lost faith in their country.

Many observers of our society contend that the young Americans of the Vietnam era are a "lost generation." Only the passage of time will prove if this assessment is correct. In any case, I am convinced that this Nation cannot endure another "lost generation" of young Americans who are unable to participate in and contribute to our society. Current unemployment rates for those age 16 to 19 are 19.2 percent and age 20 to 24 are 11.8 percent, while the overall unemployment rate is 7.5 percent. As of

April 1976, according to the Department of Labor, there are over 3 million unemployed youth aged 16 to 24. These statistics clearly indicate the possibility of many young Americans who fell prey to the "hopelessness" of the 1960's to again be victims of "joblessness" during the seventies. It is a fact that 4 million young American women and men will be attaining the age of 19 each year for the next 8 years. With the rapidly rising costs of postsecondary education, a smaller percentage of these will be able to attend college. Thus, lacking the necessary skills with which to perform a job, many of these young Americans will be forced to join the ranks of the unemployed.

Some critics of this legislation argue that the problem of youth unemployment should be solved through the existing Comprehensive Employment and Training Act—CETA—not the present bill. I submit this misses completely the true purpose of the legislation before us, which is to initiate an immediate program to conserve the natural resources in our Federal and State timberlands. Admittedly, as an ancillary benefit, participants in the program will learn certain skills, but the bill before us is not a manpower training bill; nor is it a comprehensive youth employment bill. Instead, it is directed primarily at the immediate problem of preventing further deterioration of our Nation's timber resources. The need for such conservation work is clear. The plight of our unemployed youth is a fact no one can ignore. H.R. 10138 is an attempt to preserve our Nation's timber resources while at the same time providing gainful employment for many of our unemployed youth.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, many of the previous speakers have stated that this bill is patterned after the old CCC bill. The Civilian Conservation Corps did do some great work in instilling discipline into the young men of America.

Is it contemplated that we in this program should still place emphasis on discipline?

Mr. GAYDOS. Mr. Chairman, to respond to the gentleman's question, I would hope that would be the intent that is incorporated in this legislation. I think it is proper to presume that we are going to have discipline, we are going to have dedication to hard work.

In responding further to my friend, the gentleman from Missouri, I would like to conclude by saying that I do not know and I do not think any Member in this House or anybody in this Nation knows of a program that would respond to the immediate needs along the lines of what the gentleman suggests. This is not just a make-work type of program but one that would inculcate in the participating individual the elements of work ethics to which the gentleman refers.

I believe the country is sorely in need of this type of a program. I want to compliment the gentleman for his ability to get right down to the marrow. That is exactly what we are trying to do.

Mr. Chairman, as I mentioned before, I submit that this program we have before us is not a comprehensive youth employment bill per se, but instead it is directed primarily at the immediate program of preventing further deterioration of our Nation's timber resources. We could stop right there. However, the side purpose of the bill is an attempt to solve, after a fashion, the unemployment problem of which so many of us have been speaking. The plight of our unemployed youth is a fact no one can ignore in this country. This bill is obviously an attempt, as I see it, to preserve our Nation's timber resources while at the same time doing what we should do to provide meaningful employment.

Mr. Chairman, in recent weeks, this House has approved legislation authorizing $3 billion for NASA and $7 billion for ERDA, to carry out research for more efficient use of the Nation's resources. Can we at the same time allow our timber resources to steadily deteriorate? Can we ignore the plight of so many young Americans who are unemployed?

I submit the answers to both questions is a resounding no! Passage of the bill before us will be a clear and unequivocal message that Congress is willing to invest the necessary funds first to preserve our timber resources and to provide meaningful jobs for our unemployed youth.

I urge my colleagues to give their full support to this legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Chairman, I support H.R. 10138, the Young Adult Conservation Corps Act.

I think that in Rhode Island, my own State, we have so much unemployment, so many young people out of work, that not only would this provide jobs for people all over the country, young people in particular; but it would give them the incentive to work in the fresh air atmosphere outdoors.

Today we have a newly elected speaker of the Rhode Island General Assembly, John Skeffington, who was a member years ago of the CCC, the Civilian Conservation Corps.

As the previous speaker mentioned, there have been many distinguished citizens, not only in this Congress but all over the country, who worked hard in tough times.

We are in tough times today. Rhode Island is one of the highest unemployment areas of the Nation.

Mr. Chairman, I welcome this legislation. I support it, and I am glad that I am on the committee.

Mr. ANDERSON of California. Mr. Chairman, in August of 1970, I was pleased to support the legislation that etablished the Youth Conservation Corps, and today I will vote "aye" on the Young Adult Conservation Corps Act. From what I have read and heard, the program is a success. Congress evidently believes so, because the program's appropriation has been increased in each succeeding fiscal year.

Mr. Chairman, major legislation is under consideration by both Houses on the broad subject of managing our forests. Simultaneously, I understand the Forest Service has a reforestation backlog of 3 million acres that will penalize future generations if it is left undone. This, coupled with the upkeep problems our National Park Services are already experiencing, are reasons why this program should be expanded to our Nation's 285 parks.

Moreover, other vital environmental work such as timber stand improvement, forest firefighting, trail and campground improvement, and insect, flood, disease, and erosion control will reduce the unemployment rate among our Nation's youth.

Mr. Chairman, everyone talks about jobs, and getting the kids off the streets and into a meaningful job. I believe this act will do just that—get kids off the streets, and give them meaningful jobs to work.

Mr. DRINAN. Mr. Chairman, I would like to indicate my strong support for the Young Adult Conservation Corps Act, H.R. 10138. I am a cosponsor of this legislation, whose dual purpose is to increase employment opportunities for young adults while substantially contributing to conservation efforts in our national parks and forests.

The inherent logic behind this bill is unassailable. The overall unemployment rate for young adults is frighteningly high, reaching nearly 14 percent for all individuals between the ages of 20 and 24. As far as minority groups in this age level, the joblessness rate actually reaches 22 percent. Yet while these young people are jobless, jobs that need doing on public lands go undone. The Forest Service has a reforestation backlog of 3 million acres that will penalize future generations if left undone. And many other worthy projects await the implementation of this fine program.

Mr. Chairman, I am enthusiastic about the Conservation Corps Act due to the fact that the basic program has already been proven in a very successful pilot program. Patterned after the Civilian Conservation Corps of the 1930's, the Youth Conservation Corps Pilot program was passed by Congress in 1970 to provide summer employment on our public lands for approximately 3,000 young people. Like the CCC before it, the YCC proved to be an unqualified success. In hearings before the Education and Labor Subcommittee on Select Labor, nothing but praise for the YCC came from the Departments of Agriculture and Interior, YCC staff personnel, the National Wildlife Federation, and those who participated in the program. It is therefore proper that we expand significantly the scope of the program.

I believe, Mr. Chairman, that the Conservation Corps will provide a significant stimulus to our economy and reduce our chronic unemployment problem. Youth unemployment has been especially exacerbated by the recent recession. Nearly half of the total unemployed are under the age of 25, amounting to 3.7 million persons according to the 1976 report of the Joint Economic Committee. I am afraid that unless something is done that this prolonged recession might threaten to spawn a large disenchanted group of young adults who are out of work and become alienated from society.

Not only is youth unemployment an economic problem for this country, but it becomes a crime problem as well. In 1975, there were 71,947 arrests for violent crimes and 190,629 arrests for nonviolent crimes in the 20 to 24 age group. Studies have shown that where extended idleness exists for young people with very few opportunities for employment, the crime rate registers corresponding increases. Obviously, the price our society must pay in both dollars and damaged lives is immense.

Mr. Chairman, this bill is especially exciting because it will not only provide jobs for young adults, but will also lead to significant improvements in our national parks and forests. The situation in our national parks has grown critical, with vital reforestation, trail and campground improvement, timber stand improvement, and flood and erosion control projects simply not being done. Many of the National Park Service's 285 parks' recreation areas and historic sites are rapidly deteriorating. As a result of its inadequate budget, the National Park Service has not been able to keep pace with the improvements which are necessary to maintain adequately America's national parks and forests.

A few examples might illustrate the current situation. In the Shenandoah National Park in Virginia, the park service was unable to meet many safety and health requirements for visitors. Consequently, many of the streams are so polluted that campers have to boil the water before drinking it. In 1963, Montana's Glacier National Park had 72 permanent personnel and 291 seasonal employees to cope with 800,000 visitors. Yet by 1975, the visitors had doubled to 1.6 million, while permanent staff had been cut to 56 and seasonal employees to 273. Last summer, 1,000 people at Oregon's Crater Lake National Park contracted severe gastrointestinal problems from drinking contaminated water.

Through the legislation which we consider today, Mr. Chairman, I am hopeful that the Young Adult Conservation Corps will be able to rectify many of the problems which we now face in our national parks and forests. The Conservation Corps will become a year-round complement to the existing summer-only Youth Conservation Corps. The program will employ persons between the ages of 19 and 24, with some provision made for hiring youths over the age of 16 in cases where the individual has completed high school or left school. Employment will begin on June 1, 1977, for a maximum of 1 year on conservation projects on public lands to diminish the backlog of relatively labor-intensive projects. Priority in employment will be given to those persons living in counties where the unemployment rate exceeds 6 percent for a period of 3 months.

The Departments of Interior and Agriculture will be involved in soliciting work projects which can be readily developed by the Conservation Corps. The Secretaries of those Departments will be directed to give priority to projects involving reforestation, timber stand improvement, fighting forest fires, trail and campground improvement, and control of insects, disease, soil erosion, and floods.

Other projects in which Corps members may be employed would include tree nursery operations, wildlife habitat improvements, range management improvements, recreation development, and general sanitation and cleanup. Corps employees would be paid no less than the Federal minimum wage and would be housed, to the extent practicable, where existing residential facilities are available.

Under the provisions of the Young Adult Conservation Corps Act, 100,000 young people will be employed in the first year of operation in 1977. In the second, third, and fourth years, 300,000, 400,000, and 500,000 persons respectively will be hired for conservation work.

Mr. Chairman, it is a pleasure to vote in favor of legislation such as this. H.R. 10138 will provide many employment opportunities to our jobless youths and it will help us make many needed improvements in America's parks and forests. In view of the great success of the Conservation Corps pilot program, I am sure that we can expect great things from the enactment of the Young Adult Conservation Corps Act.

I therefore urge my colleagues to lend their overwhelming support to the House passage of this important economic and environmental legislation.

Mr. DUNCAN of Oregon. Mr. Chairman, I am pleased today to have the opportunity to voice my support for H.R. 10138, the Young Adult Conservation Corps. It is a program, a bill, and an idea that I deem extremely important.

In the darkest days of the depression-ridden thirties the Roosevelt administration recruited an army of young men from the Nation's troubled cities and sent them to work in the forests of the West. They were paid a dollar a day plus board to build trails, fight fires, plant trees, and do other conservation work. CCC proved to be one of the best of the depression fighting agencies.

Inspired by that program and motivated by the severe unemployment problems facing this country, I introduced in June of last year H.R. 7962 entitled the Civilian Conservation Corps Act of 1975. The motivations that led to the creation and introduction of that legislation have not dissipated. H.R. 10138, the Young Adult Conservation Corps, has the same basic characteristics and goals not only of my bill but of the original CCC program of the 1930's. I support it wholeheartedly.

We know the program will work. The model set down by the CCC program, the YCC program, and in the State of California, the Ecology Corps have proven this true.

I see three principal objectives which this legislation will accomplish. From each of these three, collateral and incidental benefits will follow. Each objective represents an attack on a major problem facing the country today. These three major problems are:

First. Unemployment;

Second. A rising crime rate; and

Third. The poor and deteriorating conditions of the great natural resources of this country—forests, rangelands, outdoor recreation facilities, timberlands, and water resources.

In spite of all that this Congress has done, unemployment is still at an unacceptably high rate in this country. Among youths these figures skyrocket to over 20 percent and among youths of minority groups even higher. These jobs are labor-intensive and the money provided will not go for equipment and buildings, but rather predominantly into the payroll. Its success will be limited only by the funding that we are able to provide for it, because there is virtually no limit to the amount of productive work that needs to be done.

Carl Rowan, the Washington Star columnist, recently questioned six of the Nation's top police administrators from six of the Nation's largest cities, asking them one simple question:

> If you had to recommend one thing, one action the country could take to combat the rise of crime, what would it be?

None suggested more prisons or greater law enforcement or better prison rehabilitation. All six of these officials agreed that efforts to reduce unemployment in the central cities among young men, especially minority young men under the age of 25 years, would be one of the most effective means of reducing the crime rate.

Our resource agencies have long gone underfunded, as they strive to compete with all other Government programs for a share of the Federal tax dollar. As a result of inadequate capital investment coupled with excessive use in the past, our outdoor recreational facilities have deteriorated; millions of acres lie fallow and unproductive because we have not spent the money and made an effort to replant our dwindling timber supply; millions of acres of rangelands today carry ridiculously low allotments of livestock because they have been overgrazed. Passage of this legislation gives us a tool at a relatively small expense to use our human resources to replenish and restore our natural resources.

My CCC bill and Congressman MEEDS' YACC bill are similar though not identical. Pride of authorship of the former does not diminish my support for the latter. I have been pleased to work with my distinguished friend from Washington, with Congressman DANIELS of New Jersey, with the majority leader and others in furtherance of the basic concept. Congressman PERKINS, the chairman of the full committee, deserves our gratitude, if this program succeeds, as I am confident it will.

Nevertheless, there are a few places in which it can be improved and as it passes through the Senate and the conference, doubtless it will be. For example, the cost of each job is high. Many more young peole could be served if, instead of paying minimum wages, we followed the lead of the California Ecology Corps and paid $100 a month—or some such fiigure—plus room, board, clothing and medical care.

Unlike many of the jobs we have created in the public sector, these jobs will produce forests and ranges, pure water, wildlife, trails, roads, recreation, and similar facilities. But the best product of all will be the men and women it will produce to take their place in our society as useful, productive citizens. Graduates of the CCC leaven all walks of life in my State of Oregon from government, through the ranks of labor, to the board rooms of the business community. As it was with the CCC, so will it be with the YACC.

I urge the support of all Members for this fine piece of legislation.

Mr. MATSUNAGA. Mr. Chairman, I rise in support of H.R. 10138, the proposed Young Adult Conservation Corps Act.

This bill would accomplish two outstanding purposes. First, it would provide a means of completing many current public land and water development projects that tragically remain undone. Second, it would provide America's youth with an opportunity to earn financial income for performing respectable, meaningful, and vital jobs that contribute to the improvement and maintenance of America's natural resources and environment.

The unemployment statistics marshaled by the Education and Labor Committee to spell out the need for this legislation are at once a shock to our sensibilities and a call to action. During 1970, the unemployment rate for those aged 20 to 24 was 13.6 percent. For youths aged 16 to 19, the rate was an incredible 19.9 percent. The figures for nonwhite young people were substantially higher.

The implications for society in these distressing figures are far-reaching. Not only is society being deprived of the use of an energetic part of its potential work force, but, as the Education and Labor Committee points out, there is a strong relationship between reducing unemployment among young people and reducing the crime rate.

At the same time as we are experiencing this dangerously high unemployment rate among young adults, there are scores of vital environmental tasks—conservation and restoration plans and projects—that have long been suspended, but need to be carried out if present and future generations of Americans are to enjoy the recreational pleasures offered by our parks and campsites, and if they are to be confident that raw materials will continue to be available for our thriving industries. Literally millions of acres of national forests and parks are in need of attention in such areas as reforestation, trail and campground improvement, and basic park maintenance.

The program which the committee has proposed to address these twin needs is not an untried concept. It builds on the already existing pilot program, the Youth Coservation Corps, which since 1970 has employed some 3,000 youths each summer to work on public lands at tasks similar to those contemplated in H.R. 10138. The target age group has been expanded, the period of employment lengthened to a year, and the number of participants increased substantially. Approximately 1.2 million young people would be employed for 1 year over the 4-year authorization period contained in the bill.

The rewards of H.R. 10138 benefiting America's youth, benefiting America's land and water sites, and benefiting all present and future generations of American's are too numerous to ignore.

I therefore urge my colleagues to recognize the merits of having a year-round Young Adult Conservation Corps and give their full support to H.R. 1013.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of this measure to establish a year round Young Adult Conservation Corps. It will solve two problems that we in the Redwood Empire have been faced with for years: A rising unemployment rate among our youths and a need for manpower to care for our parks and forest lands.

My district is caught in a situation common to many western States. It is highly rural where the unemployment rates are traditionally higher than in urban centers. It is also made up of millions of acres of public lands—parks, forests, and seashores—that have received inadequate attention and care because of inadequate funding and a "galloping growth" of visitors seeking recreation and access to our forests and rivers.

These two problems offer a perfect solution to one another. Where facilities need repairing and trash needs emptying, where trails and campsites need relocating and improvements, and trees need replanting, where additional patrols and attendants are needed to assist visitors and discourage vandalism, and where forest fire fighting, insect, flood, disease, and erosion control are sorely needed—in all these areas we can put our unemployed youths to work, and keep them out of the streets and out of trouble. I have been working with our local officials on watershed conservancy programs. This YACC program will dovetail very well with our objectives.

In 1975 there were 17,281 youths between the ages of 16 and 19 that were arrested in violent crimes and 380,972 were arrested for burglary, motor vehicle theft and larceny. When youths reach the age group of 20 and 24 things remain just as bleak—71,947 arrests for violent crimes and 190,629 for the same nonviolent crimes as their younger counterparts.

The price we are paying is immense and the Young Adult Conservation Corps is the type of program which can greatly reduce this loss in dollars and this waste of young lives.

The YACC's forerunner has been an unqualified success. In dollar figures nearly 75 percent of every dollar appropriated for the Youth Conservation Corps is returned in the value of work accomplished by the program. And this new program—which will employ young adults ages 19 and 24 and will attack the "pockets of poverty" where unemployment is particularly high—has every chance of being equally if not more successful.

Mr. ROSTENKOWSKI. Mr. Chairman, I would like to voice my strong support for H.R. 10138, the Young Adult Conservation Corps Act. This bill will not only further our conservation efforts and the effective management of our national resources but, more importantly, will create hundreds of thousands of jobs for our young people between the ages of 19 and 24.

We are all well aware that unemployment among our Nation's youth is three times the national unemployment average for all other age groups. We cannot afford to let this continue. The youth of America is one of our greatest natural resources. Idleness and joblessness can only militate against the achievement of a meaningful and productive life for our youth.

This is why I have unhesitatingly cosponsored this beneficial piece of legislation. The success of the pilot program, which was initiated in 1970 and was subsequently made permanent, clearly illustrates that a program like this can work effectively. I hope that my colleagues will join me in support of this important legislation.

Mr. ESCH. Mr. Chairman, although I intend to support the legislation before us, provided the amendments offered by the gentleman from Minnesota are agreed to—I strongly believe that this legislation fails to deal with the real problems of youth unemployment in this country.

The problem of youth unemployment resides not so much in the rural areas but in our Nation's cities where youth unemployment particularly among minorities and black youth runs as high as 70 percent. Such unemployment cannot be resolved by simply offering an opportunity to work in the forests for a year. First, it is unlikely that such youth could afford to leave their families and second, I doubt that such a program would even appeal to them, if they could afford to leave home.

Youth unemployment is much more complex than H.R. 10138 envisions. The Nation has been experiencing rates of unemployment among youth which has exceeded 10 percent for over a year and over 15 percent for the better part of a decade. Unemployment among minority youth continues to run as high as 40 percent. The problems encountered by youth seeking productive work are many and include a dwindling pool of semiskilled jobs, racial discrimination, the relocation of industries outside our cities and the failure of our education system to relate more closely with the changing job market.

In addition, society and government policy discriminates against youth. Civil service, minimum wage, union hall practices, workers' compensation and a variety of other barriers exist to youth seeking productive employment. Youth are not looking for make-work, short-term jobs that do not enhance their future employability. But if we are to look at the facts, this is all they are getting. The rate of job turnover among youth—and significantly among those in their first job after leaving high school—is astronomical. Youth are simply finding that the entry level jobs offer neither valuable training nor opportunities for significant advancement.

Among youth who have dropped out of school, the problem is exacerbated by a lack of education and training. To many, the only avenue open where some profits seem possible is crime—and in this respect the number of crimes committed by such youth is staggering. Nearly half of the major crime in the country is committed by youth under the age of 18.

What this Congress really needs to do is to address the problems of youth by working to provide attractive career-oriented job opportunities close to home which stimulate youth to continue their education. Such youth will not benefit either in the short or long run, by taking a year off to work in the Nation's forests, inasmuch as such work, while enlightening, does little to prepare them for the realities and demands of the labor market. In addition, such a program would seem to encourage youth to drop out of school rather than encourage them to stay in school.

H.R. 10138 not only fails to recognize the need, but fails to target resources into those youth who need the assistance the most—namely those from families without the resources to let their children leave for a year, and fails to target the funds where the youth unemployment problem is the greatest—in our inner cities.

During the consideration of H.R. 10138, I attempted to offer what I believe to be a much more sensible approach to the problems of the young. Entitled the "Youth Incentive Act," my proposal established a year-round employment training effort targeted into areas of highest youth unemployment and creates incentives to both the public and private sectors to place youth in long-term jobs which hold out real career prospects.

My effort would work through the established CETA mechanism, but calls for a coordination of all existing youth efforts—vocational education, community groups, the employment service—to wage a full-scale effort on the problem.

Under my proposal, a youth who participates in schooling and education would be provided an opportunity to work 20 hours a week to supplement his or her income—to allow that young person to continue in school. This is patterned after the highly successful work-study program which now serves a large number of disadvantaged youth trying to make their way through college.

During the summer months, youth would be able to work up to 40 hours a week not only in Government-sponsored jobs but in jobs sponsored by the private sector as well.

My effort was prevented by a parliamentary ruling in full committee and has been ruled nongermane by the Rules Committee. I, personally, cannot understand how my proposal, which really targets in on the problem of youth unemployment and even provides the opportunity to become members in a young adult conversation corps, would be ruled nongermane. It seems to be that this Congress has long ignored the real needs of youth and not to allow Congress to act when youth unemployment continues to go unabated seems to me to be the height of folly—and irresponsibility.

Simply stated, I wish to point out that in no way will H.R. 10138 resolve the youth unemployment problem. If, in the years ahead, we wonder why our youth continue to find it difficult to gain meaningful productive jobs, we will only have to look back to the action taken here today to see where our priorities were when we had a real opportunity to act.

Mr. BIAGGI. Mr. Chairman, I rise in full support of H.R. 10138, the Young Adult Conservation Corps Act of 1976. As a member of the House Education and Labor Committee which drew up this bill, I feel its adoption today will continue the already impressive record of this committee on behalf of trying to deal with this nation's most serious economic problem—unemployment.

This bill seeks to deal with the one segment of our population which has suffered tremendously from unemployment, the young people between 16 and 24. It is estimated that they comprise almost half of the unemployed of this Nation. The overall unemployment rate for young adults between the ages of 20 and 24 is 13.6 percent, almost twice the national average. The rate for nonwhite men and women of this age bracket is running as high as 23 percent. For young persons between the ages of 16 and 19 the overall unemployment rate national average. The rate for nonwhite young men and women running to 38 percent. In the near future thousands more young people will be flooding already overcrowded job markets seeking employment. Many will be turned away to face the prospects of a long, hot and unproductive summer.

As the unemployment rate among the young people of this Nation continues its ascent—so too does the crime rate. It has been estimated that more than 40 percent of all serious crimes in this Nation are committed by persons under the age of 25. Many of these crimes are economic in nature including robbery. Many of these crimes are caused by the poverty and idleness created by the inability and resultant frustration experienced by these individuals seeking employment. We are hoping to turn the corner on this problem with this bill today.

The basic purpose of this legislation is to extend to young adults the provisions of the highly successful Youth Conservation Corps. In addition to extending its coverage to young adults, the bill seeks to provide a year-round program of gainful employment for the youth of this Nation.

There will be those who view passage of these types of bills with skepticism, as they feel that the jobs created will be of no practical value either to the jobholder or the Nation. This argument with respect to this bill is totally without foundation. In addition to providing new employment opportunities, H.R. 10138 will help to reduce the large backlog of unfinished conservation work in this Nation. Included among these projects are a reforestation backlog of some 3 million acres, as well as important tree planting programs. In addition, due to an unexpectedly large onslaught of visitors to our national parks, additional [illegible] and maintenance personnel are needed. These could be provided under H.R. 10138.

There has been some criticism raised about the costs of this legislation. Frankly it is high, but must we set a price on a bill which will be of such practical value to the economic futures of young Americans? The taxpayers of this Nation are already paying for the costs of crimes committed by young people. The costs involved with this bill would represent a far better investment of the tax dollar, for it will bring a more tangible result, new jobs for the young people of this Nation. Most young people would prefer to be employed earning their own money. For many, the pursuit of employment has been hindered by an absolute lack of opportunity. Let us open those closed doors and allow the young people of this Nation to experience the practical value of work. The young people of today will be the leaders of tomorrow. Let us show them a Nation which is concerned with their future. A vote for H.R. 10138 will be an important demonstration of support for their cause.

Mr. BADILLO. Mr. Chairman, we have before us today a measure which urgently needs our attention and full support, H.R. 10138, the Young Adult Conservation Corps Act. This important legislation, which is identical to a bill which I cosponsored, is a small, but vital step toward ameliorating the severe unemployment problem in this country. It has a twofold purpose: First, to provide 1-year employment for many young adults and second, to employ them on conservation and environmental projects which are underfunded and overburdened. Youngsters from 19 to 24 years old would be employed to reduce the backlog of these programs and assist in the national conservation effort. They would be working in such essential areas as sanitation, range management, control of insects and disease, wildlife habitat improvement, reforestation, and many more.

H.R. 10138 would authorize $50 million for the planning of the activities proposed in the bill, for the preparation of site locations, and facilities. It would authorize $9.1 billion for fiscal year 1977 through 1980, employing 100,000 for the first year of operation, 300,000, 400,000, and 500,000 for each year thereafter, for a total employment of 1,300,000 youngsters at the minimum wage. Participants, who would receive housing, food, transportation, medical, and other benefits, would be given preference if they resided in a county with 6 percent or more unemployment. This measure is geared to provide jobs for the most needy. Youth unemployment is the highest of any age group, and is most concentrated in the cities. Jobs are simply not available to the city youth. They need to have access to stimulating, interesting jobs which would keep them off the streets, and instead of receiving governmental income support, these youngsters would be contributing to the betterment of our national conservation efforts while earning an income.

I am greatly concerned with the amendment to strike the specific dollar authorizations in this measure, and provide instead for sums as needed. This would, in my estimation, render the bill meaningless, for adequate funding would never be achieved and the program's effectiveness would be drastically reduced.

There are thousands of youngsters yearning for job opportunities all across the Nation who would welcome this chance to improve and enrich not only the national conservation effort, which is badly in need of their assistance, but themselves as well. It is for this reason that I wholeheartedly support this measure, and hope that with the help of my colleagues, we will enact this crucial legislation at the designated funding levels.

Mr. ASHBROOK. Mr. Chairman, I rise in opposition to H.R. 10138, the Young Adult Conservation Corps Act. This legislation would create another new and duplicative Federal program with an astronomically high price tag.

If any Americans are still wondering why the Federal Government has run up such large deficits lately, they need only take a look at the bill before us today. It is one more in a long line of budget-busting pieces of legislation pushed by the liberal majority.

H.R. 10138 would authorize $9.1 billion over the next 4 years. I repeat, $9.1 billion. This is the height of fiscal irresponsibility. A bill with such excessive spending should have been laughed out of committee and thrown into the garbage heap where it belongs.

Yet even this vast amount of money would be insufficient to accomplish the goals of the program. The Congressional Budget Office estimates that if the proposed job targets are to be reached, the program would cost $13 billion to operate during the next 4 years. The authorization levels fall $3.2 billion short of the estimated cost, even assuming an additional 7.5 percent that could be contributed by States under the grant program.

The cost factor is not the only problem with this legislation. There is also a serious problem of duplication. We already have laws on the books to help the unemployed, in particular the Comprehensive Employment and Training Act. Yet here we are considering the creation of another Federal program with a high cost and an accompanying increase in the Federal bureaucracy.

Finally, H.R. 10138 is the wrong approach to the unemployment problem. We will not beat unemployment and revitalize our economy by spending billions of taxpayers' dollars on make-work public service jobs. This is just a rehash of the same wrong-headed liberal economic theories that we have heard for 40 years.

The answer—the only real answer—to the unemployment problem is a revitalized free enterprise system. We need to get people working in private business and industry. These are permanent jobs, unlike the temporary nature of public service jobs. That is why I have cosponsored the Jobs Creation Act, which would accelerate the formation of the investment capital that is needed to increase job opportunities and productivity in the private sector.

I urge the defeat of this costly piece of legislation that will do little to solve the unemployment problem.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 10138, the Young Adult Conservation Corps Act.

Throughout this long recession, the highest rate of unemployment has consistently been recorded for teenagers and young adults. Youths of minority background have been especially hard hit. Their unemployment rate has hovered around 25 percent for many months.

Statistics show that youths in the 16- to 24-age group commit a disproportionately large share of the crime. Much of this antisocial behavior stems from a feeling of being left out of the mainstream of society. Once these youths are given a decent job, once they have a stake in our society, they tend to dramatically curb their antisocial behavior. Thus, the provisions of H.R. 10138 will not only offer jobs to the group hardest hit by this recession, but it will also help to stem the growing crime rate.

Specifically, the bill provides year-round employment to persons between the ages of 19 and 24. Those who have left high school may qualify when they are 16. These young adults will work on the backlog of labor intensive projects which would have been completed earlier if funds had been available. Also, individuals living in counties whose unemployment rate exceeds 6 percent for 3 months will receive priority consideration when they apply for the program.

Second, the bill provides that the Secretaries of Interior and Agriculture will select the projects to be completed by the corps. The bill establishes the criteria which are to be used in selecting the projects. Each project is to be labor intensive, have already existing work plans or be undertaking plans which could be readily developed, and be in a State which would allow the work to commence promptly.

Each participating young adult will be paid at least the prevailing Federal minimum wage for his work, and will be housed whenever possible in existing residential facilities.

Finally, H.R. 10138 authorizes $50 million which the two Secretaries are to use to implement the provisions of the bill. The authorized life of the program is 4 years, and it will provide job opportunities for 1.3 million young adults.

Mr. Chairman, during the Depression, I worked as a member of the Civilian Conservation Corps. My experiences with the CCC showed me that hard work on useful projects can instill a sense of pride and worth that might otherwise be lacking in the participating individuals. I am sure that others who worked in the CCC feel as I do—that their work helped instill a sense of values which they have carried with them throughout their lives. The bill before us could provide the same benefits to a new generation of young adults. Therefore, I urge my colleagues to support the passage of H.R. 10138.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

That this Act may be cited as the "Young Adult Conservation Corps Act".

SEC. 2. The Act entitled "An Act to establish a pilot program in the Departments of the Interior and Agriculture designated as the Youth Conservation Corps, and for other purposes", enacted August 13, 1970 (84 Stat. 794; 42 U.S.C. prec. 2711 note; 16 U.S.C.A. 1701–06) (hereafter in this Act referred to as the Youth Conservation Corps Act), is amended by adding at the end thereof the following new title:

"TITLE II—YOUNG ADULT CONSERVATION CORPS

"POLICY AND PURPOSE

"SEC. 201. The Congress finds—

"(1) that unemployment levels are excessively high among young adults;

"(2) that young adults have minimal or no job experience, and that considering our country's current economic situation, these young adults have a limited opportunity of gaining the necessary job experience, training, and fundamental skills required to enter the labor force at a competitive level;

"(3) that as a result of the high unemployment levels of this age group our country's social service resources are being unnecessarily drained, and the Government is losing tax revenues;

"(4) due to their limited opportunities, crime rates are higher among young adults;

"(5) that there are large inventories of conservation work and other work of a public nature within the national park system, the national forest system, States, municipalities, and other public land and water areas of the United States which require large amounts of labor and relatively small capital investments; and

"(6) that much of the conservation work and other work of a public and environmental nature on the lands and waters of the United States, such as reforestation, timber stand improvement, fighting forest fires, trail and campground improvements, and control of insects, diseases, soil erosion, and floods, can only be accomplished during certain seasons or by a year-round work program.

It is, therefore, the purpose of this title to complement the highly successful Youth Conservation Corps and to provide employment and other benefits to young adults who would not otherwise be currently more productively employed while reducing the inventory of conservation work and completing many other projects of a public nature on the lands and waters of the United States. This title shall in no way limit the requirement set forth in the Employment Act of 1946 (15 U.S.C. 1021 et seq.) that the Federal Government promote maximum production and purchasing power in the Nation's economy. This title supplements and extends the provisions of title I of this Act and does not limit or repeal any existing authority provided by title I of this Act.

"EXTENSION OF YOUTH CONSERVATION CORPS

"SEC. 202. The Secretary of the Interior and the Secretary of Agriculture (hereafter in this title referred to as the 'Secretaries') shall jointly extend the Youth Conservation Corps so as to make possible the year-round employment of young adults. Section 102 of this Act applies to the extended Corps under this title, except that individuals employed as Corps members under this title—

"(1)(A) shall have attained age nineteen but not attained age twenty-four or (B) shall have attained age sixteen (or completed high school) but not attained age nineteen, in the case of individuals who have left school and who give adequate assurances, under criteria established by the Secretaries, that they did not leave school for the purpose of obtaining employment under this title;

"(2) shall be physically capable, as determined under regulations established by the Secretaries, to carry out the work of the Corps;

"(3) shall be given preference for employment if they reside in counties having a rate of unemployment equal to or in excess of 6 per centum for three consecutive months, as determined by the Secretary of Labor; and

"(4) may be employed for a total period of not more than twelve months, with such maximum employment period consisting of one continuous twelve-month period or of two or more periods which together total twelve months.

"SECRETARIAL DUTIES AND FUNCTIONS

"Sec. 203. (a) Section 103 of this Act, relating to the duties and functions of the Secretaries, applies to this title, except that in administering this title the Secretaries shall—

"(1) place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available;

"(2) employ such individuals in such projects as but not limited to—

"(A) tree nursery operations, planting, pruning, thinning, and other cultural measures;

"(B) erosion control and flood damage;

"(C) wildlife habitat improvements;

"(D) range management improvements;

"(E) recreation, development, rehabilitation, and maintenance;

"(F) forest insect disease control, road and trail improvements and wildlife preservation; and

"(G) general sanitation, cleanup, and maintenance of State and public lands;

"(3) in determining appropriate work projects for Corps members, give priority to projects that—

"(A) are relatively labor intensive;

"(B) have work plans or for which work plans could be readily developed;

"(C) may be initiated promptly; and

"(D) are productive;

"(4) to the maximum extent practicable employ such individuals in areas where existing residential facilities are available;

"(5) to the maximum extent practicable employ such individuals in activities similar to activities of those employed in seasonal and part-time employment, in the case of the Secretary of the Interior, in the National Park Service, Bureau of Outdoor Recreation, the United States Fish and Wildlife Service, the Bureau of Reclamation, the Bureau of Land Management, and the Bureau of Indian Affairs, and, in the case of the Secretary of Agriculture, in the Forest Service and the Soil Conservation Service, respectively; and

"(6) determine rates of pay for Corps members by giving consideration to housing, transportation, food, medical, and other direct benefits of employment (except that supplies and equipment shall not be benefits of employment), but in no event shall the resulting rates be set at less than the current Federal minimum wage, set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938.

"(b) In carrying out this title, the Secretaries shall provide, to the maximum extent practicable, that Corps members under this title shall not, at the same time, share common facilites or work on common projects with Corps members under title I of this Act.

"EXTENSION OF GRANT PROGRAM FOR STATE PROJECTS

"Sec. 204. (a) The Secretaries shall jointly extend the grant program for State projects required by section 104 of this Act so as to provide increased employment to young adults to develop, preserve, and maintain non-Federal public lands and waters within the States, as defined in section 104(a) (and such employment may include employment on projects which assist the selective cutting and thinning of timber on such lands for essential fuel purposes). Sections 104 (a), (b), and (c) of this Act apply to the extended grant program for State projects under this title, except that for the purposes of this title, each grant application shall contain assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted—

"(1) (A) shall have attained age nineteen but not attained age twenty-four, or (B) shall have attained age sixteen (or completed high school) but not attained age nineteen, in the case of individuals who have left school and who give adequate assurances, under criteria established by the Secretaries, that they did not leave school for the purpose of obtaining employment under this title;

"(2) shall be physically capable, as determined under regulations established by the Secretaries;

"(3) shall be given preference for employment if they reside in counties having a rate of unemployment equal to or in excess of 6 per centum for three consecutive months, as determined by the Secretary of Labor;

"(4) be employed for a total period of not more than twelve months, with such maximum employment consisting of one continuous twelve-month period or of two or more periods which together total twelve months; and

"(5) shall be paid at the rate set under section 203(a)(3).

"(b) Thirty per centum of the sums appropriated to carry out this title for any fiscal year or for the period beginning July 1, 1976, and ending September 30, 1976, shall be made available for grants under this section for such fiscal year or for such period, respectively.

"(c) The States, in employing young adults in the extended grant programs authorized by this section, shall have the same duty, with respect to common facilities and projects, as is imposed on the Secretaries under section 203(b).

"SECRETARIAL REPORTS

"Sec. 205. The Secretaries shall prepare jointly and submit to the President and the Congress reports detailing the activities carried out under this title. The first such report, covering the period from the date of enactment of this title until September 30, 1976, shall be submitted not later than January 1, 1977, and reports covering fiscal years ending on September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, shall be submitted not later than January 1, 1978, January 1, 1979, January 1, 1980, and January 1, 1981, respectively.

"TIME PERIOD FOR PLANNING AND PREPARATION

"Sec. 206. (a) During the period beginning on the date of enactment of this title and ending March 1 1977, the Secretaries shall prepare a plan to carry out the activities authorized by this title and prepare the site locations, facilities, and equipment selected in the plan. Such plan shall contain an estimate of the annual costs of carrying out the activities authorized by this title, a procedure for selecting candidates for the extended Corps, a list and description of the work projects initially selected by the Secretaries for the extended Corps to carry out under this title, and a list and description of site locations, facilities, and equipment initially selected by the Secretares for work camps to be used by the extended Corps under this title. In preparing such plan, the Secretaries shall plan for a capacity of the extended Corps to employ one hundred thousand young adults under this title during its first fiscal year of operation, three hundred thousand young adults during its second fiscal year of operation, four hundred thousand young adults during its third fiscal year of operation, and five hundred thousand young adults during its fourth fiscal year of operation. In selecting work projects for the extended Corps, the Secretaries shall give priority to reforestation, timber stand improvement, fighting forest fires, trail and campground improvements, and control of insects, diseases, soil erosion, and floods. In selecting facilities for Corps work camps, the Secretaries shall utilize existing facilities, including military facilities, whenever possible.

"(b) No young adults shall be employed in the extended Corps under section 202 and no grants shall be made to the States under the extended grant program of section 204(a) until June 1, 1977.

"(c) The Secretaries shall submit to the Congress the plan they prepared pursuant to subsection (a) on March 1, 1977. If neither House of Congress disapproves such plan within sixty days after its submission, such plan shall be deemed approved.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 207. (a) There is authorized to be appropriated to the Secretaries for preparing the plan required under section 206 of this Act, and for preparing the sites, facilities, and equipment selected in such plan, $50,000,000 for the period beginning on the date of enactment of this title and ending on the two hundred and fortieth day after such date.

"(b) There are authorized to be appropriated to the Secretaries for carrying out this title $700,000,000 for the first fiscal year during which young adults are employed under this title, $2,100,000,000 for the second fiscal year during which such young adults are so employed, $2,800,000,000 for the third fiscal year during which such young adults are so employed, and $3,500,000,000 for the fourth fiscal year during which such young adults are so employed. Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated.".

Sec. 3. The Youth Conservation Corps Act is further amended by—

(1) inserting immediately after the enacting clause the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(2) redesignating sections 1 through 6 as sections 101 through 106, respectively:

(3) striking out "section 6" in section 104 (d) (as redesignated by clause 2 of this section) and inserting in lieu thereof "section 106"; and

(4) striking out "Act" each place it appears in sections 101 through 106 (as redesignated by clause 2 of this section) and inserting in lieu thereof "title".

Mr. DOMINICK V. DANIELS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie: On page 17, strike subsection (b) beginning on line 16 and ending on line 20 and substitute in lieu thereof the following:

"(b) Of the sums appropriated under section 207(b) for the fiscal year beginning October 1, 1976, not more than twenty-five per centum shall be made available for grants under this section. Of the sums appropriated under section 207(b) for the fiscal year beginning October 1, 1977, thirty per centum shall be made available for grants under this section. Amounts reserved for this section in any subsequent fiscal year shall be determined by the Congress after receiving the recommendations of the Secretaries of Agriculture and Interior in the report required by section 205. Legislation containing the recommended amounts shall be reported by the House Committee on Education and Labor and the Senate Committee on the Interior within 90 days from the date such report is referred to them."

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, this amendment was drafted in consultation with my colleagues on the other side of the aisle.

The amendment will keep the 30 percent of the funds reserved for the States for the beginning of the program; and as the program develops and the study has been completed that we asked of the Secretary of Agriculture and the Secretary of the Interior, that then the Congress make a determination, in subsequent years, as to the percentage that will go to the States.

Right now we have not seen a program operate other than about a $10 million one in the YCC, and we do not know really the mix there would be if we appropriate, say, $200 million or $400 million.

Second, Mr. Chairman, as this program expands, we do not know who can expand their own programs the fastest and the most wisely the State or the Federal program. Therefore, we need that information which will come from the study by the two departments.

Mr. Chairman, the 30 percent set aside for States will stay for the first 2 fiscal years, and after that the Congress itself, through the Committee on Education and Labor, will determine the mix. It may turn out to be more than 30 percent, and it may turn out to be less than 30 percent.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the gentleman from Minnesota (Mr. Quie) has already indicated to this House, this amendment was discussed with the majority of the committee. The amendment was worked out between us, and I wish to report that it is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Quie).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Quie: On page 18, line 3, strike all after the word "Congress" down through "respectively." on line 11, and substitute in lieu thereof the following: "a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate for changes in the percentage of funds allocated to States under section 204(b)."

On page 18, line 14, strike the word "March" and substitute in lieu thereof "February".

On page 19, line 19, strike the word "March" and substitute in lieu thereof "February".

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Also, Mr. Chairman, at the bottom of that page there are two conforming amendments, and I ask that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, there is a requirement of a secretarial report each year and then, subsequently, there is a planning and preparation period. What this amendment does is to make them all come due on February 1st so that it will be February 1 of next year that the planning and preparation will be available and then each year thereafter we will get a report on the operation of the program by February 1.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I am happy to yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I would like to say to the distinguished gentleman from Minnesota that these amendments are satisfactory to this side of the aisle.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. Quie).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie: On page 20, line 2, immediately after the word "plan" insert the follwing: "(utilizing persons eligible for employment under this title, where practicable)".

Mr. QUIE. Mr. Chairman, as the Members may have learned from the general debate, there is the development of a plan and preparing sites and facilities. What this amendment does is to provide that the young adults can be hired in this period for the preparation of sites and facilities.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, this amendment was presented to the chairman and I have examined it. We think it is a very good amendment and that it is a constructive amendment. It is acceptable on this side of the aisle.

Mr. QUIE. I thank the gentleman from New Jersey.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Quie).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quie: On page 20, line 5, strike subsection (b) and substitute in lieu thereof the following:

"(b) There are authorized to be appropriated in addition to the amounts appropriated under subsection (a) such sums as may be necessary for the fiscal year beginning October 1, 1976, and for each of the three succeeding fiscal years, for the purpose of carrying out this title."

Mr. QUIE. Mr. Chairman, what this amendment does is to authorize whatever sums the Congress may appropriate for each fiscal year in the operation of the program. The unreasonable goals of $700 million the first year to $3.5 billion the fourth are dropped. It leaves remaining the $50 million set aside for the planning, that is in subsection (a). It also provides that the program can operate in fiscal year 1977. It seems to me that if they can get started, it would be well to let the young adults be hired rather than having to wait until the first of October 1977.

I will yield to the gentleman from New Jersey (Mr. Dominick V. Daniels).

Mr. DOMINICK V. DANIELS. Mr. Chairman, this amendment was discussed with the majority side of the committee and the language is acceptable to this side of the aisle.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from Minnesota (Mr. Quie) has been offering a series of amendments that clarify and restrict the legislation we are now considering and I think it would be appropriate for me to ask the gentleman from Minnesota as to whether he is going to offer a clarifying amendment in regard to the language on page 15, line 18, subsection (6)?

It reads:

Determine rates of pay for Corps members by giving consideration to housing, transportation, food, medical, and other direct benefits of employment (except that supplies and equipment shall not be benefits of employment), but in no event shall the resulting rates be set at less than the current Federal minimum wage, set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938.

That section I would state to the gentleman from Minnesota is unclear to me. Does that mean that the youth shall receive not less than the minimum wage and that housing, transportation, food, medical, and other direct benefits shall be deducted from the minimum wage; or does that mean that they will be paid the minimum wage, plus being furnished housing, transportation, food, medical, and other direct benefits?

Mr. QUIE. I will say to the gentleman in response to his first question as to whether I was going to offer an amendment, the answer would be no. In the committee I offered an amendment that it should be "not more than" rather than "not less than," but it was defeated and this language was adopted.

As one reads the language, one can see that when it permits the housing, transportation, food, medical, and other benefits of employment to be taken into consideration, the department that is handling the program can subtract whatever such costs amount to from the minimum wage. They can pay more than the minimum if the skill of the person deems that they should pay more. However, they can subtract from that the amount of the housing that they believe should be charged to the young adult, also the board, and transportation and medical benefits.

Mr. ICHORD. If the gentleman will yield further, then it means that they could be paid more than the minimum wage, but the housing and transportation in that case would be deducted.

Mr. QUIE. Not just in that case, but even in the case of paying the minimum wage or more they can deduct transportation, housing, board, and medical services.

Mr. ICHORD. Does the gentleman mean it is possible under this legislation for the agency to pay the minimum wage, plus personal housing, transportation, food, and medical?

Mr. QUIE. It would not be possible for them to do that. It could be possible for them to pay the minimum wage minus housing, transportation, and so forth but they are not required to subtract a specific amount. But I would expect that when one looks at a young person who lives next to the site, who lives at home where he pays his own transportation, pays his own housing, and pays for his own food, and then receives the minimum wage, in order for that to be equitable where the Forest Service provides for others the housing and board, then they ought to subtract that board and room from the pay of the individual so their treatment will be the same as for one who lives at home. I would expect that either the people would be paying their own transportation costs or else possibly transportation could be paid and then would have the cost deducted from their pay.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I agree with the interpretation that the gentleman from Minnesota has set forth, but I would like to add that certainly that minimum wage will be paid, and where there are additional expenses, the expenses in most instances would be taken care of also.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MEEDS, and by unanimous consent, Mr. QUIE was allowed to proceed for 2 additional minutes.)

Mr. MEEDS. Mr. Chairman, will the gentleman yield further?

Mr. QUIE. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I can certainly envision instances of certain programs like the program pointed out where the minimum wage would be ample and that no deduction would be taken because there would not be transportation and housing. But in some instances young people will be involved in very difficult manual labor, and I think it is essential that in this program young people be compensated a reasonable wage, because in this society what we receive for our endeavor is sometimes the mark of that endeavor, and it is necessary that young people know they are doing something meaningful.

Mr. QUIE. Mr. Chairman, if I could just use my time for a moment, I would like to ask the gentleman from Washington a question. Right now in the Forest Service some individuals who begin their first year are paid about the minimum wage, and they pay for their own transportation to get there; they pay for their own board; and they pay for their own room. These individuals who might be working right next to young people hired under this act should not receive less in compensation taking into consideration housing, board, transportation, and medical costs. Would the gentleman comment on that?

Mr. MEEDS. If the gentleman will yield further, I can understand the distinction the gentleman makes, and I think he draws that parallel between two very easily understandable examples. But I am just trying to make it clear that my intent certainly is that young people be compensated reasonably, and if we give them the minimum wage and then deduct a lot of things which come to a big cost, it would not bring that up to a reasonable wage, and then I think it should be more, or those deductions should not be made.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WHITE, and by unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding.

By setting forth a minimum wage, then, if a youngster should work, say, 9 hours, he would be paid the minimum wage for 8 hours and time-and-a-half for the extra hour. He would be paid overtime for that.

Mr. QUIE. That is correct.

Mr. WHITE. I see. I thank the gentleman.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I listened very carefully to the debate on both sides of the aisle regarding this legislation. I know that the bill has a certain amount of political sex appeal, if I may be permitted to use that word in the context of recent events. Nevertheless I think we ought not to delude ourselves about the amendment now pending before the committee. The gentleman from Minnesota has offered what he calls a compromise amendment dealing with the annual amounts of money authorized in this bill. The authors of the bill when it came out of the committee—and as I understand it when the amendments were offered by the gentleman in the committee, the majority defeated his attempts to deal with this section—wanted to spend $9.1 billion ove period of 4 years. That was their estimate.

We have a Congressional Budget Office and when they were asked, as our rules now require, to estimate the cost of this bill they said it would be closer to $13 billion over the same period of time. CBO estimated it would cost roughly $10,000 annually for each enrollee in this program. The Federal Government will be paying each one of the persons who registers and works under this program $10,000, which compares favorably with what an individual can receive under the unemployment or welfare programs in most areas.

Of course the argument is advanced that the people in this new program will do some good in improving our national parks and forests.

I serve on the National Parks and Recreation Subcommittee of the Committee of the Interior and the Fish and Wildlife and Environment Subcommittee of the Merchant Marine and Fisheries Committee, and I dispute the gentleman from Washington when he says this program will save money or be more efficiently administered by going through this new bureaucratic procedure than it would if we simply increased the amounts for each one of these existing agencies. I think this bill should have been referred sequentially to the Interior and Insular Affairs Committee so we could have looked at it.

Now, the pending amendment does nothing more than substitute "such sums" for the following figures: $700 million for the first year, $2.1 billion for the second year, $2.8 billion for the third year and $3.5 billion for the fourth year. It is, I am sure, the intention of the authors of this bill to push as hard as they can to obtain full funding for this program over the years ahead. Strangely no comment has been made in this debate about the Humphrey-Hawkins bill that is going to cost many billions to make the Government the employer of last resort. The present bill goes part of the way toward that goal.

I think we must consider the fact that

this Government is operating this year at a $75 billion deficit. This Congress unwise fiscal policy has caused inflation and the recession in which we now find ourselves. And this bill is more of the same kind of patent medicine when a serious change in treatment is needed. If we really want to provide jobs for the unemployed, let us do so by putting our economic house to order.

I think the gentleman is offering an amendment which is nothing more than cosmetic and which will not do much to help the economy or to help the taxpayers.

Mr. QUIE. If the gentleman will yield, it does remove what looks like a goal so people cannot come in and say we are not fully funding. I have no doubt appropriations the first year for instance will be far less than $7 million, especially since the YCC is costing about $10 million at the present time. This is the route we need to go, I believe, and it seems to me it is wrong to make false promises. I think the bill before my amendment made false promises. Also this program will not cost $10,000 per employee.

If we pay the minimum wage, plus housing, plus transportation, plus board, that is going to be a tremendous income. If we fly people as we did in the OEO programs from Baltimore to Seattle and from Seattle to Florida and all over the country it could be $10,000 per enrollee, but if it is taken into consideration to deduct housing, deduct board, deduct transportation, and deduct medical it will be self-policing. That is the way it is written now, and it will be self-policing and it will be much less expensive.

I do not see how the Federal Government, looking at what it is doing now, for instance, with the Forest Service having 28,000 summer employees, would be doing any differently than we are doing presently with summer hires.

The reason we just did not increase the authorizations to the departments themselves is that there is a tendency of the American people to deal with things instead of people; so the departments now contract for less labor-intensive-type organizations. This is going to move it toward more relatively labor-intensive operations. Also, there is a tendency to use appropriations for other purposes than reforestation and other work this bill addresses. For that reason I think this is far superior than additional financing to the various departments.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(By unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Mr. Chairman, I would like to make one additional point: every time the Federal minimum wage law has been increased by Congress, some of us have tried to seek exemptions for young people seeking summer and other seasonal employment, so they could go to work at lower wage rates than the rates employers would be willing to pay to more skilled workers. Every time the suggestion has been made, the committee has voted it down. The labor unions have opposed it. I can see a direct correlation in my district where young people are being put out of work by Congress passing ever higher minimum wages that the employers cannot pay. So it is the Congress which makes unemployment; when you pass ever higher minimum wages. And now you come back with a bill to spend $9 billion and to create employment for the very people for whom you have caused unemployment. This action is the very kind of issue that is making Mr. Carter, Governor Reagon, Governor Brown and the rest successful in their condemnation of big Government. They are rightfully attacking the same programs that failed to work in the thirties. It is why they are being listened to by the American people and the Congress is being held in ridicule.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. PRESSLER

Mr. PRESSLER. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PRESSLER:

(1) On page 11, line 22 after "," delete and".

(2) On page 11 line 24 after "investments" insert ", and private lands where publicly assisted conservation projects, such as shelterbelts, exist".

(3) On page 14 following line 18 insert "(F) shelterbelt maintenance".

(4) On page 14 line 19 change "(F) to "(G)".

(5) On page 14 line 21, change "(G)" to "(H)".

(6) On page 14 line 22 following the word "lands" add "and private lands where publicly assisted conservation projects, such as shelterbelts, exist".

(7) On page 16 line 14 after "purposes" insert ", and private lands where publicly assisted conservation projects, such as shelterbelts, exist".

(8) On page 19 line 10 after "fires," insert "shelterbelt maintenance,".

Mr. PRESSLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. PRESSLER. Mr. Chairman, the purpose of my amendments is to allow the persons employed under this act to work on privately owned land on which there are shelter belts of trees or other conservation projects. My reading of the bill is that only publicly owned lands would qualify as a place for employees under this act to work.

Mr. Chairman, I would like to point out that a recent GAO report on action needed to discourage removal of trees that shelter croplands on the great plains are becoming so great that the trees planted on private lands in the 1930's are dying out. The cost of farmland is so great that farmers are not replanting shelter belts. The result is a substantial threat to top soil and the general environment in the Plains States.

Also, in many congressional districts there is not sufficient public land to provide employment without transporting the young people great distances. For example, many shelter belts on private lands are closer to unemployed youth. The weeding and care of trees is a necessary element—whether the trees are on public land or private land.

This would provide good employment, and it would also very much preserve the topsoil in the areas concerned. The benefits derived from privately owned shelter belts, on which private farmers must be taxed as well as carry on extensive maintenance efforts, include but are not limited to conservation of soil through reduction of soil blowing, conservation of moisture through the control of water, and snow conservation and enhancement of wildlife resources, conservation of energy through protection of farm buildings, protection of crops, orchards, livestock, and enhancement of the natural beauty of our landscape.

I would like to point out that many shelter belts in the Middle West are now approaching 40 years of age, and the farmer has borne all the cost. He has taken land out of production, maintained necessary fence, nursed the trees, and in some cases replaced dead ones. Often, he has allowed the public to hunt on his land. On top of this, he has paid the taxes.

It would seem to me very logical that this bill be expanded to cover private lands on which there are projects which have been approved for publicly assisted conservation projects, of which the best example might be shelter belts of trees.

Mr. MEEDS. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, first, I very reluctantly oppose the amendments offered by the gentleman from South Dakota because I know he supports this program and the concepts of the program, but I am afraid that the amendments would inject into this program something which we do not need, especially at this time.

First, there is ample work that needs to be done on Federal lands alone without going onto private lands. As the gentleman from Minnesota pointed out, as the statistics indicate, the Forest Service has 1 million man-years backlog of work that needs doing. The Department of the Interior probably has another 750,000 man-years. The parks and other agencies just of the Federal Government have many man-years of work which needs to be done, so we really would not even have to go off the Federal lands, even if we funded this program to the full extent that the gentleman from Maryland is worried about, every year.

We could carry it out on Federal lands and use every bit of the authorization thereunder. But, 30 percent of these funds are available to the States additionally, and when we take the backlog of things which need doing on public lands within the States, we have many hundreds of thousands, if not millions, more man-years of labor which needs to be performed just on the public land. So, there is no need to go to the private lands.

Lastly, the injection into this public service work of enhancement of private property is an issue which we can very well do without. Perhaps after more study, perhaps after a lot of very tough regulations and safeguards, perhaps we should be talking about enhancing private property. However, No. 1, when we have gotten so much public property that needs enhancing, and such a little program, I do not think we have to worry about it. Secondly, the gentleman's amendments do not have the safeguards to assure that private gain will not result from this public expenditure.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Chairman, the gentleman makes some excellent points, but I would like to ask, what about parts of the country, where there are unemployed youths, which are not adjacent to public lands? Also, would it not be wise to encourage more development of conservation projects such as shelter belts and trees on privately owned lands in areas of the country where transportation—and I think we have already pointed out that transportation would be only a small part of this bill, if any—so in parts of the country that are not adjacent to public lands, where we have large numbers of unemployed persons, such as in parts of my district, that are not adjacent to publicly owned lands.

Mr. MEEDS. I will respond to the gentleman by saying that I am not aware of any area in the United States which is not within the scope of this bill, reasonably adjacent to public lands, upon which these kinds of programs can be carried out.

We have provisions for transportation in the legislation, where that is necessary, to carry out the program, and I do not fear at all that there are public lands close enough to the population centers upon which this kind of work can be done.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Minnesota (Mr. Quie).

Mr. QUIE. I thank the gentleman for yielding.

Mr. Chairman, as the bill is written now, anything that the Soil Conservation Service does to provide technical assistance, they could hire a young person to do.

What the gentleman is proposing to have done on the shelter belt is going beyond what the Soil Conservation Service has the responsibility of doing.

Mr. MEEDS. That is correct.

Mr. QUIE. All that needs to happen is to have one young adult work for one wealthy rancher and the program is discredited.

But I think we should at this time say also that the gentleman from South Dakota is to be commended for his concern over the shelter belt, because without the shelter belt we will have the wind blowing again in the Midwest, as happened in the 1930's. I commend the gentleman's concern about this and his attempt to bring about some support to have those shelter belts not only continued as they are, but even expanded against the dry conditions which may be coming.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Pennsylvania (Mr. Goodling).

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Chairman, I think it is imperative that when the Secretary of Agriculture gets around to writing regulations that we make very sure that he carefully understands that no State will be penalized in any way, shape or form because of the lack of public lands when it comes to employment. I think that will reassure him somewhat in that regard.

Mr. MEEDS. I am sure we will find ample programs on public lands, both Federal and State public lands, and the young people from all parts of the country will have an opportunity to enroll in this program.

Mr. PERKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is not contemplated that any of the enrollees who are assigned by the Department of Agriculture to do soil conservation work will be deprived of working where the soil conservation work is currently being performed, whether it be on private property or public property, where work of a public nature is essential to prevent erosion. So there are instances, with soil conservation workers, where the enrollees may work on private property. I think we should make that perfectly clear.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Washington (Mr. Meeds).

Mr. MEEDS. I thank the gentleman for yielding.

Mr. Chairman, under this program the Soil Conservation Service can run a program under one of the approved agencies under the Department of Agriculture, and it could use its people in capacities in that program in which it can presently use them, but it could not take a crew of young people out to enhance private property, which is a function it cannot now do.

Mr. PERKINS. I agree with that interpretation. The real mission of the Soil Conservation Service is to prevent erosion, in order to serve the general welfare of the entire public. That is the reason it is necessary, on occasion, for the Soil Conservation Service to do some work on private property.

Mr. MEEDS. If the gentleman will yield further, that is technical advice at this time.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota (Mr. Quie).

Mr. QUIE. I thank the gentleman for yielding.

It is true the Soil Conservation Service sets foot on private land. The same way with the Forest Service. Nothing is to prevent them from actually setting foot on private land. This bill provides that anything the Soil Conservation Service does now, they can continue to do with these young adults.

What the gentleman from South Dakota is wanting is for these young people to do work with shelter belts which the Soil Conservation Service is not engaged in. An example is cutting the weeds in a shelter belt that might kill newly planted trees.

This is always the responsibility of the farmer. This applies also to the actual cost of putting in the trees, actually planting the trees. The Soil Conservation Service does not pay any of that cost.

This amendment goes further than that. It would not be limited to shelter belts. Right now the Soil Conservation Service provides technical assistance. They would be able to continue to do that. They can run the level on terraces, and the young people can help do that; they can handle the chains and do the measuring properly. But they could not under this act do other than what the employees of these two Departments—Agriculture and Interior—do now.

Mr. PERKINS. Mr. Chairman, I agree with the gentleman from Minnesota (Mr. Quie). The gentleman has stated the facts accurately.

The CHAIRMAN. The question is on the amendments offered by the gentleman from South Dakota (Mr. Pressler).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PRESSLER. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from South Dakota (Mr. Pressler) for a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

AMENDMENTS OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer two amendments and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. Dodd: Page 17, line 8, after the word "months" insert "or if such data is not kept by counties, such other statistical area basis as is used within that State".

Page 13, line 18, after the word "labor" strike out the semicolon and insert ", if such data is not kept by counties, such other statistical area basis as is used within that State"

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DODD. Mr. Chairman, let me just say at the very outset that I would like to take this opportunity to congratulate the gentleman from Washington (Mr. MEEDS), the gentleman from New Jersey (Mr. DOMINICK V. DANIELS), and the gentleman from Minnesota (Mr. QUIE) on bringing forth this legislation. This is an excellent piece of legislation that deserves the support of all Members who are truly interested in fighting unemployment in this country. As has been pointed out, the largest single group of unemployed people is our youth. This bill will do much to alleviate this problem.

These amendments that I have are technical in nature.

There are States, my own State of Connecticut, for example, which do not use counties as a basis for developing statistical data. My amendment, very simply will allow those States that use basis different from counties for developing statistical data, and that are suffering unemployment of 6 percent or more within that area, to qualify for this program.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I believe these are good amendments, and I think the gentleman from Connecticut (Mr. DODD) has made an important point.

Mr. Chairman, we accept the amendments on this side.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, the gentleman from Connecticut (Mr. DODD) brought this question up with the chairman of the subcommittee. As a result, the amendments that have been proposed are acceptable to the committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut (Mr. DODD).

The amendments were agreed to.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to express my strong support for this bill to create a Young Adult Conservation Corps. We are all well aware of the great successes of the Youth Conservation Corps. This bill would extend that program by providing similar opportunities to the young people of our Nation who are too old to participate in the YCC.

When this Nation faced an even grimmer economic situation in the 1930's, the Congress created a Civilian Conservation Corps, known to many simply as the CCC. Through this program, the Federal Government was able to provide meaningful work for many Americans while at the same time, providing valuable service in the field of conservation. This program worked. It contributed to the country's economic recovery and to individual income maintenance. Many of our national and State parks and forests were improved and protected through the dedicated efforts of members of the CCC.

Remembering the successes of the Civilian Conservation Corps, the Congress, 6 years ago, established a pilot program under the name Youth Conservation Corps. Young men and women age 15 through 18 were employed during the summer months to perform outdoor work on various public lands and other public projects. This program gave many young people the opportunity to have a summer job near their homes in which they would feel that they were making an important contribution to their fellow citizens through improvement of our natural resources. Once again, this approach met with substantial success. Subsequently, the Congress made the program a permanent program for young people.

Mr. Chairman, I believe a proven program of this type should be expanded during this time of economic instability to give other individuals a similar opportunity to earn a living wage and at the same time contribute to the preservation of our environment. For this reason, I have joined in sponsoring legislation (H.R. 10601), identical to the bill before us today, which would create a Young Adult Conservation Corps for young adults between the ages of 20 and 24.

There are nearly 2 million young people in this age bracket who were out of work this past summer. Their unemployment rate of 13.6 percent exceeds the national rate. The need for this type of program, not only for job creating aspects, but also for conservation aspects, is well demonstrated. As only one example, I mention the fact that the Forest Service has a reforestation backlog of nearly 3 million acres. This would be the type of program which could easily be completed by a Young Adult Conservation Corps.

I hope that this House, recalling the outstanding record of the Youth Conservation Corps, will fully recognize the prospects of fulfilling a national need and will expand this concept to include this program for young adults.

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE: Page 12, line 5, after the word "flood" add "and other natural disasters".

Mr. WHITE. Mr. Chairman, I submit this amendment in order to cover a gap or an omission in the bill in the event other natural disasters occur, such as tornadoes, earthquakes, and other such events in which the corps would be needed in order to be of assistance in such disasters.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, the gentleman from Texas (Mr. WHITE) has discussed this amendment with the committee. We feel that the amendment is an improvement to the bill and the amendment is acceptable on this side of the aisle.

Mr. QUIE. Mr. Chairman, would the gentleman yield?

Mr. WHITE. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the amendment is acceptable on this side of the aisle.

Mr. WHITE. I thank the gentlemen from New Jersey and Minnesota.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was agreed to.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this particular time to express my commendation of the distinguished gentleman from the State of Washington (Mr. MEEDS), the prime sponsor of this legislation. I might also point out that the gentleman also was the original architect of the Youth Conservation Corps which has worked out so well over the past 5 years.

Mr. Chairman, I heartily recommend that all Members of this body support the legislation, H.R. 10138, that we have before us now. In my opinion this is a splendid piece of legislation which will provide year-round employment to young adults in worthwhile conservation activities that currently need to be done. The bill will not only alleviate the unemployment situation which is so severe among our young adults, but will also alleviate a serious situation, in my opinion, by permitting the performance of worthwhile essential conservation work which will cost substantially less this way than if we contracted for it privately.

I also wish to thank the distinguished chairman of the full Committee on Education and Labor (Mr. PERKINS) as well as the ranking minority member of said committee, Mr. QUIE, for their hard work and assistance in the development of this legislation. Their cooperation and help is much appreciated.

Mr. PATTISON of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in full support of this measure.

We are agreed that we must do something about the problem of unemployment now—that we cannot wait for a slow economic recovery to magically provide enough jobs. The question is: What is the best way to accomplish this goal? I believe that creation of a Young Adult Conservation Corps is one good answer.

First, it creates new jobs. It does not merely shift the cost of employment from local government to the Federal Government. One of the main weaknesses of the CETA program is that local officials too often simply lay off regular staff and replace them with CETA people. But this not only fails to increase employment, it also bypasses the Civil Service System and discriminates against laid-off municipal workers.

Second, it is aimed at young people. The group hit hardest by unemployment is the 18- to 23-year-olds. Unemployment is especially harmful to them, because they need jobs to learn the skills they will use the rest of their lives. The labor-intensive projects of the corps would fit their needs well.

Third, the CCC idea has the approval of the American people. Many remember the useful work accomplished under this program in the 1930's. They recognize that it is not a "make work" program, that these jobs need to be done, and that they would not otherwise be done.

Admittedly, jobs provided under this bill are "dead end" jobs. That is bad for 37-year-old fathers. But it is fine for 18- to 23-year-olds. They desperately need work and work experience, with the dignity, skills, and good habits such jobs can provide.

And this also means that the Young Adult Conservation Corps would not have the same problem of continuity that public employment plans do. Once these are started, they are almost impossible to stop. If you eliminate or reduce them, you take jobs directly from the market. You are right back where you started. But the Conservation Corps can be phased out without harm to the economy.

A CCC program is not the long-term answer to the unemployment problem. But it will create jobs for thousands of young people. It will accomplish work that needs to be done. It will help promote economic recovery. It will prepare young people to move into permanent jobs in a healthy economy. I urge your support of this legislation.

Mr. DOWNEY of New York. Mr. Chairman, Franklin D. Roosevelt when accepting the nomination for the President of the United States from the Democratic Party on July 2, 1932 stated:

> We know that a very hopeful and immediate means of relief, both for the unemployed and for agriculture will come from a wider plan of the converting of many millions of acres of unused land into timberland through reforestation . . . in so doing, employment can be given to a million men . . .

President Roosevelt's plan was initiated in 1933 with the establishment of the Civilian Conservation Corps which provided work for jobless men in reforestation, road construction, the prevention of soil erosion and the construction of national parks and flood control projects.

The CCC was a success—it relieved acute unemployment by allowing thousands to work on conservation programs already authorized and planned. The benefits that have accrued to the Nation in the form of roads, forests and park lands is without measure. The immediate benefit of employing thousands of young men in a time of dire economic need was clear.

We have a bill before us today that would creat a Young Adult Conservation Corp similar in scope and intent to the plan Franklin Roosevelt set in motion 44 years ago.

The program we are considering today would employ young adults between the ages of 19 and 24 for a maximum of 1 year to work on conservation projects which would otherwise be carried out if adequate funding were made available. Priority employment will be given to those persons living in counties where the unemployment exceeds 6% for a specific period of time.

Mr. Chairman, we have important jobs that need to be done in our national forests, parks and wildlife refugees—jobs and work that will improve and protect these most precious of our publicly owned resources.

And we have thousands of young men and women without jobs who are willing to do these important and necessary jobs.

Let the experience of the past be our guide. The CCC accomplished its ends without administrative conflict or difficulty until its termination in 1943. I urge my colleagues to support this worthy legislation before us this day.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it disturbs me that one of the principal justifications advanced by those in favor of this bill is that the creation of a Young Adult Conservation Corps will benefit society by decreasing youth alienation and crime. This simply is not true. By creating such a program we are merely dealing with symptoms of a larger problem and not attacking the cause.

In my opinion, the cause of crime committed by certain younger persons within our society is the breakdown of the traditional American values and institutions which have been built up over these past 200 years. The same is true for the sense of alienation which afflicts some of our younger citizens.

There is ample, if not overwhelming, evidence in support of my position. We see a divorce rate, and the resultant break up of the basic family unit, which is soaring out of sight. For those families, which somehow manage to remain intact, there is increasing parental disobedience which is oftentimes encouraged by forces and pressures from the outside.

There is an increasing permissiveness running rampant within our school systems. Students can attend classes if they want and so choose. Rules are either not made or else existing rules and guidelines are not enforced.

We see a criminal justice system which is spinning hopelessly out of control. Good laws which are made to govern public conduct are observed more in the breach than in fact. The handcuffs have been removed from the criminals and placed on law enforcement officers and agencies. Then we have the spectacle of judges who repeatedly turn hardened criminals loose on pretrial release programs so that more crimes can be committed and more people hurt. Should a criminal be convicted, he is all too often placed on probation with little or no supervision.

Perhaps most significantly there is a lack of spiritual and religious feeling. We, as well as our children, must recognize that we exist only by God's grace and at his pleasure. Churches are openly and publicly attacked; those who acknowledge God as their Creator are mocked. Children are not allowed to pray in public schools, and it is conceivable that further restrictions will be placed upon religious worship.

Family, fair and just laws which are vigorously enforced, together with our spiritual heritage, are just a few of the things which have made our Nation great. They alone can curb and eventually eliminate youth alienation and crime.

Mr. Chairman, I submit that legislation of this type is not the appropriate vehicle to solve the problems to which I have addressed these remarks. We are simply putting an ambulance at the bottom of a cliff, when we should be building a fence or a restraining wall at the top. Let us work to restore our past.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. Bennett, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 10138, to create the Young Adult Conservation Corps to complement the Youth Conservation Corps, pursuant to House Resolution 1209, he reported the bill back to the House with an amendment adopted by the Committtee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. QUIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 291, nays 70, not voting 70, as follows:

[Roll No. 302]

YEAS—291

Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bevill
Biaggi
Biester
Blanchard
Blouin
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Esch
Evans, Colo
Evins, Tenn.
Fary
Fascell

Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Hagedorn
Hall
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jordan
Kasten
Kastenmeier
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKinney
Madigan
Maguire
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Ohio
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Thompson
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—70

Abdnor
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Breaux
Brinkley
Burleson, Tex.
Chappell
Clancy
Clawson, Del
Collins, Tex.
Crane
Daniel, R. W.
Derrick
Devine
Dickinson
English
Eshleman
Evans, Ind.
Fountain
Ginn
Goldwater
Gradison
Haley
Hansen
Henderson
Holland
Holt
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Ketchum
Krueger
Latta
Levitas
Lloyd, Tenn.
Lujan
McCollister
McDonald
Mahon
Mann
Martin
Mathis
Michel
Milford
Montgomery
Moore
Moorhead, Calif.
Nichols
Passman
Paul
Poage
Robinson
Rousselot
Runnels
Smith, Nebr.
Snyder
Spence
Steiger, Ariz.
Symms
Taylor, Mo.
Teague
Thone
Waggonner
Wylie

NOT VOTING—70

Abzug
Allen
AuCoin
Bell
Bergland
Bingham
Boggs
Boland
Burlison, Mo.
Butler
Carter
Cederberg
Clay
Conlan
Conyers
de la Garza
Dent
Derwinski
Duncan, Oreg.
du Pont
Edwards, Ala.
Erlenborn
Fisher
Flynt
Giaimo
Hamilton
Hébert
Helstoski
Hinshaw
Howe
Hungate
Jarman
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
McCloskey
McKay
Madden
Mazzoli
Miller, Calif.
Mills
Mineta
Morgan
Nix
O'Neill
Quillen
Rees
Rhodes
Riegle
Risenhoover
Rodino
Roncalio
Sarbanes
Satterfield
Schneebeli
Schulze
Stanton, James V.
Stark
Steelman
Stuckey
Sullivan
Thornton
Udall
Walsh
Weaver
Whitehurst
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Hébert with Mr. Whitehurst.
Mrs. Boggs with Mr. Cederberg.
Mr. Zeferetti with Mr. Edwards of Alabama.
Mr. Mineta with Mr. Allen.
Mr. Bergland with Mr. Derwinski.
Ms. Abzug with Mr. Howe.
Mr. Boland with Mr. McCloskey.
Mr. Dent with Mr. Bell.
Mr. Duncan of Oregon with Mr. Erlenborn.
Mr. Giaimo with Mr. du Pont.
Mr. Hamilton with Mr. Quillen.
Mr. Rodino with Mr. Butler.
Mr. Stack with Mr. Conlan.
Mr. Udall with Mr. Hungate.
Mr. Mazzoli with Mr. Mills.
Mr. Litton with Mr. Carter.
Mr. Miller of California with Mr. Risenhoover.
Mr. O'Neill with Mr. Landrum.
Mr. Bingham with Mr. Sarbanes.
Mr. AuCoin with Mrs. Sullivan.
Mr. Jones of Tennessee with Mr. Jarman.
Mr. Morgan with Mr. Schneebeli.
Mr. Nix with Mr. McKay.
Mr. Rees with Mr. Thornton.
Mr. Roncalio with Mr. Satterfield.
Mr. Riegle with Mr. Jones of Alabama.
Mr. Helstoski with Mr. Schulze.
Mr. James V. Stanton with Mr. Walsh.
Mr. Weaver with Mr. Steelman.
Mr. Burlison of Missouri with Mr. Stuckey.
Mr. de la Garza with Mr. Young of Alaska.
Mr. Clay with Mr. Karth.
Mr. Conyers with Mr. Madden.
Mr. Fisher with Mr. Flynt.

Mr. HOLLAND and Mr. JONES of Oklahoma changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXTENDING EDUCATIONAL BROADCASTING FACILITIES PROGRAM

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9630) to extend the educational broadcasting facilities program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

> Page 3, line 12, after "university" insert: "or other educational or cultural institution which is affiliated with an eligible college or university".
>
> Page 8, line 21, strike out "June 30, 1976," and insert: "September 30, 1977,".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia would explain to us what this is all about.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, H.R. 9630, which was passed by the House on January 30, 1976, is a short and simple bill but nonetheless an important one. It authorizes appropriations for the public broadcasting facilities grant program which is administered by the Department of Health, Education, and Welfare. For that program, $7.5 million is authorized for the transitional fiscal period; and $30 million is authorized for fiscal year 1977.

The bill also authorizes the appropriation of funds for telecommunications demonstrations projects. For that program, $1 million is authorized for fiscal year 1976, and $250,000 is authorized for the transitional fiscal period.

The bill creates separate priorities for radio and television in the public broadcasting facilities grant program. In addition, the bill requires that the Secretary of Health, Education, and Welfare closely coordinate the administration of his functions outlined in this bill with both the FCC and the Corporation for Public Broadcasting.

The Senate passed this bill with two minor amendments on May 13, 1976:

The first Senate amendment is to section 4(a) of the bill and it proposes to broaden the eligibility of applicants under that provision to include other educational or cultural institutions which are affiliated with an eligible college or university.

The second Senate amendment to the bill (section 8) changes the authorization fiscal year from 1976 to 1977 for the telecommunications demonstration program.

I recommend that the Members of the House unanimously agree to the two minor Senate amendments and send this legislation to the President for his signature.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, those are the only two differences?

Mr. STAGGERS. Those are the only two differences.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the distinguished committee chairman giving this explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 12945, HOUSING AUTHORIZATION ACT OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1214 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1214

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12945) to amend and extend laws relating to housing and community development, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Banking, Currency and Housing now printed on page 24, line 3, through page 37, line 12, notwithstanding the provisions of clause 5, rule XXI. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12945, the Committee on Banking, Currency and Housing shall be discharged from the further consideration of the bill S. 3295, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 12945 as passed by the House.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1214 is the rule providing for the consideration of H.R. 12945, a bill to amend and extend laws relating to housing and community development.

It is an open rule, providing 2 hours of general debate divided in the customary manner.

The resolution waives points of order, under clause 5, rule XXI, which could otherwise be raised against portions of the bill and one committee amendment. The rules of the House prohibit appropriations in legislation reported by committees other than the Committee on Appropriations.

I should stress that there are no actual appropriations, in the normal sense, in this bill. The problem arises when committees undertake comprehensive review and revision of programs whose appropriations are running. Under the precedents, an authorization which has the effect of making funds available for new purposes not possible at the time the appropriations measure was enacted, are construed to be appropriations.

This is not an unusual situation and—in the absence of any indication of intent to bypass the appropriations process—neither is the waiver unusual. The Committee on Appropriations offered no objections to the granting of a waiver of points of order.

The rule also makes it in order to discharge the Committee on Banking, Currency and Housing from further consideration of S. 3295, to strike all after the enacting clause and insert, in lieu thereof, the text of H.R. 12945 as passed by the House. This will clear the way for the other body to ask for a conference.

Up to this point, the resolution is identical to House Resolution 1187 previously reported by the committee. At the time the committee first met, neither the Committee on Rules, the Committee on Budget, nor the Committee on Banking, Currency and Housing was aware of a possible violation of the Budget and Impoundment Control Act (Public Law 93–344).

It was subsequently learned that section 20 of the bill is in violation of section 401(b)(1) of the Budget Act:

> (b) Legislation Providing Entitlement Authority.—
>
> (1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

Section 20 of the bill provides that certain housing assistance programs shall not be used for the purpose of determining eligibility or benefit levels under SSI. Enactment of the provision as reported would automatically result in the obligation of additional moneys not subject to the budget process. As such the section is an "entitlement" within the meaning of the act and a point of order could be raised against consideration of the bill.

An agreement was reached under which the Committee on Banking, Currency and Housing will offer an amendment to the section which will delay the effective date until October 1, 1976, the beginning of the next fiscal year.

And the chairman of the Committee on Budget, based on the agreement, has indicated his support for the waiver. In his letter to the chairman of the Committee on Rules, the gentleman from Washington noted:

> I am advised that the Committee on Banking, Currency and Housing is prepared to offer a floor amendment to change the effective date of the provision in order to comply with the Budget Act. Thus, I would not oppose a waiver of the point of order under section 401(b) to permit floor consideration of the various provisions of the bill on the merits.

I would stress, Mr. Speaker, that—had the section been introduced in the form in which it is expected to pass—no waiver would be required.

Based on this agreement, the Committee on Rules met yesterday and reported the rule I have called up which, in addition to the provisions contained in House Resolution 1187, waives points of order which could be raised under section 401(b) and would have prevented consideration of this measure.

Upon adoption of the rule now pending, I am directed by the committee to seek to vacate the previous resolution.

The Committee on Rules has recommended the rule as a reasonable proposal to insure prompt House action on a measure which faces a relatively long conference with the other body. Notwithstanding a relatively broad range of waivers, the committee is confident that no damage is done to the process the rules were written to safeguard.

Because of the complexity of the rule, it has been my intention to confine my remarks to the questions which lie within the jurisdiction of the Committee on Rules.

I would, however, wish to make two points.

I would like to commend my colleague from Ohio (Mr. Ashley), the new chairman of the Subcommittee on Housing and Community Development, for his leadership on this legislation.

And I would like to speak in the strongest possible support for the amendment contained in the bill, offered in committee by the gentlewoman from Missouri (Mrs. Sullivan), the Federal Home Owners Loan Mortgage Corporation, originally proposed in legislation introduced by the gentlewoman and our esteemed late colleague from Pennsylvania, Mr. Barrett.

I commend my distinguished colleague for her tireless efforts on behalf of the most forgotten group in America—the middle-class family.

Mr. Speaker, I urge adoption of the rule so that we may consider the Housing Authorization Act of 1976.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the open rule granted under House Resolution 1214 calling for 2 hours of general debate on the bill H.R. 12945, Housing Authorization Act of 1976, is encumbered with waivers.

The rule waives points of order against the bill for failure to comply with the provisions of rule XXI, clause 5, which prohibits appropriations on a legislative bill. Because of the difficulty of locating every provision in the bill which violates this rule, the Committee on Banking and Currency requested a waiver of points of order against the entire bill rather than against specific sections.

House Resolution 1214 further waives points of order against the committee amendment beginning on page 24, line 3 through page 37, line 12, for failure to comply with the provisions of rule XXI, clause 5.

The rule makes it in order to strike out all after the enacting clause of a similar Senate bill, S. 3295, and insert in lieu thereof the provisions of H.R. 12945 as passed by the House.

One waiver of points of order is against the provisions of section 401(b) of the Congressional Budget and Impoundment Control Act of 1974, which makes it out of order for the House to consider any bill providing new entitlement authority which is to be effective prior to the beginning of the next fiscal year—October 1, 1976. However, this is to be changed to the proper date, according to the chairman of the Housing Committee.

Section 20 of H.R. 12945, which violates this entitlement authority, provides that the value of housing subsidies and rent supplements are not to be counted as income in determining supplemental security income—SSI—payments. CBO estimates the effect of this entitlement to be $82 million in budget authority and outlays in fiscal 1977, for which there is no provision in the first concurrent resolution.

Mr. Speaker, another problem with H.R. 12945 is the expenditure of $10 billion over a 5-year period for direct Federal loans to finance purchase of single-family homes with interest rates not to exceed 6.5 percent. This expenditure is an off-budget item that will establish a new Homeowners Mortgage Loan Corporation to make direct loans at 6.5 percent interest or less supposedly to credit worthy families of average income unable to obtain mortgages in the private lending market at reasonable interest rates.

The Director of the OMB may recommend a veto of H.R. 12945 if the provision to establish a Home Owners Mortgage Loan Corporation is not deleted.

I understand the administration opposes the following provisions of the housing authorization bill:

Extension of the period during which landlords can receive Federal subsidy payments for unoccupied section 8 units;

The provision earmarking annual contributions authority for public housing;

The unduly low unemployment trigger for countercyclical community development block grants;

The extension of the so-called "emergency" mortgage purchase and homeowners relief programs;

The extension of the rehabilitation loan program; and

The excessive authorization for section 202 direct loans.

Mr. Speaker, the bill obviously needs corrective action. Perhaps the rule should be defeated and the legislation sent back to the committee to bring it into line with administration recommendations and then provide a housing bill that can be supported and signed into law.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 35, answered "present" 1, not voting 76, as follows:

[Roll No. 303]

YEAS—319

Abdnor
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Biester
Blanchard
Blouin
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Derrick
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hughes
Hyde
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Ohio
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—35

Archer
Armstrong
Ashbrook
Bauman
Brown, Ohio
Burleson, Tex.
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Crane
Hansen
Hutchinson
Ichord
Kelly
Lott
McDonald
McEwen
Michel
Milford
Montgomery
Moorhead, Calif.
Paul
Poage
Roberts
Rousselot
Runnels
Snyder
Steiger, Ariz.
Symms
Taylor, Mo.
Teague
Treen
Wiggins

ANSWERED "PRESENT"—1

Daniel, Dan

NOT VOTING—76

Abzug
Allen
AuCoin
Bell
Bergland
Bingham
Boggs
Boland
Burlison, Mo.
Butler
Carter
Cederberg
Clay
Conlan
Conyers
de la Garza
Dent
Derwinski
Diggs
Duncan, Oreg.
du Pont
Edwards, Ala.
Erlenborn
Fisher
Flynt
Fraser
Giaimo
Hamilton
Hébert
Helstoski
Hinshaw
Hubbard
Hungate
Jarman
Jeffords
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
McCloskey
McKay
Madden
Mazzoli
Miller, Calif.
Mills
Mineta
Morgan
Myers, Ind.
Nix
O'Hara
O'Neill
Quillen
Rees
Rhodes
Riegle
Risenhoover
Rodino
Roncalio
Sarbanes
Satterfield
Schneebeli
Schulze
Shuster
Stanton, James V.
Stark
Steelman
Stokes
Stuckey
Sullivan
Thornton
Udall
Walsh
Weaver
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Cederberg.
Mr. Zeferetti with Mr. Edwards of Alabama.
Mr. Hébert with Mr. Allen.
Mr. Jones of Tennessee with Mr. Derwinski.
Mr. Mineta with Mr. Miller of California.
Mr. Bergland with Mr. McCloskey.
Ms. Abzug with Mr. Bell.
Mr. Boland with Mr. Erlenborn.
Mr. Dent with Mr. du Pont.
Mr. Duncan of Oregon with Mr. Quillen.
Mr. Giaimo with Mr. Butler.
Mr. Hamilton with Mr. Conlan.
Mr. Rodino with Mr. Hungate.
Mr. Stark with Mr. Mills.
Mr. Udall with Mr. Carter.
Mr. Mazzoli with Mr. Risenhoover.
Mr. O'Neill with Mr. Landrum.
Mr. Bingham with Mr. Sarbanes.
Mr. AuCoin with Mrs. Sullivan.
Mr. Morgan with Mr. Jarman.
Mr. Nix with Mr. Schneebeli.
Mr. Rees with Mr. McKay.
Mr. Roncalio with Mr. Thornton.
Mr. Riegle with Mr. Satterfield.
Mr. Helstoski with Mr. ones of Alabama.

Mr. Weaver with Mr. Schulze.
Mr. James V. Stanton with Mr. Walsh.
Mr. Fisher with Mr. Steelman.
Mr. Burlison of Missouri with Mr. Stuckey.
Mr. de la Garza with Mr. Young of Alaska.
Mr. Clay with Mr. Karth.
Mr. Conyers with Mr. Madden.
Mr. Flynt with Mr. Hubbard.
Mr. Diggs with Mr. Fraser.
Mr. Litton with Mr. Jeffords.
Mr. O'Hara with Mr. Myers of Indiana.
Mr. Stokes with Mr. Shuster.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar resolution (H. Res. 1187) was laid on the table.

EXPLANATION OF RULE REQUESTED ON H.R. 10210

(Mr. CORMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, I take this time to notify my Democratic colleagues in the House in compliance with the Democratic Caucus rules that today the Ways and Means Committee passed a motion asking for a partially closed rule on the bill H.R. 10210 that will include committee amendments.

One of those committee amendments will be to conform the bill to the budget resolution.

There will be separate votes on each of the four following amendments:

First. An amendment to section 111 requiring coverage of agricultural workers of employers with four or more workers in 20 weeks or who paid $10,000 in quarterly wages. Rather than four workers in 20 weeks or $5,000 in quarterly wages as in H.R. 10210.

Second. An amendment to strike section 115 that requires coverage of State and local government employees and employees of nonprofit schools.

Third. An amendment to section 211 raising the taxable wage base to $6,000. Rather than $8,000 as in H.R. 10210.

Fourth. An amendment to title III, adding section 314, requiring States to pay a weekly benefit amount equal to 50 percent of the claimant's average weekly wage, up to the State maximum. The State maximum must be equal to at least 66⅔ of the statewide average weekly wage covered in employment.

We will ask for an open rule on title IV and we will ask that there be one motion to recommit.

HOUSING AUTHORIZATION ACT OF 1976

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12945) to amend and extend laws relating to housing and community development.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. Ashley).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12945), with Mr. Charles H. Wilson of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Ohio (Mr. Ashley) will be recognized for 1 hour and the gentleman from Ohio (Mr. J. William Stanton) will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio (Mr. Ashley).

Mr. ASHLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Wisconsin (Mr. Reuss), the distinguished chairman of the Committee on Banking, Currency and Housing.

Mr. REUSS. Mr. Chairman, I rise in support of the bill, H.R. 12945, the Housing Authorization Act of 1976. This bill, which was reported out of the Committee on Banking, Currency and Housing by a vote of 23 ayes and 2 nays, will be the major piece of housing legislation that the House will consider this year. The bill provides for authorizations for the major assisted housing programs for fiscal year 1977 and also makes a number of changes in existing HUD-administered programs. It represents a very considerable amount of work by our Subcommittee on Housing and Community Development, chaired by our distinguished colleague from Ohio (Mr. Ashley).

H.R. 12945 provides for an additional $790 million in annual contribution contract authority to assist newly constructed, substantially rehabilitated, and existing units under the section 8 and conventional public housing programs. The bill also increased by $2.5 billion funds available over the next 3 years for the very popular section 202 housing for the elderly program, and increases funds available under the section 312 rehabilitation loan program by $100 million. It provides also for fiscal year 1977 funding for the section 701 comprehensive planning grant program, funds to cover losses to the FHA general insurance program, funds for HUD research projects, studies and surveys under the Federal flood insurance program, and funding for the department's administrative expenses for fiscal year 1977.

This bill also brings to fruition the long sought for program of direct Federal loans for moderate-income families that our distinguished colleague from Missouri (Mrs. Sullivan) has fought for over the past 7 years. This program would provide direct Federal loans for the purchase of single-family homes with interest rates not in excess of 6½ percent, and would authorize $2 billion a year over the next 5 fiscal years.

The subcommittee went into considerable detail in considering all of the HUD requests, particularly since so many Members of Congress and various groups around the country have expressed serious reservations concerning the operations of the Department of Housing and Urban Development. For instance, the subcommittee carefully reviewed the administrative operations of the Department. For the first time in a number of years, the members of the committee had the opportunity to determine for themselves the reasons for this important Department's failure to achieve the objectives that the Congress established some 8 years ago.

I urge the House's favorable consideration of this bill.

Mr. ASHLEY. Mr. Chairman, the bill we are considering is entitled the Housing Authorization Act of 1976, and it does make the needed extensions of HUD authorizations. Since it is anticipated that this will be the principal vehicle for housing legislation in this session of Congress, H.R. 12945 has been used to institute a number of needed changes in housing and community development programs.

Before going into the specifics of the bill, I think it worthwhile to make a number of observations about the state of housing in our economy and the state of the Department of Housing and Urban Development which has the major responsibility for administering the programs covered by this bill.

The homebuilding industry is operating at a modest level of recovery from its record lows of the past year. For the first quarter of the year, the rate of new housing starts was roughly at the seasonally adjusted level of 1.4 million units. This can be compared with the annual level of roughly 1.1 million starts for last year and the annual level of 2 million starts which characterized the boom years of housing.

But the total level of housing starts tells only part of the story. Almost all of the recovery which has occurred has been in the single family housing sector. Multihousing remains in a deeply depressed state—the annual level of starts for March was at a seasonally adjusted rate of 236,000 units, slightly more than 25 percent of the multifamily units produced in 1972. Vacancy rates have begun to reflect the severe drop in construction since that time—declining from roughly 6.3 percent in the second quarter of 1975 to just 5.4 percent in the last quarter of that year. This is an area of considerable concern since it must ultimately be reflected in sharp pressures for rental increases.

The other aspect of the housing scene which is of deep concern is the sharp increase in the cost of new homes. Thus in February the median sales price was $43,000 compared to about $38,000 in February 1975. For the past 6 months the increase has been at a 22-percent annual rate. This rate of increase is completely out of proportion to the improvement in the financial state of the average consumer and appears to contradict the publicity about the increasing importance of "no frill" housing. At current cost levels, 80 to 85 percent of the families in the United States are priced out of the ability to purchase a new home.

The functioning of the Department of Housing and Urban Development has been a matter of continuing concern to the Committee and to many Members of this House. There has hardly been an occasion on which I have testified about housing programs in which some Member of this body has not accosted me with some problems he has had in his district with the blundering or insensitive behavior of HUD officials. Over the past several years, HUD has been buffeted by frequent changes in policy direction from Congress and from its managers, inept execution of program functions, widespread corruption, and a sharp decline in staff morale and talent. At the same time, the department has not been completely responsive to congressional policy directives, particularly in the housing area, and too often has assumed an adversary posture in connection with your committee's efforts to assure that the laws are administered in accordance with congressional intent.

Fortunately, we are seeing signs of improvement in the management of the Department, but hardly enough to justify any easing of congressional concern. There are many program areas where this concern is justified, but on this occasion let us concentrate on only one—the gap between prediction and performance in the section 8 program to provide rental assistance to low-income families.

When the Congress passed the Housing and Community Development Act of 1974, in August of that year, the then Secretary of HUD talked with assurance about providing assistance in the first year to 400,000 families. Twenty months after enactment, that is the 30th of April of this year, there were just about 18,000 families receiving assistance under section 8. Let me repeat that the gap between prediction and performance is the difference between 400,000 and 18,000.

Of course, the administration does not like to talk about units occupied as a measure of performance. Understandably, they much prefer to discuss approvals which can roughly be defined as the completion of the first stage of the paperwork. In the 1976 budget, the administration projected that there would be 400,000 approvals for the current fiscal year for section 8. By the fiscal year 1977 budget this had been scaled down to 295,000. By April 30 of this year, 10 months through the fiscal year, there were slightly under 130,000 approvals. Clearly, even the substitution of approvals for occupancy does not give a very satisfactory picture of HUD performance.

H.R. 12945 does not provide any dramatic answer to the problem of meeting all of our Nation's housing needs or to improving the performance of HUD. But it does provide some new initiatives, some needed shifts in direction, and some improvements in the capacity of the Congress to exercise its oversight responsibilities.

The most significant authorization in the bill is contained in section 2 which provides for $790 million in annual contributions contract authority to assist newly constructed, substantially rehabilitated, and existing units under section 8 and public housing programs. Together with the $365 million carryover from prior years, this should be sufficient to assist about 400,000 housing units for low-income families. The program mix substantially conforms to that recommended by the administration. However, the bill does specify that $140 million of the $790 million shall be used only for traditional public housing and that $60 million a year be used for the modernization of public housing.

Two open-ended authorizations are proposed to be closed by this bill. The administrative expense authorization for HUD has been converted to an annual authorization and the amount provided for is equal to the administration's budget request. The authorization for HUD research activities has also been made annual and the level provided is slightly below the administration's request.

The authorization for the section 202 program of loans for elderly housing has been substantially increased to partially meet the extraordinary high level of demand for Federal assistance. This is an extremely popular program and one which has enjoyed a high level of fiscal success. The bill would increase the authorization by $2.5 billion in three yearly increments.

The section 235 program of homeownership assistance for lower income families would continue to be authorized through September 1977; and the level of eligibility for families would be increased from the present 80 percent of median income for the area to 95 percent of that level and the mortgage limits would be raised to conform to present price levels. Mobile homes would be made eligible for this assistance provided that they were at least two modules and were sold together with the underlying land.

Authorizations are also provided in the bill for continuation of the section 701 comprehensive planning program and the section 312 rehabilitation loan program; $100 million is authorized for studies and surveys under the flood insurance program and $500 million is authorized to cover losses to the FHA general insurance fund.

Two new programs are authorized in the bill. Section 19 would create a supplemental community development program to make grants for community development purposes whenever the national rate of unemployment exceeded 6 percent. Such funds would be channeled to States and cities where there were rates of unemployment in excess of 8 percent.

Section 22 of the bill establishes a direct housing loan program administered by a new independent Federal agency, the Home Owners Mortgage Loan Corporation, to provide mortgage financing of up to $30,000 at an interest rate of 6½ percent or less, for terms up to 30 years, for purchase of single-family dwellings or units to be owned and occupied by credit-worthy moderate income families unable to meet their housing needs at reasonable interest rates from other sources, public or private.

In addition, the bill contains several other important provisions, including a permanent exemption from the prohibition under the flood insurance program against federally related loans being made to finance the sale of existing properties in flood-prone communities which are not participating in the flood insurance program; changes in the section 8 program to make financing of section 8 projects more feasible; a revised FHA co-insurance program for State housing finance agencies and certain insured depository institutions; a reallocation of $200 million in community development block grant funds for fiscal year 1977 to assure adequate funding for smaller communities in metropolitan areas; a clarifying provision providing that housing subsidies are not to be considered as unearned income in determining the eligibility for, and the amount of supplemental security income payments; an extension of the authority of the Farmers Home Administration to make loans in nonmetropolitan communities over 10,000 but under 20,000 in population to those communities in which there is a serious lack of mortgage credit for low- and moderate-income families; and an extension of the two programs contained in the Emergency Housing Act of 1977—homeowners' relief loans and below-market-rate mortgages, purchased by GNMA—from July 1, 1976, to October 1, 1977.

I think it important that H.R. 12945 be considered in the light of action by the other body. They have already acted on a companion measure which in the judgment of many members of the Banking, Currency and Housing Committee, has serious deficiencies. Let me assure you that if the House passes H.R. 12945 substantially in the form in which it was reported your conferees will be in a strong position to present the views of the House and to stand firm in defending them.

We must also consider possible action by the President on this legislation. Clearly there are parts of this bill which are not at all to the liking of the administration. Some staff people around the President have suggested that there are provisions in this bill which would invoke another veto. Our responsibility, of course, is to consider the bill for what it is—keeping what is wise and striking or amending what is unwise. If we act in a responsible manner, I think we have little to fear in the way of veto threats.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I have one question. On housing for the elderly and handicapped, I notice that section 202 finances construction of approximately 105,000 units. Are they strictly units to be bought, or are they rental units?

Mr. ASHLEY. These are rental units. It is new construction. The 202 program is a direct loan program.

Mr. GOODLING. The problem I am having is that I have about 30 letters in my office at the present time saying the elderly cannot move into public housing because they do not make enough money.

Mr. ASHLEY. They do not make enough, or they make too much?

Mr. GOODLING. Not enough.

To give the gentleman an example, a 74-year-old woman, whose income is $2,800 a year, cannot move in because she does not make enough money to pay the amount that they think she should pay in order to keep the system going.

I have a letter in to the Secretary in relation to that. But that is the way it is operating.

Is there any guarantee here that people with too little income would not be penalized in these programs?

Mr. ASHLEY. Indeed there is. Section 202, the housing for the elderly direct loans program, under that program it is possible for there to be combination of the 202 program and section 8. The section 8 housing program is designed specifically to help provide shelter for people from an income of zero up to 80 percent of median in the area.

Mr. GOODLING. I understand the problem is that from on high somewhere they have indicated to those who are operating these programs that we want less deficit and less Government spending going into the program; therefore, we want you to weed out those who are of such income that they could not pay more than someone would pay who has an income of more than $2,800. I have letters to that effect.

Mr. ASHLEY. To the best of my knowledge, that is not administration policy. At least if it is, I have not heard anything to support that. I am sure that HUD would take a very contrary position. The program was designed and structured, as I say, to provide housing assistance for families or individuals having from zero income up to 80 percent of median in the area.

It is not the function or responsibility of HUD to certify tenants on a 202 project.

Mr. GOODLING. They are doing it now. She was 4, 2 years ago; and now she is 8.

I have drafted a letter to the Secretary.

Mr. ASHLEY. I suggest to the gentleman that this is an administrative problem that the committee would be happy to look into, or HUD.

Mr. GOODLING. I have directed the letter, and we inquired of HUD.

Mr. ASHLEY. The gentleman asked me one question, which I sought to answer, which is: Does the 202 program accommodate individuals or families with very modest income? And the answer is yes, when in tandem with the section 8 program.

Mr. GOODLING. I will get the facts to the committee. Perhaps the gentleman can help me.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I thank the gentleman for yielding.

I have a question for the gentleman from Ohio concerning section 11 of the bill. This section provides an exemption from the flood insurance sanctions for owners of existing homes. It allows them to obtain loans to refinance their homes without any statutory restrictions. However, it is my understanding that the committee does not intend that such exemption should apply to the refinancing of major additions to a dwelling since this refinancing would substantially increase the loss exposure of the Federal Government in case of flood damage. Am I correct on that?

Mr. ASHLEY. The gentleman is correct. The reason that the restriction against major additions to the house was not placed in the statute was because it seemed unlikely that this would occur in very many instances, and it was felt that a statutory burden would require considerable paperwork and responsibilities on the part of lenders without corresponding benefit. It was felt that lenders could, and would naturally, seek to restrain such activities without strict prohibitions. I expect that the Federal Insurance Administration will issue general guidelines instructing lenders to refrain from such loans.

Mr. J. WILLIAM STANTON. I thank the gentleman.

If the gentleman will yield further, I just have one final question.

There is some question concerning the $17 million set-aside for Indians, and whether the use of such funds for new construction or substantial rehabilitation will count as new construction or substantial rehabilitation for purposes of the 50 percentum requirement of section 2(a) (3). It is my understanding that the $17 million will be counted against the 50 percentum requirement to the extent it is used in such manner. Is that correct?

Mr. ASHLEY. Yes. That is certainly the recollection of the gentleman in the well with respect to the intent both of the subcommittee and the full committee.

It is my positive recollection that this matter was discussed, and it is certainly my understanding on the basis of those discussions that this set-aside, to the extent that new units—that is to say, new units that come out of the set-aside—are attributable and those new units would count against the overall set-aside.

Mr. J. WILLIAM STANTON. Mr. Chairman, I thank the gentleman.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Michigan (Mr. Brown).

Mr. BROWN of Michigan. Mr. Chairman, as ranking minority member of the Housing Subcommittee, I wish to express my concern over this legislation. Portions of this bill are unwise and create an administrative problem for HUD which will, in turn, give a headache to local communities around the country. And, once again, that headache will bear the label "Made in Washington."

In particular, I am referring to the series of statutory set-asides for housing assistance found in Section 2 of the bill. This successive fragmenting of the authorization will result in major administrative problems for HUD and distort the ability of local communities to plan for their housing needs.

For instance, we provide $850 million in new contract authority which is split $790 for additional units and $60 million for modernization. If, as the evidence indicates, the $60 million cannot be absorbed by local housing authorities—those funds are lost as possible new housing units for our needy.

Of the $790 million, at least 50 percent must be for new construction under section 8 or public housing. But, that restriction is not enough—$140 million must go to public housing agencies for acquisition or development of projects they will own and $17 million must go to Indians on top of the $140 million.

The result of all of this is to restrict the use of housing assistance funds so as to placate various vested interest groups. By requiring the resumption of public housing, this bill will lead to the need for additional budget authority above that contemplated in the administration's budget and will surely add to future operating subsidies in the years to come. Currently, operating subsidies drain off needed Federal funds at a rate of almost $600 million a year and are increasing rapidly. To compound the mistakes of the past is regrettable—especially when it is so easily avoided.

In the 1974 Housing and Community Development Act we established a process whereby local communities would assess their own housing and community development needs, and so long as these assessed needs were not "plainly inconsistent" with generally available facts and data, and the planned use of the funds was not "plainly inappropriate" to meet those needs, the local community would be spared Federal second-guessing and intervention. That was a good idea then and it is still a good idea. Unfortunately, members of the majority have taken up the "Washington knows better" banner once again and the result can be found in H.R. 12945.

Last year, members of the Housing Subcommittee, including myself, argued forcibly and correctly against a HUD appropriations conference report which included a set-aside that required a percentage of the housing funds—50 percent—be used for new construction, regardless of what the local communities determined their needs to be. The vote on this Senate amendment, which was technically returned in disagreement for a separate vote, was 202 to 174.

Now, we have come full circle with the Housing Subcommittee, legislating a series of set-asides which will require a computer and a 10-page memo to explain what type of housing is available to a local community. Housing assistance will not be based on what they need, it will be based on what we want to give them.

As a result, Mr. Chairman, I plan to offer one or more amendments to try and remove these artificial limits from the bill, and return the decisionmaking power on housing back to local officials.

Mr. Chairman, at this point I would like to place in the Record a letter I received from Secretary Hills, commenting on a number of the provisions in H.R. 12945:

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., May 11, 1976.

Hon. GARRY BROWN,
House of Representatives,
Washington, D.C.

DEAR MR. BROWN: In response to your request, I have reviewed those portions of H.R. 12945, the "Housing Authorization Act of 1976," as reported by the Committee on Banking, Currency and Housing that would establish mandatory set-asides for new construction and public housing. Frankly, I am very concerned with these provisions. I do not believe the set-asides serve our mutual goal of providing decent, safe and sanitary housing for low-income people in the most efficient and economical fashion.

Section 2 of the Committee bill would provide for an FY 77 authorization of $790 million in annual contributions contract authority for the provision of housing for low-income families under the United States Housing Act of 1937 as amended. At the same time, this section would limit our flexibility by requiring that at least 50 percent of the additional contract auhority be made available for newly constructed or substantially rehabilitated units and that at least $140 million of the new authority be used for the development or acquisition of public housing. Moreover, $17 million is set aside specifically for public housing for Indians in addition to the $140 million for public housing generally.

This mandatory categorization of the use of scarce housing assistance resources would severely disrupt program delivery, would delay adequate shelter for its intended beneficiaries, and would erode the local flexibility that was the keystone of the 1974 Housing and Community Development Act. It would alter the mix of Federal housing programs in a way that is likely to impact negatively both on the dollar effectiveness of those programs and on the timely delivery of housing assistance to low and moderate income families.

More specifically, the bill would reactivate the conventional low rent public housing program at a substantial level of activity only two years after Congress itself determined to replace that program with a new rental assistance mechanism. The disadvantage of conventional low rent public housing, which led to its abandonment as a major Federal housing program, have been catalogued so often as scarcely to need repetition. A nineteen-fold increase in operating subsidies, the geographic concentration of social problems and the exclusion of private sector involvement or private market discipline from the program's operation have all been well documented.

The proposed resurrection of public housing takes place largely at the expense of the Section 8 program, which was drafted to avoid the failings of public housing and is just beginning to demonstrate its true potential. Section 8 can deliver housing to needy families more quickly than conventional low-rent public housing. And the diversion and retraining of staff from Section 8 to public housing can only slow the process down even further. Quite apart from the good intentions of this move, it will be lower income families most in need of immediate housing assistance who will be most adversely affected by the bill's precipitous reversal of the Section 8 program.

Moreover, the bill's requirement for 50 percent new construction within the Section 8 program is inconsistent with the 1974 Act's flexibility to adapt Federal housing assistance to the particular conditions and needs of individual communities. The Section 8 program requires communities to assess their housing needs in their Housing Assistance Plans. Narrow mandates for new construction eliminate this local discretion.

Also, the bill's separate set-asides would create an administrative nightmare. The administrative controls necessary to assure compliance, ranging from funds assignments to program reports from our 77 field offices would result in a morass of paper shuffling, which will slow down production and delay program delivery. Finally, the combined effect of this and other provisions of the bill is to increase the potential cost to the taxpayers by about 4 billion dollars in budget authority above that which is proposed in the FY 77 budget request.

For these reasons and others, I am very disappointed in the direction the Committee has taken in the "Housing Authorization Act of 1976." I can only hope that changes will be made during debate on the Floor.

I appreciate this opportunity to share with you my views on these particular elements of H.R. 12945.

Sincerely,

CARLA A. HILLS.

Mr. Chairman, there is one other point I would like to make.

Section 20 of H.R. 12945, the Housing Authorization Act of 1976, seeks to correct a grave inequitv for the aged, blind, and disabled which has been created by statutory differences in title 16 of the Social Security Act and the U.S. Housing Act.

While the inequity is fairly widely recognized and the remedial action is clearly a matter requiring legislation, the enactment of section 20 will involve a budget impact which our colleagues will want to evaluate in proper perspective.

The problem is simple, but most unfortunate. The aged, blind, and disabled members of our society who are dependent upon supplemental security income, SSI, may not receive the benefits of our primary Federal housing assistance program without suffering an effective rent which may be double that paid by others.

This occurs because section 612 of the SSI title requires that housing assistance which is received by an SSI recipient under the section 8 or rent supplement programs, must be counted as "unearned income." In consequence, a dollar for dollar reduction in SSI payments, assumed to be one-third of SSI income, must be made.

At the same time the section 8 and rent supplement programs require that the tenant shall pay "not to exceed 25 percent of income" for rent.

Strangely, the definition of unearned income does not require reduction of SSI payments for public housing assistance or other housing programs, because the amount of assistance to each individual is not easily determinable.

Also, there is no similar double bite under other public assistance programs.

The unfortunate, and I am sure the unintentional, effect of all this is displayed in the chart which I will provide to follow at this point in the record.

You will note from the chart that all tenants with income of $157.70 per month, living in public housing will pay total rent of $39.42 per month or not to exceed 25 percent of income.

You will also note that this is also true for those receiving SSI payments.

In contrast, for SSI recipients living in section 8 or rent supplement housing, the effective rent is a double bite. For simplified illustration, in the computation the maximum SSI payment is reduced by one-third and the balance is reduced by 25 percent to allow for the direct rent to be paid by the tenant. The result in both cases is that the effective rent amounts to 50 percent of the SSI payment. The ultimate effect is to deny the use of section 8 and rent supplement housing to SSI recipients because the cost is too dear.

Mr. Chairman, I do not believe that any of our colleagues intended to treat SSI recipients differently from the recipients of other assistance programs. Certainly, those of us on the Housing Subcommittee were most concerned that equity and reason be served by setting rents in Federal housing as a percentage of one's income. We know now that this effort did not take into account difficulties with the computation of SSI payments for those living in Federal housing.

Of course, there will be an impact on budget costs. It is estimated by the Congressional Budget Office to run $14.2 million and $82.4 million for the transitional quarter and for fiscal year 1977, respectively.

I am bound as many of our colleagues to a strong conviction in maintaining fiscal restraint and strict adherence to a budget control process. In this instance, I am convinced that we have no choice but to correct wrong unknowingly imposed upon our aged, blind and disabled citizens.

I hope our colleagues will support the action proposed in section 20 which will set this matter straight—at what must be accepted as reasonable cost.

COMPARISON OF EFFECTIVE COST OF RENT IN FEDERALLY ASSISTED HOUSING BY CATEGORY OF TENANT—ASSUMES TENANT INCOME OF $157.70/MO

[Maximum SSI payment for single person]

	Federal program [1] (per month)		
Source of income	Public housing	Sec. 8	Rent supplement
Social security (only)	$39.42	$39.42	$39.42
Salary	39.42	39.42	39.42
SSI (only)	39.42	[2] 78.84	[2] 78.84

[1] Tenant rent payments may not exceed 25 percent of adjusted income.

[2] The effective rent for SSI (only) recipients, living in sec. 8 or rent supplement housing, includes: 1st, a reduction in SSI payments to compensate for unearned income being provided through the housing assistance program, and 2d, direct rent payments amounting to 25 percent of the remainder of the SSI payments.

EXAMPLE—SINGLE PERSON

SSI monthly income (maximum)	$157.70	
Less ⅓, compensation for unearned income received	(−)52.56	$52.56
Balance	105.14	
Less 25 percent for direct rent payment	(−)26.28	26.28
Balance (after housing costs)	78.86	
Effective rent		78.84

EXAMPLE—SSI COUPLE

SSI monthly income (maximum)	236.60	
Less ⅓, compensation for unearned income received	(−)78.86	78.86
Balance	157.74	
Less 25 percent for direct rent payment	(−)39.43	39.43
Balance (after housing costs)	118.29	
Effective rent		118.29

SUMMARY

In each example 50 percent of SSI income is required as the effective cost of rent in Section 8 and Rent Supplement housing—No other group pays in excess of 25 percent of income.

In public housing, the SSI tenant does not suffer the added reduction in SSI payments (as compensation for unearned income from Federal Housing Assistance), and pays only 25 percent of income as effective rent.

Mr. ASHLEY. I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I am certainly aware of all the work my colleague, the gentleman from Ohio (Mr. ASHLEY), has done in this area. I certainly appreciate it, and I know no Member has worked as hard as he has.

Mr. Chairman, at this point in our debate on this legislation, I would like to point out one problem to my colleague from Ohio, who has worked long and hard to construct what I feel is a good, sound approach to both the present and future housing needs of this country.

Section 8 of this bill seeks to extend the Emergency Homeowners' Relief Act, which this body passed last spring, through September 30, 1977. I voted for the original bill because I wanted to provide assistance to those of our people who were unemployed or underemployed as a result of the economic situation and, therefore, could not meet their mortgage commitments. I wanted to help those people keep their homes. The fact is that many of our people are still in danger of losing their homes and the Secretary of Housing and Urban Development has chosen not to implement this program. The question, therefore, remains, what are we going to do to help our people keep their homes? This bill does nothing to encourage or require the Secretary to implement the emergency mortgage relief program—EMRP.

This EMRP is designed to provide loans, guarantees and/or cash payments of up to $250 per month to allow homeowners to remain homeowners. Pursuant to the standby authority provided in Public Law 94-50, and I would like to point out that only because of the need to compromise with the President last spring are we forced into this discussion, the Secretary has devised a national implementation plan that she "may" initiate if a newly constructed national index of mortgage foreclosures reaches 1.2 percent. The index has never been above 1.18 percent. She obviously does not intend to help.

Some of my colleagues are pointing to figures which indicate that things are generally looking brighter. While I am optimistic and as hopeful as anyone here in the well, there are some figures that disturb me. For instance, last September, 3,639 FHA mortgages were foreclosed. In October, 3,604; November, 3,027; December, 3,167; January, 3,104; February, 2,610; and March, 3,262.

Notice that while the trend was generally encouraging through the first part of this year, in March the number of foreclosures was again on the increase. Since September 22,413 FHA mortgages have been foreclosed. Those foreclosures resulted in a great deal of suffering that could have been prevented if the benefits of the EMRP had been available to the people involved.

Unless the Congress directs the Secretary to launch her plan now or mandates a regional rather than a national plan, which would mitigate some of the administration's objections, people will continue to lose the homes that they have worked so hard to buy and maintain.

I have introduced legislation that would remove the standby authority that we have provided to the Secretary of HUD and would effectuate the immediate implementation of the EMRP. We must at least provide the benefits of the program to cover all FHA-insured mortgages. Certainly we have an obligation to help those people who are being foreclosed upon by HUD-approved mortgagees who only want to extricate their money and move away from the properties.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Housing Authorization Act of 1976 can perhaps best be described as a conglomerate mixture which includes some good news and some bad news. The good news is that we have provided in this bill the necessary authorizations which are needed by the Department of Housing and Urban Development to carry out its mission and responsibilities for fiscal year 1977. The bad news is that we have done so in a manner which, unless the bill is properly amended will surely create a spider's web of administration booby traps that will needlessly complicate and hamstring Secretary Hills' efforts to provide assisted housing for low- and moderate-income families in this Nation. The only silver lining I see is that by comparison to the bill which has passed the Senate, we are rank amateurs. While we have set up an obstacle course, the Senate bill provides a veritable mine field by creating a maze of mandates and set-asides that can best be described as a bureaucrat's delight.

The House bill provides for $790 million of additional contract authority under section 5 of the U.S. Housing Act of 1937 to become available in fiscal year 1977 in amounts approved in appropriation acts. The administration request was for $850 million. The committee, in its wisdom, set aside an additional authorization of up to $60 million for modernization of public housing projects which represents a 300-percent increase over the budget request in funding level.

H.R. 12945 requires that 50 percent of the contract authority be utilized for new construction, thus imposing an arbitrary Washington designed figure that would have to be apportioned out to the various HUD regions regardless of vacancy rates, individual housing assistance plans, and local priorities for new versus existing.

In addition, the bill directs that $140 million in contract authority be made available for the development or acquisition of nonsection 8 projects to be owned by public housing agencies. Because of the uncertainty of new section 8 construction, the 50-percent new construction requirement almost certainly will require that a significant portion of the conventional public housing set-aside be utilized for new construction, even though there may be situations where we are then building new public housing alongside old public housing projects which have fallen into disrepute.

The committee has also elected to include a specific authorization for administrative expenses, and although this provision has been modified so as to take account of new or expanded programs which the Congress may require, and make allowance for staffing requirements in appropriation acts, it is a potential vehicle for future mischief. For such an administrative ceiling to have any rational basis, in fact, would require our committee to become far more expert in such things as work measurement studies and, indeed, to duplicate the kind of detailed budget justification which already takes place in the appropriations process. Otherwise, we are merely providing an annual vehicle for amending housing programs and increasing the uncertainty that already plagues the housing industry. Builders, developers, city planners all have to plan ahead. If every new program is to be changed or amended in its infancy, the tendency is going to be to wait and see what happens next year.

There are other concerns I have with the bill, but I do not want to convey the impression that this measure is a total exercise in futility. It is not. We have proposed new authority for coinsurance to facilitate a multifamily project coinsurance program for public housing agencies including State housing agencies and insured depository institutions. This should be helpful in making new section 8 projects more feasible than is now the case under current conditions in the financial markets.

We have amended the 1974 Housing and Community Development Act to insure that at least $100 million in discretionary funds is available for communities other than entitlement and hold harmless communities in standard metropolitan statistical areas.

There are, indeed, many provisions which will enhance HUD's ability to carry out its basic mission. I urge all Members to read the views expressed in the minority report and to carefully consider tomorrow those amendments which we believe will make this a much better bill, and which will alleviate the concerns which Secretary Hills has insofar as her being able to administer a variety of complex programs. I hope we will also keep in mind that we will be going into conference with our Senate counterparts on a bill which has already been the subject of a veto recommendation by the Secretary. We are going to have some very wide gaps, and the narrower that gap becomes by virtue of our actions tomorrow, the less likely we will have a bill that the President in good conscience can sign.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), a member of the Subcommittee on Housing.

Mr. LAFALCE. Mr. Chairman, the bill

before the House today is the product of extensive hearings and hard work at the subcommittee and full committee levels. It is a fitting memorial to Bill Barrett, who was one of the authors of the original version; it is equally a testament to Lud Ashley, our new subcommittee chairman, who played such a major role in shaping major portions of the bill.

Housing policy in the United States is something of immense importance. Our houses provide us with one of the basic necessities of life, without which our other pursuits and dreams have little significance.

Yet national housing policy has been so lax, particularly during the last 8 years, as to make one wonder whether we have a housing policy at all. Nor is there any evidence that the administration has any serious intentions to change this approach in any meaningful way.

Which is another reason why, in my judgment, this bill has importance beyond its specific provisions. For it constitutes what I consider to be a very able attempt to provide some direction and policy guidance and to do so in a constructive way. The degree of cooperation between the subcommittee and HUD in preparing this bill has been high and, although HUD has seen fit to find fault with some of the provisions, I think all would agree that the process was fair and that meaningful and conscientious efforts to compromise were made.

When we get to amendments we will see a number of them proposed. I will support some of them and I will oppose some of them. Today, however, I would like to address myself to two of the proposed committee amendments and one other section in the bill itself.

The two committee amendments both deal, in different ways, with the need for Federal policies to address, more than they have, the question of preservation of older urban areas. Our population rise is decreasing; more and more people are concerned less with the quantity of growth in their communities than with the quality. The energy crisis and a number of other factors make the "American dream" of the 1950's and 1960's more of a nightmare to more and more people—a nightmare of difficult and costly commuting. And while the suburbs are losing some of their appeal, the cities are close to dying.

The neighborhoods which are located closer to employment centers in the cities have, in all too many instances, been allowed to deteriorate. Some have reached and passed the point of no return; for them, major surgery is necessary. But others, where the process of decay has not yet reached unmanageable proportions, can be saved, often with minimal support from the Federal Treasury.

URBAN REINVESTMENT TASK FORCE

The Urban Reinvestment Task Force, a joint venture between HUD and the Federal Home Loan Bank Board, is in the business of seeking to facilitate neighborhood preservation efforts with an emphasis on self-help, private investment, and a minimum of Federal involvement. I support those efforts and I am pleased to note that the experience to date in the 20-plus cities where the task force has active programs indicates that with a lot of hard work successes can be achieved.

Because I support those efforts I was receptive when the task force came to me seeking my help in getting a minor, technical amendment to HUD's research authorization. The amendment, agreed to unanimously by the committee, enables the HUD Secretary to delegate the right to make contracts and grants to other Federal agencies. Having this authority will enable the Urban Reinvestment Task Force to carry out its functions more smoothly and more quickly. I urge that we retain this amendment.

COINSURANCE

The second committee amendment I want to discuss today is another on which I worked long and hard. This is the provision making changes in the coinsurance program embodied in section 244 of the National Housing Act.

Coinsurance, instead of traditional FHA programs where the Federal Government insures 100 percent of a given risk, has a number of significant advantages. Properly run, it should reduce the Federal Government's exposure to risk. Perhaps more important, it put another lender, private or public, into a position of risk along with the FHA, thus increasing the interest coinsuring lenders will show in coinsured properties. Finally, by substituting the coinsurers' underwriters for FHA's, it should enable more rapid processing of loan requests, eliminate costly redtape, and free up FHA personnel to provide overall guidance and controls on programs, rather than working on individual cases.

Coinsurance for single-family mortgages is just getting underway now in two trial programs, one in California and the other in Ohio. HUD has announced that this aspect of coinsurance will be broadened to the entire Nation by this summer.

Yet the changes embodied in the committee amendment are needed now, for they reflect the realization by all concerned—the committee, HUD, and potential coinsuring lenders—that section 244 as it is presently written does not permit the implementation of an effective and workable coinsurance program for multifamily housing.

A two-pronged coinsurance program covering both single- and multi-family housing, is a good example of the kind of thing where the totality may well be more than the sum of its parts. Many neighborhoods, especially the relatively marginal ones where programs of this kind are most needed, have both single- and multifamily housing interspersed among each other. Investors will be far more willing to take risks in such neighborhoods, it seems to me, if they know that they can take action with respect to both aspects of a problem, rather than just one of them. So providing a coinsurance program which will permit participation by coinsuring lenders in the rehabilitation and refinancing of multifamily housing is an important step not only in its own right but also in fostering greater use of coinsurance for single family housing.

A number of members of the committee were concerned that an effective coinsurance program for multifamily projects undertaken by State housing finance agencies be made possible in this bill. It was felt that having coinsurance from the Federal Government backing up projects of these agencies would help make the bonds they sell to finance the projects more marketable.

I come from New York State, where there have been highly active State and local housing finance agencies whose ability to go to the market has been more severely impaired than those in other States, partly because of the travails of New York City's and New York State's budgets. So I supported the idea of doing what is necessary to facilitate an agreement between these agencies and HUD on a coinsurance program.

But I didn't think that was enough. For in New York State and elsewhere a lot of multifamily housing is financed by private lenders. This is particularly true for projects requiring minor rehabilitation work in older urban areas—projects which have not been financed to any real extent by the public agencies. So I was more than receptive when representatives from savings institutions contacted me and indicated a desire to get into coinsurance for multifamily housing.

I became involved, therefore, in working up amendments to section 244 which will permit greater use of this concept by both the State housing finance agencies and by insured depository institutions—banks and thrift institutions which in many places and for many kinds of projects are the only sources of financing for multifamily projects.

There are legitimate concerns about this approach and how well it can be carried out. HUD's administration of this program will play a large role in how effective it will be. The committee amendment, therefore, contains restrictions which will enable HUD and participating lenders to test the program thoroughly and make sure it can work without unduly disturbing existing housing finance mechanisms. I believe that it can and will work and that in time it may prove to be more effective than traditional insurance programs.

For I believe that this program will increase the amount of private investment in multifamily housing in older urbanized areas of the country and, at the same time, increase the quality of servicing by lenders to such projects because of the fact that they will be sharing the insurance risks with the FHA. Increasing private investment in our neighborhoods is one of the most important things we can do as part of a comprehensive preservation and rehabilitation strategy.

I do not see coinsurance as a panacea, as the one answer to our urban housing ills. But I do see it as one more tool to use in a long-term effort which will require lots of people working very hard over a period of many years. That effort can be successful, in my judgment, and it will help us save our central cities—the heart of our metropolitan areas.

COMMUNITY DEVELOPMENT COUNTERCYCLICAL PROGRAM

The third portion of the bill which I want to discuss is the supplemental community development block grant program. This proposal, embodied in section 19 of the bill, provides automatic assistance to communities of high unemployment on a countercyclical basis through the existing structure for the community development block grant program.

There are those who may say that another approach—that contained in the other body's public works bill—is a better way to provide countercyclical benefits to communities during periods of high national unemployment.

I agree with the countercyclical concept. I think that enacting this concept, in this bill or in the public works bill, is an important first step toward reordering national priorities and giving proper attention to those areas of the country which have been asked, for reasons far beyond their own control, to bear more than their fair shares of the burdens of national economic troubles. It is no accident that these areas have tended, by and large, to be concentrated in the larger, industrialized States in the Northeast and Midwest.

Yet there are pockets of relatively higher unemployment in all States. And those communities deserve special Federal assistance during times when the national economy is not totally healthy.

The countercyclical program contained in this bill would provide an estimated $1.2 billion during the next 12 months to communities with unemployment rates of over 8 percent. These are the areas of the country which have been hardest hit by recession; they are the areas least able to help themselves along the road to recovery. It is both proper and ultimately cost effective for the Federal Government to discourage economic dislocation and mass migrations from relatively less well off regions to those which have stronger economies. For when people leave one area they create a demand for new facilities and services in their new locales while leaving behind already existing, and usually sound, facilities and services in the areas they left. This is a national inefficiency which we can ill afford in these days of increasing scarcity of resources.

When this program was first proposed, when this bill was being considered at the subcommittee level, the "trigger" for implementation of the program was set at a national unemployment level of 7 percent. At that time the unemployment rate in my congressional district was almost double that and the national rate was 7.8 percent and declining. I felt then, and maintain now, that when the national unemployment rate reaches 7 percent we will not be anywhere near fully recovered from the recession, and I can be almost absolutely sure that the rate in my district will still be in double figures. That is unacceptable from any standpoint, and I think that any Federal program designed to assist communities hardest hit by unemployment in a countercyclical way should be more effective than this would have been.

Accordingly, I suggested a change in the proposal, a change in the national unemployment rate "trigger" from 7 to 6 percent. This change had what I consider to be at least two major beneficial effects: First, it gave the program a longer life, one which would start earlier in any potential future recessionary cycle and which would remain in effect longer as the Nation recovered from a recession, and second, it had the effect of nearly doubling the funds which would be made available during the first year of its life. Had the 7-percent level remained the $1.2 billion to be provided through this program would have been closer to $700 million.

In other words, this 1-percent change will provide more funds for hard-hit communities now and it will provide funding under this countercyclical program for longer periods of time for those communities with unemployment rates of over 8 percent. It does not necessarily mean these communities will be in a position to solve all of their problems, or even most of them, but it is far more effective than it was when first brought to the subcommittee.

Frankly, Mr. Chairman, I believe that the program in this bill, as adjusted in the subcommittee, more effectively addresses the need for a counter-cyclical program than does the approach which has been chosen by the other body. One prime reason for this is that every dollar in this bill's approach goes to communities with high unemployment rates. We would be putting all the effort into those areas where the problems are the greatest.

Another reason is that this program gives communities flexibility in how to use the funds, and it eliminates the redtape and possible arbitrariness of a program, like that proposed by the other body, which requires project-by-project review and approval by Federal bureaucrats.

I think that a program which can be funneled primarily through an existing funding mechanism—and therefore require no new bureaucrats and few new regulations to implement—is both better and less subject to capriciousness, delay or other administrative problems.

Finally, Mr. Chairman, I would like to point out that this program, as amended, represents what I consider to be a reasonable compromise between what the administration has supported—the original version of this proposal with its 7 percent "trigger"—and what the administration did not support—the countercyclical program embodied in the earlier public works bill which the President vetoed. I think that the Congress owes it to the American people, and particularly those Americans living in high unemployment areas, to enact meaningful programs to provide for their assistance. I do not think that we should indulge in passing legislation just for the sake of having another veto and another round, time and again, while the public waits and suffers. The time to settle the veto problem is in November; the time to solve the people's problems is now.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. ADAMS), the distinguished chairman of the Committee on the Budget.

Mr. ADAMS. Mr. Chairman, when the Housing authorization bill is read for amendment under the 5-minute rule tomorrow, I intend to offer an amendment to strike out the provision which places the new Homeowners Mortgage Loan Corporation off budget.

Section 22 of the pending bill would authorize the creation of a new corporation in the Department of Housing and Urban Development, to be known as the Homeowners Mortgage Loan Corporation. Its function would be to make low-interest rate, long-term mortgage loans to moderate-income households for the purchase or construction of single-family homes. Section 22 would authorize the appropriation of up to $2 billion each year for a 5-year period—a total of $10 billion—for this purpose.

Without addressing the merits of this section, which I leave to other Members with expertise in this complicated area, I must call the attention of the House to the provisions of subsection 22(f)(5), which provides that:

> The receipts and disbursements of the Fund shall not be included in the total of the budget of the Unitel States government and shall be exempt from any limitation on annual expenditures or net lending.

This subsection of the reported bill would place the financial transactions of the new Corporation in what is called off-budget status.

They would not be included in the Presidents budget submission.

They would not be considered in the debate on national priorities under the new congressional budget process.

They would not be included in calculating budget authority, outlays, or deficit.

The new Congressional Budget Act, Mr. Chairman, does not prohibit new off-budget agencies. However, it is clear that the creation of new off-budget agencies is clearly contrary to the spirit of the act. The intent of the new Budget Act is plain: all Federal Government activities are to be weighed against each other; all activities are to compete within the aggregate totals that Congress decides is appropriate for a fiscal year.

The Budget Act provides in section 606 that the Budget Committees of the House and Senate study existing provisions for off-budget agencies and programs and make recommendations to their respective Houses for terminating or modifying such provisions. The House Budget Committee Task Force on Tax Expenditures and Off-Budget Agencies is under the able chairmanship of the gentleman from Florida (Mr. GIBBONS) and is currently studying all off-budget agencies and financing.

The amendment which I intend to offer would strike the subsection of H.R. 12945 which authorizes off-budget financing for the new Homeowners Mortgage Loan Corporation. I urge all Members to support my amendment so that the funding and activities of this new agency will be considered by the Congress as an integral part of the total budget.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I think

the purpose of the amendment of the gentleman from Washington (Mr. ADAMS) is laudatory.

May I ask what the Committee on the Budget intends to do for those programs presently off-budget?

Mr. ADAMS. We intend to recommend that those off-budget agencies be brought within the budget.

Mr. LAFALCE. That all off-budget agencies be brought within the budget?

Mr. ADAMS. Yes. We brought part of them in this year, such as the Ex-Im Bank. There are others involved such as the Postal Corporation with respect to which this House itself will have to decide, because of its enormous size, whether it should be on-budget or off-budget.

What I am reporting is that the general position of the committee so far has been that off-budget agencies should be on-budget.

Mr. LAFALCE. The gentleman believes that that includes all off-budget agencies; is that correct?

Mr. ADAMS .That is correct. We will continue hearings during the course of this summer, and a recommendation will be made to the House, either at the end of this year or at the beginning of next year; but that matter has not yet been decided because it involves the authorizing jurisdiction of a number of committees, and they will want their imprint on it.

That is why we will be holding hearings and we are required to do this under the act.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding to me and I appreciate the gentleman's effort to try to make sure that various aspects of this bill are all included within the budget.

As the gentleman from Washington probably recalls, section 202, which involves housing for the elderly, was on the budget until removed by the 1974 Housing and Community Development Act. Would the gentleman be willing to include section 202 on budget also.

Mr. ADAMS. I am not prepared to take a position on any item, because the committee, as I indicated to the gentleman from New York is studying each of these items and has not reported back. I am just attmepting at this point to keep new ones from being created and then we are also holding back to look at the old ones.

Mr. ROUSSELOT. I appreciate that because I know the gentleman from Washington is trying to put a handle on most of the Federal programs. This is a rather substantial program. So the gentleman from Washington would not object, then, to trying to include that on budget also?

Mr. ADAMS. I would not object to what arguments are going on within the committee as to which titles they should put in or out. I am trying also as the chairman of the committee on the budget not to substitute my expertise for that of the members of the committee on particular programs.

Mr. ROUSSELOT. I appreciate the gentleman's comments. We did discuss this in committee.

Mr. ADAMS. Section 202 or section 22?

Mr. ROUSSELOT. Section 202 which was amended in the 1974 act. Many of us feel that should be included on budget also. So I am glad to hear the gentleman say there is no objection as far as he is concerned because, you see, in the 1974 act we excluded that housing program from the budget.

Mr. ADAMS. I want to be very careful to see that the gentleman from California understands that I am not advocating a position on section 202 because we have not taken it before the Committee on the Budget.

Mr. ROUSSELOT. But the gentleman does not object.

Mr. ADAMS. But I do not object.

Mr. ROUSSELOT. I appreciate the gentleman's comments.

Now, I am sure my distinguished colleague, the gentleman from Ohio, would like to be heard on this.

Mr. ASHLEY. Does the gentleman from California have control of the time?

Mr. ROUSSELOT. No, the time is controlled by the gentleman from Washington.

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I simply rise to point out that there is a distinction between section 202 which is an existing off-budget program at the present time and the proposal contained in the amendment of the gentlewoman from Missouri which purposes to place a brand new program off budget.

What I am saying is that it will fall within the purview of the Committee on the Budget to make recommendations with respect to those programs that are currently off budget. Is that correct?

Mr. ADAMS. That is correct, there, of course, will be recommendations.

Mr. ASHLEY. But as far as the proposal is concerned, which would put the new program, the $2 billion a year for 5 years, on an off-budget basis, what the gentleman is saying, as I understand it, is that, as chairman of the Committee on the Budget, the gentleman would rise to correct the situation by an amendment that would bring that program on budget?

Mr. ADAMS. That is correct, the new program. We are trying to look at this in an orderly fashion that fits within the institutions of this House which is we do not want to create new ones now, or we are rising in protest to stop any new ones until we can examine the old ones, then after the old ones are examined, one after another, recommendations will be made on the individual committees having jurisdiction over those agencies, then the Committee on the Budget will bring before the House, and before the Committee on Rules, proposals with regard to each of those agencies.

I might point out to the gentleman from California (Mr. ROUSSELOT) that that process is going on. You may recall Ex-Im Bank came on this the last time. We also have the problem we have to deal with the administration downtown, with the departments that they have, in trying to get some of these off-budget agencies agreed upon so that then we can orderly move on each individual category, without going to a particular committee like this one which has spent years on these programs and interfering, until they have had a chance to say what should be done.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, the gentleman understands that section 202 is a section of the Housing Act?

Mr. ADAMS. I understand.

Mr. ROUSSELOT. And that it relates to housing for the elderly and that there is quite a substantial increase in this bill relating to that?

So I think that many of us agree with the gentleman from Washington that it is time to begin to fold many of these programs back on budget so that we have correct accountability for them, especially in the Budget Committee process.

Mr. ADAMS. I will just state to the gentleman, as I said before, I am certain that that will be argued among the appropriate members of this committee as the bill is presented. I thank the gentleman for yielding.

Mr. MATHIS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 304]

Abzug
Allen
Andrews, N.C.
Archer
Ashbrook
AuCoin
Bell
Bergland
Bingham
Boggs
Boland
Bolling
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Burke, Fla.
Burlison, Mo.
Butler
Carter
Cederberg
Chappell
Clancy
Clay
Cochran
Conlan
Conyers
de la Garza
Dent
Derwinski
Diggs
Dingell
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Fish
Fisher
Flynt
Ford, Mich.
Forsythe
Fraser
Giaimo
Gibbons
Hamilton
Harsha
Hébert
Helstoski
Hinshaw
Horton
Hubbard
Hungate
Jarman
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Koch
Landrum
Litton
Lundine
McCloskey
McKay
McKinney
Madden
Mazzoli
Meyner
Mikva
Miller, Calif.
Mills
Mineta
Morgan
Nix
O'Hara
O'Neill
Quillen
Rees
Reuss
Rhodes
Riegle
Risenhoover
Rodino
Rosenthal
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Shuster
Staggers
Stanton, James V.
Steelman
Stuckey
Sullivan
Thompson
Thornton
Udall
Ullman
Waggonner
Walsh
Weaver
Wilson, C. H.
Young, Alaska
Young, Ga.
Zeferetti

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 12945, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 316 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. Hays).

(By unanimous consent Mr. Hays of Ohio was allowed to speak out of order.)

PERSONAL STATEMENT

Mr. HAYS of Ohio. Mr. Chairman, Members of the House, this is the most difficult speech that I have ever made in almost 28 years that I have been a Member of this House. It is difficult for a number of reasons, not the least of which is my temperament and my personality.

All of you are very much aware of all the allegations that have been made in the last few days, and all of you are aware of the massive amount of words that have been printed or spoken in the media. I asked for this time today to attempt to set the record straight.

Much has been said over the years, in the press and in the cloakrooms, in gossip, about Wayne Hays. I have been called more names than any Member of Congress in my memory. I have been called arrogant, ruthless, coldblooded, vicious, temperamental and mean—and I am just mentioning a few of the ones that are printable. No one has ever said that I am also a human being capable of emotions and errors, but I am, and I have erred.

Six weeks ago I was married to the woman I love more than any other person or thing in this world, including this House—and for this House I have a deep and abiding respect and love. Prior to the time when I was married and for an extended period of time, I did have a relationship with Elizabeth Ray. I was legally separated and single. It was voluntary on her part and mine. After working on the congressional staff of a former Member, she worked for the first time for the Committee on House Administration, when she was hired by a former Member of the body who chaired a subcommittee of the Committee on House Administration.

She later worked for this Member on the staff of his congressional office, and came to work on the staff of the House Administration Committee on April 22, 1974. She worked as an assistant clerk on the committee staff until February 28, 1975, when she left of her own volition, to seek employment in California.

She returned to Washington in the summer of last year, and approached me, asking for help in obtaining employment. I helped. I recommended her for a job with another Member of this body, and he placed her on his office staff for a brief period of time when he had a temporary vacancy. I explained to this Member that while she was employed by me and in her previous job, she was able to perform normal office duties. I further explained that she had rather serious emotional problems but with help and understanding, she seemed to be making progress.

I did not inform this Member of my personal relationship with Miss Ray, but I felt he knew and was willing to try to help her at my request. He was and is my friend.

When I proposed to my new bride, I explained to Miss Ray that our relationship would have to end—as a matter of fact, it had ended some time before—but that I would continue to help her in any way I could, as long as she continued to perform her duties as best she could.

It was at this time that Miss Ray became hysterical—threatened suicide, as she had done numerous times in the past. She also threatened blackmail, and did blackmail me, and threatened to destroy my engagement.

When the Washington Post story broke last weekend, I realized that Miss Ray had kept her promise to try to destroy my marriage and my career.

My first and overwhelming reaction was to protect my marriage and my new wife. In attempting to do so, I now realize that I committed a grievous error in not presenting all the facts.

I stand by my previous denial of Miss Ray's allegation that she was hired to be my mistress.

I further stand by my statement that Miss Ray is a seriously disturbed young lady, and I deeply regret our relationship, and its termination has apparently greatly aggravated both her emotional and psychological problems, and I regret that. I am now 65 years old, and I have been privileged to serve in this House for nearly 28 years. I know that my days on this Earth are numbered, and my service in this body may well be also—but I stand here before you today with my conscience now clear.

I sincerely hope that those responsible for this, the Washington Post, and Miss Ray, with her forthcoming book and appearance in Playboy, can say the same.

To my other staff members, to my colleagues in the House, and to the people of Ohio, who have all stood by me in this hour of need—and the people of Ohio have; I have had literally hundreds of phone calls and telegrams—you have my undying gratitude. Only time will tell whether Miss Ray will be successful in destroying my career. I pray to God she will not have destroyed my marriage.

I hope that when the time comes to leave this House, which I love, Wayne Hays may be remembered as mean, arrogant, cantankerous and tough, but I hope Wayne Hays will never be thought of as dishonest.

Mr. ASHLEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. Spellman).

Mrs. SPELLMAN. Mr. Chairman, I rise in support of H.R. 12945, the Housing Authorization Act of 1976.

As a member of the Housing and Community Development Subcommittee of the full Banking Committee, I strongly favor the passage of this extremely vital piece of legislation. I feel that the comprehensive bill before us today, indeed, addresses the wide variety of housing needs which face our Nation. While the congressional authorization committees have the most direct responsibility and authority over the housing and community development programs and the agency that administers them, it is the Housing Subcommittees of the House and Senate that initiate programs, determine their shape, their cost limits, and decide whether they will continue to exist or not.

Setting out to fulfill these and other obligations, our former colleague, the chairman of the Housing and Community Development Subcommittee, Bill Barrett, initiated discussion on each and every element of this legislation that is before us today. By carefully examining the administration's proposals as well as the present and expected future needs of this Nation, the subcommittee has attempted to place before this body legislation which will extend and amend existing housing and community development programs, as well as establish a new relationship between HUD and the Congress by promoting careful, comprehensive oversight and national fiscal management.

One area which I consider to be of special importance in this legislation is the provision of adequate housing for the elderly. At present, there are an estimated one-third of the Nation's elderly living in substandard housing units or paying sums beyond their means for housing. H.R. 12945 recognizes this problem and will do much to solve it. The bill authorizes $500 million to cover losses to the FHA general insurance fund and increases elderly loan funds from $800 million to $3.3 billion to be used over the next 3 fiscal years. This increase in authorization for the section 202 direct loan program will provide financing for the construction of approximately 35,000 units a year which will be occupied by the elderly and the handicapped. According to Department of Housing and Urban Development statistics, they will receive an estimated 1,527 applications for section 202 housing in fiscal year 1976 which represent a total of 231,623 units. At the present level of funding only 3.4 percent of these 1,500 applications can be funded. In light of the prior success of this program and the clear need for expansion, I urge my colleagues to approve this measure.

Then there are the section 701 comprehensive planning grants. These community development grant funds can be used not only for planning programs but also for a much broader range of activities, such as A–95 review, land use, transportation, et cetera.

A further area in which this bill shows the new initiatives taken by the subcommittee is the section 312 rehabilitation loan program authorization. The administration has repeatedly emphasized the need to rehabilitate housing, but has consistently obstructed the operation of the section 312 program. This bill will extend the section 312 rehabilitation loan program from August 22, 1976, until September 30, 1977, and increase the authorization for fiscal year 1977 by $100 million. I support this measure and I urge my colleagues to support it as well. This bill offers Congress and the Nation the opportunity to begin to approach national housing goals, by emphasizing the continuation of programs that can produce desperately needed housing for low- and moderate-income Americans.

Perhaps, most importantly to me, this bill is one of the last and most outstanding contributions of our former colleague, Bill Barrett. Bill Barrett devoted his final efforts and all of his vast legislative experience to this bill which has been so aptly called the "Barrett bill." His empathy and conviction, that all Americans, whether old, or handicapped, or poor, should have a chance for a decent home, led to his introduction of this bill. In memoriam of Bill Barrett's last service to his Nation, I urge all of my colleagues to continue his fine efforts by voting favorably on this bill.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I am pleased that the Banking Committee included within its report on H.R. 12945 language requiring the Departments of Housing and Urban Development and Agriculture to report to Congress within 30 days on their progress toward resolving administrative conflicts in the 515 section 8 rural housing programs. These two programs, when administered jointly, have the potential for providing reasonably priced rental housing to low-income citizens in rural areas. The administration has even stated publicly its support for the joint administration of these programs. Yet 2 years after the enactment of legislation permitting the coordinated administration of the programs, HUD and the Farmers Administration still have not adopted regulations conducive to the smooth operation of their jointly administered programs. The result has been a very meager effort toward meeting the needs of low-income rural citizens.

The particular areas causing problems in getting cooperation include site selection criteria, which agency is to be responsible for inspection, which agency's criteria will be used to determine the rental payments of occupants, which agency a developer must deal with in getting an application for funds processed, and just when, within a given year, can a developer apply for funds.

Officials from HUD and the Agriculture Department have indicated to me that their differences should be resolved before the date on which the committee report requires them to report to Congress. I am confident that such a resolution will be appreciated by representatives from rural areas nationwide and in fact for the first time in 2 years a program will be working as Congress intended.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, as a minority member of the Housing Subcommittee, I am concerned about the tendency of this bill to undo the progress which has been made since enactment of the Housing and Community Development Act of 1974 toward permitting local elected officials to determine the housing needs of communities and to be as free as possible from the overbearing authority of the bureaucrats in Washington. A glaring example of this preemption of local authority is the provision in this bill which requires that 50 percent of all new authority be used only for new construction or substantial rehabilitation.

It apparently makes little or no difference to the proponents of this bill that a locality may wish to devote a greater percentage of housing resources to making housing facilities available and suitable to meet the needs of their citizens. The mandatory emphasis on new construction and substantial rehabilitation suggests that this bill reflects a greater concern that opporunities be assured for the providers of housing than for the needs of citizens for housing and of taxpayers who must pay the bill.

The set-asides provided in this bill, on top of those already contained in the 1974 act and in subsequent appropriations legislation, represent, in my judgment, a regressive step, and it is my intention to continue to oppose the proliferation of categoricals and set-asides in Federal housing programs.

SECTIONS 16 AND 22 "OFF-BUDGET" PROGRAMS

This bill appears to reflect the alarming attitude that merely placing a Federal direct loan program "off budget" somehow eliminates the budgetary and economic impact of billions of dollars of loans. Such an idea is pure fantasy.

To continue the authority for the Treasury to borrow money in the marketplace, so that it can be loaned to private nonprofit sponsors or individuals, but refuse to record such debt as a part of the national budget, makes our efforts to control the national budget an elaborate farce.

When the Treasury borrows funds in the open market, it competes with money demands of the private sector. An increased volume of Treasury borrowing has the effect of increasing the cost of borrowing.

The cost of interest paid on the national debt is a part of the congressional budget control process, but the borrowing of funds for off-budget programs is not included in this essential function of representative government. Off-budget Treasury borrowing does not eliminate the fact of Federal deficits; it only serves to hide the size of the deficit and the scope of Government operations.

This objection applies specifically to the section 202 program—off-budget borrowing authority increased from the current level of $800 million to $3.3 billion by 1979—and the Home Owners Mortgage Loan Corporation—off-budget borrowing authority for $2 billion in each fiscal year from 1977 through 1981. Both are Federal direct mortgage loan programs which require up to 40-year periods for repayment, during which added billions in public debt must be carried and continually refinanced by the Federal Government. The issue is whether we are going to operate under a unified budget or not. If we are serious about the Budget Control Act, the answer should be an unequivocal "yes," and it is imperative that we follow through by bringing the off-budget items into the budget.

If the off-budget borrowing authority granted in this bill were placed on budget, it would not signal the termination of all direct loan housing programs. It would, however, encourage fiscal responsibility and promote realistic budgeting practices.

In subcommittee, and again in full committee, when amendments were offered to place off-budget programs on budget, the counterargument was made that the House Committee on the Budget has, as part of its charter, the requirement that it study off-budget programs and report recommendations for terminating or modifying such provisions. In rebuttal, it must be stated that these off-budget programs are within the jurisdiction of the Committee on Banking, Currency and Housing, and that placing off-budget programs on budget is not an action reserved to the Budget Committee. If this were the exclusive charge of the Budget Committee, it would follow that new programs such as the off-budget Home Owners Mortgage Loan Corporation should not be authorized without prior concurrence of the Budget Committee.

It is my intention, when this bill is opened for amendment tomorrow, to offer my colleagues in the full House an opportunity to discharge our responsibility to place within the budget any direct loan programs which remain in the bill after the committee amendments have been considered, and I strongly urge my colleagues to support this effort.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HANLEY), a member of the committee.

Mr. HANLEY. Mr. Chairman, I rise in support of the bill.

I want to commend the chairman for what I beleve to be a good job in recognition of prevailing circumstances. I would have preferred a more comprehensive program.

However, I do believe that I would be remiss if I did not evidence my great concern about the default problem within the agency; that is, the level of defaults.

As of today, of a total of 17,000 projects valued at $22.5 billion, HUD has had to foreclose on 3,000 projects with a value of $5 billion, which represents about a 20-percent rate of failure.

Mr. Chairman, what I am urging is that the agency take a hard look at its monitoring procedure to see if it can move in the direction of establishing a better track record.

I think it is the intent of the Congress that the agency function with a program designed to provide housing, not to become a landlord.

Presently HUD owns 339 projects worth $488 million, and I think that that leaves much to be desired.

As of January 31 of this year, HUD property disposition for fiscal year 1976 amounted to 83 projects, representing a loss of $19.6 million-plus. This is not a good record.

Mr. Chairman, I know that HUD has embarked on a program; I understand it has some pilot projects going on throughout the country.

What I am saying here today is that, hopefully, we can urge HUD to move in the direction of closer monitoring of these projects.

Mr. Chairman, the following statement will give all of us greater insight into this matter:

OVERVIEW OF MULTIFAMILY MORTGAGE INSURANCE PROGRAM

Projects currently in force with lender as of March 31, 1976:

14,073 total, $22.2 billion value.

7,813 unsubsidized, $12.0 billion value.

6,260 subsidized, $10.0 billion value, 3,610 236 projects.

Projects currently in default as of March 31, 1976—not yet foreclosed:

258 unsubsidized, $566 million value.

380 subsidized, $909 million value, 244 236 projects at $501 million.

638 total, $1.4 billion value.

Projects with insurance no longer in force—foreclosed and paid to lender:

2,023 defaulted and owner retained; 405 were foreclosed but sold to new party and HUD took back mortgage, $3.2 billion value, 391 236 projects at $637 million.

339 defaulted and now HUD owned with hired management, $488 million value, 62 236 projects at $108 million.

2,363 total, $3.6 billion value, 453, 236 projects at $745 million.

Total mortgage guarantee in danger or foreclosed as of March 31, 1976:

2,363 projects paid off, $3.6 billion value, 453 236 projects at $745 million.

638 projects defaulted, $1.4 billion value, 244 236 projects at $501 million.

3,001 total, $5.0 billion value, 697 236 projects at $1.25 billion.

ADDITIONAL INFORMATION

As of January 31, 1976, HUD property disposition for FY 76 amounted to:

83 projects containing 6366 units representing a loss of $19,649,608.

104 more projects have been sold, 46 of which will be closed by 6/30/76; but no dollar value is assigned until price is finally determined.

HUD Property Disposition Office testifies this is the best disposition record in their history.

HUD has implemented an "Early Warning System" for monitoring multi-family programs. It was tested for about a year in one field office and now is being implemented in most offices nationwide. Initial assessment approves the plan which has as its base the monthly submission by the management of the project of a form on which six items of interest are provided. Among these are cash flow indicators like rate of income, accounts receivable, accounts payable, rate of vacancy, etc. These items should be good clues to HUD that things are ok or are in trouble. There should be enough time to go in with management aides to avoid default or foreclosure.

Problems considered responsible for rate of failure of defaulted and foreclosed units:

Poor management structure and deficient experience, especially non-profits.

Underestimation of capital needs and overestimation of income potential.

Rapid rise in local property tax rates.

Escalation in utility costs.

Recession impact and inflation; costs went up when tenants ability to pay rent increases allowed by HUD went down because of joblessness.

Lower rate of return to limited profit managers than expected.

Court decisions (especially in NY) which favor tenants and require long complaint process for eviction; new guidelines just proposed call for due process hearings of 15-30 days before eviction action.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would like to commend the gentleman from New York (Mr. HANLEY) for his remarks.

I wish to indicate to the Members here today that Chicago, Ill., is getting to be one of the biggest markets for default mortgages in the country, second only to Detroit.

Testimony before the Manpower and Housing Subcommittee chaired by the gentleman from Washington (Mr. HICKS) and before the Housing and Community Development Subcommittee chaired by the gentleman from Ohio (Mr. ASHLEY), indicates, I think, that one of the answers to this default problem is a well-financed and directed counseling program. The first-time purchasers of mortgages usually are poor and unsophisticated.

Mr. Chairman, I think if we set up some pilot programs around the country regarding counseling, we could avoid what in Chicago amounts to a tremendous dollar loss beyond the human frustration, family disruption, and loss of confidence in Government's intentions.

At the present time, there are 4,000 homes in the HUD Secretary's Chicago inventory. At an average loss to the Government of $13,000, these foreclosures represent an eventual $52 million down the drain.

As I noted in April 7 testimony before the Housing Appropriations Subcommittee, the time to counsel is not when mortgages become delinquent but before new homeowners ever take up residence. Counseling helps homeowners know what expenses to budget for, what maintenance problems to anticipate, and what community resources to tap.

For years now, HUD has claimed its counseling effort would go nationwide. HUD is still asking for more time to decide which voluntary counseling agencies are cost effective. In the meantime, the rate of defaults and foreclosures will continue to escalate. I simply find it impossible to understand why HUD refuses to invest in a proven thing. Counseling works. HUD studies themselves make this conclusion.

It is not enough to provide homes. We must provide people with the tools and the knowledge to be responsible homeowners. A recent report by the House Committee on Government Operations concluded that counseling would prevent new homeowners from being tricked into decorating, modernizing, and furnishing their new homes. The report warned that homeowners who were good financial risks could be financially ruined by monthly installments for such home improvements.

Mr. Chairman, I commend the gentleman from New York. I do not wish to take any more of his time, but I did want to make my views known on this important subject.

Mr. HANLEY. Mr. Chairman, I, too, wish to commend the gentleman from Illinois and do appreciate the gentleman's concern.

Mr. Chairman, another problem within the agency is its failure to keep its finger on the pulse of these projects. There have been several situations and I can set forth a number of examples, one in my home city, of a project initially appraised to cost $10 million, 7 years ago, later going into default and, because of the deteriorated condition, now at an appraised value of about $3 million which represents a loss to the taxpayers of approximately $7 million.

So we have that happening throughout the program.

I would also call upon HUD to seek relief from the rental income problem that has resulted from numerous court decisions. The agency loses on an annual basis millions of dollars in unpaid rentals, generally speaking, rentals provided through public assistance to begin with.

So I hope very much that HUD will upgrade and take a hard look at its procedures and try hard to improve upon this less than good track record.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Chairman, during the 5-minute rule, I had planned to offer certain amendments to H.R. 12945, Housing Authorization.

My amendments are designed to help check the rapid decay that is spreading throughout our Nation's urban areas like a cancer. These five proposals drive to the heart of the problems—reforming the Department of Housing and Urban Development's policies, and consequently the Federal Housing Administration—FHA—that allow unqualified applicants to receive federally insured motgages.

Specifically my five amendments would:

First, limit the amount of a mortgagor's income that he can apply toward his monthly mortgage payment to 28 percent.

Second, authorize counseling services for all FHA programs;

Third, raise the downpayment to 10 percent of the total purchase price of all FHA insured mortgages;

Fourth, raise the mortgage companies coinsurance rate to 20 percent; and

Fifth, authorize the General Accounting Office to audit the Federal National Mortgage Association.

As many of my urban colleagues are aware, FHA's lending policies are aiding the deterioration of our inner cities. By imprudent screening of applicants, the FHA allows many applicants to assume financial responsibilities beyond their capabilities. After these new homeowners discover they are unable to meet the hidden costs of homeownership, such as ordinary and extraordinary maintenance, utilities rates, State and local property taxes, these people often abandon their homes. These homes then become subject to vandalism because irresponsible mortgage companies fail to properly maintain these structures according to their contractual arrangements with the FHA. After a short time, these once solid houses become devastated hulks, an eyesore in the community that may affect other surrounding homes in the area.

When Congress first established these very worthwhile programs, they were designed to aid those low- and moderate-income families, who, either because of past discriminatory lending practices or an inability to build a credit rating, receive loans to purchase homes. I fully support the concept of helping these worthy individuals. But, somewhere between Congress drawing board and FHA's workshop these concepts were distorted, sometimes purposely, beyond the legislative guidelines. Because of this mismanagement, many conceptually fine programs have drawn the ire of those citizens who are bearing the burden of the Government's ineptitude.

In view of the fact that many of us know of these problems, I think it is time that we take corrective action. Within the past year there have been two congressional investigations into various aspects of the Government's housing policies, yet neither committee has drafted legislation addressed to these problems. In proposing these amendments, I am merely picking up where the committee has stopped.

The first two amendments are designed to insure that only financially qualified applicants who are apprised of all aspects of owning a home receive an FHA-insured mortgage. Present HUD regulations allow a person to apply up to 35 percent of his income toward his monthly mortgage payments. These regulations were liberalized at the same time conventional lenders began reducing the percentage of income they would allow a mortgagor to apply to his monthly payments. This is an irrational policy by FHA administrators, especially when one remembers that because of inflation, today's dollar buys quite a bit less than the dollar of only 3 years ago. Thus, while a person's real income was diminishing, the Government was promoting a policy that was inconsistent with the real world facts.

Prepurchase counseling is supported by both congressional committees and the private sector. In a recently issued study by the Government Operations Subcommittee on Housing and Manpower, that body recommends that the Government fund training operations to educate community groups in the art of effective guidance counseling. Once the community members have completed the training program, the Government should provide matching funds for the groups' operations. These community based groups would have a reason to perform well—the community they would be saving would be their own.

Last week the counsel from a private mortgage bankers group called my office and informed me his organization wholeheartedly supported my counseling amendment. He stated that for every $1 spent in counseling, $5 were saved in foreclosure and other costs when a mortgagor defaulted on his payments. This money will be well spent.

This year, for only the second time, the Appropriations Committee has included funding for a counseling in its HUD appropriations bill. But, as I understand it, counseling is only authorized for the section 235 program and not the section 203(b) and section 221 programs. These funds should be available to all housing programs because in all of them we are basically dealing with inexperienced purchasers who need guidance. My amendment would make these funds available to all the FHA programs.

Amendments three and four are designed to increase both the mortgagor's and the lender's stake in the venture. At this time in all of FHA's single family dwelling programs, a purchaser must only put forth a downpayment of 3 percent of the total cost of a home. Thus, on a $25,000 home the downpayment is only $750; an incredibly low amount considering the staggering sum the Government must pay if that mortgagor defaults on the loan. Because many of these homeowners have such a small stake in their homes they have nothing to hold them there if they come upon difficult times, whereas homeowners who have a significant sum tied up in their home feel less inclined to abandon it, even in hard times. Thus, my amendment raises the downpayment limit to 10 percent in order to insure that the owner has a substantial stake in his home from the beginning of his ownership. Ten percent is not an unreasonable amount. Some mortgage companies in my area require a minimum of 20-percent downpayment on a conventional mortgage. My proposal attempts to place the Government's practices on a parity with the private sector, not to kill the program or make it extremely difficult to buy a home. Saving one's money to meet the downpayment requirement gives a person a firsthand idea of what it will take once he must begin meeting those monthly payments.

Coinsurance is a nasty word to mortgage companies because it means that those companies cannot take the Government for a ride and not share any of the obligations themselves. Prior to 1974, the Federal Government insured 100 percent of an FHA mortgage. That meant, if the homeowner defaulted on his payments, the Government would pay off the mortgage company in full. After the Community and Housing Development Act of 1974, the mortgage companies were required to coinsure any FHA-backed loan they made. But, the companies only had to coinsure 10 percent of the loan. This percentage is clearly inadequate. Raising the coinsurance rate to 20 percent would guarantee that the mortgage companies would do a better job of screening applicants than they presently do. The mortgage companies could not consistently afford to lose $3,000 to $4,000 on every foreclosure. That is probably their margin of profit after they have sold a mortgage in the secondary market. Companies are formed to make a profit and in the housing business profits would be turned when a mortgage is marked "paid in full" if my amendment is accepted.

On the same subject, FHA checks very few applications to ascertain if the applicants are worthy credit risks. Thus, the lender has wide discretion in choosing who will receive an FHA-backed mortgage. This is a further reason to make the mortgage company share a larger part of the burden.

My fifth amendment would grant the General Accounting Office—GAO—the authority to audit the Federal National Mortgage Association—Fannie Mae. At one time GAO had authority to audit Fannie Mae. But once the transition from a Government corporation to a private corporation was completed that authority was repealed. I think that authority should be reinstated and I think the proper basis for an audit is present. Fannie Mae was originally capitalized with Federal funds. This alone should be enough reason to authorize an audit of Fannie Mae, even though it is a privately owned company. But, in addition, Fannie Mae operates in the secondary mortgage market and purchases a tremendous number of FHA-insured mortgages, reportedly 69 percent, thus having a profound effect on Federal housing policy.

Many mortgage companies that work with the Government in its housing programs hurt those programs in two ways. First, they give bad loans. The homeowner on these loans eventually defaults costing the Government money. Second, sometimes the mortgage company could forbear on the monthly payment and not foreclose, but callously decides to collect his money from the Government instead of the homeowner through the default process. Fannie Mae, when it notices a pattern of these practices, is supposed to sanction the mortgage company and force it to straighten up its business practices. However, from some reports, Fannie Mae is neglecting its duties in this respect. A GAO audit would either substantiate those reports or put them to rest. I, for one, would like to know the answer.

Mr. Chairman, at this point I would ask the chairman of the Subcommittee on Housing to discuss our agreement.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, as the gentleman is aware, I have discussed these amendments with him. I would like to congratulate him on the very hard work he put in trying to devise an effective legislative remedy for the very serious problems his constituents face in his district. The gentleman has very intelligently identified, and of necessity taken a definite position on, some of the most complex and controversial housing policy issues that face the Housing Subcommittee and the Congress generally. However, as the new chairman of the Subcommittee on Housing and Community Development, I do not think it would be proper—nor, frankly, do I think I would succeed if I tried it—to force the enactment of decisions on these very basic issues without providing those involved an opportunity to be heard and hopefully an opportunity for some sort of a consensus to develop within the Congress.

What your amendments do is bring out into the open in this forum issues which must, and I promise you, will be faced and dealt with by the Housing Subcommittee.

For almost four decades, FHA mortgage insurance was the Government's most effective force for housing production and the provision of homes for moderate-income families. It has been called one of the most successful public-private ventures in American history. Yet, in recent years there has been a tragic decline in its effectiveness.

This decline has been most dramatic, and its effects most serious on neighborhoods and homeowners in our older urban and suburban areas such as the one you represent. Now the role that just plain maladministration played in this decline has been well documented but I believe that there are also other deeper reasons for the decline which must be determined if we are ever to both preserve our housing stock and at the same time provide the maximum in housing opportunity for all citizens. I believe that many of the questions your amendments raise will be shown to be extremely relevant during the intensive inquiry I plan on making into the present and future role of the FHA and the reasons for its decline. I will be commencing this inquiry during the current Congress. With the experience you have gained representing your constituents on these problems, I feel you could contribute a great deal to its success and I invite your participation.

While I would feel constrained to oppose these amendments at the present time if they were offered on the floor I think that in raising them at this time you have performed a real service. I assure the gentleman I share with him a deep concern over the problems these amendments attempt to deal with.

Let me say to the gentleman from Illinois that what his amendments do is to bring out into the open in this forum issues which must and, I can assure the gentleman, will be faced and dealt with by the Housing Subcommittee.

Mr. RUSSO. I thank the Chairman. If I may say, I appreciate the difficult problems that my proposed amendments present at this time. But I think that we can look at many of the urban centers in this country and can see that this problem does exist. We have known about these problems since 1971, and it is time that the Members of Congress who are responsible for writing this legislation do something about stopping the problems that exist in the urban centers.

I know, and I stated to the gentleman personally, that the programs have functioned and do function well in other areas of the country, but they do not function well in the urban centers in this country. It is a problem we have to address, and I ask the gentleman if he can assure me that we will have hearings in the next couple of months on this particular problem. I would invite him to have his subcommittee appear in my district so that the people can give him first-hand accounts of the problems that we face in our area.

Mr. ASHLEY. If the gentleman will yield, let me respond to the gentleman by saying that at this very time the subcommittee staff has been directed to structure broad-scale intensive hearings with regard to FHA and related matters that I spoke to a few moments ago. I would expect that these hearings would not be conducted in the committee rooms here in Washington alone but would go afield to see the problems first hand.

I can assure the gentleman that Chicago will certainly be considered among the very first of the cities that we would want to visit in this respect. I cannot give the gentleman a definite timetable as to when such field trips might take place. I would hope that they could be scheduled within the next 60 to 90 days. As the gentleman knows, there are intervening events, the conventions, and so forth, that we are going to be mutually confronted with.

Let me simply say to the gentleman that he has my assurance that the problems that he has articulated and the responsibility of the subcommittee will be compatible.

Let me simply say to the gentleman, he has my assurance that the problems he has articulated and the response of the subcommittee will be compatible.

Mr. RUSSO. I thank the gentleman and, based on our discussion, I have no intention of offering the amendments.

Mr. ASHLEY. Mr. Chairman I yield such time as he may consume to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, from the point of view of the major cities, particularly those in the Northeastern part of this country, this bill, the Housing Authorization Act of 1976, is an unmitigated disaster. Not only does it do nothing to solve the urgent problems of our cities, but it goes a step further. It even denies their existence.

This is ironic because there is apparently much greater public awareness of the problems of the cities today than ever before. We find front page stories in our newspapers and programs on our television screens and special articles in the major magazines that explain in minute detail what the crisis in our cities means. For instance, the U.S. News & World Report issue of April 5 had a 16-page special section entitled "Are All Big Cities Doomed?"

It is particularly ironic that there is no action on the problems of the cities this year, because last year this very committee had massive hearings on this very subject, when the New York City crisis came before you. There was testimony from mayors—from all over the country—which brought out that the problems we are talking about are not just the isolated problems of New York City, but problems assailing cities, large and small, across the Nation. And these are problems for which there are at present no constructive solution available.

A major difficulty is that at the same time as the cities become more and more the last refuge for the unemployed and the poor, less and less Federal assistance is being made available to meet their housing needs. As a result, a growing number of people residing in urban centers find it impossible to secure decent, safe and sanitary housing under our existing housing programs.

Let me illustrate the problem by quoting from the community development block grant program application which was submitted by New York City in its second year community development plan proposal. The Housing figures, just for New York City include the following: 1,414,990 families presently qualify under the 1975 Department of Housing and Urban Development income limits for section 8 housing assistance; 1,017,000 apartments are suitable for rehabilitation; 750,000 families now pay more than 25 percent of their income for rent; 420,000 families rent housing which is overcrowded, dilapidated, or lacks adequate plumbing.

The story could go on and on if I could continue reciting the statistics that are presented.

It is clear that these statistics will not change unless there is help from the Federal Government. We all know that the city of New York does not have the resources now to even get by on a weekly basis. That is why we are providing Federal aid. We also know that the State of New York does not have any resources.

Finally, we know from the last year's hearings that the private sector is incapable of meeting these critical needs. The evidence of this, as far as the private sector is concerned, is that there are in New York today 4,299 buildings containing 64,485 apartments which are in city ownership due to nonpayment of taxes by their owners. Almost 6,000 residences have been declared unsafe by the building department as a result of a limited inspection which had to be canceled because there were not enough building inspectors available to complete the job.

Finally, the city is losing over 30,000 apartments a year to fire, demolition, and abandonment.

Faced with these massive needs in one city alone, what assistance does New York City get under this bill?

The first proposed assistance is the section 8 program. Under the section 8 program, assuming all the assistance that this bill authorizes were to be appropriated, New York City would get enough funds to provide for 40,000 apartments a year. As I pointed out, New York City loses now 30,000 apartments a year to abandonment, so there would be a net gain of 10,000 apartments a year, meaning that if no other apartments were to deteriorate for the next 100 years, it would take exactly 100 years to meet the city's housing needs in terms of those apartments which today qualify for section 8 assistance.

But that assumes that section 8 assistance is available. In fact, it is not. The private sector will not invest in the city and the city does not have the funds to go out and invest to build the housing which would qualify under section 8.

Therefore, from a practical point of view, the section 8 program is not a meaningful resource.

Let us look at some of the other programs proposed under this bill. We have a section 235 program which is being reinstated and that is fine, except it limits mortgages to $25,000 per house or $29,000 per condominium.

The problem is that in New York City under present conditions, low-income housing costs $45,000 per unit to build. Therefore, the section 235 program is not available to the city of New York.

This is also true of the section 312 rehabilitation programs and of the proposed Home Owner's Mortgage Loan Corporation, because the income limits are $30,000 per unit in these particular programs.

Mr. Chairman, I fail to see how, in view of all that has taken place in the past year, this committee can report out a bill that is so totally irrelevant to the urgent needs of these cities.

Mr. Chairman, last year about this time I protested on the floor of this House that the needs of our cities were being ignored. I was then given a solemn assurance by the chairman that hearings were being held, that every effort would be made to come up with new programs if I would then give my support to the pending bill, which I did. Now, a year later, after all the hearings, after all the emergencies, there is no change whatsoever in the bill that is being proposed, except for more assistance to the one-family homeowner who lives in the suburban areas of this country.

Mr. Chairman, I will support the bill because I do not want to be accused of only supporting bills that help urban centers. I have voted for farm bills in the past. I have also voted for bills for suburban programs in the past—and I will support this bill now. But I must say to the committee that I feel that they have a duty to face up to the national needs of this country and look for solutions at the Federal level to the problems of the central cities of our Nation.

Mr. Chairman, I urge this committee to take action so we can have a bill in the near future which will provide a meaningful housing proposal, so that we can never again have headlines, like this one which reads:

> Are all the big cities doomed?

I would rather see headlines which read:

> Are all the big cities going to be rescued?

Let us work to develop the kind of programs in this Congress which will make that rescue possible.

Mrs. MEYNER. Mr. Chairman, I rise today in support of the Housing Authorization Act before us and urge my colleagues to lend their support as well. It is with great pleasure that I add my voice to those in this Chamber who have articulated their reasons for the favorable consideration of this vital legislation, and I am proud to have the opportunity to express my thoughts on this measure which will aid Americans in one of their most basic needs—adequate housing.

Despite my admiration for the product of the Banking, Currency and Housing Committee and for the Department of Housing and Urban Development in the maintenance of programs to provide housing for low- and middle-income Americans, I do believe that this bill contains a deficiency worthy of noting. I speak of section 8, which provides for the extension of the Emergency Homeowner's Relief Act (Public Law 94–50), I applaud the extension of this emergency program, but regret that it is not accompanied by statutory regulations regarding the program's implementation.

Mr. Chairman, on April 13, 1976, I informed you of my intention to investigate the possibility of regional implementation of the Emergency Homeowner's Relief Act. I stated at that time that I believed that HUD Secretary Carla Hills' decision to implement and administer the program only when 1.2 percent of all mortgages in the Nation were 3 months or more in arrears discriminated against those areas of the country where the economic crisis and unemployment have wreaked greater havoc. A survey of the mortgage portfolios in the 13th District has shown that my constituents do not fit into that category. I am pleased to report that with a slightly over 50 percent return rate on my inquiry, grossly delinquent mortgages in my district comprise 0.9 percent of the total portfolio. However, I find it important to note that this represents 275 households that are potentially eligible for this emergency relief, but denied it through a discriminatory financing formula.

Allow me to indulge in a bit of statistical conjecture: Assuming that there are 550 outstanding mortgages of this nature in my district, and that the 13th District represents approximately 1/435 of the Nation, the number of potentially eligible homeowners in the Nation is approaching 240,000. Carrying this conjecture one step further, with an average household of 3.65 persons, more than 870,000 of our constituents who are facing the very real and terrifying loss of their homes could be eligible for relief under an already existing program. How can we deny almost two entire congressional districts the relief that we designated and budgeted for them?

The purpose of last year's Emergency Homeowner's Relief Act is "to prevent widespread foreclosure and distress sales of homes." Vagueness as to whether the act was intended to be administered on a national, State, or regional basis has allowed for broad discretionary authority to be exercised by the Secretary of HUD. Recent regulations published by HUD depict the Department's interest in encouraging sensitivity and responsiveness on the part of lending institutions. And forbearance rather than foreclosure has become the slogan. I applaud this effort but feel that it would more accurately reflect the intent of the law if it were accompanied by a cognition of the problem of regional unemployment and economic woes. I do not feel that we have gone far enough in responding to the intent of the Emergency Homeowner's Relief Act.

How do we encourage the implementation of this program on a more equitable basis?

Mr. Chairman, I believe that the present financing formula ignores relevant criteria and indices. Secretary Hills employs a percentage delinquency rate; the gentleman from Michigan (Mr. BLANCHARD), offered an amendment in committee to use foreclosure criteria. I believe that as the act addresses the problem of unemployment, the administration and implementation formula should be based in part on current unemployment figures.

Mr. Chairman, I will not offer an amendment to the Housing Authorization Act providing for statutory regulation of this emergency program today because I am not an expert on the housing situation in America and I am reluctant to see my colleagues be persuaded to vote either for or against a measure which has not received adequate consideration by the proper committee. I will, however, ask everyone in this Chamber to consider the people for whom we legislate; to think not of a 1.2 percentage, but of the 870,000 suffering Americans. Does Secretary Hills' decision to withhold these funds reflect the intent of Congress when it passed the Emergency Homeowner's Relief Act? I think not. I strongly urge everyone in this Chamber to vote for the passage of H.R. 12945, but I would urge the members of the House Committee on Banking, Currency and Housing to give close attention to this one particular area of critically needed reform. I suggest that the Emergency Homeowner's Relief Act be given proper hearings and the full consideration it deserves.

Mrs. SULLIVAN. Mr. Chairman, I hope all of the Members have had an opportunity to read the letter I circulated to the entire House yesterday discussing the proposal in H.R. 12945 for a direct Federal mortgage loan program, at 6½ percent interest or less, for families with incomes in the median range in their geographic areas. And I hope many of the Members, after receiving my letter, have had time to look up the explanation of the program in the committee report on the bill, House Report 94–1091, as I urged them to do.

I called attention particulary to a discussion of this program in the "inflation impact" section of the report, beginning at the bottom of page 35, showing that the proposed Home Owners Mortgage Loan Corp. direct loan program for mortgages up to $30,000 would have an anti-inflation effect by encouraging the sale of homes at $30,000 or less, which is well below the median sales prices today of either new or used homes.

According to the information in the committee report, the median price of a new home in 1975 was $41,300, and for an existing home $35,300. A week after the committee report was filed on May 6, the Washington Post, on May 13, carried an article at the top of column 1 of page 1 noting that in 1976 prices of new homes across the Nation were soaring at an annual rate of 22 percent.

This article, by James L. Rowe, Jr., based on figures supplied by the Home Loan Bank Board, said the median price of a new home in February was $43,000, compared with $38,000 in February, 1975. The article added:

> That represents a 13 percent rise from year to year, but over the six months "ending in February, the increase has been at a 22 percent annual rate," the bank board's analysis said. According to preliminary evidence median new home prices jumped again in March to nearly $44,000.

Mr. Chairman, because of inadequate financing for the average income family in buying a home it can afford, builders are making little if any effort to construct homes in the $30,000 range. The affluent can afford to pay more—and builders' profits are higher, of course, on higher priced homes—but the family which would be satisfied with a no-frills $30,000 home cannot swing the monthly payments on such a home when mortgage interest rates are 9¼ percent or more.

The average income family has been squeezed out of the market by these extremely high interest rates and so homes within its price range are not being built.

Short of bringing interest rates down generally throughout the economy—and that obviously is not being done, and cannot be done overnight—the only chance the working family would have in buying a home today would be through the kind of program proposed in section 22 of H.R. 12945. So I urge all of the Members who are concerned about the dilemma of their taxpaying, self-reliant, hard-working, average income constituents in trying to buy housing to oppose any attempt to strike section 22 from the bill.

NOT A SUBSIDY PROGRAM—HOME BUYERS WOULD REPAY THE GOVERNMENT IN FULL WITH INTEREST

As I noted in my additional views in the committee report on H.R. 12945, ever since 1969, when the Nixon administration began a deliberate policy of encouraging—and forcing—higher interest rates in the hopes of curbing inflation—but thereby contributing mightily to the terrible inflation which followed—the housing industry has suffered a series of severe depressions. Interest rates on home mortgages priced the average income family out of the housing market. Thousands of low income families, on the other hand, were enabled to become home owners through a massive mortgage interest subsidy program costing billions of dollars under the section 235 program—a program which suffered so many incredible abuses and scandals that it had to be suspended and completely restructured. At the other end of the income scale, many well-to-do families were also assisted by the Federal Government in buying new homes with mortgages below market interest rates through the so-called tandem plan—mortgages up to $42,000 were written at a 7½-percent interest rate and sold immediately at par to the Government National Mortgage Association, which in turn discounted them at losses of as much as $4,000 each.

But while both low-income and well-to-do families were enjoying Federal subsidies to bring down their interest rates on home mortgages, the average income families—the working families of this county which pay their own way for everything and in addition pay the taxes which help to provide the Federal mortgage assistance for those poorer or richer than they—have been blocked from the housing market by interest rates of 9¼ percent or more, even on fully insured or federally guaranteed FHA or VA loans.

H.R. 12945, as reported by the Committee on Banking, Currency and Housing, contains in section 22, the Home Owners Mortgage Loan Corporation Act, an effective and practical mechanism for enabling families of average means once again to be able to purchase homes, without Federal subsidies. Eligible, credit-worthy families—fully able to purchase and maintain a home with a mortgage up to $30,000 if they can obtain mortgages at 6½-percent interest or less—could borrow directly from the Home Owners Mortgage Loan Corporation under a revolving fund set up for that purpose.

Although a 6½-percent mortgage would today be significantly below the going market rate on home financing in the private lending market, it would not entail a subsidy because it would reflect—and pass on to the average family needing a home—the Federal Government's favorable position in borrowing money. Over the 30-year life of such a mortgage, a 6½-percent loan would undoubtedly bring a profit to the Treasury.

Such a program is not intended to compete with private lenders—since they are not now able to extend mortgage loans to average income families at comparable rates. But the existence of a Federal direct loan program at 6½-percent interest operating during periods when private lenders can not serve this market would serve as an incentive to private lenders to help bring mortgage interest rates down as a means of getting and keeping the Federal Government out of the home financing business. Instead, the various Federal mortgage subsidy programs encourage the private market to keep interest rates as high as possible.

HOW THE HOME OWNERS MORTGAGE LOAN CORPORATION WOULD FUNCTION

This proposal is not new. It was first introduced by me and the late Congressman William A. Barrett, for many years chairman of the Subcommittee on Housing, in 1969, with the enthusiastic support of the National Association of Home Builders, which saw in it a practical approach to getting new homes built and financed for the average income family. In 1972, the Committee on Banking and Currency approved the idea as part of an omnibus housing bill, but the entire housing bill died in the Rules Committee that year. In the interim, as noted above, other programs have been undertaken at huge costs in Federal subsidies to try to revive the housing industry, without success. Once again, the committee has now turned to the idea endorsed in 1972 for a direct loan program for moderate income families—those earning up to approximately the medium income in their localities.

The Home Owners Loan Corporation created by section 22 of H.R. 12945 would be an independent Federal agency with a limited role and no need for an extensive bureaucracy. It is to be primarily a policymaking agency consisting of a Board of Directors of nine persons—the Commissioner of FHA as an ex officio member and eight public members appointed by the President and confirmed by the Senate. Its main function would be to determine the circumstances and terms under which direct loans would be made from the Home Owners Mortgage Loan Fund, a revolving fund with an authorized initial capitalization of $10 billion, to be appropriated at the rate of $2 billion a year for 5 years. After the first 5 years, additional appropriations are authorized for future fiscal years in order to make possible continuing loan operations of $2 billion a year, including money repaid into the fund each month by borrowers. The actual work of processing these loans would be done by existing FHA offices, and the mortgages themselves could be serviced by private lenders.

The nine-member Board of Directors would meet periodically—at least once a month—to make policy decisions. Its expenses and those of a small administrative staff would be paid out of appropriations specifically voted for that purpose, not out of the revolving fund earmarked for the making and servicing of loans.

The Home Owners Mortgage Loan Corporation would operate in the tradition of the Home Owners Loan Corporation—HOLC—of the Roosevelt New Deal years, which made direct loans to homeowners in order to enable them to save their homes from foreclosure during the depression. That agency, handling billions in loans, recovered its investment in full and made a profit for the Federal Government.

The purpose of the new HOMLC is not to make money for the Federal Government, of course, but rather to utilize the borrowing power of the Federal Government to assist hardworking, average-income families to buy homes when the market is closed to them by interest rates they cannot afford. But over the long pull, it is undoubtedly going to recover its investment with a fair rate of interest, particularly if interest levels come down—as they must—over the next 30 years.

A DIRECT LOAN PROGRAM VERSUS MORTGAGE INTEREST SUBSIDIES

Private lenders today cannot extend loans to average-income families—or to anyone else—at reasonable rates of interest; that is, 6½ percent or less.

Many of them are paying depositors almost that much for savings. In order to build, or rehabilitate, and sell homes, the housing industry has become increasingly dependent upon financing gimmicks involving substantial Federal subsidies.

On a $25,000 home sold under the section 235 program, to a family with an income of, say, $10,000, the Government now pays the difference between a 5-percent interest rate and the effective market rate of 9.2 percent on FHA-insured loans. This amounts today to $858 per year Federal interest subsidy on a $25,000 section 235 mortgage, or $25,740 over the 30-year life of the mortgage. The Federal Government therefore is obligated to pay more in interest, as a subsidy, than the entire amount of the mortgage and more than the subsidized home buyer pays under section 235. According to figures given me by FHA, the subsidized home buyer over 30 years would pay $23,330 in interest along with the $25,000 principal.

I certainly believe—and I am sure most Members of Congress would agree with me—that it is far better, more economical and more intelligent, for the Federal Government to lend that same buyer $25,000 at 6½-percent interest for

30 years, and get every cent back on the collateralized loan with interest, than to commit the Government to pay a lender $25,740 over 30 years to make a loan to the home buyer.

That is why I opposed in the committee the provision of H.R. 12945 to increase the maximum income for eligibility for a section 235 loan from 80 percent of median income to 100 percent. My amendment to establish the Home Owners Mortgage Loan Corporation, as originally agreed to in committee, kept the income eligibility for subsidized loans at 80 percent of median income, as it is in present law, and proposed the direct loan program primarily for families earning above 80 percent of median income.

The committee, however, subsequently raised the income eligibility for section 235 to 95 percent of median income, meaning that families in Washington, D.C. with incomes of approximately $17,000 would be eligible for subsidies. For Newark, N.J., 95 percent of median income is about $16,000; for Bridgeport, Conn., Detroit, and Chicago, about $15,000 and for St. Louis, Philadelphia, Toledo, and Los Angeles, about $13,500 for a three- or four-person family. Of course, the higher the income of the section 235 home buyer, the smaller a subsidy is paid. But while I can see the necessity for providing subsidies to families earning 80 percent or less, of median income, I truly believe the average family could handle a 6½-percent direct loan which did not involve a subsidy.

We have had a number of successful direct Federal mortgage loan programs—under the VA for veterans of World War II and the Korean war, and for farmers under the Farmers Home Administration, and, as noted, the HOLC program during the depression to enable homeowners to avoid foreclosure. All have been highly successful programs. And none of these involved any subsidies.

THE MORTGAGE SUBSIDIES FOR THE WELL-TO-DO

The so-called tandem program under which the Federal Government has subsidized many high income home buyers, by having their 7½-percent loans on amounts up to $42,000 bought, and resold by the Government National Mortgage Association at a loss of up to 10 percent of face value, has cost the taxpayers as much as $4,000 each on these high income loans.

Since there is no income limitation for eligibility, nor any limitation on the sales price of the home as long as the mortgage does not exceed $42,000, we have found that some well-to-do purchasers were able to make down payments up to $30,000 down on a $72,000 home in order to qualify for the federally subsidized $42,000 loan at 7½ percent I wonder how many of these buyers, or their fellow citizens, know that each such home on which a $42,000 mortgage was extended at 7½ percent under the tandem plan enacted at the administration's urging in 1974, is costing the taxpayers as much as $4,000 in points and discounts absorbed by GNMA.

The program was adopted primarily in order to aid homebuilders in disposing of new homes on a stagnant real estate market. Undoubtedly, it has helped to provide some jobs in the depressed building and related fields, helped the realtors in selling new homes, and the mortgage bankers who process the loans and receive a monthly fee for servicing them after selling them to the Federal secondary mortgage market.

But the HOMLC, in contrast, will provide homes and jobs in the housing field at no ultimate cost to the Federal Government. The loans will be repaid with interest. And since these are investments rather than Federal expenditures, the HOMLC program is expressly made off-budget so as not to have the $10 billion revolving fund mistakenly and confusingly regarded as a budget-unbalancing "expenditure." There is precedent for this in numerous Federal investment programs, including the 202 direct loan nonprofit housing program, the rural electric and telephone loan programs, the Export-Import Bank, and other programs in which outlays of the Federal Government come back to the Treasury in full and with interest.

As between more subsidy programs and a direct Federal loan program such as is contained in section 22 of H.R. 12945, I think the evidence is conclusive and irrefutable that a direct loan program is preferable to an expansion of the section 235 subsidy program to include average income families.

Mr. GRASSLEY. Mr. Chairman, unfortunately I feel compelled to vote against H.R. 12945 because of the deletion by my colleagues of that provision which would place a ceiling on HUD's administrative expenses. It is curious that Congress should, via its new budget process, attempt to impose a ceiling on its own profligate ways and yet continue to allow vast and uncontrollable Federal bureaucracies to continue their spending with little or no restraint. The House has not only contradicted itself, but has as well been unfair to the taxpayer.

In an earlier statement I made regarding the need for this ceiling, I noted how HUD has been moving employees out of its multimillion dollar headquarters to buildings throughout the area, and how they have been spending $83 on ashtrays. I find it incredible to believe that a ceiling on HUD expenditures would cause any great dents in HUD's housing efforts. And considering that the major program designed to meet the needs of low-income citizens has seen only 2,600 units constructed since its enactment 2 years ago, I am sure that HUD could not be spending all the funds that Congress has authorized for it. I fail then to see why they are afraid that they might exceed any reasonable ceiling imposed by Congress and why my colleagues have accepted such specious position.

Mr. ASHLEY. Mr. Chairman, I have no further requests for time.

Mr. J. WILLIAM STANTON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing Authorization Act of 1976".

HOUSING ASSISTANCE AUTHORIZATION

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore, Mr. McFALL, having assumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12945) to amend and extend laws relating to housing and community development, had come to no resolution thereon.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the debate on the bill H.R. 12945, just completed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ABSENCE DUE TO OFFICIAL BUSINESS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. PICKLE. Mr. Speaker, yesterday, Monday, May 24, 1976, I chaired a hearing for the Oversight Subcommittee of Ways and Means that was held in Charlotte, N.C., and, therefore, missed votes and quorum calls that occurred during yesterday's session. Accompanying our committee was the gentleman from North Carolina (Mr. MARTIN), and the gentleman from New Jersey (Mr. HELSTOSKI).

The purpose of the hearing was to delineate reporting and disclosure difficulties regarding the pension reform ERISA law and to explore several proposals for improving the new individual retirement accounts program.

ADMINISTRATION WEAKNESS ENCOURAGES PANAMANIAN PIRACY IN CANAL ZONE WATERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. SNYDER) is recognized for 5 minutes.

Mr. SNYDER. Mr. Speaker, the failure of the President and his administration to demand an end to such incidents as the recent incursion into the Canal Zone by elements of the Panamanian National Guard, has only increased the appetite of Dictator Torrijos for pulling Uncle Sam's tail in the Canal Zone.

I have just learned from the Secretary of the Panama Canal Company that a Panamanian National Guard vessel committed an act of piracy in Canal Zone waters yesterday morning by seizing and impounding an auxiliary sailing vessel recently purchased at auction by the General Electric Credit Corp.

The sailing vessel was en route to the United States, and was captured in waters clearly recognized internationally as under U.S. control.

Mr. Speaker, if President Ford would show the Panamanian dictatorship a little of the mettle that he showed the Cambodian Communists when they captured the *Mayaguez*, this country would regain some of the respect it is fast losing all over the world.

"KEEP CHICAGO CLEAN" ESSAY CONTEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, last week I announced the winners in the essay contest sponsored by Mayor Daley's Citizens Committee for a Cleaner Chicago, myself, and Illinois State Representative William J. Laurino.

I wish to include in the RECORD 2 more of the 10 winning essays, one by Greg Dial and one by Ana Suarez, as well as the runners-up, all of which were written by pupils in schools located in the 39th Ward area of the 11th Congressional District of Illinois, which I am proud to represent.

The essays follow:

ESSAY BY GREG DIAL

Let's stop pollution everyone,
So some of us can have some fun,
They'll close the beaches,
They'll close the parks,
If we don't each one, do our part!

Come on gang—let's look alive,
So the next generation won't have to die,
We'll clean the water,
We'll clean the air,
So we won't have to live in fear.

Now if all this is done,
The pollution fight will be won.

ESSAY BY ANA SUAREZ

I would suggest that the first thing we should do would be to cut down on littering. That wouldn't be the only thing, of course, but I would like to see that done.

I think that the fines that are put on the streets are not working because not once in my life have I seen a police officer giving a ticket for littering.

After everyone has agreed to make the move to enforce keeping the city clean, I would get in touch with Mayor Daley to see if he would also agree with my idea and help by hiring special officers to keep a close watch on litter bugs. That would help solve most of the problem.

The next step I would take is to have the schools get off early once a month to go to the parks and pick up trash and start on planting flowers.

Next, I would talk to the neighbors and try to form different committees in each neighborhood. The committees would keep watch over the garbage trucks and make sure that they would be doing their job by coming around the neighborhood often and taking with them all the garbage. Another committee could be started to encourage the people to paint and better their houses by fixing their yards, garages, front lawns, and trimming their trees. These committees should also make sure that there are plenty of garbage cans around. This would help because if people see the cans nearby, they are more likely to deposit their garbage in them than if they have to wait until they come across one or if they have to take the garbage home with them.

Another thing drivers should be reminded of is not to throw their garbage out the window of their cars. This could prevent fires from starting from litter that is all over. And for the people with lung and asthma disease, it would be a great help if the factories would not pollute so much and cars would go and get a pollution test. This, I think, would even help the flowers grow nicer and so we could look up at the sky and smell the freshness and see the beautifulness of our city.

This is what I think would make our city a better place to live and to see beautiful things at.

ESSAY BY FRANK ZIOLKOWSKI

Most children think about what they can do to keep Chicago looking clean and beautiful. There are many ways in which Chicago can remain beautiful. People just don't stop and think about them when they are dropping paper or cans. It wouldn't hurt them to put the garbage or litter in their hand or pocket until they got home, or until they saw a waste container. Also, they can pick up garbage and trash even though they're not the one who has placed it there. People, therefore, should be encouraged to pick up garbage and trash.

Also, people can go to their neighborhood "Clean up for Chicago" chairman and get some signs, and put them in store windows. This could encourage other people to pick up their trash and litter.

If something can be recycled, encourage people to save it, and give it to someone who can recycle it.

Keep your own garbage cans covered with lids so no rodents or other small insects try and make a home of the trash that has collected here.

Don't trample the grass in front of your home, or anyone elses, for that matter. Go to the park instead. Don't write on walls, or break bottles purposely. Try to respect other peoples property.

Plant flowers and trees in the front of your house. Wash your windows and make the outside of your house beautiful. This might cause other people to do the same.

Inside your house, or apartment, keep the rooms in neat order, so no accidents can occur, or any fires or other hazards to happen.

Ride a bicycle to your short distance places, instead of driving. Riding a bicycle doesn't pollute the air, saves on gas bills, and is very good exercise.

Don't throw litter or trash into the river, or lake. It kills the fish and plants that survive in the water, besides causing people to have problems in finding drinking water.

By picking up after yourself, and sometimes other people, Chicago can be kept beautiful. It will be a place which will be the pride of our nation during its two-hundredth birthday.

ESSAY BY KYUNG KIM

There are many things I can do to help keep Chicago clean and beautiful. Some of them are: Stop littering and polluting myself. Help the others keep our city clean and beautiful by picking up litter around the city when I see it, even if I didn't drop it. I would help keep my house and school and its surroundings clean, so my neighborhood is cleaner. I would make drawings, poster and signs urging people not to litter or pollute. They will also show people how to help keep our city clean and beautiful. I would put these things up around our neighborhood, school, and the Chicago River.

I would also try to form a club or get a group of friends together to help clean up our city. We will also plant seeds, flowers, and trees around the city where it's needed. We would paint pictures on walls or other places where it is needed so our city is colorful and beautiful.

ESSAY BY MIKE SMERNOFF

The city we're in is one of the greatest cities in the United States. The city has had many world famous events, even now the city has many exhibits that are great. The city of Chicago is being improved all the time, we have things in Chicago that no other city ever had.

Look at Chicago, it has at one time or other been the leader of almost every major industry.

In Chicago there are always things to see and do. We have famous buildings, parks, museums and many places to go.

I am proud to live in a city such as Chicago and hope that it will stay as nice and great as it is now, if not better.

ESSAY BY KATHIE HANER

Let's start to clean up the neighborhood by cooperating with each other to get things done. We could start by putting a garbage can on every street corner so there is a place to throw candy wrappers besides the street and sidewalk. Next we could start community projects to regularly clean up the neighborhood. People could sweep the sidewalks, while others collect tin cans or newspaper to be recycled. Each person should be responsible for keeping the area around his house clean.

Planting flowers in the spring in front and back yards would help to make our neighborhood not only clean but beautiful. The flowers can be arranged in many different ways, adding variety to the area. Large, dull-looking buildings and factories could be easily beautified by painting picturesque murals on some of the walls.

Car exhausts also cause a good deal of pollution in our area. By carpooling, we could cut down on pollution. Noise pollution isn't too bad in our neighborhood, but by cutting down the number of cars on the street, noise pollution would be cut down too. We must solve our pollution problems now, while we can.

In these ways, I will cooperate and help to clean and beautify our neighborhood.

ESSAY BY BRIDGET COYNE

Pollution has become a great problem and a grave concern to conscientious people throughout our country and the world. Pollution is especially a problem in large cities, such as Chicago.

If things are to continue at the present rate, it is not impossible that someday in the very near future, people will be unable to leave their homes without the fear of suffocating in the outdoors atmosphere.

This is a problem that should be of concern, not only to those who live in large cities such as ours, but to the whole human race, There are many things we can each do to prevent this and we must start now. I am willing to take the first step.

I know it is impossible for me to appear on television or radio and make speeches, for I am only an eleven year-old child. However, I am able to do things which can be just as important.

When I'm a teen-ager, I'm not going to go to the parks late at night and throw empty bottles at the side of the fieldhouse. That would be very dangerous to little children playing there. (What better place than a park for all little kids to go.) It would be very serious if they cut themselves and didn't know what to do. Another thing I'm not going to do is take my car and skid over the field after rains, ruining the grass. I realize other people enjoy it. This would make the park look like a dump area.

Instead, I can go around the park and pick up some of the bottles and broken glass and put them in trash cans.

When I go fishing, I often see people in a nearby boat throwing wrappers and cans overboard, polluting the water. They think that they're not hurting anything, but they are. They're killing the sea-life. Some people may think that killing fish for food is wrong, but it isn't God gave us the intelligence to know it was necessary to kill some fish for food for our survival. He also gave us the intelligence to be discriminate.

Instead, I can row around the lake and pick up all floating objects, and point it out to any other people I see littering, and ask them to do the same.

Another thing that is wrong in our society is disturbing the peace. Excessive noise is one of the worst. Very often I hear speeding cars roaring down the street, endangering other drivers and making unnecessary noise.

Quite often, young people are unconscious of other people's feelings and will have loud, noisy parties late at night. They sometimes forget they may be disturbing others.

I will try to be aware of any inconsideration shown to others while attending parties of this type and do my best to prevent it.

These are just some kinds of pollution, there are many more. Everytime you pollute, think to yourself: Am I hurting just other people or am I also hurting myself?

Essay by Jerry Boyle

What's this? A sign! It reads, "Welcome to Chicago. Population 6,714,576."

Suddenly, I'm going through the city. I see underpasses with graffiti written all over them. I see parks with rubbish thrown all over them. I also see parks with no plants or trees in them. I see cars with exhaust coming out of them and filling the air with pollution. I see a group of teenagers in an alley throwing garbage and debris around.

(The above is what I saw now this is my dream for Chicago.)

All of a sudden people of all ages come out of their homes with shovels, garbage cans, and seeds for plants. They also have buckets of soapy water and paint to go to work to beautify their neighborhoods.

Park managers getting groups of kids together to plant trees and flowers in all the parks. There are children planting gardens for elderly people.

There are teenagers and children working with the sanitation dump to pick up debris.

Now, I'm going to do something for my neighborhood. I'm going to get together a group of friends to paint over the places with graffiti on it.

I think it's ridiculous the way we have let this pollution get so out of hand. I think if we would just pull together and work hard on it we can rid ourselves of this problem of pollution and littering.

I had a dream. A dream of a city in a garden.

Essay by Dawn Spicer

"America is our past, we are her future." People in the past kept America going, and so can we. One important way is no polluting. Another way is by cleaning your outside, planting flowers, gardens, and nice trees. Helping elderly people who can't do it themselves. We can start activities which encourage a cleaner Chicago.

It doesn't matter if you are black or white, big or small, you shouldn't litter. If you have something to throw away, wait till you get home or until you find a garbage can. We need everybody. Come on. Join in!

Essay by Janice Kambara

Pollution is getting to be a problem. It hangs over big cities like an ugly black cloud. The people of Chicago care and we have the Spirit of '76 because were doing something to help our nation. We could start an organization to clean the streets and plant trees and bushes. Voluntary workers could care for them so they won't die.

When you get into your car think: "Do I really need to drive?" If you can ride a bike or walk, go ahead. Carpools are a good idea but hardly anyone uses them. Ask your neighbors if they work near you. Why waste gas and add pollution?

Next time you see some litter on the ground, pick it up. If you have some garbage to throw away and there's no waste basket around, hold on to it until you do see one. It's worth a little effort to keep Chicago beautiful.

Essay by Jeffrey Chiprin

Like Frank Sinatra says, "This is my kind of town." The things I do to keep it my kind of town are to clean up all the garbage, shovel the walks and make them safe to walk on. I could wash people's cars. Those are just some of the things I can do. However there are things you shouldn't do like vandalism, and in case you didn't know, smoking is not only bad for the smoker it's also bad for the people who breathe the air.

When I grow up I'll tell the big factory owners who are making a lot of pollution, "OK, fellows let me handle this! That air we breathe doesn't exactly smell like incense, you know. I want filters on every chimney! Stop dumping garbage into the water, you'll kill all the poor fish."

I wish that what I wrote comes true. Everybody has that same dream I guess, rather I hope.

Essay by Linda Joseph

Chicago will be a better place if we really try to work together. We should build fewer factories since some factories are polluting Chicago or we could use more machines which do not pollute.

People always say "Let's pitch in for Chicago" but it doesn't help. People often say this but do not do anything. When we children grow up there may not be fresh water or animals left. People are moving to suburbs because of all the smoke and pollution. People who are concerned about Chicago can and should do something.

I hope that Chicago will last for many more years, so remember what Woodsy Owl says, "Give a hoot and don't pollute."

MAJORITY WHIP JOHN J. McFALL SAYS KEY DECISIONS ON ECONOMY ARE AHEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFall) is recognized for 15 minutes.

Mr. McFALL. Mr. Speaker, Charles Schultze, the outstanding economist, has made the point that the economy will continue to grow better during the current year. He gave prime credit to the actions of the Congress in resisting the President's restrictive economic policies and taking the initiative on an affirmative economic recovery program. He said that the crucial question is whether we can maintain recovery into the next year. Congress has already approved an affirmative budget resolution with the necessary stimulus to carry the recovery into 1977. It remains now for the Congress to translate those decisions into law, in the form of appropriations, which we will be considering next month, and other spending and tax legislation.

Mr. Schultze made his points on Evening Edition, Martin Agronsky's television program on WETA, on which Mr. Schultze appeared with L. William Seidman, Assistant to the President for Economic Affairs. The program was a few weeks ago, but what Mr. Schultze had to say is as timely then as now. I am inserting pertinent excerpts:

[From Evening Edition, Apr. 10, 1976, WETA-26]

Seidman. The President said he was going to lead the country in a new direction. I think with the economy we can clearly say that he has made good on his promise. We are now progressing with economic activity increasing at probably a six to seven percent rate. Our unemployment rate, while still too high, is down and going down rather rapidly in the last few months.

Agronsky. Over seven million out of work . . .

Seidman. But of that seven million, over fifty percent have only been out for five weeks. There's a big turnover there. That's a big part of it. There are about one third of that seven million that have been out of work over fifteen weeks so that when you think of that, don't think of seven million—the same people—unemployed for a long period. A tremendous amount of that is the churning of—people changing. . . .

Agronsky. It may not be the same, but it has persisted for over two years.

Seidman. But if people are changing jobs and so forth, if they're only out of work on the average of five weeks, then that may mean that that is a more normal way that our economy is going to function. In any event, employment is at an all time high—86.7 million employed, the highest in our history. The inflation rate has gone down from double digit to in the area of six percent. Again, we say we are going in the right direction. We don't say that we are where we want to be. But we say that we are making the moves in the right direction and the people recognize it.

Agronsky. Mr. Schultze?

Schultze. Well, I think that Bill is right in the sense that the economy at the moment is improving nicely. Coming up from a very bad slump, but it's improving nicely. But the fascinating point is that the reason for that is that consistently over the last year and a half the Congress has ignored the President's recommendation and done its own thing. I'll give you two big examples. In October, 1974, in the depths—as we were moving into the worst recession in history, since World War II—the President asked for a tax increase, and Congress ignored him. Last year the President sent up a fairly restrictive budget. The Congress ignored that, increased the tax cut, added expenditures, pumped more money into the economy, and—lo and behold—the economy's improving. So the President's quite right; things are looking a lot better than they had been. The President's quite wrong: It's not due to him: it's due to the fact that Congress was fortunate enough to ignore his earlier recommendations.

Seidman. Boy, that gives me a great opportunity to talk with you Charlie. First place, the tax program that was recommended in October (1974) was neutral. It had increases and decreases. Overall, it was neutral. So this thing that the President recommended a tax increase at that time simply is not the fact of the matter. Second, when the economy started to slide—and I might point out to you that we had some 800 economists sitting with us at the economic summit conference talking about the economy, and not one of them knew that that kind of a slide was going to take place—when it did start to slide, the President recommended a major tax cut. Congress made it a little bigger, but the fact of the matter is that the major tax cut was in fact recommended by the Congress (sic). Now as far as the budget went, there were some differences between what the Congress did and what the President did—probably about $15 billion overall when we got all done, maybe 10—in a trillion and a half dollar economy; it's hard to argue that that made all the difference.

Schultze. Well, let me just say this. The central point is that $15 billion makes all the difference in the world because you're not talking about $15 billion out of a trillion-dollar economy; you're talking about $15 billion out of the $60 or $70 or $80 billion that the economy's improved. So it made a huge difference. It made the difference between ticking the thing up and ticking it down. So I don't think you can say $15 billion is indifferent. Secondly, I would hope the Congress proceeds along its own lines now for next year's budget where it's proposing to go another $10, $15 billion beyond the Pres. . . .

Agronsky. Over what the President is proposing.

Schultze. That's right. And if it doesn't, I think its' just repeating past history. The President is going to propose something very conservative on this. The Congress is going to go beyond him. The Congress is going to win. The economy is going to continue to improve, and the President's going to take the credit for it.

Seidman. Wait a minute. The Congress didn't win. The President vetoed some 46 bills. The Congress sustained about. . . .

Agronsky. Forty-seven, when he vetoed the. . . .

Seidman. Right. Thank you. About 39 of them were sustained. That cut $13 billion of government spending. The key factor that is restoring confidence to the American people is that the inflation rate is down and that their real earnings are up. And that is because they feel there is somebody in their government who's looking out for their money and who is looking out for its true value. And if there's one thing that brought us out of this recession, it is the restored confidence of the people of the United States, and they're buying because of it. So I think that when you look at these numbers, you cannot just look at an econometric model. You have to look at people and how they have reacted.

Schultze. No, I agree you can't just look at an econometric model, but I'm kind of old fashioned enough to think that the thing that really makes the difference is when you put money into people's pockets, not pray at them.

Agronsky. Charlie, let me ask you this. Do you think that the way the economy is moving now, that the recovery will continue?

Schultze. I think that the way the economy is moving now—the recovery's going to continue through the rest of this year. I don't care what happens. It's going to continue. The real critical question is what happens next year. I think Bill would agree with this. It's going to continue this year. The real central policy disagreement is what you do for next year's budget that the Congress is now formulating.

Agronsky. How would you define that policy difference?

Schultze. I would say the policy difference is approximately the following, and Bill can correct me if he thinks I'm unfairly describing it. Very roughly speaking, the President would cut somewhere between $15 and $25 billion from the expenditures that the Congress is likely to want. The President is *also* . . .

Agronsky. Mostly in social and economic programs.

Schultze. That's correct. The President would also net between some tax increases and some tax decreases—cut taxes an additional $5 billion. So he's cutting expenditures by 15 or 20 and taxes by 5—so net, there's about a $10 to $15 billion more economic stimulus in what the Congress wants than what the President wants.

Seidman. Well, I think that's a little on the high side. If you look at the Budget Committee's figures, I think it comes to closer to $7 to $8 billion, but when we're talking about these kind of numbers, the big difference is that the President wants to stop the growth of federal spending which has been increasing at 10 to 11 percent a year and he wants to hold it down to about half that. And he wants to give the difference back to the American people so they can spend it. I agree with you. The American people ought to have the money to spend. And the way to do that is not to send the money to Washington. Leave in it their pockets. The big tax cut showed that. Leave it in their pockets. Cut federal spending, and you'll get a much more stimulative economy.

Agronsky. Yeah, but the question is where do you cut it. If very fundamental social programs, for example, are cut, then you have to ask yourself if, if that's good for the economy, isn't it bad for the people who are affected.

Seidman. Well, obviously, anybody who's getting money would like to get more. But I—there are very few people in this country who now don't believe there's enough waste in this government so that we can restrain the growth in federal spending by five percent. We're not cutting anything. The general, overall increases are five to six percent. We're just saying it ought to not increase faster than that. And if there's anybody in this country that doesn't think there's that much waste in government spending, they'll be hard to find.

Agronsky. Let me point out another pretty fundamental difference that—in words that you've expressed and those that come from Democratic Congressman Brock Adams, who's chairman of the House Budget Committee. Well, Adams says that the President's restrictive fiscal and spending policies threaten to arrest the beginnings of economic recovery that we're now experiencing, right? You say that much will depend on whether fear of the economic recovery will overheat or sputter and that there's a clear choice—the President offers a policy of steady, stable growth through a strengthening of the private sector. The Democrats are going to seek further stimulus through a program of government-created jobs and a move toward economic planning. Okay. Now that's a pretty fundamental difference. Now, I wonder if I can begin by asking you why you think that the improvement in the private sector will be adequate when so many people feel that if the government doesn't get into government-backed—financed—jobs that unemployment will not be brought down and the economy will suffer as a result?

Seidman. Well, first and foremost, I would say, look at the facts. The economy is recovering now and is recovering very nicely. And it's recovering because of the policies the President has put in place. Now, the next thing that ought to happen in a normal recovery is that we will start to see capital spending by business increase—we'll start to see business expand as their markets expand–we're already seeing the first signs of that. And then it will create real jobs. Permanent jobs. So what we want to do is create the conditions by which the private sector can expand. Key to that is their having sufficient funds to do so. To the extent that the government is taking those funds and using them for social payments, there is less left for industry. And we are already seeing industries in some areas move into their full capacity so that they're going to have to expand, and we ought to see very soon a very rapid expansion and a very strong demand by the private sector, and that's what creates jobs.

Agronsky. That'll be adequate?

Seidman. Yes, more than adequate, if anything.

Agronsky. Charlie?

Schultze. Well, you know, now we're getting down to just a matter of numbers in many cases. The President proposes to reduce federal spending from the track it would have been on by an amount such, that if you allow for inflation, the real value of federal spending will go down. In some periods of time, that's good. That is not a way to stimulate recovery. That is not a way to keep the economy going during this very critical phase when you're trying to get the recovery to take hold. It's not a question of all or nothing. It's a question of that degree. And just like last year, if the Congress had followed what the President wanted, we would have had a much lower deficit, and in that case, a lower deficit would have been bad.

U.S. REPRESENTATIVE CHRISTOPHER J. DODD INTRODUCES PRETRIAL DETENTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Dodd) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, today we are reintroducing legislation to permit Federal and District of Columbia courts to deny pretrial release to criminal suspects charged with committing crimes of violence if the presiding officer has reason to believe that the defendant will flee or pose a danger to any other person or to the community.

This bill was originally introduced by Mr. Tsongas and myself on April 29, 1976. Today we are joined by our distinguished colleagues: Mr. Mann; Mr. Baucus; Mr. Bedell; Mr. Brown of Michigan; Mr. Carney; Mr. Cohen; Mr. Cotter; Mr. Robert W. Daniel; Mr. Edgar; Mr. Fauntroy; Mr. Findley; Mr. Fisher; Mr. Flowers; Mr. Gibbons; Mr. Gradison; Mr. Grassley; Mr. Ichord; Mr. Kemp; Mr. Ketchum; Mr. Kindness; Mr. Leggett; Mr. Lehman; Mr. McCollister; Mr. Mazzoli; Mr. Miller of California; Mr. Mineta; Mr. Moorhead of Pennsylvania; Mr. Neal; Mr. Nedzi; Mr. Nowak; Mr. Rees; Mr. Roush, Mrs. Spellman; Mr. James Stanton; Mr. Whitehurst; and Mr. Charles Wilson of Texas.

Our citizens have become increasingly threatened by the multiplying incidents of violent crime in our neighborhoods and communities. Many of these criminal offenses are committed by suspects who are on release pending trial. According to recent data collected by the U.S. attorney's office in Washington about 70 percent of individuals indicted for robbery are rearrested for similar or more serious offenses while on release pending trial. We believe it is time to provide protection for our citizens from these repeated acts of violence.

Under the Bail Reform Act which was enacted nearly 10 years ago persons arrested for committing any noncapital offenses are to be released after formal indictment as long as they can demonstrate sufficient ties to the community. Only persons charged with an offense punishable by death can be detained upon a determination that the individual is likely to flee or pose a danger to the community. In fact, there are no crimes punishable by death in Washington, D.C. By contrast, judicial officers reviewing cases involving individuals charged wtih any noncapital crime—no matter how violent—are prohibited from considering the defendant's propensity to flee or to pose a danger to the community. As a result of this facility in obtaining pretrial release in noncapital cases, many dangerous individuals are released and abuse this freedom by committing additional violent crimes.

In response to this aggravated situation, the District of Columbia Court Reform and Criminal Procedure Act of 1970 was enacted by Congress to broaden the circumstances under which judges can detain criminal suspects as follows: First, suspects who are on parole or probation for prior offenses can be detained for 5 days while a revocation of parole is sought; second, defendants who threaten to injure witnesses or jurors can be detained for up to 60 days; and third, a limited class of defendants who are charged with specifically named dangerous crimes, or repeated violent crimes can also be detained for up to 60 days. However, the judge cannot consider the defendant's dangerousness until he or she has committed a second violent offense. We believe the judge should be afforded the discretion to consider this critical factor when the defendant is charged with his first violent crime—hopefully in order to prevent a second criminal offense. Furthermore, the United States Code does not reflect these 1970 District of Columbia amendments and we believe that judges in all Federal courts should have the same discretion.

Under our bill, judicial officer's authority to consider a defendant's dangerousness or propensity to flee before ordering release would be broadened to include an offense not punishable by death involving an act of violence. Under title 18 of the United States Code, applicable to all Federal courts, an act of violence would be defined as:

1. The use of a dangerous weapon;

2. The intentional infliction of death or serious bodily injury;

3. The commission of a sexual assault; or

4. Any attempt to commit any act under 1, 2, or 3.

We have adopted the definition of violent crimes as set forth in title 23, section 1331(4) of the District of Columbia Code.

Commensurate with the Speedy Trial Act, the court would be permitted to detain the defendant for up to 100 days. Criminal suspects detained under our bill are afforded a preliminary hearing and maintain the normal avenues of appeal.

For the consideration of all of my colleagues, I would like to insert the text of the bill, as follows:

H.R. 13997

A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant courts power to deny pretrial release to persons charged with the commission of certain crimes of violence

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 207 of title 18, United States Code, is amended by inserting immediately after section 3146 the following new section:

"§ 3146A. Pretrial release of persons charged with violent offenses

"Any person charged with an offense (not punishable by death) involving an act of violence shall be treated in accordance with the provisions of section 3146 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained. The provisions of section 3147 shall apply to persons detained under this section.".

(b) Section 3156(a) of chapter 207 of such title 18 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and by adding at the end of such section the following new paragraphs:

"(3) The term 'act of violence' means—

"(A) the use of a dangerous weapon;

"(B) the intentional infliction of death or serious bodily injury;

"(C) the commission of a sexual assault; or

"(D) an attempt to commit any act described in subparagraph (A), (B), or (C); and

"(4) The term 'dangerous weapon' means any firearm (as defined in section 921(a)(3) of this title), knife, club, or other weapon designed to inflict death or serious bodily injury.".

(c) Section 3146 of chapter 207 of such title 18 is amended by striking out the first word and inserting in lieu thereof "Except as provided in section 3146A, any".

(d) The table of sections for chapter 207 of such title 18 is amended by inserting immediately after the item relating to section 3146 the following new item:

"3146A. Pretrial release of persons charged with violent offenses.".

Sec. 2. (a) Section 23–1325(a) of chapter 13 of title 23, District of Columbia Code, is amended by inserting "or with a crime of violence" immediately after "offense punishable by death".

(b)(1) Section 23–1322(a) of chapter 13 of such title 23 is amended by inserting "or" immediately after the semicolon in paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Section 23–1322(b) of chapter 13 of such title 23 is amended—

(A) by striking out ", (2), or (3)" in paragraph (2)(A) and inserting in lieu thereof "or (2)";

(B) by striking out "or (3)" in paragraph (2)(B)(ii); and

(C) by striking out "paragraph (3)" in paragraph (2)(C) and inserting in lieu thereof "paragraph (2)".

(c) Section 23–1321 of chapter 13 of such title 23 is amended by striking out the first word and inserting in lieu thereof "Except as provided in section 23–1325, any".

(d) The catchline for section 23–1325 of chapter 13 of such title 23 is amended to read as follows:

"§ 23–1325. Release in capital cases, crimes of violence cases, or after conviction.".

(e) The item relating to section 23–1325 in the table of sections for chapter 13 of such title 23 is amended to read as follows:

"23–1325. Release in capital cases, crimes of violence cases, or after conviction.".

Sec. 3. The amendments made by this Act shall apply to acts which occur after the date of enactment of this Act.

IMPRESSIONS ON A TRIP TO CHINA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. Wolff) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, recently, I returned from a fact-finding mission to the People's Republic of China which I undertook in my capacity as chairman of the Future Foreign Policy Subcommittee of the House International Relations Committee. The subcommittee has been conducting a series of hearings on the "great power triangle" of the Soviet Union, the United States, and the People's Republic of China. Our visit to the People's Republic was invaluable in enhancing our understanding of the role played by China in this power triangle and, in particular, in its relationship to the United States.

Upon my return from China, I filed a "personal report" of my impressions of the trip with the Long Island Press, which serves my home district, to record some of the things I saw and learned from the visit. I would like to share these impressions with my colleagues in the House, and am therefore inserting into the Record at this point the 3-part series on China, as published in the Long Island Press:

Representative Wolff's Own Story of Visit to Red China—"A Land Whose Vastness Defies Easy Description"

(By Repressentative Lester Wolff)

China, even to the eye of a first-time visitor, looms as the contrived massive product of the Cultural Revolution. Her people, by design, reflect an almost unbelievable oneness. They react and respond to only one man and one philosophy—Mao and his Red Book.

China is a land whose vastness defies easy description. Its inhabitants—900 million men, women and children, by out count—all are virtually isolated from contact with the outside world; but they seem content with their impregnable self-contained life style. To a visitor from a country such as the United States where individual rights are sacred, it comes as a shock to witness a society where total obedience to state and the political structure takes precedence.

The eight days I spent in the People's Republic of China on a mission for the Congress were enlightening, sobering and perplexing. I undertook the trip as Chairman of the Future Foreign Policy Subcommittee of the House International Relations Committee to view for myself, and at first-hand the strange circumstances and surroundings that make the PRC one of today's major world powers. Unlike all other American visitors who were invited by China before us, I insisted to other members of the delegation that we not permit China to be our paying host in order to preclude any undue influence on the delegation. All expenses of our trip were paid by the individual members through their respective committees.

I sought through my personal observations and meetings with high-level officials to gain new insights into the prospects for continuing bilateral relations between the United States and China and to learn of the widening breach in China's relations with the Soviet Union (as far as China is concerned).

China, I was told, believes that war with the Soviet Union is "inevitable" and thus is devoting her full energies to preparedness. The message China sends us is that she is ready for war with an arsenal of modern day weapons, both conventional and nuclear, and with a network of tunnels and shelters to safeguard her people—but, they ask, is the United States?

China's leadership maintains that the United States is being pushed out of Asia (by the Russians) and that we should concentrate our strength in Europe to forestall the "inevitable." They say to us that Russia respects only strength, not détente, or in the words of one official: "Feed a baby tiger and he will grow up to eat you."

Interestingly, China's leaders say they are not concerned with world control like the Russians, but are only intent on defending and developing their own country's resources and self-reliance.

What does this mean? It is my impression that we nine members of Congress were invited to view mainland China and her people for the specific purposes of bringing home the word—the word of Mao that China is determined to remain secure at any cost, and shielded from interference with her political aims.

A number of "firsts" were afforded the members of our mission: one, we were the first American group to hold an in-depth discussion with the First Vice President under the new realignment; two, we were the first American group to be permitted to see the critical areas of Manchuria with its network of tunnels and shelters; and, three, we were the first American group to witness a demonstration by Chinese Liberation Army defense forces.

For me, the trip to China culminated the series of hearings my subcommittee held during the past seven months to probe U.S.-Sino-Soviet relations and the triangular power struggle.

The trip to China has placed into perspective the information I derived from the committee hearings and I intend to resume the hearings later this month. For the Subcommittee to make conclusions, at this juncture, on the planning of U.S.-China relations obviously would be premature. Our considered recommendations will be made only after all observations of the trip have been assessed and placed into the context of the hearings.

In view of the recent reports of political turmoil within the People's Republic, the timing of our trip had added significance since no high level meetings had taken place since the ouster of Acting Premier Teng and the accession of the new Premier, Hua Kuo-feng.

I saw no visible evidence of this unrest either in Shanghai, Peking or in any of the rural areas we visited. If, indeed the demonstrations were as intense as reported, all traces had been completely removed before our arrival—the message to us being that the foment had not been a serious threat to China's stability. There were, however, derogatory posters everywhere relating to the disgrace Teng had wrought on the people and the Party through his "revisionist" actions (meaning that he had expressed divergent opinions).

Most notable was the fact that nowhere did we see signs or posters extolling the virtues of Hua, who I believe will (upon the death of Chairman Mao) replace the late Prime Minister Chou-en-Lai and not succeed Mao as China's leader.

No one, in my opinion, will ever be permitted to succeed Mao.

The Red Book of Mao doctrine and rules will succeed Mao in the form of a new constitution to be carried out by a consortium of officials. It is Mao, and only Mao who is extolled and revered by the masses in writings, in songs, and in practice.

Thus, it is evident to me that Mao and his closest advisors, including his present wife, Chiang Ching, Madame Mao, all members of the so-called "Shanghai clique" (for lack of a better term) have again emerged on top. Our meeting in the Great Hall of the People in Peking with the First Vice-Premier, Chang Ch'un Chiao, and in the House of the Foreign Ministry with Foreign Minister Ch'iao Kuan-Hua, were not arranged by chance, but were deliberately set up by the Chinese so we could talk directly with prominent members of the "Shanghai clique."

We were told by Chang that military policy in China is "subordinate to political life" and that there are two main goals—"to build up China industrially and economically and to defend her against threat from the north, Russia."

Ch'iao spoke of the deep tunnels that honeycomb the cities as China's "underground Great Wall—to protect us today." He said Chairman Mao is the "major factor" in China's political strategy and quoted from the Red Book: "Dig our tunnels deep; store grain everywhere; and never seek hegemony."

I subsequently saw the tunnels dug deep; heard the message of deterring Russian hegemony; but I did not see grain stored everywhere, leading me to believe the goals are still to be reached.

Our U.S. Air Force jet flew into Shanghai for our arrival in China in a fog so dense that the ground was visible only at 100 feet. The air was heavily polluted and discolored by acrid fumes from charcoal burning furnaces, the principle source of both household and industrial energy. Our Air Force pilot landed his plane on a dime in the pea soup fog, a feat that drew astonishment and admiration from Chinese airmen on the field.

I found the Chinese people throughout my visit to be curious and extremely friendly. We, of course, were stared at, examined as foreign curiosities, but always with friendly smiles. As we were being driven to the hotel from the airport, the streets were lined with people, some no doubt there by political design, but others by a pervasive inquisitiveness, but all with genuine friendly smiles. I do not believe you can orchestrate a spontaneous smile and that is what I saw on the faces of the Chinese everywhere. They were responsive in the friendlist manner to our waves. They clapped their hands and applauded and when we applauded back, they would wave even more enthusiastically.

It was a "welcome" welcome to China and what was to be eight days of absorbing and thought-provoking events.

In China, Individuals Are "Obliterated" by the State

(By Representative Lester Wolff)

China's society is perhaps more tightly closed today than ever before, in spite of the efforts by those who many years ago paved the way to open China to the world.

The Peking Hotel, where we were quartered, is spacious, a peculiar blend of old China and the new. Side by side are situated old world lobbies of ancient days and an austere new wing typifying the utilitarian design of the Cultural Revolution. Our rooms, in the new wing, were furnished comfortably but with the barest of necessities, further indicating the pevailing spartan atmosphere.

In China's classless society, no one has the job of "bell hop," we quickly discovered that officials of the Foreign Ministry, both men and women, had been assigned to carry our bags. Needless to say, when we saw what was happening we carried our own.

The Peking Hotel is one of but a few hotels available to foreigners, for there are definite restrictions on where foreigners may venture. This does not mean that we were prevented from moving about at any time; in fact, I made it a habit to rise at 5:30 every morning so I could walk the streets and see this city come to life—whatever life there is in this city of oneness. I never felt I was followed or monitored and was perfectly free to use my camera.

However, an off-limits policy of sorts is in effect for foreigners as far as restaurants, shops and theatres are concerned. For instance, in one restaurant we entered in search of a "real" Chinese breakfast, the crowd saw us, quietly rose and just left. It is not written in the Red Book that China's people may mingle with foreigners. We were served our breakfast but had no other company in the room. This same reaction applies to all foreign visitors, not just Americans, for I was told by other foreign embassy people that they had had the same experience.

A Chinese breakfast, by the way, is a far cry from the cereal and eggs of an American's morning repast: It consists of noodles in broth, fish and a doughy steamed bread—"street food," the people's standard fare.

On another occasion in Peking, we went to a small park near the Tien Em Men Square and "dined" on more food of the people, this time Hsuai Chiao, steamed dumplings stuffed with minced cabbage, scallions and meat, flavored with a fragrance of spices. They sold 20 for two yuan ($1). It went well with Peking beer, which is quite good.

Restaurants and shops are specifically marked if foreign visitors are welcome. In others, outsiders are not encouraged to enter for we do not fit into the mold. Theatres are off limits to foreigners except by special invitation.

Tien Em Men Square, site of recent demonstrations, is overwhelming in size, typical of China's vastness. The Gate to the Forbidden City is located in the Square, a bridge to the past where priceless art treasures from the days of the Dynasties are on exhibit. The Great Hall of the People is in the Square, a massive edifice where we formally met with Chinese officials. I asked one how long it had taken to build the Great Hall and was told "10 months," but apparently that number is a sort of magic gestation period for the Chinese; when asked they say everything takes "10 months" to build.

We shopped after hours, for our days were so full, in what are called Friendship Stores, department type shops open to foreigners. We found nothing very characteristic of China but noted the wares were of inferior quality, similar to the products exported by Japan in the early years following World War II. Prices are firm, the same in all of the Friendship Stores, no bargaining. Gems and precious stones are very expensive and antiques and objects from the precultural revolutionary days are not for sale at all—they belong to the PRC.

To exemplify the system of oneness, Chinese clothing is unisex. Both men and women wear identical styles of pants, jackets, suits and hats of blue, gray or khaki color. This clothing emphasizes the complete obliteration of the individual, so much so that it is difficult to tell men from women. The only shadow of bright color is seen on some of the very young, who might wear a red or green blouse and on a few of the women, who add a ribbon or kerchief to their utilitarian costume. Haircuts for the women are of two styles, short and close cut or long, worn in braids.

The people are monolithic in numerous ways. For example, last names frequently are the same, as personal identity is insignificant and only duty to the state is of consequence. The masses are China's great asset, a cohesive bloc, void of independent thought.

The streets of Peking further portray the system of oneness and austerity. The trees lining the avenues are studiously pruned to resemble each other: same height, same breadth, almost as though someone had counted the branches and trimmed them to conform.

Absolute, unvarying rigidity is the norm and the expected. Even the horns on the thousands of bicycles used by the Chinese on their way to and from work have a uniform din, like a symphony of identical tones. The Chinese don't own automobiles; these vehicles are owned by the state and reserved for official use. All the people march to the same drum, but it is a diametrically different drum from ours.

In the city of Darien, near the Manchurian border, we inspected a glass factory. Here, as elsewhere, the work is hard, the conditions primitive and the pay miniscule by outside standards. A worker in this factory labors 10 hours a day, six days a week and receives about 50–80 yuan ($30-$40) a month for his labors, depending on degree of skill. I watched one man shape and form a piece of hand blown glass which took him about 15 minutes. For this, he was paid about 2 cents, at his monthly rate. I purchased a glass piece at a Friendship Store in Shanghai for $7.50, the established price. Where does this enormous profit go? It does not end up in the hands of the artisan or the factor, but goes into the coffers of the state to finance services for the masses. A worker in this socialist system never questions, he just believes.

A Chinese worker pays about two percent of his wages for rent or shelter and about 50 cents a year for medical and health care. He is able to retire at the age of 58 at about 80 percent of his wages, but still is required to produce or do something for the state as long as he is able to do so. In this society, a worker is assured of food, clothing and shelter, of the most meager sort, but he is content with this existence as he not only remembers the rampant poverty suffered by his ancestors under the war lords, but believes his way of life is the best way to serve the state.

I saw few infirm on the streets, unlike India and other Asian countries where poverty stricken and disease ridden are common sights. The aging are cared for by the government. There are state run "senior citizen" centers to tend those unable to produce, in need of care, or who have become a hindrance to their family's productivity.

The young, tomorrow's new generation of the masses, are schooled early and hard in the ways of Mao and the rules of his Red Book. When asked if they consider this a form of brainwashing, one Chinese official replied that since people wash their hands and bodies, why not their brains as well to insure "cleanliness and purity."

Upon completion of secondary school, a youth, with his potential judged by his party block leader, may enter a university for further education, but first must devote two years on a farm or in a factory to work with the people. The Peking University, which we visited, is one of the largest in the country and enrolls about 5,000 students who earn their degree in three years. Since the Cultural Revolution, one of the "reforms" is to cut the conventional four-year program back to three. A university student works from 7 in the morning to 7 at night, the day divided with classes, exercise, and physical fitness periods, lectures and indocrination sessions, food, rest, and more schooling. Upon graduation, the student is placed in a position deemed by his leaders to be the most appropriate way he can serve the state and the Communist Party.

China Preparing for War—Wants U.S. Help In Meeting Russian "Threat"

(China is preparing for war with Russia, and she wants the United States to perceive the "inevitable" so the mutual enemy can be defeated. This, feels Representative Lester Wolff (D.-Kensington), was the principal message the Chinese wanted to convey to him and his House colleagues on their recent fact-finding tour behind the Bamboo Curtain. In the final installment of this exclusive series, the Congressman details China's preparations for the coming conflict.)

(By Representative Lester Wolff)

Official meetings between our Delegation and high officials of the PRC took place in the Great Hall in Peking and in the Foreign Ministry at Darien, a city on the northern shores of the Yellow Sea. Interspersed with nightly banquets and receptions, our confrontations were at all times cordial, friendly and open. We had hoped to meet personally with Premier Hua, as we had been led to believe we would before our departure from Washington, but were informed it was not possible since Hua was negotiating the new arms trade agreement with Egypt.

I believe, however, that this encounter was avoided in order to prevent us from gaining the impression that Hua would eventually succeed Mao. As I have said, I do not believe any one one person will succeed Mao—only his Red Book.

In the words of the Chinese, our meetings were to "increase understanding between our nations and to hear at first hand that China is convinced war with the Soviet Union is "inevitable" since, they say, "Russia's imperialism constitutes a major danger."

That China is preparing for war is without question. Her entire thrust is geared toward this end.

The Chinese will rely on masses of people as their principle weapon in their national defense—guerilla militia, or people with rifles. This "inevitable" war, they say, is "postponable, but not avertable" because the differences between nations are too deep. They further contend that "appeasement will only accelerate the moment of war."

"Our experience with the Soviet Union is that China is a piece of meat the Soviet Union wants to bite, but China's meat is too tough and the dogs of war will hurt their teeth," said one high official.

China has welded her millions into a decisive unit to protect her land and her people. Industrial emphasis is on the development of heavy equipment, tanks, trucks, mechanized vehicles and equipment for defense and on what the Chinese term "reverse engineering." In other words, the Chinese seek prototypes of modern western weapons and equipment and technological advances, not supplies.

They would disassemble these prototypes and then copy them, for they do not possess the know-how to develop from scratch . . . a drafting board in reverse.

China's network of tunnels are actual mazese of underground facilities to shelter their people in the event of war and to provide a base for continuing guerrilla warfare; we were the first Americans to see these tunnels in their depth. The tunnels are miles long (one we saw weaved in and out, and connected for 12 miles), and are ready to go with air systems, lighting, heating, supplies Some even have schools and theatres to pursue the ideology of Mao. It is hard to imagine a well performed dance recital and acrobatic show on a full size stage in a theatre 60 feet underground—but we witnessed this scene with our own eyes.

China's children, many as young as 8 years, both boys and girls, are proficiently trained in the use of rifles and hand grenades. On our visit to a school in Manchuria, a demonstration of this expertise was a skin tingling experience for it conjured up a mental image of a society of nearly 900,000,000 sharpshooters—but this image is no fantasy, it was real.

We were the first Americans to see the Red Army of China in action. (Heretofore, no Americans were permitted even to take a photo of a man in uniform.) These soldiers, incidentally, wear little identifications to differentiate them from the rest of the populace: They don the same drab Mao suits but with two red patches on the collar and a red star on the cap. No insignia is worn to denote rank.

Otherwise we did not see guns in the hands of the people. The street police carried sidearms but there was no overt display of armed guards. Crime is not a factor in this controlled society; deviators or violators are simply not tolerated. The penalties are harsh, but first comes a severe dressing down by party officials and the threat of explusion from the Party. A demotion from "comrade" to "mister" is the ultimate disgrace.

Drug abuse does not exist in the PRC, say the Chinese for it, too, is not tolerated; the use of illegal narcotics is forbidden by the Red Book. They told us that, contrary to reports we have seen indicating groups of Chinese (renegades perhaps) are trafficking illegally near the Burmese border in consort with Burma's Communist regime, they have knowledge of these actions. I do not believe this contention; my investigations into Far East drug traffic have convinced me otherwise.

I had been asked, before leaving Washington, to deliver a request by Sonny Montgomery, Chairman of the House Select Committee on MIA's, to the Cambodian Embassy seeking information on Americans still listed as "missing." In Peking, I asked the U.S. legation to accompany me, but I was turned down for they said it would embarrass the Chinese. Imagine, embarrassing the Chinese by requesting information on our own civilian and military people missing in Cambodia! I went to the Cambodian Embassy alone.

They must have been notified of my intention, for, when I arrived, the PLA guard offered no resistance to my cab going right into the Embassy compound. I rang the bell, there was no answer. I rang again, still no answer. I tried the door; it was open. I walked into a deserted room, shouted "hello, anyone here?", but no one answered. I could hear voices coming from somewhere in the building, but all the inside doors were locked. I placed the letter of inquiry on the information desk in the reception room and left. My mission had been accomplished; I had hand delivered the message to the Cambodian Embassy, but it left me with an eerie feeling. I even wondered if I would get out in one piece.

The Cambodian government has yet to answer one request for information on the MIA's. Is it too much to ask these people about the fate of our people? The war is over!

That China is unique, again is without question. I undertook the trip to investigate and assess the role China plays in our increasingly interdependent world to better place her aims in context with multi-national interest.

What does all this add up to? A culture, an ideology far different from ours and the "twain" still prevails; East and West won't meet for a long, long time.

China is prepared to go its own way. They are prepared to put ideological differences aside for the time being while they face what they consider is a mutual threat by the Soviets. "We have," they say, "parallel interests." They want no military alliance—"You take care of your threat in the West, and we'll hold our own in the East."

What does it come down to? Their interest is to build our interest in the Russian threat. No further progress in joint relations can be achieved, they say, until "normalization occurs"—an exchange of ambassadors and the end of our relationship with Taiwan.

There are some who say this should be done before Mao passes from the scene, before the real "radicals" take over. Who knows what that would accomplish. Today China is only prepared to say "normalization" will mean "progress in our relations."

FINANCE OF SHIPS FOR TRANSPORT OF LNG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, on March 3, I wrote to the Administrator of the Maritime Administration, Mr. Blackwell, concerning MarAd's probable financing of five ships for the use and transport of liquefied natural gas—LNG—from Indonesia to Japan. I raised two questions concerning the deal. First I asked whether or not the beneficiaries of MarAd's insurance program were truly U.S. citizens. Second, I raised a series of questions concerning the true beneficial owners of a subsidiary which will directly benefit from the building of these five tankers.

Mr. Speaker, the response of the Maritime Administration was totally unsatisfactory. As a result, I have written to Chairman Jack Brooks of the Committee on Government Operations and asked him to review the problem.

So that Members of the House may be fully informed about the matter, I am inserting in the Record a copy of my original March 3 letter on this subject, the Maritime Administration's reply, and my letter today to Chairman Brooks.

The letters follow:

Washington, D.C.,
March 3, 1976.

Mr. Robert J. Blackwell,
Director, Maritime Administration,
Washington, D.C.

Dear Mr. Blackwell: It is my understanding that, in late 1973, Pertamina, the state-owned Indonesian oil company, agreed to sell to Japan large amounts of LNG over a twenty-year period. Burmast East Shipping Corporation, a majority-owned (about 55%) third-tier subsidiary of financially troubled Burmah Oil Company, Ltd., entered into an agreement with Pertamina to transport the LNG. In order to fulfill a major share of this obligation, Burmah, through complex corporate structures and agreements involving establishment of new companies under U.S. law, has arranged for the construction and financing of five LNG tankers to be built by General Dynamics Corporation. As a key part of the financing of these vessels, costing a half billion dollars, application has been made to MarAd for title XI ship mortgage insurance. I also understand that MarAd has issued preliminary commitments.

I am concerned that the integrity of the citizenship requirements of U.S. law, which must be met in order to secure title XI insurance, be maintained. Neither Burmah nor Burmast meets the applicable citizenship test, but my own analysis of the complex maze of corporate structures and agreements has led me to identify several factors indicating that the key parties with real interests and overall control over the U.S. participants are Burmah and Burmast.

This conclusion, of course, is drawn on the basis of incomplete access to facts, and in this connection I am writing to ask: What is your understanding of the contractual, ownership, and other arrangements, whether formal or informal, expressed or simply understood, that bear on the issues determining citizenship, particularly the issue of control?

The lion's share of the minority interest in Burmast is reportedly subject to blind options whose owners remain undisclosed. The shipping arrangements stake enormous amounts of money on a transaction involving parties, for example, Burmah and Pertamina, with financial and other difficulties—for them it is especially acute that the deal go through. The approval of officials in foreign governments is required for the transaction. In short, the nature of the deal suggests that it is in a sense tailor-made to create opportunities for discreet advantage-taking, and, especially given the presence of U.S. taxpayer assistance through MarAd, it is important to insist that all the facts be revealed.

In this connection, I would like to ask: What is your understanding as to the ownership of Burmast? Also, what steps has MarAd taken here, and what steps does it take as a matter of its usual procedures (a) to assure that it gains a thorough understanding of where the financial and other benefits of its title XI program ultimately lodge in each case, and (b) to assure that the transaction or projects in which MarAd involves itself are free of any taint or corruption beyond U.S. shores?

In so far as my questions pertain to the Indonesia-to-Japan transaction, I would think it would be helpful to Congress in fulfilling its responsibilities if you provided us all the documents you have that bear on the question.

Thank you very much for your cooperation in this matter.

Sincerely,

Les Aspin,
Member of Congress.

U.S. Department of Commerce,
Washington, D.C., April 21, 1976.

Hon. Les Aspin,
House of Representatives,
Washington, D.C.

Dear Mr. Aspin: This is in response to your letter of March 3, 1976 regarding certain questions raised in conjunction with the proposed financing of the five vessels under construction at General Dynamics for use in the Indonesia to Japan liquefied natural gas project.

By way of background, the Maritime Administration received five applications for Title XI guarantees, the first four dated August 8, 1973 and the fifth dated February 12, 1974. Conditional commitments to guarantee obligations (Commitments) were issued November 7, 1973 for the first four vessels and May 21, 1974 for the fifth vessel. In accordance with your request we have enclosed copies of those Commitments.

The applications for Title XI guarantees were made by Cherokee I, II, III, IV and V Shipping Corps. which are incorporated in the State of Delaware. Energy Transportation Corp., also a Delaware corporation is the sole stockholder of each of the Cherokee companies and is one hundred per cent owned in turn either directly or beneficially by three United States citizens with shipping backgrounds, Mr. C. Y. Chen, Mr. Joseph Cuneo and Mr. Jerome Shelby. The proposed financing arrangement contemplates that Energy I, II, III, IV and V, Inc., Delaware corporations which are wholly owned by Energy Transportation, will bareboat charter the vessels for a period of 25 years from an owner trustee whose equity participants will be U.S. citizens. The Energy Companies in turn will time charter the vessels to Burmah Oil Shipping Inc., (BOSI) a wholly-owned Delaware subsidiary of Burmah Oil Company Ltd. (Burmah) for a period of 25 years from delivery of the vessels. Both bareboat and time charters will be in full "hell and highwater" form, meaning that charter hire is due and payable under any and all circumstances and cannot be terminated prior to 25 years from vessel delivery unless the Title XI obligations are fully repaid (see Sections X and XI of the Commitments). In addition, Burmah is providing a full guarantee of the performance of BOSI under the time charters and the Bank of England has given permission under the Exchange Control Act of 1947 for perfection of the Burmah guarantee as outlined in Sections XII, XXVI and XXVII of the Commitments.

This guarantee is backed by the creditworthiness of Burmah, which at the time of the Commitments, had a 22% interest in British Petroleum Co. Ltd., annual profits of $79 million and a net worth of $1.6 billion. The strength of the company at that time was such that Burmah was able to have major U.S. financial institutions extend substantial credit for various projects. While Burmah has suffered losses within the last year it is in the process of restructuring its assets and liabilities most notably through the sale of its British Petroleum stock and its interests in North Sea oil field properties with a view toward improving its cash flow.

The underlying Transportation Agreement dated September 23, 1973 is between Burmast East Shipping Corp., (Burmast) a company majority owned (57½%) by Burmah through its subsidiary, Burmah Oil Tankers, Ltd., and Perusahaan Pertambanga Minjab Dan Gas Bunii Negora (Pertamina) the Indonesian state oil company. The Transportation Agreement between Burmast and Pertamina is a 20-year (from initial loading of each vessel) "take or pay" contract which provides for the transportation of LNG from either East Kalimantan to Japan or North Sumatra to Japan. The Transportation Agreement provides for escalation of revenues for the following: vessel operating costs (crew costs, stores, subsistence, insurance, maintenance and repair), additional construction costs of changes and extras and certain "unavoidable costs." All rights and obligations under the Transportation Agreement are to be assigned by Burmast to BOSI. Payments due from Pertamina will be paid to an as yet undesignated indenture trustee which will deduct from such revenues an amount equal to the bareboat charter hire for payment of Title XI principal, interest, guarantee fee plus a return to the equity participants. The balance of the revenues will be disbursed to BOSI.

Pursuant to a Profit Sharing Agreement between BOSI and Burmast, the proceeds remaining from said revenues before taxes, but after deducting all expenses, will be divided in a ratio of 25% for BOSI and 75% for Burmast. (See Sections XIII, XV and XXVIII of the Commitments). A finding of economic soundness in the Commitments was based on the Transportation Agreement. Burmah's full guarantee of BOSI's performance under the 25 year "hell and highwater" time charter with the Energy Companies was obtained for additional security. In addition, if a permanent force majeure exists and Pertamina is unable to furnish cargo, Pertamina will pay Burmast the unamortized financing costs of the vessels in either lump sum or continuing daily payments of such costs. Such payments are also to be made to the indenture trustee who will either continue to pay the bareboat charter hire in the manner indicated above or will redeem the outstanding Title XI obligations.

With regard to your specific questions on the issues of citizenship and control, it is required that operational control and equity interests in the vessels be vested in United States citizens in accordance with the Shipping Act, 1916, as amended. The Shipowneer, equity participants, bareboat charterers and the Cherokee companies all were required to furnish satisfactory evidence of United States citizenship (see Section XXI of the Commitments). In addition, Section XXIV of the Commitments requires all the above parties to meet all applicable statutes and regulations. The time charterers, whose ultimate foreign ownership renders them ineligible as U.S. citizens within the meaning of the Shipping Act, 1916, as amended, must be approved pursuant to Sections 9, and 37 of that Act which gives the Secretary of Commerce authority to approve the charter to a non-citizen (see Section XVIII of the Commitments). Since Burmast is not a direct party to the Title XI transaction we took certain measures to increase our security; namely, we required the assignment of the Transportation Agreement to BOSI, which as previously stated, is involved in the Title XI transaction as time charterer, and we acceded to the profit sharing arrangement enumerated above, in order to obtain a full guarantee of the time charter by Burmah.

The five Cherokee vessels are being built entirely without the payment of subsidy by the U.S. Government. The applicant has paid into the Federal Ship Financing Fund (which currently has a balance of approximately $85 million as a result of profitable operations and after deducting all expenses of the Program) a total of over one-half million dollars in investigation fees and will pay to the Maritime Administration approximately $38 million in guarantee fees over the life of the project. No taxpayers' monies are directly involved in this project because of the nature of the Title XI program.

In deciding to go forward with the Cherokee project, the Maritime Administration was mindful of its mandate from Congress as stated in the Declaration of Policy contained in Title I of the the Merchant Marine Act, 1936, as amended, which states "the United States shall have a merchant marine . . . capable of serving as a naval and military auxiliary in time of war and national emergency . . . composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and . . . supplemented by efficient facilities for shipbuilding and ship repairs." We believe that the Cherokee project meets these criteria. Without the availability of Title XI financing, it is most probable that the vessels for this project would have been built in foreign shipyards and operated under foreign flag with the resulting loss of a substantial number of seagoing and shipyard jobs for American citizens, the loss of the availability of the vessels to the United States in time of national emergency and the balance of payments loss of freight revenues.

In summary, the maritime assistance approved for these applications will assist in the construction of 5 LNG vessels which will be documented under U.S. flag and manned by U.S. crews. The applications of the Cherokee companies for Title XI were approved after it was determined that the applications fulfilled all statutory requirements and applicable regulations of this Agency.

Thank you for your interest in this matter.

Sincerely,

ROBERT J. BLACKWELL,
Assistant Secretary, for Maritime Affairs.

WASHINGTON, D.C., *May 25, 1976.*

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On March 3 of this year I wrote to the Administrator of the Maritime Administration, raising a number of questions with respect to MarAd's possible financing of five ships for use in the transport of LNG from Indonesia to Japan. My concerns were basically two—first, maintaining the integrity of the citizenship requirements applicable to MarAd financing, and second, assuring that this transaction and others in which MarAd involves itself are free of any taint or corruption beyond American shores.

The response to my letter, dated seven weeks later, April 21, was unsatisfactory, leaving most of my questions unanswered. My purpose in writing to you is to call this matter to your attention and to request that the staff of the Government Operations Committee inquire into this matter. I believe it is important that Congress exercise its oversight responsibilities in a way that assures that all the facts are brought out and that MarAd is properly and thoroughly exercising its responsibilities.

The first concern I expressed to MarAd was that the integrity of citizenship requirements applicable to MarAd financings be maintained. I suggested that the financing arrangements for the five ships in question were highly complex, but I added that I had identified several factors indicating that the key parties with real interests and overall control over apparently nominal United States participants were Burmah Oil Company Ltd. ("Burmah") and Burmast East Shipping Corporation ("Burmast"), a majority-owned subsidiary of Burmah. Both of these are foreign corporations. Hence, I inquired as to MarAd's understanding of the contractual, ownership, and other arrangements, whether formal or informal, expressed or simply understood, that might bear on the issues determining citizenship, particularly the issue of control.

MarAd's response provided only the barest description of the technical corporate aspects of the transaction. It recited that the applications for MarAd financing were filed by five Cherokee companies, which are incorporated in Delaware and which are wholly-owned by Energy Transportation Corporation, also a Delaware company, which in turn is owned by three United States citizens. The MarAd response also discussed the financing and charter arrangements for the vessels in question.

However, this does not come to grips with the applicable statutory definition of the term "citizen" (46 U.S.C. 802(a)), which specifically invokes the concept of "controlling interest." The parties involved in a particular transaction may found their corporations under Delaware law and assign United States citizens to stand as their officers and directors but the key question of "controlling interest" still remains. The law (i.d. 802 (b)) carefully defines "controlling interest." Thus, if it is so arranged that "the majority of voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen," or "if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States," the control test will not have been satisfied.

In the case of Meacham v. United States, 207 F. 2d 535 (4th Cir. 1953), the Court, feeling itself "compelled to observe the substance rather than the form of the transaction," looked behind a facade of corporate citizenship to numerous practical considerations demonstrating that the nominal United States parties were expected to and did exercise their power in the interests of various foreigners who in fact were in control.

In many respects, as far as I am able to determine on the basis of facts available to me, the present case involving the Cherokee vessels is, like Meacham, a textbook example of questionable citizenship control. Consider well the following facts, which MarAd must have, or should have, known:

Joseph J. Cuneo, President of Energy Transportation, and one of its three owners, was previously President of John J. McMullen Associates, Inc. John J. McMullan was until recently President of Burmah. Mr. Cuneo is understood to be close to Burmah.

Dr. C. Y. Chen, Chairman of Energy Transportation and another of its owners, was one of the parties who had helped organize the complex scheme which was held violative of section 2 of the Shipping Act in the Meacham cases 207 F.2d at 539.

Further, Jerome Shelby, Vice President, Treasurer, and Director of Energy Transportation, and its third owner, is a partner in the large New York City law firm which not only represents the Cherokee companies on the title XI applications, but also, I understand, provides general representation to Burmah and its subsidiaries on a host of matters. Another partner of this firm, Stephen C. Dune, is Director and Secretary of Energy Transportation.

Burmah has reportedly guaranteed the Cherokee companies' contracts with the shipbuilder.

Burmah, not Energy Transportation or the Cherokee companies, is the company putting up over $100 million so far for the five Cherokee vessels.

Burmah itself has spoken of the construction contracts as though they were Burmah's alone.

The ships are and always have been dedicated to filling the transport obligations of Burmast, a majority-owned Burmah subsidiary.

Burmah itself is also guaranteeing those transport obligations.

Once the vessels have been built, control over them is turned over to Burmah and its affiliates through a series of charters and agreements.

Through Burmast and other subsidiaries or affiliates acting as charterers, Burmah seems destined to receive the larger benefits of the overall shipping arrangements, including title XI insurance. Burmast and Burmah Oil Shipping, Inc., a wholly-owned Burmah subsidiary, will divide the profits of the transportation agreement.

In contrast, Energy Transportation and its subsidiaries seem to have only a transitory and passive role. MarAd did not indicate what financial benefits those concerns anticipate.

Burmah has reportedly represented that it has the power to oust Energy Transportation and its subsidiaries from any role whatsoever.

It is interesting that MarAd's letter to me made no mention of a possible new role for General Dynamics in the Cherokee transaction, even though news accounts in recent weeks have reported that American company's announced desire to take an "equity interest" in the ships. Surely MarAd must know something concrete of General Dynamics' plans, the nature of the so-called "equity interest," and the nature of any remaining foreign interests. Here again MarAd's letter is silent.

Of course, I am not in a position to know all the relevant facts here, so I cannot presume to draw a firm conclusion. It does seem to me, however, that there is a serious question of citizenship. MarAd must recognize this. Indeed, the contingencies in its preliminary commitments for financing require each Cherokee company to furnish "satisfactory evidence" of citizenship prior to closing. Regrettably, MarAd's letter to me reveals a too-easy willingness to be "satisfied" with technical corporate documentation, and insufficient attention to factors bearing on control—even in the face of my specific request focusing on control.

I believe it is advisable, under the circumstances, that an appropriate congressional scrutiny be brought to bear to assure that the administrative agency involved gives full and thorough consideration to the real issues at stake.

It would certainly not be in the interests of promoting the national security and domestic and foreign commerce of the United States to use title XI resources to help finance construction of vessels to be controlled by foreign interests.

My second question relates to an area of acute concern to all of us in government at this time. My March 3 letter pointed out to MarAd that the shipping arrangements in this LNG transaction involve enormous amounts of money making it at least more possible for ingenious minds to find slack somewhere. Moreover, the transaction involves parties, *e.g.*, Burmah and Pertamina (Indonesia's state-owned oil and gas conglomerate), that are in serious financial and other difficulties—for them it is gravely important that the deal go through. Finally, the approval of officials in foreign governments is required for the transaction. In short, the nature of the deal suggests that it is in a sense tailor-made to create opportunities for discreet and possibly questionable payments.

Beyond that, I explained that I understood that, while Burmah owns a bare majority in Burmast, the lion's share of the minority interest (around 40 percent) in Burmast was subject to blind options whose owners have never been revealed. Hence, I asked MarAd what it understands as to the ownership of Burmast. I also inquired what procedures MarAd follows (a) to assure that it gains a thorough understanding of where the financial and other benefits of its financial programs ultimately lodge and (b) to assure that the transactions or projects in which MarAd involves itself are free of any taint or corruption beyond American shores.

MarAd's response to this was not enlightening. If MarAd knows no more than what it told me, MarAd does not know enough. The April 21 letter simply recited that Burmah owns 57½ percent of Burmast. Nothing was said about who owns the rest. Nothing was explained as to MarAd's procedures.

Again, let me be precise about my concern. I do not intend to make loose charges at the parties involved. I just want the facts to be revealed and permitted to speak for themselves. Opportunities seem to be present here for the kinds of activities that infect the integrity of overseas transactions. It is all the more important to protect the integrity of such a transaction where United States taxpayer backing is present in the form of MarAd title XI guarantees. Who owns the 40 percent? Who is getting the benefits of MarAd's assistance? Why? What did those persons contribute to the transaction in return for this value?

Not even do I mean to charge that MarAd has failed in its duties to this point, however. I do believe that what MarAd has told me is not enough, and in its own way MarAd may feel it has a stake in seeing this project through. I want to know what the facts are in this case. I want to know MarAd's procedures for getting at the essential facts.

Since this does raise questions as to government agency procedures in situations where the agency is deeply involved, in this instance financially, in the overseas transaction, I believe it is highly desirable that there be a further inquiry on this issue as well. It seems to me that this could do much to clear the air of any questions still remaining after MarAd's response to my initial inquiry.

Sincerely,

LES ASPIN,
Member of Congress.

RECENT GAO REPORT SHOWS WASTEFULNESS OF FUNDING FOR UNIFORMED SERVICES UNIVERSITY, SCHOOL OF MEDICINE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, on July 28, 1975, the House by a close vote of 190 ayes to 221 noes, defeated an amendment to the military construction authorization bill which would have terminated the plans for completion of the Uniformed Services University, School of Medicine which was initiated in 1972. On October 8, 1975 an amendment to delete the $64.9 million in construction money for this project from the military construction appropriations bill was also defeated. The debate on this issue concentrated on the question of cost-effectiveness of training armed services physicians through the scholarship programs or through the Uniformed Services University, School of Medicine.

In May of 1975 the prestigious Defense Manpower Commission submitted its report to the President and the Congress pursuant to the mandate of Public Law 93–155—Department of Defense Appropriations Authorization Act of fiscal year 1974. Following an exhaustive treatment of this subject the Commission wrote a careful analysis concluding that:

> Notwithstanding the minimal start-up expenditures that have already been made, the Commission recommends that the Uniformed Services Unit of the Health Science approach be terminated.

The Commission found that construction costs of $102 million had proven to be substantially understated and that actual costs would be twice that amount. It was also noted that the accession cost per medical graduate would be no lower than $150,000 and might well exceed $200,000. This amount is four or five times the $34,000 cost to the Government of educating a medical graduate through the scholarship program. Moreover, the military university is designed to handle only 170 graduates per year. The same number of individuals could be trained through the scholarship program in private and public universities for about $6,480,000.

Both the report of the Defense Manpower Commission and a study prepared by the House Appropriations Committee's surveys and investigations staff concluded that the university program was substantially less cost effective than the scholarship program. However, a Uniformed Services University study concluded that the university program was more cost effective.

The General Accounting Office issued a study on May 5, 1976, which I commend to all of my colleagues. This study entitled "Cost-Effectiveness Analysis of the Two Military Physician Procurement Programs: The Scholarship Program and the University Program," differs from the previous studies in that GAO attempts to show the full costs of the Department's procuring and retaining physicians. Prior studies were limited to procurement costs; they did not consider costs for pay and retirement.

GAO's analysis shows that in fiscal year 1984—the first full year of simultaneous operation of both programs:

First. The estimated educational costs will be $36,784 for each of the 988 graduates of the scholarship program and $189,980 for each of the 1975 university graduates.

Second. The estimated educational costs per staff year of the expected service will be $4,362 for the scholarship program graduates and $10,232 for the university graduates.

Third. The total cost per staff year of expected service including anticipated pay and retirement costs will be $21,444 for the scholarship program graduates and $26,236 for university graduates.

This huge differential of costs cannot be justified. The GAO report suggests economic alternatives which must be looked at. If we do not end this wasteful project now we may have no choice but to sustain it at great expense in the future. Among the alternatives posed by the GAO report are increasing the size of the scholarship program or DOD full sponsorship of scholarship program participants who take civilian residency training.

In making its conclusions the GAO report states:

> Apparently, on no occasion was the Congress given an analysis which identified and compared the potential total costs involved in both procuring medical professionals through each program and then retaining some of those individuals for various periods, taking into consideration their service payback obligations. In our opinion, had such an analysis been provided to the Congress, it would have shown that the Scholarship Program is a more cost-effective method of procuring and retaining medical professionals than the University.

We should also keep in mind language in the 1972 House report on H.R. 2, the legislation which initiated this project. It was noted that "Similar universities would be desirable in other geographic areas of the United States." Thus the university's authorizing legislation indicated that the Congress viewed the current university as a potential forerunner of other military health profession training institutions. Although DOD has no plans for additional universities in the foreseeable future, this initial project should lead us to reconsider such an approach to meeting health profession needs of the Federal Government.

I have long opposed expenditures for this project, not only because they are wasteful but because a military medical school involves the Federal Government and the Department of Defense in areas where they do not belong. This approach to meeting physician needs in the armed services is needlessly expensive and a departure and deviation from the great tradition of academic autonomy of higher education in the United States.

In 1972 the Association of American Medical Colleges stated that it did not believe that the establishment of a self-contained Government medical school would adequately meet either the problems of procurement or retention.

The reasoning behind this belief was thoughtfully set forth by the National Academy of Sciences:

> The academic preparation for medicine and other professional careers in health involves a carefully integrated process of education, training, and controlled experience which must be carried out in a broad and diverse community setting which will permit encounter with the full range of diseases, disabilities and health problems. . . . The manner in which this broad community base could be developed for a purely military medical school seems to present a number of difficulties. More importantly, little would seem to be gained from such a step that would compare with the sizable contributions that could accrue both to the nation at large as well as to military needs by continuing the expansion of our existing system of state and privately supported medical institutions for the health professions. It is this series of institutions with their deep community roots and involvement that can provide the soundest base for the development of the highly qualified professionals needed to cope with the full range of health and medical problems, civilian and military.

In coming months the House will take action on a military construction appropriations bill. At that time we will again have the opportunity to terminate this project and give our consideration to more cost-effective methods of meeting the physician needs of our armed services. I urge my colleagues to review the GAO report and to give this matter their studied attention. Following is an editorial which appeared in the Washington Star on Monday, May 24, 1976:

Military Medical School—No

Senators Wendell Ford and William Proxmire don't know when to quit—thank goodness. The two Democrats have written a "Dear Colleague" letter, seeking support for a bill to terminate the "Uniformed Services University of the Health Sciences," a project as ungainly as its name and unconscionably expensive.

The armed forces medical school, as it is called, is under construction on the grounds of the Bethesda Naval Hospital, though there still is time to scuttle the misbegotten institution, intended to provide a cadre of career doctors and dentists for the military.

The notion had its genesis in Congress in 1947, championed by a young House member named F. Edward Hebert; the project was not taken seriously until Mr. Hebert became chairman—the powerful chairman, as they say—of the Armed Services Committee, and was passed in 1972. Enthusiasm for this school has not been widespread, but it was Mr. Hebert's baby, his monument. Although he was deposed as committee chairman, Mr. Hebert is not a toothless tiger and his fervid support for the facility has, so far, succored it.

Senators Ford and Proxmire succeeded in having the Senate approve an amendment delaying release of funds for the school in the Fiscal 1976 military construction appropriations bill but that was not sustained in a House-Senate conference. Despite two close votes in the House, Mr. Hebert's project was resuscitated.

There has been a fistful of studies and analyses of the military medical school in the past several years, largely negative. Now the General Accounting Office has finished a report requested by Senators Ford and Proxmire that makes horrendous reading. Based on estimated costs for the 1984 fiscal year, a scholarship program for medical students (established in the law that also gave birth to the military facility) will cost $36,784 per graduate, compared to $189,980 to educate a graduate of the armed forces medical university.

The General Accounting Office concedes the view of the college's supporters that there may be intangible benefits for the armed forces in training career-oriented doctors and dentists. These intangibles are perhaps real. But certainly not worth the huge differential of costs.

Supporting the position of the two senators is the Military Manpower Commission, a congressionally appointed group. In its interim report a year ago, the military medical school was called an "unjustifiably costly method." A staff paper argued that the original estimates of construction, start-up and operating costs of $102 million "have proven to be substantially understated. The actual costs would very probably be well over double this."

An epilogue to the commission staff paper recently observed, in what could be the motto of too many federal programs: "As time passes and construction proceeds, more of the costs of the USUHS become irrecoverable and hence irrelevant for decisions about the future" (emphasis ours). The GAO estimates it will cost $16 million to end the project. However, that may be cheap considering that better than $75 million already has been approved—with no telling how much more to be poured after that money if the school survives.

Efficient and economical alternatives are available—as suggested by both GAO and the manpower commission.

We trust that colleagues of Senators Ford and Proxmire will find the GAO report persuasive; it may also encourage the more than 200 House members who voted against the school to renew their efforts. Mr. Hebert will be disappointed if they succeed. But maybe we could name a bridge for him.

SENTENCING GUIDELINE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Tsongas) is recognized for 5 minutes.

Mr. TSONGAS. Mr. Speaker, this week we are introducing legislation which will authorize the establishment of sentencing guidelines for use in our Federal courts. The bill was first introduced by Senator Kennedy and cosponsored by Senators Abourezk, Bayh, Fong, Philip Hart, Hruska, McClellan and Tunney. The same bill was introduced in the House by House Judiciary Committee Chairman Peter W. Rodino without cosponsors and was introduced by Mr. Dodd and myself on April 30, 1976. We believe the concept of guidelines represents a long overdue reform essential to our Federal criminal sentencing process and hope you will support us in our efforts to assure its consideration by the House. The following distinguished colleagues are joining us today in reintroducing this legislation: Mr. Baucus, Mr. Bedell, Mr. Biaggi, Mr. Carney, Mr. Cohen, Mr. Cotter, Mr. Downey of New York, Mr. Edgar, Mr. Florio, Mr. Grassley, Mr. Hughes, Mrs. Keys, Mr. Koch, Mr. Lehman, Mr. Lloyd of California, Mr. McCollister, Mr. Maguire, Mr. Mazzoli, Mr. Moakley, Mr. Mollohan, Mr. Moorhead of Pennsylvania, Mr. Nedzi, Mr. Nowak, Mr. Ottinger, Mr. Patterson of California, Mr. Pattison of New York, Mr. Russo, Mrs. Spellman, and Mr. Thornton.

The bill is designed to deal with two major problems which plague the Federal court system and the administration of criminal justice: the total absence of guidelines to aid judges during the sentencing process and the wide disparity in the sentences actually imposed in criminal cases.

Under existing laws, judges have broad discretion in determining how long a sentence, if any, a criminal must serve. Recent studies have shown a proliferation of sentencing disparity, in which, all too often, two convicted defendants in the same jurisdiction, with similar backgrounds, convicted of the same crime, receive widely differing sentences. There is a growing feeling that such haphazard sentencing weakens the impact of prison as a deterrent to crime, as a potential criminal has no clear idea of the penalties he faces if convicted, and is, therefore, not deterred by the threat of imprisonment. Furthermore, the arbitrary nature of this sentencing process abridges a defendant's right to equal justice under the law.

Our guidelines bill brings a greater degree of uniformity to the sentencing process by articulating for the first time the general purpose and goals of sentencing to be considered by the judge prior to imposing a sentence. The bill would establish a U.S. Commission on Sentencing to promulgate a specific fixed sentencing range for similar defendants who commit similar crimes under similar conditions. The sentencing court would be required by statute to impose a sentence within the guidelines established by the Commission, unless it could demonstrate in writing a justification for sentencing outside the guidelines. Sentencing outside the guidelines would be subject to appeal by the prosecutor or the defendant.

In addition, the guidelines bill would eliminate indeterminate, open-ended sentencing by requiring judges to sentence a convicted offender to a fixed period of imprisonment. In articulating the general purpose and goals underlying a sentence of imprisonment, it would help the sentencing judge decide not only how long an offender should be imprisoned, but more importantly, would aid the court in determining whether the offender should be imprisoned at all. The real issue is determining, with some degree of fairness and uniformity, which offender belongs in prison and which does not.

The Commission would be comprised of five members appointed by the U.S. Judicial Conference to serve 3-year terms. It would be mandated with the responsibilities for establishing a research and development program to assist Federal courts and agencies in the development, maintenance and coordination of sound sentencing practice and for making recommendations to Congress concerning modification or enactment of sentencing and correctional statutes to carry out an effective and rational sentencing policy.

Adoption of this legislation by Congress would provide a strong incentive to the States to revise their existing sentencing practices. For the consideration of all of my colleagues I would like to insert the text of the bill, as follows:

H.R. 14015

A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a United States Commission on Sentencing, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3579. Imposition of a sentence of imprisonment

"(a) The court, in determining whether to impose a term of imprisonment within a range authorized under this title and, if a term of imprisonment is to be imposed, in determining the length of that term within such range, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed (A) to reflect the seriousness of the offense and promote respect for law by providing just punishment for the offense, and (B) to afford adequate deterrence to criminal conduct;

"(3) whether other less restrictive sanctions have been applied to the defendant frequently or recently; and

"(4) any sentencing guidelines established by the United States Commission on Sentencing.

"(b) In every case in which the court imposes a term of imprisonment within the guidelines for sentencing promulgated by the Commission, the court shall make as part of the record, and disclose in open court to the defendant at the time of sentencing, a brief statement of the reason or reasons for the sentence imposed. A court may impose a term of imprisonment outside of the guidelines for sentencing promulgated by the Commission if it makes as a part of the record, and discloses to the defendant in open court at the time of sentencing, a statement of the specific reason or reasons for the particular sentence of imprisonment imposed. Failure to so comply shall be grounds for vacating the sentence and resentencing the defendant.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3579. Imposition of a sentence of imprisonment.".

SEC. 2. (a) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3621. Imposition of a sentence of fine

"The court in determining whether to impose a fine within a range authorized by this title, and, if a fine is to be imposed, in determining the amount of the fine within such range, the time of payment, and the method of payment, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed (A) to reflect the seriousness of the offense and promote respect for law by providing just punishment for the offense, and (B) to afford adequate deterrence to criminal conduct;

"(3) whether other less restrictive sanctions have been applied to the defendant frequently or recently; and

"(4) any sentencing guidelines established by the United States Commission on Sentencing.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3621. Imposition of a sentence of fine.".

SEC. 3. (a) Chapter 231 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3657. Imposition of a sentence of probation

"The court, in determining whether to impose a term of probation in accordance with the provisions of this chapter, and, if a term of probation is to be imposed, in determining the length of such term and the conditions of probation in accordance with such provisions, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed (A) to reflect the seriousness of the offense and promote respect for law by providing just punishment for the offense, and (B) to afford adequate deterrence to criminal conduct;

"(3) whether other less restrictive sanctions have been applied to the defendant *frequently or recently, and*

"(4) any sentencing guidelines established by the United States Commission on Sentencing.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3657. Imposition of a sentence of probation.".

SEC. 4. (a) Chapter 235 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3742. Review of sentence.

"(a) Subject to the provisions of section 3576 of this title in any case in which a sentence is imposed for an offense, except a case in which the sentence is equal to or less than that recommended or not opposed by the attorney for the Government pursuant to a plan agreement under rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure or a case in which the sentence is equal to that provided in an accepted plea agreement pursuant to rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure, a petition to a United States court of appeals for review of such sentence may be filed by—

"(1) the defendant, within the time specified for the filing of a notice of appeal; or

"(2) the United States within the time specified for the defendant's filing of notice of appeal, if the sentence includes a fine or term of imprisonment less than the minimum established by the guidelines for sentencing promulgated by the United States Commission on Sentencing or a minimum established by this title.

"(b) If the court of appeals grants the petition, the clerk of the court that imposed the sentence shall certify to the court of appeals that portion of the record in the case that is designated as pertinent by either or both of the parties, the presentence report, the information submitted during the sentence proceeding, and the statement of reasons for the sentence imposed by the sentencing court.

"(c) Upon review of the record, the court of appeals shall determine whether—

"(1) the sentence imposed is not within the guidelines for sentencing promulgated by the United States Commission on Sentencing (hereinafter referred to as the 'Commission') and is unreasonable having regard for—

"(A) the guidelines for sentencing established in accordance with this title and the guidelines issued by such Commission pursuant thereto;

"(B) the reasonableness of the district court's application of the guidelines established by the Commission;

"(C) the opportunity for the district court to observe the defendant;

"(2) the sentence imposed is within the guidelines for sentencing promulgated by the Commission but is clearly unreasonable having regard for—

"(A) the reasonableness of the district court's application of the guidelines established by the Commission;

"(B) the opportunity for the district court to observe the defendant.

"(d) If the court of appeals determines that—

"(1) the guidelines for sentencing promulgated by the Commission were properly applied by the district court, the court of appeals shall affirm the sentence—

"(A) if the sentence imposed outside the guidelines for sentencing is not clearly unreasonable; or

"(B) if the sentence imposed within the guidelines for sentencing is not clearly unreasonable;

"(2) the guidelines for sentencing promulgated by the Commission were clearly erroneously applied by the district court, the court of appeals shall set aside the sentence and remand the case for further sentencing proceedings;

"(3) the guidelines for sentencing promulgated by the Commission were properly applied by the district court, but that the sentence imposed outside the guidelines for sentencing was otherwise unreasonable, or that the sentence imposed within the guidelines for sentencing was otherwise clearly unreasonable, the court of appeals—

"(A) in the case of a petition for review of his sentence by the defendant, may—

"(i) remand the case for imposition of a lesser sentence to be determined by the district court;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) in the case of a petition to review a sentence submitted by the United States, may—

"(i) remand the case for imposition of a greater sentence to be determined by the district court;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3742. Review of sentence.".

SEC. 5. Part II of title 18, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 238—UNITED STATES COMMISSION ON SENTENCING

"Sec.
"3801. Definitions.
"3802. United States Commission on Sentencing; structure and composition.
"3803. Powers and duties of Commission.
"3804. Powers and duties of Chairman.
"3805. Annual report.

"§ 3801. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Commission on Sentencing;

"(b) 'Commissioner' means any member of the United States Commission on Sentencing;

"(c) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 3803 of this title.

"§ 3802. United States Commission on Sentencing; structure and composition

"There is hereby established as an independent Commission in the judicial branch, for a period of three years from the effective date of this statute, a United States Commission on Sentencing which shall be comprised of five members appointed by the United States Judicial Conference. The Commission shall from time to time designate by majority vote one of its members to serve as Chairman and shall delegate to him the necessary administrative duties and responsibilities. The term of office of a commissioner shall be three years, except that the term of a person appointed as a commissioner to fill a vacancy shall expire at the end of three years from the effective date of this statute. Commissioners shall be compensated at a rate equal to the maximum rate, as in effect from time to time, for Federal judges.

"§ 3803. Powers and duties of Commission

"(a) The Commission, by majority vote, and pursuant to rules and regulations, shall promulgate and distribute to all Federal courts guidelines for sentencing consistent with this title which guidelines shall be considered by the sentencing court in determining the appropriate sentence for a defendant.

"(b) The Commission, by majority vote, and pursuant to rules and regulations, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(3) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(4) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(5) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(7) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(8) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(9) issue subpenas requiring the attendance of witnesses and the production of any evidence that relates directly to a matter with respect to which the Commission or any Commissioner or agent of the Commission is empowered to make a determination under this chapter; such attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States;

"(10) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and the dissemination of information on Federal sentencing practices;

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(11) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing processes;

"(12) publish data concerning the sentencing processes;

"(13) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the criteria set forth in sections 3579, 3621, and 3657 of this title;

"(14) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(15) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(16) devise and conduct a training program of short-term instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(17) make recommendations to Congress concerning modification or enactment of sentencing and correctional statutes which the Commisison finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy.

"(c) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter or as may be provided under any other provisions of law and may delegate to any Commissioner or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules, and factors under subsection (b)(1).

"(d) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(e) The Commission shall meet not less frequently than quarterly to establish its general policies and rules.

"(f) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member, on any action taken by it.

"§ 3804. Powers and duties of Chairman

"The Chairman shall—

"(a) preside at meetings of the Commission;

"(b) assign duties among the regional offices, if any, in order to assure efficient administration;

"(c) direct (1) the preparation of requests for appropriations for the Commission, and (2) the use of funds made available to the Commission;

"(d) appoint and fix the basic pay of personnel of the Commission;

"§ 3805. Annual report

"The Commission shall report annually to each House of Congress, the United States Judicial Conference, and the President of the United States on the activties of the Commission.".

AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized.

Mr. BROWN of California. Mr. Speaker, contrary to the whip reports, the bill which is scheduled for floor action this Thursday is not H.R. 9174, the "Automotive Transport Research and Development Act of 1975," but H.R. 13655, the "Automotive Transport Research and Development Act of 1976." H.R. 13655 represents the input from many capable colleagues and staff, and one should not mistake its identity. H.R. 9174 is broader in scope than H.R. 13655, and places management responsibility under the Department of Transportation. H.R. 13655 places management responsibility under the Energy Research and Development Administration.

Since Members have already received H.R. 9174 in their weekly whip packs, it may be too late to remove all of the confusion. This situation is further aggravated by the attempts of some opponents of H.R. 13655 to deliberately confuse matters. I would only wish to cover some of the general background on this bill at this time.

In the 93d Congress I introduced H.R. 10392, and several duplicative bills with over 100 cosponsors. That legislation, which had the same purpose and goals as H.R. 13655, was the subject of extensive hearings in the Committee on Science and Technology. This legislation was reintroduced during the 94th Congress as H.R. 5557, and attracted several dozen additional cosponsors. Hearings were held in the Energy Research, Development and Demonstration Subcommittee, chaired by MIKE McCORMACK, on H.R. 9174, and several other bills, including my own.

During markup in subcommittee, the bill H.R. 9174, which was used as a markup vehicle, was amended to closely resemble my own original legislation. On May 11, the Committee on Science and Technology reported my bill, H.R. 13655, to the full House.

For more information about this legislation, I would strongly urge my colleagues to read the report to accompany H.R. 13655, House Report No. 94–1169. This report was unfortunately not available until this past weekend, and was not mailed to Members.

At this time I wish to insert in the RECORD a recent article from Environment magazine which gives an interesting overview of recent studies on the need for developing a new automobile engine.

The article follows:

[From Overview, Environment Magazine, May 1976]

LAW—ENGINES FOR THE FUTURE

(By Arnold W. Reitze, Jr., and Glenn L. Reitze)

Our nation's transportation system has long been dominated by the private automobile powered by a spark ignition internal combustion engine known as the Otto engine. In the early days of the automotive industry, electric and steam-powered vehicles competed with the Otto, and it remains a topic for reasonable speculation whether more strenuous efforts at developing steam or electric vehicles, combined with the requisite managerial skill, might not have resulted in a very different transportation system.

Today, bucking the established position of the Otto engine is difficult. The oligopolistic automobile industry can prevent competition through its vertical integration, high promotional expenditures, and the enormous capital investment requirements to enter the industry. Yet it is no secret that the present Otto engine has been wearing out its welcome. The air pollution control laws and, to a lesser extent, the legislative moves for energy conservation challenge the continued dominance of our traditional automobile engine. After nearly three quarters of a century of development by the automobile industry, the reliability and other obvious advantages of the engine preclude its early demise. Capital investment requirements to retool for a new engine mean change will be measured in decades. Yet the legal pressures for a better engine in an era of energy shortages and environmental concern are resulting in governmental efforts to look ahead and see what our options are for the rest of this century.

Some four studies on alternatives to the Otto engine have been prepared in the past two years. One was for the U.S. Environmental Protection Agency (EPA); it is a four-volume report entitled *Current Status of Alternative Automobile Power Systems and Fuels* (EPA-460/3-74-013-[a.b.c.d.]) which was prepared under contract by the Aerospace Corporation and was released in July 1974. A more recent report, *Should We Have a New Engine? An Automobile Power System Evaluation*, was issued last year in two volumes by the Jet Propulsion Laboratory (J.P.L.) and the Environmental Quality Laboratory of the California Institute of Technology, with other consultants. Two other major studies have been made. One, for the Research Applied to National Needs (RANN) program of the National Science Foundation (NSF), is titled *The Automobile, Energy and the Environment: A Technical Assessment of Advanced Automobile Propulsion Systems*, by Douglas Harvey and W. Robert Menchen (NSF-C674, March 1974); the other, the *Report of the Committee on Motor Vehicle Emissions* (February 1973, updated 1974), was done for the National Research Council of the National Academy of Sciences (NAS). There have also been several other studies on specific alternative engine possibilities, including the diesel.

These studies, which take so long merely to list, take a great deal longer to read; they comprise many hundreds of pages. Disagreements abound, of course, but a certain sense of accord appears on many points. At the risk of immense oversimplification, we will try to summarize the findings—for without at least a partial understanding of the possibilities, attempts to legislate technological change will be hopeless.

Electrics and Hybrids. Despite the successful use in the past (and, to a very limited extent, even today) of electric vehicles for local transportation (deliveries and commuting), the major studies are all pessimistic about the possibility of widespread use of this type of vehicle in the next fifteen or twenty years; only the NSF study indicates that such vehicles *could* be produced by the mid-1980s. Any idea for a new engine faces the inertia of the present automotive industry, the financial problems of retooling and servicing, and, if a new company was formed, the task of overcoming the vast competitive advantages of the present vertical integration of the automotive market. Developers of electric engines also face the problems of expanding the distances such engines can be driven and the intervals between recharging and the challenge of matching the acceleration characteristics of the prevalent internal combustion engine.

The common lead/acid batteries provide a range for an automobile of only about 50 miles and have only modest acceleration ability. Other types of rechargeable batteries are either too costly at present or use materials of limited availability. It is estimated that the promising sodium/sulfur and lithium/sulfur batteries will require at least seven years of optimum effort to perfect.

Fuel cells, which convert fossil fuels directly into electric power, might provide a hybrid possibility if they were not so costly. Other hybrid possibilities, such as the heat engine/battery vehicle or the heat engine/flywheel vehicle, are also dismissed by the studies as being too expensive to manufacture.

Steam Engines. Back in the early 1900s, the Stanley Steamer set world speed records, and in the early 1930s, other steam cars were manufactured with an instant-start feature. Whether it was superior technology or merely better business skill on the part of those managing the companies making internal-combustion engine automobiles which resulted in the economic triumph of that type of automobile is still an open question. Regardless, the Otto engine has had the benefit of more than 50 years of intensive development that has been largely denied the automotive steam engine.

The Rankine cycle steam engine currently is the most popular candidate for a steam-car revival. It could have met the original 1976 air pollution standards, which have since been reduced in stringency to permit Otto engines to be used this year. However, the Rankine's weight-to-power ratio is unfavorable, as is its cost. The J.P.L. study focuses on the Rankine's thermodynamic limitations, poor fuel economy, and high production costs and concludes that the Rankine does not warrant further development effort. However, the EPA continues to fund a Rankine program, and a breakthrough in condenser design has permitted much smaller engines to be produced. In addition, the Department of Transportation is scheduled to take delivery of a prototype steam-powered bus in 1976.

Stirling Engine. The Stirling engine, like the Rankine steam engine is an external combustion engine, and its power source is a substance which is heated in a closed cycle. But instead of using water (or water with additives) to produce steam for pressure, the Stirling uses gases such as hydrogen or helium. Cyclical heating and cooling varies the pressure of the gas within a closed space; this pressure acts on a piston, which delivers the power to the mechanical system.

The Stirling received high marks from all the studies and is considered more feasible than the Rankine for development. Its major drawbacks include its weight and cost. But it has a potential for excellent fuel economy (with a variety of fuels), and emissions, noise, and vibration are all very low.

Brayton (Gas Turbine) Engine. Despite the 1964 decision of the Chrysler Corporation, after twenty years of research and a fleet of 50 experimental vehicles, not to proceed with production, the studies generally agree that the Brayton or gas turbine ("jet") engine deserves study. Overall, it was rated second only to the Stirling in immediate potential for replacing the Otto engine. Obviously, a vehicle "jet" engine does not send its extremely hot exhausts streaming out behind it, as in a jet airplane, but some of the same technology is used in this relatively closed motor. At present, advances in ceramic technology are crucial to this engine's development, in order to permit use of higher temperatures to achieve greater fuel efficiency—which, potentially, is very high. It is estimated that the Brayton engine could be mass-produced sooner than any of the other alternatives to the internal combustion engine—between 1982 and 1985. Research continues at General Motors, Chrysler, the EPA, and the National Aeronautics and Space Administration.

Diesel Engine. The diesel, like the Otto, is an internal combustion engine, but the fuel mixture is ignited by air heated by compression in the chamber. Spark plugs, distributors, and carburetors are thus unnecessary, although a high-pressure fuel injection system is required. Diesel engines are heavier and more costly than Ottos; on the other hand, diesel fuel is cheaper than gasoline, and the engine uses fuel about 5 percent more effectively in highway driving and saves about 50 percent on fuel in city use, although the saving on the EPA urban cycle would be only about 19 percent. But problems of controlling nitrogen oxides threaten this engine's existence. Utilizing exhaust gas recirculation in order to lower nitrogen oxide levels (a common technique for automobiles) results in catastrophic engine wear. Thus, unless a technological breakthrough occurs, our presently most efficient engine may be legislated out of existence.

Stratified Charge. The stratified charge is merely a modification of the spark-ignition internal combustion engine, but it may prove to be the technological "sleeper" of the decade. Basically, the conventional combustion chamber is altered to permit two-stage combustion. A fuel-rich mixture of fuel and air is provided near the spark plug, and a lean mixture is provided in the rest of the combustion chamber. The resulting two-stage combustion process permits operation of the engine at very lean overall fuel-air ratios which is conducive to good fuel economy and low emission of pollutants.

Stratified charge engines can be divided into two classes: open chamber and divided chamber. In the open chamber models (used by Ford and Texaco) air swirl with fuel injection provides the stratified charge. In divided chamber models, such as that of Honda, interconnected chambers are used. Although both types reduce emissions, only the open chamber currently offers general fuel savings.

The EPA study concluded that the stratified charge internal combustion engine is an acceptable short-term alternative to the Otto, since it provides good levels of emissions and fuel economy, but that it offers no major long-term advantages. It seems to be superior to the Otto engine with catalytic controls, and it might have more potential than either the Rankine or gas turbine engine, but theoretical limitations lead most studies to give it lukewarm praise and then promptly ignore it.

Other variations on the present internal combustion engine, such as the rotary chamber Wankel, have not offered enough advantages over the Otto to be considered encouraging except for short-term use.

Thus we have a few choices, but the road ahead remains quite foggy.

WHY ARE WE ASSISTING PARAGUAY?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, as a member of the Foreign Operations Subcommittee I have been exploring several areas of our foreign aid program. Of particular concern to me is the U.S. military aid program to Latin America, the purposes and objectives of which appear distorted in favor of aiding the repressive military dictatorships to keep themselves in power while holding back their countries' social and economic progress. The number of military dictatorships in Latin America has grown rapidly in the past few years and we have supported each with our military aid despite the fact that there is no real threat of war in any of these countries. Upon reading the budget justifications for military aid to Latin America, I noticed time and time again references to internal disorder and insurgencies. These references continue to appear despite the fact that section 660 of the Foreign Assistance Act prohibits U.S. assistance to internal police actions and prisons. During the hearings I raised serious questions concerning the validity of using purely internal disorder as a justification for military aid both in light of section 660 and in further consideration of the fact that, where there is no real threat of war, as is true in Latin America, then the only purpose our military aid can possibly serve is to strengthen the hold of these dictatorships on their people.

In past statements on this subject I have questioned our aid to Uruguay and Nicaragua. Today I would like to acquaint my colleagues with a particularly ironic example of the strange twists our military policy has taken. In Paraguay our military aid is supporting a regime which, besides being repressive, is imprisoning members of a humanitarian U.S.-funded project.

Paraguay, under the rule of Gen. Alfredo Stroessner since 1954, has served as a model for more recently created dictatorships. Yet, throughout his reign General Stroessner has been well supported by U.S. military and economic aid, totaling over $160 million since 1954.

From 1970 through 1975, Paraguay received over $13 million in military aid. The proposed appropriation for fiscal year 1977 is $1,440,000, not a huge amount in terms of our overall military assistance program but certainly a substantial aid for a country which has not been under even a threat of war since the end of World War II and has not fought a war since the end of the Chaco War with Bolivia in 1935. Why does Paraguay continue to receive our military aid? Our policy appears to result solely from General Stroessner's staunch opposition to communism. It certainly does not result from any adherence of his to democratic or humanitarian principles.

Paraguay is, in fact, another dark

chapter in Latin America's history of repressive dictatorships. Real press or political freedom is nonexistent. Further, Stroessner has violated both international treaties and universally recognized human rights in the conduct of Paraguay's internal affairs, in which the military play a vital role, not only as the power behind the government but also as an integral part of police operations. Every village in Paraguay is under a three-pronged authority structure—the mayor, the local leader of Stroessner's ruling Colorado Party, and the police chief. A military garrison is attached to each village's police station. Using this structure General Stroessner wields absolute power under color of legitimacy. Since 1954, Paraguay has been declared by Stroessner to be in a constant state of siege. The ostensible excuse for this is a persistent but undefined threat of communism. By making this declaration Stroessner has been able to take advantage of article 79 of the 1967 Constitution—a similar provision appeared in the previous Constitution—which grants him extraordinary powers. Chief among these powers are the banning of public demonstrations and meetings, restrictions of civil rights, search and seizure of private homes, arbitrary arrests and banishment, and detention without charge.

Despite the fact that the Department of Defense in its justification for military assistance to Paraguay in the Congressional Presentation Document for fiscal year 1977 states flatly that there is no active insurgency threat to the Government of Paraguay, Stroessner uses his powers to conduct widespread random arrests to intimidate the general population and to hold a number of his political opponents in prison without trial for years, and the United States continues to provide training and equipment to Paraguay's military. Amnesty International has reported that 150 political prisoners are being held, only two of whom have ever been tried. These two, Prof. Antonio Maidana and Alfedo Acorta, were convicted for their role in the 1958 general strike and were sentenced to terms of 2½ and 1 year respectively, but at the end of their terms, Stroessner invoked his powers to keep them in prison, where they remain today. Amnesty International further reports that many of the prisoners have no idea why they were imprisoned at all.

The treatment of these prisoners has been the subject of reports to the OAS Human Rights Commission requesting investigations of torture, disappearances, and other gross violations of human rights. Amnesty International reports that many prison cells are so crowded that a rotation system must be arranged for standing awake at night due to lack of floor space for sleeping and that in efforts to obtain false confessions "prolonged beating for periods of up to 2 hours nonstop with whips and sticks, burning of sensitive parts of the body with cigarettes, and the removal of fingernails are all common forms of torture used." Even more severe forms of torture have been documented in detail by Amnesty International in their 1971 research report "Paraguay in the Seventies" and subsequent news releases.

In the midst of such repression the arrest last December of Dr. Miguel Chase-Sardi and three members of his Project Marandu team might not be unexpected, but is still a shocking example of the Stroessner regime's detention policy and of the contradictory results of U.S. military aid. Dr. Chase-Sardi, a noted anthropologist, and his colleagues were involved in Project Marandu, an effort to provide medical, economic, and legal information and services to Paraguay's 80,000 Indians as well as to educate the Paraguayans to the Indians' largely unknown traditions. The creation of the project, financed in large part by the Inter-American Foundation, an independent corporation of the U.S. Government, was the result of the international furor created in 1974 by U.N. and OAS investigations into the alleged genocide of the Ache Indians in Paraguay and was initially given strong official support by the Paraguayan Government. However, last December 1, Dr. Chase-Sardi and his three associates were arrested, drugged, and beaten. They are still being held without charges and representatives of the International League for the Rights of Man, affiliated with the U.N., report that unimpeachable sources on the scene confirm that Dr. Chase-Sardi and his associates have been tortured and are in deteriorating medical condition due to lack of medical attention. Although the Paraguayan Government has assured our State Department the arrests were not directed at the project but at Communists, the detention of the project's director and senior staff could hardly be considered helpful to its continuation. The resulting climate of unrest and fear has, reports say, halted the project. The State Department, despite our funding of this project, has protested only mildly and not a cent of military aid has been withheld.

It is no wonder that the people of Latin America are confused by our foreign policy with regard to them. In Paraguay our military aid to a dictatorial regime not only contravenes our basic democratic ideals but runs counter to our other U.S. aid to the country. Which aid represents our true attitude toward the people of Latin America? In view of our present impassivity with regard to Dr. Chase-Sardi and Project Marandu, which aid will the people of Paraguay think represents our true attitude?

THE INDEPENDENCE OF THE FEDERAL RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 15 minutes.

Mr. ST GERMAIN. Mr. Speaker, I have the honor of bringing to the attention of our colleagues a most erudite and thoughtful address by the distinguished Chairman of the Federal Reserve Board, Dr. Arthur F. Burns, on the occasion of the 113th commencement exercises of Bryant College, located in Smithfield, R.I.

During this turbulent period in our Nation's history when it has become fashionable to be antigovernment, to be destructive of our institutions rather than to work for constructive reforms within the system to meet the complex challenges of our moment in history, it is refreshing and indeed reassuring that the Federal Reserve Board is chaired by a man of the caliber of Dr. Burns, willing to give of himself unsparingly, articulating the issues in a clear and concise manner, as on this occasion, to this Nation's future leaders.

It was in this spirit of constructive reform that the House on May 10, adopted the committee's recommendations by its passage of H.R. 12934 in an effort to increase the public's understanding of the awesome power and the critical importance of the Federal Reserve System to a strong and viable national and international economy. The committee report stated in part the following:

> . . . the Committee was mindful of the long tradition of independence of the Executive branch which the Federal Reserve has enjoyed since 1935. Under this legislation, the Fed would continue to have all the independence of the Executive branch necessary to properly carry out its very important functions. At the same time, the Committee hopes to instill a greater element of public responsibility in the workings of the Federal Reserve System, and to restore the balance between the interests of the financial community and the needs of the rest of the Nation.

As our deliberations on financial reform legislation continue, it is important that Congress keep clearly in mind its own constitutional responsibility to insure that public policy decisions, hopefully, reached in a deliberative manner, are in fact carried out or if adjustments become necessary as a result of conflicting pressures and counterproductive results that such adjustments are made based upon the most timely and fullest information available providing the opportunity for affirmative congressional action, rather than by default.

I commend Chairman Burns for his statement that—

> We at the Federal Reserve have in fact sought to model our conduct on that of the Supreme Court.

I would like to suggest ever so gently, however, that the Supreme Court ultimately decides by written opinion the great questions of law and public policy in our land, providing certain stability and continuity as reflected by the doctrine of stare decisis. These written opinions provide to the legislative branch the opportunity for and indeed at times mandates an appropriate legislative response to the unmet public needs of our Nation.

Thus, Mr. Speaker, the subcommittee looks forward to a continued dialog with Chairman Burns and each of the Governors of the Federal Reserve Board in furtherance of our own constitutional obligations, contributing to still greater public awareness and understanding of the interrelationship of our three branches of Government and their creations. While we indeed will continue on occasion to disagree on the magnitude of problems, the most appropriate means for resolving these problems in a democratic society and the timing for adjustment steps, we cannot turn back from the task of seeking constructive reforms essential for the very survival of our economic system.

Mr. Speaker, I insert at this point in the RECORD the full text of Chairman Burns' address:

THE INDEPENDENCE OF THE FEDERAL RESERVE SYSTEM

(By Arthur F. Burns)

It is a pleasure to be here on this beautiful campus and to join the audience in honoring the graduating class of Bryant College.

In earlier and calmer times, it was customary for a commencement orator to address the principles of life that he thought would be most helpful to members of the graduating class. Such pronouncements are less fitting in our turbulent age, which has sharply narrowed the gap in knowledge—if not also in wisdom—that once separated the generations.

Yet each of us, and here your elders may have some advantage, has had opportunity to reflect with more than ordinary care on his own range of responsibilities. I therefore want to share with you today a few thoughts about the Federal Reserve System, which serves as our Nation's authority for controlling the supply of money and credit.

Industrial nations, including our own, nowadays rely heavily on monetary policy to promote expansion of production and employment, to limit any decline that may occur in overall economic activity, or to blunt the forces of inflation.

There are two major reasons for the emphasis on monetary policy. In the first place, manipulation of governmental expenditures has proved to be a rather clumsy device for dealing with rapidly changing economic developments. Secondly, the process of reaching a consensus on needed tax changes usually turns out to be complex and time-consuming. Experience has thus taught us that alterations of fiscal policy, once undertaken, frequently have a large part of their economic effect too late to be of much value in moderating fluctuations in business activity.

Even when the economy is booming, legislatures are rarely willing to increase tax rates or to restrain the rising curve of governmental expenditures. Such reluctance also limits the discretionary use of fiscal measures to counter the forces of recession that develop from time to time in a free enterprise economy. Once reduced, tax rates cannot easily be increased again, and new expenditures programs to stimulate a lagging economy all too often are the source of a new inflationary problem later on.

Fortunately, monetary policy is relatively free of these shortcomings. Flexibility is the great virtue of instruments of monetary and credit policy. Changes in the course of monetary policy can be made promptly and—if need be—frequently. Under our scheme of governmental organization, the Federal Reserve can make the hard decisions that might be avoided by decision-makers subject to the day-to-day pressures of political life. And experience indicates that the effects of substantial changes in the supply of money and credit are rather speedily transmitted through financial markets to the workshops of the economy—that is, our factories, mines, construction yards, and the range of service establishments.

The founders of the Federal Reserve System were well aware of the dangers that would inhere in the creation of a monetary authority subservient to the executive branch of government—and thus subject to political manipulation. Senator Nelson Aldrich, Chairman of the National Monetary Commission, whose investigations of central banking laid the basis for establishing the Federal Reserve System, was deeply impressed with the need for a strong monetary authority capable of exercising discipline over the financial affairs of a nation. Carter Glass, Chairman of the House Banking and Currency Committee when the Federal Reserve Act was passed in 1913, reported that the Committee regarded the Federal Reserve Board "as a distinctly nonpartisan organization whose functions are to be wholly divorced from politics." That view was fully shared by President Woodrow Wilson, who was extremely careful to avoid any suggestion of interference with the newly-created monetary authority, thereby setting a precedent that has been usually followed by succeeding Presidents.

The concept of independence of the monetary authority within the structure of government is congenial to the basic principles of our Constitution. As Alexander Hamilton put it in one of the Federalist Papers, our system of government is based on the precept that partitions between the various branches of government "ought to be so contrived as to render the one independent of the other." Such a division of power, according to another of the Federalist Papers, is "essential to the preservation of liberty."

The principle of independence of the monetary authority within the structure of our Federal Government was embodied in the original Federal Reserve Act in several ways. First, individuals appointed to the Federal Reserve Board by the President were to have 10-year terms, and they could be removed from office only for cause. A President could not, therefore, remove a Board Member from office simply because he disagreed with his views, and the term of office was long enough to minimize the threat of covert political pressure on Board Members. Moreover, the law provided for staggered terms in order to avoid Presidential "packing" of the monetary authority.

Second, the newly-created Federal Reserve Board was required to report on, and to account for, its actions to the legislative branch of government, not to the Administration.

Third, the operations of the Federal Reserve System were to be financed from its own internal sources, and thus protected from the political pressures that may be exercised through the congressional appropriations process.

Fourth, power was to be diffused within the Federal Reserve System, so that the interests of borrowers, lenders, and the general public were to be recognized and blended in the new regional Federal Reserve Banks.

In the years that followed creation of the Federal Reserve System, experience—particularly during the Great Depression—suggested that the degree of independence assigned to the monetary authority was insufficient. The Banking Acts of 1933 and 1935 sought to rectify this and other defects in the financial structure.

Under the new legislation, the Secretary of the Treasury and the Comptroller of the Currency, who originally were *ex officio* members of the Board, were relieved of this responsibility. The terms of the members of the Board were lengthened from 10 years to 12 years, and then to 14 years, to insulate the Board still more from political pressures. A new agency—the Federal Open Market Committee, including representatives of the regional Federal Reserve Banks as well as members of the Board located in Washington—was established to conduct open-market operations, which by the early 1930's had come to play a major role in implementing monetary policy. Moreover, the principle was reaffirmed that funds used by the Federal Reserve to finance its operations were not to be construed as government funds or as appropriated monies. All of these legislative changes strengthened the ability of the Federal Reserve System to resist efforts by the Treasury, or the White House, or any other agency in the executive branch to influence unduly the course of monetary and credit policy.

Senator Carter Glass once stated that intelligent and fearless performance of the functions of the monetary authority "involves as much of sanctity and of consequence to the American people as a like discharge of duty by the Supreme Court of the United States." We at the Federal Reserve have in fact sought to model our conduct on that of the Supreme Court.

In the exercise of our adjudicatory responsibilities, the members of the Board scrupulously avoid any contact with interested parties. In our deliberations on monetary and credit policies, not the slightest consideration is given to questions of political partisanship. Every member of the Board, and every member of the Federal Open Market Committee, weighs the issues of monetary and credit policy solely from the viewpoint of the public interest and the general welfare. My colleagues at the Federal Reserve are highly qualified individuals possessing a diversity of skills essential to the management of the nation's financial affairs. They live and work under a Spartan code that avoids political entanglement, conflicts of interest, or even the appearance of such conflicts. At the same time, the members of the Board, particularly its Chairman, maintain close contact with members of the Executive and the Congress in order to assure that the activities of the Federal Reserve are appropriately coordinated with what other branches of government are doing.

Our system of monetary management, I believe, is thus working in the way the founders of the Federal Reserve intended. Nonetheless, there are now, as there have been over the years, some well-meaning individuals in our country who believe that the authority of the Federal Reserve to make decisions about the course of monetary policy should be circumscribed. The specific proposals that have been put forth over the years differ greatly, but they usually have had one feature in common—namely, control by the Executive Branch of government over the monetary authority.

A move in this direction would be unwise and even dangerous. It is encouraging to find that, despite occasional outbursts of temper, a majority of the Congress share this belief. I doubt that the American people would want to see the power to create money lodged in the presidency—which may mean that it would in fact be exercised by political aides in the White House. Such a step would create a potential for political mischief or abuse on a larger scale than we have yet seen. Certainly, if the spending propensities of Federal officials were given freer rein, the inflationary tendency that weakened our economy over much of the past decade would in all likelihood be aggravated.

The need for a strong monetary authority to discipline the inflationary tendency inherent in modern economies is evident from the historical experience of the nations around the world. Among the major industrial countries, West Germany and the United States appear to have achieved the greatest success—albeit woefully insufficient success—in resisting inflationary pressures in the period since World War II. It is no accident that both countries have strong central banks. In some other countries, where the monetary authority is dominated by the Executive or the legislature, inflationary financial policies have brought economic chaos and even some extinguished political freedom.

It is, of course, essential that the monetary authority observe the spirit as well as the letter of our laws. In our democratic society the independence of a governmental agency can never be absolute. The Federal Reserve System is thus subject not only to the provisions of the Federal Reserve Act, but also to the Employment Act and numerous other statutes. The original design of the Federal Reserve System recognized this duty by requiring the Federal Reserve to account for its stewardship to the Congress. The oversight responsibilities of the Congress for the conduct of the monetary authority do not, however, require congressional involvement in the details of implementing monetary policy. The technical complexities of adjusting monetary or credit instruments to the needs of a modern industrial economy are far too great to be dealt with by a large deliberative body. At the same time, there is a significant role for the Congress in setting forth the economic and financial objectives that the monetary authority is expected to observe and honor.

Over the past year, the Congress has been exercising its vital oevrsight function through a new and more systematic procedure, spelled out in House Concurrent Resolution No. 133. That resolution requires the Federal Reserve to report to the Congress at quarterly intervals on the course of monetary policy, and to project ranges of growth in the major monetary and credit aggregates for the year ahead.

We at the Federal Reserve regard the dialogue between the monetary authority and the Congress stimulated by the Concurrent Resolution as constructive. It has given the Congress a better opportunity to express its views on the appropriateness of our actions. It has also provided us at the Federal Reserve with an opportunity to explain fully the reasons for our actions, and to communicate to the Congress and to the public at large our firm intention to adhere to a course of monetary policy that is consistent not only with continued economic expansion at a satisfactory rate, but also with further gradual unwinding of inflationary tendencies.

Such a course of policy, I believe, is the only option open to us if we as a nation are to have any hope of regaining price stability and maintaining a robust economy. Our country is passing through a fateful stage in its history. Economic, social, and political trends of the past several decades have released powerful forces of inflation that threaten the vitality of our economy and the freedom of our people.

Defeating the forces of inflation requires determined action. Greater discipline is needed in our fiscal affairs, and structural reforms are required to improve the functioning of our labor and product markets. But all such reforms would come to naught in the absence of a prudent course of monetary policy. At this critical time in our history, any interference with the ability of the Federal Reserve to stick to a moderate rate of monetary expansion could have grave consequences for the economic and political future of our country.

EULOGY TO HON. TORBERT H. MACDONALD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, we were all saddened by the untimely passing of our distinguished colleague from Massachusetts, the Honorable Torbert H. Macdonald. Few men have left their personal mark on so many pieces of landmark legislation as our late friend "Torbie" Macdonald.

As chairman of the most important Communications Subcommittee of the House Committee on Interstate and Foreign Commerce, he fathered the legislation lifting television blackouts for home team professional football games which sold out. He will also be remembered for his efforts on behalf of public television and for his leadership in the area of limiting spending for political campaign advertising. He also fought for effective regulation of energy costs and free television time for major Presidential candidates.

The former football captain and Harvard roommate of our late President John F. Kennedy, Congressman Macdonald was an active Member of the House since his first election to Congress in November 1954. His courage was demonstrated in war and peace and ranged from his winning the Silver Star in World War II to his personal decision to remove support systems during his final illness.

I join my colleagues in the House in extending our sympathies to his wife, Phyllis, his two sons and two daughters, his grandchildren, his mother, and sisters. We will all miss Torbie and the Nation will remember his many active and productive days in public service.

CONGRESSIONAL PAGE SCHOOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 15 minutes.

Mr. LEHMAN. Mr. Speaker, today I am introducing a concurrent resolution calling for the creation of a joint House-Senate select committee to undertake a thorough review of the operations at the Congressional Page School. To my knowledge this has not been done since the school was formally established in 1946 by the Legislative Reorganization Act. Two independent reviews of the CPS by both House and Senate Committees, were conducted in 1964 and 1973 respectively, but the system for educating the pages remains virtually unchanged.

It is not my intention to attack the page system, but I am very concerned about the quality of education in a congressionally operated school located right across the Capitol's front lawn. One can discount student criticisms as normal juvenile protests about education. It can be found in most any high school in the country. However, the individual responses to the detailed questionnaire that I distributed to each House page indicated an extreme disillusionment, disappointment and discontent with their education at the CPS. In particular the response to question five was a strong index of pages' dissatisfaction with the situation we in Congress have an ultimate responsibility to correct. Over two-thirds of those responding felt the Congressional Page School was worse in terms of the quality of the education they were receiving in comparison to their hometown school.

A joint select committee is preferable if not required since there is a very real absence of any identifiable congressional oversight within any standing committee of either the House or Senate. Under the Legislative Reorganization Act of 1946, the Doorkeeper of the House and the Secretary of the Senate are authorized to enter into an annual agreement with the District of Columbia for the reimbursement of the District of Columbia public school system for the education of the pages. This amounted to over $186,000 for this fiscal year. Next year's request exceeds $176,000. Is it worth the expense? That's the first and fundamental question that the select committee will answer. Quite possibly it would be better to abandon the formal school and permit individual pages to maintain their studies through constant contact with their home school.

To achieve information and data as objective and balanced as possible, teacher questionnaires similar in content to that distributed to the students was also sent to the faculty and administration. Their responses reflected professional frustration in attempting to give students an adequate education under the present circumstances.

Mr. Speaker, to pass off any weaknesses of the Page School as problematic of the overall District school is invalid; to dismiss the students' grievances as typical student dissent is unfair. Despite the reaccreditation of the CPS, I believe there are problems which a joint select committee could deal with in a most timely, fair, and efficient manner. I trust the resolution will be acted upon quickly.

At this point I would like to insert in the RECORD a copy of the resolution as well as the teacher and student responses to the questionnaire.

H. CON. RES. 645

Concurrent resolution to create a Select Joint Committee on the Congressional Page School

Resolved by the House of Representatives (the Senate concurring), That (a) there is created a Select Joint Committee on the Congressional Page School (hereinafter in this resolution referred to as the "joint committee").

(b) The joint committee shall be composed of twelve members as follows:

(1) Six members of the Senate, appointed by the President pro tempore of the Senate, of which three shall be members of the Committee on Labor and Public Welfare, one shall be a member of the Committee on the District of Columbia, one shall be a member of the Committee on Rules and Administration, and one shall be a member of the Committee on Appropriations.

(2) Six members of the House of Representatives, appointed by the Speaker of the House, of which three shall be members of the Committee on Education and Labor, one shall be a member of the Committee on the District of Columbia, one shall be a member of the Committee on House Administration, and one shall be a member of the Committee on Appropriations.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

(d) The joint committee shall select a chairman and a vice chairman from among its members. The vice chairman shall be a member of that House of Congress other than the House of Congress of which the chairman is a member.

Sec. 2. The joint committee is authorized and directed to determine whether it is necessary to have the Congressional Page School, and if the joint committee determines that it is necessary, then the joint committee shall conduct a full and complete investigation and study of—

(1) the Congressional Page School, including—

(A) its method of faculty selection,

(B) its method of curriculum choice,

(C) the adequacy of the location of the school, including an evaluation of its physical plant and any benefit derived from its proximity to the Library of Congress;

(2) the availability of adequate housing for pages attending the school; and

(3) any other matter concerning the Congressional Page School which it deems necessary.

Sec. 3. The joint committee shall report to the House and the Senate as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. If such report is made when the Congress is not in session, it shall be filed with the Clerk of the House and the Secretary of the Senate. Upon submission of such report, the joint committee shall cease to exist.

Sec. 4. The expenses of the joint committee shall be paid from the contingent fund of the House, upon vouchers signed by the chairman of the joint committee, and its total expenses shall not exceed $35,000.

Sec. 5. To carry out this resolution, the joint committee is authorized to employ and fix the compensation of such professional staff and clerical and stenographic assistants as it deems necessary.

Fifty questionnaires sent out: 34 responses (including one letter with *no questionnaire* returned).

Received: April 8, 1976.

1. Before you moved you were living:

a. with parents, 31.

b. with relatives or friends of the family, none.

c. other (specify), 3 (includes letter).

2. You presently live:

a. with parents, 7.

b. with relatives or friends of the family, 2.

c. YMCA or YWCA, 5.

d. local boarding house, 11.

e. your sponsor, none.

Apartment, 8 (one other: letter only).

3. How do your present living quarters compare with your previous home facilities:

a. much better, none.

b. better, none.

c. same, 7.

d. worse, 16.

e. much worse, 5.

No response, 4 (1 other: letter only).

(*Note:* one person didn't check any.)

4. The school you previously attended was:

a. pre-high school, none.

b. public high school, 20.

c. private, 12.

d. other (includes letter), 2.

5. How does the Page School compare with your previous school in terms of the quality of your education?

a. much better, none.

b. better, 1.

c. approximately the same, 2.

d. worse, 7.

e. much worse, 22.

Between "worse" and "much worse," 1 (1 *other: letter only*).

6. To what extent does working interfere with the opportunity to learn what you need, and your ability to complete assignments?

a. very much, 3.

b. to a considerable extent, 9.

c. some, 9.

(*Note:* One wrote both b & c.)

e. not at all, 3.

(1 other: letter only.)

7. How many hours do you attend school on the average day?

a. less than e, 10.

b. between 3 and 4, 19.

c. more than 4 (1 other: letter only), 4.

8. How many hours do you devote to homework a week?

a. less than 5, 21.

b. between 5 & 10, 9.

c. more than 10, 3. (1 other: letter only).

9. What is your opinion of the communication between students and teachers in the Page School as compared to your previous school?

a. much better, none.

b. better, 5.

c. approximately the same, 6.

d. worse, 13.

e. much worse, 9 (1 other: letter only).

10. In comparing the Page School to the school you previously attended would you say:

Textbooks are:

a. much better, none.

b. better, none.

c. equal, 18.

d. worse, 11.

e. much worse, 4 (1 other: letter only).

Equipment (charts, maps, lab supplies, audio-visual, learning lab).

a. much better, none.

b. better, none.

c. equal, 1.

d. worse, 9.

e. much worse, 23 (1 other: letter only).

Teachers' apparent knowledge of their subject:

a. much better, none.

b. better, none.

c. equal, 6.

d. worse, 9.

(Note: 2 students checked both c & e; one checked d & e.)

e. much worse, 21. (1 other: letter only).

Teacher concern-teachers' interest in doing the best job they can:

a. much better.

b. better.

c. equal, 8.

d. worse, 20.

e. much worse, 5 (1 other: letter only).

Curriculum—Selection and quality:

a. much better, none.

b. better, none.

c. equal 3.

d. worse, 10.

e. much worse, 19 (1 other: letter only).

No response, 1.

Student interest:

a. much better, 1.

b. better, 2.

c. equal, 8.

d. worse, 15.

(Note: One student checked both c & d.)

e. much worse, 8 (1 other: letter only).

11. Do you think the grading system at the Page School as compared with your previous school is:

a. more fair, 1.

b. equal, 8.

c. less fair, 23.

No response, 1 (1 other: letter only).

d. easier, 12.

e. same, 3.

f. harder, 15.

No response, 2. (1 other: letter only).

(Note: One nothing checked.)

12. As an educational resource center has the location of the school in the Library of Congress been:

a. very helpful, 1.

b. helpful, 8.

c. some help, 7.

d. little help, 9.

e. no help, 9.

Other, 1.

(Note: One checked both c & d.)

13. Do you think the attitude of your fellow students in comparison to your previous fellow students is:

a. more serious, 8.

b. same, 6.

c. less serious, 18.

(Note: One nothing checked.) (1 other: letter only).

14. How would you rate the discipline at the Congressional Page School?

a. much better, 2.

b. better, 2.

c. approximately the same, 5.

d. worse, 13.

e. much worse, 11 (1 other: letter only).

15. To what extent are assignments checked, collected, and/or graded on a regular basis?

(Note: One person checked all three answers. One nothing checked.)

a. daily, 4.

b. weekly, 4.

c. rarely, 22.

No response, 4. (1 other: letter only).

16. Are there designated study areas in the Page School that are quiet and conveniently available?

a. yes, 7.

b. no, 24.

(Note: Two nothing checked.) 1 other: letter only).

17. What is your opinion of opportunities in the Page School for adequate counseling?

a. excellent.

b. good, 2.

c. fair, 6.

d. poor, 25.

(One checked c and d)

No response. 1. (1 other: letter only).

18. In regard to your health do you think the limited physical education program is:

a. very detrimental, 4.

b. detrimental, 5.

c. no problem, 24.

d. no p.e., 1. (other: letter only).

(Note: One checked "a" and added "d".)

We received 7 questionnaires from teachers plus one from an administrative assistant. (In many instances the Administrative Assistant responded "n/a" to the questions because as a non-teacher the question did not apply to her.)

1. The school where you previously taught was:

a. pre-high school, 4.

b. public high school, 4.

c. private school, none.

No answer, 1. (one answered A & B).

2. In comparing the Page School to your previous school, would you say:

Textbooks are:

a. much better, 1.

b. better, 1.

c. equal, 5.

d. worse, none.

e. much worse, none.

No answer 1.

Equipment (charts, lab supplies, audio-visual, etc.) are:

a. much better, 2.

b. better, 1.

c. equal, 4.

d. worse, none.

e. much worse, none.

No answer, 1.

Students' preparation on beginning your courses is:

a. much better, 1.

b. better, 3.

c. equal, 1.

d. worse, none.

e. much worse, none.

No answer, 2.

In addition one person checked all 5.

Students' interest in doing the best job they can is:

a. much better, 4.

b. better, 2.

c. equal, 1.

d. worse, none.

e. much worse, none.

In addition, one person checked all 5.
Student motivation is:
a. much getter, 4.
b. better, 2.
c. equal, 1.
d. worse, none.
e. much worse, none.
In addition, one person checked all 5.
Curriculum selection and quality are:
a. much better, none.
b. better, 3.
c. equal, 2.
d. worse, none.
e. much worse, none.
No answer 3.

3. What is your overall impression of the quality of educational opportunity at the Page School compared with your previous school?
a. much better, 2.
b. better, 5.
c. equal, none.
d. worse, none.
e. much worse, none.
No answer, 1.

4. As an educational resource center, do you think the Library of Congress has been:
a. very helpful, 7.
b. helpful, none.
c. some help, none.
d. little help, none.
e. no help, none.
No answer, 1.

5. Are there designated areas in the Page School that are quiet and conveniently available for teacher planning and preparation?
a. yes, 7.
b. no, 1.

6. How many hours do you spend at the Page School on the average day?
a. less than 4, none.
b. between 4 and 5, none.
c. more than 5, 8.

7. How many of these hours are spent in the classroom teaching?
a. less than ⅓, none.
b. between ⅓ and ⅔, none.
c. more than ⅔, 5.
No answer, 3.

8. How often do you generally assign homework?
a. daily, 5.
b. weekly, none.
c. less than once a week, none.
No answer, 3.

9. To what extent do you check, collect, and/or grade assignments on a regular basis?
a. daily, 4.
b. weekly, 4.
c. less than once a week, 2.
No answer, 2.
Two persons checked all three.

10. Do Page School students generally turn in assignments?
a. on time, 4.
b. late, 2.
c. not at all.
No answer, 3.
One person checked two.

11. How many hours do you devote weekly outside the classroom to preparation for class?
a. less than 5, none.
b. between 5 and 10, 1.
c. more than 10, 6.
No answer, 1.

12. Do you have a regular job other than the Page School?
a. yes, 1.
b. no, 7.
If yes, how many hours do you spend weekly at your other job.
a. less than 10, 1.
b. between 10 and 20, none.
c. more than 20, none.
No answer, 8.

13. How would you rate discipline problems at the Page School compared to your previous school?
a. less of a problem, 6.
b. about the same, 2.
c. more of a problem, none.

14. What is your opinion of the availability of adequate counseling for students at the Page School?
a. excellent, 3.
b. good, 3.
c. fair, 1.
d. poor, none.
No answer, 1.

15. Are time and an appropriate place available to counsel individual students with academic problems?
a. yes, 7.
b. no, 1.

16. Due to the limited faculty size, are you teaching subjects for which you do not feel adequately prepared?
a. yes, none.
b. no, 6.
No answer, 2.
Are you teaching subjects in which you are not certified?
a. yes, 1.
b. no, 5.
No answer 2.
If yes to either, what portion of your teaching time is spent in these subjects?
a. less than ⅓, none.
b. between ⅓ and ⅔, 1.
c. more than ⅔, none.

17. What is your opinion of the communication between students and teachers, compared to your previous school?
a. much better, 3.
b. better, 4.
c. equal, 1.
d. worse, none.
e. much worse, none.

18. Do you think the dedication of your fellow teachers, compared to your colleagues in your previous school, is:
a. stronger, 5.
b. about the same, 3.
c. less strong, none.

19. Compared to your previous school, how would you rate the quality and responsiveness of the Page School Administration?
a. much better, 3.
b. better, 2.
c. equal, none.
d. worse, 1.
e. much worse, none.
No answer, 1.

THE FED'S NEW MONEY TARGETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, yesterday Chairman Burns of the Federal Reserve Board released the summary record of the Federal Open Market Committee's April 20 meeting. Our Nation's money policy is decided by the Open Market Committee. It made a small but important change at its April 20 meeting. As chairman of the Subcommittee on Domestic Monetary Policy, I have reviewed and analyzed the summary record of the April 20 meeting in some detail. On the whole, I am encouraged by the committee's decision.

Pursuant to House Concurrent Resolution 133, which we passed last year, the Open Market Committee now sets money growth targets a year ahead. The targets are decided quarterly and announced and discussed at hearings held shortly thereafter. The committee's original target for money growth was 5 to 7½ percent for the year ending March 1976. The lower limit was reduced to 4½ percent last fall, to apply to the year ending the third quarter of 1976. The decision of April 20 reduced the upper limit to 7 percent, to apply to the year ending the first quarter of 1977. The committee's decision to seek money growth between 4½ and 7 percent in the year ending the first quarter of 1977 has been previously announced by Chairman Burns in hearings before the Senate Banking Committee on May 3. The record of the April 30 meeting released yesterday summarizes the discussion underlying the committee's decision.

Some of my colleagues are disturbed by the committee's decision to lower its money growth target, and have urged faster growth. They fear that the new policy could slow or even reverse the recovery. My review of current economic trends leads me to conclude otherwise. We have had a vigorous recovery since the winter of 1975, and it was achieved with annual money growth of 5 to 6 percent. At the same time, inflation has been reduced from the double-digit level to less than 5 percent per year so far this year. The two are not unrelated phenomena. The sharp drop in the inflation rate has helped restore consumer and business confidence; and in turn, renewed confidence has helped to sustain the recovery.

It would be tragic if we now rekindled the fires of inflation. For this reason, the Federal Reserve must be especially careful that money growth does not get out of hand. Past experience shows that if money growth is accelerated sharply in the second year of a recovery, like it was in 1972, it triggers a calamity inflationary boom, like in 1973, ending in recession. By reducing the upper limit of its target for money growth to 7 percent, the Open Market Committee has indicated that it is fully alert to the need to constrain money growth as we start the second year of recovery from the 1973–75 recession.

At the same time, experience in the late 1950's teaches us that sharp deceleration of money growth in the second year of economic recovery can trigger a new recession. By keeping the lower limit of its money growth target at 4½ percent, the committee shows that it is aware of the importance of keeping money growth from declining sharply at this stage of recovery.

As one who strongly supported House Concurrent Resolution 133 in the first session of this Congress, a year ago, I am pleased that the Federal Reserve is taking seriously the resolution's fundamental precept, to wit, decide and announce a year-over-year money target commensurate with both stable prices and maximum employment.

CONGRESSIONAL VIGIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living

up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Chervinsky family.

Mr. Speaker, I would like to insert for the RECORD the sad case of this separated family:

VLADIMIR CHERVINSKI

Vladimir Chervinsky, age 29, applied for an exit permit to join his parents in Israel in 1971. Refused at once, he has since applied each year with the same negative results.

During all this time he has shown remarkable courage in writing complaints and protests to organizations in the USSR, also to international organizations, and to leaders and various public figures in other countries. He has participated in many protests and demonstrations. He has also bravely repudiated his oath of allegiance, returned his military card, and renounced his Soviet citizenship. All these measures have been to no avail. His father now appeals to the Free World for our aid in making possible a reunion with his son.

In a letter from Israel, he writes:

"I, the father of an activist-refusnik of USSR, Aliya, turn to you with an appeal. His mother was not destined to see her son again; she died.

For the past five years I have been trying in every possible way to have my son, Vladimir Chervinsky, join me in Israel. I left him in the UUS in 1971. There, he has no relative or anyone close to him. We, the parents, were given permission to leave for Israel and during all this time both I and my son have been trying to obtain a visa for him, but so far without results.

My son is not the type of man in whom the Soviet Union would be interested or consider him important. He is not a great specialist since has has only a high school education. He has never been connected with any work of a secret nature. He was an Army private and was discharged from service 7 years ago.

Without any formal explanation, without any reason or motivation, and without giving any hope, he is forcibly kept isolated from his family, thereby causing heavy traumas both to him and his family.

For his eagerness to leave for Israel, to his own land, he is subjected to numerous persecutions, repression and humiliation. He has been denied employment and is without means of existence. I beg for your help and defense."

"SUNSET FOR THE FEA"

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

Mr. **FITHIAN**. Mr. Speaker, very shortly legislation to extend the life of the Federal Energy Administration will come to the floor of the House, presenting this body with an acid test of the "sunset" concept within the Federal Government. The outcome of this test is extremely important to those of us committed to reducing the Federal bureaucracy and to the American people who, with increasing reluctance, pick up the tab.

As most of my colleagues are aware, the Federal Energy Administration Act of 1974, which established a separate FEA, expires on June 30, 1976. Section 30 of that act specifies that:

> This act shall terminate June 30, 1976.

There is ample reason to believe that the authors of the original legislation meant exactly what they said. In describing the bill during early floor debate, Representative CHET HOLIFIELD, then the distinguished chairman of the House Government Operations Committee, said:

> The new FEA will be a temporary organization largely concerned with the immediate and short-term aspects of the energy emergency situation we are facing, because of inadequate energy supplies. FEA's functions will necessarily be carried out in the context of presently available technology . . .

And:

> Mr. Chairman, let me emphasize that this is a bill for a temporary agency. The bill provides that the act will terminate 2 years after the effective date. Six months before the act expires, the President is directed to transmit to the Congress a report with recommendations as to the disposition of the agency's functions.

To be sure, the actions of one Congress cannot bind a later Congress. The possibility that the act might be revised and extended under certain circumstances was tacitly recognized by the bill's authors. If the extraordinary circumstances which led to the creation of the agency in 1974 or others equally serious were in effect, the need for extension of the FEA could not be questioned.

But the fact of the matter is that times have changed. Two years ago our energy policy was narrowly focused on immediate results—ending the long lines at the gas pump, making sure that scarce supplies of fuel were fairly distributed, and surviving the Arab Oil Embargo. We needed an agency like the FEA to help accomplish these goals. Things are different today. We do not have the critical short-term supply problems we did in 1974, nor are we likely to see them again in the foreseeable future. Even oil price controls, as you know, are coming off.

There is no question, Mr. Speaker, that we could find other tasks that would keep the FEA occupied for another 39 months. If we did not change FEA's functions, and the legislation recently reported out of the Commerce Committee does not, the agency itself would undoubtedly continue to find things to do on its own. The FEA has already exhibited great talent along these lines.

But ingenuity in finding tasks for Federal bureaucracies is not the answer; it is precisely the problem.

If we can not see through self-serving agency promotions and predictions of doom to do away with this one obsolete bureaucracy, then all of the talk about cutting back on bureaucracy, duplication, and waste in Government will be just that—talk.

Representative SCHROEDER and I plan to offer a rational and responsible substitute measure to the Commerce Committee's bill. This substitute would provide for the orderly transfer of necessary FEA functions to permanent agencies and the formal termination of FEA. The time is right for letting the Sun set on the FEA.

ESTATE AND GIFT TAX BILL

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, I include in today's RECORD approximately three pages of material that will help explain the effect of the Estate and Gift Tax Reform Act of 1976—a bill I introduced yesterday. I hope it will be useful to Members and other interested parties.

The material follows:

ESTATE AND GIFT TAX BILL

Tentative revenue estimates

Fiscal year 1978

[*In millions*]

1. Marital deduction—Greater of $250,000 or 50% of adjusted gross estate	−153
2. $29,800 credit (equivalent to $120,000 exemption) and new tax rate schedule	−461
3. Additional credit ($25,000) for farms and other closely held businesses (equivalent to an additional $80,000 exemption)	−58
4. Initial 5-year deferral and then 10-year installment payment of tax for closely held business	−20
5. Farm valuation rather than fair market value	−15
6. Treatment of generation-skipping trusts [1]	
7. Appreciation tax:	
Gross	+48
Deduction	−24
Net	+24
Total (including appreciation tax)	−683
Long run (18 to 20 years):	
Gross	+770
Deduction	−303
Net	+467
Total (including appreciation tax)	−240

[1] No revenue effect for first years.

Source: Staff of Joint Committee on Internal Revenue Taxation. May 20, 1976.

EXAMPLES

The following examples illustrate the effect of the bill on various sized estates.

Example (1): (A) Assume that a decedent has a gross estate of $400,000, that debts and expenses are $40,000, that enough property is left to the decedent's spouse to obtain the maximum marital deduction and that there is $120,000 of appreciation in his assets, but only $40,000 of this appreciation is attributable to periods after 1976.

Present law:

Gross estate	$400,000
Less debts and expenses	40,000
	360,000
Less martial deduction (½ of $360,000)	180,000
	180,000
Less specific exemption	60,000
Taxable estate	120,000
Tax under present law	26,700

Bill:*

Gross estate	400,000
Less debts and expenses	40,000
	360,000
Less martial deduction	250,000
Taxable estate	110,000
Tax computation:	
Basic tax	26,800
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	0

*There is no appreciation tax because the rate on the first $50,000 of post-1976 appreciation is zero.

(B) Assume the same facts as (A) except that the decedent is unmarried.

Present law:

Gross estate	$400,000
Less debts and expenses	40,000
	360,000
Less specific exemption	60,000
Taxable estate	300,000
Tax under present law	81,700

Bill:*

Gross estate	400,000
Less debts and expenses	40,000
Taxable estate	360,000
Tax computation:	
Basic tax	108,200
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	78,400

*There is no appreciation tax because the rate on the first $50,000 of post 1976 appreciation is zero.

SUMMARY

	With marital deduction	Without marital deduction
Tax under present law	$26,700	$81,700
Tax under bill	0	78,400
Reduction in tax under bill	26,700	3,300

Example (2): (A) Assume that a decedent has a gross estate of $1 million, that debts and expenses are $100,000, that enough property is left to the decedent's spouse to obtain the maximum marital deduction and that his estate consists of stock and savings of $100,000 and a farm which has a fair market value of $900,000 and a farm value of $600,000.

Present law:

Gross estate	$1,000,000
Less debts and expenses	100,000
	900,000
Less marital deduction (½ of $900,000)	450,000
	450,000
Less specific exemption	60,000
Taxable estate	390,000
Tax under present law	110,500

Bill*:

Gross estate	700,000
Less debts and expenses	100,000
	600,000
Less marital deduction	300,000
Taxable estate	300,000
Tax computation:	
Basic tax	87,800
Less nonrefundable credit in lieu of specific exemption	29,800
	58,000
Less nonrefundable closely held business credit	25,000
Tax under bill	33,000

*The tax attributable to the closely held business would be eligible for deferred payment—interest only for the first five years, with ratable payment of the tax over a 10-year period beginning in year 6. The entire tax would bear interest at 4 percent (since the value of the business is under $1 million).

(B) Assume the same facts as (A) except that the decedent is unmarried.

Present Law:

Gross estate	$1,000,000
Less debts and expenses	100,000
	900,000
Less specific exemption	60,000
Taxable estate	840,000
Tax under present law	266,500

Bill*:

Gross estate	700,000
Less debts and expenses	100,000
Taxable estate	600,000
Tax computation:	
Basic tax	192,800
Less nonrefundable credit in lieu of specific exemption	29,800
	163,000
Less nonrefundable closely held business credit	25,000
Tax under bill	138,000

*The tax attributable to the closely held business would be eligible for deferred payment—interest only for the first five years, with ratable payment of the tax over a 10-year period beginning in year 6. The entire tax would bear interest at 4 percent (since the value of the business is under $1 million).

SUMMARY

	With marital deduction	Without marital deduction
Tax under present law	$110,500	$266,500
Tax under bill	33,000	138,000
Reduction in tax under bill	77,500	128,500

Example 3. In this example, the decedent's gross estate is $1.2 million. Administrative expenses, funeral expenses, and debts equal $118,500, leaving an adjusted gross estate of $1,081,500; 85 percent of this, or $920,000, is stock in a closely held business. The decedent's basis in the stock was $100,000, but on the effective date of the bill the stock is worth $840,000. Between that date and the date of the decedent's death, the stock appreciated $80,000. All other appreciation is in personal assets having an aggregate value of less than $10,000.

APPRECIATION TAX

Decedent's basis	$100,000
Step up in basis on effective date of bill	740,000
Total basis for appreciation purposes	840,000
Approximate value on date of death	920,000
Appreciation	80,000
Tax on this amount	1,500

CASE 1—FULL MARITAL DEDUCTION

Present law:

Gross estate	1,200,000
Less deductible debts and expenses	118,500
Adjusted gross estate	1,081,500
Estate after full marital deduction or 50%	540,750
Less exemption	60,000
Taxable estate	480,750
Estate tax	139,540

Bill:

Gross estate	$1,200,000
Minus deductible expenses	118,500
Appreciation tax	1,500
Adjusted gross estate	1,080,000
Full marital deduction	540,000
Taxable estate	540,000
Estate tax before credits	170,600
Basic credit	29,800
Closely held business credit	19,550
Maximum credit	25,000
85 percent	21,250
Minus 8-percent phase down	1,700
	19,550
Total credits	49,350
Total estate tax after credit	*121,250
Appreciation tax	1,500
Total taxes	122,750

*The tax attributable to the closely held business would be eligible for deferred payment—interest only for the first five years, with ratable payment of the tax over a 10-year period beginning in year 6. The tax would bear interest at 4 percent (since the value of the business is under $1 million).

CASE 2—NO MARITAL DEDUCTION

Present law:

Adjusted gross estate	$1,081,500
Minus exemption	60,000
Taxable estate	1,021,500
Estate tax	334,085

Bill:

Adjusted gross estate	1,080,000
Taxable estate	1,080,000
Estate tax before credits	378,600
Total credits	49,350
Estate tax after credits	329,250
Appreciation tax	1,500
Total taxes	330,750

NET CHANGE IN TAXES

	Bill	Present law	Net change
Full marital	$122,750	$139,540	−$16,790
No marital	330,750	334,085	−3,335

Example (4) (A) Assume that a decedent has a gross estate of $5,000,000, that debts and expenses are $500,000, that enough property is left to the decedent's spouse to obtain the maximum marital deduction and that his estate consists entirely of personal assets and publicly traded stock.

Present law:

Gross estate	$5,000,000
Less debts and expenses	500,000
	4,500,000
Less marital deduction (½ of $4,500,000)	2,250,000
	2,250,000
Less specific exemption	60,000
Taxable estate	2,190,000
Tax under present law	846,300

Bill*:

Gross estate	5,000,000
Less debts and expenses	500,000
	4,500,000
Less marital deduction	2,250,000
Taxable estate	2,250,000
Tax computation:	
Basic tax	903,300
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	873,500

*There is less than $50,000 of post-1976 appreciation.

(B) Assume the same facts as (A) except that the decedent is unmarried.

Present law:

Gross estate	$5,000,000
Less debts and expenses	500,000
	4,500,000
Less specific exemption	60,000
Taxable estate	4,440,000
Tax under present law	2,115,400

Bill*:

Gross estate	5,000,000
Less debts and expenses	500,000
Taxable estate	4,500,000
Tax computation:	
Basic tax	2,205,800
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	2,176,000

*There is no appreciation tax because the rate on the first $50,000 of post-1976 appreciation is zero.

	With marital deduction	Without marital deduction
Tax under present law	$846,300	$2,115,400
Tax under bill	873,500	2,176,000
Increase in tax under bill	27,200	60,600

Example (5). Assume that instead of leaving his entire estate of $5,000,000 by will as in example (4) above, the decedent makes lifetime gifts to his wife of $1,800,000 and leaves the remaining estate to his wife by will. Of the $1,800,000 of lifetime gifts, $900,000 is given in two equal payments of $450,000. The two $450,000 gifts are made in different calendar years, each more than 3 years prior to the decedent's death. The remaining $900,000 of lifetime gifts is made one month prior to the decedent's death.

A. PRESENT LAW

Gift tax under present law

The computation of the gift tax under present law is as follows:

Gift No. 1

Gross amount of gift	$450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
Specific exemption	30,000.00
	258,000.00
Taxable gift	192,000.00
Gift tax on gift No. 1	36,225.00

Gift No. 2

Gross amount of gift	450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
	228,000.00
Taxable gift	222,000.00
Gift tax on gift No. 2	52,410.00

Gift No. 3

Gross amount of gift	900,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	450,000.00
	453,000.00
Taxable gift	447,000.00
Gift tax on gift No. 3	117,067.50
Tax on gift No. 1	36,225.00
Tax on gift No. 2	52,410.00
Tax on gift No. 3	117,067.00
Total gift taxes payable under present law	205,702.50

Estate tax under present law

Because the decedent paid gift taxes of $205,702.50 in addition to the lifetime gifts to his wife, his remaining estate at his death is $2,994,436.25. The computation of the estate tax under present law is as follows:

Actual estate	$2,994,297.50
Gifts in contemplation of death	900,000.00
Gross estate	3,894,297.50
Less: Administration expense	299,429.75
Adjusted gross estate	3,594,867.75
Less: Marital deduction (50%)	1,797,433.88
	1,797,433.87
Less: Specific exemption	60,000.00
Taxable estate	1,737,433.87
	1,737,433.87
Estate tax before credit for gift taxes paid	635,046.37
Less: Credit for gift taxes paid on prior transfers	117,067.50
Estate tax payable	517,978.87

B. BILL

Gift tax under bill

The computation of the gift tax under the bill is as follows:

Gift No. 1

Gross amount of gift	450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
	228,000.00
Taxable gift	222,000.00
Gift tax on gift No. 1	32,040.00

Gift No. 2

Gross amount of gift	450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
	228,000.00
Taxable gift	222,000.00
Gift tax on gift No. 2	74,920.00

Gift No. 3

Gross amount of gift	$900,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	450,000.00
	453,000.00
Taxable gift	447,000.00
Gift tax on gift #3	166,530.00
Tax on gift No. 1	32,040.00
Tax on gift No. 2	74,920.00
Tax on gift No. 3	166,530.00
Total gift taxes payable under bill	273,490.00

Estate tax under bill

Because the decedent paid gift taxes of $273,490 in addition to the gifts to his wife, his remaining estate at his death is $2,926,510. The computation of the estate tax under the bill is as follows:

Actual estate	2,926,510
Gifts in contemplation of death (including related gift tax)	1,066,530
Gross estate	3,993,040
Less: Administration expenses	292,651
Adjusted gross estate	3,700,389
Less: Marital deduction	1,850,195
Taxable estate	1,850,194
Plus: Adjusted taxable gifts	444,000
Tentative tax base	2,294,194
Estate tax on tentative tax base	924,955
Less: Credit for gift taxes paid during life	273,490
Tax before unified credit	651,465
Less: Unified credit	29,800
Estate tax payable	621,665

A comparison of total transfer taxes under present law and under the bill is set forth in the following summary table:

Summary	Present Law	Bill	Difference
Gift taxes	$205,703	$273,490	$67,787
Estate tax	517,979	621,665	103,686
Total	723,682	895,155	171,473

Example (6). For purposes of this example, it is assumed that *D* is a widower whose total wealth is $100 million. Five years before his death, *D* sets up an irrevocable trust to pay the income to his son *C*, for life and, at *C*'s death the remainder is to be paid to *G*, *D*'s granddaughter. At this time *D* funds the trust with 40 million dollars. *D*'s will leaves his remaining estate to the trust. Thirty years after *D*'s death, *C* dies and the trust corpus is thereafter distributed to *G*. It is assumed that the value of the assets remains constant and there is less than $50,000 of post-1976 appreciation in the assets transferred to the trust by will.

PRESENT LAW

(1) Gift tax under present law:	
Gross amount of gift	$40,000,000
Less gift tax exemption and exclusion	33,000
Taxable gifts	39,967,000
Gift tax	21,872,092
(2) Estate tax under present law:	
Gross estate	38,127,908
Less debts and expense	3,812,791
	34,315,117
Less specific exemption	60,000
Taxable estate	34,255,117
Estate tax	24,764,640
Property passing to trust at death ($34,315,117–$24,764,640)	9,550,477
(3) Total transfer taxes:	
Gift tax	21,872,092
Estate tax	24,764,640
Total taxes	46,636,732
(4) Total passing to trust:	
By gift	40,000,000
By will	9,550,477
	49,550,477
Tax on *C*'s death attributable to the $49,550,477 distributed to G	None
Total taxes for 2 generations	46,636,732

BILL

(1) Transfer tax on gift:	
Gross amount of gift	$40,000,000
Less: Annual exclusion	3,000
Taxable gift	39,997,000
Gift tax	27,018,900
(2) Transfer tax on estate:	
Gross estate	32,981,100
Less: Debts and expenses	3,298,110
Taxable estate	29,682,990
Tax from unified rate table	20,807,893
Less: Unified credit	29,800
	20,778,093
(3) Total transfer taxes:	
Gift tax	27,018,900
Estate tax	20,773,093
Total taxes	47,796,993
(4) Total passing to trust:	
By gift	40,000,000
By deathtime transfer	8,904,897
	48,904,897

New tax imposed on Generation-Skipping Trust at *C*'s death. It is assumed that *C* has a taxable estate of $120,000.

Amount in trust subject to tax	$48,904,897
Less expenses, etc., of winding up trust	2,500,000
	46,404,897
Tax on trust at *C*'s death	31,588,428

TOTAL TRANSFER TAXES

	Present law	Bill	Increase
On D's transfers	$46,636,732	$47,796,993	$1,160,261
On C's death	0	31,588,428	31,588,428
Total	46,636,732	79,385,421	32,748,689

PERSONAL EXPLANATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I was unable to be present in the House of Representatives for the session of Friday, May 21, 1976.

Had I been present, I would have voted "aye" on rollcalls 292 and 293, the votes on the rule and final passage of H.R. 12677, the Comprehensive Alcohol and Alcoholism Amendments of 1976. I would have voted "aye" on rollcall 295, final passage of H.R. 12679, the Extension of the Program for Health Services Research and Statistics and Medical Libraries.

PEPPER POLL SHOWS A MAJORITY OF HOUSE MEMBERS FAVOR BROADCASTING

(Mr. SISK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SISK. Mr. Speaker, our friend and colleague from Florida, CLAUDE PEPPER, recently conducted a poll of House Members to determine whether or not they supported broadcasting of House floor proceedings. A majority of the Members favor broadcasting. Of the 346 Members responding, 238 favor broadcasting. Only 87 Members said they were opposed to the concept. The results of the poll are encouraging, I am sure, to the majority of the House who favor broadcasting, but they have a special significance for Mr. PEPPER.

Back in 1945, when few Americans had ever viewed a television set, then-Senator CLAUDE PEPPER introduced the first resolution to broadcast congressional floor proceedings. Mr. PEPPER was one of only a handful of individuals, I dare say, who recognized the potential of this new medium and had some conception of the enormous influence it would come to have on our daily lives. But, like many a new idea, the time was not quite right.

The Congress, however, did acknowledge the new medium to some extent. Television cameras were permitted in the House Chamber to cover the opening session of the 80th Congress. In the same year, 1947, the first televised congressional hearings were broadcast from the House Education and Labor Committee. These notable firsts, however, awaited many a year for repeat performances.

While the television industry grew and the medium became increasingly important as the principal source of information on public affairs for most Americans, the Congress continued its deliberations without the benefit of this 20th century communications tool. Although legislation was introduced in a number of Congresses, it was not until passage of the Legislative Reorganization Act of 1970 that the House opened its committee hearings to broadcast coverage.

Our Presidents, on the other hand, have viewed television broadcasting quite differently. Recognizing the significance of some 931 television stations broadcasting programs to over 110,200,000 TV sets throughout the country, our Chief Executives have effectively utilized the medium to take their message to the people. The audience that the President can reach via television is staggering. The President's 1974 State of the Union address was viewed by a total of 62.4 percent of all households having television sets or 41,300,000 households. If only two persons per household viewed the speech, the audience was approximately 82,600,000.

It is not surprising, then, to learn that during an 11-year period from 1966 through 1975 our last three Presidents sought on 45 occasions simultaneous television network time to address the Nation. More importantly, perhaps, they received coverage from all three commercial networks on 44 of those occasions. This access to the American people has proved an enormous advantage to each of our last three Presidents.

Congress, of course, has scored its own successes via broadcasting. The public has indicated a keen interest in viewing congressional activities. It is estimated that 20 to 30 million people viewed the 1951 Senate Crime Investigating Committee hearings chaired by Estes Kefauver.

A Gallup poll conducted in August of 1973 indicates that 70 percent of the American people viewed some of the Senate Watergate hearings live, 29 percent viewed a rebroadcast, and only 12 percent had viewed none of the proceedings at all.

Neilsen ratings of the commercial network coverage of the House Judiciary Committee's consideration of impeachment articles against President Nixon indicate that 22.3 percent of all TV households or some 14,499,861 households viewed at least once during the 6-day debate.

Analysis of the Watergate and impeachment coverage shows some interesting facts for those who believe the American people would be bored by congressional debate. Neilsen reports that from June through August of 1973, when the commercial networks rotated the live coverage of the Watergate hearings, the network broadcasting the hearings each day had an audience 12 percent greater than either of the other two networks which carried regular programing. Over the 2-month period the audience for the hearings was 12 percent greater than that for normal entertainment a year prior.

The prime time sessions for the House Judiciary Committee's impeachment proceedings averaged approximately 194 minutes per session according to Neilsen figures. The average household viewed 88 minutes out of the possible 194 minutes. These figures indicated a remarkable attention span for a public that is supposedly bored by congressional debate.

The American public wants broadcast coverage of the Congress. A Roper poll conducted in 1975 shows that 53 percent thought Congress should be covered on television. Another 15 percent wanted television coverage but would limit the coverage to major debate only. Added together these figures indicate that 68 percent favor television coverage of the Congress to some degree.

The House also reflects the attitude of the American people. Mr. Pepper's poll shows that 68.7 percent of the Members responding favored broadcasting. So that the Members may have the benefit of the total results of the poll, I am including the findings at the conclusion of my remarks.

I also would like to congratulate my colleague on his unstinting efforts to provide the American people an opportunity to watch their Representatives at work via the medium of television broadcasting. Mr. Pepper has pursued his new idea for 31 years now in both the House and the Senate. It is my sincere hope that finally the time will be right to try a concept that has become mature waiting in the wings for congressional approval. I personally have every intention of pursuing the matter again before the Committee on Rules.

I would remind my colleagues also of an admonition of a somewhat earlier date. In discussing the viability of democratic government, James Madison once wrote:

> A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both.

These words, I think, are well worth recalling as we celebrate our 200th anniversary as a nation founded on democratic principles.

RESULTS OF THE PEPPER POLL,
MAY 21, 1976

The poll was conducted by Congressman Pepper's staff during the week of April 26. The staff of 413 Members were contacted and copies of the questionnaire were sent to all offices which could not respond over the telephone. Follow-up phone calls were placed to each of these offices to elicit responses. Twenty-two Representatives were not represented in the poll. They include the leadership, members of the Committee on Rules, and the three vacancies in the House.

Three hundred and forty-six Members responded to the first question. The responses to questions 2 through 5 represent the views of the 238 Members who support the concept.

1. Does your Member support radio and television coverage of the House?

Of 346 responding: Yes 238 (68.7%), No 87 (25.2%), Undecided 21 (6.1%).

2. Would your Member support an arrangement whereby a pool of the commercial networks and public broadcasting provides the personnel and equipment for the coverage?

Of 238 responding: Yes 141 (59.2%), No 15 (6.3%), Undecided 51 (21.4%), No Response 31 (13.1%).

3. Would your Member support it if public broadcasting alone provides the coverage and makes it available to other broadcasters?

Of 238 responding: Yes 112 (47.0%), No 34 (14.3%), Undecided 60 (25.2%), No Response 32 (13.5%).

4. Would the Member support an arrangement whereby the House would provide its own equipment and personnel and make the coverage available to broadcasters?

Of 238 responding: Yes 70 (29.5%), No 69 (29.0%), Undecided 67 (28.1%), No Response 32 (13.4%).

5. Should all of the proceedings of the House be open to be covered or should the House leadership decide what should be covered?

Of 238 responding: All should be covered 127 (53.4%), Leadership should decide 28 (11.8%), Undecided 41 (17.2%), No Response 42 (17.6%).

INTRODUCTION OF THE DISTRICT OF COLUMBIA BAIL REFORM ACT OF 1976

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, on numerous occasions this illustrious Chamber has echoed with the despairing cries of my colleagues calling for some action which would stem the tide of rising crime in the Nation's Capital. Out of this hue and cry, a number of measures, some well thought out, others ill advised, have been enacted. One such measure was the District of Columbia Court Reform and Criminal Procedure Act of 1970. That act reorganized the District of Columbia courts and its revision of the Bail Reform Act of 1966, as it applied to the Nation's Capital, was heralded as the long-awaited solution to the crime problem. But the record clearly demonstrates that the Bail Reform Act as applied in the District of Columbia has failed as a tool for stemming the tide of rising crime by hardened criminals and has in fact contributed to the present situation wherein law-abiding citizens feel helpless and deserted in the face of the criminal element.

The time has come in our crime fighting efforts, Mr. Speaker, when we must take action to restore the balance in favor of the law-abiding citizens of our society and deal firmly but justly with the criminal element. Yesterday I introduced legislation, the Bail Reform Act of 1976, which is a first step in achieving this objective. I take this action after having received a most distressing and disappointing response to my entreaty to the District of Columbia Law Revision Commission that it give top priority to revision of the Bail Reform Act.

Rather than take positive steps to respond to an obviously pressing need, the Commission responded by pleading a lack of funds which to some degree is understandable, but the distressing aspect of its response which is the impetus for my action today is its assertion that with respect to the criminal law, the Commission is to give special consideration to an examination of the law for the purpose of discovering defects and anachronisms. This response represents a misplaced emphasis on one aspect of the Commission's mandate and indicates a willingness on the Commission's part to exalt form over addressing a critical problem affecting the lives and welfare of law-abiding citizens.

The Congress clearly contemplated that the Commission would focus its attention on more than discovering defects and anachronisms. I had hoped for a much more forward-moving response which would have precluded me from taking the action I now take. In the face of the Law Revision Commission response, I cannot remain silent and take no action; so my legislation preserves the constitutional rights of the accused while at the same time giving added protection for the safety and welfare of law-abiding citizens.

In more specific terms, my bill will eliminate the maze of different onerous criteria that presently have to be met before pretrial detention may be ordered. My bill will require judges and prosecutors to focus on only one question: Is a person who is charged with such violent crimes as rape, murder, or robbery dangerous to the community or likely to flee? If on the basis of clear and convincing evidence a judge has reason to believe that the defendant will pose a danger to the community or will flee unless he is detained, then the judge may enter an order detaining him.

The defendant's procedural rights would be safeguarded by affording him the right to counsel, the right to a hearing, the right to not have any testimony he may give used against him in his subsequent trial, the right to appeal, the right to an expedited trial, and the right to release if his trial does not commence within 60 days.

By safeguarding the defendant's procedural rights while providing a workable mechanism for detaining those who pose a danger to the community an appropriate balance can be struck between the competing interests of the community and the accused.

This legislation is clearly warranted when we consider the high level of criminal activity committed by persons on probation or parole or while awaiting trial. Various studies of the District's criminal justice system indicate the following: First, about one-fourth of all persons arrested for felonies are out on parole or probation for some previous crime, or else on some form of pretrial release on a pending charge; second, 6 out of 10 persons arrested for felonies have a prior criminal record with 7 percent of the persons arrested between 1971 and 1975 having been arrested at least four times each; third, 5 percent of the persons convicted between 1971 and 1975 who accounted for 15 percent of all convictions have been convicted of at least 3 crimes in the past 5 years; fourth, one-fourth of all present defendants in felony cases in the District are fugitives. Yet, in the face of all this, during a 6-month period during the past year, though the D.C. Bail Agency recommended preventive detention in 52 cases, in not a single one did the Government actually seek detention. If adopted, the legislation which I have introduced will greatly aid the U.S. Attorney and the local judiciary in their efforts to deal effectively with the high rate of crime being committed especially by repeat offenders as well as others who might be on some form of pretrial release.

As I have already indicated, I take this action after receiving an unsatisfactory response from the D.C. Law Revision Commission. Though I would like to see this matter resolved by that entity, I cannot wait for it to correctly interpret the mandate given it by the Congress. I urge and solicit all those sincerely interested in providing a positive and just response to the pressing problem of crime in the Nation's Capital to join me in bringing about adoption of the District of Columbia Bail Reform Act of 1976.

METRO RIDERSHIP THREE TIMES GREATER THAN ESTIMATED

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the Washington Metro transit system has been open to the public for about 2 months. I am pleased to be able to report that ridership on the system has continued to hold at the same high levels that occurred immediately after the system opened. To date, ridership is averaging over 20,000 per day. Original predictions by Metro—predictions termed highly optimistic by some—were for about 8,000 per day.

It is truly encouraging to note that ridership has ranged between 2½ and 3 times the estimates. It says something about the willingness of area residents to make good use of public transportation which is fast and reliable. And the people are saying something too—loud and clear. In polls taken of area residents, the great majority still wish to see this system fully completed—despite the higher cost of construction.

One unique facet of the system is that it shows that Washington actually has three rush hours daily—morning and evening as in other cities, and a noontime rush. Indeed, Metro is carrying more passengers during midday than during the traditional "rush hours." This market is raising a few eyebrows in other cities which are looking at Metro and wondering how they did it.

It is great news indeed that these high ridership levels are holding firm. The fact is that, thus far at least, Metro is a resounding success.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MILLER of California (at the request of Mr. MCFALL), for today, on account of illness.

Mr. HELSTOSKI (at the request of Mr. MCFALL), for today, on account of official business.

Mr. BROOKS, for May 26, 27, 1976, on account of regular session of NATO parliamentarians in Brussels, Belgium, on those dates.

Mr. DANIELSON, on account of official business on Wednesday and Thursday, May 26 and 27, 1976.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. SNYDER, for 5 minutes, today.

(The following Members (at the request of Mr. HALL) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MCFALL, for 15 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. DRINAN, for 10 minutes, today.

Mrs. MEYNER, for 10 minutes, today.

Mr. TSONGAS, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. KOCH, for 10 minutes, today.

Mr. HARRINGTON, for 10 minutes, today.

Mr. DUNCAN of Oregon, for 10 minutes, today.

Mr. ST GERMAIN, for 15 minutes, today.

Mr. ADDABBO, for 10 minutes, today.

Mr. LEHMAN, for 15 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. MEZVINSKY, for 5 minutes, today.

Mr. FITHIAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ULLMAN and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $858.

Mr. BROWN of California and to include extraneous matter notwithstanding the fact that it exceeds six pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,716.

Mr. DOWNEY of New York, immediately following the remarks of Mr. PATTISON of New York today.

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. MICHEL.

Mr. GRADISON.

Mr. SNYDER.

Mr. WIGGINS.

Mrs. HOLT.

Mr. KETCHUM.

Mr. DU PONT.

Mr. RUPPE.

Mr. BROOMFIELD.

Mr. BURGENER.

Mr. ARCHER.

Mr. FINDLEY in two instances.

Mr. BOB WILSON.

(The following Members (at the request of Mr. HALL) and to include extraneous material:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. MCDONALD of Georgia in three instances.

Mrs. MEYNER.

Mr. BRINKLEY.

Mr. FORD of Michigan.

Mr. DANIELSON in two instances.

Mr. WAXMAN in two instances.

Mr. TSONGAS.

Mr. OBEY in two instances.

Mr. MOSS.

Mrs. KEYS.

Mr. EVINS of Tennessee in two instances.

Mr. MCCORMACK in two instances.

Mrs. BURKE of California in two instances.

Mrs. MINK.

Mr. HAWKINS.

Mr. MOLLOHAN.

Mr. DUNCAN of Oregon.

Mr. HÉBERT.

Mr. KOCH in 10 instances.

Mr. OTTINGER in three instances.

Mr. FARY.

Mr. LUNDINE.

Mr. ROE.

Mrs. SCHROEDER.

Mr. DOMINICK V. DANIELS.

Mr. RUSSO.

Mr. HARRIS.

Mr. SISK.

Mr. HARKIN.

Mr. WIRTH.

Mr. TEAGUE.

Mrs. CHISHOLM.

Mr. LEGGETT.

Mr. OBERSTAR.

Mr. WOLFF in two instances.

Mr. HARRINGTON.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3308. An act to provide for interim regulatory reform as to certain independent regulatory agencies; to the Committees on Interstate and Foreign Commerce, Public Works and Transportation, Merchant Marine and Fisheries, and the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2679. An act to establish a Commission on Security and Cooperation in Europe.

ENROLLED BILLS SIGNED

Mr. **HAYS** of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority;

H.R. 12132. An act to extend as an emergency measure for 1 year the District of Columbia Medical and Dental Manpower Act of 1970;

H.R. 12453. An act *to authorize* appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; and

H.R. 12527. An act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes.

ADJOURNMENT

Mr. **HALL**. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 26, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3371. A letter from the President of the United States, transmitting proposed supplemental appropriations for the legislative branch for fiscal year 1976 and the transition quarter, and budget amendments for fiscal year 1977 (H. Doc. No. 94–504); to the Committee on Appropriations and ordered to be printed.

3372. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of his approval of the application from the De Luz Heights Municipal Water District, Fallbrook, Calif., for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

3373. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of his approval of the application from the Cameron County Water Control and Improvement District No. 19, Harlingen, Tex., for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

3374. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of his approval of the application from the Hidalgo County Water Improvement District No. 5, Progreso, Tex., for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

3375. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

3376. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend XIX of the Social Security Act to revise the payment reductions required in cases of inadequate utilization controls; to the Committee on Interstate and Foreign Commerce.

3377. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting the 1976 annual report of the Board, pursuant to section 201(c) of the Social Security Act, as amended (H. Doc. No. 94–505); to the Committee on Ways and Means and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. **STAGGERS**: Committee on Interstate and Foreign Commerce. Supplemental report on H.R. 10498. A bill to amend the Clean Air Act, and for other purposes (Rept. No. 94–1175, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. **EILBERG**: Committee on the Judiciary. S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos (Rept. No. 94–1191). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. **BURKE** of California (for herself, Mr. Allen, Mrs. Boggs, Ms. Holtzman, Mr. Lehman, Mr. Moffett, and Mr. Patterson of California):

H.R. 13993. A bill to provide for the establishment of multipurpose service programs for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. **CARNEY**:

H.R. 13994. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption for a taxpayer supporting a dependent who is mentally retarded; to the Committee on Ways and Means.

By Mr. **CARR** (for himself, Mr. Emery, Mr. Pattison of New York, Mr. Miller of California, Mr. Nix, Mr. Eilberg, Mr. Rosenthal, Mr. Drinan, Mr. Patterson of California, Mr. Weaver, Ms. Chisholm, Mr. Seiberling, Mr. Neal, Mr. Solarz, and Mr. Bedell):

H.R. 13995. A bill to amend the Internal Revenue Code of 1954 to deny the business deduction for amounts paid or incurred for lobbying before Congress or other legislative bodies; to the Committee on Ways and Means.

By Mr. **DEVINE**:

H.R. 13996. A bill to establish a Department of Health, a Department of Education, and a Department of Welfare, and to direct the President to prepare a reorganization plan providing for the transfer to such Departments of all functions of the Department of Health, Education, and Welfare; to the Committee on Government Operations.

By Mr. **DODD** (for himself, Mr. Tsongas, Mr. Mann, Mr. Baucus, Mr. Bedell, Mr. Brown of Michigan, Mr. Carney, Mr. Cohen, Mr. Cotter, Mr. Robert W. Daniel Jr., Mr. Edgar, Mr. Fauntroy, Mr. Findley, Mr. Fisher, Mr. Flowers, Mr. Gibbons, Mr. Gradison, Mr. Grassley, Mr. Ichord, Mr. Kemp, Mr. Ketchum, Mr. Kindness, Mr. Leggett, Mr. Lehman, and Mr. McCollister):

H.R. 13997. A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant to courts power to deny pretrial release to persons charged with the commission of certain crimes of violence; jointly to the Committees on the Judiciary and the District of Columbia.

By Mr. **DODD** (for himself, Mr. Tsongas, Mr. Mazzoli, Mr. Mineta, Mr. Miller of California, Mr. Moorhead of Pennsylvania, Mr. Neal, Mr. Nedzi, Mr. Nowak, Mr. Rees, Mr. Roush, Mrs. Spellman, Mr. James V. Stanton, Mr. Whitehurst, and Mr. Charles Wilson of Texas):

H.R. 13998. A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant to courts power to deny pretrial release to persons charged with the commission of certain crimes of violence; jointly to the Committees on the Judiciary and the District of Columbia.

By Mr. **EDGAR** (for himself, Mr. Badillo, Mr. Baucus, Mr. Bedell, Mr. D'Amours, Mr. Eilberg, Mr. Hannaford, Mr. Harkin, Mr. Lent, Mr. McHugh, Mr. Mazzoli, Mr. Mikva, Mr. Mitchell of Maryland, Mr. Mottl, Mr. Pattison of New York, Mr. Rangel, and Mr. Stark):

H.R. 13999. A bill to amend title 39, United States Code, to establish a special rate of postage for postal cards mailed to Members of the Congress by their constituents; to the Committee on Post Office and Civil Service.

By Mr. **FOUNTAIN** (for himself, Mr. Fuqua, Mr. Levitas, Mr. Wydler, Mr. Brown of Ohio, and Mr. Horton):

H.R. 14000. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; to the Committee on Government Operations.

By Mr. **FARY**:

H.R. 14001. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. **FLOWERS**:

H.R. 14002. A bill to amend the Administrative Conference Act; to the Committee on the Judiciary.

By Mr. **FORD** of Michigan (for himself and Mr. Hanley):

H.R. 14003. A bill to amend title 5, United States Code, to provide civilian employees of the National Guard certain rights of members of the competitive service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. **HENDERSON**:

H.R. 14004. A bill to amend title 5, United States Code, to extend certain leave benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act; to the Committee on Post Office and Civil Service.

By Ms. **KEYS**:

H.R. 14005. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources developing projects under the jurisdiction of the Department of the Army; to the Committee on Public Works and Transportation.

By Mr. **MATSUNAGA** (for himself and Mr. Conte):

H.R. 14006. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; to the Committee on Ways and Means.

By Mr. **PERKINS**:

H.R. 14007. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities authorized under such part; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 14008. A bill to establish within the Department of Housing and Urban Development a program providing financial assistance to low-income individuals and families for the purpose of purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Currency and Housing.

By Mrs. SCHROEDER (for herself, Mr. Fithian, Mr. Krebs, Mr. D'Amours, Mr. Baucus, Ms. Keys, Mr. Jenrette, Mr. Hughes, Mr. Jacobs, Mr. Lehman, and Mr. Edgar):

H.R. 14009. A bill to abolish the Federal Energy Administration, to provide for the orderly reorganization of the energy functions of the Federal Government, and for other purposes; jointly to the Committees on Government Operations and Interstate and Foreign Commerce.

By Mr. SLACK:

H.R. 14010. A bill to increase for a 5-year period the duty on certain hand tools, and for other purposes; to the Committee on Ways and Means.

By Mr. SNYDER:

H.R. 14011. A bill providing for certain revisions in the Canal Zone Code; to the Committee on Merchant Marine and Fisheries.

By Mr. TAYLOR of Missouri:

H.R. 14012. A bill to provide a career program for, and greater flexibility in management of, Federal aviation safety employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TRAXLER:

H.R. 14013. A bill to amend the Internal Revenue Code of 1954 to exempt farmers from the highway use tax on heavy trucks used for farm purposes; to the Committee on Ways and Means.

By Mr. TSONGAS (for himself, Mr. Dodd, Mr. Baucus, Mr. Bedell, Mr. Biaggi, Mr. Carney, Mr. Cohen, Mr. Cotter, Mr. Downey of New York, Mr. Edgar, Mr. Florio, Mr. Grassley, Mr. Hughes, Ms. Keys, Mr. Koch, Mr. Lehman, Mr. Lloyd of California, Mr. McCollister, Mr. Maguire, Mr. Mazzoli, Mr. Moakley, Mr. Mollohan, Mr. Moorhead of Pennsylvania, Mr. Nedzi, and Mr. Nowak):

H.R. 14014. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

By Mr. TSONGAS (for himself, Mr. Dodd, Mr. Ottinger, Mr. Patterson of California, Mr. Pattison of New York, Mr. Russo, Mrs. Spellman, and Mr. Thornton):

H.R. 14015. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

By Mr. WIRTH (for himself and Mrs. Schroeder):

H.R. 14016. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. McDONALD of Georgia:

H.J. Res. 963. Joint resolution to stop the sale of one auxiliary submarine to Peru; to the Committee on Armed Services.

H.J. Res. 964. Joint resolution to stop the sale of certain auxiliary ships and craft to Venezuela; to the Committee on Armed Services.

By Mr. MOTTL:

H.J. Res. 965. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of judges of the district courts of the United States; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.J. Res. 966. Joint resolution requesting the President to proclaim the second week in August as "Better Water for People Week"; to the Committee on Post Office and Civil Service.

By Mr. LEHMAN (for himself, Mr. Anderson of Illinois, Mrs. Boggs, Mr. Diggs, Mr. Gude, Mr. McKinney, Mr. Miller of California, Mr. Pepper, Mr. Quie, Mr. Shipley, and Mr. Young of Georgia):

H. Con. Res. 645. Concurrent resolution to create a Select Joint Committee on the Congressional Page School; to the Committee on Rules.

By Mr. SEBELIUS:

H. Res. 1215. Resolution to express the sense of the House of Representatives that the President of the United States should direct the Secretary of the Interior to conserve the helium which is now being extracted from natural gas and then wasted into the atmosphere; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of New York, relative to rapid transit serving the Buffalo-Amherst "Corridor" in Erie County, N.Y., which was referred to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DOWNING of Virginia introduced a bill (H.R. 14017) for the relief of Comdr. Joseph A. Siebel; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12169

By Mr. BROWN of Ohio:

Page 7, line 10, strike out "$49,961,000" and insert in lieu thereof "$12,596,000".

Page 8, strike out line 11 and all that follows thereafter down through "1977." on line 14.

H.R. 12645

By Mr. MOORHEAD of Pennsylvania:

On page 37 at the end of the bill, insert the following provision:

"NATIONAL INSTITUTE OF BUILDING SCIENCES

"Sec. 25. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting ", and $5,000,000 for each of the fiscal years 1977 and 1978" immediately after "Fiscal year 1976"."

H.R. 12945

By Mr. ADAMS:

(Amendment to the committee amendment.)

On page 30 of the bill as reported, strike out lines 14 through 17.

By Mr. BADILLO:

On page 37, line 12 add the following new section:

"STUDY OF HOUSING NEEDS IN METROPOLITAN CITIES

"Sec. 25 (a) The Secretary of Housing and Urban Development shall conduct a study for the purpose of assessing the housing needs of individuals & families, especially low and moderate income individuals and families, who reside in metropolitan cities. In making such a study, the Secretary shall give detailed examination to assessing the housing needs in the cities and to determining the best manner in which such needs may be met through Federal housing programs.

"(b) The Secretary shall submit to both Houses of Congress, no later than 12 months after the date of enactment of this Act, a preliminary report of the Secretary's findings and conclusions made as a result of the study described in subsection (a). No later than 18 months after the date of enactment of this Act, the Secretary shall submit to both Houses of Congress a final report containing such findings and conclusions."

By Mr. MURPHY of Illinois:

Page 9, strike out lines 9, 10 and 11 and insert in lieu thereof the following:

Sec. 8(a) Section 109(b) of the Emergency Homeowners' Relief Act is amended by striking out "1976" and inserting in lieu thereof "1977".

(b) The Emergency Homeowners' Relief Act is amended by adding the following new section at the end thereof:

"MANDATORY IMPLEMENTATION OF PROGRAM IN STANDARD METROPOLITAN STATISTICAL AREAS WHICH HAVE HIGH HOME MORTGAGE FORECLOSURE RATES

"Sec. 114. The Secretary shall implement the provisions of this title in any standard metropolitan statistical area during any period in which the number of foreclosures on mortgages on one- to four-family dwelling units in such area is greater than 1.2 per centum of the total number of mortgages on such dwelling units in such area.".

Redesignate the succeeding subsections accordingly.

By Mr. RICHMOND:

Page 11, line 10, strike out "$100,000,000" and insert in lieu thereof "300,000,000."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of May 24, 1976, page 15152:

HOUSE BILLS

H.R. 13561. May 5, 1976. Ways and Means. Entitles taxpayers, under the Internal Revenue Code, to elect to take a deduction with respect to the amortization of any qualified school or hospital property, which was purchased from a tax-exempt organization, based on a period of 180 months.

H.R. 13562. May 5, 1976. Banking, Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make and contract to make periodic assistance payments on behalf of homeowners to mortgagees. Specifies the qualifications for mortgage payment assistance and the amounts of such payments.

H.R. 13563. May 5, 1976. Judiciary. Establishes in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs to furnish financial assistance to citizen and community groups to encourage neighborhood participation in crime prevention and other law enforcement activities.

H.R. 13564. May 5, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commision to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13565. May 5, 1976. Interstate and Foreign Commerce. Amends the Regional

Rail Reorganization Act to require the Consolidated Rail Corporation to maintain and preserve for the period of one year after conveyance all rail properties designated in the final system plan for conveyance to a profitable railroad and subsequently conveyed to the Corporation.

Authorizes States to purchase such rail properties during such period.

Authorizes an acquiring railroad to enter into a purchase agreement for rail properties in the absence of an employment offer to the employees of the selling railroad.

H.R. 13566. May 5, 1976. Ways and Means. Amends the Internal Revenue Code to increase the amount of the exemption from industrial development bond treatment for qualified small issues.

H.R. 13567. May 5, 1976. Small Business. Amends the Small Business Act and the Small Investment Act of 1958 to increase specified appropriations for loans made pursuant to such Acts. Changes the loan authority of the Small Business Administration to allow loans to finance residential and commercial construction or rehabilitation. Expands the coverage of the disaster loan program. Permits the Administration to guarantee the payment of expenses incurred in designing or installing pollution control facilities by small businesses. Creates an Office of Advocacy within the Administration.

H.R. 13568. May 5, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13569. May 5, 1976. Public Works and Transportation. Modifies the Corpus Christi ship canal project in Texas to require that non-Federal interests agree to contribute 25 percent of the construction costs of the project.

H.R. 13570. May 5, 1976. Post Office and Civil Service. Prohibits the United States Postal Service from changing the nature of postal services provided by any post office unless such change is approved in an election by persons regularly using such facility.

H.R. 13571. May 5, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 13572. May 5, 1976. Education and Labor. Authorizes the cancellation of up to 50 percent of the outstanding principal of national defense higher education loans for specified Armed Forces individuals.

H.R. 13573. May 5, 1976. International Relations. Establishes a Commission on Security and Cooperation in Europe. Authorizes and directs the Commission to monitor the acts of the signatories to the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Agreement) with respect to their compliance with the articles of such Act, particularly with regard to the provisions relating to Cooperation in Humanitarian Fields.

H.R. 13574. May 5, 1976. Ways and Means. Amends the Internal Revenue Code to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlord.

H.R. 13575. May 5, 1976. Banking, Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse to local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 13576. May 5, 1976. Post Office and Civil Service. Prohibits the United States Postal Service from closing any post office which services a rural area or small town unless (1) a majority of the persons regularly served by such post office approve the closing, (2) it establishes a rural station or branch which provides the same postal services as the post office and does not result in any change in the address of persons served by such post office, or (3) it establishes a rural route to serve the area. Allows the Postal Service to establish a rural route as a substitute for an existing post office upon making specified determinations.

H.R. 13577. May 5, 1976. Interstate and Foreign Commerce; Judiciary; Banking, Currency and Housing; Ways and Means. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to impose minimum penalties for specified opiate-related offenses. Amends the Federal Rules of Criminal Procedure to require a hearing to determine whether a term of imprisonment and parole eligibility is mandatory for an opiate-related offense.

Establishes considerations for judicial officers setting conditions for release of any person charged with an opiate-related offense. Makes proceeds of such offenses subject to forfeiture to the United States.

Requires persons exporting or importing monetary instruments in amounts exceeding $5,000 to file a report of such transport.

H.R. 13578. May 5, 1976. Ways and Means. Revises the eligibility requirements for disability insurance benefits for blind persons under the Old-Age, Survivors, and Disability Insurance program of the Social Security Act. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 13579. May 5, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission authorizing specialized carriers.

H.R. 13580. May 5, 1976. Ways and Means. Amends the Internal Revenue Code and the Social Security Act to exclude the service performed by an individual on a vessel used in catching fish or other marine animal life wherein such individual receives as compensation a portion of such vessel's catch, from the definitions of "employment" and "self-employment" for the purposes of deductions, contributions, and benefits under such Acts.

Requires the operator of a vessel employing such individuals to report to the Secretary of the Treasury with respect to the identity of such individuals and their share of the catch.

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 616. April 13, 1976. Post Office and Civil Service. Designates the month of April as "Fair Housing Month."

H. Con. Res. 617. April 14, 1976. International Relations. Expresses the sense of Congress that the Soviet Union should release Georgi Vins from imprisonment and allow freedom of religion in that nation.

H. Con. Res. 618. April 26, 1976. Calls for the reenrollment of H.R. 8235 with a specified correction.

H. Con. Res. 619. April 27, 1976. Budget. Sets forth the congressional budget for the United States Government for fiscal year 1977. Specifies the appropriate level of new budget authority and the estimated budget outlays for each major functional category. Revises the congressional budget for the transition period beginning July 1, 1976.

H. Con. Res. 620. April 27, 1976. Budget. Sets forth the congressional budget for the United States Government for fiscal year 1977. Specifies the appropriate level of new budget authority and the estimated budget outlays for each major functional category. Revises the congressional budget for the transition period beginning July 1, 1976.

H. Con. Res. 621. April 28, 1976. Post Office and Civil Service. Expresses the sense of Congress that the U.S. Postal Service should not close or otherwise suspend the operation of any post office during the six-month period beginning on the date of adoption of this resolution.

EXTENSIONS OF REMARKS

SALEM COLLEGE GRADUATES HEAR CHALLENGING ADDRESS BY C. HOWARD HARDESTY

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 25, 1976

Mr. RANDOLPH. Mr. President, it is particularly gratifying to return to one's alma mater to participate in the graduation of young men and women.

On Sunday, May 16, Salem College held its 88th annual commencement. The ceremony, presided over by Dr. Dallas B. Bailey, the president, was an impressive affirmation of the serious role that today's student has assumed. The meaning and value of education was clearly recognized by this class of 1976. More and more young people do seek disciplines both productive and intellectually satisfying.

In presenting the class of 189 graduates, Dr. Ronald O. Champagne, the dean, told the graduates:

> The word credit is used in educational circles primarily as a measure of progress and achievement in academic programs . . . I propose that we consider a different meaning for the word credit, and I believe this meaning represents the whole story. The word credit finds its root meaning in the Latin word "credo," which translates into "belief." The credits you have received represent the belief placed in you and in your intellectual abilities by the people of Salem College, by the faculty especially. They represent the belief placed in you and in your inner resources by the community that you are soon to serve. They represent the belief placed in you and your future development by your families who continually care about your growth. I pray that you will be mindful of this belief and that you will always live up to it.

Honorary degrees were presented to C. Howard Hardesty, a native West Virginian and vice chairman of Continental Oil Co. who was awarded the doctor of science in energy technology; Alice VanLandingham, of Morgantown, W. Va., who next month assumes the presidency of the 8.3 million member American Association of Retired Persons after a distinguished career on behalf of the elderly, a doctor of public service; William R. Cumberford, of Fort Lauderdale, Fla., whose activities include chairmanship of the Council Trust Fund Promotion for the Boy Scouts of America, a doctor of humanics; and James H. Brewster, Jr., a retired Air Force colonel, attorney, and civic leader in Weston, W. Va., a doctor of humane letters. Mrs. VanLandingham, prior to the commencement, presented an inspiring baccalaureate address.

In his commencement address, Mr. Hardesty told the graduates and audience of 1,500 persons that public understanding of and intelligent action concerning this Nation's energy challenges are missing:

> Today, most Americans do not sense any urgency in regard to energy matters. Why should they? After all, there is no shortage of gasoline, utilities have adequate supplies of fuel, bigger cars are again in vogue and 55 miles was more appropriate during World War II.
>
> Ignored in this energy euphoria is the fact that in March of this year, for the first time in our history, we imported more oil than we produced domestically. More importantly, imports from Arab producers have increased 60 percent since the embargo of 1973. Increased dependence on imported oil is contrary to our national interest.

Mr. Hardesty warned that:

> All of the evidence points to energy scarcity in the next decade, to a dangerous dependence on imported fuels and to a resultant serious economic upheaval.

Since this Nation is without a comprehensive energy policy, it will be a responsibility of today's young graduates and their successors to help formulate such a policy in the years ahead.

Pointing to America's unrivaled advances in productivity, technological achievements and scientific programs, Mr. Hardesty concluded his meaningful and challenging address:

> This Nation of ours faces some serious problems, but we do not go into the lists unarmed. Our arsenal bristles with the weapons of achievement and productivity, of technological progress and scientific advancement. Never was a people so well equipped to come to grips with the problems of humanity. In the final analysis, however, the key to your destiny is recapturing the spirit of adventure and accomplishment that characterized our pioneering ancestors. Never before was a people so well equipped to come to grips with itself. The opportunity to succeed exists for each of you.
>
> This past month, I had the privilege of attending a dinner in honor of Howard Rusk who has devoted so much of his life to establishing the World Rehabilitation Fund. The Fund has brought new life to the handicapped and crippled around the world. A wonderful contributing life.
>
> He closed his warm comments with a quote from William Allen White which I pray describes your thoughts about the future—"I am not afraid of tomorrow. I know yesterday and I loved today."

H.R. 12365

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. PATTERSON of California. Mr. Speaker, in the past few weeks I have received correspondence urging my support for H.R. 12365, a bill "To extinguish Federal court jurisdiction over school attendance." The bill has been described as an effective means to stop "forced" busing of schoolchildren. The publicity surrounding this bill has aroused the emotions of many of those who opposed the concept of busing to achieve equal educational opportunity for schoolchildren.

I too am concerned over the problems associated with court-ordered busing to achieve racial balance in schools. While many places have implemented successful busing programs without the controversy and violence that have accompanied current busing endeavors in Boston, evidence seems to indicate that the real academic impact of busing is marginal. Furthermore, busing has not been a social panacea in terms of true integration of our society.

What busing has been is a tool of the last resort in our search to guarantee equal educational opportunity for all, especially those who have been denied such opportunity in the past. Because of the segregation in our housing and in our community patterns, busing has often been the only available means of effectuating equal educational opportunity.

After receiving these letters, I looked closely at the language of H.R. 12365. It reads as follows:

> Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, pursuant to Article III, sections 1 and 2 of the United States Constitution, no court of the United States shall have the jurisdiction to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school. •

This language would, in my opinion, close the door to any efforts to establish plans for school desegregation whether such plans include busing or not. They would, in effect, make the Brown decision and other Federal laws on equal educational opportunity moot. While such laws would remain on the books there would be no way to enforce any part of these laws because the courts could issue no decision which would enforce them. Support of H.R. 12365 or of the discharge petition would, therefore, mean repudiation of the goal of equal educational opportunity for all children. It would indeed have the effect of prohibiting court-ordered busing, but it also would go much further.

H.R. 12365 would set a precedent which, in the long run, could destroy our entire judicial system and, in turn, cause chaos in our society. Our society is built on a system of laws and a belief in enforcement of those laws. The bill proposes prohibiting the courts by law from enforcing other laws. It seems to me to be an inefficient way to approach the problem as well as a dangerous one. What is to stop each group with a particular objection to or interest in a specific law from pushing for passage of other legislation prohibiting court enforcement of that law? This would be an intolerable situation.

It seems to me that drastic action is contemplated by H.R. 12365. We must not let our dissatisfaction with and fear of busing force us into something which would be worse. We must take a comprehensive legislative approach by asking ourselves what is the best way to achieve equal educational opportunity. We must thoroughly analyze this matter, and with the assistance of local school systems and the people come to a consensus on a policy which will produce equal educational opportunity with the least cost and with the least disruption. There are presently bills pending before the Congress which propose alternative methods of meeting these problems, and I believe we should give other approaches a chance before rushing into legislation which would repudiate the goal of equal educational opportunity as well as endangering our system of law.

While I do not believe that busing mandated by the court has achieved the envisioned goal, and hope that we can find other approaches for providing equal educational opportunity, I cannot support H.R. 12365 because the "cure" is worse than the disease. In our haste to alleviate the traumatic upheavals caused by a few busing programs we must not make unwise decisions which will undermine the foundations upon which our society was built and has survived for 200 years.

MEN OF THE YEAR, 1926

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 25, 1976

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a column authored by the distinguished Washington columnist, TRB, appearing in the May 22 issue of the New Republic be printed in the RECORD. The article is a fine tribute to the Senate as an institution and I am grateful to the author and to the publication for this special notice in the Bicentennial Year.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEN OF THE YEAR, 1926

A reporter who occasionally covers the Senate can't help a sneaking hope that Daniel Patrick Moynihan, erstwhile ambassador to the UN, erstwhile envoy to India, erstwhile historian, urbanologist, sociologist, erstwhile everything else, might reach that body. It's stodgy and needs flamboyance. It wasn't always this way. Before radio and television, when a member in a string tie and swallowtails could reach a crowd of 10,000 without straining his tonsils or using amplifiers, the Senate always had a sprinkling of wonderful eccentrics, let alone some noble characters, sometimes combined in one man. They are still there, perhaps masquerading as solid citizens, but electronics has flattened them out, and the disguise is deep.

This isn't an endorsement of Pat Moynihan who, according to some reports, is about to toss his leprechaun's hat into the senatorial race in New York; it is just a nostalgic thought about old times where he might have fitted in better. He's gregarious and controversy-prone, and the fatherless Irish shoeshine boy turned counselor to presidents would liven the Senate up. I found myself turning a red-bound *Congressional Directory*, 69th Congress 2nd Session, December 1926, Calvin Coolidge president, with the cover stamped "Cora Rigby." Half a century ago . . . The Senate list is there, all 96 of them: 53 Republicans in roman type; 42 Democrats *in italic type*, and one Farmer-Labor in ROMAN CAPS—that was Henrik Shipstead, practicing dentist of Kandiyohi County, Minn., who could pass a law or take out a tooth.

My eyes move lovingly down the list starting with witty, courtly Henry F. Ashurst (D) of Arizona, who defined a happy life as one that lasted 90 creative years and ended with a shot from a jealous husband. There is Royal Copeland of New York, with his red carnation. There is gimlet-eyed, austere, Tom Walsh, Teapot Dome prosecutor, born in Two Rivers, Wisconsin but Montanan by choice—the nemesis of Albert Fall. Aiding him in the inquiry was Burton K. Wheeler whose apartment, like Walsh's, was mysteriously rifled, office ransacked, telephone tapped, mail opened and past probed by government agents.

Melodrama didn't begin with *All the President's Men*. Here is the clown from Alabama: "An empty taxi drove up and Heflin stepped out," somebody quipped: an amiable and likable phony, "Tom-Tom" Heflin, who, as *Time* magazine used to say, "mortally hates and fears the Pope of Rome."

What a contrast with humorless Reed Smoot, lugubrious as an undertaker, whose coming to Washington in 1903 occasioned a row because he was a Mormon and did they still practice polygamy? He didn't; in 1926 he was in his fifth term and the author of the violently protectionist Smoot-Hawley tariff. He was immensely powerful (under Coolidge) as chairman of the Finance Committee. Poor chap, he was scandalized by modern laxity and wanted to censor periodicals, provoking the alliterative headline, "Smite smut, Smoot!"

It is a Senate to watch. Reporters loll in their chamber behind the press gallery as they do today, but no longer does the gallery superintendent poke his head through the swing door to cry, "Borah's up!" The room empties in a minute; everybody piles out into the gallery to hear the great rumbling tones of the leonine orator. What an accolade for a man 50 years later; just two words—"Borah's up!"

Down there, too, is Carter Glass from Virginia, founder of the Federal Reserve System, testy and emotional, with an odd twist to his mouth and an accent everybody tries to imitate. "Just think what Carter would say," Woodrow Wilson observed once in pretended awe, "if he used his *whole* mouth!"

"Fighting Bob" LaFollette is gone but his Wisconsin seat is taken by his son. Just two years before in the three-way presidential race LaFollete, Sr. got five million votes. At that 1924 Democratic Madison Square Garden convention another Alabama senator was his state's favorite son. The convention was the first broadcast by radio and ran to 103 ballots. As the battle swung between Al Smith and William Gibbs McAdoo, the roll call started with Alabama, delivered in a stentorian Southern accent—"Al-a-bam-ah casts twenty-fo' votes for (pause) Oscar W. *UN*-derwood!"

What a list. Hiram Johnson, Pat Harrison, Jim Couzens, steely-eyed Jim Reed, that wonderful fraud, Jim Watson. Presiding over it is Gen. Charles G. (Hell-and-Maria) Dawes. They had crackling personalities (like Fiorello LaGuardia over in the House), which somehow the TV age tends to standardize, subdue, flatten. The present election is a media event—for the first time we have an actual Hollywood actor running for president, and inevitably this is a trend so long as we pick candidates by personality parade; television discards issues, parties and the supporting cast of congressmen and throws its spotlight on the Big Shot—the thespian type.

There was one man in the 69th Congress who didn't fit the pattern, George Norris of Nebraska. He was simple, idealistic, rock-hard. In the House he overthrew Speaker Joe Cannon, and in the Senate got through the 20th Amendment ending the notorious lame duck session. Then after a 15-year struggle, he won Muscle Shoals for the people. Public ownership shocked Coolidge and Hoover and for the sake of private enterprise Henry Ford offered $5 million to buy the priceless nitrate plant. In his veto Hoover said that public ownership would "break down the initiative and enterprise of the American people . . . I hesitate to contemplate the future of our institutions, of our Government, and of our country if the preoccupation of its officials is to be no longer the promotion of justice and equal opportunity but is to be devoted to barter in the markets. This is not liberalism, it is degeneration." Sounds like Mr. Ford vetoing the daycare bill.

George Norris had arched eyebrows that gave him a surprised look, and he was a poor speaker but, as FDR said of him on a special outdoor stop at McCook, Nebraska (September 28, 1932) as the sunset burned and throbbed above the prairie, "He was the very perfect gentle knight of American progressive ideals."

Quite a crowd when you come to think about it.

KISSINGER'S MISGUIDED AFRICAN POLICY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ASHBROOK. Mr. Speaker, Secretary of State Kissinger's trip to the southern and central regions of Africa has raised much controversy. A look at what he said and promised shows the reasons for the controversy.

Among Secretary Kissinger's promises were the following: tripling of foreign aid from $25 million to $75 million for the regions of Africa he visited; $12.5 million in aid to the self-proclaimed Marxist government of Mozambique; further efforts to return the United States to the U.N.-sponsored embargo on Rhodesia.

In my opinion Secretary of State Kissinger's proposal to increase foreign aid to countries in southern and central Africa from $25 million to $75 million is a bad one. It is more of the same old dollar diplomacy that has not worked before and shows less chance of success now. The basic idea is that by giving American tax dollars to assorted African dictatorships and one-party states that the United States will win their support.

The suggested $12.5 million in foreign aid to Mozambique is not only poor policy but is also wrong. Since the departure of the Portuguese from the country, its dictator has announced that he was turning it into "Africa's first Marxist state." To reach this goal, land has been nationalized and investment has been discouraged. The results are a drastic drop in food production and in production of major cash crops. Unemployment has reached awesome dimensions.

According to European sources, tribal rivalries are beginning to come into play. The dictator Machel draws most of his support from a minority tribe which is persecuting another tribe that is largely Christian. In addition, thousands have been sent to "reeducation centers" which are in actuality concentration camps. Mozambique also has been the active base for terrorists going into Rhodesia.

Mozambique is a country that is unfriendly to the United States, opposes the basic principles of individualism and liberty that our country was founded on, and is a base for terrorism. Yet Secretary of State Kissinger wants to give this dictatorship $12.5 million of the American taxpayers' money.

Another of the Secretary of State's proposal—to reimpose the U.N.-sponsored embargo on Rhodesian chrome—is one that no matter how many times it is defeated by the Congress keeps coming back. Rhodesian chrome plays an important role in the U.S. specialty steel industry. If the Rhodesian supply was cut off, the alternative would be Soviet chrome at higher prices.

Specialty steelworkers know that their jobs are already threatened by often unfair foreign competition. Relying on Soviet chrome would further harm their jobs but yet the Secretary of State ignores this. I will continue to fight efforts to reimpose the ban which will only hurt American workers.

Secretary of State Kissinger has once again ignored basic American interests. This has been a problem for too long with American foreign policy.

Recently my friend Bill Buckley has written on Secretary of State Kissinger and the situation in Southern Africa. He also points out the double standard evident in our policy toward the countries of that region. At this point I include in the RECORD his column from the Washington Star of May 19, 1976:

NEXT TARGET AFTER RHODESIA: SOUTH AFRICA

(By William F. Buckley, Jr.)

We now have Henry Kissinger's testimony to the Senate Foreign Relations Committee in which he explained our discovery of Rhodesia on his recent trip abroad.

Here, briefly, is an account of what went before. When the Rhodesians declared their independence of Great Britain in 1965, Great Britain was greatly miffed, and asked her fellow members on the Security Council of the United Nations to help in declaring an embargo on Rhodesia. That boycott, by the way, was not endorsed by the Conservative shadow government of Great Britain, foreign spokesman Sir Alec Hume taking the position that boycotts don't tend to work. Anyway, the United States, in part because Great Britain was being obliging in the matter of the Vietnam War, went along.

But, in short order, we found we were paying twice as much money for chrome brought up from the mines of the Soviet Union, mostly by slave labor, than others were getting it for from Rhodesia. The final irony came when we caught Russia buying chrome in Rhodesia for the sake of selling it to us at twice the price. That was when Senator Byrd moved in with the so-called Byrd Amendment, which ordered that, boycott or no boycott, American businessmen could order chrome from Rhodesia.

For several years, in response to pressure from the African states, the State Department asked Congress please to repeal the Byrd Amendment. Congress gave the request a fairly low priority, and the Amendment is still on the books.

Goes now Kissinger to Africa, and we discover that the end of the white government of Rhodesia has suddenly achieved a high priority in American policy. The most exalted assessment of this new policy, said to have hurt President Ford at the primaries, was Senator Jacob Javits': "There are some things more important than being elected president of the United States and this policy is one of them."

It isn't obvious why Senator Javits thinks it is more important to boycott Rhodesia because there is minority rule there than it is to boycott Poland because there is minority rule there, or any of the 45 other African states because there is minority rule there. If what makes the difference is that there is a Cuban presence on African soil, then one wonders whether Cuba was emboldened to send a Panzer division into Africa by the unctuous treatment of Castro a few months earlier by a couple of American congressmen including Jacob Javits.

Anyway, as it stands, the world's perception is that suddenly the United States discovered the great threat to world peace and self-esteem of—Rhodesia. There may be a lot of dumb people in the world, but hardly enough to buy the proposition that the United States only just now discovered the horrors of minority rule in Rhodesia as distinguished from minority rule in the rest of Africa (four states excluded).

The rest of the world will reason, quite plausibly, that what burns us is the Cuba factor. And the rest of the world is sure to reason that the Cubans, by their intervention, prompted the American colossus finally to take an interventionist stand in Rhodesia. Even assuming the best, namely that the black countries surrounding Rhodesia reject Cuban help in assaulting Rhodesia, Cubans will remain national heroes in militant black Africa in virtue of their primary relationship to the liberation, as we call it, of Angola; and their secondary role as catalyst of American aid in the overthrow of Rhodesia.

Now it would appear to be plain, after the fall of Mozambique and Angola, that the days of Rhodesian white rule are numbered. It appears equally plain that there is no assurance whatever that the rule that will replace Ian Smith's will mean a better life for African blacks, or a tolerable life for Rhodesian whites. Kenyatta of Kenya is one of the few rulers who stuck by his word to protect the minority rights of white men. In order to accomplish this, he acquired full, despotic powers for himself. So that it might be said, paradoxically, that in order to maintain the freedom of whites, he took away the freedom of blacks.

In Rhodesia, it is not likely that a successor government, notwithstanding the moderate nature of the men with whom Smith has dealt, is likely to follow the path of Kenyatta in preference to the path of Mozambique-Angola. When the dust from all of that clears, there will sit South Africa, like a mountain of gold, glistening target of African diplomacy, Soviet arms, and American confusion.

H.R. 13650

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WOLFF. Mr. Speaker, on May 7, 1976, I introduced H.R. 13650, a bill to provide that elderly persons residing in dwelling units receiving Federal assistance shall be granted certain rights in connection with their leases or rental agreements. Although I have already outlined my reasons for introducing this legislation—Congressional Record, May 12, 1976, 13559–60—I now have received additional information indicating the impact of my proposed legislation.

Briefly, H.R. 13650, provides that an elderly person residing in federally assisted housing who incurs or aggrivates a physical or mental disability to the extent that it is medically advisable for the tenant to obtain more compatible housing is granted the option to terminate, without penalty, the balance of his or her leasehold. Similar rights are also granted to the spouse or estate of a deceased elderly tenant. In each of these situations I believe it could be unconscionable for a landlord to hold the tenant to the terms of his or her lease, and further that it is the landlord, rather than the tenant, who is in a superior position to secure a substitute tenant in such cases.

Figures I have obtained from the Department of Housing and Urban Development indicate that as of December 31, 1975, approximately 304,300 FHA multifamily dwellings were occupied by elderly persons and an additional 460,000 low rent public housing units were also occupied by elderly tenants. It is estimated that elderly tenants in these two classes of federally assisted housing number 429,700 and 713,000, respectively, for a total of 1,142,700. Additionally, the Farmers Home Administration administers some 20,500 rental units occupied by elderly tenants.

By the end of fiscal year 1976, HUD estimates that an additional 400,000 section 8 dwelling units will be available, with approximately 160,000 of these occupied by an estimated 240,000 elderly tenants. Finally, HUD projects that other multifamily housing programs will generate some 10,000 dwelling units occupied by an estimated 14,000 elderly persons.

Thus, according to the Department of Housing and Urban Development, an estimated 934,300 federally assisted rental housing units will be occupied by approximately 1,396,700 elderly tenants at the end of fiscal year 1976. Each year, as the Federal Government continues to provide for the housing needs of our elderly citizens, the number of elderly tenants in federally assisted housing will continue to increase. It is, Mr. Speaker, to these people which my legislation is directed.

I will be circulating a "Dear Colleague" in the near future, and I hope that my colleagues who share my concern over the problems facing elderly tenants will join with me on this bill.

JAMES HAYES, CONTROLLER, MONTEBELLO UNIFIED SCHOOL DISTRICT

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DANIELSON. Mr. Speaker, on June 2, 1976, James Hayes, controller for the Montebello Unified School District, will be honored on the occasion of his retirement after 37 years of distinguished service to the school district. Mr. Hayes, as controller, has been in charge of preparing the budget and financial reports for State and Federal programs, maintaining attendance accounts, securing insurance, and paying salaries for over 3,000 employees.

His service to the school district has been both long and commendable. Over the 37 years that James Hayes has been involved with the district's finances, the operating budget has grown from less than $1 million to more than $40 million annually.

I am happy to join with the students, faculty and administrators of the Montebello Unified School District in thanking Mr. Hayes for the part he played in the expansion of education in our area.

WHO DEFINES "THE PUBLIC INTEREST" FOR OUR NATIONAL FORESTS?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROWN of California. Mr. Speaker, over the past 16 years there has been a decided movement to include environmental protections in many of our Federal programs, including the management of our national forests. The National Environmental Policy Act helped to weave the consideration of the effects of particular decisions on the ecological habitat which surrounds us all by requiring the various agencies and departments to file environmental impact statements pertaining to such decisions.

But this step does not appear to be enough, for evidence on ecologically destructive soil erosion, water pollution, and nutrient run-off caused by careless timber harvesting practices in our national forests continues to be presented. It is possible that the Congress has not taken into consideration the complete effects of handing over public forest management to the U.S. Forest Service, without the ongoing use of our oversight responsibility, and without any specific restrictions and strong guidelines set down in law.

One of the main problems which can evolve in such a case concerns the clarification of the public good. I would like to quote from a statement made by Charles Reich, published in 1973 by the Center for the Study of Democratic Institutions, on this very subject—which I would like to include in full in the Record—"The great danger is that an entrenched professional bureaucracy will become shortsighted in its perception of the public good. It may see only the needs of the next decade when planning for a century is essential. It may see only local demands when national needs cry for consideration. It may see where immediate economic gain lies but fail to see the values of "noneconomic" uses. It may care so much about today's balance sheet that it forgets tomorrow's heritage."

I sincerely believe that it is time for

the Congress to acknowledge the need to play a greater role in the future management and protection of our national forests. We are the direct representatives of the people, and so, simply due to our elected status which encourages us to be more aware of the public's interests and needs, we should exercise our status to insure the preservation of their interests.

I urge my colleagues to read the following treatise on this important subject of public input in the management of public forests:

BUREAUCRACY AND THE FORESTS

(By Charles Reich)

The forests of our nation are a vast experiment in public ownership. The people of the United States hold in common a rich and splendid kingdom of timber, rivers, minerals, and mountains—well over two hundred million acres of land from New England to Alaska.

Ownership is easy. Effective ownership, including a voice in the planning and management of this vast acreage, is difficult. Managing the forests is no mere caretaker's job. There are fundamental choices to be made—choices that pit one portion of the public against another, and that can change irrevocably the character of the domain as a whole.

Forest land can be managed primarily for the exploitation of its material resources—its timber crop, grazing lands, minerals, water supply, and hydroelectric power. Or it can be given over to mass recreation—summer and winter sports, camping, picnicking, and resorts. Or it can be preserved for essentially spiritual values—a wilderness retreat from frantic city living, a sanctuary for the qualities of man that are "best when least in company."

Today's growing population tears insatiably at the forests. As people spread into every corner of the land the forests shrink. Armies of mechanized campers invade. Dam builders covet choice valleys. Sheep nibble the high pastures. The power saw turns beauty into board feet. Roads drive deep wounds into the solitudes.

Management must decide between the competing demands on the forests. When different uses clash, which shall be favored? How are local needs to be balanced against broader interests? Who is to have the benefit of the economic resources, and on what terms? How are the conflicting recreational demands of fishermen, skiers, hunters, motorboat enthusiasts, and automobile sightseers to be satisfied? Should the requirements of the future outweigh the demands of today?

How to make such decisions—and similar decisions in every area of public ownership—is a major dilemma for democratic government. Government is now so complex that often it is impossible for the people, or their elected representatives in Congress, even to be informed of the issues. Professional bureaucracies grow up to do the work of management and planning, and decisions touching the vital interests of the commonwealth are made in rooms insulated from the voice of the people.

In large measure, the power to create fundamental policy for the publicly owned forests has fallen to small professional groups. They make bitterly controversial decisions, choices between basic values, with little or no outside check. How this has come about, and whether there is any way the people can or should assume a voice in determining the future of their forest heritage, are questions that will be explored here.

CONGRESS DELEGATES ITS RESPONSIBILITIES

In a democracy, laws and policies, including laws governing publicly owned resources, must theoretically be made in public by the people's elected representatives. But in today's overcomplicated world an overwhelmed Congress has been forced to delegate a large measure of legislative power to specialized executive and administrative agencies the officials of which are not elected or directly controlled by the people.

When congressional relinquishment of the law-making function first assumed major proportions, in the early days of the New Deal, the Supreme Court tried to halt the trend. The justices declared that legislative power cannot be delegated and that Congress can permit the executive agencies to make "regulations" only within the boundaries of carefully prescribed standards. But growing government soon broke through this retaining wall, and eventually the courts ceased to demand strict standards for delegation.

Congress has passed over the control of different portions of the nation's forest land to three not always cooperative executive agencies of the federal government: the Forest Service in the Department of Agriculture, and the National Park Service and the Bureau of Land Management in the Department of the Interior. The Forest Service has the largest share. It administers all public lands reserved as national forests. The National Park Service has jurisdiction over areas of special scenic or historic significance, including parks, monuments, battlefields, and other reservations. The Bureau of Land Management controls immense stretches of public land, much of it treeless but also including choice timber on the West Coast and other forests in Alaska. Congress has granted each of these agencies sweeping powers of legislation and policy-making.

The basic charter of the Forest Service is a statute passed in 1960[1] which declares:

"It is the policy of Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. . . . The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. . . ."

The two crucial terms are defined as follows:

"Multiple use" means: The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

"Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land.

Earlier statutes giving the Secretary of Agriculture legislative authority were left standing as additional sources of power. A sampling of these shows the nature of the standards fixed as "guides" to the Secretary's action. He is authorized, on thirty days' notice, to sell timber in the national forests "for the purpose of preserving the living and growing timber and promoting the younger growth . . ." to the extent "compatible with the utilization of the forests." He can set aside areas for town sites upon a "satisfactory showing of need therefor." He may permit the use of national forest land for hotels, resorts, facilities, summer homes, stores, or commercial, industrial, or public buildings, provided only that this does not "preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests." When he finds that lands are "chiefly valuable for agriculture," and "may be occupied for agricultural purposes without injury to such national forests and . . . are not needed for public purposes," he may open them to homestead entry "in his discretion." He may permit the use of rights of way for electrical plants, power lines, radio and television, and other communication facilities "upon a finding . . . that the same is not incompatible with the public interest." He may permit roads and railroads, and in his discretion he may permit rights of way for dams, ditches, canals, and reservoirs.

The National Park Service in the Interior Department is required to preserve the special values of its lands; it cannot open them to multiple use. Nevertheless, it can make policy within wide statutory boundaries. The Secretary of the Interior is authorized to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks . . . sell or dispose of timber . . . where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park . . . provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks . . . grant privileges, leases and permits for the use of land for the accommodation of visitors . . . for periods not exceeding thirty years . . . grant the privilege to graze livestock . . . when in his judgment such use is not detrimental to the primary purpose for which such park . . . was created . . . grant said privileges, leases and permits and enter into contracts relative to the same . . . without advertising and without securing competitive bids. . . ."

In addition, the Secretary may grant rights of way for power and communication facilities if these are not incompatible with the public interest; build airports in or in close proximity to the national parks if an airport is necessary to the proper performance of the Department's functions; build roads, bridges, and trails; and contract for services and accommodations for the public. He may also authorize timber sales, grazing, leases of land, and rights of way in specific parks; for example, in Sequoia and Yosemite Parks he may "sell and permit the removal of such matured or dead or down timber as he may deem necessary or advisable for the protection or improvement of the park. . . ."

The miscellany of forest lands under the control of the Bureau of Land Management in the Interior Department is subject to no single pattern of statutory regulation. The lands forfeited under the Oregon and California Railroad and Coos Bay Wagon Road grants—among the nation's finest forests—are to be managed ". . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of tim-

---

Footnotes at end of article.

ber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities."

Timber in Alaska may be sold by the Secretary of the Interior if necessary for consumption in Alaska; and he may sell "so much thereof as he may deem proper." In cases not otherwise governed by law, the Secretary may sell timber on the public lands if the sale "would not be detrimental to the public interest"; he may also allow public or nonprofit bodies to take timber "in his discretion." He may also sell dead, down, or damaged timber and permit some residents to cut timber.

In general, lands under the jurisdiction of the Secretary of the Interior, not otherwise reserved, may be disposed of in small units to any governmental body or nonprofit corporation for "public" or "recreational" purposes; small tracts may be sold or leased to private individuals for residence, recreation, business, or community sites unless this will impair the use of water for grazing or irrigation. And various types of rights of way may be granted. Many other statutes bear on these lands; they add up to the broadest sort of authority for the Bureau of Land Management.

The standards Congress has used to delegate authority over the forests are so general, so sweeping, and so vague as to represent a turnover of virtually all responsibility. "Multiple use" does establish that the forests cannot be used exclusively for one purpose, but beyond this it is little more than a phrase expressing the hope that all competing interests can somehow be satisfied and leaving the real decisions to others. The "relative values" of various resources are to be given "due consideration," but Congress has not indicated what those values are or what action shall be deemed "due consideration." Congress has directed "harmonious and coordinated management of the various resources," but it has left the Forest Service to deal with the problem that different uses of resources often clash rather than harmonize. Most significantly, Congress has told the Forest Service to "best meet the needs of the American people" but has left it entirely up to the Service to determine what those needs are.

What is the job of Congress if not to determine the needs of the people and how they should be met? The Forest Service has been given authority to decide whether the American people need the forests more for resources or for recreation or for wilderness or for dams and public power. And because Congress has offered no standards or policies of its own, almost any choice by the Forest Service would be within its delegated authority. Whether it cuts trees, builds dams, puts up hotels, or leaves the woods undeveloped, it would be hard indeed to hold the outcome to be legally in conflict with any congressional mandate.

The standards used for the areas under the Bureau of Land Management, and to a large extent those under the national parks, are equally vague. Words like "not incompatible with the public interest," "extent compatible with the utilization of the forests," "satisfactory showing of need therefor," are mere euphemisms that abdicate all real power; they are like the mumbled "drive carefully" employed by fathers when handing over the car keys.

The power granted by Congress is awesome. It is nothing less than the power to determine forever the character and use of the nation's forest heritage. For example, the authority to permit timber to be cut and sold, possessed to some extent by all three agencies, is the authority to make a permanent choice between wilderness and a forest busy with roads and bulldozers. The authority to permit the construction of permanent buildings, specially granted to the Forest Service and the Park Service, is sufficient to allow the commercialization of recreation on a resort basis; parts of Yosemite and Glacier Parks are visible illustrations.

In view of this transfer of authority from Congress to three executive agencies, some very important questions arise. Are the decisions of the agencies made openly or in private? Are they made after deliberation and debate? Does the public have a chance to participate? Is there any check or review of what is decided? Answers to these questions are a measure of the degree to which the people retain control over the two hundred million acres of forest lands that they own.

THE AGENCIES MAKE POLICIES

The forest agencies have adopted elaborate internal procedures in order to exercise their management, policy, and planning functions. Decisions are reviewed and re-reviewed from field offices up to carpeted. Washington chambers in stately administrative progression. But with only a few exceptions—important but limited—decisions are made wholly within the executive agencies, without notice to or participation by the public, and without effective check or review beyond the Secretary of Agriculture or of Interior.[2]

In the Forest Service, procedure begins with planning. National, regional, and subregional guides are prepared, with the assistance of Forest Service personnel on all levels. These tend to be very general. Specific decisions usually follow an upward route from local Forest Service officers, who make the proposals, through review at a regional level, to final approval in Washington. If the decision requires funds, it will also be considered by budget officials in the Department of Agriculture, by the Budget Bureau, and ultimately by Congress as part of the appropriation procedure.

Throughout this activity there are outside influences of varying importance. Local rangers are officially encouraged to participate in local civic activities, and to discuss the Service's plans on the local level. The Service appoints national and regional advisory councils which consult from time to time. On every level there are informal contacts with representatives of organizations, members of Congress, public officials, and interested persons who write in.

Procedures and influences in the National Park Service and the Bureau of Land Management are not dissimilar, but generally speaking they are less elaborate. All three agencies make "institutional" decisions—group decisions in which it is difficult to pinpoint individual responsibility.

In none of the three agencies do the overall procedures provide an opportunity for the general public to participate. The agencies maintain close informal contacts with some outside persons and organizations, but these are not equivalent to the public. The agencies give no general notice of pending decisions and provide no general opportunity for the public to be heard. There is no procedure by which the public can initiate proposals. The post office is always available, but the influence of letters on official action is uncertain.

In short, there is a wealth of informal influence on the decision-making process, but virtually no formal public rights. The distinction is an important one, not only because the "informal public" is selective but because formal expressions of views must receive a degree of consideration and review that informal expressions cannot expect.

One exception to this practice occurs whenever some proposed action will interfere with the contractual rights or other legally protected interests of a particular individual. Then the person affected may seek to have the decision reconsidered. The Forest Service has detailed regulations governing the procedures in such situations.[3] The aggrieved person is permitted to file a written request for reconsideration, and may present evidence at a hearing, after which the agency renders a final decision based upon the record made at the hearing. The Bureau of Land Management has regulations for hearings on timber management units and rights of way in its northwest forests.

This special procedure is actually of very narrow effect. It confers no rights on the general public. And only in rare cases would any person have an individual legal grievance against the broader management or planning decisions of the agencies. Cancellation of a contract to sell timber could be reviewed at the instance of the buyer, but the underlying decision about the use of the land for lumbering, watershed, or recreation would usually not touch on any legal rights.

A far more important exception in terms of public participation is the so-called advisory hearing, which is sometimes held when an announced decision produces a loud enough clamor. This procedure is used on an *ad hoc* basis by the Park Service; the Forest Service has formally adopted it to assist them in their decisions about wilderness classifications. Although the advisory hearing method applies to only a tiny portion of the decisions concerning the forests, it reveals a great deal about the underlying problems of public participation in forest planning.

The Forest Service has recognized the desirability of preserving some forests in their natural state through regulations that provide for the classification of sections as wilderness areas or wild areas. Such areas are closed to lumbering, to roads, and to the more civilized forms of recreational use; they are to be preserved as much as possible in their primitive condition.[4]

Under Forest Service regulations wilderness and wild areas may be established, modified, or eliminated by order of the Secretary of Agriculture for wilderness areas or the Chief of the Forest Service for wild areas. Any such action may be preceded by an advisory hearing at which members of the public can appear and present their views. Notice of the contemplated action must be given at least ninety days before the effective date. Then, "if there is any demand for a public hearing" the regional forester is directed to hold one, and to make a report of it to the Chief of the Forest Service, who submits recommendations to the Secretary of Agriculture.

These regulations, which have the force of law, are supplemented by inter-office directives to Forest Service officials. Under the Forest Service Manual, action is begun by a district ranger, who prepares a report describing the area and assessing its "value for recreation versus value for other uses." The report then goes to the forest supervisor, who reviews it, amends it if necessary, and forwards it to the regional forester with recommendation for approval or disapproval. The latter can reject or forward it to the Chief. If the Chief tentatively approves, the regional forester posts notice of the proposed action and states that a hearing will be held if there is reasonable demand. The regional forester must also see that the notice is brought to the attention of groups known to be interested in wilderness and wild areas.

If the regional forester determines that there is demand for a hearing, it is his responsibility to call one. It is public and informal, and held before a presiding officer

---

Footnotes at end of article.

appointed by the regional forester. Ordinarily he is an attorney with the Department of Agriculture. The time and place of the hearing are apparently discretionary with the regional forester. At the hearing, a Forest Service *representative outlines* the proposal under consideration and then other persons are permitted to present their views. Cross-examination is not allowed, but questions for other speakers may be addressed to the presiding officer. After the hearing the presiding officer prepares a report containing a summary of the issues and the testimony, and this is submitted to the Chief to assist him in making his decision.

In any hearing procedure the crucial elements are notice to the public, opportunity to be heard, the method of decision, and the method of reviewing the decision. The advisory hearing procedure raises problems in each of these areas.

Forest Service regulations go to considerable lengths to provide adequate notice: publication in local newspapers, posting, and special notification of interested groups. The difficulty is that wilderness classification is of interest to the public as a whole, yet only local people, plus certain special interest groups, are likely to hear about any given proposal. Hence the hearing is likely to be a debate among local interests, rather than an assessment in terms of national goals. The people of eastern cities have a major stake in forest policy, yet they are unlikely to be represented at hearings. Perhaps there is no realistic way that notice could be given nationally. But the problem is real.

Opportunity to be heard is freely granted to all, but the difficulty is that the issues open for discussion at the hearing may be, as a practical matter, severely limited. It is likely to be a *pro* or *con* debate on the proposal itself without any practical way to consider alternatives. This is not necessarily the fault of the Forest Service procedures but may be inherent in the nature of the advisory hearing itself.

The process of decision, on the other hand, raises problems that flow very clearly from the specific hearing procedures. A proposal to establish or change a wilderness area is initiated by local Forest Service officials. These same officials are then responsible for the appointment of an officer to preside at the hearing. This officer performs only the very limited function of reporting the testimony. According to Forest Service practice, the real decision is that of the regional forester and the Chief, both of whom have been responsible, with their subordinates, for the original recommendation.

As a result, one group of persons holds the functions of advocate and judge. There is no provision for a detached judgment. The procedure thereby does violence to the well-established principle of separation of functions. Lawyers know from long experience that disinterested, well considered decisions are most frequently reached by a clear-cut separation between those who advocate and those who decide. The danger is not necessarily bias or unfairness, but simply the likelihood of a closed or made-up mind, a weakness to which all human beings are subject. Many agencies called upon to decide between competing interests have established a separate group of hearing officers who do not share in the day-to-day work. It is too much to expect that foresters who initiate and argue in support of a particular proposal can then adequately evaluate public criticism or counterproposals that often represent thinking they have earlier rejected.

Another problem with the advisory hearings is that the decision does not have to be supported by a statement of reasons. This can of course be a barren formality, but it can also have the effect of requiring someone to consider the testimony at the hearing and explain to himself (and therefore to others) why one point of view is to be accepted and another rejected. In a purely advisory hearing the public may talk, but there is no assurance that anyone will listen. Requiring an explanation for a decision might encourage listening. Furthermore, a statement of reasons gives some basis for a reviewing officer to determine whether a decision is well taken.

The final defect in the Forest Service advisory hearing procedure is the lack of any method for the public to participate in the review of a decision. If an initial decision is made after a hearing, and based upon reasons publicly stated, dissatisfied persons should have the opportunity to object and argue (at least in writing) before the Chief of the Forest Service or the Secretary of Agriculture makes his final decision. The present procedure has little provision for the correction of error, and little to ensure that final decisions are made only after genuine deliberation.

If public participation in forest agency planning is considered desirable, the advisory hearing procedure has serious shortcomings. It does not live up to the standards of the Administrative Procedure Act and the general law that has developed around the Act. At the same time it must also be said that advisory hearings, even though used for only one of the many types of forest decisions, are better than no hearings at all, and certainly better than relying solely on informal consultations with a few specially interested groups and individuals.

PUBLIC RIGHTS UNDER THE LAW

Does the public have any rights that have been established by statutes or by the courts in these matters to do with public lands? In other words, does the general law offer any means by which members of the public can force an agency to heed their views?

In the few times when citizens have attempted to challenge the decisions of management concerning the public lands, they have been rebuffed by the courts. In 1961 the Superintendent of Yellowstone Park undertook an elk-slaughtering program that aroused intense controversy. Three men, all outfitters and guides, brought a suit in which they alleged that the Superintendent's action would drive them out of business; that it was a wanton, cruel, and needless slaughter; and that the Superintendent had shown a high-handed and autocratic attitude toward the complainants. Dismissing the suit, the court said that it could not "correct mistakes or wrongs allegedly resulting from abuse of discretion or from absence of necessity; [the courts] cannot assume a wisdom superior to that of the executive or legislative departments with respect to the disposition of animals in Yellowstone Park." Similarly, a land classification decision under the Taylor Grazing Act has been held to be non-reviewable, and so has a proclamation setting aside an area as a national monument. And when a citizen sought to challenge a Presidential proclamation prohibiting the hunting of wild geese, he was told that there was no judicial review because the action was "a proper exercise of the unlimited and unreviewable discretion vested and reposed by the [Migratory Bird Treaty] Act."

Congress seems to have intended these results. None of the statutes that confer powers over forest management on the Department of the Interior or the Department of Agriculture provides that the public must be allowed to participate in basic decisions of the National Park Service, the Forest Service, or the Bureau of Land Management. Congress, at least in those specific statutes, has vested sole policy-making authority in the agencies. There is, however, a general statute dealing with the procedures of all government agencies. This is the Administrative Procedure Act, passed in 1946, which lays down procedural requirements for two types of agency processes: "adjudication" and "rule-making." Of the two, most forest management decisions more nearly resemble "rule-making." About this the Act says: (1) notice of proposed rule-making must be published in the *Federal Register;* (2) interested persons must be allowed to submit their views orally or in writing; (3) the agency must incorporate in any rules adopted "a concise general statement of their basis and purpose."

If the forest agencies conformed to these requirements, there would be a substantial increase in public participation. They do not so conform, and it is far from certain that the Act really requires that they must.

In the first place, the rule-making provisions do not apply to "any matter relating . . . to public property." While it may be argued that this refers only to property in the narrow sense of buildings or street lamps, the exception can certainly be read to sweep in all forms of public ownership. In the second place, forest management decisions might be held not to come within the Act's vague and unpredictable definition of rule-making. In the third place, even in cases where the action is clearly rule-making, an agency is not required to observe the Act if it finds, for good cause, "that notice and public procedure are impracticable, unnecessary, or contrary to the public interest." Furthermore, the Act requires no procedures whatever for "interpretative rules, general statements of policy, rules of agency organization, procedure or practice. . . ."

The Act does state that interested persons may appear and present their views to "any agency" on "any issue" unless this would interfere with the orderly conduct of the public business. But this provision has rarely been employed in practice, and it is doubtful if it confers on the public any enforceable rights if an agency chooses to keep the door closed.

Unless the three forest management agencies voluntarily subject themselves to the Administrative Procedure Act, the question of its applicability to them can be settled only by court decision. But here another difficulty arises: the Act says that judicial review is barred on any agency action that is "by law committed to agency discretion." The issue has not been squarely decided, but it seems likely that building a road, classifying a forest area for lumbering or recreation—in fact, all management and planning actions—would be held to be within "agency discretion." In short, the public can look for little help from the Administrative Procedure Act.

Leaving aside the Act's vagaries and exceptions, are there any rules of *general law* under which the public may have a right to participate in forest planning? Here a highly technical but probably insurmountable legal obstacle bars the way. The courts have held that the public as such cannot complain of government action; only an individual with a specialized interest called "standing" can assert any rights.[5] In other words, a member of the public could complain of action concerning the forests only if he had an individual contractual or other special interest to distinguish him from other members of the public. A concessionaire with a contract to maintain a hotel on National Park land might have such a right; one whose favorite fishing spot in a national forest was threatened by bulldozers surely would not. It was on grounds of "lack of standing" that the courts held that a group of American citizens, citizens of Pacific islands, and other nationals could not challenge proposed nuclear testing. In view of the nature of forest management decisions, it would be rare for anyone to have "legal standing" under which he might participate or protest.

Behind this technical legal rule of "standing" lies a major question: Who is the "interested public" in terms of a planning decision? Clearly it is not just the special interests—the loggers or concessionaires—that are affected; it is the entire population that uses or might use the forests for any purpose. The problem of "interest" lurks under the surface of all discussions of "public rights" in the agency process. In any event, although the law is always in a state of change, neither Congress nor the courts have yet recognized public legal rights in forest management beyond the point of voluntary invitation by the agencies themselves. And it should be added that it is far from certain that judicial review of a typical Forest Service or Park Service decision would have any important effect even if it could be obtained. Courts cannot review the wisdom of agency decisions but only the limited question of whether a given action was a proper exercise of the power granted by Congress. Given statutory authority as broad as the Multiple Use Act, it is hard to see how a court could overturn as "unauthorized" any imaginable decision concerning policy or planning for the forests.

THE PROFESSIONALS AND THE PUBLIC

Is a greater role for the general public in forest management possible or desirable? Before this can be answered, two prior questions must be asked. First, is forest management so technical and specialized that only professionals can intelligently contribute to it? Second, even if forest management is not unrelievedly technical, is unrestricted management by professionals desirable because it is most likely to achieve a balanced response to the public interest?

Virtually every forest management decision depends in part upon factual information of a technical nature. A knowledge of timber, soil, watershed, fire hazards, and recreation is essential to determine what uses can be made of a particular section, and under what circumstances. However, when the technical information is all in and fully evaluated, it will not necessarily dictate, in and of itself, the choices that management may make.

The Forest Service recognizes that management requires conscious planning because the national forests and their resources are not adequate fully to satisfy individual desires for space and other resources. In other words, after the possible uses have been ascertained, there must often be a choice between them. It is this choice that involves non-technical judgments, as well as a consideration of the choice in its relation to overall planning for the future. The Forest Service Handbook recognizes this when it says that, to merit classification as wilderness, an area must satisfy the following condition:

"Its tangible and intangible values as a wilderness area must fully offset the value of all resources which would be rendered inaccessible or otherwise unavailable, both within and adjacent to the proposed boundaries, as a result of the classification."

And there must even be a choice among kinds of recreation:

"The wilderness classification precludes many other types of use and it is necessary to consider all competing values. A majority of people who go to the forest for recreation do not have the ability or the desire to get away from the easy travel made possible by roads. They are interested in camping near their cars, picknicking, touring, and visiting summer homes or resorts. Many feel that the wilderness classification is discriminatory because it permanently excludes them from areas which might otherwise be developed for their enjoyment."

Wilderness classification clashes with many economic interests. It shuts off all revenues that would otherwise grow from the forests. And it directly hurts certain specific elemens in the economy. Among these are the lumber industry, segments of the tourist recreation industry, and local school and road districts, which by law are entitled to 25 per cent of the receipts from timber sales from national forests within their county.

Can it be said that the issues in wilderness classification depend wholly upon specialized knowledge? Clearly the answer is no. On the contrary, the ultimate issue is essentially political—the choice between the desires of different segments of the community. And this is the kind of issue on which the public may have independent views. Thus, in New York State the entire forest preserve was set aside as wilderness through the political process, by virtue of a famous provision in the state constitution:

"The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed. . . ."

Significantly, the constant proposals to amend this "forever wild" provision of the New York constitution in order to permit more civilized forms of recreation always produce widespread concern among the general public.

Wilderness classification is not the only decision demanding a choice between conflicting interests. For example, use of the forests for grazing may interfere with various other values, including recreation, as John Ise has pointed out in his book, *"Our National Park Policy:* "The general rule is that *any* grazing of a forest is injurious, whether by domestic or wild animals, although there may be exceptions to this. . . . The problem of the Park and Forest Services often is: How much damage are we justified in inflicting on the land for the sake of promoting wool or meat production?"

As another example, building a dam for irrigation purposes creates a lake that may look scenic on a map but may actually be an eyesore because of changing water level. Ise says: "A dam usually raises the level of a lake reservoir in the spring of the year, killing the trees along the shores; but this water is for irrigation use, and by the end of the summer the level of the lake is far down, perhaps to the point where there is scarcely any water left, and there is revealed a broad shore strip of dead trees, black stumps, trash, mud or dry earth. A damned lake is usually damned scenically." The greatest disaster ever to occur to a national park was the drowning of Hetch Hetchy Valley in Yosemite, a magnificent canyon, to supply water to San Francisco via a dam on the Tuolumne River.

The major economic use of the forests is lumbering. A decision to lumber has consequences for all other potential uses. It affects grazing and watershed. It profoundly affects recreation, even mass recreation, since the appearance and availability of the woods are altered and the public is crowded into other areas. It permanently changes the character of the region, introduces roads and machinery, and intrudes an element of civilization virtually impossible to eradicate. Even such a seemingly technical question as whether to lumber a wind-damaged wilderness area to protect it against fire may involve major choices of policy, for wilderness values can be destroyed under the appearance of protecting them.

Choices between interests must also be made in such "managerial" decisions as whether to permit hotels, picnic grounds, ski jumps (with or without recorded yodels), or motorboats on forest lakes.

Such choices all require specialized information as a preliminary. How suitable is an area for grazing; how much damage will a given number of animals cause; how great would be the economic return; what are the alternatives? But after this information is in hand, the competition of interests still remains and a choice must still be made—a choice on which the public might have intelligent views.

Moreover, even after the choice is made, there are policies to be determined concerning each type of use. For example, it is decided to devote an area to recreation; judgments must then be made about the relative desirability of closed or open shelters, giant camp-grounds, concessions, paved paths to scenic attractions, and so forth. These are the things that will determine the character of the area. Here, again, the issues are understandable enough to make public participation possible. "Housekeeping" usually involves assumptions about what the public wants. Before concrete bridges for horses are built to keep riders' feet dry while crossing streams, before raucous gasoline-powered tote gotes are allowed to shatter the forest calm, before luxurious hotels are built, and before a man-made waterfall of fire is approved as a nightly tourist attraction in a valley famous for its natural waterfalls, the public might well be given an opportunity to express "non-technical" views.

Expert advice is indispensable. But in view of the general policy of Congress, expressed in the Administrative Procedure Act, that interested members of the public should have a chance to take part in formulating decisions of general and future effect, and in view of the fact that the forests and parks have such relevance to the lives of the American people, exclusion of the public from most decisions is difficult to justify on the ground that the decisions are "technical" only.

Naturally, the mere fact that many of these issues are non-technical ones of interest to the public does not demonstrate that the public should decide them. "The public" can be shortsighted and ill-informed and indifferent. Professional managers, on the other hand, can sometimes take a broader, more detached, and more knowledgeable view of the public interest, and thus give the people better service. There are strong arguments in favor of leaving forest management to the experts. But the issue is not whether the public or the experts are to manage, but whether, and to what degree, the experts should be made aware of, and responsive to, public opinion. The answer to this question depends in part on whether the experts have shortcomings that public participation might remedy.

One problem common to many groups of professional managers in government is the tendency to lean heavily toward one of the various conflicting elements of the public that they serve. The Interstate Commerce Commission, for example, has often been charged with being "railroad-minded" although it also has responsibilities to the customers of railroads, to truckers, and to the public as a whole. The same charge of "one-sidedness has been made about the Maritime Board, the Federal Power Commission, and others. The Forest Service is sometimes considered to be unduly sympathetic to the lumber industry, one of its "clients." It is said to emphasize the timber management and sales part of its function over other aspects of "multiple use." Another complaint sometimes heard is that the Service, which has an unusually decentralized administrative organization, is overly concerned with the immediate local needs of communities near the forests, and correspondingly less responsive to over-all national and long-range needs. Whether these particular complaints are justified is not important; they merely suggest a general administrative tendency that all agencies have to watch.

Another tendency of professional managers is to develop a definite point of view or mode of thinking that makes them less receptive to attitudes beyond their own perspective. Foresters tend to think about forests in certain ways. They tend to think in terms of productivity. A leading forester once spoke of the Adirondack wilderness preserve as an area condemned to "economic waste," "offset by no tangible public benefits." He argued that lumbering does not destroy scenic values. "Even clear cutting followed by fire affronts the eye only until nature heals the wounds with green."

A somewhat similar point of view is found in the Forest Service Handbook's directions to rangers when they are preparing recommendations on wilderness classification. They are asked to discuss "economic and social values, if any, which would be withdrawn from use if area were established but which might be realized from commodity use, if area were not established. Discuss particularly the effect of withdrawing commercial timber on the allowable cut of adjacent working circles." One Forest Service instruction showed that even a "professional" attitude about beauty in trees may differ from that of the public. "Many people like big timber and do not understand or appreciate vigor or thrift in a tree. To them, a large overmature, spiketopped, catfaced, conky old veteran is magnificent, has character and is much to be preferred to a thrifty intermediate tree. Annual growth and clear lumber are of little concern to people enjoying the area for recreation, hence a big branching wolf tree may be much more desirable than a clear-boled tree."

Many professional managers are also inclined to think of themselves as owners. Having devoted their lives to a particular job of management, they begin quite unconsciously to think of "their" post office, "their" television channels, or "their" forests. It is an easy step from here to the feeling that they alone know what is best, and without always realizing it they may close their ears to the "outsiders."

The profession of forestry has strong elements of solidarity. A vigorous esprit de corps, a proud history, and many common experiences bind foresters together. The same is true of Park officers. These experts sometimes come to believe that they can best perform their responsibilities without "interference" by those who are mere amateurs.

These tendencies of government managers are found in many different agencies. What makes them especially significant in the area of forest and park management is the degree to which the three agencies in this field engage in long-range planning and permanent choices based upon notions of the public interest. Planning of this sort peculiarly requires an openness to many points of view. Indeed, it can be argued that in a democracy the "public interest" has no objective meaning except insofar as the people have defined it; the question cannot be what is "best" for the people, but what the people, adequately informed, decide they want. Professional forest and recreation managers, no matter how dedicated, are not necessarily qualified to engage in this form of planning on their own.

TOWARD A POPULAR VOICE

Professional government, typified by the forest agencies, is an inevitable development. As everything gets more complicated and specialized, government too must "professionalize" if it is to govern at all. Neither the people nor their representatives in Congress can cope with or even fathom the detailed problems of each specialized area. The professionals are today's much needed managers and trustees. But professional government, even at its best, is not easily harmonized with the idea of representative democracy. Decisions are made for the people's benefit, but they are not made by the people.

Because the Forest Service, the Park Service, and the Bureau of Land Management, each of which represents a high standard of dedicated professional service, operate so largely without congressional direction, executive supervision, or public participation, the people lack real control over the management of their own land. Loss of control does not necessarily mean bad management; the management may be the finest people. But the choices made are not necessarily those of the people, and it is the core of the democratic faith that in the end only the people know their own best interests.

Are there any remedies for this problem, which is common to so many of the specialized agencies of government? Congress is the logical starting place for such an inquiry, since excessive congressional delegation of power is in a narrow sense the cause of the problem. Plainly, Congress could draft new forest statutes spelling out "public interest" in specific detail and deciding, to some extent at least, the relative "values" to be placed on exploitation of resources, recreation, water power, wilderness, and other uses.

Ultimately, Congress does settle some disputes. A highly controversial dam like the one proposed for Echo Park in Dinosaur National Monument, major conflicts between water storage needs and the preservation of national parks and monuments, basic wilderness policy such as set forth in the current Wilderness Bill, and the establishment of new forests and parks, all are matters that Congress continues to pass upon. But these disputes are not the central problem. It is the less dramatic area of forest planning and management, with all its subdued but vital policy conflicts, that raises the great issues. Perhaps Congress will assert itself more, but meanwhile it is necessary to look elsewhere if public ownership of the forests is to have any meaning.

Can the courts provide a degree of supervision that Congress has failed to give? The experience of recent times suggests that the answer is no. Judicial review plays a very important role in insuring the fairness of the adjudications that agencies make. This is the ordinary business of courts and they are well equipped to oversee an agency's performance of this part of its work. But what can a court do when it is asked to review agency planning? I can set aside action that is plainly outside the scope of the agency's authority, that violates the Constitution, or that was taken in defiance of procedures set down by Congress. But if the agency meets its minimum requirements, as most of them invariably do, the usefulness of the courts is largely at an end. Courts are out of their element when they try to pass on the merits of policy judgments. And when they attempt to supervise in detail the procedures that are followed in the making of such judgments, they are likely to produce not better results but a procedural mire in which participants flounder and action stagnates.

A device the agencies themselves have adopted to permit public participation is the advisory committee. Members of such committees are chosen by the agencies to represent various organizations and interest groups. But their tendency is to represent mainly special interests. And there is no evidence that they provide any real check on agency action. Nor is the receptivity of the agencies to informally expressed views through advisory committees a substitute for clear-cut rights.

Perhaps the greatest difficulty in approaching the problem of how to control the actions of agencies that deal with publicly owned resources is the failure to recognize candidly that the agencies are really performing legislative functions. It may be well to admit this fact (whether or not it does violence to Constitutional principles) and stop looking to Congress or the courts to supply an inappropriate form of restraint. After all, there are safeguards peculiar to the legislative process itself, and they may offer a better starting point.

What are the principal checks on legislative action? The greatest, of course, is the elective process, a process from which agency officials are well sheltered. But there are other safeguards. In the first place, the public usually has plenty of notice of pending legislation, so that it can make its views known. Virtually nothing is secret in a legislature. Second, hearings usually are held to give the public an opportunity to state its views directly to the lawmakers. Third, there is debate, opposition, delay, and deliberation within a legislature. Fourth, legislation is usually accompanied by a report giving reasons to support it. And, finally, the legislation is reviewed by the executive in the glare of publicity, so that he, too, is subject to popular pressure. Sometimes legislatures disregard these safeguards, but rarely is it to the good of the legislative process.

Could this pattern be adapted to the forest management work of the Forest Service, the National Park Service, and the Bureau of Land Management? Adequate public notice of major long-range plans and significant decisions, including road and other construction, lumbering, and changes in use, would not seem likely to hamper or delay the agencies unduly. Yet this single reform would be an important step toward giving the public time to act, and preventing arbitrary or ill-considered decisions. Even if notice were limited to publication in the *Federal Register*, it would be available to interested groups.

Hearings might not be warranted for every type of action; they could easily pull everything to a dead stop. But the Forest Service advisory hearings have proven useful, and they could be adopted for other major decisions besides wilderness classification. Moreover, they might be held at the preliminary planning stage as well as to check on decisions already tentatively made. In either case, they would be more useful both to the public and to the agency if they were conducted by a person who was thoroughly independent and who would be allowed to make his own report on the merits.

The element of debate, delibration, or opposition is difficult to introduce. On important issues it might be wise to offer an opportunity to submit written views to the Chief of the agency or the Secretary of the department, so that the person vested with final power of decision would have the benefit of several points of view. The risk is that this would become cumbersome, but the advantage, in avoiding rubber-stamp review, might outweigh the risk.

Another way to accomplish this same objective, and one sometimes used in government today, would be to institutionalize different points of view. Outside groups or viewpoints can be given permanent representation within the agency. Thus, the Forest Service might be given a division charged with the duty of protecting recreation or wilderness or grazing from assaults by other uses. Such inside watchdogs can sometimes restore balance to a viewpoint and guard special interests more effectively than the unorganized public. They offer self-criticism in what may otherwise be an institutional monolith. The new Bureau of Outdoor Recreation in the Interior Department is supposed to coordinate all recreational planning. It is too early to know whether it will prove an effective representative and partisan of recreation in the over-all decisions of the agency.

Finally, those supporting a decision should be required to give reasons for it. This might, as it sometimes does in Congress, help to clarify issues and provide a focus for debate.

Subjecting every agency decision to piecemeal scrutiny might well prove paralyzing, as we have said. A possible solution lies in long-term management plans. Such plans are already a part of Park Service and Forest Service procedure. Public views should be considered in the formation of plans and in the review of plans after they have been made in tentative form, and where specific action is taken that may be inconsistent with an existing plan. This would allow the public to participate in planning for the forests without subjecting each individual decision to time-consuming wrangles. It would be essential, however, that long-term plans be reasonably definite and specific. Some of those which have been adopted are so general that they leave all real issues undecided. In any event, some major individual decisions, such as building a dam or a large hotel, undoubtedly deserve separate consideration.

The public needs one final right—the right to initiate. Of course anybody can make suggestions, whether procedure is available or not. But such suggestions may get short shrift. A procedure is needed to ensure serious consideration and review of public proposals about the forests. A proposal with substantial backing should require a hearing and consideration above the local level.

It is hard to predict what effect these suggestions would actually have. Agencies sometimes assimilate "procedural reforms" without any change in practice; the reforms merely add to the richness of agency ritual and thereby further conceal the real process. If the forest agencies chose to ignore the advice of the public while going through the motions of listening, little good would be accomplished by more hearings. Some government agencies listen and some do not. Procedural reforms may also have too strong an effect. They may cramp an agency into an arthritic stiffness. It may come to believe that it can do nothing without months or years of procedure, and as a consequence it will do nothing most of the time. The public thus exchanges a vigorous, if unrepresentative, professional government for drift or maintenance of the *status quo* by default.

Despite these hazards, ventilation is basically healthy. Bringing decisions out into the open is perhaps the greatest single insurance against arbitrariness. Secret decisions are not only undemocratic, they are also often unsound, for the agency, cut off from other points of view, may become the prisoner of its own preconceptions. The value of a hearing before an agency is much the same as the more general value of free speech in a republican government. A hearing cannot insure a wise decision but it can provide the opportunity for a wise one.

CONCLUSION

As the planet we live on becomes more and more crowded, more wrinkled by worries and complexities, more pressed by needs, the earth's valuables increasingly have to be shared. The work of government as manager of the public resources of the nation becomes one of its major tasks. Decisions about this common property—water power, air space, channels of communication, atomic energy, forests—affect each man's well-being. But the people have lost control over these decisions to the professional management of bureaucracies. These structures, so largely independent of Congress, the President, and the courts, have a natural tendency to believe that they can decide things more wisely for the people than the people can decide for themselves. Perhaps they are right. But the attitude is nevertheless at war with our concept of democracy.

The unavoidable fact is that the agencies, in particular, are engaged in basic planning. They are making fundamental policy concerning resources and in the process trying to accommodate the conflicting interests in society. In discussing recreation, the Forest Service Manual says: "Recreation resources of the national forests will be made available for public use and enjoyment, insofar as this is consistent with the over-all management of the national forests for the greatest public good. Their proper place in the management of the various resources will be determined through specific analysis and weighing of all relevant factors."

Thus the Service recognizes, in the matter-of-fact pages of its manual, that its ultimate job is nothing less than the definition of "the public good," a task once reserved for philosopher-kings. This is the tremendous responsibility that Congress has delegated to all of the forest agencies, and with it the power to determine the very character of the American land.

The great danger is that an entrenched professional bureaucracy will become shortsighted in its perception of the public good. It may see only the needs of the next decade when planning for a century is essential. It may see only local demands when national needs cry for consideration. It may see where immediate economic gain lies but fail to see the values of "non-economic" uses. It may care so much about today's balance sheet that it forgets tomorrow's heritage.

Procedural reforms cannot be expected to solve the dilemma of how planning for the public good can be accomplished in a democracy. Professional planners and managers cannot be dispensed with. But some means of public participation, however inadequate, would at least offer the beginning of a system of planning that would encompass a broader vision and a deeper relation to democratic ideals. For the experts and professionals have their limitations. They can tell us whether an area of forest can be lumbered at a commercially feasible price. But can they tell us whether an "overmature, spike-topped, catfaced, conky old veteran" should be saved for future generations?

FOOTNOTES

[1] Multiple Use Act, Public Law 86-517 § § 1 and 2, 74 Stat. 215, 16 U.S.C. § § 528, 529 (June 12, 1960).

[2] An excellent general description of policy formation and decision-making for the public lands is found in Clawson & Held, *The Federal Lands: Their Used and Management*, Chapter 3 (1957).

[3] 36 C.F.R. § 211.2. There are actually two separate procedures. The first—§ 211.2 (a) (1)—applies to the following persons:

"Any person having a contractual relationship with the Forest Service (other than one relating to the construction, alteration or repair of public hearings or works, or to the purchase of administrative supplies, equipment, materials or services), including an application therefor, aggrieved by any administrative action or decision of an officer of the Forest Service relating thereto . . ."

This is the class of persons entitled to hearings. A second class of persons, entitled only to file a written statement and to have a reviewing officer prepare a statement of review and explanation, is described as follows [§ 211.2(b)]:

"Any person aggrieved by any administrative action of an officer of the Forest Service other than those relating to contractual relationships . . ."

The key word here is "aggrieved" which in its legal meaning is limited to persons suffering certain types of "legal injury."

[4] A wilderness or wild area is one in which "there shall be no roads or other provisions for motorized transportation, no commercial timber cutting, and no occupancy under special use permit for hotels, stores, resorts, summer homes, organization camps, hunting and fishing lodges, or similar uses." 36 C.F.R. § 251.20(a).

[5] "Standing" is an elusive term that defies translation into ordinary English. Even a lawyer as free from jargon as the late Judge Jerome Frank could only explain that *absent* a statute a citizen has no "standing" to complain in court about government action unless the action "invades or will invade a private substantive legally-protected interest of the plaintiff citizen; such invaded interest must be either of a 'recognized' character at 'common law,' or a substantive private legally-protected interest created by statute." *Associated Industries of New York* v. *Ickes*, 134F.2d 694, 700 (2d Cir. 1943), vacated as moot, 320 U.S. 707.

DR. H. CLAUDE HUDSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ANDERSON of California. Mr. Speaker, on May 29, 1976, the National Asscociation for the Advancement of Colored People will honor a man whose life stands as a monument to personal courage and integrity. On that day, Dr. H. Claude Hudson, at the age of 90, will be honored at a banquet in recognition of his lifelong devotion to the cause of civil rights and equality for all Americans.

Today, the NAACP is a highly respected organization. But in its early days, to fight against racial discrimination was to do so at the risk of losing one's life. Thus, it is truly a mark of moral courage that in 1921, Dr. H. Claude Hudson became president of the Shreveport, La., chapter of the NAACP. His early participation in the fight for civil rights is simply one indication of the attributes that have been highlights of Dr. Hudson's career.

After moving to Los Angeles in 1923, Dr. Hudson became president of the Los Angeles branch of the NAACP in 1924, serving in that capacity for 10 consecutive years. During that time, Dr. Hudson's leadership was instrumental in making the Los Angeles chapter one of the largest and most effective in the Nation. It has continued to benefit from his leadership and wisdom, as Dr. Hudson has served continuously as either vice president or member of the executive board from 1934, when he stepped down as president, until the present.

In 1950, Dr. Hudson was elected to the national board of directors, NAACP, where he remains an active and respected source of leadership.

Besides his successful career as a dentist, Dr. Hudson has been a force in the financial world. In 1939, when he assumed the presidency of the Broadway Federal Savings and Loan Association, the firm had net assets of $3 million. When he retired in 1972, that figure had grown to $57 million.

This remarkable man was born in Marksville, La., on April 19, 1886. He attended Wiley University in Marshall, Tex., and received his D.D.S. from the Howard University School of Dentistry, Washington, D.C., in 1913. Dr. Hudson practiced dentistry in Shreveport from 1913 to 1923, when he moved his family to the west coast. Dr. Hudson practiced dentistry in Los Angeles from 1923 until his retirement.

Despite his busy professional, family, and activist life, Dr. Hudson often found time to augment his education. In 1931, he received his L.L.B. degree from Loyola University. He has also earned a graduate degree in operational management, savings and loan, from the Savings and Loan Institute.

In recognition of Dr. Hudson's many contributions, Loyola University established a scholarship fund in his name in 1974. The auditorium of Martin Luther King Memorial Hospital, where he serves as a member of the board of trustees, is also named after him.

On April 19 of this year—his 90th birthday—Dr. Hudson received the Distinguished Service Medal from the Los Angeles County Board of Supervisors, their highest honor. He was declared an honorary doctor of humanities at the Wiley University Baccalaureate Commencement Convocation on May 6, 1976. The University of Southern California declared him an honorary doctor of law earlier this year, and he has also received recognition from the Consolidated Realty Board.

Mr. Speaker, I have personally known Dr. Hudson and his family for many years, since the 1930's. In every respect, he is one of the most remarkable individuals I have ever been privileged to know. Bright, personable, and with a sprightliness of step that even now belies his 90 years, he stands as a shining example of dedication, moral courage, and personal conviction. Although a highly successful businessman, he never forgot his own background, and dedicated his life to helping all mankind achieve equality and dignity under the law.

I would be remiss in not mentioning Dr. Hudson's wonderful family, which has always been such an important part of his life. Now a widower, he has been fortunate in having two highly successful marriages and six children: H. Claude Hudson, Jr., who gave his life in defense of his country during the Normandy invasion; Elbert T. Hudson; Gloria Peterson; Melba Sparks; Barry S. Hudson; and Thaddeus Hudson, deceased.

H. Claude Hudson will be long remembered for his outstanding life's work for the cause of equality. My wife, Lee, joins me in congratulating this great man—and old friend—on his life's many accomplishments, and we wish him many more years of happiness to come.

MINORITY EMPLOYMENT IN BROADCASTING DURING 1975 AND EQUAL EMPLOYMENT OPPORTUNITY MONITORING BY THE FEDERAL COMMUNICATIONS COMMISSION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HAWKINS. Mr. Speaker, in January of this year the Subcommittee on Equal Opportunities held oversight hearings on Federal enforcement of equal employment opportunity laws. We had the privilege at that time of hearing a very fine statement from the distinguished actor and director, Ossie Davis. Mr. Davis spoke of discrimination and its effects in the entertainment industry, specifically on television and in motion pictures. Mr. Davis noted that there has been some progress in the hiring of minority members in films and television. He said this improvement had occurred after public hearings were held by the EEOC in Los Angeles in 1969, followed by an investigation into employment discrimination in the motion picture and television industries by the Department of Justice. In spite of this progress, Mr. Davis said, much remains to be accomplished.

The media plays an important role in shaping society's image of itself. When minorities fail to see members of their groups on television for example, they may conclude that such absence is a measure of their worth to society as a whole. The feeling of hopelessness which this engenders can lead to frustrations which may tear at the fabric of society. The consequences of this frustration and anger argue as forcefully for equal employment opportunities as do the concepts of fairness and justice.

The Subcommittee on Equal Opportunities, which I chair, has as one of its mandates the duty to oversee adherence to title VII of the Civil Rights Act of 1964. Accordingly, we remain alert to statistics which show employment trends for minorities. We also seek to discover institutional or administrative barriers which prevent the equitable hiring of minorities and access to legal or administrative redress in the event of employment discrimination.

The Federal Communications Commission which enforces Federal laws concerning the broadcasting industry maintains statistics on minority employment in the industry. I am inserting for the RECORD a synopsis prepared by the Commission of the minority employment patterns in the broadcasting industry in 1975:

EMPLOYMENT PATTERNS IN THE BROADCASTING INDUSTRY, 1975

An annual FCC study of employment patterns in the broadcasting industry shows that employment of women and members of minority groups increased again in 1975, both in number of employees and in percentage of total employees.

Total employment by broadcast units having five or more full-time employees increased from 141,700 in 1974 to 146,345 in 1975, a 3.3 percent rise, compared to 3.5 percent in 1974 and about 5 percent in 1973.

More women were employed in 1975 (38,347) than in 1974 (35,765) and accounted for 26.2 percent of the total, compared to 25.2 percent in 1974 and 24.0 percent in 1973.

Minority groups employment (male and female), including Negro, Oriental, American Indians and Spanish-surnamed Americans, accounted for 12.9 percent of the total, compared to 12.3 percent for 1974 and 11.7 percent for 1973. Blacks, the largest minority group, increased from 11,188 in 1974 to 11,818 in 1975, or 8.0 percent of the total in 1975 compared to 7.8 percent in 1974 and 7.5 percent in 1973. Spanish-surnamed Americans comprised 3.6 percent of the total in 1975 as against 3.3 percent in 1974 and 3.1 percent in 1973.

The study, compiled from annual employment profile reports (FCC Form 395) filed by all broadcast licensees with five or more full-time employees, is divided into states and into individual communities.

A further breakdown shows minority participation in terms of higher and lower pay categories. The higher pay segment includes officials and managers, professionals, technicians, sales workers and craftsmen, while the lower pay area includes office and clerical, operatives, laborers and service workers.

Employment in 1975 for broadcast units having five or more full-time employees is compared to previous years as follows:

	Number of employees (full and part time)			Percentage of total employees		
	1975	1974	1973	1975	1974	1973
Total male and female	146,345	141,700	136,960	100.0	100.0	100.0
Female only	38,347	35,765	33,001	26.2	25.2	24.0
Minority groups (male and female):						
Negro	11,818	11,188	10,296	8.0	7.8	7.5
Oriental	1,098	1,018	902	.7	.7	.6
American Indian	671	611	570	.4	.4	.4
Spanish surnamed American	5,353	4,745	4,371	3.6	3.3	3.1
Total minority groups	18,940	17,562	16,139	12.9	12.3	11.7

Individual station reports are on file in the Commission's public reference room at 1919 M Street, N.W., Washington, D.C. The complete summary is available for examination at the Public Information Office, Room 202.

EMPLOYMENT IN THE BROADCASTING INDUSTRY 1975

All broadcast licensees having 5 or more full-time employees are required to file an annual employment profile report (FCC Form 395). This report (the fourth in a series) includes separate entries for the number of full-time and part-time employees and shows the number of women and minority group employees (Negro, Oriental, American Indian, and Spanish-surnamed American). Employees for each group are further described by the following nine job categories: Officials and Managers, Professionals, Technicians, Sales Workers, Office and Clericals, Craftsmen (Skilled), Operatives (Semi-skilled), Laborers (Unskilled) and Service Workers. The reports for each broadcast station are in the FCC's public reference room at 1919 M Street, N.W., Washington, D.C. In the summaries that follow, the nine job categories have been condensed to two as follows: *Higher Pay*, includes Officials and Managers, Professionals, Technicians, Sales Workers and Craftsmen (Skilled); *Lower Pay*, includes Office and Clerical, Operatives (Semi-skilled), Laborers (Unskilled) and Service Workers.

Employment in 1975 for broadcast units having 5 or more full-time employees is compared to previous years:

	Number of employees (full and part time)			Percentage of total employees		
	1975	1974	1973	1975	1974	1973
Total male and female	146, 345	141, 700	136, 900	100. 0	100. 0	100. 0
Female only	38, 347	35, 765	33, 001	26. 2	25. 2	24. 0
Minority groups (male and female):						
Negro	11, 818	11, 188	10, 296	8. 0	7. 8	7. 5
Oriental	1, 098	1, 018	902	.7	.7	.6
American Indian	671	611	570	.4	.4	.4
Spanish surnamed American	5, 353	4, 745	4, 371	3. 6	3. 3	3. 1
Total minority groups	18, 940	17, 562	16, 139	12. 9	12. 3	11. 7

In the State Reports that follow, only stations with more than 10 full-time employees are listed. Within each state the communities are listed alphabetically. Each station is listed by class under the community name. The two letter code to the right of the call sign is an abbreviation for the class of station as follows:

TV: Commercial television station.

AM: Commercial AM radio station.

AF: Commercial AM/FM station filing combined report.

FM: Commercial FM station.

FA: Commercial FM station associated with an AM station but reporting separately.

ET: Non-commercial television station.

ER: Non-commercial radio station.

HQ: Headquarters report.

At the end of each State listing is a State summary for all units with more than 10 full-time employees.

For each television station, the name of its television market is given. For each radio station located in a standard metropolitan statistical area (SMSA), the name of its SMSA is given. Code numbers for stations and markets may be disregarded.

For comparison purposes, the 1971, 1972, 1973 and 1974 total employment figures for each station are given below the 1975 totals. In a year when a station had 10 or fewer full-time employees, no figures are shown for that year.

All station reports were edited for arithmetic consistency and a number of corrections were made without rechecking with the stations. Therefore, stations should report to the FCC any apparent error in this report, so that their basic data may be corrected in the computer file, for future reports.

A table showing the percentage of minority groups in the 1970 population, by standard statistical metropolitan areas follows the state reports.

MINORITY EMPLOYMENT REPORT FOR U.S. BROADCASTING SERVICES BY STATES

[Number of employees]

	Total employees	Total females	Minorities (including female employees)				
			Total	Negro	Oriental	American Indian	Spanish-American
U.S. broadcasting totals:							
Commercial television	47, 382	12, 245	6, 863	4, 344	405	198	1, 916
Commercial radio	64, 772	16, 057	7, 509	4, 587	318	316	2, 288
FM radio	7, 631	1, 782	870	629	35	35	171
Noncommercial television	8, 884	2, 877	1, 234	683	106	48	397
Noncommercial radio	2, 744	761	352	200	13	52	87
Broadcasting headquarters	14, 932	4, 625	2, 112	1, 375	221	22	494
All classes for U.S. broadcasting	146, 345	38, 347	18, 940	11, 818	1, 098	671	5, 353

While the figures released by the Federal Communications Commission indicate a positive trend in the employment of minorities in broadcasting, there is cause for some concern about the type of monitoring done by the FCC of these trends. This concern has been voiced by the Citizens Communications Center.

Citizens recently released the results of a study it conducted of the Federal Communication Commission's regulation of the broadcasting industry's enforcement of equal employment opportunity. Citizens is a public-interest communications law firm. Its aim is to assist the public in improving the service it receives from commercial and noncommercial broadcasters, from cable systems operators, and from the FCC.

I would like to give a synopsis for the record of Citizens' study. The objective of the study was to examine the performance of the Federal courts and the FCC in monitoring the efforts of broadcasters in guaranteeing equal employment opportunities. Specifically, the study tried to determine the weight given by the Commission and the courts to statistical evidence which indicates significant disparity in the representation of women or minorities. Citizens believes that statistical evidence can be indicative of effective equal employment practices. Therefore, it relied heavily on such evidence in its determinations of broadcaster-employer discrimination against women, blacks, Hispanic Americans, Asian Americans, and Native Americans.

The study posed the following questions:

First. How can citizens who allege discrimination by a broadcaster influence the FCC to hold hearings or deny a license to such broadcaster at the time of its renewal application?

Second. What criteria does the FCC use for admitting statistical evidence in cases where applications for renewals of broadcasting licenses are challenged on grounds of employment discrimination?

Third. What has been the response of the Federal courts to such FCC criteria?

Fourth. Under title VII of the Civil Rights Act of 1964, what criteria have the courts used to demonstrate the practice of employment discrimination by an employer?

Regarding the use of and the weight given to statistical evidence, are the court-developed standards under title VII and the Communications Act consistent?

Fifth. In the absence of challenges to license renewals, how does the FCC determine that broadcasters are in compliance with prohibitions against employment discrimination?

In order to answer these and other questions which arose, Citizens analyzed the relevant body of Federal law, FCC rules and regulations, relevant court opinions, FCC opinions and orders, and the FCC's internal processing standards.

The authors of the study reached the following conclusions:

First. The standards used by the Commission present a major barrier to the attempts of citizens to insure that broadcasters in their communities eliminate discrimination and its past efforts.

Second. FCC criteria for the admission of statistical evidence in cases of alleged employment discrimination fall short of the standards set by Federal courts in title VII cases.

Third. Commission standards of performance with regard to equal employment opportunity are vague, variable, evasive, and easily met, even by broadcasters who actively discriminate against minorities and women.

Fourth. The FCC has failed in its internal monitoring efforts to require that broadcast licensees comply with both Federal laws and FCC rules which prohibit discrimination.

Fifth. Eight years after the FCC expressed its concern that broadcasters subscribe to the principles of equal employment opportunity, many licensees still fail to employ any minority persons whatsoever.

As a result of its findings, Citizens made several recommendations to the FCC. Citizens believes the FCC should:

First, follow the practice of Federal courts in admitting statistical evidence in license renewal hearings; or

Second, allow the public to obtain additional information on the employment practices of a broadcaster when the possibility of employment discrimination is demonstrated in a license challenge;

Third, establish clear standards of performance for broadcasters with regard to equal employment opportunity including affirmative action programs of goals and timetables for bringing minority and female employment up to parity;

Fourth, not give weight to a broadcaster's improved equal opportunity employment statistics if such statistics represent unilateral upgrading which occurred after a license challenge has been filed;

Fifth, condition the renewal of licenses of offending broadcasters upon compliance with FCC equal employment rules and regulations, such an agreement should have the force of a court-ordered consent order;

Sixth, tighten its internal EEO review procedures as well as publish the list of stations sent letters of inquiry, the responses to such letters should be made available to the public;

Seventh, adopt other procedures which would be consistent with the litigation procedures of the Civil Rights Act of 1964.

If any of my colleagues would like to obtain a copy of the Citizens report, they may do so by writing Citizens Communications Center, 1914 Sunderland Place NW., Washington, D.C. 20036.

LINDSEY CREEK BYPASS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BRINKLEY. Mr. Speaker, I had the gratifying opportunity last Friday to visit Fort Benning, Ga., in my congressional district, and discuss with staff officers there the pending Lindsay Creek Bypass extension project. The engineers at Benning told me they can have the project underway in the next fiscal year if it is funded by Congress; unfortunately, some in the Senate had been led to conclude that construction could not start soon, and therefore the appropriation could be delayed.

In addition to hearing positive news from Fort Benning officials about this project, I had also the opportunity to inspect the great new facilities for infantry advanced individual training at Benning, and to meet personally with some of the thousands of new troops training there. The move of Infantry AIT from Fort Polk has been successful; three classes of AIT troops have already graduated; and Col. Jack Farris and his outstanding staff in charge of the AIT brigade have seen their initial enthusiasm bear fruit.

As a result of my inspection, I am more convinced than ever before, Mr. Speaker, that the one station unit training concept has come into its own, and that we are in serious error by delaying its implementation at the home of the Infantry, Fort Benning. With AIT in full swing, it is now a matter of bringing basic combat training in and combining the two phases of training into one station unit training.

The Secretary of the Army has told us the Army knows OSUT is a successful concept because of its strenuous testing in other branches at other posts. They are convinced even now that it will prove successful in the Infantry, when finally implemented. Most of all, the morale of the young trainees whom I met on a "surprise" visit in the field—they could not have fooled me if they had tried—so impressed me that I am ready to make that last big push to assure that OSUT Infantry becomes a reality at its natural home—Fort Benning.

JOHN PAPPAS—25 YEARS OF COMMUNITY SERVICE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. STARK. Mr. Speaker, when an outstanding city council member retires, the impact of his or her service is often felt for many years afterward. The community of Hayward, Calif., will long benefit from the 25 years of service of retiring city council member John Pappas.

John's involvement in community affairs began with his election to the Mt. Eden school district board of trustees. This marked the beginning of many years of civic involvement, including service on the Alameda County school boards association executive board, the personnel board of the city of Hayward, and the city planning commission. He served as president of the Mt. Eden school district board and was elected to the city council in 1960, to be re-elected in 1964, 1968, and 1972. During his 16 years on the council, he served as mayor and as vice-mayor of Hayward and as ambassador-mayor to Hayward's sister city, Faro, Portugal.

The diversity of John's interests and concerns is reflected in his other community activities, which have included charter membership in two parent-teacher associations, the Mt. Eden Little League baseball directorship, United Crusade Campaign vice-chairmanship, St. Rose Hospital citizens advisory board membership, honorary charter membership in the Mexican-American Political Association, and membership in the Hayward Community Concert Association.

John will always be a community leader. For him, the first 25 years are only the beginning. Mr. Speaker, I know my colleagues will join me in paying tribute to John Pappas at this important milestone in his life.

MRS. CARLTON BEALL

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. HOLT. Mr. Speaker, my good friend and constituent, Mrs. Carlton Beall, was recently elected president of the Prince Georges Federation of Women's Clubs. In a speech before this organization, she compared the roles and concerns of clubwomen of the 1920's to those of the 1970's. I would like to take this opportunity to congratulate Mrs. Beall and share her remarks with my colleagues:

REMARKS OF MRS. CARLTON BEALL

A few days ago, I had the occasion to look through some of the minutes of club work done during the early years of the County Federation. It was interesting to see that some of the programs which hold our attention today were of concern to clubwomen sixty years ago.

In 1921, clubwomen were asked "to try to influence women generally to take more interest in the coming election, to the end that a larger number of women should cast their votes." But today women are filing for office and being elected!

All too often we hear the phrase "crooked politicians." Have you ever thought why a politician might be crooked? It is because we do not assert our responsibility and exercise the right to vote. I urge you to become involved in the electoral process. Not only is it your right to vote, but it is also your responsibility.

Scholarships for students interested in pursuing a college education but who wouldn't otherwise be able to attend college have been given over the years. Attention is now being directed toward scholarships and loan funds for non-college students who are interested in pursuing a Distributive Education. Have you had an occasion to need the services of a plumber, electrician, tile setter, etc., lately and discover the exorbitant costs for having such work done?

Health rallies for the prevention of tuberculosis were held in the 1920's. Today, clubwomen's attentions are directed toward immunization against childhood diseases, pap tests and breast cancer tests, and blood pressure screening clinics. Alcoholism is another major area for work. Recently, a newspaper article stated that 15 percent of the children in a certain county in Maryland are addicted to alcohol and one-fifth of the female population are alcoholics.

It is interesting to note that crime was not one of the major concerns during this period. Today, the Hands-up Program, which has been made possible through a grant from the Law Enforcement Assistance Administration of the Department of Justice, is a very large project, and it is hoped that every club will participate in it. More rape crisis centers are needed in every community.

These are just some of the programs which need our wholehearted support, and this can be accomplished only through membership responsibility and involvement. In the 60's, membership enrollment was approximately 16,000, but in the 70's membership dropped to about 8,000. Each club member needs to bring one new active member into her club to get back to our former strength.

Encourage active and interested women to join you in waging a campaign against rape, crime, pornography, cancer, high blood pressure, alcoholism. Work for immunization of all children against childhood diseases, water conservation and energy conservation. Be a responsible and involved clubwoman for progress.

FREE SOLOMON DAKHIS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. KOCH. Mr. Speaker, I voice an appeal today before my colleagues concerning yet another individual's bitter fight against Soviet emigration policies. I speak on behalf of Mr. Solomon Dakhis, a 28-year-old chemical engineer with a wife and 5-year-old daughter. He first applied for an exit visa in July 1973 but was refused on the basis of military secrets—meaning he had served in the army. Of note, his army group was demobilized in 1971. Since 1973, he has repeatedly applied for visas but has been turned down each time.

In a poignant letter dated October 30, 1975, his parents wrote from Israel:

> We are turning to you with a plea. We are two old people in our seventies. Our children and our entire family was wiped out during World War II. We have only one son left. He applied for a visa to go to Israel together with us. We received our visas but he was refused. Two years have passed since his refusal. We sent many requests to different organizations and individuals in the USSR plus medical certificates stating the fact that both of us are in very poor health. To our deep sorrow, we were never answered and our son and his family have not received permission to emigrate to Israel to join us in our old age. We need to have our family with us in the last years. Our son has applied to many organizations in the USSR but all of his requests have been refused. We ask for your help in this most critical time. Please use all your humanitarian efforts to reunite us with our loved ones. We beg you to help us in our hour of need. As Jews, we appeal to you with all our hearts."

This letter effectively calls attention to the plight of Soviet Jews painfully separated by Soviet emigration policies. It is critical to remember at this time the Final Act of the Conference at Helsinki, which we joined the Soviet Union is signing. It pledges the signatories to facilitate "wider travel by their citizens for personal and professional reasons." It is distressing to note that the Soviet Union continues to violate individual human rights of men like Solomon Dakhis, by ignoring the Helsinki accord which it signed not so very long ago.

CONGRESSIONAL BICENTENNIAL SALUTE TO THE REVEREND ANTHONY JOHN KULIG OF GARFIELD, N.J., UPON THE 15TH ANNIVERSARY OF HIS ORDINATION TO THE PRIESTHOOD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ROE. Mr. Speaker, during this Bicentennial Year as we reflect upon the history of our country and the good deeds of our people which have placed our representative democracy, second to none, among all nations throughout the world, I am pleased and honored to commend to you one of our most outstanding citizens, community leader, prestigious spiritual adviser, educator, and good friend the Reverend Anthony John Kulig, who is revered by all of us for his complete dedication and devotion in responding to the needs of our people.

On June 5, residents of my congressional district and the State of New Jersey will assemble with the esteemed pastor, Rev. Eugene S. Kowalski, his distinguished associates, the Rev. Anthony Robak, and Rev. Bogdan B. Bilinski at St. Stanislaus Kostka in Garfield, N.J., where Father Kulig attended grammar school to celebrate the 15th anniversary of his ordination to the priesthood, and attest to his exemplary achievements in service to God and his fellowman.

Upon his graduation from Seton Hall University and completion of his studies at the Immaculate Conception Seminary in Darlington, N.J., Father Kulig was ordained to the priesthood on May 27, 1961, at Sacred Heart Cathedral in Newark, N.J. As a young curate, the quality of his leadership and richness of his wisdom were deeply imbedded in the St. Patrick Church Parish, Elizabeth, N.J., where he served as high school director, moderator of societies and the Mothers Guild for 8 years.

In 1969 Father Kulig was assigned to Seton Hall Preparatory School where he was a member of the religious studies department. Upon receiving his masters degree in guidance and school administration, he was named dean of men at the Seton Hall Preparatory School where he will long be remembered for his standards of excellence as adviser and counselor in developing the character and acumen of our young people.

Father Kulig served as dean of men for 5 years and now heads up the senior guidance department as college placement officer. He serves the congregation of his home parish of St. Stanislaus on weekends.

The diversity of his interests and achievements is widespread but the underlying theme of his unselfish and compassionate efforts has always been directed toward faith, hope, and charity on behalf of all of our people, which are mirrored in the fine caliber and upstanding character of all of his students who were richly endowed by his teachings and artistic talents.

The direction and guidance that he imparted through musical productions at St. Patrick High School in Elizabeth, N.J., and Mother Seton High School in Clark, N.J., brought joy and happiness not only to our youth who participated but to the audiences who found refreshment and recreation in his presentations.

Mr. Speaker, I appreciate the opportunity to present to you and the other Members of the House of Representatives this profile of one of our most distinguished and revered clergymen. I join with his mother and father, Mr. and Mrs. Anthony Kulig of Garfield, and his three brothers—all of whom are leading citizens and most active in civic affairs in our community—in the pride we all share in Father Kulig and the success of his most significant endeavors in life's fulfillment and purpose which have truly enriched our community, State and Nation. We do indeed salute the Reverend Anthony John Kulig as he celebrates the 15th anniversary of his ordination to the priesthood during our Nation's Bicentennial Year.

A TRIBUTE TO RALPH N. SHAW

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BURGENER. Mr. Speaker, on Friday, May 14, two special agents of the Drug Enforcement Administration took off from Acapulco International Airport on a routine liaison flight. Their plane struck the side of a 12,000-foot mountain and both agents lost their lives in the performance of their duties.

Special Agent Ralph N. Shaw was one of my constituents from El Centro, Calif. His career in the service of his country and his death in the performance of his duties are strong reminders of the danger and dedication involved in the battle against drugs.

Special Agent Shaw had served his country in the Marine Corps, the Immigration and Naturalization Service, and the Bureau of Narcotics and Dangerous Drugs, which later became the Drug Enforcement Administration. He served in each capacity with dedication and with skill.

I bring the death of this dedicated individual to the attention of the House, because I believe each Member should pause to consider the contribution Special Agent Shaw has made to his country and we should renew our dedication to the performance of our duties in tribute to a fallen public servant.

COMMENCEMENT ADDRESS BY CONGRESSMAN MIKE McCORMACK

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, on May 20, our distinguished colleague, Mike McCormack, delivered the commencement address to the graduating class of the Stevens Institute of Technology in Hoboken, N.J.

Most commencement addresses usually take the form of congratulatory messages to the graduates and well-wishes on the professional careers which they will soon be launching. But this type of commencement address is really no longer relevant.

College graduates today must go out into a world that is burdened with problems. The first challenge the new graduates will face is finding a job—no easy task in these troubled economic times. The second most important task will be trying to retain their idealism as they also seek to survive economically—again, no easy task.

The young graduates of Stevens Institute and other colleges around the Nation have more than our good wishes going with them as they enter their new world. They have a lot of our hopes resting with them.

This Nation is entering an era of incredible challenges. Old and continuing problems still cry out for resolution, and new challenges have joined the chorus.

As Congressman McCormack pointed out in his commencement address, we live in a world of exploding population and shrinking resources. This untenable situation cannot persist for long—we will soon run up against the very limits to growth if we continue to conduct our affairs in a business as usual manner.

The United States must adapt to this changing world. We have to simultaneously increase our energy supplies and cut our energy demand. We have to come to terms with Third World nations who demand more in the way of economic remuneration for the industrial raw materials which they provide us. We are going to have to come to terms with the continued bellicosity of the Soviet Union and its apparent intentions to become the No. 1 power in this world by the end of the century. We also have to deal with the economic aspirations of developing nations, and assist them in their efforts to both control their population and increase their agricultural production. We have to provide jobs in our own country for the underemployed and for our youth who have been denied employment opportunities. We are going to have to open the doors to equal opportunity for all citizens of our country who want to lead active and productive lives.

Mike McCormack has touched upon these and other challenges in the eloquent address which he delivered at Stevens Institute. I know all of my colleagues will be interested in the astute observations of the distinguished gentleman from Washington, and I include his address at this point in my remarks:

COMMENTS BY CONGRESSMAN MIKE McCORMACK AT COMMENCEMENT EXERCISES, STEVENS INSTITUTE OF TECHNOLOGY, HOBOKEN, N.J., MAY 20, 1976

Thank you President Rogers, Congressman Daniels, Dr. Connor, Dr. McLean, members of the Board of Trustees, administration, faculty, graduating students, guests, and ladies and gentlemen.

You of Stevens Institute of Technology do me a great honor by inviting me to address you at your Commencement ceremonies, and by bestowing upon me this honorary degree.

I must admit that I was left almost speechless when I first learned of your intention, but no living politician is speechless for very long, and I was soon asking questions, learning more about you. The origins and history of Stevens, and the high standards of academic excellence that have characterized this Institute catapulted me into a state of deep respect and admiration.

I regret that I have had no opportunity to spend some time on the campus, becoming better acquainted with you, but I am consoled by the fact that, as the situation stands, I am not required to pass any examination, either oral or written.

I want to pay my respects to my friend and colleague, and your Representative in Congress, the Honorable Dominick Daniels. Congressman Daniels is retiring at the end of this term, after 18 years of dedicated service to you and the other citizens of the 14th Congressional District of the State of New Jersey. The admonition that a man is "not without honor save in his own country" is, I believe especially true for Members of Congress, in particular those from the highly populated areas of the urban East. May I suggest that Congressman Daniels has earned your accolades, and that you may all truly say to him "Well done, thou good and faithful servant".

I would like also to pay my respects to one of the new Members of Congress, the Honorable Millicent Fenwick, who I understand is a member of the Board of Trustees here at Stevens. Congresswoman Fenwick asked me to express her greetings, and her regrets that she could not be with you today. She is a woman of great spirit and dedication, and you cannot help but benefit from her interest in you.

Before I say anything else, I want to congratulate all of you who have received degrees today. Yours is a significant accomplishment of which you and your families and your faculty can all truly be proud. You are a credit to yourselves, to Stevens Institute of Technology and to society. I think you should savor this moment. I'm certain your parents will. If you remain outwardly gracious, it will not be amiss for you to be inwardly a little satisfied with yourselves, at least for a few minutes.

I believe that writing a commencement address is one of the most difficult of assignments. Here we are, with you anxious to be on your way to whatever exciting new careers (or even weekend vacations) await you, trapped by the formality of this occasion; and here am I, honored as I am, trying, if you will pardon the expression, to say something relevant—to make my remarks meaningful—to be worthy of your invitation. I am going to try to do that because there are some thoughts I would like to convey to you—and through you, to all of the other young citizens of our society to whom I am, in my own imagination, also speaking.

As I prepared these remarks, I couldn't help thinking about the contrast between the post-World War II era, when I received my degrees, and this era of the 70's and all that has come between. Most of us were young veterans of World War II, and having saved the world, many of us were setting out to attempt to lead it, if not to mold it in our own image. But disillusionment soon set in, with McCarthyism at home and a cold war abroad. The enthusiasm and idealism of the immediate postwar turned to the numbing indifference and apathy of the 1950's. Materialism reigned, more then, I believe, than in any other time in American history. This too ran its course, however, and our country, and particularly those of us who were young, were awakened by a voice that proclaimed that ". . . we shall pay any price, bear any burden, meet any hardship, . . . to assure the survival and success of liberty . . .", and that we should, "ask not what America can do for you, but what together we can do for the freedom of man".

But this dream also turned to ashes and we found ourselves caught up in the searing domestic reaction to our involvement in Southeast Asia, and then in the trauma of Watergate.

Today, our country finds itself irresolute—confused by new concepts and realities that seem to deny the very foundations upon which our culture and our nation were built. We have come to realize that neither our wealth nor our mineral resources, nor our supplies of energy are inexhaustible. We have finally come to recognize that we are living on a finite spaceship with limited supplies rather than an endless frontier that we can pillage without consideration for the future. We find that we can no longer practice gunboat diplomacy and control the policies of small nations to their disadvantage, and to our advantage. We find, to our surprise, that America's wealth is not great enough to control the economies of the world.

I think coming face to face with these facts has been a healthy experience, but it has, unfortunately, led to, or been accompanied by, a loss of faith in our institutions, in our cultural heritage, in the value of truth, in the concept of dedicated service to our fellow man, and most of all, to a loss of faith in ourselves. When I graduated from college, we accepted these articles of faith, and upon them we confidently envisioned that we could help build a better world. Perhaps this was naive, but I mourn this loss, for I believe we and our world were well served by them.

With all our confidence and faith and accomplishments, our country was not mature, however. I believe that during these intervening years, our society has been maturing, coming to recognize what we are and what we are not; what we can do and what we cannot. The experience has, in many respects, constituted the "Coming of Age" for America. Passing through adolescence is rarely a comfortable experience and this probably is more true for a nation than it is for a single individual. All too often it is accompanied by an abandonment of idealism and a surrender to cynicism. All too often it is accompanied by a rejection of the accepted mores and standards of the past, and an affected embrace of sharply contrasting ideas. All too often—on our college campuses, it has lead to nihilism.

It seems to me that a healthy person or the healthy society is the one that can take what is good and true and honest of both the old and the new, and blend them into a rational position of strength and confidence. I believe this is essential for our society today, and I believe much of it depends on tens of thousands of graduates, such as you, to provide much of the leadership that our society and nation will need for survival during the balance of the century.

Commencement speakers usually fling the door of the future open for graduating students, welcoming them into a new society full of hope and promise, demanding little more than conformance with cultural mores, and, in exchange for a reasonable share of hard work, graceful acceptance of the benefits of an affluent society. However, this is not the picture today. The future I see reveals challenges and problems which, I sincerely believe to be without parallel during the last one hundred years of this Nation's history. This my friends, is not just commencement oratory, it is not just an attempt to be dramatic. If I can convey any one message to you today, it is that this nation is inevitably entering one of the most challengingly difficult, rending periods of change in its history, and that it will last for much of our lives.

It is just coincidence that you happen to emerge upon the scene at this particular moment in history. It is not because you are graduating that I bring you this particular message, but because you are graduating now, rather than some other time. You are faced with as demanding a responsibility as was my generation when we faced, even before we graduated, an all consuming World War.

It seems to me that as we face the problems of the next quarter century, the key elements to success will be our willingness and ability to seek and accept the truth, to accept change, and to establish rational and balanced programs to solve our problems. This will be the test by which history will judge us.

Let me use an example with which I am intimately familiar, to make a point. It is a particularly appropriate one for you, as scientists and engineers, because you will understand and be able to handle many of the problems better than your fellow citizens who do not have the advantage of your technical training and your understanding of mathematics of growth curves or problem-solving.

During the period since 1970, our country has truly passed from one major historical era into another. We have passed from an era of abundant energy and materials to an era of shortages and high costs for energy and materials that will be with us for many decades. We have entered an era of international inflation which cannot be controlled by the American economy. We have entered an era in which small nations possessing resources or facilities important to us, are determined to set their own policies according to their own best interest, rather than ours.

The implications of this transition are far more profound than is generally realized.

One of the symptoms of the public frustration resulting from this change is a tendency for all too many of our citizens to lash out rather than to analyze our situation; to seek scapegoats rather than solutions. Tragically, one of these scapegoats is truth itself. Rarely in history have we responded so irresponsibly in the face of peril.

Here are several examples. Common sense, as well as the best mathematical models we have available, teach us that Spaceship Earth is running out of petroleum and natural gas, and that the only real question facing this country is whether catastrophically low levels of production will be reached in 25 years, or in 35. Common sense would indicate, and mathematical analyses confirm, that there is a direct relationship between energy production and consumption, on the one hand, and the state of economy and employment levels on the other. Common sense will tell us, and even a superficial analysis will confirm, that although we can and should conserve our energy resources and cut back on waste, that there is a limit beyond which cutting back will seriously impact our national defense, our economy, and even our political and societal stability.

An understanding of growth curves, patterns of energy consumption and demographic distribution of our age groups will lead inevitably to the realization that even with spectacularly successful spartan conservation programs, this nation's energy consumption will approximately double by the end of this century.

Common sense will tell us that this nation can develop balanced policies and programs that will provide us with the energy we will need for national defense, economic stability and full employment while protecting our environment and resources and improving the physical well being of our population.

The response to the problem defined by these facts and observations would be dramatically simple. We must establish energy policies and programs to eliminate waste and conserve wherever possible, and to develop every source of energy as rapidly as is technologically and economically realistic, to provide the energy we will need in the future.

But what is the situation? The stark facts are that our domestic oil and gas production has fallen about 10% during the last three years; our coal production, which we must triple by the end of the century, has increased less than 2% during the last year; programs for exploration and drilling are being delayed; nuclear fission, on which we must depend for about one third of energy by the year 2000, and which is clearly the cleanest, safest, cheapest significant energy option we have available, is being subjected to a concerted attack, with every kind of distortion and lie being used to frighten the American people into rejecting it; and every week, we hear of some new "magic solution" that will, according to some press story, solve the energy crisis, usually in violation of the second law of thermodynamics.

Our academic community should respond clearly to this challenge, insisting that its future is at stake along with the nation's, that our energy policies must be based on the best scientific, engineering and economic facts available, that this nation cannot afford to try to base energy policies on fantasies or prejudices or fears or hopes. Unfortunately, this has not been happening, at least as much as it should be.

In fact, the opposite is sometimes the case. Recently, in several instances, on several college campuses, I have encountered students, and even some faculty, who, it seems to me, have rejected the very fundamentals of intellectual responsibility and freedom, insisting that we abandon democracy and individual rights, sweep aside scientific fact, yield to emotionalism, and attack as "tools of the establishment" anyone who speaks out for a rational, scientific examination of our problems.

This may seem to be a harsh condemnation, but it has happened to me, and it has disturbed me deeply.

Earlier I commented that history would judge us according to the way we respond to a changing world. I submit that those to whom I have just referred have failed miserably; failed their society and themselves. However, it is not enough for us to resolve that we won't let ourselves fall into that trap.

Truth cannot survive where falsehoods go unchallenged. As spokesmen for the academic community, and in behalf of scientific and engineering truth, you have a responsibility to go forth among your fellow citizens, and help them understand.

This is the challenge I give to you today: that passive resistance is not enough. You have been drafted by fate just as certainly as I was drafted to fight a war, and you must go, if our nation is to survive.

Several years ago, President John Hannah of Michigan State University, on delivering a Commencement address at that Institution, said, "Your generation is remarkable, in many respects. We know about your intelligence, for we have observed you; we know of your ability, for we have taught you; we know of your concerns, for we have watched you; we know of your dissatisfactions, for we have listened to you; we know of your strength, for we have tested you. (. . .) We believe you can do great things, and will do great things, because we trust you and love you.

"We accept your dissatisfaction, because it is characteristically American to be dissatisfied with things as they are. . . .

"We applaud your idealism, your insistence that society must be better than it is, because these attitudes are nothing new and strange, but as old as America itself. Indeed, we are heartened by your discontent, for you are only restating in your own terms the persistent idealism that led de Tocqueville to make this observation long ago:

'They (the Americans) have all a lively faith in the perfectability of man, they judge that the diffusion of knowledge must necessarily be advantageous—and the consequences of ignorance fatal; they all consider society as a body in a state of improvement, humanity as a changing scene, in which nothing is, or ought to be, permanent; and they admit that what appears to them today to be good may be superseded by something better tomorrow.' "

"So it is," said President Hannah, "that we who have had the job of watching you grow to maturity, and helping you where we could, ask but this one thing of you in return; now make us proud of you."

I believe you will do just that. I too, have faith in you.

Furthermore, I believe we can overcome the challenges that face us if we seek the tough, unwelcome truths without fear—if we go to the new realities of the future; if we can accept the need for change and turn that inevitability to the advantage of society; if we can maintain and protect the highest standards of intellectual integrity; if we can grasp the nettle, then together we can build a better world.

May I once again congratulate you, and thank you for inviting me to address you.

LET THEM EAT CAKE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FINDLEY. Mr. Speaker, if Marie Antoinette were to return today, she would undoubtedly be heartened by the sight of food stamp recipients taking her advice, "Let them eat cake."

On Friday, I received several telegrams from Mr. Donald Entringer, owner of McKenzies Pastry Shoppes in New Orleans. The telegrams were directed to me because I sit on the House Agriculture Committee which is currently considering food stamp legislation. The wires stated:

> Without Food Stamps our business is in danger of closing. We employ 500 people.

It was not clear to me why food stamp purchases would provide the margin separating the business from success and failure. Perhaps, I thought, he sells mostly bread. At any rate, I decided to find out. A member of my staff called Mr. Entringer to find out why he was so concerned.

Mr. Entringer reported that McKenzies is a chain with 40 outlets in downtown New Orleans. He stated that they sell pastry, cakes, cookies, and doughnuts. They have never, he said, made any bread.

Food stamp recipients purchase a variety of baked goods from McKenzies. Mr. Entringer estimates that his stores take in about $10,000 per week in food stamps. The figure is higher on special occasions. For example, during Mother's Day weekend, they took in more than $10,000 in just 2 days, mostly from cake purchases.

In fact, Mr. Entringer said, on several, numerous occasions, he has baked elaborate wedding cakes for people who paid for them with food stamps.

The food stamp program was intended to be a nutritional program. Certainly there is some nutritional value in baked goods. But I fail to see any reason for taxpayers to subsidize the purchase of wedding cakes for food stamp recipients.

VEDA PONIKVAR, VOLUNTEER PAR EXCELLENCE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OBERSTAR. Mr. Speaker, the prestigious National Center for Voluntary Action has recently recognized Veda Ponikvar, from my hometown of Chisholm, Minn., for her extraordinary volunteer achievement.

The award cites her "distinguished volunteer service—which—has improved the quality of life in the community. This achievement is worthy of national recognition by the National Center for Voluntary Action."

Mr. Speaker, citations are, of necessity, brief. But behind these brief words is a lifetime of imagination, creativity, and drive, which has inspired this small community on Minnesota's fabled Mesabi Iron Range to lift itself up by its bootstraps.

Miss Ponikvar established the now nationally acclaimed Range Center, which has enabled retarded children to reach their full potential.

She was the prime organizer of the Chisholm All-Class Reunion, which helped bring this town together, rediscover its history, and give it a new pride in itself.

And she is the motivation and driving force behind the truly impressive plans for Chisholm's Bicentennial and Diamond Jubilee celebrations throughout this year.

These are but a few of her lasting contributions to her community and her fellow man.

Veda Ponikvar truly personifies the ideals on which America was built—citizens involved in their community, in the process of government, and in the well-being of all humanity.

She is truly a volunteer par excellence, and I am pleased, proud, and delighted that Veda Ponikvar, publisher, editor, civic leader, has received the recognition she so rightly deserves.

WHAT PRICE DEFENSE?

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARKIN. Mr. Speaker, the Adair County Free Press, published in Greenfield, Iowa, recently carried an editorial by Edwin J. Sidey, editor of the newspaper. Mr. Sidey's editorial goes right to the heart of one of the most important issues that has emerged in this year's Presidential contest. He makes several very important, and very valid points. I commend his editorial to the attention of my colleagues in the Congress.

The editorial follows:

WHAT PRICE DEFENSE?

The "debate" over defense spending by President Gerald Ford and contender Ronald Reagan is sounding disappointingly more and more like "me too but more so" than any clash over an important issue. And now come rumors that Democratic frontrunner Jimmy Carter is having second thoughts about suspending B–1 bomber development and cutting the defense budget as he had indicated earlier.

Defense spending is an issue that needs debate, both now and in the fall. But it needs debate in the context of the strength of the entire country, not just in terms of dollars appropriated for the Pentagon. President Ford has asked Congress for the biggest defense budget in history, $112.7 billion. Presumably Reagan, who has charged the administration with letting the Russians get ahead of us, would up that a few more billion.

What will a few billion, more or less, really mean when the experts estimate that each side now has the capability of killing 100 million people on the other side, regardless of who struck first? Will that few more billion actually buy security?

It is ironic that the defense-gap issue seems to make the most political hay with the extremely conservative . . . Wallace Democrats and Republican right wing alike. Yet these are the very people who froth at the mouth over deficit spending and increasing taxation.

If the United States is going to rattle a bigger sabre, someone will have to pay for it, either by tacking on more billions to a federal deficit which at latest estimates is growing by $50 billion a year, or by raising those much-cussed taxes.

In the long view, a nation which staked its future on controlling ruinous inflation by balancing its budget might present a far stronger defense posture than one which spent a few more borrowed billions for a few more bombers and carriers. A nation's strength finally rests on the loyalty and determination of its citizens. That would be enhanced by fiscal policies that gave some assurance that life-time savings would not be wiped out by inflation brought on by misguided spending in Washington.

SACRIFICE FOR INDEPENDENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WOLFF. Mr. Speaker, I noticed an interesting article by Bob Morgan appearing in a copy of the Williston Times—March 18, 1976—a local newspaper in my district. Most people recognize the great contribution the signers of the Declaration made to the United States; however, too few realize how very much these men risked in order to insure our independence.

I would like to share this article with my colleagues for it presents an important lesson to the shapers of our contemporary government:

THINKING IT OVER

(By Robert L. Morgan)

When the extremists who wrote the Declaration of Independence assembled in Philadelphia from over the thirteen colonies, the first thing to greet them was an anonymous note found on the speaker's table. It said: "Take care. A plot is framed for your destruction and all of you shall be destroyed."

When the final vote was taken in Independence Hall on July 4, every man who signed the Declaration of Independence took his life in his hands. If Washington's ragged, outnumbered army could not repulse the British every signer would be tried for treason to the British Crown.

Have you wondered what happened to the fifty-six men who signed the Declaration of Independence pledging their lives, their fortunes, their sacred honor, that this nation under God, would not perish from the earth? Five were captured and tortured by the British. Nine fought and died from wounds and hardships of war. Twelve had their homes pillaged and burned. Two lost their sons in battle. Another had two sons captured. John Hart was driven from his wife's bedside as she lay dying. Their thirteen children fled for their lives. His mill and fields were laid waste. For more than a year he lived in forests and caves, and he returned home to find his wife dead and his children vanished. A few weeks later he died from exhaustion and heartbreak.

Morris and Livingston suffered similar fates. Carter Braxton of Virginia, wealthy planter and trader, saw his ships swept from the seas by the British navy. He sold his home and property to pay his debts and soldiers looted the properties of Ellery, Clymer, Hall, Walton, McKean, Hayward, Rutledge and Middleton. At the battle of Yorktown, Thomas Nelson, Jr. urged General Washington to fire on his (Nelson's) home which British General Cornwallis had taken over for his headquarters. Washington did, and Nelson, too, died broke.

Who were these super patriots? Twenty-four were lawyers and justices, eleven were merchants. Nine were farmers. These men whom we call patriots today were regarded as radicals by the moderates of their time who counseled, "Come and let us reason together with the King." They all signed the Declaration of Independence knowing full well that the penalty would be death if they were captured. They knew they would be tracked down, persecuted and killed, which they were. They could have gone along like some of our "fatcats" are doing today. Gone along with what they thought was "the wave of the future" and stayed on top—for awhile at least.

NAME CALLING OVER MEXICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. McDONALD. Mr. Speaker, for some weeks now Mr. Symms of Idaho and myself have been attempting to call to the attention of this body the danger that is brewing south of our border in Mexico. This effort has brought forth various slings and arrows. Mr. Carl Rowan in a column last Wednesday called me various names and assigned me numerous labels, and even invoked the name of Senator Mansfield, but in a very intellectually shallow column failed to discuss the substance of the matter, in a sad commentary on the shallowness of present day journalism. The column follows:

[From the Atlanta Constitution, May 19, 1976]

Rightwingers Charge Mexico

(By Carl Rowan)

Washington.—Perhaps you feel, as Sen. Barry Goldwater (R.-Ariz.) does, that some dangerously irresponsible things are being said by Ronald Reagan and others about the Panama Canal.

But Reagan is a model of cautious diplomacy compared with the charges being hurled against Mexico by 30 rightwing members of the House of Representatives.

The greater tragedy may be that while few people in this country take seriously the charges that President Luis Echeverria has taken "long strides toward the imposition of a Communist regime" in Mexico, the leaders and press of Mexico are seething.

Leading the assault on Mexico is a freshman congressman from Georgia, Lawrence P. McDonald, who on April 14 told the House that Echeverria had provided "perhaps a thousand foreign Communists with important government positions."

McDonald asserted that "the outgoing President of Mexico has set his sights upon . . . 'the third world leadership.' Part of the deal is apparently to deliver his own people to the misery of Communist collectivization and strife." As for Jose Lopez Portillo, who will be elected Mexico's new president in July, McDonald said: "There is nothing better to be expected from (Echeverria's) hand-picked successor, who promises to follow the long-term program devised for Mexico by foreign Communists, while denouncing those who defend their land as cowardly fascists."

Now, McDonald is a bigshot in the ultra-reactionary John Birch Society. He made headlines recently by acknowledging that as an Atlanta doctor before his election he injected cancer patients with laetrile, a drug banned from the United States by the federal Food and Drug Administration. McDonald is being sued for $3.5 million by relatives of a patient who died of cancer in 1974 after being treated by McDonald with laetrile. McDonald told me that people who use his John Birch Society membership to try to discredit him "just show their ignorance."

Yet, given his background, most Americans might ignore his allegations regarding Mexico. But on May 5 McDonald was joined by 29 other congressmen in a letter to President Ford asserting that Mexico's alleged drift to Communism is "a grave danger" to the United States.

The signers of that letter—like John Ashbrook (R.-Ohio), Joe D. Waggonner, Jr. (D.-La.), Trent Lott (R.-Miss.) and Philip N. Crane (R.-Ill.)—represent the core of the congressional clique at the far right of the U.S. political spectrum.

Sen. Mike Mansfield (D.-Mont.), the retiring Senate majority leader who has been in 16 interparliamentary meetings with Mexico's lawmakers, says it is ridiculous to even suggest that Mexico is going Communist. He says Mexico is "very much against Communism" and that the charges by McDonald and his colleagues "can only harm relations between the U.S. and Mexico at a time when they should be getting better." McDonald counters that "Mansfield's track record on Southeast Asia was disastrous." The Georgian likens himself to those who in the mid-1950s warned that Fidel Castro was leading Cuba to Communism.

Next to McDonald, Rep. Steven D. Symms (R.-Idaho) has been most active in Congress in screaming about "the coming crisis in Mexico" and how "the infiltration of radical Chileans into high government positions, is setting the stage for another Marxian takeover in this hemisphere."

A senior State Department expert on Mexico refused to be quoted by name. But he called the McDonald-Symms charges "ridiculous." He said the State Department isn't remotely worried about Mexico going Communist, but it is plenty worried about the impact in Mexico of these kinds of charges by members of Congress.

About the same time a letter arrived in my office from the Mexican Ambassador protesting the items that had been placed in the Congressional Record. The letter again was a perfect tirade and a strange letter for a diplomat to write. Again, the substance of what had been placed in the Congressional Record was not disputed. In discussing land seizures, the Ambassador attempts to link the present incidents with the Aztec past. However, the Aztecs owned their land in a family or clan group. The ultimate owner of the land was not the central government which controlled the farming operations as with a Socialist country. The letter, which is reprinted below, was more worthy of a Mexico City back alley tabloid and not the thoughtful sort of letter one would expect of a diplomat from a friendly country:

Embajador de Mexico,
Washington, May 6, 1976.

Hon. Larry P. McDonald,
U.S. House of Representatives,
Washington, D.C.

Mr. Congressman: With your letter of April 14, 1976, I received your remarks to the House of Representatives under the title "As it was in Chile, so it is in Mexico", published in the Congressional Record of the same date. Again, on April 29 you took the floor to attack, gratuitously for the second time, my country.

With your remarks you included some documentation regarding, what you consider to be, Mexico's leap toward communism.

You must be aware that under the provisions of the International Security Assistance Bill it is contemplated to suspend aid not to those nations who are pursuing the course and policies most suitable to their own interests, but to curtail asistance to those nations that are violating human rights. In fact, the bill is directed more to the dictatorial militaristic governments that in your estimation are the bulwarks against communism and who have all too often attained notoriety by the treatment applied to their citizens. At the outset let me inform you that Mexico does not receive any direct military aid from the U.S. Government and, therefore, I did not find your remarks either timely or, for that matter, in keeping with the friendly relations that have always existed between the Governments, legislatures and peoples of Mexico and the United States, even though there have been many attempts to poison them with slanderous remarks.

Fortunately, the Government of Mexico does not have to recur to threats of any kind to exercise its constitutional functions. Perhaps you should be aware that the collective tradition of rural property in Mexico dates back to the prehispanic period. This communal property of the indian villages is a trait of which we are both proud and concerned for its preservation. Policy is made by the Mexican Government and is not devised in any other country.

The totalitarian dictatorships are not only governed by non-democratic methods, but they have been severely criticized by your fellow Congressmen and their activities deplored by some Senators. I would like to refer you to the Report isued by Senator Church's Select Committee to Study Governmental Operations with respect to Intelligence Activities.

Constitutional process in Mexico is very much like that of the United States. The Constitution and its amendments are written to benefit all Mexicans. However, we fought a bloody and costly revolution to insure that the deprived masses of rural inhabitants would receive their share of national wealth. Thus the concept of social justice is the prime inspiration and force that moves our legislators to protect and provide for those that have fewer opportunities, those who have been deprived by the rich and the powerful.

We have been accused in the past of being communists. Apparently some misinformed people equate the search for justice with communism. In fact, when President Lázaro Cárdenas expropriated the oil industry in 1938 recovering for Mexico one of its most precious natural resources and thus placing the stepping-stone for modern Mexico, an insidious campaign with many voices not unlike your own, rose in a chorus predicting all sorts of evils for our relations and the threat of communism taking over in Mexico. Of course none of these things happened. On the contrary, our bonds became stronger than ever. We were staunch allies during II World War and our newly acquired national wealth paved the roads for industrialization and progress, thus the United States found a more stable, more peaceful more solid and more friendly southern neighbor.

Dear Congressman McDonald, not only were your remarks untimely unfriendly, ill advised biased, distorted and dangerous but you chose to insult once again the Mexican Government, its President, its political institutions and its people on April 29. I have, therefore, to conclude, much to my regret, that you are actively engaged in trying to create havoc in the midst of a friendly nation that has always preached non-intervention and self-determination of peoples as the two pillars of its foreign policy. It is tantamount to a direct campaign against the Mexican people. I would like to think that your original remarks were the product of your self-righteous attitude which allows you to pass judgment on any and every phenomena that your fancy or your imagination leads you to think is occurring; but your documents, sources and arguments are far too biased and far too one sided to be just the product of mere chance. Therefore, I am led to believe that you are being used by a group of people intending to discredit the social progress that Mexico has proudly achieved in order for them to further their obscure and inconfessable aims.

We will not allow this to happen, the social process begun by our nationalist Revolution in 1910 will not be detained or deviated by provacations or infamy.

Mexico is the architect of its own destiny and its people the sole repository of its sovereignity.

I think that you should reconsider your attitude and present a more objective image of what you know is really happening. Nothing but ill effects and discredit can derive from your present line of conduct. It is not by meddling in the internal affairs of other nations that one serves the oath of office you took when you were installed in the August Chamber.

I do not understand why you want to diminish the excellent relationship that exists between our peoples and our countries.

Sincerely yours,

José Juan de Olloqui.

Needless to say I did not respond in kind and wish at this time to make my response public showing that I was and am receptive to correction of any of my information that was not factual in content. My response is reproduced below:

May 17, 1976.

His Excellency Jose Juan de Olloqui,
The Ambassador of Mexico,
Washington, D.C.

Dear Mr. Ambassador: Thanks for your letter of May 6, which I received and understand.

However, I must take note of the fact that your letter did not attempt to refute any of the things I have placed in the Congressional Record. It is because I love my country and value the friendship of Mexico and its traditions that I do not wish Mexico to go through the terrible experience of Chile. Mexico is a great country and a good friend.

I am not threatening anyone. When I took my oath of office I promised to protect and defend the interests of the United States. Therefore, it is not wrong for me to call attention to a potential threat to the security of the United States.

Please inform me wherein my information is incorrect, since nearly all of it came from news sources within Mexico? Please assure me that none of these radical Chilean refugees occupies an influential place in the Mexican government!

I await your further response.

Respectfully,

Larry P. McDonald.

Finally, last Friday, WMAL managed, in another fit of shallow journalism, to make a whole story out of the fact that some 30 of us had sent a letter to the President concerning Mexico and another organization had reprinted that letter in the form of an ad soliciting funds for its Latin American broadcasts, and that some of the Members who signed the letter had been unaware of it going to be reprinted in the press.

One wonders, with this town teeming with experts, why no one has bothered to dispute my statements on an intellectual basis or has the Nation's Capital and its press simply become an undisciplined horde of name callers unable to write anything else.

More to the point in support of efforts to show the dangerous path Mexico is treading is the announcement that Mexico has refused to attend the Organization of American States meeting in Santiago, Chile, on June 4. The Mexican Foreign Minister stated that Mexico would not attend the meeting because it would legitimize "a military regime * * * that was built on the death of a democracy and the tomb of Salvador Allende." As is now well known Senor Allende committed suicide in despair over being overthrown and the chances for the survival of democracy under Allende were about zero with the Communists closing their grip on the country. How much influence Allende's former lieutenants, now in the Mexican Government, had in making this decision is not known, but the outlook appears to be anything but rosy down Mexico way.

"MANNIX"—"OHANIAN," MIKE CONNORS TO BE HONORED

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DANIELSON. Mr. Speaker, I wish to call the attention of my colleagues to Mike Connors, whose real name is Krikor Ohanian, one of the most genuine people in show business.

Mike Connors will be honored at a gala dinner on Sunday, May 30, 1976 at the Beverly Hilton Hotel in Beverly Hills, Calif., and deservedly so.

We are all proud of him, especially those fortunate enough to be of Armenian ancestry as is Mike whose real name, as I have said, is Krikor Ohanian. Mike has been tireless in assisting a great number of good causes, including Armenian causes, giving generously of his time and his great talents.

Connors has proven his talent with his exceptionally popular "Tightrope" and "Mannix" television series. Recognition from his peers has come in the form of a Golden Globe Award as "Best Actor" and five Emmy nominations. A recently completed pilot entitled "Ohanian" was aired on television not long ago, and may prove to be the basis for a new series with the same title.

Mike Connors does not forget his cultural and proud identity, for his scripts are often laced with dialog in the Armenian language and references to fine Armenian cooking, which thoroughly delight his Armenian viewers and endear him to them even more closely.

To Mike Connors, his wife Mary Lou, his son, Matthew Gunnar and daughter, Dana Lee, a very special greeting and warmest good wishes for the evening of Sunday, May 30, 1976.

NATIONAL HEALTH INSURANCE AND CATASTROPHIC ILLNESS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OTTINGER. Mr. Speaker, a constituent in the 24th Congressional District has recently called my attention to a series of articles that appeared in the New York Daily News on April 1 and 2, 1976.

These articles focus on the tremendous burdens created for American families by the occurrence of a catastrophic illness. A prolonged hospital stay or the need for highly specialized medical treatment during a serious illness can bring financial disaster even to those with good incomes and sizeable savings. Add to this the enormous psychological burdens placed upon the patient and the family in coping with the gravity of the illness itself, and you can understand the anxiety that people in this situation face.

I believe these articles point out most clearly the need for a universal program of National Health Insurance to protect all Americans, regardless of financial circumstances, against the economic consequences of prolonged illness. I take this opportunity to insert this series into the Record as further evidence of the need for prompt congressional action in adopting a plan for National Health Insurance:

Catastrophic Illness: For the Sick and Old, the Financial Burden Is Crushing

(By Ken McKenna)

Benjamin R., 65 and weakened by a severe respiratory illness, entered the Bronx's St. Barnabas Hospital in the spring of 1973, not worrying about medical expenses. He qualified for Medicare and had a fat bank account and other assets worth more than $80,000.

By the time of his discharge last November, he was a virtual pauper. After his Medicare benefits expired, he paid the medical bills himself for a year. When he had emptied his bank account of $78,000 for hospital expenses, he was almost penniless and qualified for Medicaid. Medicaid officials, however, stipulated that he give the hospital $233 a month from his Social Security check, leaving him $7 a week for personal spending during his hospital stay.

Such a lengthy period in the hospital is extraordinary but its financial consequences are not. Thanks to modern medical technology and soaring hospital costs, more Americans every year undergo treatment that at the least severely strains their financial stability and sometimes forces their families deeply into debt.

FINANCIALLY DISASTROUS

At the worst, a prolonged hospital stay can turn an individual into a poverty-line case dependent on government or private charity. In today's medical parlance, a "catastrophic" illness is not only life-threatening but financially disastrous.

In Congress and in state legislatures, a galaxy of bills have been introduced that would provide aid to individuals with so-called catastrophic illness along with other forms of national health insurance. One Congressional bill zeroes in specifically on the problem of huge medical costs with a program that would cost $3.6 billion a year.

In the case of one disease, the federal government, in effect, already is funding a program to aid victims of whopping medical bills. In 1972, Congress extended Medicare coverage to persons with kidney failure, which turned out to be a $300 million annual commitment for 20,000 persons taking dialysis treatments in 700 centers around the country.

The kidney project illustrates the intrinsic problems in helping chronically ill persons: relatively few individuals treated at enormously high costs. No one is sure how many Americans suffer catastrophic illnesses that result in ruinous medical bills. One study put the number at a million a year. Another estimated that 0.8 per cent of the population, or 1.7 million persons, had $5,000 in medical expenses in any year.

MOST THINK THEY'RE COVERED

The expense figure did not impress Sylvia Weissman, an official at Cancer Care Inc., a private group that aids cancer patients. "Most people think they're covered, that they have enough insurance," she said. "The other day I talked to a woman whose husband had terminal cancer. She told me they had $5,000 in insurance. My heart dropped, $5,000 could go in a week."

For most Americans, a prolonged illness in the family imposes an impossible financial burden. Most private insurance plans have limits. Some companies have introduced plans that boost the allowable benefits to $250,000 and beyond, but the price tag is high and the elderly, the most likely victims, mostly are ineligible. Medicare requires an individual to be at the poverty level in order to qualify.

At Montefiore Hospital in the Bronx, Myra Eisen, who works in social services, told of a woman, a retired city employe, who had just learned that her husband must enter a nursing home. The woman's savings and city pension put her above the Medicaid level but were not enough to finance an open-ended stay in a nursing home. "Now she's going to have to reduce herself to a welfare budget for the rest of her life. Here's a middle class lady with a middle class standard of living that will be gone forever," the social services worker said.

The Health Insurance Association of America estimates that 144 million persons are protected under major medical plans but, with astronomical medical bills, individuals have difficulties in handling even a small percentage of the cost of a long hospital seizure.

A Nassau couple's 10-year-old girl was hospitalized for leukemia and built up a $20,000 hospital bill. The couple had major medical which left them with $3,000 to pay themselves. They did not have the money.

Cancer Care's Sylvia Weissman pointed out, "Everybody's overextended these days. Many people just don't have $2,000 or $3,000 to spare. And that's a mountain of money when you don't have it."

Cancer Care officials have found that the middle class families they serve are nearly drained of resources when they appeal for help. "They're in worse shape today than they were a few years ago," said Mary Overton, assistant executive director. "They've exhausted their savings. It's a combination of inflation, the high cost of medical care and lack of adequate insurance."

EMOTIONAL STRAIN

These illnesses have a ripple effect on the entire family of the victim. First, the family finances are drained, often unendingly. Then, the emotional strain of family members is corrosive. With older persons, the pressure can lead to other illnesses such as heart attacks.

"The emotional effect can be worse than the financial thing," Mrs. Overton said. "We had one case where a man whose wife had terminal cancer couldn't hold a job. He couldn't focus his attention on it. He wanted to be home with his wife."

In another case, a garment industry cutter became accident prone while his wife was undergoing treatment for cancer. He almost severed his finger in one mishap before his son realized how distracted his father was and forced him to stop working.

Mrs. Magda Bondy, of the Visiting Nurse Service of New York, described a typical situation when the wife is crippled or chronically ill. "The children have to fill in where possible and the husband has to be there almost always. Everything in the household centers around the wife. There's little left for the rest of the family."

Cancer Care is paying a portion of the medical bills for a mechanic, 39, who was operated on for cancer three years ago. The cancer spread from the lung to other parts of his body and he is now disoriented and almost in a coma. The family has seven children, the oldest 13.

Mrs. Weissman observed, "His wife on a conscious level wants him to live but on an unconscious level, she wants him to go. So she can start her life again."

Many children of elderly, sick parents face a wrenching struggle with their consciences over the extent to which they are willing to sacrifice both their time and their financial resources. In some cases, a family already is burdened with expenses they are barely handling.

An unmarried, highly successful millinery designer made the extreme decision of giving up her job to care for her mother, who was in her 80s, partially blind and had a heart condition.

The daughter, 44, felt a strong obligation. She had promised her father on his death bed that she would take care of her mother. In three years, her $50,000 in savings were spent and she sought out the Visiting Nurse Service of New York for a home care worker so she could return to work.

In a twist that demonstrates the legalities that bedevil financial benefits for the chronically ill, the mother was rejected for Medicaid. Over the years, the daughter had maintained a joint bank account with her mother, even though she herself was the main contributor. Medicaid regarded the money as her mother's property and would not qualify her for benefits until the savings were almost depleted.

REALISTIC REACTION

A young man whose mother-in-law was undergoing a series of operations was more realistic in his reaction. "You get to thinking about the money. You try not to. You want to do everything you can for her. But despite yourself, you can't help thinking about how much all this is going to cost."

The municipal hospital system accepts indigent patients and then tries to get reimbursed for their outlays through welfare or some federal program that might cover the patient. A Bellevue Hospital spokesman explained, "They get the same services as everyone else, the same care or lack of care. A nurse would have no knowledge about a patient's financial resources. She may consider some nice patients, some she may consider bastards. But who does and doesn't pay his bills doesn't really affect her."

Medicaid's Tangle of Redtape Often Makes Sick People Sicker

(By Ken McKenna)

Despite the crippling costs of medicine today, persons hobbled with chronic illnesses do not suffer from lack of agencies that exist to assist them.

Over the years, layer upon layer of governmental and private organizations have been created to assist individuals under stress to pay medical bills, to make doctors available, even to arrange for care at home for disabled persons.

But the complex social service apparatus does not always deliver the maximum results for its clients. Community Service Society, one of the oldest private agencies in the field, a few weeks ago received a phone call from a woman distressed about Medicaid. She was worn out by the monthly routines necessary to get approval for medical expenditures.

"It made me so ill, I nearly died. My blood pressure went up to 200. When I threw the Medicaid card in their face and left, I felt better." An agency official asked where she was getting her medication now. She wasn't. "I'd rather die than go back there and sit all day and be treated with such lack of dignity," she said.

DEMANDS ONEROUS

Social workers repeatedly complain that Medicaid, which was set up to service indigent persons, is difficult to deal with. Some find its employes hostile and inflexible. They adhere to rules with an infuriating exactness, one said, and the documentation required is onerous, often impossible to assemble. "When Medicaid started, you had to fill out a two-page application. Now, it's 10 pages," a social worker remarked. "You have to run an obstacle course to get service."

If social workers have trouble dealing with Medicaid, the recipients of its aid—almost always disabled by illness or age—have infinitely more serious difficulties. And when an individual with a serious, prolonged illness finds that his insurance coverage has run out, when his private funds are gone, his only recourse for medical assistance is Medicaid.

To qualify for Medicaid, a single person's income cannot exceed $225 a month, which is less than most pension payouts and means the individual is living on the edge of poverty. Assets must be under $1,850. For individuals with a higher income, the government works out an arrangement whereby part of the income is surrendered in exchange for Medicaid benefits.

The arrangement can be arduous. Community Service counseled a 75-year-old woman who was hospitalized for a broken hip, then forced to undergo a mastectomy. She needed homemaker service when she left the hospital and applied to Medicaid. She was paying $180 out of her $260 Social Security for rent and utilities, yet Medicaid ruled that she had to contribute $12 a month out of the remaining $80 for the homemaker.

In addition, Medicaid patients under this type of arrangement must visit a district office each month for authorization of all medical bills. The trip usually involves waiting hours for service.

Mrs. Gertrude Elowitz, who directs the older persons service for Community Service complained: "Our people are sick and handicapped. You got to be 18 and healthy to do that. They'll tell the patients to get their children to come to the office. Well, your children come to visit you once a month on Sunday and you don't want to spoil the relationship by asking them to take a day off from work and go to Medicaid for you."

The stiff financial provisions necessarily exclude many needy persons. The Visiting Nurse Service of New York is assisting a 54-year-old woman immobilized by a disease of the nervous system. "She can't move a pinky. She's helpless," said Visiting Nurse official Magda Bondy.

Her husband earns $900 a month as a factory foreman and is snowed under by medical bills. The couple own a house in Queens which, though it is fully mortgaged, complicates the possibility of receiving Medicaid. Their daughter, 16, is having difficulty coping with the emotional situation in a house centered on her crippled mother. The husband, frustrated by mounting bills and problems in finding some one to care for his wife, has vowed to quit his job and go on welfare.

Medicaid has become notorious for its slowness in processing paperwork. For persons who have to impoverish themselves to qualify for the program, the delay can result in a torturous situation. Mrs. Elowitz explained, "The first month the Medicaid patient has to spend the money on medical bills to prove how much they cost. Some patients can't get any other assistance so they don't eat very well that month. Maybe Mt. Sinai Hospital can wait three months but some one who spent the money the previous month out of a $250 Social Security check can't."

Medicaid's glacier-like operation can have unhealthy effects on patients with dire illnesses who are not in a particularly rational state of mind. In fact, many patients refuse to accept that they are seriously ill and hence do not apply for Medicaid or other disability benefits.

HALTED THERAPY

At Cancer Care, Inc., a man with Hodgkin's Disease was resisting therapy which, in his case, would have made the difference between possible cure or remission. He finally applied for Medicaid and when the card did not arrive promptly, he used that as an excuse for discontinuing therapy.

Medicaid's slow billing pace has led many private doctors to reject patients under the program. (The low Medicaid reimbursement rate also is a factor.) Since there are few individual physicians who accept them, the patients are forced to go to hospital clinics, which are often inconveniently located and, again, involve hours of waiting.

The Visiting Nurse Service's Mrs. Magda Bondy told of a 65-year-old diabetic whose leg was amputated during a two-year illness. He visits the clinic once a week but should go more often. Doctors are trying to save his other leg. Confined to a wheelchair and struggling to live on $280 a month Social Security, he breaks many appointments because he cannot afford a taxi fare.

Many professionals in the health field contend that most proposed and current government programs place too much emphasis on protection against medical emergencies and not enough on long term care for the chronically ill. Robert O'Donnell, executive director of the New York State-wide Senior Action Council, makes this point repeatedly.

"We feel that there must be some form of national health insurance that would take care of chronic illness. Most of our medical institutions and medical insurance policies are built on acute care, not chronic care. Young doctors want to become specialists but no one wants to be a specialist in chronic care. It's time consuming and what rewards are they going to get? The patient never gets better."

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on May 25, 1776, upon the recommendation of the committee meeting with Generals Washington, Gates, and Mifflin regarding the protection of the northern border of the country, the Continental Congress resolved:

> That it is of the highest importance that post be taken at Dehambeau and that the same be fortified; that works be likewise erected on the islands in the river St. Lawrence at the mouth of the river Sorrel, as well to keep open the communication between Dechambeau and St. Johns as to prevent the enemy's passing to the upper country, should the forces of the United Colonies be compelled to retreat from Dechambeau.

The resolution also stressed the importance of engaging the Indians in the defense of the Colonies.

The congressional resolution reflected the rapidly deteriorating position of the American forces in Canada.

OSHA STRIKES AGAIN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ASHBROOK. Mr. Speaker, the Occupational Safety and Health Administration—OSHA—has been in operation now for approximately 5 years. This agency has been a continuing source of problems for businessmen and farmers in Ohio and throughout the Nation.

Many of us have come to expect the preposterous from OSHA. Nevertheless I cannot help but comment on one of its more notable acts of stupidity.

The latest misadventure is into a cut nail factory founded in 1819 in Massachusetts. After 128 years of successful operation, OSHA has decided that the plant is unsafe.

OSHA's "solution" to the problem would seriously interfere with the basic operations of the plant as well as destroy the historic atmosphere of the place. According to OSHA, the old stamping machines would have to be boxed in although this would make it hard to repair the machines and might even make it impossible to run them. Acoustical tile would have to be placed on the ceiling, covering the old hand-hewn roof timbers. The belts and pulleys that drive the machinery are called a safety hazard—even though the president of the firm cannot ever recall one breaking and says no one would be hurt even if a belt did break.

This is pure foolishness. But, to come to think of it, so is so much of what OSHA does.

Following is the text of an editorial on this subject which appeared in the May 19 Washington Star:

> LET'S GET THIS NAILED DOWN
>
> It's a little hard to get excited over nails but there's a controversy in Wareham, Mass. over a "cut" nail factory that seems worthy of attention.
>
> "Cut" nails are those old-fashioned, four-sided, very hard nails that not only arouse nostalgia but hold better than the new-fangled, softer, round "wire" nails that have come into vogue because they're easier, faster and cheaper to make.,
>
> The market for cut nails hasn't vanished entirely, though. They're used, for example, in nailing to concrete and cinder blocks.
>
> But, according to a recent article in *The Wall Street Journal*, only three cut nail plants still exist and one of them is in danger of being done in by government regulation. The latter is the Tremont Nail Co. of Wareham, which opened for business in 1819 and still cuts nails from high-carbon steel in much the same way it did 128 years ago.
>
> Enter the Occupational Safety and Health Administration. This federal agency, which was set up a few years ago to administer tough new laws governing the health and safety of industrial workers, doesn't like what it sees at Tremont.
>
> The old overhead pulleys and belts that make the machinery go are safety hazards, says OSHA. Tremont President James S. Kenyon Jr. says he can't remember one of the big overhead canvas belts breaking and anyway, he adds, the machinery runs so slow that probably no one would get hurt if a belt did break.
>
> Acoustical tile should be installed on the ceiling, says OSHA. Never mind that it would cover up the massive, hand-hewn roof timbers that are held together with wooden pegs.
>
> The old stamping machines—for which, incidentally, parts are getting harder and harder to come by, since the machines haven't been manufactured for 75 years—should be boxed in to cut down on noise, says OSHA. Mr. Kenyon protests that operators wouldn't be able to spot potential breakdowns and it would be hard to get at the machines for repairs. It might even make it impossible to continue running the machines, he says.
>
> Besides, says Mr. Kenyon, all this face-lifting would ruin the place: "This is a landmark, and we'd like to preserve it pretty much in its natural state. There's a museum aspect to what we do." He's hoping to get the plant designated as a national historic site.
>
> Surely OSHA can find a way for Tremont to continue making cut nails without destroying the historic atmosphere of the plant. We need to be reminded of the past; and we need those cut nails. Ever try driving one of those wire nails into a concrete block?

TWO NORTHERN MICHIGAN RESIDENTS AWARDED CERTIFICATE OF HONOR

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. RUPPE. Mr. Speaker, the Department of the Interior has recently brought to my attention the courageous action of two northern Michigan residents who have distinguished themselves through their heroism and quick thinking when confronted with the emergency rescue of a fellow worker. Norman Gill and Edward van Ackeren have been awarded a certificate of honor for their actions, and I would like to bring the details of their lifesaving to the attention of my colleagues by quoting from the Interior Department account:

> Norman B. Gill, 55, of Amasa, Mich., and Edward van Ackeren, 49, of Stambaugh, Mich., electricians at an iron-ore processing mill of the Hanna Mining Co. Both were involved in rescuing fellow-electrician Alfred Spigarelli, who touched a 440-volt wire during installation of temporary wires to an electric motor. Spigarelli was in a kneeling position when he touched the live wire. Unable to break loose, he yelled for help. Van Ackeren, trying to pull the victim loose, was himself shocked and had to let go. Gill then took hold of Spigarelli's loose shirt and pulled the victim free. Spigarelli suffered severe physical shock and third-degree burns on his hand and arm.

PEPPER POLL SHOWS HOUSE MAJORITY FAVORS BROADCASTING DEBATES

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, a poll taken by my distinguished colleague on the Ad Hoc Subcommittee on Broadcasting (Mr. Pepper) reveals that nearly 70 percent of the 346 respondents favor radio and television broadcast coverage of the floor proceedings of the House of Representatives. That is roughly comparable to the 68 percent public support for floor broadcasting revealed in a Roper poll published last summer.

Mr. Speaker, I wish to commend the gentleman from Florida for taking this confidential poll in an attempt to measure just how interested House Members really are in giving the electronic media the same access to the House Chamber which the print media now enjoy. I think the Pepper poll results give lie to the myth that a majority of the House Members publicly support yet privately oppose broadcasting. The gentleman from Florida holds the historic distinction of being the first Member of Congress to ever propose broadcasting congressional proceedings, having introduced such a joint resolution when he was a U.S. Senator back in 1944. I think the gentleman's broadcast poll of House Members unmistakably demonstrates that this is an idea whose time has come, having had a gestation period of over 30 years.

Mr. Speaker, as Members may be aware, the Ad Hoc Subcommittee on Broadcasting of the House Committee on Rules brought its House broadcast resolution (H. Res. 875) before the full committee on March 24, 1976, only to have it recommitted to subcommittee by a 9 to 6 vote. At that time, the distinguished chairman of our subcommittee, the gentleman from California (Mr. Sisk) vowed that the broadcast resolution was not dead and that he fully intended to report a measure back to the full committee around the first of June after giving further thought and consideration to the matter. I am pleased to report that our subcommittee is moving forward on that effort. The outstanding question that confronts us is not whether there should be floor broadcasting, but rather, how to do it. The subcommittee had concluded that the most effective and least costly method would be for a network pool to provide coverage and make it available to any interested broadcast stations. At the suggestion of certain Rules Committee members, we are now reexamining various other options for coverage including an in-House broadcast system and coverage by the Public Broadcast Service.

In this regard, Mr. Speaker, the gentleman from Florida asked House Members which system they would prefer. Of those expressing support for one or more of the options, 43 percent favored the network pool, 35 percent supported the Public Broadcast Service, and only 22 percent favored the in-House broadcast system. Since Members were not precluded from expressing support for more than one option, it might be more useful to examine the percentage of support and opposition to each of the options: network pool—90 percent support and 10 percent opposition; Public Broadcast Service—77 percent support and 23 percent opposition; in-House system—50 percent support and 50 percent opposition. The actual number of Members expressing support for each of the options were: network pool—141; Public Broadcast Service—112; and in-House system—70.

Mr. Speaker, any way you read the above figures, I think it is evident that the network pool proposal comes out on top and ahead of the other options.

Moreover, I think it should be noted at this point, in all fairness, that the public broadcast service option is not really a live option. Our broadcast subcommittee has asked the Public Broadcasting Service whether it would be willing to exclusively provide the coverage of our floor proceedings. In a letter to Chairman Sisk, dated May 24, 1976, PBS President Lawrence K. Grossman and WETA President Ward B. Chamberlin, responded in part:

> In the best interests of both the House and of public television, we very strong urge that you and your colleagues carefully assess the superiority of coverage by a four-network pool and must with all respect decline such an undertaking by ourselves alone.
>
> On grounds of professional quality and technical competence, cost to the House, and public acceptance of floor coverage as a wholly objective reflection of the House at work—on all these grounds, and speaking as broadcasters eager to make extensive use of the product, we recommend the four-network pool as far the best of all possible vehicles.

Mr. Speaker, unless the Congress should decide to overrule PBS and mandate by law that it provide this coverage—something which I think would be blatantly violative of freedom of the press and would convert the perception of PBS from public television to Government television—we are realistically left to decide on one of two options: either the network pool arrangement or an in-House broadcast system. After reexamining these alternatives, I think the network pool is still far preferable because it is the more capable and less costly of the two approaches, and because it insures for broadcasters the same freedom which their print colleagues now enjoy and employ in covering our floor proceedings. In short, I do not think the House should control the cameras any more than we now control the pens of the newspeople now sitting in our press gallery. Such control would only increase rather than reduce public cynicism and mistrust in the Congress.

In addition to House support for the network pool over the other options, the Pepper poll contains a further indication that Members do not think the House should exercise control over broadcast coverage. In response to a question as to whether all our proceedings should be covered or whether the leadership should decide what should be covered, an overwhelming 82 percent favored coverage of all proceedings, as opposed to 18 percent who thought the leadership should decide.

Mr. Speaker, on the basis of this poll and public support for House broadcasting, it is my hope that the broadcast subcommittee and the full Rules Committee can and will report a resolution to the House which will provide the broadcast media with full and free access to our floor deliberations. I know of no better time to take such action than on the 200th anniversary of our noble democratic experiment.

At this point in the Record, Mr. Speaker, I include the results of the Pepper poll:

RESULTS OF THE PEPPER POLL

1. Does your Member support radio and television coverage of the House?

Of 346 responding:
Yes, 238 (68.7 percent).
No, 87 (25.2 percent).
Undecided, 21 (6.1 percent).

2. Would your Member support an arrangement whereby a pool of the commercial networks and public broadcasting provides the personnel and equipment for the coverage?

Of 238 responding:
Yes, 141 (59.2 percent).
No, 15 (6.3 percent).
Undecided, 51 (21.4 percent).
No response, 31 (13.1 percent).

3. Would your Member support it if public broadcasting alone provides the coverage and makes it available to other broadcasters?

Of 238 responding:
Yes, 112 (47.0 percent).
No, 34 (14.3 percent).
Undecided, 60 (25.2 percent).
No response, 32 (13.5 percent).

4. Would the Member support an arrangement whereby the House would provide its own equipment and personnel and make the coverage available to broadcasters?

Of 238 responding:
Yes, 70 (29.5 percent).
No, 69 (29.0 percent).
Undecided, 67 (28.1 percent).
No response, 32 (13.4 percent).

5. Should all of the proceedings of the House be open to be covered or should the House leadership decide what should be covered?

Of 238 responding:
All should be covered, 127 (53.4 percent).
House leadership should decide, 28 (11.8 percent).
Undecided, 41 (17.2 percent).
No response, 42 (17.6 percent).

PERSONAL EXPLANATION

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. du PONT. Mr. Speaker, yesterday I was absent on business in Delaware, and missed four recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 297—"aye."
Rollcall No. 298—"aye."
Rollcall No. 299—"aye."
Rollcall No. 300—"aye."

NATIONAL TAVERN MONTH IN THE BICENTENNIAL YEAR

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. **FARY**. Mr. Speaker, before the current month comes to an end it should be noted that May is National Tavern Month, sponsored by the National Licensed Beverage Association, a trade association which does much useful and necessary work in behalf of its members.

In this Bicentennial Year, according to the association's press release—

> May 1976—National *Tavern Month*—will honor the taverns and the tavernkeepers of the Revolutionary War years, stressing the importance of the tavern industry in the social, economic, and political development of our country. Two hundred years ago this country was led by scattered handfuls of citizen-soldiers who met in the local taverns and sought for the supremacy of liberty, equality, and justice in their new land.

Since our side managed to win, we must assume that these leaders were able to tear themselves away from the joys of the tavern long enough to fight the Revolution to a successful conclusion.

I include here some of the data made available by the National Licensed Beverage Association on "Taverns in the War for Independence":

Taverns in the War for Independence

With the American Bicentennial Celebration fully upon us, many Americans are looking into their histories to determine what roles their ancestors and townspeople might have played in the Revolutionary War.

Tavernkeepers can be justifiably proud of the part their predecessors had in the economic, social and cultural development of early America. Particularly during the War for Independence, America's taverns served as meeting halls, barracks and even medical centers for the colonists fighting for our freedom.

Buckman's Door

From a second story window of Buckman's Tavern in Lexington, Massachusetts, Paul Revere watched the approach of the British troops. He and the notorious "Minutemen" had, only moments before, been meeting in the taproom downstairs. Now a skirmish with the redcoats was inevitable.

When the blue-gray powder haze had cleared, the Minutemen had vanished and wounded British soldiers were brought into Buckman's Tavern. Although the first, it was not to be the last time that Buckman's Tavern was to serve as a first-aid station for the wounded.

The Buckman Tavern, restored to its original appearance, stands today in Lexington. Among the authentic furnishings is the tavern door with a bullet hole, clear through, as testimony to the British attack at Buckman Tavern.

The Menotomy Massacre

Many colonial towns suffered the loss of citizens during the Revolutionary War, but none more so than Menotomy (now Arlington), Massachusetts.

Near Cooper's Tavern the fighting was fierce, causing the deaths of forty British and twenty-five American soldiers. A stone marker tells of an 80-year-old patriot who single-handedly fought and killed three Redcoats. Although bayoneted during the action, patriot Whittemore recovered and lived to age 98, long enough to see his dream of an independent American nation realized.

Inside Cooper's Tavern two townspeople attempting to escape the British troops were found hiding and killed on the spot. The proprietor and his family had taken refuge in the Tavern cellar, however, and escaped execution by British troops.

Elmendorf Tavern

In 1777, the war with the British was very much a fact of life. In Esopus, New York (now Kingston) the state Senate House was destroyed by British troops. The State Committee of Safety was forced to hold their meetings several blocks away at the Elmendorf Tavern. Because taverns were quite frequently the only buildings in town with rooms large enough to accommodate meetings, the inns of the Revolutionary War served as meeting halls, headquarters, and even barracks for the "Revolutionaries."

The Orangetown Resolutions

It was July 4, 1774, and the townspeople of Tappan, New York, had gathered for a most momentous occasion in the Publick Room of Mablie's Tavern. Out of the rhetoric and reasoning came the so-called "Orangetown Resolutions" terminating the import and export commerce with Great Britain and the British West Indies.

Later, the same tavern was to serve as quarters for Major Andre (who had acted under the orders of Benedict Arnold) during his trial. The execution of Andre took place on the hill behind, and within the sight of Mablie's Tavern.

This historic tavern still operates today, although it is now known as the " '76 House," and visitors can lose themselves in reveries on its historic role in the War for Independence.

Target: Keeler's Tavern

Since the earliest of colonial times, Keeler's Tavern in Ridgefield, Connecticut, has served as a center of the community and a waystation for weary travelers on the New York to Boston coach trip.

During the Revolutionary War, it was used to house the French officers of Rochambeau's army, thus becoming a prime target for British cannon. Keeler's Tavern came under fire during the Battle of Ridgefield and local legend has it that at least one cannonball became lodged in the tavern's walls during the fierce barrage.

Upon their departure from Ridgefield, the Redcoats set the tavern ablaze to prevent it from being used again as a shelter for the Continental troops. Fortunately, a Tory who owned the house next door was allowed to extinguish the fire before it damaged his home and enough remained of Keeler's Tavern to allow its restoration.

George Washington's Favorite Tavern-keeper

The Fraunces' Tavern in New York City was a favorite of George Washington's before and during the Revolutionary War. It was here, on December 4, 1783, that General Washington embraced each of his officers in an emotional farewell to his troops.

When General Washington met with Sir Guy Carleton in Tappan, New York, to arrange for the British evacuation of New York City, he called on Sam Fraunces to cater the dinner at the now-famous De Wint House. Again, when he moved to the newly-created nation's capital in the District of Columbia, Washington couldn't bear to leave Sam Fraunces behind. He was hired as the first personal aide to the new President.

Fraunces' Tavern now houses a Revolutionary War Museum and is a favorite of visitors to New York. The original tavern sign from the colonial period is still there—a symbol of the hospitality of America's Taverns for over 200 years.

DEFEAT AT DRIVER

While the British troops led by General Matthews advanced southward toward the Continentals' supply depot at Suffolk, Virginia, the local militia gathered at Hargrove's Tavern to organize their forces. Hargrove's, also known as "The Halfway House," had long served as the local commandpost for the Virginia forces.

The locals fought bravely under the direction of militia Captains King and Davis, but they were too few and the Redcoats marched on by them after a brief but bloody battle. The British reached Suffolk and destroyed the patriot supplies.

Hargrove's no longer stands just east of Driver, Virginia. But it is remembered in local history along with Captains King and Davis and their men who fell during the British raid.

AN "ORDINARY" TURNING POINT

Lightfoot, in York County, Virginia, was but a tiny village in 1781. But it was here at Spencer's Ordinary (a common name for colonial taverns) in June 26 that patriot troops under the command of Colonel Richard Butler turned back a much larger force of British and Hessian troops.

Colonel Simcoe and his mixed band of British and Hessian troops were returning to Cornwallis's encampment in Williamsburg after raiding a colonial supply post on the Chickahominy River. When Lafayette heard of the raid he immediately sent Butler and his men on a forced march through the night to catch up with British.

It was at Spencer's Ordinary that the troops came upon each other. Although it is said that the British had the upper hand during the ensuing fight, Simcoe feared that the patriots would be reinforced by troops rumored to be nearby. The British withdrew to Williamsburg.

Colonel Simcoe then took the initiative against the patriots, his force now bolstered by fresh troops from Cornwallis' main army. The patriots, in turn, withdrew, leaving Simcoe with Spencer's Ordinary and a shallow victory.

BATTLE OF WARREN TAVERN CANCELLED DUE TO RAIN

Following the Battle of Brandywine, British and Patriot troops squared off again at Warren Tavern, near the present town of White Horse, Pennsylvania. Never a shot was fired, though, due to the torrential rains. General Howe, commanding the British, backed off and managed to out-maneuver General Washington and the Colonial forces.

General Howe was moving his troops from Wilmington, Delaware, with the objective of capturing Philadelphia. Washington positioned his troops to form a buffer zone around Germantown, Pennsylvania. Howe made a feint toward a supply depot at Reading, forcing the Colonial troops to move to protect it. This done, Howe changed direction and crossed the Schuylkill River capturing Philadelphia and occupying the city until July 1778.

As outstanding citizens of their community, tavern owners not only provide for the recreation and enjoyment of their patrons, but also contribute through sponsorship of, or participation in, many civic, charitable and social activities of their community.

At this time it is fitting to honor the little corner tavern keeper and his fine wife who with their boundless hospitality have solaced so many, and to give him the well-merited praise and recognition he so richly deserves.

As an expression of our sentiment and thankfulness for all the good will he has fostered among so many people, the Nation offers to all tavern owners with a symbolic lift of our glasses, the "Toast of the Nations" that have sent their sons and daughters to settle this great land of ours:

The Polish will say: "Na Zdrowie";

The German will say: "Gesundheit or Prosit";

The Lithuanian will say: "On Svekatus";

The Bohemian will say: Nazdar";

The Scotsman will say: "Hoot Mon";

The Swede will say: "Skol";

The Norwegian will say: "Skal";

The Italian will say: "Buona-Fortuna A Salute";

The Jew will say: "Lachaim";

The Greek will say: "See-E-Yah";

The Frenchman will say: "Bonne Sante";

The Spaniard will say: "A La Tienna";

And the U.S. American who will drink it all say:

"Cheers";

"Here's Mud in Your Eye";

"Bottoms Up";

"Down the Hatch";

"Here Goes";

"To Your Health".

We salute the tavern owners.

CINCINNATI PROUD OF BICENTENNIAL SYMBOL DESIGNER

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. GRADISON. Mr. Speaker, throughout the Bicentennial year, the red, white, and blue Bicentennial emblem has been increasingly evident throughout the Nation. Bruce Blackburn, the designer of the emblem, graduated from the College of Design, Architecture, and Art at the University of Cincinnati in my district.

In 1971, Mr. Blackburn was an associate with Chermayeff and Geisman Associates, which was one of the design firms which was invited by the American Revolution Bicentennial Committee to submit proposals for the official Bicentennial logo. A panel of recognized design experts from government and industry selected Mr. Blackburn's design.

In creating the logo, Mr. Blackburn decided that the five-point star was the only traditional American design which could be translated into contemporary terms. In the designer's words, however:

> The raw, five-pointed star has a sharp, hard, aggressive, kind of shape, with almost militaristic overtones. So the symbol that I ultimately designed, based on the star, was a "soft" star, wrapped with red, white and blue "bunting" to make it less aggressive and more unique.

After designing the logo, Blackburn acted as a consultant to ARBC. Since then, he has started his own design firm called Danne & Blackburn, Inc. In addition to having major corporations as clients, he has designed the new logo for NASA.

I congratulate Mr. Blackburn for his accomplishments and am proud of the University of Cincinnati's College of Design, Architecture, and Art for producing such a fine designer.

IN MEMORY OF MALCOLM X

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. RANGEL. Mr. Speaker, on May 19 I submitted for the RECORD a commemoration to Malcolm X in honor of his birthday. Today I would like to submit a supplement to my commemoration entitled "Down Memory Lane," printed in the New York Amsterdam News and authored by attorney and journalist Wally Ford. The article admonishes the black community for allowing the press to shatter their image of a black man who should be deemed as "our black shining prince." It is noted that few blacks feel confident in demanding official recognition of Malcolm as we have done for other black leaders because of the image with which the press has labeled Malcolm. However, it is emphasized that Malcolm did speak for the rights of the black race when it was unpopular to do so. What emerges is the fact that Malcolm X set a precedent upon which other black leaders could protect the rights of our people without fearing the accusations of "revolutionary" or "radical" which made less legitimate Malcolm's own campaign to encourage equality for all races.

Herewith, I submit "Down Memory Lane":

DOWN MEMORY LANE

(By Wally Ford)

Right now, somewhere in Ardsley, New York, breezes cooled from their travels over the mountains of upstate New York are making their way over the cement ribbons of highways, freeways, expressways and thruways, past the shrubs, hedges and manicured lawn carpets of suburbia.

Somewhere in Ardsley, New York, there is a place far from the hustling jive of 125th Street on a Saturday afternoon, a place far from children's playground laughter and the thunder of love's embrace.

Somewhere in Ardsley, New York, there is a gravesite with no eternal flame or awe-inspiring monument or long lines of reverent pilgrims or roadstands selling memorial postcards and souvenirs.

Somewhere out in Ardsley, New York lies the body of Malcolm X, also known as El Hajj Malik Shabazz, also known as Malcolm Little, also known as Big Red. Those of you know who knew him or knew of him, take your pick.

It was not too long ago, it was February of 1965, that the New York Times printed an editorial in commenting upon Malcolm killing that this tragedy was proof that "those who live by the sword die by the sword". But we knew that it was not true then, and maybe we can take a moment to remember, more than a decade later, that it is still not true.

What is the point?

MALCOLM'S BIRTHDAY

May 19 was Malcolm's birthday, and although a few people did remember, a few people did make a memorial pilgrimage to Ardsley, and maybe a few people stopped for a moment to think about him, by and large, we have not remembered.

We have not remembered the man that Ossie Davis rightly called "our own Black shining Prince". We have not remembered the Black man who showed the way for many of us. It may or may not be important that an individual is remembered by national holidays or schools named after him/her.

But what is it that so few of our own institutions are used to remind the young people of our communities that there was a Black man who did stand up before others and proclaimed our right to dignity and freedom?

Why is it that very few of our Black spokesman have had the temerity to demand a day of remembrance for Malcolm X as they have for others?

Is it because they believe that false New York Times editorials? Is is because we no longer believe that he was our "Black shining prince"? What is the problem? What is the mystery?

HARD TO BELIEVE

Whether or not there is a memorial day or school or bridge or swimming pool named after Malcolm is not the point, though? I find it hard to believe that this would be of paramount importance to him although we never met. What is important is that we try to remember the ideals for which he stood. Be you Muslim, Moslem, Christian or agnostic, you have to respect the man for having stood up when it was not popular to do so.

We must respect the man for having had the heart to say what needed to be said, what is so obvious now, but what was so hard to say then. And what about the things that need to be said now? What about the things that need to be done now?

Wouldn't that be the best way to remember the man once known as Big Red on the corner of what is now Powell Boulevard and 125th Street?

The truth still needs to be told. We still have poor housing, the hospitals in our communities are being closed, we have teachers who will not teach our children, hunger is still our too constant companion. To remember our Black shining prince, there is no need for you to ask others to set aside a day, there is no need to travel to Ardsley, New York.

What we can do is to tell the truth, what we can do is to come together for a better day for all of the children who have yet to smile.

"Somewhere in Ardsley, New York, breezes cooled. . . .

TRIBUTE TO THE LATE HON. TORBERT H. MACDONALD

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. MINK. Mr. Speaker, it was with great sadness that I learned of the death of our colleague, the late Hon. Torbert H. Macdonald, on May 21. I join the Members of this House in extending our sympathies to his wife, Phyllis, and to his sons and daughters and other members of his family.

Congressman Macdonald's expertise in the field of communications will be sorely missed by the House. As chairman of the Subcommittee on Communications, with jurisdiction over Federal policies regulating radio and television, Torbie had a great deal of influence on the lives of many millions of Americans. His concern for the powerful effects of our broadest media on viewers and listeners was reflected in conscientious attention to the program material to which the people of this country were exposed. We must remember, too, our colleague's support for public broadcasting, and the new influence which that alternate programing has had on the lives and education of the people in this country.

It was with great sorrow that I learned of the Congressman's illness and hospitalization recently, and it is with still greater sorrow that we must pay tribute to his memory now at the time of his death. We will miss this dedicated Representative from Massachusetts.

CBS NEWS GETS AWARD FOR COVERING WORLD AIRWAYS' LAST FLIGHT FROM DANANG

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. LEGGETT. Mr. Speaker, I wish to extend my congratulations to both CBS News and World Airways of Oakland, Calif., for an award recently made to CBS for coverage of an especially noteworthy World flight. The Overseas Press Club of America awarded CBS its 1975 Prize for Best TV Spot News Reporting From Abroad for CBS' coverage of World's famous "Last Flight From Danang." The award honored not only World Airways and its president, Ed Daly, but also CBS reporter Bruce Dunning and the camera and sound men of CBS. The plaque bearing the citation is now displayed in CBS' Tokyo office.

CBS' unforgettable film of that fight registered indelibly in our minds the trauma and confusion which marked the final agony of South Vietnam in general and Danang in particular. They showed us Ed Daly and his crew battling mutinous South Vietnamese troops who were trying to push aside civilian refugees to get abroad the last plane out, and other troops clinging to the aircraft's undercarriage and wheelwells as that last flight from Danang took off. And only a few days later we read of World Airways' pilot Ken Healy taking off from Saigon, against the orders of the Tan Son Nhut air controller, with the first 58 orphaned Vietnamese children destined for the United States.

Both Ed Daly and his crews threw themselves and their aircraft into the chaos of South Vietnam's final collapse with characteristic abandon. And CBS covered these efforts with unforgettable panache. I salute them both, and I regard both as equally deserving of this award.

At this point I would like to include in the RECORD the telegram which Ed Daly sent CBS News president Richard Salant on learning of the award:

OAKLAND, CALIF.,
April 27, 1976.

RICHARD SALANT,
President, CBS–News,
New York, N.Y.

I received this morning the following message from Bruce Dunning in Tokyo:

"Overseas Press Club of America has been kind enough to award CBS News its 1975 prize for foreign television reporting for the flight of World Airways 691 from Danang. I know Mike Marriott and Mai Van Duc would join me in saying the award includes all the great people from World who brought 691 back safely. It was a great job of flying. . . . And thanks for taking us along.

Best wishes.

BRUCE DUNNING,
CBS News, Tokyo."

I extend my heartiest congratulations to CBS News for this award from the Overseas Press Club of America.

The last flight from Danang was in my opinion the most dramatic single event of the closing days of the Vietnam conflict. The film footage by the CBS team and the narration by Bruce Dunning epitomized the panic and the terror of those last days and foretold the collapse of Saigon a short time later. Their vignette graphically portrayed the fast deteriorating military situation and the desperate plight of the refugees. Since I was involved personally on this flight, I can vouch for the tremendous job that Bruce Dunning, Mike Marriott and Mai Van Duc did on that memorable trip. CBS can well be proud of Bruce and his associates for a job accomplished in the highest traditions of journalism under the most difficult of circumstances.

EDWARD J. DALY,
President and Chairman of the Board,
World Airways, Inc.

GOLDEN ANNIVERSARY

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. RUSSO. Mr. Speaker, the year was 1925. Appropriately, the month was June, the time long associated with "moon and spoon" and "love and marriage." For Steve Fialkowski and Virginia Lizik, the month marked the beginning of a long romance.

Introduced by Virginia's brother, Joseph, they went on their first date to the Asher Theater and Gayety Ice Cream Parlor. How often do we find in retrospect the true significance of such seemingly simple occasions. That first trip to an ice cream parlor has resulted in 50 years of walking life's path together. Steve and Virginia Fialkowski will be celebrating their 50th wedding anniversary next month—50 years of sharing, growing, and caring.

Married at St. Michael Church on June 2, 1926, the wedding reception lasted 3 days. I think there are probably more modest time estimates for the mass at St. Michaels and the reception following on June 6 this year. Still, it will be a day of celebration of love grown fuller and richer with the years. Memories will be recalled—perhaps of the 25th anniversary that the Fialkowskis noted with a reception and then a honeymoon. Little did they know that while they were gone they would become grandparents. Today they have three daughters—Marie Royer, Florence Kucnich, and Christine LoPiccolo—and seven grandchildren and one great-grandchild.

I know my colleagues join with me in wishing Virginia and Steve Fialkowski continuing joy and congratulating them on reaching this romantic milestone.

THE CONGRESSIONAL BUDGET CONTROL ACT OF 1974

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. PATTERSON of California. Mr. Speaker, in 1976, the year of our Nation's Bicentennial, Congress faces the test of restoring confidence and faith in the American system and in our Government. For the first time in our history we have the opportunity to responsibly and realistically deal with Government spending and the Federal budget in order to bring back economic stability and security to the people of this Nation.

This is the first year that the Congress will be required to operate under the Congressional Budget Control Act of 1974. This new law is perhaps one of the most important and progressive governmental reforms in our history. This legislation was enacted so that Congress could assume a measure of control over the size of the Federal budget. Under the provisions of the act, Congress must set spending ceilings, taking into account anticipated revenues, the state of the economy, and the economic impact of Federal spending and borrowing.

We have just completed the first step in this new budget process by approving the House Concurrent Resolution 611, which outlines our spending and tax collecting policies for the next fiscal year. By September 1976, Congress must have passed all its spending bills and approve a second budget resolution setting final budget figures. These figures are binding, and if legislation is passed which exceeds these spending limits, spending must be cut by the same amount elsewhere or taxes must be raised. By setting spending ceilings, we can begin to get a handle on and eventually eliminate our Federal deficit.

The new budget process has empowered Congress to approve a budget outlay figure considerably less than it could have been without the new process. The total of all the House committee's recommendations for spending that were submitted to the Budget Committee amounted to $442 billion. This sum was reduced by the budget resolution to $413.6 billion, a savings of over $28 billion. Although I would have liked to have seen a greater savings, this resolution exercised some restraint and it indicates that Congress is finally beginning to get serious about how much money it spends and is beginning to make necessary cuts.

When the first budget resolution was

considered on the floor, I supported an amendment offered by Congressman ROUSSELOT which provided for a balanced budget by making cuts in nearly all functional categories. I supported it because I felt that we must act with fiscal responsibility to try to live within our means. Although this and other amendments to reduce outlays failed, I supported the budget resolution as an indication of my support for budget control and fiscal responsibility.

The first budget resolution is an important first step toward meeting our ultimate goal of a balanced budget. It provides the necessary guidelines for continuing our current economic recovery without excessive inflation. The resolution provides enough money for jobs to support over 1 million more jobs than what the President recommended in his budget. There are private jobs created through public works, environmental protection, construction, housing, highways, and public service employment. There are also programs to provide jobs in the public sector. Included in the budget resolution is enough money to continue our economic recovery and push unemployment down to 6 percent by the end of 1977. The resolution also contains the necessary funds to start a program of national health insurance and will cover initial startup costs for the Humphrey-Hawkins Full Employment Act. The latter bill attempts to provide a job for every American able and willing to work and sets a goal for unemployment of 3 percent.

In the area of national defense, the first budget resolution provides for an adequate amount of funds to meet our national security needs. I would like to point out, however, that the defense request for fiscal year 1977 proposes a significant savings expected to result from legislation to provide increased efficiencies in the defense budget and from legislation in the area of civilian and military pay.

The major controversy over the proposed resolution has been the fact that it results in a Federal deficit of $50.8 billion. Without the resolution the deficit could be as high as last year's figure of $74.1 billion.

Although the size of the Federal budget has grown from $69.7 billion in 1954 to a proposed $413.6 billion in 1977, we must view the budget not only in terms of actual dollar increases, but in relationship to the rest of the economy. As the gross national product grows, so must the budget. No one would expect General Motors to have the same budget today as it did 20 years ago. In 1954, the budget outlays represented 19.5 percent of our GNP. The proposed budget for fiscal year 1977 will represent 21.5 percent. We must keep in mind that much of this disparity results in the great amount we pay for unemployment compensation due to our depressed economy.

In conclusion, I commend the House Budget Committee for responsible leadership in establishing the necessary guidelines for future legislative action in the area of Federal spending and the budget. I also commend the Congress for taking this necessary action to bring Federal spending under control.

THE CASE AGAINST SHLAUDEMAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARRINGTON. Mr. Speaker, I am submitting for the RECORD the testimony I delivered this morning before the Senate Foreign Relations Committee opposing the nomination of Ambassador Harry Shlaudeman as Assistant Secretary of State for Inter-American Affairs. I believe the evidence shows that Mr. Shlaudeman deceived the Congress in previous testimony about the actions and purposes of the U.S. Government in Chile during the Allende years, when Shlaudeman was serving as Deputy Chief of Mission in Santiago.

Now the President wants to elevate this man to the top State Department position for Latin American relations. I hope and trust that the Senate will have a higher regard for the basic standards of candor and integrity.

My testimony follows:

TESTIMONY OF HON. MICHAEL J. HARRINGTON

The President's nomination of Ambassador Harry W. Shlaudeman as Assistant Secretary of State for Inter-American Affairs should be rejected by the Senate. There are two principle grounds for rejection: First, as Deputy Chief of Mission in the U.S. Embassy in Santiago, Chile from June, 1969 to June, 1973, Mr. Shlaudeman participated in the formulation of recommendations and the execution of instructions which resulted in the destruction of Chilean democracy. As a result of the reports of the Senate Select Committee on Intelligence, we know a great deal more about those activities and policies than we did in February, 1975 when Mr. Shlaudeman was confirmed as Ambassador to Venezuela.

Second, given what we know now about the actions, and the purposes of the actions, of the U.S. Government in Chile during Mr. Shlaudeman's tenure there, much of Mr. Shlaudeman's testimony before committees of the Congress was, at best, misleading about the actions and purposes of the U.S. Government in Chile in those years, and, at worst, simply untrue. For example, on June 12, 1974, Mr. Shlaudeman testified before a joint meeting of the House Foreign Affairs Committee's Subcommittees on International Political and Military Affairs and International Organizations that:

". . . We had nothing to do with the political destabilization in Chile, the U.S. Government had nothing to do with it."[1]

The Senate Select Committee on Intelligence, in providing a full and authoritative account of U.S. covert intervention in Chile between 1963 and 1973, called that involvement "extensive and continuous." Between 1970 and 1973, the CIA spent $8 million, and in 1972 alone spent over $3 million.[2] In addition a policy of vigorous economic pressure against the Allende government was adopted by the highest levels of the U.S. Government and overtly carried out by the relevant agencies.[3]

There are three major questions relevant to Mr. Shlaudeman's nomination which are raised by the facts as they have been disclosed: First, what were the purposes and intentions of the actions and policies of the U.S. Government, both overt and covert, in Chile during Mr. Shlaudeman's tenure?; second, to what extent did Mr. Shlaudeman know of the overt and covert actions and their purposes?; and third, is it fair and proper to hold Mr. Shlaudeman accountable for the policies he was instructed to execute, and the account of them to which he has testified before congressional committees?

Footnotes at end of article.

I. U.S. INTENTIONS AND PURPOSES

In his June 12, 1974 appearance in the House, Mr. Shlaudeman testified that:

"Certainly there was never any intention on the part of the United States to produce political destabilization."

The following exchange then took place:

"Congressman HARRINGTON. Did we spend funds to your knowledge?

"Mr. SHLAUDEMAN. For political destabilization, no, not to my knowledge . . . My remarks on Chile and U.S. policy toward Chile should be understood in those terms, in light of the commitment strongly affirmed by the Secretary to the hemispheric principle of non-intervention."[4]

Mr. Shlaudeman took the same position in February, 1975 during his testimony before the Senate Foreign Relations Committee regarding his nomination to be Ambassador to Venezuela:

"I know nothing and I do not believe that there was any attempt to subvert or to overthrow the Chilean government, nor was there any involvement by the United States in a coup."[5]

The argument that Mr. Shlaudeman seems to be making is that the expenditure of funds did not constitute an effort at "destabilization" or to "subvert" or "undermine" the Chilean government. Indeed, he conceded before the Senate committee that he had knowledge of covert expenditures:

"What I have been saying is not that covert activities did not take place, but that they were not intended to, nor did they, in my view, result in the overthrow or the destabilization of the Allende regime."[6]

This testimony can only be squared with his answer to questioning quoted on p. 2 above if the U.S. purpose was something other than the destabilization of the Allende government. Shlaudeman argues that the purpose was to strengthen democratic forces in Chile:

". . . support was given to parties and to media which were under very great strain. I know nothing, and as I said just now, I do not believe that there was any attempt to undermine or subvert or overthrow the government of Allende."[7]

This final statement is simply not true. To know that covert support was being given to media and political parties entailed knowledge of the intentions and purposes of that support, which were to undermine the Allende government both by aiding its opponents and by promoting disorder to hasten the downfall of the government by one means or another. Shlaudeman's testimony about the purposes of U.S. activities in Chile is misleading and fallacious.

A brief review of the record demonstrates conclusively the objectives of the programs of which Shlaudeman concedes he has knowledge. Generally the Senate Select Committee found them to be:

". . . to maximize pressures on the Allende government to prevent its consolidation and limit its ability to implement policies contrary to U.S. and hemispheric interests."[8]

(1) Media propaganda—Shlaudeman concedes he knew of support to friendly media, and according to the Senate report, this was the "most extensive covert action activity in Chile."[9] The report itemizes the propaganda campaign.

"The CIA spent $1.5 million in support of *El Mercurio*, the country's largest newspaper and the most important channel for anti-Allende propaganda. According to CIA documents, *these efforts played a significant role in setting the stage for the military coup of September 11, 1973.*" (Italics added.)

The major propaganda project funded several magazines with national circulations and a large number of books and special studies.

Material was developed for the *El Mercurio* chain; for "opposition party newspapers, two weekly newspapers, all radio stations controlled by opposition parties," and several regular television shows on three channels.

During the period of September 15, 1970 to October 24, 1970 while Allende's election was in doubt, a massive propaganda campaign was launched including "support for an underground press, placement of individual news items through agents, financing a small newspaper, indirect support of *Patria y. Libertad*, a group fervently opposed to Allende, and its radio programs, political advertisements, and political rallies." [10]

The propaganda campaign was the most important constituent of the CIA's efforts to convince the Chilean people, and even world opinion, that Allende was dangerous, a failure and should be replaced. Shlaudeman's claims that the media/propaganda program was not intended to undermine the government contradicts the CIA documents cited by the Senate Select Committee as attributing it a significant role in the ultimate *coup*.

(2) Support for political parties and groups—Again the Senate Select Committee's report on covert action in Chile itemizes support of parties and groups in Chile. These programs fall into three categories:

September and October of 1970: Money was given the "right-wing paramilitary group" *Patria y Libertad* "in an effort to create tension and a possible pretext for intervention by the Chilean military." This aid was continued indirectly throughout the Allende government. By July, 1973, this group announced it "would unleash a total armed offensive to overthrow the government." [11]

The Chile report found that "The issue of whether to support private groups was debated within the Embassy and the 40 Committee throughout 1972 and 1973." [12] In October of 1972 $1.5 million was approved to support opposition groups. It is highly improbable that Mr. Shlaudeman, as DCM, was not privy to these discussions and the subsequent decision.

Following the 1973 municipal elections "there did appear to be a possibility that increasing unrest in the entire country might induce the military to re-enter the Allende government to restore order." Consequently "the 40 Committee approved a proposal granting $1 million to opposition parties and private sector groups with the passage of the funds contingent on the clearance of the Ambassador, Nathaniel Davis, and the Department of State." [13] Although the coup occurred three weeks later and the funds were never passed, it is improbable that the DCM was unaware of the program.

It is important to understand that much of our support to violent and disruptive forces was given indirectly and under cover, precisely in order that diplomats such as Mr. Shlaudeman could make the sort of statements quoted above. The level of knowledge conceded by Mr. Shlaudeman requires him to have penetrated to the real purpose of the programs. In this connection, the Senate report concluded:

Given turbulent conditions in Chile, the interconnections among CIA-supported political parties, the various militant trade associations and paramilitary groups prone to terrorism and violent disruption were many. The CIA was aware that links between these groups and the political parties made clear distinctions difficult.[14]

II. EXTENT OF MR. SHLAUDEMAN'S KNOWLEDGE

As indicated above it is clear that Mr. Shlaudeman was aware of the major CIA covert action programs and must have therefore divined their purpose. This contradicts his testimony. For example:

"Despite pressures to the contrary, the U.S. Government adherred to a policy of non-intervention in Chile's internal affairs during the Allende period.[15]

"Senator SPARKMAN. In other words, you are telling us that you had no hand in the overthrow of Allende?

"Mr. SHLAUDEMAN. That is exactly right, Mr. Chairman. To my knowledge, there was no U.S. involvement . . . I know nothing of any attempt to subvert anybody or overthrow Allende." [16]

At the same time Mr. Shlaudeman denies knowledge of anti-Allende activities and their purposes, there is evidence of his participation in policy-formulation to undermine the Chilean government:

"Senator BIDEN. Were you any part of making recommendations to the Administration that they (Chilean parties and media) were in danger?

"Mr. SHLAUDEMAN. Obviously, I participated in formulating the reports in which these decisions were taken. I had nothing to do with the decision-making process." [17]

The record shows that the Embassy was often more eager to take action against Allende than was the State Department, and again it is implausible that the DCM was not involved, as he himself concedes he was.

In December, 1969, six months after Mr. Shlaudeman's arrival, the Embassy and the CIA Station in Santiago made a joint proposal for an anti-Allende campaign in the upcoming 1970 elections. The proposal was killed in Washington "because of the State Department's qualms about whether the United States should become involved at all." [18]

"On March 25, the 40 Committee approved a joint Embassy/CIA proposal recommending that 'spoiling' operations—propaganda and other activities—be undertaken by the CIA in an effort to prevent an election victory by Allende." [19]

On June 18, 1970, Ambassador Korry "submitted a two-phase proposal to the Department of State and the CIA for review. The first phase involved an increase in support for the anti-Allende campaign. The second was a $500,000 contingency plan to influence the congressional vote in the event of a vote between the candidates finishing first and second." [20] Again it is unilkely that the DCM was unaware of his superior's plan to bribe the Chilean Congress.

In July, 1970 the CIA ended up helping ITT pass money to the National Party and to conservative candidate Jorge Alessandri. "The Station Chief informed the Ambassador that the CIA was advising ITT in financing the Alessandri campaign," but did not tell him about payments to the National Party.[21]

When attention turned toward bribing the Chilean Congress, "The funds were to be handled by Ambassador Korry and used if it appeared that they would be needed . . ." [22]

Between September 15 and October 24, 1970 the CIA promoted a *coup* by the Chilean military. Although the Ambassador and the State Department were explicitly cut out of this, Korry suspected that the CIA was "up to something behind my back" and directed Mr. Shlaudeman to investigate. "I questioned him and others closely and repeatedly as to whether they had discovered anything corroborative. No one could find any basis for suspicion." [23]

Korry was, however, "authorized to encourage a military coup, provided Frei concurred in that solution. At the 40 Committee meeting on September 14, 1970 *he* (Korry) *and other 'appropriate members of the Embassy mission'* were authorized to intensify their contacts with Chilean military officers to assess their willingness to support the 'Frei gambit'. The Ambassador was also authorized to make his contacts with the Chilean military aware that if Allende were seated, the military could expect no further military assistance from the United States. Later Korry was authorized to inform the Chilean military that all MAP and military sales were being held in abeyance pending the outcome of the congressional election on October 24." [24] (Italics added)

III. THE FAIRNESS OF HOLDING MR. SHLAUDEMAN TO ACCOUNT

As Deputy Chief of Mission, Mr. Shlaudeman was a senior member of the U.S. Embassy in Santiago. He tries to make a distinction between "formulating reports" on which decisions were based, and the "decision-making process" in Washington. With respect to those decisions, Mr. Shlaudeman has testified:

"Let me say that I certainly supported the decisions when they were taken, and I certainly thought at the time that there were good reasons for those decisions.[25]

"Senator BIDEN. In light of what you have learned since your post there, have you changed your view?

"Mr. SHLAUDEMAN. No, I have not, Senator." [26]

Thus there is no desire on the part of Mr. Shlaudeman to disassociate himself from the course pursued by the decisionmakers in Washington in regard to Allende. His appointment is a reaffirmation at the highest level of our government that those policies are approved, unlamented, and that those who are identified with them, such as Mr. Shlaudeman, will be rewarded.

In other words, the authoritative and official disclosure of the destabilization program against Allende have not prevented the Administration from elevating one of the symbols of that program to responsibility for all of Latin America. It is clear that Mr. Shlaudeman was not a reluctant executor of the anti-Allende program. The evidence indicates the opposite, that he was part of an Embassy team that was pressing Washington for more activity than Washington was always prepared to endorse.

Finally, there is ample evidence here that Mr. Shlaudeman has not told the truth to congressional committees before which he has testified. He has conveyed the impression that the U.S. followed a policy of non-intervention in Chile when we were in fact, and to his knowledge, intervening deeply. He has then argued that we simply tried to help democratic forces withstand the pressure of Alelnde, when the facts demonstrate the opposite, that we actively promoted unrest and disorder to create tensions that would force Allende out.

If Mr. Shlaudeman did not understand these things that were going on all around him, then he should not be confirmed on grounds of incompetence. If he did understand them, then he has deceived the Congress. In either instance, his nomination should be rejected by the Senate.

FOOTNOTES

[1] Hearings before the House Foreign Affairs Subcommittees on International Political and Military Affairs and International Organization, June 12, 1974.

[2] "Covert Action in Chile, 1963–1973", staff report of the Senate Select Committee on Intelligence, November, 1975, p. 1.

[3] Ibid., pp. 32–35.

[4] House Foreign Affairs hearings, June 12, 1974, p. 136.

[5] Hearings before the Senate Foreign Relations Committee, February 19, 1975, p. 71.

[6] Ibid., p. 75.

[7] Ibid., p. 73.

[8] Senate Chile Report, p. 27.

[9] Ibid., p. 7.

[10] Ibid., pp. 24–30.

[11] Ibid., p. 31.

[12] Ibid., p. 30.

[13] Ibid., p. 30.

[14] Ibid, p. 31.

[15] House Foreign Affairs hearings, June 12, 1974.

[16] Senate Foreign Relations hearings, February 19, 1975, p. 71.

[17] Ibid., p. 77.

[18] Senate Chile Report, p. 20.

[19] Ibid., p. 20.

[20] Ibid., pp. 20–21.

[21] Ibid., p. 21.

[22] Ibid., p. 24.

[23] Hearings on Chile, Senate Select Committee on Intelligence, December 4, 1975, p. 32.

[24] Senate Chile Report, p. 26.

[25] Senate Foreign Relations Committee hearings, February 19, 1975, p. 78.

[26] Ibid., p. 77.

A TRIBUTE TO KEVIN KELLY

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. KEYS. Mr. Speaker, a young constituent of mine was recently featured in a news story that detailed his outstanding success at juggling the demands of attending high school and participating in interscholastic athletics while at the same time farming 700 acres and feeding 200 head of cattle. Mr. Kevin Kelly's industry and achievements provide an excellent index to the continued viability of the family farm, so I would like to share his story—Topeka Capital Journal; May 20, 1976—with my colleagues:

A Tribute to Kevin Kelly

(By Matt Walsh)

HOYT, KANS.—Farming 700 acres of land, feeding 200 head of cattle, attending school and running track are all in a day's work for Kevin Kelly.

"Nothing I can't handle," Kelly says.

Kelly began farming about age seven—when he said he "started driving a tractor . . . and getting into it."

But farming became more important two years ago, after his father slipped on a tire while working at Goodyear Tire and Rubber Co. A disc exploded in his father Milton Kelly's back, leaving him disabled and partially paralyzed.

Kelly's father became limited to about two hours a day of farming, so he turned his 92 acres and farm machinery over to Kelly.

Kelly was only 14 then. Kelly's older brother, Kenneth, didn't want to take over the farm.

"I wasn't worried about turning it over to him," Kelly's father said, "because I knew that I was here if he wanted to ask any questions." And if Kelly's father couldn't help Kelly could seek the advice of Ed Ryan, his vocational agriculture instructor at Royal Valley High School.

Farming, going to school and playing sports was a little rough at first, Kelly said. "But then I looked at it as something I had to do. Then I just kept on at it," he said. And gradually over the past two years Kelly increased his farm acreage to 700.

For two years now, Kelly bas kept a jam-packed daily schedule of work, school and sports. Sometimes, Kelly said farming does interfere with school, athletics and his social life, but "not seriously." His grades are close to a "B" average and he "generally" tries to go out at least one night a week.

Recently, farming efforts were rewarded, too.

Kelly was awarded the Crop Proficiency Award given by the Future Farmers of America for the northeast district of Kansas high schools. Competing with students from 18 other high schools, Kelly was recognized for the quality and quantity of crops he produced in the last year.

Kelly, who will be a senior next year, also recently was elected president of the Royal Valley chapter of Future Farmers of America.

Of the 700 acres he farms about 500 acres are rented. The area is divided into 335 acres of hay, 250 acres of wheat, 140 acres of milo and 75 acres of oats. Most of the land is within three miles of the Kelly home on the northwest outskirts of Hoyt. But some of the land is as far as 8½ miles away.

Ten of the cattle Kelly takes care of are his—registered Angus, the other 190 belong to a Topeka real estate man who owns land near Hoyt.

During planting season, Kelly sometimes will stay home a day from school to tend to farming. He said a few of his teachers object to that, but Kelly's father said most of them "know the situation pretty much."

Each morning Kelly feeds the cattle from 6:30 to 7:30. Then he goes to school, and afterwards, depending on what season it is, practices football, basketball or track.

Kelly, 16, stands 6 feet, one inch tall. In football he started at defensive end and offensive halfback. He started "off and on" at center in basketball and ran the 100-yard, medley-relay and 880-yard events and long jumped in track.

Last weekend in Wichita, Kelly competed in the Kansas State High School Class 2–A long jump, but was hampered by a pulled hamstring muscle. He was only to make one attempt, before being sidelined by the injury.

Kenneth, who holds the 2–A mile top time, also competed in the state meet at Wichita where he placed second.

Often when Kelly is overloaded with farm chores, he will work until about 10 p.m., after he gets home from practicing a sport.

From June to August—the haying season—is usually the busiest time of year for Kelly. And not having to contend with school or athletics then, Kelly says 16-hour work days aren't uncommon. But that doesn't bother him.

"I don't get bored with it," Kelly said. "It's something different every day. During the haying season, the weather's right and I know what I'm doing. It's a little more easy-going during the summer."

After harvesting his crops, Kelly hauls them to the local grain elevator, storing them until he decides to sell.

The money he receives usually is used to put in his next crops or to make payments on his farm machinery, which is worth about $50,000.

Having another year of eligibility to compete for the state FAA crop proficiency award, Kelly will try to increase his crop production this year. State competition is limited to one entry a person, so Kelly decided to wait another year.

After high school, Kelly said he probably will go to a vocational technical school to learn a trade, so he can become more adept with repairing farm machinery malfunctions.

Then, he said, "I imagine I'll take on more ground and expand the cattle operation. It'll take more time, but I'll have more time."

Farming is Kelly's ambition. "That's where I like to live. It's a lot of work, but I have fun doing it." Playing football, basketball or track and going to school are only steps along the way.

MINING IN DEATH VALLEY

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. KETCHUM. Mr. Speaker, in the midst of the controversy over S. 2371, the legislation to ban incompatible activities in the national parks, the Washington Star last Friday printed its own—most irresponsible—version of this issue. I was most gratified that the editors saw fit to print my response to their widely advertised article, although the facts did not receive similar front-page billing. I would like to share the article, my response and that of my colleague, Steve Symms, with you today:

Enclosures: First, "Pressure On as National Park Strip Mining Ban Nears," Washington Star, May 14, 1976;

Second, "Mining in Death Valley Defended," Washington Star, May 24, 1976:

Pressure On as National Park Strip Mining Ban Nears

(By Thomas Love)

The huge earth-scrapers raise billowing clouds of dust as they rip the surface of Death Valley, Calif., rushing, to some eyes, to scar huge areas of the National Monument before new strip mining within the National Park System becomes illegal.

A continent away, in the filtered air of congressional halls, the director of the Bureau of Mines holds a private briefing for opponents of House strip mining legislation—clearly, to some eyes, an attempt to torpedo the bill.

In the committee which is to consider the House bill—the Senate has already enacted a strict measure—further consideration has been put off until the end of June, a move seen by environmentalists as a possibly fatal foot-dragging ploy backed by the mining industry.

Even the state of California has gotten into the anti-legislation act with an official report backing further mining at Death Valley—a report which is erroneous and a deliberate attempt to further the interests of the mining industry, according to a federal mining engineer.

When it first became generally known, following a story in The Washington Star last September, that strip mining was permitted within the national park system, public outcry was immediate.

Within days, bills were introduced in both houses of Congress to close the parks to further exploitation.

But since then, the mining industry has made its clout felt and the environmentalists see that they are facing a far more serious problem to save the parks than they first thought.

Although mining is now permitted in six national parks and monuments, controversy has centered on two—Death Valley, where there is widespread mining now, and Glacier Bay National Monument in Alaska, where there is no activity now but the potential is seen by the industry as great.

Death Valley, a popular tourist attraction where the mining scars are visible to thousands of people a year, is the most controversial.

According to a recent study by National Park Service mining engineers, the mining in Death Valley is unnecessary since the United States produces ample supplies of borates and talc—the two minerals mined there—to meet the nation's needs without mining any in the monument.

Within Death Valley, however, the mining companies have speeded up their activities, according to visitors. When Mary Ann Ericksen, a representative of the Sierra Club in Los Angeles, visited there recently, she was appalled at the mining activity.

"They are stripping the overburden off great areas to beat the legislation," she told a meeting of environmentalists here recently. "They aren't even trying to mine, they're just tearing things up so they can claim they've started."

Robert T. Mitcham, a Park Service mining engineer stationed at Death Valley, charged that Pfizer, Inc., "has more than doubled its mining area since September."

The firm, which is mining for talc, "is stripping off waste way out ahead of its mining schedule. They've hired a large outside contractor for the first time, who did work mostly in November."

He pointed out that the proposed legislation permits companies to continue mining all previously disturbed areas." All the talc companies are doing it," he added.

A spokesman for the company said, "Pfizer denies charges that it is indiscriminately disturbing the surface of Death Valley in anticipation of restrictive legislation or a mining moratorium."

He said "at present" there are only four company employes at work in Death Valley and that the firm has had no outside contractor working there "for the past two months."

He didn't know how many employes have worked there since September or whether there were contract workers before the past two months, he added.

The California Division of Mines and Geology issued a report earlier this year titled "Mines and Mineral Deposits in Death Valley National Monument, California" which concludes that the minerals mined in Death Valley are important, if not essential, to the nation.

Although the report doesn't make any specific recommendations, a reader is left with the feeling that the authors are strongly backing continued mining in the monument.

In a critique of the document, Mitcham concludes that "the manner of review and slanted implications discredit the report as an independent answer to questions regarding ore reserves and products mined in Death Valley."

The document, Mitcham said, "is a real push to propound the mining companies' point of view. It's terribly slanted." Two conclusions of the study—which do echo industry positions—are just untrue, he contends.

The first is that Colemanite, or calcium borate, is necessary for the manufacture of fiberglass, and since Death Valley is the only production site in the United States, mining must be continued there. This is particularly true since we already import large amounts of the mineral from Turkey, the study concludes.

The second is that deposits of metalic minerals are indicated within the monument.

As to the first, Mitcham said, any boron-bearing mineral, such as sodium borate, can be used in making fiberglass—in fact, much now is. It's more expensive than Colemanite, but it works. He questioned tearing up a national monument to save money for the fiberglass industry.

The second point just isn't true, he insists, since there is no evidence—or even indication—that there are any deposits of metalic minerals in the monument.

Besides borates—both Colemanite and Ulexite (a combination of calcium and sodium borates)—only talc is mined in Death Valley. And talc, Mitcham pointed out, is a very common substance.

The publicity surrounding the strip mining within the National Park system has had at least one temporary result. The Tenneco Co., now the only active borate miner in the monument, has "withdrawn" its claim to mine at Zabriskie Point, one of the most popular tourist attractions in the monument.

However, Mitcham complained, the firm had not relinquished the claims in writing. Thus they can be restaked at any time. "They're just waiting for the heat to come off," he charged.

A Tenneco spokesman explained that his company had no intention of mining at Zabriski Point even if it were able to overcome preexisting claims to the property. However, he added, "no mining company could give up that potential right. As a company vice president put it, 'It's not a right I could, as a reasonable person, give up'."

On May 25, Director of the Bureau of Mines Thomas V. Falkie gave a briefing to some members of the House Interior and Insular Affairs Committee which is considering the House bill. Although he claimed to be a backer of administration policy which supports the bill, his presentation was more a statement of the mining industry position, according to some present.

Rep. Philip E. Ruppe, R-Mich., requested the briefing and asked Rep. Jim Santini, D-Calif., an opponent of the bill, to invite interested Democrats.

As it turned out, according to John F. Seiberling, D-Ohio, who sponsored the legislation, only opponents were there. He charged Falkie, whose bureau is generally considered to be an ally of the mining industry, with a deliberate attempt to kill the bill.

"It is highly improper for the Bureau of Mines to go around and surreptitiously try to sabotage the bill when the administration is backing it," he said.

Falkie, however, denied he was making any such attempt. "It is absolutely not true," he said. "We were asked to come up to give them a presentation on the minerals in Death Valley and Glacier Bay. We gave them a factual presentation.

"I didn't even know who was there," he said. "We just came at the request of Congress."

"I told them that I support Secretary (of Interior Thomas S.) Kleppe's position on the legislation," he added.

The day after the briefing, the committee voted to put off action until May 26, but then several members opposing the legislation expressed a desire to visit Death Valley, Seiberling said. This, he explained, will put off any action until late in June.

"If some go, I'll go," he added. "I don't want just those people opposed to the bill to go look and see."

Although the administration generally supports the same legislative approach as those passed by the Senate and pending before the House committee, there is one major difference.

The congressional approach to the problem would prohibit further mining claims and limit mining at present claims in all parts of the national park system now open to mining.

Besides Death Valley and Glacier Bay, mining is allowed in Crater Lake National Park in Oregon, Mt. McKinley National Park in Alaska, Organ Pipe Cactus National Monument in Arizona and Coronado National Memorial in Arizona. But since there have been no extractable minerals found in any of the other four, so at this point there is no argument about closing them to further claims.

All other parts of the park system are specifically excluded from the mining laws which cover the rest of the country.

The administration, however, favors excluding Glacier Bay from any restrictive legislation. It is the one of the six where additional ore discoveries are considered likely.

Nathaniel P. Reed, assistant Interior secretary for fish and wildlife and parks, told a House subcommittee in October that he personally objected to the exemption but that it was a necessary compromise to get administration support for any restrictive legislation.

At this time it is considered too expensive to mine the minerals—mainly copper—at Glacier Bay, but future developments could change this, industry officials say. They insist that the possible use of the copper reserves should not be precluded by legislation.

An attempt to add an exclusion for Glacier Bay to the Senate bill failed, but a similar attempt is expected in the House.

MINING IN DEATH VALLEY DEFENDED

I am shocked and outraged by, Thomas Love's May 14 "In Focus" coverage of the legislative controversy over mining in the national parks ("Miners seek to make their mark before ban begins"). As the representative from California's 18th Congressional District, in which over 95 percent of the Death Valley National Monument lies, I wish to outline the facts which Mr. Love most unfortunately failed to discuss.

Firstly, the representation of the mineral status of Death Valley is highly erroneous. Boron compounds—including colemanite—are indeed used for the manufacture of fiberglass, as well as enamels, soaps, fluxes, chemicals and herbicides, to name just a few. At present, 65 percent of the colemanite consumed in the U.S. is produced domestically, e.g. in Death Valley. Should this supply be cut off, we would be entirely dependent upon Turkey for this valuable resource.

Moreover, although only 10 percent of the total national production of talc came from Death Valley (we supply domestically 74 percent of U.S. consumption), California talc is of a superior grade which cannot be substituted industrially. Mr. Love's offhands dismissal of this resource is quite irresponsible, since U.S. self-sufficiency in any product is a significant factor.

Death Valley encompasses 2,067,763 acres of which 4,412 are privately owned by mining companies (U.S. Borax, Tenneco, Pfizer, etc.), figures which refute the picture painted by Mr. Love of the entire Monument being gobbled up by rampant mining activities.

As a matter of fact, the Death Valley Monument is a significant portion of the 86 percent of Inyo County land which is publicly administered and thus tax exempt. However, the combined mining interests infuse Inyo County with over $200,000 in tax revenues while supporting a $2¼ million payroll. Should mining activities be totally curtailed, the tax base of the Death Valley Unified School District would be reduced by 39 percent and that of the Southern Inyo Hospital District by 7 percent. Quite understandably, in view of these serious economic consequences, the Inyo County board of supervisors opposes inclusion of Death Valley National Monument in the provisions of S. 2371.

My position on this bill is based in large part on just such misrepresentations of the situation as Mr. Love's. When the decision before the Congress is one of such serious national and international economic repercussion, it must not be founded on pure emotionalism. One day of subcommittee hearings were conducted by each house before reporting the bill to the full Interior Committees.

Therefore, I advocate complying with the moratorium provisions of the bill which allow continued lateral activity on currently active valid claims, and suspending the 1933 mining law for the duration of the moratorium. During that period, a comprehensive environmental and economic impact study shall be conducted by the appropriate agency. Then—with all the facts available—Congress can make the responsible decision necessary as to the future of Death Valley.

What we don't need at this crucial point in the legislative process are visions of "billowing clouds" and "bulbous scars" to blur the issue. Nor are the slurs upon the California Division of Mines and Geology's official report acceptable; their rebuttal to Mr. Mitcham's comments has already been prepared and I expect for it to receive "equal time".

WILLIAM M. KETCHUM, R-Calif.,
Member of Congress.
WASHINGTON, D.C.

Your efforts to put "In Focus" the issue of mining in six of our National Parks should strain a few optic nerves among Washington readers.

The alleged facts of your article aside, most local readers can't travel some 3,000 miles to see journalist Thomas Love's "huge earth-scrapers raising billowing clouds of dust as they rip the surface of Death Valley . . ." in some wild race against the Congress to outwit inevitable constraints on their operations. One wonders how much dust can be kicked up on a mining operation contained to 4,000 acres of a 2½ million-acre park.

For those who were titillated by the paragraphs of emotional, if myopic, hysteria which followed—don't rush out to your local travel agency. There's a lot more excitement in that news report than there is boron activity in them thar hills. Even the mules disappeared around the turn of the century, along with jobs, people, and most of the rest of the Death Valley economy.

What few conservative mossbacks still remain in this Congress to fuss about employment, mineral shortages, etc., don't mind being skewered occasionally by a crusading journalist. But for heaven's sake, can't you do it with a little elegance and imagination? Writers like Thomas Love should be able to recognize a cliche and swerve when he's about to crash into it. If nothing else, your readers expect an occasional fine turn of the printed word for their 15 cents—and they won't even expect it of you to tell the truth in the bargain.

STEVE SYMMS, R-Idaho,
Member of Congress.
WASHINGTON, D.C.

ENERGY FOR AMERICA'S FUTURE

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. LUNDINE. Mr. Speaker, I fully support passage of H.R. 13350, the Energy Research and Development Administration Authorization for fiscal year 1977. We need to reduce our reliance on uncertain foreign oil sources by making a vigorous effort to develop alternate sources of energy. The $5 billion authorization for energy research and development approved by the House should move us purposefully forward on the road to energy self-sufficiency.

The new authorization does so by continuing our commitment to nuclear power development and by increasing funding for development of our vast coal resources, for energy conservation technologies, and for solar and other clean and renewable energy sources. Most importantly the House-passed bill does this with an emphasis on helping the private sector commercialize the new technologies and on making those technologies environmentally acceptable.

NEED FOR THE PROGRAM

Although warning signs have been with us for some time, we have been reluctant to make the capital investment needed to provide us with energy sources to use when we start to run out of oil. The brownouts of the early 1970's and the spot fuel shortages in the winter of 1972 were not enough to get us moving on this essential program. It took the layoffs and long gas lines of the 1973 Arab embargo to shock us into a sense of urgency about energy supplies.

Ironically enough, the aftermath of that embargo, worldwide recession—induced in large part by the fourfold increase in world oil prices—has resulted in a drop in world energy demand, which in turn has lessened our sense of urgency about energy supply problems. Now that fuels and electricity are plentiful, though expensive, it is too easy to forget that conventional energy resources are finite, that oil and gas supplies are still running out, and that we must continue to plan for the future.

Tapping the heat inside the earth, harnessing the temperature differentials in the ocean, converting solar energy to electricity, and utilizing the energy in nuclear fusion—all may still sound like science fiction. But so at one time did getting a man on the Moon. We spent $25 billion on the Apollo project over an 11-year period, and we succeeded. With a similar commitment to energy research and development, we can succeed as well in developing ample, clean and renewable sources of energy for our long-range future.

ENERGY CONSERVATION

For the short term, however, I urge that a priority of the highest order be given to developing techniques to conserve energy—that is, to use the supplies we have more efficiently and wisely. A barrel of oil saved has as much value, or perhaps more, than a barrel of newly discovered oil.

Energy conservation to be effective and acceptable should mean more than turning down thermostats or driving less in smaller cars. It should mean the development and use of techniques within our reach to put the fuels we burn to more efficient use.

In West Germany, which has a standard of living as high as ours, per capita energy consumption is about half as much as it is in the United States. A new federally sponsored study by the Stanford Research Institute shows that U.S. industry uses 40 percent more energy than West German industry does for equal output.

Some of the things the West Germans do that we might successfully emulate are:

To use the steam needed in the manufacturing process first to generate electricity and then in the manufacturing process itself. If this were done in the United States, enough electricity would be produced to satisfy all our industrial needs and more.

To use the waste heat from electric powerplants to heat buildings and homes nearby. This is being done successfully in Denmark and Sweden, as well as in West Germany.

To encourage the use of zone thermostats—separate ones for individual rooms.

I am pleased to note that the Energy Research and Development Administration in the most recent update of its plan has responded to the criticism of the Office of Technology Assessment and has upgraded the priority for energy conservation efforts. Let us hope that spurred by the funds provided in this bill, ERDA's endorsement of energy conservation will not remain mere rhetoric as it has in the past, but will be translated as soon as possible into effective action. The bill approved by the House authorizes funds for energy conservation research and development which are 69 percent more than the President requested and 39 percent more than last year's authorization.

ENERGY FROM WASTES

The funds in this bill will also go to support research, development and demonstration projects in the conversion of waste materials to clean fuels. In Chemung County, N.Y., promising experiments are being conducted under the auspices of a county agency in the separation of burnable fuels from solid waste. The bill approved by the House will provide $6 million in budget authority in fiscal year 1977 for a fuels from biomass program, which will test many such systems of utilizing wastes and agricultural residues for energy.

SOLAR ENERGY

Solar energy development has been given a higher priority than ever before in the current bill. As passed by the House, the bill increases the administration budget request for solar energy research and development by 70 percent.

ERDA has estimated that solar energy will fill 7 percent of the Nation's total energy needs by the year 2000 if costs can be reduced. Other estimates are more optimistic. A FEA official told a Senate subcommittee last May that solar energy can fill 10 percent of total U.S. energy needs by 1990. We do not have to wait for the 21st century to have homes and buildings heated and cooled by energy from the sun if we can bring costs down—a goal that appears within reach under the vigorous Federal program contemplated in this bill.

Twenty-five percent of current U.S. energy use goes to heat and cool buildings and to heat water in homes. Solar hot water is a practical possibility today in existing homes using electric hot water heating. Even in the northeast, in houses with fairly steep roofs facing south, most hot water needs could be met by installation of systems which would pay for themselves in 10 years.

In many areas of the country, it pays right now to install solar space-heating as auxiliary heat in buildings like schools, which are occupied only in the daytime. As much as 25 percent a year can be saved in heating bills in buildings of this kind, and the original investment can be recouped in about 5 years.

Further along the road is the use of solar systems as the principal source of heat, and still further the conversion of solar energy to electricity. In most parts of the country, use of solar energy as the only source of heat is still too expensive to be practical, particularly in retrofitting existing buildings. But there are ways of bringing those costs down. Additional funds provided under the new authorization will accelerate research and development in technologies to reduce solar energy costs.

One research project to devise a more efficient collector system is underway in the Corning Glass Works in New York's southern tier. Working with $372,000 in grants from ERDA, Corning has been developing an "evacuated" tubular glass collector—a kind of attenuated thermos bottle as I understand it—which absorbs the energy of the sun and can maintain a heat level of about 200 degrees with high efficiency.

Solar energy offers promise as well for agricultural and industrial uses. Wherever fuel is used for direct heat, solar energy is a possibility. Energy from the sun could replace some of the vast quantity of liquid propane now used to dry crops. It could also be used to heat large shelters for poultry and dairy herds. The funds in this bill will help to accelerate commercial applications like these.

ENERGY EXTENSION SERVICE

One new program funded under the fiscal year 1977 ERDA authorization is an Energy Extension Service, modeled on the Agricultural Cooperative Extension Service and designed to give people assistance on the local level in increasing the efficiency of energy use; for example, by encouraging improvements in home insulation and providing information on the availability and feasibility of solar heating and cooling equipment and on methods of producing energy from waste materials. The House has authorized $10 million to start this important outreach program.

COAL AND NUCLEAR POWER

The legislation approved by the House authorizes appropriations for nuclear and coal development programs, as well as for the more exotic technologies. It provides significant increases in funding for development of our vast coal resources. We have enough coal to last several hundreds of years. But we need to develop techniques to mine that coal safely without ravaging the land, to burn it directly without poisoning the air, and to convert it to liquid and gaseous fuels in a commercially feasible manner. Coal programs under the House-approved bill are funded at roughly a $400 million level. When we consider that in fiscal year 1970, the United States spent only $12 million in research and development of all fossil fuels, we get an indication of the massiveness of the effort planned under the new program. Funds will be channeled to the private sector to encourage bringing needed coal technologies to the commercial stage.

The authorization approved by the House continues our national commitment to nuclear power development. Roughly half the funds authorized will go for this purpose. While I have reservations about the economic viability of the liquid metal fast breeder reactor program—for which the demonstration plant alone will cost $2 billion—I have confidence in the future of the existing type of nuclear power plants—light water reactors. Programs are included in the current authorization to identify and seek solutions to problems of the nuclear fuel cycle, including safe disposal of radioactive wastes, safeguarding nuclear materials from diversion to unauthorized weapons use, and reprocessing used reactor fuel.

The legislation approved by the House commits the Nation to a vigorous, aggressive energy research and development effort which will move us forward toward assuring dependable energy supplies for the future. Of equal importance, the new funding will provide needed encouragement to industry and individuals to conserve fuels and electricity—to make more efficient use of the energy supplies we now have.

Energy means jobs. Furthermore, dependable energy supplies are fundamental to our national security. The energy research and development program approved by the House should help us realize the all-important objective of a peaceful and prosperous future.

SUPPLEMENTAL FOOD SUCCESSES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FORD of Michigan. Mr. Speaker, since its inception as a pilot program in 1973, I have been an ardent advocate of the special supplemental food program for women, infants and children, known as the WIC program.

Because of this I would like to give my colleagues an opportunity to read about the results of one of the studies of the WIC program. Dr. William H. Durbrow III, a staff physician with the Family Health Center, in Fresno County, Calif., recently found a decline in childhood illnesses which coincided with participation in the WIC program. He wrote of his findings in the recent monthly issue of Earthbound, a publication of the migrant legal action program.

I include his article to be printed in the RECORD at this point:

Two years ago the WIC Program was instituted at our Orange Cove and Parlier Family Health Center facilities. This presented, it seemed to me, an opportunity to study the effects of improved nutrition on various illnesses seen at the clinics. Among my patients I had noticed that children with low blood iron (low hematocrits), which is indicative of poor nutrition, were frequently seen for upper respiratory illnesses, and I postulated that the federal WIC Program might have an effect on the frequency of acute illness in childhood.

In a select audit of the records of child patients, I found evidence that the WIC Program markedly affected the pattern of clinic utilization. In the group of WIC children whose records were studied, I found an average of 3.3 less visits to the clinic in an eleven-month period while on WIC supplemental food than we at the clinic might have predicted on the basis of their previous clinic utilization. This was a two-thirds reduction in visits by these children from their previous clinic participation.

The WIC Program provides coupons for dietary supplements for low-income pregnant and lactating women, infants, and children of up to four years, who come from families which have evidenced poor nutrition. Certification of eligibles for the program is made by our clinic nutritionist and clinic assistants. With the coupons, mothers and children are able to obtain milk (or milk and cheese), cereal, fruit juice and eggs and infants are able to obtain fruit juice and infant formula or cereal.

INTEREST IN WIC IS HIGH

The WIC Program at our clinics began in May 1974. In February of 1976, participants including 168 pregnant or lactating mothers, 253 infants, and 611 children between the ages of one and five. There are a significant number of eligibles not reached by the program.

Most of our clinic patients have Spanish surnames. They are Chicanos who speak no English. The clientele for our clinics are farmworkers and their families and welfare mothers, who also generally come from farm-laboring families. We never know who are migrants and who are permanently based here.

The farmwarkers pick oranges, lemons, grapes, peaches, plums and the like. Orange pickers have work about nine months of the year. In the winter, the summer fruit pickers either prune trees, are unemployed, or move elsewhere.

In order to get the WIC coupons for themselves and/or their children, the mothers attend a meeting once a month with our clinic nutritionist. When there is time, they receive information—in Spanish and English—about food selection, meal planning and basic nutrition. Otherwise, the meetings are just long enough to pass out the coupons and to certify or recertify those who need it.

The Family Health Center WIC Program neither encourages nor discourages the use of the clinics' medical services. Although WIC participants must be certified as at nutritional risk, there is no requirement of medical examinations before or during participation on WIC.

I had anticipated, however, that the WIC Program would stimulate an increase in clinic utilization for treatment of illnesses and of minor problems and that these visits would coincide with the mothers' meetings.

There were a number of reasons for this expectation. The mothers' meetings are in the daytime when the clinic is also open. The building where these meetings are held is adjacent to our Orange Cove clinic. Many of the women do not drive and have to make an effort to get to the clinic whenever they come. Yet, for the mothers' meetings, their attendance is good and their interest seems high. Also, their children are generally with them at the meetings.

Instead, however, I observed that when a child was on WIC the child's use of the medical clinic seemed less.

GROUP SELECTED FOR STUDY

What I decided to do last fall was to ask our nutritionist Sharon Scharf to identify children who had been on the WIC Program for a continuous period of several months.

I then asked her to pull their clinic charts and to identify those who had been coming to the clinic for at least as long a period before WIC as they had months on the WIC Program.

Ms. Scharf then selected for study charts of the children who had had at least two clinic visits for acute illness in their pre-WIC period. This was to identify patients that we had been seeing regularly and who, therefore, were likely to continue to use the clinic while they were on WIC.

The children whose charts were selected for study had, on the average, been observed at the clinic for 11 months prior to enrollment in the WIC Program and had been on the WIC Program for 11 months. Additionally, they had been regular users of the clinic in their pre-WIC period.

My study was essentially an audit of patients' charts. Because of the selection criteria, only 34 charts qualified for the audit. Equal periods of time, before and after being placed on WIC, were compared for the number and kind of clinic visits. Thus each patient served as his or her own control. Since intake into the WIC Program progressed throughout the year, seasonal variations were nullified in the audit. A given month might be part of the control period for one patient and part of the time on WIC for another.

CLINIC USE GOES DOWN

The results were beyond my expectations. Total clinic visits had decreased by two thirds. Visits for respiratory illnesses had decreased by two thirds. The number of accidental injuries treated was small, yet remained approximately the same in the pre and post WIC periods. This indicated to me that the children were using the clinic when they needed to at about the same rate both pre and post WIC.

Prior to their participation in WIC, the children totalled 169 visits for cause, i.e., illness, infection or injury. Of these visits, some 115 were for respiratory illnesses and five were for accidental injuries. In their period on WIC/, these same 34 children had 58 total visits, also for cause. Of these, 43 were for respiratory illnesses and four for accidental injuries. All other visits, before and after WIC, were either for acute illnesses or infection. There were no routine visits, i.e., for checkups or screenings.

There seems to me to be no other logical explanation for the decrease of these visits than WIC. Under ordinary circumstances, we would expect these 34 children to have the same clinic utilization in any 11 month or other protracted time period. Thus, we would have expected them to have 169 visits in the second time period instead of 58. That makes 111 less visits or, for each of the 34, an average of 3.3 less visits when they were on WIC than they had before WIC.

BENEFITS EXCEED COSTS

The decrease in clinic visits was so significant that I began to wonder what it would have cost the clinic if we had had to provide the normal load of medical services to these child patients, and what it cost to provide the WIC Program to each of these children. If we could figure the difference between the cost of providing normal medical services and the cost of providing WIC, we would have some indication of costs vs. benefits of the WIC Program.

It costs the Family Health Center an average of $28 for the each patient visit. The WIC food coupons are supplied by the federal government but is costs on the average about $2.40 per participant per month to administer the program.

Had each child visited the clinic the additional 3.3 times as would be expected, it would have cost the clinic $92 for each child. Instead, to keep a child on WIC for 11 months cost the clinic $26. The cost benefit ratio was thus $26 to $92. The net difference between these two figures is $66. This yields a net "savings" of about $6 per month per child.

The benefits of WIC to the family are even more when you consider that each coupon has a fact value of approximately $20. That's what it would have cost the family if it had provided the supplemental foods itself to the children. I was not able to determine how much each family saved because a child did not go to the clinic for the 3.3 visits because a family is charged for clinic services on a sliding scale based on its ability to pay. Since most pay something for a clinic visit, and since all saved on food costs, the WIC Program also means additional purchasing power to each family.

SOCIETY GAINS LONG-TERM BENEFITS

The WIC Program can be shown in fact to alter favorably long-standing habits of food selection. The spread between costs and benefits of the WIC Program increases when you consider the continuing effect it will have on behavior and health. Over a number of years, one might find the societal costs of remedial educational programs and even prison costs entering into the calculations of the benefits of the WIC Program. Vast numbers of societal benefits are probably calculable and indirectly attributable to better nutrition in the formative years.

It is in the nature of preventive medicine or any program designed to prevent a later occurrence, however, that the benefits may be difficult to measure and may be manifest at points distant in time and place from the point of initial investment. Ultimately, the societal benefits are incalculable as they extend imperceptibly into all areas of life activities.

Sophisticated cost-benefit analysis is far beyond my ability as a physician and exceeds the purposes of this presentation. Even so, with this simple economic model, the relationship between investment cost—the WIC administrative budget—and the benefit in the reduced need for clinic services (and consequently clinic costs) is quite direct.

WIC SUCCESS MAY BE CLINIC DETRIMENT

Ironically, in the long run a successful WIC Program is at cross purposes to our clinic. The Family Health Center is a U.S. Department of Health, Education, and Welfare funded rural health clinic. Our income from HEW is based on our productivity. The greater our volume of patients the greater the grant from HEW. Conversely, a reduction in patient flow leads to a loss of clinic income. As the successes of WIC become more demonstrable our HEW clinic subsidy might go down.

This happens, or could happen, because of the way the clinic is funded. We do not have fixed subsidy based on the population to be served. The fallacy of our health care system is that money is channeled into separate programs. One program is not considered in relation to another. When one program has the effect of providing savings in a second program, the ultimate result is that funding for the second program is cut the next time the money goes around. When there are savings there is less money the next time. We don't have the savings to invest elsewhere.

The supplemental Food Program for Women, Inmans and Children is not an integral part of the family clinic services. We administer the WIC Program but our money for that program comes from the U.S. Department of Agriculture. HEW looks at our clinic volume and if WIC decreases the volume of the clinic we stand to lose HEW funds. When a USDA program save HEW money we don't have the HEW savings to spend elsewhere, as, for example, to enlarge the WIC Program and thus to generate further savings in clinic costs.

COMPREHENSIVE HEALTH DELIVERY CALLED FOR

As long as we have a fragmented health delivery system we will have the paradox of one program obscuring another. As long as we have uneven funding reflecting uncertain commitment we will see kaleidoscopic lobbying by individual health program representatives out to catch the public and legislative eye on the basis of immediate appeal and other irrelevant factors.

There are three components of a comprehensive health delivery system: Preventive Care, Chronic Care, Urgent Medical Care. To succeed, the delivery of each must be balanced aspects of the total system. The balanced delivery of Preventive, Chronic and Urgent Medical Care is a complex task requiring the wholehearted attention of professionals who are not preoccupied with the caving-in of the economic roof. This cannot happen when each component is separate, when each component is an umbrella for separate programs, when benefits are never seen in the perspective of the entire health care system.

I submit that now is the time to establish a single rural health authority which would maintain regional health centers charged with providing comprehensive health care in a particular geographic area. Costs and benefits would derive from all services offered and no single aspect of a program would be looked at alone.

The "fine tuning" of the system would lie in the regional health centers. The internal balance of the various phases of health care would be made in terms of characteristics of the local population served, prevalent illnesses and the desires of the community. An ongoing feature would be the monitoring of various program facets of the comprehensive system in terms of cost-benefit ratios along the lines of study discussed above.

A healthy competition would spring up, in my opinion, between the regional centers—not for the supply of money, which would be available on a fixed dollar to population ratio, but rather for the services each could supply under the same budgetary constraints.

A system of regional health centers may be some time away, given what it takes for the federal government to initiate something. The Congress and the bureaucracy could act immediately, however, to consolidate a number of varying programs which are at odds with each other and should not be—such as the rural health centers and the WIC Program—into a comprehensive clinical services program.

A program like WIC is a positive intervention in patients' health-affecting behavior, but only when it is an integral part of a total clinic health delivery program.

AUTOMOBILE EMISSIONS STANDARDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROWN of California. Mr. Speaker, the recent upsurge of letters in support of the Dingell amendment to the Clean Air Act has probably surprised some Members. As one who has attempted to effect controls on automobile emissions since the 1950's, when the automobile companies were still denying that their products caused air pollution, I have been impressed with the lobbying apparatus of the American automobile industry.

The issue facing the Congress in the next few weeks is quite simple. The auto industry is attempting to win a battle that they lost in 1970 when the Congress decided to require the automobile industry to gradually and continually reduce the emissions from their products. The automobile industry fought that decision, and has succeeded in delaying its implementation by several years already. The Dingell amendment is, in light of past victories by the automobile industry, even more generous than the industry believed it could decently ask for, especially since the Commerce Committee bill already rolled back the standards needed to protect the public from automobile-caused air pollution.

It is perhaps necessary to remind my colleagues of the actual standards under discussion. The following chart describes the original 1970 Clean Air Act requirements, the current Federal law, the current California law, the proposed amendments by the Committee on Interstate and Foreign Commerce, and the so-called Dingell amendments:

TABLE OF AUTOMOBILE EMISSIONS STANDARDS—PAST, EXISTING AND PROPOSED

[Figures are in HC/CO/NOx in grams per mile]

Model year	Original 1970 law	Current Federal law	Current (California) law	Current Commerce Committee bill	"Dingell" proposal
1976	—.4/3.4/2.0	1.5/15/3.1	0.9/9/2.0	1.5/15/3.1	
1977	—.4/3.4/.4	1.5/15/2.0	.41/9/1.5	1.5/15/2.0	1.5/15/2.0
1978	—.4/3.4/.4	.41/3.4/.4	(1)	1.5/15/2.0	1.5/15/2.0
1979	—.4/3.4/.4	.41/3.4/.4		1.5/15/2.0	1.5/15/2.0
1980	—.4/3.4/.4	.41/3.4/.4		[2] .41/3.4/.4(2.0)	.9/9/2.0
1981	—.4/3.4/.4	.41/3.4/.4		[2] .41/3.4/.4(2.0)	.9/9/2.0
1982	—.4/3.4/.4	.41/3.4/.4		[2] .41/3.4/.4(2.0)	[3] .41/3.4/2.0
1983	—.4/3.4/.4	.41/3.4/.4		[2] .41/3.4/.4(1.5)	[3] 41/3.4/2.0
1984	—.4/3.4/.4	.41/3.4/.4		[2] .41/3.4/.4(1.5)	[3] .41/3.4/2.0
1985	—.4/3.4/.4	.41/3.4/.4		.41/3.4/.4	[3] .41/3.4/4.0

[1] State discretion under California waiver.

[2] Indicates level to which 0.4 NOx standard may be waived by EPA administrator.

[3] Indicates NOx level to be set by administrator's discretion.

As can be seen from this chart, the existing Federal law is weaker than both the original 1970 law, and the existing California emissions standards. The American automobile companies are selling cars in California, and meeting the more stringent emissions standards there. According to numerous, nonindustry studies, this can be done throughout the United States without losses in fuel economy and economic dislocations.

I hardly need to repeat the reason for the automobile emissions standards, which is to protect the public health and welfare from harmful air pollutants. I certainly do not need to remind anyone who reads the newspapers, and breathes the air in our urban centers. Washington, D.C., this summer will be an excellent example of what adverse effects have resulted from our past yielding to the automobile industry.

At this time I wish to insert in the RECORD an article on the lobbying campaign now underway to force Congress to backdown again:

The article follows:

[From the Washington Post, May 22, 1976]

GM URGES PRESSURE ON AIR STANDARDS BILL

(By Edward S. Lechtzin)

DETROIT.—General Motors Corp. chairman Thomas A. Murphy called on the auto company's 1.3 million stockholders to urge their congressmen to support an easing of automobile clean air standards.

Murphy told shareholders that GM has been able to achieve the 1978 clean air standards on only an experimental basis and said either of the two systems "would be extremely costly in terms of dollars and fuel."

About 25 pickets, protesting GM's agreement with the Chilean military government to expand its automotive operations in South America, greeted shareholders as they arrived at the annual meeting. A proposal that would have forbidden such an agreement until worker rights were guaranteed was to be voted on by the stockholders.

The GM chairman said he plans to personally ask each congressman to support a relaxation of 1978 auto emission standards proposed by Rep. John D. Dingell (D-Mich.) which would delay the tougher standards at least until 1980. The Ford administration had wanted a five-year delay.

Murphy said the debate over clean air standards and the possibility of production interruptions during this year's labor talks are clouding his prediction that industry car and truck sales, including imports, would reach a near-record 14.5 million units in 1977. That would be just 100,000 units short of the 1973 record before the industry was plunged into a two-year slump with the start of the Arab oil embargo.

Should auto makers find themselves unable to meet the 1978 clean air standards on cars that will go on sale in the fall of 1977, Murphy said his predicted high might not be reached. He also said GM might have to shelve its plans to introduce a passenger-car diesel.

"The responsibility of the Congress to bring order and reason to this situation is immediate, direct and more far-reaching than many of our representatives may realize," Murphy said. "Our job as citizens is to remind them of our stake and their responsibility."

Under the Dingell amendment, the current emission ceilings of 1.5 grams a mile of hydrocarbons and 15 grams a mile of carbon monoxide would remain in effect through the 1979-model year. The tougher rules that are to become effective in the 1978-model year—0.41 grams for hydrocarbons and 3.4 grams of carbon monoxide—would be delayed until the 1980 model year.

FRIENDS AND ENEMIES

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HÉBERT. Mr. Speaker, I have always said that Claude Witze, senior editor of Air Force magazine, is one of the best reporters on the Washington scene, and one of the most accurate.

His column in the May 1976 issue is most revealing and one which every Member of Congress should read. It speaks for itself, and I am inserting it at this point in the RECORD:

FRIENDS AND ENEMIES

(By Claude Witze, Senior Editor)

WASHINGTON, D.C., April 5.—There is a good deal to be said this month for the concept that when the pinch is on, the Russians are the Pentagon's best friends. Despite earlier apprehensions, President Ford's $114.9 billion Fiscal 1977 defense budget is winning broader support on Capitol Hill than has any Pentagon money request of recent years. It is the Kremlin—what it has done, is doing, and threatens to do—that is responsible for the switch in many votes.

The Senate Armed Services Committee, chaired by John C. Stennis of Mississippi, voted 15 to 1 to authorize expenditures of $114.2 billion, a cut of only $700 million from the request. Mr. Stennis said his group was concerned about expanded Soviet military power and its continuing trend of expansion. He cited "severe readiness problems" in our own armed forces, and the requirement for no further reduction in our force levels.

Over in the House, Armed Services Chairman Melvin Price of Illinois announced the other day that his committee has voted to authorize $33.4 billion for procurement and research and development. This is $698.6 million more than the Pentagon requested. The vote in his committee was 34 to 1, the closest to unanimity, the chairman said, that the group has been in many years. Mr. Price declared the decision "is dictated by the actual military capability the Soviets have, regardless of how much it costs them. It is dictated by the size and kind of forces that we might have to defend against in a crisis. It is dictated by conditions in the world over which we do not often have control."

The chairman pointed out that not long ago some House members were declaring that if we cut defense spending the Russians would cut theirs, and that if we restrained new developments it would enhance the chances of a SALT agreement. All these things were taken into account and the committee was unable to avoid the conviction "that the world, by any measure, is a less safe place today than it was even a year ago."

Sen. John McClellan, who chairs the Appropriations Committee in the upper chamber, has favored sharp reductions in past years. The other day, he dug in his heels and asked the Senate to approve the President's Pentagon request. In a floor speech, he said our strength, relative to Russia, is declining. "We cannot—we must not—allow this relative decline in our military forces to continue. . . . If current trends continue—if they are not reversed—there will be a time at some point in the future—and rather soon, I think—when Soviet military capability will surely exceed that of the United States. The margin of superiority which we have in some fields and the equality which we have in others will have vanished—probably never to be regained."

The new House and Senate Budget Committees looked like major stumbling blocks only a few weeks ago. The threat dissolved in the face of the facts. In the House committee, headed by Rep. Brock Adams of Washington, there was a move to simply endorse the White House military request and give the Pentagon what it wanted. It lost, but the vote was 13 to 12. By the same vote, 13 to 12, the committee cut $1.3 billion from the request, rather than the $5.0 to $7.0 billion the chairman had talked about. Mr. Adams who accused the President of "unreasonable" defense requests and said military funds were being provided faster than they could be spent, was rebuffed.

President Ford, disturbed by the possibility that Mr. Adams could prevail, warned in a speech at the Pentagon that he would not accept a sizable reduction, and would veto a bill that imposed one.

The story was not dissimilar in the Senate Budget Committee, where the opposition was louder in its earlier attacks. That group voted unanimously to hold its recommended cuts to only $200 million in outlays and $300 million in budget authority.

Probably because the political primary campaigns were using up most of the headlines and newspaper space, details of this year's defense budget debate escaped the public attention they deserve.

One inescapable observation is that the defense critics, most of them political liberals are becoming discredited and commanding less attention. A few days ago, for example, Rep. Les Aspin of Wisconsin, the man with the busy mimeograph machine, called a press conference in the Rayburn House Office Building to issue a blast discounting what he called "allegations that the surge in the Soviet military is relegating the United States to No. 2 in the world." He continued: "The presidential race has become a one-sided affair. Both Republican candidates are shouting, 'The Russians are coming,' and screaming, 'I can protect the nation better.' None of the Democratic candidates are willing to jump into the fray."

Mr. Aspin then put on what sounded like a counter-briefing. He gave his own analysis of Soviet military spending, weapons production, manpower, and strategic weapons. "These show that the Russian bear is not so great as he is portrayed by some," he said. He said he was sending his analysis to all members of Congress and to editorial writers across the nation.

Earlier, on March 23, Representative Aspin turned out one of his press releases, attacking the Air Force's B-1 bomber project. He said the facts in it were taken from General Accounting Office report. They were, but many were taken out of context and others simply misinterpreted. The result of this was that on the day some news stories appeared, GAO asked for Pentagon approval for release of a "sterilized" version of the report—one with the classified data removed—so that the press and the public could judge some of the issues raised by the congressman, USAF, for its part, turned out a detailed refutation of ten points raised by Mr. Aspin. The press, with some exceptions, ignored the whole affair. The principal achievement was that the GAO study broke loose on March 23, 1976, after the agency had stamped it for release not later than December 31, 1987 (sic).

Skepticism about Mr. Aspin's credibility as a defense expert—he once worked for Robert S. McNamara in the Pentagon—probably goes back to December 13, 1974. That was the day he issued a press release charging "that the Air Force is trying to keep the first flight test of the B-1 bomber a secret because 'they're afraid it won't fly.'" He continued with a statement that USAF had postponed one test flight and failed to schedule another. On top of this, he declared USAF was trying to keep the press and the public from witnessing the tests.

Well, the B-1 made its first test flight on December 23, 1974, ten days after Mr. Aspin's highly inaccurate prognostication was made. As of this writing, it has made twenty-seven flights, has been in the air nearly 135 hours, more than five of these hours at supersonic speed. The press has been welcome to witness any and all of the flights. The Defense Department says the program is proceeding well.

It also could be that Representative Aspin is wearing out his welcome at the newspaper and television offices. Late last year, one newspaper counted his press releases over a six-week period. There were ninety-seven of them, the majority on Pentagon affairs. And, there is evidence the press knows it has been used as a tool by Mr. Aspin, who shares each reporter's joy in a headline. The New York Times says he has "elevated the practice to new heights."

The congressman's response is that he is engaging in guerrilla warfare. "What you've got to have is more mobility," he told the Times. "You can move faster. They've got to clear everything through fifteen layers. While they are still trying to clear a response to one release you can hit them with two or three others."

Observed a reporter for the Milwaukee Journal: "Ask the Pentagon for a response to an Aspin charge and it is likely to be several days—or weeks—before the response arrives, if at all. These ponderous processes, coupled with the daily deadline pressure facing reporters, frequently enable Aspin to get his charges into print unchallenged." At the Defense Department this fact is accepted. The only regret is that nobody has kept a record on how many man-hours of labor and taxpayer dollars have gone into competing with the Aspin literary output.

Until recently, it was more difficult to evaluate the standing of Mr. Aspin with his congressional colleagues. He is a member of the Armed Services Committee, where he cast the lone negative vote in that 34 to 1 test on the procurement authorization bill. His record of attendance at committee hearings is not good. On the day that Marion Anderson, a Michigan antidefense zealot, was invited to testify, Mr. Aspin was absent. The witness boasted that he was her sponsor on Capitol Hill and that he approved of her activity. When she came under fire from committee members who accused her of sloppy economic reasoning, and blew holes through her presentation, she sorely missed his presence.

Three days ago, on April 2, the Wisconsin congressman called a press conference to give out his own judgment on the Soviet surge. Much of what he said about arithmetic was true, but he overestimates the Russian effort on the Chinese front and seems to ignore what is going on in the Middle East, the Persian Gulf area, Angola, and Cuba—all takeoff points that are remote from Peking. While he was talking and handing out charts of the Aspin intelligence analysis, there were growls in the corridor of the Rayburn Building. The Armed Services Committee had more than one opportunity to witness a highy classified briefing—complete with charts and secret photos of Russian installations—presented by John T. Hughes, the expert on collecting facts for the Defense Intelligence Agency. An authoritative source told AIR FORCE Magazine that Mr. Aspin did not accept a single one of several invitations to expose himself to this account. On inquiry, an Aspin aide said it was not considered necessary in the Aspin camp, which has its own contacts with the Central Intelligence Agency.

Well, today (April 5), after Mr. Aspin had held his press conference and obtained some publicity for his own account, he finally heard the DIA briefing. He heard it at the White House, on invitation of the President. That's the kind of offer that not even Mr. Aspin could refuse.

Most press releases from the Aspin office invite reporters to make further inquiry, if required, from his press aide, Bill Broydrick. On March 14, Mr. Broydrick played a starring role at the "National Conference to Stop the B-1 Bomber, Cut Military Spending, Meet Human Needs." This was a two-day conclave of counterculture dissidents who were preparing to assault Congress. Both the participants and the methodology were reminiscent of the antiwar demonstrations of a few years ago.

At this show, Bill Broydrick took a lead part in a seminar on "The Mood of Congress on the Issues and How to Work With Congress." At least 300 delegates heard him explain how to carry the case down the street to the Capitol. He did not appear brimming with confidence for his chosen cause. He told the crowd in a nearby high school audience that they had no reason to be optimistic—a highly accurate evaluation. "The Pentagon line," Broydrick said, "has finally sold" because "people are really getting worried about the level of Soviet spending."

On the other hand, the Aspin aide told his young audience, it should not give up the fight to get a priority for human needs over defense requirements, a petition that seemed to ignore the reversal in priorities that has been in effect for the past several years. He said the figures current on Soviet spending are "phony" and added "if they [USSR] spend $200 billion and we [US] spend $10 billion, that may be right, depending on our policy."

There was no member of Congress present at the Broydrick presentation. Had there been, his feelings would have been jolted, at the least, by the contempt with which Broydrick viewed the Lower House. He told the meeting, with a tone of firm assurance, that after this session they could go to Capitol Hill to lobby, confident that they, as individuals, knew vastly more about defense issues than the congressmen they were approaching. The young people accepted that. There was no one in the congregation to challenge it.

Other speakers at the conference, sharing the spotlight with Broydrick, included the aforementioned Marion Anderson, Don Luce, the activist boss of Clergy and Laity Concerned, Eqbal Ahmad, the Pakistani radical, and Rep. John Seiberling of Ohio, who gave the climactic speech.

Probably the main reason these efforts lack resourcefulness is that they are pressed in an atmosphere approaching that of a religious ecstasy. There is a fervor that instills blindness. After attending hours of congressional hearings, the Aspin press conference, and the National Conference to Stop the Bomber, there is something missing in our notes. At no time has any zealous foe of the Fiscal '77 defense program explored the significance of the Soviet-Cuban adventure in Angola, the messages from Solzhenitsyn, the firing of James Schlesinger, or the obvious popularity of Daniel Moynihan. The political picture, in this presidential year, might as well involve an election in the principality of East Overshoe. There has been no lesson learned from the experience of Great Britain with an advanced welfare state. The people who knew Hitler get their only publicity on the obituary pages.

Zealots cannot hear any messages from the other side, be they from our own intelligence sources or the near-mystic lips of a distinguished Russian expatriate. The majority, for which we can be thankful, can watch what the Kremlin does and listen to what it says, and act accordingly.

INSPECTOR GENERAL NEEDED AT HEW

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ROSENTHAL. Mr. Speaker, billions of dollars are lost each year because of fraud, waste, inefficiency, and abuse in programs administered by the Department of HEW. Yet HEW has no effective investigatory mechanism to monitor its disbursements; its principal oversight office has 24 investigators to police over $118 billion in expenditures. Not surprisingly, the office has a 10-year case backlog.

To prevent the needless loss of taxpayers' dollars and to rid these programs of the waste and fraud which deprive the needy and deserving of vital benefits, I have introduced H.R. 5302, legislation which would establish an independent Office of Inspector General at HEW.

The Inspector General would have tools essential to combat fraud, mismanagement and abuse, subpena power, independence from those responsible for operating programs, and wide authority inside and outside HEW.

The House Government Operations Subcommittee on Intergovernmental Relations and Human Resources is holding hearings this week on this legislation. I insert in the Record at this point my testimony in support of my bill:

Testimony of Congressman Benjamin S. Rosenthal

Mr. Chairman, I appreciate this opportunity to testify in support of my bill, H.R. 5302, legislation which would establish an independent Office of Inspector General at the Department of Health, Education, and Welfare.

While HEW program expenditures will total $118.4 billion for this fiscal year, the department has no effective centralized investigatory office with authority to monitor its disbursements. The Federal government has abdicated to the states its investigatory responsibilities for many programs and has failed to insure that HEW has the resources or authority necessary properly to oversee whether the states actively investigate charges of improper expenditures. The absence of a centralized investigatory office has prevented any effective control over waste, fraud or inefficiency.

RECORD OF WASTE AND ABUSE

Examples abound of HEW mismanagement and abuse. Losses in Medicare and Medicaid programs due to waste or fraud reportedly total as much as $3 billion a year, or 10% of these programs' overall outlays.

Department officials estimate that as much as $750 *million* a year or 5% of total Medicaid outlays is lost through fraud. Other estimates range up to 8% or $1.2 billion.

Moreover, enormous amounts of money have been lost because of program mismanagement and abuse. The Senate Aging Subcommittee on Long-Term Care recently reported that HEW wasted more than $1 billion in reimbursements for unnecessary surgery. HEW auditors sampled beneficiaries in Illinois, New York, Maryland, California and discovered that up to 20% of the Medicaid recipients may not be eligible for publicly-supported medical assistance.

The Social Security Administration admits that Medicare was overcharged $27 million by doctors, hospitals, and nursing homes over the last five years. One-half of this money has been recovered. Such estimates of overcharge should be considered conservative since they represent only those cases investigated by the agency.

The federal student loan program is another HEW activity reportedly crippled by fraud, mismanagement and abuse. The Office of Guaranteed Student Loans, with a total of $3.3 billion in federally insured loans, experienced an 18% default rate in fiscal year 75, a figure which is expected to grow to 20% in fiscal year 76. These federal statistics contrast sharply with the 5–8% default rate under state guaranteed student loan programs, the 3% delinquency rate for consumer loans generally, and the 1% rate for mortgage loan delinquencies.

While HEW should not be held wholly accountable for the failure of students to pay their debts, a GAO report recently revealed that HEW had not pressed lending institutions to try aggressively to collect on federally guaranteed loans to students. The GAO also said there was bureaucratic mismanagement of the program by the department. The department has no supporting data on 15% of the loans on which it has paid off. In a sample of 245 claims paid off by HEW, the GAO said only 10% should have been paid. Another GAO evaluation of HEW's master file on the program found 205,000 errors in 50,000 records.

INADEQUACY OF PRESENT STRUCTURE

It is not surprising that HEW cannot monitor effectively its multi-billion dollar programs. The Office of Investigations and Security (OIS), HEW's principal oversight agency, has 24 investigators and a 10-year backlog of cases to monitor HEW's $118 billion budget, including some of the most complex programs of the federal government. These 24 investigators must police the performance of 129,000 HEW employees in their management of over 300 separate government programs that directly or indirectly affect the daily lives of tens of millions of Americans. It is reported that the department plans to hire 30 additional investigators.

HEW has sought to cope with the huge potential for abuse by enlisting the aid of the states. This cooperation must continue but the evidence is overwhelming that it is no substitute for a vigorous federal effort to combat fraud and abuse.

Many states do not have the resources or the experience to cope with the multitude of sophisticated schemes and devices used to evade the law. Moreover, there are many investigatory techniques, such as wider use of computer audits, which can only be undertaken economically at the federal level. Many fraudulent operations cross state lines or duplicate themselves in many areas of the country. A nationwide approach and perspective in meeting these challenges is essential.

There is a direct correlation between increased federal enforcement efforts and the detection of fraud. The three cases involving Medicare abuse thoroughly examined by the HEW investigation office resulted in a potential savings or recovery of $2.6 million. The 100 cases pending before the OIS offer a potential savings or recovery of $20 million. In addition, 70% of the state prosecutions for Medicaid fraud have been conducted by California, which has a staff of 74, the largest Medicaid investigatory staff in the country. California's achievements in this area are in sharp contrast with those of the twenty-one states which have no investigations staff, and consequently, are totally inactive in fraud and abuse detection.

I am an ardent supporter of our nation's social service programs. For this reason I feel even more strongly that every effort must be made to rid these programs of the waste and fraud which deprives the needy and deserving of billions of dollars a year in intended support. I would hope that the evidence developed in these hearings would be carefully weighed by the proper committees of this Congress when the HEW budget is reviewed.

But, as a member of the Government Operations Committee, I am a firm believer in the premise that governmental structure plays a critical role in the formulation of policy. I am afraid that the investigatory framework at HEW is timeworn, rusty and inadequate and is inappropriate to the function it is even now asked to perform.

PROPOSED LEGISLATION

The legislation I have introduced, H.R. 5302, would establish an independent Office of Inspector General in HEW, and provide it with the tools necessary to combat fraud, mismanagement and abuse. Under H.R. 5302, which has been sponsored by 45 of our colleagues, the Inspector General would be appointed for a 10-year term by the President with the advice and consent of the Senate. He or she would be removable for cause only and would not be eligible for reappointment beyond the original term.

The bill would invest the Inspector General with the power to subpoena persons, records and documents. This authority, which is indispensible for an adequate investigatory agency, is not presently enjoyed by HEW investigators. The legislation would require the Inspector General to be answerable equally to the Congress and the President both of which would receive major investigative reports at the same time as the HEW Secretary.

NEED FOR THIS LEGISLATION

Consider HEW, if you will, as a mammoth service-oriented corporation. With a budget of $118.4 billion, HEW has larger revenues than Exxon, General Motors, Ford, Texaco, Mobil Oil and Standard Oil of California combined. Now imagine that each of these 6 largest industrial corporations in the U.S. was audited by an accounting firm whose head was hired by the chief executive of the corporation, whose members were all employees of the corporation and whose financial report had to be reviewed and approved by the chief executive before being submitted, if ever, to the Board of Directors. It not only doesn't make sense but, incidentally, would violate numerous federal securities laws. Yet the auditing and investigatory force of HEW is subject to these crippling constraints. The OIS director is hired by the Secretary of HEW; OIS investigators are all employees of HEW, and all OIS reports have to be reviewed and approved by the Secretary before being submitted to other government agencies or the Congress. The soundness of the investigatory findings is suspect because integrity and objectively are undermined by the structural deficiencies at the Department.

The usefulness of inspector generals has been confirmed by the GAO. A recent GAO report found that in every instance where an office of inspector general was established, it was considered integral to the economic efficiency of the agency in which is served.

An investigatory office must be provided certain tools if it is to be effective. There include an adequate and capable staff, access to information including the ability to subpena, complete independence from those responsible for operating programs and high organizational placement.

The need for an independent investigatory and auditing inspector general's office which has complete access to information was recognized by the Rockefeller Commission on CIA Activities. The Commission criticized the CIA Inspector General for having so small a staff that it was necessary for the Inspector General to rely on each program administrator and his staff to insure proper program management.

The Commission also was highly critical of the restriction on obtaining information faced by the Inspector General's office. The office could conduct its reviews only within the confines of material with which the CIA director chose to provide it.

Moreover, the Commission acknowledged that many of the CIA's illegal activities could have been avoided if the Inspector General had had the authority to alert sources other than the CIA Director of the improprieties festering within the agency. The Commission recommended the CIA Inspector General be given a larger and better qualified staff, complete access to all information relevant to his review and the authority to provide reports directly to outside bodies, including the National Security Council. An Office of Inspector General for HEW requires no less than this in personnel, authority and access.

Some question has been raised about having an HEW Inspector General vested with subpoena power. This is the only way to insure complete access to information. Many federal regulatory agencies, including the SEC, FTC, and FCC, have subpoena power and the House Government Operations Subcommittee on Legislation and National Security is considering legislation which would give the Comptroller General subpoena power as well. Without this tool, an inspector general's office is forced to rely on that information which those who are being investigated want him to have. This precludes any effective evidence-gathering and emasculates the office at the outset.

The organizational placement of the Inspector General's Office is also important. As recognized by a GAO review of the activities of the Office of Inspector General at the Department of Agriculture, the placement of the Inspector General's Office should be such that he is independent of the officials who are directly responsible for the operation he reviews. This provides the Office of Inspector General with maximum independence and permits objectivity and impartiality in the reporting on all departmental activities. The Office of Inspector General must be unlimited in its authority to review any and all functions of the Department.

The Inspector General's Office should have the opportunity to obtain an over-view of the highly diversified and decentralized organizations and functions of the department. Program activities common to several bureaus or offices cannot be reviewed effectively on a department-wide basis unless the investigatory organization can cross agency lines to obtain needed information.

In order to insure the maximum independence of the Inspector General from HEW management, I have suggested that the office be made fully independent and equally responsible to the Congress and the Secretary and that the Inspector General report simultaneously to these bodies. I believe that this encourages management's thorough and prompt consideration of the Inspector General's findings and recommendations.

I urge the subcommittee to act favorably on H.R. 5302, with certain modifications. First, I consider it essential the Office of Inspector General also house the HEW auditing operations. This would permit an integration of the policies and perspectives of the investigatory and auditing functions and guarantee the independence of the HEW audits.

Second, I feel that the Inspector General's access to information must not curtail the legitimate privacy rights of individuals as expressed in the privacy act and similar laws and court pronouncements.

FIORELLO LaGUARDIA, FRIEND OF THE PUERTO RICAN COMMUNITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BIAGGI. Mr. Speaker, I am inserting in the Record at the end of my remarks an editorial from the Italian Tribune News of May 14, 1976, commenting on the renaming of a public school in New York. I do not object to the local school board's desire to name a school after an individual of Puerto Rican ancestry so that children of such ancestry may have a fit model to emulate. In fact, it is an excellent idea. However, I do share the newspaper's objection to removing the name of an individual, Fiorello LaGuardia, who was one of the best friends the Puerto Rican community in New York ever had.

He championed their cause, as well as the cause of all poor and oppressed people, when such was not fashionable. He was responsible for enacting laws that were beneficial to members of the Puerto Rican community.

It is a disservice not so much to the Italian community or the family of LaGuardia to make the change as it is a disservice to the Puerto Rican community which was so admirably served by Mayor LaGuardia.

The editorial follows:

EDITORIAL

An intolerable insult has been dealt to the American people as well as those of Italian heritage by the removal of the name of Fiorello H. LaGuardia from a New York City school by a community school board.

There is no more demeaning incident in American history than this action against an Italian who is acknowledged to have been the greatest mayor in the history of New York City, and a great American patriot.

Mayor Fiorello H. LaGuardia earned the admiration and affection of his fellow Americans as an Army flier in World War I who served overseas as a major.

He also served with distinction in the House of Representatives before becoming mayor of New York City. He was a tireless crusader for the rights of minorities, a foe of corruption and crime, and a warm-hearted human being.

Now let us look at whose name has replaced the name of the beloved "Little Flower" on a New York school.

The name of a great man has been replaced by the name of a Puerto Rican terrorist whose followers tried to assassinate Harry S. Truman on Nov. 1, 1950 in conjunction with a bloody uprising in Puerto Rico against the United States. These same followers on March 1, 1954 invaded the House of Representatives, turning it into a shooting gallery. Five Congressmen were seriously wounded in the action.

If this school name change has been made to excuse the murderous violence associated with the terrorist whom the New York community board has honored it will fail. His terrorism is not excusable; it was vicious and criminal.

What this New York Board in effect has done is to give its approval to the efforts to murder President Truman and members of the House of Representatives and to exalt the individual responsible for both crimes.

When children enter that school in New York which once bore the illustrious name of Fiorello H. LaGuardia they will instead enter a school with the name of Pedro Albizu Campos, born in Puerto Rico, and president of the Nationalist Party which started a reign of terror with black-shirted troops. After a series of bombings in 1936, Campos was convicted of conspiracy to overthrow the government and imprisoned for seven years.

When Campos was released his black-shirted army burned down a town and he was returned to prison. The assassination attempts followed his release from jail for the town burning.

Albizu Campos hated New York City and the United States. He is being rewarded for that hatred while the man who loved New York City and the United States is suffering this posthumous affront.

This tolerance which we have extended so freely to those who would tear down our institutions has reached such despicable depths in this action as to be totally unacceptable and repugnant to all Americans, particularly those of Italian heritage.

Tolerance and understanding is one thing, but when tolerance and understanding is so promiscuously extended as to become a national disgrace there is time we call a halt. There is no place in our society when accreditation can be given terrorists, and certainly not when such accreditation is accomplished at the expense of a great American patriot.

CLINCH RIVER BREEDER REACTOR PROJECT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. MOSS. Mr. Speaker, I wish to express my grave reservations about the conduct of the Clinch River Breeder Reactor project, which the bill now before us would continue to authorize and for which it would enable funding for the coming fiscal year.

The presently proposed revision of section 106 of Public Law 91–273—which first authorized a cooperative arrangement for this important demonstration project—is yet another barrier that Congress could set in the court it embarked on 6 long years ago. It has been 6 years since a breeder demonstration project was first authorized, and 4 years since an agreed basis of arrangement for the project was originally submitted to the Joint Committee on Atomic Energy.

In the intervening years, the oil embargo came, and left. The administration solemnly made high-blown declarations of Project Independence and then revised them several times. Steadfastly, the nuclear breeder was spotlighted as a national top priority project.

Many millions of dollars have been spent—on the base breeder program as well as the demostration project.

But sadly—incredibly—not a single shovelful of earth has as yet signaled the start of construction of this key facility. This year, today, one can only say in truth, exactly what was too optimistically said last year and the preceding year when the ERDA authorization bills were then before this Chamber; namely, construction may start next year.

A modern wit has said that "Delay is the most cruel form of denial." In the case of the Clinch River project, delay continues to be a very cruel, as well as a very expensive, form of denial. At tremendous cost, this country is being denied the opportunity to bring the nuclear breeder to the stage of practical utility. We are years behind the French, and the gap is ever-widening.

But delay I have learned, to my chagrin, is not the most cruel form of denial. I have learned that gross incompetence and mismanagement—to an extent that makes failure inevitable—is really the most cruel form of denial.

By any reasonable standards, the Clinch River project has been poorly handled. But now, ERDA is embarking on an even more reckless, wasteful, and unjustifiable course. It will cost the taxpayers dearly, while removing any basis for a reasonable expectation that the project might succeed.

For me, a staunch supporter of the nuclear option, this dismal prospect is more than doubly painful. We will need the breeder, perhaps desperately so. I cannot bear the thought of misdirected expenditures of the taxpayer's dollars that ought to be prudently applied only to well-managed energy ventures.

Besides, ERDA's obviously false and illogical explanations about the clearly unjustifiable new course it is taking can scarcely contribute to the diminishing credibility in the governmental process in general, or the soundness of our reliance of the nuclear option. Friends and believers cannot be gained by falsehoods and pretense.

I will tell you plainly what ERDA is now doing. It's not complicated, though I had to learn it the hard way because of the miasma of deceit and evasion that ERDA used to try to persuade the General Accounting Office, the Joint Committee on Atomic Energy, and myself that the changes were in the Government's best interest.

I will describe the changes, their background, and significance:

First, project funding. In the 6 years that a cooperative arrangement for a breeder demonstration project has been authorized, the Government's share of project costs has steadily risen from the initially authorized sum of $50 million—plus very limited assistance from the base program—to the open-ended financial responsibility that the authorization bill last year, and the bill now before us, enables. The utility's contributions remained fixed—until now. ERDA has now revised the project contract to lessen the utility's financial responsibility in two important respects.

In order to minimize the need for ERDA to provide additional funds that the project would require from time to time, the original contract provided that the utility's commitments to pay $25 million a year for 10 years would be used as collateral to secure bank loans to meet the project cash-flow needs. This feature has now been deleted, thereby increasing the need for more Government funding.

The original contract provided that in the event the project was terminated prior to its completion, the utility's share of the project costs would be 50 percent—up to the total of the $250 million pledged. In other words, the costs would be shared 50–50 to the fullest extent of the utility's $250 million ceiling. This has now been changed so that only the yearly amounts actually paid in by the utilities up to the time of termination—but not the pledges required to be funded in subsequent years—could be applied to the sharing of project costs. Of course, this means that the Government will have to pick up the portion of costs that the utilities no longer will have to bear.

In addition to these two changes clearly adverse to the Government, the newly revised contract contains the inexplicable provision that only 50 percent of the yearly payments by the utilities are to be used to defray ERDA's day-by-day project costs.

Despite the statutory requirement that ERDA is to keep the committee "fully and currently informed"—Section 202 of the Atomic Energy Act—and the letter and spirit of the authorizing statute requiring a description of the nature and basis of proposed amendments to the arrangement, ERDA has furnished no intelligent reason for any of these changes.

Second, project management. Thanks to unrelenting prodding by the Joint Committee—and particularly by my good friend and our former colleague Chet Holifield—the original contract made it clear that ERDA would have the lead role and attendant authority for the design and construction of the nuclear steam supply system portion of the facility—that is for the entire plant, except the conventional equipment. Also, the contract explicitly indicated that the provision of all assistance to the project from ERDA's base program would be under ERDA's control. The total cost of the base program may run to about $10 billion.

Under the recently revised contract, all this has been changed. In the words of the new agreement, ERDA "will assume responsibility for managing and carrying out the project in an efficient, effective, and timely manner consistent with principal project objectives." But the agreement goes on to require that ERDA carry out this responsibility through an "integrated project management organization" consisting of a majority of individuals filling slots termed "key positions", who are not employees of ERDA, but employees of the project contractors or of the utilities. In other words, ERDA is committed to manage the project through an integrated organization composed of about 130 employees of the utilities and 70 of its own people. By going through a certain procedure described in the contract, ERDA can have persons in said "key positions" replaced if it considers them unsuitable, but it cannot select the individuals whom its contractors have the right to assign to the "key positions" constituting part of ERDA's management structure.

This whole thing is legally vulnerable both from the standpoint of the authority of the Joint Committee on Atomic Energy under the authorizing statute to approve such criteria that would permit a management union of Government and contractor personnel, and of the authority of ERDA to commit itself to carry out key Government functions through non-Government personnel. I must suppose that this may well be raised in the courts. If it is, I would expect that extensive delays in the project will be inevitable.

I am also deeply troubled by the ethical aspects of this entangling management union. Because non-Government employees would be performing functions that ERDA's employees should be discharging, the protective reach of a number of criminal statutes would be avoided.

These would include the conflict of interest statutes in title 18, United States Code, sections 205 and 207 as well as bribery and statutory and other prohibitions that apply to Government officers and employees. The Comptroller General suggested in one of his project reports that the situation could be helped by including in the contract "effective provisions penalizing involvement in conflict of interest, bribery, and/or graft situations." The new contract contains no such provisions. Furthermore, one of the conflict-of-interest situations cannot be avoided by any contractual prescriptions. The Biblical admonition that "no man can serve two masters" can be observed only by strict compliance—by prevention through avoidance, not by remedial procedures. There is no way that the contractor employees engaged in fulfilling ERDA's management responsibility can be insulated from the conflicting interest situation through any contract procedures aimed at assuring that they do nothing that could significantly relate to questions concerning their employer's claims for reimbursements or indemnification, or other rights, under the contract.

Third, a serious legal problem arises from ERDA's substitution of a partial commitment for the project for the original fully scoped project contract.

It is clear from the authorizing statute and from ERDA's statutorily required submittal to the joint committee that—as in the case of all the other project arrangements in the 20-year history of the cooperative power reactor demonstration program—the definitive agreements must cover the entire project. The original contract did.

The newly revised contract covers only the design and construction of the plant, but not the demonstration-operation of the facility. This 5-year period after the plant is built is the most important phase of the demonstration project.

The definitive terms of the operating agreement with TVA have yet to be agreed upon, and there will be no operating contract unless and until the parties agree to all the terms and conditions and sign such a commitment, and the project management corporation concurs in that contract. The liquid metal fast breeder reactor thus becomes not a breeder of energy, but a breeder of endless litigation.

These new cancerous elements are embedded in a contract distinguished by a variety of ambiguous provisions dealing with possible ERDA rights, and clear-cut provisions describing the utility's rights, including their easy right of termination in the event of delays such as those which have already occurred.

The new contract is extraordinary testimony to ERDA's ineptness, poor judgment, and sheer recklessness. It is a mortal threat to the project.

TRIBUTE TO GORDON BROWNING: GOVERNOR, CONGRESSMAN, JUDGE, AND SOLDIER, AN OUTSTANDING AMERICAN, A GREAT TENNESSEAN

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to the memory of a great public servant, Gordon Browning of Tennessee, who died recently in his home town of Huntington, Tenn.

Gordon Browning had a distinguished career of public service as Governor, Congressman, judge, and soldier. He was a distinguished leader and administrator in military and civilian life and a man of great courage. He never flinched from a fight and he fought the good fight, whether in the trenches of the Argonne in World War I or in the State Capital of Tennessee battling for the public interest.

Gordon Browning served as Governor of Tennessee for three terms—from 1937–39 and from 1949–53. He served as Congressman from the Seventh District of Tennessee for six terms. He served as chancellor of the Eighth Chancery Division of Tennessee for 7 years.

Gordon Browning was a strong, aggressive Governor who led the State of Tennessee to new dimensions of growth, progress, and development. He had specific programs and specific goals and he worked for their fulfillment.

For example, he initiated the first major rural roads program in Tennessee and as a result of his planning and work, a major network of farm-to-market roads was built in all sections of Tennessee.

He was a former school teacher and he worked to assist teachers in achieving higher salaries and higher standards—and he succeeded in earmarking special funds for educational purposes.

He also developed a debt reorganization plan for Tennessee that set the State's fiscal house in order.

Gordon Browning was a patriot, and as a volunteer, fought for his country in two wars, World War I and World War II. In World War I he enlisted in the National Guard in 1917 and soon thereafter was commissioned a second lieutenant. He was quickly promoted to first lieutenant and to captain. He went to France as commander of an artillery unit and participated in three major battles, that broke the German Hindenburg line.

When World War II began, he again volunteered and rose from the rank of captain to colonel. He was in the European Theater of Operations and was an adviser to General Eisenhower on military government. After D-Day, he went into Belgium as the American Military Government Commissioner in that country. Later he served as civilian government administrator in the U.S. occupation zone in Germany.

Serving in Europe during World War II, I recall on one occasion when Colonel Browning came in from the field to the Allied Headquarters in France—he said to me that he wanted to secure a decoration and citation for every member of his command. He was always a man of loyalty and courage.

As a Member of Congress, he fought for the rights of veterans and resisted efforts to reduce veterans benefits as an economy measure.

He was an able administrator, an eloquent orator, an incisive thinker and a fighter for his position. He also possessed a tremendous sense of humor and a deep love for his home State of Tennessee. As a Democratic campaigner on the stump he was unsurpassed—he had a great memory and a wealth of anecdotes and his speeches were models of elocution.

Tragically, some 20 years before his death he developed an infirmity. And yet he continued to participate in life in an active way. He refused to be deterred by physical problems that would have defeated a man with less determination and a weaker will to live.

I recall several years ago that Governor Browning attended a meeting held in my honor in Cookeville. He at that time was suffering from physical problems and when introduced made his way to the podium with great difficulty.

Once there, however, he came to life and his great voice boomed out across that vast auditorium. He captured the hearts and minds of his audience and held them spellbound with his humor, his sincerity, and his eloquence. His appearance was one of the major highlights of that day.

He was a statesman and patriot. Certainly I want to extend to the Governor's beloved wife—"Miss Ida"—and other members of his esteemed family this expression of my deepest and most sincere sympathy in their great loss and bereavement. My wife Anne joins me in these sentiments.

THE DISPLACED HOMEMAKERS ACT

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. BURKE of California. Mr. Speaker, today I am reintroducing the Equal Opportunity for Displaced Homemakers Act—H.R. 10272—with more cosponsors. Since my original introduction of this bill in May 1975, awareness of and interest in the myriad of problems faced by the displaced homemaker has grown tremendously. Public and congressional response to this legislation has been very gratifying and I am pleased to note that today's reintroduction brings the number of cosponsors of the bill up to 54.

The middle-aged woman who has spent most of her adult life as a homemaker often finds it difficult to take on the role of supporting herself following a divorce or the death of her spouse. She is confronted by a host of unexpected problems; aside from the psychological adjustments, she may not be prepared to overcome the barriers of the job market, such as her lack of marketable job skills and recent paid work experience.

The purpose of my bill is to help displaced homemakers make it through a readjustment period so that they may have the opportunity to become productive, self-sufficient members of society. Specifically, the Displaced Homemakers Act provides for the establishment of multipurpose service centers to offer job training and placement services, counseling and referral in health care, education, legal problems, and financial management as well as outreach and information services relating to already existing programs.

The bill also calls for a study into the feasibility of including displaced homemakers under unemployment compensation programs. While homemakers make an invaluable contribution to the welfare and economic stability of this country, there is no unemployment insurance for a homemaker who is "laid off."

The Displaced Homemaker Act is currently pending before the Equal Opportunities Subcommittee of the Committee on Education and Labor. I am hopeful that the subcommittee will hold hearings on this important legislation some time this summer or early fall.

I have received many inquiries about this legislation, so I would like to take this opportunity to include in the RECORD a comprehensive fact sheet on H.R. 10272 which further explains the content of the bill, the extent of the problem, and the need for the multipurpose service programs:

FACT SHEET ON H.R. 10272—EQUAL OPPORTUNITY FOR DISPLACED HOMEMAKERS ACT

1. What is the purpose of this bill?

The purpose of H.R. 10272 is to provide for establishment of multipurpose service programs for displaced homemakers to help them through a readjustment period and become self-sufficient. The contribution of homemakers to society and the economy goes virtually unrecognized. Homemakers are among the few groups of workers who lack the protections of Social Security, unemployment insurance, or workmen's compensation. When their job responsibilities are terminated by divorce, separation, or widowhood in their middle years, they are often left without any source of financial security and little or no marketable work experience.

This legislation seeks to deal with the predicament of displaced homemakers by providing counseling and services so that they may enjoy the independence and security vital to a productive life.

2. Who are the "displaced homemakers"?

A displaced homemaker is an individual who has been doing unpaid labor in the home, who is not gainfully employed, who has had, or would have, difficulty in securing employment; and who has been dependent on the income of another family member but is no longer supported by that income.

These individuals, most often women in their middle years, have contributed years of maintaining a home and family and suddenly find themselves "displaced" through divorce, separation, widowhood, or other loss of family income.

A "displaced homemaker" could be a woman who has been dependent on her husband's income throughout their marriage and loses that financial support because of divorce or the death of her husband. Or it could be a man who has stayed at home to take care of his parents and loses his income because of their death. Or it could be a mother who is no longer eligible for federal welfare assistance because her children are past a certain age.

3. What are the problems facing the "displaced homemaker"?

This is a group that "falls between the crack" in terms of federal income security programs. They are frequently ineligible for social security benefits because they are too young, and for many, they will never qualify for Social Security because they have been divorced from the family wage earner. They are ineligible for Federal welfare assistance if they are not physically disabled and their children are over 18.

They are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home, while at the same time they are often subject to discrimination in seeking employment because of age, sex, and lack of any recent paid work experience. They are subject to the highest unemployment rate of any sector of the workforce.

Often they have lost their rights as beneficaries under employers' pension and health plans through divorce or widowhood and they are generally unacceptable to private health insurance plans because of their sex and age.

4. How extensive is the problem?

It is difficult to pinpoint exactly how many people would qualify as displaced homemakers because homemakers don't often appear in government statistics and their contribution to the economy is not recognized. However, the Alliance for Displaced Homemakers of Oakland, California has estimated, through careful research, that over 2.2 million women fell into the displaced homemaker category as of March, 1973.

They also point out that a large number of people are potential displaced homemakers: Married women between the ages of 34 and 64 who are not in the labor force and have no children under 18 totalled 7.5 million in March, 1973. Moreover, 15 million women out of the labor force who currently have minor children will be without benefits when their children reach 18 years of age.

5. Why does this problem exist?

The changing status of the family has caught older women unprotected. The divorce rate has nearly doubled over the last decade and a half. In 1960, there were 35 divorces per 1000 and by 1974 this figure increased to 63 per 1000. One fourth of the divorces filed are after more than 15 years of marriage. The trend is toward no-fault dissolution of marriage and spousal support for limited periods, if at all.

An increasing number of older women live without men. There has been an increase of 46% in the number of households headed by women in the last decade. In 1973, 1 in every 8 families was headed by a woman; forty per cent of poor families have a woman as its head. Furthermore, there are more than four times as many widows as widowers. The older women become, the more likely they are to be on their own.

6. What does HR 10272 provide?

The bill provides for the establishment of multi-purpose service programs to offer training, counseling and services for displaced homemakers. The programs would be administered by the Department of Health, Education and Welfare.

These programs include: job counseling, job training and placement services, health education and counseling, financial management services, legal referral and counseling services, educational referral and counseling services, and outreach and information services relating to already existing Federal programs.

The bill also calls for a one-year study and report to Congress on the feasibility of and appropriate procedures for including displaced homemakers under unemployment compensation programs. While homemakers make an invaluable contribution to the welfare and economic stability of this country, there is no unemployment insurance for a homemaker who is "laid off".

BUTLER GROVE FARMER PRAISED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FINDLEY. Mr. Speaker, the American farmer produces enough food each year to feed himself and 48 other people. To accomplish this, he works hard and makes a substantial investment in land, labor, and equipment. This week, U.S. News & World Report carried the following article on such a farmer, Jack Rundquist, whom I am proud to claim as a constituent:

IN THE CORN BELT—A SPREAD VALUED IN THE MILLIONS

BUTLER GROVE TOWNSHIP, Ill.—Typical of highly capitalized and efficient farm operations in mid-America is the 1,300-acre Evergreen Farms, Inc., run by Jack Rundquist and family.

Located about 35 miles south of Springfield, the farm is on the southern edge of the belt of fertile land that last year made Illinois the top corn-growing State in the nation.

THE INVESTMENT

With land prices in this area now around $2,000 an acre, Evergreen Farms is worth at least 2.5 million dollars. Mr. Rundquist probably has another quarter of a million tied up in equipment—six tractors, a combine, plows, planters, trucks and automated feed-storage, mixing and delivery systems.

Gross sales are in the range of "several hundred thousand dollars" a year, Mr. Rundquist acknowledges. But that is not the whole story, he says:

"When you sell a load of cattle it looks like an awful lot of money. Then you figure how much you paid for the steers and what it cost to feed them up to size."

He also cites estimates that it costs $200 to plant an acre of corn when spending is totaled for seed, fertilizer, herbicides and fuel. At that rate, he will have $160,000 invested in this year's 800-acre corn crop alone.

Mr. Rundquist marketed about 2,700 hogs last year and 900 beef cattle. Pork production should be about the same this year, he says, but the volume of cattle should be higher under the current market conditions.

Two huge buildings house the separate pork and beef-production "factories." The pig shed accommodates about 1,200 at a time, ranging in size from tiny piglets to 200-pounders ready for the trip to market. Up to 800 cattle can be housed in the other building.

Diets, including the proper vitamins and minerals, are calculated by computer. Feed for the pigs is blown through buried pipes from a mixing building to automatic feeders in the pens. Content is varied according to size of the pigs.

Wagons equipped with electronic scales help Mr. Rundquist and his three full-time employes measure out proper rations for the steers.

Both buildings have slatted floors over large tanks where waste materials are collected. This is pumped out periodically through long hoses to help fertilize surrounding fields.

To meet his feed requirements, Mr. Rundquist will plant 800 acres of corn this year and will buy some. For cash crops, he has 200 acres in soybeans, 200 in wheat—and hopes to plant a second crop of soybeans in the wheat stubble after harvest if the weather co-operates.

COST-PRICE SQUEEZE

The last few years have been good for most farmers in Illinois. But there have been some dark spots. Mr. Rundquist says he "took a beating" on cattle in 1974, when he and other feeders got caught in the squeeze between soaring grain costs and price controls on beef. He cut back his cattle feeding by 75 per cent for a while, but began filling up the feeding barn again last September. He looks for rising beef prices through the summer, which should mean a profit for him.

Mr. Rundquist is sold on farming as a way of life. He is waiting for his son John—who graduates from the University of Illinois this year but plans another year of graduate study—to join him full time. The Rundquists also have four daughters—one married, two in college, one still in high school.

Mr. Rundquist has just finished a six-year term on the advisory board of the University of Illinois College of Agriculture. He also is vice president of the Illinois Pork Producers—a post that rates him a special PORK license plate on his car.

SMALL POST OFFICE CLOSINGS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OBEY. Mr. Speaker, I recently had the opportunity to present testimony on the very serious matter of small post office closings to the Postal Service Subcommittee of the House Post Office and Civil Service Committee. I know that a great many of my colleagues share my concern over this issue, and I would like to submit my testimony to the RECORD at this time:

TESTIMONY BY REPRESENTATIVE OBEY

Mr. Chairman, I welcome this opportunity to discuss a matter which is of great concern to me and to many residents of the 7th Congressional District. The prospect of small post office closings is not just an economic issue; it is at heart a social issue which directly affects the lives of many individuals and communities. Aside from providing postal services, post offices serve as a focal point of social and business life in many small communities, and lend an irreplaceable sense of identity to towns and villages throughout Wisconsin and across the nation.

Congress recognized that fact in 1970 when it passed the Postal Reorganization Act which transformed the old Post Office Department into a quasi-independent corporation. That Act stipulated that the Postal Service could not close a small post office, "solely for operating at a deficit." Last November, however, the Postal Service issued a new set of criteria for judging whether to close small post offices, and with those criteria in hand, proceeded to announce closings.

Members of Congress have responded to this development in a number of ways. Several Members are party to a law suit which contends that the new criteria for closing small post offices violates the Postal Reorganization Act by eliminating post offices, "solely for financial reasons." I have joined 68 of my colleagues in co-sponsoring a resolution which would place a six-month moratorium on further post office closings, and other legislation has been introduced which attempts to deal with this problem.

I am encouraged that the Chairman considers this problem important enough to merit the attention provided by these hearings. the information and viewpoints expressed here will assist Congress and the American people in making some important and difficult decisions about the future of the U.S. Postal Service. And in light of Postmaster General Bailar's recent testimony that the Postal Service faces a deficit of nearly $3 billion, one of the most crucial decisions may well be whether we are willing to accept continued increases in postal rates accompanied by decreases in service, or whether we are willing to spend more tax dollars on the Postal Service.

That decisionmaking process will no doubt be a long and arduous one, but in the meantime the Postal Service is proceeding with small post office closings, and it has come to my attention that one aspect of that process is extremely unfair to the affected postal customers. The Postal Service's own regulations require a survey of customer reaction before a small post office can be closed, and the standard survey letter describes four plans for alternative postal service and asks residents to choose the plan which would best serve their community's needs.

However, the alternatives do not include keeping the existing post office open, and so by choosing one of the four plans described in the letter, a postal customer is automatically endorsing the closing of his local post office when in fact he may prefer that it be kept open. Post offices are such an integral part of the social and business life of small communities that I believe the Postal Service has an obligation to fairly assess the opinions of citizens who would be affected by a post office closing, and the built-in bias of the current survey does not allow that.

Robert Kyle of the *Marshfield News-Herald* in Marshfield, Wisconsin recently wrote an article which explains this problem very well, and I would like to have it included in the hearing record:

TOWNS GET SINGLE PICK IN MAIL POLLS

(By Robert Kyle)

The U.S. Postal Service, already under attack from Congressman David Obey for using biased survey techniques, is conducting studies of its Hewitt and Fenwood post offices that offer customers only one choice.

Postal patrons in both towns have received letters describing the Wausau office's plan to substitute rural carrier delivery for the local post offices. The attached "survey" is a simple statement: "The postal needs of our community will, in my opinion, be best served by Plan No. 2" with space for the customer's comments.

But the survey does not mention any other plans. For other towns, though, the Postal Service lists four options and asks the customers to select one.

Jim Oster, the customer service representative in Milwaukee, said the surveys should have listed all of the available options. "We're not trying to fool anybody," he said. "I'm sorry something like this happened."

Harvey Mathwick, the customer service agent in Wausau, said he sent out the single-option survey to Hewitt and Fenwood because he assumed that rural delivery would be acceptable to postal customers. He now plans to seek bids in Hewitt for a community post office—operated by a local business rather than the postal service—to supplement the rural carrier service.

"In the future," he added, "we're going to offer three options: A community post office, rural delivery or a combination of both."

The survey that drew criticism from Obey, D-Wausau, offers an additional option—a lockbox delivery office staffed by a rural carrier for at least 15 minutes each day. But none of the surveys lists maintaining the existing post office.

"By choosing one of the four plans, a postal customer is automatically endorsing the closing of his local post office when, in fact, he may prefer that that office be kept open," Obey said. "The Postal Service is not giving its customers an adequate opportunity to express their true opinions on the matter."

The surveys, he added, "are heavily weighted in favor of closing small post offices."

Postal officials say it's up to the customers to use the "comments" section of the form to indicate if they would prefer to maintain their existing office, but the cover letters for Hewitt and Fenwood ask only for comments on the rural delivery proposal.

Customers who simply sign the form and return it are voting in favor of rural delivery, and those who do not return the survey are presumed to be indifferent, Mathwick said.

If more than half of the customers who return the forms are in favor of the proposed change, he added, the local office can be closed after 90 days.

Oster, the Postal Services' customer service administrator in Milwaukee, said Obey's criticism of the survey techniques is "a matter of semantics."

"We're saying: If an alternative is provided, which do you prefer?" he said. "We don't have a program for a wholesale eradication of small post offices, and we'll never close or convert a post office if we can't provide equal or better service."

Mathwick said he is conducting the surveys only for third- and fourth-class post offices that do not offer home delivery. Many customers prefer rural delivery, he said, because they would no longer have to pick up their mail and could still purchase stamps and money orders from their carrier.

Customers in towns like Elderon and Galloway, where the Postal Service proposes to award contracts to local businesses, would not notice any change in postal service, he added, but the Postal Service would save money because it would no longer be required to contribute to the pension fund for a local postmaster.

It now costs between $6,000 and $10,000 per year to operate each of the 27 third- and fourth-class post offices in Central Wisconsin, Mathwick said, and conversion to rural delivery could reduce the cost to $500 to $1,000.

"If Congress would subsidize the Postal Service, we wouldn't have to go this route," he said. "Actually, rural delivery is equal to or better than the small post office. The only hang-up is the loss of identity and zip code. That's pretty painful."

As the man said, "that's pretty painful" and I sincerely hope that this Committee will bear that in mind as it attempts to deal with the problem of small post office closings.

LEGISLATION ON REGULATION OF THE ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. TSONGAS. Mr. Speaker, I would like to include this memorandum prepared for Dr. Hans A. Wuttke in the Extensions of Remarks of the RECORD:

MEMORANDUM—LEGISLATION ON REGULATION OF THE ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES

Besides the legislative proposal of the Federal Reserve Board (The Foreign Bank Act of 1975) Congressmen Reuss, Rees and St Germain introduced recently The International Banking Act of 1976 providing for regulation of the activities of foreign banks in the United States.

The most important provisions of the *Federal Reserve Board* proposal are:

Foreign banks shall be limited in their U.S. domestic banking operations to a single state;

All foreign banks shall be bank holding companies under the Bank Holding Company Act;

Ownership of securities affiliates is precluded to foreign banks having banking offices in the U.S.;

Obligatory membership in the Federal Reserve System;

Obligatory FDIC insurance on deposits.

Although multi-state branching and nonbanking activities as of December 3, 1974 shall be permanently grandfathered under the Foreign Bank Act of 1975, German banks are concerned about such restrictions to be imposed on their U.S. activities.

Restrictions on multi-state operations would result in a concentration of foreign banks in New York.

The application of the Bank Holding Company Act on all foreign entities conducting banking operations in the U.S. irrespectively whether separately incorporated or not, could preclude important foreign banks from banking business in the U.S. at all, if they own more than 5% of the voting shares of a U.S. or foreign company which is not a bank and which has—in case of a foreign company—an U.S. subsidiary or branch or is otherwise operating in the U.S. markets, unless there is a clear interpretation of the Act that such ownership is irrelevant.

Membership in the Federal Reserve System should be optional for foreign banks.

The International Banking Act of 1976 as introduced on April 12, 1976 differs in some areas from the Federal Reserve Board legislative proposal. However, only the deletion of mandatory membership in the Federal Reserve System and, to a certain extent, the obligation to post a surety deposit or bond with the FDIC in order to protect depositors and creditors instead of mandatory membership in the FDIC seem to be more favorable to foreign banks. The restrictions on the expansion of existing multi-state banking operations and particularly the limited grandfather clause with respect to securities activities do cause serious problems for foreign banks.

A grandfather clause which forces a bank after December 31, 1985 to divest of its securities affiliate, unless such securities affiliate limits its operations substantially and, with certain exceptions, does not sell or distribute securities in the United States, seems to be not a solution of the problem, but only a postponement. The authority conferred to a securities affiliate by the International Banking Act of 1976 to continue to underwrite securities in the United States, but not to sell or distribute such securities in the United States except to the extent permissible for national banks, would result in a competitive disadvantage of such securities affiliate since its U.S. competitors would not be limited to selling securities solely upon the order and for the account of customers. Such restriction might endanger the financial basis of a brokerage firm and the efficiency of its research and back office work.

The grandfather clause of the International Banking Act of 1976 has still a more serious impact on existing securities activities of foreign banks through affiliates in the United States than the grandfather clause of the Federal Reserve Board proposal. Since

U.S. brokers would have substantial competitive advantages over its foreign owned competitors, one has to fear that the enactment of the International Banking Act of 1976 in its present form might result in a re-examination of policies in other countries governing the development of international banking and give rise to retaliatory measures in countries presently open to foreign competition in the banking and brokerage industry. Such retaliatory measures would certainly not be in the interest of U.S. banks and brokers nor would they be in the interest of anybody who supports the free capital flow and open competition.

LABOR LETTER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OBEY. Mr. Speaker, I was most interested to see the following item in the Wall Street Journal last week and I would like to share it with my colleagues:

[From the Wall Street Journal, May 18, 1976]

Second thoughts: Ralston Purina Co. says it isn't sure now that it was right in declaring last year that inhaling grain dust doesn't hurt grain elevator workers. Last year's theory, espoused by a company official, was that the dust actually may be beneficial because it causes a worker to cough and "clear" his lungs. But the company says it can't substantiate the theory.

Mr. Speaker, St. Paul saw the light after being struck by lightning on the road to Damascus; I wonder what it did for Ralston Purina. The company's previous contention that inhalation of grain dust may be beneficial to workers would be laughable if this were not such a serious matter.

The effects of grain dust, pesticides, and fumigants upon grain handlers' health is a problem with which I am quite familiar. A year ago my office released the results of a study of members of Local 118 of the American Federation of Grain Millers in Superior, Wis., and Duluth, Minn., conducted by Dr. John Rankin of the University of Wisconsin Medical School.

Dr. Rankin found that nearly 60 percent of the workers he examined suffered from some type of airways disease and that well over one-third had either chronic bronchitis, the number one disabler of American males, or emphysema. These results were especially disturbing in light of the fact that the average age of the workers examined was less than 40.

These findings have serious implications not only for the 400 grainworkers in the Superior-Duluth areas, but for the estimated 100,000 people who work in grain elevators throughout the country. As an indication of how far we have to go in protecting the health of these workers, the Federal standard for grain dust exposure stands at 15 parts per million, while the American Conference of Industrial Hygienists—the industry oriented group from which the Federal Government originally adopted that level—has since lowered its own standard to 10 parts per million.

In order for the Federal Government to develop standards which adequately safeguard the health of grainworkers, it is essential that research such as that pioneered by Dr. Rankin be continued. I was therefore most gratified that the Labor-Health, Education, and Welfare Appropriations Subcommittee, of which I am a member, agreed to allocate an additional $1.5 million and 17 positions to the National Institute for Occupational Safety and Health for respiratory disease research in its fiscal year 1977 appropriations bill.

As important as it is for research to be expanded and Federal standards to be improved, that is not enough. If the health of grainworkers is to be protected, the grain industry itself must recognize that it has an obligation to provide a safe and healthy working environment for its employees. That end is certainly not served by the kind of ludicrous and irresponsible statement attributed to representatives of Ralston Purina—before the lightning struck. Let us rejoice and be glad in this most recent "conversion."

HON. LEONOR K. SULLIVAN DENOUNCES STATE DEPARTMENT'S PIECEMEAL EROSION OF U.S. POSITION IN CANAL ZONE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. SNYDER. Mr. Speaker, on April 6 of this year, the Merchant Marine and Fisheries Committee's Subcommittee on Panama Canal began 3 days of hearings on current operational problems of the Panama Canal Company.

The chairman of the committee and former chairman of the subcommittee, our highly respected and distinguished colleague from Missouri, Mrs. Leonor K. Sullivan, made a cogent and courageous opening statement with which I completely associated myself, setting aside my own prepared remarks.

Mr. Speaker, I wish to bring to the attention of all my colleagues the following portion of Mrs. Sullivan's remarks aimed at what I consider to be the chief cause of all the problems presently besetting our vital Panama Canal operations, the State Department's piecemeal erosion of the U.S. position in the Canal Zone:

Remarks of Leonor K. Sullivan

As Chairman of the Committee on Merchant Marine and Fisheries, charged with legislative responsibility over interoceanic canals, I wish to make some observations.

The history of the Panama Canal from 1879 to the present time consists, in large measure, of a series of crises, some of them major ones.

Today, it faces what in some ways may prove to be one of the gravest in its history.

The current Isthmian situation is the culmination of a sustained campaign by the State Department since 1964 to erode United States sovereign rights, power and authority over the Canal Zone and the Canal through the salami process of piecemeal erosion and all of this without the authorization of the Congress.

Under the Constitution, only the Congress, which includes the House of Representatives, is vested with the power to dispose of territory and other property of the United States, and as regards the Canal Zone it has not authorized the making of any treaty to dispose of that territory, or any property in it.

The ultimate end of the process now in progress can only be the surrender of U.S. Sovereignty over the Canal Zone to Panama, a small, weak country, allied with the Cuban-Moscow axis, and in no way qualified to assume the heavy burdens involved in the maintenance, operation, sanitation, and defense of the Canal.

Under the Panama Canal Reorganization Act of 1950, (Public Law 841, 81st Congress), the Panama Canal Enterprise, consisting of the Panama Canal and its indispensable protective frame of the Canal Zone is an independent agency of the United States under the President.

Under the statute, he has designated only the Secretary of the Army as the officer of the United States responsible for its supervision.

This law also placed the Canal on a self-sustaining basis, and specifically povides that the levy of tolls is subject to provisions of the 1901 Hay-Pauncefote Treaty with Great Britain, the 1903 Hay-Bunau-Varilla Treaty with the Republic of Panama and the 1914–22 Thomson-Urrutia Treaty with the Republic of Colombia.

A combination of the ending of the Vietnam War, the opening of the Suez Canal, and the current economic depression has resulted in a substantial decrease in traffic from total transits in fiscal year 1974 of 15,269 to 14,735 ships in 1975, with a correlated decrease in toll revenue.

To meet the resulting financial situation, the Secretary of the Army has approved measures to reduce costs which have reduced or frozen the pay of employees who have no responsibility in the premises.

Coinciding with those, the State Department's policy for eroding U.S. rights, power and authority over the Canal Zone has further added to the concern of Canal employees and adversely affected the efficiency of the Canal Enterprise.

The Panama Canal is located in an area of hostile, unstable conditions, requiring a constant struggle with the forces of nature and others. These forces are climatic, and environmental geologic, engineering and geopolitical.

The Canal is rapidly approaching the time for major modernization, and in this connection I would stress that the people of the United States and the Congress would never permit the large expenditures involved in major modernization except in an area under the sovereign control of the United States.

As shown by experience during the construction of the Canal the first essential for success is the morale of employees.

Important factors in maintaining a high morale include not only commissaries, but also recreational facilities and financial security.

The employees of the Panama Canal form one of the finest industrial groups in the world. The restoration of their morale requires the reversal of certain recent actions of the Secretary of the Army and the termination of negotiations for surrendering our sovereign control.

The Canal problem is not a local matter, but part of a global situation.

Upon the continued undiluted United States sovereign control over the Canal Zone depends not only the fate of the Canal itself, but that of the vast Caribbean Basin, which is already well on its way toward becoming a Red Lake.

Upon the fate of the Caribbean depends the survival of the United States as a free and independent nation.

MANAGEMENT PROBLEMS OF THE SOCIAL SECURITY ADMINISTRATION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARRIS. Mr. Speaker, the need to reform the way the Social Security System is administered is clearly demonstrated in the case of a constituent of mine, Mr. Melvin K. Killian.

Mr. Killian contacted me after his claim for disability benefits was denied. Supported with medical facts, Mr. Killian believed that the decision by the SSA was in error and appealed. On March 20, 1976, I wrote to Mr. James B. Cardwell, Commissioner—Baltimore—and advised Ms. Rose Lepore, Regional Commissioner—Philadelphia—of my interest in the case.

On April 1, 1976, Ms. Lepore advised me that Mr. Killian's claim had been allowed and that he would soon be notified regarding the benefit amount. A few days later, however, April 6, 1976, I received a computer statement from Mr. Cardwell acknowledging receipt of my letter and assuring me that the Social Security Administration would give its "attention to the Social Security matter inquired about."

Almost a month after I had heard from Regional Commissioner Lepore, Mr. Rivers, writing for Commissioner Cardwell, wrote to advise me that Mr. Killian's claim was still being reviewed by the headquarters disability staff. Even though almost a month earlier I was informed by the supervisory office that the case was resolved, the Baltimore office seemed unaware that a decision has been reached to grant Mr. Killian disability benefits. It was not until May 19 that the Baltimore office finally notified me that Mr. Killian's disability claim was approved upon reconsideration.

Perhaps if this was the only instance of poor communication and agency mistakes, Mr. Killian's unfortunate experience with the Social Security Administration could be excused. But every Member of Congress must be aware that Mr. Killian's is a typical, not the unusual case. For this reason I think it is about time that the SSA get its house in order and corrected such problems.

The correspondence which follows graphically demonstrates the need for improved management of the Social Security Administration:

MARCH 20, 1976.

MS. ROSE LEPORE,
Regional Commissioner,
Social Security Administration,
Philadelphia, Pa.

DEAR MS. LEPORE: Attached please find a copy of a letter I have today forwarded to Mr. James B. Cardwell, Commissioner, with regard to Claim #[redacted] by Mr. Melvin K. Killian. I believe that this letter is self-explanatory.

I would appreciate any assistance you may be able to afford in assuring expeditious handling of this matter.

Very truly yours,
HERBERT E. HARRIS II,
Member of Congress.

MARCH 20, 1976.

MR. JAMES B. CARDWELL,
Commissioner, Social Security Administration, Baltimore, Md.

DEAR MR. CARDWELL: I have been contacted by Mr. Melvin K. Killian of 6640 South Kings Highway, Alexandria, Virginia with regard to the recent disapproval of his claim [redacted] for disability insurance benefits.

It is Mr. Killian's belief, seemingly supported by the facts, medical and otherwise of his situation, that this decision is in error He intends to appeal this decision, therefore, through appropriate channels. It is imperative that such an appeal be resolved at the earliest possible date as there is simultaneously pending several questions involving his union benefits. These benefits might be jeopardized by any delay.

May I request that a review of Mr. Killian's case be initiated as soon as possible and all appropriate actions be taken to expedite resolution.

Very truly yours,
HERBERT E. HARRIS II,
Member of Congress.

SOCIAL SECURITY ADMINISTRATION,
Philadelphia, Pa., April 1, 1976.

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: This is in response to your inquiry regarding the social security disability claim of Mr. Melvin K. Killian, 6640 South Kings Highway, Alexandria, Virginia.

I have been informed that Mr. Killian's claim has been allowed.

Mr. Killian will be notified shortly regarding the benefit amount and when he may expect to receive the first check.

If Mr. Killian has any further questions, the representatives in his social security office will be glad to help him.

Sincerely yours,
ROSE M. LEPORE,
Regional Commissioner.

BALTIMORE, MD., *April 6, 1976.*

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.:

Your inquiry of recent date concerning Melvin K. Killian, 6640 South Kings Hwy., Alexandria, Va., [redacted]

We are giving our attention to the social security matter inquired about. As soon as we have the information, we will be in touch with you.

JAMES B. CALDWELL,
Commissioner of Social Security.

BUREAU OF DISABILITY INSURANCE,
Baltimore, Md., April 28, 1976.

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: The Commissioner has asked me to reply further to your inquiry about the disability claim of Mr. Melvin K. Killian, 6640 South Kings Highway, Alexandria, Virginia.

Mr. Killian's claim is being reviewed by our headquarters disability staff. We are aware of your interest to be of all practicable assistance in this matter and you may be assured that every effort is being made to expedite final action.

I will send you a further report as soon as possible.

Sincerely yours,
WILLIAM J. RIVERS,
Director.

BUREAU OF DISABILITY INSURANCE,
Baltimore, Md., May 19, 1976.

Re Mr. Melvin K. Killian, 6640 S. Kings Hwy, Alexandria, Va. 22306. Claim number: [redacted]

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.:

This is to give you notice that Mr. Killian's disability claim has been approved upon reconsideration. He is entitled to $323.40 monthly effective 7/75. Benefit due sent.

WILLIAM J. RIVERS,
Director.

B'NAI B'RITH HONORS BILL RUTHERFORD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. MICHEL. Mr. Speaker, in Illinois, Peoria's Bill Rutherford is known as an effective and uncompromising leader in the fight for a cleaner environment.

In Peoria, he is also known for a host of other good works in the community, and so it is fitting that he receive recognition for these many contributions.

By naming him "Man of the Year," B'nai B'rith of Peoria is thus recognizing his undeniable accomplishments. Sunday's Peoria Journal-Star contained an editorial commenting on the award and on Rutherford. I would like to have that editorial printed here in the RECORD:

CITIZEN BILL RUTHERFORD

(By C. L. Dancey)

Bill Rutherford is about to be honored as the B'nai B'rith "man of the year" as it has come to be called. (Actually, it is their annual citizenship award.)

He has been intensely active year in and year out for a very long time in matters as far ranging as the airport operation, public aid, geriatrics and park development.

The unique thing about his activities, it seems to me, still lies in the giant push he has given to the development of "green areas" and "nature parks" throughout Central Illinois.

It is quite possible that his safety work or work in geriatrics may have more direct human benefits to more people over the years, but Bill Rutherford's work will leave a completely unique legacy.

What most of us do today is gone tomorrow. Some build great structures which may remain as "memorials" of a sort for 50 or 100 years.

But Bill Rutherford has worked in the "green areas" field whereby his accomplishments may well live as long as the pyramids!

Those places set aside to be preserved as natural parks will never "go out of style" or "wear out."

They will be cherished and preserved and the more time passes, the more valuable they will become to the people of Central Illinois.

We use the word "permanent" loosely these days, but that portion of Bill Rutherford's contributions to this area may well be the most permanent "good works" anybody has ever made here.

That alone has been an amazing achievement, totally unique in its long range effects.

Bill also pioneered efforts to bring mutual understanding and cooperation between governmental units, by bringing those *people* together to make sure they were acquainted and by discussing long term problems in mutual terms

He did that many years ago.

Today, Mayor Carver and Caterpillar President William Nauman are both citing "fragmentation" as the biggest municipal problem in this area (and in all Illinois).

Indeed, since Rutherford addressed himself to that problem, a new Constitution has been written in this state with some virtues and some faults, but one reason for its existence has been Illinois' unique situation as having 6,500 local overlapping entities, more than any other state (or nation).

That Constitution does not mandate change—but it opens the door to cooperation and re-organization locally.

In this, too, Bill Rutherford has been a pioneer.

Rutherford's actions have not always been free of controversy or confrontation—but as a real force in this community and a force for many good things, recognition by the "citizenship award" is certainly earned—and probably overdue.

OIL RECYCLING

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WIRTH. Mr. Speaker, as you know, I have from time to time called attention to projects in the field of product recycling that seem noteworthy. I would like to do so again today. Coors Transportation Co., a subsidiary of the Adolph Coors Co. of Golden, Colo., has developed a method of recycling crankcase oil. According to a recent Denver Post article, the result has been the reduction of carbon monoxide emissions, some oil conservation, and a fuel economy for Coors' diesel trucks. I would like to insert in the RECORD the Denver Post article describing the program.

EMISSIONS, SMOKE REDUCED: OIL RECYCLING SHAVES COORS' FUEL COSTS

(By Bill Strabala)

A recycling experiment with used crankcase oil has brought Coors Transportation Co. a means of cutting fuel costs for its diesel trucks, while reducing carbon monoxide emissions and exhaust smoke.

The Denver-based trucking subsidiary of Adolph Coors Co., of Golden, started the program in July of 1973 at a time when oil drained from engines presented increasing disposal problems.

Oil from the diesel engines was mixed with diesel fuel at a ratio of three parts per hundred, and the mixture was burned in the engines of 45 trucks.

ENGINE INSPECTIONS

After 100,000 miles the engines were inspected at Chevron Oil laboratories and by Cummins Engine Co.

The Cummins report showed that the blend reduced exhaust smoke by 30 to 40 per cent, lowered carbon monoxide emissions and showed no effect on nitrogen oxide outputs, all without increasing engine wear or carbon buildup. The report noted there was no noticeable difference in engine performance or fuel consumption.

Cummins subsequently published a service bulletin on approved filtering and mixing techniques and the idea has spread to other companies, including the diesel fleet of Associated Grocers in Denver.

Coors now is burning 460 gallons of waste oil per month, and Associated Grocers is using about 250 gallons per month in its 80-truck fleet.

Although the savings in dollars is relatively small—about 30 cents for each gallon of diesel fuel replaced by the oil—Coors officials point out that it also solves the problem of disposing of the waste oil. Previously the company had to pay refiners to collect the used oil. Some of the oil is re-refined, and some of it is burned as fuel in refinery operations.

Coors designed and built its own mobile recycling unit for the program. It consists of a 500-gallon tank, three large filters operated in series, and an electric motor and pump.

In operation, the tank is filled halfway with diesel fuel. Then drain oil, collected in underground tanks, is pumped through the filters and into the mixing tank. When full, the 500-gallon mixture is added to the firm's 24,000-gallon fuel storage tank for use by the truck fleet.

Coors Transportation is based at 5101 York St. in Denver, where the trucks are serviced.

Wayne Harris, manager, warns that crankcase oil from gasoline engines cannot be used in diesel fuel because of the lead deposits picked up by the oil from leaded gasoline.

"We're pleased with the results of this recycling program and especially happy that it has also helped reduce emissions," said James Wildman, chairman of the transportation firm.

TRIBUTE TO RABBI PRESSMAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WAXMAN. Mr. Speaker, I welcome the opportunity to share with my congressional colleagues and the American people the news of a most significant event in my home community. On Sunday, June 13, 1976, Temple Beth Am in Los Angeles will mark the silver anniversary of Rabbi Jacob Pressman with a gala dinner at the Century Plaza Hotel. Principal organizers of the dinner are Temple President Maxwell Hillary Salter, honorary chairman, Monty Hall and dinner cochairmen Messrs. Erwin Glincher and Heiman Walter. The banquet will be attended by not only hundreds of members of Temple Beth Am, but also prominent individuals from every sector of both the Jewish and general community.

During his quarter century tenure as rabbi of Temble Beth Am, Rabbi Pressman has guided the temple to its current position as the largest and one of the most respected conservative synagogues in the West. Rabbi Pressman has inspired not only an enormous range of religious activities but also one of the widest and most varied temple educational programs in America.

Rabbi Pressman, a native of Philadelphia and a graduate of the University of Pennsylvania was ordained by the Jewish Theological Seminary of America and earned a master of Hebrew letters degree from that institution. The rabbi also holds a doctorate in divinity from the University of Judaism.

Despite the enormous burdens of leading a large temple, Rabbi Pressman has always made time for participation in civic activities and rabbinical organizations. The rabbi is a past president of both the board of rabbis of southern California and the west coast branch of the rabbinical assembly. He is currently a member of the national executive council of the rabbinical assembly.

The Los Angeles Jewish community is rightfully proud not only of Rabbi Pressman but of his entire family. His dynamic wife, Marjorie, has been an enthusiastic and tremendously effective partner in all of the rabbi's temple and community activities. His son, Rabbi Daniel Pressman, following in the path of his father, entered the rabbinate. He is now spiritual leader of Temple Ner Tamied of South Bay. Another son, Joel Pressman, teaches music at Beverly Hills High School. The Pressman daughter, Judith, is now studying in Jerusalem.

Rabbi Pressman has earned his reputation as an outstanding rabbi by virtue of his great skill in many diverse aspects of rabbinical responsibility. Rabbi Pressman is a soul-stirring orator, a brilliant organizer and administrator, and a warm and communicative educator and counselor. Despite his commitment to the Jewish community and the Land of Israel, Rabbi Pressman has devoted much of his energy to achieving worthwhile goals for the community and our Nation as a whole.

When thousands of Vietnamese refugees entered the United States in flight from their war-torn homeland, Rabbi Pressman's voice was one of the first and most eloquent to be heard. He set forth a program for maximum compassion and hospitality to the newcomers, toward whom so many were hostile and suspicious. This single example is illustrative of the unity of Jewish values and universal humanitarian concerns found embedded in Rabbi Pressman's character.

I join with Rabbi Pressman's countless members, friends, and admirers in congratulating him on his 26 years of service to Temple Beth Am and expressing my hope that God will grant Rabbi and Mrs. Pressman many, many years of good health and full strength to continue their lives of service to the community.

GETTING DOWN TO DOING IT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. TEAGUE. Mr. Speaker, one of the energy industry leaders, Carl Bagge, recently wrote an article which encapsulates the compelling need to demonstrate synthetic fuels industry in this country.

In his article, "Getting Down To Doing It," he writes that he attended a meeting of the International Committee for Coal Research in South Africa and was able to observe firsthand what that nation has done to relieve itself from dependence on oil and gas.

On May 15, the Committee on Science and Technology reported out the loan guarantee bill for synthetic fuels, H.R. 12112, which will enable our Nation to demonstrate the coal technology already available at a scale much larger than has been built anywhere in the world. The progress that we make in this country demonstrating these technologies is closely linked to the incentive program that we have developed.

Mr. Speaker, I urge all Members to review this important and timely article:

Getting Down To Doing It!

(By Carl Bagge)

Once after witnessing a unique social experiment, Chicago journalist Lincoln Steffens delivered what was perhaps his most memorable line: "I have been over into the future, and it works."

Recently, together with 11 American coal executives attending a meeting of the International Committee for Coal Research in South Africa, I witnessed the kind of reality-as-a-vision that must have prompted Steffens to make that remark. For as we walked past the coal hoppers and reactors at the South African Coal, Oil and Gas Corporation's coal conversion complex in Sasolburg, we realized—some way, some-how, this is the way things are going to have to be in the U.S. And we in the U.S. coal industry are going to have to play a most critical role in making it work.

The Sasol plant we toured represents a most remarkable example of what can be done, given incentive, technical virtuosity and most importantly, the national determination to attain a difficult goal.

Without getting into the ins and outs of the complex situation in South Africa today, I would like to point out that the people of South Africa decided more than 25 years ago that they must develop a capacity for energy self-sufficiency. They then proceeded to develop a strategy in a step-by-step fashion to attain that goal.

Because coal is their chief energy resource, they decided that coal was the most reasonable material basis for their energy self-sufficiency. And since the Fischer Tropsch process developed in Germany was perhaps the most proven technology for producing liquids from coal, it is the technology they are using today to produce 25 percent of the gasoline consumed in their nation.

There are, of course, those in the United States who point out the primitive nature of the Fischer Tropsch process and claim it is highly uneconomic.

The South Africans know all of this, but they also know that energy independence is more important than quibbling over dollars or the level of technological accomplishment. That's why they went ahead and did what they had to do, which is far more than we can say about our national effort in this direction.

Let's face facts. The U.S. economy is dependent on oil and gas and we're running out of them. Coal, on the other hand, is our most plentiful fuel, and few would disagree that ultimately we must gasify it, liquefy it, and use it as material basis for our economy. This is precisely why we must begin today to build full-scale demonstration plants to show once and for all what can and cannot be done and how much it will cost to do it. And if this means building several plants that are uneconomic or difficult to operate, so be it. You can't have meaningful progress without taking some chances.

The task is so large, and the risks are so great, however, that industry cannot be expected to do it alone. And this is why the House of Representatives' failure to pass the $6 billion synthetic fuels loan guarantee program last year was particularly tragic.

Clearly, some federally supported synthetic fuels incentive program is necessary if we are to accelerate the schedule for synthetic fuels development. It is equally clear that federal loan guarantees will not be enough to commercialize the many coal conversion technologies that are needed. If the nation is serious about accelerating synthetic fuels production, it must establish a broad-gauged incentives program. Of course, loan guarantees will be needed, particularly if we are to have enough gas to go around 5 or 10 years hence, but so will price supports, market guarantees, and whatever incentives creative minds can devise to contribute to the outsized task at hand.

What we need is energy independence. And as the South Africans have capably shown, the answer is to be found in doing, not talking about it.

GEORGE BUSH

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BOB WILSON. Mr. Speaker, having recently returned from a visit to the People's Republic of China, I am aware of the great pioneering job that our former colleague, George Bush, performed until recently as head of the U.S. Liaison Office in Peking. Both George and his wife, Barbara, have warm and friendly personalities which is important in a job that requires much tact and understanding. This was important in his job of representing the United States in a country where we have not been welcome for decades.

Mr. Speaker, I insert a recent item which appeared in the Alumni Bulletin of the Phillips Academy of Andover, Mass., a school which George Bush attended. The article appeared in the form of a letter from Ernest Obermeyer, one of his former classmates at Phillips, who recently visited George and Barbara and saw them in action:

News has been scarce, but for once I'm not complaining because I'd like to take a few paragraphs to write about our most newsworthy class member. At this writing George and Barbara Bush are on their way home to Washington. By the time you read these notes, he will, no doubt, have been confirmed as the Director of the CIA.

Thanks to his efforts and their unbounding hospitality and aided by Bunny's TWA passes and air fare privileges, we were able to spend 18 days in the People's Republic of China. Our trip took us from New York via Athens to Peking. There we were met on the runway on a chilly November evening by the Bushes. (Just getting from the runway thru the airport and out calls for the sort of expertise that George has. It is an indescribably different world.)

The United States Liaison Office is a large, comfortable stone compound in one of the two embassy areas in Peking. George and Barbara are the greatest hosts either of us have met. They made sure that we saw and did everything there was to do in this both exciting and historic city. Later we encountered official China Tour Guides in each of the cities we visited and looking back, Barbara Bush was far superior to any of them. She has studied the territory from the Forbidden City to the Ming Tombs to the Great Wall and she has done her homework extremely well. George has a sound working knowledge of the language, the result of a daily lesson, and communicated well enough to get us through restaurants, check points, railroad stations and the country side. What he cannot say with words he does with a smile, a wave and great enthusiasm. It is exciting to see him in action.

Both George and Barbara liked China, the challenge, the chance to improve our relations with this vast country that holds one fifth of the world's people, and the opportunity for personal and friendly diplomacy. Eighteen days does not make one a "new China hand" let alone an old one, and I do not know what the official opinions are about the United States, but on first hand observation, they do like George Bush. In fact, after leaving Peking all of the tour guides we spoke with had the highest regard for him. One can't help but feel that in George and Barbara the United States has put its best diplomatic foot forward.

Wherever we went in our big black Chevrolet with the U.S. flag flying from the right front fender, people smiled and when we got out at a restaurant or a store or Chinese landmark, the people crowded around and George or Barbara were the first to break the ice with a smile, a wave, a handshake or a friendly Ni Hao. There are nineteen Americans in the U.S. Liaison Office and all that we met—and we met most of them—expressed great sorrow at his leaving.

Both George and Barbara have that unique ability whether they are talking to the office guard, the Australian Ambassador or the Chinese who take care of the tennis courts at the International Club to make each feel welcome and important. They truly appreciate the kindnesses and courtesies that are shown them, and they communicate that feeling effectively. Incidentally, while on his assignment George established himself as the best doubles player (tennis) in the country. We saw him, teamed with the Ghana Ambassador, win easily against two younger Australians in the international semi-finals. Socially there is little contact with the Chinese officials. During our stay we had the opportunity to spend some time with Ambassadors from New Zealand, Australia and enjoyed a family dinner at the Sri Lanka Embassy. I suspect that George has done an equally fine job in representing us and giving these other ambassadors a better understanding of our country.

Both George and Barbara were looking forward to spending two years in Peking before that fateful Sunday call summoning him back to Washington. In fact, he confided that he had requested the assignment in preference to some other more prestigious posts that were offered to him. He has a sincere belief that China is where the future is and that he could use his personal and personable efforts to the greater benefit of the country in China than elsewhere. The C.I.A. summons was a disappointment to him if for no other reason than he did not feel he had the opportunity to finish his work in Peking. But in his own words this too was "a challenge he felt it was his duty to accept." In this cynical world in which we live I'm sure it is difficult for some people to understand George. Unfortunately, some of our newspapers keep referring to him as a "Texas oil millionaire." Literally this may be true but the connotation couldn't be more erroneous. He was in the oil business. He worked hard. He was successful. He is comfortable. He won't go hungry but John Paul Getty he is not, nor does merely making money excite him. His life style is simple. His interests are multi-dimensional. He possesses those character traits that many have forgotten still exists—true patriotism, a sense of duty to people and country, a desire to serve and all coupled with a boundless enthusiasm and a studied optimism. He has a controlled ambition that sublimates personal advancement to character, honesty and a knowledge of what's right. George is an endangered species of political animal and that's unfortunate for us all. Thanks to his efforts Bunny and I were able to travel in China by train to Nanking to Wusih to Soochow to Shanghai and then by plane to Canton and on to the border by train and finally the walk out of China and on to Hong Kong. It was an unforgettable odyssey but that's another story.

THE FEA: DIRECTING AND ADMINISTERING WHAT?

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. SCHROEDER. Mr. Speaker, H.R. 12169, the House Interstate and Foreign Commerce Committee's bill to give the Federal Energy Administration 39 more months of life also authorizes $39 million for the continuation of the FEA's Office of Executive Direction and Administration. On the other hand, the Schroeder-Fithian substitute to H.R. 12169, which was printed in the May 18, RECORD at page 14329, proposes to abolish all of this Office—except for its office dealing with private grievances and redress. There are sound reasons for eliminating this office, its $39 million budget, and its 1,000 employees.

The Office of Executive Direction and Administration is the head of the body we know as the FEA. It consists of an Office of Administrator, Office of Management and Administration, Office of General Counsel, Office of Communications and Public Affairs, Office of Congressional Affairs, Office of Intergovernmental, Regional, and Special Programs, and the Office of Private Grievances and Redress. The problems with these offices are noted below:

OFFICE OF ADMINISTRATOR

The Office of Administrator contains the job which Mr. Zarb presently occupies. H.R. 12169 proposes to give this appendage $2.1 million over the next 15 months. The prime function of the Office apears to be keeping the FEA's other functions in line while Mr. Zarb is off making speeches, many times traveling by charter aircraft. If I may quote from the FEA budget submission for this year, the main occupation of this office for last year was:

> The "energy-wise" education of the American people concerning energy problems through an increased volume of speeches by the Administrator, two Deputy Administrators, and Assistant Administrators, who transmitted the Presidential direction for increased efforts in reaching consumer groups on conservation.

OFFICE OF MANAGEMENT AND ADMINISTRATION

The Office of Management and Administration supposedly oversees the organizational matters of the Federal Energy Administration. Unfortunately, it never seems to have gotten this act together, other than for promoting the mean salaries of FEA employees to the highest in the Federal bureaucracy. In fact, in its unfounded zeal to manage and administer the FEA bureaucracy, it has had to contract out—at $92 per hour, slightly more than the President makes—for services on how to set up its bureaucracy. The following correspondence I have had with the Civil Service Commission does, I believe, lay out the essence of this Office's bungling:

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 21, 1976.

JOSEPH DAMICO,
Director, Bureau of Executive Manpower, U.S. Civil Service Commission, Washington, D.C.

DEAR MR. DAMICO: In 1974 the Federal Energy Office/Federal Energy Administration, at the direction of then FEO Administrator and Deputy Secretary of the Treasury William Simon let a $215,725 contract to Korn/Ferry International entitled "Design Within FEO an Executive Development Program."

According to FEA documents reviewed by my staff, the purpose of the contract was to define FEO positions, write job sheets, identify qualified candidates, and set up a Human Resources Department at FEO for organizational development, manpower planning, and recruiting.

Fees under this contract ranged from $14 an hour for secretarial staff up to $92 an hour for Korn/Ferry executive staff.

I would appreciate it if your Bureau would review this contract to ascertain if the services purchased were duplicative of services already available from the Civil Service Commission (or the White House Personnel Office) or whether the contract or any activities carried out under the contract were in violation of applicable federal law.

Second, it is my understanding that last year the Civil Service Commission inspected the FEA and found that they had no executive development program at all.

I would appreciate being provided with a copy of your inspection report.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

U.S. CIVIL SERVICE COMMISSION,
BUREAU OF EXECUTIVE MANPOWER,
Washington, D.C., May 6, 1976.

Hon. PATRICIA SCHROEDER,
House of Representatives,
Washington, D.C.

DEAR MS. SCHROEDER: This is in reply to your letter of April 21, 1976, concerning a 1974 contract let by the Federal Energy Office (now, Federal Energy Administration) and captioned "Design Within FEO an Executive Development Program." In connection with this matter, you ask whether "the services purchased were duplicative of services already available from the Civil Service Commission (or the White House Personnel Office) or whether the contract or any activities carried out under the contract were in violation of applicable law."

As an initial matter, it should be stressed that under policies laid down by the Office of Management and Budget in the Executive Office of the President, each Executive agency is responsible for determining whether a particular mission or function required of it shall be performed in-house by Federal employees or by a private contractor. These policies, which are set out in Circular No. A-76 of the Office of Management and Budget, require that an agency take into consideration a number of factors before deciding to perform a function by in-house services or by contracting out. Some of these factors are the costs involved (i.e., is it less expensive to contract out or to do the job in-house), the degree of disruption or delay involved by contracting out, and the availability of a readily usable private contractor. In every instance the ultimate determination is required to be based on a finding as to which method will be most beneficial to the national interest.

The Civil Service Commission is not authorized to review an Executive agency's determination to perform a particular mission or function by contracting out rather than in-house hire. Our interest in this area is limited to determining whether agency contracting practices are consistent with Federal personnel policy required by pertinent laws, rules, and regulations. More specifically, it is our obligation to protect the integrity of the appointive process contemplated by chapters 31 and 33 of title 5, United States Code. The Commission sees to it that the term "employee," as defined in 5 U.S.C. section 2105 and used elsewhere in that title, is properly applied in the manner intended by Congress since so many important employee benefits depend on whether an individual is or is not an employee as so defined.

The Commission's critical concern is, thus, whether by contract an Executive agency has made an arrangement between Government personnel and contractor personnel which is tantamount to an employer-employee relationship. If such a relationship is found, e.g., contractor employees are supervised directly by Government employees, we require appropriate corrective action. Of course, since the contract here apparently deals with a personnel management subject, we would also have an interest in making certain that the substantive results of the contract comport fully with applicable personnel practices and policies. At all events, typically, in order to determine whether a contract arrangement is proper, we must go beyond its stated terms and evaluate the manner in which it was actually administered. Thus, while we shall thoroughly review the terms of the contract here and any related documents, the Commission's Bureau of Personnel Management Evaluation (with the assistance of the Bureau of Executive Manpower) will, if necessary, also jointly go onsite at the Federal Energy Administration in order to make such inquiries as are necessary fully to understand the way in which the contract was administered. Of course, in view of our general personnel management oversight responsibility, we shall also carefully evaluate whatever "product" may have resulted from the contract.

As you can see, the question from our standpoint is not one of duplicative services. Nonetheless, the Civil Service Commission does have a keen interest in assuring that executive branch agencies manage their total personnel resources in a prudent and cost-effective manner. And, in this connection, you may be assured that we shall make the necessary review and promptly report our findings to you when our consideration of the matter is completed. If we find that the administration of the contract by FEA violated any provisions of Federal personnel statutes, we shall direct appropriate action.

You have also asked for a copy of a recent Civil Service Commission evaluation report on the Federal Energy Administration which, among other things, dealt with the question of executive development. We have enclosed a copy of the pertinent report. With reference to it, however, we wish to point out that the Court of Appeals has affirmed in *Vaughn* v. *Rosen*, a Freedom of Information Act case which dealt with the release of Commission evaluation reports, that those portions of our reports which contain reference to individual employees or particular agency officials are exempt from disclosure to the public under 5 U.S.C. 552(b)(6). We feel strongly that the personal privacy considerations which underlay the Court's decision are especially important. Therefore, the pages which contain references to individual employees or particular agency officials have been stamped accordingly. We trust that you view the matter similarly and will consider this in your use of the report.

Sincerely yours,

Joseph U. Damico,
Director.

July 31, 1975.

Mr. Thomas E. Noel,
Acting Assistant Administrator, Office of Management and Administration, Federal Energy Administration, Washington, D.C.

Dear Mr. Noel: As you know the Civil Service Commission with the cooperation of Federal Energy Administration personnel and management staffs has been working on a plan of action to define and propose solutions to personnel management problems at FEA. As part of this effort, two members of my staff recently completed an onsite review of executive manpower management in FEA.

Our overriding concern is to insure that FEA, a newly created agency, is supplied with capable people to perform duties and responsibilities in an organizational environment which makes maximum use of their individual abilities and potential to contribute to the most effective accomplishment of FEA's vital mission.

The purpose of this letter is to transmit (1) executive and management development program findings and required actions and (2) a discussion and case listing of misassignments. In summary, little attention has been paid to the need to develop your executives and the responsibility for the program has not been firmly fixed in the organization.

Further, while we are aware that a good deal of progress has been made in correcting illegal personnel actions which have been subject of previous correspondence and discussion, we found instances of indiscriminate details and misuse of expert and consultant appointment authorities which we also discuss in Attachment I. Specifically, we learned of supergrade employees performing duties substantively different from those of official record; unrecorded details in excess of thirty days to supergrade positions; supergrades performing duties that have not been allocated by the CSC at the supergrade level; lower grade employees acting in supergrade positions without proper documentation; and experts and consultants acting in continuing line positions at the supergrade level.

Accordingly, we require that you initiate action to correct the irregularities cited in the cast listing in Attachment II. Please respond to this Bureau within the next thirty days as shown under "Required Action".

Sincerely yours,

Joseph U. Damico,
Director.

Attachments.

Attachment I

1. Executive and Management Development Program Findings—

a. The office of primary responsibility for executive and management development has not clearly been identified. No functional statements have been published, although draft statements for the Office of Executive Management and for the Program Manager, Training and Development, both claim responsibility for an executive development program.

b. A deliberate management decision was made by the former Assistant Administrator for Administrative Management not to expend substantial funds on long-range development and training. This decision has been somewhat modified with the recent purchase of six three-week courses at the Federal Executive Institute. However, other than for the purchase of these three-week training courses no manpower or funds have been expended to implement the executive and management development programs required by the Civil Service Commission in FPM Letter No. 412-2. Moreover, the reporting requirement, levied by the Civil Service Commission in BTN. No. 412-1, dated December 18, 1974, has been completely ignored.

c. We understand the sense of urgency which FEA administrators felt as they addressed the problem of organizing and staffing a new agency on a crash basis. However, this period is over and every effort must be made to assure that the government's long-term needs for executives in the energy program area are met. FEA functions, albeit located now in a temporary agency, will most likely continue beyond the statutory life of the agency. Executives engaged in these energy functions should be developed to enhance and sharpen their management skills. Their managerial development is important to FEA because many of them have come to their jobs without prior government service. Their development is important, too, to the government as a whole for many will be placed in other positions in the Federal Government when FEA expires as an agency.

Required Actions—

a. The decision to give little attention to executive development should be reconsidered. A program for executive and management development should be established in consonance with FPM Letter No. 412-2.

b. FEA functional statements should be published to clearly show that there is only one office of primary responsibility for executive development matters. Where necessary, position descriptions should be revised to reflect this assignment of responsibility.

2. Supergrade Position Control—

FEA has been ineffective in administering the control of details. There is no formal process for detail control. Details have not as a practice been recorded in Official Personnel Folders; and lengthy details to supergrade positions have been common. In addition, experts and consultants have been used to temporarily fill some supergrade positions.

Required Actions—

a. The Office of Executive Management must begin to exercise supergrade detail control.

b. The practice of misusing expert and consultant appointments must cease forthwith. FEA top management must make clear the necessity for all responsible FEA officials to obey the law regarding experts and consultants.

OFFICE OF GENERAL COUNSEL

This office contains 235 employees and would cost $7 million over the next 15 months according to the proposals in H.R. 12169. The FEA states in its budget submission that this office provides "legal support on a wide and complex range of energy matters." Apparently, this means that the office advises other FEA offices on how not to enforce regulations against the major oil companies and how to threaten FEA audits of everyone else.

OFFICE OF COMMUNICATIONS AND PUBLIC AFFAIRS

This office would contain 48 employees and cost $2.6 million over the next 15 months if H.R. 12169 were enacted. These are the people who have brought us the Energy Act and 60 press releases a month. They also handle the computerized file of speeches emanating from the Office of Administrator.

OFFICE OF INTERGOVERNMENTAL, REGIONAL, AND SPECIAL PROGRAMS

This Office would have 66 employees and cost $3.2 million if H.R. 12169 were enacted. The Office has a nice ring to its title and touts itself as the Federal Government's energy liaison to the rest of the Nation. Unfortunately, things are so out of hand in the Office that it has granted numerous contracts in the $100,000 range to Washington-based lobbying organizations which represent counties, cities, and States in Congress. Ostensibly, these contracts are so that these organizations will have the funds to study congressional and administration energy proposals. Yet, in many instances, the work product of the contracts consists of the preparation of testimony and lobbying campaigns for use in Congress. State input into the hearings on H.R. 7014, the omnibus bill, was, for example, prepared in part by funds paid under one of these FEA contracts.

Mr. Speaker, it is difficult to find anything in these offices which justifies their continued existence. The Schroeder-Fithian substitute is the only sound alternative to their continuation.

I am happy to announce today that Representative Fithian and I have been joined in cosponsorship of the substitute by Representatives Krebs, D'Amours, Baucus, Keys, Jenrette, Hughes, Jacobs, Lehman, and Edgar, who share our views.

THE REMAKING OF A CITY: THE PONTIAC PLAN

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROOMFIELD. Mr. Speaker, when one thinks of cities, usually a dismal picture of urban slums, middle-class flight to the suburbs, high crime rates, a decreasing tax base and future bankruptcy, and depersonalization comes quickly to mind. Overshadowed, now, is the picture we once had of vibrancy, excitement, culture, an active business world, and sheer life and personality that was once synonymous with the word "city."

However, there are efforts to turn this trend around and bring our Nation's cities back to life. One such effort is taking place in the city of Pontiac in my own 19th District. I wish to share their work with my colleagues for Pontiac's plans have importance to the entire national effort of reconstructing the American city.

Therefore, I hereby submit an article by Joe Szczesny from the Pontiac-Waterford Times, which presents an overview of this important effort in the remaking of a city.

On the Horizon, the Remaking of a City

(By Joe Szczesny)

The word "city" is a four letter word to many Americans since it brings with it visions of chaos, dirt and decay.

But the imagery also blurs and distorts the fact that without the city, life just wouldn't be much fun.

People have been running away to the active, colorful life of the big city for thousands of years. After all, how can you keep people minding sheep up in the PelePonesus once they've seen Athens?

But ever since World War II, Americans have been fighting the historical evidence which places so much value on the enrichment which city life brings to an individual; they have been running away from the city.

The end result, however, is a landscape in which everything appears scattered because there is no central vision or unifying conception to hold it together.

The same imagination, or more aptly lack of imagination, that has shaped the nation's landscape of the 1970's has contributed to the ghettoization of American life since it is the poor, the elderly and the minorities that have inherited the empty shell of what used to be the American city.

More and more people are beginning to realize, however, that the nation's urban centers can reverse the seemingly endless decline, revitalize an area and make cities places where people once again enjoy living. Pontiac is no exception.

In the last few months, there has been a significant understanding on the part of people throughout the community, that if given half a chance, the city's urban renewal plan, The Pontiac Plan, can succeed.

Since he undertook the task of assembling investors for the project last February, C. Don Davidson, the designer of The Pontiac Plan and the publisher of THE TIMES, has been able to interest the top officials at the Department of Housing and Urban Development in the project, something which had never been done before.

In addition, one investor—Charlie Langs—has already expressed an interest in building the long-talked-about downtown hotel and the Southeastern Michigan Transportation Authority has agreed to build its new commuter station in conjunction with The Pontiac Plan. The North Oakland YMCA has committed itself to raising the money to build an $8 million sports arena which is part of the urban renewal proposal.

As a whole, The Pontiac Plan calls for building a complete urban complex accommodating shopping areas, apartment living, office space and public facilities such as theatres and museums on the 27 acres of urban renewal land that have been vacant since the early 1960s.

A crucial component of The Pontiac Plan, however, is adequate parking for the people that will ultimately use the center.

The entire complex is designed with an understanding that the automobile is going to be the chief means of transportation for years to come. Thus, The Pontiac Plan provides ample covered parking while at the same time creating a pleasant environment for pedestrians through the use of parking ramps, plazas and walkways.

But besides its intention to create the urban environment that the surrounding suburban communities lack, The Pontiac Plan is also premised on the idea that the creative partnership between the local, state and federal government can make urban renewal work.

Through the incentives offered by the combined governments in the form of relatively inexpensive land, air-rights, covered parking, and tax abatement, the plan revives the original concept of urban renewal, which was to promote urban growth.

But through the years, the over-regulation of urban renewal by the federal government and inadequate planning by local government have defeated the program's original purpose. Private suburban developers can never hope to match the combination of incentives offered through a well-coordinated urban renewal program because it ultimately benefits the consumers in the form of more amenities, lower rents and ample parking.

In addition to enhancing the city's overall image and building a quality environment in the central city, the success of The Pontiac Plan will benefit the entire community.

It will broaden the tax base by shifting the burden away from heavy industry, furnish more employment opportunities, and create an atmosphere in which banks and savings and loan institutions can feel comfortable with the idea of lending mortgage money to restore or replace the city's depleted and dilapidated housing stock.

Although much has been written and said about the social factors which people think lead to urban decay, much of this criticism ignores a central point, people create or destroy urban environments through their own action or inaction.

A case in point is the wrenching battle the city's been through over the future of Pontiac General.

Although hospital officials were furnished four years ago with the information about the eventual need to replace the outdated existing hospital building, no one on the city's planing staff had ever bothered to investigate where the best possible location for a new hospital might be, until some three months ago.

This was a full-year after the hospital's board of trustees had announced that their own planning for such a new facility had advanced far enough for serious public discussion.

The lack of thought on the part of others besides the hospital administration on where a new hospital should be built is an excellent example of what Ada Louise Huxtable, a member of the New York Times' editorial board and an architectural critic of some renown, has described as the gnomish mentality of those that control and alter the urban environment.

"Gnomes," Ms. Hustable wrote last year, "in the modern definition, are creatures specializing in acts of perverse illogic or malevolent nonsense that result in situations of consummate absurdity in which the rest of us are trapped. They are particularly active in official circles."

But the gnomes that buried the Clinton River, placed key governmental building outside of the downtown area, constructed Wide Track Drive and built the Michigan Bell Tower don't have to win forever. People can. And they can build the sort of environment in which city urban life is exciting and interesting and fun again.

If the urban renewal plan succeeds, Pontiac may well have a significant part in showing people just how much fun it can be.

SOLAR ENERGY COMMUNITY UTILITY PROGRAMS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. CHISHOLM. Mr. Speaker, last week Congressman JOHN JOSEPH MOAKLEY and I introduced legislation which calls for the establishment of a program with ERDA to assist local governments in carrying out solar energy community utility programs—SECUP. Our purpose in proposing this legislation is to bring solar energy to moderate- and low-income Americans who we feel must have input into this exciting energy development. Only through a community utility program which leases solar equipment for use in private homes, apartments, small businesses, can those who cannot afford the $6,000 to $12,000 first costs of solar equipment become acquainted with solar energy.

Andrew Tobias has written an article for New York Magazine which tells of various solar energy projects currently in use. Mr. Tobias also addresses the most popular misconceptions which many people have about solar energy. I would like to share this article with my colleagues:

SOLAR ENERGY NOW: WHY AREN'T WE USING IT MORE?

(By Andrew Tobias)

I don't know if it's true about the woman who spread aluminum foil all around her sun chaise and baked herself to death, like a potato, but the general principle is compelling. The sun is a furnace of almost unimaginable proportions. Enough energy in the form of sunlight falls on New York State in one day—if we could collect it all—to power the entire country for a week. (Enough falls on California to power the whole world!) And when I was in Huntsville, Alabama, attending the First Annual Alabama Solar Energy Products Show—an eleven-exhibit affair all too indicative of the fledgling state of the solar-energy industry—I actually did see a man hold a board up in front of a twelve-foot concave reflector he had built in his garage, and watched as the board almost instantly burst into flames. (Then he held up a Coke can, which melted.) The temperature at the focal point of his $200 Mylar-and-bicycle-chain contraption was around 2,000 degree Fahrenheit. Focus it on a tank of water and you would soon have steam to run a turbine to generate electricity to power your home.

Now, the natural organization for a story like this would be first to demonstrate the overwhelming reasons why solar—not nuclear—energy must become the energy of the future, and then to catalog the ways you and I can use solar energy *right now* to save money and, at the same time, conserve fossil fuels and cut down on pollution. But it is only natural to be more interested in saving money than in saving the world, so I've reversed the order.

For now, suffice it to say that when Dr. Edward Teller, "father of the hydrogen bomb and longtime advocate of nuclear-power expansion," as the Los Angeles *Times* characterized him, visited Huntsville a couple of weeks after I did last month, he said that the *long*-term answer to our energy needs lies in solar, not nuclear, energy development, and that this is where our first priority ought to be.

The sun's rays are free, clean, and virtually inexhaustible. The stuff of nuclear energy—both fuels and wastes—which we are now gearing up to produce on a truly grand scale could hardly be more hazardous.

Along with the technological and economic problems standing between 1976 and the "solar age" are four popular misconceptions.

Misconception 1: Solar energy is in its infancy, highly technological, unproven . . wait twenty years.

In fact, some solar-energy applications are simple, reliable, and economically compelling right now.

Anyone who heats a swimming pool—and more than half a million Americans do—ought to consider installing a solar water heater. Today. A different kind of solar installation makes sense for hot-water heating. Today. Home space heating is trickier, but anyone who pays his own heating bills—and certainly anyone planning to build a new house—should read on. Solar-powered air conditioning is trickier still, but not far off.

Upwards of 250 companies nationwide are involved in solar-energy development, ranging from one-man backyard operations to major corporations like PPG Industries, Revere Copper & Brass, Owens-Illinois, and subsidiaries of Mobil and Exxon. Happily, this is an industry ideally suited to the small-businessman, with lots of room for ingenuity and competition. Fafco, Inc., a Menlo Park, California, firm with a growing dealership around the country, is installing its solar pool-heating systems at the rate of 6,000 a year—profitably. In Japan, 160,000 solar water heaters were sold in 1974; Hitachi is now offering much the same rudimentary heater, in kit form, for $359 here. Champion Home Builders, of Dryden, Michigan, is beginning to manufacture solar furnaces in nine of its plants, and plans to market them through its 4,000-odd mobile-home dealers. Several hundred such "furnaces"—insulated rock piles that sit beneath solar collectors—have already been manufactured and sold by licensees. Arthur D. Little, the consulting firm, estimates sales of water- and space-heating gear may reach $1.3 billion yearly by 1985.

"This is the number-one thing architects want to know about," says Lola Redford, a prime mover in promoting conservation and solar energy.

There are barely 300 solar houses in the U.S. today, but already Fire Island's first is under construction (designed for environmental lawyer George Davison-Ackley by architect Steven Robinson and solar engineer Fred Dubin), with a second in the planning stage. Can the rest of the nation be far behind?

It is only in the field of solar electric generation—turning the sun's rays into electricity, not just heat—that major technological advances are needed (and being achieved). Even now, photovoltaic cells are becoming economical for low-power applications in outlying areas, such as to power buoy lights at sea. Someday orbiting power stations may collect the sun's energy in space (where it is perpetually sunny) and beam it via harmless microwaves to receiving stations on earth. There it would be converted to electricity and fed into the national power grid. Electric "city cars," like the ones already available from Sebring-Vanguard, could then plug in, charge up, and drive off on what would be, indirectly, batteries full of sunshine. This scheme, the brainchild of Arthur D. Little vice-president Peter Glaser, is seen by some as a possible means by which the nation's space program could eventually become economically self-sustaining.

The problem is that people tend to lump all solar-energy applications together as "space-age" when some have actually been around for centuries. Twenty-four hundred years ago, Xenophon noted that "in houses with a south aspect, the sun's rays penetrate into the porticoes in winter, but in summer the path of the sun is right over our heads and above the roof, so that there is shade." He suggested building houses with tall south walls, to capture the winter sun. Think what he could have done with modern insulation and plate-glass windows!

Windows allow the sun's heat into a room, but impede its escape. Anyone who has entered a car parked facing the sun in the wintertime has probably noticed this "greenhouse" effect. In 1942, in Chicago, there was a brief sensation over a "solar house" that had been designed with huge south-facing windows, much as Xenophon described. In the midst of a severe cold spell, on a day when the temperature ranged from 17 to 5 degrees below zero, this house was able to maintain a 72-degree temperature from 8:30 in the morning to 8:30 at night without burning a drop of fuel. It was a great curiosity, but as the weather warmed up, and with fuel cheap, people quickly lost interest.

Similarly, there were 60,000 solar water heaters operating in Miami in the fifties. But with the advent of cheap natural gas, their use diminished.

Dramatic technological advances in solar-heating equipment are unlikely. There will be important design and engineering improvements, certainly; and it's true that investigating the field and investing in solar heating at this stage require a certain pioneering spirit. But it will not be like buying a $300 electronic calculator only to see the price fall to $19.95 five years later. Rather, what will make solar heaters *seem* cheaper and cheaper will be the inexorable price increases of conventional fuels.

The *reason* there's not much room for miraculous breakthroughs in solar heaters is that they're so simple to begin with. Picture a hot black roof under a scorching sun. Now picture a hose that runs water up from your pool (or water tank) to the top of the roof, lets it trickle down, and then runs it back into the pool. That's a solar pool heater. Put a piece of glass or plastic over it, to let the sun in but keep the cold air out, and it will work in January—and attain temperatures hot enough to scald you. Put that hot water in a Thermos bottle, and it will last overnight. Blow air past it and it will heat your living room.

The practical mechanics of all this can be troublesome (corrosion, disintegration, freezing, condensation, leaks, etc.); but the basic concept is just that simple: collector panels on the roof connected to a storage tank downstairs.

Misconception 2: Solar energy is fine for Arizona, where it's hot and sunny, but not here.

The idea is not to replace conventional heating with solar energy but to supplement it. To design a system that relied 100 percent on the sun would be uneconomical in most areas, because the extra collector and storage capacity needed to see you through the very worst weather would be wasted most of the time. Systems are designed instead to shoulder anywhere from 30 to 90 percent of the load. Simple thermostats tell the conventional heater when to kick in and do the rest.

Naturally, solar panels will collect more sun in Phoenix than in New York. But they will make sense in New York. Water in an insulated storage tank will stay warm longer down south than up north. But up north it can still retain its heat overnight, and sometimes over two or three days.

Misconception 3: The question is: If I install one of these things, how quickly will it pay for itself? Five years? Seven? I'm patient, but I'm not crazy.

With any solar system, it's the "first cost" that's high. Once installed, fuel is free and maintenance practically nil. *But payback is the wrong concept to use.* When you install some kind of solar heater, you are actually buying your own small utility company. Not just ten shares—the whole thing. You are the chairman of the board and sole stockholder, and you receive monthly dividend checks in the form of savings on your *other* utility bill. These "dividends" are recession-proof, inflation-proof, strike-proof, pollution-proof, terrorism-proof, computer-error-proof . . . and, most important, *tax free*. (The government doesn't tax us on money we save, only on money we earn. "A penny saved is two pennies earned.")

If you put $1,000 in a 7½ percent savings account, after taxes you would earn maybe 5 percent—a $50 "dividend" every year. But if you put it into a solar water heater that cut your gas or electric bill by just $10 a month, you would in effect be getting a $120 annual dividend. One way to look at that is as an eight-year payback, which sounds awful. Another way to look at it is as a 12 percent tax-free return—hard to beat. After ten years you would have received $1,200 in "dividends," compared with $500 from the bank; and, if it had been well made, your original investment would be safe and sound on your roof.

In areas with high utility rates (nowhere higher than New York), the payback can be much shorter than eight years, the tax-free dividends much higher than 12 percent. Even in the Hollywood hills, where low-priced natural gas is still available, one pool owner saw his gas bill drop from $100 a month to $30 after he put in a $1,500 solar heater. He expects to save $600 a year—a 40 percent tax-free return.[1]

It's true you can't withdraw money from your solar heater when you need cash for a vacation; it's true it won't beautify your roof; and it's true only time will tell whether the thing will really hold up for ten or twenty years like other plumbing/roofing-type installations. But consider the pluses:

The interest on your savings account is not likely to rise much above 7½ percent; it could even decline. But the dividends from your solar utility company—the money you save on fuel or electricity—are almost sure to rise. Substantially. If fuel bills climbed only 5 percent a year over the next decade, a conservative estimate, then the solar utility that was saving $120 in the first year would be saving $186 by the tenth—or $1,509 in all. Better than three times what you'd have gotten, after tax, from the savings bank.

Yet look at all the people who put money into banks or stocks or bonds without thinking twice, but who wouldn't dream of investing in a fuel-saving installation that didn't pay for itself in three or four years.

(This applies as much to investing in refrigerators or air conditioners, automobiles or extra insulation, as it does to investing in solar heaters. Very often, the appliance or installation that costs a little more up front is *by far* the better investment—both for the buyer himself and for society as a whole. A Harvard researcher compared two refrigerators and found that *even at the pre-embargo cheap-energy rates then prevailing*, the unit costing $67 less up front would cost $354 more more to operate over its twenty-year life. He also calculated that if all color-TV purchasers in 1970 had chosen the most efficient unit on the market, roughly a billion pounds of coal would have been saved—along with the attendant costs of strip-mining it and spewing it out into the atmosphere as pollution.[2]

As for the fact that you can't very well take your solar heater with you when you move, you should nonetheless be able to recoup your investment. This is one home improvement that will really save the new owner money. The pool that once cost $200 or $400 a season to heat (go ahead, show him the bills) is now heated free. That's worth something.

Furthermore, it's bankable. Banks will make home-improvement loans for solar heaters. And the interest they charge is tax deductible. Your tax-free dividends could easily exceed your tax-deductible interest cost—in which case you could even make a profit without putting up any cash of your own.

Two things more:

First, it is always possible that we will experience interruptions in the availability of fuel or power. Natural gas is already being denied some industrial users. It may be little comfort if the lights are out and the world is falling apart, but with your own solar heater your water is likely to be at least lukewarm.

Second, $1,000 invested in solar panels is really different from $1,000 spent over the years on oil or gas. In the first case, it goes for materials like copper and glass, and for labor; in the second, for irreplaceable fossil fuels. Copper can be recycled; once oil is burned, all that remains is pollution. If we survive, there will always be an abundance of labor (it's jobs that are scarce); but someday the fossil fuels will for all practical purposes, run out. To say this won't happen for 50 or even 150 years is not only optimistic—it's a crime against future generations.

---

[1] The price of natural gas is federally controlled. If it were not, it would about triple. In the meantime, its use has been banned for heating new swimming pools in New York, and California and Illinois are on the verge of taking similar action.

[2] John Neely, thesis in energy utilization; Harvard University, 1972. As cited in Energy for Survival.

An investment in solar energy is obviously not without risk. As in any young industry there are bugs to be worked out, shysters to be avoided, ten-year warranties backed by companies that may not be around more than ten months, false claims, honest mistakes, inexperienced installers—and so on. But no 12 or 20 or 40 percent tax-free return is without risk.

Misconception 4: The energy shortage is a hoax. There's plenty of oil, huge amounts of coal, and limitless nuclear energy.

Well, the country used to be overrun with buffalo, too, and look what happened. The difference is that buffalo can reproduce themselves.

Despite the quadrupled price of oil, production in this country is actually falling. Huge discoveries are being made, and will continue to be made, it's true—but more and more of them will be in places like the North Sea, where the cost of exploration, extractions, and transportation is staggering. Not to mention the cost of pollution, which is not reflected in the price.

It's not a question of whether we will run out of fossil fuels, only when. The earth is a finite planet. By one estimate, there is enough oil in the ground to last another 31 years. But even if there is really five times as much oil down there as we've found for sure, it will still run out in just 50 years if consumption grows at 4 percent a year. Under the same assumptions—five times the known reserves but a 4 percent consumption growth—coal would last 150 years. At which point, even if we had been able to find alternative sources of energy, we would have permanently exhausted the raw materials we need to make plastic, synthetic fiber, and a great range of "petrochemicals."

It is becoming a cliché that with less than 6 percent of the world's population, the United States accounts for better than 40 percent of its fossil-fuel consumption. For the rest of the world eventually to achieve our standard of living—which in many areas, and underlying our foreign-aid program, seems to be the implicit long-term goal—per capita world energy consumption would have to sextuple. And with millions of little capitas being added to the energy rolls every week, *aggregate* world consumption would have to more than sextuple. So what looks like a 50- or a 100-year energy supply might actually last a more developed world just ten or fifteen years. What then?

"It might be said that energy is for the mechanical world what consciousness is for the human world," writes E. F. Schumacher in *Small Is Beautiful: Economics as if People Mattered*. "If energy fails, everything fails." Either we envision a world in which we live one way and no one else is allowed to, or else we change the way we live.

Enter the deus ex machina, a flotilla of 500 nuclear-power plants bobbing peacefully off our shores and, assuming the rest of the world follows our wise lead, eventually 2,500 more bobbing throughout the rest of the world. Beyond their truly monumental cost; beyond the fanciful notion that one of them might someday, accidentally or through sabotage, blow up; and ignoring for a moment that even uranium might someday run out—there remains the problem that these plants would be generating vast quantities of deadly and indestructible wastes. Schumacher quotes Dr. Edward David, once President Nixon's science adviser, as saying: "One has a queasy feeling about something that has to stay underground and be pretty well sealed off for 25,000 years before it is harmless." And there is the problem of nuclear terrorism. It is well known that small atomic bombs are relatively easy to make; the expansion of the nuclear-power industry virtually assures that they will be made. But how can you argue with progress?

Unfortunately, solar energy is by no means a complete answer. But it is part of the answer. Swimming pools aside, water-heating in the U.S. accounts for a full 4 percent of our energy consumption. Two thirds or more of that load could be switched to the sun—a savings in energy that would light every light in the country twice over.

The potential savings in space-heating are substantially greater. About a fifth of all our energy goes to this end. Buildings designed to exploit, not fight, the sun (at no appreciable increase in construction cost), coupled with better insulation of both new and old structures (at very modest cost), could cut the national heating bill by 25 percent or more—a savings in energy sufficient to power every truck, bus, and motorcycle on the road. Solar collector panels and storage systems require more of an initial investment, but would increase the energy savings still further.

TRANSNATIONAL TERRORISM: PLO SUPPORTERS RALLY IN NEW YORK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. McDONALD of Georgia. Mr. Speaker, in a campaign to make terrorism a legitimate form of political activity, the Palestine Liberation Organization—PLO—with guidance and full assistance from the Soviet Union and its satellites, has begun a major multilevel propaganda drive in the United States. At the top, influential Marxist-Leninists, some of them of Jewish origins, are asked to approach Members of Congress asking that all aid to Israel be cut off; others approach businessmen dependent on Arab oil exports or who wish to trade with Arab bloc countries with the message that things might go better for them if they encouraged U.S. abandonment of Israel; and at the bottom, the Russians use their Cuban and Vietnamese proxies to develop solidarity agitation among the U.S. revolutionary groups who are already supporting other political terrorist organizations here and abroad.

On May 4—CONGRESSIONAL RECORD, May 4, 1976, pages 12526–12528—I delivered a report on some aspects of the Palestine Liberation Organization's contacts with U.S. supporters of terrorism, such as the National Lawyers Guild—NLG—which is sending a delegation to visit PLO bases in Syria and Lebanon, and the Palestine Solidarity Committee—PSC—which is being run by old Weatherman SDS members now involved with the Prairie Fire Organizing Committee, the Weather Underground's avowed support group.

In response to a direct request by the PLO, the Palestine Solidarity Committee, operating from a mailing address at P.O. Box 1757, Manhattanville Station, New York, N.Y. 10027, but actually from the apartment of Sheila Ryan and George Cavalletto, 200 Claremont Avenue, New York, N.Y.—212/850-5296—organized a coalition of New York area revolutionary groups to participate in a PLO support march and rally in Brooklyn.

The march and rally were to mark May 15, the anniversary of the founding of Israel, as the "International Day of Solidarity with the Palestine People." The PSC described May 15 as the anniversary "of the seizure of Palestinian territory for the creation of the settler State of Israel in 1948" and said the Brooklyn march was called to coincide with "worldwide activities in support of the struggle of the Palestinian people, including a general strike by Palestinians within areas occupied by Israeli forces."

To coordinate non-Arab participation in the Brooklyn march, the PSC created a May 15 coalition—M15C—which operated from 2 West 31st Street, room 200, New York, N.Y. 10010—212/560-9189. The M15C was composed of a number of organizations participating in the July 4 coalition which is organizing mass demonstrations in Philadelphia to disrupt the Bicentennial celebrations. M15C endorsers included:

LIST OF M15C ENDORSERS

Rosa Borenstein, executive secretary, Puerto Rican Solidarity Committee.

Charles Isaacs, People Against Racism in Education (PARE), which acts as a special focus group within the Weather Underground's Prairie Fire Organizing Committee (PFOC).

Marty Rothenberg, Mass Party Organizing Committee (MPOC).

Prairie Fire Organizing Committee (PFOC).

Venceremos Brigade.

El Comite—MINIP—a Puerto Rican revolutionary group.

The Guardian—a national Marxist-Leninist newspaper which recently broke with the Maoist groups it had been allied with to support the Cuban-backed groups in Puerto Rico and the U.S. It is noted that while the *Guardian* is having major distribution problems due to the withdrawal of October League, Revolutionary Communist Party and U.S.-China People's Friendship Association affiliated bookstores from its distribution list, the *Guardian* has somehow obtained the financing to expand its pages, move to an expensive two-color format, and greatly increase its coverage of July 4th Coalition group activities.

International Indian Treaty Council, a subsidiary of the American Indian Movement (AIM).

Irish Republican Clubs of the USA and Canada, the North American branch of the pro-Soviet, Marxist-Leninist wing of the terrorist Irish Republican Army known as the Officials.

Partido Communista Dominicana—Communist Party of the Dominican Republic.

Puerto Rican Socialist Party (PSP)—the Cuban controlled, violence-prone Marxist-Leninist Revolutionary group associated with the FALN terrorist group.

Third World Newsreel, a revolutionary film making and distribution collective.

Liberation Support Movement (LSM), an organization headquartered in Vancouver, Canada, with several U.S. branches, which has raised money and collected uniforms, medical supplies and other items shipped to Marxist African terrorist movements, particularly the MPLA and FRELIMO which now rule Angola and Mozambique.

Friends of Haiti, the New York chapter of the Liberation Support Movement.

War Tax Resistance, an offshoot of the War Resisters League, a revolutionary pacifist organization with some anarchist elements which consistently finds the ideal society in the systems run by the Cambodian, Vietnamese, Chinese and Cuban Communists.

Socialist Workers Party (SWP), the Trotskyist Communist U.S. section of the Fourth International which is actively supporting terrorist groups in the Middle East, Northern Ireland, Latin America and other areas.

Young Socialist Alliance (YSA), youth division of the Socialist Workers Party.

The May 16 PLO march organized by the Palestine Solidarity Committee's May 15 Coalition in cooperation with the Palestine Day Mobilizing Committee—PDMC—a front for the PLO's Palestine Information Office, brought a large crowd estimated by my own experienced observers at 900 persons—400 ethnic Arabs and 500 supporters supplied by the M15C. In addition to the groups mentioned above, participating organizations included the Organization of Arab Students, Iranian Students Association/World Confederation, Turkish Students Association, Eritreans for Liberation in North America, Youth Against War and Fascism—youth group of the independent Trotskyist Workers World Party—Palestinian Red Crescent Society, Arab and Palestinian Women's Union, and two groups of anti-Israeli Marxist-Leninist Jews—the Communist Party, U.S.A.'s Committee for a Just Peace in the Middle East, and the Jews for a Democratic Palestine contingent chanting "Dare to struggle, dare to fight; Jews and Arabs must unite."

Observers present noted with some irony that the pro-PLO rank and file Arabs reacted to the progressive Jewish contingent with marked hostility and desired to oust the "Jewish invaders" from the march. Palestine Day Mobilizing Committee organizers, speaking in rapid Arabic, cooled off the crowd of angry, then astonished, Arabs.

Leadoff speaker was Faraj See'am—phonetic—representing Palestine Information Committee and Palestine Red Crescent Society who said:

> We are changing this day to one of defeat of the enemy * * * as we deal blow after blow.

Commenting on the Lebanese civil war between Marxist, PLO-supported Moslems and Christian Arabs in Lebanon, See'am said that—

> The Palestine Movement is one with the democratic and progressive forces in Lebanon.

After the highly emotional crowd broke into chants of "Thawra, thawra hattum nasir"—translated by radical Arabic speakers as "Revolution, revolution till victory." See'am was able to conclude:

> Despite Sadat's (Egyptian President Anwar Sadat) treachery, we have defeated U.S. imperialism's plot against Lebanon, and are moving to new insurrectionary struggles. Death to imperialism! Palestine lives!

Other speakers at the rally included Sheila Ryan, representing the Palestine Solidarity Committee and Palestine Action Coalition; Jimmy Durham, American Indian Movement; Sami Albanna, Palestine Day Mobilizing Committee; Zuhdi Labib Tarazi, the PLO's permanent observer to the United Nations in New York; Aisha Ibrahim of the Arab Women's Union; and Umm Muhammad representing the Palestine Information Committee, the Union of Palestinian Women and the Palestine Red Crescent Society, who spoke only in Arabic.

Jimmy Durham of AIM's International Indian Council identified the PLO with AIM, saying that the American Indian Movement feels "closer to the Palestinian people than to anyone else on earth." Said the spokesman for AIM, an organization whose members have been involved in hundreds of violent crimes ranging from bank robbery and assault through riot and the murder of two FBI agents:

> We know what it is to be called savage people and terrorists because we fight for the rights of our people. * * * That is why we American Indians give you our complete support in your just struggle.

The principal speech was given by Zuhdi Tarazi, of the PLO United Nations delegation. Tarazi said that the PLO is "engaged in a battle against racism, against the Zionist occupation, and against imperialism and Arab reaction." This is current propaganda rhetoric referring to the United Nations resolution rammed through by the Soviet-supported Third World bloc which equated Zionism with racism, and thereby requiring U.N. member nations to report yearly on what they are doing to eradicate it. Imperialism is the standard Leninist term for capitalism, the free enterprise system, and "Arab reaction" refers to the Arab countries who do not wish to become Soviet puppets and subject to the PLO gangsters. These governments are prime targets for PLO and Soviet subversion.

Tarazi called for unity of all "anti-imperialist" and anti-Zionist forces in the struggle for the total victory of the PLO.

Sami Albanna of the PDMC gave a history of the PLO, dating its current phase of an internationally active terrorist organization to after the October, 1973 war with Israel. He said:

> After the October 1973 war, the Palestinian revolution continued the offensive against the Zionist enemy on the one hand, against the settlement schemes sponsored by U.S. imperialism on the other hand, as well as the * * * attempts of the Hashemites [Jordan] to assume representation of the Palestinian people. * * * A great military and political offensive was launched [reference to Black September terror]. * * * Today, an overwhelming majority of nations recognize the PLO * * * [as] the sole legitimate representative of the Palestinian people.
>
> * * * Under the leadership of the Palestine National Front, the arm of the PLO in the occupied territories, our people are waging concerted struggle against the Zionists' policies and atrocities. The recent eight-week long uprising and the general strike of March 30 are only the beginning of total insurrectionary struggle.

Albanna also said that the PLO guerrillas in Lebanon would remain the allies of the Marxist Moslems in the civil strife there until they had achieved a total victory over the Christian Arab minority.

Sheila Ryan, Palestine Solidarity Committee leader, excoriated the American Government's aid to Israel, blaming America for the death of every Palestinian Arab on the grounds that "it is the United States and its supplying of weapons to Israel" which must be held "ultimately responsible" for the deaths of any Arabs.

Ryan called for a mass counter-demonstration on June 13, 1976, to disrupt the "salute to Israel" parade in New York City which she denounced as a "salute to racism, colonialism and repression." Such an emotionally charged counter-demonstration could certainly provoke public disorder and should be taken into account by those responsible for keeping the peace. It is also possible that Ryan's comrades in the Weather Underground or Prairie Fire Organizing Committee might decide to perform "solidarity" bombings to protest the June parade. The Weather Underground has taken responsibility for such bombings in the past, and there is no known bar to open WUO sympathizers assisting with or participating in bombings by fugitive members of the underground apparatus.

As a followup action to the rally, the May 15 coalition announced it would hold a solidarity conference at New York University's Loeb Student Center at West Fourth Street and LaGuardia Place on May 22, 1976, to consolidate work for the Palestine Liberation Organization by U.S. supporters of revolutionary terrorism.

The Palestine Liberation Organization and its backers in Moscow are now developing a pressure apparatus designed to eventually force the ending of all U.S. assistance not only to Israel, but to all the responsible, non-Marxist Arab governments who oppose Soviet expansion plans in the Middle East. In the words of the PSC:

> It is crucial at this time—when US weapons are being wielded by Israeli soldiers against Palestinian uprisings in the West Bank and Galilee—that we show our solidarity with the Palestinian struggle. It is also a time when we need to show clearly that not all the people of New York City are behind the US government in sending billions of dollars in military and other aid to the racist and repressive state of Israel.

Civilization cannot afford to tolerate terrorism as just another form of political activity. The PLO's power is dependent on the flood of money and weapons poured into it by the Russians and their satellites. It is the responsibility of informed Americans to shine the light of truth on the murky schemes of this dangerous group and its allies.

PORPOISE SURVIVAL, TUNA INDUSTRY CONCERN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ANDERSON of California. Mr. Speaker, our American tuna fishing industry is in trouble.

From time immemorial fishermen have sought the highly migratory tuna. Because of their migratory patterns, U.S. fishermen must pursue these tuna in the warm, tropical waters off the coasts of Latin America and Africa. Today, among the fishing fleets of 40 nations that pursue tuna, the most modern and efficient is the U.S. fleet, despite the encroachment of Federal regulations and harassment on the high seas by foreign nations.

While the laws of nature govern the course of these elusive tuna, the laws of man govern those who seek them. Yet this evolvement of the latter threatens the future of the entire industry.

Recently, the U.S. Congress adopted and the President signed into law, a unilateral 200-mile economic zone for the protection of coastal fisheries. Although the legislation exempts highly migratory species, such as tuna, from the 200-mile zone, tuna fishermen feared that other nations will overlook this exception and move to extend their jurisdiction to all fish located within 200 miles of their coasts. This fear has become a reality, with a Government decree from Mexico, and recent seizures of tuna boats by the Panamanian Government.

At times like these, the last thing our Government needs to do is penalize the tuna fishermen further by threatening to end their ability to pursue their livelihood. Instead, we should work with them, not against them, to insure that the industry is strengthened, and that problems like the porpoise mortality rate are solved effectively and efficiently—but solved through cooperation, not by retribution.

Therefore, I was pleased to read in the evening edition of the Washington Star, an excellent editorial outlining the problem that the Subcommittee on Fisheries, Wildlife Conservation and the Environment is considering.

In 1972, Congress adopted the Marine Mammal Protection Act. I was pleased to author this important legislation, and I still feel that its basic provisions are needed if we are to insure the survival of many species of marine mammals—including the highly intelligent, playful porpoise, which has captured the imaginations of men for centuries.

However—and I would like to stress this point—the original act was never intended as a cudgel with which to beat our tuna industry to death. That is why I was surprised and disappointed by Judge Richey's court ruling. In one simple act, an important domestic industry has been threatened—and the porpoise, the center of the entire controversy is now in more trouble than ever.

I urge my colleagues to read the Star's editorial, and carefully consider what I have said:

PORPOISES AND TUNA FISH

It's obvious there's a hot congressional hearing in progress when the Glitteries appear in town to be witnesses—Robert Redford steaming against power plants, Mary Tyler Moore passionate over ground squirrels or baby seals or some species. The other day it was Dick Cavett, who from time to time introduces talented people on television. His cause was porpoises.

We bow to no one in our admiration for porpoises—indeed think that ground squirrels and baby seals are deserving of protection from human excesses. The problem, however, is that when the celebrities mount their chargers, a quotient of simplistic thinking is usually inserted into complex matters.

So it is, in our view, with Mr. Cavett's porpoises and the tuna-fishing industry.

Since the early 1960s, the U.S. tuna boats have used a seining technique known as "on porpoise." Because porpoises and Pacific yellowfin tuna have a similar diet, they swim together. Once the porpoises are spotted, the massive seine nets are dropped for the tuna. But porpoises are hauled in, too. They are air-breathing mammals and often become trapped in the nets and are drowned.

The 1972, the Marine Mammal Protection Act was amended, ordering that the mammal mortality rate in commercial fishing operations be reduced to "insignificant levels approaching zero." The tuna fishermen were exempted for two years, and that was extended through this year by the National Marine Fisheries Service. Earlier this month, U.S. District Court Judge Charles Richey here ruled in a suit brought by conservationist groups that the tuna industry could no longer use the porpoises as "pilot fish" and said that protection of the porpoises must "come first."

The tuna fishermen now are planning to seek a stay of that order. They claim that the Pacific tuna industry would be severely constrained, forcing the price of tuna perhaps to double on grocery shelves or—more debilitating to the U.S. tuna industry *and* to the porpoises—leaving the marvelous mammals to the untender sentiments of foreign fishing fleets.

Conservationists—on whose side of the barricades Mr. Cavett appeared—the other day attacked a House bill that would nullify Judge Richey's ruling. Their arguments are admirable but, we think, myopic. Representative Glenn Anderson, a sponsor of the legislation, put it well. U.S. tuna boat owners, he said, would either "join the unemployment lines" or "will be forced to sell their boats to foreign buyers or sail under foreign flags, registering under nations that have no consideration for the killing of porpoise."

The directer of the National Marine Fisheries Service testified on Thursday that new techniques and changes in fishing gear—jointly developed by the industry and the federal government—have reduced porpoise mortality; but he said the "zero" goal cannot be attained. He estimated that tuna fishermen kill about 1.8 per cent of one porpoise species and 2.1 percent of a second each year—while about 8 per cent of the population die of natural causes. The reproduction rate is about 14 per cent a year. A new seine net on which testing is being completed has reduced the killing of porpoises in tuna operations by 60 per cent, though other variables may also be involved.

In other words, friends, it is not a grandly simple matter of callous fishermen wantonly decimating a species of mammals. It seems to us that the tuna industry and the federal fisheries people have made gains in complying with legislation that, in the fervor of marine mammal protection, may have been overdrawn.

One need only look at the disastrous decline of the U.S. fishing industry in the Northeast in recent years—and the brutal decline of many species of fish under the voracious harvest by foreign fleets—to think that the law as written, and as interpreted by Judge Richey, is too stringent for the West Coast tuna industry. We trust the House Merchant Marine subcommittee will move ahead on modifying the law before the May 31 deadline imposed by the judge.

TESTIMONY IN OPPOSITION TO SYNTHETIC FUELS LOAN GUARANTEE BILL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OTTINGER. Mr. Speaker, this morning I testified in opposition to H.R. 12112, the synthetic fuels loan guarantee bill, before the Economic Stabilization Subcommittee of the Committee on Banking, Currency and Housing. Because of the real problems this bill would create if it were enacted, I would like to bring my testimony to the attention of my colleagues, and I include it at this point in the RECORD:

H.R. 12112: SYNTHETIC FUEL LOAN GUARANTEE LEGISLATION

(Testimony of the Honorable RICHARD L. OTTINGER)

Mr. Chairman, H.R. 12112, is a re-run of the multi-billion dollar Federal subsidy, through loan guarantees and subsequently price supports, of the energy supply industry that Congress overwhelmingly rejected on December 11, 1975. Nothing has really changed, except that the bill starts off as a $4 billion measure which can be stretched annually to even more than the $6 billion level of last year. ERDA has said that ultimately the price tag will be over $11 billion.

ERDA also released an April 13, 1976 letter from Vice President Rockefeller urging support for H.R. 12112 which, he describes, as providing "loan guarantees to advance commercialization of synthetic fuels". He concludes that the bill is the forerunner of his $100 billion Energy Independence Authority proposal.

Many of my colleagues on both sides of the aisle believe, as I do, that this is a very dangerous piece of legislation for many reasons. I am submitting the Dear Colleague signed by 32 Members of Congress which addresses these reasons.

First, it seeks to give birth to a U.S. synthetic fuels industry that is not capable of developing through the normal and time-tested rigors of the marketplace. As the senior vice President of Exxon testified:

"It is difficult to see how government guaranteed loans at commercial interest rates can change a non-commercial undertaking to a successful commercial venture. If the loan is structured such that the operator can elect to default at any time, then such loans do provide a limit on potential loss to the operator—but his approach also may leave government with an incomplete or inoperable project. Price floors would also be difficult to phase out as they would tend to be viewed as an operating subsidy and thus would eliminate the economic driving force for effective cost control."

Second, the bill does not create any new investment funds, but will take capital away from other sectors of the economy and tend to raise the interest rates for those other sectors and thus increase business costs. Moreover, the Government is being asked to guarantee up to 90 percent of a loan during the entire construction period and start time. ERDA itself projects that the Government—i.e., the taxpayer—have to bail out the lenders for up to 25 percent of the $4 billion in guarantees.

Dr. Murray L. Weidenbaum, who is the Director of the Center for the Study of American Business at Washington University in St. Louis, Missouri, and formerly Assistant

Secretary of the Treasury for Economic Policy, is particularly critical of the use of Federal guarantees to stimulate energy production. In a March 31, 1976, statement provided to the Committee, Dr. Weidenbaum said:

"Boiled down to its basics, federal guarantees of bonds issued by business and other institutions really involve putting "the monkey" on someone else's back. They do not increase the amount of investment funds available to the economy. Rather, to the extent they succeed, they mainly take capital funds away from other sectors of the economy and lead to similar requests for aid by those sectors. These government guarantees also tend to raise the level of interest rates in the economy, both for private as well as government borrowers. They thus increase an important element of business costs."

The proposed program of credit subsidies to promote domestic energy development is undesirable for many reasons:

1. It avoids dealing with the fundamental need to provide basic market incentives to increase domestic energy production. Although it is intended to aid a new private industry, it would weaken further the basic risk-bearing and entrepreneurial character of the American business system.

2. There is no indication that the federal credit program will result in any specific increase in domestic energy production.

3. It would be an extremely cumbersome program to operate, involving many federal, state, and local agencies.

4. It ignores the sad lessons of history, notably the RFC experience.

5. It would be a major extension of federal responsibility for local affairs. Under the proposal for loan guarantees for synthetic fuel projects, the federal government could guarantee up to 100 percent of a locality's bonds for "essential" public activities or it could guarantee the amounts of anticipated tax revenue from the energy demonstration facility.

6. The federal government could wind up operating commercial plants and selling the products or energy that are produced. It would be authorized to do so in case of default.

Despite the high hopes of its supporters, there is no assurance that the many billions of dollars contemplated to be used by the synthetic fuels program and subsequently by the Energy Independence Authority actually will result in the attainment of the objective of energy independence. Perhaps the fundamental shortcoming is the failure to demonstrate the superiority of this approach—subsidies to the private sector—to other alternatives.

In addition to Dr. Weidenbaum's analysis of the faulty economics for the private sector, we heard testimony from Mr. Philip Hughes, Assistant Comptroller General of the United States, about the faulty off-budget aspects of this program in our federal accounting system. I quote Mr. Hughes testimony before our Science and Technology Committee:

"The loan guarantees traditionally have not been on the budget. But traditional loan guarantees have been a different kind of loan guarantee. They have been the Veteran's loan guarantee or insurance on housing where the guarantee it seems to me is a somewhat more normal and traditional type.

"These arrangements we are talking about here and the arrangements contemplated in the Lockheed situation and in the Administration's uranium enrichment proposal, for example, those are in effect, take-outs. There is no broad base to spread the guarantee over. This is a device for assuring financing on a particular project. The assumption is that the financing would only be available at unreasonable and impossible and impractical interest rates were it not for the guarantee. . . .

"I think my feeling—we would like to consider it further—my feeling would be that the total loan guarantee should be in the budget because of the fact that is, in effect, a contract authority to take out the particular financial institution if the project goes sour."

Third, the bill seeks to demonstrate first generation technology which, the Congressional Budget Office observes, may be obsolete in the early 1980's. Yesterday Chairman Moorhead wisely raised the questions of our subsidizing first generation technology or improving our R, D & D synfuels program in ERDA. Although Chairman Moorhead seemed to feel we should be doing both, I would like to stress my view that a strong R, D & D program will indeed pay off to a greater extent. The Congressional Budget Office study of January 16 substantiates this by stating:

ERDA has several second-generation synfuel processes ready for demonstration which, if successful, could make obsolete a synfuel plant based on current technology. Thus delay in synfuel commercialization until second-generation process can be included could improve the economics of the program.

A Congressional Research Service study of March 29 by Martha Krebs-Leidecker concluded that an intensive R. D. & D. program would be less costly than the proposed Administration program, and also that:

"An R. D. & D. program coupled with a delayed or smaller scale commercialization program might well be as effective as the 350,000 barrel per day program." (p. 16)

I think it is important for the members of this Committee as well as my colleagues in the House to be aware of the R. D. & D. programs now planned within ERDA for second generation. I often feel these are left "unadvertised" in the rush to put forward this program of loan guarantees for companies which are more interested in getting their particular technology into large scale operation.

ERDA's program for 5 pilot plants in conjunction with the American Gas Association, funded two-thirds by ERDA and one-third by AGA and for 3 demonstration plants is clearly outlined in Dr. Philip White's testimony at the fiscal 1977 appropriation hearings. Dr. White, the Assistant Administrator for Fossil Energy, stated in this testimony that:

"The objective of the Demonstration Plants Subprogram is to translate research and development results into technology that can be transferred to the private sector for use in commercial operations. This objective will be achieved by designing, building, and operating demonstration-scale plants in cooperative efforts with the private sector. Demonstration plants are defined as those plants that utilize either commercial-scale equipment or somewhat smaller units that can be scaled up to full commercial size with normal risk.

"Competitive proposal procedures are used to solicit interest from private industry concerning proposed demonstration plants. The plants are all intended to be jointly funded. The present standard for cooperative government/industry joint funding is 50/50 sharing of construction and operating costs. The commitment of private funds indicates the industry's confidence in the process potential, assures the availability of top industrial personnel and continued management attention, and fosters technology transfer."

I would also like to briefly describe some of these programs. The pilot plants in conjunction with AGA are a Hygas process in Chicago which now produces 1.5 million cubic feet of gas per day, a CO_2 Acceptor process in Rapid City, S.D., a Bi-gas process in Homer City, Pa., a steam iron process in Chicago, and an agglomerating ash process in West Jefferson, Ohio. The last three are to be completed in 1976. The demonstration programs scheduled for operation by 1981 are for a clean boiler fuel plant for the Coalcon process in New Athens, Ill., a high BTU synthetic pipeline gas plant (at an estimated cost of $500 million), and a low BTU fuel gas plant (at an estimated cost of $380 million.)

Those cost sharing ventures for R, D & D could indeed be expanded and accelerated, and this is the action I would urge for the development of synthetic fuels.

The principal beneficiaries of this bill will be a handful of oil and gas corporations such as Union Oil. Atlantic Richfield, Sun Oil, Continental Oil, TOSCO, Texas Eastern Transmission Co., El Paso, and others. These are not small businesses. They are powerful energy companies. This program will extend their influence and further exacerbate concentration in this industry. I asked the Congressional Research Service to give me the assets of some of the synthetic fuel companies which are potential candidates for this loan guarantee program, and I submit them to you now.

PROJECT NAME AND ASSETS OF COMPANY

Shale oil

Occidental Petroleum, $3.3 billion.

Rio Blanco, subsidiary of Superior Oil, whose assets are $822 million.

TOSCO Sand Wash, subsidiary of Oil Shale Corp., whose assets are $202 million.

Union Oil, $3.5 billion.

High Btu gas

ANG Coal Gasification Co., $2.3 billion.

Dunn Center (Natural Gas Pipeline), $1.3 billion.

El Paso (Burnham), $2.1 billion.

Panhandle Eastern, $957 million.

WESCO, joint venture of Transwestern Coal (subsidiary of Texas Eastern, whose assets are $2.7 billion) and Pacific Coal Gasification Co. (a subsidiary of Pacific Lighting, whose assets are $1.7 billion).

Utility industrial fuels

Columbia Coal Gasification Co., $2.8 billion.

Consolidated Natural Gas (3 projects), $1.6 billion.

Consumers Power, $3.2 billion.

UGI, $227 million.

Wheelabrator-Frye, $237 million.

This program is being touted on the thesis that Congress "must do something about energy." We agree. But that does not mean that we should approve any program just to give the appearance of action, particularly when that is unsound fiscally, technically, and environmentally.

I urge all of you to read with care the dissenting views in the report on H.R. 12112 submitted by Congressman Hechler, Blouin, Hayes and myself. I would like to submit a copy of the table of contents of those views in my testimony just to "whet your appetite."

The defeated $6–11 billion synfuels loan guarantee program should not be imposed on the House for a second consideration.

This is an uneconomic program, evading the budget, involving ballooning Federal expenditures, creating a new division within ERDA and all leading to the Rockefeller $100 billion energy independence authority.

No new energy funds will be provided, but there will be a horrendous capital market disruption.

This is not an R. & D. bill. It is a program for Government financing of the commercial production of synfuels and the development of new fuels. It belongs in other committees and other agencies.

H.R. 12112 is anticompetitive—extending the power concentration of the energy giants over synfuels at Federal risk and expense.

The program distorts energy priorities, favoring high caiptal, high risk, high pollution options over clean conservation and renewable resources.

H.R. 12112 is premature, since critical ERDA feasibility studies and the environmental impact statement are not completed.

Genuine R.D. & D. on synthetic fuels is adequately provided under the existing ERDA synfuels R.D. & D. program which includes coal gasification plants.

Oil shale development is given extravagantly favored treatment by heaping subsidy upon subsidy for this questionable and environmentally hazardous technology.

H.R. 12112 contains several amendments that serve to weaken the safeguards adopted by the House-Senate conferees last December in the old section 103:

A. Right of local community, Indian tribes, and citizen input and judicial review.

B. Congressional oversight.

H.R. 12112 will undoubtedly result in boomtowns. We are concerned about the adequacy of the provisions in the bill to help communities to cope with the problems of providing adequate public facilities and services in connection with these projects.

The bill permits 100 percent owned foreign corporations, firms, partnerships, and associations to receive loan guarantees and grants.

Synthetic fuels have the potential for health and environmental hazards.

Additional important amendments rejected by the committee.

We must move ahead with many programs, and we must move forward with a strong conservation program. Indeed, energy conservation is probably the most promising alternative to massive subsidies for synthetic fuels. FEA has found that money invested in energy conservation "would save twice as much energy as a comparable investment in new supplies would produce," ("Energy: The Case for Conservation," Worldwatch Institute, January 1976). In addition, an MIT research team found that the installation of heat pumps on existing furnaces is a favorable alternative to high BTU coal gasification for space heating—the primary purpose which synthetic gas would serve (*Technology Review*, July/August 1975). Also, Dr. Seamans, the ERDA Administrator, testified that "ordinarily it costs less to save a barrel of oil than to buy it."

In summary, the bill will result in misplaced energy priorities, distortion of capital markets, increased concentration in the already over-powerful energy industry, promotion of obsolete technology, devastation of local communities and great environmental damage.

In my opinion, this program should not be brought up for reconsideration by the House and, if it is, it should again be soundly defeated.

THE SECOND WAR BETWEEN THE STATES—PART VI

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARRINGTON. Mr. Speaker, today I am inserting the sixth of an eight-part series concerning regional economic development which appeared in the May 17, 1976, edition of Business Week. This particular segment deals with the consequences of the vastly growing business markets in the Southeast and Southwest and compares this growth rate to the declining level of per capita income in the six States of New England.

This segment of the series, like the ones which preceeded it, focuses on regional trends which, if allowed to continue unchecked, spell disaster not only for the industrialized Northeast, but for the economy of the entire country.

The text of the sixth installment follows:

SPENDING MORE AND BUYING BETTER THINGS

With the staggering growth of Southern markets, Northern and Western companies alike are casting covetous eyes southward. Many are expanding their distribution in the Southeast and Southwest. Others are looking for acquisitions. Several leading merchants—including Carter Hawley Hale Stores Inc., of Los Angeles, and Dayton-Hudson Corp., of Detroit—have held preliminary talks with Rich's Inc., the big Atlanta retailer.

"This is a market still in its infancy," marvels Gregory R. Dillon, senior vice-president of corporate properties for Hilton Hotels Corp. "We're looking at a population that has grown from 50 million to 80 million in the last 30 years." During the 1960s, the Southeast and Southwest represented no more than 10% of Hilton's property growth. Since 1970 as much as half of the company's growth has originated in those regions. Of the 11 new franchised hotels that Hilton will open this year, seven will be located in the South.

Unquestionably, the 16 states of the Southeast and Southwest have become the hottest and fastest-growing markets in the country. As Alfred Hong, managing director of Marketing Economics Institute, notes: "For an indication of the South's strength and resilience, just look at the way its markets bounced back from the recession."

In many ways, in fact, the South is leading the way. Last January during the early stages of the recovery, the country's average personal income rose 11% above the same month a year earlier. By comparison, personal incomes jumped nearly 20% in the Carolinas, 15% in Texas, 16% in Arkansas and New Mexico, and 14% in Kentucky, Mississippi, and Tennessee. During the same month, retail sales spurted 14% in the South Atlantic states from Maryland to Florida; 17% in Kentucky, Tennessee, Mississippi, and Alabama, and 18% in Texas, Louisiana, Arkansas, and Oklahoma. That compared with an average national increase of 12% and below-average increases of 11% for New England, 8% for the Mideast or Middle Atlantic states, and 10% for the Great Lakes region.

Along the way, adds Vincent P. Barabba, director of the U.S. Bureau of the Census, "we are starting to see a very significant leveling and homogenizing of markets." Back in 1950 per capita income in 78 out of 173 "economic areas" charted by the Bureau of Economic Analysis ran 15% or more below average, while income in 19 areas ran 15% or more above average. By 1973 only 63 areas had income levels 15% or more above average. The biggest loser was the six-state region of New England. During the five years from 1970 through 1974, per capita income in New England dropped from 7% above average to only 4%—"a rather formidable loss of ground," notes Fabian Linden, consumer economist for the Conference Board.

CONSUMERS ARE TRADING UP

The gradual narrowing of the gap is already beginning to show up in consumption patterns among Northern and Southern markets. H. John Meany, president of Los Angeles-based Norris Industries Inc., notes that more and more Southern consumers are purchasing higher-quality garbage disposals, dishwashers, ovens, and other appliances. "Twenty years ago," he says, "all we ever sold in the South were bottom-of-the-line products. Today, we sell quality levels."

Kellogg Co. sees a similar shift in cereal sales. Historically, ready-to-eat cereals have not been hot sellers in the South. Yet from 1972 to last year, per capita consumption zoomed 37% in the Southeast and 40% in the Southwest. While that was still slightly less than the 42% increase in total national sales, Kellogg Vice-President Robert C. Bland calls the gain "significant" for Kellogg's future marketing plans. "The South has simply become more like other areas of the country," Bland says. Northerners who moved South, he notes, "have taken their eating habits with them."

Typical of many of these transplanted consumers is Nancy Johnson. Three years ago, she quit a $13,000 job with American Telephone & Telegraph Co. in New Jersey, married a Georgian, and moved to Atlanta, where she took a $10,000 position with Citizens & Southern National Bank. Now a corporate trust officer at C&S, she earns $16,500. "You still have about a $3,000 lag when you come south," she says. But she claims Atlanta's living costs are lower, transportation is better, and the living is certainly easier.

Seven months ago, Donald R. May actually ran into higher living costs when he moved his family from Midland, Mich., to Miami and went to work for Cordis Dow Corp., a manufacturer of artificial kidney machines. May, who earns between $25,000 and $35,000 a year as controller-treasurer for Cordis Dow, estimates the difference in living costs at 8% to 10%. Compared with the house he owned back in Midland, May paid 80% more for an even smaller home in Miami. While he finds clothing and food less expensive in Florida, he says: "Our auto insurance is 365% higher. And we were surprised to find that it costs as much to cool a home here as it does to heat one in Midland." Yet he has no regrets about moving. "My wife and children and I are quite happy," he says.

In the low-growth Northern markets that many consumers are leaving behind, manufacturers and merchants are doing what they always do when things get tough: They are tightening up, watching their costs, and holding fast. "We're just not expanding in the Northeast," says Nelson S. Gifford, president of Dennison Mfg. Co., a Massachusetts-based manufacturer of industrial and commercial products.

Many of these same companies are giving far more attention and emphasis to Southern markets. For the first time this year, for instance, Ford Motor Co. has abandoned its national network TV commercials and switched to regional TV "spots." These will plug the Mustang in the Southeast, the Pinto in California, and bigger Fords in the Northeast. Five or 10 years ago, notes Ronald J. Robbins, corporate marketing analyst for Ford, the primary car-buying group in Atlanta ran 30 to 45 years of age. "It bought nothing smaller than intermediate-sized cars," Robbins says. Now because of changing migration trends, he notes, the 20-to-34 age group predominates, "and it is buying small" (a preference, of course, that at least partly reflects higher energy costs).

Del Monte Corp. abandoned blanket national advertising five years ago. With its $15 million annual ad budget, Del Monte now advertises five basic product groups to 17 "mini-markets" around the country. That means 85 possible combinations for advertising and marketing. Depending upon the season and local preferences, for instance, Del Monte might push pineapple in Florida, catsup in Texas, and green beans in Arizona. In one of nine catsup markets, the new strategy added two market-share percentage points. By breaking out markets, Del Monte Vice-President Fernando R. Gumucio claims that the big food company is getting "much more marketing productivity."

Sears, Penney, and other leading merchants also are sharpening their Southern focus. Throughout the South, they are adding more and more stores, distribution centers, and special regional merchandise. With an eye on Southern population projections, Montgomery Ward & Co. even changed its entire regional structure in 1972. By splitting its Eastern region in half, Ward added a fifth regional organization for the Southeast. During the next five years, Ward plans to build 12 to 15 stores a year, mostly in the Southeast and Southwest. "Those areas are going to be wall-to-wall people," says an exuberant Frederick H. Veach, who is executive vice-president of corporate development for the Chicago-based retailer. "And we build stores to serve people."

INDUSTRIAL CUSTOMERS, TOO

John R. Wealty, the vice-president who heads the Semiconductor Group of Motorola Inc., says the same thing about industrial customers. Welty's group now divides the country into nine sales regions of nearly equal volume. Recently, says Welty, his Orlando (Fla.) sales manager found his regional volume mushrooming 30% above all other regions. "Ten years ago," says Welty, "Florida was a desert as far as the sales of high-technology electronic components were concerned. Today it is a fast-growing market, as are Alabama, Texas, and other parts of the South. High-technology manufacturing is prospering in the South because talented people want to live there."

That also applies to semiconductor makers themselves. "If one looks back to the mid-50s," Welty says, "you find the center of gravity for the semiconductor industry right around Schenectady, N.Y. It was virtually all there in the Northeast. Today the industry leaders are in Arizona, Texas, and California." Among them are: Texas Instruments, Fairchild, and, of course, Motorola's Semiconductor Group, which is based in Phoenix.

Does this portend an even larger and more massive migration of markets in the coming years? Not necessarily, says Hilton's Dillon. "Certainly there's some drain of resources from the North," Dillon concedes. "But I don't see it as some malady that spells the demise of the great Northern cities. There are still good markets all over the country." For the South, adds George Brown, former director of the Census Bureau and now corporate secretary for the Conference Board, the present market shifts are helping the country to achieve more economic equilibrium. "The South is catching up—that's all," says Brown. "And that has to make our economy and our markets just that much stronger."

ENVIRONMENTAL IMPACT STATEMENTS ON OUR NATIONAL FORESTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROWN of California. Mr. Speaker, I have been a strong supporter of the requirement under the National Environmental Policy Act for the filing of environmental impact statements on proposed plans or decisions by the departments and agencies of the Federal Government. This emphasis on environmental consideration is an important step toward maintaining an ecologically balanced habitat for our citizens.

The U.S. Forest Service has pointed out that their environmental impact statements demonstrate an acceptable level of concern for the effects that timber management decisions have on the forest environment. But I have received copies of comments by the Wildlife Management Institute on specific impact statements which outline many of their serious omissions and areas of neglect with regard to consideration for erosion, wildlife, and proper road construction.

The need for insuring environmental safeguards in our national forest management is becoming more apparent with each passing day. The only way for Congress to do so is through legislation. I ask my colleagues to read the following letters by the Wildlife Management Institute. I firmly believe that if one studies the various documents and information available on present national forest management and the need for reform that one's conclusion would be that stronger guidelines and restrictions are indeed necessary:

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., December 5, 1975.

Mr. SPENCER T. MOORE,
Forest Supervisor, Gifford Pinchot National Forest, Vancouver, Wash.

DEAR MR. MOORE: The Wildlife Management Institute is pleased to comment on the Draft Environmental Statement, Upper Lewis River Planning Unit, Gifford Pinchot National Forest.

Land use planning, and the preparation and selection of management alternatives, has tremendous long range or permanent effects on wildlife. Our remarks will generally be limited to wildlife effects in the plan.

There are three serious omissions from the report that detract from its analytical value and prevent a full and proper consideration of wildlife effects.

The first is lack of knowledge on non-game birds and small mammals utilizing the area and the effects the land management practices will have on wildlife diversity and numbers. It is no longer satisfactory to say that logging will provide diversity and thus help wildlife, when only a few of the species are listed in the statement, and knowledge of habitat requirements is lacking for most. We would suggest that university wildlife students could be employed in the summer to survey the area for species present and their relative abundance.

The second omission is the discussion and careful consideration of the importance of riparian vegetation to wildlife and of the measures required for protecting and enhancing riparian vegetation.

The third omission is lack of emphasis on the values of mature and overmature timber and snags to certain classes of wildlife, and of the effect each of the alternatives will have on the amount and distribution of mature timber and snags. They are mentioned from time to time in the statement, but instead of remarks buried in the text, they should have a discussion section of their own.

None of the alternatives are acceptable, because none provide enough overmature or old growth timber, properly dispersed, to provide habitat for forest birds and mammals requiring such stands. We are talking about stands 150–300 years old that may be cut or salvaged as other stands reach that age and can provide other such habitat. The last paragraph on page 39 and the first paragraph on page 40 mention this as Item 1. We do not advocate extension of rotation age on the whole unit. We do advocate extension of rotation age on sufficient areas (on all altitudes and sites) to provide at least minimum habitat requirements. Loss of old growth timber is recognized in the last sentence, page 37, but is for the most part ignored or glossed over in the statement.

Region 6 has a forward looking snag policy. On the surface this looks like the solution, but we see no real hope of having many snags in 50 to 70 years under any existing programs or the alternative selected. Most areas are scheduled for timber harvest, which will eliminate new snag formation. Repeated logging entry for thinning and other silvicultural tasks will remove the cull, damaged and diseased trees before they can become the tall snags or the soft foraging snags of the future. Even girdling to create snags will not create tall or soft snags in the forest of the future. The only discussion of this is paragraph 2, page 43.

We have made inquiries on the makeup of the Gifford Pinchot interdisciplinary planning team, and are informed that it does not include a wildlife and fisheries member, instead wildlife input is provided by the wildlife biologist assigned to the Forest. We believe wildlife is such an important forest resource that it, like forestry, rates at least one full time professional on an interdisciplinary planning team. Part time participation, no matter how good the professional who does it, will not provide the necessary day to day representation necessary when trade offs are made in the planning process. We appreciate the budgetary constraints under which you must operate; nevertheless, the advantages of a full time wildlife planner are huge. We have observed this across the Columbia River on the Mt. Hood National Forest where wildlife receive constant planning consideration, simply because a wildlife specialist is on the planning team. We urge inclusion of a full time wildlife representative on your planning team.

Some specific comments on the Impact Statement follow:

Page 24, line 2: How much of the 47,740 acres of old growth will remain?

Page 25, items 6 and 7: Soils and water are the basic resources and should be at the top of the list.

Page 29, Recreation, 1st paragraph: Language here, and in some wildlife sections, leads to the impression that most lands reserved for recreation and wildlife are "rough, benchy, or new second growth," and are only left for these uses because they are unsuitable for logging.

Page 29, last paragraph: We wonder why the proposed action makes no recommendation for continuance of berry fields when (on page 89) you list berry picking as the largest single recreation use with up to 270,000 man days of use.

Page 31, 3rd paragraph: Any comprehensive plan for roads and trails should provide for seasonal or permanent closures when necessary to benefit wildlife.

Page 34, Wildlife, 3rd paragraph: An "adequate buffer" strip. How big is adequate? From recent experience we know timber operators and wildlifers have different definitions of "adequate."

Page 35, paragraph 2: How will the roads be managed to limit harassment of wildlife?

Page 48, 3rd paragraph, last sentence: The proposed action *may* not eliminate any species but it will, in the long run, drastically reduce those requiring old growth and snags.

Page 56, Wildlife, 3rd paragraph: The 12,300 acres of old growth retained are again only in areas where logging is impractical. They do not include level lands or other diversity of site!

We are pleased to submit our views on the statement and plan. We are not attempting to be overly critical—the deficiencies we have noted are widespread throughout the Forest Service. Adequate impact statements should face these wildlife impacts in a straightforward manner and, we would hope, make changes in the selected alternatives to benefit wildlife. We can no longer say that good forestry is good wildlife management. Anything done to the land affects different species in different ways. We should all strive to collect the necessary base line data on wildlife, then manage the land to prevent irreversible wildlife damages, and better yet, to enhance all wildlife habitats possible, while eliminating none.

Sincerely,

DANIEL A. POOLE,
President.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., February 27, 1976.

Mr. RICHARD L. STAUBER,
Acting Forest Superior, Tahoe National Forest, Nevada City, Calif.

DEAR MR. STAUBER: The Wildlife Management Institute is pleased to comment on the Draft Environmental Statement, Truckee-Little Truckee Rivers Planning Unit.

We fully appreciate the complexities of planning in an area of such heavy recreation use and checkerboard ownership. We also understand your problems of maintaining a desirable use mix on national forest lands as some adjacent private lands are developed.

The selected alternative appears to provide uses for almost every need, with the exception of consideration and planning for the nongame birds and mammals that are an important interest for all forest visitors. It is likely that the selected alternative could be made acceptable if it were revised to include substantially more wildlife emphasis. Until that is done, we find the selected alternative unacceptable. All other alternatives also are deficient with respect to the needs of nongame species.

Our objections are based on the following factors:

1. Although there are 200 species of birds and many mammals on the planning unit, there are no provisions to provide habitat, as such, for their requirements. The plan appears to rely entirely on the hope they will be provided for if other uses do not change the vegetation too much. While this may be true in some areas, it does not hold in those areas to be used for commercial timber production. We propose leaving blocks of overmature timber for wildlife needing such habitat. As these trees go out of the picture they would be salvaged and other, but younger, blocks of old growth trees would replace them. Old growth should be available on all sites and aspects of the unit, including commercial timber.

2. Serious consideration should be given to road closures to reduce wildlife harrassment.

3. The area already has heavy off-road vehicle use. Serious efforts should be made to reduce it, rather than to continue it at about the present level as indicated in Table IV. Such use causes not only physical deterioration of the forest, but great harrassment to wildlife. ORV control will be exceptionally difficult because of the ownership pattern, but control should be started and firmly enforced.

4. We were unable to locate any reference or plan to maintain adequate snags for cavity nesting birds and animals. Management plans should contain a positive program and criteria for snags and include methods of providing snags in all parts of the unit, including recreation areas.

5. We would like more detail on how deer winter ranges are to be improved. New research and publications are coming out that list needs for escape and thermal cover of several species. This data should be included in the final environmental statement and in the plan. Cover retention is even more important in areas of interspersed ownership and heavy recreation use, because private lands are most likely to receive emphasis detrimental to wildlife.

6. There is no discussion or plan for retention or improvement of riparian vegetation. This is some of the most valuable wildlife, fisheries and recreation land in the forest. Proper management is every bit as important for riparian vegetation as commercial timber and should be examined in the same detail.

Some specific comments follow:

Page 11, a. 7. This goal provides for "sufficient wildlife habitat of a quantity necessary to insure a desired mixture of types and numbers." This goal is completely unacceptable. It does not include quality or dispersion of habitat, both equally as important as quantity. Who determines the "desired" mixture of types and numbers?

Page 36. "Summer Off-Road Vehicle Use." These paragraphs are a good summary of soil damages. They should be expanded to include wildlife damages and harassment.

Page 52. Much more detail is needed on what species of birds (200) use the area, and what "common" mammals use it.

Page 83. The rationale presented here for selection of the proposed alternative is not adequate. There are other sections scattered throughout the statement giving other reasons. These should be brought together and presented as a clean line of logic leading to the selection. At it now stands, it appears that the plan contains something for everyone. We do not believe an accessible area so near to a large human population can continue to provide such a mix of all uses in the foreseeable future.

Page 86. General management directions #9 on a zoological study for endangered species is good. We believe another direction is needed, one providing habitat studies for nongame wildlife and satisfaction of their needs in all project planning.

Page 88, paragraph 5. Here and elsewhere in the report, sensitive plants should be identified by common, or family, names for the nonbotanist reader. This could be in an appendix.

Pages 94–95. The state line area is an important winter range for deer. A management goal is "protect and improve winter deer range." You propose to allow compatible timber harvest. New research on cover requirements is becoming available. Because new knowledge is showing intricate small unit cover relationships, we must oppose any timber harvest on winter ranges at this time.

Page 156, Table 13. These tables contain valuable use figures on all alternatives. They contain no figures on the values of wildlife viewing. The broad statements on wildlife habitat are not sufficient to even illustrate, let alone compare, the values most people derive from wildlife.

Page 160, Table 15. The acreage proposed for wildlife habitat improvement is small. Another entry on acreage and snags for nongame species should be included.

Page 176, paragraph 2. We disagree that "all alternatives will provide adequate habitat." The analysis of effects do not justify this statement, unit wide diversity is not provided, and habitat requirement knowledge is admitted to the lacking for many species. As written, this paragraph is a hopeful dream, not a reality.

Our sole concern is good wildlife management in any land use plan. We hope you will consider, and include our suggestions on habitat in the plan and in the final statement. Wildlife are the nearest thing this nation has to a universal interest. We urge you to recognize that interest and give all wildlife species the recognition they need and deserve.

Thank you for considering our views.

Sincerely,

DANIEL A. POOLE,
President.

HOUSE OF REPRESENTATIVES—*Wednesday, May 26, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my strength and my song, He is my God, my father's God, and I will exalt Him.—Exodus 15: 2.

Eternal God, our Father, who has made and preserved us as a nation, we thank Thee for Thy guidance through the 200 years of our existence and we pray that Thou wilt continue to guide us this year and all the years to come.

Grant that we may never forget the faith of our Founding Fathers who set in motion this glorious land of liberty nor may we ever forget the fortitude of those who lived and died that this country may continue to be free.

Help us now to deepen the morality of our daily living, to develop a high sense of integrity and honor, and to devote ourselves more fully to the best interests of our Republic by learning to live together doing justly, loving mercy, and walking humbly with Thee.

"America! America! God shed His grace on thee, and crown thy good with brotherhood from sea to shining sea." Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. McFALL). The Chair has examined the Journal of the last day's proceedings and, without objection, announces to the House his approval thereof.

There was no objection.

CALL OF THE HOUSE

Mr. MYERS of Indiana. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. HALEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 305]

Andrews, N.C.
Annunzio
Archer
Ashley
Bell
Bergland
Biaggi
Bingham
Boggs
Boland
Brademas
Breckinridge
Brooks
Brown, Mich.
Brown, Ohio
Burlison, Mo.
Burton, Phillip
Butler
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Clay
Conlan
Conyers
Danielson
de la Garza
Dellums
Derwinski
Devine
Diggs
Edwards, Ala.
Erlenborn
Esch
Fisher
Flynt
Ford, Mich.
Giaimo
Gibbons
Green
Hamilton
Harkin
Harsha
Hébert
Heckler, Mass.
Hicks
Hightower
Hinshaw
Hungate
Jones, Ala.
Karth
Landrum
Levitas
Litton
McDonald
Milford
Miller, Calif.
Mills
Mitchell, Md.
Moorhead, Pa.
Morgan
Murphy, N.Y.
Nix
O'Neill
Peyser
Railsback
Rees
Rhodes
Riegle
Risenhoover
Rodino
Rose
Ruppe
Santini
Sarbanes
Scheuer
Schneebeli
Stanton, James V.
Steelman
Stokes
Stuckey
Symms
Teague
Udall
Vanik
Waxman
Weaver
Wylie
Young, Alaska
Young, Ga.

The SPEAKER pro tempore. On this rollcall 341 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12455, SOCIAL SECURITY ACT

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and appoints the following conferees: Messrs. ULLMAN, CORMAN, RANGEL, STARK, WAGGONNER, VANDER JAGT, and KETCHUM.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO FILE REPORT ON H.R. 13555, MINE SAFETY AND HEALTH ACT OF 1976

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tonight to file a report on the bill H.R. 13555, Mine Safety and Health Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12384, MILITARY CONSTRUCTION AUTHORIZATION

Mr. ICHORD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill—H.R. 12384—to authorize certain construction at military installations, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Missouri? The Chair hears none, and appoints the following conferees: Messrs. ICHORD, PRICE, RANDALL, CHARLES H. WILSON of California, WHITE, BRINKLEY, DAVIS, WHITEHURST, BOB WILSON, and BEARD of Tennessee.

EXPLANATION OF SMOKE IN CHAMBER; INTENTION TO ADJOURN FROM THURSDAY TO TUESDAY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I take this time for two purposes.

First, I want simply to explain to the House the cause of the smoke which has been seeping into the Chamber. I am advised by the Sergeant at Arms that some cork insulation on steampipes outside the building caught on fire. That cork insulation has now been removed and the air in the Chamber is now being purged of the smoke.

I can assure the Members of the House that this event has no political implication whatsoever.

The second reason I asked for this time, Mr. Chairman, is to explain that when I have concluded these remarks I shall offer a privileged resolution that will provide that when the House adjourns on Thursday, May 27, it will stand adjourned until noon Tuesday, June 1, 1976.

ADJOURNMENT FROM MAY 27 TO JUNE 1, 1976

Mr. BRADEMAS. Mr. Speaker, I offer a privileged concurrent resolution—House Concurrent Resolution 646—and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 646

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 27, 1976, it stand adjourned until 12 o'clock meridian, Tuesday, June 1, 1976, or until 12 o'clock noon on the second day after its respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives shall notify the Members of the House to reassemble whenever in his opinion the public interest shall warrant it or whenever the majority leader of the House and the minority leader of the House, acting jointly, file a written request with the Clerk of the House that the House reassemble for the consideration of legislation.

SEC. 3. During the adjournment of the House of Representatives as provided in section 1, the Clerk of the House is authorized to receive messages, including veto messages, from the President of the United States.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield, would the gentleman tell us the purpose of the request?

The SPEAKER pro tempore. The gentleman will suspend. This is a privileged resolution and it is not debatable.

The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, could the gentleman tell us what the schedule will be for tomorrow, what legislation might be brought up and what time Members might expect to leave?

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, the bill that is presently on the schedule for tomorrow is the Federal Energy Administration bill, subject to a rule being granted.

It is my understanding that we expect to go no later than 4 o'clock tomorrow.

Mr. BAUMAN. I thank the gentleman. Will we be coming in early tomorrow?

Mr. BRADEMAS. Yes. Will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Indiana.

HOUR OF MEETING TOMORROW, THURSDAY, MAY 27, 1976

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on tomorrow.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT AND THE ATMOSPHERE OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. BROWN of California. Mr. Speaker, in light of the action just taken, I ask unanimous consent that the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology be permitted to sit tomorrow, despite the House being in session under the 5-minute rule, in view of the previously scheduled meeting.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman assure us that the subcommittee would not meet beyond 12 o'clock?

Mr. BROWN of California. This gentleman would be glad to assure the gentleman of that, and no action will be taken.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE TO ATTEND THE FUNERAL OF THE LATE HONORABLE TORBERT H. MACDONALD

The SPEAKER pro tempore (Mr. McFALL). Pursuant to the provisions of House Resolution 1212, the Chair appoints as members of the Funeral Committee of the late Representative Torbert H. Macdonald the following Members on the part of the House:

Mr. Boland, Mr. O'Neill, Mr. McFall, Mr. Burke of Massachusetts, Mr. Conte, Mrs. Heckler of Massachusetts, Mr. Harrington, Mr. Drinan, Mr. Moakley, Mr. Studds, Mr. Early, Mr. Tsongas, Mr. Teague, Mr. Staggers, Mr. Brooks, Mr. Ashley, Mr. Thompson, Mr. Devine, Mr. Rostenkowski, Mr. Van Deerlin, Mr. Rooney, Mr. Phillip Burton, Mr. Eckhardt, and Mr. Cotter.

HOUSE RESOLUTION 1193, RESOLUTION OF INQUIRY REQUESTING THE SECRETARY OF DEFENSE TO FURNISH CERTAIN INFORMATION REGARDING THE REPUBLIC OF PANAMA AND THE CANAL ZONE

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I take this time to advise the House that this morning the Committee on International Relations met in open session to consider House Resolution 1193, a resolution of inquiry directing the Secretary of Defense to furnish to the House of Representatives all documents and other pertinent information relative to the extent of Cuban or other foreign military or paramilitary presence in the Republic of Panama or in the Panama Canal Zone.

By voice vote, the committee adopted a motion to lay the resolution on the table.

House Resolution 1193 was introduced by the Honorable Philip M. Crane, the Honorable Steven D. Symms, and the Honorable Gene Snyder on May 17, 1976 and referred to the Committee on International Relations.

On the same day, the committee chairman, the Honorable Thomas E. Morgan, referred the resolution to the Subcommittee on International Political and Military Affairs.

On May 20, the chairman of the subcommittee, the Honorable Dante B. Fascell, wrote the Secretary of Defense requesting his comments on the resolution. The Department of Defense reply, which was in part classified, was received by Chairman Fascell on May 25.

On May 26, the full committee reviewed the reply and found the information contained therein to be responsive to the resolution. Subsequently, the committee adopted a motion to table the resolution.

At this point, I include in the Record the text of House Resolution 1193 and the unclassified portion of the Department of Defense response to the resolution.

H. Res. 1193

Resolved, That the Secretary of Defense, to the extent not incompatible with the public interest, is directed to furnish to the House of Representatives, not later than fifteen days following the adoption of this resolution, all documents and other pertinent information available to him relative to the extent of Cuban or other foreign military or paramilitary presence in the Republic of Panama or in the Panama Canal Zone. Said information relating to any military or paramilitary presence shall include but not be limited to the number and description of:

(1) troops and militia;
(2) arms and ammunition; and
(3) covert intelligence operations.

Office of the Assistant
Secretary of Defense,
Washington, D.C.

Hon. Dante B. Fascell,
Chairman, Subcommittee on International Political and Military Affairs, House of Representatives, Washington, D.C.

Dear Mr. Fascell: (U) In response to your letter of 20 May 1976 which forwarded House Resolution 1193, the following information concerning foreign military or paramilitary presence in the Republic of Panama or in the Canal Zone is provided.

(U) Cuban Presence. There are no Cuban military or paramilitary personnel known to be in the Republic of Panama, nor is there evidence of deposits of arms or ammunition in Panama or the Canal Zone not controlled by U.S. or Panamanian authorities. Information on Cuban nationals—other than expatriates from the Castro regime—is sketchy, but best estimates indicate that the total number of Cubans in Panama does not exceed 150. This number includes a maximum of 40 personnel assigned to the Cuban Embassy in Panama City—including wives and staff. Two Cubans are employed by Havana's press agency, *Prensa Latina*, in Panama. Other Cubans are involved in mostly economic-oriented activities. These include fisheries experts, commercial agents, Cuban Airlines (Havana's civil airlines) personnel, purchasers in the Colon Free Zone, tourists and athletes. No official Cuban personnel are located in the Canal Zone.

(U) Non-Cuban Foreign Military Presence:

a. Official Personnel—the U.S. has the only permanent military advisory mission in the country. The following foreign military attaches are known to be assigned to the various country embassies in Panama: Argentina—one; Venezuela—two; Nicaragua—one; Honduras—one; El Salvador—one (temporarily vacant); Guatemala—one; Mexico—one; Uruguay—one; and England—one. England's military attache resident in Bogota is also accredited to the Republic of Panama.

b. Military Advisors/Instructors—Panama's lack of a military academy for officer training has meant that the officers of the National Guard—Panama's sole security force—have been forced to rely on foreign military training. Over the years, personnel have trained at the academies in neighboring countries, and foreign countries have periodically provided visiting military instructors. In the early 1970's, an Israeli military officer was believed to have provided instruction on rural development and agrarian techniques. Additionally, a two-man Guatemalan Air Force training mission provided instruction to the Panamanian Air Force prior to 1975. These advisors have since departed. In mid 1975, one Brazilian Air Force major provided helicopter instruction, and a maximum of six Brazilian technicians performed technical modifications to the Panamanian Air Force's existing helicopters.

(U) There are approximately 419 foreign military students in the Canal Zone attending courses at the U.S. Army School of the Americas, the Inter-American Air Force Academy and the Navy's Small Craft Inspection and Training Team courses. These schools are under the direct control of the respective U.S. military departments. Students in these courses come from most of the Latin American republics, depending on the specific courses offered during the course of the year. Additionally, approximately 58 foreign military liaison personnel are assigned as guest instructors to these schools and to such coordinating organizations as the Permanent Commission on International Communication, headquartered for convenience in the Canal Zone. No Cubans are included in the above figures.

Sincerely,
Richard E. Cavazos,
Major General, U.S.A., Director, Inter-American Region.

RESOLUTION OF INQUIRY REQUESTING SECRETARY OF DEFENSE TO FURNISH INFORMATION REGARDING PANAMA AND CANAL ZONE

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, I want to express my appreciation to the committee for having made the inquiry, in response to the resolution, from the Depart of Defense. I feel confident that the response from the Department of Defense is totally accurate, for they would in no way and under no circumstance endeavor to mislead either Members of Congress or the American people.

I think it is a relief to all of us to know that the allegations about the Cuban presence in Panama are untrue. Further, I want to commend the committee for its position in determining to maintain an ongoing oversight. I would only urge the committee, beyond overseeing any Cuban presence in Panama, to oversee the presence of Cuban troops elsewhere throughout the world, because, as we know, it is not confined to Angola. We do know of the existence of a Cuban presence in other parts of the African Continent, and parts of the Middle East.

Mr. Speaker, I want to express my appreciation to the gentleman for his work and for the committee's work in this regard, particularly my good friend from Florida (Mr. Fascell).

Mr. ZABLOCKI. I thank the gentleman for his kind and generous comments. Let me assure him and the House that under the leadership of the chairman of the subcommittee, the gentleman from Florida (Mr. Fascell), there is a continuing review and study. The International Relations Committee is continuously evaluating this issue. Let me assure the gentleman that it is our concern and our desire, to be fully knowledgeable of the activities of any military or paramilitary activity on the part of the Cubans anywhere in the world. For example, the Subcommittee on International Political and Military Affairs, chaired by Congressman Fascell held indepth hearings on this issue as it related to the African Continent.

Mr. CRANE. I thank the gentleman.

SOVIET UNION URGED TO LIVE UP TO PROVISIONS OF HELSINKI FINAL ACT

(Mr. HAYES of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Indiana. Mr. Speaker, all the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries. Because the Soviet Union is not living up to that accord, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history entitled "Orphans of the Exodus" describes this tragic problem. At this time, I would like to bring to the attention of the Members the situation of one family, the Isaac and Dina Zlotver family, provided by the Washington Committee for Soviet Jewry.

They have two children, one daughter and one son, and they have not seen them for several years. Now, they also have a grandchild that they have never seen. They have given to their country everything; their creativity, their strength, their courage.

He fought in the battle for Berlin, and was a former colonel in the Red Army. He was decorated many times.

Now, he is ill, trying to recover from a heart attack. She is a pathologist, the author of many scientific articles. She has cancer.

Living up to the spirit of Helsinki would mean the Soviet Union would reunite this family once again and comply with the agreement undertaken and—more importantly—exercise human decency.

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1976

Mr. NATCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13965) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Florida (Mr. Young) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13965, with Mr. Fuqua in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Kentucky (Mr. Natcher) will be recognized for 1 hour, and the gentleman from Florida (Mr. Young) will be recognized for 1 hour.

The Chair recognizes the gentleman from Kentucky (Mr. Natcher).

Mr. NATCHER. Mr. Chairman, at this time we submit for your approval the annual District of Columbia appropriations bill for fiscal year 1976.

As chairman of the subcommittee on the District of Columbia budget it is a distinct honor for me to serve with all of the members of this subcommittee. On our subcommittee we have Mr. Giaimo of Connecticut, Mr. Young of Florida, Mr. Stokes of Ohio, Mr. Kemp of New York, Mr. McKay of Utah, Mr. Burgener of California, Mr. Burlison of Missouri, Mr. Alexander of Arkansas, Mrs. Burke of California, and Mr. Wilson of Texas. Mr. Chairman, all of these Members are outstanding Members of the House of Representatives. Mr. Young of Florida, the ranking minority member of our subcommittee, has performed yeoman service in carrying out the duties of this assignment.

For the 12th consecutive year the Congress has been presented a budget for the District of Columbia that is out of balance. We submit to the House of Representatives a balanced budget.

The District of Columbia, under this bill, will have the total sum of $1,552,712,900 for 1976. The transition period money for 1976 totals $248,492,600. The budget estimates as amended, total $1,203,048,300 for 1976 and $248,536,400 for the interim quarter.

The Federal payment for 1976 that we recommend is $250 million. For the transition period we recommend $66,500,000. This makes a total of $316,500,000. For payment in lieu of reimbursement for water and sewer services to Federal facilities we recommend the sum of $5,688,000 for 1976 and $1,422,000 for the transition period. This makes a total of $7,110,000.

In addition to the Federal payment, the District of Columbia will receive in Federal grants the sum of $343,778,400. In addition, the District government will receive $26,650,000 in Federal revenue-sharing funds and will be authorized to borrow $210 million in Federal loans for capital outlay.

When you total up all of the Federal funding provided for in this bill you have the sum of $870,010,400. This is approximately 56 percent of the total budget for the District of Columbia.

The District of Columbia at this time has some 723,000 people. When you compare the amount of the District budget for fiscal year 1976 with the budgets of the 50 States you will find that here in our Nation's Capital we have a per capita expenditure that is considerably higher than in most of the States.

The budget as submitted was out of balance over $40 million and for the first time in over 20 years, this budget was not submitted to Congress until November of 1975. We began hearings on November 13, 1975, and since the budget was out of balance with amendments pending before the City Council and the Office of Management and Budget, we had to recess our committee on December 19, 1975. Finally, after the District government was authorized to borrow $40 million and then an additional $15 million which placed the budget in balance, the amendments were then sent to the Hill on April 16, 1976, and hearings resumed on April 28, 1976. We concluded our hearings on May 3, 1976. The District of Columbia for the past 10 months has been operating under the continuing resolution which provides for funding at the fiscal year 1975 level since the budget was late and Congress was unable to pass upon the budget.

Mr. Chairman, so far no budget for the fiscal year 1977 has been submitted to Congress. The Federal funds portion contained in the President's budget was submitted on January 21, 1976, but the District of Columbia's budget for fiscal year 1977 was not transmitted to the Office of Management and Budget until May 10, 1976, and it is now before OMB.

Mr. Chairman, certainly this does not speak well for the District of Columbia and especially since the District is now operating under home rule. I voted for home rule and joined with the chairman of the Committee on the District of Columbia in presenting this legislation to the House and urging its enactment. I am still for home rule, but the Mayor, the City Council, and all of those in charge of the District government must do better in the future.

We only recommend a very slight reduction in the budget as submitted for fiscal year 1976. The total amount of the reduction is $4 million in the Federal payment and $38,153,000 in capital outlay. This makes a total of $42,153,000.

The District of Columbia's share of the total budget from local taxes, fees, charges, and other collections totals $693,710,000.

The District of Columbia government currently owes the Federal Treasury approximately $1.1 billion primarily for loans drawn down to finance long term improvements to the city's physical plant. The request for these loans was made by the city officials, approved by the Congress, and signed into law by the President. On down through the years as chairman of this subcommittee, I have, each year, warned the officials as to the indebtedness that continues to increase and I still say to those in charge of our District government that unless some restraint is shown, this city will be in the same position as the city of New York. Washington's debt per capita now totals $1,460 per person. This is second only to New York's per capita debt of $1,767 per person. If this continues, Mr. Chairman, by 1981 Washington's debt load is expected to almost double.

Mr. Chairman, we have in the Police Department 4,586 men and women in uniform. The total number of employees in the Metropolitan Police Department is 5,386.

The total number of school teachers in our public school system is 7,414. Our total enrollment is 130,054. The per capita expenditure for education in our Nation's Capital is $1,812; $1,583 is contained in this bill, and $229 will come in grants which makes the total $1,812. This is exceedingly higher than the national per capita expenditure level. For several years now the enrollment loss as far as students is concerned has averaged about 4,000 per year. The enrollment loss anticipated for fiscal year 1976 is 1,700.

Mr. Chairman, we have too many employees in the District of Columbia government. Authorized under this bill, is the total of 40,269. At the present time we have 36,323 actually employed.

In addition to the current debt of $1.1 billion to the Federal Treasury for capital projects the District of Columbia does not have a funded pension plan for police and firemen and the teachers plan is only partially funded. The unfunded liability for these pension plans is approximately $1.8 billion and is expected to increase to $16.8 billion by the year 2010, at which time it is estimated pension payments for police and firemen will be approximately 110 pecent of the payroll. This ever mounting debt of the city along with the unfunded pension plans is one of the most serious problems confronting our Nation's Capital and as I have pointed out time after time down through the years, the city officials must stop presenting new programs that are not necessary calling for capital outlay items that no longer are necessary and generally must hold down the expenses of operating this city.

The committee has approved a total of $45,484,700 as requested for the District's share of the cost of constructing the regional rapid rail transit system and the bus capital contribution. The District's share for subway construction in fiscal year 1976 is $41,037,000 and the city's share for the purchase of new buses in 1976 is $4,447,700.

Mr. Chairman, the rapid rail transit system which our committee started under construction in the year 1969 is having difficulties. As you will recall, Mr. Chairman, the system was changed from a 25-mile rapid transit system to a system which will now contain 100.2 miles. When finally authorized for the 98-mile system, Congress was advised by those who are now in charge of constructing this system that it would cost $2.5 billion. At that time I informed these officials that I believed that it would cost between $4 and $5 billion. Each year when they appeared still maintaining that they could build this system for the overall amount of $2.98 billion which was the final amount authorized, I, on each occasion, informed them that they should simply tell the truth about the cost of the system because it would cost at least $5 billion. Now after several years have passed, those in charge of constructing the system and the city officials admit that this system will cost $4.560 billion and this, of course, exceeds the authorization. Instead of the figure that is now in use, this system will exceed the $5 billion and will ultimately cost at least $6 billion. No part of the $1.2 billion of bonds that are to be issued will be retired by the Washington Metropolitan Area Transit Authority. These bonds in order to be sold had to be guaranteed by the Federal Government and the Federal Government in the end will have to retire the bonds. This will be in addition to the Federal Government's share of costs of this system.

Mr. Chairman, you will be interested to know that we reported the Department of Transportation and related agencies appropriation bill for fiscal year 1977 today. In the report accompanying the bill we find the following:

The committee has approved the full budget request for the Federal share of the rapid rail transit system to serve the National Capital area. This includes an advanced appropriation of $15,421,779 for fiscal year 1978 and $6,800,000 for the design and construction of facilities for the handicapped as authorized by Public Law 93-87.

The $15,421,779 recommended for fiscal year 1978 represents the final increment of the $1,147,044,000 Federal contribution authorized by the National Capital Transportation Act of 1969, as amended. As discussed earlier in the report, additional fiscal year 1977 funding is being recommended for the Metro system under the appropriation for projects substituted for interstate system projects in the Urban Mass Transportation Administration.

Mr. Chairman, in the bill before us today we have the sum of $33,336,300 for Metrobus operating subsidies. For fiscal year 1976 the deficit for the operation of the Metrobus system in so far as the District of Columbia is concerned totals $25,496,841. Those in charge of constructing the rapid transit system insisted that the bus systems serving our Nation's Capital be purchased and controlled by the Transit Authority. Each year the deficit for the operation of the bus system has increased and when the rapid rail transit system is completed, the deficit for the operation of the transportation system in our Nation's Capital will total between $100 and $200 million annually. I recall, Mr Chairman, that during the time that those in charge of building the rapid transit system were insisting that the bus companies be taken over, they were also insisting that National Airport also be taken over by the Washington Metropolitan Area Transit Authority. At least, Mr. Chairman, they were unable to accomplish a takeover of the airport.

Mr. Chairman, the bill before us today provides for carryover obligations and bills totaling $142,288,000. These obligations will be carried over into the fiscal year 1977, and as you and I know, Mr. Chairman, this is certainly not the way to operate a city. In addition to the $142,288,000 the District of Columbia's emergency borrowing to place the budget in balance totaling $55 million must be provided for in the fiscal year 1977. These two items total $197,288,000.

In this bill we have a $3,950,500 subsidy for our schoolchildren. This reduces transportation fare from 40 cents to 10 cents and is good, and I recommend this amount to the committee.

For public safety we recommend $243,059,100.

For the Metropolitan Police we recommend $128,587,200. During the hearings on the fiscal year 1975 budget, we informed the Mayor and the Chief of Police that their proposal for a reduction in the Metropolitan Police force was a serious mistake. After a number of years our committee has succeeded in building the strength up to 5,100 and the adjusted base presented by the Mayor and the City Council for 1975 was 4,750. Mr. Chairman, this reduction was a serious mistake and crime statistics at that time did not justify the reduction. The crime situation in the District of Columbia today does not justify a reduction in the Metropolitan Police force and we again have informed the Mayor and the Chief of Police that under no circumstances should another reduction be presented to the Congress.

We recommend $42,825,000 for the Fire Department, $28,457,800 for our court system, and $42,887,500 for our Department of Corrections. This bill contains $301,600 for the National Guard.

We recommend $237,382,300 for education for fiscal year 1976. In addition, we recommend $47,476,500 for the transition period.

This bill contains $16,520,000 together with $4,956,000 for the transition period for the Department of Recreation.

We recommend, Mr. Chairman, that the sum of $264,124,200 be approved for the Department of Human Resources together with the transition period money of $74,830,900.

The bill before us today contains $26,942,600 for transportation for fiscal year 1976. For the transition period we recommend $6,922,400.

For repayment of loans the bill contains $63,380,600. For salary increases the bill contains the sum of $10 million for police, firemen, and teachers.

We recommend the sum of $135,259,500 for capital outlay. This is $69,658,500 less than the 1975 amount and $20,958,100 less than the amount requested.

For the Department of Environmental Services we recommend $55,007,800 and $14,133,100 for the transition period.

Mr. Chairman, we recommend this bill to the committee and respectfully request that the bill be accepted as reported.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to my distinguished friend, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I could not help but notice that the gentleman mentioned the figure of $1 billion. Did I understand my colleague to say that the District government owes the Federal Government that amount?

Mr. NATCHER. Mr. Chairman, the gentleman is correct; $1.1 billion is owed by the District government to the Federal Government.

Mr. ROUSSELOT. That certainly shows the generosity on the part of the Congress.

Are they paying interest on that money?

Mr. NATCHER. Mr. Chairman, the $1.1 billion is amortized over a period of 30 years at the going rate of interest when the money is borrowed. The money has to be repaid to the Federal Government at the going rate of interest. In this bill we have a little over $63 million that will go toward payment of principal and interest on this $1.1 billion.

Another matter that I know the gentleman will be interested in is this: In the city of New York the per capita indebtedness is $1,767; in the District government it is $1,460. The District government is second in the United States as far as indebtedness per capita is concerned, and this is a serious matter.

Mr. ROUSSELOT. So what the gentleman is telling us is that the Federal Government is really the "big-available" bank for the District of Columbia. We might call it the generous loan officer or the "wide open" loan window—for the District of Columbia.

Mr. NATCHER. The District government owes this amount. Down through the years, as the gentleman knows, since the time he has been a Member, each time we have presented this bill we have pointed out the indebtedness. We have said to them all down through the years—and we say it to them again—that this is a serious matter.

To be quite frank with the distinguished gentleman from California, my guess is that in the end the Federal Government will have to pay most of this indebtedness.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's candor.

So the claim that this Congress is not helping the District of Columbia is just false?

Mr. NATCHER. The gentleman is correct.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from California, a member of the subcommittee.

Mr. BURGENER. Mr. Chairman, I thank my distinguished chairman for yielding.

I just wanted to have our chairman reemphasize the amount of money spent per student in the public schools of the District of Columbia, which is double the national average, about $1,800 per student per year, as compared to $900 per student per year nationwide; am I correct?

Mr. NATCHER. The gentleman is absolutely correct. It is $1,812 per capita, and this is exceedingly high.

I would like to say at this time, Mr. Chairman, that a number of our Members, including the gentleman from California (Mr. BURGENER) have taken a special interest in a number of items in this bill. One of course pertains to Forest Haven. The situation there is not good and our committee knows this.

Mr. Chairman, at this time I want to yield to the distinguished gentlewoman from Maryland (Mrs. SPELLMAN).

The gentlewoman from Maryland all down through the years, long before her election as a Member of the House, has been very much concerned about the operation of our Nation's Capital. Now as a Member of Congress from one of the surrounding districts, her interest has continued. The gentlewoman from Maryland has discussed a number of matters in this bill with me so, at this time, Mr. Chairman, it is a pleasure for me to yield to the gentlewoman from Maryland (Mrs. SPELLMAN) such time as she may consume.

Mrs. SPELLMAN. Mr. Chairman, Glenn Dale Hospital, which is one of the subjects of concern within this bill, is located in my congressional district on 215 acres in Prince Georges County approximately 15 miles from downtown Washington. The traffic, air pollution, and noise there are at a minimum. It is an old facility but an attractive one. It was originally designed for a tuberculosis sanitorium, although there are patients with other needs there at the present time. It is the kind of facility needed for tuberculosis patients and those patients with emphysema, asthma, and the like.

It is the type of facility needed for extended elderly care, a place where the patients can rest in the sun and fresh air. It is really a very beautiful area.

I would like to submit for the record that there is a great deal of opposition to having the Glenn Dale operation moved into the downtown Washington area, because we are concerned about the quality of the care, and we are concerned about the question of safety at the hotel. We have many other concerns and would strongly desire that the move not be made. But, at this point I wish to discuss the use of the Glenn Dale facility and land in the event that the move should take place. I would like to make a very strong plea. Since the Glenn Dale facility is nestled within our community, the use to which these grounds are put have an enormous impact on our area. I therefore ask the assurances of the chairman that the facilities will be turned over in some fashion to Prince Georges County for use for public purposes, or, at the very least, that there will be full assurance that the Prince Georges County government will be consulted as to any future use of the facility; and that any and all such uses will require the approval of the community and the county.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. NATCHER Mr. Chairman, I yield myself 4 additional minutes.

Mrs. SPELLMAN. I thank the gentleman for yielding.

Mr. NATCHER. Mr. Chairman, I want to thank the gentlewoman from Maryland for bringing this to the attention of the committee at this time. This bill, as the gentlewoman knows, provides funds for the purchase of the Metropolitan Hotel and extended care facility as a replacement for the Glenn Dale Hospital. The Glenn Dale Hospital plant is now obsolete, and it would require about $28 million to rehabilitate the hospital and put it in shape and comply with life and safety standards if it is to continue in operation. Under this bill we are authorizing the purchase of the Metropolitan Hotel. That means, then, that the present Glenn Dale buildings and the land in Prince Georges County will be available for some other use in the future.

I want to say to the gentlewoman from Maryland that before any use is made of this property, the people in the community will be advised as to what is proposed, and we will ask them to come before our committee. We will contact the gentlewoman from Maryland, and we will make sure, Mr. Chairman, that the use of this property is never for any purpose that is objectionable to the people in that area. In all fairness, Mr. Chairman, I must say that all down through the years the people in that community have gone along with us in the operation of the Glenn Dale Hospital. Certainly, Mr. Chairman, no operation should take place at that facility or on that property that would be objectionable to the people who reside there and have businesses in that area of the county. I want the gentlewoman to know that that will not take place as far as our committee is concerned.

Mrs. SPELLMAN. If the gentleman will yield further, I certainly thank the gentleman. The Chairman has given me full assurance, and I am sure that the people in my district and my county will be very happy to read his words.

Mr. NATCHER. I want to thank the gentlewoman.

Mr. Chairman, this bill is a good bill. Our subcommittee recommends it to the committee and the House.

It has been a distinct honor and privilege to serve on this subcommittee with my friend, the distinguished gentleman from Florida (Mr. YOUNG), the ranking minority member and an able Member of this Congress. The same applies to our two new members, the gentlewoman from California (Mrs. BURKE) and the gentleman from Texas, (Mr. WILSON), and to the other members of the subcommittee.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of the subcommittee has done a very thorough job in presenting the facts and the figures in this bill that we bring before the Members today, and I will not take the time to reiterate or to repeat his statements about the actual dollars in the bill.

I would like to emphasize, though, that what we are dealing with here today is the appropriations bill for fiscal year 1976 when, in fact, we really ought to be here on the floor today with a fiscal year 1977 bill. I do not want that to sound too critical because this is the first year of the District of Columbia operating under its Home Rule Charter. I think we have to take into account that things are being done differently than they were in the past; but I still believe that we should apply as much influence as we can to see that this does not happen again in the future.

I think not only the people in the District of Columbia but the Members of Congress have a right to expect the presenting of this budget in a timely fashion.

The $1.1 billion debt owed to the Federal Government is very impressive, as our chairman, the gentleman from Kentucky, Mr. NATCHER, has said, and he recounted the per capita debt for the District of Columbia and compared it to New York City.

What he did not say, and I want to add to his comments in that regard, is it is estimated by all indicators that we could put together that in the next 5 years, by 1981, that debt is going to double, while during that same period of time the population of the District of Columbia will be reduced. So I think we have a really serious problem on our hands, one that is growing, one that this Congress needs to take into account and one that the officials of the District of Columbia need to take into account.

The question of the unfunded police pensions and firefighters to me is a very serious item. If I were a policeman or a firefighter in the District of Columbia and knew that my pension was not funded but was based on the whims of a city government and a Congress every fiscal year, I would be worried. I think the District of Columbia should be paying strict attention to developing a pension program that can be funded, where the funds can be deposited in interest-bearing accounts to actually add to and aid financially the actuarial strength of these pension plans.

It should be said today that of the total salary account for active duty policemen and retired policemen, 44 percent of that amount this year is going for the retired pensions. Next year it is going to be a larger percentage, and 5 years from now it is going to be a much larger percentage. So in just a few years we will have reached the point where we are going to be appropriating every year more money for the retired persons than for the police actually fighting crime on the streets.

As far as fighting crime, I think it should be pointed out the judges of the superior court have testified before this committee several times during this last year that a large percentage of the crime in the District of Columbia is being committed by repeaters, by people out on bail or by people out on some kind of bonding program or by people out on some kind of presentence investigation or by people out on some kind of work release program. This is being done for several reasons but one of the reasons of course is the fact that the detention facilities are already overcrowded.

The District just opened up about 6 weeks ago a new detention facility and it is already overcrowded. They do not have any place to put these criminals. A major issue to be considered is the fact that the people of the District of Columbia have a right to expect to be protected from these criminals.

Last year the District of Columbia made 104 separate requests in the amount of $72 million to reprogram money within accounts of money that was appropriated for one purpose and reprogramed to be spent for another purpose. My own personal thinking is that this shows a tremendous lack of management, a tremendous lack of looking into the future and knowing exactly what the plan is going to be.

Members might be interested to know and I am sure they will hear more about this as the bill proceeds through this body and the other body and through the conference process, that this bill provides funds to provide a chauffeur-driven automobile for the chairman of the District of Columbia City Council. This bill does not provide money to purchase the Shapiro tract we have heard and read so much about in the news media. The members of this committee do not object to purchasing the Shapiro tract, but we object to the fact that the price is a real ripoff. We cannot find any justification for the amount of money that has been requested of this Congress as it relates to the actual value of the Shapiro tract.

One other point we have talked about during the hearings and we have tried to communicate to the District of Columbia officials is that they have a responsibility to help themselves financially. A recent General Accounting Office report told us that in the last 5-year period there were 80,000 people in the District of Columbia who did not file an income tax return. As of today very little has actually been done to try to collect those back taxes. I think that is something else the city should be doing.

Just this week the House passed a bill to create a new Office of Management and Planning in the District of Columbia that hopefully will help them solve some of their problems of bookkeeping and of people who have not paid their taxes and taxes that have not been collected.

All in all I think with the circumstances presented to us that the subcommittee and the Committee on Appropriations have done a good job on this bill. We have reduced the budget considerably. The national Office of Management and Budget has stated their view that this budget is a very close budget.

I hope Members will support this bill.

Hopefully some of the problem areas we have pinpointed will be addressed by the city government in the months to come.

Mr. Chairman, at this point I yield such time as he may consume to the gentleman from California (Mr. Burgener).

Mr. BURGENER. Mr. Chairman, I thank the ranking minority Member for yielding me this time.

Mr. Chairman, also I want to thank my chairman, the gentleman from Kentucky (Mr. Natcher) for the gentleman's distinguished leadership on the subcommittee. Meetings always start on time. They are carried out with dispatch and great thoroughness and this is appreciated.

Mr. Chairman, I support this bill. I think it is a reasonable and a well-considered one. I do, however want to make a few observations about something that we have all read about in the press in the past number of months. I want to comment about Forest Haven. Forest Haven is owned by the District of Columbia. It is a residential care facility for the mentally retarded and it is located in the State of Maryland perhaps a third to half way to the Washington-Baltimore International Airport. It has about 1,000 beds, between 1,000 and 1,100 beds for infants, children, youth and adults, who are mentally retarded and require 24 hours-a-day, out-of-home care.

Mr. Chairman, I have submitted some additional views in the committee report. They are brief.

Mr. Chairman, I include them with my remarks at this point in the Record.

The additional views are as follows:

Additional Views of Hon. Clair W. Burgener

Despite overwhelming concern voiced by Members of both Houses of Congress and members of the community here in Washington, D.C., over the plight of the residents of the Forest Haven Institution for the Mentally Retarded, recent efforts at improvement at the institution have not proven to be of much noticeable worth. Money appropriated by Congress has been misspent, according to a recent audit performed by the U.S. Department of Health, Education, and Welfare. Staff morale is extremely low, and bureaucratic bumbling and foot-dragging have aggravated the situation.

I have personally visited Forest Haven and have been totally dismayed by what I saw there. Having served with numerous associations for the mentally retarded, and most recently having served as Vice-Chairman of the President's Committee on Mental Retardation, I have had occasion to visit numerous institutions for the mentally retarded throughout the United States and around the world. What I saw at Forest Haven is undoutbedly one of the two or three worst institutions I have ever seen, and I fear that I was not even shown the worst of it.

My purpose in writing these few lines is not to further demoralize an already demoralized staff; in fact, I would like to state here that I am fully aware that there are some staff employees at Forest Haven who really do care about the welfare of the residents and who are just as frustrated and concerned as I am. Nor is my purpose here to necessarily point the finger of guilt at any one person responsible for the mismanagement. Both the morale and the mismanagement problems at Forest Haven have already been well-documented in the newspapers and at Congressional Committee hearings. Rather, my purpose is to put the District Government on notice that I intend to fully utilize whatever prerogatives I may have as a member of the District of Columbia Subcommittee of the House Committee on Appropriations in seeing that the horror and human suffering at Forest Haven is, as speedily as possible, alleviated or brought to an end. As a member of that subcommittee, and as a member of the community of human society generally, I have an obligation to the innocents at Forest Haven to see that their home is not a warehouse and that the quality of care is the best that can be had with the current level of appropriation.

Clair W. Burgener.

Mr. BURGENER. Mr. Chairman, we might ask ourselves what interest our constituents really have in the welfare of these people, these retarded who are residents of Forest Haven. They are out of sight and perhaps out of mind, but I would remind my colleagues that our constituents in each district will pay from 40 to 50 percent of the cost, which is extensive, for the care, the therapy, the training and the residential needs of these people; so our constituents really are interested in accountability. They are interested in the quality and the kind of care they are receiving, or in many cases, the care they are not receiving.

Mr. Chairman, in the past 25 years I have had the privilege of inspecting many, many facilities for the mentally retarded all over this Nation; indeed, all over the world. I think that Forest Haven is probably one of the two or three worst that I have ever had the opportunity to examine firsthand. Over the years I have wondered really what makes change. What converts a mediocre or poor institution into a good one? I am convinced that it is primarily an active parents' association which mobilizes the community and influences the staff of that facility, influences the legislators and the public officials who appropriate the money to operate the facility. They demand change, and change can and does occur where there is an active parents' association.

Well, there is no real active parents' association for this facility. There ought to be and until there is I think some of us should do a little extra duty in paying a little special attention to what is happening at Forest Haven. Some of the Members of this House are beginning to go look. I spent a half a day at this institution a month or so ago. It was not pleasant.

Mr. Chairman, I saw in the paper this morning that the gentleman from Michigan (Mr. Diggs) was out there yesterday. I have talked to several members of the Committee on Appropriations who will go, who do not really want to go, but they have agreed to go because they have a special interest in the retarded. I guess they have strong stomachs, because that is what it takes to spend time looking at this particular facility.

Mr. Chairman, I do not want to further demoralize a staff that is already demoralized. There are some people out there that really care. There are some excellent staff people; but, unfortunately, that attitude does not prevail throughout the staff and the facility; so I merely say that in this particular budget, it is probably too late to make meaningful or relevant changes in terms of dollars that might find their way into better care for these retarded.

But, I am suggesting that for the fiscal year 1977 budget—which we are already late in even receiving and will consider later this year—I believe our committee will have some definite and positive recommendations to this House of Representatives for better care for the mentally retarded at the Forest Haven facility.

I thank my colleagues for listening to me. I pledge some personal attention to this facility, certainly until a very active parents' association can bring to it the kind of political clout and muscle it takes to effect change. I thank my ranking minority Member for yielding me this time.

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Krebs).

Mr. KREBS. Mr. Chairman, I would like to commend the gentleman from California, my good colleague (Mr. Burgener) for his very fine statement. He had an outstanding record as a member of the California Senate, and I think his statement today is consistent with his prior performance.

Mr. NATCHER. Mr. Chairman, we have no further requests for time on this side.

Mr. YOUNG of Florida. Mr. Chairman, we have no further requests for time, and I reserve the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

Are there any amendments to the bill? The Chair hears none.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFall) having assumed the chair, Mr. Fuqua, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13965) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

Mr. NATCHER. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced the ayes appeared to have it.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 13, not voting 68, as follows:

[Roll No. 306]

YEAS—350

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biester
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Derrick
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Ariz.
Steiger, Wis
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—13

Ashbrook
Burleson, Tex.
Collins, Tex.
Crane
Evans, Ind.
Gonzalez
Hansen
McDonald
Miller, Ohio
Mottl
Paul
Symms
Teague

NOT VOTING—68

Annunzio
Archer
Bell
Bergland
Biaggi
Bingham
Boggs
Brooks
Brown, Ohio
Burton, Phillip
Butler
Carter

Cederberg
Clawson, Del
Conlan
Danielson
de la Garza
Derwinski
Devine
Edwards, Ala.
Erlenborn
Fisher
Flynt
Giaimo
Gibbons
Goldwater
Guyer
Hamilton
Harsha
Hawkins
Hébert
Hicks
Hinshaw
Jones, Ala.
Karth
Kindness
Krueger
Landrum
Leggett
McCollister
Mann
Miller, Calif.
Mills
Morgan
Mosher
Nix
O'Neill
Peyser
Pressler
Rees
Rhodes
Riegle
Risenhoover
Rodino
Rose
Sarbanes
Satterfield
Schneebeli
Stanton, James V.
Steelman
Thompson
Udall
Waggonner
Waxman
Weaver
Whalen
Wylie
Young, Alaska

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Archer.
Mrs. Boggs with Mr. Carter.
Mr. Hébert with Mr. Cederberg.
Mr. Annunzio with Mr. Edwards of Alabama.
Mr. Biaggi with Mr. Derwinski.
Mr. Waggonner with Mr. Harsha.
Mr. Thompson with Mr. Bell.
Mr. Rodino with Mr. Goldwater.
Mr. Bingham with Mr. Kindness.
Mr. Bergland with Mr. McCollister.
Mr. Phillip Burton with Mr. Del Clawson.
Mr. Brooks with Mr. Erlenborn.
Mr. Hawkins with Mr. Mills.
Mr. Giaimo with Mr. Brown of Ohio.
Mr. Hamilton with Mr. Young of Alaska.
Mr. Morgan with Mr. Devine.
Mr. Nix with Mr. Guyer.
Mr. Mann with Mr. Butler.
Mr. Waxman with Mr. Mosher.
Mr. Udall with Mr. Steelman.
Mr. Leggett with Mr. Conlan.
Mr. Danielson with Mr. Sarbanes.
Mr. de la Garza with Mr. Wylie.
Mr. Fisher with Mr. Peyser.
Mr. Flynt with Mr. Schneebeli.
Mr. Gibbons with Mr. Whalen.
Mr. Miller of California with Mr. Satterfield.
Mr. James V. Stanton with Mr. Pressler.
Mr. Rose with Mr. Karth.
Mr. Rees with Mr. Landrum.
Mr. Riegle with Mr. Jones of Alabama.
Mr. Krueger with Mr. Hicks.
Mr. Risenhoover with Mr. Weaver.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

HOUSING AUTHORIZATION ACT OF 1976

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12945) to amend and extend laws relating to housing and community development.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Ashley).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12945, with Mr. Charles H. Wilson of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, May 25, 1976, the Clerk had read through line 6 on page 1.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to advise the House that it is the intention of the Committee on Banking, Currency and Housing, and myself as manager of the bill, with the agreement of the distinguished Speaker pro tempore, to finish this bill today. Hopefully we should be able to conclude consideration at a reasonable hour this afternoon, I should think within the next 2 to 2½ hours.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 2. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary is authorized to enter into contracts for annual contributions aggregating not more than $1,524,000,000 per annum, which limit shall be increased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, and by $790,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts.";

(2) by inserting "and before October 1, 1976," immediately after "July 1, 1974," in the second sentence thereof;

(3) by inserting the following new sentences immediately after the third sentence thereof: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1976, and approved in appropriation Acts, the Secretary shall (1) make available at least 50 per centum for use with respect to newly constructed or substantially rehabilitated units assisted under section 5 and section 8(b)(2), and (2) make available at least $140,000,000 to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8. The Secretary is authorized to enter into contracts for annual contributions with respect to the modernization of low-income housing projects in such amounts as may be approved in appropriation Acts, but annual contributions pursuant to such contracts entered into after September 30, 1976, shall not exceed $60,000,000 per annum, which limit shall be increased by $60,000,000 on October 1, 1977, and by $60,000,000 at the beginning of each of the three succeeding fiscal years."; and

(4) by striking out "second sentence" in the fourth sentence thereof and inserting in lieu thereof "second and fourth sentences".

(b) Section 9(c) of such Act is amended to read as follows:

"(c) There is authorized to be appropriated, for the purpose of annual contributions for the operation of low-income housing projects, not to exceed $575,000,000 for the fiscal year beginning on October 1, 1976.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 2 of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 12, immediately after the quotation marks and before the period, insert the following: "and by inserting immediately after 'on July 1, 1975,' in the fourth sentence thereof the following: 'and further increased by not less than $17,000,000 per annum on October 1, 1976,".

The committee amendment was agreed to.

The CHAIRMAN. Are there any amendments to section 2?

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Michigan: Section 2 of H.R. 12945 is amended (A) by striking out "$790,000,000" in paragraph (a)(1) and inserting in lieu thereof "$850,000,000"; (B) by striking out paragraph (a)(3); and (C) by amending paragraph (a)(4) to read as follows: "(3) by inserting immediately after 'on July 1, 1975,' in the fourth sentence thereof the following: 'and further increased by not less than $17,000,000 per annum on October 1, 1976'."

Mr. BROWN of Michigan. Mr. Chairman, section 2 of H.R. 12945 provides an authorization of $790 million for housing assistance programs and $60 million for modernization of public housing for fiscal year 1977, and then it proceeds to add an unbelievably entangling mass of set-asides and conditions under which that authority may be used.

If the Members of Congress were ever to be saddled with similar constraints and conditions in the administration of their personal offices, I can assure them that none would survive the first term of office.

We would not do such a thing to ourselves and yet there are some among us who are quick to blame others and to impose ridiculous administrative requirements upon our executive branch which create havoc and generate costly regulatory impositions which are wasteful and self-defeating.

My purpose in this amendment is to remove set-asides, constraints, and antiquated program requirements so that our Housing Assistance Programs can be made workable.

Since the enactment of the Housing and Community Development Act of 1974, which brought into being the section 8 housing assistance program, I have been witness to an endless stream of agony from those whose favorite programs are intended to be dropped in favor of section 8—a new concept directed to equity and local determination as to how that would be utilized.

We have all heard the cry, "section 8 will not work." It does not matter that it has not been fully tried. We have also heard the cry that "section 8 will not build new units." It does not matter that it was designed as an immediate means to stop subsidizing builders and production.

But from the looks of things legislatively, it appears that some of us are afraid that section 8 will indeed work. And in so doing it will cause certain parochial practices of the past to be cast aside.

If we want to kill a program, we can take a lesson from section 2 of H.R. 12945, from the provisions in the Senate companion bill, S. 3295, and from the appropriations acts dealing with housing assistance programs.

First, Members must understand that section 8 is intended to be a flexible program which will adapt to the fulfillment of locally identified housing assistance needs, be that the rental of existing vacancies, the rehabilitation of wasting living units, or the construction of new dwellings.

The mix and the provision of services and community development to support that mix is to be determined locally by local officials. I repeat, locally.

Now, just listen to the great wisdom of Washington.

Section 2 requires that 50 percent of all housing assistance provided for fiscal year 1977 must go to new construction. "Washington Knows Best"! It does not matter what our people want. It does not seem to matter what the costs are. But we all know that assistance for families in new construction is a great deal more costly than in existing properties. Who are we kidding? We cannot simply argue logically any advantages in building new dwellings in the midst of unused vacancies.

But that is exactly what section 2 does. Section 2 sets aside $140 million which can be used only for housing projects which will be owned by local housing authorities. We are directing HUD to continue warehousing poor people with other poor people—even though the 1974 Act deplored this past practice and the propagation of social ills which such practice brings.

It is outrageous to me to have to tell the Members that the Secretary of HUD will have to reestablish the processing staff for public housing in order to comply with this requirement. It grieves me to tell the Members that these projects will not be ready for occupancy for up to 4 years from the date of implementation of this requirement. The Members can appreciate the fact that it takes a great deal longer to process a construction package than a lease package.

All of that does not seem to matter to some of our colleagues.

It does not seem to matter to them that section 2 takes $60 million in authority away from the Secretary of HUD and away from possible use in housing additional families—and sets it aside for use only and exclusively for the modernization of older public housing units. It might sound as though the Secretary is not doing any modernization of public housing, but that is not true. Roughly $20 million a year has been devoted to that purpose and even that amount is not being fully utilized.

It does not seem to matter that $60 million is too much for modernization and cannot be used elsewhere for facilities that are urgently needed. Section 2 authorizes the $60 million on an annual basis for 5 years. This has a run-out budget authority impact of $1.260 billion per year. Who was it in Congress who sold the idea of budget control and where are they now? When will they speak out?

Years ago, we used to smile at the label "made in Japan" or "made in Texas by Texans" but unless we start paying attention to business the label "made in Washington by congressmen" will be cause for tears.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. BROWN of Michigan was allowed to proceed for 2 additional minutes.)

The amendment I offer will do three things:

First. Remove set-aside for new construction and let the locality decide its needs,

Second. Remove the set-aside for publicly owned housing projects and give the low income tenant a choice, and

Third. Remove the set-aside of $60 milion for modernization of public housing and restore that $60 million to the total authorization for housing assistance—making the total $850 million.

I would repeat, it is not taking away and it is not adding to the total, but it is is not earmarking or setting aside this particular amount for this particular utilization. The amendment does not touch the $17 million for housing assistance for Indians. The amendment does not mean that the Secretary cannot approve 50 percent new construction or $60 million in modernization if that is what the cities justifiably require.

Do Members know why this amendment is essential? Let me tell the Members that section 2 does not begin to stop housing assistance the way the Senate bill does. These are the provisions we must face in conference with the Senate.

Out of $695 million authorized, $465 million must go to new construction.

The $200 million (included in the $465 million) must go to conventional or publicly owned housing.

Again that is already in conference. It is in the Senate bill.

The $60 million is mandated to be spent as a minimum for public housing modernization.

Again, that is in the conference already, because it is in the Senate bill. Not included in our bill are limitations imposed by the Senate which restrict to $154 million the amount of section 8 assistance which may be extended to units in projects assisted by other FHA assistance programs. Then, as if they had not already buried housing assistance, the Senate bill insists that any funds carried over from prior years—that is, fiscal years 1975 and 1976—must be spent in accordance with the ratios established for new construction and for public housing in the pending authorization for fiscal year 1977.

Mr. Chairman, if we want to serve the national needs for housing assistance, we will not send our conferees in with the present version of section 2. It removes any hope of meeting the proper need.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. BROWN of Michigan was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, the main purpose of the amendment is not that we may not agree to some set-asides in connection with the conference with the Senate. The basic problem is, as I have indicated toward the end of my remarks, that the Senate has already imposed so many restrictions, constraints and earmarking set-asides, that it will be impossible to come out of conference with any kind of an acceptable bill. If we went into the conference with the earmarks, the set-asides and the constraints that are in the House bill, I would, therefore, tacitly admit in conference that I would agree to some set-asides; but just to go to conference, in effect, with our hands tied, as they will be if section 2 is adopted in its present stage, is very unwise and it is ridiculous for the House to put itself in that position in attempting to work out the differences between the House and the Senate.

Mr. Chairman, I urge support for my amendment.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me explain to the Committee why these set-asides are included in the bill. As we can see from the bill, there is authorized to be appropriated under section 2 some $790 million for use in funding section 8 housing and the conventional public housing program. It was the view of the committee that this was a vast amount of money to authorize to be appropriated without some kind of congressional guidelines more specifically as to its use.

Mr. Chairman, my colleague, the gentleman from Michigan, has decried the notion that Washington knows best. I share the gentleman's view on this notion. I would point out, however, that in the present budget for fiscal year 1977, there was contained the recommendation that half of the amount of money requested to be authorized would be for new construction; so with regard to the requirement in the bill that the gentleman objects to, namely, that half of the $790 million must be used for new construction, this does not differ from the budget schedule of the President earlier this year.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. Well, I yield to the gentleman.

Mr. BROWN of Michigan. Mr. Chairman, the gentleman from Ohio knows that I will be glad now at this time to establish legislative history for the instruction of HUD, that we expect the Department to utilize the funds in accordance with the way it has said it thinks it will use the funds.

I am happy to establish that legislative history with the gentleman as the congressional intent, but to put it in concrete, in our bill, and then have to attempt to deal with the Senate, which has much less constraint, it just does not make any sense, and I do not think the gentleman in the well thinks it makes sense.

Mr. ASHLEY. I think, if I may say, it poses a very considerable problem. I understand the thrust of the gentleman's amendment, and I heard him clearly when he said that he was not against all set asides. That was not a permanent position of the committee. What the committee was really looking to was some kind of a tactical position as far as the upcoming conference with the other body is concerned.

I think, inasmuch as the Committee on Banking, Currency and Housing acted as it did, I owe it to this committee to explain why that action was taken. I think it is necessary, for example, to point out that it was the consensus that while we do expect great things of the section 8 program, the fact of the matter is that it has not produced what was anticipated and hoped for to date.

It is because of the difficulty in getting the program off the ground that we felt that it was necessary to say that of the $790 million, $140 million should be earmarked for public housing. I have got to say to my friend from Michigan that on this I feel somewhat strongly, because the administration has shown no proclivity to using authorized funds for public housing if it can possibly avoid it. The gentleman knows that is true. In the submittal of the President's budget months ago, there was no talk of using any of the authorized funds, $850 million, for public housing; none at all.

That is why we felt, inasmuch as the section 8 program has been slow in getting off the ground, that it was necessary to see that we do have other resources, other processes, other systems we can make use of, perhaps in an interim period.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. ASHLEY was allowed to proceed for 5 additional minutes.)

Mr. ASHLEY. That is, to make use of the public housing structure until such time as there is a demonstrated capacity on the part of section 8 to provide the housing that it was intended to provide. That is why the earmarking, the set-aside of $140 million for public housing was agreed upon by the committee.

Finally, with respect to the modernization set aside, it must be remembered that there is some $2 billion in modernization backlog—not by my computation, but by the estimates of HUD itself. That is to say—and this goes back to 1973, which I believe are the latest figures from HUD on this— it was HUD's position that there was then a present need for some $2 billion to take care of the backlog of modernization needs—in 1973.

What the committee said was that $20 million a year to attack a backlog of $2 billion in modernization requirements simply is not enough. That is why we increased it to $60 million, cutting down from the $850 million to $790 million in the authorization for the section 8 and the public housing authorizations.

So, that is where we are, Mr. Chairman. That is why the language pertaining to the set-aside is as contained in the bill. I have got to tell the gentleman from Michigan that I take a very firm position, as he does, that as we go back to the 1974 Housing and Community Development Act, it was the policy established by this committee at that time that it should be the local determination of the communities that we all represent that should establish the housing requirements.

In other words, we took the view that the responsibility for developing a profile of housing needs on a community-by-community basis was not the responsibility of the Federal Government but was the responsibility of each local community. So I do not really like the set-aside, as far as section 8 housing is concerned. The gentleman from Michigan knows that. It flies in the face of the policy established in 1974.

The only reason, quite frankly, with considerable reluctance, that I take the floor at this time is to say that there have been difficulties in getting the section 8 program functioning and producing housing that is so desperately needed; and, second, because of the doldrums into which the housing construction industry has slipped.

It is for these reasons that it was deemed appropriate to provide on a temporary basis, that is to say, for this year only, at least so far as I am concerned, for these set-asides.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

First of all, I have just been provided with the figures on the section 8 program. As of March 31, 1976, there were 99,856 units under reservation. As of April 30, 1976, there were 142,000 units under reservation. It is estimated that as of May 31, 1976, the end of this month, there will be 182,000 units under reservation.

In turn, as of May 5, 1976, there were 11,000 units under construction, and as of April 30, 1976, there were 18,382 families receiving section 8 assistance.

As the gentleman knows, there was a terribly long time before the section 8 regulations got finalized, because there was the working out of differences with the industry, really, as well as working out problems with HUD. They have now adopted workable reulations in the section 8 program. Progress is being made in that program.

But I do not want to get this tied down to the section 8 argument, or any other argument. The basic point that I want to make is that housing is in no way jeopardized if this goes to conference with the Senate and if my amendment is adopted. Would the gentleman agree? Is that not true?

Mr. ASHLEY. I cannot take the well and dispute the gentleman on that.

Mr. BROWN of Michigan. All I am saying is there is no question but that in the Senate bill—I am sure the gentleman will agree—there are earmarks, constraints, and set asides.

Mr. ASHLEY. Yes, that is true.

I will say this: If anything like the Senate bill were to be agreed upon by the respective bodies and it went to the President's desk, I would expect him to veto it.

Mr. BROWN of Michigan. Then I would say to the gentleman that if the House went forward, are we not a lot better off to go to conference without these set-aside constraints that we have in the House bill? Are we not better off to go to conference with the Senate after my amendment is adopted than to go as it is now?

The gentleman knows that he has never had a difficult time working with the minority on this issue, and he would be in a much better position then to determine the ultimate outcome of the bill going to the President than he is if he lets the bill go to conference as it is now.

Mr. ASHLEY. I think I am talking principally, to some extent, and the gentleman is largely talking about tactics. I think we are probably not all that far apart.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the Housing Subcommittee for the bill that comes to the floor today. I must say that I disagree with it in only two very slight instances, and I do not know why we cannot resolve them in this Committee now.

Mr. Chairman, I am going to address my remarks to the amendment that has been offered by the gentleman from Michigan with respect to set-aside earmarkings.

I feel I should point out to the members of this Committee that the action of our appropriation's subcommittee partially agrees and partially does not agree with the thrust of the amendment offered by the gentleman from Michigan (Mr. BROWN).

Our bill, which will be reported to the full Committee on Appropriations on June 1, does include a maximum of 25 percent of new annual contract authority earmarked for new or substantially rehabilitated construction under the section 8 program. Our subcommittee is recommending this limitation because it believes that applying a minimum of contract authority that is solely devoted to new construction is both unrealistic and contrary to the original concept of the section 8 program when the Housing Act of 1974 was considered.

Mr. Chairman, it is very ironic that the Committee on Banking, Currency and Housing has seen fit to include just such a minimum. This bill requires that 50 percent of any new annual contract authority released in an appropriation act be reserved exclusively for new construction under the section 8 program. What is ironic is that it is precisely this language which the members of the Committee on Banking, Currency and Housing so behemently objected to when we brought back our conference agreement on the 1976 HUD appropriation bill.

There was no set-aside when that bill left the House. The Senate put in a 75-percent minimum for new construction. We met with the Senate in conference, and it was a difficult conference, and we had to back up and accept a compromise. The Members will recall that the conference agreement included a provision that required that 50 percent of any new contract authority had to be reserved for new construction under the section 8 program. That applied only to the new contract authority, not the large carryover.

Mr. Chairman, I took the time to look over the RECORD from last October 3, and I reviewed the arguments made by the members of the Committee on Banking, Currency and Housing against the concept of earmarking set-asides for new construction. I found that a number of the members of the Committee on Banking, Currency and Housing spoke against the action of our conferees, and, I should say, very eloquently. But the gentleman from California (Mr. REES) perhaps expressed the essential argument about as well as it could be expressed, and this is what he said:

> Our whole thrust in dealing with section 8 housing is this: Let us allow the local housing agencies to decide where they want to put their money, because each specific community has its own specific problems. By putting in a 50 percent restriction, we would not affect my city, but we might affect a city that is 20 or 30 miles away because of the make-up of its housing base.

That is a quotation from the gentleman from California (Mr. REES). This is a very persuasive argument, and it is precisely the argument that our subcommittee used in restricting the use of section 8 new construction to 25 percent of the annual contract authority made available in the 1977 Appropriation Act.

On the other hand, I should also point out that the HUD subcommittee did earmark—and we agree to this—a minimum set-aside of $120 million for the low-income public housing program, including not less than 15 percent for new construction. We recommended this approach because we believe that the public housing program can fill, and has filled, an important role in meeting the housing needs of low-income people not reached by the section 8 program.

So the fact is that I share some of the concerns expressed by the gentleman from Michigan (Mr. BROWN). We cannot legislate new construction under the section 8 program. At least we cannot do it if we are going to try to maintain the basic concept and spirit of the program.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(By unanimous consent, Mr. BOLAND was allowed to proceed for 5 additional minutes.)

Mr. Chairman, if the demand is there for new construction, and if economic conditions in the private marketplace are right, then section 8 new construction will begin to take hold; but if conditions are not right, no matter how large a set-aside we earmark for new construction, that contract authority will lie fallow and unused.

However, Mr. Chairman, the low-rent public housing program is a different situation. We know that that program works. Of course, it has had its problems. There have been some sensational stories, often too real, about how high-density low-rent public housing has been a disaster in some of the largest cities in this country.

In my judgment, as a program it has not been a disaster. We have constructed over 1.2 million units of public housing throughout the United States, and there are over 4 million people living in public housing units today. Whether we ultimately set-aside a certain percentage of contract authority for public housing or not, I feel the program does offer a workable and viable alternative.

Therefore, Mr. Chairman, I think we ought to vote for the amendment offered by the gentleman from Michigan (Mr. BROWN). We can take this to conference. We can resolve it in conference. We do have 25 percent for new construction in our own bill. We do have $120 million earmarked for public housing.

Mr. Chairman, I think that that is the right approach, and I would hope that the members of the committee would support that position.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman's yielding.

Whenever the gentleman takes the well, he makes a positive impression, and in this particular case a great contribution. We have before us an amendment that is well worth the Members' consideration.

Mr. Chairman, I only would add this: I do not know whether the gentleman in the well is familiar with the fact that I have been informed by some of the staff that once again we are going to run into the same problem with the other body to which the gentleman alluded when this bill goes to conference.

At that time, I have been led to believe that in the appropriations process in the other body, the Senator from Wisconsin is once again going down item by item and going to do the same thing, insisting on the set-aside for the public housing for this and for that, et cetera. That is just absolutely contrary to what HUD can live with.

However, Mr. Chairman, passing this amendment, as the gentleman in the well has said, gives the gentleman from Ohio the flexibility that he need when we go to conference.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman's statements.

Let me say that no one has worked harder on the bill than the gentleman from Ohio (Mr. ASHLEY). I appreciate what he has done over the years as a member of the particular committee.

The section 8 program is a program where the gentleman's committee, the Committee on Banking, Currency and Housing, has put all of its eggs in one basket.

The subsidy for the 235 and 236 programs, the rent supplement program, and the low-rent public housing programs will cost the taxpayers of America $3 billion in fiscal year 1977, more in fiscal year 1978, and so on down the line until the 20-, 30-, or 40-year period has ended.

Therefore, Mr. Chairman, I think it would be the better part of wisdom for this committee to accept this amendment.

I think it is a good one and that we can work this out in conference.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I think the gentleman from *Massachusetts* (Mr. BOLAND) a few moments ago alluded, as I think I did earlier myself, to the set-aside and that he took exception to the set-aside with respect to section 8 housing, not so much to public housing itself; is that correct?

Mr. BOLAND. Insofar as public housing is concerned, I favor the set-aside. In our bill we put in a mimimum of $120 million, including 15 percent for new construction for low-rent public housing because I believe in the public housing concept.

I think it has worked, not in every place, but I do believe that by imposing the set-aside on the section 8 program, we are doing harm to the section 8 program. We are doing harm to cities like New York, Los Angeles, and other large cities.

Mr. Chairman, one of the glaring headlines in my paper last Tuesday was about the abandonment of apartment projects in our town.

What I am saying, Mr. Chairman, is that we ought to leave to local communities the question of whether or not new construction or major alterations are needed. That is not a matter for decision by the people sitting here.

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield further, one of the things that bothers me is related to local housing assistance plan. In the first year of the program those plans nationally, called for about 60 percent new construction under section 8 and 40 percent of existing housing.

Unfortunately, HUD took the position that this was convoluted and that there should somehow be 60 percent existing and 40 percent new.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. BOLAND was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. Mr. Chairman, I agree with what the gentleman is saying. I do not like to see imposed set-asides by the administration any more than the Congress; but if the administration is going to insist upon set-asides, as they did do in the first year, then it puts us in the position that we have to almost specify our intentions.

Mr. BOLAND. The gentleman from Ohio makes an argument that has some merit, but I think we ought to leave the Department with the ability to administer the program. It is a brandnew program and it is having difficulty getting off the ground. It was only passed in 1974 and I cannot tell the Members the number of units completed so far, I think it is two or three thousand, but it is very disappointing. There are an additional 400,000 units scheduled under this bill and under the appropriation bill we will bring to the floor.

Mr. ASHLEY. The gentleman from Massachusetts does not mean to suggest, does the gentleman, that it is the role of the subcommittee of the Committee on Appropriations, which the gentleman chairs, rather than the authorizing committee to determine whether or not such and such should be done?

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. BOLAND was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. That is exactly the role that the gentleman does not want. When we get to another section of the bill where the gentleman's committee now wants complete control over the administrative expenses, then we will debate that point, too. And I totally object to that. But, be that as it may, I do not want to impinge on the authority of the authorizing committee. But, let me ask the gentleman, why did you not do this when the bill was brought to the floor in 1974 in the original housing act? Why was this not done last year? Why was there so much objection to the position we had to take as a result of the compromise with the Senate? We came back with a 50-percent earmarking and we got our ears knocked off on the floor. We succeeded, but it was not a very tenable position for the gentleman from Massachusetts to be in, but we accepted it, and apparently the committee opposed it and a great number of Members did.

So I think that now the gentleman is totally reversing his position from last year.

Mr. ASHLEY. No question about it.

Mr. BOLAND. And from the original concept of the Housing and Community Development Act of 1974.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I want to commend the gentleman from Massachusetts (Mr. BOLAND) with whom I have had many conversations about the public housing set-aside and to give the gentleman a little history of the section 8 program as it passed the Congress in 1974.

First, we were told by the administration that section 8 has to be the only housing program. The administration said, "do not tie our hands, we will use section 8 for new construction; we will continue the public housing programs and if you try to tie our hands, then we will veto the bill."

So we did not put any restrictions then in the bill. And I had to come to the gentleman from Massachusetts and say that there is nothing, there is no action on section 8. We were promised 400,000 units and as of today there are only 18,000 units occupied under section 8, even though 20 months have passed since the bill was adopted. What we should have done, but we were kept from doing, was to say that this is a new program. We should continue in place existing programs until all the bugs are worked out of the new program and it is working. We have had too many promises that it will work, that it will provide new construction in the building industry where the unemployment is higher than in any other industry in this country.

So, this year, tired of promises, we said we should legislate. The gentleman, I think, agrees with me that, with all of its faults, public housing has done a good job in 95 percent of the cases at least.

The amendment would knock out the set-aside for public housing, would knock out the modernization for public housing, and if one thing is needed for an inexpensive way of producing good housing, it is modernizing the housing that is already in existence.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

As the gentleman from Pennsylvania well knows, the amendment does indeed knock out the $60 million for modernization, but that is not really going to happen. The gentleman knows that is a program that the administration is interested in, as all of us are, of course. So I am sure that the problem is with reducing the $850 million down to $790 million, and earmarking $60 million for modernization. I am sure that when the Department appeared before the gentleman from Michigan's, Mr. ESCH'S, subcommittee, it indicated that it was totally in agreement with the modernization program that the gentleman mentions.

I do not quarrel with the gentleman's position on the set-aside for public housing. My objection is to a 50-percent earmarking of section 8 for new construction. I think it is wrong. I think that really ought to be a decision made by people back in the local communities.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if I can regain my time, the question really is not whether the decision is going to be made in the local community or in Washington because it is already being made in Washington on section 8. The decision is made by HUD in Washington that they will use only existing housing and no new construction. The question is whether some part of the decision should be made on Capitol Hill in Washington or all of the decision made downtown in Washington. Since they promised us that they would use a substantial portion of section 8 for new construction and rehabilitation, and since they have used it only for existing housing, I think the time has come for this Congress on both sides of the aisle to say that we want to share in the decision. If the decision is going to be made in Washington, then the people's elected Representatives should have a say in this decision rather than being granted exclusively to the nonelected people downtown.

Mr. BOLAND. Mr. Chairman, will the gentleman yield further?

Mr. MOORHEAD of Pennsylvania. Of course, I again yield to my good friend, the gentleman from Massachusetts.

Mr. BOLAND. My only response, of course, to the gentleman from Pennsylvania is that I think this is a decision that ought to be made by those responsible for administering the program. Surely, the Congress provides guidelines, and the gentleman's committee has, I think, all the right in the world and the confidence itself to determine where the money ought to go. At the same time I think that decision as to local needs ought to be made by the local community. I know of no indication by the Department of Housing and Urban Development or by Secretary Carla Hills that none of the money is going to be used for new construction.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BOLAND, and by unanimous consent, Mr. MOORHEAD of Pennsylvania was allowed to proceed for 1 additional minute.)

Mr. BOLAND. If the gentleman will yield further, as the gentleman so well knows, most of the State housing finance agencies actually get into new construction; is that not so? Practically all of their programs are new construction.

Mr. MOORHEAD of Pennsylvania. The section 8 programs are almost entirely existing, not even rehabilitation housing, and this is the decision that I think the Congress, the people's elected Representatives, should make. Do we want to help the severe unemployment in the housing industry? Do we want to recognize that in some communities there is a need for new housing to replace that housing which, by attrition, is disappearing from the market? I think the same principle applies to the section 8 housing as applies to the public housing. Therefore, while I realize that the gentleman is only 50 percent in favor of the amendment, I would hope that he would go the other 50 percent and oppose the amendment.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am troubled by HUD's intention to implement a plan in the President's budget which I feel subverts the purposes of section 8 of the National Housing Act. This bill would authorize an additional $790 million in contract authority for fiscal year 1977 for public housing and section 8 programs.

Section 8 was added in 1974 to put funds directly into the hands of needy families to enable them to enter the general housing market and selct a unit of their choice. This intention, which is clearly expressed in the legislative history of section 8, is being undermined through a proposed use of these funds to bail out the FHA. In fiscal year 1977, HUD plans to set aside, I understand, as much as 20 percent of the section 8 funds for use solely in projects owned by

HUD or with mortgages insured or held by HUD. This money will not be allocated to families needing homes, as intended by law, but rather to units in these buildings in which HUD has an immediate financial stake. I would not be surprised if landlords simultaneously raised rents on these units to reflect exactly the amounts of these funds, thereby benefiting not needy families but only HUD, project owners and their mortgagees.

The relevant House and Senate legislative committees have made it clear that this use of section 8 funds is of doubtful legality.

In hearings on the predecessor to the bill before us, Representative Leonor K. Sullivan, ranking member of the House Subcommittee on Housing and Community Development, said the use of section 8 funds to:

> bail out 110 troubled FHA units . . . represents a major shift in the allocation of section 8 funds, one which I don't think was ever contemplated by the Congress when the dollar authorizations for section 8 were enacted." (Hearings on the Housing Authority Act of 1976, March 2 and 3, 1976, p. 65.)

Similarly, the Senate Committee on Banking, Housing and Urban Affairs, in its report accompanying the Housing Amendments of 1976, recognized the interest of HUD in aiding financially troubled FHA-insured projects but "disagreed with HUD's use of section 8 funds for this purpose because it detracts from the basic intent of Congress that such funds be used to provide additional housing units for low and moderate income families"—Senate Report No. 94-749, page 12.

The self-serving nature of this policy is well illustrated in its impact upon housing assistance in region II, which includes my district in New York. Of the 13,000 families to which HUD intends to to be occupants of projects which are give direct section 8 assistance, 5,000 are owned by HUD or whose mortgages are insured or held by HUD. The grants to these occupants are likely to be consumed in higher rents and be of no net benefit to the needy recipients. This policy also discriminates against privately owned and mortgaged projects which offer more attractive, less expensive and more efficiently managed accommodations.

Ironically, the New York City Housing Authority, as the local administrator of section 8 funds, was turned down in its request to follow HUD's example. HUD rejected the authority's request to allocate some of these dollars to projects the authority financed, owned or insured. In his rejection letter to Mayor Beame, the HUD regional administrator wrote:

> Ultimately, the Department's view was that the preservation of the grantee family's freedom of choice of housing accommodations was a critical element of the Section 8 existing housing program.

What applies to the local housing authority should and must apply as well to HUD.

I would respectfully ask the distinguished manager of the bill whether, to his knowledge, HUD intends to use section 8 funds to bail out troubled FHA units; whether the bill before us contains any provision addressing this highly questionable use of section 8 funds; and, if this bill contains no such provision, whether any action is being planned to halt HUD's plan.

Mr. ASHLEY. Mr. Chairman, let me say to the gentleman, the Secretary of HUD appeared before our subcommittee and we discussed this subject at very considerable length. It was the consensus of Members on both sides of the aisle that a judicious use of section 8 funds with regard to some of the existing inventories was entirely appropriate. To bar it by statute would be ill-advised in the extreme.

What we intend to do is to monitor very carefully the use by the Secretary of the authority pursuant to this section as far as making these funds available for units that have been taken by foreclosure or other action, in other words, those units that are back in the HUD portfolio.

Mr. ROSENTHAL. Let me say to the distinguished gentleman, in the hearings on predecessor bills the gentlewoman from Missouri (Mrs. Sullivan), the ranking member of the House Subcommittee on Housing and Community Development, said the use of section 8 funds to:

> bail out 110 troubled FHA units . . . represents a major shift in the allocation of section 8 funds, one which I do not think was ever contemplated by the Congress when the dollar authorizations for section 8 were enacted.

Similarly, the Senate Committee on Banking, Housing and Urban Affairs, in its report accompanying the Housing Amendments of 1976, recognized the interest of HUD in aiding financially troubled FHA-insured projects but disagreed with HUD's use of section 8 funds for this purpose because it detracts from the basic intent of Congress that such funds be used to provide additional housing units for low- and moderate-income families.

I do not think we should use this to bail out faulty FHA housing.

Mr. ASHLEY. But we are talking about housing that has come back to FHA through one action or another. In some instances units are appropriate for such action. In some they are not. It seems to us the worst part of bad wisdom to simply prohibit use of section 8 funds with respect to any of those units.

Mr. ROSENTHAL. The only problem is they could use all of this money to bail out FHA units and then we have no funds to use for the rather creative concept of section 8.

Mr. ASHLEY. The gentleman is very badly mistaken on that. The fact is, as the gentleman from Rhode Island pointed out a few minutes ago, the way section 8 works is that communities develop a program of their housing needs and an action plan based upon their particular needs. The gentleman cannot tell me that it would be possible for the Secretary of HUD, being responsive to these housing needs of individual communities, to make use exclusively of the portfolio of units that have come back into her portfolio. Of course that is not the situation.

Mr. ROSENTHAL. While we are permitting the Government to bail itself out, as a matter of fact they have refused New York City the use of these funds for city housing. They are refusing cities or municipalities permission to use the funds but they are using the funds for their own Federally-owned housing. I think it does harm the whole concept of section 8. If we give them free license they will bail out the whole FHA default mortgage operation.

Mr. ASHLEY. It is not possible for the Secretary of HUD to direct a given community, the gentleman's or mine, to use in a community all of the funds for units taken back into the FHA portfolio. It is not possible for them to do that.

Mr. TALCOTT. Mr. Chairman, I would like to say that I generally agree with the gentleman from Ohio (Mr. Ashley) that the gentleman has done an extraordinary job of providing us with legislation for housing which is desperately needed in this country; but I want to associate myself with the remarks of the gentleman from Massachusetts (Mr. Boland), who is the chairman of the subcommittee on which I serve of the Committee on Appropriations.

I believe this 50-percent set-aside is an administrative disaster for this program. It makes it very difficult for HUD to manage and operate the program; but more than that, it makes it very difficult for the community to make important decisions, which should be made at the local level. I happen to come from a district that needs new housing. We have a 1-percent vacancy rate in our area. We would like to have new construction, but there are many sections of this country that need to rehabilitate and stock the older housing. It is cheaper to rehabilitate the older housing than to build new housing. W get more value for our dollars from rebuilding the older stock of housing. So I think it is very important that we accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Brown).

The question was taken; and on a division (demanded by Mr. Brown of Michigan) there were—ayes 33, noes 18.

RECORDED VOTE

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I withdraw my point of order that a quorum is not present.

Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 110, not voting 61, as follows:

[Roll No. 307]

AYES—260

Abdnor
Adams
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Boland
Bowen
Brademas
Breaux
Brinkley
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Carr
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
Dent
Derrick
Dickinson
Dodd
Downey, N.Y.
Duncan, Tenn.
du Pont
Eckhardt
Emery
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Flowers
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hall
Hammerschmidt
Hansen
Harkin
Harris
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krueger
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Neal
Nedzi
Nichols
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Paul
Pepper
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rinaldo
Roberts
Robinson
Rogers
Roncalio
Rooney
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Tsongas
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOES—110

Abzug
Addabbo
Allen
Anderson, Calif.
Ashley
AuCoin
Badillo
Beard, R.I.
Bedell
Biaggi
Blanchard
Blouin
Bolling
Bonker
Breckinridge
Brodhead
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Carney
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
D'Amours
Delaney
Dellums
Diggs
Dingell
Downing, Va.
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Florio
Ford, Tenn.
Fraser
Gonzalez
Green
Hanley
Hannaford
Harrington
Hawkins
Hayes, Ind.
Henderson
Holtzman
Hughes
Jordan
Koch
Krebs
LaFalce
Leggett
Lehman
Litton
Lloyd, Calif.
Lundine
McHugh
Maguire
Matsunaga
Metcalfe
Meyner
Mezvinsky
Mikva
Mineta
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Myers, Pa.
Natcher
Nolan
Nowak
Oberstar
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pike
Rangel
Reuss
Richmond
Roe
Rosenthal
Roybal
Ryan
St Germain
Seiberling
Simon
Sisk
Solarz
Stark
Stokes
Studds
Sullivan
Traxler
Ullman
Van Deerlin
Wilson, Tex.
Wolff
Yates
Young, Ga.
Zeferetti

NOT VOTING—61

Annunzio
Bell
Bergland
Bingham
Boggs
Brooks
Brown, Ohio
Burton, Phillip
Butler
Carter
Cederberg
Clawson, Del
Conlan
Danielson
de la Garza
Derwinski
Devine
Edwards, Ala.
Erlenborn
Fisher
Flynt
Giaimo
Gibbons
Guyer
Hamilton
Harsha
Hébert
Hicks
Hinshaw
Jones, Ala.
Karth
Kindness
Landrum
McCollister
Miller, Calif.
Mills
Morgan
Mosher
Nix
O'Neill
Peyser
Rees
Rhodes
Riegle
Risenhoover
Rodino
Rose
Rostenkowski
Sarbanes
Schneebeli
Sikes
Spellman
Stanton, James V.
Steelman
Thompson
Udall
Vander Jagt
Waxman
Weaver
Wylie
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. O'Neill against.

Mr. Flynt for, with Mr. Udall against.

Mr. Annunzio for, with Mrs. Boggs against.

Mr. Sikes for, with Mr. Bingham against.

Mr. Rhodes for, with Mr. Phillip Burton against.

Mr. Guyer for, with Mr. Karth against.

Mr. Butler for, with Mr. Miller of California against.

Mr. Young of Alaska for, with Mr. Nix against.

Mr. Devine for, with Mr. Riegle against.

Mr. Carter for, with Mr. Waxman against.

Mr. Del Clawson for, with Mrs. Spellman against.

Mr. Vander Jagt for, with Mr. Thompson against.

Messrs. MOSS, MATSUNAGA, LEHMAN, FLORIO, and HUGHES changed their vote from "aye" to "no."

Mr. WRIGHT and Mr. RONCALIO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYDLER

Mr. WYDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDLER: Page 3, after line 22, add the following:

(c) (1) Such Act is amended by adding at the end thereof the following new section:

"PROCESSING OF APPLICATIONS FOR ELDERLY HOUSING ASSISTANCE

"SEC. 13. Notwithstanding any other provision of law, whenever an application for assistance under this Act concerns (in whole or in part) providing assistance for elderly families, the Secretary shall consider separately the portion of the application which concerns providing assistance for such families and shall make a separate determination of eligibility with respect to such portion without regard to whether the applicant is eligible for any other assistance which may be made available under this, or any other, Act to such applicant. If the Secretary determines that the applicant is eligible for the assistance to such families, the Secretary shall promptly make the assistance available without regard to whether the applicant receives or does not receive other assistance under this, or any other, Act."

(2) The amendment made by paragraph (1) shall apply with respect to applications for assistance made before and after the date of enactment of this Act.

Mr. WYDLER. Mr. Chairman and members of the committee, I want to commend the chairman of the subcommittee and the ranking member for bringing to the floor what I consider a good bill. I would like to support this bill because our country certainly needs housing. We need an improvement in the housing climate and in housing conditions.

Mr. Chairman, the amendment I am offering is to correct a slight omission in the act. I think it is a very important amendment because my amendment would provide fairness to our senior citizens and help to meet their needs for housing.

Mr. Chairman, let me make it clear that it will do this without adding any dollars, any money, to the bill.

The amendment simply provides that where there is an application for senior citizen housing, that application will be considered on its own merits. Disputes that arise over unconnected applications will not be used to hold up desperately needed housing units for our older American citizens.

This has been made necessary, Mr. Chairman, because in my own district in the town of Hempstead, we have had 250 units of elderly housing approved, totally approved and ready to go for many years; but we cannot start the project because of dispute concerning another housing application for 75 family units.

Because the fight concerning the site for 50 of those 75 units goes on, the entire project is being held up and the senior citizens in the town of Hempstead are being denied the benefit of 250 units of senior citizen housing.

This amendment would simply make it clear that where a senior citizen housing project has been approved and is ready to proceed, it will not be held up for some unconnected reason.

There are literally thousands of people in my district waiting for this housing, and we could get on with it with the passage of this amendment. It would help the senior citizens of our country and certainly in my district. It would protect their rights for desperately needed housing. So I wish, quite frankly, that the chairman and ranking member would accept the amendment. It adds no new program, it adds no new money. Its impact would simply be to expedite the construction of approved senior citizen housing. I hope the committee will approve the amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I have grown more and more impatient over the years with the officious habit of HUD in interpreting its congressional mandate to provide housing, as free license to fund social upheaval and foment community unrest. As long as senior citizens housing is intimately tied to other housing programs, we will continue to have a deficit of housing for the elderly. And that deficit is a national disgrace.

In the town of Hempstead in Nassau County, N.Y.—the largest township in the country—the waiting list for senior citizens housing is years long. The list occasionally grows shorter, because many of those on the list die before their names reach the top. And yet, HUD refuses to release Federal money for 250 additional units of housing for the elderly, reserved under the old "turnkey" program, because the town of Hempstead declined to build 75 units of public housing for families in the manner which HUD prescribed.

Because housing for the elderly is not considered separately, as it would be under the Wydler amendment, Hempstead Town has not only lost 250 units of senior citizen housing, but also has been deprived by HUD of millions of dollars for construction which Long Island's economy badly needs, and the hundreds of jobs that would have resulted.

In addition, because of Hempstead's failure to dance to HUD's tune, HUD has withdrawn almost a million dollars in community development funds in an unsuccessful attempt to bludgeon Hempstead into compliance. Ironically and tragically, the community development funds stripped from the town by HUD would have gone to a summer jobs program for needy youngsters, refurbishing parks and other public facilities, and to rehabilitate deteriorating housing for low-income families.

Mr. Chairman, HUD is going through the proverbial exercise of cutting off its nose to spite its face. By holding senior citizens housing as a hostage for local government acceptance of HUD's various experiments in social engineering, HUD does grievous injury to the elderly, further alienates the people from their government, and prevents other Federal funds from reaching those who are supposed to benefit from them. This country owes our elderly something better than bureaucratic one-upsmanship. The elderly cannot wait for the matter to be worked out through lengthy court proceedings or worse, the toils of administrative review. The Eternal Footman does not give them, or us, the luxury of endless, languid discussion. We must act now, through this amendment, to meet our obligation to the elderly.

Congress is all too familiar with the technique of "the carrot and stick" in Federal aid programs. I believe that HUD has distorted this approach into a systematic program of aggravated assault upon any local government that does not share their vision of the future.

I urge my colleagues in the strongest possible terms to reaffirm the interest of Congress in providing the maximum number of housing opportunities for our elderly by voting for this amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I too commend the gentleman from New York (Mr. Wydler) for offering this constructive amendment which will help alleviate the housing shortage for our senior citizens. It will be beneficial for my district where there has been many complaints of undue delays in the construction of senior citizen housing. This amendment will help facilitate construction of the kind of housing we need so desperately today. Accordingly, I urge my colleagues to support this worthy amendment.

Mr. DOWNEY of New York. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I think the gentleman from New York (Mr. Wydler) has pointed out the problem that we have, particularly with respect to the building of housing units for the elderly. We have a number of housing units in my district for the elderly that are being held up because of the problem with the overall applications for housing. I believe along with the gentleman from New York that in order to be fair to our senior citizens, that we should make sure that if housing units will be available to them, that they are built. There is a desperate need on Long Island for the construction of these elderly units. I believe the amendment is properly timed.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from New York (Mr. Wydler) is directed at a situation in which a community has a need for public housing for the elderly and also a need for public housing for families. What the gentleman would have us do by legislative fiat is to say, "Make it possible for us to spurn one area of need, which is rather unpopular in our community; namely public housing for large families, families with children, specifically, but give us public housing for the elderly."

Those Members who get up to support the amendment say, "Let us not discriminate against the elderly. Let us not hold up the housing for the elderly that is so badly needed." But, what about the need for public housing for families?

The reason the administration has drafted the guidelines is so that there will be some balance between housing for the elderly and the badly needed housing for low-income families.

If we want to convolute public policy, if we want to say in an election year that the only people we really care about are the elderly, and because there are communities that do not want any public housing for families, despite the demonstrated need, then, by all means, adopt the amendment.

But, Mr. Chairman, I question the wisdom of this amendment. I do not question the motive; I know what the motive is. Mr. Chairman, I urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Wydler).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WYDLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2? If not, the Clerk will read section 3.

The Clerk read as follows:

COMPREHENSIVE PLANNING AUTHORIZATION

Sec. 3. The second sentence of section 701 (e) of the Housing Act of 1954 is amended by striking out "and not to exceed $150,000,000 for the fiscal year 1976" and inserting in lieu thereof "not to exceed $150,000,000 for the fiscal year 1976, and not to exceed $75,000,000 for the fiscal year 1977".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

The Committee amendment: Page 3, line 20, immediately after "Sec. 3." insert "(a)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the other committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, after line 25, insert the following:

"(b) No eligible recipient under section 701 of the Housing Act of 1954 may be excluded from qualifying for funds under such section solely on the basis of participation or non-participation under such section prior to fiscal year 1977."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH AUTHORIZATION

Sec. 4. (a) Section 501 of the Housing and Urban Development Act of 1970 is amended by striking out the second sentence and inserting in lieu thereof the following: "There is authorized to be appropriated for activities under this title not to exceed $65,000,000 for the fiscal year 1977.".

(b) Section 504(b) of such Act is amended by striking out the first, third and fourth sentences.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, after line 8, insert the following:

(c) Section 502(f) of such Act is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: "and such departments and agencies are hereby authorized to execute such contracts and grants."

The committee amendment was agreed to.

The **CHAIRMAN**. Are there any amendments to section 4?

If not, the Clerk will read.

The Clerk read as follows:

FLOOD INSURANCE AUTHORIZATION

SEC. 5. Section 1376 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection:

"(c) There is authorized to be appropriated for purposes of this section not to exceed $100,000,000 for the fiscal year 1977.".

Mr. **ASHLEY** (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENT

The **CHAIRMAN**. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, beginning in line 13, strike out "purposes of this section" and insert "studies under this title".

The committee amendment was agreed to.

The **CHAIRMAN**. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE EXPENSES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6. Section 502(a) of the Housing Act of 1948 is amended—

(1) by striking out everything in the second sentence after "duties" where it first appears and inserting in lieu thereof a period; and

(2) by adding at the end thereof the following new sentences: "There is authorized to be appropriated for administrative and nonadministrative expenses of the Department of Housing and Urban Development not to exceed $201,442,000 for the fiscal year 1977. In addition, not to exceed $223,630,000 may be made available from the various funds of the Federal Housing Administration for administrative and nonadministrative expenses of the Department of Housing and Urban Development for the fiscal year 1977. There is authorized to be appropriated or made available such additional amounts as may be necessary to meet increased costs resulting from general increases in salary, retirement and other employee benefits authorized by law."

Mr. **ASHLEY** (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the Record, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The **CHAIRMAN**. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 7, strike out "is" and insert "are".

The committee amendment was agreed to.

The **CHAIRMAN**. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 11, immediately before the period insert the following: "and from new programs, program expansions or other duties, responsibilities or obligations imposed or authorized by this Act or Acts enacted hereafter".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. M'KINNEY

Mr. **McKINNEY**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKinney: Strike section 6 of H.R. 12945 and renumber each succeeding section accordingly.

Mr. **McKINNEY**. Mr. Chairman, this is the amendment that the gentleman from Massachusetts (Mr. Boland) referred to earlier. For some reason unknown to me, and as someone who has been involved in business, our committee has decided to put cost limitations of a permanent nature on an erratic demand business. I think, Mr. Chairman, that in many ways this would be suicidal, and I find it very difficult to understand why this is the approach that the committee has taken. First, the committee simply has not got the time or the opportunity to make an in-depth review of the paper clips, time requirements, fountain pens, rubber bands, travel trips necessitated, and other factors that go into the administrative costs of Housing and Urban Development.

It seems to me that if the committee is interested in the improvement of HUD's program, that is exactly what we should be doing. We should be overseeing the programs of HUD on a yearly basis rather than saying that we feel that HUD should use x number of dollars in a cost-administrative program, never knowing what the demands of each program are going to be or how much it is going to be used.

This is like telling a retailer that no matter what the season of the year or what the demand for the product is, that he is going to be stuck for the same administrative overhead.

It seems to me if we are really interested in performance from HUD we should be spending our time very seriously looking at programs: Looking at program performance, looking at program accomplishments, and looking at program efficiency. We should not be saying that we are going to control HUD on a year-to-year basis through a definitive administrative cost factor.

One of the things that interests me is that when my colleagues and I discuss anything about our cities in this House, we always discuss the fact that our mayors and local officials never know what will happen from one year to the next. Yet here in this bill we have written a provision which insures that every single year every mayor will be in total chaos because he will not have the slightest idea what the Congress is going to do when this bill comes back for a yearly annual authorization. Every time open to any change of program, any change in the administrative desire, and also, I might add the caveat, limited so that HUD would probably have to come back for supplementals in different areas because of increase in demand which would then necessitate it. One more chance to confuse our local officials, or one more chance to change the bill, or one more chance to bring about general chaos in our housing programs.

It seems to me that to use the excuse that we in bureaucracy must have this review of HUD's decisions is escaping our basic function in Congress. Our function in Congress is oversight. If our oversight does not satisfy us, we have the right, in fact we have the duty to make changes in program. But stepping off into the area where we are going to say this is how much money they are going to spend on paper clips, on travel, on automobiles, and on every other factor in an authorization bill with no relationship known between what a specific program is and what its administrative cost should be, is really just simply taking this bill and making it all that much more unworkable.

But I would suggest to my colleagues the real point is simply this. We are going to turn around with one breath and complain about community development because it is an annual program. Every mayor has been here to see us saying: "What is going to happen next year?" Yet here we are writing a bill which guarantees there is not going to be one county or local leader that will know where the program is going next year. Now we turn around, when this is one of the major complaints of our local officials, and put this escape clause in the bill, this whole tool for making more mischief. Quite frankly, this is a terrible mistake.

I hope my colleagues support the amendment, and if my colleagues or the bureaucracy want changes in HUD's programs I hope they will mandate that through investigation, oversight, and new laws.

Mr. **J. WILLIAM STANTON**. Mr. Chairman, will the gentleman yield?

Mr. **McKINNEY**. I yield to the gentleman from Ohio.

Mr. **J. WILLIAM STANTON**. Mr. Chairman, will the gentleman yield?

Mr. **McKINNEY**. I would be delighted to yield to the gentleman from Ohio.

Mr. **J. WILLIAM STANTON**. Mr. Chairman, let me compliment the gentleman in the well, because the gentleman, in the amendment the gentleman has proposed, has brought up the second of the major objections that most of the minority had in the committee on this legislation. One we took care of with the setaside and the second is the amendment of the gentleman from Connecticut.

The **CHAIRMAN**. The time of the gentleman from Connecticut has expired.

(At the request of Mr. J. WILLIAM STANTON, and by unanimous consent, Mr. McKinney was allowed to proceed for an additional 2 minutes.)

Mr. **J. WILLIAM STANTON**. Mr. Chairman, will the gentleman yield further?

Mr. **McKINNEY**. I yield to the gentleman from Ohio.

Mr. **J. WILLIAM STANTON**. Mr. Chairman, what the amendment of the gentleman from Connecticut has done is to eliminate the tiedown on the administrative expenses of the Department of Housing and Urban Development. I wish that everybody in the Committee could have heard the arguments given by the new Secretary, Secretary Carla Hills, because she eloquently expressed herself when discussing the problems this section created for her. I hope the committee this afternoon will overwhelmingly accept the amendment of the gentleman from Connecticut. It is a good amendment and, as I say, it meets the second of the major concerns we have.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, within this measure is one particular provision which, I believe, will prove a great moneysaver, not only with regard to HUD, but perhaps, in the future, with regard to all Federal agencies.

H.R. 12945 calls for a ceiling to be imposed on HUD's administrative expenses. The need for this ceiling is both commonsensical and practical.

In the first place, it is clear that setting an upper limit on allowable expenditures forces agencies, legislative bodies, and even individuals to carefully assess their needs and to make tough decisions that force them to stay within those limits. Even Congress, the biggest spender of them all, has seen the need to limit its spending and has thus started setting ceilings to keep itself from driving the Nation into bankruptcy. Federal bureaucracies should be forced to adhere to such ceilings, too.

There are plenty of examples to demontrate the waste that has been going on in HUD. Stories about HUD's buying $83 ashtrays, sending employees to college for special training only to have them return and work at a lower position, and moving hundreds of employees out of their multimillion-dollar headquarters to other areas in the city, only to leave empty offices, are commonplace.

In addition, the failure of HUD to successfully administer major housing programs, such as the section 8 program, which has seen only a few units built since 1974, suggests severe limits to what can be accomplished. I wonder where the money spent to administer the section 8 program has been going?

Finally, critics of the imposed ceiling say that HUD programs are demand related. This may be—but the past failures of programs such as section 8, along with the notion that HUD should be able to estimate demand for a given year, and stick to those moneys appropriated to meet that demand, suggest the speciousness of this argument.

I hope the imposition of this ceiling will clean up some of the waste in HUD. If so, perhaps we can impose such a ceiling on other agencies in the future.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment. Again, I will try to be very brief.

Mr. Chairman, I would like to try to explain to the committee why we decided on annual authorizations for administrative expenses. We found in our efforts to fulfill our oversight responsibilities that simply looking at the various programs of HUD, while often illuminating, did not give us the full picture. This year, for the first time, we did decide to review the administrative budget of the Department of Housing and Urban Development in order that we could get a better correlation between those expenses which amount to about a half a billion dollars of the HUD program that the HUD Department is charged to administer.

Mr. Chairman, it has proved very effective. I think the Members of the minority, including the gentleman from Connecticut (Mr. McKinney) would support that statement; that is to say that in the forthcoming HUD program, not just the Secretary, but the Assistant Secretary, those charged not only with the implementation of the program, but with the administrative program, we have a much keener insight into the operations of that Department, both from the administrative and from the program side of it.

Mr. McKINNEY. Mr. Chairman, will the gentleman from Ohio yield?

Mr. ASHLEY. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, the gentleman is aware that my arguments with the administration at HUD programs are legion. We have to admit, however, that our hearings were superficial, at the very largest extent of the imagination, and that the Committee on Appropriations had far more extensive ones; but the gentleman still misses the basic point of how do we legislate administratively and limit administrative costs in a demand operation.

Mr. ASHLEY. The gentleman has posed that question no fewer than about 684 times in my direct hearing. Let me tell the gentleman, it is my understanding that in the last 12 years there have only been four supplemental appropriation bills that have contained new moneys for the Department of Housing and Urban Development. Of course, it is a demand business. If the demand picture can be focused upon by the Appropriations Subcommittee, then certainly we are not so lacking in capability and confidence that we cannot do the same thing. The fact of the matter is that the gentleman from Massachusetts (Mr. Boland) has vast experience that we do not yet have.

Mr. Chairman, I do not believe this is a duplication of effort. I believe we are looking at the administrative expenses of the Department from one standpoint, while the gentleman and the gentleman's subcommittee are looking at the same from a different standpoint. I think this is not duplicative. As a matter of fact, it is in the best interests of both committees that we are interested in at this time.

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield further, I suggest to the gentleman that one of the reasons they only have had four is because we have not buried their feet in cement.

Mr. Chairman, as I said before, if we want to control administrative expenses in these administrative agencies, Lord knows we should be doing it and the way we should be doing it is by cost effectiveness, not by taking a figure out of the sky and saying, "This will be your limitation."

I guarantee that should anything change, there will be a supplemental this year. We are giving a basis on the authorization bill on the housing programs to be put in question every single year, and that is the biggest complaint every single mayor in the entire country has with this.

Mr. ASHLEY. Let me conclude, Mr. Chairman, by saying that a great deal has been said on the floor of this House in recent months and in the last few years with respect to the necessity for greater oversight of the programs of the Federal Government, particularly the Department of Housing and Urban Development. I simply say that by striking this section by adopting the gentleman's amendment, we would not be taking a step forward in this regard, but a long step backward.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the last word, and I rise in support of the gentleman's amendment.

Mr. Chairman, during the discussion in subcommittee and in full committee on various approaches to housing, many of us on our side were caught up with the concept that we would go along, after full discussion, with what the consensus arrived at in committee. Apparently, that consensus was abandoned early in the game during the debate here on the floor today during the consideration of the bill.

Therefore, I feel free not to be bound by what the majority decision was on the committee. Therefore, I feel free to support the amendment offered by the gentleman from Connecticut, and I shall do so.

Mr. BOLAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Connecticut (Mr. McKinney) to strike the 1-year authorization of Administrative Expenses for HUD and provide instead for such sums as may be necessary for fiscal year 1977 through 1981.

Mr. Chairman, putting it simply, section 6 of this bill is bad legislation. First, Mr. Chairman, in my personal opinion, this approach will ultimately be damaging to the primary function of the legislative committee, which is to authorize basic housing legislation. Annual authorizations of administrative expenses will only serve to get in the way of that responsibility. From years of experience, I know that the analysis of administrative expense estimates is a complicated and time-consuming job. The legislative committee, like every other committee, has only so much time and so much staff resources available. All the time that is devoted to the detailed, tedious study of administrative expenses will inevitably be taken away from the consideration of basic legislative policies which is the primary responsibility of the committee.

The Banking Committee should be looking at what programs are working well and what are not and why.

There is a great deal of legislation today that cries out for action. The reauthorization of the community development program is one thing that comes to mind. That program was a 3-year authorization. It expires in fiscal year 1977. But the fact is, that the work, the legislative work on reauthorizing that program, should be under way now so that when the fiscal year 1978 budget is presented next January, the Appropriations Committee can begin its work in an expeditious manner and meet the time requirements of the new Budget Act.

Annual authorizations of administrative expenses would not make that job any easier for the Appropriations Committee and it certainly does not make it any easier for the legislative committee.

Second, we in the Congress are ready to criticize the executive branch for overlapping and duplication of effort at the taxpayers expense. We should be ready to criticize the executive branch for that kind of problem—but now we propose to do exactly the same thing ourselves. We have a process, long established, of determining administrative expense requirements for the programs we approve. It is not perfect—few things are in this world—but instead of determining to do it better, it is proposed here that we do it twice. That makes little or no sense.

Finally, annual authorizations of administrative expenses, regardless of what agency is involved, can easily make a shambles of the new budget procedures. Historically, housing bills have been among the slowest in coming to the floor for consideration. That is no surprise. Housing bills are complicated. They take time. But, the new budget procedures require that legislative bills must be reported by May 15. If you adopt this provision, you are not going to make it any easier to meet that deadline. In fact, you are going to make it a great deal more difficult. Clearly, annual authorizations of administrative expenses is not and should not be a primary concern of the legislative committee. It will make the Banking Committee's job more difficult, it will make the Appropriation Committee's job more difficult, and it will add nothing to the legislative process.

Mr. Chairman, section 6 is unsound in theory and unworkable in practice. I urge that the motion of the gentleman from Connecticut be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKinney).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECTION 235 HOMEOWNERSHIP PROGRAM

Sec. 7. (a) Section 235(m) of the National Housing Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

(b) The last proviso in section 235(b)(2) of such Act is amended by striking out "$21,600", "$25,200", "$25,200", and "$28,800" and inserting in lieu thereof "$25,000", "$29,000", "$29,000", and "$33,000", respectively.

(c) Section 235(i)(3)(B) of such Act is amended by striking out "$21,600", "$25,200", "$25,200", and "$28,800" and inserting in lieu in lieu thereof "$25,000", "$29,000", "$29,000", and "$33,000", respectively.

(d) Section 221(d)(2)(A) of such Act is amended—

(1) by striking out "$21,600" and "$25,200" in the matter preceding the first proviso and inserting in lieu thereof "$25,000" and "$29,000", respectively; and

(2) by striking out "$25,200" and "$28,800" in the second proviso and inserting in lieu thereof "$29,900" and "$33,000", respectively.

(e) Section 235(h)(2) of such Act is amended by striking out "80 per centum" wherever it appears and inserting in lieu thereof "100 per centum".

(f)(1) Section 235(a) of such Act is amended—

(A) by inserting "(1)" immediately after "(a)"; and

(B) by adding at the end thereof the following:

"(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a mobile home consisting of two or more modules and a lot on which such mobile home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower-income of a mobile home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the mobile home and the lot on which such mobile home is or will be situated, but only if insurance under section 2 of this Act covering such loan, advance of credit, or obligation has been granted to such institution.

"(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

"(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying 20 per centum of the mobile homeowner's income; or

"(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the mobile homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed, under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section."

(2) Section 235(e) of such Act is amended by inserting "(a)(2)(B)," immediately before "(c)".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, strike out lines 7 through 9, and insert the following:

(e) Section 235(h)(2) of such Act is amended by striking out "80 per centum" wherever it appears and inserting in lieu thereof "95 per centum".

The committee amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 7?

The Clerk will read.

The Clerk read as follows:

EMERGENCY HOUSING AMENDMENTS

Sec. 8. (a) Section 109(b) of the Emergency Homeowners' Relief Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

(b) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

(c)(1) Section 313(b) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and", and by inserting the following at the end thereof:

"(D) such mortgage involves a principal residence the sales price of which does not exceed $52,000 per family residence or dwelling unit, except that such sales price in Alaska, Hawaii, and Guam may not exceed $68,750.".

(2) The amendment made by paragraph (1) shall apply only with respect to mortgages purchased pursuant to commitments made after the date of the enactment of this Act.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there amendments to section 8?

The Clerk will read.

The Clerk read as follows:

EXPERIMENTAL FINANCING

Sec. 9. Section 245 of the National Housing Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

The CHAIRMAN. Are there amendments to section 9?

The Clerk will read.

The Clerk read as follows:

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Sec. 10. (a) Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by inserting ", and $200,000,000 for the fiscal year 1977, not more than 50 per centum of which amount may be used under section 106(d)(1)," immediately after "1976".

(b) Paragraph (2) of section 105(a) of such Act is amended by inserting immediately after "neighborhood facilities," the following: "centers for the handicapped,".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there amendments to section 10?

The Clerk will read.

The Clerk read as follows:

FLOOD INSURANCE EXEMPTION

> SEC. 11. Section 202(b) of the Flood Disaster Protection Act of 1973 is amended by striking out all that follows "shall not apply to" and inserting in lieu thereof the following: "any loan made to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mrs. FENWICK: On Page 10, beginning on Line 17 strike all that follows through line 2 on Page 11, and renumber the sections accordingly.

Mrs. FENWICK. Mr. Chairman, the amendment that I am offering would seek to strike section 11. Section 11 is concerned with flood insurance exemptions. We have, as the Members know, a flood insurance plan. The Federal Government insures housing, providing that municipalities should zone so as to protect the homeowner, who, all unknowingly, may buy a home in a flood plain. Municipalities are supposed to zone to prevent construction in a flood plain, to protect those who would otherwise have to be rescued by the taxpayers.

It is not just, or even principally a question of the sums of money involved. It is a question of suffering and loss of life.

In New Jersey, for example, we lost six lives in 1968 in floods, in homes that never should have been built in those plains. Section 11 would continue this. Environmentalists strongly support, and I quote, "the sanctions barring federally supported loans in nonparticipating communities."

The American Rivers Conservation Council has written me, knowing my interest in this, through my actions in committee, "This section"—meaning section 11—"would seriously weaken the flood insurance program."

The city of Minot, S. Dak., is an expert in floods, and has suffered repeatedly in 5 out of the last 8 years. Hearing about my interest in this, the city manager of the city of Minot, S. Dak., wrote me—

> As the program's flood plain management provisions take hold, flood damage will be reduced . . .

This is the point. The department of community affairs, in Harrisburg, Pa., has supported the Federal insurance program and the removal of this section, and the department of environmental protection of the State of Connecticut.

In case anyone wonders what the effect of this section 11, if left in the bill, might be, I think we can consult a "Dear Colleague" letter which we all received and which contained this underlined passage:

> I urge you to support H.R. 12945 as an important first step towards modifying the flood insurance program.

Mr. Chairman, if we are under any doubt as to what we are doing here today by leaving this bill unamended in this way, I think that this should convince us. If we believe in the wise and responsible use of our flood plains, I think we should eliminate this section.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentlewoman's yielding.

Let me say that I believe the gentlewoman does make an outstanding contribution. This is a subject matter that she brought up in the committee, and it is one of which we are well aware. I think by bringing this up here before the Committee this afternoon the gentlewoman has accomplished a very important mission by bringing to the attention of the House the dangers that certainly are inherent in this flood insurance program.

However, I believe that the emphasis—and I would hope the gentlewoman would agree with me—should be on the fact that this is the Housing Authorization Act for this year and there is so much else that is involved in it. Actually as far as this flood insurance exemption section, it was the general feeling that this should be a subject for consideration all on its own, and that we would delve into it in the committee with the thought that hopefully we could consider this subject separately.

Mrs. FENWICK. Mr. Chairman, if the gentleman will allow me, I have a couple of questions I wish to ask while I still have the time.

Mr. J. WILLIAM STANTON. Surely.

Mrs. FENWICK. Would this exemption, for example, permit a second mortgage on a home in order to finance a college education or provide for payment of a large health bill? Would this permit such big additions to a home that it would, although located in a flood plain, become far more valuable than it would otherwise have been?

Mr. J. WILLIAM STANTON. Once again, if the gentlewoman will yield, I will be glad to answer her questions. I believe the answer to both questions is: Yes, it would. This exemption would allow this to occur.

Mrs. FENWICK. Well, is this a wise move for us to make? Are we really prepared to accept responsibility for encouraging people to put larger and larger investments in homes that are located in dangerous places?

Mr. J. WILLIAM STANTON. Mr. Chairman, if the gentlewoman will yield further, during general debate yesterday I engaged in a colloquy with the gentleman from Ohio (Mr. ASHLEY) in which we covered that specific point. I do not know if the gentlewoman is familiar with that colloquy; the language was read into the RECORD for legislative purposes.

Because of the overall emphasis that is necessary in this entire program, I wish that the gentlewoman would perhaps consider withdrawing her amendment, with the understanding that we will take this matter up as a separate subject at a later time.

Mr. ASHLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, the purpose of the flood insurance program is, of course, to prevent the further development of homes and facilities in flood plain areas, and I am sure the gentlewoman from New Jersey is well aware of that.

This is an exemption that was thought to be responsive to various situations, but in the colloquy on the floor yesterday it was established for purposes of congressional intent that this waiver did not contemplate the ability to add new rooms or facilities or what have you onto a house. That is not the case.

The gentlewoman asked whether it would be possible to refinance or take a second mortgage. Yes, that would be possible, but the idea is to discourage further building in these areas.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(By unanimous consent, Mrs. FENWICK was allowed to proceed for 30 additional seconds.)

Mrs. FENWICK. Mr. Chairman, I understand the purpose is not to weaken the flood plain program.

Mr. ASHLEY. Mr. Chairman, if the gentlewoman will yield, that in no way is the purpose of the action taken by the committee. I assure the gentlewoman that there are many of us who are extremely adamant in our position with respect to the necessity of this program.

I would urge the gentlewoman, therefore, to consider withdrawing her amendment.

Mr. GUDE. Mr. Chairman, I would like to commend my colleague from New Jersey for her excellent presentation. I believe the Federal flood insurance program to be a sound method for providing needed protection, and I would caution those who would change it to be careful that they do not subvert the purpose of the legislation by well-intentioned but ill-constructed amendments. If a real need for extending coverage exists, I would hope that this House would use the clearest, most definite language possible to avoid creating the loophole the Member from New Jersey has pointed out to us. If the choice must be made, I would urge that the Congress adopt the narrow exemption included in the House version of this bill, rather than the broad provisions included in the Senate counterpart. Opening too many exemptions in the sanctions will only reduce the incentives placed in the original legislation.

Mrs. FENWICK. Mr. Chairman, I ask

unanimous consent that I may have permission to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

REHABILITATION LOAN PROGRAM

SEC. 12. (a) Section 312 (d) of the Housing Act of 1964 is amended—

(1) by striking out "and not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975" and inserting in lieu thereof "not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976"; and

(2) by adding at the end thereof the following new sentence: "The amount of commitments to make loans pursuant to this section entered into after August 22, 1976, shall not exceed amounts approved in appropriation Acts.".

(b) Section 312(h) of such Act is amended by striking out "the close of the two-year period beginning on the date of the enactment of the Housing and Community Development Act of 1974" and inserting in lieu thereof "September 30, 1977".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 12 may be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there amendments to section 12?

If not, the Clerk will read.

The Clerk read as follows:

GENERAL INSURANCE FUND AUTHORIZATION

SEC. 13. Section 519 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(f) There is authorized to be appropriated to cover losses sustained by the General Insurance Fund not to exceed $500,000,000.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 13 may be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 13?

If not, the Clerk will read.

The Clerk read as follows:

AMENDMENTS TO SECTION 8

SEC. 14. (a) Section 8(c)(4) of the United States Housing Act of 1937 is amended by adding the following immediately before the period at the end thereof: ", and such payments may be made after such sixty day period in an amount equal to the debt service attributable to such unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing.".

(Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 14 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 11, strike out lines 11 through 18, and insert the following:

SEC. 14. (a) Section 8(c)(4) of the United States Housing Act of 1937 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and, subject to the provisions of the following sentence, such payments may be made in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after sixty-day period if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.".

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The committee amendment was agreed to.

Mr. J. WILLIAM STANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the time of the committee just to ask the author of section 14, the gentleman from Oregon (Mr. AuCoin), this, if I could: I wonder whether the gentleman from Oregon will answer one question. In section 14 it is my understanding that the committee and the gentleman do not expect HUD to continue section 8 payments beyond the current 60-day limit unless the Secretary finds that there is a reasonable prospect that the project could work itself out of its financial difficulties if it has received such additional assistance. Am I correct in that?

Mr. AUCOIN. If the gentleman will yield, yes; he is correct. One intention is not to force debt service payments to be made for the extended 1-year period of time—if the Secretary determines that the particular project is irretrievably on the skids. I think the record ought to be clear on this.

Having spoken to this exception, it also should be clear that the Secretary, by this language, is expected to execute extended debt service payments for those projects that do have a reasonable prospect of success.

Mr. J. WILLIAM STANTON. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. NOLAN

Mr. NOLAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Nolan: Page 13, after line 14, add the following:

(c) Section 8 of such Act is amended by adding the following new subsection at the end thereof:

"(i) Notwithstanding any other provision of law, the no assistance payments may be prohibited under this section with respect to any housing for the sole reason that such housing is located in a city, town, township, village, or other area in which there is no public sewage and water system."

Mr. NOLAN. Mr. Chairman, the committee report reads that in view of the great need for conservation and rehabilitation of housing in rural areas and in other communities, we would expect HUD to encourage the use of section 8 by permitting realistic maximum rents under section 8.

Second, the committee report says that HUD should not use the level of community services, facilities, and amenities "as a back-door method of discouraging development in such areas because of these factors."

The site selection criteria established by HUD under authorization in EPA and housing laws simply say that a community must be able to provide adequate water, adequate sewer services, adequate fire protection, and adequate related services.

Mr. Chairman, those criteria are good, and they are essential, in my judgment.

The Minnesota HUD authority, however, and perhaps other States—in fact, I think many other States—have interpreted these site selection criteria to provide that a community must have municipal water and sewer services, and that, in my judgment, is an unreasonable requirement. Homes, multiple housing units, and small businesses in small rural communities are able to provide adequate private water and private sewer systems that will meet basic health and safety requirements.

In my district and throughout the rest of the Nation, there are many communities with a population of a couple of hundred people. They have a couple of dozen senior citizens living in single family homes. They have single families that would like to move into those homes. The senior citizens would prefer to move into multiple low-cost housing units and have people in the community who are willing to build the facilities without Federal financial assistance but who simply want the senior citizens living in that housing to be eligible for rental assistance just as the senior citizens living in similar kinds of housing in a community with public sewer and water would be eligible for assistance.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, would the gentleman give me the page number in the report as to the citation the gentleman has made reference to?

Mr. NOLAN. If the gentleman from Ohio will look on page 19 of the committee report, the second to the last paragraph, it says:

> The committee recognizes that low contract rents may be a reflection of HUD's determination that an area or neighbor-

> hood may not have adequate services, facilities and amenities to provide a strong enough market to justify rents obtainable in other parts of a large market area. The committee expects HUD not to use its comparability approach any longer as a backdoor method of discouraging development in such areas because of these factors.

The paragraph before that talks about expecting HUD to encourage housing development in rural areas.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Minnesota and to commend the gentleman for offering his amendment.

I strongly urge that this committee, at least by the next term of Congress, will make a thorough review of all of the site selection criteria. Because it seems to me that where the community can show that there is plenty of room for water runoff and for proper seepage and clean water, that they should be eligible, and that, quite frankly, using Government funds to build massive sewage projects for very low results is a waste, cause those funds could be used in other areas where money is desperately needed.

Mr. NOLAN. I agree with the gentleman from Connecticut and thank the gentleman for his support and his remarks.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am constrained to oppose the amendment because it does not really seem quite fair to introduce a matter in the way of an amendment on which the subcommittee has really not had a chance to review or to study.

As I read the amendment it strikes me that what this would provide is that section 8 housing funds cannot be withheld from a community solely on the basis that there are no sewer and water facilities.

What better reason is there, I would ask, for denying section 8 funds if there is not the infrastructure necessary to support the housing in a decent manner? If there is not, then most certainly permission should be denied.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. Yes, I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, it may seem very strange for an urbanite to be trying to defend rural areas, but HUD has already the right to decide that no money can go to an area that does not have the proper water and sewer facilities, but, why should we be spending valuable funds of this type out in an area where they do not need it in a rural community that could provide the housing and when they could maintain the housing in another way?

Mr. ASHLEY. There are a number of State housing finance authorities that have taken the position that they do not choose to underwrite certain housing unless there are certain specifications that are met. Why should we stand up here, those of us who think about States' rights, take the position that the State Housing Finance Agency has taken a bad position?

The idea, of course, is that the Secretary regardless of what a State Finance Housing Agency may say, still could withhold section 8 funds because of a lack of water or sewer facilities. There could not be a more direct assertion on the rights of States than as reflected in the actions of the State Housing Finance Agency.

Mr. McKINNEY. I think the gentleman is addressing the word "public" is trying to get away from the requirement that it be a public sewage system and a public water supply. There are whole private communities built that have perfectly adequate facilities, but the word "public" in that eliminates many communities throughout the rural areas.

Mr. ASHLEY. Let us take an example. Supposing the Minnesota Housing Financing Agent says that based upon its judgment in the matter, it does not choose to underwrite section 8 housing in the areas where there are no public water or sewer facilities. Is that a proper judgment for that State housing financing agency, or is it not? Or do we mean to override that here on the floor of the House this afternoon?

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I thank the gentleman for yielding.

Just listening to this amendment, I wonder if the author of the amendment can tell us whether he has some specific example in mind in asking specifically the question that the gentleman was alluding to. Would we not be going against the existing State law perhaps in Minnesota by the passage of this law? Would that not be a part of it?

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. NOLAN. I thank the gentleman for yielding.

There is no specific Minnesota State law, but the State housing authority has interpreted the site selection criteria to give them the authority to simply deny a community the right to participate in section 8 because they do not have public water and sewer. All I am saying here is that Minnesota has some of the toughest regulations regarding the disposal of sewage and the securing of water sources to assure that our water is clean and healthy—and I am talking in particular about a nice little community of about 200 people—the businesmen and the citizens are willing to finance the housing development themselves. They have a good private water system, a good private sewage system, and they expect to meet the site selection criteria. They are willing to assure that they can provide good water, good sewer, good fire protection, and other related services, but they simply want the residents of that 12-unit housing facility to be eligible for assistance just as residents in similar communities with public water and sewer would be eligible for assistance.

Mr. ASHLEY. Let me say to the gentleman that this is a matter that apparently is contained in the regulations. We do not really need a change in the statute proposed by the gentleman's amendment in order to meet the problem, if it is a problem. All that has to happen is for the gentleman to come to me or to the ranking minority member.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. The gentleman can present the problem, and we will take it to the Secretary of the Department of Housing and Urban Development and review the matter. But to come in at this juncture with an amendment, the consequences of which we cannot see, when another remedy is available strikes me as unnecessary and not good judgment. For that reason I would urge that the amendment be defeated.

Mr. NOLAN. If the gentleman would yield further, I have taken this up with the State housing authority and asked them to review it. They have done that, and they have refused to make an adjustment or any change, and that is why I think it is time that we establish that we set the policies of this country.

Mr. ASHLEY. The gentleman says he took it up with the State housing authority.

Mr. NOLAN. They are the ones who made the regulation.

Mr. ASHLEY. But the gentleman has not taken it up, as I understand it, with HUD.

Mr. NOLAN. I did not understand the gentleman.

Mr. ASHLEY. The gentleman has not taken it up with HUD.

Mr. NOLAN. There is no problem with HUD. HUD does not have a similar requirement. It is the State housing authority.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I thank the gentleman for yielding.

I would have to be opposed to the amendment. I wish the author would consider withdrawing it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. J. WILLIAM STANTON, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. J. WILLIAM STANTON. If the gentleman would yield further, what about States like ours, Ohio, for example, where there is a subdivision, and that gets into quite a large area where there is a private sewer system installed, and then a number of years later it is going to revert to the common sewer system under a prepaid plan?

These are problems that, as I am sure the gentleman from Ohio has said, we can meet by discussing it not with the authorities in Minnesota but with HUD, by certainly bringing it to their attention and directing their attention to this specific problem, and I believe we can alleviate it without, as the gentleman from Ohio has said, tying up in the statute this particular language for this particular example. Certainly we would offer to give all the help we could to this particular problem out there in Minnesota.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. FRENZEL. Mr. Chairman, I agree with the two gentlemen from Ohio, that this is not the way to legislate, to amend the Federal statute to deal with the one particular problem in one particular State. I agree with the gentleman from Ohio that we can solve the problem without writing into our statute a solution for this particular case. I will work with the gentlemen from Ohio to see if the problem can be remedied locally rather than writing its *solution* into our Housing laws.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Nolan).

The amendment was rejected.

The CHAIRMAN. There being no further amendments to section 14, the Clerk will read.

The Clerk read as follows:

NEW COMMUNITIES

Sec. 15. Section 107(a)(1) of the Housing and Community Development Act of 1974 is amended by inserting the following immediately before the semicolon at the end thereof: "or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. There being no amendments to section 15, the Clerk will read.

The Clerk read as follows:

SECTION 202 HOUSING FOR THE ELDERLY

Sec. 16. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking out "$800,000,000" in the first sentence and inserting in lieu thereof "$1,475,000,000"; and

(2) by inserting the following new sentence at the end thereof: "The Secretary may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section in an aggregate amount exceeding $800,000,000 except as approved in appropriation Acts.".

(b) Section 202(d)(4) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The term 'elderly or handicapped families' means families which consist of two or more persons and the head of which (or spouse) is sixty years of age or over or is handicapped, and such term also means a single person who is sixty years of age or is handicapped.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will read the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 12, line 17, strike out "'$1,475,000,000'" and insert the following: "$1,475,000,000, which amount shall be increased to $2,387,500,000 on October 1, 1977, and to $3,300,000,000 on October 1, 1978".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Committee amendment: Page 12, strike out line 25 and all that follows down through line 6 on page 13, and insert the following:

(b) Section 202(d)(4) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding provisions of this paragraph, the term 'elderly or handicapped families' includes two or more elderly or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to their care or well-being, and the surviving members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the family at the time of his or her death.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rousselot: Section 16 of H.R. 12945 is amended by adding at the end thereof the following new subsection:

"(C) Effective for fiscal years beginning on or after October 1, 1977, Section 202(a)(4)(B) of such Act is amended by striking out subparagraph (ii) and redesignating paragraph '(B)(i)' as '(B)'."

Mr. ROUSSELOT. Mr. Chairman, this bill, as it relates to 202 housing, appears to reflect the alarming attitude that merely placing a Federal direct loan program "off-budget" somehow eliminates the budgetary and economic impact of billions of dollars of loans. Such an idea is pure fantasy.

To continue the authority for the *Treasury to* borrow money in the marketplace, so that it can be loaned to private nonprofit sponsors or individuals, but refuse to record such debt as a part of the national budget, makes our efforts to control the national budget an elaborate farce.

When the Treasury borrows funds in the open market, it competes with money demands of the private sector. An increased volume of Treasury borrowing has the effect of increasing the cost of borrowing. Note.—The cost of interest paid on the national debt is a part of the congressional budget control process, but the borrowing of funds for off-budget programs is not included in this essential function of representative government. Off-budget Treasury borrowing does not eliminate the fact of Federal deficits; it only serves to hide the size of the deficit and the scope of Government operations.

This objection applies specifically to the section 202 program—off-budget borrowing authority increased from the current level of $800 million to $3.3 billion by 1979.

It is a Federal direct mortgage loan program which requires up to 40-year periods for repayment, during which added billions in public debt must be carried and continually refinanced by the Federal Government. The issue is whether we are going to operate a unified budget or not. If we are serious about the Budget Control Act, the answer should be an unequivocal "yes," and it is imperative that we follow through by bringing the off-budget items into the budget.

If the off-budget borrowing authority granted in this bill were placed on budget, it would not signal the termination of all direct loan housing programs. It would, however, encourage fiscal responsibility and promote realistic budgeting practices.

In subcommittee, and again in full committee, when amendments were offered to place off-budget programs on budget, the counter argument was made that the House Committee on the Budget has, as part of its charter, the requirement that it study off-budget programs and report recommendations for terminating or modifying such provisions. In rebuttal, it must be stated that these off-budget programs are within the jurisdiction of the Committee on Banking, Currency and Housing, and that placing off-budget programs on budget is not an action reserved to the Budget Committee.

My colleagues will recall that there is a precedent under which the Export-Import Bank is being returned to the Unified Budget, effective with fiscal year 1977. In taking that action the conferees on H.R. 15977 acknowledged that the "off-budget" programs are a matter for consideration by the Budget Committee. Their decision to place the Eximbank "on budget" was therefore, and I quote, "in no way intended to prejudge the recommendations of the Budget Committees with respect to the question of inclusion of the Bank in the Unified Budget." (Unquote.)

Thus, the fact that we may agree to my proposed amendment and place the section 202 program on budget, effective in fiscal year 1978, does not prejudice any future action by the Budget Committee on this subject.

It will, however, insure that the program will be treated as part of the unified budget, pending completion of the Budget Committee study. This is a necessary and responsible step for the House to take at this time, and I strongly urge my colleagues to face this issue in a responsible and timely fashion by supporting my amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I want to ask the gentleman from California, the author of the amendment, a question. It seems to me that in the committee the gentleman's amendment when it was offered applied to the fiscal year 1977. Do I understand the amendment now offered applies starting with the fiscal year 1978?

Mr. ROUSSELOT. Yes. This would start October 1, 1977, which is the beginning of the fiscal year for 1978.

Mr. J. WILLIAM STANTON. If the gentleman will yield further, it did seem to me that in the arguments in the committee against the gentleman's amendment, part of it was the timing of it.

Mr. ROUSSELOT. Yes. At that time the Banking and Currency Committee was marking up this authorizing bill. I was trying to assure that the on-budget concept for 202 housing would go before the Budget Committee, for inclusion in the 1977 budget process; however the full committee decided that we were too close to the October 1, 1976, deadline.

I appreciate the point the gentleman makes and I know the gentleman supports this concept.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, there was a sufficient debate on the bill in full committee. Earlier I spoke about new floor strategies on this bill. Recognizing those new strategies, I therefore, Mr. Chairman, rise in support of the gentleman's amendment.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's support and I know it has meaning. I welcome his support.

Mr. Chairman, did the gentleman from Ohio (Mr. ASHLEY) wish recognition in support of my amendment?

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I do not know whether it will be appropriate to bring this program on budget or whether it will be in the public interest to leave it off budget as of the present time.

The fact of the matter is that we do have a House Budget Committee. The gentleman from Maryland, as does the gentleman from Ohio, serves on that committee.

It is a further fact that the Committee on the Budget, under the chairmanship of the gentleman from Washington (Mr. ADAMS), has appointed a task force to study the question of which off-budget agency should or should not be brought on budget. The fact is that that task force, headed by the gentleman from Florida (Mr. GIBBONS) is in the process of meeting and deliberating with respect to the off-budget agencies. That is going on at the present time.

Some may ask, when is this task force going to report to the full committee? It is my understanding, and I will yield to the chairman of the Budget Committee in just a moment, that they will report on it this summer and that there will be recommendations issued by the Budget Committee this fall.

Now, why on Earth should we adopt this amendment and by so doing preempt the work of this task force and the work of the Budget Committee. This is not being undertaken just as a gratuitous effort on the part of the Budget Committee. It is charged by law, under the 1974 Budget Impoundment and Control Act; but I say, by adopting the gentleman's amendment, which may or may not have efficacy, we are undercutting that part of the 1974 act which specifically charges the Budget Committee with this kind of review and ultimately with recommendations to the House for its action.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I support the concept that the gentleman has indicated of putting items on budget.

Our problem now is that we have 14 separate items which amount to over $25 billion worth of off-budget authority for fiscal year 1977. I will be making an effort later today to prevent more off-budget authority being added when we consider section 22 of this bill, and the Budget Committee has taken a position on that which I will report to the House, that the off-budget status for a new program should be removed from this bill.

My amendment is not to injure that new program, but to get it on budget. I support the concept of on-budget status. We have just moved the Export-Import Bank on. The Budget Committee is presently looking at the Exchange Stabilization Fund which is now off-budget, on which we will have a report this summer.

The question I have for the gentleman from California, the author of the amendment, is: Which of these programs should come on at what point? We have also got pending the Postal Service with all its problems.

Mr. ROUSSELOT. This amendment concerns only section 202, which is the only Federal housing program which is not presently "on budget."

I would like to say to my colleague from Ohio, who signed a conference report in December 1974, in agreement with a provision to bring the Export-Import Bank on budget, that I would like to quote from that report:

> The conferees agreed to this amendment . . ." that is, an amendment to bring the Ex-Im Bank on budget . . ." with the full knowledge that this is a matter for consideration by the Budget Committee.

So, if the Budget Committee decided in its wisdom not to include section 202, which is unique in that it is the only housing program not now considered on budget, that committee could take it out. But, my point is that in section 202, which is not an energy—the gentleman referred a moment ago to agency-by-agency consideration, but this is a program administered by HUD, not an agency—which at present is not part of the unified budget.

On the basis of what the conference committee did in December, 1974, and the gentleman signed that conference report, I am sure he would be delighted to accept this simple amendment, the effective date of which is a year away.

Mr. ADAMS. This is not the only housing agency not on budget. We have got to consider such Government-sponsored enterprises as Federal land banks, Federal home loan banks, Federal intermediate credit banks, and so forth and so on.

Mr. ROUSSELOT. The Budget Committee will review each of these individual agencies, but this is the only housing section under the Housing Act that is not "on budget," and it should be included in the Unified Budget.

Mr. LAFALCE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I support the amendment offered by the gentleman from California because of a philosophical conviction that any Federal agency and any Federal program ought to be on budget. There is a question as to how it should be treated within the budget, but that is something we certainly can handle; that is a problem for the consideration of the Budget Committee.

We have to have a great study by the Budget Committee before the individual committees of this House can act. Indeed, quite to the contrary, I think the great danger is that the individual committees will be reluctant to act, because they will always be able to point to agencies and programs under the jurisdiction of other committees that are off budget, and will say, "If others will act with us, we will act also, but the others should act first."

Well, I think each committee should be concerned with those programs and agencies within its own jurisdiction, and bring them into the budget process, and thereby contribute to sound fiscal policy and practice.

For that reason, and for the reason that the implementation date of the amendment is fiscal year 1978, rather than fiscal year 1977, I encourage my colleagues to join in support of the amendment offered by the gentleman from California.

Ms. ABZUG. Mr. Chairman, I want to commend the committee for providing a substantial increase in the amount of funds authorized for construction of housing for the elderly and handicapped. Since an estimated one-third of this country's elderly citizens live in substandard housing or pay beyond their means for housing, there is a great need for more units.

The 1-year authorization period created instability in administering the loan program and I am pleased that the committee adopted an approach similar to that contained in H.R. 12978, which I cosponsored. Increasing the direct loan program by $2.5 billion to an aggregate of $3.3 billion over the next 3 fiscal years will allow for sound planning and steady construction of these much needed units. It is estimated that these sums will finance the construction of approximately

35,000 units a year for occupancy by the elderly and the handicapped.

Changing the definition of an "elderly family" to include two or more elderly people living together, one of whom is providing care to the other, will allow those individuals who need assistance but desire to stay in their own home rather than enter a costly institution to apply for section 202 housing. Also by permitting the surviving member of the family to continue living in the unit after the spouse's death will ease the burden that many elderly widows and widowers face after the death of their spouse.

I oppose all efforts to weaken this section of the bill, and oppose changing the provision to put the funds back into an on budget program. This has been one of the more successful housing programs and fills the desperate need of our elderly and handicapped for affordable, decent housing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Rousselot).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 16?

If not, the Clerk will read.

The Clerk read as follows:

RURAL HOUSING

Sec. 17. (a) Section 521(a)(1) of the Housing Act of 1949 is amended by striking out "rate determined annually by the Secretary of the Treasury" and inserting in lieu thereof "rate determined by the Secretary of the Treasury upon the request of the Secretary".

(b) Section 520(3)(B) of such Act is amended by inserting "for lower and moderate-income families" immediately after "has a serious lack of mortgage credit".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STARK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to enter into a dialog, if I may, with the gentleman from Ohio (Mr. Ashley) the floor manager of the bill, in regard to section 202 funds.

Mr. Chairman, I would like to ask the gentleman from Ohio what his understanding is with respect to the allocation of the new funds for the 202 program. Is it correct that HUD intends this new money to be used to fund only those programs for which applications were submitted during the past year, in other words, that no new applications will be accepted until all existing applications have been either approved or rejected for sound reasons?

Mr. ASHLEY. If the gentleman will yield, let me respond by saying that the question is a very pertinent one, because under the 202 direct loan program for housing for the elderly, the Department of HUD approved, as I understand it, roughly 130 applications in the past month or 6 weeks, out of a total application list of 1,500.

So what the gentleman is asking is whether, with the supplemental appropriations that presumably will be signed into law very shortly, HUD will review for new approvals those applications that were submitted in the past 5 or 6 months.

I would respond by saying that there have been discussions with the Department of Housing and Urban Development on this matter and that we have been assured that those applications presently pending will be the first to be reviewed, as suggested by the gentleman from California.

Mr. STARK. Mr. Chairman, I appreciate the distinguished subcommittee chairman's remarks because I know that his assurance will go a long way toward making sure that the Department understands how strongly this body will stand behind that policy.

I would not want to suggest for a minute that the Department may not from time to time change their mind some time in the future, and for that reason I appreciate the gentleman's entering into this colloquy with me at this point.

Mr. ASHLEY. I thank the gentleman for his interest in this important matter.

The CHAIRMAN. Are there amendments to section 17?

AMENDMENT OFFERED BY MR. LUNDINE

Mr. LUNDINE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lundine: Page 15, after line 16, add the following:

(c) Section 510 of such Act is amended by redesignating subsections (f) and (g) as subsections (h) and (i), respectively, and by inserting the following new subsections immediately after subsection (e):

"(f) Continue processing as expeditiously as possible applications on hand received prior to the time an area has been determined by the Secretary not to be 'rural' or a 'rural area', as those terms are defined in section 520, and make loans or grants to such applicants who are found to be eligible on the same basis as though the area were still rural;

"(g) Notwithstanding that an area ceases, or has ceased, to be 'rural', in a 'rural area', or an eligible area, make assistance under this title available in connection with transfers and assumptions of property securing any loan made, insured, or held by the Secretary or in connection with any property held by the Secretary under this title on the same basis as though the area were still rural;"

Mr. LUNDINE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LUNDINE. Mr. Chairman, this amendment is limited in scope. It is designed to facilitate the phase-out of Farmers Home Administration activities in areas which, because of rapid urbanization, have become ineligible for continued rural housing aid and which, under the law, can no longer be considered "rural."

The first part of my amendment would make it clear that the Farmers Home Administration has authority to complete the processing of applications which are on hand at the time that an area is declared ineligible.

This provision would help builders who have bought land for subdivisions and have begun to build homes with the expectation of selling to low- and moderate-income people, who are eligible for Farmers Home loans and are unable to get credit from private lenders or other sources, including FHA and VA.

The second part of my amendment is designed to meet the needs of prior recipients of rural housing loans who have to move out of an area at the time that the area has been declared ineligible for Farmers Home assistance. In such instances the Government still has an investment in the homeowner's property. Both Farmers Home and the homeowner have a stake in finding an eligible buyer for a fair price.

We are talking here only about loans already made. The new language would provide assistance for only one transfer. The amendment would help communities maintain more viable housing supplies.

The problem is that in this imperfect world, even though an area may no longer be technically "rural," it can still have a serious lack of mortgage credit from the private sector for low- or moderate-income families. In order to protect the investment of the Government in these cases, the second part of my amendment would authorize the Farmers Home Administration to provide assistance as regards the transfer of that property to another eligible buyer.

Without this amendment, semirural areas throughout the country will suffer. As an area expands and becomes ineligible for Farmers Home assistance, that assistance would end overnight causing great hardship to the low- and moderate-income people who either are waiting to have loans processed, or who were expecting to move out of the area and sell their homes to buyers who could assume the Farmers Home loans on the same terms.

To cite one example: because of increasing urbanization, Farmers Home will have to withdraw entirely from Horseheads, N.Y., within a 2-year period. There are about 100 loan accounts on the books at present with a growth rate of about 100 additional loans a year. Without this amendment, about $7.5 million in mortgage money in the area would be adversely affected.

Other areas of the country face similar problems. Without this amendment, as soon as a community with a population under 10,000 in an SMSA, or a town with a population up to 20,000 in a nonstandard metropolitan statistical area, exceeds that limit according to an official census—which may be taken by the community itself for purposes of revenue-sharing or gasoline-tax refund—the area in question becomes immediately eligible for all forms of Farmers Home assistance.

This is assistance designed to help those who need it most—families with adjusted incomes of $12,900 or under, who can't get credit either from private sources or from other Government sources. Sixty percent of FMHA loans are subsidized at an average effective interest rate of 2.8 percent, set by a formula which makes monthly payments equal to 20 percent of family income.

The rate of default is extremely low. Last year in New York State, the total number of rural housing loans foreclosed was only 26—for a value of $141,825.

My amendment is a limited amendment, semi-technical in nature, designed to provide an orderly phase-out of Farmers Home assistance programs in areas no longer classified as "rural." It is a needed improvement in the law and one which will benefit low- and moderate-income people, as well as developers in these areas. I urge adoption of the amendment.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, the gentleman from New York (Mr. LUNDINE) has done a very good job of explaining his amendment. I think the amendment does have merit, and we on this side would be pleased to accept it.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, the minority has seen this amendment, and we have no objection to it. In fact, I think it is a good amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LUNDINE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 17?

If not, the Clerk will read.

The Clerk read as follows:

FHA SUPPLEMENTAL LOANS FOR HOSPITALS

SEC. 18. Section 241(a) of the National Housing Act is amended—

(1) by inserting ", hospital," immediately after multifamily project" in the first sentence thereof;

(2) by inserting ", hospital," immediately after "such project" in the material preceding the proviso in the second sentence thereof; and

(3) by inserting ", hospital," immediately before "or a group practice facility" and immediately before "or facility" in the proviso in the second sentence thereof.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 18 may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there amendments to section 18?

Mr. RICHMOND. Mr. Chairman, I ask unanimous consent that we may be allowed to refer back to section 11 so that I may offer an amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ASHLEY. Mr. Chairman, I am constrained to object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read as follows:

SUPPLEMENTARY COMMUNITY DEVELOPMENT BLOCK GRANTS

SEC. 10. Title I of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new section:

"SUPPLEMENTARY COMMUNITY DEVELOPMENT BLOCK GRANTS

"SEC. 119. (a)(1) In addition to the assistance otherwise authorized under this title, the Secretary is authorized to make grants to any State, metropolitan city, or urban county which meets the requirements of this section to finance community development or other activities which are approved by the Secretary as consistent with the objectives of this title. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Any amounts so appropriated shall remain available until expended.

"(2) Notwithstanding any amounts appropriated pursuant to paragraph (1) of this subsection, the total of all grants approved under this section with respect to any calendar quarter shall be equal to the lesser of any amounts so appropriated with remain uncommitted, or $15,000,000 multiplied by the number of one-tenth percentage points by which the rate of seasonally adjusted national unemployment of the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 per centum.

"(b)(1) Of the amount available pursuant to subsection (a) for grants under this section with respect to any calendar quarter, 75 per centum shall be allocated by the Secretary to metropolitan cities and urban counties, except that the Secretary may establish such higher or lower percentage as the Secretary deems appropriate in view of unemployment and related factors in such metropolitan cities and urban counties. From the amount allocated under the preceding sentence with respect to any calendar quarter the Secretary shall determine, for each metropolitan city and urban county which has a seasonally adjusted unemployment rate in excess of 8 per centum for the most recent calendar quarter which ended three months before the beginning of such calendar quarter, a supplementary grant amount which shall equal an amount which bears the same ratio to the total allocation with respect to the calendar quarter under the preceding sentence as the ratio of (A) the number of unemployed persons in excess of the number of unemployed persons which represents 8 per centum unemployment in such metropolitan city or urban county during the most recent calendar quarter which ended three months before the beginning of such calendar quarter to (B) the number of unemployed persons in excess of the number of unemployed persons which represents 8 per centum unemployment in all such metropolitan cities and urban counties during the same calendar quarter. For purposes of determining grant allocations under this paragraph, the Secretary shall utilize appropriate unemployment data, as determined by the Secretary of Labor and reported to the Secretary.

"(2)(A) After making the allocation with respect to any calendar quarter required pursuant to paragraph (1), the Secretary shall allocate the amount remaining with respect to such calendar quarter for grants under this section to States on behalf of units of general local government in such State, other than metropolitan cities and urban counties therein, which are experiencing high rates of unemployment and serious fiscal problems as defined by the Secretary which are a result of adverse economic conditions. From the amount allocated under the preceding sentence with respect to any calendar quarter, the Secretary shall determine, for each State which is eligible for assistance under the preceding sentence, a grant amount which shall equal an amount which bears the same ratio to the allocation with respect to the calendar quarter under the preceding sentence as the ratio of (i) the number of unemployed persons in excess of the number of unemployed persons which represents 8 per centum unemployment in such State, excluding unemployed persons in metropolitan cities and urban counties therein, during the most recent calendar quarter which ended three months before the beginning of such calendar quarter to (ii) the number of such unemployed persons in excess of the number of unemployed persons which represents 8 per centum unemployment in all such States, excluding unemployed persons in all metropolitan cities and urban counties therein, during the same calendar quarter.

"(B) Any grant allocated to a State under this paragraph shall be used, or distributed by such State for use in or for the benefit of units of general local *government, other than* metropolitan cities and urban counties therein, which are experiencing high rates of unemployment and serious fiscal problems on a basis consistent with the purpose of this section and criteria thereunder prescribed by the Secretary.

"(C) For purposes of determining grant allocations under this paragraph, the Secretary shall utilize appropriate unemployment data, as determined by the Secretary of Labor and reported to the Secretary, except that, in the event such unemployment data are unavailable for any recipient, the best available unemployment data for such recipient, consistent with criteria determined by the Secretary, shall be utilized.

"(c)(1) Notwithstanding any other provision of this title relating to requirements for contents of applications for assistance, any metropolitan city or urban county which has been allocated supplementary grant assistance under subsection (b)(1) with respect to any calendar quarter shall be entitled to receive the amount of assistance so allocated if it has submitted to the Secretary an application for such quarter as prescribed by the Secretary which—

"(A) outlines the proposed job intensive use or uses of the assistance and the benefits to the community of such use or uses, particularly in terms of accelerating planned projects and the reduction of unemployment through the creation of jobs in the private sector;

"(B) demonstrates that the proposed use or uses is consistent with the recipient's community development program, if any; and

"(C) requests assistance in an amount, which together with other resources that may be available, will be adequate to complete the proposed activity or activities.

"(2) Any application submitted pursuant to subsection (c)(1) by a metropolitan city or urban county receiving assistance under any section of this title other than this section, shall be deemed approved within thirty days after receipt of such application unless the Secretary shall have informed the applicant within such period of specific reasons for disapproval and the actions necessary to secure approval. Any other application shall be deemed approved within forty-five days after receipt of such application unless the Secretary shall have informed the applicant within such period of specific reasons for disapproval and the actions necessary to secure apporval. The Secretary shall approve an application for assistance allocated under this section unless the Secretary determines that the proposed use or uses of such assistance are plainly inappropriate to meeting the purpose of this section, or that the application does not comply with the requirements of this section or proposes activities which are ineligible under this section.

"(3) Any State allocated grant assistance with respect to any calendar quarter under subsection (b)(2) shall be entitled to receive such assistance promptly after complying with such application requirements as the Secretary may prescribe, consistent with requirements applicable under paragraph (1) of this subsection or otherwise deemed appropriate by the Secretary to assure achievement of the purpose of assistance under this section.

"(d) Assistance under this section may be used by the recipient thereof for any activity eligible for assistance under section 105(a) of this title, except that up to 25 per centum of the amount allocated to any recipient with respect to any calendar quarter may be used for such other activity or activities as may be deemed by the Secretary to be consistent with the objectives of this title and assistance under this section, respectively.

"(e) Except where otherwise provided in this section, assistance under this section shall be subject to all of the requirements and provisions of this title except that the Secretary may waive any such requirement or provision which the applicant certifies will adversely affect the efficiency or impact of the funds provided under this section.

"(f) The Secretary is authorized to prescribe such rules and regulations, and to take such steps as may be necessary, to assure the prompt implementation of the assistance program authorized under this section with respect to any calendar quarter, commencing with the calendar quarter beginning on April 1, 1976, with respect to which assistance is allocated hereunder.

"(g) No assistance under this section may be approved by the Secretary with respect to any calendar quarter after the calendar quarter which ends on March 31, 1978.".

Mr. BROWN of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that section 19 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 20, line 15, strike out "April 1, 1976," and insert "July 1, 1976,".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. BAUCUS

Mr. BAUCUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Baucus: Page 16, strike out line 4 and all that follows through line 23 on page 22, an renumber the succeeding sections accordingly.

Mr. BAUCUS. Mr. Chairman, this amendment would strike the supplementary community development block grants program. I do not expect this amendment to pass. However, I offer it in order to make several points.

First, I think the program is discriminatory in that it discriminates against rural areas. If the Members will check the provisions of this program, they will see that 75 percent of the funds go to metropolitan areas and urban areas, and that that percentage can be changed at the discretion of the Secretary in accordance with various unemployment figures in metropolitan areas.

In a good many community development programs we have seen a lot of public works programs, and we have seen a lot of job stimulus programs. There has unfortunately been too great a bias toward urban areas as opposed to rural areas, and I believe this should be remedied. That is one reason why I have offered this amendment to strike this supplementary community development block grants program from the bill.

I have a second objection, and that is that it really is a "budget buster." The congressional budget that we have adopted here in the House and in the Senate stipulates that about $3 billion be provided for jobs stimulus. The public works bill that we have passed in the House and the one that the Senate has passed—and they are now in conference—provide about $2.5 billion for public works as contained in the House bill and about $2.1 billion as contained in the Senate bill. We are told that the Senate and House conferees are going to reach a figure somewhere around that area and perhaps as high as $3 billion.

This program we are considering today has an open-ended authorization, and it is thought that it will cost about $1 billion or $2 billion, which is clearly over the budget.

Mr. Chairman, I strongly feel that the better alternative, the better approach is to follow the approach that is in the public works jobs bill that is in conference right now. That bill provides job stimulus across the board for both urban and rural areas.

That is by far the better approach, and the one that we should take. It is for that reason that I offer to strike the supplementary community development block grants program from the bill.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I am pleased to have this colloquy with the gentleman from Montana (Mr. Baucus) concerning his question about the allocation of funds between or among metropolitan cities, urban counties, and nonurban areas, such as rural areas.

It is clearly the intent—and I think if the gentleman will read the committee report it is reflected there—that the funds would be split so as to give 75 percent to metropolitan cities and urban counties as defined in the Housing and Community Development Act, and 25 percent to the rest of the areas of the State.

As the gentleman knows, the basic community development program has an 80–20 split. We thought, in order to make it more equitable, that we should increase the 20 percent to 25 percent since we are broadening the base of those who are included. By increasing the amount of money that would be available, the percentage of the funds that we would have would then be more equitably distributed. However, I would remind the gentleman that this is truly a countercyclical piece of legislation. It basically says that the money will go where the need is and that the funds are going to be allocated; whether it be metropolitan areas or rural areas, on the basis of unemployment, unemployment alone. Nothing else will enter into it.

Mr. Chairman, it seems to me that if there is one thing we ought to do, we ought to start putting dollars into jobs instead of into unemployment compensation benefits.

Mr. BAUCUS. I appreciate that.

Mr. BROWN of Michigan. Basically, there is not another program that has been offered that has a more direct approach to that goal and objective than this piece of legislation.

Mr. BAUCUS. Mr. Chairman, I appreciate the gentleman's explanation, but if the gentleman will look at the language of the bill, he will see that 75 percent will go to metropolitan areas and urban areas and that the Secretary has discretion to change that according to the unemployment factors. But the language of the bill provides that those factors apply only to cities and towns.

Regardless of that, it is this Member's experience that even though the allocation is generally supposed to be 80–20 or 75–25, unfortunately the Department tends to find other ways to give more community development block grants to the cities than it does to rural areas. I feel that rural areas are not sufficiently protected.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield further, I will be glad to assure the gentleman that it is the intent of the legislation that the 75–25 split in the bill is what we contemplate and that the reason the flexibility is put in there is that if the Secretary should find absolutely abnormal circumstances insofar as employment figures are concerned, she would not be absolutely constrained by or confined to the 75–25 percentage figure.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the effort by the gentleman from Montana (Mr. Baucus).

I, too, recognize that this amendment will not pass; and it may be, with the explanation that was offered by the gentleman from Michigan (Mr. Brown), that it should not pass. However, like the gentleman from Montana, I am very much concerned about the equitable or inequitable treatment, I guess I should say, of the people who live in nonmetropolitan regions of this country, based upon the past performance or the activities of the Housing and Urban Development Department.

Mr. Chairman, the gentleman from Michigan (Mr. Brown) will remember that in 1974 I offered the amendment which was adopted in the committee as a committee amendment to divide the community development block grant funds so as to provide 20 percent for the nonmetropolitan areas and 80 percent for the metropolitan areas.

Mr. Chairman, as many of my colleagues in the Congress know well I have a deep and abiding concern for the future of our people who live in this Nation's heartland. I have risen in this Chamber time after time to urge fair and equitable treatment of the problems and needs of our citizens living in countryside, nonmetropolitan communities, towns, and cities.

The housing and community development program bill before us could have been a major step on the road to a fair-share response to the problems and needs of our people in the Nation's heartland communities.

It could have been, but in fact the community development block grant program provisions of this proposal appears to be a distressing step backward. It is possible that the housing provisions of this bill, if properly administered, could help relive the documented inequities in Federal program treatment of housing needs in the countryside. But, history of the operation of Federal housing programs do not lead me to be optimistic on that score. I intend to make a part of today's Record a letter from the Arkansas Department of Local Services concerning rural housing problems in my home State. Arkansas is not unique. I believe its story can be repeated for State after State across the Nation.

Because of the explicit unfair treatment of countryside citizens in this bill's community development block grant program provisions and the questions about the operation of the housing programs, I intend to vote against passage of this proposal.

Housing that is safe, secure, and adequate for decent living is a basic need for all people. The housing needs and problems of our countryside citizens are deep and chronic. I have worked throughout my service in the Congress to encourage the development of private and governmental programs which will help our citizens obtain the kind of housing they need regardless of the size of the community in which they live. I intend to continue my efforts. I will continue to work for programs that are fair to all our people and against those Federal programs that discriminate against some of our citizens because they choose to live in the countryside.

If they are to become or remain strong, viable, and desirable place to live, all communities must be able to meet the challenges of the present and future by changing and renewing themselves through community development. Many of them, especially those in our countryside must have some Federal assistance to achieve this goal. For this reason I have worked for the passage of such legislation as the Rural Development Act of 1972 and the Housing and Community Development Act of 1974. It was with this need in mind that I helped lead the efforts which brought about the earmarking for nonmetropolitan areas of at least 20 percent of the community development block grant program funds authorized in the Housing and Urban Development Act of 1974.

Even before the first anniversary of that program's operation had been marked, funding actions by the Congress and the executive branch were being manipulated to reduce the nonmetropolitan area share of the community development block grant program, without benefit of a change in the authorization legislation.

I urged that the faults of the law be corrected and that this correction be made in such a way as not to reduce the already less than equitable share of the community development block grant program funds going to heartland communities. Today we have before us legislation which could help relieve the inequities the current law forces on small towns, communities, and cities in metropolitan areas. It is singularly unfortunate that the supporters of this proposal have consciously chosen to help these metropolitan region communities by reducing the already inadequate aid provided to nonmetropolitan regions.

This example of studied neglect of needs for our heartland citizens is disturbing enough. But, we find even further evidence of the proposed neglect of the needs of people in our less populous areas in the provisions of section 19 of this bill. This section provides for unlimited appropriations for a "supplementary community development block grant" program. The proposed legislation says this program is to give aid to State and local governments severely troubled by unemployment and fiscal problems. For our citizens not farsighted enough to live in cities with a population of at least 50,000 or counties with a population of at least 200,000 this legislative proposal is virtually an empty promise. It is clear that the committee intends at least 75 percent of the funds appropriated for this program to go to "metropolitan cities" and "urban counties." It is equally clear that the Secretary of Housing and Urban Development can choose to use 100 percent of the money available to this program for the "metropolitan cities" and "urban counties."

The thousands of other counties, communities, towns, and cities, as well as State governments will have to compete for the small change that is left.

The letter follows:

Little Rock, Ark.,
May 17, 1976.

Hon. Bill Alexander,
U.S. House of Representatives,
Washington, D.C.

Dear Representative Alexander: Recently the Rural Housing Alliance, a national lobbying organization, published figures that document the fact that rural states such as Arkansas aren't getting their share of the federal dollar.

One reason for this, I imagine, is that urban problems are more concentrated and more visible than the rural ones. This is particularly true of housing, and it's not surprising that rural areas are overlooked when it comes to housing funds. Yet, according to the Housing Alliance, some 60 per cent of the nation's substandard housing is found in the country, *not* a city slum. There is no housing authority in the one-half of the nation's counties which, of course, cover rural areas.

The problem is made worse by the failure of the administration, in this case the Farmer's Home Administration, to implement programs passed by Congress. Even programs such as the 504 home loan program that are operating are unable to use the money appropriated by Congress.

It is a sad situation that, in Arkansas, where more than 18 per cent of the housing units are substandard, FmHA officials have had to put pressure on county agents to make 504 loans.

The statewide antipoverty effort is taking steps to help implement these programs. Community action agencies such as ARVAC (Arkansas River Valley Area Council) have been working with FmHA for years and have helped arrange loans worth more than five million. (This was done by a housing development corporation set up by ARVAC at Dardanelle.) Now, a new statewide housing development corporation is giving impetus to the creation of strong housing programs in each of our 19 community action agencies. We are currently negotiating to have employees assigned to each of the seven FmHA districts in Arkansas to help community action agencies negotiate loans for eligible homeowners. Also, Arkansas CAA's have received roughly a quarter of a million dollars to weatherize homes, but have been limited to $500 for materials per house. The 504 loans have been valuable in allowing us to make more substantial weatherproofing repairs than permitted with weatherization funds alone.

In short, the 504 program has been valuable to us, and we feel that, in the near future, we will be able to use the program even more fully. We are also continuing to negotiate 502 loans and are watching as the ARVAC HDC begins an ambitious self-help program which will enable 42 Johnson County families to build their own homes over a two-year period.

We cannot plan these new initiatives, however, if Congress draws back on the program. This is why we ask, at the very minimum, that FmHA programs be funded at last year's level. We ask also that increased funds be made available for administration, as it seems that a staff shortage is at the root of the agency's inability to spend the money appropriated to it by Congress. It is particularly important that staff be increased at the county level, where applications are processed. We also urge you to continue the rural rental program, as Section 8 to date covers only a few counties in Arkansas.

We hope that, as an Arkansan, you will remind your urban colleagues of the importance of having a strong housing program for rural areas.

Please let us know if you'd like to see what we've done with FmHA funds. We'd be more than glad to show you around.

Sincerely,

George S. Ivory, Jr.,
Director.

The ink was hardly dry on the law that had been signed—and I might add that I doubt that that bill would have been enacted into law but for the votes of the Members from the countryside in this Congress. There were not sufficient votes to override a threatened veto of this particular legislation, as I recall, that was being considered at that time. But, as I started to say, before the ink was dry on the law, the funds and the funding actions by the Congress were being manipulated to reduce the nonmetropolitan area share that was specified in the law, and, as I recall, the 20 percent that was allocated in the law for nonmetropolitan regions was reduced by a percentage that was then reallocated without any authorization in the law for so-called urban balance, or, as they have changed it again to nonmetropolitan balance.

Section 19 of this bill raises grave concerns in my mind because it gives even greater latitude and discretion to the administration to use these funds that are authorized in this bill and that will later be appropriated, for purposes of metropolitan and nonmetropolitan areas at the discretion of the Secretary.

Even though it is the intent of this body that the money should be divided 75 percent urban and 25 percent nonmetropolitan, that does in no way assure us, those Members of the House representing nonmetropolitan regions, that it will be divided in this manner.

Can the gentleman from Michigan (Mr. Brown) and the gentleman from Ohio (Mr. Ashley), the chairman of the subcommittee, assure me that the money will in fact be divided according to the statements that the gentlemen have made during debate on this bill?

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, let me answer the gentleman in this way. First of all, the unemployment figures are the only factors that determine where the money goes under this bill. That is the first thing and that is the only criteria, the unemployment in the area determines where the money goes.

Second, it is clearly the intent of the committee that 75 percent of the funds will be allocated to metropolitan cities and urban counties, and 25 percent will be allocated to nonmetropolitan cities and other counties.

That is clearly the intent and that is the way we have explained it in the committee report.

I would also like to point out that the Secretary's authority to vary the ratio is a two-edged sword, it says higher or lower, which means that rural areas could get in excess of 25 percent as well as less.

Further I might say that I do not think that the gentleman's experience with the CD program has application to this. The problem there was that the balances nonmetropolitan areas were shortened by unforseen entitlements.

Mr. ALEXANDER. Mr. Chairman, I do not yield further.

My further concern is that the labor statistics, the Bureau of Labor Statistics that define unemployment are clearly rigged in favor of the urban areas. There is an urban bias that is equated into the computation of unemployment as defined by the Federal Government.

I have counties out in Arkansas that sometimes have as high as 30 percent unemployment, but because of the so-called seasonal adjustment they are reduced down in unemployment to a figure that will keep them from becoming qualified for all of these urban-oriented bills that we pass in the Congress. I am concerned because of the improper urban bias that is built into the computation of these figures.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall take only about 30 seconds. This is a "jobs" program. It may not be the best "jobs" program that the Congress ever enacted, but it is the only one at the present time. I do not mean to cast a vote against it, there may be some changes down the road, but this is a program that can work. If it is not broadly gaged as I would like to see it, why, at least it is before us, and I would urge a vote against the amendment.

Mr. LaFALCE. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, this section of the bill is designed for the specific purpose of dealing with the problem of unemployment by a counter cyclical formula, and in a way that would stimulate employment in the private sector rather than in the public sector.

So to the extent that we, in this particular bill, recognize the problem of unemployment, attempt to do something about it, and attempt to do it through the creation of jobs in the private sector, I think that it is one of the more desirable of the jobs programs advanced. The concept, we know in advance, does have the approval of the President, and I think we would be remiss in our responsibility to help alleviate the problem of unemployment, wherever it might be, in metropolitan or rural areas, if we voted for this amendment. I strongly urge the rejection of this amendment.

Mr. TALCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was inclined to support the amendment, and I would just like to ask a couple of questions. It appears to me from the way the program is operated in California that the nonmetropolitan money is spent through the State, not through every county and, therefore, in some of the rural counties most of the money that was designed for them goes solely to the Indians because they are so poor. As I said, the criteria was based on poverty. They simply use up all of the money.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. TALCOTT. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

It is not based on poverty, but unemployment.

Mr. TALCOTT. Well, unemployment and poverty are the same thing.

Mr. BROWN of Michigan. If the gentleman will yield further, not necessarily. For the determination of unemployment, the unemployed persons have to meet certain criteria.

Mr. TALCOTT. My impression is that the unemployment figures are so high among the Indians that their applications absorb all of these moneys, and there is no money left over for anybody else.

Mr. BROWN of Michigan. If the gentleman will yield further, let me just say the reason the flexibility is written into the bill is to visibly provide that the funds would go to areas of high unemployment. We know in rural areas it is very difficult to determine those figures.

The gentleman from Arkansas is quite correct, because these figures do come late, but that argument is not with this provision; it is with the Department of Labor in trying to get better figures. I think that is why we must have the flexibility in the bill.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. TALCOTT. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I thank the gentleman for yielding.

The gentleman from Ohio mentioned the problem lies with the Department of Labor and not with this bill. Obviously the gentleman from California has had experience similar to the experience that I have observed in Arkansas, which is that people who are chronically unemployed in nonmetropolitan areas very seldom are overlooked in the distribution of unemployment programs that are passed by this Congress because of the manner in which the programs are administered. We refer to that as "urban bias" where I come from, rather than "rural prejudice."

I am asking the gentleman from California if this is his observation as well. Does he agree with the gentleman from Ohio that that is the problem in this program?

Mr. TALCOTT. Mr. Chairman, I am not trying to agree. I was trying to get information. My impression was that there was a great deal of inequity here, and I was trying to find out if there was some way that we could eliminate this inequity that I think the gentleman from Montana, the gentleman from Arkansas, and some of the rural areas of California have experienced. If we can be assured that some of these inequities are going to be considered, I do not want to be a part of defeating the bill.

Mr. BROWN of Michigan. If the gentleman will yield, I would just again say that to the extent possible we have attempted to confront that problem. But once again if there is high unemployment in an area, it is the extent that that high unemployment area contributes to the unemployment in the areas not designated in the bill such as metropolitan cities and urban counties—to the extent that the unemployment in that area bears to all others in similar circumstances it will get the appropriate funding.

That is what we are trying to do, to provide jobs for those who are presently drawing unemployment benefits.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. TALCOTT. I yield to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Chairman, does the gentleman have an established percentage of unemployment that serves as a criterion? We do this in the Unemployment Administration where we set a percentage.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield, this program triggers when the national unemployment rate exceeds 6 percent in the previous quarter.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. Baucus).

The amendment was rejected.

The CHAIRMAN. There being no further amendments to section 19, the Clerk will read.

The Clerk read as follows:

ASSISTANCE PAYMENTS

SEC. 20. Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title 5 of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 20 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHLEY: On page 23, after line 10, insert the following new sentence: "This section shall become effective on October 1, 1976."

Mr. ASHLEY. Mr. Chairman, the purpose of this amendment is to come into compliance with the Congressional Budget Control Act of 1974. Inadvertently in our markup we provided as an effective date for this section the date of enactment of the bill. That would be in violation of the Budget Control Act, and it is for this reason that the effective date is changed to October 1, 1976.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RINALDO: Page 23, line 2, insert "(a)" immediately after "Sec. 20.".

Page 23, after line 10, add the following:

(b) Notwithstanding any other provision of law, social security benefit increases occurring after May 1976 shall not be considered as income or resources or otherwise taken into account for purposes of determining the amount of the rental which any individual or family is required to pay for his or its accommodations under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this paragraph, the term "social security benefit increases occurring after May 1976" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program occurring after May 1976 pursuant to section 215(i) of such Act, or any other increase in benefits under such program, enacted after May 1976, which constitutes a general benefit increase within the meaning of section 215(i) (3) of such Act.

Mr. ADAMS. Mr. Chairman, I reserve a point of order against the gentleman's amendment until he makes his explanation and then I will determine whether or not I can raise a point of order.

Mr. RINALDO. Mr. Chairman, this is a very straightforward amendment, and I will not take up much time.

My amendment simply states that any cost-of-living increase for social security recipients occurring after May 1976 will not be used to determine the rent they pay. This amendment is similar to the Ketchum amendment, which I cosponsored, that was offered to the Housing and Community Development Act of 1974. That amendment was adopted by an overwhelming vote: 285 to 114.

There is no doubt that the Nation's elderly need this reform. On March 20 of this year, for example, I sponsored a senior citizens seminar in my district, and the response from my constituents was overwhelming. We accommodated over 2,000 participants, and one of their major concerns was housing.

I am pleased that the Banking, Currency, and Housing Committee has approved an increase in the authorization level for the section 202 program. But merely an increase in authorizations will not solve the problems of the elderly.

The fact of the matter is that the cost-of-living increases for social security recipients have been undermined. In essence, the Federal Government has been giving with one hand and taking away with the other. My amendment would bring an end to this practice for social security recipients.

I would like to say to my colleague and friend, the chairman of the Housing Subcommittee, that I am aware of his concerns and appreciate his stand.

However, I would like to read from a letter I received this morning from the executive director of a housing authority in my State:

> As an Executive Director of a Housing Authority, I wholeheartedly concur with your amendment to the Housing Authorization Act which would prevent Housing Authorities from increasing rent to senior citizens due to their social security cost of living adjustments. We in Housing have no desire to gobble up the cost of living adjustment by increasing senior citizens rent for each adjustment, as we must do now under the current existing legislation.
>
> I hope you will be successful in convincing your colleagues that this is an unfair practice and should be, in some manner, amended more equitably.

I hope these comments have helped to clarify for my colleagues the views of men who are involved in the day-to-day affairs of public housing.

Mr. Chairman, I urge my colleagues to join me in approving this much-needed reform.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I am well aware of the parliamentary situation in which a point of order has been reserved, and some other matters relating to jurisdiction might take place; but the gentleman is right, the gentleman's amendment is absolutely right. There is no reason why they should gobble up the pittance we give to our senior citizens with the cost-of-living increase.

Mr. Chairman, I do not know what the parliamentary situation will be, but I associate myself with the remarks of the gentleman from New Jersey and strongly support the gentleman's amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, is it correct that what the gentleman is talking about in this amendment is people who are living on the very minimum of social security payments and when they are given just a small cost-of-living increase, 8 percent I think was the last one, that would amount to about $20 for some people and as much as $32 for others, which should help them buy a few extra food stamps in the month, that under certain charitable and nonprofit organizations where the mortgage that has been guaranteed is below the market rate under the conditions of the mortgage itself, that they raise the rent on these people and use up the entire cost-of-living bonus. In effect, we let them take one step forward and two steps backward.

Mr. RINALDO. Mr. Chairman, the gentleman is correct. Not only do they lose part of the cost-of-living increase, but in actual purchasing dollars they end up with less money than they started with; so what we are doing is discriminating against senior citizens.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

What proportion of the rise in social security benefits is taken by the rise in rent?

Mr. RINALDO. It amounts to 25 percent of the increase, but if recertification does not take place every year, it could amount to a much larger percentage of the latest cost-of-living increase.

Mr. ADAMS. Mr. Chairman, under my reservation of a point of order, I wish to note that section 401(b)(1) of the Budget Impoundment and Control Act prohibits consideration of entitlement legislation which would take effect prior to the beginning of the fiscal year, which in this case would be October 1, 1976.

The gentleman from Ohio just corrected the provision that is presently in the bill to make it effective on that date.

I am trying to inquire of the gentleman in the well if the individuals to whom he is referring in his amendment are entitled to additional funds prior to October 1, 1976. If so, I would raise the point of order. If there is not an entitlement, but it is rather the case the gentleman from Maryland just mentioned in stating that they are entitled to have their rent, in effect, frozen, then of course they do not achieve any additional funds by virtue of this legislation. That is the reason I reserved the point of order rather than making it. Do they receive additional funds, or is it a limitation?

Mr. RINALDO. The question is well put. They receive no additional funds. The additional funds come as a result of increases which this body would vote for in social security. This amendment prevents those increases from being taken away.

Mr. ADAMS. That is within the jurisdiction of the Committee on Ways and Means, and not our jurisdiction.

Mr. Chairman, I withdraw my point of order.

Mr. WAGGONNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my colleagues of the committee, I want to point out what we are doing here. Now, this amendment as drawn is germane to this bill, and the gentleman from Washington is correct in withdrawing his reservation of his point of order. But, the first thing we are doing is proliferating Federal programs. Now, the hue and cry in this country is to cut down the mix of programs in this country that the public benefits from, which ups the cost of welfare and other social programs. You should not exclude income from one program to make an individual eligible for another.

When we exclude, to increase eligibility for participation in a housing program, any income, we are proliferating Federal programs and increasing the cost of those programs. In addition, we are saying to the landlord, whom so many Members have criticized over a period of time, "It does not make any difference what you charge these program beneficiaries for housing, we are going to take care of it at the Federal level. We are going to up the benefits through this device so that it will be at no cost to you who purchase such housing, which is subsidized." The cost of such housing will increase.

But, in addition we are going to force the Ways and Means Committee to act on something that we already have under consideration which is quite similar to this, and we are going to cause a reduction in SSI or other Federal program benefits if and when we provide for this exclusion.

Now, what we are doing is adding to the cost of Federal programs. We are saying to landlords, "Charge what you want, we will take care of it," because the basic principle of our Federal programs, including veterans, always has been need. All other income must be considered. We are not giving any consideration to need because we are effectively excluding the provision which applies to all other income, and all other income, whether it is a Government subsidy or whatever it is, ought to be considered.

We are providing for an exclusion. We do not do it in veterans programs. We do not do it basically in other programs, and we should not do it here. Subsidies are income even though the money itself is never put in the pocket as cash.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I think we have to bear in mind that need is ever evident in this particular amendment. Let me point out to the gentleman the fact that 43 percent of the public housing units nationwide are occupied by senior citizens. In the 236 program alone, senior citizens pay an average rent of $125.82 per month or 38.9 percent of their income.

So adoption of this amendment would be a significant means of assisting the elderly, many of whom, the gentleman will have to concede, have incomes below the poverty level. Additionally, it will prevent the erosion of their increases in social security.

We have to recognize that the original concept of social security has eroded over the years. I will admit that point. But right now, a great majority of Americans and a great majority of retired constituents in my district believe in social security, depend on social security for a home, a roof over their heads, for their daily sustenance. Under those conditions, I do not think there can be any argument at all that need is not present.

Mr. WAGGONNER. I know what the gentleman's arguments are. The only thing I am saying is that this adds to the proliferation of Federal programs, which will increase the cost of all Federal programs, when we exclude this income, and we are ignoring the principle of considering certain other income before we grant the privileges of participation in this program. We are doing away with the requirement for the consideration of all other income, and we are saying to the taxpayer you must pay more so we can increase subsidies. What would, for example, happen to food stamp costs if you ignored other income which has a Federal origin? You know the answer; costs would go up and up and up. Untold members would become eligible for food stamps.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. J. WILLIAM STANTON, and by unanimous consent, Mr. WAGGONNER was allowed to proceed for 3 additional minutes.)

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I would like to ask the gentleman in the well a question:

> Notwithstanding any other provision of law, social security benefit increases occurring after May, 1976, shall not be considered as income or resources or otherwise taken into account for purposes of determining the amount of the rental which any individual or family is required to pay . . .

We are increasing subsidized housing units. Suppose this person does not get into a subsidized unit until 1980. The way I would interpret this, for the next 4 years any increases in social security or supplemental benefits, and so forth, all of those increases would not be included in determination of his basic standard of rental income. Would not the gentleman agree with that statement? The gentleman's position does not make sense.

Mr. WAGGONNER. I have not, to honestly say, considered it from that point of view; but it could well be a determination of the Executive in administering this legislation.

Mr. J. WILLIAM STANTON. This is the way this language reads.

Mr. WAGGONNER. To withhold that income from the effective date until the date they did participate could conceivably be excluded. What we are getting into is something like IRS involved themselves in. They provided a deduction for tax purposes of subsidized mortgage payments, interest due on mortgage payments, for home purchasers. When this was brought to their attention, they reversed themselves in this particular instance. We have something here which could be subject to a similar interpretation.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

What about the person who is a railroad retiree?

Mr. WAGGONNER. The gentleman is talking about people who are working.

Mr. BROWN of Michigan. I am saying that basically there are many who are receiving railroad retirement benefits instead of social security benefits. They are not covered by this.

Mr. WAGGONNER. No, sir. This creates the special language for the exclusion of certain income.

Mr. BROWN of Michigan. It seems to me this is one of the better arguments, basically, against it. It is not equitable. It does not treat people who are in similar circumstances similarly.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I would like to say to my colleague, to the gentleman in the well, that this is exactly the same argument that was raised about a year ago on the floor in opposition to this amendment. And having said that, not one iota of effort has been expended to solve this problem. We have had a year. I do not know why we have not done it.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

I think the gentleman made a very salient point in terms of homeowners taking abuses of this by increasing rents. I think that is a very cogent point. However, I think that is a problem to be dealt with separately from the needs of the people who must be addressed today.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. WAGGONNER was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. Mr. Chairman, if the gentleman will yield further, I do not know whether any committee at this time, including my own Housing Committee, is prepared to deal with that.

The other problem I had was that the gentleman kept indicating there will be a proliferation of programs, and I did not quite follow him. What did the gentleman mean by "proliferation of programs?"

Mr. WAGGONNER. Mr. Chairman, let us just suppose that there would be a beneficiary of this program who has now service-connected income from the Veterans' Administration, income from the Social Security Administration, income from the food stamp program, and now he has income from this housing program.

There are four programs that this individual could participate in, and when we start excluding the income from any or all Federal programs, we are never going to get these people to do anything except ask for additional benefits, and we are going to raise the cost of every one of these programs if we exclude the income they get from the other programs. Everybody becomes eligible for all programs.

Mr. MITCHELL of Maryland. Mr. Chairman, I understand what the gentleman is saying. I must say that I do not agree with him at all, because we are dealing with a very, very limited population within the scope of the amendment.

AMENDMENT OFFERED BY MR. STARK TO THE AMENDMENT OFFERED BY MR. RINALDO

Mr. STARK. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK to the amendment offered by Mr. RINALDO: In the first sentence of the proposed new subsection (b), after "May 1976" insert ", and supplemental security income benefit increases occurring after May 1976,".

Before the period at the end of the proposed new subsection (b), insert the following: ; and the term "supplemental security income benefit increases occurring after May 1976" means any part of a monthly benefit payable to an individual under the supplemental security income program established under title XVI of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program occurring after May 1976 pursuant to section 1617 of such Act, or any other general increase in benefits under such program enacted after May 1976.

Mr. STARK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, I would prefer to have the amendment read because there may be a point of order that would lie against the amendment.

Mr. STARK. Mr. Chairman, in that event, I withdraw my unanimous-consent request.

The CHAIRMAN. The Clerk will continue to read.

The Clerk concluded the reading of the amendment.

Mr. STARK. Mr. Chairman, I am offering this amendment to the amendment offered by my colleague, the gentleman from New Jersey (Mr. RINALDO) simply to extend his principle of fairness to a small additional group, and that is those people who are receiving supplemental security income which is similar to social security income.

Therefore, I will use my time, if I may, Mr. Chairman, to speak in support of the Rinaldo amendment, which I hope will be amended by the Stark amendment.

I wish to point out that there is only a small group of people living at the minimum level of income—$250-some-odd for a single person and $400-some-odd for a couple—and living for the most part in housing for the elderly that is run by nonprofit institutions, church and charity groups, which hold below-market-rate homes. These are the only programs that would require an automatic increase in rent.

So what we are really saying is that although in our wisdom we have tried to keep the minimum income recipients up with the increases in inflation with small incremental increases from $20 to $32 a month, in many cases the entire increase is eaten up by regulation and applied to higher rent because the tenant is considered to have a higher income. That is the problem. The increase goes right back into another Federal pocket.

We are denying this class of citizens who are at the very lowest end of the income scale any increase in their ability to continue to live in the same apartment unit, because they have to pay the same taxes on their rent, and they still go to the same supermarket or the same Speedy Mart to buy their food at already inflated prices. They do not have any additional income, and they are trapped in this kind of Catch-22 situation, in which they get these small incremental increases and try to keep up with inflation, but the increase is put in another pocket and paid in higher interest rates on their mortgages.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, the point the gentleman from California (Mr. STARK) makes is well taken, and I would urge the adoption of his amendment to my amendment.

Mr. STARK. To continue, Mr. Chairman, I would urge my colleagues to adopt my amendment to the Rinaldo amendment, which would include those SSI recipients so that we will have that class of people which has up to now been denied, through inadvertance and I think legislative oversight, the opportunity to enjoy a cost-of-living increase.

Mr. Chairman, it was my hope that my distinguished colleague, the gentleman from Ohio (Mr. ASHLEY), would accede to my amendment and then proceed, through a superior intelligence, through elocution and through distinction, to attempt to slay this dragon in the well later on so that through emotion and pure demagoguery I will prevail, but I will wait with bated breath to see whether he will accede as my colleague on the minority side, the gentleman from New Jersey (Mr. RINALDO), has done, indicating a willingness to accept my amendment to his amendment.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to both amendments.

The reason I do so has been pointed to before, and the response to that has been, "The same argument that was made 2 years ago."

Yes, I suppose so. It was not made apparently too persuasively to carry the day, but I think that the argument was telling 2 years ago and it is telling this year.

Let me ask a question or two of the gentleman from New Jersey who is the author of the original amendment.

It is a fact that any future social security increases would be disregarded for purposes of income computation in determining eligibility for assistance to housing. Is that not so?

Mr. RINALDO. Yes, that is correct.

Mr. ASHLEY. So that if you have a retired factory worker who is drawing social security and right next door to him is a retired railroad conductor, which one will be better off?

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I decline to yield.

And next door to the social security recipient or beneficiary is a railroad retiree and they both get a cost-of-living increase on the same day. Is one going to be better off than the other?

Mr. RINALDO. No; the railroad retiree usually receives a higher monthly benefit than the social security recipient.

Mr. ASHLEY. What about somebody on welfare?

That is not a straight-on answer. I am saying suppose they both got the same increase.

Mr. RINALDO. They both get the same increase? Is the gentleman speaking about an increase in the rent?

Mr. ASHLEY. I am talking about a cost-of-living increase.

Mr. RINALDO. Yes, that would be the same.

Mr. ASHLEY. Wait a minute. If the railroad retiree got the same cost-of-living increase as did the social security recipient, would they both be on the same footing as far as rental is concerned?

Mr. RINALDO. Is the gentleman arguing that we should include additional classes of people in this amendment?

Mr. ASHLEY. I am suggesting very strongly that those two neighbors are going to have to look at each other—and this is not a peace offer that I am making—but what I am suggesting strongly is that the point has been made that this amendment could not be patently discriminatory. So I would ask the same question about the social security recipient.

Mr. RINALDO. Could I answer the gentleman's question?

Mr. ASHLEY. Not at this time.

I am talking about a social security recipient who is living next door to a poor breadwinner who is earning $7,000 a year and he gets a modest cost-of-living increase and he is living in assisted housing, just as is his neighbor, but there is going to be a recomputation of his rent based upon that modest cost-of-living increase, but that is not true of the social security recipient. That is true of the railroad retiree but it is not true of the social security recipient. It is true right across the board, except for one class.

Mr. RINALDO. Will the gentleman yield?

Mr. ASHLEY. No, I will not yield at this juncture.

The case was made 2 years ago that the amendment is discriminatory and was discriminatory then and is discriminatory now.

I would ask the gentleman from California (Mr. STARK) a question:

Suppose we adopt his amendment, because we really have got to feel, as we do, all of us do, very keenly about the plight of somebody on social security or receiving supplemental SSI. Suppose the amendment is adopted and is passed and signed into law. Suppose somebody lives for 25 years and there are regular increases for cost of living along the line, do you mean to tell me that the rental would be pegged based upon an income arrived at in 1976? I mean, that the rental pegged on a 1976 basis is going to prevail through 1980, 1985 and 1990?

Mr. STARK. Mr. Chairman, if the gentleman will yield for a response to his question, those increases which are only cost-of-living increases, if the general level of social security or SSI payments is increased, it is not correct.

Mr. ASHLEY. I am not talking about the general level.

Mr. STARK. A cost-of-living increase?

Mr. ASHLEY. I am talking about a cost-of-living increase.

Mr. STARK. That is quite correct.

Mr. ASHLEY. In other words, at that time with all of the cost-of-living increases adding to the basic benefits themselves, his rent still would be computed only on the amount established way back in 1976, not in 1987 or 1990.

This just does not make any sense.

Mr. STARK. The gentleman is quite correct.

Mr. ASHLEY. Correct.

Mr. STARK. The system is discriminating against only the poorest people in this country.

Mr. ASHLEY. If we really want to do the right thing, then let us address ourselves to the basic problems but let us not convolute the housing program and say, "For this particular category the computation of rent will be this much and for others it is going to be this much."

That is an entirely wrong, bizarre and absurd way to go about it.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, on the example given by the gentleman from Ohio as to the two people, one person on social security and the other one on railroad retirement, they both get the same amount of increase.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. J. WILLIAM STANTON. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. ASHLEY) be permitted to continue for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. RINALDO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. J. WILLIAM STANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Ohio eloquently quoted the inequity created by the rental factor that the social security recipient would pay compared to the railroad retiree as to rental.

Let us look at it another way. Here we are, as a committee we are concerned about the shortage of housing today and down the road. In a new subsidized housing unit, where income depends mostly on income the man whose rental factor is frozen is at a distinct disadvantage to one who is not. You are talking about a social security recipient and a railroad retiree, and the railroad retiree has a higher factor based on their income which raises their rent, but the Social Security recipient we have frozen his rental factor.

Mr. ASHLEY. The gentleman is exactly right. But what this amendment does is create a favored group of beneficiaries, but they will not be favored very long.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding. I would like to ask the gentleman from Ohio (Mr. ASHLEY) if these rents were not going to be increased, who is going to pay the rent that would have otherwise been necessary?

Mr. ASHLEY. If the gentleman would yield, one would suppose it would be the tenants in assisted housing, at least in large part, who still have to pay 25 percent of their rent.

Mr. FRENZEL. That is exactly the point I want to make, while they are letting some people suffer a rental increase, they are letting others who received a cost-of-living increase not have a rental increase, but one who does not happen to be in this select category proposed by the gentleman from New Jersey does.

So the gentleman is blessing some and letting the darkness shine on some others. It is absolutely discriminatory.

I thank the gentleman for yielding.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Every senior citizen in this country, every housing authority, every person concerned with the plight of elderly will support this amendment. I would like to ask the gentleman if he has one single letter, one single document from any railroad retiree objecting to this amendment.

Mr. J. WILLIAM STANTON. No, but I will be happy to add that New York and New Jersey do not have a monopoly on the elderly; we have a proportionate share in Ohio. When we have the situation where a man on social security gets in a subsidized unit, or where his rent is frozen, I ask the gentleman does he think there are more people in America living on social security outside of subsidized units or inside of subsidized units? I am asking him, and I think the answer clearly is that there are more people in America living in subsidized units in hundreds of thousands of private apartments around the country in America. We give them a slight increase in social security, and rents increase, and I am asking the gentleman if that is equitable. Why do we not have it for everybody in America, regardless of whether they live in subsidized housing, or where their rent is frozen, or wherever they live? That is what the gentleman is saying. He is saying that people fortunate enough to live in subsidized housing and have social security income, we should favor maybe, and maybe we can thereby get some votes. But I do not see why we should get votes out of that, and I do not think we should.

Mr. RINALDO. That is not true. This amendment is not offered for the purpose of getting votes. It is being offered to correct an inequity.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the gentleman for yielding.

In further response to the gentleman from New Jersey's question about whether or not any Member had had a letter of complaint in this instance from a participant in the Railroad Retirement System, I would like to readily acknowledge that I have not. I would expect to, if we grant this special class exclusion though.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield back the remainder of my time.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words.

I will ask the gentleman from New Jersey how many people on social security are living in subsidized housing, and how many people are not?

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from New Jersey. Do not give me a speech. Does the gentleman have the answer to my question.

Mr. RINALDO. I will answer the question to the best of my ability. According to the information we have, in the 236 program alone, senior citizens are paying 38 percent of their income for rent, and 43 percent of the public housing units nationwide are occupied by senior citizens.

Mr. ST GERMAIN. Wait a minute. I asked the gentleman how many people on social security live in subsidized housing as opposed to those who are not fortunate enough to be in that subsidized housing?

Mr. RINALDO. I do not have the exact figure.

Mr. ST GERMAIN. The gentleman does not know.

Mr. RINALDO. I answered the question.

Mr. ST GERMAIN. All right. That is enough; the gentleman does not know.

I will say to the Members of the House this is a very attractive amendment to offer. It sounds great and easy to vote for. But think. Think of the number of social security recipients.

In my home town of Woonsocket, R.I.—or in Pawtucket, R.I.—we probably have maybe 800 or 900 units. We have a waiting list of 800 for those units. That waiting list is approximately 3½ to 4 years behind. This demonstrates the fact that whereas we have got 1,000 people on social security in these subsidized units, we have probably got 3,500 to 4,000 waiting to enter these units. The people in the units pay 25 percent of their income. The people not in the units are paying 40 or 50 or 60 percent of their income for the apartments they live in, many of which are substandard to this day.

God bless America. It would be great and easy to adopt this amendment. But let us look at the facts. The people in these units have got it pretty good right now compared to three or four times as many people who cannot get into them, and they should thank God they are in these units. When an increase comes along it is limited to 25 percent of their income. The increases do not occur every time there is an increase in the cost-of-living allowance.

Under public housing the increases come once every 1 or 2 years in most federally subsidized units, so that we are not in fact hitting these people every time. I think it is an average of every 2 years that the incomes are reviewed for an increase.

Therefore I say I reluctantly oppose the amendment. I would love to help these people, but when we talk about fairness, these people in the units today, as I say, should say: "Thank God, and I am happy to pay 25 percent of my income, and when I get an increase in my income I will be happy to pay that additional amount." Otherwise we are going to say to the taxpayers in America that we are going to discriminate even more. These people have an edge already, God bless them, but let us think about the other two-thirds or three-fourths of our people who are not in this subsidized housing.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words and I rise in favor of the amendment.

Mr. Chairman, this amendment offered by my colleague, the gentleman from New Jersey (Mr. RINALDO), and as amended by my colleague, the gentleman from California (Mr. STARK), was before this House and did pass this House 2 years ago. The amendment was taken out in conference, much as I suspect, if it is adopted here today, it will be taken out in conference again.

The same amendments were offered on this floor 2 years ago that are being offered right now.

I say to the Members we are not talking about people who are living in the lap of luxury on social security. We are talking about a miniscule number of people who have not any other place to live. We passed a social security increase about a year or two ago, about 10 percent, and we did it presumably to increase the standard of living or at least to lift them up just a bit. Immediately upon that increase's arrival, those individuals living in such housing had their rent increased 25 percent. I do not belive that this was the object at all.

Much has been said about the individual social security recipient who does not live in subsidized housing, and to be sure there are thousands. I could use my own mother as an example. She had a fine outside income but she still was eligible for social security. She did not have to live in subsidized housing.

But we are talking about people who have to live in subsidized housing. We grant them this increase and then increase the rent, and we will have some empty units because the people will not be able to live in the units.

The reason for the SSI amendment offered by the gentleman from California (Mr. STARK) is simply based on the fact that some SSI recipients are also social security recipients, but I would remind the body that we do not permit any of those increases to pass through. We keep everybody equal and even. We have tried to change that a time or two and I doubt we will ever do that. That is the purpose of this amendment.

We can talk about railroad retirement if we wish. We talked about it on this floor and I must admit that, as the submitter of the amendment 2 years ago, I was perhaps remiss myself in not addressing myself to the railroad retirement, but I have never had a complaint from anyone on railroad retirement.

I would hope that we will pass this amendment and I would hope that those of the Members who think some of us are demagoging would go out to the Federal housing and see how these people live.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I appreciate the gentleman yielding.

I have a couple of questions.

The gentleman in the well may remember that my colleague, when questioned, said it is possible that the entire increase in social security may be eaten up by an increase in rent. When that happens, I think it is unconscionable, because when the increase is given it is partially to help with rent and food and clothing and so on.

Now, is it true that the entire increase in the social security cost of living could be eaten up by a rise in public subsidized housing?

Mr. KETCHUM. I cannot truthfully answer that. I do not believe it will.

Mrs. FENWICK. If the gentleman will yield further, can we not in this House make this a rule?

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield so that I can respond to the gentlewoman from New Jersey?

Mr. KETCHUM. Certainly.

Mr. ST GERMAIN. The point is that if there is a $10 increase in social security benefits—I am talking about federally subsidized housing, as we know, not the exception, where they are paying under a different type of program—the increase would be $2.50.

Mrs. FENWICK. Is the gentleman sure of that?

Mr. ST GERMAIN. Yes. It is 25 percent of their income that they pay for rent, not 100 percent of that increase in rent, but 25 percent.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman from Rhode Island. That was the question I wanted to know.

Mr. KETCHUM. Mr. Chairman, I would submit to the body, knowing what a minuscule amount of money we are talking about, we passed that social security increase to improve the lot of these people on social security. We did it for a reason, to the detriment of the people that are working, to be sure; but that is the reason we passed it.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I wanted to point out to the Members of the House, that we got into discussion a while ago of how many people in America who receive social security live in subsidized Federal housing units and how many people do not and live in private accommodations who receive social security.

Mr. Chairman, the staff has informed me that probably their best estimate is that there would be 450,000 Americans receiving social security who live in subsidized units.

On the other hand, there is some estimate of better than 16½ or 17 million Americans who receive social security, but do not live in some type of subsidized housing.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman.

Mr. Chairman, when we passed the Tax Reduction Act, I remember we passed out 35 million checks to social security recipients. Now we are told we will do something special for 450,000.

Mr. Chairman, the gentleman from Louisiana (Mr. WAGGONNER) told the House that this amendment of the gentleman from New Jersey was simply an attempt to get a back door social security increase for a select elite class. I believe the gentleman is correct.

The gentleman from Ohio (Mr. ASHLEY) talked about the effect on other senior citizens in subsidized housing who would then have to carry the extra load, so that the elite class would enjoy their rent freeze.

Then the gentleman from Rhode Island (Mr. ST GERMAIN) explained about the large proportion of senior citizens who would not be included in here. In fact, they outnumber those that would be included by a ratio of many times to one.

Now I would like to point out one other fault in this situation. That is that the senior citizens who want public housing in the future, who are standing in line and waiting for an attempt to get into subsidized housing, will not be able to do so because the local housing agency will know it can never raise these people's rents. Therefore, these people could well be excluded from public housing units, on one pretext or another. The real reason, of course, would be that the landlord knows their rent could never be raised.

In my best judgment, Mr. Chairman, these amendments, while attractive on the surface, and while giving everybody an opportunity to be a hero with a positive vote, are pernicious and should be defeated.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio, who yielded to me.

Mr. ASHLEY. Mr. Chairman, in the absence of the chairman, the gentleman from Washington (Mr. ADAMS), I think it is appropriate to point out that the Congressional Budget Office estimates the cost of section 20 for the fiscal year 1977, would be $82.4 billion.

For fiscal year 1981, the cost will have increased to $206.9 million.

The total cost over the next 5 years would be $775 million. This, believe me, goes beyond any budget target that we all voted on just a week ago.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for those comments.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey (Mr. RINALDO) for a question only.

Mr. RINALDO. Mr. Chairman, I would like to know the basis for those figures and how they were calculated.

It is amazing to me that they could be obtained in such a short period of time, when a few moments ago no figures were available.

Mr. ASHLEY. If the gentleman from New Jeresy thinks we have not been aware of his amendment until just a few moments ago, the gentleman is sadly mistaken. This amendment was offered last year, and we knew perfectly well that it was going to be offered this year.

The Congressional Budget Office is in a position to run out, upon request, the outlays that will be necessary. Those outlays, as I told the gentleman from New Jersey and the rest of this body, boost the budget figures which we set for ourselves not more than a week ago.

Mr. FRENZEL. I thank the gentleman for his contribution.

Mr. PEPPER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support this amendment because it redounds to the benefit of elderly people of this country. A very large percentage of the old people of this country are below the poverty level. In my county of Dade, as my colleagues here will confirm, we have over 14,000 people—some of whom have been waiting 5 years—seeking to get into public housing and low-cost housing projects. In the country as a whole, there are 200,000 elderly families trying to get into low-cost housing because that is the only kind they can afford.

I am supporting this amendment because it benefits the elderly people by not denying them access to public housing because of social security cost-of-living increases which they have received. We know that with that increase they get little enough. We ought not penalize them with regard to essential and decent housing because Congress has been compassionate enough to give them a little increase in social security.

If I may have the attention of the able gentleman from Ohio (Mr. ASHLEY), I would like to ask how much is available in this bill for low-cost housing. I want to say this: I was informed that section 8, which the administration induced us to enact, that under that section 8 in the last 2 years 30 units have been made available for occupancy.

What does the gentleman propose to do for the elderly?

Mr. ASHLEY. The fact is that section 2 of the bill provides $790 million for low-cost housing, section 8 housing. There is a carryover of $340 million for the current fiscal year, which together will support new units in the number of some 406,000 during fiscal year 1977.

Mr. PEPPER. I want to commend the gentleman on that provision for the elderly and the low-income people of the country although this is far below the need in the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK) to the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

The question was taken; and on a division (demanded by Mr. STARK) there were—ayes 17; noes 34.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RINALDO. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

RECORDED VOTE

The CHAIRMAN. The Chair will count. One hundred and two Members are present, a quorum.

The pending business is the demand of the gentleman from New Jersey (Mr. RINALDO) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 99, answered "present" 1, not voting 71, as follows:

[Roll No. 308]

AYES—260

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Aspin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Bevill
Biaggi
Biester
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Byron
Carney
Carr
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Calif.
Eilberg
Emery
Esch
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Goodling
Grassley
Green
Gude
Hagedorn
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Koch
Krebs
Lagomarsino
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Richmond
Rinaldo
Robinson
Roe
Rogers
Rooney
Rosenthal
Roush
Rousselot
Roybal
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Schulze
Sharp
Shipley
Shriver
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stark
Stokes
Stratton
Studds
Sullivan
Thone
Thornton
Tsongas
Van Deerlin
Vander Veen
Vigorito
Walsh
Wampler
Whalen
White
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOES—99

Adams
Anderson, Ill.
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bauman
Beard, Tenn.
Bedell
Bennett
Bowen
Breckinridge
Brown, Mich.
Burleson, Tex.
Burlison, Mo.
Chappell
Cochran

Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Derrick
Dickinson
Diggs
Downing, Va.
Duncan, Oreg.
English
Eshleman
Evans, Colo.
Foley
Frenzel
Gonzalez
Gradison
Haley
Hammer-schmidt
Hansen
Henderson
Holt
Hyde
Ichord
Jarman
Johnson, Pa.
Kasten
Kemp
Krueger
LaFalce
Lott
Lujan
Lundine
McCormack
McDonald
McFall
Mahon
Mann
Martin
Michel
Milford
Montgomery
Moorhead, Pa.
Myers, Pa.
Passman
Paul
Pickle
Pike
Poage
Preyer
Quie
Reuss
Roberts
Roncalio
Runnels
Ruppe
Satterfield
Sebelius
Seiberling
Shuster
Sikes
Sisk
Smith, Iowa
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Treen
Ullman
Vander Jagt
Waggonner
Whitten
Wiggins
Wilson, C. H.

ANSWERED "PRESENT"—1

St Germain

NOT VOTING—71

Annunzio
Bell
Bergland
Bingham
Boggs
Brooks
Brown, Ohio
Burton, Phillip
Butler
Carter
Cederberg
Clawson, Del
Conlan
Danielson
de la Garza
Derwinski
Devine
Dingell
Edgar
Edwards, Ala.
Erlenborn
Fisher
Flynt
Giaimo
Gibbons
Guyer
Hamilton
Harsha
Hébert
Hicks
Hinshaw
Hutchinson
Johnson, Calif.
Jones, Ala.
Karth
Kindness
Landrum
Latta
McCollister
Miller, Calif.
Mills
Morgan
Mosher
Nichols
Nix
O'Neill
Peyser
Pressler
Rees
Regula
Rhodes
Riegle
Risenhoover
Rodino
Rose
Rostenkowski
Sarbanes
Schneebeli
Stanton, James V.
Steelman
Stuckey
Symington
Thompson
Traxler
Udall
Vanik
Waxman
Weaver
Whitehurst
Wylie
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill for, with Mr. Hébert against.

Mr. Annunzio for, with Mr. Landrum against.

Mrs. SULLIVAN and Messrs. GOODLING, MURPHY of Illinois, and FARY changed their vote from "no" to "aye."

Mr. FOLEY and Mr. McCORMACK changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 20?

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time because I know Members are anxious to depart and I want to give them some idea as to what remains and the general time frame that can be expected. There are pending three, possibly four, amendments, two of which are not controversial and will not involve prolonged debate at all. There is one major amendment that is facing us, and I should think that we would be able to dispose of that within about 30 or 35 minutes, perhaps 10 or 15 minutes if we could get a limitation of time. The remaining amendment to be voted is one in which the issue is simple, and I should think that it could be disposed of within 10 minutes, again with a limitation of time.

So I think the Members can expect to be out of here, Mr. Chairman, no later than 6:30.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECTION 236 AMENDMENTS

SEC. 21. Section 236(f)(2) is amended—

(1) by inserting "(including the amount allowed for utilities in the case of a project with separate utility metering)" immediately after "basic rentals" in the first sentence thereof and by striking out everything in such sentence which follows "of their income" and inserting in lieu thereof a period; and

(2) by inserting "(including the amount allowed for utilities in the case of a project with separate utility metering)" immediately after "rental payment" in the second sentence thereof and by striking out everything in such sentence which follows "tenant's income" and inserting in lieu thereof a period.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 21 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 21, line 6, immediately after "Section 236(f)(2)" insert "of the National Housing Act".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendments.

The Clerk read as follows:

Committee amendment 3: Page 24 line 3 insert new sections as follows:

HOME OWNERS MORTGAGE LOAN CORPORATION

SEC. 22. (a) This section may be cited as the "Home Owners Mortgage Loan Corporation Act".

(b) The Congress finds that the many programs of Government, intended to assure good housing for the American family at prices it can afford, are incapable of achieving their goals during recurring periods of tight money and high interest rates. Many credit-worthy families are being and have been denied mortgage financing on reasonable terms, not because of their inability to repay the obligation but because private funds needed for home financing have been diverted into other investment avenues. Such funds as are available for home mortgages are frequently offered only at unconscionable rates of interest. It is therefore the policy of the Congress and the purpose of this section to stabilize mortgage availability and establish machinery for assuring moderate income families access to mortgage financing within their means, and thus to enable the average family to achieve its goal of home ownership, by providing direct housing loans through a Federal instrumentality to individuals in those instances where private enterprise cannot or will not extend loans at reasonable rates to credit-worthy applicants.

(c) There is hereby established in the executive branch of the Government an independent agency to be known as the Home Owners Mortgage Loan Corporation (hereinafter referred to as the "Corporation").

(d)(1) All the powers and duties of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board"), which shall consist of the Commissioner of the Federal Housing Administration and eight members appointed by the President with the advice and consent of the Senate. The Board shall consist of at least five public members who are not officials or employees of any branch of government, Federal, State, or local. Members of the Board other than the Federal Housing Administration Commissioner shall be appointed for terms of six years; except that (A) any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first appointed shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and two at the end of six years, after the date of the enactment of this section. The Board shall annually elect a Chairman and Vice Chairman from among its members. Public members shall be paid $130 per day for each day of work (or, if higher at the time of such service, the rate established at Grade GS-18 of the General Service), including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Subject to the provisions of this section, the Board shall determine the general policies which shall govern the operations of the Corporation, and shall have power to adopt, amend, and repeal bylaws governing the performance of the functions, powers, and duties granted to or imposed upon the Corporation by law.

(3) The Board shall select and appoint qualified persons to serve as the officers of the Corporation, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board; and such persons shall discharge all of the executive functions, powers, and duties of the Corporation. The Board shall also provide for the appointment of such additional officers and employees as may be necessary for the exercise of the Corporation's functions, powers, and duties.

(4) The Board shall meet at the call of its Chairman or a majority of its members, but not less often than once each month.

(5) The Corporation shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(6) No person shall serve as an officer or employee of the Corporation, while he is serving as a full-time officer or employee of any other department, agency, or instrumentality of the Federal Government.

(7) In the performance of and with respect to the functions, powers, and duties vested in it by this section, the Corporation shall (in addition to any authority otherwise vested in it) have the same functions, powers, and duties as those prescribed for the Secretary of Housing and Urban Development by section 402 (except subsection (c)(2)) of the Housing Act of 1950.

(e)(1) It shall be the function of the Corporation, in order to carry out the purpose of this section, to make loans to assist in the purchase or construction of housing by individuals and families of moderate income who are unable to meet their housing needs at reasonable interest rates with the financing or other assistance which is available from other sources.

(2) A loan under this section may be made only for the purchase or construction of a single-family dwelling (or for the purchase of a single-family unit in a cooperative or condominium project) to be owned and oc-

cupied by the borrower, and may be made only to an individual or family who—

(A) has an annual income at the time of initial occupancy which does not exceed 100 per centum of the median income for the area, unless the Board after full consideration determines a higher or lower maximum income level is advisable to carry out the purpose of the section;

(B) is unable to secure the necessary funds from other public or private sources in the community at an interest rate considered by the Board to be reasonable and in no case higher than 6½ per centum per annum;

(C) would be an acceptable credit risk for purposes of whichever mortgage insurance program under title II of the National Housing Act involves housing of the most comparable type; and

(D) satisfies the requirements of this section and such additional requirements and standards as may from time to time be prescribed and published by the Board.

(3) Any loan made under this section shall be in a principal amount not exceeding $30,000 and shall be secured by a first mortgage on the property. The Corporation may require the borrower to make a downpayment (not exceeding the downpayment which would be required if the housing were being purchased with the assistance of a mortgage insured under section 203(b) of the National Housing Act).

(4) Any loan made under this section shall be repayable within such period not exceeding thirty years as the Board may determine; and shall bear interest at a rate which shall be determined by the Board.

(5) Under arrangements to be entered into by the Corporation and the Secretary of Housing and Urban Development, loan applications under this section shall be processed by the Secretary on behalf of the Corporation, which shall pay to the Secretary (in advance or by way of reimbursement) the costs incurred therein.

(f) (1) There is hereby created a revolving fund to be known as the Home Owners Mortgage Loan Fund (hereinafter referred to as the "Fund"), which shall be available to the Corporation without fiscal year limitation for carrying out the provisions of this section.

(2) The moneys in the Fund shall be used for making and servicing loans under subsection (e), including the cost of processing loan applications as provided in subsection (e) (5) (but not including any other administrative expenses which may be incurred by the Corporation in the exercise of its functions, powers, and duties under this section).

(3) The Fund shall be credited with appropriations made pursuant to paragraph (4), with all repayments of principal and interest on loans made under subsection (e), and with any other amounts which may be received in connection with the program under this section. Any amount in the Fund not needed for current expenditure may be invested in obligations issued or guaranteed by the United States.

(4) To provide the capital for the Fund, there is authorized to be appropriated the sum of $2,000,000,000 in each of the first five fiscal years ending after the date of the enactment of this section, and such additional sum in each fiscal year thereafter as may be necessary to ensure that the total amount received in the Fund during that year (including repayments and other receipts) will be at least $2,000,000,000. Any portion of the amount authorized to be appropriated in any of the first five fiscal years ending after the date of the enactment of this section which is not so appropriated may be appropriated in any subsequent fiscal year.

(5) The receipts and disbursements of the Fund shall not be included in the total of the budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

(g) In carrying out its functions, powers, and duties under this section, the Corporation shall regularly and fully consult with the Secretary of Housing and Urban Development and all other Federal departments, agencies, and instrumentalities having functions related to those of the Corporation in order to ensure that the purpose of this section is carried out efficiently, effectively, and without unnecessary duplication of effort.

(h) The Corporation shall prepare and submit to the President and to the Congress each year a full and complete report of its activities, together with any recommendations it may have for additional legislative, administrative, and other action to achieve the purpose of this section.

(i) There are authorized to be appropriated such sums as may be necessary for the administrative expenses incurred by the Corporation in carrying out this section.

(j) (1) Section 101 of the Government Corporation Control Act is amended by inserting "Home Owners Mortgage Loan Corporation;" after "Government National Mortgage Association;".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(105) Members, Board of Directors of the Home Owners Mortgage Loan Corporation.".

CO-INSURANCE

SEC. 23. (a) Section 244 of the National Housing Act is amended by inserting at the end thereof the following new subsection:

"(g) (1) Where the mortgagee is a public housing agency or an insured depository institution and the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

"(2) The second sentence of subsection (d) shall not apply to mortgages made by public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortages insured under this title.

"(3) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

"(4) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 236(b) of this Act, and (B) a mortgage or advance made by a public housing agency on a project under construction which is not approved for insurance prior to construction.

"(5) As used in this subsection, the term 'public housing agency' has the same meaning as in section 3(6) of the United States Housing Act of 1937, and the term 'insured depository institution' means any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

"(6) Notwithstanding any other provisions of this Act relating to mortgage limits, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made by a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency's procedures and underwriting standards.".

(b) Section 244(a) of such Act is amended by adding the following new sentence at the end thereof: "A mortgage which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.".

MULTIFAMILY MORTGAGE LIMITS

SEC. 24. (a) The National Housing Act is amended by striking out "by not to exceed 75 per centum in any geographical area" where it appears in sections 207(c) (3), 213(b) (2), 220(d) (3) (B) (iii), 221(d) (3) (ii), 221(d) (4) (ii), 231(c) (2), and 234(e) (3) and inserting in lieu thereof in each such section "by not to exceed 50 per centum in any geographical area."

(b) (1) (A) Section 207(c) (3) of the National Housing Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", "$30,000", and "$3,250" in the matter preceding the first semicolon and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", "$36,000", and "$3,900", respectively.

(B) Section 207(c) (3) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the matter following the first semicolon and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

(2) (A) Section 213(b) (2) of such Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", and "$30,000" in the matter preceding the first proviso and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", and "$36,000", respectively.

(B) Section 213(b) (2) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the first proviso and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

(3) (A) Section 220(d) (3) (B) (iii) of such Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", and "$30,000" in the matter preceding "except" where it first appears and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", and "$36,000", respectively.

(B) Section 220(d) (3) (B) (iii) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the matter following "except" where it first appears and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

(4) Section 221(d) (3) (ii) of such Act is amended—

(A) by striking out "$11,240", "$15,540", "$18,630", "$23,460", and "$26,570" and inserting in lieu thereof "$13,884", "$18,648", "$22,356", "$28,152", and "$31,884", respectively; and

(B) by striking out "$13,120", "$18,630", "$22,080", "$27,600", and "$32,000" and inserting in lieu thereof "$15,744", "$22,356", "$26,496", "$33,120", and "$38,400", respectively.

(5) (A) Section 221(d) (4) (ii) of such Act is amended by striking out "$12,300", "$17,188", "$20,525", "$24,700", and "$29,038", in the matter preceding the first semicolon and inserting in lieu thereof "$14,760", "$20,625", "$24,630", "$29,640", and "$34,846", respectively.

(B) Section 221(d) (4) (ii) of such Act is further amended by striking out "$13,975", "$20,025", "$24,350", "$31,500", and "$34,578" in the matter following the first semicolon and inserting in lieu thereof "$16,770", "$24,030", "$29,220", "$37,800", and "$41,494", respectively.

(6) (A) Section 231(c) (2) of such Act is amended by striking out "$12,300", "$17,188", "$20,525", "$24,700", and "$29,038" in the matter preceding the first semicolon and inserting in lieu thereof "$14,760", "$20,625", "$24,630", "$29,640", and "$34,846", respectively.

(B) Section 231(c) (2) of such Act is further amended by striking out "$13,975", "$20,025", "$24,350", "$31,500", and "$34,578" in the matter following the first semicolon and inserting in lieu thereof "$16,770", "$24,030", "$29,220", "$37,800", and "$41,494", respectively.

(7) (A) Section 234(e) (3) of such Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", and "$30,000" in the matter preceding the first semicolon and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", and "$36,000", respectively.

(B) Section 234(e) (3) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the matter following the first semicolon and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. ADAMS TO THE COMMITTEE AMENDMENT

Mr. ADAMS. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS to the committee amendment: On page 30 of the bill as reported, strike out lines 14 through 17.

Mr. ADAMS. Mr. Chairman, this is the amendment that I wrote to all of the Members about in the form of a "Dear Colleague" letter on May 25. Its purpose is to put on budget the proposed Home Owners Mortgage Loan Corporation. The Committee on the Budget considered this matter, and the vote, as I remember, was unanimous that we bring this issue to the floor and indicate that this agency should be on budget.

I do not want to and will not attempt to enter into the arguments for or against the creation of the Corporation. I am certain members of the Banking, Currency and Housing Committee will handle that very well. I am simply here with this amendment to urge that this Corporation be placed on budget because the Banking Committee amendment would create another of the off-budget agencies.

The Budget Committee expects to come to the Congress during this year and try to bring back on budget some of the agencies that are presently off budget. At the present time we have $25 billion-plus worth of expenditures in these off-budget agencies. Regardless of the merits of this Corporation, which I am sure will be well debated, I am urging my colleagues at this point to place on budget the Home Owners Loan Corporation.

A vote for my amendment will accomplish that objective.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Wisconsin, the distinguished chairman of the Banking, Currency and Housing Committee.

Mr. REUSS. Mr. Chairman, I believe deeply in the Home Owners Loan Corporation proposal which bears the stamp of our colleague, the gentlewoman from Missouri (Mrs. SULLIVAN), and of the late gentleman from Pennsylvania, Mr. Bill Barrett. I think it is some legislation which is long past due.

However, I agree also with the amendment offered by the gentleman from Washington. I think that the off-budget items have exactly as much economic impact as an on-budget items, and therefore we ought to make them on budget and take them into our total calculations when we go through our budget exercise. Therefore I intend to vote for the amendment offered by the gentleman from Washington (Mr. ADAMS).

I intend then vigorously to support the proposition as amended. I believe it is entirely in order, as the proposition of the gentlewoman from Missouri (Mrs. SULLIVAN) provides, to find the money, the budget money to accomplish that either by plugging tax loopholes or by cutting other programs and to find it in just the right amount, and thus to proceed responsibly. But I think the gentleman has a good amendment. I will support it.

Mr. ADAMS. We did include an additional amount of money above the President's budget in this category which I am sure the Committee on Appropriations will allocate in its wisdom. It is just that we have a tremendous budget impact from some of these off-budget agencies. We brought the Export-Import Bank on budget this year. We are trying to prevent the creation of any new agencies off budget. We will bring in a proposal to phase in those which are off budget now.

I hope the Members will support my amendment to place this corporation on budget.

Mrs. SULLIVAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if all of the present "off-budget" items involving investment-type expenditures by the Federal Government were to be placed under the budget, I would certainly not object to having the Home Owners Mortgage Loan Corporation program proposed in this bill also made part of the budget totals.

In other words, Mr. Chairman, if the chairman of the House Budget Committee were prepared to say right now that financing of rural electric and telephone systems administered by the Department of Agriculture will be put on budget; and that the section 202 program of direct loans to nonprofit organizations for housing for the elderly or handicapped will be put on budget; and that the Export-Import Bank loans to foreign purchasers of American goods will be placed on budget; and that the Federal Financing Bank of the Treasury Department will be placed on budget; and that the Postal Service will be placed on budget; and that the U.S. Railway Association will be placed on budget; and that the administration proposed off-budget Energy Independence Agency will not be written as an off-budget program; and that the Department of Labor's Pension Benefit Guarantee Corporation will be made on budget, then, of course, the HOMLC should be in the same category.

But the Budget Committee chairman is not proposing today any sweeping changes in the off-budget status of any of those other programs. He is directing his fire only at the one program which would be available to the average income family in this country in buying a home at a reasonable rate of interest.

The chairman of the Committee on Budget has said that the justification for considering the proposed HOMLC program "outside the normal processes of Federal budget review is not clear or persuasive." The justification, of couse, is that every cent loaned out under this program will come back to the Federal Government with interest. It is not a spending program. It is an investment program pure and simple. I has a 106½ percent cost-benefit ratio—the return to the Federal Government is 106½ percent of the amounts expended. How may programs of Government bring that kind of return to the taxpayers?

The rural electric and telephone loans, which are off budget, I understand, bring back only 2 or 5 percent, depending upon the kind of loan. Billions of dollars of Export-Import Bank loans, which are offbudget, have involved very low interest rates. True, they help make export business for American firms; but the HOMLC will make domestic business for the building industry and construction trades.

Mr. Chairman, I urge the chairman of the Committee on Budget not to jeopardize the enactment of the direct home mortgage loan program through involvement in complications in the new budget resolution process. I urge him to consider the fact that there can be no hidden disbursements under the HOMLC program—every cent available for such loans would have to come initially from appropriations passed by Congress.

I say to the gentleman from Washington that if his committee recommends elimination of all off-budget programs as a result of the study now in progress, and the House agrees to make onbudget the rural electric and telephone loans and the Export-Import Bank loans and the elderly housing direct loans, and the Pension Benefit Guarantee Corporation, and the other off-budget programs, then I would fully agree that the HOMLC should be treated similarly. But until the Budget Committee comes forward with a general position on this whole matter of off-budget programs, I think it is unfair to the average income families of this country to pick out for attack the one program we are in a position to enact this year to help the average income family buy a home.

Let me test the gentleman's commitment to the HOMLC as an on-budget item. If his amendment is adopted, and section 22(f)(5) is struck from the bill, but the rest of section 22 is enacted into law, would he, as chairman of the Budget Committee, support and urge the necessary increase of $2 billion in the budget ceiling for fiscal 1977 to accommodate this program? In other words, I ask the gentleman, does he see the need and value of this program as proposed in section 22, or is he merely zeroing in on the technical budget aspect of section 22(f)(5) with no strong feelings one way or another about the program itself? Does he favor it if it is made on-budget and will he seek to adjust the budget resolution accordingly?

Mr. ADAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. SULLIVAN. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I might state to the gentlewoman that there was $5 billion above the President's budget put into the housing allocation area, so there is money there if the Committee on Banking and Currency allocates it and the Committee on Appropriations wishes to approve it; so the money is there. If it is onbudget, it can be so allocated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. ADAMS) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. Is there further debate on the committee amendment?

Mr. J. WILLIAM STANTON. Mr. Chairman, I rise in opposition to the committee amendment.

Mr. Chairman, we have had a great discussion this afternoon in a nonpartisan approach to come up with what I think is a meaningful and a good housing authorization bill of 1976.

I would say that if the will of this Committee could hold together when we meet the other body, that we would come out of it with very helpful, meaningful, constructive help for literally hundreds of thousands of Americans who need this type of help.

Members of the Committee, I rise before the body most regrettably, because I believe in all honesty that we have one hurdle in determining whether or not we have any housing bill with the assurance of the cooperation of everyone combined. I say that because I want the Members to know that I rise most reluctantly to strike the committee amendments which, in reality, involve the Homeowners Mortgage Loan Corporation.

I say this for many reasons. Number one, I do not know of anybody at any time, anywhere, any place, who wants any particular argument with the author of this amendment. It is the most abhorrant thing I can possibly think of to do to somebody who is so easy to like and so excellent in cooperation with me over the years. If she says that she is going to take this thing personally, I am going to get out of here.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Chairman, I have never asked for favorable consideration because one likes me or does not like me.

Mr. J. WILLIAM STANTON. The gentlewoman gets it because she is the fine person that she is.

Mrs. SULLIVAN. If the legislation is worthy of consideration, I certainly want all the Members to listen, but I hope they will listen because of what it is.

Mr. J. WILLIAM STANTON. I thank the gentlewoman for clearing the air on that particular point.

Now, we do get down to the reasons that we have to vote down these committee amendments if we are going to be responsible. Literally, I think the Members are familiar with it. What it really mandates is a 6½ percent loan to all Americans in this country who qualify in income up to 100 percent of median income. It varies in different parts of our country. It would probably be in this area, in the neighborhood of $21,000 per year. It would mean that anyone who had 100 percent median income could get a loan on a home at 6½ percent interest rates for a period of 30 years.

The problems are as follows:

No. 1, we are going to have to supply from the Federal Government about $2 billion a year, according to this legislation, for 5 years, or a matter of $10 billion. What we are going to do at 6½ percent, if long-term borrowing rates of the country are at 8 percent, is that we are going to have a subsidy in the neighborhood of about $30 billion a year in subsidy. What we are going to have, in addition to this, is probably the problem of determining what inflationary impact this is going to have in regard to the availability of capital when the U.S. Treasury goes out into the open market for the additional $2 billion per year.

What is that going to do to interest rates? We have to consider that now that money is flowing into the private sector. It is being turned into an upturn in housing, the likes of which we have not seen for several years. We have to ask ourselves what it is going to do to this particular type of institution which the private sector has depended upon for so many years.

So, I say to the Members in all fairness that this is an idea whose time I wish had come. However, in all honesty, the message we have got is that this is a veto item for sure. It is with regret that in committee we passed it by a voice vote because, in all honesty, none of us wanted to get into the arguments at that time. But, the day has come when the argument has got to be put forward that, indeed, this committee amendment should be voted down.

Mr. REUSS. Mr. Chairman, I rise in support of the committee amendment.

Mr. Chairman, I shall not take my 5 minutes. May I say that if my position here depended upon my relative love and affection for the gentlewoman from Missouri (Mrs. SULLIVAN) and the gentleman from Ohio (Mr. J. WILLIAM STANTON), I would be on the horns of a delicious dilemma, and I could not proceed at all.

But fortunately I am able to speak about the merits, and on the merits it seems to me that the committee amendment, on which I urge an "aye" vote, is a sound amendment. It provides for a system of 6½-percent mortgages, based upon raising money in the least expensive possible way to the taxpayers, and assisting those below the median income for the area. That means people making up to $12,000, $14,000, and, in very high-cost areas, $16,000 or $17,000 a year.

The subsidy is a shallow subsidy, 6½ percent. It can succeed in the building of great numbers of homes for our people, our working people, who need them so much.

The breaking of the housing logjam can also do, in and of itself, a great deal for people who are very poor, and who hence are not able to come in on the 6½-percent mortgage itself.

Mr. Chairman, I voted for the very sensible amendment offered by the chairman of the Committee on the Budget because it seemed to me the fiscally responsible thing to do. But I point out now that we are under the budget, and that there are any number of splendid ways whereby the Congress can get hold of the money with which to fund the Home Owners Mortgage Loan Corporation, which is the subject of the committee amendment, even if one authorized—and I do not think one need do this—the full $2 billion.

I can tell the Members where to get hold of that $2 billion. We have right now $2 billion in expenditures authorized for the so-called tandem plan, which has no income limitations at all. Under that plan, someone can get Federal help to the tune of thousands of dollars for a $42,000 mortgage on an $80,000 home, and he or she can have an income of $1 million a year or more.

The Sullivan program is a very prudent program. It restricts the beneficiaries to those of median income or below. I think it is a sound program. I think we should go along with the committee amendment, which passed without a single dissenting voice in committee.

It has been said that it might be vetoed. I am no Nostradamus on what will be the state of the primary elections, and whether Mr. Ford is going to be in a veto-prone mood on a particular day, but it seems to me we here ought to do what is right. It seems to me if it is vetoed—and I fervently hope it will not be—that we last year demonstrated that we on the committee, and in Congress, are capable on 24 hours notice of finding out just what it is the President will sign, and carting up to the White House a housing bill tailored to his exigencies of the moment. If need be, we can do it again.

So vote "aye," and give the working people of this country an opportunity once again to get into the housing market.

Mrs. SULLIVAN. Mr. Chairman, I rise in support of the committee amendment, and I wish to explain my position.

Mr. Chairman, section 22 had bipartisan support in the committee and I hope it will have bipartisan support in the House. It is based on the conviction that it is better for the taxpayers of this country to lend $30,000 in Government funds to an average income family to buy a home—and have Uncle Sam get every cent back with interest—than for the same taxpayers to give a mortgage lender $25,000 in section 235 subsidies in order to persuade the lender to write a fully insured mortgage on the same house.

Every time a family making up to $10,000 gets a section 235 subsidized mortgage of, say, $25,000 to buy a home, there is an immediate budget impact of $25,000. That is how much a 30-year section 235 mortgage is estimated to cost the taxpayers. If the home buyer's income goes up sufficiently to reduce or eliminate the need for subsidy payments, that cost will come down under section 235 but this is all very iffy. His or her income has to go up far enough to enable that buyer to shoulder a 9.2 percent mortgage out of 20 percent of that family's income. Until that happens, the Government is obligated to pay $858 a year as a subsidy to the lender on that mortgage.

Section 235 is the only program now available to enable moderate income families to buy homes. This bill raises the income eligibility for such subsidized mortgages from the present 80 percent of median income in a particular locality to 95 percent of median income. I opposed that in committee. I think we should subsidize lower income families—but not half of the families in this country—in buying homes.

The average income family in your locality and mine can afford a home costing $30,000 or so, if it can obtain financing at 6½ percent interest or less. Only the Federal Government can lend money at that rate today without loss. So the average family is squeezed out of the market for a decent home; home builders cannot build for them because there is no reasonable financing available to move the homes once they are built.

The Federal Government can fill this vacuum without having to pay any subsidies. It can do so by sharing with the average income taxpayers of this country the Federal Government's ability to borrow money at substantially less than the going market rate on home mortgages.

The only families which could qualify for the direct loan program proposed in section 22 of this bill are credit-worthy average income families. They would have to be cleared for credit worthiness. They would have to demonstrate that they had the income and resources—and character—to pay back the loans 100 cents on the dollar with interest.

Just remember that we now use this same technique of direct Federal loans to provide financial assistance for rural electric and telephone systems. We provide it to Saudi Arabia, Iran, and a host of other countries all over the world to buy airplanes and other American goods. If they can get favorable financing from Uncle Sam to buy our products, why should not the policemen, the fireman, the store employe, the steelworker, the auto worker, the packing house worker, and other good, solid, hardworking American workers—and taxpayers—share in this opportunity to buy something they need a whole lot more than Saudi Arabia and Iran need low interest financing from Uncle Sam?

Out in Montgomery County, Md.—which I believe is the highest per capita income county in the country—a direct loan program has been instituted to enable moderate income families to buy homes costing up to about $30,000, the same limit set in this bill. They had hundreds of applicants. They selected the successful applicants by lottery. The terms are for 40 years at 9 percent. The 40-year amortization makes the 9 percent mortgage rate more affordable for moderate income buyers by reducing the monthly carrying charges. But the proposed direct Federal loan program would be for 30 years at 6½ percent; the lower interest rate would make the difference in monthly carrying charges.

Mr. Chairman, I do not hold this program out as being the solution for all of our housing problems. The solution rests on bringing down all interest rates, across the board.

Three years ago, the then Secretary of HUD, in testifying against this proposal, said the administration had a better idea than a direct loan program. He said, and I quote his words out of the hearings: "We all want lower interest rates; interest rates particularly during a period such as we have right now are depriving a number of people"—he should have said a great number of people—most of the families in this country—"who could otherwise be buying homes. Now, I am not a soothsayer in economics," former Secretary James Lynn continued, "but I do look forward to these rates coming down. I think there are a number of things we can do to try to keep interest rates lower. I think the fundamental and first thing we have to do," Mr. Lynn added, "is get a handle on inflation." End quote.

That was in October 1973. The former HUD Secretary who opposed this program in 1973 on the promise that the administration was going to get a handle on inflation and bring interest rates down is now the Director of the Office of Management and Budget, and he still opposes the program and says he would urge a veto if it is passed by Congress. I say if the administration has failed so utterly for 3 years to "get a handle on inflation" and bring interest rates down to levels that enable the average worker to afford a home, we cannot wait any longer. This program should have been enacted in 1972 when the Banking Committee first recommended it. It is now long overdue. We have spent billions in subsidizing both the poor and the well-to-do, too, in buying homes. Now it is time to provide unsubsidized direct loans to the average-income families which have been squeezed out of the home-buying market all these years because they are earning too much for one type of housing subsidy and not enough to afford the subsidy program for the well-to-do under the so-called "tandem" program.

If President Ford does not want to implement the direct loan program once we pass it, at least not implement it before election day, then the President elected in November—whoever that might be—can put it into effect promptly after the first of the year. It does not require a new bureaucracy—the loans would be processed by FHA. It would require only a nine-member Board of Directors to set policy for the terms and conditions of the loans, and the guidelines for eligibility; and it would need an appropriation from Congress to start the revolving fund from which the loans would be disbursed.

This program—and I emphasize this as strongly as I can—would operate only when mortgage money is not available to the average income family in the private lending market at reasonable rates of interest. It is not competition with private lenders in the home mortgage field; it would operate only when—as now—private lenders are unable to finance the average family in buying a home at a reasonable mortgage interest rate. If and when mortgage interest rates come down again to reasonable levels—as eventually they must—this program goes into hibernation. It would then be on standby, to be available only if and when needed.

Is it needed now? The conscience of every Member here today would have to answer yes.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the provision of H.R. 12945 that would establish a new government Home Owners' Mortgage Loan Corporation. I know the gentlelady from Missouri who has worked so long and hard for this concept has done so with the best of intentions. We all feel the sense of alarm that she feels when we realize that the cost of owning a new home has risen to the point that an ever increasing number of our citizens are being priced right out of the home-buying market. But no matter how well-intentioned, this amendment is not the answer. In fact, a massive program of direct government mortgage loans is likely to make the problem of high housing costs worse by adding to inflationary pressures in the economy generally.

Whenever the Federal Government is forced to enter the capital markets to finance a large budget deficit, interest rates for all borrowers are driven up. When business borrowers pay more for the money they borrow to finance their businesses, to the extent they can, they usually try to make up these additional costs through higher prices to their customers. If interest rates in general rise, lenders will have to charge higher construction loan rates to builders, higher rates to building materials dealers to finance inventories and higher rates to lumber and other building material manufacturers to finance production, with the result that all of these higher interest costs will be reflected in higher home prices. What do we gain then, if we artificially lower interest rates to home buyers while we are driving up housing costs? If this is not an example of the dog chasing its tail, I do not know what is.

I urge my colleagues to join with me in voting against this amendment.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the committee amendment and the Sullivan amendment.

Certainly if we can support these other programs whereby the Federal Government in effect guarantees 9½ percent interest on certain types of loans regardless of what the interest rate may become, and the difference between 5 percent and 9½ percent is 4½ percent direct subsidy under the other programs, then we certainly can afford to do this.

Mr. Chairman, this will give an opportunity for those who are up to and not above the median income once again to have hope of owning a little piece of America that they can call their home. This is very important because people who can buy and own their own homes become more responsible citizens and take greater interest in their communities.

There is no industry today that needs more help than the home building industry because it has the greatest unemployment. Many people think that a revival and a revitalization of the home building industry would create merely jobs among carpenters, laborers, electricians and plumbers, but it goes much further than that. There is no industry in this country today that affects so many collateral industries. It goes all the way back to the forests, to the loggers and the sawmills and to the planning mills, to the manufacturers of shingles, plumbing fixtures, the production of iron ore and copper, the rolling mills.

Then after the homes are finally built, it makes work and more business for both the manufacturers and the retailers of electrical appliances, of furniture, of carpeting, and on and on.

There is absolutely nothing that will generate more employment in this country today than the revitalization of our home building industry, to which this committee amendment would address itself in a most effective manner.

I ask the Members to consider this very carefully, not only from the standpoint of making it possible for young couples and other people who yearn to own their own homes to do so, and where they can do so without having to be subsidized but also, in addition, this would revive the home building industry and make employment possible for hundreds of thousands of people not only in the home building industry, but in all of the collateral industries that would be affected by this program.

Mr. ASHLEY. Mr. Chairman, I rise reluctantly in opposition to section 22, the pending committee amendment. I do so not so much with respect to the merits of legislating a direct loan program serving middle America. It has points that are quite persuasive. I confess that I rise in opposition with the reluctance that I feel very deeply for two principal reasons. The first is that we have embarked upon a budget process which we seek to take seriously. We had a misstep a few minutes ago. We adopted an amendment which, if signed into law, would have a budget impact over 5 years of some $750 million. That was not targeted when we voted 10 days or 2 weeks ago. This committee amendment, I must point out, is now on budget. It is all very well to say that the funds can be provided through the simple expediency of closing some loopholes or of deferring the B-1 bomber, or taking other steps. It can also be accommodated, let us face it, by increasing the budget deficit for fiscal year 1977 from $50 billion to $52 billion. At least for 1977 that would do it.

But what about the 2 years and the 5 years following? It was a 5-year program initially, as I understand it, that would call for the authorization and appropriation of $2 billion a year, and after the 10 years, such sums as might be necessary to assure that there would be $2 billion in a revolving fund.

Perhaps we have not reached the threshold that we must in order to take seriously the budget process. I do not see how, frankly, we can vote, as we did less than 2 weeks ago, saying that we are taking a responsible position contrary to that of the President by establishing a deficit necessarily large because of the inclusion of jobs stimulus—a budget, nevertheless, of some $50.2 billion for fiscal year 1977—how we as Democrats can say this is what we mean to do and then come to the floor today and say we meant that except for $2 billion in fiscal year 1977, and then $2 billion more in 1978, and so on, for the 5 years. We cannot do that.

Yes, the gentlewoman from Missouri (Mrs. Sullivan) is right. We need a program for middle-income Americans, but we have not had hearings on it this year or last year. If we are really going to address this, and I can assure the Members that I intend to do so as chairman of the Housing Subcommittee, surely we must have the kind of solid foundation in the formulation of a middle-income housing program that would allow us to come to the floor and explain all the ramifications of the legislation. Yes, we need a program of this kind; we need it now. But we are in a time period of competing needs, and we are always looking at those deficit figures. We simply cannot answer all of our needs all of the time in the given hour.

I must say, Mr. Chairman, that while I think that the time will come when we do bring to the floor a program specifically addressed to the housing needs, the home ownership needs of middle-income families, I cannot in any kind of conscience say that that time is now, this year, when we are having the financial difficulties that we are.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I quite concur with the gentleman's concern about the budgetary impact of this committee amendment. It is quite clear that this is not the year to consider a program of this magnitude. Furthermore it seems to me we have made substantial progress. There is much good in the legislation that is before us. It is clear that if this program is included in the bill that goes to the White House, it will be vetoed, and there is not much question that a veto will be sustained.

I think we would be ill advised to adopt this program in this measure and subject the good legislation we are about to enact to such danger.

I thank the gentleman for yielding.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Michigan. Mr. Chairman, do I understand correctly that the Chair is considering sections 22, 23, and 24 all as one committee amendment?

The CHAIRMAN. Yes. That is the understanding of the Chair from reading the report of the committee. It is all one committee amendment.

Mr. BROWN of Michigan. Mr. Chairman, I would then ask and demand that section 22 be divided and voted on separately from sections 23 and 24 of the amendment.

The CHAIRMAN. The gentleman is entitled to demand a division of the question in order that section 22 of the amendment be voted on separately.

He is making that request at this time?

Mr. BROWN of Michigan. Yes, Mr. Chairman.

The CHAIRMAN. The question is on section 22 of the committee amendment, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. SULLIVAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 116, noes 243, not voting 72, as follows:

[Roll No. 309]

AYES—116

Abzug
Addabbo
Alexander
Allen
Anderson, Calif.
Badillo
Baldus
Beard, R.I.
Biaggi
Blanchard
Brademas
Breckinridge
Brodhead
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Carney
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
D'Amours
Daniels, N.J.
Delaney
Dellums
Dent
Diggs
Dingell
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Eilberg
Evins, Tenn.
Florio
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Gonzalez
Green
Hanley
Hannaford
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Helstoski
Howard
Hungate
Jordan
Kastenmeier
Koch
Lehman
Litton
Long, Md.
McFall
McHugh
Madden
Maguire
Metcalfe
Meyner
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moss
Mottl
Murphy, N.Y.
Murtha
Nedzi
Nolan
Nowak
Oberstar
O'Hara
Patten, N.J.
Patterson, Calif.
Pepper
Perkins

Randall
Rangel
Reuss
Richmond
Rinaldo
Roe
Roncalio
Rooney
Rosenthal
Roybal
Ryan
St Germain
Scheuer
Schroeder
Simon
Slack
Snyder
Solarz
Stark
Stokes
Studds
Sullivan
Symington
Van Deerlin
Vigorito
Wolff
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOES—243

Abdnor
Adams
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Biester
Blouin
Boland
Bolling
Bonker
Bowen
Breaux
Brinkley
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Carr
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Emery
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hall
Hammerschmidt
Hansen
Harkin
Harrington
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howe
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Mikva
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Obey
O'Brien
Ottinger
Passman
Pattison, N.Y.
Paul
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Roberts
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Spence
Staggers
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Waggonner
Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Young, Fla.
Young, Tex.

NOT VOTING—72

Andrews, N. Dak.
Annunzio
Bell
Bergland
Bingham
Boggs
Brooks
Brown, Ohio
Burton, Phillip
Butler
Carter
Cederberg
Clawson, Del
Conlan
Danielson
de la Garza
Derwinski
Devine
Edgar
Edwards, Ala.
Erlenborn
Fisher
Giaimo
Gibbons
Guyer
Hamilton
Harsha
Hébert
Hicks
Hinshaw
Hutchinson
Johnson, Calif.
Jones, Ala.
Karth
Kindness
Landrum
Latta
McCollister
Miller, Calif.
Mills
Morgan
Mosher
Nichols
Nix
O'Neill
Peyser
Pressler
Rees
Regula
Rhodes
Riegle
Risenhoover
Rodino
Rose
Rostenkowski
Sarbanes
Schneebeli
Spellman
Stanton, James V.
Steed
Steelman
Stephens
Stuckey
Thompson
Traxler
Udall
Vanik
Waxman
Weaver
Whitehurst
Wylie
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. O'Neill against.

Mr. Miller of California for, with Mr. Annunzio against.

Mr. Bingham for, with Mr. Nichols against.

Mr. Rodino for, with Mrs. Spellman against.

Mr. Phillip Burton for, with Mrs. Boggs against.

Mr. Johnson of California for, with Mr. Hébert against.

Mr. Nix for, with Mr. Landrum against.

Mr. MIKVA and Mrs. KEYS changed their vote from "aye" to "no."

Mr. ROE changed his vote from "no" to "aye."

So section 22 of the committee amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the remaining portion of the committee amendment which comprises sections 23 and 24.

The remaining portion of the committee amendment, comprising sections 23 and 24, was agreed to.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that all debate and all amendments thereto end at 7 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. BADILLO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I move that all debate on the bill and all amendments thereto end at 7 o'clock p.m.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for approximately 1 minute and 10 seconds each.

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moorhead of Pennsylvania: On page 37 at the end of the bill, insert the following provision:

NATIONAL INSTITUTE OF BUILDING SCIENCES

Sec. 25. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting ", and $5,000,000 for each of the fiscal years 1977 and 1978" immediately after "fiscal year 1976".

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment would amend section 809 of the Housing and Community Development Act of 1974, which authorizes the establishment of the National Institute of Building Sciences, to provide for authorization of appropriations of not to exceed $5,000,000 for each of the fiscal years 1977 and 1978. Current law provides for an authorization of appropriations for fiscal years 1975 and 1976 only.

Unfortunately, there has been a long delay in nominating members for the Institute's Board of Directors, during which time no funds were appropriated for the Institute. As a result of the delay, the original authorization for fiscal years 1975 and 1976 is no longer adequate. The President has now proposed 18 nominees for the Institute's Board of Directors. An additional authorization of appropriations is now needed to provide the Institute with initial capital for carrying out its functions and responsibilities for 2 years.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, the gentleman from Pennsylvania (Mr. Moorhead) covered this with the minority and the majority, and we are fully in agreement that the amendment is a worthwhile one.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, we on this side are willing to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Moorhead).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sikes: H.R. 12945 is amended by adding a new section reading as follows:

"Sec. . (a) Subsection (b) of section 238 of the National Housing Act is amended by—

"(1) inserting, immediately after '243,' where it appears in the first sentence, the words 'and of insurance contracted pursuant to subsection (c) of this section,';

"(2) inserting, immediately after '237,' where it appears in the third sentence, the words 'and pursuant to subsection (c) of this section,';

"(3) inserting, immediately after '223(e)' where it appears in the fourth sentence, the words 'or subsection (c) of this section'; and

"(4) inserting, immediately after '237,' where it appears in the fifth sentence, the words 'subsection (c) of this section,'.

"(b) Subsection (c) of section 238 of the National Housing Act is revised to read as follows:

"'(c)(1) The Secretary is authorized to utilize the Fund created by this section to carry out a mortgage insurance program to provide housing for military personnel, Federal civilian employees, Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces of the United States, and other residents in any housing market area determined by the Secretary to be militarily impacted where, in the judgment of the Secretary (A) the residual housing requirements for persons not associated with such installation are insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installation and (B) the benefits to be derived from such use outweigh the risk of possible cost to the Government. All assets and liabilities incurred carrying out such a program shall be accounted for separately within such Fund.

"'(2) In order to carry out the program authorized under paragraph (1) in any area, the Secretary is authorized to commit to insure, and to insure, a mortgage under section 203, 207, 221, or 222 of this Act, except that, notwithstanding any limitation or other provision of this Act to the contrary, the Secretary is authorized (A) to waive any provision of this Act (including requirements relating to economic soundness), other than section 212, which the Secretary finds to be inconsistent with the objective of this subsection, (B) to establish, in connection with the program authorized under this subsection, such premiums and other charges as may be necessary to assure that all insurance pursuant to such program is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (C) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are, to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits under such sections. In order to assist the Secretary in establishing adequate premiums and other charges and otherwise carrying out this subsection, the Secretary of Defense shall furnish the Secretary such information and certifications as the Secretary finds are necessary, including but not limited to information and certifications relating to anticipated military and civilian personnel levels at an installation for a minimum of five years and any long-term plans for the level of military and civilian personnel at such installation.'"

Mr. SIKES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Chairman, the proposed amendment would permit HUD to insure mortgages in areas of our country where the housing demand is heavily impacted by the needs of military and civilian employees at military installations and where the long-term demand for housing for nonmilitary families would not be adequate to provide economically sound mortgage risks in the event of a curtailment of military employment.

In simpler language, the Federal Housing Administration now limits mortgage insurance to those areas where the population and resources of a community are considered sufficient justification without regard to the presence or personnel of a nearby military installation. The proposed amendment permits construction based upon the housing needs for military and civilian personnel directly employed at military installations under certain conditions. There are a number of areas where very large military installations, which are permanent in nature, have been developed and where there are no nearby towns and cities which are large enough to justify mortgage guarantees for housing. The resulting need for housing is acute.

Representative examples are Fort Stewart, Ga., Fort Polk, La., Fort Hood, Tex., and the Trident submarine site in the State of Washington. These are not the only examples. Thousands of housing units are involved.

The legislation which is proposed in this amendment has been developed by HUD with the informal concurrence of OMB and the Department of Defense.

Briefly, the proposed amendment would:

First. Establish a special account to provide for mortgage insurance in areas where there is a requirement for housing as a result of a military installation, but insufficient residual market for housing were Federal installations closed or substantially reduced.

Second. Expand the coverage of section 318 of the Housing and Urban Development Act.

The intent of this legislation is generally the same as that of section 318 of the Housing and Urban Development Act of 1974 to encourage and enable HUD to insure speculative housing in areas where military installations have a predominant effect on the local housing market. However, section 318 was not implemented by HUD, whereas this language has been developed by HUD. There is now a clearcut decision within the executive branch that it is the responsibility of the Department of Housing and Urban Development to support housing developments near military installations for which there is a long-term requirement.

It is the policy of DOD to place as much reliance as possible upon the communities surrounding military installations to house married personnel. We consider it undesirable to separate and segregate military families from the communities in which they live. Military families can do a great deal to communicate their mission, their dedication, and their worth to the people in the communities in which they live. Military families involved with their civilian neighbors cannot only create much greater understanding between the military installation and the community, but can appreciate better the viewpoints of their fellow citizens.

Off-base housing is built, financed and owned by private enterprise and strengthens the private sector of our economy.

The expense of acquiring land, building housing on base, and operating and maintaining that housing is large and, if carried solely by the government, serves to inflate Federal budget and increase taxes.

The need as stated by the Department of Defense can be spelled out roughly as follows:

Additional requirement to house over 8,000 military families in the area named. As I said, there will be other areas—future DOD cost of over $300 million.

Additional requirement to house 3,700 new DOD direct-hire civilians—DOD does not build houses for civilians.

Additional community development required to house as many as 33,000 civilians who will enter these areas because of existence of military installation.

I want to stress my appreciation to the distinguished Chairman (Mr. ASHLEY) and members of the Housing and Community Development Subcommittee of the House Committee on Banking, Currency and Housing for your cooperation in helping to resolve a very real problem now and in the past in obtaining needed housing for military families and civilian personnel who are employed on military bases. With your help through the years, we have helped to insure good housing at reasonable cost—first for lower-grade enlisted personnel for whom no on-base military housing was provided, and subsequently in the adoption of section 318 of the Housing and Urban Development Act of 1974 which established a HUD "special risk insurance fund" to be utilized in military impacted areas. This would have accomplished the same objective as the present amendment. However, HUD refused to implement that legislation. Meetings have been held between the Department of Defense and representatives of HUD and representatives of the Appropriations and Banking, Currency and Housing Committee in an effort to resolve the problem. HUD has now provided its own language to accomplish this purpose. I feel that it is a worthwhile objective which will save money for the Government, stimulate private construction, and provide badly needed homes at reasonable cost.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Ohio, the distinguished chairman of the subcommittee, who has helped so greatly to make this legislation possible, legislation which was developed by HUD.

Mr. ASHLEY. Mr. Chairman, the gentleman from Florida (Mr. SIKES) has done a fine job in developing this legislation over a period of some years. I am very pleased that it has won the approval of HUD and the Office of Management and Budget.

Mr. Chairman, we are ready to accept the amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Ohio, the distinguished ranking member.

Mr. J. WILLIAM STANTON. Mr. Chairman, the minority side accepts the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. TALCOTT).

Mr. TALCOTT. Mr. Chairman, I support the amendment. It comes from both subcommittees upon which I serve. The proposed amendment would permit HUD to insure mortgages in areas of the country where the housing demand is heavily impacted by the needs of military and civilian employees at military installations and where the long-term demand for housing for nonmilitary families would not be adequate to provide economically sound mortgage risks in the event of a curtailment of military employment.

This proposed new authority would expand on and clarify the amendment to section 238 of the National Housing Act, enacted as section 318 of the Housing and Community Development Act of 1974, which provided that housing in military impacted areas could be made the obligation of the special risk insurance fund. The proposed new amendment would give HUD the authority to waive its usual test of economic soundness in areas where HUD has determined that the long-term economic base and prospects for continued housing demand are heavily dependent upon military employment and that without continuance of military housing demand the actuarial soundness of mortgage insurance would be questionable.

Under the new authority, when HUD has made a determination that economic soundness is not present, the Department of Defense would be authorized to provide HUD with its best judgment of the anticipated level of direct civilian employment and military force levels for a minimum 5-year future period or longer period if projections have been made. The military would also be expected to inform HUD that long-term plans of the military are for those levels to continue and not to be reduced. This projection by the military is particularly critical for areas surrounding military installations, such as those at Fort Polk, La.; Fort Stewart, Ga.; Fort Ord, Calif. and the Trident Base at Bangor, Wash., which are being expanded to meet new missions and where the present housing stock is inadequate to meet the ultimate demand which will be occasioned by the military and civilian buildup in these areas. It is recognized that the long-term force levels and demand for housing in such areas cannot be predicted with absolute certainty as missions change as defense needs change. But this amendment would permit HUD to rely on the levels projected by the Department of Defense and to assist in providing the housing needed for defense related activities.

HUD would be authorized and expected to charge premiums for insurance under this new authority which would represent HUD's best actuarial estimates of the risks involved, giving consideration to such historical data as may be developed to assess the long-term economic stability of areas heavily impacted by military related employment. HUD would then establish insurance premiums to reflect this added risk which premiums would be applicable to all mortgage insurance in market areas surrounding military bases which heavily contribute to local housing demand.

In order to compensate, at least in part, for the extra premium costs of living in military impacted areas, because the mortgage insurance premiums will add to the debt service requirements, the military services will be permitted to pay the higher premium costs for members of the armed forces under the existing authority of section 222 of the National Housing Act, when the serviceman purchases his home. It is expected also that the military will seek to develop means to enable those servicemen who choose to rent rather than to buy in such areas to pay the higher rents which will be necessary to enable the property owners to pay the higher mortgage insurance premiums charged in such areas.

The authority to charge higher premiums and to waive the test of economic soundness for acceptable risks upon being informed of long-term military demand will be applicable to mortgages insured under sections 203 and 222 for one- to four-family homes and to sections 207 and 221 for rental housing.

Considering the much higher costs of providing onbase housing versus off base I think that we should support this 318 proposal. In our area, for instance, less than 1 percent vacancy rate, very high land cost, very tight housing market conditions, and it is a moral obligation of the Government to see that safe, decent and sufficient housing is provided for every serviceman. There is something profoundly wrong with a nation which forces young military men to make a choice between driving more than 100 miles a day to live with his family, or living on base in a barracks and only seeing his family on weekends. The record should show that Congress acknowledges and accepts that responsibility and that Congress expects HUD to move forward aggressively to meet it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Sikes).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of Illinois: On page 37, immediately after line 12 and add the following new section:

"Sec. 25. Title V of the Housing and Urban Development Act of 1970 is hereby amended by adding at the end thereof the following new section:

"'COUNSELING TO MORTGAGORS

"'Sec. 508. (A) In carrying out activities under section 501, the Secretary is directed to undertake programs of studies and demonstrations within at least 3 standard metropolitan statistical areas to determine the extent of need for and cost effectiveness of providing prepurchase, default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the unsubsidized mortgage insurance programs the National Housing Act.

"'(B) Within one year from enactment of this section, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress.'"

Mr. MURPHY of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MURPHY of Illinois. Mr. Chairman, this amendment would amend title V of the Housing and Urban Development Act of 1970, which contains HUD's basic research authority, to direct the Secretary to undertake studies and demonstrations in at least three standard metropolitan statistical areas regarding the provision of prepurchase, default and delinquency and related counseling services to mortgagors insured under HUD's unsubsidized single-family mortgage insurance programs. The Secretary would be required to submit an interim report to the Congress within 1 year of enactment of the section with respect to progress made under the studies and demonstrations, including an estimate as to when a final report will be available.

The Secretary is already authorized to provide counseling services to single-family homeowners insured under HUD's subsidized section 235 program. The amendment would require the Secretary to study the extent of the need for providing similar services to homeowners and purchasers of properties insured under HUD's unsubsidized single-family mortgage insurance programs, and the extent to which the provision of these services would be cost effective to the Federal Government.

I addressed the need for counseling demonstration projects in my floor remarks yesterday during general debate. I explained that counseling cuts down on foreclosures and defaults. I cited HUD studies which found counseling cost effective.

Counseling uncovers minor problems that if left unattended often result in delinquent payments and a foreclosure proceeding. Many people simply need a qualified counselor to spend a few minutes reviewing their budget and recommending steps to eliminate poor money management. Counselors can make adjustments with creditors, recommend job referral agencies, and speed up the receipt of Government social security and disability checks. A few hours of a counselor's time is invested and the average foreclosure cost of $13,000 is saved.

HUD has failed to experiment with a significant number of counseling demonstration projects. Since 1968, the only money for demonstration projects went to a small number of very high foreclosure areas.

The programs funded were successful but imagine the possibilities when you put a reasonable amount of money into an area that stands a relatively good chance of being helped. My amendment would provide the data HUD claims it needs to launch a nationwide counseling program.

HUD is quick to point out that there are HUD housing counselors working in the field who give the kind of advice and counsel new homeowners require. As I argued in my April 7 testimony before Ed Boland's housing appropriations subcommittee, however, there are indications that HUD housing counselors do not now have the time or the training to monitor the counseling agencies under their jurisdiction. And, as HUD Secretary Carla Hills admitted in a February 4 letter to Chairman Floyd Hicks, key HUD officials in the field are authorized to transfer or use personnel, housing counselors included, as the work load and priorities of the offices require.

I believe my colleagues will benefit from some of the comments given recently by Barbara Lucas, the chairperson of the Committee on Training and Certification of the National Federation of Housing Counselors. Accompanied by Charles Stocker, the Federation's president, Ms. Lucas testified before Chairman Boland's subcommitte as well.

Ms. Lucas said new FHA homeowners needed more than a packet of information material about homeowning responsibilities that HUD now provides. As she stated:

> There is no way HUD can evaluate whether the information is read and if read, understood. There is no opportunity for feedback and no follow-up with additional information.

My amendment will prove to HUD and the American people alike that counseling is part of the answer to the disastrous housing programs in our cities. My amendment testifies to the fact that our Government wants the homeowning experience of first-time, low-income people to work.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, the minority has no objection to the amendment.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Chairman, I want to commend the gentleman from Illinois (Mr. Murphy) for his amendment and associate myself with his remarks.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, nobody has worked harder than the gentleman in the well and his associate, the gentleman from Illinois (Mr. Russo), on this amendment.

It is a good amendment, and we are willing to accept it.

Mrs. MEYNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois. My concern with the implementation of the Emergency Homeowner's Relief Act was prompted by a constituent inquiry and I have expressed that concern to this body on several occasions. The fact that thousands of Americans who are potentially eligible for this relief are being denied it while the Department of Housing and Urban Development awaits statistical legitimacy violates the intent of the original law.

Yesterday I stated that I believe that the financing formula discriminates against those areas of the Nation which are most affected by the current economic crisis. When considering possible methods of rectifying the inequities of the criteria for the administration and implementation of the program, I had considered various approaches. My concern with the retention of the present delinquency criteria was that HUD has employed a 3-month limit, rather than the conventional 2-month period in which mortgages are considered grossly delinquent and approaching foreclosure. The amendment of the gentleman from Illinois appears to erase that obstacle by taking into account actual foreclosure, rather than delinquent mortgage data. I commend the gentleman for this method of employing the current 1.2 percent cutoff figure and for consideration this in conjunction with the actual number of mortgages on which foreclosure action has commenced.

Mr. Chairman, this amendment can save approximately 800,000 Americans from losing their homes. It is an amendment that deserves our approval because it removes previous requirements regarding the national mortgage situation and places emphasis on standard metropolitan statistical areas. This amendment will direct the mortgage relief program to those areas of the Nation that need this assistance the most. I am proud to have the opportunity to speak in favor of a proposal which allows us to exemplify the concern that the Federal Government has for the individual. I am pleased to see our attention turn from charts and graphs and to focus, instead, on the very real and very terrifying problems facing American homeowners.

The CHAIRMAN. The question is on the amendment offered by the gentleman from illinois (Mr. Murphy).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Richmond: Page 37, after line 12, add the following new section:
>
> REHABILITATION LOANS
>
> Sec. 25. Notwithstanding the amendments made by this Act to section 312 of the Housing Act of 1964, there is authorized to be appropriated $300,000,000 for the fiscal year beginning on October 1, 1976, for purposes of carrying out such section.

Mr. RICHMOND. Mr. Chairman, this amendment would add $200 million to the revolving fund for section 312, the rehabilitation loan program.

Each year thousands of houses and apartments throughout the Nation fall into a state of disrepair and are abandoned. In New York close to 50,000 units are abandoned annually, while more than 1 million people live in substandard housing. A comprehensive plan of housing rehabilitation through local and community housing corporations is the most economical housing program for the Federal Government and is a commitment to the future of our cities and rural communities.

Not only would an expanded rehabilitation program increase available housing units, but it would be a spur to local development, increase employment in the building trades and lead to a rejuvenation of our neighborhoods both in large cities and small towns.

The section 312 program provides low cost 3 percent direct loans for community nonprofit housing groups and homeowners. Unit costs can range from $8,000 to $12,000 for an average size rehabilitation.

This is a program in which both urban and rural areas can participate if the funds are available. My amendment would make it easier for the Secretary to allocate funds on the basis of the great need both in rural and urban America.

New housing construction costs have skyrocketed. Most families can no longer afford the luxury of a new home. Costs of new housing are at least triple the cost of rehabilitation.

The best way to meet our dire housing needs is through a comprehensive program of housing rehabilitation and home improvements with low cost section 312 Federal loans.

We must expand this program and encourage imaginative, innovative rehabilitation projects which are cheaper and more responsive to the needs of our citizens. These funds offer hope for the future of our communities and hope for the future of our Nation.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I rise in support of this amendment to increase the funds for the rehabilitation loan program available to owners and renters of properties needing rehabilitation.

These loans, provided at below-market interest rates, have made it possible for communities to carry out comprehensive neighborhood renewal programs. The need for these fund far outstrips their availability. In New York City alone approximately 420,000 families rent housing which is overcrowded, dilapidated, or lacks adequate plumbing. The city has estimated that 1,017,000 apartments are suitable for rehabilitation. I am sure that other urban areas could recite similar statistics. The problem of deteriorating housing extends far beyond New York City to all areas of our country.

I urge adoption of this amendment so that there can be greater participation in this program. By rehabilitating existing housing we are providing decent housing at far less cost than construction of new units.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of the gentleman's amendment. The amendment makes sense because it is effective and I strongly support the amendment.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have been accepting amendments that have been considered by the committee and found to be in order and appropriate but what this amendment does in one sudden fell swoop is to increase the level of rehabilitation direct loans under the section 312 program from $100 million to $300 million. It is not as if the only program that we have for rehabilitation is the 312 direct loan program. Not at all. We have the community development block grant program which specifically stipulates that of the $3 billion a year in community development funds, that any portion of this can be earmarked and set aside by a community for rehabilitation.

The fact of the matter is that the Housing Subcommittee of the full Committee on Banking, Currency and Housing submitted to the Committee on the Budget $100 million to the 312 program. The gentleman from New York (Mr. RICHMOND) now comes forward and says that if $100 million is good, then $300 million will be three times as good. But it does not work that way.

I urge that the amendment be defeated.

Mr. RICHMOND. Mr. Chairman, the amendment I am offering today to the housing authorization bill is to increase the available funds for the section 312 rehabilitation loan program.

The members of the House Committee on Banking, Currency and Housing were wise enough in their deliberations to extend this program another year despite the administration's attempts to eliminate the program.

Over the past several years this program, which provides loans at 3 percent interest to homeowners and apartment dwellers for rehabilitation has been seriously hampered by deferrals, rescissions, and impoundments. Congress has fortunately been successful in thwarting these delaying actions.

This year, the administration has requested no funds on the grounds that section 312 should be absorbed under the community development block grant program.

Yet, the demand and need for rehabilitation money in New York City and the rest of the country demonstrate that it would be foolish to mix section 312 funding with the rest of the housing programs.

Obviously, the President is completely insensitive to this need, not only in our urban areas but also in the Nation's rural areas. The section 312 rehabilitation loan program is popular among rural residents because it enables people to repair their homes for a small loan. It is popular in urban areas like New York City because housing is desperately needed, and many areas it gives communities the opportunity to work together to improve their living conditions.

New York City is desperate for housing money and is especially desperate for rehabilitation money. The figures are available at HUD and speak for themselves.

There are presently in New York City 1,017,000 apartments available for rehabilitation. At least 420,000 families live in apartments that are overcrowded and deteriorating. Well over 750,000 families in our city contribute more than 25 percent of their incomes to rent.

With the median cost of $42,000 for the purchase of new home, most of the residents in our city cannot afford to plan a new home in their future. They must, and are very willing and able with some assistance to fix up their present homes.

Rehabilitation of apartments and homes is done out of a sense of pride, and a desire to maintain and preserve our communities.

Believe me, it is frightening for people in the city and in my district to observe the growing number of abandoned buildings all around them.

The rate of abandonment in New York is presently 30,000 to 50,000 units per year. These buildings are a blight on our neighborhoods, and remove much needed revenues off the city's tax rolls.

It is easier and wiser to invest a few tax dollars now to prevent a house or apartment from totally deteriorating than it is to try a massive program of construction when these buildings are no longer salvageable. It takes 10 times the original cost of an abandoned building to replace that building.

It is estimated that there are many apartments in New York which would require only $3,000 to be repaired and maintained.

Apartment dwellers in New York, and in the 14th District in Brooklyn have been forming nonprofit housing groups to manage their own buildings.

These coalitions of tenants are vital to our city in many ways. They are composed of people who have a vested interest in keeping their communities alive. And they bring together the kind of resources in the community necessary for rehabilitation of apartments and multifamily dwellings.

My district is fortunate enough to have many of these groups working in the area to stave off future deterioration.

These efforts cannot be met by responses to cut off funds. The Secretary of HUD, Ms. Carla Hills, must insure that the Federal Government's efforts are consistent with the present serious need. The administrative problems which delay the allocation of funds for the section 312 program must be done away with, and the money must be available to meet the demands of our cities and rural areas alike.

It is our job in Congress to insure that the 312 revolving fund is substantial enough to meet the need.

Rehabilitation is the most important and practical response to this Nation's housing problem. Section 312 is a viable and proven vehicle to insure that our neighborhoods, rural and urban, will not go neglected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RICHMOND).

The question was taken; and on a division (demanded by Mr. RICHMOND), there were—ayes 25, noes 70.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO

Mr. BADILLO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO: On page 37, line 13, add the following new section:

"STUDY OF HOUSING NEEDS IN METROPOLITAN CITIES"

"SEC. 25 (a) The Secretary of Housing and Urban Development shall conduct a study for the purpose of assessing the housing needs of individuals and families, especially low and moderate income individuals and families, who reside in metropolitan cities. In making such a study, the Secretary shall give detailed examination to assessing the housing needs in the cities and to determining the best manner in which such needs may be met through Federal housing programs.

"(b) The Secretary shall submit to both Houses of Congress, no later than 12 months after the date of enactment of this Act, a preliminary report of the Secretary's findings and conclusions made as a result of the study described in subsection (a). No later than 18 months after the date of enactment of this Act, the Secretary shall submit to both Houses of Congress a final report containing such findings and conclusions."

Mr. BADILLO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, in view of the fact that it was published in the CONGRESSIONAL RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BADILLO. Mr. Chairman, I will support this bill as I have in the past because it is useful to certain areas of the country. But this bill does absolutely nothing for the major cities of the country, particularly those in the Northeast.

My amendment calls upon the Secretary of HUD to conduct a study of existing housing needs in relation to existing housing programs to see if we can develop a program that will realistically address itself to the problem of the urban centers. For the past few years I have been calling upon the subcommittee to do exactly this. In October 1974, I said that I hoped the Committee on Banking, Currency and Housing would take this question up after the election. They promised they would.

Last year, in 1975, I was promised again that this matter would be taken up. Now, the chairman says that it is being considered for hearings. It appears that everyone in this country is aware of the housing disaster in the major cities—except this particular committee.

The fact is that none of the existing programs either apply or work in the major cities. If the Members will read the bill that we are voting on today, they will note that all of the programs have a mortgage limitation of $25,000 or $29,000 per unit. That is fine for the Midwest. That is fine for the Sun Belt. But it does not help at all in the Northeastern cities. For example, in New York today, low-income housing costs $45,000 per unit. Beyond that, the section 8 program cannot be used in a city like New York because private capital will no longer invest in housing. The city, as the Members know, is bankrupt and only survives because of the help Congress is providing. And the State cannot make up the difference because it has no money. Therefore, it is clear that none of the programs that are presently on the books can be any help at all.

I cannot tell my colleagues what programs we should have now. That is why we need to have a study conducted which will be made available to all the Members of Congress so we can begin to develop a realistic program, so that we can have an intelligent debate on the kind of program that needs to be established.

It is clear that after all these years of waiting, we must do something, we must take constructive action. And that is why I am offering this amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by my colleague from New York (Mr. BADILLO) which authorizes the Secretary of HUD to undertake a study of the housing needs of individuals and families who reside in metropolitan cities and to determine the best manner in which these needs can be met by our Federal housing program.

The need for such a study is obvious. An examination of the housing authorization bill before us which contains many important programs, shows that few if any of these will meet the urgent housing needs of our cities. Although I shall support H.R. 12945, I am disappointed that urban housing problems have not been addressed and I hope that this study will insure that there will be sufficient documentation of these problems and suggestions of alternative solutions.

In New York City, for example, 30,000 apartments are lost every year due to fire, demolition, and abandonment. Almost 6,000 residences have been declared unsafe by the building department, and an estimated 420,000 families rent substandard housing.

Let us see how H.R. 12945 meets these needs. New York City estimates that 1,414,990 families are eligible for section 8 housing assistance. Yet the private sector will not invest in new construction in the city and the city does not have sufficient funds to go out and build the housing itself and then qualify for section 8. New York will not be able to look to section 8 for new housing construction.

There are other problems for New York City and other urban areas with the section 235 program and the Home Owners Mortgage Loan Corporation. The mortgage limits under section 235 are $25,000 per house and $29,000 per condominium. Yet in New York low-income housing costs $45,000 per unit to build. The new Home Owner's Mortgage Loan Corporation limits loans per unit to $30,000.

I hope these programs will assist low- and middle-income individuals and families to secure new housing in other parts of the country, because they simply are not designed to assist the homeowners and apartment dwellers of our Nation's cities.

I urge my colleagues to support this amendment so that next year we can address the housing needs of our central cities in addition to those of the suburban and rural areas of our Nation.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment. The last thing that we really need is continuing new studies with respect to the housing problems of this country. If there is one thing that we know quite a lot about, it is what those housing problems are. Why do I say that? Again, I am going back to the 1974 Housing and Community Development Act. That provided that each community develop a profile of its housing needs so that what we have is not just a portfolio or a catalog of the housing needs of the Midwest, but we have them from all over the country. This we know something about.

As far as making use of the data, which, incidentally, is expanded upon by a yearly census that is taken, what we have to do, Mr. Chairman, is to make use of this in the way of formulating policy. The amendment does not go to that. The fact is that the administration in its state of the Union message does indicate what it expects in the way of housing policy for the following year, and the Congress responds on its own initiative.

So I would urge, Mr. Chairman, that the amendment be soundly defeated.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, the minority objects to this amendment. As the gentleman from Ohio has said, the studies can go on and on. But I think it has been clearly pointed out that in the last month we have had a new chairman of this subcommittee, the gentleman from Ohio. I can assure the gentleman from New York that the gentleman can take the word of the gentleman from Ohio and, if there are any statistics the gentleman from New York needs, I am sure he can get them.

Mr. BADILLO. Mr. Chairman, if the gentleman will yield, I want to thank the gentleman for his assurance and I hope next year we can do better.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO).

The amendment was rejected.

Mr. STOKES. Mr. Chairman, on February 26, 1976, I introduced legislation (H.R. 12172) to indefinitely extend the time period during which FHA insured homeowners could apply for compensation for defects under the 518(b) payback program. Since the introduction of that legislation 2 months ago, 55 of my colleagues have shown their support for this legislation by cosponsoring H.R. 12172.

Additionally, I have received support from the following housing organizations: the Oakland Training Center in Oakland, Calif.; the Central Seattle Committee in Seattle, Wash.; the Catholic Housing Service, Inc., in Kansas City, Kans.; the Housing Information Center in St. Louis, Mo.; the Housing Action Coalition, in Rockford, Ill.; the Human Action Community Organization in Harvey, Ill.; the Metropolitan Area Housing Alliance—MAHA—in Chicago, Ill.; the Citizens Coalition in Pontiac, Mich.; the Saginaw United Neighbors in Action in Saginaw, Mich.; the North Toledo Area Association in Toledo, Ohio; the Buckeye Woodland Community Congress in Cleveland, Ohio; the Citizens Action Team in East Cleveland, Ohio; the Coalition of Neighborhoods in Cincinnati, Ohio; the Morris Heights Improvement Association in Bronx, N.Y.; the Corn Hill People United in Utica, N.Y.; the Council of Community Organizations in Philadelphia, Pa.; the Wilmington United Neighbors in Wilmington, Del.; the People Acting Through Community Effort in Providence, R.I.; the South East Community Organization in Baltimore, Md.; the Dorchester Community Action Council in Boston, Mass.; and the Massachusetts Fair Share in Springfield, Mass.

As previously mentioned, the effect of H.R. 12172 would be to indefinitely extend the time period during which FHA insured homeowners could apply for compensation for repairing structural defects under section 518(b) of the National Housing Act. 518(b) homeowners were required to apply for reimbursement prior to the March 22, 1976, termination of the program.

Since the last extension of the program in July of 1975, 68,000 additional applications have been received by FHA. While some 76 percent of these have been processed, only 9,013 or 13 percent have been determined to be valid claims, an alarmingly low payback rate. Indeed to date, HUD has expended only $7.2 million for reimbursement. Similarly, when it is taken into consideration that there were over 1,800,000 FHA insured loans from August 1, 1968, to January 1, 1973, the defect coverage period the actual number of applications has also been alarmingly low.

The reasons are clear, the 518(b) program has been fraught with widespread delays, faulty inspections, invalid claim rejections, administrative intimidation, and lack of adequate notice to eligible homeowners. Concerned citizens groups across the country have protested the lack of responsiveness on the part of the FHA. In the city of Cleveland, the Buckeye Woodland Community Congress, an active citizens' group examined the files of the local FHA payback officer and determined that over 6,000 people had failed to file their claims. Most of these 6,000 individuals simply had no notice of their eligibility.

However, this is characteristic of the program. The information process has been inadequate. People have simply not been informed. For those who have been informed the FHA has employed other means to stifle participation. According to the April 8, 1976, testimony of Congressmen BRODHEAD, CONYERS, DIGGS, and DINGELL before the HUD/Independent Agencies Appropriations Subcommittee:

> HUD has interpreted 518(b) provisions so narrowly that only one-tenth of the Detroit area applicants were accepted.

By indefinitely extending the time period during which FHA-insured homeowners could apply for reimbursement, the thousands of persons presently eligible for this program would not lose the opportunity to have decent housing because they were uninformed or intimidated. The long-range effect would be to lower the national rate of foreclosures.

Also by making the 518(b) program permanent, it will become more than an ongoing feature of FHA insurance for selected homes; namely, those purchased between 1968 and 1973. By making it a permanent feature, equity for all FHA-insured homebuyers would be assured.

For it is hardly equitable that someone who bought a home in December 1972 should be covered while someone who purchased an FHA-insured home several months later would not be covered. If FHA has corrected many of its appraisal and inspection problems which originally led to the enactment of the section 518(b) program, then the FHA should be faced with very limited claims for homes purchased in the future. Thus, the administrative cost requirements of the program would be reduced.

The goal of the second proposal of my bill would further lower the national rate of foreclosures by making the measure retroactive to the inception of the loan insurance program. Recipients of the 9,316,640 loans insured by the FHA, with the exception of matured loans, would be eligible for reimbursement upon proper proof of claims. When it is realized that HUD currently spends some $408 million per year on foreclosures, and a large percentage of these foreclosures are on structures inspected and insured by the FHA, we are saving money by retroactively extending the 518(b) payback program.

Mr. Chairman, I am of the firm belief that when the 518(b) payback program is administered properly it can be a successful program. For there are examples of success. In my 21st District of Ohio several people have received reimbursements under the 518(b) program. For example: Mrs. Pat West received a check for $3,100, Mrs. Grace Crawford received a check for $1,100, and Mrs. Sarah Turner was given the option by HUD–FHA to purchase an FHA-repossessed home because the repairs on her current home exceeded $12,000. I am sure that the obvious potential which the 518(b) program has for remedying this Nation's housing woes was what led the Senate to vote that 518(b) become a permanent program in S. 3295, the Housing Amendments of 1976.

Mr. Chairman, it is my hope that when this bill goes to conference that the subcommittee will accept this amendment. I sincerely believe that the inclusion of the 518(b) program in this major housing legislation represents a great service to this Nation.

Mr. OTTINGER. Mr. Chairman, no other sector of our economy has been more adversely affected by the current recession than the housing industry. Recent Commerce Department figures show that the median price of a new, single-family dwelling in the United States in March of this year was $43,700. Fortune magazine noted in its April edition that a survey conducted at the end of 1975 showed that only 4 out of 10 U.S. families could afford to buy a house in the median price range. This compares with 7 out of 10 who could afford a median priced home in 1957.

Further, the 1974 Annual Housing Survey showed that some 42 percent of nonsubsidized renters in the country paid more than 25 percent of their income for housing needs, and 25 percent of those paid more than 30 percent of income. This is a strong indication of the way in which the crisis in the housing industry has impacted on renters, who comprise a substantial portion of our population. Clearly, the Congress must assume the responsibility for insuring more direct Federal assistance to low- and middle-income Americans so that we can achieve the goal of providing a decent dwelling for every American family at a reasonable price.

The bill that is before us today would extend and amend existing housing and community development programs, as well as create a new community development program and a new mortgage assistance program for moderate-income persons. Authorizations would total some $2 billion for fiscal 1976, $5.36 billion for fiscal 1977, $2.97 billion each in fiscal 1978 and 1979, and $2.06 billion for fiscal 1980. Major features of the legislation include:

First. Authorization of an additional $790 million in contract authority for fiscal 1977 for public housing and rent subsidy programs. At least 50 percent of appropriations would be required to be used to assist newly constructed or substantially rehabilitated units.

Second. Extension of authority for the section 235 homeownership assistance program to September 30, 1977, with increases in the maximum mortgage limits under the program. The income limitation for family participation in the program would also be increased from 80 percent of median income to 95 percent of median income.

Third. Creation of a new program of supplementary community development block grants to States, metropolitan cities, and urban counties with unemployment rates exceeding 8 percent.

Fourth. Establishment of a new direct housing loan program to be administered by a Home Owners Mortgage Loan Corporation, headed by the Commissioner of FHA and eight individuals appointed by the President and subject to Senate confirmation. Mortgage loans of up to $30,000 for 30 years at interest rates not to exceed 6.5 per cent would be made available to those with an income not more than 100 per cent of the median income of the area in which they live.

Fifth. Making permanent the exemption which permits federally related loans to be made, extended, renewed, or increased in flood hazard communities which do not participate in the flood insurance program.

Sixth. Reallocation of some $200 million in community development block grant authorizations for fiscal 1977 to provide additional funds to meet hold harmless commitments and to provide adequate funding for smaller communities in metropolitan areas.

Seventh. Increases in the authorizations for the section 202 direct loan program for housing for the elderly. These increases would provide financing for the construction of approximately 35,000 units a year for the elderly and the handicapped.

Eighth. Specification that housing subsidies are not to be considered as unearned income in determining the eligibility for and amount of supplemental security income payments.

Ninth. Extension of the section 312 rehabilitation loan program until the end of fiscal 1977 and authorization of $100 million for that fiscal year.

Tenth. Extension of the Emergency Homeowners Relief Act and the Emergency Home Purchase Assistance Act through the end of fiscal 1977.

With respect to the Emergency Homeowners Relief Act, I would like to emphasize that I think the regulations HUD promulgated pursuant to the passage of this act last year constitute a deliberate attempt to thwart the will of Congress.

Specifically, the Department established a triggering mechanism which would only allow assistance under the act to begin when the national foreclosure rate on home mortgages exceeds 1.2 per cent for a period of at least 60 days. The Department set this arbitrary rate knowing that the figure would not likely be reached and that therefore no funds would have to be expended for this worthwhile program. It has been rumored that an amendment to mandate implementation of this program will be offered on the floor, and I will certainly support it if it is offered. I believe that similar assistance to tenants who cannot meet rental payments due to unemployment should be granted and have introduced legislation to accomplish this.

Mr. Chairman, last month the Department of Labor reported that the unemployment rate in the construction industry was 15.3 percent. That is more than double the rate for the labor force as a whole. The efforts we are making to provide a much-needed boost to this important sector will have a two-pronged effect: They will enable more American families to obtain adequate housing at reasonable prices and they will also help to alleviate this severe unemployment rate by bringing about the creation of new jobs in the construction industry.

As with so many worthwhile programs the 94th Congress has sought to implement or expand, the housing authorization faces a threatened Presidential veto. The Secretary of Housing and Urban Development earlier expressed her intention to recommend a veto of a similar bill that has already passed the Senate. It is obvious that the present administration intends to continue its policy of allowing our economy to go unattended while low- and middle-income Americans suffer the consequences.

The bill we have before us is a good bill. Though much more could be done to end the depression in the housing industry, the Banking, Currency and Housing Committee has brought us a reasonable proposal that contains the means for aiding homebuilding within existing budget constraints. I urge an overwhelming vote in favor of this legislation in order that the administration might know that there is determination in the Congress to take action to aid the severely depressed housing industry and construction workers now.

The unemployment rate in some trades within the construction industry in Westchester County, N.Y., where my congressional district is located, now exceeds 50 percent. Without the type of aid this bill provides, it is unlikely that that figure can be lowered significantly in the foreseeable future. The issues at stake are both housing and jobs.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 12945, the Housing Authorization Act of 1976.

I am particularly pleased by the two new programs that this bill authorizes. Section 19 would create a new supplemental community development program to make grants to States, metropolitan cities, and urban counties with unemployment rates exceeding 8 percent.

Second. Section 22 of the bill establishes a direct housing loan program administered by the Home Owners Mortgage Loan Corporation. The Corporation would make mortgage loans of up to $30,000 for 30 years at an interest rate of 6.5 percent or less for single-family dwellings. Families eligible to participate in the program would be those having an income not exceeding 10 percent of the median income of the area in which they live. To finance the loans, the bill would create an off-budget revolving Home Owners Mortgage Loan Fund and would authorize $2 billion per year for 5 years and such sums as may be necessary thereafter to assure that the total received in the Fund each fiscal year—including repayments and other receipts—is at least $2 billion.

Both of these provisions, as well as the other benefits of H.R. 12945, would greatly benefit the area I represent. We in the South Bay area of southern California are experiencing high rates of unemployment—higher than the national average—and without an adequate job, sources of credit are often unwilling to finance a loan. Alternatively, the family may not be able to afford the interest rates, and will not apply for a loan.

Mr. Chairman, as the bill that provides authorizations for the major assisted housing programs for fiscal year 1977, I am urging an "aye" vote on H.R. 12945, the Housing Authorization Act of 1976.

Mr. DON H. CLAUSEN. Mr. Chairman, last month we had an almost 400,000 unit increase in the number of housing starts from last year—a 45 percent increase. Yet we still have a critical housing shortage in many parts of the country.

As I see it we here in Congress can attack this problem from two fronts. First we can offer realistic programs of Government support as embodied in the housing authorization we are considering here today. And second we can free up more dollars for private development by reducing Government spending and bringing our budget back into reason to take the pressure off the private money market.

This housing authorization has received the most critical examination by both sides of the aisle these past 2 days. It is a product of thoughtful and diligent work and I would like to commend my colleagues for their efforts. This measure will go a long way in providing new Housing units throughout the country and will provide a shot in the arm to our housing market—which is just beginning to pull out of its recession. It is a careful combination of programs to reach those with inadequate housing through new housing starts, substantial rehabilitation, and rent subsidies; to reach those who are struggling to afford the high costs of purchasing a home on their own; to reach many of our homeless elderly and handicapped through the construction of new housing units; and to reach areas participating in the highly successful community block grant program.

With this in mind I would like to add that I am also concerned about the effect of governmental borrowing on the housing market. In 1971 the Federal Government borrowed 35 percent of all money available for credit in the United States. The estimated percentage for 1976 is 72 percent. This misuse of the credit resources of the Federal Government has forced an increase in interest rates at the same time it has reduced the amount available for mortgage loans.

We must bring our Federal deficit spending into check. Each time the Federal Government borrows in the private money market, funds are reduced for Housing loans by the private sector. Our constituents are met with higher interest rates, less available loan money, and the continuation of a spiraling inflation. It is a necessity to reverse this trend to assure a stable and adequate supply of housing funds at reasonable interest rates in the years to come.

I firmly believe, Mr. Chairman, that through the application of both of these efforts—the housing authorization programs that are realistic and attainable and reduce deficit spending—we can come closer to the goal of adequate housing for all.

Mr. LUNDINE. Mr. Chairman, I strongly support section 16 of H.R. 12945, the Housing Authorization Act of 1976, which would increase the capacity for section 202 housing for the elderly and the handicapped. I do so for the following reasons:

First of all: More housing for the elderly is badly needed in small cities and rural areas, as well as in urban areas. Coming as I do, from recent direct involvement with local government, I am acutely aware of problems at the local level.

Second. My personal experience as a local official has proved to me that better housing opportunities for the elderly, through the section 202 program, can be part of the total housing strategy. According to the 1970 census, 27 percent of all U.S. households were elderly households—people over 60. Often these people are living in homes they cannot keep up. They are burdened with too much cost and too much work.

When they have an opportunity to sell their homes and move to more suitable housing, that in turn creates housing opportunities for others. Often a young family of four or more will move into a house formerly occupied by an elderly couple or an elderly person living alone. The young family, by their sweat as well as their money, generally improve that housing. The ripple benefits of providing a decent housing alternative for older people are many.

Third. The increased funding provided for the 202 program under this section, while significant, is not a budget-buster. The $2.5 billion increase which is authorized over the next 3 fiscal years would go to augment the Housing for the Elderly or Handicapped Fund, which provides loans for direct construction and long-term financing for housing for the handicapped and elderly. This is an "off-budget" item and therefore is fiscally responsible.

A particularly good example of local initiative in starting up an elderly housing facility exists as part of an Ecumenical Campus in Jamestown. Several religious, private and community groups have taken part over the past 4 or 5 years in planning the total complex, which will include independent units as well as complete nursing and health-related facilities. These local groups have contributed much time, effort and money in developing this needed facility. But they have gone as far as they can without Federal assistance.

In the current fiscal year, funding for the important 202 program has been woefully inadequate. Out of 1500 applicants for Federal assistance for more than 230,000 units of housing for the elderly and handicapped, only 136—for a total of 12,600 housing units—will receive funding. That is only 5 percent of the number of housing units requested.

Of those 136 successful applicants—and I wish them all well—none happens to be in the communities I represent. Because I have come so recently from an area where I was directly involved in local government, I know both the urgency and the merit of the project-requests which had to be turned down because of insufficient funds. Among these are the Bethany Nursing Home and Health-Related Facility in Horseheads, N.Y.; the National Council of Senior Citizens and Steuben County Economic Opportunity Program in Bath, N.Y.; and the Olean Senior Citizens project in Olean, N.Y.

Let me emphasize, decent housing for the elderly has particular urgency. The last national census figures showed that the median income of all U.S. families over 65 was only about half the median income of all American families.

The bill before us will provide enough funding to build an estimated 35,000 housing units a year for elderly and handicapped people. New housing opportunities for older people will free up units, which in turn can provide new housing opportunities for younger families. Resolving the housing problems of the elderly will not only help a large and needy segment of our population, but will contribute to the overall housing needs of the country.

Mr. PICKLE. Mr. Chairman, at the very end of the 93d session, the Congress passed in great haste, the Flood Disaster Protection Act of 1973. Spurred on by the colossal tragedies which occurred during the previous couple of years in the Pennsylvania and Dakotas areas, I am afraid that we acted with lofty goals but somewhat haphazard methodology. As a result, the Congress created a very difficult management problem for the Department of Housing and Urban Development and in some instances I believe that HUD has done less than well in administering the program.

Fortunately, some of the House's leaders in this area, including the late distinguished chairman, William Barrett and his successor, as the Housing Subcommittee chairman, Lud Ashley, became cognizant of some of these difficulties. Because of this awareness, the House has before it today a chance to correct some of the inequities in the flood insurance program.

The housing authorization, H.R. 12945, contains a provision allowing residential homeowners to use federally regulated thrift institutions in selling or refinancing their homes, as long as the building was completed and occupied prior to March 1, 1976.

I think that this is a good first step in the right direction. This indicates to me that there is a realization, that although the aims of the original legislation were quite laudable, there is still much room for improvement.

Mrs. HECKLER of Massachusetts. Mr. Chairman, I supported the amendment of the gentleman from New Jersey (Mr. Rinaldo) and would like to commend him for bringing to the attention of this House a very important subject.

Senior citizens, many of whom live on fixed incomes, are among the hardest hit by inflation. Although the Congress has attempted to alleviate this situation by mandating yearly increases in social security benefits, these increases are often gobbled up immediately by corresponding rises in the cost of rent, food, and other necessities.

The amendment we are now considering would, to a great extent, correct this situation. It would simply state that no cost-of-living increase occurring after May 1976 could be used in the computation of income used to determine the rent of a social security recipient.

When a similar amendment was considered by the House in June of 1974, I voted in favor of its adoption, and it was overwhelmingly adopted.

I congratulate my colleague and good friend from New Jersey in offering this amendment, and I urge my colleagues to join me in voting for its adoption.

Mr. KOCH. Mr. Chairman, I rise in support of the Housing Authorization Act of 1976. This legislation continues the national effort to meet the critical needs of the 15 million low- and middle-income households now without adequate housing in America. The bill provides vitally needed additional authorizations for rehabilitation loans, comprehensive planning, and elderly housing, including a provision that prohibits the consideration of housing subsidies as unearned income in determining eligibility for, and the amount of, SSI payments.

Further, the bill provides an additional $790 million in contract authority for fiscal year 1977 for public housing and section 8 programs. Of this amount, at least $140 million would have been set aside for the development or acquisition of traditional public housing projects and at least 50 percent of the section 8 allocation would have been used for new construction or substantial rehabilitation rather than for existing housing. Regrettably, these latter two critical improvements were defeated by the House today.

I would like to draw attention to two amendments to the Senate version of this legislation concerning section 8. The amendments were introduced in the other body by the distinguished Senator from New York, Senator Jacob Javits.

The first of these would extend the benefits of public and section 8 housing to single individuals who are less than 62 years old. As the law now stands, low income, subsidized housing is available to single persons only if they are aged, disabled, or displaced. Yet census figures show that over 17 percent of the entire U.S. population is composed of single person households, whose median income in 1969 was less than $4,000.

Under the section 8 housing program, a single person may qualify if his or her income is less than $7,150 per year, yet because of the restrictions now in the law, many hard-working, stable single people who are under age 62 cannot qualify. Because the welfare laws disfavor single people, who are considered able to support themselves, few single people constitute part of the welfare poor. They are a working, stable tenant group that would help make public and subsidized housing a success.

Because of their present ineligibility for subsidized, low-rent housing, low-income singles are forced to continue living in substandard housing. And, if they must relocate because of private redevelopment or deteriorating living conditions, they are excluded from federally subsidized housing programs unless they are displaced by Government action.

Another aspect of this problem is that a number of housing projects already in existence have efficiency and one bedroom apartments that are no longer marketable without section 8 help, because of high building costs. Often, too, they are unavailable to elderly and handicapped single people due to design or location. In an increasing number of instances, these units have become unavailable because of rent increases which place already inhabited units out of the price range of the lower- and lower-middle-income people who need them. They are obviously suitable for single people working as nurses, office worker, et cetera, but it is precisely this group that is ineligible for section 8 subsidies.

The amendment proposed by Senator Javits is a fair and necessary way to eliminate these inequities and include this substantial and increasing segment of the Nation's population in housing legislation. I have communicated my support for this type of provision to the distinguished chairman of the Housing and Community Development Subcommittee, Representative Thomas L. Ashley, and he has indicated that he is sympathetic to the Senate point of view on this issue, for which I am grateful.

The second amendment would increase FHA multi-family mortgage limits on efficiency—zero bedroom—and single bedroom units. These units are expensive to build and to maintain because a greater proportion of the space is devoted to costly bathrooms and kitchens. Yet the mortgage limits for these units has remained at artificially low levels, while there have been greater increases in mortgage limits for larger apartments. With the increasing number of single occupancy units needed by both older and younger individuals, a corresponding increase is needed in the mortgage limits on zero and one bedroom housing units.

Mr. Chairman, it is my understanding that these amendments will be addressed by the conference committee which will consider the Housing Authorization Act. I wish to thank my distinguished colleague from Ohio, Congressman Ashley, who has been encouraging in his statements on the matter. Again, the amendments are critical to redressing inequities in the current housing law, and I urge that the conference committee members agree to adopt them.

Mr. LEGGETT. Mr. Chairman, the bill before us, H.R. 12945, provides for the continuation of a number of key housing and community development programs, as well as proposing a number of procedural changes in these programs. In addition, it proposes creation of two important new programs, one for community development block grants in areas of high unemployment and the other for direct mortgage loans to moderate-income families. Since time does not permit full coverage of this complex bill, permit me to dwell on these two proposals, which are of particular interest to me.

Section 19 would provide an augmentation of a major element of the Democratic public employment program of 1975—community development block grants. It would authorize grants, in addition to the assistance provided under title I of the Housing and Community Development Act of 1974, to metropolitan cities, urban counties, and States, acting for smaller localities, to finance community development activities which would create or stimulate employment. The program would be concentrated in areas with unemployment rates above 8 percent.

Funds would be authorized on a quarterly basis at a rate of $15 million for each tenth of a percent that the seasonally adjusted national unemployment rate exceeded 6 percent in the previous quarter. The Congressional Budget Office estimates that budget authority totaling about $1.2 billion would be authorized under this section through the end of March 1978, when the program would lapse.

The section directs the Secretary of HUD to allocate 75 percent of the funds available to metropolitan cities and urban counties with unemployment rates above 8 percent. The rest of the money would go, via the States, to smaller localities with high unemployment and fiscal problems resulting from adverse economic conditions. Recipients would be required to use 75 percent of the funds received on activities eligible under the community development block grant program, while the remainder could be used for other activities consistent with the objectives of the bill.

Mr. Chairman, I support this extension of a needed program of public employment. The Nation's unemployment rate was still hovering around 7.5 percent according to the April data. This is the type of program we will need to meet the fiscal and economic goals which we recently adopted in the budget resolution, which calls for reducing that rate to 7 percent by the end of this year and 6 percent by the end of 1977.

Section 22 of H.R. 12945 also would initiate an important new program. It is predicated on a congressional finding that our many Government programs to assure the American family good housing at affordable prices are incapable of fulfilling their purposes during the recurring periods of tight money and high interest rates. The result is that many credit-worthy but moderate-income American families are unable to obtain in the private market home mortgage financing, or only at unconscionable interest rates. What they need is not another program of subsidies, but access to mortgages at reasonable rates.

The bill would, accordingly, establish a new program of direct housing loans administered by an independent Federal agency, the Home Owners Mortgage Loan Corporation. This agency would be authorized to extend loans of up to $30,000, at interest rates of 6½ percent or less, for the purchase of single-family dwellings to be occupied by moderate-income families. This section would also authorize appropriation of $2 billion per year for 5 years to a Home Owners Mortgage Loan Fund, from which the loans would be disbursed.

Mr. Chairman, I fully support the committee's findings concerning the impact of tight money markets on the availability of home mortgages. And I find the purposes of the proposed new program to be entirely worthwhile. There is one part of section 22, however, which gives me cause for concern.

Section 22(f)(5) would make this an "off-budget" program, providing that the receipts and disbursements of the loan fund would not be included in budgetary totals and would be exempt from any limitation on annual expenditure or net lending. I find this provision to be inconsistent with the spirit of the budget control act. One of our major purposes in passing that bill was to bring the full range of Federal spending under our overall budgetary purview. My view is that all Federal activities, or as many as possible, should compete for access to public resources in the annual budget control process. And we should create new, off-budget, agencies and programs only for the most compelling of reasons.

The justification for treating the mortgage program this way is that it is not a spending program, that it represents investments in homeownership which will be repaid with interest. I do not find this argument persuasive. Such a large loan program is bound to have a major impact on Federal demands for credit and the cost of Federal debt. We should not attempt to conceal these effects.

Mr. Chairman, our Budget Committee yesterday instructed Chairman Adams to offer a motion to strike the pertinent subsection of the bill. I support that action because to do otherwise would be inconsistent with our responsibilities. I urge my colleagues also to support this motion.

The CHAIRMAN. The time of 7 o'clock having come upon us, all time has expired. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. McFall) having assumed the Chair, Mr. Charles H. Wilson of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12945) to amend and extend laws relating to housing and community development, pursuant to House Resolution 1214, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ASHLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 332, noes 27, not voting 72, as follows:

[Roll No. 310]

AYES—332

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Biester
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
Delaney
Dellums
Dent
Derrick
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Calif.
Eilberg
Emery
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Green
Gude
Hagedorn
Haley
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Reuss
Richmond
Rinaldo
Robinson
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOES—27

Archer
Armstrong
Ashbrook
Bauman
Burleson, Tex.
Cochran
Collins, Tex.
Crane
Evans, Ind.
Grassley
Hammerschmidt
Hansen
McDonald
Milford
Miller, Ohio
Montgomery
Mottl
Paul
Poage
Roberts
Rousselot
Satterfield
Shuster
Steiger, Ariz.
Sullivan
Symms
Teague

NOT VOTING—72

Andrews, N. Dak.
Annunzio
Bell
Bergland
Bingham
Boggs
Brooks
Brown, Ohio
Burton, Phillip
Butler
Carter
Cederberg
Clawson, Del
Conlan
Danielson
de la Garza
Derwinski
Devine
Edgar
Edwards, Ala.
Erlenborn
Fisher
Giaimo
Gibbons
Guyer
Hamilton
Harsha
Hébert
Hicks
Hinshaw
Hutchinson
Hyde
Johnson, Calif.
Jones, Ala.
Karth
Kindness
Landrum
Latta
McCollister
Miller, Calif.
Mills
Morgan
Mosher
Nichols
Nix
O'Neill
Peyser
Rees
Regula
Rhodes
Riegle
Risenhoover
Rodino
Rose
Rostenkowski
Sarbanes
Schneebeli
Stanton, James V.
Steed
Steelman
Stephens
Stuckey
Symington
Thompson
Traxler
Udall
Vanik
Waxman
Weaver
Whitehurst
Wylie
Young, Alaska

The Clerk announced the following pairs:

Mr. Annunzio with Mr. de la Garza.
Mr. O'Neill with Mr. Gibbons.
Mrs. Boggs with Mr. Jones of Alabama.
Mr. Thompson with Mr. Karth.
Mr. Nichols with Mr. Risenhoover.
Mr. Bingham with Mr. Peyser.

Mr. Udall with Mr. Hutchinson.
Mr. Rodino with Mr. Conlan.
Mr. Johnson of California with Mr. Bell.
Mr. Hébert with Mr. Schneebeli.
Mr. Landrum with Mr. Steed.
Mr. Nix with Mr. Mosher.
Mr. Bergland with Mr. Brown of Ohio.
Mr. Brooks with Mr. Latta.
Mr. Waxman with Mr. McCollister.
Mr. Rostenkowski with Mr. Guyer.
Mr. Morgan with Mr. Andrews of North Dakota.
Mr. Giaimo with Mr. Edwards of Alabama.
Mr. Fisher with Mr. Derwinski.
Mr. Danielson with Mr. Butler.
Mr. Phillip Burton with Mr. Sarbanes.
Mr. Hamilton with Mr. Devine.
Mr. Hicks with Mr. Carter.
Mr. Rees with Mr. Harsha.
Mr. Riegle with Mr. Steelman.
Mr. Rose with Mr. Cederberg.
Mr. James V. Stanton with Mr. Stuckey.
Mr. Traxler with Mr. Stephens.
Mr. Weaver with Mr. Del Clawson.
Mr. Edgar with Mr. Kindness.
Mr. Hyde with Mr. Symington.
Mr. Miller of California with Mr. Vanik.
Mr. Regula with Mr. Whitehurst.
Mr. Erlenborn with Mr. Wylie.
Mr. Young of Alaska with Mr. Mills.

Mr. DELANEY changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. McFall). Pursuant to the provisions of House Resolution 1214, the Committee on Banking, Currency, and Housing is discharged from the further consideration of the Senate bill (S. 3295) to extend the authorization for annual contributions under the United States Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. AU COIN

Mr. AuCOIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. AuCoin moves to strike out all after the enacting clause of the Senate bill S. 3295 and to insert in lieu thereof the provisions of H.R. 12945, as passed, as follows:

SHORT TITLE

Section 1. This Act may be cited as the "Housing Authorization Act of 1976".

HOUSING ASSISTANCE AUTHORIZATION

Sec. 2. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary is authorized to enter into contracts for annual contributions aggregating not more than $1,524,000,000 per annum, which limit shall be increased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, and by $850,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts.";

(2) by inserting "and before October 1, 1976," immediately after "July 1, 1974," in the second sentence thereof;

(3) by inserting immediately after "on July 1, 1975," in the fourth sentence thereof the following: "and further increased by not less than $17,000,000 per annum on October 1, 1976".

(b) Section 9(c) of such Act is amended to read as follows:

"(c) There is authorized to be appropriated, for the purpose of annual contributions for the operation of low-income housing projects, not to exceed $575,000,000 for the fiscal year beginning on October 1, 1976.".

COMPREHENSIVE PLANNING AUTHORIZATION

Sec. 3. (a) The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $150,000,000 for the fiscal year 1976" and inserting in lieu "not to exceed $150,000,000 for the fiscal year 1976, and not to exceed $75,000,000 for the fiscal year 1977".

(b) No eligible recipient under section 701 of the Housing Act of 1954 may be excluded from qualifying for funds under such section solely on the basis of participation or nonparticipation under such section prior to fiscal year 1977.

RESEARCH AUTHORIZATION

Sec. 4. (a) Section 501 of the Housing and Urban Development Act of 1970 is amended by striking out the second sentence and inserting in lieu thereof the following: "There is authorized to be appropriated for activities under this title not to exceed $65,000,000 for the fiscal year 1977.".

(b) Section 504(b) of such Act is amended by striking out the first, third and fourth sentences.

(c) Section 502(f) of such Act is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: "and such departments and agencies are hereby authorized to execute such contracts and grants.".

FLOOD INSURANCE AUTHORIZATION

Sec. 5. Section 1376 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection:

"(c) There is authorized to be appropriated for studies under this title not to exceed $100,000,000 for the fiscal year 1977.".

SECTION 235 HOMEOWNERSHIP PROGRAM

Sec. 6. (a) Section 235(m) of the National Housing Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

(b) The last proviso in section 235(b) (2) of such Act is amended by striking out "$21,600", "$25,200", "$25,200", and "$28,800" and inserting in lieu thereof "$25,000", "$29,000", "$29,000", and "$33,000", respectively.

(c) Section 235(i)(3)(B) of such Act is amended by striking out "$21,600", "$25,200", "$25,200", and "$28,800" and inserting in lieu thereof "$25,000", "$29,000", "$29,000", and "$33,000", respectively.

(d) Section 221(d)(2)(A) of such Act is amended—

(1) by striking out "$21,600" and "$25,200" in the matter preceding the first proviso and inserting in lieu thereof "$25,000" and and "$29,000", respectively; and

(2) by striking out "$25,200" and "$28,800" in the second proviso and inserting in lieu thereof "$29,900" and "$33,000", respectively.

(e) Section 235(h)(2) of such Act is amended by striking out "80 per centum" wherever it appears and inserting in lieu thereof "95 per centum".

(f)(1) Section 235(a) of such Act is amended—

(A) by inserting "(1)" immediately after "(a)"; and

(B) by adding at the end thereof the following:

"(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a mobile home consisting of two or more modules and a lot on which such mobile home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower-income of a mobile home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the mobile home and the lot on which such mobile home is or will be situated, but only if insurance under section 2 of this Act covering such loan, advance of credit, or obligation has been granted to such institution.

"(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

"(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying 20 per centum of the mobile homeowner's income; or

"(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the mobile homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed, under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section."

(2) Section 235(e) of such Act is amended by inserting "(a)(2)(B)," immediately before "(c)".

EMERGENCY HOUSING AMENDMENTS

Sec. 7. (a) Section 109(b) of the Emergency Homeowners' Relief Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

(b) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

(c)(1) Section 313(b) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and", and by inserting the following at the end thereof:

"(D) such mortgage involves a principal residence the sales price of which does not exceed $52,000 per family residence or dwelling unit, except that such sales price in Alaska, Hawaii, and Guam may not exceed $68,750.".

(2) The amendment made by paragraph (1) shall apply only with respect to mortgages purchased pursuant to commitments made after the date of the enactment of this Act.

EXPERIMENTAL FINANCING

Sec. 8. Section 245 of the National Housing Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Sec. 9. (a) Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by inserting ", and $200,-

000,000 for the fiscal year 1977, not more than 50 per centum of which amount may be used under section 106(d)(1)," immediately after "1976".

(b) Paragraph (2) of section 105(a) of such Act is amended by inserting immediately after "neighborhood facilities," the following: "centers for the handicapped,".

FLOOD INSURANCE EXEMPTION

SEC. 10. Section 202(b) of the Flood Disaster Protection Act of 1973 is amended by striking out all that follows "shall not apply to" and inserting in lieu thereof the following: "any loan made to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling.".

REHABILITATION LOAN PROGRAM

SEC. 11. (a) Section 312(d) of the Housing Act of 1964 is amended—

(1) by striking out "and not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975" and inserting in lieu thereof "not to exceed $100,000,000 for the fiscal year beginning on July 1, 1975, and not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976"; and

(2) by adding at the end thereof the following new sentence: "The amount of commitments to make loans pursuant to this section entered into after August 22, 1976, shall not exceed amounts approved in appropriation Acts.".

(b) Section 312(h) of such Act is amended by striking out "the close of the two-year period beginning on the date of the enactment of the Housing and Community Development Act of 1974" and inserting in lieu thereof "September 30, 1977".

GENERAL INSURANCE FUND AUTHORIZATION

SEC. 12. Section 519 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(f) There is authorized to be appropriated to cover losses sustained by the General Insurance Fund not to exceed $500,000,000.".

AMENDMENTS TO SECTION 8

SEC. 13. (a) Section 8(c)(4) of the United States Housing Act of 1937 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.".

(b) Section 8(f) of such Act is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(6) the term 'debt service' means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act.".

NEW COMMUNITIES

SEC. 14. Section 107(a)(1) of the Housing and Community Development Act of 1974 is amended by inserting the following immediately before the semicolon at the end thereof: "or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975".

SECTION 202. HOUSING FOR THE ELDERLY

SEC. 15. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking out "$800,000,000" in the first sentence and inserting in lieu thereof $1,475,000,000, which amount shall be increased to $2,287,500,000 on October 1, 1977, and to $3,300,000,000 on October 1, 1978"; and

(2) by inserting the following new sentence at the end thereof: "The Secretary may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section in an aggregate amount exceeding $800,000,000 except as approved in appropriation Acts.".

(b) Section 202(d)(4) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding provisions of this paragraph, the term 'elderly or handicapped families' includes two or more elderly or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to their care or well-being, and the surviving members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the family at the time of his or her death.".

(c) Effective for fiscal years beginning on or after October 1, 1977, Section 202(a)(4)(B) of such Act is amended by striking out subparagraph "(ii)" and redesignating paragraph "(B)(i)" as "(B)".

RURAL HOUSING

SEC. 16. (a) Section 521(a)(1) of the Housing Act of 1949 is amended by striking out "rate determined annually by the Secretary of the Treasury" and inserting in lieu thereof "rate determined by the Secretary of the Treasury upon the request of the Secretary".

(b) Section 520(3)(B) of such Act is amended by inserting "for lower and moderate-income families" immediately after "has a serious lack of mortgage credit".

(c) Section 510 of such Act is amended by redesignating subsections (f) and (g) as subsections (h) and (i), respectively, and by inserting the following new subsections immediately after subsection (e):

"(f) Continue processing as expeditiously as possible applications on hand received prior to the time an area has been determined by the Secretary not to be 'rural' or a 'rural area', as those terms are defined in section 520, and make loans or grants to such applicants who are found to be eligible on the same basis as though the area were still rural;

"(g) Notwithstanding that an area ceases, or has ceased, to be 'rural', in a 'rural area', this title available in connection with transfers and assumptions of property securing any loan made, insured, or held by the Secretary or in connection with any property held by the Secretary under this title on the same basis as though the area were still rural;".

FHA SUPPLEMENTAL LOANS FOR HOSPITALS

SEC. 17. Section 241(a) of the National Housing Act is amended—

(1) by inserting ", hospital," immediately after multifamily project" in the first sentence thereof;

(2) by inserting ", hospital," immediately after "such project" in the material preceding the proviso in the second sentence thereof; and

(3) by inserting ", hospital," immediately before "or a group practice facility" and immediately before "or facility" in the proviso in the second sentence thereof.

SUPPLEMENTARY COMMUNITY DEVELOPMENT BLOCK GRANTS

SEC. 18. Title I of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new section:

"SUPPLEMENTARY COMMUNITY DEVELOPMENT BLOCK GRANTS

"SEC. 119. (a)(1) In addition to the assistance otherwise authorized under this title, the Secretary is authorized to make grants to any State, metropolitan city, or urban county which meets the requirements of this section to finance community development or other activities which are approved by the Secretary as consistent with the objectives of this title. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Any amounts so appropriated shall remain available until expended.

"(2) Notwithstanding any amounts appropriated pursuant to paragraph (1) of this subsection, the total of all grants approved under this section with respect to any calendar quarter shall be equal to the lesser of any amounts so appropriated which remain uncommitted, or $15,000,000 multiplied by the number of one-tenth percentage points by which the rate of seasonally adjusted national unemployment of the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 per centum.

"(b)(1) Of the amount available pursuant to subsection (a) for grants under this section with respect to any calendar quarter, 75 per centum shall be allocated by the Secretary to metropolitan cities and urban counties, except that the Secretary may establish such higher or lower percentage as the Secretary deems appropriate in view of unemployment and related factors in such metropolitan cities and urban counties. From the amount allocated under the preceding sentence with respect to any calandar quarter, the Secretary shall determine, for each metropolitan city and urban county which has a seasonally adjusted unemployment rate in excess of 8 per centum for the most recent calendar quarter which ended three months before the beginning of such calendar quarter, a supplementary grant amount which shall equal an amount which bears the same ratio to the total allocation with respect to the calendar quarter under the preceding sentence as the ratio of (A) the number of unemployed persons in excess of the number of unemployed persons which represent 8 per centum unemployment in such metropolitan city or urban county during the most recent calendar quarter which ended three months before the beginning of such calendar quarter to (B) the number of unemployed persons in excess of the number of unemployed persons which represent 8 per centum unemployment in all such metropolitan cities and urban counties during the same calendar quarter. For purposes of determining grant allocations under this paragraph, the Secretary shall utilize appropriate unemployment data, as determined by the Secretary of Labor and reported to the Secretary.

"(2)(A) After making the allocation with respect to any calendar quarter required pursuant to paragraph (1), the Secretary shall allocate the amount remaining with respect to such calendar quarter for grants under this section to States on behalf of units of general local government in such State, other than metropolitan cities and urban counties therein, which are experiencing high rates of unemployment and serious fiscal problems as defined by the Secretary which are a result of adverse economic conditions. From the amount allocated under the preceding sentence with respect to any calendar quarter, the Secretary shall determine, for each State which is eligible for assistance under the preceding sentence, a grant amount which shall equal an amount which bears the same ratio to the allocation with respect to the calendar quarter under the preceding sentence as the ratio of (i) the number of unemployed persons in excess of the number of unemployed persons which represents 8 per centum unemployment in such State, excluding unemployed persons in metropolitan cities and urban counties therein, during the most recent calendar quarter which ended three months before the beginning of such calendar quarter to (ii) the number of such unemployed persons in excess of the number of unemployed persons which represents 8 per centum unemployment in all such States, excluding unemployed persons in all metropolitan cities and urban counties therein, during the same calendar quarter.

"(B) Any grant allocated to a State under this paragraph shall be used, or distributed by such State for use in or for the benefit of units of general local government, other than metropolitan cities and urban counties therein, which are experiencing high rates of unemployment and serious fiscal problems on a basis consistent with the purpose of this section and criteria thereunder prescribed by the Secretary.

"(C) For purposes of determining grant allocations under this paragraph, the Secretary shall utilize appropriate unemployment data, as determined by the Secretary of Labor and reported to the Secretary, except that, in the event such unemployment data are unavailable for any recipient, the best available unemployment data for such recipient, consistent with criteria determined by the Secretary, shall be utilized.

"(c)(1) Notwithstanding any other provision of this title relating to requirements for contents of applications for assistance, any metropolitan city or urban county which has been allocated supplementary grant assistance under subsection (b)(1) with respect to any calendar quarter shall be entitled to receive the amount of assistance so allocated if it has submitted to the Secretary an application for such quarter as prescribed by the Secretary which—

"(A) outlines the proposed job intensive use or uses of the assistance and the benefits to the community of such use or uses, particularly in terms of accelerating planned projects and the reduction of unemployment through the creation of jobs in the private sector;

"(B) demonstrates that the proposed use or uses is consistent with the recipient's community development program, if any; and

"(C) requests assistance in an amount, which together with other resources that may be available, will be adequate to complete the proposed activity or activities.

"(2) Any application submitted pursuant to subsection (c)(1) by a metropolitan city or urban county receiving asssitance under any section of this title other than this section, shall be deemed approved within thirty days after receipt of such application unless the Secretary shall have informed the applicant within such period of specific reasons for disapproval and the actions necessary to secure approval. Any other application shall be deemed approved within forty-five days after receipt of such application unless the Secretary shall have informed the applicant within such period of specific reasons for disapproval and the actions necessary to secure approval. The Secretary shall approve an application for assistance allocated under this section unless the Secretary determines that the proposed use or uses of such assistance are plainly inappropriate to meeting the purpose of this section, or that the application does not comply with the requirements of this section or proposes activities which are ineligible under this section.

"(3) Any State allocated grant assistance with respect to any calendar quarter under subsection (b)(2) shall be entitled to receive such assistance promptly after complying with such application requirements as the Secretary may prescribe, consistent with requirements applicable under paragraph (1) of this subsection or otherwise deemed appropriate by the Secretary to assure achievement of the purpose of assistance under this section.

"(d) Assistance under this section may be used by the recipient thereof for any activity eligible for assistance under section 105(a) of this title, except that up to 25 per centum of the amount allocated to any recipient with respect to any calendar quarter may be used for such other activity or activities as may be deemed by the Secretary to be consistent with the objectives of this title and assistance under this section, respectively.

"(e) Except where otherwise provided in this section, assistance under this section shall be subject to all of the requirements and provisions of this title except that the Secretary may waive any such requirement or provision which the applicant certifies will adversely affect the efficiency or impact of the funds provided under this section.

"(f) The Secretary is authorized to prescribe such rules and regulations, and to take such steps as may be necessary, to assure the prompt implementation of the assistance program authorized under this section with respect to any calendar quarter, commencing with the calendar quarter beginning on July 1, 1976, with respect to which assistance is allocated hereunder.

"(g) No assistance under this section may be approved by the Secretary with respect to any calendar quarter after the calendar quarter which ends on March 31, 1978.".

ASSISTANCE PAYMENTS

SEC. 19. (a) Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title 5 of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act. This section shall become effective on October 1, 1976.

(b) Notwithstanding any other provision of law, social security benefit increases occurring after May 1976 shall not be considered as income or resources or otherwise taken into account for purposes of determining the amount of the rental which any individual or family is required to pay for his or its accommodations under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this paragraph, the term "social security benefit increases occurring after May 1976" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program occurring after May 1976 pursuant to section 215(i) of such Act, or any other increase in benefits under such program, enacted after May 1976, which constitutes a general benefit increase within the meaning of section 215(i)(3) of such Act.

SECTION 236 AMENDMENTS

SEC. 20. Section 236(f)(2) of the National Housing Act is amended—

(1) by inserting "(including the amount allowed for utilities in the case of a project with separate utility metering)" immediately after "basic rentals" in the first sentence thereof and by striking out everything in such sentence which follows "of their income" and inserting in lieu thereof a period; and

(2) by inserting "(*including the amount* allowed for utilities in the case of a project with separate utility metering)" immediately after "rental payment" in the second sentence thereof and by striking out everything in such sentence which follows "tenant's income" and inserting in lieu thereof a period.

CO-INSURANCE

SEC. 21. (a) Section 244 of the National Housing Act is amended by inserting at the end thereof the following new subsection:

"(g)(1) Where the mortgage is a public housing agency or an insured depository institution and the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

"(2) The second sentence of subsection (d) shall not apply to mortgages made by public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortgages insured under this title.

"(3) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

"(4) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 236(b) of this Act, and (B) a mortgage or advance made by a public housing agency on a project under construction which is not approved for insurance prior to construction.

"(5) As used in this subsection, the term 'public housing agency' has the same meaning as in section 3(6) of the United States Housing Act of 1937, and the term 'insured depository institution' means any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

"(6) Notwithstanding any other provisions of this Act relating to mortgage limits, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made by a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency's procedures and underwriting standards.".

(b) Section 244(a) of such Act is amended by adding the following new sentence at the end thereof: "A mortgage which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.".

MULTIFAMILY MORTGAGE LIMITS

SEC. 22. (a) The National Housing Act is amended by striking out "by not to exceed 75 per centum in any geographical area" where it appears in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section "by not to exceed 50 per centum in any geographical area".

(b(1)(A) Section 207(c)(3) of the National Housing Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", "$30,000", and "$3,250" in the matter preceding the first semicolon and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", "$36,000", and "$3,900", respectively.

(B) Section 207(c)(3) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "'$36,465" in the matter following the first semicolon and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

(2)(A) Section 213(b)(2) of such Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", and "$30,000" in the matter preceding the first proviso and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", and "$36,000", respectively.

(B) Section 213(b)(2) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the first proviso and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

(3)(A) Section 220(d)(3)(B)(iii) of such Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", and "$30,000" in the matter preceding "except" where it first appears and inserting in lieu thereof "*$15,600*", "$21,600", "$25,800", "$31,800", and "$36,000", respectively.

(B) Section 220(d)(3)(B)(iii) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the matter following "except" where it first appears and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

(4) Section 221(d)(3)(ii) of such Act is amended—

(A) by striking out "$11,240", "$15,540", "$18,630", "$23,460", and "$26,570" and inserting in lieu thereof "$13,884", "$18,648", "$22,356", "$28,152", and "$31,884", respectively; and

(B) by striking out "$13,120", "$18,630", "$22,080", "$27,600", and "$32,000" and inserting in lieu thereof "$15,744", "$22,356", "$26,496", "$33,120", and "$38,400", respectively.

(5)(A) Section 221(d)(4)(ii) of such Act is amended by striking out "$12,300", "$17,188", "$20,525", "$24,700", and "$29,038" in the matter preceding the first semicolon and inserting in lieu thereof "$14,760", "$20,625", "$24,630", "$29,640", and "$34,846", respectively.

(B) Section 221(d)(4)(ii) of such Act is further amended by striking out "$13,975", "$20,025", "$24,350", "$31,500", and "$34,578" in the matter following the first semicolon and inserting in lieu thereof "$16,770", "$24,030", "$29,220", "$37,800", and "$41,494", respectively.

(6)(A) Section 231(c)(2) of such Act is amended by striking out "$12,300", "$17,188", "$20,525", "$24,700", and "$29,038" in the matter preceding the first semicolon and inserting in lieu thereof "$14,760", "$20,625", "$24,630", "$29,640", and "$34,846", respectively.

(B) Section 231(c)(2) of such Act is further amended by striking out "$13,975", "$20,025", "$24,350", "$31,500", and "$34,578" in the matter following the first semicolon and inserting in lieu thereof "$16,770", "$24,030", "$29,220", "$37,800", and "$41,494", respectively.

(7)(A) Section 234(e)(3) of such Act is amended by striking out "$13,000", "$18,000", "$21,500", "$26,500", and "$30,000" in the matter preceding the first semicolon and inserting in lieu thereof "$15,600", "$21,600", "$25,800", "$31,800", and "$36,000", respectively.

(B) Section 234(e)(3) of such Act is further amended by striking out "$15,000", "$21,000", "$25,750", "$32,250", and "$36,465" in the matter following the first semicolon and inserting in lieu thereof "$18,000", "$25,200", "$30,900", "$38,700", and "$43,758", respectively.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 23. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting ", and $5,000,000 for each of the fiscal years 1977 and 1978" immediately after "fiscal year 1976".

SEC. 24. (a) Subsection (b) of section 238 of the National Housing Act is amended by—

(1) inserting, immediately after "243," where it appears in the first sentence, the words "and of insurance contracted pursuant to subsection (c) of this section,";

(2) inserting, immediately after "237," where it appears in the third sentence, the words "and pursuant to subsection (c) of this section,";

(3) inserting, immediately after "223(e)" where it appears in the fourth sentence, the words "or subsection (c) of this section"; and

(4) inserting, immediately after "237," where it appears in the fifth sentence, the words "subsection (c) of this section,".

(b) Subsection (c) of section 238 of the National Housing Act is revised to read as follows:

"(c)(1) The Secretary is authorized to utilize the Fund created by this section to carry out a mortgage insurance program to provide housing for military personnel, Federal civilian employees, Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces of the United States, and other residents in any housing market area determined by the Secretary to be militarily impacted where, in the judgment of the Secretary (A) the residual housing requirements for persons not associated with such installation are insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installation and (B) the benefits to be derived from such use outweigh the risk of possible cost to the Government. All assets and liabilities incurred carrying out such a program shall be accounted for separately within such Fund.

"(2) In order to carry out the program authorized under paragraph (1) in any area, the Secretary is authorized to commit to insure, and to insure, a mortgage under section 203, 207, 221, or 222 of this Act, except that, notwithstanding any limitation or other provision of this Act to the contrary, the Secretary is authorized (A) to waive any provision of this Act (including requirements relating to economic soundness), other than section 212, which the Secretary finds to be inconsistent with the objective of this subsection, (B) to establish, in connection with the program authorized under this subsection, such premiums and other charges as may be necessary to assure that all insurance pursuant to such program is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (C) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are, to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits under such sections. In order to assist the Secretary in establishing adequate premiums and other charges and otherwise carrying out this subsection, the Secretary of Defense shall furnish the Secretary such information and certifications as the Secretary finds are necessary, including but not limited to information and certifications relating to anticipated military and civilian personnel levels at an installation for a minimum of five years and any long-term plans for the level of military and civilian personnel at such installation.".

SEC. 25. Title V of the Housing and Urban Development Act of 1970 is hereby amended by adding at the end thereof the following new section:

"COUNSELING TO MORTGAGORS

"SEC. 508. (A) In carrying out activities under section 501, the Secretary is directed to undertake programs of studies and demonstrations within at least 3 standard metropolitan statistical areas to determine the extent of need for and cost effectiveness of providing pre-purchase, default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the subsidized mortgage insurance programs of the National Housing Act.

"(B) Within one year from enactment of this section, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend and extend laws relating to housing and community development."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12945) was laid on the table.

AUTHORIZING THE CLERK TO CORRECT SECTION NUMBERS AND CROSS-REFERENCES IN ENGROSSMENT OF H.R. 12945

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers and cross-references in the engrossment of the House bill, H.R. 12945.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

GENERAL LEAVE

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks on my amendment offered to the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION TO FILE ADDITIONAL VIEWS ON BILL MAKING APPROPRIATIONS FOR AGRICULTURE AND RELATED AGENCIES

Mr. ARMSTRONG. Mr. Speaker, I ask unanimous consent that, notwithstanding the provisions of clause 5, rule XI of the Rules of the House, I be permitted to file additional views on the bill which makes appropriations for Agriculture and related agencies for programs for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

COMMENDATION TO THE HONORABLE JOHN J. McFALL AS ACTING SPEAKER

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I have taken this time only for the purpose of commending the Acting Speaker, the gentleman from California (Mr. McFALL), who has presided over the House during this past week in the absence of our Speaker and several Members of the leadership on both sides of the aisle who made the trip over to England to pick up the Magna Carta. I think the gentleman from California (Mr. McFALL) has acquitted himself well. Everything has run on schedule. I just want to let it be known before we adjourn today that I believe he has done a very fine job.

The SPEAKER pro tempore (Mr. McFALL). The Chair thanks the gentleman from Illinois (Mr. MICHEL) for those kind words. However, if all the Chair's actions would have been as they were on our last vote, we never would have gotten out of here.

THE TORBY I REMEMBER

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, as some of us prepare to attend his funeral on Friday, the memory of our late colleague, Torbert Macdonald, remains very much alive. Both in Washington political circles and in Massachusetts—where the name Macdonald has been a legend for 40 years—the reminiscences are many.

I was pleased to find in the sports section of last Sunday's Boston Globe a column of such recollections by the highly respected sports writer, Ray Fitzgerald. He entitled his piece, "The Torby I Remember." I am delighted to share the column with Torby's many friends:

THE TORBY I REMEMBER

(By Ray Fitzgerald)

When I was but a lad, keen of eye and ready to recite the Boy Scout oath at the drop of a neckerchief, the big hero around the neighborhood was Tommy Harmon, who played football for Michigan.

Nobody talked about professional football. That was for bohunks and itinerants, a big city sport that never reached into the foothills, an activity on the backburner awaiting the arrival of instant replay, Pete Rozelle, agents and Howard Cosell.

No, college football was our dish, and on a Sunday morning, how delicious to spread out the Springfield Republican on the living room floor and read in detail what we'd already heard the highlights of on the radio the night before.

But if Harmon was the No. 1 hero, there were others, and one of mine was Torby Macdonald, who died Friday at age 58 after a distinguished political career.

You have to know the way it was in the late '30s. From western Massachusetts to Boston was not just an hour and a half away on the turnpike, for the simple reason that there was no turnpike.

It was three and one-half tough hours down routes 20 and 9, and a trip to Boston wasn't taken as much as it was planned and fussed over.

Many western Mass. kids grew to manhood without ever getting closer to Boston than the Brookfields, unless they were rewarded for winning the town sandlot championship with a game at Fenway or Braves Field.

We had a vague notion that Harvard was located in Cambridge, but Cambridge might have been just east of Omaha for all we knew.

What we did know about Harvard—and Yale and all the rest—was on the sports pages, all glamorous and important.

And Macdonald ranked right there with the most glamorous of them all. He was an exciting runner who played right halfback for Dick Harlow's teams from '37 through '39.

"Torby was long gaited and very deceptive," said retired Globe sports editor Jerry Nason, who covered many of his games. "He was great using blocks and had terrific head and shoulder fakes."

Macdonald's main backfield partners his first two seasons were halfback Fran Foley, fullback Vernon Struck and blocking back Clarence (Chief) Boston.

"I can still see him running against Princeton," said Boston yesterday. "The 4-8 and 4-9 plays. He had a long stride. He was a lovely-looking runner and a lovely guy."

Macdonald, who starred for Medford High, Andover Academy and the Harvard freshmen, got his first big chance against Princeton in his sophomore year and scored twice in a 34-6 win that brought the following from the Globe operative on the scene.

"Since 1923, the Crimson has been waiting to track the Tiger to his Jersey lair, there to twist his tail, and yesterday was the day." Ah, pure lyric poetry.

Struck, called The Magnificient Faker for his adeptness at handling of the football, rushed for 233 yards in 33 carries that day, Harvard records that still survive.

Macdonald was the breakaway back, the outside man who often wound up with the ball after all of Struck's spinning and faking.

He was Hollywood handsome, a wavy-haired athlete so gifted he would compete in track and baseball the same day, changing uniforms under the stadium when the track meet was over.

He was at his football best against Yale and Princeton, Harvard's biggest rivals. He scored eight touchdowns against these two and was one of the few Harvard players to score against Yale every season.

His touchdown made the difference in a 13-6 win that spoiled a Yale unbeaten season in 1937. The next year, he caught a nine-yard touchdown pass from Foley, of Dorchester, to beat Yale in the mud, wind and rain.

"I kicked the extra point," said Boston "off the only tuft of grass left in the Bowl." Macdonald scored three times, including once on a 73-yard run, to beat Princeton that season.

Macdonald was elected captain for 1939. "I don't know how it is now," said Boston, "but the day you made football captain at Harvard, you were next to God."

Macdonald injured an Achilles tendon and didn't play much in his senior year, yet recovered to hit .340 for the baseball team.

"He was a bonafide, authentic star," said Nason. "He wasn't a politician who sat on the bench for four years and became an All-American 30 years later."

I suppose the athletes today are bigger and better, and I'm less impressionable than I was at 13.

But everyone has a memory of the way it was growing up, and the exploits of Torby Macdonald, leaping from the sports pages every Sunday in the fall, are a part of my good old days, and I thank him for that.

"COAL SLURRY PIPELINE—1"

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, most Members of the House are aware of the so-called coal slurry pipeline bill, H.R. 1863, now before the Interior Committee, is a bill to grant Federal powers of eminent domain to coal slurry pipelines. To say that the bill has created widespread interest is an understatement. The interest has not only been widespread, but is very intense because of the economic and social implications of the legislation.

The bill is before the Interior and Insular Affairs Committee because it would amend the Federal Mineral Leasing Act. As the ranking minority member of that committee, I have participated in the hearings and carefully examined all of the testimony contained in the 1,250-page hearing record. To date, the committee has not voted on the merits of the proposal put forth by H.R. 1863. However, we are scheduled to consider the matter in markup on June 9.

H.R. 1863 is not a simple piece of legislation because of the tremendous impact it can have on this Nation's transportation policy. During the extensive hearings we had on the legislation, I found that the proposal raises a multitude of complex issues which will have a far-reaching effect on our economy. Recently, I was able to utilize a period of hospitalization following an operation to carefully study the entire 1,250-page hearing record. I realize that most Members of this body will not be afforded the luxury of having the time to study in detail the evidence contained in the hearing record. Quite frankly, much of the evidence in that record is contradictory and it is often difficult to separate fact from fiction.

During the next several weeks, I intend to insert material into the RECORD which I believe will be helpful to all of my colleagues in examining all of the facts involving the coal slurry pipeline issue.

At the outset, I would like to point out that I have come to the conclusion that H.R. 1863 should not be enacted into law. I should also add that my views are diametrically opposed to those of the administration, even though, as ranking minority member of the Interior Committee, I would have supported the administration if there was any way that I could have done so consistent with my own analysis of the proposed legislation. Unfortunately, my analysis of the coal slurry pipeline issue is that it would be unwise policy with respect to both energy and transportation. As one of the ranking minority members of another House Committees—Interstate and Foreign Commerce—I have been deeply involved with both the national energy crisis and rail transportation. The coal slurry pipeline legislation could seriously undo any progress we have made in these two areas.

In the weeks to come, I shall present a series of separate statements dealing with this issue. In each statement, I shall be as objective as I can in hopes that the material will be of assistance to my colleagues who must at some point analyze as I have the coal slurry pipeline issue. Tomorrow, I shall discuss "Coal Slurry Pipeline-Energy against Transportation Issue" because supporters and opponents of the coal slurry pipeline legislation have often created confusion as to the real need for the pipeline.

On Tuesday, June 1, I shall speak to "Rail Transportation of Coal—A Backdrop to the Coal Slurry Pipeline Issue." On Wednesday, June 2, I will examine the "Effect of Coal Transportation on Railroad Economic Viability."

On Thursday, June 3, I shall discuss "Innovative Rail Hauling of Coal" in order to fully lay before the Members the chief competitor and existing alternative to the coal slurry pipeline. These three topics will have threefold purpose: One, to place the transportation of coal by rail in perspective; two, to set forth the potential undermining of the "Railroad Revitalization and Regulatory Reform Act of 1976" (Public Law 94-210), which was just enacted last February, and three, to demonstrate the expansion potential of coal transportation by rail.

On Friday, June 4, I will discuss "The Slurry Pipeline Lobby." In this discussion, I will simply point out the individuals and organizations which are promoting the Federal use of eminent domain to assist in the construction of the pipeline.

On June 7, I shall discuss "STA Obstruction of Fact Finding," which will be my assessment of the evidence put forth by a group called the Surface Transportation Association having the same initials, but no relationship to the Surface Transportation Act, which was a popular bill before the last several sessions of Congress. On Tuesday, the subject of my statement will be "Rails Can Move Coal Without Need For New Laws." In this statement, I will go into detail about the nature of the eminent domain powers to be given those who would like a coal slurry pipeline. This will include a discussion of the uniqueness of this type of legislation as well as the additional hazard contained in the legislation which permits eminent domain for the purpose of obtaining an easement rather than outright purchase. This latter possibility will deprive many farmers and ranchers in my part of the country full use of their land without the benefit of full compensation.

On Wednesday, June 9, my statement will be "Slurry Needlessly Exploits Valuable Water Resources."

My statement on Thursday, June 10 will continue on the same lines on the subject "Slurry Sludge Is Environmentally Unsound," and on Friday, June 11, "The Gushing Threat of the Slurry Pipeline" will examine the potential for additional environmental danger should pipeline be ruptured.

On Monday, June 14, I will examine "The Inability of the Slurry Pipeline To Be a Common Carrier." One of the arguments often advanced to support Federal intervention in the matter of the coal slurry pipeline is that the pipeline would be a common carrier. Unfortunately, the very nature of the pipeline makes it impossible for it to be a common carrier and at best it will be a limited contract carrier available to basically a single coal-producing area.

On June 15, I shall discuss "The Interlocking Nature of the Slurry Pipeline Lobby." The relationships and interrelationships between the various groups supporting a coal slurry pipeline is reminiscent of corporate interminglings around the turn of the century. My statement on this day will document and outline all of the interrelationships so that my fellow Members may judge for themselves whether or not such a venture will be in the public interest.

On Wednesday, June 16, I shall discuss "The Slurry Pipeline's Exploitation of Consumers in the South and Southwest." At the present time, it is the South and Southwest that will be most directly affected by the coal slurry pipeline. The evidence revealed to date indicates that consumers of electricity in those areas of the country will be open to great exploitation.

Finally, on Thursday, June 17, I will conclude my series of statements by addressing "Separating Fact From Fiction on the Slurry Pipeline."

I am hopeful that the series of statements on the House floor and in the CONGRESSIONAL RECORD will serve as a basis for every Member of this body to determine for himself the wisdom of the coal slurry pipeline. None of us in this body want to be branded as thwarters of technological progress. At the same time, however, we do not want to advance a foolhardy project simply in the name of technological progress. We may want to make sure that such a project does not advance if it is to do irreparable damage to our Nation's rail transportation system.

CONTINUING OPPOSITION TO CHILD AND FAMILY SERVICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, in 1971 I opposed the child development bill. The bill was finally vetoed and the veto was upheld by the Senate. This action was a victory for children, parents, and all taxpayers.

In this Congress similar legislation has been introduced. Its sponsors changed its name to the Child and Family Services Act. Also, a few other changes were made in the language of the bill.

Congressional supporters of this bill recently have defended the bill by attacking a flier that contained wrong information. But the attack on that flier does not constitute a defense of the bill nor an answer to the many justified criticisms that have been raised. While it may be satisfying for some supporters of H.R. 2966 to engage in name calling, I fail to understand how such name calling enhances the legislative process.

As I have stated previously, I oppose the Child and Family Services Act. Opposition to the present bill is just as justified today as it was in 1971.

While the sponsors have language in the bill stressing the importance of the family, in reality the thrust of the bill is decidedly antifamily and pro-Government meddling. The basic underlying assumption seems to be that parents cannot raise their children in a proper manner. Thus, the Federal Government must get involved.

A new bureaucracy would be set up—the Office of Child and Family Services—which would designate "prime sponsors" and administer the program. The bill provides for a comprehensive set of services which could be provided. A partial list of its contents includes:

> Part-day or full-day child care programs . . . other health, social, recreational, and educational programs . . . social services . . . prenatal and other medical care . . . programs designed to meet special needs of ethnic groups including minority groups . . . food and nutritional services . . . other such services and activities as the Secretary [of HEW] deems appropriate in furtherance of this act.

Discussing the bill, Dr. Onalee McGraw, coordinator, National Coalition for Children, has written the following in the January issue of Battle Line, the monthly publication of the American Conservative Union:

The great irony with which conservatives are wrestling today is the incontrovertible fact that their private lives are increasingly dominated by a liberal Congress and an arrogant bureaucracy—aided and abetted by a client network of social planners—even though the electorate has become decidedly conservative these past several years. This contradiction is vividly demonstrated in the controversy surrounding the Child and Family Services bill (S. 626; H.R. 2966) whose chief sponsors are Sen. Walter Mondale (D-Minn.) and Rep. John Brademas (D-Ind.).

Despite lip service to "strengthening the family" and "parents' rights", these bills contain the same mechanism for delivery of Federally funded "social services" as did the Comprehensive Child Development bill vetoed in 1971. These bills provide for a network of grants awarded to "prime sponsors" who are designated and supervised by a new HEW bureaucracy, the Office of Child and Family Services.

While hearings on the bill were proceeding in the summer of 1975, organizations opposed to the legislation (e.g., the National Coalition for Children, the Emergency Committee for Children, Citizens for Constructive Education, Women Who Want to be Women) circulated legislative alerts pointing out the many pitfalls in the Child and Family Services bill. These efforts were productive and generated a substantial amount of congressional mail. In late fall, however, the nationwide circulation of an anonymous flyer indicating (through the citation of provisions not actually contained in the bill) a literal Federal take-over of the nation's children, turned the steady stream of mail against the bill into a raging torrent.

In early December Rep. Brademas and Sen. Mondale launched a counter-attack designed to convince Congress and the public that *all* opposition to the bill was from the "extreme right wing" as contrasted with the "respectable" organizations (e.g., PTA, AFL–CIO, NEA) supporting it. Brademas stated that he did not believe that "the people of the U.S. are going to accept the Watergate tactics of smear and deception upon which the enemies of the Child and Family Services bill have now apparently resolved to embark." Brademas gave the National Coalition for Children (which had become allied with the American Conservative Union in September of 1975) as an "example" of "committees formed with high sounding names" that are operating out of the offices of "existing radical-right groups" that are "distributing leaflets calling the bill communism." In late December the National Coalition for Children responded in detail to the Brademas smear and again publicly stated the basis for its principal opposition to the actual provisions of the bill.

The fact that the bill's proponents are attempting to gain support and sympathy for their bill through the device of being attacked by "extreme right wing groups" is an indication of how far behind the times they are. Even 10 years ago perhaps such a ploy would have worked (remember the 1964 election and the little girl picking daisies in front of the mushroom cloud?). The politics of 1976, however, reflect something new on the political landscape: a veritable army of parents, church-goers and other citizens comprising a genuine grassroots movement which has arisen in opposition to a decade of Federal imposition of programs and values to which the Judeo-Christian tradition is deeply opposed.

In all probability, the anonymous and erroneous flyer precipitated a conflagration of unprecedented proportions because a very large number of people now assume that the present Congress is indeed capable of passing even the most outrageous legislation.

Fortified with soothing memos from Brademas and Mondale, the liberal majority in Congress seems prepared to calm their irate constituents with euphemisms about the "voluntary" nature of the "services" and the "parents' rights" provisions while gently pointing out to them that their objections stem from error.

The unorganized majority still has the job of convincing their Congressmen that they will suffer defeat at the polls if they vote for grandiose, Federally funded, social planning schemes such as the Child and Family Services bill. The bill, or another like it, could still come out of committee despite the overwhelming nature of the protest, if the mail slacks off.

Sustained opposition to any further Federal social programs in areas relating to the family is, therefore, *absolutely essential*. For example, the bill's sponsors are taking great pains to emphasize the so-called "parental rights" provisions in the bill which purport to affirm the primary rights and responsibilities of parents and state that no child will be subjected to experimentation without the "knowledge" of the parent and that the parent will have the opportunity to exempt the child from such a program. Significantly absent from the bill, however, is any language which would effectively establish parental control, namely "prior informed written consent *before* a child can be placed in an experimental program."

Parents are also vitally concerned to know how the HEW regulations would deal with the bill's definition of "parent" as "any person who has primary day-to-day responsibility for any child" (Sec. 501(8) of H.R. 2966). If the day care center authorities have "day-to-day responsibility" for any child, *who* is the "parent" that holds the "rights" affirmed in the bill?

In 1974, the National Coalition for Children and parent-civic groups throughout the Nation waged an all-out campaign for inclusion of effective parent-child protective provisions into the Education Amendments of 1974 (the renewal of the Elementary and Secondary Education Act). Amendments to that legislation affirming the primary rights of parents and providing that parents could have their children removed from experimental programs *passed* the House in March 1974.

Insofar as the record discloses, the present proponents of the Child and Family Services bill joined with other members of the House Education and Labor and Senate Labor and Public Welfare Committee conferees to completely eliminate these protective provisions for parents in the extension of the Elementary and Secondary Education Act of 1965.

The parents nationwide who fought long and hard for those parental rights amendments to ESEA have a question for Brademas and Mondale, who were on the Conference Committee that scuttled those amendments behind closed doors in 1974: If these parental rights protections are so important for children in Federally funded day care-child development centers, why did they not work to include these same protections for children in Federally funded programs for elementary and secondary schools?

One of the arguments that parents frequently heard at that time from liberal Congressmen was that strong provisions protecting parental rights in education would be a violation of "local control." The fate of parental rights amendments in 1974 illustrates why parents and citizens will not be content with so-called "protective amendments" whose only purpose is to soften up the opposition while the mechanism for Federal subsidy of social planners continues unabated.

Once created, the Office of Child and Family Services bureaucracy would have a blank check to write the implementation regulations for all aspects of this bill. The American public, which has endured a decade of government by HEW administrative decree, is by now quite familiar with the propensity of such a bureaucracy to issue regulations that either effectively *negate* Congressional intent in the statute or broadly interpret it to mean something quite different. Two examples are HEW guidelines requiring busing for racial balance and the recent Title IX regulations in which Congressional intent to deny discrimination by sex in education was interpreted in the "regs" to require all schools funded by tax dollars in any way to have co-educational physical education classes for all students from nursery school on up.

What is the recourse for parents, communities and institutions subjected to this bureaucratic arrogance? The law provides that once HEW regulations are promulgated, Congress has 45 days to reject the "regs" or they automatically go into effect. The clincher is that all Congressional resolutions objecting to HEW regs must be referred to the House Education and Labor and Senate Labor and Public Welfare Committees. These committees have consistently refused to act upon even the most flagrant abuses of HEW bureaucratic power. In view of the current make-up on those committees, it is a virtual certainty that no effective oversight of HEW and no corrective action to insure community and parent control of HEW-run programs will be forthcoming if the bill becomes law.

GOVERNMENT CONTROL OVER FAMILY

Finally, there is the profound question of whether a nationwide network of Federally funded, day care-child development centers is a means of strengthening the American family. Dr. Robert Mendelsohn, Dr. Rhoda Lorand, and Dr. Niles Newton, all of whom testified against this legislation, are among the numerous professionals in the child care field who do not believe it is. Moreover, the research of Dr. Arthur Emlen, Director of the Regional Research Institute for Human Services, Portland State University, documents a large and generally quite effective and reliable network of informal neighborhood-centered arrangements currently existing in most areas.

A recent study, *Federal Policy for Preschool Services: Assumptions and Evidence*, by Meredith Larsen of the Stanford Research Institute, demolishes the myth of urgent day care need created by the child development lobby. According to Larsen, the Federal push for increased day care services is predicated upon the premise that millions of preschoolers are wandering the streets. This preconception is based, however, on the subtraction of the number of spaces available in existing day care centers from the total number of children under six with working mothers. Reviewing 10 years' research on day care, Larsen points out that 70 percent of the children unaccounted for by lobbyists for Federal day care are receiving family and neighborhood-centered care which professional studies have shown *is the preference of working mothers in all income brackets*. Clearly then, it is the day care interests, educationists (who also hope to get a piece of the pie), and the militant women's liberationists who want large scale institutionalized care that would be made available under the mechanism of the prime sponsorship provisions of the bill, should it become law.

As Dr. McGraw pointed out, there are numerous child psychologists who also are opposed to this legislation. In addition to their views, I also think that we only have to look at the role of the Federal Government in education for the past decade to wonder if we want the same Government and set of bureaucrats even more involved with preschool age children. During the same decade that the Federal Government became more and more involved in this Nation's schools, there has been a decline in basic skills, more Federal regulation, more Federal intervention, and the introduction of such harmful practices as forced busing. I for one do not want to take the chance of repeating this same record on preschool children.

The Child and Family Services Act, like the child development bill before it, is a proposal for giving the State a major role in the rearing of preschool age children. While hidden under the rhetoric of voluntarism, it assumes that mothers are deficient in raising their own children and that certain "professionals" know better. Testimony given on these bills shows that some of its supporters are willing to admit just that.

This legislation if enacted would involve the Federal Government in behavior modification. Previous testimony in favor of the child development bill contains such gems as "in the first 18 months of life, the brain is growing faster than it ever will again. It is then also more plastic and most available for appropriate experience and corrective interventions." The goal is clear: child behavior modification.

Since first being elected to Congress, I have opposed such schemes. I will continue to oppose them. The Child and Family Services Act should never have been resurrected. When it was called the child development bill, it was bad policy which would involve the Federal Government further in areas that it should not be in. I will continue to oppose passage of this legislation under its new name.

UNCONTROLLED HEALTH CARE COSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 10 minutes.

Mr. WIRTH. Mr. Speaker, in the course of the 94th Congress, efforts to legislate comprehensive national health insurance have bogged down, but the problems show no signs of going away. The foremost among these is the problem of uncontrolled health care costs. They are rising more rapidly than costs in any other part of the economy, and they are straining the Federal budget, as well as those of State and local governments. Until the reasons for this rise are understood, it will be impossible to introduce more rationality into our health care system; and it will be impossible to provide health care when and where it is needed at a price people can afford.

Recent testimony of Dr. Alice Rivlin, Director of the Congressional Budget Office, before the Senate Labor and Public Welfare Health Subcommittee, is extremely helpful in pointing out the dynamics of our health care system's economy. I am inserting this material into the RECORD in the hope that my colleagues will find Dr. Rivlin's testimony as helpful as I have:

STATEMENT OF ALICE M. RIVLIN, DIRECTOR, CONGRESSIONAL BUDGET OFFICE

Mr. Chairman and Members of the Committee: I appreciate this opportunity to discuss the impact of increasing health care costs on public programs and private spending and the effects of some recent attempts to control health care costs.

THE GROWTH IN HEALTH EXPENDITURES

Over the last twenty-five years health care expenditures have been growing at a much more rapid rate than the overall economy. In 1950, health expenditures amounted to $12.0 billion or 4.6 percent of GNP; by 1975 such spending had reached $118.5 billion or 8.3 percent of GNP.

This increase in spending for health care has been caused by three factors. First, inflation in the health sector, historically, has been more severe than in other segments of the economy (see Table 1). The past six months have been particularly bad in this respect, for the moderation of overall inflation has not been reflected in the health sector.

TABLE 1.—AVERAGE ANNUAL INCREASES IN CONSUMER PRICE INDEX, MEDICAL PRICE INDEX, SEMI-PRIVATE ROOMS AND PHYSICIAN'S FEES, FISCAL YEARS

	1960–65	1965–71	1972	1973	1974	1975	October 1975–March 1976
CPI[1]	1.3	4.2	3.6	4.0	9.0	11.0	4.8
Medical price index	2.5	6.3	4.7	3.1	5.7	12.5	10.0
Semi-private hospital room charge	5.9	14.0	9.4	5.0	6.0	16.4	15.6
Physician fees	2.9	6.8	5.2	2.6	5.0	12.8	13.6

[1] Consumer Price Index.

While the CPI increased at an annualized rate of 4.8 percent during the six month period ending with March 1976, the medical index, physician's fees, and semi-private hospital room charges rose at annualized rates of 10.0, 13.6 and 15.6 percent respectively. Second, there have been dramatic improvements in the quality or intensity of medical care. These advances have been characterized by an emphasis on diagnostic and therapeutic techniques which are complex and expensive and often require hospital stays. Third, individuals use more health services today than they did in 1950. For example, per capita use of hospital services has increased by one-third.

All of these developments have been abetted by the growth in insurance coverage which currently pays for 65 percent of personal health expenditures, over twice the fraction paid for in 1950. Because insurance lowers the price of care to the consumer at the time care is sought, it encourages increased utilization. By improving the patient's ability to pay, insurance has enabled providers—particularly hospitals—to acquire expensive technology. It has also stimulated inflation because the third-party payers have not resisted price increases by providers and, in turn, the providers have had little incentive to resist demands for wage increases or price hikes on the goods and services they purchase.

FUTURE HEALTH CARE EXPENDITURES AND THE PUBLIC SECTOR

The growth of health care expenditures has become a matter of increasing concern because a larger and larger fraction of both public and private resources are being absorbed by this sector. Largely because of the medicare and medicaid programs the fraction of all health care expenditures flowing through the federal budget has risen from 10.0 percent in 1950 to almost one third today. Over this same period the fraction of the federal budget devoted to health programs has risen from 2.2 percent to 9.2 percent.

This increase in public sector responsibility for health care has not been offset by a decline in private health care spending. Private expenditures for health care accounted for 4.3 percent of personal disposable income in 1950; the comparable figure is estimated to be 6.3 percent for 1976.

CBO projections indicate that under current policies these trends are likely to continue. If price increases in the medical sector return to their historic relationship to overall price increases, and the recent trends in qualitative improvement and utilization are continued, natural spending on personal health care services will rise from an estimated level of $150 billion in fiscal year 1977 to slightly more than $250 billion in fiscal year 1981. Total health care expenditures—personal health care expenditures plus spending on research, construction and public health services—would amount to over 10 percent of GNP by 1981, up from 8.3 percent in 1975.

These projections suggest that roughly 8.0 percent of personal disposable income will be devoted to the purchase of private health care in 1981, up from 6.3 in 1976. If existing public sector programs and policy are maintained, the cost of federal health programs can be expected to escalate by about 14 percent annually; by 1981, federal health expenditures would account for 12.3 percent of a current policy budget. Most of the growth would take place in the medicaid and medicare programs which are projected to increase from $31.2 billion in fiscal year 1977 to $51 billion in 1981. The growth in medicare outlays alone from fiscal year 1976 to 1977 will exceed the funding level for all categorical grant programs of the Public Health Service.

These projections make it clear that, even without new or expanded programs, rising health care costs will pose significant problems for both family and government budgets.

APPROACHES TO CONTROLLING COSTS

Escalating public and private health care expenditures have been recognized as a serious problem for a long time. Within the last decade, as concern has grown over the budgetary impact of existing federal programs and the potential cost of national health insurance, efforts to find a means of containing these increases have intensified. The most comprehensive attempt to control price increases, the Economic Stabilization Program, is particularly relevant to this committee's present focus. Therefore, I would like to examine the lessons of this experience.

The 32½ month period (August 15, 1971 through April 30, 1974) of Economic Stabilization Program controls represents the only nationwide attempt which has been made to restrain health care costs. Although controls were applied to all health service providers, the most significant impacts were realized in the hospital sector. To understand the intent and success of the Economic Stabilization Program, it is necessary to briefly review the causes of hospital cost increases.

Hospital care is the single most expensive item in the nation's health bill. In 1977 it is estimated to amount to more than $58 billion or 39 percent of total health spending. In the first quarter of 1976, the cost of hospital services increased at seven times the rate of the CPI and one and one-half times the rate of the medical price index.

An examination of the two basic elements responsible for increases in hospital costs, "inflation" and "changes in services" (the intensity factor), shows some interesting trends (see Table 2). The high rate of inflation of the late 1960s and early 1970s pushed up hospital costs and accounts for over half of the annual increases. But "changes in services"—both personnel and other factors such as the number of tests, x-rays, level and type of therapeutic treatment—have also been important.

TABLE 2.—AVERAGE ANNUAL PERCENTAGE INCREASE IN EXPENSES PER PATIENT DAY

	1950–60	1960–65	1969–71	1971–74	Year following ESP 1974–75
Total expenses	7.5	6.7	14.8	11.5	15.2
Inflation	3.8	3.5	8.2	6.4	10.0
Wages	5.2	4.7	10.0	6.1	9.0
Prices	1.5	1.3	5.1	6.8	11.4
Changes in service	3.7	3.2	6.6	5.1	5.2
Personnel	3.1	1.7	3.7	2.7	2.5
Other (nonpersonnel, e.g., X-rays, lab tests, etc.)	4.6	5.6	10.3	8.7	9.3

The increase in this "intensity factor" is partly attributable to our large national investment in biomedical research which has developed new, more complex technologies—new treatments, drugs and procedures. The effect of making the fruits of this investment in research available in most hospitals will be a continuation of high rates of growth in new hospital services and thus costs. By way of illustration, in 1960, only 10 percent of community hospitals had intensive care units; today they are present in 59 percent of such hospitals.

During Phase II, which was in effect for 29 of the 32 months of the Economic Stabilization Program, hospitals were not allowed to increase their annual revenues due to "price increases" by more than 6 percent annually. In order to permit a growth of 2 percent in the quality and quantity of services, total costs per patient day were allowed to rise by 8 percent.

Prices charged by hospitals did conform to Phase II limits. For example, semiprivate room charges increased at the rate of 5.7 percent per year. However, the rate of increase in total costs per patient day, while falling during this period, did not reach the target of 8 percent because improvements in the intensity of services (quality and quantity) rose at 5 percent rather than at the programmed rate of 2 percent. Total costs per patient day increased at an annualized rate of 11.5 percent for the entire period and at 9.6 percent in fiscal year 1974. Phase IV, which was never actually implemented, recognized that the 2 percent factor for improved services was too stringent and that increased flexibility in rate increases would be necessary to permit reasonable expansion and to preserve the economic viability of some institutions.

The measures employed by hospitals to restrain cost increases during the Economic Stabilization Program are not altogether clear. The very rapid post-control price rebound would suggest, however, that temporary economies such as not hiring new personnel or restraining wage increases were employed rather than changes which might have a long-term effect. This response could, in part, be due to the short time-frame of the ESP program and the uncertainty about how long the controls could be expected to last.

An examination of hospital operating expenses during this period suggests the following common pattern of response to the controls.

Wage Increases: In 1974, payroll expenses accounted for 54 percent of overall hospital costs. Wage increases were severely curtailed during the period of the Economic Stabilization Program. This curtailment followed a period of rapid "catch-up" wage increases in the late 1960s as the traditionally low-paid hospital workers were unionized and attempted to gain wage comparability with workers in other sectors of the economy (see Table 3). In the post-ESP period wage increases have recovered.

TABLE 3.—*Annual percentage increase in earnings per employee in community hospitals and all services*

	Hospital employees	Service workers
1969	9.4	8.9
1970	10.1	8.4
1971	10.3	6.5
1972 (ESP)	8.0	5.5
1973 (ESP)	4.5	6.7
1974	5.7	8.8
1975	[1]9.8	(2)

[1] Estimated.

[2] Not workable.

SOURCE: American Hospital Association and Department of Commerce, Bureau of Economic Analysis.

Staffing Patterns: An additional means of holding down payroll costs is to reduce staffing ratios—personnel per patient. While actual cut-backs do not seem to have occurred during the Economic Stabilization Program, the steady growth in employees per daily patient census was slowed in 1973 (see Table 4). After the removal of controls, hospitals began to increase their staffs at close to the pre-ESP rate.

TABLE 4.—*Employees per daily inpatient census*

	Employees per patient per day	Percent increases from previous year
1969	2.80	---
1970	2.92	4.3
1971	3.01	3.1
1972 (ESP)	3.10	3.0
1973 (ESP)	3.15	1.6
1974	3.26	3.5
1975	[1]3.37	[1]3.4

[1] Estimated.

Source: American Hospital Association.

Nonpayroll Costs: Nonpayroll costs also increased at a slower rate during the Economic Stabilization Program years. Nonpersonnel inputs consist of items that can be purchased easily such as drugs, and x-ray machines, and large scale capital equipment or facilities which require much more advanced planning. Because of the long lead-time required, it was not until 1974 that major capital acquisition projects were affected. Even then the impact was slight. In 1974, the total assets of all hospitals increased by 9.2 percent, a rate somewhat slower than the 10.4 percent for the 1971–73 period. In the post ESP period the rate of increase in the acquisition of nonpersonnel inputs seems to have returned to the post-medicare rate of about 10 percent.

Operating Margins: During the controls period, hospitals lowered their operating margins. That is, they absorbed cost increases without raising prices by lowering their operating margins and, for short period, some went into debt. Prior to the Economic Stabilization Program, community hospitals had maintained operating margins which averaged 1.5 to 2 percent of revenues. In the first year of controls, margins were reduced to 0.7 percent; in the second year they dropped to −0.1 percent. Following the lifting of controls in 1974, operating margins were increased to 1.7 percent.

In summary, during the Economic Stabilization Program hospitals seemed to have employed temporary measures rather than attempting to effect basic institutional change. Specifically, they: held down wages, attempted to freeze staff/patient ratios, and reduced operating margins.

As soon as controls were lifted, these restraints were dropped. Hospital expenditures increased by 15.2 percent in the year following the Economic Stabilization Program.

As a further illustration to post-ESP catch-up, the daily cost under medicare hospital insurance increased 16.2 percent from FY 1975–76 and is projected by the Social Security Administration to increase another 14.6 percent in fiscal year 1977.

If the hospital industry had expected ESP controls to be long-term rather than temporary, institutional responses would probably have been quite different. Hospitals perhaps would have closed underutilized services, reduced staffing ratios, and curtailed the acquisition of new capital assets. If changes of this nature had been introduced during ESP, the rate of increase in hospital costs would have been slowed even after controls were lifted. Instead, hospital operations were left largely unchanged, even when maintaining the status quo necessitated deficit financing. This ensured that in the post-controls period costs would rebound sharply.

One conclusion which might be drawn from this experience is that if a new program of industry-wide controls is contemplated, it must be flexible and carefully constructed, suitable for long-term or permanent application. Otherwise, it may be counterproductive. Hospitals anticipating periodic controls may increase charges when they are able to ensure an adequate operating margin during periods of controls. Similarly, hospital workers may demand high wage settlements in anticipation of future restraints.

During the past year other measures have been suggested to limit the increase in federal health program costs. One approach is to place a cap on increases in hospital reimbursement under medicare and medicaid. Alternatively, an attempt could be made to moderate the rate of increase in hospital expenditures by imposing limits on reimbursable costs under medicare and medicaid. Those hospitals whose costs are relatively high would not be fully reimbursed.

Both of these approaches, and others which deal exclusively with the federal programs, pose certain problems. The Economic

Stabilization Program controlled overall wages and prices in the health sector, and, therefore, affected all providers and users of services equally. There was no incentive to discriminate against any class of patients or to shift costs between public and private sector patients. This *would not* be true if controls are in place only for public programs. In that instance, costs not reimbursed by medicare and medicaid might be shifted to private patients. Also, there is some danger that if controls on the public programs are maintained for a long period of time medicare and medicaid beneficiaries might be given a lower standard of care than private patients.

OTHER COST CONTROL MEASURES

My comments today have focused primarily on our experience under the Economic Stabilization Program and on other approaches that would alter hospital reimbursements. However, I would emphasize that the question of controlling costs is complex and solutions to the problem must be pluralistic in nature.

Although the increases in expenditures for medicare and medicaid have been due, in large part, to inflation and improvements in services, increased utilization has also played a major role. In recent years Congress has acknowledged the need to deal with the question of utilization of services through the passage of several important pieces of legislation. Most of these programs are still in their initial stages of development and it is therefore impossible to predict their ultimate impact. The Comprehensive Health Planning Act of 1966, the Social Security Amendments of 1972 (including the establishment of the Professional Standards Review Organization program), the Health Maintenance Organization Act of 1974, and the more recent National Health Planning and Resources Development Act represent efforts to change patterns of health service delivery and to utilize resources more effectively. These efforts merit continuing examination as to both their individual effectiveness in controlling utilization, and the actual impact of utilization controls as a means of reducing costs.

CONCLUSION

The use of financing mechanisms to limit costs and direct the development of services would represent a fundamental change in the federal health role. Historically, public financing has been modeled on private insurance. Payments have reinforced the prevailing patterns of delivery. The first stages of the Economic Stabilization Program continued this precedent by imposing uniform reimbursement limits on all providers. The Social Security Amendments of 1972, the HMO Act of 1973, and the Phase IV Economic Stabilization Program regulations signalled a shift in federal policy towards using the financing system to direct change in the organization and delivery of services.

Thus the era of money without controls may be drawing to an end. Not only has the financing and planning legislation of the last four years committed the federal government to deeper intervention in directing the health care system, but most discussion of national health insurance focuses on how the extension of financing can be used to improve the delivery system and control costs.

In designing such controls, the Congress will confront problems of achieving equity between types of services, providers and beneficiary groups; of redistributing care to areas of greatest need; and of guiding the development of cost-efficient new delivery systems which are acceptable to providers and consumers. But even if the direction was clear in each of these areas—and at the moment there seems to be little consensus about any of them—we must also consider the feasibility of administering a complex system of incentives and controls.

It is clear that the development of financial incentives and disincentives which can restrain inflation and wasteful expenditures without at the same time curtailing desirable improvements in the quality of health services, and imposing undesirable rigidities on the delivery system will be a sensitive and difficult task.

ABSENCE FROM FLOOR BUSINESS DUE TO DEDICATION OF FOREIGN TRADE ZONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MINETA) is recognized for 10 minutes.

Mr. MINETA. Mr. Speaker due to an important event in my home town, I have been unable to be in attendance here in the House for the past 2 days. That event was the dedication of the latest of this Nation's foreign trade zones, in San Jose, Calif. International trade is a vital part of the economy of Santa Clara County. Our county in 1972 rated ninth among all counties of the Nation in export manufacturing jobs. The foreign trade zone will play an important role in the ongoing vitality of the county's activity in the international economy. In view of these facts, I have been actively involved in the foreign trade zone projects since its beginning. As mayor of San Jose, I initiated the city's sponsorship of the foreign trade zone application to the U.S. Department of Commerce, and in July 1974, I testified before the Federal Government's Examiners Committee on behalf of the city's application. I am, therefore, gratified that the project has met with such widespread support and acclaim, and I wanted to see this project through to its dedication yesterday. I was pleased to note that President Ford recognized the importance of this project and of its dedication and chose to participate by his presence, in the dedication ceremony of Foreign Trade Zone No. 18 in San Jose on May 25, 1976.

MISSION TO THE MEDITERRANEAN: THE GREECE, TURKEY, AND CYPRUS TRIANGLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 10 minutes.

Mr. SOLARZ. Mr. Speaker, I recently returned from a mission to the Mediterranean, during the course of which I had an opportunity to meet at length with Prime Minister Demirel, Foreign Minister Caglayangil, and Opposition Leader Ecevit in Turkey; Archbishop Makarios, the President of Cyprus, as well as Glafkos Clerides and Rauf Denktas, the leaders of the Greek and Turkish communities on Cyprus; and Foreign Minister Bitsios, Defense Minister Averof, and several opposition Parliamentarians in Greece. In addition, I also met with the American Ambassadors in each of the countries involved—thereby giving me a local as well as an American assessment of the political and military situation in what has become known as "the southern flank of NATO."

The continuing conflict over Cyprus has been a festering sore in the relationship not only between Greece and Turkey but between ourselves and both of our allies as well. It has, of course, also been a source of suffering for the Cypriot people, almost 250,000 of whom were driven from their homes during and after the fighting which took place over the summer of 1974.

The inability of the Greeks and Turks to resolve their differences over Cyprus has threatened the future of the island republic at the same time that it has also jeopardized the viability of the Western Alliance. At the moment, the Turks are angry at us because of the continuing embargo on the grant of American weapons—indeed, they have closed down our intelligence installations in Turkey as a result—while the Greeks are upset with us because of our failure to use our presumptive influence with Turkey in order to bring about a settlement on Cyprus—and have attenuated their military ties to NATO as a result. After months of engaging in a delicate diplomatic minuet, the Greek and Turkish Cypriot communities are no closer to an agreement than they were a year ago. In the meantime, the forces of disintegration in the area are gaining strength rapidly, and it is entirely possible that the southern flank of NATO could crumble if nothing is done to prevent the future deterioration of the situation.

In an effort to solidify our relations with both of these valued allies—Greece and Turkey, after all, provide 72 percent of the manpower for the Southern command of NATO—the United States recently concluded an agreement governing the use of our military facilities in Turkey and is in the process of finalizing a settlement concerning our military facilities in Greece. Both of these agreements, taken together, will cost us almost $2 billion over the next 4 years. Since they cannot be implemented without the approval of the Congress, I thought it would be particularly useful to get over here for a firsthand look before the matter came up for a vote in the House.

Basically, I came away with a very strong feeling that a settlement on Cyprus was nowhere in sight. The fact is that neither side is prepared to make the kind of concessions which would be acceptable to the other. And both sides, for a variety of reasons, would prefer a perpetuation of the status quo to a settlement which would be unacceptable to their own people.

The Turks, for example, take the position that the precondition for a final settlement requires the establishment on Cyprus of a bizonal state, with a weak central government, requiring only minimal territorial adjustments in the line which currently divides the Greek from the Turkish sector of the island. In view of the discrimination which the Turkish Cypriot minority believes it has historically suffered at the hands of the Greek

Cypriot majority, they feel very strongly that they must be able to control their own destiny. In their view, a return to the status quo ante would require them to forfeit the advantages they currently have by virtue of their control of approximately 36 percent of the land, even though they have only 18 percent of the population.

The Greek Cypriots, on the other hand, are simply unprepared to accept a settlement which constitutes little more than a legitimization of the status quo. The Greek Cypriot leaders with whom I spoke indicated privately that they would be prepared to accept the Turkish Cypriot demands for a bizonal state, in which each sector would have control over those government functions which most directly impinge on the lives of their people—such as health, education, welfare, police, and sanitation, et cetera—and a relatively weak central government—whose powers were limited to such functions as foreign affairs, the coinage of money, and territorial defense. But they insisted very strongly that the precondition for such structural concessions by them were significant territorial concessions by the Turks.

Publicly, Greek Cypriot leaders say that the Turkish sector should encompass no more than 20 percent of the land. Privately, they indicate a willingness to go as high as 25 percent, in the context of a satisfactory settlement of the other outstanding issues.

While the difference between the 36 percent the Turks now occupy, and the 25 percent the Greeks are prepared to permit, does not seem so great as to be beyond the possibility of a creative compromise, the fact is that the present Turkish Government could not survive politically if it agreed to a settlement calling for a reduction of the Turkish sector to less than 30 percent of the land. Prime Minister Demirel of Turkey, who heads a very shaky coalition with only a four-vote majority in Parliament, is dependent on the support of a rightwing nationalist party which would probably prefer to see the Turkish sector expanded, and would certainly never agree to its reduction. In the absence of their support for such a settlement, the only other way Prime Minister Demirel could get an agreement through Parliament—and Turkey is, after all, a democratic country—is to secure the support of the opposition. When I spoke with Bulent Ecevit, the leader of the opposition and the Prime Minister during the days when the Turkish invasion of Cyprus took place, however, he made it clear that while he would acquiesce in an agreement providing for limited territorial adjustments, he would not support a major Turkish withdrawal from territory for which Turkish blood had been shed.

Aside from the differences between Greece and Turkey over the territorial questions, the political atmosphere has been further poisoned by the ancient ethnic animosities between the two countries and communities. Greece and Turkey are the only two countries in the world that won their independence from each other. And Cyprus is, in many respects, the Northern Ireland of the Eastern Mediterranean. Indeed, the attitude of the Greeks toward the Turks and vice versa is very much like the attitude of the Catholics and Protestants toward each other in Ulster. In the midst of such pervasive antagonism—with each side thinking the worst of the other—the prospects for a rational and reasonable settlement in the foreseeable future are dim indeed.

It is in this context that the base agreements between the United States and Turkey and the United States and Greece must be evaluated. To the extent that the approval of the agreements—and it is clear that they will both be passed or they will both be defeated—require annual appropriations of military assistance, they will result in an effective elimination of the embargo against Turkey. This is, of course, exactly what the Turks want. The Turkish Army remains almost completely dependent upon American arms and their inability to obtain spare parts as well as new equipment has significantly impaired the effectiveness of their military machine. In the process of cutting off the supply of American weapons, however, we did more than just deprive the Turks of the weapons they need in order to provide for their own defense. We also created tremendous animosities in Turkey toward the United States for having acted in a way that the Turks felt to be most unjust.

Originally, the embargo was designed to force the Turks into making the necessary concessions on Cyprus. Once that happened, so the theory went, a settlement would follow, and the tensions between Turkey and Greece would be eliminated, thereby permitting the United States to resume friendly relations with both. Unfortunately, however, it did not work out that way. Indeed, it would appear in retrospect that the embargo was a double disaster. It not only stiffened the resistance of the Turks, who refused to make concessions in the face of such pressures, but it also created illusions on the part of the Greeks, who thought that by holding out long enough they would eventually get what they wanted, on the theory that the longer the embargo lasted the more likely the Turks were to capitulate.

Last fall, recognizing that the embargo had not been very helpful in producing progress in the negotiations, the Congress voted to partially lift the embargo in the hope that by doing so it might encourage the Turks to take a more conciliatory position. Several months later, however, it is clear that just as the existence of the embargo failed to result in a settlement, the partial removal of the restrictions failed to produce an agreement also. The time has come for us to recognize that—for better or worse—our arms relationship with Turkey has little to do with the prospects for a settlement on Cyprus. The most one can say is that the complete lifting of the embargo is a necessary albeit by no means a sufficient condition for an agreement.

In other words, while the elimination of the embargo is a precondition for progress in the negotiations, its removal does not guarantee that a settlement will be achieved. In the final analysis, the Greeks and the Turks will have to resolve the matter themselves and, while we can and should use our influence to promote an agreement, there is little we can do to impose one.

At the moment, the most significant threat to the security of Greece comes from Turkey and vice versa. The continuing conflict over Cyprus, as well as the emerging dispute over sea rights in the Aegean—where a chain of Greek islands lies just off the coast of Turkey—create a continuing although remote possibility that war will once again break out between our two allies. Such a development would, of course, not only be a disaster for both Greece and Turkey but for all the countries of the Western Alliance, especially our own.

In the long run, however, the real threat to the legitimate interests and territorial integrity of Greece and Turkey, come not from each other but from the Soviet Union. The more responsible and farsighted leaders in both countries recognize this reality and are prepared privately to acknowledge it. It is precisely for this reason that the approval of the base agreements is so important. The fact is that the future security of Western Europe is very much related to the military viability of the southern flank of NATO. A dangerous conventional imbalance in manpower and material is clearly beginning to develop between NATO and the Warsaw Pact. If anything, we need to strengthen NATO, not weaken it. And if these agreements are rejected, it could have fateful consequences for our ability to keep the Alliance together.

I found a clear concensus within Turkey—not only among the Turks with whom I met, but on the part of our own people as well—that the rejection of these agreements would result in a real rupture in our relationship with them. There can be little doubt that, in the event the agreement with Turkey is repudiated by Congress, the personnel assigned to our intelligence installations would immediately be asked to leave and that the bases, which are now temporarily closed, would be permanently shut down. But there is also good reason to believe that Turkey would, at the very least, significantly attenuate its ties with NATO, remaining at best only a paper part of the Alliance.

A failure on the part of Congress to approve the agreements would also strengthen those forces within Turkey that are essentially anti-Western in their orientation. This would not necessarily result in an alliance between Turkey and the Soviet Union, although it could eventually produce a nonaggression pact between them, and an avowedly neutralist foreign policy on the part of Ankara. But it would probably result in a marked shift in Turkish policy toward the Arabs—a source of religious fraternity and financial support—which would have dangerous implications for our own position in the Middle East and our ability, in a real crisis, to provide for the survival and security of the State of Israel.

To jeopardize, therefore, the continued participation of Turkey in NATO when the Turks have the second largest army in the alliance, and the ability to control Soviet naval movements from the Black Sea to the Mediterranean through their possession of the Dardanelles, would be counterproductive not only in terms of our own interests but of the interests of Greece as well. Indeed, to the extent that Greece is ultimately imperiled more by the possibility of aggression from the Communist superpower in the north than their Moslem neighbor in the east, the withdrawal of Turkey from an active role in the Western Alliance would have the gravest implications for them too—since any reduction in the effectiveness of NATO necessarily impairs the collective security upon which Greece depends.

In the same sense that the rejection of both agreements would strengthen the anti-Western forces in Turkey, the approval of both agreements would strengthen the pro-Western forces in Greece. Prime Minister Karamanlis of Greece is intellectually and emotionally a man of the West. Those who oppose the agreements most vigorously in Greece are also those who by and large are hostile to NATO and would prefer Greece to adopt an essentially neutralist foreign policy. If we want Greece to resume an active role in the alliance—and I believe we do—we will have a much better chance of strengthening the sinews of our relationship with it if the agreement between our two countries is adopted.

Rather than take a sterile position calling for the continuation of an embargo that has not worked and never will, it seems to me that we should move forward in the effort to reestablish close and cordial relationships with both of these valued allies. This will require, first and foremost, the approval of these agreements. And then, having lanced the festering sore in our relationship with them, we can try to use the resulting leverage to coax the countries involved toward a just and lasting settlement on Cyprus. In effect, it may well be that we have been approaching the problem backward. Instead of trying to resolve the conflict over Cyprus as a way of improving our relations with Greece and Turkey, we should improve our relations with Greece and Turkey as a way of resolving the conflict over Cyprus. For only in an atmosphere free from tension and terror, can meaningful negotiations toward a settlement of that ancient conflict productively proceed.

RAILROAD RETIREMENT ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, I have introduced today a bill to amend the Railroad Retirement Act of 1974 with respect to the computation of annuities in certain cases. This bill is recommended by the Railroad Retirement Board primarily for the purpose of correcting unforeseen inequities which have arisen as a result of the Board's efforts to carry out the provisions of the 1974 act.

It has been discovered, in the course of the Board's administration of the new programs, that, in some cases, individuals may be eligible for increases in their annuities which were in no way foreseen or intended by the 1974 act. In other cases, some individuals may suffer decreases in their annuities, in contradiction of the express purposes of the 1974 legislation.

Amendments to correct these inequities, and to make conforming changes in the Railroad Retirement Tax Act, are technical in nature. All parties are in agreement that the amendments proposed by this bill are urgently needed to correct the deficiencies to which I have referred.

PENSION FOR WORLD WAR I VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ANDERSON) is recognized for 10 minutes.

Mr. ANDERSON of California. Mr. Speaker, on May 21 I presented a discharge petition to the House Clerk in order to get the World War I Pension Act, H.R. 3616, released from the Veterans' Affairs Committee. In doing so, it is important to emphasize that in no way do I wish to subvert the committee's jurisdiction. However, the question of whether to grant a pension to our veterans of the First World War is important enough—and so long overdue—that I strongly feel that a discharge petition is in order.

The bill I introduced on February 25, 1975, would grant a $150 per month pension to all First World War veterans or their widows. Currently, only 340,873 of the 893,000 veterans of that war are receiving any kind of veterans pension. The pension provided for in H.R. 3616 would be a godsend to many of these individuals in their waning years.

If we analyze the history of World War I veterans, it is easy to see that in many ways they were shortchanged by their Government in receiving benefits, especially when compared to veterans of later wars.

When the United States entered the First World War in April, 1917, the Allies faced what seemed to be certain defeat. Our Nation was not mobilized for overseas conflict, and the situation of the French and British Forces was demoralizing. Also, a new type of warfare was being waged in the battlefields of Europe—trench warfare, a dirty, deadly, drudging type of fighting that more than anything else helped demystify the glory of war in the 20th century. Hideous new weapons such as poison gas were being used for the first time.

Despite this, many young Americans answered the call to their Nation's service at a dreadful price to their own ranks. Largely because of their efforts, the Allies went on to win the war.

When the doughboys returned home and received their discharge, they were presented with a $60 payment—an expression of gratitude from their Government. Unlike today, there were no veterans' hospitals to care for the wounded and disabled. Educational aid was nonexistent.

Later, Congress passed the Adjusted Service Compensation Act, which provided the veterans with an average payment of $547.50. But due to a lack of educational aid, the average educational level of the veterans of the First World War has remained at the sixth grade level. With such a handicap, economic success was well beyond the grasp of most of these men.

History itself sometimes seems to have worked against the World War I veteran. They left the service before the concept of Government responsibility for veterans was widely accepted. By 1935, when the social security system was established, most of them were too old to build up maximum benefits. And today, for the most part without the support of Government pension, they must live in a world of high prices and spiraling inflation.

I strongly believe that this situation has gone on far too long. A pension for World War I veterans would not be a special privilege, nor is it too high a price for this Nation to afford. It would be a significant step towards equity between these veterans and those of later wars, and it would certainly be of great help in allowing these men and women to live in human dignity for the rest of their years.

Currently, the pension system to which World War I veterans have access is a substandard pittance. For example, a married veteran of that war, whose annual income is $300 or less, is entitled to a maximum monthly payment of $186—2,232 annually. No pension is payable if the veteran's annual income exceeds $4,500. A veteran without dependents is eligible only if his annual income is less than $3,300. Based on an annual income of less than $300, the maximum pension he can receive is $173 per month—a total annual pension of $2,076.

If adopted, the World War I Pension Act would provide every veteran of that conflict with a monthly pension of $150, regardless of other sources of income. The same benefits would apply to the widows of these men. While I strongly feel that this bill merits enactment, I wish to stress that the discharge petition I am circulating is not just an attempt to push a specific piece of legislation. Instead, it should be viewed as an expression of support for the concept of a World War I veterans' pension.

Therefore it is my hope that my colleagues who have authored or cosponsored similar legislation will join with me in signing this petition. It will be an expression by Congress that a decent pension for veterans of the First World War is indeed justified.

Mr. Speaker, this is an issue that has been ignored far too long. Time is running out for those who fought in this conflict almost 60 years ago, and it is running out for a Nation which will lose its last chance to express its long-overdue gratitude. We cannot turn our backs on history: We cannot deny the service these men have given to this Nation. In this Bicentennial Year, while we celebrate our history, we should also recognize our debts.

PROTECTING CHILDREN ON SCHOOL BUSES FROM CARBON MONOXIDE POISONING

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on April 1, 1976 I introduced H.R. 12954, a bill to amend the Clean Air Act to require the Administrator of EPA to establish acceptable carbon monoxide levels for the interior of school buses and other vehicles and to provide for semiannual testing to insure compliance.

The impetus for this legislation came from an article which appeared in the December issue of the American Journal of Public Health and from tests that my staff conducted on school buses in New York City. In both cases the levels of carbon monoxide were quite high; high enough in fact to cause carbon monoxide overexposure symptoms. These symptoms include headaches, fatigue, disturbed judgment and after long enough exposure, death.

Presently, the EPA does not have standards which specifically restrict ambient concentrations of carbon monoxide within the passenger compartments of an operating school bus, nor does DOT require the authorities to check for interior carbon monoxide during normal inspections.

The Department of Transportation has informed me that the National Highway Traffic Safety Administration in 1973 through the utilization of contractor service, completed a field survey to measure carbon monoxide levels in the occupant compartments of 112 new and used school buses under varying operating modes. The survey found various levels of interior carbon monoxide, in fact sufficient quantities to pose a potentially significant health hazard.

The Department of Transportation has failed to correct the situation. The lack of standards may bear upon the tragic deaths of 25 high school children in California. As my colleagues know, last Friday in Martinez, Calif. a school bus plunged off a freeway ramp killing 25 individuals. According to the United Press International wire yesterday, Federal and State investigators are checking the possibility that extremely high quantities of carbon monoxide had leaked into the bus before it crashed. According to Mr. Philip Hogue of the National Transportation Safety Board:

> It was unusual that so many teenagers said they were asleep at the time of the crash.

As I stated above according to the medical literature drowiness and fatigue are two common side effects of carbon monoxide overexposure.

If the children had not been asleep they might have braced themselves against the bus somersault and final impact and who knows, what may have happened to the driver's perceptions.

Whether in fact carbon monoxide was a factor in the high death rate or the accident itself will not be known for sometime. What we can conclude at this point, though, is that carbon monoxide intrusion into school buses is a serious problem. And it is a problem that can be easily remedied. I urge my colleagues to request speedy action on my previously introduced legislation.

MORE ON ROMANIA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on May 7, I placed in the CONGRESSIONAL RECORD an advertisement which appeared in the New York Times of that day, which advertisement had been sponsored by Mr. Laszlo Hamos, Committee for Human Rights in Romania and which raised questions concerning the treatment of Romanians of Hungarian, German, and other minority extractions by the Romanian Government. I said at that time that I would ask the Ambassador of Romania, the Honorable Corneliu Bogdan to comment on these allegations. I also wrote to the U.S. Department of State for its comments. I am appending the responses I received, which contest these allegations. I am particularly struck by the statistics provided by the Department of State in its letter.

It is my intention to continue to bring to the attention of the Romanian Government any individual cases concerning discrimination which are brought to my attention. As I stated in my original statement, it has been my understanding that there has been a substantial improvement in the area of emigration as it applied to Romanian Jews seeking to leave. The letter of the Department of State would indicate that the flow of emigration "from Romania to the Federal Republic of Germany in recent years has been substantial indeed." And they go on to say:

> We are not aware of undue restrictions on the emigration of Hungarian-speaking Romanians to Hungary.

Obviously in a matter of this kind I am not able to make an independent determination, and I must rely on the analysis provided me by the U.S. Department of State. However, I shall continue to be sympathetic to those in this country who want to bring to my attention individual cases where perhaps I can be of assistance.

That Romania is not a democratic country surely would be agreed to by those who are partisans of the Romanian Government, and we must bear in mind the admonition of the State Department in its letter:

> It is important to keep in mind that the Romanian Government imposes on the people of Romania certain restrictions on civil liberties such as travel, freedom of assembly, freedom of speech, and of religious practice which by Western standards are excessive.

It is my hope that world opinion and continuing discourse between our respective countries will increase those freedoms and reduce the restrictions on civil liberties imposed by the Communist Governments of Eastern Europe on their peoples. I intend to continue to speak out in support of these freedoms in the hope that they will ultimately be extended to people in all the nations of the world rather than only to those fortunate enough to live in one of the handful of democratic states which exist today.

EMBASSY OF THE SOCIALIST
REPUBLIC OF ROMANIA,
Washington, D.C., May 26, 1976.
Hon. EDWARD I. KOCH,
U.S. Congressman,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN KOCH: Aware of your interest in the situation of the Hungarian nationality in Romania I would like to bring to your attention the following facts which, I hope, will be of interest for you.

The national policy of the Romanian Government sets out from historical realities, from the fact that all along the centuries Hungarians and Germans and a smaller number of other nationalities settled alongside the Romanians, the original population of that territory. Relations of close cooperation were established between the Romanian people and those of other nationalities; they lived and fought side by side both under normal conditions as well as in difficult circumstances, against oppression, for social and national justice, for independence and freedom.

The first population census carried out in the postwar period (1966) records a total population of 17,489,450 inhabitants of which 1,587,675 (9.1%) were Hungarians. The last 1966 census reveals the existence of a total population of 19,103,163 inhabitants of whom 1,619,592 were Hungarians (8.5%).

In connection with the situation of the co-inhabiting nationalities the Constitution of the Socialist Republic of Romania adopted in 1965 reads:

Art. 17. The citizens of the Socialist Republic of Romania, irrespective of their nationality, race, sex or religion, shall have equal rights in all fields of economic, political, juridical, social and cultural life.

In accordance with the principles laid down by the Constitution all the country's citizens, irrespective of nationality, participate with equal rights and obligations in the entire political, economic and social life of the country. Out of the total number of deputies elected to the Grand National Assembly 29 (8.3%) are Hungarians. From the total of 51,441 deputies elected to the county, municipal, town and commune people's council 3,774 (7.3%) are Hungarians.

The free use of the mother tongue in the entire economic, political and cultural life is ensured, in Romania, for all the co-inhabiting nationalities, including the Hungarian nationality.

The children belonging to the population of Hungarian nationality, just like all the children of school age in Romania, have access to all forms of education and have the possibility to learn in their native language.

In 1974/75 academic year there were more than 1,000 primary and secondary Hungarian schools with more than 160,000 students and more than 70 Hungarian high schools with more than 19,000 students.

In the same academic year there were more than 6,000 Hungarian under-graduate and graduate students in various universities. Courses in Hungarian were delivered in 20 faculties. For instance at the Babes-Bolyai University of Cluj-Napoca out of the total of 207 courses, 77 are in Hungarian. At the Medical Institute of Tg. Mures of the total of 132 courses, 126 are delivered in Hungarian as well. At the "Szentgyörgyi Istvan" Drama Institute all the courses are in Hungarian.

The Hungarian nationality of Romania has an original spiritual thesaurus, an outcome of a long literary-artistic and folklore creation. These values are being cultivated as part of a network of cultural artistic institutions including theatres, houses of culture, people's universities, professional and amateur artistic groups. There is a Hungarian state opera-house in Cluj-Napoca and 6 drama-theatres.

Hungarian books are being published in 11 publishing houses. One of them, the Kriterion, founded in 1970 and enjoying generous support from the Romanian state, has so far produced 1067 books, totalling ten million copies in Hungarian, Serbian, Croation and Yiddish, and has sold abroad, including in the United States, more than three-and-a-half million copies.

For the Hungarian believers there are 515 Roman-Catholic churches with 500 priests, 836 Reformed worship houses with 773 priests, 138 Unitarian Churches with 130 priests and 46 Evangelical worship houses with 44 priests.

The Roman Catholic cult has a theological institute in Alba Iulia with 123 students. For the protestant cults there is a unique institute with Reformed, Unitarian and Evangelical sections attended by 162 students.

Let me assure you, dear Mr. Congressman that all the allegations against Romania in the connection with the situation of the Hungarian nationality are groundless and could only get confusions for honest people. It is a regrettable manifestation of arbitrary thought and action of an aggressive mentality which is losing ground in international life.

Such type of activity could only deteriorate the relations between nations and this is why we trust that it will be rejected by the responsible public opinion of the United States.

Sincerely yours,

CORNELIU BOGDAN,
Ambassador.

DEPARTMENT OF STATE,
Washington, D.C., May 17, 1976.

Hon. EDWARD I. KOCH,
House of Representatives.

DEAR MR. KOCH: The President has asked that I reply to your letter in which you expressed concern about the emigration policies of Romania in light of the upcoming Congressional review of the US-Romanian Trade Agreement; and about the situation of the Hungarian and German minorities in Romania, including the fear that the right of persons belonging to these minority groups to join their families abroad might be further restricted.

While there has been considerable variation from month to month, the flow of emigration from Romania has increased substantially since the implementation of the Trade Agreement with Romania last summer. Enclosed are two statistical tables, one summarizing emigration from Romania both to the United States and to Israel in recent months, the other with figures on emigration to the United States since 1965. I believe the facts indicate that the implementation of the Trade Agreement has served substantially to promote the purposes of Title IV of the Trade Act of 1974, as they relate to emigration.

We do not have as precise information regarding the emigration from Romania of persons belonging to the German and Hungarian-speaking populations. We do know that the flow of emigration from Romania to the Federal Republic of Germany in recent years has been substantial indeed. In 1974 approximately 9,000 persons are believed to have left Romania for the Federal Republic; in 1975 about 8,000; and preliminary information for 1976 indicates that emigration to West Germany is proceeding at about the same level. We are not aware of undue restrictions on the emigration of Hungarian-speaking Romanians to Hungary.

Our Embassy in Bucharest has analyzed the issuance of US immigration visas issued over certain selected periods of time in an effort to determine as precisely as possible the ethnic and religious affiliation of those Romanians who leave for the United States. I quote from this recent study: "To summarize, it was found that immigrants to the US from Romania are fairly representative of Romanian society as a whole. If there are any biases in favor of certain groups leaving Romania, they are in fact in the direction of the younger, urban members of an ethnic minority (primarily German) who live in either Bucharest, Sibiu, or Brasov *judete*, or in the four *judete* along the Yugoslav and Hungarian frontiers . . ."

We therefore find no clear evidence to justify the fears expressed in your letter, and in the letters of your colleagues, that the emigration of members of the German or Hungarian ethnic minorities in Romania is subject to discrimination.

Regarding the broader question you and your colleagues have raised concerning the denial of human rights to minority groups in Romania, and your desire that this be discussed with the Romanian government, I can report to you that in recent months American officials have raised this matter with Romanian officials at various levels.

In view of the concern expressed by various Members of Congress on this subject, our Ambassador in Bucharest, Harry G. Barnes, Jr., directed an exhaustive Embassy review of information available to it. I am enclosing the principal portions of this study. In its preparation, the Embassy searched out and utilized a wide variety of sources, bringing its broad experience and judgment to bear in its evaluation.

The report addresses a number of subjects: the National Cultural Patrimony Law, which some have described as directed at the churches of the ethnic and religious minorities of Romania; the size of the Magyar-speaking population of Romania, about which there has been some disagreement; the adequacy of radio and TV programming in the Hungarian language; cultural policies toward the Hungarian-speaking population; the question whether graduates of Hungarian-language high schools can continue their studies in the Hungarian language; the number of educational institutions which offer subjects in Hungarian; the use of the Hungarian language officially, or in public; allegations of job and housing discrimination against the Hungarian-speaking minority; alleged dispersal of Hungarian-speaking graduates into predominantly Romanian areas; the reported "declaration" by "leaders of the Magyar and German Minorities," mentioned in an article in the Frankfurter Allgemeine Zeitung last autumn; the ban on private lodging for most tourist visitors; and allegation of harassment of churches.

In any discussion of the overall situation of the Hungarian and other ethnic minorities in Romania, it is important to keep in mind that the Romanian Government imposes on the people of Romania certain restrictions on civil liberties such as travel, freedom of assembly, freedom of speech, and of religious practice which by Western standards are excessive. These restrictions are applicable to all Romanian citizens in Romania, regardless of their ethnic or religious background. Given the unfortunate history of antagonism between the Romanian and Hungarian populations of the area, it is to be expected that any restrictions imposed by a predominantly Romanian regime will be resented with special bitterness by the ethnic Hungarians whether or not these restrictions are imposed in a discriminatory fashion.

In conclusion, I wish to assure you that we deplore any discrimination on ethnic or other grounds, or persecution for religious belief, anywhere in the world. We hope and believe that the process of relaxation of tensions between east and west will lead to a gradual reduction in restrictions on civil liberties imposed on their peoples by the governments of Eastern Europe. The United States will continue most strongly to advocate respect for fundamental human rights, and will not hesitate to continue to speak out in this regard on appropriate occasions with all governments, including Romania.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosures: As stated.

STATISTICS ON ROMANIAN EMIGRATION

	Immigration visas issued by Embassy Bucharest	Dual nationals processed for departure to United States	TCP's processed for departure to Rome[1]	Emigration to Israel from Romania
1975				
January	27	0	----------	62
February	13	0	----------	41
March	14	0	----------	102
April	24	2	----------	60
May	20	2	----------	46
June	29	1	----------	199
Total 1st 6 mo	127	5	----------	510
July	110	6	----------	403
August	182	14	----------	238
September	181	9	----------	262
October	131	13	----------	350
November	62	9	----------	130
December	56	4	[2]41	115
Total 2nd 6 mo	722	55	41	1,498
Total, 1975	849	60	41	2,008
Grand total 1975	950		----------	2,008
1976				
January	70	1	4	328
February	72	9	15	232
March	103	13	27	99
Total 1st quarter 1976	245	23	46	659
April	88	6	9	51

[1] Note: TCP-3d country processing: Persons not eligible to receive U.S. immigration visas from Embassy Bucharest, for whom arrangements are made for travel to Rome, Italy for processing of their applications for admission to the United States as conditional entrants.

[2] Note: TCP procedures initiated in December 1975.

STATISTICS ON ROMANIAN EMIGRATION TO THE UNITED STATES SINCE 1965

Immigration visas issued by Embassy Bucharest by fiscal year

IV's issued FY 1965	274
IV's issued FY 1966	104
IV's issued FY 1967	19
IV's issued FY 1968	23
IV's issued FY 1969	154
IV's issued FY 1970	372
IV's issued FY 1971	629
IV's issued FY 1972	269
IV's issued FY 1973	357
IV's issued FY 1974	511
IV's issued FY 1975	328
IV's issued CY 1975	849

FEDERAL BOYCOTT OF CONCORDE FLIGHTS URGED

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record.)

Mr. HANLEY. Mr. Speaker, the airwaves and the newspaper columns are filled today with the splash of public reaction to the landing of the Anglo-Franco Concorde yesterday at Dulles International Airport. The reactions are somewhat mixed but with a definite tone of acceptance and welcome to the new air service. These smack a bit of resignation by the public to the pressures of propaganda and of a fait accompli which not too long ago was hotly contested.

There seems to be no legal way by which access can be denied to the Concorde presently. However, I suggest that there is available to us a symbolic protest of the still unresolved questions of environmental safety and economic benefit. That protest is the boycott of travel via Concorde by all Federal officials and employees. Until there is verification of the environmental safety of this aircraft, no Federal officials should travel on it.

I realize that there is an erosion of public sentiment in the face of fantasies about Buck Rogers commercial flights and that seemingly innocuous test flights may have disproved claims of noise disturbances. However, this does not relieve us of the responsibility to insist on the strictest adherence to all environmental and safety regulations for U.S. operations by Concorde. Though there seems to be less obnoxious noise than originally expected, there is not sufficient test data to conclude that there is no danger of noise pollution, air pollution, or ozone deterioration.

I do not think that taxpayer money should subsidize this effort to make Americans guinea pigs for faster-than-sound air travel. Nor do I see that the savings in time justify the increased fare which the U.S. taxpayer would be paying for Government people to travel in high speed luxury.

Now, we are good friends with both the people and the Governments of Great Britain and France. In this year of our Bicentennial, it is especially hard to withhold concurrence in such a project of high expectation. But we should not put international accord before the safety and welfare of our own country. The Congress, at least, should back up its own actions and decisions regarding our own SST program. As you are aware, this project was halted in its embryonic stage for lack of justifiable ecological and economic risks being satisfied. Technology has not yet demonstrated a benefit from the supersonic plane which can offset its potential environmental hazards and economic pitfalls.

Thus, I would call on the responsible heads of each agency of Government to abstain from all use of the service and to issue appropriate regulations denying reimbursement for any travel expenses which include Concorde flights. Such a symbolic gesture would assure the strict compliance of Concorde officials to standards already in force at U.S. airports. It would also serve notice that those who share concern for the well-being of our citizenry have not simply accepted the flights without continuing serious reservations.

There is a terrible temptation to be in the forefront of the technological revolution of passenger flight which must be resisted by consideration of the unanswered questions about the need and desirability of such travel. But I do not believe that a country and a government which has so splendid a record of exploration in space has to apologize to anyone for its justified hesitation to take actions without full realization of all risks.

REPRESENTATIVE BIAGGI HONORED AT MARITIME DAY IN PORT OF NEW YORK

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, our distinguished colleague from New York (Mr. Biaggi) recently was the guest of honor at Maritime Day in the Port of New York. A resident of the city for his entire life, he is dedicated not only to its interests on land, but on the seas as well.

As chairman of the Coast Guard and Navigation Subcommittee, he has made every effort to bolster our Nation's maritime interest to help restore America to the leadership role it once had on the oceans of the world. His thoughtful and incisive address will no doubt be of great benefit to all our colleagues and I am, therefore, including it at this point in the Record:

REMARKS OF HON. MARIO BIAGGI FOR MARITIME DAY, MAY 21, 1976

Thank you for the opportunity to briefly talk about a subject that is vital not only to this country, but indeed to the entire world.

While the United States celebrates the 200th anniversary of its declaration of independence, and its beginnings as a nation, our attention is directed not only to the fundamental concepts on which this nation was founded, but also to a survey of our progress in the last 200 years and a consideration of what our future course should be.

As early as the 14th century, the peoples of Europe began to look outward beyond the confines of their known world. Bold adventurers from Scandinavia to the Mediterranean undertook dangerous voyages further and further westward into the uncharted reaches of the unknown seas. Discovery, contact, and development of the western hemisphere resulted, as well as ultimate contacts between Europe and the eastern world. Similar exploration was undertaken by the people of Asia. Contacts between peoples throughout the world can be based on these first initiatives of adventurous seafarers. Interrupted by periodic confrontations, disputes, and wars, the nations of the world have gradually drawn closer together, recognizing their interdependence on this "planet earth." Probably the most important element in this developing process has been the expansion of maritime activities.

As our national development was dependent in large measure upon maritime trade, so is the international dependence for bringing the nations of the world closer together.

It is true, of course, that in the recent past, other forms of contact have developed in the fields of communication, aviation, and satellite usage of outer space. Where once the countries of the world were separated in time and space, these new developments have reduced at least the separation of time, and instant communications are now available throughout the world.

Even with these advances, the main glue of international cohesion remains in the maritime field. The great bulk of the interchange of goods continues to be through maritime trade and, while new concepts and ideas have been slow in coming, substantial changes have been made in the form of that trade. Instead of small vessels that brought Christopher Columbus and his party to the new world in 1492, we now have oceangoing tankers carrying hundreds of thousands of tons of oil across the oceans.

International trade and communications is the bulwark upon which true international cooperation must rest. The seas of the world, constituting some 70% of the world area, not only separate the continents, but in reality, join them together. If I can be permitted to use a metaphor, the world might well be represented as one body with a network of nerves connecting its various parts, consisting of independent nations. If that body is to remain healthy, the connections along those nerve channels must remain unblocked, and nourishment must flow to all parts. International trade and commerce is the single instrument which might be analogized to the arteries of the international body through which the life blood must flow if the body is to remain alive.

Sadly, when problems arise regarding the management of our oceans and our international waterborne commerce nations move slower than the snails of the seas to find a solution. The law of the sea conference has been meeting for three years with no final treaty in sight. Failure to reach agreement in the next two negotiating sessions could mean that the oceans—the world's last frontier—will be the new battleground for national soverignty. If such disputes become commonplace not only fisheries and economic resources but all ocean going commerce will be threatened.

Those of you who have a stake in the freedom of movement over the oceans of this world must take an activist role in pressing for a settlement of the weighty questions facing the negotiators.

Development of the ocean's resources will mean new growth for the maritime industry in general, and sustained growth for the nations of the world, to assure continued demand for water-borne commerce.

International trade, based on maritime cooperation between nations will serve to promote international understanding, international cooperation, and international well-being. The maritime interests reflected here today have a challenge, an opportunity, and a responsibility to insure the continuation and promotion of maritime interests. Cooperation and understanding of the needs and understanding of the needs and interests of all is necessary to promote the interests of each. If we can together accomplish that goal, we will have even more reason to celebrate maritime day in the future.

WITNESSES CITE CUTS IN POSTAL SERVICE

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record.)

Mr. HANLEY. Mr. Speaker, early this month, the Postal Service Subcommittee held hearings at which Members of this body testified concerning service cuts sponsored by the U.S. Postal Service.

Uppermost in the minds of the witnesses was the precipitous closing of small post offices throughout the country which threaten the identity of many rural communities. The Members expressed great distrust of the Postal Service and indicated time and time again that they felt that the Postal Service had broken faith with the people.

The House Postal Service Subcommittee for more than 2 years has been working assiduously to find a solution to the problems facing the Postal Service. In October, the House passed H.R. 8603 which is currently pending in the Senate. The Senate is now working on its own version of the legislation which would provide temporary financial relief for the Postal Service, while a major study would be conducted to determine what the public service functions of the Postal Service should be. I feel that the current and proposed cuts in postal service have seriously undermined the Postal Service's integrity in the eyes of the citizens of this country, and that we cannot achieve the solution to our problems until faith is restored in the Postal Service. I strongly believe that the most responsible thing for the Postal Service to do would be to declare a moratorium on post office closings and major service cuts for a year to give us all time to find a long-term solution.

Therefore, I and Messrs. Nix, Ford, Lehman, Simon and Mineta, all of whom are members of the Postal Service Subcommittee, have introduced a resolution and we commend it to the Members of the House.

THE SPECTER OF CANCER: FALLOUT FROM INCREASES IN POLLUTION

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, last November the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology conducted an extensive, and in some ways, frightening set of hearings on the chronic effects of low levels of pollutants. These are the pollutants that are the result of our modern technological society which produces enormous quantities of an increasing number of substances, many of which are toxic to plant, animal, or human life. The hearings are now available from the committee, and should be of great value to those who are interested in this subject.

This week the Committee on Interstate and Foreign Commerce began markup on the Toxic Substances Control Act. This legislation is one of the key missing links in the effort to protect the public from pollution-caused diseases. The Congress has acted on this legislation several times in the past, but for one reason or another, it has never completed action. Hopefully, this year will be different.

At this time I would like to direct my colleagues' attention to an excellent article which appeared in the December issue of "Environmental Science and Technology" on this same general subject matter. This magazine which is published by the American Chemical Society, occasionally does special reports on subjects of general interest. The special report in this issue is on the dramatic increase in environmentally caused diseases.

The article follows:

The Specter of Cancer: Special Report

This year 600,000 people in the U.S. contracted cancer, and more than 300,000 have died from it. From 60–90% of all human cancers are caused by environmental factors, including cigarette smoking. These figures do not include the debilitating effects and even deaths resulting from cardiovascular and respiratory diseases, also suspected of having environmental causes.

Technological man is rudely being persuaded that he cannot with impunity tamper with his environment. Whichever way he turns he is being bombarded with the deleterious effects of his vaunted technology. Like the mythical multiheaded Hydra, his problems seem to multiply with each solution he effects. Consider these:

To protect himself from the noxious exhausts spewing from his automobile he designs the catalytic converter. An answer to hydrocarbon and carbon monoxide emissions is converted to a potential sulfuric acid problem.

To generate electricity to drive his civilization, he burns fossil fuels. The sulfur oxides emitted pollute his air and fall to the earth as acid rain to pollute his crops and waters.

To make his polluted waters drinkable, he disinfects them with chlorine. The chlorinated hydrocarbons formed are potentially cancer-inducing compounds.

To propel hair sprays, deodorants and household cleaners he uses Freon in pressurized cans. This Freon is now suspected of destroying the stratospheric ozone layer. More ultraviolet rays may then strike the earth causing an increased incidence of skin cancer.

To earn a living he unwittingly subjects himself to cancer-causing organic chemicals, asbestos, arsenic . . . and the list seems interminable.

Hercules killed his serpent by cauterizing the necks as he cut off the heads. The U.S. Congress has attempted to cauterize the nation's increasing pollution problems by passing the Clean Air Act and the Federal Water Pollution Control Act Amendments, the Occupational Safety and Health Act, and the Safe Drinking Water Act among others. The proposed Toxic Substances Control Act, introduced every year since 1973, will probably die again this legislative session.

How successful have these laws been in protecting the health and welfare of the American people? Not too successful if medical (epidemiological) evidence of rising rates of diseases such as cancer is considered.

Yet, there are some who will insist that if cancer, respiratory and cardiovascular illnesses are social diseases, the result of urbanization and industrialization, then the same technological genius that went into their cause can be harnessed for their prevention.

CANCER MAPPING

Analytical studies have shown that man-made chemicals, suspected or known to be carcinogenic (cancer-causing), are found in the air we breathe, the water we drink and the food we eat. Of the estimated 2+ million chemicals known, no more than 6000 have been tested to determine whether they cause cancer; only 1000 have been shown to possess any carcinogenic activity. And, probably only 500 of these 1000 compounds are potentially hazardous to man, according to John A. Cooper, II, deputy associate director for carcinogenesis, National Cancer Institute (NCI).

There is, at the moment, no systematic way to prescreen new substances before they enter the environment. After-the-fact testing is being conducted at NCI where, at any one time, some 450 compounds are assayed for their cancer-causing potential.

To date NCI lists only 32 compounds as substances known to be carcinogenic to man. Included in this list are vinyl chloride, asbestos, chromium (hexavalent), tobacco, β-naphthylamine, benezidine and the cattle-fattening hormone DES (diethyl stilbesterol). The Occupational Safety and Health Administration (OSHA) within the Dept. of Labor has set health standards for four of the above mentioned substances.

In an effort to unravel environmental and occupational factors in the cause of cancer, scientists in the epidemiology branch of NCI have turned to the computer to analyze and map cancer deaths. A 4-yr study, which covered the U.S. by counties for the period 1950–1969, has highlighted geographic clusters where the incidence of certain types of cancers is high.

When the NCI scientists correlated industrial activity with high-cancer-risk counties, they found that white male workers in the chemical industry had high rates of lung, liver and bladder cancers; these rates could not be explained by factors such as urbanization and socioeconomic class. High rates of bladder cancer were found in white males in counties clustered in areas where automobiles and two types of heavy machinery are manufactured.

Copper, lead and zinc smelter workers were found to have a high incidence of lung cancer. Since females in these same counties were also found to have above average rates of lung cancer, it was suggested that hazards of the workplace were being spread to the home and the surrounding community. An airborne by-product of the smelting operation, arsenic, a known human carcinogen, is the suspected cause. Another example of this invasive phenomenon, again with lung cancer, is found in asbestos workers, their families and in the community surrounding the factories.

The NCI group responsible for the mapping studies is now refining its data. In more detailed studies of the cancer hot spots, the researchers are examining the influences of urbanization, ethnicity, migration and constituents of the water supply on cancer rates.

The NCI scientists, T. J. Mason, F. W. McKay, R. Hoover, W. J. Blot and J. F. Fraumeni, Jr., caution that the maps only provide clues to factors that contribute to cancer causation; they emphasize that the maps should act to stimulate further studies.

CANCER INTEREST AT SEA

Taking up the NCI challenge, the U.S. EPA this July awarded an 18-month contract to System Sciences Inc. (Bethesda, Md.) to study the correlation of cancer mortality between 1968–1973 with the industrial structure of the U.S. in 1959. What is being sought is the relation of exposure of industrial effluents and emissions to the incidence of cancer. Edward Brooks, in EPA's Office of Toxic Substances, and project officer on this contract, told ES&T that the study may be expanded to include diseases other than cancer, such as respiratory and cardiovascular diseases.

Another group within EPA that has sensed an increased need to untangle the mysteries of cancers' causes is the Office of Health and Ecological Effects (HEE) within the recently reorganized Office of Research and Development. Under the direction of Roy E. Albert, acting deputy assistant administrator, HEE is charged with providing the necessary scientific information to support the promulgation or enforcement of standards and regulations. Long-term research programs are designed to gain a better understanding of the effects of environmental contaminants on living entities, including man, and on the eco-systems in which these entities exist.

Albert has been designated the coordinator for all cancer matters within EPA, which is now formulating a policy on carcinogens. He realizes that there are substances that cannot be eliminated from the environment and the problem is to "control them (carcinogens) to minimize the risk of cancer, and yet permit their use in a fashion which is not economically prohibitive."

EARLY WARNING SYSTEMS

According to reliable estimates, more than 200,000 chemicals of commerce are available today, and hundreds more enter the marketplace yearly. The need to predict their potential hazards to man is imperative. Yet neither the Clean Air Act nor the Federal Water Pollution Control Act Amendments contain provisions for the premarket or premanufacture review of health and safety data for chemicals. To date, no Toxic Substances Control Act exists. Because there is a lag period between the reduction of the release of contaminants to the environment and the resulting decrease in concentration in the environment, anticipatory actions and early warning systems are needed.

Conceptually, lower life forms could be used to monitor the environment for emerging hazards, and act as indicators of potential hazards to man. They could also be considered for use in the design of new, improved and more rapid in vitro screening systems for toxic substances.

An important component of an early warning system would be a specimen bank such as the Registry of Tumors in Lower Animals, tucked away in the labyrinth of the Smithsonian Institution. Invertebrate or cold-blooded vertebrate specimens with lesions, collected from natural habitats, zoological parks, aquaria and laboratory experiments, can be sent to the Registry to be preserved and studied. The specimen may be a slide, a bit of tissue, a head or the whole animal. A report of the findings is eventually sent to the contributor.

The idea for the Registry emerged within NCI in 1963 and received the blessings of the National Academy of Sciences-National Research Council that same year. Two years later, in 1965 the NCI approved the concept and awarded a contract to the Smithsonian the following year.

A COLLECTION OF TUMORS

The Registry's collection now contains about 5000 specimens of which 55% have neoplasms (tumors). The highest percentage of tumors (60%) are found in bony fish, but substantial numbers are found in amphibians (16%) and mollusks (14%). Neoplastic lesions have even been documented in the fruit fly, the insect that has contributed so hugely to our knowledge of genetics. A variety of other disorders caused by viral or bacterial infections, parasitic infestations and developmental anomalies have been documented by the Registry.

The preponderance of aquatic animals having tumors, according to the Registry's records, are bottom-feeders and bottom-dwellers. These neoplasms are often skin tumors. Because the aquatic environment frequently acts as a receptacle for potentially carcinogenic (cancer-causing), mutagenic (causing change in genetic material) and teratogenic (causing non-transmittable birth abnormalities) substances, the use of readily detectable skin tumors in these "low living" animals should be considered as an early warning system.

In addition to analyzing specimens to determine lesion types and probable causative agents, the Registry's staff under the direction of John C. Harshbarger has also developed a computerized data bank of information collected from Registry records and published literature. The staff, often in conjunction with the specimen contributor, conducts experimental studies on the nature and cause of tumors in these lower life forms.

The Rainbow trout is often touted as the prime example for the use of tumors in fish as a reliable indicator for the presence of potential human carcinogens. These fish, raised in hatcheries, were found to have a high rate of liver tumors. The cause was traced to fish food contaminated with aflatoxins. Aflatoxins have since been found to be carcinogenic to certain mammals, and epidemiological evidence strongly suggests that they are carcinogenic to man. As a result of these studies, the Food and Drug Administration has established tolerance limits for aflatoxins in food.

The Rainbow trout emerged as an unwilling indicator for cancer, and was pressed into service as an experimental model. It may yet serve as the rallying point for increased use of lower animals in research directed to the cause and prevention of cancer in man. Harshbarger and his staff, buttressed by documented evidence from the Registry, offer strong arguments for their use.

SPECIMEN BANKS

A more comprehensive specimen and data bank, a National Environmental Banking System, may yet come into being. Suggested as early as 1973 at a conference sponsored by the National Science Foundation (NSF), the feasibility of such a banking system is now being studied by the EPA with the cooperation and funding of the NSF and the National Bureau of Standards. The Human Effects Research Laboratory (Chapel Hill, N.C.) within EPA's Office of Health and Ecological Effects is spearheading this $300,000 project.

As ultimately envisioned, the banking system would preserve, store, catalog and selectively analyze specimens for pollutants. Samples of human, other animal and plant tissue as well as air, water, soil and food would comprise the specimens in this system. It is assumed that the data derived from the analyses would be useful in the early detection of problems, and in forecasting future problem areas. The storage of specimens would provide a flashback capability should new and unforeseen problems emerge.

A case for the use of marine animals in biomedical research was strongly made at a conference held earlier this year in Washington, D.C. Conferees emphasized that some marine organisms would make excellent model systems for study because they contain organs and even cell types similar enough to man's to manifest similar disease states—diabetes in the carp, arteriosclerosis in the Pacific salmon, and epilepsy-like convulsions induced in neurons of sea slugs.

Because these marine organisms are simpler life forms they can be more thoroughly probed to yield secrets of disease processes that have so far eluded investigators who have used the more common laboratory animals—rodents, cats, dogs and monkeys.

These lower life forms, particularly marine invertebrates, have been so little studied that the whole area of invertebrate biology is, as Paul Yevich, a scientist participating in the Marine Biomedicine Research conference said, "an exciting world of unknowns."

HAZARDS OF THE WORKPLACE

Heavy metals, minerals and organic chemicals are hazardous concomitants of industrialization. The early Romans recognized the dangers of mercury, and criminals sentenced to death were sent to work in the mercury mines. And 200 years ago, Percivall Pott reported cancer of the scrotum in chimney sweeps. But it is only recently, because of the long latency period between exposure and first evidence of clinical disease (the time-to-tumor incident) that arsenic, asbestos and synthetic chemicals of industry, introduced since World War II, are being identified as cancer-causing agents.

A research group headed by Dr. Lorenzo Tomatis of the International Agency for Research on Cancer (Lyon, France) studied about 200 commonly used chemicals and linked 17 to cancer in man. Of the 17 chemicals known to be carcinogenic in man, 14 are hazards of the workplace (see box material). Most of these hazards can be eliminated or reduced by changes in production processes and by using emissions control equipment.

Because of the astronomical number of chemicals synthesized yearly, and the long latency period before cancer becomes apparent, the backlog in testing for potential carcinogens simply increases. More rapid screening tests, using bacteria instead of animal systems, are being developed. But, until these bacterial systems are perfected, labor unions representing textile, chemical, atomic, and steel workers among others are beginning to work with medical doctors (*epidemiologists*) to set up studies and surveillance techniques to detect cancer and other diseases linked to occupational hazards.

An intersting, non-chemical occupational hazard—whole-body vibration—was studied by Thomas H. Milby, Robert C. Spear and Carl A. Keller at the University of California-Berkeley. Through the cooperation of Local No. 3 of the International Union of Operating Engineers, and under NIOSH funding, the scientists were able to study the diseases contracted by construction workers exposed to chronic, low-frequency, high-amplitude, whole-body vibration.

From the Union's health plan records covering a 20-month period, about 3900 claims for medical services were collected. The exposed group consisted of heavy machine operators, while the control group consisted of workers (such as oilers and soil testers) not subject to whole-body vibration but otherwise working on sites where machine operations are in progress.

In general, those construction workers exposed to whole-body vibration were more likely to file claims for medical services than workers in the control job classifications. Only with diseases of the male genital organs was a strong correlation with whole-body vibration apparent. But a peaking phenomenon became evident. When heavy machine operators became afflicted with certain types of heart disease, a particular type of obesity, gout or diseases of the muscles or skeleton, the data suggested that they left the jobs that subjected them to whole-body vibration.

NIOSHA/OSHA ACTIVITIES

The National Institute of Occupational Safety and Health (NIOSH) and OSHA have undertaken a joint 3-yr effort to accelerate the development of health standards. By late 1977, about 275–300 complete health standards will be promulgated.

In 1971, OSHA issued its first set of 500 threshold limit exposure standards for chemical substances. These standards were adopted in one full swoop from the American Conference of Government Industrial Hygienists. Four hundred of these 500 standards are to be expanded into complete health standards under the joint NIOSH/OSHA Standards Completion Project (SCP). A complete standard includes monitoring, medical surveillance, analytical methods, housekeeping and record keeping requirements.

OSHA's performance in the promulgation of health standards has not been sterling. To date, the Agency has promulgated complete health standards for 16 substances, and has proposed another 23 standards.

Under the 1970 Occupational Safety and Health Act that created NIOSH and OSHA, NIOSH was charged with developing criteria documents that are sent to OSHA for standards development. So far, 27 criteria documents have been sent to OSHA; from that number OSHA has promulgated one standard—for asbestos. By the end of this year, OSHA will receive seven more criteria documents from NIOSH, including one for oxides of nitrogen and another for hexavalent chromium compounds.

DO NOT DRINK THE WATER

On November 7, 1974, the Environmental Defense Fund (EDF), a New York-based national environmental organization, released a report by Robert H. Harris, a water quality engineer. His report stated that the water that New Orleans, La., draws from the Mississippi River contains chemicals suspected of causing cancer in man. The report mentioned that NCI had found Orleans Parish, La., to be a cancer hot spot, and then went on to draw the implication that the river water may be a factor in the high incidence of cancer in certain Louisiana parishes.

After review of the EDF study the NCI concluded that the report "in no way implicates water as an explanation for the high cancer rates in the parishes of Louisiana which draw all or part of their water supplies from the Mississippi River." The NCI review further stated that undisciplined methods had been used to arrive at the conclusions in the EDF report.

The very next day, on November 8, 1974, the U.S. EPA released its report announcing that 66 trace organic chemicals had been found in New Orleans' drinking water supply. Administrator Russell Train, that same day, ordered a nationwide study of drinking water supplies of 80 major cities to determine the extent of chemical contamination. This survey found that 95% of the water tested contained small quantities of organic chemicals, some of which were under study at the NCI for their cancer-causing potential.

On December 17, 1974, President Gerald Ford signed into law P.L. 93–523, the Safe Drinking Water Act, which authorized the EPA to set national standards for drinking water, but left enforcement of the standards to state and local authorities. In March 1975, the EPA proposed draft standards that set limits for organic and inorganic chemicals and pesticides in drinking water supplies. The standards, some of which have already been modified, become effective in December 1976.

The concentrations of the suspected carcinogens found in the nation's drinking water supplies are very low, and probably went undetected for years because analytical methods were not yet sophisticated enough to detect them. Whether these low levels can be implicated in the etiology of cancer is a question that begs an answer.

Some scientists have called P.L. 93–523 an unnecessary response to the perceived crisis of the moment. A NCI report to the Surgeon General stated that "no level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man." Whether a safe threshold for exposure to a carcinogen exists is a widely debated and as yet unanswerable question. With P.L. 93–523, the U.S. has chosen to err on the side of safety, at least until the ultimate goal—zero discharge of pollutants into the nation's waterways—of another federal water act, P.L. 92-500, becomes technologically and economically feasible.

A COLLISION COURSE

What does a one-industry town do when it discovers that the industry is polluting its sole source of drinking water with a suspected carcinogen? This is a question many small towns throughout the U.S. may be forced to answer in the very near future. It may take another Solomon, however, to solve the resulting repercussions when environmental considerations collide head-on with economics.

Case in point: Duluth, Minn., whose source of drinking water is Lake Superior. Fifty-five miles upshore of Duluth, in Silver Bay, Minn., The Reserve Mining Co. daily dumps about 67,000 tons of its powdered rock wastes, taconite tailings, into the Lake. Reserve has been dumping its wastes into the Lake since 1955. The tailings contain asbestos-like fibers.

The Lake's waters are so contaminated that a quart of unfiltered water taken from Duluth's water system contains about 50 million asbestos-like fibers, according to an EPA scientist.

Inhaled asbestos has been implicated in the etiology of lung cancer, but no one knows its effects in man when it's ingested. Epidemiological studies are not conclusive. The fibers have only been in Duluth's drinking water for 20 years, too short a period for carcinogenic effects to show up.

About 3,000 people in Silver Bay work for Reserve. These people are concerned about the long-term health effects of asbestos, but they also fear for their jobs.

EPA sued Reserve Mining in 1972 for polluting Lake Superior. In April 1974, after nine months of inconclusive hearings, a federal judge ordered the plant closed. Two days later, on appeal, the 8th Circuit Court of Appeals permitted the plant to reopen. In March 1975, the appeals court ruled that since Reserve's wastes are only "a potential threat to public health," the plant could remain open. However, Reserve, working with the State of Minnesota, was ordered to devise an alternative plan to dispose of its wastes on land (and also to clean up its air emissions). If the State and Reserve are unable to agree on a method of land disposal, the plant will have a year in which to phase out its operations.

In the meantime, Duluth, at its own expense, is spending $5.25 million to update its antiquated water system, which meets all present water quality standards but wasn't designed to remove cancer-causing substances. Filters are being built at the central water treatment plant that will remove the asbestos fibers before the water is pumped into the distribution system. The city hopes the courts will eventually award it damages in the Reserve Mining Case.

WATER DISINFECTION

Present disinfection processes may not be as effective in combating viral contamination of drinking water as they are in controlling bacterial contamination. The coliform test, the current proof of disinfection, may not be a reliable indicator of viral infection.

Viruses of major concern, the enteric viruses that infect the digestive tract of man and are excreted in the feces, are likely to be found in waters recently contaminated with sewage. Very little is known about enteric virus levels in U.S. drinking water. Documented evidence for waterborne virus disease exists only for hepatitis type A. But, even if enteric virus levels are found to be very low, these low levels may well be capable of causing infection in man.

Experimental evidence indicates that enteric viruses are much more resistant to conventional sewage and advanced wastewater treatment processes than are coliform bacteria. Little is known about the ability of ozone, an alternative disinfectant to chlorine, to inactivate enteric viruses.

A first step in evaluating the public health significance of enteric viruses in drinking water would be the determination of the presence and amount of these viruses in potable water supplies.

BEYOND CRITERIA POLLUTANTS

EPA's latest estimate (1970 data) of damage to health from air pollution is $4.6 billion. No mere pittance. So the EPA, under the Clean Air Act mandate, has established ambient air standards for a half dozen materials—sulfur oxides, nitrogen oxides, carbon monoxide, hydrocarbons, photochemical oxidants and particulate matter. As designed by EPA, particulate matter covers hundreds of substances that may have harmful biological effects. But secondary particulates, those formed in the atmosphere by the reaction of a primary pollutant (emitted directly from a source) under the influence of such factors as water vapor, ultraviolet radiation and ozone, are also of concern. These are generally very fine particles in the aerosol class (0.01 to 10–20 μ), and those less than 3 μ in size are termed respirable particulates.

When air containing aerosols is inhaled, 80% of the respirable particles will be deposited deep in the lungs, in the alveolar ducts and sacs. It is these very small particles that contain the higher concentration of hazardous materials that are adsorbed onto the primary pollutant.

Airborne pollutants besides the primary pollutants include polynuclear aromatic hydrocarbons, largely adsorbed onto particulate matter, many of which are carcinogenic, mutagenic and teratogenic; trace elements such as arsenic, mercury and chromium present as inorganic salts adsorbed onto particulate matter; gases such as carbon dioxide and fluorochloromethanes; silica and asbestos; and miscellaneous compounds such as sulfates, nitrates and nitrosamines—the reaction products of primary pollutants. Some of the health effects of these pollutants are shown in the box material.

Complicating the picture of pollution and human health is the fact that many natural and manmade pollutants interact synergistically. Here, a not-so-harmful pollutant alone becomes an extremely harmful one in the presence of a second or third material.

THE SULFATE PROBLEM

Respirable particulates of increasing concern for which no ambient air quality standard now exists are the sulfates and sulfuric acid. Sulfates, according to the air quality criteria document for SO_x, account for 5–20% of the total suspended particulates in urban air. With the advent of the catalytic converter, this percentage may rise.

Evidence for adverse health effects associated with sulfates, especially for lower respiratory infections has been increasing. The acid, irritating aerosol sulfates and sulfuric acid are believed to be more toxic than the parent SO_2, and are suspected of being the moieties responsible for the increase in diseases and deaths associated with air polluted by SO_x emissions from stationary sources.

EPA has estimated that when daily sulfate levels exceed 6–10 $\mu g/m^3$, the frequency of asthma attacks increases; at levels greater than 25 $\mu g/m^3$, the elderly experience exacerbation of heart and lung disease and mortality rates increase; at levels greater than 13 $\mu g/m^3$ for several years, an increase in acute lower respiratory disease in children occurs. These levels are often exceeded today, especially in the urban centers of northeastern U.S.

Because of many factors, including unknown synergistic effects, latency effects or chronic illness, and lack of interrelating clinical, epidemiological and occupational data, there is not enough information available today to establish a national air quality standard for sulfates, or a strategy for achieving reduction in ambient levels. The EPA feels that it cannot realistically set a national standard for sulfates before 1980 or 1981.

Until then, EPA has adopted the policy of limiting further increases in areas of the U.S.—especially a 24-state region mainly in the northeast—with higher than average sulfate levels. In these states, sulfur emissions from power plants and other stationary sources will be limited.

Concerning the emission of sulfuric acid from catalytic converters, the National Research Council recently stated that experience with these devices is too limited and sufficient information is lacking. At this time, there is no way to quantitate the potential health hazards arising from catalyst operation with health effects to be gained by controlling hydrocarbon and carbon monoxide emissions.

A FORM OF TYRANNY

Recognition of health problems has increased at a rapid rate but only because modern analytical methods have become so sophisticated, so sensitive, that previously undetectable but potentially harmful materials are now "routinely" detectable in a variety of environmental samples.

Recently, minute amounts of chlorinated hydrocarbons have been found in the waters of the Mississippi River. But, what do these compounds in the amounts detected mean? Do they bode ill-tidings for man? At this point, no one knows.

Rational regulation of pollutants through legislated standards should not be based on the sensitivity of available analytical techniques. Acceptable levels for naturally occurring "pollutants" should be considered in relation to their background levels in the environment. For manmade "pollutants," safe (threshold) levels may not exist and acceptable levels must be "man-devised." These levels must be set so that the risk of man is greatly minimized. To accomplish this, all sources of information, including clinical, epidemiological and toxicological as well as analytical measurements, must be considered.

WHERE HAVE ALL THE WETLANDS GONE—PART II

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, on Monday, May 24, 1976, the House Environmental Study Conference held a briefing for Members of Congress and their staff on the proposed Breaux amendment to section 404 of Public Law 92-500. Representatives of the U.S. Corps of Engineers, the Environmental Protection Agency, the American Farm Bureau Federation, and the Natural Resources Defense Council Environmental Lobby were on hand to present their views on the proposed amendment. It was my pleasure to serve as panel moderator.

I believe the following information will be helpful to those unable to attend the briefing. The first attachment—"The Section 404 Program in Perspective"—was supplied by the Environmental Protection Agency and describes the section 404 program as it currently exists. This document should help clarify some of the misinformation currently being circulated about the 404 program.

The second attachment, a letter to Members of Congress, gives the views of the American Farm Bureau Federation on the Breaux amendment. The Federation supports the Breaux amendment.

The third and fourth attachments give the views of the Natural Resources Defense Council Environmental Lobby, Inc., which opposes the Breaux amendment.

The material follows:

THE SECTION 404 PROGRAM IN PERSPECTIVE

In July of last year the Army Corps of Engineers and EPA reorganized the section 404 program to provide the broad geographic jurisdiction over water that is necessary to protect aquatic resources. Broad jurisdiction is essential to control the physical destruction of small streams and major waterways, river swamps and coastal marshes. Widespread presence of toxic contaminants in dredged and fill material dictates the need for a Federal/State decision-making process to protect water supplies and fisheries from indiscriminate dumping of polluted materials.

While broad jurisdiction over water is essential, the Corps and EPA realized that jurisdiction over several categories of activities must be moderated to prevent full regulation of discharges that have little or no impact on the aquatic environment. Several administrative mechanisms were installed to insure that limited public and private resources would focus on those discharges that significantly disrupt the environment without encumbering minor activities that have little impact. First, general permits are being issued for categories of activities that have minimal impact on water. Second, the broader jurisdiction is being implemented in phases to allow time for the issuance of general permits. Third, a cooperative Federal/State program is being encouraged through joint processing of permits and an opportunity for the States to certify conditions for protecting water quality.

Preliminary results from the first 10 months of implementation indicate that the program is providing a reasonable decision-making process for moderating potentially harmful activities. Minor activities are being authorized by general permits thereby eliminating the need for individual applications for many activities in both the 404 program and the River and Harbor Act section 10 permit program. The massive number of permit applications predicted by many critics simply has not materialized.

A NATIONAL POLICY TO CONSERVE BENEFICIAL USES OF WATER RESOURCES INCLUDING WETLANDS

Since 1972, the nation redirected substantial resources to reverse the alarming degradation of water quality which has rendered water resources less fit for municipal and industrial water supply, recreational use, and support of fish and wildlife. In 1968, Congress began to recognize the surprisingly important benefits provided by swamps, marshes and small streams by enactment of the National Estuarine Protection Act, followed by the Water Bank Act in 1970 and the Coastal Zone Management Act of 1972. The Corps of Engineers (COE) also recognized the need to control unregulated destruction of wetlands, and asserted jurisdiction over coastal marshes under the River & Harbor Act of 1889 to the mean high water line. While the Corps asserted jurisdiction over the maximum amount of coastal waters that could be included under the 1899 Act, it did not include ⅓ to ½ of many salt marshes and excluded most freshwater wetlands.

Finally in 1972, the comprehensive Federal Water Pollution Control Act provided the opportunity to regulate all of the Nation's waters unfettered by artificial jurisdictional lines which were unrelated to the functional integrity of an aquatic ecosystem.

The new program has produced significantly improved cooperation between the COE, EPA and other Federal and State agencies. For example, new section 404(b) guidelines incorporated the initial result of the COE's five years/$30 million dredged material research program that was authorized in 1973 under separate legislation.

In addition, a COE/EPA joint Research Committee was formed, which is now coordinating and reviewing individual research efforts to insure acquisition of information necessary to replace the fragmented decision process that grew from the narrow jurisdiction of previous laws. One example of current interests involving this COE/EPA interrelated effort has been the opportunity through the guidelines and the Agencies' research efforts to determine the most acceptable methods for handling sediments containing polychlorinated biphenyls (PCB's), Kepone and Arsenic.

Clearly, such toxic materials represent a serious hazard whether discharged into a marsh above or below the mean high water line, or whether they are placed in a small stream or a large waterway. In addition, the 404 guidelines have been interrelated with the ocean dumping criteria prescribed under section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, to insure that all potential disposal sites of dredge material receive a uniform evaluation prior to selecting the most environmentally acceptable site(s) for the disposal of dredged material.

OVERREGULATION MINIMIZED

The current section 404 program is directed toward individually regulating those discharge activities that can cause significant harm to aquatic resources. Various administrative devices were established to also regulate individual activities without imposing undue burdens on those involved. A general permit program was established, and general permits are now being processed and issued to authorize categories of discharges that cause minimal harm to water, thus eliminating the need for individuals to apply for these permits. Gradually phased expansion of jurisdiction over certain waters was employed to insure that the general permit system becomes fully operational. Definitions in the regulations clarify that many activities do *not* constitute discharges of dredged or fill material (e.g., plowing, emergency repairs and maintenance of existing fills).

OPPORTUNITY FOR STATE INVOLVEMENT

In developing the regulation, it was also felt that there was considerable merit in having the States become directly involved in the decision-making process to the maximum extent possible under the law. Three ways were developed to involve the States in this decision-making process.

First, since each discharge of dredged or fill material into a navigable water is, in effect, the discharge of a pollutant into the water, an opportunity for State water quality certification is required under section 401 of the FWPCA before that discharge can be approved. Thus, any State may cause the denial of a section 404 permit if it chooses to deny a water quality certification. Similar situations also exist in those States with approved coastal zone management plans: An applicant for a permit in States with such plans must also certify that his proposed activity will comply with the approved plan.

Second, some States have existing permit programs to regulate the same types of activities that will be regulated through section 404 of the FWPCA by the Corps of Engineers. To the extent possible, it was the desire to support the State in its decision. Thus, where a State denies a permit, the Corps, as a matter of general policy, will not issue a section 404 permit. On the other hand, if a State issues a permit, the Corps will not deny its permit unless there are overriding national factors of the public interest which dictate such action. This would include, for example, assurance that the concerns and requirements of the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Coastal Zone Management Act, and FWPCA have been addressed.

Finally, provision was also made for the District Engineer to enter into an agreement with those States having ongoing permit programs which would enable joint processing of the Department of the Army and the State permit application to an independent conclusion by each entity. This would include joint public notices, joint public hearings, and the joint development, review, and analysis of information which leads to the final decision on permit applications.

The Department of the Army and EPA are presently evaluating comments received on the interim final regulation and guidelines and intend to revise them further in light of comments submitted.

American Farm Bureau Federation,
Washington, D.C., May 6, 1976.

Hon. ———, ———,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman: On Tuesday, April 13, 1976, the House Committee on Public Works and Transportation approved H.R. 9560, a bill introduced by Mr. Jones of Alabama, to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes. During the consideration of this bill Congressman John Breaux of Louisiana introduced an amendment to Section 404 of FWPCA, permits for "Dredged or Fill Materials." The Breaux amendment was favorably received by the Committee and is a part of H.R. 9560, as amended.

This amendment defines the term "navigable water" as it relates to Section 404 of the Federal Water Pollution Control Act to include "all waters which are presently susceptible to use in their natural condition or by reasonable improvement, as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to the mean high water mark (mean higher high water mark on the West Coast)."

On July 25, 1975, the Army Corps of Engineers issued final regulations for the permit program for dredge or fill activities. Those regulations, issued in response to a court order, greatly expanded the jurisdiction of the Corps' regulatory program. Farm Bureau felt at that time, and continues to believe, that the Corps of Engineers' regulatory program is much broader than required, or intended, by the Congress. While the Corps was developing its final regulations, it received over 4500 comments from governors; Congressmen; federal, state, and local agencies; trade and agricultural organizations; and many individual citizens. The preponderance of these comments vigorously opposed this expanded program. The Breaux amendment to H.R. 9560 is a substantial step toward fragile wetlands and other waters unprotected or unregulated. Ample protection is rectification of this problem.

The Breaux amendment does not leave fragile wetlands and other waters unprovided by the Coastal Zone Management Act, the Fish and Wildlife Act of 1956, the Migratory Marine Game-Fish Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, other federal legislation and extensive state laws on wetlands, swamps, and the wildlife dependent on these areas.

We urge your support of H.R. 9560 as reported by the Public Works and Transportation Committee and particularly request your assistance in maintaining the Breaux amendment in that bill.

Sincerely,

John C. Datt,
Director, Washington Office.

The Breaux Amendment

(Source: Natural Resources Defense Council Environmental Lobby, Inc.)

The Breaux Amendment would exempt from protection those rivers, streams, and lakes that are not presently used, or are not susceptible to use, as means to transport interstate commerce. Self-contained wetlands, as well as those above the high water mark, would also be exempt from protection. It is premised on the notion that the only waterways worth protecting from filling and the disposal of polluted dredge spoils are those that currently carry commercial boat traffic.

1. Wetlands are of vital importance to the Nation and to the integrity of the Nation's waters.

One-half of all wetlands have already been destroyed

Two-thirds of the economic value of U.S. commercial fish and shellfish production is dependent on wetlands based food chains

Wetlands provide vital nesting, rearing, and spawning habitats for sportfish, birds, and other wildlife

Wetlands act as buffers against storm and flood damage

Wetlands act as recharge areas for the aquifers from which many public drinking water supplies are drawn.

2. The Breaux Amendment exempts most streams, rivers, and lakes from protection and it is simply not known what effect this might have on public drinking water supplies and recreational opportunities.

3. The Breaux Amendment would allow the control requirements for other pollutants to be bypassed simply by labeling them as "fill." Solid pollutants such as sludge would be ideal for "fill" and liquid pollutants could be mixed with solids and deposited.

4. Fears about large numbers of unnecessary permits and excessive red tape are unfounded since the following activities are exempt from regulation:

Irrigation and farm drainage ditches

Small scale erosion control projects

Normal farming, silvaculture, and ranching activities, such as plowing, cultivation, seeding and harvesting, for the production of food, fiber, and forest products.

Furthermore, general permits are being issued for classes of activities, ending any need for individual permit applications, for a wide range of less harmful activities, including channel protection projects, bridge and abutment and small roadway fills, logging roads, small irrigation intake structures and numerous others.

NRDC Environmental Lobby, Inc.,
Washington, D.C., May 24, 1976.

Hon. John Breaux,
Washington, D.C.

Dear Congressman Breaux: As you know, we, along with numerous other environmental organizations and Federal agencies, have expressed grave concern about your proposed amendment, now embodied as section 17 of H.R. 9560. Most of our concern has centered around the threat to vital wetland resources posed by your amendment. Consequently, much of the public debate has focused on this issue.

Of equal concern in the long run, though, is the manner in which your amendment would restrict protection of streams, rivers and lakes used for public water supplies, swimming and fishing. Your amendment states that the only waterways which can be protected from the discharge of polluted dredge spoils or fill are those which are currently used, or susceptible for use, as arteries of commercial transport. A large proportion of the Nation's cleaner waterways are not so used. Into these waters, should your amendment become law, anyone could dump polluted dredge spoil or fill without fear of regulation under the 1972 Water Pollution Control Act or the 1899 Rivers and Harbors Act. Your amendment would roll back not only section 404 of the 1972 Act, but would drastically restrict the section 402 permit program regulating municipal and industrial discharges and might negate the applicability of the section 208 planning program as well. By removing the test of historical commercial use from the definition of "navigable waters," it would summarily reverse the long evolution of water pollution control under the Refuse Act of 1899.

Many rivers and lakes which once carried commerce but no longer do so would be open to possible contamination. The consequences might be disastrous. For example:

Dredged, material containing toxic mercury, cadmium, and lead could be dumped, without permit, into waterways serving as public water supplies.

An industry could escape regulation, even under the section 402 (NPDES) permit program, by calling its sludge residues "fill." This material could then be dumped into any waterway which is not currently plied by ships and barges. (The Potomac might be one example.)

These polluted materials could be dumped in virtually any waterway in the vast areas of our country which are not blessed with large, deep rivers. Most Western rivers do not carry commercial transport but are used to water stock and for irrigation.

In short, though we doubt you intended it to do so, your amendment appears to suggest that the only waterways worth protecting from polluted dredged material—or any solid residue that could be called "fill"—are waterways which are commercial transportation arteries. The anomalous result is that the grossly polluted Houston Ship Channel would remain protected by the various permit programs, but a pristine river or lake would not. Harbors would remain protected, but many waterways used for fishing or swimming would not. Some of the deep rivers of the East would remain protected, but virtually the entire West, where clean water is a vital resource, would not.

We raise these concerns in this letter because there have never been any hearings on your amendment. We have thus been precluded from raising them in a more formal context. Nonetheless, we hope and trust you will still consider the broader ramifications of the legislation which you have proposed.

Sincerely,

Ronald B. Outen.

LEAVE OF ABSENCE

By unanimous request, leave of absence was granted to:

Mr. Thompson, for from 2 p.m., May 26 through June 11, 1976, on account of official business to attend the International Labor Organization by designation of the Speaker.

Mr. Miller of California (at the request of Mr. McFall), for today, on account of illness.

Mr. Hicks (at the request of Mr. McFall), for May 26 and 27, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Mitchell of New York) to revise and extend their remarks and include extraneous material:)

Mr. Ashbrook, for 30 minutes, today.

Mr. Don H. Clausen, for 20 minutes, today.

Mr. Duncan of Tennessee, for 1 hour, tomorrow.

(The following Members (at the request of Mr. Anderson of California) to revise and extend their remarks and include extraneous matter:)

Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Wirth, for 10 minutes, today.
Mr. Mineta, for 10 minutes, today.
Mr. Solarz, for 10 minutes, today.
Mrs. Meyner, for 5 minutes, today.
Mr. Staggers, for 5 minutes, today.
Mr. Anderson of California, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brown of California to include extraneous matter notwithstanding the fact it exceed 2 pages of the Record and is estimated by the Public Printer to cost $858.

Ms. Abzug, immediately prior to agreement of the Rousselot amendment on H.R. 12945 in the Committee of the Whole today.

Mr. Gude, immediately following remarks of Mrs. Fenwick on her amendment on section 11 of H.R. 12945 in the Committee of the Whole today.

(The following Members (at the request of Mr. Mitchell of New York) and to include extraneous matter:)

Mr. Sarasin in two instances.
Mr. Archer.
Mr. Shuster.
Mr. Gilman.
Mr. Ashbrook in three instances.
Mr. Steiger of Arizona.
Mr. Crane.
Mr. Wiggins.
Mr. Buchanan.
Mr. Emery.
Mr. McClory.
Mr. Spence.
Mr. McKinney.
Mrs. Fenwick.
Mr. Michel.
Mr. du Pont.

(The following Members (at the request of Mr. Anderson of California) and to include extraneous material:)

Mr. Anderson of California in three instances.
Mr. Gonzalez in three instances.
Mr. Teague.
Mr. Nolan in two instances.
Mr. Mollohan.
Mr. Baldus.
Mr. Waxman in four instances.
Mr. Cornell in five instances.
Mrs. Burke of California in two instances.
Mr. Roe.
Mr. Jones of Oklahoma.
Mr. Jones of Tennessee.
Mr. Delaney.
Mr. McHugh.
Mr. Fascell.
Mr. Mineta.
Mr. Yatron.
Mr. Drinan in two instances.
Mr. Fary.
Mr. Rangel.

Mr. Harrington in five instances.
Mr. Gaydos.
Ms. Abzug.
Mr. Fuqua in five instances.
Mr. Eilberg.
Mr. McDonald of Georgia.
Mr. Carney in two instances.
Mr. Harris.
Mr. Downey of New York in two instances.
Mr. Eckhardt.
Mr. Hawkins in three instances.
Mr. Rosenthal.
Mr. Adams.
Mr. Leggett in two instances.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9630. An act to extend the Educational Broadcasting Facilities Program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on May 25, 1976, present to the President, for his approval, bills of the House of the following title:

H.R. 12132. An act to extend as an emergency measure for one year the District of Columbia Medical and Dental Manpower Act of 1970; and

H.R. 12527. An act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes.

ADJOURNMENT

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 27, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3378. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature and estimated cost of various construction projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3379. A letter from the Chairman, Counsel of the District of Columbia, transmitting a copy of Council Act No. 1–120 "To provide additional revenue for the District of Columbia," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3380. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting his annual report covering fiscal year 1975 on Federal financial assistance for maintenance, operation, and construction of schools in federally affected areas, and for disaster relief of schools in major disaster areas, pursuant to section 401(c) of Public Law 81–874 and section 12(c) of Public Law 81–815; to the Committee on Education and Labor.

3381. A letter from the Director, National Commission for Manpower Policy, transmitting the Commission's *seventh special* report, entitled "Current Issues in the Relationship Between Manpower Research and Policy"; to the Committee on Education and Labor.

3382. A letter from the Attorney General, transmitting notice of a proposed new system of records for the Department of Justice, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3383. A letter from the Administrator of General Services, transmitting the annual report of the General Services Administration for 1975, pursuant to section 212 of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 492]; to the Committee on Government Operations.

3384. A letter from the Administrator, Agency for International Development, Department of State, transmitting notice that he has determined that it is in the national interest of the United States to furnish assistance to Zaire, pursuant to section 620 (q) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3385. A letter from the Secretary of Transportation, transmitting a report on the study of the potential for integrating rail service provided by the National Railroad Passenger Corporation with other modes of transportation, pursuant to section 17 of Public Law 93–496; to the Committee on Interstate and Foreign Commerce.

3386. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according to certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [18 U.S.C. 1154(d)]; to the Committee on the Judiciary.

3387. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend the Jury Selection and Service Act of 1968, as amended, to establish a presumption that the use of voter registration lists as the source of juror names is consistent with the policies of community cross-sectionality and nondiscrimination in the selection of Federal juries; to the Committee on the Judiciary.

3388. A letter from the accountant for the American Symphony Orchestra League, Inc., transmitting the audit report of the League for the fiscal year ended March 31, 1976, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

RECEIVED FROM THE COMPTROLLER GENERAL

3389. A letter from the Comptroller General of the United States, transmitting his review of the revised deferrals of budget authority contained in the message from the President dated April 26, 1976 (House Document No. 94–468), pursuant to section 1014 (c) of Public Law 93–344 (H. Doc. No. 94–506); to the Committee on Appropriations and ordered to be printed.

3390. A letter from the Comptroller General of the United States, transmitting his review of the deferrals of budget authority contained in the message from the President dated May 13, 1976 (House Document No. 94–494), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. No. 94–507); to the Committee on Appropriations and ordered to be printed.

3391. A letter from the Comptroller General of the United States, transmitting a report on the use of Law Enforcement Assistance Administration funds to address the inadequacies of State and county probation systems; jointly, to the Committee on Government Operations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. Supplemental Report on H.R. 13555. A bill to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969 (Rept. No. 94–1147, pt. III). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12224. A bill to amend section 1234 of the Internal Revenue Code of 1954 (relating to options to buy and sell) to provide that gain or loss on closing transactions shall be treated as capital gain or loss; with amendments (Rept. No. 94–1192). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Currency and Housing. H.R. 13876. A bill to provide for Federal regulation of participation by foreign banks in domestic financial markets; with amendments (Rept. No. 94–1193). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. Resolution 1217. Resolution providing for the consideration of H.R. 6218. A bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes. (Rept. No. 94–1194). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. Resolution 1218. Resolution providing for the consideration of H.R. 9560. A bill to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes. (Rept. No. 94–1195). Referred to the House Calendar.

Mr. SISK: Committee on Rules. Resolution 1219. Resolution providing for the consideration of H.R. 10930. A bill to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture and to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion. (Rept. No. 94–1196). Referred to the House Calendar.

Mr. SISK: Committee on Rules. Resolution 1220. Resolution providing for the consideration of H.R. 12169. A bill to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes. (Rept. No. 94–1197). Referred to the House Calendar.

Mr. YOUNG of Georgia: Committee on Rules. Resolution 1221. Resolution providing for the consideration of H.R. 13555. A bill to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969. (Rept. No. 94–1198). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. Resolution 1222. Resolution providing for the consideration of H.R. 13655. A bill to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes. (Rept. No. 94–1199). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 14018. A bill to amend the Marine Mammal Protection Act of 1972 to deny aid, credit, loans or loan guarantees to nations under certain circumstances; to the Committee on Merchant Marine and Fisheries.

By Mr. BRINKLEY:

H.R. 14019. A bill to amend title 10, United States Code, so as to provide that the Chief of the Biomedical Sciences Corps of the Air Force shall be a brigadier general, and for other purposes; to the Committee on Armed Services.

By Mr. DELLUMS:

H.R. 14020. A bill to amend title 10, United States Code, to provide for identification of positions in the Department of Defense which can be filled by civilian employees and to prohibit assignment of active-duty military personnel to such positions unless such personnel meet the civilian qualifications for such positions, and for other purposes; to the Committee on Armed Services.

By Mr. DRINAN (for himself and Mr. Ford of Tennessee):

H.R. 14021. A bill to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 1 year would be automatically entitled to dependency and indemnity compensation; to the Committee on Veterans Affairs.

By Mr. ESCH:

H.R. 14022. A bill to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality; to the Committee on Interior and Insular Affairs.

By Mr. HOLLAND (for himself, Mr. Broyhill, Mr. Davis, Mr. Lott, Mr. Mann, Mr. Milford, Mr. Pattison of New York, Mr. Spence, and Mr. Whitehurst):

H.R. 14023. A bill to provide that the Commissioner of Education shall not act to terminate, refuse to grant or continue, or defer action on, assistance under the Elementary and Secondary Education Act of 1965 on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964, in certain circumstances; to the Committee on Education and Labor.

By Mr. LEHMAN:

H.R. 14024. A bill to amend the provisions of the Social Security Act to consolidate the wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes; to the Committee on Ways and Means.

By Mr. McKINNEY (for himself, Mr. Frenzel, Mr. Gude, Mr. Howard, Mr. Lent, Mr. Obey, Mr. Rinaldo, Mr. Sarasin, and Mr. Vander Veen):

H.R. 14025. A bill to amend the Mineral Leasing Act of 1920 and the Trans-Alaska Pipeline Authorization Act to require the development of a plan to assure the equitable allocation of available crude oil and petroleum products, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and International Relations.

By Mr. MATSUNAGA (for himself and Mr. Anderson of California):

H.R. 14026. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Ms. Abzug, Mr. Annunzio, Mr. Brown of California, Mrs. Chisholm, Mr. Dellums, Mr. Downey of New York, Mr. Drinan, Mr. Eilberg, Mr. Florio, Mr. Fraser, Mr. Gude, Mr. Harris, Ms. Holtzman, Mr. Howard, Mr. Hyde, Mr. Krebs, Mr. Mikva, Mr. Oberstar, Mr. Ottinger, Mr. Patterson of California, Mr. Scheuer, Mr. James V. Stanton, Mr. Studd, and Mr. Charles H. Wilson of California):

H.R. 14027. A bill to direct the Administrator of the Federal Aviation Administration to promulgate noise standards for certain aircraft in order to reduce noise emissions and to improve the human environment, and to provide certain payments to operators of the aircraft required to meet the noise standards in order to permit the operators to retrofit or replace such aircraft; to the Committee on Public Works and Transportation.

By Mr. NOLAN:

H.R. 14028. A bill to improve congressional oversight of the reporting and paperwork requirements of Federal departments and agencies; to the Committee on Rules.

By Mr. PREYER (for himself, Mr. Hamilton, Mr. Symington, Mr. Udall, and Mr. Hayes of Indiana):

H.R. 14029. A bill to provide for affording equal educational opportunities for students in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

By Mrs. SMITH of Nebraska:

H.R. 14030. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. CORNELL (for himself, Mr. Davis, Mr. Price, and Mr. Reuss):

H.R. 14031. A bill to amend the Internal Revenue Code of 1954, the Social Security Act, and other laws to provide effective welfare reforms by replacing public assistance and food stamps with a system of allowances and refundable credits, and for other purposes; to the Committee on Ways and Means.

By Mr. ECKHARDT (for himself, Mr. Broyhill, Mr. Murphy of New York, Mr. Van Deerlin, Mr. Moss, Mr. Rooney, Mr. Scheuer, Mr. Carney, Mr. Moffett, Mr. Rinaldo, and Mr. Lent):

H.R. 14032. A bill to regulate commerce and protect health and the environment by requiring testing and necessary restrictions on certain chemical substances and mixtures, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FARY:

H.R. 14033. A bill to authorize a local public works capital development and investment program; to the Committee on Public Works and Transportation.

H.R. 14034. A bill to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FORSYTHE (for himself, Mr. Burgener, and Mr. McCloskey):

H.R. 14035. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. HAWKINS (for himself, Mr. O'Hara, Mr. Zablocki, Mr. Patterson of California, and Mr. Gonzalez):

H.R. 14036. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment; to the Committee on Education and Labor.

By Mr. JENRETTE (for himself and Mr. EMERY):

H.R. 14037. A bill to amend title 39, United States Code, to require the U.S. Postal Service to make certain considerations prior to the closing of third- and fourth-class post offices; to the Committee on Post Office and Civil Service.

By Mr. MARTIN:

H.R. 14038. A bill to amend the Internal Revenue Code of 1954 to modify the charitable distribution requirements imposed upon foundations; to the Committee on Ways and Means.

By Mr. MARTIN (for himself and Mrs. SPELLMAN):

H.R. 14039. A bill to amend the Internal Revenue Code of 1954 to exempt from income taxation certain organizations operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in certain credit unions and domestic building and loan associations; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 14040. A bill to amend the Internal Revenue Code of 1954 to provide that members of a Reserve component of the Armed Forces will not be disqualified from taking the deduction for retirement savings because of their participation in the Armed Forces retirement system; to the Committee on Ways and Means.

By Mr. STAGGERS (by request):

H.R. 14041. A bill to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. STOKES (for himself and Mr. WON PAT):

H.R. 14042. A bill to amend the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of certain dwellings; to the Committee on Banking, Currency and Housing.

H.R. 14043. A bill to amend title 38, United States Code, to authorize expenditures by the Administrator of Veterans' Affairs for repair of certain dwellings; to the Committee on Veterans' Affairs.

By Mr. TREEN:

H.R. 14044. A bill to amend title XX of the Social Security Act to repeal the mandatory child day care requirements which are presently contained therein; to the Committee on Ways and Means.

By Mr. NEDZI:

H.J. Res. 967. Joint resolution authorizing the acceptance by the Joint Committee on the Library on behalf of the Congress, from the U.S. Capitol Historical Society, of preliminary design sketches and funds for murals in the first floor corridors in the House wing of the Capitol, and for other purposes; to the Committee on House Administration.

By Mr. HANLEY (for himself, Mr. NIX, Mr. FORD of Michigan, Mr. LEHMAN, Mr. SIMON, and Mr. MINETA):

H. Res. 1216. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

392. The SPEAKER presented a memorial of the Legislature of the State of South Carolina, relative to eligibility for medicaid and other benefits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LEGGETT introduced a bill (H.R. 14045) for the relief of Mary Anne Siguenza Come; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

475. The SPEAKER presented a petition of the San Francisco Peaks Chapter, Society of American Foresters, Flagstaff, Arizona, relative to forest management; to the Committee on Agriculture.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9560

By Mr. CLEVELAND:

On page 31 of the bill, strike out all of Section 17 after the colon on line 13 and substitute in lieu thereof the following:

"(d) No permit shall be required under this section, or section 402 of this Act, for discharges of dredged or fill material

(1) resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for the production of food, fiber, and forest products;

(2) placed for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures; or

(3) placed for the purpose of construction or maintenance of farm and stockponds and irrigation ditches and the maintenance of drainage ditches.

"(e)(1) Consistent with the requirement of subsections (a)–(c) of this section the Secretary of the Army acting through the Chief of Engineers may issue general permits for discharges of dredged or fill material where such activities are similar in nature, cause only minimal adverse environmental impact when performed separately, and will have only a minimal adverse cumulative effect on the environment. Such permits shall contain such conditions as necessary to achieve the purposes of this Act and shall be for a maximum period of five years. A general permit may be revoked or modified if it is determined that the cumulative effects of the permitted activities are such that individual permit treatment is required: *Provided*, That no general permit shall be revoked or substantially modified without opportunity for public hearings.

"(e)(2) The Secretary shall distribute through normal public notice procedures, notice of all categories of activities proposed for processing by means of general permits.

"(f) The Secretary shall submit a detailed report to the Congress, on or before December 31, 1977, on the implementation to such date by the Department of the Army of the provisions of this section. This report, which shall be prepared in conjunction with the Administrator of the Environmental Protection Agency, shall detail the progress made in implementing the requirements of this section and the objectives of this act.

H.R. 12169

By Mr. DODD:

Page 10, after line 4, insert the following:

AVOIDANCE OF BURDENSOME REPORTING REQUIREMENTS

SEC. 3. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g)(1) In exercising his authority under this Act or any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports on such information so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to file reports with the Administrator.

"(2) Not later than 6 months after the date of enactment of this subsection and each 6 months thereafter, the Administrator shall report to the Congress with respect to actions taken under this subsection.".

By Mr. MYERS of Pennsylvania:

Page 5, insert immediately after line 22 the following new sections:

SECTION 1. Section 4 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out "level II of the Executive Schedule (5 U.S.C. 5313)" in subsection (a) and inserting in lieu thereof "level III of the Executive Schedule (5 U.S.C. 5314)";

(2) by striking out "level III of the Executive Schedule (5 U.S.C. 5314)" in subsection (c) and inserting in lieu thereof "level IV of the Executive Schedule (5 U.S.C. 5315)";

(3) by striking out "level IV of the Executive Schedule (5 U.S.C. 5315)" in subsection (c) and inserting in lieu thereof "level V of the Executive Schedule (5 U.S.C. 5316);

(4) by striking out "level IV of the Executive Schedule (5 U.S.C. 5315)" in subsection (e) and inserting in lieu thereof "level V of the Executive Schedule (5 U.S.C. 5316)"; and

(5) by striking out subsections (f) and (g) and redesignating subsections (h), (i), and (j) as subsections (f), (g), and (h), respectively.

SEC. 2. Section 7(a)(1) of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 7. (a)(1) The Administrator may appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties. The total number of positions which may be placed in GS–16, 17, and 18 shall not exceed 50, and the average grade for all positions on the General Schedule within the Administration shall not exceed GS–10, step 1, and the average salary for these positions shall not exceed the then current pay rate for GS–10, step 1 of the General Schedule; the total number of employees on the General Schedule shall not exceed 3,500. Except as provided in paragraph (2) of this subsection, the authority under this subsection the authority under this subsection shall be subject to the standards and procedures prescribed under chapter 51 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act."

Redesignate the following sections accordingly.

On page 10, line 4, strike out the words "September 30, 1979" and insert in lieu thereof "September 30, 1977".

On page 10, after line 4, add the following:

"SEC. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

"'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the

Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.' "

By Mr. OBERSTAR:

Page 10, after line 4, insert the following:

PROHIBITION ON POLLING OF PUBLIC OPINION BY THE ADMINISTRATOR

SEC. 3. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g) The Administrator, in exercising his authority under this Act, section 11 of the Energy Supply and Environmental Coordination Act of 1974, or any other provision of law which authorizes the Administrator to collect, analyze, or distribute information, shall not, directly or by contract, conduct surveys or polling of public opinion, attitudes, or views, or collect, analyze, or disseminate information concerning the public opinion, attitudes, or views gathered in surveys or polling of public opinion, attitudes, or views."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of May 25, 1976, page 15411:

HOUSE BILLS

H.R. 13581.—May 5, 1976. Ways and Means. Amends the Tariff Schedules of the United States to reduce the customs duty for fish netting or fish nets of fabric other than cotton or vegetable fibers.

H.R. 13582.—May 5, 1976. Agriculture. Directs the Secretary of Agriculture to make loans available to agricultural producers who suffer losses as a result of having their agricultural commodities or livestock quarantined or condemned because such commodities or livestock have been found to contain toxic chemicals dangerous to the public health.

H.R. 13583.—May 5, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 13584.—May 6, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13585.—May 6, 1976. Merchant Marine and Fisheries. Amends the Safe Boating Act of 1971 to extend the period in which the Coast Guard may interpose safety standards on the manufacturers of boats. Authorizes research, testing, and development necessary to carry out the purposes of the act.

Sets forth notification requirements of a manufacturer to a buyer with regard to defects in a boat or associated equipment.

H.R. 13586.—May 6, 1976. Atomic Energy. Directs the Nuclear Regulatory Commission to cease the granting of licenses or construction authorizations for certain nuclear power plants pending the outcome of a comprehensive study by the Office of Technology Assessment. Requires a 5-year independent study of the nuclear fuel cycle by the Office of Technology Assessment, with final reports and recommendations to be made to the Congress.

H.R. 13587.—May 6, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 13588.—May 6, 1976. Post Office and Civil Service. Increases the number of members of the Civil Service Commission from three to five. Empowers the Commissioners, rather than the Chairman, to appoint the Executive Director of the Commission.

H.R. 13589.—May 6, 1976. International Relations. Authorizes appropriations to the United States Information Agency for fiscal year 1977 for salaries and expenses, special international exhibitions, acquisition and construction of radio facilities, and employee benefits, under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953. Authorizes the purchase of uniforms and the use of exchange allowances for the exchange of passenger motor vehicles.

Requires the Director of the United States Information Agency to make available to the Administrator of General Services a master copy of certain files for public distribution.

H.R. 13590.—May 6, 1976. Armed Services. Entitles former enlisted officers of the Regular Army who were honorably discharged to reenlist without loss of seniority or credit for service within six months after the date of such discharge or six months after the enactment of this Act, whichever is later.

H.R. 13591.—May 6, 1976. Small Business. Amends the Small Business Investment Act of 1958 to authorize the Small Business Administration to purchase preferred securities of any incorporated small business investment company and to purchase, or to guarantee the payment on, debentures issued by such businesses.

H.R. 13592.—May 6, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13593.—May 6, 1976. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local lay-offs, and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 13594.—May 6, 1976. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to prohibit the issuance of solid waste management regulations with respect to the sale or distribution of beverage containers at Federal facilities.

H.R. 13595.—May 6, 1976. Education and Labor. Establishes procedures and guidelines for the establishment of equal education opportunity for students in elementary and secondary schools. Requires that States submit equal educational opportunities plans to the Secretary of Health, Education, and Welfare for his approval. Establishes criteria for approval of plans and eligibility for Federal assistance.

H.R. 13596.—May 6, 1976. Small Business. Amends the Small Business Emergency Relief Act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts for the lease of real property.

H.R. 13597.—May 6, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to acquire by condemnation specified lands, and contracts for the sale of timber thereon, within the Big Thicket National Preserve, Texas.

H.R. 13598.—May 6, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of major structural defects which create a serious danger to the life and safety of inhabitants of certain family dwellings covered by any mortgage insured by the Federal Housing Administration.

H.R. 13599.—May 6, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of major structural defects which create a serious danger to the life and safety of inhabitants of certain family dwellings covered by any mortgage insured by the Federal Housing Administration.

SENATE—*Wednesday, May 26, 1976*

The Senate met at 9 a.m. and was called to order by Hon. CHARLES McC. MATHIAS, JR., a Senator from the State of Maryland.

PRAYER

The Reverend Paul P. Norton, pastor, St. Nicholas Church, Laurel, Md., offered the following prayer:

Please pray with me.

Almighty and eternal God, Author of all creation and Father of us all, we pause this morning to acknowledge Your presence in our lives. Let the awareness of Your life among us bring us comfort. Help us to raise our minds and hearts once again to the great challenge You have given us, the challenge of building a kingdom of justice. Send Your spirit upon us, give us the wisdom, the confidence, and the courage we need to face the difficult task of political leadership. Never let us lose hope that what we do does make a difference as we work together for the good of our people and for the welfare of the whole human family. Father, we ask this day that You bless our President, the Members of the House, and this Senate. Give them peace in their lives, prosperity and happiness in their families as together they lead our Nation to a new era of freedom and justice for all. We ask this in Your name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., May 26, 1976.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. CHARLES McC. MATHIAS, JR., a Senator from the State of Maryland, to perform the duties of the Chair during my absence.
>
> JAMES O. EASTLAND,
> *President pro tempore.*

Mr. **MATHIAS** thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 25, 1976, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose only of considering the nomination of Mr. John H. Reed.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of John H. Reed, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

The **ACTING PRESIDENT** pro tempore. Without objection, the nomination is considered and confirmed.

Mr. **GRIFFIN**. Mr. President, I ask that the President of the United States be notified of the Senate's action.

The **ACTING PRESIDENT** pro tempore. Without objection, the President will be notified.

LEGISLATIVE SESSION

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Does the Senator from Michigan seek recognition?

Mr. **GRIFFIN**. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **LEAHY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore (Mr. METCALF). Without objection, it is so ordered.

Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

AMENDMENT OF THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973—S. 3486

Mr. **LEAHY**. Mr. President, Federal Energy Administrator Zarb has been reported as saying that the FEA plans to suspend mandatory allocation regulations for gasoline sometime this year. These regulations, promulgated pursuant to the Emergency Petroleum Act of 1973, give wholesalers and retailers the right to insist on deliveries from their 1972 suppliers. Abandoning them would have serious implications for millions of Americans, particularly those living in sparsely populated rural areas.

We must be prepared for this eventuality. Legislation is needed to make sure that every State has an early warning of a pullout by a major gasoline supplier. With that information the State energy office would at least have some time to minimize the impact.

Therefore, I am today introducing legislation which would require that a company distributing or marketing 1 percent or more of the gasoline consumption of a State in calendar year 1975 must give 6 months' notice to the Governor of any intent to discontinue its operations in the State. Furthermore, such company would be prohibited from withdrawing more than 25 percent of its supply operations, based on calendar year 1975, in any ensuing 6-month period.

In short, in addition to 6 months' advance notice, a State would be assured that a major gasoline supplier would not complete a total withdrawal for an additional 2-year period.

My bill would give Governors and their energy advisers time to seek replacements for withdrawing gasoline suppliers in order to cushion the economic impact on affected areas. It would give service station owners time to seek alternate suppliers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **LEAHY**. Mr. President, it is only 2 years since American motorists were forced to queue up in gasoline stations across the land hoping that the pumps would not run dry before they reached the head of the line. We are now in the midst of a petroleum surplus. The world supply of crude oil has increased, and the average American is purchasing gasoline at the lowest prices in over a year. The long lines of the winter of 1973–74 have receded from memory. As a result, there has arisen a chorus of "decontrol now" from the petroleum industry—a call echoed by the administration.

Gasoline is abundant partly because of the relatively mild winters of the past 2 years which reduced the need for distillate oil. Among the less pleasant reasons for the abundance are the serious decline in new housing starts, and most important, unemployment and the recession. As a result, with plant capacity near all-time lows and unemployment levels near all-time highs, consumption of residual fuel oil declined during the past year.

Hopefully, the recovery will continue, but we cannot be lulled into complacency. The fact is that the forecasts for domestic petroleum production over the next 15 years are stark. The Federal Energy Administration's National Energy Outlook: 1976 contends that:

> The reserves from which most of today's oil is being produced—mainly on-shore in the lower 48 States—will decline by almost two-thirds by 1985 and about 80 percent by 1990.

Although there is no danger of a serious gasoline shortage in the near future, the energy crisis still exists and will for decades to come. No temporary abundance can obscure that reality. For people in small, predominantly rural States, usually at the end of the energy pipeline, that presents a haunting specter.

Mr. President, while State's attorney of Chittenden County, Vt., I served on a task force of the National District Attorneys Association assigned to gather data on how oil industry practices related to the energy crisis of 1973–74.

Since an analysis of the shortage in Vermont during the crisis indicated it was in part caused by some major oil companies pulling out of the market, I was particularly concerned with the factors that lead a company to make that decision.

A group of oil company representatives with whom we met answered that one factor is a company's market share of gasoline sales. If it controls less than 5 percent, then it is unlikely that the operation will be profitable. And the 5 percent figure is not gospel. Companies have abandoned areas where they controlled more than 7 percent of the market.

In Vermont, Phillips with 5.79 percent of the market in 1974, has already pulled out of the State. However, because of the Federal allocation program, it has been required to work out exchange agreements with other companies to supply its old customers. If the mandatory allocation regulations are discarded, these exchange agreements will no longer be enforceable. Service stations dependent on them will be left high and dry with no source of supply.

Today, more than 16 percent of Vermont's gasoline supply is furnished by five major oil companies, each with less than 5 percent of the market. In addition Sunoco has slightly less than 6 percent, and has already decided to pull out of Maine where it has 5.95 percent of the market. As I already noted, Phillips has 5.79 percent. If all seven of them left, who would supply the gasoline represented by their combined 28 percent of the market, representing more than 65 million gallons of gasoline a year to Vermonters?

Similar situations exist in many other States. Most recently, it was reported that Mobil is pulling back drastically in Texas, where it has 7.63 percent of the market; in Louisiana, with 4.19 percent; in Oklahoma, with 5 percent; in Arkansas, with 6.54 percent; and in New Mexico, with 2.72 percent. The company is reportedly telling its jobbers, lessee dealers, consignees, and commission agents to find new suppliers, as they will be cut off sometime after FEA regulations are eventually relaxed.

Conoco is reportedly considering withdrawing its operations in Texas where it has 3 percent of the market, and in Arkansas where it has 3.58 percent.

Gulf is considering similar action in California where it has 5.37 percent of the market; in Minnesota where it has 2.79 percent; in South Dakota where it has 2.47 percent; and in Nebraska, Iowa, and Missouri where it has between 1 and 2 percent of the market in each.

Atlantic Richfield is considering total pullout in Kentucky and Texas, with slightly more than 2 percent of each market, and in Tennessee where it has 3.34 percent. It is planning partial pullouts in six Midwest States in which it has between 2 and 5 percent of the market. Significantly, these would all be in rural areas of the States involved.

In addition to its desire to abandon its Vermont operations, if the regulations are allowed to lapse, Phillips will pull out of Maine where it has 2.51 percent of the market, New Hampshire where it has 4.76 percent, Delaware with 3.81 percent, and New Jersey with 1.44 percent.

It is understandable that major oil companies want to withdraw from low-volume market areas, usually rural ones, and concentrate their efforts on more profitable high volume urban outlets. However, the problem is that when they leave there is no guarantee that other firms will supply the abandoned market areas.

Currently, only the enforcement of the supplier-purchaser section of the 1973 act is keeping supplies flowing to many low volume retail units.

If the present regulations are terminated, millions of motorists, most of whom need their cars to get back and forth to work, could well find themselves forced to travel many additional miles to buy their gasoline. This situation would not only cause great inconvenience, but would in and of itself create a huge waste of energy.

Mr. President, it is very likely that such a termination will occur. The administration seems intent on abandoning as much regulation of the oil industry as it can get away with, let the chips fall where they may. Even before the recent statements by Administrator Zarb, there were numerous indications of this attitude.

For example, last August Senator STAFFORD and I wrote to President Ford expressing our deep concern over the supplier-purchaser regulations should he veto S. 1849 to temporarily extend the 1973 act, which he subsequently did veto.

We received a reply from the Federal Energy Administration which read in part:

> It was clear even before the embargo that many petroleum companies wished to alter their distribution system. More particularly there was trend toward increasing the number of high volume-minimum service retail outlets since they were considered most cost effective, efficient and economical. The regulations developed pursuant to the Emergency Petroleum Allocation Act effectively retarded the displacement of small independent branded dealers.
>
> With the expiration of the Act we can expect a resumption of the trend experienced prior to its enactment . . . Temporary government intervention has served its primary purpose . . . Distribution is a matter for corporate decision-making.

Mr. President, I do not like the idea of government meddling in the internal affairs of business. However, a matter of such crucial importance to millions of American families—and to thousands of service station owners—should not be left to the whims of a few corporate officials in the board rooms in New York and Houston.

My bill would not divest them of their decisionmaking power. What it would do is delay the adverse impact that might result from certain of those decisions. In effect, it is a compromise recognizing the just prerogatives of business and the legitimate public interest.

S. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(e) (1) Not later than sixty days following the date of the enactment of this subsection, the President shall promulgate and put into effect a rule which shall be deemed a part of the regulation under subsection (a) of this section and which shall provide, consistent with the objectives of subsection (b) of this section, that no marketer or distributor who, on or after the effective date of such rule, is engaged in an operation involving the marketing or distribution of a refined petroleum product in any State shall, in any twelve month period, reduce or otherwise curtail such operation within that State (except on the basis of a substantial decrease in the demand for such products so marketed or distributed) by an amount in excess of ten per centum of the total amount of refined petroleum products so marketed or distributed by such marketer or distributor within that State during the base period as determined in accordance with paragraph (3) of this subsection, except that, if such marketer or distributor has notified the Governor of that State, in writing, of such marketer or distributor's intent to reduce or otherwise curtail such operation in excess of ten per centum, such marketer or distributor shall, after the expiration of the one hundred and eighty day period following such notification, be authorized to reduce or otherwise curtail such operation within that State by an amount which does not exceed, within any six-month period, an amount equal to twenty-five per centum of the total amount of refined petroleum products so marketed or distributed by such marketer or distributor in that State during such base period.

"(2) Such rule shall not be applicable with respect to any such marketer or distributor engaged in any such operation, if the total amount of refined petroleum products so marketed or distributed by such marketer or distributor in that State during the base period determined in accordance with paragraph (3) of this subsection did not exceed one per centum of the total amount of refined petroleum products so marketed or distributed by all marketers or distributors within that State during such base period, or to any marketer engaged solely in the selling of refined petroleum products on a retail level to end users.

"(3) As used in this section, the term 'base period' means—

"(A) with respect to any such marketer or distributor who is engaged in any such operation within a State on or after the effective date of such rule and who, during the entire twelve month period comprising calendar year 1975 was so engaged in such operation within that State, such twelve month period; and

"(B) with respect to any such marketer or distributor who, although engaged in any such operation within a State on or after the effective date of such rule, was not so engaged in such operation within that State during the entire twelve month period comprising calendar year 1975, the first full twelve month period during which such marketer or distributor was so engaged after January 1, 1975.".

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m., with statements therein limited to 5 minutes.

MESSAGES FROM THE HOUSE

At 1:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has agreed to the concurrent resolution (H. Con. Res. 646) providing for a conditional adjournment of the House from May 27 until June 1, 1976, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 10138) to create the Young Adult Conservation Corps to complement the Youth Conservation Corps, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 9630) to extend the educational broadcasting facilities program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Ullman, Mr. Corman, Mr. Rangel, Mr. Stark, Mr. Waggonner, Mr. Vander Jagt, and Mr. Ketchum were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Ichord, Mr. Price, Mr. Randall, Mr. Charles H. Wilson, Mr. White, Mr. Brinkley, Mr. Davis, Mr. Whitehurst, Mr. Bob Wilson, and Mr. Beard of Tennessee were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker pro tempore has signed the following enrolled bill:

H.R. 9630. An act to extend the Educational Broadcasting Facilities Program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

The enrolled bill was subsequently signed by the Vice President.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Mathias) laid before the Senate the following letters, which were referred as indicated:

Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Report on the Potential for Integrating Rail Service Provided by the National Railroad Passenger Corporation with Other Modes" (with an accompanying report); to the Committee on Commerce.

Proposed Legislation by the Department of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend title XIX of the Social Security Act (with accompanying papers); to the Committee on Finance.

Reports of the Department of the Interior

Two letters from the Secretary of the Interior; one reporting on whether joint bidding should be banned in sales of Federal leases for onshore energy resources; and one reporting concerning the implementation of section 12 of 89 Stat. 1145 providing for the Cook Inlet Land Settlement; to the Committee on Interior and Insular Affairs.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "State and County Probation: Systems in Crisis" (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

S. 3063. A bill designating Ozark lock and dam on the Arkansas River as the "Ozark-Jeta Taylor lock and dam" (Rept. No. 94–921).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

George Henry Kuper, of the District of Columbia, to be Executive Director of the National Center for Productivity and Quality of Working Life.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Labor and Public Welfare:

H.R. 10138. An act to create the Young Adult Conservation Corps to complement the Youth Conservation Corps.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LEAHY:

S. 3486. A bill to amend the Emergency Petroleum Allocation Act of 1973, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE:

S. 3487. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against the Federal income tax for certain higher education expenses. Referred to the Committee on Finance.

By Mr. INOUYE:

S. 3488. A bill to amend title 10, United States Code, so as to provide that the Chief of the Biomedical Sciences Corps of the Air Force shall be a brigadier general, and for other purposes. Referred to the Committee on Armed Services.

By Mr. TALMADGE:

S. 3489. A bill to amend section 2 of the act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution." Referred to the Committee on the Judiciary.

By Mr. HRUSKA:

S. 3490. A bill for the relief of Gaspar Louis Sayco; and

S. 3491. A bill for the relief of Enrique Alberto Caderosso Sjolin and his wife, Blanca Susana Urrestarazu Dominguez. Referred to the Committee on the Judiciary.

By Mr. STEVENS:

S. 3492. A bill for the relief of Nguyen Thui-Diep; and

S. 3493. A bill for the relief of Nguyen Chung-Quan. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 3494. A bill to establish a Federal Bank Examination Council. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. McCLURE:

S. 3495. A bill for the relief of Luis Sandoval-Miramontes. Referred to the Committee on the Judiciary.

By Mr. METCALF (for himself and Mr. Mansfield):

S. 3496. A bill to provide for the control of mosquitoes and mosquito vectors of human disease through technical assistance and grants-in-aid for control projects. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 3497. A bill to establish the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HOLLINGS (for himself and Mr. Thurmond):

S. 3498. A bill to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI:

S. 3499. A bill for the relief of Edward Anthony Johnson. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 3486. A bill to amend the Emergency Petroleum Allocation Act of 1973, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

(The remarks of Mr. LEAHY on the introduction of the above bill are printed in today's RECORD.)

By Mr. MONDALE:

S. 3487. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against the Federal income tax for certain higher education expenses. Referred to the Committee on Finance.

TWO-STEP TAX CREDIT FOR THE COST OF POSTSECONDARY EDUCATION

Mr. MONDALE. Mr. President, one of the problems in education that has caused me the greatest concern is the tremendous cost squeeze of postsecondary education on middle-income families. In recent years postsecondary institutions have been hit with inflation and increased operating expenses. In spite of their best efforts, they have been forced to increase their tuition and other costs of attendance even more rapidly than the rise in the cost of living. As a result, many middle-income families are finding the costs of postsecondary education, particularly at private colleges, to be slipping beyond their means.

Recent studies have shown that the greatest decrease in the numbers of students in postsecondary education has occurred among these middle-income families. From the mail I receive and the discussions I have had, I know that this cost squeeze is causing them tremendous bitterness. It is one thing for their children to choose not to go on to college; it is another for them to be unable to afford the costs, even after lifetimes of hard work.

Another reason for this serious crisis, one which has surfaced only recently, can be found in the increasing numbers of families who have more than one child enrolled in postsecondary education at the same time. They have increased dramatically in recent years. To send one, two, or three children to postsecondary institutions requires families to find suddenly several thousand dollars a year in extra income. However, tragically, when middle-income families turn to the existing Federal student aid programs for help, they are told that they are not eligible. As a result, increasing numbers of these families are painfully concluding that they just cannot afford the additional costs involved. And yet these are the families whose tax dollars pay for the aid programs that enable lower income students to attend college.

I have always been a strong supporter of the Federal student aid programs that are specifically directed toward lower income students, and I will continue to push for further funding of the basic grant and campus-based programs. However, I also believe it is essential that we address this growing squeeze on middle-income families as a critical problem in education. We are in danger of a situation in which only the very wealthy or those relatively few lower income students who can get complete scholarship packages will be able to afford the costs of postsecondary education.

I was very pleased that the Labor and Public Welfare Committee adopted my amendment to the higher education bill that raised the family income level eligible for the Federal interest subsidy in the guaranteed student loan program to $25,000 in adjusted gross income. This means that many families with incomes as high as $30,000 who have a couple of children in postsecondary education will qualify for this Federal loan program.

This program was originally established by Congress in 1967 to be directed toward middle-income families. In recent years, however, the program's eligibility ceiling has not been changed to keep pace with increases in the cost of living. My amendment fully restores this decline in value due to inflation and restores the original focus of the program to include these middle-income families.

This amendment is an important first step in recognition by Congress of this serious problem. I am hopeful that the full Senate will consider it favorably and that the House will agree to it in conference. However, I believe that further action is necessary to address fully the problems before middle-income families.

Therefore, I am introducing today a bill that will provide a credit on the income tax for the costs of postsecondary education. This bill will permit either a student or his or her parents, whoever is paying for the education, to determine the amount owed on their Federal income tax and then to subtract the credit directly from that amount. The credit would be rebated to those low-income students or families who owe little or no income tax. If my legislation becomes law, this credit for the costs of education would be available directly to everyone in this country who is struggling with the costs of postsecondary education. I think that it will make a tremendous difference as well to our Nation's postsecondary institutions.

My bill also recognizes the additional financial burdens upon families who are sending two, three, or even four children through college at the same time. Recognizing their special need, my tax credit bill would provide a credit of $200 for the first child in college or any other postsecondary institution. But for each additional child enrolled at the same time, a credit of $500 would be allowed.

Our tax system is designed to encourage the investment in physical capital, such as machinery and equipment. But studies have shown that the biggest contributor to our Nation's wealth is not its physical capital but rather its human capital, or, in other words, its investment in the education of its people.

Studies indicate that the average college graduate can expect to earn an average of about $280,000 more in his or her lifetime than the average high school graduate. One-third of that amount, or almost $100,000 will be returned to society in taxes. Thus, even if every student in this country were on full scholarships, their taxes would more than repay public investments in their education.

But these figures tell only part of the story. For they do not begin to measure the increased social contribution that college graduates are in a position to make, in terms of civic participation, increased job productivity, leading to technological breakthroughs or new health developments, and all the rest.

Certainly the critical problems that confront the human race today tell us that we ought to be increasing our investment in that most important resource we have—the creative and problem solving capacities of our people.

Mr. President, tax credit legislation has been introduced in the Senate for the last decade. However, not for several years has it received the serious consideration which it deserves. I believe that it is an idea whose time has come. We must find new avenues to direct help to our Nation's postsecondary education institutions and the families who wish to send their children to them. And we must especially find new ways to provide badly needed and deserved assistance to middle-income families. I urge my distinguished colleagues to give this two-step tax credit approach their serious consideration.

Mr. President, I ask unanimous consent that the text of this tax credit legislation be printed in full at this point in my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44 the following new section:

"SEC. 44A. EXPENSES OF HIGHER EDUCATION.

"(a) GENERAL RULE.—There is allowed to an individual as a credit against the tax imposed by this chapter for the taxable year an amount (determined under subsection (b)) equal to a portion of the expenses of higher education paid or incurred by the individual during the taxable year for himself and for any dependent.

"(b) DETERMINATION OF AMOUNT.—

"(1) IN GENERAL.—Subject to the limitations set forth in subsection (c), the amount of the credit allowable for the taxable year is the sum of the amounts determined under paragraph (2) and paragraph (3).

"(2) INITIAL AMOUNT.—If expenses of higher education are paid or incurred by the taxpayer during the taxable year for his own education or for the education of only one dependent during the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be an amount equal to the sum of—

"(A) 50 percent of so much of such expenses as does not exceed $200,

"(B) 25 percent of so much of such ex-
$500, and
penses as exceeds $200 but does not exceed

"(C) 5 percent of so much of such expenses as exceeds $500 but does not exceed $1,000.

"(3) ADDITIONAL AMOUNT.—If expenses of higher education are paid or incurred by the taxpayer during the taxable year for his own education and for the education of a dependent, or for the education of more than one dependent, there shall be added to the amount determined under paragraph (2) an amount equal to the sum of—

"(A) 75 percent of so much of such expenses for the education of dependents whose expenses of higher education are not taken into account under paragraph (2) as does not exceed $200,

"(B) 50 percent of so much of such expenses as exceeds $200 but does not exceed $500, and

"(C) 20 percent of so much of such expenses as exceeds $500 but does not exceed $1,500.

"(4) Proration of credit where more than one taxpayer pays expenses.—If expenses of higher education of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) with respect to the expenses of higher education of that individual shall be an amount which bears the same ratio to the amount of the credit which would be allowable with respect to such expenses if only one taxpayer paid or incurred them as the amount of such expenses paid or incurred by each taxpayer paying or incurring such expenses bears to the total amount of such expenses paid or incurred for the taxable year by all such taxpayers.

"(c) Definitions.—For purposes of this section—

"(1) Expenses of higher education.—The term 'expenses of higher education' means—

"(A) tuition and fees required for the enrollment or attendance of a student at a level above the twelfth grade at an institution of higher education and

"(B) fees, books, supplies, and equipment required for courses of instruction above the twelfth grade at an institution of higher education.

Such terms does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) Institution of higher education.—The term 'institution of higher education' means—

"(A) an educational institution (as defined in section 151(3)(4))—

"(i) which regularly offers education at a level above the twelfth grade; and

"(ii) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c); or

"(B) a business or trade school, or technical institution or other technical or vocational school in any State, which (i) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; and (ii) is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education; and (iii) has been in existence for 2 years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subparagraph.

"(3) State.—The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(d) Special Rules.—

"(1) Adjustment for certain scholarships and veterans' benefits.—The amounts otherwise taken into account under subsection (a) as expenses of higher education of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, and

"(B) education and training allowance under chapter 33 of title 38 of the United States Code or educational assistance allowance under chapter 35 of such title.

"(2) Noncredit and recreational, etc., courses.—Amounts paid for expenses of higher education of any individual shall be taken into account under subsection (a)—

"(A) in the case of an individual who is a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate or higher degree, and

"(B) in the case of an individual who is not a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

"(e) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to work incentive program expenses),

"(5) section 41 (relating to contributions to candidates for public office), and

"(6) section 42 (relating to taxable income credit).

"(f) Disallowance of Expenses as Deduction.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any expense of higher education which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the expenses of higher education of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(g) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) Clerical Amendment.—The table of sections for such subpart A is amended by inserting after the item relating to section 44 the following:

"Sec. 44A. Expenses of higher education.".

Sec. 2. Refundability of Excess Credit; Minimum Tax Preference Item; Technical Amendment.

(a)(1) Refund of Excess Credit.—Section 6401(b) of the Internal Revenue Code of 1954 (relating to excessive credits treated as overpayments) is amended—

(1) by inserting ", 44A (relating to expenses of higher education)" before ", and 667(b)", and

(2) by striking out "31, 39, and 43" and inserting in lieu thereof "31, 39, 43, and 44A".

(2) Section 6201(a)(4) of such Code (relating to assessment authority for erroneous credit under section 39 or 43) is amended—

(1) by striking out "or 43" in the caption of such section and inserting in lieu thereof "43, or 44A",

(2) by striking out "or section 43" and inserting in lieu thereof ", section 43", and

(3) by inserting "or section 44A (relating to credit for expenses of higher education)" after "(relating to earned income)".

(b) Preference Item for Minimum Tax.—

(1) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out the semicolon and "and" at the end of clause (vii) and inserting in lieu thereof a comma and "and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to credit for expenses of higher education); and".

(2) Section 56(c)(1) of such Code (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to credit for expenses of higher education), exceed".

(c) Tax Liability for Presidential Election Campaign Fund Designation.—Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof a comma and "44, and 44A".

Sec. 3. Effective Date.

The amendments made by this Act apply to taxable years beginning after December 31, 1976.

By Mr. INOUYE:

S. 3488. A bill to amend title 10, United States Code, so as to provide that the Chief of the Biomedical Sciences Corps of the Air Force shall be a brigadier general, and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend title 10 of the United States Code so as to provide that the Chief of the Biomedical Sciences Corps of the U.S. Air Force shall be appointed to the rank of brigadier general.

The U.S. Air Force Biomedical Science Corps has approximately 1,300 officers assigned to its 15 diverse scientific specialities. These include professionals trained in the area of clinical psychology, podiatry, optometry, pharmacy, dietetics, bioenvironmental engineering, and aerospace physiology. Unfortunately, however, it has recently come to my attention that in the proud 26-year history of the corps, no biomedical sciences officer has ever been promoted to star rank. This, as shown in the table which I ask unanimous consent to have printed in the Record is in sharp contrast to the 1/200 ratios currently achieved by their attorney and physician colleagues.

There being no objection, the table was ordered to be printed in the Record, as follows:

Group	Summer 1975, approximate strength	Generals	Ratio
Biomedical scientists	1,300	0	-----
Lawyers	1,200	6	1:200
Chaplains	900	2	1:450
Dentists	1,500	1	-----
Nurses	3,800	1	-----
Physicians	3,000	15	1:200
All AF officers	100,000	400	1:250

Mr. INOUYE. There is no justification for this apparent discrimination against a whole class of dedicated officers who serve the field of medical science as well as our military establishment. The bill I am authoring will assure the recognition of the importance of their service.

By Mr. STEVENS:

S. 3492. A bill for the relief of Nguyen Thui-Diep; and

S. 3493. A bill for the relief of Nguyen Chung-Quan. Referred to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, I am today introducing two private bills for the relief of two Vietnamese refugees. These two individuals are presently in the United States but are not eligible for citizenship under law. I think their situation is sufficiently unique that they should be granted citizenship as soon as possible.

The problem of these two individuals was brought to my attention by a constituent, Gen. B. T. Talley, retired. General Talley has known the family for several years, and recommends them highly. I appreciate General Talley letting me know of the situation and I am hopeful the Senate will act promptly on this bill.

By Mr. STEVENSON:

S. 3494. A bill to establish a Federal Bank Examination Council. Referred to the Committtee on Banking, Housing and Urban Affairs.

Mr. STEVENSON. Mr. President, I am introducing today a bill to create a Federal Bank Examination Council composed of the Comptroller of the Currency, a member of the Board of Directors of the Federal Deposit Insurance Corporation and a member of the Federal Reserve Board. The bill would authorize the Council to establish uniform Federal bank examination standards and procedures and recommend further improvements in bank supervision. The legislation is needed because at present the three Federal agencies with bank supervisory responsibilities, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve System, each separately determine their bank examination standards, use their own bank examination forms, independently train their bank examiners, and follow different procedures for supervising banks.

The existing lack of uniformity in Federal bank examination forms and procedures complicates the collection of data on the banking system and adds to the reporting burden on banks, especially banks which are subsidiaries of multibank holding companies. Inconsistency of Federal bank examination standards produces discrepancies among the three Federal banking agencies in the identification and supervision of problem banks. The absence of coordinated bank supervisory procedures hampers the agencies in coping with bank failures.

I believe that the American banking system is fundamentally sound. The handful of bank failures which have occurred, and the losses which other banks have suffered in the last 3 years are evidence of the severity of the economic recession more so than of disorder in the banking system. But even in periods of prosperity, some banks will encounter serious financial difficulty. The Federal banking agencies should have an efficient, coordinated system for early identification of banks and bank holding companies that encounter difficulty, and for close supervision where there is a risk of failure.

Hearings held in the Banking Committee reveal that coordination among the agencies is less than satisfactory. There is no standing mechanism for joint supervisory followup when banks are identified as problem banks by one or more of the three agencies. The recent failures of large national banks supervised by the Comptroller's Office which were subsidiaries of bank holding companies supervised by the Federal Reserve System and which had deposits insured by the FDIC, suggest that all three agencies become involved in almost all cases in which close supervision of a bank is required. The rapidity with which the condition of a bank can change argues for an improved capability for the Federal agencies to act jointly and expeditiously. The Federal Bank Examination Council to be established by this bill would be responsible for working out a cooperative arrangement among the three Federal agencies for identifying and supervising problem banks and for dealing with bank failures.

Experts on bank supervision have recommended that the three Federal agencies set up a computerized bank information network. The Federal Bank Examination Council should examine that recommendation as well as others that have been made to insure timely, accurate information on the condition of banks. It is especially important that the three Federal agencies not adopt information systems which are mutually incompatible or incomprehensible. The Comptroller of the Currency is presently beginning to implement recommendations made by the consulting firm of Haskins and Sells for improvements in his Office. The Council should review the actions underway and contemplated in the Comptroller's Office to determine whether the new procedures will be compatible, or can be rendered compatible with those of the FDIC and Federal Reserve System, and whether these changes should be adopted by all three agencies.

The Federal Bank Examination Council should also work toward a better articulation between State and Federal bank supervisory processes. Most banks in this country are State chartered banks subject to examination and supervision by State banking offices. Most State chartered banks are insured by the FDIC and many are members of the Federal Reserve System, and thereby subject to examination and supervision by one of those two Federal agencies. The duplication of effort by State and Federal bank examiners could be reduced, perhaps even eliminated in many States, if Federal procedures could be established for the certification of State bank supervisory agencies. The Conference of State Bank Supervisors testified before the Banking Committee on March 19 that—

> Capabilities of State banking departments have reached the point where the Conference believes that a State banking department upon filing a request with the . . . [FDIC] for authority to conduct its own examination of all State-chartered banks within its borders, should be granted this responsibility by the . . . [FDIC] in the absence of a clear showing by the . . . [FDIC] that the State banking department does not possess the capability necessary to warrant being certified.

Certification on a statewide scale is next to impossible given the absence of uniform examination standards and procedures at the Federal level. State banking agencies are forced to choose one of the three Federal agencies as a model for bank examination procedures or to establish an idiosyncratic State system.

The bill provides for formation of a liaison committee of State bank supervisory agency representatives which would work with the Federal Bank Examination Council to promote uniformity in State and Federal bank examination standards and procedures. The liaison committee and the Council should carefully consider the possibility of certification and other measures to encourage the growth of efficient State bank supervisory agencies.

Creation of the Federal Bank Examination Council would leave unchanged the present Federal bank regulatory structure, but would not preclude changes in that structure in the future. Indeed, experience with the Federal Bank Examination Council should help to indicate whether structural changes are necessary, and if so, what those changes should be. The Council would move ahead in an area where change is clearly needed. Governor Holland of the Federal Reserve Board testified before the Banking Committee on December 8 that there is strong support at the Board for creation of a Council to focus on: "efficient and uniform modernization of bank examination and vigorous and consistent followup procedures when bank weaknesses are revealed."

The expenses of the Federal Bank Examination Council will be shared equally by the three Federal banking agencies, each of which is supported by assessments on the banks it examines, not by appropriated funds. Assessments on the banks need not increase either; on the contrary, the cost of the Council should be more than offset by savings realized through standardization of examination forms and procedures, joint training of bank examiners, certification of State bank supervisory agencies and other measures to reduce the duplication of effort and increase efficiency in the Federal bank supervisory process.

This bill, by creating a Federal Bank Examination Council with authority to establish uniform Federal bank examination standards and procedures, takes a much needed practical approach toward resolving the problems which have arisen in bank supervision. Equally important, it does so without expanding the supervisory power of the Federal Government over banks, without altering the existing Federal regulatory structure, and without eroding the dual banking system. If a Federal Bank Examination Council had been in existence, I believe we would have had fewer problem banks and fewer bank failures in recent years, and the failures which were unavoidable could have been dealt with more smoothly. We should adopt this bill now so that the Council will be in place to coordinate the Federal response to whatever difficulties may arise in the banking system in the future, as well as to improve the efficiency of Federal bank supervision.

By Mr. THURMOND:

S. 3497. A bill to establish the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. THURMOND. Mr. President, I am today submitting legislation to establish the Congaree Swamp National Preserve in the State of South Carolina. Similar legislation (H.R. 12111) has been introduced in the House by Congressman Floyd Spence, with the cosponsorship of all the Members of the House of Representatives from South Carolina.

The Congaree Swamp is a unique forested lowland area, lying primarily along the north bank of the Congaree River, approximately 20 miles southeast of Columbia, S.C. The bill I am introducing today proposes that the U.S. Government acquire all or any portion of that section of the swamp known as the Beidler tract, consisting of about 15,000 acres.

UNIQUENESS AND NATIONAL SIGNIFICANCE

Mr. President, the Congaree Swamp has been called the greatest unprotected forest on the continent and with substantial good reason. The uniqueness and intrinsic value of this forested bottom are based on the near virgin state of its community of southern hardwood trees, including many aged specimen trees of gigantic proportions. Among these 200- to 400-year-old giants are 5 national record trees and 17 South Carolina record specimens.

The forest that covers most of the Beidler tract is the last major old growth stand of its type in the Southeast, as all other substantial virgin hardwood forests have been subjected to at least some logging by the timber industry. Within this tract is found a typical southern river bottom hardwood forest containing magnificent trees of the following species: sweetgum, blackgum, swamp white oak, southern red oak, willow oak, black oak, water tupelo, baldcyprus, and loblolly pine. A 1959 preliminary National Park Service study of the scenic, scientific, historical, and recreational values of the Congaree Swamp concluded that "a biological community of rare quality and considerable scientific value exist." These preliminary findings were reinforced by later Park Service investigations which found no other area in the Southeast of comparable geological and biological significance. Recently, the South Carolina Wildlife and Marine Resources Department studied the Beidler tract of the swamp and concluded that:

> The geological and biological attributes of the area are in themselves worthy of National recognition and all the more so since they are unique.

In addition to it unique community of virgin hardwood of immense size and old age, Congaree Swamp has invaluable scientific value because of the well preserved ecological story of the development of the Congaree River channels through the ages. This is the significant geological attribute alluded to in the National Park Service and South Carolina Wildlife and Marine Resources Department studies.

Through the aeons of time, the Congaree River has shifted its course through the area numerous times. These past channels of the Congaree are easily recognizable over the whole of the swamp. Shallow, elongated curved lakes—known as "dead rivers"—sloughs and the distribution of tree species such as cottonwoods, occur throughout the swamp and are obvious indications of these abandoned river courses. These natural geological features tell a remarkable ecological story, which gives further reason to protect and interpret a representative portion of the swamp for the enlightenment of the visting public.

Additionally, over 100 bird species are known from the Beidler tract, including several rare nesting records of birds such as Swainson's warbler, Louisiana heron, Swallow-tailed kite, and the Mississippi kite. Those who have extensively studied the flora and fauna of the Congaree believe that the uncut portions of the Beidler tract provide the mature hardwood forest habitat necessary for less common bird species unable to survive except in such protected areas.

URGENCY OF PRESERVATION ACTION AND METHOD OF ACQUISITION

Mr. President, the previously mentioned unique and outstanding features of the Congaree Swamp have been known by a relatively small group of naturalists for some time. Efforts to preserve a portion of the swamp for posterity have been going on, with varying degrees of intensity, for over 20 years. However, in the early 1970's, local and State environmental groups learned that the Beidler family had initiated a systematic harvesting of overly-mature timber on their Congaree lands. A Congaree Swamp National Preserve Association was formed for the purpose of informing the public of the values of the area and the need for preservation.

Within the past 7 years, some 3,500 acres of the 15,135 acre Beidler tract have been subjected to some logging, or will be harvested under contracts now outstanding. The Beidler family has announced that it intends to let a contract for the harvesting of another approximately 500 acres later this year, and will continue cutting the timber on its Congaree lands at the rate of 500 or more acres each year.

At this rate of harvesting, the question of preserving what all agree is the unique, nationally significant heart of the Congaree Swamp—the Beidler tract—will soon become moot. The Beidler family has not been willing, for several reasons which must be respected, to put a moratorium on further timber harvesting. However, they have fully cooperated with the National Park Service in conducting an up-to-date feasibility study and timber cruise of their Congaree property. This timber valuation survey is now underway and should be concluded by the end of this calendar year. The Beidlers have stated that they are "sensitive to the interest which responsible conservation groups have in the preservation of representative stands of relatively undisturbed forest," and they have willingly discussed various methods of property acquisition with the Park Service.

Recognizing the urgency of prompt but responsible action to preserve a representative portion of the Congaree Swamp, the bill I am introducing today provides for a 90-day-delayed, legislative taking of the Beidler tract. This procedure would authorize the Secretary of the Interior, through the Park Service, to negotiate with the Beidler family the most desirable method and price of acquiring all or a portion of the family's Congaree Swamp lands. The property could be acquired through purchase, using already appropriated moneys out of the Land and Water Conservation Fund, through a land exchange, or a combination of methods.

However, if the parties are unable to agree on a satisfactory settlement within 90 days *following* enactment, the legislative taking provision would go into effect. Should this become the operative procedure, ownership of the property would immediately be vested in the U.S. Government and timber cutting on the Beidler property, if still in progress, would be immediately halted. The Beidlers would then have a lawful claim upon the U.S. Government to receive full compensation for the fair market value of their property, the value of which would be fixed at the time of the legislative taking.

Furthermore, to compensate the family for income foregone from timber harvesting during any interim period of claims settlement, I am proposing that the Secretary be authorized to provide reasonable compensation out of discretionary moneys available to him through the Land and Water Conservation Fund. Once the Park Service and the Beidler family reach agreement on the fair market value of the entire property, the Secretary of the Treasury is authorized to complete payment out of the moneys in the Land and Water Conservation Fund.

I believe this is a responsible acquisition approach which will: First, halt the cutting of virgin timber, which threatens to destroy the value of the proposed preserve, second, insure that the property owners' rights are respected, and that they receive fair compensation and a regular flow of income; and third, comply with the procedures of the new Budget Act.

ECONOMICS OF THE PROPOSAL

Mr. President, the Park Service has been working with the Beidler family toward obtaining a good estimate of the value of the Congaree Swamp holdings. While a final valuation will not be possible until the completion of a detailed timber cruise later this year, the Park Service has just recently computed what they believe is a fairly reliable, preliminary estimate of the cost of acquiring the Beidler tract. This figure is quite substantial—$31.1 million—which represents a cost of just over $2,000 per acre for land and timber.

I emphasize that this is a preliminary cost estimate, and the final figure, based on the timber cruise soon to be completed, may be somewhat less. Furthermore, most of the property cost represents the value of standing timber, and it must be remembered that this is a near-virgin forest with merchantable trees of tremendous size. Also, the underlying land is not typical swampland, but rather is remarkably free from flooding 80 to 90 percent of the year.

Naturally, Mr. President, I have also carefully weighed the potential adverse economic effects of establishing this preserve. If the Beidler tract is established as a national preserve, Richland County, S.C., stands to lose some of its tax base, but the dimunition in property tax revenues would be slight—about $7,000 per year at current tax rates. To compensate for lost property tax revenues in such cases as these, Congress is now considering comprehensive "payments in lieu of taxes" legislation, to reimburse local governments for tax revenues foregone on federally owned property.

Of greater concern is the effect on forest and related industries in the area from removing this tract from multiple-use forest production. The forest industry ranks as the third largest manufacturing industry in South Carolina, generating over $1 billion in economic activity annually. It is generally agreed that the forest industry must double its production of wood products by the year 2000 to meet projected needs of our growing population and expanding economy. Thus, it would behoove us to be extremely judicious in removing lands from forest production.

This necessitates a well-reasoned balancing judgment on the part of Congress, which, after much thoughtful consideration, I believe should favor preservation of a limited portion of the 70,000-acre Congaree Swamp, as advocated in my bill. It is my position that the size of this Congaree Swamp National Preserve should be strictly limited to acreage necessary to protect the integrity of a representative, optimum-sized portion of this area's unique ecological resources—no more and no less. Thus, if, after a careful study of the area, the Park Service believes some of the Beidler Tract, especially those areas where timber has already been harvested, can realistically be excluded from the preserve, my bill provides that this can be done.

In the long run, it is believed that hardwood forests in the State can increase their production of hardwood to meet the demand. In the short run, the affected industries, particularly hardwood plywood manufacturers in the area, may have to import logs from other areas or make other adjustments. Furthermore, it should be pointed out that logging of the Beidler Tract is a relatively new phenomenon in the region, having begun in 1970. Thus, there has developed only a limited dependence on the forest resources of this property.

On the whole, establishing a national preserve in the Congaree Swamp should have substantial positive benefits for the area's economy. Such has been the general rule when other lands have been added to the National Park System, with increased tourist and related activities more than balancing income lost from present land uses.

Recreational use of the swamp would likely be constrained by flooding perhaps 10 percent of the year, and by heavy mosquito infestation another 10 percent, according to the recent study by the South Carolina Wildlife and Marine Resources Department. However, relatively pleasant recreation conditions would exist in the Beidler Tract about 190 days of the year, when the vast majority of the land would be reasonably dry. It is impossible to precisely predict the recreational potential of the site as a national preserve. However, it does have promise in this respect, judging from the thousands of persons advocating its preservation, many of whom have already visited parts of the Congaree Swamp. Furthermore, there is no doubt about the Beidler Tract's scientific value, since there is no other forest area quite like it in the country.

Mr. President, because the Beidler Tract of the Congaree Swamp contains a unique, near-virgin, river bottom, hardwood forest that is the last of its kind; because of the remarkable size of many of the trees and the likelihood of more record trees in the future if the forest is protected; because of the intriguing geological story of the development of the Congaree River through time, which is evident in the landscape of the area; and because there is no other natural area of similar resource values now in the National Park System; I believe the preservation of a limited, carefully selected portion of the Congaree Swamp for the benefit of present and future generations of Americans is justified. I, therefore, urge prompt enactment of this legislation.

Mr. President, for the benefit of my colleagues and other interested persons. I ask unanimous consent that the following documents be printed in the Record at the conclusion of my remarks:

First. An article from the May–June, 1976, issue of South Carolina Wildlife magazine entitled "Congaree Swamp Study Released."

Second. A list of the Record Trees of the Beidler Tract, as extracted from a December 1975 Vegetative Analysis of Preserve Alternatives Involving the Beidler Tract of the Congaree Swamp. This preliminary study was requested by Governor James B. Edwards.

Third. A copy of the bill being introduced.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From South Carolina Wildlife, May–June 1976]

"Congaree Swamp Study Released"

"Congaree Swamp is a pristine wilderness and should be saved." "Congaree Swamp is a vital source of timber and should be carefully managed for wood production." These opposing battle cries are becoming familiar to many South Carolinians, especially residents of the midlands, as the controversy over the fate of Congaree Swamp continues to flare up in the headlines. Fuel was recently added to the fire when the South Carolina Wildlife and Marine Resources Department released its study of the Congaree situation in an innocent-sounding report entitled: "A Vegetation Analysis of Preserve Alternatives Involving The Beidler Tract of the Congaree Swamp."

At the same time the report clarifies several misconceptions about the swamp, it provides both sides of the controversy with plenty of ammunition. "A technical study of this sort can't resolve the issue, because that's a matter of values," explains Tom Kohlsaat, one of the authors of the study. "Rather, what we have attempted to do is provide a factual basis for resolving the issues—to show the consequences of preserving all or part of the Beidler property."

Of the basic principles involved in the study, the first is that Congaree Swamp is part of a vast bottomland forest system. Few people other than hunters and loggers have seen this forest on the Congaree River floodplain, where it spreads out over the relatively flat country below Columbia. Roads and buildings are expensive to build on the wet, silty soil deposited by the river's floodwaters, so few have occasion to go there.

In contrast to the difficulties man encounters in these bottomlands, trees find them quite to their liking. Frequent deposits of nutrient-laden silt and ample moisture account for rapid growth in those hardwood species able to tolerate occasional flooding.

In fact, a tremendous variety of tree species are scattered about a typical bottomland, each taking advantage of special conditions accompanying slight changes in relief. Cypress and water tupelo are found in the wettest depressions, also called "sloughs" and "guts", which contain standing water and nearly year-round. Passing to slightly higher and drier ground, a variety of oaks, hickories, ashes, plus red maple and hackberry are encountered. On the "ridges"— a curious term to a stranger to the flatlands, since they lie scarcely a few feet above the sloughs—sweetgums, other oaks and occasional ancient pines predominate.

These rich bottomlands, where a sweetgum can grow as fast and straight as a pine, have long been the backbone of the hardwood forest industry in the South. Here the hardwoods are found for floors, furniture, veneer paneling, and other necessities from axe-handles to railroad ties. Although we may only be dimly aware of their existence, and then more as a source of snakes and other imagined horrors than as a source of wood, we have grown quite dependent on these mysterious bottomland forests. In the case of the Congaree Swamp, this dependence has brought us to quite a pass; for here is found a remnant of the virgin forest once common before man turned on the forest with axe and saw. It is at once a valuable source of timber and the sole remnant of a virgin forest which has stood since time immemorial.

Although the forest does contain unusually large trees, including 16 certified state records, this fact alone does not account for the tract's true significance, according to the wildlife department study. More importantly, study findings suggest that the presence of these trees is not happenstance. Rather, it appears that the forest has always produced such giants and always will. Thus, as the present record-sized trees die, as they inevitably must, other trees, now only slightly smaller, will grow to record size. This is the cycle of life in what foresters call a balanced forest.

The principal agent of death for the larger trees appears to be the wind. In order to have adequate oxygen, the roots of bottomland trees are quite shallow in the wet soil and are unsupportive. Hence, most trees succumb to windthrow long before reaching record size. As an old tree crashes to the ground, a sunlit opening is created in which hardwood seedlings can grow, and the cycle begins anew.

Here is the foresters' agony. Unless the felled tree is immediately removed, or better yet, all trees of respectable size are occasionally cut before they fall, the timber is lost to decay and rot. We must therefore decide where we want our wood—on the ground in the shade of giant trees, in a forest which has never known the axe, or in our furniture.

It is reasonable to ask, then, to what extent the Beidler Tract is capable of improving the supply of hardwood timber. The best answer so far is found in a brief analysis conducted by T. Dwight Bunce, a local economist, whose work was sponsored by preservationist groups. Based on a partial timber inventory and U.S. Forest Service statistics for the Columbia-Sumter market area, Bunce found that the Beidler Tract accounted for 1.8% of the hardwood timber supply in the market area it would serve, and 0.5% of the supply in all of South Carolina, a seemingly insignificant percentage.

Thus far, it appears to be people and their need for wood versus the trees. But is it really? According to the wildlife study, which merely summarizes other work on this point, people also figure on the side of the trees. It is often argued that bottomlands like Congaree are flooded frequently and are infested with mosquitoes and such; that they are fearsome places. In fact, the forest is quite pleasant, especially in the spring and fall. Although flooding is a problem, it occurs only about 10% of the days in a typical year, according to the study. Heavy mosquito infestations may account for another 10% leaving about 290 days a year for pleasant recreation conditions.

When people figure strongly on both sides of an issue, a compromise is usually called for, and the Congaree issue is no exception. Virtually all participants in the controversy favor setting aside some acreage. The question is how much? Proposals to date range from 1000 acres to the entire 15,000 acres of the Beidler Tract.

The study shows that the kinds of trees in the forest canopy and their associated shrubs, grasses, flowering plants and understory trees vary tremendously over the entire tract. To make the matter more complicated, strong variations are found within each portion, so a true representative of the tract's full diversity must include a sizable piece of the eastern and western portions. In the western portion, for instance, the best stands of sweetgum, cherrybark oak and scattered loblolly pines are found. In the wetter eastern portion, stands dominated by laurel oak, cypress and water tupelo show their best development. The unavoidable conclusion is that if the wide diversity of forest types represented in the Beidler Tract is valued as much as the mere presence of big trees, then at least 5000 to 7000 acres, including major blocks from both uncut portions, must be preserved.

In the end, such questions, and thousands of others can be answered only after years of research. Where the questions involve a forest touched only by natural disturbances, the uncut portions of the Beidler Tract are the only places left to find the answers. Meanwhile, the cutting continues.

RECORD TREES OF THE BEIDLER TRACT

Species	Circumference (at 4.5 ft.) (feet/inches)	Height (feet)	Spread (feet)
NATIONAL RECORDS			
Loblolly pine (pinus taeda) [1]	15/10	144	50
Overcup oak (quercus lyrata) [1]	21/10	150	87
Possumhaw (ilex decidua) [2]	1/8	30	45
Laurel oak (quercus laurifolia) [2]	20/8	111	58
Swamp tupelo (nyssa sylvatica var. biflora) [2]	12/10	101	60
STATE RECORDS			
Honeylocust (gleditsia triacanthos)	8/3	122	36
American hornbeam (carpinus caroliniana)	4/7	60	49
Water elm (planera aquatica) [1]	6/6	54	45
Sycamore (platanus occidentalis) [1]	14/8	147	90
Water tupelo (nyssa aquatical) [1]	20/2	90	56
Cherrybark oak (quercus falcata var. pagodaefolia) [1]	21/5	152	110
Swamp chestnut oak (quercus michauxi) [1]	16/5	150	87
White ash (fraxinus americana) [2]	15/3	135	80
Shumard oak (quercus shumarlii) [2]	16/4	127	65
American elm (ulmus americana) [2]	17/3	120	80
Willow oak (quercus phelos) [2]	18/3	135	85
Red bay (persea borbonia) [2]	5/5	67	45

[1] Nominated by John Cely and Jim Elder.

[2] To be nominated by South Carolina Wildlife Department.

Source: Excerpted from "A Vegetative Analysis of Preserve Alternatives Involving the Beidler Tract of the Congaree Swamp," South Carolina Wildlife and Marine Resources Department, December 1975.

S. 3497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect for the education, inspiration, and enjoyment of present and future generations an outstanding example of a near-virgin southern hardwood forest, there is hereby established the Congaree Swamp National Preserve (hereinafter referred to as the "Preserve"), which shall consist of the property depicted as the "Beider tract" on the map referred to in section 3 of this Act.

SEC. 2. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests in lands within the preserve by donation, purchase with donated or appropriated funds, or exchange, and he is directed to enter into immediate negotiations with the owners of property within the preserve for the acquisition thereof by purchase or exchange for other Federal property designated pursuant to subsection 3(b) of this Act. Notwithstanding any other provision of law, any agreement for acquisition may provide that the Secretary shall make payments to the owner from time to time in compensation for part or all of the standing timber on the property which, but for its acquisition by the United States would have been sold, and any funds available to the Secretary for Federal land acquisition purposes on the date of enactment of this Act shall be available for such payments.

SEC. 3(a). The Secretary shall advise the President of the Senate and the Speaker of the House of Representatives within 90 days of the date of enactment of this Act whether the property referred to in this section as the Beidler Tract has been acquired. Failing such advice or such acquisition, effective at noon on the 90th day following the date of enactment of this Act, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property, including standing timber, located within the area depicted as the "Beidler Tract" on the map entitled "Congaree Swamp National Preserve", numbered CS–80,001, and dated April 1976, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior, with the exception of lands or interests in lands owned by the State of South Carolina or its political subdivisions, and existing easements of public utilities. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom except that harvesting of timber, whether deemed real or personal, shall not be allowed.

(b)(1) The United States will pay just compensation to the owner of any real property, including standing timber, taken by subsection (a) of this section, and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States pursuant to the provisions of this Act. Payments shall be made either: (A) by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 percentum per annum from the date of taking to the date of payment therefore; or (B) by the Secretary, if the former owner concurs, with any federally owned property available to him for such purpose in accordance with paragraph (ii) of this subsection; or (C) by the Secretary using any combination of such moneys or federally owned property. Any action against the United States for just compensation for any lands or interests taken by subsection (a) of this section shall be brought in the district court of the United States for the district in which such property is situated. In the absence of a negotiated agreement or any action by the former owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings at any time seeking a determination of just compensation in the district court of the United States for the district in which the property is situated. In the event that the Secretary determines that fee simple title to any property taken under this section, including but not limited to portions of the "Beidler Tract" from which timber has been harvested within the eight years immediately preceding enactment of this Act, is not necessary for the purposes of this Act, he may with the concurrence of the former owner, revest title in such property to such former owner subject to such terms and conditions as he deems appropriate to carry out the purposes of this Act, and he may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just and full compensation has been paid.

(ii) Notwithstanding any other provision of law, for the purposes of this Act, any federally owned property within the State of South Carolina designated by the Secretary, except property needed for national defense, public health, public park, historic monument, or public educational purposes, shall be available for acquisition herein authorized by exchange and for use by the Secretary in lieu of, or together with, cash in payment of just compensation for property taken by subsection (a) of this section. The head of the administering agency is authorized to transfer administrative jurisdiction over any property so designated to the Secretary for use in accordance with this Act.

(c) Within two years after the date of enactment of this Act the Secretary shall review the area depicted as "study area" on the map referred to in subsection (a) of this section and he shall advise the President of the Senate and the Speaker of the House of Representatives as to any lands and interests therein within such area that are necessary or desirable for purposes of resource protection, scenic integrity, or future management and administration of the preserve in furtherance of the purposes of this Act.

(d) With respect to any portion of the area acquired under the provisions of this Act which at the time of its acquisition is leased for hunting purposes, the Secretary shall acquire such portion subject to such lease, and he shall permit the continued exercise of hunting privileges, consistent with applicable Federal and State game laws, in accordance with the terms of any such lease for the unexpired term thereof or for a period of five years, whichever is less. If a lease is still outstanding at the end of five years following acquisition and the general management plan for the preserve provided for in section 5(a) is not ready to be at that time, such lease shall continue until its expiration implemented/or until the leased portion of the preserve is ready for management in accordance with such plan.

SEC. 4. The Secretary shall administer the preserve in accordance with the Act approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of this Act.

SEC. 5(a). The Secretary, in consultation with the Governor of South Carolina, shall formulate standards for the development, preservation, management, and public use of the preserve, and the Secretary is authorized to develop jointly with the Governor a general management plan for the implementation of such standards. The Secretary shall transmit the plan, together with an estimate of the costs of developing, operating, and managing the preserve for public benefit and use, to the Speaker of the House of Representatives and the President of the Senate not later than two years from the effective date of this Act.

(b) In exercising his responsibilities under this Act, the Secretary is authorized to enter into a cooperative agreement or agreements with the Governor of South Carolina and an appropriate agency (or agencies) of the State of South Carolina pursuant to which (1) such agency may, consistent with the standards formulated pursuant to subsection (a) of this section, develop, operate, and maintain the preserve, and (2) the Secretary may make available to such agency funds appropriated to him for operation of the national park system in order to defray in whole or in part the costs of such development, operation, and maintenance of the preserve.

(c) Within two years from the effective date of this Act, the Secretary shall review the area within the preserve and shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c) and (d)), his recommendation as to the suitability or nonsuitability of any area within the preserve for preservation as wilderness, and any designation of any such area as a wilderness area shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 6. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations promulgated under this section shall be placed in effect only after consultation with the appropriate fish and game agency of the State of South Carolina.

SEC. 7. There are authorized to be appropriated out of the Land and Water Conservation Fund in the Treasury of the United States such sums as may be necessary for the acquisition of property, but not to exceed $31,100,000.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 3498. A bill to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HOLLINGS. Mr. President, I rise today to introduce, in my behalf and that of my colleague Senator THURMOND, a bill to authorize the establishment of the Congaree Swamp National Preserve in my native State of South Carolina.

Some background is in order, both to explain the basic thrust of this legislation and to clear up the controversy which has surrounded the issue of establishing the Congaree Swamp as a national preserve.

It is important for the Senate to realize that the Congaree Swamp, located a few miles southeast of the State capital of Columbia, is one of the Nation's great virgin swamp forests. Stretching throughout its environs are six of the largest types of trees which grow in the United States, including 700-year-old cypress trees. It is the last large remnant of original bottomland hardwood forest in the Southeastern United States. Without question, the Congaree Swamp is of inestimable value to the citizens of South Carolina and the Nation as one of nature's most pristine areas. Clearly, every effort should be made to preserve the swamp in its existing state.

Efforts to preserve the swamp began over a dozen years ago, and I was involved in these efforts at an early date. Some 10 years ago, when I first arrived in the Senate, two very distinguished South Carolinians—Mr. Ambrose Hampton of Columbia and Mr. Peter Manigault of Charleston—approached me about preserving the swamp. They pointed out that approximately 15,000 acres in the center of the swamp were privately owned—by the Beidler family of Chicago—and that the State of South Carolina and the Federal Government ought to get together to arrange for the purchase of a certain amount of the acreage.

At that time, the Beidlers were not interested in selling. I kept up my efforts to persuade the Beidlers to sell some of the acreage, at least, and a little over a year ago, I finally persuaded them to yield 5,000 acres.

Now, of course, with a changed interest in selling, the Beidlers are willing to dispose of the entire tract—15,135 acres—instead of the 5,000 acres. No exact figure has been established on the purchase price, but the Department of the Interior has estimated the value at $31.1 million. I want to emphasize that this was an informal estimate of the cost to the Federal Government.

In any event, since that $31.1 million informal estimate was made, I have perceived a very real problem with the Federal budget and the new budgetary process in the Congress. To put my problem in a perspective that I am sure many of my colleagues will understand, I recently received a letter from Governor Edwards of South Carolina asking that I go along with this multimillion-dollar purchase of the Congaree Swamp by the Federal Government, and the next afternoon I received a telegram from him admonishing me to balance the Federal budget.

As a member of the Senate Budget Committee, I am absolutely supportive of our new budgetary process. I think it presents the Congress with its best—possibly its only—chance to get a grip on Federal spending. And I know that you cannot have it both ways—you agree to set a spending limit and stick by it or you go ahead and bust the budget.

So, I begin to look very closely at the possible avenues for funding the purchase of the Congaree Swamp. I was told that the Interior Department had some funds in the land and water conservation fund that could be made available for the purchase. But the situation is murky; apparently, while the Park Service has been interested in obtaining the acreage, just as apparently the Office of Management and Budget has been opposed to spending the money for this endeavor. It should have been pointed out long ago that the Ford administration officially opposed the purchase of Congaree Swamp as a national preserve, and it still does.

There is another budgetary problem involved in the legislation which has been introduced in the House. In order to authorize any funds for the purchase this year, the request should have been reported out of committee in both houses by May 15, under the new budget rules for authorizations for the next fiscal year. It was impossible to meet this deadline in the House or the Senate, however, and so we are presented with the necessity of getting a waiver for the purchase funds. And not only must we get a waiver, at the present time we are not even sure what the final purchase price will be.

I find the necessity for securing a waiver for the purchase funds generally unacceptable. If such action can be justified in this case, then surely it can be justified in many others, and we will have succeeded in chipping away at the foundations of the new budgetary process. Additionally, pursuing a waiver for these funds involves a certain delay.

It is in an effort to speed the process of preserving the Congaree Swamp that Senator Thurmond and I offer this legislation today. We both recognize that the funds necessary for the purchase of the swamp are already contained in the land and water conservation fund administered by the National Park Service. All we are doing with this legislation is authorizing the Park Service to designate and administer the 15,000 acres in question as a national preserve, securing the acreage with funds already authorized in the Federal budget for such projects. This is, in our view, the simplest and most reasonable manner in which the Congress can resolve this matter, and we ask our colleagues to give their full support to this effort.

I ask unanimous consent that our bill, S. 3498, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congaree Swamp National Preserve Act of 1976".

SEC. 2. (a) FINDINGS.—The Congress finds and declares the following:

(1) The Congaree Swamp represents the last large remnant of original bottomland hardwood forest in the Southeastern United States.

(2) This bottomland forest contains a rich variety of hardwoods which are unique in age, size, and beauty in the region, as well as valuable and uncommon wildlife habitat.

(3) This bottomland forest is located close to a large metropolitan area and, accordingly, it is of great value as a source of environmental and historical education, recreational opportunities, scientific studies and interpretive programs for hundreds of thousands of urban dwellers and visitors in the State of South Carolina.

(4) This area is currently threatened with spoilation and ecological damage through extensive timbering activities.

(5) Despoilment of this bottomland forest will result in the irrevocable and permanent loss of a unique social, recreational, historical, educational, and environmental asset.

(b) POLICY.—It is therefore declared to be the policy of the Congress in this Act to preserve the Congaree Swamp through the establishment of the Congaree Swamp National Preserve.

SEC. 3. DESIGNATION.—The Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to designate by publication of a map or other boundary description in the Federal Register all or any portion of the property known as the Beidler tract consisting of fifteen thousand acres, more or less, and situated in the Congaree River floodplain in Richland County, South Carolina, for establishment as the Congaree Swamp National Preserve (hereinafter referred to as the Preserve). Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, the Secretary may revise the boundaries of the area so designated by publication of a revised map or other boundary description in the Federal Register.

SEC. 4. (a) ACQUISITION.—Within the area designated pursuant to section 1 of this Act, the Secretary is authorized to acquire lands, waters, and interests therein by donation or by purchase with donated and/or appropriated funds.

(b) LIMITATIONS.—With respect to any portion of the area acquired under the provisions of this Act which at the time of its acquisition is leased for hunting purposes, the Secretary shall acquire such portion subject to such lease, and he shall permit the continued exercise of hunting privileges, consistent with applicable Federal and State game laws, in accordance with the terms of any such lease for the unexpired term thereof or for a period of five years, whichever is less. If a lease is still outstanding at the end of five years following acquisition and the general management plan for the Preserve provided for in section 6(a) is not ready to be implemented at that time, such lease shall continue until its expiration or until the leased portion of the Preserve is ready for management in accordance with such plan.

SEC. 5. (a) ESTABLISHMENT.—When the Secretary determines that he has acquired sufficient property to constitute an administrable unit for the purposes of the Act he shall establish the area designated pursuant to the first section of this Act as the Congaree Swamp National Preserve by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer property acquired for the Preserve in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of this Act.

(b) COOPERATIVE AGREEMENTS.—In exercising his responsibilities under this Act the Secretary is authorized to enter into a cooperative agreement or agreements with an appropriate agency of the State of South Carolina pursuant to which (1) such agency may, consistent with the standards formulated pursuant to section 6(a), develop, operate, and maintain the Preserve, and (2) the Secretary may make available to such agency funds appropriated to him for operation of the national park system in order to defray in whole or in part the costs of such development, operation, and maintenance of the Preserve.

SEC. 6. (a) MANAGEMENT PLAN.—The Secretary shall formulate standards for the development, preservation, management, and public use of the Preserve, and the Secretary is authorized to develop a general management plan for the implementation of such standards. Such standards may be formulated and such plan may be developed jointly with an appropriate agency of the State of South Carolina. The Secretary shall transmit the plan, together with an estimate of the costs of developing, operating, and managing the Preserve for public benefit and use, to the Speaker of the House of Representatives and the President of the Senate not later than two years from the effective date of the Act.

(b) WILDERNESS AREAS.—Within two years from the effective date of this Act, the Secretary shall review the area within the Preserve and shall report to the President, in accordance with section 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendation as to the suitability or nonsuitability of any area within the Preserve for preservation as wilderness. Designation of any such area as a wilderness area shall be accomplished in accordance with such sections of the Wilderness Act.

SEC. 7. RESTRICTED ACTIVITIES.—The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the Preserve in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations promulgated under this section shall be placed in effect only after consultation with the appropriate fish and game agency of the State of South Carolina.

SEC. 8. AUTHORIZATION.—The Secretary of the Treasury is directed to make payments from the Land and Water Conservation Fund (16 U.S.C. 460), which are available for Federal purposes thereunder, *such amounts* as may be necessary for acquisition of lands, waters, and interests within the area designated pursuant to section 3. The payments shall be made upon certification to him by the Secretary of the Interior of the agreed negotiated value of such lands, waters, and interests.

ADDITIONAL COSPONSORS

S. 2387

At the request of Mr. BAYH, the Senator from Iowa (Mr. CLARK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Colorado (Mr. GARY HART), the Senator from Colorado (Mr. HASKELL), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 2387, the Petroleum Industry Competition Act, as amended.

S. 2925

At the request of Mr. MUSKIE, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 3165

At the request of Mr. PELL, the Senator from Hawaii (Mr. FONG) was added as a cosponsor of S. 3165, a bill to establish a national marine science and technology policy.

S. 3182

At the request of Mr. TAFT, the Senator from Alabama (Mr. ALLEN) and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970.

S. 3359

At the request of Mr. CHILES, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3359, to establish a Commission on Federal Aid Reform.

AMENDMENTS SUBMITTED FOR PRINTING

LOBBYING DISCLOSURE ACT OF 1976—S. 2477

AMENDMENT NO. 1704

(Ordered to be printed and to lie on the table.)

Mr. METCALF. Mr. President, I am convinced that we can and should provide for meaningful disclosure by interest groups which spend significant amounts for lobbying.

But I am no less convinced that we can and should do so without massive Federal intrusion into the activities of every private organization in the country and without creating a new growth industry—of accountants, lawyers, bureaucrats, computer inputters and the like—to handle unnecessarily detailed or intricate reporting requirements.

The amendment that I am now introducing will replace a series of such requirements in the Lobbying Disclosure Act of 1976 (S. 2477). I refer, Mr. President, specifically to two provisions in section 6 of this measure.

First, as reported, subsection 6(c)(2) will require some—but not all—organizations which engage in lobbying to identify every paid officer, director, or employee who makes even a single telephone call or who chats briefly in the hallway with one Member of Congress or staff aide.

Moreover, for each such officer or employee, the organizations which are covered will be required to describe each issue with respect to which their "oral" lobbying communications were made. And if any officer or employee deals with more than 10 issues, then the organization would be responsible for reporting the 10 issues which accounted for the greatest proportion of the oral lobbying communications in which he or she engaged.

Now the "10 most wanted" issue lists of the various Washington representatives may liven up the chit chat on the cocktail circuit here.

Beyond that, however, such a requirement will have little socially redeeming value. And its fulfillment obviously will be unduly burdensome for many organizations and their employees.

But the language of subsection 6(c)(2) does not stop here. There is an escape hatch, which is why I noted a moment ago that some, but by no means all, organizations which lobby will have to meet this reporting requirement.

The route to avoidance of identifying those who speak for an organization is found in a proviso of the subsection which excuses the naming of any officer, director, or employee which the sponsoring organization—or, presumably, any other organization—has "solicited" to make a lobbying communication on its behalf.

Under this proviso, for example, any vice president for public affairs only has to distribute a memo requesting or requiring lobbying communications by 25 or more other officers or directors—or 100 other employees— to cloak the activities of such spokesmen in anonymity. This escape hatch can be used either as the occasion warrants, when the issue involved is particularly sensitive or when the identity of the spokesmen could prove embarrassing, or on a routine basis for all of the organization's lobbying activities.

Obviously, only those organizations which are either unable—because they do not have the requisite number of paid directors or employees—or are unwilling to employ this device will have to provide the identification and issue lists in their quarterly reports.

Mr. President, the rationale for this bizarre requirement escapes me.

I believe we can reasonably expect organizations to describe each issue on which they have taken an active interest, and my amendment retains subsection 6(c)(1) to accomplish this. Additionally, I believe we ought to know the names of the chief spokesmen of the various groups that engage in lobbying communications.

Thus, rather than simply striking subsection 6(c)(2), my amendment will replace the present language with a requirement limited to the identification of only those paid officers or employees who lobby on part or all of 5 days during the quarterly period.

Mr. President, my amendment also eliminates a bewildering array of reporting requirements pertaining to lobbying solicitation. To illustrate what actually is involved in these requirements—contained in subsection 6(d) of S. 2477—I have had prepared a portion of the report of a hypothetical, medium-sized trade association.

Under the present language, such an organization—which already has crossed the threshold and become a lobbyist because of other lobbying activities—will be required to report the following as the result of placing newspaper advertising on one issue; and I ask unanimous consent that the excerpt be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

INFORMATION THAT WOULD BE REQUIRED BY SEC. 6(d) OF S. 2477 IN THE QUARTERLY REPORT OF A HYPOTHETICAL ORGANIZATION WHICH BECOMES A LOBBYIST UNDER SEC. 3(a)(2)

ORGANIZATION—AMERICAN ASSOCIATION OF WIDGET MANUFACTURERS (AAWM)

SEC. 6(d)(1).—In favor of sec. 12 of H.R. 6709 which establishes a tariff on widget imports. In favor of sec. 304 of S. 3101 providing for research funding for the production of energy consumption for widgets. Opposed to reorganization plan No. 34 of the President which removes regulation of widgets from the Department of Commerce and places it with the ICC. In favor or sec. 7 of H.R. 4320, providing for a tax reduction for the recycling of used widgets. Opposed to sec. 23 of H.R. 6709, providing for an import tariff on zinc alloyed oxide.

SEC. 6(d)(2).—Newspaper advertisements were taken out for a campaign on one issue. The general membership is solicited to lobby on certain issues through our weekly newsletter, "Widget Manufacturing," through special mailings on selected issues and through our regional and national conferences and meetings. We requested other organizations to solicit membership on certain issues.

SEC. 6(d)(3).—Newspaper solicitations reached approximately 3,700,000 persons. All 1,512 member firms have been solicited on issues by the AAWM; all four regional affiliates have also been solicited, as well as 78 officers, directors and employees of the AAWM; membership is located in 35 States; no State has received more than 10 percent of the total number of solicitations made.

SEC. 6(d)(4).—Newspaper advertising costs on one solicitation:

Total direct expense................ 24,060

SEC. 6(d)(4)(B).—Each regional association solicits all member firms within the association which total 1,512 companies:

Eastern Association: 392 member firms; N.Y. 118, N.J. 82, Penn. 84, Delaware 6, Rhode Island 11, Mass. 59, Conn. 21, Md. 11;

Midwestern Association: 424 member firms; Ill. 96, Ohio 84, Mich. 72, Ind. 18, Wis. 43, Minn. 57, Neb. 10, Kan. 23, Ia. 21;

Southern Association: 331 member firms; Texas 81, La. 29, Ga. 36, Fla. 54, Va. 22, N.C. 38, Ala. 31, Tenn. 21, Ky. 19;

Western Association: 365 member firms; Calif. 129, Ore. 51, Wash. 68, Colo. 32, Mont. 9, Wyo. 11, Ariz. 41, N.M. 13, Ida. 11.

Mr. METCALF. Mr. President, the material contained in this submission—the product of requirements contained in a single subsection, occupying a single page of S. 2477—is the stuff of which doctoral dissertations are made. No doubt, it will nourish a whole new complex of hungry computers, which eventually can disgorge printouts that will be best sellers for those studying communication patterns in the governmental process.

But, whatever the merits of such research, I do not see how we can justify placing the burden of reporting this data—and the cost of processing the blizzard of paper this requirement will generate—on private organizations throughout the Nation and, ultimately, the taxpayers as well.

In short, the numbers game which must be played under provisions of paragraphs 2 through 4 of subsection 6(d) should be called for lack of interest on the part of the general public.

What I am proposing is to strike all of these paragraphs, and to substitute a requirement for a simple acknowledgment of each issue on which the lobbying organization engaged in solicitation.

Mr. President, our experience with the Federal Election Campaign Act, another reform measure, should be instructive in developing meaningful reporting requirements for lobbying disclosure.

What we require those who engage in lobbying to report should be unambiguous and readily understandable both to the organizations involved and to those who must enforce disclosure.

We should limit reporting to the essentials, to the information we are certain that Members of Congress and the people need to know in order to carry out their respective responsibilities as representatives and concerned citizens. We should avoid like the plague items that someone, somewhere thinks might be nice to know about someday.

Otherwise, if we include unduly burdensome and essentially irrelevant requirements such as those my amendment seeks to eliminate, we will only bury the hard facts of disclosure irretrievably in a mountain of waste paper.

I ask unanimous consent that my amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1704

On page 47, beginning with line 17, strike out all through page 48, line 6 and insert in lieu thereof the following:

"(2) an identification of each officer, paid director, or paid employee who engaged in lobbying communications on any part of each of five days during the quarterly reporting period; and".

On page 49, line 1, beginning with "The" strike out all through "issues' on line 4, and insert in lieu thereof the following:

"The report shall also contain a statement of each issue with respect to which the lobbyist engaged in lobbying solicitation during the period, either directly or through a legislative agent,".

On page 49, beginning with "employees" strike out all through affiliates—"on lin 10, and insert in lieu thereof the following "employees, of the lobbyist; or twelve or more affiliates.".

On page 49, beginning with line 11, strike out all through page 50, line 23.

ANTITRUST IMPROVEMENTS ACT—H.R. 8532

AMENDMENT NO. 1705

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to Amendment No. 1701, proposed to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

FEDERAL PROGRAM INFORMATION ACT—S. 3281

AMENDMENT NO. 1706

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am today introducing an amendment to S. 3281, the Federal Program Information Act, directing that the legislation be implemented by the General Services Administration, as opposed to leaving the President total discretion as to where and how this legislation is to be executed.

The Federal Program Information Act is an important initiative toward bringing Government closer to the people. The Federal Government presently appropriates some $60 billion each year for over 1,000 Federal grant-in-aid programs for the States, localities, and individuals. Yet because of the sheer complexity of these programs, their differing requirements, procedures, and organizational structures, many potential recipients are left ignorant or confused about the fact that money is available to them at all, or how to go about obtaining it. As a result, the intention of Congress to benefit certain governments and individuals is thwarted, and the acquisition of Federal grant money is determined too frequently more on the basis of gamesmanship or "grantsmanship" than true need.

The Federal Program Information Act, by applying modern computer data processing technology to the Federal grant-in-aid programs, will help disseminate basic, necessary information to potential beneficiaries in a clear and understandable form.

For these reasons, I fully support this important legislation.

The one problem I find with S. 3281 as drafted is a mechanical one regarding the manner in which the new Federal Program Information Center is to be established. The legislation presently leaves total discretion to the President to establish this center wherever he wants in whatever form he wants. I believe it is incumbent upon the Congress, in creating new programs of this importance, to at least determine where within the organizational structure of the executive branch the new program should be placed. As we all know, the ways of bureaucracy are such that a program misplaced may very well be a program doomed to failure.

I have examined a number of alternative suggestions as to where the new center would best be located within the executive branch. I have concluded the most conducive spot would be within the General Services Administration.

The new Program Information Center is intended to provide a Government-wide service, collecting information on grant programs in all departments and agencies of the executive branch. As such, if it is to succeed, I believe this new center must be attached to an agency with Government-wide responsibilities. Otherwise, it will be destined to face unnecessary bureaucratic roadblocks and other such hurdles.

I have examined two such Government-wide entities, the Office of Management and Budget and the General Services Administration, as potential homes for the new Federal Program Information Center. Between the two, GSA displayed a much greater capacity to handle such a program.

GSA is an operational unit of the executive branch, while OMB is a policy unit. As such, GSA is more experienced and institutionally suited to actually implement a complex program of the sort envisioned here.

More importantly, GSA has already established a series of 37 Federal Information Centers across the country where people can call in and obtain basic information concerning Government programs and offices. Placing the new Center in GSA would therefore complement an existing structure, rather than requiring the creation of a totally new one.

My amendment will simply direct the President to establish the new Federal Program Information Center within the General Services Administration. It makes no other alterations of any kind in the legislation. It is my understanding that this amendment is consistent with the positions of the OMB, GSA and the Department of Agriculture.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1706

On page 1, line 7, insert the following: After "establish" insert "within the General Services Administration".

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, June 4, 1976, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

John P. Crowley, of Illinois, to be U.S. District Judge for the northern district of Illinois, vice Richard B. Austin, retired.

Any persons desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee will consist of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

HEARING ANNOUNCED ON NURSING HOME FIRES

Mr. MOSS. Mr. President, I wish to announce joint hearings by my Subcommittee on Long-Term Care of the Senate Committee on Aging and the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging, chaired by Congressman CLAUDE PEPPER of Florida.

The hearings will be held on June 3 in room 318—the Senate Caucus Room—of the Russell Senate Office Building, at 9:30 a.m.

Witnesses will include representatives of the U.S. General Accounting Office, the National Fire Protection Association and officials responsible for investigating the recent and tragic nursing home fires which occurred in Chicago a few weeks ago. We hope to explore the significant Federal issues involved and to ascertain if there is a need for the enactment of new legislation to protect the one million Americans who reside in nursing homes.

ANNOUNCEMENT OF SEMINAR ABOUT ALASKAN NATIVES

Mr. METCALF. The American Indian Policy Review Commission will hold the 13th in its series of congressional seminars on Monday, June 7, from 10 a.m. until 12:30 p.m. in the Rayburn House Office Building, room B-308.

This seminar will feature a panel discussion about Alaskan Natives. For further information contact Grace Thorpe. 225-1284.

CANCELLATION OF HEARINGS

Mr. METCALF. Hearings on Indian economic development, previously scheduled to be held by the American Indian Policy Review Commission on May 29 and 30 outside Phoenix, Ariz., have been cancelled by Commission Chairman Senator JAMES ABOUREZK.

Despite the cancellation of the formal hearings, anyone wishing to submit written testimony to the Commission may do so.

Testimony should be sent to the American Indian Policy Review Commission, HOB Annex No. 2, Second and D Streets SW., Washington, D.C., 20515.

ANNOUNCEMENT OF HEARINGS

Mr. METCALF. The American Indian Policy Review Commission, Task Forces No. 2, and No. 4 on Tribal Government, and Federal, State and Tribal Jurisdiction, announces public hearings to be held June 2 and 3, 1976, from 9:30 a.m. to 5:30 p.m. at the Phoenix Indian School, Phoenix, Ariz., for Arizona and New Mexico Indian tribes.

For further information contact Paul Alexander at 202-225-2235, 2984 or 2979 or write the American Indian Policy Review Commission, HOB Annex No. 2, Second and D Streets SW., Washington, D.C. 20515; or Judge William R. Rhodes of the Gila River Indian Community at Sacaton, Ariz., at **602-276-1857.**

ADDITIONAL STATEMENTS

OSHA INSULTS THE FARMERS AND WASTES THEIR MONEY

Mr. **CURTIS.** Mr. President, see the Senator rise. See the Senator make a speech. A speech is a group of words put together to make a point. Beware of speeches. They can trip you up. You should post signs when speeches are to be made.

You probably think I have taken leave of my senses. Or you are offended by the childish tone of my opening remarks. I hope you are offended, because that is my reaction to a Government pamphlet entitled, "Safety With Beef Cattle."

The pamphlet was issued this year by the Occupational Safety and Health Administration which, in its infinite wisdom, is issuing booklets in lay language for various industries to explain its regulations, because up until now, nothing of an explanatory nature has been available. All OSHA has been coming up with are fines and citations.

Now we have booklets. And what fine pieces of literature they are!

I have in my office about 30 of these booklets put out at Government expense by OSHA and the Department of Labor. These publications account for some of the outrageous cost of OSHA to taxpayers. OSHA spent $293.3 million between April 1971 and July 1975, and by some estimates, will spend as much as $116 million this fiscal year.

As far as these pamphlets go, the public is being fleeced.

Some of the pamphlets are informative and well-written. Many of them make honest attempts to explain the regulations pertaining to specific industries in language compatible with the technical language of the industry.

So you can imagine my outrage when I realized that only for farmers, only for the food producers of America, is the language used by OSHA so childish, so trite, and so incredibly arrogant and insulting that it nearly leaves me speechless.

In the pamphlets for other industries, the language is comparable to the language of the industry, and the type of print is average. It is the basic size of printing you find in most books and publications.

Then we see the booklet for cattle producers called "Safety With Beef Cattle." The print is huge, the type used in Dick and Jane books for first-graders.

And the way the book is written is demeaning.

> "Be careful around the farm. . . . Hazards are one of the main causes of accidents. A hazard is anything that is dangerous.

And it goes on in this supercilious tone addressing men who have been farmers and feeders all of their lives, many of them with college degrees in agricultural science.

Does OSHA think these people cannot read?

> Put away tools, equipment and feed when not using them. . . . When floors are wet and slippery with manure, you could have a bad fall. . . . If your ladder is broken, do not climb it.

I am so thankful someone put this into writing, to save our Nation's farmers from further humiliating pratfalls.

Everyone at OSHA must still think of farmers as "hicks." As an article this week in U.S. News & World Report states:

> . . . the "hick" of yesterday is today the most potent force in the entire U.S. economy—producing more, buying more, exporting more goods by far than any other business in the country.

And yet OSHA tells farmers: "Wear clothes that fit right." And to cattle feeders dealing in one of the biggest industries in the country, OSHA says:

> Be careful when you are handling animals. Tired or frightened cattle can bolt and trample you. Be patient, talk softly around the cows. Don't move fast or be loud around them. If they are upset, don't go into the pen with them.

According to U.S. News & World Report:

> Total sales of agricultural products abroad this year will bring in an estimated 22 billion dollars—far and away the largest single source of U.S. sales abroad. Chemical exports last year were a distant second at 9 billion.

OSHA does not talk down to chemists, but here is what it says to farmers:

> Many people trip over animals and fall. You can get too tired when working with cattle. Tired people make mistakes and can be hurt.

Productivity on family farms outstrips that of every other industry in the country. Each farmer feeds himself and 48 other people. It takes intelligence, hard work, and stamina to run a farm, obviously, more than it takes to write pamphlets for OSHA.

I am outraged at the demeaning tone of the instructions to farmers. I am insulted as a taxpayer that we are paying for these insults.

I understand the pamphlet was prepared by Wayne L. Singleton, extension animal scientist, beef, Purdue University; Kenneth M. Weinland, extension veterinarian, Purdue University; and Gay L. White, information specialist, Purdue University. They worked under contract with the U.S. Department of Labor in cooperation with the U.S. Department of Agriculture.

I hope when they did their research they did not, and I quote, "* * * fall into manure pits. These pits are very dangerous."

COMPUTER PROBLEMS

Mr. **RIBICOFF.** Mr. President, the staff of the Senate Government Operations Committee is conducting a preliminary staff investigation into problems associated with computer technology in Federal programs, particularly in the areas of computer-related crimes, computer security and automated decisionmaking computers which once programed operate without human supervision.

This preliminary staff inquiry is based on three reports issued recently by the General Accounting Office. The reports are "Managers Need To Provide Better Protection for Federal Automatic Data Processing Facilities," dated May 10, 1976, number FGMSD-76-40; "Computer-Related Crimes In Federal Programs," dated April 27, 1976, numbered FGMSD-76-27; and "Improvements Needed In Managing Automated Decisionmaking By Computers Throughout the Federal Government," dated April 23, 1976, numbered FGMSD-76-5.

Each of these reports is thorough, objective and perceptive, pointing to problems in Federal computer programs which are deserving of additional evaluation by the Congress.

As chairman of the Government Operations Committee, I announced the preliminary staff inquiry in Senate remarks May 10, 1976. In those remarks, I was especially concerned about the security aspects of computer technology.

On Tuesday, May 11, 1976, the day after the announcement of the preliminary staff inquiry, two bomb blasts rocked the Augusta, Maine, headquarters of the Central Maine Power Co., leaving sections of the $5 million computerized facility in shambles.

The Bangor Daily News of May 12, 1976, reported on this occurrence on page one. Mr. President, I ask unanimous consent that this article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Two Blasts Rock CMP Headquarters—None Hurt in Augusta, Operations Continuing

(By John S. Day)

Augusta.—Two bomb blasts rocked the Augusta headquarters of Central Maine Power Co. Tuesday afternoon leaving sections of the $5 million computerized facility in shambles.

Several hundred employes of the utility company were evacuated minutes before the bombs exploded following two warning telephone calls from an unidentified party indicating that the blasts would occur.

Authorities said it was a miracle that nobody was injured in the two explosions, one of which occurred in a first-floor boiler room and the other in an office section containing engineering records on the third floor.

Similar bomb warnings were made to the Kennebec Journal newspaper office in Augusta, but a search of that building turned up no explosives.

The CMP bombing occurred as executives of the utility were pleading their case for a $20 million rate increase before the Maine Public Utilities Commission in another section of the city.

A task force of 17 FBI agents was en route to Augusta from Boston to investigate the bombing, which local authorities described as being the first incident of such a nature in recent Maine history. Within a year or two, a small bomb explosion occurred in an Aroostook high school. Damage was minor.

John Kenoyer, an FBI special agent based in Augusta, told reporters that there was no indication in the two warning calls received by the CMP switchboard between 3:15 and 3:25 p.m., as to a motive for the bombing.

He said that authorities have no suspects for the present.

Local police, however, were going door to door in the houses located in the Edison Drive residential development located near the CMP building asking persons to give them information about a young man on a motorcycle seen in the area shortly before the explosions.

Police described the man as being about 25, short, and with long blondish hair.

Kenoyer said that authorities will not know what type of bomb was used until a crew of laboratory technicians has a chance to sift through fragments and debris in the two damaged areas.

There was no estimate of the loss, but CMP officials stressed that the building's two vital sections housing a $2 million computer system and electronic switching equipment governing the flow of power to the New England power pool were not damaged.

Company officials announced that only supervisory employes of the utility will be asked to report for work on Wednesday in order to permit law enforcement agencies to concentrate on the investigation.

The electrical switching room is in a bomb-proof shelter and is one of four satellite control rooms governing the flow of power to all of New England's electrical companies.

Employes directly involved with that operation remained in the building throughout the bomb incident.

The most visible damage occurred in the new wing of the 12-year-old utility headquarters, a four-story addition that was opened only last April.

One of the two bombs was placed in the engineering section on the first floor of that building. The explosion tore open metal filing cabinets, hurling fragments of steel 30 or 40 feet across the room.

One wall section in the large open office section was demolished. The ceiling and office furniture within a 50-foot radius near the wall also were heavily damaged.

The force of the explosion hurled a book of records into the ceiling near the center of the bomb crater, impaling it on a light fixture.

Another bomb was planted in the older section of the building near an air circulation machine in the boiler room.

The basement bomb caused less widespread damage, but appeared to have destroyed the heat exchange machine.

Peter Thompson, director of public relations for CMP, doubted that any vital records were destroyed in the engineering section explosion.

Thompson said that there had been no earlier bomb threats to the utility company.

Authorities were puzzled about one factor involving the incident. How could the person or persons gain entrance into the CMP building to plant the bombs.

The entire headquarters is considered to be a "limited access" facility, with private security guards posted at the entrance to the building to stop unauthorized persons from going inside without authorization.

Company employes are required to carry identification cards. Nonemployes have to sign in with the office guards, who remain on duty 24 hours a day.

The person or persons who planted the bomb had to have nearly free access inside the building.

The boiler room where the first bomb exploded is located in the basement of one wing of the headquarters complex; the engineering section, where the second went off, is on the third floor of the newest wing.

A total of 400 CMP employes work out of the building, but from 100 to 200 of them were in the field at the time of the explosions.

Both bombs went off nearly simultaneously.

CMP President Erwin Thurlow was in the lobby of the new wing, which also received damage from the shock wave, when the first bomb exploded and had only a few seconds to get out of the structure before the more powerful second blast went off.

Witnesses indicated that the second blast caused windows to bend by nearly 6 inches.

Authorities from the FBI, State Police, Treasury Department, Augusta Police, and Augusta Fire Department were called to the scene almost immediately.

The entire building was sealed off to both employes and the public Tuesday evening. Company officials permitted news reporters to make a quick 5-minute inspection tour of the damaged areas.

FBI Agent Kenoyer said it was a "miracle" that nobody was injured in the blasts.

"It was real lucky that the company took this threat seriously and evacuated the building. If there had been people still in there, a lot of them would have been hurt," he told reporters.

Kenoyer said that Tuesday's bombing of CMP proves that Maine is "not immune" from acts of violence such as bombing that occur on a regular basis in other areas of the country.

Mr. RIBICOFF. Mr. President, the Kennebec Journal of May 12, 1976, carried three articles on the Central Maine Power Co. occurrence. Mr. President, I ask unanimous consent that these articles be printed in the Record at this point.

There being no objection the articles were ordered to be printed in the Record, as follows:

Letter Claims Bomb Responsibility

A letter claiming responsibility for Tuesday's bombing of the Central Maine Power Co. headquarters was found early this morning in the lobby of the Kennebec Journal.

The letter referred to the current hearings on a CMP request for rate increases, contained a long and detailed attack on CMP as the enemy of poor people, and listed a series of demands and a threat against the power company.

The letter began:

"Today, May 11th, we the Fred Hampton Unit of the People's (sic) Forces claim full responsibility for the booming (sic) of the main office's (sic) of the Central Maine Power Co. in opposition to CMP's exploitation of the people of Maine, and thier (sic) attempt to extort 20 million dollars from the people by way of rate increase's (sic).

"We are forced to resort to extreme methods of action against CMP's utility monopoly, and we justify this method . . . for several reasons."

As reasons, the letter accused CMP of exploitation of home owners, tenants, elderly, welfare recipients and other poor people, and its "control" over the political and judicial system.

Among its demands, the letter listed "dismissal" of the rate increase for the people it said it represented; an end to expansion of nuclear power and research into alternative energy sources; and full disclosure of CMP expenditures.

It also said CMP workers are entitled to a 33 per cent discount on the basic charge of electricity, claiming that CMP workers use more than twice as much power as the average consumer.

The letter said:

"We will give CMP a reasonable amount of time to meet our listed demands. If such demands are not met we will sustain our attack on CMP until the demands are met."

The letter was found by a custodian at 12:45 a.m. Wednesday in the KJ front lobby. The doors to the lobby were locked at 4:30 p.m. Tuesday. The KJ received two bomb threat telephone calls between 3:15 and 3:30 Tuesday, just before two bombs exploded at CMP headquarters.

The text of the letter is in the following article.

Letter on Bomb—"We Claim Responsibility"

Today, May 11th, we the Fred Hampton Unit of the Peoples Force's claim full responsibility for the bombing of the main offices of Central Maine Power Co. in opposition to CMP's exploitation of the people of Maine, and their attempt to extort 20 million dollars from the people by way of rate increases.

We are forced to resort *to extreme methods* of action against CMP's utility monopoly, and we justify this method of action against the monopoly for several reasons:

CMP has exploited home owners, tenants, elderly, welfare-recipients, low income and poor people for many years to the point where poor people will not be able to pay for the proposed increase unless we take it out of necessary survival money. Money for food, medical care, rent etc. Otherwise we will be forced to go back to burning coal or wood. Many people have already been forced to do so by the present rates.

In light of the control CMP monopoly has over the political and judicial system, it is quite evident that social justice, welfare for low income and working people can't be won through the existing political-legal framework.

In August of 1971 CMP asked for $11,481,218 rate increase and was granted $7,427,000. That was a 9.7% increase.

In July of 1974, CMP asked for $12,452,000 rate increase and was granted $9,733,68. That was a 7.9% increase.

This year CMP originally had filed for a record $21,700,00 rate increase. They later reduced that amount to $20 million. The slight drop was apparently because of improved market conditions for stock issuances. This rate proposal would result in a 20.9% increase to those using 200 kilowatt hours a month. The rate increase would add about $3.30 to the monthly bill of a home owner using 500 kilowatt hours of electricity or monthly increase of 17%. CMP's proposed rate would mean an average increase of 17% for home owners and low-income tenants and 12.2% for industrial and commercial users. Homeowners and low-income people are not increasing the energy demands on CMP, but rather the industrial customers are CMP tries to put the burden of 17% increase on residential home owners, low income, and poor people once again.

CMP has stated there were "no social considerations in the rate proposal".

Erwin W. Thurlow, CMP's president has maintained that the "utility is not in the welfare business and that revenue loss would have to be charged to other customers.

CMP officials blame the proposed increase on inflation increase demand for electricity. Let them charge the industrial customers.

CMP currently controls a 10,000 sq. mile area containing more than two thirds of Maine's industry, the largest utility in Maine, CMP, wholesales electric energy to the Carrabasset Light and Power Co., Kennebunk Light and Power District, Madison Electric Works, Rangeley Power Co. and Squirrel Island Village Corp.

CMP also spent $10 million for research for a proposed plant at Sears Island when it's questionable whether the plant will ever be built. CMP's premise of nuclear energy is that its cheap. With CMP using nuclear power for 50% of its electrical generation and utility rates have still gone up.

CMP strongly opposed the Life Line pricing, a system which charges residential home owners and low-income tenants for the basic level of power needed to run a home. The mentality and scheme of the CMP leeches is very clear while people consume far less than industrial users. But the home owners and low-income tenants still pay more. In essence by conserving energy we are exploited.

CMP workers are entitled to a 33% discount on the basic charge of electricity, not including charges passed on for fuel purchases. The average use of electricity by CMP workers was 1,423 kilowatt hours per person. This is compared to the customers average of 654 kilowatt hours.

CMP has also refused to disclose information and expenditures to the public such as legal and research costs, its membership in the Cumberland Club, solar energy, lobbying expenses for rate making purposes, and spending on advertising public relations. CMP has stated in answer to disclosure of information, "none of the public's business".

We demand a dismissal of the rate increase for all residential home owners and tenants of low income, all welfare recipients, the elderly, unemployed and poor people. This can be accomplished by implementing the Life Line pricing plan: zero rate increase for the first 800 kilowatts that are needed to run a home including electrical homes.

We demand a stop to any further expansion of nuclear power in the state, and an equal amount of research put into solar energy, hydroelectric and other energy sources.

We demand that CMP disclose all information, expenditures, and a full disclosure of where the profits are going such as: legal research costs, its membership in the Cumberland Club, lobbying expenses for rate making purposes, spending on advertising public relations, rate return stock and bond holders, energy conservation, and CMP's executive expense accounts.

We will give CMP a reasonable amount of time to meet our listed demands. If such demands are not met we will sustain our attack on CMP until the demands are met.

We call upon all home owners, tenants, low income and poor people to join the fight against CMP. It is time to stop this giant ruthless wolf from exploiting and preying on the people as tho we are a bunch of submissive sheep.

We the Fred Hampton Unit of the Peoples Forces are dedicated to fight imperialism/capitalism, racism, sexism and the fascist judicial/prison system.

The struggle must be fought on all levels, and different fronts

We must join together.

Fred Hampton Unit, Peoples Forces.

Bombs Blast CMP Building

(By Jack Bell)

Two bombs exploding within seconds of each other ripped apart an office section and maintenance area of the Central Maine Power Co. headquarters Tuesday afternoon.

The explosions severely damaged the engineering offices on the third floor of the recently completed wing of the building and destroyed a huge air conditioning component on the ground floor maintenance room.

No damage estimate was available Tuesday.

The computers which regulate power output to much of the state and serve as part of the New England electrical power sharing system were not damaged. Personnel in the bomb shelter which houses the master controls locked themselves in immediately after the explosion.

Two bomb warnings were telephoned to the CMP switchboard, the first about 20 minutes before the 3:30 p.m. explosions. Some of the 450 employes were still in the building when the bombs exploded, but all of them escaped injury.

The bomb in the maintenance area exploded first, destroying the cooling components, damaging walls and shattering windows.

Augusta Det. Capt. Robert Welsh said the bombs exploded shortly after the police and firefighters arrived. The maintenance room explosion occurred just before one of the firemen opened the door.

"If he had been there a few minutes earlier he would have been wiped out," Welsh said. He did not know the fireman's name.

One employe said he began to flee the building and took only three steps before the second blast occurred in the other section of the building.

The bomb in the office section blew apart file cabinets, collapsed part of the ceiling and sent pieces of twisted metal more than 30 feet. Light fixtures were dangling and pieces of furniture and metal were strewn in all directions.

The blast apparently came from an area of desks and file cabinets near an interior wall.

FBI special agent John Kenoyer said he could not explain how the bombs were planted, since both areas are restricted to the general public.

A private security firm was hired by CMP a short time ago, but officials said only one man has been on duty per shift. More security personnel were added last night.

CMP spokesman Peter Thompson said the public does business at the general office, but officials said persons are required to sign their names when they enter the building.

The FBI is coordinating the investigation under the federal sabotage laws, but is work-with Augusta and state police. Another 17 FBI agents are expected today.

Kenoyer said the explosive devices were probably sophisticated, but he added they were not placed in areas crucial to CMP operations. It was not immediately known what type of explosive was used. No group had claimed responsibility for the bombing as of late Tuesday night.

Authorities said the caller only warned that explosions would take place in the building within 20 minutes and gave no motive for the action.

CMP officials said they see no connection between the incident and the current CMP request for a $20 million rate hike. That hearing at the Civic Center hastily was adjourned when news of the bombing arrived.

Police asked nearby residents if they had seen a short man with long hair riding a motorbike in the area, but Kenoyer said later they are no suspects yet.

One employe said there was no panic among the workers when word of the bomb warning was passed, saying people walked "calmly but quickly" out the nearest exit.

"If they hadn't evacuated quickly, we would have had some real problems." Thompson said "We were quite lucky."

Kenoyer also said it was fortunate the company did not take the first of the two telephone warnings as a jest.

Authorities sealed off the building immediately after it was evacuated and the employes, including the executives, could not retrieve their belongings for several hours.

Many workers returned to the scene several hours later to get house and car keys. One worker was delegated to get most of the pocketbooks and coats.

A number of employes were in the maintenance area when the first blast occurred.

One worker, who asked not to be identified, said he told a coworker of the threat and the man expressed strong skepticism.

"About two seconds later the thing blew," he said. "I never so scared in my life. I'm still shaking."

He said glass from interior windows was flying around and he heard the second explosion as he was fleeing the building.

Walter Black of Manchester said he was told of the threat and began leaving the maintenance area seconds before the bomb went off.

"There was a lot of dirt and dust flying around," he said. "I was a little nervous."

One maintenance man, Richard Brann, said he was about to go into the first blast area to replace a tool when he was distracted for a moment. Seonds later, the explosion occurred.

He said the vent on the outside of the building bowed out and belched walls of brown smoke. "Then I got out of there."

CMP President Elwin Thurlow was in the lobby just below the blasted office area, when the lower level bomb exploded. He also make a hasty exit.

The Kennebec Journal received two telephone calls about a bomb at about the same time CMP received its warning. The first call was interrupted, and the second message informed the newspaper that it had had its warning.

The caller did not say specifically that the KJ offices would be bombed.

Only CMP supervisory and maintenance workers will report to the general offices today. Other employes will not return until notified by the company.

Mr. RIBICOFF. Mr. President, the Kennebec Journal carried two articles on the Central Maine Power Co. bomb blasts in its May 13, 1976 issue. Mr. President, I ask unanimous consent that these articles be printed in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Kennebec (Me.) Journal, May 13, 1976]

FBI Expects "Drudgery" in CMP Case

(By Jack Bell)

The FBI said Wednesday it expects "a lot of drudgery and testimony" before investigators turn up any solid leads to the bombing of the Central Maine Power Co. headquarters Tuesday.

Special agent-in-charge Richard F. Bates said he has never heard of the organization that has claimed responsibility for the blasts that destroyed an engineering section and maintenance area of the CMP building.

The "Fred Hampton Unit of the Peoples Forces" said in letters to the Kennebec Journal and United Press International that it engineered the explosions to protest what it called CMP's exploitation of homeowners and the poor.

Fred Hampton was a Black Panther Party leader who was slain in a Chicago police raid in 1969.

The letter contained threats of continued terrorist action if CMP does not agree to withdraw its rate hike requests for homeowners and the poor and elderly, halt nuclear power expansion and make full financial disclosure.

CMP President Elwin Thurlow said he was "very upset" by the demands in the letter, but added that the rate hike hearings will continue.

He said the company is taking the threats "very seriously" and has beefed up security at the headquarters building. Thurlow added security measures are also being reviewed at other CMP installations.

The Maine Yankee nuclear power plant in Wiscasset has continuous tight security, he said.

The letters received by the KJ and UPI contained detailed information about previous CMP rate hike requests, financial information and property the company controls.

Thurlow said the information is contained in statements the company filed with the Public Utilities Commission prior to the hearings and is available for public inspection. He said some of the information in the letter quoted the file material exactly.

A handwritten letter containing the same information received by the two news agencies was found by authorities inside the CMP building Tuesday.

An investigator said the name of the organization claiming responsibility was left out of that letter.

An Associated Press dispatch reported that representatives of fringe political groups in Maine said they are not familiar with the group that claimed credit for the bombing, saying they know of no group that advocates violence.

Black Panther members are said to be on some college campuses but apparently are not involved in the CMP bomb plot.

Bates said the type of explosives used in the two blasts has not been determined, but added the bombs were sophisticated in the sense that they were equipped with timing mechanisms. He said more than one person could be involved in the bomb plot.

The two blasts caused considerable damage but did not affect the master control room. That room is housed in a bomb shelter and contains equipment that regulates power output for much of the state.

Vital electrical systems for the state and the New England power sharing system were not interrupted.

No damage estimate on the building was released Wednesday by CMP officials.

Det. Capt. Robert Welsh said a Belfast man called Augusta police headquarters early Wednesday morning and said he was responsible for the bombs. Welsh went to Belfast and located the man, who was intoxicated.

"He admitted he called me, and said he did it for the glory," Welsh said. The matter has been turned over to the District Attorney.

[From the Kennebec (Me.) Journal, May 13, 1976]

KJ Gets Threat, Warning of Bomb

One bomb threat and a followup warning were telephoned to the Kennebec Journal just minutes before Tuesday's explosions at the Central Maine Power Co. computer center.

The calls to CMP and the KJ were made one after the other, so it was assumed they were made by the same person.

The first call to the KJ came at 3:15 p.m.

"This is the Fred Hampton Unit—got that? There is a bomb set to go off in the Kennebec ——— today." Switchboard operator Cathy Lovejoy said it was an angry, man's voice. She estimated he was in his 20s to 30s—"possibly older."

The second call came shortly after 3:20 p.m. and was taken by Gerry Goranson. She reported the following conversation.

"Good afternoon. Kennebec Journal."

"Have you found it?"

"Found what? This is the Kennebec Journal."

"Your time is running out."

Goranson said the caller, who had an angry tone of voice and sounded like an adult male, then hung up.

One or two minutes later, KJ personnel heard explosions in the distance.

At that point, police and fire units asked that the KJ plant be evacuated. About 40 minutes later, after no bomb had been found, permission was given to return to work, but many employes were released from work.

Mr. RIBICOFF. Mr. President, Computerworld is a weekly newspaper located in Newton, Mass., which reports on news affecting computer-related industries. The Computerworld edition of May 24, 1976, devoted four articles to problems associated with computer technology in Federal programs. Mr. President, I ask unanimous consent that these four articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Computerworld, May 24, 1976]

Sabotage, Fire Among Threats—Federal Systems Unduly Vulnerable: GAO

(By E. Drake Lundell Jr.)

WASHINGTON, D.C.—"Many federal data processing assets and much valuable data are not protected properly" from threats of sabotage, theft, fire and flood, according to a recent General Accounting Office (GAO) report.

The report showed the 9,000 computers in the Federal government are "not only . . . frequently allowed to function without proper controls, but . . . they are dangerously vulnerable to terrorist activity," according to Sen. Abraham Ribicoff (D-Conn.), who requested the study.

The Senate Government Operations Committee headed by Ribicoff will investigate the matter, the senator said, and staff sources indicated hearings might be held next month.

"Catastrophic losses to government-sponsored data processing installations, such as the loss of human life, irreplacable data and equipment, have occurred," the GAO study reported.

NO CONTINGENCY PLANS

At the same time, however, an investigation into 28 separate installations found "less than half . . . had developed and put into operation contingency plans to provide for continuity of operation if a loss occurred.

"The impact from losses at data processing installations which did not have contingency plans could interfere seriously with efficient and economical operations of government, have an immeasurable impact on individuals and organizations relying on government data and result in costly reconstruction efforts," the GAO report warned.

The GAO report estimated the government currently spends over $10 billion annually for DP activities, but warned the consequences of potential losses resulting from lax security measures could be far greater than that figure.

"Of more importance than the concern over the monetary value of these assets is "the centralization and concentration of data in computerized environments, which increases the potential for major losses or misuses," the reported noted.

For example, Ribicoff said, "It is impossible to estimate the effects on millions of our elderly citizens whose livelihood depends on Social Security should the computer be destroyed."

But "the potential threat is not limited to Social Security," he added. "In terms of federal revenues, for instance, imagine the havoc that would result from the destruction" of computers processing federal taxes.

'GENERAL LACK OF CONCERN'

Of the 28 installations studied by the GAO, at least 14 were found susceptible to fire hazards; 10 were poorly located in case of floods; at least seven were susceptible to sabotage; five were susceptible to theft or misuse; and 14 lacked contingency plans to deal with any of the possible problems.

In general GAO attributed "the poor security measures to a general lack of concern for a comprehensive plan to provide effective security at a reasonable cost."

It noted the National Bureau of Standards (NBS) developed guidelines for physical security and risk management in 1974, but pointed out "no policy statement has been issued . . . regarding the application and use of the guidelines" by the Office of Management and Budget, which has responsibility for the area.

"We believe that the NBS guidelines are modified by our suggestions will provide the necessary means to structure a sound program and could go a long way in improving the conditions we found," GAO said.

"However, use of the NBS guidelines is not mandatory and they apply only to new installations or those which are improving their computer systems," it added.

[From Computerworld, May 24, 1976]

Federal DP Crimes Reach $2 Million

By E. Drake Lundell Jr.

Of the CW Staff

WASHINGTON, D.C.—Computer-related crimes in the Federal government have caused monetary losses of over $2 million and violated the privacy of individuals about whom computer records are kept, according to a General Accounting Office (GAO) report.

That's apparently not the whole picture. The GAO admitted this represents just the tip of the iceberg since "agencies do not customarily differentiate between computer-related and other crimes" and "there may be a large number of crimes which have not yet been detected or reported."

The majority of the 69 crimes uncovered by the GAO in the wide-ranging report did not involve sophisticated attempts to use computer technology for fraudulent purposes, but rather were uncomplicated acts such as altering input.

The GAO report did not point out, however, that most sources indicate the more sophisticated types of computer manipulations are usually harder to detect and therefore may remain hidden for longer periods of time.

MOST INVOLVED INPUT

Out of the 69 cases uncovered by the GAO, 62% involved persons perpetrating fraudulent input. Supply systems are "particularly vulnerable to fraudulent input," the GAO noted.

In one case, "a perpetrator used a computer terminal to ascertain the location and availability of items desired by outside conspirators," GAO said.

"Once he located those items, the perpetrator caused the system to prepare fraudulent requisitioning documents. Then he used the documents to obtain the items he wanted, took the items from the installation and sold them to the outside parties," the agency explained.

"Although the total amount of property stolen through computerized supply systems cannot easily be determined, the value of one such theft in our case files was about $53,000. Another loss of over $300,000 was averted" when discovered "accidentally," the GAO said.

In other incidents, the individuals involved prepared fraudulent input that caused systems to make direct payments to individuals or businesses as payroll, social welfare or compensation transactions, the GAO said.

In one case, a government employee helped automate an accounting system and, during the process, introduced fraudulent payment vouchers into the system.

"The computer could not recognize that the transactions were fraudulent and issued checks payable to fictitious companies set up by the employee and his accomplices," the GAO said, noting payments of over $100,000 were made in this particular case.

Another such fraud was discovered after an anonymous phone tip, but only after the perpetrator had gotten away with $90,000 to $250,000 by entering fictitious claims in a social welfare system.

MONEY NOT ONLY VICTIM

But, the GAO was quick to point out, "computer-related crime does not always lead to direct monetary losses.

"The manager of a non-federal computer center processing personal information [for the government] was able to steal some of this data and sell it to outside parties who were not authorized to use it.

"Although the government did not lose any money, the privacy of individuals whose data records were involved was violated," the report noted.

In all, fraudulent direct payments accounted for 27 of the crimes studied by the GAO; 28 cases involved fraudulent inventory/supply actions; eight cases involved the unauthorized altering of personnel records; facilities were used for personal benefit (such as a theft of time on a computer system) in four cases; and sabotage of operations accounted for two of the cases.

"In every case reviewed, the incidents were directly traceable to weaknesses in system controls," the GAO said, adding "these weaknesses were the result of deficient systems designs, improper implementation of controls by operating personnel or a combination of both."

In all of the cases, the managers involved had placed primary emphasis on "making their systems operational; control was not emphasized."

To overcome the problem, the GAO suggested "management should give attention to controlling systems as well as to implementing them. Managers should continuously assess operations to insure a proper balance between performance of systems and control over assets."

OTHER MEASURES SUGGESTED

Other measures the report called for to control computer-related crime in government included:

"An organizational plan that segregates the duties of individuals to minimize their opportunity for misues or misappropriation of the entity's resources.

"A system of authorization and record procedures adequate to provide effective accounting control over assets, liabilities, revenues and expenses.

"An established system of practices to be followed for each duty and function of the organizational departments.

"An effective system of internal review. This includes an internal audit staff that has training adequate to review and evaluate computer-based system controls and that does such reviews both when systems are being designed and after they have become operational.

"Analyses of crimes to pinpoint the internal weaknesses that may have facilitated them."

[From Computerworld, May 24, 1976]

GAO Finds 14 of 18 Federal DP Sites Exposed to Fire

Washington, D.C.—In its evaluation of the security measures used by government installations (see story on Page 1), the General Accounting Office (GAO) visited 18 DP centers in the U.S. and 10 overseas.

Fire hazards were the main source of security breaches, the GAO study found. Threatening conditions included combustible paper supplies and/or magnetic tape files stored in computer rooms at 14 installations.

Portable extinguishers were the only available fire protection in three DP centers, the GAO said, and at one installation not even these were available.

Twelve installations neglected to periodically clean below the raised flooring on which computers were placed, another fire hazard. At six locations, computers were in operation in rooms where master electrical power shutdown controls were not easily accessible at exit points, the GAO reported.

Flood hazards constituted another area of concern. The GAO found computers at 10 installations operating in areas where overhead water or steam pipes (excluding sprinkler systems) existed with inadequate provision for drainage.

In two centers, computers were in basements, exposing them to potential flooding conditions.

The potential for sabotage was another weak point at many of the installations visited. Vendor service personnel were not supervised while on the premises of seven DP centers, the investigation discovered.

Five installations did not control in-house service personnel while they were in the computer areas, and three locations were deemed possible targets for vandals by the GAO investigators.

Susceptibility to theft or misuse endangered security at five locations where remotely accessed computer systems were in operation without software to detect improper or erroneous attempts to access the computers or data files involved.

Fourteen of the 18 sites lacked formal contingency plans to ensure continuity of operations in an emergency, the study found.

[From Computerworld, May 24, 1976]

High Fraud Potential Uncovered in Audit of SSI DP Operations

(By Edith Holmes)

Washington, D.C.—In the absence of adequate controls, employee fraud could further undermine the already inefficient operation of the Social Security Administration's (SSA) newest federal welfare program, investigators probing the problems of Supplemental Security Income (SSI) found here recently.

Their audit, released this month by the Department of Health, Education and Welfare's (HEW) audit agency, stated that in one of SSA's busiest areas—Region IX, which covers California, Nevada and Hawaii—"internal controls at the district offices were not adequate to prevent processing fictitious or unauthorized SSI payments."

Meanwhile, the SSA finished compiling figures for SSI's first 27 months of operation and reported the program's clients have been overpaid by $622 million.

Implemented by SSA in 1974, SSI was created by Congress in 1972 to federalize state and county care for blind, disabled and aged adults. The program was added to the agency's regular workload of Social Security and veterans' benefits payments.

The HEW audit of the California region showed SSA employees in the area's district offices could be tempted to be dishonest because they have "unlimited access to computer terminals."

It would not be difficult for employees to change the address of an SSI recipient who died rather than remove the person from the payment schedule, according to the audit.

At the same time, the audit found, the region's system of internal controls does not provide adequate accountability for cash items received at the district offices.

Thirdly, the study noted, "the system for periodically redetermining recipients' eligibility was backlogged to the extent that it was not effective for assuring that accurate payments were made to eligible individuals."

And a "significant" backlog of local or one-time payments had yet to be entered into the computer system, HEW auditors said.

NO FRAUD TO DATE

While the auditors found no evidence of fraud to date, they acknowledged "detection would be difficult and there is no assurance such activities have not taken place."

The HEW report recommended SSA separate, or specialize, payment functions at its district offices so more than one person would be required to make case changes. The agency has commissioned a "central office work group" to study means of further securing the computer system.

The major problems in the California region were attributed by the auditors to insufficient staffing at the district offices, computer system limitations and malfunctions and other planning and operations flaws for which SSA headquarters, and not the field offices, were responsible.

The auditors said they would issue separate audit reports on federal/state liability relating to the federal administration of SSI payments in California, Hawaii and Nevada.

Nothing these reports will show 44% to 56% of the sample claims examined in these states contained errors, HEW stated, "The erroneous overpayments and under payments resulted from a combination of circumstances and it was not feasible to determine either the dollar amount or the rate of occurrence for errors directly caused by operational weaknesses at the district offices."

At the same time, "corrective action needs to be taken at the national level," the report added HEW auditors recommended SSA implement effective internal controls and operating procedures at the district office level "with particular emphasis on the processing of repayments, eligibility redeterminations and manual payments processing."

Placing responsibility for automated processing and recordkeeping at the agency's headquarters, they stated "SSA at Baltimore should also intensify efforts to resolve computer system limitations and reduce the occurrence of malfunctions."

SSA has sent some 1,065 temporary employees and 150 full-time employees to California to ease the understaffing problem. New money controls are said to have been implemented.

Meanwhile, the agency's computer system in Woodlawn, Md., is being audited by the General Accounting Office (GAO) and under fire by at least two congressional committees.

At a meeting earlier this month of the House Ways and Means Oversight Subcommittee on the problems encountered with SSI, Rep. Charles A. Vanik (D-Ohio) expressed his concern for the potential for employee fraud in light of this and other HEW audit reports of several SSA regions and recent reports by the GAO on computer-related crimes and the need for management to provide better protection for federal DP facilities.

Part of a series of SSA system audits now underway by HEW, the California study focused on the performance of the SSI between January and July 1974, which were the first six months of the program and the only time period of its operations that has been subjected to extensive investigation.

A TRIBUTE TO "BUDGE" SPERLING

Mr. PERCY. Mr. President, I happened to be traveling with President Ford in Illinois last March when he placed a call to the father of "Budge" Sperling, chief of the Washington Bureau of the Christian Science Monitor, on his 104th birthday.

Godfrey Sperling, Jr., is one of Washington's most respected and perceptive journalists. A decade ago he originated the "Sperling Breakfasts," periodic meetings between reporters and public officials that have become one of the most important news forums in Washington.

Through the years, Budge has written some remarkable pieces giving Americans, and a worldwide audience through the pages of the Christian Science Monitor, an insight into American life and politics.

But never has he been more incisive, or personal, or human than his column entitled "The Old Timer and the President," in which he talks about his own beloved father. I ask unanimous consent that this recent column, which appeared in the Monitor be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

The Old Timer and the President

(By Godfrey Sperling, Jr.)

Gifford, Ill.—John Bartlow Martin's superb new biography, "Adlai Stevenson of Illinois," is a reminder that this urbane, man-of-the-world Oxfordian-accented, two-time presidential candidate was really only a country boy, tied close to roots and a boyhood in small-town Bloomington, only a few miles west of here. As Martin points out, this whole prairie region around here is part of the black Wisconsin drift that runs across Illinois and Indiana and into Ohio, with topsoil sometimes 15 feet deep, some of the richest land on earth.

My father—the Oil Timer often referred to in these columns—came from German immigrant parents who homesteaded near here after coming to this country in the mid-1880's. And although his career was largely that of a civil engineer, my father never left the soil. Like many farmers he never judged the weather on how it affected him personally. It could be unmercifully hot and Dad would say it was "great" weather if the crops needed dry warmth for ripening. Or he could be sopping wet but rejoicing because the "corn needs the rain," as he might put it.

Dad was truly a man of this bicentennial year. He was born in the late stages of this nation's first century. Then he lived nearly through the nation's second century. And he came very close—only a matter of a few months—to seeing the nation start its third 100 years.

Just a few weeks ago I interviewed my father. It seemed most appropriate. The President, campaigning through this area only a few days before, had called Dad from nearby Champaign, Illinois, and congratulated him on his 104th birthday. According to a presidential aide and those who were with my father when he took the call, the conversation was "spirited." Dad started out by welcoming the President to Illinois. From there the two moved into a discussion of politics, how the primary looked in Illinois, and the national outlook.

The Old Timer's views carried this import to the President: Mr. Ford was speaking to an elder citizen, a Midwesterner, a farm-oriented citizen, and, most of all, to one of the very few individuals alive who could—quite lucidly—give his views on current events against the perspective of a life spanning more than 100 years.

The specifics of the conversation were not recorded. But in my interview my father touched on subjects close to his heart, some of which—or the "essence" of which—he said he conveyed to the President.

He felt the President was "doing a good job." And he thought he was "improving." But he said he would like to see Mr. Ford "take charge" more. He thought presidents should be "strong"—"like Teddy Roosevelt." He particularly admired Teddy Roosevelt and remembered hearing him speak—"in that high, squeaky voice."

"Who is this Carter?" he asked. He said he heard the name a lot but couldn't "get a fix" on him. He said he still thought Humphrey was a "highly qualified man"—and noted that the President evidently thought so, too.

The "hope" for our nation still lies, he thought, in an "educated electorate." He did not believe the concept of "education for all"—which he always had supported—had failed. Instead he thought that, as the minority groups "became educated," many of the current problems would begin to fade.

Dad was always the optimist. He said he saw the troubles of today as "transitional" to a better period in the United States.

He was deeply concerned—by the apparent loss of the "high ideals—which made this nation great." But he was still sure that the ideals were really still there and that the nation was going through a period in which its was purifying its ideals—"getting rid of the hypocrisy."

My father—whose own life was transformed through prayer—said he was convinced that those who guide this nation must always rely on God. It seems that he said this to the President.

What he didn't tell the President, it seems, was one of his "secrets" for living long: he never kept track of his age, never celebrated birthdays—until others insisted on marking his age when he reached the century mark.

That was pretty much the "essence" of the father-son interview.

My last memory of Dad was at his birthday party March 4 at the nursing home here—rejecting the cake and ice cream and insisting on something "substantial." He settled happily for a sandwich. His life was like that—avoiding the surface icing and digging deep for the real meaning of events.

EXPORT-IMPORT BANK NOTIFICATION—SOUTH KOREAN NUCLEAR POWER PROJECT

Mr. PROXMIRE. Mr. President, I call the attention of my colleagues to a communication I have received from the Export-Import Bank notifying me of its intent to proceed with its earlier proposal to finance the construction of a nuclear powerplant in South Korea.

This matter has a long history. Almost a year and a half ago, on February 25, 1975, Exim notified the Congress of its intent to assist South Korea in the construction and initial operation of a 600-megawatt nuclear powerplant—Congressional Record, page 3161, March 5, 1975. At the time, South Korea was not a member of the Nuclear Nonproliferation Treaty—NPT—and was actively negotiating for the acquisition of a nuclear reprocessing facility from France. Reprocessing facilities enable the possessor to extract plutonium which can be used for the making of nuclear weapons.

Shortly after Exim notified the Congress of the pending proposal, Senator Stevenson introduced a resolution, which I and others cosponsored, to defer final approval of the transaction—Congressional Record, pages 5724–5725, March 7, 1975. Five days later, Eximbank withdrew its notification of the proposal—Congressional Record, pages 6040–6041, March 11, 1975. Approximately 1 week later the South Korean National Assembly ratified the NPT. However, South Korean negotiations to secure a reprocessing facility continued.

On May 30, 1975, Exim again notified Congress of its intent to go ahead with the project—Congressional Record, pages 17326–17327, June 5, 1975—but because of our continued concern about the possible acquisition of a reprocessing facility, we secured the Bank's agreement that it would not sign any credit agreement for the proposed project "until the appropriate agencies of the executive branch inform Eximbank that the nonproliferation arrangements relating to the recycling and use of nuclear fuel are satisfactory." In addition, the Bank agreed that in order to give the Congress an opportunity to examine and react to these arrangements, it would notify the Congress of the safeguard arrangements and withhold execution of any credit agreement for a 25-day period thereafter—Congressional Record, page 19708, June 19, 1975.

The present communication from the Bank, together with an accompanying letter from the State Department stating its opinion that the safeguard and other nonproliferation arrangements relating to this sale are satisfactory, constitutes the notice pursuant to that agreement. Accordingly, after 25 days of continuous session of Congress from the date of the notification—May 19, 1976—the Bank will be free to sign the credit agreement for the project.

I ask unanimous consent that the communication from the bank, together with the accompanying communication from the State Department, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

MEMORANDUM FOR SENATOR WILLIAM PROXMIRE AND SENATOR ADLAI E. STEVENSON, III

Washington, D.C.,
June 18, 1975.

Hon. William Proxmire,
U.S. Senate,
Washington, D.C.
Hon. Adlai E. Stevenson, III,
U.S. Senate,
Washington, D.C.

This will confirm our discussion regarding the Korean Nuclear Power Project. Eximbank will not sign the credit agreement for the proposed financing of the project until the appropriate agencies of the Executive Branch inform Eximbank that the non-proliferation arrangements relating to the recycling and use of nuclear fuel are satisfactory. In order to provide the Congress with an opportunity to examine and react to these arrangements, Eximbank will notify Congress of the safeguard arrangements and will not sign the credit agreement for at least twenty-five days of continuous session of Congress after such notification. No funds will be disbursed under the credit until the equipment is, in fact, exported and that will not take place until the Nuclear Regulatory Commission authorizes the issuance of the necessary export licenses.

William J. Casey.

Washington, D.C.,
May 19, 1976.

Hon. William Proxmire,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: On June 18, 1975, my predecessor, William J. Casey, assured Congress that Eximbank would not sign a credit agreement for the financing of the South Korean nuclear power plant project (KoRi II) for at least 25 days of continuous session of Congress after the Bank has notified the Congress that "the appropriate agencies of the Executive Branch inform Eximbank that the non-proliferation arrangements relating to the recycling and use of nuclear fuel are satisfactory."

I am able now to report that Eximbank has been informed that satisfactory arrangements have been made. I am enclosing a copy of the notification Eximbank received from the Department of State on this matter. Deputy Assistant Secretary of State Myron Kratzer is prepared to answer any questions you have regarding the nature of these arrangements.

Sincerely,

Stephen M. DuBrul, Jr.

Washington, D.C.,
February 5, 1976.

Mr. Stephen M. DuBrul, Jr.,
President and Chairman, Export-Import Bank, Washington, D.C.

Dear Chairman DuBrul: I am writing in reference to the proposed financing by Ex-Im

Bank of the Kori-II nuclear power project for the Korean Electric Company. This project was the subject of correspondence in June of last year between ACDA Director Ikle and Chairman Casey. In addition, Mr. Casey wrote to Senators Proxmire and Stevenson and Congressman Rees on June 18, 1975, stating that the Ex-Im Bank "will not sign the credit agreement for the proposed financing of the project until the appropriate agencies of the Executive Branch inform Ex-Im Bank that the non-proliferation arrangements relating to the recycling and use of nuclear fuel are satisfactory." Mr. Casey also undertook to notify Congress of these safeguard arrangements.

The Department of State is now able to assure the Ex-Im Bank that the appropriate agencies of the Executive Branch consider that the safeguard and other non-proliferation arrangements related to this sale are satisfactory.

Since the date of Mr. Casey's letter to Senators Proxmire and Stevenson and Congressman Rees, there have been two important developments affecting this project. In the first, the Department has received written confirmation from the Korean Government that the reprocessing of any special nuclear material which Korea receives from the United States or the alteration in form or content of any irradiated fuel elements containing fuel materials from the United States is subject to joint determination that the provisions of Article XI of the 1972 U.S.-ROK Agreement for Cooperation for Civil Uses of Atomic Energy may be effectively applied. Additionally, the Korean Government has confirmed its understanding that, as an additional and separate determination, Korea and the United States must each agree that the facilities at which the reprocessing or alteration shall be performed are mutually acceptable.

Secondly, the Korean Government recently informed the Department of State that it has decided to cancel the planned purchase of a small-scale pilot nuclear reprocessing facility from France. Even though this sale was covered by a comprehensive safeguards agreement between France, the Republic of Korea and the International Atomic Energy Agency, our general policy has been to strongly favor the exploration of alternatives to national reprocessing, such as multinational reprocessing centers. We have therefore welcomed the Korean Government's decision to cancel this project.

In addition to the foregoing, I would also note that the Korean Government has adhered to the Treaty on the Non-Proliferation of Nuclear Weapons and deposited its instrument of ratification in Washington on April 23, 1975. The Korean Government has also signed a comprehensive bilateral safeguards agreement with the International Atomic Energy Agency under Article III of the Treaty.

As a result of the foregoing, the Department of State and the other concerned agencies of the Executive Branch are now of the opinion that the Korean Government has provided satisfactory assurances with respect to questions concerning safeguards and non-proliferation arrangements which have arisen in connection with the proposed Kori-II reactor sale.

In view of the foregoing, I strongly recommend that the Eximbank now proceed expeditiously to enter into the credit agreement for the Kori-II project.

Sincerely,

MYRON B. KRATZER,
Acting.

THE GUN CONTROL ISSUE

Mr. STEVENS. Mr. President, I recently read an editorial which I think is a significant contribution to the national debate on gun control.

Jack Samson, the editor of Field & Stream, wrote this editorial which appeared in the May 1976 issue of the magazine. It points out that guns do not cause crime, and reducing the number or availability of guns will not reduce crime. Crime is caused by a variety of social ills. To correct those problems will cost the American taxpayer a good deal of money. But it can reduce crime—which gun control will not do. I commend this column to my colleagues and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIELD & STREAM EDITORIAL, MAY 1976

(By Jack Samson)

Want to know the real reason for gun control laws and attempts to confiscate guns? It is basically very simple: we have gun control laws and we will have attempts to put more on the books because the politicians who administer our federal and state institutions are either too inept or too dishonest to face up to the basic truths of our society.

Americans as a whole today are not only cynical—following the political debacles of Vietnam and Watergate—they are downright disgusted at the mouthings of politicians who wish to cop out on the reasons for our social ills. One of these is the gun control issue. It is a handy cure-all for any politico who either doesn't understand what is going on or who hasn't the intestinal fortitude to run on a platform which tells it like it is. Because telling it like it is probably won't get him, or her, any votes. Neither will demanding that our dismal court system be revamped to impose stiff penalties on those committing a crime with a gun get many votes, though it needs to be done.

But even a stricter, more certain system of justice cannot answer the root problems of crime. The truth is that our unemployment rate is staggering for a country with the resources and technology we have. We have hunger and we have poverty and we have slums and ghettoes, and whenever a country has those it is going to have people committing crimes. They are going to commit crimes out of rage, frustration, hunger, and the need to feed those who depend upon them. They are going to commit crimes with guns, yes, but they are also going to commit crimes with switchblades, butcher knives, blackjacks, and pick handles.

The former mayor of the City of New York, John Lindsay, was an example of the typical politician who always turned to the gun issue whenever some poor wretch got drunk and battered somebody to death in a bar, or held up a delicatessen to get food, or tried to rob a bank and got into a shootout.

"More and stricter gun control!" shouted the mayor—as have succeeding mayors, and governors and congressman and senators across the nation—who know that it isn't guns but the suffering of people that causes crime.

But they also knew (and still know) something else: it is going to cost us millions, even billions of dollars to cure unemployment, create jobs, rebuild slums, educate minorities, stop the drug traffic, and any number of things that will make it unnecessary for people to have to steal and kill in this country. And they also know that talking about raising billions of dollars for vast social changes is going to be a highly unpopular issue with the voters because, like it or not, friend, we are going to have to pay for these social changes through taxation and bond issues, even though we are already having trouble making ends meet.

And so, rather than face up to honest issues, rather than risk losing voter support by calling for the real cures, the politicos will continue to clamber on the bandstand this bicentennial year and will harrangue us with the same old tripe: Stop crime by banning the gun, registering the gun, forbidding assembly of the gun, or outlawing imported guns—as if the gun had a blasted thing to do with the despondent, disillusioned, sick, poor soul who looks at this great country from the stinking depths of his big city slum or southern shanty town and knows he is not going to get anything in the way of a fair shake from the politicians.

We need to educate his kids to give him some hope. We need to give him, or her, self-respect and pride and a decent job in a decent place so that he won't have to steal, mug, or kill—with a gun or any other weapon!

GENOCIDAL INTENT AND OUR BASIC FREEDOMS

Mr. PROXMIRE. Mr. President, sweeping allegations have been made that the Genocide Convention will destroy our freedom of speech and thrust our domestic criminal matters into a hostile international arena. I wish to dispel these myths. Most such opposition appears to stem from a critical misunderstanding of the difinition of "genocide."

Genocidal intent—the intent to destroy an entire group—is the primary distinguishing element of the crime of genocide. The meaning of this intent was explained recently in the Foreign Relations Committee report urging Senate ratification of the Genocide Convention:

> . . . Basic to any charge of genocide must be the intent to destroy an entire group because of the fact that it is a certain national ethnical, ractial, or religious group, in such a manner as to affect a substantial part of the group. . . .

As compared to murder or libel, the convention does not aim at the violent expression of prejudice directed solely against individual members of particular groups. Harassment of minority groups, as well as general racial and religious intolerance, although deplorable, are also not per se prohibited by the treaty. Thus, charges that schoolbusing, birth control programs, lynchings, police actions with respect to the Black Panthers, and incidents at Mylai automatically constitute genocide are unfounded. The committee has made it clear that under article 1 II of the convention, none of these acts is genocide unless the requisite intent can be proven.

Mr. President, I ask Senators to consider the uniquely horrifying consequences of genocidal intent. Our ratification of this treaty in no way sacrifices our basic American freedoms. To the contrary, it is a proclamation of our belief in the universal right to life and liberty.

TRADE UNION POWER BRINGS BRITAIN TO THE BRINK

Mr. FANNIN. Mr. President, recently I was privileged to attend the National Right To Work Committee's awards banquet celebrating the 10th anniversary of the successful fight to preserve State right-to-work laws under section 14(b) of the Taft-Hartley Act.

As my colleagues are aware, the National Right To Work Committee took the leadership role in galvanizing public opinion against "common situs" picketing legislation. The committee's grassroots campaign resulted in some 700,000 letters of protest to the White House and ultimately a Presidential veto. It was a great privilege to be in the presence of courageous men and women who were being recognized for their efforts in the cause of voluntary unionism.

At the awards banquet, I was pleased to meet and hear a most distinguished speaker, Mr. Robert Moss, British political commentator and author. Mr. Moss is director of the recently established National Association for Freedom, an organization that was set up at the end of 1975 to coordinate the activities of all British groups committed to the defense of individual and economic freedom, under the chairmanship of Lord de L'Isle.

Best known as the editor of the London Economist's confidential weekly bulletin, Foreign Report, Moss is a former lecturer in history at the Australian National University, and lectures at many universities and defense colleges in Britain. He is the author of many books, including "The Collapse of Democracy," in which he presents a grim warning of how Britain's political institutions could break down. The book was described by the London Daily Telegraph as "the most powerful and cogent piece of political prophecy since Orwell's '1984.' "

In that book, Moss writes:

> The existence of trade unions is one of the conditions for a free society. But equally, it may prove to be a condition for an unfree or ungovernable society if trade union power is not exercised within the common framework of law and is not kept within the bounds that apply to other economic interest groups. The guiding-reins in Britain have snapped completely.

Mr. Moss is a regular broadcaster on British and American radio and television and a contributor to many journals, including the Daily Telegraph, the Spectator, Encounter, National Review, Harper's and the New York Times.

Mr. President, in his address Robert Moss analyzed the impact of trade union power on Great Britain's economy and the British way of life. The parallels between England's current economic, social, and political crisis and America's problems are startling. I commend Mr. Moss' remarks to my Senate colleagues. It is one of the most powerful and eloquent speeches I have been fortunate to hear. I have no doubt that we shall be hearing more from this brilliant young English fighter for freedom.

His excellent statement represents a clear warning to all of us that America can be led to the brink by excessive union monopoly power and government overregulation.

Mr. President, I ask unanimous consent that the complete text of the address by Robert Moss delivered on May 14, 1976, at the National Right to Work Committee awards banquet be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

(Note.—Robert Moss—British political commentator and author—is director of the recently established National Association for Freedom, an organization that was set up at the end of 1975 to co-ordinate the activities of all British groups committed to the defense of individual and economic freedom, under the chairmanship of Lord de L'Isle. Best known as the Editor of the *London Economist's* confidential weekly bulletin, "*Foreign Report*," Moss is a former Lecturer in History at the Australian National University, and lectures at many universities and defense colleges in Britain.

(He is the author of many books, including, most recently, *The Collapse of Democracy* (Temple Smith, 1975), in which he presents a grim warning of how Britain's political institutions could break down. The book was described by the *Daily Telegraph* as "the most powerful and cogent piece of political prophecy since Orwell's *1984*." In that book, Moss writes: "The existence of trade unions is one of the conditions for a free society. But equally, it may prove to be a condition for an unfree or ungovernable society if trade union power is not exercised within the common framework of law and and is not kept within the bounds that apply to other economic interest groups. The guiding-reins in Britain have snapped completely." Earlier books include *Chile's Marxist Experiment* and *Urban Guerrillas*, a pioneering study of modern terrorist techniques.

(Moss is a regular broadcaster on British and American radio and television, and a contributor to many journals, inclding the *Daily Telegraph*, the *Spectator*, *Encounter*, *National Review*, *Harper's* and *The New York Times*.)

Ladies and gentlemen, it's a great honor for me to be with you tonight, as well as a great pleasure. I felt deeply moved as I watched that procession of brave people come forward to take their awards. I hope that we will be able to produce a similar procession of brave people in Britain who are prepared to take a similar stand in far more dangerous circumstances in the context of a society that has not heeded any of the warnings about the long-term effect of compulsory unionization, and of the untrammeled abuse of trade union power, and is now reaping a very bitter harvest.

And may I say to you in this room, and in this country, I feel rather as a man does who's been trapped in a dark and foetid cave for a long time. I can breathe the air, I can see the light. I feel refreshed by a society that still believes in individual freedom and I feel refreshed and encouraged to be in the presence of people who are prepared to fight to maintain those liberties, because as Churchill once said, "Liberty is not a right. It is a duty." Or rather, if you are going to preserve it, you're going to have to fight for it. And that's something that many people in British society did not understand. They did not understand the long-term effects of the policies that they adopted, and what I bring to you tonight, I'm afraid, are not good tidings, but only bad ones.

Perhaps my purpose here tonight, the most useful one I can serve, is to say to you, "Look into the horror that Britain is becoming . . . Look at it closely . . . Analyze what has happened there, the risks that we now run that in my view could put an end not just to a man's right to choose his job, but to all our political institutions and traditions, could turn us into a society that is communist, with a small c, and could accomplish that within a very short span of time."

Perhaps the basic decision that will determine whether or not that is where my society is going will be taken within the next twelve months to two years, so I speak to you with urgency, and I hope for your understanding in what I'm going to say to you.

As I begin these remarks I think back to something that George Orwell, who prophesized what a totalitarian country would be like in his famous novel "1984," once said about processes that he already saw taking place back in the early 1940's. He said that for 200 years we have been sawing and sawing away at the branch that we were sitting on, and thinking that finally when we fell off the tree we were going to end up in a bed of roses, and when our patient effort succeeded and the branch came down we found there had been a slight mistake. We ended up not in a bed of roses, but in a cesspool full of barbed wire.

Well, that's where the argument that trade unions are an essential instrument of equality and social justice, and can be given unlimited legal privileges, and the right to dragoon men into unions against their will, that is where those arguments have led Britain. And may I draw a few comparisons to give you some idea of how much darker the situation we face is than anything that I think any of you are having to face in any part of these United States.

Let's take the very words, "The Right to Work". It's a marvelous phrase, but in Britain it's not used by people like you. It is used by Trotskyists, Communists, and Marxists who organize marches to protest against unemployment, and to call for further government spending at a time when my country is running a deficit that amounts to ten per cent of its gross national product. That is the way that the phrase is used. So even our vocabulary is different, even the semantics are different.

Let's look at other aspects. A lot of your work is concerned with taking legal action to defend people who are threatened with compulsory unionization. I think it's splendid and I admire the way you're doing it. We want to do that too. We had hopes of doing it in the past. But our Labor government has brought in legislation that makes it impossible for an individual to have any legal appeal against the closed shop when management and unions have agreed to accept it. The only kind of appeal that a man can lodge has to be based on his religion. There's no grounds for conscientious objection as such, and in some judgments that are coming down from industrial tribunals that are concerned with these matters in Britain we have discovered that even your religion is not a sufficient grounds for complaint, unless you can establish to the satisfaction of an industrial tribunal, half composed or a third composed of trade union delegates, that if you join a union you'll be thrown out of your religious sect.

So you have to join an obscure sect that is opposed to unionization, and then prove with documentary evidence that you'll be thrown out of it if you join a union in order to avoid the closed shop in Britain.

What legal redress do we have in Britain? The only redress we have been able to think of is to take the cases of brave men, like some of the ones who appeared here, to Europe. Well, I know Britain is part of Europe, but we still talk about Europe as The Continent.

We would have to take them to Strasbourg where there is an institution known as the European Court, and we would have to appeal to that body under the terms of the European Convention of Human Rights, and hope that we will get a judgment. We are going to do that, and we hope that we will get judgments in our favor, but my God, we are having to behave like citizens of some occupied country.

Now, that's not the end of the story. In this country if, by some accident or some tremendous upset in Congress, you've got some kind of legislation of the kind our Labor government has brought in, one would at lease assume that you would have an opposition party, and powerful lobbies inside the government party that would be opposed to this flagrant abuse of individual freedom. The situation in Britain is, again, I'm afraid, rather different.

Our political class has been intimidated, just as much as our business class has been intimidated. In other words, they are frightened of trade union power, and they don't want to do anything that might upset trade union officials so we have a situation where our conservative party at this moment, and I hope not too much longer, is committed to the position under which it will not change a single line in the Labor government's new legislation on the closed shop.

Think about that. Where do you go if you're a man who believes on principle that it is wrong to belong to a union, or who simply doesn't want to join for personal reasons? Where do you go for political support?

All right, there are many men inside the Conservative Party, and some inside other parties in Britain that feel as we do, some of them on the council of my association (the National Association of Freedom). Some of them have spoken up very openly. We speak up very openly. I hope we will change the policy of those parties. But at this moment—I'll just say it to focus your minds of the difference between your situation and ours—the two major parties of Britain are both supporting the closed shop.

Think of our business class. Now, you might have complaints about the behavior of some elements of Big Business in this country. Many businesses are often extremely opportunistic, and this time as an advocate of market economics, I believe that they should indeed seek a profit, wherever they find it, and this will end up as a fairly rational kind of system.

But in Britain we have the situation where the other day on BBC television a Marxist trade union leader, Hugh Scanlon, who is *openly* committed to the overthrow of the capitalist system—and said so not once, but repeatedly—went on the screen with one of the spokesmen for British business, and the spokesman for British business said to him, "You are the model of a responsible trade union leader." Now that's very interesting.

Let me give you just one more indicator of the vast difference between us in terms of where our societies have gone and where trade unions have gone. That is the number of people who belong to trade unions in our two societies, and the organization or disorganization of outer pressure that might help to balance or contain their power.

You, I believe, in this country have a situation whereby a quarter, about 25 per cent, of your work force belongs to unions. We in Britain have a situation where over forty per cent of our work force belongs to trade unions affiliated to the Trade Union Congress—the TUC—and where a further five per cent belong to smaller, independent trade unions. That makes us unique in the world, I think. We have a higher proportion of our work force unionized already than I think any other advanced industrial country, and I believe than in any other country.

So that again is a small problem. And it's aggravated by the fact that there are no other social pressure groups in Britain that are organized to lobby effectively in their own interest. We have no powerful business lobbies today in Britain; we have no powerful lobbies representing small business people or professional people. These don't exist. We have no important farmer's lobby that is successful in getting its way. So you can see how much easier it is for trade unions to have their will.

And my final distinction—I think I said I was getting to the final one already, but the most serious one is coming now—the most serious difference of all is that our trade unions are run by a different kind of man from the kind of man who runs yours. I'm not condoning the way the trade unions throw their weight around in your country. I said enough already to express my total admiration for the way that your organization is operating, and I'll come back to that in a moment. Our trade unions throw their weight around the same way. Any trade union that is given the opportunity and the legal privileges will do whatever it can in the name of the members, and often enough for the bureaucracy. This is inevitable. It's in the nature of power. It's in the nature of social power.

But by and large, your trade union bosses, whether or not they behave like Marxists here, are not Marxist revolutionaries committed to the overthrow of society itself. Ten per cent, one-tenth of our trade union officials in Britain are either Communists or actively aligned with the Communist party, and in the big unions the key positions are being taken by Marxist revolutionaries. That is a slight difference, and it is producing, in my view, a prerevolutionary situation in Britain.

All right, those are some reasons why I stand here before you feeling a little bit like a messenger from another planet, or worse than that, like a messenger from an occupied country who is coming to you in your freedom to say "Please, don't give up your fight to defend it", because in the dark battles that lie ahead for us in Britain we need someone outside our own shores to hold that torch of liberty high so that we can take some of the flame from it when the flame is flickering low in our own society. We need that desperately, and I think that we need the kind of exchanges and contacts that we're getting here tonight.

But what was at the root of all this process in Britain? How did it come about in a society that would be the mother in the modern world of individual freedom and parliamentary institutions and the belief in justice? How did it come about?

Well, one reason that it came about, which is relevant to you now in America, is that back in the early days of the century a lot of complacent politicians took positions that conferred unique legal privileges on the trade unions. It dates right back to 1906 when the Liberal Party in power at that time in Britain passed the Trade Disputes Act, which almost literally put trade unions outside the law, and gave trade unions power that no other element in our society enjoys.

It gave them the power to break contracts without being prosecuted. And it gave them many other powers.

Now, our liberal politicians at that stage, back in the early days of the century, did that thinking that trade unions would never be a problem. They were weak. There were only two million people in trade unions in Britain then. By and large, their leaders were not Red revolutionaries arraying tooth and claw, they were good chaps, and this mentality, that our trade union leaders were on the whole good chaps, has persisted into very recent times. And it partly explains why there have been no serious attempts, apart from the attempt of the last Conservative government, to bring our trade unions back within a framework of law and to curb their excesses.

And the powers that were given so lightly at a time when trade unions did not look so terrifying have of course provided enormous opportunities for ideologically motivated men who want to destroy our system. It seems to me to be the perfect model in the modern world of what happens when people let themselves be seduced by the argument that if you give a man a knife he will never use it. We gave that man a knife pretty early on in the 20th century, and we perhaps shouldn't be all that surprised to find that it's now pretty close to our jugular vein.

All right, let me give you a little image of how I think that the kind of trade union power that has grown up in Britain could help to bring about the final destruction of our economy, and even the overthrow of our parliamentary democracy. That will sound a little exaggerated to you as I stand here before you, but I live with that, and my friends here tonight from England live with that day by day, and it is something that we do not take lightly for one moment.

Now our trade unions are not just bargaining over wages or trying to get more men into their ranks, they are trying to dictate the whole shape of economic and social policy in Britain. More than that, they're trying to build themselves into our political process.

For example, our Trade Union Congress has proposed that non-elected trade union delegates should sit on every local council in Britain. Our local councils—municipal councils—are elected on the principle of one man, one vote. Now we have a proposal from the TUC that they should contain non-elected union officials who will have full voting rights. That is a direct attack, if it ever becomes law, on our constitutional system. It gives you one measure of how far the challenge is going, and what is TUC policy today in our country is often enough the policy of the Labor Party and the Labor government tomorrow.

That recommendation has been accepted by the local government committee of our Labor Party. It has gone to the executive of the party, and I don't know, it could become a bill, and then legislation in the not too distant future.

That gives you one litle index. Next, I'll give you another little index. We had a new budget announced in Britain not long ago, and our Chancellor of the Exchequer stood up, and in his budget speech he made it openly plain to everyone that the key element in his policy, wage restraint, would not be government policy until it had been signed, sealed, and delivered by our TUC, our Trade Union Congress.

He made that open. Now again, in our view, those are unconstitutional acts, because under our original Bill of Rights of the 17th century, power in Britain is vested in the people as represented in the Parliament, and in the throne. Apparently not. Apparently the TUC in Britain has become the non-elected upper house, our real Senate, since the House of Lords doesn't count for much in terms of real power today. Our TUC appears to be taking its place.

So the aims of our trade union officers have become very ambitious indeed. They long ago stopped being just concerned with how much more they could screw out of the bosses, or what sort of cars they drove in. These are very subsidiary questions to them today. The real question involves power and the whole future of our form of society.

Now, Britain is on the pretty rocky road to ruin, for the moment, economically. I've already mentioned the size of our deficit. Our deficit runs to 12,000-million pounds a year, which is a lot of money for an impoverished little group of islands off the northwestern coast of Europe. We can't afford it. The TUC's pressure forces our government to continue to overspend on this colossal scale, to continue to promote nationalization programs, particularly with the private firms, and to generally waste the taxpayer's and rate payer's money in whatever new ways they find from day to day.

Now, I'm not altogether certain that in the not too distant future we won't see a situation emerge where there will be a new phase in the economic crisis in Britain where our long-patient foreign friends will get fed up with us and stop lending us money unless we set our economic house in order. And I'm not certain that at some point we won't have to face a fairly shattering kind of decision, a decision as to whether we go on further into the kind of socialism our trade union bosses want, further towards total state regulation of our economy, nationalization of our banks (which is another thing that the TUC is calling for) and so on—a communist kind of economy with high import controls, fixed exchange rates, and all the rest of it—or whether we go in a radically different direction by trying to restore sanity, by trying to cut excessive public spending, by trying to provide new incentives for people to make their own business decisions, and the rest of it.

But I do know one thing: we will have to face that decision. And I know another thing, any government that faces that decision will not be allowed to make up its mind without a fairly devastating confrontation with our trade union movement, if it wants to go back towards curbing abusive union power, towards devolving economic power back to the private sector, and towards cutting excessive public spending.

In other words, what I'm saying to you here in a foreign land is that I see no way out of our crisis in Britain without widespread strikes, and I'm not confident, as I stand here before you tonight, that those strikes will be contained, or at any rate I'm not confident as I stand here at this moment that the elements in our society who are now convinced that the abuse of trade union power is one of our key problems, are organized to do anything about it.

Well, I didn't want to speak for too long. I think without exaggerating the picture that I may be beginning to give you some measure of where a society can go when it allows one pressure group—in this case, trade unions—to acquire and to practice monopoly power. That is where we are going. What can we do about it?

Well, I think that we have to change the whole psychology in Britain. You've done a great deal here on the basis of the slogan, The Right to Work, to show people what can be done. In Britain a lot of people have their heads bowed in the face of processes that they think are inevitable. A lot of people are totally defeated about where trade union power and the Marxist control of key unions is going to take us. In other words, they don't think we can do anything to stop the rush. We have to live with this progress. We have to appease the trade union bosses, and we can't take any stand. Indeed, it's not even worthwhile to stand up and point out the dangers of the situation.

Now, until our group came into being I think it would be fair to say that there was no rallying point, no pressure group, whatsoever in Britain of any national importance that was prepared to look these problems calmly in the face and say this is unacceptable, it is not inevitable, if we can rally a majority to the defense of individual freedom, which is a cause that's still deep in the heart of the British people, as it is in the heart of the American people, we can begin to turn things around.

We did some opinion polls. Not my organization, because it didn't even exist then, but one of our newspapers did some opinion polls back in September of 1975, and they showed, I think, the sort of results that you would get with your opinion polls here in America. They showed that 73 per cent of the British people are opposed to the closed shop, and they showed that 56 per cent of union members are also opposed to the closed shop.

Yet what are our major political parties doing? Are they reflecting that majority? If they're not reflecting it, who exists to reflect the majority feeling and to try to turn it into action? Well, we are trying to provide the answer, and we are working, really, over a very broad ground, much broader perhaps than you would think is worthwhile.

But again, you've got to remember the difference between you and us. We are trying to do the work of about twenty major organizations in this country. We are tackling not just compulsory unionization, not just misuse of trade union power, not just, for that matter, the defense of self-employed and small business people who have no effective lobby, not just the defense of independence in medicine where private doctors are being forced out of the country, not just high standards and independence in education in the face of a program which could lead to Marxist control of our primary and secondary schools, not just all those things, but also we are trying to produce a psychology of rearmament at a moment when the Labor government appears to be dismantling our defense systematically, and we're doing a lot of other things as well.

We're publishing a newspaper, and I think it's not a bad newspaper, *The Free Nation*. It's published every two weeks. And one of the curious things about this paper that may help to give you some grasp of what we are, and perhaps what we have in common, is that this paper—which I think is produced in a very high professional standard, and does include many of the best writers, at least on the conservative side of the spectrum in Britain, and a lot of members of Parliament (there are still quite a few who are on our side and prepared to say so)—is produced with no staff whatsoever. It is produced by unpaid contributors. Its editor is unpaid. It is all voluntary work.

We don't have the resources to afford vast offices and all that sort of thing, and to pay large checks to our contributors. We have none of that. We do have a handful—and I say literally this day—a handful of highly motivated people who are in effect crusaders. We feel ourselves to be in many ways the last ditch resistance in Britain, and I'm delighted to feel, amongst you, some of the same spirit and determination that we are trying to find in Britain today.

In a funny way I am confident about the younger people in Britain. I think that they are rejecting an age of compromise and appeasement, and I find a radicalism in a good sense of the word there that we can build on.

We have a national council of about fifty people. They span all walks of life, all occupations, all backgrounds. Some of their names will be familiar to you. The name Winston Churchill will be familiar to you. Young Winston Churchill, MP, grandson of the original Winston, is on our council and plays a very prominent part in everything that we do.

Our council ranges over all sorts of people, from Field Marshall Sir Gerald Camp, Britain's greatest living soldier, to brave men who are fighting the battle against closed shop, to businessmen, to academics, to journeymen, to the foremost expert of the British constitution, Lord Blake, and to many others. I think it is a very impressive group of people and that together we do represent the kind of rallying point that no one else has provided. And on the basis of that we want to break through the mythology of fear that sprang up in Britain about trade union power, about the supposed inevitability of the process I've been describing.

We want to get people out in the streets. We want to hold large rallies. We want to get 150,000 people into the streets to protest against what I think could probably be described as the Sovietization of Britain. We think we can do that. Our problem—and I wonder whether you've found this in some of your localities—is that in our situation people who feel as we do feel very isolated and often very afraid.

There's no need for that great sense of isolation in this country here. Freedom is still a popular cause and the majority is clearly mobilized on your side. In our country the majority is on our side, but not mobilized. And when Solzhenitsyn stands up, yes his words strike home, yes people are frightened, yes people believe in him, yes people know that he is right when he warned about the corruption and possible disintegration of the West. But they do not feel it in Britain yet that they can do anything about it, because they sit in front of their own television screens or their own radios and think, "We are alone".

Now, my organization wants to change that.

Well, I told you a few things about my situation, and I think that everything I've said presents a warning to you. I would just like to make one final personal comment before I sit down, and it's this; it takes me back to where I started.

We look to you, we look to this country still. I think we look to it probably more than ever, the strong right arm on which we lean, as the exemplar of liberty. And we look to people like you not to betray any of those liberties and personal rights that have been so complacently and so arrogantly betrayed in my own country. And we look to you to let your Liberty Bell ring out, because its sound brings some comfort and some encouragement to us on those distant shores. Thank you.

AN INTERVIEW WITH THE FORMER CHIEF OF THE FOREST SERVICE

Mr. METCALF. Mr. President, the Senate will soon be taking up S. 3091, the National Forest Management Act of 1976, which was jointly considered and reported by the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs.

In considering where we are going, it is often useful to look at where we have been. In 1948, President Harry S. Truman appointed Dr. Richard E. McArdle, Chief of the Forest Service in the Department of Agriculture. Dr. McArdle continued as Chief through the 8 years of the Eisenhower administration and on until 1962 under President Kennedy, retiring voluntarily at the age of 63. Dr. McArdle is still very much around. I know that the principal sponsor of S. 3091, Senator HUMPHREY, has had a long and close working relationship with him on a whole host of conservation endeavors, as have many other Senators.

The Forest History Society has recently published an "Interview with the Former Chief of the Forest Service," which spans his career and his varied experiences.

I would like to quote portions of that interview, particularly those dealing with overall forestry management problems, the value of wilderness, and the record of the timber industry. Finally, I will ask to insert in the RECORD a letter from Dr. McArdle detailing the role of Senator HUMPHREY in passage of earlier landmark forestry legislation.

The closing note of Dr. McArdle's interview gives perspective to the issues we confront:

> The story of the organization of the past, yes, is helpful but we have to recognize that the job that the Forest Service of today faces is quite different than the job that the Forest Service of Pinchot's time had to face. For

> example, in Pinchot's time there were practically no timber sales. Today they are a troublesome problem in more ways than one. Recreation was not a problem in Pinchot's time. It's a tremendous part of Forest Service activity today. Water was not a problem in those days except when rivers flooded and caused damage but today adequate water, useable water coming at a time and in the quantity needed, is a big problem. John McGuire and all his people face a different set of resource management problems than Pinchot did or I did.
>
> One other thing that perhaps bears on your thought about the importance of history. I think it becomes more important as an organization gets older and bigger that we shouldn't lose sight of the ideas, the ambitions, the aims, the goals, the people had who started the organization. What I'm trying to say is that you don't develop a whole new historical background for an agency every time the Forest Service gets a new chief. That does not, certainly should not, mean that the Service abandons the ideals that the outfit started out with. We may need to modify them, change them a little bit, but everybody in the organization ought always to keep those original high goals and standards in mind. It helps create pride in the organization, helps to build espirit de corps. A historical record, especially if it's at least halfway human, can help immensely to accomplish that.

I was particularly struck by the view he expressed on the issue of wilderness and rather than seek to paraphrase it, I will quote it in full:

> Wilderness preservation has degenerated into too much of a squabble between those who want everything preserved as wilderness whether or not it really is wilderness, and those who are opposed to all wilderness preservation, or think they must take this attitude to offset the extravagant claims of wilderness enthusiasts. The thought I'd like to end with is that this should not be an either/or proposition.
>
> We need to preserve substantial areas in wilderness condition. I think we will need wilderness more and more as we diminish our primeval resources and as we become more urbanized and further removed from our original resource heritage. We need wilderness to renew our sense of balance and to keep our spiritual fabric in good condition. Forget about the dollar value of wilderness. Maybe there isn't any. It doesn't matter; it is worth whatever it costs.
>
> At the same time we must use our natural resources, including some of what is now primeval and untouched, in order to live. Just caveman existence requires food, clothing, shelter, and fuel to warm the shelter. To have more than caveman living we must add to those necessities of bare existence the raw materials that must be used to make the many things we take pretty much for granted in modern life. These things have to be made from natural resources. From what else can they be made?
>
> These are the simple facts of life. So the knot I'd tie in this discussion of wilderness is to say that enactment of wilderness legislation didn't mark the end of anything. The question still before us is not preservation or use of resources but how best to achieve both preservation *and* use. If this be a sermon, make the most of it!

S. 3091, pending on the Senate Calendar, is being attacked by elements of the timber industry. Not only does Dr. McArdle have a distinguished public career, but also since 1967, he has served on the Board of Olinkraft, a major forest products firm. Thus the views he expresses on sustained yield, timber production, and the pressures on the National Forests are most significant. I urge my colleagues to ponder his remarks when we begin debate to provide the kind of sound management recommended by Dr. McArdle:

> The timber people were never silent. The pressures on the Forest Service for more timber cutting on the national forests have been insistent, persistent, relentless, and never ending. There was never a week that I wasn't being beat upon to raise the amount of timber which could be cut. We called it the "allowable cut," and a more disastrous term was never invented. We should have talked about sustained yield instead.
>
> The allowable cut figure these people wanted to establish included timber that could be easily reached and timber that was entirely inaccessible, timber that was useable under present-day conditions and timber that was not usable, small trees and large trees, good species and poor species, trees that would probably never be cut under any timber sales practice, and so on. In brief, they wanted the allowable cut figure to be based on everything. This led to misunderstandings because the timber they wanted to cut was the best timber and only the best.
>
> There is still relentless pressure for increasing the cut on the national forests. I think the present cut is around 11 billion board feet. During my term we aimed at eventually increasing the annual cut to 21 billion board feet. I think you can see that I was not opposed to increasing the cut. But to increase the cut to such a large figure would require prompt and vigorous attention to improvement of the one-third of the national forest acreage that was in immature stands. Yet little or no money of this kind was being spent on these forests that would have to provide the 21 billion feet we were aiming at. Such funds requests were consistently cut out by the Budget Bureau.
>
> . . . At this point, I might suggest that the forest industry people who were continually pressuring us to increase the cut on the national forests, never once went to Congress during my time to ask them to appropriate money for building up the forest resource—only for money to make timber sales. The same thing is true of the 5 million acres of national forests which are lying nonproductive right now because they need plantings. These are burned areas that are not going to restock naturally. You understand that the Forest Service has a provision under the so-called KV Act (Knutson-Vandenburg Act), which deducts from the price at which timber is sold enough money to reestablish forests on logged over areas. This has been effective, but it isn't taking care of the enormous backlog. It isn't taking care of these 5 million acres. Never once during my term as chief did any member of forest industry come to my aid in asking Congress to appropriate more money for planting up these nonproductive areas.
>
> Despite the fact that the Forest Service already has sold enough timber to keep all current purchasers going for three years, there still is pressure to put more timber on the market. You could say that one purpose is to force the price down.
>
> Another aspect which has to do with money is the increasing difficulty in making timber sales. It will take more time in the future because more provision will have to be made for environmental factors. So the answers to this . . . are only partly money. It is, however, a matter of more money to do all the other things that need to be done along with timber sales. The trees to be harvested sixty years from today should already have been planted and they haven't.
>
> I am not opposed to timber cutting on the national forests. Let me speak plainly: I am on record time and again favoring increasing the total cut on national forest lands to more than double what it was at the time I was chief. I still favor that. But I do not favor it at the expense of the other users of the national forests. And I do not favor increasing the cut unless we do the things that must be done to make this larger yield possible. It is one thing to say that it should be done, but it is absolutely wrong to assume that saying it should be done means that it will be done—or can be done immediately. Even if the Forest Service had all of the money that it wanted today, it could not increase the cut from 10 billion feet to 21 billion feet overnight. There isn't the manpower, and there are hundreds of other requirements that would have to be met. What particularly worries me is trying to increase the cut on the national forests without making provisions for a crop that needs to be coming along to provide a harvest fifty or a hundred years hence. We're not doing this in any adequate measure. All the shouting has been, "Cut more, cut more."

Finally, Dr. McArdle's observations on the findings of the report of the President's Advisory Panel on Timber and the Environment are instructive. That report was issued in April 1973 and called for significant increases in the amount of timber cut. Dr. McArdle, who is also an emminent research forester, labels as "ridiculous" the basis for the recommendation in that report:

> There are some well-known names as consultants in the report. I think the Forest Service very likely could agree with most of the recommendations. They are along the lines we have been talking about. Most of the recommendations are like saying we should respect motherhood, and I'm sure there'd be no objections to those. There are two recommendations that require careful attention. One of these is the proposal to greatly increase the cut of timber. I would be violently opposed to this if I were chief unless simultaneously we would do these other things such as planting nonproductive areas and giving attention to immature stands. In the past, what has happened is just what you said; the Congress has appropriated money to make timber sales and it has not appropriated money to do things that we need to insure our future crop of timber. In fairness to Congress the Bureau of the Budget has seldom allowed us to recommend them. Incidentally, the recommendation in the Seaton report to increase timber cut is based on analysis of only four national forests. That is ridiculous.

The first attack on the legislation now before the Senate was that it was a timber industry proposal. Now that the bill has been reported, the timber industry is attacking it as being "anti-industry." The truth is that the bill is neither. It is a reasonable piece of legislation which attempts to provide safeguards for the public interest while permitting a certain flexibility for the managers of our forests.

As one looks at the current timber industry attacks, and compares them with Dr. McArdle's observations, one can see that the industry goal is simply to increase the cut of timber with minimal regard for the important multiple-use values and the policy of sustained yield.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Dr. McArdle to the Forest History Society telling of the important role our distinguished colleague, Senator Humphrey, played in enacting the landmark Multiple-Use-Sustained Yield Act of 1960.

There being no objection, the letter was ordered to be printed in the Record, as follows:

5110 River Hill Road,
Washington, D.C. August 4, 1974.
Mr. Elwood R. Maunder,
Forest History Society,
Santa Cruz, Calif.

Dear Woody: It occurred to me last night that one rather significant event in the course of getting the Multiple Use-Sustained Yield Act probably hasn't been touched on. I don't have copies of American Forests here to check Crafts' account beginning in the June 1970 issue (don't trust my memory on that date) but I don't remember that he mentioned it either in the printed version or the earlier typed version. I am quite sure that I did not mention it in my American Forests story which was deliberately made very short. I know it is too late to incorporate this story in the manuscript you folks are now typing but I will look at the ceiling for a few moments and tell it to you anyway.

You may recall that early in our interview you asked me if I had anything to add to this MU-SY story. Your question referred to my American Forests story I think. I said I had nothing more to say. (At that time I was expecting to wind our interview up in short order and had no desire to expand on my AFA account.)

I think what I am now about to tell you is significant because it may well be that we would not have had a MU-SY law otherwise. I could be wrong, but looking back it seems to me that the chances were against it.

On June 6, 1960 (I have checked this date in my diary) I was at Grand Rapids, Minnesota to make the principal speech at ceremonies dedicating completion of buildings for what was then called the Grand Rapids Research Center (now called the Northern Conifers Laboratory or some such name).

Zig (Zigmond A.) Zazada, the local research center leader, had rigged up a large flatbed truck as a speaker's stand and had placed this at one side of a pretty little meadow near the research center buildings. Out in front were hundreds of folding chairs that he had gotten from various places. The high school band was present and a big crowd of people, more than he had chairs for.

I made my talk and when I turned from the speaker's stand to resume my seat I noticed that Senator Hubert Humphrey had arrived on the platform while I was speaking. While I was greeting Senator Humphrey I had one ear pointed toward Zazada to see how, as master of ceremonies, he would recognize Humphrey. Humphrey had just told me that he had hired a plane to get from Washington to Grand Rapids especially to be present at this dedication.

Zazada told the people present that they undoubtedly had noted the arrival of Senator Humphrey and asked Humphrey to stand and take a bow. Zazada then began announcing the next event on the program. At that point I took the program away from Zig and told the audience that Humphrey had made the trip from Washington to Grand Rapids solely to be present on this occasion. I said I knew they would want him to have more of a part in the ceremonies than just to stand up and be recognized. I went on to say that as bureaucrats we saw members of Congress come and we saw them go and we had our own private opinions about their achievements especially their achievements in resource conservation. I had always admired Hubert Humphrey's sound ideas on conservation and I took this opportunity to say so. I mentioned some of his efforts to promote the cause of conservation and ended by saying that I felt sure I spoke for his Minnesota friends in suggesting that Senator Humphrey give us whatever comments he cared to make on this occasion so important to resource conservation in Minnesota. Humphrey spoke briefly and to the point obviously having intended to have a part in the program.

After the ceremonies were over and Humphrey and few others were having coffee with me he asked me if I was having any particular worries in Washington. I said I certainly was having some super worries at the moment and the chief worry was how to get the MU-SY bill enacted. I explained why this proposed legislation was urgently needed and that it would be almost disastrous to the FS if not enacted. I described the long struggle we had had getting it through Congress and that the struggle was about over. But the situation looked pretty dark to us right then because the bill had struck a snag. Humphrey asked where the bill was at that time and what the snag was. I said the bill was hung up in the Senate. It was through committee with a favorable recommendation but we couldn't seem to get it out on the floor for a vote.

From here on the story is what I learned from Spencer Smith of the Citizens Committee on Natural Resources. He told me that he was in Humphrey's office when Humphrey returned from Grand Rapids. Humphrey invited Spencer to accompany him to see Lyndon Johnson, then majority leader of the Senate. Smith said Humphrey barged into Johnson's office without ceremony and demanded (expletives deleted) why Johnson was holding up the MU bill. Johnson said there were objections to the bill, by one Senator especially. (I know who this was but see no reason to say so here.) Anyway, the long and short of it is that Humphrey blasted the bill loose. It came up for a vote, was passed and President Eisenhower signed it June 12.

We might have been able to get this bill to a vote without Hubert Humphrey's assistance but looking back on the situation I am by no means certain that we could have done it. Humphrey came to our aid at a crucial time. His help was effective. When bouquets are being handed out for credit in getting the MU-SY legislation enacted I don't want Hubert Humphrey forgotten. Without his help maybe there wouldn't have been a MU-SY Act today.

Another aspect of the MU-SY legislation that should be covered sometime by somebody is how the definitions got into the Act. Maybe Crafts told about this. The definitions were not in the draft legislation when we sent it to Congress and were not in our letter of transmittal. Senator Hart was the person mainly involved in this. The FS wrote the definitions for him.

Sincerely,

Richard E. McArdle.

SPLITTING THE OIL COMPANIES WILL NOT HELP

Mr. STEVENS. Mr. President, I am concerned about present efforts to break up the major oil companies in the United States. This effort arose out of the assumption that the majors used collusion to increase prices during the Arab oil embargo, and it has culminated in the introduction of Senate bill 2387. The bill would break up all large oil companies under the guise of restoring and promoting competition in the petroleum industry.

However, the whole premise of the bill is disputed by an article in the May 1 edition of the Washington Post by Prof. M. A. Adelman of MIT. Professor Adelman pointed out that the oil industry's greatest concentration occurs in the refining segment and even there the largest eight companies account for only 58 percent of the market. It takes the largest 20 firms to get 85 percent. This is far less concentration than steel, aluminum, or automobiles and is about average for all manufacturing. Professor Adelman also points out in his article that the full effect of disintegrating the oil companies into separate entities could actually result in a decrease in competition. There would be nothing gained by divestiture except a vast exercise in shuffling papers. The main result of the bill would be to restrict many companies with knowledge of a market from ever entering that market. For example, who knows better about the need for building a new refinery than petroleum producers and distributors.

Mr. President, the oil industry is less concentrated than many of the other major industries, and the question should be why are they being singled out? Is it possible that S. 2387 is meant to be a form of punishment of the oil companies for the increased price of petroleum products. If so, Mr. President, I am very disturbed by the implications.

The article by Professor Adelman, a distinguished professor of economics at the Massachusetts Institute of Technology, who is not tied with consumers, big oil, or any other interested factions, clearly illustrates the problems that would occur if divestiture becomes a reality.

I ask unanimous consent that the article entitled "Splitting the Oil Companies Will Not Help" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Splitting the Oil Companies Would Not Help

(By M. A. Adelman)

Congress should reject the proposals for disintegration of oil companies into separate entities for producing, refining, and marketing. "Vertical divestiture" would be expensive. It would diminish competition at home. It would waste our chance to increase competition abroad. And it would make almost no difference, one way or the other, in terms of efficiency.

The industry's contention, that vertical integration helps efficiency, is unfounded. Common ownership of these activities, by one company, neither saves money nor costs any. (There are bound to be some exceptions to the rule; relatively, they are unimportant.) Most companies became integrated long ago for reasons that are now history. They have stayed integrated because there is no reason to change. One oil company president says integration gives "security of supply" of crude oil to the refinery. As Frederic Scherer, chief economist at the Federal Trade Commission, has pointed out: If "security of supply" is a problem, that is a signal of a noncompetitive crude market, where sellers can deny supply to some buyers. In fact it is no problem. Anybody can buy any amount he wants, except when governments restrict the supply.

The industry's job, of arranging an immense flow of sticky combustible liquids, is made no easier or harder by common ownership of the segments. A company that on paper is balanced and produces "enough" crude for its own use actually has to dispose of much or most of it to others. Oil is where you find it, scattered in thousands of fields all over the country or the world. It often doesn't pay to bring it home.

If we could by some magic wake up tomorrow to find that three or four going concerns had overnight replaced every integrated oil company, there would be no substantial loss.

But in fact divestiture would be a vast exercise in shuffling papers, transferring title to huge assets of plant, cash, and people (and also assigning debt). Every company would try to keep the best and sell or spin off the rest. Investment decisions on the new plant and equipment and methods needed to cope with new situations today need all the attention possible. They would have to be kept on the back burner because too much money would depend on sorting out what was already in place.

When it was all over, even putting to zero the costs of delay and disruption, we would have less competition because refiners, for example, would no longer be free to enter marketing, or vice versa. Freedom of entry helps keep any trade competitive. Customers and suppliers are usually better informed about the trade than outsiders. A crude producer on one side, a marketer on the other, may know that refining some product in some part of the country is yielding some lush returns, which they would like to share. Their ability to enter refining or even the threat of new entry, helps persuade those already inside to build new capacity. If they don't, the newcomers will. Divestiture would stop vertical entry.

A Boston marketer, Northeast Petroleum, prospered and grew over the years and is now completing, in Louisiana, the only new American refinery in several years. The divestiture bill would keep such people out of refining unless they stayed small enough in marketing—in which case they would not be refining candidates.

Increasing barriers to entry is odd because the stated purpose of vertical divestiture is to increase competition in oil. But if each sector of the oil industry is competitive, there is no way by which vertical integration can make it less so. Market power at any one stage of the industry can be spread backward or forward through vertical integration. A refiner monopoly would have the crude producers and the marketers at its mercy. But if there is no power, there is nothing to spread. Hence the crucial question becomes: How competitive are the various segments of the oil industry?

In the United States, state and federal governments have often intervened to restrict output and raise prices, because the domestic industry could not rig the market by its own effort. The domestic oil industry was and is strongly competitive. Concentration is low.

The refining segment is the most concentrated. But even here the largest four sellers account for 33 per cent of sales, the largest eight for about 58. It takes the largest 20 to get to 85 per cent. This is, of course, far less concentrated than steel or aluminum or automobiles, in fact, oil refining is just about average for all manufacturing industry. Grocery retailing, per local metropolitan area, is more concentrated than oil refining nationally, and the oil market is close enough to national to make the national statistics relevant.

When the largest four account for only a third, and even the largest 20 account for 90 per cent, they cannot act together, except secretly, to restrain output or raise prices. It is no bad thing that the great size of the oil companies puts them into the goldfish bowl, their every move scrutinized.

Low concentration and many competitors insure competition because each seller—today, because of imports, even the whole American industry—is a "price-taker." He adapts to the price but cannot affect it, because he cannot affect the industry's total output—which sets the price. The burden of any independent action in expanding sales, by offering customers more, is borne by the industry, the benefit goes all to the maverick. (For this reason, an oil company owning coal mines that produce only a small per cent of the coal will act like an independent coal producer, and produce very bit of coal profitable at the current coal price. Any effect on the price of oil will penalize the oil industry as a whole and will have no effect on his profits.) and every competitor knows that if he doesn't act independently, somebody else will.

Some fear that oil companies can control output and prices through joint ventures. This fear should not survive a little reflection. Joint ventures are most important in bidding for federal lands, with payment in billions. Even a little collusion would be very rewarding. None has been alleged. (Even a small improvement in bidding procedures is well worth seeking, however.) Once a group wins a bid, the amount of production they can develop, even in the biggest lease, is tiny relative to the market. In their own interest the owners must operate the lease as though they were a single independent firm, unable to influence price. For maximum profit, they must push the output to the point where additional expansion would inflict cost higher than the price.

Finally, vertical divestiture would not disturb the cartel of the producing nations. The cartel is endangered only when more oil is offered than demanded. When and if suppliers crowd each other out by offering better terms, and a game of musical chairs begins, the price will drop.

It is a truism today that the cartel nations use the multinational oil companies to clear the market. The governments sell almost exclusively through oil companies, whose margins are too narrow to allow any but trifling price cuts. Therefore the companies cannot put additional amounts on to the market to displace a rival,, who might retaliate by cutting price again. "Hard bargaining" by independent refiners, dealing with independent producing companies, will accomplish no more and probably even less than today's integrated producing companies dealing with the cartel governments.

Only the governments can oversupply, because only they have the cheap crude. So long as nearly every government refrains from independent offers, the total offered in the market adds up to the total demanded by consumers. Then the cartel holds together, and can even tolerate a maverick or two. Saudi Arabia, in the summer of 1974, earned millions of brownie points with our government by announcing a crude oil auction to bring down prices. After getting the maximum publicity, they cancelled the auction. That was a lesson. (Our State Department, which learns nothing and remembers nothing, is still high on "cooperation" with the cartelist-in-chief.) Put Aramco (Arabian-American Oil Co.) into the picture, or leave it out, and the result is the same—no additional supply, no beating down the price.

What the cartel nations really fear, as Iraq said so well last autumn in threatening Kuwait, is "competitive bidding among producers," that is, among producing nations. For the next few years the great excess of producing capacity will keep the cartel vulnerable. That excess may last into the 1980s, or it may not. But now is the time to use the excess as a lever to damage the cartel and bring down prices.

Vertical divestiture would keep Congress and the oil industry busy for years, spinning their wheels going no place, postponing investment decisions, losing a chance for active defense against the cartel, admitting finally: "I wasted time, and now doth time waste me."

ONLY BROADCAST SPEECH NOW IS NOT PROTECTED

Mr. PROXMIRE. Mr. President, the U.S. Supreme Court ruled Monday that advertising is protected speech.

What that means is that advertising has joined the daily press, magazines, pamphlets, and movies as enjoying a great deal of protection under the first amendment.

Mr. President, now only broadcasting—radio and television, the most heard voice in America—does not enjoy the full protection of the first amendment guarantees of free speech and of a free press.

The decision Monday was in a case involving the advertising of prescription drug prices, a Virginia case.

According to the Washington Post, the Court said:

> Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information.

Yet, there are too many in this land of liberty who want to impose their values, their judgments on what is broadcast on radio and television. They want to interfere in the dissemination of information.

Only last week the Federal Communications Commission found that eight California radio stations violated the so-called fairness doctrine in broadcasts of announcements by a public utility proposing the immediate construction of nuclear powerplants.

In citing the radio stations, the FCC noted the number of minutes the broadcaster gave to each side of the controversy.

The FCC did that despite a longstanding policy that stopwatches would be applied only to equal time cases, which are restricted to broadcasts by qualified political candidates.

What is more, the stations have been ordered to tell the FCC how they intend to meet their "fairness obligations" in the future. One of the stations was ordered to submit "specific information as to its future programing plans regarding the issues addressed" by the utility's spot announcements.

Mr. President, it matters not whether the spot announcements are right or wrong, for the perception by the people is not a matter for the Government to deal with. It is a matter for the people to deal with themselves. They are capable of deciding between truth and falsity.

Indeed, on June 8 the people of California will decide at the polls on the future of nuclear power.

The Government has no business under the Constitution in abridging free speech and a free press in dealing with ideas. That is why we have the first amendment.

The Supreme Court went a long way Monday in that direction when considering commercial speech on drug prices.

The time is drawing near when the commonsense of the authors of the Bill of Rights will come crashing through into the present to protect the rights of citizens over those who would use Government to control the news and information they get on radio and television.

That is why I introduced S. 2, the First Amendment Clarification Act on January 15, 1975.

AN INNOVATIVE APPROACH TO HIGHER EDUCATION

Mr. PERCY. Mr. President, I invite the attention of my colleagues to an exciting new concept in private and public postsecondary relationships. The John Wood Community College located in Quincy, Ill., offers students a private college education at a publicly supported, low-cost tuition level. The 2-year college which has few faculty members, no buildings, and offers only a few courses has their students attend classes at one or more of the five private institutions in the area that have contracts with John Wood. As the costs of higher education continually mount, the innovative approach taken by John Wood may provide an approach that will help preserve private higher education.

I ask unanimous consent that an article by Gene L. Maeroff, published in the New York Times, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Public College Farms Out Students to Private Ones

(By Gene I. Maeroff)

Quincy, Ill.—Residents of this quiet Mississippi River town have been given an unusual opportunity to get a private college education at a low-cost, publicly supported tuition level.

The arrangement has been made possible by the establishment here of the new John Wood Community College, which farms out almost all its 806 students to private colleges in the area.

What has resulted is a rare relationship between the private and public sectors of post-secondary education, which is not fraught with the antagonisms that so often grow out of the competition for students.

It is a situation that is expected to be watched closely by the nation's educators and legislators. There is mounting interest in finding ways to help preserve private higher education while maintaining the access to college that until now has been possible mainly through extensive subsidies of tax revenues to public institutions.

Students at John Wood, a publicly-supported, two-year college that has no full-time faculty, owns no buildings and offers but a few courses of its own, pay their tuition to the community college and then attend classes at one or more of the five private colleges that have contracts with John Wood.

Among the few similar ventures elsewhere is Hudson County Community College Commission in New Jersey, which sends students to Jersey City State and to two nearby private colleges, St. Peter's and Stephens Institute. Another such plan is under consideration for a community college district being developed in northwestern Pennsylvania.

"There was no sense in putting up another campus to provide what five schools are already offering," said James L. Reed, a farmer who is chairman of John Wood's board of trustees.

"We wanted to help the existing institutions if we could and we will give the plan every chance to work," he continued.

"But when we find that we can do it cheaper ourselves there will have to be some changes made."

Three institutions with religious sponsors, Quincy College (Roman Catholic), Hannibal LaGrange College (Southern Baptist) and Culver-Stockton College (Disciples of Christ), and two proprietary institutions, Gem City College and Quincy Technical Schools, are being paid to educate John Wood students.

Hannibal LaGrange and Culver-Stockton are on the Missouri side of the river and the other three institutions are in Quincy, a conservative, heavily German-American city of 60,000 that is the hub of the community college district, which covers an area of 1,823 square miles, where pork raising is a prime activity.

Educators here acknowledge that the concern of the private institutions over the prospect of having to compete with a community college offering its own courses and low tuition had much to do with the development of what they called the "common market" concept.

"It's not likely we could have survived in our present form," said Dr. Kenneth C. Conroy, academic dean of Quincy College. "We simply could not have competed against a full-blown community college."

As it is, Quincy College saw its enrollment fall from 2,000 in 1971 to 1,250 last year. It is the addition of the 309 John Wood students that Dr. Conroy says has helped stabilize the situation.

Quincy College's tuition of $900 a semester, for instance, is far higher than John Wood's $192.

The separate contracts that John Wood has with Quincy College and the four other institutions call for a per-credit-hour payment approximately equal to the instructional costs. John Wood is able to augment its tuition income with allocations it gets from the State of Illinois and from its local community college district tax assessments.

Students attending the private institutions through their affiliation with John Wood seem to be virtually indistinguishable from those who enroll directly in the five colleges.

They sit alongside one another in classes and some John Wood students even live in the dormitories at the participating colleges. A John Wood student was even captain of the cheerleaders at Hannibal LaGrange.

"I suppose that if I went to John Wood students and asked them the name of their college, nine out of 10 would name the school they attended instead of John Wood," said Marc Magliari, the president of John Wood's fledgling Student Government Association, which sponsors activities to bring together John Wood students from the five campuses.

Mr. Magliari, whose classes are at Quincy College, is having John Wood sweatshirts imprinted as a way of fostering a spirit of unity among the disparate student body.

There have been slight complications for John Wood students, such as being barred from varsity sports at Quincy College and not being able to join sororities at Culver-Stockton.

Also, the Federal Government for a time resisted giving aid grants to John Wood students and had to be convinced that the students should not have to apply through the contract colleges.

The degree of student assimilation is such that the North Central Association of Colleges and Secondary Schools warned in granting John Wood "candidate for accreditation" status that the common-market approach posed certain dangers.

"The college will need to develop a positive image demonstrating that it is a viable, comprehensive institution of learning and not a phantom institution which functions as a clearing house for educational services," the association's report stated.

Officials of John Wood, which is named in memory of an Illinois governor, insists that the college is much more than simply a conduit for delivering tax dollars into the private sector.

STEEL-PRODUCING NATIONS IN EUROPEAN COMMON MARKET

Mr. CANNON. I am very much disturbed by the refusal of the steel-producing nations in the European Common Market Community to negotiate orderly marketing agreements to limit American imports of stainless steel and other specialty steels.

In 1972, the full Committee on Armed Services of the Senate concluded, after comprehensive hearings before its Subcommittee on General Legislation, that the specialty steels are essential to the national security. It is impossible to have strength in weapons without having strength in the American specialty steel industry. These metals are used in airplane engines, helicopter driveshafts, tubing for the nuclear powerplants of submarines, landing gear assemblies, machine tools for weapons manufacture—just to mention a few. Furthermore, it is impossible to make weapons without electricity, and it is impossible to make electricity without specialty steels. Every electric powerplant in the country depends on specialty steels for rotors, bearings, shafts, tubing, and gears. Obviously, the industry is essential.

Yet, until very recently, the administration has been indifferent to the fact that imports of stainless and tool and other specialty steels have been conquering the American market, to the detriment of income and employment in our own industry. The most serious feature of this penetration is that unemployment means potential loss of critical skills and of income to pay for research leading to new technology closely related to our defense.

So the European refusal to negotiate for limits on imports is bad news. It is tempered by reports that Japan will agree to a limitation, and by the fact that a delegation from Sweden arrived in Washington on May 21 to negotiate a limitation. Sweden is not part of the European Common Market—which includes such specialty steel exporting nations as France, Britain, Italy, West Germany, Belgium, and Luxembourg. President Ford's March 16 announcement warned that, in the absence of successful negotiation of orderly marketing agreements, he would impose 3-year quotas on imports from the nonnegotiating nations. Japan and whatever other countries do negotiate should get preferential treatment. It is extremely important to the Nation and national employment and technology and defense that the President hold to his resolve and impose the quotas. Otherwise, we will continue to watch the weakening of an essential industry before the flood of imports.

The flood does not abate. Stainless imports in March reached 16,000 tons—the highest 1-month amount since April 1975. Tool steel imports for March reached 2,200 tons—the highest since June 1975. That is 27.5 percent of the month's domestic tool supply. Those imports exceed the level in January 1976, when the International Trade Commission determined that stainless and tool steels "are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry."

The Trade Commission on January 16 recommended to the President that he impose quotas for 5 years. The President preferred to try to reach agreement with the exporting nations rather than unilaterally to set quotas.

The danger in the President's delay since March 16 is that his administration will be harassed by arguments to do nothing. It is argued that since economic recovery is on the way, the specialty steel industry will share in the recovery and needs no protection from imports. Another misleading argument is that prices of specialty steels have gone up since the International Trade Commission made its findings. But stainless steel prices have gone up less than costs. Current prices of many — probably most—stainless and tool steels are lower than they were at the beginning of last year. No industry can survive if its prices do not keep pace with its costs. The moderate rising of specialty steel prices is not a valid reason to deny the specialty steel industry the relief it needs from imports.

As for recovery the specialty steel import problem began long before this year's recession. It has hurt the industry in good times and bad for many years past. The International Trade Commission found that the problem of the industry is one of long standing.

The Commissioners had good foresight. Imports are continuing their upward trend, and recovery in other parts of the economy is not stopping the imports. The prospect of recovery is not a reason to ignore the imports. They must be limited.

If specialty steel were sharing the recovery in full, the industry's prices would be going up faster than they are. There is pressure on prices for increase in wages and material costs. Wages inevitably move up. Nobody wants to freeze them. But their effect on steel prices is inescapable.

Specialty steel pricing is affected by the fact it is produced in a highly competitive industry. The intense competition is a restraint on price rises due to nonmarket factors. When foreign producers, subsidized by their governments, attempt to take control of the U.S. market, prices fall precipitously. In 1975 when the quantity of imports of stainless and tool steels reached the all-time high, "the profit dropped approximately 86 percent from what it was in the same period in 1974," according to the International Trade Commission report.

Opponents of the recommendations by the International Trade Commission and the President's policy statement of March 16 accuse the Government of inaugurating a "protectionist" program. That is a false accusation.

In the Trade Act of 1974 the Congress armed the President with the means to prevent American industries from being injured by imports. The approach is fair. In specialty steels, the solution recommended by the Commission assures the exporting nations a share in the U.S. market and a share in its growth.

The course for the President now is to impose quotas on specialty steel imports from the countries that turn their backs on his offer to negotiate. The quotas should be long term, to remain in effect at least 3 years, in order to correct and overcome the long-term trend of imports which the Trade Commission cited.

The President can revive confidence by stating that the quotas will not be revoked before the 3 years are up, except on those countries which subsequent to June 14 negotiate marketing agreements. Such action will be good for employment, good for American technological leadership and good for the national security.

TEAMSTERS: HOW MUCH POWER?

Mr. STEVENS. Mr. President, recently a newspaper in my State, the Anchorage Daily News, was awarded the highest reportorial award in the country, the Pulitzer Prize for public service.

To earn this award required the investment of a large percentage of the paper's reporting staff, three reporters sent out by Publisher Kay Fanning to cover one subject for 3 months. The Pulitzer gold medal rightfully belongs to all those at the News—publisher Fanning, who was willing to make this investment and encouraged and helped the reporting team in its efforts; the reporters who wrote the stories, Jim Babb, Bob Porterfield, and Howard Weaver, who researched, interviewed and dug deeply into their subject over the 3-month period; and the entire staff of the News, who took on extra work and covered for the three reporters sent out on the assignment.

The subject of the investigative articles was the influence of the Teamsters in Alaska. This was a sincere effort at making this powerful force better known to Alaskans.

While media in other parts of the country, with far greater resources at their disposal, portrayed Alaska and the role of the Teamsters in the State in a highly exaggerated and sensationalistic manner, the News managed to take a reasoned approach and tone in its series. The validity of this approach was duly recognized with the awarding of the Pulitzer.

As these investigative articles take a more accurate look at the Teamsters, which publisher Kay Fanning described in an interview later as "powerful but finite," I think people around the country who have read and believed the sensational reports on Alaska could benefit by reading these articles, written by Alaskans who know the State and its people.

Mr. President, I ask unanimous consent that the first of the Pulitzer Prize-winning Anchorage Daily News articles be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News, Alaska, Dec. 4, 1975]

TEAMSTER: HOW MUCH POWER?

(By Howard Weaver and Bob Porterfield)

Teamsters Union Local 959 is fashioning an empire in Alaska, stretching across an ever-widening slice of life from the infant oil frontier to the heart of the state's major city.

Secure under the unquestioned leadership of Secretary-Treasurer Jesse L. Carr, the empire has evolved in just 18 years into a complex maze of political, economic and social power which towers above the rest of Alaska's labor movement—and challenges at times both mighty industry and state government itself.

In recent weeks the union has come under increasing observation in Alaska and outside, but basic, key questions have been left unanswered. How has the union amassed its power? Where does its structure reach? Who are its primary architects? What lies ahead?

To answer these and other questions, The Daily News made a lengthy study of the empire. These are the basic facts.

Local 959 has amassed its power in a number of ways:

With 23,000 registered members, the union is by far the most influential and successful special interest group in the state;

No other group—including the Republican party, which elected the governor—even approaches the concentration of power which Teamsters have vested in Carr, the secretary-treasurer and moving force of the union.

By means of a pension fund rapidly approaching the $100 million level and an investment policy which gives it considerable influence over the state's major financial institution, 959 represents the most potent financial force of any Alaska-directed organization. Measured in terms of Alaska interest, this appears true even in comparison with the oil giants and emerging Native corporations now operating in the state.

Despite an occasional upset, no other group has displayed such consistent political power here as the Alaska Teamsters. Spanning as it does both party and ideological boundaries, the union outstrips either political party in this respect.

The web of Teamster power stretches across the face and beneath the surface of Alaska society, manifesting itself in a wide variety of forms. Local 959 and its related enterprises own property in Anchorage, Fairbanks, Juneau, Valdez and Palmer. It is developing multi-million dollar headquarters, office, commercial and recreational facilities here and in Fairbanks, and plans development in other areas when justified by the rapidly growing membership.

The union also has invested more than $80 million drawn from four trust funds to which employers contribute money. By channeling that money through the National Bank of Alaska (NBA)—where Carr sits on the board of directors—and investing it almost entirely in Alaska, the union has achieved considerable influence in the Alaska financial community and has become one of the area's biggest landlords. In past years the investments were divided between mortgages, real estate, bonds and the stock market, but lately have been solely directed toward Alaska housing and development.

The trans-Alaska pipeline, disputed though its ultimate impact on Alaska may be, has unquestionably been good to Local 959. The swelling employment rolls and spiraling salaries generated by construction of the oil line have pushed the fortunes of the union to alltime highs—and likely will have an impact greater than their dollars.

Since many of the union workers employed on the pipeline project—some 8,000–9,000—are unlikely to remain in Alaska long enough to become eligible to collect from retirement funds collected on their behalf, the pipeline dollars are a double bonanza for the union.

Not only do the pipeline funds mount unquickly since some workers will never claim their retirement, a lot of that money will stay put.

In addition, the union and its building corporation have direct property holdings as well—some $33 million in planned assets, at the last count.

That total includes more than $25 million for the planned mall-hospital-professional office complex which will sit on a controversial state land lease at Airport Heights Road and 15th Avenue. Now under challenge from the state—which has declared the contract invalid—the lease first was called to question in November, 1974 when The Daily

News reported the contract had been negotiated with former state officials to allow the union to pay less than $350 monthly to lease the 20 acres of public land.

Also in the Teamsters portfolio is a 44.14-acre site in Fairbanks—now valued at about $3 million—on which the union is constructing another massive office-headquarters complex. Advance publicity has put the eventual price tag there at $6.5 million.

The former Anchorage union hall, located at 1833 E. Fifth Ave., pales in comparison—but is itself assessed at about $661,350. The empire also owns a lot and building in Valdez worth $154,000; the 14.2-acre site of a planned recreational complex near the intersection of Boniface Parkway and Tudor Road valued at $355,000; a large lot near Lake Otis Parkway and DeBarr Road pegged at $354,600; three downtown Fairbanks lots worth about $317,525; and a lot and building at 306 Willoughby Ave. in Juneau valued at $35,100.

The Medical Dental Building Corporation, associated with the union through involvements with Anchorage Community Hospital, controls another $1.5 million in property.

Teamsters also have access to their own credit union, a federally chartered institution which began in 1964. Now managed by Emmitt Wilson, who served as commissioner of Commerce under Gov. William A. Egan, the facility automatically enrolls Teamsters through a seven cents-per-hour payroll deduction plan and claims more than $2 million in assets. More than 8,000 members earn 7 per cent interest on deposits with the Alaska Teamsters Federal Credit Union, which has in its 11-year history handled more than $10 million in loans.

The union also commands three leased aircraft and employs two pilots to fly the sleek Lear jet and two Merlin turbo-props. The aircraft are on standby as emergency medical evacuation ambulances for Teamsters, a chore they handle an average of seven times monthly, but also are used to ferry Carr and others to meetings in Alaska and Outside.

Local 959 has built its empire on a number of foundations, but the most important clearly is its ability to win hefty contracts from employers in Alaska.

Representing nearly 80 crafts and trades ranging from surveyors to long distance telephone operators, the impact of Teamster-won wages and fringe benefits spreads pervasively throughout the state. The fact that Teamsters earn such hefty incomes and have services from medical care to recreation, some employers say, means other Alaskans must pay more to live in the 49th State.

A survey published by The Daily News last week reported a grocery basket filled with the same 26 items would cost $8.48 more in Anchorage than Seattle—but pegged only $1.79 of that difference to freight charges. Although higher costs in rents and utilities help boost local prices, an Anchorage grocer said, the difference is largely due to labor costs which are almost double the Seattle figure.

One large Anchorage firm recently tallied up the cost of employing one Teamster-represented worker here and compared that total with a similar worker in Seattle. The difference in one year: almost exactly $12,000 more in Anchorage.

The tally showed graphic differences in some cost categories. Contributions to the union pension fund were $1,144 yearly in Seattle; in Anchorage the total was $4,368. The Seattle worker was paid wages of $13,344 for working 1,920 hours; the Alaskan received $18,087 for working 80 hours less.

The overall total for a Seattle worker was $15,732.92 for a year. In Anchorage, the total was $27,730.80.

The dollar cost of employing Teamsters isn't the only worry which employers express.

Gov. Jay S. Hammond has voiced strong reservations about state employes being represented in bargainings by the Tri-Trades Public Service Council composed of Teamsters, Laborers and Operating Engineers. He questioned the conflict of loyalty which could come from having state workers dispatched directly from union halls.

Hammond also got into hot water after he was quoted in the Los Angeles Times saying Anchorage police—whose employe association is represented by Teamsters at bargaining time—are "Teamsters first and police second." Although the governor quickly said he did not mean that as a blanket condemnation—and despite immediate, angry denials from the Anchorage police chief and association leaders—Hammond's assessment finds support among a number of law enforcement personnel in Alaska—including some within the Anchorage Police Department.

One example comes in the area of overtime paid for court appearances. Under the Teamster-negotiated contract, a policeman who appears in court even five minutes beyond the end of his shift is automatically paid for four hours overtime. One patrolman, according to informed sources in the municipal government, boosted his salary by $1,154 in one month by overtime paid for court appearances. He was an officer in the Teamster-affiliated association, but others cashed in on the overtime provision as well. The total in court overtime for one month this year was $11,875.46—with $2,396.53 going to three officers.

The high salaries and good benefits won for Teamsters Union members have inspired in them a number of reactions—one of the most important of which is loyalty. "Given the salaries and that womb-to-tomb care, it's not hard to understand why Teamsters are willing to back Jesse (Carr) and the union," one observer said.

And back him they do.

There are more registered independent voters (87,657), more Democrats (47,192) and slightly more Republicans (25,422) than card-carrying Teamsters in Alaska—but that is hardly a measure of the union's political clout. Backed by its ability to deliver money and votes and by the services of lobbyist Lewis M. Dischner, Local 959 has time and again demonstrated why it is rated the most consistent political force in Alaska.

As the last gubernatorial election dramatically illustrated to political analysts, the behavior of traditional political groups is largely unpredictable—and that dilutes their power.

In the face of that political unpredictability, the ability of the union to deliver a large bloc of ballots is especially impressive. While Hammond's victory in some measure refutes the union's reputation as kingmaker, the Teamsters are yet a force with which any political candidate must reckon.

In addition to votes represented by the membership, the union also delivers other key ingredients of political campaigning: dollars to fuel the campaign machine and manpower to keep it rolling.

In the 1974 elections, the union's voluntary political arm reported spending more than $21,000 in campaigns in the state. As always, the political funds were spread across a wide range of candidates representing diverse political philosophies.

Although traditionally aligned on the issues with Democratic candidates, the union does not hesitate to back friendly hopefuls from any party. As early as 1962, for example, the union reported backing Republican Mike Stepovich with a $2,000 contribution and allotted $500 to Bruce Kendall, then a GOP candidate. Almost half the $5,850 of organizing funds spent on politics that year went to Republicans.

Teamster political activity doesn't stop when the votes are counted. The union paid Dischner $7,500 last year to keep its position before the Alaska Legislature.

The Alaska Teamster story is far from over. Daily, Teamster involvement in Alaska grows with its bank accounts and membership list. Daily, the arms of the empire enfold still more of the state.

NASA SAVES MONEY BY TALKING MORE, TRAVELING LESS

Mr. MOSS. Mr. President, I am pleased to report that the National Aeronautics and Space Administration saved almost $1.3 million last year by using telephone conferences to replace travel by Government officials.

NASA traditionally has been one of the better-managed Government agencies. This saving shows what can happen when responsible congressional oversight stimulates an agency to keep a close watch on costs.

The space agency made these savings by setting up a teleconference system at 34 locations in its installations and key contractor facilities throughout the Nation. These rooms are linked by high-fidelity telephone lines for voice communications and special facsimile equipment that allows charts and graphs to be displayed at each conference site. This network is controlled by a switchboard at NASA's Marshall Space Flight Center, Huntsville, Ala.

NASA estimates that using the teleconference system replaced 4,663 trips in 1975. The agency found in September 1974 that the average official trip cost $309. That figure surely would be higher today. NASA computes the saving in travel costs at $1,440,867. Subtracting the teleconference circuit leasing cost of $157,344 gives a net saving of $1,283,523.

This net saving was about 9 percent of NASA's travel budget last year. This year, the agency tells me, it expects to save about 20 percent of its travel budget through more extensive and efficient use of the teleconference system.

Mr. President, NASA performance in cutting costs by reducing Federal travel costs and reducing the number of personnel by saving time sets a standard that other Government agencies should emulate.

TIMBER MANAGEMENT

Mr. FANNIN. Mr. President, recent court decisions affecting timber management on National Forests in Alaska and West Virginia based on a narrow interpretation of the 1897 Organic Act have nationwide significance.

If left unchanged the impact of these decisions throughout the Nation could result in a reduction of timber supply from the National Forests of approximately 50 percent. This would lead to widespread unemployment throughout the wood products industry and to higher prices to consumers.

Legislation to correct the problems raised by the court decisions has been approved by the Committee on Agriculture and Forestry, which held joint hearings and markup sessions with the Committee on Interior and Insular Affairs. While the reported legislation, S. 3091, does correct the 1897 Organic Act provisions which led to the court decisions, several sections of the bill have raised some concerns about limitations on timber management and their effects on the economy. If these concerns are justified it is hopeful that clarifying amendments can be adopted when the legislation reaches the Senate floor.

Mr. President, to illustrate the interest in this situation beyond West Virginia and Alaska, I ask unanimous consent to have printed in the Record a joint memorial recently adopted by the Arizona Legislature.

There being no objection, the Joint Memorial was ordered to be printed in the Record, as follows:

A *Joint Memorial* urging congressional action to protect and promote the multiple-use concept of national forests

Whereas, federal court decisions based on narrow interpretations of the 1897 Organic Act that restricts management of the Monongahela and Tongass National Forests have severely reduced supplies of timber, pulpwood and other wood products from nine national forests in a four-state region of the eastern United States and in part of Alaska; and

Whereas, these decisions have established strong legal precedents and other court cases are pending or foreseen that could apply a restrictive interpretation of the United States Forest Service's forest management and timber sales authority to all of the nation's one hundred fifty-five national forests, including the seven national forests in Arizona; and

Whereas, on a nationwide basis, the resulting timber sales "embargo" would drive the prices of lumber, plywood, paper and other forest products beyond the reach of many customers, eliminate the jobs of more than one hundred thousand people directly dependent on national forest timber, adversely affect the livelihood of four million others who depend to varying degrees on timber resources, escalate the cost of housing already in short supply to even greater heights, impede the recovery of the home construction and forest products industries which have yet to emerge from their worst slumps on record, increase inflationary and recessionary pressures and generally disrupt the national economy in the same manner as the recent Arab oil embargo; and

Whereas, in Arizona more than four thousand people are employed in forest related operations largely dependent on timber sales from the seven national forests in the state that contain more than two million three hundred thousand acres of commercial forest land which would be impacted by application of the Monongahela decision in Arizona; and

Whereas, twenty-five per cent of the receipts of the federal treasury from national forest income, of which timber sales is the major contributor, that annually go to counties in lieu of land taxes to help pay for schools and roads would be dramatically reduced and create fiscal problems for thirteen counties in Arizona; and

Whereas, the court decisions ignore nearly eighty years of advances in the development of scientific forest management practices by upholding a law passed three years before the first forestry school was opened in the United States; and

Whereas, the court decisions effectively prohibit the practice of professional forestry in the national forests and therefore seriously retard the improvement in tree growth and forest management that are needed to insure adequate supplies of timber for future generations; and

Whereas, the restrictions in forest management would reduce the quantity and quality of browse and forage needed by wildlife and livestock; and

Whereas, the restrictions in forest management would adversely impact the regulation and protection of water resources, a particularly vital matter for industrial, agricultural and domestic users in Arizona; and

Whereas, the decline in timber sales would retard the construction and maintenance of roads needed for access into the forest not only for timber removal, but for recreation, mining and protection against natural catastrophes such as fire, insects and disease; and

Whereas, the court decisions generally prevent the Forest Service from achieving the management directive set forth in the 1960 Multiple Use-Sustained Yield Act, which requires "the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forests without impairment of the productivity of the land"; and

Whereas, the Society of American Foresters, a national organization with twenty thousand members representing the forestry profession in the United States, has formally stated it is "gravely concerned about the adverse impacts on forest land management" of the court decisions, and sees a "clear need" to revise the 1897 Organic Act in order to "encourage flexibility in forest management so that management prescriptions for each forest area are appropriate in terms of the area's capabilities and provide for continuing fulfillment of human needs in a way which is environmentally sound"; and

Whereas, the courts, which have called the 1897 Organic Act an "anachronism" and recognized the serious economic repercussions of their decisions, have said it is up to Congress, not the courts, to remedy the situation.

Wherefore, your memorialist, the Legislature of the State of Arizona, prays:

1. That the Congress of the United States enact legislation immediately to assure that the forest product needs of consumers and the well being of those whose livelihood depends on our forest resources in Arizona and elsewhere across the United States will not be further jeopardized by an abandonment of the multiple-use concept, which directs the use of our national forests for a broad range of needs and purposes, including watershed protection, fish and wildlife development, rangeland for livestock grazing, recreation, scenic enjoyment, as well as a source of wood fiber.

2. That such legislation not restrain professional management of our national forest lands that is so essential now for the use and enjoyment and to meet the needs of future generations.

3. That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Delegation to the United States Congress.

THE SOUTH CAROLINA GENERAL ASSEMBLY SUPPORTS H.R. 8318

Mr. HOLLINGS. Mr. President, on behalf of Senator Thurmond and myself, I would like to bring a concurrent resolution, passed by the South Carolina General Assembly, to the attention of my colleagues in the Senate. It memorializes Congress to enact H.R. 8318 in order that certain citizens will not be deprived of medicaid and other benefits.

I ask unanimous consent that this resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

A concurrent resolution memorializing Congress to enact H.R. 8318 in order that certain citizens will not be deprived of medicaid and other benefits

Whereas, effective July 1, 1976, many citizens of this State, as well as many other states, will become ineligible to receive Medicaid and certain other benefits because of cost of living increases in benefits from Social Security or other federally funded programs; and

Whereas, a Bill H.R. 8318, is now pending in the United States Congress which would remedy this problem. Its title reads "A Bill to amend the Social Security Act to make certain that recipients of supplemental security income benefits, recipients of aid to families with dependent children, and recipients of payments under the veterans' benefit programs and certain other Federal and federally assisted programs will not have the amount of such benefits, aid, or payments reduced because of increases in monthly social security benefits." Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That Congress is hereby memorialized to enact H.R. 8318 in order that many deserving citizens throughout the United States will not be deprived of Medicaid and certain other benefits because of cost of living increases in Social Security benefits and other federally funded programs.

Be it further resolved that copies of this resolution be forwarded to the Clerk of the United States Senate, the Clerk of the United States House of Representatives and to each member of Congress from South Carolina.

HOW POSTAL COSTS ENDANGER AMERICA'S READING HABIT

Mr. STEVENS. Mr. President, the distinguished Senator from Arizona (Mr. Goldwater) recently wrote an eloquent statement regarding increased postal rates and their impact on a free press. Many of our colleagues joined Senator Goldwater, Senator McGee, and myself in proposing legislation which would mitigate the dramatic postal rate increases for second class or newspaper or magazine postage rate. Senator Goldwater has been in the forefront in the fight to insure public access to a free press. I ask unanimous consent to have printed in the Record the remarks of the junior Senator from Arizona as they appeared in the Journal of Legislation, Notre Dame Law School.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, May 2, 1976]

How Postal Costs Endanger America's Reading Habit

(By Barry Goldwater)

A serious threat to the American reading public has gone almost unnoticed. The news media conveyed little information to the public about the problem, treating it more as in-house business than as the legitimate news story it really is.

But haunting the American press today are monstrous increases in the cost of sending its product in the mails. This financial burden on the press endangers its very existence as a diverse, numerous and independent institution.

As a result of the reform of the old Post Office Department from a governmental unit into a quasi-independent, private business known as the U.S. Postal Service, the rate for mailing publications has shot up drastically. At one point in 1975, the ruling of a single administrative law judge for the Postal Rate Commission threatened to increase mailing rates for local newspapers by 250 percent, books by 96 percent, magazines by 121 percent and nonprofit publications by 132 percent.

Although the Rate Commission did not adopt the recommendations of the law judge in full, stunning increases are nevertheless scheduled under two decisions already made by that body. For example, the rates currently paid by magazines and metropolitan newspapers have doubled since 1971, when the Postal Service began operations. As a result of the most recent rate decision and new Postal Service proposals, the average rate paid by these publications will be nearly four times greater than what they were in 1971. In dollar terms, these magazines and newspapers paid $128 million to the Postal Service in 1971, and they will pay more than $450 million in 1979. Average rate increases for nonprofit publications will be up 700 percent to 1,000 percent by 1981!

The impact of these increases can be disastrous to publications trying to keep their economic heads above water. Many nonprofit and profit magazines and newspapers that depend on mail delivery will simply fold up. Libraries will be forced to curtail their book-by-mail services and their book purchases. (The total circulation of newspapers and magazines in the mails is almost 9 billion issues a year; half the books purchased by American libraries are delivered by mail.)

It's the general public that stands to suffer the most. And remember, our society is based upon the premise that a self-governing people will receive the knowledge and information that is necessary for us to make responsible decisions.

And if churches find it too expensive to distribute religious materials in the mails, if retired persons' groups are unable to meet the cost of mailing news bulletins to their membership, if schools must trim mail purchases of classroom publications because of higher rates, or if small-circulation newspapers that meet the special needs of local communities disappear, who can predict what the impact upon the culture of the American people might be?

With this in mind, I sponsored legislation with other members of Congress, eventually enacted, phasing large postal rate increases on mailers of publications over a longer period of time than originally mandated by the Congress when it changed the postal structure. "For-profit" magazines, newspapers and books are given until 1979 to adjust to the rising postage rates. Nonprofit publications are allowed until 1988 to cope with these increases. In other words, mailers of publications will pay the full rate of all postage increases by the end of their respective adjustment times, but instead of having to meet what is in effect several years of increases in a single year, publications will be given a reasonable period of time for absorbing the costs. During the phasing period, Congress is to appropriate for the Postal Service budget the difference between the rate actually paid by mailers and the rate which would have been paid absent the phasing.

The bill's sponsors had inserted language in the legislation which they believed would make the annual appropriations process nearly automatic, but did not count on the resourcefulness of the Office of Management and Budget in defending what they believe is an executive prerogative. So it shall be my aim to persuade Congress and the President to carry out the commitment we made in putting the law on the books by funding the phasing program each year until it ends.

How can a political conservative who ordinarily is skeptical of more public spending support this program? Basically there are six grounds which appear compelling:

First, no permanent federal payments are provided. By 1988, all publications will be paying the entire amount of all postage increases.

Second, the rate increases were unanticipated and unforeseeable consequences of action taken by the government when it transformed the old Post Office Department into the Postal Service. Instead of stabilizing postal costs as Congress expected, the change created a postal nightmare in the form of alarming rate increases.

Third, the increases are beyond the control of mailers, and not the result of bad business judgment by publishers.

Fourth, there is solid proof that mailers have made every feasible effort they could to cope with increased mailing rates by implementing numerous cost-cutting measures which verge on affecting the very nature and quality of the publications being mailed.

Fifth, the circulation of the printed word in the mails has historically been treated as a public service which should be promoted by the government.

Sixth, this is an area in which the subject of free speech, and all that means to the general public and our way of life, is truly involved.

Does aid from the government in this case hold any possibility of undermining the freedom of the press? With the historic acceptance of freedom of the press by the American people as a fundamental component of our liberty, there can be no serious fear that our press would yield its independence for a chance to feed at the public trough. The press in the United States would reject public aid long before it became too pervasive. The American public would never accept press aid at a level where it would approach the danger point—even if a rare publication could be found that would accept it.

Thomas Jefferson once wrote that "were it left to me to decide whether we should have the government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter." His words do not end there, as is a common misconception, but with the added warning that "I should mean that every man should receive those papers, and be capable of reading them." Media historian John Tebbel writes: "Jefferson understood that the effectiveness of the press in a democracy is in proportion to the number of people who are able to read its publications and take the time to do it."

A relatively small amount of public funds is needed to provide time in which American publications can adjust to steep increases in postage rates. Surely this program is deserving of the support of all who support freedom.

WHITHER AMTRAK?

Mr. PELL. Mr. President, the Senate is now preparing to consider legislation to provide funding for the National Rail Passenger Corporation—Amtrak—for the coming fiscal year (S. 3131).

During the past 3 years a great deal of time has been spent by the Congress on reorganizing and revitalizing our rail system. Under the leadership of Senator Hartke, the main block of such legislation has been completed. Now the task has begun of putting to good use the money Congress authorized.

The main thesis of rail reorganization legislation is that if trains are made fast, comfortable, reliable and safe, riders will be attracted, thereby lessening the need for Federal involvement and lessening the strain on other modes of transportation and needed resources. Yet Federal involvement is necessary in these initial stages to insure that rail transportation is brought up to an acceptable level. The Nation's taxpayers are now compensating for decades of neglect by private rail companies in the Northeast/Midwest region.

We have already seen how travelers have responded favorably to improved rail service in the Northeast corridor. I believe that high-speed rail will be the mode of the future in megalopoles such as Boston-Washington, Chicago-Detroit, Los Angeles-San Francisco, and others. But clearly high-speed rail must be given a chance. To atone for the mistakes and inaction of the past will not be easy, but it is essential if our Nation is to survive a time of energy and resource scarcity, combined with increased mobility.

Mr. President, the Washington Post of Sunday, May 9, 1976, contained an excellent analysis of Amtrak at the crossroads, written by assistant financial editor William H. Jones.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Whither Amtrak? Who Will Pay the Futuristic Freight?

(By William H. Jones)

Secretary of Transportation William T. Coleman Jr. was approached some time ago by a Midwesterner, who expressed an appreciation of Amtrak and urged that the federal government continue to support a national passenger train network.

Coleman recalls that he asked how often this person rode an Amtrak train. The answer was about once a year—to visit a sister several hundred miles away.

As Amtrak celebrates its fifth birthday, having been born at 12:01 a.m. on May 1, 1971, the central question about the future of rail passenger service in the United States is whether millions of dollars of taxpayer money should be spent to permit a very small portion of the population the luxury of riding an intercity train.

In the view of Coleman and many other Ford administration leaders, as well as most officials of the railroad industry itself who speak out on such matters, the once-a-year travel example cited above is a misuse of federal funds. It would be cheaper, Coleman notes, to send the citizen by taxicab or commercial aviation.

The fact is that less than 1 per cent of all intercity travel in America today is by rail and the train service that exists is being underwritten by evergrowing federal subsidies.

A new report by the General Accounting Office, the congressional watchdog agency, concludes that from 1976 through 1980, at least $6.2 billion of federal funds will be needed to underwrite Amtrak's losses. This projected deficit is about $3.2 billion more than that estimated by the National Rail Passenger Corp. (Amtrak's formal name).

Amtrak has reported losses each year since it was established by Congress as a "for-profit" corporation, to rescue a skeleton system in intercity passenger service. In the absence of the federal solution sought by the government, private rail companies were eliminating unprofitable passenger trains as quickly as they could and the financial condition of some companies was worsened by losses on passenger trains that the Interstate

Commerce Commission found to be necessary for the public interest.

As of June 30, 1975, Amtrak's operating losses totaled $839 million. Only about 50 per cent of all costs are covered from passenger fares; in fiscal year 1975 Amtrak had expenses of $560 million and took in revenues of $247 million, for a net loss of $313 million. Federal grants have been given to cover these losses in addition to loan guarantees to finance capital improvements.

Although this spending is far less than the federal taxpayer has offered to subsidize highways for buses and cars, or airports and air-control facilities for planes, the reality is that around 85 per cent of all intercity trips in this country take place in a private automobile.

In the third quarter of 1975, the latest period for which data are available at the Department of Transportation, the non-auto portion of intercity travel broke down as follows: 4 million passengers by Amtrak, 36.5 million passengers by bus, 55.4 million passengers by air. These figures do not include nearly 61 million passengers carried on non-Amtrak trains, since virtually all of these riders were commuters.

Although Americans may not ride the trains very often, there is no question that many still love the trains, if only to have them around for the infrequent occasions when they want to use them—if planes are grounded in a storm, for example.

But the attachment runs deeper; for many people, riding the train is part romance, part nostalgia. And there simply is no more relaxing way to travel than on a comfortable train, with passing cities and countryside, people to talk with and a chance to read. There's a combination of fun and adventure on a train ride and a link to the country's past that highways and airports can't capture.

In a 1907 classic, "The Boys' Book of Locomotives," J. R. Howden tried to figure out some of man's fascination with the train. Ultimately, he said, there is a romance because "man sees in this product of his genius some reflection of himself." Said Kipling: "The locomotive is, next to the marine engine, the most sensitive thing that man has made."

Still, Coleman says he can't figure out why anyone would want to spend the better part of a day traveling by train between Boston and Chicago when the same trip consumes only a couple of hours by plane, especially since every train rider won't pay enough to cover the full fare.

Compared with other forms of intercity transportation, the GAO report noted, rail travel has received a much smaller share of federal expenditures in recent years. In fiscal 1976, for example, highway outlays totaled $5.2 billion, air spending $3 billion, waterways $2.4 billion, mass transit $2.1 billion, and rail only $700 million. Clearly, rail travel is not a top priority in the federal budget.

There was a day in America when the passenger train was the best way to travel between cities, before automobiles and buses and highways, and before the airplane. Railroad companies even competed for the business of riders, not so long ago.

Take the example of service in 1902 between Philadelphia and Atlantic City. Many businessmen established their families on the shore for the summer months and commuted to work by either the Reading (56½ miles of track) or the Pennsylvania (59 miles). Both railroads whose tracks were virtually parallel, operated morning and evening expresses, including 10 minutes needed to ferry passengers across the Delaware River to the rail terminal in Camden, N.J.

The Reading made the trip in 46½ minutes in 1902, with an average speed of 71.6 miles an hour; for 35 consecutive miles on a typical journey, the train was running as fast as 85.7 miles hour. Although the Pennsylvania train was a bit slower, the point is that the two companies were competing for business, with each running modern vestibule cars and seeking fast service.

Today, the competition for riders comes from the private automobile, the intercity bus and the airplane. In most cases, the trains are slower than the fliers that used to speed toward Atlantic City from Philadelphia on a warm summer evening in 1902. Outside of the South, where Southern Railway continues to operate some passenger trains on its own (having elected not to turn over its business to Amtrak), Amtrak has a national monopoly.

Despite cynical comments by some Washington politicians and others, comparing Amtrak's mounting losses to those of the U.S. Postal Service and lumping the two together as examples of what happens when business is taken over by government, the record to date shows that Amtrak has made significant strides in improving passenger service.

Five years ago, Amtrak assumed rail operations that had been causing annual losses for private rail firms of around $500 million a year. Thus, the economy in general and financially squeezed railroads in particular were aided by this new government venture from the start, by placing the burden for these losses on the general taxpayer.

When it began, Amtrak operated trains on 21 domestic routes designated by the federal government as a "basic" system. Today, Amtrak has 35 routes covering about 25,000 route miles, with four points that connect for service in Canada and Mexico.

During its initial years, Amtrak had to depend on the private rail companies for personnel, maintenance, stations and equipment. The passenger cars were old, the personnel often were surly and the stations were dirty.

In the Northeastern states, where Amtrak carries most of its passengers, the rail system was deteriorating almost daily under the managements of bankrupt companies, particularly at the Penn Central. Trains operating on schedules that didn't compare in speed with those of decades earlier, arrived late more often than not.

When the energy crisis hit in the winter of 1973, Amtrak's facilities were pressed beyond capacity and some riders were turned off by bad service. But business boomed on the rails and the gasoline shortage and oil embargo combined to give Amtrak a psychological lift, cementing support for an intercity network on Capitol Hill.

By now, most of the rail corporation's early problems have been solved. With new equipment being added every week, particularly along heavily traveled routes, it is the worst possible time to start talking about a cutback in service in order to trim the federal budget deficit, according to Amtrak president Paul H. Reistrup.

Only today, he argues, can a true test begin for public acceptance of quality intercity passenger travel. He agrees that some money-losing routes should be changed, either by different scheduling to make trains more attractive or by outright elimination if there is no evident appeal. But "the country seems to want" better rail passenger service, Reistrup says, despite the administration's call for cutback.

Amtrak's management has cited a number of "early indications" to support the belief that a test of public acceptance over the next five years will amount to a vote of confidence. In the Northeast corridor, primarily New York to Washington, rail travel has become competitive with other types of transportation and may become profitable. Between Detroit and Chicago, new turbine trains replaced conventional equipment and a more frequent schedule was started, resulting in a 72 per cent boost in riders.

Coleman agrees that Amtrak should continue to provide these corridor-type services between large cities, with federal aid as needed. Where he parts ways with Amtrak's management and a majority of the rail firm's directors in the future of longer distance intercity travel, such as the Chicago-to-Florida route, which operated with a loss of $8.3 million in the period from October 1974 to February 1975, taking in revenues of only $2.2 million. Even on the popular New York-to-Florida trains, where revenues totaled nearly $13 million for the period above, expenses were $32 million for a net loss to Amtrak of $19 million.

With new cars, faster speeds, and new routes for some trains, the management of Amtrak believes it can trim losses on its long-distance trains. Thus the future of Amtrak is being put to the vote of the public.

A crucial period for Amtrak has started with major decisions expected in short order. Federal funding for the next fiscal year must be decided soon, with the Ford administration asking for a level of spending that Reistrup says will force his management to eliminate all but a few trains between key cities. Congress is expected to vote on the side of higher spending but the threat of a presidential veto has been mentioned.

In addition, Amtrak's directors voted to cast aside administration objections and to acquire the passenger rail system between Boston and Washington; the Department of Transportation favored a lease arrangement. Talks on this ownership, including negotiations with labor unions, now are in progress and must be concluded this year.

In any event, a key development for Amtrak is required federal spending to improve the rail facilities between Boston and Washington, holding out the promise of vastly improved regional rail services within three years. A number of new trains also are being studied and a daily Washington-Richmond service will be added later this year.

In Baltimore, the federal government will spend $385,000 to clean up the old Pennsylvania Station, $200,000 of city money will be used to improve the station site and $369,440 of Amtrak funds will be spent to renovate ticket counters and restrooms, among other improvements.

Congress has authorized $1.6 billion to improve the Northeast corridor service for 120-mile-an-hour trains; within five years, Washington-to-New York travel time will be cut to 2 hours and 40 minutes.

For longer trains, meantime, Amtrak has launched extensive advertising and promotion campaigns, as well as discount price tickets and other fare experiments, including a new U.S.A. RailPass, offering unlimited travel for certain fixed prices (higher cost in summer, lower in winter).

Nearly everyone agrees that the government was wrong five years ago to set up Amtrack as a for-profit company. As a period of testing quality rail service begins, perhaps lasting another five years, the question for American taxpayers is how much of a rail passenger loss are they willing to subsidize every year as service the government should provide for the public at large. It will never make a profit. What sort of loss is acceptable, if any is?

NONDEGRADATION FACT SHEET

Mr. MUSKIE. Mr. President, many questions have been raised in this Chamber regarding the policy of nondegradation under the Clean Air Act. This is an important policy first contained in the 1967 Air Quality Act. It is a policy I helped develop and one I continue to support.

I believe the Senate Public Works Committee has produced an important clarification of that policy in the Clean Air Amendments of 1976—a clarification that is definitely superior to the present Environmental Protection Agency regulations which have governed the Nation for the past 18 months. On April 29 in the CONGRESSIONAL RECORD on page 11761, I gave a detailed explanation of the reasons why the committee bill is preferable to continuing the Environmental Protection Agency regulations, as the Moss amendment would do.

I continue to believe that Congress has an obligation to try to define these policies as has been done in the committee bill, even though we can abandon that obligation and leave resolution of the issues to the Agency and the courts, as the leading floor amendments would do.

There are presently 18 printed amendments and half a dozen unprinted amendments to the committee bill. As I said upon introduction of amendment 1656, rather than rewrite this bill on the Senate floor, it is preferable to adjust the No_x auto standard and extend the act for 3 years.

Many of the floor amendments proposed for nondegradation from misconceptions regarding nondegradation policy. In order to help Members evaluate the pros and cons of such a policy, I would like to provide some facts which I believe rebut the erroneous or misleading allegations which have been raised against the committee's nondegradation proposal.

ALLEGATION

Legislative hearings have not been held on this provision.

FACT

Since enactment of the 1970 clean air amendments, the Subcommittee on Environmental Pollution has held 56 days of hearings to review implications of that act. Specific hearings on nondegradation were held in 1973, 1974, and 1975. In 1975, 14 days of hearings were held and 48 markup sessions were conducted. One entire day of hearings was focused completely on nondegradation in 1975, and the subject was discussed in numerous other hearings that year. Legislative proposals submitted to and considered by the committee included President Ford's proposal, the Environmental Protection Agency's existing regulations, and legislative proposals from the following organizations: The American Paper Institute, the American Mining Congress, Dupont, the National Association of Manufacturers, Shell Oil, Utah Power & Light, Cast Metals Federation, Chamber of Commerce, National Association of Counties, the Electric Utility Industry, Continental Oil Co., the Sierra Club, and the State of New Mexico. The hearings were a combination of oversight and legislative hearings.

ALLEGATION

States have not been involved adequately in developing these amendments.

FACT

Twenty States joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy. These States joined the initial Sierra Club suit: Alabama, Connecticut, Florida, Kansas, Louisiana, Maine, Massachusetts, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont, Texas. These States filed independent suits requesting the courts to require a nondegradation policy: Illinois, New York, Texas, California, Michigan, and Minnesota—Minnesota adopted the Michigan brief. Only three States opposed the suits requesting the courts to require a nondegradation policy: Utah, Arizona, and Virginia.

In addition to joining suits, the following States have expressed support over the past several years for a policy of prevention of significant deterioration: Alaska, Colorado, Georgia, Hawaii, Idaho, Indiana, Kentucky, Maryland, Montana, Nevada, New Jersey, North Dakota, West Virginia, Wisconsin, and Wyoming.

Eight States testified in 1975 during the clean air hearings: New Mexico, Nebraska, Texas, Colorado, New York, California, Montana, and West Virginia. All submitted comments on nondegradation. Three meetings were held between the committee staff and State air pollution control officials representing the Members of the Governor's Conference. In addition, 12 meetings were held between individual State officials and committee staff members.

It was on the basis of the suggestions made in such meetings and statements from these witnesses that caused the Committee to make substantial changes in the legislative proposals regarding nondegradation.

On May 12, the Chairman of the National Governor's Conference, Gov. Robert D. Ray of Iowa, sent a telegram opposing the delay of congressional action on this issue and said this:

> I would like to advise that the policy of the National Governor's Conference (NGC) call for a decision for Congress to allow each State maximum flexibility to incorporate local guidance in its decisionmaking. An amendment to be offered by Senator Moss to S. 3219 would put off Congressional action on this action.
>
> Many States are concerned that the passage of such an amendment would result in continuing litigation over present court-ordered Federal regulations and bring about uncertainties among the States and other interested parties in planning for overall development in clean air areas. Therefore, I urge you and your colleagues to insure that the vital issue of prevention of significant deterioration is settled now by Congress.

ALLEGATION

No studies have been done. A further 1-year study is necessary to have adequate information upon which to base a decision.

FACT

This is totally untrue. Ongoing studies of implementation should be conducted, but extensive studies already exist analyzing nondegradation policy and options.

The Environmental Protection Agency has spent approximately $1 million in studies on nondegradation policies. This is one of the most extensive and expensive series of studies which has been conducted on environmental regulations. Prior to promulgation of the final EPA regulations on December 5, 1975, EPA compiled the following studies:

First. Technical Support Document—EPA Regulations for Preventing the Significant Deterioration of Air Quality, Environmental Protection Agency, January 1975.

Second. "Sierra Club et al. Litigation—Significant Deterioration," B. J. Steigerwald, September 27, 1972.

Third. "Summary of Responses Received Regarding the Prevention of Significant Deterioration."

Fourth. "Summary of Responses Received Regarding the August 27, 1974, Proposal To Prevent Significant Deterioration of Air Quality."

Fifth. "Summary of State Responses on 'Significant Deterioration' Proposal."

Sixth. "The Impact of Proposed Nondegradation Regulations on Economic Growth," volumes 1 and 2, Harbridge House, Inc., November 1973.

Seventh. "Implications of Nondegradation Policies on Clean Air Regions: A Case Study of *the* Dallas-Ft. Worth AQCR (215)," U.S. Department of Commerce, May 1974.

Eighth. "Analysis of the U.S. EPA's Proposals to Prevent Significant Deterioration Relative to the Development Outlook for New York State," New York State Department of Environmental Conservation, October 1973.

Ninth. "Impact of the Proposed Nondegradation Alternatives on New Power Plants," TRW, Inc., September *28, 1973*.

Tenth. "Economic Growth and Development Impacts of Proposals to Prevent Significant Deterioration of Air Quality."

Eleventh. "Scientific Factors Bearing on Regulatory Policies to Assure Nondegradation of Air Quality."

Twelfth. "Availability of Air Quality Data in Areas Generally Below the NAAQS."

Thirteenth. "Technical Data in Support of Significant Deterioration Issue."

Fourteenth. "Nondegradation and Power Plant Size," J. A. Tikvart, August 12, 1974.

Fifteenth. "Significant Deterioration in Zone I Areas and the Relative Location of Power Plants," J. S. Tikvart, October 15, 1974.

Sixteenth. "Discussion Paper on the Magnitude of the Class II Increment in the Significant Deterioration Regulations."

Seventeenth. "Emissions of Sources Subject to Significant Deterioration Issue."

Eighteenth. "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 10: Reviewing New Stationary Sources," EPA, September 1974.

Nineteenth. "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 12: Applying Atmospheric Simulation Models to Air Quality Maintenance Areas," EPA, September 1974.

Twentieth. "Findings of Task Force on Significant Deterioration," R. G. Rhoads, December 20, 1973.

Twenty-first: "The Largest Annual Average, Maximum 24-Hour and Minimum 3-Hour Concentrations of Sulfur Dioxide Produced Per Year by a Modern 1000-MW Electric Power Plant Meeting the New Source Performance Standards for Sulphur Dioxide Emissions," Enviroplan, Inc., 1974.

In addition, the Environmental Protection Agency received over 3,000 pages of testimony at the hearings held on its proposed regulations. Ninety-one comments were received from industry.

The following studies have been conducted on various Senate committee proposals:

First. "An Analysis of the Impact on the Electric Utility Industry of the Alternative Approaches to Significant Deterioration", EPA/FEA, October 1975;

Second. Chamber of Commerce Analysis and Discussion Papers;

Third. Analysis of the Impact of the Senate Proposals on the State of Alaska;

Fourth. "A Preliminary Analysis of the Economic Impact on the Electric Utility Industry of Alternative Approaches to Significant Deterioration", EPA, February 5, 1976;

Fifth. "Impact of Significant Deterioration Proposals on the Siting of Power Plants" by Environmental Research and Technology, Inc., February 18, 1976;

Sixth. "Impact Analysis of the Effective Proposed Clean Air Act Amendments and Existing EPA Significant Deterioration Regulations on Electric Utilities in Minnesota and Wisconsin" by David Hoffman, James Bechthol, November 14, 1975;

Seventh. "Technical Studies for Assessing the Impact of Significant Deterioration Regulations" EPA, May, 1976;

Eighth. "Summary of EPA Analysis of the Regional Consumer Impact of the Clean Air Act on Significant Deterioration" EPA, May 3, 1976;

Ninth. "A Preliminary Critique of FEA's Analysis of the Impact of Significant Deterioration on Oil Consumption", May 3, 1976;

Tenth. "Estimated Cost for the Electric Utility Industry of Non-significant Deterioration Amendments Currently Considered by the United States" NERA, April 16, 1976;

Eleventh. American Petroleum Institute Report by John J. Anderson, April 19, 1975;

Twelfth. "Summary of EPA Analysis of the Impact of the Senate Significant Deterioration Proposal", April 28, 1976;

Thirteenth. "Proposed Clean Air Amendments: Implications of Proposed Rules for Nondeterioration of Air Quality on the Construction of Kraft, Pulp and Paper Mills", Environmental Research and Technology, Inc., for the American Paper Institute, September 9, 1975;

Fourteenth. "Proposed Clean Air Amendments: Implications of Nondeterioration Rules on Maine", Environmental Research and Technology, Inc., for the American Paper Institute, August 28, 1975;

Fifteenth. "The Effect of Proposed Nondeterioration Rules on the State of Maine," Environmental Research and Technology, Inc., for the American Paper Institute, October 30, 1975;

Sixteenth. "A Summary of the Background Levels of Air Quality Parameters for the Oil Shale Tracks in Colorado and Utah from September, 1974 through February, 1975", American Petroleum Institute, July 14, 1975;

Seventeenth. "Power Plant Impacts on National Recreation Resources", Department of the Interior, March, 1976;

Eighteenth. "An Air Quality Evaluation for the Intermountain Power Project," Westinghouse Electric Cooperation Environmental Systems, October 16, 1975;

Nineteenth. "Health Basis for Preventing Significant Deterioration: An Ounce of Prevention," December 3, 1975;

Twentieth. "Benefits From Preventing Significant Deterioration of Air Quality", April 14, 1976;

Twenty-First. "Impact of Proposed Non-significant Deterioration Provisions", Draft Interim Report, Inter-City Fund, Inc., April 14, 1976;

Twenty-second. "Impact of Significant Deterioration Proposals Upon Western Surface Coal Mining Operations," Environmental Research and Technology, Inc., for the Federal Energy Administration, May 5, 1976;

Twenty-third. "An Evaluation of Additional Production Costs for Significant Deterioration and Best Available Control Technology Proposals", General Electric Company, April 26, 1976.

All of these studies have highlighted the fact that the conclusions reached depend very heavily on the assumption used in conducting the study. Many studies by industry contained untrue allegations that large portions of the country would be blocked from further development. These studies were inaccurate because their initial assumptions were flawed.

Proposals to delay any nondegradation policy while further studies are conducted are merely a smokescreen for the desire to have no such policy at all.

ALLEGATION

EPA's basis for requiring pollution clean up has been challenged and EPA staff has been charged with deliberately distorting data regarding the effects of pollution.

FACT

These charges have effectively been laid to rest. Hearings held Friday, April 9 by the House Interstate and Foreign Commerce and the House Science and Technology Committee established the following:

First. Current national ambient air quality standards were established prior to the initiation of the study in controversy—the Community Health and Environment Surveillance System Study—CHESS. Even if the CHESS studies were discarded, this would not affect any of the national standards or EPA's implementation policies, all of which are based on a number of studies, of which CHESS is only one.

Second. The CHESS studies, however, should not be discarded; though no study is perfect—and epidemiological studies are particularly difficult to conduct—the CHESS studies have been characterized as the best of their kind in the world and the most reliable epidemiological studies ever carried out.

On April 13, on page S. 5656 in the Congressional Record, the statement of Russell Train, the Administrator of the Environmental Protection Agency, is printed. This statement explains the Agency's analysis of the controvery surrounding the allegation of distortion. I recommend that statement to those who would like to gain some perspective on this whole controversy. Disagreement among scientists always occurs; to equate this with deliberate fabrication and distortion is to misunderstand the nature of such comments from scientists.

ALLEGATION

Costs of construction delays as a result of the Senate non-degradation policy may be extensive; therefore, no such policy should be adopted.

FACT

Greater uncertainty will occur by eliminating the Senate provision than by accepting it and establishing congressional policy in this area. If Congress remains silent on this subject now, that will only aggravate uncertainty, not erase it.

The policy contained in the Senate Committee bill will clarify policy and reduce uncertainty. Sources may then apply for the right to construct new facilities knowing the ground rules. At present no such certainty can occur.

Moreover, present EPA regulations are subject to court challenge. If the Sierra Club wins, then EPA will be required to tighten its requirements. Even if EPA is sustained, it still could revise its regulations to make them more stringent. On the other hand, by prescribing the requirements in the bill, EPA's authority to promulgate more restrictive rules is curtailed.

ALLEGATION

A no-growth buffer zone of 60–100 miles will be required to prevent pollution of the Federal parks.

FACT

This is totally false. Under the Senate bill (but not the EPA regulations), the Class I increment which protects such areas is used as an initial, not a final, test. An appeal is allowed which would permit construction of a major facility regardless of the test for a Class I area if the applicant can demonstrate no adverse impact on the air quality values of the Class I area.

In addition, according to joint EPA–FEA calculations, a well-controlled 1,000 megawatt coal-fired powerplant could locate as close as 6 miles from a Class I area without causing that area's increment to be exceeded.

ALLEGATION

At least 80 percent of many States would be off-limits to new development.

FACT

One percent of the Nation's land would be directly placed in a Class I category, which is designed to protect these important national resources: all international parks, and each national park, memorial park, and wilderness area over 5,000 acres.

ALLEGATION

Amendments not only ban new manufacturing plants, but even new housing, farming operations, and recreation.

FACT

This is false. The provisions only apply to "major emitting facilities" which emit over 100 tons of the pollutant per year and which are listed as a major emitting source category in the bill.

ALLEGATION

The increments (of allowable degradation of air) are often found to be violated by natural emissions which occur in rural and scenic areas. Therefore, further development already is taken up by nature in many areas.

FACT

The increments are in addition to any existing baseline air quality. Such a baseline includes natural emissions and existing manmade sources. The increment is an allowable quota which is added to the existing air quality. Nature cannot use it up. The secondary standards, including natural pollution, establish the limits on growth. No one supports violating secondary standards.

ALLEGATION

Most Federal lands would be class I, effectively ruling out most land in some States.

FACT

This is false. Under the Senate bill, only existing national parks and national wilderness areas over 5,000 acres would be Class I. All other Federal lands, including national forests, Indian lands and monuments could only be redesignated as Class I with State concurrence.

ALLEGATION

The number of mandatory Class I areas will increase as new national parks and national wilderness areas are created.

FACT

This is not true. The mandatory Class I designation only applies to national parks and national wilderness areas over 5,000 acres which are in existence on date of enactment.

ALLEGATION

The prevention of significant deterioration provisions is a Federal land use policy based solely on one criterion—air quality.

FACT

The Senate bill does not require any land classification scheme to be undertaken by the State. The bill in question only regulates air quality and emissions, not land use. The States are free to use the land as they see fit.

Of course, air quality is not the only, let alone the decisive, factor in influencing a State's growth decision. It is merely one factor to be considered.

ALLEGATION

The nondegradation policy would have a much more severe impact in some States than in others.

FACT

This allegation comes from a misunderstanding of the use of air quality increments proposed in the committee bill.

Even without a nondegradation policy, an air quality increment already exists in clean air areas. The increment is the amount of pollution which could be added to the area until the ambient air quality standards are reached. In areas of flat terrain, that increment is large. In areas of severe terrain, that increment—up to the national ambient air quality standards—is smaller because pollution concentrations build up rapidly against mountainsides. Therefore, States with flat terrain have a greater competitive advantage if no nondegradation policy exists.

Under nondegradation policy, this uneven competitive disadvantage would be diminished. The amount of additional pollution allowed in all areas will be the same. Areas of uneven terrain are frequently constrained by the national primary and secondary ambient air quality standards. The terrain effects would provide constraints with or without a nondegradation policy. In such cases, the nondegradation requirement for the use of best available control technology will enable such areas to control pollution and allow further growth.

ALLEGATION

Western States will be held at their present levels of development and not be allowed to develop their energy resources. The Nation will be asked to curtail its industrial output.

FACT

These allegations are false. They echo the erroneous position of the Chamber of Commerce since the summer of 1975—a line which has not been altered even though it has been fully discredited. In responding to the Chamber's allegation, Roger Strelow, Assistant Administrator of the Environmental Protection Agency said:

> I have just read your article in September's Washington Report. . . . The article claims that the Environmental Protection Agency's regulations for the Prevention of Significant Deterioration of Air Quality would endanger States' development and 'ban development in areas 60 to 100 miles adjacent to select Federally owned lands such as national parks and forests.' This is simply not true.
>
> First, the regulations do not apply to all development, but only a select number of the major stationary industrial sources. Thus, contrary to what the article concludes, activities such as construction, farming, light manufacturing, and residential development are not affected by the regulations.
>
> I would like to comment on the article's contention that Congress in amending the Clean Air Act, is considering a 'no growth federal land use policy' based solely on air quality. That is nonsense. In response to the Administration's request to consider all alternatives and to give explicit guidance on a prevention of siginficant deterioration policy that allows a balancing of environmental, economic and energy objectives, the Congressional Subcommittees have provided proposals that give the States the authority to make their own determinations of what constitutes significant deterioration within a framework of allowable air quality levels. Like EPA's regulations, these proposals require the States to consider and balance their various objectives, with full public participation. The proposals apply only to major industrial sources.
>
> The public wants to preserve clean air. According to an August 1975 poll commissioned by the Federal Energy Administration 94 percent of the American people favor preserving our clean air regions.

The EPA analysis of energy facilities indicates that coal gasification, oil shale, coal-fired powerplants and other such energy facilities can meet the nondegradation requirements.

In the CONGRESSIONAL RECORD on April 29, 1976, on page 11761, a new EPA study is printed showing that all major industries could build under the Senate committee's nondegradation proposal. These include powerplants, papermills, smelters, refineries, and so forth.

In sum, Western States will not be precluded from development, and the Nation will not be asked to curtail its output. It will be asked to insure that its growth is clean and that analysis of future development occurs in a rational policy rather than on the basis of piecemeal, private decisionmaking.

ALLEGATION

There will be a loss of employment due to the nondegradation provisions.

FACTS

This is incorrect. In addition to the fact that this provision only applies to new facilities—to employment not yet developed—the pollution control requirements imposed in the committee bill will increase employment, not reduce it. In an immediate sense, more jobs will be needed in order to construct the pollution control facilities associated with compliance—facilities which might not have been installed without these amendments. In an economy with high unemployment, this is a plus.

Studies of the Council on Environmental Quality and Chase Econometrics shows the economic effects of pollution control. These requirements have led us to the creation of one million new jobs, according to CEQ.

ALLEGATION

We do not know which areas of the Nation are clean enough to qualify for coverage under the nondegradation provision and, therefore, must wait for further information before determining that such areas should be protected from significant deterioration.

FACTS

This criticism misses an important difference between nondegradation areas and dirty areas; it implies that expansion in nondegradation areas will somehow be more restricted than expansion in areas which have exceeded national ambient air standards.

This is untrue. In fact, expansion in dirty areas is more difficult. The health and welfare standards have already been exceeded in such areas, and a substantial burden rests on any applicant for a new source to demonstate that he will not worsen that situation or interfere with cleaning up to the national *standards;* such a source must make the case that any pollution should be allowed.

Absolute knowledge does not exist. There are many gaps in data on monitoring of existing air quality. But this does not provide a reason for delaying a policy to protecting existing air quality. Most States will be able to make intelligent judgments of air quality in areas where little monitoring data exists. As new applications are submitted, information will be gathered as part of the permit approval process.

ALLEGATION

Technology does not exist to model the projected emissions from new sources or for monitoring the emissions from these sources. Therefore, Congress should not act until precise tools exist.

FACT

This criticism has a "Catch-22" approach. It says that sources should be allowed to pollute because science has not developed precise techniques for telling exactly how much pollution is created; by the time such techniques are developed, they could very well be useless in protecting air quality, since deterioration would have made the question moot.

For years State air pollution control agencies and Federal agencies have used modeling projections to analyze applications for new sources that would continue under the nondegradation proposal. There is no other way of determining the impact of a source that has yet to be constructed.

In most cases, the errors identified show that more pollution is occurring, not less. This indicates a need to control such pollution now.

ALLEGATION

High quality air in clean areas is a luxury—a luxury that must be sacrificed in order to allow industry to grow.

FACT

Clean air is not a luxury and growth need not be sacrificed to keep it. If we attempt to sacrifice air quality now for short-term gains, we will find our water becoming more acid, our crop production deteriorating, our esthetic experience in wilderness areas declining, and our health being damaged by long-term low-level exposure.

In addition, we will find that we have lost one of the most useful, growth-preserving options available—the option of determining how air resources will be used prior to their use. Without a nondegradation policy, new sources may well adopt lesser control technologies and thereby use up the available air quality without providing room for the growth of industries that follow in subsequent years.

ALLEGATION

A nondegradation policy will harm the poor and those on fixed income.

FACT

This is erroneous. Those who use this argument cite competing and mutually exclusive arguments. On the one hand, nondegradation allegedly hurts the city dweller because growth in the clean portion of the metropolitan areas will not be allowed and plants will therefore be forced to flee to outlying areas. On the other hand, cities argue that growth will be restricted in rural clean air areas because of the nondegradation provision and sources will be required to remain in urban areas.

Neither allegation is correct. Dirty air areas usually have some portions that continues to be clean and new sources, if carefully controlled and properly sited, can be located in such urban areas. Growth will continue and the metropolitan area will attract jobs and industry. In addition, the 1976 amendments contain new provisions to allow expansion in such areas. In rural areas, development of new facilities is clearly allowed and nondegradation requirements only insure that the growth be as clean as possible.

ALLEGATION

The 24 hour or 3 hour increments are unnecessary and should be dropped. The annual average increment levels are sufficient.

FACT

Eliminating the short term—3 hour and 24 hour—increments from the bill would completely undermine the protection provided by the nondegradation policy.

An annual average is the sum of a year's daily pollution readings. Since they are only averages, they can mask high air pollution concentrations. In response to a letter I wrote on this subject, Russell Train, Administrator of the Environmental Protection Agency, has said:

> The short-term increments are generally controlling for sources with elevated emission points (e.g., power plants). . . . For example, it is entirely possible that a new power plant could meet the annual Class II increment for both sulfur dioxide (SO2) and particulate matter (TSP) yet cause short-term concentrations that would approach the short-term national ambient air quality standards (NAAQS).
>
> Thirty-three existing plants were analyzed. . . . Clearly, sole application of the annual increment would not, in many cases, provide a significant margin of nondeterioration protection beyond the primary and secondary NAAQS if a source could create short-term concentrations up to the 24-hour or 3-hour national standards.
>
> In addition, . . . allowing degradation up to the three-hour secondary NAAQS, could possibly result in damage to certain commercial crops.
>
> . . . the 24-hour concentration of particulates has a considerable impact on visibility. For example, degradation up to the 24-hour NAAQS would reduce visibility from more than 70 miles to about 5 miles. Sole use of the annual increment for nondeterioration would, in many cases, allow such a reduction in visibility to occur.

ALLEGATION

EPA will have the final control over which sources may get permits to construct.

FACT

This is true under present EPA regulations but not true under the Senate bill. The States are responsible for deciding whether to issue permits to new sources under the Senate bill. No State permit may be disapproved if the procedures are followed and if the ceilings and increments set in the bill are observed.

REV. JESSE JACKSON'S "SELF-DEVELOPMENT" CRUSADE

Mr. PERCY. Mr. President, last month I brought to the attention of my colleagues the efforts of the Reverend Jesse Jackson's "Push for Excellence," a crusade to motivate and encourage parents and students to value education.

Today, I would like to share with my colleagues the Reverend Jackson's philosophy on self help and improvement for black Americans. Although some may not want to hear this theme, I agree with Reverend Jackson that it needs to be said. I ask my colleagues to read or reread an article on the Reverend Jackson's "self development" crusade. I ask unanimous consent that the article, published in the New York Times Magazine on April 18, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"GIVE THE PEOPLE A VISION"—A CIVIL-RIGHTS VETERAN CALLS FOR A NEW "SELF-DEVELOPMENT" CRUSADE. BLACK AMERICANS, HE SAYS, MUST TAKE GREATER RESPONSIBILITY FOR THEIR OWN PLIGHT.

(By Jesse L. Jackson)

(NOTE.—The Rev. Jesse L. Jackson was closely associated with the late Rev. Dr. Martin Luther King Jr. He was prominent in the civil-rights struggle of the 60's; he headed Dr. King's Operation Breadbasket, an economic mobilization program that included boycotts of some white businesses in Chicago; he was present when Dr. King was assassinated in 1968. In 1972, he left the slain leader's Southern Christian Leadership Conference to form his own organization, People United to Save Humanity (PUSH). This article was written with the assistance of Bryant Rollins, former executive editor of The (New York) Amsterdam News, now an editor of The Week in Review section of The New York Times.)

It is time, I believe, to reexamine the causes of the social and economic plight in which black Americans—and particularly the poor blacks of the Northern cities—still find themselves, despite the legal advances of the 60's. Since so many past analyses of this problem have failed to bring about satisfactory improvement, I think it is time to suggest some new approaches, based largely on new values. It is my view that such a fresh start offers the best hope not only of lifting up the black people but of saving America's cities.

I also believe that it is fruitful to think of these problems within a larger context—the relationship between the United States and the third world. For the white racist attitudes that are part of the problem at home have also been an often unconscious element in the policy failures of the white political leadership vis-à-vis the emerging nations, most recently in Africa. And the natural pride of American blacks in the achievement of black leaders abroad is a factor in their own struggle.

As a starting point, let us take a noteworthy statistic: There are now 130 black mayors in the United States. We blacks have populated the cities; we must now learn to run them. The need is urgent. The ethical collapse, the heroin epidemic, the large numbers of our people who are out of work and on welfare, and the disruptive violence in our schools all indicate that the cities may be destroying us.

The thrust of my argument is that black Americans must begin to accept a larger share of responsibility for their lives. For too many years we have been crying that racism and oppression have kept us down. That is true, and racism and oppression have to be fought on every front. But to fight any battle takes soldiers who are strong, healthy, spirited, committed, well-trained and confident. This is particularly true when the enemy is as tough and elusive as American racism. I don't believe that we will produce strong soldiers by moaning about what the enemy has done to us.

It is time, I think, for us to stand up, admit to our failures and weaknesses and begin to strengthen ourselves. Here are some of the things I am talking about:

There is a definite welfare mentality in many black communities that derives perhaps from slavery but that must now be overcome.

We have become politically apathetic. Only 7 million out of 14 million eligible black voters are registered to vote. Yet politics is one key to self-development. In terms of votes, we have more potential strength than labor or any other single bloc. We have a responsibility to use it to the full.

We too often condemn blacks who succeed and excel, calling them Toms and the like, when the ideal ought to be for all of us to succeed and excel.

We are allowing a minuscule minority of criminals in our midst to create disorder, ruin our schools and sap the energy we need to rebuild our neighborhoods and our cities.

Many leaders who are black, and many white liberals, will object to my discussing these things in public. But the decadence in black communities—killings, destruction of our own businesses, violence in the schools—is already in the headlines; the only question is what we should do about it. Others will object that to demand that we must meet the challenge of self-government is to put too much pressure on the victims of ancient wrongs. Yet in spite of these objections, in spite of yesterday's agony, liberation struggles are built on sweat and pain rather than tears and complaints.

In facing up to the new reality of black concentration in the Northern cities, the flight of whites to the suburbs, and the decay of the inner cities—particularly their black comunities—in many parts of the country, many black and white leaders demand Federal aid as the only solution. More Federal aid is certainly needed, but money alone, or in combination with minor reforms, will not significantly change the welfare system, reduce crime, build enough new houses, improve education, restore stable families or eliminate drug abuse. A multitude of Federal antipoverty and urban-renewal programs should have proved that by now. But if more Federal money will not solve the problem, what will?

I believe we should look to the third world for an answer. The message from there is clear: Through the proper use of money and a positive attitude, we can stimulate self-development and give the people a vision. It has been fascinating for me to observe what has happened in South Vietnam in the past year. The new Saigon leaders have spent little time talking about the Americans who carpet-bombed and defoliated their country. Instead, they have concentrated on rebuilding, putting people to work, inculcating new values and attitudes. They did it with military authority and a liberated attitude. We black Americans can rebuild our communities with moral authority. We need a blueprint, such as an urban Marshall Plan, but at its base there must be moral authority and sound ethical conduct.

This is not unrealistic. It was the moral authority of the civil-rights movement, not the Federal marshals—who stood back initially and let whites have their way with the demonstrators—that changed the face of the South. It was a disciplined struggle—and such a struggle can be waged again, to good purpose, in the cities of the North.

We need to tell our young people in those cities: "All right, we'll get all the state and Federal money that we can; but first and foremost, we need to put your hands and your bodies and your minds to work building our communities." What we must do for our young people is challenge them to put hope in their brains rather than dope in their veins. What difference does it make if the doors swing wide open if our young people are too dizzy to walk through them?

I often wonder what would happen if Coleman Young, the Mayor of Detroit, who has inherited a city of much moral and economic decay, were to go into one of Detroit's stadiums and had 50,000 or 60,000 people in there—just as Jomo Kenyatta has done, and Castro, and President Samora Machel of Mozambique—and delivered a resounding State of Detroit messeage.

"All right, people," he could say, "Detroit needs 200 doctors in the next 10 to 15 years, and here is what we will do to make certain that it happens. And we will need 200 lawyers and 400 electricians and 250 nurses, and here is what we will do to make sure it happens. I cannot pass a law about these things, but I am appealing to you parents and you children to cooperate. Parents, you must keep your children at home every night from 7 to 9 to study, and get them into bed by 10. Every morning the city will provide physical-training directors in city parks. We will close off one block in every neighborhood for half an hour every morning for exercise—we want you out there getting your bodies healthy for this struggle for independence."

I have been visiting major cities across the country, preparing for a crusade next fall that will stimulate people along these lines. Everywhere I go, from Washington to Los Angeles, I meet young people in schools that the politicians have given up on. I frequently find myself addressing 3,000 or 4,000 young people in a rundown assembly hall. Each time I suggest a program of self-development, they respond with overwhelming enthusiasm. Black teen-agers—some of the roughest, most street-wise dudes you will ever meet—respond to that appeal.

There is another parallel with the third world that is very much to the point. The emerging countries have had to proceed by stages—from a situation in which they were outright colonies, and their white rulers simply grabbed up the countries' natural resources; to a state of neocolonialism, in which the people attained nominal independence but the former colonizers remained in de facto control of the resources, which they continued to exploit primarily for their own benefit; to a situation of real independence in which the people take over control of their resources and work out mutually beneficial production arrangements with the former colonizers.

We black Americans feel we have been exploited, too, although the natural resources we had to offer were not minerals in the ground or produce in the field but the human resources of brain and brawn. And we feel we are at a stage at which we can emulate the third-world countries by moving from "neocolonialism," as it were, to real "independence." The lessons, of course, must be applied to situations that often are vastly different from those facing the leaders of the economically underdeveloped countries of Africa, Asia and Latin America, but the principle of self-reliance in place of dependency is the same.

Let me give a practical example. In the 60's, many black leaders, myself included, were picketing in front of Sears and A. & P. and other supermarkets in the black neighborhoods, demanding more and better jobs for blacks and more equitable financial arrangements with the community. And we succeeded. Some of these stores began to appoint black managers, put products of black companies on their shelves, hire black contractors for building new stores, and place their accounts in black-controlled banks. But today we find ourselves in Chicago, East Orange, N.J., and elsewhere, lying down at Sears' back doors begging the man not to fire us all and close down.

We want those white-owned branches, with the services and jobs they provide, to stay, but if they want to go, we should not be left with nothing to take their place. The point is that if we had pulled together in the intervening decade, if we had not lost so many good minds to the jails and the drug culture, if we had taken the pooling of our money more seriously, we would today have the ready capital and trained managers and communal organization to buy out those white-controlled stores that want to close down, direct all black business to them, and make them economically successful. But that takes discipline and purpose and dedicated leadership at many levels, and that is where I think the experience of the third-world countries can be of help to us.

It is bad to be in the worst slums in the country; it is even worse if those slums are internalized, become part of you. Hence the therapeutic effect of the Black Power symbolism of the 60's. But some black students became so caught up in the symbolism of black nationalism and black liberation that they forgot about such basic skills as reading, writing and thinking.

God knows that I recognize the need for black self-pride. But that monument must be built on a solid foundation; we must not, as Dr. Martin Luther King Jr. used to say, confuse symbolism with substance. When I stand in front of an audience of 3,000 black high-school or college students and we chant back and forth, "I am somebody, I am somebody," I can feel them telling me: "I need to be told I am somebody, I need to know I am somebody." But shouting "I am somebody" is only the first small step toward independence.

In the last 10 to 12 years, many of us missed the chance to grow intellectually and chased Superfly instead. Many of us spent more time on lottery and luck than looking for a job. Many of us did not use the opportunities we had. But it is time to cut that now. That backward trend goes against our own best traditions. Africa's great leaders, from Nkrumah to Machel, have all been learned men.

Preoccupation with symbolism has also made it hard for many of us to distinguish service from servility.

As I travel around the country, I often eat in restaurants run by the Nation of Islam. One reason is that the waiters are the most courteous and prompt you will find anywhere. They enjoy serving black people: you will never find a Muslim waiter with an "attitude." Unfortunately, the same is not true of all blacks. I know of black contractors who have gone out of business because their black workers were not prompt or had negative attitudes. I know young black workers who talk with pride about going to work any hour they feel like it, taking a day off when they feel like it, wearing Apple Caps on the job, playing loud portable radios on the assembly line. They're rebelling against the system, they say; they're exhibiting their independence. (There are many white workers, it should be added, who do the same.) What they're really exhibiting is ignorance of work in the black community that is one of our proudest legacies.

Slavery is over now, but you can't free a man who still has a slave mentality, just as you can't enslave a man who has a free spirit. We don't need to carry chips on our shoulders, fearing we are being treated in a servile manner. This does not mean we cannot be angry and loud and onery on occasion, as all mortals have a way of being, but we should always try to use the power that derives from true courtesy.

The process of "internalizing" conditions that should instead be banished has another tragic effect.

According to black historian Lerone Bennett Jr., the first black people arrived in America in 1619. That means that black people have been in this land for 357 years. For 244 of those years we were slaves; for 113 years we have been technically free; but real freedom has only just come since the turn of the 20th century. Although welfare was set up mainly to aid poor whites, and two-thirds of the recipients today are white, our history of slavery and oppression, and the decades of forced dependency, do seem to have carried over into what I call the welfare mentality. There are black families that have not had an opportunity to be independent of a white-controlled system of one kind or another for as many generations back as they can account for. It is time for that syndrome to end. We cannot afford it any longer.

My own approach to the welfare situation is mixed. We need all the reforms the progressives argue for—guaranteed minimum income; an end to the humiliating spying and investigating by case workers; passage of the Humphrey-Hawkins full-employment bill now before Congress; an end to the "make a dollar, take a dollar" regulations that penalize people on welfare who get part-time jobs; incentives to encourage people on welfare to go to school and improve themselves. On the other hand, as the job market expands, we must inspire people to get off that debilitating welfare system and say to them: "We need you to help us rebuild our communities." Then we must supply the tools for the urban poor to work with. We need jobs for self-esteem, self-confidence and character—not just money.

The greatest potential for self-development is to be found in the public schools in our cities. That is also where there is now the greatest potential for explosions. Predominantly black schools in most urban areas with high concentrations of black people—New York, Washington, Detroit, Chicago, Los Angeles, St. Louis, Boston—are largely out of control. Violence against students and teachers, perpetrated by students, is steadily and dangerously increasing. Drug abuse is an accepted fact of life; pushers operate freely in many schools, and police patrol the corridors. Discipline has broken down. In a number of New York schools, teachers complain that the places are run not by the principals but by the gangs. We need to change this because it is normally right, because it is necessary for our development, and because no one else is going to do it for us.

The principals are not alone: Parents, teachers, superintendents, school boards have failed to impose discipline and create a proper atmosphere for learning. And if our young people are not learning today, we will not have the doctors, engineers, lawyers, mechanics, nurses, clerks and accountants that we will need to manage the cities.

A few years ago there was a sizable movement for community control of the public schools. But the community-control movement never did seriously address the problem of control of the students by their parents. Many black students turned the movement into a cynical rebellion against any authority—black or white, sympathetic or unsympathetic, healthy or destructive. A people seeking independence cannot tolerate that.

A related problem is the misconception, perpetrated on many parents, that a parent with little formal education is in a position to dictate on pedagogical matters to teachers and educators. Parents have something more fundamental to offer: motivation, love, care, discipline—and sometimes chastisement. Children cannot be allowed to play the game of "teach me if you can catch me." Children must be taught that they have a responsibility to learn as well as a right to an education. Busing is absolutely necessary, but without a will to learn, busing is irrelevant.

With all that in mind, PUSH (People United to Save Humanity), the organization that I direct from Chicago, has begun a national program, "PUSH for Excellence," to address urban problems, beginning with the public schools. The models for this project are in Washington, Los Angeles and Chicago, but we have already found great interest in the approach in other cities.

We have begun in Washington by stimulating high-school students to organize a city-wide Council Against Drugs, Racism and Violence and for Discipline. A student conference will be held by this council in the spring. We have had large numbers of students turn out for planning meetings, and we have aroused substantial mass support at high-school assemblies. Parallel and sometimes coordinated meetings have been held with teachers, athletic coaches, superintendents and school boards. Mayor Walter Washington has shown great interest—as have Mayors Maynard Jackson of Atlanta, Coleman Young of Detroit, Richard Hatcher of Gary, Ind., and Thomas Bradley of Los Angeles for similar initiatives in their cities.

Our program is simple. We want to get black men from the neighborhoods to replace the police in patrolling the school corridors and the street corners where the dope pushers operate. We want all parents to reserve the evening hours of 7 to 9 for their children's homework. We want student leaders and athletes to help identify and solve discipline problems before they get out of control. We want the black-oriented media to find ways to publicly reward achievers. We want the black disc jockeys, who reach more black kids than the school principals, to inform and inspire as well as entertain.

A crucial element in our program is the black church. The church is the most stable influence in the black communities. It is the only place where all segments of the community come together, once a week. An estimated 11 to 13 million men, women and children are members of black churches. Historically, the black church has been involved in or behind every black movement of any significance. I have been involved with high schools in Washington, Chicago and Los Angeles that are working with churches, and if there is anything the experience has shown me, it is that black ministers still carry moral authority with our people, except for a hardcore few, and most people want moral authority.

America is in the midst of a crisis, both in regard to its cities and in regard to its position in the world. Black Americans, inheritors of the role of the restless and disenfranchised minorities of the past who helped make America strong, have a historic opportunity to show that the cities can be saved We can do so by stimulating change in the schools and the communities we control.

Also by virtue of our special empathy for the colored peoples of the third world, and particularly Africa, black Americans can contribute to the foreign-policy debate by exposing the racism at the root of some of our Government's worst domestic and foreign blunders. It would be tragic if our nation lost its potential for true greatness by letting racist legacies deflect it from its proper course.

Vital though this second task may be, it must, for the moment, take second place. The first and immediate task for American blacks is to rise up from the decadence in which we too often find ourselves in the cities, and, to do so by the force of our will, our intellect, our energy and our faith in ourselves. It is a historic opportunity we cannot afford to miss.

A VIEW FROM THE COUNTRY: HOW THE NATION'S NEWSPAPERS SEE THE GRAIN INSPECTION BILLS

Mr. CLARK. Mr. President, yesterday's meeting of the conference committee on *H.R. 12572*, a bill to reform our national system of grain inspection and weighing, was postponed indefinitely.

In the first two meetings, little progress was made. I wish I could be more optimistic about the chances for progress in the next meeting.

The fundamental obstacle to agreement appears to be the sharply differing perceptions of the problem of corruption and scandal in the grain trade. My reading of the House bill suggests that the majority of its authors simply do not view the problem as seriously as the Senate does.

Apparently, it is the view of the House that the problem can be corrected by continuing to allow the Department of Agriculture to delegate much of the responsibility for grain inspection. It is the view of the Senate that the problem can be solved only by a new system—a nationwide, uniform system handled by a new Federal entity that hopefully would be free of many of the problems that have affected the present system which exists, within the framework of the Department of Agriculture.

Beyond that, I am concerned that the President of the United States does not see the problem in the same light as either of the Houses of the Congress. He has said on more than one occasion that he would veto any reform bill that went much beyond the House version.

I suspect that the President has been too preoccupied with other concerns in the last few weeks to have taken time to read the editorial comment in the Nation's daily newspapers about the problem of corruption in the grain trade.

Mr. President, many newspapers editorial writers have analyzed the grain inspection problem in recent weeks—and most of them have concluded after some serious analysis that the Senate version is the proper, if not the only, way to correct these serious shortcomings.

And I am not talking about the so-called eastern establishment media; these are the hometown newspapers of the agricultural heartland of this country. They are from Tennessee, Texas, Nebraska, South Dakota, Iowa, Minnesota, Missouri, Indiana, Mississippi, Kentucky, and elsewhere.

Almost every one of them supports one or more of the major provisions of the Senate bill where it differs from the House version.

One of the more recent editorials, from the Chattanooga, Tenn., Times, describes the problem best in a terse headline: "Harvest of Shame."

On May 10, 1976, one of the more conservative editorial pages in the United States, the Indianapolis, Ind., News, led its editorial in this way:

> Nations that import corn, wheat and soybeans from the United States have been getting a dirty deal.
>
> Literally.

The Indianapolis newspaper and its sister publication, the Phoenix, Ariz., Republic, in an editorial on April 28, 1975, provide this dramatic conclusion:

> Normally, the less the Federal government meddles in business, the better. However, grain exports are a matter of national concern. The fact that we can produce a surplus of grain while the Communists must scramble abroad for it has been viewed by the world as a sign of the superiority of the U.S. economic system over the Communist system.
>
> Shoddy practices reflect on the nation.
>
> Since investigation has disclosed that U.S. grain exporters cannot be depended upon

> to avoid shoddy practices, some kind of Federal control over them seems necessary.

Mr. President, those words are not from the typewriters of those who hold the so-called expanionist view of the bureaucracy. This call for stronger Federal action comes from newspapers who have consistently espoused the "limited" view of Government power, and as such they should be accorded great consideration.

The Memphis, Tenn., Commercial Appeal is a major regional daily newspaper in a city which is the headquarters for one of the largest grain companies in the world. Its May 7 editorial states:

> The victims of these tricks and cheatings have been both U.S. farmers and foreign buyers of U.S. grains. But in a larger sense all of us have been the victims, for grains are a major source of foreign exchange for the nation and unless foreign buyers have confidence in U.S. products and U.S. trade practices, the nation loses that income from abroad and the value of the U.S. dollar suffers.

Then the Memphis newspaper concludes:

> It is essential, therefore, that the federal government move just as swiftly as possible to follow up on these court cases which have brought into the open the scandals in the grain trade. The government must have closer control over the grading, inspection and weighing of grains.

The Commercial Appeal, analyzing the report of the General Accounting Office which recommended essentially all-Federal inspection, had concluded, in an editorial on February 18, 1976:

> There is no guarantee that an all-federal inspection service will be 100 per cent honest. But the chances of corrupting such inspectors surely will be far less than what it was under the farmed-out system we have had in the past.
>
> Congress should act promptly to comply with the recommendations which now have been made not only by the GAO but also by senior members of the congressional agriculture committees who are fully familiar with the problem.

The Lincoln, Nebr., Star made similar observations on the GAO conclusions, which were made in response to a request by the House and Senate Agriculture Committees and only after one of the most thorough GAO investigations which has come to my attention. Pointing out that opposition from the grain companies and the Ford administration was almost certain to develop—it did—the Nebraska newspaper said:

> But a federal takeover of the inspection system seems to be essential to protect the good name of American farmers and to keep this nation in a healthy, competitive position in the world grain market.
>
> There does indeed seem to be massive rot in the present system. Although it may cost more money to have the government test grain, it would be worth it.

Similar thoughts are expressed by a respected regional farm weekly newspaper, the Delta Farm Press, which is published in Clarksdale, Miss. Its February 20 editorial, entitled, "Grain Inspection Needs USDA Takeover," described the shortcomings of USDA's supervision to date and added:

> No system is fool-proof. But complete federal administering of the program would go a long way in reducing possible conflicts-of-interest. As long as other persons are involved, the door to such temptations is still ajar.

The Houston, Tex., Post outlined the weak points as well as the strong points in the GAO's recommendations, in its February 29 editorial:

> While it would inescapably create a new federal bureaucracy, direct government control of inspection would also largely do away with the present system under which the government licenses state and private inspectors to enforce federal standards on grain. This is somewhat like hiring a private police force to enforce the laws.

And it pointed out the $12.5 billion stake which the United States has in grain exports every year, adding this conclusion:

> Considering what is at stake, we should give high priority to reforms that will restore the confidence of overseas customers in our ability to deliver the goods, all the goods—undiluted. The government should take direct responsibility for guaranteeing the quality and quantity of grain sold for export.

The Sioux Falls, S. Dak., Argus-Leader is another newspaper that is not given to frequent endorsements of proposals which would expand the Federal Government. But on March 29, 1976, that newspaper wrote:

> We believe that the federalization approach taken by Clark, McGovern, Humphrey and Talmadge is on the mark. Congress should pass the Senate measure—and the Ford administration should lend its assistance to the effort.

During debate in the House of Representatives, a proposal to adopt Federal inspection at all export elevators was rejected on a narrow vote, and instead the House accepted the provision to allow States to continue their inspection services if the Department of Agriculture allows them to do so.

In this context, the Minneapolis, Minn., Tribune calls the House proposal just what it is:

> Partial federal inspection strikes us as a halfway measure for dealing with a problem that deserves full federal attention.

The Nashville Tennessean, is a newspaper with a worldwide reputation for investigative reporting. Its reporters have done an outstanding job uncovering scandals in the grain trade and its editorial writers also assess the House bill accurately in an April 10 comment:

> House proponents of stronger legislation called the measure that was approved a "grain-trade" bill and "a Band-Aid on a gaping wound."
>
> These views seem to be substantially accurate.

The Lexington, Ky., Herald observed in an April 9 editorial that the Department of Agriculture "has been anything but dynamic in its leadership and supervision" and made the following three points:

> Out of the Senate Agriculture Committee has come the kind of reform that is needed in this country's grain inspection program.
>
> A fight over the two versions is expected. But during the debate, Congress should not lose sight of the need to drastically reform grain inspection programs. The Senate version would do a much better job of this.
>
> Farmers in Kentucky and across the nation stand to lose if the U.S. is not able to convince its customers that it plans to be a good partner to do business with. This has not always been the case in the past.

Mr. President, perhaps no newspaper has been closer to the scene of most of the corrupt activities that have come into public view than the New Orleans, La., States Item. In two editorials last month, that newspaper has developed conclusions based on the fine investigative reporting of its reporter, Jack Davis, by concluding editorially on April 10 that:

> If the nation's image as an honest exporter of commodities is to be salvaged, Congress must pass tough inspection legislation. Continuing with a system that relies on the Agriculture Department entails high risk. Congress must either take the inspection responsibility out of the hands of the department or assure itself that there has been a fundamental turnabout within the agency, both in capability and attitude.

Four days later, after the President of the United States made his first remarks about the proposed legislation, the New Orleans newspaper editorialized:

> President Ford, speaking in El Paso, Tex., seemed totally oblivious to the record or the problem. He called congressional action aimed at beefing up grain inspection machinery overreaction to the scandals. He vowed to veto a bill eliminating private grain inspection companies.
>
> Either President Ford does not know the facts, or he chooses to ignore them. Major reforms are needed in the grain export industry.

The St. Paul Pioneer-Press in Minnesota gets at the fundamental weakness of the House provision and the President's threat to veto the tougher Senate bill when it writes, as it did on April 30:

> Spare us from needless proliferation of the federal bureaucracy, but in the case of grain inspection, there is good reason for the proposed agency (which would be contained within the Department of Agriculture).
>
> A largely state-controlled system might be an improvement, but it would be open to the inconsistencies inherent in such a piecemeal, state-by-state setup. The standards of Minnesota, for example, might differ a great deal from those of, say, Louisiana. The latter state, incidentally, is the site of the largest grain shipping port (New Orleans) and has, as well, an unfortunate but well-established tradition of public corruption.
>
> The export of grain is a national concern (as is all foreign trade) and logic recommends federal inspection.

A number of newspapers over the past several days have written about the task facing the conferees as they attempt to reach a compromise on this critically important legislation.

On May 1, one of the Nation's most respected newspapers, the St. Louis Post-Dispatch, concluded its editorial in this manner:

> Senate conferees will have a difficult task when they try to persuade the House that sufficiently tough controls are necessary, but they should make every effort to retain as much of their bill as possible. The continued integrity of grain exports demands that the Government ensure complete and competent inspection of this valuable commodity.

On May 6, the Des Moines Register, whose reporter, James Risser, has just been awarded the Pulitzer Prize for his coverage of the grain scandal, opened and closed its editorial as follows:

> The grain inspection bill approved by the

U.S. Senate is a blueprint for a uniform inspection system that would restore the integrity of U.S. grain inspection in foreign and domestic markets.

* * * * *

The conference committee has an obligation to consider the country's stake in grain inspection and not weaken the Senate bill.

And on May 10, the St. Louis Post-Dispatch concluded another editorial like this:

Investigations are continuing, and there is reason to believe that more indictments will be filed and more wrongdoing will be disclosed. As the scandal has amply illustrated, current federal oversight has not been adequate, and strong measures must be taken to restore credibility to the grain export trade. A bill passed by the Senate would come much closer to providing sufficient safeguards than would a House version. For this reason, we urge the Senate conferees to make every effort to gain acceptance of as much of their bill as possible.

Mr. President, I ask unanimous consent that the texts of these and other editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Des Moines Register, May 6, 1976]

IN PUBLIC'S INTEREST

The grain inspection bill approved by the U.S. Senate is a blueprint for a uniform inspection system that would restore the integrity of U.S. grain inspection in foreign and domestic markets.

The Senate bill would replace the present hodgepodge of private and state inspection agencies with federal inspection of grain at all export points and the 25 largest inland terminals. Responsibility for the new inspection system would be given to a federal agency largely independent of the U.S. Department of Agriculture (USDA).

The House of Representatives has passed a grain inspection bill that would abolish private inspection agencies at export points, *but it would* permit state inspection agencies to continue their work at export points if they met certain conditions. The House bill would allow private and state agencies to continue functioning at inland terminals, and would leave responsibility for supervising the inspection system with the USDA.

The differences between the bills will be ironed out by a Senate-House conference committee. House conference committee members will be led by Representative Thomas Foley (Dem., Wash.), chairman of the House Agriculture Committee and an advocate of continued state inspection.

Three of the eight Senate conference committee members are opposed to federal inspection at inland terminals and to the creation of a new federal grain inspection agency.

The odds thus are against passage of a strong grain inspection bill. But reform of grain inspection should be based in the public interest rather than on abstract ideology or the desires of those who have benefited from the present system. The conference committee has an obligation to consider the country's stake in grain inspection and not weaken the Senate bill.

[From the Des Moines Register, May 8, 1976]

ACTIONS SPEAK LOUDER

"I would like to congratulate Jim Risser," President Ford said at a huge banquet in Washington the other night. "He has done an outstanding job."

Our Mr. Risser has indeed done an outstanding job reporting on the scandal in the grain-export business—a scandal that seems to grow daily. His outstanding job has won him virtually every major journalism award, including the Pulitzer Prize.

We are pleased that the President, too, has taken notice of Mr. Risser's work, and we are of course happy with the presidential words.

But actions speak louder than words, and if President Ford really believes Mr. Risser has done an outstanding job the Persident is in a position to show it. He could urge the House and Senate conferees to come up with a grain-inspection bill like the Senate-passed version instead of the House-passed measure.

The Senate bill calls for federal inspection of grain at ports and large inland terminals; the House version calls for governmental inspection at ports, but it primarily modifies the current system of state and private inspections—a system that is, to put it charitably, inadequate.

The President has made it clear he would veto a Senate-type bill. We doubt very much that the President will change his mind just because Jim Risser has won a Pulitzer Prize. We doubt very much that the President will change his mind just because the Senate bill is in the public interest and the House bill isn't. We doubt very much that the President will change his mind just because indictments keep coming up by the batch.

So, while we appreciate the President's rhetoric, we aren't getting our hopes up about a strong grain bill. We know, what those nice words were. Nice words.

[From the St. Louis (Mo.) Post-Dispatch, May 1, 1976]

CAREFUL GRAIN COMPROMISE

After defeating a last-minute, Administration-backed attempt to weaken the grain inspection bill, the Senate has passed a strong measure that should provide ample protection against continued corruption within this system. The major battles are still ahead, however, for the House already has passed a much weaker bill, and its members are unlikely to embrace the complete Senate version in conference. In addition, President Ford has threatened to veto anything stronger than the current House bill. The Senate conferees may well be forced to compromise but they should strenuously resist proposals that would gut their bill.

Under the present system, grain is inspected, weighed and graded by either privately owned agencies or state inspection agencies. The Agriculture Department supervises routine inspections and will conduct "appeal" inspections. The accurate inspection of grain that is to be sold for export is essential because it certifies the quality and quantity of grain and thus determines the price. However, ongoing federal investigations into grain exporting have resulted, so far, in more than 60 indictments for misweighing, misgrading, grain theft, bribery, conspiracy and income tax evasion. These indictments and a report issued in February by the General Accounting Office amply demonstrate the need for stricter controls.

The Senate bill would provide an all federal system for inspection—at port elevators and at the 25 largest inland grain elevators—by a new grain inspection agency that would be connected with the Department of Agriculture. The legislation would also mandate federal weighing of grain at the ports with federal supervision inland, would stiffen criminal penalties for violations of grain laws, would prohibit financial conflicts of interest between grain firms and inspectors and would require registration of grain exporters that would include disclosure of financial interests in inland operations.

The House version would authorize the Agriculture Secretary to delegate inspection and grading to state agencies; this federal oversight of inspection would only be in effect at port elevators, not inland. Control of weighing would be set up in a similar manner, with federal supervision only at export points, and a study of the current practices inland. The House did include some new provisions that should minimize conflicts of interest, but even these are not as tough as the Senate's.

Grain exports were valued at 12.5 billion dollars in 1975, and such an important part of this country's international trade should be subject to sufficient regulation so that buyers have confidence in their purchases. The GAO report noted an erosion of this confidence, and anything less than an all-out attempt to clean up the scandal-ridden system will not do.

Perhaps the strongest criticism of the Senate bill has been leveled at the federal inspection of large inland terminals. Although all the indictments in the grain scandal to date have been based on irregularities discovered at port facilities, the Des Moines Register reported that Agriculture Department auditors have found "evidence that seems to indicate past patterns of 'shortweighing' of grain at both export elevators and large inland elevators"; and in its report to Congress, the GAO noted that conditions that led to abuses at export elevators are also present inland. Federal inspection thus would seem to be necessary at these places.

Senate conferees will have a difficult task when they try to persuade the House that sufficiently tough controls are necessary, but they should make every effort to retain as much of their bill as possible. The continued integrity of grain exports demands that the Government ensure complete and competent inspection of this valuable commodity.

[From the St. Louis, (Mo.) Post-Dispatch, May 10, 1976]

MORE REVELATIONS

As Senate and House conferees try to agree on a federal grain inspection law, continuing disclosures of questionable practices by the large grain companies emphasize the need for the strongest possible legislation. In New Orleans, where more than 50 defendants have been convicted for offenses related to the grain scandal, Cook Industries, Inc. and Mississippi River Grain Elevator, Inc. pleaded no contest to charges of conspiracy in systematic thefts of grain from foreign commerce. Continental Grain Co. was recently fined the maximum penalty of $500,000 after pleading no contest to 50 counts of false declarations on the weights of foreign shipments. Only a few days before, the investigative branch of the Department of Agriculture turned over some of its findings to the Senate Agriculture Committee. This investigation disclosed discrepancies in the inventory records of three large grain exporters that may indicate that export shipments had been shortweighted. In addition to these developments, the government of India has filed suit, charging that five grain exporters "willfully, knowingly and secretly defrauded" it.

Investigations are continuing, and there is reason to believe that more indictments will be filed and more wrongdoing will be disclosed. As the scandal has amply illustrated, current federal oversight has not been adequate, and strong measures must be taken to restore credibility to the grain export trade. A bill passed by the Senate would come much closer to providing sufficient safeguards than would a House version. For this reason, we urge the Senate conferees to make every effort to gain acceptance of as much of their bill as possible.

[From the Indianapolis (Ind.) News, May 10, 1976]

SHODDY GRAIN PRACTICES

Nations that import corn, wheat and soybeans from the United States have been getting a dirty deal.

Literally.

This has been established by the U.S. attorney's office in New Orleans and by the General Accounting Office in Washington.

GAO investigators visited Britain, West Germany, Israel, Japan, The Netherlands, India, Spain and Italy. Everywhere they heard complaints.

The grain the nations received was lower in quality than what they had paid for. Wheat and corn frequently contained foreign matter and showed signs of heat damage. Soy meal was laden with foreign matter and very low in protein content.

The nations said the problems they experienced with imports from other countries were minor compared with U.S. grain.

This is simply inexcusable.

U.S. grain exports make the difference between favorable and unfavorable balance of trade. Quite aside from that, they are an important political weapon, for they dramatize the efficiency of the private American farmer as compared with the inefficiency of Communist collectives.

One might imagine that, simply as a matter of good business practice, grain exporters would give foreign customers what they are paying for. Call it stupidity on their part, but they are not.

They have taken advantage of the fact that state and Federal supervision over grain exports is light. Many grain inspectors are private contractors. The GAO found that some of them also are principals in the grain exporting companies whose output they are charged with judging. It also found that bribery is rampant.

The Senate Agriculture Committee has proposed the establishment of a new Federal Grain Inspection Agency within the Department of Agriculture. Its administrator would be appointed for a 10-year term, subject to Senate confirmation.

All grain exporting companies would be required to register with the agency and disclose the names of their principal officers. They would be certified by the agency. This certification would be revoked if agency inspectors found them engaging in any hanky panky.

The agency inspectors would supplant private and state inspectors.

Normally, the less the Federal government meddles in business, the better. However, grain exports are a matter of national concern. The fact that we can produce a surplus of grain while the Communists must scramble abroad for it has been viewed by the world as a sign of the superiority of the U.S. economic system over the Communist system.

Shoddy practices reflect on the nation.

Since investigation has disclosed that U.S. grain exporters cannot be depended upon to avoid shoddy practices, some kind of Federal control over them seems necessary.

[From the Memphis (Tenn.) Commercial Appeal, May 7, 1976]

GRAIN TRADE SHENANIGANS

Continental Grain Co., one of the world's largest handlers of grain in international trade, has pleaded no contest to federal charges that it short-loaded ships which were taking U.S. grains to foreign ports.

The federal court case involved just 50 instances of such short-loading. But the firm readily admitted in court that it was a practice that had been going on for four years. The sums involved were not estimated, but obviously they were large.

The $500,000 fine which the court assessed for this may appear large, too, to ordinary citizens. But surely to a firm doing business in the volume that Continental does, that was merely a token fine—a small part of the cost of doing business.

The Continental case was just the latest in a series of developments stemming from federal investigations of the grain trade, investigations resulting mainly from exposures reported by a Des Moines newspaper interested primarily in protecting the interests of thousands of farmers in the Midwest whose grains must pass through the channels of trade to reach the export markets.

Federal grand juries have returned indictments against seven companies and 48 individuals. The charges include conspiracy, bribery, theft and income tax evasion. They involve practices in the weighing, grading and shipping of grains. There have been 51 convictions thus far.

Yesterday Cook, Inc., of Memphis also was indicted by the New Orleans grand jury. Cook officials have said the company will not contest the charges and a $370,000 fine against it, either, explaining that the wrongdoing was the fault of employes no longer with the firm. It adds that the company itself has been the victim of these actions.

But all these shenanigans in the grain trade have been the result of loose supervision by both the top managements of the firms involved and by the federal government.

The victims of these tricks and cheatings have been both U.S. farmers and foreign buyers of U.S. grains. But in a larger sense all of us have been the victims, for grains are a major source of foreign exchange for the nation and unless foreign buyers have confidence in U.S. products and U.S. trade practices, the nation loses that income from abroad and the value of the U.S. dollar suffers.

The federal government already is suffering the consequences of an erratic grain export policy over recent years. Regular and heavy buyers of U.S. grains in the past have helped to establish new sources of such commodities. If now they feel compelled to expand those new sources or to find other alternatives for U.S. grain, the cost to this nation could over the years be heavy.

It will be a cost not only because of the loss of those foreign markets but also because with an agricultural plant geared to production far beyond domestic needs the loss of foreign markets will mean added cost to U.S. taxpayers for holding tremendous surpluses in storage.

It is essential, therefore, that the federal government move just as swiftly as possible to follow up on these court cases which have brought into the open the scandals in the grain trade. The government must have closer control over the grading, inspection and weighing of grains.

[From the St. Paul (Minn.) Pioneer Press, Apr. 30, 1976]

GRAIN INSPECTION

President Ford has threatened to veto any bill setting up full federal inspection of grain bound for export. The Senate has passed a bill providing such federal inspection and setting up an agency to handle it. The House has passed a bill for a joint state-federal inspection system, with the emphasis on state control.

The President would favor a joint state-private inspection setup, incorporating the threat of federal intervention if it fails to function properly, but he has indicated he will accept a bill based on the House version.

The President has said his principal objection to the Senate bill is in the creation of another federal bureaucracy "for no good reason."

Spare us from needless proliferation of the federal bureaucracy, but in the case of grain inspection, there is good reason for the proposed agency (which would be contained within the Department of Agriculture).

Grain is the mainstay of American agricultural exports, and these exports are not only in turn a mainstay of American agriculture but vital to the nation's economic health. Our foreign customers, however, have become increasingly unhappy over the quality of these exports. Shortweights, adulteration, misgrading—these threaten the American suppliers and already are encouraging the customers to look elsewhere (Brazil, for a prime example) for the products.

Obviously, the present grading system, privately controlled, cannot be allowed to continue. The wonder is it has been allowed to go on these many years. A largely state-controlled system might be an improvement, but it would be open to the inconsistencies inherent in such a piecemeal, state-by-state setup. The standards of Minnesota, for example, might differ a great deal from those of, say, Louisiana. The latter state, incidentally, is the site of the largest grain shipping port (New Orleans) and has, as well, an unfortunate but well-established tradition of public corruption.

The export of grain is a national concern (as is all foreign trade) and logic recommends federal inspection. As Sen. Hubert Humphrey said, in commenting on the Senate bill the other day, federal inspection of grain is inevitable. He likened it to federal inspection of meat, a step that was bitterly opposed in its day but has for decades been taken for granted. Federal grain inspection, too, will someday be taken for granted, and a start on it is overdue.

[From the New Orleans (La.) States Item, Apr. 14, 1976]

FORD AND GRAIN

President Ford showed a remarkable ignorance of the facts in his remarks over the weekend on the issue of tougher grain inspections:

Shortweighting and thefts at grain elevators constitute one of the monumental scandals in the nation's commercial history. Grand juries have returned almost 100 indictments in connection with misgrading and shortweighting of grain bound for export. There have been more than 50 convictions on charges of bribery and various other offenses. Every level of the grain handling industry is involved, from the crooked inspector, to the top grain company executive.

The nation's good name as a participant in international trade has been dragged through the dirt.

President Ford, speaking in El Paso, Tex., seemed totally oblivious to the record or the problem. He called congressional action aimed at beefing up grain inspection machinery overreaction to the scandals. He vowed to veto a bill eliminating private grain inspection companies.

"I see no reason to replace private interests with government controls," said Mr. Ford.

Private inspection companies, licensed and supposedly supervised by the United States Department of Agriculture (USDA) often have operated as an extension of the grain companies they were set up to police. Indeed, some inspection companies turn out to be subsidiary firms owned by the grain companies they were set up to inspect.

The question is not, as Mr. Ford seems to believe, whether the private inspection companies should be replaced.

The Senate bill calls for the establishment of a new federal agency to conduct the inspections. The House bill calls for state inspection agencies closely supervised by the USDA.

Sen. Dick Clark, D-Iowa, whose Senate Agriculture Committee has conducted extensive investigations into the grain scandals, was understandably "dismayed and disappointed" at Mr. Ford's remarks.

"After all the indictments and convictions, after all the evidence of corruption . . . it is hard to believe that the President is against changing the present system in any basic way," he said.

Either President Ford does not know the facts, or he chooses to ignore them. Major reforms are needed in the grain export industry.

[From the New Orleans (La.) States Item, Apr. 10, 1976]

Grain Scandal Bills

The House and Senate are far apart on legislation aimed at dealing with widespread grain handling scandals at U.S. elevators and ports. Failure to enact sufficiently tough legislation during the current session of Congress would be a mistake.

The Senate Agriculture Committee approved a bill Wednesday calling for a new Federal Grain Inspection Agency at ports and at the 25 largest inland grain terminals. The current system—private and state inspection agencies federally licensed—would end.

The Senate approach seems much tougher than the House proposal. The House bill places primary responsibility for inspections with the Agriculture Department. The Agriculture Department would delegate inspection and weighing supervision to state agencies, but with beefed-up federal supervision. Thus, the House plan is not really much different from the existing system.

The two plans present a serious problem, which is likely to be settled in a conference committee compromise. On one hand, there is a good argument to be made for not setting up another federal agency. The federal bureaucracy already is burdensome. Conversely, the Agriculture Department has shown itself to be incapable of policing grain inspections.

The inspection mess has created a crisis of commercial integrity at home and abroad. Thefts and shortweighting participated in by grain companies and inspectors have given the country an international black eye.

If the nation's image as an honest exporter of commodities is to be salvaged, Congress must pass tough inspection legislation. Continuing with a system that relies on the Agriculture Department entails high risk. Congress must either take the inspection responsibility out of the hands of the department or assure itself that there has been a fundamental turnabout within the agency, both in capability and attitude.

[From the Sioux Falls, S. Dak. Argus-Leader, Mar. 29, 1976]

A Federal Obligation

The House has passed a bill aimed at reforming the nation's grain inspection system. However, the measure falls short of what should be done and ought to be strengthened in the Senate.

The bill provides for federal control of the inspection and weighing of grain at export terminals and increases penalties for bribery, misweighing, misgrading and other violations of the U.S. Grain Standards Act.

The need for these reforms has become apparent during the inspection scandals which have hit the grain industry over the last several months. Several employes of private agencies and three employes of a state inspection agency in Louisiana have been indicted in a federal investigation of corruption in the grain trade.

The House bill would eliminate about 20 privately operated grain inspection agencies now operating in grain ports and give responsibility to the federal government.

However, the Secretary of Agriculture would be authorized to delegate the responsibility to state agencies, so that little would be gained.

A proposed amendment, which unfortunately, was defeated, would have eliminated this authority of the secretary and required use of federal inspectors at grain ports.

House proponents of stronger legislation called the measure that was approved a "grain-trade" bill and "a Band-Aid on a gaping wound."

These views seem to be substantially accurate. Under the House bill, grain inspection at interior terminals would continue under the system now in use, operating through private or state agencies. Something better is needed.

The General Accounting Office, the investigative and auditing arm of Congress, has done its own study of the grain inspection situation and recommended outright federal inspection. This is the type of reform that should be passed. The states are not the agencies to carry out grain inspections in international trade. Nor are they competent to do so.

A stronger bill more in line with the GAO's recommendations has been passed by the Senate Agriculture Committee. This is the inspection system the nation needs and it should be passed.

[From the Lexington (Ky.) Herald, Apr. 9, 1976]

Grain Inspection Reform Needed

Out of the Senate Agriculture Committee has come the kind of reform that is needed in this country's grain inspection program.

The bill calls for federal inspection of grain at export points and major inland terminals.

The bill would remove state and private agencies from the inspection process. This is extreme action which is in contrast to a bill passed by a House committee which would still allow the Department of Agriculture to let state agencies conduct investigations.

A fight over the two versions is expected. But during the debate, Congress should not lose sight of the need to drastically reform grain inspection programs. The Senate version would do a much better job of this.

The General Accounting Office conducted an investigation last year into the grain industry after several indictments were issued against persons and firms for alleged violations of grain-inspection laws.

The GAO study, reported out in February, said "Weaknesses in the national inspection system have led to extensive criminal abuses, such as intentional misgrading of grain, short-weighting and using improperly inspected carriers."

The weaknesses in the inspection program are a threat to grain trade between this country and other nations. Other countries have already started boosting their production in certain grains to supply nations who have decided to cut down on their business with the U.S.

The grain inspection weaknesses have caused serious doubt among U.S. customers about the integrity of this country's agricultural trade system.

For the U.S. to convince its customers it is serious about correcting weaknesses in the system, extensive reform is needed.

The Department of Agriculture has been anything but dynamic in its leadership and supervision of the grain inspection program. Changes in its attitude and the law itself are needed.

Farmers in Kentucky and across the nation stand to lose if the U.S. is not able to convince its customers that it plans to be a good partner to do business with. This has not always been the case in the past.

[From the Des Moines Register, Apr. 8, 1976]

Not Good Enough

The U.S. House of Representatives has taken a major step toward reform of the grain inspection system by approving a bill to abolish private inspection at export points. The measure takes a tough stand against conflicts-of-interest by private inspection agencies at inland points and addresses other inspection problems.

Much of the corruption in grain inspection has involved the inspection by private agencies of grain for export. The bill's substitution of federal inspection for private inspection is an essential step to restore the image of U.S. grain in overseas markets.

Conflicts-of-interest in private agencies at inland points also are a major source of abuse. The bill tries to insure integrity in the inspection of grain for domestic use by eliminating such conflicts.

But the bill falls short of creating the uniform inspection system needed to eliminate the inaccuracies in grain grading, weighing and sampling that have plagued inspection at export and inland points.

The House bill would eliminate private inspection of export grain but it would allow state inspection agencies approved by the U.S. Department of Agriculture (USDA) to continue inspecting export grain. The General Accounting Office has found that state inspection agencies generally are unwilling "to cooperate fully [with the USDA] in the proper administration of the inspection system," and often "resent . . . federal supervision."

The provision to permit private inspection at inland points would add to the inspection hodgepodge.

The responsibility for supervising the grain inspection system would rest under the House bill with the USDA, even though the department has compiled a sorry record in attacking inspection abuses and inadequacies.

The major weaknesses of the House bill would be overcome by a bill by Iowa's Senator Dick Clark approved by the Senate Agriculture Committee. The Senate bill would federalize grain inspection at all export points and at major inland terminals. Responsibility for the system would rest with a new federal grain inspection agency, which would be largely independent of the USDA.

A federal inspection system run by an agency independent of the USDA offers the best hope of correcting shortcomings in grain inspection.

[From the Sioux Falls, S. Dak. Argus-Leader, Mar. 29, 1976]

Pass Senate Grain Inspection Bill!

Three South Dakota, Iowa and Minnesota United States senators are among the cosponsors of the new, tough Senate bill designed to reform grain inspection in this country.

The chief author of the measure is U.S. Sen. Dick Clark, D-Iowa. His bill is co-sponsored by senators George McGovern, D-S.D., Hubert H. Humphrey, D-Minn., and Herman Talmadge, D-Ga.

Humphrey's agriculture subcommittee approved the bill last week. It will go before the full Senate Agriculture Committee April 7, where a hard fight is expected on the measure.

The bill would federalize inspection at all export elevators and federal agents would also handle inspection duties at 25 major inland grain terminals in 10 states. The bill is designed to combat the scandals uncovered in handling of grain for export. Investigations thus far have resulted in indictments against 62 individuals and firms, on criminal charges which include misweighing, misgrading, grain theft, conspiracy, bribery, and income tax evasion.

A much milder bill has been approved by the House Agriculture Committee.

The Ford administration opposed the provision in the Senate bill which would set up all federal inspection at ports and inland terminals, and also the language in the measure which would set up a new, semi-independent federal grain inspection agency within the U.S. Department of Agriculture.

The grain trade, private agencies which handle inspections now and state departments of agriculture oppose federalization. They all want to keep their roles in the present inspection system.

Congress should enact a measure that will remove a blight on American agriculture: the situation in which foreign buyers of United States grain have been cheated on weights, quality, etc. The buyers in Europe or Asia now can't be sure they'll get what they order from United States firms.

We believe that the federalization approach taken by Clark, McGovern, Humphrey and Talmadge is on the mark. Congress should pass the Senate measure—and the Ford administration should lend its assistance to the effort.

Untied States grain exports amount to $12 billion a year—the largest source of income from overseas. Serving that market well is essential to the future of South Dakota and other farmers in the nation. The United States credibility as a nation which will not tolerate cheating in export shipments is also at stake.

[From the New York Times, Mar. 9, 1976]

. . . AND GRAIN SCANDALS

Scandals have disfigured this nation's grain sales to the Soviet Union and other foreign nations. Shipments have included defective and contaminated grain. When cargo ships were hard to get, dirty, ill-maintained vessels have been pressed into service.

These abuses could occur because the inspection system is seriously deficient. Except for state-run inspection systems that vary in size and competence, grain inspectors have been licensed employees of private firms in the grain trade. The opportunities for conflict of interest and corruption were numerous. A spate of indictments suggests some inspectors were quite willing to exploit these profitable opportunities at the expense of foreign consumers and of America's good name.

In the wake of these scandals, Congress has been considering remedial legislation. There is strong support in the Senate for a bill introduced by Senators Clark of Iowa and Humphrey of Minnesota to establish a Federal inspection service at all seaports and at the 25 largest inland terminals. At smaller terminals, the Agriculture Department would be authorized to contract out the inspecting responsibility to the states and to private individuals. These provisions of the Humphrey Clark bill are in accord with the findings of a General Accounting Office report on the grain inspection scandals in New Orleans and other major ports.

Unfortunately, the House of Representatives is likely to act on this problem first; and the bill now being drafted in final form in the House Agriculture Committee is significantly weaker. It purports to ban conflict-of-interest situations and would permit Federal inspectors to make spot checks on their own initiative without waiting, as they are now required to do, for an appeal by one of the interested parties. But, in deference to the parochial traditions in the grain trade, the bill would allow state inspectors and licensed private individuals to continue to do most of the work as long as they met Federal standards.

The boom in grain exports in recent years caused, in part, by the huge, unanticipated Russian purchases had the unintended effect of calling public attention to some shoddy, indefensible practices. The House cannot blink these disclosures away. A completely independent Federal inspection, as envisaged in the Humphrey-Clark bill, is essential to genuine reform.

[From the Minneapolis Tribune, Mar. 6, 1976]

GRAIN INSPECTION: A 'MINNESOTA PLAN'

Shortcomings in grain inspection at U.S. export points have become so obvious that there is no longer any question about the need to overhaul the system. A question does remain as to which of two approaches to reform would better serve the country. That favored by Rep. Bob Bergland—and by other Minnesotans on the House Agriculture Committee, Republican as well as Democratic—seems to us preferable.

Bergland's proposal for an all-federal inspection system, and the support for that idea by his Minnesota colleagues, carries added weight because of this state's unblemished reputation. State inspection of grain exported from Duluth has produced none of the charges of fraud and theft that have plagued Southern ports, Louisiana in particular. The Minnesota congressmen are therefore not urging legislation to correct faults in their own state, but are looking for federal remedies to what is essentially a national problem.

The reluctance of the administration and a slim majority on the House committee to face the problem squarely is, we think, the flaw in their alternative proposal. The alternative does take the essential step of removing private agencies from the grain-inspection business, but laxity by some state agencies has also been a cause, direct or indirect, of many of the indictments handed down so far. The administration would meet that problem by tightening supervision of state inspectors by the U.S. Department of Agriculture. That might prove adequate. But we think Bergland is right in calling the situation serious enough to justify full federal inspection—which would be similar to practices followed with other commodities.

Bergland's bill lost in a close committee vote this week. But legislation similar to his is being offered in the other house by Sen. Humphrey, and there still is a chance of reviving the Bergland bill on the House floor. That is what we hope takes place. Partial federal inspection strikes us as a halfway measure for dealing with a problem that deserves full federal attention.

[From the Houston (Tex.) Post, Feb. 29, 1976]

ALL THE GOODS

Pressure is building to overhaul the nation's scandal-ridden grain inspection system. But the Ford administration and some members of Congress are at odds over how to curb abuses in the inspection and movement of grain, especially that destined for shipment abroad. The General Accounting Office, the congressional watchdog agency, wants the government to take over grain inspection, removing it from the more than 100 state and private agencies that now do the job under federal licensing and supervision. The administration opposes the GAO recommendations, preferring instead to make reforms within the framework of the existing system. The U.S. Department of Agriculture has proposed several changes to eliminate possible conflict of interest between the grain companies and the inspection agencies. But the GAO contends that the USDA's reforms would not remedy basic weaknesses in the present system.

The grain scandals grew out of an investigation into allegations of widespread theft, bribery, fraud and other wrongdoing that initially centered in New Orleans, but has now expanded to other parts of the country. The probe has so far resulted in the indictment of 61 persons and four firms on nearly 300 violations of the federal grain inspection laws. In recent years a growing number of foreign buyers of U.S. wheat, corn, soybeans and other grains have complained that they were shortchanged in both quality and quantity. Charges of excessive dirt in shipments, substandard grain and short weights have poured into the Agriculture Department from disgruntled customers throughout the world.

If the government took over the grain inspection system, it would have to hire hundreds of inspectors and samplers. By far the largest number of experienced people work for the state and private inspection agencies. New inspectors, whether they were hired to replace or supplement the present ones would have to be trained. The GAO has proposed a force of about 3,000 federal employees to weigh, inspect and grade grain and to supervise the remaining contract inspectors in less-active inland shipping points. While it would inescapably create a new federal bureaucracy, direct government control of inspection would also largely do away with the present system under which the government licenses state and private inspectors to enforce federal standards on grain. This is somewhat like hiring a private police force to enforce the laws.

Our export of agricultural products is a major factor in our favorable balance of trade. The U.S. sold $21.8 billion in agricultural commodities abroad last year. Grain sales accounted for $12.5 billion of that total. Considering what is at stake, we should give high priority to reforms that will restore the confidence of overseas customers in our ability to deliver the goods, all the goods—undiluted. The government should take direct responsibility for guaranteeing the quality and quantity of grain sold for export.

[From the Delta Farm Press, Feb. 20, 1976]

GRAIN INSPECTION NEEDS USDA TAKEOVER

It is time for the USDA to get into the grain inspection business on a full-time basis and for the states' independent inspectors and trade associations to withdraw.

Because of widespread abuses and conflicts-of-interest, the U.S. grain farmer could find his $21-billion-a-year export business in serious jeopardy.

Even with more than 60 individuals and four firms indicted for alleged violations of grain inspection laws, the USDA is still insisting only on a rather minor adjustment in its role as inspector of U.S. grain shipments.

According to a spokesman for the Agricultural Marketing Service in Atlanta, the changes proposed in the inspection regulations would:

(1) Avert potential conflicts of interest by prohibiting ownership of grain inspection agencies by boards of trade or any other similar organization whose membership includes grain companies or grain company officials.

(2) Make clear that each grain inspection agency is fully responsible for the conduct of its employees.

(3) Provide for USDA to temporarily suspend the designation of a grain inspection agency without first affording an opportunity for a hearing.

(4) Provide that AMS approve the schedule of fees each inspection agency charges for its grain inspection services.

(5) Require an independent annual audit of how each inspection agency uses the fees it collects.

This is all well and good. But the scandals that have infected the grain inspection system, from shortweighing to deliberate inclusion of trash and other foreign matter in shipments, have been so wanton and widespread that it behooves the USDA to effect a full takeover of the program.

No system is fool-proof. But complete federal administering of the program would go a long way in reducing possible conflicts-of-interest. As long as other persons are involved, the door to such temptations is still ajar.

Following a month long investigation, the General Accounting Office has found that the current inspection system has operated without effective controls, tolerated conflicts of interest between the grain inspection and merchandising operations and has been unresponsive to federal supervision.

Thus, it seems to us, that merely tightening of federal strings within the system will not do. The key phrase in the GAO report is that the system "has been unresponsive to federal supervision." Mere further federal monitoring and supervision does not appear to be the answer.

The USDA contends that its proposed changes "would give officials a stronger hand in dealing with the grain inspection agencies it designates and with members of the grain trade who use inspection services.

But USDA misses the point. As long as members of the grain trade and others are involved, the conflict remains.

Under current law, the USDA acts only as an overseer of grain inspection, leaving the actual checking and weighing to federally licensed inspectors who work for the states or private trade groups. The new proposal does little more than tighten the same old regulations.

This is not enough. There is too much at stake. GAO, in its lengthy probe, reported that many foreign customers of U.S. grains believed that they regularly received lower quality and weight than they paid for. Many buyers have already reduced their purchases of U.S. grains and are buying more from other countries. A few have completely stopped buying our grain, altogether, said investigators.

Neither the farmer or the nation can continue with this program if there is even the slightest hint that sweeping reforms have not been conducted and that the taint has been completely cleansed from the system.

We must agree with the GAO in its recommendation to Congress that it direct the USDA to assume responsibility as soon as possible for sampling, grading and weighing grain and for issuing the required inspection certificates at all ports where grain for export is loaded.

This authority in no way should be delegated. There is simply too much at stake. We *must rebuild* confidence in our exports on the part of foreign buyers and do it now.

[From the Christian Science Monitor, Feb. 20, 1976]

Sweep Up the Grain Scandal

A seven-month investigation by the General Accounting Office (GAO) now confirms what recent reports and court actions had indicated: the U.S. grain shipment industry is so tainted by corruption that swift and major action by the federal government is imperative.

Investigations which began in New Orleans one and a half years ago so far have resulted in 60 indictments on 280 specific criminal acts including theft, bribery, misgrading, tax evasion, and conspiracy in the grain industry. Four companies and several industry executives have been convicted so far.

The Grain Standards Act of 1968 established the present system whereby grain inspections are made by private or state agencies with what has turned out to be inadequate federal supervision. Since the private agencies are paid by the grain companies, an obvious conflict of interest arises: the inspectors depend for their own well-being on the companies they are supposed to police.

There has been widespread "short-weighting" of grain shipment records and the falsifying of cargo grade levels. There have been instances of bribes taken by U.S. Agriculture Department employees charged with overseeing the inspection process.

The short-weighting was particularly prevalent in shipments to those poorer countries which lacked the facilities to check imports, including Food for Peace recipients. Countries which import U.S. grain have continually complained about the quantity and quality of shipments and some have switched to other sources for their imports.

The Ford administration wants to beef up federal supervisory capabilities, while keeping the system of private inspection agencies in place. But the GAO and many career professionals within the Agriculture Department have concluded that only a federal inspection system can eliminate the abuses of the past. Indeed, we fully agree with Senator Humphrey, chairman of the Senate subcommittee on foreign agriculture policy, when he says that "the failures of the present system are so massive that they cannot be corrected by tinkering."

At present, federal authorities may not even make inspections in those areas where the licenses of corrupt private inspectors have been suspended. Congress should act quickly to give the Agriculture Department this emergency authority, as requested by the department.

But in order to clean up and restore confidence in the important $12 billion U.S. grain exporting business, lawmakers should give serious thought to establishing an independent federal inspection system.

[From the Lincoln (Nebr.) Star, Feb. 20, 1976]

Clean Inspections, Clean Grain

A federal takeover of grain inspections as suggested by the General Accounting Office (GAO) appears necessary to restore overseas confidence in U.S. grain exports.

Shortweight and low quality grain shipments to foreign buyers have given the American grain export trade a severe black eye. The trouble has been traced to scandals involving major exporters and the present system of state and private firm grain inspections. There are conflicts of interest in many cases in which grain inspection firms are owned or controlled directly or indirectly by major grain companies. Indictments alleging more than 280 criminal acts connected with grain inspections, mainly at port terminals, have been handed down.

Shortweight and low quality shipments—allegedly the result of purposeful manipulations during the inspection process and blending down to grade at export elevators—have caused some foreign buyers to quit purchasing American grain.

This is a tragic injustice to American grain farmers, who produce high quality grain.

The GAO has recommended that the U.S. Agriculture Department be given immediate authority to step in and inspect grain in areas where "serious problems" with state or private inspection systems are found. After the initial emergency stage, the Agriculture Department would take control of inspection services "at the earliest possible date", including sampling, weighing and grading, at all ports. Then under the recommendation Congress would direct the department to extend the new system to major inland terminals and provide services at minor inland terminals and country elevators either through federal agents or through contracts with federally-supervised state and private agencies.

Sen. Hubert Humphrey intends to introduce immediately a bill to carry out the plan. Opposition from the major grain companies and the Ford administration is predicted.

But a federal takeover of the inspection system seems to be essential to protect the good name of American farmers and to keep this nation in a healthy, competitive position in the world grain market.

Humphrey believes that mere federal supervision or monitoring of the present system is not enough. "Failures of the present system are so massive they cannot be corrected by tinkering," he says.

There does indeed seem to be massive rot in the present system. Although it may cost more money to have the government test grain, it would be worth it.

[From the Memphis (Tenn.) Commercial Appeal, Feb. 18, 1976]

Federal Grain Inspectors

The General Accounting Office now has issued its report on the unfolding grain inspection scandals and it calls for the Agriculture Department itself taking responsibility for the sampling, grading and weighing of grain shipments rather than farming out that business to private interests.

The GAO hardly could recommend otherwise.

The evidence of corruption in the grain inspection system in recent years has been overwhelming. The list of indictments and convictions already is long, and the grand jury system still has not completed its work by any means.

What the GAO is calling for now is what some senators were demanding as early as last June when Senate Agriculture Committee members were looking into the first news accounts of the scandal.

The Agriculture Department has been dragging its feet in getting the situation corrected. Secretary Earl Butz spent a lot of time saying there were only a few bad apples in the grain inspection business and that the amount of exports involved was but a small fraction of the total. Other USDA officials begged Congress to hold off on any orders to beef up the federal supervision of the inspection service, saying it needed time to train new supervisors.

But as the revelations of corruption increased, the department has been forced to start moving. On Jan. 23 of this year it finally announced it was juggling the work schedules of already overworked and shorthanded federal supervisors to provide night and weekend supervision. And that day, also, the department announced it finally was hiring and training 210 new employes to enlarge the grain division field office staffs.

All this is tacit admission by the USDA that it has failed to supervise the inspection services properly in the past. And it is also admission that the scandal at the ports has been far greater than the USDA was willing to admit a year ago.

There is no guarantee that an all-federal inspection service will be 100 per cent honest. But the chances of corrupting such inspectors surely will be far less than what it was under the farmed-out system we have had in the past.

Congress should act promptly to comply with the recommendations which now have been made not only by the GAO but also by senior members of the congressional agriculture committees who are fully familiar with the problem.

[From the Chattanooga (Tenn.) Times, May 12, 1976]

Harvest of Shame

Fines totaling $930,000 have been levied on three major corporations engaged in international grain sales for systematically stealing grain from foreign commerce, appropriate punishment for criminal activity that was breath-taking in its audacity.

It may be some time before the Justice Department closes the book on the scandal. Already the list of companies and individuals convicted in the affair is a long one and the investigation of officials of the companies fined Thursday, Cook Industries of Memphis and Mississippi River Grain Elevator, Inc., of New Orleans, is reportedly continuing.

The indictments returned against Cook and MRGC (and a similar one that precipitated a $500,000 fine against Continental Grain Co.) demonstrate that the officials conducted the conspiracy with business-like efficiency.

Orders were handed down directing that ships bound for the Mediterranean, South Asia or the Midwest be systematically shortweighted by 1½ per cent—later increased to 3 per cent for some destinations—presumably because docks in those countries lacked the necessary equipment to detect the shortages. Ships bound for Europe, however, where scales were more sophisticated, were shortweighted only eight-tenths of one per cent. It is interesting, too, that tolerances allowing or permissible shortweighting—which reflected the assumption that exact weight was impossible in grain shipments—were at times simply adopted as policy, thus assuring consistently dishonest sales.

The government still has a long way to go in attempting to clean up an industry shot through with corruption. Wholehearted cooperation by the industry's leaders is absolutely essential and should be forthcoming.

[From the Memphis (Tenn.) Press-Scimitar, May 8, 1976]

Cook and the Grain Scandals

As news stories unreeled about the scandalous short-weighting practices of some of the largest U.S. grain exporters, we had hoped Memphis-based Cook Industries, Inc., would not be drawn into the deplorable picture.

Unhappily, that isn't the way it turned out.

A federal grand jury in New Orleans indicted Cook Industries Thursday on 37 counts of short-weighting grain shipments to foreign countries over a five-year period. Company officials pleaded "no contest" to the charges and accepted a $370,000 fine.

And there may be more to come. A U.S. attorney said additional indictments are possible in connection with Cook's operations.

In Thursday's indictments it was charged that Cook officials conspired at a Memphis meeting in 1970 to steal grain from ships being loaded at the firm's elevator near Reserve, La.

The only bright side we can see in this situation is the statement by E.W. (Ned) Cook, board chairman of Cook Industries, that those involved in the alleged fraud are no longer employed by the company—and that the short-weighting incidents had occurred without his (Cook's) knowledge.

The indictment of Cook Industries, the nation's third largest grain exporter, followed by two days a similar indictment on 50 counts against Continental Grain Co. of New York, which was fined $500,000.

Last year, 52 individuals and firms, including three top grain exporters, were indicted in connection with grain fraud.

Conspiracies to cheat on shipments to foreign nations—on top of the revelations of widespread bribery of foreign officials and business leaders by U.S. exporters—can serve only to lower the esteem of the United States on the international scene.

Perhaps the saddest part of the short-measure conspiracies is that it involved food—much of which was bound for nations such as India and Pakistan, where hunger and malnutrition are widespread. The government of India has filed suit already for $215 million against Cook Industries and four other firms to reclaim alleged losses.

In attempts to solve the export problems, the U.S. House and Senate have passed different bills—both aimed at substituting government inspectors for private grain inspection firms at export points. They are trying to resolve differences between the two bills.

Strict regulations controlling the sale and shipment of grains to foreign countries are called for if the United States is to retain its good name in the markets of the world.

[From the Nashville (Tenn.) Banner, May 8, 1976]

U.S. Image Hurt by "Grain" Fines

We are truly saddened by the fines levied against Cook Industries, Inc., of Memphis and Continental Grain Co. of New York and other major grain exporters.

We are saddened because we are once again the "ugly American" who plain cheated our foreign customers. The events create a slur against all American businessmen.

Remember when the words "Made in Japan" were synonymous with junky products and poor craftsmanship? How does the phrase "Cheated by the U.S.A." make you feel?

Someone is going to try to take the position that these companies actually pleaded "nolo contendere" to the multiple counts that they had cheated foreign customers. And that the pleas mean the defendants did not choose to contest the charges but that they didn't admit anything.

Don't buy it. A nolo contendere plea is a guilty plea and stands on the books as such. The blame can't be set aside by saying the companies are all so busy that it was easier to pay the fines than have a long court fight over a debatable matter.

The companies involved are the major shippers of American grain to Europe, Asia, South America and elsewhere. The question of whether some of those shipments caused inflated consumer prices here at home is complex. At best, we hoped that we were doing the right thing by the have-not nations in sharing our grain abundance.

But whatever good government intent was behind it is marred by commercial chiseling of one to three per cent by shortweighting, polluting, stealing or otherwise failing to deliver what was purchased. And that's sad.

The international image of the U.S. is bad enough in a lot of places. This adds damage in excess of the fines levied against the companies.

[From the Kansas City Times, May 7, 1976]

Grain Shipment Frauds Are a Nasty Business

In the beginning nearly two years ago, it appeared that frauds in the shipment of U.S. grain abroad from the Gulf ports, particularly New Orleans, were the work of a few dishonest individuals. But Gerald Gallinghouse, United States attorney in New Orleans, and his staff continued digging into mounting evidence. It now is apparent that export frauds were widespread and pervasive, a virtual network of organized crime which included several of the huge international export houses.

The latest revelations involve the Continental Grain Company, Cook Industries and Mississippi River Grain Elevator, Inc., which pleaded no contest to charges of shortweighing ships loaded with grain for our good foreign customers. Earlier, the Bunge Corporation was involved through actions of its executives. Continental accepted a $500,000 fine, Cook $370,000 and Mississippi $60,000, the maximums provided for violations of the Export Administration Act.

It is vital now to continue the investigation. It also is important for the grain industry, which is composed mainly of six or seven exporting giants, to realize that it is affecting adversely the economy of the entire nation when it misweighs and misgrades export grain, a $22-billion business annually.

Farmers, politicians and industry spokesmen argue correctly that such exports have had a major role in paying for the nation's rising oil imports as well as other U.S. needs. Anything which undermines the ability of the U.S. to sell its grain abroad eats away at that buying power, which, in turn, endangers the jobs and livelihoods of millions of Americans.

More than that, such tomfoolery also endangers the entire grain marketing structure of the United States. It could induce Congress, many of whose members are already leaning in that direction, to pass legislation placing the grain industry in the hands of the government. That legislation might even eliminate such valued and historically sound pricing and marketing institutions as privately operated Boards of Trade. The new charges against Continental and Cook are causing members of the Kansas City Board of Trade concern for the future. The same is true of other major futures markets in Chicago and Minneapolis.

The time for simplistic defenses on the part of the industry is past. Executives of grain companies now must either take positive action to insure that unlawful practices are ended—or be removed in favor of those who will. In the name of competitiveness, the grain trade traditionally has operated in secrecy, but perhaps the best route now is a thorough public airing.

The American public is tired of hearing that it should have more confidence in big business, when elements of big business continues to give it reason for doubt. The record of bribes and scandals here and abroad in recent years is unsavory. The grain industry might be a good place to start. In fact, a move in that direction already is occurring. Farmer-owned co-operatives, such as Far-Mar-Co., Inc., of Hutchinson, Kans., and organizations like the American Farm Bureau Federation and the National Farmers Organization are beginning to provide marketing alternatives.

So far those efforts have been minimal. Such groups export only 9 per cent of the U.S. grain sold overseas; the major companies handle the rest. But those alternatives should be considered by farmers, who are being victimized directly by the shoddy performances that have come to light.

Most grain farmers continue to prefer private marketing arrangements, rather than state trading, and for good reason. The system, up until recently, has served American agriculture and the public well. But neither farmers, nor the public, will be willing to tolerate any more mischief by the private and secretive grain giants. For both economic and humanitarian reasons, the stakes are too high.

[From the Phoenix (Ariz.) Republic, Apr. 28, 1976]

Necessary Regulation

Nations that import corn, wheat and soybeans from the United States have been getting a dirty deal.

Literally.

This has been established by the U.S. attorney's office in New Orleans and by the General Accounting Office in Washington.

GAO investigators visited Britain, West Germany, Israel, Japan, The Netherlands, India, Spain and Italy. Everywhere they heard complaints.

The grain the nations received was lower in quality than what they had paid for. Wheat and corn frequently contained foreign matter and showed signs of heat damage. Soy meal was laden with foreign matter and very low in protein content.

The nations said the problems they experienced with imports from other countries were minor compared with U.S. grain.

This is simply inexcusable.

U.S. grain exports make the difference between a favorable and unfavorable balance of trade. Quite aside from that, they are an important political weapon, for they dramatize the efficiency of the private American farmer as compared with the inefficiency of Communist collectives.

One might imagine that, simply as a matter of good business practice, grain exports would give foreign customers what they are paying for. Call it stupidity on their part, but they are not.

They have taken advantage of the fact that state and federal supervision over grain exports is light. Many grain inspectors are private contractors. The GAO found that some of them also are principals in the grain exporting companies whose output they are charged with judging. It also found that bribery is rampant.

The Senate Agriculture Committee has proposed the establishment of a new Federal Grain Inspection Agency within the Department of Agriculture. Its administrator would be appointed for a 10-year term, subject to Senate confirmation.

All grain exporting companies would be required to register with the agency and disclose the names of their principal officers. They would be certified by the agency. This certification would be revoked if agency inspectors found them engaging in any hanky-panky.

The agency inspectors would supplant private and state inspectors.

Normally, the less the federal government meddles in business, the better. However, grain exports are a matter of national concern. The fact that we can produce a surplus of grain while the Communists must scramble abroad for it has been viewed by the world as a sign of superiority of the U.S. economic system over the Communist system.

Shoddy practices reflect on the nation.

Since investigation has disclosed that U.S. grain exporters cannot be depended upon to avoid shoddy practices, some kind of federal control over them seems necessary.

SPEECH BY VIRGINIA H. KNAUER

Mr. SCHWEIKER. Mr. President, Virginia Knauer, Special Assistant to the President for Consumer Affairs, recently addressed the graduating class of Our Lady of Angels College, Aston, Pa. Her speech is timely and informative, and I ask unanimous consent that it be printed in the Record in order that others might have an opportunity to review it.

There being no objection, the speech was ordered to be printed in the Record, as follows:

ANCHORING THE PENDULUM

(Remarks by Virginia H. Knauer)

President Madonna Marie, members of the faculty, distinguished guests, ladies and gentlemen:

I feel especially privileged—and honored—to be with you today to help you celebrate this most important event.

My first official duty as a commencement speaker is to congratulate you for surviving four years of rigorous exams, finals, assignments, and various indignities administered by insensitive faculty members. My second official duty is to express the official hope that you will survive all the celebrations planned tonight.

My third duty is a bit more painful. The stated purpose of a commencement speaker is to give some insight to the graduates about the times we live in. One might say that this is a high purpose of education—to understand our world and from understanding, cope.

It is perhaps unfortunate that it is often customary for commencement speeches to be filled with glowing words about high expectations and high hopes for the future. I bring you no such soothing words today, no dramatic or romantic visions about what to expect tomorrow—no pablum.

I want today to present to you a broad mosaic of our country. I want to share with you some of the problems, the fears and the hopes of our major institutions, and from this I want to ask your help, because your help is sorely needed.

There is a saying about our country that its philosophy is somewhat like a pendulum—we move to liberalism one decade and a decade later to conservatism. But the premise has always been that there will be something there to hold the pendulum as it swings back and forth. And that something is our major institutions—the family, the school, the church, the law, and the government. All of these institutions have been built to a greater or lesser degree on a Judeo-Christian heritage. This heritage, based on the belief in God, gave us a system of values which in essence is the bedrock of a viable civilization. Honesty, charity, knowledge, respect for the law, respect for property, self respect, self discipline, restraint, tolerance, perseverance, courage, modesty, humility—we inherited these principles. And as Pope Paul VI recently reminded us, we put many of these values into a Constitution, into a Bill of Rights, and into a Declaration of Independence, and these principles, these values, helped to make our nation grow and flourish.

This is not to say that we have not had our failures, or that throughout our history we have always been a nation of principle. There is, the philosophers tell us, in each of us a Dr. Jekyll and a Mr. Hyde. Sometimes Mr. Hyde succeeds in reaching high places of power in government, in business, in the church, or in the schools. This is the nature of all human institutions. But the many Judeo-Christian principles which we inherited have—by and large—acted as a beacon so that we may steer the ship of state safely and so that we ourselves may have our laudable self goals—so that Dr. Jekyll will be the rule and not the exception. Attempting to adhere to or live up to this notable heritage, we have in the past been able to form first a viable individual, second, a viable family, and from these form viable communities, schools, businesses and government institutions. The pendulum held in place no matter whether the current vogue was liberalism or conservatism as defined by the ages one lived in. There could be and would be emotional debate over whether government could best solve the problem or whether it was best left up to the private sector. But there would be no debate over cherished, historic principles. The institutions would hold, and the pendulum would stay in place.

But one questions today whether that pendulum will stay anchored. Are we in effect losing our Judeo-Christian heritage, and, as a result, witnessing the decline of our institutions? The answer to that question is difficult and complex, and I for one am not about to declare unequivocally that we are going the way of the Romans.

I am also aware that it is a trait of older generations to state unequivocally that the younger generation is going to the dogs. I do not think that. Rather, I think that it is the younger generation that has the best hope of rescuing us from what could be terminal cancer. And by that I mean that if we but briefly look at some of our major, historic institutions, we find that they are in deep trouble, trouble in which only a recommitment to our values can save us.

St. Thomas Aquinas had a saying about there being no need to prove that which was self evident. J. Walter Thompson, a major national advertising agency, recently visited the University of Pennsylvania for the purpose of showing to the students a self-evident lesson it was trying to get across to its clients. The lesson was that business has a greater responsibility today to citizens than just making a profit. What J. Walter Thompson did was quite simple and quite self evident. It gave the students a capsule history of what entertains us. In the 1950's we were entertained by Marilyn Monroe, Milton Berle, cowboys, and swing bands. Today, we are entertained by brutal violence, bedroom scenes, harsh and crass commercialism, disasters, hedonistic game shows and massage parlors. We are given these things we are told, because we demand them through the Nielsen ratings and through the cash register box. J. Walter Thompson is suggesting that perhaps it might be a better idea for business to think first about what is sold and how it's sold; that business has an ethical and a moral responsibility as well as the duty to make a profit.

It would be erroneous, of course, to attempt to evaluate our country simply on the basis of mass culture. But it is one relevant sign of the time, and possibly a portent of things to come. The question can be raised if mass culture standards declined so rapidly between the Fifties and the Seventies, what will the standards be in the Eighties? One central question, of course, is what does it say about the value of those who buy and those who sell? Another central question is the effect of a degrading mass culture on our children.

More symptomatic of our nation's health is the state of well being of some of our major institutions. History tells us that from the time when man first existed as a predatory creature, the family and the community have been the core of civilization. Yet the Census Bureau tells us that the family as an institution is breaking up and so are communities. One out of every two marriages ends in divorce, young people are putting off marriages in growing numbers, more children live with only one of their parents, and more children are born out of wedlock. The Census Bureau also tells us that more and more Americans—one out of every five every year—are moving with little chance to form the type of communities necessary to make local institutions prosper.

While there are many legitimate causes behind the rate of failing marriages and mass movements, the question again can be raised how many failures are due to a lack of proper values? In the past, spouses attempted to stick together through thick and thing, and loyalty and fidelity were considered prime virtues. Now it appears that the first big argument is a cause for breaking the marriage vows.

We find that the career woman is glorified while the important role of spouse and mother is downgraded. The word housewife has become a dirty word. We are all told that "doing one's own thing" is tantamount to happiness, but we forget that doing one's own thing is also the definition of a savage. And that definition rules out one which says that happiness comes from giving.

It is said that one can quote statistics to prove any point, and I suppose there is a great deal of truth in that statement. But what are we to say about statistics that show the rate of violent crime increasing every year, with poorly educated young people commiting most of the violence? What do we say about statistics that show that in the past, most murders were crimes of passion, while today more deaths are caused by strangers? Further, fewer criminals are caught, fewer are prosecuted, and fewer are sent to prison. Our Attorney General believes all this creates its own snowballing effect with more people attracted to the life of crime because of the inability of the legal institutions to properly apprehend and prosecute. And interestingly enough, our Attorney General states that the decline of some of our cherished institutions—the family, the community, the church, and the schools, have been a causative factor behind the crime surge.

These institutions set, supported and enforced community values, but what happens to that support when families and communities desintegrate?

Right now, many of our citizens live in terror behind heavy armoured, padlocked doors. They, in effect, live in a prison while the terrorists roam the street free. Communities become impossible to form because neighbors are afraid to visit neighbors even in broad daylight. If the crime rate continues, as some think it will, fear and terror rather than tranquility will be the dominant social emotion. The effects of these characteristics on our society are horrifying to contemplate.

What are we to say about the statistics concerning our schools? Each year, the scholastic achievement tests for graduating high school seniors gets lower and lower. More and more students don't know how to read, don't know how to write, and don't know how to add. We know from nationwide tests conducted by the National Assessment of Educational Progress that very few adults—about 16 percent—have the mathematical capability to balance a check book.

We find the colleges blaming the high schools, the high schools blaming the grade schools, the grade schools, the parents, and the parents, the TV set.

Professor Bartlett Giamatti of Yale University reminds us that language is at the core of all growth. If we do not understand language, he says, we can never find out who we are, and we will stay in an eternal playground, never becoming fully developed citizens. The same can be said of math. Simply to exist in this complex, rapidly changing marketplace, we must have a sound grasp of this basic subject.

Looking at other barometers, we find through the national polls that few citizens hold much respect for any of our major institutions. The government, business, the courts, the law—few institutions hold the high esteem they once held.

Few people trust, respect, or believe any institutional leader. To be in with the public, it appears, one must be outside an institution, so that there can be no suspicion of any self-interest.

But if this attitude remains, how will we be able to solve problems? Right now there is an energy crisis which will get worse every year as our domestic energy resources decline. Yet no matter how many leaders attempt to warn the public about this problem, few citizens believe we are in serious trouble. We are all suspect of crying "wolf." Yet the wolf will most certainly come during your lifetime unless we can arouse the support of our citizenry.

Through all the gloom and all the gray there are a few encouraging signs. We know that many citizens are moving away from the cities not for new business opportunities in large metropolitan areas, but to small localities where they can live in peace and establish caring communities.

In the past few years, we have made tremendous gains in obtaining justifiable rights for blacks, women, and consumers. We are creating a more just society for these important segments of society.

The New York Times informs us that the decline in enrollment in Catholic schools has apparently halted. More and more parents and even more and more students are recognizing the need for moral and spiritual values.

The Christian Science Monitor tells us that something similar is happening in public schools. More and more classes in ethics are beginning.

We find many of our educators turning away from new concepts that haven't worked to old ones that did. The basic skills and discipline are starting to become acceptable once again.

The polls tell us that the public too is starting to think about past values lost. The Gallup poll recently reported that 79 percent of the American people want instruction on morals and moral behavior taught in our schools.

We are starting to lose our thirst for the new just because it is new. We are starting to recognize that the principles of the past also apply to the future. We are learning not to confuse liberty with license.

Are these positive movements temporary anomalies or the beginning of spiritual, moral, and educational re-awakening? We don't know.

For the answer to that we come back to you, the graduating class of 1976 from Our Lady of Angels College.

We cannot risk that the fulcrum will fall, that the tremendous values given to us by our Judeo-Christian heritage will be replaced by characteristics more suitable to savages than to spiritual beings. We cannot risk that the beginning of an apparent re-awakening will fall.

You have those values—both spiritual and educational—and that is why you are so important. You need not to be told or to learn what so many in this country are seeking, or what so many have lost.

The question for you for the future is whether these values will become for you a commitment, and whether you will have the courage to stand by them in times of great adversity.

There is a new book out in the marketplace right now which says that we don't have any heroes anymore. I don't agree with that. Too often today we don't hear about real heroes because we don't read about them in the newspapers and watch them on talk shows. Good, decent, honest people don't often make news, and they are not entertaining enough to make it on the Mike Douglas Show every day. Yes, there are many heroes in America today; they weren't all born in 1776.

It will take courage and heroism to stand up for your values. If you stand up for honesty, you will be viewed with skepticism; if you say you are religious and believe in God, you will be called sanctimonious; if you say you abhor crime, you will be called a right-winger; if you say you believe in sex only after marriage, you will be called old-fashioned and probably lose a number of dates; if you try to improve your school system as a parent, you will be called a troublemaker.

All of this is not to say that you will always adhere to values or that you will always persevere. I have sometimes failed in life and so will you. This is both the glory and the tragedy of being human. The question is not whether we always succeed but whether we always try. Will you try?

If your answer is yes, and if graduates from other schools with religious programs answer the same way, then I have faith that the pendulum will not fall, and that America will regain its bearings.

My class, the class of '38, thought we had before us a number of great challenges. There were great challenges, but they are nothing compared to what you face in the world of tomorrow.

You have to help put the rudder back in place. We had no such problem.

That is why those of us who are in office need your help.

And that is why also, we wish you, from the bottom of our hearts, good luck and Godspeed!

THE SKIDDING ON SKID ROW CAN BE STOPPED

Mr. JAVITS. Mr. President, it is well known that alcohol is the Nation's No. 1 drug of abuse, and that alcoholism is a major, serious public health problem that afflicts not only its victims but also all of society.

While alcoholism respects no economic distinctions, the skid-row drunk has come to be the symbol of the alcoholic's ultimate degradation. Certainly, this kind of alcoholic presents the most difficult challenge to the helping professions who strive to reach out, help, and rehabilitate.

Far from giving up on the recalcitrant and seemingly hopeless problems of derelicts who are ravaged by alcohol, the Beth Israel Medical Center in New York City has developed an innovative, multifaceted program. The program is described in a recent Washington Post article by Colman McCarthy entitled "The Skidding on Skid Row Can Be Stopped."

Beth Israel, long famous for its pioneering work in research and treatment of addictive diseases, is once again proving that, despite fiscal constraints, it is willing and able to lead in the search for solutions to national problems.

Mr. President, I commend Mr. McCarthy's article to the attention of my colleagues and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 6, 1976]

"THE SKIDDING ON SKID ROW CAN BE STOPPED"

(By Colman McCarthy)

NEW YORK.—The tour bus rolled along Bowery Street on the lower East Side. After visits to Little Italy to gawk at the ethnics and Greenwich Village for the gays, some sightseeing in skid row was now in order. Seeing the bus from the sidewalks, the defeated and scorned alcoholics gazed back blankly. They are said to resent the tour buses coming through, but as with most other forces in their shadowed and despairing lives, they are powerless to stop them. Resigned, they go on with life. As the buses came and went, one of the important events of Bowery life was in progress: the convening of what is called a bottle gang. Four or five homeless alcoholics gathered at an alley entrance and passed around a bottle of cheap wine. The drinking was aimless and destructive, yet in the Bowery subculture the bottle gang closely resembles a family system. Something precious is shared, communal conviviality is felt and individual members feel they are helping each other along.

Although skid row sots in places like the Bowery are less than five per cent of the nation's population of eight to ten million alcoholics, their illness has a severity that often attracts the best and most dogged health professionals. A current example of this is the alcoholism treatment program of the Beth Israel Medical Center in lower Manhattan.

The program was taken over three years ago by Dr. Robert Senescu, a psychiatrist who earned a national reputation for his innovative work at the University of New Mexico medical school. When he came east to Beth Israel, he decided to involve himself personally in working among the alcoholics of the Bowery. His program and the staff he has assembled at the 500-patient clinic at 50 Cooper Square represent a bold gamble that the skidding on skid row can be stopped and that there is no reason to dismiss the victims as lost.

The Beth Israel program, which receives basic support from city, state and third-party payments, has three parts: an outpatient clinic, halfway house and detoxification center. That each operation is clean and quietly efficient is obvious to anyone walking through, but the full value isn't appreciated until the dismal treatment offered by the city of New York is seen. A few blocks away, a city shelter for about 1,000 alcoholics is a vision of hellish degradation, with a small staff fighting valiantly to keep the place functioning despite budget cuts and city hall indifference. The city's current budget chaos means that, when cuts come, the Bowery people get hit first. When the middle class in New York is getting along, the Bowery has a place in the collective conscience, but when times get hard among the affluent, then the Bowery can be forgotten.

At Beth Israel, funds are tight, but a compensating reliance on imagination can be seen. In the 50-bed halfway house, for example, the patients are expected to join in the daily cleanup in late afternoon. Beds are made, rooms tidied, the houseplants watered and the halls swept. Poetry, written by the patients, is framed on the wall. Olive Jacob, director of the out-patient clinic, believes that "all of us respond to the kind of place we live in. If the patients are in a place that allows them to urinate in the corners they'll urinate in the corners. But we think that if everyone is expected to help make the atmosphere pleasant, then each patient will feel a sense of elevation. Such psychological boosts are crucial in treating alcoholism."

The Beth Israel program is elevated a little itself. It is well beyond a survival center that only dishes out soup or offers flophouse relief. Those who join the program need to have some inner idea that they are worth something. "This isn't easy," Ms. Jacob said. "These patients' lives have been all but wrecked, and it isn't easy for them to see any reason to stop drinking."

Stability is not easily measured, but occasionally a glimpse of it appears. The other morning, eight patients traveled uptown to the offices of the National Council on Alcoholism where they stuffed 10,000 envelopes with literature. "The men returned vibrant," recalls George Payne, supervisor of the day activities program. "They had done something meaningful. They worked to help someone. They were accepted. All alcoholics trying to recover have a fear they won't be accepted, so these men felt good about themselves. They had an alternative to drinking."

The role of pleasurable feelings in the treatment of alcoholics has been given careful thought by Dr. Senescu. "You can't beat fun. That sounds simple, but it has profundity too. If you're starving and have only a crust of bread, you'll fight me if I try to take it away. It's that way with many of the Bowery alcoholics. His pint is all he has for fun—it satisfies his pleasure requirements, however temporarily. So when we come along and try to restore his health, he sees us as denying him his fun. So he resists. We are all that way. The alcoholic hit upon drinking as a prime means of securing pleasure. If he hasn't any other means, liquor looms larger. We want him to give it up, but he asks the question, "For what?"

The answer is no mystery: a job, family life, identity and some measure of social stability. Yet, so many in the Bowery have been persistently homeless, physically damaged and unemployable that merely qualifying for welfare is often an achievement. Medicaid is impossible without a fixed address. Even staying alive can be a victory; of the program's first 500 patients four years ago, 15 per cent are now dead. Nationally for the same period, the death rate was less than four per cent.

For now, the Beth Israel program is a respected and useful effort involved in what is perhaps the last outpost of American health: the street alcoholic. Progress is slow, results hard to measure, and the constant pressure is rooting around for funds. Even if the main health problem is cured and the patient accepts substitutes for drinking, the larger problem often remains: Cured of alcoholism, the patient is sent back to the same environment that helped cause his sickness in the first place. What kind of progress is that? Such an issue is one that public officials, foundations, churches and the community outside of the Bowery must deal with. It is doubtful they ever will, but if an example of persistence and compassion is needed, the Staff at Beth Israel's program is at work daily.

SAMUEL ELIOT MORISON

Mr. MATHIAS. Mr. President, Samuel Eliot Morison, a great historian—and a great American—is dead. It is fitting for the Senate to pay homage to Professor Morison and the legacy he leaves to the American people. Professor Morison's many books—including his biographies of Christopher Columbus, John Paul Jones, and his masterful Histories of the American Republic and People—have endowed our country with a priceless record of our past.

It was Socrates who said that "wisdom begins in wonder." Professor Morison, a man of great wisdom, wrote not only on the basis of documents and other conventional sources, but to answer his own wonder as to how great men acted and great events transpired. To write about Columbus' discovery of America, he relied upon his own impressive seamanship to follow the very routes traveled by the Great Navigator. And he was on board U.S. Navy ships throughout World War II to write his multivolume history of the Navy in the Second War.

Professor Morison was in the tradition of great historians that began with Herodotus. Indeed, Edith Hamilton's description of Herodotus might well have been applied to Professor Morison:

> He set out to travel over the earth as far as a man could go. It required a hungering and thirsting for knowledge and all the explorer's zest to send a man on the travels Herodotus undertook; undertook, too, with keen enjoyment. He was the first sightseer in the world, and there has never been a happier one. He filled his book with the marvels to rejoice a man's heart—marvels of which the great earth was full.

There are other parallels between Herodotus and Morison. In chronicling the story of the U.S. Navy in World War II, Morison followed Herodotus' path in telling the story of the great naval battle at Salamis, where the tiny navy of Athens defeated the thousands of ships of the Persian Xerxes, thus making safe Athenian civilization and her contribution to Western culture.

Mr. President, I ask unanimous consent that tributes to Samuel Eliot Morison, published in the Washington Star and the New York Times, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Samuel Eliot Morison

No American historian since Francis Parkman has brought more of the alchemist's magic to historical writing than Samuel Eliot Morison. He made the past glow with life and movement. Professor Morison's death at 88, after a career in which he wrote brilliantly on subjects as various as Columbus, John Jaul Jones, Harvard University and the Navy in World War II, prompts us to wonder why a nation that produced a Morison is generally so indifferent to history—"the most humane and noble form of letters," as he once called it.

Professor Morison was, of course, extraordinarily endowed by family heritage. His earliest success as a student historian had much to do with being a descendant of Harrison Gray Otis, an eminent Federalist, whose papers happened to repose unexplored in the Morison wine cellar in Boston. But accidents of heritage by no means fully explain those qualities of character and technique that he brought to history and biography.

To begin with, like all truly memorable historians, Samuel Eliot Morison deemed it his first obligation to engage the common reader—the non-professional—not by vulgarizing history but by focusing on the human dimension that gives it significance. "Italy," he observed, accepting the Balzan Prize in 1963 before a largely Roman audience, "Italy well names history *storia*, for history is primarily the study of man. Even before writing was invented, the storyteller had to be able to hold an audience." Narrative strength—establishing suspense, shaping random facts to plot and point—marked every book and article he wrote; even when he theorized about the nature of history—which was rarely—he told stories. He believed, as the work of lesser historians suggests they do not believe, that human traits, not vast impersonal forces, are decisive in history.

He also believed in leg work, the exploration of the historical reporter. The accounts he coaxed from the past were not to be found in written documents alone, the basic sources of most historians, but in first-hand viewing of the physical setting, the landscape, that had been the stage of events.

Often, for Professor Morison, this was the sea. An accomplished sailor, he retracted the routes of Columbus's voyages and confirmed the testimony of documents for himself. Commissioned by President Roosevelt to write the story of the U.S. Navy's performance in World War II, he watched many of its actions unfold. His work had the texture that comes only to the first-hand observer.

Not even his widely-used textbooks (The Growth of the American Republic, the later Oxford History of the American People) reflected the drearier conventionalities of academic judgment. Unlike most of his professional colleagues, for example, he did not consider Andrew Jackson a great president and he said so. Lincoln, though a great man, seemed to him a democratic despot and he said so. He had no taste for mediocrity. Calvin Coolidge was "a mean, thin-lipped little man, a respectable mediocrity" and Professor Morison made no secret of that estimate. On the other hand he could, in a few brief pages, transform "The Young Washington" from an inert monumental effigy into a real and believable man.

Why is it then, returning to the initial question, that a profession enriched with Samuel Eliot Morison is scanted in the schools, hated by those so unfortunate as to think of history as a stale chronicle of dates, treaties and battles, and generally ignored? For this failure, Professor Morison never hesitated to blame professional historians who seem to carry their studies farther every year into specialized and esoteric byways where few common readers will follow.

In his pamphlet "History as a Literary Art," Samuel Eliot Morison—admonishing young historians—left this spirited injunction: "Bring all your knowledge of life to bear on everything that you write. Never let yourself bog down in pedantry and detail. Bring history, the most humane and noble form of letters, back to the proud position she once held; knowing that your words, if they be read and remembered, will enter into the stream of life, and perhaps move men to thought and action centuries hence, as do those of Thucydides after more than two thousand years."

If Professor Morison's fellow historians would heed those words they would find a wider audience, and the nation would be wealthier and wiser for their effort.

ADM. MORISON, 88, HISTORIAN, IS DEAD

(By Alden Whitman)

Samuel Eliot Morison, the undisputed Grand Old Man of American historians, died yesterday in the Massachusetts General Hospital, Boston, from the effects of a stroke. He was 88 years old and lived in Boston during the winter and in Maine in the summer.

A prodigiously productive writer, Admiral Morison published "The European Discovery of America" when he was 80 years old, and a book on Samuel de Champlain when he was 82. A master narrative historian, he was a pleasure to read for his figure of phrase and for his enthusiasm. These were characteristics of his prose that suffused virtually every page of his books.

Last year, Professor Morison was described by Archibald MacLeish in a Bicentennial poem as "Our Yankee Admiral of the Ocean Sea." . . . You know better, none better how the Bay wind blows fierce in the soul." It was an apt description, for Professor Morison was the author of a biography of Christopher Columbus under the title "Admiral of the Ocean Sea," and he himself was often addressed as Admiral because he was a retired rear admiral in the Naval Reserve. Much of his renown, moreover, was based on books about the sea and, besides, he had the commanding presence of an old-fashioned admiral.

Like Francis Parkman, the great 19th-century American historian, and Thucydides of ancient Greece, Professor Morison combined impeccable scholarship with adventure in chronicling voyages that he himself re-enacted. This gave his books a special vividness and depth, which won for them not only academic laurels, but also such popular accolades as the Pulitzer Prize.

"My constant aim has been to write history and historical biography in a manner that would be authentic and interesting," the tall, spare, salt-water-beaten professor said in an interview several years ago.

"I have always endeavored to live and feel the history I write," he went on in his Boston voice. "For example, 'The Maritime History of Massachusetts' was a product both of research and of my hobby of sailing along the New England coast.

"In preparation for 'Admiral of the Ocean Sea: A Life of Christopher Columbus,' I made voyages to the West Indies and across the Atlantic in sailing vessels, checking Columbus's routes, methods and landfalls.

"And for 'The History of U.S. Naval V Operations in World War II, [it came to 15 volumes] I obtained a commission in the United States Navy, took part in many operations [he won seven combat stars and a Legion of Merit with a combat clasp] and learned at first hand how the Navy fights."

WON $51,000 PRIZE

The naval narrative with its crackling prose was unofficial—some called it "Sam Morison's history"—and won the Swiss-Italian Balzan Foundation Prize of $51,000 in 1963. His Columbus biography had taken the Pulitzer Prize in 1943; and a second such prize was awarded him in 1960 for "John Paul Jones," a life of the Revolutionary War figure who is often considered the father of the American Navy.

"The European Discovery of America: The Southern Voyages A.D. 1492–1616" was an extension of Professor Morison's earlier interest in Columbus, but, more, it was a synoptic account of the voyages of discovery and exploration undertaken by Columbus, Magellan and Sir Francis Drake. Two of the crowning achievements—those of Columbus and Magellan—were made in the service of the King of Spain, while the third was under British patronage.

The greatest voyage of all, Professor Morison concluded, was the one led by Ferdinand Magellan through its most difficult stages and completed by Sebastian de Elcano.

Magellan sailed from the River Plate with nearly half the earth's circumference stretching unknown before him, Professor Morison pointed out. He brought his fleet (less one ship that deserted) through the 300-mile strait that modern sailing manuals describe as impossible for sailing ships and dangerous for steam, and took off westward with nothing to guide him but an idea of the latitude of some of the places on the farther side of the Pacific and his own erroneous notions about its width and shape. His first touch with civilized life after leaving the Canary Islands was in the Philippines, in March 1521.

Professor Morison's biography of Champlain, if a less-majestic work than "The European Discovery of America" was nonetheless an attractive, lively portrait of a person that the author clearly considered to be one of the eminent men of the 17th-century Age of Exploration.

Like its forerunners, this book was full of sea lore, and it bore traces of the fact that Mr. Morison had followed Champlain's footsteps through Canada and along the New England coast.

Professor Morison's magisterial volume on the Southern voyages had been preceded, in 1971, by his book on the Northern explorations. His chronicle covered the period from A.D. 500 to 1600, and as was his wont he undertook many of the trips himself, before describing them. The book contained the customary Morison bursts of gusto. His final paragraphs conveyed the flavor. They read:

"In closing let us not forget the gallant ships and the brave mariners who lost their lives pursuing these voyages for a century after Cabot, or men like Raleigh who financed them: Cabot himself and both Corte Reals lost with all hands no one knows where; Gilbert, lost with all hands off the Azores; Frobisher, mortally wounded in the war with Spain; John Davis slain by Japanese pirates; Verrazzano, killed and eaten by cannibals; Raleigh, beastly executed by James I as part of his cringing policy toward Spain.

"These men, and the thousands of mariners whose remains lie under the seamless shroud of the sea, deserve to be perpetually remembered as precursors of two great empires in North America."

Professor Morison's favorite book, however, and the one of which he was the proudest, was "The Oxford History of the American People," published in 1965. "It's my legacy to my country," he told this reporter in a conversation in 1969 at his Boston home. "It represents my cumulative knowledge over almost 50 years and my mature thinking about American history."

The 1,176-page volume (its title derived in part from its publication by the Oxford University Press) traced the major strands in the nation's history from prehistoric man to the assassination of President John F. Kennedy in 1963. Intended for the general reader, the book, without neglecting political history, treated popular sports and pastimes, eating and drinking customs, developments in fine arts, music and medicine, sexual mores and the Indian. And, of course, there were paragraphs in praise of great ships and their builders, such as David McKay and his Flying Cloud.

Typical of Professor Morison's feeling for these ships, and typical also of his general prose style, was this description of 19th-century American sailing vessels:

"These clipper ships of the early 1850's were built of wood in shipyards from Rockland in Maine to Baltimore. Their architects, like poets who transmute nature's message into song, obeyed what wind and wave had taught them, to create the noblest of all sailing vessels, and the most beautiful creations of man in America.

"With no extraneous ornaments except a figurehead, a bit of carving and a few lines of gold leaf, their one purpose of speed over the great ocean routes was achieved by perfect balance of spars and sails to the curving lines of the smooth black hull; and this harmony of mass, form and color was practiced to the music of dancing waves and of brave winds whistling in the rigging.

"These were our Gothic cathedrals, our Parthenon; but monuments carved from snow. For a few brief years they flashed their splendor around the world, *then disappeared* with the finality of the wild pigeon."

Primarily a narrative writer in the 19th-century mold, Professor Morison told history dramatically and splendidly. He was less given, however, to discerning the dynamic processes, controlling social change, a circumstance that differentiated him from such other historians as Frederick Jackson Turner, Charles Beard and William Appleman Williams. His impact on the intellectual life of history was, it seemed, slight in an age when concept history, or interpretation, was more esteemed than descriptive history.

New England was the earliest and most profound influence on the patrician historian. He was born July 9, 1887, in Boston at 44 Brimmer Street, a mansard-roofed house in the Beacon Hill area that his grandfather, Samuel Eliot, had built in 1869 and in which Professor Morison lived. His parents were John and Emily Eliot Morison, who raised their son, he once recalled, in "an atmosphere where scholarship, religion and social graces were happily blended."

After preparation at St. Paul's School, the young man entered Harvard in 1904, hoping to major in mathematics. He was detoured to history, he said in 1908, by Prof. Albert Bushnell Hart, who suggested that the Harvard junior write a theme on an American figure who meant something to him personally. The choice was his great-great-grandfather, Harrision Gray Otis, the Federalist leader, whose papers were filed in the student's wine cellar.

The theme led to a doctoral thesis and to Professor Morison's first book, "The Life and Letters of Harrison Gray Otis, Federalist," which was published in 1913. "It was a success d'estime, selling only 700 copies," he recalled more than a half-century later when he revised it as "Harrison Gray Otis, 1765–1848: the Urbane Federalist." The book, though, was the foundation for his early reputation and his first teaching appointments at the University of California and at Harvard.

Professor Morison's interest in mathematics was not entirely wasted, however, for he used his knowledge of it in navigation. "The proudest moment of my life was making a landfall in the West Indies on the first Columbus expedition in the face of doubts from my shipmates," he remarked in 1969.

After serving in the Army in World War I, Professor Morison was an attaché to the Russian division of the American Commission to Negotiate Peace, and he was also a delegate on the Baltic commission of the Paris Peace Conference. Displeased by the Versailles Treaty, he resigned in 1919 and resumed teaching at Harvard.

His courses included one on the history of Massachusetts, from which sprang "The Maritime History of Massachusetts," one of his most successful books, as well as "Builders of the Bay Colony." As a teacher, Professor Morison was among Harvard's most popular, for he not only took his students out of the classroom on field trips to historic sites, but also lectured to them with grace and wry wit.

In 1922, Professor Morison went to Oxford for three years as the first incumbent of that university's new chair of American history. There he worked on a textbook for British students of United States history, parts of which were enlarged into "The Growth of the American Republic," a textbook for American students that was written in collaboration with Prof. Henry Steele Commager of Columbia. It became a classic, going through a number of editions from 1930 to 1970.

Appointed a professor at Harvard in 1925, Dr. Morison devoted the next 10 years largely to studies about that school, culminating in a multi-volume "Tercentennial History of Harvard College and University," which appeared in 1936 and which won for him the Jusserand Medal and the Loubat Prize, both academic distinctions.

After that, he embarked on his study of Columbus for the 450th anniversary of the discovery of the New World in 1492. Between 1937 and 1940 he made four trips in sailing vessels in the waters that Columbus had explored, crossing and recrossing the Atlantic in 1939–40 as commodore of the Harvard Columbus Expedition.

"No biographer of Columbus [before me] appears to have gone to sea in quest of light and truth," Professor Morison said rather tartly in the preface to his "Admiral of the Ocean Sea," adding:

"And you cannot write a story out of these 15th and 16th century narratives [the usual sources of Columbus biographies] that means anything to a modern reader merely by studying them in a library with the aid of maps. It may be compared with those ancient books on natural science that were compiled without field work or experimentation."

The book, hailed alike for its erudition and good writing, commended Professor Morison to President Franklin D. Roosevelt, himself a sailor, in 1942, when the historian proposed to write "a full, accurate and early record" of the Navy's role in World War II. For the purpose, he was commissioned a lieutenant commander in the Naval Reserve (he was retired with the rank of rear admiral in 1951), and between 1942 and 1945 he covered almost all the battle areas and naval operations of the war.

He was an eyewitness to the North Africa landings in 1942 and participated in the Central Solomons campaign the following summer and in the Gilbert Islands assault. He was at Salerno in 1944, and he saw the battle for Okinawa from the bridge of the Tennessee. In all, he served on a dozen ships, jotting down his notes in pencil on yellow pads. These, with official reports and enemy records, became the basis for his narrative, the first volume of which came out in 1947. The complete work took 15 years.

During these years Professor Morison also wrote eight other books, including "The Story of the Old Colony of New Plymouth," "Intellectual Life of Colonial New England" and "John Paul Jones: A Sailor's Biography." This, too, was the fruit of on-the-scene research into Jones' principal battles.

Almost 10 years later, in 1967, he produced another biography of an American naval figure: "Old Bruin—The Life of Commodore Matthew C. Perry." It, too, was adjudged a minor masterpiece of research and writing.

Professor Morison was often crusty and witty in his judgments of American personalities. For example, in his magnum opus, "The Oxford History," he gave these assessments of some Presidents:

"Thomas Jefferson was no social democrat but a slave-holding country gentleman of exquisite taste, lively curiosity and a belief in the perfectibility of man. His kind really belonged to the 18th rather than the 19th century."

"President Jackson had so many limitations that it is doubtful whether he should be included in the ranks of the really great Presidents. His approach to problems was too personal and instinctive, his choice of men, at times, lamentably mistaken; and unlike the Roosevelts, he had little perception of underlying popular movements, or of the ferment that was going on in the United States."

"Lincoln wielded a greater power throughout the war than any other President of the United States prior to Frankin D. Roosevelt; a wider authority than any British ruler between Cromwell and Churchill. Contemporary accusations against him of tyranny and despotism read strangely to those who know his character, but not to students of his Administration. Lincoln came near to being the ideal tyrant of whom Plato dreamed, yet, nonetheless, he was a dictator from the standpoint of American constitutional law."

"A mean, thin-lipped little man, a respectable mediocrity, [Coolidge] lived parsimoniously but admired men of wealth, and his political principles were those current in 1901. People thought Coolidge brighter than he was because he seldom said anything; but, as he admitted, he was 'usually able to make enough noise' to get what he wanted."

"Franklin D. Roosevelt was one of the most remarkable characters who ever occupied that high office. A patrician by birth and education, endowed with an independent fortune, he was a Democrat not only by conviction; he really loved people as no other President has except Lincoln, and as no other American statesman had since Franklin. Appreciation he prized in return, but opposition did not sour him. He combined audacity with caution; stubborn as to ultimate ends, he was an opportunist as to means, and knew when to compromise."

"Eisenhower was one of the best men ever elected President of the United States. Yet he failed in the historic role cast for him. What went wrong? To put it simply, Dulles on the international scene, and the President's want of experience on the domestic scene."

"With the death of John Fitzgerald Kennedy something died in each of us; yet the memory of that bright, vivid personality, that great gentleman whose every act and appearance appealed to our pride and gave us fresh confidence in ourselves and our country, will live in us for a long, long time."

Professor Morison's first wife was Elizabeth Shaw Greene, a painter, whom he married in 1910. They had four children—Elizabeth Gray (Mrs. Edward Spingarn); Emily Marshall (Mrs. Brooks Beck); Peter Green Morison and Catharine (Mrs. Julian Cooper).

In 1949, four years after his first wife's death, he married Priscilla Barton, some years his junior. She accompanied him on his travels to the Far East to revisit scenes of World War II and on his trips to collect material for his biographies of Jones and Perry. She also shared her husband's hobby of sailing his yawl out of Northeast Harbor on Maine's Mount Desert Island, his favorite vacation resort. Mrs. Morison died in 1973.

Professor Morison considered that life had dealt well with him. "I've had a very happy career," he remarked in 1969. "I have been very fortunate in combining a hobby of sailing with a profession of history. I have no complaints against life at all."

DESEGREGATION AND THE CITIES; PART X—AFTER THE BATTLES STOP: REPORTS FROM SEVEN DISTRICTS

Mr. JAVITS. Mr. President, school desegregation is an issue that can make a community nationally famous for a few days, can fuel a few years of local political strife—and, once the shouting stops is generally accepted and ignored. Education writers on newspapers in a number of cities which desegregated some time ago have sent in recent reports. In a surprising number of cases they really had not written anything about it for a long time because no one had mentioned the issue at a school board meeting. The fact that this bitterly contentious issue does settle down into a routine fact of life is, of course, one of the most important stories of all. It is easy for a television film crew or a newspaper writer to cover dramatic public conflict. It is much more difficult to follow and explain gradual changes in individual schools over years of quiet desegregation. Yet that is where the real story is.

Today's insertions are recent articles from seven papers reporting what has happened after years of desegregation in six school districts and analyzing the very successful management of locally designed desegregation in a sixth community.

The first report comes from the New Rochelle, N.Y., district, the first system in the United States to implement court-ordered busing to remedy de jure segregation. The second is from Pontiac, Mich., where a national storm of protest and antibusing organizing began in 1971. The third covers Prince Georges, Md., the Nation's ninth largest local district and the site of difficult middle-of-the-year desegregation in January 1973. The fourth is from Las Vegas, where a metropolitan-wide plan was implemented in 1972 in a school district larger than several Eastern States. Next come reports from two university towns in Illinois, Evanston and Champaign, which implemented desegregation plans about a decade ago. Finally, a report from Racine, Wis., shows the way one community chose to accomplish peaceful, well-planned desegregation last fall.

All of these communities together have not attracted even a tiny fraction of the national and international attention lavished on those who have disrupted the desegregation process at two Boston high schools. Racial violence is a very important story, but the quiet efforts of teachers and students in peacefully desegregated school systems is far more important for the future of our cities. I hope that Members of the Senate who have come to think of angry mobs as the essence of the busing issue consider the genuine accomplishments in many districts.

I ask unanimous consent that these articles be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Dec. 15, 1975]

Busing Still Going Where It All Began

New Rochelle, N.Y.—Twelve years ago this well-to-do suburb of New York City closed one dilapidated old school in the black central district and began transporting its students to white campuses, thereby becoming the first Northern community to desegregate by means of the school bus.

Today most consider busing to be a limited success here, although many blacks and whites agree that the original plan probably would not be acceptable now.

In an era when large school districts are employing hundreds of buses to transport thousands of students at a cost of millions of dollars annually, New Rochelle's program is something of an anomaly.

When the buses rolled for the first time here in 1963, they carried only 400 students, all black. Even now, only 850 (out of a total enrollment of 11,000) ride buses. The annual cost is only $270,000.

Blacks and whites alike concede the plan might have been impossible to implement if it had required white children to be bused into black neighborhoods, as is the case in more recent court-ordered desegregation plans.

Mrs. Hallie Taylor, a plaintiff in the 1961 suit that brought about the program, says it simply was more practical to tear down the old school and bus the black children. Many black parents resented the inequity of the situation, but most shared Mrs. Taylor's view that it was more important for their children to be educated in a desegregated environment.

Mrs. Taylor admits that today it probably would be much more difficult to convince black parents of the wisdom of the plan.

"We've had a mixed result," said Asst. Schools Supt. Richard Olcott in commenting on the educational effects of busing. "There's no question that for some students, it's been the best thing that could have happened. It hasn't hurt any gifted children from either community.

"For the kid in the middle, there's probably no effect. But for kids at the bottom the ability scale, contact with other kinds of children . . . with kids from a higher socioeconomic background, the effect has been positive."

Olcott believes there have been some changes in housing patterns as a result of busing. Some neighborhoods that were ethnically exclusive are now integrating as parents buy homes near schools to which their children are assigned.

"I won't say it's happened at a spectacularly speedy rate," he says, "but it is clearly discernible."

There are negative aspects. Black children are limited in their participation in afterschool club and playground activities because of rigid bus schedules, according to Olcott. And when at day's end a child is sent back to an almost totally segregated neighborhood, Olcott says, "He very quickly comes to understand that the experience he has in school is artificial."

Napoleon Holmes, president of the local NAACP, agrees with Olcott on this point, but disagrees with Olcott's view that changing housing patterns are a result of busing. "It is (a result of) the fact that some black folks can earn money now," he says, "and that certain laws say you can't keep them out of the neighborhood if they've got the dough."

Regarding the busing plan itself, Holmes says. "A better idea would have been to have a uniform system whereby everybody in the same grade level is learning the same things regardless of the school he's in. Quality education—that's where it's at."

But Paul Dennis, past president of the NAACP chapter and a leader in the busing movement, disagrees.

"Desegregation here has been a great success," says Dennis. "I would lend my efforts to it again . . . Some of the first kids (bused) have gone on to college now. They've made good grades . . . One has been offered a Rhodes scholarship. It's helped change our community."

[From the News Democrat, Ill., Nov. 17, 1975]

PONTIAC, MICH., 5 YEARS LATER

(By Bruce H. McIntyre)

For most of this century Pontiac, Mich., was known to the nation as a place where a car was made. Today, however, it kindles images of burning school buses, mothers marching in protest, and a T-shirted protest leader named Irene McCabe.

As an editor who witnessed the school busing controversy, and as a father whose children have attended the Pontiac schools throughout it, all that I intend to offer the reader here is a personal impression.

There is no reliance here on statistics, quotations, research—or even on objectivity. This testimony is from an involved witness who has formed certain distinct opinions. For example:

No one really knows whether busing was good or bad for school children in Pontiac. It probably will be years before any accurate conclusion can be reached.

Busing has prevented a great deal of potential violence in the schools, completely aside from what it accomplished or failed to accomplish educationally.

In the first year or so after busing began in 1971, it had the effect of causing "white flight." Many white parents, those who could afford it, either moved out of town or put their children into private schools. In the last two to three years, however, this has slowed considerably.

Today, there is very little controversy about busing. It goes on quietly. Opinion surveys indicate that the original attitudes of blacks and whites toward it haven't changed much, but it is accepted.

When I moved to Pontiac in the spring of 1971, the school district had lost its last legal appeal and it knew that busing would have to start under a federal court order in September.

Until late summer, oddly, the 85,000 people in the city seemed unaware of pending change. The onrush of clamorous protest started only a month or so before the buses were due to roll.

A few days before school opened, some school buses were firebombed and Pontiac was national news. (Later the Klu Klux Klan was identified as the responsible group.)

Pontiac's reputation as a hotbed of antibusing fervor was strengthened by the shrewd public relations antics of Mrs. Irene McCabe, a Pontiac housewife who led the National Action Group (NAG).

The attractive Mrs. McCabe did much of her public protesting in a highly visible NAG T-shirt. She was assisted by a smart, ambitious lawyer named L. Brooks Patterson.

There was no "other side"—no vocal, identifiable group in favor of busing. Instead there were individuals and small groups of people who had determined that they would not allow Pontiac to be destroyed by the controversy.

The PTA was among these. So was a group of clergymen. So were a number of student groups in Pontiac schools.

The school board, although its members were hardly pro-busing, insisted on maintaining order. The city administration, which controlled the police, took a like view. And the school superintendent, a savvy veteran named Dr Dana Whitmer, kept unbelievably cool throughout it all.

Those things made Pontiac different than Boston, where politicians thrived on antibusing sentiment. A few did in Pontiac, but they were outweighed by more responsible leadership.

For the first six months after busing began, tensions spilled over to the ranks of teen-aged students and left the Pontiac schools in turmoil. There was violence and there was a great deal of tension.

You might almost have written off that year for educational purposes. Some classrooms remained calm but the students often were distracted by the battle that raged in the community that winter.

There is no saying when things calmed down, but midway in the first year you could feel the atmosphere begin to change. By the fall of 1972 near-normalcy had returned.

Pontiac schools now have about 40 per cent black students, with an additional, sizeable group of Latinos. In my opinion, the fact that racial groups were dispersed throughout the school system starting in 1971 has eased a lot of the tension that could have led to violence.

By some testing standards, the ability of Pontiac students has fallen since 1971. There is no way to know whether this was affected by busing.

The quality of education in the district has suffered in the same period, although very little of the budget is actually devoted to transportation. My guess is that the tightness of financial resources is more to blame than the busing plan.

Nevertheless, my children have received a good education and two of them were accepted into excellent universities.

Two of my daughters were beaten by a rampaging bunch of black students two days after school opened in 1971. Today, I doubt if they often remember it, and there is no racial distinction among their friends.

None of this should suggest to you that I became a "fan" of busing. I continue to believe there's a better way, but I can't define it.

What happened to the players in the drama of 1971?

Dr. Whitmer, the school superintendent, is still on the job.

Irene McCabe made an unsuccessful race for county commissioner, and has retired from the public eye. She sells real estate.

Lawyer Brooks Patterson got the most political capital out of it. He was elected county prosecutor and is best known today as an anti-pornography, anti-welfare fraud campaigner. He has his eye on state or national office.

And the kids, God bless 'em, keep growing up and going to school probably wondering what all the adults were fussing and feuding about.

[From the Washington Post, Sept. 4, 1975]

BUSING WORKS IN ONCE-BITTER PRINCE GEORGES

(By Elizabeth Becker)

Two weeks before Prince Georges County desegregated its public school system, Virginia Dillard organized an anti-busing rally at Rosecroft Racetrack where 15,000 protesters cheered local politicians who vowed to fight the court order all the way to the Supreme Court.

That was two years ago and Mrs. *Dillard*, who built a 45,000-member white anti-busing movement from a core of 30 embittered housewives, now has a new perspective on the impact of busing.

"After two years, I guess it did nothing. Other than discipline problems, schools are not any worse or any better from busing," she says, adding that she is still against busing.

But Dillard never removed her five children from the county's public schools although she organized the "day of mourning" class boycott on the first day of desegregation.

Why? "My kids like school," she says. "I think we have a pretty good school system."

Despite some dissenters, the evidence shows that in Prince Georges County, the largest suburban school district in the United States, busing is working. Those who carried out the order—the students and the teachers—are the most enthusiastic. And even old opponents are resigned to busing and say there are many more pressing problems today than desegregation.

Few if any of the fears—of violence, a decline in test scores, a massive white flight—have materialized, and the few problems that have beset the schools are not on the scale many had predicted.

On the contrary, many now consider the county a model for peaceful desegregation. Actual racial incidents were few in the first year of desegregation, and although reported assaults jumped by 40 per cent in 1973, the increase rate was sliced to half that last year.

"We have nothing to show that these assaults have anything to do with racial prejudice," says Peter D. Blauvelt, school security director. "It's absurd for anyone to pretend otherwise."

He attributes a good share of the rise in the assault rate simply to the doubling of his staff, which began the first systematic reporting of assaults, "not just reports of busted color televsion sets like they did before."

Both Blauvelt and Mrs. Dillard believe drugs are behind much of the new school violence, which has hit school systems of all kinds across the country.

Test scores, another presumed victim, actually rose the first year after busing in seven of the 12 exams given countywide.

And, in the wake of busing, many students and parents actually have shown a renewed involvement in all aspects of education.

"Busing was a blessing," says Geneva Jenkins, a former anti-buser who now is a leader of Citizens Advocating Responsible Education. "Once I looked into school I found I didn't like a lot of what they are doing and teaching."

Because county school officials smoothly executed the busing program that transferred 33,000 of the 151,000 students to new schools, most student reaction has been enthusiastic.

"Integrated schools have shown me that the rumors I grew up with were a bunch of baloney," says Linda Ficken, a white senior at Largo High who is bused from New Carrollton, site of the greatest anti-busing sentiment in 1972.

"Everybody at first was scared . . . that we would be beat up by black kids but nothing happened. We got the wrong ideas from parents who have always been segregated," she continued.

"School is more exciting now because of our differences . . . differences parents don't appreciate because they haven't been to school with us. Like—I know this sounds dumb—like music, and dancing, and new friends."

Linda said the greatest proof that race relations had improved came last year when a friend, John Jenkins, was murdered on the school parking lot.

"John was white . . . and the police arrested three black guys and we were scared that something would happen," she said. "But everyone—black and white—was sad that John was killed and there was no racial tension."

Adonis Hughes, a 1975 graduate of Highpoint High School who before busing was "a token black" there, found an unexpected benefit from the mixing of races.

"I grew up as a black in a predominately white community and it was good for me to get to know more blacks," he says. "I've always had a white identity . . . I dated a lot more white girls than black but never at my school."

"Once, after busing, a popular white pompom girl and I decided to pretend we were going together, to see if attitudes had changed. We walked around school for a couple of days planning it to write up in the student paper. But her old boy friend got mad because I was black and started talking . . . Her parents are very racist, if they had heard about it she could have gotten into trouble.

"Now I know that I have missed out on a lot. It's still easier for me to identify with whites but I have become aware of a black existence; the way they dress, the way they relate to each other, more casual and close than whites. They don't have as many cliques and social divisions. It's made me see there is something called the black experience."

Other students talk about details as small as the cafeteria menu—adding lasagna for the whites and cornbread for the blacks—and rules against wearing hats.

At one high school a caucus of students and teachers convinced a principal that a rule banning hats indoors should be thrown out because black students wore them indoors—"just like other cultures wear turbans."

Another student remembered a search to find a solution to black demands for a soul band to play at the prom, which clashed with white demands for a rock group. "The Fancy Colors," which features soloists of both races, was the solution. Another integrated band, "Cream and Cocoa," was booked for a winter dance.

E.V.I.L., was born in the busing era.

The club—Everyone Very Interested In Loving—was created by black and white students at Laurel High after a 1974 racial incident threatened to upset the whole school.

Racial tensions still pervade some junior high schools, according to interviews with students, teachers and parents, but most often these problems are linked to other troubles that beset adolescents.

In general, the safety issue that frightened parents two years ago has died down, and some families are sending their children back to the public system.

Penny Davies, a mother who worked against busing, for example, is allowing her daughter and son to leave the parochial school they attended last year to return to a county elementary and junior high.

"This year they both chose to go to public schools," she explains, "so I talked with the guidance counselors and the neighbors and they all said it was safe and that the schools were good. Of course, I'd pull them out again if I had to."

Another mother, Peggy Hillman, says her son refused to let her place him in a private school.

"Central High has a reputation that is not deserved," she now says. "I was terrified when I heard he was going there. Last year I got involved in a booster club and met the parents of the black students and they are lovely people. My son is happy and that's what's important."

Black parents are also pleased.

"I can best explain it all to you through my daughter Olivia," says Sylvester Vaughns, president of the county's NAACP chapter and one of the eight parents who filed the 1972 desegregation suit.

"At Kent Junior High (formerly all-black) she made the honor roll. The following year when she was bused to Kenmoor Junior High she didn't make it and she was doing just as well. That's what was unfair—that the white standards were higher than at black schools. I never thought that the only way my child could learn was to sit next to a white child, but that's where the quality education was and that's what it's all about."

Another black junior high student, Pam Hampton, made a similar discovery. An honors student at a primarily white junior high, she was discouraged when she was bused to a formerly all-black school and found the standards there much lower.

At my old school, Robert Goddard, there was more variety in our programs. You could really become academically involved if you wanted to," she says. "But when we were transferred to Kent we found it wasn't there. As a matter of fact, only six people were in my math class and all of them came from Goddard."

Others, however, retain strong opinions about desegregation hurting Prince George's.

"I believe busing is the single most disruptive thing that has happened in the history of the county," says Winfield M. Kelly Jr., county executive. He believes that a "feeling of instability" created by the busing turmoil both triggered white flight and frightened off new middle-class families that otherwise might have moved in.

"I could give you two arms lists of names . . . of people I've really been saddened to see leaving the county. It's the stability thing that pulled them away . . . everything suffered . . . including racial relations."

But Kelly, like others, declines to produce a list of names of those who may have left for this reason, and it is impossible to measure how many white may not have moved in because of school desegregation.

The racial make-up of the county, which has acquired a 25 per cent black population in little more than a decade, had begun changing before school desegregation, part of a trend of blacks moving to close-in suburbs that is occurring elsewhere.

Both the black increase and the white decline were being reflected in county school enrollments before busing for desegregation was ordered, though there was a larger than normal drop—9 per cent—in white enrollments during the first year of busing and its protests.

The following year, however, the white decline slowed to 5.4 per cent, and Charles Wendorf, director of pupil accounting for the school system, sees a trend toward stabilization of the racial mix.

"I think the population is integrating naturally, and I don't think busing has anything to do with it now," he remarks.

Jesse Warr, the only black member of the county school board, notes that "the black population change began before busing."

Black enrollment, remained steady during the first busing year, climbing at 1.5 per cent as it has over the past seven years, according to Wendorf. The greatest black influx came in the late 1960s, and population authorities say this coincided with open-housing legislation in the county and urban renewal in the District of Columbia.

"To use the economy and instability to say busing isn't working is a lot of baloney. Those are scapegoat tactics to blame me, a black person, as the cause of it all," says Warr.

Many opposed to busing also claim that the housing market was hurt by desegregation. But realtors generally say that the change in school assignments had little effect on their sales, which have improved in the past two years.

The black community also found fault with a situation they say grew out of busing. Last November, the NAACP filed a suit charging the school system with discriminating against black students by suspending them at a higher rate than whites.

The first year after busing, 48.2 per cent of suspensions were meted out to blacks, who made up 28.9 per cent of the school population, according to school statistics. That suit was settled out of court last spring.

Other desegregated school systems have also been charged with "pushing out" black students through suspensions or discriminating against them through "ability grouping," with blacks put in the lowest groups.

The Department of Health, Education, and Welfare recently reported that it has required the shifting of classes for 250,000 children in the last year and a half to halt such "second generation" segregation, mostly in Southern systems.

But in Prince Georges most residents say that, considering the history of the county, desegregation has gone smoothly. Until 1954, the schools were segregated by law and little changed until the mid-60s when, under federal pressure, the school boundaries were redrawn to break up 24 all-black schools.

In 1972 when the federal courts in Baltimore ordered the mid-term transfers, the schools quietly prepared an intricate busing plan while the county erupted in protests.

"We transferred twice as many students as they did in Boston, a logistical feat comparable to putting a man on the moon," says Carl W. Hassel, school superintendent.

"We guaranteed that every student would have the same courses in their new schools, that sports would continue, that student officers could retain their position . . . And on D-day we didn't have one single disruption. Compared to what I've seen in other places, this is really remarkable."

[From the Las Vegas Review Journal, Mar. 22, 1976]

County School Desegregation Plan Detailed

Editor's Note: School desegregation in Clark County has continued since the fall of 1972 under a federal court order. The plan, proposed by administrators and the school district trustees, established seven sixth grade centers.

About 5,400 students attend the centers in the predominantly black West Las Vegas area. White sixth graders are bused from other parts of the city to the centers and first through fifth grade black students living in the West Las Vegas area are bused to schools in the metropolitan area. The centers also include kindergarten for the black children who are not bused out of their neighborhoods.

In these two reports, the educational program at the centers is examined. Dr. Brian Cram, an assistant superintendent, gives an overview and the staff at Jo Mackey Sixth Grade Center describe the program this year and the changes that have occurred in the last four years.

(By Rick Keir)

The psychological and physiological changes 11-year-olds begin to experience as they enter sixth grade place special demands on their educational environment.

They have great physical energy and studies have shown their attention span is little more than that of kindergarteners.

With a concentration of these pre-adolescents, the sixth grade centers in the Clark County School District are in a unique position to meet these demands, according to Dr. Brian Cram, an assistant superintendent.

"They are right between the rather self-contained elementary school experience," Cram said, "and the departmentalized junior high school experience. In elementary school, the students usually stay with one teacher and in junior high school, they move from teacher to teacher.

"In the centers, we emphasize a 'core' program in which one or two teachers combine language arts skills like penmanship, spelling, reading and vocabulary with social studies.

"The students also move to other rooms for math and science every day and then to other rooms for art and music a couple of times a week. In this way, they have a transition from the self-contained system to the departmentalized one."

The disruption of the education process during the last four years has been minimal at the seven centers, Cram emphasized.

He praised the teachers and administrators for their willingness to view the sixth graders in a new light and work toward improving the curriculum.

"Our aim is to stress fundamental skills. This is an excellent time in the child's education for regrouping in an attempt to make sure all of them have the basics.

"At the end of the fifth grade," Cram continued, "the students take a (nationwide) standardized achievement test which determines their ability in a broad range of subjects including math, language and spelling.

"We get a general idea of their progress by looking at the scores. We can see in what area a student is having trouble or excelling. Then, we give them a test developed by the district which will tell us specifically what kind of problem the student has.

"For instance, by looking at the scores on the standardized test, we may see a student is having trouble in math. And we can tell by our test if he is having trouble with addition, subtraction, multiplication or division.

"Then, we attempt to give a program to the particular student which fits his level. We have remedial and accelerated programs at most of the centers.

"This fits well into the core program, too. If a student is reading on a fifth grade level, the teacher is more apt to consider this in the social studies lesson."

The centers organize the program differently although each revolves around the central theme of a core program.

District administrators provide direction in policy guides each year.

During this year, the policy guides from the district have emphasized Cram's back-to-the-basic approach. For example, improved penmanship has been promoted. "We are looking for acceptable legibility of cursive writing (long-hand) and not how pretty it is," Cram said.

Teachers have received guides which indicate the different levels of legibility. "We're trying to give teachers an idea of what to look for and how to correct it," he said.

"And we emphasize that the different courses should be integrated. It's unrealistic to teach composition at one time and social studies at another. Teachers in every subject area are responsible for penmanship," Cram explained.

He added the centers are using a common spelling book for the first time this year. "We try to put the words they learn in science classes on the spelling tests," he said.

The centers also offer a wide variety of non-academic activities to channel some of the boundless energy of the students.

The activities are carried on during the school day in the same fashion as clubs in the high schools.

One center has 24 clubs including such diverse activities as needlepoint, model building, television broadcasting, chess and rug hooking. The students attend these activities at different times. At one center they go once every two weeks.

One of Cram's main concerns is to develop aa sense of continuity for the sixth grader as he enters junior high school.

As the assistant superintendent for intermediate education, Cram administers the junior highs as well as the centers.

"We now have a uniform system of describing a student's achievement from sixth to ninth grade and we're getting an increase in consultation between the sixth grade teachers and the junior high teachers.

"We're asking the teachers for goals and they're getting together to talk a lot more. We're getting more specifics about how we can coordinate the curriculum rather than the nebulous complaints about the school or that school," Cram said.

He pointed out the district is moving toward the implementation of the "middle school" concept in a modified form. In several states, a middle school includes sixth, seventh and eighth grades.

In the district, ninth grade has been shifted to many high schools from the junior high.

Pod Benefits Students—"School-Within-a-School" Concept Works

The desegregation plan is blending well with an experimental education program at Jo Mackey Sixth Grade Center, according to Principal Herschel Williams.

The program is organized along the lines of a "school-within-a-school" concept.

Each school-within-a-school is called a pod and each pod contains four teachers and a minimum of 120 students. There are four classrooms in each pod and the students go from one room to another for the various lessons.

As in the other sixth grade centers, the curriculum revolves around the core courses of language arts and social studies. In addition, students learn math and science skills from teachers in the pods.

They also go to other classrooms outside of the pod to learn from specialists in music, art and physical education. They also can choose from a wide range of non-academic activities like clubs.

For the academically talented students, there is a specially designed program to allow them to complete in depth research.

For the students with academic problems, there is a special assistance program in various areas. A special reading teacher works with students with reading problems. Those who need this assistance attend the regular classes but work in reading and mathematics resource rooms at certain times during the day.

In this pod system, the students spend at least half a day each day studying the core courses of social studies and language arts.

The physical structure of the pod promotes better instruction, according to Williams. He said some of the rooms are separated by a sliding partition that can be opened if the teachers want to combine two classes and team teach by integrating two subjects like science and math.

The pod system differs from the departmental organization in that each science or math teacher has his or her own equipment in a different pod. Under the departmental organization, all the science equipment or math equipment is in one area.

However, Williams explained, the pod structure allows the teachers of the four subjects to exchange information more easily.

"The teachers in each pod have one planning period a day when they get together and discuss the program and how each student is progressing. I think this is very helpful for the teachers. Often, with the departmental system the science teacher doesn't get the chance to talk with the math teacher about a particular student.

"I think this is also very helpful for the parents when they come in for a conference. All four teachers can talk about the child's progress in the different area," he said.

Williams explained the school at 2726 Englestad St. has gone through many changes since he became principal six years ago.

It has changed from a regular neighborhood elementary school in 1970 to a "prestige" school where whites were encouraged to send their children in a voluntary integration program in 1971 to a six grade center in 1972.

The pod structure was instituted this fall after Williams surveyed the teachers about their concerns.

"I found that many teachers wanted more planning time and I decided the pod system is the best way to make this available. So far, it has been very successful. We are going to evaluate the experiment at the end of the year and look for areas where we can improve it," he said.

Nancy Brock, a language arts teacher who is chairman of a pod, said she believes the school has been a "pioneer" in establishing better teaching procedures.

Pam Jones, a science teacher, said the main advantage of the pod system is the teachers can easily share the same students. She said she likes the deaprtmental organization in one way since all of the science equipment can be kept in one place.

"The pod system is advantageous because we are able to have a planning period but we've had to give up a smaller class size for it. It would be better if we could keep the class size down as well," according to Linda Cochran, a math teacher. She said about five students have been added to each class. The classes have about 32 or 33 students in them.

As the learning atmosphere has changed over the years at Jo Mackey, so has the social atmosphere.

The constant phone calls by parents of black and white students about real or imagined racial problems during the first year as a center have given way to an easier attitude.

"During that first year, I was receiving many calls from parents with concerns that had no basis in fact," Williams said. "Now, their concerns are centered around how a student is doing in a particular class.

"More white parents are apt to come into the area voluntarily. For instance, if their child has a doctor's appointment during the day, they are more willing to come and pick him up.

"And they see that people around here are really interested in keeping up the appearance of their property," he said of the middle class residential section surrounding the campus.

"We have many well-kept homes around here as opposed to apartments and when the white parents come here they see different things than they had heard about."

The sixth graders have adjusted well, too, Williams said.

"No one has developed an instrument to show the change in the degree of acceptance of a person of one race for a person of another. But, on the surface, it seems the interplay between the boys and girls has improved. They have become less standoffish," said the young, black principal.

Williams is planning to write a dissertation for a doctorate in education from the University of Houston on the changes of racial attitudes. He pointed out the dissertation is in the planning stage and he plans to gain permission from the Clark County School District, parents and students before he begins the study.

"I've come to some minor conclusions already. Due to the fact that many of the boys and girls have brothers, sisters and cousins who have been through the center, they are having a better time. Much of the apprehension felt by everyone—parents, students and teachers—during that first year is gone.

"And I want to emphasize one of the main reasons for this has been the hard work of the teachers, many of whom have been here three or four years."

[From the Chicago Sun-Times, Oct. 12, 1975]

EIGHT YEARS LATER, EVANSTON BUSING STILL A SUCCESS

(By Andy Shaw)

Controversial educator Gregory Coffin is just a memory these days in north suburban Evanston, but his legacy—one of the nation's first school busing programs—quietly and effectively lives on.

On any school day, the yellow buses can be seen rolling along tree-lined Evanston streets, carrying 1,900 children—1,000 white and 900 black—to 11 of District 65's 21 elementary and junior high schools.

Evanston, like the big city just south of it, is proud of its neighborhoods, which vary in ambience and populace nearly as much as Chicago's. There are distinct enclaves of rich, poor, middle class, black, white, Protestant and Jewish—yet every school is integrated.

Willard School, in posh, WASPish northwest Evanston, has 11 per cent black students, the fewest of any school, while Central School, in racially mixed north central Evanston, has 51 per cent black pupils, tops in the system. In all, blacks make up 30 per cent of the system enrollment.

Robert Dawkins, director of pupil services for the district, smiles when he says: "Here we have just the opposite of Boston and Louisville—people are asking, 'Why aren't my children bused?' "

In 1971, four years after busing began, a national study showed that black pupils' reading and math skills had improved since the schools were integrated, even though blacks still lagged far behind whites in overall performance.

While no busing-related study has been conducted since then, recent tests found improved achievement by blacks and whites.

Evanston's busing program has been so successful that District 65 administrators have been consultants for planned school integration projects in other cities, including Jackson, Miss.; Dayton, Ohio; Oklahoma City; Gary, Ind.; and Danville, Ill.

Coffin came to Evanston in 1966 to design and implement the desegregation plan, although groundwork had been laid by various community groups and school officials during the previous five years

Coffin moved swiftly, shifting attendance boundaries, dispersing students from two predominantly black schools, and transporting all pupils who lived more than 1½ miles from their new schools.

The Martin Luther King Jr. Elementary School was established to replace a formerly all-black school. It was opened with an enriched program to attract white pupils from around the city.

By the September after Coffin arrived, integration in the Evanston school system was a reality.

Along with White Plains, N.Y., Evanston was the first school district in the country to desegregate voluntarily with busing. They soon were followed by Berkeley, Calif.

Although there was some initial community resistance to Coffin's plan, it came off well because community residents were involved every step of the way.

Schools Supt. Joseph Hill, a black who attended Evanston schools, became a teacher and then rose through the administrative ranks, said the program has been a success because "it evolved from the community. It wasn't handed down by the school board like an edict and it was not a court order. It came from a community that was concerned that there was de facto (unintentional) segregation."

To allay initial concerns, Coffin and the board formed teams of school officials and community representatives to explain the implications of the plan at every school instead of bringing residents from all over the city into mass meetings.

At each school, parents were shown maps and drawings and the busing project was explained. According to Hill, "When people saw that it wasn't such a big deal, those who came with some anxieties had those anxieties taken care of."

Evanston, of course, had some advantages when it began, such as schools with an impressive national reputation and a relatively well-educated, socially conscious citizenry.

Even so, Coffin was less successful than his program. For reasons still not entirely clear, he was fired by the school board in 1969. Some say he moved too agressively with integration; others believe he scared people with other innovative ideas, while still another camp simply speaks of personality conflict between him and board members.

Whatever controversy Coffin generated, it quickly subsided when he departed. City Manager Edward Martin notes that during his five years on the job, "I've never heard a controversial or bad thing about the busing program."

Despite periodic questions by some residents and groups about the continued need to bus children, "none of these things has ever led to a generated attempt to change anything," Martin adds.

Supt. Hill thinks integrated education is the best approach, and "this is a two-way street. The youngster who grows up in isolation—black or white—is at a disadvantage. Children of both races have a great deal of experience to share.

"To wait until youngsters get to high school or college, when so many attitudes, myths and stereotypes have been formed, is to expect hostility. People just can't relate then."

While Hill admits it is infinitely harder to pull off school integration in large cities—Chicago has one of the nation's most segregated systems—he says much more can be done than has been so far. If the problems of distance, time, cost and community resistance cannot be overcome, he adds, systems at least should work harder to integrate facilities.

"I've seen some beautiful relationships develop between teachers and students of different racial backgrounds," he said.

[From the Champaign (Ill.) News Gazette, Feb. 15, 1976]

BUSING IS A FACT OF SCHOOL LIFE

(By Barbara G. Betz and Jim Bray)

Like cold breakfast cereal, homecoming and tax referenda, busing has become a fact of school life in Champaign and Urbana.

Each weekday morning for nine months of the year about 900 black students in the two cities wait for the yellow buses that will take them past neighborhood schools and distribute them throughout the district. All this is done in the name of building a better society and equal educational opportunities.

Considering the uproar created by busing in several metropolitan areas, local desegregation was comparatively calm 10 years ago, and is accepted without visible protest in 1976.

Nearly 5,000 students board buses each day to go to school in District 116 or Unit 4. About one fifth of those are bused to schools from outlying areas.

In Urbana, 1,984 students boarded buses the day of the last head count in January. Of that number, 488 students, including about 349 northwest Urbana blacks, are bused to maintain racial balance in each of the district's eight schools.

The remaining 139 students bused for desegregation are children of parents who live in university housing in Orchard Downs. Many are foreign-born and require special bilingual help. Not white students from other areas of the community are bused for desegregation.

Northwest Urbana black students are distributed in the schools according to a formula attempting to achieve a similar percentage throughout the district.

For all Urbana elementary buildings, the percentage of black students is about 16 percent. Of that percentage, northwest Urbana blacks comprise about 10.2 per cent.

The largest percentage of nonlocal black students in Urbana are bused into Webber School. Of 43 blacks in the school, 37 or 16 per cent of the school's population are bused.

Washington School appears to be the most naturally integrated elementary school in Urbana. Only six per cent of the school's population, 17 of the school's 51 blacks, are bused in.

Urbana's desegregation plan was developed in 1966 after a group of concerned citizens protested to the board in May that nothing had been done to achieve racial balance in the schools.

The board of education adopted a busing policy in July 1966 and busing started in the fall.

Prior to 1966, the school board had provided extra money to give King School (former J. W. Hays School) in northwest Urbana what it termed "a superior staff and facilities with a reduced class size."

While maintaining that the King School plan had been successful, the board adopted a new guideline on July 26, 1966.

"Convinced that racial balance in all schools of the district is educationally sound as well as morally right," the guideline read, "the board has decided to place the majority of Hays School area pupils in other schools.

"Although it has heretofore been a policy of District 116 to plan for neighborhood schools and to transport pupils only for special classes and because of lack of space, the board recognizes there is no other feasible way to achieve racial balance under present conditions."

That motion provided for busing of northwest Urbana black students and moved Orchard Downs children into the previously predominantly black school.

Although the Champaign school board committed the system to desegregation in 1963, little was done to reach that goal until 1967—on the heels of Urbana's surprising decision to desegregate.

The voices in Champaign's black community strengthened after the Urbana move. Most of the publicity at the time was generated by the Coordinating Committee for Quality Education (CCQE).

The CCQE was a coalition of black conservatives and liberals and was the "last strongly unified voice of the black community," according to Ken Stratton, Champaign's director of pupil accounting and the highest ranking black in the Unit 4 administration.

The pressures from Champaign's blacks, coupled with the endorsement of desegregation by the Champaign Education Association and citizen groups like the League of Women Voters, left the school board little choice but to desegregate.

The board appointed an Equal Educational Opportunities Committee (EEOC) composed of some members of the CCQE as well as representatives of the white community. The EEOC was chaired by Harold Baker, local attorney and future member of the school board.

Committee recommendations for the first steps toward integration were implemented by the board with desegregation of junior highs accomplished in 1967 and elementary schools the following year.

However, not everyone was satisfied. The CCQE wanted the elementary school plan to take effect in 1967, and an organized petition drive against busing had produced some 2,500 signatures. Neither side changed the board's plans.

Major changes were made in the boundaries for elementary schools in 1968. Two schools with the greatest proportion of blacks—Gregory and Marquette—were closed. A third—Washington—lost its population and became an experimental school with enrollment on a voluntary basis.

Blacks from the same northeast section of the city were bused to eight elementary schools with predominantly white enrollments.

The same arrangement exists today, with the bused area also attending Jefferson Junior High and Centennial High on the southwest side of Champaign.

In 1968, the board also purchased 10 new buses for the added transportation needs and hired 10 drivers in 1968 for a combined total of about $80,000.

Today, 31 buses cover about 1,500 miles each day with about 2,900 students. About 550 of those are blacks bused strictly for desegregation purposes.

Accurate estimates of current transportation costs for desegregation were not available from the Unit 4 administration.

Costs for busing all the students in Urbana were about $198,500 in 1974–75. Clarence Gast, director of School Transportation Inc., which contracts Urbana bus service, estimates about one-fourth of that total is attributed to busing for desegregation.

The number of buses has increased by five in Urbana since busing was authorized in 1966.

The longest route in the district covers 15 miles from a rural address to Thomas Paine School. In all, Gast says 994 miles are travelled by buses each day, most of them to bring in rural students.

The average length of a ride for students is about 20 minutes, Gast says. The longest is 55 minutes and the shortest about five.

According to recent reports, desegregation in the schools has not accomplished everything its proponents had once hoped it would.

After eight years of busing in Urbana, a report in the fall of 1974 indicated achievement tests scores of black students had not risen much since the schools were desegregated. The scores of black children still ranked lower than average scores in the district.

School officials explain that more black children are now included in the testing program and that achievement tests are not always accurate indicators because of bias. But they do agree that busing is not the panacea people once believed it would be.

"The achievement scores of black students still run below those of whites," said Unit 4 Supt. of Schools Marshall K. Berner. "There is beginning to be more of an overlapping of scores than there used to be."

Berner said a careful analysis would be difficult because of the lack of a "control" school untouched by the changes. Only a control would allow comparison of test data.

[From the New York Times, Oct. 22, 1975]

School Integration Gains in Racine, Wisconsin, Program Viewed as Model for the Nation

(By Paul Delaney)

Racine, Wis., Oct. 16.—The two Hochstein children—Steven, 9 years old, and Brian, 6—meet the yellow school bus every morning at 8:30. They leave cozy, white suburban Harbor View to attend Jefferson Elementary School in the city's black community.

At about the same time, Daimon Stevenson, 7, boards a bus near his home in a black neighborhood of the inner city for the long ride to Caddy Vista Elementary School, described by his mother as being "way out in the country."

Beyond concern about the distance that children have to travel—about 15 miles each way—Gwendolyn Hochstein and Lillie Stevenson said they had no qualm with the way desegregation of elementary schools has gone, that the long bus ride was "worth it to achieve something important, integration of the schools."

Of Racine's 15,000 elementary school pupils, 2,200 are being bused—about half of them white, and half black. There are 29,000 students in the city's school system—one-fifth of them black.

The effort in Racine seems to be one of the more successful examples of school integration in the North to date, officials say. Desegregation here could serve as a model for other cities as the drive for integration moves from smaller towns to bigger cities, not only in the Middle West, but also across the country.

SOME PROMISE

So far, desegregation in the Middle West has been spotty, with some notable accomplishments, some repetition of mistakes made by other communities and some promise for the future. As the evidence points to retrenchment in the South and a change of heart among some liberal proponents over busing, clearly the desegregation action now is here in the Middle West.

There is a variety of approaches, from the use here and in other cities of magnet schools to the establishment of "fifth-year centers" for all fifth-graders in Oklahoma City. There is still strong resistance, but there appears to be a growing acceptance even of busing by communities where it has been in effect for some time, such as in Pontiac, Mich.

In addition, there is court-ordered integration, as in Oklahoma City and Omaha. Officials in Kansas City, Mo., are under a desegregation directive from the Department of Health, Education, and Welfare, while the state of Iowa is pressing Des Moines to desegregate. And some communities, such as Racine and Minneapolis, have taken steps to eliminate segregated schools voluntarily.

INTEGRATION-RELATED DEATHS

On the other hand, the only integration-related deaths in this school year have occurred in the Middle West. A white student was shot by a black youth at U.S. Grant High School in Oklahoma City, and a court-appointed desegregation specialist in Dayton, Ohio, was shot by a man apparently upset that his children where to be bused. Both incidents occurred last month.

Nevertheless, a pattern seems to be emerging in some places of seeking peaceful, sincere, workable and—some say hopefully—voluntary solutions to the problems of dismantling dual schools. The merger of predominantly black city schools with predominantly white suburban schools, a solution rejected last year by the Supreme Court, is being debated as a method of achieving more lasting desegregation by cutting off some of the sanctuaries of whites fleeing the city.

Here in Wisconsin, a proposal before the Legislature would merge two Milwaukee high school districts with two suburban districts. Three superintendents in suburban Omaha said they favored voluntary rather than mandatory integration and would cooperate in such a program with the city.

The school board in Kansas City, Mo., has authorized its attorney to investigate the possibility of a lawsuit or other schools in the metropolitan area. However, some black leaders regard the move as a delaying tactic rather than an earnest effort by the board.

COURT ACTION AWAITED

About a dozen cities, mostly in Ohio, are awaiting court orders or other court action. In Ohio, the National Association for the Advancement of Colored People, in a new strategy, is concentrating on the entire state, with suits either pending or planned in such cities as Cleveland, Cincinnati, Columbus, Dayton, Arkon, Toledo, Youngstown and Canton. Court action is also pending in Milwaukee and Indianapolis.

Then there is Chicago. For the moment, Chicago is considered too tough to tackle because it would take a tremendous amount of effort and resources. The Federal Government has been reluctant to move and so has the state of Illinois. Similarly, blacks in Chicago have hesitated to file suit because of the expense it would entail and the anticipated level of resistance.

But this southeast Wisconsin city of nearly 100,000 on the shores of Lake Michigan is perhaps a model of how desegregation should be accomplished.

The same factors that resulted in strong resistance in other places exist here. There has been racial tension. A high school and a junior high school were closed for three days last year after racial fighting broke out.

School officials here believe that Racine avoided many pitfalls that other cities experienced because the school board took the initiative and ordered a plan drawn up in 1973. Support came from the school administration staff and from a citizens committee set up to recommend alternative plans, according to C. Richard Nelson, superintendent of schools.

INVOLVEMENT OF PARENTS

This attempt to involve parents in the process and to devise a voluntary plan (although the board did not accept the plan recommended by the committee) seems to have prevented the build-up of substantial opposition.

Some of the features that made desegregation in Racine different from that in other cities include the following:

Desegregation was two-way, with black children transferred to suburban schools on the outer reaches of the 100-square-mile Racine unified school district that encompasses a third of Racine County, while white youngsters were sent to schools in the inner city. One-way desegregation of black children to white schools have been a major concern of black parents, and accounts for some of their opposition to busing. The racial composition at Jefferson Elementary School changed from nearly 90 per cent black to 40 per cent black, and the white majority at Caddy Vista dropped from 97 per cent to 80 per cent.

The plan met no public opposition from elected officials. None of the eight candidates for the school board in last year's primary made desegregation an issue.

There was some opposition to desegregation, however. On Oct. 11, a judge dismissed a suit challenging the right of the board to bus children long distances.

There is also evidence of some white parents pulling their children out of the public schools, but it is minimal here, in contrast to Oklahoma City.

Referring to the racial strife that has disrupted schools in Boston, Mr. Nelson said Racine residents were determined not to "become another Boston," and added, "This was felt even by people opposed to busing." He attributed the city's success to several factors.

"We had two years to work on the plan, to build support for it after the board adopted desegregation as policy," he said in an interview at the Racine Unified School District building. He added:

"When the plan was adopted, the community accepted it. But the momentum for integration was there already. We desegregated high schools and junior high schools in the nineteen-sixties, so movement toward desegregation of elementary schools was logical."

NO POLITICAL FOOTBALL

Racine was one of the few cities in the nation to integrate its schools without making desegregation and busing a political football. Historically, school officials and other political leaders have adopted a stance of defiance.

A RETURN VISIT TO CAMP LEJEUNE

Mr. TAFT. Mr. President, in August of last year I sent my staff assistant, Mr. William S. Lind, to Camp LeJeune, N.C., to report to me on certain manpower problems of the 2d Marine Division. I noted in the Record at that time that the Commandant of the Marine Corps, General Wilson, was taking effective steps to deal with those problems. General Wilson was then in the process of giving the troop commanders the tools they needed to deal with some long-term personnel problems which they faced.

Last week I again sent Mr. Lind to Camp LeJeune to observe how the manpower situation has changed since last August. It is evident to me from his report that the Commandant's new manpower policies are succeeding. The statistics clearly show that manpower problems are decreasing in the 2d Division. Unauthorized absences are down from a monthly average of almost 30 per 1,000 men last August to 14 in April of this year—more than a 50 percent drop. The desertion rate has declined from 21 per 1,000 in August to 9 in April. Assaults have dropped from 11 in the division in August to 1 in April. The quality of new recruits to the 2d Division has risen sharply in the same period. In August of last year, only about 40 percent of new recruits had a high school diploma; in April of this year, almost 60 percent had high school diplomas. The level of GT scores, the basic proficiency test score for recruits, has risen nearly 10 points in the same period.

The strongly positive impression made by these statistics is a testimonial to the policies of the Commandant, and equally to the officers of the 2d Division who have worked hard and skillfully to put the Commandant's policies into practice. The positive impact of the statistics was, in addition, reinforced in conversations my staff assistant held with officers from the 6th Marine Regiment to the 2d Division. These officers, of the ranks of major, captain and lieutenant—the people who work with the troops on a daily basis—stated that the new recruits they are receiving are of "excellent to outstanding" quality, and that today's situation compared to that of last year is "the difference between day and night." They noted that the Commandant's new expeditious discharge program was working extremely well, and that it was of benefit not only to the Marine Corps but also to individuals who proved unable to adjust to service life.

A somewhat surprising and very positive indication of how much the situation has improved was provided by these officer's answer to the question of, "What are your most serious problems with your troops?" Not one officer mentioned problems relating to troop quality or discipline, although all indicated a quantitative shortage of troops needed to meet the 2d Division's many commitments. When asked specifically about what had previously been problem areas, these troop commanders noted that the drug problem, while still serious, is "leveling off;" robberies and assaults had decreased greatly; and racial problems were "a thing of the past."

The direct personal observations of the troop commanders thus support the statistics. Both together clearly indicate that the 2nd Division has replaced negative with strongly positive trends, as far as manpower problems are concerned. I think this is particularly important for the Congress to note; it is on trends that we should focus our attention, because it is these which show how the policies of the present Commandant are working. It is clear General Wilson's policies are working well, and that, in my view, they deserve our strong support.

There was, however, one area in my staff's report which caused me some concern. On asking battalion and company-grade officers of the 6th Regiment how much of their time went to personnel-related matters and administrative tasks, the unanimous answer was, "All of it." This is potentially a serious problem. If an officer's time goes entirely to personnel and administrative matters, then he has no time for personal professional development. He has no time to devote to what should be his prime concern: the potential battlefield. My staff specifically inquired how much these officers knew about Soviet-model forces, their most likely opponent, and how much time they were given to study Soviet forces—their tactics, equipment, etc. It was clear that, while the interest in these battlefield issues was great, opportunities to acquire the needed knowledge were practically non-existent. Because personnel and administrative needs are given top priority, there is virtually no time in a commanding officer's day for professional study.

This situation should be of particular concern to the Congress, because to some extent it is congressional mandates which have produced the enormous paperwork load which commanding officers must bear. I have long attempted to draw attention to the negative impact of federally required paperwork on the individual citizen and, especially, on the small businessman. Clearly the impact on a military officer commanding a troop unit is at least as severe. Congress must become more sensitive to the paperwork requirements generated by legislation.

At the same time, the Marine Corps must realize that it is a classic peacetime error of military establishments to permit personnel and administrative requirements to take precedence over preparing for the battlefield. Unfortunately, it is an error that can easily lead to military defeat. While some personnel-related and administrative work is always necessary, a balance must be struck that permits commanding officers time for professional development. It should not be seen as a dereliction of duty if a company commander is found reading, for example, a book on Soviet military thought. I feel a strong policy statement to this effect may be needed in the Marine Corps. A specific program designed to free a troop commander's time for additional study of the potential battlefield, plus a system of providing more and better information on the capabilities and practices of the potential opponent, might also be desirable. We cannot permit peacetime personnel-related and administrative practices to absorb all of a troop commander's time, thus leaving him unprepared for combat.

In summary, it is clear that the Commandant's policies on manpower are working well. Both the statistics and the comments of troop commanders from the 2d Marine Division make it clear that the trends are in the right direction. The Commandant is deserving of the full support of the Congress, both for his efforts and for his success.

I would like to extend my sincere personal thanks to the officers and men of the 2d Marine Division for their time and their hospitality for my staff assistant. I would especially like to thank Gen. W. G. Joslyn, Commanding General, 2d Marine Division; Col. H. D. Glasgow, Commanding Officer, 6th Marine Regiment; Major Griggs, escorting officer from 2d Marine Division; and the officers of the 6th Marine Regiment, particularly the escort officer from the 6th Marine Regiment, Lieutenant Culver.

OTTO KERNER: A FINAL TRIBUTE

Mr. PERCY. Mr. President, last week both family and friends of the late Otto Kerner gathered at Arlington National Cemetery to pay their last respects to the former Illinois Governor.

The service was a fitting tribute to a man who had served his country and his State as a distinguished military officer and public servant.

The service underscored the fact that throughout his life Otto Kerner was a public man. His father served as Attorney General of Illinois and as a judge on the U.S. Court of Appeals. Like his father, Otto Kerner chose a career in law and went on to serve as a Cook County judge and a U.S. attorney.

Otto Kerner is best remembered for his service as Governor of Illinois. As chief executive of Illinois, he was a champion of equality and compassion for all citizens. He gained national prominence as Chairman of the National Advisory Committee on Civil Disorders. The committee's report, commonly referred to as the Kerner report, placed much of the blame for civil disorders in our cities on longstanding discrimination.

There was an overwhelming element of tragedy in Otto Kerner's life. The great contributions of his public career were marred by a mistake in judgment.

As the former Governor himself said, a person's reputation is more valuable than life itelf. To the end Otto Kerner fought to clear his name.

Our society seeks to apply the principles of law and justice without regard to power or position. Otto Kerner was committed to those principles and sought throughout his ordeal to act within their bounds.

It is my earnest hope that Otto Kerner will always be remembered for his good deeds. Many of his accomplishments as Governor of Illinois, such as his efforts on behalf of the mentally ill, are the most appropriate monuments to his career. I know many Illinoisans join me in the hope that Otto Kerner's outstanding contributions to his fellow citizens will be the keystone of his public memory.

We join also in extending our deepest sympathy to his family. Above all else, it is love of family that fills our lives with joy and sustains us in times of trouble. Otto Kerner was a devoted son, husband, and father who shared abundant joy and sustenance with those he held most dear. I was gratified to hear directly from Otto Kerner shortly before his passing that he had derived comfort from the devotion and faith of his mother, daughter, son, other family members and friends.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. STEVENS. Mr. President, because of longstanding commitments which required my presence in Alaska this past weekend, I was not able to attend the sessions of the Senate on Thursday and Friday of last week and Monday of this week. I would like the RECORD to indicate how I would have voted had I been here:

MILITARY CONSTRUCTION AUTHORIZATION

Rollcall No. 182, Tower amendment to military construction bill, "nay."

Rollcall No. 183, military construction authorization bill (H.R. 12384), "yea."

MILITARY PROCUREMENT AUTHORIZATIONS

Rollcall No. 184, McGovern amendment to bar use of funds for B–1, "nay."

Rollcall No. 185, Culver amendment to delay funds for B–1, "nay."

Rollcall No. 186, Dole amendment on reserve manpower ceiling, "yea."

CHILD CARE AND SOCIAL SERVICES

Rollcall No. 187, Curtis amendment deleting added funding, "nay."

Rollcall No. 188, child care and social services bill, final passage H.R. 12455, "yea."

SPRINGER NOMINATION

Rollcall No. 189, nomination of William Springer to Federal Election Commission, "yea."

BYINGTON NOMINATION

Rollcall No. 190, nomination of S. John Byington to Consumer Product Safety Commission, "yea."

FINDINGS OF THE UNIVERSITY OF KENTUCKY TOBACCO AND HEALTH RESEARCH INSTITUTE

Mr. HUDDLESTON. Mr. President, on tomorrow, May 27, the Subcommittee on Public Health of the Committee on Labor and Public Welfare will resume its hearings on S. 2902 introduced by the Senator from Colorado (Mr. HART) and the Senator from Massachusetts (Mr. KENNEDY). As I see it, the bill has no virtue. Congress by legislative fiat would decide a highly complex scientific riddle and scientists would be freed to go on to spending Government funds to resolve the very question Congress will have already answered—namely, that cigarettes cause disease.

The smoking and health controversy is centuries old and today millions are being spent in research by Government and industry to get real answers, as distinguished from conjectures. My own State of Kentucky supports a tobacco research program which has the respect and regard of the entire scientific community. The areas of research into the smoking and health controversy are too numerous almost for comprehension. However, in the May 24 issue of the Louisville Courier Journal there is an article outlining some of the avenues being explored by the University of Kentucky Tobacco and Health Research Institute.

I ask unanimous consent that this article be printed in the RECORD. Its contents are quite appropriate to controvene the unscientific presumptions on which S. 2902 is predicated.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RESEARCH SUGGESTS SMOKING MAY POSE HAZARD TO ONLY A FEW

(By Phil Norman)

Researchers at the University of Kentucky have found evidence suggesting that cigarettes pose a major health hazard for only a relatively small number of "high risk" smokers.

And the researchers are experimenting with a new blood test that might identify "high risk" smokers, who could be warned of their vulnerability to lung cancer and possible other diseases associated with smoking.

Recent tests on hundreds of individuals have tended to support the "high risk" theory, Dr. John J. Hutton, a UK medical professor who is conducting the experiments under a grant from the UK Tobacco and Health Research Institute, said in a recent interview.

The theory is being pursued, also, by other research groups across the country, Hutton said. He said the combined effort could lead to conclusive findings within two or three years.

Hutton said the researchers already have found important differences in individual reactions to cigarette smoke.

He explained that the body produces enzymes that break up harmful chemicals in the smoke. But, he said, the process tends to create new and even more dangerous chemicals, including some associated with lung cancer.

By performing smoke tests on certain blood cells, Hutton said, his group has found a "wide variation" in the rate at which the potentially harmful chemicals are produced in healthy individuals.

A high-risk smoker would be one who produces large amounts of the dangerous chemicals. If such an individual smoked one pack of cigarettes a day, Hutton explained, he might be "the equivalent of a five-pack-a-day smoker."

More sophisticated studies are needed to "sew up" the apparent connection between the smoke-related chemicals and the incidence of lung cancer, Hutton said.

Still, his are among the most tangible and optimistic findings to emerge from tobacco-and-health research in Kentucky.

Since its founding in 1970, the institute at UK has administered most of that research. Through last month, the institute had received a total of $17.9 million from a special tax of one-half cent on each pack of cigarettes sold in the state.

In the simplest terms, the institute's job is to help get to the bottom of the health controversy that threatens the state's tobacco economy. About 140,000 Kentucky farmers have been receiving more than $400 million a year from burley tobacco, a major ingredient in cigarettes.

The job of identifying and removing any harmful elements in cigarettes is turning out to be immensely complicated, however.

Researchers point out that a cigarette contains about 1,000 chemical substances, which are turned into about 5,000 compounds in the form of smoke, which undergoes still more chemical change in the body. To further obscure the problem, many of the chemicals can be found somewhere else in the environment.

Laboratory research has shown that cigarette smoke does contain groups of chemicals identified with lung cancer or associated to some degree with heart and other disorders. Yet, it remains to be clinically demonstrated that any substance in the smoke actually causes a specific disease in humans.

Because the problem is so poorly defined, the institute has been unable to concentrate on any single line of research, according to its director, Dr. John P. Wyatt. Rather, it has awarded grants for scores of highly specialized projects, whose very definitions represent a linguistic puzzle to most agricultural leaders trying to keep track of the institute's progress.

Many of the projects are suggested by individual researchers, scientists at UK and the University of Louisville, who are trying to fill gaps in work being done in other parts of the country.

Under its latest budget, the institute is supporting 46 projects, including a continuation of Hutton's "high risk" experiments. (The "high risk" project is receiving $65,944 one of the larger grants in the budget.) In addition, the institute provides many research-support services, which will be concentrated in a $4 million center being built by the institute on the UK campus.

The slow pace of the work has been frustrating to the state's agricultural interests and to UK plant geneticists who hope to develop safer strains of burley.

G. W. Stokes, associate dean of the UK College of Agriculture, said that UK researchers have been able to change the chemistry of burley. But he said they will be "shooting in the dark" until they are given more specific information on what to "breed out" of the plants.

One of the UK researchers, Dr. Glenn B. Collins, said that dramatic reductions have been made in the nicotine levels of experimental burley plants. But he said the latest trend is toward the development of plants with relatively high nicotine and low tar levels.

Collins said that cigarette companies could use their own technology to further reduce the tars while retaining adequate levels of nicotine. The current thinking of some scientists is that people tend to smoke more cigarettes when nicotine levels are too low.

UK researchers are in the early stages of the effort to reduce tars, which have been associated more closely with the health problem than has nicotine. They are moving also toward the reduction of nitrogen, thought to be a key element in the health puzzle, and some other suspect chemicals in tobacco plants.

Despite the handicaps, researchers seem to agree, gradual progress is being made in the drive for a safer cigarette. In a recent report on the institute's work, Wyatt listed these and other promising research projects:

An effort to develop the chemistry for a highly selective, chemically active cigarette filter.

This innovation is ready for a costly development process at the manufacturing level, according to Dr. George A. Digenis, who heads the project. But he said no company has picked up the idea.

Digenis said the research has demonstrated a way to remove selected combinations of harmful chemicals from cigarettes. Currently, he said, the researchers are working on the possibility of adding flavor to cigarettes as part of the filtration process.

Cigarette "puff profiles" compiled at U of L by Dr. William Anderson. One of the findings was that the harder a smoker puffs on a cigarette, the more carbon monoxide he takes into his blood stream. Researchers say this process could be harmful over a long period.

Efforts being made at U of L to determine the effects of smoking on human cells that act to immunize the body against disease.

Cancer research by several investigators, including Dr. Katherine Sydnor at UK. One of her experiments has shown that certain tumor-producing agents in cigarette tars "can be identified and, in the interest of a safer cigarette, removed," according to Wyatt.

Work being done with UK's "isolated lung" system, which utilizes mechanically operated animal lung to study the effects of cigarette smoke on that part of the body.

SENATE RESOLUTION 68, TO AMEND RULE XVIII

Mr. BENTSEN. Mr. President, I would like to take this opportunity to comment upon the discussion which has developed over Senate Resolution 68, the resolution to amend rule XVIII recently reported by the Rules Committee. The resolution has been criticized as an attempt to provide the Senate with a "gag rule." As a principal sponsor of the original resolution, I can state most unequivocably that it is not.

Early during the first session of this 94th Congress, our distinguished colleague and my good friend from Rhode Island, Senator PASTORE, seven other cosponsors, and I introduced Senate Resolution 68. At that time, Senator PASTORE, who I know has long been deeply concerned about this problem, and I said that too often the Senate finds itself embroiled in issues, to quote Shakespeare, "full of sound and fury and signifying nothing." Nongermane amendments are debated heatedly for days, delaying the Senate, and then summarily dismissed in conference with the House of Representatives because of its rules for dealing with nongermaneness.

Mr. President, we know, too, that particularly during the close of a session, a mad rush ensues to find seemingly any legislative vehicle for amending, irrespective of whether the bill and the amendment bear any relationship whatsoever. I want to cut back on these Christmas Tree amendments that clutter up too much Senate legislation. I believe many would agree that this practice is often sheer demagoguery and political posturing that does nothing but delay the business of the Senate.

We therefore proposed a rules change which would permit the Senate, upon a two-thirds majority vote, to require that all amendments subsequently considered be to the point of the business at hand. In introducing our resolution, we said that we considered the matter important enough to ask the Rules Committee to examine it, and we welcome its thoughts and the improvements its members might wish to make. The committee has acknowledged our request, amended the resolution, and now reported it to the full Senate for its consideration.

The resolution we propose would amend rule XVIII to permit consideration of a motion to limit further debate on a bill or resolution only to those amendments germane to that legislation, unless the amendment were offered by the committee reporting the bill.

I would emphasize, however, that germaneness would be required only when two-thirds of those Members present and voting so approved. That two-third's requirement has been the test for obtaining cloture under rule XXII for most of its history in this body, and I do not have to remind my colleagues how difficult it has been to obtain. Our proposal would not restrict any Senator's right to debate an issue but would merely allow a two-thirds majority of the Senate to insist following its adoption, that subsequent amendments be germane to the pending business.

Once the germaneness requirement were invoked, Mr. President, no limitation would be imposed upon the number of amendments which could then be introduced, considered, and passed. The Senate would only have agreed that their content be germane to the business at hand.

Just last year, we were embroiled for many long weeks in a most important debate on how we might more properly limit the ability of a minority to prevent the Senate from completing action upon a matter before us. Proponents of that change, of which I was one, argued that the Senate must have the ability to deal effectively with the problems before it and the means for bringing those often difficult matters to a resolution through a vote. The American people had the right to expect that we were more than a debating society.

The dilemma, of course, was balancing the need to protect the right of a minority to express its reservations about a given measure, a right which this body has always cherished, with that other need to have an issue brought to a vote and resolved. A judicious compromise honoring both those needs was found, and I believe the change we propose to rule XVIII provides for a similar balancing. A Member would have the right to propose any amendment and have it debated, but our proposed rules change would permit the Senate to decide that it must stick to the business at hand, once a two-thirds majority had so decided.

Germaneness is already required in certain situations. Under paragraph 4 of rule XVI, amendments to general appropriations bills must be germane. When cloture is invoked under rule XXII, amendments must be germane. Under some unanimous-consent agreements, amendments must be germane.

In short, we are proposing a modification of rule XVIII to permit a Member to file a motion to limit subsequent debate only to amendments which are germane to the matter before the Senate. Such limitation would be imposed, however, only when two thirds of the Senate has so agreed. I believe that to be a responsible reform which will help this body to be more effective and which has adequate assurance to prevent its abuse. I am hopeful that the Senate will concur.

LOW RISK LEVEL IN NUCLEAR OPERATIONS

Mr. BAKER. Mr. President, along with a myriad of Presidential primaries which will culminate in California on June 8, will be a referendum on whether or not to continue nuclear power development in that State. The issue is couched in terms relating to the "safety of nuclear power," rather than in the traditional nuclear-anti-nuclear schemata.

A number of conscientiously concerned citizens are questioning the likelihood or unlikelihood of a major nuclear accident. Perhaps, the surest indication of what the American record has been, and is likely to continue to be, is a report recently released by America's insurance industry. These are the people and the companies who would bear the brunt of financial liability if massive economic or personal harm were to occur.

Forbes magazine in its June 1 issue references the latest report of the nuclear insurance industry and summarizes the success the insurance industry has had in this area. Mr. President, in order that the public might be more fully informed regarding the low level of risks that accompany nuclear operations, I ask unanimous consent that the Forbes article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INSURANCE EXPERIENCE INDICATES THAT NUCLEAR IS ONE OF THE SAFEST INDUSTRIES ON EARTH

California voters will say yes or no to nuclear energy June 8. The proposition they're voting on was drafted by the antinuclear forces with a certain amount of cynicism. It does not ask the voters whether they do or do not want nuclear power. It asks them, among other things, to require the power companies to assume unlimited liability for their plants. Unlimited? Why, yes. Suppose a whole city went up in a mushroom cloud?

The idea is ridiculous, of course. The odds of an accident involving even 100 fatalities are about one in every 1 million plant-years. But the proposition has a reasonable sound to it: If the utilities are so sure, why don't they buy unlimited insurance?

The answer, of course, is that there is no such thing as "unlimited" insurance. What the "antinukes" really want is to outlaw nuclear power plants in California—only they lack the courage and the confidence to put such a proposition on the ballot.

The whole argument on the need for "unlimited" insurance ignores the experience of the insurance industry itself, which shows that nuclear energy has been a very safe bet.

Property and casualty insurers have had underwriting losses on just about every other line of business they're in the past few years. In nuclear energy—by sharp contrast—they have made nice profits for 20 years, collecting over seven times as much in premiums as they've paid out in claims. The Government also sells insurance to some nuclear facilities, and has never had to pay a penny.

Nuclear business has proved so good, in fact, that insurance companies are looking to expand in it. "Nuclear facilities and their suppliers have had exceptionally good experience," says Warren Levy of the Insurance Information Institute. "No one ever has been injured because of a nuclear accident at a power plant and only a few isolated incidents have occurred among suppliers."

The numbers look like this. On the liability side, insurance companies have collected $74 million in premiums since Congress authorized nuclear power plants in 1954. They have paid out only $570,562 in claims and claim expenses. On the property side, where the companies provide "all risk" insurance (insuring the nuclear facility for everything, not just nuclear-related losses), the companies have collected $117 million and paid out under $26 million.

The difference between premium income and loss expenses isn't all profit. The companies maintain nuclear engineering staffs to inspect facilities, and they have sales and administrative expenses. But so much of it is pure gravy that almost ten years ago the companies began thinking up ways to reduce premiums without actually cutting rates.

On the liability side, they started a premium refund program. Seventy percent of the premiums collected in any given year are held in a reserve for losses. Ten years later some percentage of that reserve is refunded, depending on loss experience. Last year the entire 70%, or $1.5 million of the total collected in 1965, went back to customers. In total, the companies have refunded about $8 million. In addition, last year the companies did reduce rates 20% on liability insurance over $100 million.

On the property side of the business, insurance companies have developed a more extensive rate reduction program. Each year they determine on the basis of the previous 20 years' loss experience a "rate modification factor." In 1972, the first year of the program, rates were reduced by 7.7%. In 1975 they were cut 24.1%. This year they will be reduced 29.5%.

COMING AROUND SLOWLY

It is true that insurance companies have not always been eager to be involved. "It used to be almost a patriotic gesture," says Burt Proom, general manager of NEL-PIA, the stock companies' nuclear insurance pool. In 1957, when the need for insurance began to develop, no one knew how great the risk was.

The fact that there were no plants posed another problem. The idea of insurance, of course, is to collect premiums from the many to cover the losses of the few. But in 1957 there were only a few plants in the planning stages, so the insurance companies had to scratch hard to find a formula they could live with.

The companies did what they have done before in similar situation—as when they have to insure airplanes. They formed pools. Instead of spreading the risk among the insured, they spread it among themselves.

In 1957 the industry determined it could provide $60 million in liability insurance per plant and $60 million in property insurance, the most it had ever provided for a single risk.

Because Congress was encouraging private industry to develop nuclear energy, it decided by means of the Price-Anderson Act to sell utilities additional liability insurance to bring the total available up to $560 million, an arbitrary figure. And it limited the utilities' liability to that amount.

Since then the insurance industry has steadily increased the amount of insurance it provides—for both liability and property insurance. Today it provides $125 million in liability and $175 million in property insurance to customers. In the meantime, the Federal Government has reduced its share accordingly.

Whatever happens in California June 8—or in the courts thereafter—changes are coming to the nuclear insurance business. The Price-Anderson Act, which was due to expire in 1977, was extended last December and revised in such a manner that the Federal Government's role will slowly end. Beginning next year, in the event of a loss that exceeds the amount available from the pools, the utilities themselves will provide $2 million to $5 million per reactor in retrospective premiums. When the number of reactors increases to the point where available retrospective premiums combined with insurance available from the pools equals or exceeds $560 million, the Federal Government will be out entirely.

That the nuclear safety record has been so good is no guarantee, of course, that it will always be thus. But then neither is the safety record of the airlines or of fire protection guaranteed. Who is to say that ten fully 747s couldn't crash in a single day? Or San Francisco fall victim to another earthquake? Insurance, after all, is meant to protect against the probable, not against the theoretically possible.

MORE THOUGHTS ON SPENDING REFORM

Mr. MUSKIE. Mr. President, in the May 22 issue of the Nation, Richard Leone, State treasurer of New Jersey, has presented a thoughtful argument in support of the so-called "sunset" bill which was approved by the Subcommittee on Intergovernmental Relations on May 13 and is now pending before the full Government Operations Committee.

Earlier this spring, Treasurer Leone testified before the subcommittee on this legislation—S. 2925, the Government Economy and Spending Reform Act of 1976—introduced by Senators ROTH, GLENN, BELLMON, and myself. His testimony at that time was most persuasive and so I am delighted to have the benefit of his additional insights on the "sunset" concept and on zero base budgeting, as presented in the Nation article.

Because of Mr. Leone's direct experience with zero base budgeting, and because of the large number of cosponsors S. 2925 now has in the Senate, I would like to share Mr. Leone's thoughts on this subject with my colleagues today. In patricular, I would like to call attention to two observations which I find especially interesting.

First, Mr. Leone notes that the zero base approach tends to reveal just what the constituency is for every program. This is important in the democratic system. Programs ought to have a constituency or they are probably not worth continuing. There is probably nothing better than the discussion of total dismantling as a short cut to finding out who supports a program, how much importance they place on its continuance, and what those people have in terms of alternatives.

A second advantage of the zero base approach, notes Mr. Leone, is that it "allows policymakers to deal more effectively with the question of equity in spending public tax dollars. We frequently look at equity in terms of how money is raised—that is, who pays how much. But there are also arguments of equity in terms of how the money is spent. In New Jersey, for example, it costs us about $500 in State money to provide the rail subsidy for each rail commuter. Few of the latter group think of themselves as equivalent to 'people on welfare' but they cost us about as much. (Zero base) analysis makes it easier to determine who gets hurt and who gets helped by budget decisions."

S. 2925 does not require the implementation of zero base budgeting per se, as it was adopted in New Jersey's budgeting process. The bill does require, however, that the executive branch and the Congress review the consequences of eliminating individual programs and activities, as well as of funding them at below current levels, and so I think that Mr. Leone's comments are quite relevant to the upcoming debate on this legislation.

I ask unanimous consent that

Treasurer Leone's article, entitled "How to Ride Herd on the Budget," be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

THE "SUNSET PROPOSAL"—HOW TO RIDE HERD ON THE BUDGET

(By Richard C. Leone)

TRENTON.—Until recently, progressives viewed Congress as the enemy of change. Much was made of the "stranglehold" of ancient conservative committee chairmen and of the coalition between Republicans and Southern Democrats. The Congress proceeded slowly, if at all, and opportunities to delay or kill a program far outweighed the prospects for enactment. A liberal like Joseph Clark, then a Senator, called the national legislature "the sapless branch."

But for more than a decade now, the progressives have been dominant in Congress. Sometimes in partnership with the executive, but now more often against Presidential wishes, the Congress has been enacting and funding hundreds of progressive domestic programs. They have set before the people and the state and local governments, a $60 billion smorgasbord of grants-in-aid and related programs—up from $12 billion for this portion of the budget in 1966.

Much of what has been done has had a good effect; nearly all of it is well intentioned. But with power, sooner or later comes accountability, and these liberal successes have now spawned doubts, even among liberals, about the wisdom of all this spending.

A good many people who not long ago would have opposed anything that made it easier to kill a program in Congress, have come to believe that we should take a fresh look at the more than 1,500 domestic spending programs, and find new ways to evaluate the defense and foreign affairs portion of the budget.

A symbol of this changing attitude is a bill now before the Congress, sponsored by Sen. Edmund Muskie (D., Maine) and supported by members of both parties, the so-called "Sunset Proposal." (The name originated with a proposal backed by Common Cause in Colorado.)

In effect, the bill would create new Congressional opportunities to kill programs, and it would also subject programs to close review and critique from within the government itself. The essence of the proposal is that nearly all federal programs should expire after four years, unless re-enacted by the Congress after thorough consideration by both the executive and the legislative branches. The bill also establishes a zero-base budgeting system for the federal government, similar to that currently in use in several states, including New Jersey.

The notion is that all federal programs, with the exception of some of the mandated expenditures, would be grouped into four categories:

(1) National Defense, International Affairs, General Sciences and Law Enforcement and Justice.

(2) Agriculture, Commerce and Transportation, Community and Regional Development, all Education, Public Assistance and other income supplements (public housing only).

(3) National Resources, Environment, and Energy, Health, Income Security (except public housing), and Veterans' Benefits and Services.

(4) Training and employment, other labor services, Social Services, General Government and Revenue Sharing and General Purpose Fiscal Assistance.

Each year, the spending authority for programs in one of the categories would expire, unless individually re-enacted after the review process. During the year preceding scheduled expiration the programs would be analyzed by the Office of Management and Budget, the Congressional Budget Office, and the General Accounting Office.

There is little doubt that the major public debate of the next decade will focus on seeking a solution to the increasing costs of government programs, given the limits of available resources. These limits may soon become "real" in economic terms; perhaps even more important, they are already apparent in political terms. It is evident that, whatever the real economic constraints on government spending, we are at or very near the limit of the public's will to see a larger and larger share of national income spent in the public sector.

The Democratic Governors, who are getting so much attention for espousing this view, have not all abandoned liberal principles, nor have they given up the fight to reverse the trends of decay and urban blight in their cities. What they have been forced to do is recognize that there are limits to what their governments can do about these problems. This recognition, sooner or later, will have to come also at the federal level.

I draw a distinction between those officeholders who perceive their jobs—and popularity—as deriving from *asking* interesting questions about spending, rather than *answering* such questions. Governing, as I understand it, involves meeting problems—but given the inevitable limits on time and resources (financial and political) it also involves choosing among both competing demands for action and alternative responses to problems. And, already short of money, many urban governors and mayors understand, as Hugh Carey puts it, that the days of wine and roses are over. In New Jersey, in 1975, Governor Byrne noted, "There has been, perhaps, a touch of mindlessness in the steady increase in public expenditures. A period of fasting may be a good thing for state government. . . ."

There is a need in such times to heighten the "tension" in the process by which federal programs are developed. The forced reexamination aspect of the Sunset bill does just that, and is a sensible antidote to the way we have had it in the last ten years. Zero-base budgeting may help as well.

From the standpoint of policy makers, the budget process must be judged ultimately by how well it helps them to evaluate and compare competing demands—and thus to make choices. In fact, given scarce resources, an effective process should appear to force choices. Too often these choices are masked by routine or are only vaguely perceived because of the sheer complexity of large public budgets.

The zero-base approach moves policy makers away from the traditional "incremental" approach to budgeting by requiring every agency, in effect, to construct its budget from 0 to 100 per cent or beyond of current appropriations. At least theoretically, Congress and the President will then be able to review options for each governmental activity at various spending levels.

This approach also tends to reveal just what the constituency is for every program. This is important in the democratic system. Programs ought to have a constituency or they are probably not worth continuing. There is probably nothing better than the discussion of total dismantlement as a short cut to finding out who supports a program, how much importance they place on its continuance, and what those people have in terms of alternatives.

The zero-base approach also allows policy makers to deal more effectively with the question of equity in spending public tax dollars. We frequently look at equity in terms of how money is raised—that is, who pays how much. But there are also arguments of equity in terms of how the money is spent.

In New Jersey, for example, it costs us about $500 in state money per Medicaid recipient. It also costs us about $500 in state money to provide the rail subsidy for each rail commuter. Few of the latter group think of themselves as equivalent to "people on welfare" but they cost us about as much. This type of analysis makes it easier to determine who gets hurt and who gets helped by budget decisions.

The zero-base approach is not without its disadvantages. It is hard to measure output in government, even harder to judge the value to society of output, and it is difficult to judge what you really buy at different levels of expenditures. Obviously, such an approach cannot be applied across the board to every governmental agency. Little will be accomplished by having the federal prison system prepare a zero budget, since it is not at present a realistic option to close prisons and release inmates. It may be an option, under severe fiscal pressures, to reduce particular programs within the prison system.

Despite the disadvantages, the zero-base approach probably is superior to other ways of cutting a budget—especially to "across the board" cuts of a given percentage, which assumes that, no matter how scarce the resources, every program maintains its same level of importance. Zero-base budgeting, indeed common sense, tells us that it is not so. Organizing a budget is not just an exercise in arithmetic. Some parts of a state budget, for example, pension payments, may grow at a mandated and very high rate. Others increase because of change in conditions or federal policy.

Whether the zero-base approach would succeed, should it be adopted by the federal government, is open to question. In New Jersey, it has had a measure of success because the state has a constitutional requirement to maintain a balanced budget and has faced two years of marginal revenue growth and rapidly growing needs, particularly in three areas: Medicaid, Public Assistance and educational support for local school districts. Ultimately, the need to meet a target for budget cuts was more of a force in weeding out unneeded spending than any procedural change in budgeting.

The federal analogy with this process cannot be exact because of the crucial role federal spending policies play in the national economy, but the requirements of the new Federal Budget Act may be one way for Congress to force itself to meet budget targets. Another way would be to require agencies which propose spending increases in some of their programs to suggest offsetting cuts in other programs they administer.

In the end, when dealing with scarce resources and marginal dollars, all you can do is try to look at how many people are going to be affected and to what extent. In doing so, you may reveal what the extra dollars mean.

There is no magic in any budgeting system. The zero-base approach is better than others but it cannot be a substitute, nor should it be, for the political process which determines budget outcomes. I suspect that as the competition for scarce public dollars intensifies, the purely "political" aspects of the process will become an even more important determinant of the way we spend public dollars.

The Sunset Proposal can force clear choices on the legislative and executive branches; it may help to stop the process of spreading money around, maintaining programs indefinitely and never facing up to the need to abandon failed activities.

There remains a nagging doubt, however, that because of the size and persistence of some of our social problems, it is unrealistic to test and perhaps abandon programs after three or four years. The political process tends to leaven attempts to concentrate resources and solve very deep human problems. Because of this tendency toward superficial and slow-moving programmatic activity, it may be that even after a few years' experience with a program only a few of its options will have been tested. There is no reason why a good program analysis cannot point out that this is the case and urge the continuation of a program and perhaps concentration of resources.

Reassurance on this point is important if you believe, for example, that some of our key problems—education of the underprivileged, redevelopment of central cities, etc.—require a specially concentrated and tenacious approach.

But finally, one shouldn't worry much that programs will be judged too harshly or curtailed prematurely. There is no evidence that the present system is working to meet social problems efficiently, or even providing the kind of framework in which it will be more likely that decisions to deal with those problems will be made. Euthanasia for failed or failing programs may, in the long run, enable us to breed a set of federal responses to our most urgent human needs which have the strength and focus actually to make a difference.

THE 50TH ANNIVERSARY OF THE SYNAGOGUE COUNCIL OF AMERICA

Mr. PELL. Mr. President, I had the great good fortune of attending the ceremony which Vice President Rockefeller addressed on May 23, 1976, in Newport, R.I., honoring the 50th anniversary of the Synagogue Council of America. The ceremony fittingly took place in beautiful Touro Synagogue, the oldest synagogue in the United States and long identified together with Rhode Island as a symbol of religious freedom. In fact, Rhode Island was founded in this tradition by Roger Williams and through the years since our State has lived up to it. Touro Synagogue was the recipient of a letter from George Washington in which he said, "To bigotry no sanction, to persecution no assistance."

Touro Synagogue, too, was the site where Vice President Rockefeller delivered a very moving and excellent speech which touched the hearts of those who listened. I ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Text of Remarks by the Vice President

Ambassador Linowitz, Senator Pell, Chairman Burns, Rabbi Lookstein, Rabbi Siegman, Rabbi Lewis, Rabbi Rabinowitz, I thank you for the privilege of allowing me to participate in this important gathering, which is one of the high points of the Bicentennial celebration. To stand in the simple beauty of this historic temple is to return to the very roots of our nation. Indeed, there was a Touro Synagogue before there was a United States of America.

And Jewish families lived and worshipped here in Rhode Island for over a century before the synagogue was completed. They chose Rhode Island with good reason—because the founders of this colony had guaranteed freedom of religion. Those early Jewish settlers made a decision shared by so many millions of immigrants of all faiths who arrived on these shores over the past two centuries. Their loyalty was to the new land, while, at the same time, they determined to remain firm in their religious beliefs.

Nowhere has our Nation's commitment to religious and personal liberty been voiced more eloquently than in the letter which George Washington wrote to the congregation of Touro Synagogue, "To bigotry no sanction," Washington proclaimed, "to persecution no assistance."

This freedom which our forefathers sought in the new world benefited both the people who found it and the land which extended it. For not only did the openness of American society offer opportunity for new life to the poor, the oppressed and the persecuted, but those who came here—and their children after them—gave new life to this Nation. As it says in the dreams of the Hebrew prophets, we have been enriched by the gathering of the exiles from all over the world.

The Jewish experience in America is a particularly vivid illustration of opportunity for the individual being translated into betterment for all. We could not subtract the Jewish contribution from American life, without impoverishing our science, our literature, our art, our commerce, our law, indeed, without vastly diminishing America. The Jewish contribution to the American experience is beyond calculation—and out of all proportion to the numbers of Jewish Americans involved.

Today, I would like to discuss the American moral heritage which created this environment for individual fulfillment which led in turn, to our nation's unmatched achievement. The spiritual and religious forces which inspired our founding fathers, shaped life in America from its very beginnings. These forces inspired the Declaration of Independence and the Constitution of the United States.

And, most important of all, these spiritual and religious forces have continued to shape the American character to this day, a character dominated by such qualities as respect for the dignity of the individual, kindness, generosity, neighborliness, equality of opportunity, equality before the law, a restless energy, a willingness to take risks, and faith, hope and love. The contributions of America to religious freedom are as monumental as its contributions to political liberty and to economic freedom.

Settled by people of many faiths—Church of England, Catholics, Presbyterians, Baptists, Jews, Huguenots, Quakers and many others, Americans through trial and experience developed not alone an understanding, but a mutual respect of one faith for another. And it is this framework of diversity within unity—of people of so many faiths—which has been the greatest source of America's strength and vitality.

Life for our forebears in early America was rugged. In this testing environment, there developed a belief not alone in individual rights but an equally firm conviction of individual responsibility. Survival depended upon individuals shouldering their responsibilities fully as much as asserting their ambitions and employing their energies in their own ways. The individual was held responsible for his actions. He was expected to contribute to the community.

In young America and in the struggling communities behind it, people's moral and religious assertions were judged by their performance. For his acts, the individual was deemed answerable to himself, to his God and to his community. He could take no refuge in blaming others or in blaming society for his actions. He expected to suffer the consequences of his own behavior. This is the unique essence of American life and character.

Today, the basic principles of America's founding and its growth—its dedication to human dignity and the spiritual nature of man, its trust in free individuals taking responsibility for their actions—are being seriously challenged. Totalitarian socialist societies have developed which ignore the concept of man as a spiritual human being. They repress personal liberty and they forbid religious freedom. They deny individual economic freedom.

In the present world, centrally-controlled, Marxist power is on the march throughout the world, supported by subversion, so-called wars of liberation and growing military power. Unfortunately, in this period, we have seen some striking failures of moral example both in public and private life here at home. This can be dangerous. Uncorrected, it can weaken the moral fiber of our society.

There is a growing tendency in our times to excuse immoral conduct because we think we understand the forces that produced it. One suspects there is a connection between this kind of thinking and the movement away from the basic American tenet of individual responsibility for one's life and actions.

Every society in the history of man has had its strengths and its weaknesses. But no society can endure for long by allowing criminals to escape the penalty for their crimes by reference to some vague theory or concept of a collective guilt, or personal stress, or because it is alleged that "everyone does it."

It is time for all of us, as individual American citizens, each in the discharge of our several responsibilities, to reaffirm the basic concepts that a man's moral and religious assertions are judged by his performance, that he is answerable for his acts to himself, to his God and to his community. For only in this way are we going to preserve our free society, its values, its opportunities, its blessings. Each of us, as an individual American must return to the basic concepts of individual responsibility for our own acts upon which this society was founded.

Your faith, the teachings of Judaism, is based on a moral vision of mankind—on a reverence for individual uniqueness and individual dignity. Judaism teaches, too, that individual dignity and freedom must be accompanied by an acceptance of moral responsibility on the part of the individual. These convictions are so much in keeping with the moral philosophy of our Nation's founding fathers that it is hardly surprising that Jewish Americans have made such an enormous contribution to America's emergence as the greatest, freest Nation on Earth.

America is grateful for your spiritual heritage and for those priceless contributions which you have made through two centuries of American nationhood. What those who worshipped here in Touro Synagogue heard in 1776, what all Americans heard in that fateful year still rings with relevance today.

The men of the Revolution declared their commitment to human dignity in these unforgettable words: "With a firm reliance on the Protection of divine Providence we mutually pledge to each other our lives, our fortunes and our sacred honor." Dare we do less today? I think not.

THE PUZZLES OF THE 1976 CAMPAIGN

Mr. PERCY. Mr. President, the current races for the Presidential nominations in both the Republican and Democratic Parties underscore the wisdom of the observation made nearly 30 years ago by Winston Churchill in a speech to Parliament:

> Many forms of government have been tried, and will be tried in this world of sin and woe . . . no one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government, except all those other forms that have been tried from time to time.

The 1976 primaries have fielded an unprecedented number of Presidential candidates. Almost weekly there have been surprises and upsets as candidates alternately switch positions as front runners and underdogs. Because the races for the Presidential nomination in both parties will probably not be decided until the national conventions this summer, we can look forward to even more unpredictable developments in the primaries and State conventions that remain.

The mood of the national electorate is especially hard to read this year. In fact, the so-called anti-Washington mood that seems to be so strong this year appears to be an antiprediction mood as well. The voters are telling the politicians and the pundits that all bets are off.

Another phenomenon marks this election campaign. Both parties seem to be in a contest to see who can lose the election. On the Republican side, the debate over various foreign and domestic policies is providing ammunition for use by the opposition in the general election campaign. And on the Democratic side, party skepticism about the front runner has certainly planted doubts in the public's mind.

In spite of this strange twist on the art of campaigning, the fact remains that in the end the system will serve us well. As Churchill remarked, the system may not be perfect or all-wise, but it works far better than any other system that has been tried.

James Reston captured the trend in the current campaign in an article headlined "How To Lose the Election," which appeared in the May 23 edition of the New York Times. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW TO LOSE THE ELECTION

(By James Reston)

PRINCETON, N.J., May 22.—The Presidential campaign seems to be turning into a test of which party has the best formula for losing the election, and on this negative proposition, the Republicans are ahead, but not by much.

Their problem of how to divide the G.O.P. and minimize their chances of winning was not easy. They were weak in the Congress and the state governments, but they had the Presidency, a rising economy, and peace—not a bad foundation.

No young Republicans had appeared to challenge the conservative policy of the party. All middle-aged doubters like Senator Mack Mathias of Maryland, and old progressives like Nelson Rockefeller, had been discarded, leaving President Ford and Governor Reagan, two men in their 60's, who agree on most things except ambition.

Mr. Reagan's strategy has been to challenge the only strengths the Republicans have left. He has attacked the President, questioned the peace and the recovering economy, and raised issues about Mr. Ford's defense budget and Panama policy. This has unified Mr. Rockefeller and Barry Goldwater, of all people, against him. Nobody since George McGovern in 1972 has come up with a better plan for helping the opposition.

The Democrats have not quite been able to match this suicidal strategy, but they're trying and may even be catching up. They are, they say, the innovators in American political life, the party of reform that has dominated our politics for most of the last fifty years, and the party of the young that welcomes new ideas and candidates.

This election campaign supports at least part of their claim. Out of the state capitals and the Congress, where they have large majorities, they have come up with new men, even if most of them are spouting old conservative Republican ideas.

It is a bewildering Democratic cast of characters, running from George Wallace and Lloyd Bentsen, through Fritz Mondale, Birch Bayh, Frank Church, Jerry Brown, then Scoop Jackson, to Mo Udall, Hubert Humphrey and old-time populists like Fred Harris and dreaming poets like Gene McCarthy on the left, with the accidents of life like Teddy Kennedy on the side. All this is confusing, but the Democrats are at least alive and diverse, and kicking for change.

So much so that they don't quite know what to do with it, and like the Republicans, they could blow their chances. Jimmy Carter has knocked the political and labor elders of the Democratic Party off balance. He has swept most of the primaries. He gives promise to restoring the South to the party, and by his moralistic and even religious approach to politics cuts across the Republican hope of creating a "new silent majority" in the North, but something about him holds the Democratic leaders back.

They say they want something new, but complain that the "new" is not familiar. Carter has entered more primaries, fought more state battles, visited more newspaper and network offices, answered more questions, and been more specific than Ford, Reagan and most of his Democratic opponents, but still he lost in Maryland to Jerry Brown, who is the fuzziest newcomer.

The next few weeks until the end of the California primary in early June are not likely to resolve the dilemmas of either party. Most of the state tests are in the West, where Messrs. Ford and Carter are at a geographical disadvantage against their opponents, so in the end nobody may have a decisive majority and the issue will have to be settled after all in private talks for the uncommitted delegates.

In the Republican Party, most of the uncommitteds will probably go to the President, with the support of both Goldwater and Rockefeller, on the ground that the Presidency, peace, and the rising economy are their best hope for victory in November.

In the Democratic Party, the issue will be more complicated. For the Democratic power centers really favor a Humphrey-Carter ticket in the belief that Humphrey would be a better President and could hold the North, while Carter as the Vice-Presidential nominee could hold at least part of the South and cut across Republican strength in the "Bible Belt" of the Middle West.

Mr. Ford and Mr. Carter, however, are still likely to take it all, even if they lose some of the primaries in the next few weeks. Both parties need them and their supporters, if they are not to throw away the election.

For the moment it is not clear how either party can unify itself and win, but it is fairly clear how both could split apart and lose. Reagan and Ford are cutting one another up and providing the Democrats with yards of TV film that can be used against them in the autumn.

Meanwhile the more Carter wins, the more the old Democratic "regulars" try to stop him and replace him with the old guard. Maybe they'll all close ranks after the conventions, but by then, Ford, Reagan, Carter, Brown and Humphrey are all likely to look a little weak and tarnished. It's a funny way to "win" an election, but both sides almost seem determined to throw it all away.

TEMPE, ARIZ., URGED AS LOCATION FOR SOLAR ENERGY RESEARCH

Mr. GOLDWATER. Mr. President, a very few areas in this country have the necessary prerequisite to serve as the Nation's solar energy research center. By this I mean areas that have almost maximum uninterrupted sunshine and are located near excellent research facilities of an academic nature

One such location is in Tempe, Ariz., which is situated in close proximity to the Arizona State Univerity and its excellent research facilities. Because of this, the City Council of Mesa, Ariz., has adopted a resolution urging the Arizona congressional delegation to take all possible action to assure approval of the Tempe location. I ask unanimous consent to have this resolution printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 4068

A resolution of the City Council of the city of Mesa, Maricopa County, Arizona, endorsing the site in Tempe for the Solar Energy Research Center

Be it resolved by the City Council of the city of Mesa, Maricopa County, Arizona, as follows:

Section 1: That the City Council of the City of Mesa does hereby approve and endorse the site in Tempe proposed by the State of Arizona for the national solar energy research center; that this site is ideally situated by being in close proximity to Arizona State University with its excellent research facilities, and with the capability of providing such additional research facilities and research manpower as may be necessary, and because it is in an area which receives the nearly maximum uninterrupted solar energy.

Section 2: That the City Council of the City of Mesa does further hereby urge our Congressional delegation and the Legislature of the State of Arizona to take all possible action to assure that a solar energy research center will be located in this area.

Section 3: That copies of this resolution be furnished to the Congressional delegation and to members of the State Senate and House of Representatives.

Passed and adopted by the Mayor and City Council of the City of Mesa, Maricopa County, Arizona, this 17th day of May, 1976.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 12438

Mr. LEAHY. Mr. President, I ask unanimous consent that Douglas Racine of my staff be accorded the privilege of the floor during the debate and voting on the military procurement bill today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 9:30 a.m. today.

There being no objection, the Senate, at 9:17 a.m., recessed until 9:30 a.m., whereupon the Senate reassembled when called to order by the Acting President pro tempore (Mr. METCALF).

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 12438, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

The ACTING PRESIDENT pro tempore. The pending amendment is No. 1662, proposed by the Senator from Colorado (Mr. GARY HART), on which there is not to exceed 30 minutes of debate, to be equally divided between and controlled by the Senator from Colorado (Mr. GARY HART) and the Senator from Mississippi (Mr. STENNIS).

The yeas and nays have been ordered on this amendment.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GARY HART. I yield.

Mr. GOLDWATER. Mr. President, I ask that Mr. Old, of my staff, have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARY HART. Mr. President, I ask unanimous consent that Peter Gold and Thomas Moore, of my staff, have the privilege of the floor during the consideration of and the vote on this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Will Hall, of my staff, have the privilege of the floor during the consideration of and vote on this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

How much time does the Senator yield?

Mr. GARY HART. The Senator from Colorado yields himself as much time as he may need under the order.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GARY HART. Under the previous order, it is necessary actually to call up my amendment?

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 15, line 4, strike out "$6,196,300,000" and insert in lieu thereof "$6,076,300,000".

Mr. GARY HART. Mr. President, the issue before us this morning is $120 million which the Committee on Armed Services has added to the military procurement bill by a vote of 9 to 6: Money that the Pentagon did not request and which the Air Force has said that it does not need. This $120 million is intended to purchase an additional 24 A–7D aircraft for the Air National Guard.

Mr. President, the record that was before the Committee on Armed Services clearly shows that the Defense Department does not want this airplane.

General Currie, testifying before the House Armed Services Committee, said that the purchase of this airplane will not in any way improve the quality of the aircraft available to the National Guard.

The fact is that this procurement of 24 additional aircraft, will only result in either breaking the budget ceiling of the Defense Department budget to which we have already agreed, or in cutting into the procurement of other necessary weapons systems, troop levels, or base commitments for construction.

The fact is that the purchase of these aircraft will not hasten in any way whatsoever the modernization of the Air National Guard. The Air Force already has a planned modernization program for the National Guard which, will completely replace the F–100 as the A–10's, F–15's, and F–16's become available for the regular force by 1979, the earliest A–7D's could become available for the National Guard.

The net effect of this amendment, frankly, is once more to use, in a classic way, the Defense procurement policies of this country as a public works project, to keep people working or to increase the workload of existing Defense contractors in particular States. The Air National Guard will not benefit from this program. They will get their modernized planes by fiscal 1979 and 1980 without this expenditure, and procuring these planes at an additional cost to the taxpayer of $120 million and with possible cuts in other important procurement policies—will not help the National Guard or anyone else, except the Defense contractors.

We will hear this morning that it has been the policy in the past for the Pentagon to slight the National Guard and to give them the tail end of every bit of equipment; and that the purpose of this proposal put forward by the Armed Services Committee really is to beef up the National Guard and to make them as important as they should be; but that is not the issue before us.

I do not think any of us would quarrel with the general policy of beefing up the National Guard, making them important, and preparing them to deal with the best equipment available in case they have to fill a gap in our national defenses in the future. That is not the issue this morning, even though I am sure it will be argued, as it was in the Armed Services Committee.

This issue is whether we are going to force upon the Defense Department $120 million worth of airplanes that they say they do not need and which will not hasten in any way the buildup in the capabilities of the National Guard.

Mr. President, I would like to quote for the benefit of my colleagues from a fact sheet that the Air Force has made available to the Armed Services Committee:

> Additional A–7D's are not required by the Air Force.

That should be in the RECORD.

I would also like to point out the statement made by General Currie in which he detailed the effect of forcing the procurement of these additional 24 aircraft on the Defense Department.

Then what would we do with the very capable aircraft coming out of the Active Force that are being especially modified, the F–4's and A–7's that are going to go to the Reserves? Certainly we would not want to take our latest F–4D's and F–4E's and put them in the bone yard by having purchased A–7's for the Guard and Reserve.

In other words, if we go ahead with this procurement request by the Armed Services Committee, the net effect will be to make some very valuable airplanes that are being programed in a modernization program for the Guard obsolete, particularly the F–4D's. We do not need to do that.

The military experts in this area, have a modernization policy, and they have laid out that policy. We cannot affect that program except to give them some planes they do not want and say they do not need, at a cost to the taxpayer of $120 million. This expenditure is totally worthless and unnecessary.

General Currie said before the House Armed Services Committee:

> But if the committee should, or the Congress should, provide A–7's to the Guard or Reserve by next year the committee should also take into account, the delivery time of those weapons system. Two years after we have an appropriations bill and are ready to go on contract, those aircraft would be available. So therefore we are talking in the order of 1979 before those aircraft would be available. By that time, should the rest of our procurement requests before the Congress come about in the area of A–10, F–15, and F–16, we would essentially have completed our modernization program for the fighter force in the Reserve. The F–100 would be out.

In other words the F–100's will be phased out before the first of these additional planes could become available.

I also point out that in a recent edition of Aviation Week and Space Technology, dated May 24, 1976, there is the following language:

> Navy and USAF also have serious problems with the TF41 engine in the A–7, and the services have jointly agreed on some fixes to

> try to solve them. Both are testing the engine by using partial engine cycling developed by USAF's Aeronautical Systems Div.
>
> In an eight-month period in 1975, nine A-7s were lost, with the majority related to engine failures.

The fact is that the engine on this plane is having trouble. The fact is that the Pentagon and the Air Force do not want this plane. The fact is that it will in no way help modernize the Air National Guard, a policy with which I think we are all in agreement. The fact is that all we will accomplish will be to cut into the muscle of the defense budget with a request that is totally unnecessary, for the sole purpose of providing some jobs in public works projects for specific areas of this country. This is not the way for Congress to exercise its responsibility over defense contract procurement.

Mr. President, with that, I reserve the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. TOWER. Mr. President, I ask unanimous consent that I may control the time in the absence of the distinguished chairman of the committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr President, I think most Members of this body share an appreciation for the budgetary constraints that are imposed on each of the services in planning and allocating funds in the annual submission of the Defense budget. Each of us on the Committee on Armed Services is aware of the priorities on which that budget is based—priorities which generally afford just and fitting emphasis to the procurement of aircraft, weapons systems, and other equipment for the first-line units of our Active Forces. It has been my experience on the committee that on occasion, however, insufficient priority is given by DOD to the equipping of our Guard and Reserve Forces with the quality of equipment which ought to be provided—indeed, the type of equipment our men and women who serve in these units have the right to expect if they are to remain ready to perform their mission when called

Time and again, we are faced with evidence of Guard and Reserve units which are inadequately or improperly equipped, which are nonetheless unable to obtain a sufficient priority for their needs in order to have an adequate program approved up through the layers of budget analysts in the parent services, the Department of Defense, and the Office of Management and Budget

In the past, it has been Congress—not the services, not the Department of Defense, but Congress—who has recognized many of these neglected needs and responded with the support necessary to keep our Guard and Reserves equipped and maintained as they should be. I am sorry to report to my colleagues that this year is in several respects no different—no different at all.

In the proposed budget for the next fiscal year, the Department of Defense requested a cut of nearly 50 percent in the Naval Reserve personnel strength. Our committee, following the recommendations of its Subcommittee on Manpower and Personnel, so ably chaired by the Senator from Georgia, approved the addition of 27,500 personnel above the level requested in the budget in order to avoid what we considered a potentially serious degradation in the capabilities of our Naval Reserve Force. I add here that we were indeed pleased to note that some progress is being made this year in meeting our long-standing concern for having the Naval Reserve provided with additional ships of varying types.

The committee report contains language which further urges the Navy to transfer even more ships of certain types to its Reserve Forces.

Similar evidence of the low-budget priority assigned to Guard and Reserve programs may be found in the recommended reduction by half in required drills for units of the National Guard. In keeping with its support for increased reliance on the Guard and Reserve within the total Force, the committee disapproved this proposal, even though this action entails authorizing $15 million not requested in the President's budget.

The issue at hand addressed by this amendment is the adequacy of DOD's plans to provide for the modernization of the Air National Guard. Again, as has been the case in the past, it is my view that Congress must take an initiative where the Defense Department has failed to do so. The existing official modernization program carries with it a host of assumptions keyed to the simultaneous modernization and expansion of regular Air Force tactical air units.

That we are today reliant on 20-year-old, obsolete F-100's and outdated F-105's for over 70 percent of our Air National Guard tactical aircraft is itself a fact which raises serious questions as to the wisdom of our past priorities and the dedication of DOD analysts to the readiness of the Air Guard.

I point out to my colleagues that under the current DOD modernization plan for the Guard, the overall aircraft force level will decline by 56—roughtly three squadrons worth of aircraft—from that planned for next year to that projected for fiscal 1979. From fiscal 1977 to 1980, we will see an even further drawdown in aircraft strength by an additional 12. This plan, I would add, assumes no delay whatsoever in the delivery of 936 new aircraft planned for the Air Force between now and 1981—deliveries permitting the resultant hand-me-downs given to the Guard. Critically, if there is any slippage in projected delivery schedules—and if past experience is any gage, there indeed will be—and if foreign sales to Israel retard, as is likely, the transfer of F-4's to the Guard, the current Air Guard modernization plan will be stretched out significantly from 1979-81. The resultant shortfall would be acutely felt in the air-to-ground attack mission assigned to A-7's and A-10's. The additional 24 A-7D's recommended by the Committee on Armed Services would commence delivery in the last half of 1978 and would permit the much-needed stability and continuiity in the Air Guard modernization plan.

The National Guard Association of the United States has put together a comprehensive study on Air Guard modernization, which, in its conclusion, recommends that Congress continue its vital support and leadership in the modernization program. Many of my colleagues in the Senate received copies of this study, along with letters from State adjutants general urging continued procurement of aircraft for the Air National Guard.

In summary, I simply ask my colleagues to face the facts before us. I can appreciate the position of the Department of Defense in supporting only those items contained in the President's budget. This is the case with any alteration made to the Defense budget without their request and approval. I recognize also the record of the Department of Defense in setting inadequate budget priorities for the Guard and Reserves, as was this year the case, in my view, for the Naval Reserve strength, the National Guard drill levels, and the support for the Air National Guard modernization plan.

The committee has given a very comprehensive review to this entire bill, making significant reductions in some areas and a few additions in others where we disagree with the Defense Department's budget priorities. If we are to be serious in our support of the total force policy, we cannot fail to take the initiatives required to provide the Guard and Reserves with the modern equipment they need to do the job.

I urge my colleagues to support the committee's recommendations on this matter and defeat the amendment supported and offered by the Senator from Colorado.

I reserve the remainder of my time.

Mr. GOLDWATER. Will the Senator yield?

Mr. TOWER. I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senator from Colorado has made a very eloquent and very understanding presentation of his position and, if I had not had so much experience with the Air National Guard and the Reserve, I would be strongly inclined to agree with him, but, as good as the Air Force has been about the Air National Guard, they are not all that good. For example, the Air Force has a plan to modernize the Air National Guard that is contingent upon current programs going as planned. These plans include the procurement of 749 F-15's, 650 F-16's, and 743 A-10's. If the current plans are modified in the out years by funding restrictions, quantity reductions, or technological problems on any of these programs, the modernization plan will obviously suffer.

Mr. President, we know that plans can be changed in this body almost—I would not say willy-nilly, but at the desire of a few against the advice of those men who know what they are doing, the people in the Pentagon and its subdivisions.

The Air National Guard today is equipped with the F-100. The first Air Force 100 was flown before 1957. The airplane was flown back in the early 1950's. The F-4, which is to replace the F-100 was first flown in 1957, although it was a Navy aircraft at that time.

We have the A–37, only 36 of those. It has very limited combat potential. As to the old F–105, we have 85 left of those, and it is 15 to 20 years old.

So, Mr. President, while the A–7 may not seem like the ideal aircraft for Air National Guard units assigned to Air Defense Command, nevertheless, it is a jet aircraft; it is not an expensive aircraft; and it can keep the units with their hands in, so to speak, so that they can move into a more modern aircraft without any great degree of trouble.

The engine difficulty that the Senator from Colorado mentioned has been corrected. The TF–41 engine is a derivative of the Rolls Royce Spey engine and is built by the Detroit Diesel Allison Division of General Motors, under license from Rolls Royce.

The engine, as originally built by Allison, performed to its specified thrust limits and had a 600- to 700-hour time between inspections. In order to simplify design, reduce production costs, and increase required inspection time up to 1,000 hours, turbine blades and the turbine and compressor inlet guide vanes were redesigned. This redesign was not sufficiently tested prior to installation in production engines and as a result, excessive local heat was experienced within the engine, which caused turbine blade and guide vane failure after in anywhere from 200 to 300 hours of operating time.

I might tell the Senate, Mr. President, that the F–100 engine is experiencing the same problems. It is not exactly the same as the engine I have described. Keeping the F–100 flying is now a major operation. The combat crew training station of the Air National Guard is located at Tucson, Ariz., and the aircraft availability down there is far below the acceptability rate. This is a squadron that is recognized for its great proficiency in maintaining aircraft. The engines are just getting old.

I might say something I have said time and again on this floor: the United States of America is lagging behind in jet engine development. I think it is incumbent on this body to appropriate the proper amount of money next year and get into research and development so that we do not have airframes sitting around waiting for engines. We have very few engines flying today that are up to the task. I should like to see this country regain its position as No. 1 engine developer and producer in the world.

Mr. President, I support the amount of money that has been put in the budget, even though the Air Force did not request it. This is not the first time that the Pentagon has not requested things that they have received, nor would it be the first time that the Pentagon has asked for things that we did not give them. We sort of held back on the B–1 the other day, one of the most important aircraft developments in the history of this country. Although I am sure that will be changed, nevertheless, this body took what I consider to be the wrong step.

This proposal was supported by a vote of 9 to 6 in the full committee. Its total purpose was to support the modernization of the Air National Guard by actions not by words. The total force concept, if it is to be valid, means the Air National Guard must have modern equipment. The A–7, Mr. President, is probably one of the finest aircraft flying. It has one of the best fire control systems ever placed on any of our combat aircraft. The nice thing about it all is the price of the aircraft has stayed relatively close to the original concept of price when we first talked about it, and I hope that my colleagues will recognize that the total force concept, so far as modernization, includes the Air National Guard.

With that in mind, I hope they will defeat the amendment of the Senator from Colorado.

Mr. GARY HART. Mr. President, I yield 3 minutes to the Senator from Georgia on my time.

Mr. NUNN. Mr. President, I have great respect for the Senator from Arizona and the tremendous work he has done on the Air National Guard. The same is said for my colleague from Texas, but I will have to agree with the Senator from Colorado on this particular amendment.

Mr. President, I am opposed to authorizing funds for 24 additional A–7D aircraft. Neither the Air Force nor the Department of Defense has requested such funds. It is difficult enough to determine the relative merits of the aircraft the Air Force does want without foisting upon the Air Force planes that it does not want.

The argument that the A–7D add-on will accelerate modernization of the Air National Guard simply does not survive exposure to the facts. There is no question that the 400 obsolescent F–100s now in the Guard should be phased out as soon as possible. We all agree on that. However, if 24 A–7D aircraft are added to the fiscal year 1977 authorization bill and subsequently funded by the appropriations act, production could not possibly be initiated before October 1, 1976. Although the airframes might be produced in 18 months, the engines would take 2 years. Thus, the first A–7Ds could be delivered to the Guard no earlier than October 1978—the start of fiscal 1979.

Yet, Air Force Chief of Staff David C. Jones and Brig. Gen. James B. Currie have testified before the House Armed Services Committee that, under present programs, all F–100's will be eliminated from the Guard by 1979. That is under the presently funded program. This goal will be attained by the production rate of 9 F–15's per month for the intervening 30 months, for a total of 270 F–15's by October 1, 1978, and by delivery of 133 A–10's by the same date. Two F–16's also will be available to the Air Force. As each of these planes enters the active inventory, an F–4, A–7D, or A–10 will have been transferred to the Air National Guard. Thus, these 405 planes will liquidate all the F–100's now in the Guard inventory.

Mr. President, I believe that the constraints upon our defense spending are severe enough without imposing upon our military services programs which they neither want nor need.

Surely $120 million in this case could be spent on a higher priority program. I support the Senator from Colorado's amendment.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. STENNIS. Mr. President, may I have 1 minute? This is an item voted in by the committee. It is the only item of any money amount at all that was not in the budget. I am supporting the committee on it for this reason: Everyone agrees that the F–4's are on their way out. Everyone agrees that something more should be done for the Air National Guard and Reserve, and I think we can help them more by giving them modern weapons than we can by just increasing the number over and over the number of personnel they are allowed. So for that reason I am going to vote against the Senator's amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GARY HART. Mr. President, I thank the Senator from Georgia for his statement. We have heard a great deal in recent weeks about the judgment of the former Secretary of Defense, Mr. Schlesinger, and about what he has to say about our falling behind the Soviet Union.

I would point out to my colleagues, particularly those who are opposing this amendment, that in his posture testimony in February of 1974 before both the House and Senate committees, former Secretary of Defense Schlesinger stated that part of the problem he had as Secretary of Defense was that the Congress thrust money on the Pentagon that it did not want, and he specifically cited as instances of the A–7 aircraft.

If we are going to take the judgment of people like Mr. Schlesinger as to what the future of this country's national security and defenses should be, I think we ought to take all of it and not just part of it. He stated that it was congressional actions of this type, the forcing of pet projects and programs on the Defense Department, that resulted in the kind of budget-busting that ultimately weakens national security instead of a strengthening it.

The undisputed facts lead to the conclusion that this will not accelerate the modernization of the Air National Guard, and will not increase the national security of this country. About all this measure might do is provide some jobs for a few defense contractors. But even the principal prime contractor in the A–7 procurement continues to make aircraft and to have production lines for foreign sales anyway, so even that minor effect might not happen.

The facts of the matter are that the Air Force has testified against this procurement, that this is $120 million of taxpayers' money that is not needed, and that this will not have the effect that its proponents say that it will.

Even though this passed the Armed Services Committee by a vote of 9 to 6, a relatively close vote, it is not too late to strike this additional unnecessary procurement and to save the taxpayers some money.

That is the issue before the Senate here this morning.

I reserve the remainder of my time.

Mr. TOWER. Mr. President, I very much dispute the Senator from Colorado. I think this is necessary to hasten the modernization of the Guard, and the Guard thinks so.

What he is doing is using the argument advanced by the people who planned the modernization in the first place. Obviously they are not going to say their plan is faulty.

Again I want to say that Congress has always taken the initiative in beefing up the Reserves, as we have with the Navy, and the drill period for the Army National Guard, and we are doing a little bit of the same here. They are wrong about this not hastening the modernization of the Guard.

To begin with, all F–1s are being phased out with the addition of some new A–7's plus older F–4's and A–7's transferred from regular Air Force units; the 48 A–37's would begin to be replaced by 36 new A–10's; and in sum, 312 modern aircraft would have replaced 480 obsolete aircraft, hardly an even exchange for the Guard.

The ACTING PRESIDENT pro tempore. All the time of the opponents has expired. The Senator from Colorado has 1 minute.

Mr. GARY HART. Mr. President, as I stated already the issue before the Senate is not whether the National Guard will be able to fulfill its mission, or wheher it will quickly get the most modern equipment available. The Air Force, the Pentagon and the Defense Department have all testified that they have a program for modernization, and that that program already provides F–4's and A–10's for the National Guard at the earliest possible date.

Spending $120 million this morning will not accelerate that program 1 minute. The engine on this plane is having trouble. We will do nothing but waste $120 million if we vote for this procurement. I urge Senators to support my amendment.

Mr. BENTSEN. Mr. President, I would like to join those members of the committee who oppose the amendment offered by our colleague from Colorado.

The Armed Services Committee has this year acknowledged that the Air National Guard's aircraft should be upgraded. The 24 A–7D's which it has authorized will advance the Guard's overall modernization program and will hasten the retirement of its obsolete F–100's and A–37's. These 24 attack aircraft, which comprise an entire squadron, will improve both its training capability and the ability to meet its mission in the event of mobilization.

I am aware that the Department of the Air Force did not originally request these planes. I know that it has tried to keep its budget request in line, but I know, too, that providing for the needs of the Air National Guard is one of its lesser priorities. In authorizing these 24 A–7D's, the committee has taken the initiative for meeting the needs of the Air Guard, and I believe that it has exercised good judgment in doing so.

One of the most attractive features of the A–7D is its price. At approximately $4.7 million a piece, it is one of the less costly aircraft now being acquired for our defense arsenal. The deletion of the 24 craft authorized by the committee could well result in the closing of an A–7D production line and, accordingly, higher unit costs for its sister plane, the A–7E, which the Navy is currently obtaining.

Mr. President, the A–7D is widely regarded as an excellent aircraft. I believe the committee has acted wisely in authorizing the procurement of 24 of them for the Air National Guard, an action which will significantly upgrade the Guard's capability and help restrain the costs of the craft being obtained by the Navy.

I would, therefore, urge rejection of the Senator's amendment and hope that the committee's action is reaffirmed.

Mr. CANNON. Mr. President, I oppose the amendment of the Senator from Colorado (Mr. Hart), which would delete the funds to buy 24 A–7D's for the Air National Guard. I believe it is imperative that we have a Guard which is combat-capable, equipped with modern weaponry, and supported in a meaningful way by the Defense Department and by the Congress. Providing 24 A–7D's specifically for the Air National Guard will further these ends.

The Senator from Colorado is correct in his statement that these airplanes were not in the original budget request. However, I would point out to my colleagues that this is not the first time that the Congress has seen fit to step in and provide equipment to support the National Guard.

Also the Senator from Colorado is correct in a technical sense that present planning figures show the F–100's now in the Guard being replaced by more modern planes, transferred from the Active Duty Forces, by the 1979 time frame. However, this plan is just a plan, and it is dependent on the production of all of the new airplanes now intended for fiscal years 1977, 1978, and 1979 being funded and built according to the current schedule, and this rarely happens without subsequent revisions. Also the Air Guard will still be flying A–37's and F–105's into the early 1980's, and these, too, must be replaced with more modern weaponry.

Therefore, I believe that these 24 A–7D's in this bill will provide a much needed acceleration to the modernization program for the Air National Guard, and I urge the defeat of the amendment.

Mr. BEALL. Mr. President, I rise in support of the amendment of the distinguished junior Senator from Colorado (Mr. Gary Hart) which would delete the 24 A–7D aircraft from the Military Procurement bill.

I think there are several basic reasons why we should not purchase these 24 A–7 aircraft;

First, the Air Force did not request funds for the purchase of any more A–7's, in part because they are rapidly becoming obsolete.

Second, the Allison engines which are used to power the A–7D's have encountered persistent mechanical problems which have, to date, defied satisfactory correction. Some sources estimate that difficulty in procuring these engines may delay the delivery of these 24 aircraft until fiscal year 1980.

Third, the Air National Guard Units will be re-equiped more rapidly if we proceed with the purchase of the A–10 aircraft. The committee has earmarked these 24 A–7D's for the modernization of the Air National Guard, but such a purchase would probably slow down rather than accelerate this process. This would be especially true if these A–7D's are not available until fiscal year 1980. In a February 9, 1976, letter to Representative Majorie Holt, a member of the House Armed Services Committee, Maj. Gen. Edwin Warfield III, the adjutant general of Maryland, urged the purchase of additional A–10 aircraft. General Warfield noted that an expanded A–10 program would "speed up the modernizaton of our Air National Guard tactical fighter units, particularly those flying the older aircraft such as the F–100's."

Fourth, we should look at cost of this add-on procurement, especially in light of the limits placed on the defense budget by the President and the first concurrent budget resolution. As a member of the Senate Budget Committee, I believe that we owe it to the American taxpayer to get the maximum benefit from his or her tax dollar. I cannot justify spending $120 million on a trouble prone weapon system that is nearing the end of its useful life expectancy. When you stop to think that the House added-on an unnecessary purchase of A–6's—totaling approximately $130 million—you begin to see how we could end up with a budget busting Military Procurement bill that does not properly address itself to the true defense needs of this country.

Mr. President, I support a strong national defense posture for this country. We live in a dangerous and volatile world and we canot allow the United States to slip into a position of military inferiority. This is not just rhetoric on my part, Mr. President—my voting record reflects my deep commitment to the maintenance of a strong America. That is precisely why I urge my colleagues to support this amendment to strike the purchase of 24 unneeded A–7D's from H.R. 12438.

The PRESIDING OFFICER (Mr. Leahy). All time has expired. The question is on agreeing to the amendment (No. 1662) of the Senator from Colorado (Mr. Gary Hart). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Michigan (Mr. Philip Hart), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Illinois (Mr. Stevenson), the Senator from Georgia (Mr. Talmadge), the Senator from California (Mr. Tunney), and the Senator from Wyoming (Mr. McGee) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), and the Senator from Alaska (Mr. Gravel) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. Nelson) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from North Carolina (Mr. Morgan) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New Jersey (Mr. Case), the Senator from Hawaii (Mr. Fong), the Senator from North Carolina (Mr. Helms), the Senator from Alaska (Mr. Stevens), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from Pennsylvania (Mr. Hugh Scott) are absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thuemond) would vote "nay."

On this vote, the Senator from New Jersey (Mr. Case) is paired with the Senator from Pennsylvania (Mr. Hugh Scott). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 38, nays 37, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—38

Allen
Beall
Biden
Buckley
Bumpers
Byrd, Robert C.
Chiles
Clark
Cranston
Culver
Eagleton
Ford
Glenn
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Javits
Kennedy
Leahy
Mathias
McIntyre
Metcalf
Mondale
Muskie
Nunn
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Symington
Weicker
Williams

NAYS—37

Bartlett
Bayh
Bellmon
Bentsen
Brock
Burdick
Byrd, Harry F., Jr.
Cannon
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Goldwater
Griffin
Hansen
Hollings
Hruska
Inouye
Jackson
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
Moss
Percy
Scott, William L.
Sparkman
Stafford
Stennis
Stone
Taft
Tower
Young

NOT VOTING—25

Abourezk
Baker
Brooke
Case
Church
Durkin
Fong
Gravel
Hart, Philip A.
Helms
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Stevens
Stevenson
Talmadge
Thurmond
Tunney

So Mr. Gary Hart's amendment (No. 1662) was agreed to.

Mr. GARY HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we have order in the Chamber? Will Senators cease their conversations? The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio be recognized at this time to call up his amendment, and that upon the disposition of that amendment——

The PRESIDING OFFICER. May we have order in the Chamber?

The assistant majority leader is addressing the Chamber. The Chair requests order in the Chamber. If Senators are having conversations we ask that they please cease the conversations or carry them to the cloak room.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. Glenn, the distinguished Senator from Maine (Mr. Hathaway) be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the quorum call which I shall now ask for not be charged against the time of the distinguished Senator from Ohio (Mr. Glenn).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I ask unanimous consent that Win Wheeler of my staff be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I ask unanimous consent that Jane Matthias of my staff be granted the privilege of the floor during consideration and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Mr. Glenn will be recognized when the quorum call is rescinded; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. And without the time being charged to him on his amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. William Lind of my staff have the privilege of the floor during the debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I make the same request in behalf of Emily Thuber and Bill Jackson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I make the same request for the following members of the Commerce Committee staff when the vote is taken on the Byington reconsideration: Messrs. Pertschuk, Sutcliffe, Cohen, and Merlis.

Mr. ROBERT C. BYRD. As in executive session.

Mr. MOSS. As in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against the time on the Glenn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1691, AS MODIFIED

Mr. GLENN. Mr. President, I call up my amendment No. 1691, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Ohio (Mr. Glenn) proposes an amendment numbered 1691, as modified.

Mr. STENNIS. Mr. President, may we have quiet so that we can hear?

The PRESIDING OFFICER. The Senator from Mississippi is correct. The Senate will be in order, so that the clerk may be heard.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN's amendment (No. 1691, as modified) is as follows:

> Modify amendment to read as follows:
>
> On page 17, line 13 after "force structure", delete the period and add "together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.".

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. GLENN. Mr. President, this amendment would call for a study to be conducted by the Secretary of Defense on base operating support costs and the advantages to be had by combining some of those costs where appropriate.

There has been an analysis of some of this by the Defense Manpower Commission, and also a Rand study done for the Air Force. The Defense Manpower Commission study indicated 14 overlapping employee systems that we have in the military support structure, and indicated a potential saving—they do not predict this, but they say a potential saving of some 26 percent on these support costs, which would run into very sizeable appropriations, obviously, if we would knock out some of the overlapping nonmilitary functions of the support structure.

Such a study would expand upon studies already planned and provided for by an amendment put on in subcommittee, I believe by Mr. Culver.

This amendment has been discussed with the Senator from Georgia (Mr. Nunn), and I believe he supports it. It has been discussed on both sides of the aisle. I do not call for a record vote on the amendment; I think we should be able to pass it, and hopefully we can get this enacted in time to result in some savings when next year's budget comes up.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GLENN. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I support the amendment of the Senator from Ohio. The Pentagon has the authority now, though it is not used as much, possibly, as it should be. I would cite the contract that has been in effect for a long time with Lockheed to maintain the squadron of F–104's at Luke Air Force Base. It has worked out very well.

The only danger that can be foreseen on this is that if we go too far on the civilian flight maintenance, we will cut down on the number of men and the proficiency we would need to maintain the aircraft in combat. But I think it is a very good idea.

Mr. GLENN. Mr. President, I appreciate very much the comments of the Senator from Arizona, and I could not agree more. It is not the intent to cut into any support structures that would have a direct application on a mobilization basis. It is the more general functions we are talking about here, which the Pentagon has done some study on already, but where we think the additional savings could be effected if we give them a chance to study it more thoroughly.

Mr. STENNIS. Mr. President, I yield myself 2 minutes on the Senator's amendment, and then I want to yield some time to the Senator from Georgia (Mr. Nunn) who has worked on this matter. It comes within the field of his subcommittee.

Mr. President, something was said about modifying the amendment. As I have the amendment before me, it proposes to amend the bill on page 17, line 13, after the words "force structure," by deleting the period and adding "together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs."

I thought the Record ought to show just what we were passing on here, as this is not a regular printed amendment.

Mr. President, this is a matter on which the committee has done quite a bit of work, led by the Senator from Georgia and his subcommittee and others. I am glad to support the amendment in its present form. I yield some time now to the Senator from Georgia. I hope that he will seek recognition and explain something about what the committee is doing, and how this fits in.

Mr. NUNN. I thank the Senator from Mississippi.

I rise to support the Glenn amendment as modified. I think that of all the areas where there remains a good bit of softness in military manpower it is very likely to be in the area of base operating support. Our subcommittee and the full Committee on Armed Services have looked at this area intensely in the last 2 years. In fact, we made a good many cuts in this area in both civilian and military. In this year's bill there is language inserted on page 17 which says and I quote:

> ". . . Such report shall also identify, define, and group by mission and by region the types of military bases, installations, and facilities, and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure.".

This amendment that was inserted in our subcommittee and approved by the full committee gets right at the heart of the same problem the Senator from Ohio has so well identified and is concerned about. By modifying the Glenn amendment to add to the previously existing report that is required, we end up having one report rather than two reports. They are almost on the same subject. The Glenn amendment does increase the information that we will obtain from this report. It also identifies specifically that the base operating support costs are a prime concern of the Senate, and it also requires an evaluation of possible alternatives to reduce such costs, meaning the cost of base operating support.

So I believe that this amendment to the Glenn amendment, taken together with the existing committee requirement, will require the Department of Defense to go through a stringent exercise and study in determining whether there are alternatives by which base operating support can be further cut.

I might say in closing, Mr. President, that the committee has already zeroed in on this area pretty hard and we have already made rather significant cuts in base operating supports, but I think this study will greatly assist us in pursuing that avenue of cost saving and cost effectiveness.

I recommend that the Senate agree to the Glenn amendment. I think it is a contribution to this bill.

Mr. GLENN. I thank the Senator from Georgia.

Mr. STONE. Mr. President, will the Senator yield for a brief comment?

Mr. GLENN. I yield.

Mr. STONE. The Senator from Florida spent some time during the previous recesses visiting some of the bases where civilian employees are a significant factor.

In making this new study, the Senator from Florida would urge upon the Defense Department careful analysis in areas such as the naval air rework facilities and analysis not merely of a headcount of how many people work and how much it cost to pay them to work but analysis of the dollars lost while the pennies are saved in connection with how often; for example, they bring in equipment or airframes to be reworked and what that means in terms of replacement costs and useful life of that equipment and those airframes.

It is true they can stretch out the use of some of these airplanes and some of this equipment and not bring it in for an extra month, 2 months, or 6 months, and it will still fly. But what happens when they have not reworked it according to the manufacturers and the services recommended timetable? What happens when they then have to procure new units, much earlier than they otherwise would have had they conditioned and reconditioned them?

So the Senator from Florida urges a careful study of that particular situation, because the Senator from Florida saw some vivid examples of some shortening of airplane and equipment lives because of the stringent budget requirements on this rework facility, and I have a feeling that they may be parallel circumstances taking place.

So what the Senator from Florida urges is not simply how much can we save in the civilian sector of the naval budget or the armed services budget on base support, but what is the mission of those people and what will the dollars be if they save those pennies ?

Mr. NUNN. May I say in response to the Senator from Florida, I think he is absolutely correct in his analysis that we must maintain our Navy equipment, aircraft, and so forth, in a better way than we are doing now.

I might say, though, that our subcommittee has fully supported the logistics and manpower requests of the administration, and this area is in the logistics area. The base operating support area is another area altogether and has nothing to do with the maintenance of aircraft or the maintenance and overhaul of ships. Base operating support has to do with bowling alleys, golf courses, PX's, commissaries, and has nothing to do with airplanes and ships.

I am not saying base operating support is not important, but I am saying that that is different from logistics and I am saying that our subcommittee, contrary to some of the rumors that have been floating around from the Pentagon, has supported vigorously and not only supported vigorously but we have had strong language in our reports indicating that more needed to be done in the area of logistics and in the area of maintenance of aircraft and ships. I think that that is an area that has been neglected. If there is additional manpower needed in the military services and in the civilian ranks, it is in the area of overhaul and maintenance, but that is a different matter from what I believe the amendment of the Senator from Ohio is getting to.

Mr. GLENN. That is correct. If the Senator will yield for a comment, this gets into the areas not only that he just mentioned, but also into areas, where bases are not too far apart from the fuel supply. Can these be combined? Can there be changes in the food supplies coming into different areas that are coming into bases that are within the same area?

Mr. STONE. Does the Senator also suggest hospital support and medical support and medical services?

Mr. GLENN. Yes, those things can be better done on the central based basis or with area alined control within a certain area. The Grant study, in particular, indicated considerable savings could be made.

So it is not only in the recreational activities that the Senator from Georgia referred to but also in the more basic support structure that is fundamental to base operations.

Mr. STONE. If the Senator will yield, I also refer to the fact it is not only a question of how much money can people save when they go to a PX. It is also a question of, is there such a facility within range? If people have to drive 20 or 30 miles in order to do their grocery shopping, can they serve on that base? And people who just indiscriminately say, "Let's eliminate all PX's," sometimes do not have reference to the logistics involved in just the ability to survive to buy food.

Mr. NUNN. I agree with the Senator on that comment. Of course, I also reemphasize, however, that our committee has never cut logistic support.

Now I read a comment by the Secretary of the Air Force in a newspaper the other day where he is going around saying that he certainly regrets that certain logistic r.i.f.'s had to take place because of the action of Congress. He is incorrect in that statement.

The PRESIDING OFFICER. All of the time of the opponents has expired.

Mr. NUNN. May I have 1 more minute?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Ohio may have an additional 5 minutes.

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. ROBERT C. BYRD. And the Senator from Mississippi have an additional 5 minutes, if needed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. If the Senator from Ohio will yield me a minute, I shall conclude my comments. A lot of rumors are floating around about this personnel area. The Air Force itself has cut some of its logistics, but it has nothing to do with the mandate of Congress.

That is their decision, but then, when it gets down to the crunch of explaining where it comes from, they have the habit of saying, "We did this because of Congress."

In the case of logistics, that is simply not true and where we have put pressure on—and we admit it—is in the area of base operating support. I think there needs to continue to be a review of the base operating support area, because we have a tremendous number of people involved in that area, and I believe that cost-effective measures can be increased, and I believe productivity in that area can also be increased. So I support the Senator's amendment.

Mr. GLENN. If the Senator will yield, this base operating support is the broadest base of what we are referring to for those who are doing this report to help them with guidance. It is very basic. I am looking at base support where we sometimes use military personnel now to perform those functions, with all the permanent station changes, and things that go on with rotation of military personnel. It is in some of those areas where it appears that major savings could be made across the board in basic support, where the food and the fuel come from, where the guards are at the gate, et cetera. It is that type of basic support that we have trimmed already.

Mr. STONE. If the Senator will yield for one comment, the Senator from Florida is gratified with the remarks of the Senator from Georgia about r.i.f.'s in the logistic areas of our defense budgeting because the Senator from Florida did hear the statement made frequently that the reductions in force of those logistic personnel and the ability to perform their mission was because of congressional requirements.

When the Senator from Georgia says that that has not been the case, and is not the case, and that the Senator from Georgia and his subcommittee do not recommend these RIF's in the logistics area, the Senator from Florida is most gratified.

Mr. NUNN. Let me clarify one point. I think that everything the Senator from Florida has said is correct. There perhaps has been some pressure on the OMB accounts that come from appropriations committees. The Senator from Georgia has not agreed with those decisions, but the Armed Services Committees in the House and Senate, with which I am familiar, so far as we are concerned, have moved in the opposite direction, and feel that the logistics area—the overhauling of ships and maintenance—should be increased. There has been some pressure through the OMB accounts and through the appropriations committees, and from that point of view, some of the statements could be partially correct.

Most of the pressure has come from the Office of Management and Budget and the DOD's own defense analysis, not from Congress. To the extent that there has been pressure from Congress, it has not come from the Armed Services Committee in the area of logistics, which I feel is very important.

Mr. STONE. I commend the reading of this colloquy not only to our own colleagues on the Appropriations Committee but also the OMB and the Defense Department in general, because it is a fact that saving a few dollars in stretching out maintenance does not save the taxpayer dollars. On the contrary, most likely and most probably, it costs the taxpayers hundreds of thousands of dollars by comparison.

The Senator from Florida is most gratified with the remarks of the Senator from Georgia and thanks the Senator from Ohio.

Mr. GLENN. I agree with the Senator. I do not want any stretched out maintenance if I am flying an airplane.

Mr. President, I yield back the remainder of my time.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. STENNIS. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

The assistant majority leader knows about these amendments. The committee is ready now to proceed with additional amendments.

Mr. ROBERT C. BYRD. Mr. President, an order was entered for the recognition of Mr. Hathaway at this time, to call up his amendment. I am now informed that he will not be ready to call up that amendment just yet. He will call it up later. He is working on some modification that may be agreeable on all sides. So I ask unanimous consent that that order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, if the Senator will yield, the Senator from Maine had talked about the possibility of using some time. However, the Senator from New Hampshire (Mr. McIntyre) has not had an opportunity to make his report about his subcommittee's work. If it is in order, we can do that now. I would like to ask Senator McIntyre to come to the Chamber. For that purpose, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, *I ask* unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, this seems an appropriate moment in the discussion of the pending legislation for me to present the significance of the action of the Committee on Armed Services on the military procurement authorization bill and how it relates to the national defense targets that Congress established in the first budget resolution for fiscal year 1977.

First, I extend my appreciation to the distinguished Senator from Mississippi (Mr. Stennis), for the work he has devoted to this important legislative measure. Senator Stennis and the entire committee membership have labored hard and long to carry out the Senate's mandate for national defense embodied in the budget resolution adopted by Congress on May 12, 1976. In a year when defense spending requests have increased substantially, I salute the Senator's diligence in bringing before the Senate a defense authorization bill that is within the congressionally approved budget targets.

Mr. President, the bill before us authorizes military procurement and R. & D. funding of approximately $31.9 billion in budget authority. In addition, this bill sets Defense manpower levels which imply funding of approximately $35 billion in budget authority. Together, these two amounts represent about 60 percent of the national defense function.

The $31.9 billion for procurement and R. & D. is $2.3 billion less than the $34.2 billion Presidential budget request as revised by the Minuteman III missile and shipbuilding budget amendments. Preliminary fiscal year 1977 outlay estimates associated with the authorization are roughly $9.5 to $9.7 billion. These outlays, combined with outlays from prior year budget authority, total to an amount over $24.8 billion for fiscal year 1977, approximately $550 million less than the estimated revised Presidential outlays of $25.4 billion.

In addition to the procurement and R. & D. authorizations, the bill reduces active duty military personnel and civilian personnel levels and increases military reserve strength. The costs for these recommended manpower levels will be provided during the appropriations process. However, preliminary estimates for these personnel actions indicate that they will result in savings of at least $200 million below the President's budget request; these savings would be in both budget authority and outlays.

Mr. President, before proceeding to my specific concerns on the details of the military procurement authorization bill and the upcoming conference of the Armed Services Committees, I would like to provide my colleagues with the initial Senate Budget Committee estimates on the relationship of the Armed Services' actions to the national defense functional target established by the first budget resolution. The Committee on Armed Services reviewed a large segment of a Presidential budget request of $114.8 billion in budget authority and $101.4 billion in outlays. The result of the committee's actions on the military procurement authorization bill and the military construction authorization bill provides the following approximate totals.

I ask unanimous consent that a chart displaying the figures be inserted at this point in the Record:

There being no objection, the material was ordered to be printed in the Record, as follows:

Comparison of Committee on Armed Services authorizations with national defense functional targets in 1st concurrent resolution

[In billions of dollars]

	Budget authority	*Outlays*
A. Presidential budget request for national defense	113.3	101.1
Budget amendments	1.5	0.3
Total request for national defense	114.8	101.4
B. First concurrent resolution targets for national defense	112.5	100.8
C. National defense total resulting from armed services action:		
Procurement authorization below procurement request	2.3	0.6
Estimated personnel reductions below request	0.2	0.2
Military construction authorization below military construction request	0.1	(1)
Total reductions	[2] 2.5	[2] 0.7
Total for national defense function	112.3	100.7

[1] Less than $50 million.

[2] Figures may not add due to rounding.

The Armed Services' action addresses only the Procurement Authorization and Military Construction Authorization bills. The figures shown for the total for National Defense Function Resulting from Armed Services Action reflect a functional total assuming acceptance of Presidential levels for the function minus Armed Services' reductions in the Procurement and Military Construction Authorizations. These estimates are preliminary and subject to modification.

Mr. MUSKIE. The Armed Services Committee's action, Mr. President, addresses only the procurement authorization and military construction authorization bill. The figures shown in the chart for the total national defense function resulting from armed services action reflect a functional total assuming acceptance of Presidential levels for the functions minus armed services reductions in the procurement and military construction authorization. These estimates are, of course, preliminary and subject to modification.

I have provided an overview of the military procurement authorization bill as it compares with the first budget resolution targets. I now want to address the problems that lie ahead when this bill leaves the Senate for conference, and how these problems impact on the targets this body has set for the National Defense function.

First, there are the builtin pressures incorporated in the national defense targets. I am referring to the President's proposed economies amounting to $5.4 billion in budget authority and $4.5 billion in outlays. Will Congress enact the necessary legislation required to save a portion of the economies?

The following is a quote from the Senate report accompanying Senate Concurrent Resolution 109, the first budget resolution for fiscal year 1977. The resolution "assumes implementation either of the administrative and legislative economies of $5.4 billion in budget authority and $4.5 billion in outlays which were proposed by the administration or of other actions that would achieve comparable savings. Failure to achieve the economies would require reductions elsewhere in the defense budget to stay within the target." The intent of this language was repeated in the conference report on the budget resolution as follows: The resolution "assumes implementation of the legislative and administrative economies proposed by the administration or other savings necessary to remain within these—national defense—targets." This means—and I want to make this clear—that failure by the Congress to enact the proposed economies will require offsets elsewhere within the national defense function to stay within the targets. Similarly, if the President requests and Congress approves any future budget amendments or supplementals, tradeoffs between high-priority and low-priority areas will be required to remain within the resolution targets for budget authority and outlays.

Simply stated, the resolution adopted by the Senate for national defense depends on implementation of these economies. Many of the economies require legislation and are not politically popular issues, particularly during an election year. They include the stockpile sales, elimination of the 1-percent kicker for retired pay, elimination of dual compensation for Federal workers on reserve duty, phaseout of commissary subsidies, a fair market rental policy, revised wage board pay policy, limited reductions in selected aspects of Reserve and Guard pay, and reduced cadet pay. In addition to these legislative proposals, the administration has proposed savings in the Federal pay and compensation category and other management efficiencies. The most significant of these items are the pay cap and the change in methodology for determining pay comparability.

To the credit of Senator Stennis, the Committee on Armed Services is recommending favorable action on all but one major legislative proposal within its jurisdiction.

The remaining major proposal is for stockpile sales, saving the Government over $700 million. It is my understanding that my distinguished friend from Nevada (Mr. Cannon), intends to conduct hearings on the proposed sales soon. I urge my colleague to press on. The legislation to allow the sales is essential, and he has the support of the Budget Committee in this endeavor.

Whether we can realize all of these economies is up to the Senate as a whole. I urge that we follow through on the impetus provided by the Budget and Armed Services Committees and enact all of these economies. It is particularly essential that all committees having jurisdiction on the relevant legislation act favorable on these matters because the House-passed version of the procurement authorization does not provide for implementation of the economies. We should send the Senate Armed Services conferees to conference with a clear mandate from the Senate that the economies be implemented. I shall work with Senator Stennis to insure that the Congress enact the proposed economies or prescribe other savings in defense in order to remain within the budget resolution targets.

Another point I should like to stress is the significant difference between the House-passed amounts for its military procurement authorization bill and the proposed Senate authorization. The House level is $1.3 billion in budget authority over the Senate committee report. If we include proposed House and Senate actions on manpower levels and the proposed economics, this difference could rise to $1.8 billion or more in budget authority. The difference in outlays amounts to $400 to $500 million. Inasmuch as the Senate authorization bill has the effect of creating an amount for national defense only slightly below the budget target, it is obvious that our conferees will be in an extremely difficult position as they attempt to reconcile the significant differences in the Senate and House versions of the military procurement authorization measure for fiscal year 1977. A compromise that is close to the midpoint between the two bodies will exceed the budget resolution target. We must be ready to deal with that situation.

I should like to put into perspective the major area of difference between the House and Senate bills—the Navy shipbuilding program. The administration requested $6.3 billion for procurement of ships in fiscal year 1977. This is a 62-percent increase in 1 year over the fiscal year 1976 appropriation of $3.9 billion. How did our Senate colleagues on the Armed Services Committee react to this request? They acted with commendable restraint.

In the middle of the committee's review of the procurement authorization request, the administration rushed forward with a shipbuilding budget amendment totaling $1.2 billion including $1 billion for procurement of ships. Consequently, the committee reviewed a $7.3 billion shipbuilding procurement request, or a budget request calling for a 90-percent increase in shipbuilding authorizations in a single year. To the committee's credit, it did not panic at an election year gimmick. The committee reviewed the request and developed a proposal for shipbuilding procurement at just under $6 billion. Some critics will say this amount is still too much for shipbuilding. Nonetheless, it is less than the budget request by $1.3 billion and is aimed in the right direction—toward a more desirable and less costly mix of the Navy fleet.

Furthermore, the Senate procurement authorization bill recommends repeal of title VIII of Public Law 93-365, requiring major combatant vessels to be nuclear powered. I support the repeal of this statute, and I strongly urge my colleagues to do the same. I am committed to a strong defense for our country—a defense comprised of a proper balance between land, air, and seapower. I am particularly committed to a proper balance in the utilization of resources within the Navy. The excessive costs associated with the shipbuilding program required by strict adherence to title VIII can interfere with this balance by minimizing the capability to project American power when justified for national security or humanitarian purposes.

The House reviewed the original $6.3 billion shipbuilding request and added $3.7 billion for additional ships. This increase was partially offset by a $1.4 billion reduction in frigates and a conventional Aegis destroyer. Neither of these class of ships is nuclear powered. The House made a further reduction of $1.2 billion in the request to cover past cost growth and escalation associated with shipbuilding. Therefore, the net increase in shipbuilding in the House is $1.1 billion. The House provided this substantial increase in ship programs because they are apparently committed to high technology and costly ships with the balance favoring nuclear power in accord with title VIII provisions.

Mr. President, as we attempt to establish priorities between domestic and military requirements within the Federal budget, I question whether the requirements and costs associated with title VIII are consistent with a goal of increasing the size of the Navy.

I believe the Senate should support the distinguished Chairman of the Committee on Armed Services in the Senate version of shipbuilding procurement for fiscal year 1977. In a manner similar to our commitment to the enactment of the proposed defense economies, I recommend that the Senate send its Armed Services conferees to conference with a mandate endorsing the Senate shipbuilding proposal.

Mr. President, in concluding my remarks, I would like to reiterate my appreciation to the distinguished chairman, Mr. STENNIS. The military procurement authorization bill has my support, although I reserve the right to support floor amendments which I deem necessary and desirable. As chiarman of the Committee on the Budget, I know the pressures on the national defense target in the first budget resolution:

The need to implement all the proposed economies;

The substantial differences in the House and Senate versions of a Defense shipbuilding program; and

And potential supplementals including an amendment to overhaul the U.S.S. *Belknap*.

With this in mind, I will watch with great interest the compromises resulting from the forthcoming conference on the House and Senate military procurement authorization bills. This authorization legislation has a direct impact on the subsequent appropriation measure. Consequently, if the conference report leaves the legislation above the first budget resolution targets, I want the Senate as a whole, and Senator STENNIS in particular, to understand that the Senate Budget Committee must seriously consider opposing the conference report on the floor.

I have discussed the bill and other defense policies and programs in considerable detail.

I want to make it clear to the Senate, as I have over and over again, that the Budget Committee is not a line item committee, and it is not for us to decide what shall be the detailed makeup of the Defense Department program under the overall ceilings which the Senate and Congress as a whole have imposed.

But I would agree with something which I think the distinguished Senator from Mississippi said a year ago, that we cannot, as we look at the totals, overlook the implications of the major components of those totals.

So I think the Senator from Mississippi was absolutely right last year in suggesting that we at least take into account the impact and the implications of the major policy decisions with which his committee must struggle not only in committee and on the Senate floor but in conference with the House of Representatives as well.

It is in that spirit, may I say to my good friend from Mississippi, that I have made these comments this morning.

Mr. HOLLINGS. Mr. President, I want to congratulate the distinguished chairman of the Senate Armed Services Committee, Senator STENNIS, and the other members of his committee, for their excellent work on the defense appropriations authorization bill for fiscal 1977 (H.R. 12438). There are several aspects of this bill which deserve our strong support.

First, the bill substantially reverses the downward trend in the funding of defense purchases which has occurred in the recent past. As I noted during Senate consideration of the first concurrent resolution on the budget, over the past 5 years we provided about 28 percent less for defense procurement and research and development than we provided in the 5 years from 1962 through 1965, when inflation is taken into account. Yet our military forces are not 28 percent smaller today than they were prior to Vietnam. Without the funding increase provided in this bill, and sustained levels of funding in the next 5 years, there is simply no way that we can maintain the capabilities of our planned forces and provide for our defense in the 1980's.

Part of the increase is due to the authorization of initial procurement for strategic weapons systems—the B-1 bomber and Trident missile—which have long been debated, and for which the Congress has already voted substantial research and development funds.

But the major part of the increase is for procurement of weapons systems for the general purpose, conventional warfare forces.

Compared to the defense budgets of the early 1960's, this budget will provide a lower overall priority for strategic warfare systems and a higher priority for general purpose warfare systems.

The logic of this shift is clear: In a time of nuclear parity between the Soviet Union and the United States, conventional warfare strength takes on a much greater political and military significance than it had when the United States enjoyed substantial nuclear superiority.

The general purpose warfare forces supported by this budget are largely allocated to the defense of NATO. This fact, however, is not easily divined from the budget information provided to the Congress by the Department of Defense. Earlier this year the Defense Task Force of the Senate Budget Committee, which I had the honor to chair, requested the Secretary of Defense to provide the Congress with information showing how much of the defense budget is spent in support of the various basic missions of our defense forces—such as land warfare, naval force projection, close air support, strategic offense, and other categories—and how much is spent in preparing to support U.S. commitments in NATO, Northeast Asia, and elsewhere. Inasmuch as information of this kind was presented to Congress last year, in connection with the fiscal 1976 defense request, we had every reason to believe that the request would not be unduly burdensome for the Department. To date, however, we have not had a favorable reply to our request.

I think this failure to comply is highly unfortunate. Last year many Senators, in debate on the military procurement bill, called for an examination of the connections between our defense budget and our foreign policy. The mission budget approach sought by the Budget Committee's Defense Task Force would provide a useful framework for a look at these connections.

For example, the task force staff, using the mission budget approach and figures supplied to Congress last year, estimated that general purpose warfare activities, and their support, were allocated 62 percent of the fiscal 1976 budget request; strategic forces were allocated 15.5 percent, and other activities—intelligence and communications, basic R. & D. management overhead, retirement pay, military assistance—were allocated 22.5 percent.

Similarly, the staff estimated that of some $65 billion requested for general purpose warfare activities and their support—including recruiting, training, medical care, and base support—a total of $51 billion could be identified with forces having a clear geographic orientation. More than three-fourths of this amount—about $39 billion—could be identified with forces whose primary justification is defense of NATO in a European war. These included not only forces deployed in the European theater, but also forces located in the United States and the Pacific region which would provide essential reinforcements to NATO in the event of a war.

Thus it appears that forces costing nearly 40 percent of our defense budgets are presently justified on the grounds that they are required to meet the U.S. commitment to contribute to a conventional defense of Western Europe.

I stress the word "conventional" because it is clear that the inability to defend Europe with conventional military forces would force NATO to consider the alternatives of surrender to military pressure or of nuclear war. And the circumstances of tactical nuclear war in Europe are sufficiently unclear to make this a very undesirable option.

In this connection, I was encouraged to note that President Giscard d'Estaing of France promised, in his address to the Congress last week, that his nation believes in the need for a strong defense in Europe, and will contribute to the effectiveness of the Atlantic Alliance. I can only hope that these words will be followed by concrete actions by France to cooperate with the military organization of the Atlantic Alliance. The hard truth is that the decision by France in 1966 to withdraw from the NATO military organization, and to eject both NATO and U.S. military forces from France, substantially weakened the security of Western Europe. First, it required a relocation of supply depots and lines of communication to areas where they are considerably closer to the potential front and more vulnerable to attack. Second, it introduced a dangerous ambiguity concerning the timing and manner of French participation—if any—in the defense of Western Europe against aggression.

As recently as 1974, Senator NUNN reported to the Armed Services Committee, following an exhaustive survey of U.S. and allies plans and capabilities for the defense of Europe, that—

> As a practical matter, France by its policies reduces the possibility of a conventional defense, and significantly lowers the nuclear threshold by refusing to collaborate in advance for a strong conventional defense.

Finally, France's policy imposes on the United States and our allies in the NATO military organization a larger burden and higher costs in order to partially repair the imbalance in NATO's defenses resulting from France's nonparticipation.

President Giscard concluded his address to Congress by asking that we "show the same confidence" in France that France has in the United States and its commitment to the defense of Europe. The way for France to earn confidence will be to show her increased confidence in NATO. Let us hope that President Giscard's visit signals a move in that direction.

In the meantime, Mr. President, we must continue to deal realistically with the defense burdens imposed on this country by our role in NATO and by the steady growth in Soviet military capabilities. This bill meets our responsibilities in this area.

At the same time, the Armed Services Committee has exercised restraint. This bill is consistent with the national defense budget guidelines provided in the first concurrent resolution on the budget—provided that certain economies contemplated in that resolution are in fact enacted. The bill is $200 million in budget authority and $200 million in outlays below the budget target under these conditions.

The Armed Services Committee also has taken the initiative, with this bill, to move forward on important segments of the program of economies recommended in the first concurrent resolution. The committee has attached to this legislation provisions affecting military pay and allowances. It has repealed the 1-percent kicker which increases retirement benefits for military personnel more rapidly than the rise in the cost of living, and it is recommending a 3-year phasing out of the commissary subsidy program. In addition, it has recommended reductions in military and civilian personnel amounting to 28,300 spaces. If sustained, these actions will save more than $500 million in fiscal 1977 and as much as $7.4 billion over the next 5 years.

Finally, the committee has provided us with a sensible, attainable shipbuilding program for fiscal 1977. Senator STENNIS and his colleagues who developed this program, including Senator CULVER and Senator LEAHY, deserve our admiration and our firm support for their clearheaded work on this very difficult issue.

Mr. President, the shipbuilding program is, without doubt, the most costly decision facing the Congress in the national defense area. For example, if we buy the entire planned B–1 program, additional procurement and research and development costs over the next decade will come to about $19 billion, including estimated inflation. But the cost of a shipbuilding program which would simply maintain the size and type of Navy which we have today, according to a recent Library of Congress study, will be $62 billion over the next 10 years, not counting the effects of inflation, which can run as high as an additional 50 percent. If we want to increase the size of the Navy to 600 ships, the shipbuilding costs alone will be in excess of $80 billion, again, not including inflation.

Before we commit ourselves to that kind of expenditure, it is wise to decide what kind of Navy we need in the future. Today's Navy is designed according to principles which emerged from World War II, with the aircraft carrier as the dominant warship. The Soviet Navy has been designed specifically to counter this approach, using the nuclear submarine and the cruise missile. The question is whether continuing the traditional balance in the U.S. Navy is the most effective counter to the new Soviet capabilities.

In order to answer that question, we need to think carefully about the kinds of missions the Navy must perform, and determine the priorities for naval investment so that they match the Navy's most urgent needs.

For example, should we give first priority to the strike forces, which include the attack carriers and the warships which escort them into battle? Or should we give first priority to assuring the Nation's ability to protect military convoys carrying troops and supplies across the Atlantic, in the event of a major war in Europe or in the Middle East? In the latter case, we would probably want to spend money for less costly escort ships and for nuclear submarines. Or should other missions receive our attention?

In trying to decide what kind of shipbuilding program we need, the Senate has been faced this year with something approaching utter confusion. We have found that the United States has not one Navy, but at least three navies—some would say four. There is the carrier Navy, and the destroyer Navy, and the submarine Navy, and perhaps, the Rickover Navy. Each of these organizations has its own program for the Navy, which is to be expected. And each has its own spokesmen. Then, in addition, there is the administration. The administration has already put forward two different shipbuilding programs for fiscal 1977—and it still has not completed its National Security Council review of the shipbuilding issues.

In this situation, with many competing voices and proposals, it is a great temptation to avoid hard choices and simply resolve to buy the best features of each approach. It is a great temptation to say, let us have nuclear escorts for carriers and more surface ships and more submarines, and let us have more carriers also, with all their aircraft and support.

It is a temptation to say, let us not struggle too hard with the difficult questions regarding the correct set of priorities, or the most cost-effective ways to achieve Navy missions.

If we took this approach, we might end up with a fiscal 1977 shipbuilding program which looks something like the one contained in the House version of this bill. The House took a record shipbuilding budget submission by the administration, totaling some $6.3 billion, and added $3.7 billion for additional ships. The House did make some offsetting reductions, but the major cut taken by the House was in the one program—the patrol frigate or FFG program—where there is nearly unanimous agreement that we need more ships. With the exception of this restraint, the House added:

Advance procurement funds for two strike cruisers in addition to the one proposed by the administration. This is a new class of nuclear ship with a lead-ship cost of at least $1.2 billion. The Navy has not completed preliminary design studies on the ship.

Advance procurement funds for a new nuclear aircraft carrier.

Funds for one additional Trident submarine and one additional attack submarine.

Funds to convert the nuclear cruiser Long Beach and repair the cruiser Belknap.

Funds to procure four new Spruance-class destroyers, and three additional support ships.

Mr. President, the House action reminds me of a story about one of our early secretaries of Defense, who had a horror of making decisions. It was said of him that he made only one decision during several years in the Pentagon. This involved competing rocket programs of the Army and the Air Force. The services could not agree who should be in charge. This gentleman called for the facts on the issue, weighed the pros and cons—and decided to go ahead with both programs.

It seems to me that there is an air of unreality in a shipbuilding program that proposes a major expansion in the construction of nuclear ships when the only shipyard presently qualified to build nuclear surface warships has threatened to discontinue work on an aircraft carrier already under contract, and when the Deputy Secretary of Defense, on May 18, characterized the Navy's relations with the shipbuilding industry as a "crisis situation."

Even if this proves to be a temporary situation, the House recommendations force us to consider one of the most difficult Navy issues. What priority should we give to nuclear propulsion for surface warships, other than aircraft carriers?

Ship for ship, nuclear propulsion costs more. In comparing a nuclear and a conventional ship of roughly similar characteristics, we find that the nuclear ship has to be larger, because the nuclear powerplant takes up more room and requires a larger hull. The nuclear ship also requires a larger crew to tend the powerplant. On a life-cycle basis, including fuel costs, crew costs and maintenance and overhaul, as well as initial procurement costs, the General Accounting Office has calculated that a nuclear surface ship, with its weapons, costs 60 percent more than a comparable conventional ship.

For this extra cost, the nuclear ship does provide certain advantages. Because of its larger size, and extra space below decks, it can carry more weapons and stores. Lacking dependence on oilers, it can operate for indefinite periods at sustained speed—useful for rapid long-distance movement of fleets—and it is potentially less vulnerable in combat due to less frequent need for replenishment. The big issue is whether these advantages offset the extra cost, or the advantages of having three conventional ships for the price of two nuclear ships.

The answer depends on what missions the Navy will be asked to perform.

According to the preliminary results of a study by the General Accounting Office, the advantages of nuclear power are largely situational. For example, a task force commander on a mobile strike mission may gain certain advantages in mobility and speed if operating with an all nuclear group which he would not have if an all conventional or mixed task force were employed. He would have, for instance, somewhat greater independence from the oilers and ammunition ships which support the task force.

However, in other situations—such as the one faced by our fleet in the Mediterranean, operating under surveillance by the Soviet fleet, and within constant range of Soviet firepower—nuclear propulsion does not seem to offer any advantage. Indeed, comparing task forces of equal cost, the all nuclear task force may be at a decided disadvantage in situations where the fleet is required to operate constantly in a high-threat environment.

The General Accounting Office postulated that task forces of equal cost would consist of an attack carrier and four nuclear escorts, or an attack carrier and six conventionally-powered escorts. The conventional escorts would have more total firepower—that is, more capability to defend the carrier against attack. The larger task force would also be more survivable.

Consider, for example, a situation in which each task force is subjected to an attack capable of sinking or disabling three escort ships. In this situation, the task force consisting of a carrier and six escort ships would still have three escorts remaining—enough to permit continued operation. But the task force consisting of a carrier and four nuclear escorts would be reduced to a single escort, and would have to disengage much sooner, or risk the sinking of the carrier.

So here again we are brought up against the basic question: For what kinds of missions should we design our fleet?

Without prejudging the need for some nuclear surface warships, in addition to aircraft carriers, I think the record shows that we should not make an automatic presumption in favor of nuclear power for all ships operating with our strike forces—particularly in view of the fact that we require the Navy to maintain a large fleet on constant station in the high-threat regions of the Mediterranean.

Unfortunately, present law makes just that presumption. I refer to title VIII of the 1975 Defense Appropriations Authorization Act, which establishes as the policy of Congress that all major surface combatant ships will have nuclear propulsion unless the President decides, on a ship-by-ship basis, that such would not be in the national interest. This provision is unduly restrictive, and its meaning is subject to dispute. I am delighted to see that Senator STENNIS is now recommending, in this bill, the repeal of title VIII.

The other elements of the shipbuilding program recommended by the Armed Services Committee display similar commonsense. The committee has rejected, for 1977 at least, the proposed strike cruiser, pointing out that important design and cost studies and reviews have not been completed. It has deferred without prejudice the President's belated request for $350 million in long leadtime funds for a new aircraft carrier, pending completion of the administration's review of Navy requirements. Of the other new ships proposed variously by the administration or the House Armed Services Committee, the Senate approved only the need for an additional fleet oiler. It accepted the administration's original request for authorization of eight additional patrol frigates but rejected the added request for an additional four patrol frigates.

In short, this is an achievable shipbuilding program for 1977. It places the main priority on the need to increase the total number of escort vessels, rather than on establishing new classes of high-cost ships.

However, there is one area in which the Navy's approach to fleet operations and design gives me some concern. I refer to the roles and missions assigned to the nuclear attack submarine forces.

As I indicated earlier, our present Navy is built around the concept of the attack carrier as the principal striking arm of the fleet. The carrier, for example, has the primary role in attacking enemy fleet units.

The nuclear submarines have the primary role of combating enemy submarine forces, particularly those which would be assigned the job of interdicting sea lines of communication between the United States and Europe or Asia.

The Soviet Navy, in contrast, assigns a major role in antifleet operations to its nuclear attack and cruise-missile submarines, assisted by major combatant surface ships and land-based aircraft.

The Soviet shipbuilding program reflects the high priority given to the submarine. In the period between 1965 and 1975, the Soviets launched 100 nuclear submarines and 45 diesel submarines while the United States launched just 57 nuclear submarines. In the same period, the United States launched 137 large surface combatants and support ships—displacing 3,000 tons or more—

while the Soviets built only 60 ships in these categories.

The Soviet approach to antifleet operations places a high premium on surprise attack, and places the U.S. fleet in areas such as the eastern Mediterranean in a dangerously exposed situation.

Recently the Washington Post published a thoughtful article by retired Vice Adm. George P. Steele suggesting that the U.S. Navy is effect turn the tables on the Soviet fleet in such areas, by deploying nuclear attack submarines in a position to combat and interdict Soviet fleet operations. This would require assigning new roles and missions to the attack submarine.

It could also require us to build nuclear attack submarines at a much more rapid pace than presently planned. An increase in submarine construction may also become necessary simply to counter growth in the Soviet submarine fleet. Attack submarines are very costly warships and we should not commit ourselves to a larger attack submarine fleet without careful study. But I believe Admiral Steele's ideas deserve careful consideration in view of his distinguished career and operational experience with both the submarine and surface fleets. Admiral Steele, incidentally, was the first submarine officer to command a major U.S. fleet.

I ask unanimous consent to place in the RECORD the article by Admiral Steele and a table, prepared by the Office of Secretary of Defense, summarizing United States and Soviet ship construction between 1965 and 1975. This table supports the contention, by my good friend the Senator from Vermont (Mr. LEAHY), that the U.S. Navy has built more large-displacement ships than the Soviet Union. It also shows that the Soviet Union has built more submarines of all kinds than the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES/U.S.S.R. SHIP CONSTRUCTION, 1965-75

Range (tons)	United States			U.S.S.R.		
	Classes	Number	Tonnage	Classes	Number	Tonnage
Over 40,000	CV America; CV Kennedy; CVN Nimitz	3	261,200			
20,000 to 40,000				CVSG Kiev	1	39,000
10,000 to 20,000	CGN California; LCC Blueridge; LKA Charleston; LPD Austin; LPH Iwo Jima; LSD Anchorage.	30	489,500	CHG Moskva	2	35,400
5,000 to 10,000	CG Belknap; CGN Truxton; DD Spruance; LST Newport.	30	247,800	CG Kara; CG Kresta; CG Kynda	17	134,600
3,000 to 5,000	FF Garcia; FF Knox; FFG Brooke; WHEC Hamilton; AGFF Glover.	74	248,200	DDG Kashin; DD Krivak; LST Alligator	40	171,500
1,000 to 3,000				FFL Mirka	72	83,600
				FFL Petya	[1] (7)	(8,000)
				PCE Grisha (LSM Ropucha, LSM Polnocny)	[2] (11)	(18,900)
500 to 1,000	WMEC Reliance	13	12,600	PGG Nanuchka	77	58,500
				MSF Natya	[1] (20)	(15,000)
				LCU Vydra (LSM Polnocny)	[2] (54)	(41,850)
100 to 500	PG Asheville; PTF, AGEH Plainview	36	6,070	LCU MP-10; LCU SMB-1; PCL 50-1; PCE POTI; PCH Turya; PT Shershen; PT MOL; PTC Stenka; PTG OSA; PTG Komar; PGM Shlepen; MSF Yurka; MSC Zhenya; MSC Vanya; MSC Sonya.	410 [1] (104)	110,100 (23,618)
Submarines:						
Ballistic missile (nuclear)		12	87,600		51	390,000
Attack:						
Nuclear		45	164,200		49	213,050
Diesel					45	99,000

[1] Ships constructed in U.S.S.R. for delivery to other countries.

[2] Ships added to Soviet OOB but constructed in Poland.

[From the Washington Post, May 16, 1976]

A FLEET TO MATCH OUR REAL NEEDS

(By George P. Steele)

Even Americans who follow the news of defense spending rarely glimpse the contrary views of professional military officers on costly programs. Military alternatives to weapons systems proposed to the Congress have been discussed earlier and discarded behind the secure doors of the Pentagon. Decisions involving huge sums are made, supported by highly technical, classified information and professional experience that cannot be made public. In the disciplined ranks of senior active duty personnel there can be no room for the maverick who publicly opposes an official stand on major procurement.

But U.S. naval officers are by no means of one mind on the need stated by the Navy for a $2 billion aircraft carrier or a $1.3 billion strike cruiser. Many officers hold that these great ships could not prevail at sea but would dominate the budgetary process, soaking up so much money that little of real consequence could be afforded. The very nature of the U.S. Navy's future role is involved in the controversy.

The World War II American fleets, in which the aircraft carrier forced out the battleship as the capital ship, emerged victorious to face no significant threat at sea for over 15 years. In that period of American naval supremacy, the Korean War marked the beginning of a preoccupation with the projection of naval power ashore that has continued to this day. The present generation of senior naval officers was schooled in that war, in the Cuban and other crises and in the long Vietnam conflict. Not in 30 years has an aircraft carrier group come under significant enemy naval attack. It is perhaps natural that this experience would exert strong influence on development of U.S. Navy doctrine and hardware, producing a fleet ideally suited to intervention in a land battle while operating from a privileged sanctuary at sea.

Knowing this, the Soviet Union has constructed a fleet heavy with submarines and guided-missile ships, backed by a highly effective, missile-equipped maritime air force. It is a fleet which can prevent American seapower from getting at its shore objectives. Instead of swinging around to confront the Soviet Navy with an effective counterforce able to defeat and push it out of the way, the U.S. Navy continues to program large and very expensive surface ships which are in great danger from both submarines and surprise missile attack.

For three decades the major U.S. Navy surface combatants have been subordinated to the defense of the aircraft carrier. This has shriveled the Navy's fighting ability on the surface until it is now incapable of standing up to Soviet cruisers armed with potent, long-range cruise missiles.

A comparison of the latest U.S. nuclear-powered cruiser alongside that of a new Soviet Kara class cruiser shows the remarkable lag in U.S. weaponry. This weakness takes on great significance in remote areas such as the Indian Ocean or the South Atlantic, where the United States no longer can be certain of representation by aircraft *carriers—there are simply not enough carriers.* And without air support, a U.S. Navy surface force can be defeated easily by a Soviet surface force of lesser tonnage.

Evidence of the pervading influence of American naval experience with projecting power ashore while unopposed at sea is easy to find. The F-14 Navy fighter, a magnificent aircraft with its Phoenix weapon system, is designed primarily not for defeating enemy sea forces, but for besting the most capable land-based aircraft. Underway replenishment ships have grown to great size while shrinking in number because of the efficiencies involved; the Camden-class combat support ship is capable of carrying prodigious quantities of fuel, ammunition and stores—but if one is sunk, it is a grievous loss indeed.

Newer surface fighting ships are not well constructed to trade blows with other ships. Armor for key systems and compartmentation have not been emphasized enough. Redundancy of vital equipment, such as power supplies, and shock-resistant qualities, so important for continuing in action after sustaining damage, too often have been economized out of design. Operational security has retreated steadily before the long-term trend to more and more powerful radars and sonars and continuous data and information exchange by radio, all of which disclose precise position and other intelligence to an alert enemy.

IF WAR COMES

Soviet naval authorities have capitalized wonderfully on U.S. Navy weaknesses in the construction of the modern Soviet Navy and maritime air force. Under the long-term leadership of the brilliant Soviet Navy commander-in-chief, Admiral of the Fleet S. G. Gorshkov, forces have been built to fit a concept of surprise attack during which many missiles would be launched from coordinated air, surface and subsurface platforms. The attack is designed to overwhelm U.S. aircraft carrier groups.

It would work like this: Coming from many directions with different flight profiles, supported by heavy electronic jamming of American radars, the variety of Soviet missiles appears with breathtaking suddenness.

Corridors of chaff mask the missile-launching Soviet aircraft and surface ships from U.S. radars. A variety of Soviet defensive missiles and rapid-firing light weapons works to prevent successful counterattack. (Soviet submarines need no such protection, unless they are old and must surface briefly to shoot; even then their exposure to counterattack is brief.) The American formations may well destroy a number of the incoming missiles, but Soviet designers have a good appreciation of U.S. Navy capabilities, and they expect mass attack to achieve an early saturation and many assured hits.

The surprise-attack strategy was tested in 1970 during a worldwide Soviet Navy exercise, the largest naval exercise ever held. Soviet forces played the roles of both attackers and defenders, with the fascinated Western allied navies taking ringside seats. A crisis was simulated, during which Soviet units maneuvered in close proximity to others playing the enemy role. Suddenly, a radio command from Moscow simulated the triggering of scores of missiles aimed at enemy aircraft carriers and other ships. It looked like another Pearl Harbor attack—but against forces underway at sea instead of moored in port.

Once missiles are launched in such numbers, U.S. Navy aircraft carrier groups as now constituted have no adequate defense against them. Retaliation by aircraft already airborne undoubtedly would hurt the Soviet forces badly, but the critical denial of American ability to project power ashore already would be accomplished. The only way U.S. forces could win such an engagement at close quarters would be to strike first, perhaps motivated by certain knowledge of impending attack—a highly improbable circumstance.

In times of heightened tension in the Mediterranean, such as the 1973 October War, the U.S.S.R. has moved strong surface and submarine forces into position next to American aircraft carrier groups, in effect holding a pistol to each of their heads. The eastern Mediterranean is within comfortable land-based air range from the Soviet Union. and the 6th Fleet is easily outnumbered in a Mediterranean submarine buildup because of greater Soviet resources. Building another nuclear-powered aircraft carrier and a strike cruiser is no way to redress that imbalance. And yet a balance in the Mediterranean is critical to resolution of disagreements in the Middle East in a way not inimical to the interests of the United States.

Even when Soviet naval forces are not concentrated for a devastating first blow, there is acute danger to the aircraft carrier group and its logistic support ships from Soviet nuclear submarines. These powerful underwater craft are guided by various independent sensors whose locating information is furnished to the underseas craft by radio. In spite of almost frantic efforts and brave talk by the Navy over many years, the submarine threat to U.S. surface forces is grave.

Attempts to increase the power of the echo-ranging active sonars of American surface ships sufficiently to detect an enemy submarine in time to kill it beyond the range of its torpedoes have served, unfortunately, to identify U.S. warships better to enemy submarines and to provide an aiming point at a greater range for listening submarines with guided missiles. The improved active sonars have not been adequate, even to guard against torpedo attack in many areas of the oceans where unfavorable conditions inhibit the pulsing surface ship sonar far more than they do the submarine listening sonar.

Antisubmarine fixed-wing aircraft and helicopters employing sonobuoys and other devices have enjoyed some success in favorable sea areas. But reliable, all-direction, continuous air protection for surface forces, including aircraft carriers, is still not possible. Two or more nuclear-powered attacking submarines can saturate the defenses of an aircraft carrier group, and it is not difficult for the Soviet Navy to use several submarines in concert.

The effect of weather is very important. Flight operations must be curtailed or cancelled in heavy weather. Surface ships can proceed only at moderate or slow speed and, even then, with great difficulty in areas such as the North Atlantic and North Pacific during protracted periods of the winter months. Icing conditions and extreme cold add to the adversity. But the nuclear-powered submarine is not much affected by weather. It can continue to make top speed, and its periscope and antennae, should it elect to use them, are nearly invisible to the eye or radar in spray or waves. The submarine's guided missiles do not need a relatively steady flight deck. Nor do its launching tubes ice up. Its torpedoes are effective except in the mountainous waves of a big storm.

The question of fatigue of men and machines also must be considered. Around-the-clock flight operations required to stay in top defensive posture, or to keep a constant offensive punch airborne, can stretch into weeks during crisis or war. The strain was eased in the Vietnam war by using two aircraft carriers, each with a 12-hour flying cycle, with perhaps another carrier or so in the area to assist if need be. With fewer carriers now, it is likely that we have seen the end of such a practice, particularly in the presence of threatening Soviet forces at sea. Each carrier, because of the concentration against it, will probably have to keep its guard up at all times. As a crisis continues, time will work for the Soviet submarine, surface and air forces. The numbers of operationally ready aircraft on American carriers on continuous alert can be expected to decrease; spare parts will dwindle, maintenance men will be hard-pressed. By contrast, Soviet missiles in their launch tubes are not strained by any problem of accumulating flight hours.

A U.S. decision to make first use of nuclear weapons at sea would not significantly improve America's naval position. Nuclear weapons could not successfully ward off surprise attack, and the gain in kill capability against the enemy would be much more than offset by the vulnerability of large U.S. ships to nuclear counterattack. And the use of nuclear weapons at sea will intensify the conflict, increasing the possibility of escalation to full nuclear weapon exchange.

MEETING RESPONSIBILITIES

The pressing problem for American naval commanders is how to go to the aid of our treaty partners in the North Atlantic Alliance and the Pacific or to support our friends, with the present and projected forces available, in the teeth of the formidable new Soviet forces. The obvious areas where naval aid would be needed at the outset of a NATO war with the Warsaw Pact powers would be the waters off Norway, Denmark and the Mediterranean nations. U.S. treaty commitments are heavy in the Korean-Japanese area, and naval power is indispensable to successful defense there.

Where treaties do not exist there are still very real responsibilities that could bring the United States into direct confrontation with the Soviet Union at sea. Latin America and Africa may well be the scenes of future contest between the superpowers regardless of the present prevailing public mood against involvement anywhere.

The most recent behavior of the United States Navy in confrontation with the Soviet Union—in the October, 1973, crisis—is best described as force posturing. Soviet commanders must have been grateful by the positioning of major American aircraft carrier forces in the Mediterranean where they are easy marks for carefully orchestrated surprise missile attacks. However reassuring the posturing American fleet may have been to the Israelis, or threatening to the Arabs, the truth is that the 6th Fleet was staked out for sacrifice, deprived of enough *sea room for* defensive maneuver.

Given that example, it is not hard to imagine U.S. aircraft carrier groups ordered to move into the Norwegian Sea, and the Sea of Japan in some future crisis, while others maintain the desperately dangerous posture in the Mediterranean. The situation would bring to mind the movement of the United States fleet to Pearl Harbor just before World War II, over the objections of its commander-in-chief. The principle of civilian control of the armed forces, obviously, s both sound and essential, but civilians are not trained to make tactical decisions. To abuse the principle of civilian control by requiring force posturing in crisis—in defiance of sound military advice—can lead only to disaster.

It is fair to ask whether there is any alternative, both in the crisis handling of our presently structured sea forces and in the balance of types of ships and aircraft that should be purchased for the future. Must we conclude that our teeth are drawn, except when we take on a lesser power with the assent of the Soviet Union? Must we continue to buy the kind of forces that continue currently exploitable weaknesses?

If the aircraft carrier groups of the U.S. Navy were not formidable, the U.S.S.R. would not have gone to so much trouble to develop a counter. There is no other way to keep potent airpower across the seas without dependence on foreign bases which are fixed in place, easier to attack than a carrier, and which can suddenly be denied to us for political reasons. The aircraft carrier has by no means outlived its usefulness, but it is no longer a "line-of-battle" ship that, protected by lesser vessels, can hold its own against all comers. It must be held back, hidden to the extent possible in the vastness of the ocean until the way is prepared for it to perform its unique service.

The "strike cruiser," as yet unbuilt, would not be a line-of-battle ship either because it is not capable of operating within range of hostile Soviet air concentrations or of defeating Soviet submarines. This vastly expensive weapon, too, would have to be held back to await employment against surface forces. But the irony is that those surface forces can be destroyed more easily by carrier-based aircraft or submarines.

BATTLE-WORTHY SUBS

Today, and for many years to come, the really battle-worthy capital ship is the nuclear-powered submarine. It has the unique ability to get close enough to destroy the enemy surface ship, using missiles or torpedoes, without great risk, regardless of how much air power is ranged against it. The only adversary that it really need fear is another and better submarine, down in the sea with it, using the same advantages of mobility and stealth.

Suppose that this thesis had been accepted and acted upon in the crisis of October, 1973, in the Mediterranean. We would have withdrawn our aircraft carrier groups as quickly as possible, while U.S. nuclear-powered attack submarines steamed into the area in strength. Each major Soviet warship, surface ship or submarine would have been tracked down by one of these American submarines. With sufficient strength in place, American submarines could show themselves in sequence to their adversaries and then break the contact to remain in the vicinity.

What a different outlook for the Soviet Mediterranean commander in these circumstances. The knife is at his throat, not the American commander's. The important Soviet ships are being dogged by submarines that can sink them in short order. Yet the Russian commander's capability to inhibit this attack or even to keep track of U.S. submarines is slight, given the qualitative superiority of the American undersea craft over Soviet counterparts and countermeasures. He cannot place his surface ships in contact with the vulnerable U.S. aircraft carriers and other surface units because they are well out in the Atlantic Ocean.

If hostilities begin, he can envision the destruction of most of his fleet, followed up by the reentry of the American aircraft carrier groups into a Mediterranean cleared of most surface and submarine opposition and blockaded by American submarines against new Soviet Sea entrances. Soviet maritime air power would remain a threat to the U.S. aircraft carriers, but one they are best capable of defeating.

In recent years the United States and the Soviet Union each have maintained a squadron in the Indian Ocean where the oil lifelines of Japan and Western Europe originate. Dut to the great distances involved from U.S. bases and the lack of emergency landing fields for carrier aircraft, the Indian Ocean would seem, at first glance, to be an ideal operating area for the proposed strike cruiser. If, however, the strike cruiser is built for the purpose of being a surrogate aircraft carrier when and where our thinly spread carriers cannot be present, it faces a Mediterranean-like threat.

As with the aircraft carrier, Soviet surface and submarine forces have vulnerable targets for surprise attack in the strike cruiser, its escorting surface ships and the ubiquitous logistic support ships required by surface forces. The best American tactic to guard against surprise attack is to withdraw from the area, but the difficulty of locating Soviet submarines is such that a very considerable withdrawal would be required. Even then, there would be no certainty that the submarine missile threat had been shaken off unless U.S. submarines stay protectively close to American surface forces; but it would be better to put our subs near the opposition.

U.S. submarines stationed near a Soviet surface squadron in the Indian Ocean would not need to hightail it away to avoid surprise attack. Remaining hidden until commencement of hostilities, they could sink their surface adversaries without fear of the enemy's guided missiles. Only the Soviet submarines would be dangerous; so far, however, U.S. submarines are markedly superior. Should Soviet forces be on the point of some intervention in another nation, the presence of a number of nuclear-power U.S. submarines would let them know that the U.S. Navy had the power present to destroy the Soviet units without significant risk to itself.

This is not to say that the presence of surface warships in such remote areas is undesirable. There are times when the flag must be shown. And the submarine, powerful though it is at sea, is not the symbol which the apparently formidable surface warship provides to the peoples of unsophisticated nations; an unreasonable fear of nuclear propulsion also can inhibit port visits by nuclear-powered subs. Force posturing does have its uses, so long as we do not delude ourselves as to the fighting capability of the ships involved. We certainly will not delude the Kremlin.

The Chief of Naval Operations, Adm. James L. Holloway III, recently wrote, "We need ships *in proper balance* among types: carriers, surface combatants, submarines, amphibious and support ships. And, within a constrained budget, we need a *careful balance* between high-performance, general-purpose forces and less expensive, limited-mission ships we can procure and deploy in greater numbers. It is these two kinds of balance that go into the careful development of our shipbuilding programs. These programs will enable the Navy to maintain a modern fleet, sized to the needs of our future security requirements." (Italics added for emphasis.)

That statement is sound. The quarrel can only be over just what constitutes a "balance" and, perhaps, just what constitute our "future security requirements." There can be no doubt about the reality of constrained budgets and, if we err in striking the balance by building great, expensive, vulnerable surface ships, there surely will not be enough money left to build an adequate number of "line-of-battle" submarines, the only type of ship that alone can stand up to the Soviet air-sea threat.

Our future naval security requirements can be boiled down to a first-priority need to be able to control the seas. If that requirement is not fulfilled, then all of our allies and friends, all of our overseas interests and all of our vital imports are subject to Soviet control. If the Soviet government successfully denies us the use of the sea, expensive but vulnerable forces for power projection ashore would be useless, if not already sunk. Our only recourse would be a self-defeating nuclear exchange—there would be no other way to get at the U.S.S.R.

Even without building the $2 billion aircraft carrier, we have a substantial number of aircraft carriers on hand. These ships and their embarked aircraft are individually much more potent and sophisticated in projecting power ashore than the older ships and planes that were recently retired. Considering the size of the threat to NATO, it may be advisable to concentrate the greater number of the carriers in the Atlantic Fleet, placing only those with nuclear power in the Pacific Fleet to be able to go to the aid of the Republic of Korea and Japan.

But we would first have to use our submarines to sweep away Soviet surface and submarine forces in NATO waters and the Pacific. The rub is that for years the rate of U.S. submarine building has been so low that we do not now have enough in being or programmed for effective action. These are the warships that count the most today and, without enough of them, the U.S. Navy does not and will not control the seas.

A NAVAL FORMULA

To regain control at sea, first emphasis in U.S. Navy shipbuilding should be placed on building a powerful force of nuclear-powered attack submarines. It is not necessary that they all be high-performance submarines; less expensive, limited-mission submarines are suitable for many tasks, but nuclear power is essential for all. Submarines alone cannot provide the flexibility required to exercise the control of the seas, and they cannot be allowed so much of the construction budget that other types of modest-sized ships are crowded out. But surface ships that cost enormous sums, such as the large aircraft carrier and the proposed strike cruiser, should be eliminated.

We must redouble our efforts to regain supremacy for our surface forces in electronic warfare and in variety and sophistication of missiles. New surface ships should be designed to absorb punishment and still be able to fight. Since the present and projected Soviet sea forces are the clear danger, every decision about the fleet and aircraft we build should be tested for effectiveness in sea combat before capability in a land battle is considered.

Adm. Gorshkov has demonstrated the power of a tactical concept when implemented in the construction of sea forces. We must revise our tactics and modes of operation to meet the realities we now face at sea, taking particular care to free ourselves from the burden of our successful past naval actions against shore targets which has the U.S. Navy in a dangerous rut.

There is no reason why American innovation and technology cannot master the Soviet challenge at sea—*if* we have the brains, the vision and the will to use our money wisely.

Mr. HOLLINGS. Mr. President, I foresee that the Armed Services Committee may be faced with a very difficult conference with the House of Representatives. The House version of this bill differs in a number of important respects. My colleagues are already aware of the great differences of approach and detail in the shipbuilding program. The House also has not included in this bill legislation to achieve the various economies recommended by the Senate Armed Services Committee, the administration, and the Budget Committees. Also, the House version of the bill is considerably over the budget targets for national defense which we and the House recently adopted.

The Senate Armed Services Committee has taken the leadership in presenting us with highly important reforms of military pay and benefits, and with a rational, prudent shipbuilding program.

If we are going to meet our budgetary responsibilities, it is important that we give these initiatives our strongest backing, and encourage the Senate conferees to hold firm on those matters.

It is equally important that the Armed Services Committee move ahead with an assessment of proposed legislation pertaining to stockpile sales, inasmuch as savings of $750 million from enactment of such legislation are contemplated in the first concurrent resolution.

At the same time, we in the Senate will have to assume the leadership in bringing about other elements of pay reform contemplated in the national defense targets which do not fall under the jurisdiction of the Armed Services Committee. These include legislation to eliminate the 1-percent kicker on retired pay for civil service and foreign service employees and legislation on pay for wage board employees. This legislation will save another $300 million in national defense budget authority and outlays.

Mr. STENNIS. First, I want to thank the Senator from Maine, the chairman of our Budget Committee, for his very fine words and for his fine work, and that of the other members of the committee.

In the first place, I have learned by experience that you have to go, and should go, to a conference meeting with fellow Members of Congress from the House with very high purposes, staying as near as you can with our own Chamber's bill, but recognizing that they, too, have the same high purpose.

I do not want to say or do anything that would reflect any attitude that I had any other purpose except to meet in conference for a real conference.

However, looking at these problems that we do have, I said when we reported the present bill, Mr. President, there would have to be negotiations in the conference, and that parts of the bill would necessarily be rewritten to some degree, and those are just the practical facts of life.

I appreciate the Senator's reference to the economies that our committee has tried to start in motion, that did not pertain to hardware, and I do not think any of those are included in the House bill.

There are other matters, such as new ships, where there is great variance in the two bills, and also what I call the old money there which pertains to existing contracts for ships.

But I have always found the House conferees willing to get down, knuckle down, to the problem, and we have been able to come back with bills that are generally satisfactory.

The fine work that our Budget Committee does underscores and emphasizes the difference that the House conferees are under as compared to the Senate conferees.

We have a valuable member of our committee, the Senator from Georgia (Mr. NUNN), who is also a member of the Budget Committee, where he also carries responsibilities, and I hope he will comment upon that difference and just bring it out in the open here as to what we are up against.

I pass on then to this point: I want to read the Senator from Maine's remarks very carefully. I admire lots of things he is doing and his overall purposes. I admire all of them, and before this debate closes—before we go into the recess—I hope I will be able to make some more remarks on this subject matter. But the time is short now. We have the Senator from New Hampshire here, and the Senator from Georgia who seeks a word, and I hope he will say a word now, and then we will get the Senator from New Hampshire to come in.

Mr. NUNN. I want to say to both my committee chairmen, the Senator from Maine, the chairman of the Budget Committee, and the Senator from Mississippi, the chairman of the Armed Services Committee, that you two leaders have done an outstanding job in trying to reconcile the need for national security and a strong national defense with the overall need for a disciplined budget process.

I know the Senator from Mississippi and the Senator from Maine have discussed it but, unfortunately, what is evolving in this budget process, as I see it, particularly as it relates to the Armed Services Committee, is the fact that the Senate Budget Committee and the Senate Armed Services Committee and the full Senate are doing a very responsible, conscientious, dedicated job of trying to truly abide by the budget ceilings, and succeeding on the Senate side.

On the House side, as the Senator from Maine well knows, the Budget Committee has taken the position that they are not concerned about the authorization bill passed by the House Armed Services Committee.

When we combine those things and see, as the Senator from Maine already pointed out, that the House, if we compare it to the budget resolution, is $1.7 billion in budget authority above the budget target, or somewhere in that approximate neighborhood, while the Senate is, at this point, $565 million below the budget target in budget authority. When we combine the fact that we are going to have to go to conference with the fact that the House Budget Committee did not in any way challenge the military authorization bill, it puts not only the Senate Armed Services Committee but also the Senate Budget Committee into an irreconcilable position.

I think the budget process is in great danger of becoming a one-legged monster unless the House intends to really go by the process and intends to take it seriously.

It is obvious to the Senator from Georgia that at this point the House Budget Committee, based on their lack of actions on the House Armed Services Committee bill, has not taken the budget process seriously and has thereby placed the Senate Budget Committee and the Armed Services Committee in the Senate into an inevitable confrontation when we come back from conference. Not only is there a tremendous gap in the amounts authorized in the two bills between the House and the Senate, but also there is a large difference in the crucial area of pay restraints.

The Armed Services Committee has gone beyond what the President asked for in pay restraints by about $100 million. Yet not a single one of those pay restraints is in the House bill.

So unless the Senate conferees are able to go into the conference and get all the pay restraints agreed to by the House conferees and compromise on the total amounts authorized somewhere about three-quarters in the direction of the Senate and one-quarter in the direction of the House, then the confrontation is inevitable and is not the fault of either committee but, in my opinion, the fault of the failure of the budget process to be taken seriously by the House Budget Committee and by the House Armed Services Committee.

Mr. MUSKIE. I may say, if the Senator will yield, with respect to the House Budget Committee and the House budget process, that the Budget Committee on the House side does face in many respects a different, if not more difficult, problem than we do on the Senate side.

For example, within our Budget Committee, as the Senator well knows, we are able to reach an agreement across party lines often in respect to major issues, to be able to come to the floor with that kind of bipartisan support on critical issues, not all, is a very important plus for us.

Second, the House Budget Committee has had a different kind of problem on the House floor in order to get the votes for the budget resolution.

Finally, the House Budget Committee must have support, not only of those who are for a strong defense, who are very articulate, very vigorous and very effective on the House side, but also the support of those more liberal members within our party on the House side who feel that defense spending is too high and social spending too low.

So that in producing its budget resolution, the House Budget Committee must accommodate both those points of view to a greater extent, perhaps, than we must sensitize the Senate in order to get it for the budget resolution.

At the same time, on the authorizing committee side, that is with respect to the Committee on Armed Services on the House side, a lot of this legislation, of course, originates there and it is a little more difficult for the House Budget Committee to work closely with the Armed Services Committee staff on the House side, to sort of work to get in the evolution of the authorization bill, than it is on our side.

We have found, I think, our staff relationships very good, if I may ask the Senator from Mississippi. So we are able to work very closely in the development of the authorization bill and, to a greater extent, than Congressman BROCK ADAMS, chairman of the House Budget Committee, finds it possible to do on the House side.

So, there are some differences. The net result of it is, just as my two good friends from Mississippi and Georgia pointed out, that they are put in the squeeze.

I guess that is the nature of the budget process, that if it is to work, a lot of us are going to be put into the squeeze from time to time.

I am simply indicating my desire to cooperate in that respect.

Mr. STENNIS. I thank the Senator from Maine.

Mr. President, I yield to the Senator from New Hampshire.

Mr. NUNN. Will the Senator from New Hampshire yield for just 1 more minute?

The Senator from Georgia agrees with everything the Senator from Maine has said except the point that we are put in a squeeze. The way I see the situation, we are not put in a squeeze, we are put in an impossible situation, unless we presume the Senate conferees can go to conference and come back with everything virtually like it is in the Senate bill, and if that happens there would be no conference.

So I do not believe it is going to be possible to reconcile these differences on the Senate side.

I would submit, in spite of the difficulties I know Chairman Adams is having with the House budget situation, and in spite of the great effort he has made over there, there is not really much sense getting a budget resolution through and putting together a coalition of votes that would get that resolution through if, after it is put through, the House Budget Committee is then going to ignore the budget resolution, and that is exactly what they have done in terms of the military authorization bill.

So a budget resolution, per se, means nothing unless the House is willing to have some discipline in abiding by it.

As the Senator from Maine knows, the Senator from Georgia is a very strong proponent of the budget process and wants to do everything he can to see that it works. But I believe we are about to reach a situation where the budget process itself is in danger unless the House is able to build a coalition that really supports the procedures, and it is obvious that so far they have not.

Mr. STENNIS. Will the Senator yield to me?

Mr. MUSKIE. May I make two points in response to that?

Mr. STENNIS. I feel we are obligated.

The Senator from New Hampshire has waited again. I yield.

Mr. MUSKIE. Just two very brief points.

One, last year, we faced a similar situation and we were able to resolve it. This one may be more or less difficult. I am not sure. But we faced a similar one.

Second, there are two ways in which the process can fail. One is the one posed by the distinguished Senator from Georgia. The other is for both Houses to fold on the budget process.

To say in the Senate that because the House is lax we are going to be lax is another way to undermine the budget process.

So that if we have the capacity on this side to be more effective or strong or stern about the process, then I think we have some obligation to press that.

At some point, we are going to come to those crunches, and I understand that. I do not want to try to anticipate every crunch or what the answer will be and I do not want to back off. I am sure the Senator from Georgia agrees with me on that point.

Mr. NUNN. I do agree with that point. I think the Senator has done a tremendous job, not only guiding that budget effort, but also making it very apparent as far as the Senate is concerned that it is going to work.

I think we ought to continue that policy. I hope the Senate Budget Committee will be just as tough in the negotiations with the House Budget Committee as the Senate Budget Committee presumes that the Senate Armed Services Committee is going to be with the House Armed Services Committee.

Mr. McINTYRE addressed the Chair.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, as Chairman of the Subcommittee on Research and Development of the Committee on Armed Services, a position which I have been privileged to hold since February 1969, I would like to speak in support of the Committee recommendations on H.R. 12438, the Military Procurement Authorization Bill for fiscal year 1977.

But before doing that, Mr. President, I compliment my neighbor and good friend from the State of Maine (Mr. MUSKIE) on the very hard work that he is putting in on the Budget Committee.

I was very pleased and interested to hear the remarks of the Senator from Maine and his compliments to the chairman of the Armed Services Committee (Mr. STENNIS). The chairman of the Armed Services Committee has been very aware of the Budget Committee's work and we have been reminded of it several times during our hearings.

As far as I am concerned, and the members of the Armed Services Committee, we are trying very hard to work on this important area of the budget which must be successful.

I might say to the Senator from Maine, it squeezes everybody as we try to go forward with the budget process. The Subcommittee on Research and Development normally is not in a position, Mr. President, to take a hard look at the budget recommendations of the administration or the Defense Department until well into February. At that time, we get what we call the backup statements, the rationale, the reasons why the Department of Defense feels that certain areas need to be explored. Mr. President, the date of April 15 is when we receive a tentative figure, followed by a firm figure on May 15. This puts a stress on the committee to take a hard look at the $11 billion to be spent on research and development. It also behooves the Senator from New Hampshire, as we move into the next fiscal year, to find some other mode or method of hearings by which we can cover at least 10 or 15 percent of that request. We cannot do it, I believe, Mr. President, by the formal hearings. That will be the problem of the subcommittee.

Before addressing the research and development part of the bill, there are some general observations which I would like to make.

During the 7-year period of my chairmanship, and beginning with the request for fiscal year 1970, the subcommittee recommended reductions totaling $3.9 billion through fiscal year 1976 and the 3-month transition period. It is significant, Mr. President, that most of this reduction was approved by the Armed Services Committee, the Senate, and the Congress.

The reductions which we have recommended always have been based upon the most thorough review and analysis of program details, and confirmed by a wide range of formal hearings and informal discussions with Defense officials. These reductions have been specific rather than arbitrary, and the passage of time has proven that they were not detrimental in any way to the ability of the Department of Defense to develop advanced weapon systems for our combat forces.

It is with firm conviction that I can report that these reductions of some $4 billion have constituted real savings to the American taxpayer.

Mr. President, this is a year of messages. In this year of Presidential election and Bicentennial celebration, the flow of political messages boggles the mind. However, this profuse torrent of words, echoed, reechoed, embellished, and interpreted by the news media, is an essential ingredient in our great democracy. Other nations of different calling, especially those with monolithic types of government, simply cannot fathom our free-wheeling and often vitriolic public debates and provocative contradictory statements of politicians. Little do they realize that these are healthy manifestations of a political system which has made us the greatest and most powerful country in the entire history of the world.

And this brings me to the subject of my speech—to insure that we guarantee to our children and the generations which follow the same freedom of expression, security and greatness that we have been privileged to share in our own lifetime. And the only certain guarantee of our freedom is the certainty of our ability to defend ourselves against all enemies.

The research and development program which we are recommending for fiscal year 1977 is designed to provide for the support of a wide array of major new weapons systems, major subsystem developments which are the building blocks that are put together to create the most advanced new weaponry, and a broad spectrum of technology to insure that we will lead our potential enemies with modern weapons during the remainder of this century.

The committee has made these objectives credible and attainable by recommending the largest amount ever authorized for the R.D.T. & E. appropriations. Based upon my own observations and experience, the $10.5 billion which this bill provides is entirely adequate to the requirements of the Department of Defense and the Nation. It will not permit the Soviets to gain any future technological advantage which could threaten the security of the United States, if these funds are wisely and scrupulously administered consistent with the guidance and intent of the Congress.

Let us now examine the budget request as submitted by the Department of Defense. The initial request for R. & D. totaled $10.9 billion, an increase of $1.4 billion or 12.8 percent above the amount authorized and appropriated for fiscal year 1976. This, too, was the largest amount ever requested for R. & D., but it is requested to keep pace with inflation. Therefore, only $736 million represented real program growth.

During the committee markup of the bill, the Department submitted a budget amendment which included $200 million for Navy Research and Development involving V/STOL aircraft and advanced missiles to accelerate or initiate a series of programs designed to advance our capability to control the sea lines of communication. Although the committee is sympathetic with these requirements, the request was received too late to enable the committee to obtain and review the program details and submit recommendations to the Senate. The budget amendment therefore was deferred without prejudice. This means that the Department may submit a proposed supplemental for these items immediately after final congressional action is taken on the pending bill, if the items are still required.

Without considering the $200 million add-on, which the House did not act on because it was submitted after they had acted on the bill, the committee recommendation of $10.5 billion is $380.7 million or 3.6 percent lower than the original amount requested. It provides $117.5 million more than was approved by the House and is the smallest percentage reduction ever recommended for Research and Development by this committee.

Setting aside the $200 million budget amendment, the committee recommendation consists of decreases totaling $424.3 million which are partially offset by increases totaling $43.6 million. In terms of real program growth, the committee recommendation provides for an increase of $356 million or 3.2 percent over fiscal year 1976.

Mr. President, I am pleased to report that for the first time in a number of years, the recommendations of the subcommittee had the unanimous support of all five members. This is even more remarkable when you consider the wide diversity of views represented by the membership. On the Democratic side, we have the junior Senator from Iowa (Mr. CULVER) and the junior Senator from Vermont (Mr. LEAHY). On the Republican side, we have the senior Senator from Ohio (Mr. TAFT), and the senior Senator from Arizona (Mr. GOLDWATER).

It also is a credit to the excellent staff of the subcommittee and to the personal staff of the subcommittee members, that they were able to do so thorough a job within a limited period of time in reviewing the mountain of testimony and detailed justification material, and providing meaningful recommendations and summations as the basis for subcommittee deliberations and decisions.

I must pay a special compliment to my good friend, Senator CULVER, who, together with the junior Senator from Oklahoma (Mr. BARTLETT) reviewed the Department of Defense Army tank program and submitted separate recommendations to the committee. I must also recognize the hard work of my good neighbor from Vermont, Senator LEAHY, who did an outstanding job of reviewing the total airlift program of the Defense Department. My esteemed colleague, Senator TAFT, concentrated on the Navy ship program and made a significant contribution to the subcommittee deliberations on ship research and development. And I must recognize the special task performed by my good friend, Senator GOLDWATER, who conducted a comprehensive hearing on the Department of Defense training simulator program.

The subcommittee conducted 26 hearings between February 5 and April 6, 1976, which included appearances of all of the officials of the Department of Defense with primary responsibility for the research and development program. These included the Director of Defense Research and Engineering, the three service Assistant Secretaries for Research and Development, and their military counterparts.

Let me now report on the major actions recommended by the subcommittee.

First. Reduction of $62.7 million from the $182.5 million requested for the Navy sea-launched cruise missile program. This decrease applies to the alternative variant but approves the full request for the tactical missile to support initiation of full-scale engineering development. The additional $15.3 million included in the Navy budget amendment is deferred without prejudice.

Second. Reduction of $32.4 million from the $84 million requested for the Air Force advanced ICBM program called the M–X. This will delay the start of full-scale development beyond fiscal year 1978 pending completion of a study by the Defense Department to demonstrate the need.

Third. Reduction of $25.4 million from the $311.4 million requested for the Army ballistic missile defense programs. This will maintain an ongoing level of effort consistent with prior congressional guidance.

Fourth. Deletion of $3 million requested to start development of the Navy Trident II missile as being premature because of technical problems still to be solved on the Trident I missile.

Fifth. Reduction of $7.3 million from the $29.8 million requested for the Navy Seafarer extremely low frequency communication system to delay full scale engineering development until fiscal year 1978.

Sixth. Reduction of $9.5 million from the $83.2 million requested for the Navy LAMPS ASW helicopter program because of a delay in schedule.

Seventh. Approval of the full $85 million requested for the Army Roland short-range air defense system which is being adapted from a joint French-German development.

Eighth. Approval of the $180 million requested to support full scale engineering development of the Army surface-to-air missile system, SAM–D.

The subcommittee recommended increases for four programs, above the amount requested, and this was adopted by the full committee:

First, $10 million was added for a new program under the control of the Director of Defense Research and Engineering to be used to evaluate new foreign weapons for possible adoption by U.S. forces. This could save hundreds of millions of dollars and valuable time if we found a weapon that could be used, because we would not have to invest in a brand new development.

Second, $4 million was added to the $1 million requested in order to accelerate development of the Army area fire support rocket system. This capability is needed as early as possible to neutralize and suppress enemy artillery and air defenses.

Third, $8 million was added to enable the Navy to accelerate development and introduction into the fleet of the tactical towed array sonar system. This makes a total of $22.3 million available for this important antisubmarine warfare program.

Fourth, $200,000 was added to be used by the Department of Defense to conduct contractual studies relating to operational employment of weapon systems. These studies will cover concepts of tactical operations as they relate to weapon systems, an area which the committee feels has not been adequately examined.

The subcommittee examined the research and development proposal for the B–1 strategic bomber program and recommended approval of the $482.7 million requested. The committee adopted this recommendation, and after considering the separate proposal for procurement, including the first three production aircraft, also recommeds the full amount of $1,049,500,000 requested.

During the past year, joint hearings were held on independent research and development—I.R. & D.—by the Research and Development Subcommittee and the Subcommittee on Priorities and Economy in Government of the Joint Economics Committee led by its chairman, my good friend, Senator PROXMIRE. The proceedings were published and cover the period from September 17 through 29, 1975. The hearings were very informative and resulted in a series of additional questions which were addressed to the Department of Defense. The General Accounting Office was requested to participate and comment on the reply. The requested information has been received only recently and is being considered by the respective staffs of the two subcommittees. Therefore, the subject of I.R. & D. has not been addressed as part of the action on the pending bill. It will, however, be addressed at a later time depending upon the findings and recommendatons of the staff.

I would like to take a moment, Mr. President, to compliment Dr. Malcolm R. Currie, Director of Defense Research and Engineering who has done an outstanding job of managing the defense research and development program. He has demonstrated great courage in trimming the Defense R. & D. organization by some 6,000 jobs over a 3-year period while at the same time diverting a larger share of R. & D. funds to the private sector where most of our innovative ideas originate. This action promises to increase the efficiency of Defense in-house organizations while encouraging industry, institutions and universities to make greater contributions to national defense needs.

Dr. Currie has bolstered defense advanced technology by proposing a 5-year plan to increase the level of basic research and exploratory development in annual increments, above inflation, of 10 percent and 5 percent respectively. I am pleased to report that the Committee is solidly behind this plan and has recommended essentially all of the funds requested for these programs.

The Department of Defense is making noticeable progress in demonstrating that cooperative research and development and standardization of weapon systems with our allies can be successful. There have been some hard lessons learned in adapting the European developed Roland system for manufacture by U.S. industry. Neither the magnitude, nor the complexity of this task was adequately anticipated, with the result that the total development cost has increased. But these lessons have proven the practicability of such a conversion, and will provide important guidelines for future cooperative efforts. Despite the increase in cost, the Army estimates that the United States will save more than $250 million by avoiding the full cost of developing a completely new system of equal capability.

Extending this cooperative attitude to standardization of weapons, munitions, and other logistic support of NATO forces in Europe will dramatically improve their combat efficiency and promises annual savings estimated to exceed $10 billion.

The committee again has demonstrated its full suport of standardization by adopting a revision to section 814 of last year's bill which would make it the policy of the United States rather than the sense of the Congress. I urge your strong support of this provision in the bill.

In summary, Mr. President, the amount recommended for Research and Development is consistent with the general concern already apparent in the Senate and the House, and in the minds of our people insofar as I have been able to determine, that we must continue to be vigilant and well prepared while we continue to seek to reduce world tensions. While we all hope for a successful SALT II agreement, and progress in Mutual Balanced Force Reductions, we must provide insurance against failure. And such insurance requires a strong R. & D. program which will provide the modern advanced weapons essential to the defense of our freedom.

I am convinced that the research and development authorization recommended by the committee will provide this insurance and urge my colleagues to give it their full support.

As always, Mr. President, I must add my compliments for the work and dedication of our chairman, the distinguished Senator from Mississippi, for his fairness as he operates and runs the committee, and particularly for his leadership and his acumen as he cuts through the difficult problems.

Mr. STENNIS. Mr. President, I first want to underscore a very strong word of thanks to the Senator from New Hampshire and the members of his subcommittee. They have done an amazing job. Here are more than $10 billion worth of items which they combed through, with outstanding hearings, and came out with recommendations that are unanimous in the subcommittee, unanimously agreed to before the full committee, and so far there has not been any attack made on any of their deductions on the floor of the Senate, by way of amendments or even of comments. It has been an amazing thing to see them able and willing to render such a great service. These programs are the very vitals of our military program 10, 15, and 20 years from now, which underscores the importance of their work.

I especially want to thank the Senator from New Hampshire, and I am sure others may wish to add their words of commendation.

Mr. McINTYRE. I thank my chairman.

Mr. MUSKIE. Mr. President, first of all, long before the establishment of the Budget Committee or the new budget process, my friend from New Hampshire was proceeding with typical New England prudence with respect to the expenditure of tax funds for this vital function. I appreciated that long before I was chairman of the Budget Committee. His tendency to do so is of vital importance for the budgeting process as well, so I compliment him on that.

But I would also like to make a second point, a very difficult one, which faces all of us, not only with respect to the defense function, but with respect to all the other functions of the budget. It may be more acute, even with respect to the defense function. That is, how do we gear the process of creativity with the process of anticipating future needs in such a way that funds can be taken into consideration in the development of the congressional budget?

Two years running now, the administration has submitted to Congress additional requests for major additions to the shipbuilding program after the budget process has been completed in the Congress, and asked us somehow to find a way to squeeze these additions into the congressional budget resolution. This is a problem that has confronted the distinguished Senator from Mississippi two years running. It is almost as though the people downtown are unaware that we have a budget process here that must be accommodated.

For the distinguished Senator from New Hampshire to properly give consideration to new R & D additions, those ought to be brought to his attention early enough in the legislative schedule of the Senate and of Congress as a whole so that he and his committee can give the benefit of their judgment to the full Committee on Armed Services and to the Budget Committee, so that we can take it into account when we set the overall functional ceilings.

I must say we have had something substantially less than full cooperation from the administration in that connection. We have similar problems in the social services area as a result of new developments in education and new developments in health. New ideas are not limited by a budget schedule or a legislative schedule. They can emerge at almost any time. We have a similar problem arising in the security assistance bill which will probably be before us some time this week, in which my good friend from Alabama is keenly interested. We are asked to absorb them in the budget process before we have had an opportunity to give either of those propositions the same kind of consideration they have in the Executive Branch before they are brought here.

We have tried to put some pressure on by setting May 15 as the deadline for the reporting of new authorization bills to the Senate and House Chambers. But even so, and I daresay that when it is reported out in skeletal form on May 14, in effect, it violates that deadline because we still must occupy time after May 15 for the deliberative process to take effect, and then we still have the challenge as to how we absorb it in the budget ceilings which we have adopted on May 15.

I make this point at this time because I think the distinguished Senator from New Hampshire, with the excellent work which he and his subcommittee have done in the military priority field, is faced particularly with this kind of problem in the work that they do, and I compliment him for what he has done over these several years of hard labor to which his committee has been assigned.

Mr. McINTYRE. I thank my good friend from Maine. I only add that I hope he realizes, as the Senator from Maine tries to make this budget process work, we are trying to cooperate down at the subcommittee level. It becomes very difficult. His suggestion to endeavor to have the administration inform us earlier, with a full backup, is a good one, and we will try it.

Mr. MUSKIE. I thank the Senator.

Mr. ALLEN. Mr. President, I also wish to commend the distinguished Senator from New Hampshire, the chairman of the subcommittee, and his very excellent subcommittee for their work through the years and their dedicated and sincere patriotic efforts.

The distinguished Senator from Mississippi (Mr. STENNIS) said that there had been no criticism and no suggestions contrary to the recommendations of the subcommittee in the Chamber, and that I assume was a correct statement at that time. However, had I been recognized prior to the distinguished Senator from Mississippi, which, of course, would not be the case because I would then defer to the distinguished Senator from Mississippi on recognition.

But I do wish to comment on one phase of the work of the subcommittee, the results that they achieved, and the conclusions that they reached, and to express a difference of opinion. I will not say that it is a criticism, but it is a difference of opinion on the conclusions that the subcommittee reached, as I understand it, and that the full committee followed.

In this connection, Mr. President, I shall comment on the ballistic missile defense portion of this bill. I am alarmed at the portent of this bill for the systems technology program portion of the U.S. ballistic missile defense effort. Ballistic missile defense is a very serious matter with significant U.S. strategic posture and arms limitation negotiation consequences. It deserves our careful and deliberate consideration before we eliminate or even seriously degrade vital strategic defense options for the United States.

The House bill has reduced the ballistic missile defense systems technology program authorization from the requested $118 million to $100 million. There were no other adverse actions to the requested ballistic missile defense programs in the House bill. Our version of the bill has also reduced our systems technology program by $18 million.

When I say that I do not mean that the House figure was reduced by $18 million, but that the Senate kept the $100 million figure that the House had set instead of the $118 million requested for the program.

However, in addition, the Senate version has denied authorization to initiate a modest effort to define concepts and systems requirements for a limited area defense system and, while permitting a modest effort to investigate exo-atmospheric homing interceptors, the bill we are considering specifies that that work must be conducted by one of the other associated ballistic missile defense programs.

Mr. President, I believe that we in the Senate are sufficiently aware of the slow and uncertain result of the strategic arms limitations negotiations and the potential for proliferation of nuclear war making capabilities which are beyond our control. I am sure we are all deeply concerned over the direction these matters are taking. It therefore disturbs me greatly to see the Senate seriously degrading a program which continues to be a significant factor in strategic nuclear arms considerations and which could provide the U.S. with its only option for defense against small unsophisticated urban-industrial threats such as we might expect from the less technologically advanced but nuclear armed countries or terrorist groups.

I might say, parenthetically, that I am alarmed at the proliferation of nuclear capabilities by many countries throughout the world. I feel that our efforts and actions in that regard have contributed to this proliferation of nuclear weapons capability by the transfer of technological information to countries throughout the world.

The Senate position of determining what areas of research and development should be conducted, and by whom, must be based on a thorough understanding of the complexities and interrelationships of ballistic missile defense technologies and must be consistent with our positions on other related matters. I would like in this connection to call the attention of the Senate to some pertinent facts.

First, we are denying to those on whom we place responsibility for our national defense needed authority to pursue studies on a system which is our best potential answer to accidental or unauthorized launch of offensive weapons and blackmail threats. Deployment of this type of system is prohibited at this time by the ABM Treaty, so there is no reason to fear an unnecessary deployment just because we are conducting a moderate investigation on concepts and requirements.

Second, the ABM Treaty must be reviewed next year. There is a growing possibility that the Soviets may wish to amend its terms or even withdraw from the treaty for several reasons, including what are term "*n*th" country threats to the Soviet Union; their own success in developing a rapidly deployable ballistic missile defense system; and their success in improving their offensive force capabilities. Soviet ballistic missile defense effort appears to be at least 3 to 4 times the size of the U.S. level of effort.

I might say that it seems to me the Soviets are in no hurry to reach agreement on SALT II. I feel that they received such an agreement favorable to their positions, pretty well freezing in a 3-to-2 advantage for the Soviets over the United States in offensive nuclear weapons, that they are in no hurry to reach accord on a SALT II agreement.

Third, as late as last year the Senate directed the systems technology program be conformed to a sustaining level of effort. Now that the program has essentially achieved that, we declare that our intent is now to be one of a declining level of funding and accuse the Army's program of being inconsistent with our intent. We demanded a broadened and more technologically oriented program, and we deny and limit the broadening activities. Our inconsistency and our tendency to attempt to micro-manage research and development programs is demonstrably inefficient and detrimental to the cost effectiveness of the programs and the products.

Fourth, the decision which Congress makes now will have its serious effect in 5 or 6 years. That effect is the absence of a U.S. capability or option to defend itself with a ballistic missile defense from whatever threat may exist at that time. Mr. President, who among us is so certain that the Soviet threat will have been constrained that proliferation will have been contained, that nuclear weapons will have disappeared, or that a new technology will have obviated ballistic missile defenses as a viable and cost effective response? Who can stand and certify our future non-requirement for ballistic missile defense systems? Is it prudent to begin the dissolution of the one program which could produce an active ballistic missile defense system with which the United States could counter a future nuclear threat?

Mr. President, I see in this bill the beginning of the dissolution of a national strategic program. How does Congress expect the U.S. ballistic missile defense effort to match the Soviet ballistic missile defense technologies, much less retain our present technology lead, if we intentionally go into a declining level of effort? The budget reductions alone constitute serious damage to a very vital program and do not need compounding by the addition of restrictive language. I commend the ballistic missile defense portion of the House bill to our conferees as the less damaging and more competent bill at this point.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. McINTYRE. Mr. President, I say to the Senator from Alabama that we understand his concern. I will take a good look at the remarks the Senator has made. I will certainly take them into consideration when we go into conference with the House.

I assure the distinguished Senator from Alabama that we have developed in our hearing record a considerable amount of testimony that, if the Senator has the time, will give him an understanding of and appreciation of what the subcommittee and the full committee have recommended here. What we are recommending is continued support of three ballistic missile defense programs known as advanced ballistic missile technology, ballistic missile systems technology (formerly site defense), and Kwajalein Missile Range.

We recommend that this program be continued at a reduced level of $286 million. This is $25.4 million less than the $311.4 million which was requested.

However, I remind the Senator from Alabama that this is still about $11 million more than was available last year.

With those remarks, I assure the Senator of my consideration for his concern.

Mr. ALLEN. I thank the distinguished Senator for his kind and friendly cooperation. That has been his attitude throughout this discussion. In the many discussions I have had with the distinguished Senator, he has indicated his desire to work this matter out to the best interest of the system and of our defense effort. I appreciate the distinguished Senator's remarks.

Mr. GRIFFIN. Mr. President, particularly while the Senator from New Hampshire is in the Chamber, I should like to make a brief statement.

I have at the desk an amendment which would restore $77.95 million that the Senate Armed Services Committee cut from the sea-launched cruise missile—SLCM—program. I have decided that I will not call up the amendment.

I am not a member of the Committee on Armed Services, and I am reluctant to take issue with the committee on the level of funding that is necessary to support research and development of this program. I recognize my lack of expertise. I am not in a position to refute or confirm, for example, the conclusion of the House Armed Services Committee that the program requires better management. In its report on this bill, the committee stated:

> *The Committee strongly emphasizes that the basis for the reduction in this program emanates from the need to better manage the program and in no way reflects a lack of support for the cruise missile engineering development program.* (Emphasis in original.)

I say, frankly, that my concern is not so much with the disputes about the specific level of funding as with the apparent differences within and without this body concerning the merit of cruise missile development, per se.

There have been suggestions in the Senate of late that the United States should curtail further research and development altogether of long-range cruise missiles, either unilaterally or as a part of some unsupervised moratorium with the Soviet Union. The testing of sea-launched cruise missiles by the United States is portrayed by some as a destabilizing act which threatens to start a new and more dangerous arms race.

I strongly disagree with such reasoning. My concern with the present bill is that it might be interpreted as supporting the position of those who would restrict or eliminate our cruise missile program. It is to the merits of the basic program rather than the level of funding that I should like to direct a few remarks.

Mr. President, I have a rather lengthy prepared statement which I would like to summarize briefly at this point, and then insert in full in the RECORD. I wish to reserve some of my time for a colloquy which I have requested with the distinguished chairman of the Research and Development Subcommittee, Mr. McINTYRE.

These are some of my primary concerns:

The Soviet Union already has deployed hundreds of gigantic sea launched cruise missiles on nuclear submarines and other naval vessels. These SS–N–3 Shaddock missiles are so large that their warheads alone outweigh our entire missiles. While their present range is thought to be only a few hundred nautical miles, with presently available engine technology it is estimated that they could be modified to travel 1,200 miles or more. And these modifications could be made without any change in the external appearance of the missile itself.

The Soviets are now developing a much more advanced SLCM—the SS-X-12—which is reported to have a range of 2,000 miles and a speed of mach 2.5, with a large nuclear warhead. And since this new missile is being built to fit inside the canisters which now house Shaddock missiles on Soviet naval vessels, by 1980 it will be almost impossible to tell whether the missiles on an Echo-class nuclear submarine are conventional weapons with a range of 400 miles, or are nuclear-armed with a range of thousands of miles.

The cruise missile has become a central issue in the strategic arms limitation—SALT II—talks. The Soviet Union clearly wants to restrict U.S. development of these new weapons, and might be prepared to make significant concessions to obtain some sort of agreement.

Any indication that the Congress is likely to unilaterally curtail the cruise missile program could undercut the President's negotiating position at SALT II.

Without a firm and specific international agreement, meaningful controls on cruise missiles are virtually impossible. Unlike ballistic missiles, cruise missiles can be tested in ways that are extremely difficult to detect. Much of the work can be done in wind tunnels, and guidance systems can be mounted on small civilian aircraft which would then appear to be making a normal flight. Given the gigantic size of Soviet cruise missiles, unverifiable alterations in their fuel/payload ratio, flight speed, altitude, or fuel quality can result in a several-*fold increase* in missile range.

If agreement to control cruise missiles is not reached at SALT II, continued development of this technology could produce substantial benefits to U.S. security. The cruise missiles we are developing, in spite of their tremendous accuracy, are too slow to constitute a first strike threat to the Soviets.

Rather than being the destabilizing threat that some have suggested, the cruise missile has some very positive arms control implications. Its high accuracy means reduced collateral damage—fewer civilians being accidentally killed. Its mobility makes it a difficult weapon to target should the Soviets try for a first strike kill, and thus it adds to our deterrent and increases stability.

One of the most interesting implications of this new technology is that cruise missiles of the future might be able to take over many of the tasks now assigned to tactical nuclear weapons. For example, it has been estimated that within an hour of a Soviet invasion of Europe, U.S. or NATO cruise missiles could destroy 75 percent or more of the rail lines, supply dumps, and electrical power the Soviets would need to support such an offensive. Thus, nonnuclear cruise missiles might significantly raise the "nuclear threshold"—giving us a viable alternative to using nuclear weapons in resisting Soviet aggression.

Mr. President, at this point I have arranged to ask a few questions which the distinguished Senator from New Hampshire (Mr. McINTYRE) might wish to comment on.

In the long run, I know that many of us would like to see international controls placed on cruise missiles. I am deeply concerned, however, about recent proposals to unilaterally terminate our own cruise missile programs—apparently in hopes that the Soviets will emulate our restraint. I would welcome the comments of the distinguished chairman of the Research and Development Subcommittee on these proposals.

Mr. McINTYRE. I am delighted that the able Senator from Michigan and I continue to agree that our Nation must support an aggressive development program of cruise missiles. This is an excellent opportunity to make a good record on this difficult point.

The Committee on Armed Services recommends precisely such an effort in the bill we are currently considering. We ask the Senate's support in this bill for the development of a formidable array of cruise missiles: The Harpoon ship—or air—to ship cruise missile; the advanced Harpoon, the Condor, an air-to-surface cruise missile; the strategic air-launched cruise missile, and the tactical sea-launched cruise missile. We also ask your support of the development of the remarkable Tercom guidance which will give cruise missiles extraordinary accuracies. Since the Department of Defense has the foresight to require strategic cruise missiles to use common major subsystems—engines, warheads and guidance—and since this bill authorizes these developments, we will be able to place a long range SLCM into the fleet readily, if required.

We also ask your support in this bill for the development of the advanced strategic air launched missile and for a variety of remotely piloted vehicles which may not be strictly cruise missiles, depending on one's definition, but are related in component technologies or military functions.

I have opposed, in the past, and will continue to oppose indiscriminate restrictions of our cruise missile R. & D. I remember that my good friend from Michigan supported my successful efforts to defeat two amendments in recent years which would have done this.

At the same time, of course, the very variety and novelty of the cruise missile technologies place a special burden on our military planners to develop clear doctrine to define missions—in short, to discriminate among the military possibilities for cruise missiles, so that we can avoid waste or duplication, and support the more promising applications.

I trust that answers the question about a vigorous program of cruise missiles, which this bill certainly has.

Mr. GRIFFIN. It seems to me that we should strive to insure that all of our arms agreements are verifiable—that we rely on something more than simply the good faith of the Soviets in insuring that restrictions are not bypassed in one way or another. The cruise missile, it seems to me, is a very difficult system to control in the absence of onsite inspection. I wonder if my colleague from New Hampshire would comment on the problems of verification with respect to this system?

Mr. McINTYRE. The distinguished Senator from Michigan raises one of the most baffling and unsettling questions about this subject when he asks about verification. I have looked into this matter quite carefully and I must report that none of the approaches to cruise missile limitations at SALT can, so far as I have been able to judge, be verified independently and with high confidence.

Much of the effort to limit cruise missiles has focused on range which, given a constant payload, is primarily a function of engine efficiency and volume for fuel. Since the Soviet's cruise missiles are very large, and since the Soviets have access to more efficient engine technology, they could convert cruise missiles currently designed for tactical missions into long-range strategic weapons. They could do this in violation of a SALT limitation, and we could not be confident that we could detect it or verify it.

A second approach to cruise missile limitation, stopping flight testing, was suggested to the Senate as an amendment last December. Although we might be able, under certain conditions, to detect long-range test flights of cruise missiles, the Soviets could develop and test each of the major components of a strategic cruise missile, including especially the critical guidance technology, and test these components as a fully integrated weapon without our being able to confidently distinguish it.

The only limitation which I believe would be substantially verifiable is a comprehensive cruise missile ban, but I have not heard of this being seriously considered at SALT for understandable reasons. It would be very difficult to define since the cruise missile family touches on a wide variety of weapons that we normally do not associate with the term. Moreover, I doubt if the Soviets would agree to a comprehensive ban since most of their naval offense is heavily dependent on antiship cruise missiles.

In sum, the idea that the cruise missile is a dangerous cat about to leap out of a bag, as was the case with MIRV's, is a fallacy. This cat has been out of that bag for at least 20 years.

The case for a SALT II agreement which has a cruise missile limitation in it must, in my view, forthrightly recognize that we cannot verify such a provision with high confidence. The case must be based instead on a cold-eyed judgment that the worst risks are sufficiently modest, that the concessions we have extracted are adequately compensatory, and that the need for restraints on the arms race are so compelling that, on balance, the treaty, even with this one verification weakness, would be in our national interest.

Mr. GRIFFIN. As I noted earlier, some have suggested that the long-range cruise missile is a very destabilizing and dangerous development, because its extreme accuracy makes it a potential first strike weapon. Does my knowledgeable colleague have any views on this argument?

Mr. McINTYRE. The distinguished Senator from Michigan raises a question that is especially important to me. As he knows, I have opposed and continue to oppose what I believe to be dramatically dangerous directions in both Soviet and United States missile developments designed to fight limited nuclear wars. As the Senator is aware, I have been particularly concerned about our effort to put the new accuracies on our ICBM's because I feel that they will produce hair trigger instabilities in a period of international crisis.

However, the long-range cruise missile, despite its very great accuracies, is not qualitatively a destabilizing weapon. Because of its long flight time, a rational adversary cannot consider it to be a preemptive threat to his retaliatory forces. It is no more a first strike weapon than a strategic bomber.

Mr. GRIFFIN. One of the most intriguing implications of cruise missile technology is the role such weapons might eventually play in a nonnuclear theater role. For example, it has been suggested that cruise missiles of the future might be accurate enough to allow their use as replacements for some tactical nuclear weapons—a development which might raise the nuclear threshold. Would the Senator comment on this possibility?

Mr. McINTYRE. The Senator is quite right that cruise missiles equipped with TERCOM guidance might well be accurate enough to use high explosives to perform missions that are currently performed by tactical nuclear weapons. This may well be a quite promising new capability that would raise the nuclear threshold. So, I hope that the Defense Department's presentation to Congress next year will focus on this potential application of the cruise missile.

I would hope Defense's analysis would also explore some of the problems that a cruise missile might face in this role. For example, any change in our nuclear umbrella for Europe raises quite sensitive political questions with our allies. We need to know whether cruise missiles can compete successfully with other comparable theater weapons, such as the Pershing II and F-111, and whether the military penalties we would have to pay in allocating a portion of a platform's firepower to these new missions would be justified.

This aspect of cruise missiles has simply not received enough attention, and we neet to know just how great the promise and how severe the problems are. Of course, these are not so much technological issues as they are of policy, doctrine and what might be called force planning."

Mr. GRIFFIN. The Soviet Union today has the most advanced and most extensive air defense system in the history of the world. It is my impression that the large part of this system would be ineffective against modern cruise missiles, and that for the Soviet Union to construct an effective defense against such weapons would cost many billions of dollars. If so, it would seem to me, this would be beneficial from an American point of view. For certainly it is better for them to spend their resources on defense measures rather than on offensive measures. I would welcome the views of the gentleman from New Hampshire on this matter.

Mr. McINTYRE. The distinguished Senator from Michigan is correct. Our strategic cruise missile developments give us significant leverage on the Soviet defense dollar. It certainly is better for us to motivate them to spend their resources on defensibe rather than offensive weaponry. We explored this carefully in hearings with the Department of Defense and I can assure my friend from Michigan that the committee's support of strategic cruise missile technology in this bill is based, in large part, precisely on this reasoning.

Mr. GRIFFIN. I thank my colleague from New Hampshire very much. He has done and is doing an outstanding job as the chairman of the Research and Development Subcommittee of the Armed Services Committee.

I think his incisive comments helped to build a needed record on this subject which otherwise would not be here, and I hope it will be useful in some of the future debates we may have on this very important subject. I thank the Senator very much.

While it would be a mistake to pretend that we are in total agreement about all aspects of the cruise missile program, I am reassured by my colleague's strong support for the concept in general.

More importantly, I am convinced that in recommending these reductions, the Armed Services Committee was not trying to kill the program.

I note also that the House of Representatives made similar cuts in the sea launched cruise missile program, and I am impressed by the reasoning contained in their report. The House Committee stated:

> The strategic variant of the Sea Launched Cruise Missile and the Air Force Air Launched Cruise Missile can effectively use the same engine, navigation-guidance system, and warhead. The tactical variant of the Sea Launched Cruise Missile is intended to use the Harpoon engine, Harpoon guidance, and Bullpup warhead. Further, the strategic and tactical variants use a common airframe.
>
> In view of the prospects for commonality and the fact that many of the sub-systems are "on the shelf," the committee believes that the Department of Defense has not provided adequate justification for a $260 million request for the development of the Air Launched and Sea Launched Cruise Missile.

The House committee concluded that in its view, the level of funding authorized would be adequate to permit the development of the Navy's cruise missile program. The Defense Department was invited to request a reprograming action—which if adequately justified would be given prompt consideration—should the approved level of authorization prove unduly restrictive of timely and efficient progress.

This was the House language, not that of the Senate Armed Services Committee.

Mr. President, I have decided not to call up my amendment at this time. I believe that the differences between my own position on cruise missiles, and that expressed by the articulate chairman of the R. & D. subcommittee, are considerably less significant than they appeared to be. Differences still remain, but these can safely be left for the House-Senate conference to resolve.

Recognizing the differences which do exist, I would nevertheless urge my colleagues who will represent the Senate in the conference to give consideration to the views which I have expressed.

Mr. President, I ask unanimous consent that the text of my prepared remarks, with footnotes, appear at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE CRUISE MISSILE

It would be a tragic folly for the Congress to limit America's cruise missile program. To do so would be a disservice to the national security of the country, and to the cause of international peace and stability.

SOVIET CRUISE MISSILES

It has been argued that continued U.S. research and development of cruise missiles will add a new element to the strategic arms race. This reasoning conveniently ignores the fact that the Soviet Union has for several years been developing and deploying cruise missiles—and has rejected U.S. initiatives to ban such weapons.

In recent years Soviet submarines armed with SS-N-3 "Shaddock" cruise missiles have been reported operating periodically in the Caribbean Sea.[1] In terms of size, this Soviet missile is a monster when compared to the cruise missiles being developed by the United States. It is thirteen times heavier [2]—its warhead alone weighing more than either of our entire missiles.[3] It is over twice as long, and has three times the diameter of our sea-launched missile.[4]

While it is true that in its normal configuration the SS-N-3 "Shaddock" has a range considerably below that planned for the new American missiles [5]—experts assert that with current Soviet technology its range could be extended greatly. For example, an official of the prestigious London-based International Institute for Strategic Studies recently wrote:

"[W]ith available engine technology . . . the SS-N-3 could be modified to achieve a maximum range of 1,200 miles. Even longer ranges might be obtained by programing the SS-N-3 to fly at higher altitudes, an option not open to the United States because of heavy Soviet air defenses." [6]

And if this is not enough, the Soviets are already developing a more modern sea-launched cruise missile—the SS-X-12—which is reported to have a maximum speed of Mach 2.5, and an ability to deliver a large nuclear warhead 2,000 nautical miles.[7] Expected to be deployed in 1980, this new Soviet weapon will be interchangeable with the older SS-N-3, which is currently deployed on about 40 Echo-class Soviet nuclear submarines, as well as on older Whiskey- and Juliette-class diesel-powered submarines, and on Kynda- and Kresta-class Soviet cruisers.[8]

Footnotes at end of article.

Under the circumstances, this Senator is not impressed with the argument that research and development on American cruise missiles will start a new arms race. I only wish some of my colleagues showed the same concern about the SS-N-3 and SS-X-12 that they do about the missiles our own country is developing.

UNDERCUTTING SALT NEGOTIATIONS

It seems to me that one of the most powerful arguments against unilateral restraint is that the cruise missile has become a central issue in the Strategic Arms Limitation Talks. The Soviets are clearly concerned about our new programs—cruise missiles are one area where we have a substantial technological lead on the Russians.[9]

Perhaps the President will decide to restrict our cruise missile program, in return for major Soviet concessions at SALT. I am not a party to the negotiations, and I don't know what the results will be. But there is no doubt in my mind that it would be a tragedy if Congress were to undercut the President's negotiating ability by arbitrarily and unilaterally restricting only our cruise missile program. The Soviet negotiators are unlikely to make concessions in order to limit U.S. cruise missiles, if they believe the United States Congress will do that for them. This consideration alone, it would seem to me, is enough to outweigh any arguments in favor of unilateral restraint.

A number of newspapers have reported that discussions at the SALT negotiations have linked the American cruise missiles with the new Soviet "Backfire" bomber—that the U.S. might accept some limits on cruise missile deployment in return for limits on the Backfire. But if Congress should limit our cruise missile development—without a quid pro quo—there is no reason to believe the Soviet Union will make any concessions on Backfire.

Why is Backfire important? Let me read from a monograph published earlier this year by the Center for Advanced International Studies at the University of Miami, in association with the International Security Studies Program of the Fletcher School of Law and Diplomacy at Tufts University:

"Since cruise missiles have the potential to pose a significant threat to Soviet territory, the Soviet Union has held that they are strategic systems and must be subject to SALT limitations. Backfire, on the other hand, is not a strategic system, Moscow contends, since it was designed for use as a peripheral theater weapon and has a range of only 3,570 miles, when flying at supersonic speeds, and thus should not be considered for discussion at SALT.

"Nevertheless, Backfire flying a supersonic profile is a central strategic system if refueled or forward-deployed, the criteria according to which the U.S. B-52 has been defined as strategic in SALT. A subsonic profile, which would greatly enhance its range capability, is also possible for Backfire since U.S. air defenses are virtually nonexistent. Flying subsonically and carrying a 10,000-pound payload, Backfire if deployed from any major operational air base in the Soviet Union, could strike all targets in the continental United States and return to the Soviet Union without refueling. Carrying a 20,000-pound payload, Backfire, unrefueled, could strike 98 per cent of targets in the United States and return to its home base." [10]

And this is only talking about the original version of Backfire. It does not take into account the more advanced version—Backfire B—which reportedly has a 40 per cent greater range, and is equipped with a flight refueling nose probe.[11]

UNILATERAL RESTRAINT WON'T WORK

One of several fatal flaws in the reasoning of those who oppose U.S. cruise missile development is that it is premised on unilateral restraint and/or unsupervised moratoria. At best this is a naive approach to providing for America's national security.

The United States began experimenting with cruise missiles around 1953 with the Regulus program. By the early 1960's we had terminated all but two programs (Hound Dog and Mace), and for the past six years we have devoted relatively little money and attention to development of this type of weapon.

In contrast, during a period when U.S. attention was declining, the Soviets undertook a massive program which leaves them today with no less than six different cruise missiles in operation, and others on the drawing board.[12]

If unilateral restraint on our part were effective in curbing Soviet arms development, why do we now face the threat of thousands of Soviet cruise missiles?

Another example comes readily to mind. It was only *after* the United States committed itself to development of an Anti-Ballistic Missile (ABM) that the Soviet Union expressed an interest in negotiating limits on such systems.

Past experience has shown that the Soviet Union is unlikely to give up something for nothing. Only when they have been convinced that the United States was prepared to match or exceed Soviet efforts have Soviet leaders shown a willingness to negotiate seriously.

Experience has also shown that the declaration by the U.S. of an unsupervised moratorium on weapons-testing seldom produces results that serve the long-term security interest of the United States. True, the Soviets might agree to ban testing of a certain kind of weapon—especially if the United States enjoys a significant technological lead—but the moratorium only lasts until the USSR has closed some of the gap and needs to perform more tests of its own. Our experience with nuclear test moratoria during the Eisenhower and Kennedy years should have taught us this.

On August 30, 1961, the Soviet Union began a series of high-altitude, high-yield, nuclear explosions—terminating an unsupervised testing moratorium that had lasted nearly three years. Shortly thereafter U.S. Ambassador to the U.N. Adlai Stevenson told the General Assembly:

"And no doubt, when the present sequence of tests reaches its catacylsmic conclusion, the Soviet Union will piously join in the movement for an uninspected moratorium. Let us be absolutely clear what an uninspected moratorium means. A moratorium serves the cause neither of peace nor of international collaboration, nor of confidence among nations. We were all in this trap before. We cannot afford to enter it again. The United States will not do so." [13]

As predicted, as soon as the Soviet tests were concluded Moscow proposed a new moratorium. In response, President John F. Kennedy said:

"We know enough now about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some may urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep topflight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the future." [14]

PROBLEMS OF VERIFICATION

In August, 1962, President Kennedy emphasized the importance of insuring that international arms control agreements be both binding and verifiable:

"Gentlemen's agreements and moratoria do not provide the types of guarantees that are necessary. They do not give assurance against an abrupt renewal of testing by unilateral action. This is the lesson of the Soviet Government's tragic decision to renew testing just a year ago. Nor can such informal arrangements give any assurance against secret underground testing." [15]

It should not be necessary for me to emphasize the importance of *verifiable* agreements to my Senate colleagues—the recent controversy over compliance with SALT I has made all of us painfully aware of this problem. Indeed, within the last month—when we approved Senate Resolution 406—the Senate went on record calling for agreements which are verifiable.

But perhaps it is useful to discuss some of the verification problems particular to the cruise missile—some of the difficulties which led Dr. Fred Ikle, Director of the U.S. Arms Control and Disarmament Agency, to assert in a State Department news conference that "By comparison with these problems, the dispute we now have on occasion about the questions of violations or compliance of SALT I agreements would be a Sunday school picnic." [16]

To begin with, it is far more difficult to conceal testing or development of a ballistic missile than a cruise missile. A study by the Congressional Research Service of the Library of Congress notes:

"Cruise missile testing, unlike ICBM and SLBM testing, can be easily concealed. Cruise missiles, being aerodynamic vehicles designed to cruise subsonically at very low altitudes, have characteristics such as speed, range endurance, installed powerplant reliability, subsystems operation, and numerous other performance qualities that could be measured in wind tunnels; verified while mounted on the wing-pylon of an aircraft; and demonstrated as an autonomous system through free flight over a circuitous route which may or may not terminate at its point of origin." [17]

Similarly, Dr. Ikle has noted:

". . . [C]ruise missiles do not have to be tested to the full range, much as a Boeing 747 can be tested by flying it from New York to Chicago, and you know it can fly to Los Angeles—so cruise missiles can be tested at shorter ranges. In addition, it is possible to conceal the tests." [18]

At present, perhaps the most important advantage the United States has over the Soviet Union in cruise missile development is guidance technology. But Dr. Ikle tells us that "guidance can be improved by testing it on aircraft instead of cruise missiles, by testing it to shorter ranges, or by testing it in a concealed fashion." [19] This statement is verified by the fact that testing of the American "TERCOM" guidance system—to be used in our own cruise missiles—was first carried out by mounting the equipment on a McDonnell Douglas Queen Air aircraft.[20] A similar practice by the Soviets would allow them to close this key technological gap during what would appear to us as routine small aircraft flights.

Another aspect of cruise missiles that cannot be verified short of on-site inspection is range. It is not enough, for example, to simply agree that no cruise missile can be deployed having a range greater than 600 kilometers—as some of our colleagues have recently suggested.[21] There are simply too many variables that can be changed or improved without any external change in the appearance of the missile. By reducing the size of the warhead and adding more fuel, the range can be significantly increased. By testing a missile with one fuel, and later secretly replacing that with a more efficient fuel, range can be increased. By reducing speed, or flying at a higher altitude, additional increases in range are possible. And since these sorts of modifications can be carried out secretly with little difficulty in

---

Footnotes at end of article.

the absence of on-site inspection, there is no way to determine from its external appearance whether a given missile has a range of hundreds of kilometers or of thousands of miles—or whether it is armed with a conventional or a nuclear warhead, for that matter.[22]

The problem of verification is even more complex in the case of the Soviet SS–N–3 "Shaddock," since the Russians are building a considerably more advanced and longer-ranged cruise missile—the SS–X–12—which can be deployed in the existing "Shaddock" canisters on Soviet naval vessels. It would be virtually impossible to tell by external appearance whether a particular Soviet nuclear submarine was armed with (1) a conventionally-armed SS–N–3 with a range of 400 miles; (2) a nuclear-armed SS–N–3 with a range of 1,200 miles; or (3) a nuclear-armed SS–X–12 with a range of 2,000 miles.

Clearly something greater than unilateral restraint or an uninspected moratorium is going to be necessary if meaningful controls are to be placed on cruise missiles.

Perhaps it is appropriate to point out at this time the tremendous disadvantage the U.S. would incur—even if range verification became possible—by accepting the Soviet-proposed limit of 600 kilometers on land- and sea-launched cruise missiles. I bring this up because the 600 kilometer figure has apparently become popular with some of my colleagues.[23]

Even a cursory glance at U.S. and Soviet geography and demography show why the 600 kilometer figure was selected by the Russians. The significance was recently noted in a scholarly monograph:

"Soviet cruise missiles, limited to a range of 372 miles [i.e., 600 kilometers], and standing off at 100 fathoms, could place at risk 69 percent (144,011,000 persons) of the population of the United States. . . . All of the population of Japan and the major cities of Western Europe lie within 372 miles of the coast and could be struck from Soviet submarines equipped with cruise missiles fired from the 100-to-200-fathom line off the coast. In contrast, only about 15 percent of the population of the Soviet Union, or about 34.5 million persons, and less than 3 percent of Soviet defense/industrial sites, would be vulnerable to cruise missiles with a range of 372 miles." [24]

Now it may be that for reasons not now apparent, the President will chose to accept the 600 kilometer range limitation on cruise missiles. Arms negotiations are a complex matter. But I sincerely hope that the Senate will not attempt to pressure him into that position.

ARMS CONTROL IMPLICATIONS

While we might suppose that people who are experts in the arms control business would oppose development of any new weapons, this is not always the case. The cruise missile, for example, has a strong following among advocates of arms control.

To begin with, from an arms control perspective the cruise missile is generally a stabilizing weapon. Its incredibly high accuracy would normally cause concern that it might serve as a "first strike" weapon—aimed at catching the other side by surprise and destroying his missiles in their silos. The development of such weapons, it is argued, make it more likely that the other side will decide to "launch on warning"—firing all of its missiles at the first sign of trouble to avoid having them destroyed.

Because of its slow (subsonic) speed, however, the strategic cruise missile being developed by the United States is unlikely to be perceived as a "first strike" threat. As the Director of the U.S. Arms Control and Disarmament Agency told a subcommittee of the Senate Foreign Relations Committee recently:

"[C]ruise missiles travel not at the speed of ballistic missiles but they take hours if they travel more than a few hundred miles. Therefore, we would provide advanced warning. Therefore, they are less suitable for a surprise attack." [25]

Also, because cruise missiles are relatively small and manéuverable, they are less vulnerable to surprise attack. Their very existence makes it less likely that an enemy will calculate that it can catch us off guard and destroy our offensive capability in a surprise attack. This adds to our nuclear deterrent.

U.S. development of a strategic cruise missile would also have a desirable impact on Soviet defense spending. Presently the Soviet Union has the most elaborate air defense system in the history of the world, with 2,600 interceptor aircraft, 4,000 air defense radars, and about 12,000 surface-to-air missile (SAM) launchers.[26] But with the exception of only the most heavily protected targets—which would be vulnerable to a manned bomber like the B-1—the existing Soviet air defense forces are not effective against low-flying cruise missiles. To deal effectively with a cruise missile threat, the Soviets would have to invest large quantities of time and money into defensive systems rather than offensive ones—and that means they would be building fewer missiles to aim at the United States or its allies.

Dr. Malcolm Currie, Director of the Defense Department's Defense Research and Engineering section, testified before the Armed Services Committee last year that "it would cost many, many billions of dollars" for the Soviets to deploy an effective defense against cruise missiles, and concluded "we would like to force them by our own strategy into expenditures under defense rather than offense." [27]

This added financial burden, coupled with the additional non-ballistic missile threat, might also cause the Soviet Union to reconsider its research on ABM systems.

Perhaps the most valuable contribution cruise missiles might make to arms control results not from its nuclear role, but from the potential it has for delivering powerful non-nuclear warheads with tremendous accuracy over a reasonably long distance. In this role, the cruise missile could quite possibly replace many of the so-called "tactical" nuclear weapons we now rely on in Europe and elsewhere to meet our security commitments—and in so doing it could reduce the chances of a conflict becoming nuclear. Richard Burt, of the International Institute for Strategic Studies, writes:

"Perhaps even more intriguing than the cost advantages that might stem from the tactical use of cruise missiles is the suggestion that highly accurate, conventionally-armed cruise missiles could carry out tasks now assigned to tactical nuclear weapons. Thus, some observers have argued that the deployment of these precision-guided systems by the United States and possibly by their NATO allies could have the effect of delaying the necessity to resort to nuclear weapons in the European theater in time of conflict, thus raising the 'nuclear threshold.' " [28]

In support of this argument, it has been asserted that using non-nuclear warheads, cruise missiles could "destroy in an hour 75 per cent or more of the rail lines, supply dumps, and electrical power the Soviets need to sustain a conventional assault against Western Europe." [29]

In other words, the program which is under attack by some of our colleagues has the potential of providing the United States with an alternative, in the defense of Europe, to surrender or having to use nuclear weapons.

CONCLUSION

Mr. President, for the Senate to attempt to curtail our cruise missile program would be the height of folly.

It would undercut the President of the United States in his strategic arms limitation negotiations with the Soviet Union, and in the process would deprive the country of a stabilizing, cost-effective system that reduces the likelihood of nuclear war.

The money in this military procurement bill does not commit the United States to buy large numbers of strategic cruise missiles. That decision is left for the future. Here, we are talking only about money for research and development (R&D).

According to recent estimates by the Central Intelligence Agency, during the past two years the Soviet Union has been outspending the United States in the critical area of R&D by about 50 per cent.

This estimate is supported by Air Chief Marshal Andrew Humphrey—commander of both the United Kingdom Defense Region of NATO, and the Royal Air Force Strike Command—who earlier this month stated: "Russia is spending more on military research and development than the whole of the Western world put together." [30]

The House of Representatives has already passed this bill, having recognized in its report "the urgent requirement for both tactical and strategic cruise missile capability for our naval forces."

It is my strong hope that the Senate will do nothing to weaken this posture.

FOOTNOTES

[1] Norman Polmar, *Strategic Weapons: An Introduction* (New York: Crane, Russak & Co., Inc., 1975), p. 52.

[2] The SS–N–3 has a launch weight of 26,000 pounds (John E. Moore, The Soviet Navy Today [New York: Stein and Day, 1975], p. 243). The American Air-Launched Cruise Missile (ALCM) has a weight of 1900 pounds, and the Sea-Launched version (SLCM) weighs 2,000 pounds (*U.S. News & World Report,* 7 July 1975, p. 53; Congressional Research Service, Library of Congress, Issue Brief No. IB 76018, p. 2).

[3] *Aviation Week and Space Technology,* 2 February 1976, p. 14.

[4] *Ibid.*, p. 12; Testimony of Capt. Walter M. Locke, USN, before Research and Development Subcommittee of Senate Armed Services Committee, 10 April 1975, in *Hearings* on S. 920, Part 10, p. 5130.

[5] The SS–N–3 is estimated to have a range of between 400 and 550 nautical miles (740–1017 kilometers). See Polmar, *op. cit.* p. 151; Richard Burt, "The Cruise Missile and Arms Control," *Survival,* January–February 1976; and Robert L. Pfaltzgraff, Jr., and Jacquelyn K. Davis, *Salt II: Promise or Precipice?* (Miami: Center for Advanced International Studies, University of Miami, 1976) p. 24, note. 42. The U.S. strategic SLCM is expected to have a range of 1,300 to 2,000 miles (Locke, *Hearings,* op. cit. p. 5133; *Washington Post,* 3 August 1975); The U.S. ALCM will have a range slightly over half of that (*U.S. News & World Report,* 7 July 1975; *Baltimore Sun,* 6 March 1976).

[6] Burt, *Survival, op. cit.*

[7] Los Angeles Times, 6 February 1976; *Aviation Week and Space Technology,* 2 February 1976; Pfaltzgraff and Davis, *op. cit.* pp. 24–25.

[8] Burt, *Survival, op. cit.; Aviation Week and Space Technology,* 2 February 1976; Raymond V. B. Blackman, Ed., *Jane's Fighting Ships* (London: Paulton House, 1972–73); pp. 584–5, 591–3, 613–16.

[9] Although the Soviets have been working longer and harder on cruise missiles, they are several years behind the United States in guidance and small engine technology.

[10] Pfaltzgraff and Davis, *op. cit.* pp. 20–21; See also *Aviation Week and Space Technology,* 15 December 1975, p. 19, which asserts: "The Backfire, armed with ALCM, cruising at optimum altitude against an extremely weak U.S. air defense system, has about the same range capability as the U.S. B–52 in

the low-level mode required by the extremely heavy USSR air defense system."

[11] Pfaltzgraff and Davis, *op. cit.*, p. 21, note 40.

[12] Norman Polmar, *Strategic Weapons*, p. 151; Testifying before the R&D subcommittee of the Senate Armed Services Committee last year, Capt. Walter M. Locke noted: "While this country unilaterally disarmed itself of cruise missiles, the Soviets maintained a steady development effort, particularly for use at sea." (*Hearings, op. cit.* p. 5129).

[13] Ambassador Adlai Stevenson, Address to General Assembly, 19 October 1961.

[14] President John F. Kennedy, speech, 2 March 1962.

[15] President John F. Kennedy, news conference, 29 August 1962.

[16] Press Conference, Department of State, 27 February 1976.

[17] Congressional Research Service, *Issue Brief* IB 76018, p. 9.

[18] Press Conference, Department of State, 27 February 1976.

[19] *Ibid*

[20] Capt. Walter M. Locke, *Hearings, op. cit.* pp. 5131, 5141.

[21] See for example Senate Resolution 399.

[22] See for example Pfaltzgraff and Davis, *op. cit.* pp. 15, 24 note 44.

[23] See for example Senate Resolution 399.

[24] Pfaltzgraff and Davis, *op. cit.*, p. 24; See also Congressional Research Service, *Issue Brief* IB 76018, p. 8.

[25] Dr. Fred Ikle, before Subcommittee on Arms Control, International Organizations and Security Agreements, Senate Foreign Relations Committee, 23 February 1976.

[26] Polmar, *Strategic Weapons*, p. 139; *Aviation Week and Space Technology*, 16 February 1976, p. 13.

[27] Quoted in Pfaltzgraff and Davis, *op. cit.* p. 10 note 20.

[28] Burt, *Survival, op. cit.;* The *Wall Street Journal* editorialized on 12 May 1976: "[The cruise missile promises] to revolutionize warfare in a number of respects. Not the least of these is minimizing collateral damage to civilian targets in general and in particular allowing the substitution of conventional explosives for tactical nuclear weapons. In turn, this opens the way to a credible conventional defense of Europe against Soviet tank armies and facilitates the doctrine of no first use of nuclear weapons."

[29] *Business Week*, 24 November 1974, p. 28; Pfaltzgraff and Davis, *op. cit.* p. 13.

[30] *Chicago Tribune*, 18 May 1976.

Mr. McINTYRE. Mr. President, I will just say to the Senator from Michigan that the opportunity to answer the various questions concerning the cruise missile and to lay out for the Record some of the difficulties and intricacies is very helpful. I appreciate very much the withdrawal of the amendment on this delicate matter and I trust and hope the cruise missile technology that the Senator is so concerned with will go ahead.

Mr. MOSS. Mr. President, I would like to say a few remarks about our strategic cruise missile programs. In the past I have voiced some concerns about their potential adverse effect on the strategic arms limitations efforts. I still feel that we must be sensitive to the verification problems associated with this new weapon system.

But all in all, I have come to believe the cruise missile is an extraordinary weapon that will play a leading role in our future defense posture.

First, the cruise missile is relatively nonprovocative in that it cannot be the basis of a first-strike force. The flight time of the cruise missile is such that it could not be used in a coordinated first strike on an enemy.

Second, the cruise missile is relatively inexpensive. Some sources say it will cost as little as a half million dollars per copy.

Third, the cruise missile is probably more accurate than any other strategic weapon we have. It will be able to strike its target with an error measured in tens of feet.

Fourth, the cruise missile would seem to be capable of penetrating intensive antiaircraft defenses. Navy sources claim that the radar cross section of a cruise missile is about that of a sea gull.

Fifth, the American versions of the cruise missile will have the capability of skimming along at several tens of feet above the earth. This capability would allow them to fly under enemy radar networks. I might add here that some have said the Soviet Union possesses a cruise missile capability, but as a matter of fact, none of their cruise missiles can hug the ground as do ours and strike with the accuracy that ours will have.

For these reasons, I believe this country should pursue development of a cruise missile to capitalize on the long lead we have over the Soviets in this crucial new area of weapons technology.

Mr. STENNIS. Mr. President, I want to add a word to the colloquy here. I thank the Senator from Michigan very much for his interest and his fine knowledge of this highly important matter. Of course, the Senator from New Hampshire's answers speak for themselves. They are an illustration of the depth of this subcommittee's work past findings and recommendations and recommendations for years ahead, which show up. I appreciate very much the way the Senator from Michigan has worked on this matter and I think he has some sound conclusions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, during the consideration of the military procurement bill (H.R. 12438) and votes thereon today, I ask unanimous consent, on behalf of Mr. Kennedy, that Marc Ginsburg may have the privilege of the floor, and on behalf of Mr. Jackson, that Richard Perle may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. GRIFFIN. For the information of the Senate, Mr. President, would it be correct to state that at 12:30 the first vote will come on a motion to reconsider the vote by which the Senate rejected the nomination of S. John Byington to be a member of the Consumer Product Safety Commission?

The VICE PRESIDENT. That is correct.

Mr. GRIFFIN. And that a Senator who believes that the motion to reconsider should be adopted would then vote against it or a no vote on the motion to table, which would be the first vote?

The VICE PRESIDENT. The Senator is correct.

Mr. GRIFFIN. I thank the Chair.

EXECUTIVE SESSION

NOMINATION OF S. JOHN BYINGTON

The VICE PRESIDENT. Under the the previous order, the hour of 12:30 p.m. having arrived, the Senate will go into executive session and proceed to vote on the motion offered by the Senator from West Virginia (Mr. Robert C. Byrd) to table the motion offered by the Senator from Maryland (Mr. Mathias) to reconsider the vote by which the nomination of Mr. Byington to the Consumer Product Safety Commission was rejected. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from North Carolina (Mr. Morgan), the Senator from Alaska (Mr. Gravel), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. Nelson) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong), and the Senator from North Carolina (Mr. Helms) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from Pennsylvania (Mr. Hugh Scott) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Hugh Scott) would vote "nay."

The result was announced—yeas 38, nays 45, as follows:

[Rollcall Vote No. 192 Ex.]

YEAS—38

Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Durkin
Eagleton
Ford
Hart, Gary
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Kennedy
Leahy
Magnuson
McIntyre
Metcalf
Mondale
Moss
Muskie
Percy
Proxmire
Ribicoff
Roth
Schweiker
Stone
Symington
Williams

NAYS—45

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Culver
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Philip A.
Hatfield
Hollings
Hruska
Javits
Johnston
Laxalt
Long
Mathias
McClellan
McClure
Nunn
Pell
Randolph
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—17

Abourezk
Brooke
Church
Fong
Gravel
Helms
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Tunney

So the motion to lay on the table the motion to reconsider was rejected.

The VICE PRESIDENT. Under the previous order, the Senate will proceed to vote on the motion to reconsider the vote by which the nomination was rejected.

The yeas and nays have been ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. RANDOLPH. I reluctantly state that the Senate is not in order, and we cannot hear names being called and responses being made.

The VICE PRESIDENT. The Senate will please come to order. Senators will take their seats.

The rollcall will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), the Senator from North Carolina (Mr. MORGAN), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. NELSON) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "yea."

The result was announced—yeas 46, nays 37, as follows:

[Rollcall Vote No. 193 Ex.]

YEAS—46

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Culver
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Philip A.
Hatfield
Hollings
Hruska
Inouye
Javits
Johnston
Laxalt
Long
Mathias
McClellan
McClure
Nunn
Pell
Randolph
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—37

Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Durkin
Eagleton
Ford
Hart, Gary
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Jackson
Kennedy
Leahy
Magnuson
McIntyre
Metcalf
Mondale
Moss
Muskie
Percy
Proxmire
Ribicoff
Roth
Schweiker
Stone
Symington
Williams

NOT VOTING—17

Abourezk
Brooke
Church
Fong
Gravel
Helms
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Tunney

So the motion to reconsider was agreed to.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. FORD). The Senator will state it.

Mr. MAGNUSON. I understand that the situation now on the nomination is that we shall have a vote on it, up or down, after these last two votes. I also understand that it is the desire of the leadership to proceed with other amendments on the military procurement bill and that we shall vote later in the afternoon. I do not know at just what time.

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. This will be a vote on the nominee, Mr. Byington, up or down later in the day. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senate resumed the consideration of legislative business.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment offered by the Senator from Massachusetts (Mr. KENNEDY) on H.R. 12438, which the clerk will state.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) on behalf of himself and Senators CRANSTON, *HATFIELD*, BAYH, and CLARK proposes the following amendment.

On page 15, line 8, strike out "$1,883,100,000" and insert in lieu thereof "$1,566,100,000".

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time on this amendment is limited to 2 hours, to be equally divided and controlled by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Mississippi (Mr. STENNIS).

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

Mr. President, I offer this amendment for myself and the distinguished Senator from California (Mr. CRANSTON). The amendment is to delete the $317 million request for 60 additional Minuteman III missiles and their warheads which was requested by the administration in a budget amendment on April 27.

This amendment simply seeks to prevent a bargaining chip, which already has cost the American taxpayer some $800 million, from passing the $1 billion mark. Last year, we were seeking to prevent it from going from $600 million to $800 million.

We were unsuccessful. However, during the intervening months, the Defense Department and the President accepted our argument and recommended against any further waste of taxpayer money for this program.

Thus, Secretary Rumsfeld stated in his original posture statement this year that "any additional deployments beyond the current level of 550 would not add significantly to the U.S. military capability, but would increase the strategic budget by more than $300 million for each further year of production."

It is no wonder the Secretary viewed any additional deployments as marginal. We already have 550 Minuteman III weapons deployed along with 450 Minuteman II ICBM's.

We have 497 manned bombers at the ready. And we have 41 nuclear submarines, with conversion nearly complete of 31 to the potent Poseidon, with its MIRVed missiles. The Trident program is well underway. We have a total of 8,500 warheads ready to be delivered. And we have another 22,000 tactical warheads positioned around the world.

Adding 60 more Minuteman III missiles will not add to our security in any significant way.

The Secretary of Defense had a second reason last January for not requesting any additional Minuteman III's to be produced. He said:

> Under the provisions of the Vladivostok understanding additional deployments of Minuteman III would require offsetting reductions in Poseidon launchers in the 1980's.

The numbers are as follows:

Minuteman, 550 launchers.
Poseidon, 496 launchers.
Trident, 264 launchers.

For a total of 1,310, while we are allowed only 1,320 under Vladivostok. Deploying the new Minuteman III's in the budget would therefore bust the Vladivostok agreement. Yet I believe it is too soon to be planning on a total failure of SALT, when instead we should be pressing forward to a new agreement.

Thus, we would be spending more than $322 million, once the additional $5.4 million in construction moneys, not in this bill, are included to provide 50 additional fixed-site, land-based missiles, with 10 in a backup status. And those missiles could limit our ability to increase the least vulnerable element of the Triad, our strategic submarine force.

The Secretary of Defense obviously did not think that that trade-off made any sense, just as we had argued in the past that it did not make any sense.

And in his year's supplemental hearings on May 4, the distinguished Senator from South Carolina (Mr. THURMOND) expressed similar concern regarding the potential need to buy fewer submarine launched missiles, because of this decision to add 60 ICBM's.

But the Secretary had an even more compelling third reason to explain why it was not in the national interest to keep open the production line for Minuteman III.

In his posture statement, he said:

> Since Minuteman will become more vulnerable in the future, any additional resources should be invested in the deliberate development of a new, larger, and more survivable ICBM.

And more funds, some $84 million, are indeed being requested this year for that purpose, to permit deployment as early as 1982, according to defense witnesses this year.—House hearings, part 2, page 283.

The Armed Services Committee itself recognized that vulnerability in its report of a year ago, when it cited "the need to examine the future usefulness of the fixed base Minuteman force, and whether now is the time to consider seriously the phasing out of this force beginning in the mid-1980's."—Senate committee report 94–146, page 18.

And it is evident that the Defense Department felt that it would be appropriate to stop producing more of these fixed site missiles when it recommended, in its own budget this year, a halt to the production line. Thus, in response to a question by the distinguished Senator from New Hampshire (Mr. McINTYRE) in the hearings this year—part 1, page 582:

> Is there any major development or production program which you have terminated or which you plan to terminate during FY 1976 or FY 1977?

The following was the Defense Department answer:

> There are major programs which have completed their production with FY 1976 funding and are not included in the 1977 budget. Specifically those programs are as follows . . . Minuteman missile.

Thus, the Department of Defense felt that our national security would be served by halting the production of Minuteman missiles and saving the taxpayer some $322 million.

As a result, that money was not requested in the budget submitted to the Congress earlier this year.

Suddenly, on April 27, 4 days before the Texas primary, the President submitted a budget amendment request for 60 more missiles and $322 million. This I might add was on top of an overall procurement request which was more than 35 percent higher than a year ago.

The basic reason cited for this request was a further statement in Secretary Rumsfeld's posture statement. He said that "depending on the outcome of SALT II negotiations and our continuing assessment of Soviet ICBM programs, it may be necessary to make further short-term improvements in the U.S. ICBM posture by requesting supplemental funding to continue Minuteman III production."

That was January 27. Precisely 3 months later the budget amendment was sent up. Had there been a new "assessment of Soviet ICBM programs?" If so, none was offered to the Congress. Had we seen the "outcome of SALT negotiations?" Not at all.

In fact, we are still deep in negotiations—negotiations which, I regret to say, have been given a back seat as the Presidential election campaign unfolds.

Now, of course, the Pentagon claims that Secretary Rumsfeld tied his qualification to the "pace" of the SALT talks, not their "outcome." This changing of the public record leads me to assume that the SALT talks are not the real reason behind this new request. But what that real reason is, DOD does not tell us.

Mr. President, for those unfamiliar with the Minuteman III missile situation, it must be emphasized that—unless the administration chooses to bust the Vladivostok agreement—these 60 missiles are likely to wind up in storage facilities where they will not be needed for testing for some 12 years. We already have purchased 187 missiles beyond the 550 needed to be deployed; 17 are used for spares, according to testimony a year ago. Another 61 have been tested and 126 remain available for testing. At the testing rate, which last year was defined as seven a year, we actually could have 18 years of testing without buying a single new missile.

Even DOD acknowldeges that there are missiles available to test through 1988—armed services fiscal year Senate hearings, page 3934.

Now in addition to these spare missiles, the Defense Department is asking us to let them buy another 60. Presumably that would permit them to test well into the 1990's.

The reality is that all of these purchases, some $800 million worth, are beyond what Congress was originally told would be part of the program. In fact, each year since 1972 we have been assured that the production line is going to close when the 550 are finally purchased.

Thus, on February 18, 1972, the following testimony was given before the Senate Appropriations Committee:

> Chairman ELLENDER. The request includes $11.3 million for advance procurement to support the planned buy of this missile in fiscal year 1974.
>
> As I read the data sheet, the fiscal year 1974 buy will complete this missile production program. Am I correct about this?"
>
> General GLASSER. Yes, sir: That is correct.

But then came fiscal year 1974 and Secretary Richardson submitted the following statement:

> There has been much uncertainty generated over Soviet intentions by their several new missile programs. We hope this uncertainty will be reduced during the coming year. Even if it is not, we must decide this year whether or not to continue the mirving of minuteman, since the cost of maintaining the option through FY 1975 would be very high.

And it was high. By last year, $593 million had been spent in sums beyond those needed to deploy 550 missiles. Then last year, another $203 million was sought even though it went against the previous year's understanding.

In testimony, Lt. Gen. William J. Evans, Deputy Chief of Staff—research and development—for the Air Force was asked:

> You stated that the current number that you have approved would provide test assets through 1984?
>
> General EVANS. That is correct.
>
> Mr. LYNCH. Last year, in our congressional data sheet, there was no intention to buy more Minuteman III missiles for any reason, test or otherwise. . . .
>
> Is fiscal year 1976 the last year that you intended to buy the Minuteman III missiles?
>
> General EVANS. As you know, we have no long lead money in the 1976 request, and, therefore, there are no plans at the present time to continue the production of the minuteman beyond 1976. . . .

So once again, we are told that there would be no more money wasted on a production line that is producing missiles to be tested a dozen years from now, to be tested when it is possible that the missiles will be vulnerable, to be tested at the same time we are going full speed ahead on a follow-on land-based missile system.

We believe that the supplemental Minuteman III missile request should be rejected because it is a waste of $322 million. We believe it should be rejected because, if deployed, it would be trading missiles that may be vulnerable for those that will not be. We believe that it should be rejected because it is clear that in the absence of congressional action, each year there will be a new hedge, a new bargaining session, a new reason why the Defense Department will want to keep spending more and buying more.

The waste of money is not the only factor this year. In addition to the 60 new missiles being procured, the Defense Department has included a request for Mark 12-A warheads, which raise an even more serious issue.

Should the United States deploy a warhead whose very nature—three H-bombs of some 350 kilotons each—is perceived by every strategic observer as designed to destroy Soviet missiles in their silos? This is a warhead that is 58 percent more likely to destroy a hard-target than the existing reentry vehicle. And with an expected doubling of accuracy, it will be 632 percent more likely to destroy a hard-target. From the Russions' viewpoint, that means a warhead which will raise grave doubts in their minds about our intentions. We have only to note what our reaction would be in similar circumstances.

What the Mark 12-A does immediately is give pause to Soviet planners regarding the vulnerability of their own land-based missiles. In that event, one possible reaction would be for them to move in the direction of a hair trigger "launch on warning" strategy—as Secretary Schlesinger last year cited as one of our options in similar circumstances. And this is a strategy which brings the world far closer to nuclear destruction.

No development justifies our taking this enormous risk. Our deterrent capability is unquestioned; its destructive capacity is many times over that needed to destroy the Soviet Union.

In the development of new warheads and reentry vehicles, we are also faced with a "threshold" problem. Once we begin production—indeed, once Congress approves this program—the Soviet Union will almost certainly assume that we have gone into a massive program. This is the same problem we found with Soviet MIRV's, a problem we have struggled 4 years to solve.

And they could have reason for concern that this new warhead is not just for 60 missiles that may or may not be deployed. Secretary Rumsfeld himself told the Armed Services Committee on May 4 that we may want to "retrofit some of the existing" Minuteman missiles.

Thus this is not just a warhead program for some extra Minuteman; this is the basic decision to move into a major new reentry vehicle system.

Thus I believe we must pause and consider carefully whether we want to cross this threshold now. I believe that we should not tie the hands of the next administration, but rather wait until we see what happens with the Russians, as Secretary Rumsfeld himself called for in his posture statement this year.

For all these reasons, Mr. President, I believe the additional procurement of $322 million for the Minuteman III program is unjustified.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I am glad to yield to the Senator from North Dakota. If we could first let the manager of the bill speak, then maybe we can get into——

Mr. STENNIS. If the Senator wants to ask a question, that is all right.

Mr. KENNEDY. Thank you.

Mr. BURDICK. I was listening with interest to the Senator's statement. Is it not a fact that the Minuteman III deployment has been completed?

Mr. KENNEDY. The Senator is correct.

Mr. BURDICK. Is it also true that we have a supply of Minuteman III for testing purposes? The Senator has stated that Minuteman III has been fully deployed throughout the United States.

Mr. KENNEDY. The Senator is correct.

Mr. BURDICK. Do I understand the Senator to say there are enough missiles on hand for testing for a good number of years?

Mr. KENNEDY. Until 1988.

Mr. BURDICK. 1988. What use will the 60 missiles be put to?

Mr. KENNEDY. There appears to be no good reason or justification. They are not needed for testing—it seems they will just be placed in storage, unless the Defense Department decides, as we are now hearing, that it wants to deploy them to replace some of our Minuteman II's. In January, that option was rejected. Now suddenly it is revived again.

Mr. BURDICK. Suppose in the next 12 years there is some technology that produces a better missile, a Minuteman IV, what happens to the 60?

Mr. KENNEDY. The Senator is quite right in pointing out the fact that there is a real follow-up system, the MX missile, which is far more sophisticated, which is in the research stage at the present time, and which would make the Minuteman III virtually obsolete.

Mr. BURDICK. Then to restate the situation, all the Minuteman III have been installed right now, and there are sufficient for Minuteman testing purposes until 1988?

Mr. KENNEDY. The Senator is correct.

Mr. BURDICK. I thank the Senator.

Mr. STENNIS. Mr. President, I yield myself at this time only 2 minutes and then I propose to yield to the the Senator from Utah (Mr. Moss).

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, on this item, as with all items concerning the need for additional ICBM missiles and warheads, it is always true; no one knows exactly how many we need. No one knows where the line is with exactness.

We have the same question in the Appropriations Committee that we have in the Armed Services Committee. But there is one rule we have definitely established all the way through that has been solid, that we must not take a chance on not having enough, for testing, for anything that might arise. We must have enough should there be a failure with the other legs of the triad. We must have enough to be up front, and let everybody know it.

It is true the testimony in January was:

> We have not reached a decision yet but we reserve the right to come back.

And they came back in a very timely way, I think in April, with this recommendation.

I am glad now to yield 12 minutes, if we may start with that amount, to the Senator from Utah.

Mr. MOSS. Mr. President, I thank the chairman of the Armed Services Committee for yielding to me.

I want to speak in opposition to the amendment introduced by Senator KENNEDY that would halt production of the Minuteman missile. I do not do that because I think we ought to spend $317 million more. I am just as anxious as the Senator to conserve wherever we can, and I selectively vote against expenditures when I think it is possible to do so without damaging what is in the best interest of this country.

My reasons for opposing the amendment are, simply stated. First, if the Minuteman line were halted in fiscal 1977 we would no longer have a source of new ICBM's for several years to come and, I might add, Mr. President, that is the only ICBM line in existence now.

The Senator from Massachusetts may continue to point out he has heard this argument before, but the fact is it is still a true statement. We will no longer have a source of new ICBM's for several years.

The MX or advanced ICBM will not be available until 1985, and we will not be able to deploy any submarine-launched ballistic missiles during the years 1977, 1978, and 1979. In other words, we will not be able to respond to a Soviet buildup of missiles in the near future.

The second point is without a SALT II agreement in sight we face a period in which there will be no incentive for the Soviets to limit their ICBM production. We thought we were close to an agreement earlier in the year, but the situation has deteriorated.

The Soviets have four new ICBM programs and two new submarine-launched ballistic missile programs.

When the period of the SALT I agreement terminates in fiscal year 1977, the international legal restraints on enlargement of their ICBM force will be removed.

And with our Minuteman line disassembled, they need not fear matching escalation from us.

Therefore, the only prudent course of action, it seems to me, is to keep our powder dry, if you will, to continue our Minuteman production line. I would prefer to see the line kept open until a SALT II agreement is actually reached. But I would accept the language in the Senate report—that these missiles will be purchased unless there is significant progress at the strategic arms limitation talks by September 1976.

So if there is significant progress, then the money may be withheld.

If this body rejects the amendment offered by Senator KENNEDY and Senator CRANSTON, then it will thus send a strong signal to the Soviets that achievement of a SALT II agreement is in their interest as well as in our own.

The Senator from Massachusetts, in making his presentation, made several points that I think should be touched. He said:

> 1. The Administration did not request the funding for Minuteman in the original budget request. Four days before the Texas primary the decision was made to keep the Minuteman production line open.

Here, Senator Kennedy quoted Secretary Rumsfeld's remarks in the annual Defense Department report. However, he omitted one very important condition that Secretary Rumsfeld included in the report in the paragraph following the statements Senator Kennedy has quoted, and I quote from Secretary Rumsfeld:

> However, depending on the outcome of SALT II negotiations and our continuing assessment of Soviet ICBM programs, it may be necessary to make further short-term improvements in the U.S. ICBM posture by requesting supplemental funding to continue Minuteman III production.

I do not want to be cast in the light of defending the current administration's policies, but it seems clear to me that neither the outcome of the SALT negotiations nor the pace of Soviet ICBM development has been to our liking. The administration's subsequent request for funding for Minuteman III production seems consistent with Secretary Rumsfeld's earlier remarks:

> 2. Any additional deployments beyond the current level of 550 would not add significantly to the U.S. military capability, but would increase the strategic budget by more than $300 million for each further year of production.

That is a quote from Senator Kennedy.

We should not lose sight of the objective here. Given the current United States-Soviet strategic balance we probably do not need 50 more Minuteman *III missiles* today. As Secretary Rumsfeld told the Senate Armed Services Committee on May 4:

> And it seems to me that we would not want to be buying those missiles simply for having those missiles.

The objective is to keep the Minuteman production line intact and to do that you have to produce missiles at a minimum rate.

If the Soviets continue in the future to deploy their large warheads which may have a missile silo-killing capability, then our ability to produce more Minuteman III's becomes very important to our maintaining our military capability. We must have enough ICBM's to insure that after a first strike against us, we would have an adequate number of ICBM's left to retaliate.

The Senator said:

> 3. Under the provisions of the Vladivostok understanding, additional deployments of Minuteman III would require offsetting reductions in Poseidon launchers in the 1980's.

My reply is that again the objective here is to keep the production line warmed up so we can respond to undue buildups by our potential aggressors. We can store the 50 Minuteman III's we produce, if in September, we do decide to go ahead and produce them.

Or we can consider replacing some Minuteman II's with Minuteman III's to upgrade the force.

So our options are completely open. If we deploy the Minuteman III's as substitutes or as additional forces then because of the limits on MIRV'ed missiles, this may affect the rate of replacement of Poseidon with Trident in the early 1980's. That at least is what Secretary Rumsfeld told Senator Culver in recent Armed Services Committee hearings. But MX probably will be replacing Minuteman in the 1980's anyway. Then the mix of land-based and sea-based ICBM's could be readjusted.

Senator Kennedy also makes the point:

> 4. Since Minuteman will become more vulnerable in the future, any additional resources should be invested in the deliberate development of a new, larger, and more survivable ICBM.

However, MX will not be available until something like 1985. We need to be working on that system because it will be an improvement over Minuteman. But we do not want to be left without a source of land-based ICBM's for the 9 years in the interim.

It was pointed out by the Senator and I quote:

> 5. It should be noted that neither the Senate nor House Defense Budget Committees included this sum in their recommendations.

Clearly the Senate Armed Services Committee included it. The House Armed Services Committee report said:

> The Committee is deeply concerned over the lack of any plans in the administration's fiscal year 1977 budget request to retain production capability for the Minuteman III. The production line is scheduled to close down at the end of fiscal year 1976. When this line closes down, there will no longer be a production line in the free world producing strategic missiles.
>
> In fiscal year 1976 the committee agreed to a request for a reprogramming for purchasing long-leadtime items to retain the option to keep the Minuteman III line open in fiscal year 1977. However, the Administration did not request funds to continue production in the fiscal year 1977 submission.
>
> It seems to the committee to be shortsighted in the extreme to close this production line as we approach the end of the five-year lifetime of the Interim Agreement on Offensive Weapons entered into with the Soviets in 1972. With no new SALT agreement assured and with the Soviets vigorously continuing production of a number of strategic missile systems, including some newer missiles, termination of our only production facility will appear to the world as a sign of weakness and uncertainty.
>
> * * * * *
>
> While the committee has not added money to the bill, it wishes to express its concerns in the strongest terms and directs the Department of Defense to reconsider this omission from the budget proposal. The committee will be prepared to entertain a reprogramming request at the appropriate time to free sufficient funds to assure retention of this critical strategic production capability.

As for the Budget Committee, let me say that there is an erroneous, perhaps unintentional, implication in the dear colleague letter on this amendment that the Budget Committee has not considered the Minuteman's presence in the amended defense request.

The Budget Committee's role is to set budget targets in the first concurrent resolution for major functions, including defense. The committee does not delineate line items—that is the function of the authorization and appropriation committees. Therefore, the first budget resolution made no judgments of or assumptions about the funding of any specific weapons systems.

In the necessary absence of Senator Muskie, I chaired the House-Senate budget conference. In the adjustment of the House budget figures closer to those of the Senate, specific mention was made of the Minuteman budget request.

The bill from the Senate Armed Services Committee contains funds for the Minuteman. The Budget Committee has analyzed the total budget authority and outlays in the Armed Services Committee request and finds that they are clearly within the targets of the first resolution.

Thus, it is clear that the Minuteman III is included in the bill and the funds for it are within the Budget Committee targets for the defense budget function.

Senator Kennedy also says in the "Dear Colleague" letter that the so-called bargaining chip argument has cost us $800 million over the past 3 years to procure Minuteman III.

Let me point out to the Senator that the Minuteman ICBM has the lowest cost, highest reliabiliy, fastest reaction time, and highest percent of readiness of any strategic system in the United States or in fact in the world. What we have spent on Minuteman has bought us maximum bang for the buck.

The Senator also says that the Mark 12-A warhead will be perceived by the Soviets as a move toward a first strike force. Let me respond to that.

While the Mark 12-A has a more powerful warhead than the Mark 12 and better capability to destroy hardened targets, such as missile silos, we would not have nearly enough missiles with these warheads to post a credible first strike threat against the Soviet Union.

I thank the Senator.

Mr. President, I ask unanimous consent to include in the Record a letter dated May 21, 1976, which I received from J. W. Plummer, Under Secretary of the Air Force, which sets out the reasons why the President amended the budget request to include funds for Minuteman III production.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Air Force,
Washington, D.C., May 21, 1976.

Hon. Frank Moss,
U.S. Senate.

Dear Senator Moss: This is in reference to your request for information concerning the amendment submitted by the President to the FY 1977 Budget Request for the Missile Procurement, Air Force Appropriation. The amendment requests $317.0 million for starting MK-12A reentry vehicle production in FY 77 and for the procurement of 60 Minuteman III missiles in that same year. Upon approval, this amendment would ensure availability of additional Minuteman III missiles for deployment if such action is deemed necessary. It supports procurement of the MK-12A reentry vehicles for additional Minuteman III deployment and accelerates by six months the entry of these vehicles into the inventory.

When the FY 1977 Budget Request was submitted to the Congress last January, the United States was exercising deliberate restraint in its strategic programs. We hoped for commensurate restraint on the part of the Soviet Union, and we also hoped for consummation of a SALT II agreement in 1976. Accordingly, the FY 1977 Budget Request included termination of Minuteman III production after FY 1976 and deferral of MK-12A production until FY 1978. Regrettably, our earlier hopes have not become reality, and we are unable to foresee their fulfillment in the near term. We must, therefore, take positive action for two reasons—first, the Soviet Union is clearly proceeding to develop and deploy four advanced ICBMs and two new SLBMs; and second, because we have had more time to note the pace of SALT negotiations.

Consequently, an amendment to the FY 1977 budget, requesting an additional $317 million for Air Force missile procurement has been submitted to the Congress by the President. Of the $317 million, $260.7 million would continue production of Minuteman III, and $56.3 million would be allocated to initial procurement of the MK-12A reentry vehicle. Should it be in the national interest to deploy additional Minuteman IIIs, fifty missiles now in storage could become operational by April 1977. Additional deployments could be accomplished in increments of fifty over the next two and a half years. Thus, we could achieve a Minuteman III force of 700 by mid calendar year 1979.

The SALT II agreement which we now seek could possibly be reached in the near term, and might include provisions which render additional Minuteman III deployments unnecessary to meet national goals. If this agreement should transpire, we would then examine restructuring the Minuteman III production assets to provide hardware for modernization of the Minuteman II force. The Congress would be kept advised of program changes.

We believe that Congressional and public desires are reflected in the requested budget amendment and we solicit your support of this effort to maintain a reasonable balance in the strategic forces of the United States and the Soviet Union.

Sincerely,

J. W. PLUMMER,
Under Secretary of the Air Force.

Mr. STENNIS. The Senator from South Carolina will be recognized, if he desires, otherwise I will yield to the Senator from Utah.

I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah has 10 minutes.

Mr. GARN. Mr. President, the distinguished Senator from Massachusetts in his remarks continues to talk about these missiles being stored and put away, just to sit around for some 12 years into the future. I would like to quote from a letter from Deputy Secretary of Defense Robert Ellsworth to the distinguished chairman of the committee where he said:

> The Defense Department is not requesting funds to produce missiles to be tested a dozen years from now. The DoD is asking for authority to protect the option of producing 60 additional MM IIIs which could be used, depending upon the outcome of SALT negotiations, for deployment, testing, or upgrading of MM II.

So it is not the intent that these missiles be stored.

The Senator also suggested that maybe we should wait for a new administration to make this kind of a decision. I reemphasize, we are asking for production authority at this time to protect the option of producing 60 additional Minuteman III's, depending on the outcome of SALT II.

The distinguished Senator from Massachusetts also has relied, in his arguments in favor of his amendment, on the remarks of Secretary of Defense Donald Rumsfeld.

At this time, I would like to refute the arguments which Secretary Rumsfeld earlier this year used as his justification for not recommending additional funds.

First of all, he said any additional deployment of Minuteman III's beyond the current level of 550 would not add significantly to U.S. military capability. Of course, Mr. President, a great deal turns on the word significantly. I am not certain just what Secretary Rumsfeld means, but let me point out a few of the advantages of Minuteman III over Minuteman II and let every Senator judge for himself.

The Minuteman II's are not hardened against dust and debris on flyout while the Minuteman III's are. The Minuteman II's are much more survivable in the event of attack. The reentry vehicle of Minuteman III is hardened against the electrical discharges that would accompany a missile attack against our missile silos. Minuteman III is much more accurate than Minuteman II. In fact, it is the most accurate of all our missiles, including the Poseidon and the Trident. This is increasingly important as the Soviets increase their numerical lead in reentry vehicles. The Minuteman III can be retargeted in 36 minutes or less. This is particularly important in reaching time sensitive targets such as unfired missiles. Since most of the Minuteman II's are probably aimed at such targets, time is of the essence and it takes more than 24 hours to retarget a Minuteman II.

No reference was really made to that reason for producing these additional missiles or upgrading the Minuteman II fleet.

Tests have indicated that the Minuteman III booster may have a longer life than the boosters on the Minuteman II, some of which are 10 years old. Use of the III booster on the II missiles wil extend the life of the whole system into the late 1980's; and

Use of Minuteman III boosters on the II missile would significantly increase the range of the missile.

Some of these factors were mentioned on the same page of the Posture document on which the Secretary claimed that additional III's would not add significantly to our capability. Well, in my view, these advantages are significant enough that further deployment would be worth the relatively minor costs.

A second argument was:

"Under the provisions of the Vladivostok understanding, additional deployments of Minuteman III would require offsetting reductions in Poseidon launchers in the 1980's." Now there are two things to be said about this argument. The first is that the Vladivostok accords have never been submitted to the Congress, and are not binding on the United States. Any limitation we observe because of them is a self-imposed limitation. My understanding of those accords is that they were targets toward which SALT II would work. The work is going on, but it is unclear how much progress is being made. In the meantime, it appears to me that we are foolish to limit ourselves to an understanding of future action which might never take place.

The alternative possibility is that there is a SALT II agreement already reached by Secretary Kissinger. If so, it should be submitted at once to the Senate for our deliberation and ratification. If there is not, let us stop acting as if there were. On January 14, the Associated Press reported that the administration will not submit any new treaty to the Senate for ratification until after the November elections. Well then, let us wait until after the elections before we make a decision to cut off our only missile production line.

But, Mr. President, even if Vladivostok were binding, the MIRV limits would still not affect deployment of 700 Minuteman III's until 1982, at the very earliest. The limit agreed on at Vladivostok was 1,320 MIRV's. At the present time, we have 550 Minuteman III's and 432 Poseidon missiles, for a total of 982 MIRV's. If we were to continue replacing Minuteman II's with III's at the present rate, we would reach the 700 level by the end of 1978. At that time, we would also have 496 Poseidons, for a total of 1,196 MIRV's. At that time, the Trident is scheduled to come on stream, but not until almost the end of 1982 do its missiles push us past the 1,320 MIRV number.

Now I hasten to point out that the whole Trident system is uncertain at this point. Originally, the production schedule for Trident called for one submarine in 1979, two in 1980, one in 1981, two in 1982, and so on. But according to a briefing by Assistant Secretary of Defense Terence McClary on January 20, that production schedule has already begun to slip. Only one ship a year will be produced for at least the first 4 years, he says. That would push the breach point back to 1984 or 1985.

Let me emphasize another point here, Mr. President. That is that though Vladivostok contains a limit of 1,320 MIRV's for each side, the Soviets will reach that limit long before we will, because of their greater number of vehicles, and because their missiles are much larger than ours, and can be MIRVed more easily. Their greater throw weight will also give them more reentry vehicles per missile than we have. The Minuteman III has three RV's, the Soviet missiles have four to eight, and each RV has a higher yield than any of ours.

"Since Minuteman will become more vulnerable in the future, any additional resources should be invested in the development of a new, larger, and more survivable ICBM." That logic, Mr. President, if carried to its logical conclusion, would mean that we should stop funding the Poseidon/Trident system, the B–1, or any other strategic system, since eventually all of them will become vulnerable and obsolete. We have a capital investment in Minuteman of almost $20 billion. It is incumbent on Congress to protect that investment, and the best way I know to do it is to make the small expenditure that maintains its viability. The worst thing to do is to throw it away.

Now, I would be the last to argue against a new generation of missiles. I do indeed think that we will need one. But even the most optimistic forecasters admit that there can be no followon missile before 1984 at the earliest, and as Federal budgets get tighter and tighter, the chances are very great that it will not be available that soon. What are we to do in the meantime? The flexibility I have mentioned, coupled with the silo upgrade programs provided for in the budget, gives us a much better chance of having a surviving missile force. The Minuteman missile could likely be adapted to an MX-type mobile system as well, providing additional survivability.

In sum, Mr. President, the arguments given for not funding the Minuteman III in the fiscal year 1977 budget do not stand up. If anything, they can be turned into strong arguments for continuation of this important program.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from California may require.

NO MORE MINUTEMEN

Mr. CRANSTON. Mr. President, it was just a little under 4 months ago, on January 27, that Secretary of Defense Rumsfeld reported on the Minuteman III program in the annual defense posture statement. The Secretary explained why there was no funding request in the 1977 Department of Defense budget for further production of the Minuteman III missile. I found the Secretary's arguments so compelling that I would like to review them:

The Secretary stated that any additional deployment of Minutemen beyond the current level of 550 would not add significantly to the U.S. military capability. It would, however, cost the taxpayers more than $300 million for each further year of production. Secretary Rumsfeld went on to describe the vulnerability of Minuteman, our land-based ICBM, and stressed that any additional resources should go into a new, larger and more survivable ICBM. And, finally, he pointed out that by the 1980's, additional deployment of Minutemen III's would have to be offset by reductions in Poseidon launchers—under the Vladivostok accords. The Secretary seemed to feel at that time that we should not invest more of our limited resources in the most vulnerable part of our deterrent force, one which already has adequate numbers and sufficient spares, to last until 1990, and one whose further deployment would penalize the most invulnerable leg of our defense triad, the sea launched ballistic missile.

And yet, Mr. President, it was just a little less than 1 month ago, 3 months after the Defense posture statement but only 4 days before the Texas primary election, that this decision was reversed and the administration asked Congress for an additional $322 million to produce 60 more Minutemen III's.

Mr. President, I believe that this decision to produce more landbased ICBM's, when we already have 550 deployed, when we already have purchased an additional 204 missiles for spares and testing, and when we have enough Minutemen missiles to last until the late 1980's at which time Minuteman III will in all probability be obsolete, is a blatantly political decision with no relation to our national security needs.

We have not intention of deploying these weapons, and if we do, we tilt our missile force from its most invulnerable third, the SLBM's, to the more vulnerable force of land based missiles. In fact, we do not even have a place to put these Minutemen that we did not plan to produce in the first place. The administration has added an additional $5.4 million to the military construction bill to build a new warehouse at Hill Air Force Base in Utah in which to store them. And, if by some chance we decided to make that tilt and to deploy them, I would like to know the cost figures to harden additional silos to house them. Requests for more millions of dollars could be just down the road. So we are talking about more than the obvious figures before us in this amendment.

There is a second more disturbing part tucked away in this belated administration request. The $322 million includes almost $60 million for the production of Mark 12–A warheads. The Mark 12–A is a warhead with three H-bombs of 350 kilotons each. It has twice the destructive potential of the current warhead, improved accuracy, and is specifically designed to destroy hardened targets. The Mark 12–A has been in the research and development stage and no procurement decision was to be made until October of 1977. I question what appears to be a rather offhanded and hasty decision to ask for procurement now. To produce the Mark 12–A is a major change in our deployment position. This is the first production buy of a major counter-force weapon—one that could be used for a limited first strike against hardened targets in the Soviet Union. A major production decision on our first counterforce weapon should not be made under political pressure and should not be piggybacked onto another weapons system buy.

Before we go ahead with production of a weapon with such dangerous potential, the Congress should assess every angle, ask every question, including the important one of how the Russians may be perceiving this decision at a time when our perceptions of each other are already more skewed than at any time in recent years.

Secretary of Defense Melvin Laird during his tenure at the Pentagon from 1969 to 1973 continually stressed that we did not want to build hard target warheads for Minutemen for fear the Soviets would misinterpret this as a first strike threat. And, in fact, Secretary Rumsfeld in his fiscal year 1977 posture statement also stressed the continuing Department of Defense policy of restraint in regard to improving the United States hard target capability. Mr. Rumsfeld said in January that R. & D. would continue on the Mark 12–A to provide us with the option to produce it should the circumstances so dictate. Have circumstances changed? Has Congress been informed of these threatening changes? Or is this the response of a beleaguered administration responding to a hard driving and concerted attack within its own party on its foreign and defense policy? The production of Minuteman III's would be a waste—but the production of Mark 12–A's could be a threat—not only to the Soviet Union but, because of how their production is perceived, to our own national security as well.

Administration officials have stated when forwarding this budget request to Congress that more Minutemen were needed to keep our options open for SALT. This is the same old bargaining chip argument that has justified needless expenditures for Minuteman III missiles for years. I cannot say that the bargaining chips that Congress has already provided—and I say this sadly—have impelled very rapid progress in the completion of a SALT II agreement. We have already expended nearly $800 million on Minutemen bargaining chips over what it cost to produce and deploy the original 550. The odds are against the Soviet Union being very impressed with 60 additional missiles in a warehouse in Utah when we already have one thousand or so Minutemen of all types in firing position.

Mr. President, it makes little sense to keep buying more missiles without regard to the assured deterrent we already possess. It makes little sense to spend $322 million on an unneeded weapon that we plan to store in a warehouse. It makes little sense to take an additional $322 million from our sorely tried taxpayers and to risk breaking the already too-high defense budget ceiling. And it makes even less sense to toss aside our previous restraint in the production of counterforce weapons without full consideration and debate on what could produce a new and dangerous era in the arms race.

Mr. President, if I might, I would like to ask the distinguished chairman of the committee, the Senator from Mississippi, a couple of questions.

On page 18 of the Armed Services Committee report for fiscal year 1976, the Secretary of Defense was directed to conduct a study concerning site defense.

However, the committee went on to say:

> Basic to this study is the need to examine the future usefulness of the fixed base Minuteman force, and whether now is the time to consider seriously the phasing out of this force beginning in the mid-1980's.

I would like to ask the Senator, has the study been made, what were its results, and what were the future recommendations concerning Minuteman III missiles?

Mr. STENNIS. Mr. President, I assure the Senator we will certainly give him what we have on it. I cannot readily summarize it, but we will supply it.

The committee voted almost unanimously, under these circumstances, to put these missiles in this bill. I know, too, that the membership took the initiative in bringing up this question. So whatever is here, and we will submit it, did not satisfy us and I will furnish the Senator some material. We are consuming time now.

Mr. CRANSTON. Has the actual study been made that was requested.

Mr. STENNIS. Yes, there is a report here on it and it is reflected therein. We have it here.

Mr. CRANSTON. I shall ask one other question: If there is a move to actually deploy these missiles at some point rather than placing them in warehouses, what additional costs could be involved in developing more hardened missile sites for these additional 60 Minutemen?

Mr. STENNIS. Will the Senator repeat that?

Mr. CRANSTON. What cost would be involved if these were actually deployed in additional hardened sites?

Mr. STENNIS. Yes. Does the Senator mean if we do not proceed now, if we let this production line go out?

Mr. CRANSTON. No, that was not the question.

Mr. STENNIS. All right.

Mr. CRANSTON. If this amendment failed and we proceed to produce these additional Minutemen, what will be the cost to place them in hardened sites beyond the real cost of producing them?

Mr. STENNIS. I do not have any figure in mind. Yes. We will supply the Senator with what information we have on that. It would be a separate independent, additional cost.

Mr. CRANSTON. Yes. Presumably not a small cost.

Mr. STENNIS. Nothing about these costs is a really small amount.

Mr. President, the Senator from Washington was ready to speak next.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield to me to ask a question of the distinguished chairman of the committee?

Mr. KENNEDY. I will yield if it is agreeable. Yes, I will yield such time as the Senator needs.

Mr. STENNIS. If the Senator will yield to me, could we yield 3 minutes now and then to Senator Jackson 10 minutes if he comes in?

Mr. KENNEDY. I have no objection.

Mr. STENNIS. I thank the Senator for his cooperation. We will come back.

The PRESIDING OFFICER. The Senator from New York has 3 minutes.

Mr. BUCKLEY. I thank my friend from Arkansas.

I am supposed to be relieving the Chair in 3 minutes, so I shall be brief.

PRIVILEGE OF THE FLOOR—(S. 1284 AND H.R. 12438)

Mr. President, first of all, I ask unanimous consent that the privilege of the floor be extended for the entire proceedings of S. 1284, the antitrust bill, and the current defense authorization bill, H.R. 12438, to William Schneider of my staff.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I comment as to the remarks made by the Senator from California (Mr. CRANSTON). He talked about the need for debate if we were going to move to increase the accuracy of our strategic missiles. I recall we had such a debate 2 years ago and it was extended debate. We examined every aspect of it and the changes that had occurred since Secretary Vail had originally suggested that we did not want to have to develop the capacity to search out and destroy a Soviet missile site in contrast to a Soviet city. We made that decision, and now we are in the process of implementing it through the development and increasing the accuracy of the Mach 12, a reentry vehicle.

I believe that with that decision being behind us we ought to go forward and assure ourselves of the options in an increasingly dangerous world, and I say increasingly dangerous because more and more we find evidences that the Soviets are moving ahead on various fronts that they are, if not only cutting the edges on the SALT accords, but recent developments and information involving their SS-20 would indicate that they might be moving toward the development of a mobile intercontinental ballistic missile in straight contravention of the SALT accords.

The SS-20 is derived from the mobile SS-16, and although it has thus far been tested from silos, the fact is that once it is tested it can be placed right onto the chassis, if it were, of the SS-16.

The reason why we have considered the development of mobile ICBM's to be a violation of the SALT agreements and we have insisted on this point is that these are weapons that can be easily hidden and there would be no way of monitoring their location.

Recent evaluations suggest that the SS-20 can be given, if it does not already have, an intercontinental range. I suggest for these reasons we have to have the options, the accuracy, and the weapons with which to quickly protect ourselves against the increase in Soviet strength.

I thank my colleagues for granting me these few minutes.

Mr. STENNIS. Mr. President, I am glad I did yield to the Senator.

Mr. President, the Senator from South Carolina had wanted some time. I yield such time as he may need.

Mr. THURMOND. Mr. President, in 1975 the United States considered halting the Minuteman production and deployment. We did that in the hope it would influence the Soviets to reciprocate through SALT. Now since then the Soviets have continued MIRV development in their strategic forces, and they have increased international adventurism such as in Angola and bases in Africa, and other places; therefore, SALT remains unresolved.

The continued Minuteman production and deployment now, in my opinion, is necessary. Minuteman is the only strategic missile system that is currently in production, and I think we ought to realize this and this realization will assist us in making a determination.

The Minuteman III deployment is a very modest and measured response to the Soviet initiatives. It maintains the option for additional incremental improvements through accuracy and yield increases.

Mr. President, this will provide a hedge against delays in the Trident program. The Trident program is progressing, but no one can tell just how soon it will be ready.

And a no vote on this amendment will maintain a uniquely skilled industrial work force, too. We must maintain this skilled work force if it is needed because it takes a long time to try to get people together again.

I might say that the action here would keep the land-based ICBM in production, and if we do not do this then we can be handicapped in years to come because no other ICBM would be available until the next generation system of the MX, that is, the experimental missile in the mid-1980's.

There are about 10 years of deterioration we would have if we do not go forward.

Then I state that it will continue to provide an ICBM with sufficient deployment and reentry accuracy to damage hard industrial and military targets, and we think this is a key part of the triad concept. The other triad parts, of course, consist of the bombers, and we are going forward, we hope, with the B-1; and then the submarines, and the Trident and Poseidon are the most modern submarines for that purpose.

It is important if we go forward with this for other reasons: First, it will help to prevent war because if we are strong we are not apt to be attacked; and, second, it will instill courage in our allies and our friends. It will let them know that we are not weakening, that we do have a strong national resolve to keep this country strong militarily; and this is important.

Mr. President, the President of the United States, our Commander in Chief, has recommended this item. He did not recommend it earlier. He held off hoping that SALT would help to resolve these matters, but that has not occurred. I think we have to consider very strongly the Commander in Chief's recommendation here. The Senate Committee on Armed Services considered this when the President sent it down, and the Senate Committee on Armed Services by a large vote has approved this request.

The House Committee on Armed Services did not have time to act, but they had words, as I understand, urging the administration to request this funding, and I am sure that they would approve it.

The House Appropriations Committee already has included this money in their appropriations—$322.4 million. The Senate Appropriations Committee has not acted as yet.

Mr. President, in a letter to the chairman of the Armed Services Committee, Senator JOHN C. STENNIS, dated May 24, 1976, by Robert F. Ellsworth, a Deputy

Secretary of Defense, a strong argument is made to take the action that the President requests. I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Deputy Secretary of Defense,
Washington, D.C., May 24, 1976.
Hon. John C. Stennis,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: It is my understanding that Senators Kennedy and Cranston have distributed a "Dear Colleague" letter outlining their views on the President's Budget Amendment for Fiscal Year 1977 concerning the Minuteman III/Mark 12-A production programs. I am concerned that the letter does not develop the full context within which the President's decision to propose continued production was made, and as such it may mislead your colleagues.

First, I would like to set out the basic facts:

The Budget Amendment Request is for $322.4M ($266.1M of MM111; $56.3M for MK-12A).

A review of Soviet strategic programs and the pace of the SALT negotiations led the President to conclude that we should *plan* to keep the MMIII production line open, and to make a final decision in the fall on whether or not to do so.

Therefore the Budget Amendment Request asks for *authority* for continued MMIII production, while holding open the final commitment to production.

If the decision to continue production is made late this year, the funds would buy 60 MMIII missiles, provide additional missile storage facilities, and accelerate MK-12A procurement into FY 77.

A decision as to whether this authority will be used will depend on:

The progress of SALT II negotiations, and on

Assessment of the Soviet SLBM/ICBM program.

In addition, I would like to respond to *certain* major points within the Senators' "Dear Colleague" letter:

1. The three points attributed to Secretary Rumsfeld's Posture Statement are verbatim from this year's "Annual Defense Department Report—FY 1977," published four months ago. However, to put those remarks in perspective, three additional points must be remembered:

First, in the same Defense Report the Secretary also said, "Depending on the outcome of SALT II negotiations and our continuing assessment of Soviet ICBM programs, it may be necessary to make further short-term improvements in the U.S. ICBM posture by *requesting supplemental funding* to continue Minuteman III production." This is precisely what has been recommended in this Budget Amendment Request.

Second, the Vladivostok understanding is, so far, only an understanding. It is not yet a final agreement. It seems prudent, in today's circumstances, not to foreclose options concerning our 1980s force structure until we are closer to a final SALT agreement and have greater certainty about Soviet strategic deployment plans. We should also keep in mind that the Soviets have several active ICBM production lines, and MMIII is our only production line.

Third, whether or not the additional missiles, if produced, would add significantly to the U.S. military capability depends on whether or not they would be deployed; and this in turn depends primarily on the results of the SALT negotiations.

2. The USSR is continuing its large-scale modernization program for their strategic forces, with four advanced ICBMs and two new SLBM programs underway. Keeping open the option for additional MMIII production will help in signalling to the USSR the determination of the United States to maintain strategic equivalence.

3. Continued production of certain MMIII component systems, especially the guidance system, would help to protect against failure, and perhaps also to lower the costs of comparable systems in the Advanced ICBM (M-X) program. The MMIII guidance system is the most accurate, reliable, proven guidance system available today.

4. As for the 1972 and subsequent year comments of General Glasser, Secretary Richardson and General Evans, the facts are plain. The MMIII has been a program we had hoped not to have to continue. That is still our hope. That is why the President did not include it in his original budget request. But it is also a program which is important to our strategic defense posture, one that is under constant scrutiny; and given the present Soviet attitudes and the momentum of their programs, the President believes that the country should keep open the option for further production.

5. The Defense Department is not requesting funds to produce missiles "to be tested a dozen years from now." The DOD is asking for authority to protect the option of producing 60 additional MMIII's which could be used, depending upon the outcome of SALT negotiations, for deployment, testing or upgrading of MMII.

6. The MK-12A is not an unrelated "piggyback" on the MMIII Budget Amendment Request. The MK-12A would be needed for the additional MMIII missiles, since the earlier MK-12 warhead now installed on existing MMIII missiles is out of production. The MK-12A is also a potential warhead for the M-X and Trident II missiles.

7. The MK-12A is an improved warhead but in no sense does it give the United States a disarming "first strike" capability.

The MK-12A is a superior warhead against all types of nuclear targets (sub pens, weapons storage areas, missile silos, for example).

Coupled with guidance improvements, the increase in capability helps to counter a Soviet force of larger size, and one which is being hardened to more effectively withstand attack.

The Soviets are not made vulnerable to a disarming first strike by the MK-12A. Both the U.S. and the USSR will continue to have an assured second strike capability. Thus MK-12A production would not be an incentive for a "hair trigger, launch-on-warning" strategy on the part of the USSR.

Sincerely,

Robert F. Ellsworth.

Mr. THURMOND. Mr. President, I feel that we should not take the chance of denying our military forces what is necessary. We may not need these missiles. It is better to have them and not need them than not to have them when we do need them.

I hope that the amendment of the distinguished Senators from Massachusetts and California will be defeated.

Mr. STENNIS. I thank the Senator.

Mr. President, how much time remains for each side, the proponents and the opponents?

The PRESIDING OFFICER. The Senator from Massachusetts has 35 minutes and the Senator from Mississippi has 25 minutes.

Mr. STENNIS. Mr. President, I yield 15 minutes to the Senator from Washington, and I ask the attention of each Senator.

Mr. JACKSON. Mr. President, the issue posed by the pending amendment can be simply stated: should the United States dismantle its only ICBM production line at a time when we are actively negotiating a SALT II agreement with the Soviets? Should we create a situation in which only the Soviet Union, with its demonstrated capability to add to its land-based missile force, will be capable of increasing its strategic posture if an agreement adequate to safeguard America's nuclear security cannot be obtained? And should we close down our only ICBM production line within 48 hours of the publication of evidence that the Soviets are again violating the SALT I accords?

To these three questions there is a single answer: that answer is "No."

The sponsors of this amendment have rested their case largely on remarks by the Secretary of Defense in his annual posture statement. In all fairness, I should point out that Secretary Rumsfeld's remarks have been quoted out of the context in which they were made. This is often the case when one is dealing with the evolution of a political, diplomatic and technical situation such as the SALT negotiations in which quite volatile changes take place in a very compressed time frame. The Secretary of Defense, even in the posture statement, left the door open for the recommendation that the Administration has now made and that the Committee on Armed Services supports.

As the Secretary's posture statement noted:

> . . . however, depending on the outcome of SALT II negotiations and our continuing assessment of Soviet ICBM programs, it may be necessary to make further short term improvements in the U.S. ICBM posture by requesting supplemental funding to continue MM III production.

Mr. President, any fair assessment of the evolving SALT negotiations leads one inevitably to the conclusion that the Soviets are insisting on a SALT II agreement that would enable them to go forward without serious restraint on their newest strategic capable aircraft, the Backfire, while constraining to the vanishing point our potential for deploying cruise missiles. In the give-and-take of the negotiations, it is we who have been doing the giving and the Soviets who have been doing the taking. Their most recent communication to us was brusque and intransigent to the point of insult. The Soviets have learned—not least of all because we have taught them—that if they take a maximum position and stick with it, backing it up with the prospect of enlarging their force if no agreement is reached, we will whittle away our own position over time until an agreement on their terms is offered to them. This has been the drift of American SALT policy over recent years. This has been the form of the "momentum" to which administration spokesmen glowingly refer with ritualistic regularity. If it has slowed down, it is only because the American people have begun to get the drift—and they do not like it.

In addition to the impasse for which the Soviets must assume responsibility, the atmosphere in which the talks are being conducted has been poisoned by yet another Soviet violation of the SALT I agreement. According to that agreement and to subsequent arrangements for its implementation, the Soviets are obliged to dismantle older ICBM launchers as they deploy new Delta class submarines. They have been expeditious in deploying the submarines but they have failed to comply with the dismantling provisions. On this there is no dispute. This violation has been admitted and, despite the effort of State Department spokesmen to minimize it by labeling it a "technical" violation, it is a serious matter.

After all the SALT agreement is a technical agreement; all violations are therefore technical violations. There can be no other kind.

The excuse the Soviets have offered, that bad weather has prevented them from complying with the dismantling schedule, is the sheerest nonsense. The fact is that the Soviets are constructing new installations adjacent to those scheduled to be dismantled. Apparently while it has been raining on the old missile sites, the sun has been shining on the new construction nearby. In my judgment, this most recent violation is the inevitable consequence of the pattern of acquiescence the administration has shown as it has weaved and waffled on earlier violations.

The most serious of the past Soviet violations of the agreement as it was presented to Congress—the substitution of heavy SS–19 missiles for light SS–11 missiles—continues to this day. Ironically, it is now proposed that we eliminate our own ability to substitute Minuteman III for Minuteman II missiles as the Soviets continue their program, a far more formidable one, to replace their SS–11 missiles with SS–19's and SS–17's.

It is evident from what I have said that I am not here to defend the administration's handling of SALT. But, in fairness, those of us who have criticized the weak and acquiescent posture that Secretary Kissinger and President Ford have assumed have a responsibility to make available to the administration the leverage it would need to do better if it were inclined to do so. Certainly, a successor administration ought to have the option of taking a firm position in support of our national security interests. Today we are in a position to refuse the Soviets' latest SALT offer. We must not allow it to become an offer that the next administration feels it cannot refuse. This necessarily entails keeping our options open. And it requires that we be in a position to move forward with additional deployments if a Soviet refusal to come to terms requires us to do so.

That is the context in which the decision to close down the Minuteman III production line must be viewed. All we are trying to do is to authorize the program necessary to keep our options open. Whether an actual appropriation follows will depend on what happens at SALT. The Senate will have ample opportunity to reassess the decision taken today when the appropriation is before us, if it acts wisely and prudently today and defeats the pending amendment.

Mr. STENNIS. Mr. President, I highly commend the chairman of the SALT Subcommittee for his unanswerable points in this brief but very relevant speech. It is of great value to the Senate and the country, and I commend him.

Let me ask the Senator one question: Is it not true, on this production line that we are talking about keeping open, is that not the only production line of missiles now open and on the move in the whole free world? Is that not true?

Mr. JACKSON. The Senator is correct.

Mr. STENNIS. It is the last one of the land-based missile types coming in ahead of the Trident. If we stop this one, then the free world will not have one in motion.

Mr. JACKSON. The Senator is correct.

Mr. STENNIS. I yield 2 additional minutes to the Senator.

Mr. JACKSON. Mr. President, in further reference to the Senator's very good question, 4 years ago we debated the SALT I agreement. I pointed out in the hearings, that were extensive, and on the floor that, as I interpreted the agreement that the administration had entered into, there was an inadequate definition of the term "heavy missile" with the result that the Soviets might replace the SS–11, which is a light missile, with a heavy missile. The administration denied that and said that was not the case. As a matter of fact, the administration testified that if it turned out to have such a result it would be in violation of the agreement.

The facts are indisputable, as the chairman of the committee knows, that the Soviets are deploying an SS–19 missile as replacements for the SS–11, and the throw-weight of the SS–19 is three times—I emphasize three times—that of the SS–11 that we are discussing.

Mr. President, that is a heavy missile.

I emphasize that point because what I am interested in achieving, and I think everyone is, is to bring about a mutual reduction of arms on the basis of parity to build down instead of building up. SALT I resulted in a buildup instead of a builddown.

Mr. STENNIS. May I ask one question? I think the time is about up.

Mr. JACKSON. Yes.

Mr. STENNIS. The Senator talked about the only free world production line of missiles. Is it not true that, if we stop that, to crank up again and get back into production would take something like 42 months, or something similar to that?

Mr. JACKSON. I believe that is a technical question.

Mr. STENNIS. It is approximately that.

Mr. JACKSON. It will take quite a while.

Mr. STENNIS. Over 3 years' time is involved, anyway.

Mr. JACKSON. That is correct.

Mr. STENNIS. I thank the Senator again.

Mr. JACKSON. Mr. President, I yield back to the distinguished chairman of the committee whatever time I may have remaining.

The PRESIDING OFFICER. The Senator from Mississippi has 12 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

Mr. President, at the risk of not being able to respond to the unanswerable comments of my good friend and colleague, the Senator from Washington, I wish to seek the indulgence of the Senate for just a few moments to make some basic points.

The first point is, Mr. President, that we are really talking about a rather marginal difference in terms of the total potential of the United States in the area of strategic power. We should put this whole debate in a context which is an accurate and a fair analysis.

I do not think it does very much good to rehash questions of past SALT agreements. The amendment we are defining here today is extremely precise. It is not unrelated, obviously, to our whole strategic situation. But if we use the argument that we have to keep a line of production going because it is going to cost something to open it up some years down the line, we could have, I suppose, used that same line of argument when the time came to move beyond the Model T Ford.

We have the possibility of creating a Cadillac today in terms of our strategic posture—that is, the Trident submarine or the MX—if we are in this kind of potential danger, which I do not believe we really are, in terms of our strategic posture with the Soviet Union. After all, we have the capacity to destroy every city in the Soviet Union over 100,000 population 39 times over; and we have the equivalent of over 720,000 Hiroshima bombs. We do have all the nuclear power we need, Mr. President. If it is felt, after due deliberation and justification, that we need to have something more to bargain with the Soviet Union, let us do something that will really give us a weapon for the future, and either speed up the MX or do something additional with the Trident submarine.

That approval has not been suggested here. Quite the contrary, Mr. President. The record before us here today is in the statements and comments of the Secretary of Defense, who pointed out, in his posture statement:

> Any additional deployments beyond the current level of 550—

Which have already been deployed—

> would not add significantly to the United States military capability but would increase the strategic budget by more than $300 million.

That is the statement of the Secretary of Defense on January 27.

We hear the comments of the distinguished chairman of the Committee on Armed Services and others, who say that, with these additional 60 missiles, we may deploy them, but maybe not. Why do they not tell us what they are going to do with the existing 126 Minuteman III missiles not now deployed? Does this request for 60 more mean we are going to deploy the 127 which we already have in the storage bins, and then put 60 more on top—which is a major addition in terms of Minuetman III? Are we going to do that?

If we are going to do it, I think we need to justify that particular decision, other than by talking about SALT I and SALT II. We ought to be able to justify it in terms of changes in the strategic posture of the Soviet Union since the time when the Secretary of Defense issued his posture statement on Armed Services on January 27, or in terms of changes in the SALT negotiations at the present time.

But have we heard any arguments here, in the time that has been used up by those who would defeat this amendment, on any reports that are available to either our intelligence agencies or our Defense Establishment, saying that the Soviet Union has altered its strategic capacity since January 27 when the Secretary of Defense indicated his intention to close down those production lines?

No, we have not heard that.

Have we had any report by those with responsibility in this area to indicate that the SALT negotiations are so seriously disrupted that this kind of step should be taken?

I do not think that that case has been made either, Mr. President.

The fact remains, Mr. President, when we consider Minuteman III in terms of the U.S. strategic capability, what does deploying 60 more missiles in place of Minuteman II's really do with regard to our strategic position? The number of launchers does not change.

The throw-weight increases four-tenths of 1 percent. The megatonnage is reduced 3.7 percent. The reentry vehicle number increases 1.3 percent. The soft target kill capability increases seven-tenths of 1 percent. And the hard target kill capability increases 1.1 percent. These statistics are from the Armed Forces Journal of February 1975.

The extra 60 missiles are really rather marginal, Mr. President. But it is important, I think, that we examine this particular weapons system to find out whether we are just adding something to our defense posture that is basically unnecessary and unjustified.

Mr. President, I think it is fair for us to ask, with the administration's position on this particular issue, what they feel is going to be the strategic trade-off if we accept their missiles and to deploy them. I would be interested to know what is going to be the strategic trade-off in staying under the Vladivostok limits for MIRV's. I think that is important.

The argument can be made here that we have not agreed on a treaty and that the Vladivostok agreement with the Soviet Union is not meaningful. But if that is the position of the administration, then I think we ought to know it, Mr. President; and I do not think any spokesperson for the administration has been prepared to indicate that they are throwing out the Vladivostok agreement.

So if we are still trying to achieve what I consider to be an important, useful, and desirable goal of a limit of 1,320 MIRV's, and if we will have 264 Trident launchers, 496 Poseidon launchers, and 550 Minuteman IIIs, a total of 1,310—while the limit is 1,320—I would like to know from the chairman of the Armed Services Committee whether this means we are going to reduce the number of Trident boats or reduce Poseidon?

I think, Mr. President, in view of the arguments the Secretary of Defense made before the committee in May of this year, about the sea-based launched missile's being the best weapon we have in terms of the strategic posture of the United States, that we ought to know whether, if we defeat this particular amendment, where there is going to be reduction in these other areas.

I hope the chairman of the committee would be able to enlighten us on that particular issue.

I would also like to know from the committee whether, with the additional 60 missiles that will be included, is it the intention of the Defense Department to actually deploy the 127 Minuteman III missiles which, at the present time, are in storage? Is this going to be a deployment of 60 plus the 127 which are in storage? And if it is only the additional 60 that you want to have deployed, why is it necessary to have the 60 on top of the 127?

Mr. STENNIS. Mr. President, if I could sum up an answer just in this way, I think it is about like this: No one knows what is going to happen with reference to another SALT agreement. The Soviets do not know, and we do not know. We know they are cheating some on what they have already agreed to, according to their own admission. We do not know what exactly we may do in the future. I know nothing of any planned missile sites or anything.

As far as I know, if we used these missiles at all, we would use them in the present missile stands. It is not a very expensive figure either in making the change.

There is no change proposed for Trident, no request for additional ones so far as I know, but Trident is just not ready yet for faster production. In other words, this one single thread of Minuteman production is the only thing we have now that we can keep in motion and retain some momentum during this uncertain period. I think we would make a great mistake, with all deference to everyone, if this, which has been passed to us now in the Congress——

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. STENNIS. Yes.

Mr. KENNEDY. Does the Defense Department intend to deploy these particular missiles?

Mr. STENNIS. I yield to the Senator from Washington.

Mr. JACKSON. I think certainly the Senator from Massachusetts has asked a very proper question. The missiles for storage are for two purposes, as I understand it, not for deployment but for test and replacement.

Mr. KENNEDY. Would the Senator from Washington tell me the rate of testing that is taking place in recent years?

Mr. MOSS. I can do that.

Mr. KENNEDY. I understand it is seven a year, which means we have enough for testing now for 18 years.

Mr. JACKSON. Of course, it is a matter of prudence in a situation——

Mr. KENNEDY. Is the Senator stating, as part of the justification for buying missiles, that they are going to be used 18 years from now?

Mr. JACKSON. No.

As I understand, there are two problems here. The testing does not take a lot of missiles, I agree on that. But there is also the need for replacements.

Mr. KENNEDY. Does the Senator know how many missiles, at the current time, are being used in terms of replacements?

Mr. JACKSON. This is not in addition to the Minuteman III deployment; that is the main point, I think.

Mr. KENNEDY. The answer to that is, with all due respect, there are 17 missiles being used at the present time in terms of replacements. They have used, in the last year and a half, an average of seven missiles a year for testing.

They have 127 that are being stored, and they are asking for an additional 60. I think it is fair to know, when they are asking for 60 more, whether their missiles are going to be deployed or just stored.

Mr. JACKSON. I think the answer to that, the basic answer, is what is going to happen on SALT. Now, very clearly, the first of the year, the assumption was that we were going to have an agreement on SALT. At this point in time it is quite obvious we are not near an agreement on SALT because of the Soviet position on Backfire and the cruise missiles.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. How much time do I have remaining?

Mr. KENNEDY. May I just ask a further question: Can the chairman of the committee enlighten us concerning any justification the Defense Department gave in terms of a change in the strategic position of the Soviet Union? Was there any testimony before the committee, since the time the Secretary of Defense's posture statement in which he indicated that the production line was going to be terminated, to the effect that there has been any change in the Soviet strategic position?

Mr. STENNIS. The high points are they told us in January they were reserving judgment on this matter and hoping they would not have to ask for more, but they referred then to the SALT talks and the progress that might be made.

Later, the Secretary used that reservation he made. He came in in May and pointed out that no progress had been made on a new SALT agreement. He said he recommended these missiles being made available rather than stopping the production line.

Now, that is another key thought here. I, too, am tired of having to pay for these missile warheads. We have this question over in Appropriations.

I made the motion that we put this in this bill. I wanted to hold it down, but I thought we could not afford to pass this matter up just for those practical points I have given.

Mr. KENNEDY. I am wondering

whether the committee itself considered an alternative of either speeding up the MX or the Trident program, really to increase our strategic punch?

Mr. **STENNIS**. That was thoroughly considered.

Mr. **KENNEDY**. And the decision?

Mr. **STENNIS**. That those are both moving forward, those that the Senator has mentioned, but you just cannot do it all at once. This is the one move we could make that had meaning now, and I think that is the controlling factor, with the hope that they will not have to spend this money after all.

Mr. **MOSS**. Mr. President, will the Senator yield to me?

Mr. **STENNIS**. What time does each side have, please?

The **PRESIDING OFFICER**. The Senator from Mississippi has 12 minutes, the Senator from Massachusetts has 20 minutes.

Who yields time?

Mr. **STENNIS**. I yield to the Senator. I was not ignoring the Senator but just calculating. How much time does the Senator want; 1 minute?

Mr. **MOSS**. Maybe 2 minutes.

Mr. **STENNIS**. Two minutes, no more, please.

Mr. **MOSS**. First of all, the question is why cannot we speed up MX. Well, you are talking about 9 years time before MX can be brought on line, so here we have a big gap.

On this business of using test missiles for development—that was what I was trying to speak to—currently we have 45 operational Minuteman II missiles and 115 Minuteman III test missiles. These are the test missiles. They will be test-fired on a carefully defined statistical basis to confirm that the missiles are not deteriorating with age. They are not to be used for other purposes, only for tests.

In addition, we have 10 Minuteman II spares and 30 Minuteman III spares, and the spares have just one purpose, to replace operational missiles that need servicing. Sometimes these missiles fail to respond normally to diagnostic tests, including potential defects that exist in the missiles.

A suspect missile is replaced with a spare and sent out for servicing. If these 40 spares are not available, then we cannot keep the silos full at all times and we could not rely on having a given number of missiles at any time.

Therefore, the operational test missiles and the spares are not available for any other purpose. We do not have in storage the number of missiles the Senator from Massachusetts indicated.

The **PRESIDING OFFICER** (Mr. GARN). The Senator's 2 minutes have expired.

Who yields time?

Mr. **STENNIS**. Mr. President, I yield 3 minutes to the Senator from Idaho. I am sorry I cannot make it more.

I reserve the remainder of my time.

Mr. **McCLURE**. Mr. President, so many reasons exist for the continuation of the production of the Minuteman missile, that I find it difficult to see why some of my colleagues are hesitant to support this program. In the face of the massive buildup of the strategic missile force of the Soviet Union, continued production of the Minuteman III missile booster, and even additional MIRVed warheads, is an inexpensive means to increase the survivability of our ICBM force. Continuation of production would increase our flexibility and options thus insuring the effectiveness of our nuclear deterence in the future.

Apparently, there is some unjustified concern that continued ICBM production will interfere with the strategic arms limitations negotiations which are now underway. But there should be no cause for that concern. The continued production of the Minuteman III missile booster is not inconsistent with any strategic arms limitations agreements we have now or can anticipate in the future. In addition, the continued production of our last ICBM provides an incentive to the Soviet Union to reach a new strategic arms limitation treaty, and provides a hedge against the possibility that the Soviet Union might violate present or future agreements. In light of recent disclosures of Soviet violations of SALT I, these are important considerations.

At present, the United States is permitted 1,000 light ICBM's under the 1972 SALT I agreement on strategic offensive weapons. The United States has deployed a full complement of 1,000 such ICBM's consisting of 550 Minuteman III missiles, with MIRVed warheads, and 450 older Minuteman II missiles, each with a single warhead. The United States could, if it wished, replace all of the old Minuteman II missiles with Minuteman III missiles, which are hardened against greater nuclear effects and are more accurate, more flexible, and have greater range, and still be within the limits of SALT I. However, in late 1974, the Soviet Union and the United States agreed at Vladivostok to attempt to reach a formal agreement that would limit the number of MIRVed strategic offensive vehicles to 1,320. Presently, American plans call for a force of MIRVed strategic offensive vehicles under that limit of 1,320. Since the United States intends to deploy a force of 496 Poseidon SLBM's by 1979, all MIRVed, along with its 550 Minuteman III MIRVed missiles, the United States could deploy an additional 274 MIRVed Minuteman III missiles and stay under the informal Vladivostok ceiling on MIRV's. The United States could decide to deploy these additional MIRVed ICBM's, but need not do so. All would depend on the strategic balance and the progress of strategic arms limitations talks.

In 1979, if there are no major development problems, the United States will begin to deploy its first Trident I SLBM's. Since these will also be MIRVed, they will count against the Vladivostok MIRV limit if it is in effect at that time. Even if by 1979 the United States had replaced all of its Minuteman II missiles with the MIRVed Minuteman III ICBM, which is not planned and may not be possible given present rates of production, a MIRVed Trident I could replace a MIRVed Minuteman III, not by having the ICBM missile deactivated, but simply by removing its MIRVed warhead and replacing it with a warhead containing a single reentry vehicle, assuming this is not prevented by some future agreement. This non-MIRVed Minuteman III, one might call it a Minuteman II½, would be longer ranged, more accurate, more flexible, more survivable, and of newer construction than the old Minuteman II missiles. Thus, the United States can inexpensively underscore the credibility of its nuclear deterrence simply by continuing the construction of Minuteman III boosters, and even MIRVed warheads if it wishes, without fear of violating either the letter or the spirit of present or future strategic arms agreements.

The United States must remind the Soviet Union that it will continue to negotiate from strength and does not take the arms control process lightly. Last year, along with many of my colleagues, I was alarmed at reports that the Soviet Union was involved in extensive violations of the SALT I agreements. In December, in the face of great controversy, the Secretary of State reassured Congress and the American people that the Soviet Union had not committed actual violations of any SALT agreements although it had taken advantage of ambiguities in the understandings and had not given much credence to American interpretations.

In short, the American Secretary of State defended the behavior of the Soviet Union on the grounds that they had violated only the spirit, but not the letter, of the SALT agreements. This week, however, the Soviet Union has acknowledged that, in the very month when Secretary Kissinger was explaining away their actions, the Soviet Union was conducting sea trials for four Delta II SLBM submarines whose launchers, when added to the number of launchers already deployed by the Russians, were in excess of the SALT I limits on combined SLBM and ICBM totals. Again, the administration says that this was not a technical violation because a secret agreement gives the two parties to SALT I 4 months to dismantle old heavy ICBM's which are to be replaced by the new SLBM launchers.

A violation did occur, however, when the Soviet Union had not completed the dismantling process by April. The State Department reports that the problem has been solved because the Soviet Union has agreed to complete the dismantling process. Unfortunately, according to the May 24, 1976, issue of Aviation Week, the United States will be somewhat restricted in its ability to verify these Soviet actions because the last American Big Bird surveillance satellite covering that part of the Soviet Union has decayed in its orbit and a new one would not normally be launched for another 2 or 3 months.

There are two aspects of this Soviet violation of the SALT agreements which disturb me. First, why does the Soviet Union take its arms control responsibilities so lightly? I would suggest that it is because we do not take their violations of our agreements seriously. Indeed, perhaps they are testing to see how far they can go in turning arms control measures to their advantage. Second, how is it that for a period of 4 months legally, and an additional 2 months illegally, the Soviet Union has been able to maintain in being a force of 51 heavy ICBM's, almost equal to the entire U.S. force of 54 heavy Titans, above the limits agreed to in SALT I? These are disturbing questions.

The time has come for the United States to stop attempting to persuade the Soviet Union that we are trustworthy. The time has come to stop such acts of unilateral disarmament as have been aimed at the Cruise missile, the B-1 bomber, and now the Minuteman missile, our last ICBM in production. The time has come for the United States to stand firm, watch its defenses, and observe Soviet behavior. The time has come for the Soviet Union to convince us that they take arms control seriously.

Mr. President, it seems to me there are two or three things that ought to be underscored as we come to the vote on this amendment—and I do oppose the amendment.

One is, what are the violations by the Soviet Union of SALT I and how secure are we under those agreements that have already been forged?

I note some very recent articles, one in the New York Times, one in the Washington Post, the Washington Post article being this morning. The headline in it is "Soviets Admit Violation of SALT Accord," and the New York Times article also remarks that there were several Members of the Congress that a year ago suggested the administration was not taking a firm enough line on the Soviet Union in the violations which were then occurring on SALT I, let alone the Vladivostok agreements which are not yet forged into any kind of an agreement or agreed to by the Congress of the United States.

I suggest this Congress is going to look at that treaty when it comes before this Congress in a much more critical manner than SALT I was looked at, because we have already been told the SALT I agreements consisted of the treaty and an accord which were approved by the Senate of the United States and some separate agreements which were secret agreements, not told to the public of the United States, and some understandings which were not binding on the Soviet Union.

I think we are going to ask some questions about those secret understandings and some nonbinding unilateral statements not part of the treaty and not binding on either party.

I want to underscore, a year ago I was one of those who said they were violating the SALT agreements, and the facts since then have proven that was true.

We now see a violation of the agreements again and I think we cannot take any very great comfort in agreements with a country that seems to feel it can violate the agreements.

I point out that even if Vladivostok Accords are entered into, we could and perhaps should deploy additional Minuteman III in substitution for Minuteman II.

The Vladivostok Accords, which limit the number of MIRVed vehicles, would permit us to do that and we would, if we built 60 more and desired to, deploy those along with the 127 we already have, along with a reasonable testing program, during the next 7 or 8 years. We would not even come up to the limits of the Vladivostok Accord until 1983.

The PRESIDING OFFICER (Mr. GOLDWATER). The Senator's time has expired.

Mr. McCLURE. I thank the Senator for yielding this time.

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

Mr. President, over the last 4 years, a series of Secretaries of Defense have come before the Armed Services Committee and recommended a closing down of the production of the Minuteman III, recognizing that we have the numbers which they felt were essential to maintain that particular aspect of our land-based missile system and that we have sufficient numbers in terms of the backup for any foreseeable future.

In his posture statement of January 27, the Secretary of Defense indicated that there were only two conditions under which he would recommend a continuation of the production line.

One would depend on the outcome of SALT and the other would be a change in the Soviet position with regard to ICBM's.

We have not heard a word during this debate all afternoon about whether the Soviet Union has changed its position on ICBM's, and we have not heard, I do not believe, any convincing comment, testimony or statement on SALT, other than that the SALT negotiations are still going on, and that the administration is attempting to reach some kind of satisfactory SALT solution.

So we have not met the two criteria which had been established by the Secretary of Defense.

Finally, Mr. President, if we say that we need to have a strong posture in bargaining with the Soviet Union during these SALT negotiations, I think we ought to be able to make the case, and, if so, then have a credible additional bargaining chip.

We cannot say we are getting an additional, strong bargaining chip with the addition of $317 million in Minuteman III. We might be able to make that case in terms of spending for the Trident or going ahead with the MX. If so, then we ought to have statements by the members of the Armed Services Committee to justify that particular posture and position. If we want to convince the Soviet Union that we mean business, and if we do need to do more, which I doubt, it seems to me that Trident or MX would be a much stronger, better, and more effective way of doing it.

But I do feel, Mr. President, that we are going to be taking $317 million of the American taxpayers' funds and spending them without increasing the security or the safety of the American people.

For those reasons and other reasons we have outlined earlier, I hope the amendment is agreed to.

Mr. CRANSTON. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. CRANSTON. Referring to an earlier portion of the Senator's statement, I note that Secretary Rumsfeld said in his posture statement this year:

> The MK-12A higher yield reentry vehicle will continue in R&D in order to provide the option to improve U.S. strategic capabilities should circumstances so dictate. A production decision for the MK-12A is being deferred pending our continuing assessment of Soviet ICBM capabilities.

Then with the Texas primary 4 days ahead, looming up, looking not very satisfactory from the point of view of the President of the United States, apparently there was an order to get some campaign financing out of the Defense budget, and on that April 27, 4 days before the primary, DOD said:

> The Administration has continued to review the MK-12A program and has concluded that because of the decision to maintain the option to continue Minuteman III production, it is desirable to submit a FY 77 Budget Amendment to provide procurement funds for the MK-12A higher yield re-entry vehicle in FY 77 instead of waiting until FY 78.

1978, of course, being, I note, after the Presidential election of this year would be well behind us.

The point here is that DOD did not meet its own criterion of "Soviet ICBM capabilities."

I ask the Senator if he knows of any change in the Soviet program since January? Have we been told? I have not been told. Has the Senator learned of any change in the Soviet program that justifies this switch in what we are doing?

Mr. KENNEDY. Quite the contrary. We have asked for the testimony before the Armed Services Committee by any spokesperson, by the administration, on those two particular points, and there has been nothing in this discussion or debate or in any of the committee hearings which would indicate this.

As a matter of fact, there is the statement of the Secretary of Defense in May of this year that indicates the rate of progress at SALT, which is that we do not have an agreement at the present time. But, quite clearly, the Secretary of Defense did not indicate, in any statement or comment before the committee that there was either a failure of the SALT talks or an increase in the strategic posture of the Soviet Union which would justify a reconsideration of the Minuteman III decision of January 27.

Mr. CRANSTON. So rather plainly, then, it was not any unexpected action by the Soviet Union. What really occurred was some unexpected action on the part of those voting in primary elections in North Carolina and elsewhere that led to a concern—not about what the Russians would do—but what the voters would do in Texas in the Republican primary 4 days after this statement, which caused the change. So here we are with a new form of public financing for presidential campaigns.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 14 minutes. The Senator from Mississippi has 7 minutes.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time if the manager of the bill is prepared to yield back the remainder of his time.

Mr. STENNIS. I yield to the Senator from Utah, Mr. President.

Mr. GARN. Mr. President, as I have listened to the debate since my opening remarks, I believe one thing has been continually ignored. The distinguished Senator from Massachusetts continues to talk about figures and numbers, and whether the missiles are going to go into storage or whether they are not. The point I think is being overwhelmingly ignored is that we only have one ICBM production line. The Russians continue with four. They continue to modernize their strategic weapons systems. I think it would be irresponsible on that basis alone for us to unilaterally stop production, regardless of the numbers, with the Russians continuing with four lines. The numbers are not nearly as important as the fact that we disband the most efficient, most productive ICBM production team in the world. That is where the bargaining chip comes. If we have no team, if they disperse to other jobs and they are disbanded, and the SALT talks fail, and with all of the unknowns, the uncertainties, then how do we get them back together if we need them? I think there is justification, without regard to numbers, for maintaining the production team. If we disband it, we will be sorry. That has been ignored in the debate. I believe that the need to keep the production team together in case we need it has been ignored by the distinguished Senator from Massachusetts.

Mr. STENNIS. Mr. President, I want to yield to a member of our committee who has followed missiles, planes, submarines, and everything else for years. I yield 4 minutes to the Senator from Nevada, if he would care to use that time.

Mr. CANNON. Mr. President, I thank the Senator for yielding.

Mr. President, I rise to speak in favor of continued production and deployment of the Minuteman III missile. By way of preamble, it might be well to review some of the characteristics of Minuteman, and the contribution of the strategic missile to the defense of the United States.

Minuteman II and Minuteman III missiles form a unique element of the U.S. strategic deterrent force—the Triad of bombers, sea-launched ballistic missiles, and land-launched intercontinental ballistic missiles.

Minuteman missiles maintain the highest continuous day-to-day alert rate of the Triad elements. Normally, almost all of our Minuteman missiles are ready for immediate launch, regardless of the state of warning. This high availability rate combines with low day-to-day operating costs to make the ICBM the least expensive weapon in our strategic arsenal.

Disperal and hardening of the ICBM launch facilities means that each missile is a separate target for the enemy. Hence, in order to attack the 1,000 Minuteman missiles the Soviet Union must commit a large portion of its resources to their destruction—resources which otherwise could be used against other military targets, our cities, and our industry. However, in order to attack Minuteman, the Soviet Union must attack the sovereign territory of the United States, thus inviting immediate retaliation. This expectancy of retaliation contributes directly to deterrence.

Responsiveness to command and control, rapid retargeting, quick launch time, short time of flight, high ability to penetrate to the target, and lethal accuracy, make Minuteman a very capable and flexible weapon system. The receipt of Presidential launch orders can be acknowledged instantly by reliable means and, upon execution of the orders, the launch results and the status of the remaining forces can be reported promptly. It is these characteristics that make Minuteman—particularly Minuteman III—a uniquely effective military weapon, commanding the respect of any potential enemy.

Minuteman remains highly survivable and able to withstand a Soviet first strike and then retaliate quickly and effectively. Moreover, the survivability of the elements of the Triad, including Minuteman, is further reinforced by the synergistic benefits of mutual reinforcement. Any attack directed at our bomber force will provide warning sufficient to launch our ICBM's prior to being attacked and conversely any attack directed at our ICBM's provides sufficient warning to launch our bombers under positive control.

Thus, the Minuteman ICBM force, because of its unique characteristics, contributes today and will continue in the future, to contribute to the strategic deterrent posture of the United States.

A review of the strategic situation last year resulted in a tentative decision to close the Minuteman III production line. At the same time it was understood that, depending upon the outcome of ongoing arms limitation negotiations and our continuing assessment of Soviet ICBM programs, the option would be retained to make further improvements in the U.S. ICBM posture by continuing Minuteman III production.

Since that time, it has become clear that the Soviets have not matched our restraint. They have continued a program of strategic force improvement and modernization that apparently is aimed at achieving superiority over the United States. Soviet international adventurism has increased, and they have boldly pursued foreign military intervention with their own forces and through client states.

The SALT II negotiations have not been concluded and the Soviets continue to deploy new MIRV strategic missiles. Since it is the only U.S. strategic system currently in production, preparation for continued Minuteman III deployment can provide leverage in the negotiations. The Trident I missile is not expected until fiscal year 1979, and the B-1 bomber until 1981.

There is room within the 1,320 Vladivostok MIRV ceiling for continued deployment of Minuteman III now. Should Minuteman III's be increased from the present level of 550 to 700, readjustment between land-launched and sea-launched MIRV's would not occur before the early 1980's, depending upon the rate at which Trident joins the fleet, and perhaps not at all, depending upon the service life of the Poseidon missile and also the outcome of SALT talks. We should remember that under *the Vladivostok* understandings, the decision as to proper division of 1,320 MIRV's between land- and sea-launched sysems remains a national prerogative.

Additional Minuteman III production at this time provides a modest and measured increase in strategic capability aimed at persuading the Soviets to restrain their offensive initiatives. In addition, Minuteman III missiles offer the potential for cost-effective incremental increases in military capability through accuracy and yield improvements, thereby providing continued flexibility in the face of any further Soviet initiatives during this decade.

It would also be prudent to retain the Minuteman production line as a hedge against any delay in the Trident I missile program. Our early experience with ballistic missiles should serve as a warning of the delays inherent in new programs. Continued Minuteman III production and deployment would close this gap should it develop.

U.S. options for new ICBM programs depend upon a skilled industrial base. Cancellation of Minuteman production is estimated to result in the termination of 40,000 jobs, and will force many large and small contractors out of the ICBM business. Not only will this make any future reconstitution of Minuteman production inordinantly expensive, but the dissipation of production skills and techniques would slow the Nation's ability to begin production of follow-on ICBM systems.

Based on these factors, I believe that it is reasonable, that it is prudent, and that it is imperative, that we make this investment at this time in our future security.

Mr. STENNIS. Does the Senator from Massachusetts have a technical correction that he wishes to offer at this time?

Mr. KENNEDY. I would like to offer it at this time.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand it, we have to yield back the remainder of our time before we consider a modification to an amendment.

The PRESIDING OFFICER. Until all time has been yielded back, there can be no modification of an amendment.

Mr. STENNIS. How much time have I remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. STENNIS. I will sum up briefly.

Let us be aware, I say to Senators, that this is a highly important vote. There is good reason for asking for this continuing production line and I respectfully submit those who attack the money item in the bill have not made a case against it. The presumption is certainly in favor of it. We have not reached a new SALT agreement. We do not know exactly what to do, frankly. We have only this one production line in all the free world. This amendment is to keep it going. Hopefully, we will not have to spend this money, but we are living in a realistic world, and I do not think we have any choice.

They say, "Why not speed up the MX, speed up Trident?" Some of the opposition to this item comes from those who opposed Trident in the beginning. If that had not been fought out here in the Chamber, we would not have a Trident. But it is here as far as production is concerned.

What we are going to do now is what counts. This is all the production we have left. Let us keep this money in the bill. It is not in the House bill as it has not been considered there. This is the only way to get it this year, to put it in this bill.

I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself a final 2 minutes.

I start off with a different assumption than the chairman of the committee. I think that we should not be spending the taxpayers' money unless we can actually justify doing so. It is not that we should go ahead with spending unless we can justify not going ahead with it. We ought to use the criteria which has been established by the Secretary of Defense: First, has there been a change in the strategic posture or position of the Soviet Union?

There has not been. There has not been testimony or evidence advanced in the Senate this afternoon which would support the existence of such a change. That was part of the test which the Secretary of Defense stated on January 27.

Second, has there been such a disruption or breaking down of the SALT agreements which would justify building extra Minuteman III's?

There has not been evidence, comment, testimony, or statement by those involved in the negotiations or spokesperson for the administration which would indicate that.

Third, Mr. President, if we are looking for a way to increase our bargaining position—and I do not believe this is needed—let us do something that will really make a difference. I suggest that, this should be in the area of the MX or the Trident submarine. We can do that without breaking the limit on MIRV's which has been established at Vladivostok and which hopefully is still supported by this administration—an agreement which I personally believe can be an important step toward moving the world away from the possibilities and dangers of nuclear holocaust.

I hope that the amendment will be agreed to.

Mr. HELMS. Mr. President, the Senator from North Carolina urges his colleagues to vote against the Kennedy-Cranston amendment. In his opinion, it is of the utmost importance for the United States to continue Minuteman production so that we will have our strategic options open for the future. We all know the long-leadtime that it takes for the development of a major new strategic weapon. The so-called MX is barely out of the concept stage, and we will be lucky to see development of a unified concept begin before fiscal year 1978. This means that the earliest possible date to begin actual production would be fiscal year 1986, almost 10 years from now.

Meanwhile, the Soviets have four ICBM's in production and according to DOD testimony they have still another generation in the development stage.

That is why the President has requested an additional $268.9 million to continue Minuteman III missile procurement. As stated in the Air Force testimony supporting the budget amendment request approval of this funding coupled with the $40 million long-lead reprograming will provide the funding and plan necessary to continue the Minuteman III production to September 1976. By that time, the administration will be able to make a deployment decision appropriate to the situation which will then exist.

Mr. President, we all know that the strategic arms situation is in flux. At the present time, no one in this body can say whether a significant SALT II agreement will be reached or not, or whether the Senate will approve such an agreement if it is reached. Nor can one say what the Soviets will do in the way of deployment either. We all know, for example, that the Soviets have already admitted to one so-called technical violation of SALT I, and our experts have argued very strongly that the Soviets' unilateral interpretation of SALT I has brushed aside countless other violations.

It is very important, therefore, that we keep this Minuteman production line in operation, while SALT II is under negotiation—and even after—so that the jigs, tools, and specialized personnel are not dispersed. If they are dispersed, then the additional leadtime to reassemble the team might well spell the difference to our future security.

Now if in September, a decision should be made not to deploy any more Minuteman III's, the money will not be wasted. The chief controversy surrounding the deployment of more Minuteman III's is whether or not the deployment of more MIRV warheads would put us over the Vladivostok limit of 1,320. I do not personally agree that we are bound by the Vladivostok agreement, but I realize that there are many Senators in this body who support the limits informally agreed upon there. But I say to them that, even if they feel that we should not deploy more Minuteman III's, they can support the committee authorization. Should there be a SALT II agreement that confirms Vladivostok, then the Minuteman production line can be used to modernize the single-warhead Minuteman II's already deployed.

The Air Force has testified that such an option is indeed possible. If deployment of Minuteman III's is judged to be unnecessary in the future, the booster now being assembled on the production line can be used for the modernization of the 450 Minuteman II's. Although the III carries three warheads, the II has only one reentry vehicle. These missiles were last deployed in 1965. They are now 10 years old. Now some might assume that these missiles do not age signficantly since they are not actually fired. But as a matter of fact, the readiness of these missiles is constantly tested, 24 hours a day. The electronics are constantly in operation, so that if a failure is detected in any part it can be repaired. But any piece of electronic equipment ages, no matter how well it is maintained. These are stategic assets that should be modernized.

So if the option to modernize Minuteman II, is chosen using the old warheads on new boosters, we will have a far more dependable force, without changing any of the limits that we agreed upon in SALT I. Among the significant improvements would be the following:

First, improved missile hardness against nuclear effects; second, rapid retargeting; third, greater range; fourth, improved accuracy; fifth, extended useful life; and six, more ICBM flexibility for the future.

The funding level which has been authorized by the committee provides a cost effective option for upgrading the Minuteman II force. Indeed, the cost for upgrading the total 450 Minuteman II force, including the necessary development and test cost, would be less than the cost of 1½ Trident submarines.

Since Minuteman II uses single reentry vehicles, they do not disturb the Vladivostok MIRV limit of 1,320 warheads. Moreover, such modernization of the 450 II's will not necessitate any adjustments to the Poseidon/Trident fleet.

Finally, by maintaining production, the Minuteman II modernization would allow for rapid deployment of Minuteman III's in the future, if international considerations should require it.

In essence, then, the administration's budget request amendment provides us with three options: To deploy more Minuteman III's at the present time; to switch to modernization of Minuteman II's at the present time; or to begin modernization of Minuteman II's at present and then switch back to III's in the future should the international situation change.

In my judgment, it would be unwise, in the present world situation, to foreclose this Nation from having these options available. If we stop production of Minuteman, we are stopping the production of our only ICBM. We are depending upon blind faith that we will have the strategic resources in the future to defend ourselves, and that the Soviet Union will back down from its present aggressive posture.

Mr. DOMENICI. Mr. President, I would like to speak in favor of keeping the Minuteman III production line open and against the Kennedy/Cranston amendment—the intent of which is to delete the $322 million requested to keep the Minuteman line open.

First, the assumption was made by the

authors of the Dear Colleague letter that was circulated to all Members of the Senate announcing this amendment that none of these missiles would be deployed. I would like to point out the JCS has approved a 600/400 mix; however, implementation of that decision is dependent of "the Administration review in September of SALT II." Admittedly, the decision has constantly restrained our action by a shadow called Vladivostok Accords—an accord on which we have not even been asked to give our advice and consent to, let alone approve. Those who constantly advocate U.S. restraint should review recent Soviet action in their strategic forces areas.

Contrary to what has been said, Minuteman III does provide improved strategic capability by:

First. Improved missile hardness against nuclear effects (dust, debris, and EMP);

Second. Quicker reaction;

Third. Rapid retargeting—command data buffer—which would reduce retargeting from over 24 hours to less than 36 minutes per missile;

Fourth. Greater range;

Fifth. Improved accuracy;

Sixth. Extend useful life—present boosters are 10 years old and are now showing signs of aging; and

Seventh. Provide more ICBM flexibility in the future in case of further SALT II breakdowns.

What is more, should the decision be made not to deploy any more Minuteman III's, we could continue to produce Minuteman III boosters—first, second, and third stages—and guidance systems, and use the Minuteman II single reentry vehicle—stop production of the MIRV portion. This option would significantly improve our strategic force posture without getting involved in the sticky MIRV issue.

As on other strategic programs—B-1, ALCM, et cetera—those who consistently balk at any new systems are now telling us—do not keep the most cost-effective option open, but wait and let us invest our money in a deliberate development of a new, large, more survivable ICBM—which they know full well they have not, and will not, support.

Mr. President, the Deputy Secretary of Defense yesterday responded to several of the points raised by Senators Kennedy and Cranston in their Dear Colleague letter of last week. I believe that the points raised have been well stated by other Senators in the last few days, but the views of the Defense Department do provide some additional information that should be useful to Senators in making up their minds about how to vote on relevant amendments. The Deputy Secretary's letter has been printed heretofore in the Record.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is it necessary to yield back prior to amending my amendment?

The PRESIDING OFFICER. The amendment will not be in order until all time has been yielded back.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. STENNIS. Mr. President, if I have any time left, I yield back the remainder of my time.

The PRESIDING OFFICER. The amendment will now be in order.

Mr. KENNEDY. Mr. President, I ask unanimous consent to modify my amendment.

Mr. STENNIS. Mr. President, I believe the Senator is correct when he asks for this modification.

The PRESIDING OFFICER. Without objection, it is so ordered. The modification will be stated.

The assistant legislative clerk read as follows:

> On page 15, line 8, strike out "$1,883,100,000", and insert in lieu thereof "$1,566,100,000" and strike out everything after the figure 1,883,100,000 down through line 10.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered and the clerk will call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Hunter of my staff be accorded the privilege of the floor during the rollcall on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Is this vote on the amendment itself, the main Kennedy amendment?

The PRESIDING OFFICER. The vote is on the major amendment as amended.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Rod Levin of my staff be accorded the privilege of the floor during the vote on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The question is on agreeing to the amendment (No. 1663), as amended, of the Senator from Massachusetts (Mr. Kennedy). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, may we have quiet?

The PRESIDING OFFICER (Mr. Goldwater). The Senate will be in order. The clerk will suspend until order is restored. Senators will clear the well. That means everyone.

Mr. TOWER. Me, too?

The PRESIDING OFFICER. Yes, you. Senators in the well will repair to their seats.

The clerk may continue.

The call of the roll was resumed.

The PRESIDING OFFICER. The Chair will announce that the 15 minutes for voting has expired. The clerk will tally the rollcall.

Mr. STENNIS. Regular order, Mr. President. I understand that the time for the rollcall has expired.

The PRESIDING OFFICER. The time has expired. The Senator is correct. The regular order is called for.

The call of the roll was resumed and concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. Nelson) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from North Carolina (Mr. Morgan) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong) is necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from Pennsylvania (Mr. Hugh Scott) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Hugh Scott) would vote "nay."

The result was announced—yeas 35, nays 49, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—35

Bayh
Bellmon
Biden
Bumpers
Burdick
Case
Clark
Cranston
Culver
Durkin
Eagleton
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Javits
Kennedy
Leahy
Mathias
Metcalf
Mondale
Muskie
Pell
Percy
Proxmire
Ribicoff
Schweiker
Stafford
Stevenson
Weicker
Williams

NAYS—49

Allen
Baker
Bartlett
Beall
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Inouye
Jackson
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
McIntyre
Moss
Nunn
Randolph
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—16

Abourezk
Brooke
Church
Fong
Gravel
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Tunney

So Mr. Kennedy's amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the amendment offered by the Senator from Oklahoma (Mr. BARTLETT) on which there are 90 minutes of debate to be equally divided and controlled.

AMENDMENT NO. 1689

Mr. BARTLETT. Mr. President, I ask that my amendment No. 1689 be read.

Mr. STENNIS. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Will the Senator from Oklahoma yield to the Senator from Mississippi?

Mr. STENNIS. Will the Senator yield to me for one question?

Mr. BARTLETT. I yield.

Mr. STENNIS. How much is the allotted time on this amendment?

Mr. BARTLETT. The allotted time is 1 hour and a half. I have not talked with Senator NUNN, because he was busy in conversation, but I did check with his staff member.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment No. 1689.
>
> On page 17, line 5, strike out "190,000" and insert in lieu thereof "196,000".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the Senator who is offering the amendment is willing to reduce the time limit to 1 hour, to be equally divided, rather than an hour and a half.

Mr. STENNIS. That was going to be my suggestion. I agree.

Mr. BARTLETT. Mr. President, before the Senator makes the request—and I am perfectly in support of it—I wish it would be checked out with the Senator from Georgia (Mr. NUNN), because he has not been a party to this.

Mr. ROBERT C. BYRD. All right.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I have conferred with the distinguished Senator from Georgia (Mr. NUNN). I find that he is agreeable to reducing the time. I ask unanimous consent that the total time on the amendment be limited to 1 hour, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have quiet now?

The PRESIDING OFFICER (Mr. DOMENICI). The Senate will be in order. The Senator from Oklahoma has the floor.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, the amendment I have offered is a modest one. I have asked that the authorized end strength of the U.S. Marine Corps be restored to the number requested by the administration—specifically, 196,000 marines. This amendment would have the effect of restoring the number to 196,000 from the level of 190,000 in the bill.

I say that my amendment is modest, because I have not addressed the manpower requests of the other services, although I did oppose cuts in all our military strength levels during the subcommittee deliberations and in the full committee.

The Marine Corps, throughout U.S. history, traditionally has been the first battle team to be sent into combat, and more often than not has been the last to leave the battleground. It is presumed that it is always ready and capable, and it is certainly in the interest of Congress that it be that way and remain that way.

This mission of "first to go and last to leave" has been part of the spirit of the Marine Corps throughout the years, and it still has an important place today.

Mr. President, the missions change and tactics change, but the need for manpower in times of crisis do not change. There is a bottom line on manpower strength below which the United States cannot drop, regardless of the cost. I think we have reached that point, and we reached it some time ago.

It is of great interest to look at and study the trends in this area both for the United States and the Soviet Union, and when I analyze the data, I use 1964 as a base, since it was the last year prior to the Vietnam conflict.

I note that the USSR had 3.4 million in their service in 1964, and today they have 4.4 million, an increase of 1 million in manpower. This does not include about 400,000 security force people—the KGB, and others. On our side of the ledger from 1964 to the present, we have gone from 2,687,400 to about 2,101,000. This reflects a loss in end strengths of 587,000 people.

Mr. President, to summarize very briefly: In the total manpower picture, the Soviets have increased, in the interval from 1964 to the present, approximately 1 million people in their armed services, and we have dropped 587,000. I point out that this was from a point prior to the Vietnam buildup and conflict.

I also point out that in recent years, the Marine Corps end strength has been in the neighborhood of 196,000—197,000 authorized for 1973 and 1974. I am talking about authorized personnel. In 1974, the actual end strength dropped to 188,000; yet, the end strength was kept up to the 196,000-plus level.

The reduction of 6,000 that is contemplated in this bill would reduce the actual number of Marines from 193,000 to 190,000. The 3,000 cut in actual strength would be either qualified regular Marines or would result in a reduced effort in recruitment. In committee, there was some concern about the recruitment success of the Marine Corps. Yet, the recruiting effort has proceeded very well. There have been problems of quality. There have been problems of recruitment. But those problems have been dealt with very well, and I think these figures reflect that: For the first 8 months of this fiscal year, a total of 13,602 individuals have been discharged prior to the expiration of their enlistment. This was approximately 6,600 over the plan.

This shows that the Marine Corps management—the Commandant and the others—are very much aware of the problems they have had and that they have been addressing those problems. I have additional information, which I will speak about a little later, which shows how they have had success in their recruiting program, both in numbers and in quality.

I do not know why we should be concerned with a modest increase in the Marine Corps on its manpower level from 190,000 to 196,000. Last year, the Marine Corps' actual end strength numbered 195,951, and that represents 49 fewer Marines than have been requested for authorization in the fiscal 1977 budget. The number has dropped admittedly. The reason being that the Commandant has undertaken a very aggressive campaign to improve the quality, and this campaign is paying off.

It is the responsibility of Congress to make certain that the leadership in our military services are apprised of problems that exist within the service for which they have the responsibility and that they deal with those problems quickly and effectively.

We see today that the Marine Corps has done a very effective job of reducing some of the indicators of lack of quality, of problems within the Marine Corps. It is important that Congress strengthen the resolve and confidence of the Marine leadership by replacing the end strength number at 196,000.

I think this is a reasonable level. I think the level should be determined on what the need is for numbers. There certainly is no indication that there is a need for fewer numbers in the Marine Corps or, for that matter, less end strength in our total numbers in the military service.

An authorization of 196,000 does not mean that a magical number has been picked out of a hat and must be attained at any and all costs. It is an authorization, pure and simple, to fulfill a requirement. It is a force level that the Marine Corps should strive to attain to fulfill its mission, but not at the cost of quality. The Commandant is showing that he is not interested in just numbers if the quality is not there. That is the message that Congress should send to the Commandant—that we are behind him, that we want him to build the Marines into the fighting unit as it should be. Certainly, there would be a great difficulty in increasing the authorization in the next fiscal year from 190,000 to 196,000 if the 190,000 end strength level were to prevail.

It is important that the Commandant have a certain amount of flexibility and it is important the morale be high. If there are qualified personnel in the Marines who would be riffed out or who lose their position, certainly, that would hurt morale. If the recruiting program that has been questioned and which has been working effectively is not given the opportunity to work at maximum, then it is going to be impossible for the Marine Corps to prove, through statistics, over a longer period of time that their recruitment program is actually bringing in higher quality personnel and is closing the gap vis-a-vis the end strength of 196,000.

What this body does will have a lot to do with the morale of the Marine Corps through the confidence that it shows in its leader, the Commandant.

Congress has continually cut the authorized strength of the military in addition to the voluntary cuts the Department of Defense has made with improving management practices and reductions in support forces. It is time that we draw the line on these reductions and say, "no more." Additional reductions in manpower will have an adverse effect on our conventional forces posture and, personally, I do not want to see us reach the point where we will not have sufficient numbers for conventional warfare and where we might, because of numbers, have as an alternative only nuclear weapons as a means of defense. If we continue to draw down the active force structure, we could be backing ourselves into that undesirable corner.

Mr. President, there are two questions that I think are of importance in this regard. One is, what should our end strength be? This is what we are establishing here. I should think that, if the thinking of this body is that it should be reduced to 190,000, then it should be shown why we do not need as many people in the Marine Corps as in the past and, for that matter, in the armed services, notwithstanding the increase by the Soviets.

Then I think another question that is important is will this cut in any way actually increase the quality of recruiting and the quality of the personnel in the Marine Corps? I know the distinguished Senator from Georgia, my good friend, has high regard for the Commandant, and I think he knows that he is doing a good job.

If we had a situation where there are those who do not have a high regard for the leadership now, then I would think the cut would not lead to any good end, because if the leadership is not sound, then I would not think that those who might be cut out by an unsound leader would not be doing a benefit to the Marine Corps. On the other hand, the cut undoubtedly would cut into the qualified numbers that the Commandant needs presently in the Marine Corps and reduce those by 3,000 and reduce the opportunity in the future for an expansion up to the 196,000.

My feeling is that the evidence is very clear, as presented in the committee and subcommittee, particularly the committee, showing that the leadership in the Marine Corps is the best that we could possibly want to have and that the ills that have existed are recognized and being dealt with very promptly and effectively.

It is my opinion that the quality of the Marine Corps will improve further, that the recruitment program will improve further, but this will not be a result of the reduction from 196,000 to 190,000; it will be in spite of it, because the reduction is going to hurt the morale of the recruitment program. The reduction is going to reduce the actual strength of the Marine Corps.

I inquired to see what the manning requirement of the Marine Corps is. Two hundred and thirty-four thousand Marines are required to fully man the active duty structure of three divisions and three wings in war. The minimum peacetime manning requirement for a structure of this size is 212,000. However, fiscal constraints, use of civilians, and other adjustments have, in recent years, forced the Marine Corps to the 196,000 level. As a result, active forces are manned at 84 percent of the wartime requirement and 94 percent of minimum peacetime requirements. The austere manning level has been oriented to obtain maximum combat power, as evidenced by the 63 to 37 ratio of operating forces to support forces which is programed for fiscal 1977. The latter ratio is the best in the Department of Defense. The Army's ratio, which I know the chairman is aware of, is 54 to 46, and the Air Force's is 56 to 44.

If I could have the attention of the distinguished chairman for just one statistic, I did read about the Army's ratio being 55 to 46. It used to be 45 to 55, and I give the distinguished Senator from Georgia a major share of the credit for bringing about that great improvement.

For these reasons, in the event that a cut of 6,000 is imposed on the Corps, it would mean a loss of combat power, roughly the size of a brigade, consisting of one infantry regiment, with its supporting air and ground units. It would reduce the command headquarters, even though there had been a reduction in fiscal 1975 of 20 percent in that area.

Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I am glad to yield such time as he may wish to the Senator from Georgia.

Mr. NUNN. Mr. President, first let me say that the Senator from Oklahoma has done an excellent job as a member of the Committee on Armed Services and a member of the Manpower Subcommittee. I do not know of any Senator on our subcommittee who has worked any harder than he has, and I have a great deal of respect for his overall commitment to national security and for his overall knowledge in this area.

I do oppose the Bartlett amendment because I do not think it would serve either the interest of national security or the interest of the Marine Corps.

The Marines have basically not been able to recruit 196,000 people and keep that force level without seeing a serious deterioration in their quality standards.

Back in 1972 the Marines had approximately 188,000 people, and they then committed to go to 196,000. What happened when they went to 196,000 is very apparent. They go there in about from 1973 to 1975, and their discipline and their overall absentee incidence and AWOL's and desertions went sky high. I think these figures are more revealing than any argument that can be made against the Bartlett amendment.

Most of these problems came about because the Marine Corps felt driven to the 196,000 number.

The Army in 1975 had an absentee incidence per 1,000 people of 95.4. The Navy had an absentee incidence of 73. The Air Force had an incidence of 13, with a total of those three services of 181.4. That is per 1,000 people in service.

On the other hand, in the same year, 1975, the Marine Corps had a 93.9 incidence of absenteeism. That is almost double the other three services combined.

As far as the absentee incidence over 30 days on the same criteria, the monthly rates per thousand, the Army had 26.8, the Navy 22.4, the Air Force 1.9, for a total of all of these three branches of 51.1. The Marine Corps, on the other hand, had more than double the other three services combined, and all of the services are much larger than the Marine Corps. The Marine Corps had a 105 absentee incidence per 1,000 people.

On the desertion incidence, the Army in 1975 on an annual basis had 17,966, the Navy 10,659, the Air Force 976, for a total of those three branches of 29,601. The Marine Corps alone had 18,396, more than any other branch of the service.

The Marines have been able to maintain a numbers level of only 193,000 in the last fiscal year, and they testified before our Armed Services Committee that they had no hope of going to 196,000 during fiscal year 1977.

The Bartlett amendment, if it passed, would restore to the Marine Corps a level of authorized strength which the Marines themselves admitted they cannot fulfill for the foreseeable future. As a matter of fact, they said that even in fiscal year 1978 they could not reach over 194,500.

This amendment would act as a disincentive for the corps to pursue with requisite vigor its recently announced policy of enhancing manpower quality even at the expense of numbers.

I would certainly agree with much of what the Senator from Oklahoma has said about the alarming statistics between the Soviet Union and the United States, and yet I do not believe that the Senator from Oklahoma would recommend that we double the size of our forces from 2 million to 4 million, which is what it would require to match the Soviet Union man for man. That would require something like a doubling of our national defense budget overnight if we were going to pay for it with tax dollars rather than deficits. It would require something like a 35- to 40-percent increase in the taxes of every person in this country, on an average.

We are in a volunteer force environment. I was not a Member of this body when that decision was made and recommended by the administration. I have a lot of doubts about the volunteer force that I have expressed many, many times. But that is the environment we are in now. That is what we are trying to work with. When you are in that kind of a situation there have to be certain tradeoffs between quality and quantity, and there also have to be certain tradeoffs between the cost of manpower and what we have left for research and development and for weapons.

One of the most alarming things that is happening to our defense dollars is the fact that almost 60 cents out of every dollar are not going to manpower, so these tradeoffs have to be made.

Most of the argument the Senator from Oklahoma made, as I see it, is an argument against the volunteer force itself rather than an argument against the subcommittee and the committee position on the Marine Corps.

The Senate Armed Services Committee authorized the Marine Corps strength of this year to be 190,000 personnel. This is a cut of 6,000 people from the administration's request, but it is a cut of only 3,000 people from the actual Marine Corps strength because at this point in time they are now suffering a shortfall of 3,000 people, and this shortfall, as I have already stated, is expected to continue well into fiscal year 1978.

The problem is not simply an inability to obtain enough qualified personnel. Within the corps, a grossly disproportionate number of highly qualified individuals is being siphoned off by the Marines' comparatively small tactical aviation component and by units assigned to guard naval installations, ships, and other nonfleet Marine Force units. I have to ask what is the rationale for diverting 9,200 of the corps best noncommissioned officers and enlisted personnel from Fleet Marine Forces to naval bases and ships? I believe that the Marine Corps job is to fight, not to check passes of sailors on leave.

Since 1972, the incidence of unauthorized absence, desertion, courts-martial, and nonjudicial punishment has been much higher for the corps than for any other service.

Indeed, as these figures I have already shown, point out, the corps' desertion rate is still higher today, even with the improvements that have been made in the last 12 months, still higher than the a.w.o.l rates of the Army, Navy, and Air Force combined. In the case of the 1st Marine Division last year, some 467 out of every 1,000 men in that division went a.w.o.l.

Modest progress in reducing indiscipline has been made in fiscal year 1976. At the initiative of Commandant Wilson, Marine recruiting has concentrated on the high school diploma as the best determinant of a potential recruit's receptivity to Marine Corps discipline and training. During the first 8 months of fiscal year 1976, 61 percent of new recruits were high school graduates compared to a low of 51 percent in 1973. Moreover, during the same period the corps has administratively discharged over 14,000 troublesome individuals and marginal performers. The impact of these measures is reflected in an encouraging change in the rates of unauthorized and a.w.o.l., which in the first half of fiscal year 1976 declined by 28 and 24 percent, respectively.

In the committee's judgment, however, these measures, although commendable, are not likely to restore to the Marine Corps a capacity to meet its present authorized strength. Marine witnesses testifing before the committee stated flatly that, despite anticipated improvements in the quality of recruits, the current shortfall of 3,000 will persist throughout fiscal year 1977. Even in fiscal year 1978, the corps does not expect to achieve an actual end-year strength of over 194,500. It is important to remember that the corps' current authorized strength of 196,000 is the highest of any peacetime year since the aftermath of the Korean war. For example, during the 5-year period preceding our Vietnam buildup Marine Corps strength fluctuated from 171,000 to 189,000.

In my judgment, the corps is confronted with the truth of the old adage that, "the biggest is not necessarily the best." The corps cannot escape the choice between quality and quantity. Fortunately for the Marines and for our country, General Wilson has chosen quality. In his report on manpower quality and force structure, the commandant stated that, and I quote:

> The Marine Corps is focused on quality and will accept a reduction in end strength if it cannot recruit the quality Marines required.

General Wilson's decision to go for quality even at the expense of numbers is strongly supported by the Defense Manpower Commission's report of April 19, to the President and the Congress.

In that report, the Commission concluded that—and again I quote:

> The recent actions by the Marine Corps to emphasize quality in its policies, standards, and procedures for recruiting, testing, and eliminating personnel are to be commended. If this results in a somewhat smaller force, so be it. As a main advantage, this should provide a high-quality, reliable Marine Corps still of adequate size and capability. It could also produce a more cost-effective Marine Corps over the next decade. Some of the manpower savings could be used to restore units to authorized manning levels.

Another factor which the committee felt it could not disregard in reaching its recommendation to reduce the corps' authorized end strength by 6,000 is the serious imbalance between the size of Marine amphibious forces and the Navy's capacity to support them in combat. Preparation for amphibious operations remains the principal mission of the Marine Corps, and constitutes the primary rationale for the corps' separate status. The corps' three Marine Amphibious Forces—MAFs, each composed of a division and its associated air wing, are trained and organized mainly to conduct amphibious assaults against hostile beachheads.

Yet the Navy's current inventory of amphibious ships is sufficient to lift only one Marine Amphibious Force. Even the scheduled acquisition of five new large assault ships—LHAs—by fiscal 1979 will not permit the Navy to lift more than one and one-third MAFs. This deficiency in amphibious shipping, which has long been a bone of contention between the Marine Corps and the Navy, effectively reduces by two-thirds the amount of U.S. amphibious warfare capabilities that could be employed at one time.

In conclusion, the Marine Corps faces serious problems in recruiting sufficiently qualified manpower and in allocating qualified manpower that is recruited. I believe that the committee's recommendation, which would cut the corps' actual strength by only 3,000 is consistent with the Commandant's announced policy of trading quantity for quality. Indeed, in my judgment, the recommendation will enhance prospects for the realization of General Wilson's new policy. It will relieve the corps from having to play the numbers game. It should also reduce the present disparity in the quality of the corps ground and tactical air components, and between Fleet Marine Forces and non-Fleet Marine Force units.

Mr. President, a strong reliable Marine Corps is an essential component of our general purpose forces. Moreover, the Marines, traditionally the "first to fight", continue to be the principal repository of U.S. quick-reaction capabilities and the exclusive repository of our capacity for forcible amphibious entry. It is for these reasons that we can tolerate nothing less than the highest attainable quality of Marine Corps manpower and why we must be prepared to accept lower authorized strength levels to achieve that goal.

I say to the Senator from Oklahoma that I certainly share his frustration with the overall declining numbers in our manpower structure. But if the Senator from Oklahoma wants to do something about that problem, the way to go about that is to talk to the President of the United States and the Secretary of Defense about whether the volunteer force is capable of sustaining the number of men we need and the quality of men we need at the price we can afford to pay without continuing to erode our research and development capabilities and our procurement capabilities.

The answer is not to force the Marines and their recruiters throughout the country to try to reach some arbitrary figure of 196,000, which they have demonstrated very clearly cannot be done in the last 4 years, unless they have a serious erosion in their quality and a commensurate increase in their discipline problems.

So I do oppose the Bartlett amendment and I urge my colleagues to reject it.

Mr. President, I reserve the remainder of my time for the committee.

The PRESIDING OFFICER (Mr. THURMOND). The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, the Senator from Georgia asked the question, why the Marine Corps staffs a number of bases as guards.

One, the reason for this is the same as they are staffing the embassies as guards, because the bases and embassies want the best.

So they have had the opportunity of having the best men, American fighting men, by having Marines.

The Marine Corps, as the Senator

knows, picks out the best people they have and they utilize this program as a means of revolving personnel out of combat in the case of war, or out of difficult assignments, overseas assignments, for the purposes of rewarding them, for the purposes of retention and reenlistment.

There is an encouragement to a Marine to know he is going to have an opportunity of being with his family, of perhaps being in a desirable place for a change. So the program has been used for that purpose.

The Senator, I think, should emphasize that the figures he was talking about in recruitment and quality give a picture of what it was rather than a picture of what it is currently, right up to date, because there have been very drastic changes made in procedures and very dramatic and good results obtained.

The Marine Corps is having an excellent recruiting year. The Commandant's goal of achieving a level of at least 67 percent high school graduates this fiscal year will be met.

It is anticipated the end strength of the Marine Corps this year will be down to the 193,000 level. The reason for this disparity between an excellent recruiting year and an end strength shortfall is the direct result of the Commandant's quality program.

Specifically, this 3,000 shortfall reflects the net loss of Marines who were discharged this fiscal year as undesirable——

Mr. NUNN. Will the Senator yield for a brief question on that point?

Mr. BARTLETT. I yield.

Mr. NUNN. Why is it that the Senator from Oklahoma's amendment of 196,000 is 3,000 more than the Marine Corps themselves say that they can recruit?

What is the need of authorizing the strength beyond what they can realistically recruit according to their own testimony which has taken place in the last 6 weeks?

In other words, if the authorization is supposed to be some kind of goal for the services, then the Senator from Georgia is under the wrong impression. I felt the authorization of numbers was supposed to fit the capability of the services to recruit, based on the quality that is needed to insure we have the kind of discipline in the services we want.

Mr. BARTLETT. I think there are several reasons. One, there is a great difficulty to restore it to 196,000 if it is reduced down to 190,000.

Mr. NUNN. Does the Senator mean it is difficult to do?

Mr. BARTLETT. I think it is important to give support to the commandant, who is obviously not interested one bit in having numbers at the expense of quality, which the Senator just stated.

I think it is also important to recognize that what the Senator's bill does is reduce the number from 193,000 down to 190,000, and this is going to force the commandant to set aside his very successful recruiting program.

I think when the Senator criticizes it, he is not recognizing just how good it is.

The shortfall of 3,000 did not come about because of just 3,000 individuals being discharged. There were 13,602 individuals who were discharged prior to the expiration of their enlistments.

I think if the Senator works out the arithmetic, the success of the recruiting program has the opportunity of exceeding even what they told the Senator in the hearings. Now, the Senator would indicate to me that would be the case. The Senator is quoting them exactly as they were given him, I understand that.

I would also like to bring out another change that has been made in the recruiting program that has not had a chance to show whether or not it would be effective, but I think it will.

The new approach is that the commanders in charge of the training are going to be in charge of the recruiting program. I think this is going to even further accelerate the quality. I think it will enhance the numbers because there is going to be an opportunity there for insistence on high quality and an opportunity to know just what is needed in the recruiting program.

But for us to force the numbers back now from 193,000 to 190,000 either is going to reduce the number of qualified Marines by riffing them, by forcing them out, by 3,000 people, or it is going to set on the shelf a recruiting program which has really worked very well.

I would like to point out, too, that the projection which the Marine Corps has at this time is that they will recruit 75 percent high school graduates during fiscal year 1977, while holding to an end strength level of about 190,000. That is their projection. Then they expect to see their strength go up to about 194,500 in fiscal 1978.

Another reason for leaving the end strength at 196,000 is that we should establish what the need is. If we think they are padding the numbers with lack of quality, that is one thing. But there is nothing to show that exists in the Marine Corps now.

Mr. NUNN. If the Senator will yield on that point, the Marine Corps still has the highest rates of indiscipline—unauthorized absences, desertions, nonjudicial punishments, and courts-martial—rates higher than the rates of all the other services combined. Even with a 25-percent improvement which has taken place since the 13,000-some-odd people were discharged—and I commend the Commandant for taking that initiative—the Marine Corps still, the smallest of the four services, has an absentee rate higher than the rates of all of the other three combined, not individually, but combined.

The Senator is trying to add the number which it has been demonstrated vividly over the last 4 years the Marine Corps cannot meet without having a severe quality deterioration. I believe the Senator's amendment, as basically proven by the last 4 years' action, simply cannot work in the Marine Corps.

Mr. STENNIS. Will whoever has the floor yield to me for a couple of minutes?

Mr. BARTLETT. Let me ask how much time I have.

The PRESIDING OFFICER (Mr. TAFT). The Senator has 4 minutes remaining.

Mr. NUNN. I will be happy to yield to the chairman 1 minute to compensate for my remarks.

Mr. STENNIS. Mr. President, how much time do the opponents to the amendment have?

The PRESIDING OFFICER. The opponents have 14 minutes remaining.

Mr. STENNIS. Will the Senator yield me 3 minutes?

Mr. NUNN. I yield.

Mr. STENNIS. Am I recognized, Mr. President?

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, since I have been on the Armed Services Committee my observation is that the Marine Corps manages to get more for every military dollar given to them than any other service. One reason is that they do not have a lot of overhead cost and things of that kind.

I have always stood for whatever it seemed they needed to make the Marines the hard corps they are. They do not have a lot of attractions to offer. Most of their units are fighting units—rifles, armor. They are very well managed now, in my opinion, and are climbing a little. Their management is determined to stick to quality recruits. We have already been told by the Senator from Georgia that a number were turned out because they had not come up to standards.

I think there is a very strong movement within the Marine Corps to stick to that quality and bring this thing around. It is working. I believe for the first time in a long time there has been an in-depth effort by a committee of the Congress to really go into these matters and measure them. That is what our subcommittee on manpower and personnel has done. They have come up with an answer which I think is as near correct under all the circumstances as we could find. This has to be taken up again in the conference. We just cannot close our eyes to that.

I am satisfied that the present Commandant of the Marine Corps is making headway; that he will continue to make headway. I believe this slight reduction which is proposed in the committee bill will not hinder him but will help him in the long run.

For that reason I stand firm on the figure we have thrashed out in the committee. I believe we took 4 or 5 votes on it and it was 2 or 3 to 1 for this figure every time. So I hope the amendment will not be agreed to, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, again I think the distinguished Senator from Georgia, although giving accurate figures and an accurate picture, is giving a picture of how it was up until recently, but I do not think he is showing the recent trends which have existed in various parts of the Marine Corps and throughout the etnire Marine Corps. As a result of the purging and significantly improving the accessions, the Marine Corps has witnessed encouraging developments in the area of discipline. They really believe that they have turned the corner.

The statistics in summary form for

the first 8 months of this fiscal year show a remarkable decrease compared to the like period for fiscal year 1975. In the first 8 months of fiscal 1976, the number of unauthorized absences is 18.8 per 1,000 per month compared to 26 per 1,000 per month, a change and improvement of 27.7 percent. In desertions, the figure for the first 8 months of this year is 6.25 per 1,000 per month compared to 8.15 per 1,000 per month. There is a like improvement there of 26.5 percent.

There is no question that the Marine Corps is tougher and requires more of its people than do the other services. The statistics for the Marine Corps have historically been higher than the other services. But there is another category that I think is very important. At the time of the problems that the Marine Corps has had, their special court martial numbers have been high. Actually, recently they have dropped by 15.8 percent. Nonetheless, they have been high. In fiscal 1975, there were 3,121, and 2,628 projected for fiscal 1976.

So I think we see that the Marine Corps has dealt with this problem.

I would say I think the proposal of the Senator from Georgia is like locking the door after the horse has been stolen. I think the problems that exist, which very clearly have existed, and which are existing in very small amounts now, are being eliminated, and that the recruitment program is working. But the action that would result from a reduction from 193,000 to 190,000 would prevent the recruitment program from having an opportunity of showing the distinguished Senator from Georgia that it is working and that it is bringing in qualified people in expanding numbers.

I was very pleased that the distinguished Senator from Georgia and the distinguished Senator from Mississippi both complimented the leadership of the Marine Corps, the commandant. I am pleased that the distinguished Senator from Georgia is proud of the commandant because he has accepted quality at the expense of numbers, and has voluntarily placed his numbers under the end strength that is permissible.

I would hope that the distinguished Senator from Georgia, on the modest amendment that I have offered, would be of the opinion that there have been some modest arguments made in favor of increasing the number over the 190,000. Since the number now is at 193,000, I wonder if the Senator, who has opposed my amendment, to raise it to 196,000, would be of the opinion that some increase over 190,000 would be warranted?

Mr. NUNN. Mr. President, the Senator from Georgia feels strongly that the 190,000 reservation of the committee is the figure that the Senate should approve, and that that is the figure the Marine Corps should recruit for next year.

The PRESIDING OFFICER. All time of the Senator from Oklahoma has expired. The Senator from Mississippi has 10 minutes remaining.

Mr. NUNN. Mr. President, I would be very glad to yield the Senator from Oklahoma some of our time if he wishes to make further comments. He has been very gracious in yielding to us for questions. I do have a few closing remarks.

The Senator from Oklahoma made the point that some members of the Marine Corps would not be able to be retained because of this reduction. Mr. President, the Marine Corps, to get the number they have to recruit by 1977, would have to recruit 48,000 new males, not including females, to meet the quota of 196,000. By reducing that total to 190,000, the Marine Corps will have to recruit only 42,000, rather than 48,000.

What we are trying to do is take the pressure off of the Marine Corps recruiters. We all have been reading the papers. We know the problems that have been going on in training in the Marine Corps. That did not happen in 1954 or 1975, it happened recently.

I feel strongly that we would be derelict in our duty unless we took the pressure off created by some artificial number that is driving the Marine Corps to the point of accepting lower quality people than they need to be able to have the kind of a military force we all want.

So I feel strongly that the committee position is the correct position. I think 190,000 people in the Marine Corps is all they can recruit with the kind of quality they need. I commend the Commandant for the direction he is taking. I do say in all fairness that the Commandant has turned the Marine Corps around on this matter from 1972 to 1975. When he arrived, the Marines were going after numbers. We have all seen the result of that, and if we do not change, it is our fault.

Nothing could be disputed in terms of what the Marine Corps' problems are now. Even with the improvement in their discipline rate, if you look at the absentee incidents and take the Senator from Oklahoma's most recent figures, the Marines would have a total, on an annual basis, of 225 incidents per 1,000 personnel. The total for all the other services is 181.4. So even with the most recent figures, the Marines still have a greater absentee rate than the rates of all the other services combined, and that applies to those incidents over 30 days as well as those of a minor nature, under 30 days.

I believe the position of the committee is the correct position, and the position the Senate ought to uphold, and I urge my colleagues to reject the Bartlett amendment.

Mr. BARTLETT. Mr. President, will the Senator yield me a minute?

Mr. NUNN. I am glad to yield to the Senator from Oklahoma. How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 6 minutes remaining.

Mr. NUNN. I yield for a question.

Mr. BARTLETT. I thank the distinguished Senator.

First, there is every indication that the unqualified members in the Marine Corps have been, or are being, eliminated. There is no evidence before the committee or in the statement of the Senator from Georgia just now that the present 193,000 members are not qualified.

Mr. NUNN. The only evidence is the incidence of absenteeism. As long as the Marine Corps, the smallest branch of the service, has disciplinary rates higher than the rates of all the other services combined, I would say they have some people in the Marines who should not be there.

Mr. BARTLETT. When they reduced the number by 13,000 plus, this was some 6,000 over their projection, so I think they have ferreted out the unqualified numbers.

There is also no evidence whatsoever, and the Senator from Georgia has not cited any, that would show they could not come up with the numbers they wanted when they did so well with their current recruiting programs, notwithstanding the 13,000 discharged.

Mr. NUNN. If the Senator will yield, the best evidence I have on that is the Marine Corps' own testimony saying they could sustain a force of only 190,000 this year, and then they said a year from now, in 1978, they could only sustain a force of 193,500. That is probably the best evidence available. That is the Marine Corps' own testimony.

Mr. BARTLETT. Certainly there is no harm in establishing their strength at the level where it is required to be. If they do not reach that point, there is no harm done. What the Senator would do is just cut them down below 193,000, the current strength, which I think in actuality would not force the discharge of those extra 3,000, but it would be done by attrition, so that the recruitment program would not be established the way it should be.

Mr. NUNN. If the Senator from Oklahoma is correct, we should take the number recruited for the Army and Navy and add another 3,000 to those. If we are going to authorize additional strength for the Marine Corps, we should do the same for the other services.

Mr. BARTLETT. No, the Senator misunderstands what the Senator from Oklahoma said. The Marine Corps Commandant is doing a good job; let us not kick him in the shins.

Mr. NUNN. I certainly agree that the Commandant is doing a good job, but I think the best way to assist him is to set the level at 190,000. If we take some of the pressure off the arbitrary numbers game the Marine Corps has been playing for the last 4 years, I think we will do more to sustain a quality Marine Corps, and I think we will do more to turn the slogan "A Few Good Men" from rhetoric to actuality, than by anything else we could do. The Marine Corps needs 190,000 good men, not 190,000 good men plus 6,000 who are not qualified.

Mr. BARTLETT. Mr. President, I think the Marine Corps has and is going to have well-qualified people, and I think they are going to show how well they can recruit, despite the disadvantages occasioned by this amendment.

Mr. NUNN. I hope we will continue to see improvement in the Marine Corps. They need to make dramatic improvement. They have a lot of things they have to work on. We will continue to work on it, and I will continue to work with the Senator from Oklahoma to achieve those ends. I think we both have the same goal, but differ only as to the means of attaining it.

Mr. President, how much time do we have remaining?

The **PRESIDING OFFICER** (Mr. Mathias). The time on the amendment has just expired. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. Bartlett). On this question the yeas and nays have been ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. **ROBERT C. BYRD.** Mr. President, as in executive session, I ask unanimous consent that the time for debate on the nomination of S. John Byington be limited to 15 minutes instead of 30 minutes, with 5 minutes under the control of Mr. Moss and 10 minutes under the control of Mr. Griffin, and that immediately following the vote, the Senate return to legislative session.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that upon the disposition of the Byington nomination and the return to legislative session, the Senate resume the consideration of the military procurement bill, and that the Senator from South Carolina (Mr. Thurmond) be recognized at that point for not to exceed 5 minutes.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill—H.R. 12438—to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evalation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

The **PRESIDING OFFICER** (Mr. Mathias). The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The **PRESIDING OFFICER** (Mr. Taft). The Senate will be in order.

The legislative clerk resumed the call of the roll.

Mr. **GOLDWATER.** Regular order, Mr. President.

The legislative clerk resumed and concluded the call of the roll.

Mr. **GOLDWATER.** Regular order, Mr. President.

Mr. **ROBERT C. BYRD.** I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from California (Mr. Tunney), and the Senator from Michigan (Mr. Philip A. Hart) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. McGovern), and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from Wisconson (Mr. Nelson) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) and the Senator from Rhode Island (Mr. Pastore) would each vote "nay."

Mr. **GRIFFIN.** I announce that the Senator from Hawaii (Mr. Fong) and the Senator from Alaska (Mr. Stevens) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson) and the Senator from Pennsylvania (Mr. Hugh Scott) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Hugh Scott) would vote "nay."

The result was announced—yeas 26, nays 56, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—26

Allen
Baker
Bartlett
Beall
Brock
Buckley
Curtis
Domenici
Fannin
Garn
Glenn
Goldwater
Hansen
Helms
Hruska
Laxalt
Mathias
McClellan
McClure
Pell
Percy
Randolph
Stone
Taft
Thurmond
Tower

NAYS—56

Bayh
Bellmon
Bentsen
Biden
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Eastland
Ford
Griffin
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
McIntyre
Metcalf
Mondale
Moss
Muskie
Nunn
Proxmire
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Symington
Talmadge
Weicker
Williams
Young

NOT VOTING—18

Abourezk
Brooke
Church
Fong
Gravel
Hart, Philip A.
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Stevens
Tunney

So Mr. Bartlett's amendment was rejected.

Mr. **STENNIS.** Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. **MOSS** and Mr. **McCLELLAN** moved to lay the motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME FOR FILING ANNUAL REPORT OF THE SPECIAL COMMITTEE ON AGING

Mr. **CLARK.** Mr. President, on behalf of Senator Church, chairman of the Senate Committee on Aging, I ask unanimous consent that the time for filing the committee's report to the Senate be extended from May 28 to June 30. This extension is needed to give committee members adequate time to review the galley proofs of the report.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

CONSUMER PRODUCTS SAFETY COMMISSION—EXECUTIVE SESSION

The **PRESIDING OFFICER.** Under the previous order, the Senate will proceed to executive session, to consider the nomination of Mr. Byington to be a member of the Consumer Products Safety Commission, with a limitation of debate thereon of 15 minutes, to be divided and controlled. The yeas and nays have been ordered on the nomination.

The division of time is as follows: 10 minutes to the Senator from Utah (Mr. Moss) and 5 minutes to the Senator from Michigan (Mr. Griffin).

The nomination will be stated.

The second assistant legislative clerk read the nomination of S. John Byington to be a commissioner of the Consumer Products Safety Commission.

Mr. **MOSS.** Mr. President, I am glad that a large number of Senators are in the Chamber at this time, because I will be very brief and I would like my colleague to hear this brief discussion on the Byington nomination.

We have had a lot of votes dealing with Mr. Byington. We have had very little time on the floor to talk about the reasons behind this opposition.

Mr. Byington is an honorable man, and I say nothing to criticize his character. For 2 years he served as assistant to Virginia Knauer and as a consumer adviser to her and the President. He is an able young man. But John Byington has not shown the traits and skills needed to be chairman of the Consumer Product Safety Commission.

His commitments, purpose and experience are too thin. Mr. Byington was nominated by the President for a 7-year term on the Commission and the President announced that he would appoint him as Chairman if he were confirmed. The Committee on Commerce's Subcommittee on Consumers and the full committee held 2 full days of hearings on Mr. Byington. He went through all of the usual procedures in answering prehearing written questions and filing a complete financial disclosure report. Then he was cross examined at considerable length by the committee.

At the conclusion of those hearings, the committee met in executive session three times and, after considerable discussion, decided that Mr. Byington was not qualified to be chairman of the Commission and therefore, unanimously laid aside his nomination and notified the President.

On that very same day, the President of the United States sent up Mr. Byington's name for another nomination—this time for 2½ years of an unexpired term. That, then, came before the committee.

There was considerable discussion about that. After all, the President had made some concessions and some of the Senators felt a little uneasy that we, for the second time, had turned down the President's nomination. For whatever reason, on a split vote, the committee then voted to report Mr. Byington to the Senate.

Then the committee did what is quite unusual. It did something that I have never seen before. We filed a written report on a nomination for a regulatory commission. A copy of that report is on all of the desks and the Senators can see it.

The matter came before the Senate on last Monday and, by a rollcall vote, Mr. Byington was rejected. The vote was 37–33. Because of circumstances that were not controlled, we did not get the usual lockup, as we call it—reconsidering and tabling motions—which routinely we do. Therefore, today, we have been going through a tabling vote and a reconsideration vote. The matter is now before the Senate.

Mr. MAGNUSON. Will the Senator yield?

Mr. MOSS. I shall yield in just one minute. Let me say one more thing.

Mr. Byington was rejected by the committee because we did not feel he was qualified to be the Chairman. Now we are asked to say that he can be Chairman for 2½ years.

Let me say that the Product Safety Commission is in a difficult position today. It is badly in need of inspired and perceptive leadership. It is going to take a strong and vigorous chairman if we are going to have a successful regulatory commission. The President of the United States says we need and should have regulatory reform. Well, indeed, we do. And the place to start is by putting in charge competent, able leadership when we need regulatory reform.

If we take the action of confirming this nominee, it seems to me we have again caved in and said, "Well, let the President have his way. His friend from Grand Rapids is a good man, a fine fellow," and just let that go and let that commission deteriorate.

That is really the issue. That is the only issue—the only issue. There is nothing against the character of this man at all. It is just a question of whether he is fit to be Chairman of the Product Safety Commission. I am convinced, very strongly convinced, that he is not qualified to do that. That is the reason we are having another vote on this matter.

I shall be glad to yield a minute to the chairman and then a minute to the Senator from New Hampshire.

Mr. MAGNUSON. I join with my colleague from Utah and the Senator from New Hampshire, who held the hearings on Mr. Byington.

I wanted to get the record straight about last Monday. Normally, it is a routine matter that we ask for reconsideration and then move to table it. But it would not have been routine on Monday. Any motion to table or any motion to reconsider would have been challenged by the assistant majority leader and others because there were a lot of absentees on Monday. That is why we did not pursue it on Monday. We have a full Senate here today, so the Senate will work its will.

The committee is quite concerned about this commission. The legislation creating the Commission originated in the Committee on Commerce. It is a very important consumer agency. It has not been doing the kind of job that everybody agrees it should do, and everybody was looking for new, vigorous leadership. I think our conclusion—from what we gathered at the hearings—is that Mr. Byington, did not seem to have basically that kind of leadership to run the Consumer Product Safety Commision.

The Consumer Product Safety Commission affects the lives of a lot of people. There are a lot of injuries through consumer products and we want someone there who represents the consumer. Mr. Byington's record with Mrs. Knauer is that he did not do much for the consumer. In fact, he leaned the other way. This is one of the reasons why I oppose his nomination.

There was a peculiar situation in the committee. We sent word down to the administration that we probably would all vote for him to be a member of the Consumer Product Safety Commission, one of the members. But not as Chairman. Then it turned out the way it turned out after we had voted practically unanimously, or by a huge majority, not to confirm him as Chairman for the 7 years. As the Senator from New Hampshire puts it, if he was not qualified for the 7 years, I do not know why he is qualified for 2½.

I yield back to the Senator from Utah.

Mr. MOSS. I yield to the Senator from New Hampshire.

Mr. DURKIN. Mr. President, I am going to be extremely brief. I know the time is short.

I helped Senator Moss conduct the hearings. We had a very difficult job in the hearings getting the nominee to tell us whether he would support the Consumer Protection Agency or not. He was extremely evasive. I came to the conclusion, at the end of the hearings, that the only qualification that the man had is that he happens to come from the President's hometown. He was extremely evasive throughout the hearings and I am afraid I have to say, to sum it up in such a short time, that he would not tell you if your coat was on fire. That is the impression I got from conducting the hearings.

I think if a man is unqualified for 7 years, there is nothing in the record to say that he is qualified for two and a half. Furthermore, that agency is in trouble and a chairman who came in under a cloud is not going to be able to straighten that agency out. Who is going to suffer in the end? Consumers. The consumers of America are paying too high a price now.

I yield back my time to the Senator from Utah.

Mr. WEICKER. Will the Senator yield for a question?

Mr. MOSS. Yes; I shall yield for a question.

Mr. WEICKER. I am a little mystified. I do not jibe the comments of the Senator from New Hampshire with those of the Senator from Utah. Is the integrity or the character of this man under question?

Mr. MOSS. No; his integrity or character are not under question. I do not believe that was an issue in the committee. It was his lack of commitment and his lack of leadership to be Chairman of that Commission which is having its problems right now.

I reserve the remainder of my time.

Mr. DURKIN. Mr. President, may I respond to the question? The question was on his judgment. There was no question with respect to character or integrity.

Mr. WEICKER. I do not think the word "evasive" is a word that exactly extols the man's character.

The PRESIDING OFFICER. All time of the Senator from Utah has expired.

Mr. GRIFFIN. Mr. President, the argument, as I understand it, seems to be that Mr. Byington is qualified to be a member of the Commission, but there is objection to his being Chairman. I point out that there are those who advocate that Senate confirmation should be required for the appointment of all Chairmen of regulatory agencies. However, we have not passed general legislation in that respect. With regard to some regulatory agencies, the Senate does not participate in the selection of a Chairman. This happens to be one of them.

Let me read from the statute:

> An independent regulatory commission is hereby established to be known as the Consumer Product Safety Commission, consisting of five commissioners who shall be appointed by the President by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman.

We are not here to vote on who is going to be Chairman of the Commission. Mr. Byington has been nominated to be a member of the Commission. That is what we are voting on. It is up to the President under the statute passed by Congress to determine who is going to be the Chairman.

He can appoint any of the Commissioners as Chairman. So I really think it is a tempest in a teapot when the argument against Mr. Byington is based on that kind of rationale.

I yield the remainder of the time to the Senator from Kansas.

Mr. DOLE. Mr. President, I appreciate the comments of each Senator, and I recognize the fact that Mr. Byington, in effect, has been rejected, and now it is being reconsidered and we are about to vote again.

I only want to point out that Mr. Byington has been very active in the consumer area. In fact, the Senator from Kansas has spent a great deal of time working with Mr. Byington on consumer affairs and on consumer legislation, such as the substitute for the consumer protection bill in 1974.

I might add he was very knowledgeable. I do not think he needs to take a pledge that he will support certain legislation or advocate it in this position.

But with reference to the charge that he is not supported by consumers, I would point out that Mr. George Myers, the immediate past president of the Consumers Federation of America, has written a letter endorsing Mr. Byington, and I ask that that be printed in the Record.

Theodore Jacobs, who is now on the staff of the Government Information and Individual Rights Subcommittee, and who was the executive director of Ralph Nader's Center for Study of Responsive Law, endorses Mr. Byington, and I shall ask that that letter be printed in the Record.

Rev. Leon Sullivan of the OIC Government Relations Service, another consumer group, endorses Mr. Byington, and I shall ask that that be printed in the Record.

Mr. Herbert Simmons, Jr., administrative director of the National Consumer Information Center, concerned about consumers and, particularly, minority consumers, strongly endorses Mr. Byington for the Product Safety Commission, and even the chairmanship.

So I would only indicate that I assume Mr. Byington has learned a great deal from what we have done in the Senate. He probably will be a much stronger Commissioner, if confirmed today, possibly because of the discipline or whatever the Senate may call what has happened.

Mr. MOSS. Mr. President, will the Senator yield for a question?

Mr. DOLE. Let me also ask unanimous consent to have printed in the Record other letters from other consumer groups across the country, Colorado, Utah, Florida, and other States. I think it indicates he does have an expertise in consumer issues and does have support from consumer groups. If that is the flaw, that he does not have support from consumer groups, then I think these letters would indicate to the contrary.

There being no objection, the letters and telegrams were ordered to be printed in the Record, as follows:

Vienna, Va.,
March 10, 1976.

Senator Frank E. Moss,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

Dear Senator Moss: The news story in Monday's Washington Post headed "Doubt Cast on Byington Getting Consumer Post" concerns me greatly. I have known John Byington for several years, both as a friend and as a conscientious and responsible public servant.

I note from the news story that Mr. Byington's character, honesty and integrity are not in question. Those qualities alone, it seems to me, would insure Mr. Byington's faithful administration of the office for which he has been nominated, and for which he must take an oath of faithful performance of duty.

The objections to Mr. Byington's appointment to the Consumer Product Safety Commission apparently center on a rather nebulous quality—that of the degree of his consumer advocacy. Just how does one evaluate that quality, especially when there are marked degrees of opinion among consumer advocates on virtually every consumer measure?

As Mr. Byington has pointed out, in answer to charges of his remaining silent on some controversial consumer issues, he was bound and committed to support the Administration position on these issues during his service in the Office of Consumer Affairs. Is it fair to condemn Mr. Byington for his adherence to an universally accepted practice of loyalty in political office? Any political appointee is expected to support the policies of his superiors, as I am sure you will admit. However, as head of an independent agency, Mr. Byington will be free to play an aggressive and independent role of his own choosing.

As an individual active in consumer matters, I fully support Mr. Byington's nomination, and I respectfully urge his confirmation.

Respectfully yours,
George E. Myers,
Member, The President's Consumer Advisory Council.

Government Information and Individual Rights Subcommittee of the Committee on Government Operations,
Washington, D.C., February 17, 1976.

Hon. Warren G. Magnuson,
Senate Commerce Committee, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: I am writing to express my support for the nomination of Mr. S. John Byington to be Chairman of the Consumer Product Safety Commission.

I first met Mr. Byington when I was Executive Director of Ralph Nader's Center for Study of Responsive Law. I invariably found him to be knowledgeable, concerned and supportive of what I viewed to be the consumer's best interests.

I also worked with Mr. Byington in connection with the Domestic Council Committee on the Right of Privacy's Seminar on Privacy. Here again, I welcomed Mr. Byington's open, fair and thorough approach and his respect for the rights of the individual in this sensitive area.

As a "consumer advocate" since my experience with the National Commission on Product Safety, I am pleased to urge your committee to approve the nomination of Mr. Byington so that he may take up the important tasks facing the Commission.

Sincerely yours,
Theodore J. Jacobs.

O.I.C. Government Relations Service,
Washington, D.C., January 22, 1976.

Senator Warren Magnuson,
OSOB,
Washington, D.C.

Dear Senator Magnuson: I am writing to endorse and support the nomination of Mr. S. John Byington to be Commissioner of the Consumer Product Safety Commission.

His selection is an excellent choice. The President needs a man of his experience and commitment to serve in this position. His record as Deputy Director of the Office of Consumer Affairs in the Department of Health, Education and Welfare is an indication that he is not only knowledgeable in the field, but is effective in getting the job done in a manner that is in the best interests of the American public. As you know, he has served as Administrative Assistant to Governor George Romney of Michigan, and is an excellent lawyer who served as corporate secretary and assistant to the President for Synercom Communications Corporation.

In Government service, his duties as Director of the Detroit District Office of Field Operations for the Department of Commerce has given him valuable preparation for the job which President Ford is asking him to undertake. I would sincerely appreciate your approval of his nomination and I would be willing to speak to you personally or submit testimony for the record if it would be helpful or necessary.

Thank you again for all that you have already done and are continuing to do for the benefit of the American people. As you know, we are especially grateful for the help you have given to OIC and the work of your Staff Director, Mr. Harley Dirks. I am,

Sincerely,
Rev. Leon H. Sullivan.

National Consumer Information Center,
Washington, D.C., January 21, 1976.

Hon. Warren G. Magnuson,
U.S. Senate, Chairman, Senate Commerce Committee, Old Senate Building, Washington, D.C.

Dear Senator Magnuson: The nomination of John S. Byington for the chairmanship of the Product Safety Commission has been brought to our attention and it is with great pleasure that we write this letter in support of his confirmation.

As you may know, the National Consumer Information Center is a consumer protection agency which represents the interest of the low income consumers throughout the United States. In working on behalf of our constituency we have had to call upon the aid and assistance of Mr. Byington on many occasions. We have always found him ready and willing to tackle the complex problems of the consumer movement.

I personally have had the pleasure of knowing and working with Mr. Byinngton for several years. I have always found him to be a man of great integrity and deeply committed to improving the quality of life for America's poor.

Because of his keen intellectual abilities and his sense of humility, it is our opinion that Mr. Byington would be an excellent person to head the Product Safety Commission. A person of his background and talent would have no difficulty in maintaining the highest standards in running such an agency.

Therefore, without further comment, we highly recommend the confirmation of John S. Byington as Chairman of the Product Safety Commission.

With many thanks for this opportunity to say a good word in support of John.

Sincerely,
Herbert Simmons, Jr.,
Administrative Director.

UCAP,
Utah Consumer Action Panel,
Provo, Utah, February 10, 1976.

Dear Friend: I should like to register support for the nomination of John Byington for an appointment with CPSC. He has the credentials necessary and should be qualified to work for the best interests of consumers across the nation.

Best wishes,
Virginia F. Cutler.

P.S.: On Angola—We have no business there!! Let Angolans and the rest of Black Africa settle their own problems.

ENDORSEMENT

We the undersigned members of the Consumer Advisory Council, acting in our capacity as individuals, hereby request our Executive Secretary, Virginia Knauer, to express to the President and the Congress our endorsement of S. John Byington for the Chairmanship of the Consumer Product Safety Commission.

We have been able to observe Mr. Byington's attitudes and abilities at various official meetings of this Council. We are convinced that he has the best interests of the American consumer at heart. We have been impressed also by his organizational ability, and firmly believe that with his legal background, he will give an outstanding performance as Chairman of the Commission.

Stewart M. Lee, Edna DeComuy Johnson, Linda Graham, Camille Haney, ——— ———, Edward R. Willett, George E. Myers.

MAILGRAM

Senator FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

I would like to suggest favorable action on the nomination of John Byington to serve as chairman of the U.S. Consumer Product Safety Commission. Having worked with consumer groups in several western and midwestern States, I am aware of the esteem in which John is held. He is a dedicated consumer advocate and particularly well qualified to assume this chairmanship. Thank you for your consideration.

Mrs. LUCILLE H. BABCOCK,
Consumer Concerns Chairman, Colorado Federation of Womens Clubs.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

Respectfully urge confirmation of John Byington as chairman, Consumer Products Safety Commission. As a former board member of the Wisconsin Consumer League, I have a proven concern in the country having a qualified and knowledgeable person in this position of authority on the Commission. John Byington's education and experience in consumer work and his ability in management as well as sensitivity to consumer problems will make him a popular appointee with informed consumers.

Mrs. W. W. FOX.

COLUMBUS, GA.,
January 17, 1976.

Senator WARREN G. MAGNUSON,
Russell Senate Office Building
Washington, D.C.

DEAR SENATOR MAGNUSON: For the past 2 years I have served as a member of the Consumer Advisory Council, Office of Consumer Affairs in the Department of Health, Education and Welfare. During my tenure I had the opportunity to meet and work very closely with S. John Byington, who is currently serving as Deputy Director of the Office of Consumer Affairs. I found Mr. Byington to be an extremely knowledgeable individual and a tremendous organizer with an unlimited capacity for hard work. His background in Consumer Affairs along with his experience in Government should make him an ideal choice for the Chairmanship of the Consumer Product Safety Commission.

I hope he is given your most serious consideration.

Sincerely,

ROBERT L. WRIGHT,
Councilman.

TELEGRAM

Senator WARREN MAGNUSON,
Capitol One, D.C.:

I urge your confirmation of John Byington as chairman of the Consumer Products Safety Commission. Mr. Byington is a good administrator with an understanding of both consumer and industry problems and I feel he is knowledgeable and qualified for the appointment.

EILEEN WOOD,
Consumer Activist.

SALT LAKE CITY, UTAH,
February 11, 1976.

Re: Chairmanship, Consumer Products Safety Committee
Hon. FRANK E. MOSS,
U.S. Senator,
Russell Building,
Washington, D.C.

DEAR TED: Arlen Beck, a close personal friend of mine and a person for whom I have the highest regard as to his judgment, called me and recommended John Byington for the position of Chairman of the Consumer Products Safety Committee.

While I don't know Mr. Byington personally, I have known Arlen for many years, having served as his legal counsel when he was the Utah State Jaycee President. I knew Arlen for several years prior to that time and I am sure that his judgment and his honesty are unexcelled.

He advises me that Mr. Byington is a close friend of his and that he feels that Mr. Byington is an extremely competent and capable individual. As I understand it, your Committee will be holding hearings on this Chairmanship in the near future and I thought it might be of some interest to you to have at least this much additional information on the candidate.

Best regards.

Very truly yours,

RICHARD H. MOFFAT.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 1, 1976.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I sincerely apologize for this belated response to your invitation to submit my comments for the record regarding the nomination of John Byington to the Consumer Product Safety Commission, the matter somehow having escaped my attention until this time.

Although the delayed receipt of this letter may make it of little value, I wish to endorse Mr. Byington's confimation since I have known him for many years, having been probably most closely acquainted with him while he served on Governor Romney's staff at a time when I was serving in the Michigan State Senate. Since my election to Congress our paths have crossed less frequently; however, I have enjoyed the opportunity to see him on many occasions.

In support of my endorsement of Mr. Byington, I wish to point out that I feel his legal and management experience in both the public and private sectors at the local, state, and national level as well as his efforts as Deputy Director of the Office of Consumer Affairs make him an excellent choice for this significant regulatory position.

I feel he has a good appreciation for the independent regulatory process, is committed to openness and fairness in government decision-making, and throughout his career has demonstrated strong leadership qualities and an ability to inspire and motivate people with whom he has been associated.

I am, therefore, pleased to strongly support Mr. Byington as Chairman of the Consumer Product Safety Commission.

With best regards,

Sincerely,

GARRY BROWN.

MAILGRAM

KLAMATH FALLS, OREG.

Senator WARREN MAGNUSON,
Capitol One, D.C.

Please urge confirmation of John Byington as chairman of Consumer Product Safety Commission, as a home economist and concerned citizen I feel it is most important a well qualified person be appointed. We are proud of our local consumer council which I was instrumental in forming. Council, which act as a laison between buyer and seller was formed when Indians received huge sums of monees and businesses were being investigated by the FTC. Today business community totally supports the council and consumer problems are leased of any area in Oregon. Well feel Mr. Byington would well represent the consumer.

BILLIE LESUEUR.

Mr. MAGNUSON. Mr. President, will the Senator yield for a half minute?

Mr. DOLE. I would but my time has expired.

Mr. MOSS. I just wanted to ask a question as to whether the big major consumer groups have not resolved against him. The other question is, has not the President officially announced that he will appoint Mr. Byington as the chairman?

Mr. DOLE. I do not know who the ——

Mr. MOSS. That is the question.

Mr. DOLE. I do not know who the major consumer groups are.

Mr. MAGNUSON. Mr. President, will the Senator yield just 30 seconds?

Mr. DOLE. I do not have any time to yield.

Mr. GRIFFIN. I will yield to the chairman of the committee.

Mr. MAGNUSON. As long as some of the endorsements of Mr. Byington have been stated by the Senator from Kansas, I ask unanimous consent that there be printed in the RECORD the minority views of the Commerce Committee which, of course, has many, many people who are in federations, consumer, labor groups and everybody else who are against him. I think it ought to be printed in the RECORD.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF MESSRS. MAGNUSON, HARTKE, CANNON, MOSS, TUNNEY, FORD, AND DURKIN

The Committee on Commerce takes very seriously its responsibilities under the advise and consent clause of the Constitution. In an era when there is almost universal demand for regulatory reform, there is no larger contribution to regulatory reform that can be made than the appointment of regulators of the highest quality. In fact, perhaps the single most debilitating flaw in our regulatory system has been the chronic failure of Presidents to name—and the Senate to insist upon the naming of—outstanding public servants qualified by training and commitment to implement the letter and spirit of the laws which they are sworn to uphold.

The Commerce Committee has led the fight to restore the public's faith in the quality of our regulatory agencies by insisting upon the highest qualifications for the regulators which come before it for confirmation. In recent years the Committee has progressively tightened and made more substantive the confirmation process. As part of this process the Committee:

(1) Became the first to place the financial statements of nominees on the public record.

(2) Progressively tightened requirements for disclosing potential conflicts of interests, beginning with the requirement that members of private law firms appointed to regulatory agencies disclose the names of the firm's clients culminating with the adoption of a standard exhaustive financial disclosure form.

(3) Organized a small but expert investigation staff and assigned to the investigators the responsibility of reviewing financial statements and biographies of nominees routinely to identify potential conflicts of interest or other disqualifying material.

(4) Adopted the practice of providing at least 7 days and usually more, notice of hearing on regulatory nominees, to provide greater opportunity for participation in the hearing process by interested citizens.

(5) Instituted the practice of submitting detailed written interrogatories covering the broad range of major policy decisions facing

the agency to each regulatory nominee, requiring that these be answered in writing at least 48 hours prior to the scheduled hearing date. This enables the Chairman and Committee members to carry out the intent of Congress in enforcing the regulatory statutes within their jurisdiction and to pursue focused lines of questions at the nomination hearing.

This intensified scrutiny of nominess has had a marked impact on the confirmation process. In June, 1973 the Chairman and other Commerce Committee Members urged Senate rejection of the nomineee to the Federal Power Commission on the grounds that he had served as counsel to a major oil company subject to the jurisdiction of the FPC for a substantial number of years prior to his nomination. The Senate concurred in that recommendation by a record vote of 49 to 44, the first time in nearly 40 years that the Senate had formally acted to reject a regulatory nominee.

Subsequently, the Committee has refused to confirm more than 15 nominees who failed to convince the Committee of their qualifications or fitness to serve. In keeping with the Senate's constitutional duty to advise the President, the Commerce Committee has communicated, both formally and informally, with the Nixon and Ford Administrations on the desirable criteria for potential nominees to each of the regulatory agencies within the Committee's jurisdiction.

It was in this light that the Committee considered the nomination of S. John Byington to be a Commissioner and Chairman of the Consumer Product Safety Commission. This nomination was handled in the same manner and with the same objectivity that the Committee handles all other nominations. As is the Committee's practice, prior to convening the public hearing on the nomination, the nomineee was asked to respond to a series of detailed questions exploring his regulatory philosophy and understanding of the problems which confront the agency which he has been tapped to lead. The nominee also filed with the Committee a comprehensive biography and financial disclosure statement.

On March 1 and 2, 1976, the Committee held public hearings on the nomination at which members of the public were given an opportunity to present their views on Mr. Byington's fitness to serve as Chairman of the Commission. Mr. Byington was, at that time, given the full opportunity to respond to the public witnesses and to answer any other questions raised by the Committee.

The Committee met three times to consider the nomination of Mr. Byington to serve as a Commissioner for 7 years. At the third meeting—on May 4, 1976—The Committee, by voice vote, suspended indefinitely consideration of the Byington nomination. Later that afternoon President Ford withdrew the 7 year nomination for Mr. Byington and resubmitted his name for another vacancy with 2½ years remaining in that term of office. While the President did not indicate whether or not he planned to designate Mr. Byington as Chairman, the Committee considered the nomination under the assumption that he would be so named. With this reduction from a 7-year term to a 2½-year term, the Committee then voted, with 7 dissenting members, to favorably report the nomination to the floor.

Our reasons for opposing this nomination were varied. But in developing a position on the nomination, we considered three major factors:

(1) the type of position for which the nomination is made,

(2) the needs of the agency to which the nominee has been designated, and

(3) the qualifications of the nominee to serve in office.

Mr. Byington has been nominated to serve as Chairman of the Consumer Product Safety Commission. The Commission is an independent regulatory agency and derives its mandate and its powers from authority delegated from Congress. Thus, unlike nominees to Executive branch positions who are accountable directly to the President and serve at his pleasure, nominees to these independent agencies perform a legislative function. They serve for a fixed term of office through successive presidential terms and can be removed only in the narrowest of circumstances.

It is incumbent upon the Senate, therefore, in considering nominees to these agencies to exercise independent judgment with respect to each nominee. The Senate's consideration of these nominees should go beyond an examination of the nominee's potential disqualifications. We must be particularly satisfied that each nominee has the intellectual qualifications and philosophical commitment to enforce Congress' mandate.

With respect to the needs of the Consumer Product Safety Commission, we were greatly concerned about the future of this agency. For a variety of reasons, its first three years of life have been disappointing. The Commission desperately needs a new Chairman who will bring to it a spark of enthusiasm, a well-defined sense of mission, an understanding of the problems which plague the Commission and a deep-seated philosophical commitment to consumer product safety and the public interest.

In truth, what is needed at this moment of the Commission's life is a Hyman Rickover, a Thurmond Arnold, or a Miles Kirkpatrick of product safety. While these men and women are rare, they are by no means extinct in American public life.

If Mr. Byington is confirmed and serves as the next Chairman of the Commission, under the terms of the statute, he will serve in that capacity for 2½ years—years that he cannot be removed by the President except for misfeasance in office. Those 2½ years will determine the course of the Consumer Product Safety Commission. If it fails to surmount the barriers that lie in its path, it will serve as another symbol of failed government, another promise to the American public unkept.

Mr. Byington is not the person we need as Chairman of this important agency. He has not distinguished himself as a leader; nor has he technical background in product safety. He has no regulatory experience. He has had little, if any involvement with the Consumer Product Safety Commission despite the fact that he has served for 2 years as Executive Director of the Office of Consumer Affairs. He does not seem to have an understanding of the problems facing the Commission.

In its extensive written policy questions, the Committee afforded the nominee an opportunity to demonstrate the depth of his understanding, his analytical insights, his plans for new direction for the Commission, a post for which he has known he was under consideration for at least 6 months. His answers, in the judgment of those consumer groups concerned with the Commission's work, were sorely lacking, and at worst unresponsive and evasive.

Perhaps even more compelling is the nominee's lack of qualification as a consumer advocate. At the very least the Chairman of the Consumer Product Safety Commission must be an individual in whom the American Consumer can have the confidence that the individual is a vigorous advocate of consumer safety.

The Committee encountered strong opposition, particularly among labor and consumer groups, to the Byington nomination. Many of the Nation's major consumer organizations including the Consumer Federation of America, the National Consumers Congress, the National Consumers League, Congress Watch, and Consumer Action Now opposed the nomination. Representative of the nature and scope of much of the public opposition to the Byington nomination is expressed in the following excerpt contained in a letter which the Committee received from Carol Foreman, Executive Director of the Consumer Federation of America:

Mr. Byington's record as Deputy Assistant to the President for Consumer Affairs is not totally without substance. He has played an active role in advancing consumer education and he has set up a number of conferences with industry organizations to help them improve consumer complaint handling. However, in situations where consumer advocacy within government was needed, John Byington was nowhere to be found. When the public and consumer interest were in conflict with an Administration position and sought a spokesman within the White House apparatus, John Byington did not respond.

In private meetings with consumer representatives he would assure us that, although not speaking out publicly, he was advocating the consumer's position quietly within the Administration. Now we find that a representative of the toy industry called him "remarkably sympathetic" to business in the past. Apparently Mr. Byington was giving the same assurances to business.

Mr. Byington's record on the Consumer Protection Agency is typical of his lack of candor. In 1974, under the Nixon Administration, the Office of Consumer Affairs supported the creation of the Consumer Protection Agency. When Mr. Ford became President we were assured by the Office of Consumer Affairs that they are working to secure his endorsement of the agency. These assurances continued up to the day the President expressed disapproval of the legislation. Mr. Byington and his superior, Mrs. Knauer, expressed their disappointment to consumer representatives. We did not learn until Mr. Byington appeared before the Senate Commerce Committee that, in fact, the Office of Consumer Affairs *did not* seek presidential approval of the Agency. During his presentation to the Commerce Committee. Mr. Byington stated that the Office of Consumer Affairs has submitted a list of options to the President with no recommendation as to which option they favored. Consumer representatives were deliberately misled.

A similar lack of candor was displayed by Mr. Byington during his testimony before the Committee. For nearly two hours he refused to give a straight yes or no answer as to whether he personally favored the Agency for Consumer Advocacy. It would have been far better if he had simply said: "No, I am opposed to it. I share the Administration's position" than to have led the Committee through an intricate dance of logic designed to avoid a straight simple answer.

We do not believe this is the stuff of which a strong and independent chairman is made.

Congressional opposition was also strong and vigorous. Congressman John E. Moss, Chairman of the Oversight and Investigation Subcommittee of the House Interstate and Foreign Commerce Committee and one of the original sponsors of the Consumer Product Safety Act, wrote the Committee on March 2, 1976 expressing his belief that Mr. Byington was unfit to serve as Chairman of the Commission. Congressman Moss wrote:

Congress of the United States,
House of Representatives, Subcommittee on Oversight and
Investigations of the Interstate and Foreign Commerce,
Washington, D.C., March 2, 1976.

Hon. Warren G. Magnuson,
Subcommittee on Consumer, Committee on Commerce, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As an advocate of improved consumer protection and one of the principal authors of the Act which created the Consumer Product Safety Commission, I have serious reservations about the nomination of S. John Byington to be Chairman of the CPSC. These reservations relate to Mr. Byington's commitment to consumer interests and his lack of qualifications and experience necessary to lead the CPSC effectively.

The House Oversight and Investigations Subcommittee is now engaged in a major study of nine Federal regulatory agencies. One of the Subcommittee's findings is that the quality of regulators, particularly Commissioners, has a profound effect on the effectiveness of the agency. The Commissioners, and especially the Chairman, determine to a great extent whether the agency will be a highly motivated, effective force in implementing its legislative mandates, or will merely coast along largely wasting the taxpayers' money.

I believe it is particularly important for a new agency such as the CPSC, which has just begun to establish its influence in the product safety area, to have an experienced Chairman who has demonstrated sensitivity and commitment to the problems and concerns of consumers. Moreover, I believe that the Chairman of the CPSC should have extensive experience in subject areas which have a direct relationship to the issues considered by the CPSC. For example, such experience might include engineering, where such knowledge would enable a Chairman to understand complex design and engineering problems in making products safer. Another relevant area of experience might be that of administrative law, which would provide a Chairman with a better understanding of the developing role of the consumer in demanding safer products and the role of government and the courts in dealing with these demands. I believe that we must be even more concerned with a nominee's qualifications than we have been in the past. We are faced with a loss of confidence in government. There is evidence that some segments of the public have lost their belief in government at all levels, particularly in the ability of its officials to protect them from health and safety hazards.

A review of Mr. Byington's background raises serious doubts that he has the ability, sensitivity, or experience necessary for the position of CPSC Chairman. When we examine his 17 years of employment since he was graduated from college, we find that less than two years has been directly associated with consumer issues. The remaining 15 years were spent in public relations, state government, practicing corporate law, communications, foreign trade, and political campaigns. There is no indication that in any of his business or government experience prior to 1974, he was directly involved with consumer or product safety issues and problems.

Moreover, I feel that the two years he spent as Virginia Knauer's Deputy at the Office of Consumer Affairs is not sufficient time to develop a true sensitivity to consumer safety concerns, particularly in view of the lack of significant impact of that Office for which Mr. Byington, along with Mrs. Knauer, must be responsible. The Office of Consumer Affairs has been used, in part, to lessen public and Congressional pressure to create an independent consumer advocacy agency. It has done little to enhance consumer rights, primarily because it was not designed to do so. I am not faulting only Mr. Byington for these failures. The Administration and others in it must share this fault for not giving consumers a more effective voice in government.

Notable in this regard is Mr. Byington's and OCA's opposition to the Agency for Consumer Advocacy bill which passed the Senate and the House. OCA opposed this bill during the last session of Congress because the President opposed the bill. Apparently, Mr. Byington felt obliged to follow the President's lead on this legislation which is so vital to consumers. Perhaps one can understand Mr. Byington's reluctance to publicly oppose the President. Nonetheless, I wonder what this might mean if he were confirmed as Chairman of the CPSC? Would he have the independence to make decisions which might be disfavored by the White House? The Congress deliberately created this agency to make it free of political influence. Its budget requests, for example, must be submitted directly to the Congress. The Commission has recently battled with the White House over the issue of political clearance for top CPSC employees. Would Mr. Byington have the courage and commitment to act so independently? I fear he would not.

In conclusion, I believe this nomination is crucial if the CPSC is to achieve its Congressionally-mandated goal of protecting consumers from unreasonable risks of injuries from the millions of products marketed annually in the United States. The Chairman must be independent of political influence and must have a clear commitment to consumer protection. I believe that Mr. Byington is sincere in his belief that he can lead the agency, but I do not believe that he possesses the quailties and experience that your Committee should expect in a CPSC Chairman. Since the decision on this appointment will chart the course of consumer safety over the next seven years, the protection afforded consumers will be significantly enhanced or seriously hampered as a result of this appointment. I believe it is imperative that we do not risk the latter.

The public will no longer accept government regulators who are supposed to protect them unless those regulators have demonstrated their competence and commitment. Although I can find no single act which disqualifies Mr. Byington, I find very little that qualifies him for this high government position. Therefore, I respectfully urge that S. John Byington not be confirmed as Chairman of the Consumer Product Safety Commission.

Sincerely,

John E. Moss, *Chairman.*

Congressman Moss' opposition continued even after Mr. Byington's nomination for the 7-year term was withdrawn and his name resubmitted for the 2½-year term. Congressman Moss wrote:

Congress of the United States,
House of Representatives, Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce,
Washington, D.C., May 11, 1976.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As stated in my letter of March 4, I oppose the nomination of S. John Byington to be Chairman of the Consumer Product Safety Commission. I was, therefore, pleased to hear several days ago that your Committee failed to approve his chairmanship for a seven-year term at the Consumer Product Safety Commission.

I am concerned, however, at the suggestion that the Committee approve Mr. Byington as Chairman of the CPSC for the shorter term. In my original objection to his appointment, I stated that although I could find no single act in his background that disqualifies him, I find very little to qualify him for this high government position. I believe this basic concern and objection to the individual is applicable regardless of length of the term of office.

Once again, therefore, I respectfully urge that S. John Byington not be confirmed as Chairman of the Consumer Product Safety Commission.

Sincerely,

John E. Moss,
Chairman.

Congressman Moss was not the only member of the House to oppose this nomination. In fact, on March 15, 1976 the Committee received a letter from 28 other members of the House recommending that the Committee vote to disapprove the nomination of Mr. Byington. Those 28 House members wrote:

Congress of the United States,
House of Representatives,
Washington, D.C., March 15, 1976.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

Dear Chairman Magnuson and Members of the Committee: We, the undersigned Members of the House of Representatives, oppose the nomination of S. John Byington to become Chairman of the Consumer Product Safety Commission and respectfully recommend that your Committee vote to disapprove his nomination.

In so doing, we join with the Consumer Federation of America, Ralph Nader's Public Citizen, the National Consumers League, various other consumer organizations, the AFL-CIO, and the United Auto Workers.

The Consumer Product Safety Commission, upon its activation in 1973, offered great hope to those who have sought to reduce the vast number of deaths and injuries associated with unsafe products. Yet during its three years of eixstence the Commission has not yet fulfilled its promise. In testimony before your Committee last week, the Virginia Citizens Consumer Council stated, "The performance of the Consumer Product Safety Commission during its first three years of operation has been spotty. No standards under the Consumer Product Safety Act have yet become operational. * * *

The Commission has jurisdiction over a field that has literal life-and-death effect on Americans. According to testimony before your Committee, consumer products annually are associated with 20 million injuries in the United States, with 110,000 persons becoming permanently disabled and 30,000 being killed.

The Chairman of the Commission has particularly great opportunity for impact. He is empowered to exercise all of the executive and administrative functions of the Commission. Among his powers is that of deciding the agenda of determinations to be made. The next Chairman's influence will be especially profound because, in serving until 1982, he will, upon retirement, have chaired the Commission for more than six of its first nine years.

President Ford has given us, as a nominee for this powerful position in this powerful Commission, a Grand Rapids pharmacist/attorney/businessman whose only claim to consumer affairs experience is his two-year tenure as Deputy to Virginia Knauer in the HEW Office of Consumer Affairs.

Among true consumerists, association with Ms. Knauer and the OCA is accurately perceived more as a demerit than a credit. The Office, with 55 employees, has had no important favorable effect on Federal consumer legislation. It has failed even to publicly comment on many of the most important consumer bills that have been considered by the Congress in the past several years. Although the OCA originally favored the establishment of an Agency for Consumer Protection, the Office changed its mind after President Ford announced his opposition.

In addition to his association with the OCA, Byington can offer little more than business and politics on his resume. From 1961 to 1964 he was Director of Public Relations with the American Pharmaceutical Association. In 1964 through 1968 Byington worked on the reelection campaign and staff of former Michigan Governor George Romney. From 1968 to 1971 he was Corporate Secretary of the Synercom Communications Corporation. In 1971–72 he was Executive Vice President of Intermart, Inc. In 1972–74 he was Deputy Director and National Export Marketing Director in the Office of Field Operations of the U.S. Commerce Department, the most business-oriented department in the Federal Government. Aaron Locker, General Counsel of the Toy Manufacturers of America, has described Byington as "remarkably sympathetic to industry in the past."

Some witnesses before your Committee questioned Byington's integrity as reflected by his evasion of many Committee questions, including ones asking his stand on the Agency for Consumer Protection, inquiring whether he would accept employment by a Commission-regulated industry within twelve months after leaving the Chairmanship, and asking whether he supports the Commission's policy of open meetings. That is not our purpose here.

Our purpose is to say that Byington is unfit for the Chairmanship of the Consumer Product Safety Commission. The Commission has the mandate to protect American consumers from unsafe products. The Chairmanship of such a commission does not call for a businessman/bureaucrat who has worked in an ineffective consumer office; it calls for a man or woman who has shown an active personal commitment to consumers and particularly to product safety. S. John Byington is not such a person. On behalf of consumers and specifically on behalf of the 20 million citizens who annually suffer injuries associated with consumer products, we ask you to disapprove his nomination.

Sincerely,

Robert F. Drinan, Benjamin S. Rosenthal, Anthony Toby Moffett, Ronald V. Dellums, Charles B. Rangel, Frank Thompson, Jr., John Brademas, Michael Harrington, John L. Burton, Herbert E. Harris, II, Bella S. Abzug, Frederick W. Richmond, Elizabeth Holtzman, Gladys Noon Spellman, Charles J. Carney, Parren J. Mitchell, Phillip Burton, Don Edwards, Jim Weaver, Paul S. Sarbanes, James H. Scheur, Edward I. Koch, Richard L. Ottinger, Fortney H. Stark, Robert N. Nix, Shirley Chisholm, Joe Moakley, Herman Badillo.

Like Congressman Moss, Congressman Drinan, an original signer of the March 15, 1976 letter, was moved to once again to correspond with the Committee when the Byington nomination for the 7-year term was withdrawn and resubmitted for the 2½ year term. In his letter, Congressman Drinan said:

Congress of the United States,
House of Representatives,
Washington, D.C., May 7, 1976.
Hon. Warren G. Magnuson,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

Dear Chairman Magnuson and Members of the Committee: I commend your Committee for its vote on May 4 to disapprove the nomination of S. John Byington to a seven year term as a Commissioner of the Consumer Product Safety Commission.

I commend you in particular because it was understood that if the Senate had confirmed Mr. Byington as a Commissioner President Ford would have appointed him as Chairman of the Commission.

Nevertheless, I am very distressed that President Ford resubmitted Mr. Byington's name to the Committee, this time as the nominee for a two and one half year term on the Commission. Again, it is understood that if the Senate confirms Mr. Byington as a Commissioner the President will appoint him as Chairman.

There is no question that if Mr. Byington is unfit to chair the Commission for seven years he is unfit to chair it for two and one half years. I therefore urge you to disapprove his nomination to become a Commissioner. I believe that I am joined in urging disapproval by every one of the twenty-seven Members of Congress who, with me, sent you the March 15 letter that opposed the original nomination.

Mr. Byington has been opposed by the Consumer Federation of America, Ralph Nader's Public Citizen, the National Consumers League, various other consumer organizations, the AFL–CIO, and the United Auto Workers.

The Consumer Product Safety Commission, since its 1973 activation, has thus far failed to fulfill its potential to substantially reduce product-related injuries. In testimony before your Committee, the Virginia Citizens Consumer Council stated, "The performance of the Consumer Product Safety Commission during its first three years of operation has been spotty. No standards under the Consumer Product Safety Act have yet become operational * * *."

The Commission has jurisdiction over a field that has literal life-and-death effect on Americans. According to testimony before your Committee, consumer products annually are associated with 20 million injuries in the United States, with 110,000 persons becoming permanently disabled and 30,000 being killed.

This is therefore no situation in which to approve a nominee for political reasons or for the purpose of avoiding embarrassment to the nominee. The lives and health of tens of thousands of American citizens will be affected by your vote on the Byington nomination.

The Chairman of the Commission has great impact on Commission policies and priorities. He is empowered to exercise all of the executive and administrative functions of the Commission. Among his powers is that of deciding the agenda of determinations to be made. If Mr. Byington is confirmed, he will be in a position to have especially profound influence on the Commission, because, in serving until late 1978, he will have chaired the Commission for nearly half of its first six years.

The reasons to oppose Mr. Byington now are the same as the reasons to oppose him last week. President Ford has given us, as a nominee for this powerful position in this powerful Commission, a Grand Rapids pharmacist/attorney/businessman whose only claim to consumer affairs experience in his two-year tenure as Deputy to Virginia Knauer in the HEW Office of Consumer Affairs.

Among true consumerists, association with Ms. Knauer and the OCA is accurately perceived more as a demerit than a credit. The Office, with 55 employees, has had no important favorable effect on Federal consumer legislation. It has failed even to publicly comment on many of the most important consumer bills that have been considered by the Congress in the past several years. Although the OCA originally favored the establishment of an Agency for Consumer Protection, the Office changed its mind after President Ford announced his opposition.

In addition to his association with the OCA, Byington can offer little more than business and politics on his resume. From 1961 to 1964 he was Director of Public Relations with the American Pharmaceutical Association. In 1964 through 1968 Byington worked on the reelection campaign and staff of former Michigan Governor George Romney. From 1968 to 1971 he was Corporate Secretary of the Synercom Communications Corporation. In 1971–72 he was Executive Vice President of Intermart, Inc. In 1972–74 he was Deputy Director and National Export Marketing Director in the Office of Field Operations of the U.S. Commerce Department, the most business-oriented department in the Federal Government. Aaron Locker, General Counsel of the Toy Manufacturers of America, has described Byington as "remarkably sympathetic to industry in the past."

The Consumer Product Safety Commission has the mandate to protect American consumers from unsafe products. The Chairmanship of such a commission does not call for a businessman/bureaucrat who has worked in an ineffective consumer office; it calls for a man or woman who has shown an active personal commitment to consumers and particularly to product safety. S. John Byington is not such a person. As your Committee has determined, he is not fit to chair the Commission for seven years. Neither is he fit to chair the Commission for two and a half years. On behalf of consumers and specifically on behalf of the 20 million citizens who annually suffer injuries associated with consumer products, I ask you to disapprove his nomination.

Sincerely,

Robert F. Drinan.

Opposition among consumer organizations did not subside with the withdrawal of the nomination for the 7-year term and the resubmission of the nomination for the 2½-year term. The day after the switch occurred, the Chairman received the following telegram from the Consumer Federation of America:

[Telegram]

Consumer Federation of America,
Washington, D.C., May 5, 1976.
Senator Warren G. Magnuson,
Washington, D.C.

On behalf of Consumers Federation of America I congratulate you on your strong and appropriate action in rejecting the nomination of S. J. Byington to a 7-year term on the Consumer Product Safety Commission. The Commerce Committee received this nominee's record, found him unqualified and rejected his nomination. This action is in keeping with the need to make the advise and consent process meaningful. President Ford has now submitted Mr. Byington for a shorter term of office. If he is unqualified for a 7-year term he is unqualified for a 2½-year term. The Consumer Product Safety Commission cannot afford 2½ years of inadequate leadership. Its effectiveness can easily be destroyed within that period of time. To approve for a short period of time, a candidate rejected on the grounds of lack of qualification would make a mockery of the system you honored with courage earlier.

Carol Tucker Forman,
Executive Director.

In our view, the case for refusing to confirm Mr. Byington to be Chairman of the Commission was compelling. As a matter of principle, the Committee should examine each nominee's qualifications and fitness for office rather than his disqualifications. The Committee must adhere to this principle whether the nomination is for a term of 1 day, 1 month, 1 year or 10 years. In our view, Mr. Byington does not possess the requisite qualifications to provide strong, vigorous and incisive leadership for the Consumer Product Safety Commission for the next 2½ years.

Warren G. Magnuson, Vance Hartke, Howard W. Cannon, Frank E. Moss, John V. Tunney, Wendell H. Ford, John A. Durkin.

ADDITIONAL MINORITY VIEWS OF MR. DURKIN

If the man was unqualified to be Chairman of the Consumer Product Safety Commission for 7 years, then there is nothing in the record that qualifies Mr. Byington to be Chairman for 2½ years.

John A. Durkin.

Mr. GRIFFIN. I want to respond to the Senator's question. I think it is expected that the President will designate Mr. Byington as chairman. The point I am trying to make is that under the statute it is not the function of the Senate to determine who is the Chairman of the Commission. Maybe it should be. Maybe we should change the law, but that is not the function of the Senate. It is the President who selects the Chairman.

Mr. MOSS. But with the President's announcement it really means we are making him Chairman if we confirm him.

The VICE PRESIDENT. All time has expired. The question is, Will the Senate advise and consent to the nomination of S. John Byington, of Virginia, to be a Commissioner of the Consumer Product Safety Commission? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Wyoming (Mr. McGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. McGOVERN), and the Senator from North Carolina (Mr. MORGAN) are absent on official business.

I also announce that the Senator from Wisconson (Mr. NELSON) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

On this vote, the Senator from Rhode Island (Mr. PASTORE) is paired with the Senator from California (Mr. TUNNEY). If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from California would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), is necessarily absent.

I also announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "yea."

The result was announced—yeas 45, nays 39, as follows:

[Rollcall Vote No. 196 Ex.]

YEAS—45

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Philip A.
Hatfield
Helms
Hollings
Hruska
Inouye
Javits
Johnston
Laxalt
Long
McClellan
McClure
Nunn
Randolph
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—39

Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Hart, Gary
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Jackson
Kennedy
Leahy
Magnuson
Mathias
McIntyre
Metcalf
Mondale
Moss
Muskie
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Stone
Symington
Williams

NOT VOTING—16

Abourezk
Brooke
Church
Fong
Gravel
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Tunney

So the nomination was confirmed.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The VICE PRESIDENT. Under the previous order, the Senate will now return to legislative session, and the Senator from South Carolina is recognized for not to exceed 5 minutes.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loans and for other purposes.

Mr. STENNIS. Mr. President, will the Senator yield to me to make an overall statement while the membership is here about finishing up the bill?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. TAFT. Mr. President, may we have order?

The VICE PRESIDENT. There will be order in the Chamber.

Mr. STENNIS. Mr. President, I propose to make an overall statement about the situation. I find a great deal of very solid, wholesome sentiment here to finish this bill tonight. I want to give my opinion. If we leave this week with this bill unpassed, I believe when we return we will have to go through a great part of it again. There will be pressure from various interests. Of course, the services will be interested. It is urgent that we finish this bill tonight, if at all possible. I am certainly willing to stay here and I hope all Senators who possibly can will do that.

There are a few more amendments. My feeling is to bring them out now, put them on the table and call them up, if they are to be called up at all. Then we can dispose of them in one way or another. I believe we can do that tonight.

Mr. JOHNSTON. Will the Senator yield?

Mr. STENNIS. I can only emphasize how difficult it will be if we do not pass this bill. Tomorrow will not be available for this bill, as I understand.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. STENNIS. My time is out. Senator THURMOND yielded to me.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to have 60 seconds to ask a question of the Senator.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. My question to the distinguished Senator from Mississippi and also the distinguished majority whip is this: When, today, would we have time to have about 30 minutes to consider the resolution of disapproval of Federal Energy Act No. 2 relating to the small refineries exemption? I am just wondering whether we will be able to bring that up today. It must be considered by the close of business tomorrow under the rule.

Mr. STENNIS. The leader is the one to answer the question, I believe.

Mr. JOHNSTON. The first part of the question is how long will the present bill take to complete, if we can complete it today?

Mr. STENNIS. If we can get started and keep going, it might be possible to finish it in 2 or 2½ hours. There will be interruptions for votes, as I understand it. If we can get this movement started, I believe we can move rapidly.

Mr. ROBERT C. BYRD. If the Senator will yield, Mr. President, I ask unanimous consent on the amendment to be proposed by Mr. DOLE there be a 20-minute time limitation with 12 minutes under the control of Mr. NUNN and 8 minutes under the control of Mr. DOLE.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I wonder, did the Senator from West Virginia hear my question?

Mr. ROBERT C. BYRD. I am sorry, I did not.

Mr. JOHNSTON. My question is when, today, might we have time to consider the resolution of disapproval of Federal Energy Act No. 2 relating to the small refineries exemption. It must be considered by the close of business tomorrow. I prefer to consider it today, but if we cannot, I wonder if we can get unanimous consent to set aside some time for it tomorrow. I believe 30 minutes would probably be sufficient.

Mr. ROBERT C. BYRD. The Senator is correct. Action would be required on that matter no later than tomorrow night. Under the pressures at the moment, I would doubt that I could assure the Senator that it would be brought up today. Every effort is going to be made to complete action on the military procurement bill before the close of business tonight, if that is at all possible.

Mr. JOHNSTON. I am wondering if the Senator would accede to a unanimous-consent request to bring it up as the first order of business tomorrow, if we can do so, with a 30-minute time limitation, 15 minutes on each side.

Mr. ROBERT C. BYRD. I would rather

not press that request at the moment. I would like to converse with various Senators and see what time it can be brought up tomorrow. It is a preferential motion, and it can be brought up tomorrow and it will be brought up tomorrow, but I do have to talk to some Senators.

Mr. JOHNSTON. Are there unanimous consents to take up the whole day tomorrow? As I understand the parliamentary situation——

Mr. ROBERT C. BYRD. The antitrust legislation will be up all day tomorrow. I feel that Senator HART would be agreeable at some point on tomorrow. It might be 5 o'clock or after. I believe he and other Senators would be agreeable to set that bill aside for a little while at some point tomorrow so that this preferential motion could be disposed of. I would hope that we could get a half-hour time limitation on it at that time. I doubt that we can do it tonight.

Mr. JOHNSTON. I would simply point out to the Senator that, as I understand the parliamentary situation, it is a preferential motion but first one must get recognition to make the motion to discharge the committee and thereafter one must get recognition to bring the matter to debate. It has a 10-hour debate limitation. If there is a time limitation——

The VICE PRESIDENT. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSTON. If there is a time limitation under a unanimous consent for tomorrow, that will take precedence over the privileged motion which would mean we could not reach it at all.

Mr. ROBERT C. BYRD. There is no time limitation insofar as the antitrust bill is concerned. I am simply saying to the Senator that the matter to which he is addressing his remarks can be brought up tomorrow without any doubt. I am hoping that I can bring it up at a time which would be agreeable to Senator HART and others.

Mr. JOHNSTON. I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on the amendment by Mr. THURMOND be limited to 20 minutes rather than 40 minutes, and that the division and control of time be in the usual form.

Mr. MATHIAS. Reserving the right to object, what is the subject of Mr. THURMOND's amendment?

Mr. ROBERT C. BYRD. I will ask Mr. Thurmond to respond.

Mr. MATHIAS. Will the Senator advise me what the subject of the Senator's amendment is?

Mr. THURMOND. Mr. President, it is Amendment No. 1694 concerning the A–10 airplane. After I make my statement, I intend to say that I do not intend to press the amendment.

Mr. MATHIAS. If the Senator is not going to press his amendment, I would hope that the leader would not press for a unanimous-consent shortening the time.

Mr. ROBERT C. BYRD. I withdraw my request.

The PRESIDING OFFICER (Mr. DURKIN). The Senator from South Carolina is recognized for 5 minutes.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 1694.

Mr. THURMOND's amendment (No. 1694) is as follows:

On page 15, after line 22, insert a new section as follows:

SEC. 102. Notwithstanding any other provision of law, the production rate for the United States Air Force A–10 aircraft may not be maintained at a greater rate than seven a month during the calendar year 1978 unless the Secretary of Defense (1) finds that such production aircraft has demonstrated operational tests and performance goals approved in the revised decision coordinating paper of the Department of Defense dated February 10, 1976, regarding the operational and technical characteristics of the A–10 aircraft and (2) has certified his findings in writing to the Committees on Armed Services of the Senate and the House of Representatives.

Mr. THURMOND. Mr. President, is the amendment now before the Senate?

The PRESIDING OFFICER. It is.

Mr. THURMOND. Amendment No. 1964 concerns the U.S. Air Force A–10 close support aircraft. The A–10 close support plane has experienced numerous development problems. The purpose of my amendment is to assure the Air Force gets production aircraft which meet lowered performance goals approved by the Department of Defense. The amendment does not cut A–10 money from the bill. It does not prevent continued production of A–10 aircraft. It does not prevent signing of contracts for production in 1978. It does not prevent the contractor from building a production rate from one a month at the present time to seven per month through July 1978.

The amendment would allow the Secretary of Defense an opportunity to determine if the production aircraft just beginning to come off the line meets DOD-approved performance goals before a high production rate is allowed in 1978. The amendment allows lifting of production rate ceilings upon certification by the Secretary of Defense that initial production planes can perform according to stated requirements.

Mr. President, I have a number of concerns about the A–10 close support plane. I have written down those concerns. I discussed these concerns with the Chief of Staff of the Air Force today.

Mr. President, I ask unanimous consent that the reasons for my concern relative to the A–10 aircraft be printed at this point in my remarks.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

REASONS FOR CONCERN RELATIVE TO A–10 AIRCRAFT

1. Several fatigue failures in tests by contractor in past several years. (cracks in plane skin and spar, or fuselage)

2. In testimony pilots complained aircraft thrust reduced by weight growth.

3. Gas ingestion from 30 mm gun caused flame out of engines, now corrected.

4. Plane unable to meet shortfield landing and takeoff threshold goals of 10 percent below program goals.

5. Plane below original program goals in ability to turn with certain weapon loads at certain speeds.

6. Loiter time less than desired.

7. Secretary of Defense had to delay full production go ahead apparently before deciding shortcomings were not of sufficient importance to change program.

8. Of 9 technical and operational characteristics, the General Accounting Office reported the contractor only met or exceeded three of the guarantees in contract.

9. Defense Department cut planned FY 1977 buy from 159 to 100 A–10 planes, thus driving up unit cost. This indicates concern of DOD relative to contractor's ability to produce.

10. Amendment will not reduce buy in 1978 if aircraft meets requirements; if it does not meet requirements we should not buy it at high rate until problems corrected.

11. My concern is to assure the A–10 production plane can meet the lowered requirements.

Mr. THURMOND. Mr. President, after talking with the Chief of Staff of the Air Force, Gen. David Jones, and going over these concerns and having this conversation with him in which we discussed the different points involved in these concerns, and whether or not the planes would meet the performance requirements finally approved by the Defense Department, General Jones has given me certain assurances. He has assured me that he would give this matter his personal attention, and especially the points of concern that I have raised.

In view of this conversation and the assurances that General Jones has given, I do not intend to press my amendment.

Mr. STENNIS. Mr. President, I commend the Senator for the work he has done on this problem. I have looked over his notes and memoranda, and I think he has made a real contribution.

Mr. THURMOND. I thank the distinguished Senator from Mississippi.

Mr. TOWER. Mr. President, will the Senator yield to me?

Mr. THURMOND. I yield to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, when all time has expired or been yielded back on the amendment of the Senator from South Carolina, I intend to offer an amendment to that amendment, which would have the effect of adding back 20 of the 24 A–7D aircraft deleted this morning by a one-vote margin, during a time when proponents were not here and able to vote, and to provide for an adequate modernization of the Air National Guard.

My amendment does strike the limit on the A–10 production rate in the Thurmond amendment, and, in addition, provides 20 A–7D's for the Air National Guard. So it would restore the 15- or 20-unit per month production on the A–10 that was reduced by the Thurmond amendment to 7.

When the Senator's time has expired or been yielded back, I intend to offer that amendment.

Mr. CANNON. Mr. President, I am opposed to the amendment by the Senator from South Carolina (Mr. THURMOND), which could have the effect of slowing the production rate on the A–10 airplane.

The Tactical Air Power Subcommittee

reviewed progress on the A–10 during our hearings on the fiscal year 1977 budget. After our review we recommended that the A-10 production program be funded as requested by the Air Force, and I support that position. The A-10 program is making satisfactory progress, and I do not believe that it should be disrupted at this point in its program cycle.

There have been only two problem areas reported to us by the Air Force, and neither of these appears to be critical. These are the structural fatigue failures, and pilots' complaints about engine thrust. I will discuss both of these.

The test failures in the A–10 structural fatigue test program have been of a type and character which is completely normal in this type of testing and can only be categorized as minor in nature. The purpose of fatigue testing is to determine what parts of a newly designed airplane will wear out first, when they will wear out, and how much metal strengthening is needed in order to prolong their life. If these determinations are made early before production has started rolling, then the corrections can be put into the planes on the production line instead of after the problems crop up 6 or 8 years later. This is good, conservative, airplane development practice, and it is being applied to the A–10. As a result of doing this testing, the A–10 can be expected, with great confidence, to meet its full design life without encountering premature fatigue problems.

To show how minor the problems were that were uncovered in the testing, after all of the corrective fixes were made, such as adding thicker metal where cracks developed in individual parts, the total increase in weight of the A–10 was only 52 pounds. This obviously is a minor and inconsequential addition to the weight of the A–10, which is a 21,000-pound airplane in its empty condition before fuel and weapons are installed. So my own conclusion is that the A–10 has had a very successful structural test program and production should not be delayed because of the few minor failures which occurred but have been corrected.

As to the test pilots' complaints about engine thrust, that is not an unusual statement by pilots, who always like more performance. The important point is that the operational command, TAC, has evaluated the airplane's performance as it exists in the production configuration, and they are satisfied that it meets their needs for combat. So here again I do not see any valid rationale for slowing up their production program.

Mr. President, the proposed amendment would disrupt the A–10 production program. The results of performance and operational tests do not indicate a need to adjust the A–10 program.

Air Force Test and Evaluation Center—AFTEC—and Tactical Air Command—TAC—have evaluated the A–10's performance during operational tests. AFTEC has concluded the A–10 is operationally suitable and is capable of performing the close air support and associated missions. TAC has concluded the A–10 can accomplish its design missions. The A–10 failed to meet certain decision coordinating paper performance goals but breeched only one DCP threshold, that being, the takeoff and landing distance. Because TAC and AFTEC have judged the performance adequate, there are no plans to force performance improvement at additional cost. As always, the Air Force will attempt to optimize the A–10 for the CAS mission but as required by the design-to-cost philosophy the cost of changes must be justified by an appropriate increase in performance. Holding the A–10 production to seven aircraft per month in calendar year 1978 is an unnecessary disruption which will increase the program cost.

Mr. President, I would urge my fellow colleagues to reject this amendment and support the committee's position on the A–10.

Mr. STENNIS. Mr. President, may I make a parliamentary inquiry here?

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What is the situation? If I may make a parliamentary inquiry, what about this amendment we are talking about here, as to whether or not it is eligible under our unanimous-consent agreement? I think it all goes to one question.

The PRESIDING OFFICER. The amendment of the Senator from Texas cannot be called up until all the time is yielded back. The Senator from Mississippi has 19 minutes remaining.

Mr. STENNIS. Does the Senator from Colorado want some time?

To move the matter forward, as I understand, Mr. President, and to get to the issue, I yield back the time.

Mr. TOWER. Mr. President, will the Senator yield me I minute before he yields back his time?

Mr. STENNIS. All right, I yield.

Mr. TOWER. I simply wanted to explain that the amendment offered by the Senator from Texas to the amendment of the Senator from South Carolina is not debatable, so we can get to an immediate vote on it.

Mr. STENNIS. Does it come within our unanimous-consent agreement with respect to amendments being filed by 2 p.m. Monday? That is the rule we have been operating under, as far as I know.

The PRESIDING OFFICER. It would be a second degree amendment, and would not have to meet that test.

Mr. STENNIS. I beg the Chair's pardon?

The PRESIDING OFFICER. As a second degree amendment, it would not have to meet that test.

Mr. STENNIS. The 2 o'clock Monday test?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STENNIS. That same order, now, had a germaneness matter in there. That agreement states "and that no amendmend in the second degree be in order at any time"——

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. "Unless such second degree amendment is germane to the amendment in the first degree." This is the rule we have been operating under, all Senators have.

The PRESIDING OFFICER. The Chair, in response to the parliamentary inquiry, would state that the second-degree amendment of the Senator from Texas introduces a new subject, the A–7 aircraft——

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will be in order. The Chair is in the middle of a statement. Whereas the basic amendment deals only with the A–10 aircraft. Therefore, the Chair states that the amendment is not germane.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Is the ruling on an amendment valid before the amendment is called up? Does not the amendment have to be called up before a ruling can be made on it?

The PRESIDING OFFICER. The statement of the Chair was in response to the parliamentary inquiry of the Senator from Mississippi.

Mr. TOWER. Mr. President, I call up my amendment.

Mr. GARY HART. Mr. President, a point of order.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment to amendment No. 1694, as follows:

On page 1, beginning with line 1, strike out all down through line 8 on page 2 and insert in lieu thereof the following:

SEC. 102. There is authorized to be appropriated the sum of $100 million—

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GARY HART. Mr. President, reserving the right to object, I think the Senate has a right to know what the amendment will do, if the Senator from Texas does not have copies of the amendment——

Mr. TOWER. The Senator from Texas is delighted. Please read it.

The PRESIDING OFFICER. The clerk will continue the reading.

The assistant legislative clerk read as follows:

On page 1, beginning with line 1, strike out all down through line 8 on page 2 and insert in lieu thereof the following:

SEC. 102. There is authorized to be appropriated the sum of $100,000,000 for the Air Force during the fiscal year 1977 for the procurement of 20 A–7D aircraft for use by the Air National Guard of the United States as aircraft to complement the air to ground capabilities of the A–10 aircraft. The Secretary of Defense shall advise the Committees on Armed Services of the House of Representatives and the Senate regarding the production rate of the A–10 aircraft, including factors and circumstances affecting such production rate.

Mr. GARY HART. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. GARY HART. Mr. President, I rise to a question of order. This amendment does not appear to be germane under the unanimous-consent agreement.

The PRESIDING OFFICER. As the Chair stated to the parliamentary inquiry of the Senator from Mississippi a few minutes ago, in the opinion of the Chair the amendment is not germane; therefore, the point of order is well taken.

Mr. TOWER. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that appeal on the table.

Mr. TOWER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll on the motion to table the appeal from the decision of the Chair.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. McGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. McGOVERN), and the Senator from North Carolina (Mr. MORGAN) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. NELSON) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from North Carolina (Mr. MORGAN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Hawaii (Mr. FONG) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 50, nays 30, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—50

Allen
Biden
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McIntyre
Metcalf
Mondale
Moss
Muskie
Nunn
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Sparkman
Stennis
Stevenson
Talmadge
Weicker
Williams

NAYS—30

Baker
Bartlett
Bayh
Bellmon
Bentsen
Brock
Burdick
Cannon
Curtis
Dole
Domenici
Fannin
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
Inouye
Laxalt
McClure
Percy
Roth
Scott, William L.
Stafford
Stevens
Stone
Taft
Thurmond
Tower

NOT VOTING—20

Abourezk
Beall
Brooke
Church
Fong
Gravel
Hartke
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Symington
Tunney
Young

So the motion to table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from South Carolina. There is no time for debate.

Mr. THURMOND. Mr. President, I stated at the beginning that I did not intend to press my amendment. An amendment to the amendment was offered. I now withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. KENNEDY. Without counting against the Senator's time, I ask unanimous consent that Mr. Arthur J. Viseltear be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1698

Mr. KENNEDY. Mr. President, I call up from the desk amendment No. 1698 to H.R. 12438.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts proposes an amendment:

On page 29, insert between lines 19 and 20 the following:

"TITLE VIII—THE ARMED FORCES INSTITUTE OF PATHOLOGY

"PART A—INSTITUTE OF PATHOLOGY

"FINDINGS AND DECLARATION OF POLICY

"SEC. 801. (a) The Congress hereby finds and declares that—

"(1) the Armed Forces Institute of Pathology is an internationally famous and highly respected medical establishment which offers unique pathologic support to national and international medicine;

"(2) the Institute contains the Nation's most comprehensive collection of pathologic specimens for study, and a staff of prestigious pathologists engaged in consultation, education, and research;

"(3) the activities of the Institute are of unique and vital importance in support of the health care of the armed services of the United States;

"(4) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

"(5) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both.

"(b) The Congress further finds and declares that it is important to the health of the American people and of its armed services that the Institute continue its activities in serving both the military and civilian sectors in consultation, education, and research in the medical, dental, and veterinary sciences.

"ESTABLISHMENT OF INSTITUTE

"SEC. 802. There is hereby established within the Department of Defense the Armed Forces Institute of Pathology (hereinafter referred to as the 'Institute'), with responsibilities, functions, and authority and relationships as set forth in this title. The Institute shall be a joint agency of the three military departments, subject to the authority, direction, and control of the Secretary of Defense and under the management control of the Secretary of the Army. The Institute shall serve as the Central Laboratory of Pathology for the Department of Defense and such other Federal agencies as may be agreed upon by the Secretary of Defense and the head of the agency concerned. It shall be self-contained and independent of other established activities which may be operating as integral parts of hospitals or which may be otherwise located in the vicinity.

"ORGANIZATION

"SEC. 803. (a) The Institute shall consist of a Board of Governors, a Director and two Deputy Directors, and a staff of such professional, technical, and clerical personnel as may be required.

"(b) The Board of Governors shall consist of the Assistant Secretary for Health and Environment in the Department of Defense as Chairman, the Assistant Secretary of Health in the Department of Health, Education, and Welfare, the Surgeons General of the Army, the Navy, and the Air Force, and the Chief Medical Officer of the Veterans' Administration, or their respectively designated representatives.

"(c) The Director of the Institute shall be a medical officer of the Army, Navy, or Air Force, selected on the basis of high professional qualifications in the field of pathology and demonstrated medical administrative ability. The Director shall be appointed by the Secretary of the Army, subject to the approval of the Secretary of Defense based on the nominations received from the Board of Governors. He shall be appointed normally for a period of four years rotating in order among the Army, Navy, and Air Force: *Provided*, That the military department next in line has an individual who meets the qualifications of the position and is acceptable to the nominating and approving authorities. A senior pathologist from each of the other two military departments not represented by the Director will be appointed as a Deputy Director, on the same basis as the Director.

"(d) The Director, in addition to the two Deputy Directors, shall be assisted by a professional, technical, and clerical staff consisting of such medical service or medical department officers and other military personnel of the Army, Navy, and Air Force and such civilian personnel, including consultants and experts, as he, with the approval of the Secretary of the Army, as management agent, determines is required. The services of consultants or experts who are outstanding specialists in their respective fields and are appointed to serve varying periods of time within the Institute as resident consultants shall be made available to other Army, Navy, and Air Force medical installations by the Director of the Institute to the greatest extent practicable.

"(e) Subject to the concurrence of the Board of Governors and the approval of the Secretary of the Army, the Director may be aided by a scientific advisory board of consultants appointed by the Secretary of the Army for a period of not to exceed five years. No member of the regular duty staff of the Institute may be appointed as a member of the scientific advisory board.

"RESPONSIBILITIES AND FUNCTIONS

"SEC. 804. (a) The Institute shall—

"(1) maintain a consultation service for the diagnosis of pathologic tissue for the Department of Defense, other Federal agencies, and for civilian pathologists, and serve as the chief reviewing authority on the diagnosis of pathologic tissue to the Army, Navy, and Air Force and Veterans' Administration;

"(2) conduct experimental, statistical, and morphological researches in the broad field of pathology, including correlation with such other medical specialties as will enable the Institute to effectively pursue its research projects;

"(3) provide instruction in advanced pathology and related subjects to medical, dental, and veterinary officers of the Armed Forces and, based on availability of facilities, to such other qualified professional persons who are authorized to study or receive graduate instruction at the Institute;

"(4) train qualified and approved enlisted personnel of the Armed Forces in pathologic techniques and in relevant medical photographic, medical arts, and museum activities;

"(5) prepare or otherwise procure and duplicate teaching aids such as microscopic *slides*, photographic material, medical visual aids, or other texts illustrating the pathology of the various special medical fields used in the training of Armed Forces personnel;

"(6) donate or loan duplicate pathologic photographic and other educational material to other Federal medical services, museums, medical schools, scientific institutions, and to qualified individuals connected with medical, dental, or veterinary professions, when determined appropriate and practical;

"(7) contract with the American Registry of Pathology (established under part B of this title) for cooperative enterprises in medical consultation, research, and education between the Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

"(8) make available at no cost to the American Registry of Pathology such space, facilities, and equipment within the Institute as the Board of Governors deem necessary for the accomplishment of their mutual cooperative enterprises;

"(9) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises;

"(10) maintain a medical illustration service for the collection, preparation, duplication, publication, exhibition, reference, and file of medical illustrated material of medical military importance, except original motion picture footage, primarily for the support of programs of the Institute but which may be made available to the medical services of the Armed Forces, of the Federal agencies, and qualified individuals, when determined appropriate and practicable;

"(11) maintain museums for the instruction of qualified and authorized persons and display openly selected museum exhibits to the lay public;

"(12) perform such other related functions as may be assigned from time to time.

"(b) In addition to the personnel described in (a) (9) above, the Director is authorized, with the approval of the Board of Governors, to contract with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience, to enhance the activities of the Institute in consultation, education, and research. These distinguished scientists may be appointed by the Director to administrative positions within the components or subcomponents of the Institute, and to the exercise of all professional duties within the Institute notwithstanding any other provision of law.

"ADMINISTRATION

"SEC. 805. (a) The Secretary of the Army, as management agent, shall be responsible for the determination and provision, within the limits of resources available to the Department of the Army for such purposes, of adequate administrative support for the operation of the Institute. The term 'administrative support' as used in this directive is defined to include budgeting, funding, fiscal control, manpower control and utilization, personnel administration, security administration, space, facilities, supplies, other administrative provisions and services, and mobilization planning relating thereto. The Secretary of the Army as management agent, may redelegate his authority in connection with these responsibilities within the command structure of the Department of the Army.

"(b) The Assistant Secretary of Defense (Comptroller) shall be responsible for arranging with the three military departments, and as appropriate, other Federal agencies for the financing of the Institute and its activities.

"(c) Under established Department of Defense policies governing medical and allied activities, the Board of Governors shall be responsible for the day-to-day policy direction of the Institute on professional and related matters. Such matters which cannot readily be resolved by the Board of Governors will be referred promptly to the Secretary of the Army, as management agent, for resolution by the Secretaries of the three military departments or for presentation to the Secretary of Defense for decision.

"(d) Under the policy direction of the Board of Governors for professional and related matters and the management control of the Secretary of the Army, the Director of the Institute shall be responsible for the organization and effective operation of the Institute, including the direction and supervision of its staff and activities.

"(e) The facilities and materials of the Institute may be made available to qualified civilian physicians, dentists, veterinarians, and other scientists for study and research as appropriate and practical.

"(f) Military personnel of the three military departments assigned to the Institute shall during such tours be responsible to the Director with respect to the performance of duty.

"STRUCTURE

"SEC. 806. (a) The Institute shall be composed of the following components: The Department of Pathology, the Medical Illustration Service, and the Medical Museum.

"(b) The Institute will be financed by the Department of the Army with its facilities available on a common service basis. No reimbursements or contributions from the Departments of the Navy or Air Force for services rendered will be required.

"(c) The Institute shall coordinate its efforts with all Department of Defense agencies and appropriate subdivisions thereof, other governmental agencies, and generally through the American Registry of Pathology, with private organizations, which have a mutual interest or responsibility with respect to the performance of any of its functions, and is expected to communicate directly therewith.

"(d) The Director and the staff of the Institute are authorized and expected to communicate directly and expeditiously with the agencies listed above concerning technical matters within its jurisdiction in which there exists a mutual interest or responsibility.

"PART B—AMERICAN REGISTRY OF PATHOLOGY CORPORATION

"STATEMENT OF PURPOSE

"SEC. 811. It is the purpose of this part to provide a mechanism for the establishment of desirable and beneficial cooperative enterprises between private individuals, professional societies, and other entities on the one hand, and the Armed Forces Institute of Pathology.

"CREATION OF CORPORATION

"SEC. 812. There is hereby authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the provisions of this title and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act.

"MEMBERS AND OFFICERS

"SEC. 813. (a) The American Registry of Pathology shall have a board of members consisting of twenty-six individuals who are representatives of those professional societies and organizations which sponsor individual registries of pathology at the Institute, of whom one shall be elected annually by the board to serve as chairman. Each sponsor shall appoint one member of the board for a term of four years.

"(b) The corporation shall have a director and such other officers as may be named and appointed by the board of members, at rates of compensation fixed by the board, and serving at the pleasure of the board. The director of the American Registry of Pathology shall be appointed by the board of members with the concurrence of the Director of the Armed Forces Institute of Pathology.

"(c) The members of the initial board shall serve as incorporators and shall take whatever actions are necessary to establish the institution under the District of Columbia Nonprofit Corporation Act.

"(d) The term of office of each member of the board shall be four years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (2) the terms of office members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, nine at the end of one year, eight at the end of two years, and eight at the end of four years; and (3) a member whose term has expired may serve until his successor has qualified. No member shall be eligible to serve in excess of two consecutive terms of four years each.

"(e) Any vacancy in the board shall not affect its power, but shall be filled in the manner in which the original appointments were made.

"FUNCTIONS

"SEC. 814. (a) In order to carry out the purposes of this part, the American Registry of Pathology is authorized to—

"(1) enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their common purposes;

"(2) enter into contracts with public and private organizations for writing, editing, and publishing of fascicles of tumor pathology, atlases, and other material which is necessary to carry out the purposes of the American Registry of Pathology;

"(3) receive gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies for the accomplishments of its purposes;

"(4) establish contracts or agreements with professional societies for the establishment and maintenance of Registries of Pathology;

"(5) serve as a focus for the interchange between military and civilian pathology, and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

"(b) In the performance of the functions set forth in subsection (a), the American Registry of Pathology is authorized to—

"(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the board of members deems appropriate to conduct the activities of the American Registry of Pathology; and

"(2) charge such fees for professional services as the board of members deems reasonable and appropriate.

"REPORTS

"SEC. 815. The American Registry of Pathology shall transmit to the Director and the Board of Governors of the Institute and to the sponsors, annually and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments.".

On page 29, line 20, strike "TITLE VIII" and substitute "TITLE IX."

On page 29, line 21, strike "801" and substitute "901".

On page 30, line 17, strike "802" and substitute "902".

On page 31, line 25, strike "803" and substitute "903".

On page 34, line 6, strike "804" and substitute "904".

On page 34, line 21, strike "805" and substitute "905".

On page 36, line 9, strike "806" and substitute "906".

On page 36, line 12, strike "807" and substitute "907".

On page 37, line 3, strike "808" and substitute "908".

On page 37, line 18, strike "809" and substitute "909".

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be no rollcall votes between the hours of 6 and 7:30 p.m. today.

Mr. STENNIS. Reserving the right to object, and I shall not object, we shall resume, then, having votes on this bill if there are amendments to be voted on?

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. ROBERT C. BYRD. In response to the distinguished Senator's question, I ask unanimous consent that any rollcall votes ordered between the hour of 6 and 7:30 p.m. begin running at the hour of 7:30.

Mr. WILLIAM L. SCOTT. Reserving the right to object, I wonder; I have a commitment at 7 o'clock. I am ready to vote now for the next hour or so. What would the distinguished acting majority leader feel as to when we are going to vote? What does he see in the future?

Mr. ROBERT C. BYRD. I should think that we would have at least somewhere from three to five votes.

Mr. WILLIAM L. SCOTT. How long would the Senator anticipate we might stay in tonight?

Mr. ROBERT C. BYRD. I hope not beyond 9 or 10 o'clock.

Mr. STENNIS. If the Senator will yield, I believe the Senate has to finish with this bill tonight. I think Members can be coming back after this interruption and finish the bill, for the reasons I have already given.

Mr. WILLIAM L. SCOTT. Continuing under my reservation, I am certainly not going to object, but any time we do something like this, it works an inconvenience for one Senator or another. In this case, it works an inconvenience for me.

Mr. ROBERT C. BYRD. It does. The Senator is correct.

Mr. CANNON. Mr. President, reserving the right to object, I, too, have commitments later this evening, as do a number of other Senators that I am aware of. I do not understand why we cannot go ahead and go through the normal process and have our votes and finish up, rather than postpone the voting for another hour and a half from now.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. CANNON. Yes.

Mr. WILLIAM L. SCOTT. Perhaps there would be more people who would be inconvenienced by postponing it than would be convenienced. Maybe the distinguished Senator could determine how many people might be inconvenienced.

Mr. CANNON. I think there might well be, still reserving the right to object. One of our distinguished colleagues, who is leaving us this year, is being honored tonight. I am one of those people who was invited to be there to help honor him. I know there are others. I think it would be very unfortunate if we postpone our voting until 7:30 and run us into the night to ruin that kind of affair.

Mr. ROBERT C. BYRD. Mr. President, may I say in response to the comment by my distinguished friend from Nevada, that was precisely the reason for the request not to have votes between 6 and 7:30, because that meeting has been arranged. I was just told of it today, and in order to accommodate the Senator from Missouri and other Senators who are committed to go to that meeting, for that reason, I asked that there be no votes during that 1½ hour period.

Mr. CANNON. I thank the Senator.

Mr. MATHIAS. Reserving the right to object, since the Senator from Mississippi has projected the possibility of completing this bill tonight, I feel impelled, out of a sense of fairness, to get up and say that there are a lot of things that we are going to have to discuss about this bill of a serious nature which my take quite a bit of time. I am not at all sure that we are going to want to spend that much time on it tonight. I simply want to throw that out at this point as a matter of advice.

Mr. STENNIS. Mr. President, as I understand, another commitment has been made for tomorrow on the so-called antitrust bill. That absorbs the time and the only chance to pass this bill before the recess is tonight. I hope we can stay here. I think we should.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

The PRESIDING OFFICER. Is there objection?

Mr. CULVER. Reserving the right to object. I do not intend to object, but I do want to advise the membership that there is some possibility, I understand, that there will be an amendment offered by Mr. TAFT of Ohio to one section of this legislation. Unless and until the Taft amendment is tabled, I cannot agree to completing action on this bill tonight.

The Senate has acted on the B-1. This amendment, in my judgment, raises far too many issues and questions to be voted on, up or down, at any time certain.

Several Senators with direct interest in this matter are now absent and will be this evening and tomorrow. In fairness to them and, more importantly, in fairness to the country, in my judgment, if this matter is to be discussed at all, it should be fully discussed and if a tabling motion that will be offered does not prevail, I shall have to take appropriate steps to protect the rights of those who are interested in this subject.

I did want to advise the membership of that fact.

Mr. STENNIS. If I may respond, Mr. President, the Senator has made his position quite clear. I cannot complain, really, with his position. I am just asking now to let us try to finish this tonight and see what develops. I do not want him to curtail his presentation of his views or anything like that beyond what he thinks he ought to.

Mr. TAFT. Mr. President, reserving the right to object——

Mr. ALLEN. Will the Senator yield for a moment?

Mr. CULVER. If I have the floor.

Mr. ALLEN. Is the Senator suggesting the possibility of a filibuster on this measure? [Laughter.]

Mr. CULVER. I think this Senator would not be so presumptuous as to suggest that. I did try to allude in a rather suggestive manner that I felt the enormity and importance of this subject matter—as I have heard the distinguished Senator from Alabama explain to us on previous occasions—is of such fundamental importance to the life of this Republic that we should not act in haste and repent at leisure.

Mr. ALLEN. I agree with the Senator.

Mr. TAFT. Mr. President, reserving the right to object. I have no intention of debating the amendment on this reservation, but I merely want to say that I share with the distinguished Senator from Iowa the feeling that this matter is of enormous importance.

I recognize that there are a number of Members who are abroad, still, on official business. I have been quite amenable to setting definite times and definite limitations, trying to work in some way that they can vote on the measure.

I want to point out that this measure of enormous importance was not of such enormous importance that it was not brought up last Thursday, when 18 Senators were already out of town, without any prior notice that it was going to come up and have a vote on it at that time. That did occur, and it seems to me that the decision is too great a one to act with that number of Members out of town. I regret that it did occur. I feel my amendment is necessary to be discussed in the national interest.

Mr. CULVER. Reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, could we get back to the Senator from Massachusetts? We can debate this later.

Mr. CULVER. Mr. President, do I still have the floor?

The PRESIDING OFFICER. No.

Mr. CULVER. Reserving the right to object.

Mr. KENNEDY. I yield to the Senator from Iowa.

Mr. CULVER. I thank the Senator for yielding.

I advise the Senator from Ohio that, on Thursday last, when this subject was presented and this question was presented, there was an indication of voting on Thursday or Friday last week on the B-1 bomber. It was agreed that if a vote could not occur on those days, it would be inappropriate, given the importance of this issue, to discuss it this week because of the large number of absentees. Now, Thursday is a pretty healthy workday, normally, around here. That was last week and there was plenty of notice to the Senate, plenty of notice, that this procurement bill was the pending business before Congress and before this body.

This week, there was equal notice to the Senate that there would be an unusually large number of absentees on official business. We met last Thursday. We had considerable discussion. The Senator from South Dakota (Mr. McGOVERN) and I had both given notice of B-1 bomber amendments in a timely fashion. It was the general understanding of the floor manager of this bill, the Democratic leadership, and the Republican leadership on that occasion that these constituted the two B-1 amendments before the Senate.

Now, after considerable discussion about that a suggestion was made by the Senator's side, certainly every bit as much as our side, and after full and appropriate consultation with the Senator's ranking membership, the Senator's ranking Members who were here, Senator GOLDWATER of Arizona who has taken a lead as a proponent of the B-1 bomber and who was intimately involved in those consultations.

We reviewed the absentee list on the Democratic side. Similar action was taken on the Republican side, and after a half hour of discussion they came forward and said: "We agree that we shall vote today on these two amendments and in the following order."

And that agreement was reached.

Now, it seems to me that, having disposed of that issue, if we set the institutional precedent in this body that following that kind of elaborate negotiation and discussion with the leadership and principal Members involved, and present and voting on a matter on a regular work day, and we set a time certain on debate on those amendments and for a vote, that we certainly, none of us, can risk ever agreeing at some future date to a time certain to vote on amendments in this way because we can never be assured that following the fully expressed will of the Senate, after considerable and protracted debate, that at some subsequent date one of the losing Senators, who does not happen to be present, can come forward——

Mr. TAFT. Mr. President, will the Senator yield for a question?

Mr. CULVER. And then say "I want to open this whole issue up and consider this substantive section of the legislation."

How can we ever get a time agreement?

Mr. TAFT. Mr. President, will the Senator yield for a question?

Mr. CULVER. Yes.

Mr. KENNEDY. Mr. President, I think I have the floor for an amendment. I would be glad to yield. I think, in fairness to the Senator from Ohio, he ought to have an opportunity to respond. I would like to get my amendment before the Senate, so I would be glad to yield to the Senator from Ohio and, hopefully, we can wind this up.

Mr. TAFT. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER (Mr. STONE). The pending amendment is that of the Senator from Massachusetts, and the Senator from Massachusetts has the floor.

There is also pending a unanimous-consent request.

Mr. TAFT. That was my impression. I understood there was a reservation on the unanimous-consent request that we were debating at this time.

The PRESIDING OFFICER. On the second part of the unanimous-consent request.

Mr. TAFT. I reserved the right to object.

Mr. President, as I said, I do not intend to debate this matter at this point. It seems to me the Senator from Iowa has taken a position procedurally which ought to be corrected, however.

The Senator from Iowa seems to feel that if the ranking Member of the committee on which he serves, the ranking Member of the committee who has handled the business coming before the Senate, decides he wants to make an agreement as to a particular amendment, that that binds some individual Member of the Senate. It certainly is not true as to this Senator, and I am sure the Senator from Iowa would find that a rather hard rule to live by, and I do not think he means to claim that.

I would like to make this point: There were two major measures of legislation that had been announced to come up on Thursday last. There was a bill that was up, and there was no indication that there were going to be rollcall votes on this particular item. I had a longstanding commitment to review a weapons system in my home State, and I agreed to be there, and I found it desirable to do it that way.

I was not notified in any way that the amendment was going to come up or that there would be any votes on that day, any more than the Members—a lot less than Members who are absent today—had known that this measure was going to come onto the floor today. They are on official business, I admit. I am not being critical of them for not being here in any sense of the word, but I think every Senator regards as pretty precious the right to use any legislative rights he has, and he does not give those away to any other Senator.

The implication seems to be that I am in the wrong in this matter because I was represented by somebody who was not authorized to represent me on either side of the aisle as to what was agreed or was not agreed.

It was said at an earlier time that even if there was not any earlier agreement not to bring up an amendment on the B-1—I know of no limitation of that kind and I know no other Member who feels there is a limitation of that kind. So I feel I am well within my rights to bring up the amendment at this time. It raises a different issue that was not involved in the question of the B-1 when it came up, and I believe it is a very important issue that ought to be taken up as it relates to the posture and the knowledge of the President and those advising him which they have or do not have when they go into the SALT negotiations.

I cannot think of anything more vital to a successful SALT negotiation than to have a man who is doing the negotiating know what weapons systems he has got.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 1698

Mr. KENNEDY. Mr. President, this is an amendment which I have talked over with the ranking member of the committee. It deals with one of the truly outstanding health centers in the world, and that is the Armed Forces Institute of Pathology. This amendment has been worked out with the chairman of the Armed Services Committee.

The PRESIDING OFFICER. If the Senator from Massachusetts will suspend momentarily, the Chair would like to conclude the question of the unanimous-consent request as to whether there will or will not be a vote between 6 and 7:30.

Mr. ROBERT C. BYRD. That order was agreed to, Mr. President.

The PRESIDING OFFICER. The second part as to whether all yea or nay votes ordered during that period of time will commence at 7:30.

Mr. ROBERT C. BYRD. And occur sequentially back to back.

The PRESIDING OFFICER. Correct.

Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR 10-MINUTE VOTES

Mr. GRIFFIN. May I suggest, Mr. President, that the votes after the first one, if there are a series, be 10-minute votes?

Mr. ROBERT C. BYRD. Will the Senator make that request?

Mr. GRIFFIN. I so make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Massachusetts is recognized.

AMENDMENT TO AMENDMENT NO. 1698

Mr. KENNEDY. I would like to send to the desk an amendment to amendment 1698, and request its immediate consideration.

The amendment is germane.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment to his amendment No. 1698.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . (a)(1) The Congress hereby finds and declares that—

(A) the Armed Forces Institute of Pathology is an internationally famous and highly respected medical establishment which offers unique pathologic support to national and international medicine;

(B) the Institute contains the nation's most comprehensive collection of pathologic specimens for study, and a staff of prestigious pathologists engaged in consultation, education, and research;

(C) the activities of the Institute are of unique and vital importance in support of the health care of the Armed Services of the United States;

(D) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

(E) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both; and

(F) it is important to the health of the American people and of its Armed Services that the Institute continue its activities in serving both the military and civilian sectors in education, consultation, and research in the medical, dental, and veterinary sciences.

(2) The Congress further finds and declares that beneficial cooperative efforts between private individuals, professional societies, and other entities on the one hand and the Armed Forces Institute of Pathology on the other can be carried out most effectively through the establishment of a private corporation.

(b) Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new sections:

"§ 176. Armed Forces Institute of Pathology

"(a)(1) There is established in the Department of Defense an institute to be known as the Armed Forces Institute of Pathology (referred to in this section as the Institute), with the responsibilities, functions, authority, and relationships set forth in this section. The Institute shall be a joint entity of the three military departments, subject to the authority, direction, and control of the Secretary of Defense.

"(2) The Institute shall consist of a Board of Governors, a Director, two Deputy Directors, and a staff of such professional, technical, and clerical personnel as may be required.

"(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health, Education, and Welfare for Health, the Surgeons General of the Army, the Navy, and the Air Force, the Chief Medical Director of the Veterans' Administration, and a former Director of the Armed Forces Institute of Pathology, as designated by the Secretary of Defense, or the designee of any of the foregoing.

"(b)(1) In carrying out the provisions of this section, the Institute is authorized to—

"(A) contract with the American Registry of Pathology (established under section 177) for cooperation enterprises in medical research, consultation, and education between the Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

"(B) make available at no cost to the American Registry of Pathology such space, facilities, and equipment within the Institute as the Board of Governors deems necessary for the accomplishment of their mutual cooperative enterprises; and

"(C) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises.

"(2) No contract may be entered into under paragraph (1) of this subsection which obligates the Institute to make outlays in advance of the enactment of budget authority therefor.

"(c) The Director is authorized, with the approval of the Board of Governors, to enter into agreements with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience for the purpose of enhancing the activities of the Institute in education, consultation, and research. Such pathologists or scientists may be appointed by the Director to administrative positions within the components or subcomponents of the Institute and may be authorized by the Director to exercise any or all professional duties within the Institute, notwithstanding any other provision of law.

"(d) The Secretary of Defense shall promulgate such regulations as may be necessary to prescribe the organization, functions, and responsibilities of the Institute.

"§ 177. American Registry of Pathology

"(a)(1) There is authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not for any purpose be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the provisions of this section and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

"(2) The American Registry of Pathology shall have a Board of Members consisting of 26 individuals who are representatives of those professional societies and organizations which sponsor individual registries of pathology at the Armed Forces Institute of Pathology, of whom one shall be elected annually by the Board of Members to serve as chairman. Each such sponsor shall appoint one member to the Board of Members for a term of four years.

"(3) The American Registry of Pathology shall have a Director and such other officers as may be named and appointed by the Board of Members who shall be compensated at rates fixed by the Board and serve at the pleasure of the Board. The Director of the American Registry of Pathology shall be appointed by the Board of Members with the concurrence of the Director of the Armed Forces Institute of Pathology.

"(4) The members of the initial Board of Members shall serve as incorporators and shall take whatever actions are necessary to establish under the District of Columbia Nonprofit Corporation Act the corporation authorized by subsection (a).

"(5) The term of office of each member of the Board of Members shall be four years; except that (A) any member *appointed to* fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, nine at the end of one year, eight at the end of two years, and eight at the end of four years; and (C) a member whose term has expired may serve until his successor has qualified. No member *shall* be eligible to serve in excess of two consecutive terms of four years each.

"(6) Any vacancy in the Board shall not affect its power, but such vacancy shall be filled in the manner in which the original appointment was made.

"(b) In order to carry out the purposes of this section, the American Registry of Pathology is authorized to—

"(1) enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their common purposes;

"(2) enter into contracts with public and private organizations for the writing, editing, and publishing of fascicles of tumor pathology, atlases, and other material;

"(3) accept gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies;

"(4) enter into agreements with professional societies for the establishment nad maintenance of Registries of Pathology; and

"(5) serve as a focus for the interchange between military and civilian pathology and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

"(c) In the performance of the functions set forth in subsection (b), the American Registry of Pathology is authorized to—

"(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the Board of Members deems appropriate to conduct the activities of the American Registry of Pathology; and

"(2) charge such fees for professional services as the Board of Members deems reasonable and appropriate.

"(d) The American Registry of Pathology may transmit to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors referred to in subsection (a)(2) annually, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments."

(c) The table of sections at the beginning of chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following:

"176. Armed Forces Institute of Pathology;
American Registry of Pathology.
"177. American Registry of Pathology.".

Mr. KENNEDY. The Armed Forces Institute of Pathology, in the Department of Defense, is one of the Nation's most prestigious medical facilities. It is a unique national and international resource, containing the most comprehensive collection of pathologic specimens and the most prestigious groups of pathologists in the whole world. It serves as the ultimate reference center for the pathologic diagnosis of disease.

The Institute of Pathology is extremely important to both civilian as well as military medicine. In the military sector, it is the central pathology laboratory for the armed services, and occupies an important position in the health care and advanced medical education within the armed services. In the civilian sector, it provides the same important consultation services for civilian doctors. Twenty-six of the country's leading medical, dental, and veterinary professional societies sponsor special collections of unique cases in each of their specialty areas. Finally, both military and civilian medicine benefit from their close interaction at the Institute of Pathology.

Recently, the Surgeon General of the Army has determined that there exists at the Institute a number of legal problems connected with the cooperative arrangements between the Institute and the civilian sector. The changes instituted by the Surgeon General to correct these problems have appeared to pose significant threats to continuation of the important role of the Armed Forces Institute of Pathology in support of civilian medicine. These activities are far too important to the health of the American people to be stopped, and it makes sense from every point of view to maintain them within the Department of Defense.

The purpose of this amendment is to recognize the important contributions of the Armed Forces Institute of Pathology to American medicine by granting it a legislative charter, and to assist the Department of Defense in solving the current problems of the AFIP's cooperative arrangements with civilian medicine by legislating appropriate remedies.

The amendment is essentially a simple one, and does two things. First, it establishes the Armed Forces Institute of Pathology by legislation. Second, it solves the legal and managerial problems which the Surgeon General pointed out, by establishing a separate entity, the American Registry of Pathology as an independent corporation to permit it to serve as the fiscal intermediary by which professional societies, universities, and private nonprofit groups such as the American Cancer Society may sponsor personnel and activities at the institute in furtherance of its efforts in the medical sciences.

I have sent to the desk an amendment to amendment 1698, and requested its immediate consideration. This new language reflects technical changes suggested by the administration.

We have worked closely, in adjusting the language of this amendment, with Senator STENNIS and his staff, and with appropriate authorities in the Pentagon. Both the Secretary of the Army and the Secretary of Defense approve of this amendment, and feel that it will solve their legal and technical problems. We hope and expect that this amendment will be acceptable to the House in conference.

This amendment is noncontroversial, and helps to preserve a unique and important national medical resource of which we can all be justifiably proud.

Mr. President, as I said, this has been worked out with the Armed Forces Institute of Pathology, the Department of Defense, the Surgeon General, and also with the members of the Armed Services Committee, and I believe the chairman is prepared to recommend it.

I want to thank him for his cooperation in this area and in the matter.

Mr. STENNIS. Mr. President, may we have order? We just cannot hear the Senator.

The PRESIDING OFFICER. The Senate is not in order.

Mr. KENNEDY. Mr. President, I believe it is acceptable to the chairman of the committee, and I want to express my appreciation for his cooperation and support for it.

This amendment will continue to preserve the Armed Forces Institute of Pathology to be the center of excellence in the area of pathology which is recognized not only in the United States but generally throughout the world. It is a unique asset for our country and for the world.

It has provided extraordinary benefits to the members of the Armed Forces and has been a real measuring stick in the area of pathology for private institutions and other public institutions all over this country and the world.

It is important that it be preserved, and this amendment has that as its purpose.

I again want to thank the chairman of the committee for working out this amendment with us, and I am prepared to move to a vote.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I shall use just 1 minute. I think the Senator from Massachusetts has presented a very fine amendment here concerning one of the great institutions we have, the Armed Forces Institute of Pathology, which originated over 100 years ago in Walter Reed Hospital, and has been doing outstanding work. I commend him for it, and I commend his staff and our committee staff, too, who have worked on this matter. The Army was called in on it, and they have gone along with it, and I can highly recommend the passage of it.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment to amendment No. 1698, of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

NATIONAL HEALTH PROMOTION AND DISEASE PREVENTION ACT OF 1976

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1466.

The legislative clerk laid before the Senate the amendments of the House of Representatives to the bill (S. 1466) to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes.

(The amendments of the House are printed in the RECORD of April 7, 1976, beginning at page 9821.)

Mr. KENNEDY. Mr. President, I send an amendment to the desk, which is in the nature of a substitute for the House amendments to S. 1466, and I move that the Senate concur in the amendments of the House with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Does the Senator move to concur in the House amendments as amended by this amendment in the nature of a substitute?

Mr. KENNEDY. Mr. President, I so move.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to concur in the House amendments as amended by the amendment of the Senator from Massachusetts in the nature of a substitute, which the clerk will state.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment in the nature of a substitute.

The amendment in the nature of a substitute is as follows:

In the Senate of the United States,

Resolved, That the Senate agree to the amendments of the House of Representatives to the bill (S. 1466) entitled "An Act to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes", with the following

SENATE AMENDMENT TO HOUSE AMENDMENTS

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

TITLE I—HEALTH INFORMATION AND HEALTH PROMOTION

SHORT TITLE

SEC. 101. This title may be cited as the "National Consumer Health Information and Health Promotion Act of 1976".

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 102. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVII—HEALTH INFORMATION AND HEALTH PROMOTION

"GENERAL AUTHORITY

"SEC. 1701. (a) The Secretary shall—

"(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

"(3) undertake and support necessary activities and programs to—

"(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

"(B) increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

"(C) establish systematic processes for the exploration, development, demonstration, and evalaution of innovative health promotion concepts;

"(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(7) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(8) provide technical assistance in the programs referred to in paragraph (7); and

"(9) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this title.

The Secretary shall administer this title in a manner consistent with the national health priorities set forth in section 1502 and with health planning and resource development activities undertaken under titles XV and XVI.

"(b) For payments under grants and contracts under this title there are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, and $14,000,000 for the fiscal year ending September 30, 1979.

"(c) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"RESEARCH PROGRAMS

"Sec. 1702. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

"(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

"(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course or severity;

"(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

"(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

"(5) develop a method for assessing the cost and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

"(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use.

"(b) The Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health education organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

"COMMUNITY PROGRAMS

"Sec. 1703. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

"(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior;

"(2) provide consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

"(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

"(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

"(b) The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to sections 1704(4) and 1704(5) for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

"(c) The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. The amount of any grant or contract for a fiscal year beginning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

"INFORMATION PROGRAMS

"Sec. 1704. The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such activities may include at least the following:

"(1) The publication of information, pamphlets, and other reports which are specially suited to interest and instruct the health consumer, which information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health; shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention (particularly prevention of pulmonary disease, cardiovascular disease, and cancer), physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

"(2) Securing the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

"(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

"(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

"(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

"(6) Assess, with respect to the effectiveness, safety, cost, and required training for and conditions of use, of new aspects of health care, and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

"REPORT AND STUDY

"SEC. 1705. (a) The Secretary shall, not later than two years after the date of the enactment of this title and annually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include—

"(1) a statement of the activities carried out under this title since the last report and the extent to which each such activity achieves the purposes of this title;

"(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this title designed to prepare teachers and other manpower for such programs;

"(3) the goals and strategy formulated pursuant to section 1701(a)(1), the models and standards developed under this title, and the results of the study required by subsection (b) of this section; and

"(4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this title.

"(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

"OFFICE OF HEALTH INFORMATION AND HEALTH PROMOTION

"SEC. 1706. The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information and Health Promotion which shall—

(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) coordinate its activities with similar activities of organizations in the private sector; and

(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters.".

TITLE II—DISEASE CONTROL

SHORT TITLE

SEC. 201. This title may be cited as the "Disease Control Amendments of 1976".

AMENDMENTS TO SECTIONS 311 AND 317

SEC. 202. (a) Effective with respect to grants under section 317 of the Public Health Service Act made from appropriations under such section for fiscal years beginning after June 30, 1975, section 317 of such Act is amended to read as follows:

"DISEASE CONTROL PROGRAMS

"SEC. 317. (a) The Secretary may make grants to States and, in consultation with State health authorities, to public entities to assist them in meeting the costs of disease control programs.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to, and aproved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall by regulation prescribe and shall meet the requirements of paragraph (2).

"(2) An application for a grant under subsection (a) shall—

"(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the disease control programs it proposes to conduct with assistance from a grant under subsection (a);

"(B) contain assurances satisfactory to the Secretary that, in the year during which the grant applied for would be available, the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the diseases or conditions referred to in subsection (f) of appropriate preventive behavior and measures (including immunizations) and diagnostic procedures for such diseases, and (ii) to facilitate their access to such measures and procedures; and

"(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any disease or condition referred to in subsection (f), and (ii) the disease control programs of the applicant for which a grant is applied for.

In considering such an application the Secretary shall take into account the relative extent, in the area served by the applicant, of the problems which relate to one or more of the diseases or conditions referred to in subsection (f) and the extent to which the applicant's programs are designed to eliminate or reduce such problems. The Secretary shall give special consideration to applications for programs which (A) will increase to at least 80 per centum the immunization rates of any population identified as not having received, or as having failed to secure, the generally recognized disease immunizations, and (B) to the fullest extent practicable, will cooperate and use public and nonprofit private entities and volunteers. The Secretary shall give priority to applications submitted for disease control programs for communicable diseases.

"(c)(1) Each grant under subsection (a) shall be made for disease control program costs in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made.

"(2) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

"(3) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(A) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the grant recipient, and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out a program with respect to which the recipient's grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the recipient.

"(d)(1) The Secretary may conduct, and may make grants to and enter in contracts with public and nonprofit private entities for the conduct of—

"(A) training for the administration and operation of disease prevention and control programs, and

"(B) demonstrations and evaluations of such programs.

"(2) No grant may be made or contract entered into under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(e) The Secretary shall coordinate activities under this section respecting disease control programs with activities under other sections of this Act respecting such programs.

"(f) For purposes of this section, the term 'disease control program' means a program which is designed and conducted so as to contribute to national protection against diseases or conditions of national significance which are amenable to reduction, including tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, and other communicable diseases (other than venereal diseases), and arthritis, diabetes, diseases borne by rodents, hypertension, pulmonary diseases, cardiovascular diseases, and Rh disease. Such term also includes vaccination programs, laboratory services, studies to determine the disease control needs of the States and the means of best meeting such needs, the provision of information and education services respecting disease control, and programs to encourage behavior which will prevent disease and encourage the use of preventive measures and diagnostic procedures. Such term also includes any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975.

"(g) (1) (A) For the purpose of grants under subsection (a) for disease control programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $9,000,000 for fiscal year 1976, $17,500,000 for fiscal year 1977, and $23,000,000 for fiscal year 1978.

"(B) For the purpose of grants under subsection (a) for disease control programs for diseases borne by rodents there are authorized to be appropriated $13,500,000 for fiscal year 1976, $14,000,000 for fiscal year 1977, and $14,500,000 for fiscal year 1978.

"(C) For the purpose of grants under subsection (a) for disease control programs, other than programs for which appropriations are authorized under subparagraph (A) or (B), and for the purpose of grants and contracts under subsection (d), there are authorized to be appropriated $4,000,000 for fiscal year 1976, $4,500,000 for fiscal year 1977, and $5,000,000 for fiscal year 1978.

"(D) Not to exceed 15 per centum of the amount appropriated for any fiscal year under any of the preceding subparagraphs of this paragraph may be used by the Secretary for grants and contracts for such fiscal year for programs for which appropriations are authorized under any one or more of the other subparagraphs of this paragraph if the Secretary determines that such use will better carry out the purpose of this section, and reports to the appropriate committees of Congress at least thirty days before making such use of such amount his determination and the reasons therefor.

"(2) Except as provided in section 318, no funds appropriated under any provision of this Act other than paragraph (1) of this subsection may be used to make grants in any fiscal year for disease control programs if (A) grants for such programs are authorized by subsection (a), and (B) all the funds authorized to be appropriated under this subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

"(h) The Secretary shall submit to the President for submission to the Congress on January 1 of each year (1) a report (A) on the effectiveness of all Federal and other public and private activities in controlling the diseases and conditions referred to in subsection (f), (B) on the extent of the problems presented by such diseases, (C) on the effectiveness of the activities, assisted under grants and contracts under this section, in controlling such diseases, and (D) setting forth a plan for the coming year for the control of such diseases; and (2) a report (A) on the immune status of the population of the United States, and (B) identify, by area, population group, and other categories, deficiencies in the immune status of such population.

"(i) (1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this Act) and which are available for the conduct of disease control programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such a program.".

(b) Section 311(c) of the Public Health Service Act is amended to read as follows:

"(c) (1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition referred to in section 317(f) and to meet other health emergencies or problems involving or resulting from disasters or any such disease. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies) resulting from disasters or any disease or condition referred to in section 317(f).

"(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.".

(c) Section 311(b) of such Act is amended by inserting at the end thereof the following new sentence: "The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.".

AMENDMENTS RESPECTING VENEREAL DISEASES

SEC. 203. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease continues in epidemic proportions in the United States;

(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those actually infected;

(3) the incidence of venereal disease is particularly high in the 15–29-year age group, and in metropolitan areas;

(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

(5) the number of cases of congenital syphilis, a preventable disease, tends to parallel the incidence of syphilis in adults;

(6) it is conservatively estimated that the public costs of care for persons suffering the complications of venereal disease exceed $80,000,000 annually;

(7) medical researchers have no successful vaccine for syphilis or gonorrhea, and have no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup activities have all been found to be effective disease intervention methodologies;

(9) knowledgeable health providers and concerned individuals and groups are fundamental to venereal disease prevention and control;

(10) biomedical research leading to the development of vaccines for syphilis and gonorrhea is of singular importance for the eventual eradication of these dreaded diseases; and

(11) a variety of other sexually transmitted diseases, in addition to syphilis and gonorrhea, have become of public health significance.

(b) (1) Section 318(b) (2) of the Public Health Service Act is amended to read as follows:

"(2) For the purpose of carrying out this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978.

(2) Subsection (d) (2) of such section is amended to read as follows:

"(2) For the purpose of carrying out this section, there is authorized to be appropriated $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978.".

(c) Subsection (a) of such section is amended by striking out "public authorities and" inserting in lieu thereof "public and nonprofit private entities and to".

(d) Subsection (d) (1) (B) of such section is amended by inserting before the semicolon at the end the following: "and routine testing, including laboratory tests and followup systems".

(e) Subsection (d) (1) (E) of such section is amended by striking out "control" and inserting in lieu thereof "prevention and control strategies and activities".

(f) (1) Subsection (c) is repealed.

(2) Subsection (c) (1) of such section is amended by striking out "or (d)" and inserting in lieu thereof "or (c)".

(3) Subsection (e) (2) (C) of such section is amended by striking out "(including darkfield microscope techniques for the diagnosis of both gonorrhea and syphilis)".

(4) The last sentence of subsection (e) (4) of such section is amended by striking out the semicolon and all that follows through "paid to such recipient".

(5) The first sentence of subsection (e) (5) of such section is amended by inserting before the period the following: "or as may be required by a law of a State or political subdivision of a State".

(6) Subsection (g) of such section is amended by striking out ", (c), and (d)" and inserting in lieu thereof "and (c)".

(7) Subsection (h) of such section is amended by striking out "treated or to have any child or ward of his".

(8) Subsections (d), (e), (f), (g), and (h) of such section are redesignated as subsections (c), (d), (e), (f), and (g), respectively.

(g) Subsection (e) of such section (as so redesiganted) is amended by striking out "317(d) (4)" and inserting in lieu thereof "317(g) (2)".

(h) Such section is amended by adding at the end thereof the following new subsection:

"(h) For purposes of this section and section 317, the term 'venereal disease' means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this section and is of national significance.".

(i) Section 318(b) (1) is amended by inserting "education," before "and training".

EXTENSION AND REVISION OF LEAD-BASED PAINT POISONING PREVENTION ACT

SEC. 204. (a) (1) Section 101(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801(c)) is amended by inserting after and below paragraph (4) the following:

"Follow-up programs described in paragraph (3) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.".

(2)(A) Section 101(c) of such Act is amended by striking out "should include" and inserting in lieu thereof "shall include".

(B) Section 101(f) of such Act is amended by (i) striking out "and (B)" and inserting in lieu thereof "(B)", and (ii) by inserting before the period at the end the following ", and (C) the services to be provided will be provided under local programs which meet the requirements of subsections (c) and (d) of this section".

(b) Section 401 of such Act (42 U.S.C. 4831) is amended to read as follows:

"PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS

"Sec. 401. (a) The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.

"(b) The Secretary of Housing and Urban Development shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after the date of enactment of this Act.

"*(c)* The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.".

(c)(1) Section 501(3) of such Act (42 *U.S.C.* 4841(3)) is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), the term 'lead-based paint' means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

"(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

"(ii) Unless the definition of the term 'lead-based paint' has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.".

(2) Section 501 of such Act is amended (1) by striking out "the term" in paragraphs (1) and (2) and inserting in lieu thereof "The term", (2) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period, and (3) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(d) Section 502 of such Act (42 U.S.C. 4842) is amended by striking out "In carrying out the authority under this Act, the Secretary of Health, Education, and Welfare shall" and inserting in lieu thereof "In carrying out their respective authorities under this Act, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each".

(e)(1) Section 503 of such Act (42 U.S.C. 4843) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated to carry out this Act $10,000,000 for the fiscal year 1976, $12,000,000 for the fiscal year 1977, and $14,000,000 for the fiscal year 1978."

(2) Subsection (d) of such section is redesignated as subsection (b).

TITLE III—MISCELLANEOUS AMENDMENT

Sec. 301. (a) Section 2(f) of the Public Health Service Act is amended to read as follows:

"(f) Except as provided in sections 314(g)(4)(B), 355(5), 361(d), 1002(c), 1201(2), 1401(13), 1531(1), and 1633(1), the term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.".

(b)(1) Section 361(d) is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'State' includes, in addition to the several States, only the District of Columbia.".

(2) Section 1401 is amended by adding after paragraph (12) the following new paragraph:

"(13) The term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.".

Mr. KENNEDY. The purpose of my amendment is to provide authority for consumer health education programs, revise and extend the authority for disease prevention and control programs, revise and extend the authority for venereal disease programs and amend the Lead-Based Paint Poisoning Prevention Act to revise and extend the act.

The cost of this legislation is $308,200,000.

This legislation originally passed the Senate on July 30, 1975. A comparable bill passed the House on April 7, 1976. Until last week the administration was opposed to the bill. But after considerable good faith negotiations with representatives of the administration and my staff, a clean bill has been developed in the form of this amendment which we fully expect the President to sign.

The legislation before us contains two principal titles. The first provides legislative authority and authorizations of appropriations for research and for community programs in health information and promotion, preventive health services, and education in the appropriate use of health care during the next 3 fiscal years with a total authorization $31 million. The second provides a 3-year revision and extension of existing authorities for prevention and control of communicable and other controllable diseases, venereal disease, diseases borne by rodents, and lead poisoning prevention programs, with a total authorization for these 3 years of $277,200,000.

The first title of this legislation provides an initial congressional initiative in an area that is vitally important to the health of our citizens.

Today we find ourselves struggling to ravel the problems of our national health care crisis. We consider various costly efforts to reorganize, rationalize and regulate our health services, seek improvements in financing mechanisms, and ponder problems associated with health manpower. We have sold society on the wonders of modern medicine and have created an insatiable demand for health services. We seem to have forgotten, perhaps because we are unduly and overly impressed with the technology of modern medicine, that our improved health status is also owing to education in personal hygiene, improved living conditions and improved sanitary measures. Better housing, nutrition, working conditions and education, enhance the health of our people just as certainly as better health services. Moreover, the principal causes of death in our country—motor vehicle accidents, heart disease, other accidents, respiratory diseases and lung cancer, and suicide—are in part related to changing life styles. Self-imposed risks and environmental factors are the principal or important underlying factors in each of the five major causes of death between the ages of 1 and 70.

Outstanding though our health services are, it is apparent that if we are to improve our level of health we must turn to a new strategy, one which will assist us to understand the nature and causes of self-imposed risks, adds to our knowledge of illness, educates patients and consumers about health maintenance and prevention, and improves the physical and social environment.

Although, Mr. President, we spend more on health care, have more physicians per capita than any other country in Europe or North America, our mortality rates, from infancy through middle age and into the seventies, are almost the highest in the developed world.

Though we proudly list the achievements of nearly three decades of biomedical research, there has been very little improvement in life expectancy for adults since the 1920's. We simply have not found effective means for coping with the chronic and social diseases and conditions that are predominant in our country.

Our statistics reveal intolerably high numbers of people being disabled, many permanently, by preventable and curable diseases, dying prematurely from causes that could have been controlled, being maimed or killed in accidents, or leading destructive life styles. We also know that many of our children are born with seriously disabling conditions which might have been averted; that workers are placed in work environments where they become susceptible to a host of insidious cripplers and killers; that over 45 percent of our adult population do not engage in physical activity for the purpose of exercise; that motor vehicle accidents are the leading cause of death for those under 35 years of age; that infectious syphilis is at its highest level ever recorded in this country; and, that close to 300,000 deaths per year from various diseases are linked to cigarette smoking.

There can be little doubt at this time that there exists a profoundly disturbing relationship between death rates, health status, and life cycles. Unless self-imposed risks are modified or the environment changed to enhance health, our illness and death rates will not be significantly improved.

There has been much recent interest in these problems. My own health manpower bill speaks to the issue of primary care and our need for people-oriented specialists. There has been a President's Committee on Health Education. There have been patient and community education programs. Blue Cross has approved a special white paper on patient health education and endorses third-party reimbursement for such activities. The American Hospital Association, the American Medical Association, the American College of Preventive Medicine, the National Health Council, and the American Public Health Association have all focused on education for health promotion and preventive medicine. Our new health planning legislation considers prevention and health education national health priorities. And the Canadians again appear ahead of us with regard to innovative social programs, offering a new health promotion perspective which will be embodied in all future Canadian health programs.

With this legislation we take our own first cautious and modest steps in this new area by providing legislative authority primarily for research and demonstration efforts in consumer health information and health promotion. These programs would be designed to develop several different types of initiatives in research and demonstration. The programs we would hope to develop would provide our people with better information about their own health and how to maintain it and how to use the medical care system effectively. They would develop and demonstrate improved programs of preventive and school health services and would determine which preventive health modalities were actually cost effective and reimbursable. The programs would also initiate new programs for health promotion and health maintenance.

The legislation would also establish an Office of Consumer Health Information and Health Promotion in the Office of the Assistant Secretary, thus assuring visibility and authority to establish health education on a firm footing. The office will be the focal point for policy coordination and development within DHEW. It will coordinate all interdepartmental activities, authorize grants and contracts, and establish relationships with the private sector.

This legislative proposal builds on a pioneering effort by our colleagues in the House—Congressman PAUL ROGERS, chairman of the House Subcommittee on Health and the Environment and the ranking minority member of that subcommittee, Dr. TIM LEE CARTER—and by proposals introduced by my colleagues on both sides of the aisle in this chamber, including those of Senators JAVITS and SCHWEIKER. It has received the overwhelming approval from many different constituencies. Supportive statements have been received from those in industry, academia, public health, hospitals, voluntary agencies, labor, and the community.

I am convinced that the time is propitious for such a national focus on health education. I am confident that this bill will result over the long term in substantial reductions in morbidity, in premature mortality, in social and economic costs—and in better health for the people of our Nation.

Mr. President, the bill also calls for authorizations of appropriations to continue our battle against the infectious and preventable diseases. Efforts to prevent and combat disease reflects the strength and weaknesses of our health care system. The predominance of infectious diseases, for example, is most prevalent among children under 10 years of age, residents of the inner city, native born Americans, migrants and those we have institutionalized. The highest incidence of rat bites and lead poisoning is among children living in our ghettoes. It is the weak, the disenfranchised and the powerless that are the most susceptible; but when we permit our immunization levels to drop as they now have, all of us are at risk. All of us are vulnerable.

We now have the means to control polio, tetanus, diphtheria, pertussis, measles, rubella, and mumps. Why then has the proportion of preschool children adequately protected against such diseases dropped to the lowest levels in a decade? Why are some epidemiologists predicting another outbreak of epidemic poliomyelitis? And why is the level of infectious syphilis the highest its been since 1950, while gonorrhea is at the highest level ever recorded in this country?

It is not just childhood diseases which concern us. Respiratory diseases, for example, are responsible for 65,000 to 100,000 deaths per year, while influenza affects 10 to 15 percent of the population. Hepatitis is responsible for 70,000 reported cases per year, but since this disease has been estimated to be underreported by a factor of 10, we probably have over 700,000 cases per year. The venereal diseases are the most alarming. Almost 1 million school days are lost each year by females owing to gonorrhea and its complications. Of the nearly 7,000 new cases of VD contracted every day 1,700 are teenagers.

The need for a Federal commitment to universal immunization for all children is abundantly apparent. So sensitive are our indicators that we are able to detect an immediate and pronounced increase in incidence rates whenever Federal support for such programs is reduced. Moreover, we need a long-term commitment to surveillance and control which is based more on the potential danger of outbreaks than upon the actual incidence and prevalance rates of disease.

Title II of the proposal I present to you would continue a national program of assisting States in carrying out programs which are needed to protect the American people from unnecessary suffering from communicable diseases, and to build upon our successes in communicable disease control by including an attack on other preventable conditions. These programs are an essential element in forging a truly effective health care policy for our country, and have the potential for undergirding work in reforming our system of health care financing and the delivery of personal health services.

The bill authorizes $26,500,000 for project grants and contracts in fiscal year 1976 to carry out these programs, with $36,000,000 and $42,500,000 being authorized for fiscal years 1977 and 1978 respectively. These grants are to support projects at the State and local level, and are to be awarded on the basis of the extent of the problem in the State or local area and on the soundness of the applicant's proposed control program. The bill reemphasizes the importance of carrying out public awareness programs in these projects so that, to the extent possible, citizens will be properly informed of disease risks and the services available to them to prevent illness. Grantees will continue to be able to draw on personnel and other resources of DHEW to carry out these projects in lieu of receiving direct financial assistance.

The definition of disease control program has been broadened to permit the administration and the Congress to address other problems of national significance which are amenable to control through organized State and community programs such as those authorized by this bill. Venereal disease control programs are addressed separately under title II of the bill in recognition of the importance of a special attack on this problem.

Similarly, lead based paint poisoning prevention grants are, in the committee's view, best undertaken in the context of a comprehensive attack. This approach, which was reflected in Senate bill 1664, ordered reported by the committee on July 16, 1975, is now incorporated in title II.

Mr. President, the Lead-Based Paint Poisoning Prevention Act would be continued for another 3-years. This act has set standards for allowable levels of lead in paint and on toys, cooking utensils, and other objects to which children may be exposed. It has also funded programs in communities in which there are substantial numbers of dwellings with lead-based paint for the identification of children who have been poisoned with lead and correction of the hazard presented to the paint. As with the other programs included in the present legislation, we remain convinced of the need for the continued effort. Some 6 million children are at risk for lead poisoning by DHEW's own figures and as many as 6,000 of these can be expected each year to suffer entirely unnecessary mental retardation from lead poisoning. In fact, 600 children annually die unnecessarily from lead poisoning. With this proposal we are extending the legislative authority, and additionally proposing a reexamination of the safe level of lead in paint by the Consumer Product Safety Commission, and modest increases in the authorization of appropriations to offset the effects of inflation and allow some modest growth in the program.

Title II of the bill also continues and strengthens the national campaign against venereal disease under section 318 of the PHS Act, which was formulated in 1972. The bill extends authority for the Secretary to provide technical assistance to other organizations in their conduct of research, training, and public health programs for the control of venereal disease. Research, demonstration, and training grants are also authorized to enable the Secretary to meet national needs in developing and upgrading control programs. The committee has authorized $5,000,000, $6,600,000, and $7,600,000 for fiscal years 1976, 1977, and 1978, respectively.

Project grants for control programs under 318(d) of the act are also continued with revisions to clarify the purposes of these grants. The committee is encouraged by the early results which have been achieved through 318(d) project grants, and is recommending a funding authority for the next 3 years which will avoid retrenchment at this critical phase of our all-out attack on venereal disease. In fiscal year 1976, $32 million is authorized for 318(d) grants, with $41.5 million in 1977, and $51.1 million in 1978.

A similar pattern emerges respecting efforts to control diseases borne by rodents. Since the repeal of section 314(e) of the PHS Act last year by Public Law 94–63, DHEW has also conducted programs designed to control diseases borne by rodents under the authority of disease control and prevention legislation through the Center for Disease Control. These programs respond to DHEW's estimate that there are some 300 communities in this country which have severe rat problems. Of these, 64 with an estimated 6 million residents are receiving Federal grant support. In each of these communities, a target area consisting of blocks with known severe rat infestation is identified and in the 64 communities these target areas include over 40,000 such blocks of which to date control of infestation has been achieved and maintained on only 21,000 blocks.

These figures make it clear that the existing rodent control effort is barely adequate and far from complete. For this reason the proposed legislation includes a 3-year extension of the program with authorizations which will maintain this necessary program at its current level.

The proposed legislation also includes a variety of other amendments to the disease prevention and control authorities designed to consolidate and strengthen them. These include authorizing disease prevention and control programs for noncommunicable diseases, including hypertension, pulmonary disease, cardiovascular disease, arthritis, diabetes and Rh disease, in addition to the communicable diseases already covered. Some of these, diabetes and Rh disease for instance, had already been included in section 317. General inclusion of noncommunicable diseases, which are nevertheless of national significance and subject to prevention and control programs, is an appropriate modification of the prevention and control authority. Second, given the sad state of our Nation's immunization effort described above, the legislation establishes priority for immunization programs for childhood diseases including measles, diphtheria, whooping cough, tetanus, polio and mumps.

These modifications are intended to give extra flexibility to the legislative authority and particularly to support continuation of the CDC's existing, valuable training efforts. Finally, the legislation consolidates existing authorities for control of health emergencies and epidemics and has required a report to the Congress on an annual basis on the status of the immunization of the population of the United States with identification by area, population group, and other categories of deficiencies in that status.

It is also the intention of this legislation to continue to upgrade the training and proficiency of public health professionals in carrying out their duties. The technical assistance capabilities of CDC should be fully utilized in helping States and localties strengthen each of their control programs. My committee, Mr. President, was distressed to learn during hearings on the proposal that DHEW was planning to require tuition payments from persons receiving technical training at CDC. It is a major objective of this proposal to upgrade States and local control capabilities, and we view this as a Federal responsibility. Tuition charges will certainly weaken the ability of CDC to help those States, counties and municipalities which are in greatest need of assistance. The bill before us accordingly reaffirms our commitment to section 311(b) of the PHS Act.

The funding authorizations for these programs under title II of the bill have been developed after careful consideration of the needs of the Nation in disease control and the demands for restraint in Federal spending. Funding levels are lower than those authorized for the period 1972–75, and are lower than our original estimates of the need for the next 3 years. They represent in each instance reasonable and minimal investments which must be made if we are to achieve the level of success in preventing illness which we, as a Nation, have both the financial and technical capability to achieve.

Mr. President, in reaching this accommodation with the administration for a high level Office of Consumer Health Information and Health Promotion and to continue our efforts respecting disease prevention and control—to assure that research continues, our children are immunized at levels high enough to maintain maximum health, the risks from disease borne by rodents and lead in paint are lessened, the epidemic of venereal diseases presently abroad in the land brought under control—I have been greatly assisted by my colleagues, Senators JAVITS, SCHWEIKER, MCGOVERN, and CLARK, and respecting childhood immunizations assisted by Senators BUMPERS, HART, and BAYH. In the House, Congressmen ROGERS, CARTER, COHEN, and MEEDS were instrumental in assuring this bill's success. And from my own staff, Arthur Viseltear of the Yale University School of Medicine should receive special kudos. As usual, the assistance of LeRoy Goldman and Jay Cutler, the permanent staff of my committee, and Arthur M. Silverstein, Congressional Science Fellow, has been invaluable.

Mr. GARY HART. Mr. President, I rise in support of S. 1466, the Disease Control Amendments Act, as amended. In addition, I also wish to acknowledge the efforts of my colleagues, Senators BUMPERS, BAYH, KENNEDY, and others who have worked diligently in the effort to insure adequate funding levels for immunization of children against the "conquered" childhood diseases, such as polio, measles, rubella, mumps, diphtheria, tetanus, and pertussis. For too long our country has ignored the fact that each year dozens of children in the United States are dying from diseases which they never should have contracted. We have allowed scores more to be left brain-damaged, blinded, deafened, and disabled, though we had the means of effective prevention readily at hand.

It is estimated that approximately 30 percent of American children are either unimmunized or insufficiently immunized at the present time. A further breakdown provided by the U.S. Immunization Survey of 1975 estimates that 15.5 million children are not fully protected against polio; 9.3 million children are not protected against DTP; 13.8 million are not protected against measles; 13.9 million children remain susceptible to rubella, and 26.4 million to mumps. Epidemiologists warn that epidemics are happening, that immunization levels are dangerously low throughout the country.

This situation reflects a grave irresponsibility. Over the past several years Congress has neglected its duty in effectively ordering our national immunization priorities. Financial support for immunization programs from the Department of Health, Education, and Welfare has been reduced from $12 million in 1973 to approximately $5 million per year. That kind of "support" cannot begin to approach the problem now facing us.

Mr. President, the funding levels authorized by this legislation will help insure that children from birth through age 13 will be protected against preventable and needless illness. Recently, the Congress responded to an administration request to provide adults with protection against the prospect of one potentially serious disease—influenza—at an estimated cost of $135 million. We hope that this will be money well spent. Now, by authorizing an additional fraction of that amount, we can take advantage of the publicity surrounding the vaccination program to provide our children with much-needed protection against the certainty of a host of life-threatening diseases. This truly will be money well spent.

These diseases pose risks which no child should have to face. I have heard it said time after time here on the Senate floor that our future is in our children. This program will help insure that that future will be a healthy one.

IMMUNIZATION

Mr. BUMPERS. Mr. President, I was pleased that the President took the leadership to propose an all-out effort to combat the possibility of swine influenza in this country. We all agree, I am sure, that preventive action is much more desirable and sensible than dealing with the consequences of an epidemic, both in terms of human costs and dollar costs.

The number of children in this country susceptible to preventable childhood diseases is a reflection of one of the most abysmal failures in the medical history of our Nation. Vaccines are available to protect children against polio, diphtheria, pertussis, tetanus, measles, mumps, and rubella which are safe and effective. Yet, the U.S. Immunization Survey of 1975 estimates that 15.5 million children are not fully protected against polio; 9.3 million children are not protected against DPT, 13.8 million are not protected against measles; 13.9 million children remain susceptible to rubella; and 26.4 million to mumps. I ask unanimous consent that a copy of a table illustrating these figures be printed in the RECORD following these remarks.

The failure to conduct adequate awareness programs alerting the public to the risks and costs of epidemics, compounded by a lack of funding to design and support aggressive immunization programs, has, and continues, to cost society countless billions of dollars in unnecessary medical expense, institutional care, and loss of productivity, to say nothing of pain, suffering, and despair.

The efficacy of immunization against childhood communicable diseases in cost-benefit terms is easy to illustrate. Studies of debilities resulting from communicable diseases in past years demonstrate, for example, that a single case of mental retardation from a disease such as rubella could cost more than $900,000, for a lifetime of institutional care plus loss of productivity. The Center for Disease Control reports in its March 19, 1976, Morbidity and Mortality Weekly Report that 2,576 cases of rubella have been identified during the first 10 weeks of this year. A reasonable estimate is that 1 percent or 257 of those cases will be pregnant mothers. It further shows a total of 6,667 cases of measles compared to 3,846 for the first 10 weeks of 1975. And there are predictions based on documented 10-year cycles of epidemics that 1976–77 could be epidemic years for both mumps and measles. It should also be noted that these are only the reported cases.

The cost of purchasing vaccines for all susceptible children under 14 years of age would be $78,442,000—see attached table. Assuming that 50 percent of this category are in the public sector—children in families who are eligible for public assistance—the cost could be halved to $39,221,000. This assumes that the other 50 percent could, and would, with a public awareness campaign, be immunized by their private physicians at private expense. Add to this approximately 25 cents for each inoculation anticipated in the public sector, as an incentive for the States to undertake such a project—$12,963,000—and the total costs for a substantial beginning toward filling a serious medical vacuum in our society would be $52,184,000.

At the present time two thirds of the U.S. preschool children are not immunized against mumps, despite the urgings of the American Academy of Pediatrics, the Center for Disease Control—CDC—and other medical bodies which warn that the disease carries substantial risk. The low immunization levels are due in part to the fact that in previous years the vaccine could not legally be used in the free, federally funded immunization clinics. While private practitioners increasingly use the triple shot for measles, mumps, and rubella, only the measles-rubella combination shot is given in the public health clinics.

In 1974 the overall incidence of mumps was much higher than that of the other childhood diseases, as evidenced by the following statistics gathered by CDC:

	1974	*1973*
Mumps	59, 128	59, 612
Measles	22, 094	26, 690
Rubella	11, 917	27, 804
Polio	7	8
Paralytic	7	7
Diphtheria	272	228
Pertussis	2, 402	1, 759
Tetanus	101	101

Regional studies indicate that about a third of mumps cases are in children under 5 years old, and another 50 percent of cases occur in the 5-through-9 age group.

This is not a disease to be dealt with lightly. The complications associated with mumps are many and varied. Mumps is one of the leading causes of deafness in children; impaired hearing is estimated to occur in 1 out of every 300 to 400 cases reported. The most common complications of mumps, however, are those involving the nervous system—encephalitis, encephalomyelitis, and meningitis. Although the majority of patients recover completely, some have permanent muscle weakness, paralysis, epilepsy, or psychic disturbances. Orchitis is also a common complication of mumps. About 1 percent of young boys with mumps experience the condition, but a substantial 20 to 30 percent of adult males with mumps suffer from orchitis. Orchitis may permanently impair fertility.

Furthermore, experts have calculated that mumps is fatal in about 2 to 4 of every 100,000 cases. Ten to thirty deaths are reported to occur each year from complications of mumps, and in 1973 the death total reached 12.

Mr. President, all but three States in this country have laws which prohibit children being enrolled in school until they have been immunized against all of the above diseases. Unfortunately, the laws are not vigorously enforced. Even if they were, a preschool aged child who contracts rubella can certainly communicate it to his mother, and if that mother is in the first 3 months of pregnancy, it is a medical certainty that the child will be born handicapped. There are approximately 250,000 people in this Nation housed in institutions for the mentally ill. It is estimated that between 5 and 9 percent of those cases are the results of the mother's contracting rubella during the first 3 months of pregnancy. There are probably two to three times that many less profoundly handicapped children in sheltered workshops and remaining at home who constitute a serious financial drain on families and a loss of productivity to society. But if one calculated that only 7 percent of them, or 17,500 of the above number, are institutionalized as a result of rubella, using the $900,000 per handicapped person figure above, the cost translates to $15,750,000,000. This is an outrageous statistic and should be a cause of shame to all of us.

Mr. President, it does not have to be this way. In 1973–74, the State of Arkansas, through a massive coordination and cooperation effort by existing public agencies, such as the State health department, cooperative extension service, and the National Guard, together with the Arkansas League for Nursing, the Arkansas Medical Society, and over 10,000 volunteers, lowered the percentage of susceptible children from one of the highest in the Nation to the lowest.

There is now a program being developed called Every Child in '76 to make the same effort nationally. It is sponsored by the National League of Nursing, and has been endorsed by the PTA, the National Governors Conference, HEW, and others. The American Revolution Bicentennial Administration has given it its approval as the only health-related Bicentennial project in the Nation. The success of this program will not depend solely on an appropriation, but it would be tragic for it to be less than successful for lack of funds. It is essentially a volunteer effort to get children to clinics or private physicians.

Mr. President, the Senate now has a timely opportunity to act to meet this need. The bill S. 1466, the National Health Promotion and Disease Prevention Act of 1976, is now at the desk with a House amendment. Extensive discussions have taken place with the House and with the administration on appropriate changes to this bill, and we have reason to believe that an addition to the sums authorized in the bill for childhood-disease immunization may be agreeable to all concerned. The success which I hope is in store for our efforts could not have taken place without the close cooperation and support of the distinguished Senator from New Jersey (Mr. WILLIAMS), chairman of the Committee on Labor and Public Welfare, the distinguished Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health, the distinguished Senator from Indiana (Mr. BAYH), who previously successfully sponsored a floor amendment in the Senate to H.R. 13172, the second supplemental appropriations bill, and the distinguished Senator from Colorado (Mr. GARY HART), who has been a consistent and effective advocate of this program.

Our proposal, Mr. President, is that the $27 million authorization in the House amendment to S. 1466 for childhood-disease immunization be increased to $49.5 million, with this sum allocated as follows: $9 million for fiscal year 1976, $17.5 million for fiscal year 1977, and $23 million for fiscal year 1978. This level of funding, when taken together with the other authorizations contained in section 317 of the Public Health Service Act, as amended, will not exceed the total authorization level of $105 million contained in S. 1466 as it passed the Senate originally. In addition, the words "to not less than 80 per centum" would be added at the appropriate point in section 317 (b) (2) of the Public Health Service Act, as amended, in order to give the Secretary of Health, Education, and Welfare some objective standard by which to encourage and require the initiation of immunization programs that go substantially above and beyond what has been undertaken in the past. Simply to continue existing efforts is not enough, as is conclusively demonstrated by the high levels of susceptibility shown in the attached table. Under the new form of the bill, therefore, the Secretary would be directed to give priority to those applications which will have the results of increasing the immunization rate to not less than 80 percent of the affected population.

As soon as this authorization becomes law, a number of Senators will move to secure funding by means of an appropriation. The Committee on Appropriations has at least twice indicated its willingness to grant a proper level of funding to this program just as soon as authorizing legislation has been enacted. The report of the Committee on Appropriations, Senate Report No. 94–742, page 4, on House Joint Resolution 890, the swine-flu joint resolution, stated:

> This proposal of a national immunization program also highlights the urgent need for immunization efforts in other areas. For over a year our rubella, smallpox, diphtheria, and polio immunization programs have been cut back because of lack of authorizing legislation and a strong Administration program. Hence, many of our children are not immunized, and the possibility of new outbreaks in these areas is great. The Committee urges both the President and the appropriate authorizing committees in the Congress to rapidly move ahead and enact the authorizing legislation so that a complete immunization program in this country may be implemented.

In addition, as Members will recall, when the second supplemental appropriations bill, H.R. 13172, was before the Senate, one of the committee amendments agreed to would have appropriated $16.9 million for this program for the remainder of fiscal year 1976 and for the transition period. This appropriation was removed from the bill in conference because of the lack of authorization, but the conference report, H. Rept. 94–1133, page 18, contained the following encouraging language:

> Amendment No. 77: Deleted paragraph inserted by the Senate which would have appropriated $16,900,000 for immunization programs and $9,000,000 for carrying out lead-based paint poisoning prevention activities.
>
> The conferees are agreed that the immunization programs are vital to the well-being of the children of this country. Immunization levels are dangerously low for many childhood diseases such as rubella, polio, measles, mumps, diphtheria, pertussis and tetanus which constitute a health hazard to millions of our children. If the proper immunization programs were to be conducted, millions of dollars could be saved by this preventive health measure—not to mention the suffering, permanent disability and even death which would be avoided.
>
> Further, the conferees note the immunization programs have not been authorized for some time and it is vital that the proper legislation be enacted for immunization and other preventive health service programs so that rational efforts can be initiated.

Mr. President, for all these reasons, I urge that the Senate swiftly approve S. 1466 with the indicated amendment to authorize a substantial increase in the level of activity in the field of childhood disease prevention.

Susceptible children 1–13 years of age, based on 1975 U.S. immunization survey and estimated costs of immunization

[Dollar amounts in thousands]

	Susceptibles (millions)	*Vaccine cost*[1]	*50% public sector cost*[2]
Polio[3]	15.5	$5,766	$2,883
DTP[3]	9.3	1,210	605
Measles	13.8	9,798	4,899
Rubella	13.9	8,340	4,170
Mumps	26.4	53,328	26,664
Total vaccine	----	----	39,221 [4] 12,963
Total program	----	----	52,184

[1] Costs are estimated using current vaccine bulk purchase per dose prices of: $0.186 for polio, $0.065 for DTP, $0.71 for measles, $0.60 for rubella, and $2.02 for mumps.

[2] The Center for Disease Control estimates that approximately half of all susceptible children are in families eligible for public assistance, hence the 50-percent public sector cost basis.

[3] Full immunization requires a series of three (3) doses per child. Since there is some partial immunization already an average of two doses requires is assumed for these calculations.

[4] Using the above data for the public sector groups only, approximately 104 million inoculations are required. Financial assistance grants to States to administer vaccine at $0.25 per dose would cost $12.963 million.

Mr. BAYH. Mr. President, as one who has had a longtime interest in the status of our Nation's immunization programs for the young, I am delighted that the Senate is reaffirming its commitment to revitalize these essential programs by accepting the amendment to S. 1466 offered by the Senator from Massachusetts (Mr. KENNEDY). I would like to take this opportunity to praise the Senator from Massachusetts and my colleague the Senator from Arkansas (Mr. BUMPERS) on this issue which has been a deep concern for us all.

The Senator from Massachusetts' leadership in the health field is well known, but I would like to point out that the Senator from Arkansas has also established an outstanding record in the field. The Senator from Arkansas' record both as Governor of his State and here in the Senate, demonstrates his deep commitment to ending communicable childhood disease. It is my understanding that during his tenure as Governor of Arkansas, the percentage of susceptible children in that State dropped from being the highest in the Nation to the lowest. That is a remarkable achievement. It should also be noted that the Senator's wife, Mrs. Bumpers, played an important role in this accomplishment.

The amendment before the Senate today is largely a product of this deep commitment. Under the provisions of this amendment, $49.5 million will be authorized over the next 3 years for immunization programs which would cover common childhood communicable diseases such as measles, rubella, mumps, poliomyelitis, diphtheria, tetanus, and whooping cough.

Mr. President, I am deeply concerned about the state of our national immunization programs. The Federal effort to control communicable diseases has declined from $17 million in 1970 to a mere $6.2 million in 1975. Yet a significant proportion of Americans remain susceptible to serious diseases for which effective immunizing vaccines exist. Thirty-seven percent are not completely immunized against polio. Corresponding percentages for other diseases are: DPT—diphtheria, pertussis or whooping cough and tetanus—26 percent; measles—36 percent; rubella—40 percent.

Of particular concern to me is the growing number of unimmunized children. The U.S. immunization survey of 1975 estimates that 15.5 million children are not fully protected against polio; 9.3 million children are not protected against DPT; 13.8 million are not protected against measles; 13.9 million remain susceptible to rubella; and 26.4 million to mumps. Many of these unimmunized children are under the age of 5.

Acceptance of the amendment before us today will help to regenerate the important immunization programs which have declined so drastically in recent years.

Mr. KENNEDY. Mr. President, this statement has the support of the ranking members of the Health Committee, Senator SCHWEIKER and the ranking member.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to concur in the amendments of the House of Representatives as amended by the amendment of the Senator from Massachusetts in the nature of a substitute for the House amendments to S. 1466.

The motion was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

AMENDMENT NO. 1665

Mr. HATHAWAY. Mr. President, I call up my printed amendment No. 1665.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an amendment numbered 1665.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 8, after "Treaty.", insert the following: "In carrying out such policy the Secretary of Defense shall not enter into any agreement with any other member or members of the North Atlantic Treaty Organization for the acquisition of equipment manufactured outside the United States, in exchange for, or in connection with, any agreement by such member or members of the North Atlantic Treaty Organization to acquire other equipment manufactured in the United States unless full details of the nature and substance of such proposed agreement has been reported to the Congress at least 30 days prior to entering into such proposed agreement.".

On page 31, line 16, strike out the period and insert in lieu thereof a comma and the following: "except that the Secretary may not determine that the acquisition of equipment manufactured in the United States is inconsistent with the public interest if such equipment manufactured in the United States meets the equipment procurement objectives at an equal or lower cost than does such equipment manufactured outside the United States, and in no event may the Secretary, for purposes of this subsection, waive the provisions of section 2304 of title 10, United States Code.".

Mr. HATHAWAY. Mr. President, I sent to the desk an unprinted amendment in the nature of a substitute for No. 1665.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), on behalf of himself and Mr. MUSKIE, Mr. DURKIN, and Mr. MCINTYRE, proposes a substitute for Amendment No. 1665.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, after the period in line 8, insert the following:

"In any case in which equipment authorized to be procured under title I of this act is utilized for the purpose of carrying out the foregoing policy, the Secretary of Defense shall report to Congress the full details of the nature and substance of any and all agreements entered into by the United States with any other member or members of the North Atlantic Treaty Organization providing for the acquisition of equipment manufactured outside the United States in exchange for, or as a part of, any other agreement by such member or members to acquire equipment manufactured in the United States. Such report shall be made by the Secretary within 30 days of the date of enactment of this Act.".

Mr. HATHAWAY. Mr. President, I originally offered that amendment——

The PRESIDING OFFICER. The Chair would inquire, is this the amendment to which 2 hours was assigned to the Senator?

Mr. HATHAWAY. I do not believe there is any time agreement entered into.

The PRESIDING OFFICER. One Hathaway amendment had a 2-hour assignment. Is this the one?

Mr. ROBERT C. BYRD. Mr. President, may I interject?

Mr. HATHAWAY. Certainly.

Mr. ROBERT C. BYRD. There was an agreement on one amendment by Mr. HATHAWAY, the time being limited to 2 hours, equally divided.

This is that amendment, I assume?

I understand that the Senator will not require near that much time.

The PRESIDING OFFICER. The Chair thanks the Senator from West Virginia.

The Senator from Maine.

Mr. HATHAWAY. Mr. President, I now offer this substitute, because of a concern which has arisen regarding the Army's recently announced tentative decision to purchase an armor machinegun, the Mag-58 from a Belgian manufacturer in preference to the domestically produced machinegun, the M-60E2, manufactured in Saco, Maine. There have been some suggestions in the press that the Army decision to consider the Belgian weapon resulted from an agreement between Secretary Schlesinger and the Belgian Defense Minister Van Boynants as part of an exchange, or "package deal" for the Belgian purchase of the F-16 fighter aircraft.

In offering this amendment I do not ask my colleagues to make any determination one way or the other regarding this matter. Rather, my amendment would require that the Secretary disclose to the Congress the full details of the nature and substance of any sort of "quid pro quo" agreement with NATO nations in connection with any equipment authorized for procurement in this bill.

In this way, there will be a clearly expressed congressional policy that it wants to be informed in such matters and thereby be better able to carry out its duty to vote with full knowledge on any authorizations and appropriations legislation which comes before it.

Further, there have also been suggestions from time to time that the procurement of the Belgian machinegun would advance the cause of standardization. I am concerned about that charge since my understanding of standardization and of this procurement suggest to me that the procurement has no direct bearing on standardization. I would like to inquire of the authors of the standardization provision and of the chairman of this committee whether from their understanding of the armor machinegun procurement and the standardization principle they see any direct connection between this procurement and the policy standardization of NATO.

Mr. MUSKIE. Mr. President, will my colleague yield to me?

Mr. HATHAWAY. I will certainly yield to my colleague from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Jim Case of the staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Will the Senator yield?

Mr. HATHAWAY. I am happy to yield to the Senator.

Mr. CULVER. As the Senator from Maine is aware, a recent GAO report on the Army's selection of the Belgian gun concluded, and I quote:

> The contribution either the Mag-58 or the M-60E2 would make to NATO standardization of equipment appears marginal.

I do believe however that selection of the Mag-58 would make a substantial indirect contribution to the longer term prospects for standardization by demonstrating U.S. willingness to move forward toward the development of a genuine "two-way street" on intra NATO procurement. In my view expanded U.S. procurement of European weapon systems is an essential foundation of meaningful standardization in the long run. Thus while not substantially contributing to standardization of armaments within NATO the Army's decision to go for the Mag-58 represents an important committment to a fundamental prerequisite of standardization.

Mr. MUSKIE. Will the Senator yield?

Mr. HATHAWAY. I am happy to yield to my colleague.

Mr. MUSKIE. I thank my good friend from Iowa for his statement. I appreciate his cooperation in clarifying the remaining uncertainties in this dispute.

If I understand the Senator correctly, purchase of the Belgian Mag-58 would, at most, contribute indirectly by showing a willingness to move in the direction of standardization of armaments among NATO nations.

Is it correct to say that these new provisions in section 802(a)(2) which make explicit the authority to waive the Buy America Act would not apply to this procurement?

Mr. CULVER. Let me say to the Senator from Maine that it is not my intention that this section apply retrospectively to the particular issue of the machinegun decision, since that decision predated this amendment, and since, of course, this amendment is not yet law. This provision does not, in my view, diminish the existing authority of the Secretary of Defense to waive the Buy America Act in the public interest.

But, neither the desirability of standardization, nor its legitimacy as grounds for waiving the Buy America Act is at issue here. It is my understanding that the Army's principal consideration in choosing the Mag-58 over the M-60E2 was reliability and not standardization.

Mr. MUSKIE. *I thank the Senator.*

I ask the distinguished Senator from Georgia, who is also actively interested in this policy of the bill, if he would agree with the distinguished Senator from Iowa that it does not apply retroactively to the procurement of the machinegun which is in question?

Mr. NUNN. The Senator from Georgia does agree with the Senator from Iowa that this particular section is not intended to apply retroactively in terms of law.

Mr. MUSKIE. I thank my good friends from Georgia and Iowa and my colleague from Maine for introducing this amendment. I appreciate their support and assistance in this matter.

I do have remaining concerns, however, about the Army's procurement decision here which relates not to the standardization issue, but to the question of whether the Secretary of Defense may have entered an agreement with the Belgian Defense Minister in June of 1975 under which the United States would agree to purchase the Belgian manufactured Mag-58 as part of a tradeoff for the Belgian agreement to purchase the F-16. Newspaper accounts reporting such an agreement back in June of 1975 first drew my attention to this matter and my suspicions about such a tradeoff have never been completely put to rest. The reporting requirement in Senator HATHAWAY's amendment, together with the understanding and assurances we have gained from the discussion here today, help alleviate many remaining concerns and I hope that we can proceed with affirmative action to require the reporting of any such agreements so that American workers and American industry will know precisely what agreements the Secretary of Defense has negotiated *and be able* to publicly evaluate the fairness and propriety of the arrangements. I hope that my colleagues from the committee will recognize the importance of these reporting requirements to American industry and American workers and will support the provision.

Mr. HATHAWAY. Mr. President, I thank my colleague from Maine and the distinguished Senators from Iowa and Georgia. I simply wish to address the chairman of the committee and ask him if this colloquy is consistent with his understanding of the situation?

Mr. STENNIS. Mr. President, I have understood this matter now principally from the viewpoint of the committee. The Senator from Georgia and the Senator from Iowa have gone into this matter thoroughly and have spoken for the committee. From my understanding of their representations here, it does comply with the situation, yes.

Mr. HATHAWAY. I thank the chairman very much.

Mr. STENNIS. That is the way I understand it.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

Mr. NUNN. Mr. President, may I ask one question? I understood there is a pending amendment at the desk.

Mr. HATHAWAY. The Senator is correct.

Mr. NUNN. Is the Senator pursuing his amendment that would require notice by the Secretary of Defense?

Mr. HATHAWAY. The Senator is pursuing the substitute for the original amendment, which was a printed amendment No. 1665. The substitute is an unprinted amendment, a copy of which I believe the Senator has. That is what the Senator is pursuing.

Mr. NUNN. The Senator from Georgia does have a copy of that amendment. It might be helpful, though, as in this colloquy there has been no reference made to the amendment, if the Senator would give us a brief explanation of the amendment itself. The colloquy relating to the provisions in the bill did not relate to this amendment. I think it might be helpful to have a brief explanation of the amendment.

Mr. HATHAWAY. As far as any equipment authorized to be procured under the terms of this bill, if the Secretary enters into any agreements with members of the North Atlantic Treaty Organization he is required to report such agreements to the Senate within 30 days, or within 30 days of the enactment of this law if he has entered into any in the past.

Mr. NUNN. So this is really a reporting amendment. It does not in any way preclude the Secretary of Defense from making that kind of an agreement?

Mr. HATHAWAY. It in no way precludes the Secretary.

Mr. NUNN. It is to make sure that Congress is informed if there is any kind of an agreement by the Secretary of Defense to purchase a NATO-produced weapon in exchange for NATO purchasing U.S. equipment.

Mr. HATHAWAY. The Senator is correct.

Mr. NUNN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. We have disposed of those amendments now, Mr. President, and, of course, the bill is open to further amendment. If we reach a point where there are no further amendments to be offered, as manager of the bill I would call for a third reading.

Mr. ALLEN. If the Senator plans to do that, out of deference to the Senator from Ohio I would——

Mr. STENNIS. I am not going to do it. I just brought the matter up that it was possible. I do not know what plans anyone has.

The Senator from Kansas has one amendment on which we have an agreement.

In addition to the Senator from Kansas, I believe——

Mr. TAFT. Will the Senator yield?

Mr. STENNIS. I yield.

Mr. TAFT. The Senator knows I have an amendment. My feeling is if there are less controversial amendments, it might be desirable to dispose of them first before we get to my amendment. I have no idea how long the debate on my amendment might continue once it starts.

Mr. STENNIS. I believe that is a good suggestion.

Mr. TAFT. I believe in view of the nature of the amendment, it would be desirable to have more Senators in the Chamber, which I think would happen at a later time.

Mr. STENNIS. Mr. President, I am just trying to round up the situation to see where we are.

In addition to the Dole amendment, what other amendments does the leader have, in addition to the matter the Senator from Ohio brought up?

Mr. ROBERT C. BYRD. I only know of the amendment by Mr. DOLE and the amendment by Mr. TAFT. Word has been sent to Mr. DOLE to come to the Chamber and call up his amendment now.

Mr. STENNIS. Those are the only ones I know of. I await the pleasure of the Senate. We will be ready.

Mr. ROBERT C. BYRD. The Senator from Kansas is on his way now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, will the Senator from Kansas yield for a brief unanimous consent request?

Mr. DOLE. I yield to the Senator from Georgia.

AUTHORITY TO SUBMIT CORRECTIONS IN COMMITTEE REPORT

Mr. NUNN. Mr. President, as Senators know, the Senate Armed Services Committee was under a considerable time pressure to meet the deadline for reporting the military authorization bill to the Senate. The committee received amendments to the budget request very late in its deliberations on the bill. Due to this time pressure, the committee report on the bill has several typographical errors which I would like to correct. I ask unanimous consent that there be a star print of the report showing the corrections and that the corrections be printed in the RECORD as follows:

1. On page 3, the chart at the top of the page should read as follows:

DEPARTMENT OF DEFENSE BUDGET AUTHORITY

	Billion
Current dollars:	
1964	$50.9
1976	96.2
Constant fiscal year 1976 dollars:	
1964	50.9
1976	106.0

2. On page 13, under Civilian Manpower the phrase "1500 in Air Force." should read "500 in Air Force."

3. On page 14, in the table the number "–4,009" should read "–4049."

4. On page 161, under Junior ROTC the phrase "800 to 1200:" should read "1200 to 2000."

5. On page 141, the last sentence of the first full paragraph should read as follows: "Commissaries also receive support in areas such as administration, routine maintenance, security and warehousing."

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

AMENDMENT NO. 1699

Mr. DOLE. Mr. President, I call up my amendment No. 1699, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Kansas (Mr. DOLE) proposes an amendment numbered 1699.

Mr. DOLE's amendment is as follows:

> On page 17, line 4, strike out "533,700" and insert in lieu thereof "534,604".
>
> On page 24, line 6, strike out "79,500" and insert in lieu thereof "92,000".
>
> On page 25, line 18, strike out "318,400" and insert in lieu thereof "318,581".

Mr. DOLE. Mr. President, this amendment would authorize a Naval Reserve drill strength of 92,000. This is a compromise between the present strength of 102,000 and the Armed Services Committee recommendation of 79,500.

This amendment is cosponsored by Senators THURMOND, TOWER, WILLIAMS, BROCK, and STEVENS.

DEFENSE MANPOWER COMMISSION

There are numerous reasons why a higher Naval Reserve strength is justified. The most important factor is the recent publication of the Defense Manpower Commission report. This report was released after the Senate Armed Services Committee considered the strength authorization for the Naval Reserve.

The Defense Manpower Commission report states:

> The fiscal year 1976 funded level of 102,000 appears to be reasonable . . . and that to cut the drilling reserve by 50,000 . . . would save drill pay but . . . would seem to be of questionable practicability.

The Commission further stated that:

> There is a need for the Navy to make better use of its selected reserve. . . . To assign and clarify reserve missions . . . to stabilize its reserve programs and to improve top-level management and support of Naval Reserve units.

MINIMUM NEEDS

In addition the Navy has carefully analyzed what its reserve needs would be in the event of a crisis and a full mobilization. This analysis is the OP–605 study. This study was ordered and personally supervised by the Chief of Naval Operations, Adm. James Holloway.

The full utilization of a 102,000 Naval Reserve drill strength has been the personal commitment of the Secretary of the Navy, the Chief of Naval Operations and the top Navy leadership. I emphasize this because it is the first time in recent years that the top Navy leadership has taken such a strong interest in the Reserve force. I believe it is important that we support this commitment of the Navy rather than making it more difficult by continuously reducing the Naval Reserve strength.

TOTAL FORCE NOT FARCE

The Navy's analysis of their Reserve force needs is based on the total force policy. Under this policy the Active Reserve is the first source of trained manpower and equipment that the Navy would turn to in the event of a crisis and a mobilization.

The proposed strength of 79,500 would cut out many units that are very important to the Navy in the event of a mobilization. Based on the committee report, it is apparently the committee's intention that base and air station support personnel would be cut out. In addition the load-out personnel for ordinance and logistical support units would apparently be reduced.

Mr. President, it is clear that these units have a vital mission to perform in the event of mobilization. It has been stated that the units to be cut back are of low priority and that they would have little or no specific relationship to early deployment plans. While these units are obviously not combat units, it is clear that in the modern Navy, the combat forces cannot operate for very long without full logistical support.

Presently the Navy supply system only has an adequate number of active duty personnel to operate the system on an 8-hour-per-day basis. In the event of a crisis the supply system would have to be put on a 24-hour full-time basis and the additional equipment and manpower to accomplish this would have to come from the Select Reserve, which this amendment authorizes. That is why the reserve logistics and supply units that would be covered under this amendment are so important to the mission of the Navy.

In addition most of our Navy bases and air stations are only operated on a 12-hour day, 5-day-week basis. The additional personnel and equipment to put these facilities on a full-time basis would have to come from the Reserve. Without a reserve strength of at least 92,000, it seems clear that the ability of the Navy to accomplish its mission in a crisis would be gravely endangered.

So the units that would be cut under the committee proposal present a real threat of making our policy of total force into a total farce.

BALANCED FORCE

The bill before the Senate would also strike many units that are essential to maintaining a balanced force.

The balanced force concept is based on the need to respond to all types of crises. For example, in an emergency the Navy might have a need for additional intelligence officers. These additional officers and units would come from the Active Reserve. Or the Navy might have the need for additional antisubmarine warfare units or for units to support an amphibious operation by the Marines. Based on the committee reports and on the debate on the Naval Reserve amendment last week, many units would be cut out of the Select Reserve that are essential to keeping a balanced force.

Recently the President signed into law the new authority to call up 50,000 reservists for a period of 90 days. The viability of this new law, as I understand, depends very much on having a balanced force available in the Select Reserve. If we disband the units necessary for a balanced force, the President might find that the units he needs would not be available during a crisis. The 92,000-level proposed in this amendment would greatly improve the ability of the Navy to maintain a balanced Naval Reserve Force.

COST EFFECTIVENESS

Mr. President, the Naval Reserve is a cost effective way for the Navy to maintain its necessary manpower strength. The cost per reservist is about one-fifth to one-sixth of what it costs to maintain comparable active duty personnel.

This is an especially important factor when 52 percent of the defense budget is for direct manpower costs alone. This does not include the indirect manpower costs that go for on-post housing, fringe benefits, and other items associated with manpower costs.

COST

The cost of this amendment to authorize a Reserve strength of 92,000 would be $12.3 million more than the strength authorization of 79,500 as reported out of the committee.

This figure includes the cost of 904 active duty personnel and 181 civilian personnel that would be required to maintain the Naval Reserve facilities used in the training of reservists. These active duty and civilian technicians apparently were not included in the bill reported by the committee but would be required for the 79,500 strength authorization. The cost also includes the reduced amount of funds required for "pay category D" personnel that results from a higher level of Active Reserve strength.

It has been stated that the reduction of reserve strength to 79,500 as recommended by the committee, would simply entail the transfer of reservists into pay category D. Pay category D involves only 2 weeks summer training rather than regular weekly or monthly drills.

However, as a matter of practice it is commonly known that most reservists that are so transferred will simply leave the Naval Reserve. In actuality the transfer to pay category D will have the effect of cutting these individuals out of the service.

PREVIOUS AMENDMENT

Mr. President, last week the Senate voted on an amendment I offered to maintain the Naval Reserve strength at its present level. That amendment was narrowly defeated by a margin of three votes. In recalling that vote it seems clear that it could have just as easily gone the other way.

In view of that vote, it appears that the Senate may support a Naval Reserve strength higher than the 79,500 approved by the Armed Services Committee. The Senator from Kansas strongly believes that the strength authorization of 102,000 has the strongest case and is fully justified. However, this is a compromise amendment and it is my belief that the Senate may approve a strength authorization greater than 79,500.

In summary, I would point out that the amendment I offered previously was to keep the reserve drill strength at 102,000. That was narrowly defeated in the Senate. The strength approved in the House bill was 102,000. The committee figure is 79,500.

Mr. President, the Senator from Kansas is convinced that the 92,000 strength level is necessary. Due to the fact that there are not a great number of Senators on the floor, and we have been through this drill strength matter one other time, except for the numbers, I reserve the remainder of my time.

Mr. TAFT. Mr. President, I ask unanimous consent that Gayle Kleweno of Senator Baker's staff have the privilege of the Senate floor during the debate on H.R. 12438 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the committee has carefully reviewed the President's budget request for the various kinds of Naval Reserve units. Based on that detailed study, the committee recommended adding 27,500 to the President's budget, for deployment-related units, ship and aircraft maintenance units, units with high technical and professional skills which might in case of emergency be called to active duty with the Naval Reserve.

The committee action is a part of an overall approach to strengthening the Naval Reserve, enhancing the reliance on and reliability of the Naval Reserve, and increase the overall effectiveness of the total forces of the Department of Defense.

The Dole amendment would seriously undermine the committee approach. The administration did not request this. The Navy themselves testified against it.

We added a great deal of strength to the Naval Reserve above the administration request, and I think the Dole amendment would undercut the committee purpose in doing that.

Therefore, we oppose the amendment. Rather than take up more time for this debate at this time, I ask unanimous consent that 2 minutes be reserved for both the Senator from Kansas and myself to sum up our positions immediately before the vote occurs, which I understand will occur around 7:30.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, that is agreeable with me. Will the Senator from Georgia and the Senator from Kansas yield back their time at this time?

Mr. TAFT. Mr. President, I wonder if the Senator will yield me 3 minutes.

Mr. NUNN. At this time?

Mr. TAFT. Yes, at this time.

Mr. NUNN. I will yield the Senator from Ohio—is this on this subject?

Mr. TAFT. On the subject.

Mr. NUNN. I yield the Senator from Ohio 3 minutes.

Mr. TAFT. Mr. President, I do appreciate the position of the distinguished Senator from Kansas very much. I am very sympathetic to it. I definitely feel that we do need more reserves in our Navy. Our ships are undermanned today. I think further trained and assigned Naval Reserve personnel could well fill that billet and fill it pretty well.

I am alarmed, however, by some attitudes I find in the Navy with regard to this. Frankly the attitudes are or seem to be that they really do not feel there is much of a role for the Naval Reserve. That is particularly true because they do not have the ships to put them on as Reserve ships or Reserve units, and there seems to be some feeling, at least there are some classes of vessels that they do not want to assign Naval Reserve personnel to fighting ships of the Navy to fill in the unfilled complements on tours of duty.

This seems to me to be a great mistake. I have discussed it with the Navy from time to time, but frankly, while I get some sympathy on it from a number of pepole with whom I have discussed it with, the Navy also finds that there still is really little or nothing done about it.

So after studying the matter in the committee, I came to the opinion that we certainly should not increase it further but we ought to keep pressure on the Navy to take a new hard look at their Reserve policies and see to it that they do find a real role for the use of their Reserves and then go ahead and build up our Reserves.

I think the position of the committee was certainly, as the Senator from Georgia has mentioned, consistent with that. We increased the amount the administration asked for over by a considerable amount of money, but I hope next year we will see the Navy come in with a plan that will involve active use of the Reserves that we give them; meanwhile, I do not think there is any chance that they would be able to use additional ones if we set them up, and we would, in effect, be paying money for really little benefit to the Nation because merely training an army does not do the job.

Mr. NUNN. May I say in brief response to the Senator from Ohio, I completely agree. For 2 years now our subcommittee has made every effort to try to get the Navy to make better use of their Reserves and to give them better missions. The Senator from Georgia will lead the way in trying to get an increase in the Naval Reserve next year or the year after or whenever the U.S. Navy demonstrate they intend to make good use of the Reserve, but I cannot condone nor recommend to the Senate that we spend $30 million per year on low priority units that have no meaningful mission in our national security. And that is exactly where we are today.

Mr. President, I reserve at least 2 minutes of the remainder of my time.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will Mr. Dole and Mr. Nunn reserve each 2 minutes of their time on the amendment?

Mr. NUNN. Mr. President, I ask unanimous consent that after yielding I yield back all of my time first.

Mr. ROBERT C. BYRD. Just yield back all but 2 minutes.

Mr. NUNN. I yield back all but 2 minutes of my time.

Mr. DOLE. I yield back all but 2 minutes of my time.

The PRESIDING OFFICER. All time, with exception of 2 minutes from the Senator from Kansas and 2 minutes from the Senator from Georgia, has been yielded back. The yeas and nays have been ordered.

ORDER TO LAY ASIDE DOLE AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. Dole be temporarily laid aside now until no earlier than 7:30 p.m. tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1693

Mr. TAFT. Mr. President, I call up my amendment No. 1693.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Taft) for himself and Mr. Bartlett proposes an amendment No. 1693.

The amendment is as follows:

On page 37, between lines 17 and 18, insert a new section as follows:

"Sec. 809. Notwithstanding any other provision of this Act, the President is authorized to use funds authorized to be appropriated by this Act for the procurement of the three production models of the B-1 bomber aircraft prior to February 1, 1977, if he determines at any time prior to such date that the production of such aircraft will improve chances for successful negotiations with the

Soviet Union at the Strategic Arms Limitation Talks regarding mutual limitations on strategic armaments.".

On page 37, line 18, strike out "SEC. 809" and insert in lieu thereof "SEC. 810".

Mr. TAFT. Mr. President, in the discussion on reservation by the unanimous-consent request a little earlier time this evening, we did commence by discussing what had led to the situation in which we find ourselves insofar as this amendment is concerned. I am not going to go into that at any great detail further today.

But I do call up this amendment because I have a serious problem with the Culver amendment as it was agreed to without any limitation on it.

It seems to me that it raises questions with regard to the negotiating ability of the President in the SALT talks or indeed, in any other talks in which we might become involved. And in order to discuss that in any intelligent context we have to take a look at the various weapons systems that we have in our strategic arsenal.

I shall review for the Senate at this time that general picture.

I think that this element of our national defense, which is by any measure the most vital to our national existence, should be very carefully considered by the Senate at this time. I am speaking of our strategic nuclear deterrence forces.

There is to me no question that the maintenance of strategic deterrence must be among the highest of our national priorities. There are, indeed, many important national goals—some military related, many not—toward which we work, and to the achievement of which we, in Congress, dedicate our national resources. I would, however, suggest that despite the importance of these goals, there is only one among them upon which, and upon which alone, the very survival of this Nation depends: That of maintaining strategic deterrence.

Because our strategic deterrence forces have always been adequate to their task, we tend to forget about them. Indeed, it is not pleasant to think about them, because it is not pleasant to think about what would happen should they fail or if they should no longer be credible.

The price of a failure of strategic deterrence would be international nuclear war or subservience to nuclear blackmail at the sacrifice of freedom.

What, in general terms, must we do to insure that deterrence does not fail?

First, we must take our deterrence forces seriously. We must not assume blithely that, because they have succeeded in maintaining deterrence over the past 30 years, we can pick and chip away at them, that we can comfortably talk of "overkill" and let our deterrence forces fend for themselves. Such attitudes, such unconcern, contain some potential for utter and irretrievable catastrophe.

Second, we must realize that there is no cost effectiveness for deterrence. The cost of a failure of deterrence is incalculable; therefore, there is no cost too great to pay for maintaining deterrence. A decision that we cannot afford a weapon system necessary for the maintenance of strategic deterrence is, by definition, a decision either to surrender or to commit collective suicide.

Third, we must be extremely cautious about tampering with the heretofore successful structure of our deterrence force. It would be a rash man who would suggest experimenting in this area, who would abandon the structure which has proven successful, simply because it has worked. There are areas where we, as Senators, have a responsibility to see that no resources are committed beyond the bare minimum needed to do the job. But this is not such an area. Strategic deterrence is not such a place to cut to the bone, to make fine calculations of just how much is enough. Far better that we should have some surplus capability, even at a high dollar price, than that we should cut too finely and pay the infinite cost of a failure of deterrence. In this area, the wise man walks carefully and with reverence for that which has succeeded.

The basic structure of our deterrence force is the Triad—the combination of bombers, ICBM's and SLBM's. It is this Triad structure which creates the deterrence-producing uncertainties in the minds of our opponents. It is this Triad structure which is the very basis of our deterrence force. It is this Triad structure which has been successful; and, as I noted earlier, it is a bold man who would propose to experiment with success in this area.

What do we need to maintain our successful deterrence force structure, the Triad? There are, in this military procurement bill, several programs which are vital, if the Triad is to be maintained.

The first of these is the Trident—*Ohio*-class—submarine. There are several qualities which are important to a ballistic missile submarine, if it is to remain undetected by potential attackers and thus able to carry out its deterrence mission. The two most important of these qualities are the range of its missiles and the quietness of the submarine.

Missile range is of great importance because it is the range of the missile which determines how much of the ocean is usable by the submarine. If the missile range is too short, the submarine must remain close to the potential enemy's coasts and thus vulnerable to his antisubmarine ships and aircraft. The longer the submarine can cruise while remaining in range of its targets, the greater the potential opponent's ASW problems. The missile which the Trident submarine will carry will have a range of over 4,000 miles—compared with the 2,900-mile range of our current SLBM. Subsequent missiles for the Trident will have an even greater range/payload capability. I note that the SSN-8 ballistic missile in the Soviet *Delta*-class submarine, currently in service, has a range of 4,200 miles. These submarines can sit at their docks in Petropavlovsk and hit every city in my State of Ohio.

The Trident submarine will also be materially more quiet than our current Poseidon class. Quietness is a key factor in a submarine's ability to avoid detection; a principal means of finding a submarine is through underwater listening devices, which can pick up underwater noise hundreds of miles away.

If we are to maintain the Triad, we need the Trident submarine. We need the deterrence capability given by its increased ability to avoid hostile ASW forces.

Another system which we need if we are to maintain the Triad is the B-1 bomber. One of the three basic elements of the Triad is a manned bomber. Without an effective, modern, strategic bomber, you do not have a Triad—you have abandoned our successful deterrence force structure, and have decided to experiment with deterrence. The only alternative to abandoning the Triad is the B-1, because it is the only modern strategic bomber available to us. The B-52 is increasingly outdated in design, and the actual planes are wearing out. The FB-111 is only capable of one-way missions, and, more importantly, it is physically too small to carry the advanced electronics which will be necessary to penetrate the Soviet air defenses of the 1980's and 1990's. Forward based, they would be vulnerable to a first strike. Proposed cruise missile carriers are not strategic bombers at all; they would be converted transport or civilian airliners, and would be incapable of penetrating any hostile air defenses. They would be extremely vulnerable because of their tactical inflexibility. They have only one tactic: approach the borders of a hostile country and launch their missiles. Long-range interceptors or long-range air defense missiles would be an effective answer to such a system.

Another point that needs to be made in relation to the B-1 is that Soviet civil defense programs are increasing. More and more Soviet targets, not only military targets but also industrial targets, are receiving defensive hardening and extensive air defense forces are in being. This makes them less vulnerable to the comparatively small warheads on our Minuteman and our sea-launched missiles.

There is also considerable evidence—growing evidence, unfortunately—that the Soviets in their civil defense activities and in their defensive attitudes at the present time have their entire manned control and communications systems in relatively hardened sites, underground sites. They have very extensive plans for covering up their industry in a mobilization situation in very simple ways, but nevertheless ways that are quite effective.

They already have a dispersion of their industry over their entire nation that is certainly greatly in excess of our own, which is more or less concentrated in a number of areas.

They also have a very excellent civil defense system under which they are instructing people throughout Russia in what steps they should take in the event of a nuclear attack. This has led some experts, including one with whom I talked recently, who was present at the SALT talks in the original SALT agreement and was one of our negotiators at that time, to believe that our deterrence capability, insofar as our ability to destroy their manufacturing establishments is concerned, or even to have a major threat against their population, has been decreased greatly in the last few years, going down from perhap 50 percent, which we have been talking about, to as low as 5 percent, in the estimation of this one expert with whom I talked on the subject.

The manned bomber, on the other hand, can carry bombs with the capability needed to destroy these hardened targets. This is very important, if deterrence is to be effective. If the Soviets believe our retaliatory forces cannot destroy their key installations, then deterrence is weakened. We must preserve the capability to attack hardened targets, and, with the exception of our small number of Titan missiles, only our bombers have this capability.

Thus, the B–1 is necessary if we are to maintain the Triad. There is no alternative to it, other than to abandon the Triad structure of our deterrence force. Is it expensive? Yes. But I return to the point; can you play cost effectiveness with deterrence, where the price of failure—of just one failure—is nuclear holocaust? The Triad structure is the only deterrence system which we know does work.

There is one further portion of the bill before us which relates to our Triad. This is the authorization for the continued procurement of Minuteman missiles. We had some debate on this measure earlier today. The outcome of the debate on the amendment offered by the Senator from Massachusetts certainly gives me pause for a number of reasons, because it attempts to cut down on our capabilities in the field of the land-based ICBM. The land-based ICBM remains a vital part of the Triad. By procuring these additional Minutemen, we will strengthen this component of our force. The Minuteman III is superior to the Minuteman II, which would be replaced by these additional III's, in all respects. Minuteman III is a MIRVed missile. Equally important, it is better hardened against blast effects, and thus more survivable. Both aspects contribute to better deterrence.

I listened with interest to the comments of the distinguished Senator from Utah on this issue earlier today, and I must say that I find myself very much in agreement with him. The information that has been coming through as to what the Russians are doing with their ICBM's is quite frightening. I will go into that in somewhat more detail at a later point tonight.

The committee was assured that this procurement of Minuteman will not impact negatively on our Trident program. If the Vladivostok agreement is institutionalized in a new SALT treaty then these missiles would not be procured, or at least they would not be fitted with a MIRVed warhead. They will only be procured with MIRV's if there is no SALT agreement based on Vladivostok; in which case, of course, they will not impact on the number of MIRV's we can deploy, and thus on Trident. I agree with those who favor the submarine-launched missiles over land-based ICBM's; the point is that no tradeoff is involved here.

Each of these programs strengthens one of the three arms of the Triad. Each of those arms is needed, not only because without any one of them we will have abandoned the Triad, but because, on its own, each has its vulnerabilities.

The bomber has always been somewhat vulnerable to hostile interceptors and to antiaircraft defenses, as well as to attacks on its bases. I would point out that some bombers have always gotten through, and I have confidence in the ability of a modern bomber with defense countermeasures such as the B–1, flying fast and low, to penetrate any air defense. Nonetheless, the bomber has its vulnerabilities; and a deterrence force based solely on bombers would be a risky way to insure our national existence.

Similarly, land-based ICBM's are potentially vulnerable to first strikes by opposing ballistic missile forces. Large numbers of enemy ICBM's, equipped with multimegaton warheads and high-precision guidance systems, could pose a threat to any land-based ICBM system. I do not intend to say that we now face such a threat; we do not, and I am confident in the high survivability of our land-based missiles against the current threat. We must note, however, that the Soviets are increasing both the size of their missiles and the accuracy of their guidance systems. It is not inconceivable that we could, in the not-too-distant future, face a threat to our land-based missiles that would have to concern us.

Our submarine-launched missiles are, at present, our least vulnerable strategic retaliation force. That does not mean, however, that they are invulnerable. As I noted last year during the debate on this subject, the Soviets are doing intensive research into antisubmarine warfare. They are developing new means of area search for submarines, including possibly some that can be used from satellites. They may also be preparing to use the SSN–13—a land-based missile previously—in an antisubmarine role, or even possibly ICBM's. It is possible that the Soviets could achieve a major breakthrough in ASW; in which case a force based solely on missile-firing submarines would put the Nation at great risk.

Have we found, in the ballistic missile submarine, a strategic weapon which is invulnerable now and for the foreseeable future? The answer, I think, is that we have not, that the submarine will remain a vital part of the Triad; but that all systems, individually, have potential vulnerabilities. That, I suggest, is why we continue to need a Triad. And that is the reason why I hope my colleagues will join me in supporting the programs we must have if we are to maintain the Triad: The Trident submarine, which is I noted, will be far less vulnerable to ASW than the present Poseidon; the B–1 bomber; and the additional Minuteman III ICBM's.

Mr. President, I am going to go further into some of these items at a later time when the time arrives for a vote. At the present time, unless someone else wishes the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I mentioned a few minutes ago some of the developments that we see in the Russian ICBM threat. I particularly want to call to the attention of the Senate at this time a publication which I think was delivered to all Senators. Certainly, it was delivered to me. It is called "SALT II, Promise or Precipice?" It is produced by the Center for Advanced International Studies of the University of Miami in conjunction with the international security studies program of the Fletcher School of Law and Diplomacy at Tufts University. There is a monograph prepared by Prof. Robert L. Pfaltzgraff, Jr., and Jacquelyn K. Davis, working with him.

It goes in great detail into the background of all of the weapons systems in connection with the SALT II negotiations. I particularly call that to the attention of the Members of the Senate.

The portion that I wanted to discuss particularly with the Senate today is with regard to the Backfire airplane that the Russians have developed and still claim is not a strategic system. The Backfire is a supersonic aircraft, somewhat smaller than our B–1, but with many similarities to it in its capabilities.

I wish to read in particular from a portion of this monograph starting on page 20:

> Since SALT I, and in particular the Vladivostok summit, the Soviet Union appears to have modified its definition of strategic by its acquiescence in dropping forward-based systems (FBS) from the SALT II agenda. The Soviet concession on this issue has been interpreted as evidence of the success of SALT and the convergence of positions through "frank" discussion of respective superpower perspectives on national security. Yet Moscow's reversal on FBS could also be viewed as a hedge against the inclusion of Backfire in SALT, as well as other Soviet forward nuclear-capable systems that could strike targets in the United States. Since cruise missiles have the potential to pose a significant threat to Soviet territory, the Soviet Union has held that they are strategic systems and must be subject to SALT limitations. Backfire, on the other hand, is not a strategic system, Moscow contends, since it was designed for use as a peripheral theater weapon and has a range of only 3,570 miles, when flying at supersonic speeds, and thus should not be considered for discussion at SALT.

That is a quote from this monograph as to what the Soviet position is.

Further quoting from the monograph, I call the following to the attention of the Senate:

> Backfire flying a supersonic profile is a central strategic system if refueled or forward-deployed, the criteria according to which the U.S. B–52 has been defined as strategic in SALT. A subsonic profile, which would greatly enhance its range capability, is also possible for Backfire since U.S. air defenses are virtually nonexistent. Flying subsonically and carrying a 10,000-pound pay-

> load, Backfire if deployed from any major operational air base in the Soviet Union, could strike all targets in the continental United States and return to the Soviet Union without refueling. Carrying a 20,000-pound payload—and that would include quote a number of nuclear weapons—Backfire, unrefueled, could strike 98 per cent of targets in the United States and return to its home base. During the 1972 OKEAN worldwide military exercise, which reportedly included simulation of an all-out nuclear attack against the United States, two squadrons of Backfire were observed to participate, albeit in a minor mode. Since then, one Backfire squadron is known to have been assigned to Soviet long range aviation, while a second has been attached to the naval air arm and a third is being formed for deployment in Eastern Europe. The development of a second, more advanced version of the bomber, code-named by NATO Backfire B,[40] further weakens the Soviet case for excluding Backfire from SALT or for defining it as a non-strategic system.
>
> In its January 1976 proposal, the United States would have been permitted to deploy unlimited numbers of air-launched cruise missiles with ranges of 1,500 miles, but each heavy bomber carrying twelve to twenty ALCMs and/or SRAMs would be subject to inclusion under the Vladivostoq ceiling of 1,320 on MIRVed launchers. Submarine-launched cruise missiles would be restricted to a range of 360 miles—a proposal that, in effect, would deny the longer range sea-launched cruise missile under development by the United States one of the principal missions for which it has been designed, since few important targets lie within 360 miles of U.S. submarines operating from the 100-to-200-fathom mark off the coast of the Soviet Union.
>
> The net effect of this proposal would probably be to curtail, if not eliminate, both the strategic and tactical cruise missile programs of the U.S. Navy, since it would probably be difficult for the U.S. Congress to justify continued appropriations for research on a weapons system whose deployment had been restricted in SALT. The termination of the Navy's strategic cruise missile program would have serious spill-over effects for the ALCM program, since much of the basic R&D for both programs has been undertaken by the Navy. Since 1974, the Navy's strategic cruise missile program has had the task of designing studies and concepts that would permit SLCMs to be deployed from B–52 aircraft. Both of the companies in competition for the Navy contract to build SLCMs submitted designs that have been fit-tested in the SRAM rack of the B–52. The only major distinction between the launch of an SLCM and an ALCM from a B–52 is that of range, since 25 to 50 per cent of Tomahawk's payload is lost if the SLCM is to fit on a SRAM rack. The ALCM achieves a slightly greater range than the SLCM.

The point that I would like to make with regard to the SLCM and the B–1 bomber is that the B–1 is capable of carrying the SLCM or the ALCM, for that matter, and is far more capable of doing so than our present M–47's. With the very excellent air defense and civil defense capabilities that the Russians have in existence, even at the present time, and certainly with what is going to be developed, I think we can easily foresee that even with the superior capabilities of the B–1 bomber over the B–52 bomber, within a period of perhaps 10 years, perhaps less, the B–1 may well need the SLCM or the ALCM as a weapon under a number of circumstances. It would certainly give a great deal of latitude to the way in which this weapon could be used. One of the great virtues of the weapon, of course, is its latitude of operational development.

It could still, of course, use the SRAM, which is a hard-target type of weapon, but the cruise missile by that time may have developed a further hard-target capability, and today it certainly could be used as soon as we have any B–1's available in the less heavily guarded target scenario.

In this regard, in this same monograph, on page 2, in discussing the matter of these aircraft carrying cruise missiles or other types of weapons, Mr. Pfaltzgraff observed:

> Although cruise missiles deployed in a strategic mode lack sufficient speed and payload to pose a major first-strike threat against hard targets, they can strike targets such as bombers, airfields and related defense/industrial sites with great accuracy. Each U.S. B–52 can carry twenty ALCMs, while the B–1 could carry up to twenty-four cruise missiles. Together with SRAMs, the ALCM could be used to improve the penetration capacity of manned bombers by suppressing enemy surveillance and ground radars and diverting missile interceptors when employed with dummy warheads. Unlike SRAM, which is effective only up to ranges of 100 miles, the long range of ALCMs enables them to be launched without first having to penetrate enemy defenses in depth. The cruise missile, with its small radar cross-section and lower infrared output, is more difficult to detect with airborne radar, while its nap-of-the-earth trajector makes it a challenge to ground radars as well. Cruise missiles thus enhance the utility of the manned bomber as a strategic system. Because the bomber, unlike the ballistic missile, is recallable, cruise missiles deployed on a launch platform such as a manned bomber benefit from the flexibiity of control. Their weakness is that, once detected, they become highly vulnerable to terminal-point defenses around valued targets because of their inability to detect and counter defense threats.

That, I think, makes the point very well that the cruise missile can be a great addition to the capabilities of the B–1 rather than being an argument, as some have argued in the committee discussions, that we did not need the B–1 because we have the cruise missile. Quite the contrary is true. The cruise missile alone does not have the hard target capability, as I just pointed out. But even more important, the availability of a manned bomber that can make a degree of penetration makes the likely detection and defense against a cruise missile a lot less credible, and adds greatly to the potentiality of this new weapon that I believe is an extremely important one. I call that to the attention of the Senate.

Just in the last day or two, the 20th of May, in regard to this entire area, I do note a dispatch from Tass political observer Vladimir Goncharvo, writing as follows:

> It does not attend meetings, deliver speeches or give interviews, nevertheless it plays an important part in the election campaign battles, now unfolding in the United States. Contenders for the supreme government post in the USA find it useful to be standing next to it in a picture. It's sharp beak, glassy eyes, and widespread wings rub shoulders on newspaper pages with the emblems of the biggest American political parties.
>
> It is the test sample of the new strategic bomber "B–1".
>
> The first thing to be said about it is that it costs an astronomical amount of money. The American press says it might beat all cost records and become one of the most expensive arms systems ever developed at the Pentagon's request.
>
> According to the critics of the "B–1's series production—and there are such in the USA, including among the knowledgeable persons accepted in Congress circles—this programme is not absolutely necessary for the country's security.

They hope we will believe that, I guess.

> Even so some of the presidential contenders and even those of them who were opposed to the "B–1" for the above-mentioned reasons, now declare that they may revise their attitude to it after becoming President. It is probably not the "B–1" itself, but an unwillingness to fall out with the military industrial complex and the political figures who chose the so-called Soviet military menace to the USA as their election theme. It is not a new theme and is taken up every time the war budget has to be increased or an expensive project has to be pushed through. Now again there are some who hope to drag the production of the "B–1" through the American Congress under cover of the election campaign noise.

Then he goes on, and this is the part I particularly want to call to the attention of the Senate:

> To produce or not to produce an arms system is naturally an internal affair of the United States. But internationally, the putting of the "B–1" into serious production will certainly not assist the limitation of strategic armaments, what is more, it will undoubtedly whip up the arms race and new military spending.

It is obvious that Moscow does not like the B–1, so I would suggest this means that it is indeed extremely important to our negotiations, and my amendment is tailored, as I think it shows from its own language, to indicate that.

Now, Mr. Preseident, I would like to go a little further into this matter. I have here an Air University Review of March and April 1976 relating to the role of the strategic bomber. It reads as follows:

> Much has been written about the Triad of strategic weapons that provide the backbone for this country's deterrent posture. The synergistic effects of our land-based ballistic missiles sea-launched missiles, and manned strategic bombers greatly compound the problems faced by any would-be attacker who contemplates a nuclear Pearl Harbor to rob this country of its striking force. These weapons are mutually supporting.
>
> The role of the manned bomber is unique. It alone can be launched on warning and maintained in a nearly invulnerable airborne alert, under positive control, while negotiations proceeds to resolve a crisis situation. It alone takes advantage of national decision-making capability in a changing conflict situation, and it alone can be recalled when the crisis is over.
>
> It is generally well known that for almost two decades following World War II the manned strategic bomber was our most important deterrent weapon. Indeed, for over a decade, until the advent of the ballistic missile, it was our only strategic deterrent. What is not so widely recognized is the degree to which our deterrent posture still depends on the bomber.

SALT negotiations have resulted in a form of parity in total strategic offensive delivery vehicles, as shown in Figure 1. Most of the Soviet payload is carried in missiles, however, while approximately half of the U.S. capability depends on the strategic bomber force. This past and present dependence is indicated in Figure 2, which breaks out the intercontinental bombers separately.

If we allow our bomber force to become obsolete, so that it can no longer survive or penetrate the enemy's improved defenses, it could in time cease to be an effective deterrent. Failure to modernize the bomber force, then, would unilaterally decrease our strategic capability by some fifty percent.

WHY A NEW BOMBER?

The B-52 has been the mainstay of our strategic deterrent since it was first produced in the early 1950s. Since that time it has gone through a number of model changes, the last being the G and H models. Additionally, the B-52s in the operational inventory have had a number of modifications to add power and increase structural life.

These continuing modifications have increased the useful operational life of this outstanding aircraft to a full thirty years. When finally retired, it will have flown through half the history of aviation. With further modifications we might keep it flying longer, but the B-52 will still be the same size, the same aerodynamic shape, and thus will still have similar aerodynamic drag and radar cross section. Relatively little can be done to improve its reaction time. And it will lose its capability to penetrate Soviet territory as their defenses become increasingly more sophisticated. In time, the B-52 will cease to be a credible deterrent.

Compared to the B-52, the FB-111 is, of course, a more modern aircraft with higher speed and better low-level performance. However, it is simply too small to perform the operational mission of the B-1. Air Force studies of "stretched" versions of the FB-111 with new engines have shown that its capacity for carrying weapons and fuel is much too small to make it a viable alternative to the B-1. Aside from the fact that it would not cover all targets of interest, cost-effectiveness studies have indicated that as many as ten times the number of aircraft (plus additional tankers) would be required, rendering it a much more costly and less effective option.

NECESSARY ATTRIBUTES OF A FOLLOW-ON BOMBER

To deter war, a follow-on bomber must possess two specific attributes: it must be able to survive a surprise attack and it must be able to penetrate an enemy's defenses. There are other requirements—many others—but these two are primary. And the B-1 has been designed with these foremost in mind.

Ability to Survive a Surprise Attack.—One of the unique features of the manned bomber force is the ability to launch on warning, thereby achieving an additional measure of invulnerability. There need be no question of confidence in the strategic warning system, for the bomber force remains under positive command control. But the bomber must be able to take off following a minimum warning, such as might be expected from an attack by sea-launched ballistic missiles (SLBM). The bomber should have a short takeoff run to enable it to get into the air quickly and be able to accelerate rapidly to high speeds and escape a base that may be under attack. It should be hardened to the effects of nuclear blast and radiation, and its design should permit dispersal to a significant number of airfields. These requirements have greatly influenced the design of the B-1.

The B-1 is designed to launch in less than half the time of the B-52. With its swing-wing in the forward position, it has a relatively short takeoff roll; it can accelerate rapidly after takeoff to a higher speed than that attainable by the B-52. It is the first aircraft specifically designed to a high blast and radiation hardness requirement, and even its white paint plays a significant part in reflecting the radiant heat from a nuclear blast. The combination of these factors will enable up to sixteen B-1s to survive an attack severe enough to permit escape by only one B-52. Further, the smaller B-1 has been designed to utilize about 150 more airfields than the wider B-52, thus permitting wider dispersion in times of crisis. This feature further increases the B-1's survivability potential and enormously complicates a potential aggressor's offensive problem.

Ability to Penetrate.—The other primary requirement of the bomber force is penetration. This requirement, more than all others, has driven the design of the B-1. Both the B-52 and the B-1 can fly to the enemy defenses. The B-1 carries a significantly greater payload, and its swing-wing and specially tailored fan-jet engines use less fuel; but both will get to enemy territory. Today and for an indeterminate time dependent largely on our adversaries' actions, the B-52 can penetrate those defenses. In the period from 1985 and beyond, however, the B-52's penetration task would be extremely difficult, and the B-1 will be available. The B-1 could penetrate under the enemy's radar near treetop level at high subsonic speeds. This high-speed, low-altitude requirement largely dictates the swing-wing design, even if a supersonic flight capability were not desired. The low radar cross section is also significant, denying acquisition until the B-1 is within one-half to one-third the acquisition range of the B-52. To complete the enemy's defensive problems further, a sophisticated defensive countermeasures system will automatically (or manually, if desired) acquire and jam a wide range of enemy acquisition radars.

The inherent capability of the B-1 to fly at high supersonic speeds further complicates the enemy defenses by requiring a defensive capability to defend against high-altitude supersonic attack. The flexibility to fly any combination of these missions is the best guarantee of a reliable penetration capability.

TO LEARN FROM THE PAST . . .

Each successive aircraft design should result in a better product than its predecessor. But each successive design is a harder and usually costlier job. One has knowledge of additional problems that are to be avoided and capabilities that are highly desirable. The B-52 experienced fatigue problems requiring major wing rework. The F-111 had a major wing root problem with the use of high carbon steel, requiring costly inspection and retrofit. The C-5 experienced static load problems in the design of its wings. All aircraft designed to date face problems with windshield bird impact. Obviously we do not wish to encounter these problems with the B-1.

In addition to the normal technical problems in designing and developing a large swing-wing aircraft with significantly higher performance than that previously attained, we undertook to avoid the problems of the past. To accomplish this, we were the first to institute fracture mechanics as a requirement from the time of contract award. Special fracture-tough alloys were specified, and hundreds of aircraft specimens and sections of various size were tested to failure. If fatigue cracks did not develop by the end of the specified test cycles, they were artificially induced, and the specimens were then subjected to design limit loads. To assure a fatigue life at least equal to that of the B-52, a B-1 lifetime of 13,500 hours was specified, and aircraft components were designed to withstand four times this service.

Major sections of the aircraft were subjected to static tests. The aft fuselage, with its massive titanium spindle that holds the movable horizontal tail, was static-tested to limit load and on to ultimate load in a number of flight conditions. The aircraft's critical wing carry-through section, which connects to fuselage components and to the movable wings by pivot pins, was similarly tested. An additional series of large structural specimens will shortly commence four lifetimes of fatigue testing.

The logical progression of structural tests is from parts, to major structural specimens, to a complete airplane. The number 2 aircraft has been designed and instrumented for structural tests and has undergone static testing to design limit loads in a specially designed fixture at Lockheed-California at Palmdale. During these ground tests the 2000-odd strain gages were calibrated for use in subsequent flight loads testing in actual flight.

NEW DYNAMICS

The actual aerodynamic design of the aircraft is believed to be the most comprehensive yet undertaken. Over 22,000 hours of wind-tunnel testing have been conducted to confirm and improve the design, utilizing 44 models in 18 different wind tunnels.

Subsystems.—Concurrent with basic aero and structures design and tests, the designs of the various subsystems received their own qualification. A flight control mockup, dubbed the "Iron Bird," accumulated over 1800 hours in operating mass-simulated control surfaces with the actual hydraulic plumbing and components. Of particular interest was the operation of specially designed actuators and motors utilized in a 4000-psi hydraulic system.

The landing gear was tested through hundreds of cycles, and tires, brakes, and shimmy dampers were similarly tested in specially designed simulators.

Unique Features.—By and large, the B-1 design does not "push" the state of the art. It does, however, use the latest techniques and developments to attain a substantial improvement in overall performance. Among the unique features are an Electronic Multiplex System (EMUX), which avoids the use of some 30,000 wire segments; a Central Integrated Test System (CITS), which records 3148 system measurement items during flight to provide trending data for extended usage of engines and other components—as well as maintenance data for rapid turnaround. The 240-volt power system is virtually unique to aircraft design, as is the 4000-psi hydraulic system.

But perhaps the most distinctive feature of all is the overall redundancy requirement—the aircraft is designed to "fail operational, fail safe." In brief, this means that the aircraft must still be able to accomplish its operational mission after failure of any one major subsystem.

It must be able to sustain an additional failure of that subsystem and still be able to land safely. With few exceptions, the present design meets these requirements.

The PRESIDING OFFICER. The hour of 7:30 having arrived, the pending business becomes the amendment of the Senator from Kansas, Mr. Dole, in which 2 minutes are reserved for the Senator from Kansas (Mr. Dole), and 2 minutes reserved for the Senator from Georgia (Mr. Nunn). Who yields time? If time is not yielded, time will run equally against both sides.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 4 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I would ask someone to get in touch with the two Senators and get them here while my 4 minutes are running.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I urge the defeat of the Dole amendment. This amendment would increase by 12,500 the Naval Reserve strength above the recommended committee level. It would also require increases of 904 active duty Navy and 181 Navy civilian strength. It would cost $30 million. It is not budgeted. It would be against the administration recommendation and the Navy recommendation.

I will fully join the Senator from Kansas when the Navy demonstrates that it can give its units, and will give its units, meaningful missions. These are low priority units. The committee looked very carefully into this matter. We added back all the units that had meaningful skills that could be readily deployed in any kind of likely scenario, but we did not think we should force upon the Navy units they did not want, did not ask for, and say that they cannot use. These are low priority units. This is a $30 million expenditure and I urge defeat of the amendment.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas will just emphasize what I said last week and again earlier today. The House bill provides a drill strength of 102,000. The Senate committee has recommended 79,500. The amendment of the Senator from Kansas would authorize a reserve drill strength of 92,000. I might say, as the Senator from Georgia has, I would be happy to join in cutting the Reserve strength if I thought there was not a suitable mission. I have been urging the Navy to do what everyone has urged, and that is to beef up the Reserve program, to bring about some objective mission. I think that is being done.

Earlier I referred to the statement and testimony of the Defense Manpower Commission report which indicated this is a proper level. I just believe that with the 92,000 level, those Senators in the conference can work out a reasonable compromise.

The PRESIDING OFFICER. All time is expired. The question is on the amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island, (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Michigan (Mr. PHILIP A. HART), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from North Carolina (Mr. MORGAN) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. NELSON) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Hawaii (Mr. FONG) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON) and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "yea."

The result was announced—yeas 39, nays 35, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—39

Baker
Bartlett
Bentsen
Brock
Buckley
Bumpers
Case
Chiles
Curtis
Dole
Domenici
Fannin
Ford
Garn
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Inouye
Jackson
Johnston
Laxalt
Long
Magnuson
Mathias
McClure
Moss
Pell
Roth
Schweiker
Scott, William L.
Stafford
Stevens
Stone
Thurmond
Tower
Williams

NAYS—35

Allen
Bayh
Bellmon
Biden
Burdick
Byrd, Robert C.
Cannon
Clark
Cranston
Culver
Eagleton
Glenn
Goldwater
Hart, Gary
Haskell
Hathaway
Javits
Kennedy
Leahy
McClellan
McIntyre
Metcalf
Mondale
Muskie
Nunn
Percy
Proxmire
Randolph
Ribicoff
Sparkman
Stennis
Stevenson
Taft
Talmadge
Young

ANSWERED "PRESENT"—1

Durkin

NOT VOTING—25

Abourezk
Beall
Brooke
Byrd, Harry F., Jr.
Church
Eastland
Fong
Gravel
Hart, Philip A.
Hartke
Huddleston
Humphrey
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Symington
Tunney
Weicker

So Mr. DOLE's amendment (No. 1699) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate is not in order. The Senate will kindly come to order. Will Senators who wish to converse kindly withdraw from the Chamber? The Senate is not yet in order.

Mr. ROBERT C. BYRD. Mr. President, the question before the Senate now is on the adoption of the amendment by Mr. TAFT. I shall vote to table that amendment shortly, but before doing so I want to state the reasons why I will make this motion. And I also would want to yield to Mr. TAFT for 15 or 20 minutes so that he might make his closing argument.

Senators are wanting to complete work on this *bill tonight*. Various Senators have appointments which will cause them to have to leave the Chamber soon.

But this matter was decided earlier during the consideration of this bill by a vote of 44 to 37. In other words, 81 Senators took a position earlier in the debate with respect to this subject matter.

The amendment by Mr. CULVER was carried decisively. The matter is in conference now, may I say to the distinguished Senator from Ohio (Mr. TAFT) of which, of course, he is already aware.

In view of the fact, first, that the Senate has spoken on this issue, second, that the matter will be in conference, and those Senators on the other side of the question can be assured that there will be further consideration of the matter in conference, and finally, if this bill is not passed today, it is my judgment that the bill will not be passed until the week after next, I state the following reasons:

There is an order to proceed to the consideration of the antitrust legislation on tomorrow. No call for the regular order can bring that measure down tomorrow. On Friday, there is an order for the resumption of consideration of the antitrust legislation, and no call for the regular order can displace that bill on Friday. When the Senate returns on Wednesday next there is no order, so if the Senate were to return to the military procurement bill on Wednesday next, a call for the regular order would displace the military procurement bill and would bring up the Foreign Military Sales Act. On Thursday, which is the second day following the return of the Senate after the Memorial Day weekend, there will be a vote to invoke cloture on the antitrust bill.

If that vote carries, and I think there is room for reasonable optimism that cloture will be invoked, then the Senate under the rule would have to complete action on that business before it could take up any other business except by unanimous consent. The Senate would only have Thursday and Friday within which to do that.

That would mean that this bill, if not completed today, will go over until the week after next. The reason I know it will go over is because, if this amendment by Mr. TAFT were to carry, I am confident that there is a sufficient number of Senators who would want to carry on the debate to the extent that we could not finish it tonight, and I have already explained what the predicament would be after tonight.

I hesitate to offer a tabling motion. I know that the distinguished Senator from Ohio feels strongly about this matter. He was not present and for good reasons at the time the matter was voted on. He certainly is entitled to call up his amendment, but I do feel the responsibility of leadership at this time. Because of the strictures of time to which I already have alluded, with apologies, I feel that I will have to offer this tabling motion.

Before doing that, I will be glad to yield to the Senator from Ohio for not to exceed 15 minutes, with the understanding that I not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, first of all, I thank the distinguished assistant majority leader for his accommodation in this matter. I have kept him informed of the situation as it has developed, and I think we have had an opportunity to develop fully the questions that are raised here.

I should like to go back briefly, however, for the Senate and review, as he has in part, the current situation.

The current situation is that the House does have funds for three production aircraft of the B–1 in the bill that will be coming to conference. The Senate, under the Culver amendment, would have the provision requiring a delay in that funding and a decision until February of next year.

I have to take issue with the distinguished floor leader, however, on the point that he made that this is the same subject on which the Senate voted last Thursday. I was sorry to miss the vote last Thursday, but had I thought it was the same subject, I would not have raised it again. Indeed, I feel quite strongly to the contrary.

I point out to the Members that amendment No. 1693 is aimed at a particular problem that I think exists with the Culver amendment, if we go ahead with enacting any legislation of that kind—that is, it puts the President in a very difficult position insofar as the SALT talks are concerned.

The purpose of this amendment is to leave standing the provision of the Culver amendment. It does not touch the amendment in which the Culver amendment exists. It adds a separate section saying that if the President determines at any time prior to the February 1, 1977, date that the production of aircraft, going ahead with the production decision of aircraft, would improve the chances for successful negotiations with the Soviet Union at the SALT talks regarding the actual limitations on strategic armaments, he could go ahead with the production order.

I point this out because it seems to me that it would be very difficult for the President or for those negotiating for him in the SALT talks to go to the SALT talks and discuss limitations on particular weapons systems, numbers of warheads and numbers of delivery vehicles of one kind or another, numbers of aircraft, if they are going to get into aircraft so far as the strategic aircraft are concerned, and not know what type of aircraft he is going to have in this rather key element of our triad defense. He would be going there not knowing whether he is negotiating the delivery of weapons in the triad or the limitation of weapons in the triad with the B–52 bomber or the B–1 bomber.

It is a very different proposition when, as one would hope, the SALT discussions might attempt to project out for a considerable number of years—by 1985, for example. How can we offer any assurance that the B–52 in any way would be capable, and how would the President know that he could count on having a weapons system such as the B–1 if Congress had put that kind of limitation on it?

Frankly, I voted in the committee to support the B–1 system and to support going ahead with it now, because I think we are ready to go ahead with it now.

That is not the issue presented by this amendment. The issue presented by this amendment is whether we are going to tie the President's hands when he goes to the SALT talks or those representing him at the SALT talks. He will need to know what type of limitations Congress has put upon him insofar as weapons systems are concerned.

I yield to no one in my strong feelings that we need a successful SALT discussion. We need to cap the strategic arms race. It is a huge cost on the Nation, and the danger of nuclear war and proliferation continues. If superpowers cannot control their arms programs, why should other countries?

Whether we approve the Vladivostok talks or not, we should attempt to negotiate at SALT in a successful way; but in order to do so, the President needs a strong bargaining position. If the U.S. position is not strong, the agreement could favor the U.S.S.R.'s interest; or, more likely, if the President does not know he is going to have the availability of the best weapons he can get, which he is counting on, he is going to be much more reluctant to agree to what the Russians may or may not have.

So, I think that without this amendment, the Culver amendment would have the effect of weakening the ability of the President to arrive at a successful conclusion of the SALT talks. We need to be sure that we do not inadvertently undercut the U.S. position.

It is hard to say from outside SALT what points are going to be most critical, and only the President and those advising him and working in the SALT talks can make that kind of judgment. We in Congress need to keep from inadvertently impacting negatively on the U.S. position.

The bomber issue is one of the trickiest in SALT.

I quoted earlier from a monograph with respect to the Soviet Backfire bomber, setting this out in detail. I will read briefly from that monograph, and I think it is totally accurate:

> Backfire flying a supersonic profile is a central strategic system if refueled or forward-deployed, the criteria according to which the U.S. B–52 has been defined as strategic in SALT. A subsonic profile, which would greatly enhance its range capability, is also possible for Backfire since U.S. air defenses are virtually nonexistent. Flying subsonically and carrying a 10,000-pound payload, Backfire if deployed from any major operational air base in the Soviet Union, could strike all targets in the continental United States and return to the Soviet Union without refueling. Carrying a 20,000-pound payload, Backfire, unrefueled, could strike 98 per cent of targets in the United States and return to its home base.

The inclusion or noninclusion of the Backfire is a major issue in the SALT talks, but do not think for that reason that the question of the B–1 is or can be called in any way a bargaining chip in the SALT talks. It is not. There is no question of the B–1 being forsworn by the United States insofar as the SALT talks are concerned. That is not the point I am trying to make.

What I am trying to say is that we are trying to send the men into these bargaining negotiations not even knowing how many chips they have in their entire bank, because they do not know whether or not they are going to have a weapons system on which they really have to depend in order to make a decision.

I think it is our duty to avoid errors in this critical area and to give our negotiators the tools they must have. The price of a mistake could be very high.

Prudence dictates that we provide a means by which the President could go ahead with the B–1, if that is necessary for negotiations. He should be allowed to do that with confidence and the knowledge that air strike forces within the limits set are the very best in capability. This implies the B–1, insofar as the air arm of the triad is concerned. Nor is the cruise missile an effective substitute for the B–1 system. Rather, it is complementary. Within a few years I think we are going to find the Russian air defense is built up. The Russians, unfortunately, seem to concentrate more on defense than deterrence, to the point that we are going to be very happy if we find that we not only have the B–1 but also cruise missiles capable of being delivered from the B–1, thus further covering our penetration possibilities, which by then, with the B–52 or any other system we currently have for the use of the cruise missile, might be severely jeopardized.

This seems to me the issue with regard to this amendment, and that is why I thought it was necessary to bring it before the Senate at this time for its consideration.

Mr. President, I am ready to yield back the time remaining.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from Mississippi wish to address himself to the motion before I make the motion, or does he wish to discuss the subject?

Mr. STENNIS. Mr. President, I have thought about this. The Senate knows how I feel about the importance of the bill and moving along and getting it passed.

I am on the same side, on the merits of the thing, originally, as the Senator from Ohio. I really think that, everything considered, under the circumstances I will vote to table if the Senator makes the motion. It is just a matter of moving the bill along on a matter that has already been voted on. It will certainly be in conference and no one knows what will happen there. I propose to represent the Senate there.

I feel greatly obligated to the Senator from Ohio. He is one of the hardest-working Members and most effective Members of our body. I have said that many times, publicly and to him, too.

That is all I have to say.

Mr. ROBERT C. BYRD. I yield not to exceed 5 minutes to the Senator from Iowa.

Mr. CULVER. I do not intend to use all the time, if I could have 10.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Iowa for not to exceed 5 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. CULVER. I thank the distinguished majority whip, as well as the chairman of the Senate Committee on Armed Services, for their kind consideration in this issue.

Mr. President, last week the Senate, in its wisdom, voted to defer procurement decisions on the B-1 bomber until February 1 of 1977. Forty-four Members of the U.S. Senate determined that decision to be prudent and in the national interest. That was last week.

Why did the Senate make that judgment? Mr. President, I submit that the Senate made that judgment because this issue before us tonight is, perhaps, the most important issue before the country for many, many years to come—in dollars and cents, in terms of our strategic deterrent credibility in the world, and in terms of the availability of funds to meet domestic needs as well as our military requirements.

Mr. President, under that amendment, that delay until February 1 afforded what? It afforded the opportunity to complete the testing of the B-1 bomber. We are talking about a program of $21.6 billion—244 aircraft, $88 million a copy, which came in just 6 years ago at $35 million; today it is pushing 90. And we have now completed, as of May 12, one-half of the 350 hours of testing—just one-half. That is all, just one-half.

Now, what the Senate said was, we are going to complete testing, which is due in November, and we are going to afford the next President of the United States an opportunity to carefully assess, calmly, in an atmosphere free of political campaign, that very important judgment in the national security interest as to whether that plane should be bought.

Mr. President, we have seen, for the last 5 years, a degradation in that plane's characteristics. We have only had three prototypes even built. We are working on the fourth. We do not even have the design for the fifth. The design for the fifth is going to be the final model upon which we base a decision whether we are going to buy these three porcurement copies they are talking about next November.

So the Senate acted responsibly and prudently and wisely in the national interest. We said we are going to fly before we buy—fly before we buy. Who remembers the C-5A? We are not going to make that mistake again, the Senate said last week; we are going to fly before we buy. And we are not going to buy a pig in a poke. We are going to know what we buy. We are not going to buy a platinum pig in a poke.

That is all we said. We are going to wait until we get 175 additional hours of testing finished so we know what is the capability of that aircraft. What can it do in terms of takeoff weight, in terms of subsonic speed and subsonic range and supersonic range? We do not know yet.

As a matter of fact, it has only been tested about 5 minutes at some of those low flight levels, and that is the whole reason we are supposed to buy it, because it can defeat enemy radar. We have not even proven that yet.

So the Senate said we are going to wait until next February when all the facts are in and the President then, Republican or Democrat, can make that decision carefully and calmly and can weigh all the relevant factors in the international climate of that time so he can make the best judgment in our interest—considering SALT as well as these other matters.

What happens now? Last week, procedurally, we had this all worked out. But now we are on the verge of setting up a process around here where, all of a sudden, although we have agreements about when we cover certain items in disagreement, and we vote our will after full and adequate debate, then you can come down and ambush when your troops lead in a numbers count.

We counted last week. We counted both sides. We counted absentees. And we looked at that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CULVER. Just 3 additional minutes, please.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield 1 minute to the Senator from Iowa, then 2 minutes to the Senator from Alabama. Then I hope to make my motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. If we adopt the Taft amendment, we would be sending inconsistent signals on this bill. On the one hand, we are saying we can defer the question until February 1 and let the President make a decision then, after all the facts are in. Simultaneously, we would be saying, we do not really mean that. Under the Taft amendment, the United States can make the decision to go before any more testing is completed. He can say "Go" the night before the California primary, on the B-1 bomber.

What about SALT? The interesting thing about SALT is, Mr. President, that not one single high official in the entire administration—in arms control, in the Department of Defense, Secretary of the Air Force Reed, President Ford—all commenting on the B-1, have never once said that it has any relationship at all to our SALT position. And they have not argued against the Senate vote of last week on these grounds. For example, Secretary Reed talked a few hours after the Taft amendment was filed Monday. Guess what? He never even thought to mention SALT.

Do you know why? Because they argue it is of strategic necessity. They do not want it to be a bargaining chip. Pretty expensive, $88 million a copy, build them, bargain them. We have cruise missiles.

Finally, let me say that it seems to me that what we are talking about here is really a parliamentary ploy—not sound and responsible public policy. I certainly urge my colleagues at the appropriate time to support the motion to table so that the Senate can serve the national interest, properly defined, on one of the most important questions that we shall ever be called upon to vote on.

I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from Alabama.

Mr. ALLEN. I thank the Senator from West Virginia.

Mr. President, it is quite obvious that the stage is set to table the Taft amendment. But I feel that the Taft amendment is a constructive amendment, because it does prevent this delay to February 1 from being set in concrete. It does allow the President—if he feels that starting with the program would be left to us in the SALT negotiation, then he will be authorized to proceed.

The distinguished Senator from Iowa has said this is the most important issue to be decided by the Senate for years to come. That being true, I do not go along with the argument that for the convenience of Senators, we need to table the Taft amendment. I think it ought to be debated and I think we ought to reach a sound conclusion as a result of debate and not just to finish up the bill and accommodate Senators' schedules.

I think if it is all that important—and possibly it is—we ought to consider the matter on the merits. I look with mighty little favor on the process of saying the bill has got to be finished tonight, Senators have other appointments, and let us table this amendment.

I think that is the wrong approach. Two more days here some time could very easily be carved out by agreement, in my judgment, to consider this matter further.

I hope the amendment will not be tabled but, quite obviously, it will.

The Senator from Iowa talked about the escalating costs of the B–1, and that is true; and that another period of delay will certainly not reduce the cost; it would just add to the costs if it is finally decided to implement the program.

WHY THE B–1—ONE MORE TIME

Mr. HRUSKA. Mr. President, I rise in support of the Taft amendment. It is remarkable to find a defense program that has been around for so long and has been discussed in so many pages of testimony before the Armed Services Committee and debated on the floor of the Senate that can continue to raise such interest and emotion. Actually, I am quite pleased, for issues of national security and defense posture are topics that should not be taken lightly. They are issues that go to the core of our Nation's defensive capacity and are elements which contribute to our preeminence and continued survival in world affairs. And, today we find ourselves involved once again in a debate concerning an important element of our strategic arsenal of deterrence, the B–1 bomber, an annual ritual now for the last 5 years. What is so disappointing is that, while the issues have hardly changed during this time, few seem to read or acknowledge the comments of other participants in the debate. Unfortunately, this body recently decided to further delay needlessly the development of the B–1. But, that decision should not halt reasonable discussion of this issue; nor should it preclude reconsideration and modification of that decision.

We now have available a thought-provoking study of the military balance that exists between the United States and our principal adversary, the Soviet Union. Prepared by the Congressional Research Service of the Library of Congress, this report sets out for laymen and Members of Congress alike the most comprehensive compilation of current and, I might add, unclassified data on our relative strengths and weaknesses. It is gratifying to note that this booklet has proven to be a best seller.

From this research material, it is clear that Soviet strategic weapons capabilities have grown steadily over the past years. The projected threat and the uncertainties of the future should have a direct bearing upon our deliberations concerning the modernization of our strategic bomber force and the timing of the development of new weapons like the B–1 which have been designed to offset these future threats and uncertainties.

Our country's defenses are based upon the so-called Triad system. This is a three-pronged defense system consisting of intercontinental ballistic missiles, submarine launched ballistic missiles, and the manned bomber. Under the Triad system, should our country come under a first-strike nuclear attack at least one of these three components would be able to inflict a massive nuclear retaliation upon the aggressor.

It is essential to remember, however, that Triad is a carefully conceived system which is based upon three and not two nuclear delivery systems. Should Triad be reduced to two systems the temptation to attempt to knock out those systems with a first strike may increase to the point where a potential aggressor feels that the odds have shifted significantly enough in his favor.

Triad is seen as an offense system of last resort but also it is primarily a defense system designed to prevent a nuclear attack. It is important that we do not lose sight of this key fact.

The B–1 bomber is designed to be one-third of the Triad system. As such, it is to replace the B–52. There can be little doubt that the B–52 needs replacement. Although a fine aircraft, the models currently in use by the Air Force date from 1958 and 1960. Their average age is 15 years and the extensive use during the Vietnam war has required many modifications.

When we enter the decade of the 1980's these bombers will be 20 years old. The technology which produced them would be 20 to 30 years old. The defense technology which they would face would be much newer. Their ability to successfully carry out whatever missions assigned would have to be seriously questioned.

On the other hand, Soviet technology and capability have increased rapidly during the past few years. Look at the Soviet's substantial and growing nuclear-powered ballistic missile submarine force. The Library of Congress reports operational new Delta-class submarines with 12 long-range missiles and that the Soviets have under construction a "stretched" version with 16 launch tubes. We must take into account the threat that is posed by these missiles in planning for the prelaunch survivability of our bomber force.

While it is currently considered to be highly survivable in the event of a submarine launch ballistic missile attack, the B–52 was not designed to have the nuclear hardness and rapid acceleration capability required by this increased threat; the B–1 has been so designed. Thus, we have an aircraft flying today which will be much less sensitive to these increases in the Soviet offensive threat.

Examine the Soviet air defense force. Again we find that the threat is substantial, and further improvements in Soviet air defense capabilities are projected which also must be considered when evaluating the B–1. Coupled with this is a massive number of surface-to-air missiles on launchers deployed throughout their country.

The B–52 was not designed to cope with so intense a threat as is now arrayed against it. The B–52 was originally designed in the early 1950's as a high altitude bomber. Its large radar cross section and its relatively slow speed at low altitude could pose difficulties in penetrating the high density, sophisticated defenses now deployed in the Soviet Union.

What the United States seems to be facing is an increasing threat from Soviet strategic force modernization efforts which include new and more effective ICBM's, new and larger Delta class ballistic missile submarines with longer range missiles, modernized air defense systems comprised of airborne warning aircraft, interceptors, and surface-to-air missiles.

The Library of Congress notes that the replacement of B–52's with the B–1 is the only strategic procurement program which this country is undertaking that is directly related to this area of our strategic deterrent. When you consider the importance of the bomber to our deterrent, the age of the B–52, and the acknowledged threat, the B–1 fulfills a compelling role as an element of our strategic forces.

I know that the deployment of a B–1 force will entail a sizable investment. However, there is no substitute for the substantial contribution made to our deterrent forces by the bomber—and no more cost-effective alternative to maintaining this force than the B–1. Moreover, it will prove less costly in the long run to proceed with production of the B–1 now, and not incur additional delays which will just raise the cost of the overall program even more. Now is the time for the decision on the B–1 and I urge support of this valuable program.

Mr. PERCY. Mr. President, the Senate voted last week to procure the B–1 bomber only after the President certifies that test and evaluation on this aircraft—to be carried out between now and February 1, 1977—yield satisfactory results. It expresses the will of the Senate to permit this major and far-reaching procurement decision to be made—but only after sufficient test and evaluation data is available—and without the many extraneous considerations of a Presidential election year.

Mr. President, I cannot support an amendment that would seek to resolve this major procurement decision by artificially framing the question as one in which a multibillion-dollar weapons system is viewed as a "bargaining chip" in the SALT talks. Yet this would be the effect of the amendment offered by my distinguished friend from Ohio. This amendment raises two very basic questions:

First. Do the supporters of the B–1 bomber suspect that test and evaluation between now and next February will not yield results that support their position?

Second. Assuming that future research, development, testing, and evaluation does support their position, would it not be more desirable to wait until this data is available and use it to persuade public opinion to support the buy?

Mr. President, I hope that many Senators who support the B–1 bomber can join with those who oppose it in tabling this amendment.

Mr. ROBERT C. BYRD. Mr. President, I am not making the motion to table out of respect for the need to accommodate Senators. I like to do that when possible, but I have stated my reasons already, and it is not for that purpose.

Mr. President, I move to lay on the table the amendment by Mr. TAFT, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio (Mr. Taft). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip Hart), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Wyoming (Mr. McGee), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from Rhode Island (Mr. Pastore), the Senator from New Mexico (Mr. Montoya), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Morgan), and the Senator from South Dakota (Mr. McGovern) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. Nelson) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "nay."

On this vote, the Senator from Idaho (Mr. Church) is paired with the Senator from New Mexico (Mr. Montoya). If present and voting, the Senator from Idaho would vote "yea" and the Senator from New Mexico would vote "nay."

On this vote, the Senator from Rhode Island (Mr. Pastore) is paired with the Senator from California (Mr. Tunney). If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from California would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall) and the Senator from Hawaii (Mr. Fong) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from Pennsylvania (Mr. Hugh Scott) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Hugh Scott) would vote "nay."

The result was announced—yeas 47, nays 30, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—47

Bayh
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McIntyre
Mondale
Moss
Muskie
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Stennis
Stevenson
Williams

NAYS—30

Allen
Baker
Bartlett
Bellmon
Bentsen
Brock
Buckley
Cranston
Curtis
Dole
Domenici
Fannin
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
McClure
Metcalf
Scott, William L.
Stafford
Stevens
Stone
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—23

Abourezk
Beall
Brooke
Byrd, Harry F., Jr.
Church
Fong
Gravel
Hart, Philip A.
Hartke
Huddleston
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Symington
Talmadge
Tunney

So the motion to lay on the table Mr. Taft's amendment was agreed to.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I ask unanimous consent that the vote by which my amendment No. 1695 was adopted on yesterday be reconsidered.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object, what is that amendment?

Mr. TOWER. That was the amendment that authorized the Navy to assign Rear Adm. J. Edward Snyder, Jr., to command status as Oceanographer of the Navy.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, the reason I do this is that the amendment was adopted yesterday, and I do not know whose dereliction it was, perhaps it was my own, without some Senators who had an interest in this matter being informed and, therefore, I had asked for this reconsideration so that their rights might be protected.

I believe that probably the Senator from Maryland (Mr. Mathias) would like to address himself to the issue.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, first, I would like to express my thanks to the distinguished Senator from Texas for the spirit of fair play in which he has called his own amendment back to the reconsideration of the Senate.

I think that this is a demonstration of the highest kind of comity within the Senate and one that I am deeply grateful for.

I am also grateful for the concurrence of the distinguished Senator from Mississippi, the manager of the bill, with whom we had discussed this situation.

The reason, Mr. President, that I have sought to bring this question back to the reconsideration of the Senate is because I consider it very serious.

We, by the action the Senate took yesterday, have broken the precedent of at least 20 years with the single exception—and I stand to be corrected if I am wrong—but with the single exception, I believe, of the case of General Haig who had his rank restored after having left the Army and whose case was virtually a unique case in the history of the Republic.

There have been other cases in the dim past when naval procedures were different, but at the time that we considered General Haig's case and at the time we considered Colonel Butterfield's case, and at the same time the case which the Senate denied, I made up my mind that we should not lightly restore military status to officers who have retired voluntarily, or otherwise, because of what that does to the whole system of promotion within the armed services, because of what that does to the hopes and aspirations of younger officers who are coming along and who see the same old faces sitting at the head of the table day after day after day, with no hope of promotion for themselves. I think it has a very adverse effect on morale.

In this particular case, the case of Admiral Snyder, which is now before the Senate, thanks to the generous spirit of the Senator from Texas, he was retired by a board of his peers over a year ago. All of the elements of his career, which should be considered by us, were considered by a Navy board. They thought about the uniqueness of his qualifications and the ability which he then held as oceanographer of the Navy and they decided against him.

The Secretary of the Navy brought him back to duty as his special assistant. But to reassign him as the oceanographer of the Navy requires special legislation. This is an act which is, as I say, virtually unprecedented.

Let me say when the other body considered this matter on a rollcall vote, the entire body rejected the appeal of Admiral Snyder.

I believe we have to ask the question, why is Admiral Snyder the only officer available for this duty? Is the Navy's personnel situation so serious that we do not have young, able officers who are looking for careers in the Navy who could fill out the billet as oceanographer? What, in fact, will happen to these junior officers who look forward to advancement in the Navy and who we all know, from our general experience with the Armed Forces, impact seriously when the opportunity to keep the top moving is denied.

I think these are very serious questions as we consider this situation.

When I said a moment ago that Admiral Snyder had been considered by his peers, in fact there was a Navy board which reviewed, at the same time, the qualifications of 26 admirals. They had the unpleasant job of putting 11 out of the 26 into forced retirement, forced attrition, as it is called in the Navy. So out of these 26 they had to divide them roughly in half as to the ones they wanted to keep and the ones they wanted to get rid of.

Unhappily for Admiral Snyder, and it is a harsh situation but nonetheless one that was judged, I believe, objectively and fairly, he was in the bottom half. His fellow officers said they would like to keep the other 15, but the 11 who lost out should be allowed to go into retirement. That, in fact, is what happened.

I believe there were administrative procedures by which the Secretary of the Navy might have brought about a second hearing before a similar board of that sort, but the Secretary did not pursue that avenue. In fact, Admiral Snyder did go into retirement.

I am not saying we should never have a situation in which a military officer who is retired for cause, after judgment of himself in comparison with his colleagues, should not be recalled to active duty. I am not saying that there are not times when we do not need the special talents that individuals possess. But considering the impact of this action upon the whole structure of the commissioned officer ranks, I think we ought to do it very deliberately, very carefully, and after very thorough study.

I would suggest to the Senate that that consideration has not yet been given to this case.

There was a committee hearing in the other body and very relevant questions were asked. In the committee hearings, Mrs. HOLT, a Congresswoman from Maryland, said:

> If he is so uniquely qualified, why didn't the board of his peers recognize that? It seems to me that would put him way out front to be absolutely necessary to be retained.

There is no evidence before the Senate that he is that absolutely necessary to the country.

I think what we are doing here is to break a precedent, which has been a strong precedent in our armed services, in favor of an individual who has not been carefully and thoughtfully examined here but who has been carefully and thoughtfully examined by the Navy itself. Their judgment was that the time had come for him to take retirement.

We have the power to override that judgment, but whether or not we should is the question before the Senate. That is the question I leave Members with, the question as to whether or not this matter should be carefully studied by the Armed Services Committee. I believe thoughtful, mature deliberation would bring us to that conclusion.

Mr. NUNN. Will the Senator yield 3 minutes to me?

Mr. STENNIS. I yield.

Mr. NUNN. Mr. President, I am not thoroughly familiar with this particular individual or this job, and yet I think the Senate should realize what is involved here. The other military services, other than the Navy, do not have the same policy the Navy has.

The Navy has had a policy on the books since the 1800's that basically says that if you bring back a retired officer and want to put him in what is known as a command billet, it cannot be done. You cannot bring back a retired officer and put him in a command billet. The reason for that law at the time it came about, as I understand it, was that there were a lot of retired officers who were coming back and taking over the key command jobs and the younger men were being denied the promotion opportunities.

In my opinion, without going into a lot of detail, we have almost the reverse of that situation in the Navy today. We have highly technical jobs like this job—this is a highly technical job—and they have limited promotional opportunities. This is not a three-star job but it is a two-star job. We have an up or out policy so if an officer does not get promoted he has to get out of the service. Consequently, we are losing a lot of qualified people in technical areas where the promotional opportunities are limited. That is my understanding of this case.

This man was very qualified. He could not move up to the third star. He had to get out of the service. Now they find he is the best qualified and he ought to be in this position. It happens to be a command billet. The question is not whether he ought to be able to come back in the Navy. He is already back in the Navy. The question is whether he should be able to take over this command billet slot.

I have one other point. I will be very brief because the hour is late.

The Army does not have this policy. This is a law on the books only for the Navy. The Air Force does not have this policy. This is strictly a Navy law. We have seen the Army do this on several occasions. General Maxwell Taylor is one example and General Alexander Haig is another example. Of course, everybody knows this has been done in the case of Admiral Rickover. Special exceptions were made in this case.

I do not know all the details of this case, but I do know something about the law which is involved. If we are going to vote on this matter we ought to consider the fact that this does apply only to the Navy and we also ought to consider, I think, that the so-called up or out policy needs a substantial revision.

Our committee is going to be working on that, but we are losing an awful lot of good talent in a highly technical age because we have an up-or-out policy that means if you do not get promoted, you have to get out of the service.

Mr. President, I have no further comments on this matter, but I do think the Senate ought to consider the other side of it, and I happen to think the Senator from Texas was correct in this case. I happen to believe the Navy does need this man in this key position.

Mr. MATHIAS. Mr. President, I think the distinguished Senator has really summed up the whole situation when he said, with great candor and frankness, that he was not deeply familiar with this case and this man.

That is our problem, and that in itself I think would be reason to return this matter to the committee.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the news article from which I quoted and the hearings from the other body.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE IRE SINKS SUITLAND ADMIRAL

(By William Taaffe)

Local members of the House of Representatives, angered by the transfer of the Naval Oceanographic Office from Suitland to Mississippi, are making life difficult for the admiral who was chief apologist of the move.

In a highly unusual maneuver yesterday, the area delegation appeared together on the House floor to oppose automatic passage of a "private" bill that would restore Rear Adm. J. Edward Snyder, Jr., to his post as Oceanographer of the Navy.

Snyder, 51, was oceanographer from 1972 until he was forced into technical retirement by a Navy review board last June. He long has been a bitter foe of local lawmakers who sought to block the transfer, which was recently approved by Congress.

Only two objections were needed yesterday to send the bill back to the Armed Services Committee. The bill will probably re-emerge from the committee early next year under a rule allowing the full House to debate Snyder's merits for the post.

The objections came from Reps. Gladys N. Spellman, D–Md. and Armed Services member Charles H. Wilson, D–Calif. Other local members of the House were ready to object if necessary.

The Snyder controversy provides a curious sequel to the transfer of the Oceanographic Office, one of the large military complexes in the Washington area. The move, barring a reversal in the courts, is expected to be completed within several months.

Snyder has argued repeatedly that the shift to Bay St. Louis, Miss. is justified and is not a pork barrel gift for Sen. John C. Stennis D–Miss. chairman of the Senate Armed Services Committee.

Although Snyder was 1 of 11 line admirals "selected out," or forced into retired status by the Navy board, he has continued on active duty as a consultant on oceanographic matters.

Navy Secretary J. William Middendorf wants to restore Synder to his former post. Special legislation is required, however, because the Navy cannot legally place in command positions officers recalled from retirement.

The Snyder measure was called up yesterday as one of about 75 bills on the House's "private calendar." Bills on this docket are not debated. They rarely encounter opposition and normally are approved by unanimous consent.

Rep. Marjorie S. Holt, R-Md., who helped organize local opposition to the bill, said the Navy's argument that Snyder is the only officer in the nation suited for the post "just didn't ring true."

"The only justification for any of it that I can see is politics," she said, hinting that the Navy may be seeking Snyder's restoration as a quid pro quo for agreeing to move the facility to Stennis's state.

If the measure eventually passes the House, it must be approved by the Stennis panel. A committee aide to Stennis said yesterday that suggestions that politics may be involved are "just out of whole cloth."

Spellman said she objected to the bill because the Navy did not advance it through "normal channels." She questioned why the department did not seek legislation removing the prohibition on command appointments altogether.

Sources close to the local delegation said that opposition to the Snyder bill is based on three factors, only one of which involves charges that the measure may be the final part in a "political" move.

Some members are said to wonder how Snyder can be "uniquely qualified" for the administrative post, as the Navy claims, since he was selected out last November.

The board reviewed the qualifications of 26 admirals, with instructions to force 11 into retirement. Snyder lost out in the intensely competitive sweepstakes, although Middendorf kept him on as an assistant.

During hearings on the bill last month, Navy officials insisted that they "blew it" by retiring Snyder. They said they were unaware that legislation would be required to bring Snyder back as oceanographer once he had been selected out.

And Snyder attracted hostility, sources said, because he developed a reputation for dealing cavalierly with local members of the House and Senate. Some members felt he dictated the Navy's position to them.

"There was no sense of deference to a senior senator, let alone a House member—and that was a pretty high-priced group," said one observer who recalled the local delegation meeting with Snyder.

Arguing that politics may be involved in the bill, sources noted that Snyder originally supported a transfer of the facility to a joint location—Bay St. Louis, Miss., and Michaud, La.

At the time, Rep. F. Edward Hébert, D-La., was chairman of the House Armed Services Committee. Snyder and the Navy dropped the Michaud part of the proposal after Hébert was unseated as chairman early this year.

"The timing was too good," one local source said. "All of a sudden Eddy Hébert loses his chairmanship. All of a sudden we're concentrating only on Bay St. Louis and all of a sudden Snyder has his bill in."

Snyder could not be reached yesterday. A Navy spokesman said there would be no comment on the bill because "the matter is still in the legislative process."

[H.A.S.C. No. 94–24]

Subcommittee on Military Personnel Hearing on H.R. 7113, to Permit the Recall to Active Duty of Rear Adm. J. Edward Snyder, Jr., Upon Retirement in a Command Status as the Oceanographer of the Navy

House of Representatives,
Committee on Armed Services,
Subcommittee on Military Personnel,
Washington, D.C., Tuesday, Oct. 21, 1975.

The subcommittee met, pursuant to notice, in room 2216, Rayburn House Office Building, at 10:10 a.m., Hon. Lucien N. Nedzi (chairman) presiding.

Mr. Nedzi. The subcommittee will come to order.

We are meeting this morning for the purpose of holding a hearing on H.R. 7113, which is a bill to authorize Rear Adm. J. Edward Snyder, Jr., the former Oceanographer of the Navy, to be recalled from retirement to serve in the capacity of Oceanographer of the Navy.

[H.R. 7113 is as follows:]

[H.R. 7113, 94th Cong., 1st sess.]

A bill to permit the recall to active duty of Rear Admiral J. Edward Snyder, Junior, upon retirement in a command status as the Oceanographer of the Navy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Navy is authorized to assign Rear Admiral J. Edward Snyder, Junior, upon his retirement, to a command status as the Oceanographer of the Navy.

Mr. Nedzi. Our first witness this morning is the Honorable H. Tyler Marcy, Assistant Secretary of the Navy for Research and Development.

Mr. Secretary, you may proceed whenever ready.

STATEMENT OF HON. DAVID S. POTTER, UNDERSECRETARY OF THE NAVY

Dr. Potter. Mr. Chairman, if I might begin the proceedings for Navy, I am Dave Potter, the Undersecretary of the Navy, and I would like to explain our delegation. Ty Marcy, the Assistant Secretary for Research and Development, you have introduced and it is within his area that the oceanographic programs of the Navy fall.

Hence, he will be our principal witness this morning. In addition, we have Mr. Joe McCullen, who is the Assistant Secretary for Manpower and Reserve Affairs. And he is here so that we can be responsive on questions of a more general nature relating to flag selection, numbers of flag officers, and should you choose to get into the matter of a symmetry between the services on this particular issue of command authority on bringing back retired officers, and what we intend to do in the Department of Defense. My reason for being here is that Ty Marcy assumed his office in October of last year, and a lot of the considerations that entered into this matter were prior to that time when I was the Assistant Secretary for Research and Development, and in order that we try to be able to answer all questions as they come up, we have chosen the three of us to be here to be most responsive.

Mr. Nedzi. Fine, Mr. Secretary. Thank you very much.

STATEMENT OF HON. H. TYLER MARCY, ASSISTANT SECRETARY OF THE NAVY FOR RESEARCH AND DEVELOPMENT

Mr. Marcy. Mr. Chairman, members of the subcommittee, I am H. Tyler Marcy, Assistant Secretary of the Navy for Research and Development. I am pleased to participate in your hearing concerning H.R. 7113, a bill to authorize Rear Adm. J. Edward Snyder, Jr., the former Oceanographer of the Navy, to be recalled from retirement to serve in that capacity. This legislation is required because of the provisions of section 5955 of title 10, United States Code, which mandates that retired officers of the Navy shall be withdrawn from command. The Air Force and Army do not have this statutory proscription on the utilization of their retired personnel. Section 5982(a) of title 10 does authorize the detail of retired Navy officers to command in wartime.

Mr. Chairman, under the Secretary of the Navy, the Assistant Secretary of the Navy for Research and Development is responsible for all matters related to research, development, engineering, test, and evaluation within the Department of the Navy and for oceanography, ocean engineering, and closely related matters.

The naval oceanographic program encompasses that body of science technology, engineering, and operations which is essential in exploring and laying the basis for naval applications that enhance security or support other national objectives. Of critical importance to this program is the officer serving an Oceanographer of the Navy. Rear Admiral Snyder is uniquely qualified to continue in that capacity. As a commander, he served some 4 years as special assistant in the office I presently occupy and during that time he was primarily responsible for revitalizing and reconstituting the oceanographic program as it is presently organized. He served as Oceanographer of the Navy from June of 1972 until his retirement in June 1975. In this capacity he commanded the Office of the Oceanographer of the Navy and was the immediate superior in command of the Commander, Naval Oceanographic Office, a field activity of the Oceanographer. In view of this command status and the statutes cited above, a retired officer is not eligible to serve on active duty as the Oceanographer of the Navy.

As director of the naval oceanographic program, the Oceanographer of the Navy is the interconnection of a vast series of complex and disparate activities whose purpose is to explore and to lay the basis for exploitation of the ocean and *its boundaries for* Naval applications to enhance security and support other national objectives. The exercise of this program necessarily transcends the precisely defined requirements of national defense in order to be responsible to the broader demands of national security, No more cogent case in point can be cited than the current economic sensitivity to potential offshore resource and energy supplies, with the attendant technological imperatives to develop and protect them.

Given this setting of undersea technology and national security, it is a matter of concern that the duties and responsibilities of the Oceanographer of the Navy be vested in an officer who, in addition to the qualities of leadership and character expected of a flag officer, has the requisite tenure to provide continuity of leadership and the technical experience to make effective and cooperative use of the Navy's considerable capital investment in the oceans.

As a means of providing that continuity and experience, Dr. Robert A. Frosch—then ASN(R. & D.)—in mid-1972 discussed with Admiral Zumwalt the advisability of assigning Rear Admiral Snyder to duties as Oceanographer of the Navy for an extended tour. The decisions resulting from these discussions were subsequently confirmed by Dr. Potter, then acting in his capacity as the Assistant Secretary of the Navy (Research and Development), in discussions first with Admiral Zumwalt and then with Admiral Holloway. In all these discussions one of the salient points was that previously the rotation of the Oceanographer at fairly short intervals had worked to the disadvantage of the oceanographic program. Further, it was recognized that because of political factors the rotation of the Assistant Secretary at relatively frequent intervals—although not previously a problem—could conceivably result in undesirable discontinuity in the prosecution of the oceanographic program, and that stabilizing the billet of Oceanographer could assist importantly in maintaining continuity in the program.

The military implications of a national oceanographic program in the international area are such that a strong military voice is needed in these matters. The Oceanographer of the Russian Navy, for example, is a four-star equivalent and has held the post for 10 years. This fact gives the Russians a head start in negotiations concerning oceanographic matters, and is an imbalance which requires correction.

There is an intricate and intimate relationship between the highly technical oceanographic program and the operation of naval vessels and sophisticated weapons systems. This relationship must be understood and applied to the development of new equipment. It requires a great deal of professional understanding of naval military matters and an appreciation of the scope and content of technical activities to see that proper priorities are established and that understanding is adequate.

It is recognized that the desire to retain Admiral Snyder for a period of at least 5 years might be inconsistent with the purposes of the continuation boards convened under the provisions of section 6394, of title 10, United States Code, and a decision was made that, should Admiral Snyder not be continued, he would be retained on active duty in a retired status. The board that considered Admiral Snyder for continuation had an extremely difficult task in that almost half of the officers under consideration were required to be recommended for noncontinuation. Under the circumstances, the failure of Admiral Snyder to be selected for continuation in no way casts doubt on his very special ability to continue his superb career as Oceanographer of the Navy.

Throughout the last decade of a distinguished naval career, Rear Admiral Snyder has been a prime mover in the evolution of Federal oceanography, beginning with the landmark deliberations of the President's Scientific Advisory Committee and the Stratton Commission in the sixties, extending to the current assessment of national ocean policy by the Senate. His involvement has been total and sophisticated to a point wherein his contributions to the national dialog on the oceans are unique. Accordingly, the Secretary of the Navy, and I, consider the continuation of Rear Admiral Snyder in his present status as Oceanographer of the Navy to be in the best interest of the Navy and the Nation.

Mr. Chairman, I am ready to answer any questions you may have.

Mr. Nedzi. Mr. Secretary, thank you very much.

That is a very comprehensive statement.

Mrs. Holt, do you have any questions?

Mrs. Holt. Thank you, Mr. Chairman. You say in your statement that Admiral Snyder is uniquely qualified to continue.

Does that mean he is the only officer in the Navy that is currently qualified to be Oceanographer?

Mr. Marcy. Mrs. Holt, at this point, he is "the" officer in the Navy best qualified, and I might say practically the only officer who has had adequate experience to be able to perform the duties in the manner we would like to have them performed.

Mrs. Holt. Why don't we have any oceanographers? Why aren't there any officers qualified to serve in this command position? Do you have only one man in the whole Navy who is qualified to do this job?

Mr. Marcy. Dr. Potter would like to comment on that point.

Dr. Potter. Mrs. Holt, this will be a fairly long answer to the question.

The problem of giving oceanography its proper place in the Navy has been recognized *for some 5 or* 10 years, and we started with a program at the postgraduate school at Monterrey, to get advanced education for our naval officers. That has come along very well over the last 5 years. We have a number of graduates now at the master's level, and a few at the Ph. D. level. We are beginning to fill in the Navy ranks with trained people who have been participants in the field.

They are just now coming into the level of captain, and I suspect that the fact of our shortage of people at flag rank in another very few years will disappear.

We will have them available to us.

The Secretary's remarks concerning the uniqueness of Admiral Snyder relates to, one, he is a flag officer, and in the flag ranks there has been a great thinning down, of course, of the various areas of expertise that we require.

Since we had not been training them, 15 and 20 years ago, we naturally have too few at this point in our senior ranks. Admiral Snyder by virtue of his earlier career fortunately occupied a number of positions that did prepare him in a unique way for this job.

Mrs. Holt. May I interrupt right here?

Wasn't he a regular line officer in command of the ship in Vietnam?

Dr. Potter. Yes, he was. He did all of those things.

Mrs. Holt. What makes him uniquely qualified?

Dr. Potter. During the shore rotations, he served as indicated for 4 years in the Assistant Secretary's R. & D. Office, and his almost sole activity during that time or his primary activity was in the field of oceanography, and the interactions here in Washington, also, in the international arena for oceanographic program. That was the responsibility delegated to him by the Assistant Secretary.

So there were other tours of duty which also led him in the same direction, but there were some rather significant and singular experiences he was accorded in his earlier career.

Mrs. Holt. If he is so uniquely qualified, why didn't the board of his peers recognize that? It seems to me that would put him way out front to be absolutely necessary to be retained.

Dr. Potter. I would like to start the answer to this question, and, then, turn to Secretary McCullen who knows the general rules on these boards.

At the convening of the board, it is ordinary to give, or it is usual to give instructions for any particular fields that one is looking for.

We have been accenting such things as program management, and so on, and have asked for more technically qualified officers.

We very deliberately decided not to ask specifically to fill the role of oceanographer. This we felt after discussions with Admiral Holloway would not be in the practice at least as now conceived for the Continuation Board. For that reason, there was not a specific instruction for an oceanographer. That would have been much too pointed.

At that point, however, one comes through with a slate of officers, all seagoing officers, very well qualified, in the nonspecialty areas, and Admiral Snyder was being considered in the nonspecialty area. May I now pass to Secretary McCullen?

Mr. McCullen. Mrs. Holt, each year the Secretary of the Navy has the option of calling for a continuation board. Last year, the Board was called, headed by now Vice Chief of Naval Operations, Admiral Shear, to look at 26 unrestricted line admirals, and with instructions to select 15.

The instructions to the Board by the Secretary of the Navy were general in nature, and that is to look at the best qualified for future overall Navy service. Take a very close look at the experiences to date of the flag officers that were before the Board.

It was, as you can expect, a very, very difficult proceeding. There was a principle involved. I think we all recognized in the Navy Secretariat and within the uniformed Navy, Admiral Snyder's uniqueness, but we thought it would be wrong to preempt the Board and say, Admiral Snyder will be continued.

Mrs. Holt. May I interrupt right there?

Mr. McCullen. Certainly.

Mrs. Holt. Isn't it just as wrong now for us to undermine what this Board did?

Mr. McCullen. I don't think so, Mrs. Holt, because of Admiral Snyder's unique qualifications.

Then I will also have to say we, in Navy management, frankly blew it because, the list of officers to be continued came back to the Navy Secretariat for approval. We knew at that time we wanted to recall Admiral Snyder, but we didn't realize that a nuance in the law would require legislation from Congress because it was a command position. I think in retrospect, had we realized that, we would have acted at that time and continued Admiral Snyder, because it was a management decision, and we think it is wrong that we must now ask the Congress to get involved.

Mrs. Holt. Are you saying nobody in the Navy knew anything about this law?

Mr. McCullen. I have to say at that particular time, Mrs. Holt, that is true. We didn't recognize the nuance.

Dr. Potter. May I amend that. No one having the matter under consideration—that is, Admiral Holloway and myself—neither of us were aware of it or was unaware of it. The admiral simply forgot it applied. I was unaware of it. It was a very delicate matter. Hence, it was only considered between the admiral and myself.

Mrs. Holt. May I ask, how many other admirals or officers have been recalled to active duty in a major command post after they have failed this selection-out procedure?

Mr. McCullen. In 1955, Mrs. Holt.

Mrs. Holt. Was that since the selection-out procedure?

Mr. McCullen. The selection-out procedure, I would have to research the history of it. I don't really know the answer to that.

But Admiral Dufek, in 1955, was retired.

Mrs. Holt. That was in 1954. That was a different situation.

Did Admiral Snyder undergo the normal selection-out and evaluation process? Was there anything unusual in this case? In his position—he is in a management position, is that correct? He manages the operations?

Mr. Marcy. That is correct, Mrs. Holt.

Mrs. Holt. Who is in the job now?

Mr. Marcy. The position of Oceanographer on an interim basis has been additionally assigned to the Chief of Naval Development, Admiral Ekas.

Mrs. Holt. Is he qualified to be Oceanographer?

Mr. Marcy. He is not qualified to be Oceanographer in the sense that we would like to have a person experienced in that field.

Admiral Ekas, you know, is Chief of Naval Development and is a very responsive and responsible officer in general military matters having to do with the development of new equipment. But he has not been a specialist in oceanography at all.

Mrs. Holt. That is a point I don't see. I just can't see why somebody else who has served, and served well, and has been exposed to the same kind of experience Admiral Snyder was exposed to before he went into this oceanography, why he couldn't go in and do the same kind of job. I can't quite see that.

Mr. Marcy. Mrs. Holt, it gets back to the experience, both staff and command, which Admiral Snyder has had which is not matched by other people.

Mrs. Holt. Do you know what date Admiral Snyder was told of the Navy decision not to retain him further on active duty?

Dr. Potter. Let me guess it was about December 1, 1974.

The board was reported out on November 22, and I would have guessed it would have been within a day or two, but certainly not later than December 1.

Mrs. Holt. Was there any relationship to that and the date further consideration of all facilities other than Bay St. Louis was dropped?

Dr. Potter. Not at all, I see no connection between the two.

Mrs. Holt. I have no further questions.

Mr. Nedzi. Mr. Daniel.

Mr. Dan Daniel. Mr. Chairman, I share Mrs. Holt's concern about this, because it seems to me this type of procedure is bound to stifle incentive. I am sure there must be other naval officers who are qualified to assume this position, or else we have neglected some of our training procedures and training programs.

I know Admiral Snyder, and he is a splendid officer. But so was Admiral Rickover, and all others that are familiar with the problems his discontinuance has caused.

I just think it is a bad procedure for us to be involved. I don't have any questions.

Mr. Nedzi. Mr. Montgomery.

Mr. Montgomery. Thank you, Mr. Chairman.

As I understand it, because of the law, you have to come before the Congress to take this procedure up of Admiral Snyder.

But this is not necessary as far as the Army and the Air Force are concerned, is that correct?

Mr. McCullen. That is correct.

Mr. Montgomery. They can take this action without having to come to Congress.

Mr. McCullen, do you have the figures of what the Army and Air Force have done in this area?

Mr. McCullen. Currently, Mr. Montgomery, the Army has six general officers on active duty from the retired list. One general, three major generals, and two brigadier generals.

The Air Force has two generals, a lieutenant general and a brigadier general.

Mr. Montgomery. How many times has the Navy done this—I didn't get that clear when Mrs. Holt was asking in that area.

Mr. McCullen. In 1955, Admiral Dufek was recalled to active duty from the retired list to assume command.

That is the only flag officer recalled to a position of command. We have had a couple of captains come back on active duty and assume command in lesser posts.

Mrs. Holt. Will the gentleman yield?

Mr. Montgomery. I will be glad to.

Mrs. Holt. I hate to take all this time, and particularly from the gentleman from Mississippi.

Mr. Montgomery. I will always yield to the lady.

Mrs. Holt. Would the Navy be willing to change the law to allow the Navy to perform in the way the Army does?

Mr. McCullen. Mrs. Holt, I think that we would. Currently, the Department of Defense is planning a thorough review of the entire procedure on how we handle flag and general officers.

There are many, many differences between the Services.

The ability to recall someone onto a command slot, is only one of them. There are other differences such as: promotion dates, mandatory retirement age, and the distribution of flag and general officers by pay rate levels. It is the Department of Defense objective to be back to the Congress, this Congress, with proposed legislation so that we could have just one body of laws within the flag and general officer personnel management system.

Mrs. Holt. I thank the gentleman for yielding.

Mr. Montgomery. I was going to question, also, in this regard.

Quite frankly, I don't see anything really wrong with your request if we are letting the other Services do it, and they have done it quite frequently. You have done it two or three times in the past, and it just happens that the law blocks you.

I would like to make this clear for the record. This has nothing to do with moving the oceanographic operations to Bay St. Louis. Is that what you said in response to a question? There is no connection between what you are up here for today?

Dr. Potter. That is correct. The negotiations with the Chief of Naval Operations was well prior to any consideration of that, and was set before that time. And I would note my predecessor Bob Frosch had come to the same conclusion, so that it does predate any consideration of this at all, of the Bay St. Louis movement.

Mr. Montgomery. I was reading a little information on this before I came to the meeting, and I saw where the oceanographer position in the Russian Navy carries the rank of four stars, is that correct?

Dr. Potter. Mr. Montgomery, I think, we believe now, Admiral Rassohko has received his fourth star. This was passed along through the naval attaches to us. We don't really know the rank structure as well as we should in the Russian Navy.

However, that was the rumor given to me. When I met him 2 years ago at one of the international congresses, he was then a rear admiral. He had been in the position, however, for some 10 years, as you may have known.

Mr. Montgomery. Do they put, in the Russian Navy, more emphasis on this subject than we have, as far as the American Navy is concerned?

Dr. Potter. In terms of ships at sea, they do. As nearly as we can tell now, there are more ships at sea in the aggregate of the Russian Academy. The Hydromet Office, and the military activity, if you consider the three.

There are about twice as many ships at sea, and their larger ones are much larger than ours. So I would have to answer affirmatively for the aggregate of the Russian activity in oceanography as compared with ours.

Mr. Montgomery. If this legislation was favorably acted on by the Congress, how long would Admiral Snyder be kept in this position?

Mr. Marcy. What we have talked about there is an undefined tour in the sense that we felt that prescribing that it would be 4 or 5 years as an absolute time would be not in keeping with the notion that we should keep him as a retired officer only until we can train and replace him with a qualified active officer.

Certainly, the timespan we are talking about is the order of 2 or 3 years, and we would hope that we would not extend it much beyond that time.

Mr. Montgomery. How long has he been in the position now?

Mr. Marcy. Since 1972. So that is 3 years.

Mr. Dan Daniel. Will the gentleman yield?

Mr. Montgomery. Yes.

Mr. Dan Daniel. Are there any other candidates for this position, Mr. Secretary?

Mr. Marcy. No; there are no other candidates with comparable experience, in our view, in the flag ranks for this position.

If Admiral Snyder were not to be there, we would appoint an oceanographer, and we would have to augment his background in some way.

Mr. Dan Daniel. Additional training?

Mr. Marcy. Additional training, special assistance, of one sort or another.

Mr. Dan Daniel. Who do you have to train an individual? If you don't have anyone who is qualified, how would you train him?

Mr. Marcy. Dr. Potter.

Dr. Potter. Historically, the Assistant Secretary for R. & D. for the Navy has come up through the ocean sciences route. My predecessors did, and so did I.

This time in our selection of Mr. Marcy, in which I was a participant, it was our choice to accent some other areas of the Navy that we felt needed attention, and particularly the computer side.

So historically, it would have been the ASN–R. & D.'s task to work with the oceanographer and introduce him to the oceanographic community. At the moment, that is not a choice of ours, but certainly, I am available to introduce any new man into the oceanographic community, and we have other officers at the commander and captain rank, the young captain rank, who are getting quite familiar with the world. So, it is not an absolute impossibility for us to bring someone else in with managerial talent. We have many fine naval officers that certainly have all of the management talent necessary.

We can augment with civilians and with some of our more junior naval officers, the particular knowledge he has to have, and I think we certainly would "get by."

Mr. Dan Daniel. I was under the impression we had accelerated our training program. How is it oceanography was overlooked in this process?

Dr. Potter. Accelerated in what sense?

Mr. Dan Daniel. Since I have been here, 7 years, we have been talking about training, and we thought that we were accelerating our training programs, and qualifying men for specialties such as we are talking about here today.

Dr. Potter. Yes; indeed, we have done that, but at the rank of lieutenant or lieutenant commander. It takes a little time for these people to age to get flag rank. In a very few years, we will have quite a few technical experts, not only in this field, but in others.

Mr. Dan Daniel. Has this subject just become "critical" overnight?

Dr. Potter. No, sir. It has been critical in my mind over the last 10 years. As someone outside of the field, it was very disturbing to me to reckon on the change of the oceanographer of the Navy roughly every 2 years. The man would just begin to learn who the people were in the field, and then ordinarily was relieved or retired.

Yes; I think we have had a problem.

Mr. Kazen. Will the gentleman yield?

Mr. Dan Daniel. I will be glad to yield.

Mr. Kazen. Can't the Navy do anything about extending those tours?

Dr. Potter. Yes, indeed.

Mr. Kazen. Is it fixed that a man serves for 2 years even though he is needed longer?

Dr. Potter. Mr. Kazen, in this case we recognized the problem, and I have negotiated very successfully with the military authorities, with Admiral Holloway and Admiral Zumwalt. We were quite prepared for this continuation, and a long extended tour for the oceanographer in exactly the same sense you referred to Admiral Rickover, but in the same sense, let me take up Levering Smith.

He has been continued for a number of years in the Polaris program, to the great benefit of all. I was perfectly prepared to do that, as was the system.

Mr. Kazen. Why didn't they do it?

Dr. Potter. Unfortunately, we had the blockage of the law in not recognizing that the man was—to continue the answer, the blockage occurred in the law the man having to have command authority could not be called back from retirement for that position.

Mr. Kazen. I quarrel with the retirement, that is what I quarrel with.

Mr. Dan Daniel. I thank the gentleman for yielding.

Mr. Montgomery. Thank you. This last question. How old is Admiral Snyder?

Mr. Marcy. He will shortly be 51 years of age.

Mr. Montgomery. Thank you, Mr. Chairman.

Mr. Nedzi. Thank you, Mr. Montgomery. Mr. Hillis.

Mr. Hillis. Thank you, Mr. Chairman. One of the questions which has been asked and I heard the answer, but I take it Dr. Potter what you are saying here is that the Navy wants to change its policy, one from a short-term tenure in this office to one of longer tenure.

Dr. Potter. Yes, sir.

Mr. Hillis. Isn't that what you are seeking to do here?

Dr. Potter. Yes.

Mr. Hillis. Isn't that what you are asking us to do, making that possible, to build the "bridge" to start this policy?

Dr. Potter. Yes, sir.

Mr. Hillis. Due to the fact you didn't realize how the law was going to affect him.

Dr. Potter. That is correct.

Mr. Hillis. So you would expect—I believe we go along with this—Admiral Snyder would hold the position some 3 years, then his successor might come into it for 5 years or more?

Dr. Potter. Yes, sir, that would be my expectation.

Mr. Hillis. This is what you are trying to do?

Dr. POTTER. Yes, sir.

Mr. HILLIS. Thank you. That is all the questions I have.

Mr. NEDZI. Mr. Kazen.

Mr. KAZEN. Thank you, Mr. Chairman.

Mr. Secretary, was it realized at the time that the Board met that you would have to continue this man, and had you known at the time that the law would have prohibited his being retained, that he would not have been cut off? Is this what you are trying to tell us?

Mr. MARCY. I think what we said was that we knew that he would have to be continued. We were not "up to speed," if I may use that term, in the specifics that in order for him to continue with command status that we would have to come to Congress and ask for that special permission.

Mr. KAZEN. In other words, you had decided that you were going to retire him, and regardless of whether or not you needed him, because if you needed him, you could put him back in, but you overlooked the law. Is that what the position of the Navy was at the time?

Mr. MARCY. The Navy asked that Admiral Snyder's name be considered along with the other 26 candidates.

Mr. KAZEN. That is not what I am asking you, Mr. Secretary.

Mr. MARCY. I am sorry.

Mr. KAZEN. What I am asking you is this. Did the Navy realize they were going to cut the man out and then put him back in, and he would have been put back in had not the law prohibited it.

Mr. MARCY. Yes; that is right.

Mr. KAZEN. All right, then.

The Navy could have directed that he be kept on?

Mr. MARCY. Yes; that is right.

Mr. KAZEN. Yet, they did not do it.

Mr. MARCY. That is correct.

Mr. KAZEN. That is a poor way to run the Navy, Mr. Secretary.

I am not quarreling with the fact that he is needed. I understand that you might have other qualified people, but they are not of "flag" rank, and this is what you need.

Mr. MARCY. Yes, sir.

Mr. KAZEN. Because I would hate to think the position of Oceanographer for the Navy did not get someone trained to take it over. Nobody is indispensable. If Admiral Snyder had passed away from a heart attack or something, certainly there should have been someone there to take his place. The position of Oceanographer is a very important position in the Navy, and you haven't just learned that in the last couple of years. My goodness gracious, you cite the Russian situation, and how important it has been to them, so certainly you have been aware for quite some time of the importance of the office. A junior officer can't take over, so you have to keep them in the *service long* enough to get the rank along with the expertise, I can understand this.

But what I can't understand is how you retired a man like this that you absolutely had to have, and he was indispensable to you at that particular time, and you knew about it when you told him he had to retire. Somebody goofed, Mr. Secretary.

Mr. MARCY. I think we said we "blew it".

Mr. MCCULLEN. Mr. Kazen, if I can, perhaps, try to explain.

Mr. KAZEN. Yes.

Mr. MCCULLEN. I think you will agree the principle would have been wrong for the Secretary of the Navy to have intervened prior to the Board meeting. In other words, the provision is that all "flag" officers who have met 30 years of service and 3 years in-grade, which was the policy at that time, would go before a continuation board. We knew that Admiral Snyder would be considered. Admiral Snyder has a very, very fine record.

Mr. KAZEN. But, wouldn't the Board take into consideration the need of the Navy of those men that are before them?

Mr. MCCULLEN. I am sure that they did. That is their "charge."

Mr. KAZEN. All right, then, to my mind, if they knew what the facts were, and that there was no one else that had the expertise, or was qualified to take over that position, then they did not act in the best interest of the Navy.

Mr. MCCULLEN. Sir, I would think part of it would be that the Secretary of the Navy's reluctance, and rightly so, to say, "We need such and such expertise in the Oceanographic Office be continued," because that would have in effect, de facto, directed the continuation of Admiral Synder.

Mr. KAZEN. But, Mr. Secretary, aren't the members of the Board familiar with the needs of the Navy and the people that they are going to consider?

Mr. MCCULLEN. Yes, certainly.

Mr. KAZEN. My gosh, it is not up to the Secretary of the Navy. Those fellows sitting on the Board, if it was their responsibility, they certainly should have briefed themselves on the needs of the Navy and who they can do with or without.

Mr. MCCULLEN. And they do that, Mr. Kazen, and look at the broad range of needs throughout the Navy, and there are many at this time.

There were 26 looked at, 15 could not be continued—almost 58 percent.

Then, when that came out to the Secretary's office, what we should have done, was say that Admiral Snyder will be continued. That way we wouldn't have to be here bothering you all.

We didn't recognize the nuance, in the law that requires legislation in the Navy and Marine Corps to bring somebody back from retirement in a command billet.

Mr. KAZEN. Mr. Secretary, you are not "bothering us", by coming in here and asking for what you are asking.

The thing that bothers us is the way this came about, and that I would hope there would be no more of these "goof-ups."

Let me ask you gentlemen this. What will the status of the admiral be when he is taken back in? He has been retired, yet he is going to be called to active service. What is that status?

Mr. MCCULLEN. Admiral Snyder is currently back on active duty, but he is not functioning as Oceanographer of the Navy. This is what we want to do.

Mr. KAZEN. Give him the command back?

Mr. MCCULLEN. Put him in the command status, yes, sir.

Mr. KAZEN. In other words, the service can always call back a retired member of the service?

Mr. MCCULLEN. That is right. And we didn't recognize that a recalled retired officer could not be placed in a position of command which we haven't done since 1955.

Mr. KAZEN. Do you continue him at the same rank?

Mr. MCCULLEN. That is right.

Mr. KAZEN. Continue him at the same pay?

Mr. MCCULLEN. Yes, sir.

Mr. KAZEN. Privileges and everything else?

Mr. MCCULLEN. Yes, sir.

Mr. KAZEN. Why in the world did you cut him out to begin with. This is the thing that bothers me. Well, OK, thank you, Mr. Chairman.

Mr. NEDZI. Mr. Wincup.

Mr. WINCUP. Thank you, Mr. Chairman.

Mr. Secretary, what is Admiral Snyder's present status? You say he has been recalled to active duty. What is his function?

Mr. MARCY. He is serving at the present time as Special Assistant to the Undersecretary of the Navy.

Mr. WINCUP. Is he serving in the oceanography field?

Mr. MARCY. He serves as a consultant in the oceanography field.

Mr. WINCUP. Why is that capacity not adequate in your opinion?

Mr. MARCY. In that capacity, he is not in a position to command the oceanographic program, nor to officially represent the Navy in the coordination meetings that we have, both within this Government, and between governments, which is an extremely important thing for us to be able to do.

Mr. WINCUP. Do you consider that the action of recalling him to active duty will retard promotion opportunities for anyone in the field?

Mr. MARCY. I do not.

Mr. MCCULLEN. No; it would not retard promotion opportunities for others. Our planning process for flag officers calls for a number that will be retired flag officers. The current number is seven. By law, we could have 10. We currently have six. We have another retired officer coming back on active duty not in a command position next month.

So, we will be filled up.

Mr. KAZEN. Will the gentleman yield for just a moment.

Mr. WINCUP. Yes.

Mr. KAZEN. Would he be subject to come before another board?

Mr. MCCULLEN. No, sir. The man coming back next month will not be in a command position. He will be heading our Office of Naval Disability. It is not a command function.

Mr. KAZEN. No. I am talking about Snyder. If he should come back when this bill is passed, and you bring him back in, he will then have taken over his command again, and he will not be in retired status, then, any more; will he?

Mr. MCCULLEN. Yes, sir, he will still be in retired status.

Mr. KAZEN. He will be in retired status?

Mr. MCCULLEN. Yes, sir.

Mr. KAZEN. In other words, there will be vacancy in rank someone else could move into even though he holds the commander's position.

Mr. MCCULLEN. I think the thrust of your question, Mr. Kazen, is this. We were limited by law in the number of flag officers we have. We will not exceed that by bringing him on.

Mr. KAZEN. You will not carry him on the books as such, is that correct?

Mr. MCCULLEN. He will be counted in our flag number totals. We have a ceiling of 278 flag officers within the Navy. He will count as one of those.

In our planning process, we say that we will not have more than seven retired flag officers on active duty at any one time.

Mr. KAZEN. I see.

Mr. MCCULLEN. We will have seven next month.

Mr. KAZEN. In other words, you can't retire him twice?

Mr. MCCULLEN. Oh, yes; we could retire Admiral Snyder next year.

Mr. KAZEN. That is what I am asking. Would the Navy do it outright or would he have to go before a board?

Mr. MCCULLEN. No; we could do it outright.

Mr. KAZEN. Thank you, sir.

Mr. NEDZI. Let me just button that one up, briefly.

You have a fixed ceiling on the number of flag officers that you may have in the Navy.

Mr. MCCULLEN. Yes.

Mr. NEDZI. Admiral Snyder is counted, if he is on active duty, against that ceiling?

Mr. MCCULLEN. That is correct, Mr. Chairman.

Mr. NEDZI. You have seven retired officers on active duty who are counted against the ceiling?

Mr. MCCULLEN. Yes, sir.

Mr. WINCUP. How many officers are sent for training in oceanography?

Mr. MARCY. Mr. Wincup, it varies, of course, depending on the calendar scholastic year of the Navy Post Graduate School. They are on the order of 20.

Mr. Wincup. How long has that been in effect?

Dr. Potter. There has been an oceanographic program there for my recollection is about 10 years, and degree granting at the doctorate level has been for, perhaps, five. It is about that, 7 or 8 years on the road to a master's. These are off the top of my head, and we can confirm it.

Mr. Wincup. Is there a specialized line of training for oceanography within the Navy?

Dr. Potter. Yes.

Mr. Wincup. The person would be in the restricted line?

Dr. Potter. We have a restricted line of oceanographers and weather officers; they have recently been combined, Mr. Wincup. Then we have unrestricted line officers who can have subspecialties in the field of oceanography.

Mr. Nedzi. Would you state for the record the difference between restricted and unrestricted?

Mr. McCullen. An unrestricted line officer, Mr. Chairman, is one who can command at sea, or an air squadron. A restricted line officer is prohibited from doing so.

They are specialists in a field.

Mr. Wincup. The language of this legislation before the subcommittee refers to the assignment of Admiral Snyder upon his retirement. Has he been so retired and has that language been overtaken by events?

Mr. McCullen. Yes, Mr. Wincup. The language would have to be amended because, in fact, Admiral Snyder has been retired.

Mr. Wincup. Thank you, Mr. Chairman.

Mr. Kazen. As I understand it, he was retired in June and this legislation was offered in May. Therefore, the wording of this thing was prospective.

Mr. McCullen. That is correct.

Mr. Nedzi. I have no questions. I think the members of the subcommittee have done an excellent job of covering the pertinent material in this particular problem. As you gentlemen know, I have expressed some concern about the fact that the Navy is not exempted from the provisions, or that the Navy has been in effect discriminated against, because it is the only one that has this kind of statutory proscription.

I see no justification for this kind of discrimination.

I think what we are involved in here is basically a management decision, and there is really no necessity for Congress to be involved in it.

I can see some reason for us to be involved if this would exceed the statutory limitation on flag officers, because obviously at that time under those circumstances, there could be some serious problems.

But if these officers are counted against your ceiling, to me this is strictly a managerial decision. We are faced with this problem where the testimony is somewhat persuasive that it is in the national interest that the admiral be retained.

On the other hand, I have to share some of the shock that has been expressed or reflected here that the Navy blew it.

The point is not that esoteric. It is something every personnel manager should have in mind.

Having said that, I don't know what we can do about it. We shouldn't cut off our noses to spite our face.

If there is no objection, I would like to have the subcommittee proceed to mark up and then just vote the legislation up or down, depending on the sentiment of the subcommittee members. Do any of the subcommittee members desire to be heard at this point?

Mr. Montgomery. I would just say——

Mr. Kazen. Let's mark up.

Mr. Montgomery. OK.

The best argument for voting for the bill is they are restricted by law, and the other two services can do this. The Navy has admitted they "blew" this particular case. If they want him, I am willing to vote the bill out.

Mr. Nedzi. Well, it is my understanding for the benefit of the subcommittee that a review is underway and it was only with the assurance that a review is underway on the part of the Navy with respect to creating more similarity or equity between the services in problems of this kind that I consented to hold this hearing.

We look forward to the Navy's recommendations.

We have an amendment.

The amendment is on line 5 of the bill. Strike the words, "upon his retirement", and substitute therefor the words, "United States Navy, retired."

In the title, strike the words, "upon retirement".

I think the purport of that amendment is obvious, and without objection, the amendment will be agreed to.

Is there any discussion of the bill?

If not, I put the bill to a vote.

Mr. Wincup, will you call the roll.

[Whereupon, there was a rollcall of the members of the subcommittee.]

Mr. Wincup. Six members present, five voting in the affirmative.

Mr. Nedzi. The motion to report the bill, as amended, to the full committee favorably is carried.

The subcommittee will stand adjourned until further call of the Chair.

[Whereupon the subcommittee adjourned at 11:04 a.m., subject to further call of the Chair.]

Mr. STENNIS. Mr. President, if I may take a minute, this is not something being imposed on the Navy. Of course not. I have here a letter from the Secretary of the Navy asking that this man be made eligible.

Oceanography is something that has grown tremendously. As the Senator said, it is a technical field. This is not a high command position, or a high rank, but this man was judged to be needed.

I was once chairman of a subcommittee we had on general officers—generals and admirals—and I can tell you, you are not going to find any way to please all of them as to who is promoted or who is not. But in this technical age, they have been looking for more men with these special qualifications.

I happen to know, too, that the law does not require legislation such as this for an Army man or an Air Force man. It does not require legislation; they can do it as a matter of course. That is the way Maxwell Taylor was handled, General Haig, and others. The Navy just happens to have had this old law dating way back to the Civil War.

That is all this amounts to, and I would hope the matter can stand.

Several Senators. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. What is the question?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Texas (Mr. Tower) proposes an amendment numbered 1695: At the appropriate place in the bill—

Mr. DURKIN. Mr. President, may we have order? We cannot hear back *here.*

The PRESIDING OFFICER. The Senate will be in order.

The legislative clerk read as follows:

At the appropriate place in the bill insert a new section as follows:

Sec. . Notwithstanding any other provision of law, the Secretary of the Navy is authorized to assign Rear Admiral J. Edward Synder, Jr. (retired), to a command status as the Oceanographer of the Navy.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 12438

Mr. BAYH. Mr. President, I would like to enter a brief discussion, if I may, with my distinguished colleague from Georgia regarding Junior ROTC programs.

The House of Representatives included an amendment to increase the statutory limit on Junior ROTC programs and to permit military institutes to have more than one Junior ROTC unit assigned to them. The purpose of the amendment was to allow the 50 odd military institutes to have ROTC programs from more than one branch of the service, if they qualified under existing standards for these programs.

The Senate deleted this amendment, Mr. President, and I would like to urge the Senator from Georgia and other members of the committee to reexamine their position. I believe the amendment would be very beneficial to students in military institutes. It would broaden their experience by giving them exposure to all three services and would help those who wish to serve in the military in choosing the branch in which they would like to serve.

Mr. NUNN. I am very sympathetic with the Senator from Indiana's desire to increase the scope and quality of military education at our military institutes.

I would point out, however, that the House amendment would add an additional 800 JROTC units which would require increased funds of $17 million. As the Senator knows, we must deal with priorities in the budget process, and this requires hard decisions. Our subcommittee's decision in this instance was that we could not take these additional resources away from other higher priority programs.

Mr. BAYH. I certainly understand the difficulties in setting priorities, and I commend the Senator for the fine job he and his subcommittee have done in this regard.

I would like to suggest a possible way to meet his concerns. There are only slightly more than 50 military institutes. We could provide these institutes with additional JROTC units by raising the statutory limit on JROTC units far less than the 800 unit increase called for in the House bill and still meet my objectives. Perhaps we could even leave the ceiling in place. As I understand it, there are many schools which lose their programs each year due to lack of participation. If military institutes were not limited to one program, they could apply for the vacancies in existing programs when they occur and expand opportunities in their schools if they qualified. It is the one per institute restriction which is the real problem.

Mr. NUNN. The Senator argues well for his position. I would be happy to consider the points he has made and the possible compromise he has discussed when we consider this issue in conference.

Mr. BAYH. I would appreciate that very much, and I thank my colleague.

Mr. PERCY. Mr. President, I believe that this year's debate on the Defense procurement authorization bill, including committee hearings and public media discussion, has shown a strong improvement over past debates. We are no longer divided or distracted by U.S. military involvement in Indochina. Our new budget procedures are helping us to define, at least broadly, our priorities for the Nation. And the debate has tended to focus, somewhat more than in past years, on the defense mission as the proper standard for judging the adequacy of a weapon system.

It is now widely accepted that we must alter three adverse trends if we are to continue to assure the security of our own Nation and help assure that of the non-Communist world.

First, the strategic balance, which was heavily in our favor a decade ago, has been growing less unfavorable to the Soviet Union.

Second, and no less alarming, while Soviet expenditures for conventional forces have grown steadily, ours have remained fairly constant in recent years. Moreover, the portion of our defense expenditure absorbed by salaries and personnel benefits has grown far more rapidly than in the U.S.S.R. These costs now absorb 56 cents of our defense dollar. They absorb about half as much of the Soviet defense budget.

The third trend that we must counter is the growing cynicism about defense matters in the United States. Many intelligent Americans now seem blind and deaf to any threat to our security and quite willing to oppose any defense expenditure as "catering to the military-industrial complex."

In a society such as ours, it is vital that major areas of government activity, such as defense, have the strong support and understanding of the people. We know of only one way to achieve that support: by open public debate of major defense issues—so that all sides are aired, and all citizens who are truly interested and concerned will have access, through their representatives, to the decision-making process.

Mr. President, the defense procurement authorization request that was sent to Congress this year by the administration was designed to counter the adverse trends I have described in two major respects. For the first time in many years, a level of funding was requested which would permit us to begin modernization and upgrading of our conventional forces. Second, to make those funds go farther, the administration bill addresses the complex and sensitive issue of pay and benefits reform. Those aspects of the bill have found support in both Houses of Congress.

The Senate Armed Services Committee also deserves praise for its action on the naval shipbuilding program. The Senate bill rejects what I regard as an ill-advised emphasis in the House version on building a small number of extremely expensive, nuclear-powered ships. The Senate bill would take us in the direction of a larger Navy of less costly but very effective ships. The Senate version says "no" to using nuclear power purely for the sake of using nuclear power. However, the Senate bill does nothing to prevent the use of nuclear power in the case of submarines—or other vessels for which its use can be justified. Thus, I strongly associate myself with the remarks of Senator TAFT in the Armed Service Committee report and in his recent White paper on naval shipbuilding.

I hope the Senate will stand firm in conference on this vital shipbuilding issue. To the American people, I believe it is not only the most visible but also the most important aspect of the revitalization of our defense posture in the post-Vietnam era.

Mr. President, the Senate approved an amendment to defer procurement of the B–1 bomber which was brought to the floor on rather short notice last Thursday and tabled, with my support, an amendment that would have used the B–1 bomber as a "bargaining chip" in the SALT talks. We may very well need a manned bomber as part of our strategic defenses; and we may need a follow-on to the B–52 G and H series.

However, no one in my judgment has made a convincing argument that we will need a follow-on bomber before the 1990's. I do not believe that test and evaluation to date have shown irrefutably that the B–1 is the most cost-effective solution to our strategic requirement. Moreover, I know that a large segment of public opinion remains unconvinced that over $20 billion of their tax money—far more when all the related costs are included—should be spent on an airplane that could prove even more controversial than the C–5A or the F–111. The Senate decision delays procurement until next February while allowing continued research, development, testing, and evaluation. We will lose little in the way of real national security. If it will help us to make the decision after final testing and evaluation has been completed and thereafter as a more united people, it will certainly be worth the wait.

Mr. President, I would like to call once again for early public hearings on our Triad of strategic delivery systems. I believe that the debate on the B–1 reflects a strongly felt need, in the Senate and in the country at large, for such hearings.

Mr. President, we must provide this country with the best Defense Establishment in the world—and at the same time counter the growing cynicism of many of our citizens about defense spending. Therefore, in approving the largest defense bill in history, we must guard against the evils of gold-plating and unjustified extravagance.

Mr. BAYH. Mr. President, while I commend the committee for several of the decisions it made in marking up the fiscal year 1977 military procurement bill, I am not pleased by the bill's overall shape and size. I believe that it is too large and that it fails to reverse the trend toward more costly and sophisticated weapons which can only be purchased in limited quantities.

It is unfortunate, Mr. President, but the military budget this year has been shaped in part by the tenor of the Presidential campaign.

Political rhetoric, often misleading, has been used by more than one candidate to alarm the public, which is troubled quite understandably with the course of international events after our withdrawal from Vietnam, Soviet and Cuban adventurism in Africa, and Communist activity in Southern Europe.

The atmosphere that has been created has led some to believe that the United States has suddenly become a second rate power—that the Soviet Union has grown so strong and our Nation so weak, that we can no longer protect our vital interests, our allies, or our homeland.

To many, the only solution to our problems appears to be spending more and more tax dollars on national defense. Ironically, most of those who advocate this course raise the loudest voices against spending for domestic, social needs in cries for fiscal responsibility, good management, and efficiency.

The amazing thing about all this Mr. President, is that growth of the Soviet military establishment is treated as some kind of great surprise. Nothing could be further from the truth.

We have known about the buildup of Russian forces for many years. The growth of the Soviet military establishment has been going on since the early-sixties when the Sino-Soviet split broke open. It is nothing new.

An analysis of this growth indicates that the U.S.S.R. has truly become a superpower. It does not show that we are suddenly No. 2. Misleading comparisons of military spending have not refuted the fact that the United States remains the world's strongest military power.

The increase in Soviet power should give us pause. We should look carefully at our defense policy and forces and make certain that those forces are capable of performing their missions against this formidable foe. We may need growth in several areas. But we certainly do not have to buy every weapon and every gadget that the Pentagon always wanted, all at one time.

I have been particularly alarmed Mr. President, by our continued propensity to choose the most sophisticated and most costly weapons system possible. Time and again we have opted for the ultimate in a class of weapons despite the fact that there is no way to purchase it in sufficient quantities. The inevitable result is declining force levels, and a weaker defense.

This year's bill has a number of such items, Mr. President. The XM–1 tank, for example, is designed to replace the M–60, but it costs over twice as much. Yet we push on with the XM–1, knowing that it will be exorbitantly expensive to sufficiently expand our armored forces with such costy tanks.

The advanced attack helicopter (AAH) is another case in point. It will cost about $5 million per unit compared to the Cobra Tow attack helicopter which we are presently buying at $1.48 million. While we all want technological progress, we must ask if we can possibly buy enough of these super machines.

The SAM–D missile system is still another example, and I would like to deal with it in a bit more detail. It is a system which I have studied quite closely for a number of years, and is the epitome of the complex and enormously expensive weapons system. It takes us well down the road toward putting what resources we have into a very few, highly complex, tremendously costly systems.

The total program cost of SAM–D now stands at about $5.9 billion. That cost has grown tremendously since I first began to study the system. In fact, the cost growth of SAM–D in percentage terms far exceeds what we experienced with the C–5A or the Cheyenne helicopter.

The problems with SAM–D are numerous. The General Accounting Office, which has been monitoring the program at my request, has concluded that cost-effectiveness of the SAM–D cannot be proven based on realistic assumptions.

The GAO reached a number of interesting conclusions which I set out below.

First. The SAM–D's vulnerability to attack by antiradiation missiles—ARM's—is considerably greater than the improved Hawk which it will replace because SAM–D presents a smaller total number of targets—radars—to the attacker;

Second. The availability of F–15's prevents any serious enemy penetration by the threat aircraft to the targets which SAM–D is intended to protect and therefore reduces the need for SAM–D;

Third. The SAM–D contractor has consistently underestimated the difficulty and complexity of making the system operational;

Fourth. The proposed less-costly Medium SAM while affecting some important cost savings, may only bring the actual cost of the SAM–D program down to what the SAR currently estimates for the program;

Fifth. Our NATO allies, particularly the United Kingdom and the Federal Republic of Germany have expressed reservations about the SAM–D based on its limited mobility, large size, and cost;

Sixth. It is reasonable to explore further improvements to the Hawk such as using the SAM–D radar, or a derivative of it, with Hawk missiles; and

Seventh. There are significant technical uncertainties remaining in the SAM–D program which require resolution prior to making final system configuration decisions.

Because of many questions regarding technical risks with the system, engineering development was delayed in 1974 pending proof-of-principle tests. The successful completion of these tests is now used to justify $180 million in this year's bill for full-scale development.

But let us look at these proof-of-principle tests Mr. President. The reasons that the highly complex and costly track-via-missile—TVM—guidance concept was selected from SAM–D were its superior ability to withstand severe electronic countermeasures and its capability against multiple close formation targets. Yet none of these proof-of-principle tests was conducted against either ECM or close formation targets. There are no plans to develop or test countermeasures against ARM missiles.

Further, the Army has quietly reduced the performance requirements in a very significant way. The exact numbers are classified, but the number of target tracks and the detection range have been reduced to half of their previous value. Even more important, ECM requirements have just about been eliminated by assuming that intercept will not take place within the line-of-sight between jammers and radar. Yet, cutting performance in less than half has not decreased the cost; it has doubled it.

Mr. President, as difficult as it is for us in Congress, there comes a time when we have to bite the bullet and tell the Pentagon to stop. SAM–D is such a case.

Currently, the Department of Defense is conducting an in-depth study of our air defense needs. We should at least wait until this study is completed before we go charging ahead with this expensive undertaking.

Mr. President, at the outset of my remarks I commended the committee for some of its decisions, and I meant this sincerely. Despite my general objections to the bill which I have spoken of above, there has been some real progress toward the goals I profess. The committee's action on the MX missile, the submarine launched cruise missile, and particularly the Navy shipbuilding program are most important.

In the weeks to come, the issue of shipbuilding will become increasingly controversial, and I wish to offer every encouragement to the committee in the fight which awaits it in conference.

Questions regarding our naval strength are very pertinent this year, Mr. President. The size of our fleet has decreased tremendously in the 1970's as we retired our older ships, and now is a very good time to review exactly what we can and should expect of the Navy.

I am gratified that the committee chose to reject funding for such ships as the nuclear aircraft carrier and the nuclear strike cruiser. There are serious questions being raised about the vulnerability and the costs of the carrier task force and it would be a tragic mistake to spend billions of dollars on ships which are an integral part of that concept before all the answers are in.

Further, the prime justification for the $1.2 billion strike cruiser is to serve as a platform for the Aegis missile system—an air defense system which will itself cost more than $100 million per unit and which has not been fully proven. The committee's decision to fund one conventionally powered Aegis destroyer is a much more sensible and economic approach, though I would have preferred that we postpone funding for all Aegis ships until Aegis is shown to be a cost-effective weapon which can do its job in high risk areas.

I hope, Mr. President, that my colleagues will hold to decisions such as these in conference. I also hope that in the future we will see many other cuts in Pentagon programs.

I am convinced that the key to effective defense is not in ever increasing defense budgets, but rather in the effective ordering of priorities within the Defense Establishment. Our resources are not infinite. We simply cannot buy all the super systems we want. If we would, instead, use funds from such programs as the strike cruiser or the B–1 bomber for the purchase of large quantities of less sophisticated weapons, we could dramatically increase our firepower and readiness in an economically realistic manner.

Mr. BELLMON. Mr. President, I rise in support of the military procurement authorization bill reported by the Armed Services Committee. This bill is an important one; it forms the heart of this Nation's vital national defense effort. For this reason I want to take a few minutes to discuss what seem to me to be the most important aspects of this bill.

First, I want to express my appreciation to the distinguished Senator from Mississippi (Mr. STENNIS) for the many hours of effort he has devoted to this bill. It was not an easy task to evaluate the administrations's request—complicated as it was by last minute budget amendments—and to fit that request into the national defense target contained in the budget resolution adopted by Congress on May 12, 1976. Chairman STENNIS and his colleagues on the Armed Services Committee deserve our thanks, and the bill they reported deserves our strong support.

Mr. President, we are all determined to keep America strong enough to defend her vital national interests and those of her allies. At the same time, we want to be sure the taxpayer is receiving the most from each dollar spent on defense. For this reason, I was particularly pleased to see the administration recommend a number of ways in which money could be saved in this year's defense budget. As you all know, the President proposed economies totaling $5.4 billion in BA and $4.5 billion in outlays. Mr. President, the Budget Committee incorporated these economies, or other measures with similar savings, into its targets for the national defense function. This means that failure by the Congress to enact the proposed economies will require offsets elsewhere within the national defense function to stay within the target adopted by the Congress.

A number of these economies require legislation, and that will not be easy—especially in an election year. It is to the credit of Senator STENNIS and his committee that they faced this issue squarely and are recommending favorable action on all but one major legislative economy within their jurisdiction. The committee recommends:

Elimination of the 1 percent kicker for retired military pay;

Shift of a portion of basic pay into quarters allowance;

Restriction of terminal leave to 60 days;

Elimination of administrative duty pay for Reserve and National Guard commanders; and

The phasing out of commissary subsidies.

These actions will result in savings of $400 million in fiscal year 1977 rising to about $1.4 billion by fiscal year 1980.

Unfortunately, Mr. President, the House bill includes practically none of the President's economies. Thus, to achieve these much needed savings, we need to pass the bill before us by a large majority and send our Senate conferees to the conference with a strong mandate to return a report which includes the economies recommended by Senator STENNIS.

Another important section of this bill deals with the shape of our Navy in the coming years. This is a controversial subject, and one hears different viewpoints about the direction our Navy should take in the future. This year the administration requested a major increase in shipbuilding funds. Counting the last minute budget amendment, a total of $7.5 billion was requested for shipbuilding authorizations, almost twice as much money as was appropriated last year. In the face of this massive request, the Armed Services Committee acted with commendable restraint. It reviewed the submission and developed its own proposal for shipbuilding which comes to just under $6 billion.

Equally important, Mr. President, the proposal developed by the Armed Services Committee reflects significant policy judgments about the way to maintain our naval superiority. The bill before us recommends repeal of title VIII of Public Law 93–365, which currently requires major combat vessels to be nuclear powered. I support repeal of this statute, and I urge my colleagues to do likewise. The tremendous costs associated with a strict adherence to title VIII can prevent us from building a Navy of adequate size. I think it is important to give the President and the Congress the flexibility to continue building a balanced Navy with a mix of nuclear and conventionally powered warships.

Mr. President, this is another area where the House-passed bill differs significantly from the measure before us. The House bill provides about $1.4 billion more for shipbuilding authorizations than the measure recommended by Senator STENNIS. Moreover, the House program is heavily weighted toward high technology, and large, expensive ships, most using nuclear power.

These differences are likely to be a major issue at the upcoming conference. I believe the approach taken by the Armed Services Committee is the more appropriate one, and I think we need to make our strong support for this approach clear on the floor so that our representatives at the conference can stand by our position.

Mr. President, the two substantive differences I have highlighted between the House-passed bill and the measure now before us—that is, the proposed economies and the shipbuilding program—lead to the most fundamental difference between the two measures: Their relationship to the budget resolution adopted by the Congress May 12, 1976. As I stated earlier, Senator STENNIS and his committee have made a major effort to accommodate the administration's defense request with the congressionally mandated target for national defense. The bill before us, if fully funded, would cause spending to be $200 million below the target in BA and $100 million below the outlays. The House-passed bill, on the other hand, is $1.4 billion over the target in BA and $0.5 to $0.7 billion over in outlays. Thus, a process of "splitting the difference" would lead to a conference report substantially above the budget targets.

I think it should be clear to all concerned, Mr. President, that such a conference report would be a serious matter indeed. At a time when the Nation's economy is improving faster than anticipated, it is important that we not allow the projected deficit to exceed the target in the budget resolution. If the conference report comes back above the first budget resolution targets, I must join with my colleague, Senator MUSKIE, in giving serious consideration to opposing that report on the floor.

I believe the national defense target provides sufficient funds for a strong national defense. I strongly support the choice of priorities within this target which Senator STENNIS and the Armed Services Committee have recommended. I urge my colleagues to support this bill here and to stick to its provisions at the conference.

Mr. BAYH. Mr. President, last week the Senate voted to postpone until next February a decision on whether to continue funding production of the B–1 bomber. This important vote on Senator CULVER's amendment to the Defense Department's procurement authorization bill delays the precipitous development of a costly and strategically unnecessary weapons system. I would like to share with my colleagues today some of the reasons I oppose any further funding for the B–1.

COST OVERRUNS

The first is its astronomical price. The B–1 cost spiral began soon after its construction was proposed by the Pentagon. I have prepared a table which shows how dramatic cost overruns for the B–1 have been. The original cost estimate was made in 1969 and the most recent in January 1976. Here is the list of price estimates per bomber since 1969:

1969, $25–30 million.
Mid-1970, $29.2 million.
End 1970, $35 million.
1972, $45 million.
1973, $56 million.
Early 1974, $61 million.
Late 1974, $76 million.
Mid-1975, $84 million.
January 1976, $88.1 million.

If we can rely on the Pentagon's latest estimate the cost of 244 "stripped" B–1's will be $21.5 billion.

The cost of producing the B–1 itself is only a small part of the total price of the B–1 weapons system. The B–1 will need about 6,700 offensive weapons for the active bomber force. One-third will be SRAM's—short-range attack missiles. ALCM's—air-launched cruise missiles—will fill out the remaining two-thirds. At least two buys will be needed over the 30-year life of the bomber. The cost of the SRAM's is about $771,000 and the ALCM's are estimated at about $500,000. The total cost of these supporting weapons will be about $7.9 billion.

Operation of this bomber force for its estimated lifespan of 30 years will cost money also. There will be 14 B–1 squadrons and at least 14 tanker squadrons. The cost to operate one tanker squadron and one B–1 squadron is about $150 million annually. This includes direct costs—personnel, fuel, spares, base operations, intelligence, and communications—and indirect costs—depot, overhaul, base support and training. The price for operations will total about $63 billion.

The administration is now also recommending that the KC–135 tanker plane be replaced by a new wide-bodied tanker. Out of a possible 300 aircraft, the Pentagon plans to make an initial purchase of 40 at a price of $70 million each, making a total cost of $2.8 billion.

The total 30-year life cycle cost of the B–1 bomber program is likely to be in the range of $95 to $100 billion. Mr. President, a price tag like this for any weapons system is astounding. Given the marginal military benefits of the B–1 bomber, it is an outrageous estimate.

B–1'S NEGLIGIBLE STRATEGIC VALUE

The Defense Department has argued since the inception of the B–1 bomber program that a new fleet of long-range nuclear-equipped bombers would be necessary to replace the B–52's, which have been in active service since the 1960's. But, contrary to predictions by the Air Force, the wings have not yet fallen off the B–52's. Instead, these planes have been cleared by Air Force engineers for flight through the 1990's. In the spring of 1975, Deputy Defense Secretary Edward Aldrich further revealed that the Air Force had no immediate plans to retire the B–52. They will be equipped with a new air-launched cruise missile and kept airborne through the 1980's at the very least. This means that the B–1, which has been promoted as a crucial replacement for the B–52, may not be required for at least another 10 to 15 years.

The advantages of the B–1 over the B–52 are also questionable. The Air Force claims major reasons for replacing the B–52's with the B–1 bomber. First, it will have a better survivability potential during and after a launch. However, this does not change the basic fact of aircraft vulnerability on the ground.

The B–1 is also expected to have an improved ability to penetrate Soviet defenses. However, the B–1 will require 8 hours to travel 5,000 miles from base to target, arriving long after the ICBM's which require 30 minutes of traveltime, and the sea-based missiles which require only 15 minutes.

Mr. President, it is easy to forget that there are alternatives to the B–1 bomber. The presently used B–52 bombers, particularly the more advanced G and H models, and existing FB–111's with a stretched capability, can continue as an effective bomber force well into the 1990's. Whatever advantages the B–1 may have can be easily attained through much cheaper alternatives to the B–1, particularly the development of a standoff bomber which would not have to penetrate enemy airspace. The B–52 itself will nearly equal the proposed B–1's penetrating capability, and will also be able to carry the same weapons and electronic gear as the B–1.

I feel strongly, Mr. President, that we in the Senate should carefully examine every aspect of the B–1 program before the next vote on further funding. In anticipation of a favorable decision on the B–1 bomber, the administration has asked for $948 million in the next military budget to produce the first three B–1 bombers. These funds must not be appropriated. At $90 million per plane, the cost does not justify the marginal advantages over present strategic systems or alternatives to the B–1.

One of the reasons the B–1 program has not been sensibly scuttled already is the notion, currently perpetuated by the Ford administration, that the United States is falling behind the Soviet Union in military influence. Mr. President, this is strictly election-year rhetoric. We cannot afford to let the administration's saber rattling influence the Senate into permitting the production of the B–1 bomber. The cost is too great and the military benefits are negligible.

Mr. President, I commend the Senate for voting to postpone a decision on funding the B–1 bomber. I hope that we well remain firm by resisting any action to reverse the vote on Senator Culver's amendment.

Mr. McCLURE. Mr. President, I am not going to offer an amendment to the defense bill in support of NNL, but want to make sure my fellow colleagues are fully aware of the need for this type system.

In a situation such as the one our forces would face in Europe today, the enemy is characterized by an overwhelming armored maneuver force supported by large numbers of cannon and rocket systems. A role of our ground maneuver forces in this sort of situation, will be to force these enemy elements into killing zones, and then, by conducting intensive artillery and tactical air strikes on his massed forces delay and disrupt his advance. Available evidence strongly suggests that our artillery and air support assets will be fully saturated during the sort of intense combat situation described above. In fact, we can safely say that the Army and the Air Force would be faced with far more targets than they have the ability to strike.

In order to cope with this probable type of tactical situation, the Army needs, on the ground, conventional longer range artillery which can reach out to suppress enemy batteries and which can supplement our outnumbered cannon weapons as they attack the massed enemy formations. Nonnuclear Lance can fill a very large part of this order. Here is an all-weather, day or night fire support system immediately responsive to the fighting ground commander. It can augment cannon artillery during the intense combat conditions, and it can strike high priority targets beyond cannon range. Given aircraft attrition rates probable during the early days of such a European war NNL compares very favorably with TACAIR in cost effectiveness. While the requested numbers of NNL may appear to add only a small amount of additional firepower, this weight of fire at the right time is considered to be critical in giving our ground forces the capability to strike vital targets in the first days of such a conflict.

This inability of today's Lance system to participate in a nonnuclear conflict is particularly significant. Nonnuclear Lance has been developed, tested, and proven as the single system which both fulfills these requirements and is immediately available for procurement. There will be no other Army system available to do this vital job for at least 10 years. Also, it must be realized that the Soviet Union has several weapon systems that are comparable to the capability that would be provided by the NNL system. This void between our military force and the Soviets must be eliminated and the NNL is the way of achieving this.

Mr. CULVER. Mr. President, since there was not an opportunity to report to the Senate on tank programs during the opening discussion on this bill, I ask unanimous consent that my prepared remarks be included in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Report on Tank Programs

I appreciate this opportunity to report to the entire Senate on the Committee's actions with regard to tank programs.

The Committee paid special attention to the reported growing strength of the Soviet Army and noted that the U.S. Army's tank capabilities are also rapidly growing.

The Army currently has on hand or in production more tanks than were reported as their entire inventory requirements in fiscal year 1975. But revised projections of anticipated tank losses in combat have driven up tank inventory requirements from about 8,500 tanks in FY 1975 to about 13,800 in FY 1977. To continue to close this gap, the Committee has approved new production or modification of an additional 1,400 tanks in this bill.

Mr. President, to put Soviet capabilities into perspective, I do want to report that the Army does accept the current ratio of U.S. tanks against potential enemy tanks in the U.S. sector of NATO. Furthermore, although the USSR is producing a substantial number of tanks each year, many of those tanks are going to other countries as well as toward modernizing their own forces.

Before further tank budget requests are considered, however, the Committee has requested from the Secretary of Defense a study of the role of the tank on the modern battlefield, including anti-armor and anti-tank capabilities. We believe that technological advances and the recent experience in the Middle East war require us to reevaluate the role of the tank.

Mr. President, the Committee approved the M60 series tanks requested for the Army and Marine Corps, but we did insist on proof of the cost-effectiveness of the laser range finder and solid state computer planned for the M60A3 models.

In addition, we approved further proposed modification of M48A5 tanks with a new gun and engine. These tanks, which the Army says are capable of defeating Soviet T62x tanks, are intended to provide a quick improvement in our tank asset posture. The Committee has expressed its displeasure, however, that there have been drawdowns or deferrals from U.S. inventory or production of M60 series tanks in order to satisfy foreign sales commitments when M48A5 tanks are readily available. The Committee has insisted that every effort be made to use these modified tanks to meet foreign sales commitments prior to any deferrals of M60A1 or M60A3 tanks from Army assets.

In research and development, the Committee approved the funds requested for the new main battle tank, the XM–1. The Committee was concerned, however, about the gun for this tank and the prospects for tank standardization in NATO.

The Army has selected the 105 mm gun as its prime weapon on the XM–1 tank. At the same time the Army, based on results of a tripartite gun competition where the Germans have selected a 120 mm gun as their main tank gun, is initiating development effort for a 120 mm gun for possible future use on the XM–1 tank. This raises the serious question of whether the XM–1 program should be deferred until the new gun capabilities could be incorporated into the production effort of the XM–1. The Army has stated that early cost estimates indicated it would be a more reasonable program to have this parallel development and production and retrofit the 120 mm gun capability into the XM–1 at a later time.

Since this is such a highly important weapon the Committee has requested complete assurance that the program will proceed in a manner most beneficial to the Army and the taxpayer. In this regard, the Committee has asked the Secretary of Defense for assurance that it is most cost-effective to continue with the concurrent development program with the 120 mm gun and the XM–1 tank turret development with the 105 mm gun as compared to a deferral of the turret development until it could be redesigned to accept a 120 mm gun option.

The Committee last year expressed its strong support of standardization in NATO and particularly the Army's effort to standardize tank weaponry in NATO. Actions since last year have been disappointing in this area as exemplified by the tripartite gun competition which resulted in the new German tank and Army XM–1 tank each maintaining their own gun.

The Committee has requested, therefore, that the Secretary of Defense seek new agreements with the NATO countries where the main battle tank is to be used to see whether tanks could be standardized either in whole or to the extent possible through major components. Any new agreement that could be reached would be expected to impart the acceptance of the principal countries concerned to cooperate in an equitable manufacturing program that would be of mutual benefit.

The Committee believes that this would be an ultimate step toward standardization in NATO.

Mr. President, the Armed Services Committee approved these various recommendations on tank programs without objection.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 12438) was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from Alaska (Mr. Gravel), the Senator from South Dakota (Mr. McGovern), and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from Wisconsin (Mr. Nelson) is absent attending the funeral of Horace W. Wilkie, Chief Justice, Wisconsin State supreme court.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from North Carolina (Mr. Morgan) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall) and the Senator from Hawaii (Mr. Fong) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from Pennsylvania (Mr. Hugh Scott) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Hugh Scott) would vote "yea."

The result was announced—yeas 76, nays 2, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—76

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Mondale
Moss
Muskie
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—2

Clark
Hatfield

NOT VOTING—22

Abourezk
Beall
Brooke
Byrd, Harry F., Jr.
Church
Fong
Gravel
Hart, Philip A.
Hartke
Huddleston
Mansfield
McGee
McGovern
Montoya
Morgan
Nelson
Packwood
Pastore
Pearson
Scott, Hugh
Symington
Tunney

So the bill (H.R. 12438), as amended, was passed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 12438.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER FOR PRINTING OF H.R. 12438 AS AMENDED

Mr. STENNIS. Mr. President, I ask unanimous consent that the bill, H.R. 12438, as passed, be printed in full with amendments.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I move that the Senate insist on its amendments and request a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. Stennis, Symington, Jackson, Cannon, McIntyre, Harry F. Byrd, Jr., Nunn, Thurmond, Tower, Goldwater, William L. Scott, Taft, and, for the purpose of the language in title I of Senate amendment relating to the procurement of the B-1 bomber aircraft, Mr. Culver.

Mr. STENNIS. Mr. President, I express the regrets of the Senator from Virginia (Mr. Harry F. Byrd, Jr.) in that he could not be present tonight. He has been very interested in this measure and has been helpful in the hearings, on many phases of the bill, in the markup, the debate, and on many of the key votes. He had to be away tonight. I express my appreciation for his work, and I express his regrets at not being able to be present tonight.

Mr. President, I want to express my special appreciation for the cooperation and assistance which has been extended to me by all concerned on this legislation, from the beginning of the Senate hearings and on down until now. I especially want to thank the ranking minority member, Senator Thurmond, for his fine work.

As we all know, Senator Cannon, chairman of the Tactical Air Power Subcommittee, Senator McIntyre, chairman of the Research and Development Subcommittee, and Senator Nunn, chairman of the Manpower and Personnel Subcommittee, have also carried heavy responsibilities on this entire authorization bill in its preparation and presentation. Also, Senators Culver, Leahy and Bartlett conducted special studies on certain portions of the bill and did a fine job in presenting the results to the committee.

I should like to extend the personal appreciation of myself as well as the members of the committee for the consistent hard and fine work performed by our able committee staff. Floor action is only a small portion of the time consumed in the preparation of this legislation. This year the committee received from witnesses testimony totaling over 7,000 pages, and the staff in their usual capable and professional manner analyzed all the facts in order to assist our members in making the decisions. The entire staff was involved in this to some degree, and I should like specifically to mention their names:

T. Edward Braswell, Jr., our chief counsel and staff director, W. Clark McFadden, general counsel, Phyllis A. Bacon, Charles J. Conneely, Charles Cromwell, Hyman Fine, George H. Foster, John A. Goldsmith, Louise Hoppe, Edward B. Kenney, Don Lynch, Robert Q. Old, George Riedel, Larry K. Smith, Francis J. Sullivan, John T. Ticer, George Travers, Roberta Ujakovich, and Gerald Strickler, who has handled the printing of our voluminous hearings.

I also want to pay special tribute to the clerical staff since each of them participated in getting this bill passed. They are Doris Cline, Doris Connor, Chris Cowart, Marie F. Dickinson, Paulette Hodges, Mary Ketner, Jeanie Killgore, Betty Mayo, Ruth Price, and Mary Shields.

Mr. THURMOND. Mr. President, the bill we have just passed has been given great consideration in the Armed Services Committee and it has been considered in considerable detail on the floor. It does not contain my thoughts in every way, but I think it is a good bill. I am glad we have passed it. I feel that it will protect the interests of this country.

I express my appreciation to the distinguished chairman for the splendid work he has done on this bill and the consideration he has shown to the Members on his side and ours during the consideration of the bill.

I also pay special tribute to the majority and minority staffs who worked on this bill. Mr. Braswell is the chief of staff of the committee and Mr. Kenney is the ranking minority staff member. They and the other member of the staff worked faithfully in connection with this bill.

I am glad that we have now completed action on the bill, and I hope we can have a conference soon and get it passed and sent to the President.

Mr. President, I wish to call to the

attention of the Senate that due to bad weather my plane was delayed about 1 hour this morning and I arrived a few minutes after the first vote. If I had been present I would have opposed the amendment striking the A-7 aircraft from the committee bill.

ORDER FOR RECOGNITION OF MR. CANNON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, Mr. CANNON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is there any other order for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There is not.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT OF THE TWO HOUSES

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 646.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 646, which will be stated.

The assistant legislative clerk read as follows:

H. CON. RES. 646

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 27, 1976, it stand adjourned until 12 o'clock meridian, Tuesday, June 1, 1976, or until 12 o'clock noon on the second day after its respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives shall notify the Members of the House to reassemble whenever in his opinion the public interest shall warrant it or whenever the majority leader of the House and the minority leader of the House, acting jointly, file a written request with the Clerk of the House that the House reassemble for the consideration of legislation.

SEC. 3. During the adjournment of the House of Representatives as provided in section 1, the Clerk of the House is authorized to receive messages, including veto messages, from the President of the United States.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the resolution.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 7, strike the period and insert ", and that when the Senate adjourns on Friday, May 28, 1976, it stands adjourned until 11 o'clock a.m., Wednesday, June 2, 1976, or until 12:00 o'clock meridian on the second day after its respective Members are notified to reassemble in accordance with section 3 of this resolution, whichever event occurs first."

Insert the following between lines 14 and 15 on page 1:

"SEC. 3. The President pro tempore of the Senate shall notify the Members of the Senate to reassemble whenever in his opinion the public interest shall warrant it, or whenever the majority and minority leaders of the Senate, acting jointly, file a written request with the Secretary of the Senate that the Senate reassemble for the consideration of legislation."

Strike Section 3 and insert in lieu thereof the following:

"SEC. 4. During the adjournment of the two Houses of Congress as provided in Sec. 1, the Clerk of the House and the Secretary of the Senate, respectively, are hereby authorized to receive messages, including veto messages, from the President of the United States."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 646), as amended, was agreed to as follows:

H. CON. RES. 646

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 27, 1976, it stand adjourned until 12 o'clock meridian, Tuesday, June 1, 1976, or until 12 o'clock noon on the second day after its respective Members are notified to reassemble in accordance with section 2 of this resolution whichever event first occurs, and that when the Senate adjourns on Friday, May 28, 1976, it stand adjourned until 11:00 o'clock a.m., Wednesday, June 2, 1976, or until 12:00 o'clock meridian on the second day after its respective Members are notified to reassemble in accordance with section 3 of this resolution, whichever event occurs first.

SEC. 2. The Speaker of the House of Representatives shall notify the Members of the House to reassemble whenever in his opinion the public interest shall warrant it or whenever the majority leader of the House and the minority leader of the House, acting jointly, file a written request with the Clerk of the House that the House reassemble for the consideration of legislation.

SEC. 3. The President pro tempore of the Senate shall notify the Members of the Senate to reassemble whenever in his opinion the public interest shall warrant it, or whenever the majority and minority leaders of the Senate, acting jointly, file a written request with the Secretary of the Senate that the Senate reassemble for the consideration of legislation.

SEC. 4. During the adjournment of the two Houses of Congress as provided in section 1, the Clerk of the House and the Secretary of the Senate, respectively, are hereby authorized to receive messages, including veto messages, from the President of the United States.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to the title.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title to read as follows:

"Concurrent resolution providing for a conditional adjournment of the House from May 27 until June 1, 1976, and of the Senate from May 28 until June 2, 1976."

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS SUBMITTED FOR PRINTING

THE ANTITRUST IMPROVEMENT ACT OF 1976—H.R. 8532

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA. Mr. President, I submit 2 amendments for printing to H.R. 8532, and I ask unanimous consent that an explanation of the amendments be printed at this point in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF AMENDMENT NO. 1707 TO SECTION 201(n)

The purpose of the proposed amendment is to make it clear that information obtained via a Civil Investigative Demand is accorded the same confidentiality as information obtained pursuant to a grand jury investigation. The Department of justice has pointed out in its testimony that there may be some confusion regarding confidentiality under current law, and has urged a complete exemption from the Freedom of Information Act (FOIA). The proposed amendment seeks to achieve the requisite confidentiality by adopting language from the pertinent provision of the Federal Rules of Criminal Procedure applicable to preserving the confidentiality of grand jury proceedings (Section 6(e)).

EXPLANATION OF AMENDMENT NO. 1708 TO SECTION 201(g)

The purpose of the proposed amendment is to permit the Department to use the personally intrusive powers of Title II[*] only where it has obtained prior court approval, upon a showing that it needs the information to make out a complaint and cannot obtain it by a document subpoena to parties under investigation.

The Congress rejected the power to subpoena individuals and compel sworn testimony in secret, whether or not the person is under investigation, only 14 years ago when it enacted the existing authority to subpoena documents from targets. Congress did so because this power was inappropriate for a prosecutor (as distinguished from a regulatory agency subject to direct Congressional oversight) and because the benefits were not sufficient to outweigh the burdens and intrusions on individuals.

---

[*] The Amendment still allows the compulsion of documents and answers to interrogatories from non-natural persons without prior court approval.

Nothing has happened in the interim except exposure of the abuses of the investigative grand jury, Watergate and, most recently, the Internal Revenue Service and the FBI—which argue against rather than for the powers conferred by the bill. The Department of Justice has shown no greater need for the bill now than in 1962, and Mr. Kauper in fact testified before the Monopolies Subcommittee that "it would be easier to answer that [how the bill would aid enforcement] after we had the authority and see what we can do with it." Mr. Kauper's subsequent letter of January 22, 1976 to Chairman Rodino, outlining 14 examples of frustrated investigations, is clearly an afterthought which adds nothing to the record previously compiled in 1962.

Title II has been defended as *not* authorizing a roving grand jury principally because of the liberal rights to counsel and judicial review. But the rights to counsel and judicial review are both very expensive and thus illusory for all but the best-paid corporate executives. As Mr. Kauper himself has stated (in a speech before the ABA on April 9, 1976), most investigations focus initially on "relatively low-level corporate officials." These low-level individuals simply cannot afford to have their own lawyers. They can, of course, rely on corporate counsel. But Mr. Kauper (in the same speech) has strongly condemned this practice as unfair to the employees and perhaps unethical for corporate counsel, and he has urged these employees to retain independent counsel. In most instances, they simply will not be able to afford to do so, nor will they be able to afford the expense of judicial review.

The simplest and most effective way to prevent abuse of the powers of Title II is to require prior court approval of the demands to insure that the Department has a need for the subpenas at the outset. As noted above, the Department has made a very poor showing of need for the bill. But if the Department does have legitimate need for the powers in a particular case, let it make the showing (and a court will no doubt approve). Otherwise, the Department will simply use what is easiest for it—but most intrusive and burdensome for the individual involved.

The Department of Justice opposed a similar amendment in the Judiciary Committee by letter to Senator Hart dated March 2, 1976 (attached). The reasons stated for opposition are untenable.

The Department argues first that prior court approval will wreck an investigation where time is of the essence—as with proposed mergers. Proposed mergers, however, are subject to the FTC's existing pre-merger notice and investigatory authority. Quite obviously, if the FTC has time to gather the information, the Department has time to review what the FTC receives. (The merger "problem" is also the subject of Title V, which surely renders these Title II provisions unnecessary for mergers.)

The Department argues second that the amendment would "fundamentally disrupt the sequence of many of our investigations" because of the "many instances [in which] it will be important . . . to obtain relevant information from third parties before persons under investigation become aware of our activities." This would be a rather startling statement of secret law enforcement at its worst, if the Department could really keep its investigations this secret. In actuality, the existence of an investigation will become known. It is impossible to believe that a corporate target will be unaware of subpenas issued to its employees who are called as non-target witnesses.

The Department urges third that a standard of "necessity" as opposed to "relevance" is unwise because "there has been no showing of abuse to date." There has obviously, been no abuse of Title II's powers because Congress rejected them 14 years ago, precisely to prevent any abuse. But the abuses of the investigative grand jury and the FBI are well documented, and are illustrative of what may be expected under Title II.

MILITARY SALES ACT—S. 3439

AMENDMENT NO. 1709

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

NOTICE OF HEARING

Mr. WILLIAMS. Mr. President, on behalf of the Labor Subcommittee, I would like to announce that the Joint Senate-House hearings on the Scotia mine disasters and mine safety, which had been scheduled for Thursday, May 27, 1976, have been rescheduled for Thursday, June 10, 1976, at 9:30 a.m., in room 4232 of the Dirksen Senate Office Building.

Those wishing additional information concerning these hearings are invited to contact Michael L. Goldberg of the subcommittee staff, room G-237, Dirksen Senate Office Building, telephone number 224-3674.

ADDITIONAL COSPONSOR

S. 2909

At the request of Mr. Fannin, the Senator from Ohio (Mr. Taft) was added as a cosponsor of S. 2909, the Investment Incentives Act of 1976.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the order for the recognition of Mr. Cannon has been completed on tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes each; that at 11:30 a.m., the Senate resume consideration of the Antitrust Improvements Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convenue tomorrow **at 11** a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. Cannon will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes each.

At 11:30 a.m., the Senate will resume consideration of the antitrust measure.

At some point during the day, the Senate will proceed to a preferential motion relative to Federal energy action No. 2, which, as I understand it, amends the small refiner's exemption provided for by the Omnibus Energy Act passed in December 1975.

I anticipate one or two rollcall votes in connection with that matter on tomorrow. Whether or not there will be any rollcall votes in relation to the antitrust measure, I cannot say. Amendments are in order. A motion to recommit can be made. A motion to table, of course, is in order. Conference reports on other matters may be called up. I would foresee at least one or two rollcall votes tomorrow and maybe more.

Mr. President, I thank the manager of the military procurement bill and the ranking minority member on the committee for the fine work that has been done in connection with that bill. I thank all Senators for the cooperation which was extended to the leadership and which made possible final action on that bill today.

I also express my appreciation to Mr. Griffin, the assistant Republican leader, for his usual kind cooperation in achieving that end.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, and with my special congratulation to the Presiding Officer (Mr. Stone), that the Senate stand in adjournment until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 9:21 p.m., the Senate adjourned until tomorrow, May 27, 1976, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 26, 1976:

Department of State

John H. Reed, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Consumer Product Safety Commission

S. John Byington, of Virginia, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 1978.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

THE BILL OF RIGHTS PROCEDURES ACT

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Wednesday, May 26, 1976

Mr. MATHIAS. Mr. President, on April 29, 1976, I introduced, with Senator Tunney, the Bill of Rights Procedures Act. This legislation, S. 3349, would establish procedural safeguards to protect citizens' privacy rights with regard to records held by banks, credit, and telephone companies. The bill also sets out procedures for Federal officials to follow in seeking to examine the outside envelopes of mail received by an individual, and for telephone company monitoring of calls for service quality. In addition, the bill extends the existing wiretap law to telegraph, telex, and other nonverbal messages.

The urgency of congressional action on S. 3349 is highlighted by the recent Supreme Court decision in United States against Miller where the Court held that the Constitution does not itself provide American citizens with any assurance against unjustified inspection of their bank records by Federal agents. The Court based this decision on the premise that one's bank records—checks, balances, loan data, and other information—belong to the bank and not to the individual account holder. Considering this reasoning, the need for corrective legislation in this area is clear.

The Bill of Rights Procedures Act has received wide bipartisan support in the Congress since its introduction. A number of organizations have also endorsed the bill, including: the AFL–CIO; the American Bankers Association; the Retail Clerks International Association; American Express Co.; Bank of America; Communications Workers of America; House Republican Task Force on Privacy; National Association of Mutual Savings Banks; and the California Bankers Association.

I want to draw the attention of my colleagues to the favorable action that the Bill of Rights Procedures Act has received in the House of Representatives. The House companion bill—H.R. 214, originally authored by my colleague, Congressman Charles Mosher of Ohio—was reported out of the House Subcommittee on Courts, Civil Liberties and the Administration of Justice by a 5-to-0 vote. The full House Judiciary Committee is expected to soon take up the bill.

Support for legislation along the lines of the Bill of Rights Procedures Act has also come from a number of newspapers, including the Baltimore Sun in my own State of Maryland, and the Washington Star-News.

Mr. President, I ask unanimous consent that these two editorial endorsements be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Baltimore Sun, May 3, 1976]

No Banking on Privacy

Poor Mitch Miller. Three weeks after Houston county, Georgia, sheriff's deputies found still equipment in a van, in late 1972, firemen stumbled on a 7,500 gallon distillery in a burning warehouse. Treasury agents subpoenaed two Georgia banks for records of Mr. Miller's accounts. The banks complied without giving him a chance to fight the subpoenas. The checks and deposit slips provided leads and became evidence in Mr. Miller's conviction on federal charges relating to illegal production of whiskey. And now the Supreme Court says that was proper.

Poor everyone else. The language in Justice Powell's opinion for a majority of seven leaves no doubt that in the eyes of the Court as well as of Congress, the respected confidentiality of what you tell your priest and lawyer does not extend to communication with your banker. Mr. Miller was as entitled by the Fourth Amendment as the next man to be secure in his person, house, papers and effects against unreasonable searches and seizures, with no warrants issued except upon probable cause, supported by oath or affirmation, describing the thing to be seized. The Fourth Amendment would have been violated had those checks and deposit slips been his. But seven justices held that they were the bank's, that "checks are not confidential communications," that there was "no intrusion into any area" protected by the Amendment and that he had no "expectation of privacy" at the bank. Justices Brennan and Marshall disagreed.

This issue flows from the Bank Secrecy Act, a major if misnamed weapon provided by Congress in 1970 for the war on white collar crime. It compels banks to keep records of everyone's money flows for just such purposes as here described. The Court in 1974 held the compulsory record-keeping constitutional. This case was about access to those records. Despite some specious reasoning of Justice Powell, those were Mr. Miller's transactions more than they were the bank's. To have required the agents to subpoena Mr. Miller as well as the banks would not have curtailed law enforcement.

The right of privacy is a comparatively recent Supreme Court discovery, but there is no longer any predicting where it will appear and where disappear. "Privacy" protects a woman's right to an abortion, but not to secrecy about her money once she puts it in the bank. The vehemence of Justice Powell's repudiation of confidentiality in banking could someday inspire frivolous disclosure without subpoena. A part of our lives is traceable not only through bank accounts, but also phone bills, credit cards and the like. Are we really renouncing Bill of Rights protections when we don't pay cash? The remedy lies with Congress.

[From the Washington Star-News, May 25, 1976]

Expectations of Privacy

In the months since Rep. Charles Mosher and Sen. Mac Mathias began trying to nudge their "Bill of Rights Procedures Act" through Congress, we have had at least one Supreme Court decision and a host of investigative disclosures that underscore its wisdom.

The Supreme Court, for its part, recently considered a Georgia case in which a citizen's bank records were used, without prior notice, to convict him of illegal manufacture and sale of whiskey. Most of us regard bank transactions as confidential and would welcome the amenity (if it is only that) of being put on notice when federal revenuers or other sleuths take an interest in them. Yet the Supreme Court held, astonishingly, that the Bank Records Act requires no such notice, that such documents as checks and deposit slips are as public as a billboard.

And of course the widespread distribution of credit records, the surveillance of mail at the Post Office, and other such random invasions of privacy have been detailed ad nauseam, time after time, in recent congressional hearings.

The Mosher-Mathias legislation takes a moderate approach to the prying eye of Big Brother. According to a summary prepared by Congressman Mosher's staff, "it would not prohibit activity now considered to be legal. Rather it would establish clear guidelines and procedures to be followed when there would be a legal invasion of a citizen's privacy," whether as to bank and credit company records, telephone calls, mail, cables and telegrams, or "service" listening in on telephone equipment.

Consider, for illustration, how the legislation might have worked when Treasury agents took an interest in those Georgia bank records. It would not have altered the Supreme Court's view that one's checking account is, in effect, open to public inspection. But it would require at least one of the following steps of due process: The bank would have to obtain the written consent of the customer under investigation, or a subpoena would have to be issued with a copy to the customer, or a search warrant would be required.

Similar or parallel protections would be extended to anyone subjected to a so-called "mail cover" (in which one's mail is not actually opened but is systematically monitored over a period of time for information appearing on envelopes or wrappings), credit inquiries, telephone records, and the like.

This bill (HR 214) comes before the House Judiciary Committee this week. That committee's subcommittee on courts, civil liberties, and the administration of justice has unanimously endorsed it. Its sponsors have spent every effort to make it as non-controversial as such legislation can be without being toothless. For instance, they have agreed to strip it of a section restricting "national security" wiretaps.

It is wise and worthy legislation, and many of the private institutions it would affect (e.g., American Express, the Bank of America, the National Association of Mutual Savings Banks) have already endorsed it.

It is time to restore some order and due process to the promiscuous disclosure of private matters involving, in the words of Justice Lewis Powell, "legitimate expectations of privacy."

CONGRESSMAN TORBERT H. MACDONALD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. ANDERSON of California. Mr. Speaker, like the rest of my colleagues, I was saddened to learn of the untimely death of Torbert H. Macdonald on Friday, May 21. Until he announced his retirement last month, I had looked forward to many more years of outstanding leadership from the gentleman from Massachusetts. His retirement was a loss to the Congress, the Nation which he served as a military man and as a legislator, and to the people in his district whom he represented so ably. Torbert Macdonald's death was a grievous personal loss to his friends, family, and all who had come to know and respect him.

Torbert will probably be remembered most for his authorship of legislation banning local blackouts of sold-out professional football games, and for his leadership in the fight to control violence on television. As chairman of the Interstate and Foreign Commerce Subcommittee on Communication, Representative Macdonald exercised great power over the broadcasting industry. He used that power for the common good, seeing that the principles of free speech were maintained, and at the same time insuring that the public airways were used by broadcasters in the best public interest.

As captain of the Harvard football team in 1939, Torbert Macdonald was a roommate of our former President, the late John F. Kennedy. During World War II, he entered the Navy and saw action on PT boats during the battle for the Pacific, winning a Silver Star.

Following the war, Torbert Macdonald received his law degree from Harvard University. He worked as a lawyer for the Motion Picture Producers Association and the National Labor Relations Board prior to his election to Congress in 1955.

Representative Macdonald's background was instrumental in many of his legislative accomplishments. Besides the blackout ban, he will be remembered for his support of the public broadcasting system, and in his efforts to see that energy cost remained within the reach of the average citizen. His knowledge of sports came from his collegiate career in both football and baseball. Torbert loved sports: but he never ceased his efforts to see that they were accessible to every American.

Mr. Speaker, Torbert Macdonald was a man who led a full and successful life. He leaves behind him a legacy of many important legislative accomplishments, and the warm memories of his family and friends.

My wife, Lee, joins me in expressing our most sincere condolences to Torbert Macdonald's lovely wife, Phyllis; their children, Torbert, Jr., Brian, Robin, and Laurie; his mother, Harriet Hart Macdonald; and his two sisters, Gertrude Bateman and Margaret Prior.

ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1976

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. WAXMAN. Mr. Speaker, I urge my colleagues to support the 1976 amendments to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act. This legislation extends for 3 years the programs of Federal assistance under the act and amends several portions of the existing law.

Alcohol misuse and abuse rob an individual of his or her health. Available medical data supports the contention that alcohol abuse increases an individual's susceptibility to a number of life-threatening diseases. Recent evidence suggests that alcoholism causes malignant diseases, such as cancer and cirrhosis. Alcoholism itself is a disease. Rather than invoke criminal sanctions against those who are victims of alcohol abuse, we now recognize that alcoholism is a disease requiring early diagnois and curative treatment.

Alcoholism contributes significantly to increased morbidity and mortality. Recent studies indicate that individuals diagnosed as alcoholics are more likely to die at an earlier age than the general population. Heavy drinkers, and those who have problems associated with high consumption of alcohol, die younger than moderate drinkers. Among the groups with alcohol-related increased death rates, women have higher rates than men, and the youngest-age classes have the highest mortality rates.

Alcohol abuse, also, threatens the safety and lives of innocent parties. The relationship between alcoholism and death can be direct, as in the case of an overdoes, or indirect, as in the case of traffic accidents. Alcoholic induced physical and mental states are associated with increased incidence of violent deaths of all kinds, including suicide.

Although the disease of alcoholism has reached epidemic proportions, little is in fact known about why or how certain individuals become afflicted. There is little agreement among the so-called experts about the causes and treatment of alcoholism. Of all our health problems, the need to deal more effectively with alcoholism is most urgent.

The bill before us specifically seeks to increase our capacity to deal with this enormous problem. It sets out to promote research by designating several national alcohol research centers to conduct research on alcoholism and related abuse problems.

This legislation, also, requires that special attention be given to the problems of women and minors who are alcoholics. The alcohol abuse problems of women and minors are unique and have thus not been given the recognition they deserve. Specifically, this legislation authorizes the Secretary of Health, Education, and Welfare to give special consideration to applications for project grants for programs designed to deal with the alcohol abuse problems of these two groups.

The number of youthful alcoholics has reached alarming proportions. Approximately 5 million youth drink on a weekly basis; 22 percent of the 7th through 12th graders drink once a week or more; 17 percent of this age group drink 3 to 4 times per month; 24 percent of 13-year-olds are classified as moderate to heavy drinkers; and 57 percent of 18-year-olds are classified as moderate to heavy drinkers. It is important that we begin to reach out to young Americans by offering them much needed counseling and treatment services.

Women account for the largest increase in the drinking problem in recent years according to Dr. Morris Chafetz, former Director of the National Institute on Alcohol Abuse and Alcoholism—NIAAA. This is not only a problem for the women involved, but for the generation yet unborn. Excessive alcohol consumption has a detrimental impact on fetal development. Among those who have a drinking mother, the incidence of child abuse and child neglect is greater than in the general population.

The pernicious aspects of alcoholism are wide ranging. Alcoholism has a deleterious impact on the individual, his family and friends, and on society. A continued Federal commitment to programs of prevention, treatment, and rehabilitation is of critical importance to the American people. For this reason, I support this legislation.

GENERAL MORRIS IS NAMED CHIEF OF ENGINEERS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. JONES of Oklahoma. Mr. Speaker, in the last few days two exceptionally happy events took place in Oklahoma. First, the Kaw Dam and Reservoir was dedicated near Ponca City, Okla. Second, Maj. Gen. John Morris was named Chief of the Army Corps of Engineers.

General Morris has served Oklahoma, and the Nation, in a way few men could. Only by his perseverance and determination could so much be done to benefit so many in such a short period of time. I am speaking of the water resource development efforts that the Army Corps, under the direction of General Morris, carried out in the Tulsa district.

A district engineer serves a broad constituency of people. People affected by the ravages of flood and people concerned with maintaining the environment. Few men have served both goals with the efficiency and people-oriented convictions, as General Morris. Only through this unique blend of characteristics could conflicts be resolved that would enable flood protection projects to progress and the environment to maintain its position unaffected.

General Morris served Oklahomans at a critical stage in the development of the McClellan-Kerr Waterway and it may be said that he was as responsible for its completion as any man. Jack should be noted as one of our country's finest military men, a man who is capable of planning, constructing, and operating a program for development and use of the Arkansas River system that in the past left people homeless, destroyed lives and property. I know he will do the same for this country, and I know of no finer man to meet the present and future water resource needs of the Nation.

My home, Tulsa, enjoys a navigable waterway, flood control, hydroelectric power, and recreation because of the foresight of great men of which General Morris is one. I am confident that he will meet the national goals of economic growth and environmental concern with respect to water resources in the same manner he did in Oklahoma. I and all Oklahomans wish Jack Morris the greatest of success in this new undertaking and I am sure the American people will be indebted for his continued service.

LABOR'S ROLE IN "SQUEEZE" IS CONCERN TO FARM GROUPS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. McCLORY. Mr. Speaker, in connection with alleged food price gouging, there appears to be a strong desire to investigate and attack the food processors and also the retail food chains. Almost neglected in these attacks are the restrictions and barriers involved in efficient food handling which result from inflationary and noncompetitive labor-management agreements. Inherent in these agreements are many excessive costs, including adverse impacts on productivity.

In a recent statement by Wray Finney, president of the American National Cattlemen's Association, it was brought out that in the supermarket business wage rates have risen by 82 percent during the past 10 years while productivity has declined by 5 percent.

Mr. Speaker, the summary of Mr. Finney's statement appeared in the most recent issue of Farmland News, which I am attaching to these remarks in order to emphasize the effect produced by labor-management agreements which are unrelated to efficient practices—and which fail to emphasize the need for improved productivity:

LABOR'S ROLE IN "SQUEEZE" IS CONCERN TO FARM GROUPS

Growing concern over the effect of organized labor's power over farm incomes has been expressed by agricultural groups.

John Junior Armstrong, president of Kansas Farm Bureau, said he was disappointed that the National Labor Relations Board hadn't imposed a heavy fine on the longshoremen for their refusal to load grain on ships bound for Russia.

Wray Finney, president of the American National Cattlemen's Association, said the farmer's share of the food dollar faces further squeezing if something isn't done to curb "unnecessary government regulations and union featherbedding."

Armstrong made his comment in signing a settlement agreement issued by the NLRB against the International Longshoremen's Association. The longshoremen admit violating the law against secondary boycotts and agree to refrain from similar work stoppages.

"The board's agreement is little more than a slap on the wrist and finger-wagging 'don't do it again sort of thing.'" Armstrong said, but he welcomed the judgment as a precedent that will hold back unions from using secondary boycotts to gain "selfish ends."

Armstrong said the boycott and subsequent moratorium on grain sales to Russia and Poland wrecked the wheat market.

Finney of ANCA cited data showing that labor costs alone represent about half to two-thirds of the margins in certain segments of the off-farm food industry and that wage increases without comparable improvements in productivity have been the biggest factor in price spread increases in recent years. The average beef price spread, for example, has gone up more than 50% in just five years, he said.

Finney said that in the Washington-Baltimore area, beginning clerks and cashiers in food stores now receive wages and fringe benefits amounting to $16,200 a year. When there are large wage and benefit increases without improvements in productivity, he said, retail prices of meat and other food have to increase.

Average cattle prices have risen significantly from several years ago, Finney said, but livestock producers helped keep these increases under control with a 65% improvement in their own output per man-hour in just the last 10 years.

During the same 10-year period, it was noted, the beef price spread jumped 74%. A majer factor in this was labor cost increases. Wage rates in the meat processing industry climbed 77%, compared with a productivity increase of only 30%. In the supermarket business, wage rates rose 82%, but there was a 5% decline in productivity.

Finney cited several examples of union work rules which are barriers to efficient handling of meat and other foods. It was estimated that restrictions in labor-management agreements cause beef prices to average at least 5¢ per pound higher than otherwise would be the case; and, in total, union "featherbedding" practices in the beef business may cost the public at least $3¾ billion a year.

The ANCA president said he had written letters to both President Ford and AFL-CIO President George Meany urging them to join with agriculture in an accelerated effort to increase productivity and help slow inflation.

MISS E. FRANCES HERVEY, PRINCIPAL, BRIDESBURG SCHOOL

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. EILBERG. Mr. Speaker, Miss E. Frances Hervey is retiring from the public school system after 49 years of faithful service.

In her many years of service she has been a classroom teacher at both the elementary and secondary levels. She has been a vice principal at the secondary level and an auxiliary principal at several elementary schools, and then principal at Bridesburg Elementary School for 11 years.

In her organizational service citywide, Miss Hervey was president of the Philadelphia Teachers Association. On the State level, she was president of the Southeastern Section of the Pennsylvania Education Association and she represented five counties: Philadelphia, Chester, Montgomery, Delaware, and Bucks. Due to her representation of these five counties, she sat in on the first White House conference on education.

At the national level, Miss Hervey was a delegate to the National Education Association and she served on many committees.

In 1966 she was one of 50 delegates elected from the United States to the World Confederation of Teachers Professions. This involved an around-the-world trip to visit people in other countries concerning education.

In her 11 years of service at Bridesburg School, Miss Hervey has shown true dedication to the children, the parents, and the community.

PAPERWORK REVIEW AND LIMITATION ACT

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. NOLAN. Mr. Speaker, I am today introducing legislation to require the Congress to assess the paperwork impact of each and every bill it passes.

Every day massive numbers of new Federal regulations go into effect. Paperwork multiplies and America's small businessmen and bankers are buried in redtape.

Some small businessmen have complained that they must spend 15 to 20 percent of their time completing Government forms. More paperwork means higher costs, and for many small businessmen, this additional burden can make the difference in the success or failure of their businesses.

The legislation which I am introducing would require that the report accompanying each bill reported by a committee of the House or Senate contain a "Paperwork Impact Statement." This statement would be required to include:

First, an estimate of the amount of information which will be required of private individuals and businesses as the result of the legislation;

Second, whether such information is already being gathered by and is available through other departments or agencies of the Government;

Third, the number and nature of the forms that will be required for the purpose of gathering the information and the number of reports which would be required to be made, and the records kept, by private business enterprises as a result of the enactment of the bill; and

Fourth, the cost or time which would be required of private business enterprises, especially small businesses, in making such reports and keeping such records.

The proliferation of Federal paperwork has caused open warfare between the Government and small business. Our laws should be designed to foster a healthy and sound business community not to undermine the foundations of our private enterprise system.

The Congress needs to take a closer look at the real impact of our laws upon the ability of our small businesses to grow and prosper. The 6,000 forms presently required by the Federal Government, excluding IRS forms, require 130.5 man-hours yearly. In my judgment, the Congress has a duty to see that the laws it passes do not add to this overwhelming burden. Duplicate reporting and other excessive paperwork requirements can be curbed if Congress takes the time to assess the real implications of proposed measures and to take responsible legislative action.

PROPOSALS OF THE AMERICAN INSTITUTE OF ARCHITECTS ON SAVING ENERGY IN THE "BUILT ENVIRONMENT"

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. ROE. Mr. Speaker, the vital import of energy conservation in the already established and "built environment" is a fact that should concern all Americans on all levels of implementation and usage. One of my constituents, Mr. Hugh N. Romney of Hawthorne, N.J., is a well-known and distinguished architectural consultant who has consistently submitted viable, concrete proposals in this area of energy conservation reflecting both an extensive professional insight and learned competence as well as a practical creativity especially oriented to the complexities of present and future energy needs and the limitations and capabilities of our natural resources.

Mr. Speaker, pursuant to Mr. Romney's interest and suggestion, I have been furnished with several excellent policy statements on this subject forwarded to me by the president of the American Institute of Architects, Mr. Louis de Moll. The American Institute of Architects has been encouraging Government at all levels to recognize the vast potential for energy savings in the building sector and to initiate programs that will achieve optimum conservation results. One overriding goal of the institute as well as the Congress has been the adoption of a national energy conservation policy and one of the most viable vehicles of this policy can be "energy conscious design."

Mr. Speaker, today in recognition of the efforts of the American Institute of Architects I wish to record in the CONGRESSIONAL RECORD two statements of the institute on saving energy in the "built environment" in general, and the AIA institute's plan in particular. I believe both these statements point out the problems to be met, the benefits to be derived and the technologies to be utilized in realizing a true and effective energy conservation policy which is essential to the future economic and environmental health of our Nation.

The material is as follows:

SAVING ENERGY IN THE BUILT ENVIRONMENT

It is clear that many of our natural resources are in limited supply: the land on which we build, building materials, and the fossil fuels on which the built environment depends for energy.

Means must be developed to reduce our dependence on fossil fuels, which now provide about 95 percent of the United States' energy. The built environment consumes at least one-third of this energy.

In 1970 the total U.S. energy consumption of gas, coal, and oil amounted to the equivalent of almost 32.5 million barrels of oil a day. Based on present trends, it is estimated that consumption will be more than doubled by 1990 when it reaches the equivalent of 68.5 million barrels per day.

The projected expansion of domestic production of coal, gas, and nuclear energy, along with projected imports of gas and the development of hydroelectric and geothermal power, is expected to yield the equivalent of 39.2 million barrels of oil a day in 1990. The remaining demand gap of 29.3 million barrels, however, will have to be supplied from domestic and foreign oil sources.

Since domestic oil sources are expected to produce only 11.3 million barrels of oil a day in 1990, the balance—18 million barrels—will have to be met from oil imports, a three-fold increase over the present import rate of six million barrels.

Energy savings reaching an annual level equivalent to 12.5 million barrels of oil a day by 1990 could be achieved if the nation's new and existing buildings were designed to be energy efficient. This energy savings by building for efficiency is approximately equal to the future capacity of any one of the United States' prime energy systems.

These fuel savings in the built environment could be realized by 1990 through a high priority national effort to create an energy efficient building inventory. In existing buildings, fuel consumption could be reduced as much as 50 percent. New buildings, designed to be energy efficient, could save as much as 80 percent of the fuel they would otherwise consume.

Using conservative estimates of 30 percent savings for existing buildings, and 60 percent for new buildings, the energy saved would amount to the equivalent of 12.5 million barrels of oil a day by 1990.

Performance standards—annual energy consumption goals for entire buildings—should be mandated by the federal government for new residential and commercial buildings. This approach permits flexibility in the design process and encourages innovations and advancements in technology. Prescriptive or component performance standards, on the other hand, have severe limitations. In addition to restricting innovative design and inhibiting advancements in technology, they fail to address the building as an energy consuming entity and discourage the utilization of alternative energy sources, such as solar and wind.

In some instances, it may be possible to achieve energy efficiency without additional capital costs. On the whole, however, energy efficient buildings will tend to cost more than traditionally designed buildings. It may therefore be necessary to provide incentives to encourage energy conservation. In new buildings, incentives would encourage energy conservation above the levels required by performance standards. In existing buildings, incentives would facilitate the raising of capital for retrofitting to achieve energy conservation.

Incentives can be offered in a variety of forms—tax credits, guaranteed loans, subsidized interest rates, rapid depreciation allowances, subsidies, or technical assistance. And the sources of such incentives can range from local communities to the federal government.

Incentives should be provided on the basis of reductions in the consumption of fossil fuels. Results can be measured in terms of Btu's per unit of area/per unit of time. This approach is not unlike measuring the energy efficiency of a car in terms of miles per gallon.

Additional energy savings can be achieved by the use of alternative sources of energy, such as sun, wind, and water. Solar energy appears to be the most promising resource, in terms of immediate availability and existing technology.

There are major benefits to be derived from energy efficient building in addition to reduced operating costs over the building's lifetime. First, a decrease in fossil fuel consumption would help alleviate the pollution hazards associated with the conversion of those fuels into energy. Second, the elimination of the need to import 12.5 million barrels of oil a day into the United States would avoid the staggering burden that otherwise would be placed on the U.S. international balance of payments. At current price levels, the cost of this amount of imported oil would be approximately $50 billion a year. Finally, the creation of an energy efficient built environment would provide an estimated two to three million job opportunities annually in construction and related industries.

SAVING ENERGY IN THE BUILT ENVIRONMENT: THE AMERICAN INSTITUTE OF ARCHITECTS POLICY

The design of the built environment—homes and schools, offices and factories, shopping centers and hospitals—has far-reaching effects on the quality of human life. The architect who designs this environment must take into account not only how the building project meets the physiological, and psychological needs of its users, but also how it affects and is affected by its natural setting.

It is now clear that many of our natural resources are in limited supply; the land on which we build, building materials, and the fossil fuels on which the built environment depends for energy.

For the American Institute of Architects (AIA), the careful use of our finite natural resources in the built environment is both a critical professional concern and an important public responsibility.

SAVING 12.5 MILLION BARRELS OF OIL A DAY

The recent increased cost of fossil fuels, which now provide about 95 per cent of the United States' energy, presents a major challenge to the design professions since the built environment consumes at least one-third of the nation's energy.

Even before the "energy crisis" was generally recognized, the AIA had begun to explore and develop means of reducing dependence on fossil fuels in the built environment. The results of these efforts indicate that energy savings reaching an annual level equivalent to 12.5 million barrels of oil a day by 1990 could be achieved if the nation's new and existing buildings were designed to be energy efficient.

In 1970 the total U.S. energy consumption of gas, coal, and oil amounted to the equivalent of almost 32.5 million barrels of oil a day. Based on present trends, it is estimated that consumption will be more than doubled by 1990 when it reaches 68.5 million barrels per day equivalent.

The anticipated rapid expansion of domestic production of coal, gas and nuclear energy, along with projected imports of gas and the development of hydroelectric and geothermal power, is expected to yield the equivalent of 39.2 million barrels of oil a day in 1990. The remaining demand gap of 29.3 million barrels, however, will have to be supplied from domestic and foreign oil sources.

Since domestic oil sources are expected to produce only 11.3 million barrels of oil a day in 1990, the balance—18 million barrels—will have to be met from oil imports, a three-fold increase over the present import rate of six million barrels.

The potential savings of the equivalent of 12.5 million barrels a day projected by the AIA would be practically equal to the increase above the current level of oil imports expected in 1990. Nevertheless, these savings still amount to only about two-thirds of the presently estimated 1990 imports. Clearly, AIA's program to conserve energy is not in competition with domestic energy sources, nor with present accelerating efforts to increase domestic energy supplies.

*1990 estimated energy supplies**

[In millions of barrels per day oil equivalent]

Domestic:	
Coal	14.0
Nuclear	12.0
Oil	11.3
Natural gas	8.0
Hydroelectric and geothermal	1.2
Total domestic	46.5
Foreign:	
Gas	4.0
Oil	18.0
Total foreign	22.0
Total	68.5

* Reprinted from "Energy and the Built Environment: A Gap in Current Strategies," The American Institute of Architects, 1974.

As the chart above shows, the energy that could be saved by building for energy efficiency is approximately equal to the future capacity of any one of the United States' prime energy systems. The estimated capacities of domestic sources of energy represent what might be achieved by 1990, under optimum situations that include development of oil shale resources and the Alaskan oilfields.

SAVING ENERGY IN THE BUILT ENVIRONMENT

The fuel savings projected by the AIA could be realized by 1990 in the built environment through a high priority national effort to create an energy efficient building inventory. This goal could be accomplished by the application of a broad range of planning, design, construction, and management techniques.

There are presently numerous opportunities to conserve fuel in new and existing buildings. The design professional can, for example:

Plan for the most efficient use of a new building or advise on changes in the use patterns of an existing building.

Site the building properly, to take advantage of natural light and ventilation.

Use vegetation to shield against excessive sun and wind.

Design sunshades, overhangs, or shutters to let in sun when needed and block it when not desired.

Insure the use of the most efficient systems for heating, cooling, ventilating, and lighting.

Further energy savings can be effected by the use of alternative sources of energy. New energy systems which make optimum use of such naturally regenerative sources as sun, wind, and water, can supplement or, in some cases, even supplant the use of non-renewable fossil fuels.

Solar energy presently appears to be the most promising resource, in terms of both immediate availability and existing technology. It is estimated that more solar energy reaches Earth in three days than could be supplied by all known reserves of fossil fuel.

In existing buildings, fuel consumption could be reduced as much as 50 per cent from current levels. New buildings initially designed to be energy efficient could save as much as 80 per cent of the fuel they would consume at present levels.

Using conservative estimates of 30 per cent savings for existing buildings, and 60 per cent for new buildings, the energy saved would amount to the equivalent of 12.5 million barrels of oil a day by 1990.

CAPITAL IMPLICATIONS OF ENERGY EFFICIENCY BUILDINGS

In some instances it may be possible to achieve energy efficiency without additional capital costs. On the whole, however, energy efficient buildings will tend to cost more than traditionally designed and constructed projects.

The gross investment required to achieve energy efficiency over a 15-year period could range from $729 billion to $1,460 billion, or 10 to 20 per cent above usual construction costs. However, the resulting energy savings would reduce the need for incremental capital expenditures for convenient energy generation by an estimated $415 billion. Thus on net basis, the capital requirement would range from $314 to $1,045 billion. On the other hand, the cost of energy saved during that 15-year period would be from $892 to $1,499 billion.

It is especially significant that the payback period for capital expenditures for energy efficient buildings might range from 10 to 15 years. This is half the usual time required to recoup investments in traditional large scale utility systems.

BENEFITS OF ENERGY EFFICIENT BUILDINGS

In addition to reduced operating costs over the lifetime of a building, there are other major benefits to be derived from energy efficient building.

First, a decrease in fossil fuel consumption would help alleviate the pollution hazards associated with the conversion of those fuels into energy.

Second, the elimination of the need to import 12.5 million barrels of oil a day into the United States would avoid the staggering burden that would otherwise be placed on the U.S. international balance of payments. At current price levels, the cost of this amount of imported oil would be approximately $50 billion a year.

Finally, the creation of an energy efficient built environment would provide an estimated two to three million job opportunities annually in construction and related industries.

NEED FOR INCENTIVES FOR ENERGY EFFICIENCY

During the era of seemingly inexhaustible energy, our society evolved attitudes, policies, tax laws, and institutional practices which engendered a powerful demand for buildings of low first cost. In marked contrast, the energy efficient building requires high "front end" costs.

New buildings and major improvements to existing buildings, including energy efficient measures, are financed to a large extent on borrowed funds. The traditional approach to reduce the risk associated with this type of debt has been to minimize initial construction costs as much as possible. This aspect, together with certain tax considerations for commercial buildings which favor the economics of higher operating expenses over higher capital expenditures, make the "first-cost" problem a formidable barrier to the construction of energy efficient buildings.

It may therefore be necessary to provide certain incentives to overcome economic and other barriers and to galvanize action for implementation. Accordingly, the AIA is endeavoring to inform the general public of the important and lasting advantages of fuel conservation to be obtained through the design of an energy efficient built environment.

The public awareness thus generated should not only encourage individual initiative, but should also provide the necessary public support for incentives to stimulate capital commitments.

Incentives can be offered in a variety of forms, such as tax credits, guaranteed loans, subsidized interest rates, rapid depreciation allowances, subsidies, or technical assistance. And the sources of such incentives can range from local communities to the federal government.

The AIA advocates that incentives be provided on the basis of reductions achieved in a building's requirements of natural resources. The results can be measured in terms of BTU's per unit of area, per unit of time. This approach is not unlike measuring the energy efficiency of a car in terms of miles per gallon.

CONCLUSION

It now appears that the AIA estimates of the energy savings to be achieved through energy efficient building design may be conservative. Data gathered since the AIA made its original projections indicate that the 30 per cent average reductions in energy consumption in existing buildings and the 60 per cent figure for new construction may be on the low side.

The selection of building materials, taking into consideration the amount of energy required for their manufacture and transportation; the use of energy efficient construction techniques; and the application of urban planning principles that reduce the amount of energy required for transportation all offer opportunities for additional energy savings in the built environment.

To achieve the goal of an energy efficient built environment will require a large scale national effort in both the private and public sectors. The American Institute of Architects is firmly committed *to this effort* and would welcome the interest, support and cooperation of those who share this concern.

(For further information: Director of Energy Programs, The American Institute of Architects, 1735 New York Ave., N.W., Washington, D.C. 20006, (202) 785-7300.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on May 29, 1776, the congressional committee conferring with Generals Washington, Gates, and Mifflin reported to Congress on the general military situation. The committee recommended that 9,000 soldiers be supplied by the militias of Massachusetts, Connecticut, New Hampshire, and New York for the Canadian campaign. It advised that another 15,000 men be supplied by the militias of Massachusetts, Connecticut, New York, and New Jersey for the defense of New York.

The committee felt that there were sufficient forces available, or being raised, to support the colonies of New England as well as those in the southern department, except for Georgia and South Carolina.

To rally support and raise the additional forces, Congress appointed Thomas Jefferson, George Wythe, Samuel Adams, and Edward Rutledge to prepare an animated address—to impress the minds of the people with the necessity of their now stepping forward to save their country, their freedom, and property.

MAY IS DESIGNATED BETTER HEARING AND SPEECH MONTH

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. FUQUA. Mr. Speaker, the month of May has been designated annually as Better Hearing and Speech Month. Speaking, hearing and understanding are essential to human communication and are something we often take for granted.

However, I would like to point out to my colleagues some interesting facts concerning speech and language disorders provided me by Mrs. Nancy J. Johnson, a speech pathologist for Leon County District Schools in the Second Congressional District of Florida which I represent.

Nearly 10 million Americans, or 1 out of every 20 persons, suffer from a speech or language disorder.

Each year, 60,000 Americans suffer from aphasia, the loss of the ability to use speech and language due to a stroke or head injury.

There are 30,000 Americans who have undergone surgery for laryngeal cancer, and 8,000 new cases of laryngeal cancer are discovered annually.

There are more than 1 million persons in the United States who stutter, one-half of whom are children. Throughout the world, there are an estimated 15 million persons who stutter.

Articulation disorders constitute the most numerous of all speech disorders. About three out of five of all speech and language problems are related to articulatory problems.

The ability to communicate is our most human characteristic. When a person cannot communicate, isolation from friends, family and society often occurs.

Individuals with speech and language disorders may encounter this isolation in vocational, social, emotional, and educational areas. For example, adults with speech disorders often find it difficult to gain employment or may be forced into less satisfying jobs because of their inability to communicate effectively. And schoolchildren may experience difficulties in learning because of a speech or language problem.

Some speech and language disorders, while serious in themselves, may also be symptoms of other disorders. An unstimulating environment might be cause for a child's delay in developing language skills that are essential to communication. A delay also could be caused by a hearing impairment. Ignoring the symptoms of poor speech and language could allow a serious disorder to go unrecognized and cause the disorder to become more difficult to treat in later years.

Speech and language pathologists, who are specialists in human communication, are able to detect these disorders and can recognize normal development.

They are professionally trained to deal with the disorders and are well qualified to offer assistance to persons with speech and language disorders.

Clinical services for speech and language pathology and audiology are provided in many public and private schools, community clinics, hospitals, rehabilitation centers, private practices, health departments, colleges and universities, industries, and State and Federal Government agencies.

There are more than 1,400 clinical facilities and over 450 full-time private practitioners providing speech, language and hearing services to people throughout the United States.

Even mobile services are available in some urban and rural areas of the country.

I hope these facts will serve to help enlighten my colleagues of these problems and what is being done to solve them.

BALDUS NOTES SOPER AS OUTSTANDING CIVILIAN

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. BALDUS. Mr. Speaker, I would like to take this opportunity, along with my colleagues, Senators GAYLORD NELSON and WILLIAM PROXMIRE, and Congressman DAVID OBEY, to note for the record the accomplishments of Laverne G. Soper, president of National Presto Industries, located in Eau Claire, Wis. Mr. Soper, a civilian, was recently admitted to the Hall of Fame, located at the U.S. Army Center and School at Aberdeen, Md., for meritorious service to his country in the field of munitions manufacture. Among the few other civilians to have achieved such an honor are Werner von Braun, for work in missile guidance, Richard Gatling, for development of machine gun concepts, and John Moses Browning, for development of the submachine gun and small arms concepts.

During the period from 1952 to May 1975, Mr. Soper distinguished himself by outstanding civilian service to U.S. Army ordnance as a member of National Presto Industries. National Presto is a major producer of ammunition components for the Department of Defense both in war and in peacetime.

At his direction, National Presto established a new production method for the manufacture of artillery projectiles. This new process was developed in 1953 and resulted in a 10-pound reduction in the amount of steel used in the manufacture of each artillery shell. This improvement saved steel, time, money and other vital national resources. The process, known as the hot cup-cold draw process, has been estimated to have saved the Government more than $200 million in procurement costs for field artillery projectiles.

Other areas of contribution by Mr. Soper are:

The development and production of steel cartridge cases for the 90 mm tank cannon. He was led into this developmental area when brass, the prior metal used for the manufacture of these cartridge cases became scarce.

In addition, he was instrumental in the development of an advanced type grenade for the Army.

PROOF THAT INCREASED GOVERNMENT SPENDING EVENTUALLY DESTROYS JOBS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. SHUSTER. Mr. Speaker, each 5 percent increase in the share of public spending in national income causes a 1-percent decline in economic growth, according to a carefully documented study by the principal research officer in the economic analysis section of the National Westminster Bank of England.

As a decline in economic growth obviously destroys jobs, I offer for my colleagues' consideration excerpts from a report on these significant findings as it appears in the Quarterly Review of the National Westminster Bank:

PUBLIC CONSUMPTION AND ECONOMIC PERFORMANCE

(By David Smith)

This article investigates what happens when public consumption absorbs an increased share of a nation's resources. To be precise, the aim is to investigate the long-run effects of a permanently higher level of state consumption on the performance of a country with regard to economic growth, exports and inflation. The current economic crisis in the United Kingdom has become so grave that major economic measures are being taken with almost no regard to their longer-term implications. It is also not clear how much the current crisis reflects poor economic management in the short-term or a deeper-seated structural imbalance that is not amenable to the traditional short-term economic policy approach. For these reasons it seems vital to examine the long-term implications of growing public spending.

The first part of this article attempts to place state expenditure in some form of analytical context. Surprisingly, this task is seldom tackled. One usually sees either rigorous academic theory which assumes essentially free market conditions, or support of increased state consumption which ignores standard economic analysis. The second part attempts to subject some of the theoretical conclusions to statistical analysis and for this purpose experiences in the major industrialized nations in the Western economy are compared. Two conclusions stand out from our work. First, over the long run inflation does not appear to be related to the magnitude of public current expenditure. Second, the level of gross capital formation does appear to be adversely affected by increased public consumption. Indeed, increased state consumption apparently takes place almost entirely at the expense of investment. In turn, reduced capital formation is associated with a lower growth rate so that, typically, a 100 per cent increase in the share of public current expenditure (excluding transfers) in national income eventually implies a 0.2 per cent drop in the rate of economic growth.

When public consumption rises as a proportion of national income the government needs to adopt increasingly stringent monetary and fiscal policies if inflation is to be avoided. One reason for this—long recognized in textbook Keynesian analysis—is that if the state increases its expenditure but exactly matches the increase with increased taxation, the effect will be inflationary, because the increased taxation is partly met out of savings, and the more progressive the taxation the more this will be so. A government can, however, replace the missing voluntary savings by running an increasing surplus or it can push up the real rate of interest to cut back private investment until it equals the reduced supply of private savings. Another reason why increased stringency in monetary policy is necessary is that as the public sector takes an increasing share of national income the demand for money will fall. This is because only the private sector needs to hold money and the amount of money it wishes to hold is determined by its disposable income. Correspondingly, as disposable incomes are squeezed by a growing burden of taxation the velocity of circulation will rise. This will have the same effect as an increase in the money supply with constant velocity. Although the government can always control inflation as public consumption is increased, it can only do so if it has the political will to force proportionately ever larger adjustments on to the private sector. A case in point is the oil crisis. For reasons outside the government's control, the real income of this country was reduced by about 5 per cent overnight. In the long run, unless the government substantially reduces its own demands on resources, the entire burden of adjustment will be forced on to the sector of the economy—about half—still in private hands; that is, the private sector will have to cut its absorption of real resources by some 10 per cent or more. This particular drama is still in progress and we do not know the eventual outcome.

Looking at the demand side first, it is clear that for any given level of gross domestic product (GDP), any expansion of public consumption (including public social investment such as on schools) or of socially financed consumption must occur at the expense of private consumption and investment, or, in the short term only, from the balance of payments or stockbuilding. All this, of course, is obvious; it also tends to be sadly forgotten in much of the political debate. For example, in the January 1975 public expenditure white paper, it is officially assumed that privately-financed consumption will always bear the full strain. In practice, however, this is highly unlikely. Politically it is easier to reduce investment, whose benefits only accrue over a long period, than consumption. Also, and perhaps more important, the measures necessary to avoid the inflationary strains that accompany growing public consumption are more likely to hit investment than consumption. There are three main reasons for this. First, many of the measures act to reduce the pool of savings available to the private sector by taxing disproportionately the wealthier sections of the population who tend to save most. Second, many of he monetary measures push up the real rates of interest at which companies can borrow and thus reduce the rewards to investment. Third, the return on investment will tend to be reduced either through taxation of profits or such arbitrary policies as price controls. At the same time, of course, there is always a temptation for government to cut back its own investment (including that in the nationalized industries) rather than vote-winning consumption expenditures. Over the long run, however, a reduction in investment will lead to a gradual deceleration of the economy, and, in setting its short-term economic targets, it is important that the government diagnose this deceleration and abstain from pursuing over-expansionary fiscal and monetary policies.

A consideration of Table I suggests that there is a basic difference between socially financed consumption, which to a large extent comprises welfare payments, and public consumption. The latter is symmetrical in that the supply and effective demand for it are the same, and it represents a diversion of production resources from other uses. Socially financed consumption, on the other hand, has no specific balancing item on the supply side. A traditional economist, while accepting the need for redistribution of income, would argue that it is better to allow the market to provide the pattern of demand that emerges after redistribution than for the state to decide on and supply the services.

The remainder of this article will be devoted to testing empirically some of the propositions set out above. However, the analysis also contains implications for unemployment, now of particular policy importance, and it seems worth setting some of them out here. In particular, the increasing importance of public consumption and social welfare payments appear to have at least four distinguishable effects, the first three of which suggest that this growing role of the state may be generating much 'social injustice'. Briefly, the four effects are as follows:

(a) In that increasing state expenditures mean increased expenses such as insurance charges to the employer there will be a growing gap between the total cost to the employer of any employee and the net wage received by the employee, and this may price low productivity workers (including the young, the unskilled and the handicapped) out of employment.

(b) As the public sector, which is rigid, becomes large, the private sector, which is flexible, will become small, and this will make it increasingly difficult for workers and jobs to mesh. As a result there will be an increasing level of frictional unemployment.

(c) If investment is reduced below a certain level, the deindustrialization problem emerges. This would be accompanied by the sudden collapse of industries, with the capital stock proving inadequate to employ the existing labour force.

(d) On the other hand, with higher unemployment benefits, voluntary unemployment will increase as workers take more time looking for jobs; within limits, this allows for a more efficient matching of worker skills and employment.

The effect of increased state consumption on investment and economic growth would also mean that working conditions would be worse. This is because the older trades, for example foundry-working and coalmining, tend to be more tedious, fatiguing and dangerous than the new jobs created by economic growth. One cannot advocate increased public consumption as socially or morally more desirable in a vacuum. As in every economic decision, one must choose between one set of social pains and benefits and another. The pretence that such a choice does not have to be made makes a rational decision impossible. The consequence, in the United Kingdom at least, is that we have probably now reached the stage where there is more state consumption than the electorate would knowingly choose, on the one hand, while the side effects of increased state consumption are generating considerable social injustice, on the other.

TABLE II.—THE ECONOMIC STRUCTURE OF 19 INDUSTRIAL NATIONS

	National disposable income							Civilian employment				
	Proportion spent on total public current expenditure (excluding transfer payments)		Proportion spent on total public current expenditure (including transfer payments)		Proportion produced by the manufacturing sector		Proportion spent on gross domestic fixed capital formation, annual average 1961–72	Increase in total over whole period 1961–72	Proportion in agriculture hunting, forestry and fishing		Proportion in manufacturing	
	1972	Increase in percentage 1961–72	1972	Increase in percentage 1961–72	1972	Increase in percentage 1961–72			1972	Decrease in percentage 1961–72	1972	Increase in percentage 1961–72
United Kingdom	20.7	+2.7	41.9	+7.9	30.1	−3.6	19.8	+2.1	3.1	0.9	32.9	[1] −4.6
Australia	14.9	+3.4	32.7	+4.6	NA	NA	29.5	+34.5	8.0	[2] 3.1	25.8	−2.3
Austria	16.1	+2.3	41.5	+4.8	[3] 39.2	[3] −1.9	30.4	−1.7	16.4	7.2	29.9	NA
Belgium	16.5	+3.1	39.4	+8.2	33.7	+.5	23.7	+8.5	4.2	4.1	33.2	−2.2
Canada	22.4	+4.4	40.9	+9.9	23.2	−3.5	25.2	+36.3	6.9	6.1	22.3	−1.7
Denmark	23.8	+8.9	49.1	+19.8	29.2	−2.5	23.4	+14.6	9.8	[2] 7.8	24.9	NA
Finland	18.6	+4.6	42.4	+8.8	30.2	+3.3	28.6	+2.5	27.7	10.8	NA	NA
France	14.0	−.7	43.1	+3.3	NA	NA	28.0	+11.9	12.7	8.9	27.3	[2] −.4
West Germany	20.4	+4.9	44.8	+4.4	47.0	−.2	28.9	−.9	7.5	5.6	40.6	+1.9
Ireland	16.7	+4.5	35.3	+9.4	30.0	+2.8	21.6	+.7	25.7	10.6	20.4	+3.3
Italy	16.0	+3.2	37.6	+6.1	27.8	+1.7	22.1	−9.1	18.2	12.8	32.1	+4.4
Japan	10.4	+.8	25.9	+1.9	35.6	−3.0	38.4	+13.6	14.8	14.2	27.0	+4.5
Netherlands	18.3	+3.1	52.0	NA	NA	NA	27.5	+13.2	6.9	4.0	25.1	−3.7
New Zealand	17.2	+2.7	NA	NA	NA	NA	[2] 24.8	+25.5	12.4	[1] 2.4	24.8	[1] −1.4
Norway	19.4	NA	56.5	NA	25.6	NA	32.3	+8.0	12.2	[1] 8.5	23.7	[1] −2.2
Spain	12.3	+3.1	21.5	+7.8	26.4	+1.1	22.5	+10.1	27.6	13.0	27.6	+4.2
Sweden	25.6	+8.1	45.3	+15.4	27.6	−1.9	24.6	+9.2	7.4	5.7	27.1	[2] −6.4
Switzerland	12.9	+.8	[4] 30.3	NA	NA	NA	30.9	+12.9	7.1	5.1	NA	NA
United States	23.2	+2.3	35.0	+3.7	27.5	−2.9	18.8	+22.8	4.2	3.7	24.5	−2.3

[1] Comparison effected by change of definition.
[2] Estimate based on shorter period grossed up.
[3] Includes mining and quarrying.
[4] 1969 not 1972.

Source: Col. (1) to (7): OECD, "National Accounts 1961-72." Col. (8) to (14): OECD, "Labour Force Statistics 1961-72."

TABLE III.—THE ECONOMIC PERFORMANCE OF 19 INDUSTRIALIZED NATIONS

[In percent]

	Share in total exports of developed nations in 1974	Change in trade share 1961–74	Annual growth rate of real GDP 1961–72	Annual growth rate of real GDP per capita 1961–72	Annual growth rate of exports by volume 1961–72	Inflation: annual rate of increase in GDP deflator 1961–72	Ratio of average balance of payments current account surplus (+) or deficit (−) to NDI	Annual rate of increase in narrow money supply (M1) 1961–72	Ratio of average government surplus (+) or deficit (−) NDI
United Kingdom	7.0	−5.1	2.5	2.0	4.9	5.0	+0.4	4.8	−0.9
Australia	2.0	−.6	5.4	3.4	7.4	3.7	−2.6	4.5	−1.5
Austria	1.3	Nil	5.0	4.4	8.8	4.0	−.4	8.2	−1.7
Belgium	5.1	+.8	4.8	4.3	8.9	4.1	+1.4	7.0	−3.0
Canada	6.2	−.4	5.5	3.8	8.9	3.3	−.8	10.5	−1.1
Denmark	1.4	−.3	4.7	4.0	7.4	6.3	−1.7	10.3	+1.2
Finland	1.0	−.2	4.9	4.5	7.5	5.8	−1.6	11.3	−.5
France	8.4	+.5	5.8	4.7	10.3	4.6	+.1	9.6	−.0
West Germany	16.1	+2.3	4.5	3.6	8.9	4.0	+.8	8.6	−.0
Ireland	.5	−.1	4.0	3.4	6.5	6.9	−3.5	7.0	−6.1
Italy	5.5	−.9	4.8	4.1	10.8	5.0	+1.7	15.9	−5.5
Japan	10.1	+5.5	10.1	8.9	15.3	4.6	+1.2	18.8	−1.2
Netherlands	[a]5.9	+1.2	[b]5.6	[b]4.4	[b]10.1	6.4	+.1	9.2	−1.5
New Zealand	.4	−1.2	NA	NA	NA	NA	−.2	2.2	−3.5
Norway	1.1	−.8	NA	NA	NA	NA	NA	8.6	NA
Spain	1.3	+.5	6.9	5.7	12.6	6.6	−.1	13.6	−1.5
Sweden	2.9	−.1	3.7	3.0	7.3	5.0	−.2	6.3	[d]+2.8
Switzerland	2.2	Nil	4.1	2.8	[c]7.6	5.3	+.2	9.7	Nil
USA	17.8	−5.2	4.4	3.2	6.4	3.1	+.1	4.6	Nil

Sources: IMF, "International Financial Statistics," OECD, "National Accounts 1961–72". Note: Footnotes not supplied.

We now use the statistics presented in Tables II and III in conjunction with our earlier theoretical discussion to test the following hypotheses:

(a) Inflation and balance-of-payments problems need not result from increased public spending. However, the government must "tough-mindedly" pursue the appropriate fiscal and monetary measures if these consequences are to be avoided.

(b) An increase in public consumption will, to a considerable degree, be at the expense of investment.

(c) The economic effects of social welfare payments and direct public consumption appear to be different.

(d) A lower rate of economic growth is the long-run outcome of larger public consumption because of the reduced level of investment.

(e) The rate of growth of a country's exports is largely determined by that country's growth rate.

In the remainder of this article we present the results of examining these hypotheses by regression analysis. Our * * * and, in a statistical sense, less significant impact. This implies that it is less economically harmful for the state to raise taxes and make transfer payments than to consume resources directly; for example it is better to help the poor by giving them money than by providing the services directly. If true, this finding could have considerable implications for a country like the United Kingdom which, because of its economic maturity, cannot afford a large public consumption sector without heavy economic cost but still wishes to provide considerable aid to the poor.

Equation (11) is one of many tested to see if the factors we are considering are in any way related to rates of inflation. We were unable to find any significant relationships. In particular, there is no relationship between the size of either measure of the state sector and inflation, nor does the expansion of the narrower definition of the state have any explanatory power. The equation shows, however, that the expansion of the wide definition of the state sector is associated with inflation to a very limited extent—possibly reflecting the monetary pressures that can result from an excessively fast growth of total state spending. Finally, other statistical tests showed no relationship between the average size of, or the growth in, either measure of state consumption and the long-run balance-of-payments performance of a country.

In this article we have had one underlying aim, to look at the experience of a wide range of industrial nations in order to cast light on the extent to which the United Kingdom's present crisis is structural or simply the result (albeit grave enough) of poor economic management in the short term. In particular, we have looked at the specific question of whether economies in some sense become more difficult to manage or more prone to inflation as the size of the state sector increases. Our general finding, based on theory and empirical evidence, is that the answer is "No"; appropriate monetary and fiscal policies will still work. However, expanding direct state consumption results in a lower investment ratio and over time, a lower rate of economic growth.

In particular, our estimates suggest that in the United Kingdom the sustainable medium-term rate of economic growth has fallen by between 0.6 per cent and just over 1.0 per cent since the mid-1950s as a result of the expansion of the public consumption sector. It is possible that much of our present inflationary crisis stems from a failure to recognize the extent to which the potential growth rate of the UK economy has slowed down. As is well known, official demand management policy has, until recently, assumed that the underlying growth rate of the UK economy was some 3½ per cent per annum, and that when growth fell below this figure stimulatory fiscal and monetary measures were needed. If this 3½ per cent underlying trend assumption was too high, such a policy was bound to lead to a chronic over-stimulation of the economy. More fundamentally, the problem stems from the political environment in which politicians of all parties have tended to see a larger state consumption sector as one useful means of buying votes while at the same time concealing the fact that such largesse needs to be paid for by a diversion of economic sources from productive ends.

The British electorate have, of course, a right to choose a stagnant economy and a worsening relative poverty in the future in return for more state spending now. However, they can only make a rational decision on this choice if the relevant parameters of that "trade-off" are made available to them. Until further, and better, estimates can be provided by others the author would like to suggest that, as a simple rule of thumb to concentrate the mind, it be assumed that each 5 per cent increase in the share of national disposable income absorbed by direct state consumption (on the narrow definition excluding transfer payments) implies a 1.0 per cent drop in the growth rate.

NOTHING VENTURED, NOTHING GAINED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the "no risk" concept being applied to in certain cases by the Food and Drug Administration in bans on various substances sets an extremely dangerous precedent which threatens all human life. In essence, the FDA is saying that no food or drug may be marketed unless an absolute absence of risk to health is proved.

Such an approach ignores the fact that life is conditional and that virtually any substance, including those which are absolutely necessary to sustain life, are a threat if taken in large quantities. Thus many substances and virtually any human action, including getting out of bed in the morning, involves a certain risk which must always be weighed against its benefit in sustaining life.

To ignore this fact and promote a "no risk" concept in regard to availability of foods and drugs, is an attempt to deny human beings access to substances which may not only be of benefit but may be necessary to sustain their life. Such an attitude represents not a concern with human health, but an attack on human health and life itself.

To elaborate on the "no risk" concept, I call the attention of my colleagues to the following viewpoint of Patrick P. McCurdy from the January 28, 1976, issue of Chemical Weekly.

The article follows:

NOTHING VENTURED, NOTHING GAINED

(By Patrick P. McCurdy)

How do you prove the absolute absence of risk . . . or the total presence of safety? We don't think you can. And yet the Food and Drug Administration has banned Red Dye No. 2, a widely used colorant for food, drugs and cosmetics, because it says a health risk hasn't been disproved. But can't that be said of all products?

We hold no special brief for Red Dye No. 2.

its banishment from the marketplace won't bring down the economy or ruin its manufacturers. It is not essential to life. And in any event, there are a number of substitutes available. Indeed, some companies had stopped using it before the FDA action.

What troubles us is the underlying no-risk principle involved and its implication. Under such a guide, what products, natural or man-made, can be shown to be absolutely safe? And how do you demonstrate that safety? At some level, all chemicals probably will prove to be of some risk to health. On the other hand, some chemicals that are lethal in large doses are required by the human metabolism in trace amounts. It's conceivable that a ban on a product could be dangerous to your health. Furthermore, growingly sophisticated analytical techniques are permitting detection of substances at ever lower levels. (It may turn out that we didn't know what was hurting us—or helping us.) Clearly, unless common sense intervenes, the list of banned substances will be proliferating to ludicrous lengths.

The difficulties we may be headed for in our predilection to look under chemical beds are exemplified by the case of cyclamate. In late 1969, FDA summarily banned the sweetener, citing test data showing cancer in laboratory animals that had received massive doses of the product. The legal basis was the Delaney Clause. This clause, to refresh your memory, is the final provision of the 1958 amendments to the Food and Drug Act stipulating that no approval or tolerance may be granted to any food additive found to induce cancer when ingested by man or animal or under appropriate laboratory tests.

Since the cyclamate ban, a number of scientists, including the one who conducted the original research that led to the removal, have questioned the significance of that work. And now an advisory committee requested by FDA and set up by the National Cancer Institute to review the ban, supports the view that the cancer case against cyclamate has not been proved.

But the committee still is concerned about increased incidence of tumors in animals fed cyclamate, although there appears to be a lack of statistical significance. In other words, the safety case for cyclamate has not been proved either. According to the cancer institute experts, to check out cyclamate and its cancer link (or non-link) conclusively could require additional studies costing as much as $10 million.

That's a lot of money, even in these inflationary times. And there's no certainty that spending it would answer all questions with the finality that some seem to be demanding. In the extreme, everything can be hazardous to your health, including the very act of living. The quixotic search for proof of the elusive notion of zero risk will be costly as well as futile. And it will have negative implications.

It may be better to be safe than sorry. On the other hand, nothing ventured, nothing gained. In the past, we have intuitively managed to balance these two conflicting approaches to life reasonably well. Otherwise, how explain the lengthening life span and generally improved quality of life worldwide? Removing all risk, even if such were possible, would also ultimately eliminate all benefits.

TRIBUTE TO MRS. EMMA STERN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. WAXMAN. Mr. Speaker, on June 6, 1976, the Jewish Centers Association of Los Angeles is honoring Mrs. Emma Stern for her outstanding services to the community over a period of many years.

Mrs. Stern is presently the chairman of the advisory council for the federally funded RSVP program—Retired Seniors Volunteer Program.

In 1928 Mrs. Stern was a volunteer for Cedars of Lebanon Hospital. She was organizer and president of the Service League which later became the Vocational Counseling Bureau. She was organizer and first president of the Jewish Centers Associates—which raises funds for camperships and senior citizens projects.

As chairman of a war bond booth at Beverly Boulevard and Fairfax, manned entirely by volunteers, she helped to raise $11 million of bonds.

She has served as a delegate to the White House Conference on Aging, a member of the Mayor's Committee on Aging, and as chairman of the Senior Adult Program at the Jewish Centers Association.

She has also been a member of, or officer of the board of many other service organizations.

She is receiving a well-earned tribute and it is my pleasure to join in honoring Mrs. Emma Stern.

"IT IS TIME"

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. RANGEL. Mr. Speaker, I would like to respectfully submit for the record a speech given by Mr. Richard E. Wiley, Chairman of the Federal Communications Commission, before the National Cable Television Association's 25th annual convention on April 5, 1976.

Chairman Wiley addressed several issues which call for a "new realism," particularly the disgraceful figures of blacks in the cable television work force. Mr. Speaker, I agree with Chairman Wiley that "it is time" this industry begins to realistically address its obligations to provide equal opportunity employment for all of those interested in a cable television career. While women are underrepresented in the industry consisting of 8 percent of the work force, blacks are even less fortunate. The black work force of cable television make up a deminimus 3.1 percent of the work force and only 2.2 percent of that figure fall in the "high-salaried" positions. The figures are sad indeed. It is my hope, Mr. Speaker, that we in the Congress will take upon ourselves the initiative to mitigate this gross inequity if the industry will not adjust to the "new realism."

Herewith, I submit the portions of the text of Chairman Wiley's speech that specifically address the important issue:

IT IS TIME

(Address by Richard E. Wiley)

Thank you for inviting me to address this important national convention for the third time as Chairman of the Federal Communications Commission. And notwithstanding all of my many "friends"—such as your industry, the broadcasters, telephone companies, international record carriers, citizens band manufacturers, Congress, the Justice Department and, last but not least, OTP—I hope and plan to be with you once again next year. Believe me, ladies and gentlemen, it is nice to be wanted!

Without reverting to my tried and true speech pattern, let me say that the most recent reregulatory chapter has just been written. As a result of our deliberations last week, new FCC policy—relative to the "1977 rebuild"—will include the following principal changes:

Federally imposed access and channel capacity requirements are eliminated for all cable systems with less than 3,500 subscribers;

Even systems over 3,500 subscribers are exempted from the obligation to maintain four access channels where they do not have sufficient activated channel capacity. Such systems are required to provide only a single designated channel for composite access purposes;

The one-for-one rule (that is, the correlation between the number of non-broadcast channels and the number of television signals which a system carries) is abolished for all systems;

The requirement to reconstruct to meet two-way channel capacity requirements is deleted except for new systems with more than 3,500 subscribers; and

Systems with less than 20 channel capacity and over 3,500 subscribers have ten years (that is, to 1986) to reconstruct.

While reregulation will be a continuing procress, the FCC's actions to date essentially have taken the federal "lid" off your industry. Moreover, the rules which ultimately remain—those which we believe are necessary to achieve our basic regulatory purpose in the public interest—should not really inhibit the growth of your systems if the American people desire (and are ready to pay for) the services which you have to offer.

What I am saying is simply this: it is time, in my opinion, to lay aside doubt and uncertainty concerning your progress and your potential. Instead, it is time for you to demonstrate that cable can make it in the one forum which counts under our economic system. Ladies and gentlemen, it is time to take your product to the marketplace aggressively and with confidence.

In this connection, there seems to be considerable room for optimism on your part. Despite all of the false starts and disappointments, your industry has grown—in the last 23 years—from 70 operating systems to 3,200. Total subscriptions have risen in that time from a mere 14,000 to over 10 million (or about 14 percent of the nation). While this expansion may not seem phenomenal over such an extended period of time, it is important to recognize that nearly 50 percent of the rise has come in the last four years. Moreover, such growth increasingly is penetrating major markets. And in the pay cable arena, the facts are that the number of subscribers may soon reach the one million mark and that satellite interconnection has left not only the drawing board but the launching pad as well.

Things are, at long last, looking up for you once again. Subscriber interest in your services seems higher than ever before, and even the money market is gradually opening up for cable investment. Despite having been spoiled by blue sky industry promises and stunted by regulatory strictures and handicaps, the infant industry appears to be surviving. But if this offspring is to become a fully adult member of the communications universe, it seems to me that the time has come to let the consumer—and not the huckster, theoretician or bureaucrat—decide the course of its ultimate development.

This concept of letting the people determine your fate is the fundamental motivation behind a good deal of our recent actions at the FCC. To be candid, cable was egregiously oversold in the 1960's as the solution to everything from ballots, to burglar alarms, to electronic babysitting. The age of industry puffery and academic stargazing was upon us—and we all bit and bit hard. The result was an initial cable boom and an eventual and very frustrating bust—one in which a lot of people got angry, hurt and disillusioned. It is time now to do it right—and from a much more realistic perspective.

The "wired nation", in all honesty, is not just around the corner. Cable is not the be all and end all of telecommunications in this country. Indeed, I question whether it is even a necessity which should be supported by government funds. It is, on the other hand, a new and useful way of bringing diverse, broadband services to the consumer. It does not use scarce spectrum space and, accordingly, does not have the inherent limitations of those media which do. By all odds, it can be a valuable service to many of our citizens—but not one which, despite understandable concern on the part of some television licensees, will likely destroy commercial broadcasting to the mass of the American people.

As for all the "blue sky", let me say that—as a citizen—I would like to see such things as shopping at home and other two-way services, electronic mail and newspaper delivery, and all of the other "cable fables" become widespread realities. But, and mark me well here, these things will and should develop only when the public really wants them—and only when the public is willing to pick up the tab for them.

In this connection, let me admit that the "1960's syndrome" of inflated expectations was not confined to academic and industry spokesmen. We, in government, were dreaming also—and these dreams had very little to do with the realities of the marketplace and consumer demand. And, so, the "free channels for everyone and everything" concept grew within the bureaucracy—both in Washington and, as you certainly know, across the country. Our reregulation efforts—in particular, our new rebuild and access rules—have begun what I hope is a new trend: a trend away from "pie in the sky" and toward what I call a "New Realism". In my opinion, it is time for a New Realism in state and local regulations as well—and, indeed, a New Realism in the private sector.

Based on discussions with numerous cable industry leaders, it is my sense and belief that such a realism is beginning to emerge within your ranks today. Take, for example, your association's present attitude toward copyright. The NCTA—behind the solid leadership of Bob Schmidt and Rex Bradley—is firmly on record in favor of reasonable copyright payment. With few exceptions, it seems that most of you now agree—as I have been saying since 1972—that, the sooner you get this matter decided and behind you, the better. I also hope that this New Realism will encompass forfeiture legislation. I cannot imagine why any honest, responsible businessman in this audience, by opposing such legislation, would seek to protect a few "bad apples" who refuse to comport with a decent standard of professional conduct. Moreover, why would you do this when—as I have said publicly before—enactment of a forfeiture bill would facilitate a substantial streamlining or perhaps even elimination of the certification and recertification processes. The Commission should have this authority—and, once again, the sooner the better from your standpoint.

I also hope that a New Realism will extend to members of the cable industry who are calling for new federal regulation. What this industry needs is less, not more, government intervention. While aid from "Big Brother" may look appealing when trouble arises, keep in mind that you ultimately may get more help than you bargained for. Indeed, "Big Brother" may end up trampling you in his efforts to be of assistance.

If you doubt the truth of that statement, ask your nearest friendly broadcaster. If you have difficulty finding one, ask an unfriendly broadcaster; you'll get the same answer. Fifty years ago, the broadcast industry requested help from the federal government and, in return, received a mountain of rules, regulations, restrictions and reporting requirements. And look what you received without even soliciting FCC assistance. Think what you might get if you asked for it. Take my advice, don't!

Finally, I also hope that the New Realism will embrace—in your own self-interest and in the public interest—what is both the law of the land and a moral obligation. I refer to equal employment opportunity. Here again, cable has been oversold—oversold as the entrepreneurial and employment answer for every member of a minority. Clearly, it is not such an entity. At the same time, however, cable is a new, emerging industry which can provide a significant opportunity for the the involvement of minorities and women in communications. No one is—or, at least, should be—asking for quotas; and no one wants—or should want—the government to make individual personnel decisions for you. But I think we can responsibly ask you to make a strong and sincere effort toward affirmative action.

To date, I regret to say that your industry has not initiated an effective program in this area. For example, our most recent EEO reports (1974) show that—out of a total of 17,300 employees in reporting units—only 538 were Black Americans. This translates as an industry work force of only 3.1%. Worse yet, in high-salaried job categories (including officers and managers, professionals, technicians and sales workers), Blacks constitute only 2.2%. Moreover, women also have experienced some difficulties—they constitute, for instance, only 8% of the employees in high-salaried positions within the industry. Overall, this is a disappointing performance—one which should be changed through voluntary action and, if necessary, additional governmental attention. Enough said, I hope and trust.

In closing, let me reiterate my basic theme for today: it is time to take your product to the American people. It is time to stop fretting and complaining about government regulation—and to start selling your services to the public with determination. It is time to adopt a New Realism about your future prospects and, as you become more successful, about your future responsibilities to the citizens of our country. And, in the final analysis, it is time for this industry to grow up and to assume its rightful place in the world of telecommunications.

And now, ladies and gentlemen, it is time . . . for me to sit down and stop talking!

A MILESTONE FOR MRS. LAURA DAVID OF WEST PHOENIX, ARIZ.

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. STEIGER of Arizona. Mr. Speaker, on June 24, 1976, a woman in my home State of Arizona will reach a milestone in her life. For 25 years, Mrs. Laura David has not missed one Sunday School class at her church, the West Phoenix United Pentecostal Church. This 78-year-old woman has made a meaningful contribution to her community. She has given the young people who know her an example of steadfastness. She has shown others that the values she holds most dear are values she is prepared to implement.

In every part of our country, millions of Americans like Mrs. David attend their churches, their work and their families. They go honorably about their daily affairs, paying their taxes, helping their neighbors and committing no crimes. They do not seek accolades and they do not threaten, wheedle, or complain. It is well for us if, from time to time, we recognize with appreciation that the strength of this Government is completely dependent upon their continuation in virtue.

LARGEST INVESTMENT SECURITIES FIRM IN THE UNITED STATES SUPPORTS FEDERAL LOAN GUARANTEES FOR SYNTHETIC FUEL PROJECTS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. TEAGUE. Mr. Speaker, in testimony about synthetic fuel projects before the House Committee on Science and Technology, Ronald Paige, manager of the Public Utility Department of Merrill, Lynch, Pierce, Fenner & Smith, stated:

> I hope that these comments will provide the Committee and the Congress with useful information on the . . . importance of Federal debt guarantees in the financing of these projects.

Merrill, Lynch is the largest securities firm in the United States, the largest underwriter of corporate debt and equity securities, and, by dollar volume, the largest broker-dealer of Government securities.

Mr. Paige's remarks dealt primarily with commercial-scale high Btu coal gasification plants because he felt that the investment community had a greater familiarity with these projects than the others detailed in H.R. 12112.

According to Mr. Paige, when investors examine a project-type investment the risks of noncompletion and uneconomic operation are considered of major importance. Since a project entity relies on the production of its own revenues to pay off its debt, any investor will necessarily be concerned about the possibility that the project's revenues will never begin to flow, will be insufficient, or will be easily subject to interruption. If any of these possibilities exist, the investor will consider the project a significant credit risk. If, on the other hand, the risks of noncompletion or economic operation are limited, transferred or eliminated before construction of the project begins, the proportion of the perceived risk to the investor is minimized. Mr. Paige states:

> H.R. 12112 intends to provide the debt investor with guarantees that will reduce or greatly limit the size of the credit risks in a commercial-scale coal gasification project.

Mr. Paige enumerated risks of noncompletion that are characteristic of commercial-scale coal gasification projects as follows:

First. Technological uncertainties in construction: Although the technology for these plants has been proven on a smaller scale, no project of the size presently contemplated has been attempted. This means that an investor must rely solely upon engineering reports and feasibility studies to assess the construction risks.

Second. Length of construction period: Since the construction time of these projects spans several years, the project costs are particularly susceptible to inflationary impacts.

Third. High cost: Commercial-scale coal gasification projects are capital intensive, requiring vast amounts of start-up capital.

Fourth. Unforeseen regulatory or environmental constraints: New regulations or environmental legislation may seriously delay construction of a project causing cost overruns or may even prevent completion.

Mr. Paige suggests that even if a project has been completed, there remain major risks of uneconomic operation. He lists the following:

First. Technological: The technology involved in coal gasification plants is untested on the proposed scale of operation and could result in service interruption or consistent low efficiency operation which might in turn imperil revenue flow.

Second. Regulatory: Future regulatory policies on either the Federal or State level could inhibit the economic operation of a project. These include hostile environmental restrictions or litigation and shifts in Government policy, any of which could impair the economic viability of a project.

Third. Ultimate price of project output: So far neither the Federal Power Commission nor State regulatory commissions have been able to determine a fair and appropriate price for this type of fuel.

In addition to the risks of noncompletion and uneconomic operation, Mr. Paige describes the financial status of the regulated natural gas industry as an additional impediment to investor security in coal gasification projects. From World War II through the 1960's, the regulated natural gas industry enjoyed a stable reputation in the capital markets due to large natural gas reserves, strong market demand, and cost and reliability advantages to natural gas customers.

Today uncertain gas supplies and restrictive regulations have reversed the gas companies' financial status and placed them in unfavorable conditions.

Over the next decade the financial markets will play an important role for corporations in the energy sector. The capital investments that will be made by the energy sector through 1985 are estimated at about $60 billion per year. Energy corporations will necessarily have to go to the financial markets to raise a significant portion of this money. They will be competing with other industries for the finite supply of investor funds. Their disadvantages will be considerable because investors feel the technology and economics associated with synthetic fuel projects create an unacceptably high degree of risks. But Mr. Paige states in summary that—

> The proposed loan guarantees will remove any doubt as to the financial viability of synthetic fuels commercialization projects and allow the sponsors to pursue the objectives of the Federal Non-nuclear Energy Research and Development Act, the development of new technology to meet the country's energy needs.

AILEEN CLARKE HERNANDEZ RECEIVES TRIBUTE

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mrs. BURKE of California. Mr. Speaker, this past weekend a number of my friends and colleagues in California gathered in the bay area to pay tribute to one of our most involved and diligent citizens. On Sunday, Aileen Clarke Hernandez, a nationally recognized high achiever and former president of the National Organization for Women, was recognized for her extensive contributions to our community, the State, and the Nation.

Given the importance of her contributions to societal life, I believe it is only fitting to review her accomplishments before this body.

Ms. Hernandez currently operates an urban affairs and management consultant firm in San Francisco that serves major American companies, governmental agencies, educational institutions and private foundations on urban problems, employment, housing, sex discrimination, racism, et cetera. She returned to the bay area in November of 1966, when she resigned her position as a Commissioner with the Equal Employment Opportunity Commission, charged by the Civil Rights Act of 1964 with enforcing the Federal law against employment discrimination based on race, color, religion, national origin or sex. Appointed by President Lyndon B. Johnson and confirmed by the U.S. Senate in June of 1965, Ms. Hernandez—the only woman member of that first Commission—had previously served as the Assistant Chief of the Fair Employment Practice Commission.

Born in New York City, Ms. Hernandez spent most of her childhood in the Bay Ridge section of Brooklyn, attending Public School 176, where she was valedictorian and graduating from Bay Ridge High School as salutatorian in 1943. She was advised by a teacher who took an interest in her to attend Howard University, and after winning a scholarship, studied political science and sociology there, receiving her AB degree, magna cum laude, in 1947.

Her choice of political science stemmed, in part, from her deep belief that democratic government requires full participation by all citizens in decision-making and, in part, from personal encounters with discrimination in the Nation's Capital—where she remembers waiting for the "Negro taxi" which was always "last in line".

She later had a chance to help break the color line in District of Columbia when, in 1945 and 1946 as a member of the Howard Chapter of the NAACP, she joined in picketing against the segregationist practices of the National Theater, Lisner Auditorium and the Thompson Restaurant chain.

Much of her political outlook crystallized during her student years. She supported the returning veterans in their attacks on segregation in the District of Columbia and began to develop and advocate programs that would bring blacks and other disadvantaged groups into full partnership in the American system—both economically and politically.

On the scene in New York—as a graduate student at New York University—when the International Ladies Garment Workers Union—ILGWU—challenged young people of dedication to join union service, she accepted the challenge, postponed completion of her academic studies and entered a year of training in the unique college of labor leaders known as the ILGWU Training Institute. In 1951, she moved to California as an organizer in the Pacific Coast region of the ILGWU and was promoted, in her 11 years with the union first to assistant education director and then to education and public relations director for the union.

She went from union work to political campaigning managing the southern California community program for the overwhelmingly successful Democratic candidate for State Controller Alan Cranston in 1962, to assistant chief of the California Fair Employment Practice Commission, to Presidential appointee and then into her own consulting firm in San Francisco.

Her Fair Employment Practice Commission work in California involved supervision of the 50 member staff assigned to four field offices in San Francisco, Los Angeles, Fresno, and San Diego. She initiated the formation of the California FEPC's Technical Advisory Committee on Testing—TACT—a group which has done comprehensive analysis of industrial testing as it affects the hiring of minority groups.

She worked, during her period of service as a Commissioner of the Equal Employment Opportunity Commission, on coordinating the activities of the many

State and local commissions with the national commission.

A member of many civic and political groups—NAACP, urban League, American Civil Liberties Union, Steering Committee of the National Urban Coalition, board of trustees of San Francisco's Mount Zion Hospital, Ms. Hernandez was named "Woman of the Year" in 1961 by the Community Relations Conference of Southern California and in 1968 as one of the 10 outstanding women in the San Francisco Bay Area by the San Francisco Examiner.

She has traveled extensively throughout Latin America at the request of the State Department, serving as a labor education specialist for trade unions in Venezuela, Colombia, Chile, Peru, Argentina, and Uruguay.

In the summer of 1973 she participated in an International Feminist Planning Conference in Boston, Mass. and chaired several of the deliberative sessions of that meeting which brought together women from 30 countries of the world to discuss the needs of women. The conference, initiated during Ms. Hernandez' term as national president of NOW, was an important first step in linking the world's women. Many of the women who participated in the 1973 conference were active participants in the Mexico City International Women's Year conference.

In January of 1975, at the invitation of the State Department, Ms. Hernandez traveled to Germany for a series of lectures and participation in a major conference on Minorities and the Metropolis, sponsored by the Konrad Adenauer Foundation. Her paper to that group will be published in the proceedings of the conference late in 1975. An article by Ms. Hernandez entitled "On Being a Black Woman in the United States" will appear in a handbook for high school teachers in Germany.

In light of Ms. Hernandez' outstanding career, I ask my colleagues to join me in honoring this truly involved, committed citizen.

ADMINISTRATION FOREIGN INTELLIGENCE SURVEILLANCE BILL ATTACKED

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. DRINAN. Mr. Speaker, the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice recently began hearings on H.R. 12750, the Foreign Intelligence Surveillance Act of 1976. Although that proposal was initially greeted with some applause, even from Members who ordinarily are sensitive to civil liberties, the bill has of late become the subject of extended criticism.

In the May 29, 1976, issue of the Nation, Christopher Pyle, a professor at the John Jay College of Criminal Justice and one of the first persons to disclose the existence of the Army surveillance program in the 1960's, critically examines the substance of this bill. His analysis reveals a number of serious deficiencies in the measure. While the bill has the appearance of producing good results, Professor Pyle concludes that it is "regressive legislation which comes perilously close to perpetrating a fraud upon the Constitution, the courts, and the public."

Because of the intense concern among the Members of this body for protecting the right of privacy, I am having the article reprinted here for examination and study:

A BILL TO BUG ALIENS

(By Christopher H. Pyle)

At a White House meeting on March 23, President Ford, Attorney General Levi and Senator Kennedy unveiled a bipartisan bill (S. 3197) to govern electronic surveillance for national security purposes. To the White House press corps, more interested in politics than substance, the proposal seemed splendid—the historic first fruit of a year of wrenching disclosures and fractious debate over the proper role of intelligence agencies in a free society. If passed, the bill would require the government to obtain judicial warrants before installing wiretaps and bugs to monitor suspected foreign agents."

Unfortunately, the Levi-Kennedy bill is not splendid at all. It is regressive legislation which comes perilously close to perpetrating a fraud upon the Constitution, the courts and the public. To understand why, it is helpful to recall some basic principles, including the Fourth Amendment:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

According to the Supreme Court, electronic surveillance constitutes a "search" within the meaning of the Amendment and interception of electronic communications is a "seizure." As a general rule, warrants to conduct such searches can be issued only by judges, who must decide whether the proposed invasion of privacy is "reasonable." Traditionally, this has meant that the government must persuade the judge that there is probable cause to believe that the information sought relates to a *crime*; warrants for the clandestine collection of general information for political purposes have never, until now, been sought or granted.

To carry out their constitutional function of providing a potential check against overreaching investigators, judges are expected to render an independent and informed judgment based on the totality of the circumstances. They must be told why the government believes that a crime has been, or is about to be, committed; why the proposed search may produce evidence of that crime; where the government proposes to search, and what it expects to seize. Unless the judge knows these facts, and can examine the inferences which the investigators have drawn from them, he cannot carry out his duty.

In their attempt to clarify and expand the government's authority to gather intelligence, the bill's sponsors would undermine these principles in three fundamental ways. First, they would create a new breed of "funny warrants" in which the need for the monitoring would be decided by the government's spy chiefs, and not by federal judges. Second, the bill would deny Fourth Amendment rights to foreign visitors, even though they have done nothing to violate our laws or threaten our security. And third, it would expose citizens, resident aliens and foreign visitors alike to the possibility of criminal prosecution or political harassment as the result of searches undertaken without the slightest reason to believe that a crime has been, or is about to be, committed.

Perhaps the most shocking aspect of the bill is its corruption of Fourth Amendment standards. On its face, S. 3197 appears to require a judicial finding of "probable cause," but upon closer reading it makes a mockery of that duty. No crime need be alleged; the surveillance would be for intelligence purposes only. Courts would be permitted to decide whether there is probable cause to believe that the target of the proposed surveillance is a foreign agent or foreign power, and that the facilities or place to be monitored are, or are about to be, used by a foreign power. But, the crucial decision of whether the interception was really needed for legitimate intelligence or counterintelligence purposes would be left to the President's Assistant for National Security Affairs or other national security executives like the Secretary of Defense, the Secretary of State, the Director of Central Intelligence or the Attorney General.

Under a novel certification procedure, the nation's spy chiefs (or their designees) would simply declare that the proposed tap or bug was needed—to protect the country against attack, assure the security or defense of the nation, promote the conduct of foreign affairs, or counter the intelligence activities of foreign nations. Judges would not be allowed to question that judgment. In short, the bill would create a "funny warrant" delegating an essential element of the judiciary's power to the unreviewable discretion of the men who have succeeded John Mitchell, Richard Kleindienst and Richard Helms. Judges would be reduced to bestowing empty blessings on the unchecked exercise of Executive will.

In addition, the bill appears to be grounded on the extraordinary idea that nonresident aliens are not "people" within the meaning of the Fourth Amendment. Reviving a theory used by Attorney General Palmer to justify his infamous "Red Raids" of 1919 and 1920, Attorney General Levi told Senator Church's Select Committee on Intelligence Activities last December that the only "people" protected by the Constitution from unreasonable searches and seizures are: "We, the people" who, in the words of the Preamble, "do ordain and establish this Constitution for the United States of America."

These people, Levi insisted, included only citizens and resident aliens. How resident aliens, who cannot vote, can be regarded as "ordainers" under the Preamble and therefore "people" under the Fourth Amendment, he did not say. Nor did the Attorney General explain why foreign visitors are now considered "persons" entitled to due process and equal protection under the Fifth and Fourteenth Amendments, if they are not also "people" entitled to be free from unreasonable searches and seizures under the Fourth. Ignoring these obvious anomalies, Levi has revived a nativist view of the Constitution which, if accepted by the Supreme Court, would transform hundreds of thousands of foreign visitors each year into Fourth Amendment outlaws, subject to whatever invasions of their privacy might be deemed appropriate by transient, often anti-foreign majorities of Congress.

This crabbed view of the Fourth Amendment can be found in the wiretap bill's sweeping definition of an "agent of a foreign power" as anyone "who is not a permanent resident alien or citizen of the United States and who is an . . . employee of a foreign power." A "foreign power" is defined not only as "foreign governments" and "military forces" but "fractions, parties, . . . or agencies or instrumentalities of such entities, or organizations composed of such entities . . . or foreign-based terrorist groups."

The scope of this definition is truly breathtaking. Fourth Amendment protection against unreasonable national security wiretapping would be denied not only to suspected spies (whose agencies curiously are omitted from the list) but to doctors from Sweden, professors from France, railroad engineers from Great Britain, politicians from Canada, and UNICEF workers from Australia. Indeed, given the millions of people that socialism has put on foreign government payrolls, about the only foreign visitors clearly exempted under the bill are apolitical foreign businessmen, like the executives of multinational corporations whose dealings in strategic commodities have caused consternation in our intelligence agencies.

Were surveillance under the bill limited to cases of espionage or sabotage, the sweep of the foreign agent definition would be of little consequence. The bill, however, has nothing to do with those crimes, which can be investigated under the 1968 wiretap act. What Levi wants is authority to use wiretaps and bugs to investigate wholly lawful statements and activities. The primary purpose of his bill is not even to counter the lawful snooping of Russian spies (although it would also serve that purpose). It is to facilitate spying by the FBI and the CIA on the communications of foreign visitors in search of information on the politics and economics of foreign lands, regardless of whether those lands are hostile to the United States. Targets could include one's cousin from Brussels who imports oil for the city, a brother-in-law from Israel who sits in the legislature, or an uncle from Dublin who raises money in Ireland for the IRA. Moreover, since the bill empowers courts to issue warrants *compelling* landlords, custodians, or "other specified persons" to assist with the surveillance, Americans could be forced to help the government spy on their own guests from abroad.

If the Levi-Palmer theory of the Fourth Amendment were upheld by the Supreme Court in a test of this bill, the FBI would have constitutional grounds for asserting that foreign visitors have no rights its agents are bound to respect. Visiting the United States could become as annoying as touring Communist countries, where clandestine searches of hotel rooms and luggage are a common occurrence.

The theory is too preposterous to be maintained. Should the bill ever be challenged in court, the Justice Department is likely to take a seemingly more moderate position, to concede Fourth Amendment rights to foreigners in theory and eviscerate those rights by definition. For example, it could insist that the warrant procedures of S. 3197 are "reasonable" when applied to foreigners, even though they would be unconstitutional if applied to citizens, because foreigners are more likely than citizens to engage in espionage, and because espionage might, in certain circumstances, pose greater danger to the public interest than the ordinary felonies of patriots.

Given the reluctance of the Supreme Court to come out and say clearly that the Fourth Amendment applies to all government taps and bugs, whatever their purpose, the ploy might work, even though the bill has nothing to do with the traditional crimes of espionage or sabotage. Few government officials are disposed to grant aliens the same rights as citizens, and the Justices of the Supreme Court are no exception. For years they have upheld the constitutionality of legislation denying aliens the rights to free speech, free association and fair hearings enjoyed by citizens.

Aliens charged with espionage have fared no better with Fourth Amendment claims. Warrantless wiretaps were upheld in the case of Igor Ivanov, a Soviet national convicted in 1970 of spying on the Strategic Air Command. The Third Circuit Court of Appeals ruled that "in the circumstances of this case prior judicial authorization was not required," and held that Ivanov's Fourth Amendment rights were adequately protected by an after-the-fact review of the "reasonableness" of the wiretapping by a trial court that knew of the evidence that had been obtained. The Court of Appeals acknowledged that its decision amounted to a "relaxation of Fourth Amendment requirements" and that similar wiretaps in the case of a domestic political organization or ordinary criminal would have been illegal, but the Supreme Court refused review.

In 1960, the Warren Court went even further in order to uphold the abduction of Rudolph Abel, the Soviet master spy, who was spirited out of his studio in Brooklyn, New York, and flown to Brownsville, Texas, where he was held prisoner for two weeks by the CIA. The law which permitted Abel's arrest under an administrative warrant issued by the Immigration Service (because he was suspected of entering the country illegally) was accepted as constitutional, even though the arrest of a citizen under similar circumstances and without prior judicial authorization would not then have been tolerated.

Thus, while it remains to be seen whether the Supreme Court will extend its current double standard from cases involving spies and immigrants to a broad law permitting political and economic eavesdropping on law-abiding foreign visitors, the prospects are not auspicious.

The Levi-Kennedy bill threatens more than the rights of visitors; it would limit the rights of citizens as well. The Supreme Court has ruled, as a matter of Fourth Amendment law, that evidence obtained from warrantless government taps and bugs must be excluded from judicial proceedings; nothing less will cure the constitutional violation. The proposed law would deny this protection to citizens as well as aliens, provided that the executive branch had been able to persuade a judge that there was probable cause to believe that the person to be monitored was engaged in "clandestine intelligence activities . . . pursuant to the direction of a foreign power." Once the judge accepts a "funny warrant," authenticates the certificate of need, and accepts the government's promises to minimize its eavesdropping on innocent third parties, all evidence of any criminal activity "incidentally" overheard can be used against the target in court. Moreover, the government would not have to reveal to the defendant where it got the information, as it now must do in ordinary criminal cases.

On its face, this provision appears to be aimed at an especially dangerous class of criminals: atom spies, saboteurs and skyjackers. In fact, that is not its purpose; federal law already permits the government to monitor them. This bill calls for something new. By using the term "clandestine intelligence activities" instead of espionage, sabotage or murder, the government seeks the power to use wiretaps and bugs to investigate wholly noncriminal conduct including lawful inquiries into public record information bearing on American economic and military capabilities.

The provision is a memorial to a Nazi agent named Heine who put together an extensive profile on our aircraft industry on the eve of World War II by posing as a student/journalist and using wholly nonclassified data. Under the espionage laws then and now in force he could not be convicted of any crime.

The law Attorney General Levi proposes would permit electronic surveillance of Mr. Heine without probable cause to believe that he was about to commit any crime. It would also go much further, because nothing in it says that the person acting "pursuant to the direction of a foreign power" must be a witting participant in "clandestine intelligence activities." All the government would need to show would be that there was probable cause to believe that an unquestionably loyal American was engaged in research, advertising, lobbying or legal work for a foreign government, party, faction (whatever that is), or international organization, and that the work being done arguably served the secret intelligence purposes of that "foreign power." And, since judges would not be permitted to question the government's certificate of need or review the information gleaned from the wiretap, they would be unable to protect American citizens from the misuse of national security wiretapping for partisan political purposes.

Similarly, the bill would permit electronic surveillance of any person—including an American with no links whatever to a foreign power—who "assists . . . a person who, pursuant to the direction of a foreign power, is engaged in clandestine intelligence activities, sabotage, or terrorist activities. . . ." Again, witting service is not required. Lawful assistance to a person secretly engaged in wholly lawful information-gathering activities for a foreign government would expose one to wiretapping or bugging and the concomitant danger of criminal prosecution for wholly unrelated activities which might, for one reason or another, be considered criminal. Given the specious justifications still being offered by Nixon administration officials for their taps on newsmen and ex-National Security Council aides, and the harassing use of criminal and noncriminal wiretap information by the FBI in its vendetta against Martin Luther King, it is not difficult to see how this provision could be misused.

Finally, the same provision would endanger the privacy of anyone who, wittingly or unwittingly, "assists" any person engaged in undefined "terrorist activities" anywhere on the globe "pursuant to the direction of a foreign power." Ethnic Americans with ties to strife-torn countries would be particularly vulnerable, because the bill is written broadly enough to permit monitoring of money raisers for Palestinian charities, persons who support relatives on the revolutionary side of a foreign war, or publishers who print the manifestoes of foreign revolutionaries.

The bill's ultimate mockery of the Constitution and the courts, however, lies not in its subversion of the Fourth Amendment but in its failure to reject executive claims to an inherent constitutional power to conduct surveillances, whatever Congress provides by law.

The bill seems to require that intelligence agencies obtain judicial warrants before undertaking any wiretaps or bugs, but that is not the case. A disclaimer at the end of the bill releases the executive branch from even that small restraint. It would put the Congress on record as actually acknowledging "the constitutional power of the President to order electronic surveillance . . . [for national security intelligence purposes]" and disclaiming any intent to restrict that power.

No Congress has ever gone so far. The disclaimer is not merely a disclaimer, it would actually give the executive branch the power, subject only to whatever restraints the Supreme Court might impose, to evade the bill from the outset, or to defy a federal judge and go ahead with a surveillance he has refused to approve.

It is probable that the bill's sponsors on Capitol Hill do not intend the many abuses that could arise from it, but laws touching on fundamental rights should be drafted with precision and should not lend themselves to easy manipulation. It is not enough to say that we now have an Attorney General of unquestionable integrity, or that the intelligence bureaucracy has learned its lesson. If the history of electronic surveillance over the past forty years teaches us anything, it is that officials of high integrity have adopted specious interpretations of the law, and that secret agencies should never be trusted.

Liberal proponents of the bill argue that it deserves support despite its obvious constitutional defects because it contains useful procedures to protect the privacy of third persons, and because the current Supreme Court, if left to its own devices, might rule that judicial warrants are not required when the target of the eavesdropping is a suspected foreign agent. In today's climate, they argue, reformers must take what they can get. The important goal should be to establish the principle of judicial warrants—even "funny warrants"—in national security cases; vindication of the rest of the Fourth Amendment can come in later years. The bill may demean the courts and defraud the public, but that is the price which must be paid for a marginal advance for liberty in an atmosphere hostile to reform of the intelligence agencies.

If they are right, that is a tragic commentary on the state of liberty on the eve of our Bicentennial.

THE BICENTENNIAL: A CELEBRATION OF FREEDOM AND FREE ENTERPRISE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. CRANE. Mr. Speaker, in celebrating the 200th anniversary of the American Revolution we should be concerned not only with marking the event, but also with commemorating the ideas and values which motivated it.

One of the essential values was that of the sanctity of private property and the clear connection between free enterprise and other forms of freedom.

John Adams, in his "Defense of the Government of the United States of America," declared that,

> Property is surely a right of mankind as surely as liberty. The moment the idea is admitted into society that property is not as sacred as the Laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commerce.

Reviewing the history of the American colonial period, Prof. Gottfried Dietze of the Johns Hopkins University, in his book, "In Defense Of Property," declared that,

> The American Revolution became, to a great extent, a movement for the protection of property.

Now, there are many in America who tell us that free enterprise can be eliminated, and replaced with one or another form of nationalized Government control of the economy, and yet our other freedoms can continue. This, however, is unlikely. Free enterprise is simply freedom applied to the marketplace. If economic freedom is ended, it is difficult to imagine that other freedoms could long endure. In this connection, economist Milton Friedman stated that,

> The kind of economic organization that provides economic freedom directly, namely, competitive capitalism, also promotes political freedom because it separates economic power from political power and in this way enables the one to offset the other.

The fact is that the United States is the most free and the most prosperous Nation not only in today's world, but in the entire history of man. How did we get to this enviable position?

In a Bicentennial message, James S. Kemper, Jr., president of the Kemper Insurance and Financial Companies, and Maxwell D. Rudgers, senior executive vice president, declare that we reached this position,

> Through a democratic political system and the free enterprise system. The free marketplace has served to rid the country's economy of inefficient businesses. . . . As long as we maintain this system, production will rise, wages will increase and goods and services will be increasingly available to all.

As we commemorate the 200th anniversary of the American Revolution, let us also celebrate the 200th anniversary of a free and prosperous economy.

I wish to share with my colleagues the Bicentennial message of the Kemper Insurance and Financial Companies and insert it into the RECORD at this time:

A BICENTENNIAL MESSAGE

As we near the 200th anniversary of our country's birth, it is fitting that we pay tribute to the economic system—the private enterprise system—which has brought Americans the highest standard of living the world has ever seen.

At birth, this fledgling nation presented a dismal economic picture. But our history bears out the founding fathers' convictions that the nation's difficulties could be overcome. However, we have not merely overcome our problems. We have, in terms of economic efficiency, outdistanced every other nation in the world.

How did we reach this enviable position? Through a democratic political system and the free enterprise system. The free marketplace has served to rid the country's economy of inefficient businesses. Only those which can serve the consumer in an economical way have survived. And to remain viable today, businesses must reinvest their profits in new products, innovations and improvements, all to the benefit of consumers. As long as we maintain this system, production will rise, wages will increase and goods and services will be increasingly available to all. It was in this way that our infant nation was able to develop an industrial plant capable of preserving the nation's freedom and well-being of its people to a degree that would astound its founding fathers. And it will sustain us in the future.

Now that the free enterprise system is celebrating its 200th birthday, a lot of people are wondering if its lifespan has ended. Ironically, the strength and resilience of the system is often appreciated by those who would like to end it. Recently, for example, a Russian economist, who had returned home after an extended visit to the United States, told a friend that the reason for his visit was to study the demise of private enterprise. When asked for his conclusion, he replied: "What a pleasant way to die!"

While I do not suggest that free enterprise is the cure-all to all problems facing our nation today, I do find it reassuring during this Bicentennial year to look back over its role in the development of our country, to point to its accomplishments and to look up to it for hope for the future.

Sincerely,

JAMES S. KEMPER, Jr.,
President.
MAXWELL D. RUDGERS,
Senior executive vice president.

TRIBUTE TO GOVERNOR BROWNING

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. JONES of Tennessee. Mr. Speaker, I have just returned from my home State of Tennessee where I participated yesterday in a final tribute to a great man who led that State as its Governor for 6 years and who served the same congressional district I am now representing in this body for 12 years.

The man about whom I am speaking is former Gov. Gordon Browning who died in the Carroll County General Hospital in his hometown of Huntingdon, Tenn., on Sunday at the age of 86. I cannot describe the remorse and sorrow I felt when I learned of his death, because Governor Browning was more than just a former Governor to me. He was a close and dear friend in whose cabinet I served as Commissioner of Agriculture for the State of Tennessee.

Gordon Browning was a man that I knew to have a great deal of courage and dedication to good government. He was known in Tennessee as a Governor for the little man. He took great pains to see to it that State government was responsive to the needs of average people and demanded that those like myself who served on his staff and in his cabinet develop a like sense of dedication to the people who elected him to office.

We all share in the sorrow of his surviving wife, known affectionately by all who knew her well as Miss Ida. Gordon Browning was a great man, a great Governor, and a great American. All of his work was in keeping with the highest traditions of our democratic system. He will be missed by us all.

I also want to take this opportunity to commend a man dedicated to public service and especially dedicated to Governor Browning. He is Lt. Jerry Kemp of the Tennessee Highway Patrol who was constantly at the service of Governor Browning throughout his long illness.

I would like to take this opportunity to enter into the Record this editorial that appeared in the Nashville Tennessean Tuesday in tribute to Governor Browning:

Gov. Browning, Faithful Servant, Loyal Friend

Former Gov. Gordon Browning, who died Sunday at age 86, spent his life in the service of this state, this region, and this nation.

He once said: "Politics is one of the greatest fields of public service if one goes into it with the idea of the service he can render. The satisfaction of performing that service is all there is in it for any honest man."

Perhaps most politicians would subscribe to this philosophy. But few come as near to living up to it as Mr. Browning did.

The former governor was not known for piling up wealth in his years of public service or for the fame he achieved outside the areas he served.

He was known as a vigorous fighter for his political objectives, as a stump orator without superior, and a fiercely loyal frieind.

Mr. Browning, a native of Carroll County, served three terms as governor—one from 1937–39 and two from 1949–53. He served six terms in Congress from the Seventh District from 1923–35. He also served for a period as chancellor of the eighth division.

Governor Browning had an equally distinguished career in the military services, having been an officer in both world wars. In World War II he became a part of the Allied military government organization. He eventually was placed in charge of all civilian government administration in the U.S. occupation zone of Germany, a task for which he had been prepared by his previous term as governor of Tennessee and which propelled him into the race for his next two terms in that office.

Mr. Browning's service in the state governorship was marked by an up and down relationship with the late E. H. Crump, the noted political boss in Shelby County. Mr. Browning was elected to his first term with Mr. Crump's support but broke with the Shelby Countian after taking office. In his bid for re-election he was opposed by Mr. Crump and was defeated by the late Gov. Prentice Cooper.

In his next race for governor, in 1948, Mr. Browning was again opposed by Mr. Crump, who supported the incumbent, the late Gov. Jim McCord. Boosted by his recent military services and a growing inpatience with bossism on the part of an electorate which had just made extreme sacrifices for liberty, he was an easy winner. In that campaign, Mr. Browning was joined by the late Sen. Estes Kefauver in delivering a mortal wound to the Crump machine.

Four years later Governor Browning was defeated in a bid for a third consecutive term by a masterful young political tactician, the late Gov. Frank Clement.

That campaign, in 1952, was one of the most famous of the old-fashioned oratorical slugging matches for which the state has long been noted. And, with the coming of television and its milder style of campaigning, it turned out to be the last notable one conducted from the stump.

Mr. Browning's personal political career ended with that campaign. But he left the state a solid body of accomplishment: a debt retirement system, a farm-to-market road system, and progressive steps in education.

He was also instrumental in furthering the construction of state buildings, although it was the lease-purchase of the Memorial Hotel from a group of his political friends which no doubt contributed to his defeat in 1952. The governor steadfastly defended the purchase as a good one for the state and refused to place the blame on his friends during the bitter debate of the campaign.

This was an example of the head-on manner in which he played the game of politics. Mr. Browning was not a drinking man. As far as anyone knows, he never took a drink of hard liquor in his life. But he liked his politics straight and 100 proof, and he never flinched from the sting.

His style is of the past and no doubt will remain buried there. However, when people get together to talk about the old-time politics of stump speeches, Fourth of July rallies and oratorical flourish, the booming voice of Gordon Browning will be fondly recalled.

THE SECOND WAR BETWEEN THE STATES—PART VII

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. HARRINGTON. Mr. Speaker, today I am inserting the seventh of an eight part series concerning regional economic development which appeared in the May 17, 1976 edition of Business Week. This segment discusses the problems that unions are facing as they attempt to organize workers in many growing industries of the South. Confronted with less membership and bargaining power in the declining industrialized areas of the North, unions are trying to make inroads in the South, but are often meeting resistance in a region that has a traditional nonunion bias.

The text of the seventh installment follows:

No Welcome Mat for Unions in the Sunbelt

The migration of industry to the South is an old, but now ominously increasing, threat to organized labor. Faced by shrinking memberships and an erosion of bargaining power in the North, unions are stepping up their pursuit of "runaway shops"—with only limited success. Southern culture remains inhospitable to unions, and the AFL–CIO's strategy for the near future will be to attempt breakthroughs in selected areas of Southern industry rather than mount a full-scale invasion.

The result will be growing numbers of union vs. management brushfires in the region and major confrontations in single industries, particularly textiles. A major target will be J. P. Stevens & Co., the nation's second largest textile manufacturer, which for years has fiercely resisted unionization by means often found to be illegal. An AFL–CIO-supported boycott will probably be launched against Stevens sometime after the merger next month of the Textile Workers Union (TWU) and the Amalgamated Clothing Workers.

Such a boycott would be the largest and most difficult ever attempted in the U.S. and it could well fail. The TWU and the ACW are making preparations now, and if it does succeed, the Stevens campaign could provide a base for the ACW–TWU to organize some 650,000 nonunion textile workers in the South. A major organizing effort in textiles will take years, and even if it results in a victory over Stevens—a company the AFL–CIO regards as the symbol of "the South's antiunion conspiracy"—the rest of the region's nonunion industry still will not topple like dominoes.

The existence of state right-to-work laws throughout the South and Southwest, except in Louisiana, Kentucky, and New Mexico, deters organizing, as does a deep Southern cultural bias against unions. Not only have smaller companies by the hundreds escaped unions by moving South, but major companies in the rubber, autos, and electrical equipment industries, among others, also have been spotting plants outside the Northern strongholds.

In the electrical industry, General Electric Co. and Westinghouse Electric Corp. are each less than 50% organized. Only 190,000 of 450,000 rubber and plastic workers belong to unions. Even the powerful United Auto Workers has failed to organize six Southern plants owned by General Motors Corp. For the unions that bargain on a national basis, this means a weakening of leverage. In addition, union chiefs with declining memberships have less clout with legislators.

In 1974 national unions claimed 1.7 million members in the eight Southeastern states, an increase of 6.7% over 1972. But nonfarm employment increased by 9.4% in the same period, and so union membership as a percentage of the work force decisioned, from 14.3% to 14%. North Carolina, where industrial jobs that offer low wages are mushrooming, ranked last among the 50 states in 1974, with only 6.9% of its work force unionized. In contrast, industry has been moving out of states with high rates of unionization: Michigan (38.4%), New York (38%), and Pennsylvania (37.5%).

Despite past setbacks, the more militant union leaders still dream of mounting a massive, unionwide organizing campaign in the South. But the AFL–CIO leadership is unlikely to issue marching orders for such a campaign in the near future, partly because President George Meany feels that organizing is the responsibility of individual unions. There are no Walter Reuthers around to prod labor's hierarchy to launch an all-out drive.

In the 1960s, the AFL–CIO's Industrial Union Dept. poured $13 million into such a drive but rounded up only 93,000 members. A similar effort by the old CIO in the late 1940s also ended up "something of a flop," as one of its leaders conceded. Says an official of one major union: "Everybody recognizes the need for a massive campaign. It will come eventually—but after Meany."

"The unions can succeed in the South only where management decides it wants them, says W. A. Wilson, executive director of Piedmont Associated Industries in North Carolina. But some unions are making gains. In fiscal 1975, unions won 757, or 45%, of 1,671 representation elections in the South, lower than the 48.2% national success rate. The International Brotherhood of Teamsters won about a quarter of these elections, and the United Steelworkers took in 30,968 Southern workers from 1970 through 1974.

In addition, there is much evidence that the threat of unionization has pulled up wage rates in the South. The Clothing Workers union, with 35,000 to 40,000 Southern members, has 100 organizers campaigning constantly in the South. "Even where we don't organize, we tend to improve conditions," says ACW Secretary-Treasurer Jacob Sheinkman. "But the workers still don't have industrial democracy."

At present, labor has three major bases in the South: the steel industry in Alabama, tobacco manufacturing in the Carolinas, and the trucking industry throughout the region. But even the major steel companies, which have a long history of accommodation with the USW, make the union fight "tooth and toenail," as one USW leader puts it, when they locate a satellite plant in the South. Rarely do companies voluntarily extend recognition to a union, and they are not well received in the South if they do.

When companies go south, they often hire labor relations consultants—"unionbusters," as the unions brand them—to advise them on how to keep unions out. Another popular tactic is to take a very hard line in bargaining if the union does get in. Typically, a company will reject demands for dues checkoff, arbitration of unresolved grievances, and a seniority system—the very core of a union's strength. "You can strike the company over these issues," says a Southern union official, "but the people just can't hold out long enough."

The USW, however, does have strong leverage in organizing Southern plants in the can manufacturing industry. Its can industry contracts specify that if the union is certified at a new plant, the workers receive the high wages and benefits in the national agreements. "When you can go to the workers and say, 'You will automatically get these benefits if you vote for the union,' the workers know that they won't have to strike to get a contract. That's the big fear that the companies play on in the South," says head organizer Elmer Chatak.

CUSTOM AND ACCENTS

In addition to the political and economic barriers, unions must contend with a host of Southern cultural factors that frustrate organizers from the North. Rural people who are pouring into the South's new manufacturing work force value their independence and tend to distrust third parties, such as unions. And in a region where religion—particularly Protestant fundamentalism—is a major force in everyday life, the churches usually give implicit support for business. "People are used to a religion in which each individual has a personal relationship with the Almighty," says Tony Zivlovich, a Teamsters organizer in the South for 17 years. "Everybody feels you've got to do things for yourself."

Stephen I. Schlossberg, general counsel of the UAW and a native of Virginia, says another major problem has been "the reluctance of the unions to accept the South as part of the country." He continues: "They make fun of Southern customs and Southern accents."

Some unionists familiar with the South feel that prospects for unionization are changing for the better, partly because blacks are flooding into the industrial work force. In some respects, says the Teamsters' Zivlovich, there is more integration in the South than in the North. "Most workers in the South now have at least a few friends of the other race and will go to each other's houses," he says. "People realize they have to get together, and they're getting smarter economically. If the unions will get off their duffs, and if they will stop looking down on the South, great progress can be made."

AIR POLLUTION AND THE LAW—NOT ALL POLLUTERS ARE ALIKE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. BROWN of California. Mr. Speaker, many of our colleagues have been subjected to tremendous pressure, or a form of environmental blackmail, from major industrial polluters who are refusing to comply with air pollution regulations and threaten job loss if the law is enforced. I know that I have been very outspoken about the need to resist these pressures. As a consequence many of my colleagues presume that my talk is cheap, and my district simply does not share the economic problems of the other Members.

I would like to lay this misconception to rest, and at the same time explain why I believe every Member of Congress can support strong, effective, and necessary environmental pollution controls. My district is in Riverside and San Bernardino Counties in southern California. The district has over 10 percent unemployment. It also has a serious air pollution problem. The major industry is steel. The Kaiser steel mill, at Fontana, is entirely within my district. This is the largest steel mill west of the Mississippi River. Yet this plant is not the major cause of the area's serious air pollution. The automobile is. Automobile-generated air pollution is a very serious problem despite the fact that California has much more stringent auto emission controls than the rest of the country. One reason Kaiser Steel is not the major cause of our local pollution, although it is a very major polluter, is because it has largely complied with State, local, and Federal air pollution control regulations.

Kaiser Steel is, if my information is correct, the cleanest steel mill in the United States. The company has not willingly invested millions of dollars in pollution control equipment, and like most industries, Kaiser Steel has attempted to delay enforcement actions. But, at the bottom line, when the air pollution laws were ordered enforced, Kaiser Steel complied. They did not threaten economic ruin, nor did they engage in environmental blackmail, as most eastern steel companies have. Furthermore, the local unions firmly support air pollution controls. For this, and for proving that steel mills can be cleaned up, Kaiser Steel deserved credit.

What does this mean to the rest of the country? First, it means that steel mills can be cleaner than they are now in States like Ohio, Indiana, and Pennsylvania. Second, it means that not all polluters are alike. Third, it means that threats of plant closures if pollution laws are enforced are phony. Finally, I do not believe these lessons apply exclusively to the steel industry, but can just as easily be applied to the electric utility industry and the automobile industry.

The Clean Air Act Amendments of 1976, H.R. 10498, contains many provisions which, if enacted into law, could help achieve the type of firm, air pollution controls that we have tried to enact in California. We need a good Federal law, if we expect to keep State laws strong, or we may see one State compete against another for a temporary economic advantage by lowering pollution standards to attract polluters from States with higher standards. The reason for this is simple. Air pollution controls cost money, but if the same controls are applied to the country, the economic costs to each plant should be the same, and no one would have an economic advantage.

H.R. 10498 would apply this national approach, and would add other provisions as well. For example, the bill would give the Administrator of the EPA greater flexibility in applying civil penalties, and also allow, in certain circumstances, excess emission fees. These two provisions would serve to prevent one company from avoiding air pollution costs, and therefore making higher profits, at the expense of a company which did comply with pollution laws. And finally, H.R. 10498 would establish procedures to provide employee protection in the case of a company threatening job loss from environmental regulations.

Mr. Speaker, I hope that every member of this body takes the time to consider the implications of the Clean Air Act Amendments of 1976, and support those provisions which would continue necessary pollution controls, and improve the methods by which those controls are enforced. I believe, in all sincerity, that if Kaiser Steel can comply with strong air pollution controls, then other industries can do the same.

At this time, I wish to insert a paper, prepared by Kaiser Steel, on their pollution control efforts to date.

The paper follows:

KAISER STEEL'S ENVIRONMENTAL CONTROL PROGRAM

In Operation At Its Fontana, Calif., Steel Mill

APRIL 1976.

(This paper has been prepared in response to many inquiries and requests for details on the progress and history of environmental controls at Kaiser Steel's Fontana steel mill. It presents background information on emission control efforts at the Fontana mill since 1942, and identifies the plant's remaining problem areas with tentative plans for future control programs.)

INTRODUCTION

Kaiser Steel, the largest steel producer in the West, converts about 6 million tons of stone, ore and coal into 3 million tons of steel every year. At the Fontana mill, as in all processes in which raw materials are converted into useful products, wastes are generated. Kaiser Steel captures about 99 percent of the wastes and recycles most of them back into the steelmaking process. Those that still escape are called pollutants. The White Paper discusses in detail the pollutants at the Fontana mill, together with the measures taken and planned to control these wastes.

Kaiser Steel has maintained an air control research department at the Fontana mill since 1949 and currently has a full-time staff of 17 engineers, chemists and metallurgical engineers working on environmental pollution problems.

During the years since 1942, Kaiser Steel has spent approximately $65 million in actual capital expenditures for environmental quality control facilities—$55 million at the Fontana mill alone. To capital costs must be added the continuing expense of maintaining and operating air control equipment—amounting to about $4 million per year at Fontana.

EARLY EFFORTS

Environmental control at the Fontana plant of Kaiser Steel dates back to 1942—one year before the plant started operation and 14 years before an air pollution control district was created in San Bernardino County.

In that period, devices to control air and water pollution were designed for the new plant using the best technology then available.

The Fontana location enabled the West Coast's first and only integrated steel mill to take advantage of the growth potential of the Western steel market. But the location also had certain inherent disadvantages. The steel mill was built during World War II and the government insisted that the plant be constructed 50 miles inland for security reasons. Most steel mills are built next to large rivers or lakes to supply the large amounts of water necessary to produce steel. Two producing water wells at the Fontana location were reasons for choosing it as the mill site. The large amounts of water needed, coupled with the limited amount of water available to supply steelmaking and agricultural needs, prompted Kaiser Steel to build one of the nation's best industrial water recirculation and conservation plants.

A recirculation-recovery system was included in the facilities from the start. The steel plant used only 1,400 gallons of water per ton of steel produced—most of it reclaimed—at a time when the national average was 65,000 gallons of water per ton of steel.

Another geographical disadvantage at Fontana was the valleys' natural rim of mountains, forming a bowl that catches and holds gaseous waste emissions—both locally produced and those swept in from the Los Angeles and Orange County areas.

To combat this indigenous air quality problem, Kaiser Steel's engineers employed state of the art installations at the plant's emission points. The first such installations included gas-cleaning equipment for each blast furnace, extensive use of dust collectors throughout the plant, and selfsealing doors on the coke ovens.

Although it seems crude today, in the 1940s the dispersion of emissions into the upper atmosphere was considered an advanced method of disposal. The exhaust stacks at the Fontana mill were built much higher than required by normal operations, in accordance with this emission control theory. For example, were it not for the Civil Aeronautics Administration's height limitations, the 300-foot stacks on the sinter plant would have been built even higher.

When the steel plant was constructed, however, there were no means of controlling some steelmaking emissions such as smoke from open hearth furnaces using hot metal charges.

In 1949, the company established a four-man Fume Investigation Department to determine and further understand steelmaking emissions and to develop controls for the emission sources.

In the early years of the mill, the surrounding area was highly agricultural—primarily vineyards and citrus groves—and the Fontana mill's investigative team considered plant life as well as people.

When emissions from the plant were blamed for damaging local crops, the department began a long-term study of the effects of mill emissions on local agriculture. A large-scale sampling program covering 1600 square miles was followed by experimentation and analysis of the results by plant pathologists. The results of this study established that the damage was caused by ozone present in the photochemical smog generated largely by automobiles and not the steel plant. These results were later confirmed by a similar research study at the University of California at Riverside.

CONTINUING CONTROL EFFORTS

One of the Fume Investigation Department's first assignments was the plant's largest problem at the time: open hearth furnace emissions.

In 1952, the department's name was changed to the Air Control and Research Department. By that time, the seriousness of the nation's air pollution problem was being felt and other steel companies had formed air control groups.

By 1953, working with a manufacturer, the department developed an electrostatic precipitator which successfully controlled emissions from No. 3 open hearth on a test basis, capturing from 50 to 70 percent of the particulate matter. The electrostatic precipitator removes particulates from the furnace emissions through the use of electrically charged wires. After a redesign, a new unit was installed in 1954 which achieved greater than 95 percent efficiency and similar units were installed on the other open hearths through 1957.

Although small electrostatic precipitators were in use by industry at that time, Kaiser Steel was the first company to successfully control the iron oxide emissions generated by open hearth furnaces that used "hot metal" or molten pig iron.

These precipitators represented the results of seven years of research, experimentation, engineering and construction, at a cost of $5.5 million. In that period all nine open hearths were controlled with the best available technology for that type of steelmaking operation.

In 1959, Kaiser Steel followed up its leadership in this area and built an electrostatic precipitator as a major part of its new oxygen steelmaking shop—at that time the world's largest air control device on an oxygen steelmaking plant.

In the decade of the 1950s alone, Kaiser Steel had spent $13.2 million on air control installations at the mill, much of it for gas cleaning equipment for the blast furnaces and precipitators for the open hearths.

The mill upgraded its environmental installation through the 1960s as advances in control technology were developed within the industry.

Emission control devices were improved as needed on open hearths No. 1, 4 and 7, blast furnaces No. 2 and 3, the coke plant stacks and the hot scarfer. Among the new control equipment installed during the 1960s were baghouses for the sinter plant, the tin mill roll shop, and the limestone crusher, and a dust disposal slurry system at the foundry.

Principal control installations within the past five years included:

A $2.6 million baghouse and associated equipment to provide better control for the sinter plant stack. In the sinter plant, basic raw materials (iron ore, limestone, coke) in small particle size are mixed in proper proportions for iron production. Particulates from various air control devices in the mill are also recycled through this plant. The result of this process is a coarse lump of material which is charged into the blast furnace with other raw materials to produce iron. The baghouse enabled Kaiser Steel to terminate a long-standing variance for this facility;

A scrap shear to reduce the amount of scrap cutting by torch;

Additional equipment to control charging and tapping emissions in the basic oxygen steel process;

Rehabilitation of coke oven Batteries A, B, and C.

These and other control installations cost Kaiser Steel a total of $8.5 million in the four-year period from 1970 through 1973. During the same period, domestic earnings totalled $16.1 million, a 5.2 percent return on investment.

WATER POLLUTION CONTROL

Almost all the plant's water, including sewage, is reclaimed, treated and put back into circulation by a series of water towers and clarifers. The system circulates each gallon of water 40 times and the only substantial loss is through evaporation. By 1969, $17.6 million had been invested in this process water recycling system. Recent industry figures indicate 20,790 gallons of makeup water are required to produce a ton of steel. Kaiser Steel's consumption now averages less than 1,100 gallons of makeup water per ton of steel produced.

The plant's water system has a capacity of 260,845 gallons per minute and requires less than three percent in makeup water. A small amount of waste water is discharged, through a contract agreement, into the Chino Basin Municipal Water District's non-reclaimable industrial outfall line which is mixed daily with 200 million gallons of Eastern Los Angeles County sewage in Los Angeles Sanitation District 21.

AIR CONTROL REGULATORY AGENCIES

In 1948, Los Angeles County was the first region to establish an Air Pollution Control District. San Bernardino County's Air Pollution Control District was formed in 1956. Neither of the control districts had jurisdiction over the major cause of photochemical smog—the automobile. They concentrated on compiling the strictest body of air control standards in the world, all focused on stationary industrial sources.

There are currently three parts to the regulatory organization of authority over Kaiser Steel's compliance efforts at the Fontana mill: the new four-county Southern California Air Pollution Control District (of which the San Bernardino County Air Pollution Control District is now part); the California State Air Resources Board and the U.S. Environmental Protection Agency.

In 1972, the San Bernardino County Board of Supervisors adopted a new standard for visible emissions which went into effect on January 1, 1975. This standard reduced the legal opacity limit of emissions from Ringelmann 2 to Ringlemann 1 which, in effect, means practically no visible emissions.

In 1973, the San Bernardino County Air Pollution Control District officially requested schedules for bringing into compliance those areas of the plant that currently did not meet the 1975 opacity standards. Compliance schedules for opacity reduction were submitted and approved by the San Bernardino County APCD Hearing Board under the variance procedure. Negotiations for acceptance of the schedules were begun with the Environmental Protection Agency (EPA).

Later in 1973, during several conferences with the Environmental Protection Agency, compliance schedules were developed for additional areas of concern, so that these now covered excess emissions from the coke oven stacks, charging, tapping and hot metal transfer operations in the basic oxygen steelmaking shop, and coke oven doors and standpipes, the collection efficiency of existing open hearth precipitators (to meet the new standard), and desulphurization of coke oven gases. The first two areas were already covered by the compliance schedules approved by the County APCD Hearing Board.

THE PROBLEM AREAS

Despite Kaiser Steel's total capital expenditures of $55 million for environmental control since operations began at the Fontana mill, there are still emission problems to be overcome as control standards tighten. These standards, covering ever-smaller amounts of pollutants, have been tightening faster than the company's ability to comply. One indicator is that the Fontana mill received no air pollution violations or citations before 1966. Thereafter, citations received increased yearly, despite continual spending for pollution control equipment and operations.

Among the problem areas that remain to be solved are:

Coke Ovens: control of coke oven battery stacks; visible emissions from charging and pushing; and reduction of the sulphur content of coke oven gas.

Basic Oxygen Shop: better control of emissions from charging, tapping, and hot metal transfer operations.

Open Hearth Shop: reducing emissions to meet new 1976 opacity standards.

Scrap Metal Preparation: control of emissions from the scrap cutting (burning) operations.

Carbon Monoxide Emissions: control of emissions from the sinter plant, coke oven stacks and basic oxygen steelmaking shop.

There are several obstacles to the solution of the major coke oven problems. As these ovens age, cracks in the walls develop which permit smoke to pass through and into the stacks. In 1974, an experimental afterburner was installed on "A" Battery stack at a cost of $150,000, but the project failed to produce the desired results. The company is now engaged in another pilot project in cooperation with the Environmental Protection Agency and a manufacturer to install on the same stack a specially-developed "charged droplet scrubber."

Coke oven doors were another problem area. Although the doors of coke batteries A and B underwent a major improvement in 1971, all 180 of those doors have now been replaced under the above mentioned compliance schedule with doors of the newer F and G Batteries design.

Gas generated in the plant's coke ovens is used as full in various operations throughout the steel mill. Its sulphur content exceeds that allowed by the county standard governing the sulphur content of fuels. Desulphurization of coke oven gas at the Fontana mill will involve handling approximately 75 million cubic feet of gas per day.

Working under the compliance schedule approved by EPA and the County APCD Hearing Board, the plant's Environmental Quality Control Department has begun a research and development program to design a system for the desulphurization of the coke gas stream. At the same time, desulphurization developments by other steel companies are being closely watched to determine their applicability to Kaiser Steel. The current cost estimate for coke oven gas desulphurization is $17 million.

The most visible basic oxygen steelmaking shop problems are the emissions through the top or sides of the high building housing the oxygen furnaces during charging and tapping or when hot metal is being poured from the hot metal transfer car to the charging ladle. The company currently is installing equipment to collect these emissions and direct them to a bag house cleaning device before release to the atmosphere. The cost of this installation is $4.7 million.

It was first thought the solution to the open hearth problem was the installation of a ducting system to distribute "surge period" particulates among the existing precipitators at an estimated cost of $3.5 million. However, it was subsequently found that such an installation would not perform adequately, and additional installations involving a huge "topping precipitator" would be required—costing $17.5 million—just to collect a fractional degree of additional particulate matter. Now, instead of costly modifications to existing precipitators, open hearth operations will be replaced by a new oxygen steelmaking shop (see page 11).

Scrap cutting operations generate iron oxide emissions whenever heavy, hand-held torches waver off the cutting path onto cold metal. A large scrap shear was installed in 1973 at a cost of $1.6 million which eliminated about a quarter of the problem. This year the company installed five automatic track-mounted torch cutting machines and a ball drop facility. These new installations now handle about half of the heavy scrap previously cut by hand-held torches, without creating emissions.

The percentage of carbon monoxide (CO) fumes which escape from Fontana sources, although minor compared with concentrations from automobiles, nevertheless violates the County standards covering stationary sources which went into effect January 1, 1975. The San Bernardino County Board of Supervisors recently required Kaiser Steel to submit CO control plans by December 31, 1977, but in recognition of the development problems involved, gave the company a variance until December 31, 1980 to complete research and development, construction and achieve compliance.

The most frequent visible emission at the Fontana mill is white steam that rises as hot coke is quenched with water. Although the public often points to this steam as pollution, it is harmless water vapor.

1974 ENVIRONMENTAL PROTECTION AGENCY CONSENT ORDER

In July 1974, Kaiser Steel signed an administrative consent order with the Environmental Protection Agency which incorporated the compliance schedules referred to above. The consent order was the result of months of conferences among the company, EPA, the District, and the State Air Resources Board.

The agreement involved a total capital investment estimated at that time to be $20 million. Subsequent research and engineering studies escalated the estimated cost of the program as the full scope of the problem became evident. Cost of the installation to reduce open hearth emissions alone increased from $3.5 million to $17.5 million.

Further engineering studies pushed the costs of compliance with the Environmental Protection Agency consent order to $50 million—the equivalent of the total capital expenditures spent on environmental control from 1942 to 1974.

A PLAN FOR MODERNIZATION AND POLLUTION CONTROL

These capital costs were being contemplated to control emissions from an essentially outmoded steelmaking method. Consequently, a Kaiser Steel task force was formed in early 1975 to develop an alternative plan to include the installation of new, cleaner, and more efficient, steelmaking equipment. The modernization plan now proposed would replace most of the open hearth furnaces with two large basic oxygen vessels, equipped with the latest, most efficient emission controls.

The new oxygen shop, together with other new facilities and improvements, is expected to cost about $200 million over the next three years, of which more than $40 million would be expended for pollution controls.

Kaiser Steel estimates that these pollution control expenditures will make the following reductions in emissions as opposed to present steelmaking facilities:

Sulphur dioxide emissions will be reduced by two-thirds.

Oxides of nitrogen emissions will be reduced by two-thirds.

Carbon monoxide emissions will be reduced by one-third.

Particulate emissions will be reduced by one-third.

At its May, 1975 meeting, the Kaiser Steel Board of Directors agreed that the company should proceed with the detailed engineering related to the modernization of the Fontana steelmaking facilities. Directors also authorized management to seek financial commitments and to start discussions with the appropriate regulatory agencies aimed at obtaining their concurrence in the program and to obtain the necessary permits to enable the program to go forward.

Partially in connection with the steelmaking modernization program, Kaiser Steel expects to spend $60 million on environmental control equipment over the next four years.

SUMMARY

Since 1942, Kaiser Steel has spent approximately $65 million on installations to control environmental quality problems at its steel mill and mines. These installations have required annual maintenance costs totalling an additional $23 million, or approximately 30 percent. Over the next four years, the company expects to spend an additional $60 million for environmental controls.

U.S.-SOVIET MILITARY POSTURE

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. SPENCE. Mr. Speaker, the status of our military posture, as compared to that of the Soviet Union, has been the subject of growing debate within Congress and the press, and among the American people. This is a healthy development which I welcome with great enthusiasm.

Unfortunately, however, the defense issue is a complicated one, filled with strange terms and concepts, and replete with statistics. Under the circumstances, it is difficult to find an analysis of relative military capabilities among the superpowers that has meaning for the nontechnical reader. It is equally difficult to obtain reasoned arguments on Communist attitudes toward nuclear war, since Americans tend to dismiss the entire subject as "unthinkable."

Recently, I had the opportunity to review a paper which sheds a great deal of light on both of these areas of concern. The presentation was made by Mr. O. C. Boileau to the Harvard/MIT Seminar on Technology and International Security in Boston on March 23 of this year, and I believe that it merits the careful attention of my colleagues.

As president of the Boeing Aerospace Co., which has pioneered in efforts to focus congressional and public attention upon the Soviet civil defense program, Mr. Boileau is especially well qualified to discuss this important aspect of Soviet intentions. The significant effect that this preparation should have on our conventional attitude that nuclear war is unsurvivable and unthinkable, cannot be overemphasized.

Mr. Speaker, the question of "how much is enough" in terms of defense capability is highly complex, and one to which no one has all of the answers. Nonetheless, the paper presented by Mr. Boileau is among the best of its type that I have seen. So that my colleagues can have the benefit of his perspective, I include excerpts of Mr. Boileau's paper, entitled "Nuclear War: A Soviet Option," in the RECORD at this point:

U.S.-SOVIET MILITARY POSTURE

In 1920, Lenin wrote this:

". . . the so-called cultured states of Western Europe and America are incapable of understanding either the present position of things or the real state of relative power . . . The capitalists of the whole world and their governments will shut their eyes to the kind of activities on our side . . . and will in this manner become not only deaf mutes but blind as well. They will open up credits for us, which will serve us for the purpose of supporting communist parties in their countries. They will supply us with the materials and technology which we need for our future victorious attacks upon our suppliers. In other words, they will work hard in order to prepare their own suicide."

In a recent interview, Alexander Solzhenitsyn seemed to agree. He said, "The West is on the verge of a collapse created by its own hands." He said he has noted a decline in both the strength and resolution of the West during the two years he's been out of Russia.

And he warned that the Soviet "economy is on such a war footing that, even if it were the unanimous opinion of all the members of the Politburo not to start a war, this would no longer be in their power." What Solzhenitsyn seems to be saying is that the degeneration is under way and that, off there in the wings, the military power is being prepared to apply the final push.

In assessing the relative strength of the two powers, the answer cannot necessarily be ascertained by comparing what each side has: the warheads in silos, the submarines and the bombers. What is most important is what each side can do with what it has. The true relative strength can be determined by postulating the situation likely to prevail at the end of a strategic counterforce exchange. The throw weight surviving after such an exchange is an appropriate total measure of the residual capability on both sides. What does each side have left, with which to dominate the situation after the exchange? Remember, too, that most of the targets remaining after a counterforce exchange would be soft targets—sitting ducks. Hence missile accuracy and other refinements in the original postures would no longer be of much significance.

I am going to ask you to suspend judgment, for the moment, on the likelihood of any strategic attack by the Soviet. I don't want us considering its rationality at this point. I want us simply to examine capability, based on the best estimates available to the United States at this time.

If the Soviets had attacked U.S. strategic forces at any time during the 1960s, and the United States had responded, the United States would have emerged from such an exchange with clear superiority. In other words, our remaining strategic forces would have been stronger than those which remained in the Soviet Union.

In 1964, however, the Soviets began playing catch-up. They began to close the gap. And by 1973, America's position of superior post-exchange strength had disappeared. At that point, the Soviets had acquired sufficient capability to attack U.S. strategic forces with the expectation that, even if the U.S. fired back, the exchange would end with the Soviets retaining the greater strength.

Since 1973, the Soviets have increased their margin of post-exchange superiority. In the years ahead, this edge will continue to expand. By the mid-1980s, the Soviets will have acquired a large margin of absolute superiority over the United States.

The data on which these cold-blooded estimates are based are calculated on total throw weight. But they employ throw weight as a dynamic index of capability. The "after" or post-exchange balance considers the number, size and accuracy of each side's remaining warheads, as well as the prospective survivability of those forces which would be left. It takes into account U.S. advantages, as well as those of the Soviets. What we have here, in short, is a perspective quite different from the one usually presented, which is a straight comparison of static throw weight.

There are those who argue that total force throw weight, even after a counterforce exchange, is not a valid index of capability. We have looked at every reasonable index—at equivalent warheads, number of warheads, counter military potential, equivalent megatonnage, and total numbers of bombers and missiles. By every one of these, the Soviet will hold strategic superiority after a counterforce exchange.

Ever since the Soviet Union got its first nuclear weapon, the American policy has been to deter nuclear conflict rather than to attempt to win it. I'm sure most Americans believe that if the Soviet Union were insane enough to attack us, it would be annihilated by the U.S. retaliation. "Overkill" has become a buzz word. We're told that the U.S. has the capability to kill every man, woman and child in the Soviet many times over.

Actually, the U.S. has never had this kind of capability. We do have more than enough capability to kill the people in Russia's cities, provided they don't leave town. But the term "overkill" is nothing but mathematical fiddlefaddle; it has nothing to do with reality. After all, you could put the world's entire population in one piece of territory 19 miles in diameter, and kill them all with half a dozen bombs.

Whatever lethal capability the U.S. has, Russia has the same capability—with respect to you and me and the rest of us Americans. The result is what has come to be known, in heartwarming terms, as the doctrine of assured mutual destruction.

A while back Secretary of State Kissinger raised this rhetorical question: "What in the name of God is superiority? What could the Soviet Union do with it?" The Secretary went on to say that nuclear superiority is devoid of any operational meaning. If he is right, the estimates I was giving you a few minutes ago are meaningless. For assured destruction has rendered superiority useless.

But if this is so, why then is the Soviet investing so heavily not only in achieving nuclear superiority, but in increasing it?

Please remember that what is unthinkable to you and me may not necessarily appear that way to someone whose head is screwed on differently. In early 1945, when our GIs were pushing toward Germany, it surely must have been unthinkable to us that anyone would send millions of men, women and children into gas chambers. But, as it turned out, it wasn't unthinkable to Hitler.

Sure, I believe the Soviet leaders are a lot more rational than Hitler. Still, when we consider the prospect of nuclear war, I think we need to ask ourselves: How does it look when viewed through our adversary's eyes? When contemplated in terms of his philosophy, and his definition of morality?

We have a pretty good idea of what to expect, should deterrence fail. Last year Dr. Schlesinger, then Secretary of Defense, presented some data on this to the Senate Foreign Relations Committee. He said that a Soviet attack limited to U.S. strategic forces would produce fatalities on the order of five or six million. If the Soviet followed this with an attack on U.S. cities, a total of 96 million Americans would die. There was some controversy over his first figure, with some people contending that an attack on U.S. strategic forces would kill as many as 20 million.

Whatever the figure, it's unthinkable. To us.

It's conceivable, however, that the Soviet leaders might be able to accept a few million American casualties philosophically. But how many Russian casualties would they be willing to accept?

It seems to me there are two factors to consider here. One is the difference in the values placed on human life by them and by us. I remember that during World War II we used to send out destroyers and whole squadrons of planes to search for three guys bobbing somewhere in a liferaft. And in Viet Nam there were countless times when American teams went in, under heavy fire, to try to rescue a helicopter crew downed behind enemy lines.

The Russians have a history of working people to death in slave labor camps. In the great purge of the 1930s, they deliberately brought about the death of from 20 to 30 million of their own people in order to shore up Communist control of the nation. This was all done in a good cause, of course—a moral cause, from their point of view. That same basic cause exists today.

The second factor is more direct: What does the Soviet count as the cost of a nuclear exchange, in Russian lives lost and Russian property destroyed?

One official Soviet estimate declares that, even if U.S. missiles strike their cities, they can hold their casualties to from five to eight per cent of their urban population. For Soviet demography, this works out to about ten million potential fatalities. That's only one-half to a third of the casualties the Russian leaders inflicted on their own people just to consolidate their internal political control.

Of course, this would still leave the question of the possible destruction of Soviet cities and Soviet industry. But the Russians have some estimates on this, too, and they differ dramatically from those of the U.S.

Behind these Russian calculations lies an intensive civil defense effort.

The permanent, full-time staff of the civil defense organization now numbers 72,000, and a major portion of them are military. The C.D. commanders of the 15 Soviet republics are major generals or lieutenant generals. Active-duty officers command the approximately 120 oblasts or third-level government centers. And in time of crisis, this permanent staff would be augmented by the Soviet's police force of half a million.

Civil defense preparation in Russia begins with urban planning. Like our urban planners, the Russians believe in lots of open space—but for different reasons. Their guidelines are aimed at the reduction of building density to improve the chances of survivability. The call for green belts and wide thoroughfares to serve as firebreaks and to permit the clearing of radiation-free passages after an attack.

U.S. calculations of Soviet fatalities, if we hit them all-out, are based on the assumption that Russian citizens will be in their cities at the time. This is not the Soviet plan. They intend to evacuate and disperse their population, prior to the onset of hostilities. This implies, of course, that the Soviet government will have a pretty good idea of when the hostilities are likely to begin.

They intend to provide an urban assembly area for each two to three thousand urban dwellers. These are permanently staffed. When an evacuation is ordered, a staffer will go to each residence or place of business and hand each individual an evacuation certificate—in triplicate. One copy goes to the police department, which is responsible for making sure the people move out at the appointed time. Another is to be returned to the assembly center for use in processing people out to the evacuation areas. Vehicle convoys and, in some cases, trains will be provided. Some of the able-bodied will be formed into marching brigades.

The evacuation areas are located on collective farms. The farmer's responsibilities are spelled out on planning sheets to be executed by every collective farmer. He's given the number, and even the names, of the people he's to receive. They already will have been assigned to work brigades. Some of these groups will go right to work building simple shelters, which are already designed. It takes about 11 hours to construct a shelter which will hold ten people, and it will have a blast resistance of 30 to 50 pounds per square inch and a radiation protection factor of about 1,000.

The Soviet also has a multi-layered strategy to limit the damage to its industrial facilities. The first layer is pretty chilling—it calls for holding the U.S. population hostage to deter us from retaliating against Soviet industry. The second layer is to disperse its industry by building new plants in small and medium-sized towns. The third layer is to harden industrial equipment to protect it from nuclear effect. The final hedge is to hold in reserve enough military capability that the Soviet can move into neighboring states and take over their industry.

U.S. estimates of the industrial damage our missiles could inflict are based on the amount of industrial roof space which would be destroyed. Interestingly enough, Soviet plans show little attempt to protect roof space. But within the buildings, they have worked out ways to protect machinery through the use of permanent protective structures, enclosures, hoods and housings, canopies and sandbags.

A few months ago Boeing conducted a study intended to estimate the effectiveness of these Soviet protective measures applied to a typical industrial area. This study assumed that a nuclear exchange between strategic forces already had taken place. The U.S. already has fired its heaviest shots at the Soviet's hardened missile sites, and all we have left are our smaller warheads like the Poseidon and Trident.

We used the Seattle-Tacoma area as our laboratory for this study. We worked out the application of these Soviet protective measures to its industrial plants, large and small, and then we calculated the damage that would be done by these smaller warheads. The results showed that a lot of roofs would be blown off, but more than 50 per cent of the industrial equipment in primary target areas would survive.

According to our government's estimates, the Soviets are spending about one billion dollars a year on civil defense.

WELFARE REFORM ENDORSED

HON. ROBERT J. CORNELL

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. CORNELL. Mr. Speaker, I am today reintroducing my Tax Credits and Allowances Act for the fifth time. I am pleased to welcome Representatives MENDEL DAVIS, MELVIN PRICE, and HENRY REUSS to my list of cosponsors. This makes a total of 30 Members of Congress who share my view that comprehensive welfare reform is needed and must be undertaken now.

As my colleagues know, recently seven noted economists wrote to the President to urge the immediate and fundamental reform of the entire welfare system. The recommendations of William J. Baumol of Princeton University, Robert J. Lampman of the University of Wisconsin, Joseph Pechman of the Brookings Institution, Albert Rees of Princeton University, Herbert Stein of the University of Virginia, James Tobin of Yale University, and Harold W. Watts of the University of Wisconsin closely follow the intent of my legislation, H.R. 6430. The main points they made in their letter are these:

First, we urge the consolidation of such existing transfer programs as Aid to Families with Dependent Children, Supplemental Security Income, and Food Stamps into a single federally financed cash system. Such a system should provide a floor income for every American.

Second, we recommend the equal treatment of intact and divided families in order to end the current system's tendency to divide family units.

Third, it is important to incorporate a simple schedule of benefit reduction as income rises, with a 'zero-point' of no benefits and no income taxation. Such a schedule should preserve incentives to work and give equitable levels of assistance to the working poor.

Fourth, consideration should be given to vesting the responsibility for income maintenance in some agency other than HEW. For example, the IRS might be an appropriate agency.

The suggestions of the seven economists also parallel the recommendations made by four Governors in early January. I am including the text of the telegram sent to the President by Governors Brenden T. Byrne of New Jersey, Hugh L. Carey of New York, Patrick J. Lucey of Wisconsin, and Milton J. Shapp of Pennsylvania at the end of my remarks as well as the letter to the President from the economists.

As I have stated in my previous comments on the House floor, I do not believe the Congress can delay the implementation of comprehensive welfare reform. Since the enactment of the Social Security Act, there has not been an effective revision of an overall national strategy for income maintenance. In the Congress now, there are 11 committees in the House who are charged with jurisdictions touching on welfare programs and 10 in the Senate. In addition, nine of the executive departments are involved with welfare-related programs. Therefore, we must act now to revise the defects in the existing system.

My legislation is designed to make work both profitable and necessary, thus ending the real work disincentives that exist in our current system. It seeks to build upon earnings and other private income, not to substitute for them. The bill abolishes the food stamp program and Aid to Families with Dependent Children, and in their place establishes direct cash grants. My program would be administered by the Internal Revenue Service. This Federal administration would provide economies of scale. One computer system could be developed instead of many. Several States do not use 20th century technology in running multibillion dollar programs. Computers can calculate benefits more rapidly and accurately than clerks and they can be programed to perform automatic audits and crosschecks.

My bill, in conclusion, would eliminate many of the demeaning aspects of welfare, caseworker discretion, family instability, categorical eligibility, State benefit variations, and administrative redtape. I urge my colleagues to join in sponsoring the Tax Credits and Allowance Act which will bring about this critically needed reform.

TELEGRAM TO PRESIDENT GERALD R. FORD, THE WHITE HOUSE, WASHINGTON, D.C.

DEAR PRESIDENT FORD: The current patchwork of federal, state and local welfare programs is not working. It is time for a fundamental reordering of our approach to income maintenance. Mere tinkering with existing programs is not enough.

The harm done by the system has been well documented. It tolerates unacceptable variations between different parts of the country which cannot be explained by regional differences in the cost of living. It encourages family instability and disintegration. It does too little to help the working poor. It permits excessive levels of ineligibility and fraud. It is unworkable for the family in need and is fast becoming too costly for the taxpayer.

The welfare structure is also grossly inefficient. Its very complexity requires an army of bureaucrats to organize and run it. An efficient, equitable system can change the negative perception of income maintenance programs among the public and at the same time more effectively aid the needy.

The nation, and particularly, state and local governments, cannot indefinitely bear excessive rates of growth in this sector. A program which meets the tests of equity, efficiency and prudence may well require an initial additional investment by the federal government but it offers the prospect of achieving stabilization of welfare costs over the long term.

We propose a welfare program with the following characteristics:

—The consolidation of the existing food stamp, SSI and AFDC programs into a single federally financed cash system providing a floor to the income available to every family, with an appropriate federally funded cost of living escalator;

—The equal treatment of intact families and divided families;

—Preservation of incentives to work and a fair level of assistance to the working poor;

—A uniform and easily understood benefit reduction schedule, reaching a "zero-point" of no benefits and no income taxation;

—The retention of responsibility for social services such as those provided under Title XX at the state level. However, we recommend the elimination of the means test for services provided under this title to senior citizens. We also recommend a reasonable cost of living increase funded by the federal government for Title XX.

The program of change which we propose is neither simple in concept nor easy to implement. We anticipate the need for a well-planned period of phased transition. For example, consideration might be given to the transfer of administrative responsibility for income maintenance to an agency other than HEW, to eliminate the stigma traditionally associated with income maintenance programs and to improve fraud prevention. We are prepared to work with you and the Congress both to design the long-term revision of income maintenance and to improve systems of accountability for public funds during the transition.

We seek welfare reform to relieve the burden on our state and local budgets. However, we also seek reform to relieve the burden of fraud, red tape and affronts to dignity imposed by the current system on taxpayers and recipients alike.

We respectfully request a meeting with you to discuss our proposals for welfare reform.

BRENDAN T. BYRNE,
Governor of New Jersey.
HUGH L. CAREY,
Governor of New York.
PATRICK J. LUCEY,
Governor of Wisconsin.
MILTON J. SHAPP,
Governor of Pennsylvania.

PRINCETON UNIVERSITY,
Princeton, N.J., April 8, 1976.

President GERALD R. FORD
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We noted with great interest your remarks concerning reform of the nation's welfare system in your State of the Union message. We write to tell you of our deep concern about this question and to urge your support for certain fundamental principles of welfare reform.

Several of us have disagreed with one another on major public issues in the past and are sure that we will do so again in the future. However, we all agree that it is time for a comprehensive change in our system of income maintenance. A recent telegram to you from several Governors put it well. They stated that the present "patchwork of federal, state and local welfare programs . . . tolerates unacceptable variations among different parts of the country. . .[and] encourages family instability and disintegration. It does too little to help the working poor. It permits excessive levels of ineligibility and fraud. It is unworkable for the family in need and is fast becoming too costly for the taxpayer."

The Governors went on to say that "The welfare structure is also grossly inefficient. Its very complexity requires an army of bureaucrats to organize and run it. . . . The nation, and particularly state and local governments, cannot indefinitely bear excessive rates of growth in this sector. A program which meets the tests of equity, efficiency and prudence may well require an initial additional investment by the federal government but it offers the prospect of achieving stabilization of welfare costs over the long term."

Welfare reform directs federal outlays to those in need and puts a reliable floor under the incomes of the poor. Many other programs, current and proposed, are advocated as antipoverty measures but mainly benefit people who are not poor.

We do not have a detailed plan of reform to lay before you. However, we think that any specific reforms in the welfare system should embody certain basic principles. First, we urge the consolidation of such existing transfer programs as Aid to Families with Dependent Children, Supplemental Security Income, and Food Stamps into a single federally financed cash system. Such a system should provide a "floor" income for every American. Second, we recommend the equal treatment of intact and divided families in order to end the current system's tendency to divide family units. Third, it is important to incorporate a simple schedule of benefit reduction as income rises, with a "zero-point" of no benefits and no income taxation. Such a schedule should preserve incentives to work and give equitable levels of assistance to the working poor. Fourth, consideration should be given to vesting the responsibility for income maintenance in some agency other than HEW. For example, the IRS might be an appropriate agency.

Fundamental welfare reform has become imperative. This is an issue on which most Americans now seem to be in general agreement. We hope you and our nation's other leaders from both parties will turn this agreement into actual accomplishment.

We stand ready to assist in the design of specific measures to realize the changes we seek.

Sincerely yours,

WILLIAM J. BAUMOL,
Princeton University.
ROBERT J. LAMPMAN,
University of Wisconsin.
JOSEPH PECHMAN,
The Brookings Institution.
ALBERT REES,
Princeton University.
HERBERT STEIN,
University of Virginia.
JAMES TOBIN,
Yale University.
HAROLD W. WATTS,
University of Wisconsin.

Organizations are listed for identification only. Signatures are on file at Princeton University.

OIL DRILLING PICTURE UNPLEASANT

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. ARCHER. Mr. Speaker, the International Association of Geophysical Contractors has recently released some information which I feel should be of deep concern to all Members of Congress. As the report indicates, the exploration and development picture for and gas reserves is not a pleasant one.

First. Seismic activity is down 16 percent—283 versus 238 crews operating—from what it was a year ago and has declined for 8 consecutive months.

Second. Total seismic activity is down almost 30 percent from the recent high in July 1974. That is how long domestic seismic exploration has been declining. It began just about the time the depletion allowance was eliminated.

Third. There are only 17 seismic boats operating in U.S. waters versus 38 in June 1974. That is certainly no indication that expanded development of this country's Outer Continental Shelf is beginning to take place.

The point, which far too few people realize, is that what happens in seismic work will determine what level of exploratory drilling follows. In its March 1976 issue, Fortune carried a story entitled "Why Big Oil is Putting the Brakes On," which contains the following statement:

> Seismic exploration, an infallible harbinger of future drilling activity, has been declining steadily since August. The number of drilling rigs in use is already falling, and could drop by as much as 25% during 1976.

That is the story our industry is trying to tell. Seismic crew activity is the first step in the petroleum chain and, therefore, an important indicator of future exploration and production activity both on land and offshore. The significance is that until the necessary seismic work is done, exploratory drilling will not take place.

At the present time, many people consider the Hughes rig count the only barometer of future petroleum activity. I would suggest that the seismic crew count is an even better "early warning" of future activity, and that it is a much better barometer of future exploratory activity since the Hughes rig count does not distinguish between exploratory and development wells.

One final thought. It is a reality that when a seismic crew is laid off, there is a loss of key trained people who cannot be replaced. And there is an enormous expense of having to pay for idled equipment. A new, complete modern seismic land crew utilizes field equipment costing a minimum of $300,000 and a maximum of $1 million or more. No contractor can stand to have many of these crews idle for long. Further, if the day comes when exploration is expanded to the degree required to meet our country's needs, the equipment will not be readily available. During the upswing in activity in 1973, the waiting time for new equipment approached 1 year.

MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. DU PONT. Mr. Speaker, yesterday afternoon I attended a meeting with the Attorney General at the Department of Justice, and missed two recorded votes in the House. Had I been present, I would have voted "aye" on rollcall No. 302, and "aye" on rollcall No. 303.

AYNE KIMBERLY POPOVICH, AN OUTSTANDING YOUNG AMERICAN

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. GAYDOS. Mr. Speaker, it is with a great deal of pride and pleasure that I call the attention of my colleagues to the achievements of an outstanding young lady from my 20th Congressional District of Pennsylvania.

Ayne Kimberly Popovich, 17, of Bethel Park Borough is one of 48 young Americans selected from a competitive field of 150,000 high school and college students to participate in the Bicentennial Youth Debates National Conference, scheduled to take place in Washington next week. During the week of June 1–4, Miss Popovich will be involved in discussions covering a wide range of topics: government, individual rights, the economy, foreign policy, and education. In addition, she, and the other 47 students, will observe Congress in session and attend some of our committee meetings to see firsthand how their Government works.

Consequently, I think if appropriate to acquaint my colleagues with the background of this remarkable and extremely talented young woman. Ayne ranks second in a class of 770 in Bethel Park Senior High School. She is a member of the National Honor Society, president of the International Thespian Troupe 437 and secretary-treasurer of the speech and debate team.

She also belongs to the Society of Distinguished American High School Students and is listed in Who's Who in American High School Students. Her ability in forensics is proven by the fact she holds a degree of distinction in the National Forensic League. And, last year she placed first in the district and fourth in State competition on "Persuasive Speaking" at the Pennsylvania High School Speech League's annual tournament.

In spite of all those activities, Ayne still finds time to indulge in her favorite hobbies: reading, camping, sewing, cooking, painting and growing plants. Many of these interests apparently are the results of her 9 years in the Girl Scouts of America, where she attained the rank of First Class Scout.

In view of her record to date, therefore, it is not surprising that this young woman of many talents already has her eyes turned to the future Ayne plans to attend the University of Pittsburgh next year, the first step in her ultimate goal of earning her doctor of medicine degree.

She is a daughter of Mr. and Mrs. Paul S. Popovich. Her father is the assistant registrar at the University of Pittsburgh and her mother is a biology teacher in

Bethel Park High School. She also has two younger sisters: Karen and Kristi.

Mr. Speaker, this remarkable young woman already has earned the respect of her classmates, her friends and her instructors. She has brought considerable recognition to the Bethel Park school system because of her ability. Those who know her are extremely proud of what she has accomplished and I am certain my colleagues in the Congress of the United States join me in extending to her our very best wishes for the future. Let us wish her success in her chosen field for she is, indeed, an outstanding example of young America.

THE NAACP TO PAY TRIBUTE TO DR. H. CLAUDE HUDSON

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mrs. BURKE of California. Mr. Speaker, I direct my colleagues' attention to a singular event honoring a very distinguished and singular resident of Los Angeles, Dr. H. Claude Hudson. This Saturday, May 29, the NAACP will pay tribute to its president on the occasion of his 90th birthday. The event is indeed timely in that Dr. Hudson is one of the oldest members of the NAACP and has served that organization extensively since 1921.

For the information of my colleagues, H. Claude Hudson was born April 19, 1886 in Marksville, La. He was educated in schools in Louisiana and Texas and attended Wiley University in Marshall, Tex. Dr. Hudson graduated from the Howard University School of Dentistry in 1913 and set up a practice in Shreveport, La. Dentistry was practiced in the Shreveport area until 1923 when he moved to Los Angeles, Calif. His involvement with the NAACP developed during the early years of his practice and he was elected president of the Shreveport branch in 1921. Such involvement in the civil rights movement in those times was "tantamount to signing a death warrant."

Dr. Hudson has served the Los Angeles branch of the NAACP as president, vice president, or executive board member since 1934. For 10 years he served as president and he has been a member of the NAACP national board of directors since 1950.

Dr. Hudson's career combined dentistry and business with total dedication to his community and the betterment of life for his fellow man. A graduate of the Loyola School of Law, Dr. Hudson is one of the founders of Broadway Savings and Loan. Currently, he is president emeritus of the board of that institution having retired in 1972 after 23 years. Under his leadership, the association has grown to a major economic force in the Los Angeles area and is now capitalized at $50 million.

Among his many awards are the Distinguished Alumnus Award from Howard University, the Distinguished Citizens Award from the County Conference on Community Relations, and Los Angeles County's highest honor, the Distinguished Service Medal. He is a longstanding trustee of Western Methodist Church, a member of the board of directors of Martin Luther King Hospital, and active daily walker covering 2 miles each day.

In honor of his many achievements and so many long years of dedicated service, I ask my colleagues to join me in wishing H. Claude Hudson a pleasurable birthday celebration and continued success in all his endeavors.

INDIAN TREATIES

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. McHUGH. Mr. Speaker, as we celebrate our Bicentennial, I think it is most appropriate that we re-examine our relationship with the Indian Nations. Part of this relationship has been expressed in numerous treaties, many of which have seemingly been forgotten.

The New York Jaycees, as part of their Indian awareness program, have asked that I bring to the special attention of my colleagues in the House the following treaties:

Treaty of Canandaigua, 1794
Treaty of Fort Stanwix, 1784
Fort Harmor Treaty of 1789

The Jaycees hope that bringing these treaties to our attention will help to increase our awareness that, as the Jaycee Creed states,

> The brotherhood of man, transcends the sovereignty of nations, and that government shoud be of laws rather than of men.

Mr. Speaker, I include the above mentioned treaties in the CONGRESSIONAL RECORD at this point:

INDIAN AFFAIRS—LAWS AND TREATIES

(Compiled and edited by Charles J. Kappler, LL. M., Clerk to the Senate Committee on Indian Affairs)

TREATY WITH THE SIX NATIONS, 1784

Articles concluded at Fort Stanwix, on the twenty-second day of October, one thousand seven hundred and eighty-four, between Oliver Wolcott, Richard Butler, and Arthur Lee, Commissioners Plenipotentiary from the United States, in Congress assembled, on the one Part, and the Sachems and Warriors of the Six Nations, on the other.

The United States of America give peace to the Senecas, Mohawks, Onondagas and Cayugas, and receive them into their protection upon the following conditons:

Article I

Six hostages shall be immediately delivered to the commissioners by the said nations, to remain in possession of the United States, till all the prisoners, white and black, which were taken by the said Senecas, Mohawks, Onondagas and Cayugas, or by any of them, in the late war, from among the people of the United States, shall be delivered up.

Article II

The Oneida and Tuscarora nations shall be secured in the possession of the lands on which they are settled.

Article III

A line shall be drawn, beginning at the mouth of a creek about four miles east of Niagara, called Oyonwayen, or Johnston's Landing-Place, upon the lake named by the Indians Oswego, and by us Ontaroi; from thence southerly in a direction always four miles east of the carrying-path, between Lake Erie and Ontario, to the mouth of Tehoseroron or Buffaloe Creek on Lake Erie; thence south to the north boundary of the state of Pennsylvania; thence west to the end of the said north boundary; thence south along the west boundary of the said state, to the river Ohio; the said line from the mouth of the Oyonwayea to the Ohio, shall be the western boundary of the lands of the Six Nations, so that the Six Nations shall and do yield to the United States, all claims to the country west of the said boundary, and then they shall be secured in the peaceful possession of the lands they inhabit east and north of the same, reserving only six miles square round the fort of Oswego, to the United States, for the support of the same.

Article IV

The Commissioners of the United States, in consideration of the present circumstances of the Six Nations, and in execution of the humane and liberal views of the United States upon the signing of the above articles, will order goods to be delivered to the said Six Nations for their use and comfort.

Oliver Wolcott, Richard Butler, Arthur Lee.

Mohawks: Onogwendahonpi, his x mark, Toulghnatogon, his x mark.

Onondagas: Oheadarighton, his x mark, Kendaringdgon, his x mark.

Senekas: Tayagonendagighti, his x mark, Tehonwaeaghrigagi, his x mark.

Oneidas: Otyadonenghti, his x mark, Dagaheari, his x mark.

Cayuga: Oraghgoanendagen, his x mark.

Tuscaroras: Ononghsawenghti, his x mark, Tharondawagon, his x mark.

Seneka Abeal: Kayenthoghke, his x mark.

Witnesses: Sam Jo. Atlee, Wm. Maclay, Fras. Johnston, Pennsylvania Commissioners. Aaron Hill, Alexander Campbell, Saml. Kirkland, missionary, James Dean, Saml. Montgomery, Derick Lane, captain, John Mercer, lieutenant, William Pennington, lieutenant, Mahlon Hord, ensign, Hugh Peebles.

TREATY WITH THE SIX NATIONS, 1789

Articles of a treaty made at Fort Harmar, the ninth day of January, in the year of our Lord one thousand seven hundred and eighty-nine, between Arthur St. Clair, esquire, governor of the territory of the United States of America, north-west of the river Ohio, and commissioner plenipotentiary of the said United States, for removing all causes of controversy, regulating trade, and settling boundaries, between the Indian nations in the northern department and the said United States, of the one part, and the sachems and warriors of the Six Nations, of the other part:

ART. 1 WHEREAS the United States, in congress assembled, did, by their commissioners, Oliver Wolcott, Richard Butler, and Arthur Lee, esquires, duly appointed for that purpose, at a treaty held with the said Six Nations, viz: with the Mohawks, Oneidas, Onondagas, Tuscaroras, Cayugas, and Senekas, at fort Stanwix, on the twenty-second day of October, one thousand seven hundred and eighty-four, give peace to the said nations, and receive them into their friendship and protection: And whereas the said nations have now agreed to and with the said Arthur St. Clair, to renew and confirm all the engagements and stipulations entered into at the beforementioned treaty at fort Stanwix: and whereas it was then and there agreed, between the United States of America and the said Six Nations, that a boundary line should be fixed between the lands of the said Six Nations and the territory of the said United States, which boundary line is as follows, viz: Beginning at the mouth of a creek, about four miles east of Niagara, called Ononwayea, or Johnston's Landing Place, upon the lake named by the Indians Oswego, and by us Ontario; from thence southerly, in a direction always four miles east of the carrying place, between lake Erie and lake Ontario, to the mouth of Tehoseroton, or Buffalo creek, upon lake Erie; thence south, to the northern boundary of the state of Pennsylvania; thence west, to the end of the said north boundary; thence south, along the west boundary of the said state to the river Ohio. The said line, from the mouth of Ononwayea to the Ohio, shall be the western boundary of the lands of the Six Nations, so that the Six Nations shall and do yield to the United States, all claim to the country west of the said boundary; and then they shall be secured in the possession of the lands they inhabit east, north, and south of the same, reserving only six miles square, round the fort of Oswego, for the support of the same. The said Six Nations, except the Mohawks, none of whom have attended at this time, for and in consideration of the peace then granted to them, the presents they then received, as well as in consideration of a quantity of goods, to the value of three thousand dollars, now delivered to them by the said Arthur St. Clair, the receipt whereof they do hereby acknowledge, do hereby renew and confirm the said boundary line in the words beforementioned, to the end that it may be and remain as a division line between the lands of the said Six Nations and the territory of the United States, forever. And the undersigned Indians, as well in their own names as in the name of their respective tribes and nations, their heirs and descendants, for the considerations beforementioned, do release, quit claim, relinquish, and cede, to the United States of America, all the lands west of the said boundary or division line, and between the said line and the strait, from the mouth of Ononwayea and Buffalo Creek, for them, the said United States of America, to have and to hold the same, in true and absolute propriety, forever.

ART. 2. The United States of America confirm to the Six Nations, all lands which they inhabit, lying east and north of the beforementioned boundary line, and relinquish and quit claim to the same and every part thereof, excepting only six miles square round the Fort of Oswego, which six miles square round said fort is again reserved to the United States by these presents.

ART. 3. The Oneida and Tuscarora nations, are also again secured and confirmed in the possession of their respective lands.

ART. 4. The United States of America renew and confirm the peace and friendship entered into with the Six Nations, (except the Mohawks), at the treaty beforementioned, held at fort Stanwix, declaring the same to be perpetual. And if the Mohawks shall, within six months, declare their assent to the same, they shall be considered as included.

Done at Fort Harmar, on the Muskingum, the day and year first above written.

In witness whereof, the parties have hereunto, interchangeably, set their hands and seals.

Ar. St. Clair.
Cageaga, or Dogs Round the Fire.
Sawedowa, or The Blast.
Kiondushowa, or Swimming Fish.
Oncahye, or Dancing Feather.
Sohaeas, or Falling Mountain.
Otachsaka, or Broken Tomahawk, his x mark.
Tekahias, or Long Tree, his x mark.
Onecnsetee, or Loaded Man, his x mark.
Kiahtulaho, or Snake.
Aqueia, or Bandy Legs.
Kiandogewa, or Big Tree, his x mark.
Owenewa, or Thrown in the Water, his x mark.
Gyantwaia, or Cornplanter, his x mark.
Gyasota, or Big Cross, his x mark.
Kannassee, or New Arrow.
Achiout, or Half Town.
Anachout, or The Wasp, his x mark.
Chishekoa, or Wood Bug, his x mark.
Sessewa, or Big Bale of a Kettle.
Sciahowa, or Council Keeper.
Tewanias, or Broken Twig.
Sonachshowa, or Full Moon.
Cachunwasse, or Twenty Canoes.
Hickonquash, or Tearing Asunder.

In presence of—Jos. Harmar, lieutenant-colonel commanding First U.S. Regiment and brigadier-general by brevet, Richard Butler, Jno. Gibson, Will. M'Curday, captain, Ed. Denny, ensign First U.S. Regiment, A. Hartshorn, ensign, Robt. Thompson, ensign, First U.S. Regiment, Fran. Leile, ensign, and Joseph Nicholas.

TREATY WITH THE CREEKS, 1790

Separate article

Should a robbery or murder be committed by an Indian or Indians of the Six Nations, upon the citizens or subjects of the United States, or by the citizens or subjects of the United States, or any of them, upon any of the Indians of the said nations, the parties accused of the same shall be tried, and if found guilty, be punished according to the laws of the state, or of the territory of the United States, as the case may be, where the same was committed. And should any horses be stolen, either by the Indians of the said nations, from the citizens or subjects of the United States, or any of them, or by any of the said citizens or subjects from any of the said Indians, they may be reclaimed into whose possession soever they may have come; and, upon due proof, shall be restored, any sale in open market notwithstanding; and the persons convicted shall be punished with the utmost severity the laws will admit. And the said nations engage to deliver the persons that may be accused, of their nations, of either of the beforementioned crimes, at the nearest post of the United States, if the crime was committed within the territory of the United States; or to the civil authority of the state, if it shall have happened within any of the United States.

Ar. St. Clair.

Treaty With the Six Nations, 1794

A Treaty between the United States of America, and the Tribes of Indians called the Six Nations.

The President of the United States having determined to hold a conference with the Six Nations of Indians, for the purpose of removing from their minds all causes of complaint, and establishing a firm and permanent friendship with them; and Timothy Pickering being appointed sole agent for that purpose; and the agent having met and conferred with the Sachems, Chiefs and Warriors of the Six Nations, in a general council: Now, in order to accomplish the good design of this conference, the parties have agreed on the following articles; which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the Six Nations.

Article I

Peace and friendship are hereby firmly established, and shall be perpetual, between the United States and the Six Nations.

Article II

The United States acknowledge the lands reserved to the Oneida, Onondaga and Cayuga Nations, in their respective treaties with the state of New-York, and called their reservations, to be their property; and the United States will never claim the same, nor disturb them or either of the Six Nations, nor their Indian friends residing thereon and united with them, in the free use and enjoyment thereof: but the said reservations shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase.

Article III

The land of the Seneka nation is bounded as follows: Beginning on Lake Ontario, at the north-west corner of the land they sold to Oliver Phelps, the line runs westerly along the lake, as far as O-yŏng-wong-yeh Creek, at Johnson's Landing-place, about four miles eastward from the fort of Niagara; then southerly up that creek to its main fork, then straight to the main fork of Stedman's creek, which empties into the river Niagara, above fort Schlosser, and then onward, from that fork, continuing the same straight course, to that river; (this line, from the mouth of O-yong-wong-yeh Creek to the river Niagara, above fort Schlosser, being the eastern boundary of a strip of land, extending from the same line to Niagara river, which the Seneka nation ceded to the King of Great-Britain, at a treaty held about thirty years ago, with Sir William Johnson; then the line runs along the river Niagara to Lake Erie; then along Lake Erie to the north-east corner of a triangular piece of land which the United States conveyed to the state of Pennsylvania, as by the President's patent, dated the third day of March, 1792; then due south to the northern boundary of that state; then due east to the south-west corner of the land sold by the Seneka nation to Oliver Phelps; and then north and northerly, along Phelps's line, to the place of beginning on Lake Ontario. Now, the United States acknowledge all the land within the aforementioned boundaries, to be the property of the Seneka nation; and the United States will never claim the same, nor disturb the Seneka nation, nor any of the Six Nations, or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof: but it shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase.

Article IV

The United States having thus described and acknowledged what lands belong to the Oneidas, Onondagas, Cayugas and Senekas, and engaged never to claim the same, nor to disturb them, or any of the Six Nations, or their Indian friends residing thereon and united with them, in the free use and enjoyment thereof: Now, the Six Nations, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States; nor ever disturb the people of the United States in the free use and enjoyment thereof.

Article V

The Seneka nation, all others of the Six Nations concurring, cede to the United States the right of making a wagon road from Fort Schlosser to Lake Erie, as far south as Buffaloe Creek; and the people of the United States shall have the free and undisturbed use of this road, for the purposes of travelling and transportation. And the Six Nations, and each of them, will forever allow to the people of the United States, a free passage through their lands, and the free use of the harbors and rivers adjoining and within their respective tracts of land, for the passing and securing of vessels and boats, and liberty to land their cargoes where necessary for their safety.

Article VI

In consideration of the peace and friendship hereby established, and of the engagements entered into by the Six Nations; and because the United States desire, with humanity and kindness, to contribute to their comfortable support; and to render the peace and friendship hereby established, strong and perpetual; the United States now deliver to the Six Nations, and the Indians of the other nations residing among and united with them, a quantity of goods of the value of ten thousand dollars. And for the same considerations, and with a view to promote the future welfare of the Six Nations, and of their Indian friends aforesaid, the United States will add the sum of three thousand dollars to the one thousand five hundred dollars, heretofore allowed them by an article ratified by the President, on the twenty-third day of April, 1972,[a] making in the whole, four thousand five hundred dollars; which shall be expended yearly forever, in purchasing clothing, domestic animals, implements of husbandry, and other utensils suited to their circumstances, and in compensating useful artificers, who shall reside with or near them, and be employed for their benefit. The immediate application of the whole annual allowance now stipulated, to be made by the superintendent appointed by the President for the affairs of the Six Nations, and their Indian friends aforesaid.

Article VII

Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States and Six Nations agree, that for injuries done by individuals on either side, no private revenge or retaliation shall take place; but, instead thereof, complaint shall be made by the party injured, to the other: By the Six Nations or any of them, to the President of the United States, or the Superintendent by him appointed; and by the Superintendent, or other persons appointed by the President, to the principal chiefs of the Six Nations, or of the nation to which the offender belongs: and such prudent measures shall then be pursued as shall be necessary to preserve our peace and friendship unbroken; until the legislature (or great council) of the United States shall make other equitable provision for the purpose.

NOTE. It is clearly understood by the parties to this treaty, that the annuity stipulated in the sixth article, is to be applied to the benefit of such of the Six Nations and of their Indian friends united with them as aforesaid, as do or shall reside within the boundaries of the United States: For the United States do not interfere with nations, tribes or families, of Indians elsewhere resident.

In witness whereof, the said Timothy Pickering, and the sachems and war chiefs of the said Six Nations, have hereto set their hands and seals.

Done at Konondaigua, in the State of New York, the eleventh day of November, in the year one thousand seven hundred and ninety-four.

Timothy Pickering.
Onoyeahnee, his x mark.
Konneatorteeooh, his x mark, or Handsome Lake.
Tokenhyouhau, his x mark, alias Captain Key.
Oneshauee, his x mark.
Hendrick Aupaumut.
David Neesoonhuk, his x mark.
Kanatsoyh, alias Nicholas Kusik, Sohhonteoquent, his x mark.
Ooduhtsait, his x mark.
Konoohqung, his x mark.
Tossonggaulolus, his x mark.
John Skenendoa, his x mark.
Oncatorleeooh, his x mark.
Kussauwatau, his x mark.
Eyootemyootauook, his x mark.
Kohnyaugong, his x mark, alias Jake Stroud.
Shaguiesa, his x mark.
Teeroos, his x mark, alias Captain Prantup.
Sooshaoowau, his x mark.
Henry Young Brant, his x mark.
Sonhyoowauna, his x mark, or Big Sky.
Onaahhah, his x mark.
Hotoshahenh, his x mark.
Kaukondanaiya, his x mark.
Nondiyauka, his x mark.
Kossishtowau, his x mark.
Oojaugenta, his x mark, or Fish Carrier.
Toheonggo, his x mark.
Ootaguasso, his x mark.
Joonondauwaonch, his x mark.
Kiyauhaonh, his x mark.
Ootaujeaugenh, his x mark, or Broken Axe.
Tauhoondos, his x mark, or Open the Way.
Twaukewasha, his x mark.
Sequidongquee, his x mark, alias Little Beard.
Kodjeote, his x mark, or Half Town.
Kenjauaugus, his x mark, or Stinking Fish.
Soonohquaukau, his x mark.
Twenniyana, his x mark.
Jishkaaga, his x mark, or Green Grasshopper, alias Little Billy.
Tuggehshotta, his x mark.
Tehongyagauna, his x mark.
Tehongyoowush, his x mark.
Konneyoowesot, his x mark.
Tioohquottakauna, his x mark, or Woods on Fire.
Taoundaudeesh, his x mark.
Honayawus, his x mark, alias Farmer's Brother.
Soggooyawauthau, his x mark, alias Red Jacket.
Konyootiayoo, his x mark.
Sauhtakaongyees, his x mark, or Two Skies of a length.
Ounnashattakau, his x mark.
Kaungyanehquee, his x mark.
Sooayoowau, his x mark.
Kaujeagaonh, his x mark, or Heap of Dogs.
Soonoohshoowau, his x mark.
Thaoowaunias, his x mark.
Soonongjoowau, his x mark.
Kiantwhauka, his x mark, alias Cornplanter.
Kaunehshonggoo, his x mark.

Witnesses: Israel Chapin, William Shepard, jr, James Smedley, John Wickham, Augustus Porter, James K. Garnsey, William Ewing, Israel Chapin, Jr., Horatio Jones, Joseph Smith, Jasper Parish, Interpreters; and Henry Abeele.

THE WAXMAN-MAGUIRE AMENDMENT AND THE CLEAN AIR ACT (II)

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. WAXMAN. Mr. Speaker, the case against an extended freeze of the current Federal standards for automobile emissions is, in my judgment, a compelling one. I am inserting in the RECORD today a memorandum prepared by my staff which reviews and analyzes the many issues involved in this controversy.

MEMORANDUM

To: Henry
From: Bruce
Re: Waxman-Maguire Amendment on Automobile Emissions Standards

H.R. 10498, the Clean Air Act Amendments of 1976, provides for a three-year freeze of the current 49-state (Federal) atuomobile emissions standards. The Waxman-Maguire Amendment provides that the Nation adopt, in 1978, the current California standards, which are about a third more stringent than the Federal requirements, and are proven, available, and have been in use for two years.

There are a series of arguments for pressing forward with implementing the California standards in 1978 as a reasonable step toward meeting the full statutory standards in 1980. These arguments revolve around the central issues which have dominated the question of Federal regulation of automobile emissions since the passage of the 1970 Clean Air Act—technological feasibility, fuel economy, cost to consumers, and the protection of public health. A new, more limited controversy which emerged last year, that of sulfuric acid mist emissions from cars equipped with catalytic converters, has apparently been resolved—and in a manner which underlines the reasoning behind the Waxman-Maguire Amendment.

Following is a review of these issues.

THE SULFURIC ACID PROBLEM

a. As of January, 1975, the full statutory standards were to become effective with model year 1977. Under opportunity provided by the Clean Air Act, the automobile manufacturers petitioned for a one year's delay, the maximum allowable. On March 5, 1975, Administrator Train granted the petitions, but for one reason only: the threat he felt was posed by emissions of sulfuric acid mists from cars equipped with catalytic converters. If it were not for this perceived threat, he said, the petition for delay would have been denied. Administrator Train found that the technology to meet the statutory standards was available, and that the fuel penalty would not be excessive. The additional cost to consumers was estimated at $100–$300 per car.

b. Since that decision, several developments have occurred which undercut the emphasis placed by Train on the sulfuric acid problem.

(1) the American Medical Association, after reviewing all the data EPA used in reaching its decision, found the results inconclusive, "neither refuting nor supporting the proposed delay from 1977 to 1978 . . . " (Clean Air Hearings, I:327).

(2) EPA later discovered that the sulfuric acid problem had been overstated by a factor of two (NYT 4/25/75). Some EPA studies have also indicated that non-catalyst equipped cars emit about as much sulfuric acid as catalyst-equipped cars.

(3) In testimony before the Health Subcommittee, EPA said of the sulfuric acid controversy that sulfates "might be a problem now or it might never be a problem." (Clean Air Hearings, I:116). Additionally, Train testified that he made his decision to grant the petition for a year's delay in a rush, saying, "I only effectively had about two days to deal with this." (Clean Air Hearings, I:109).

c. In its March decision, EPA announced that it intended to set a sulfate emission standard for 1979 model year vehicles. The National Academy of Sciences May 5, 1975, *Conference Report*, concurred in this proposal and stated that emissions standards should not be set aside because of the sulfuric acid problem:

"Emissions standards for HC and CO . . . for the 1978 and subsequent model year light duty vehicles should be maintained at the current statutory levels . . . These levels can be achieved while steps are taken to insure against excessive emissions of sulfuric acid and acid sulfates . . . All the above can, and should, be done in a manner that does not significantly increase ambient concentrations of sulfuric acid and acid sulfates. Accordingly . . . a sulfuric acid light-duty motor vehicle emissions standard for 1978 and subsequent years should be established." (NAS, *Conference Report*, 1, 2).

d. NAS also added that the statutory standards could be met with the three-way catalyst with no increase in sulfuric acid emissions compared with uncontrolled vehicles. NAS stated that the blending of low-sulfur with unleaded gasoline (which catalyst-equipped cars must use) would also alleviate the problem. (NAS, CR, 16).

---

[a] It appears that this treaty was never ratified by the Senate. See American State Papers, Indian Affairs, vol. 1, p. 232. Also, post 1027.

e. Freezing of the status quo for five years will continue the emissions of sulfuric acid mists from catalyst equipped cars (see Mr. Satterfield's question, Clean Air Hearings, I:103), and will do nothing to further decrease the emissions of the other pollutants (HC, CO, and NO_x). As the Academy stated

"Relaxing the statutory HC, CO, and NO_x standards in itself is unlikely to result in reduction of sulfuric acid emissions below levels from 1975 automobiles. (NAS, CR, 2–3).

f. In any event, the entire controversy appears to have been resolved. On April 13, 1976, EPA reported that, based on extensive tests conducted in conjunction with General Motors and others, the Agency had greatly overestimated the threat posed by sulfuric acid emissions, and that EPA no longer considers the problem urgent enough to warrant the establishment of a sulfuric acid emissions standard. EPA, in April 1976, had cited this very problem as its reason for delaying compliance with the full statutory standards from 1977 to 1978. By implication, therefore, this new evidence would seem to remove the rationale for any further EPA-supported freezes of the current standards.

2. FUEL ECONOMY

a. The National Academy of Science concluded that meeting the statutory standards in 1978 "could, and should be achieved while improving fuel economy. A significant improvement can be achieved by changes that are independent of the level of emissions." (NAS, CR, 3).

b. There have been fuel penalties associated with emission standards, but these penalties have evaporated as the control technology has been mastered. For instance, HC and CO standards were tightened in 1975 models from the 1973–74 models, causing a shift in technology to the catalyst, which has resulted in much better fuel economy. As Administrator Train stated recently,

"The 1975 cars with the catalytic converter represent about a 14% improvement, approximately, in fuel efficiency over the 1974 cars. So the trend has been, even with emission controls, toward substantially improved fuel economy." (Washington Star, Sept. 9, 1975).

c. A December, 1974, EPA report also concluded,

"There is no inherent relationship between exhaust emission standards and fuel economy. Delaying or relaxing emission standards cannot guarantee that gains in fuel economy will be made. . . .

"Achieving the 1977 or 1978 emission standards with fuel economy equal to or better than current (model year 1975) vehicles is possible." (EPA, Automobile Emission Control, December, 1974, 2–1).

d. In a recent interview, Train commented,

"Without the converter, there would probably be a fuel penalty. The weight of automobiles has been far more significant in terms of reducing fuel efficiency and fuel economy than emissions controls . . .

"The air conditioner . . . costs about twice what the emission controls do. And the fuel penalty from air conditioners tends to be at least as great as that from emission control. But the greatest cause of poor fuel economy is basically the weight of the automobiles." (Washington Star, Sept. 9, 1975).

e. Most of the fuel penalty controversy centers on the control of NO_x. Most cars currently use a system called "exhaust gas recirculation" or EGR, in which the cooler exhaust gases are brought back into the engine and re-burned in order to obtain cleaner exhausts. Because the exhaust gases are cooler when they are returned to the engine for reburning, the combustion of these gases is not as complete or efficient, resulting in a fuel penalty of up to 10%, depending on car size.

The industry has adhered to EGR as its main strategy for controlling NO_x emissions. The poor fuel results have led the industry to conclude and widely publicize the contention that if industry is forced to get the cars cleaner faster, the Nation will suffer an enormous fuel cost.

With EGR, there is no doubt that the fuel penalty will increase as the NO_x standard is lowered from the current 3.1 grams/mi to the contemplated 2.0, 1.5, and 1.0 interim standards. At the .4 statutory NO_x standard, EGR is completely infeasible.

There are other alternative and more promising technologies which are proven and available—technologies such as the dual catalyst which, at this time, almost meet the .4 NO_x standard with no fuel penalty. Recent EPA-certified test data showed that the dual catalyst system met the statutory HC ad CO standards, and practically achieved the NO_x standard (.419 as opposed to .4 gms/mi) with better fuel economy than when the NO_x standard was at 2.0. By eliminating the EGR system, the dual catalyst achieved 19.7 mpg (city) and 29.0 mpg (hwy) as opposed to 19.0 and 28.0, respectively, over a 50,000 mile test with a 1975 Vega. (see May 7 EPA letter to Gothelf).

If the industry stays with EGR, the fuel penalties will continue. Such penalties could cause consumer backlash and an industry attitude of, "I told you so . . . tight NO_x standards mean a waste of precious gasoline."

Additionally, NAS, EPA, the Sierra Club and other public interest groups have gathered evidence alleging that the automobile industry has stubbornly delayed development of alternative NO_x control technologies, and has ignored promising developments such as the dual catalyst.

On this issue of NO_x control, NAS commented,

"It is probably feasible with catalyst technology to achieve the statutory emission standard for NO_x (.4 gms/ml) in 1978. There would be less uncertainty today if there had not been a slackening of effort toward this goal." (NAS, CR, 1).

In responding to industry criticism of this observation, NAS stated,

"There has been an apparent reluctance on the part of the manufacturers actually to assemble in a demonstration vehicle the component emission control technologies which the manufacturers have in hand. In this way they can maintain that the required technology 'has not been demonstrated,' an interpretation which EPA has consistently rejected."

NAS then went on to document industry's alleged obstruction of technology development in a half-dozen instances. (NAS Supplementary Statement to Conference Report, 6–8).

In any event, in order to be reasonable, the Waxman-Maguire Amendment provides that the Administrator could grant waivers of the statutory NO_x standard if he found that (1) technology to meet the standard did not exist, or (2) implementation of the standard would cause an excessive fuel penalty. Given the present state of the art, this is a reasonable and balanced approach which seeks to ensure expeditious compliance with the NO_x standard, but not at an unacceptable cost.

3. TECHNOLOGICAL FEASIBILITY

a. EPA's suspension decision of March 5, 1975, found that attainment of the statutory HC and CO standards was feasible. Train stated,

"I thus find that catalyst technology exists and could be applied to meet the statutory HC and CO emission levels on a very large proportion of automobiles by 1977. Based on the foregoing factors alone (including weighing the potential for a 5–10% fuel penalty) I would deny the suspension of the statutory emission standards." (Train, Suspension Decision, 8–9).

b. The National Academy of Science was similarly unequivocal in its conclusions:

"Emission standards for HC and CO . . . should be maintained at the current statutory levels. Attaining these levels by 1978 is both feasible and worthwhile." (NAS, CR, 1).

c. EPA has also concurred in another instance, by stating, "It is technically feasible to achieve any of the currently legislated emission standards," (EPA, December 1974 Report, 2–1).

d. Even though there is a determination and general consensus that the technology is feasible, there is an underlying policy question of mandating the implementation of certain standards by certain dates, and the ensuing problems the industry has faced in meeting these goals. A colloquy in the Subcommittee's deliberations on these matters reflected this.

Mr. Rogers. The reason the Congress set specific goals is so they would at least be set and we would try to reach them, providing flexibility (e.g. waivers, year-by-year suspensions) in the event we couldn't. We were afraid of too much flexibility right at the beginning (in 1970).

"Mr. Broyhill. I think we've seen that; we've already had three suspensions since we set those goals.

"Mr. Rogers. That is the problem. If we had not set the goals you would never have done anything. At least we have made an 83-percent gain (in reducing emissions from the pre-1970, uncontrolled levels)." (Clean Air Hearings, I:110).

4. COST TO CONSUMER

a. The most responsible estimates place the cost per car for full compliance with the statutory standards between \$75–\$300 per vehicle depending on the car's size, weight, and engine characteristics.

b. Public opinion polls demonstrate that the public is willing to pay more for cleaner automobiles. An FEA survey showed the following responses to questions about automobiles:

Question 29. It is estimated that it will cost about \$250 per car in the next five years to further reduce air pollution caused by automobiles. Do you think it is better to permit present levels of air pollution from cars, or to charge \$250 per car to clean the air by another 10% (the reduction achieved by implementing the statutory standards)?

1. Allow present levels of air pollution from cars: 24%
2. Pay \$250 to lower 10%: 48%
3. Other: 6%
4. Don't know: 22%

Question 31. Would you be willing to pay \$50 more per year for automobile gasoline in order to cut down automobile air pollution?

1. Yes: 52%
2. No: 38%
3. Don't know: 10%

(Rep. Heinz, "The Public's Desire for Clean Air," Cong. Record, Nov. 4, 1975, E 5816–18).

c. NAS has also conducted a cost-benefit analysis of meeting the statutory standards. The Academy estimated the benefits (in terms of improved health, and the estimated value in reductions in damage to material and plant life caused by air pollution) to range from \$2.5 to \$10 billion per year, and estimated the costs to range from \$5 billion to \$8 billion annually. Although admittedly imprecise projections, the Academy nevertheless concluded:

"Weighing all of these estimates, and their uncertainties, we conclude that the benefits in monetary terms that could reasonably be expected to accrue from implementing the

Federal statutory emission control standards for automobiles are commensurate with the expected cost." (NAS, Air Quality and Automobile Emission Control, Report To Senate, Sept. 1974, 3).

5. THE HEALTH NEED FOR THE FULL STATUTORY STANDARDS

a. The National Academy has given the best possible estimate of the health threat posed by automobile emissions.

"It is suggested that automobile emissions may account for as much as one quarter of one percent of the total urban health hazard. For the whole US urban population, effects of this magnitude might represent as many as 4000 deaths and four million illness-restricted days per year." (NAS, Senate Report, 13).

b. The role of automobile emissions in the total health hazard varies considerably from one geographic area to another, depending on the amount of other pollutants present, notably sulfur oxides, which come primarily from stationary sources, in the ambient air.

c. The health burden falls unequally on different groups of people. Persons already susceptible to cardiac and respiratory diseases suffer disproportionately; younger people are also more adversely affected.

d. Significantly, although the ambient air quality standards were established to protect health and welfare, there are no known "threshold" levels of pollution—levels below which no adverse effects occur. NAS has found

"Evidence indicates that the amount of health damage varies with the upward and downward variations in the concentration of the pollutant, with no sharp lower limit . . . Thus, at any concentration, no matter how small, health effects may occur, the importance of which depends on the gravity of the effect." (NAS, Senate Report, 17–18).

e. Administrator Train, in his suspension decision, recognized the health value in meeting the statutory standards, even though he delayed them for a year.

"Attainment of the statutory emissions standards in the 1977 model year would provide the maximum protection of the public health from HC and CO emissions from those vehicles that is achievable with present technology." (Train, Suspension Decision, 8).

f. With respect to carbon monoxide, if the statutory standards are delayed, total CO pollution caused by automobiles will be, by 1985, double the amount called for by the 1970 Act, or half'again as great as the amount of CO currently released into the air. In areas where automobiles are basically the only source of CO emissions—downtown streets, shopping centers, garages, stadiums—the Administration's proposed delay will cause CO to be nearly twice as bad as it would be if we proceeded with the statutory standards.

Carbon dioxide in the low exposure range of 3–5% carboxyhemoglobin concentrations (CO in the blood) causes decreased vigilance or drowsiness, impairs the exercise capacity of health individuals, and exacerbates symptoms in patients with cardiovascular disease. (NAS, Senate Report, 28).

g. Hydocarbons. As with carbon monoxide, there would be similar increases in ambient hydrocarbon concentrations should the standards be delayed for five years. Should HR 10498 as written become law, there would be an additional 12 billion person-hours of exposure to oxidant levels in excess of the ambient standard that would occur in 30 urban areas of the country.

Exposure to oxidants causes reduced pulmonary function, eye irritation and, over a long period, a decrease in lung tissue elasticity. In summarizing the need for continued HC and CO controls, NAS has concluded,

"There is medical evidence that oxidants have no threshold in their adverse effect on human health . . . In the case of CO . . . the addition of any CO above background (levels) represents an additional stress on persons with heart and artery disease . . . Thus continued reduction of CO and HC emissions from automobiles will make the ambient air cleaner and incremental benefits to health will result." (NAS, Supplementary Statement to Conference Report, 11).

h. Nitrogen Oxides. Up until now, EPA has relied almost exclusively on control of HC as a means to reduce ambient oxidant concentrations. Recent testimony and studies show, however, that stringent control of automobile NO_x emissions will be necessary to attain the national primary standard (the health standard) for photochemical oxidants in 7–10 cities throughout the country. EPA has testified, "There is every reason to believe that in the future there will be a need to be a lower NO_x standard." (Clean Air Hearings, I:128).

The stress on HC control, to the neglect of NO_x (note that all proposed amendments to the statutory standards have provisions for a NO_x waiver; also, the Senate Public works Committee has made the .4 NO_x standard a "research goal" in its recent markup), has created a situation in which NO_x is being transported into suburban and rural areas, where atmospheric transformations are leading to violations of the standards in those areas (EPA, Control of Photochemical Oxidants, July, 1975, 29). NAS has also noted this phenomenon.

"There is a developing body of evidence that oxidant levels approaching, and sometimes exceeding, the Federal standard occur in some nonurban locations in the United States. The high rural levels of oxidant concentration may be related to the dispersion on a regional basis of man-produced precursor pollutants such as hydrocarbons and nitrogen oxides." (NAS, Senate Report, 9).

NO_x is responsible for the brownish haze in smog-filled air. It is a strong oxidizing agent (what air does to metal as in rust). It injures cell membranes and connective tissue in the lungs. Current research has shown subtle tissue destruction begins after brief exposures at levels only slightly above the one-hour equivalent of the current NO_x standard. NO_x contributes to emphysema and athsma, and increases susceptability to bacterial and viral infections. Most seriously, the latest evidence indicates that NO_x emissions lead to the formation, in the atmosphere, of nitrosamines—one of the most potently carcinogenic substances known. They cause respiratory, digestive, and urinary cancers, and leukemia.

6. OTHER CONSIDERATIONS

a. Air pollution control depends, of course, not only on automobile emission reductions, but limitations on other sources as well, especially stationary sources. In many areas of the country, even if all the cars and power plants were as clean as possible, air quality standards would still be exceeded. Consequently, EPA has developed other strategies—transportation controls (limitations on the use of cars by encouraging bus lanes, car pools, etc.) and indirect source controls (the siting of shopping centers, stadiums and other sources which attract cars). Automobiles are key to both these strategies, in that if cars remain dirtier longer, there are increasing pressures to resort to these more unpopular strategies in order to compensate. Additionally, EPA has been tempted to clamp down harder on stationary sources for the same reasons.

b. Accordingly, the following groups have urged that there be no delay in meeting the statutory standards: The National Governor's Conference, the National Leagues of Cities. National Association of Counties, State and Territorial Air Pollution Control Officers Association, and several others.

CONCLUSION

In the absence of any compelling evidence to the contrary—based on the availability of technology, its cost, or the need to relax the standards, there is no reason for freezing the current Federal standards for three more years, much less freezing them and then moving to the current California standards in 1980.

ARMENIAN INDEPENDENCE

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. DELANEY. Mr. Speaker, Armenia is a rugged country with cold winters and long, dry summers. Her hearty people have lived there for some 2,500 years.

Early in the 16th century, Armenia was overrun and held by the Ottoman Turks. Turkish authorities, never admitting the validity of Armenian claims for equality and justice under Turkish law, charged them with conspiracy and inaugurated an ever escalating campaign of persecution. As the world entered upon the tumultuous period of World War I, the Turks went so far as to plan a "permanent solution to their Armenian problem" and launched a plan to eliminate some 2,000,000 people through deportation, starvation, and wholesale massacres.

Several hundred thousand Armenians who succeeded in escaping the massacre of 1915 in Turkey found their way to the southern Caucasus, in the northeastern section of Armenia that had become part of imperial Russia. Inspired by Woodrow Wilson's 14 points and the clarion call of freedom and self-determination, they proclaimed Armenia's political independence of May 28, 1918. It is this anniversary we celebrate on Friday.

Armenian independence represented the culmination of a centuries old national dream. It was attained at a terrible cost and in the midst of appalling misery. Their independence stood not only for the will of the surviving Armenians to live as free men in a ravaged corner of their homeland, but was the legacy of 1 million martyred heroes.

During her 2½ years of existence, independent Armenia made notable progress. She established a democratic form of government, with a cabinet responsible to an elected legislative body. Modern schools and social institutions were founded. Refugees were housed and cared for. Then, in mid-November 1920, the Turks attacked. Armenian forces were overpowered, a large part of their country overrun. The now-Soviet bear watched the slaughter carefully from its Russian lair until the time was ripe to dictate a cease-fire. Turkish forces were forced to withdraw from large sections of the Armenian territory; the country was Sovietized. The demise of independent Armenia in December 1920 was carefully camouflaged by the creation of an Armenian Socialist Republic as one of the constituent republics of the U.S.S.R., but in reality yet another "captive nation" had been forcibly federated into the imperialistic Soviet Empire.

Mr. Speaker, those of us who have lived among Armenian-Americans as friends and neighbors know full well why the native people of Armenia will never give up their fight for freedom. Armenian-Americans have been second to none in the forging of our Republic. They have been contributing to this country's greatness since the earliest days of settlement. The name "Martin the Armenian" appeared in a ship's log at Jamestown back in 1618 and was mentioned in several other papers in Colonial Virginia in the same year. In December 1656, "George the Armenian" was awarded 4,000 pounds of tobacco by the Colonial Assembly in Williamsburg for his encouragement of the silk trade. And Armenians have distinguished themselves throughout our history—A. H. Bulbulian was coinventor of the high altitude oxygen mask, Thomas Corwin was a Congressman, Governor of Ohio, U.S. Treasury Secretary and Ambassador to Mexico Haig Shakerjian was a brigadier general in the U.S. Army.

Mr. Speaker, it has been 58 years since the independent state of Armenia was proclaimed and 56 years since she died at the hands of the Russians and the Turks. It has been thousands of years since the Armenian civilization began to flourish in Anatolia. For the more than 200,000 Armenians in the United States and their brothers and sisters scattered throughout the world, the date May 26, 1918, stands as a symbol of what their motherland had once accomplished. I am sure she will accomplish it again.

FREEDOM AWARD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. MICHEL. Mr. Speaker, on April 30, 1976, the Order of Lafayette presented its Freedom Award to Frances G. Knight, Director of the U.S. Passport Office, for her "distingiushed leadership in combating communism."

This is a high tribute to a dedicated Federal employee whose stewardship in her present position has been commended repeatedly by Members of Congress, the public and the international travel industry.

In the past the Freedom Award has been presented to Presidents Hoover and Eisenhower, Generals MacArthur, Omar Bradley, Mark Clark, and A. C. Wedemeyer, Cardinal Spellman, and other distinguished Americans.

Miss Knight has been properly credited with bringing the U.S. Passport Office out of the horse and buggy age into the jet age. She has made it one of the most efficient, self-supporting public service operations in the Federal Government. She is presently developing a further modernization of her office; a new, more efficient and secure passport document, and a system of producing it which will save the American taxpayer tens of millions of dollars.

I congratulate the Order of Lafayette in making this selection in our Bicentennial Year.

A DREAM THAT BLOSSOMED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. GILMAN. Mr. Speaker, permit me to bring to the attention of my colleagues, an American dream that blossomed.

Mr. Speaker, I rise today to pay tribute to Rabbi Dov Greenbaum, the founder and dean of the Yeshiva of Spring Valley, N.Y. On June 13, the communities of Monsey and Spring Valley in Rockland County in the 26th Congressional District of New York, will dedicate a new educational and recreational structure—the fruition of the dreams and plans of Rabbi Greenbaum.

The new facility will enhance the work of this nationally renown academy of learning which Rabbi Greenbaum founded in 1951.

The formation of this Yeshiva and its advancement is truly an American success story. Among its 1,500 graduates, there are many who have made their mark in their professions and businesses. It is appropriate that this new building is being dedicated during this, our Bicentennial Year—a time for paying homage to places of historical significance.

Spring Valley and Monsey have become known as outstanding educational, cultural centers. This is due primarily to a man who has helped transform a little-known school in a small hamlet into an institution and a community that has become famous in this country and abroad for its scholarly works.

More than 30 years ago, Rabbi Greenbaum chose this site as the home of his school. Before the founding of the Yeshiva, the Monsey-Spring Valley region was a sparsely populated resort community. Initially, there were only a few children, but the rabbi's determination, his education prowess, his indefatigable work turned the Spring Valley Yeshiva into one of the outstanding bicultural schools in the Nation. The school, with a current enrollment of over 600 students, has become a pace setter for institutions of its kind throughout the world. From throughout the United States, the Yeshiva has attracted significant numbers of young families who have chosen to relocate in the vicinity of the school. Rabbi Greenbaum's concern and activities extended into many areas of communal improvement and social development. He has earned widespread recognition and respect as an outstanding rabbi scholar, educator, and community leader.

Due to its success, the Spring Valley Yeshiva has found the need to expand and, on June 13, the school's newest structures will be dedicated. That special day has also been selected to honor both Rabbi Greenbaum and his wife for their dedicated, spirited work on behalf of Jewish education, youth development, and their community.

The honoring of Rabbi and Mrs. Greenbaum in conjunction with the dedication of this new school facility is a fitting celebration in our American Bicentennial Year—they personify the blossoming of an American dream.

RUBIN MORRIS HANAN'S GRANDSON

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. BUCHANAN. Mr. Speaker, Mr. Rubin Morris Hanan is the president of a very worthwhile organization located in Montgomery, Ala., the Alabama League of Aging Citizens, "the voice of Alabama's old people." Through this organization, Mr. Hanan performs a great service to the elderly, and to all of us, pointing up needs and problems of our senior citizens and seeking to work out solutions.

One of the delights of Mr. Hanan's life is his grandson, Rubin Hanan Lapidus, who lives in Birmingham, Ala., the city it is my privilege to represent in Congress. On May 29, young Rubin will have his Bar Mitzvah Day, certainly one of the high points of his life. Mr. Hanan has great hopes for his grandson and he expects great things of him. In fact, he believes the grandson is Presidential material.

Back on January 14, 1964, Mr. Hanan was invited by then-President Lyndon Johnson to attend a meeting of an advisory committee on poverty at the White House. Mr. Hanan and his group were waiting for the President in the cabinet room, and Mr. Hanan said he sat in the President's chair in that room just to get an idea of how his grandson, Rubin, would feel 40 years hence when he becomes President of the United States.

To Mr. Hanan's surprise, President Johnson walked in and found him sitting in his chair. Mr. Hanan was embarrassed and apologized to the President, telling him that his grandson Rubin would surely someday be a "great President" like he was.

President Johnson told Mr. Hanan, "My grandfather also predicted that I would be President."

Mr. Hanan has written a beautiful letter to his grandson on the occasion of his Bar Mitzvah Day, reminding him of his great heritage and exhorting him to become his brother's keeper as he walks life's pathways.

Mr. Speaker, I would like to share Mr. Hanan's letter to his grandson Rubin for the edification of my colleagues. Dated May 30, 1976, it reads as follows:

Master RUBIN, HANAN, LAPIDUS,
3313 Malboro Road,
Mt. Brook Birmingham, Ala.

DEAREST GRANDSON: You are on the very threshold of a thrilling milestone of your life, as on your Bar-Mitzvah Day, publicly you will chant the Day's portion of the Torah in the Sanctuary of the Temple Beth-El, and life wonders of your ancient and sacred tradition to soar beside the wings of life and to reach your destiny to the highest office in the land.

On this day you are dedicating yourself to a great heritage and a greater cause to the Torah, Ten Commandments, enduring forever to enlighten the heart, refresh the soul and give wisdom to the symbol, the symbol of Israel's gift to civilization—fixed as a seal of your eternal faith in God and humanity.

In your Magnificent House of Worship, you will put worldly cares aside and take comfort in the eternal truth of the great Eternal God. For it is in the House of God that your mind is wholly at peace, your soul finds serenity in the sacred words of the Holy Books. Your heart is healed with wisdom of the Prophets, the Kings, the ages, by immortal music as you will reverently chant in giving Thanksgiving to the Great Creator of Life.

It is a heritage that was won by the sweat, the blood and the martyrs of Israel who died with the Shema on their lips, proclaiming the unity of their God and the everlasting glory of His kingdom. Devotion to God; belief in the inherent dignity of man; faith in man's ability, through divine providence, to guide his own destiny—these are the strong ties that hold together our United States of America—the greatest brotherhood of Freedom in the history of mankind.

There you will read and chant the precepts of the sages, and timeless teaching of your forefathers that have survived the torments of the Spanish Inquisition, the Crusader's swords, the Pogroms, massacres, and the Nazi depravity triumphing over deserts of adversity to be preserved in your daily prayers and the ritual of your festivals.

Perhaps it is in the House of God that you will be more aware of the true significance of LOVE and understanding of your faith and your obligations to your parents, to your people, to your country and to God. . . Its altar has held the Jewish people together through the ages of persecution, slavery and oppression—forged into one people—a strong people—by the flame of our faith, by that flame I bequeath you a great legacy and responsibility.

Through the ages, men have believed that Heaven is upon some mountain top, or beyond the sky or at the farthest reaches of the stars. Though men have dispatched their minds to reach in far places, the longest journey cannot but bring one back to the simplest truth! That God is surely to be found within each human heart.

Yet, we have preserved through unimaginable anguish, even within the last decade. Yet, proudly and prayerfully, let the freedom people of all faiths and creeds continue their journey on the winding highways of destiny. The hope of mankind is written in the story of Exodus and the Constitution of the United States of America and their endless wandering since the dawn of history

You must confirm your awareness that you are your Brother's Keeper and this nation will stand as a source of help and haven of hope for the homeless, the poor, the sick and the wanting.

Though you may wander long through your youth, or fly to far places, the grandeur and Majesty of our Creator, the sanctity of all His Creation, and the imperishable principles of love will be eternally preserved within the walls of your heart.

The power for good is illimitable if "the Spirit of man that is in him, to the light of the vision wakes!" Not all the computers of buernetics can create that vision, or can any man-made thing, within the guidance of man.

That is your pledge and your purpose on this day of blessings—as you vow, bowing before the hands of the Almighty God and striving to be worthy of His safekeeping and guidance. You will stand as a citadel of mankind's better self, proclaiming the people's unity—yesterday, today and forever with one God and will all men—stamped across the skyways of tomorrow.

You shall carve a new Credo upon the land of the free for those who come and go across the sea—land to land—continent to continent—world to world—universe to universe—into the farthest reaches of space beyond the veil of the future.

The flaming words of our prayers and quest will never fail. Your heroic strain and stamp, whose word no man will dare to doubt.

Just remember, "Justice and Equity are like the light and the air; God made them common to all. With compassion in your soul you will journey throughout life unafraid."

Restore the flame of your faith in humanity to bear your share of the burden of humanity and to carry forward among men the sacred work of God.

You will not walk ignoble ways,
You dare not seek unworthy aims,
You cannot do a deed that shames.

May you now and through all your years,
Remain steadfast in your dedicated service
To this people and this land, and Israel
May you now and forever be prayer to us!

With God's blessings,

MEGUM and PAPU HANAN.

THE HELSINKI COVERUP

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. ROSENTHAL. Mr. Speaker, the Congress voted this month to create a Commission on Security and Cooperation in Europe. The Commission is to monitor Soviet compliance with the human rights provisions of the Helsinki accord.

The ramifications of our action have been swift. On May 12, a group of nine Soviet dissenters formed the Public Group to Promote the Fulfillment of the Helsinki accords in the U.S.S.R. The unit promised to notify foreign governments of human rights violations in the Soviet Union. The leader of the group is Yuri Orlov. Among its other members are Mikhail Bernshtam, Aleksandr Ginsberg, Aleksandr Korchak, Vitaly Rubin, and Lyudmila Alekseyeva.

Three days after the monitoring unit was formed, several KGB agents plucked Mr. Orlov off a Moscow street and drove him away for interrogation. After warning Mr. Orlov of "the inadmissibility of his antilaw actions," the KGB released him. Mr. Orlov, already fired from his job as a physicist because of dissident activities, later told reporters that the police threatened to bring legal actions against the monitoring group.

The Kremlin has bitterly denounced Western efforts to monitor its violations of the Helsinki accord—such as the congressionally approved Commission—as interference in internal Soviet affairs. The official news agency Tass has acknowledged that KGB harassment of the group was intended "to cut short Orlov's provocative activity as well as to prevent the perpetration by Orlov and persons connected with him of actions punishable by law." The Kremlin may prosecute the dissidents for the serious criminal offense of "anti-Soviet activity."

Mr. Speaker, the U.S. Government has a responsibility to these Soviet citizens. Our creation of a Helsinki monitoring commission encouraged them in their efforts. Soviet repression, moreover, is no longer an internal affair. In the Helsinki accord, the U.S.S.R. pledged itself to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language, or religion." The United States signed the accord, granting the Soviet Union considerable concessions, in hopes that the Kremlin would fulfill its human rights pledges. The American Government can by right insist that the U.S.S.R. obey its international commitments—even when they involve allegedly "internal matters." Compliance with the Helsinki accord cannot be a one-way street.

Mr. Speaker, I commend Mr. Orlov and his fellow dissenters for their courageous devotion to freedom. I wish them success in their efforts to help us monitor the Helsinki accord. And I remind the Kremlin that so long as it violates international obligations and denies its citizens basic human rights, the Soviet Union cannot expect us to supply the technological and economic assistance which it seeks.

SEVERE HOUSING PROBLEM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. McKINNEY. Mr. Speaker, 2 years after the passage of the Housing and Community Development Act of 1974 Americans find that a severe housing problem still exists. In my opinion it is the failure of HUD to produce housing units under the section 8 which is primarily responsible for this situation. Section 8 new production starts were under 3,000 units as of April 15, 1976. And while Mrs. Hills optimistically states that she has a projected target of 400,000 units, there are current reservations of less than 93,000 units. Thus my belief that the reason for these minimal supplies of section 8 funds for purposes other than new construction or rehabilitation. For example HUD proposed to use a major portion of section 8 funds—$154 million—for the refinancing of debts on FHA apartment projects. Thus, H.R. 12945, authorizes an additional $790 million in contract authority is authorized for public housing and section 8 programs. However, 50 percent of these funds would be required to be used to assist newly constructed or substantially rehabilitated projects under the section 8 and public housing program.

In addition this bill requires that $140 million must be made available for development or acquisition of low income housing projects—other than section 8—to be owned by local housing authorities.

Of particular concern to me is the plight of the elderly and handicapped in their quest for decent shelter. Thus under the section 202 program, the Banking Committee has authorized $3.3 billion to be used over the next 3 fiscal years. This increased amount will provide over 35,000 much needed housing per year for eligible aged and handicapped. I believe that this increased authorization from $2.5 billion which the administration originally requested is needed to encourage continuity of interest and effort on the part of many organizations who submitted good project applications and have elderly or handicapped members in need of decent assisted housing.

While we must pay particular attention to guaranteeing that adequate shelter is available, it is just as important that we assure Americans that they will be able to purchase the dwelling. Thus H.R. 12945 extends to October 1, 1977, the section 235 homeownership program. Under this program the homeowners must contribute at least 20 percent of his income for housing payments and HUD will subsidize the remainder. Under this provision, over $264 million in contract authority is available which could assist up to 250,000 homes.

The provisions of the Emergency Housing Act of 1975 have also been extended until October 1, 1977. This will enable eligible families to get a mortgage at below market rates and permit homeowners relief loans, for those individuals who are in a position and lose their houses due to this inability to pay their mortgages because of current economic circumstances.

I believe that a Federal program designed to reduce mortgage interest rates by 1 to 3 points can be, and has been, of important assistance to housing producers and consumers. Beyond that, we should recognize that any Federal assistance to local governments, whether it be in the form of general tax relief or specific aid for such land improvements as roads, sewers, and utilities will reduce the cost and price of housing.

I would urge expansion of the "tandem" program and implementation of a program of direct, low interest, Federal loans to State housing finance agencies—"rolled over" into low-rate mortgage loans—as a means of insuring the availability of below-market rate mortgage loans. I would also recommend a major expansion of Federal community development loans and grants to States and/or local communities. To the extent that State or local public authorities can assemble and/or develop land at relatively low cost, some element of the cost of housing production will be reduced.

Therefore, I support not only the community block grant amendments which allocate $200 million of the existing community block grant authorization for fiscal year 1977, but also the supplemental community block grant program. This new provision permits the Secretary of HUD to authorize additional grants to any State, city, or county that has a rate of seasonally adjusted national unemployment for the most recently ended calendar quarter which ended 3 months before the beginning of such calendar quarter exceeded 6 percent. This means that cities and counties experiencing high rates of unemployment and serious fiscal problems as a result of adverse economic conditions will be provided with extra funds which could possibly divert the fiscal collapse of our urban areas.

As ranking minority member of the Economic Stabilization Subcommittee of the House Banking, I am pleased that this countercyclical measure has been included in the Housing Act. I believe that the strides which we make in providing housing for all Americans greatly benefits this Nation, not simply because we are providing much needed shelter, but because these homes increase the tax bases of our communities, increase employment, and help to keep our cities safe and decent places to live in.

We must be sure that our housing policies pay close attention to the accelerating economic deterioration of the major cities of the Northeast and Midwest. This economic deterioration will, inevitably, have adverse effects on the quality of life, and on the quality and price of housing available in and around major Northern metropolitan areas. The Federal Government can and should slow that process of deterioration. Sophisticated use of Federal revenue sharing and of community development block grants, and national programs of income maintenance and health insurance—instead of State/local welfare and medicaid programs—can help local governments help themselves in improving their environments, reducing taxes, and extending services.

Therefore, Mr. Speaker, I urge my colleagues to support this Housing Authorization Act of 1976, as a means of providing the availability of decent housing which in turn will enhance the quality of life for all Americans.

NATIONAL FLOOD INSURANCE PROGRAM

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mrs. FENWICK. Mr. Speaker, I include the following letter:

City of Minot, N.D.,
May 10, 1976.

Hon. Millicent Fenwick,
1610 Longworth House Office Building,
Washington, D.C.

Dear Congresswoman Fenwick: I am writing to you as a member of the House Committee on Banking, Currency, and Housing because I understand that we share a mutual interest and concern: Namely, the National Flood Insurance Program and its future.

As you may imagine, after a string of floods that have battered us for 5 of the past 8 years—after an absence of such disasters for about 65 years—we in Minot consider ourselves involuntary flood disaster experts. We know what such catastrophes mean in terms of danger to and disruption of lives and serious loss of property. Not surprisingly then, ours was among the earliest communities to join the National Flood Insurance Program and we have since been repeatedly glad that we did so. For, while this program does not prevent floods, in the short run, it does, at least, make damage to property reimbursable and therefore less onerous, without the sometimes humiliating aspects of federal disaster relief. And hopefully in the future as the program's flood plain management provisions take hold, flood damage will be reduced as wise and responsible development and the use of flood plains replaces their unrestricted and sometimes unwise utilization.

From the recent stand that you took in your committee by attempting to prevent a weakening of this program, I believe that you share our views.

For whatever help and use it may be to you and the flood program, let me say that I feel I speak for all Minoters when I assert that, in the wake of our latest calamity, we are happy with and in full support of the National Flood Insurance Program as it now stands and we would be extremely unhappy about and in total objection to any attempts to water it down.

You may be sure that we will convey these views on to our own legislators.

Sincerely,

John E. Arnold,
City Manager.

AFL-CIO SPEAKS OUT ON FULL EMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. HAWKINS. Mr. Speaker, it pleases me to call to the attention of the Members this statement on full employment issued by the AFL-CIO executive council. They express their full support for H.R. 50 and S. 50, and they refute several of the attacks levied against these two bills. The statement deals with planning, inflation, private versus public sector employment, and the need for coordination of many programs to achieve goals set in the legislation. The statement, released May 19, 1976, follows:

Statement of the AFL-CIO Executive Council on Full Employment

The Full Employment and Balanced Growth Act of 1976, H.R. 50 and S. 50, has the full support of the AFL-CIO. It meets the nine essential principles for full employment legislation endorsed by this Council at its February meeting.

It is reasonable, realistic and achievable legislation. We believe it can be enacted into law this year.

From the moment the revised Humphrey-Hawkins bill was introduced it has been viciously and falsely attacked by the President, congressional conservatives, some editorialists and others who have always opposed efforts to achieve general prosperity rather than more wealth for a chosen few.

The most common attacks and the facts are:

Attack No. 1—The bill sets up a "planned economy."

The Facts—The Humphrey-Hawkins bill calls for planning for economic growth—not for a planned economy. The bill does not authorize anything that is not already in law. Rather, it provides a procedure and process to coordinate existing governmental functions to achieve a goal of full employment, At present, the Administration plans fiscal and monetary policies that create unemployment. The Humphrey-Hawkins bill would require the government to plan for full employment.

Attack No. 2—Full employment is inflationary.

The Facts—Those who use this charge are those who told the American people that high unemployment would reduce inflation. They have been wrong for seven years and they are wrong now.

Every time that the economy has approached full employment in the past 25 years, inflation has been far more moderate than it is today.

As a matter of fact, unemployment was 3.4% and the inflation rate was only 4.2%, when the present economic policies were imposed. They caused double-digit inflation and double-digit unemployment.

This inflation does not fit the classic definition of too many dollars chasing too few goods. Instead, there is a tremendous amount of slack throughout the economy. Nearly 30 percent of this nation's industrial capacity lies idle, driving up unit costs that would be reduced through more efficient production.

There are procedures in the bill to curb inflation, which we doubt will ever become necessary. However, many actions that could be taken to encourage economic growth and increase employment are, of themselves, anti-inflationary. For example, lower interest rates to stimulate housing construction would also reduce the monthly payment cost for houses, thus reducing this inflationary cost item.

Attack No. 3—Full employment means a "government job for everybody."

The Facts—The Humphrey-Hawkins bill is primarily a private sector bill. First, jobs would come from the private sector because the economy would be healthier and the private sector could expand once more.

Second, if additional government stimulus to the private sector is needed, the bill provides for it. For example, a public works program would mean that private contractors would be put to work and they would purchase supplies from private companies, who, in turn, would deal with other private corporations.

Finally, if these efforts were not successful, then the government would become the "employer of last resort." But, again, these jobs would not be primarily federal government jobs. Rather, they would be, for the most part, jobs with states and localities, providing essential services to citizens. Special programs would be encouraged for minorities and youth, traditionally the hardest hit by unemployment.

Attack No. 4—The Humphrey-Hawkins bill would require a monolithic government program.

The Facts—The Humphrey-Hawkins bill sets a goal. Then the President, the Congress and the Federal Reserve are required to develop fiscal and monetary policies and specific programs to achieve that goal. No single program is mandated because achieving the goal of full employment will require intelligent planning and the cooperation of the government, industry and labor.

The goal of full employment is one that all segments of society should agree on, because everyone will benefit. There should be full public debate and discussion about the goal and methods for achieving it, but phony attacks and heated campaign speechmaking are not conducive to rational decision-making.

We call on both the House and the Senate to bring H.R. 50 and S. 50 to the floor for a vote as soon as possible, so that America can set its goals for the next 100 years on the foundation of full employment, full production and a balanced economy.

EXTENDING THE DELIMITING DATE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. DOWNEY of New York. Mr. Speaker, recently I testified before the Subcommittee on Education and Training of the Veterans' Affairs Committee. My testimony follows:

STATEMENT OF THE HONORABLE THOMAS J. DOWNEY

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear before you today and to present the case for extending the delimiting date for veterans educational benefits. Also, I speak for many of our colleagues when I commend the Subcommittee for scheduling these three days of hearings. Once we conclude our discussion later today, I hope we are able to translate words into action before May 31 so that thousands of veterans and their families will be spared further disruptions in their lives and career plans.

The question before this Subcommittee is whether or not we are going to allow thousands of veterans to complete their educations under the GI bill. I think we should not only allow them this course, but we should also encourage it. The benefits this country has received from the three GI bills since World War II should not be measured in dollars alone, yet standing alone the numbers are impressive. Since 1947 we have spent about $33.6 billion to train approximately 15.8 million individuals in a variety of disciplines and skills. The return on this massive national investment has been from 3 to 6 dollars for every one dollar spent on veterans education. We stand only to gain by continuing that investment.

Current law provides that education benefits will expire on May 31, 1976 for all veterans who were discharged from the service before June 1, 1966. You have before you several bills, including one of mine, that would remove this time limitation entirely. Others would extend the limit for varying numbers of years, and even then with other requirements attached. I think our immediate and short-term response, given time and budget process considerations, should be to extend the delimiting date for one year. During that grace period, this Subcommittee should then consider more comprehensive legislation that would respond fully to veterans' educational needs.

An oft-stated argument against extending these benefits is that ten years should be long enough for anybody to set their affairs in order or to "readjust" to civilian life. The members of this Subcommittee will remember that originally under the current GI bill, only eight years were alloted in which to use the benefits. Two years ago the Congress agreed that veterans should be given additional time. I contend here, that sociological and economic factors have combined in our recent history to render even the 10 year limit unreasonable.

Consider, for one, the fact that until very recently the Selective Service exempted those young men who were able to pay the costs of a college education. As a result, the draft pool contained a disproportionately high number of individuals interested and able to attend college but without the means to do so. These are also the individuals who, upon leaving the service, were forced to take the first available job just to stay alive. Often these jobs were low-skill, dead-end, or even temporary in nature. The responsibility was particularly acute if they had had dependents to support during their service period. Some acquired dependents after the service, further delaying education plans. Such veterans had no choice but to defer college until certain financial and familial responsibilities were settled first.

Also, and perhaps surprising to those of us deeply involved in veterans legislation, some veterans were unaware that they were eligible for benefits. It was not until 1972, well into the entitlement period, that the Veterans Administration began its outreach efforts informing veterans of what programs were available to them. A veteran who learned only then that he was eligible had extreme difficulty in completing college before time simply ran out. Most veterans in this category had to spread out classes over several years during summers, evenings or on a part-time basis.

We have to keep in mind that it was not until 1972 that many married and employed veterans found it economically feasible to attend college. In that year, benefits broke the $200 per month barrier for a single veteran. A veteran with two dependents could expect nearly $300 per month. These subsistence payments for the first time allowed the veteran with no resources other than his job the opportunity to utilize his benefits. But by then he very likely had only four years left. Two years later the country slipped into a recession from which it is only now emerging. The veterans who were struggling with tuition payments and a job from which they were trying to advance, suddenly found themselves without the job. They had no recourse but to suspend education for the time being—forced into using up their entitlement period.

There is ample evidence of these very compelling circumstances in my district in Suffolk County, New York. As of March, the unemployment rate was 8.8 per cent, down from 9.7 per cent at the beginning of the year. Of the 66,900 veterans in our two-county area, fully 11,000 were enrolled in a single educational institution pursuing degrees in business administration, science, and technology. Other schools in the area also have high veteran enrollments. As a result of New York City's financial crisis, hundreds of the city's firemen and policemen living on Long Island were laid off. Many of them are also veterans who are now trying to augment their skills to become more saleable in the labor market. They are being rudely awakened as they try to make use of their education benefits. Some who may have planned on obtaining only associate degrees to speed advancement with their employers, now find that a full four-year bachelor degree is necessary to find new employment. A jobless veteran with a family will find it difficult to pay tuition unless we help him. Others who had accumulated several college credits knowing full well that after this May they would lose benefits, did not also know that they would lose their jobs. It is one thing to pick up tuition costs after the government leaves off if a weekly paycheck is coming in. It is quite another if it is not. I do not want the task of calculating the years of night school and summer school wasted because there was no money to reach the degree at the end of the tunnel.

The general economic downturn has affected the construction industry on Long Island most dramatically. There are as many construction workers drawing unemployment benefits as there are in all other industries on the Island. The electricians, for example, have fewer than 40 percent of their membership working. One means of easing the situation, not of the industry in general, but of the individual in particular, is to provide him with advanced or other skills that our increasingly competitive job market requires. Sustained unemployment levels in a particular industry such as aviation, also in my district, may persuade a veteran to start an entirely new career. He will need the GI bill to help him. I would rather pay an eligible veteran education benefits than unemployment compensation.

An extended delimiting date will help veterans in affected industries over the hump of technological unemployment. Some who did not take advantage of their benefits at first because they already had a skill or trade have now found their skills obsolete, or soon to be so. Additional training under the GI bill is necessary to keep them on the job.

It is extremely important, I think, to prevent our distaste for the Vietnam experience from adversely affecting our treatment of Vietnam veterans—particularly those who served in the earlier years of that war. These men were the first of our war veterans not to be the recipients of a universal respect and admiration from the American people. Employers did not welcome them back with open arms and job offers as in the aftermaths of World War II and the Korean War. The returning vet had to cope with a nation not wanting to be reminded of a war in which he had risked his life. Perhaps that is the reason unemployment among veterans who served between 1966 and 1972 is higher now than at the time of their separation from the service.

Surely the ramifications of the nature of the Vietnam War form a convincing argument for a longer "readjustment" period to civilian life. I think it is ironic that under current law a post-Korean War, non-combatant veteran has up to 21 years of eligibility, while most veterans who fought in Vietnam have less than half that time. It is also interesting that of all the war veterans, those who served in Vietnam have tried to make the most of their GI bill benefits. Fully 58 per cent of all Viet-vets have participated in the program as compared with 43.3 per cent of Korean War veterans, and 50.5 per cent of all World War II veterans. Their obvious willingness to work and desire for self improvement should not be denied now.

Let us not forget that Vietnam veteran in our rush to forget Vietnam.

Mr. Chairman, I contend that while it has been argued that educational assistance was not intended to be a continuing benefit, the consequences of having served in the armed forces *do* continue, whether we like it or not. Especially if that service was in wartime.

I recognize also, Mr. Chairman, that a simple one-year extension of the delimiting date is not enough. I think the best response is to eliminate the time limits altogether. The GI bill also has to stop giving preference to four-year academic institutions, so that vets interested in vocational or technical training will be better able to attend two-year programs. My accelerated payments bill, for example, would answer that problem. But the first thing we have to do is act before the end of this month.

Otherwise, veterans across the country will be picking up the pieces of their shattered dreams on the first of next month.

Every Member of Congress has received mail from veterans on this issue, and I have received my share. The letters are of all types—some consisting of only a few lines, and others tell a story of sacrifice and disappointment. I think it is much more persuasive to hear the case for extending the delimiting date from the veterans themselves. Accordingly, I include here four letters from my constituents that point out many of the aspects of the matter before us today. I have yet to hear an argument more convincing than is expressed in these letters:

APRIL 22, 1976.

To: Congressman THOMAS DOWNEY.
From: James Lubrido, 175 Grand Blvd., Brentwood, N.Y.
Subject: H.R. 11924; lifts all restrictions of time on VA educational benefits.

DEAR SIR: There are two bills in Congress but I favor the above and I can assure you the majority of us veterans do. Please support this bill in every way possible you can, and stop the cut off which will be enacted May 31, 1976.

I am a veteran of ten years service in the Armed Forces with an honorable discharge: May 22, 1966. It has always been my utmost desire to pursue my education in College. But being a family man and through a series of job changes and work shifts, I was unable to arrange my schedule in the allotted time limit.

However, I was finally fortunate enough to use my VA Benefits last February. Sir, I have waited so long for this opportunity and to me it is of utmost significance, and it is the turning point I've longed and waited for; I am very sure it is to all other Veterans too.

Please gather all your powers and help support this bill for the sake of Common Good. Enlighten the President of the United States *not* to veto this bill: H.R. 11924; which lifts all restrictions of time on VA educational benefits.

More Power to you sir, and have a nice day. From all of us veterans, I'm sure.

Very respectfully yours,

JAMES LUBRIDO.

BAY SHORE, N.Y.,
March 22, 1976.

CONGRESSMAN DOWNEY: I enclose my support for extension for GI Bill No. 4678 for Korean vet education. A couple of years ago, back in 1957 when I got out of the naval reserve, I was never told about VA benefits, unfortunately for me last year, 1975, was the first I applied for such benefits. It is a shame that I still have 38¼ months benefits still due, but cannot collect due to expiration of the GI bill in June 1976. I fully support this bill, because it gives me the opportunity to expand my education, also it has assisted me to the point where I did not have to file for bankruptcy. Should the GI bill not be extended, I shall be forced to file for bankruptcy because of the economic conditions I lost my part time job, but found out about the GI bill which at that time saved me from bankruptcy.

God bless you.

JOHN MATHYS.

NORTH BABYLON, N.Y.,
April 30, 1976.

Hon. THOMAS J. DOWNEY,
Longworth Building,
Washington, D.C.

DEAR SIR: As a constituent of yours I am writing you at this time to urge you to support legislation what will extend V.A. education benefits for those veterans discharged between Jan. 31, 1955 and June 1966.

I have been attending night college and collecting V.A. education benefits for the past year-and-a-half. With the present economic crunch and trying to raise three children, pay a mortgage and meet other financial obligations I would find it impossible to continue my education without V.A. education benefits. I would be forced to seek part time employment to help support my family rather than continue my education.

Please answer this letter and let me know your opinion on the possibility of extending V.A. education benefits mentioned above.

Yours truly,

JOHN H. MCKEEVER.

LINDENHURST, N.Y.,
March 7, 1976.

DEAR CONGRESSMAN DOWNEY: I am writing this letter to express my concern over the apparent lack of interest being shown the veterans benefits bills pending in Congress. For many veterans their schooling benefits are coming to a halt as of June 1, 1976, which will put a large strain on their finances to finish their college educations. Many will have to face the realization of not continuing until financially able.

Also, it has come to my attention as I know it has come to yours that many laid off civil service employees and others out of work veterans are dependant on the government education checks for their college endeavors as income and have kept them from applying for welfare. In my own case, I am facing the possibility of early retirement at age 34 from the Transit Police Department due to medical reasons and have been going to college for the past 2 years in anticipation of this, so I would be able to continue working in a less physical profession to supply my family with the same living standard they have enjoyed in the past.

I feel that passage of the bills would be in the best interests of the veterans and the State and Federal government, in as much as it will keep them off public assistance and enable them to better themselves through education. Any influence you can assert on this subject would be gratefully appreciated personally and by a vast amount of fellow veterans. Thank you for your consideration.

Sincerely,

Mr. JOSEPH SCEZA.

A FEW RANDOM OBSERVATIONS ON VOTERS AND PRIMARIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. HAMILTON. Mr. Speaker, "I don't think Government is fair to the average person."

"It does not make a dime's bit of difference which party or which candidate wins."

"Most of the people running the country today are a little crooked."

"Government is just not responsive to the interest of the common folk."

"The trouble with Government is that elected officials have lost control over the bureaucrats, and the bureaucrats are running things."

"Government is run for the big boys It leaves the average American out in the cold."

These are a few of the comments I have heard about Government during recent trips to Indiana. Needless to say, a Congressman, of whatever political persuasion, does not hear these comments with any joy in his heart. It is apparent to me that people are not satisfied with the performance of Government and they want a Government that works better. Their lack of confidence in the Government may be the most fundamental issue of the 1976 campaign. Since all the polls indicate the alienation and cynicism of the average voter toward politics and Government, one question those of us in public office should focus on during this election year is: what kind of specific steps must be taken to assure that Government works better.

This has been an astonishing political year, probably the most fascinating one in decades. If I had been told a few months ago that the Democrats would produce a front runner for the Democratic nomination for President in May and before the Republicans did, I simply would not have believed it. Both the Republican and Democratic Presidential campaigns seemed to be heading into a rout at different points in the last several months, but now appear likely to remain unresolved for several more weeks. At the moment it appears as if Jimmy Carter has a formidable, though not necessarily unsurmountable, lead for the Democratic nomination, and President Ford is in a fight for his political life.

Even with the rhetoric in the Presidential campaign about the Panama Canal and world military superiority, my impression is that the voters this year are concerned chiefly about the domestic problem and not foreign policy questions. I would rank the problems voters are interested in this way; Inflation, unemployment, dissatisfaction with Government, and crime.

Unfortunately, a familiar characteristic of American elections is that a lot of people do not think it makes any difference who wins the Presidency in November. Both voters and nonvoters are expressing distrust and distaste with politics and politicians, but I note a big difference between them: The voter who says it does make a difference who wins the Presidency and the nonvoter says it makes hardly any difference at all.

Ask most Hoosiers what they want in an elected official and many of them will mention honesty and integrity first. Then they want officials who are responsive, that is, officials who are fair, open, concerned, and willing to listen. Many other Hoosiers stress effective leadership, but usually after the other two qualities.

I am disturbed with the number of people who feel they have worked hard, lived within the law, struggled to get ahead, but feel that they have not gotten any breaks and that those in power have flourished at their expense. These people have a sense of moral outrage, a feeling of betrayal. Many feel cheated out of the value of their money by inflation. Those persons without jobs think they have been given a raw deal, and those who pay their taxes feel they have to pay more than their fair share because many do not pay enough taxes.

The attitude of the voter toward Government continues to puzzle me. If you ask a Hoosier whether he prefers a smaller Federal Government his answer invariably is yes. There obviously is a strong feeling among voters that Government is to big, too expensive and too inefficient. But at the same time many voters have a long list of things they want the Government to do, in areas like health, education, and the environment. Most of the criticism centers on how Government is run, not whether the functions of Government are needed.

The voters are saying to those of us who are candidates to level with them, to be simple, honest, and straightforward. One friend of mine said:

> I want candidates with no demagoguery, no platitudes, no cliches. All I want is a candidate who will tell me how he is going to spend my money, how he is going to raise it, and how he is going to make government open, honest and efficient.

I believe people want to be assured about the future of their country. They are still proud of America, but too much has happened in recent years to shake their confidence. They want very much to be assured that their leaders are honest people genuinely trying to cope with the problems and that the system, although not without fault, works reasonably well.

SWINE INFLUENZA STATEMENT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. WAXMAN. Mr. Speaker, in response to President Ford's request that $135 million be appropriated for a mass immunization program against the dread swine influenza which presumably looms large on the 1976–1977 horizon, Congress acted expeditiously on the necessary legislation. While I supported such action, I now urge my colleagues to maintain a watchful eye on the administration's implementation of the program.

Much has appeared in the past few weeks in various papers and scientific journals, including Science and the New England Journal of Medicine, which raises some skepticism about whether or not we should proceed to implement a mass immunization program against Swine Influenza-A/New Jersey this year. They argue that they have seen no compelling evidence to suggest with any assurance that there will, in fact, be an epidemic of swine influenza during the next flu season.

The first stages of the implementation of the program have already begun. The recently developed vaccine is being tested on volunteers. Within a short period of time, we shall know the proper dosage recommended for various age-groups, the elderly, those with respiratory diseases, children, and the general adult population. The clinical trials will also provide information and data on the nature and extent of adverse reactions. Presumably, we shall also learn the nature of contra-indications. Thus far, we have been informed that persons who are allergic to eggs should not be vaccinated. Controversy centers on whether or not pregnant women, infants or children under the age of 5 to 16 should be vaccinated. These clinical trials, hopefully, will provide some answers. But, they will not answer the most important question raised by skeptics of the program—is it necessary?

A recent article in Science concludes with the following:

> Health officials won't know until next fall or winter whether a large outbreak of swine flu actually occurs. If it does, they will look prescient. If not, the grumblings may be expected to rise, especially if those who have been vaccinated against swine flu come down with some other flu strain against which the vaccine provides no protection.

Philip Boffey in the article which follows explores the controversial questions which remain unanswered. These include: First, what is the probability that a swine flu epidemic will occur during the 1976–1977 season? Second, what do we know about the death of the recruit at Fort Dix? Third, can we assume that the recruit's death was due to a virulent strain of swine influenza? Fourth, how virulent is the swine strain isolated at Fort Dix? Fifth, have there been any additional cases of swine flu in other parts of the country? Sixth, what are the possible options for proceeding in light of the controversial aspects of the proposed mass immunization program?

Many of us who have supported anti-swine flu vaccine campaign have done so on the administration argument that it was better to be safe than sorry. This is not to say that we do not retain a continuing concern that this program should go forward as originally planned. It behooves us to keep informed, continue congressional oversight of the swine influenza program, particularly during its investigational/clinical trial state, and provide an ongoing forum for airing the controversial issues so that the administration and the public will be assured that we are acting in a responsible manner.

The article follows at this point:

[From Science, May 14, 1976]

ANATOMY OF A DECISION: HOW THE NATION DECLARED WAR ON SWINE FLU

Late on the afternoon of 24 March, President Gerald R. Ford appeared before White House reporters to discuss "a subject of vast importance to all Americans"—the appearance of a new strain of flu. A month earlier, scientists had discovered that Army recruits at Fort Dix, New Jersey, were infected by "swine flu virus." One of them had died. The last time an outbreak of swine flu appeared in the United States was in 1918–19 when, the President told reporters, "a widespread and very deadly flu epidemic" killed 548,000 Americans of all ages. The 1918 epidemic was really a pandemic; in successive waves, swine flu swept around the world, leaving 20 million persons dead. It is said that the pandemic killed more individuals in a short period of time than any other catastrophe in history.

After consulting with his top health advisers and virologists from throughout the country, Ford was concerned about the "very real possibility" of a dangerous epidemic in the United States next fall and winter. To head off this threat, the President announced that he would ask Congress to appropriate $135 million right away to buy enough vaccine to inoculate "every man, woman, and child in the United States."

This would be the largest immunization campaign ever launched in this country, far more ambitious even than the polio immunization drives of the 1960's. Then, about 100 million Americans received polio vaccine during a period of a year and a half. Ford was launching a campaign to vaccinate twice as many citizens in a matter of months. Officials said that all his health advisers thought it was the right thing to do. Ford even had Jonas Salk and Albert Sabin, heroes of the successful polio campaign, by his side to lend their prestige and support.

Sabin acknowledged that the decision to vaccinate America was based on anything but absolute certainty. He said that nobody was sure there really would be an epidemic next fall or that the swine flu virus of 1976 is really as lethal as the one that was around in 1918. It was only a matter of days before others began asking questions about the wisdom of the President's decision. What is clear now is that there are as many uncertainties as certainties about the "very real possibility" of an epidemic.

In an effort to dissect the process that led the President to declare war on swine flu, Science interviewed most of the major participants. Many of them supported the vaccine campaign on the grounds that there is little to lose, that it is better to be safe than sorry; but even conservative gamblers are betting that the odds there really will be a serious epidemic are less than 50:50. What is evident from an analysis of the decisionmaking process is that once the "stop-the-flu" bandwagon got rolling, it had too much momentum to be brought to a halt and it was easier for advisers, in and out of the government, to vote yes rather than no on the question of going ahead.

It was only after the President's surprise press conference that grumbling and second-guessing were heard. Then there were complaints that the Administration had overreacted and launched a massive campaign on flimsy evidence of hazard. People accused the Administration of using "scare tactics" to sell the program and predicted that it might be a wasted effort in any case because flu vaccines have been notoriously ineffective in preventing epidemics in the past.

Soon Washington was buzzing with rumors that the campaign was a political ploy to bolster Ford's chances for reelection during the flu season next fall, or that it was engineered by vaccine manufacturers who saw a chance to make enormous profits, or that the Army had somehow orchestrated the drive in the belief that a national campaign would divert attention from health problems at Ft. Dix.

In reality, the forces behind the campaign are probably far less Machiavellian. The decision was primarily triggered by David Sencer, director of the Center for Disease Control in Atlanta, after exhaustive consultation with other government health officials and scores of outside consultants, mostly serving on advisory committees to the Center for Disease Control, the Bureau of Biologics, or the National Institute of Allergy and Infectious Diseases. "We have not found anyone who would recommend any course of action other than the President is taking," David Mathews, Secretary of Health, Education, and Welfare, asserted in what later turned out to be an overstatement.

It is not generally recognized that most of the government's own health experts believe the odds are against an epidemic of swine flu occurring next fall or winter. Incredibly enough, one flu expert who participated in most of the key decisionmaking meetings and who supports the campaign told *Science* he believes there is only a 2-percent chance of a swine flu epidemic in the 1976–77 season, though he acknowledges that the number was just plucked out of the air and that he doesn't have great confidence in it. Other experts consulted by *Science* pegged the probability at 10 percent, 35 percent, and "less than even." Those probability estimates, though far lower than the official rhetoric of the campaign would lead one to expect, do not necessarily mean that the vaccination campaign is a foolish endeavor. But they do indicate that the decision to vaccinate was a very close and calculated gamble—a judgment with which reasonable men might disagree.

FORT DIX OUTBREAK MISDIAGNOSED

One of the ironies of the vaccination campaign is that the event that triggered it—the outbreak of swine flu at Ft. Dix—was almost missed by health officials. The man who inadvertently launched the chain of events that led to its discovery was Colonel Joseph Bartley, chief of preventive medicine at Ft. Dix, who noticed an increase in hospitalizations for acute respiratory disease at the base in January. But Bartley did not realize that he had flu on his hands. He assumed he was dealing with the adenoviruses, another infective agent of the respiratory tract that has typically been a problem at Ft. Dix shortly after soldiers report in after the Christmas holidays. Bartley's assumption was reinforced when an Army laboratory isolated adenovirus 21 in specimens taken from soldiers at the base.

As the hospitalizations mounted, Bartley called the county health officer to alert him that the presumed adenovirus outbreak might also affect civilian populations nearby. The county officer in turn alerted state health officials who became dubious that adenoviruses were the problem. According to Martin Goldfield, director of public health laboratories for New Jersey, the explosive spread of the infection at Ft. Dix (hundreds were hospitalized), the symptoms of the victims, the presence of influenza in other parts of south Jersey, and other factors all led him to suspect that Ft. Dix was actually suffering from an outbreak of flu. He therefore called Bartley and asked him to send over some throat washings from the victims and, sure enough, they contained flu virus. Of 19 specimens sent to the New Jersey laboratory on 29 January, 11 were found to have isolates of the A/Victoria strain of flu—the strain most prevalent in the country—while another 3 had isolates of an A strain of flu that could not be identified with the testing agents available at the state labs. These were sent to the federal Center for Disease Control in Atlanta, where they were characterized on 13 February as a form of swine flu virus.

Had this chain of events been initiated just 1 week later, Bartley speculates, the outbreak of swine flu would most likely have gone undetected. Indeed, when Army doctors took throat washings a week after collecting their first specimens, they found no swine flu. The new strain had disappeared while the A/Victoria strain remained dominant. Sending the washings to Goldfield's state laboratory rather than through Army channels may also have been a critical move. "The Army laboratories are not set up for influenza," Bartley observes. "They probably would have missed it."

The abrupt appearance and disappearance of the swine flu at Ft. Dix has provided ammunition for both sides in the debate over the vaccination campaign. Those who favor the campaign suggest that there may have been similar small outbreaks elsewhere that have gone undetected, that these outbreaks may be "seeding" the population with the swine virus, and that the virus may be on the verge of exploding into a pandemic.

Those who oppose the campaign suggest that such undetected outbreaks may have been occurring for years without leading to a pandemic. The unique thing about the Ft. Dix outbreak is that, for the first time, scientists have detected two radically different flu viruses circulating in the same population. But they are uncertain whether they are witnessing the first steps by which a new strain (the swine flu) begins to replace the prevalent strain (A/Victoria) or whether they are witnessing evidence that the swine flu lacks the ability to compete successfully against other flu strains. If the latter is true, there may be little to worry about.

Scientists also are uncertain about how virulent the swine strain really is. The virus has been stigmatized as a "killer" in part because of the analogy to the virus that helped slaughter so many millions in 1918–19, and in part because a recruit who died at Ft. Dix was found to have swine virus. But the health significance of that single death can be disputed. Bartley states that the recruit, who was seen in the dispensary and then assigned to his quarters for 48 hours, left his bed before then to join a forced march at night with the other recruits. He began to lag behind, took frequent rests, and eventually collapsed, whereupon he was rushed to the hospital and died shortly thereafter. Bartley speculates that if the recruit had stayed in bed, he'd be alive today. He also suggests that if the recruit had suffered from the Victoria strain rather than swine flu, he might also have died on the forced march. State health official Goldfield also scoffs at the notion that swine flu is a proven killer. He notes that the Victoria strain killed a dozen people of varied ages in New Jersey without attracting the notoriety of the swine flu, which was implicated in only one death.

As for the analogy with the 1918–19 catastrophe, many experts believe that has been vastly overdrawn. They note that the 1918–19 pandemic was exacerbated by conditions peculiar to the time. Overcrowding in military camps and widespread troop movements provided ideal conditions for propagating the disease around the world, and there were no antibiotics available in those days to combat secondary infections, such as pneumonia. Moreover, while the swine virus at Ft. Dix is considered antigenically similar to the virus believed prevalent in 1918–19, it is not identical and may not be as virulent. Indeed, the swine flu patients at Ft. Dix had symptoms no worse than those of the Victoria strain victims—perhaps even somewhat milder. That does not mean the swine virus might not mutate and become more virulent, but there is nothing in its record so far to justify calling it a particularly severe "killer."

Although the specter of 1918 has been raised to rally political support for the program, most experts involved agree that the vaccination campaign is not premised on the fear of another 1918 catastrophe. Rather, it is based on the notion that the swine flu might be the next pandemic strain—following on the heels of the Asian flu of 1957 and the Hong Kong flu of 1968. These strains were damaging enough. The Hong Kong pandemic of 1968–69 afflicted more than 50 million Americans, was blamed for some 27,000 excess deaths, and cost an estimated $3.9 billion in medical care, industrial absenteeism, and the future earnings of those who died.

Even before the swine virus had been isolated from the Ft. Dix specimens, the Center for Disease Control, which monitors virus outbreaks nationwide, realized that it had a new strain of flu on its hands, so it hurriedly called a meeting in Atlanta on 14 February. The situation was deemed urgent. Scientists had been predicting another flu pandemic for the late 1970's because previous pandemics had occurred at 10- to 12-year intervals. Some had even predicted that the next pandemic strain would be a swine virus, based on a theory that previous pandemic strains reappear in a cyclic fashion when the population they originally infected dies out and the bulk of the remaining population lacks antibodies to the flu virus in question. Few Americans under 50 have been exposed to swine flu virus.

Those who attended this first meeting included officials from the Army, New Jersey, and the three federal agencies most concerned, namely the Center for Disease Control, Bureau of Biologics, and National Institute of Allergy and Infectious Diseases. By the time of the meeting, the virus at Ft. Dix had been identified as a swine virus. All present agreed there should be a major effort to determine the extent of the outbreak at Ft. Dix and whether there had been similar outbreaks elsewhere.

THE HUNT FOR MORE CASES

The investigation at Ft. Dix, conducted largely by the Army itself, convinced most specialists that the outbreak had been fairly extensive, if short-lived. In the final tabulation, five cases were unequivocally identified as swine flu by virus isolation. Another eight cases were almost certainly identified as swine flu because the patients showed an increase in swine antibody levels in two successive blood tests. And a screening of single blood readings from a large sample of recruits found hundreds with high concentrations of antibody to swine flu (much higher than their civilian counterparts of similar age), most of these were concentrated in companies in which other cases of swine flu had been positively identified. Some purists contend that a single blood sample proves nothing because it cannot show that there has been an increase in antibody in response to the virus.

But most experts believe the totality of the evidence demonstrates that more than 500 individuals were infected at Ft. Dix and that the virus spread from human to human (because most of the recruits had no contact with swine and many had not been off the base in some time). Although there have been isolated civilian cases that might conceivably have involved human-to-human transfer, the Ft. Dix episode is the first well-documented evidence that the swine virus may possess the capability to spread through man.

The hunt for similar outbreaks elsewhere in the country turned up nothing definitive, however. There had been isolated cases of swine flu infection in Minnesota in 1974 and Wisconsin in 1975, and the new hunt found cases in Virginia, Mississippi, and Pennsylvania. But in most cases, people probably caught the virus from pigs, and there was nothing on the scale of the Ft. Dix outbreak.

That left public health officials in a quandary. Was the episode at Ft. Dix a freak occurrence? Or was it a forerunner of disaster? And complicating the picture was the fact that decisions had to be made quickly if there was to be enough time to manufacture, distribute, and administer a vaccine.

The nationwide hunt for cases was not even complete when the Bureau of Biologics hosted a workshop on 20 February to get government, industry, and university investigators preparing for a massive campaign *if* such a crash effort should be deemed necessary. A feeling of urgency gripped the session; 1 April was mentioned as the date by which a go or no-go decision would have to be made if industry was to have time to prepare the vaccine. Excitement—and visions of heroism—filled some minds. As Harry Meyer, director of the Bureau of Biologics, put it: "In the world I deal with every day, there are so many things you do that are not terribly interesting but which are called 'real chores.' To have a challenge of something that is a real public health interest is really stimulating."

By early March, with the flu season waning, it seemed clear that there would be little new data that could help in making a decision. Consequently the Center for Disease Control called a special meeting of its Advisory Committee on Immunization Practices on 10 March to consider the evidence and make recommendations. That group, which traditionally recommends the steps to be taken to immunize against flu, stopped short of recommending a mass vaccination campaign. It agreed that vaccine should be produced and that a *plan* for administering it should be developed, just in case, but it shied away from any statement as to whether the vaccine should actually be given to people.

The decision to go ahead was largely made by Sencer, the head of the Center for Disease Control. Immediately after the advisory committee meeting, his staff drew up an option paper from which Sencer and an aide, on 13 March, prepared an "action memo" that recommended an all-out immunization campaign. That memo said there was a "strong possibility" of a swine flu pandemic in 1976–77. It warned that the routine annual vaccination of the elderly and other high-risk groups would not halt such a pandemic, and that "a decision must be made now" if extradordinary measures were to be undertaken. After analyzing the pros and cons of various options, it recommended that the federal government buy some 200 million doses of vaccine and make them available at no cost through state health agencies. It recommended that the citizens be immunized "in three months time." The vaccine would be administered by public health doctors, private physicians, or any other appropriate source. Total federal costs were estimated at $134 million.

It was only after this memo had been delivered to higher-ups in the Department of Health, Education, and Welfare that Sencer conducted a telephone poll of members of his advisory committee to see if they agreed with the recommendation. Sencer told *Science* that the majority seemed firmly in favor of going ahead and that none objected. But the presentation of a fait accompli may have muted some criticism. One member of the group—E. Russell Alexander, chairman of epidemiology at the University of Washington's School of Public Health—told *Science* he favors producing and distributing the vaccine but would hold off administering it until there is evidence of an outbreak of swine flu.

Sencer's recommendation was approved virtually intact as it shot upward through the bureaucracy—passing through the Assistant Secretary of Health, the Secretary of Health, Education, and Welfare, the White House Office of Management and Budget, the Domestic Council, and the President himself. The decision was elevated to the presidential level, according to a Domestic Council staffer, because it required a supplemental budget request and because the massive effort would clearly require strong federal leadership. The campaign would also have political implications. Sencer's action memo had noted that "the Administration can tolerate unnecessary health expenditures better than unnecessary death and illness, particularly if a flu pandemic should occur." And it suggested that Congress would act on its own initiative, if the Administration failed to take action.

Before endorsing the campaign, the White House staged a quick meeting (less than 48 hours notice) between the President and a "blue ribbon panel" of scientists, drug industry leaders, the medical profession, public health officials, and state and local political leaders. This meeting seemed partly designed to assure the President that people outside his own Administration favored the campaign, and partly to serve as window dressing for a decision essentially made. The scientific opinions expressed at the meeting were hardly an "independent" view. The scientists who participated were picked by the federal health officials who were recommending the campaign. Moreover, the four scientists who are said to have dominated the discussion—namely Sabin, Salk, Edwin D. Kilbourne, of Mt. Sinai Medical School, and Fred M. Davenport, of the University of Michigan—are all strong proponents of vaccination. At the end of the meeting, the President waited only a few minutes before making his announcement to the press, suggesting that he had not taken much time to evaluate what he had been told.

FORD'S DECISION INEVITABLE

A Domestic Council staffer later described the flu campaign as "a no decision decision—once the issue is discussed it takes care of itself." Faced with the possibility of an epidemic that could cost many billions of dollars, and offered a chance to present it through a vaccination program that would cost only $135 million in federal funds, there was little doubt what choice Mr. Ford would make, the staffer said.

Congress, too, promptly jumped on the bandwagon. There were grumbles that the White House should have consulted with congressional leaders before launching such a massive effort, and there were jurisdictional squabbles between congressional committees. But there was no significant questioning of the program. Appropriations were approved rapidly lest Congress be accused of impeding the time-urgent program.

The federal program would provide most people with a vaccine to protect only against swine flu, but a bivalent vaccine to protect people against both prevalent strains of influenza A—namely, swine and Victoria—would be made available for high-risk groups, such as the elderly and chronically ill. Those at risk could also obtain through private sources a vaccine to protect themselves against influenza B. Meanwhile, the military is expected to immunize its personnel with a vaccine designed to protect against all three strains.

It was only after the campaign had been announced that serious reservations began to surface. At least one expert believes the campaign is such a risky waste of effort that he opposes even manufacturing the vaccine. He is J. Anthony Morris, director of the slow, latent, and temperate virus section at the Bureau of Biologics and longtime critic of influenza vaccines. Morris said he sees "nothing to get alarmed about" in the circumscribed outbreak at Ft. Dix—certainly nothing to justify vaccinating 200 million people. He contends that vaccines have been largely ineffective in past epidemics, and that they cause enough adverse reactions to warrant caution before administering them. "If it were up to me, I wouldn't even start making the vaccine," he says. "There is no clear-cut evidence that inactivated influenza vaccines offer appreciable protection to the recipients."

Most critics take an intermediate position—endorsing the need for manufacturing and distributing the vaccine but preferring to wait until there is another confirmed outbreak of swine flu before administering the vaccine. That is the position of Sidney M. Wolfe, the head of Ralph Nader's Health Research Group, and of several state health officials, including New Jersey's Goldfield, among others. Federal health officials considered the possibility of just stockpiling the vaccine, according to Sencer, but concluded that flu typically spreads so fast it would be impossible to vaccinate people in time to do any good once an outbreak was confirmed. (It takes about 2 weeks for the vaccine to attain its maximum effect.) Thus the decision was made to vaccinate the population even if there is no evidence of an epidemic. Other federal officials say it was also deemed difficult to sell a program that involved buying vaccine but not administering it, and that it would be hard to get people geared up to carry out the campaign on a "might not happen" basis. But the skeptics are so dubious that a pandemic will occur that they are willing to take a chance that there would be time to vaccinate after another outbreak. They stress that a needless campaign of this magnitude imposes costs of its own—it diverts health manpower and money from other important tasks; the vaccine will cause a certain number of adverse reactions; and the public may become cynical about future immunization drives if this one later turns out to have been unnecessary.

The wisdom of the decision is difficult to assess. In a sense, the participants took what was probably the easiest decision under the ambiguous circumstances. The consequences of a failure to vaccinate followed by a pandemic of swine flu seemed far worse to most decision-makers than the consequences of a vaccination campaign that later turned out to be needless. "We're betting dollars against lives" became a byword of the participants. Moreover, many of those who joined the bandwagon would find a vaccination campaign congenial for professional or institutional reasons. The health bureaucrats in charge of the war would enjoy an infusion of funds into their agencies and the spotlight of public attention; the scientists would have a chance to test immunization theories and new vaccines; the drug industry would reap profits and perhaps develop a broader market for future vaccines; and the politicians could champion the public health. That does not mean that the decision-makers were primarily acting from base motives, merely that a vaccination campaign would be easy for them to adopt. By contrast, those who criticized the campaign thought they had something to lose. The Nader group, for example, acting as representative for the vaccinees, worried about side effects needlessly imposed. And the state health officials were concerned that they would have to divert resources from other important programs to administer the vaccine. Most of the critics had been left out of the decision-making.

Health officials won't know until next fall or winter whether a large outbreak of swine flu actually occurs. If it does, they will look prescient. If not, the grumblings may be expected to rise, especially if those who have been vaccinated against swine flu come down with some other flu strain against which the vaccine provides no protection. PHILIP M. BOFFEY.

MILO PASSALACQUA—KIWANIAN EXTRAORDINAIRE

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. LEGGETT. Mr. Speaker, I would challenge any of my colleagues to produce a constituent like by Milo Passalacqua of Benicia, Calif. What other octogenarian plus 10 can boast of excellent health having maintained a 50-year record on the weekly banquet circuit of perfect attendance in the Benicia Kiwanis Service Club.

Kiwanis is really just an old Indian name that does not mean much in itself, but the people of Kiwanis, representing over a third of the U.S. Congress, have given that Indian name considerable prestige and prominence.

The congressional nonattenders are not the nuts and bolts of this great Kiwanis Service Club. Rather it is the few and perhaps there is only one like Milo Passalacqua, who helped form the Benicia Kiwanis Club in California 50 years ago, and then proceeded to attend 2,600 weekly meetings. Sure the club socializes, but in moderation. One thing the club does not do in moderation is serve the people and community of Benicia. The record of this organization is found at the root of nearly every major community cause and event.

A long diet of creamed peas probably ain't too bad because Milo's health and appearance would be competitive with any 60-year-old I know. The formal celebration of the half-centennial event occurred last Friday evening in the historic Benicia Arsenal Clock Tower.

Milo Passalacqua, for a lifetime of dedication to your club and community, the Congress of the United States salutes you.

HOUSE BUDGET COMMITTEE CHAIRMAN BROCK ADAMS REPORTS ON EDUCATION BUDGET

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. ADAMS. Mr. Speaker, on May 13, the Congress gave final approval to the first concurrent budget resolution for fiscal year 1977. This resolution sets targets for congressional action on Federal spending and tax revenues for the new fiscal year beginning October 1, 1976.

Education funding has been one of the more controversial subjects of the budgetary debate between the Congress and the administration. For the last several years, the executive branch has repeatedly proposed cuts—sometimes quite drastic—in Federal aid to education. Educators have been rightfully concerned about the Federal commitment to education—particularly since President Ford's program of consolidation has advocated each year severe limitations on Federal funding of education.

When members of the National Education Association met recently in Washington, D.C., I had an opportunity to discuss education budget matters with one of the NEA national board members from Washington State, Jim McDaniels, of Spokane. Based on those discussions, I thought it might be helpful to report briefly on the congressional actions on education funding.

Establishment of the new congressional budget process by which the Congress reviews and sets limits on all Federal spending and tax proposals, was largely in response to Presidential impoundment or other budget actions with which Congress disagreed either philosophically or constitutionally. Through use of impoundments, vetoes and fiat, budget decisions were imposed by the Executive, not by the Congress as had originally been envisioned in the Constitution.

Education programs were particularly burdened by the illegal impoundment of lawfully appropriated funds. Although legal battles eventually resulted in the release of some funds, our education system has suffered as the Executive has proposed to channel money away from domestic, people-oriented programs into areas such as defense, foreign aid and tax advantages for the well-to-do ostensibly to accumulate more "capital" for our society.

Now, with the new budget process, the Congress is able to reassert its historic role as custodian of the Federal purse by taking an overall look at revenues and expenditures and responding knowledgeably to the President's budget proposals. Congress now can set its own spending priorities so they reflect the people's wishes and needs.

Yet along with the power comes an agony of choice. We are no longer acting on spending proposals in isolation, solely on their individual merits. We must analyze all programs for their efficiency, effectiveness and desirability in the face of limited revenues.

In its first year of operating under the new budget process, the Congress has been successful in setting and honoring its own spending ceilings for fiscal year 1976. Budget priorities are beginning to shift with the Congress overriding some Presidential vetoes and setting spending targets for the new fiscal year 1977.

SPENDING PRIORITIES FOR EDUCATION

Of the 16 functional categories, or subdivisions of the Federal budget, education is incorporated in the function 500, along with other Federal programs whose basic purpose is to extend knowledge and skills and to assist individuals to become self-supporting members of our society—child development, elementary, secondary, vocational, and higher education programs, as well as public service employment, training and other labor programs, grants to States for social and rehabilitation services.

President Ford's budget requested for fiscal year 1977 $16 billion in budget authority and $17.6 billion in outlays for the entire function 500. What that meant for education funding was a $1.9 billion reduction in budget authority below the current fiscal year 1976 appropriation levels and nearly $2.3 billion below the forecast current services funding level for fiscal year 1976. Outlays under this budget proposal are estimated at approximately $0.7 billion below fiscal year 1976 reflecting funding cutbacks and rescissions requested by Mr. Ford. The President also proposed a block grant for most elementary and secondary education programs and budget authority to fund occupational, vocational, and audit education in advance.

The President's major proposal is to consolidate 24 education programs, eliminating direct Federal participation in favor of channeling Federal aid through the States. While the President assures that no State will lose under this new program, in reality:

Local agencies could experience as much as a 25-percent loss of funds immediately under this proposal—and possibly more in the long run;

The proposed appropriation/authorization level is 47 percent lower than the current authorization; and

Title I alone, probably the most serious compensatory effort of the Federal Government to raise the achievement levels of school children, could be reduced by one-third of its fiscal year 1976 appropriation or more.

The President's plan also repeals the present State matching requirement, thereby paving the way for substitution of Federal funds for State funds. This consolidation proposal may seem acceptable on the surface but may well reduce the Federal commitment to education.

The Congress clearly prefers to give education higher priority treatment. For example, the House Education and Labor Committee recommended to the House Budget Committee that Congress:

First, reject the proposal to consolidate elementary and secondary education programs; and

Second, set a target for education spending at $12.5 billion in budget authority—$4.2 billion above the President's request and approximately $3 billion above the fiscal year 1976 appropriation level forecast.

The committee also recommended significant increases above the fiscal year 1976 levels for elementary and secondary education, library, handicapped, and higher education programs, as well as forward funding for occupational, vocational, and adult education.

In setting its spending targets for fiscal year 1977, the Congress took into account the Education Committee's recommendations, the overall economic condition of our country, and the funding needs of other good programs, and arrived at what I believe are realistic figures. After making appropriate adjustments for comparability, funding increases of $600 million above fiscal year 1976 levels have been provided for education programs. More specifically, the first concurrent resolution on the budget for fiscal year 1977 targets $10.5 billion in budget authority and $9.1 billion in outlays for education. Included in the $600 million increases are funds:

Permitting all education programs to be funded at least at the fiscal year 1976 anticipated appropriation level—including an amount in fiscal year 1977 comparable to the fiscal year 1976 supplemental of $900 million;

Assuming full funding for basic education opportunity grants;

Providing increases of $200 million in budget authority above the fiscal year 1976 level for title I elementary and secondary education programs;

Providing an increase of $158 million in budget authority above the President's budget for various other education programs; and

Accepting the $118 million in budget authority for program increases requested by the President.

The resolution also recommends acceptance of the proposal to forward-fund occupational, vocational, and adult education.

The Congress must abide by this and its other budget guidelines set in the first concurrent budget resolution for fiscal year 1977 in order to hold down the Federal deficit. Last year, the targets helped Congress to reduce the deficit and rearrange priorities so as to allocate more money to education. If, however, Congress fails to honor its spending limits and to stand by our new budget process, it will mean an end to congressional control of fiscal policy.

WHAT SHOULD THE FEDERAL COMMITMENT TO EDUCATION ENTAIL

Congressional initiatives in education have placed and should continue to place the highest priority on aiding those who are educationally disadvantaged. While it is the primary responsibility of State and local governments to provide education for their citizens, I believe the Federal Government has a legitimate role in providing equal educational opportunities and at least a minimum level of education for all.

First, it would be helpful to have a clear picture of the present and projected Federal financial commitment to education by creating a separate functional category for education in the Federal budget. The House Budget Committee has formed a task force on the budget process, which I chair, to consider, among other subjects, a revision of existing functional categories of the budget. In a proposal we are circulating, the task force recommended the creation of a separate function for education.

An important reason for making such a change would be to split off programs that are countercyclical in application because in times of economic hardship, spending for such programs as job training necessarily increases, leaving education vulnerable to cuts in order to keep down the overall funding level in that budget function. However, there are those who would prefer that education and employment programs be kept together. It can be argued that education should be considered in context with employment issues since education plays such an integral role in preparing our citizens for future employment and keeping these programs together would preserve the coalition of supporters who have been so important in efforts to maintain adequate human resource funding. At this point, it is unclear how this debate will be resolved, but we intend to have further discussions in the near future.

Second, the Federal Government should encourage the equal distribution of educational spending within each State by providing financial support to those States which are developing plans to equalize State expenditures for education within their own boundaries. This would insure that all students receive equal opportunities for education regardless of the wealth of their local school districts. One of the important features of the program is that it helps the States to help themselves make educational spending within the States more equitable.

The authority for such a program is provided in section 842 of the Education Amendments of 1974—Public Law 93-380. The second supplemental appropriation bill includes $3 million to fund from July 1 to October 1, 1976 proposals by 15 States which are expected to apply for this Federal assistance by June 30. This bill was approved by Congress on May 19 and is awaiting Presidential signature. Predictions by the House Appropriations Committee are that the authorization for this program will eventually be fully funded at $13 million.

Third, the Federal Government should work to make its system of aid to education more workable and less tangled in redtape.

President Ford has proposed consolidation to eliminate redtape and allow more State discretion in spending for various programs. This proposal, however, is a bit reminiscent of that old shell game we watched unfold with Federal revenue sharing. At the same time that the State and local governments were scheduled to receive "new funds" under revenue sharing, the administration's budget proposal was to cut back an even greater amount in Federal spending for social services programs.

While there are many problems with the President's consolidation plan, I am not saying that the concept of consolidation has no merit. Any serious consolidation plan, however, should be aimed at reducing the administrative, but not the fiscal, role of the Federal Government in education. Such a plan would have to embody the following elements:

First, an authorization level at least as great as the level in effect when the proposal was enacted—in current terms, this would be $6.3 billion rather than the President's $3.3 billion request;

Second, flexibility to cut back or redirect funding for obsolete narrow programs, and assured funding to continue at present or increased levels for high priority, effective programs;

Third, a "locus" of control shared between State and local education agencies depending upon current administrative control of the program (States would pass funds through to the local districts, which would have authority to regulate the programs);

Fourth, a careful repeal of cumbersome legislation, but retention of "comparability" criteria for title I (insuring that funds are used strictly as supplemental resources rather than being substituted for State and local spending for basic education);

Fifth, a hold-harmless for occupational, vocational and adult education at 100% of its previous year's allocation;

Sixth, a set-aside for State planned new initiatives;

Seventh, provision to permit dissemination of exemplary compensatory education projects;

Eighth, specific and strong provisions for State accountability;

Ninth, allowance for a reasonable overall appropriation increase, reflecting a priority to title I grants for the disadvantaged and handicapped.

If enacted this year, such a program is projected to cost approximately $3.5 billion, assuming a .02-percent set-aside under point No. 6, a 5-percent increase under point No. 9, and a 1.05-percent hold-harmless for title I, aid to the disadvantaged and handicapped under point No. 9. This is $100 million below the amount provided for these programs in the first budget resolution for fiscal year 1977.

It should be stressed that the chances for successful implementation of any consolidation program or new initiatives depend on finding the funds to support it within the Federal budget. That means competition with other worthy programs for funds. In addition, any consolidation program would necessarily have to be developed with extensive involvement from those participating in education and the administration of educational programs at all levels.

I hope this report has offered some idea of the effect the new congressional budget process is having on education funding and the reordering of budget priorities. As long as Congress has control over where Federal funds are spent, I believe we can continue to ward off efforts to starve our educational system and give a deservedly high priority to the funding of educational programs.

NATIONAL FOREST RECOMMENDED RENEWABLE RESOURCE PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. BROWN of California. Mr. Speaker, the Forest Service has prepared and submitted to Congress a report on its recommendations for the management of national forest lands in the next 34 years. This report was required by the Resources Planning Act of 1974 and it consists of cost/benefit assessments and management plans to enhance multiple use, including recreation, wilderness, wildlife and fish, timber and range.

Since the bill, H.R. 3091 as amended, recently reported from the Senate Agriculture and Interior Committees, amends the Resources Planning Act, I found it somewhat confusing that none of the hearings testimony or markup concentrated on the recommendations or assessments made in this report, nor the various public criticisms of the report language and assertions.

This resources planning report should be taken more seriously than it seems to be. It is a statement covering the years 1977–2020, years of timber management which will be crucial to the future productivity and maintenance of the beauty and diversity of our public forest lands. Present decisions regarding timber production and harvesting potential must be analyzed carefully before accepted because the mature stands in many of our national forests, especially in the Pacific Coastal States, could easily be the victims of rising demand for wood fiber and the resulting pressures of the timber industry.

In my estimation, these demands can be met by a carefully balanced formula of private nonindustrial, industrial, and national forest land development, harvesting, and regeneration. But it should not be assumed that this formula is the one to be used in the next 30 years. Congress must become involved in this planning process now, not three decades from now when public outcry has reached a pitch that demands response.

I would like to draw the attention of my colleagues to the following critique of the recommended renewable resources program report I have just mentioned. It was prepared by the Oregon Environmental Council and is a concerned statement on the obscurities and oversights within the program report. I would like to quote from one particular section:

> The Forest Service says that since this is a national program they are not able now to assess the impacts of the program on any particular area, such as Oregon. But Oregon National Forests are still largely old-growth timber and Goal C calls for a steep increase in timber output. So all present indications are that, for Oregon at least, in spite of all the high talk about mitigation of adverse impacts, the Program would result in a deterioration of water quality, fish habitat, wildlife habitat, scenery, soil productivity, and non-motorized recreation.

I urge my colleagues to read the comments of this concerned group of citizens. It is such considerations that must be taken up before we pass a final piece of legislation on national forest timber management reform.

The report follows:

COMMENTS OF THE OREGON ENVIRONMENTAL COUNCIL ON THE FINAL ENVIRONMENTAL IMPACT STATEMENT AND THE RECOMMENDED RENEWABLE RESOURCE PROGRAM, 1977–2020

In March, the Forest Service presented to Congress its Recommended Program for 1977–2020, as required by the Resource Planning Act of 1974. The Program considered six systems: Outdoor Recreation and Wilderness; Wildlife and Fish Habitat; Range; Timber; Land and Water; and Human and Community Development. It recommends a program for each system, to involve not only National Forest lands but also all of the Nation's private non-industrial forest lands, which comprise 59% of all the commercial forest lands in the U.S.

(1) Outdoor Recreation and Wilderness—

(a) Outdoor Recreation—The program calls for an increase in "dispersed recreation", which is never defined, but appears to mean that there will be a lot more logging roads for people to drive on and camp beside in their campers and trailers. Significantly, there is not one word about construction of new trails or reconstruction of old trails. In the table of outputs there is an entry for miles of service road construction but no entry for miles of trail.

(b) Wilderness—The Forest Service has decided that the amount of wilderness that it has recommended or has under study will be the maximum acreage added to the wilderness system in the National Forests. Thus, there are about 12.5 million acres of National Forest lands under wilderness study, 2.5 million of these being in Alaska. The 10 million acres under study in the 48 contiguous states is equal in area to a square, 125 miles on a side. Of the 12.5 million acres under wilderness study, the Forest Service plans to recommend between 8.5 and 12.5 million acres for ultimate wilderness classification, and is going to take 30 years doing it. The reasons for stringing it out this long, given on page 80–81, are not convincing. If the Forest Service has its way, we will be lucky to get the 12.5 million acres now designated for study.

(2) Wildlife and Fish Habitat—

The recommended goal calls for increases in populations of animals and coldwater fish, but it cautions that individual species may increase or decrease. Thus as our old-growth forests are liquidated, there will be fewer pine martens, for example, but a lot more rabbits and mice. Eastern Oregon National Forests are now making timber production plans which will reduce elk numbers significantly. Maybe these would be made up by an increase in porcupines. As for fish habitat, we know that the Willamette National Forest, for example, predicts a deterioration of fish habitat in its streams. The only way they would get an increase of fish in Willamette National Forest streams would be by planting more hatchery fish. Presumably the fish habitat improvement, if any, would come on other lands. There is no breakdown of this system into National Forest goals and private forest land goals.

(3) Timber—

The Recommended Program calls for an 85% increase in annual timber output (cubic feet) from the National Forests by 2020, turning many of our National Forests into National Tree Farms. The Forest Service claims that their selected combination of National Forest and private land outputs (Goal C) gives the maximum timber output commensurate with costs, but examination of Tables 53, 55, and 57, shows clearly that in 1980 and again in 2020, a combination of lower National Forest output (Goal B) with higher private land output (Goal D) will give more wood at less cost. The recommended Program (Goal C) does not really concentrate capital investments on the most productive lands but includes considerable investments in less productive National Forest lands. The program calls for restricting timber stand improvement investments such as precommercial thinning to lands capable of producing more than 50 cubic feet of wood/acre/year. This is too low in productivity for investment of the taxpayer's dollar. OEC supports the Soil Conservation Service recommendation (Page BB–12) for a productivity of at least 120 cu. ft./acre/year to qualify for intensive management investments.

In determining benefit/cost ratios for the Recommended Program, the Forest Service appears to confuse outputs with benefits. For example, the old-growth timber on Oregon's National Forests is a free benefit from Nature's bounty and is not related to any activity or cost on our part. Therefore outputs of old-growth timber should not be counted in the B/C ratio. Similarly, erosion control accomplishments or habitat restoration or outer mitigative measures are like running on a treadmill just trying to keep up. They are not net benefits. An example of true benefit would be the value of mature sawtimber resulting 100 years from now as a result of our planting an old burn with seedlings. Also, this timber value would have to be discounted for the 100 years in determining the B/C ratio.

In like manner, all the true costs of the Timber Program must be charged against timber benefits. Many of the costs of the Timber System are not shown in the Timber System Table 120, but rather are shown as costs charged against other systems, such as Land & Water, Wildlife & Fish, and even Human & Community Development. This lays the basis for faulty accounting and erroneous B/C figures. Some of the so-called Land & Water costs such as arterial road construction, erosion control, fire control, and soil productivity improvements are in reality timber costs and should be charged directly to timber. Unfortunately, Table 121 for the Land & Water System does not give a separate breakdown of these costs for National Forest lands.

Again, many of the costs for fish and wildlife habitat improvement should be charged to the system responsible for their degradation, namely the Timber System. An example is the cost of clearing logging debris from streams to allow fish passage. Table 118 should give a breakdown of these costs by activity and by ownership (National Forest or private), but does not do so.

Even in the Human and Community Development System, a portion of the manpower costs should be charged to the Timber System in those cases where the work accomplished, such as precommercial thinning, will result in an increased timber output in the future.

(4) Land and Water—

Except for the important function of land acquisition and consolidation, most of the activities of this system are timber- or range-related and to that extent the costs should be charged against the benefits of those systems.

(5) Human and Community Development—

This system includes the manpower programs such as Job Corps, Youth Conservation Corps, CETA, and others. When these activities result in benefits to the Timber or Range Systems or mitigation of negative benefits from these systems the costs should be charged to the Timber or Range account, On page 653 in the appendix, a skeleton Benefit/Cost analysis appears, with no accompanying text to explain it. Like a golden tablet with secret inscriptions, this table has mysterious origins and appears to be unrelated to any of the information preceding it. One would have thought that somewhere in the 658 pages of this report could have been included a complete breakdown of benefits and costs. Without it, this EIS is not worth much to the people or to the Congress. If Congress really cares about how our money is spent, we hope that they will not accept this mumbo-jumbo.

The Recommended Program is geared to meeting the commodity demand anticipated by the Forest Service, but as the EPA points out (page BB–58) ". . . prudent use [of the National Forests] is as essential as proper management to meet demands." Furthermore, the Forest Service denies (page BB–16) that ". . . a primary role or mission of the Forest Service is to point out opportunities to lessen demand." We strongly disagree. It is the duty of the Forest Service to protect the National Forests, from excessive demands which undermine balanced multiple-use management. When the demands consist in part of wasteful consumption through inefficient and wasteful use of wood and paper products, then it is the most serious responsibility of the Forest Service to speak out clearly against such wasteful practices. The Forest Service itself must display a "continuity of interest in the complete chain of operations from harvest to final use." (page 293).

Although the Recommended Program is presented as a Final EIS, there is no invitation for further public comment, so at this point the public must direct its comments to Congress, which must decide how much money goes into this program and how it will be allocated. The Forest Service says that since this is a national program they are not able now to assess the impacts of the program on any particular area, such as Oregon. But Oregon National Forests are still largely old-growth timber and Goal C calls for a steep increase in timber output. So all present indications are that, for Oregon at least, in spite of all the high talk about mitigation of adverse impacts, the Program would result in a deterioration of water quality, fish habitat, wildlife habitat, scenery, soil productivity, and non-motorized recreation.

(6) Range—

Public Law 93–378, 93rd Congress on August 17, 1974 ordered the Forest Service to inventory and evaluate opportunities for improving yield and benefits from the "present and anticipated uses, demand for, and supply of the renewable resources. . . . together with estimates of investment costs and direct and indirect returns to the Federal Government;" The complete report weighs 12 pounds, contained in a pile of documents six inches high. It is a massive work if measured by the number of words used to meet the directive of Congress.

In presenting the subject of rangeland (which includes forested areas that are grazed by livestock) much of the material is taken directly from The Nation's Range Resources, Forest Report No. 19, which was written by the Forest Service and published in December 1972.

Forest Report No. 19 is a comprehensive analysis of the extent, the productivity and the present condition of the Nation's range resources. It contains a prophecy of output or the productive potential of rangelands under each of six different techniques that are suggested for management of rangeland. These techniques are called strategies. However, in the EPA report the choices for management are described as Alternatives.

Days or even weeks can be spent in reading and studying the text in this monumental collection of information. Volumes of repetitive information can be by-passed by quoting from the Summary of the Project and commenting upon quotations. The findings are reported in the following paragraphs:

In 1970, 1.6 billion acres, some 69 percent of the Nation's area, were classified as forest and rangeland. About two-thirds of this area was in rangeland and noncommercial forest. Another 31 percent—500 million acres—was commercial forestland capable of producing in excess of 20 cubic feet per acre of industrial wood a year in natural timber stands and not withdrawn for other uses. The remaining three percent—some 48 million acres—was classified as inland water.

Some 99 percent of prairie grasslands, 94 percent of plains grasslands, and 84 percent of mountain grasslands are in non-Federal ownership, nearly all private. The shrub ecosystems, on the other hand, are largely public lands. About 82 percent of the sagebrush land and 70 percent of desert shrub land are on Federal holdings.

It is estimated, for example, that nearly a quarter of the rangeland areas in the contiguous States is in the lowest productivity class, and another three-fifths is in the moderately low class. A large proportion of the lands in these lower classes is in the National Forest and other Federal ownership. Nearly three-quarters of the rangeland was producing less than 60 percent of potential in 1970. Nearly three-quarters of the rangeland was in fair or poor condition in 1970.

In a nutshell, the condition of the Nation's range resources is in deplorably bad shape from overgrazing. However, our ever optimistic planners claim that by expenditures proposed for the Recommended Program of $21.7 million each year until 1980, rising in that year to $58.4 million and then increasing to $86.9 million annually in the decade 2011–20, productivity of forage for livestock will climb upward from 11.3 million AUM's to 20.4 million AUM's in 2020. These figures only cover National Forest rangelands, but are applicable to all of the rangeland in the Nation.

It is customary for reports that are submitted to Congress to be described in broad general language; the RPA follows that custom. Likewise, statistics are given only for large acreages of ecosystems, or by private and federal administrative units. For example, in the statement "Nearly three-quarters of the rangeland was in fair or poor condition in 1970," there is no tie made to any specific area. To be of any practical use, that statement ought to specify the number of acres found in those conditions by identifiable geographical location in order to bring the data to locally known areas. In 1973, the Forest Service reports 451,789 AUM's were authorized under paid permit in the National Forests of Oregon and Washington managed from Portland. If there is no need to make reductions in livestock use or to provide habitat for wildlife or for other uses, by the year 2020 an increase of 55 percent or a total of 1,003,975 AUM's is forecast as the possible goal, providing the recommended program is implemented in full.

A logical question to ask, is where are the grazing allotments on the Eastern Oregon forests that can provide 55 percent more forage without substantial damage and degradation over the deterioration of many allotments that are in poor condition now? Can these allotments be rehabilitated by 1980 to make possible any increase in AUM's to be sold? Assuming that the progress for making range reductions on allotments suffering from resource damage now will not be increased, is there any justification to believe that the reductions needed will be completed by 1980 or even by 2020?

The Forest Service also reports "Some 17.6 million acres, approximately one-sixth of the 105 million acres in MFS grazing allotments, are rated as being in unsatisfactory (low) ecological condition—producing less than 40 percent of their natural potential productivity. They are not producing vegetation of the kinds and amounts one would expect from the soil, climate, and other environmental elements . . . in fact, severe erosion on much of this land is reducing water quality and wildlife and esthetic values." Again there is no identification of the locations of these denuded lands. The public should be given complete information as to where such extremes in such conditions exist and what specifically is being done to stop damage and rehabilitate them. Of first priority is the restoration to satisfactory conditions in those areas.

A recent report on the condition of National Resource lands under the management of BLM reveals:

Range condition

Excellent—2 percent—3.2 million acres.
Good—15 percent—24.4 million acres.
Fair—50 percent—31.5 million acres.
Poor—28 percent—45.6 million acres.
Bad—5 percent—8.2 million acres.

Obviously, a very generous amount of optimism is woven into any claim that this vast body of rangeland, 83 percent of which is reported to be in fair or below in ecological condition, can increase its output of AUM's by 55 percent in the next 24 years. The claim in light of the progress made to date in rehabilitating overgrazed range land appears to be completely unattainable.

Lastly, the Soil Conservation Service reporting upon privately owned grazing lands says (soil and water conservation needs—a national inventory):

"Overgrazing is the most widespread hazard to established pastures and ranges. Of the nearly 185 million acres needing only protection of plant cover, 163 million acres or 88 percent needs protection from overgrazing. In addition, the 72 million acres needing establishment of new cover and the 107 million acres needing improvement of existing cover will require protection from overgrazing to make those treatments successful. Altogether, then, about 343 million acres or 68 percent of non-Federal pasture and range needs additional protection from overgrazing. The remainder, now adequately protected, needs continued attention to maintain the protection."

To summarize, the rangeland section of the PPA report, there is no concrete evidence presented to support the claim that by implementing any of the Alternatives we will achieve the goals established for them. None are really attainable without first drastically adjusting livestock use on the millions of acres of rangeland in all ownership categories that are overgrazed. In the 70 years the Forest Service, and in the 40 years the BLM has been managing rangeland, both agencies have failed to achieve authorizing grazing use that is in balance with forage productivity. Both sell more forage each year than can be delivered without damage to the range and related resources. Both admit the presence of severe overgrazing and denudation of land on millions of acres that they manage.

How then can the goals described be achieved without causing additional damage to the 83 percent of rangeland that is already reported as being excessively grazed and ecologically in unsatisfactory condition? The findings of the RPA report as to projected increases in AUM's cannot be accepted at face value, but the revelations as to the unsatisfactory ecological conditions of the magnitude described are shocking enough to demand prompt action be taken on the part of the Federal agencies to halt overgrazing and give first priority to reduction of livestock use to prevent cumulative damage to the areas that are now classified as overgrazed. Such action is long over-due. Congress should demand that administrative actions be taken to immediately halt excessive grazing use wherever it is occurring.

WITH YANKEE INGENUITY AND NOT A CENT OF FEDERAL FUNDS, THE PEOPLE OF WELLS, MAINE, HAVE SOLVED A PROBLEM

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. EMERY. Mr. Speaker, we are all well aware that current thinking demands that problems generally be solved by throwing money at them, usually Federal tax dollars. I am pleased to bring to the attention of my colleagues and the public the way a group of people in Maine, residents of the town of Wells, have gone about solving a major problem using good old Yankee know-how, coupled with typical Maine independence and fiscal conservatism.

The article from the Portland, Maine, Press Herald, May 17, 1976, explains the cooperative, independent spirit in which the people of Wells, Maine, are raising dragonflies to consume the newly hatched mosquito larvae, thereby controlling this perennial mosquito nuisance in a tourist community in an ecologically sound, inexpensive way:

People of Wells, Maine, Have Solved a Problem

(By Clark T. Irwin, Jr.)

WELLS.—It may be early in the season, but 12,000 tourists already are settled in around Wells, enjoying the scenery and gorging themselves with Down East food.

The newcomers are dragonfly nymphs, immature forms of the familiar insect, and they may each eat their own weight in mosquito larvae (immature mosquitoes that can be seen wriggling in still waters) in an hour!

The dragonflies were brought here as an experiment in mosquito control that would avoid the use of chemical insecticides. Local residents and businesses suffered intensely from the winged marauders last summer.

When the Wells town meeting convened in March, a warrant article proposed raising money for chemical spraying of likely mosquito breeding areas, particularly in the Wells marshes.

Biologists from York County's Rachel Carson Wildlife Refuge told the townspeople that while chemical spraying might reduce the mosquito population if intensively applied, surviving mosquitos could repopulate within days. The pests have a phenomenal birth rate.

The biologists suggest digging ditches to circulate water through the marshes and render them unattractive to maternally inclined female mosquitoes.

The meeting took a fateful turn when Mrs. Thelma Ham rose to speak. She recounted an experience while boating on a canal in France. Asking her guide why there were no mosquitoes along the quiet waterway, she was told that the dragonflies kept them under control.

She suggested that the town investigate alternatives to spraying, with attention to dragonflies. After others had noted that the proposed spray, malathion, was a derivative of nerve gas compounds and could affect people with liver trouble, the meeting voted down the spraying appropriation.

Then local organizations and environmentalists swung into action. The Wells Chamber of Commerce, headed by Brent Marriner, coordinated procurement and distribution of the 12,000 dragonfly nymphs on May 1, at $5 for a bag of 25 nymphs.

Members of Boy Scout Troop 353, students from the Tatnic Hill School and other volunteers helped plant the nymphs in still water pools in the marshes and elsewhere.

Other nymphs are residing in backyard pools. Still others are growing fat in bathtubs and washbasins filled with pond water and aquatic plants and mosquito larvae for snacks.

Isabel Lewando of Ogunquit has a colony of nymphs in an old bathtub in her back yard. She says the major requisite for success is providing plants or twigs for the nymphs to climb to dry their wings when they mature in 10–12 weeks.

Lewando's bathtub contains a layer of wholesome pond muck topped with fresh pond water and laced with larval appetizers, all for the enjoyment of the infant dragonflies.

Once the dragonfly numphs mature, they will appear, as the graceful, highly maneuverable airborne insects that will continue their depredations on the mosquito population. If, by some chance, they exhaust the supply of mosquitoes in the Wells area, they will move on to richer hunting grounds possibly extending their services to other afflicted towns.

If the dragonfly planting is a success, it will be a great encouragement to those who are trying to avoid the expense and hazards of chemical pest control. If it works, the whole town will be buzzing about it.

HAPPY BIRTHDAY CATHERINE FILENE SHOUSE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. HARRIS. Mr. Speaker, I would like to call to the attention of the House the birthday celebration of Catherine Filene Shouse who is well known and admired by the people of the Washington metropolitan area.

Catherine F. Shouse was born 80 years ago to a wealthy Boston family. She received a B.A. from Wheaton College in Massachusetts and was the first women to be awarded an M.A. degree from Harvard University's Graduate School of Education.

Later, her considerable energies were turned to political and cultural areas where her versitility is well documented. For instance, she was the first woman to be appointed to the Massachusetts State Democratic Committee; and was the first woman to serve on the National Democratic Committee representing her State. She has been closely associated with the John F. Kennedy Center for Performing Arts since her appointment to the board by President Eisenhower in 1958; and has acted as a liaison between the Center and the Washington National Symphony. She has supported the National Symphony with gifts of time, talent, and money for over 20 years subsidizing concerts for young people and handicapped children. This is a record of which any individual can be proud.

Six years ago, we were delighted to witness the first performance at the Filene Center of Wolf Trap Farm Park for the Performing Arts. Since then, thousands of citizens have been able to take advantage of a myriad of cultural activities offered by Wolf Trap. All of this was made possible through the efforts and generosity of Mrs. Shouse who donated the Filene Center and her 145-acre Vienna farm to the Department of Interior for the Nation's only national park for the performing arts.

In honor of her major contribution to the arts, a series of events will be held to coincide with the celebration of her birthday and the 1976 opening of Wolf Trap. I would like to take this opportunity to offer my best wishes and sincere appreciation to this remarkable woman. Her optimism, devotion, and leadership have played a vital role in the development of Washington's cultural life; and, her endowment to this community will endure for years to come.

MORE FLOOD DISASTERS

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. MOLLOHAN. Mr. Speaker, for months, we have been forecasting that the Flood Disaster Protection Act and the sanctions on real estate loans and construction assistance would deteriorate property values. Now we find that the other body of the Congress has proposed similar sanctions in their version of the Energy Conservation in Buildings Act (H.R. 8650) which is currently awaiting a conference.

The following article from the Parkersburg Sentinel of Parkersburg, W. Va., clearly discloses that just such depreciation of property values as we had forecast is happening.

[From the Parkersburg Sentinel, Apr. 29, 1976]

Assessor Sees Tax Break for Floodprone Property

(By Don Corathers)

Suburban and rural residents of Wood County who own property in flood prone areas may pay considerably less property tax next year. Assessor Gene Knotts said Wednesday.

After meeting with an angry Boaz businessman who says he can't borrow money on his riverfront land because the county isn't participating in the national flood insurance program. Knotts agreed the flood program has rendered the land worthless, and said it should be taxed accordingly.

Under the terms of the National Flood Disaster Protection Act of 1973, residents of flood-prone areas who live in counties or cities which aren't participating in the national flood insurance program cannot borrow money from federally regulated banks against their flood-prone property. Although Parkersburg, Vienna and Williamstown have all agreed to participate in the program, two of Wood County's three commissioners object to the land use regulations and building code standards imposed by the government, so the county isn't participating.

John McGuffey, operator of McGuffey Amusements, Tuesday told the commissioners their refusal to join the program has made it impossible for him to borrow money on a tract of land he owns along the Ohio River. Wednesday McGuffey found a sympathetic ear for his complaint in the assessor's office.

"My problem is, as assessor, I have to look at property and put a value on it for tax purposes," Knotts said later. "We often use as a guide in making appraisals how much money the owner can borrow on the land. That's what it's worth."

Knotts said he is inclined to treat floodprone land in the county in the same way landlocked property is appraised. In those cases, where the landowner has no access to his property, the appraisal is usually a nominal $10 or $20, he said.

"The flood insurance program is going to cause some problems, and rightfully so," he said. "If I were in those people's shoes, I'd come in and see the assessor too.

"We're going to look at these people's problems, and probably make some adjustments. After all, my job is to see that property owners are treated fairly."

Knotts said it is impossible to estimate how many landowners might be affected or how much tax revenue the county would lose as a result of the flood zone reappraisals. That problem is complicated by the fact that the flood zone identification maps prepared by the Department of Housing and Urban Development are inaccurate, according to the county commissioners.

Residents of floodprone areas in Parkersburg, Vienna and Williamstown won't be affected by Knotts' decision, since those cities are participating in the program.

McGuffey maintains the same standards applied to the value of his land should prevent the county from taxing major manufacturing plants along the river, but Knotts said, "that situation will require some looking into."

It appears, Mr. Chairman, that the Government has assumed the role of providing protection for our citizens whether they want that protection or not. In this instance, we are throwing additional barriers in the path of recovery for the building industry.

I urge my colleagues to pause to consider the ultimate adverse effect such actions will have on the very people they are elected to represent in the Congress.

Two actions are in order. The first is to insist upon an amendment of Public Law 92-234, the Flood Disaster Protection Act, to remove the unfair sanctions contained in the law. The second is to oppose the inclusion of such sanctions in H.R. 8650, the Energy Conservation in Building Act.

HISTORIC SUGG'S CREEK CUMBERLAND PRESBYTERIAN CHURCH IN WILSON COUNTY, TENN., OBSERVES 176TH ANNIVERSARY

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. EVINS of Tennessee. Mr. Speaker, recently the historic Sugg's Creek Cumberland Presbyterian Church in Gladeville, Wilson County, Tenn., observed its 176th anniversary.

This pioneer and historic church has been a leader in the community for almost two centuries and was the mother church where the Cumberland Presbyterian denomination had its origins and beginnings.

Recently, on May 16, last, the Sugg's Creek Cumberland Presbyterian Church observed its 176th anniversary with appropriate dedicatory ceremonies and in this connection, I wanted to place in the RECORD herewith an account of this dedication service provided by Mr. Thomas E. Partlow of Lebanon, Tenn., and the Reverend Calvin C. Cunningham of Murfreesboro. The summary of the dedication service follows, together with a letter of commendation which I was pleased to send to the Reverend Cunningham in connection with this important and significant occasion.

These materials follow:

SUGG'S CREEK CUMBERLAND PRESBYTERIAN CHURCH, GLADEVILLE, TENN.

The historic Sugg's Creek Cumberland Presbyterian Church in Wilson County, Tennessee observed its 176th anniversary on Sunday, May 16. The highlight of the observance was dedication of the historical marker recently erected by the State of Tennesee.

The day's activities began with the 11 o'clock worship service. Mrs. Ernest Swain of Dearborn, Michigan presented a history of the Sugg family. Mrs. Swain stated that the present church building is believed to be located at the site of the original Aquilla Sugg log house. Sugg was a circuit riding Methodist minister in North Carolina, Tennessee, and Kentucky before settling in the Wilson County community which today bears his name.

Following Mrs. Swain's presentation, the morning message was given by the Reverend C. Ray Dobbins of Memphis, Tennessee. Mr. Dobbins is the Editor of the "Cumberland Presbyterian Magazine".

A community wide dinner on the grounds was held from noon until 2:30 p.m. At 2:30 p.m. the dedication service for the historical marker was held. The program was under the direction of the Reverend Don Reeves, Murfreesboro Presbyterial Pastor. A message in song was presented by Mr. Steve Moore who sang "Bless This House".

The Dedicatorial Message was given by the Reverend Alfred Bennett, Pastor of Old Beech Cumberland Presbyterian Church in Hendersonville, Tennessee. Mr. Bennett pointed out that the first Synod of the Cumberland Presbyterian Church was held at the Old Beech Church. This Synod then issued the order for the historic meeting held at Sugg's Creek in 1814.

The Congregation next marched to the Marker which was unveiled by Miss Sue Hamblen. The reading of the inscription on the Marker was by the Reverend C. Ray Dobbins.

The inscription states that "Sugg's Creek Church, founded in 1800, became Cumberland Presbyterian in 1810. The first Constitution of the Cumberland Presbyterian Church in the United States of America containing the Confession of Faith. Catechism, Government and Discipline, and Directory for Worship was ratified and adopted by the Synod of Cumberland, held at Sugg's Creek April 5-9, 1814."

The prayer of dedication was by the Reverend Logan Tillhman, Moderator of Murfreesboro Presbytery. The services of the day were concluded with the Reverend Argyle Faith of Lebanon leading the Congregation in singing "Bless Be The Tie".

The Sugg's Creek Church was organized as a Presbyterian Church in 1800 by the Reverend Samuel Donnell. Serving as ruling elders in the Church, an oak log house heated by an old-fashioned fireplace, were William Hannah, John Hannah, Hugh Telford, and Robert Law. The log house was torn down in 1834 and replaced by a cedar log building of "twelve corners" to accommodate the large numbers of people attending.

When the Cumberland Presbyterians organized in 1810 in Dickson County, Tennessee, the Sugg's Creek Congregation placed itself under their control. The Reverend David Foster served as pastor from that time until his move to Illinois in 1828.

During Foster's ministry, the Cumberland Presbytery met twice at Sugg's Creek. The Constitution adopted by the Synod meeting there in 1814 remained in effect until it was revised by the Synod which met at Princeton, Kentucky in 1829.

Several, later to be well-known, ministers were ordained at Sugg's Creek Church. These include Richard Beard, Ezekiel Cloyd, James S. Guthrie, and James A. Drennan. Drennan is considered to be one of the founders of the Coumberland Presbyterian Church in the State of Missouri.

The second building was replaced in March of 1899. This third building still serves the Church today. The Building Committee consisted of Dr. J. G. Brown, E. W. Bland, and W. M. Mires. Most of the work on the building was done by members of the Church with Will E. Fields serving as foreman.

The Sugg's Creek Cemetery, located next to the Church, is one of the oldest cemeteries found in Wilson County. Many of those buried in the cemetery came to Wilson County in the early 1800's from the Mecklenburg County, North Carolina-York County, South Carolina area.

The oldest person buried in the cemetery is John Drennan who was born in Pennsylvania in 1940. By 1758 he was in York County, South Carolina where he leased land from the Catawba Indians for a period of 99 years. Drennan served as the first Probate Judge of York County. He and his grandson, Thomas Partlow, moved to the Sugg's Creek area in 1805.

The period prior to 1858 saw at least fifty great camp meetings and an equal number of protracted meetings. Such giants of the Cumberland Presbyterian Church as Finis Ewing, John Barnett, Thomas Calhoun, Robert Donnell, William Barnett, George Donnell, and Richard Beard have preached at this little country church.

The Sugg's Creek Cumberland Presbyterian Church, now one hundred and seventy-six years old, not only adopted the first Constitution of the Cumberland Presbyterians, but since its beginning has sent out countless ministers. Today, the Church has fourteen members with the Reverend Calvin S. Cunningham serving as pastor.

WASHINGTON, D.C., *May 3, 1976*.

REV. CALVIN S. CUNNINGHAM,
Murfreesboro, Tenn.

DEAR REVEREND CUNNINGHAM: Certainly I am pleased to join in commending and congratulating the Sugg's Creek Presbyterian Church on the occasion of its 176th anniversary. The Sugg's Creek Presbyterian Church is a pioneer church, a leader in the community for almost two centuries and the Church where the Cumberland Presbyterian denomination had its origins and beginnings.

As you know, the synod of Cumberland, meeting at Sugg's Creek in 1814, adopted the Constitution, Catechism and Rules of Wership for the Cumberland Presbyterian Church in the United States—the only major religious group said to have originated in Tennessee.

Certainly I want to commend and congratulate you, the leaders of your Church, and the dedicated members on this important occasion and I wish for you and all those associated with your outstanding Church the very best of continued success in God's work.

With kindest regards and best wishes, I am
Very sincerely yours,
JOE L. EVINS,
Member of Congress.

AMERICAN HISTORY IN POETRY: 200 YEARS OF FREEDOM

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. YATRON. Mr. Speaker, one of my constituents, Richard Spontak, has authored a Bicentennial poem, "American History in Poetry, 200 Years of Freedom."

I feel that this young man has truly exemplified the spirit which kindled our great Nation. I was in fact, so very impressed by this composition, that I would like to share it with my colleagues:

AMERICAN HISTORY IN POETRY: 200 YEARS OF FREEDOM

In 1776 our nation's spirt of independence was born
With such patriots as Hancock and Lee,
They signed our Declaration and had sworn
That this nation under God would always remain free.

Although many lives were lost in America's revolution
The price of freedom was at last paid,
God's help had created the solution
So Americans had no more bloody streams to wade.

In 1783 America received its independence
For the war was cruel and did last,
Now this small nation had to be on its defense
Because its government was not yet steadfast.

In 1787 the Constitution was wisely devised
By such great men as Morris and Franklin,
The creation of a democracy was well realized
And so a strong government was soon to have its origin.

In 1803 the United States was doubled in size
When the Louisiana Territory was bought,
The Mississippi as an outlet was no surprise
For this territory was long sought.

In 1812 an unwanted war occurred
With England for more land,
The actions taken were totally absurd
But the Americans had to take a stand.

The Monroe Doctrine meant "hands off"
To all conquering foreign powers,
Towards America no country would scoff
For Americans were not cowards.

Who can forget the war with Mexico
Which gave us more land for annexation,
Many Americans died at the Alamo
To add Arizona and Texas to this nation.

In 1861 our nation experienced a Civil War
Which was fought to free the slaves in the South,
Through this episode we opened a new door
That words of freedom would travel by mouth.

The Homestead Act was passed in 1862
In order to colonize the West,
The number who moved were not few
And every individual did his best.

The Emancipation Proclamation went into effect in 1863
With Abraham Lincoln as its designer,
"We want to be free," was the Negroes plea
To live a life that is much finer.

In 1865 President Lincoln was assassinated
To which the entire nation did mourn,
Under him, the Civil War dissipated
For keeping this nation together is what he had sworn.

In 1866 Congress passed the Civil Rights Bill
Which granted equality to the Negroes,
They now lived with their own free will
For white men did not want to be their foes.

In 1898 we witnessed the Spanish-American War
Which brought Teddy Roosevelt and his Rough Riders to arms,
A letter was written by DeLome, Spain's ambassador
About our President and it surely lacked all charms.

In 1914 the Panama Canal was open
Which linked East and West coasts shipping,
With this piece of land broken
Our country's trade would have a new beginning.

In 1917 the U.S. entered World War I
For our shipping rights were being ignored,
After a year of anguish, we finally won,
As a result our image as a world power soared.

The Depression years were no fun
As we could see by the long bread lines,
But Franklin D. Roosevelt changed the outcome
For his WPA program turned the times.

We entered World War II on December 8, 1941
After some of our ships at Pearl Harbor were sunk,
God bless our men whose lives were done
And those who survived had plenty of spunk.

The Axis powers were later conquered
For their military structures failed,
Their pleas of mercy the United States heard
And our compassion again prevailed.

In 1945 the United Nations received its charter
With the U.S. as an influential affiliate,
Its organizers couldn't have created anything smarter
For all international crises it was to omit.

NATO and the Truman Doctrine were vital
For they kept the free world from aggression,
Peace through unity for all was its title
And so we had to organize protection.

The Communists tried to overrun Korea
Which is when the U.S. lent a helping hand,
To preserve the nation's liberty was the idea
And so we sent MacArthur to that land.

In 1957 the Eisenhower Doctrine went into effect
Which many people are grateful for,
The Middle Eastern countries were militarily checked
And so the United States acted as a counsellor.

We sent America's first man into space
Under President Kennedy's Administration,
This was just the beginning of the "race"
And it was an important event for our nation.

We remember John F. Kennedy quite well
For he died a martyr to his country,
This tragedy no one could foretell
But aid to other nations he did guarantee.

Today we have such great men as Henry Kissinger
Who tries to bring peace to the world,
The U.S. sends him as a goodwill messenger
And towards each nation his peace talks are whirled.

Although time has continually marched on
The government's concern about the people still endures,
The hard work that our forefathers had undergone
Today our government still insures.

Since 1976 is our Bicentennial year
We recollect all the events our nation endured,
Our nation was once a young frontier
But as a great world power we have matured.

We do appreciate our freedom today
For our founding fathers toiled so hard,
Because of them posterity *was not led* astray
And our heritage we do not disregard.

The time has now come to face reality
For we have learned from the past,
We can now avoid many a catastrophe
For this country's wisdom is unsurpassed.

Freedom in this nation is world-renown
Which includes religion, speech, and justice,
Towards education and public elections no one could frown
For these and all freedoms do receive special emphasis.

In pursuit of freedom our country was formed
So that someday this would be a great land,
Today is the result of a democracy being performed
For in this nation every race, creed, and color walk hand-in-hand.

America has done much for its inhabitants
And now it's time for it to be repaid.
We shall never leave our duties to any chance
For what we owe to it cannot be weighed.

HAPPY BIRTHDAY AMERICA

Happy birthday, America! We're proud of you!
With your flag of red, white, and blue;
All our hopes and prayers being a must,
One thing for sure, in God is our trust.

A REVIEW OF WIRETAP ORDERS IN NEW YORK STATE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. KOCH. Mr. Speaker, as a result of recent disclosures concerning the FBI, the CIA and a whole host of other intelligence gathering agencies on the Federal level, great interest has been evidenced by the public concerning wiretaps. An excellent article by Nelson Seitel, secretary of the New York Law Journal appeared in the May 14 issue of that newspaper concerning wiretap orders in the State of New York, with a reference to the State of New Jersey. I believe the information in that article will be of great interest to those who are concerned with the extensive use of wiretaps in the Nation.

The article follows:

NEW JERSEY RANKS FIRST IN VOLUME; SHARP DROP IN WIRETAP ORDERS REPORTED IN STATE AND CITY

(By Nelson Seitel)

The use of court-approved wiretapping and other electronic surveillance as instruments of law enforcement declined in 1975 compared to their use in 1974, according to the Eighth Annual Report of the Administrative Office of the United States Courts. A total of 701 intercept applications were approved by judges in 1975, a 4 percent decline from the 728 applications granted in 1974, the report stated. Federal orders declined by 11 percent, from 121 in 1974 to 108 in 1975. State authorizations declined by 2 percent, from 607 in 1974 to 593 in 1975.

The steepest decline in intercept applications granted occurred in New York State, where 192 such orders were granted in 1975 compared with 305 in 1974, a decrease of 37 percent. However, New York ranked second only to New Jersey among the twenty-four jurisdictions with statutes authorizing interception of wire or oral communications. In New Jersey, judges granted 196 applications.

The steep decline in intercept orders granted in New York State is a reflection of the decrease in such applications in New York City where only ninety-one such orders were issued in 1975 compared with 191 in 1974. With the exception of District Attorney Robert M. Morgenthau of New York County all prosecutorial offices in New York City, including the office of Special State Prosecutor Maurice Nadjari, made fewer applications for intercept orders in 1975 than they did in 1974.

Thus, in Kings County, District Attorney Eugene Gold filed only nineteen applications, thirty-eight fewer than in 1974. Bronx District Attorney Mario Merola filed thirteen applications last year as against forty-two in 1974.

In Queens, District Attorney Nicholas Ferraro filed eleven applications in 1975 as against twenty-six in the preceding year. No applications were made last year in Richmond County where there were fifteen in 1975. The number of applications filed by Special Prosecutor Nadjari dropped from thirty-two in 1974 to eleven in 1975.

In Manhattan, District Attorney Morgenthau filed thirty-eight applications in 1975 as against eighteen in 1974. However, one of these was denied by Acting Supreme Court Justice Norman B. Fitzer, one of only three applications denied in all jurisdictions in 1975.

The number of installations approved in New York City and in the suburban counties of Nassau Suffolk and Westchester, together with the number of arrests and convictions resulting from such installations in 1975, is set forth in the following figures of installations, arrests and conviction in that order:

Nadjari: 11–1–0.
Bronx: 13–18–0.
Kings: 19–98–1.
Queens: 11–55–16.
Manhattan: 37–35–8.
Richmond: 0–0–0.
Nassau: 27–125–1.
Suffolk: 15–69–3.
Westchester: 10–41–16.

With respect to Federal courts in the area, three intercept installations were authorized in the Southern District and two in the Eastern District. No arrests or convictions were reported with respect to any of those installations.

Since many wiretap and surveillance orders are related to large-scale criminal investigations, arrests and convictions resulting from wire and oral interceptions frequently do not occur in the same year that such installations are approved. Thus, in 1975 in all jurisdictions were 1,915 arrests and 2,129 convictions reported as a result of authorized intercepts completed in prior years. As the result of such installations in prior years in New York City, in 1975 there were thirty additional convictions in the Bronx twenty-two in Brooklyn, twenty-seven in Queens, and two by the Office of Special Prosecutor.

While the average cost of an installation is $8,000, the costliest installation was used in Queens where it amounted to $89,285. That installation was in operation for fifty-nine days and involved 2,341 intercepts, of which 195 were described as "incriminating" and which resulted in twenty-seven persons arrested and five convictions.

Intercept installations were authorized by the wiretapping and electronic surveillance proviisions of the Omnibus Crime Control and Safe Street Act of 1968. Under the law prosecutors seeking intercept orders, and judges before whom applications are made are required to report details of the application to the Administrative Office of the United States Courts.

From then through Dec. 31, 1975, a total of 4,467 applications were granted throughout the country, resulting in 19,690 arrests and 8,881 convictions. The crime most frequently cited by prosecutors in their applications was gambling, followed closely by narcotics. The crime most frequently cited in applications made by Special Prosecutor Nadjari was bribery.

The district attorneys in New York City ascribe different reasons for the decline in their use of wiretapping and other electronic surveillance. Kings District Attorney Gold and Thomas B. Sullivan, Richmond's prosecutor, say it is because of changes in the character of criminal investigations by their staffs.

Queens District Attorney Ferraro said that "in light of disclosures of irregularities by the FBI and CIA," his office has established new procedures "to avoid the installation of frivolous wiretaps simply because they are requested by the Police Department."

In the Bronx, DA Merola, who in past years used wiretapping extensively in investigations of major dealers in narcotics, said that those dealers have shifted operations from the Bronx to New Jersey so there are fewer occasions for his office to use wiretapping.

WHAT MEMORIAL DAY MEANS TO ME

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. **FARY**. Mr. Speaker, Memorial Day when I was a boy meant parades to the cemetery by members of the Grand Army of the Republic, the "boys in blue," surviving veterans of the Civil War. Not one of those marchers is alive today. They have long since joined their comrades who fell in battle or who preceded them in death.

I remember when the GAR and Spanish War veterans were first accompanied in Memorial Day parades and grave decoration ceremonies by a new group of surviving veterans, the men of World War I's American Expeditionary Force. The ranks of World War I veterans, men who were young and vigorous when I first saw them on long-ago Memorial Days after the Armistice, are now sadly diminished, and those still with use are all very old, not many of them up to Memorial Day observances anymore.

Nowadays, Memorial Day parades and ceremonies are manned by far-from-young World War II veterans, no-longer-young Korean war veterans, and still-young Vietnam war veterans, assembled to honor the memory of the men with whom they fought.

At Memorial Day ceremonies there have always been family members present to whom the loss of a loved one is a grief ever-fresh, a tragedy never to be forgotten. They experience on these occasions overwhelming emotions which neither they nor I can describe.

Memorial Day is perhaps the saddest of all of our patriotic observances. Yet amid the sorrowful thoughts and ceremonies of Memorial Day we cannot fail to be aware of the season of the year in which we find ourselves. It may seem ironical that we offer our prayers for those who have fallen in defense of our Nation at a time of year when it is indeed a joy to be alive. Our own joy in living during the beauty of springtime means that our gratitude to those who fought and died that we might be free is enhanced and deepened.

In a springtime now more than a century past, our Memorial Day traditions began with the decoration of the graves of both Confederate and Union dead by generous-hearted women whose husbands, fathers, and brothers had made the supreme sacrifice. During our own Memorial Day season this year, we may want to recall something of the history of this serious, even solemn, holiday.

In January of 1866, a Ladies Memorial Association was organized in Columbus, Ga., whose purpose was the care of Confederate graves. April 26 was proposed as a day to be devoted to an annual commemorative ceremony and the decoration of gravesites. This date was the anniversary of the surrender of Gen. Joseph E. Johnston. A letter suggesting that there be a general observance on this day was sent out on March 12, 1866, to newspapers and women's groups, and the observance that took place in Columbus received wide attention.

At about the same time, in another town that by coincidence also happened to be named Columbus, similar plans were being made. A group of Columbus, Miss. women decided to decorate soldiers' graves each year on April 25. A procession was held on that day in 1866; flowers were borne to the cemetery where the ceremonies included a memorial address and a prayer, as well as decoration of the graves.

A local newspaper's comment on the ceremony was as follows:

> We were glad to see that no distinction was made between our own dead and about forty Federal soldiers, who slept their last sleep by them. It proved the exalted, unselfish tone of the female character. Confederate and Federal, once enemies, now friends—received this tribute of respect.

In Carbondale, Ill., on April 29, 1866, there was an all-day observance which included the decoration of some 40 Union graves and an address by Gen. John A. Logan.

The Carbondale ceremonies must have been in Logan's thoughts when, as the first Commander in Chief of the Grand Army of the Republic, the major organization of Union veterans he issued to GAR on May 5, 1868, General Order No. 11 providing for a nationwide observance for "First Memorial Day":

General Logan's Order for First Memorial Day

GENERAL ORDER NO. 11

Headquarters,
Grand Army of the Republic,
Washington, D.C., May 5, 1868.

The 30th day of May, 1868, is designated for the purpose of strewing with flowers or otherwise decorating the graves of comrades who died in defense of their country during the late rebellion and those bodies lie in almost every city, village and hamlet church yard in the land. In this observance no form or ceremony is prescribed, but posts and comrades will in their own way arrange such fitting services and testimonials of respect as circumstances may permit.

We are organized, comrades, as our regulations tell us, for the purpose among other things "Of preserving and strengthening those kind fraternal feelings which have bound together soldiers, sailors and marines, who united to suppress the late rebellion." What can add more to assure this result than by cherishing tenderly the memory of our heroic dead, who made their breasts a barricade between our country and its foes? Their soldier lives were the revelle of freedom to a race in chains and their deaths a tattoo of rebellious tyrany in arms. We should guard their graves with sacred vigilance. All that the concentrated wealth and taste of the nation can add to their adornment and security is but a fitting tribute to the memory of her slain defenders. Let no wanton foot tread rudely on such hallowed grounds. Let pleasant paths invite the coming and going of reverent visitors and fond mourners. Let no vandalism of avarice or neglect, no ravages of time testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic.

If other eyes grow dull and other hands slack, and other hearts cold in the solemn trust, ours shall keep it well as long as the light and warmth of life remains to us.

Let us then, at the time appointed, gather around their sacred remains and garland the passionless mounds above them with the choicest flowers of springtime; let us raise above them the dear old flag they saved from dishonor; let us in their solemn presence renew our pledges to aid and assist those whom they have left among us a sacred charge upon the nation's gratitude—the soldier's and sailor's widow and orphan.

II

It is the purpose of the Commander in Chief to inaugurate this observance with the hope that it will be kept up from year to year, while a survivor of the war remains to honor the memory of his departed comrades. He earnestly desires the public to call attention to this order, and lend its friendly aid in bringing it to the notice of Comrades in all parts of the country in time for simultaneous compliance therewith.

III

Department commanders will use every effort to make this order effective. By command of

JOHN A. LOGAN,
Commander in Chief.

The date was chosen, not as an anniversary of historical significance, but so that all over the country there might be flowers blooming that could be used for decorating the many graves.

Since those days after the Civil War, there have been more terrible wars in which the young and the brave have died in the defense of freedom and their country. Now there are veterans' graves to be decorated from the Spanish-Amreican War, the two World Wars, the Korean war, and the Vietnam war.

In thousands of cemeteries throughout the country and overseas, Memorial Day ceremonies will mark an acknowledgement of lasting indebtedness owed by the living to the dead.

One such cemetery, a U.S. military cemetery, is on the heights above what was once Omaha Beach in Normandy, France. Even at this season of the year, a cold gray mist often rolls off the English Channel and shrouds the graves. At times, the two American flags atop tall flagstaffs are barely visible through the mist and fog.

Beneath the twin flags stand row upon row of white crosses that extend almost from sight in the distance. There is a deep silence, broken only by the sound of the surf rolling onto the beach below; mist, fog, crosses, silence, and the graves of the American war dead.

Memorial Day in the springtime brings the promise of summer just ahead, of vacations, of family outings, of laughter and joy and happiness. But not on the mist-shrouded heights above Omaha Beach.

All such things and life itself came to a tragic end for those resting here. For these men in the prime of their lives, there was an unsaid final farewell to the mothers and fathers who loved them so dearly, to the friends of boyhood and youth and young manhood, to sweethearts and wives, to beloved children. There was an end to plans, to dreams, to hopes, and to joys; there was an end to life itself, an end which came decades too soon.

In that cemetery at Saint-Laurent-sur-Mer, France, 9,386 Americans lie buried. Saint-Laurent-sur-Mer is only one of 22 such American military cemeteries on foreign soil. There are 30 pairs of brothers buried side by side in Saint-Laurent-sur-Mer. A father and his son lie together. There are infantrymen, engineers, artillerymen, and airmen. The names of 1,557 American are inscribed on a wall in what is called the Garden of the Missing. An inscription on that wall reads: "This is their memorial, the whole Earth is their sepulchre."

Long years ago, a Justice of the Supreme Court of the United States, Oliver Wendell Holmes, a thrice-wounded veteran of many battles of the Civil War, spoke as follows of the meaning of Memorial Day:

> To the inquirer who asks why Memorial Day is kept up, we may answer that it celebrates and solemnly reaffirms from year to year a national act of enthusiasm and faith. It embodies in the most impressive form our belief that to act with enthusiasm and faith is the condition of acting greatly. To fight out a war, you must believe something and want something with all your might. So must you do to carry anything else to an end worth reaching. More than that, you must be willing to commit yourself to a course, perhaps a long and hard one, without being able to foresee exactly where you will come out. All that is required of you is that you should go somewhere as hard as ever you can. The rest belongs to fate. One may fall, at the beginning of the charge or at the top of the earthworks; but in no other way can he reach the rewards of victory.

These words were spoken on Memorial Day in 1884. Their application to our own time is clear. On this Memorial Day let us rededicate ourselves to the traditions of freedom and liberty in whose defense so many precious lives were lost.

INFLATION—IT WILL NOT GO AWAY!

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. LEGGETT. Mr. Speaker, I spoke to the House recently about my concern that the problem of renewed inflation might come upon us while we were not watching. I noted the strange turnabout in administration thinking in this area—from its great obsession of a year ago with the inflationary dangers of a stimulative fiscal policy, to a seeming indifference to wage and price advances which may herald a new round of inflation. I believe we need comprehensive wage-price guideposts now, while the recovery is proceeding at a moderate pace and there is still slack in the system.

Others are also sounding this warning. Hobart Rowen pointed out in a recent column that, with the recovery proceeding at a moderate but solid pace, the "big imponderable ahead may be the course of prices."

Both Government economists and private forecasters are also echoing these warnings in various forms. Their words, as reported in a recent Wall Street Journal article, belie the campaign claim of President Ford that his administration has reduced inflation by 75 percent—from a 12 percent rate 2 years ago to "under 3 percent" today.

As I said earlier, the first quarter respite from inflation, which was the result of actual declines in food and fuel prices, simply cannot be expected to continue. Both Government and private forecasters are saying that, with food and fuels back on an upward trend, it is going to be increasingly difficult to keep prices in check. The recent spurt in wholesale prices, led by food increases—an annual rate of increase of 9.6 percent in April—may be a harbinger of what we have to face. Another factor which we cannot ignore is the trend in profits. Corporate profits before taxes rose at a seasonally adjusted annual rate of 28 percent in the first quarter of 1976. Big jumps in profits usually precipitate equally large demands for wage increases, so it is clear that the trend in profits may also be a portent of coming difficulties.

Let me give you some examples of what is currently being said on the overall matter of inflation. Federal Reserve Board Chairman Arthur Burns thinks the basic, underlying rate of increase in prices is an ominous 6 to 7 percent. Moreover, he is worried that inflation will further intensify in the coming months. And one of the Nation's leading business economists, Michael Evans of Chase Econometric Associates, takes an even more pessimistic view—that inflation will get worse by midyear and may climb to a rate of 10 percent or more by the end of 1977.

It is interesting to note that Mr. Ford's chief advisers appear to be rejecting these warnings. White House economist William Seidman thinks we will end up this year with less than the projected rate of price increase of 5.9 percent. Moreover, CEA Chairman Alan Greenspan sees "no evidence" that inflation is now getting worse. He sees a danger in "crying wolf" too soon, but he does admit that the threat of inflation still exists.

The economic picture looks far from perfect, even apart from the matter of inflation. Unemployment is still well above 7 percent and is not coming down rapidly enough to suit me. The budget resolution we recently adopted, however, is designed to reduce the unemployment rate to 7 percent by the end of this year and 6 percent by the end of 1977. And the condition of the economy is much better than it was at the first of the year—better, in fact than most people were projecting.

Is inflation then, as Mr. Rowen terms it, the "coming problem"? He points to raw materials prices as an indicator of potential trouble. Wholesale metals prices, for example, have experienced big increases which are working their way through the system and will certainly have an effect on consumer prices. And perhaps the more fundamental question, which I posed earlier, is whether a series of wage increases far in excess of productivity gains will itself push us into a new round of inflation.

It appears that the response of Arthur Burns is likely to be to deal with the latest inflationary pressure by reducing monetary growth targets. And Paul Volcher, president of the Federal Reserve Bank of New York, has made this view much more explicit, according to a recent report in the Washington Post. Mr. Volcher thinks our inflation rate "remains unacceptably high," and that the recovery is "vulnerable to a resurgence of inflationary expectations." His solution, however, about which I am dubious, is a "gradual reduction in the average rate of money growth from recent experience and current targets."

In my view, we must carefully consider whether this is the time to clamp down once again on the Nation's money markets. I urge Chairman Burns and the Fed to refrain from excessive restraint on the money supply, for we do not need a return to the reign of tight money and high interest rates. I endorse the views expressed by Budget Committee Chairman Adams in his recent letter to Mr. Burns calling on the Fed to coordinate fiscal and monetary policy so there is a reasonable chance to achieve the economic goals which the Congress has established for the Nation.

We certainly do not need unchecked growth in the money supply. But neither do we need another dose of the old remedy of cuts in government spending along with clamps on monetary growth combined with high interest rates. In my estimation, the effect of that would be to nip the recovery in the bud.

In fact, as I have been saying for some time, if we want to pursue policies designed to continue the recovery while at the same time preventing a resurgence of inflation, we ought to establish a comprehensive program of controls or guidelines on wages, prices, rents and interest. All must be controlled in some measure if we are to provide equity to all sectors of the population. We cannot, for example, expect labor to adhere to guide posts unless we also do something about the surge in rents that is expected later this year. The same principle follows for other parts of the economy as well.

Let me conclude by repeating my warning of 2 weeks ago. We must not allow election year inhibitions to prevent us from confronting both labor and management with the need to follow noninflationary guidelines. And beyond that, let us not permit the case for wage-price controls to continue being the "unmentionable topic" in economic policy.

At this point I would like to include in the RECORD the articles from the New York Times and the Wall Street Journal that I referred to earlier:

[From the Washington Post, May 12, 1976]

THE COMING PROBLEM OF INFLATION

(By Hobart Rowen)

Economic recovery has been moving along at a fast pace, and has now reached a point where it can properly be called an expansion. Not a boom, mind you, but a solid expansion.

No one takes greater satisfaction in the fast step-up in economic activity and the sharp step-down in the rate of inflation than Federal Reserve Board Chairman Arthur F. Burns.

Burns was not at all immodest in testimony before the House Banking Committee a few days ago in claiming that the Federal Reserve is entitled to a good deal of credit. The Fed stubbornly resisted demands last year that a faster rate of monetary growth was needed to stimulate recovery.

It is hard to argue with him. Burns and the Fed were right, and almost everybody else was wrong. Even Ford administration officials, who feared at the beginning of 1976 that money supply growth was too low, are ready to admit that on this one Dr. Burns called the turn.

On the basis of past performance, Burns' forecast for what lies ahead deserves close attention. He predicts, first of all, no letup "as yet" in the pace of expansion.

Financial market conditions remain favorable for a continuing upturn, he says. Interest rates have been edging down, even for mortgage loans, which is a fillip for the still depressed homebuilding industry.

Banks have been lowering the prime lending rate, with the First National City Bank dropping its charge to best customers to 6.5 per cent. That's a far cry from the peak of 12 per cent in mid-1974, and should encourage business borrowing.

Meanwhile, the Fed chairman notes, stock market prices have soared, which not only makes everybody feel better, but makes it easier for companies to raise funds, or build "equity cushions."

Even the banks that got over-extended in the 1970s, permitting "their financial condition to deteriorate," are in better shape and have been giving "greater attention to prudent management," Burns assures us.

Consumer confidence, evidenced by a faster pace in the sales of autos and other goods, has improved. And there are signs of a "quickening tempo" of activity in the sluggish capital goods industry.

It is not a perfect economic picture that the cautious Arthur Burns sketches. The unemployment rate looks uncomfortably static at 7.5 per cent. But the general condition of the economy is considerably better than it was just a few months ago, and much perkier than anyone thought it would be at this stage.

Private economists agree with Burns. "So far," says economist Beryl Sprinkel of the Harris Bank and Trust Co. of Chicago, "it's a moderate recovery. The rise is somewhat slower than the recovery from the 1957–58 downturn, and I'm glad it is."

Otto Eckstein of Data Resources Inc., agrees with Burns that recovery is solid. In fact, he predicts that the first quarter real GNP growth rate of 7.5 per cent assures significant additional gains for the rest of the year, with 6.9 per cent for 1976 as a whole.

Jimmy Carter's chief economic adviser, Lawrence R. Klein of the Wharton School, sticks to a 6.2 per cent real GNP forecast for this year, but sees a much faster recovery in jobs, with consequent added pressure on prices.

Thus, the big imponderable ahead may be the course of prices. No one seems to believe that the extremely low annual inflation rate of the first quarter (around 3 per cent) can last very long.

Sensitive raw materials prices have been creeping upward. In the absence of any meaningful government policy on wages and prices, big increases in wholesale metals prices are now working their way through the system, and will be reflected later in consumers' goods prices.

Burns decided, as a matter of insurance, to try to nudge latent inflationary pressures down by reducing monetary growth targets a fraction. This may or may not make an actual difference, as experience both in this country and West Germany shows.

The way the economy is acting suggests that one bread-and-butter issue for the Democrats in the fall may be an inflationary bubble. True, it's not going to be a double-digit nightmare. But as the administration has made clear about unemployment, it's not the level but the trend that counts.

[From the Wall Street Journal, May 12, 1976]

INFLATION AT HOME—FEDERAL ECONOMISTS FEAR SHARPER INCREASE IN PRICES BY YEAR-END

(By Richard J. Levine)

WASHINGTON—Out on the rocky campaign trail, President Ford has been touting his success in the battle against raising prices. The administration, he tells audiences, has reduced the annual inflation rate from 12% two years ago to "under 3%" today.

"We've cut inflation 75%," he proudly proclaims.

That presidential punch line makes some of Mr. Ford's economic advisers wince. They now have seen one closely watched inflation indicator, the wholesale price index, spurt after an unusual spell of calm. Although its annual rate of increase in April—9.6%—won't necesarily continue, government economists do fear further big jumps in coming months. Recently announced price increases in metals and gasoline have yet to show up in the wholesale index.

And when the consumer price index for April comes out later this month, its reading also may indicate that the respite from inflation is ending; in the first quarter of 1976, when food and fuel prices were declining, the retail index rose at an annual rate of only 2.9%.

AMMUNITION ON THE WAY?

Government economists don't expect a return to double-digit inflation any time soon. But there is growing concern that food and fuel prices are back on an upward track and that the economic recovery may be accelerating a bit too fast. By year-end, some fear, consumer prices could be rising at an annual rate as high as 7%, more than double the recent rate of climb.

"The price side is going to start falling apart," a White House economist worries. "I think the Democratic nominee will have some pretty good inflation ammunition by August."

Chairman Arthur Burns of the Federal Reserve Board, who believes that the economy's underlying inflation rate is a troublesome 6% to 7%, sternly warns that "the menace of inflation is still with us." He expresses fear that it may intensify.

Two of the nation's top business forecasters also see trouble ahead. Otto Eckstein, president of Data Resources Inc., says that persistent price inflation "will keep wage demands high" and that "business, wary of recurring shortages, could start hoarding materials again, helping to create conditions that led to the last recession." Michael Evans of Chase Econometric Associates, perhaps the most pessimistic private analyst, predicts that "inflation will take a sharp turn for the worse by midyear" and probably return to 10% or more by the end of 1977.

GREENSPAN'S VIEWS

Whether things really become that grim or not, private and government forecasters agree that in the months to come, it will be more difficult—and more urgent—to keep inflation in check. "The name of the game isn't stabilizing prices in the first part of an economic recovery," a high Treasury official says. "What's important is to be able to contain price pressures during a period of expansion."

Not everybody in government is dubious about success. Both Alan Greenspan, chairman of the Council of Economic Advisers, and L. William Seidman, assistant to the President for economic affairs, remain more hopeful than most.

While it won't be possible to maintain the "sensational" first quarter performance, Mr. Seidman says, "I'm optimistic that we'll end up below our actual inflation forecast, which was for a 5.9% increase" in the consumer price index this year. Despite recent increases in metals prices and cattle prices, Mr. Greenspan sees "no evidence" that inflation is getting out of hand again. "There is a danger in crying wolf too soon," he says. "The threat of inflation still exists, but you've got to distinguish between the real signals and the false signals."

"LOOKING FOR THE WOLF"

The real signals of a major inflationary outburst, in the Greenspan view, would be a sharp sustained growth in the nation's money supply, rapid acceleration of wage settlements, mounting demand for credit and rising interest rates. "Then you get worried and start looking for the wolf," he declares.

But White House men are already worried, rightly or wrongly, about another possible inflationary force they detect building up on Capitol Hill: increased government spending. This inflation fear seems sure to trigger presidential vetoes of bills that would push spending significantly above Mr. Ford's $396 billion target for the fiscal year that begins Oct. 1. The President's promise the other day of "more and more vetoes," a White House aide says, is not only good politics but also good economics.

The most immediate reason for expectations of a price spurt is the growing evidence that the recent declines in food and fuel are over. The 2.9% consumer price increase in the first "quarter—the narrowest rise in nearly four years—reflected the effects of a 2% decline in food prices and a 2.1% drop in energy prices.

The coming bad news at the supermarket will be found partly in higher price tags on beef. Cattle prices have risen since mid-March as supplies have tightened. Now wholesale beef prices are already rising, and an increase in retail prices is expected to follow.

True, Agriculture Secretary Earl Butz predicts that retail food prices in 1976 will average only 3% to 4% higher than last year; they rose 8.5% in 1975 and 14.4% in 1974. But some government analysts believe that Mr. Butz is overly optimistic; increases in food prices were largely to blame for the April jump in the wholesale price index. And the Agriculture Secretary himself concedes that his bright forecast is dependent on good weather that would assure bumper corn and wheat crops.

Even if Mr. Butz's prediction is accurate, retail food prices could be increasing at an annual rate of 6% or more late in the year. And because the cost of food affects consumer attitudes so deeply, government officials are worried that rising supermarket prices in the second half of the year could rekindle a general inflationary psychology.

"If you could just keep prices down for another three months or so, it would be marvelous," a Commerce Department official says. "People would actually begin believing prices are quiescent. But I don't see how you're going to do it."

If the recently laggard food and fuel prices are stripped out of the consumer index, a worrisome inflation picture emerges. According to Federal Reserve Board economists, the index minus these components rose at a vigorous 7.7% annual rate in the first quarter, up from 7.1% in the preceding quarter and 5.8% in the third quarter of 1975. The recent price push came largely in services of various kinds, in clothing and in used cars.

Especially troubling to some analysts are persistent, strong increases in charges for such services as medical care, insurance and utilities. One reason for this price pressure, say economists at Citibank in New York, is that "to some extent retailers can raise prices of services with less fear of suffering a loss in revenue due to a retaliatory drop in consumer demand."

The President's Council on Wage and Price Stability recently declared that rising health-care costs now constitute "a major public policy problem facing the nation." Because they have outpaced increases in other consumer services in the past decade, the council says, "Americans on the average now are spending 10% of their income for health care." Medical costs, which rose at a 14% annual rate in this year's first quarter, "are expected to rise sharply for the forseeable future," the council says.

Government analysts also see significant increases coming in rents. "Rents have got to go up faster if we're going to give builders some incentive" to put up more multifamily housing, one official says.

And, though consumers won't feel the difference right away, prices of many products will sooner or later begin to reflect recent increases in such basic industrial materials as steel, copper and aluminum.

Still, many Washington analysts agree with an assessment by Mr. Greenspan that the increases in metal prices result mainly from the pickup in demand brought by the business recovery and don't signal a "big surge" in prices throughout the economy. "There's always the possibility these could get out of hand and trigger other things," he says. "But at this point, there's no evidence of it."

As he reviews the general inflation picture, Herman Liebling, the Treasury's top staff economist, says, "It's fortunate that we are getting productivity increases that can absorb some of the price pressure that is developing all around us."

Indeed, productivity, or output per hour of work, in private employment rose at a 4.6% annual rate in the first quarter, helping to lessen the inflationary impact of wage increases and to keep the rise in unit labor costs down to 3.7%. Moreover, while productivity gains tend to come more slowly as business recovery continues, government economists expect good productivity figures the rest of the year.

At the same time, administration inflation fighters are keeping wary eyes on this year's wage negotiations, with their potential for refueling inflation fires.

The year's first big test, the talks between the Teamsters union and the trucking industry, produced an agreement calling for a 9.1% wage rise in the first year. That was somewhat higher than the Council of Economic Advisers would have preferred. And Robert Crandall, assistant director of the wage-price council, is concerned about the possible inflationary impact of the contract's unlimited cost-of-living adjustment clause. In addition, the United Rubber Workers' strike against the Big Four tire makers is expected to produce a costly settlement.

But Mr. Greenspan is generally satisfied with the wage situation so far. Nothing that the index of hourly earnings for nonfarm production workers rose only 7.2% during the year ended in March, Mr. Greenspan concludes, "You don't have any great wage-cost pressure."

Perhaps the two biggest imponderables affecting the inflation outlook for next year and beyond are the adequacy of industrial capacity at home and the pace of economic recovery abroad.

The experts are divided on whether continuing recovery will catch U.S. manufacturers short of plant and equipment, with bottlenecks resulting. At the heart of this debate are concerns voiced by Mr. Evans of Chase Econometrics, who looks for possible shortage in aluminum and steel. In aluminum, he says, production is likely to press against maximum capacity next year. In steel, he sees "if not outright shortages . . . at least increases in inflation which are well above the average rate for the economy."

Officials at the Council of Economic Advisers and the Office of Management and Budget tend to view Mr. Evans as alarmist. But other authorities are less certain.

Federal Reserve Chairman Burns told Congress recently, "I wouldn't be surprised if a year or a year and a half from now, we find there's a shortage of capacity in some of our raw-materials-producing industries." And Edgar Speer, chairman of U.S. Steel Corp., has said his "guess" is that "in the latter half of 1976 and probably throughout 1977 . . . we are going to once again experience a shortage of steel similar to that in the 1973–1974 period."

As they turn to events overseas, some government and private analysts find that the simultaneous business recoveries in Japan, West Germany and other industrial countries add up to further inflation danger. If these trends continue in unison, "then world-wide industrial production will press on available supplies of raw materials by 1977," says Neil McMullen of the National Planning Association, a private research group.

B'NAI B'RITH GUARDIAN OF THE MENORAH TRIBUTE BANQUET TO HONOR MR. AARON GROSSMAN OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. CARNEY. Mr. Speaker, on Sunday, June 13, 1976, Mr. Aaron Grossman will be honored at the guardian of the Menorah Testimonial Dinner for B'nai B'rith youth services in Youngstown, Ohio.

Mr. Grossman was born and raised in Youngstown; he attended South High School and Youngstown State University. A former member and past president of the Sigmund Nisenson A.Z.A. Chapter, he later became adviser of the group, serving in that capacity for 12 years. Upon retiring from his role as an active adviser, he was elected a life-time adviser.

Aaron Grossman has served as president of Mahoning Lodge No. 339, B'nai B'rith, and was later elected a member of the board of governors and a vice president of District Grand Lodge No. 2. For 10 years, he served as a member of the International B'nai B'rith Youth Commission, and he is currently beginning his third term as a vice chairman of that commission. In addition, he has been chairman of the District 2 B'nai B'rith Youth Council. One of the founders of the Kent State University Hillel Advisory Board, Mr. Grossman served as its chairman for two terms as well. Because of his work with youth, the Governor of Ohio appointed him to the Ohio Youth Commission.

Aaron Grossman's other activities include: past president of the former Temple Emanu-El Congregation, past president of the Girard-Liberty Kiwanis Club, vice president of the Jewish Community Center, member of the board of governors of Youngstown Israel Bonds, member of the board of governors of International B'nai B'rith, and member of the Ohio Kentucky Region of the Anti-Defamation League.

Mr. Grossman is associated with Consolidated Steel Co., well-known scrap dealers, of which he is a vice president, and with Kinray Industries, Inc., of Youngstown. He has four children: Dr. David Grossman, who is married to the former Cynthia VanTell; Richard Milton, who is with the Tektronix Corp. in Portland, Oreg.; Kurt Leslie, who is majoring in electrical engineering at the University of Cincinnati, and Lori Ann, who is a student at Youngstown State University.

Mr. Speaker, Aaron Grossman is a distinguished citizen of our community. It is altogether fitting and proper that he be honored by the Youngstown Guardian of the Menorah. When his family and many friends join together at the testimonial dinner in his honor, I hope to be on the dais to bring my personal greetings and congratulations to Aaron for his many outstanding achievements.

TURKISH ATROCITIES CONTINUE ON CYPRUS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues an article which appeared in the May 8 edition of the Toronto Star which discusses Turkish destruction and desecration of Greek Cypriot churches on the occupied northern end of Cyprus.

The article actually discusses two issues, one is the atrocities themselves, the other was the attempt to cover up the report by UNESCO. However the author of the report, Jacques Dalibard a Canadian writer did manage to disclose some very startling facts. Included was widespread desecration of churches, graveyards, and mosques. In the words of the author of the newsstory:

> The vandalism and desecration are so methodical and so widespread that they amount to obliteration of everything sacred to a Greek.

These deplorable actions cannot do anything but further postpone the prospects for peace on Cyprus. As it is, Turkey remains in illegal occupation of more than 40 percent of Cyprus. There remain upward of 200,000 homeless and helpless refugees on the island. Fortunately Congress has voted to extend the mandate of my amendment which provided emergency relief aid for the refugees on Cyprus. Yet insufficient progress has been made thus far, thus throwing into question the decision of this Congress last October to lift the arms embargo against Turkey which was done to hasten the road to peace. Both the administration and the Congress have a clear obligation to work with both Turkey and Greece on behalf of peace for Cyprus. At the very least, the actions of Turkey with respect to the desecration of churches and graveyards should be deplored.

Mr. Speaker, I now insert the article "Turks Desecrate Greek-Cypriot Churches," for the consideration of my colleagues:

TURKS DESECRATE GREEK-CYPRIOT CHURCHES

(By John Fielding)

LONDON.—Almost two years after the Turkish invasion of Cyprus, a report on the looting and vandalism of Greek churches in the occupied north of the island has been suppressed for fear of upsetting both Greeks and Turks.

The 100-page report was prepared for the United Nations Educational, Social and Cultural Organization (UNESCO) by a Canadian, Jacques Dalibard, a world authority on religious works of art.

Because its conclusions were too well documented to be ignored and seemed certain to generate an international storm, UNESCO asked Dalibard to produce a shorter, bowdlerized version.

This second report of only five pages, couched in innocuous terms, was prepared for publication last month. Even then, UNESCO demanded a statement on the cover disclaiming any responsibility for Dalibard's views.

IN CROSSFIRE

But two weeks ago, Dalibard was caught in the propaganda crossfire between Greeks and Turks over allegations that the Greeks had burned to the ground one of Cyprus's most famous mosques at Peristerona, west of Nicosia.

When Dalibard visited the mosque, found it undamaged and had the temerity to say so, he quickly found all co-operation from the Turkish Cypriot administration withdrawn.

He has returned to his home in Ottawa angry and disillusioned and UNESCO has shelved even his abridged report.

For two weeks this correspondent surreptitiously drove around the occupied areas with a colleague, Martin Smith, avoiding the official escort that accompanies all journalists by leaving the hotel at 6 each morning and returning in time for breakfast.

The vandalism and desecration are so methodical and so widespread that they amount to institutionalized obliteration of everything sacred to a Greek.

The process was perceived by an administration that only two weeks ago was mobilizing international Moslem opinion to protest over the burning of a mosque that is in fact still standing intact.

In 26 former Greek villages only four churches in the 26 could be described as being in decent condition. Not one graveyard was undesecrated.

EMPTY CHAPEL

Dhavlos, the north coast village from which every Greek was forcibly removed one night last year, is a particularly repelling example. In the mountains to the south, the chapel of Ayios Demetrios at Ardhana is empty but for the remains of the altar plinth, and that was fouled with human excrement.

At Syngrasis, the church interior was smashed beyond recognition, littered with the remains of icons, pews, and beer bottles. The broken crucifix was drenched in urine.

At Lefkoniko, the church furniture was piled outside in the rain and half a dozen icons strewn across the rubble in the churchyard.

The church at Piyi was a mass of wrecked furniture, glass, and icons, so was the impressive church at Peristerona a mile away.

Tombs gaped open everywhere. Massive marble slabs weighing several hundred pounds had been tossed aside or broken into tiny fragments.

Rauf Denktash, president of the de facto Turkish federated state of Cyprus, told this correspondent: "I think religious places should be guarded and protected. We are doing our best to protect religious property on our side as far as we can. It means keeping it closed, so that there is no access to the church, and naturally if there is a need for repairs someone has to look after it. The first thing we did was to put locks on the doors or nail them down . . ."

BATTERED DOORS

But at the tiny Antiphonitis monastery, miles up a path in the fragrant pines of the Pentadaktylos Mountains, the doors were battered in, 11th and 12th Century treasures looted, 15th Century frescoes splattered with asbestos cement, the newer icons smashed, fires had been lit, and the floor was strewn with bottles and filth. Before departing, the Turks chalked the date—March 6, 1975.

CONSPIRACY OR COINCIDENCE?

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. CLAY. Mr. Speaker, the following article which appeared in the May 24, 1976, edition of the St. Louis Post-Dispatch addresses itself to a matter of grave concern to many citizens. I commend it to my colleagues:

CONSPIRACY AGAINST BLACKS?

(A letter to the Post-Dispatch from Representative WILLIAM L. CLAY, St. Louis)

A recent Post-Dispatch editorial took issue with me for suggesting that a national conspiracy was afoot to undermine and eliminate outspoken black leadership.

Please tell me what Watergate was all about if it was not—in the final analysis—a crude conspiracy against the American people and their freedoms. If we did not learn this lesson from this horrible experience, then all has been in vain. This brings us to my observation that an organized effort is now in effect to undermine, blackmail or destroy black leadership at every level and at any cost. This policy is articulated and executed through intensive harassment by press and the Government, through intimidation, smear, criminal accusation and investigation.

The perpetrators of this savage scheme appear to be a combination of governmental officials, certain elements of the media and many influential persons in the political life of the nation. While these charges may sound "silly," we can only call attention to the recent report of the Senate Intelligence Committee, headed by Senator Frank Church, following its investigation of the FBI and the CIA. Here we are given a sordid picture of the extent to which FBI Director J. Edgar Hoover went to destroy the late Rev. Dr. Martin Luther King Jr. and other black leaders.

The well-established paranoia of a federal agency and its director on the matter of black leadership in this country should be sufficient cause to ask ourselves whether this institutional nightmare was an isolated effort or if it is more pervasive in governmental life.

The scenario of late takes the form of a series of probes by the media into the political and personal life of the black elected official. Investigative reporters write outlandish articles purporting to be factual exposes of criminal activities. These highly questionable investigations thus become the basis for official government investigations.

After months of innuendoes, quotes from unnamed sources and millions of words in print, the frivolous charges are unceremoniously dropped. But by then, the damage is done. A promising career of a black official is subsequently halted or destroyed, his or her character and integrity are seriously tarnished. The conspirators, thus, have partially succeeded in diluting the credibility and influence of a leader without producing any substantive proof of wrongdoing.

But often, even after the investigations are dropped, the press continues to wage a war of journalistic retribution against the character of the black official.

It is not by coincidence or happenstance that presently a disproportionate percentage of the few blacks elected to public office, who constitute less than 1 per cent of the national total, are being subjected to the most insidous kinds of smear attacks by the American press. The brutal, uncivilized articles against black officials by the media, the overly aggressive, almost fanatical efforts by prosecutors to indict black officials and the constant persecution by the Internal Revenue Service create a dual standard of prosecutorial pursuit.

Those who consider the charge of a national conspiracy against black elected officials as silly must explain why 50 per cent of all the blacks in the House of Representatives are under investigation for criminal activity and not 50 per cent of the white representatives. Certainly, they are not contending that black members as a group are more criminally inclined, less principled, more corrupt, less moral?

The list of black leaders under investigation and/or subjected to unconscionable, irresponsible newspaper attack reads like *Who's Who in Black America:*

Lt. Gov. George Brown of Colorado—grand jury investigation that he misused state funds; charges dropped. Lt. Gov. Mervyn Dynmally of California—under daily attack by *Los Angeles Times* and being investigated by several agencies resultant from news articles.

Representative Ronald Dellums of California—telephones and offices illegally bugged by FBI and CIA. Representative John Conyers of Michigan—office and telephones illegally bugged by FBI and CIA.

C. Delores Tucker, Secretary of State of Pennsylvania—press attacks of rumors concerning state travel and income taxes, investigated by State Senate for seven months; all charges proved unfounded.

Representative Ralph Metcalfe of Illinois—publicly accused of receiving kickbacks in 1968 rezoning; Justice Department, after one year dropped charges. Representative Parren Mitchell of Maryland—placed under 24-hour surveillance and telephone illegally bugged for eight months; no charges ever filed.

Representative Charles Rangel of New York—criminally investigated for income tax fraud; no charges ever filed. Representative Charles Diggs—presently investigated for income tax evasion. Representative Louis Stokes—FBI investigation into campaign contributions.

Representative William L. Clay of Missouri—accused by Justice Department prosecutor of involvement in narcotics trafficking; investigated by FBI for campaign contribution and travel abuses, and presently by IRS for income tax evasion charges. William J. Chenault, vice mayor of Cincinnati—accused of felony charges of embezzlement and theft; forced to resign; subsequently all charges of felony dropped when he pleaded guilty to four counts of misdemeanor. D'Army Baily of Berkeley (Calif.) City Council—recalled primarily for being black oriented. David Cunningham, city councilman of Los Angeles—forced into a fight for recall; he was successful.

State Representative Bill Green of California—under press attack and numerous state investigations for abuse of travel. Leroy Johnson, former State Senator of Georgia—forced out of office and convicted in an IRS case on dubious charge of filing false affidavit.

Representative Shirley Chisholm—accused of abusing campaign funds; charges dropped. Charles Evers, Mayor of Fayette, Miss.—indicted for income tax evasion. Avon Williams, State Senator of Tennessee—successfully fought censure, was charged with insulting white womanhood. Maynard Jackson, mayor of Atlanta—has been subjected to unconscionable, almost daily attacks by the Atlanta dailies.

I am not for once suggesting that all charges against black officials are frivolously contrived or racially motivated. Blacks in high offices, too, are capable of emulating some of the worst in our white predecessors. Those that do must be dealt with in the same manner, and I emphasize the same manner as their white counterparts.

The fact that black elected officials are under a siege of attacks cannot be viewed in isolation. This must be analyzed in national proportion and viewed exactly for what it is—a conspiracy to undermine, emasculate, humiliate, jail and destroy those blacks who would dare challenge an archaic, repressive, racist society.

THE IMPERATIVE OF DEVELOPMENT AND GROWTH

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. HAWKINS. Mr. Speaker, I would like to call the attention of the Members to this article by Bayard Rustin, "No Growth Has To Mean Less Is Less." This article presents detailed evidence that a no-growth policy would be to the disadvantage of the poor and nonwhite peoples of the world. The author states that attempts to reduce unemployment and increase growth are necessary if our society wishes to continue trends toward equal justice and opportunity. This article, which appeared in the New York Times Magazine on May 2, 1976, follows:

NO GROWTH HAS TO MEAN LESS IS LESS

(By Bayard Rustin)

There is an immense contradiction at the heart of the political attitudes of many Americans—those for whom the abolition of poverty and racial inequality rank together with environmental protection as the highest social priorities of the immediate future. The vast majority would agree that the country is now facing a historic national crisis: There is mass unemployment, a sizable and expanding black underclass comprising persons whose lives were scarcely touched by the civil-rights revolution, and a declining standard of living for millions of working people. Yet many of those who profess concern about unemployment and poverty also actively support the concept of limiting economic growth in order to protect the environment. That notion, if translated into conscious policy, would measurably worsen the nation's—and the world's—economic plight. And its promoters would bear the responsibility for having shattered the hopes of those who have never had a normal role in the world economy, among whom the darker-skinned people of the world rank most prominently

This exaggerated and misplaced disillusionment with economic growth has been based on the premise that America has achieved an unparalleled state of prosperity such that economic needs and insecurities are no longer the principal concern of its people. With an official (and understated) unemployment rate hovering around 8 percent, and with key sectors of the economy engulfed by Depression-era stagnation, one hears less today about America as the "affluent society" than in the not-too-remote past. Yet that most unfortunate phrase—"affluent society"—has left a permanent imprint. It has provided the rationale for a whole series of attitudes, movements and policies that share a crucial assumption: The material standards of the American majority have reached a level of affluence so substantial as to render the further expansion of production and wealth unnecessary and undesirable. Many of these modern disciples of Thomas Malthus believe that their long-range vision of a better society can be fulfilled only by severely restricting or preventing altogether further economic expansion. E. J. Mishan, a professor of economics at the London School of Economics, has compared the further pursuit of growth to a "joyless voyage, fraught with increasing risk, and found for an unattractive destination." While Mishan is usually described as a "conservative," the fact is that his crusade against technological society—including proposals for a ban on international air travel and for creation of communities where only horses and horse-drawn vehicles would be permitted—has struck a responsive chord with Many American ecologists.

It has long been an article of faith for conservative economists that accelerated rates of growth are a chief cause of inflation. When conservatives have held the Presidency, their advisers have often encouraged fiscal and monetary policies aimed at slowing growth and increasing the jobless rate as a means of reducing the pace of inflation. This was the case during both the Eisenhower and Nixon Administrations—and it is now the case for the Administration of Gerald Ford.

What is different about the current upsurge in antigrowth sentiment is that the bulk of its intellectual and political advocates characterize themselves as liberal, or even radical, in the sense that they maintain in the abstract a conviction that it is the Government's obligation to assure a condition of equality for all people, and to intervene actively on behalf of the poor and minority groups.

To its credit, the environmental movement has made a significant contribution to the struggle for a more humane social order by forcing society to take a new look at many previously accepted patterns of economic and cultural behavior. In its most praiseworthy campaigns, the environmental movement has sought changes that are of great importance to working people. It can take credit for having reawakened society to the need for more stringent job-safety regulations. By pointing out that it is the neighborhoods of the poor and working classes that receive the worst effects of pollution from nearby plants, it has added an important class dimension to the struggle for a cleaner environment. Environmentalists can also take credit for having questioned the usefulness of the urban renewal schemes, highways and developments that so often require the destruction of healthy working-class neighborhoods. At the same time, many of those in the vanguard of the environmental movement, themselves members largely of the upper classes, have often sought policies that are clearly detrimental, and in some cases—the growth controversy being the most significant example—destructive to the needs of those less better off.

The antigrowth movement has already made its impact felt in the debate over economic recovery that occupies a central role in the Presidential campaign. The attitude of many liberal Democrats is strikingly different from that of John F. Kennedy, who made the cautious, slow-growth policies of the Eisenhower Administration a decisive issue in 1960. Confronted by an economic crisis far more severe than the problems facing Kennedy, many liberal Democrats prefer the motto "less is more" to Kennedy's ringing assertion that "a rising tide lifts all the boats."

Let me make it clear that I am in general sympathy with the two basic elements of what is shaping up as a new liberal agenda for economic transformation. The first element, publicly financed jobs, is desperately needed not only to reduce unemployment, but also to enable the Federal Government to carry out the vital programs of urban reconstruction that business and the states and cities will not, or cannot, carry out. The second, the dismantling of the largest corporations through various antitrust enforcement, as proposed by politicians like Fred Harris, can be a useful mechanism for reducing the inordinate influence of corporate giants and conglomerates. (Though we may be deluding ourselves if we look on trust-busting as a means of putting people back to work. Critics of "bigness" seem to forget that the competitive capitalism of the past bred a degree of worker exploitation that is unimaginable today.)

But these are not, by themselves, a sufficient response to high, long-term unemployment or to the problems of the hard-core, structurally unemployed. Sustained, high economic growth is also a precondition for the creation of a more equal society. For as economist Leon Keyserling points out, it has been only during periods of high growth that America has made forward thrusts against mass poverty and unemployment. In a direct response to the critics of growth, Keyserling writes:

> "The record is clear beyond question that there is a high positive correlation between the rate of real economic growth and the rate of reduction of poverty. This is mainly because the high unemployment attendant upon low growth *is the main single cause of poverty*. A second reason is that the improved income distribution and the larger emphasis upon the great domestic priority programs, which in part derive from high growth and in part are essential to it, are also indispensable to the liquidation of poverty [emphasis added]."

The point about the correlation between growth and the effectivenes of social programs is crucial. For in the opinion of many critics, economic expansion, while raising the standards of the working class, has totally failed to reduce poverty, particularly among blacks. Yet the record shows that this is simply not the case. Between 1959 and 1969—a period of transition from policies of slow growth to those of relatively high growth—the percentage of white families earning less than the Federal low-income level shrank from 18.1 to 9.5 percent, not an insignificant amount. For blacks, the change was even more dramatic: The proportion of blacks living in poverty declined from 55.1 percent to 32.2 percent. In other words, whereas at the beginning of the decade more than one-half of all blacks lived in poverty, by the end of the decade that number had been reduced to less than one-third.

A healthy rate of economic expansion is a precondition for the success of manpower and service programs that are directed to the special needs of the poor. Without substantial growth, we simply will not have enough jobs for those individuals who have undertaken training programs as a means of overcoming the effects of poor educational opportunity. Nor will Government have the resources to build the housing, supply the medical services, and upgrade the schools in the inner cities.

Perhaps even more important would be the psychological and political effects of restricting or stopping growth. People who are confronted by scarcity and a declining standard of living are unlikely to lend support to policies that seek to lift the standards of only the very poor. Hard times do not evoke a national consensus for massive reform; the cycle of recession/inflation/stagnation engineered by successive Republican Administrations has hardened the politics of envy and selfishness.

In addition to its impact on domestic politics, the abandonment of growth would have an incalculable effect on our foreign relations. The role that America plays in the coming struggle to free the underdeveloped world from its pervasive and oppresssive cycle of economic bondage poses one of the great challenges of the future. Without growth, we could never mobilize domestic political support for policies that offer new hope to the emerging nations. But even more important, economic growth in industrial countries is of major economic benefit to poorer countries who need markets for their raw material resources and other products.

Nevertheless, in the face of overwhelming evidence that the end of growth would result in an incalculable set-back for poor and darker-skinned peoples of America and the world, the antigrowth proponents stubbornly insist that the perpetuation of current rates of economic expansion can only hasten the destruction of humankind. And they do so despite the fact that some of the most fundamental tenets of the neo-Malthusians—such as the notion that much of the earth's natural resources face extinction by the end of the century—have been sharply criticized by scientists and economists who believe that the earth can sustain growth rates sufficient to make possible the abolition of poverty in even the most wretchedly destitute African or Asian nation.

If the scientific rationale that underlies the antigrowth movement is by no means proven, why has the limits-to-growth thesis won such widespread acceptance? One suspects that there is a certain class disdain at work in the anguished cries over materialism and overabundance, and that what many critics of growth are really upset about is the loss of status that the privileged suffer with the enlargement of the middle classes. Such attitudes, it should be noted, are by no means limited to the opposition of segments of the traditional elite to economic democracy. At the core, the factional struggles within the Democratic Party are the strivings of an educated, middle-class elite for domination over organized labor and the working class. Lacking a mass constituency, this elite has fallen back on an exquisitely honed sense of self-righteousness and moral sensitivity—it has, in other words, claimed authority on the grounds that it comprises the better, more enlightened people—to place its adversaries on the defensive. Anthony Crosland, the brilliant social democratic theorist who is currently Foreign Secretary in the British Labor Government, has written a biting rejoinder to such attitudes. He says:

> "My working-class constituents have their own version of the environment, which is equally valid and which calls for economic growth. They want lower housing densities and better schools and hospitals. They want washing machines and refrigerators to relieve domestic drudgery. They want cars, and the freedom they give on weekends and holidays. And they want package-tour holidays to Majorca, even if this means more noise of night flights and eating fish and chips on previously secluded beaches—why should they too not enjoy the sun? And they want these things not . . . because their minds have been brainwashed and their tastes contrived by advertising, but because the things are desirable in themselves."

Crosland here does not even get into what is perhaps a more fundamental prejudice held by the antigrowth intelligentsia—a contempt for the very occupations that would be most threatened by a reduction in growth or by the imposition of extreme environmental restrictions. The jobs that would be lost would be almost exclusively in blue-collar fields—jobs that can be repetitious and deadening to the spirit, but that can also offer a challenge to the ingenuity and skills of a worker, as with construction work. Environmentalists can talk glibly about creating opportunities for the "retraining" of workers displaced by antipollution regulations, but the response of the worker is likely to echo the trade unionist, who observed that he had "never met an unemployed environmentalist."

I do not here wish to exaggerate the impact of environmental legislation on the jobs of working Americans. According to estimates of the Environmental Protection Agency, some 12,000 jobs have been lost due to plant closings and the like mandated by stiffer pollution standards. Environmentalists are quite right to point out that many more jobs have been created by antipollution projects—such as sewage treatment facilities—than have been lost because of the failure of a firm to comply with Government antipollution laws. Nor do I wish to appear sympathetic to those antienvironmentalists within the business community who regularly issue sweeping and unfounded protests that business is being "strangeld" by overregulation. Businessmen have resisted the imposition of antipollution standards for the very same reasons they have resisted civil-rights laws and labor legislation—a class-rooted antipathy to government intervention in business affairs—and not because of an inability to comply with needed changes.

But environmentalists are also guilty of obscuring the effects of their agenda. Plant closings have eliminated some actual jobs, but the curtailment of construction projects, industrial enterprises and agricultural ventures for environmental reasons has eliminated many more *potential* jobs. This problem is of particular importance to poor blacks in the rural South, and there have been several lawsuits involving Southern civil-rights forces and environmentalists over the question of rural development. Furthermore, a report prepared for the Department of Health, Education and Welfare on the economic implications of air-quality legislation suggests that the long-term effects of stringent antipollution laws could have serious long-range effects on the development of the rural, black South. That report notes: "While nondeterioration regulations risk imposing substantial net costs on the nation as a whole, a disproportionate share of these costs might be borne by persons of limited economic means and residential mobility. These persons would benefit relatively little from the preservation of air quality in rural areas, while they would disproportionately bear any burdens of curtailed economic growth, altered urban and rural development trends, constrained national capacity to absorb anticipated population increases, and higher consumer prices of manufactured goods. These impacts could compound the difficulties faced by all levels of government in responding to the needs of the poor, the elderly, racial minorities and persons otherwise disadvantaged."

The implications of this report, at the very least, suggest that harmonizing environmental objectives with the need for economic development is a far more complex challenge than many have supposed. It is thus no wonder that the advocates of a zero-growth, "stable state" future are so purposely vague about how, within this context of diminishing opportunity, justice can be won for the very poor. Some, of course, do have a program: massive redistribution of income and wealth achieved largely through the thorough-going change of tax policies Tax reform is, of course, a goal that is important for reasons of equity and fairness, as well as for the benefits it might provide for the poor. But recent history has demonstrated clearly the limitations of the politics of redistribution within a slow- or no-growth society. I would recommend a careful examination of the experience of the British Government during the past few years. Although it would be unfair to equate Britain's manifold problems with those of other Western nations, there is still an important lesson to be learned: Policies that seek to transfer wealth from the affluent and middle classes to the poor and working classes—if carried out under conditions of stagnation—cannot prevent, and may in fact contribute, to the declining standards of all the people, rich and poor alike. In contrast, countries like West Germany and Sweden, with forward-thinking social democratic Governments, have elevated the standards of their citizens, kept unemployment to a minimum and largley abolished poverty precisely because they have chosen to emphasize production and growth while at the same time using the fruits of growth to provide more and more efficient services to their people.

While the United States has had no experience with the politics of redistributionism similar to that attempted in Britain, we *have* witnessed the effect of the kinds of policies that seek the exclusive advancement of social groups suffering from past or present discrimination; policies, moreover, that represent an attempt at redistribution through a form of "social engineering." The most controversial of these policies is the imposition of racial quotas in the hiring programs of businesses, construction trades unions, universities and the like. For the individual who no longer believes economic growth to be an enlightened or feasible approach to the problem of income inequality, quota systems represent an obvious solution. And, indeed, were a zero- or slow-growth economy to obtain, we would no doubt confront increasing demands for some form or another quota hiring in order to ration the pieces of a shrinking pie on a more racially and sexually equal basis.

There are any number of reasons to oppose the employment of quota systems, including the persuasive argument that they simply don't work. A more fundamental objection, however, is that quotas really solve nothing; indeed, they create many more problems than they might be expected to resolve. If jobs are scarce, apportioning them to one group on the basis of racial or biological characteristics means denying employment to other individuals because of their racial or biological characteristics. For some people, such a procedure is entirely acceptable, since they are convinced that whites or males have not won their jobs out of ability or intelligence, but because they are members of a "privileged" class. Of course, they are correct to point out that white men have a disproportionate share of good jobs because of practices and prejudices that have long been rooted in our culture. But it is no solution to substitute one form of discrimination for another; two wrongs do not make a right, as the quota proponents seem to believe.

More to the point, what sort of a society does the future promise should we surrender the single most effective means of dealing with the problems of the slum proletariat? This underclass either has no relationship to the production of goods and services, or is trapped in marginal, dead-end occupations. We may, in fact, be witnessing the emergence of a class of "economic untouchables," an entire generation of largely black youth who have been deprived of the opportunity to enter the work force in a meaningful way and who, in despair, may simply abandon the hope of ever taking part in the economy.

To some, the current attack on growth is simply the latest of intellectual fashions. I disagree. Far from being a passing fad, the willingness to abandon growth at once symbolizes and contributes to the weakening of liberal will and liberal vision in the West. Above all else, liberals have fought for a society that offered an ever increasing possibility for the fulfillment of individual potential within the context of a just legal and economic order. The failure to achieve perfect justice and perfect opportunity should in no way obscure the very real progress that has been made toward these ideals. Not the least of these achievements is the perpetuation of a democratic form of government that, whatever its flaws, has permitted ordinary people to have a voice in, and sometimes to dominate the political system. It is, further, a system that has reduced the influence of privilege without coercion or purges. Now we are told that the byword of the future is to be retrenchment, that we will have to make do with less, even though, we are assured, a future with less will be superior to the present. Better for whom? Not, certainly, for those who now have little. Not for the citizens of the third-world nations, who alternate between despondency and desperation. There is still a challenging agenda of worldwide economic advancement ahead, and it is an agenda on which the future of humankind rests just as surely as our future depends on the protection of the air and water. To those who insist that we can no longer tolerate economic growth, my response is simply that we cannot afford to do without it.

PENSION NEEDED FOR WORLD WAR I VETERANS, WIDOWS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. CARNEY. Mr. Speaker, the purpose of my bill, H.R. 1594, is to provide a service-based pension to the veterans of World War I and their widows.

Veterans of World War I originally numbered 4,447,000. Today, at an average age of 80.3, there are less than 900,000 veterans of that war. Their ranks are being depleted at a rate of about 100,000 a year and this rate itself increases along with the average age of the World War I veteran.

Of these numbers, approximately 287,000 are receiving disability pensions. An additional 534,000 dependents of World War I are also on the pension rolls for fiscal year 1976. The average monthly payment for these veterans is approximately $117. Their dependents receive an average monthly pension of $70.

Under current law, veterans of World War I and later wars receive pensions based on nonservice-connected disabilities and financial need. There are also need standards for widows and children. Service requirements are a discharge under conditions other than dishonorable after 90 days of service during a period of war, or less if discharged for a disability.

Benefits are provided on a sliding scale according to income and family status, with the greatest amounts of benefits payable to those with the greatest need. Basic disability rates for veterans range from $5 to $182 per month, with maximum annual income limitation at $4,200, according to the number of dependents. The applicable monthly rate is increased by $123 if the veteran is in need of regular aid and attendance of another person, or by $49 if he is permanently housebound but not entitled to the aid and attendance allowance.

Similarly, widows' death pension rates range from $5 to $128 per month, with the maximum annual income limitation at $4,200, depending upon whether the widow has a child, with the pension increased by $20 for each additional child. The basic monthly rate is increased by $64 if the widow is in need of regular aid and attendance.

My bill would establish a new pension program for veterans of World War I and their widows. Pension would be paid simply on the basis of their service, with no requirement of disability and without regard to financial need. As little as 1 day's service could qualify the veteran and the proposed World War I period would be extended. The monthly rate for a veteran having a wife or child, or a widow with one or more dependent children would be $150 under this bill. A veteran without dependents, or a widow without a child, would be paid a pension of $135 monthly. If a veteran were in need of regular aid and attendance of another person, the monthly pension rate would be increased by $125. If the veteran were permanently housebound but could not qualify for the aid and attendance rate, the monthly pension rate would be increased by $50.

Persons on the World War I pension rolls at the time of enactment of this bill, or those who would establish eligibility subsequent to enactment, would receive pension under the current law unless and until they elected to come under the new provisions. An election to receive pension under H.R. 1594 would be irrevocable.

My bill would also provide that any World War I veteran entitled to pension would be entitled to hospital, domiciliary, and medical care under chapter 17 of title 38, for any nonservice-connected disability. The bill further provides that costs of any medical services given to such veterans outside of the Veterans' Administration if it were determined that travel to and from a VA medical facility for such services would impose a medical or financial hardship on the veteran. Benefits would be paid or provided regardless of the income or corpus of the estate of the veteran or his spouse.

In addition, my bill would permit outpatient treatment of World War I veterans under any circumstances. Currently, a veteran may be furnished medical services on an outpatient or ambulatory basis whether in a VA facility or on a fee basis where such services are necessary in preparation for, or to obviate the need of, hospital admission, or where the veteran has been granted hospital care and such services are necessary to complete treatment incident to such hospital care.

In considering additional benefits for World War I veterans, it should be noted that because of their age, many veterans were not in the labor force for the requisite period of time to draw maximum social security benefits. I am also concerned about the number of World War I veterans or their survivors who receive or who are qualified to receive welfare assistance benefits. When the Senate Veterans Affairs Committee held hearings on World War I pensions in 1972, J. C. Peckarsky, the deputy chief benefits director of the Veterans' Administration estimated that approximately 291,000 veterans in receipt of pensions were also in receipt of welfare benefits. It is my understanding that a significant number of these veterans on welfare are World War I veterans. In addition, there are apparently a substantial number of other World War I veterans who, because of their low income qualify for benefits, but do not, due to the stigma associated, apply for them. I believe that no veteran or survivor should be in receipt of, or qualify for, welfare assistance by reason of a low income.

Mr. Speaker, our present veterans' benefits laws are, for the most part, the best that have been devised by any nation. The only exceptions to this are the benefits provided for the veterans of World War I.

A purely service-based pension is provided to those veterans of wars prior to World War I. For veterans of World War II and later, unemployment compensation and educational opportunities were made available to those who choose to use the privilege. After rehabilitation and hospitalization, other benefits, including compensation and pension were provided. Thus, the most adequate veterans benefits program of any nation was created. However, there is still one exception, that of the veterans of World War I.

It is this gap in an otherwise outstanding veterans benefits program which this bill attempts to correct. Some special consideration for the veterans of World War I is certainly needed.

At a time in their lives when expenses are heavier than ever before, these aged veterans find themselves living in a poverty classification and deserve special consideration. This is the inequity my bill attempts to correct.

I urge my colleagues in the U.S. Congress to support H.R. 1594, legislation to provide a pension for the veterans of World War I and their widows.

NAVY SHIPBUILDING PLANS REQUIRE CLOSEST CONGRESSIONAL SCRUTINY

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Ms. ABZUG. Mr. Speaker, several weeks ago, my distinguished colleague from Colorado (Ms. SCHROEDER) participated in a panel discussion on the Robert MacNeil Report on WNET–TV (PBS) which I would like to bring to the attention of this House. It should be regarded as an important chapter in the great debate on the Navy currently in progress.

Several alternative viewpoints were represented. The debate was factual and mature. I only wish that the panels of Presidential candidates could address this important topic on the same high level.

We are scheduled to begin consideration of appropriations for the Department of Defense in several weeks. One of the most important and expensive categories will be the Navy's shipbuilding plans. I believe that Congress must give the closest scrutiny to funding requests for new ships.

Unfortunately, the public debate on Navy's role and strength has been tainted by what several members of the Armed Services Committee have called "a highly capable and well-financed Pentagon public relations effort" to convince Congress that the military balance is shifting toward the Soviet Union. Allegations of the Soviet naval threat have played a prominent part in this public relations effort.

Congress should not make important fiscal and military decisions on the basis of distorted information packaged to scare or deceive the American people. We need a serious and rational debate on the purpose of our Navy, the genuine threats to our country's security which must be defended against and the most cost-effective, unwasteful means of sustaining a sensible Naval force.

The panel discussion was held on May 6, 1976.

Since the transcript is quite lengthy, I am submitting it in two parts. The second part will follow in tomorrow's RECORD:

TV TRANSCRIPT

ROBERT MACNEIL. Good evening. From the earliest days of the Republic, in fact even before the Declaration of Independence, one of the hottest issues before Congress was what kind of a Navy America needed, how many ships, of what size, and what they would cost.

It's the same today. But instead of the cozy nine hundred thousand dollars Congress authorized to build fifteen war ships in 1775, Congress this week is grappling with sums like six and seven billion dollars for something like the same number of ships. The debate over the role of the Navy goes on two hundred years later, enlivened at the moment by the competition between Ronald Reagan and Gerald Ford, each to appear the fiercer protector of the nation's defenses.

Reagan says we're second best because the Soviet Navy now has more ships than we do; Ford says our ships are bigger and better.

All the same, the size of the Soviet Navy has been a growing source of anxiety in the Ford Administration. But the debate has become a debate of numbers and prices, while behind the scenes the National Security Council is still working on a long-range naval strategy.

Tonight, in the simplest terms, we examine the same questions that exercised the Founding Fathers: what kind of a Navy do we need, what is its purpose, and how big should it be? Since the cost of any naval construction today is fantastic, it's a matter of very real concern to all of us to get behind the campaign rhetoric.

Jim?

JIM LEHRER. The crucial factor right now, Robin, is trying to define exactly where we do stand as far as the Soviets are concerned. It's not easy, even when the politics and the other obvious self-interests are sorted out. For instance, Defense Secretary Rumsfeld told Congress that our Navy is roughly equal to the Soviets' right now, but they will soon gain superiority if present trends continue.

Admiral James Holloway, Chief of Naval Operations, says essentially the same thing, that the U.S. Navy now has a thin margin of superiority, but says if the size of our Navy remains static, quote "our ability to carry out our principal responsibilities will be in jeopardy", end quote.

But on Tuesday, a Library of Congress study was released which said Soviet shipbuilding was actually on the decrease, and suggested there was little likelihood the Soviets would overtake us.

The argument is confused further by disagreements over comparing the number of ships or comparing total tonnage and quality and price and a lot of other things. And just for good measure, there's also a debate over whether the U.S. Navy should concentrate on building fewer, but more expensive, nuclear-powered ships.

Admiral Hyman Rickover is the big advocate of nuclear power, of course, and although Rumsfeld and most of his bosses in the Navy disagree with him, Rickover has a lot of influence in Congress.

Now we want to begin to sort out some of this now, beginning with Admiral Elmo Zumwalt, who retired in 1974 as Chief of Naval Operations. Admiral Zumwalt is the author of a new and controversial book about his experiences called, On Watch, and is currently a Democratic candidate for the U.S. Senate in Virginia.

Admiral, first this Soviet comparison question. Where do you come down on it?

Admiral ELMO ZUMWALT. Well, there is no question but what the earlier Library of Congress report, which did you not say, and which concluded that the United States Navy is in trouble, is accurate and conforms to the judgment of such people as former Secretary of Defense Schlesinger, who got fired for trying to bring out unpopular facts.

LEHRER. But what are the facts as you see them?

ZUMWALT. The fact of the matter is that the bottom line, which has to be a judgment as to who would win and who would lose a conventional naval war as that war would most logically be fought for a reasonable range of assumptions. The answer to that question is that the odds are very high that the Soviet Union would win and that the United States would lose that war, as a result of continuing reduction in the naval budget over a period of many years.

LEHRER. What about the future trends that Secretary Rumsfeld talks about? Do you think we're coming to grips with this, in terms of what we plan, what we want to build, et cetera?

ZUMWALT. No. You have to remember that Secretary Rumsfeld is in the position of having to say what he's told to say by his President, who is under attack for the fact that our Navy is behind in capability. And I think a more accurate version of what the facts are would be what Secretary Schlesinger has said, who is no longer under those kind of wraps(?).

The trends are getting worse as a result of Congressional reductions in naval budgets, in my judgment.

LEHRER. All right, sir, thank you.

Robin?

MACNEIL. During his thirty-one years in the Navy, Rear Admiral Gene LaRocque commanded two cruiser and destroyer flotillas in the Atlantic, a task group in the Mediterranean, and served on the Strategic Planning Staff for the Chief of Naval Operations and the Joint Chiefs. When he retired from the Navy in 1972, he founded the Center for Defense Information in Washington, D.C., and continues to serve as its director.

Admiral LaRocque, did you agree with Admiral Zumwalt, do we need to be alarmed about the Soviet Navy?

Rear Admiral GENE LAROCQUE. Well, first of all, I'd like to point out that we have a very strong and powerful Navy today, and I'm really embarrassed to find the former Chief of Naval Operations downgrading the capability of our Navy to the degree that he has been doing recently.

By comparison, by many of the criteria that you can name, we are much stronger than the Soviet Union, but there's no question the Soviet Union is also a very powerful force. When you compare people, we have more people; when you compare tonnage, we have more tonnage.

MACNEIL. Well, coming down to the proposition that Admiral Zumwalt supports, fighting—the prospect of having to fight the kind of war it would be reasonable to expect we might have to fight—need the American voter this year be alarmed about the position?

LA ROCQUE. It's very simple, if we have to fight a war with the Soviet Union, either at sea or on land, which will ultimately expand to a nuclear exchange, yes; the people of the United States had better be very concerned, because a war of any kind with the Soviet Union is going to mean the complete and total destruction of the United States and the Soviet Union.

MACNEIL. Is our Navy at the moment in an inferior position for the sort of things our Navy would have to do in the kinds of hostilities that are foreseeable?

LA ROCQUE. Well, it's best put in these concrete terms. The Chairman of the Joint Chiefs of Staff, George Brown, very recently said that the Soviet surface warship combatants were expected to decline over the next ten years. Ours are expected to increase.

He also pointed out that the Soviet submarine force is expected to decline over the next years; ours is increasing.

The third element of our naval forces are our aircraft, and we have some six thousand operating aircraft in our Navy today and the Soviets have about twelve hundred. So we're in good shape.

MACNEIL. Thank you, sir.

Jim?

LEHRER. All right. Congresswoman Patricia Schroeder is a Democrat from Colorado, and is a member of the Seapower Subcommittee of the House Armed Services Committee.

What's your view of the Soviet threat, Congresswoman?

Congresswoman PATRICIA SCHROEDER. Well, let me say first of all, there's always a problem in that no one ever has enough; I mean, that's kind of the American way of life. But let me say, you've got to look at the Soviets in several different ways.

Number one, they have a very definite submarine threat, and I think we should be doing more in our anti-submarine area. When it comes to the surface Navy, I don't think they're really any big threat. I think first of all, an awful lot of the ships that we're hearing about are small patrol ships, we know that for a fact—for the inland sea, whereas we're a big, blue ocean Navy. We don't have a lot of inland seas and lakes that we're monitoring.

They've got to have a lot of icebreakers, just to keep their ports open, and so you start counting those all as equivalents and they're really not. The projection now that the Library of Congress has is if they keep building at the rate they're building, they will have about a four hundred and thirty-five ship Navy, which will be less than we have. We also hear they're having the same trouble with their ship maintenance.

But the real issue is we keep talking about what would happen in a conventional war with the Soviets, and I think it's really kind of hard. I know Washington's a scenario factory, but it's really hard to imagine a conventional war at sea with only the Soviets. I think it will be an all-out war once the United States and the Soviets got going, really, and then the Navy does almost become obsolete. Then I think probably Admiral La Rocque is right.

In a conventional naval war with anyone else other than the Soviets, there's no question we're leaps and bounds ahead of everybody. With the Soviets I think we're ahead; I would be concerned that we don't do more in the anti-submarine area, since as I say, I would clearly rather have a conventional war with them anyway. And we do have an air cover for our Navy, which is very, very important.

LEHRER. In a word, are you worried about the problem or the comparison between our Navy and the Soviet Union at this point?

SCHROEDER. No, I'm not. I think that the trends are very, very healthy, that we're seeing that the Soviets are cutting back. They had a tremendous boom in the mid-sixties; they are cutting back from '69 on, and building fewer ships than we are. We are way, way ahead in the major combatants. I think to be fearful that we don't have a lot of minor patrol boats is wrong, because we have many allies, and they can fill that, plus we have mothball fleets that can fill that.

There's a lot of ways we can fill the small patrol boat gap without just building tons of little ships. So I think we're in good shape for major combatants.

LEHRER. All right, thank you.

Robin?

MACNEIL. Before anybody, the Congress, Mr. Ford, Mr. Reagan or anybody else can make a sensible guess as to how many ships we need and what kind, they have to have figured out some idea of what the modern Navy for the United States is actually for. What is its mission?

We've heard that the National Security Council has recently begun a major, long-range strategic study. While they're doing that, let us ask the guests this evening what they think the mission of the Navy is today.

Admiral Zumwalt, what do you think that mission is?

ZUMWALT. Well, there are several. The Navy must provide the most survivable component of the strategic equation. It has been the Polaris/Poseidon submarine, and in the future must be the replacement, the Trident submarine, which has a very high survivability factor in comparison to land-based systems. It must in addition be able to try to insure control of the sea, and as I have pointed out, there's certainly no doubt when one examines the war games that we lack that capability today, but we ought to try to regain it.

And we need to be able to have the capability to project power when the President and the Congress authorize it, in those kinds of situations in which military capability is needed and cannot be brought to bear in any other way, such as through the use of our amphibious forces and our strike(?) carrier forces.

MACNEIL. That's actually the power to help us intervene somewhere rather than just the old-fashioned showing the flag, in certain—diplomatically.

ZUMWALT. Well, it's the capability to do so which helps to deter, and therefore if one has sufficient capability as we used to have, you don't find yourself getting involved and using it except when some kind of a tragic, strategic error is made as in the decision to get involved in a long and drawn out war in Southeast Asia.

MACNEIL. Thank you.

Admiral LaRocque, do you have any quarrel with Admiral Zumwalt on these various three aspects of the role of the Navy as he sees it?

LA ROCQUE. Well, first of all, I think it's a very narrow view of the Navy's role, and I think you have to look at the role of the Navy today from the point of view of whether we're going to be fighting the Soviet Union or not. That's a whole separate ball game. So, you have to first consider that.

And then the second aspect, whether we're fighting against Third World countries. And then examine specifically what our mission is in each of those. Now for example, in a war with the Soviet Union, we have a strong submarine force that can destroy the Soviet Union that Admiral Zumwalt's alluded to. We have some five thousand nuclear weapons in our submarines at sea today; the Soviets have about seven hundred and fifty in their submarines today to shoot at us.

Now we do not have the capabilities, though, in a war with the Soviet Union to destroy the Soviets' strategic submarines before they launch an attack on the U.S., and they don't have that capability either. But we have plenty offensive capability in a war with the Soviet Union, and not enough defensive.

The other thing is that if we're going to be in a war with the Soviet Union, and we're trying to convoy ships to Europe we will be unable to convoy our ships to Europe with the naval forces we now have.

MACNEIL. So you agree with the Admiral when he says that we lack the capability to maintain control of the seas, at least in that aspect.

LA ROCQUE. I'm only talking in terms of a war with the Soviet Union. The Chief of Naval Operations, the incumbent, says we cannot control the seas. What worries me is we're planning a major war on the continent of Europe, where we have three hundred thousand men, and we do not today have the capability to protect those ships, our supply ships, going to Europe. The reason we don't, Mr. MacNeil, is because we have spent our money and built ships to intervene in Third World countries, with our aircraft carriers and the supporting ships, and that's where our Navy has spent its money and has left us defenseless in a war in support of Europe, and defenseless in a war against the Soviet Union insofar as striking Soviet submarines that are maybe—that are in position to attack the United States.

MACNEIL. Congresswoman, do you have any different view of the role of the Navy than these two gentlemen?

SCHROEDER. Well, of course, I really feel that we should be talking about freedom of the seas, and I think we should also be talking about our allies' role in the freedom of the seas. One of the most depressing things I saw this year was the New Year's speech coming out of Japan, who relies on freedom of seas much more than we do, saying that they were going to cut back on their shipbuilding. I think that's one of the things that we should be talking about, and how we all fit together in that total picture.

So I think it's—I'm very worried about our interference in Third World countries. I don't think we gain a lot of friends by steaming in with a carrier and a great show of force. And I think the debate that should be going on in this country is not how much do we need against Third World countries—we've got all we could possibly ever want against the Third World countries, it's only the Soviets where the real question comes up—we've got all we could need there, but the question is, when would we use it, where would we use it? I don't hear that debate going on.

Now we saw that issue in Angola. We had a lot of people scratching their heads, wondering what we should do should the Mideast flare up again. I have a husband who went ashore during the Lebanon crisis in the Eisenhower navy in the fifties, and now we have another Lebanon crisis, but there's no way we're going to put anyone ashore.

So I think the issue is not can we go ashore, can we project ashore, can we really project ourselves into Third World nations. The question is when and how, and we have to be concerned. You know, the world is much more sensitive than it was twenty years ago, and they really don't enjoy us as being the friendly policeman on the block.

TOXIC SUBSTANCES CONTROL LEGISLATION

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. ECKHARDT. Mr. Speaker, this past December the Consumer Protection and Finance Subcommittee reported the toxic substances control legislation, H.R. 10318, of which I was the major sponsor.

Since the legislation was reported, I have had the opportunity to discuss with a number of my colleagues on the House Commerce Committee some of their specific concerns about the legislation. While we all shared general agreement about the need for effective toxic substances control legislation, we differed in our approach as to how best to accomplish this objective. However, after discussion we felt that we could write legislation which would be satisfactory to all of us. This we have done, and we are today introducing a new version of the toxic substances legislation. The full House Commerce Committee is ready to begin markup on the legislation next week, and the bill we are introducing today will serve as our markup vehicle.

The new bill meets the urgent need, for an effective means of controlling toxic chemicals in our environment. The legislation will require testing of potentially dangerous chemicals, as well as modification of new chemicals which are coming out onto the market. And the bill fills present regulatory gaps in our statutory authority for acting against dangerous chemicals which do get out into the marketplace, the home, and the general environment.

At the same time, the legislation has been carefully drafted so that there will not be an undue regulatory burden placed on the chemical industry. This industry is a vital part of our economy and is responsible for the development of products which have constituted greatly to our way of life.

Because of the widespread congressional and public interest in the legislation, I would like to include in the Record today a description of the ways in which this new bill changes the bill reported by the subcommittee. I hope that after study my colleagues will agree with me, and we will see speedy enactment of this badly needed legislation:

CHANGES TO H.R. 10318 MADE BY NEW TOXIC SUBSTANCE LEGISLATION

GENERAL

Regulatory action under section 4, 5 and 6 of H.R. 10318 is conditioned upon a finding by EPA that a chemical substance or mixture may or will "cause or contribute to" an unreasonable risk. The new bill would change this to "cause or significantly contribute to" an unreasonable risk.

Section 3. Definitions

Exclusion of Cosmetics, p. 83.[1]

H.R. 10318 covered cosmetics. The new bill would exclude cosmetics from the coverage of the legislation.

Amendment to mixture definition, p. 85.

The definition is changed to eliminate requirement that there be no chemical reaction between the components of a mixture. It also broadens the definition to include certain combinations of existing chemicals produced by a chemical reaction. If the ultimate combination could have been produced without a chemical reaction, that combination will be considered a "mixture".

Section 4, Testing

Addition of considerations in promulgation of Section 4 testing rule, p. 88.

The Administrator would be required to consider relative costs of various testing methods and the reasonable forseeable availability of facilities and personnel in determining what kind of testing is to be required and the time period within which it is to be performed.

Findings required as a condition to a rule under section 4, 5(i), 6(a), p. 91.

The new bill clarifies that the findings set out in sections 4(a), 5(i), and 6(a) must be published at the time a rule under one of those sections is promulgated.

Priority list considerations, p. 97.

The new bill adds an additional item which the priority setting committee is to take into account in determining what chemicals should receive priority consideration for testing. Under the new bill the Administrator would have to consider the reasonably foreseeable availability of facilities and personnel for performing testing.

Priority setting committee, p. 98.

Presently H.R. 10318 requires the Administrator to initiate a rulemaking proceeding to require testing of a chemical substance recommended by the advisory committee or to publish in the Federal Register reasons for not initiating the proceeding. The new bill eliminates this requirement. Under it the recommendations for testing submitted by the advisory committee and supporting reasons would be made available to the public. A manufacturer of a chemical recommended for testing by the committee or any other interested party could submit comments on the need for testing of the chemicals and those would also be made available to the public.

Members of Priority Setting Committee, p. 100.

The new bill would add a representative of the Department of Commerce to the interagency committee which recommends chemicals for testing.

Section 5, Premarket Notification

Revision of Section 5(d) Authority, p. 103.

Presently under section 5 of H.R. 10318 the Administrator may put a rule into effect immediately to hold a new chemical off the market. The new bill would require the Administrator to go into court to enjoin the manufacture of the new chemical pending the completion of a rulemaking proceeding.

Publication of section 5 Notices, p. 108.

H.R. 10318 requires the Administrator to publish certain information received under the premarket notification requirements in the Federal Register. The new bill requires that this information be published within 5 days.

Action on Section 5(k)(1) Exemption, p. 110.

H.R. 10318 authorizes the Administrator to exempt a manufacturer from the premarket notification requirements for test marketing purposes. The new bill would require the Administrator to respond to an application for such an exemption within 45 days.

Petition for Standards for the Development of Test Data, p. 11.

Under H.R. 10318 a manufacturer subject to the premarket notification requirements can petition EPA to prescribe testing standards for his chemical. The new bill adds the requirement that if the petition is granted the EPA shall issue the standards within 75 days.

Section 5(k)(3) Exemption, p. 114.

H.R. 10318 exempts research and development chemicals from the premarket notification provisions. The new bill adds the requirement that all persons engaged in the research or development work be notified of any risk to health which the manufacturer has reason to believe may be associated with the chemical.

Exemption from Section 5, p. 115.

The new bill adds to section 5 a provision authorizing the Administrator to exempt a new chemical from the premarket notification requirements if the Administrator determines that the chemical will not cause or significantly contribute to an unreasonable risk.

Section 6. Regulation of Hazardous Chemical Substances and Mixtures

Section 6(a) Requirements, p. 117.

The new bill adds to section 6(a) the requirement that a rule issued under section 6 be the least burdensome requirement necessary to adequately protect against a risk.

Section 6 Rule, p. 115.

The new bill changes the basic finding required by EPA to regulate a chemical under section 6. Presently H.R. 10318 authorizes EPA to issue a section 6 rule if the Administrator finds that a chemical "causes or contributes to or is likely to cause or contribute to" an unreasonable risk. The new bill would alter this to require a finding by the Administrator that "there is a reasonable basis to conclude that [a chemical] causes or significantly contributes to or will cause or significantly contribute to" an unreasonable risk.

Disposal of Dangerous Chemicals, p. 116.

Section 6 of H.R. 10318 authorizes EPA to issue rules regulating the manner or method of disposal of dangerous chemicals. The new bill would permit EPA to regulate disposal by manufacturers, processors, and commercial users of chemicals. A disposal requirement imposed by EPA must not violate any state or local zoning law, and it may require the person disposing of the chemical to notify state and local authorities that the disposal is being made in their jurisdiction.

---

[1] Page numbers refer to H.R. 10318 as reported from Subcommittee.

Findings for Section 6(a) Rule, p. 118.

H.R. 10318 lists certain items the Administrator is to take into consideration in issuing a section 6 rule. The new bill would require the Administrator to make specific findings respecting these items. It also adds the additional item of the "reasonably ascertainable economic consequences of such rule taking into account the impact on small business." These findings do not have to be supported by substantial evidence on the record.

Findings for Section 6(a) Rule, p. 118.

If the Administrator takes action under the toxic act to protect against a risk which could have been adequately protected against using one of the other laws administered by EPA, the new bill requires the Administrator to make a finding regarding why the action was taken under the toxic act. The Administrator must find that action under the toxic act is in the public interest.

Procedures for the Promulgation of a Section 6 Rule, p. 119.

The new bill changes the procedures which the Administrator must follow in issuing a rule under section 6. The new bill grants interested persons or groups of persons a right of cross-examination if it is necessary for a full and true disclosure of the facts and if appropriate in view of the need for expediency, the nature of the issues, and the number of participants. Groups of common interests must select a single individual to conduct their cross-examination. A fund is established to insure participation in the rulemaking proceeding by persons who represent an interest which would not otherwise be adequately represented in the proceeding.

Standard for making section 6 rule effective upon publication, p. 120.

H.R. 10318 authorizes the Administrator to put a rule banning a chemical immediately effective if an imminent hazard exists. The new bill would require the Administrator to obtain an injunction enjoining the manufacture of the substance against at least one manufacturer. The rule could then be made immediately effective with respect to the rest of the industry.

Section 7, Imminent hazards

Definition of Imminent Hazard, p. 124.

H.R. 10318 defines an imminently hazardous chemical as one "which causes or contributes to an imminent and unreasonable risk to health or the environment." The new bill changes the definition to a chemical "which causes or significantly contributes to an imminent and unreasonable risk of serious or widespread harm to health or the environment."

Section 8, Reporting and retention of information

Exemption from reporting and recordkeeping requirements of section 8 for small manufacturers and processors, p. 124.

The new bill provides an exemption from the reporting section of the bill for small manufacturers and processors of chemical substances and mixtures. Under the new bill, the Administrator may require the submission of information from a small manufacturer as is necessary to compile the inventory of existing chemical substances. The Administrator may not require additional reporting unless one of the manufacturer's chemicals or mixtures is subject to a rule which has either been proposed or promulgated under section 4, 5(1), or 6.

Reporting and recordkeeping with respect to changes in the proportions of components of mixtures, p. 125.

The new bill adds a provision which restricts the Administrator from requiring mixture manufacturers from reporting or keeping records on changes in the proportions of the components of a mixture unless the Administrator finds that it is necessary for the effective enforcement of the Act.

Listing by category, p. 126.

H.R. 10318 requires the Administrator to compile an inventory of all existing chemical substances manufactured for commercial purposes. The new bill adds a provision to clarify that the Administrator may use categories of chemicals in compiling the inventory. Thus all chemicals would not have to be listed individually, but instead could be listed by category.

Nonduplicative Reports, p. 126.

Section 8 authorizes the EPA to require manufacturers and processors to submit reports to EPA. The new bill instructs EPA to avoid unnecessary or duplicative reporting requirements.

Maintenance of records of adverse reactions, p. 127.

H.R. 10318 requires manufacturers and processors of chemicals to maintain records of adverse reactions to health or the environment which are alleged to have been caused by their chemicals. Under the new bill, the Administrator must issue rules requiring the maintenance of such records.

Standard for section 8(e)—Notification Requirement, p. 128.

Under H.R. 10318, a manufacturer, processor or distributor of a chemical must immediately notify the Administrator if he obtains information which reasonably supports the conclusion that his chemical may cause or contribute to an unreasonable risk. Under the new bill, the manufacturer, processor or distributor must report if he obtains information which reasonably supports the conclusion that the chemical causes or significantly contributes to a substantial risk.

Section 9, Relationship to Other Federal Laws, p. 131

Under H.R. 10318 EPA is instructed to use other Federal laws administered by it (e.g., the Clean Air Act, the Water Pollution Control Act) to protect against a dangerous chemical unless EPA determines that the chemical may be more appropriately protected against using the toxic substances act. Under the new bill, if a risk from a chemical could be eliminated or reduced to a sufficient extent using other EPA laws, EPA is to use them unless it determines it is in the public interest to use the toxic substances act. EPA must include a finding regarding the public interest when it takes action under the toxic substances act.

Section 11, Inspections, p. 134

Section 11 of H.R. 10318 authorizes EPA to conduct inspections of places where chemicals are manufactured, processed and stored to inspect items relating to compliance wtih the Act. EPA must present a written notice to the owner of the premises to be inspected. The new bill provides that if EPA wants to inspect financial data, certain sales data, pricing data, personnel data, or certain research data, it must describe the nature and extent of the data in the written notice.

Section 14, Disclosure of Data

Confidentiality, p. 139.

H.R. 10318 authorizes the release of trade secret information to officers and employees of the United States in connection with their official duties. The new bill requires that such officers or employees be involved in the protection of health or the environment or in a specific law enforcement activity. The new bill also adds the additional penalty of imprisonment for up to one year for someone who willfully and knowingly discloses trade secret information.

Release of formulations under section 14(b), p. 140.

H.R. 10318 specifically provides that the trade secret provision does not prohibit the release of health and safety studies. The new bill adds that this provision does not authorize the release of data which discloses the formulation of a mixture.

Section 16, penalties

Repeal of statutory definition of knowingly, p. 144.

The new bill strikes the definition of "knowingly" contained in H.R. 10318.

Section 18, preemption

Repeal of state banning authority under preemption provision, p. 147.

H.R. 10318 would permit a state to impose a ban of a harmful chemical irrespective of whether or not the Administrator had issued a rule regulating the same harmful chemical. Under the new bill, the Administrator's rule would preempt the field, and the state could not impose a ban without getting the consent of the Administrator.

Section 21, citizen's petitions

Citizen's Petitions, p. 154.

Under H.R. 10318, if a petitioner can show that a chemical presents a risk, a court may order the Administrator to initiate a rulemaking proceeding to regulate the chemical. The new bill would allow the Administrator to use his own priorities and resources as an argument to convince the court not to require him to initiate the rulemaking proceeding.

Employment Effects, p. 161.

The new bill would add a new section which would authorize the Administrator to investigate and conduct hearings on job layoffs threatened because of rules issued under the toxic substances act. The Administrator is to make findings and recommendations after a hearing.

Section 26, authorization for appropriations, p. 164

Because of the failure to meet the Budget Act deadline of May 15, the authorization for 1977 has been deleted from the bill. The new bill authorizes appropriations for fiscal years 1978, 1979, and 1980.

THE UNITED METHODIST CHURCH SETS POLICY ON UNEMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 26, 1976

Mr. HAWKINS. Mr. Speaker, it pleases me to call to the attention of the Members this statement on unemployment by the board of church and society, the United Methodist Church. The statement expresses a deep concern with the social costs both immediate and long-range of high unemployment, coupled with a questioning of the relevance of the inflation-unemployment tradeoff theory. The statement, accompanied by a cover letter dated January 6, 1976 from Luther E. Tyson, the director of the Department of Economic Life, follows:

BOARD OF CHURCH AND SOCIETY OF
THE UNITED METHODIST CHURCH,
January 6, 1976.

HON. AUGUSTUS F. HAWKINS,
House of Representatives,
Washington, D.C.

DEAR MR. HAWKINS: You are to be commended for your vigorous leadership in sponsoring legislation that would ensure equal opportunity and full employment for all citizens of the United States. Your thinking, writing and action on this subject is instrumental in creating an informed public opinion supportive of the goals proposed in H.R. 50.

Enclosed is a policy statement on "Unemployment" adopted by the Board of Church and Society of The United Methodist Church at its Annual Meeting in October 1975. It expresses a moral concern for the plight of the unemployed in our society and suggests policies which would be useful in lowering the unemployment rate.

This statement represents a continuation of a historical interest on the part of The United Methodist Church in the question of full employment. Family units cannot be secure nor can there be human dignity in a society where unemployment is utilized as a public policy to control inflation. We commend you for your forthright leadership in this area of vital interest to the American worker.

Sincerely yours,
Luther E. Tyson, Ph. D.,
Director, Department of Economic Life.

A Policy Statement on Unemployment, Board of Church and Society, the United Methodist Church

I

Historically, the United Methodist Church has been concerned with the moral issues involved with the social problem of unemployment. Governmental policies have been called for that would insure full employment in order that workers may fully participate in society with dignity, so that families may be economically secure, and so that the nation may achieve coherent high priority goals. These statements have appeared in various versions of The Social Creed, in statements from boards and agencies of the church, and in resolutions from The General Conference.

II

This subject must be addressed once more. Americans are currently experiencing the longest and deepest recession since the Great Depression of the 1930's. The official unemployment rate for the first five months of 1975 was 8.6 percent. The consumer price index rose 11 percent in 1974.

From 1946 to 1974, the official unemployment rate averaged 4.7 percent. By European standards this is a high average and masks an upward drift. In the decade of 1950-59, unemployment in the United States averaged 4.51 percent; in the decade of 1960-69, the average was 4.78 percent; in the first five years of the 1970's, unemployment averaged 5.4 percent; and, the projected rates made in the President's January 1975 Economic Report for the next five years of the 1970's is 7.5 percent.[1] Each percentage point currently represents approximately 900,000 workers who are jobless. There is a burdensome psychological, social, and economic cost to the nation for this high level of unemployment.[2] These present and projected high levels of unemployment represent "an acute crisis superimposed on a long-term crisis that stems from the chronic failure of our economy to generate an adequate supply of decent paying jobs."[3]

III

Various studies have shown that the social costs of unemployment are both immediate and long term. The effects linger for decades. Between 1953 and 1974, the average American family forfeited a total income of $18,750 due to unemployment.[4] Income was lost that could have gone into housing, health, education, food, and recreation. A 1969 Labor Department study of young workers showed that "inability to get part-time work meant having to leave school, even below the college level."[5] Levitan and Taggart concluded, "careful studies have indicated a significant positive correlation between juvenile delinquency and unemployment."[6] Frank Furstenberg examined the findings of 46 studies and concluded that "economic uncertainty brought on by unemployment and marginal employment is a principal reason why family relations deteriorate."[7] When Patrick V. Murphy, President of the Police Foundation, was asked what would he do to help reduce crime, he said he would recommend "reducing the unemployment in the central city."[8] Professor M. Harvey Brenner of John Hopkins School of Hygiene and Public Health fears that "if the current recession persists, it will bring a dramatic rise in mental illness, alcoholism and suicide."[9] Professor Brenner studied the relationship between unemployment and mental hospitalization between 1922-1968 and concluded that there is a positive relationship between recessions and mental disorders.

"As employment drops, mental hospital admissions rise."[10] Braginsky and Braginsky concluded from their studies: "Regardless of how a person becomes surplus, he or she is socially transformed. Lifestyles, expectations, goals, roles and appearance all change . . . The trauma leaves a permanent scar . . . long after the victims moves out of surplus status and back into the social mainstream."[11] One of the primary hindrances to the institutionalization of coherent public full-employment policies is callousness to these social facts, both in the private and political sectors.

IV

Americans tend to be more tolerant of a high unemployment rate than are the citizens of other developed countries.[12] Furthermore, the size of the unemployment problem is consistently understated in the United States because of the definition used for counting the employed and the unemployed. "Unemployed" is defined as being out of work during the survey week, available for work, and having looked for a job during the past four weeks. An employed person is one who has worked for pay any time during the survey week.[13] A partial explanation for this tolerance of unemployment may be found in a popular belief system that posits a trade-off of unemployment for lower prices.

A popular misunderstanding of the Phillips Curve holds that full employment leads to rising prices and high unemployment means less inflation. However, since the experience of "stagflation" in the economy (rising unemployment accompanied with rising off theory have begun to waiver. In fact, many economists do not believe there is a proven relationship between employment levels and price levels. "This theory, sometimes called the 'trade-off', has been refuted by the overwhelming weight of experience during two decades or longer, and especially during the most recent years."[14] Even *The Economic Report of the President, 1975* concedes that the "trade-off" theory is difficult to defend: "Despite considerable empirical work allowing for the role of further variables and lags, it has proved difficult to defend the claim of a long-run Phillips trade-off (sic) between inflation and unemployment.[15] However, public policies which result in higher joblessness continue to be pursued based upon this trade-off assumption even though no positive correlation between the level of employment and prices has been clearly demonstrated.

An alternative explanation for inflation can be found in a "multiple causation" theory. Administered prices, the cost of wars, the rising world demand for commodities, the energy shortages, the food shortages, currency devaluations, profits, taxation, interest rates, and monetary and fiscal policies are among the contributing factors to inflationary pressures. There is surely a persistent push toward inflation caused by military expenditures. The 1974 Report of the Joint Economic Committee summarized:

> Defense spending tends to be inflationary. Defense goods and services cannot be consumed by the public, and to the extent that they are employed by the military, they are unavailable for civilian purposes. The removal of goods and services from the civilian economy may create or contribute to shortages. Defense programs inject expenditures into the economy but they do not produce goods and services to satisfy consumer needs. Arms are not sold to the public.[16]

In fact, 68% of all federal purchases were for military expenditures in 1974.[17] Dollars spent for military procurement create fewer jobs than the same dollars spent for civilian needs.[18] This multiple approach to the causes of inflation furnishes a more coherent explanation than does the "trade-off" theory and is suggestive for policy changes to deal both with joblessness and inflation.

V

Following World War II, the Senate passed The Full Employment Bill of 1945 which declared that "all Americans able to work and seeking work have the right to useful, remunerative, regular and full-time employment . . ."[19] This "right to employment" bill was defeated in the House of Representatives. Instead, The Employment Act of 1946, a weaker substitute was passed. This law states that the federal government has the responsibility to create conditions "under which there will be afforded employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power."[20] A more vague concept, "maximum employment", was substituted for the concrete goal of full employment. In fact, however, the promise of "maximum employment" was never realized. Monetary and fiscal policies have been knowingly followed in order to create joblessness. The word "feasible" has crept in as a modifier of "maximum employment." In 1975, "maximum employment" is being defined as at about 5% unemployment by the Administration.[21] Almost three decades decades after the 1946 act, it is time to develop public policies that incorporate the following in order to achieve full employment.

1. It should become a recognized public policy that every citizen of the United States has a right to meaningful, useful, rewarding employment contributing to the public good at a wage that is supportive of an adequate standard of living with human dignity.

2. In order to realize this right, the federal, state, and local governments should institute a planning process which develops policies and programs through which a full employment economy is achieved.

3. This planning process should include an analysis of the changing volume and composition of the labor supply in order to develop policies to deal with involuntary unemployment and underemployment; with discrimination in jobs based on sex, age, race, color, religion or national origin; and, with the problems of the work environment, the quality of work, job satisfaction, labor-management relations, and worker participation in employment decisions.

4. Public policy should be developed to achieve full employment practices along with reductions in annual hours of paid work, flexible work schedules, paid vacation and sabbaticals, and more extensive combinations of education and employment.

5. Public service jobs and sheltered workshops should be created by an office whose function would be to provide useful and rewarding employment for any American, able and willing to work and unable otherwise to obtain work. Consideration should

---

Footnotes at end of article.

be planned for such individuals and groups as have faced special obstacles in finding and holding useful and rewarding employment, e.g., those suffering discrimination, the physically or mentally handicapped, older workers, youths, veterans, inhabitants of depressed areas, and workers displaced by the relocation, closing, or reduced operations of industrial facilities.

6. Other national economic goals, such as stable prices and a favorable balance of trade, should be sought without limitations or compromising the right to employment.

7. Day-care centers should be created so that working parents may pursue their work in peace of mind that their children are receiving adequate nurture and care.

8. Unemployment insurance coverage should be extended to cover all of the unemployed. Benefits should be expanded to meet the real economic needs of the jobless.[22]

9. Fiscal and monetary policy should be utilized for the goal of creating a vital economy and full employment.[23]

10. Production should be geared to meet coherent priority goals of the nation, e.g., mass transit, energy, housing, health, education, rural and urban renaissance, and the environment.

FOOTNOTES

[1] By inspection, *The Economic Report of the President, 1975* (Washington, D.C.: U.S. Government Printing Office, 1975), Table C–26, p. 279. The projections into the last half of the 1970's are quoted in Keyserling, "To Procrastinate or To Plan," *Viewpoint*, vol. 5, no. 2, Second Quarter, 1975, p. 3.

[2] Leon Keyserling estimates that between 1953 through 1974, we forfeited more than $2.6 trillion worth of gross national product (1974 dollars) due to unemployment and underproduction. About $700 billion worth of local, state, and federal revenues were thus lost. These revenues could have been used for both a rural and urban renaissance. See Keyserling, *ibid.*, p. 3.

[3] Helen Ginsburg, *Unemployment, Subemployment, and Public Policy* (New York: New York University, School or Social Work; Center for Studies in Income Maintenance Policy, 1975), p. iii.

[4] Leon H. Keyserling, *Full Employment Without Inflation* (Washington, D.C.: Conference on Economic Progress, 1975), p. 9.

[5] Vera C. Perrella, "Young Workers and Their Earnings," *Monthly Labor Review* (U.S. Government Printing Office, 1971), vol. 94, July 1971, p. 6.

[6] The Twentieth Century Fund, *The Job Crisis for Black Youth* (New York: Praeger, 1971), p. 29.

[7] Report of a Special Task Force to the Secretary of Health, Education and Welfare, *Work in America* (Washington, D.C.: December 1972), p. 147.

[8] *The Washington Post*, August 11, 1975, p. 2.

[9] Quoted by Berkeley Rice, "The Worry Epidemic," *Psychology Today*, August 1975, p. 74.

[10] *Ibid.*, p. 75.

[11] Dorothy D. Braginsky and Benjamin M. Braginsky, "Surplus People: Their Lost Faith in the Self and System," *Psychology Today*, August 1975, p. 70.

[12] For example, unemployment in the United States averaged about 4.8 percent in the years 1960–70. During this same period, unemployment in Germany was .6 percent; in Japan, 1.3 percent; in Sweden, 1.7 percent; in France, 2.0 percent; and, in Great Britain, 3.1 percent. On the average, unemployment in the U.S. was 276 percent higher than in these developed countries in the same time span. Also, when these developed countries attempted to control inflation by repressing the economic growth of the country, the result was less growth and more inflation. For a discussion, see Keyserling, op. cit., p. 24.

[13] See *Monthly Labor Review* (Washington, D.C.: U.S. Government Printing Office, July 1975), p. 75.

It follows from the definition that working one hour per week qualifies a person as being employed. Also, the definition excludes from unemployment those persons who become discouraged and do not believe there is work and do not seek work after four weeks of unemployment. In April, 1975, part-time unemployment reached 1.7 percent of the civilian labor force; concealed unemployment, those who became discouraged, reached 1.2 percent of the labor force. When these additions are made to the official unemployment rate in April of 8.9 percent, the result is a rate of approximately 11.7 percent or more than 10.5 million people. See Keyserling, "To Procrastinate or To Plan," *op. cit.*, p. 2.

Nor do the official unemployment statistics take into account the quality of jobs. There are many persons working full-time who still earn less than poverty line wages. In 1966, the Labor Department developed a subemployment index which included five groups: (1) the officially unemployed, (2) involuntary part-time workers, (3) an estimate of the male 'undercount' in the census, assuming half the missing males to be subemployed, (4) an estimate of the number of adult male discouraged workers, (5) full-time workers with wages under the poverty threshold. After conducting ten intensive surveys in inner-city poverty areas, the U.S. Department of Labor discovered that subemployment ranged from 24 percent in Boston to 47 percent in San Antonio in these impacted areas. The average unemployment rate at the time was 3.7 percent. In 1970 the unemployment rate was 5 percent, a subsequent study by a Senate subcommittee discovered subemployment to range from a low of 50 percent in the poverty areas of St. Paul to a high of 73 percent in the poverty areas of San Antonio. This is the core of the urban crisis and it is worsening. For further discussion, see Ginsburg, *op. cit.*, pp. 94–114.

[14] Keyserling, *Full Employment Without Inflation, op. cit.*, p. 4.

[15] *The Economic Report of the President, 1975, op. cit.*, p. 96.

[16] U.S. Congress, Joint Economic Committee, *Joint Economic Report on the 1974 Economic Report of the President*, 93rd Congress, 2nd Session (Washington, D.C.: U.S. Government Printing Office, 1974), p. 64.

[17] *Economic Report of the President, 1975, op. cit.*, Table C–1, p. 249.

[18] One billion dollars spent on defense creates 92,000 jobs; the same amount spent on meeting domestic needs by state and local governments creates 110,000 jobs. Testimony given by Bennett Harrison, "Testimony before Senate Subcommittee on Employment, Manpower, and Poverty, April 26, 1975" in *Comprehensive Manpower Reform, 1972: Hearings part 5* (Washington, D.C.: U.S. Government Printing Office, 1972), p. 1579.

[19] Council of Economic Advisers, "The Employment Act: Twenty Years of Experience," in John A. Delehanty (ed.), *Manpower Problems and Policies* (Scranton, Pa.: International Textbook Co., 1969), p. 5.

[20] Quoted in Ginsburg, *op. cit.*, p. 5.

[21] Ginsburg, *op. cit.*, p. 27.

[22] Only 41.4 percent of those officially unemployed were covered by unemployment insurance in 1974. Those covered received a benefit which averaged 36 percent of average weekly earnings in covered employment. See *Economic Report of the President, 1975, op. cit.*, Table 36, p. 122.

[23] The cost of the present recession is astronomical. The Committee on the Budget of the U.S. Senate reported that the present recession is costing $200 billion in lost product; $53 billion in lost federal revenues; and a rise of $15 billion in the cost of programs designed to aid the jobless. See U.S. Senate Committee on the Budget, *First Congressional Resolution on the Budget—Fiscal Year 1976, 94th Congress, 1st Session* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 114.

HOUSE OF REPRESENTATIVES—*Thursday, May 27, 1976*

The House met at 10 o'clock a.m.

Rev. Michael D. Anglin, Church of Christ, Arlington, Va., offered the following prayer:

Almighty God, we come today not out of convention, but conviction of personal need. We recognize You as Creator and the genuine Ruler over Your world. As Your people, endowed with a freedom to choose between You and self, help those who sit in this Chamber to faithfully exercise their responsibility as elected representatives of the people of these United States by receiving wisdom and strength which is beyond themselves to face the challenging opportunities which today holds. May Your presence in their lives result in right choices and courageous consciences through which Your will be done and Your name glorified. Then may they know the best has been done for the people and that they have truly become Your representatives upon the Earth. In Jesus' name. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. McFALL). The Chair has examined the Journal of the last day's proceedings and, without objection, announces to the House his approval thereof.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 1466. An act to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and concurrent resolution of the House of the following titles:

H.R. 12438. An act to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes; and

H. Con. Res. 646. Concurrent resolution providing for a conditional adjournment of the House from May 27 until June 1, 1976.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12438) entitled "An act to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. SYMINGTON, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. CULVER, Mr. THURMOND, Mr. TOWER, Mr. GOLDWATER, Mr. WILLIAM L. SCOTT, and Mr. TAFT, to be the conferees on the part of the Senate.

REV. MICHAEL D. ANGLIN

(Mr. SISK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, it is with a great deal of pleasure that I present my local minister, Brother Mike Anglin of the Arlington Church of Christ, 20 North Irving Street, Arlington, Va. Brother Mike is doing an outstanding job for the church and in particular in connection with his work with young people.

Brother Mike has been a resident of the Arlington area for over 20 years and has been the minister at the Arlington Church of Christ since 1969. He began his preaching career in 1956. He attended the University of Virginia and received his degree from David Lipscomb College in Nashville, Tenn., in 1962. He subsequently received a master's degree from Harding Graduate School in Memphis and has done additional graduate work at the Virginia Theological Seminary and Abilene Christian College.

He is married to the former Ruth Kidwell and they have three children, Laura, David, and Melisa.

He has been on several Campaigns for Christ to Northern Ireland and is currently serving as a member of the board of directors of the Church of Christ Children's Home in Gainesville, Va.

Again, Mr. Speaker, it is an honor to present this fine gentleman to you.

GOVERNOR CARTER MAKES DEAL WITH MAYOR BEAME

(Mr. THONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THONE. Mr. Speaker, the Associated Press yesterday carried a very revealing dispatch from New York City. The whole story is told in the first sentence, which I quote:

> Mayor Abraham D. Beame today endorsed Jimmy Carter for the Democratic nomination and the former Georgia governor promised to work out needed financing for the City of New York.

In other words, Governor Carter has made a deal with Mayor Beame. He is dealing with the American taxpayers' money. He is promising a further bailout of New York City if he is elected.

An editorial in this morning's Washington Post has these sentences:

> Unless New York can begin to trim back the effects of its past generosity to its own employees, it seems unlikely that it will be able to find a way out of its fiscal problems. If it fails to do so, the ultimate bankruptcy of the city—and the difficulties that would bring upon it and the number of other cities—is almost inevitable.

This is the day of sunshine in government. It must apply to Jimmy Carter too. He must tell us all the details of the deal he has made to bail out New York City with Federal taxpayers' money.

PRINTING AS A HOUSE DOCUMENT THE CONSTITUTION OF THE UNITED STATES

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the concurrent resolution (H. Con. Res. 538) providing for the printing as a House document of the Constitution of the United States (pocket-size edition), with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

> Page 1, line 5, strike out all after "printed" down to and including "Senate." in line 9 and insert: "two hundred and twenty-one thousand additional copies of such document for the use of the House of Representatives."

Is there objection to the request of the gentleman from Indiana. There was no objection.

ADJOURNMENT OF CONGRESS OVER MEMORIAL DAY HOLIDAY

The Chair laid before the House the concurrent resolution (H. Con. Res. 646) providing for a conditional adjournment of the House from May 27 until June 1, 1976, together with the Senate amendments thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

> Page 1, line 7, after "occurs" insert: ", and that when the Senate adjourns on Friday, May 28, 1976, it stand adjourned until 11:00 o'clock a.m., Wednesday, June 2, 1976, or until 12:00 o'clock meridian on the second day after its respective Members are notified to reassemble in accordance with section 3 of this resolution, whichever event occurs first".
>
> Page 1, after line 14, insert:
>
> "SEC. 3. The President pro tempore of the Senate shall notify the Members of the Senate to reassemble whenever in his opinion the public interest shall warrant it, or whenever the majority and minority leaders of the Senate, acting jointly, file a written request with the Secretary of the Senate that the Senate reassemble for the consideration of legislation."
>
> Page 1, strike out lines 15 to 18, inclusive, and insert:
>
> "SEC. 4. During the adjournment of the two Houses of Congress as provided in section 1, the Clerk of the House and the Secretary of the Senate, respectively, are hereby authorized to receive messages, including veto messages, from the President of the United States."
>
> Amend the title so as to read: "Concurrent resolution providing for a conditional adjournment of the House from May 27 until June 1, 1976, and of the Senate from May 28 until June 2, 1976."

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 311]

Abzug
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Beard, Tenn.
Bell
Bergland
Bingham
Boggs
Bolling
Breaux
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Mass.
Burton, Phillip
Butler
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Collins, Ill.
Conlan
Conyers
Danielson
Davis
de la Garza
Delaney
Dellums
Derwinski
Diggs
Drinan
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Eshleman
Fenwick
Fisher
Ford, Mich.
Fraser
Gaydos
Giaimo
Gibbons
Goldwater
Hamilton
Hansen
Harrington
Harris
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Henderson
Hicks
Hinshaw
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Karth
Kemp
Landrum
Latta
Leggett
McCollister
McDonald
McKinney
Martin
Matsunaga
Melcher
Metcalfe
Mikva
Miller, Calif.
Mills
Mineta
Mitchell, N.Y.
Montgomery
Morgan
Mosher
Murphy, N.Y.
Nedzi
Nichols
Nix
O'Neill
Peyser
Pressler
Rees
Rhodes
Riegle
Rinaldo
Risenhoover
Rodino
Rogers
Rose
Rostenkowski
Rousselot
Santini
Sarbanes
Scheuer
Schneebeli
Seiberling
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Taylor, N.C.
Thompson
Traxler
Udall
Vanik
Walsh
Waxman
Weaver
Young, Alaska

The SPEAKER pro tempore. On this rollcall 309 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON WATER AND POWER RESOURCES OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET DURING HOUSE DELIBERATIONS TODAY

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs be permitted to meet during the deliberations of the House today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. RUSK SAYS CONGRESS HAS LOST POWERFUL LEADERS

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, former Secretary of State Dean Rusk said in Houston yesterday that we have lost our powerful leaders in Congress and have become "535 minnows swimming in a bucket." Our failure, he said to the Fifth Circuit Judicial Conference, is a failure to communicate with the executive branch.

Rusk said that while he was Secretary of State under President Johnson, dealing with Congress meant talking to a few powerful Congressmen he referred to as "whales."

"We knew what the Congress would do or not do because they would tell us. That's because they could tell the Congress what to do," he said.

"As a political scientist I can make a rather strong case against the whale system," said Dean Rusk.

Mr. Speaker, I could think he could, considering what the "whale system" did in the sixties and considering the fact that for the first time the people in this Nation got to suspect that a President was lying to them, with the acquiescence of a few "whales' in Congress.

It is sad to observe this noted product of the executive branch, in speaking to an assemblage of heads of our judicial branch, so demean all the Members of this Nation's legislative branch.

CHAIRMAN OF COMMITTEE ON HOUSE ADMINISTRATION SHOULD RESIGN

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, a few days ago, the chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS), indicated that he made a speech that caused him the most trouble in his 28 years in the House. I have been here for 6 years, and this is the toughest statement I am about to make.

In any event, Mr. Speaker, I believe the time has come for the gentleman from Ohio (Mr. HAYS) to resign from his chairmanship of the Committee on House Administration and to resign from the House as well.

I say that, Mr. Speaker, knowing full well that it is easy for me to stand here and make these statements. It is something that someone might even call a "cheap shot."

Mr. Speaker, having gone through my election on Tuesday in Kentucky, I know that the public's perception of what is going on in the House of Representatives or what they think is going on is a very palpable, present thing. It is not remote. It is very, very present and very real.

Mr. Speaker, the only way that I can see for the House to be relieved of this ignominy or to be relieved of this disapprobation that seems to be the prevailing view in the United States is to have some dramatic act, some dramatic event that would be a catharsis for this body.

Mr. Speaker, we have read the Wall Street Journal stories on Member double-billing. We have read of Member-billing for modes of transportation not actually used. We now have the situation of alleged mistresses on payrolls.

Mr. Speaker, I recognize the difficulty that the House has in working in this climate, but it seems to me that if we are to resume or to regain the esteem that I think we once had in these United States, there has to be something dramatic done. I do not think we can just sit back and wait for the Ethics Committee to rule.

Mr. Speaker, I had a press conference on Monday in my district dealing with the Budget Reform Act, which I think is the most important thing we have ever done around here and with LEAA.

However, the first question the press asked me was, "How many more Members of Congress have mistresses on their staff?" I said, "None, to my knowledge. And I really do not know whether the charges against Mr. HAYS are accurate." This shows the depth of the problem.

Mr. Speaker, it seems to me that there has to be something dramatic done, and I think the House as a whole needs to make a move.

Mr. Speaker, I thank the Members for this time. I hope that the Members who have listened to me understand that I am not saying this idly nor with any intent to hurt Chairman HAYS.

TAKING ISSUE WITH THE VIEWS OF THE HONORABLE ROMANO MAZZOLI

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, I could not help but stand here, in listening to the comments of my friend, the gentleman from Kentucky (Mr. MAZZOLI), and disagree with the statements he made.

It seems to me that by making those statements, he implies that all of us in the House of Representatives have mistresses on our payrolls or are misappropriating funds.

I think it is horribly unjust for the gentleman from Kentucky to make such a statement.

I think that if we are really interested in doing something about our public image, we ought to spend more time in our districts talking to our constituents and explaining to them what we are doing here in Congress rather than doing some of the things we have, such as using delaying tactics in the House of Representatives.

Mr. Speaker, if we want to be constructive, let us go home and take that message to the people and not ask that the chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS), who has his own problems, to resign.

Mr. Speaker, I am sick and tired of people saying that politicians are guilty until proven innocent. In this country the reverse principle is true: Everyone, including Members of Congress, are innocent until proven guilty.

Mr. Speaker, why should our political figures be treated differently from the rest of the people in this country. As public officials, we do give up certain prerogatives but one thing we do not give up and that is our constitutional rights to due process under the law.

What my good friend from Kentucky seems to imply is that if an allegation is made against any Member of this body, then that Member is automatically presumed guilty and should resign for the good of the body.

I am in no position to judge the innocence or guilt of Chairman HAYS but I did take an oath to uphold the Constitution and certainly feel that Chairman HAYS is entitled to due process of the law.

COAL SLURRY PIPELINE—II: ENERGY VERSUS TRANSPORTATION ISSUE

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, yesterday I made a statement before the House concerning a so-called coal slurry pipeline bill, H.R. 1863, which can be found on page 15521 of the RECORD. This legislation would grant Federal powers of eminent domain to coal slurry pipelines.

Now, today, I want to address the problem of whether coal slurry pipelines relate to energy or transportation. Since under the rule—a 1-minute speech must be limited to 300 words—I am extending my remarks to discuss the subject of how coal slurry pipelines relate to energy or transportation more in detail at this time. However, I wish to point out that a coal slurry pipeline cannot produce a kilowatt of energy. The legislation before the Interior Committee simply represents a plan to superimpose an additional transportation mode on an existing system.

I think it is clear that in the legislation under consideration we are not talking about a measure to increase the supply of energy—it would not do that. We are talking about a measure to fill an imagined gap in the transportation system—there is no gap.

We are, I suggest, talking about legislation to grant a special and totally unprecedented privilege to a small group of promoters seeking to use our legitimate concern about the Nation's energy needs as an opportunity to pocket some fast bucks.

PROVIDING FOR CONSIDERATION OF H.R. 12169, FEDERAL ENERGY ADMINISTRATION AUTHORIZATION AND EXTENSION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1220 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1220

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12169) to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, the rule I believe is quite clear if the Members followed the reading of the resolution by the Clerk. It is a 1 hour open rule and there are no waivers involved. Any and all amendments, considered to be germane, of course, would be in order under the 5-minute rule after the 1 hour of general debate which, of course, will be controlled by the Committee on Interstate and Foreign Commerce.

In view of the fact that I understand there is going to be some opposition to the rule, Mr. Speaker, I would appreciate it if Members would take note that we would hope to move rather rapidly on this.

The bill made in order by the resolution, H.R. 12169, extends the term of the Federal Energy Administration Act, currently due to expire on June 30th of this year and extends it to September 30, 1976, and provides specific legislative authorization for the appropriation of moneys for the Federal Energy Administration up to the end of fiscal year 1977.

The Committee on Interstate and Foreign Commerce settled on a 1-year extension of this authorization in order to permit the reevaluation of budgetary levels on the basis of continuing oversight hearings during the coming fiscal year. Specific consideration was given in the course of this legislation to a prohibition against extensive reprograming of the funds because of the fear expressed by the administration that the rigidity of any such prohibition might stand in the way of the responsibilities which have been given to the FEA by the Congress.

In concluding my statement, Mr. Speaker, I understand we did have appearances before the Committee on Rules by some Members of the Congress who are concerned about certain matters of jurisdiction, particularly as it concerns the Government Operations Committee. They will be presenting their position very shortly. I expect to yield to the gentleman from Indiana (Mr. FITHIAN) and the gentlewoman from Colorado (Mrs. SCHROEDER) so they may present their particular positions. Pending that, Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the rule providing for the consideration of H.R. 12169, the Federal Energy Administration authorization and extension. This is a 1-hour open rule, and contains no waivers of any points of order.

I strongly support this extension of the Federal Energy Administration and urge my colleagues to reject any attempts which may be made to reduce or weaken in any way its ability to carry out its vital functions, or to disperse its responsibilities to other agencies of the Federal bureaucracy. We must support the FEA and its essential role in our efforts toward achieving energy self-sufficiency for the American people.

H.R. 12169 extends the charter of the FEA, which is now due to expire on June 30 of this year, until September 30, 1979. The bill also provides an authorization of $44 million for the transition quarter and $212 million for fiscal year 1977.

Mr. Speaker, the FEA was created in 1974 by the Federal Energy Administration Act as a necessary and sensible congressional response to the severe energy crisis created by the arab oil embargo. It was hoped then that the Nation's energy problem would be short-lived, and the FEA was therefore given a mandate of only 2 years.

We all now realize, however, that America's energy problems are not short-term, and that the oil embargo brought home to all Americans a harsh lesson we must never forget. Rather than short-term in nature, our energy problems, on the contrary, are here to stay. Our entire national energy policy, and particularly our efforts toward establishing self-sufficiency in energy will remain very nigh on the list of our national priorities for the foreseeable future.

We must bend every effort toward achieving a national energy policy which is going to produce energy self-sufficiency and independence from the exorbitant prices of the unreliable sources of foreign oil.

The Federal Energy Administration has played a key role in our efforts to achieve this goal, and to establish this energy policy. A continuation of the policy, regulatory, and resource development responsibilities of the FEA are essential to the success of this energy policy, and the agency has discharged its responsibilties in a manner which has earned the support of the Congress.

The charter of the FEA must be extended, as provided for in H.R. 12169, and we must reject any efforts to destroy this agency or to transfer its functions and duties to other scattered and uncoordinated agencies and offices of the bureaucracy.

Mr. Speaker, I strongly support the extension of the FEA, and the necessary authorizations contained in H.R. 12169. The administration also supports the extension but does object to certain provisions of the bill, and in particular objects to authorizations above its requests in three areas.

Under this rule, however, amendments dealing with these objections may be offered, as well as other amendments which are likely to be offered by minority members of the Committee on Interstate and Foreign Commerce.

Mr. Speaker, I urge the adoption of the rule.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I concur in the gentleman's statement and share his support of the rule and also his support of the extension of the FEA, but because of my great respect for the gentleman in the well and because of my hope that he will offer me support for two amendments, I will ask him if he does not feel that we ought to clean up this legislation just a little bit and knock out the $2.9 million for a duplicative program in solar energy that would start a whole new program in FEA, when we already have a similar program in ERDA, and if he would not also want to stick with the OMB recommendations and knock out the $37.4 million, I believe it is, that was added to the conservation portion and was not requested by the administration.

Mr. QUILLEN. I think the gentleman from Ohio has made a good point. That is one reason the rule should be adopted, to give the House every opportunity to vote on the amendments which will be offered. In my statement I emphasized my support for the extension of the FEA and the authorization, but as I recall I did not mention any amount, and the gentleman has made a good point. I certainly will take a close look at the amendments that he is going to offer.

Mr. Speaker, I reserve the remainder of my time.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

CALL OF THE HOUSE

Mr. McCORMACK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 312]

Abzug
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Beard, Tenn.
Bell
Bergland
Bingham
Boggs
Bolling
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Carter
Cederberg
Clawson, Del
Conlan
Conyers
Danielson
de la Garza
Dellums
Derwinski
Diggs
Drinan
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fenwick
Fish
Fisher
Ford, Mich.
Fountain
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Gradison
Hamilton
Harrington
Harsha
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Hicks
Hinshaw
Hutchinson
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Karth
Krueger
Landrum
Latta
McCollister
McDonald
Matsunaga
Melcher
Mikva
Milford
Miller, Calif.
Mills
Montgomery
Morgan
Mosher
Nichols
Nix
O'Neill
Peyser
Pressler
Rees
Rhodes
Riegle
Rinaldo
Risenhoover
Rodino
Rogers
Rose
Rostenkowski
Ruppe
Sarbanes
Scheuer
Schneebeli
Seiberling
Shuster
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Thompson
Traxler
Udall
Vanik
Vigorito
Waxman
Weaver
Wilson, C. H.
Wolff
Wydler
Young, Alaska

The SPEAKER pro tempore. On this rollcall 317 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 12169, FEDERAL ENERGY ADMINISTRATION AUTHORIZATION AND EXTENSION

The SPEAKER pro tempore. Prior to the point of order of no quorum, the gentleman from California (Mr. Sisk) had yielded 5 minutes to the gentlewoman from Colorado (Mrs. Schroeder). The Chair now recognizes the gentlewoman from Colorado (Mrs. Schroeder).

Mrs. SCHROEDER, Mr. Speaker, I rise in opposition to the rule. I am sure the Members are all wondering what kind of a nut would oppose an open rule. I have very, very, very rarely ever voted against any rule, and if I ever have, the rule has been closed.

So why am I here, and what is all this about?

Mr. Speaker, I feel very strongly about sunset legislation and very strongly about trying to get the bureaucracy under control. The FEA was created 3 years ago by the Committee on Government Operations. They did some very wise things. They put some reverter clauses in the FEA act so the other agencies where the authority came from would get them back. The FEA, under the legislation that we passed, will expire on June 30. We have a month to look at this. There has been all sorts of controversy about FEA, and I could rant and rave and go on and on. We have all heard about it. I am sure the committee has attempted to do some of these things.

On the Senate side, the Committee on Government Operations has dealt with this. On our side they have not looked at it.

One of the reasons I would like to defeat the rule is because I feel we should let the FEA die and some of its regulatory functions and other vital functions be transferred to other agencies. I am making my own judgment, and I have put my own thoughts in a substitute amendment which I will offer. But I think it is much better to have the committees look at it, and think about it and debate it, rather than just offering my substitute on an up and down vote.

I think it is important that we not be faced with a decision of whether or not to kill the FEA or keep the FEA, but we are going to be forced into that position today, with this rule. We are precluded from trying to determine where some of those functions should go through the committee system but rather sitting as a body of 435. We could make more sense if we filtered by substitute through the committee process first.

So I am in the position of saying that I really hope that the Members will look at this rule very hard. We have a full month to consider what we are going to do with the FEA. We are getting a lot of criticism. Maybe many of the Members saw the Christian Science Monitor yesterday. They have been running a series on Government bureaucracy and why Congress cannot deal with it. They point out that in the last 15 years we have created 234 Government agencies. We have been totally unable to take any of them down.

I think we are apt to see changes. Who knows who will be President in November? Do we want to mandate now that he must have this bigger and better FEA for 39 months, with a bigger and better staff because President Ford is now recommending that we triple the FEA's budget?

What happened here is what usually happens. We get down to the last minute and everyone is saying that 1 month from now the FEA will expire so we must act now. This is pressure, pressure, pressure. We are told we must do it, we cannot let the FEA go out of existence. The former head of the agency, Secretary Simon, says, let it go out of existence. So does the GAO.

Mr. Speaker, I think there is some authority in the agency that we need to retain, but why can we not consolidate those in the other agencies? Why can they not revert back to the agencies where they were?

One of the proposals I would make in my substitute would be that the regulatory functions of the FEA be transferred to the Federal Power Commission. I am not 100 percent positive that is where they ought to go. I am just here trying to determine where they should go. Therefore, I would prefer to see this House vote down the rule and have the proper committees look at my substitute. We have a month to look at it. I would prefer to have the committees figure out what we should do. If we do not act in this case, I do not think any of the sunset provisions will work. All we do is say that every 5 years the bureaucracies will have to come back in here for a renewal.

The argument will always be that we only have a few days left, that it is too late, that we cannot kick it around any longer, and that we will look at it again in 5 years after it comes in again. We keep showing that syndrome.

This is one of the toughest things that we have to do. We are always very, very afraid to take these things apart.

Mr. Speaker, I think there are other issues in the bill that we have to look at. There are some jurisdictional questions that will be addressed by other Members, I am sure, and those questions are dealing with other committees. I think what we have to do is very tough. We all hear the people are getting angry with big government and we should act now.

I just want to summarize by saying that I urge a vote against the rule because I think this is the one time that we can show the people. We created this thing 3 years ago, and it was to deal with a temporary crisis situation. The temporary crisis is now gone. The energy crisis is still there, however, in the big picture, but I do not think this is the proper agency to handle these matters, although some reforms have been made. I think we can transfer back to the other agencies some of the functions that we think are vital.

I believe we should vote down the rule. We have a month to work on it. Then if we are serious about this sunset legislation, we can indeed bring that up without wracking our brains now about something we have no intention to implement.

So, I ask the Members, please do think very, very seriously about this when you vote on the rule. The issue is not whether the rule is open or closed. The issue is we can take another month, legislate responsibly, and not allow ourselves to be steam-rollered into thinking our only option is to extend the FEA today. Let us look at this one more time, and then maybe we can decide we can take apart a Government agency we put together, and not just continue on creating more and more and more Government agencies because the others do not work.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. Fithian).

Mr. FITHIAN. Mr. Speaker, we have followed the discussions in the Committee on Rules with care over the past 2 weeks with regard to this particular piece of legislation. We asked for a rule which would make in order an alternative to the extension of the Federal Energy Administration for 39 months.

Yesterday afternoon, on a reasonably close vote of 8 to 5, the Committee on Rules voted instead in favor of the motion offered by the gentleman from California (Mr. Sisk) that a simple 1-hour rule be granted.

Mr. Speaker, I have never opposed an open rule in the 2 years I have been here, so I am a little uncomfortable speaking for the opposition and those Members who are opposed to an open rule. But in fact, if we are to decide upon two or three very substantive questions, then the rule must be voted down. Let me speak briefly to those substantive questions.

First of all, there is some question about the germaneness of an amendment which would terminate the Federal Energy Administration, and hence those who would prefer to have that option may well throughout the arguments today be denied that opportunity.

Second, there are those who seriously question the jurisdiction of the Dingell subcommittee in this particular area on two grounds: No. 1, that those governmental reorganization and administrative organization questions are properly a part of the jurisdiction of the Committee on Government Operations.

I totally agree with that argument. I think we cannot start down the road of having the question of the life or death or termination or alteration of an agency left to every legislative jurisdiction of the agency or committee in the Congress.

Mr. Speaker, there is only one committee which should be dealing with this in terms of whether or not we phase out or whether or not we carry out the mandate of this House, which was that the Federal Energy Administration be a temporary body.

Second, I think that anyone who looks at the bill before us today and who is aware of all of the money that we have appropriated in this House for ERDA to deal with the solar energy question and the matter of research and development will surely agree that we are now setting off, if this bill passes today, in a direction that insures absolute duplication. It insures duplication because it starts another Government agency, another bureaucracy, working on solar energy.

I know that we can say that we can hem it in. We can have them only work on implementation, and we can have the others work on research. However, any student of bureaucracy knows that once one starts a Federal bureaucracy and brings it into an area and gives it additional jurisdiction, it just continues to grow and grow and grow.

Mr. Speaker, that is what this bill will do. The Committee on Science and Technology has not been offered an opportunity to deal with this question as they should.

Mr. Speaker, I would argue this. In the Committee on Rules yesterday, the gentleman from California (Mr. Sisk), speaking on behalf of Chairman Dingell, said that, rather than grant a rule which would open up a substitute to this bill which would phase out the Federal Energy Administration and provide for the allocation of the mandated function which has to be provided for, rather than grant a rule like that, the chairman of the committee bill today would prefer that no rule be granted and that we give ourselves 2 to 3 weeks for the Committee on Government Operations to look at this.

That is all I am asking for this morning. I am asking for a simple step to defeat the rule and then allow the Committee on Government Operations to take a look at the reorganization question over the next 2 or 3 weeks and then allow the Committee on Science and Technology to deal with the question of solar energy.

Mr. Speaker, I am asking nothing more than this. I think that is a very simple request. I think we should vote down the rule.

I could make a speech specifically against the Federal Energy Administration. I do not think it has done its job. I do not think it has a single claim on this House for continued life, but I am arguing now on the rule; and I am arguing that the simplest way to dispatch this is to vote down the rule and give the science and technology people 2 or 3 weeks to work on that section and give the Committee on Government Operations 2 or 3 weeks to work on their section.

I understand that the leadership was divided in its opinion as to where this bill should go. I understand that the gentleman from Texas (Mr. Brooks) did ask that the Committee on Government Operations have some say on this bill, and that was turned down.

Mr. Speaker, I urge the Members to vote down the rule, even though it is an open rule.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Ottinger).

Mr. OTTINGER. Mr. Speaker, I rise in support of the rule and in support of the legislation which my committee has reported out.

I would not say that the FEA has been ideal by any means; but if there were not this FEA, we would have to set one up because there are important questions of energy policy—of regulation, allocations entitlements, et cetera, mandated by other laws that require one agency to handle them for the Federal Government in a coordinated manner.

Mr. Speaker, I think the money we put in for dissemination of existing solar energy technology is very important. There has to be a point at which research and development stops and we get these technologies out in the field. The scientists in ERDA are not trained or equipped to carry out this job.

There was an agreement formalized between Dr. Seamans and Mr. Zarb on the establishment of ERDA wherein it was clearly agreed that ERDA was going to have responsibility for research and development, and then when products have been researched and developed and were ready to be put out on the market, dissemination would be an FEA function. I think that commercialization function ought to be in another agency. I include this FEA–ERDA agreement at this point in the debate:

Federal Energy Administration,
Washington, D.C., April 30, 1976.

Memorandum for General Counsel, Assistant Administrators, Office Directors, Regional Administrators

From: John A. Hill.
Subject: FEA–ERDA memorandum of understanding.

Frank Zarb and Robert Seamans have signed the attached Memorandum of Understanding (MOU) between FEA and ERDA. The document recognizes that the two Agencies have complementary statutory authority, but that some program areas are of mutual interest. Now that this formal mechanism exists for coordinating the activities of the two Agencies, it is essential that all you and your project managers become familiar with the document.

The Steering Group established by the MOU will be chaired by Robert Fri, Deputy Administrator of ERDA, and myself. Thomas E. Noel, FEA, Roger LeGassie and Gene Manella, ERDA, will also be permanent members of the Group.

Our first Working Groups, which will be announced shortly, will deal with the Solar Energy Government Buildings Program and the Buildings Conservation Programs. Agreements resulting from these Working Groups will be circulated to you immediately for appropriate dissemination.

Attachment.

Memorandum of Understanding Between the Federal Energy Administration and Energy Research and Development Administration

INTRODUCTION

The Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577), the Energy Reorganization Act of 1974 (P.L. 93-48), the Energy Policy and Conservation Act (P.L. 94-163), and other energy statutes legislate general cooperation among Federal Agencies with respect to solving the National energy problem. This Memorandum of Understanding formalize the corresponding working relationship betwen the Federal Energy Administration (FEA) and the Energy Research and Development Administration (ERDA) in all commercial and civilian energy activities, but does not pertain to ERDA's National Security responsibilities or programs or to functions assigned specifically by law exclusively to FEA or ERDA.

I. Policy

Recognizing common energy goals and a very close relationship of the associated responsibilities of FEA and ERDA, it is agreed that the two Agencies will work together and in a mutually supporting way in the formulation and execution of Federal strategies, plans, and programs to develop and utilize new energy sources and to effect energy conservation. It will be the policy of the Agencies that this will be done in a way which recognizes the statutory responsibilities and mission of each Agency and utilizes the capabilities and facilities of each to the greatest possible extent, making these available to each other for the planning and execution of activities. In accordance with the provisions of applicable statutes, FEA will be recognized as having primary responsibility with respect to all matters of pricing, allocation, end-use, and general industry regulation, except where ERDA has statutory responsibility in the nuclear area. FEA will also be the primary Agency in developing a coordinated National policy combining incentives to increase production and the efficiency of energy use. ERDA will be recognized as having primary responsibility with respect to matters involving energy research and development of new technology.

II. Policy management and review

A. In order to provide Agency management review and guidance in translating the policy and guidelines of subsequent sections into specific action, the Deputy Administrators of the Agencies will serve as co-chairmen of an FEA–ERDA Steering Group. As required, Assistant Administrators, Regional Administrators and others may be appointed to the Steering Group. The Steering Group will meet as necessary, but at least quarterly, and will name working committees in specific areas. At their discretion, the Deputy Administrators may delegate the authorities relating to this understanding to the working committees.

B. It will be the responsibility of the Steering Group to define those programs and projects to be handled separately or jointly under provisions of Sections III.D and III.E below.

C. As specific planning and implementation actions are detailed and approved by the Steering Group, they will be documented in the form of Interagency Agreements which will supplement this Memorandum of Understanding. Such Interagency Agreements will also provide the means for definition of responsibilities in the areas of technical work, interpretation of policy, and commercialization programs.

D. As required but at least annually, the Administrators of the Agencies will meet to review the scope and progress of activities covered by this Memorandum of Understanding and associated Interagency Agreements.

E. Interagency personnel contact at the working level will be encouraged and the Steering Group will provide for maximum familiarity of the agreements among the staffs of both Agencies. The Steering Group will also encourage all program officers to raise suspected overlaps and gaps in complementary Agency programs to the Steering Group for resolution.

III. GENERAL GUIDELINES

A. The Steering Group will provide for maximum coordination of all new policy actions and technical initiatives to ensure that research and development activities and supply and demand programs are compatible to the greatest possible extent. Both Agencies will continue to use the Energy Resources Council for coordination of board goals, objectives, and major legislative actions. The Steering Group will use its authority to provide the maximum coordination of budget requests. In all cases of proposed legislation, the Steering Group will ensure full consultation in developing the positions of the two Agencies; to the extent practicable, all Congressional testimony will be similarly coordinated. This procedure will complement but not supplant existing procedures whereby legislative proposals are developed by the Executive Branch.

B. Recognizing the differences in planning requirements of the Agencies, it is agreed that each will conduct its planning and analysis efforts to include: (1) sharing of data, models, and techniques to the greatest possible extent; (2) the broadest exchange of information; and (3) sharing of results. Special attention will be given to the consistency of methodology in developing energy forecasts made by the Agencies. Both Agencies recognize as a goal the technical compatibility of all data bases maintained by each, and will work toward that end.

C. In recognition of the mutual interest of the two Agencies as stated in Section E below, it is agreed that the field efforts of both will be closely coordinated. This will be done in order to maximize the effectiveness of State and local liaisons, and to smooth the transition of technically oriented programs into general use. In order to facilitate this cooperation, the Agencies, when possible and to the extent authorized by law, will seek to make resources available to support each others programs.

FEA will provide assistance to ERDA, including administrative support, in the establishment of any Regional Offices which may be created in the ten Regional cities, to the extent authorized by law.

D. The Agencies recognize that certain programs and projects have been assigned by statute to one Agency or derive directly from such statutory assignments of responsibility.

1. For FEA statutory program and project responsibilities, it is agreed that:

a. ERDA will provide technical support and assistance, when requested.

b. In those areas where technical developments are required and to the extent that ERDA has the capability and is the best qualified organization for the specific task. FEA will assign, to the extent authorized by law, to ERDA the lead responsibility for the developments.

2. For ERDA statutory programs and projects, FEA will provide:

a. Access to results of appropriate data, studies, and analyses of the energy industry and energy users, to the extent permitted by law.

b. Guidance with respect to matters of energy resource availability, pricing, allocation, and industry regulation.

c. Appropriate contributions to the annual revision of the comprehensive plan for energy research, development, and demonstration as required by P.L. 93-577.

3. In those areas where non-technical arrangements are prerequisite to widespread or large scale use of energy technology, FEA and ERDA will establish the lead responsibility for such arrangements unless such responsibility is otherwise provided by law.

4. Joint planning, as described in Section E below, will be undertaken as appropriate. Joint planning for the commercialization of energy technologies will be conducted concurrently with technical development.

E. The Agencies recognize that they will share an interest in many resource development and conservation programs, both long- and short-term, that require energy policy analysis, technical development, removal of institutional barriers, and/or application of incentives to achieve market penetration. In these programs of mutual interest, the Agencies agree to joint planning, leading to the definition and establishment of appropriate projects and assignment of responsibility. Toward these ends, the Agencies agree that:

1. They will jointly establish the scope, objectives, and relative priority of projects within each program, using mutually consistent criteria.

2. They will determine the contribution each Agency can make to the successful completion of each project, and will provide the necessary support to make that contribution.

3. They will jointly establish the lead Agency for each project. This determination will be based on factors including the origin and history of the project, the statutory authority and funding supporting the project, the skills and experience needed to manage the project, and the outside relationship needed for the project. Duplication and overlap will be avoided. Recognizing the capabilities of each Agency, it is intended that some programs will be worked on concurrently by both FEA and ERDA. It is also recognized that the development of responsibilities in a sequential manner may mean a shift in the lead Agency.

F. The Agencies agree to undertake joint or coordinated, as appropriate and authorized by law, public information and education programs for the activities in the sections above. This coordination will extend to programs of technology transfer and specialized education as well as general information transferred.

IV. Program funding

The specific details of the levels of support to be furnished one Agency by the other with respect to funding will be developed in specific Interagency Agreements. In any event, FEA and ERDA will provide each other mutual support in budget justification and hearings before OMB and Congress with respect to programs on which the Agencies collaborate.

V. Management arrangements

This Memorandum of Understanding envisages direct communication between FEA and ERDA program officials involved in managing the performance of cooperative work. Program or project plans with appropriate detail will serve as program or project documentation and will set forth the specific arrangements under which program implementation will take place in those instances of project work involving contractual participation by commercial contractors or other organizations outside of FEA or ERDA. Such project plans will set forth necessary interface arrangements and procedures for handling various levels of Governmental decisions. Normally such management arrangements will clearly set forth the decisions and delegation levels considered appropriate for each project and clearly describe the management and reporting coordination processes between FEA and ERDA.

VI. Procurement policy

Program and project activities undertaken by FEA and ERDA or vice versa under the provisions of the Memorandum of Understanding may involve contractual arrangements with non-governmental entities, organizations, or institutions. When such arrangements are necessary, they shall be conducted in a manner consistent with the policy, regulations, statutory authority, and procedures of the contracting Agency.

VII. Public information coordination

Timely release of information to the public regarding projects and programs implemented under this Memorandum of Understanding will be by mutual agreement between FEA and ERDA Steering Group representatives.

VIII. Amendment and termination

A. This Memorandum of Understanding may be modified or amended by written agreement between FEA and ERDA.

B. This Memorandum of Understanding may be tedminated by mutual agreement of FEA and ERDA.

IX. Effective date

This Memorandum of Understanging is effective when executed by the Administrator of each Agency.

The House would do well to support this open rule and the legislation we reported, including the solar energy dissemination and commercialization program to get the solar technology which is fully developed out in the field where it will be used.

Mr. Speaker, I hope that the House will support this rule.

Mr. **HARKIN**. Mr. Speaker, will the gentleman yield?

Mr. **OTTINGER**. I yield to the gentleman from Iowa.

Mr. **HARKIN**. I understand that the gentleman from New York is pointing out the division of these functions. There is nothing in the law which says that ERDA cannot do that. ERDA can do it, and that is where I think it ought to be. There is nothing in the law that says it cannot do so. They are right now engaged in demonstration projects.

Mr. **OTTINGER**. ERDA is a collection of scientists and they have no expertise whatever in the actual marketplace.

Mr. **HARKIN**. Will the gentleman yield further?

Mr. **OTTINGER**. I decline to yield further.

Mr. Speaker, it seems to me that the people who are experts in getting this out into the field, priority developed technology and letting people know about it, really ought to be in charge of the commercialization rather than a group of scientists whose expertise is solely in research and development. That is what we are developing within FEA at the present time and I think it is very important that that be maintained.

Mr. **QUILLEN**. Mr. Speaker, I yield

3 minutes to the gentleman from Idaho (Mr. Symms).

Mr. SYMMS. Mr. Speaker, I think the thing that anyone on this Earth ever sees to eternal life is a Government bureaucracy and a Government agency.

I have heard two sets of arguments here, but I am going to vote against this rule today. I believe the reason that we should vote against the rule today is so as to kill this thing today. Then if somebody brings back another rule in another 3 weeks or so, I hope we will be able to vote that down also.

Mr. Speaker, there is one thing that we always tell our constituents, and I think this is true of the Members on both sides of the aisle, when we are on the campaign trail, or work in our districts, and that is we are always saying that we oppose bureaucracy and we are against Government waste. Now here is this thing before us today where we have an opportunity to follow through on that and to vote down the rule. If we do that, then I would ask the Committee on Rules not to grant another rule for it. Let us let it die a natural death at the end of June or July, or whenever that is going to be.

Mr. Speaker, there are several very compelling reasons why we should do this. First of all is the fact that there is a total lack of competition between the major oil companies today. If any of the Members were to go and talk to the small retailers or the small wholesale jobbers, they will find that we do not have competition existing with—for instance, I know a Texaco jobber who says that Conoco used to offer him loads of surplus fuel at a discount—before FEA. This no longer happens because FEA has written regulations on this restricting competition so that the big companies do not have to be competitive with each other and, instead, they charge the going price and don't worrry about bidding against each other, and are really operating outside of the free enterprise competitive system. Instead of that we now have more or less a controlled enterprise system.

What has FEA accomplished since 1972? My friend from Tennessee mentioned that we had an embargo at that time that was placed on this country. At that time we were importing 30 percent of our petroleum products. Now, after 3 years of the FEA being in operation, we are importing 50 percent, slightly over 50 percent of our petroleum products.

So it looks to me, Mr. Speaker, that the record is very clear that FEA has never put any more oil into the market, and in the process of what they have been doing in trying to solve the fuel shortage they have succeeded in only making more and more paperwork for the people who are truly trying to provide petroleum products for the American people, and I must say FEA is now part of the problem not part of the solution.

So, Mr. Speaker, I think that all of us today would be very well advised to vote the rule down. Then next week, if it goes back to the Committee on Rules and they are asked for another rule and it is granted, that we vote that rule down again. Then if they come back with another rule after that, then we should vote that rule down again.

For once let us let this Congress do something for the people of America instead of always doing something to the people of America. Because I have never seen the FEA do anything except appropriate money from private citizens to pay a bureaucracy to interfere with the marketplace to the point where now we do not have competitive free enterprise, and after all in the competitive market system it is the consumer who is the beneficiary of the market system.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. Mahon).

Mr. MAHON. Mr. Speaker, in this legislation we are confronted with a very troublesome issue. There are those in the House who oppose the FEA, and who seem to feel that if the FEA is abolished, the shackles which discourage production would be removed from industry. On the other hand, there are those who feel that the FEA is not sufficiently oppressive and restrictive against the energy indlustry and that FEA should be abolished in order to permit other existing agencies of government to take over the task of regulation.

Unfortunately, Mr. Speaker, if we abolish the FEA, we do not abolish the energy laws unwisely enacted and which are the basis of much of our difficulty. If the FEA is abolished, we still will have to deal with existing legislation and regulatory roadblocks.

The question then is: Shall we vote for this rule; shall we continue the FEA?

I want to express my view that if we could abolish the energy legislation which has severely hampered our energy efforts by voting against FEA, I would strongly favor such a course.

We should not worsen an already bad situation and there is room for doubt as to what our course should be.

As for myself, I shall vote against the rule as a matter of protest against legislation which has hampered our energy efforts. Ultimate action on the pending measure can await further consideration and debate.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of the rule. Let me say at the outset that the gentlewoman from Colorado (Mrs. Schroeder) and the gentleman from Indiana (Mr. Fithian) have no monopoly of concern when it comes to the urgent need for reforming the various regulatory agencies of the Federal Government, one of which is, of course, the FEA. I feel very strongly about the need for regulatory reform.

As the gentlewoman from Texas (Ms. Jordan) knows, she and I have cosponsored legislation which to date I think has attracted about 60 cosponsors, a bill which would compel both the President and the Congress on a systematic basis to address themselves to the need to reorganize not just the FEA but every one of the some 34 major regulatory agencies of the executive branch. But I think there is a proper way to go about this.

I am sure that it has probably already been pointed out in the debate on this rule that the FEA was originally created by the enactment of a bill that was reported out of the Committee on Government Operations to reorganize various functions in the executive branch. During the debate that took place on the bill, the Chairman, Mr. Holifield, stated that the Committee on Interstate and Foreign Commerce would have jurisdiction over certain substantive issues regarding the FEA, but the Committee on Government Operations retained jurisdiction over the Organic Act and would consider such issues as relocation of functions delegated to the FEA should the FEA determine it.

The only plea that I am making to the Members of the House this morning is this: There is a proper way under the established committee procedures of this House to go about the reorganization of the FEA. Let me point out that this authorization bill today calls for, I believe, a 3½-year extension of the FEA. If the Members think that is too long an extension under the open rule that the Committee on Rules has provided, they can offer an amendment striking that or providing for a shorter extension. They can extend it for only 1 year, if they would like to, and then put the Committee on Government Operations under the proper amount of pressure to conduct hearings promptly on the question of whether or not this organization should be either terminated or totally reorganized.

The gentleman from Indiana (Mr. Fithian) has objected to the provision of the committee amendment that would give some jurisdiction to the Federal Energy Administration over solar energy, and I think that is as a result of an amendment that was offered in committee by the gentleman from New York (Mr. Ottinger).

If the Members do not like that, I think what they ought to do is to offer an amendment to strike that particular provision. In other words, the Members of this body deserve the right today under an open rule to debate this question, to offer amendments if they so desire, and then vote on the bill. If they are convinced, as apparently the gentleman from Idaho and others are, that the FEA should be abolished outright, they will have an opportunity in the vote on the legislation to cast their vote against the bill.

But I think we ought to at least have some regard for the committee system. We ought to let the Committee on Government Operations conduct proper hearings on this. I frankly told the gentleman from Indiana when he testified before the committee that I was very impressed with the work he had done along with the gentlewoman from Colorado (Mrs. Schroeder) on this whole question. But certainly I think they ought to take their proposition to the Committee on Government Operations and get that committee to listen, as I am sure they will, to a measure that would properly reorganize this agency.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana (Mr. Fithian).

Mr. FITHIAN. Mr. Speaker, I totally concur with the last statement made by the gentleman from Illinois, and the only way to get this to the Government Operations Committee is to vote down the rule so this Government Operations Committee can have 2 or 3 weeks to do that.

Mr. ANDERSON of Illinois. No, let me interrupt. I think we can vote down the bill and then the Committee on Government Operations would be under some considerable pressure to examine the proposal of the gentleman on his bill.

Mr. FITHIAN. Would the gentleman from Illinois, who is a real student of government, admit that to vote against the bill today is to sort of vote for chaos and there is no place for that function to be transferred at the present time?

But I would like to ask this question about the remarks made about the gentleman from California (Mr. Holifield).

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. QUILLEN. I yield to the gentleman from Illinois for 1 additional minute.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, some speakers have intimated that the energy crisis is over. Considering that we are buying over 50 percent of our oil today from abroad and that the figure is increasing each month, and we are more vulnerable today than we were 2 or 3 years ago to an Arab oil embargo, does the gentleman agree that the energy crisis is over?

Mr. ANDERSON of Illinois. No, I certainly do not. The gentleman from North Carolina makes an excellent point. There are certain authorities exercised by the FEA that I think have to be continued because the energy crisis is not over.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding.

I was not a Member of this body when the gentleman from California (Mr. Holifield) conducted the bill through the Congress, but I would refresh the gentleman's memory on what Mr. Holifield said:

> The new FEA will be a temporary organization largely concerned with the immediate and short-term aspects of the energy emergency situation we are facing, because of inadequate energy supplies.
>
> Mr. Chairman, let me emphasize that this is a bill for a temporary agency. The bill provides that the act will terminate two years after the effective date. Six months before the act expires, the President is directed to transmit to the Congress a report with recommendations as to the disposition of the agency's functions.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Speaker, I am going to oppose this rule. As far as I can recall, I have not opposed an open rule before. However, I have no choice, given the existing situation.

I do not completely agree with the statements of the gentlewoman from Colorado in her remarks of criticism against the Federal Energy Administration. I believe we should have an FEA and I believe the agency has work to do. However, I believe this bill is so bad that we cannot possibly consider it today as we should, and we should not try to rewrite it on the floor. We know we cannot get a point of order against some of the worst features of this bill, and we know there is no good way to defeat the previous question and write a new rule.

Therefore, I suggest we send this bill back to the committee by defeating the rule and tell the committee to work with the Government Operations Committee and try to write a responsible bill.

I would point out to the Members of this House that this bill authorizes $50 million for energy conservation demonstration. Last week on this floor, we authorized $202 million for conservation research, development, and demonstration within the Energy Research and Development Administration.

Knowing that, the members of the Commerce Committee included an authorization of $49.9 in this bill before us for energy conservation. Furthermore, knowing that this House last week authorized $229 million for solar energy research, development and demonstration, and then, here on the floor, added $116.2 million more for solar energy.

In the fact of this action last week, this bill would set up a new, totally duplicative solar energy program in the FEA.

I want to point out to the Members of the House that Public Law 93–473, which we enacted overwhelmingly in this House in 1974, established a solar energy research, development, and demonstration program within the ERDA.

The SPEAKER pro tempore. The time of the gentleman from Washington has again expired.

Mr. SISK. Mr. Speaker, I yield the gentleman from Washington an additional one-half minute.

Mr. McCORMACK. Mr. Speaker, I point out that the Solar Energy Heating and Cooling Demonstration Act is a demonstration program under ERDA. These programs, every one, are totally within the Energy Research and Development Administration.

This bill before us really infringes on the jurisdiction of the Government Operations Comimttee.

It should be returned to committee, and replaced with a completely new bill.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. Moffett).

Mr. MOFFETT. Mr. Speaker, at the very least as we debate this rule, Members should be informed about what the committee did. I offered a series of amendments which cut over $1 million out of $3 million for PR, public relations activities at the FEA.

Moreover, those who have been concerned about the nuclear orientation and nuclear advocacy of FEA, my amendment cut out the office entirely. This speaks to the point of the gentleman from Indiana (Mr. Fithian) who talked about duplication on these issues. And it means a cut of another half-million dollars.

Today I will offer an additional amendment to cut out another $238,000 from FEA's PR budget. This is well justified. There are other amendments that are also well justified and bring this bill to a point deserving of approval.

The gentleman from Indiana said this bill means this agency will grow and grow. I do not know what the gentleman means by that, because we have cut the agency down to size. That is exactly what this bill will do.

The gentleman from California (Mr. Moss), the chairman of the other subcommittee which deals with FEA, has done a terrific job of oversight with respect to a number of matters.

We have also identified some of the things that FEA is doing right. I might refer to the utility demonstration project which is going on all over the country, in many of the districts that the Members represent here, which will lead us to fairer utility rate structures in a very constructive way. They have been doing a very good job in building efficiency and insulation and we should recognize this.

Finally, what is the FEA doing that is essential to those of us who voted for H.R. 7014? We realize they are doing some very important things in monitoring price control; not too perfectly, of course. There is no agency that ever will.

There has been tremendous oversight of the FEA on the part of the gentleman from California (Mr. Moss) and the gentleman from Michigan (Mr. Dingell). In fact this agency has more aggressive oversight than any other agency in Government.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has expired.

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. MOFFETT. Mr. Speaker, the opponents have said they can switch these functions to other agencies. It was interesting to hear the gentlewoman from Colorado say that maybe we put it in the FPC, but she's not sure that is where it should go. If the FEA is under the stranglehold of the energy companies, then what agency is under less of a stranglehold than the FEA? If we are going to transfer it to an agency that is less under a stranglehold of the oil companies, let us be particular what that agency is and whether it is less infiltrated by ex-oil company executives.

Of course, it has been politicized; but if we look at those agencies in the past 8 years that have been politicized, we can make a case for every agency being eliminated. Of course the FEA and most other agencies have been captured by the interests they are supposed to control; but that does not make a case for eliminating them totally. The problem is not the existence of the agency. The problem is that we need to recapture it from those industries which are supposed to be controlled, but which have captured and kidnaped this agency.

The gentleman from Idaho mentioned the campaign trail and how popular it would be to abolish this agency. Sure, it would be popular until we see price controls go down the drain and utility demonstration projects go down the drain.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, the gentleman talks about deregulation of controls and everything; but last fall the FEA was promoting price deregulation of natural gas.

That is very important to the Midwest. The gentleman is talking about keeping price regulations on.

Mr. MOFFETT. If I may have my time back, I respond to the gentleman, indeed they are proproduce and proderegulation, but that does not mean that if there is a new crew in there after November, that they will not be proconsumer. I urge approval of the rule and the bill.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker and Members, like the gentlewoman from Colorado, I seldom vote against an open rule, preferring instead for open debate so that we can discuss the issues. But, this is an issue that has been discussed up and down the Hill for the past 2 years. This is an opportunity to put an end to FEA, send it back for perusal by the Government Operations Committee.

When we established FEA some 2 years ago, we were in the midst of an energy crisis, and we presumed that the FEA was going to do something about establishing "Operation Independence." Have we? Instead, we find ourselves importing more foreign oil than at any previous time in our history. For days last month, over 50 percent of our energy needs came from abroad.

What the FEA really has done is to discourage production. They have discouraged exploration, because I would submit that most of the producers today are spending more time filling out forms than they are looking for oil. I urge the defeat of this rule.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, I say to those of my colleagues who are naive enough to believe that a referral of this bill, through turning down the rule, to the Committee on Government Operations, and that something would happen in 3 weeks, I say they are living in a dream world. Look at the schedule of this body when it reconvenes following the Memorial Day break. We have 41 bills to pass by the 11th of June, and then we have to complete action on appropriations.

There will not be a half dozen committees that can muster a working quorum. The Government Operations Committee, with 43 members, is one of those that has a chronic problem of getting a working quorum. I happen to be ranking member on the Government Operations Committee, and I am the ranking member on the Committee on Interstate and Foreign Commerce, so I am not asserting a matter of jurisdictional pride.

But, I am pointing out the practicalities of legislative business in this House. I have been here for a quarter of a century, and while I like to hear some of my good friends who have just arrived instruct us on how to expedite the business of the House, I suggest that the Member who identified himself as a historian pay a little more attention to the working history of the House.

Let me talk about what we had before we got the Federal Energy Administration. I remember one day we had hearings in the Committee on Interstate and Foreign Commerce, and we had three spokesmen on energy policy. We had the Secretary of the Interior—this was a transitional period—Admiral Wright, and we had former Governor Love of Colorado. At least two of them had diametrically opposed policy positions to urge upon the committee to help meet a crisis. We do not need that kind of confusion. In addition to that, we had the Energy Office; we had the Federal Price Control people; the Cost of Living Council, and of course we have had representatives of the Federal Power Commission.

I am familiar with the Federal Power Commission because, in addition to exercising oversight over Federal Energy Administration, I also exercise it over the Federal Power Commission. I think at this moment we are getting better administration out of the Federal Energy Administration than we are out of the Federal Power Commission.

I think it is able to expedite the business much more efficiently than the Federal Power Commission.

I hope when the oversight hearings are concluded, and the recommendations to the committee are made, that we will be able to see an expediting of the business of all of the independent regulatory commissions that come within the jurisdiction of the Committee on Interstate and Foreign Commerce. But I sense really what underlies the opposition here is the jurisdictional issue.

I think the gentleman from Washington (Mr. McCORMACK) laid it out very clearly. It is jurisdiction. He is extremely supersensitive as to any threat to what he regards as his own exclusive domain. I can only say to him that we are not interfering with his domain. We are dealing with a piece of legislation that was properly referred to the Committee on Interstate and Foreign Commerce; and under the chairmanship of the distinguished gentleman from Michigan, Mr. DINGELL, the committee has done a very good job of authorizing funding for an additional fiscal year.

That is all we are talking about, the funding of an agency that has a legislative mandate to carry out a program of price monitoring and of product allocation for the next year. This is not the place to rewrite any of the basic energy acts. It is not the place to resolve injured feelings over jurisdictional matters. The practical problem is to provide the authority for the Committee on Appropriations to fund the on-going activities which are essential.

I can spell out many, many areas of criticism of the Federal Energy Administration, and I could do so of any other agency of the Government. I might say that I could do that under the administration of either political party who controls the executive branch of Government. But let us not do that. Let us do the practical, realistic thing here today and adopt the authorizing legislation.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, those who feel that this vote has anything to do with dismantling or continuing an oil price control program are simply wrong. The only reason for passing this rule and for extending FEA is to create an orderly process by which already determined policy of this House will be carried out.

The law that controls the question of price of oil is the Energy Policy and Conservation Act. It keeps in effect a program which has to do with the control on the price of oil for about four more years. This agency came into being under the Federal Energy Act of 1974. Before the existence of this agency, the President carried out the mandates with respect to oil price control through what is called the Federal Energy Office. That was totally within the control of the President of the United States.

When FEA was created the President reassigned the responsibility to that agency.

If we should disestablish the agency or if we should defeat the rule and if the agency should go out of existence, the program would go on, but it would be administered in an agency totally within the President's control, without Congress having any part in determining the agency's shape.

If the Members want to change the FEA, they can extend the FEA's authorization here, as is sought to be done, and then follow the orderly process of simply passing a law through the Committee on Government Operations that could supersede what we do here.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, the adoption of this rule would allow the Committee on Interstate and Foreign Commerce to bring up a bill which clearly invades the jurisdiction of the Committee on Science and Technology. In addition, if this rule is adopted, it would allow this Committee on Interstate and Foreign Commerce to bring up a bill which would greatly expand the scope and area of authority and jurisdiction of FEA and truly duplicate ongoing efforts now in process in ERDA.

For example, under this FEA bill it

moves FEA into an area called Solar Energy Government Building projects, which is clearly a program that is ongoing and that is being accelerated on a daily basis within ERDA now.

ERDA has cooperative efforts with all agencies of Government in developing techniques and procedures for assessing and implementing solar applications on Federal buildings.

Mr. Speaker, I urge defeat of this rule, if for no other reason, simply so we can send it back to committee, and have this area straightened out and get the jurisdictions straightened out between the responsibilities of these two committees.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, this clearly is not duplicative of what ERDA is doing. ERDA is engaged in research and development and demonstrations and new technologies.

The purpose of this bill, as quite clearly stated in the report, is to get out the commercial application of existing technologies, and that is entirely in accordance with the agreement that was arrived at with FEA.

Mr. GOLDWATER. Of course, Mr. Speaker, the gentleman is absolutely wrong, and I know he serves on the committee. Application is part of ERDA's responsibility.

Mr. QUILLEN. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I do not ordinarily take the well in support of my good friends, the gentleman from Texas (Mr. Eckhardt) and the gentleman from California (Mr. Moss), on energy matters and in opposition to my good friends, the gentleman from California (Mr. Goldwater) and the gentleman from California (Mr. Ketchum), on energy matters, but I find myself obliged to do so this morning in order to try to get some setting down of what this argument seems to be.

First, let us review a little history. The first Federal step in dealing with our energy problem was addressed when the President established his own energy adviser. That was before the Arab oil embargo. The Arab oil embargo came along in the fall of 1973—in October, to be precise—and shortly after that, by Executive order, the President established the Federal Energy Office.

Then the Congress acted to put into effect the Emergency Petroleum Allocation Act which was passed in the last few weeks of 1973.

In the next year, in 1974, the Federal Energy Office was translated by legislation that originated in the Committee on Government Operations into the Federal Energy Administration. Then we passed the Energy Policy and Conservation Act in late 1975, and that act modified the original authorities of the Emergency Petroleum Allocation Act.

Now, I lacked enthusiasm for some of the authorities to regulate the energy industry that were enacted in a couple of those pieces of legislation, but the authorities were given by the Congress and they become the law of the land. Whether we are for or against what the FEA has the authority to do by congressional action and whether or not we feel it does that job properly, it will continue to exercise that role under the legal authority which Congress has given it, and the fact of the matter is that it is well organized in an administrative sense.

This authority to regulate is encapsulated in the Federal Energy Administration, and it ought to be kept there from the standpoint of efficient Government organization. It sought not to be scattered through all kinds of other Government agencies.

Whether we want that function performed or whether we do not want that function performed, as my friend, the gentleman from Texas (Mr. Eckhardt), pointed out, is not the issue. It is going to be performed because the law giving the authority for the performance of those functions exists elsewhere. Therefore, the question is, Should it be centered in FEA, where it would be logically operated, or should be it be scattered to other agencies?

My feeling is that FEA has been a cancer on our economy in the energy field to some extent. I do not want to metastasize that cancer, however, and scatter it through other agencies. Therefore, I support the rule to continue this legislative creation of the Committee on Government Operations, FEA, and to keep it under the authority of the Committee on Interstate and Foreign Commerce, where we deal with the other legislation that gives it its authority to function.

Mr. Speaker, my friend, the gentleman from California (Mr. Ketchum), says that the FEA administration of the law has not been all that good and that it has been harmful to the energy industry. Unfortunately, I think it is not because it has been badly administered, but because some of those laws are bad; and I think he would concur with me.

Therefore, Mr. Speaker, once again we have given the control of pricing, the allocation of product, the entitlement system, and so forth to FEA; and it ought to be kept in FEA.

If we want to end FEA, however, we do not beat the rule. We vote down the authorization, and then we do not have FEA in existence; but that, in effect, scatters those authorities throughout other Government agencies. I am not sure we want to do that from an administrative standpoint. The better way would be to vote to terminate price allocation and the other authorities that it has been given.

Mr. Speaker, my colleagues, the gentlewoman from Colorado (Mrs. Schroeder) and the gentleman from Indiana (Mr. Fithian) do not serve on either the Committee on Government Operations or the Committee on Interstate and Foreign Commerce as my friend, the gentleman from California (Mr. Moss), and I do. I sit on the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce where we have given those authorities, and I did participate in the work of the Committee on Government Operations during the establishment of FEA.

I simply think that the Committee on Interstate and Foreign Commerce is the committee which should have the authority over the continuation of FEA because we have the authority over the function and the performance of FEA.

Mr. Speaker, FEA has regulatory functions. It does not, as the gentleman from Washington (Mr. McCormack) points out, or should not have functions in the solar energy field. That is a redundancy. The function is already there in ERDA, and I am going to propose an amendment to keep it in ERDA by taking that part of the authorization out of the bill. Yet, once again, I do not think that my friend, the gentleman from Washington (Mr. McCormack), ought to oppose this rule because what we ought to do is strike the funds out of FEA that were put in by committee, not by the subcommittee.

Mr. Speaker, I will offer that amendment.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Speaker, the opponents of the rule seem to forget that we are in the midst of an energy crisis. For the first time in history, we have recently found ourselves importing better than 50 percent of our oil.

Some of my colleagues, for example, the gentlewoman from Colorado (Mrs. Schroeder), have forgotten that in July and August of 1973 there were gas lines in Denver—before FEA was constituted. One of the reasons was that there were four agencies handling energy problems at that time: the Federal Energy Office, the Cost of Living Council, the Interior Department, and the Federal Power Commission.

Certain energy functions of those agencies have been brought together into one agency because Members of Congress, concerned citizens, industry, and citizens groups needed one place to go to.

Mr. Speaker, the consequence of rejecting the rule would be to put us right back where we were before. It would disorganize and scatter the functions presently vested in the FEA.

What are some of those functions? Price controls, allocation and entitlement, emergency planning, strategic reserve, contingency planning, industry energy conservation, State energy conservation programs and coal conservation programs.

Where will a Member of the Congress look for action if his constituents are affected by our action? What we would assure by rejecting this rule is that rather than having some rule and order there will be chaos.

The bill before us today was introduced in February. The Committee on Government Operations and the other committees have had at least as long as that to comment on the contents of the bill or to seek some kind of referral of the legislation to them for consideration. I am aware of no attempt by the chairmen of the respective committees to have these matters referred to them for consideration. I would say that we should consider the bill here, mark it up and then vote on it.

The SPEAKER pro tempore. The Chair will state that the gentleman from Tennessee (Mr. Quillen) has 3 minutes remaining and the gentleman from California (Mr. Sisk) has 1½ minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I again urge my colleagues to vote "yes" on the rule because at this time the energy crisis is still real. I am receiving communications that gasoline distributors are now out of fuel for the Memorial Day weekend. Already some of the Arab nations have said that they are going to raise the price of oil.

I repeat to the Members of this House that the crisis is real. FEA needs to be extended, but let the merits of that be dabated on the measure itself after we adopt the rule. I know today that a lot of the Members want to go home, but that is no reason for a "no" vote on the rule when the future driving habits of the American people are at stake. This rule, which makes in order a bill to deal with the problem of energy self-sufficiency that is so much on our minds, must not be defeated today.

So I again urge an affirmative vote on the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DRINAN. Mr. Speaker, I am opposed to the adoption of this rule, H.R. 1220, in its present form. The resolution provides for the consideration of the Federal Energy Administration authorization, H.R. 12169, but in its present form the rule is unfair.

Under the provisions of H.R. 1220, a major amendment which should be considered by this House is ruled nongermane. That amendment, offered by Congressman Fithian and Congresswoman Schroeder, would transfer the functions of the Federal Energy Administration to other agencies. However, the Rules Committee refused to provide for the consideration of this important amendment, and as a result, the House is being prevented from working its will on this legislative provision.

The Schroeder-Fithian substitute has been ruled nongermane in view of the argument that other legislative committees ought to be involved in legislation which would provide for a major governmental organization. It was felt that the Government Operations Committee should have been involved in the consideration of the substitute. I do not dispute this. As a member of the Government Operations Committee, I agree that my committee ought to consider the full ramifications of a major governmental reorganization. Yet by our actions today, we are denying a forum for the Schroeder-Fithian amendment and preventing the Government Operations Committee from involving itself in this matter at the same time. I, therefore, feel that this procedure is unwarranted.

I do believe that the House ought to be given a chance to work its will on the FEA authorization. My vote against this rule does not oppose this consideration. But I do oppose the pending rule as unfairly ruling out-of-order a major amendment which should be voted on by the membership of the House today.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 1220.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Speaker, I yield to myself the balance of my time.

Mr. Speaker, I join my colleague, the gentleman from Tennessee (Mr. Quillen) in urging an aye vote on this rule. We have heard a great deal of discussion here but I think it is evident that the Committee on Interstate and Foreign Commerce should be given an opportunity to take the floor and to discuss the merits and demerits of their proposal and then the House, of course, will be given an opportunity to work its will on the legislation.

So, Mr. Speaker, I urge an aye vote.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 116, not voting 77, as follows:

[Roll No. 313]

YEAS—238

Abdnor
Adams
Addabbo
Allen
Anderson, Ill.
AuCoin
Badillo
Bafalis
Baldus
Beard, Tenn.
Bennett
Bevill
Biaggi
Biester
Boland
Bolling
Bonker
Brademas
Breckinridge
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Carney
Carr
Cederberg
Clancy
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Daniel, Dan
Daniels, N.J.
Davis
Derwinski
Devine
Dingell
Dodd
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evins, Tenn.
Findley
Fish
Flood
Florio
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gilman
Goodling
Gradison
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holtzman
Horton
Hughes
Hungate
Hyde
Ichord
Jarman
Jeffords
Johnson, Pa.
Jones, N.C.
Jordan
Kasten
Kelly
Koch
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Martin
Mazzoli
Melcher
Metcalfe
Meyner
Michel
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pepper
Perkins
Pike
Poage
Preyer
Price
Quie
Quillen
Railsback
Randall
Rangel
Regula
Richmond
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Roybal
Russo
Santini
Sarasin
Satterfield
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thone
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whalen
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NAYS—116

Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Archer
Armstrong
Aspin
Baucus
Bauman
Beard, R.I.
Bedell
Blanchard
Blouin
Bowen
Brinkley
Broomfield
Buchanan
Burton, John
Byron
Chappell
Chisholm
Clausen, Don H.
Cleveland
Conyers
Crane
D'Amours
Daniel, R. W.
Delaney
Dent
Derrick
Dickinson
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
English
Evans, Ind.
Fary
Fascell
Fithian
Flowers
Flynt
Fuqua
Ginn
Goldwater
Gonzalez
Grassley
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Hawkins
Hayes, Ind.
Holland
Holt
Howard
Howe
Hubbard
Jacobs
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Krebs
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lujan
McCormack
Mahon
Mann
Mathis
Meeds
Mezvinsky
Mikva
Mink
Mitchell, Md
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Obey
Passman
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Pickle
Pritchard
Reuss
Robinson
Rousselot
Runnels
Ruppe
Ryan
St Germain
Schroeder
Shipley
Simon
Slack
Symms
Taylor, Mo.
Thornton
White
Whitehurst
Young, Ga.
Zeferetti

NOT VOTING—77

Abzug
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Bell
Bergland
Bingham
Boggs
Breaux
Brodhead
Brooks
Burton, Phillip
Carter
Clawson, Del
Conlan
Danielson
de la Garza
Dellums
Diggs
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fenwick
Fisher
Foley
Ford, Mich.
Gaydos
Giaimo
Gibbons
Harrington
Hays, Ohio
Hébert
Hicks
Hinshaw
Hutchinson
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Karth
Krueger
Landrum
Latta
McCollister
McDonald
Matsunaga
Miller, Calif.
Mills
Montgomery
Mosher
Nichols
Nix

Peyser
Pressler
Rees
Rhodes
Riegle
Rinaldo
Risenhoover
Rose
Rostenkowski
Sarbanes
Schneebeli
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Thompson
Traxler
Udall
Vanik
Waxman
Weaver
Wilson, C. H.
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Harrington against.

Ms. Abzug for, with Mr. Riegle against.

Mrs. Boggs for, with Mr. Phillip Burton against.

Mr. Thompson for, with Mr. de la Garza against.

Mrs. Fenwick for, with Mr. Dellums against.

Mr. Johnson of California for, with Mr. Steelman against.

Until further notice:

Mr. Nichols with Mr. Gibbons.
Mr. Breaux with Mr. James V. Stanton.
Mr. Bingham with Mr. Miller of California.
Mr. Giaimo with Mr. Peyser.
Mr. Rostenkowski with Mr. Bell.
Mr. Udall with Mr. Rose.
Mr. Brooks with Mr. Stuckey.
Mr. Gaydos with Mr. Charles H. Wilson of California.
Mr. Hébert with Mr. Fisher.
Mr. Hays of Ohio with Mr. Conlan.
Mr. Nix with Mr. Matsunaga.
Mr. Risenhoover with Mr. Andrews of North Dakota.
Mr. Krueger with Mr. Diggs.
Mr. Montgomery with Mr. Del Clawson.
Mr. Waxman with Mr. Ashbrook.
Mr. Ashley with Mr. Rees.
Mr. Bergland with Mr. McDonald.
Mr. Brodhead with Mr. Edwards of Alabama.
Mr. Carter with Mr. Landrum.
Mr. Erlenborn with Mr. Danielson.
Mr. Weaver with Mr. Esch.
Mr. Ford of Michigan with Mr. Sarbanes.
Mr. Hicks with Mr. Traxler.
Mr. Latta with Mr. Eshleman.
Mr. Pressler with Mr. Hutchinson.
Mr. Rinaldo with Mr. Karth.
Mr. Steed with Mr. McCollister.
Mr. Young of Alaska with Mr. Mills.
Mr. Steiger of Arizona with Mr. Mosher.

Mr. BLANCHARD changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On May 21, 1976:

H.R. 12018. An act to amend the Rehabilitation Act of 1973 to provide that the center for deaf-blind youths and adults established by such Act shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults.

On May 22, 1976:

H.R. 2776. An act for the relief of Candido Badua;

H.R. 4038. An act for the relief of Jennifer Anne Blum;

H.R. 5227. An act for the relief of Frank M. Russell; and

H.R. 8863. An act for the relief of Randy E. Crismundo.

APPOINTMENT OF CONFEREES ON H.R. 12438, MILITARY PROCUREMENT

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to a conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Price, Hébert, Bennett, Stratton, Ichord, Nedzi, Randall, Charles H. Wilson of California, Leggett, Bob Wilson, Dickinson, Whitehurst, and Spence.

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I hereby transmit to you the Annual Report of the Railroad Retirement Board for fiscal year 1975.

The Report indicates that the Board paid retirement and survivor payments in excess of $3 billion to almost one million one hundred thousand individuals during the fiscal year, and that it made unemployment and sickness benefit payments totaling $67 million to over 137,000 claimants.

This Report also includes a summary of legislation enacted in 1974, which restructured the retirement and survivor program and substantially improved the financing of the railroad retirement system. In addition, it includes a description of the 1975 amendments to the Railroad Unemployment Insurance Act, which increased the daily rate of unemployment and sickness benefits payable to railroad workers and made other improvements in that program.

Gerald R. Ford.

The White House, *May 27, 1976.*

THIRD ANNUAL REPORT ON COASTAL ZONE MANAGEMENT ACT OF 1972—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries:

To the Congress of the United States:

I am transmitting herewith the third annual report from the Secretary of Commerce covering the significant developments that took place during the second full year of implementation of the Coastal Zone Management Act of 1972. The period covered is Fiscal Year 1975, when the states began full development of their coastal programs.

The country's urgent need for new domestic sources of energy and our concern for minimizing environmental damage and community disruption have combined to underscore the importance of the effort put forth in the coastal zone program. The program points out the importance of cooperation at the state and federal level in order to provide appropriate and timely solutions to these important problems.

Gerald R. Ford.

The White House, *May 27, 1976.*

FEDERAL ENERGY ADMINISTRATION AUTHORIZATION AND EXTENSION

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12169) to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes.

The SPEAKER. The question is on the motion offerd by the gentleman from Michigan (Mr. Dingell).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12169, with Mr. Natcher in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. Dingell) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Brown) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield briefly to my good friend, the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wonder if the gentleman could enlighten the Committee on exactly what procedure we will be following in handling this bill this afternoon. The word has gone around that we will not finish consideration of the bill and we might go on to other matters.

Mr. DINGELL. Mr. Speaker, in response to the question of the gentleman from Maryland, I suspect—and I am not ready to respond to the inquiry fully, because the matter is now being cleared with the leadership—what will transpire is that we will conclude general debate, we will rise, and the gentleman from Texas (Mr. Eckhardt) will raise a question of energy action No. 2 by FEA, relating to small refineries, for disapproval or approval under the provisions of EPCA. I would suspect by that time it would be too late for the House to conduct business. We will probably not return to this legislation until some subsequent time.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think it ought to be made clear by the gentleman in the well in this colloquy, however, that if the gentleman from Texas (Mr. Eckhardt) makes his disapproval motion, there is quite likely to be a vote on that motion, on that disapproval motion, this afternoon. Technically, the gentleman from Texas would have 10 hours of debate on that issue. I would assume, prayerfully, that the 10 hours would not be exhausted in the consideration of the matter because, while it is a complex matter, it would not seem to merit the attention of this body for 10 hours on the day before the holiday recess.

Mr. DINGELL. Mr. Chaiman, I would agree thoroughly with my colleague, the gentleman from Ohio (Mr. Brown). I would agree thoroughly with him that the House should be on notice that there will probably be a vote on disapproval of energy action No. 2 by FEA.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield first to my good friend, the gentleman from Texas (Mr. Eckhardt), and then if he desires, I will yield to my good friend, the gentleman from Texas (Mr. Pickle).

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding.

I can assure the gentleman from Ohio (Mr. Brown) that the matter would be expedited no matter how the motion goes.

I may say to the gentleman from Ohio (Mr. Brown) that the same matter is either presently before the Senate or will be in 10 minutes, and, of course, this being a matter requiring only one body's disapproval, we do not know whether this will be a moot question at that time or not.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, if the Senate votes it down, then it would not come up before this body. On the other hand, if the Senate does not vote down the proposal of FEA, then the proposal of the gentleman from Texas (Mr. Eckhardt) to disapprove would be disposed of within an hour if we fail to support the gentleman from Texas, which I prayerfully hope would not happen because the gentleman from Texas (Mr. Eckhardt) and I have a similar view on this subject.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I can only yield briefly to my friend, the gentleman from Texas, because I have already used nearly 3 minutes.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Dingell) has expired.

Mr. DINGELL. Mr. Chairman, I yield myself 1 additional minute, and I yield briefly to my friend, the gentleman from Texas (Mr. Pickle) for a question.

Mr. PICKLE. Mr. Chairman, I must say to the gentleman from Texas (Mr. Dingell) that it is not so much a question but a comment that I would like to make briefly, and that is this: that I very much oppose the motion to disapprove.

We have had proof that there has been a great inequity from this special rule No. 6, and as one who originally supported it, along with the gentleman from Texas (Mr. Eckhardt), I think it would work a great disadvantage to small service stations. Therefore, I would insist on a vote.

I think we ought to have ample time to debate the subject. The gentleman said that it would be expedited, but under the rule it still might take 10 hours. I would hope that I can be here to engage in a full discussion on this subject.

Mr. DINGELL. Mr. Chairman, I am in accord with what my friend, the gentleman from Texas (Mr. Pickle), has said.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Dingell) has again expired.

Mr. DINGELL. Mr. Chairman, I yield myself 4 additional minutes.

Mr. Chairman, I urge approval of H.R. 12169, as amended.

H.R. 12169 is a relatively simple and uncomplicated bill which authorizes funds for the Federal Energy Administation for the coming fiscal year and for the budget transition quarter which immediately precedes it. H.R. 12169 extends the term of the Federal Energy Administration Act to September 30, 1979.

Within the Committee on Interstate and Foreign Commerce, there was very little doubt expressed as to the desirability of extending this legislation for an additional period of time or as to the amounts which we authorized. The full committee did authorize $38 million for energy conservation programs and almost $3 million for a solar energy implementation program, both of which are beyond those amounts authorized by the Subcommittee on Energy and Power in its initial consideration of this legislation. The only element of this legislation which might be termed substantive, is a requirement that the project independence evaluation system computer model be fully opened up for public review and inspection and I am pleased to say that this aspect of the legislation has received bipartisan approval.

Certain Members have indicated opposition to extension of the Federal Energy Administration. One of these did, in fact, appear before the subcommittee and testified on this subject. He and others have expressed a concern that the Federal Energy Administration ought to be terminated forthwith. One or more amendments may be offered on this subject. I would like to state for the record, very clearly that I believe the public interest would not be served by terminating the existence of the Federal Energy Administration at this time. That agency has been assigned important functions with respect to regulation of the price and supply of energy, establishment of procedures for emergency standby authorities, and many other responsibilities.

I do not feel that we are going to solve the energy crisis by dismantling the agencies which the Congress has, after extensive debate, created, and empowered to deal with that energy crisis. Newspaper reports indicate, and I have no reason to doubt their accuracy, that the public's reaction to the energy crisis of a few years ago has now virtually disappeared and that conservation of energy is no longer a matter of concern. I am here to tell you, however, that the energy crisis is very much with us and that the problems which exist are more urgent today than they were last year or the year before and that they will not, in fact, go away. I do not feel that it would be a responsible action for the Congress to take the step of disbanding this agency at this time.

I am aware that the Federal Energy Administration has been criticized in the past and that the basis for some of these criticisms may, in fact, have been well-founded. It is for this reason that the subcommittee decided to take the step of authorizing funds for this agency for 1 year only—in order to provide us with an opportunity to come back again after intensive review of the action of the FEA during the next year and to take whatever steps we must to cure the problems which we discover. I would submit that this is a far more responsible way of achieving the results that we all agree are desirable: An effective, functioning Federal Energy Administration.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Federal Energy Administration authorization bill, as reported out of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, was a rarity among energy bills in that it received bipartisan support in that subcommittee. The bill balanced the budgetary needs of FEA and its expanded programs established under the Energy Policy and Conservation Act, EPCA, with the need to keep Federal spending at a minimum to avoid inflationary impact and further deficit spending. However, two amendments passed by the full committee have added a total of $40 million to the fiscal year

1977 budget and force me to oppose this legislation as it now stands.

The first amendment added by the committee authorizes $2.9 million to be used to encourage the use of solar energy in commercial and other applications. This would require the establishment of an entire new program authority for such purposes in FEA. Such program authority already exists in the Energy Research and Development Administration.

There was no testimony during the hearings on this legislation that demonstrated the need for or cost justification of such an additional program in FEA. In fact, this money would mean unnecessary duplication of funds already being spent by ERDA in its solar energy program. Section 8 of the Solar Energy Research, Development and Demonstration Act of 1974 (Public Law 93-473) specifically requires the ERDA Administrator to set up a solar energy information data bank to provide for the processing and dissemination of solar energy technology information to the public.

Further, this amendment is an intrusion on the jurisdiction of the Committee on Science and Technology, to which the rules of the House grant jurisdiction over all energy research and development except nuclear research and development.

In H.R. 13350, the ERDA authorization bill that just passed the House last week, the House has approved $345 million for fiscal year 1977 for the solar energy program, with $116 million of that added in a floor amendment.

The sum of $80.6 million of the total amount is earmarked for solar heating and cooling demonstration projects which are the most developed of the solar technologies and the closest to commercial application.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I would be glad to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to first thank the gentleman from Ohio for his comments and to say that I am categorically in agreement in everything the gentleman has said concerning this attempt to establish a new solar energy program within the Federal Energy Administration under this bill.

I have reviewed the material in the bill and I have reviewed the material in the report, and I endorse it, and I will have this documented by the Energy Research and Development Administration, that there is not a single project listed in this entire report that is not already being conducted by the Energy Research and Development Administration under existing law, either in the Research and Development and Solar Research Demonstration Act of 1974 or the Solar Energy Heating and Cooling Demonstration Act of 1974, there is not a single concept in the project, included in this bill before us that is not already being carried out and under way by the Energy Research and Development Administration and under its authorization and under the authorization provided in the House, as the gentleman from Ohio has pointed out, of $300 million for us last week.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman from Washington for his comments.

The fact of the matter is that the Committee on Interstate and Foreign Commerce does not have jurisdiction over the energy program functions of the Energy Research and Development Administration, which was created by the Committee on Government Operations, on which I serve. ERDA is for, as the name implies, energy and research development and of course development would include the heating and cooling demonstrations, and that is specifically covered in the ERDA legislation.

And so the gentleman from Washington and I are as one on the answer to the question. It is not because I love the Committee on Science and Technology any more and the Committee on Interstate and Foreign Commerce any less, but because I think it makes good rational sense from the standpoint of the organization of the committee structure in the U.S. Congress and from the standpoint of the administration of various energy programs that solar energy remain with ERDA. And so we agree, and I think for the same reason.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield further for one more comment?

Mr. BROWN of Ohio. I would be happy to do so.

Mr. McCORMACK. Mr. Chairman, I want to say that the Federal Government, both the administration and the Congress, have really failed pretty miserably in the last 2½ years insofar as the energy crisis is concerned. Certainly there has been valiant attempts by certain individual committees to try to cover certain areas of responsibility, but one of the real reasons that the Federal Government has failed, one of the reasons America does not have an energy policy or an energy program to implement that policy today, is because of the splintering of responsibilities for energy not only in the administration but also in the Congress.

I think it is tragic that we cannot organize in such a way that we can handle these matters more efficiently, but this legislation before us today is seriously exacerbating the situation, not only in the administration but in the Congress. For that reason, therefore, I will support the gentleman's amendment to trim these sections from the bill.

Mr. BROWN of Ohio. Mr. Chairman, I might say to the gentleman from Washington that it is not merely a matter of an organizational problem but a matter of decisionmaking by the Congress.

In my opinion, the research and development activities that have been authorized by the Congress have made a great deal more sense than some of the regulatory steps that we have taken.

Mr. McCORMACK. I thank the gentleman for that comment.

Mr. BROWN of Ohio. It is not meant as a personal compliment, although it could be viewed, perhaps, from the gentleman's efforts, because I respect the knowledge and the efforts of the gentleman from Washington in the area of research and development. He has been a leader in this field. As the gentleman from Washington knows, I have not been enthusiastic about some of the regulatory steps we have taken.

The second amendment which was added by the full committee provides an additional $37.4 million for the Office of Conservation and Environment. This represents a $37.4 million increase above the Presidential budget request and will give that office a funding level of more than twice that it enjoyed in fiscal year 1976. No programmatic justification for such an increase was provided by the amendment's author when the matter was under consideration by the full committee.

As I noted, the subcommittee did not take that step. While conservation is an important aspect in our Nation's efforts to achieve energy independence, blanket authorizations not tied to specific programs provide room for misallocation and inefficient use of funds even in the most efficiently administered of agencies. Such a free rein in funding is not a good way for this Congress to legislate.

The need for these additional authorizations has not been demonstrated. The Federal Energy Administration did not speak to this subject when it testified before our committee with reference to the authorization, and I intend to offer amendments to delete them from the bill at the appropriate time and would ask the support of my colleagues in that regard.

I might ask, Mr. Chairman, to proceed further to explain just what the authorization levels are in this piece of legislation. Executive Direction and Administration would be provided with $8,655,000 in the transition quarter and $33,324,000 in the fiscal year 1977; the Office of Energy Policy and Analysis, $8,137,000 in the transition quarter, $34,971,000 in fiscal year 1977; the Office of Regulatory Programs, $13,238,000 in the transition quarter, $62,459,000 for fiscal year 1977; the Office of Energy Conservation and Environment, $7,386,000 in the transition quarter, $49,961,000 in fiscal year 1977 under the full committee proposal and an additional sum for electric utility demonstrations—$2,611,000 in the transition quarter, $10,445,000 in the fiscal year 1977 period; the Office of Energy Resource Development, $3,052,000 in the transition quarter, $16,934,000 in the fiscal year 1977 period; the Office of International Energy Affairs, $300,000 in the transition quarter, $1,921,000 for fiscal year 1977; and for a new program authority of solar energy, the program that I hope to eliminate in my amendment, $589,000 in the transition quarter and $2,356,000 in fiscal year 1977. This is a grand total of $43,968,000 in the transition quarter and $212,371,000 in fiscal year 1977.

Mr. Chairman, I do think that the Federal Energy Administration is well on its way to being the new Department of Agriculture of the U.S. Government, in other words, one which may have ultimately more people involved in regulation than there are people in the industry they are trying to regulate. I, for one, do not think that is wholesome.

However, the reason for that is because the Congress has given this authority to the Federal Energy Administration. I do not think that the authorities are desirable and think that we should address ourselves to the elimination of that control as soon as possible. However, while it exists, I think it is desirable that the controls continue to be exercised in a centralized agency so that when the authorities are slowed down or terminated, we can also slow down and terminate a single agency rather than have to root around through government and find all of those folks who are doing the job that we have given them the authority to do.

Mr. Chairman, I reserve the balance of my time.

Mr. ECKHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I urge approval of the legislation now before the House: H.R. 12169, as amended. I believe that it is important that this body take the positive step of retaining an agency whose principal focus is to address today's and tomorrow's energy questions.

There are certain actions which the Federal Energy Administration has taken with which I disagree. As a matter of fact, I could say the same of most agencies of Government. But, simply because this agency has been placed in the role of a policeman is no reason to take away its authority. Now more than ever it is necessary that we retain a strong central direction to address the energy issues which confront this country.

We are told by experts that our energy problems are becoming more acute—that our dependence upon energy sources from foreign countries is greater now than it has ever been. This is no time to dismantle the agency established to deal with this problem and to scatter those responsibilities among a group of ill-coordinated, disorganized agencies elsewhere in the Federal Government.

It may be desirable to reorganize the Federal energy structure, but none of the proposals under serious consideration in either body of the Congress at this time accomplish such a reorganization. When that time comes and legislation has been carefully drafted to meet the situation, then, I believe, we will have responsibility to deal with that problem in proper order.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Ketchum).

Mr. KETCHUM. Mr. Chairman, I rise in complete opposition to this legislation. I hope that my colleagues would heed the obvious will of the people and begin to dismantle the unresponsive and expensive Federal bureaucracy. There is absolutely no better place to begin that laudatory task than with the Federal Energy Administration.

I would like to remind those of my colleagues who served in the last Congress what our intentions were when we created this "Frankenstein." You will recall that we were reacting to the Arab oil embargo, and to the angry voices of constituents who spent the better part of their day waiting on gasoline lines. The embargo could have served a useful purpose—it has the potential of waking us up to our alarming dependence on foreign sources of petroleum. We did, in fact, seem genuinely interested in restoring American energy independence for awhile, and in that short-lived period the FEA was born. I regret to say that it has fulfilled none of its promise.

What should be the purpose of a Federal energy office? We were under the impression that it was to foster American energy independence. What has it actually been doing? To be charitable, we could say it has accomplished nothing.

The truth, however, is that the FEA has not only failed to accomplish any of the ambitious goals of Project Independence, but it has actually worked against these goals.

Since its inception, the FEA has been concerned almost entirely with spreading a shortage around rather than curing the shortage. Instead of fostering increased exploration and drilling of domestic petroleum, FEA has toyed with various formulas of price controls designed to retard that drilling. Instead of encouraging development of our existing resources, the FEA has attempted to strangle every energy company in the Nation with miles of redtape.

I would just like my colleagues to look at the type of thing FEA spends its time doing. A very small oil company in my district that operates wells which the majors no longer consider productive sent me these forms. For a four-form monthly report, FEA sent along 21 pages of typed instructions—written in language that a battery of lawyers would take a week to translate. Our Nation's energy producers have to spend more time dealing with the FEA forms than with the search for more energy.

The high-handedness of the FEA is legendary. Right now, they are in the process of denying the small refiners the exemption Congress specifically granted them from the crude oil entitlements program. They shift around allocations at will, causing the greatest economic hardships. This fiefdom must be brought under control.

I submit to my collegaues that the FEA has simply not done the job for which it was created. The simple, eloquent proof of that statement is that our dependence on foreign petroleum has increased in the 2 years that the FEA has been in existence. The reason for that is clear to see—the FEA has been more interested in pursuing the impossible goal of cheap energy than in encouraging more energy production. It is more interested in price controls than in production. It is plainly a superfluous agency that is a drain on our tax dollars.

Finally, I would ask my colleagues to take a good look at the actual authorizations made in this legislation. The bill grants $34 million for a computer model for Project Independence. If we do not know what is needed for that now, maybe the whole Federal Government should just close up shop. I would like to see the supporters of the bill explain a $34 million computer to their constituents. We have got over $75 million for 2,120 more regulators in the Office of Regulatory Programs. I think our citizens are making it quite clear what they think of these Federal regulators. About the only think that does not receive any money is a program to produce more American energy sources.

When we make a mistake, I think we ought to admit it. We made a terrific mistake in creating the FEA. It cost us 2 precious years in making our country self-sufficient in energy. We can correct that error now, save the taxpayers some money, and start getting serious about our energy problems. Defeating this bill is the only responsible course to take, and I urge my colleagues to do so.

Mr. ECKHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. Wirth).

Mr. WIRTH. Mr. Chairman, recent statements concerning FEA's conservation program that appeared in the Extensions of Remarks of the May 24, 1976, Congressional Record make three general assertions:

First. FEA has mismanaged funds appropriated to it in fiscal years 1974 and 1975;

Second. FEA has placed undue emphasis on the use of contracts and cooperative agreements with other institutions; and

Third. ERDA would be more capable of performing FEA's conservation functions.

To substantiate the first assertion, the statement cited eight contracts which totaled $566,500 or less than 2 percent of the funds appropriated to FEA's Office of Energy Conservation and Environment. It then asserted that these studies were examples of a wasteful use of Federal dollars.

For example, it cited a study by the Rand Corp. on "Energy Conservation in Lighting," as an example of the wasteful use of Federal funds. But it has not answered the complicated question addressed in that study:

"What is the overall energy savings potential of reducing lighting and converting to more efficient light sources in existing buildings as well as outdoor lighting?" This is just one of the questions focused on and answered by the Rand study, and is a part of the information needed in development of a broad conservation strategy.

Another study cited was the "Impact of the Energy Crisis on Disadvantaged Consumers." This study starts with the correct assumption that experts have openly disagreed about the impact of rising energy prices and that proposals to assist low-income persons must be based on data rather than assumptions which all too often are later revealed to be incorrect.

The attack on energy conservation further implied that the funds spent on a study conducted by the Aerospace Corp. to examine strategies for encouraging mode shifts in intercity passenger travel did nothing more than show that higher prices would reduce travel. Unfortunately the attack did not examine the results of this effort; had this been done, it would have been found that the study's major conclusion was quite the opposite. It found the most effective energy conservation strategy would be to increase airline load factors, which would result in lower fares to travelers.

In another point, it is asserted that the carpooling study funded by FEA was "identical" with one previously funded by DOT. On the contrary, the studies were actually complementary rather than duplicative. The DOT study, which was initiated on a crash basis during the Arab oil embargo, was designed to assist State and local governments to establish carpool matching programs to reduce gasoline consumption for work trips. The FEA study, in contrast, was intended to analyze potential carpooling demand tthrough diverting single-occupant automobile work trips to carpooling work trips and to estimate the energy savings which would result from various policies to encourage carpooling.

Finally, the attack on FEA conservation programs cited public opinion surveys as an example of another wasteful FEA program. Again the record was not reviewed. FEA's public opinion surveys were designed to gather a wide range of information to assist the agency in formulating programs to provide information that would be useful to all energy users. This requires data on public attitudes and awareness. An examination of the results of the surveys would have readily indicated that the results do not necessarily support any single view. Quite to the contrary, they often provide very interesting and insightful information about public opinions on the energy crisis.

The second general assertion made is that FEA has placed undue emphasis on the use of contracts or cooperative agreements to gather information or conduct programs. This, in my opinion, is preferable to FEA hiring 1,000 or 2,000 additional civil servants, who would then receive permanent employment rights. FEA's Office of Energy Conservation and Environment has taken the prudent course of utilizing the expertise that can already be found in other Federal agencies and private institutions through short-term contracts rather than by increasing the size of the Federal bureaucracy.

FEA's reliance on outside contractors raises the final general assertion; that is that ERDA would be more capable of carrying out FEA's conservation functions. Now, the facts demonstrate that of the $75 million in ERDA's fiscal year 1976 conservation budget only about $20 million is used in ERDA's national laboratories, and the remainder has been contracted out to industry or other Federal agencies. The emphasis on outside contractors is even more pronounced in those ERDA conservation programs directed at transportation, buildings or industry, as opposed to electric utilities or energy storage which account for over 80 percent of the ERDA conservation research done at the national labs.

In conclusion, it is quite apparent that some among us have failed to determine the facts before launching into yet another diatribe against the Federal Energy Administration. The FEA's Office of Energy Conservation and Environment has provided the central focus for virtually all Federal conservation efforts. When it was established in 1974, it was given the awesome task of not only quantifying the potential for energy conservation in every major sector of the economy but also developing and implementing a program to insure that that potential is realized. Although the Office has unquestionably made several errors during the past 2 years, on balance it has done a remarkable job.

Currently the Office is dedicating most of its resources to those specific responsibilities given it by the Congress. During 1976, the Office will be developing and finalizing Federal guidelines for three major new conservation programs: The State energy conservation program, the industrial energy efficiency program, and the appliance efficiency and labeling program. I submit that we risk losing all the progress that has already been made toward the achievement of major energy savings if the Congress chooses to dismantle the Office of Energy Conservation at this time, even if its functions were transferred to ERDA or any other Federal agency.

Mr. BROWN of Ohio. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. MYERS).

Mr. MYERS of Pennsylvania. Mr. Chairman, I, too, am concerned about the legislation in two areas; specifically, the extension of the FEA beyond the original concept of a temporary agency.

The second area is the growth of the FEA in numbers and pay scales, which, quite evident, have been built up in this so-called temporary agency. I agree with the initial legislation that in a period of crisis in developing a temporary agency it would be difficult to pull together qualified people without offering higher than average pay scales; however, I think we should look at where we find the FEA at the present time. Presently, the number of ES personnel in the FEA is extremely high. They have a total of 19. We can compare that to a much larger agency, such as the Veterans' Administration, which has seven.

The comparable number of employees for the FEA is 3,200; however, the Veterans' Administration, with only a 7 ES schedule level has 123,000 employees.

The average pay for FEA is higher, the ES schedule is higher than for any other agency. Some Cabinet levels have less numbers of ES personnel. For instance, the Department of Agriculture has 18.

HEW has 23.

HUD has 20.

The Interior Department has 18.

The Department of Labor has 16.

The Treasury Department has 21.

FEA presently has 19.

Mr. Chairman, during the amendment process I have a series of amendments which will attempt, No. 1, to limit the extension of FEA to no longer than 15 months, the end of fiscal year 1977.

One amendment will require a report from the president through OMB to the Congress, indicating in what manner the responsibilities will be transferred to other Departments.

Mr. Chairman, I have a backup amendment to that which would simply limit the authorization of this bill to the end of fiscal 1977. Then there are two amendments which I would attempt to get at the problem that I see in pay scales for FEA, which appear to be out of line with other agencies and departments in comparison to the responsibilities and degree of scientific or technological skill that the agency needs in accomplishing its responsibilities.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. SHARP. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighteen Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to my good friend, the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman I rise in favor of the bill before us, the extension of the authorization of the Federal Energy Administration.

I have not been one of the admirers of the agency's operations, but if we should not extend its authorization, what would happen in effect, if no further action were taken, would be that precisely the same policies respecting energy which we have adopted in such substantive bills, as the Energy Policy and Conservation Act and which we have directed the executive department to administer would be performed by that agency through something like the Federal Energy Office which existed prior to the Federal Energy Administration.

I submit to the Members that this is certainly not a desirable approach. In the first place, it would call upon the President to dismantle the FEA and reassign its functions to some manner of organization that he might set up. At the outset, there would be some question as to whether he could merely retain the agency substantially as it now stands and designate it as an executive office—just make FEA, FEO. Perhaps he could do that.

Then, all we would have done is remove ourselves from any area of fashioning a program. It seems to me that that is very bad.

On the other hand, the President might attempt to redistribute various areas of authority to various other executive departments and agencies. If he did, of course, that would retard the entire program for a time. It would undoubtedly cost more money because it would occupy the time of many persons working for the various other executive agencies to absorb the reorganizational changes that would have taken place.

Let me go back a moment and describe to the Members how this entire program came into effect.

The original action taken by our committee was the act called the Emergency Petroleum Allocation Act of November 27, 1973.

That act dealt with several things. Its immediate purpose was to assure that certain products like home heating oil get to the east coast. It was essentially related to allocation.

Also, at that time there was a shortage of gasoline; and it was sought to assure distributors of gasoline that they would not be cut out, particularly independent distributors. It also provided for price controls on crude and on petroleum products.

Of course, at that time, there being no agency created by Congress, the authority was delegated by the President to the Federal Energy Office. That sort of thing would be re-created if we disestablished FEA.

Then an act called the Federal Energy Act of 1974 was passed. It was as the result of a bill that came out of the Committee on Government Operations, and it established this agency which we are now seeking to extend. Then we passed the Energy Policy and Conservation Act, giving to the Federal Energy Administration not only the authority with respect to controlling limitations on pricing, but some other extremely important authorities: The appliance labeling authority, the coal loan program, the State energy conservation provisions, and so forth.

Mr. Chairman, I think we acted properly in assigning those authorities to the FEA. If we should dismantle the FEA, the question would be: Where will these authorities be distributed? Perhaps the President will properly distribute them, but should not Congress make a determination on points like this? Is not the agency and its functions important enough for Congress to be concerned with them?

There has been an attempt in the House, in argument on the rule, to drum up some type of conflict——

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

Mr. SHARP. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. To continue, Mr. Chairman, there was an attempt in the debate on the rule to conjure up some type of dispute between our committee and the Committee on Government Operations. I think that was put to rest pretty well by the statement of the distinguished gentleman from California (Mr. MOSS), who is the ranking majority member of both that committee and the Committee on Interstate and Foreign Commerce.

However, Mr. Chairman let me point out why there is no conflict there. If we extend the authorization under this act, we do not in any manner prejudice the Committee on Government Operations from bringing out a bill that could reestablish the whole program. If the Committee on Government Operations decides, along with the gentleman from Indiana (Mr. FITHIAN) and the gentlewoman from Colorado (Mrs. SCHROEDER), that it would be desirable to give pricing authority to the Federal Power Commission—which I think would be a bad thing—the committee may do so. It may entirely revamp structural organization of the program dealing with energy policy. It may dissolve FEA and assign its authority to whomever it desires.

Therefore, Mr. Chairman, we are in no way by this act precluding that committee from exercising its function under the House rules.

Mr. Chairman, I strongly urge the support of the bill to extend the authorization of FEA.

Mr. BROYHILL. Mr. Chairman, I have no further requests for time.

Mr. SHARP. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Chairman, we are faced with a rather difficult situation because a very great many of us in the House do not wish to see the Federal Energy Administration continue to go on its bungling way, and yet we may or may not be ruled in order so as to offer a substitute. This explains the vigorous efforts we made to defeat the rule an hour ago. I think we now must address the House and address our own consciences as to the basic question.

The basic question is: Has the Federal Energy Administration so conducted itself as a regulatory agency that it ought to be continued; and if continued, for how long? The FEA does not merit a single hour of continued life.

One of the strongest oppositions I have to the committee bill is that it locks us into the continuation of the Federal Energy Administration for some 39 months. One does not have to be a great student of government to understand that once an agency is given a lengthy life span and a healthy budget, this House has precious little control over its actions. It is those actions to which many of us object on all sorts of grounds.

So, Mr. Chairman, I would hope that the committee will not contest the making germane of a substitute which will give those of us who find ourselves in an impossible situation, that is, either voting to continue the Federal Energy Administration for 39 months despite the fact that it has done nothing to merit that kind of stamp of approval, or vote to kill the Federal Energy Administration without taking any responsible actions as to where to put its functions. And that is precisely where the committee has those of us who: First, do not approve of the actions of the Federal Energy Commission, and second, do not like to be forced into voting willy-nilly to simply shut it off without some responsible decision as to where its functions should go.

Mr. Chairman, I would like to use the remainder of my time to engage in a colloquy with the chairman of the committee, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. ECKHARDT) if I might.

I would like to ask whether these two influential and prestigious members of the committee will be opposing or raising a point of order as to the germaneness of a substitute amendment which has already been placed in the CONGRESSIONAL RECORD by the gentlewoman from Colorado (Mrs. SCHROEDER)? What is the thrust of the committee's thinking at this time?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in response to the question raised by the gentleman from Indiana (Mr. FITHIAN), let me say that as manager of the bill it is my duty to see that the rules of the House are properly and fairly carried out and I am not able to make any commitment to do anything other than see that the rules of the House are properly carried out and protected. And that applies to the rule of germaneness. Despite the fact that it causes the gentleman from Indiana pain, I would also have to carry out my responsibilities in that regard.

I think the House is going to have to recognize some hard facts. The Nation is in the midst of an energy crisis, and although I commend my colleagues, the gentlewoman from Colorado (Mrs. SCHROEDER), and the gentleman from Indiana (Mr. FITHIAN), on their zeal, I must point out that their efforts are misguided. I think it is quite clear to anyone who has analyzed the facts in existence previous to the creation of the Federal Energy Administration—and I might add that I did not support the Federal Energy Administration with any great enthusiasm in its inception—that the chaos today and the Federal energy policy problems prior to the existence of the Federal Energy Administration were vastly larger than those which face us today. We had the Cost-of-Living Council, the Federal Energy Office; we had the Department of the Interior; we had the Federal Power Commission. I would point out that of all of the undistinguished agencies in Government, probably the most undistinguished of all is the Federal Power Commission. They have done nothing except obfuscate, delay, and waste the taxpayers' money and accomplish little of any significance that I can discern.

Laws entrusted to their administration are rarely adquately adhered to and are not properly administered; to turn any functions of FEA, which has from time to time not satisfied any of us, over to FPC would be simply to substitute a worse executor of the law for one who is doing the best it can.

Some other questions have been raised during the course of this discussion that must be addressed by the House. What about allowing this matter to be considered by the Committee on Government Operations? The original legislation was introduced in February. The matter of jurisdiction over the extension of the FEA has long been available to the Committee on Government Operations. They could have raised that question and brought this legislation before the House any time they wanted to.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. I yield myself 2 additional minutes.

There is nothing in the Rules of the House, nothing in the law, nothing anywhere which precludes the Committee on Government Operations or any other duly constituted and properly authorized committee of the Congress from coming forward with legislation which would alter the structure of FEA or bring out the proper delineation of its responsibilities, efforts, and authorities, or to disseminate those amongst other agencies. If the gentleman wants to set up one single energy agency in Government, he can offer legislation which might be referred to the House Committee on Government Operations. If that committee is content to adopt his views, I am sure we would have a bill on the floor. If the gentleman does wish to present some kind of proposal to the Committee on Government Operations, I would have no complaint about his going forward and being heard.

I would simply point out today to my colleagues that I think it is very important to note that member after member of the Commerce Committee, which has had jurisdiction of these matters for a good period of time, has pointed out that there is a need to see to it that EPCA and the other laws relating to the control of prices and the conservation of energy, which are part of the energy policy that the Congress enacted during the past session, are faithfully and properly carried out.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding.

Just prior to the distinguished chairman's arrival on the floor, I had said that one of the most objectionable features of his bill is that of extending the life of the agency for a full 39-month period. My question is simply this: Regarding those of use who want either to do away with the Federal Energy Administration and allocate its functions or make it more tractable, what is the chairman's position on that?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I yield myself one-half minute additionally.

The answer to that question is that we have a statute which is going to require about 39 months for price controls to be administered, and I think that we cannot administer those price controls in less time. If the Committee on Government Operations wants to change the life expectancy of this agency, they can do so by presenting proper legislation on the floor.

Mr. Chairman, I reserve the remainder of my time .

Mr. ECKHARDT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Twenty-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 314]

Abzug
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Bell
Bergland
Bingham
Breaux
Brodhead
Brooks
Brown, Mich.
Burton, John
Burton, Phillip
Carter
Cederberg
Clawson, Del
Cleveland
Conlan
Conyers
Danielson
de la Garza
Diggs
Drinan
Eckhardt
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fenwick
Fisher
Flynt
Ford, Mich.
Forsythe
Fraser
Fuqua
Giaimo
Gibbons
Gude
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Hicks
Hinshaw
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Karth
Krueger
Latta
Leggett
McCollister
McEwen
Mathis
Matsunaga
Meeds
Michel
Milford
Miller, Calif.
Mills
Montgomery
Moorhead, Pa.
Mosher
Murphy, N.Y.
Nichols
Nix
Paul
Peyser
Pressler
Railsback
Randall
Rees
Rhodes
Riegle
Rinaldo
Risenhoover
Rodino
Rose
Rostenkowski
Santini
Sarbanes
Satterfield
Scheuer
Schneebeli
Seiberling
Sikes
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Thompson
Traxler
Udall
Vanik
Waxman
Weaver
Wiggins
Wilson, C. H.
Young, Alaska

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12169, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 325 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time.

Members of the House, the other body is acting now on a matter relating to rule 6 and affects the question of entitlement. In the event that they do vote to disapprove the removal of the exemption that the FEA had ordered, that question will not come over here.

I must leave because I am chairing a meeting in Houston tomorrow on a subcommittee from the Committee on Ways and Means. I want to express this hope to the House that the question of disapproval should not be granted by this House. We ought to let the FEA work its will. With respect to what happened a year ago, I was one, along with the gentleman from Houston, in asking for the special exemption of the small refiners, but there has been a double dip, and I repeat, there has been a double dip to them. What has happened is that it hurts the small refiners.

Under the special entitlement program, many of our service station dealers are literally going broke because many of the branded dealers are having to pay more for the gasoline than the other dealers can buy it for.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want the gentleman from Texas to know that I am fully in accord with the position he has taken on this matter. I hope the House will reject the disapproval resolution for the reason pointed out by the gentleman from Texas.

Mr. BROWN of Ohio. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in support of H.R. 12169, a bill which provides for the continuation of the Federal Energy Administration for another year.

This agency was established 2 years ago to carry out the Nation's policy of obtaining energy independence from foreign sources within the next decade. Despite this clear mandate, unfortunately the agency has not made the progress that is necessary toward this vital goal.

The fault, however, does not lie at the door of the FEA but is the responsibility of the Congress. Every time the administration has made recommendations or sought action that would lessen our dependence on foreign oil, the Congress has rejected the request and usually moved in the opposite direction.

For example: Efforts to deregulate oil prices have brought price rollbacks; efforts to deregulate gas prices have thus far yielded only impasse; efforts to encourage the use of coal have stimulated strip mining restrictions and unrealistic regulation of coal burning; efforts to encourage more investment in nuclear power generation have brought about requirements that would slow progress toward this form of electrical generation and make it more expensive; efforts to achieve stringent conservation of oil and gas have brought only increased reliance on these fuels.

Solar energy is the only field where Congress has responded and this will not pay off for many, many years.

The solution of our energy crises in this country should not be political but this Congress with its two-to-one control by the majority party has continually and systematically opted to follow the easy course and not to make the hard choices.

It is true to date that we have had mild weather in the winter and we had an economic recession which helped to reduce the demand. But the truth of the matter is, the congressional leadership has left this country in a distressing position of vulnerability and the Democrats as the majority party have to take full responsibility for this.

Mr. Chairman, this bill which is now being debated on the floor must pass this Congress and this Agency must be extended for another year. While its record is not perfect, its existence is absolutely essential. It gives a centralized direction leading to the solution of a very complicated and complex problem.

In a way we can look upon this as "sunset" legislation—that is a year from now we can review the record again and again decide what the status and necessity for the Agency will be in 1977.

But it is absolutely necessary in my opinion today to pass this bill and that is why I urge favorable consideration of H.R. 12169.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HANNAFORD).

Mr. HANNAFORD. Mr. Chairman, my opposition to the FEA authorization bill we are considering today is based on my experience in attempting to obtain a first-sale price for publicly owned oil that is equal throughout the country, particularly as it applies to California crude.

At the time the Emergency Petroleum Allocation Act of 1973 went into effect, a monopolistic pricing situation in California was resulting in a posted price of heavy gravity crude there of about $1 per barrel less than crude of identical quality elsewhere in the country. That inequitable price was incorrectly assumed to be the fair market price by the FEA and was thereby locked in as a regulated price of $4.21 for California crude instead of the $5.25 price received elsewhere in the country.

Aside from the question of equity, this price is so low as to force discontinuation of production in many wells. Oil properties owned by the city of Long Beach have already shut-in wells amounting to a loss of production of 7,000 barrels per day. Within 40 months the total loss of production in my State will be over 50 million barrels.

Unfortunately, all of this lost production must be replaced with foreign oil, and at OPEC prices of more than double the price of the shut-in domestic production. Mr. Chairman, it is a situation in which everyone loses: The Nation loses 50 million barrels of precious oil per year. The State and city governments lose millions of dollars in revenues and we will lose about 1,000 jobs in the Long Beach fields alone as a result of the shut-in wells. We are reaching the point at which the higher replacement cost of foreign oil will soon cause a higher price at the gasoline pump for the consumer. Within a year 35 percent of the 115,000 barrels per day of California publicly owned oil will be discontinued, and the price for replacement oil will be the OPEC price.

I have tried every avenue to resolve this problem for the past 15 months, and every attempt has been thwarted by incredible administrative delays and snarls. I have therefore concluded that the only solution is legislating that an equal price be allowed for equal quality crude in all parts of the country.

I regret that I have been unable to draft this legislation in such a way as to satisfy the chairman of the committee and the administration. I shall continue to work with them to try to draft such legislation. Until such amendment is included in the legislation I shall adamantly oppose the continuation of the Federal Energy Administration. I cannot support legislation that continues to inhibit the production of energy, to cost my State $200 million annually by an unfair price, and will soon cause the loss of hundreds of jobs in my district.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HANNAFORD. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I am keenly sympathetic with the problem the gentleman refers to, and I want the gentleman to know that I am going to try and see that the FEA does correct this matter administratively. I am in full sympathy with justice on the side of the gentleman.

Mr. HANNAFORD. I thank the Chairman for that comment. I have had 15 months of sympathy, and it does not work very well. I am very glad that I have the Chairman's support; I am very glad I have Mr. Zarb's support. I hope we can get this resolved. If we cannot get it resolved administratively, I hope we can get it resolved legislatively.

Mr. Chairman, I yield back the remainder of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to observe to my colleagues in the House that we have been doing a little bit of time filing here. We still have time on the general debate on the FEA legislation before us, but, as I understand it, we are going to complete general debate and then rise so that we can have consideration of a motion to discharge the Committee on Interstate and Foreign Commerce on a resolution of disapproval which has been filed on a proposal of the Federal Energy Administration to equalize the small refiner exemption under the provisions of the EPCA legislation which was passed last year. This motion to discharge has failed in the Senate by a vote of 58 to 27, and the gentleman from Texas (Mr. ECKHARDT) is anxious to go ahead and press the question of whether the House would discharge the committee and thereby have an opportunity for 10 hours of debate on whether or not we should disapprove the FEA action.

It is my feeling in a personal sense that the House should not discharge the committee and, therefore, should sustain the FEA action by not taking any action in the House, and I am anxious that the gentleman from Texas have the opportunity to raise the issue so that it can be quickly settled. We would have only 1 hour to debate the discharge matter.

The minority has a few minutes of time remaining, but there are no requests for that time.

If we have no requests on the majority side, then I assume that we could proceed with the reading of the bill, and have unanimous consent that the reading be dispensed with, rise, and then get to the effort to discharge by the gentleman from Texas, dispose of it, and then leave for our obligations that all of us have over the Memorial Day holiday, and perhaps we can still catch some airplanes.

Mr. DRINAN. Mr. Chairman, I rise in opposition to the extension of the Federal Energy Administration. While I admit that the FEA has made many positive contributions in helping to address this country's energy difficulties, it was created as a temporary agency and I believe that its role should now come to an end.

By proposing that the FEA's present role be ended, I am not suggesting that its many activities be ended. I have long favored the continuation of energy price controls as initially espoused in the Emergency Petroleum Allocation Act of 1973. However, I belive that this function can be performed very adequately by other Federal agencies, and this regulatory role does not in itself justify the continuation of the FEA.

Mr. Chairman, I have come to this conclusion after considering the inadequate job which the FEA has done in so many vital energy areas. These inadequacies are pointed out by the General Accounting Office, which issued findings on the Administration's job performance. The GAO concluded that the FEA had assembled insufficient energy data which did not fulfill its statutory mandate. Second, the GAO found that the FEA conducted almost no direct audits of crude producer operations, and failed in properly enforcing the energy pricing regulations. Third, it was concluded that the FEA gave too little priority to energy conservation.

The GAO's conclusions have strengthened my contention that the Federal Energy Administration has failed to do the job for which it was created. Due to these inadequacies, I filed legislation early in 1975 which would require that the FEA strictly enforce the regulations promulgated under the Emergency Petroleum Allocation Act. Because the Administration was so lax in enforcing existing pricing regulations for energy, widespread violations occurred. It was estimated that these violations and fraudulent practies by refineries alone cost the consumer between $1 billion and $2 billion.

Mr. Chairman, more recently I have filed a second piece of legislation dealing with the FEA. This second bill, H.R. 12570, would transfer all compliance and enforcement functions of the Federal Energy Administration to the Secretary of the Treasury. This would mean that the Department of the Treasury would then enforce the price and allocation regulations which continue to govern our energy prices. By transferring the regulatory functions, we would ensure that energy prices were still regulated while removing this responsibility from the hands of the FEA.

While H.R. 12570 takes away just the regulatory functions from the Federal Energy Administration, I believe that we could follow a similar practice in giving other functions of the FEA to existing agencies. The worthy beginnings which the FEA has made in energy conservation could easily be switched over to the Energy Research and Development Administration, for example, while the Department of Commerce could take over the distribution of energy publications and energy tracts. In all, I feel that the splitting of the functions of the FEA could be handled with a minimum of disruption to this country's energy efforts.

Mr. Chairman, in view of the actions of the Rules Committee in refusing to waive points of order for the Schroeder-Fithian substitute which would have transferred the functions of the FEA to other agencies, it is obvious to me that the FEA will continue into fiscal year 1977. I think that it is highly unfortunate that the House membership was not given an opportunity to vote on the Schroeder-Fithian substitute. I opposed the rule for consideration of this bill for that reason. However, I hope that my colleagues will support other amendments that will improve the work of the FEA in Federal energy efforts.

Mr. FITHIAN. Mr. Chairman, we urge you to oppose the rule on H.R. 12169, the bill to extend the life of the Federal Energy Administration.

If the rule on H.R. 12169 is approved today it will cause Members to face an unfortunate choice: Either defeat the bill, killing the FEA without providing for an orderly transfer of those remaining functions which need to be performed, such as price controls, and thus leave reorganization to the discretion of the President, or support the bill, thus perpetuating an agency unworthy of our approval.

A rule such as that proposed for H.R. 12169 which forces Members to make a choice between these two irresponsible options can hardly be called open.

If the rule on H.R. 12169 is defeated, then the appropriate House committee—Government Operations—would then have an opportunity to fully examine and explore alternatives to FEA and could analyze alternative reorganization plans. It is only proper that this committee which has jurisdiction over governmental reorganization be given an opportunity to exercise its legitimate functions on this important legislation.

We should vote down the rule, thus opting for a proper review of an alternative solution which provides for the transfer of essential functions while dismantling the agency. This would permit the termination of the useless functions now being performed. Decisions on agency reorganization are a function of the Committee on Government Operations, not the Interstate and Foreign Commerce Committee. Defeat the rule and allow a proper review by Government Operations.

Those who want to kill the FEA should vote no on the rule.

Those who have attacked bureaucracy should vote no on the rule.

Those who are conscious of providing for orderly jurisdiction in the House should vote "No" on the rule.

Mr. DINGELL. Mr. Chairman, I have no further requests for time.

Mr. BROWN of Ohio. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 12169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATIONS OF APPROPRIATIONS

SECTION 1. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $33,324,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000;

"(B) for the fiscal year ending September 30, 1977, not to exceed $49,961,000; and

"(C) for the period beginning July 1, 1976, and ending September 30, 1977, to carry forward demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purpose of intervention or participation in State regulatory proceedings.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(7) to carry out a program to encourage the use of solar energy in commercial and other applications, not to exceed $2,945,000 for the period beginning July 1, 1976 and ending September 30, 1977.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,274,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) The Administrator of the Federal Energy Administration shall—

"(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

"(2) provide access to such model to representation of committees of the Congress in an expeditious manner; and

"(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may not be charged more than the costs incurred by the Federal Energy Administration in using such model and assigning personnel to assist such member of the public during such member's actual use of such model.".

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 1 be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 12169) to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes, had come to no resolution thereon.

MOTION TO DISCHARGE COMMITTEE FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 1205, DISAPPROVING ENERY ACTION NO. 2

Mr. ECKHARDT. Mr. Speaker, I move that the Committee on Interstate and Foreign Commerce be discharged from the further consideration of the resolution (H. Res. 1205), disapproving energy action No. 2 submitted May 12, 1976.

The SPEAKER. Is the gentleman in favor of the resolution?

Mr. ECKHARDT. The gentleman from Texas is in favor of the resolution.

The SPEAKER. The gentleman qualifies.

The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. Res. 1205

Resolved, That the House does not favor the energy action numbered 2 transmitted to the Congress on May 12, 1976.

The SPEAKER. Is the gentleman from Ohio (Mr. Brown) opposed to the resolution?

Mr. BROWN of Ohio. I am opposed to the resolution, Mr. Speaker.

The SPEAKER. The gentleman qualifies in opposition.

The Chair recognizes the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Speaker, the matter we have before us is an extremely complex one. It is an action by the Federal Energy Agency with respect to a portion of the Energy Policy and Conservation Act which deals with entitlements to small refiners.

The Federal Energy Agency has been under considerable attack today by some who opposed the rule and by some who desire to amend the Authorization Act. I have defended the agency because I think as an institution it is a desirable body, but when one considers what the agency has frequently done one realizes its actions are subject to correction. Indeed I have in the past described the FEA as an army whose only strategy is retreat, and retreat leaving all of the weapons in the field.

Mr. Chairman, the agency has authority under the legislation that we passed to decontrol in certain areas and to alter some provisions enacted as law by issuing what is called an energy action to this body, which must be disapproved or else the dismantlement of that portion of the program will go into effect.

Now, to describe what the agency has been doing with respect to these, its children, these charges that we have placed with the agency, requires a reference to Greek mythology. Before the existence of the gods there were titans and one of them was named Cronus who was in the habit of eating his offspring. The FEA in issuing its energy actions eats the charges that we have given to it to perform certain duties under law. It is addicted to the practice of eating its offspring one at a time.

The first of these energy actions was the removal of all control of residual fuel oil, both allocation and price.

The second energy action, energy action No. 2, is to eat a second of its offspring, or actually in this case to destroy an act of Congress—that is to remove from the act an exemption from the entitlement program of small refineries; that is, refineries refining less than 100,000 barrels of oil per day for its first 50,000 barrels per day.

Now, this means that a refinery in that category may make runs up to 50,000 barrels per day of domestic crude without paying for any entitlements to run that crude. Such may be its own crude.

Now, the entitlement program is a program by which the Federal Energy Administration requires that the difference between the average price of oil bought by all refineries and the price paid by a single refinery which is cheaper, be the measure of "entitlements" which single refinery must buy to be "entitled" to run the cheaper oil through its refinery. This is a rough statement of the rule. It causes this result: It makes that refinery pay the difference between what they pay for the oil and the average price nationwide and pay an entitlement to other refineries that are paying above the average price. These latter are entitled to sell "entitlements" to make it come out as if both refineries had bought oil at the same price.

Special rule No. 6 is an exception to that program with respect to the first 50,000 barrels per day run by a refinery that does not run more than a total of 100,000 barrels per day. I submit that it is a good exception and it is almost the only means by which we give some small incentive to buy cheaper domestic oil. The point is that the small refinery gets the advantage, because it can buy cheaper domestic oil and then can sell the product made from that domestic oil to the consumer at a little less cost than it could if it were paying the average price for all the crude it runs or, more accurately, paying entitlements which bring about that result.

Thus the small refiner exemption gives a little advantage to the smaller refiner as against the big one. We felt that was desirable and passed it in the House, and it was passed in the Senate. We did, however, provide in the bill that the Federal Energy Agency could alter a program of this nature.

So section 403 of the Energy Conservation Policy Act does give FEA the power to modify the exemption for small refiners, but it does not provide that FEA can eliminate it. In fact, this was discussed on the floor of the Senate. Senator Jackson emphatically stated that the regulation was amendable by the President, "but not to the extent of wiping out the exemption in its entirety." That was said in debate in the Senate in construing the meaning of the statutory language.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, on the point of wiping out the exemption in its entirety, does the FEA proposal propose that the entire 100,000 barrel exemption be wiped out, or just the first 50,000?

Mr. ECKHARDT. Well, there never was an exemption for more than 50,000, and it would wipe that entirely out.

Mr. WAGGONNER. But the law provides for the first 100,000, does it, on a 100,000 barrel exemption?

Mr. ECKHARDT. No, it provides that a refinery that does not produce more than 100,000 barrels a day shall be entitled to an exemption, but not in excess of 50,000, and that entire exemption is wiped out by the proposal.

Now, the original proposal of the FEA, was that the small refinery exemption be reduced in such a manner that the refinery would not have more than 1 cent differential in advantage on gasoline price. That is what FEA heard.

FEA heard the question of whether or not the exemption should be so reduced or eliminated, and that is how the notices went out. There was not one word in the notice that what is called the "small refinery bias" would be increased.

So, what FEA ultimately did is something that it had not notified the persons coming before the agency that it was going to do. It wiped out entirely the small refinery exemption and replaced it with an increase in what is called the "small refinery bias." That affects people quite differently. The bias gives no advantage, as such, to cheap domestic oil. It creates no incentive to buy oil cheap and sell the product cheaper to the consumer. It merely gives an advantage, or a bias, in favor of all small refineries, whatever side they may be on on the entitlement program.

Now, I would like to say to my colleagues that I know they are restless with the complexity of this issue, and I do not believe that we should have been presented with such a complex issue without the agency having presented that matter for hearing and argument by those affected.

That is precisely what I object to.

There may be some merit to redrawing, redrafting, rebalancing the various process through which small refineries are affected. But there is no excuse for reducing the net advantage to small refineries by about a quarter of a billion dollars per year without submitting the whole proposed program for hearings and expression of views by those affected. I am talking about taking into account both the bias and the exemption. There is no excuse for changing a quarter of a billion dollars a year from the hands of small refineries and placing it in the hands of large refineries without full opportunity for those affected to be heard on this precise change proposed to be made.

Of course, the majors contend that they are operating under certain disadvantages because the small refinery gets to buy its oil cheaper. But I submit to the Members that there is plenty of room, if the majors really want to compete for them, to somewhat reduce their profit margins, and let their distributors match the prices of those selling the product of the small refinery.

The profit margin, in the case of Exxon, runs about 5.9 percent. That is a profit margin on the product. That is not earning on equity. The percentage of earnings on equity for Exxon in the first quarter of 1976 is 16.1 percent. That is a lot of margin to deal in if one wants to compete with small refineries. There is a lot of room there, both in the profit margin and in the return on equity, to compete with most anybody; 16.1 percent is a darned good earning on equity for any company. We have the same figure, approximately, for Shell, 16.4 percent. In the first quarter of 1976 they had a profit margin of 9 percent on their product. There is plenty of room there to reduce the price to the retailers in order to compete. In the case of Continental Oil Co., for the first quarter of 1976, it was 10 percent return on equity, and 6.8 percent profit margin. And so it goes.

I submit to my colleagues that this is what we ought to do: Simply vote up the resolution of disapproval. We will not thereby prohibit FEA from addressing this question from there. Let them come back to us with facts and figures after a full hearing on the precise plan proposed. Let them give an opportunity to persons affected thereby to have their input. We give them that input when we are dealing with subjects like this. We call them before the committee and they testify before the committee on the bill that is going to the floor.

In this case, FEA has simply put up one bill. It is as if you take up one bill and hear it and then pass another bill.

This energy action numbered 2 will simply wipe out one policy established by Congress, after inadequate hearings, after no findings of the actual situation in the marketplace not a single figure given. The total testimony taken by the FEA was that they had information that X company was at a disadvantage as to they company. No accounting process was applied to determine whether that was true, and how much. They simply came in with what they had previously concluded was the right thing.

I was the one who drafted the small refinery exemption, and I think it is a good one. When I drafted it, the FEA came in and said they did not like it. They have not liked it since the beginning. So they were not concerned with finding out about what people thought about it, or how it actually worked.

Though it only went into effect around the first of this year, they have had plenty of time to look at it and come out with some real figures, but they have not done so. They are simply determined to eat their children—their charges under the law—one at a time.

Mr. Speaker, I noted the interest of the chairman of the committee, and I do want to yield to Members on the floor who are interested in this question and who would like to comment. The chairman of the subcommittee, I believe, has some disagreement with me on this point, and I certainly would not like to preclude his presenting his points.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I rise in strong opposition to both the motion to discharge the committee and to the resolution of disapproval of FEA's EPCA proposal to equalize the present imbalance created by entitlements between small refineries.

EPCA provides 1 hour of debate on the motion to discharge offered by the gentleman from Texas (Mr. Eckhardt). If Mr. Eckhardt's motion to discharge passes, the House moves to consideration of the Eckhardt resolution to disapprove and the law assures 10 hours of debate on such resolution.

If we vote down the Eckhardt motion now before us, there will be no issue of disapproval before us, we will adjourn, and the FEA modification will take effect. I urge that we vote down the Eckhardt motion to discharge.

The Subcommittee on Energy and Power held hearings at which a variety of witnesses were heard and neither the subcommittee nor the full committee took any action.

Under the law by which the President is authorized to propose decontrols, no action by the Committee on Interstate and Foreign Commerce is tantamount to approval of the President's proposal. For the House to move in the face of its committee's tacit determination that the FEA proposal should not be disapproved would be most inappropriate.

Mr. Speaker, in addition, this FEA proposal is necessary to correct a very inequitable situation where one small refiner may have as much as a 17 cents per gallon or $7.14 per barrel advantage over another.

For more than a year, the Federal Energy Administration has had in effect a so-called entitlement program. The purpose of this program is to equalize the varying costs that refiners have to pay for crude oil. "Old oil" sells at prices of about $5 while "new" and imported oil sells at $11. The program requires that those refiners having access to a larger proportion of cheaper "old" oil purchase entitlements to use such oil by paying cash to refiners who have a larger proportion of more expensive new oil.

The entitlements program has included a small refiner bias which gave refiners of less than 175,000 barrels per day some relief from the requirements of the entitlements program in order to preserve their competitive viability vis a vis larger domestic refiners. The bias was based on a sliding scale ranging from 2.4 cents per gallon for the very smallest refiners—those refining 10,000 barrels a day or less—to 2 cents per gallon for those refining 100,000 to 175,000 barrels a day. Under the bias, small refiners having a larger proportion of "old oil" and thereby required to buy entitlements would be credited with the amount of the bias against their entitlement purchase obligations each month; while those small refiners who were short of old oil and thereby sellers of entitlements would actually receive a dollar amount of additional entitlements equal to the bias.

A further advantage was provided to a certain group of these refiners in section 403(a) of the Energy Policy and Conservation Act of 1975 (EPCA). Under this, small refiner buyers of entitlements—but not small refiner "sellers"—were exempted from entitlement purchase requirements for the first 50,000 barrels a day produced by those refiners who produced 100,000 barrels per day or less as of January 1, 1975. This provision was implemented into FEA regulations on January 6, 1976 as the so-called special rule no. 6.

Section 455 of the Energy Policy and Conservation Act permitted the FEA to eliminate or modify the small refiners' exemption by amending the entitlements regulation. Such amendment is subject to disapproval by either House of Congress and must be based on a finding that the exemption results in unfair competitive advantage or otherwise precludes the attainment of the objectives of the Emergency Petroleum Allocation Act—EPAA—relating to matters such as preservation of the competitive viability of nonbranded independent marketers and branded independent marketers.

FEA has found that, since the exemption only applies to certain refiners—that is, entitlements purchasers— differentials of crude oil costs between small refiners ranged as high as 17.8 cents per gallon in the same district. Therefore, the FEA has submitted to Congress a proposal to eliminate the exemption created by the Energy Policy and Conservation Act for small refiner purchasers. At the same time, FEA will increase the amount of bias in the original entitlement regulations for both small refiner sellers and small refiner buyers of entitlements so as to give them an additional advantage vis-a-vis larger domestic refiners. The new bias begins at 4.4 cents per gallon for the refiners of 10,000 barrels or less and is higher than the previous bias for oil refiners of less than 100,000 barrels per day. According to FEA, the effect of the combination of the increase in the bias and the elimination of the Special Rule No. 6 exemption will be to significantly reduce the differential in crude-oil costs among small refiners in the same district.

Such an action is necessary to rectify the most inequitable situation that now exists among our Nation's small refiners.

I urge defeat of the motion.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I am not a specialist on this legislation at all, and I am not even sure how I will vote, but did I understand the gentleman from Ohio (Mr. Brown) in his opening remarks to indicate that if we pass this resolution, it would be possible to have 10 hours of debate and that we should not pass it because of the fact that we would have to take that time in discussing the issue? Is that the implication the gentleman is making?

Mr. BROWN of Ohio. No. I was merely describing the situation that exists.

Mr. BEDELL. What was the purpose in explaining the situation?

Mr. BROWN of Ohio. So that my colleagues would understand the situation. I thought some Members might not be aware of the law that provides for the method by which the FEA proposals are considered by the House of Representatives.

Mr. BEDELL. If the gentleman will yield further, as one Member of this body, I would hope that we would try to discuss the issues and come to answers based upon what should be done rather than upon how much time it is going to take to do whatever needs to be done.

Mr. BROWN of Ohio. I could not agree with the gentleman more.

The balance of my remarks were addressed specifically to the merits of the issue, which I think do not lie on the side of the gentleman from Texas (Mr. ECKHARDT).

Therefore, I would be delighted to have the support of the gentleman from Iowa (Mr. BEDELL) when we have that vote, hopefully, in the next few minutes.

Mr. ECKHARDT. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I do want to clarify the parliamentary procedure. We are now acting on a motion to discharge the Committee on Interstate and Foreign Commerce from further consideration of House Resolution 1205, which we must do in order to come to that rather truncated procedure by which we either agree or disagree to an energy action. This action is by no means in derogation of the committee, but it is a procedure which is the only one under which we can act.

If we should pass the motion to discharge, we would then be in the position of debating the question of whether or not to pass House Resolution 1205, which is a motion that strikes down the energy action.

Mr. Speaker, I may say to my colleagues that I feel we will have completed the substantive debate at the end of the motion to discharge; and I would not be inclined and I do not believe any of my colleagues would be inclined to drag the matter out.

The SPEAKER. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

Mr. ECKHARDT. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my colleague, the gentleman from Texas, for yielding to me and I rise in support of energy action No. 2. I rise in opposition to the discharge of the Committee on Interstate and Foreign Commerce. I rise in opposition to the motion which would disapprove energy action No. 2. I would like to explain to my colleagues the reason.

The root of the problem before us lies in the entitlement system which is a system of purchase permits for the processing of low cost oil.

EPCA, as finally adopted in the Congress, provided an exemption for about 56 of the 112 small refiners, relieving them of their obligation to purchase entitlements for the first 50,000 barrels of production. This gave them an advantage in the market place, at the retail level, of about 13 cents a gallon at the maximum and somewhat less on down through the scale.

The consequences of the exemption from purchasing entitlements was that the marketplace was skewed at every level. Some small refiners, about 56 in number, were badly hurt by this exemption. All of their jobbers and all of their reailers were hurt. Others received a striking economic advantage and their jobbers and retailers were not hurt. The majors and their jobbers and their retailers were all hurt.

Energy action no. 2 which is now before us would terminate the special preference which is given to the small section of the refining, wholesale, and marketing industry of the petroleum business that exists because of the exemption.

The Federal Energy Administration has tried to correct this situation by eliminating the small refiner exemption and by further skewing FEA's pricing regulations further in favor of the small refiners in general.

The previous situation under the small refiners exemption was that 56 of the small refiners were benefited and the other 56 of the 112 were hurt. The jobbers and the wholesalers of both the majors and the nonexempted small refiners were badly hurt. A lot of the gas station operators are finding their prices skewed against them as opposed to their competitors by as much as 13 cents a gallon.

The consequence of the FEA action will be to restore fairness as between the small refiners and to restore fairness as regard the wholesalers and the retailers of the majors.

In essence, this is a procompetitive act by the FEA. It is an act which will significantly benefit the small refiners all over, which will benefit their jobbers and their retailers, and which will benefit the jobbers and the retailers of the majors.

Mr. Speaker, the question before the House is most complex. The House is called upon to review a proposal by the Federal Energy Administration to revoke an existing exemption in the crude oil entitlements program. To appreciate the effect of the FEA proposal requires some background information.

What is the entitlements program?

The entitlements program is an FEA-administered system which attempts to promote competition in the oil industry by equalizing the crude oil acquisition costs of refiners. Because domestically produced "old oil" sells for substantially less than "new oil" or imported crude, refiners with their own sources of old oil, including many of the major oil companies, would have substantially lower raw material costs than refiners dependent upon higher priced imported oil. These low cost refiners could destroy their independent refinery competition by underselling—of course, after their competition was destroyed, these low cost refiners could increase their prices and profits with impunity.

The entitlements program requires that those refiners with below average crude oil acquisition costs purchase entitlements from those refiners with above average crude oil acquisition costs. The results of these payments are to raise, to approximately the national average level, the crude oil acquisition costs of entitlement purchasers—old oil-rich refiners. The corollary result is to reduce, to approximately the national average level, the crude oil acquisition costs of entitlement sellers—old oil-poor refiners. Entitlement purchasers recoup their payments through the prices they may charge for their refined petroleum products. Entitlement sellers are enabled to reduce their prices by reason of the receipt of entitlement payments. The result is procompetitive and assists small and independent refiners.

What, then, is the small refiner exemption?

Because many aspects of the allocation and price control system may impact disproportionately upon smaller firms, the present entitlement program includes a built-in smaller refiner bias. This bias reduces the purchase obligations of smaller refiner entitlement purchasers and increases the value of entitlement sales by small refiner entitlement sellers. This bias is not under review today.

What is under review today is a further exemption from the entitlements program which is enjoyed solely by small refiners who must purchase entitlements—that is, small refiners with below average crude oil acquisition costs resulting from above average volumes of old oil. This exemption applies to small refiners with less than 100,000 barrels per day throughput. It totally exempts these small refiners from the obligation to purchase entitlements obligations with respect to the first 50,000 barrels per day of crude oil received.

What has been the effect of this exemption?

This exemption has given the small refiners which benefit from the exemption 3 cents per gallon to over 21 cents per gallon price advantage. The magnitude of this advantage has had several unintended and undesirable consequences. While major oil companies, as a group pay much of the price for this exemption, they alone are not affected. Many small refiners have suffered competitive injury as a result of this exemption. Small refiners which are sellers of entitlements have seen their entitlements benefits reduced as a result of this exemption. In addition, small refiners which purchase entitlements but which receive no benefits from the exemption—that is, those refiners with a capacity of 100,000 to 175,000 barrels per day—have had their obligations increased as a result of the small refiner exemption. Thus, many small refiners are directly disadvantaged by this exemption by an amount of approximately $4.7 million per month. In addition, small refiners are placed at a severe competitive disadvantage if they compete in the same market area with a small refiner which is a beneficiary of this exemption. The consequences of this competitive disadvantage may spell economic death for these small refiners. This would be a most undesirable, anticompetitive consequence.

Another unintended consequence of this exemption has been its impact upon small marketers—individual branded retailers and jobbers—who are not supplied by refiners which benefit from the exemption but who must compete in the marketplace with retail outlets supplied by, and in many cases run by salaried employees of, small refiners which benefit from the exemption. Thus, the very smallest members of this industry, the retailer and the jobber, are often faced with pump prices for gasoline supplied by small refiners which benefit from the exemption, which are less than the branded dealers' wholesale cost. Competition in this situation is impossible.

What does FEA propose?

FEA proposes to remove the selective and ill-focused benefits of this exemption and replace the exemption with an increase in the small refiner bias. This modification will distribute benefits across the board to small refiners which sell entitlements, as well as to those which have purchase obligations. The modification will result in a flow of benefits to small refiners, as a class, from major oil companies in the amount of $40.3 million per month. The present exemption benefits only 56 small refiners, while disadvantaging nearly an equal number of small refiners. The proposed FEA modification will benefit 112 small refiners, twice as many as the current exemption. The dollar amount of this flow is also targeted to yield the greatest benefits to the smallest refiners. The combined effect of the redistribution of these benefits and the reduction in the total amount of the benefits is to avoid the market consequences of the present exemption. The proposed modification by FEA will avoid unfair market consequences and unintended suffering by retailers and jobbers who cannot defend themselves against subsidized competition by a small refiner through salaried employee-operated retail outlets. Let us not forget that by comparison to Exxon, Texaco, Mobil or Gulf, small refiners are indeed small. However, by comparison to a single Exxon dealer or Texaco jobber, these small refiners are very large.

A balance must be struck which flows benefits to small refiners, both entitlement purchasers and sellers, in order to promote competition. But that balance must assure that small retailers and jobbers are not destroyed.

What must the House do?

If the House does not disapprove this proposal, Energy Action No. 2, it will become effective automatically. Therefore, I urge you to vote "no" on the resolution of disapproval.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I have a great deal of respect for my friend and colleague, the gentleman from Michigan (Mr. DINGELL) and I wonder if the gentleman can tell me whether or not his subcommittee has taken any testimony on this subject as the basis for making the conclusion that this would restore equity.

Mr. DINGELL. Mr. Speaker, the gentleman from New Jersey raises a very good question and I thank the gentleman and commend him for it.

The answer to the question is yes. To be sure, the transcript of the hearings cannot be presented to the House today, but there is a document entitled Proposed Modification of the Small Refiner Entitlement Purchase Exemption—Energy Action No. 2—which was prepared by the staff of the Committee on Interstate and Foreign Commerce, and I would particularly commend to the gentleman pages 3, 5, and 7 which set out with some clarity the points which I have made, which is information which the subcommittee received as far as those testifying.

Mr. HUGHES. Mr. Speaker, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. HUGHES. Was testimony taken from those who would be affected by this modification, the independents?

Mr. DINGELL. We solicited the testimony of everyone, and we had a number of small refiners, a number of jobbers, and a number of small retailers who came in and pleaded with us to support this action because of the anticompetitive effects of small refiner exemptions and the desperately bad effect upon small business interests of the small refiners which would be determined by this action.

The SPEAKER. The time of the gentleman has expired.

Mr. ECKHARDT. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I will be very brief. First I would like to compliment the gentleman from Texas (Mr. ECKHARDT) on the courage he has exhibited in bringing this to floor of the House. I think he is doing a great service to the country by bringing the issue here so that we may debate the facts and arrive at a reasoned judgment.

I have changed my mind on the proposition since yesterday and the day before because of additional information which has been brought to my attention. I am a little bit like Lincoln in this regard. I try to change my mind if I get different views and learn something more about a subject, and I have.

I want to say again on behalf of the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Michigan (Mr. DINGELL) and the rest, that I think the gentleman from Texas had done a great service for his country. It took courage to do what he has done to bring us here to debate this issue.

And I would say that the agency has been remiss in a lot of their activities, Mr. Speaker, and in the fact that the resolution which they put into the Federal Register on modification of the exemption was changed considerably from that which was submitted to the House of Representatives. There should have been some facts on that and an explanation of why these changes were made.

Mr. Speaker, I have reasoned that this will probably equalize to some extent the exemptions in the independents. I have a promise from the Deputy Administrator of the FEA that this will not raise prices of gasoline in the country.

There is one other bad effect that I think the resolution probably has, and that is the fact that it does not provide incentive to use American oil. And I believe that the discovery and use of our domestic energy resources must be encouraged if we are ever to achieve energy independence.

I say again that the proposition I believe is a fair proposition, which I will not oppose. But again I want to compliment the gentleman from Texas for bringing it to the floor so that it could be discussed and we could express our hope that the information and data supplied with any future proposals will be more detailed.

I thank the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 1 minute, and after that I trust that we will be able to proceed immediately to a vote.

Mr. Speaker, it has been stated here that the final FEA proposal was quite different from the original proposal. This is not quite correct—the original proposal would have, in effect, eliminated the small refiner exemption, but would have allowed up to 1 cent per gallon advantage to remain for the entitlement buyers. This 1 cent was over and above amounts received under the small refiner bias—FEA, March 4, 1976, Notice of Proposed Rulemaking page 11.

The final proposal merely extended this increase over the present bias to the other group of small refiners—the entitlements sellers, so that all small refiners get an increased benefit.

Mr. Speaker, I reserve the balance of my time in the hope that we can proceed to a vote.

Mr. ECKHARDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Speaker, I urge my colleagues to support the proposal presented by the Federal Energy Administration discontinuing special rule No. 6.

This action represents at least a partial attempt by the Federal Energy Administration to restore a measure of equity to the entitlements program—and we must not forget that this program, when adopted in November of 1974, was designed to equalize crude oil costs among all refiners.

Under the terms of special rule No. 6, small refiners with crude oil runs ranging between 50,000 and 100,000 barrels per day are allowed a partial exemption from the purchase of entitlements, with a limit of 50,000 barrels per day on the total amount of the exemption.

What has the effect of special rule No. 6 been? Examine the testimony of Frank Zarb, head of the Federal Energy Administration:

> First, the special rule grants certain small refiners benefits disproportionate to their actual needs, thereby providing them with an unwarranted competitive advantage over other refiners (including many small refiners) to such an extent as to be inconsistent with the objectives set forth in section 4(b)(1) of the EPAA.
>
> Second, the resulting cost disparities place independent marketers supplied by non-exempt refiners, small and large, at a serious competitive disadvantage vis-a-vis marketers supplied by exempt refiners.
>
> Third, it provides incentives for small refiners benefiting from the exemption to curtail their crude runs in certain marketing situations by reducing purchases of domestic upper tier and imported crude oils, thus acting to decrease the availability of certain

products in certain market areas served by small refiners.

Fourth, it acts as a disincentive for small refiners to expand their refining capacity beyond the limit of 100,000 barrels per day set forth in the special rule.

I agree with one refinery executive who told the Federal Energy Administration in March of this year that special rule No. 6 is "totally unfair and competitively devastating."

Again, Mr. Speaker, I urge this House to vote for equity by voting against the resolution of disapproval.

Mr. ECKHARDT. Mr. Speaker, I find today that I showed more courage yesterday, when I decided to wage this fight, than I thought I did. But I still think I am right. The point that is made here is that there can be no proper, deliberate consideration of an action of this importance—which takes approximately a quarter of a billion dollars out of the hands of small refiners and puts that quarter of a billion dollars in the hands of others—there can be no proper consideration in a half a day of hearings with that small notice that a disapproval petition resolution permits.

The point I am making here is simply this: That there is a way to make FEA act responsibly. There is a way to force the FEA to place before the public in advance of hearings the order which it tentatively plans to issue, and that way is to disapprove its energy submission by a resolution of disapproval. There is no other way to do it. There is no other way to get appropriate and necessary hearings. There is no way that we can make that agency responsible other than by refusing this order.

If we refuse the order we do not necessarily continue the precise program that existed under regulation No. 6, but we call upon the agency to rectify the unfair procedural action involved, and we call upon them to pay some more attention to the problems of small refiners.

Perhaps they should reduce the small refiners' exemption and at the same time increase the small refiners' bias. But what I have got to say is that when they have a hearing on one proposed order and they come out with a decision on another and when this body and its committees have only a half day to permit interested people to come in and express their positions, we do not have adequate process. We can get that adequate process by voting the matter down.

If the matter then comes back to us in a modified form or it comes back in the same form after letting people comment on the effects on the refiners, why, we may very likely approve it.

Why are 56 refiners affected favorably by this exemption and not the others? It is because they are using domestic oil, and in many instances they are using their own oil and they have to pay a refiner that is using foreign oil to use their own oil. That is why. So I suggest to the Members that this question needs much deeper consideration and much fairer process than has been accorded to it by the FEA.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. WAGGONNER. Mr. Speaker, I am conscious that the gentleman predicated his position upon the big word "if," saying if it comes back to us and if we vote it down. If we vote it down and it does not come back to us, would we not be continuing a greater inequity?

Mr. ECKHARDT. If they change it at all, it must come back to us.

Mrs. MINK. Mr. Speaker, I rise in opposition to the motion of disapproval concerning energy action No. 2 which is the Federal Energy Administration's proposal to modify the small refiner exemption contained in the Energy Policy and Conservation Act. The FEA proposition eliminates special rule No. 6 contained in section 403 of the act, which in my opinion, presently contains gross inequities leading to great distortion in the price of crude oil and gasoline throughout the country.

In my State of Hawaii, gasoline prices range from 70 to 75 cents per gallon creating severe economic pressures on our business community as well as the general population. Our independent refinery is required to process the most expensive crude oil, primarily due to Hawaii's unique geographical location, and receives no benefit from this special exemption.

The purpose of the Federal Energy Administration's crude oil equalization program is to equalize cost of crude oil to small refiners. However, this exemption creates disparities between small independent refiners and pits them against each other. Because of special rule No. 6, many independent refiners find their entitlements reduced and, as a result, must contribute to this subsidy. During the month of March, this subsidy exceeded $33.5 million to 12 companies far from Hawaii. Certainly, this was not the intent of Congress to have Hawaii or any other State subsidize the excessive profits of a few companies.

Let me emphasize here that the FEA proposal simply reallocates what is at present excessive subsidies to a few small refiners to all small refineries. It falls directly within the intent of Congress to assist small refiners as a class. I believe that even the companies who are exempt will admit the present structure under special rule 6 gives them more than is needed or justified. This inequity is not only felt by the refiners, but by everyone from the corner service station to the customer.

Furthermore, unless this discriminatory provision is eliminated, the very existence of some of our small refineries will be in jeopardy, while the profits of a few will continue to grow. The FEA has submitted a proposal which will correct these unwarranted disparities I have just mentioned, and therefore urge my colleagues to oppose the motion for disapproval of energy action No. 2, and allow the agency's modification to stand.

Mr. DINGELL. Mr. Speaker, the question before the House is most complex. The House is called upon to review a proposal by the Federal Energy Administration to revoke an existing exemption in the crude oil entitlements program. To appreciate the effect of the FEA proposal requires some background information.

What is the entitlements program?

The entitlements program is an FEA-administered system which attempts to promote competition in the oil industry by equalizing the crude oil acquisition costs of refiners. Because domestically produced "old oil" sells for substantially less than "new oil" or imported crude, refiners with their own sources of old oil, including many of the major oil companies, would have substantially lower raw material costs than refiners dependent upon higher priced imported oil. These low cost refiners could destroy their independent refinery competition by underselling—of course, after their competition was destroyed, these low cost refiners could increase their prices and profits with impunity.

The entitlements program requires that those refiners with below average crude oil acquisition costs purchase entitlements from those refiners with above average crude oil acquisition costs. The results of these payments are to raise, to approximately the national average level, the crude oil acquisition costs of entitlement purchasers—old oil-rich refiners. The corollary result is to reduce, to approximately the national average level, the crude oil acquisition costs of entitlement sellers—old oil-poor refiners. Entitlement purchasers recoup their payments through the prices they may charge for their refined petroleum products. Entitlement sellers are enabled to reduce their prices by reason of the receipt of entitlement payments. The result is pro-competitive and assists small and independent refiners.

What, then, is the small refiner ex-exemption?

Because many aspects of the allocation and price control system may impact disproportionately upon smaller firms, the present entitlement program includes a built-in smaller refiner bias. This bias reduces the purchase obligations of smaller refiner entitlement purchasers and increases the value of entitlement sales by small refiner entitlement sellers. This bias is not under review today.

What is under review today is a further exemption from the entitlements program which is enjoyed solely by small refiners who must purchase entitlements—small refiners with below average crude oil acquisition costs resulting from above average volumes of old oil. This exemption applies to small refiners with less than 100,000 barrels per day throughput.

It totally exempts these small refiners from the obligation to purchase entitlements obligations with respect to the first 50,000 barrels per day of crude oil received.

What has been the effect of this exemption?

This exemption has given the small refiners which benefit from the exemption a 3-cents-per-gallon to over 21-cents-per-gallon price advantage. The magnitude of this advantage has had several unintended and undesirable consequences. While major oil companies, as a group, pay much of the price for this exemption, they alone are not affected. Many small refiners have suffered competitive injury as a result of this exemption. Small refiners which are sellers of entitlements have seen their entitlements benefits reduced as a result of this exemption. In addition, small refiners which purchase entitlements but which receive no benefits from the exemption—for example, those refiners with a capacity of 100,000 to 175,000 barrels per day—have had their obligations increased as a result of the small refiner exemption. Thus, many small refiners are directly disadvantaged by this exemption by an amount of approximately $4.7 million per year. In addition, small refiners are placed at a severe competitive disadvantage if they compete in the same market area with a small refiner which is a beneficiary of this exemption. The consequences of this competitive disadvantage may spell economic death for the small refiners. This would be a most undesirable, anticompetitive consequence.

Another unintended consequence of this exemption has been its impact upon small marketers—individual branded retailers and jobbers—who are not supplied by refiners which benefit from the exemption but who must compete in the marketplace with retail outlets supplied by, and in many cases run by, salaried employees of small refiners which benefit from the exemption. Thus, the very smallest members of this industry, the retailer and the jobber, are often faced with pump prices for gasoline supplied by small refiners which benefit from the exemption, which are less than the branded dealers' wholesale cost. Competition in this situation is impossible.

What does FEA propose?

FEA proposes to remove the selective and ill-focused benefits of this exemption and replace the exemption with an increase in the small refiner bias. This modification will distribute benefits across the board to small refiners which sell entitlements, as well as to those which have purchase obligations. The modification will result in a flow of benefits to small refiners, as a class, from major oil companies in the amount of $40.3 million per month. The present exemption benefits only 56 small refiners, while disadvantaging nearly an equal number of small refiners. The proposed FEA modification will benefit 112 small refiners, twice as many as the current exemption. The dollar amount of this flow is also targeted to yield the greatest benefits to the smallest refiners. The combined effect of the redistribution of these benefits and the reduction in the total amount of the benefits is to avoid the market consequences of the present exemption. The proposed modification by FEA will avoid unfair market consequences and unintended suffering by retailers and jobbers who cannot defend themselves against subsidized competition by a small refiner through salaried employee-operated retail outlets. Let us not forget that by comparison to Exxon, Texaco, Mobil or Gulf, small refiners are indeed small. However, by comparison to a single Exxon dealer or Texaco jobber, these small refiners are very large.

A balance must be struck which flows benefits to small refiners, both entitlement purchasers and sellers, in order to promote competition. But that balance must assure that small retailers and jobbers are not destroyed.

What must the House do?

If the House does not disapprove this proposal, energy action No. 2, it will become effective automatically. Therefore, I urge you to vote "no" on the resolution of disapproval.

The SPEAKER. All time has expired.

The question is on the motion to discharge offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 15, noes 34.

So the motion to discharge was rejected.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just concluded on House Resolution 1205, and also on the bill (H.R. 12169) which was considered earlier today.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute.)

Mr. ROUSSELOT. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) if he will give us the program for the rest of the week, if any, and the schedule for next week.

Mr. O'NEILL. Mr. Speaker, will the distinguished acting minority leader yield?

Mr. ROUSSELOT. I am delighted to yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, there is no further legislative business for today. The program for the House of Representatives for next week is as follows:

Monday is a holiday, the Memorial Day recess.

On Tuesday, we will have the call of the Private Calendar.

This will be followed by consideration of H.R. 12169, the Federal Energy Administration bill, votes on amendments and final passage.

This will be followed by H.R. 13655, automotive research and development, under an open rule, with 1 hour of debate.

This will be followed by H.R. 10930, cotton research, under an open rule, with 1 hour of debate.

On Wednesday we will have a joint meeting to receive King Juan Carlos of Spain.

This will be followed by consideration of H.R. 13680, international security assistance, with votes on amendments and the bill.

We will then take up H.R. 9560, water pollution control, under an open rule, with 2 hours of debate, general debate only.

On Thursday and Friday Members will meet on the House floor at 10 a.m. for the Magna Carta ceremony in the rotunda.

We will then consider the following bills:

H.R. 9560, water pollution control, with votes on amendments and the bill.

H.R. 13179, State Department authorization, under an open rule, with 1 hour of debate.

H.R. 13589, USIA authorization, under an open rule, with 1 hour of debate.

H.R. 6218, Outer Continental Shelf management, under an open rule, with 2 hours of debate.

Conference reports may be brought up at any time, and any further program will be announced later.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, I would further like to ask the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), is it contemplated that on next Friday we will be out by say 5 o'clock?

Mr. O'NEILL. If the distinguished gentleman from California will yield further, I will state that there will definitely be a Friday session, as the gentleman knows.

Mr. ROUSSELOT. I understand that.

Mr. O'NEILL. And we anticipate that the House business will be completed prior to 5 o'clock.

Mr. ROUSSELOT. May I further inquire of the distinguished majority leader, if the bill (H.R. 12169), the Federal Energy Administration amendments, happens to take all day Tuesday, would that mean that some of these other matters will be dropped later on?

Mr. O'NEILL. If the gentleman will yield further, we will try to work those bills in during the week.

Mr. BAUMAN. Mr. Speaker, will the gentleman from California yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just wanted to comment to the distinguished majority leader, that during the gentleman's absence the first 2 days of this week the gentleman from Maryland did, as I said I would, miss the distinguished majority leader. We are sorry the distinguished gentleman was not with us; but the gentleman from Maryland only asked for one quorum and one rollcall during the entire time and was compelled to do so by conscience. The gentleman from Maryland wants to assure the distinguished majority leader that he did not attempt to do anything to disturb the excellent record of attendance of the majority leader. We are all pleased to see the gentleman here today and I hope he enjoyed a fine trip.

Mr. O'NEILL. As a matter of fact, I did call once from London, and my query was, "How was Bauman behaving?"

Mr. BAUMAN. I would say to the gentleman that it was not BAUMAN's behavior that was in question this week, as the gentleman, I am sure knows.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I have enjoyed this colloquy very much. I would just say to my friend from Maryland—and he is my friend—that I hope the pattern he set in the last week can and will be continued.

A TRIBUTE TO THE LATE JUSTICE RANDOLPH A. WEATHERBEE

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, commencement season is upon us and the spring rite of casting high-minded invocations from elevated platforms to those who hold the future in their heads and hands has begun. It is a joyous time. The cumulus clouds of despair and cynicism that fill the skies during most of the year are swept away by the fresh breeze of young, eager, and optimistic men and women. It is a time of renewal and rebirth.

Last weekend the joy emanating from the college campuses in my State was dampened with the news of the unexpected death of one of the most admired and respected men in Maine, Supreme Court Justice Randolph A. Weatherbee. It was a sad reminder of how thin the tissue is that separates us from our mortality.

Encomiums are almost always inadequate. The attempt to capture and confine in words the robust spirit of "Rand" Weatherbee is clearly futile. The tongue falters and words strain under the great weight of an impossible task. But the occasion, nonetheless, demands the effort.

Justice Weatherbee was a man of uncommon courage and diversity. He overcame polio at an early age to become an amateur boxer, a fierce tennis player and accomplished skier. He was a Phi Beta Kappa scholar at Bates College and a graduate of Cornell University Law School. He served as a member of the Maine State Legislature, a county attorney for Penobscot County, judge of probate, a justice of the Maine Superior Court and the Maine Supreme Judicial Court.

He loved the rustic woods of Maine and became an evangelical protector of its wildlife—woe be unto that poacher who was brought before "the Judge" for he would see the customary judicial gentleness turn a metallic blue of moral outrage.

He would drive 150 miles to find a pond or lake where he could cast a fishing line and return home in the dark to write a scholarly judicial opinion that would be laced with wit and wisdom.

Words cannot tell what it was like to stand in the presence of a man who knew all of the great inequities in life, the huge injustices, the intolerable wrongs, the questions unanswered, the truths untold—and yet maintained the will to stand tall and unafraid, humorous and humble, dutiful and decent. Rand Weatherbee was a walking celebration of life.

One of the most vivid remembrances I have of Justice Weatherbee was the occasion when he spoke to a local bar association meeting a few years ago. That night, laden with antique muskets and Kentucky rifles, he permitted us to look deep into his hobby and abiding sense of history—the role of the gun in the making of war and the keeping of peace.

We discovered that a knight's armour at one time was deemed as impenetrable as the Sherman tank until man devised the crossbow. But then in 1139 A.D. the Catholic Church outlawed the bow as being hateful to God. Francis Bacon, while trying to make love and not war, produced an explosive instead of an aphrodisiac and therefore was only sardonically successful in his experiment. In 1350, man unlocked the Guernican box of horror and began to manufacture guns. The use of the gun produced philosophic polarization over the centuries. Cervantes claimed the gun was base and cowardly, the invention of Satan. For Carlyle, gunpowder made all men tall alike.

On the not quite so quiet frontier, others were concerned with more mundane problems of the lack of accuracy and alacrity of the "equalizers." De Soto's companions concluded that no gun could aim at the Indians because they would not stand still—whereas, it was said, "The Indian seldom misseth what he shooteth at." Colonel Prescott's exhortation to his men at Bunker Hill not to shoot until they could see the "whites of their eyes" was no simple badge of courage but a sad testament to the limited range of the rifle.

A demonstration of the painfully cumbersome process of loading a flintlock with a powderhorn and ramrod just to fire off a single round gave insight into the popular refrain "We fired our guns but the British kept a comin'." Phrases such as "lock, stock and barrel," "flash in the pan," and "half-cocked" suddenly came into focus against the backdrop of their original context. The production of the Kentucky and Colt rifles, the Siege of Boston, Winchester's acquisition of the insolvent enterprise of Christopher Spencer's repeating rifle, the gift of 5,000 Winchesters to the Indians to kill buffalo and their reemergence at the Little Big Horn—critical historical events narratively released from the unturned pages of textbooks.

It was a revivifying experience listening to a craftsman rub and polish the gunstock of a very private pastime with the handcloth of a deep and delicate passion.

Mr. Speaker, a heart has broken, new babes are born, a tree falls in the distant forest, the great world spins on.

Death has placed his hand upon this son of Maine's shoulder and the void that has been created is not likely to be filled.

To his lovely wife Barbara, to his children, Peter and Jane, to his entire family and friends, I can only say that the pain of losing the presence of Rand Weatherbee can never erase the joy of having known and loved him.

ORPHANS OF THE EXODUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Florida. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Ulanovsky family.

Lev Ulanovsky has been alone since 1973 when his father and brother were allowed to emigrate to Israel. Lev applied for permission to join them in Israel in September 1974 but he has been turned down for "state security reasons."

He has written that this cannot be the real reason because he has never had access to any secret information. Although he has a degree in astrophysics his thesis was published openly in the Journal of Astronomics and in his own words:

> It is obvious that such questions as extragalactic astrophysics cannot have any secret connotations.

He also took a mandatory course in military training at his school, but other students who took the same course have been allowed to emigrate to Israel so obviously no secrets were learned in that class.

It is clear, Mr. Speaker, that Lev Ulanovsky is being forced to remain in the Soviet Union separated from his family as part of the government's strategy to harass all persons who apply for permission to leave the country.

This is a violation of his basic human rights and the Helsinki Declaration which the Soviets so proudly signed last year.

FINANCIAL STATEMENT OF CONGRESSMAN CHARLES W. WHALEN, JR., AND FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 30 minutes.

Mr. WHALEN. Mr. Speaker, as in previous years, I again am providing a complete disclosure of my family's financial affairs. The following reflects the income received by me and my family during calendar year 1975; Federal, State, and local taxes paid in 1975; and a breakdown of our assets, liabilities, and net worth as of April 30, 1976.

The increase in the respective net worth of individual family members is primarily attributable to the recent rise in stock market prices. Also contributing to the increase in asset totals are the following gifts:

1. $12,000.00 cash gifts to me and my wife by my parents, Charles W. Whalen, Sr. and Colette E. Whalen.

2. $12,000.00 stock gifts to me and my wife by her parents, Frank Gleason, Sr. and Norma Gleason.

3. $6,000.00 stock gifts to each of the six Whalen children by their grandparents, Frank Gleason, Sr. and Norma Gleason.

My wife and I paid total taxes of $31,590.92, which is 36.5 percent of our gross income of $86,432.62, which we received last year. Federal taxes alone amounted to 28 percent of our gross income.

I include the following:

1975 INCOME: MARY AND CHARLES W. WHALEN, JR.

	Gross amounts
U.S. House of Representatives, Salary	$42,850.00
Net Partnership Income: Whalen Investment Company	16,423.16
Interest Received, Prudential Insurance Company	52.43
Rental Income; 228 Beverly Place, Dayton, Ohio	1,500.00
Taxable dividends received (common stock):	
Allegheny Power Systems, Inc	1,694.00
American Cyanamid	300.00
Baltimore Gas & Electric	196.00
Beneficial Corporation	235.00
Coca Cola Company	552.00
Copeland Corporation	1,080.00
Delmarva Power & Light Company	1,200.00
Detroit Edison Company	1,145.50
Duke Power Company	1,400.00
Ex-Cell-O	100.00
Federated Department Stores, Inc	264.00
General Telephone & Electronics	540.00
Gulf States Utilities Company	448.00
Hubbard Real Estate Investments	192.00
Indianapolis Power & Light Company	1,547.00
Lionel D. Eddie Capital Fund, Inc	2,479.00
Merrill Lynch, Pierce, Fenner & Smith	29.50
Middle South Utilities	1,764.00
Minnesota Mining & Mfg. Company	810.00
Owens-Illinois, Inc	344.00
Charles Pfizer, Inc	48.60
Phillips Petroleum Company	320.00
Public Service Electric & Gas Company	4,042.00
Royal Dutch Petroleum Company	612.11
South Carolina Electric & Gas Company	740.00
Texas Utilities Company	488.00
Virginia Electric Power Company	1,652.00
Westinghouse	388.80
Total	24,611.51
Non-taxable return on capital (common stock): Detroit Edison Co	(304.50)
Washington Post article	75.00
Speeches (Honorarium):	
St. Charles Parish, Dayton, Ohio	200.00
American University, Washington, D.C	300.00
Total	500.00
Capital gains:	
Sale of Stock Rights, Public Service & Electric	415.00
Hubbard Real Estate Investment	5.52
Capital Losses	none
Taxable Personal Income	86,432.62
Taxes paid to IRS, 1975	24,577.04

1975 CLAIMED DEDUCTIONS

1. Standard exemptions, six children.	
2. Public Law, 82d Congress, Public Law 178, 83d Congress, away from home living expense allowance	$3,000.00
3. Standard deduction for stock dividends	200.00
4. Interest paid on loans:	
Third National Bank	498.35
Charles W. Whalen, Sr	925.00
Mutual Benefit Life	340.05
Total	1,763.40
5. Taxes paid (other than Federal):	
City of Oakwood, personal income tax	791.78
Montgomery County, intangibles tax	916.79
State of Ohio, personal income tax	1,316.86
Montgomery County, Maryland property tax	2,245.25
Montgomery County, Ohio property tax	1,028.78
General sales tax	520.60
State and local gasoline tax	102.00
Government of Netherlands, Royal Dutch Petroleum Co	91.82
Total	7,013.88
6. Depreciation, 228 Beverly Place	600.00
7. Allowable medical deductions (family)	150.00
8. Office and professional expense	695.21
9. Charitable donations	1,275.00
10. Government travel for which not reimbursed	849.54

1975 INCOME—WHALEN CHILDREN

CHARLES EDWARD WHALEN

Taxable dividends received (common stock):	
Allegheny Power System, Inc	$770.00
Atlantic City Electric Co	604.00
Baltimore Gas and Electric Co	196.00
Carolina Power and Light Co	1,097.60
Consolidated Edison Co	120.00
Copeland Corp	540.00
Duke Power Co	700.00
Lionel Edie Capital Fund, Inc	181.56
Entex, Inc	528.00
Florida Power and Light Co	660.10
Illinois Power Co	660.00
Indianapolis Power and Light Co	182.00
Middle South Utilities	756.00
Pfizer, Inc	113.40
Public Service Electric & Gas Co	516.00
Third National Bank & Trust Co	213.00
Virginia Electric Power Co	236.00
Total	8,173.66
Nontaxable return on capital (common stock): Carolina Power & Light Co	(22.40)
Interest received: Riggs National Bank	54.42
Capital gains: Sale of stock rights, Public Service Electric & Gas	26.50
Capital losses	None
Taxable personal income	8,054.58
Taxes paid to IRS, 1975	1,312.34

1975 CLAIMED DEDUCTIONS

Taxes paid (other than Federal)	
State of Ohio, income tax	11.81
Montgomery County, Ohio, intangibles tax	395.75
Total	407.56
Accountants' fee	30.00

DANIEL DENNIS WHALEN

Taxable dividends received (common stock):	
Allegheny Power System, Inc	$770.00
Atlantic City Electric Company	604.00
Baltimore Gas and Electric Co	196.00
Carolina Power and Light Co	1,097.60
Consolidated Edison Company	180.00
Copeland Corporation	540.00
Duke Power Company	700.00
Lionel Edie Capital Fund, Inc	205.02
Entex, Inc	264.00
Florida Power and Light Company	803.60
Illinois Power Company	660.00
Indianapolis Power and Light Co	182.00
Middle South Utilities	756.00
Pfizer, Inc	113.40
Public Service Electric & Gas Co	516.00
Third National Bank & Trust Company	210.00
Virginia Electric Power Co	236.00
Total	8,033.62
Nontaxable return on capital (common stock): Carolina Power & Light Co	(22.40)
Interest received: Riggs National Bank	12.32
Capital gains: Sale of stock rights, Public Service Electric & Gas	26.50
Capital losses	none
Taxable personal income	8,072.44
Taxes paid to IRS, 1975	1,294.29

1975 CLAIMED DEDUCTIONS

Taxes paid (other than Federal):	
State of Ohio, income tax	12.06
Montgomery County, Ohio, Intangibles tax	391.80
Total	403.86
Accountants' fee	30.00

EDWARD JAMES WHALEN

Taxable dividends received (common stock):	
Allegheny Power System, Inc	$770.00
Atlantic City Electric Co	604.00
Baltimore Gas and Electric Co	196.00
Carolina Power and Light Co	1,097.60
Consolidated Edison Co	120.00
Copeland Corporation	540.00
Duke Power Company	700.00
Lionel Edie Capital Fund, Inc	211.14

1975 Income—Whalen Children—Con.

EDWARD JAMES WHALEN—con.

Taxable dividends received—Con.	
Entex, Inc	132.00
Florida Power and Light Co	774.90
Illinois Power Company	660.00
Indianapolis Power and Light Co.	182.00
Middle South Utilities	756.00
Pfizer, Inc	113.40
Public Service Electric & Gas Co.	516.00
Third National Bank & Trust Co	210.00
Virginia Electric Power Co	236.00
Total	7,819.04
Nontaxable return on capital (common stock): Carolina Power and Light Co	(22.40)
Interest received: Riggs National Bank	12.86
Capital gains: Sale of stock rights, Public Service Electric & Gas	26.50
Capital losses	none
Taxable personal income	7,858.40
Taxes paid to IRS, 1975	1,245.39

1975 CLAIMED DEDUCTIONS

Taxes paid (other than Federal):	
State of Ohio, income tax	12.06
Montgomery County, Ohio, intangibles tax	381.10
Total	393.16
Accountants' fee	30.00

JOSEPH MICHAEL WHALEN

Taxable dividends received (common stock):	
Allegheny Power System, Inc	$770.00
Atlantic City Electric Company	604.00
Baltimore Gas & Electric Co	196.00
Carolina Power and Light Co	1,097.60
Consolidated Edison Company	120.00
Copeland Corporation	540.00
Duke Power Company	700.00
Lionel Edie Capital Fund, Inc	201.45
Entex, Inc	132.00
Florida Power and Light Co	602.70
Illinois Power Company	660.00
Indianapolis Power and Light Co.	182.00
Middle South Utilities	756.00
Pfizer, Inc	113.40
Public Service Electric & Gas Co.	516.00
Third National Bank & Trust Co.	210.00
Virginia Electric Power Co	236.00
Total	7,637.15
Nontaxable return on capital (common stock): Carolina Power and Light Co	(22.40)
Interest received: Riggs National Bank	20.59
Capital gains: Sale of stock rights, Public Service Electric and Gas	
Capital Losses:	none
Taxable personal income	7,684.24
Taxes paid to IRS, 1975	1,205.08

1975 CLAIMED DEDUCTIONS

Taxes paid (other than Federal):	
State of Ohio, income tax	11.81
Montgomery County, Ohio intangibles tax	372.40
Total	384.21
Accountants' fee	30.00

ANNE ELIZABETH WHALEN

Taxable dividends received (common stock):	
Allegheny Power System, Inc	$354.20
Atlantic City Electric Company	—
Baltimore Gas and Electric	196.00
Carolina Power and Light Co	1,097.60
Consolidated Edison Co	90.00
Copeland Corporation	540.00
Duke Power Company	420.00
Lionel Edie Capital Fund, Inc	213.18
Entex, Inc	—
Florida Power and Light Co	631.40
Illinois Power Company	660.00
Indianapolis Power and Light Co.	91.00
Middle South Utilities	756.00
Pfizer, Inc	113.40
Public Service Electric & Gas Co.	516.00
Third National Bank & Trust Co.	210.00
Virginia Electric Power Co	236.00
Total	6,124.78
Nontaxable return on capital (common stock): Carolina Power and Light Co	(22.40)
Interest received: Riggs National Bank	15.96
Capital Gains: Sale of stock rights, Public Service Electric & Gas	26.50
Capital losses	none
Taxable personal income	6,167.24
Taxes paid to IRS, 1975	881.58

1975 CLAIMED DEDUCTIONS

Taxes paid (other than Federal):	
State of Ohio, income tax	8.81
Montgomery County, Ohio, intangibles tax	296.55
Total	305.36
Accountants' fee	30.00

MARY BARBARA WHALEN

Taxable dividends received (common stock):	
Carolina Power and Light Co	$160.00
Copeland Corp	300.00
Lionel D. Edie Capital Fund	178.50
Indianapolis Power & Light	546.00
Middle South Utilities	756.00
Pfizer, Inc	113.40
Virginia Electric Power Co	236.00
Total	2,289.90
Nontaxable return on capital (common stock): Carolina Power and Light Co	(3.20)
Interest received: Riggs National Bank	11.60
Capital gains	none
Capital losses	none
Taxable personal income	2,298.30
Taxes paid to IRS, 1975	161.72

1975 CLAIMED DEDUCTIONS

Taxes paid (other than Federal):	
State of Ohio, Income tax	none
Montgomery County, Ohio, Intangibles tax	109.90
Accountants' fee	30.00

Financial Statement, April 30, 1976: Mary Barbara and Charles W. Whalen, Jr.

ASSETS

Cash, checking account	$4,755.62
Lionel D. Edie ready assets trust	6,054.82
Common stock:	
Allegheny Power Systems (1,100 shares)	19,525.00
American Cyanamid (200 shares)	5,050.00
Baltimore Gas & Electric Co. (100 shares)	2,400.00
Beneficial Finance Co. (188 shares)	3,876.00
Coca-Cola (240 shares)	20,160.00
Copeland Corp. (2,800 shares)	44,800.00
Delmarva Power & Light Co. (1,000 shares)	12,620.00
Detroit Edison Co. (1,000 shares	1,145.50
Duke Power Co. (1,000 shares)	1,400.00
Lionel D. Edie Capital Fund, Inc. (4,861 shares)	87,499.39
Ex-Cell-O Corp. (100 shares)	1,987.00
Federated Department Stores (220 shares)	11,275.00
General Telephone (300 shares)	7,950.00
Gulf State Utilities (400 shares)	5,200.00
Hubbard Real Estate Invest-Co. (120 shares)	1,620.00
Indianapolis Power & Light Co. (850 shares)	18,164.50
Merrill, Lynch, Pierce, Fenner, and Smith (50 shares)	1,318.50
Middle South Utilities, Inc. (1,400 shares)	20,818.00
Minnesota Mining and Manufacturing (600 shares)	37,422.00
Owens-Illinois Glass (200 shares)	12,250.00
Charles Pfizer, Inc. (60 shares)	1,710.00
Phillips Petroleum (200 shares)	11,550.00
Public Service Electric & Gas (2,350 shares)	44,062.50
Royal Dutch Petroleum (188 shares)	8,883.00
South Carolina Electric Gas (500 shares)	8,750.00
Steadhan Fund (123½ shares)	312.45
Texas Utilities (400 shares)	7,400.00
Virginia Electric Power Co. (1,400 shares)	29,218.00
Westinghouse Electric Corp. (400 shares)	6,400.00
Unity State Bank (2 shares)	50.00
Total	445,280.49
Cash value, paid up life insurance	73,084.04
Cash value, outstanding life insurance	27,771.36
Contribution to public employees retirement system of Ohio	5,008.23
Contribution to Teachers Insurance and Annuity Association	13,076.39
Contribution to civil service retirement deposit	28,852.75
Partnership interest, Whalen Investment Co	112,500.00
Residence, 228 Beverly Place, Dayton, Ohio	35,000.00
Furniture, 228 Beverly Place, Dayton, Ohio	1,000.00
Residence, 5301 Portsmouth Rd., Bethesda, Md	140,000.00
Furniture, 5301 Portsmouth Rd., Bethesda, Md	25,000.00
Jewelry (1969 valuation)	26,000.00
1971 Ford Country Squire station wagon	1,250.00
1965 Ford Mustang	300.00
Total assets	945,280.49

LIABILITIES

Loan—Third National Bank & Trust Co	10,000.00
Total liabilities	10,000.00
Net worth	935,280.49

Financial Statement, April 30, 1976: Charles Edward Whalen

ASSETS

Cash, checking account	$875.24
Cash, savings account	1,098.46
Common stock:	
Allegheny Power System, Inc. (500 shares)	8,875.00
Atlantic City Electric Co. (400 shares)	7,400.00
Baltimore Gas and Electric Co. (100 shares)	2,400.00
Central Illinois Light (100 shares)	1,687.00

Carolina Power and Light Company (700 shares)	13,909.00
Consolidated Edison (100 shares)	1,737.00
Copeland Corporation (1,400 shares)	22,400.00
Delmarva Power & Light Co. (100 shares)	1,262.00
Duke Power (500 shares)	9,375.00
Entex, Inc. (480 shares)	13,080.00
Lionel Edie Capital Fund (356 shares)	6,404.44
Florida Power & Light Co. (460 shares)	11,730.00
Illinois Power Co. (300 shares)	7,575.00
Indianapolis Power & Light Co. (100 shares)	2,137.00
Kansas City Power & Light (100 shares)	2,675.00
Middle South Utilities (700 shares)	10,409.00
Pfizer, Inc. (140 shares)	3,955.00
Pacific Gas & Electric (100 shares)	2,062.00
Public Service Electric & Gas Co. (300 shares)	5,625.00
Third National Bank & Trust Co. (224 shares)	3,360.00
Virginia Electric Power Co. (300 shares)	6,261.00
Total	144,318.44
Net worth	146,292.14

LIABILITIES

Total liabilities	none
Net worth	146,292.14

Financial Statement, April 30, 1976:

Daniel Dennis Whalen

ASSETS

Cash, checking account	$675.67
Cash, savings account	227.16
Common stock:	
Allegheny Power System, Inc. (500 shares)	8,875.00
Atlantic City Electric Co. (400 shares)	7,400.00
Baltimore Gas and Electric Co. (100 shares)	2,400.00
Central Illinois Light (100 shares)	1,687.00
Carolina Power and Light Co. (700 shares)	13,909.00
Central Southwest Corp. (100 shares)	1,687.00
Consolidated Edison (150 shares)	2,605.50
Copeland Corp. (1,400 shares)	22,400.00
Duke Power (500 shares)	9,375.00
Entex, Inc. (240 shares)	7,540.00
Lionel Edie Capital Fund (402 shares)	7,231.98
Florida Power & Light Co. (560 shares)	14,280.00
Illinois Power Co. (300 shares)	7,575.00
Indianapolis Power & Light Co. (100 shares)	2,137.00
Middle South Utilities (700 shares)	10,409.00
Pfizer, Inc. (140 shares)	3,955.00
Pacific Gas & Electric (100 shares)	2,062.00
Public Service Electric & Gas (100 shares)	5,625.00
South Carolina Electric & Gas Co. (100 shares)	1,750.00
Third National Bank & Trust Co. (221 shares)	3,315.00
Virginia Electric Power Co. (200 shares)	4,174.00
Total	140,392.48
Net worth	141,295.31

LIABILITIES

Total liabilities	none
Net worth	141,295.31

Financial Statement, April 30, 1976:

Edward James Whalen

ASSETS

Cash, checking account	$514.61
Cash, savings account	224.43
Common stock:	
Allegheny Power System, Inc. (500 shares)	8,875.00
Atlantic City Electric Co. (400 shares)	7,400.00
Baltimore Gas and Electric Co. (100 shares)	2,400.00
Central Illinois Light (100 shares)	1,687.00
Carolina Power and Light Co. (700 shares)	13,909.00
Central Southwest Corp. (100 shares)	1,687.00
Consolidated Edison (100 shares)	1,737.00
Copeland Corp. (1,400 shares)	22,400.00
Delmarva Power and Light (100 shares)	1,262.00
Duke Power Co. (500 shares)	9,375.00
Entex, Inc. (120 shares)	3,270.00
Lionel Edie Capital Fund (414 shares)	7,447.00
Florida Power and Light Co. (540 shares)	13,770.00
Illinois Power Co. (300 shares)	7,575.00
Indianapolis Power and Light Co. (100 shares)	2,137.00
Middle South Utilities (700 shares)	10,409.00
Pfizer, Inc. (140 shares)	3,955.00
Pacific Gas and Electric Co. (100 shares)	2,062.00
Public Service Electric and Gas (300 shares)	5,625.00
Third National Bank & Trust Co. (221 shares)	3,315.00
Virginia Electric Power Co. (200 shares)	4,174.00
Total	134,471.00
Net worth	135,210.04

LIABILITIES

Total liabilities	none
Net worth	135,210.04

Financial Statement, April 30, 1976: Joseph Michael Whalen

ASSETS

Cash, checking account	$1,015.27
Cash, savings account	340.07
Common stock:	
Allegheny Power Systems, Inc. (500 shares)	8,875.00
Atlantic City Electric Co. (400 shares)	7,400.00
Baltimore Gas and Electric Co. (100 shares)	2,400.00
Central Illinois Light (100 shares)	1,687.00
Carolina Power & Light Co. (700 shares)	13,909.00
Consolidated Edison (100 shares)	1,737.00
Copeland Corp. (1,400 shares)	22,400.00
Duke Power Co. (500 shares)	9,375.00
Lionel Edie Capital Fund (395 shares)	7,477.00
Florida Power and Light Co. (420 shares)	10,710.00
Illinois Power Co. (300 shares)	7,575.00
Indianapolis Power and Light Co. (100 shares)	2,137.00
Kansas City Power and Light (100 shares)	2,675.00
Middle South Utilities (700 shares)	10,409.00
Pfizer, Inc. (140 shares)	3,955.00
Pacific Gas and Electric (100 shares)	2,062.00
Public Service Electric & Gas Co. (300 shares)	5,625.00
Third National Bank & Trust Co. (221 shares)	3,315.00
Virginia Electric Power Co. (300 shares)	6,261.00
Entex, Inc. (120 shares)	3,270.00
Total	133,224.00
Net worth	134,579.34

LIABILITIES

Total liabilities	none
Net worth	134,579.34

Financial Statement, April 30, 1976:

Anne Elizabeth Whalen

ASSETS

Cash, checking account	$296.55
Cash, savings account	373.79
Common stock:	
Allegheny Power System, Inc. (230 shares)	5,680.00
Baltimore Gas and Electric Co. (100 shares)	2,400.00
Central Illinois Power (100 shares)	1,687.00
Carolina Power and Light Co. (700 shares)	13,909.00
Consolidated Edison (75 shares)	1,302.75
Copeland Corp. (1,400 shares)	22,400.00
Delmarva Power and Light Co. (100 shares)	1,262.00
Duke Power (300 shares)	5,625.00
Lionel Edie Capital Fund (418 shares)	7,519.00
Florida Power and Light (440 shares)	11,200.00
Illinois Power (300 shares)	7,575.00
Indianapolis Power and Light Co. (50 shares)	1,068.50
Middle South Utilities (700 shares)	10,409.00
Pfizer, Inc. (140 shares)	3,955.00
Public Service Electric and Gas Co. (300 shares)	5,625.00
South Carolina Electric and Gas Co. (100 shares)	1,750.00
Third National Eank and Trust Co. (221 shares)	3,315.00
Virginia Electric Power Co. (200 shares)	4,174.00
Total	110,876.25
Net worth	111,546.59

LIABILITIES

Total liabilities	none
Net worth	111,546.59

Financial Statement, April 30, 1976:

Mary Barbara Whalen

ASSETS

Cash, checking account	$584.87
Cash, savings account	255.30
Common stock:	
Central Illinois Light (100 shares)	1,687.00
Carolina Power and Light Co. (100 shares)	1,987.00
Copeland Corp. (1,000 shares)	16,220.00
Lionel Edie Capital Fund (350 shares)	6,296.50
Indianapolis Power and Light Co. (300 shares)	6,411.00
Middle South Utilities (600 shares)	8,922.00
Pfizer, Inc. (140 shares)	3,955.00
Virginia Electric Power Co. (200 shares)	4,174.00
Total	49,652.50
Net worth	50,492.67

LIABILITIES

Total liabilities	none
Net worth	50,492.67

USITC AWARD FOR FREDERICK SONTAG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. Long) is recognized for 5 minutes.

Mr. LONG of Louisiana. Mr. Speaker, Frederick Sontag, who is well known on Capitol Hill, as distinguished political scientist, was honored on April 14, 1976, by the U.S. International Trade Commission with the Commission's Special Achievement Award. I am sure that his friends and coworkers on the Hill will be pleased to learn of his recognition by the USITC.

The chairman of the USITC, a fellow Louisianian, Will E. Leonard, last year asked Frederick Sontag to organize the 21 out-of-Washington economic effects trade hearings. Sontag carried out this assignment with special distinction, making arrangements for very productive regional hearings and other Commission activities and giving special attention to media coverage of the activities and decisions of the International Trade Commission. This was of particular importance in a year when the ITC has taken on additional responsibilities and when there was a significant increase in the amount of work for the Commission to carry out.

Frederick Sontag is an excellent example of the kind of skilled and dedicated professional whom the Federal Government is often fortunate enough to retain from a private sector or State government. There is a continuing need to attract men and women of this high caliber to our independent agencies, and I am delighted that a Capitol Hill alumnus has been honored in this way.

The citation and award remarks are as follows:

Frederick H. Sontag Receiving Federal Special Achievement Award

Frederick H. Sontag of South Orange, N.J. and Seal Harbor, Me. is receiving the Special Achievement Award of the U.S. International Trade Commission that is granted for outstanding performance of a specific major assignment.

Sontag, who is the Senior Advisor to USITC Chairman Will E. Leonard, is receiving the citation which reads:

"For distinguished special achievement in transacting arrangements on numerous occasions for the conducting of hearings and other Commission activities outside of Washington, D.C. and for demonstrated accomplishment in assuring that Commission actions and decisions receive broadest possible dissemination and accurate interpretation, all of which materially advanced the accomplishment of the Commission's mission in international trade."

The public affairs and research consultant is also being given a check award.

Sontag, a graduate of Phillips Academy, Andover and Colby College, is a member of numerous professional and civic organizations.

The USITC is the chief international economic research arm of the Congress and the Executive Department. It is an independent agency.

Sontag, who is a nationally recognized lecturer, is the co-author of "Parties: The Real Opportunity for Effective Citizen Politics" (Alfred A. Knopf, hardback; Vintage-Random House, softcover).

Chairman Leonard said:

"In a year when the U.S. International Trade Commission has taken on additional responsibilities and a corresponding increase in workload, my co-worker more than met the challenge. Excellence in any capacity is worthy of recognition and the Commissioners feel that this past year in particular represents a significant period in the history of our agency—a period that marked the beginning of expanded activities, importance, and service to this nation. To be honored at such a time commands special respect and admiration by all of us and represents a degree of achievement to which all of us might aspire.

"The Commissioners join in extending their personal congratulations and very sincere appreciation to you as you are being honored today, knowing that it is such individuals as yourself that make us proud of the U.S. International Trade Commission and its accomplishments."

In receiving the award, Sontag was told:

"This award is in recognition of work performed outside of a regular assignment for performance above and beyond the call of duty. With this award the six Commissioners express their thanks and appreciation to an individual member of the staff for that extra measure of interest and service. One receiving recognition is to be congratulated, for such performance is the substance on which exemplary records of public service are built."

ROBERT L. REBEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. Staggers) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, 7 years ago I had the privilege of hiring Robert L. Rebein as a staff attorney on our Investigations Subcommittee. He had previously served in various high level capacities with the Federal Bureau of Investigation, and I was delighted to have a man of his extraordinary background and talents on the subcommittee. My expectations, and those of our membership, were not misplaced. During his 2½ years with us, the subcommittee's oversight efforts flourished, and its probes of regulatory agency activity—particularly of the Interstate Commerce Commission—were among the most effective and far reaching that had yet been conducted. Robert Rebein's investigative insights; his creative and energetic approach to even the most mundane, but essential details; the scholarly way in which he applies himself and above all his exceptional objectivity made him a trusted professional aide and his workmanship respected by friend and adversary alike.

Unfortunately for the committee, Robert Rebein's special capabilities were obvious to many, and his days as one of our staff attorneys numbered. In June of 1971 he left us to become Assistant Managing Director of the Interstate Commerce Commission. This was an agency he had helped to reform from the outside, and now he was to be given the opportunity to effect changes from within. It was a considerable challenge and, needless to say, a very difficult assignment. But, as in the past, the mettle of Robert Rebein was more than equal to the tasks at hand. Before too many months had passed, he was promoted to Managing Director—the Commission's top administrative post. Thanks, in large measure to his leadership in that role, this old line agency has become one of the most innovative and progressive regulatory arms in Government. From computer technology and program management to personnel morale and fiscal controls, the ICC's process has been made more effective and our taxpayers provided with a more responsive, efficient forum to address their surface transportation problems. As a result of Robert Rebein's persistence and foresight, administrative actions were planned, initiated, and fully implemented to help the Commission eliminate redtape and waste and bring about greater cost savings and productivity in all areas of its operations. No function of the organization escaped his quality stamp, and his achievements are now indelibly etched in the greatly enhanced performance record of this critically important regulatory arm.

During this period, the Commission's relationship with our committee also reflected the new look Robert Rebein was fashioning. Few times have produced so much teamwork and so many mutual exchanges between an independent agency and the Congress. This special climate of cooperation has been a major factor in the development of a vastly improved regulatory process and a national transportation program geared to growth, flexibility, and need.

Once again, however, the winds of fortune have beckoned and Robert Rebein has been called upon to accept still greater responsibilities and still larger challenges. He is leaving the Interstate Commerce Commission for an executive position with the Internal Revenue Service. Although the ICC will be loosing one of its finest employees, the people of our Nation will not be losing him from their service. That to me is most important, because persons of Robert Rebein's outstanding caliber are difficult to replace, and our Government could not long operate without such experience and expertise at the helm.

The Commerce Committee is proud of Robert Rebein, as I know the Commission is, and we join them and all of his friends and colleagues in Government in wishing him well in his endeavors to come. Mr. Chairman, I insert a letter from Chairman Stafford to the Internal Revenue Service about some of Mr. Rebein's accomplishments at the Commission:

February 20, 1976.

Mr. Ronald E. Patterson,
Administrative Assistant to Executive Resources Board, Internal Revenue Service,
Washington, D.C.

Dear Mr. Patterson: In response to your letter of February 13, 1976, I am enclosing my most recent evaluation of Managing Director Robert L. Rebein. To supplement that narrative, I think it important to bring to your attention a number of other factors about Mr. Rebein.

Prior to Mr. Rebein coming to the Commission in June, 1971, the ICC had experienced a rather lengthy period of budgetary difficulties which resulted in program curtailments at a time when the caseload was climbing at an uncontrollable rate. This, coupled with internal deficiencies in our fiscal spending system which required extreme cutbacks in promotion and hiring practices, purchasing and other staff support, presented the Commission with tough decisions on productivity and morale. Mr. Rebein immediately provided the assistance and technical support to the then Managing Director to correct this difficult situation. His vast array of abilities, professional approach to all tasks and his leadership qualities soon became evident. Upon the Managing Director's retirement one year later, Mr. Rebein was promoted unanimously by the entire Commission in recognition of his outstanding performance.

In the almost five years Mr. Rebein has been with the ICC, our budgetary formulation has been strengthened, our relations with OMB and the respective appropriation committees of Congress have reflected in favorable response to our budget requirements, and our fiscal spending operations have been a complete turnabout of what we had experienced in the past. In cooperation with the other Bureau and Office Heads, he has managed to gain control of the burgeoning caseload, identify and eliminate areas of "regulatory lag," and improve individual and overall productivity. The advice of his office is highly respected, and his leadership is highlighted by the mature manner in which he approaches mutual problems and the fairness with which he exercises his authority. Morale, both at headquarters and the field, has never been at a higher level.

Mr. Rebein was instrumental in the establishment of the internal study teams on regulatory reform which has resulted in numerous changes in the regulatory process. He has personally spearheaded a revitalization of the Commission's ADP operations and installed automated techniques in various segments of our operations. Another aspect of Mr. Rebein's responsibilities which should not be overlooked is the personnel program. He serves as the Commission's EEO Director, his Office coordinates other minority and handicap programs, and all personnel actions are under his personal control through authority I have delegated to him. During his tenure, we have successfully defended all adverse personnel actions, and I find his handling of these matters to be impeccable. He deals with personel matters as he does every other task—with complete fairness and impartiality. He is thorough and decisive. He has evidenced an ability to recognize at an early stage the adverse aspects of personnel situations and their publicity potential. He has been very successful in approaching such situations with tact and control.

Mr. Rebein's consideration of other employment possibilities is a practical one. He serves in a non-career, executive position—GS–18. The President has recently announced his nomination of a new Commissioner who, upon confirmation, will replace me as Chairman. The Managing Director reports directly to the Chairman, and this close relationship normally results in a new Chairman desiring to name his own administrative assistant.

In closing, I could not recommend anyone higher for employment by your agency, and there would be no question of my rehiring him should the opportunity present itself. Please feel free to contact me if you desire any further information.

Sincerely yours,

George M. Stafford,
Chairman.

Enclosure.

Managing Director Rebein To Leave; Chairman Stafford Lauds Accomplishments

Interstate Commerce Commission Chairman George M. Stafford today paid special tribute to Robert L. Rebein, the Commission's Manging Director, who will be moving to an executive position with the Internal Revenue Service in June. (Assistant Deputy Commissioner)

In his five years at the ICC—first as Assistant Managing Director and later as Managing Director—Rebein, 46, was directly responsible for a large number of far-reaching internal reforms which helped to eliminate costly red tape and put the agency on a sound fiscal basis. During his tenure, several blue ribbon studies and an in-depth examination of the ICC's compliance program were undertaken at Rebein's direction, and presently are at the focal point of an on-going Commission effort to make surface transportation regulation more responsive to the public's interest and needs.

Among many of the changes effected under Rebein's direction were the introduction of budgetary controls, a system of office and bureau reappraisals to help reduce regulatory time lags and speed case processing, advanced computer technology, a new set of procurement procedures, and an expanded Commission training program for both professional and clerical employees.

"During Mr. Rebein's time here, he has shown himself to be a true professional and dedicated public servant in every respect. Chairman Stafford said. "On behalf of everyone at the Commission, we wish him well and continued success as he moves to his new position."

HUGO BLANCO EPILOG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, on March 1, 1976, I placed in the Congressional Record corespondence that I had concerning Hugo Blanco. As a result of that correspondence, the U.S. Committee for Justice to Latin American Political Prisoners issued a public response in which they sought to refute the reasons given by the State Department for its denial of a visa to Hugo Blanco. That committee asked that I place their statement "setting the record straight on Hugo Blanco" in the Record.

I thought it appropriate to bring the committee's response to the attention of the State Department for the latter's answer. I am appending both statements for the perusal of our colleagues.

It is often difficult to distinguish between terrorists and patriots at the time of the event. And it may well be that those labeled as terrorists now are ultimately accorded the status of martyred patriots by history. But those who must make decisions on the admission to this country of persons who have engaged in violent acts, particularly ones which result in death, must exercise that judgment carefully even if it results in erring on the side of excessive caution—so long as the decision is not arbitrary or capricious. In this case, I do not believe the State Department was either arbitrary or capricious.

The statement follows:

Setting the Record Straight on Hugo Blanco

[The following statement was issued to the press March 22 by the U.S. Committee for Justice to Latin American Poiltical Prisoners.[1]]

On March 16, in a nationally syndicated column, William F. Buckley, Jr. attacked the United States Committee for Justice to Latin American Political Prisoners (USLA) and one of its officers, Dr. Benjamin Spock. Buckley went so far as to call Spock "the incarnation of the dupe" for having criticized Secretary of State Henry Kissinger's denial of a visa in the case of Hugo Blanco.

Kissinger's action prevented Blanco, a Peruvian peasant leader, author, and former political prisoner, from honoring speaking commitments at more than a dozen universities, where he was to speak on the plight of political prisoners in Latin America. The speaking tour was being organized by USLA.

Editorials in leading newspapers and other protests from members of Congress, academic associations, and civil libertarians forced Kissinger to reverse his position and recommend to the Immigration and Naturalization Service (INS) that it grant Blanco a visa. The INS refused. It is these prominent supporters of the right of the American people to hear all points of view without government censorship who are a special target for Buckley's ire in his column.

Buckley based his information on an exchange of correspondence inserted in the March 1, 1976 *Congressional Record* by Representative Edward I. Koch of New York. [See *Intercontinental Press,* March 15, p. 426.] Involved in the exchange were the USLA and Spock, who wrote Koch asking him to intercede on Blanco's behalf, and Robert J. McCloskey, assistant secretary for congressional relations in the State Department. In a final letter to Spock, Koch indicated he was withdrawing his earlier support for a visa.

In his column Buckley congratulates Koch: "WFB to Koch. Nice going." Buckley quotes selectively from this exchange, excluding evidence or arguments made on behalf of Blanco. He also fails to address himself to the issue involved—of official government censorship of what the American people are allowed to hear—implicitly taking a procensorship attitude.

Why did Koch withdraw his support? He echoes the government position when he writes to Spock, "Don't you agree that if, in fact, he admitted responsibility for the murder of three policemen and advocated the use of violence that those are grounds for rejection?"

The INS refused a visa on the same grounds that the State Department had earlier, stating that "he [Blanco] was found to be ineligible for a visa under Section 212(a)(28) of the Immigration and Nationality Act because of his previous terrorist activities and his affiliation with certain communist organizations."

From the beginning, the different government agencies have consistently maintained a veil of secrecy around the case, refusing to specify what "terrorist activities" or "communist" affiliations Blanco was supposedly guilty of. In a letter to Congressman Koch dated January 29, 1976, for example, McCloskey said that "much of the information available to the Department is classified for reasons of security and therefore cannot be divulged. . . ."

Some of this information must have been "leaked" to Representative Larry McDonald of Georgia, for, in the *Congressional Record* of December 19, 1975, he unleashed a bitter attack on the *Washington Post* and *Boston Globe* for their editorials protesting Blanco's exclusion as undemocratic.

In the article, McDonald describes Blanco's revolutionary-socialist views and his affiliation to the Fourth International, something Blanco himself has made clear in numerous interviews in the international press. However, he then goes on to quote what he calls "secret" documents that he claims prove Blanco is a terrorist in theory and practice. He offers only one instance of "proof," asserting, "In that same year [1962], Blanco led a raid on a police post in Peru to secure weapons. During the raid Blanco shot a police officer to death. He was captured in May 1963, and was eventually sentenced to 20 years imprisonment."

This example was to be used by McCloskey in the January 29 letter to Koch, attributing McDonald as his (McCloskey's) source, although in his account Blanco is alleged to have killed three, not one, policemen! He charges that Blanco made a "declaration that he took full and sole responsibility for the murders of three policemen which occurred during a raid he and his followers made on a police station in Peru during 1962."

---

[1] 853 Broadway, Room 414, New York, New York 10003.

In their haste to accept the State Department and *Immigration Service* versions of Blanco's history, based on "secret" records, Messrs. Buckley, McDonald, and Koch would have done well to consult the public record. By not doing so they accept a one-sided version of what actually happened, replete with serious errors of fact and errors of omission.

SETTING THE RECORD STRAIGHT

In a letter to its national sections dated December 1966, Amnesty International announced that "we have sent on behalf of Hugo Blanco an appeal for clemency to President Belaunde Terry of Peru." The letter then went on to give some background to the case, which is worth quoting at length:

Hugo Blanco, now 32 years old, was a student of Agronomy at Lima University when in 1961 he left his studies to organize the Indian peasants of the Alti-plano, the most backward region in Peru. His efforts succeeded in mobilizing the peasantry of the Cuzco region to demand the abolition of enforced labour for the landlord, the redistribution of land and the establishment of wages instead of payment in kind. He also started schools and opened dispensaries.

Peasants marched into abandoned lands and took possession of them without violence invoking an old law by which squatters get right to land after a certain period of time. The Latifundistas (large landowners) used their influence and in 1962 the Peruvian Government sent military forces to stop this take-over.

There are conflicting versions of what then happened. According to the prosecution at his trial his band killed three guards during an attack on a police-station. According to Marcel Niedergang in "Le Monde" he was ambushed and only fired in self-defence, subsequently resuming meetings of peasants. It is almost certainly untrue that he was associated with the violent M.I.R. (Revolutionary Movement of the Left), which was only organised after his arrest and from which he publicly dissociated himself.

On December 7, 1966, Le Monde took up the question of violence and the Blanco-led land-reform movement:

"No violence occurred at the beginning of this movement, which caught the landowners and the government by surprise. But incidents inevitable flared up and multiplied between the hated 'gamonales' (foremen) and the landless peasants. An order was issued to arrest Hugo Blanco. On November 14, 1962, two policemen fired at the union leader. He fired back, killing a policeman and wounding another."

Buckley et al. neglect to point out that the government lodged what it considered was a far more serious charge against Blanco. As Marcel Niedergang, writing in *Le Monde*, January 28, 1967, reported: "Hugo Blanco was sentenced on two counts for organizing and directing peasant unions in Valle de la Convencion near Cuzco between 1959 and 1962, and for killing two members of the national guard on November 13, 1962." Niedergang also reported that Blanco's lawyer had entered a plea of self-defense in the killing of the two policemen, contradicting McCloskey's assertion that Blanco "took full and sole responsibility for the murders of three policemen."

During his trial Blanco himself said:

". . . I explained that in all senses and at all times, we had acted only in self-defense; that not only had the origin and activity of the guerrilla band been defensive acts in the face of repression, but also that in our encounters with the police we had saved our lives by firing. This was indisputable. Nor could anyone deny that we never intended to kill anyone, as we proved by our treatment of the policeman who had fired at us in Pujiura—after we had disarmed him, we set him free. Nor could our concern in helping the wounded be denied, as was shown by the fact that we forced the town doctor (after getting him out from under his bed, where he had been hiding) to treat the wounded policeman, and that we offered our own scanty medical supplies for first aid; all this was done at grave risk to our safety and lives."

As the Amnesty statement explained, under Peruvian law, land not being used was open to squatting by peasants, who could till it and claim it as their own. The landlords ignored the law and violently attacked the peasants, killing many in different encounters. The peasants demanded police protection only to have the latter side with the landlords in the attacks. In response the peasant unions formed first "Union Defense Brigades," and later militias, and finally a guerrilla band, as the repression escalated. Mass assemblies of thousands of peasants democratically voted to set these up and voted Blanco to head the defense effort. During the union organizing drive, Blanco himself was the object of two assassination attempts.

THE TRIAL

Also not to be found in Buckley's column or the *Congressional Record* are the facts of Blanco's trial:

Peruvian law required arraignment and charges within six months of arrest. Blanco and his followers were not even charged for more than three years.

Blanco and other defendants were tortured.

Blanco was held in solitary confinement for three years prior to his trial.

The proceedings were held in Spanish, a language four-fifths of the defendants could not speak, since they were Quechua-speaking Indians.

The trial should have been before a civil court. The law was rewritten to place them under military jurisdiction.

The military acted as judge, jury, and prosecutor.

Both of Blanco's lawyers were arrested and harassed in other ways. They were given one day's notice of the trial.

No defense witnesses were allowed, including police involved in the encounters whom the defense wished to call.

Prosecution witnesses did not appear either, a violation of law. Statements attributed to them were introduced as "evidence."

When Blanco appealed his twenty-five-year sentence, the military asked for the death penalty.

Is this Messrs. Buckley, Koch, McDonald, and McCloskey's adea of a fair trial?

Only a worldwide defense campaign supported by Amnesty International, the International League for the Rights of Man, USLA, the Chamber of Deputies of Chile, forty-three Belgian MPs, ten British MPs, Jean-Paul Sartre, and thousands of others stopped the hand of Blanco's executioner.

Is Hugo Blanco, as our government would have us believe, a common criminal? The facts speak for themselves. His "crime" was a political one, the crime of organizing landless peasants in a long overdue land-reform movement that defended itself against repression of the dictatorship of Balaunde Terry.

Later Peruvian governments recognized him as a political prisoner and released him in an amnesty for political prisoners in 1970. The regime of Juan Velasco Alvarado went so far as to offer him a governmental post, a position hardly suited for a "cop-killer."

The ridiculous claim that Blanco is a "terrorist" is merely a diversion. It is a brazen pretext used by Washington to justify its undemocratic exclusion of a former political prisoner whom organizations representing tens of thousands of Americans have demanded the right to hear.

The real issue that Messrs. Buckley, Koch, McDonald, and the government duck is whether the U.S. government should be allowed to censor the views the American people may hear or whether the Bill of Rights will be respected 200 years after the American revolution for independence.

Those agreeing that the American people have a right to hear all points of view, including Hugo Blanco's, without government censorship, are urged to write Messrs. Buckley,[2] Koch, McDonald,[3] and the attorney general, Edward Levi [4] (who now has jurisdiction of the case).

ENDORSERS OF THE RIGHT OF THE AMERICAN PEOPLE TO HEAR HUGO BLANCO—PARTIAL LIST

Rep. Bella Abzug (D-NY).
Robert Allen, mng. ed., Black Scholar.
Vernon Bellacourt, AIM.
Noam Chomsky.
Rep. Ronald V. Dellums (D-Calif).
Richard Fagen, pres., Latin American Studies Association.
Francis (Cissy) Farenthold.
Rep. Donald Fraser (D-Minn).
Georgia State U., student Govt. Assn.
Gene Guerrero, dir., Georgia ACLU.
Hon. Jose Angel Gutierrez, Zavala County, Tex.
Rep. Michael J. Harrington (D-Mass).
Mayor Fred Hoeheinz, Houston.
Sen. Hubert H. Humphrey (D-Minn).
Albert Lehman, Minn. Council of Churches.
S. F. Luria, Nobel Laureate.
Peter C. Magrath, pres., U. of Minn.
John McAward, Unitarian Universalist Service Comm.
Minn. Fed. of Teachers, State Exec. Bd. AFL–CIO.
Lt. Gov. Rudy Perpich, Minn.
Ramona Ripston, exec. dir., So. Calif. ACLU.
Mark Rohloff, Amnesty Int'l, San Francisco.
Muriel Rukeyser, pres., P.E.N.
Benjamin Spock.
Percy Sutton, pres., Borough of Manhattan, NYC.
George Wald, Nobel Laureate.

DEPARTMENT OF STATE,
Washington, D.C., May 24, 1976.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: You will recall that I wrote to you on April 28 about the visa case of Hugo Blanco.

As we stated previously, Mr. Blanco was refused a visa under Section 212(a)(28)(F) of the Immigration and Nationality Act on the basis of reliable information of a confidential nature. We are not permitted to disclose such information under the provisions of Executive Order 11652 (dated March 8, 1972).

We are providing you information from public sources which support our findings relating to Mr. Blanco's participation in Communist organizations and anti-government directed violence. We made an effort to obtain copies of court records; we were, however, advised by Peruvian authorities that records involving political or security matters are considered confidential and are not available.

The records show that in the early 1960's when Mr. Blanco was about 26 years of age he was a member of the Frente de Izquierda Revolucionario (FIR) as well as a member of another revolutionary group, both of which are described as Trotskyite Communist organizations. The FIR organized several bank robberies in 1962–63. The following statements were identified and quoted in the Congressional Record of December 19, 1975, as comments written by Mr. Blanco in 1962:

---

[2] c/o New York Post, 210 South Street, New York, New York 10002.

[3] U.S. House of Representatives, Washington, D.C. 20515.

[4] Justice Department, Washington, D.C. 20530.

"Now I feel even more deeply grateful to memory of Comrade Leon Trotsky, . . . Following his method of 'Permanent Revolution' we are reaching victory, comrades. That is why it is vital to bear in mind some of the general principles of our Trotskyist-Leninist doctrine:

"The working classes will achieve the recognition of their rights by violence, and not by legal forms. . . .

". . . We have seen the uselessness of court cases, memoranda, delegations to the government, sending telegrams, elections, candidates, etc. . . .

"Looking at this, we can see that to gain our triumphs, we have not waited for the bourgeois legalist government. Instead we have broken and smashed the power of that government in our area, . . . That is, we are carrying out a revolution, and not waiting for reforms or half-measures within the bourgeois regime."

In 1962, Blanco led raids which resulted in the murder of three policemen. He was arrested in 1963 and sentenced in 1966 by the Military Council to 25 years in prison. (See enclosed quotation from Correo.)

In June of 1963 Mr. Blanco was quoted in El Comercio as having assumed responsibilities for directing the terrorists groups but he disclaimed guilt for the killing of the three policemen. Our Embassy in Lima, however, reported in 1966, the year of Blanco's trial, that Blanco assumed full and sole responsibility for the murders. The source of the Embassy's report is not identified.

Mr. Blanco was released from prison in 1970 on amnesty and was later expelled to Argentina because of his continued revolutionary activities. Subsequently, he was expelled from Argentina for the same reason and was given refuge in Chile.

I am enclosing a report of the Hearing of the Senate Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws which contain references to Mr. Blanco. I also enclose copies of several issues of International Internal Discussion Bulletin, a publication of the Fourth International, which contain some comments on Mr. Blanco's current views.

In considering this case, we wish to point out that each year a relatively significant number of visa waivers are obtained for aliens identified as members of Communist organizations who wish to come to the United States for a temporary visit. Mr. Blanco is one of very few denied the benefits of a waiver of ineligibility. The decision was based on his overall record, particularly his record of violence.

Sincerely yours,
ROBERT J. MCCLOSKEY,
Assistant Secretary
for Congressional Relations.

POLITICS IN ARMY PROMOTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 10 minutes.

Mr. MEZVINSKY. Mr. Speaker, last week, on May 19, I published my letters to DOD Secretary Donald Rumsfeld demanding answers to allegations that an Army Reservist's promotion had been illegally blocked by former Secretary of the Army Callaway. In their column today, Jack Anderson and Les Whitten have outlined these charges and revealed the results of their own investigation. I share this with my colleagues:

ARMY SLEIGHT OF HAND

(By Jack Anderson and Les Whitten)

The Army slipped a military promotion list past President Ford last year without telling him it was engineered by cantankerous old Sen. Strom Thurmond (R-S.C.), as part of a personal vendetta.

The unwitting Ford let the dubious docufent go through even though three days earlier he had signed a legitimate promotion list and had ordered it sent to the Senate.

There is evidence that the President was the victim of some sleight of hand, involving fancy razor-blade work by the Army on presidential documents. Indeed, White House records may actually have been faked.

The Defense Department began an investigation of the bizarre case only to have it quietly quashed, say our sources. Military spokesmen deny any such quashing. The Justice Department also started an investigation that has gotten nowhere.

Thurmond has a strong whip hand over both the Army and Justice, it's worth noting, as a power on the Senate committees which oversee the two departments.

The events that led to the document tampering began as an exercise in Pentagon politics. A brilliant young lieutenant colonel, Wilfred Ebel, became a leading contender to head the 100,000-strong Reserve Officers Association.

Stern old Strom, a past president of the association, looked upon it as his private preserve. He fully intended to install his own protege, a lackluster World War II crony, Maj. Gen. Milnor Roberts, as the new president.

But the 44-year-old Ebel had an awesome record, complete with medals and citations for "tremendous service" and "personal integrity." His name was also one of 405 on a promotion list that had been drawn up by the Army's most respected officers. It had been approved by the Pentagon and, on Jan. 14, 1975, had been signed by President Ford. A Pentagon memo adds that Ford had "forwarded (it) to the Senate on 15 January 1975."

But a funny thing happened to Ebel's name on the way from the President's desk to Capitol Hill:

Thurmond forthwith directed an aide to call the Army and request, as a classified Army document attests, that Ebel's "nomination . . . . be held in abeyance."

And, although the President already had signed Ebel's promotion and had readied it for the Senate, the Army's irrepressible political boss, then-Secretary Howard "Bo" Callaway, sent Ford a new promotion list. Incredibly, Ebel's name had been cut out with a razor blade. Then the sheet had been xeroxed to make it look like Ebel's name had never been on the list at all. Our investigation has raised still other questions about the case.

For instance, the documents sent to the Senate are highly unorthodox. The final page of the new list is fine bond paper, with Gerald Ford's signature. But the sheets on top, one of which contains the xerox sheet with Ebel's name razored out, are all xerox paper. No other Army nomination papers are this mix of good bond and crude paper.

The possibility that Mr. Ford never actually signed the final promotion list but that his signature was attached to it is heightened by the fact that the bond paper nominations are prepared in St. Louis on a special typewriter. It is difficult to see how a new last page could have been typed up in three days in St. Louis and sent to the White House.

What appears to have happened, despite White House denials, is that the final page from the first list was used and the new list, excluding Ebel's name, was stapled on top. This would mean, according to Ebel's lawyer, former Pentagon Assistant General Council Frank Bartimo, that Mr. Ford never actually signed a list without Ebel's name on it.

H.R. 13655, "THE AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976" CAN HELP BREAK OUR DEPENDENCE ON FOREIGN OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, next Tuesday this body will have an opportunity to consider a bill which can lead to the replacement of gasoline as a motor vehicle fuel. The bill, H.R. 13655, the Automotive Transport Research and Development Act of 1976 is primarily a legislative program designed to develop more fuel efficient, and environmentally sound propulsion systems, or engines. However, the Administrator of the Energy Research and Development Administration is asked to investigate alternate fuels, as well as alternative engines, in the effort to reduce our massive consumption of petroleum in the transportation sector.

It is somewhat shocking to realize that the transportation sector uses nearly the same amount of petroleum per year as the United States imported last year. Every analysis of the U.S. energy picture comes to the same conclusion: If we are to reduce oil imports, we must drastically reduce the use of oil in the transportation sector.

Mr. Speaker, I know that there are other approaches to reducing our use of oil. Among them are price increases, import quotas, and fuel efficiency standards. While each of these proposals have merit, and each are implemented to some degree, they do not remove the need for a vigorous research, development and demonstration program. In fact, a good case can be made that without further research and development, the other approaches will only create hardships.

What could a research and development program accomplish? First of all, it could result, and our committee believes the chances of this are very good, in a radically different type of automobile engine which would have a 100-percent improvement in fuel economy over the present internal combustion engines. Second, it could result in the use of a new fuel, not derived from oil, which would completely remove the need for imported oil to fuel that vehicle. Third, it could result in a more competitive and diversified automobile industry. While this last result is not an assured thing, the other Committees of Congress could help make it happen while the 5-year research program established by the bill is proceeding.

In closing, I would strongly recommend to my colleagues the report, No. 94–1169, that accompanies H.R. 13655. There is much valuable information included, and it should remove any doubts that one might have about the need for this legislation. I urge your support next Tuesday.

LEGISLATION TO EFFECT CHANGES IN FARMERS HOME ADMINISTRATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

Mr. **HARKIN**. Mr. Speaker, today I have introduced legislation which makes several changes in the way Farmers Home Administration—FmHA—designates county committees. It changes the method of appeal for farmers denied FmHA assistance. It allows the Secretary of Agriculture to take emergency measures to speed the processing of loan applications in areas hit by a natural disaster.

After a study of the county committees system in FmHA, I concluded it was first of all riddled with politics, and second, often created needless delays and sometimes arbitrary decisions.

On February 4, 1976, I submitted testimony before the Subcommittee on Conservation and Credit of the Agriculture Committee on the question of designated attorneys and the need for a formalized procedures of appeals for individuals denied loans by the Farmers Home Administration. On March 18, 1976, I introduced legislation to eliminate the political spoils system involved with the designation of FmHA attorneys.

Today, I am introducing legislation to establish an appeal procedure for farmer and housing loans.

An appeal procedure is essential to the uniform operation of any program or enforcement of any law. Most county FmHA supervisors who must ultimately rule on these loan applications are competent, dedicated civil servants. However, because they are human, errors are made on these critical, life-and-death decisions. FmHA seems to be denying this fact with their present operating procedures. For this reason, my legislation mandates that county committees be elected in an identical manner with the election of ASCS county committees which have worked remarkably well over the years. A poll in the April 1976 issue of Successful Farming indicates that farmers feel that ASCS offices treat all requests for funds equally by a 3 to 1 margin. Hopefully, such grassroots democracy will insure a fair hearing for FmHA loan applicants at the county level.

My bill also establishes a five-member appeal board on the State level. I have attempted to obtain data regarding the nature and operation of the present administrative appeal procedure in Iowa. Specifically, on October 14, 1975, I requested from the Iowa State director of FmHA—

> * * * the total number of individuals (by county) who appealed to you as State director, and the number of these appeals which were overturned at the State level.

The response received in a letter of December 22, 1975, stated:

> Our records show only one appeal (Adair County) was made, and we concurred with the county supervisor and the county committee on that case.

Mr. Speaker, this would not be significant were it not for the many pleas for help from farmers which I received and referred to the State director requesting a review of the merits of the case. In testimony before the Subcommittee on Conservation and Credit in early February, Frank Elliott, Administrator of the Farmers Home Administration, stated that the Washington office never overturns the ruling of a FmHA county committee. Because of the stated refusal to overturn a local decision, and because of the apparent lack of a formal appeal procedure, my legislation mandates that all loan applicants who are denied Farmers Home assistance for farm or housing loans be informed in writing as to the reasons for denial and be informed of the right to appeal.

Mr. Speaker, during a time of natural disaster in farming communities, a large number of farmers are in need of emergency credit. Drought has occurred in my district over the past 2 years. Because of the increasing production costs tied up in a crop, denial of FmHA emergency assistance can often result in bankruptcy, especially now that a "credit elsewhere" is required under Public Law 94–68.

During the past few years, the expanded role of the Farmers Home Administration as the coordinator of a wide range of rural development programs has placed even greater burdens on the county supervisors. In many areas, an increased work load has resulted in a decline of attention to the regulations set out on the Federal level. Only through an appeal procedure, which is spelled out in my legislation, can uniformity be guaranteed.

My legislation would also allow greater administrative flexibility for the Department of Agriculture in processing Emergency Loan applications on the local level. After a major disaster such as flooding or drought, the demand for emergency credit skyrockets. Timely consideration of applications for assistance is important to the farmer who has debts on his crop and who must plan for the coming year's crop.

Therefore, to speed the application process, my legislation would allow the Secretary to utilize the ASCS county committee as well as the present FmHA county committee for the purposes of determining loan eligibility.

This provision combined with my earlier legislation, H.R. 12650, to increase the number of designated attorneys who conduct loan closings for Farmers Home Administration, will greatly speedup the processing of these loans.

Mr. Speaker, I would like to insert for the record an article which appeared in the Des Moines Register, on February 26, 1976, on page 1, dealing with the appointment of FmHA county committees. I think it clearly illustrates the need to make some fundamental changes in the county committee selection system:

PATRONAGE USED TO FILL FMHA PANELS IN IOWA—COUNTY UNIT MAKEUP BY PARTY IN POWER

(By George Anthan)

WASHINGTON, D.C.—The U.S. Farmers Home Administration (FmHA) political patronage system in Iowa extends to selection of county citizen committees, which check on the eligibility of prospective borrowers, officials said Thursday.

They said that since 1969, when the Nixon administration took office, most of the persons selected for the county committees have been Republicans. During the eight years of the Kennedy-Johnson administrations, they said, most, if not all, of those named were Democrats.

The three-member county committees certify that a person seeking to borrow FmHA money is eligible, that he has been turned down for conventional credit, that he can repay the loan and that he has adequate security.

AGENCY APPROVES LOANS

The citizen committee does not approve the loan. It makes recommendations to the FMHA's county, district and state offices. In all cases, FMHA officials said, final approval of a loan is left up to the agency itself.

FMHA officials and some former county committee members who were interviewed emphasized they knew of no cases where the prospective borrower's political beliefs had anything to do with whether he received the federal loan.

One former county committee member, a southwest Iowa Democrat, said "I just found it rather intriguing that in doing away with the spoils system, we still retained this remnant."

LAWYER SELECTION

The FMHA has been operating a political spoils system in selection of the lawyers it certifies as eligible to handle legal matters involving its loans to farmers and to middle and low income families in the state.

FMHA officials in Washington now have directed that the agency's Iowa office include all lawyers who apply on its list of designated attorneys. The lawyers will have to meet certain bonding requirements.

A Northwest Iowa Democrat who served on an FMHA county committee during the Johnson administration said, "The FMHA now has three farmers on the county board and they're all Republicans. The Democrats did the same thing. What happens is that the FMHA supervisor in each county makes it clear that members of the citizens board must be members of the party in power."

"IN HISTORY"

Iowa state FMHA Director Robert Pim said the patronage method of choosing county committee members "goes back into history."

Pim said the county board members receive $7 for each meeting they attend, and each unit meets about once a month. The members also receive $3 if they drive 25 miles or less to the meeting, $5 if they drive up to 50 miles and $7 if they drive more than 50 miles. Each member serves for three years.

Pim and FMHA county supervisors select three persons to fill each vacancy, then send the list to him. Pim said he usually selects the first name on the county supervisor's list. Several persons who are familiar with the system said the list in most cases is submitted to the Republican county central committee before being forwarded to Des Moines.

But Pim emphasized that FMHA regulations clearly state that no one who holds a political party office or who is active in party affairs may serve on the county board.

NATURAL GAS PRICES—A REASONABLE APPROACH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

Mr. WIRTH. Mr. Speaker, the question of natural gas pricing will again be before us—sometime in the next month or so—and in an attempt to move the debate to a workable ground, I today introduced H.R. 14046. A full description of this legislation appears today in Extensions of Remarks.

The thrust of the bill is simple: Over the next few years, energy prices must reach a more realistic level. But this rise in price cannot happen overnight. Consequently, we must find a reasonable way of obtaining this necessary—if painful—price rise.

I believe that H.R. 14046 provides the gradual approach that will reflect this new price realism, while providing incentives for exploration without undue cost to the consumer. It is clearly difficult to find the measure which will balance all of these interests—H.R. 14046 comes as close as anything I have seen. I commend the bill and its explanation to my colleagues.

SCHLESINGER ON THE MILITARY BALANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fascell) is recognized for 5 minutes.

Mr. FASCELL. Mr. Speaker, the current issue of Newsweek contains an important article by former Defense Secretary James Schlesinger on the military balance. The article succinctly summarizes Dr. Schlesinger's views on the major components of military strength which should be taken into account when comparing the relative positions of the United States and the Soviet Union. I commend the article to the attention of my colleagues:

[From Newsweek, May 31, 1976]

The Military Balance

(By James Schlesinger)

The current political debate should be welcomed, for it has focused public attention on the relative decline of America's military strength. As yet it has contributed little to public understanding either of the underlying rationale for our military posture or of specific vulnerabilities and remedies. In response to Governor Reagan's viewings-with-alarm, President Ford has provided the usual assurances that all remains for the best in the worlds. Yet, the question of who is No. 1 is both imprecise and misleading. To be sure, in certain categories (such as tactical air or mobility forces) the U.S. remains No. 1; in certain critical categories (notably offensive power around the Soviet periphery), it is certainly the Soviet Union.

The fundamental question transcends such comparisons. Which side has the greater confidence in performing its own, rather distinct, military mission? Even when we add to our own weight the substantial forces maintained by our allies, do we have adequate confidence in our military posture—or are we living with too high a level of risk? Given the disappearance of U.S. strategic superiority, the growing significance of conventional forces, and the adverse balance in those forces, the answer is less than reassuring.

OUR DEMANDING MISSION

Our military mission is complex and demanding, more so than that of the Soviet Union. The United States must be able to project its own power into the Eastern Hemisphere over distances of many thousands of miles—to support deterrence and defense structures protecting nations on the margins of the main power of the Soviet Union. By contrast, the basic Soviet military mission is far simpler: to maintain military dominance within the relatively compact land mass of the Soviet Union and its satellites—and to achieve a clear military advantage around the periphery, thereby posing a potential threat to all the adjacent states, whose allegiances it seeks to change.

By this standard none can take much reassurance in our over-all military posture. *Nowhere* on the Eurasian Continent is the Soviet position itself threatened by a local imbalance. In all sectors around the Periphery, the Soviets possess a clear edge, hopefully not decisive. Everywhere there exists serious vulnerabilities for the coalition of nations free (and unfree) led by the United States: on the flanks of NATO, in the Middle East, even in the central region of NATO. The underlying question remains how securely—or even how long—our position can survive, when we remain outclassed in these vulnerable areas of potential military tension.

LOCAL SOVIET DOMINANCE

Strategic forces, which receive a disproportionate share of attention, have historically been regarded as a panacea that could compensate for the severe deficit in conventional forces around the periphery of the Soviet Union. Any edge in strategic forces previously possessed by the United States has already disappeared or is in the process of disappearing. Whatever inhibiting effect on Soviet exploitation of local conventional superiority that earlier strategic edge provided has now been lost. Nuclear parity continues to provide some restraint, but it is a weakened one. Now that our nuclear advantage has disappeared, we are obliged closely to examine deficiencies in our general-purpose forces.

In light of our prior nuclear superiority, the U.S. and its allies have never attempted to match Soviet conventional capabilities. No one has yet suggested that U.S. ground forces are "second to none." Soviet ground combat forces exceed our own at least threefold. Soviet conventional offensive power directed toward the adjoining areas is disquieting and potentially destabilizing. Thus, the issue is more complex than the relative U.S.-Soviet balance, yet it can readily be posed. Even with the substantial diversion of Soviet forces to the Sino-Soviet border, even with the substantial help of the 2.5 million men our allies keep under arms, does the supplementary military strength contributed by the U.S. provide sufficient protection in the areas of potential tension—not Mexico or Canada, but Western Europe, the Middle East and Northeast Asia?

Two arguments have been put forward by the White House: (A) the United States remains "unmatched" and "unsurpassed," and (B) the Soviet Union requires superior forces to compensate for a severe threat from China. Argument (B) may be logically defensible, even though it disregards the grave risks of trying to shift much of the burden onto the Chinese, risks also overlooked by the defense critics who promote this argument. Moreover, it leaves unanswered one serious question: how much Soviet superiority around the periphery can we accept? But even if we were to accept (B), we find that it is logically irreconcilable with (A). For (B) rationalizes a Soviet superiority that (A) denies. It implies rejection of the view that the United States remains No. 1, and amounts to the proposition that Soviet problems are so large that the United States need not match Soviet military power.

SOOTHING WORDS

Ironically, the belief that the United States today remains "unsurpassed" and "unmatched" militarily also implies acceptance of the arugments of Defense-budget critics, such as Senator Proxmire and Congressman Aspin. Why should Congress not have cut $40 billion out of the Defense requests over the years—*if indeed we remain "unsurpassed" today?* If so, earlier Administration requests must have been larger than needed; thus, yesterday's Congressional cuts would apparently be justified.

Indeed, our supposedly "unmatched" status would also make our deep concern regarding the present Soviet arms buildup unwarranted—just as the Defense critics suggest. The Soviets would just seem to be attempting to "catch up." (They're No. 2 and must try harder.)

The Department of Defense continues to underscore the gravity of the Soviet threat. It has provided little support for the President's view that we remain unsurpassed. The best support DOD has been able to muster is to characterize the balance as "rough equivalence." That could be taken to mean that our ability to dominate the approaches to the Gulf of Mexico is a sufficient offset to a hypothetical Soviet ability to dominate the approaches to the Persian Gulf. Given the real-world asymmetries and the major differences in our security requirements, that would hardly be consoling.

SHORT DEMOCRATIC MEMORIES

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, last March 25 I had the occasion to share with you and our colleagues some observations about the redoubtable James A. Farley. Especially noted were his sage observations concerning the internal political operations of Democratic convention politics and the outlook for our party this fall. He continues to display those qualities of mind and human spirit which have been the bedrock of the 20th century social and economic reformation which we now carry forward.

The prominence of Jim Farley as the molder of much that we now take credit for as the Roosevelt legacy makes all the sadder the disregard which has been shown him by the party organization in New York State. During the selection of at-large delegates to the National Democratic Convention, the State Democratic committee had the opportunity to select from among hundreds of applications of men and women seeking to represent a candidate or uncommitted position at the convention. While there was understandable concern for the rights and representation of all groups, especially for the traditionally underrepresented groups, there seemed to be no regard for the quality of service which some delegates could bring to the distinction of their selection. It was particularly grievous to me that those who managed that selection process saw fit to bypass Jim Farley when it came time to name those who would represent the candidacy of Senator Henry Jackson, whom Jim Farley had endorsed.

I think it speaks well of Jim Farley that he caused no rancor, threw up no picket lines, called no denouncing press conference. Like the gentleman he has always been, he took the slight with a grace it did not deserve.

Nor am I alone in this regret that Jim Farley was not accorded the salute and respect which he so clearly merits as one of the senior statesmen of our party. I enclose the following editorial commentary for the further edification of our fellow Members in the hope that they, too, will decry this oversight.

Hopefully, Jim Farley will be with us on the platform in Madison Square Garden this July in a role which befits his deserved prominence.

The editorial referred to follows:

[From the Watertown (N.Y.) Daily Times, Apr. 27, 1976]

SHORT DEMOCRATIC MEMORIES

Were it not for his ebullience and his experience in the ways of politics, James A. Farley would have reason today to sense a certain bitterness. Now 87 years old, his career as a Democrat began at the age of eight when he first carried a torch in the "Bryan for President" parade in 1896. In 1912 he was the town clerk in Stony Point, and in 1918 he was a delegate to the state convention which nominated Alfred E. Smith for governor. He was a delegate to the presidential nominating convention held in New York City in 1924, and by 1928 he was secretary of the state Democratic committee, organizing Franklin D. Roosevelt's first campaign for the governorship.

As state chairman he put together the presidential nomination of Mr. Roosevelt in 1932, and served as the Roosevelt floor leader at the Chicago convention. Thereafter Mr. Farley was New York state chairman and national Democratic chairman. He was appointed postmaster general in 1933 and continued until after the 1940 nomination of President Roosevelt to a third term. He then resigned both his cabinet position and his national chairmanship. However, he continued on until 1944 as chairman in New York state.

In spite of credentials like this, his desire to be a delegate in 1976 at the first national convention in New York City since his first, in 1924, was rejected. Of all the 500 Democrats who had applied for one of the 68 at large seats, he is clearly the most prestigious and the most qualified. Except that his party seems to have forgotten about him.

Robust and active today, Mr. Farley possesses his old time mental agility and the physical strength which convention attendance requires. Unfortunately, almost two generations have moved into party politics and either never heard of him or had forgotten about the most successful chairman in modern party history.

He knows what time has done to him. He has lived in the Waldorf-Astoria for the last 35 years. Recently Senator Frank Church held a dinner in the hotel in behalf of his presidential candidacy. Always a gentleman, Mr. Farley decided to pay his respects to Senator Church. He went to the room where the Church activities were in progress. He handed his card to the young Secret Service agent on the presidential candidate detail. The former national chairman heard the young agent say to another agent, "Who the hell is Jim Farley? He wants to get in."

[From the Irish Echo, May 8, 1976]

VERY BAD TASTE

The action of the New York Democratic State Committee in refusing to name James A. Farley as a delegate to the party's national convention is in the worst possible taste. No one more deserved the honor and yet, Mr. Farley was turned down by the party's current leaders.

In a political climate where both major parties have been plagued by inept and dishonest men for too many years the snubbing of a man whose integrity and political knowledge are almost legendary is disgraceful.

The Democrats apparently have realized that they made a mistake and are going to offer the post of "honorary national chairman" to Mr. Farley. But, that does not overcome the fact that he should have been the first at-large delegate chosen by the New York leaders. Instead, he was not named at all. What a shame.

DAY CARE BILL: A VICTIM OF SCARE, DISTORTION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I would like to share with my colleagues an article which appeared in the Miami Herald, May 21, 1976, regarding a legislative proposal which would provide Federal aid for child and family service programs. For the last several months this proposal has generated strong opposition from parents, religious organizations, teachers, and Americans nationwide.

I hope this article will help dispel any misunderstanding and fear individuals may have regarding this legislation. I request permission to insert in its entirety at this point this article in the Record:

DAY CARE BILL: A VICTIM OF SCARE, DISTORTION

(By Phil Gailey)

WASHINGTON.—A few months ago, congressional offices were being flooded with thousands of letters every day from alarmed parents demanding the defeat of a proposed bill that would provide federal aid for child-care centers and other family services.

The parents were responding to an anonymous flyer, circulated in chain-letter fashion, warning that the Child and Family Services Act would lead to a "Soviet-style system of communal child rearing" and destroy parental authority over youngsters.

Although the hysteria appears to have subsided, congressmen and senators still receive hundreds of letters daily from angry and disturbed parents who have not bothered to read the bill, which is totally misrepresented in the anonymous flyers.

One of the bill's chief sponsors, Sen. Walter Mondale (D., Minn.), calls the campaign "one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

The Mondale bill is a revised version of legislation approved in 1971 by Congress but vetoed by then-President Nixon. It would provide federal grants to states, cities, counties, school boards and other local units that set up comprehensive day-care programs for the children of working or low-income parents.

Although no one knows for sure, the flyers appear to be part of a well-orchestrated campaign against the bill by right-wing political organizations and certain church and religious school interests, who fear that stricter and more expensive federal standards for day-care services could threaten their own day-care operations.

There is a hot congressional debate raging over the federal standards that should apply to day-care centers and over the range of services these centers should provide, and the bill's sponsors concede that the legislation has no chance of passage this year.

But not one of the bill's opponents in Congress has suggested that it smacks of the Communist plot described in the anonymous flyers.

"I've heard accusations that this bill will do everything from destroying the basic family unit to indoctrinating pre-schoolers with a Communist-atheist philosophy," said one congressman who opposes the Mondale bill.

"These charges are all patently false. A careful examination of the proposed legislation shows there is absolutely no substance to these accusations."

The principal document thousands of Americans are accepting as gospel is a two-page, unsigned mimeographed flyer entitled, "Raising Children—Government's or Parent's Right?"

It asserts that the Mondale bill "would take the responsibility of the parents to raise their children and give it to the government."

The propaganda sheet then tries to back up that sweeping statement by quoting from the Congressional Record, but without identifying the source of the material cited or the date it appeared.

For example, it states flatly, and falsely, that a "Charter of Children's Rights"—proposed but never adopted in Great Britain—has been incorporated into the Mondale bill.

It then proceeds to quote from this charter, adding generous embellishments and explanations of its own.

"All children have the right to protection from, and compensation for, the consequences of any inadequacies in their homes and backgrounds," the flyer quotes the charter as saying.

Then it adds, "In other words, never punish your child because he may come back on you with a civil suit."

Another charter excerpt: "Children have the right to protection from an excessive claims made on them by their parents or authority."

The flyer interprets this to mean that "if the mother or father asked the child to take the garbage out and the child doesn't want to, the parents have no right to insist on it."

It quotes again from the non-existent charter: "Children have the right to freedom from religious or political indoctrination."

For parents who wonder what that means, the flyer explains: "That means that you have no right to insist on taking them to church, if they do not wish to go. This also means that they have freedom to insist that they be taught nothing, nor any ideas, about God."

If that isn't enough to turn parents upside down, it adds, "This also means the parent could be reported (by his child) to authorities for expressing himself in his own home before his own children regarding politics and religion."

In summarizing the bill's threat to the American family, these scare pamphlets again purport to quote directly from the Congressional Record: "As a matter of the child's right, the government shall exert control over the family because . . . we cannot trust the family to prepare young children in this country for this new kind of world which is emerging."

The incredible thing, in the view of many congressmen and senators, is that this total fabrication has been accepted as fact by so many Americans, including ministers, school officials, radio stations and newspaper columnists.

After extensive research, supporters of the Mondale bill have traced the quotations from the Congressional Record cited by the anonymous flyers back to the 1971 Senate debate on a similar bill vetoed by Nixon.

They discovered that the quotations were taken from extraneous material inserted into the Record by Sen. Carl Curtis (R., Neb.)—none of which had anything to do with the bill under consideration in 1971, much less the Mondale proposal.

Curtis inserted the material quoted by the anonymous flyers into the Record in a 1971 Senate debate over an anti-poverty bill that included child-care provisions.

He was as surprised as anyone when some of the quotes turned up in the propaganda sheets opposing the Mondale bill.

In response to the scare campaign, Mondale has issued an itemized rebuttal to the charges and added language to the bill to assert that:

Participation in the day-care program would be purely voluntary.

Policies for running each program would be set by local councils, half of whose members would have to be parents of the children enrolled in the centers.

The bill contains a strict and specific ban against any council or government interference with "the moral and legal rights and responsibilities of parents."

Despite the explanations, the mail in opposition to the languishing bill continues. Individuals, church groups, school officials and others are still writing letters to Congress repeating the inaccuracies and untruths expressed in the flyers.

SYNTHETIC FUEL SUBSIDY: BIG BAILOUT FOR FEW BARRELS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I would like to bring to the attention of all the Members of the House the wise analysis of the synthetic fuel loan guarantee program, H.R. 12112, by Katherine Fletcher, staff scientist for the Denver Environmental Trust Fund, presented before the House Science and Technology Committee on April 13, 1976:

The Administration's synthetic fuels program which would be launched by H.R. 12112 is based on a lengthy Task Force report prepared about a year ago for the President's Energy Resource Council. Although this study is frequently mentioned by Administration spokespeople, some of its more salient conclusions are not. Of particular importance are the following points made in the Task Force report:

"1. The energy supply from synthetic fuels will be "negligible." Hence, the usual references to independence from foreign oil, protection from another embargo, and improvements in our balance of payments situation do *not* justify a synthetic fuels subsidy program.

"2. The costs to the nation of *any* of the synthetic fuels subsidy program options considered by the Task Force (350,000 barrels per day, 1 million barrels per day, 1.7 million barrels per day) *exceed the benefits*."

In addition to these conclusions in the Task Force, it must now be recognized that the report was overly optimistic. For example, the Task Force used a projected end price of shale oil of $14 per barrel. Yet the most recent estimate made available puts the price at $21.70 per barrel. Even with the optimistic price estimates used in the Task Force report, the projected Treasury outlays were very large. Based on their calculations, the total federal *outlay* for a 350,000 barrel per day program, using all of the subsidies they recommend, could reach $15 billion, using $20 as the per barrel price of synfuels.

In the face of these conclusions, together with the obvious adverse impacts of synthetic fuels development, it is incomprehensible that the Congress, together with the Ford Administration, would willingly dedicate billions of taxpayers' dollars with the ultimate effect only of assisting the major energy companies to profit from otherwise uneconomic ventures.

The energy industry is asking the taxpayer to absorb the "risk" associated with the production of synthetic fuels, in other words, to insure that an obviously uneconomic venture is profitable. In an economic system where profits are usually the reward for gauging and accepting risks and participating in competition, this request for tax moneys is extraordinary. These same companies are all too quick to resist controls and regulations which interfere with "free enterprise," such as price controls, or which would require responsible resource development, such as the vetoed federal strip mine bill.

WHAT IS H.R. 12112 DESIGNED TO TEST?

In designing any test or experiment, elementary scientific procedure dictates that it be determined at the outset which questions must be answered. Experiment design then proceeds to insure that the necessary answers, with sufficient accuracy, will result from the test.

We frankly are not sure at this point what questions H.R. 12112 is designed to answer. In evaluating the legislation and the testimony presented to this Committee, it is difficult to determine whether this guaranteed loan proposal is intended to provide answers to technical feasibility questions, environmental questions, social impact questions, economic feasibility questions, regulatory questions, all of these, some of these, or none of these. This confusion as to the purpose of the program is a critical point, for various possible goals would have entirely contradictory experimental designs. A program designed to test technology would be entirely different from a program designed to analyze regulatory processes. It is important to sort these questions out, because the types of information needed (*if* needed) for each type of question varies a great deal. For example, questions of technical feasibility relate to research and development, not commercialization. Yet some say that this "commercialization" program is designed to answer technical feasibility questions. As another example, questions of social impact relate to readily apparent phenomena in such towns as Gillette, Wyoming, Rock Springs, Wyoming, and Craig, Colorado. "Answers" to socio-economic impact "questions" would more properly be found by coping with the problems in the existing boom towns rather than creating new ones.

In scrutinizing testimony presented to this Committee by other witnesses, it is apparent that confusion about the purposes of H.R. 12112 is rather widespread. For example, Dr. Seamans of ERDA feels that H.R. 12112 is intended to address *all* the questions we named, without indicating which are more important than others:

"In my view the reason for this commercial synthetic program is to move out into a sufficiently large scale operation that we get into the real world problems of the environment, of socio-economic impact, of the resource requirements, the water requirements, the kinds of individuals required, the kinds of labor and the kind of engineering, that we get into the various regulatory aspects which are bound to occur in these different forms of energy."

Yet Governor Lamm of Colorado seems to be under the impression that it is the technical question about synfuels production and processing which are to be answered by H.R. 12112. Thus, he interprets the legislation, at least with respect to oil shale, as calling for "modules," rather than "commercial-scale" plans. Dr. Seamans, in turn, finds the "modular" approach unacceptable.

We raise the question of *what* is H.R. 12112 intended to demonstrate, because we think that the explanation given thus far either misconstrue the nature of the legislation, or provide justifications for proceeding which are not borne out by the information available. Those who feel that the purpose for the guaranteed loan program is to demonstrate technical feasibility must be unaware of the rather extensive demonstrations world-wide of the coal gasification and oil shale technologies; those who see the program as a means to demonstrate the "real-world" problems of boom towns and environmental degradation must be unaware of the extensive information and similar situations in this country on which we can base reasonable predictions of what the problems will be. None of us in the western states will be guinea pigs for projects with as many predictable adverse effects or oil shale and coal gasification projects which would be funded by H.R. 12112.

Normally we think about preserving environmental and community quality by minimizing predictable adverse effects, rather than forcing a project to proceed so that the adverse effects can be observed.

We agree that there may be some questions to be answered about synthetic fuels development. But the main one is economic—and a program designed to remove this development from the traditional constraints of free enterprise will hardly make an uneconomical project economic, except *for* the energy company beneficiary.

If ERDA is truly unaware of the "real-world" problems Dr. Seamans lists, then we would suggest that *no* community in this country be subjected to the large-scale experiments this bill is designed to finance. It would be grossly irresponsible to sponsor projects about which so little is known. On the other hand, if ERDA is aware of the copious amounts of information available on impacts, resource requirements, etc., then it is very cynical to justify this program on the basis of fabricated "reasons."

THE BAIL-OUT

We feel that we *do* understand why this subsidy program is being proposed: Several energy companies, including some of the largest energy corporations in the world, have invested their money in synthetic fuels technologies. They have recognized that commercial scale development cannot withstand the corporate and banker test of profitability, and each of these corporations has better places to spend their *own* money. Apparently, such stringent priority-setting does not apply to the spending of taxpayers' money.

The Congressional Budget Office agrees that the key barrier to commercialization is unprofitability:

"In summary unprofitability appears to be the major factor preventing private investment in synthetic fuel development."

We therefore must conclude that this subsidy program is not a sophisticated experiment formulated in the pursuit of knowledge; it is actually nothing more than a bail-out for the corporations who would like to see their initial investments in synthetic fuel resources and technology pay off for them.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goodling) to revise and extend their remarks and include extraneous matter:)

Mr. Don H. Clausen, for 20 minutes, today.

Mr. Whalen, for 30 minutes, today.

(The following Members (at the request of Mr. Sharp) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Long of Louisiana, for 5 minutes, today.

Mr. Staggers, for 5 minutes, today.

Mr. Koch, for 10 minutes, today.

Mr. Mezvinsky, for 10 minutes, today.

Mr. Brown of California, for 5 minutes, today.

Mr. Harkin, for 5 minutes, today.

Mr. Wirth, for 5 minutes, today.

Mr. Murtha, for 30 minutes, on June 2, 1976.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Goodling), and to include extraneous matter:)

Mr. Dickinson in two instances.

Mr. Wiggins.

Mr. McClory.

Mr. Lent in two instances.

Mr. Ruppe.

Mr. Skubitz in three instances.

Mr. McCloskey.

Mr. Whitehurst.

(The following Members (at the request of Mr. Sharp), and to include extraneous matter:)

Mr. Wirth in two instances.

Ms. Holtzman in 10 instances.

Mr. Anderson of California in three instances.

Mr. Teague.

Mr. Gonzalez in three instances.

Mr. Fascell.

Mr. Fithian in two instances.

Mr. Carney in two instances.

Mr. Biaggi in 10 instances.

Mr. Wolff.

Mr. Harrington.

Mr. Rangel.

Mrs. Keys.

Mr. Waxman.

Mr. Pepper.

Mr. Harris.

Mr. Ottinger.

Mr. Traxler.

Mr. Maguire.

Mr. LaFalce.

Mr. Baldus.

Mr. McDonald of Georgia.

Mr. Beard of Rhode Island.

Mr. McCormack in two instances.

Mr. James V. Stanton.

Ms. Abzug.

Mr. Perkins.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On May 26, 1976:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority; and

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

On May 27, 1976:

H.R. 9630. An act to extend the Educational Broadcasting Facilities Program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

ADJOURNMENT

Mr. SHARP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 53 minutes p.m.), pursuant to the provisions of House Concurrent Resolution 646, 94th Congress, the House adjourned until Tuesday, June 1, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3392. A letter from the Chairman, Cost Accounting Standards Board, transmitting a proposed cost accounting standard entitled "Part 414—Cost of Money as an Element of the Cost of Facilities Capital," pursuant to section 719(h) (3) of the Defense Production Act of 1950, as amended; to the Committee on Banking, Currency and Housing.

3393. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report on the renewal of the District's 14th Street Corridor, pursuant to section 736(b) (3) of Public Law 93–198; to the Committee on the District of Columbia.

3394. A letter from the Librarian of Congress, transmitting the annual report of the Library of Congress, including the Copyright Office and the Library of Congress Trust Fund Board, pursuant to sections 139 and 163 of title 2, United States Code; to the Committee on House Administration.

3395. A letter from the vice president for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of February 1976, pursuant to section 308 (a) (1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

Received From the Comptroller General

3396. A letter from the Comptroller General of the United States, transmitting a report on the allocation of revenue sharing funds to Indian tribes and Alaskan Native villages; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 13615. A bill to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes; (Rept. No. 94–1152, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Supplemental report on H.R. 13367. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; (Rept. No. 94–1165, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 13367. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; (Rept. No. 94–1165, Pt. III). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3055. A bill to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes; with amendment (Rept. No. 94–1200). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8911. A bill to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits; with amendment (Rept. No. 94–1201). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WIRTH:

H.R. 14046. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BRINKLEY (for himself, Mr. Young of Alaska, Mr. Bonker, Mr. Howard, Mr. Mitchell of New York, Mr. Duncan of Tennessee, Mr. Allen, Mr. Ullman, Mrs. Spellman, Mr. Beard of Tennessee, and Mr. Nichols):

H.R. 14047. A bill to amend the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by local civil defense agencies for natural disaster relief, and for other purposes; to the Committee on Armed Services.

By Mr. BURKE of Massachusetts:

H.R. 14048. A bill to extend until July 1, 1979, the duty-free treatment on copying lathes used for making rough or finished shoe lasts; to the Committee on Ways and Means.

By Mr. COCHRAN:

H.R. 14049. A bill to amend title XVIII of the Social Security Act to permit optometrists to provide services that are covered under the medicare program and are within their license; to the Committee on Ways and Means.

By Mr. COHEN (for himself and Mr. Grassley):

H.R. 14050. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives for the modification of certain facilities and vehicles so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Rangel, Mr. Stark, Mr. Lehman, Mr. Lundine, and Mr. Bedell):

H.R. 14051. A bill to amend the Internal Revenue Code of 1954 to deny certain benefits to taxpayers who participate in or cooperate with the boycott of Israel; to the Committee on Ways and Means.

By Mr. COUGHLIN (for himself and Mr. Schneebeli):

H.R. 14052. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT (for himself, Mr. Scheuer, and Mr. Vigorito):

H.R. 14053. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNING of Virginia:

H.R. 14054. A bill to extinguish Federal court jurisdiction over school attendance; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Ms. Abzug, Ms. Chisholm, Mr. Harrington, Mr. LaFalce, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Roybal, Mr. Seiberling, Mr. Stark, Mr. Waxman, and Mr. Wolff):

H.R. 14055. A bill to amend chapters 5 and 7 of title 5 of the United States Code to provide for the award of reasonable attorney fees, expert witness expenses, and other costs reasonably incurred in proceedings before Federal agencies, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Indiana:

H.R. 14056. A bill to amend title 39, United States Code, to require Members and Members-elect of the House of Representatives to provide that such Members and Members-elect may not make any mass mailings less than 60 days before a primary or general election; to the Committee on Post Office and Civil Service.

By Mr. FARY:

H.R. 14057. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorization for a 3-year period; to the Committee on Public Works and Transportation.

By Mr. FISH (for himself and Mr. Ryan):

H.R. 14058. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. HARKIN:

H.R. 14059. A bill to amend sections 332 and 333 of the Consolidated Farm and Rural Development Act and section 504 of the Housing Act of 1949 to provide an appeal procedure for certain individuals denied assistance under those acts, and for other purposes; jointly, to the Committees on Agriculture, and Banking, Currency and Housing.

By Mr. HARRINGTON:

H.R. 14060. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRIS (for himself, Mr. Neal, Ms. Spellman, Mr. Brodhead, Mr. Hanley, Mr. Simon, Mr. Mineta, Mr. Jenrette, Mr. Clay, Mr. White, Mr. Fisher, Mr. Solarz, Mr. Lehman, and Ms. Schroeder):

H.R. 14061. A bill to amend title 5, United States Code, to increase the membership of the Civil Service Commission from three to five, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. HECKLER of Massachusetts:

H.R. 14062. A bill to amend title 38, United States Code, to extend, in the case of certain veterans, the delimiting period for completing programs of education from 10 years to 12 years, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JONES of Alabama:

H.R. 14063. A bill to amend the Atomic Energy Act of 1954 to require bonds from persons requesting hearings with respect to operating licenses; to the Joint Committee on Atomic Energy.

By Mr. KAZEN:

H.R. 14064. A bill to authorize the establishment of the San Antonio Missions National Historical Park in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOCH (for himself and Mr. Neal):

H.R. 14065. A bill to amend part B of title XVIII of the Social Security Act to broaden the coverage of home health services under the supplementary medical insurance program and remove the 100-visit limitation presently applicable thereto, and to eliminate the requirement that an individual need skilled nursing care in order to qualify for such services, to amend part A of such title to liberalize the coverage of posthospital home health services thereunder, to amend title XIX of such act to require the inclusion of home health services in a State's medicaid program and to permit payments of housing costs under such a program for elderly persons who would otherwise require nursing home care, to require contributions by adult children toward their parents' nursing and home health care expenses under the medicaid program, to provide expanded Federal funding for congregate housing for the displaced and the elderly, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. Anderson of California, Mr. Biaggi, Mr. Blouin, Mr. Carney, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Downey of New York, Mr. Fascell, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Lehman, Mr. Matsunaga, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rooney, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14066. A bill to amend part B of title XVIII of the Social Security Act to broaden the coverage of home health services under the supplementary medical insurance program and remove the 100-visit limitation presently applicable thereto, and to eliminate the requirement that an individual need skilled nursing care in order to qualify for such services, to amend part A of such title to liberalize the coverage of posthospital home health services thereunder, to amend title XIX of such act to require the inclusion of home health services in a State's medicaid program and to permit payments of housing costs under such a program for elderly persons who would otherwise require nursing home care, to require contributions by adult children toward their parents' nursing home and health care expenses under the medicaid program, to provide expanded Federal funding for congregate housing for the displaced and the elderly, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MOAKLEY (for himself, Mr. Baucus, Mr. D'Amours, Mr. Edwards of California, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Johnson of California, Mrs. Meyner, Mrs. Mink, Mr. Mitchell of New York, Mr. Patterson of California, Mr. Rees, and Mr. Won Pat):

H.R. 14067. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit and to allow a deduction with respect to expenditures for residential solar energy equipment; to the Committee on Ways and Means.

By Mr. MOSS:

H.R. 14068. A bill to create a comprehensive Federal system for determining the ownership of and amount of compensation to be paid for inventions made by employed persons; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. Krueger, Mr. Brown of Ohio, Mr. Rooney, Mr. Devine, Mr. Satterfield, Mr. Broyhill, Mr. Stuckey, Mr. Skubitz, Mr. Preyer, Mr. Collins of Texas, Mr. Metcalfe, Mr. Frey, Mr. Byron, Mr. McCollister, Mr. Santini, Mr. Madigan, Mr. Moorhead of California, and Mr. Moore):

H.R. 14069. A bill to assure the availability of adequate supplies of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. O'HARA (for himself, Mr. Perkins, Mr. Quie, Mr. Eshleman, Mr. Brademas, Mr. Biaggi, Mr. Andrews, of North Carolina, Mr. Blouin, Mr. Thompson, Mr. Mottl, Mr. Hawkins, Mr. Benitez, Mr. Simon, Mr. Hall, and Mr. Buchanan):

H.R. 14070. A bill to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

Mr. ROONEY (for himself, Mr. Perkins, Mr. Pepper, Mr. Carter, Mr. Breckinridge, Mr. Thompson, Mr. Mazzoli, Mr. Chappell, and Mr. Snyder):

H.R. 14071. A bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 14072. A bill to amend title XVIII of the Social Security Act to include prescription drugs, hearing aids and eyeglasses (and related examinations), and dentures among the items and services for which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 14073. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) and the act of June 4, 1897 (30 Stat. 35); to the Committee on Agriculture.

H.R. 14074. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WINN (for himself and Mr. WON PAT):

H.J. Res. 968. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days commencing on April 30 of each year as National Beta Sigma Phi Week"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO:

H. Con. Res. 647. Concurrent resolution recognizing and providing for a Bicentennial Salute; to the Committee on Post Office and Civil Service.

By Mr. DOWNEY of New York:

H. Res. 1223. Resolution expressing the sense of the House concerning the closure or suspension or reduction of operations of post offices; to the Committee on Post Office and Civil Service.

By Mr. PIKE:

H. Res. 1224. Resolution to establish a Standing Committee on the House on Intelligence, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GRASSLEY introduced a bill (H.R. 14075) for the relief of Tulsedei Zalim, which was referred to the Committee on the Judiciary.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of May 26, 1976, page 15540:

HOUSE BILLS

H.R. 13600. May 6, 1976. Veterans' Affairs. Changes the authority of the Administrator of Veterans' Affairs with regard to expenditures to correct structural defects in dwellings securing loans guaranteed or insured by the Administrator.

H.R. 13601. May 6, 1976. Interstate and Foreign Commerce. Amends the Rail Passenger Service Act to authorize appropriations to carry out the provisions of such Act. Authorizes the National Railroad Passenger Corporation to employ security guards. Places specified limitations on the awarding of incentive payment contracts under such Act. Exempts local public bodies which provide rail mass transportation services from the Interstate Commerce Act under specified conditions.

H.R. 13602. May 6, 1976. Judiciary. Prescribes penalties for the unauthorized disclosure of classified information. Enumerates defenses available to an individual charged with such offense, including: (1) prior official disclosure; (2) unlawful classification and the exhaustion of available declassification procedures; and (3) the absence of a process for reviewing the continuing necessity for the classification.

H.R. 13603. May 6, 1976. Science and Technology. Establishes a Federal Council on Earthquage Research, Prediction, and Control. Directs such council to develop a comprehensive plan and program of necessary Federal research on earthquakes and related natural occurrences. Lists specific projects which must be included within the comprehensive plan and program.

Establishes a National Earthquake Prediction, Preparedness, and Coordination Council. Directs such Council to develop a comprehensive plan and program for earthquake prediction, preparedness, and coordination. Requires that such plan and program include specified projects, including an earthquake prediction system for areas of high seismic risk.

H.R. 13604. May 6, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13605. May 6, 1976. Judiciary. Establishes procedures for the application, approval, and extension of orders authorizing the use of electronic surveillance for foreign intelligence purposes. Permits the Attorney General to authorize emergency employment of such surveillance for 24 hours in the absence of a judicial order.

Requires the Chief Justice of the United States to designate seven district court judges to hear applications for, and grant orders approving, electronic surveillance within the United States.

H.R. 13606. May 6, 1976. Ways and Means. Amends the Tariff Act of 1930 to exempt private vessels and aircraft entering or departing the United States at night or on Sunday or a holiday from required payment to the United States for overtime services of customs officers and employees.

Prohibits imposition of any such charge upon the owner, operator, or agent of such private aircraft or vessel for the services of officers and employees of (1) the Immigration and Naturalization Service, (2) the Public Health Service, or (3) the Department of Agriculture.

H.R. 13607. May 6, 1976. Government Operations; Rules. Abolishes within three years of the enactment of this Act, or three years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 13608. May 6, 1976. Armed Services. Makes it unlawful for any individual or entity to solicit or enroll any member of the Armed Forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join, any labor organization. Sets forth penalties for violations of this Act.

H.R. 13609. May 6, 1976. Ways and Means. Amends the Internal Revenue Code to eliminate in the case of taxpayers over age 65 the one percent floor on the deduction for medicine and drugs, and the three percent floor on the deduction for medical expenses.

H.R. 13610. May 6, 1976. Ways and Means. Amends the Social Security Act to include, as a home health service in the Medicare program, nutritional counseling provided by or under the supervision of a registered dietitian.

H.R. 13611. May 6, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13612. May 6, 1976. Government Operations; Rules. Establishes a pilot demonstration program of termination and review to cover all Federal agencies. Terminates specified agencies on specified dates and provides that such agencies may be reestablished for a period not to exceed six years only after Congress has conducted public hearings to evaluate such agency.

H.R. 13613. May 6, 1976. Agriculture. Establishes a food stamp program for the United States. Prohibits the distribution of Federal surplus foods in areas where a food stamp program is in operation.

Sets forth standards of eligibility for participation in such program.

Establishes the value of a food stamp allotment as the cost of an eligible household of a nutritionally adequate diet. Requires an eligible household to pay 27.5 percent of its income for its coupon allotment.

Promulgates requirements for State agencies conducting the State food stamp program.

Establishes criminal procedures for fraudulent activities connected with the program.

H.R. 13614. May 6, 1976. Banking, Currency and Housing. Increases the amount authorized to be appropriated under the Housing Act of 1959 for the loans for housing for the elderly and handicapped program.

H.R. 13615. May 6, 1976. Armed Services; Appropriations. Amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to stipulate that any Act which expands the benefits under such retirement system is deemed to authorize appropriations to meet such increased costs. Revises the eligibility provision of such Act with respect to survivor's annuities for spouses and children. Increases the annuity payable from the Central Intelligence Agency Retirement and Disability Fund to annuitants and surviving spouses of annuitants which is based on a separation occurring prior to October 20, 1969.

H.R. 13616. May 6, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant licenses and license renewals for five year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be, located.

Requires the Commission to examine its broadcast license renewal process to determine how the process can be simplified.

H.R. 13617. May 6, 1976. Post Office and Civil Service. Requires the United States Postal Service to hold a public hearing prior to closing any post office.

Lists factors which the Postal Service must consider and evaluate in making a determination with respect to any such closing.

H.R. 13618. May 6, 1976. Interior and Insular Affairs; International Relations. Amends the Trans-Alaska Pipeline Authorization Act and the Mineral Leasing Act of 1920 to direct the President to develop a plan for an equitable system of transportation, allocation, and distribution of Alaskan petroleum resources to all areas of the United States.

H.R. 13619. May 6, 1976. Ways and Means. Provides, under the Emergency Jobs and Unemployment Assistance Act of 1974, that an individual who performs services for an educational institution or agency shall not be eligible to receive Federal unemployment assistance benefits during period between academic years or terms.

H.R. 13620. May 6, 1976. Ways and Means. Amends the Old-Age, Survivors, and Disability Insurance program of the Social Security Act to entitle widows and widowers who are under a disability to receive unreduced widow's and widower's benefits without regard to age.

H.R. 13621. May 6, 1976. Interstate and Foreign Commerce. Extends appropriations for emergency medical service systems under the Public Health Service Act. Authorizes the Secretary of Health, Education, and Welfare to conduct and support programs related to the treatment and rehabilitation of individuals injured by burns.

H.R. 13622. May 6, 1976. Government Operations. Amends the Budget and Accounting Act, 1921, to require that all departmental budget requests made to the Office of Management and Budget with respect to any fiscal year be submitted to the Congress along with the President's budget for such year. Requires officials requested by the appropriate committees of the Congress, to testify before such committees on the President's budget and on such departmental budget requests.

H.R. 13623. May 6, 1976. Education and Labor. Provides for the establishment and operation of bilingual service, employment, and redevelopment centers to provide manpower training, job placement and development, counseling, remedial education, and other related services designed to assist disadvantaged Spanish-speaking persons who are unemployed or underemployed.

H.R. 13624. May 6, 1976. Education and Labor. Provides, under the Occupational Safety and Health Act of 1970, that whenever an employer's failure to comply with any provision of that Act or any State requirement relating to industrial safety causes or contributes to an accident resulting in bodily injury, no provision of any workers' compensation law or similar statute shall be construed to bar an action at law for contribution, indemnification, or other relief against the employer by a person alleged liable for such injury.

H.R. 13625. May 6, 1976. Ways and Means. Allows a tax credit, under the Internal Revenue Code, for a percentage of the expenses incurred by the taxpayer for employment training expenses of employees enrolled in apprenticeship programs or cooperative education programs or job-related programs of education.

H.R. 13626. May 6, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize free or reduced rate transportation for handicapped persons and persons attending such individuals and for persons who are 65 years of age or older. Amends the Interstate Commerce Act to authorize free or reduced rate transportation by railroad for persons who are 65 years of age or older.

H.R. 13627. May 6, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States arising from transferral of their dwelling to a dwelling owned by a certain non-profit housing corporation in expectation of certain relocation assistance.

H.R. 13628. May 6, 1976. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 13629. May 6, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13630. May 7, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the medicare supplementary medical insurance program.

SENATE—*Thursday, May 27, 1976*

The Senate met at 11 a.m. and was called to order by Hon. John C. Culver, a Senator from the State of Iowa.

PRAYER

The Reverend Edgar J. Mundinger, pastor, Christ Lutheran Church of Washington, offered the following prayer:

In the name of the Father and of the Son and of the Holy Spirit. Amen.

Almighty God, all hearts are open to You and all desires known, and from You no secrets are hid. We come into Your presence dependent upon Your mercies. Have mercy upon us and upon these United States of America. We thank You for Your goodness to us as a deliberative body and praise You for the unceasing blessings You shower upon our land. We pray for divine guidance upon our individual and corporate efforts on behalf of our country and for the wholesome impact of our office here, at home, and in the world. Help us to think and plan and work together for the continued well-being of our Nation. Give us a steady sense of justice and fair dealing and a determination to seek the good of all of our citizens.

And because this day worshipers of the Lord Jesus Christ acclaim Him as King of Kings and Lord of Lords as He ascends to accept the rule over heaven and Earth, cause us all to acknowledge Thy divine sovereignty and to confess with confident faith: With God we shall do valiantly. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., *May 27, 1976.*

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. John C. Culver, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. CULVER thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 26, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 873, 874, and 875.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS ACT AMENDMENTS—COMMON CARRIER TARIFF PROCEEDINGS

The Senate proceeded to consider the bill (S. 2054) to amend sections 203 and 204 of the Communications Act of 1934, which had been reported from the Committee on Commerce with amendments as follows:

On page 1, line 3, strike out "Section 203 (b) of the Communication Act of 1934 (47 U.S.C. 203(b)) is amended by deleting "thirty" and inserting in lieu thereof "ninety"."; and insert "Section 203(b) of the Communications Act of 1934 (47 U.S.C. 203(b)) is amended to read as follows:

"(b) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after 90 days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe; but the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified or modify the requirements made by or under authority of this section either in particular instances or by a general order applicable to special circumstances or conditions".";

On page 2, line 21, strike "nine" and insert "5";

On page 3, line 14, strike "The" and insert:

"At any hearing involving a charge increased, or sought to be increased, the burden of proof to show that the increased charge, or proposed increased charge, is just and reasonable shall be upon the carrier, and the;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 203(b) of the Communications Act of 1934 (47 U.S.C. 203(b)) is amended to read as follows:

"(b) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after 90 days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe; but the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified or modify the requirements made by or under authority of this section either in particular instances or by a general order applicable to special circumstances or conditions.".

Sec. 2. Section 204 of the Communications Act of 1934 (47 U.S.C. 204), is amended to read as follows:

"Sec. 204. (a) Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof; and pending such hearing and the decision thereon the Commission, upon delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such charge, classification, regulation, or practice, in whole or in part but not for a longer period than 5 months beyond the time when it would otherwise go into effect; and after full hearing the Commission may make such order with reference thereto as would be proper in a proceeding initiated after such charge, classification, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of the suspension, the proposed new or revised charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed charge for a new service or an increased charge, the Commission may by order require the interested carrier or carriers to keep accurate account of all amounts received by reason of such charge for a new service or increased charge, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such charge for a new service or increased charges as by its decision shall be found not justified. At any hearing involving a charge increased, or sought to be increased, the burden of proof to show that the increased charge, or proposed increased charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Commission may allow part of a charge, classification, regulation, or practice, to go into effect, based upon a written showing by the carrier or carriers affected, and an opportunity for written comment thereon by affected persons, that such partial authorization is just, fair, and reasonable. Additionally, or in combination with a partial authorization, the Commission, upon a similar showing, may allow all or part of a charge, classification, regulation, or practice to go into effect on a temporary basis pending further order of the Commission. Authorizations of temporary new or increased charges may include an accounting order of the type provided for in subsection (a).".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–918), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

SUMMARY AND PURPOSE OF LEGISLATION

S. 2054 was introduced July 8, 1975 by Senators Magnuson and Pearson at the request of the Federal Communications Commission (FCC).

As reported by the Committee, S. 2054 would:

(1) Amend section 203(b) of the Communications Act of 1934 to extend from 30 to 90 days the period of notice required before a new or revised common carrier tariff may become effective; and

(2) Amend section 204 of the Act:

(*a*) To extend from 3 to 5 months the period for which the Commission may suspend the effectiveness of new or revised tariff schedules:

(*b*) To authorize the Commission to conduct a preliminary written proceeding to determine whether a tariff filing should become effective or be suspended in whole or in part pending hearing and decision thereon; or whether temporary authorization of a tariff filing should be permitted; and

(*c*) To provide that accounting order procedures shall be applicable to tariff filings proposing charges for a new service, as well as increased charges for existing services.

NEED FOR LEGISLATION

Amendment of section 203(b)—Tariff notice period

Subsection 203(b) of the Communications Act presently provides that no change shall be made in common carrier tariff charges, classifications, regulations or practices which have been filed with the FCC except after 30 days notice to the Commission and the public. The Commission may, however, modify this notice requirement if particular circumstances so warrant.

In requesting this legislation, the FCC has submitted that the current 30-day notice period is inadequate for the agency to review a tariff filing fully and effectively. After compliance with the FCC's procedural rules, the existing 30-day notice period leaves the Commission with only 4 to 6 days, including weekends and holidays, to review the tariff filing, the submission of interested parties, and to reach a decision on whether or not to suspend the tariff.[1]

In the Committee's judgment, the extension of the section 203(b) notice period from 30 to 90 days, as proposed by S. 2054, is essential for the FCC to meet its tariff review responsibilities consistent with the demands of due process. Given the complexity and detail of contemporary common carrier tariff filings, the existing 30-day notice period is unrealistic and no longer serves the public interest. Current tariff filings are often thousands of pages in length and may take up to 6 months for a carrier to prepare. Neither the Commission nor interested parties can be expected to review and analyze such filings within the constraints of the existing 30-day notice period.

As discussed below, S. 2054, as reported by the Committee, would authorize the FCC to conduct a preliminary written proceeding on a tariff filing and based thereon grant partial or temporary tariff changes pending full hearing on the lawfulness of the filing. Extension of the notice period to 90 days is also necessary for effective FCC utilization of this new authority as additional time will be required for the Commission to determine in the case of a particular tariff filing whether a temporary or partial change should be approved.

While judicial construction of existing subsection 203(b) has affirmed the Commission's authority to "modify" the notice requirement to 60 days in the case of tariff increases,[2] the Committee is of the view that the notice period should be established by statute for all tariff changes rather than left to agency discretion and litigation. As discussed below, the bill, as reported, would specifically provide that the authority of the Commission to modify the requirement of section 203 does not include extending the notice period to more than 90 days.

Amendment of section 204

Tariff Suspension Period.—Section 204 of the Communications Act presently provides that the Commission, upon complaint or upon its own initiative, may designate a tariff filing for hearing on its lawfulness, and, pending such hearing, suspend the operation of the tariff for a period of not longer than 3 months beyond the time when it would otherwise go into effect. If the hearing process is not concluded at the end of the suspension period, the tariff becomes effective. Where an increased rate is at issue, the Commission may require a carrier to account for all funds received under the increase following the suspension period, and may order refunds with interest as may be appropriate upon conclusion of the hearing.

In requesting an extension of the suspension period, the FCC has submitted that it is impossible for it to conclude a tariff proceeding within the existing 3 month statutory limit. In this regard, the Commission has observed that section 204 was enacted in an era when regulated common carrier communications were less complex and the demands made upon the agency's hearing process were considerably lighter.

Under the Administrative Procedure Act (APA), the Commission is required to give notice (generally 30 days by administrative interpretation) of the time and place of the hearing. Following the close of hearings and prior to issuance of an initial decision, the APA requires that parties be given "reasonable opportunity" to file exceptions to proposed findings of facts and conclusions or "reasonable opportunity" to file exceptions to an initial decision. The Commission's procedural rules provide a 20-day period for the filing of proposed findings of fact and conclusions after the close of the hearing record. This 20-day period is generally inadequate and must be extended. The FCC rules also provide a 30-day period for the filing of exceptions to an initial decision, and this period is often extended at the request of the parties. Beyond these due process requirements, time is required for the Commission to hold the hearing itself and to prepare a reasoned decision which is subject to judicial review.

Given these time demands and procedural constraints, the Commission cannot realistically be expected to complete a tariff hearing within the existing 3-month statutory suspension period. As a result, most tariff filings, some involving revenue increases amounting to several hundred million dollars annually, go into effect before hearings on their lawfulness are concluded. In this regard, the imposition of an accounting and refund order is an imperfect protection against rate increases which may ultimately be held unlawful. Consumers lose the use of their money during the time such increased rates are in effect, and the accounting and refund procedures entail considerable expense and administrative burden to the carriers.

In addition, many tariff proceedings involve new or reduced rates where the issue presented is whether an unlawful discrimination or preference exists. The accounting and refund provisions, being applicable only in rate increase situations, afford no protection or remedy against new or reduced rates which are ultimately found to be unlawful but have become effective at the end of the suspension period before a decision can be reached. In such cases, users may have made substantial changes in their communications operations based on the new or reduced rate schedule, and may experience serious dislocations should the schedule be finally

---

Footnotes at end of article.

declared unlawful and hence void. An extension of the suspension period would enable the Commission to minimize these effects.

The Committee, for these reasons, believes that a longer suspension period is clearly justified as necessary for the Commission to keep pace with its regulatory responsibilities. As discussed below, however, the Committee is of the view that an extension of the suspension period to 5 months, rather than the 9 months requested by the FCC, is appropriate and has adopted an amendment to S. 2054 accordingly.

Partial or Temporary Tariff Approval.—Existing section 204 does not specifically authorize the Commission to separate questionable from legitimate aspects of a tariff filing prior to hearing and thus does not permit the Commission to suspend the former tariff elements and allow immediate implementation of the latter. The Commission is also without authority to permit a temporary tariff change. As a result, legitimate changes must await hearing on questionable aspects of the tariff and an unnecessary regulatory delay is created.

S. 2054 would amend section 204 to allow the Commission to make a preliminary judgment as to whether a tariff filing should become effective or be suspended in whole or in part pending hearing. In particular, new section 204(b) would enable the Commission to permit part of a tariff filing to go into effect based upon a written showing by the affected carrier or carriers, with opportunity for written comment by affected persons, that such partial authoriaztion is just, fair, and reasonable. The new provisions would also enable the Commission, upon a similar written showing, to allow all or part of a tariff filing to become effective on a temporary basis subject to further Commission orders.

In the Committee's judgment, this new authority to approve temporary or partial tariff changes will provide the Commission with the flexibility needed to mitigate unnecessary effects of regulatory delay which presently attend the hearing and suspension process.[3] In this regard, the Committee notes that the Commission has stated its intention to reach decisions pursuant to this new authority within the extended 90-day notice period proposed by this legislation. The Committee fully expects the Commission to be able to do so.

Accounting and Refund Orders.—Existing section 204 authorizes the Commission to impose accounting and refund orders only in cases of tariffs involving increased charges. S. 2054 would amend section 204 to provide that the Commission may also issue accounting and refund orders in connection with tariffs involving charges for a new service.

Under the existing law, customers of a new service are unprotected against charges which become effective and are later found to be unlawfully excessive. The accounting and refund procedures should be available to the Commission to close this gap in remedy.

As amended by S. 2054, section 204 would authorize the FCC to impose accounting and refund orders in connection with new or increased charges which go into effect either pursuant to a temporary authorization or upon the expiration of a period of suspension.

COMMITTEE HEARINGS

Hearings on S. 2054 were held before the Subcommittee on Communications on September 17, 1975.

Testifying at the hearings were the Federal Communications Commission, MCI Telecommunications Corp., Continental Telephone Corp., United Telecommunications, Inc., and American Telephone and Telegraph Co. (AT&T).

Written submissions were also received from other common carriers and users of telecommunications services.

The Committee has fully considered all testimony and submissions in recommending enactment of the legislation here reported.

COMMITTEE AMENDMENTS

Length of extended suspension period

During the course of the hearings, the Committee received comments on S. 2054 from the Office of Telecommunications Policy (OTP) which endorsed extending the notice period from 30 to 90 days and providing the FCC with partial or temporary tariff approval authority, but opposed extension of the suspension period to 9 months as it would result in "regulatory lag."[4]

At the suggestion of the Communications Subcommittee Chairman, the FCC and the OTP further discussed the legislation and by letters informed the Committee that a maximum suspension period of 5 months would meet earlier objections.[5]

The Committee believes that an extension of the section 204 suspension period from 3 to 5 months is appropriate and has adopted an amendment to S. 2054 accordingly.

In the Committee's judgment, such an extension strikes a necessary and reasonable balance between two competing considerations.

On the one hand, the carriers should not be subjected to inordinately long suspension periods which may deny them the timely implementation of increased charges made necessary by increased costs.

On the other hand, fairness to the ratepaying public and basic principles of administrative justice require that the regulatory agency be afforded a reasonable opportunity to pass upon increased charges and other tariff changes before they become effective. In view of the complexity of current tariff filings and the requirements of due process, as detailed above, the present 3-month substantial period is clearly an inadequate time frame for the Commission to make substantial progress, let alone conclude a tariff proceeding. Extending the suspension period to 5 months should remedy this procedural inadequacy.[6]

Although in many cases it has taken the Commission years, rather than months, to conclude its tariff proceedings, several administrative reforms may make 5 months a reasonable target period for completion of proceedings in the future. The Commission is in the process of streamlining its tariff hearing procedures and decision-making, as well as increasing staff assigned to major rate matters. The agency is also engaging in discussions with the principal carriers for the purpose of developing methods of obtaining service cost data more expeditiously.

The Committee emphasizes that a 2-month extension of the maximum suspension period should not result in unnecessary "regulatory lag" in view of the Commission's authority to approve justified partial or temporary tariff increases based upon an expedited written proceeding to be conducted during the 90-day notice period. The Committee believes that both the carriers and the ratepaying public will benefit from this procedure.

Maximum notice period

The Committee has adopted an amendment to S. 2054 which would provide that the 90-day notice period under section 203(b) may be shortened by the Commission where appropriate but may not be lengthened. This amendment reflects the Committee's judgment that a notice period of 90 days should be the maximum necessary for the Commission to complete its initial revew of a tariff filing. In this regard, the Commission has indicated to the Committee that a full 90-day notice period will not be required in all cases, and that the maximum notice will be applied only where there is a compelling reason to do so.

This amendment would work no other change in existing law.

Burden of proof

As introduced and referred to the Committee, S. 2054 would have deleted the provision of existing section 204 which states that the burden of proof is on the carrier to prove the legitimacy of increased charges. In proposing this deletion, the FCC submitted that this provision is superfluous in view of section 556(d) of the subsequently-enacted Administrative Procedure Act which states that except as otherwise provided by statute, the proponent of a rule or order has the burden of proof.

The Committee has adopted a technical amendment retaining the existing burden of proof provision in new section 203(a) for purposes of clarity, certainty, and convenience.

S. 2054, as reported, also contains certain technical conforming amendments which do not affect the substance of the legislation.

CONCLUSION

In the Committee's judgment, S. 2054, as reported, will provide the FCC with the flexibility needed to meet its regulatory responsibilities and to do equity to both carriers and the consumer public.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 203(b) of the Communications Act of 1934 (47 U.S.C. 203(b)) is amended to extend from 30 to 90 days the period of notice required before a tariff may be changed, and to provide that the Commission may allow tariff changes upon less (but not more) than 90 days' notice.

Section 204 of the Act (47 U.S.C. 204) is in effect redesignated section 204(a) and is amended to extend from 3 to 5 months the period during which the Commission may suspend the operation of a tariff filing in whole or in part pending hearing on the lawfulness thereof. Other minor language changes in the subsection clarify that the provisions of the subsection are applicable to new, as well as revised, charges, classifications, regulations or practices. The accounting and refund order provisions of the subsection are made specifically applicable to charges for a new service, as well as increased charges. The subsection substantially retains the provision of existing section 204 which specifies that in any hearing involving an increased charge or proposed increase the burden of proof shall be upon the carrier to show that the increased charge or proposed increase is just and reasonable.

A new subsection 204(b) is added, providing that notwithstanding the provisions of subsection (a), the Commission may allow part of a charge, classification, regulation, or practice, to go into effect, based upon a written showing by the carrier or carriers affected, and an opportunity for written comment thereon by affected persons, that such partial authorization is just, fair, and reasonable. The new subsection (b) also provides that additionally, or in combination with a partial authorization, the Commission, upon a similar showing, may allow all or part of a charge, classification, regulation, or practice to go into effect on a temporary basis pending further order of the Commission. The subsection further provides that authorizations of temporary new or increased charges may include an accounting order of the type provided for in subsection (a).

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970, the

Committee estimates that no additional costs will accrue to the government as a consequence of the legislation. The Committee is not aware of any estimate by any government agency to the contrary.

FOOTNOTES

[1] FCC procedural rules provide that petitions for suspension of a tariff filing may be submitted as late as 14 days before the effective date of the tariff. (See 47 C.F.R. 1.773 (b)). The carrier filing the opposed tariff then has 3 days to the file or reply: however, this filing period is often extended to 8 to 10 days due to the complexity of the submissions and the bona fide need for additional time. (See 47 C.F.R. 1.4 (f) and (g) which permit additional time where short filing periods are involved.)

[2] AT&T v. FCC, 503 F. 2d 612 (2d Cir. 1974).

[3] The Committee notes that these new provisions substantially embody the recommendation of the Administrative Conference of the United States. See *Administrative Conference of the United States Annual Report* (1972). p. 64. Recommendation #724, Suspension and Negotiation of Rate Proposals by Federal Regulatory Agencies.

[4] The letter from OTP, dated September 17, 1975, is included in the Agency Comments section of this report (*infra*).

[5] The FCC and OTP letters, dated January 26, 1976 and March 22, 1976 respectively, are included in the Agency Comments section of this report (*infra*).

[6] Other Federal regulatory agencies dealing with utilities or carriers have statutory suspension periods ranging from 5 to 7 months; Civil Aeronautics Board—6 months (49 U.S.C. 1482(g)); Federal Maritime Commission—3 months (46 U.S.C. 845); Federal Power Commission—5 months (15 U.S.C. 717c(e) (Power); 16 U.S.C. 824d(e) (Natural Gas)); Interstate Commerce Commission—7 months (49 U.S.C. 15(7)).

Three States (Hawaii, Kansas, Ohio) have indefinite suspension authority, while four States (Georgia, South Dakota, Wyoming, Texas) have no suspension power at all. The other States have suspension periods ranging from 90 days (Arkansas, Tennessee) to 12 months (Iowa, Virginia).

AGENCY COMMENTS

OFFICE OF
TELECOMMUNICATIONS POLICY,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., September 17, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Office of Telecommunications Policy on S. 2054, proposed legislation to amend Sections 203 and 204 of the Communications Act of 1934. This bill would:

(1) extend from thirty days to ninety days the period of notice required before a tariff may be changed;

(2) extend from three months to nine months the period during which the Federal Communications Commission may suspend new or revised tariff schedules;

(3) authorize the Commission to conduct preliminary written proceedings to determine whether a tariff filing should become effective in whole or in part pending a hearing and decision on the lawfulness thereof, or whether temporary authorization of a tariff filing should be permitted.

To summarize our position, we believe that statutory amendments to extend the notice period to ninety days and to enable the Commission to grant partial or temporary authorization of tariff changes are appropriate and desirable. However, we are skeptical, for the reasons discussed herein, about extending the statutory tariff suspension period from three months to nine months.

EXTENSION OF NOTICE PERIOD

Section 203(b) of the Communications Act presently prohibits carriers from making tariff changes except after thirty days notice to the Commission and the public. The same section provides that the Commission "may, in its discretion and for good cause shown, modify [the notice requirement] in particular instances or by a general order applicable to special circumstances or conditions."

In the past, the Commission has found that the thirty day notice period was insufficient in cases involving tariff increases. Such filings generally draw considerable opposition, and the Commission was unable within the thirty day period to review the tariff filing, together with the contentions of parties opposing it, and to reach a decision on whether or not to suspend it and order a hearing. The Commission therefore has modified its rules to require that all tariffs involving increased rates be filed on sixty days notice. 47 C.F.R. § 61.58 (1973). This modification was challenged shortly after its adoption on the sole ground that it was beyond the Commission's statutory authority as set forth in the above-quoted language. The court disagreed, however, noting that the authority to "modify" included the power to lengthen as well as shorten the notice period. *AT&T* v. *FCC*, 503 F.2d 612 (2d Cir. 1974).

The proposed legislation would extend the notice period to ninety days for *all* tariff changes. The Commission notes in its Explanation of Proposed Amendments introduced with the bill (121 Cong. Rec. 11965, daily ed. July 8, 1975) that such an extension is "particularly necessary to facilitate effective utilization of the Commission's power to authorize temporary or partial tariff changes," proposed in Section 2(b) of the bill. We agree. As we discuss later, we believe that the proposed authority to grant partial or temporary rate changes pending a full inquiry by the Commission is a necessary and appropriate measure, and that the Commission will need additional time to make the requisite determinations prior to authorizing a temporary or partial change.

We do note that there may be a question concerning the necessity of a statutory amendment to achieve this objective. In view of the judicial construction of the Commission's existing power to modify the notice period, it would appear that the Commission could extend the period to ninety days without new statutory authority, and that it could do so for all tariff changes, decreases as well as increases, assuming it could show "good cause" for lengthening the period. Nevertheless, given the previous challenge to the Commission's prior exercise of its authority to modify the notice period, it is advisable, on balance, to seek an explicit statutory change and thereby avoid protracted litigation.

SUSPENSION PERIOD

The Communications Act provides generally that tariff changes go into effect automatically at the end of the requisite notice period unless the Commission takes affirmative action to the contrary. Section 204 of the Act authorizes the Commission to designate a tariff filing for hearing and, pending completion of such hearing, to suspend the operation of the tariff for a period not longer than three months beyond the time when it would otherwise take effect. If the hearing process is not completed by the expiration of the suspension period, the tariff automatically takes effect, and, in the case of an increase in rates, the Commission may require a carrier to account for all funds received pursuant to the new tariff. Upon completion of the hearing, the Commission may order refunds with interest if the tariff, or a portion thereof, is found to be unlawful.

The Commission states in its "Explanation," *supra*, that it has been unable to conclude tariff hearings prior to the expiration of the present three month suspension period, and that a longer suspension time is therefore necessary. A longer suspension period, according to the Commission, will reduce the amount of time during which consumers are without the use of their money and simplify the accounting burden borne by the carriers.

In assessing the merits of the proposed legislation, it is appropriate to address the rationale behind the present suspension provisions of the Act. The statutory limit on the duration of a tariff suspension represents a Congressional recognition of the economic harm to carriers resultings from lost revenues during the time it takes a regulatory agency to decide the lawfulness of a tariff change. This has been recognized by the courts on numerous occasions. The Court of Appeals for the Second Circuit, for example, has pointed out that the statutory scheme "reflects the realization of Congress that when a carrier is prevented from placing in effect new rate increases it may suffer irreparable loss which in turn may impede the provision of adequate service during a period of rising costs." *American Telephone and Telegraph Co.* v. *FCC*, 487 F. 2d 864 (2d Cir. 1973). Similarly, the Supreme Court, in discussing the limited suspension authority granted to the Federal Power Commission, stated:

"Business reality demands that natural gas companies should not be precluded by law from increasing the prices of their product whenever that is the economically necessary means of keeping the intake and outgo of their revenues in proper balance; otherwise procurement of the vast sums necessary for the maintenance and expansion of their systems through equity and debt financing would become most difficut, if not impossible." *United Gas Pipeline Co.* v. *Memphis Gas Division*, 358 U.S. 103, 113 (1968).

The Congress has also recognized, however, that when a new tariff goes into effect prior to a determination of its lawfulness, rate-prayers should be made whole if the tariff is ultimately found unlawful. Thus, in *United States* v. *S.C.R.A.P.*, 412 US. 669 (1973), the Supreme Court noted in connection with the Interstate Commerce Commission's authority to suspend rate increases that:

". . . Congress was aware that if the Commission did not act within the suspension period, then the new rates would automatically go into effect and the shippers would have to pay increased rates that might eventually be found unlawful. To mitigate this loss, Congress authorized the Commission to require the carriers to keep detailed accounts and eventually to repay the increased rates if found unlawful." 412 U.S. at 697.

The Act is thus on attempt to balance the interests between rate-payers and carriers with regard to tariff increases. We are sympathetic with this legislative proposal to lengthen the suspension period to nine months so as to reduce the amount of time during which rate-payers would be deprived of the use of their money. But we are mindful that the proposal would also increase the amount of time during which carriers would be precluded from receiving increased revenues under new rates. As a matter of equity in this regard, it is significant that even if the new rates were ultimately found lawful after completion of a hearing, the carrier would be unable to recover the revenues which it would have received but for the suspension, whereas customers have the benefits of the refund provisions if the rates are found unlawful.

The adverse effects of "regulator lag," i.e., the delay between the time when increased costs occur and the time when they can be reflected in higher tariffs, can be significant, particularly in an inflationary period. If a carrier is prohibited for an extended period of time from instituting tariff increases to cover rising costs, its ability to attract capital, whether debt or equity, could be impaired, with a consequent and adverse impart on the provision of adequate service to its customers. The adverse effects of regulatory lag on the electric utilities, for example, was the genesis of the Administration's recent proposal to reform state regulatory processes by imposing a maximum limit of five months for rate and service proceedings. See White House Fact Sheet, p. 39, January 15, 1975.

The Commission has also stated that a longer suspension period is needed for situations involving tariffs for new services or reduced rates, in which case the accounting and refund provisions of § 204 are not applicable. The Commisison notes that customers may make major changes in their operations based on the availability of rate schedules ultimately found to be unduly preferential or discriminatory, and that an order directing cancellation of the unlawful rate schedule would cause serious dislocations. The proposed nine month suspension period would, in the Commission's view, minimize this problem.

Tariffs for reduced rates or new services have often been the result of competitive pressures on the established carriers in various communications submarkets. It has been recognized that long delays in the implementation of tariffs for new services and lower rates can also have an adverse impact on carriers. As the Court states in ***AT&T* v. *FCC*,** *supra*, "the loss sustained when an agency delays a rate reduction can be equally as damaging, for during the delay customers may turn elsewhere and be permanently lost to the carrier." 487 F. 2d, *supra*, at n. 18.

On the other hand, if such a tariff were ultimately found unlawful, customers who might encounter "dislocations" as a result of an order directing cancellation of the rate or service would have no remedy comparable to the refund provisions available in the case of an unlawful increase. Similarly, no remedy would be available to competitors of the carrier who may have suffered a loss of customers who were attracted to the carrier's new services or lower rates. In view of these considerations, lengthening the suspension period for only those tariff changes involving new services or reduced rates may be an acceptable alternative.

In any event, we believe that there should be an increased emphasis on completing tariff proceedings as expeditiously as possible. In this regard, we note that the Commission, in its "Explanation" accompanying the bill, states that 'improvements in procedures, together with expanded staff assigned to rate matters should shorten the time between tariff filing and decisions in hearing cases." In addition, the Commission refers to discussions it has had with carriers regarding the development of more expeditious methods of obtaining cost information relating to the various services. We applaud these measures and would encourage the Commission to pursue these and similar steps designed to expedite the tariff investigative process.

PARTIAL AND TEMPORARY RATE INCREASES

The proposed legislation would also amend § 204 to permit the Commission to authorize temporary or partial tariff changes. This change is generally consistent with the 1972 recommendation of the Administrative Conference that regulatory statutes should be amended, to the extent that existing authority is lacking, to authorize temporary and partial rate increases.

We believe that statutory authority to grant partial increases, as an adjunct to authority to suspend a proposed increase in full or allow it to go into effect without suspension, would mitigate somewhat the adverse effects of "regulatory lag" on carriers. Such authority is particularly appropriate given that, in many cases, an ultimate determination of the unlawfulness of a tariff increase goes to only part of the increase, rather than the entire tariff change.

We do note, that the language of the proposed amendment is somewhat unclear. The report of the Administrative Conference states that temporary increases should be authorized "only when the agency makes a preliminary judgment, on the basis of a written showing by the regulated company and an opportunity for comment thereon by affected persons, that a proposed increase is justifiable at least in part." (See Report of the Administrative Conference of the United States for 1971–72 at p. 86, emphasis added.) The language of the proposed amendment differs from this recommendation, in certain respects. The amendment, for example, eliminates the "preliminary judgment" aspects of the Administrative Conference recommendation, and the proposed standard of "just, fair, and reasonable" is somewhat ambiguous. We suggest that a more precise standard be developed, lest the deliberations regarding a partial or temporary authorization become as protracted as an overall rate inquiry.

The Office of Management and Budget advises that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

JOHN EGER,
Acting Director.

FEDERAL COMMUNICATIONS
COMMISSION,
Washington, D.C., January 25, 1976.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment upon the letter submitted by the Office of Telecommunications Policy concerning S. 2054, a bill to amend sections 203 and 204 of the Communications Act of 1934.

Essentially, OTP supports as appropriate and desirable the provisions of S. 2054 to extend the notice period to ninety days and to enable the Commission to grant partial or temporary authorizations of tariffs. It expressed concern, however, that the proposed nine-month suspension period is too long and might result in greater regulatory delay than presently exists.

The period of nine months was chosen because it was felt that during such a period the Commission could realistically come to a conclusion on the lawfulness of a tariff. However, as I testified, there is nothing sacred about the period of nine months.

We have discussed this matter with OTP. While the Commission would prefer the nine-month suspension period. We believe an extension of the present three-month period to five months would be helpful and in the public interest. I understand OTP agrees that the five-month period would meet their earlier objections.

I trust that, with such change, you will be in a position to move promptly in enacting S. 2054.

If further information is needed, I would welcome the opportunity to provide it.

Sincerely,

RICHARD E. WILEY,
Chairman.

OFFICE OF TELECOMMUNICATIONS POLICY EXECUTIVE
OFFICE OF THE PRESIDENT,
Washington, D.C., March 22, 1976.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am advised that Chairman Wiley of the Federal Communications Commission has informed you of discussions between his staff and this Office regarding the objections to S. 2054, a bill to amend Sections 203 and 204 of the Communications Act of 1934, set forth in my September 17, 1975 letter to Senator Magnuson. Briefly stated, those objections centered around the proposed extension of the tariff suspension period to nine months and the consequent adverse effects of lengthtening the delay between the time when increased costs occur and the time when they can be reflected in higher tariffs.

For reasons I stated in my letter to Senator Magnuson, the adverse impact of such "regulatory lag" on the financial structure of a carrier can be significant, and can result ultimately in inadequate service to the public. We are still not convinced that the present three month suspension period is inadequate in cases of proposed tariff increases. However, we do believe that the adverse effects of the extended delay originally suggested by the FCC would be reduced significantly by limiting the proposed extension of the suspension period to five months.

Accordingly, the Office of Telecommunications Policy would not object to an extension of the suspension period of Section 204 of the Act to five months. The Office of Management and Budget has no objection to the submission of this letter.

Sincerely,

JOHN EGER,
Acting Director.

FEDERAL COMMUNICATIONS
COMMISSION,
Washington, D.C., May 11, 1976.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to your request for the Commission's views on a proposed Committee amendment to S. 2054 which, in extending the notice period from 30 days to 90 days, makes clear that the Commission may allow changes in tariffs on less than 90 days notice but not more than 90 days notice. This clarification is consistent with the Commission's intent in seeking the 90-day notice period and we support the Committee's amendment.

Thank you for the opportunity to present our views.

Sincerely,

RICHARD E. WILEY,
Chairman.

COMMUNICATIONS ACT AMENDMENT—TRANSLATOR BROADCAST STATION OPERATIONS

The bill (S. 2847) to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation—FM—radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations, was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (3) of the first proviso of section 318 of the Communications Act of 1934 (47 U.S.C. 318) is amended—

(1) by striking out "solely" and inserting in lieu thereof "primarily", and

(2) by striking out "television".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–919), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY AND PURPOSE OF THE LEGISLATION

S. 2847 was introduced January 19, 1976 by Senators Magnuson and Pearson by request of the Federal Communications Commission (FCC).

Section 318 of the Communications Act of 1934 presently requires a licensed operator for all broadcast stations except those "engaged solely in the function of rebroadcasting the signals of television broadcast stations" (clause (3) of the first proviso). This provision excepts television broadcast translators—both VHF and UHF—from the licensed operator requirement provided no material is originated on the translator.

S. 247 would amend section 318 by deleting the word "television" from the above-quoted clause, thereby allowing the FCC to authorize unattended FM broadcast translator operation in the same manner now permitted for television broadcast translators.

S. 2847 would also amend section 318 by deleting the word "solely" from the above-quoted clause and substituting the word "primarily" thereby enabling the FCC to authorize translator broadcast stations to originate limited amounts of local programming.

BACKGROUND AND NEED FOR LEGISLATION

Translator stations are low-power broadcasting stations which receive the incoming signals of a television or FM radio station, amplify the incoming signals, convert—or "translate"—them to a different output frequency, and retransmit the signals to the community or area to be served. Translators have been utilized in areas of the country where, because of terrain or extreme distances, it is not possible to receive the signals of originating television or FM radio stations directly off-the-air. They have developed as a simple and relatively inexpensive means of making broadcast service available to small, sparsely populated communities where demand for television and FM radio is great and financial resources are meager. In such areas, translators often provide local residents with their only source of television or FM radio reception. The following table indicates the distribution of translators operating in the United States:

	UHF television translators	VHF television translators	FM translators
Alabama	5	0	0
Alaska	4	125	1
Arizona	53	80	5
Arkansas	4	3	
California	103	155	14
Colorado	76	296	21
Connecticut	4	0	1
Delaware	0	0	
District of Columbia	0	0	
Florida	10	0	
Georgia	10	0	1
Hawaii	20	4	2
Idaho	25	92	8
Illinois	4	1	
Indiana	2	0	
Iowa	23	6	3
Kansas	9	24	2
Kentucky	5	25	
Louisiana	0	2	
Maine	2	9	
Maryland	2	12	3
Massachusetts	0	1	
Michigan	14	8	3
Minnesota	62	11	4
Mississippi	1	2	
Missouri	9	8	1
Montana	32	263	13
Nebraska	27	46	1
Nevada	51	107	8
New Hampshire	2	4	
New Jersey	0	0	
New Mexico	59	125	1
New York	81	17	
North Carolina	6	47	
North Dakota	1	36	
Ohio	3	0	
Oklahoma	14	11	
Oregon	88	146	4
Pennsylvania	39	7	1
Rhode Island	1	0	
South Carolina	1	5	
South Dakota	7	40	
Tennessee	2	12	
Texas	80	30	
Utah	63	246	52
Vermont	6	3	
Virginia	40	7	4
Washington	56	158	9
West Virginia	8	2	1
Wisconsin	7	0	6
Wyoming	15	138	15
Total	1,149	2,325	184
Puerto Rico	6	6	
Guam	4		
Virgin Islands	1		
Canal Zone	0		

Translator operations have been financed in various ways. Primary broadcast stations have constructed translators to expand the coverage of their signals. In some instances, appliance dealers, hoping to create a market for television sets, sponsored or substantially contributed to the construction of translator stations. In most cases, however, the installations are cooperatively financed. Contributions are solicited throughout the community or memberships may be sold in a television or FM radio club in order to finance the facility. In this regard, several State legislatures have enacted laws to assist in financing television translator operation and maintenance.[1] Direct community support is usually needed because the vast majority of translators do not generate revenue from their operations.

Unattended FM translator operation

To assist in making translators economically viable, Congress in 1960 amended section 318 of the Communications Act of 1934 to enable the FCC to permit television translator stations to operate without a licensed operator.[2] So amended, section 318 precludes Commission waiver or modification of the operator requirement for "stations engaged in broadcasting (*other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations*) * * *" (Language of the 1960 amendment in italic.)

At the time this amendment was enacted, the only translator facilities in operation were those which rebroadcast the signals of television broadcasting stations. As a result of technological advancements over the past decade, FM radio translator stations have become feasible, and in 1970 the FCC modified its rules to authorize their construction and operation.[3]

In adopting the FM translator rules, the FCC stated:

"Section 318 of the Communications Act requires that the operation of every broadcast station, with the specific exception of television broadcast stations engaged solely in rebroadcasting, be placed in charge of a licensed operator. The Commission cannot, of course, waive this statutory requirement, although we are now preparing a proposal for submission to Congress to amend the statute to allow a similar exception for FM translators. Until Congress changes the law, a licensed radio-telephone operator is required." [4]

S. 2847 would extend the exception for unattended television translator operation to FM translators. Technical developments now enable FM translators to operate free of interference to other radio services without a licensed operator on duty. The Committee believes that section 318 should reflect this advanced technology by excepting FM translators from the licensed operator requirement. In the Committee's judgment, this action is necessary to make FM translator service economically viable in underserved and sparsely populated areas of the country. Given the existing exception for unattended television translator operation, the Committee perceives no reason for refusing to extend this exception to FM translators.

Limited local origination

The FCC has construed section 318 as limiting translators to rebroadcasting the signals of primary television and FM stations without any significant alteration of the characteristics of the incoming signals. In a 1968 rulemaking proceeding, the Commission interpreted section 318 to allow UHF translators to originate 20 seconds of commercial advertising per hour, limited to slide announcements,[5] and in 1975 this permissible commercial origination was expanded to 30 seconds per hour.[6] No program origination whatsoever has been allowed.

The FCC has stated that as a result of the above construction of section 318, translator stations are not self-supporting and must depend on public generosity to sustain their operations. The Commission has also noted that the prohibition on program origination in many instances deprives those people dependent on translator service of their only potential source of local programming, such as emergency alerts and coverage of local political and other news events. The FCC has therefore requested this legislation to allow the Commission to authorize limited amounts of local origination by translator stations. S. 2847 would accomplish this result by substituting the word "primarily" for "solely" in clause (3) of the first proviso of section 318.

In requesting this legislation, the FCC has suggested that specific limitations on the amount of local origination to be permitted could be best determined in a Commission rulemaking proceeding to implement the proposed section 318 amendments. The Commission has further stated that in deciding upon such limitations it would be bound by the section 318 requirement that origination be limited to the extent necessary to insure that translators retain their primary characteristic as rebroadcast stations.

The Committee believes that the public interest in the larger and more effective use of radio and television would be well-served by enabling the FCC to authorize translator stations to originate limited amounts of local program and commercial material. As noted, in many areas of the country translators provide the only access to satisfactory television and FM service. At present, however, such service consists solely of the programming of the distant station retransmitted by the translator. Allowing limited origination by translators would give their audiences access to local news and information of vital community interest, as well as enable translators to meet the difficult problems of financial support for their operation and service.

The Committee is of the view that specific limitations on the amount and nature of local origination to be allowed, as well as any attending technical or other requirements, should be determined by the Commission in a rulemaking proceeding to implement the legislation. Such a proceeding will afford all interested parties an opportunity to comment on the specific limitations to be imposed.

---

[1] E.G., Idaho Code, secs. 31–4101 through 31–4121 (1969); Montana Revised Code, (secs. 70–401 through 70–425 (1947); and Utah Code Annotated, sec. 11–2–2 (1953).

[2] Public Law 86–609, approved July 7, 1960, 74 Stat. 363; see S. Rep. No. 980, 86th Cong., 1st sess., to accompany S. 1886, Sept. 4 (legislative day, Aug. 31), 1959 (Committee on Interstate and Foreign Commerce).

[3] FCC Docket No. 17159, 35 Fed. Reg. 15388, 20 R R 2d 1538 (Oct. 1970).

[4] FCC Docket No. 17159, par. 12.

[5] FCC Docket No. 15971, 13 FCC 2d 305 (1968).

[6] FCC Docket No. 19661, 54 FCC 2d 421 (1975).

While the Committee would leave detailed implementation of this legislation to the expertise and discretion of the administrative agency, it is emphasized that the allowed origination must be so limited as to maintain the primary rebroadcasting function of translator stations. In this regard, the FCC has previously conditioned the use of translators so to permit them to perform their supplementary function without impairing or burdening the maintenance and development of the regular television and radio services which provide the public with benefits beyond the capacity of translators. The FCC is also under an existing mandate to insure that translators operate on their assigned frequencies so as not to cause objectionable interference with other telecommunications services using the broadcast spectrum. The Committee expects that the FCC will continue to adhere to these principles in implementing this legislation.

HEARINGS

Hearings on S. 2847 were held before the Subcommittee on Communications on January 21, 1976. Testifying in support of the legislation were the Chairman of the Federal Communications Commission and counsel for the National Translator Association.

Subsequent to the hearings, statements were received from the National Cable Television Association, the Association of Maximum Service Telecasters, Inc., the National Association of Broadcasters, and Mr. Bill Sims, President of Wycom Corp., Laramie, Wyoming.

The Committee has fully considered all testimony and submissions in recommending enactment of the legislation here reported.

CONCLUSION

Translator broadcast stations have provided an invaluable service to those areas of the nation which would otherwise be without adequate access to radio and television reception.

The amendment to the Communications Act proposed by S. 2847 will enable translators to enhance this essential service consistent with their primary rebroadcasting function.

SECTION ANALYSIS

Section 318 is amended by deleting the world "solely" in clause (3) of the first proviso and inserting in lieu thereof "primarily", thereby enabling the FCC to authorize translator broadcast stations to originate limited amounts of local programming.

Section 318 is also amended by striking out the word "television" in clause (3) of the first proviso, thereby allowing the FCC to authorize unattended FM broadcast translator operation in the same manner presently permitted for television broadcast translators.

ESTIMATED COSTS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the Committee estimates that no additional costs will accrue to the government as a consequence of this legislation. The Committee is not aware of any cost estimate to the contrary.

BILL PASSED OVER

The bill (S. 2343) to amend the Communication Act of 1934, as amended, with respect to penalties and forfeitures, was announced as next in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that action on Calendar Order No. 875 not occur at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL SCIENCE FOUNDATION APPROPRIATIONS AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 846.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

> Calendar No. 846, H.R. 12566, authorizing appropriations to the National Science Foundation for fiscal year 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The bill was considered, ordered to a third reading, and read the third time.

Mr. KENNEDY. Mr. President, the authorization for the National Science Foundation which the Senate has before it today provides $832.4 million for the Foundation's programs in fiscal year 1977. As Chairman of the Special Subcommittee on the NSF, and on behalf of Senator PELL and Senator MONDALE who joined as cosponsors of S. 3202, I recommend its passage by the Senate.

Included in this authorization is a 19.5 percent increase over the fiscal year 1976 level in support for basic research. I am pleased that the committee has approved the full increase requested by the administration, and included in S. 3202, for the conduct of this aspect of the Foundation's mission.

I want to call to the particular attention of the Senate the serious concerns which were raised before the subcommittee over the steadily downward trend in Federal funding of basic research which has marked the last decade. Since 1968, for example, support for basic research has fallen by 23 percent—when measured in constant dollars. It is disturbing to note, moreover, that the increase we have recommended in the NSF budget for basic research, has not been matched by corresponding increments at the other research supporting agencies. The Department of Health, Education, and Welfare, for example, when proper account is taken of a $71 million supplemental appropriation to the fiscal year 1976 budget, will actually suffer a decrease in fiscal year 1977, in constant dollars, of 9 percent in the availability of support of basic research. The net result is that the administration request for the overall support of basic research represents, in constant dollars, a net increase of only 1 percent.

Mr. President, our recommendation that the 19.5-percent increase in NSF-supported basic research be approved reflects the important role which basic research plays in furthering the Nation's economic and social goals. Eighty-seven percent of the NSF program is performed by colleges and universities. This support is a major determinant of the strength of the U.S. basic research effort and is the key to the effectiveness of the college and university system in expanding the frontiers of scientific knowledge. More than 1,300 academic and nonprofit institutions participate in NSF research and science education programs in all 50 States and the District of Columbia. In addition, a growing number of small R. & D. and other industrial firms are taking part in the Foundation's applied research programs, giving a new dimension to NSF research support activities.

In fiscal year 1975, for example, about 18,000 principal investigators—outstanding scientists and science educators—carried out Foundation supported programs with the assistance of more than 12,000 graduate students and technicians. During that period, over 1,650 graduate students held NSF fellowships and these young men and women selected 164 different institutions to pursue their education in science and engineering.

In addition to the funds provided in S. 3202 for basic research, the bill provides funds for the continuation of ongoing NSF programs and additional increases and new initiatives in areas relating to national and international needs and resources.

In the area of science education, for example, which has declined from 25 percent of the Foundation's budget in 1968 to just 7 percent in the fiscal year 1977 administration's budget request, S. 3202 provides important additional funding—$80.2 million plus $10 million in funds deferred from fiscal year 1975, and authorizes a number of potentially promising new programs.

S. 3202 increases from $300,000 to $3 million the authorization for the new science for citizens program. This effort will be directed to, first, improving public understanding of public policy issues involving science and technology; second, facilitating the participation of experienced scientists and engineers, as well as graduate and undergradute students, in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects; and third, enabling groups serving important public purposes, including citizen and public interest groups, to acquire necessary technical expertise to assist them in dealing with the scientific and technical aspects of public policy issues.

S. 3202 also establishes a new program for continuing education for scientists and engineers; $1 million is authorized for efforts to enable scientists and engineers to make more valuable contributions to the Nation. The program includes the development of special curricula and educational techniques, as well as funds for fellowships. It builds on the limited program in this area currently supported by the Foundation, and is targeted on experienced scientists and engineers who have been engaged in their careers for at least 5 years. It is designed to enable them to bring their knowledge up to date and to prepare for new careers in concert with changes in national priorities.

Mr. President, additional funding is also provided for efforts to improve the participation of minorities, women and the handicapped in science and engineering and to encourage their employment at the Foundation. Women comprise only 5 percent of the persons employed in the United States in science and engineering; minorities only 4 percent. The handicapped, for which no comprehensive data has yet been developed, also appear to face serious problems of underemployment, and far too many, despite interest, attitude, and ability, have never become part of the potential pool of scientists and engineers. S. 3202 will provide funds to address the problems inherent in the under-representation of these groups in science and engineering and to insure that the Nation does not overlook the potential contribution they can make to scientific and technological development.

S. 3202 also authorizes $2,000,000 for planning grants for the establishment of minority centers for graduate education in science and engineering. This new program will expand the options of the minority community in science and engineering. It will go beyond the NSF's existing minority institutions improvement program, by providing opportunities for research in universities with graduate students and postdoctoral research associates. The centers will also expose the minority community to the latest and most sophisticated science and technology. They will serve as a source of highly trained scientists and engineers for local schools. Faculty members will serve as role models for aspiring young minority students. Expressions of support for this new program have come from educators and researchers from across the country.

S. 3202 also includes the full $5.5 million requested by the administration for instructional improvement and elementary and secondary school materials development, testing, and evaluation. Special emphasis will be placed on the support of activities to improve the general level of scientific literacy and to increase the ability of students to make use of the methods of science and the results of scientific discovery. The committee received close to 200 letters in support of the NSF's precollege programs and witnesses during the Senate hearings, including the National High School Science Teachers Association, strongly endorsed approval of these funds.

A new emphasis on international scientific research, education, and policy analysis is also provided in S. 3202. This effort will insure that U.S. science and technology makes the fullest contribution to research problems which cross national boundaries. It will focus on the alleviation of problems in the developing world that result from scientific and technical needs related to food, nutrition, and agriculture.

There will also be a new emphasis in fiscal year 1977 on interdisciplinary research through undergraduate programs, research projects which provide for apprenticeship training, fellowship programs, and arrangements for degree training, including postgraduate degrees in more than one discipline, in institutions of higher education.

Mr. President, important incentives are also provided in S. 3202 for full participation by small business in NSF supported programs. Ten percent of applied research funds is set aside for small businesses. NSF is also directed to establish an Office of Small Business Research and Development to monitor all awards made to small businesses and to insure that the 10-percent set-aside is fully and effectively utilized. The Office will collect and disseminate information concerning grants awarded to small business, analyze the scientific and technical expertise which exists in the small business community, assist individual small companies in obtaining information regarding the procedures and programs of the Foundation, and recommend such changes in procedures to the Director of the Foundation and the National Science Board as may be appropriate to meet the needs of the small business community.

S. 3202 also addresses the need for increased public participation in all aspects of the Foundation's programs. An advisory council is authorized to which at least six nonscientists are to be appointed. The council is to furnish advice to the Director of the Foundation and to the National Science Board on broad policy issues and to promote public understanding and access to information concerning the activities of the NSF. Provisions to insure wider dissemination of research results and access to information are also included. Significant participation by nonscientists and representatives of public groups is emphasized in the science for citizens program. Greater participation by minorities, women, and the handicapped is mandated for NSF review panels, advisory committees, and all other mechanisms through which the Foundation relies on the expertise of the scientific and nonscientific community.

S. 3202 also establishes a new State science, engineering, and technology program. Grants will be available to States to increase their capacity to apply science, engineering and technology to meeting the needs of their citizens. States are entiled to grants of up to $100,000 each for the executive and legislative branches of State government, with at least 20 percent of the cost to be borne by the State making the application for funding; $8,000,000 is authorized for this program.

Amendments to the National Science Foundation Act are also included in S. 3202. They are designed to insure that the Foundation aids in the development of national policies to foster the application of scientific and technical knowledge to the solution of national and international problems. They clarify the policymaking role of the National Science Board and broaden the membership of the Board to emphasize industrial, technical, and public membership. NSF is also authorized to provide full support to the Office of Science, Engineering, and Technology Policy, established in Public Law 94–282, signed by the President last week.

The pending bill merits the full support of the Senate. The $832.4 million it authorizes, plus the availability of $10 million in funds deferred from fiscal year 1976, will insure the continuation of science research and education efforts. It represents a 3.7 percent increase over the administration's request and will mean that over the last 5 years the NSF budget has increased by an average of just 7 percent. The increase authorized is within the amount approved by the Senate Budget Committee for activities of the National Science Foundation and the programs of the National Science and Technology Policy, Organization, and Priorities Act of 1976. The increase recommended by the committee will provide a balanced program and will insure the continuity of research and science education efforts. It will permit the Foundation to sustain scientific strength in the major fields of science and to support research directed to areas where there is a high potential for social benefit or major advances in science.

The legislation was unanimously approved by both the Special Subcommittee on the National Science Foundation and by the full Committee on Labor and Public Welfare. I urge its passage today so that we may go to conference with the House of Representatives in a strong position to obtain early approval of a final bill for the President's signature.

Mr. President, I ask unanimous consent that a fact sheet describing the provisions of S. 3202, be printed at this point in the Record.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

Factsheet—National Science Foundation Authorization Act, 1977

TITLE I—APPROPRIATIONS AUTHORIZED

Mathematical and Physical Sciences and Engineering	$233, 250, 000
Astronomical, Atmospheric, Earth and Ocean Sciences	247, 000, 000
Biological, Behavioral and Social Sciences	132, 350, 000
Science Education Programs	70, 200, 000
Research Applied to National Needs, of which less than 10% is set aside for small businesses	68, 100, 000
Scientific, Technological and International Affairs	24, 000, 000
Program Development and Management	43, 500, 000
State Science, Engineering, and Technology Programs	8, 000, 000
Foreign Currency Program	6, 000, 000
Total	832, 400, 000
Funds earmarked	
Graduate Fellowships	$16, 000, 000

Comprehensive Assistance to Undergraduate Science Education, with priority given to two year and four year institutions of higher education which do not grant a doctor's degree	15,000,000
Research Initiation and Support, of which 40% is available for underfunded institutions	6,000,000
Ethical and Human Value Implications of Science and Technology	1,000,000
Earthquake Engineering	10,000,000
Oceanographic Facilities and Support	21,200,000
Small Scale, Advanced Energy Research	2,000,000

Program administration

NSF is directed to require that all material published with Foundation support contains a statement that the author or grantee is solely responsible for the findings, opinions, conclusions or recommendations contained in that material.

NSF is directed to furnish technical reports based on or developed with Foundation assistance to the National Technical Information Service of the Commerce Department.

NSF is directed to report to the Congress on the utilization and/or barriers to utilization of each applied research project within one year of its completion.

No funds in excess of 10% may be transferred by NSF between program categories without prior notification to the Congress.

NSF is directed to conduct a study of the feasibility of "blind" reviews as an addition to present review procedures.

TITLE II—NATIONAL AND INTERNATIONAL NEEDS AND RESOURCES

International scientific research, education, and policy analysis

To ensure that US science and technology makes the fullest contribution to research problems which cross national boundaries and to alleviate problems in the developing world as a result of scientific and technical needs related to food, nutrition and agriculture, the NSF is directed to support research and education programs and to conduct and support policy analysis, information dissemination, and international cooperative programs.

Interdisciplinary research

NSF is directed to encourage and promote interdisciplinary research through undergraduate programs, research projects which provide for apprenticeship training, fellowship programs, and arrangements for degree training, including post graduate degrees in more than one discipline, in institutions of higher education.

Science for citizens

NSF is directed to conduct a "Science for Citizens" program to (1) improve public understanding of public policy issues involving science and technology, (2) facilitate the participation of scientists, engineers, graduate and undergraduate students in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects, and (3) enable groups to acquire technical expertise in dealing with the scientific and technical aspects of public policy issues.

NSF is directed to establish review panels for Science for Citizens proposals which include scientists and non-scientists and representatives of the public and private sectors.

$3,000,000 is earmarked for this program.

Continuing education in science and engineering

NSF is required to develop a program of continuing education in science and engineering to enable scientists and engineers to render more value contributions to the Nation. The program includes the development of special curricula and educational techniques, as well as the award of fellowships. The program builds on the limited program currently supported by the Foundation, and is targeted on experienced scientists and engineers who have been engaged in their careers for at least five years and is designed to enable them to increase the competence and currency of their knowledge and to prepare for new careers in concert with changes in national priorities.

$1,000,000 is earmarked for this program.

Minorities and women and handicapped

NSF is directed to intensify efforts to place qualified women, minorities, and the handicapped in executive positions at the Foundation, on advisory committees, and on review panels. This effort is to be conducted in cooperation with organizations active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities and women.

$5,000,000 is earmarked for "Minority Institutions Improvement".

$2,500,000 is earmarked for "Minorities, Women and Handicapped Individuals in Science" conferences and workshops to improve scientific literacy and encourage participation and advancement in careers in science.

NSF directed to award planning grants for Minority Centers for Graduate Education in Science and Engineering to be geographically dispersed at institutions with substantial minority enrollment, located near minority population centers, $2,000,000 is earmarked for this program.

Office of Small Business Research and Development

NSF is directed to establish an Office of Small Business Research and Development to monitor all awards made to small businesses and to ensure that the 10% set aside of applied research funds is fully and effectively utilized. The Office will collect and disseminate information concerning grants awarded to small businesses, analyze the scientific and technical expertise which exists in the small business community, assist individual small companies to obtain information regarding the procedures and programs of the Foundation, and recommend such changes in procedures to the Director of NSF and the National Science Board as may be appropriate to meet the needs of the small business community.

The Office will report quarterly to the Congress on its activities.

Advisory Council to the National Science Foundation

NSF is authorized to establish such a Council *only* if at least six of the members are individuals who are not scientists, if it furnishes advice to the Board and the Director on broad policy matters and if it promotes public understanding and access to information concerning activities of the NSF.

State science, and engineering, and technology programs

NSF is authorized to make grants to increase the capacity of States to apply science, engineering and technology to meeting the needs of their citizens. Grants of up to $100,000 each are authorized for the executive and legislative branches of State government, with at least 20% of the cost to be borne by the State making the application for funding. $8,000,000 is authorized for these programs.

TITLE III—NATIONAL SCIENCE AND TECHNOLOGY POLICY

National Science Foundation

The NSF Act is amended to require that the Foundation aid in the development of national policies to foster the application of scientific and technical knowledge to the solution of national and international problems.

National Science Board

The NSF Act is amended to clarify the policy making role of the National Science Board and broaden the membership of the Board to emphasize industrial, technical, and public membership.

The NSF Act is amended to strengthen the staff support available to the National Science Board and to provide for an annual report.

Assistance to the Office of Science, Engineering and Technology Policy

NSF is authorized to provide information and assistance to the Office of Science, Engineering, and Technology Policy.

TITLE IV—GENERAL PROVISIONS

Foreign expenditures limitation

$6,000,000 is authorized for expenses incurred outside the US to be paid for in excess foreign currencies.

Consultation and extraordinary expense limitations

Not more than $5,000 may be used for official consultation, representation or other extraordinary expenses on the approval of authority of the NSF Director.

Obligation limitation

Appropriations are to be available for obligation or expenditure for such period as specified in Acts making such appropriations.

Information requirement

The Director of the National Science Foundation must keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all activities of the National Science Foundation.

Mr. SCHWEIKER. Mr. President, as a member of the Special Subcommittee on the National Science Foundation, I would like to express my support for S. 3202, the fiscal year 1977 NSF Authorization Act. The Foundation sponsors basic research in all major fields of science, and applied research leading to improvements in technology and economic productivity, international cooperative research efforts, and science policy research and analysis activities. The NSF also coordinates the Federal effort to strengthen science education in order to insure an adequate supply of scientific and technological personnel with greater participation of minorities, women, and handicapped individuals, to promote public understanding of issues involving science and technology, and to improve the effectiveness of science education to meet the needs of a broader range of students.

The bill reported by the Committee on Labor and Public Welfare continues NSF's programs in research and science education. It provides for a 10 percent set-aside of Research Applied to National Needs—RANN—program funds for research conducted by small businesses, and establishes an Office of Small Business Research and Development to promote cooperation between the Foundation and the small business community. In addition, the committee adopted an amendment to assist State governments in establishing and strengthening science, engineering and technology programs. As a member of the Subcommittee on the Handicapped, I am pleased that the bill was also amended by the committee to include provisions for employment, advisory and peer review participation by handicapped individuals, as well as forums, conferences and workshops relating to the handicapped in science.

Mr. President, S. 3202 provides for continuity of the Foundation's research and science education efforts. It will permit the NSF to sustain scientific strength in the major fields of science, and to support research directed toward societal benefit and major advances in science. I urge my colleagues to support this legislation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 844, S. 3202, and that all after the enacting clause in H.R. 12566 be stricken; that the text of S. 3202 be substituted therefor; that the bill, H.R. 12566, as amended, be passed, that the motion to reconsider be laid on the table, and that S. 3202 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 12566), as amended, was passed as follows:

H.R. 12566

That this Act may be cited as the "National Science Foundation Authorization Act, 1977".

TITLE I—APPROPRIATIONS AUTHORIZED

AUTHORIZATION FOR ACTIVITIES OF THE NATIONAL SCIENCE FOUNDATION

Sec. 101. (a) There is authorized to be appropriated to the National Science Foundation for the fiscal year 1977, for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $233,250,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $247,000,000.

(3) Biological, Behavioral, and Social Sciences, $132,350,000.

(4) Science Education Programs, $70,200,000.

(5) Research Applied to National Needs, $68,100,000.

(6) Scientific, Technological, and International Affairs, $24,000,000.

(7) State Science, Engineering, and Technology Programs, $8,000,000.

(8) Program Development and Management, $43,500,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amount authorized under category (2) of subsection (a) of this section, $21,200,000 shall be available for the program "Oceanographic Facilities and Support";

(2) of the amount authorized under category (4) of subsection (a) of this section—

(A) $16,000,000 shall be available for the programs "Graduate Fellowships in Science and Engineering" and "National Needs Fellowships";

(B) $15,000,000 shall be available for the program "Comprehensive Assistance to Undergraduate Science Education", with priority given to applications from four-year and two-year institutions of higher education which do not grant a doctor's degree in science or engineering;

(C) $6,000,000 shall be available for the program "Research Initiation and Support", of which not less than 40 per centum shall be available on a competitive basis to institutions of higher education granting doctoral degrees in the sciences or engineering—

(i) which received research support from the National Science Foundation during the fiscal year 1976, and

(ii) for which Foundation support and other Federal research and development support to that institution per graduate student in science and engineering was substantially less than the national average of such support per graduate student in science and engineering, as determined by criteria established by the Foundation; and

(D) $1,000,000 shall be available for the program "Ethical and Human Value Implications of Science and Technology", including ethical and value issues arising in the context of physical science, biological science, and clinical medicine;

(3) of the amount authorized for category (5) under subsection (a) of this section—

(A) $10,000,000 shall be available for the program "Earthquake Engineering";

(B) $2,000,000 shall be available for the support of especially promising proposals for small scale research on advanced forms of energy if such research proposals do not duplicate programs supported by the Energy Research and Development Administration and are fully coordinated with the Energy Research and Development Administration; and

(C) not less than 10 per centum of such amount shall be expended to small business concerns.

PROGRAM ADMINISTRATION

Sec. 102. (a) Whenever any material is published, which is based upon or developed under a project assisted by the National Science Foundation, the Foundation shall require an acknowledgement of National Science Foundation support and a statement as to whether each author or the Foundation is responsible for the findings, opinions, conclusions, or recommendations contained in that material.

(b) The National Science Foundation shall arrange for the dissemination of all substantive technical reports, including policy and applied research material, through the National Technical Information Service of the Department of Commerce. Such dissemination shall occur within sixty days of receipt by the Foundation of such reports or of notification to the Foundation of the completion of the reports.

(c) Not later than one year after the completion of research projects assisted under the program "Research Applied to National Needs", or any similar program, each principal investigator shall report to the National Science Foundation on—

(1) the extent to which the results of the research conducted under such project have been utilized, and

(2) any barriers to such utilization which have been identified with respect to each such project.

The reports required by this subsection shall be made available to the Congress and to the public.

(d) (1) The Director of the National Science Foundation is authorized and directed to conduct a feasibility study of operating the peer review system used in the evaluation of grant proposals within the Foundation so as to assure that the identity of the proposer is not known to the reviewers of the proposal. Any such system shall be considered to supplement and not to supplant the peer review system in operation in the Foundation on the date of enactment of this Act. In carrying out the provisions of this section the Director is authorized—

(A) to survey a representative group of members of the academic community,

(B) to examine existing "blind" review systems being used by the public and private sectors, and

(C) to make proposals, including recommendations for legislation if necessary, to carry out an experimental "blind" review system within the National Science Foundation.

(2) The Director shall submit, not later than one year after the date of enactment of this Act, a report to the Senate Committee on Labor and Public Welfare and the House Committee on Science and Technology on his activities under this subsection.

(e) No funds may be transferred from any particular category listed in section 101 to any other category or categories listed in such section if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 101 from any other category or categories listed in such section if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Director or his designate has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason thereof, or

(2) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

TITLE II—NATIONAL AND INTERNATIONAL NEEDS AND RESOURCES

INTERNATIONAL SCIENTIFIC RESEARCH, EDUCATION, AND POLICY ANALYSIS

Sec. 201. (a) The National Science Foundation is authorized and directed to support basic and applied research and education programs, and to conduct and support policy analysis, information dissemination, and international cooperative programs consistent with the Nation's foreign policy objectives designed to make the results of scientific research conducted abroad more readily available to United States scientists, engineers, and technologists, to promote international cooperation in science and technology, to assist in the resolutions of critical and emerging problems with significant scientific or technical components, such as world food and population problems and to insure full coordination of these programs with related activities conducted by other Federal agencies and organizations. The Director of the National Science Foundation shall consult with the Secretary of State to assure that the programs authorized under this section are consistent with the foreign policy objectives of the United States.

(b) In cooperation with the Office of Science and Technology Policy, the Department of State, the Agency for International Development, the Department of Commerce, the Department of Agriculture, and other appropriate agencies and organizations, the Director of the National Science Foundation is directed to conduct a study of international scientific research, education, and policy analysis and to ensure full coordination of the study. The results of the study shall be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than March 1, 1977.

INTERDISCIPLINARY RESEARCH

Sec. 202. The National Science Foundation is directed to encourage and promote the conduct of interdisciplinary research through broadly based undergraduate interdisciplinary education programs, interdisciplinary research projects which provide for apprenticeship training, interdisciplinary fellowship programs, ana arrangements for degree training, including postgraduate degrees in more than one discipline, in institutions of higher education.

SCIENCE FOR CITIZENS

SEC. 203. (a) The National Science Foundation is authorized and directed to conduct a "Science for Citizens Program", which is designed to—

(1) improve public understanding of public policy issues involving science and technology;

(2) facilitate the participation of experienced scientists and engineers as well as graduate and undergraduate students in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects; and

(3) enable groups to acquire necessary technical expertise to assist them in dealing with the scientific and technical aspects of public policy issues.

(b) The membership of each review panel established to evaluate applications for awards and planning grants under this section shall have balanced representation from the scientific and nonscientific community and the public and private sectors.

(c) Of the amount authorized for category (4) of section 101(a) $3,000,000 shall be available for the Science for Citizens Program including an augmented Public Understanding of Science Program.

CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

SEC. 204. (a) The National Science Foundation shall initiate an educational program of continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

(1) provide them with new knowledge, techniques, and skills in their special fields; or

(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

(b) The program developed under this section shall include, but not be limited to—

(1) the development of special curricula and education techniques for continuing education in science and technology; and

(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

(c) The Foundation is authorized and directed to make grants to, and to enter into contracts with, institutions of higher education and other academic institutions, nonprofit institutes and organizations, and private business firms, for the purpose of developing courses and curricula specially designed for continuing education in science and technology under this section.

(d)(1) The Foundation is authorized to award continuing education fellowships to scientists and engineers to enable them to pursue appropriate courses of study.

(2) The Foundation shall allocate fellowships under this subsection in such manner, insofar as practicable, as will—

(A) attract highly qualified applicants; and

(B) provide an equtiable distribution of such fellowships throughout the United States.

(3) The Foundation shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence, health insurance, relocation expenses, and other expenses for such persons and their dependents) as it may prescribe by regulation designed to accomplish the purposes of this Act.

(4) Fellowships shall be awarded under this subsection upon application made at such times and containing such information as the Foundation shall by regulation require.

(e) Of the amount authorized under category (4) of section 101(a) $1,000,000 shall be available for the activities authorized by this section.

MINORITIES, WOMEN, AND HANDICAPPED INDIVIDUALS

SEC. 205. (a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, blacks, Chicanos, Spanish-surnamed Americans, American Indians, members of other minority groups, and handicapped individuals to fill executive level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation. The Director of the National Science Foundation shall report quarterly to the Congress on the status of minorities, women, and handicapped individuals and activities undertaken pursuant to this section.

(b) Notwithstanding any other provision of this or any other Act—

(1) from the amount authorized under category (4) of section 101(a) $5,000,000 shall be available for the program "Minority Institutions Improvement"; and

(2) from the amount authorized under category (4) of section 101(a) $2,500,000 shall be available for a program "Minorities, Women, and Handicapped Individuals in Science" for experimental forums, conferences, workshops or other activities designed to improve scientific literacy and to encourage and assist minorities, women, and handicapped individuals to undertake and to advance in careers in scientific research and science education.

(c)(1) In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to make available planning grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering in accordance with this subsection.

(2) The planning grants for Minority Centers for Graduate Education shall be used to determine the need for and feasibility of developing Centers to be established at geographically dispersed educational institutions which—

(A) have substantial minority student enrollment;

(B) are geographically located near minority population centers;

(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

(D) have an existing or developing capacity to offer doctoral programs in science and engineering;

(E) will support basic research and the acquisition of necessary research facilities and equipment;

(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

(3) The Director, in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, shall establish criteria for the award of planning grants, and shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the results of activities including an evaluation and assessment of the entire program carried out under this subsection not later than March 1, 1977.

(4) From funds authorized under category (4) of section 101(a), $2,000,000 shall be available to carry out the provisions of this subsection.

OFFICE OF SMALL BUSINESS RESEARCH AND DEVELOPMENT

SEC. 206. The National Science Foundation is authorized and directed to establish within the Office of Government and Public Programs an Office of Small Business Research and Development. The Foundation through the Office of Small Business Research and Development and in cooperation and consultation with the Small Business Administration shall—

(1) foster communication between the National Science Foundation and the small business community, and insure that the set-aside for small business concerns provided under this Act or any other Act authorizing appropriations for the National Science Foundation is fully and effectively utilized;

(2) collect, analyze, compile, and publish information concerning grants and contracts awarded to small business concerns by the Foundation, and the procedures for handling proposals submitted by small business concerns;

(3) assist individual small business concerns in obtaining information regarding programs, policies, and procedures of the Foundation, and assure the expeditious processing of proposals by small business concerns based on scientific and technical merit;

(4) recommend to the Director and to the National Science Board such changes in the procedures and practices of the Foundation as may be required to enable the Foundation to draw fully on the resources of the small business research and development community; and

(5) make quarterly reports to the Congress concerning the activities of the Office of Small Business Research and Development. The Foundation and the Small Business Administration shall prepare a report on the scientific and technical expertise and capability in the small business community in collaboration with organizations representing small business concerns.

STATE SCIENCE, ENGINEERING, AND TECHNOLOGY PROGRAMS

SEC. 207. (a) The Director of the National Science Foundation is authorized to make grants to States, in accordance with the provisions of this section, for the purpose of increasing the State's capacity for wise application of science, engineering, and technology to meeting the needs of its citizens.

(b) Each application for a grant under this section shall be submitted by the executive branch or the legislative branch, or both, of a State government.

(c) No grant made under this section to a State government may exceed $100,000 and no recipient of a grant under this section is eligible to apply for a subsequent grant under this section. Each grant under this section shall be available for a two-year program.

(d) No grant may be made under this section unless an application is submitted at such time, in such manner, and containing or accompanied by such information as the Director of the National Science Foundation may reasonably require. Each such application shall contain provisions designed to assure that—

(1) the capacity of the State for the application of science, engineering, and technol-

ogy to meeting State needs will be measurably increased;

(2) the State will pay from non-Federal sources the non-Federal share of the cost of the application;

(3) it is the intention of the State receiving the grant to assume the full costs of any activities supported by the grant no later than two years after the grant is made.

(e)(1) Within ninety days after the date of enactment of this Act the Director of the National Science Foundation shall, by rule, promulgate guidelines for the preparation of grant applications under this section and shall publish such guidelines in the Federal Register.

(2) Guidelines issued by the Director of the National Science Foundation under this section shall be flexible enough to permit each State to meet the requirements of subsection (d)(1) in a manner suitable to the circumstances of each such State.

(f) The Director of the National Science Foundation shall not disapprove any application which meets requirements of subsection (d) of this section, without affording that State notice and opportunity for a hearing.

(g)(1) Each application for financial assistance under this section shall be submitted to the Director of the National Science Foundation on or prior to September 30, 1978.

(2) No grant may be made under this section for more than 80 per centum of the cost of the activities specified in the application submitted under this section.

ADVISORY COUNCIL TO THE NATIONAL SCIENCE FOUNDATION

Sec. 208. (a) The National Science Foundation is authorized to establish an Advisory Council on the National Science Foundation (hereinafter in this section referred to as the "Advisory Council") composed of twenty-four members appointed by the Director.

(b) No such Advisory Council may be established, unless—

(1) at least six members appointed in the Advisory Council are individuals who are not scientists; and

(2) the Advisory Council furnishes advice to the Board and the Director on broad policy matters relating to the activities of the National Science Foundation, particularly science research and education policy, and promotes public understanding and access to information concerning activities of the Foundation.

(c) Each member of the Advisory Council authorized by this section who is appointed from private life shall receive $75 per diem (including traveltime), for each day during which that member is engaged in the actual performance of duties as a member of the Advisory Council. Any member of the Advisory Council who is in the legislative, executive, or judicial branch of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

TITLE III—NATIONAL SCIENCE AND TECHNOLOGY POLICY

NATIONAL SCIENCE FOUNDATION

Sec. 301. Section 3(d) of the National Science Foundation Act of 1950 is amended to read as follows:

"(d) The Foundation shall recommend and encourage the pursuit of national policies designed to foster research and education in science and engineering, and the application of scientific and technical knowledge to the solution of national and international problems.".

NATIONAL SCIENCE BOARD

Sec. 302. (a) Section 4 of the National Science Foundation Act of 1950 is amended—

(1) by inserting before the period at the end of subsection (a) a comma and the following: "within the framework of applicable national policies as set forth by the President and the Congress" and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of science, social science, engineering, agriculture, industry, education, or public affairs, (2) shall be selected solely on the basis of established records of distinguished service, and (3) shall be so selected as to provide representation of the views of leaders from a diversity of fields and points of view from all areas of the Nation. In the making of nominations of individuals for appointment as members, the President shall give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Academy of Engineering, the National Association of State Universities and Land-Grant Colleges, the Sea Grant Association, the Association of American Universities, the Association of American Colleges, the American Association of State Colleges and Universities, the American Association of Community and Junior Colleges, by other scientific, technical, public interest or educational associations, and by organizations committed to the advancement of minorities, women, and handicapped individuals in science.".

(b) Section 4 of such Act, as amended by the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282) is amended by redesignating subsections (g), (h), and (i), and all references thereto, as subsections (h), (i), and (j), respectively, and by inserting after subsection (f) the following new subsection:

"(g) The Board shall prepare and submit on or before January 31 in each year an annual report to the President and to the Congress, on the status and health of science and of its various disciplines. The report may include such recommendations as the Board may deem timely and appropriate.".

(c) Section 4(h) of such Act as redesignated by this section is amended—

(1) by inserting after "the Director," the following: "after consultation with the Chairman of the Board"; and

(2) by striking out "GS-15" and inserting in lieu thereof "GS-18".

ASSISTANCE TO THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Sec. 303. In order to carry out the policy of the National Science and Technology Policy, Organization, and Priorities Act of 1976, the National Science Foundation is authorized to—

(1) gather and analyze information regarding Federal expenditures for research and engineering activities, and the employment and availability of scientific, engineering, and technical manpower, which the Foundation has assembled pursuant to paragraphs (1), (5), (6), and (7) of section 3(a) of the National Science Foundation Act of 1950 in order to assist in the appraisal of the implementation of the policies set for the title I of the National Science and Technology Policy, Organization, and Priorities Act of 1976;

(2) provide such information and appraisals to the Office of Science and Technology Policy; and

(3) provide such additional information and staff assistance to the Office of Science and Technology Policy as the office may request.

TITLE IV—GENERAL PROVISIONS

FOREIGN EXPENDITURES LIMITATION

Sec. 401. In addition to such sums as are authorized by section 101, not to exceed $6,000,000 is authorized to be appropriated for fiscal year 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

CONSULTATION AND EXTRAORDINARY EXPENSE LIMITATION

Sec. 402. Appropriations made pursuant to this Act may be used, but not to exceed $5,000 for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

OBLIGATION LIMITATION

Sec. 403. Appropriations made pursuant to this Act shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

INFORMATION REQUIREMENT

Sec. 404. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

Mr. ROBERT C. BYRD. Now, Mr. President, I move that the Senate insist on the Senate amendments to H.R. 12566 and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. Culver) appointed Mr. Kennedy, Mr. Pell, Mr. Mondale, Mr. Cranston, Mr. Eagleton, Mr. Laxalt, Mr. Stafford, and Mr. Schweiker conferees on the part of the Senate.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nevada is recognized for not to exceed 15 minutes.

SENATE CONCURRENT RESOLUTION 119—EXTENDING RECOGNITION TO THE CONGRESSIONAL COUNTRY CLUB ON BEING THE HOST OF THE 58TH PGA NATIONAL GOLF CHAMPIONSHIP

Mr. CANNON. Mr. President, in behalf of myself, Senators Mansfield, Hugh Scott, Robert C. Byrd, Fannin, Nunn, Bayh, Harry F. Byrd, Beall, Mathias, Hathaway, and William L. Scott, I am pleased to submit a concurrent resolution today whereby the Congress congratulates the Congressional Country Club of Bethesda, Md., as having been selected to host the 58th PGA National Championship. Congressional has a renowned and respected championship golf course and is proud that the PGA is coming to the State of Maryland this Bicentennial year.

President Ford is the honorary chairman of the PGA this year and I am pleased to join with our President and other sponsors of this resolution in recognizing not only the fine tradition of the PGA, but also the outstanding features of the club hosting this special event. Congressional has a long history of testing the skills of the Nation's finest golfers and I know those golfers look forward to participating in this year's PGA. Many Members of this body have had the pleasure of playing on this nearby championship course.

I am certain that the two Maryland Senators, Mr. BEALL and Mr. MATHIAS, are especially proud that the State of Maryland, which is celebrating its Bicentennial anniversary, will be hosting professional golfers and visitors from all corners of the world this August. I am equally certain that this national contest will reflect favorably upon the State of Maryland and the Nation's Capital.

Mr. President, I send the concurrent resolution to the desk and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 119) extending recognition to the Congressional Country Club on being the host of the 58th PGA National Golf Championsip.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The concurrent resolution (S. Con. Res. 119) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas, the Congressional Country Club located in Montgomery County, Maryland, will host the 58th PGA Championship during the period from August 9, 1976 through August 15, 1976;

Whereas, the State of Maryland is celebrating its Bicentennial anniversary;

Whereas, the United States of America is also celebrating its Bicentennial anniversary;

Whereas, Gerald R. Ford, President of the United States of America, has so graciously agreed to be Honorary Chairman of the 58th PGA Championship;

Whereas, the Congressional Country Club is recognized as a fair and championship test of the skills of the 150 professional golfers who will be competing for such Championship;

Whereas, the Congressional Country Club has hosted such national golfing events as the 1949 USGA Junior National Championship, the 1959 USGA Women's Amateur Championship, and the 1964 USGA Open Championship;

Whereas, all of these national events were successfully executed through the volunteer efforts of thousands of persons, organizations and businesses in the Nation's Capital and the surrounding areas, principally the middle Atlantic states; and

Whereas, the PGA Championship, recognized as one of the major golf tournaments played in the world, will bring honor and prestige to the State of Maryland and the Nation's Capital: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring), That Congress congratulates the Congressional Country Club upon being selected to host the 58th PGA Championship and, in so doing, compliments the Congressional Country Club on being such a renowned and respected championship golf course.

SEC. 2. The Secretary of the Senate shall transmit copies of this Resolution to the Congressional Country Club and to the Professional Golfers' Association of America.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m., with statements therein limited to 5 minutes.

Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 8532

Mr. METCALF. Mr. President, I ask that during the course of the debate and vote on H.R. 8532, the antitrust bill, Mr. Winslow Turner of the Government Operations Committee staff be granted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. CULVER) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I hereby transmit to you the Annual Report of the Railroad Retirement Board for fiscal year 1975.

The Report indicates that the Board paid retirement and survivor payments in excess of $3 billion to almost one million one hundred thousand individuals during the fiscal year, and that it made unemployment and sickness benefit payments totaling $67 million to over 137,000 claimants.

This Report also includes a summary of legislation enacted in 1974, which restructured the retirement and survivor program and substantially improved the financing of the railroad retirement system. In addition, it includes a description of the 1975 amendments to the Railroad Unemployment Insurance Act, which increased the daily rate of unemployment and sickness benefits payable to railroad workers and made other improvements in that program.

GERALD R. FORD.

THE WHITE HOUSE, *May 27, 1976*.

REPORT ON THE COASTAL ZONE MANAGEMENT ACT—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. CULVER) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

I am transmitting herewith the third annual report from the Secretary of Commerce covering the significant developments that took place during the second full year of implementation of the Coastal Zone Management Act of 1972. The period covered is fiscal year 1975, when the States began full development of their coastal programs.

The country's urgent need for new domestic sources of energy and our concern for minimizing environmental damage and community disruption have combined to underscore the importance of the effort put forth in the coastal zone program. The program points out the importance of cooperation at the State and Federal level in order to provide appropriate and timely solutions to these important problems.

GERALD R. FORD.

THE WHITE HOUSE, *May 27, 1976*.

MESSAGES FROM THE HOUSE

At 12:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 13965) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 538) providing for the printing as a House document of the Constitution of the United States (pocket-size edition).

The message further announced that the House agrees to the amendments of the Senate to the concurrent resolution (H. Con. Res. 646) providing for a conditional adjournment of the House from May 27 until June 1, 1976

At 2:15 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendment of the Senate to the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Price, Mr. Hébert, Mr. Bennett, Mr. Stratton, Mr. Ichord, Mr. Nedzi, Mr. Randall, Mr. Charles H. Wilson of California, Mr. Leggett, Mr. Bob Wilson, Mr. Dickinson, Mr. Whitehurst, and Mr. Spence were appointed managers of the conference on the part of the House.

EXECUTIVE REPORTS OF COMMITTEES

Mr. THURMOND. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Lt. Gen. John Howard Elder, Jr., U.S. Army, to be placed on the retired list in the grade of lieutenant general; and there are five for appointment to the grade of major general; and there are four for appointment to the grade of brigadier general. Also, Vice Adm. Daniel J. Murphy, U.S. Navy, for appointment to the grade of admiral; and Rear Adm. Vincent A. Lascara, U.S. Navy, for appointment to the grade of vice admiral; and Maj. Gen. Rolland V. Heiser, U.S. Army, to be lieutenant general; and Lt. Gen. William C. Gribble, Jr., U.S. Army, to be placed on the retired list in the grade of lieutenant general. Rear Adm. William O. Miller, U.S. Navy, to be judge advocate general of the Navy with the rank of rear admiral for a term of 4 years. Also, there are 14, in the Army, for promotion to the grade of brigadier general (list beginning with Robert C. Kingston). I ask unanimous consent that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. In addition, Mr. President, there are 67 in the Air Force for promotion to the grade of lieutenant colonel and below—list beginning with Robert W. Johnson; and there are 803 in the Army for promotion to the grade of second lieutenant—list beginning with Verlin L. Abbott; and there are 556 in the Army for promotion to the grade of colonel and below and one for appointment as permanent professor, U.S. Military Academy—list beginning with William F. Carroll. There are also 865 in the Navy for promotion to the grade of commander and below—list beginning with Philip M. Abbott; and there are 934 in the Air Force, U.S. Air Force Academy graduates for appointment in the Regular Air Force in the grade of second lieutenant—list beginning with Danny J. Acock. There are also 19 in the Navy for appointment as permanent lieutenants and temporary lieutenants—list beginning with Robert F. Fremont II; and there are 28 in the Marine Corps, Naval Reserve Officer Training Corps graduates for permanent appointment to the grade of second lieutenant—list beginning with Crystal M. Chamberlain. There are 851 cadets graduating from the U.S. Military Academy and Col. Roy K. Flint to be appointed as permanent professor of history, U.S. Military Academy—list beginning with Roy K. Flint.

There are 47 in the Navy, for appointment to temporary commanders and below—list beginning with Randall S. Arrington; and there are 1,649, in the Navy and Naval Reserve, for permanent appointment to the grade of commander—list beginning with Peter Darby Abbott.

Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of April 26, May 4, 6, 11, and 24, 1976, at the end of the Senate proceedings.)

HOUSE BILL REFERRED

The bill (H.R. 13965) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF:

S. 3500. A bill to improve the procedures under section 201 of the Trade Act of 1974, and for other purposes. Referred to the Committee on Finance.

By Mr. BURDICK:

S. 3501. A bill to amend the act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes," approved June 20, 1966 (80 Stat. 211). Referred to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN (for Mr. Stevens):

S. 3502. A bill to amend the Voting Rights Act of 1965 to provide more practical voting assistance for certain language minority groups in Alaska. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 3503. A bill to direct the Administrator of the Federal Aviation Administration to promulgate noise standards for certain aircraft in order to reduce noise emissions and to improve the human environment, and to provide for certain payments to operators of the aircraft required to meet the noise standards in order to permit the operators to retrofit or replace such aircraft. Referred to the Committee on Commerce.

By Mr. SCHWEIKER:

S. 3504. A bill to extend the boundary of the Tinicum National Environmental Center, and for other purposes. Referred to the Committee on Commerce.

By Mr. BUCKLEY:

S. 3505. A bill to amend Section 121 of the Internal Revenue Code. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRIFFIN (for Mr. Stevens):

S. 3502. A bill to amend the Voting Rights Act of 1965 to provide more practical voting assistance for certain language minority groups in Alaska. Referred to the Committee on the Judiciary.

Mr. GRIFFIN. On behalf of the Senator from Alaska (Mr. Stevens), I introduce a bill and I ask unanimous consent that a statement prepared by him in connection with the bill, the text of the bill and certain other material be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement by Senator Stevens

I am today introducing a bill to correct an oversight in the Voting Rights Act extension passed last summer by the Congress and signed into law as Public Law 94-73.

The bill, as enacted, provides in Title II that if more than 5% of the citizens of voting age in a State or political subdivision are members of a single language minority, the State or political subdivision must provide ballot materials in the language of the minority group. The Act provides an exception—if the minority language is oral or unwritten, the State or political subdivision need provide only oral assistance to voters.

The bill I am introducing today would provide that in the case of Alaskan Natives, if the predominant language was historically unwritten, only oral assistance need be provided.

I was successful in having a similar amendment added to Title III of the Extension Act, but because floor managers were reluctant to accept amendments as we worked toward final passage, this amendment to Title II was omitted.

I fully share in the desires of the floor managers of the extension to insure that language minorities are not denied their fair, equal participations in the voting process, but we must correct past inequities in a realistic and practical way. The provision in existing law is unnecessary and burdensome.

Alaska Native languages are traditionally unwritten. In the past, they were not written and no one who traditionally spoke the languages ever read the languages for the simple reason that they were never written.

In recent years, to preserve the languages, anthropologists have begun to transcribe the spoken word. This is the first time that the Alaska Native languages have been written. Very few of those who traditionally used Native languages can read the written versions. To require Alaska to provide ballots in a language traditionally unwritten and which virtually no one can read is unnecessary and burdensome. Numerous Alaska Native leaders have contacted Alaska's congressional delegation about this point.

Alaska has had a law since before the original 1965 Voting Rights Act requiring election judges to provide oral voting assistance to those who cannot read English. Indeed, the ability to read English is not required under Alaska law, so the oral assistance provision is the most effective way of insuring full voter participation. To require ballots and election materials in an unreadable language will cost much more and do nothing to achieve the goals of the Act.

As a matter of fact, strict adherence to the law by Alaska will probably result in less voter assistance. My State is one of the few that publishes a voter education pamphlet. Each candidate is given equal space in the booklet and it is distributed to every voter in the State. Under Public Law 94–73, that pamphlet would have to be published in a variety of languages other than English. Aside from being unnecessary, since no one can read those other languages, our Lieutenant Governor, who supervises the elections, tells me that the cost of preparing the pamphlet will mean it will no longer be available at all.

In short, the current law will not improve voter participation in Alaska. It will require ballots to be printed in a language which almost no one reads and it will mean the end of a very effective voter assistance brochure. It will only cost; there will be no benefits.

The bill I am proposing today will solve this problem by exempting languages which are historically unwritten from the requirements of the law. Passage of the amendment will permit Alaska to continue to provide the voter assistance brochure and the oral assistance which the State already provides, but it will end the current requirement that ballots be printed in languages few can read. I urge prompt favorable consideration of this bill.

S. 3502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(f)(4) of the Voting Rights Act of 1965 is amended by inserting after "unwritten" the following: "or in the case of Alaska Natives, if the predominant language is historically unwritten".

TELEGRAMS

FAIRBANKS, ALASKA.

Congressman DON YOUNG,
U.S. House of Representatives, Longworth Building, Washington, D.C.

DEAR CONGRESSMAN YOUNG: Regarding H.R. 6219 Voting Rights Act of 1975 relating to ballots being printed in minority languages when the minority population is over five percent. Request that Alaska Natives be exempted from this provision for the following reason. The native languages in Alaska have only recently been reduced to writing and the educational reading process is only just beginning.

SAM KITO, Jr.,
Executive Vice President Doyon Ltd. and President, Fairbanks Native Association

ANCHORAGE, ALASKA.

Congressman DON YOUNG,
Capitol Hill, D.C:

The Alaska Federation of Natives Incorporated does endorse the position of Congressman Don Young in his efforts to exempt the State of Alaska from printing bilingual ballots. Many native languages and dialects are just being put into written form. The number of Alaskan Natives able to read their language is minimal. Alaska does not have literacy test as a condition of voting. The problem of Alaskans in voting is not solved by different writings or languages, nor will the general native populous benefit from this section of H.R. 6219.

ROGER LANG,
President, Alaska Federation of Natives, Inc.

ANCHORAGE, ALASKA.

Representative DON YOUNG,
Capitol Hill, D.C.:

Cook Inlet Region, Inc. supports your position in striking Alaska from section 207 of H.R. 6219 Voting Rights Act of 1975.

R. ANDY JOHNSON,
President Cook Inlet Region, Inc.

Attn: DON YOUNG:

Doyon, Ltd. representing 10,000 Indians in interior Alaska wish to oppose the requirement for voting ballots to be written in Indian dialects. Under State law Alaska has no requirement that voters must read or write.

Additionally a requirement such as this would be an extreme hardship to the State as we have over 35 dialects and very few people actually know how to read or write in any language.

JOHN SACKETT,
President, Doyon, Ltd.

By Mr. MONDALE:

S. 3503. A bill to direct the Administrator of the Federal Aviation Administration to promulgate noise standards for certain aircraft in order to reduce emissions and to improve the human environment, and to provide for certain payments to operators of the aircraft required to meet the noise standards in order to permit the operators to retrofit or replace such aircraft. Referred to the Committee on Commerce.

Mr. MONDALE. Mr. President, since 1968, Congress has been working to quiet the din of aircraft noise affecting the 16 million Americans living within the noise impact corridors of our Nation's airports.

In 1968, Congress added a new section to the Federal Aviation Act requiring the Federal Aviation Administration to set standards for the relief and protection of the public from unnecessary aircraft noise. The FAA then set noise emission standards for subsonic transport aircraft and jet aircraft of new design. This resulted in the quieter performance of the new widebody aircraft. In 1973, the FAA ruled that newly produced aircraft of older design must comply with these noise emission standards as well, beginning no later than December 31, 1974.

However, no regulations have yet been adopted to require the retrofit of existing aircraft to bring them into compliance with these noise standards.

It has been over 2 years since the FAA first proposed a rule concerning the SAM—sound absorbent material—retrofit of old aircraft not in compliance with existing regulations for new aircraft. And it has been over 1½ years since the Environmental Protection Agency forwarded a draft rulemaking to the FAA for consideration.

Further delay in promulgation of this rule and the failure to apply these regulations to all types of aircraft, cannot be justified if the FAA and DOT are to comply with Congress directive in section 7(b) of the Noise Control Act of 1972 to regulate the abatement of aircraft noise "in order to afford present and future relief and protection to the public health and welfare."

The EPA, community groups around our Nation's airports, airport operators and the National Academy of Science all support prompt adoption of a retrofit rule. Today, almost 4 years after passage of the Noise Control Act into law, citizens near airports must still bear the burden of the din, and airport operators the burden of the nuisance suit.

SAM retrofit will provide meaningful relief to our citizens by bringing the noise levels of older jets down to those of new wide-bodied aircraft. The use of sound absorbent material can reduce the number of persons exposed to unacceptable levels of noise by as much as 74 percent within 3 to 5 years. This does not include the effect of improved operating procedures, such as the Northwest technique, which would further reduce the number of individuals impacted. It has been estimated that in the Twin Cities in Minnesota, the number of people affected by the aircraft noise would be reduced from 52,000 to 14,000 if retrofit and better techniques were initiated.

The Aviation Trust Fund currently has a surplus of money which would adequately cover the cost of retrofitting our fleet. There need be no additional cost to consumers, only a better investment outlook for the money they have spent and continue to spend when they purchase their airplane tickets.

The legislation which I am introducing today has the following three basic provisions:

It instructs the FAA to promulgate the noise regulations it had proposed in 1975, with compliance within 5 years,

It provides that that portion of the foreign aircraft fleet necessary to sustain existing service to U.S. airports would have to comply with these regulations, and

It would make available grant assistance from the taxes which aviation users pay into the aviation trust fund to cover the cost of the SAM retrofit kits and installation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aircraft Noise Reduction and Airport Protection Act of 1976."

SEC. 2. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft which (A) is described in subsection (a) of section 3, and (B) does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator (14 C.F.R. part 36), as such regulations were in effect in January 1, 1976;

(3) the term "operator" means any person who causes or authorizes the operation of an aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft;

(4) the term "replacement aircraft" means any civil subsonic turbojet powered aircraft which (A) has a maximum certificated takeoff weight of seventy-five thousand pounds or more, and (B) on the date an agreement to purchase such aircraft is entered into such aircraft is designed to comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator (14 C.F.R. part 36) as such regulations are in effect on such date;

(5) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction, and in the

case of an aircraft which requires alteration of the engine as well as the nacelle in order to comply with regulations promulgated pursuant to section 3 of this Act, shall include the alteration of the minimum number of such spare engines as the Secretary deems necessary for the continued operation of such aircraft; and

(6) the term "Secretary" means the Secretary of Transportation.

SEC. 3. (a) The Administrator shall, in accordance with section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431), promulgate regulations prescribing noise standards for the operation at any airport within the United States of—

(1) any civil subsonic turbojet powered aircraft which (A) has a maximum certificated takeoff weight of seventy-five thousand pounds or more, (B) is registered in the United States, and (C) has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)); and

(2) any civil subsonic turbojet powered aircraft which (A) has a maximum certificated takeoff weight of seventy-five thousand pounds or more, (B) is registered in a foreign country, and (C) if registered in the United States would be required to have a standard airworthiness certificate issued pursuant to section 603(c) of such Act,

(b) The regulations required to be promulgated pursuant to subsection (a) shall take effect within one hundred and twenty days after the date of enactment of this Act and shall include the following:

(1) A prohibition, beginning five years after the date of enactment of this Act, against the operation at any airport within the United States of any noncomplying aircraft to which such regulations apply.

(2) Requirements for such partial compliance at intervals prior to the last day of the five-year period beginning on the date of enactment of this Act as the Administrator deems necessary in order to carry out the purposes of this Act.

(3) Such other requirements as the Administrator deems necessary to carry out the purposes of this section.

SEC. 4. (a) For purposes of establishing eligibility to apply for a grant under section 5 to retrofit or replace a noncomplying aircraft, within one hundred and twenty days after the date of enactment of this Act, the Secretary shall determine and publish in the Federal Register a list which sets forth—

(1) for each operator of a noncomplying aircraft which is operated at an airport within the United States, the name of the operator of each such noncomplying aircraft on such date of enactment and the registration number of each such aircraft; and

(2) for each operator of a noncomplying aircraft which operated at an airport within the United States during 1975 and which is registered in any foreign country, the minimum number of such operator's noncomplying aircraft, by aircraft type, as listed pursuant to paragraph (1) of this section, which are necessary to maintain the same level of service in the United States by such operator with such noncomplying aircraft as was provided by such operator's noncomplying aircraft during 1975.

In any case for which more than one person claims to be the operator of any noncomplying aircraft, the Secretary shall determine the operator to whom to assign such aircraft, for the purposes of establishing such eligibility.

(b) (1) No person may apply for a grant to retrofit or replace a noncomplying aircraft under section 5 of this Act unless such noncomplying aircraft is set forth in the list required to be published pursuant to this section and such person's name is set forth in such list as the operator of such noncomplying aircraft.

(2) An operator of a noncomplying aircraft which is registered in a foreign country and which is published in the list in accordance with subsection (a) shall only be eligible to receive a grant for (A) the minimum number of such aircraft by type as specified by the Secretary pursuant to subsection (a) (2), and (B) with respect to such aircraft, for the retrofitting of such aircraft.

SEC. 5. (a) Any operator of a noncomplying aircraft who is eligible pursuant to section 4(b) for a grant to retrofit or replace any noncomplying aircraft may submit an application to the Secretary for such grant which shall be in such form as the Secretary may by regulation require. Such application shall—

(1) in the case of an application for a grant to retrofit any noncompling aircraft—

(A) identify such noncomplying aircraft in a manner prescribed by the Secretary;

(B) set forth the price of purchasing the retrofit materials and the price of installing such materials; and

(C) provide such other information as the Secretary may by regulation require; and

(2) in the case of an application for a grant to be applied to the purchase of a replacement aircraft—

(A) identify the number of such noncomplying aircraft for which such operator is seeking a grant for the purpose of applying such grant to the purchase of such replacement aircraft;

(B) be submitted with a copy of the contractual agreement entered into by such operator for the purchase of such replacement aircraft ;and

(C) provide such other information as the Secretary may by regulation require.

(b) (1) Within sixty days after the receipt of a grant application pursuant to subsection (a) of this section, the Secretary shall approve such application if he determines—

(A) in the case of an application to retrofit the noncomplying aircraft, that after such aircraft is retrofitted it will comply with the noise standards for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator (14 C.F.R. part 36), as such regulations were in effect on January 1, 1976, and the cost of such retrofitting is reasonable; and

(B) in the case of an application for a grant to be applied to the purchase of a replacement aircraft, the amount of money requested in the application would be a reasonable amount to retrofit the noncomplying aircraft identified in such application if the operator of such noncomplying aircraft had submitted an application to retrofit such noncomplying aircraft.

(2) With respect to any noncomplying aircraft, the Secretary shall not approve more than one application for a grant under this section.

(c) The Secretary shall not approve any grant application under this section which would require any Federal funds to be paid—

(1) for the retrofitting of any noncomplying aircraft after (A) the last day of the five-year period beginning on the date of enactment of this Act, or (B) any date prior to the last day of such five-year period which the Secretary may by regulation prescribe in order to carry out the purposes of this Act;

(2) as part of the purchase price of a replacement aircraft (A) any part of which was paid prior to the date of enactment of this Act, or (B) if such grant application is submitted after (i) the last day of such five-year period, or (ii) any date prior to the last day of such five-year period which the Secretary may by regulation prescribe in order to carry out the purposes of this Act;

(3) which would be in excess of the purchase price of a replacement aircraft; or

(4) for the retrofitting or replacement of any non-complying aircraft after the last day of such five-year period.

SEC. 6. (a) Upon the approval of a grant application submitted by an operator pursuant to section 5, the Secretary shall enter into an agreement with such operator for the payment of the amount set forth in such grant application. Such agreement shall contain the following conditions:

(1) No part of the grant shall be used for any purpose other than as set forth and approved in the grant application and any part of such grant which the Secretary determines is not being so used shall be immediately repaid to the United States with interest.

(2) In the case of a grant agreement providing for the retrofitting of a noncomplying aircraft, the retrofitting will be accomplished (A) in a manner which is consistent with any applicable safety requirement, (B) within the time period as set forth in the grant application, and (C) in a manner so that after such aircraft is retrofitted it will comply with the noise standards for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator (14 C.F.R. part 36), as such regulations were in effect on January 1, 1976.

(3) In the case of a grant agreement providing for Federal funds to be paid as part of the purchase price of a replacement aircraft, such replacement aircraft will comply (A) with any applicable safety requirement, and (B) will comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator (14 C.F.R. part 36), as such regulations were in effect on the date on which such operator entered into an agreement to purchase such replacement aircraft.

(4) No noncomplying aircraft will be operated at an airport within the United States by such operator after the last day of the five-year period beginning on the date of enactment of this Act.

(5) Such other conditions as the Secretary deems necessary to carry out the purposes of this Act.

(b) If any operator who receives funds pursuant to a grant agreement entered into under this Act fails to comply with any condition set forth in such grant agreement, such operator shall immediately repay to the United States any funds received pursuant to such grant agreement, with interest.

(c) The Secretary shall only make payments pursuant to a grant agreement entered into under this section after he receives notification from the operator that such operator is liable for a payment which is eligible for reimbursement pursuant to such grant agreement.

SEC. 7. Notwithstanding any other provision of law, there is authorized to be appropriated out of the Airport and Airway Trust Fund to carry out the purposes of this Act sums not to exceed $300,000,000 per fiscal year for each of the fiscal years 1977, 1978, 1979 and 1980. Sums authorized to be appropriated pursuant to this section shall remain available without fiscal year limitation until the last day of the five-year period beginning on the date of enactment of this Act.

By Mr. SCHWEIKER:

S. 3504. A bill to extend the boundary of the Tinicum National Environmental Center, and for other purposes. Referred to the Committee on Commerce.

Mr. SCHWEIKER. Mr. President, I introduce today legislation to expand the boundaries of Tinicum National Environmental Center, the sole surviving tidal marsh in Pennsylvania, located in Delaware and Philadelphia Counties, 6 miles from downtown Philadelphia. This is identical to the legislation, introduced by my distinguished colleague, the Honorable ROBERT W. EDGAR, which passed the House May 19, 1976.

The Tinicum National Environmental Center, established by Public Law 92–326 on June 30, 1972, is a unique marsh area of great ecological importance to the highly congested and urbanized areas around it. That legislation had special significance in that it marked the creation of the first urban national park in the history of the Nation. Public Law 92–326 authorized $2.5 million to acquire the 890 acres comprising the center.

The opportunity it provides for the millions of people living nearby to enjoy its beauty is unmatched. As a home for many varieties of wildlife and as a natural flood plain and natural waste water treatment environment, Tinicum Marsh plays a major role in the ecology of the Philadelphia area.

The legislation I introduce would extend the boundaries of the center by approximately 45 acres, to include the adjoining Folcroft landfill, and increase the authorization level to $5.9 million. The additional money is needed to purchase the land within the authorized boundaries. It is vitally important, Mr. President, to include the Folcroft dump area in the center for the center's own protection: As a breeding ground for rats and a source of chemicals seeping into the marsh water, the dump represents a clear and serious threat to the surrounding marsh.

There is a great deal of citizen interest in this matter, and my office has been contacted by representatives of thousands of citizens who strongly support this action to preserve and strengthen the ecological integrity of Tinicum Marsh. Having strongly supported the creation of this important natural preserve in 1972, I now urge my colleagues to recognize the importance of following through on that major step by protecting the marsh against deterioration. I am confident the Senate will follow up the job we started in 1972 by including this tract in the Tinicum National Environmental Center.

I ask unanimous consent that an editorial from the Philadelphia Evening Bulletin be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

> [From the Evening Bulletin, May 17, 1976]
>
> PLACID PARK: A BOOM FOR TINICUM
>
> A U.S. House committee has fortunately seen the need for including the old Folcroft landfill in the Tinicum National Environmental Center, which is taking shape as the nation's first urban national park.
>
> Acting on urgings from Delaware County Congressman Robert W. Edgar, the House Merchant Marine and Fisheries Committee has voted to add the 40-acre landfill to the park, rather than allow it to loom as an intrusion over the Tinicum marshes. The full House and then the Senate, should uphold the committee's action.
>
> The landfill—a 40-acre mound of trash and debris—was specifically, and unfortunately, excluded from the Tinicum park when it was approved by Congress in 1972.
>
> Adding the dump site now will not change the park's authorized size of 1,200 acres. That has always been an optimum, but not necessarily realizable, figure. The park's essential, core area of around 900 acres has been threatened by possible development of the landfill for commercial purposes.
>
> In short, the Merchant Marine Committee has realigned the park's boundaries, not extended them. It is placing a suitably high priority on acquiring the landfill ahead of other, less critical parcels of marshland.
>
> Congressman Edgar also wants to acquire two lagoons on the park's western edge, but acknowledges they will have to wait until more funds become available from public or private sources.
>
> With an additional $3.7 million the Ford Administration is supporting for the project, the longstanding dream of a unique, regional nature center in the Tinicum marshes can move ahead, the landfill included.

By Mr. BUCKLEY:

S. 3505. A bill to amend Section 121 of the Internal Revenue Code. Referred to the Committee on Finance.

Mr. BUCKLEY. Mr. President, I am today introducing legislation which would allow a taxpayer a one-time opportunity to sell his or her home without incurring tax liability up to $60,000 of gain realized from the sale of the property. The primary beneficiary of this provision would be those individuals approaching retirement whose need for family-sized housing is reduced but who presently avoid selling because of the tax liability incurred from such a sale. This one-time exclusion would in no way affect the rollover provisions which allow for the sale of one house when another is purchased within a certain period of time.

More specifically, my proposed amendment to the Internal Revenue Code provides for a one-time, total exclusion from capital gains taxation when the taxpayer sells his principal place of residence. My provision, however, limits the exclusion to $60,000, but that limitation is indexed hereafter to insure the original intent that middle-class, suburban homeowners should not have their principal asset taxed because they find themselves at that point in life when a substantial change in lifestyle is in order.

The bill which I am introducing today would simplify the present section 121 to provide for a straightforward $60,000 exclusion, rather than the current method which provides certain minimum and inadequate relief from capital gains liability arising from the sale of one's principal place of residence.

Section 121 currently provides for a one-time exclusion of proceeds from the sale or exchange of the principal place of residence of a taxpayer over 65 years of age, providing that the property has been used as the principal place of residence for at least 5 years. The problem is that this tax benefit begins to be phased out as the sales price of the home exceeds $20,000, a price now virtually unknown in real estate sales.

As I indicated above, the base figure of $60,000 would be indexed to insure that the formula does not become out-of-date, as the figures in the present section 121 have. I have approached the problem of illusory gain due to inflation in S. 987, my more generalized indexing proposal, in which the cost basis of all capital property would be adjusted to discount the consequences of all increases in the Consumer Price Index. But I feel that even those of my colleagues who have been reluctant to take this broader approach to the problem of taxing illusory capital gains will be constrained to support this more limited treatment, which, at the same time would benefit a substantial portion of the Nation's taxpayers.

It is ironic that a government which properly expresses so much concern for the problems of retired citizens should maintain a tax policy which taxes away a substantial portion of a person's savings which are represented in the form of a home. What just purpose does it serve to take these resources out of the hands of the people? All too frequently the Federal Government expresses its concern exclusively in the form of additional spending programs, when adjustments in the tax laws would achieve far more than can be realized by Federal spending.

My proposed change to section 121 contains provisions which would strictly limit its application. The exclusion is available only once to a taxpayer during his or her spouse's lifetime. However, the taxpayer would be free to exercise the exclusion at the time most advantageous to his own circumstances. Also, the $60,000 ceiling on the amount of gain which can be excluded insures fair treatment with no undue advantage, while insuring that this Nation's most hard-pressed class of taxpayers, the middle class, will be given this one-time relief.

We in the Government should be doing our utmost to remove any lingering and artificial barriers to the disposition of one's principal place of residence in order that we might encourage senior citizens—and others—to make home ownership decisions on the basis of genuine need and not of tax considerations.

ADDITIONAL COSPONSORS

S. 3425

At the request of Mr. NELSON, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Colorado (Mr. HASKELL), the Senator from New York (Mr. BUCKLEY), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 3425, to provide for comprehensive fish and wildlife studies.

SENATE JOINT RESOLUTION 186

At the request of Mr. BROCK, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of Senate Joint Resolution 186, to clarify and reaffirm Government purchasing policies.

My proposed change to section 121 contains provisions which would strictly limit its application. The exclusion is available only once to a taxpayer during his or her spouse's lifetime. However, the taxpayer would be free to exercise the exclusion at the time most advantageous to his own circumstances. Also, the $60,000 ceiling on the amount of gain which can be excluded insures fair treatment with no undue advantage, while in-

suring that this Nation's most hard-pressed class of taxpayers, the middle class, will be given this one-time relief.

We in the Government should be doing our utmost to remove any lingering and artificial barriers to the disposition of one's principal place of residence in order that we might encourage senior citizens—and others—to make home ownership decisions on the basis of genuine need and not of tax considerations.

AMENDMENTS SUBMITTED FOR PRINTING

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS—S. 1926

AMENDMENTS NOS. 1710 AND 1711

(Ordered to be printed and to lie on the table.)

CHURCH-KENNEDY AMENDMENT TO S. 1926

Mr. KENNEDY. Mr. President, on behalf of Senator CHURCH and myself, I submit the home health amendment. This measure has two provisions.

First, it would extend through fiscal 1977 the authority under the Health Revenue Sharing Act—Public Law 94-63—to finance the initial costs of establishing and operating home health agencies and to expand services of existing agencies.

Second, it would authorize funding through fiscal 1977 to train professional and paraprofessional personnel for home health agencies.

In recent years institutional charges have increased substantially. A stay in the hospital, for example, may now cost $150 to $200 a day—depending upon the region of the country where a patient is hospitalized.

The overwhelming proportion of medicare costs is for hospitalization. In fact, about 96 percent of all reimbursement under the part A hospital insurance program is for hospitalization.

Home health care, on the other hand, accounts for less than 1 percent of medicare reimbursement.

Hearings conducted by the Senate Committee on Aging have made it abundantly clear that many health conditions can be treated more effectively and economically at home. This is particularly true when highly specialized services are not required.

Most older Americans would prefer to remain at home in familiar surroundings if at all possible. And they can if effective alternatives to institutionalization are available.

But if this is to become a reality, home health services and facilities must be increased. In addition, it is vitally important that there be trained personnel to deliver services to elderly persons.

The need for home care is especially acute in rural areas where institutional facilities may be limited or nonexistent.

Many rural areas, though, have no home health agencies. And those that do usually have agencies equipped to provide only limited service. About one-half of the agencies certified under medicare offer nursing plus one other service—typically physical therapy. Yet, a sizeable proportion of older Americans reside on farms or in small communities. And their need for home health services is great.

The Church-Kennedy amendment would help make it possible for home health agencies to expand their services. Moreover, it can help target these services to areas where the need is the greatest.

Mr. President, I urge the adoption of the Church-Kennedy amendment.

THE ANTITRUST IMPROVEMENTS ACT OF 1976—H.R. 8532

AMENDMENT NO. 1712

(Ordered to be printed.)

Mr. ALLEN proposed an amendment in the nature of a substitute to amendment No. 1701 in the nature cf a substitute to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

AMENDMENT NO. 1713

(Ordered to be printed and to lie on the table.)

EXPLANATION OF AMENDMENT NO. 1 TO SECTION 4C(a)(2)

Mr. HRUSKA. Mr. President, the purpose of the proposed amendment is to eliminate as wholly unnecessary and punitive the provision that trebles the damages awarded in parens patriae actions.

The antitrust laws currently allow for treble damages in private actions, in part to provide for an incentive to sue and thus further to provide for a measure of deterrence. This allowance is appropriate for private actions where the plaintiff might otherwise decide that the costs of suit are not worth risking recovery of single damages only. Where a public body is suing, however, there are virtually no risks because of the public resources available to a State. The riskless nature of parens patriae suits will be underscored when the recent Senate bill appropriating Federal funds for State antitrust enforcement becomes law.

Accordingly, an allowance for treble damages in parens patriae actions becomes a purely punitive measure, providing for a form of civil penaties that bears no relationship whatsoever to the nature or seriousness of the violation. It makes absolutely no sense in light of the recently enacted bill increasing civil and criminal penalties for antitrust violations.

AMENDMENT NO. 1714

(Ordered to be printed and to lie on the table.)

EXPLANATION OF AMENDMENT NO. 2 TO SECTION 4(a)(2)

Mr. HRUSKA. Mr. President, the purpose of the proposed amendment is to discourage States from bringing groundless suits under the Act by providing that the costs of suit be charged against the State in the event of an unsuccessful action.

As currently drafted, the parens patriae provisions do nothing to discourage—and in fact encourage—blackmail suits that are frivolous, and that are designed to extort settlement funds from defendants. As experience with rule 23 demonstrates—and as States will no doubt appreciate—defendants cannot today afford to defend even the most frivolous class action suits on the merits because of the openended nature of the potential liability. These defendants much prefer to settle for a limited sum certain than run the risk, however remote, of having to pay an indeterminate sum in the future. Indeed, no class action under amended rule 23 has ever gone to trial; each has been settled. Title IV suits will be brought much more often than rule 23 suits, of course, because of the bill's elimination of the costs of individual notice—which the States could afford to pay in any event—the ability of States to hire outside counsel on a contingent fee basis, and, finally, the added political pressures that will face State attorneys general.

In these circumstances, it is sheer folly to encourage the bringing of suits which entail absolutely no risk to a public body with public funds no matter how frivolous the action is. Charging costs of suit, including attorneys' fees, to the States in the event of unsuccessful action is thus absolutely essential to provide some measure of balance. Even with the proposed amendment, of course, the cards are stacked in favor of bringing groundless actions, because of the realities which dictate settlement and of the public resources available to the State to pay the costs of suit.

AMENDMENT NO. 1715

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 4C(b)(1)

Mr. HRUSKA. Mr. President, the purpose of the proposed amendment is to make the notice specification of subsection (b) consistent with the due process requirements.

The actions the States are authorized by title IV to bring on behalf of persons will finally adjudicate whatever private rights those persons have under section 4 of the Clayton Act. Title IV thus permits those persons to "opt-out" of the State action if they do not want their rights bound thereby. The Eisen III decision of the Supreme Court, however, indicates that the notice by publication provided for in title IV will be inadequate to preserve these private rights if persons who will be bound by the State action can be identified and given individual notice by mail. This requirement for individual notice where practicable is expensive, and indeed is one of the reasons for permitting the States to finance the cost with public funds. Quite obviously, if the States are authorized to bring suit, however, there is no need to eliminate the notice requirement for fear that it cannot be paid by individual consumers.

AMENDMENT NO. 1716

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 4C(a)(1)

Mr. HRUSKA. Mr. President, the purpose of the amendment is to limit title IV to the collusive price-fixing antitrust violations that are cited by its proponents as justifying enactment. If adopted, the amendment would thus preclude the obviously unfair and unwise assessment of massive penalty awards in circumstances where the law is uncertain either because the applicable standards are evolving, or because a court is called upon to make close judgment calls that involve careful judicial balancing under the rule of reason.

The proponents of title IV have supported it as a means of collecting from defendants their "ill-gotten gains" obtained by price fixing that might otherwise go unpunished—and thus underterred—because of the difficulties of bringing private class actions under rule 23. Although the assumption underlying this argument—that price fixing today goes unpunished—is questionable, the bill extends far beyond price fixing to circumstances where the law is very uncertain.

AMENDMENT NO. 1717

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 304

Mr. HRUSKA. Mr. President, the purpose of this proposed amendment is to provide a court with discretion in determining whether attorneys' fees should be awarded to a successful plaintiff in private injunction cases.

Although an award of attorneys' fees may be appropriate in an injunction case because of the ambiguity of the term "substantially prevails" in section 304, and because of the wide variety of factual situations which may arise, there should be no mandatory requirement of this nature. Instead, the court should be given discretion to award attorneys' fees in private injunction cases when the circumstances so warrant.

AMENDMENT NO. 1718

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 4F

Mr. HRUSKA. Mr. President, the purpose of the proposed amendment is to make it clear that the attorneys' fees which may be paid by States to any outside counsel retained by them may not be made contingent on the success of the action, and must be determined on the basis of actual time spent—not on the basis of a percentage of the total recovery, as in typical contingent fee arrangements.

In H.R. 8532, the counterpart legislation to title IV, the House has already excluded those retained on a contingent fee basis from the attorneys who may bring parens patriae suits.

Courts have in the past approved contingent fee arrangements which award attorneys a percentage of the total recovery, and which have often resulted in fees that run into the millions of dollars. The reason for awarding such astronomical fees is to provide incentive for the private bar to assume the substantial risk of prosecuting actions involving numerous small claims, which, if unsuccessful, can leave the attorneys with no compensation whatsoever.

There will, however, be little risk in connection with actions brought by the States, which will be paying their legal staffs in any event, and which can afford to pay outside counsel on an hourly basis regardless of the outcome of the action. Indeed, elimination of these risks of suit is a principal objective of this legislation, which is designed to provide public financing of costs of suits, such as the notice expense, which can sometimes bar private suits. Accordingly, there is no justification for permitting contingent fee arrangements, which would result in windfalls to attorneys, not compensation for assumption of risk, and which would significantly reduce the amount of the damage fund that would be available to the injured consumers themselves. It is disingenuous, to say the least, to propose legislation which is supposed to make it easier for consumers to seek damages for antitrust injury, but which also channels a large percentage of damage awards running into millions of dollars to private attorneys.

AMENDMENT NO. 1719

(Ordered to be printed and to lie on the table.)

PROPOSED AMENDMENTS TO SEC. 7A.(d) AND (g)

Mr. HRUSKA. Mr. President, the purpose of the proposed amendment to section 7(a)(d) is to eliminate the automatic stay provision, defining a standard for preliminary injunctions—and temporary restraining orders—applicable to actions by the Justice Department which will be harmonious with the standard applicable to actions by the Federal Trade Commission under 15 U.S.C. section 53(b).

The bill in its present form would give the Government the right to obtain a stay automatically merely by filing an action. Under existing law, in order to secure a preliminary injunction the Justice Department must show, at a minimum, the probability of success on the merits. To justify the novel idea of an automatic stay, it has been suggested that the present standard can sometimes be difficult for the Government to meet and that in some situations the Government has been required in effect to prove its entire case at the outset of the action.

Especially since it is universally agreed that mergers and acquisitions are not inherently suspect activities, and that there is no underlying assumption that they are bad, such an automatic stay without any showing with respect to probable illegality is alien to traditional standards of justice. In his testimony at the hearings the Chairman of the FTC recognized this fact, and opposed the idea of an automatic stay:

> I think we all recognize that there may be instances in which mergers are economically desirable. The merger law quite properly puts the burden on the government to challenge by court or administrative proceedings those mergers which appear to threaten competition. If we can get the information that we need to make the determination as to whether a particular merger should be opposed, we think the burden should be on us to make the challenge. Rather than mandating a court, upon application of the enforcement agency, to enter an order prohibiting consummation of a merger pending final judgment, the law should permit a court to require a showing by the government of probable illegality. Also, the court should have the discretion to permit mergers to take place upon adequate showing that the acquiring company would remain a sufficiently distinct entity to permit ready divestiture if later ordered. Senate S. 1284 Hearings at 71.

There is a real showing as far, if at all, the Government may be failing to get relief which it should get under present law. The Chairman of the FTC testified at the hearings that the standard presently applicable to the FTC is satisfactory. In addition, the Justice Department was recently given authority to appeal the denial of preliminary stays in antitrust actions to the appropriate Federal courts of appeal immediately. The denial of a preliminary stay by the district court is thus no longer the irrevocable step that it used to be; therefore, district courts are likely to be more favorably disposed to grant applications for preliminary stays than they have heretofore been.

The proposed amendment nevertheless strengthens the hand of the Justice Department in seeking preliminary relief, by eliminating the inflexible requirement that the Government demonstrate a substantial probability of success on the merits, independently of other factors. The language for doing so is borrowed from the statutory standard governing actions for such relief brought by the Federal Trade Commission, which the FTC Chairman testified is satisfactory. The statutory standard for the FTC is that preliminary relief may be granted, without bond, if the court determines that "weighing the equities and considering the Commission's likelihood of ultimate success, such action would be in the public interest" 15 U.S.C. section 53 (b). The proposed amendment applies a similar standard to actions filed by the Justice Department.

The amendment would consolidate in section 7A.(d) all provisions governing the nature of the relief which the district court may order pendente lite. The proposed amendment gives the district court discretion to fashion appropriate relief to meet the legitimate needs of both parties in each particular case. It would give the Government the right to obtain a hold separate order—a power which it does not now have by statute—but only after demonstrating to a court that such an order is necessary and appropriate in the context of the transaction.

The proposed amendment would eliminate the remaining elements of section 7A.(g) including: First, the residual remnants of provisions formerly in the original bill for mandatory divestiture at a previously established price with segregation of assets and escrow of profits; second, an administratively difficult, and now pointless, provision requiring the district court to "establish" the purchase price of stock or assets; third, a probably innocuous but unnecessary requirement that any divestitures which are ordered be accomplished expeditiously; and fourth, the incomprehensible—and therefore extremely dangerous—requirement that "to the extent practicable the court shall deprive the violator of all benefits of the violation including tax benefits." These provisions are pointless, meaningless, or both, and should be stricken from the bill.

AMENDMENT NO. 1720

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SEC. 7A(b) (2) AND (3)

Mr. **HRUSKA**. Mr. President, the purpose of this proposed amendment to section 7A.(b) (2) is twofold.

First, it would eliminate the authority of the Federal Trade Commission to subject virtually any acquisition to the notification and waiting period requirements of the proposed legislation even though the dollar amount involved was less than the statutory minimum. The existing merger notification program, which the FTC has found to be successful, would, of course, still be available to that agency if section 7A.(b) (2) is deleted, as was noted by Chairman Engman in his testimony—Senate S. 1234 hearings at 72.

Second, the proposed addition to section 7A.(b) (3)—renumbered (b) (2)—requires the Federal Trade Commission and the Assistant Attorney General to keep notification information confidential, except that appropriate congressional inquiry is permitted. The confidentiality provision will insure that respondents are not prejudiced by submitting confidential information concerning a proposed merger or acquisition. The necessity for a confidentiality provision was emphasized in his testimony on May 7, 1975 by the Assistant Attorney General in charge of the Antitrust Division, Thomas E. Kauper:

> Much of the information submitted would undoubtedly be commercial business information which might be exempt from disclosure under the Freedom of Information Act. Some of the material would seem to fall within the investigatory exemption to that Act, at least during the waiting period. But what of the notification itself? Obviously if the companies are at a point where public disclosure is required under the securities laws this is an academic point, but this may not always be the case. And there may be strong reasons for preserving the confidentiality of the notification. In any event the bill might better deal directly with the confidentiality issues rather than leave them to future litigation and uncertainty.—Senate S. 1284 hearings, at 98.

The new sentence dealing with the sufficiency of compliance with the section's reporting requirements is aimed at minimizing unnecessary burden on reporting persons, especially where the form in which their records are maintained might make conformity with the letter of such requirements extremely difficult. The need to avoid overly technical construction of the reporting requirements is key, given the tight time schedules for reporting.

AMENDMENT NO. 1721

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENTS TO SECTIONS 7A, (b) (1) AND (c) (2)

Mr. **HRUSKA**. Mr. President, the purpose of the proposed amendments to section 7A. (b) (1) and (c) (2) is to place reasonable limitations on the length of any delay which the Commission or Department of Justice can impose upon the parties. The amendment would stay consummation of covered acquisitions for 15 days and, upon a showing that, despite diligent efforts, the Government authorities were unable to complete their analysis of the contemplated acquisition, would permit the Government authorities to obtain an additional delay of up to 15 days from receipt of any additional information requested.

Assistant Attorney General Kauper testified that failing to limit an extension of the delay period available to enforcement agencies seeking to review a contemplated acquisition would permit those agencies virtually "unbridled discretion to delay"—Senate S. 1284 hearings at 96. Although revised, the present draft of the bill in effect gives governmental agencies a 75-day or longer delay period at their discretion.

The proposed amendment places a reasonable requirement of showing a necessity for an additional delay period, and leaves the duration of that additional delay period, up to 15 days, in the district court's discretion. Without such a limitation, governmental agencies could place acquisitions covered by this legislation in jeopardy because of the automatic right of the Government to delay the acquisition for a 2½-month period. Additionally, a discretionary right to extend the period, without any necessary demonstration of need on the part of governmental agencies, would substantially remove the incentive for the agency to complete its review as rapidly as possible, an incentive whose importance was undiscovered by Assistant Attorney General Kauper:

> Moreover, if a merger is to be held up by virtue of unilateral action of the enforcement agencies, there should be an incentive for the agencies to proceed with their evaluation as rapidly as possible.—Senate S. 1284 hearings at 97.

AMENDMENT NO. 1722

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 7(A).(b) (4)

Mr. **HRUSKA**. Mr. President, the first purpose of the proposed amendments to section 7A.(b) (4) is to make clear that the enumerated classes of exception, (i) through (xi) in the proposed amendments, are statutory and thus require no implementing regulations by the Federal Trade Commission. The FTC is given the authority in (xii) to define by regulation further classes of exceptions.

The second purpose of the proposed amendment is to codify the present FTC reporting requirement for tender offers. S. 1284 in its present form wholly fails to address itself to the special requirements of tender offers or to mesh with the Williams Act of 1968, Securities Exchange Act section 14(d) (5), 15 U.S.C. section 78n(5), which provides that:

> Securities deposited pursuant to a tender offer or request or invitation for tenders may be withdrawn by or on behalf of the depositor at any time until the expiration of seven days after the time definitive copies of the offer or request or invitation are first published or sent or given to security holders, and at any time after sixty days from the date of the original tender offer or request or invitation, except as the Commission may otherwise prescribe by rules, regulations, or order as necessary or appropriate in the public interest or for the protection of investors.

The bill's failure to deal clearly and effectively with the important tender offer issue was noted by Assistant Attorney General Kauper who emphasized:

> There is no inherent reason to suspect such offers, which are in and of themselves purely neutral facts. They may be procompetitive in some circumstances.—Senate S. 1284 Hearings, at 97.

The third purpose of the proposed amendment is to eliminate the various rulemaking authorities which section 7A.(b) (4) (A) would grant the FTC. These authorities are either appropriately dealt with in other sections, or are so broad and general as to threaten to undermine an otherwise carefully structured statutory scheme.

AMENDMENT NO. 1723

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 301

Mr. **HRUSKA**. Mr. President, the purpose of this proposed amendment is to retain the present jurisdictional reach of the Robinson-Patman Act and section 3 of the Clayton Act to activities in the flow of interstate commerce. In addition, this proposed amendment would retain the jurisdictional requirement in section 7 of the Clayton Act that both the acquiring and acquired companies be engaged in commerce.

(a) Robinson-Patman Act.

The Supreme Court has recently defined the jurisdictional scope of the Robinson-Patman Act as requiring at least one of the two transactions involving a discrimination to cross State lines. *Gulf Oil Corp.* v. *Copp Paving Co.,* 419 U.S. 186 (1974). Congress should not expand the reach of the act to cover essentially intrastate conduct at a time when its provisions have been the subject of persuasive criticism.

Economists are becoming increasingly convinced that the act is anticompetitive. Indeed, one of the leading opponents of the present act is the Department of Justice, which has reportedly submitted a proposed bill to Congress which would substantially restrict the applicability of the act. The Department's criticisms were recently aired by Mr. Joseph Sims, Special Assistant to the Assistant Attorney General for Antitrust. He testified before the Subcommittee on Activities of Regulatory Agencies of the House Committee on Small Business that the Robinson-Patman Act has hurt both the consumer by discouraging lower prices, and those it was supposed to preserve, the small entrepreneur, by—

> * * * reinforcing oligopoly pricing, by making entry against those with entrenched market positions more difficult, and by preventing businesses, small as well as large, from tailoring their pricing structure to reflect the demands of the market in which they do business. Indeed, the Robinson-Patman Act may in some instances have actually enhanced the position of large corporations by encouraging vertical integration and the use of private brands.—Testimony, page 10.

In the face of such cogent criticism, instead of expanding the reach of its provisions, Congress should rather undertake a thorough reevaluation of the Robinson-Patman Act.

(b) Section 3 of the Clayton Act.

There is no apparent reasons for expanding the scope of section 3 of the Clayton Act to cover activities which only affect intrastate commerce. Such an amendment would encourage predominantly local disputes to be litigated in the Federal courts at a time when such courts are becoming increasingly overcrowded. There has been no indication that the commerce limitation in section 3 has created any enforcement problems, particularly since the practices which violate section 3 also violate section 1 of the Sherman Act and section 5 of the Federal Trade Commission Act, both of which cover practices to the full extent of the Federal commerce power.

The absence of any need for such expanded Federal jurisdiction is underscored by the vigorous antitrust programs being undertaken in a large number of the States—with the active encouragement of the Federal enforcement agencies—to deal with local restraints on a local level. The enactment of section 301 would give rise to serious Federal/State jurisdictional questions with respect to antitrust policy and enforcement. The same acts would be subject to differing and possibly conflicting legal standards. Moreover, the extensive efforts of many States to regulate conduct solely within their boundaries might be thwarted by enactment of section 301.[1]

(c) Section 7 of the Clayton Act.

There exists no apparent reason for expanding the applicability of section 7 to corporations whose activities only affect intrastate commerce. The Supreme Court has very recently determined that the "drastic prohibitions" of section 7 were not intended to reach all corporations engaged in activities subject to the Federal commerce power. *United States* v. *American Building Maintenance Indus.*, 1975 Trade Cas. paragraph 60,365 at 66,551 (1975). Indeed, the legislators who amended section 7 in 1950 made it clear that the provision would not prevent "any local enterprise in a small town from buying up another local enterprise in the same town." Senate Report No. 1775, reported in 2 U.S.C. Congressional Service 4293, 4296 (2d sess. 1950).

Nothing has developed since 1950 which would warrant a change in the jurisdictional scope of section 7 of the Clayton Act. As with section 3 of the Clayton Act, there appears no valid reason for further burdening the Federal courts with local controversies.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1723

Section 301 should be deleted in its entirety by striking lines 2–25 on page 21; and lines 1–14 on page 22.

AMENDMENT NO. 1724

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED DELETION OF TITLE V

Mr. HRUSKA. Mr. President, the undesirable features of Title V have been extensively dealt with and need not be repeated here. They include massive uncertainties and dislocations to the capital market and to the efficient operation of a truly competitive free enterprise system; the lack of any real showing of any inadequacy of the Government's present enforcement authority in merger cases; and the mythical nature of the so-called merger problem.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1724

Delete Title V beginning on page 32, line 21 through page 43, line 24.

AMENDMENT NO. 1725

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 7A.(a)

Mr. HRUSKA. Mr. President, the purpose of the proposed amendment is to substitute the present FTC premerger notification standards for the lower dollar amounts specified in title V and preserve the FTC's meaningful distinction between manufacturing and nonmanufacturing companies, that is, looking to assets, rather than sales, of nonmanufacturing companies being acquired, so as to exclude small companies dealing in expensive commodities.

The committee print of July 28, 1975—at page 62, lines 6 through 12—requires reporting of transactions where:

> (3) The combined total assets or annual net sales of the acquiring person or persons and the person or persons the stock or assets of which is being acquired are in excess of $10,000,000: Provided, that both the acquiring person or persons and the person or persons the stock or assets of which is being acquired have total assets or annual net sales in excess of $10,000,000.

This coverage, in effect, of $20 million transactions reaches even more acquisitions and mergers than the $100 million minimum in the March 21, 1975, version of the bill which was criticized as too inclusive by both the Justice Department and the Federal Trade Commission. Testifying on May 7, 1975, before the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee, Federal Trade Commission Chairman Lewis A. Engman stated:

> If we had to conduct full investigation of all mergers exceeding the $100 million assets or sales test that is contained in the bill, the fruits of our efforts might not be worth the cost. Our own pre-merger notification program sets higher limits of $250 million of assets or sales and appears to be satisfactory for purposes of getting basic information on large mergers. (Hearings on S. 1284 Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary, 94th Cong., 1st Sess. (1975) ("Senate S. 1284 Hearings") at 71–72.)

Indeed, the committee print's coverage of $20 million transactions may well be inadvertent because, as presently drafted, section 7A.(a) (1) and (2)—page 61, lines 20 through 25, and page 62, lines 1 through 5—defining the bill's coverage of transactions where either the acquiring or the acquired party has sales or assets in excess of $100,000,000 is surplusage—wholly subsumed in section 7A.(a) (3).

Like the present FTC premerger notification program, the proposed amendment makes clear that the waiting period is intended to apply only to transactions involving $10,000,000 or more in sales or assets, not to smaller transactions where a company having sales or assets in excess of $10,000,000 disposes of a portion of its stock or assets. Thus, the sale or equipment or machinery by one large company to another would not be subject to the waiting period unless that sales involved $10,000,000 or more. The exception provided in section (b)(4) for transactions involving "goods or realty transferred in the ordinary course of business" does not reach this specific problem. The standard of "ordinary course of business" is general and vague and could only be relied on at the peril of being subjected to a $10,000 per day penalty for noncompliance if the Commission or the Assistant Attorney General took the view that such a transaction was not an "ordinary" one.

The proposed amendment makes a distinction between manufacturing and nonmanufacturing companies by stating that in the case of nonmanufacturing companies, only the assets are to be taken into account in determining whether the Bill would apply. This language recognizes the fact that even a small nonmanufacturing company normally has relatively large dollar sales volume. The acquisition of such a company would not normally have a material effect on competition. The amendment follows the distinction made by the Federal Trade Commission between manufacturing and nonmanufacturing acquisitions when the Commission revised its merger notification program after 5 years of experience.

I ask unanimous consent that text of the amendment be printed at this point of the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1725

Delete the text at page 33, lines 11–23, and substitute therefor the following:

"(1) stock or assets of a manufacturing company with sales or assets of $10 million or more is or are being acquired and the combined sales or assets of the acquiring and acquired persons exceed $250 million; or

"(2) stock or assets of a non-manufacturing company with assets of $10 million or more is or are being acquired and the com-

---

[1] Section 301 would also enlarge the jurisdictional scope of Section 6 of the Sherman Act, providing for forfeiture of property which is the subject of a violation of Section 1 of the Sherman Act. Section 6 has rarely, if ever, been invoked by the Department of Justice. Here too, we are unaware of any need for increasing the jurisdictional reach of this remedy.

bined sales or assets of the acquiring and acquired persons exceed $250 million—"

AMENDMENT NO. 1726

(Ordered to be printed and to lie on the table.)

EXPLANATION OF PROPOSED AMENDMENT TO SECTION 303

Mr. HRUSKA. Mr. President, the purpose of this proposed amendment is to preserve the present functions of the executive and judiciary in their control of the conduct of foreign relations and application of international law respectively.

Section 303 appears to undercut the doctrines of sovereign immunity and act of state, and disregards the general considerations of comity which are traditionally used in deciding such issues. Permitting, in effect, a default judgment for failure to make discovery of furnish evidence which is forbidden by foreign law, it encroaches on the conduct of foreign relations, which is the province of the executive and not a matter for the judiciary. Moreover, section 303 may unconstitutionally permit a judgment which conflicts with the foreign policy of the United States, or violates international law.

The amendment made in committee, which appears to offer a "good faith effort to comply" exception to the provision's mandate actually does little to mitigate the intrusiveness of the section. It merely says that when a party's employee or subsidiary is not subject to the jurisdiction of the court and has control of the material, the material need not be produced. But, of course, most of the time a foreign employee or subsidiary will officially be subject to the court's jurisdiction as an element of the party, as well as subject to foreign jurisdiction. The conflict will still be present in the vast majority of cases.

Courts faced with the problems addressed by section 303 have arrived at practical solutions based upon a balancing of conflicting interests. Section 303 would overrule—perhaps unconstitutionally—decisions prohibiting a court from dismissing a party's claim or defenses for nonproduction of evidence or failure to testify when it would result in criminal liability under foreign law, see *Societe Internationale* v. *Rogers*, 357 U.S. 197 (1958), or some other substantial hardship such as revocation of a license to do business in a foreign country, see *United States* v. *First Nat'l City Bank*, 396 F. 2d 897 (2d Cir. 1968). There is no apparent reason for changing such limited exceptions, developed through years of judicial experience. Foreign and multinational litigants—including U.S. corporations operating overseas—should not be required to risk criminal liability or catastrophic losses in other countries in order to prosecute or defend claims effectively in Federal courts.

Section 303 would also make a party responsible for the failure of any person "in privity" with him to comply with a court order. The concept of privity is a very broad one; it goes substantially beyond control, and for this reason is inappropriate in this legislation.

NOTICE OF HEARING BY THE SUBCOMMITTEE ON ENERGY RESEARCH AND WATER RESOURCES

Mr. METCALF. Mr. President, on behalf of the Senator from Idaho (Mr. Church), I wish to announce, for the information of the Senate and the public, the scheduling of a public hearing before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs.

The hearing is scheduled for June 7, at 10 a.m., in room 3110 of the Dirksen Office Building. Testimony is invited regarding S. 3394, a bill to authorize engineering investigation, stabilization, and rehabilitation of the Leadville Mine drainage tunnel in the State of Colorado.

For further information regarding the hearing, you may wish to contact Mr. Russell Brown of the subcommittee staff, on extension 41076. Those wishing to testify or who wish to submit a written statement for the hearing record, should write to the Energy Research and Water Resources Subcommittee, room 3206, Dirksen Senate Office Building, Washington, D.C. 20510.

NOTICE OF HEARING BY THE SUBCOMMITTEE ON ENERGY RESEARCH AND WATER RESOURCES

Mr. METCALF. Mr. President, on behalf of the Senator from Idaho (Mr. Church), I wish to announce, for the information of the Senate and the public, the scheduling of a public hearing before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs.

The hearing is scheduled for June 15, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding two measures which are presently before the subcommittee. The bills are: S. 2194, to authorize the McGee Creek Reclamation project and H.R. 6622, to provide for the repair of the Del City Aqueduct both in the State of Oklahoma.

For further information regarding the hearing you may wish to contact Mr. Russell Brown of the subcommittee staff on extension 41076. Those wishing to testify or who wish to submit a written statement for the hearing record, should write to the Energy Research and Water Resources Subcommittee, room 3206, Dirksen Senate Office Building, Washington, D.C. 20510.

ANNOUNCEMENT OF HEARINGS

Mr. PROXMIRE. Mr. President, on Friday, June 4, the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 1907, a bill to provide for U.S. participation in the recently negotiated OECD Financial Support Fund. The $25 billion fund is an outgrowth of a proposal by Secretary of State Kissinger in the fall of 1974 to assist the industrialized countries of the world in meeting the financial and economic burdens arising from oil-induced balance-of-payments deficits. Legislation authorizing U.S. participation in the Fund was reported by the Foreign Relations Committee on April 9 and subsequently referred to the Banking Committee.

Among the matters which will be explored are such issues as the following: First, have the conditions which gave rise to the proposal changed so that the need for it no longer exists, that is, is the Financial Support Fund still necessary in light of declining, rather than rising, oil-induced balance-of-payments deficits among the OECD countries; second, will the Fund, if activated, constitute, as has been charged, a bailout for multinational banks; third, will the Fund's existence tend to diminish multinational bank prudence in the making of foreign loans; fourth, will the existence of the fund increase OPEC's latitude to raise oil prices by relieving it of responsibility for the adverse economic and financial consequences of further oil price increases; fifth, why is the Fund needed in light of the International Monetary Fund, the International Monetary Fund's special oil facility, and the European Loan Fund; and sixth, are there adequate arrangements under the Fund to insure that loan recipients make necessary economic and financial adjustments to restore their balance-of-payments positions?

The hearings will begin at 10 a.m., in room 5302 of the Dirksen Senate Office Building. Interested persons should contact Stanley J. Marcuss, counsel to the International Finance Subcommittee, at 202-224-8813.

ADDITIONAL STATEMENTS

A PLAN OF ACTION FOR REGULATORY REFORM

Mr. WEICKER. Mr. President, today I join Senators Percy and Robert Byrd in cosponsoring S. 2812, the Regulatory Reform Act of 1976. Government regulation is a factor which influences the life of every American citizen. It has grown and developed over the life of our Nation. The principles underlying Government regulation are basic to our democratic policies—to preserve and promote a high quality of life for our citizenry and to maintain the free enterprise economy through competition.

Over the years, as the quality of American life became more complex and our economy continued to grow by leaps and bounds, so did Government. Not too long ago the answer to every problem was the creation of still another independent agency or commission. The responsibility for these simplistic responses to real problems is shared equally by Presidents and legislators alike.

One cannot deny the sincerity of those who went before us; however, the upshot of these answers to problems has been overregulation, burdensome paperwork, duplication of effort, and higher costs to consumers and business. The result of these earstwhile efforts is perhaps best described in a letter which I received from Dr. John H. Heller of the New England Institute which I ask unanimous consent to have printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

New England Institute, Inc.,
Ridgefield, Conn., February 5, 1976.
Senator Lowell P. Weicker, Jr.,
Old Senate Office Building,
Washington, D.C.

Dear Senator: I have marked this letter *Personal* in the hope you will see it yourself.

Twenty-one years ago, this Institution had to report to one agency, the A.E.C. Today, we have to report to no less than fifty State and Federal Agencies. This preoccupies the time for four doctorate personnel and four girls.

The overwhelming percentage of these inane forms have no relevance to us or what we have ever done. However, if we don't fill any of them out or we just write N/A, for Not Applicable, we receive a threatening letter that indicates that we will be blackballed in federal agencies, ineligible for grants (I imagine from such organizations as the National Science Foundation), and that we will have our tax exemption revoked.

This excessive, ridiculous intrusion into private citizen's affairs is probably best exemplified by *four rabbits.* We maintain an average of 10,000 mice and rats in our animal quarters. According to the federal government these are not animals! ! We also have four rabbits. We never have more; we never have less. According to the bureaucracy, these rabbits are animals.

Every two months, one or two people come up from Washington to inspect these four rabbits. These rabbits live, as with all our animals, in the most modern, efficient, climate controlled, humidity controlled, temperature controlled, diet controlled, bacteria controlled conditions that science can devise. The richest sheiks on the Persian Gulf could not afford this kind of care.

These two ding-a-lings from Washington, filled with a sense of self importance, as though the world would come to an end if they didn't inspect our four rabbits, take the time of one doctorate scientist for a full day filling out endless identical forms and asking the same irrelevant questions; and they make sure that we maintain a committee for surveillance of the four rabbits, composed of five doctorate people, both in house and out house! This is not an extreme example, but it is typical.

The bureaucratic intrusion into every aspect of the private sector is costly to the government and painfully expensive for us to bear. We must use funds given to us by individuals and foundations to do scientific research to satisfy the federal bureaucratic colossus and its voracious and gargantuan appetite for our "time, talent and treasure." We might as well be living in a Soviet type land where Big Brother's vigilance is omnipresent, omniscient and omnipotent.

On behalf of all of us; get the federal bureaucratic parasitic load off the American people's back.

Sincerely,

John H. Heller, M.D.,
President.

Mr. WEICKER. Mr. President, obviously, Dr. Heller is not alone in singing the dump-Washington song today. The anti-Washington bandwagon is still rolling along, but appears to be somewhat aimless.

The crisis of confidence in our governmental institutions is indeed ominous, but we are not going to correct the matter by taking cheap shots at something called Washington without identifying specific problems and offering positive alternatives.

I do not believe that we can solve our regulatory reform problems by introducing a single bill to dissolve a least-favored Government agency, or by prematurely requiring commitments of ourselves to review every decision of every agency. I do believe that we can resolve the regulatory impasse by establishing a logical, methodical, reasonable approach to the issues involved and proceed in a comprehensive manner.

S. 2812 sets forth such a discipline for action which would apply to both the Congress and the President. Over a period of 5 years, from 1977 to 1981, the President would submit to the Congress comprehensive plans for reforming regulation in five specific areas of the economy: banking and finance, 1977; energy and environmental matters, 1978; commerce, transportation, and communications, 1979; food, health and safety, and industry trade practices, 1980; and housing, labor-management relations, Government procurement, equal employment opportunity, and small business, 1981.

By establishing this timetable for action, the administration and the Congress can proceed toward comprehensive reform of the regulatory structure. The approach outlined above is a systematic and deliberate manner in which to attack the disease. It is not a simplistic cure for the symptoms.

One of the basis for regulation is economic. For this reason I believe it wise to proceed in a fashion which requires that the administration and Congress take a look at entire sectors of the economy in a composite manner. Such an approach limits the dangers of haphazard solutions which create more severe problems down the road. It offers a realistic manner in which to consider how these areas interrelate, overlap, and affect one another. It also requires that, as we proceed to examine a primary area of regulation, we must consider the subsidiary effects, problems, and regulations which have been created.

We have all had tendencies to rush forward with new programs and new policies. The time has come for us to stop, look, and examine the past before proceeding full steam into the future. The bandaid approach to national problems may no longer work and what may be needed is the surgeon's scalpel. Well, I for one do not want to go ahead with radical surgery until I am convinced that there is a reasonable chance of success and recovery. S. 2812 offers a method by which to diagnose the illness, and judge the proper treatment.

I have always been an advocate of a strong, active Federal Government. As we look around in our own States or hometowns we see the fruits of Government's labors. By sponsoring this legislation, I am not suggesting that we eliminate the need for regulation or the objectives. The preservation of our free market economy and the improvement of the quality of life are goals toward which we must continually strive.

Likewise, I am not suggesting that we need more study of the question. The Government Operations Committee and Commerce Committee will submit the results of their joint effort in a few months and I expect that the legislative initiatives which will be forthcoming will incorporate their recommendations.

What I am suggesting is action. We have talked this issue and demagoged enough. By enacting this bill, we bind ourselves to do something positive.

Where there is overregulation and duplication, let us eliminate and consolidate. Where there is inefficiency, let us find out why. Let us do away with programs which have outlived their purpose and usefulness. Let us streamline and cut bureaucratic redtape. Let us simplify and standardize forms and reports.

It is true that our Government is big. Realistically, we cannot cut its size in half, but we can make it more efficient and we can make big government work better for all of us without making it burdensome.

TURNING ORGANIC WASTE INTO PROFIT AND POWER

Mr. BUMPERS. Mr. President, the Energy Research and Development Administration—ERDA—has recently announced a new emphasis on energy conservation, an initiative that I wholeheartedly applaud. I am proud to say that many residents of Arkansas have long been keenly aware of the need for conservation and are working productively to make it a reality instead of a long-term goal. In particular, Frank Angelo, Sr., Frank Angelo, Jr., and Elbert J. Stanley of Jonesboro, Ark., have been leaders in this field.

They have developed a process for converting waste, completely without pollution, into charcoal for industry or potash for fertilizer, and, perhaps more important, the process has a potential for converting heat into steam and powering an electric generator.

Mr. President, the magazine Nation's Business, in its May 1976 issue, has given national recognition to this process, and I ask unanimous consent that an article appearing on page 36 of that issue, entitled "Turning Organic Waste Into Profit and Power," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Turning Organic Waste Into Profit and Power

In the process of making chicken coops, the A & P Coop Co., Inc., of Jonesboro, Ark., had a problem disposing of the 80,000 pounds of sawdust and wood chips accumulating daily.

Hauling the waste away was expensive, and burning it on the spot created pollution.

After a lot of tinkering and research, Frank Angelo, Jr., vice president and son of the owner, came up with a contraption that he says has solved the problem. Not only does it dispose of the waste without polluting, he says, but it turns waste into charcoal for industry or potash for fertilizer.

More important, he says, there is a potential for converting the disposal process's heat into steam and powering an electricity generator with the steam. Technology exists, says Mr. Angelo, for adding to the device an energy recovery system that will produce enough electricity to power 19 medium-sized factories or about 1,000 homes.

A & P Coop has spent about $200,000 on the machine and hired an industrial engineer, Elbert J. Stanley, to work out the bugs. Mr. Angelo and Mr. Stanley have national and international patents pending on the recycling device.

The Angelo-Stanley converter can be built in a variety of sizes to accommodate almost any kind of waste disposal problem, Mr. Angelo says. It is simple to produce. The machine now in use at A & P Coop was made from an old railway tank car, cast-off boiler parts, used grain auger conveyors, and old gasoline storage tanks. The machine requires only one operator.

"What we need now is enough money to complete our research," says Mr. Angelo. "That will help us improve the afterburner to make it more efficient and come up with a design for a proper energy recovery system."

Rep. Bill Alexander (D.-Ark.) was having breakfast with President Ford last summer and mentioned the Angelo-Stanley invention. Mr. Ford arranged a meeting of the two inventors with Energy Research and Development Administration officials. Mr. Angelo and Mr. Stanley have since applied for an ERDA grant to perfect the machine.

Mr. Angelo says more than 800 million tons of organic wastes are produced in the U.S. annually, not only in working with wood but also at cotton gins, rice mills, peanut processing plants, other factories, and livestock feedlots, as well as in public refuse and sewage systems.

This waste could be converted into as much energy as more than a billion barrels of oil or almost nine trillion cubic feet of natural gas, Mr. Angelo says. Such energy conversion, he adds, would be enough to offset our total purchases of oil from abroad.

A simple device which mixes outside air with gases produced by the burning waste in the converter eliminates pollution, Mr. Angelo says. The turning of a single valve determines whether the converter will produce potash or charcoal.

About four years ago, residents around A & P Coop plants began complaining about smoke and pollution. The company was forced to shut down its disposal burners and start paying to haul the refuse away.

Frank Angelo, Jr., who is 27 and majored in business administration at Arkansas State University, was then general manager. He began researching cellulosic waste, pollution, and industrial recycling. Out of this same the converter.

"I am convinced that we have the answer, not only to the cellulosic waste disposal problem, but to a large share of America's energy needs," Mr. Angelo says. "And we'll make it with or without the help of the government."

The Canadian government, with an eye to the tremendous amounts of wood waste generated by Canada's forest industries, is seeking a licensing agreement with A & P Coop for Canadian manufacturers.

After inspecting the invention, Arkansas State Conservation Administrator Robert L. Penton wrote:

"The development of a piece of equipment which utilizes the waste for charcoal and other by-products in a clean environment and has the capabilities of being energy-producing to boot reminds me that, too many times, we can't see the forest for the trees."

OVERREGULATION BY THE FEDERAL BUREAUCRACY

Mr. THURMOND. Mr. President, on December 15, 1975, I put into the Record a statement concerning the plight of Hillsdale College in Michigan. This statement was prompted by an article which appeared in Time magazine on December 8, 1975, "Suffocating Federal Help." This situation has not improved since that time. In fact, it has reached such a ridiculous point that sources of student funding are used as expansions of Federal authority under title IX. President George C. Roche III, is not the only concerned educator. The president of the American University, the Catholic University of America, the George Washington University, and Georgetown University are so concerned with government interference and disruption to higher education that they saw fit to publish a "1976 Declaration of Independence."

Mr. President, further highlighting the plight faced by Hillsdale College and other institutions of higher learning, consequently by all Americans, I ask unanimous consent that "A 1976 Declaration of Independence," by the presidents of the American University, the Catholic University of America, the George Washington University, and Georgetown University; a letter by Dr. George C. Roche III, dated March 17, 1976, a letter to Mr. Martin H. Gerry, Acting Director, Office for Civil Rights, Department of Health, Education, and Welfare, March 24, 1976, and Acting Director Martin H. Gerry's letter of April 7, 1976, to me be printed in the Record,

There being no objection, the material was ordered to be printed in the Record, as follows:

A 1976 Declaration of Independence

(By the Presidents of the American University, the Catholic University of America, the George Washington University, and Georgetown University)

PROLOGUE

During the first two centuries of this nation's life, government leaders were dedicated to the proposition that institutions of higher education were independent, voluntary associations serving public and private purposes. By being so dedicated, governments at all levels encouraged colleges to create a system of quality and diversity that was to become the standard of academic excellence throughout the world.

Recent government policies and behavior toward education, however, have threatened this valued independence and have shaken the foundations of our system of higher education in this country.

As Presidents of universities in the nation's capital who regularly have firsthand contacts with policy makers and regulators, we perceive an intensification of these interventionist trends and therefore are compelled to draw public attention to them.

THE THESIS

We assert there propositions:

1. Governmental interference is disrupting higher education to a point where institutional autonomy is seriously threatened.

2. Without the vigorous exercise of independence, the American system of higher education as we have known it for centuries will certainly collapse.

3. Independence in the public sector will no longer exist if independence in the private sector, traditionally the measure of educational practices and philosophies, disappears. While public institutions seek to respond to the differing needs of students in the fifty states, it is wrong to assume an automatic diversity of viewpoints or educational philosophies among these institutions. Indeed, there is often an unsettling similarity in the budgeting processes and a growing conformity in their responses to federal and state incentives.

SOME SPECIFICS

Chief among the recent trends which threaten the independence of private colleges and universities are the following:

Economic pressures

No independent educational institution can remain solvent in today's world without passing on increased expenses to the student consumer in the form of increased charges. In the past, such charges were kept to a minimum by charitable contributions but these, eroded now by inflation and threatened by proposed adverse tax legislation, are in jeopardy. Supported by tax dollars, public institutions, on the other hand, have been able to hold tuitions far below actual costs and are consequently attractive to many students who, in other circumstances, might prefer the private institution. These tuition differences have contributed to a dramatic reversal in enrollment patterns. Twenty-five years ago, fifty percent of all college and university students were enrolled in private institutions; today there are fewer than twenty percent.

Costs of compliance

We embrace wholeheartedly the concepts of equal education and equal opportunity for all and have in good faith attempted to support such concepts. However, the multiplicity of federal and local regulatory guidelines on such programs have driven up administrative costs as much as three hundred percent since 1968.

Multiple regulations

More serious than dollar costs is the danger of regulation which diverts creative minds from the tasks of teaching, research and reflection. With fifty administrative agencies and two dozen committees of the U.S. Congress and the District of Columbia having direct responsibilities that impinge on our universities, governmental regulation and oversight can become a disguised form of governmental control. Institutions are driven to defensive strategies.

The innovative and searching analysis expected of colleges by society suffers in the face of the mounting necessity for dealing with the myriad, pedantic, and sometimes contradictory requirements imposed by government regulation. Diversion of faculty and staff attention to questions of compliance is a damaging intellectual cost which universities and society at large can ill afford to pay.

Changing needs

Since public needs change, national priorities are constantly being readjusted. The record of higher education in meeting those needs, often with the support of public tax dollars, has been commendable. Yet an institution's effort to be responsible and responsive has sometimes clashed with its own traditions to create serious dislocations. One example of how programs backfire is related to the Apollo Moon program. At one time, anyone suggesting that a Ph. D. in physics might be unemployable would be accused of misunderstanding the realities of the modern world. Yet, seven years after the first moon landing, many physics departments are far larger than required by enrollments and are staffed by comparatively young tenured faculty whose talents are under-utilized.

Federal funds

Federal spending is often used as a lever to move colleges and universities toward transitory or unachievable goals. Institutional autonomy in academic programs is reduced, and diversity, creativity and reform on campuses are seriously threatened.

Career education

The U.S. Office of Education has lent its considerable prestige and its considerable resources to career education. One possibly unintended effect has been the erosion of arts and sciences as the core of liberal collegiate education. Increasingly, students are embarked on programs in which they hope to acquire more "saleable skills." Yet if the liberal arts tradition dies, the nation will be intellectually and culturally poorer.

Independent study commissions

Higher education is one of the most "studied" enterprises in America. However valid the conclusions of such studies, they must be participated in, monitored, and evaluated by members of the academic community. Time and energy are consumed, and both translate ultimately into cash. Further, as these recommendations are adopted by legislatures and emerge into new laws, regulations and requirements, the independence of institutions may be diminished.

Local jurisdictions

The financial plight of cities drives them to seek new sources of revenue which jeopardize the tax-exempt status of all non-profit institutions. The regulatory activities of metropolitan governments toward eductaion have expanded. It is necessary to be aware of new developments and to work constructively with local leadership. Nevertheless, the growing body of local law and procedures emerging from municipal governments may further limit the independence of higher educational institutions. Costs of compliance with urban laws, added to the already heavy federal compliance burden, could further diminish scarce educational resources.

Judicial interventions

Paralleling the growth of bureaucracy has been the remarkable expansion of judicial power, the net effect of which has been to encourage a litigious society. By aggressively assuming the role of social engineers, the courts have not only intruded their ideologies into the private, voluntary sector, but have by their decisions contributed to the proliferation of cases whose issues are better resolved under grievance mechanisms provided by the collegial governance of the universities themselves.

Growing misunderstandings

Distressing as is the intrusion of government into the day-to-day affairs of colleges and universities, even more lamentable is the loss of public confidence in—and understanding of—higher education. College is frequently viewed by parents and students as a way station toward business and professional success. While it is partially that, colleges serve wider purposes. Higher education plays its most profound role not simply in presenting trained manpower to the marketplace, but in assisting the nation to translate past traditions into the present and in building a solid future on new generations who remain committed to social growth, moral development, and progress toward the common good. It is that most fundamental of roles that we as educators and citizens must never forget.

In light of the foregoing and with deep consciousness of the significance of the declaration about to be made, we present the following—

DECLARATION OF INDEPENDENCE

Because relationships between government and institutions of higher learning have reached a critical state in this Bicentennial Year, we deem this the opportune moment to state briefily our basic beliefs and premises.

We believe that a democratic society is best sustained when its institutions of higher learning are free to establish their own policies and programs in furtherance of high-quality education.

We believe that bureaucracy has become so vast and complex in its operations that sound relationships between government and universities are hampered by overlapping and unduly restrictive procedures, and that a leveling and homogenizing process is being generated.

We Believe That the diverse educational needs of Americans are best met by colleges and universities which are themselves part of a pluralistic and diverse educational community.

We Believe That institutions of higher learning which are committed to serving the rising educational demands of contemporary society should be helped by government financial support.

We Believe That private institutions have a most solemn obligation to husband resources carefully through appropriate administrative and educational reform.

We Believe That our steadfast objective must be the maintenance of autonomy which preserves choices of both form and substance of subject matter which is researched and taught.

Be it therefore resolved That we reaffirm our intention to maintain institutional independence from any external intervention which threatens the integrity of our institutions, including refusal of federal funds which carry such threats.

Be it further resolved That to achieve this end, we shall make every effort to—

Retain the university's autonomy over all decisions affecting the substance and the form of educational offerings;

Work with public officials to reconcile conflicting and overlapping government policies as they affect the university;

Render in good faith full accountability for all aid received from government or from any other source;

Perform in a professional manner all projects and services contracted for by governmental agencies;

Resist pressures from persons in government who, without specific legal authority, seek to influence the institution toward an unacceptable course of action.

This declaration we make in the full and deliberate conviction that only by being strong and independent can our universities fulfill their obligations to a free society.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., March 17, 1976.

DR. GEORGE C. ROCHE III,
President, Hillsdale College, Hillsdale, Mich.

DEAR DR. ROCHE: Secretary Mathews has asked me to thank you for your letter enclosing the Resolution of the Board of Trustees of Hillsdale College concerning the applicability to Hillsdale College of Title IX of the Education Amendments of 1972, and the regulations of the Department of Health, Education, and Welfare implementing Title IX. I welcome Hillsdale's support for the proposition ". . . of equal opportunity without discrimination by reason of race, religion, or sex, . . ." as expressed in the Resolution of the Board of Trustees reflecting your commitment to continue operation on a nondiscriminatory basis.

In your letter and the accompanying resolution, the question is raised whether the Title IX regulation is consistent with the statute in applying its provisions to colleges whose only connection with the Federal Government is that students attending the institution receive Federal assistance. I have asked members of my staff to analyze the options, if any, available to the Department under the law. At the same time, there is no question but that the regulation as it stands does cover colleges such as Hillsdale.

In any event, the Department's information suggests that Hillsdale participates directly in a number of programs—for example, College Work Study, Supplemental Educational Opportunity Grants, National Direct Student Loans—and accordingly is covered by the provisions of Title IX regardless of the answer to the question you have raised. This situation corresponds with the Department's understanding that since 1964 Hillsdale, in filing assurances and reports with this Department, has acknowledged that it is subject to the requirements of Title VI of the Civil Rights Act of 1964, a statute whose coverage is identical with that of Title IX.

I personally am pleased to hear of your support for the objectives of the law and would be pleased to discuss further with you any of the points in this letter, as you may wish. In particular, the Department will be glad to review any aspects of the regulation that may unduly impinge upon the College's independent status. It is our intention to minimize the burden imposed on the operation of academic programs consistent with the fulfillment of our obligations under the civil rights laws.

Sincerely yours,

MARTIN H. GERRY,
Acting Director,
Office for Civil Rights.

HILLSDALE COLLEGE,
Hillsdale, Mich., March 24, 1976.

Mr. MARTIN H. GERRY,
Acting Director, Office for Civil Rights, Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. GERRY: Thank you for your letter of March 17. It was reassuring to learn that the Department of Health, Education and Welfare recognizes Hillsdale's longstanding policy of equal opportunity without discrimination by reason of race, religion or sex.

Since Hillsdale has achieved this equal opportunity for all while pursuing a policy of complete independence from political funding, the trustees of the college are puzzled by HEW's insistence that our school is now subject to federal control. Frankly, such a claim has neither legal nor practical justification.

Hillsdale College has always attempted to cooperate with its students in those cases where the individuals concerned found it necessary to associate themselves with federally-funded programs. We have not felt it appropriate for the college to judge the sources of student funding, since those sources should be primarily a concern of the individual involved. However, if the expansions of federal authority under Title IX are now to use such individual funding as a means of assaulting the independence of Hillsdale College as a whole, we reserve the right to re-evaluate the programs involved.

Certainly we welcome further discussion with HEW and look forward to hearing from Secretary Mathews on this issue.

Best regards,

GEORGE C. ROCHE III,
President.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., April 5, 1976.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Secretary Mathews has asked me to thank you for bringing to our attention a copy of a statement which you placed in the *Congressional Record* of December 15, 1975.

The statement concerns the question of the applicability of regulations implementing Title IX of the Education Amendments of 1972 to institutions which receive no direct federal aid. The legal issue is whether such institutions are defined as federally assisted recipients, and thereby subject to the provisions, by virtue of members of their student enrollments participating directly in federally assisted programs, such as Veterans Benefits and Student Loans.

A copy of my reply to Dr. George C. Roche, III, President, Hillsdale College, is enclosed.

Thank you for sharing your views with me concerning this important matter.

Sincerely yours,

MARTIN H. GERRY,
Acting Director,
Office for Civil Rights.

MARITIME WEEK

Mr. McGEE. Mr. President, on May 19, James J. Reynolds, president of the American Institute of Merchant Shipping, delivered an important address to the Propeller Club of the Port of Los Angeles/Long Beach in observance of Maritime Day.

Mr. Reynolds, in his remarks, focused his primary attention on the issue of the Panama Canal Treaty negotiations. His discussion of the historical evolution of the Panama Canal issue was an impressive presentation. His warnings as to the maritime industry's stake in a successful outcome of the present negotiations between the United States and the Government of the Republic of Panama has elevated the debate on this issue to a very practical and pragmatic level.

As Mr. Reynolds noted:

> If there is a breakdown of negotiations or a flat rejection of a Treaty by Congress, the consequences for Canal users could be catastrophic. I am not going to engage in a lot of scare talk about riots and sabotage, this nation does not jump to knee jerk diplomatic reaction because of such threats, but it is not at all difficult to conjure up scenarios under which Canal operations would be very seriously disrupted. The problem is there, and all of the loose talk about shoulder-to-shoulder Marines is not going to make it go away.
>
> Although negotiations have been conducted sporadically since 1964, there has been surprisingly little dialogue within the United States among those having an interest in the Canal as to what the nation's future course of action should hold. Perhaps it is fortuitous that the current campaign has focused our consciousness upon it.

Mr. Reynolds then raises three very important questions associated with why we are negotiating a modern treaty relationship with the Republic of Panama. They are:

> 1. What is the value of the Canal to our national defense? While it clearly does not have the critical importance of World War II days, I am certain that the Canal still plays a major role, particularly for the Navy. How can this interest be protected if the Canal's status is substantially revised?
>
> 2. What is the commercial importance of the Canal? Here too, although times are changing, the Canal must continue to be available at a reasonable cost for the efficient movement of America's cargoes and ships.
>
> 3. How does the Canal relate to the overall foreign relations posture of the United States? The Canal issue is a substantial thorn in the side of our relationship with a number of Latin American nations. To the extent that the thorn can be removed without jeopardizing other vital interests, it should be done, and done promptly.

While pointing out the answers to these questions are complex and require significant public discussion and unemotional thought, Mr. Reynolds believes that when they are developed:

> I believe they will show that the United States and Panama will be able to develop a mutually acceptable agreement for the future operation and defense of the Canal, and hopefully for its eventual and bady needed expansion as well.

Mr. Reynold's also made the following observation:

> At a recent hearing of the House of Representatives' Panama Canal Subcommittee, its very distinguished Chairman, Congressman Ralph Metcalfe, called for an air of humaneness and decency to pervade our dialogue with Panama. I fully support his plea, and am certain it would be seconded over and over again by our industry. Chauvinism and jingoism are dead. The era of gunboat diplomacy and campaign-hatted Marine landings are well behind us.

Mr. Reynolds is to be commended for raising the level of debate on the Panama Canal issue to a discussion of what is in reality U.S. national interests. The maritime industry is a vital industry to our Nation and Mr. Reynolds has spelled out how best his industry can protect its access to, and interest in, an efficiently run Panama Canal.

On the other hand, Gov. Ronald Reagan has demonstrated, through his rhetoric, an insensitivity to the wide range of U.S. interests which would be seriously jeopardized in the absence of successful negotiations with Panama. A President is elected to represent and protect a broad range of national economic and foreign policy interests. Governor Reagan has demonstrated he is lacking in these attributes through his narrow and misconceived views on the Panama Canal question.

I ask unanimous consent, the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF JAMES J. REYNOLDS

What a great pleasure it is to be here in the Los Angeles area to commemorate Maritime Week. Many from the leeward side of the Rockies do not realize that the Los Angeles-Long Beach complex is second only to New York as an American port, and that almost 5,000 ships sail from here annually to all areas of the world, carrying vital cargoes and commodities of every description and size.

As the spokesman for the U.S.-flag steamship industry, it is very tempting to use this prestigious platform for a speech on the state of the American Merchant Marine. There is a great deal of good news to convey—an increasing awareness of the critical role played by our industry in meeting our nation's defense and commercial needs, a liner fleet that is as advanced and competitive as any in the world, the steady development of a bulk carrying tanker and LNG fleet encouraged by the terms of the 1970 Merchant Marine Act, and perhaps best of all the growing support of American shippers and cargo interests, stimulated by the very close partnership between maritime labor and industry to keeping the ships full and moving.

And I could come up with some bad news to balance things off—the increasing penetration of our essential trade routes by Soviet bloc shipping, the still depressed state of the tanker market, growing attacks on the Liner Conference system by theoreticians within the Justice and Transportation Departments, and the spread of conflicting state statutes setting vessel construction, operating and liability standards. Well, that is just a sampling from the good and bad news lists.

But today, I am going to resist the temptation to speak about the American Merchant Marine directly, and instead focus on two issues about which all of us concerned with the well-being of our merchant marine should be well informed. I refer to the economic and the political future of the Panama Canal. They are distinct and unrelated problems but each is of the greatest importance.

First a few brief words about the economic problem which began to surface dramatically in 1974 when the Canal Company announced an across-the-board 20 percent increase in toll rates. You will recall that the toll structure is based on a formula which determines the revenue producing cubic space of each vessel transiting the Canal and for each 100 cubic feet a toll fee is applied. From 1914 when the Canal became operative until 1974 the formula and toll structure remained virtually unchanged. The constantly increasing number of transits and more recently the rather dramatic increase in individual vessel size provided a steady and sizable increase in annual toll revenue.

Unfortunately, the constantly escalating income removed the normal pressures to keep operating costs under strict control and as a result costs soon escalated even more rapidly than revenue. Consequently, in 1974 when the number of transits tapered off, the situation became so serious that a 20% increase in tolls was announced and last year came another move to increase revenue; this time by changing the basic measurement rules. A.I.M.S. was successful in stopping the most burdensome, but not all of the measurement changes proposed, and what was made effective has increased total toll revenues approximately another 5%.

On top of this move came the announcement last Thursday that a still further general increase of approximately 19% will be necessary 6 months hence. What this all means is an increase in tolls of some 44% in two years with no end in sight. The fact of the matter is that costs continue to escalate and since, by law, the operation must be maintained on a non-loss basis, further increases in the years ahead seem inevitable unless drastic steps are taken to cut operating costs or Canal transits increase dramatically, a development which seems unlikely with Suez now in full operation and an alternative route to the Orient now available to European operators. At A.I.M.S.' urging the House Panama Canal Subcommittee has recently completed hearings into the Canal administration and we await its findings and recommendations with great interest. Drastic cost cutting is necessary but every step in that direction by the present very able Governor, General Parfitt, has been met by prompt and disruptive work action. It is a serious dilemma that must be faced. So much for the sorry picture of the economics of Canal operations.

As to the extremely sensitive political problem, the future status of the Panama Canal has suddenly become a major issue in the 1976 Presidential campaign, and I am sure that Californians need no reminding why. There have been misstatements and even more confusion — nothing unusual about that situation in an election year I suppose—but I am increasingly concerned that the position of our industry may be somewhat misunderstood. Today then, let me take a few moments to run through the Canal negotiations issue, and give you a few of my thoughts as to how the industry stands on the subject.

First, some background. The Panama Canal itself of course has a long and complex lineage. The idea of an isthmian canal goes back to the early Spanish explorers and conquerors, men of vision like Balboa and Pizarro who, by the mid-1500's had opened up Central and South America to commerce and colonization. It all began with Inca gold being hauled out of Peru by ship to a trading port on the Bay of Panama, transhipped by pack animal and slave labor across Panama to the east coast on a route almost identical to the present Canal, and then on to Spain aboard great galleons, which were often being pursued by English privateers captained by men who all looked like Errol Flynn!

With the westward expansion of the United States in the 1840's, the advantage of a railroad across the Isthmus became apparent to men of vision. Accordingly, the Panama Railroad Company, to finance and build such a rail line, was formed in 1847. Rights were secured from Colombia and after incredible hardship and struggle the line was completed and the first train moved from the Atlantic to the Pacific on October 1, 1851.

Twenty-seven years later a French company in 1878 began construction of a canal, generally following the route of the American rail line. The effort plagued by fearful disease and under-financing was finally abandoned in 1889. The completed one-third, together with tons of rusting equipment, lay silent in the jungles for fifteen years before it was picked up by the United States in 1904 after a series of diplomatic, financial and political moves which make a James Bond movie dull by comparison.

Growing trade with the Orient and West Coast, the broad acceptance of the concept of Manifest Destiny and finally the enormous logistical difficulties of our Navy during the Spanish-American War compelled Presidents McKinley and Roosevelt to proceed with the uncompleted French canal. To remove any concern of our European friends, Roosevelt first directed Secretary of State Hay to conclude a treaty with British Ambassador Pauncefote making clear that our intentions were to build a canal for the trade of all the world and not just our own. The rights or the defunct French company granted it by Colombia were purchased for $40 million. Regrettably, efforts to get approval from Colombia of a treaty granting us a Canal Zone in Panama Province where lay the incomplete canal and approval of the rights to proceed we had purchased from the French were summarily rejected.

Events at this point grow a bit murky, and we could spend a day discussing who struck John, but suffice to say that Panama, which at one time had been a Spanish colony, but now a province of Colombia since 1821, declared its independence and revolted with some fortuitous help from the U.S. Navy and Marines who suddenly found themselves strategically positioned between the Colombian forces and the Panamanian revolutionists they decided to subdue. Panama was promptly recognized by the United States and within fifteen days the Hay-Bunau Treaty of 1903 was a reality and remains today the basic document which governs our presence in the Canal Zone. Bunau-Varilla who negotiated and committed Panama to the treaty was a Frenchman who had been deeply involved as Director-General of the unsuccessful French company which had received $40,000,000 a short time before from the United States. He had assumed authority to negotiate for Panama on the basis of honorary citizenship conferred by the infant nation and a letter from its new President Armard naming him a Plenipotentiary of the country. Whatever the validity of his credentials, his role and what he agreed to is still deeply resented this day in Panama.

Now what does this Hay-Bunau-Varilla Treaty specifically provide:

1. Panama granted to the United States the use, occupation and control of a zone of land and water for the maintenance, operation, sanitation and protection of the Panama Canal.

2. Within the zone thus granted, the United States may exercise all the rights, powers and authority which it would possess and exercise as if it were sovereign.

3. The rights granted by the Treaty are "in perpetuity."

4. Both nations agreed to recognize the terms of the Hay-Pauncefote Treaty.

5. The United States agreed to pay Panama the sum of $10,000,000 as compensation for the rights granted, and an additional annual payment of $250,000—pretty much the same deal we had tried and failed to make with Colombia before the revolution.

What the 1903 Treaty provides in essence is for the United States to construct and hold the Canal and the Zone under a perpetual lease, and to operate the Canal for the benefit of international commerce. We do not hold title to the Zone, and it is in no sense a part of the sovereign territory of the United States.

There has been a good deal of election year rhetoric over this point, with one candidate calling a change in Canal Zone status akin to receding one of the Louisiana Purchase states back to France. That is sheer nonsense. The United States was not granted nor has it ever claimed actual titular sovereignty over the Zone. The 1803 transfer of the Louisiana territory by France to the United States provided that the territory is ceded forever and in full sovereignty. It also provided in direct conflict with the Hay-Bunau-Varilla Treaty that all inhabitants of the Louisiana Territory were to immediately and automatically become citizens of the United States upon transfer.

Finally, as early as 1905, then Secretary of War William Howard Taft in an opinion given President Roosevelt stated that the Republic of Panama retained sovereignty, and over the ensuing 71 years, no President, Congress, or Court has ever held to the contrary. So in no sense is there any question in treaty negotiations of giving back to Panama land we bought and own.

In any event, after ratification of the Hay-Bunau-Varilla Treaty in 1904, the United States began actual construction and it was an extraordinary and heroic epic. Dr. Gorgas conquered yellow fever, Colonel Goethals relocated 240 million cubic yards of earth and built 12 locks, and on August 15, 1914, the first ship transited the 51-mile-long project which was then and is today truly one of the great wonders of the world. The cost—$336,650,000, just about double the price of the new F.B.I. Building in Washington. The news of its opening was no less dramatic then than the landing of a man on the moon in 1969.

The dedication and ability present during the construction period was carried over into the Canal's operations and is to a degree as present today as it was 62 years ago. Apart from the very considerable benefit it provides for national defense, the Canal has become one of the busiest and most important commercial crossroads for ocean shipping in the world. It results in time savings ranging from a day or so to weeks on a great number of international and intercoastal trade routes and until recent years of escalating costs turned a modest profit back to the U.S. Treasury virtually every year.

During 1975, almost 14,000 commercial transits of the Canal were recorded, 10% of which were attributable to U.S.-flag ships. Over 140 million long tons of cargo were transported through the Canal, 60% of which were moving to or from a United States port. And a good case can be made that the Canal is of greater benefit to the economies of lesser developed nations, especially those in Latin America, than it is to our own. I could develop reams of commercial statistics, but let it suffice for me to say that the Panama Canal is a very successful and vital commercial entity for a great number of the world's nations, including our own. From a military point of view, the rapid logistic movement it makes possible remains a major factor in the defense of the nation just as it was when opened.

It is difficult to pinpoint the beginning of our current Panama Canal problem. Some would hold that it dates back to the character and participants in the 1903 Treaty negotiations, held largely in a suite of New York's old Waldorf-Astoria Hotel. Certainly Panama has never been too happy with the Treaty, even though it has been revised twice, in 1936 and 1955, to increase the annual annuity which now stands at $2.3 million and to eliminate several minor but irritating extra-territorial features.

Serious trouble began to occur in 1958 with demonstrations along the Zone border, and these gradually escalated into destructive riots by 1964 when 20 Panamanians and 4 U.S. citizens lost their lives. The Canal's commercial value began to be increasingly jeopardized and of course our foreign relations posture was hardly being improved either, and on December 18, 1964 President Johnson, after conferring with former Presidents Eisenhower and Truman, announced that the United States had decided to negotiate an entire new treaty with Panama. He set forth the following negotiating objectives:

1. Formal recognition of Panama's sovereignty over the Zone,

2. Retention of rights which are necessary for the effective operation and protection of the Canal,

3. An effective discharge of common responsibilities for hemispheric defense.

By 1967, 3 treaties had been drafted to carry out these basic principles but they were not ratified by either nation.

Panama appealed to the Security Council of the United Nations to which it has twice in recent years been the elected regional representative of all Latin America. The Security Council unanimously supported Panama's desire for a new treaty—except for one veto—our own. It appealed to the Organization of American States and here the support was 100%.

Subsequent governmental changes occurred, and in 1970, President Nixon directed that negotiations be resumed. Ellsworth Bunker was named to head our negotiating team in 1973, and in February of 1974, the following general guidelines were agreed to:

1. Elimination of the concept of perpetuity,

2. Establishment of a date for Panama's assumption of jurisdiction.

3. Continued operation and defense of the Canal by the United States until the jurisdiction change occurs,

4. Greater participation by Panama in the Canal's administration during the interim.

It is certainly fair to say that there is a long, hard road to be traveled before the ratification of any Treaty implementing such principles could be seriously considered. Yet, if there is a breakdown of negotiations or a flat rejection of a Treaty by Congress, the consequences for Canal users could be catastrophic. I am not going to engage in a lot of scare talk about riots and sabotage, this Nation does not jump to knee jerk diplomatic reaction because of such threats, but it is not at all difficult to conjure up scenarios under which Canal operations would be very seriously disrupted. The problem is there, and all of the loose talk about shoulder-to-shoulder Marines is not going to make it go away.

Although negotiations have been conducted sporadically since 1964, there has been surprisingly little dialogue within the United States among those having an interest in the Canal as to what the Nation's future course of action should hold. Perhaps it is fortuitous that the current campaign has focused our consciousness upon it.

In my view, there are three questions that need to be answered very promptly and publicly by our Government.

1. What is the value of the Canal to our national defense? While it clearly does not have the critical importance of World War II days, I am certain that the Canal still plays a major role, particularly for the Navy. How can this interest be protected if the Canal's status is substantially revised?

2. What is the commercial importance of the Canal? Here too, although times are changing, the Canal must continue to be available at a reasonable cost for the efficient movement of America's cargoes and ships.

3. How does the Canal relate to the overall foreign relations posture of the United States? The Canal issue is a substantial thorn in the side of our relationship with a number of Latin American nations. To the extent that the thorn can be removed without jeopardizing other vital interests, it should be done, and done promptly.

The answers to these questions are complex, will require a great deal of public discussion and unemotional thought—they cannot be developed within a closed room in the State Department or in a climate of hysterical rhetoric. And when they are developed, I believe they will show that the United States and Panama will be able to develop a mutually acceptable agreement for the future operation and defense of the Canal, and hopefully for its eventual and badly needed expansion as well. Revenues generated directly and indirectly by the Canal are more than adequate to satisfy the reasonable expectations of Panama, and I am certain it can be operated and controlled in a manner that will meet our reasonable expectations as well.

While resolving these more cosmic questions, there are several steps that might well be taken now to smooth over the more irritating issues and thus enable the longer-range negotiations to be conducted in a reasonably tranquil atmosphere.

Most importantly, a very specific commitment should be made by the U.S. Government to fully protect residents of the Canal Zone who may be required to relocate as the result of changes agreed to by the United States and Panama. These individuals, many of whom are second and third generation Zonians, must receive full financial and employment protection, and this should be clearly spelled out well in advance.

A specific plan should be adopted to increase participation by Panamanians at all levels of Canal Company management. Although over 70 percent of Company employees are Panamanians, they are generally restricted to lower level and minor supervisory jobs.

The highly visible American presence in the Zone should be reduced where possible. The Zone is 10 miles wide and is inhabited by over 40,000 U.S. citizens. It has been called a swath of American suburbia, dropped into the middle of another and wholly different world. I doubt whether all of the people and facilities located in the Zone are needed for either operating or defending the Canal, and these should be promptly identified and relocated.

Segregation by nationality in both schools and housing must be permanently abandoned. The present Governor of the Canal Zone, General Parfitt, has taken some very specific and courageous steps in this area, and deserves a great deal of commendation.

Finally, some consideration should be given to increasing the present annuity payment to Panama which was last adjusted in 1955.

At a recent hearing of the House of Representatives' Panama Canal Subcommittee, its very distinguished Chairman, Congressman Ralph Metcalfe, called for an air of humaneness and decency to pervade our dialogue with Panama. I fully support his plea, and am certain it would be seconded over and over again by our industry. Chauvinism and jingoism are dead. The era of gunboat diplomacy and campaign-hatted Marine landings are well behind us.

It is time to recognize what our real interests in the Canal are, and then to take such steps as may be required to protect them. And in such an effort, you can hardly find two better watchwords than humaneness and decency.

I greatly appreciate your giving me this opportunity today to express some of my thoughts on a very complex and emotional subject. If your inclination is to rally round the flag and say my country right or wrong, I do hope you will reflect on things a little more. If you have not given this too much thought yet, I urge you to do so. And I further urge you, individuals having a strong interest and background in international commerce, to make your views known, and to participate in this growing national dialogue.

WILLIAM D. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Mr. THURMOND. Mr. President, there is nothing very glamorous about being a prison administrator. They must walk a tightrope between the "hard-liners" on one side and the "do-gooders" on the other. Community pressures and budgetary limitations add to the problems of prison overcrowding, health and sanitary headaches, and a general undesirable prison environment.

Mr. President, William D. Leeke of Columbia, S.C., is the commissioner of the South Carolina Department of Corrections. He has done an exemplary job in balancing these conflicting issues. Mr. Leeke has held his position since 1968 and now oversees 31 State prison institutions with an inmate population of approximately 6,700. He has effectuated innovative programs which ease inmate grievances and respond to public pressures while remaining within the budget.

Mr. Leeke is a professional. He is one of the Nation's senior administrators in his field and is a highly regarded member of his profession which is evidenced by his election to the position of president-elect of the American Correctional Association.

Mr. President, I believe my colleagues will benefit from an account of Mr. Leeke's administrative skills and accomplishments; therefore, I ask unanimous consent that the article, "Walking A Prison Tightrope," by Alan L. Otten, which appeared in the May 20, 1976, edition of the Wall Street Journal, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"WALKING A PRISON TIGHTROPE"

COLUMBIA, S.C.—William D. Leeke spends his life on a tightrope.

Mr. Leeke is Commissioner of South Carolina's Department of Corrections, a job in which he oversees 31 state prison institutions, 1,500 guards and other prison personnel, and a rapidly swelling inmate population that at last count totaled around 6,700. And like prison administrators all across the country, Bill Leeke constantly must balance himself precariously among conflicting pressures.

Right-wing citizens want every criminal locked up for life, while do-gooders want all prisons torn down. State legislators expect him to handle hundreds more inmates at no extra cost, while the inmates, often backed by state or federal courts, demand more humane treatment and better facilities. Sociologists and other reformers urge increased "rehabilitation," while guards and other hard-liners dismiss all such efforts as "coddling."

"Some days they're bitching at you from 80 different directions," says the dark, slender Mr. Leeke. "You feel like you're being made the scapegoat for all the problems of society. You have to find ways not to become numb, and to lose your compassion. Your mental health gets awfully strained."

Declares O. J. Keller, whose prison reform efforts helped persuade the Florida Senate to reject his nomination as secretary of health and rehabilitative services and who now teaches criminal justice at the University of Florida: "Being prison administrator is a no-win job. Nobody likes prisons, and they don't give any money to prisons until things blow up. Even then, they don't give enough."

As Messrs. Leeke and Keller suggest, few state commissioners last very long. Mr. Leeke, who's 43 and has been South Carolina prison director since 1968, is one of the nation's two or three senior administrators—and also one of the most highly regarded, president-elect of the American Correctional Association.

"Back during the campus riots," he says, "we used to joke that the mortality rate of prison administrators was exceeded only by that of university presidents. Now we're clearly Number One."

Until recently, Mr. Leeke's regime had been comparatively successful. He and predecessor Ellis MacDougall pushed a range of reforms that seemed to be paying off: work and educational release programs, widespread inmate furloughs, extensive vocational and general education, special care for young offenders. Recidivism rates were a third or less of the national average.

Now, however, progress is threatened by a dramatic surge in the prison population, part of a nationwide trend that has forced state after state to house new prisoners in tents, surplus schoolhouses, converted warehouses. The South Carolina system's population went from 3,700 inmates in mid-1974 to 5,650 by mid-1975; it's currently rising about 100 a month, despite new policies for faster release of present inmates.

OVERFLOWING PRISONS

The largest state prison, the Central Correctional Institution in downtown Columbia, is overflowing. Cellblock One, a five-story granite section of CCI, built in the 1860s to handle 200 men in single cells, has been housing between 550 and 600; two to three prisoners now sleep in each tiny cell, some on blankets or sheets on the cell floor. The women's prison, designed in the early 1970s for 96 women, holds 264. A brand new prison built to accommodate 448 men in single cells had almost every cell doubledecked when it opened last fall.

As do colleagues across the country, Mr. Leeke cites many causes for the prisoner bulge. Recession and high unemployment have brought more crime; so have demographic changes, with millions more in the crime-prone 17 to 29 age bracket. At the same time, the public's law-and-order mood is putting more offenders behind bars: New laws setting mandatory minimum sentences, more cops arresting more people, prosecutors pushing more cases, juries convicting more often, judges giving longer sentences, and parole and probation rates dropping sharply.

"It's all so frustrating," Mr. Leeke notes. "You have to be for court reform, for more judges and faster trials. But no one is considering how these things increase the prison population. They seem to think that's Bill Leeke's problem, not the problem of the courts or the public."

Governors and legislatures naturally resist appropriating much more money for prisons; highways, schools, hospitals and a dozen other programs come first. A couple of years ago, South Carolina authorized $37.5 million of bonds for a five year prison building program. Then, however, a budget squeeze prompted the state to freeze all construction, including the prison program. Mr. Leeke hopes to get some $20 million released soon, but even then it will be several years before any new prisons are ready. The once-firm plan to tear down CCI is now hopeless; the best that can be expected is enough new space to permit closing Cellblock One.

"Age and overcrowding aggravate all other prison problems," Mr. Leeke keeps warning the legislature and the public. Violence increases then among inmates and between inmates and prison personnel; health and sanitary headaches multiply; education and work release programs are disrupted. And all of this increases the likelihood that some prisoner suit will bring judicial intervention with a judge ordering South Carolina to do better by its inmates, as judges have done in Alabama and several other Southern states.

"People ask why prisoners should have privacy," Mr. Keller observes. "But that's not the issue. The issue is that nothing is harder to control, nothing is more dangerous than a prison dormitory. People say air conditioning is a frill, and ask whether we're building country clubs. Yet air conditioning is one of the most effective devices to keep prisoner tempers from exploding, not to mention what it does for the people who work there."

Mr. Leeke sees a need for basic changes in public attitudes. "We must face up to the fact that we can't lock up everybody," he says. "We have to find some way to separate violent offenders from non-violent, and stop locking up the nondangerous people." He would also remove victimless crimes from the criminal justice system; expand pre-sentencing investigations and probation systems so that fewer people are locked up for comparatively minor offenses; and require some offenders to make restitution to their victims instead of serving time.

Until these changes come along, though, the state must of necessity release more present prisoners so as to make room for the new ones. Mr. Leeke is, in fact, releasing non-violent youthful offenders much earlier, and is trying to persuade the parole board to permit inmates to live at home if they've had good records on work-release programs.

Ironically, he points out, "the hard line in law enforcement is forcing us into more liberal policies. You can cart only so many people into prison."

BRIEFING PRESS AND PUBLIC

A key part of Mr. Leeke's job is public relations—trying to build a constituency that will understand his problems and support his efforts to solve them. Periodically he takes legislators, judges and civic leaders on prison tours to see conditions at first hand. He frequently appears on radio and TV talk shows and speaks to business and civic groups, explaining what realistically can be expected of prisons.

Above all, he endeavors to keep the press well briefed on all that's happening, bad news as well as good. Then, he says, if the prisoner on work release ups and kills his two-timing common law wife, the press may keep things in perspective, and not attack an entire program because of one failure.

"If you don't keep the public and press informed," he contends, "they can really crucify you when something goes wrong."

To ease inmate grievances, he's not only named an official ombudsman but has also set up a council of prisoner representatives who meet quarterly with him and his top deputies. The council members urge such changes as faster laundry service, annual chest X-rays, more time at vocational education classes, better ventilation in the mess halls, more picnic tables in visitor areas.

Even at best, prison work is a pressure cooker job. Mr. Leeke's Easter and Christmas weekends are particularly nightmarish times, for example, since he constantly worries that some new headline-grabbing crime will be committed by one of the several hundred inmates out on holiday furlough then. "Every time the phone rings," he says, "I die a little."

In the past, most prison administrators were political appointees, with little training or background. Now, most are professionals—working up from the ranks, transferring from other law enforcement agencies, or coming in from university teaching.

A crack athlete at Furman College, Mr. Leeke decided on graduating that the family-chosen career of dentistry looked dull, and so went to work in a state institution for young offenders. "I thought I could go in with a baseball and football and solve everyone's troubles," he wryly recalls. "I soon found out how wrong I was, so I moved over into administration."

Except for two years in private industry, he's stayed in the corrections field—running a county experimental unit for young offenders, serving as administrative assistant to the state corrections commissioner, acting as warden of CCI. He now makes $34,000 a year (plus house and car), and figures he'll keep gnawing his fingernails at the job as long as the state lets him.

"There's nothing very glamorous about it," he says. "The pay isn't really all that good, considering the headaches. You feel no one gives a damn about what you're doing—they don't understand it, they don't care about it. But where else could you find such a challenge?"

REBUILDING AMERICA'S CITIES

Mr. HUMPHREY. Mr. President, on Thursday, May 20, Senator JACOB JAVITS, Representative WILLIAM MOORHEAD, and I sponsored an all-day conference on "The Crisis in American Cities." The conference assembled 25 distinguished elected officials, business and labor leaders and academicians, to discuss the problems of and prospects for our major urban centers.

During the course of the conference, I made available a white paper entitled, "A Strategy for Revitalizing Our Major Urban Centers." The white paper describes various policies and programs that I believe are necessary to the survival of our cities and the survival of our Nation.

Since the problems of America's central cities are of interest to all of my colleagues, I would like to share my paper with them. For that purpose, I ask unanimous consent that my white paper, "A Strategy for Revitalizing Our Major Urban Centers," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A STRATEGY FOR REVITALIZING AMERICA'S MAJOR URBAN CENTERS

Our cities represent the very best, as well as the worst, that American society has to offer. They are the pinnacle of American culture—containing the great orchestras, the theaters, the museums, the universities, the libraries and the great stadiums and arenas. They are the centers of world commerce and industry. They are the great gathering places for the American people—the plazas and marketplaces of twentieth century America. Our cities are wealthy, they are powerful, they are cosmopolitan and, most of all, they are tolerant. Yet in the shadow of these great accomplishments lies the shame and despair of America. Ugly slums, deteriorated housing, overcrowding, hunger and rampant human suffering—all untouched by the grandeur and splendor that stand just a few short blocks away.

There is much in our cities that is worth preserving and much that must be saved. Yet in the last few years, our older central cities have not fared well. Unemployment in the cities has soared above acceptable levels. Crime has become more, not less, prevalent. The deterioration of the slums has expanded slowly but steadily. Middle-income families have gradually fled to the suburbs. And business and industry have sought new locations.

These changes have left behind the poor, the elderly and the minorities, fulfilling the Kerner Commission's eight year old prophecy that "we are moving toward two societies—one black, one white—separate but unequal". But America cannot tolerate this separation—we cannot allow islands of urban poverty to persist in the midst of a sea of suburban wealth. We must recognize that the destiny of the central cities is directly related to the destiny of our Nation—that successful central cities are a prerequisite for a successful America.

THE DECLINING ECONOMIC BASE

Many of our Nation's major urban centers have been buffeted by a series of demographic and economic forces that have undermined the viability of our central cities. These forces, many of which are beyond the control of the central cities, have facilitated population outmigration, job losses and growing poverty populations. These developments have squeezed the ability of our central cities to provide essential services and still maintain reasonable tax rates.

From 1960 to 1973, many older central cities experienced significant population losses. As Table I illustrates, these declines have been particularly acute in Northeastern and Midwestern cities. These cities have been victimized by twin problems—the interregional migration of population from the Northwest and Midwest to the South, Southwest and West and intraregional migration from the city to the suburb.

TABLE 1.—POPULATION OF 24 LARGEST CITIES

[In thousands]

	1973	1970	1960	Percent change 1960 to 1973
Northeast:				
Baltimore	878	906	939	−6.5
Boston	618	641	697	−11.3
New York	7, 647	7, 896	7, 782	−1.7
Philadelphia	1, 862	1, 950	2, 003	−7.0
Pittsburgh	479	520	604	−20.7
Washington	734	757	764	−3.5
Midwest:				
Chicago [1]	3, 173	3, 369	3, 550	−10.6
Cleveland	679	751	876	−22.5
Columbus [2]	541	540	471	14.9
Detroit	1, 387	1, 514	1, 670	−16.9
Indianapolis [3]	728	733	476	52.9
Milwaukee [4]	691	717	741	−6.7
St. Louis	558	622	750	−25.6
South:				
Dallas [5]	816	844	680	20.0
Houston	1, 320	1, 234	938	40.7
Jacksonville [6]	522	520	201	159.7
Memphis [7]	659	624	498	32.3
New Orleans	573	593	628	−8.8
San Antonio [8]	756	708	588	28.6
West:				
Los Angeles [9]	2, 747	2, 812	2, 479	10.8
Phoenix [10]	637	587	439	45.0
San Diego [11]	757	697	573	32.1
San Francisco	687	716	740	−7.2
Seattle	503	531	557	−9.7

1973 figures include:

[1] Annexation of 4,737.
[2] Annexation of 26,293.
[3] Annexation of 306,732.
[4] Annexation of 6,923.
[5] Annexation of 11,336.
[6] Annexation of 364,643.
[7] Annexation of 136,562.
[8] Annexation of 14,456.
[9] Annexation of 10,293.
[10] Annexation of 64,478.
[11] Annexation of 9,945.

Source: Bureau of the Census.

Population declines have a damaging effect on the economic health of a central city. The tax base is reduced as middle and upper-income families flee to other regions or to the suburbs. But the need for public services does not decline at the same rate that the tax base erodes. The reason is quite simple. Many city services, such as police and fire, are provided to a certain geographic area. Even if the population declines, the fire department must still cover the same amount of territory. For this reason, population declines usually erode the tax base without significantly reducing the need for public services. This dilemma, or course, creates fiscal problems for the central cities.

A second and more damaging trend to the health of the central cities is the disproportionate number of central city residents that are poor, elderly, or handicapped. These groups essentially remain captive in the central cities after others have moved. Table II illustrates the extent to which cities have become "home" to a greater number of low-income families. While the number of people with incomes below the "official" poverty line declined in all cities from 1960 to 1970, the rate of improvement in the cities was well below improvements that were made in the Nation as a whole. As a result, fifteen of the 24 largest cities were providing services to more than their share of the Nation's poor by 1970. This trend undoubtedly has accelerated since 1970 and if cost of living differentials were taken into account, it would be even more pronounced.

TABLE II.—PERCENT OF POPULATION BELOW THE POVERTY LINE,[1] 24 LARGEST CITIES

	1960	1970	Percent change (1960 to 1970)
Nation	18.4	10.7	−41.85
Northeast:			
Baltimore	17.9	14.0	−21.79
Boston	14.2	11.7	−17.61
New York	12.8	11.5	−10.16
Philadelphia	15.0	11.2	−25.33
Pittsburgh	16.0	11.2	−30.00
Washington	16.7	12.7	−23.95
Midwest:			
Chicago	12.0	10.6	−11.67
Cleveland	14.9	13.5	−9.40
Columbus	14.2	9.8	−30.99
Detroit	16.9	11.3	−33.14
Indianapolis	13.7	7.1	−48.18
Milwaukee	9.2	8.1	−11.96
St. Louis	19.1	14.4	−24.61
South:			
Dallas	16.7	10.1	−39.52
Houston	18.1	10.7	−40.88
Jacksonville	28.5	14.1	−50.53
Memphis	25.6	15.7	−38.67
New Orleans	25.6	21.6	−15.63
San Antonio	28.6	17.5	−38.81
West:			
Los Angeles	11.6	9.7	−16.38
Phoenix	14.7	8.8	−40.14
San Diego	12.0	9.3	−22.50
San Francisco	12.1	10.7	−11.57
Seattle	8.6	6.0	−30.23

[1] Poverty line is defined as follows:

Family size	1960	1970
2	$1,894	$2,383
3	2,324	2,924
4	2,973	3,743
5	3,506	4,415
6	3,944	4,958
7	4,849	6,101

Source: Bureau of the Census.

Large poverty populations also create significant fiscal problems for the central cities. Low-income families rarely can afford to contribute a full tax share to the city. Yet they demand more services than the average citizen because they cannot afford to buy services with their own income. Thus, a low-income family is likely to be a drain on the financial resources of a city, demanding more public services than the average citizen and making a lesser contribution to tax receipts.

The third factor contributing to the economic decline of the central cities is the loss of private sector jobs. Table III clearly demonstrates the extent to which central cities, particularly those in the Northeast and Midwest have lost employment opportunities. Here again, it is the middle and upper income taxpayers and businesses that are fleeing, leaving behind those that are relatively more dependent on the services provide by the city.

Unfortunately, present urban policies offer little hope for reversing this downward spiral of job losses, population declines and large poverty populations. Middle-income families and businesses that still remain in the central cities will have to shoulder a larger and larger tax burden if services are to be maintained. And if services are cut, life in the city will become less attractive. Thus, these families and businesses may be tempted to flee to the suburbs robbing the cities of much needed revenues and further accelerating the downward spiral. Only more activist government policies can interrupt this process.

TABLE III.—TOTAL PRIVATE SECTOR EMPLOYMENT IN SELECTED LARGE CENTRAL CITIES

[In thousands]

	1973	1970	Percent change (1970 to 1973)
Northeast:			
Baltimore	328	348	−5.7
New York	2,986	3,182	−6.2
Philadelphia	709	777	−8.7
Washington	332	343	−3.2
Midwest:			
Chicago	1,271	1,367	−7.0
Cleveland	234	203	15.0
Detroit	503	581	−13.4
Milwaukee	285	285	0
St. Louis	215	228	−5.7
South:			
Dallas	394	386	2.0
Houston	581	549	5.8
West:			
Los Angeles	1,315	1,281	2.6
San Francisco	409	451	−9.3

Source: Bureau of Labor Statistics.

THE IMPACT OF INFLATION AND RECESSION

The failure of the Federal Government to maintain full employment with reasonable price stability has exacerbated the problems of economic decline in many central cities. First, double digit inflation caused city government expenditures to rise faster than revenues. This put the squeeze on central city budgets. Recession then administered a second, and far more serious, blow to the central cities.

The recession's effect was particularly acute in the older cities of the Northeast and Midwest because these cities contain the oldest and least efficient facilities, those that are the first to be closed as production is reduced.

In 1975, according to the U.S. Department of Labor, unemployment in all central cities averaged 9.6 percent, compared to 5.3 percent in the suburbs. Yet even these devastating figures mask the disproportionate burden placed on older central cities. Even today, with one year of recovery under our belts, many older cities have unemployment rates well in excess of 10 percent. And these cities have little prospect for improvement.

Recession, however, does more than cause high unemployment. It causes large revenue shortfalls for many central city governments and increases the demands on these governments for more services. Each percentage point increase in the national unemployment rate reduces state and local government tax receipts by approximately $6 billion and increases expenditures by billions more. In 1975, for example, State and local government lost $27.4 billion in revenues due to high unemployment. Much of this revenue loss occurred in the declining central cities.

These revenue shortfalls and increased demands for services forced many cities to undertake austerity measures in 1975 to maintain balanced budgets or to limit the size of their budget deficits. The results are tax increases, cuts in current service levels and capital construction delays or cancellations. There is a direct relationship between high unemployment rates and the size of the tax increases and service cutbacks. Cities that experienced high unemployment were forced to undertake major service reductions and tax increases, exacerbating economic decline in the cities that were already experiencing the most severe unemployment problems. Thus, the cyclical decline related to the recession accelerated the economic base decline that was already manifest in many central cities.

LACK OF AN URBAN POLICY

While the economic problems of the central cities are indeed large, the failure of the Federal Government to develop a consistent and coherent urban policy also has made a significant contribution to the crisis in America's cities. Federal Government tax, expenditure and credit policies often have contributed inadvertently to the problems of the cities. For instance, Federal policies have encouraged new housing construction at the expense of rehabilitation; they have supported the rapid turnover of real estate holdings; and they have financed the transportation facilities necessary for the out-migration of jobs and people. Moreover, government procurement and employment policies often have contributed to rapid economic growth in some regions while exacerbating economic decline in others.

In short, we must face the facts. While the Federal Government has not articulated a specific urban policy, inadvertent actions have often been extremely influential and at times detrimental. It is clear that the inadvertent side-effects of many government policies have directly undermined the effectiveness of Federal programs designed specifically to aid the central cities. This lack of direction—this floundering from policy to policy—cannot be allowed to continue. We simply cannot afford the luxury of inconsistency any longer.

FULL EMPLOYMENT IN THE CITIES

Thr cornerstone of any comprehensive program to restore vitality to our central cities is a meaningful full employment program. Without full employment the resources simply will not be available to redevelop the cities. The Federal Government will be unable to provide necessary assistance to the cities if it loses $55 billion a year in potential revenues due to high unemployment, as it did last year. State and local government will have to struggle just to keep their budgets balanced much less undertake new initiatives, if they lose $27 billion in taxes as a result of high unemployment, as they did last year. And private industry certainly will not invest in new plant and equipment in the central cities if existing capacity is idle and there are no prospects that demand will increase in the future.

Congressman Augustus Hawkins and I have introduced legislation (S. 50 in the Senate and H.R. 50 in the House of Representatives) that would commit the government to achieving and maintaining full employment.[1] This bill reforms the procedures for formulating economic policy as well as mandating policies that will achieve full employment.

The procedural reforms would fall into four broad categories. First, systematic procedures for setting specific quantitative targets for output, employment, and purchasing power would be instituted. Second, all the appropriate agencies of government, including very importantly the Federal Reserve, would be required to follow policies designed to achieve those goals. Third, a time frame for achieving long range goals will be developed through a sensible, democratic planning process. Finally, the government will develop a much more sophisticated understanding of what is happening in particular markets, on both the labor and price side, how existing government policies influence the operation of those markets, and how government policies can be altered to improve the functioning of markets.

The primary focus of the policies embodied in the bill is to increase employment in the private sector. Tax policies, expenditure policies and credit policies will be used to achieve this end. Hopefully, this will be sufficient to achieve full employment. However, if these macro-economic policies are not sufficient, the bill establishes specific programs designed to deal with structural problems that consistently emerge in our economy. These structural policies include training programs, public works programs, public employment programs, youth employment programs, counter-cyclical aid for state and local governments and regional economic development policies. It is the regional economic development policies that will provide the foundation for any strategy to revitalize the economies of our central cities.

The regional economic development policies are necessary because all regional and local economies do not experience simultaneous changes in economic conditions. Some approach full utilization of labor and capital resources long before the national economy reaches full employment. Others, like the declining central cities, lag well behind national economic indicators. Some remained chronically depressed for long periods.

Aggregate fiscal and monetary policies simply are not designed to respond to the widely varied economic conditions that individual regions experience. Those policies attempt instead to regulate aggregate demand in the hope that all regional and local economies will be reached by their effects. This, of course, does not occur. Many cities already are lagging far behind the national rate of recovery.

This problem becomes particularly acute as the economy approaches full employment. At that point, additional monetary and fiscal stimulus only places upward pressure on wages and prices in tight labor markets, while doing little to reduce unemployment in depressed areas. More specific policies must be developed to reduce employment in regions and areas, particularly core areas of central cities that do not participate fully in national economic prosperity.

There are many related reasons that certain regions or areas do not share the benefits of economic growth. Migration of jobs may reduce the availability of employment opportunities, members of the labor force may lack the skills necessary for employment, investment capital may be unavailable, energy sources may be completely unavailable or too costly and the deterioration of public services may accelerate the exodus of jobs and middle-income families. Certainly, there is no simple answer that will reverse this downward spiral. Rather, an integrated regional economic development strategy is necessary that will upgrade the skills of the labor force, provide the capital necessary for investment, prevent the deterioration of public services, and offer positive incentives for the development of new employment opportunities.

The key to strengthening the economies of the declining central cities is to encourage new private sector investments to locate in these areas. This could best be done by making long-term capital available at low interest rates to businesses that locate in the declining urban areas. A domestic Development Bank could perform this purpose. It could make long-term, low interest loans to businesses and State and local governments for the purpose of encouraging private sector investment in chronically depressed areas. The bank should make long-term loans at interest rates that are not higher than Treasury borrowing costs plus service charges. The major purpose of this bank should be to increase the availability of jobs in areas that experience unemployment rates consistently and significantly in excess of the national average.

The Domestic Development Bank is just one component of a comprehensive urban development strategy. Training programs should be used to upgrade the skills of the local labor force. Investment incentives should be used to target new investment in chronically depressed cities. And grants-in-aid should be used to maintain essential city services in cities that have rapidly deteriorating tax bases.

There are three important reasons why targeted regional economic development policies are necessary. First, in order to obtain true full employment with price stability, we must develop policies that target economic stimuli toward areas that are truly depressed without allowing excessive stimuli to leak into fully employed areas. Second, it makes good sense to locate new job opportunities where the people live. Families have social ties and economic investments that they are often unwilling to abandon. This program would bring the jobs to the people. Third, many of the areas that benefit from these programs, particularly the central cities, already have large amounts of unutilized public and private intrastructure in place (i.e., transit systems, housing, sewer and water facilities, etc.). It makes little sense to spend vast amounts of public funds to build new facilities in one area while we abandon sound facilities in another area.

Achieving full employment in the major urban centers will alleviate many of the economic difficulties that these central cities experience. Full employment will greatly reduce the welfare load borne by these cities, it will provide important new revenue sources so public services can be stabilized and it will put additional income in the pockets of center city residents.

WELFARE REFORM

The Federal Government must accept primary responsibility, once and for all, for financing welfare and health programs for disadvantaged American families. The health and welfare of individual American citizens always has been and should remain a chief concern of the Federal Government.

The existing income maintenance system in our country is fraught with shortcomings. These include:

Disparate support levels in various States, encouraging migration by welfare recipients to areas with relatively high benefits. In order to finance these benefits states and cities then are forced to impose disproportionately high taxes on their middle-income residents and businesses, who, in turn, flee to a jurisdiction with a smaller welfare population. This movement, of course, undermines the viability of central cities that have large numbers of welfare recipients.

Incentives that encourage household heads to abdicate family responsibilities. According to studies done by the Joint Economic Committee staff, low-income families often are dissolved to maximize income support payments.

In some areas, the combination of cash and in-kind benefits exceeds the after tax income of some working families, imposing a strong incentive not to leave the welfare rolls for a job.

The sensitivity of the number of welfare recipients to change in economic condition. High unemployment means larger welfare rolls, forcing states and localities to pay a high price when the Federal Government fails to maintain full employment.

A reform of our income maintenance system will help relieve the fiscal crisis of the cities, restore incentives to work and preserve the dignity of the welfare recipient.

TARGETING FEDERAL EXPENDITURES

Federal Government employment and procurement expenditures can be an effective tool for increasing employment in chronically depressed regions and cities. In recent years, however, the largest increases in direct Federal employment have occurred in precisely those regions that are experiencing the greatest private sector growth. Federal nonmilitary payrolls as a percentage of nonfarm income are often three to four times higher in growing States (i.e., Colorado, Arizona, New Mexico), than in stable or declining States (i.e., New York, Ohio, Illinois). Federal procurement expenditures also tend to be concentrated in growing regions and cities.

Many of these contract and payroll expenditures could be shifted feasibly to high unemployment areas. Regional and local unemployment rates could be used as one criterion in allocating these expenditures. For example, the Federal Government might accept bids that are slightly higher from a firm that will shift its work into depressed cities. While there is certainly a limit on the level of additional cost that is acceptable, concentrating Federal Government purchases of goods and services in chronically depressed cities could make a valuable contribution to increasing employment in these areas.

FISCAL ASSISTANCE

While full employment and welfare reform gradually will strengthen the budgets of many city governments, there is still a pressing need for general fiscal assistance to cities. This assistance falls in two broad categories—general assistance to cities with long-term budget difficulties and temporary assistance that is required to assist cities in periods of high unemployment.

As a mechanism for providing general assistance, I support a renewal of the general revenue sharing program. Revenue sharing has become an important component of city operating budgets. While many cities originally used revenue sharing for capital purposes, the combination of inflation and recession has forced most cities to use every available source of funds just to maintain basic services. Thus, if the Revenue Sharing program is not renewed, cities will be forced to raise taxes or cut services this year.

Since revenue sharing is currently so important to so many cities, I think it would be a mistake to significantly alter the formula this year. Too many cities are depending on the money. However, in the future I believe that Congress should consider adjusting the formula to allocate more revenue sharing funds to the most needy jurisdictions. This might be done by altering the formula to reflect more adequately the number of low-income families that reside in a city.

---

[1] For greater detail, see "A strategy for Full Employment and Balanced Growth" statement by Senator Hubert H. Humphrey at the National Conference on Full Employment.

I also believe Congress should examine the feasibility of using general revenue sharing to encourage regional tax base sharing and other governmental reforms. One of the major problems confronting some of our older central cities is that they are pockets of urban poverty in regions with wealthy suburban areas. However these cities have no way of sharing even a small portion of this wealth. Revenue sharing could be used to encourage suburban jurisdictions to share some of this wealth with the central city on whom their future viability relies. The Twin Cities in my home State of Minnesota already have developed an extremely effective tax sharing scheme. Other regions should be encouraged to do the same.

In addition to long-term budget difficulties, many cities are experiencing several fiscal problems as a result of the recession. These cities require additional fiscal assistance above and beyond their general revenue sharing program. This assistance can best be provided through a program of counter-cyclical aid to city government. This program would provide general purpose assistance to cities whenever the national unemployment rate exceeds a predetermined trigger level. The total amount of assistance that is available would vary with the national unemployment rate and the magnitude of State and local government expenditures. More aid would be available as the recession deepens and the program would phase out after recovery is well underway. The assistance would be distributed to individual cities on the basis of a formula that takes into account the total amount of own source revenues raised by that government and the level of unemployment within its jurisdiction. The total amount of this assistance should be sufficient to stabilize State and local government budgets.

The concept behind this proposal is really quite simple. The Federal Government has an obligation to maintain full employment. When it fails to maintain full employment it should compensate cities that experience excessive hardship as a direct result of that failure.

REBUILDING THE PHYSICAL ENVIRONMENT

Many of our older central cities suffer not only from a declining economic base, but also from deteriorating physical facilities.

Public facilities, such as transit systems, roads and sewer and water lines often are in desperate need of repair. Private structures—factories, warehouses, office buildings and houses—may be in a similar state of deterioration.

In many respects, rebuilding the physical environment of the city is as important as rebuilding the economic base. New public facilities generally lead to more efficient public services. They produce a sense of civic pride—that the city is worth living in and working for. Similarly, rehabilitated houses often precipitate a renewed civil spirit and a strengthened interest in the neighborhood.

Several programs should be undertaken to rebuild the physical environment of the central cities. First, we should develop a major public works investment program to modernize and replace deteriorating public infrastructure. For too long, our Nation has been privately rich and publicly poor. It is time to make a major commitment to revitalize our transportation systems, to improve our sewage treatment facilities, to upgrade our housing stock, and to provide day care centers for pre-school education.

We also should identify an inventory of individual projects that could be taken off the shelf quickly if the unemployment rate starts to rise. These should be important projects that can be started and completed rapidly. We then would be prepared to swing into action quickly with useful projects if we enter another recession. It's very simple—we just do a little planning ahead.

But it is not enough to improve only the public facilities. We must improve the living conditions of the residents of the city—we must rehabilitate the housing stock and the neighborhoods. Where rehabilitation is still feasible, it should be actively pursued. In those areas that the housing is too deteriorated, we should embark on vigorous new construction programs.

We have a national housing goal in this country that I consider to be very important. That goal contains two separate but closely related objectives. The first portion of the goal commits the government to provide "a decent home for every American family." That means a sound structure, with suitable plumbing and heating facilities in compliance with reasonable building standards. The second part of our national housing goal commits the government to provide "a suitable living environment" for families that occupy the home. This suggests that a sound structure is not enough. It must be located in a healthy neighborhood with good schools, clean streets, reasonable public safety and, hopefully, a little greenery.

During the first five years under our goal we did pretty well. New housing starts from 1968 through 1973 averaged 1.9 million units a year.

But since then, we have had nothing short of a disaster. Housing starts in the three-year period from 1974 to 1976, despite the recovery, will average approximately 1.3 million units a year, exactly half the production necessary to meet our goals.

There are several steps that must be taken to restore housing production to levels that are sufficient to meet our housing goals.

A steady and expensive monetary policy should be carried out. Every time the Federal Reserve tightens the money supply, the whole economy suffers. But no sector suffers like the housing industry. Monetary policy must be sufficiently expansive to insure an adequate supply of credit at reasonable interest rates for the housing industry.

Policies designed to make home ownership available to a larger number of American families should be developed. That means we have got to reduce mortgage interest rates. If looser monetary policy is not enough, we will just have to do it more directly. The Federal Government must get into the business of making mortgage money available at reasonable interest rates to the average American family. This is the heart of any national housing policy.

The Federal Government should establish a Federal Housing Bank to buy mortgages and assure a steady supply of mortgage money at a fair rate of interest—six to seven percent. The size of the mortgage should be sufficient to finance a modest but adequate dwelling.

Government assisted housing construction programs for low and moderate income families should be revived. In 1968, we made a commitment to build 600 thousand government assisted units a year.

Government assisted housing starts in 1974 were about 60 thousand units, one-tenth of our national goal. In 1975, they still were below 100 thousand units.

A NEW PARTNERSHIP

We must reexamine our institutions for formulating economic policy and for coordinating Federal, state and local government activities. At present there is no systematic institution through which States and cities can make their concerns known; nor is there any method for coordinating Federal, State and local government policies; nor do we know the impact of Federal Government activities on individual states and cities. Mayors and Governors simply are not actively involved in the formulation of Federal Government policies.

This relationship should be changed in several respects. First, the Vice President should become a permanent liaison with State and local government officials. Mayors and Governors need someone to be their spokesman at Cabinet meetings. When I was Vice President, Governors and Mayors were regularly consulted on major policy decisions and they had direct access to the White House through my office. Now, they're lucky to find out about major Federal policy decisions after they have been released to the press.

Second, a system of permanent regional councils should be established. These councils would be composed of state and local government elected officials and a representative of the Federal Government. The President would use the regional councils to become acquainted with the unique concerns of each region. The Federal representative would be an official just below Cabinet rank, who would act as the eyes and the ears of the President. He or she would report directly to the President or Vice President, and not through the Cabinet.

Finally, state and local government officials should be included in the Federal budget process before the budget is signed, sealed and delivered. Mayors and Governors should be consulted at the beginning of the budget process and given a meaningful input into the content of the budget.

AIDING GIFTED AND TALENTED CHILDREN

Mr. JAVITS. Mr. President, an article appeared in the May 6, 1976, Wall Street Journal which commented on the Office of Education program for gifted and talented students. In 1973, I sponsored the legislation which established this program and noted at that time its importance:

> To provide what your Nation's gifted and talented children and youth need, when they need it, and in the manner they need it, is an investment in human resources that will benefit not only the gifted but our society for decades to come.

I believe that the need for and importance of this program continues. I am pleased to note that Dr. Harold C. Lyons, who directs the gifted and talented program within the Office of Education, responded to the Wall Street Journal regarding their May 6 article. I commend Dr. Lyons for the leadership he has demonstrated in taking this action, and I ask unanimous consent that both the article and Dr. Lyon's letter be printed in the Record.

There being no objection, the article and letter were ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Mar. 6, 1976]

Funding the Whiz Kids

If you want to know why we shudder whenever the federal bureaucracy gets its hands on a good idea, consider what Washington is planning to do for the gifted child. The government has a point, that often talented youth waste their potential because they are bored in class, unappreciated, treated as a threat, and so forth. So the government is going to attack the problem, you guessed it, by spending money and training bureaucrats.

Congress has mandated a new program, and there is something called the Office for the Gifted and Talented in the Department of Health, Education and Welfare. The latest idea is to train leadership teams for state governments, which will then launch their own programs for the gifted. HEW wants to set up a national training institute to produce doctoral students to staff these programs.

It also did a survey of highly successful people and discovered that they unanimously credited their achievements to the strong personal influence of a teacher or other older mentor during their youth. So, what else, HEW will try to train teachers to play this role. Along the way, the government wants to develop these youths as "whole persons" to develop their "affective qualities as well as their cognitive qualities." And all this on two and a half million dollars.

Now, of course it's not enough merely to be born gifted. To develop his or her full potential, a person needs discipline, hard work and, above all, character. All of these qualities are likely to be undermined by being singled out, in the same breath with the handicapped, as a subject for the state's embrace. It may be helpful to remove some of the obstacles to the development of a talent, but if a child lacks the will to finish the job, no amount of bureaucratic activity will make up the difference.

So we hope that any child gifted enough to be selected for HEW's attention will be bright enough to take it with a grain of salt. If not, he will be in real trouble.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., May 11, 1976.

The EDITOR,
The Wall Street Journal,
New York, N.Y.

DEAR SIR: I am responding to your editorial, "Funding the Whiz Kids", published on May 6, 1976, in a hope that you will publish this letter to balance what I feel to be the short-sighted viewpoint presented in your editorial. Mr. Adams from your staff phoned me several days before your piece appeared asking information about our national effort for the gifted and talented. Though we had only a cursory conversation, I sent him more detailed information on our concerns for the gifted and talented. (There is federal concern, state responsibility, and local control of education in this country. Unfortunately, your editorial, in my opinion, did not reflect the kind of accurate and responsible journalism for which the Wall Street Journal has a long standing reputation.

Five years ago the Congress asked the Commissioner of Education to prepare a report on what our country was doing for the gifted and talented. Over two hundred professionals contributed to this report which revealed the following crisis in terms of what we are *not* doing for this country's 2 million gifted and talented youth:

Fewer than four percent of the gifted are receiving services commensurate with their needs.

A false notion, as reinforced in your editorial, prevails that the gifted will make it on their own, when in fact most of them require special differentiated services (a few hours a day with their own gifted peers or one-to-one relationships with mentors) to realize their considerable potential. (A high percentage of the "dropouts" are gifted youth "turned-off" and bored by the traditional lockstep school system.)

There is considerable hostility directed toward the gifted. (They are the ones asking the threatening questions in the classrooms.)

Only ten states, five years ago, had a full time person employed at the state department of education for the gifted and talented. Yet a high correlation existed between such an effort and excellence of programs. (Most of the exemplary programs for the gifted were located in those ten states.) As a result of the leadership teams trained through the national effort, now twenty states have a full time effort and as many have over fifty percent of a person's time in behalf of the gifted. These people are busy helping the schools to do more for their most valuable, yet neglected, natural resource—their gifted and talented youth.

A false notion that the gifted are an "elite" upper middle class group prevails, yet there are many gifted from the ghettos, barrios and Indian reservations of this country who deserve opportunities to go along with their "will" to develop; and in spite of your statement to the contrary, the evidence shows that national, state and local leadership does make a difference, as do caring and humanistic teachers who recognize and celebrate the uniqueness of these youngsters.

Whether in the sciences, the arts or the professions, these are the extraordinary few who will leave their disciplines, their societies and perhaps even human-kind different because of their work. These are the future Beethovens, the Newtons, the Jeffersons, the Picassos, the Baldwins, the Ernesto Galarzas and the Martin Luther Kings. These are gifted children—and, like the other minorities, they need help.

It may be difficult to grasp why children with the potential to achieve eminence should require special attention. The explanation is that for every Einstein or Martin Luther King who emerges, a dozen or so more do not. To quote from one conclusion from a 1968 White House Task Force study of the gifted:

"We would even go so far as to say that, to a very considerable extent, those individuals who constitute that 'creative minority' in our society (or in any society) . . . have achieved that eminence in spite of, rather than because of, our school system."

In short, traditional academic programs are sometimes poorly suited to humans of extraordinary potential. One is left to wonder how many Churchills, how many Whistlers, did not survive educational disaster.

During the 1960's when we matched the Soviets in space exploration, the national panic about the caliber of our "best" schools ebbed, and other concerns took over the educational spotlight. American educational priorities shifted from the most able students to the least fortunate, and the interest in educating the gifted and talented waned. Promising programs vanished, and even the number of articles on the subject in professional journals dropped sharply.

The American temper tends to impatience, to quick enthusiasm and to a readiness to drop projects that do not show fast results or solve immediate crises. Unlike some other clients of education, the gifted and talented have never had a large lobby. Probably they never will, for they are a minority, not much more than 1 in 20. They are burdened with the seemingly anti-democratic stigma of elitism and hampered by false assumptions such as the inaccurate belief that brilliant people will make their own way and need no special encouragement.

They do need encouragement—and society needs them. In human terms, the average child is no less precious or wonderful than his gifted classmate. But in social terms, undemocratic or unpopular as it may be to say so, the gifted and talented youngster—white, black, male, female, charming or irritating—offers much more than the usual amount of human potential, and promises to make much more than the average contribution to our common life. It is in our national interest to take special humanistic pains with him.

Sincerely,

HAROLD C. LYON, JR., EdD,
Director, Education of the Gifted and Talented.

THE GENOCIDE CONVENTION AND FREE SPEECH

Mr. PROXMIRE. Mr. President, the charge that the Genocide Convention abridges the freedom of speech is an ironic one. This treaty represents international ratification of the American tradition of respect for human rights—and certainly does not contravene first amendment guarantees.

Critics challenge article III (c) of the treaty, which proposes punishment for "direct and public incitement to commit genocide." However, this provision only reflects an interpretation of the limits to speech sanctioned by the U.S. Supreme Court.

Certain uses of language can be prohibited without jeopardizing the freedom mandated by the first amendment. Speaking for the Court in Frohwerk against United States, Mr. Justice Holmes stated:

> . . . the first amendment, while prohibiting legislation against free speech as such, . . . was not intended to give immunity for every possible use of language. We venture to believe that neither Hamilton nor Madison, nor any other competent person, then or later, ever supposed that to make criminal the counseling of murder within the jurisdiction of Congress would be an unconstitutional interference with free speech.

Under the terms of the convention, incitement, and not advocacy, would be prosecuted. The Supreme Court has long maintained a distinction between the two concepts. Concurring in Whitney against California, Mr. Justice Brandeis wrote:

> . . . even advocacy of violation, however reprehensible morally, is not justification for denying free speech where advocacy falls short of incitement and there is nothing to indicate the advocacy would be immediately acted on. The wide divergence between advocacy and incitement, between preparational attempt, between assembling and conspiracy, must be borne in mind.

Though the court recently discredited Whitney against California, it reaffirmed the distinction proposed by Justice Brandeis:

> . . . the constitutional guarantees of free speech . . . do not permit a State to forbid or prescribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

A component of action differentiates incitement and advocacy.

The Genocide Convention, which outlaws incitement, is therefore entirely consistent with standards set by the Supreme Court. Consequently, fear of encroachment upon freedom of speech cannot justify opposition to the convention.

Once again, I urge that the Senate reaffirm America's commitment to the protection of human rights by ratifying the Genocide Convention.

JUDGE JOHN LEWIS SMITH, JR., RECIPIENT OF VFW LOYALTY DAY AWARD

Mr. THURMOND. Mr. President, the first day of May of each year is designated Loyalty Day. The purpose of this day is to recognize those individuals who have contributed to the heritage of American freedom. This year, the District of Columbia Veterans of Foreign Wars and its Ladies Auxiliary presented their Loyalty Day Award to the Honorable John Lewis Smith, Jr., U.S. district judge for the District of Columbia.

Judge Smith's service to his country is commendable. He was commissioned as a second lieutenant in 1935 and after serving in Egypt, Italy, and Greece, was relieved from active duty in 1946 as a lieutenant colonel and now holds a commission as colonel, JAG, Reserve retired.

Following his military service, Judge Smith engaged in general law practice before all courts in the District of Columbia. This distinguished practice was recognized by President Lyndon Johnson by the appointment of Judge Smith to serve as U.S. district judge for the District of Columbia.

Mr. President, Judge Smith is the recipient of numerous honors and awards demonstrating his integrity and responsibility in community and government programs. I believe my colleagues would benefit from an account of Judge Smith's qualifications and his excellent remarks made upon accepting the Loyalty Day Award. I ask unanimous consent that an account of his qualifications and remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS LOYALTY DAY PROGRAM

THE HONORABLE JOHN LEWIS SMITH, JR., U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

The Honorable John Lewis Smith, Jr., is a native and current resident of Washington, D.C., attended the public schools of the District of Columbia, the Lawrenceville School of Lawrenceville, New Jersey, received his AB (cum laude) from Princeton University and earned his LLB and LLM from Georgetown University Law School. Judge Smith is married and the father of five children.

On April 12, 1938, he was admitted to practice before the District Court of the United States for D.C. Subsequently he was admitted to exercise his profession before the United States Court of Appeals, the D.C. Municipal Court of the District of Columbia, the Supreme Court of the United States and the United States Court of Military Appeals.

His military experience dates to June of 1935 when he was commissioned Second Lieutenant, Field Artillery Reserve, was promoted to First Lieutenant in 1939, and was ordered to active duty on March 2, 1942. He was initially detailed to the Judge Advocate General's Department and assigned to Headquarters Army Air Force.

Judge Smith served overseas in Egypt, Italy, and Greece with the Military Headquarters, Balkans. He received promotions to Captain in July 1942, to Major in February 1943, to Lieutenant Colonel in December 1944, was relieved from active duty May 23, 1946, and now holds a commission as Colonel JAG, Reserve Retired.

He is the recipient of the Army Commendation Medal and his campaign ribbons include the African-Middle East, European Theatre, American Theatre, and Victory Medal.

Following his military service, Judge Smith engaged in general law practice before all Courts in the District of Columbia, including the Supreme Court of the United States.

In 1956 and in subsequent years Judge Smith received several Presidential Appointments including membership to the Public Utilities Commission, Associate Judge of the Municipal Court for the District of Columbia, and Chief Judge for the same Court.

On November 14, 1966, he was appointed by President Lyndon B. Johnson to serve as United States District Judge for the District of Columbia.

Judge Smith is the recipient of numerous citations, honors and awards highlighting his demonstrated integrity and responsibility in community programs and government leadership, from civic, fraternal, educational and veterans organizations attesting to his valuable and unselfish contributions spanning his entire professional career.

The Loyalty Day Committee of the District of Columbia, Department of the Veterans of Foreign Wars of the United States, takes deep pride and extreme pleasure in presenting the 1976 Loyalty Day Award in this Bicentennial year, to the Honorable John Lewis Smith, Jr., United States District Judge, for the District of Columbia, "In recognition of his forthright contributions to our Nation as citizen, patriot, statesman, his dedication to the ideals of American freedom, his deep interest in the well being of veterans, and the judicial prudence heh as steadfastly exercised with compassion and understanding."

PRINCIPAL ADDRESS BY HON. JOHN LEWIS SMITH, JR.

I am familiar with the list of distinguished recipients of this award in the past and it is an honor to be included among them.

We are assembled here to celebrate the anniversary of National Loyalty Day, first sponsored by the Veterans of Foreign Wars 18 years ago, and approved by Joint Resolution of Congress in 1958. Such ceremonies serve to remind us that loyalty is vital to our national life. May 1st is also Law Day when we reaffirm our allegiance to the ideals of freedom, justice and equality under law.

In many countries behind the iron and bamboo curtains May 1st is a day for glorifying communism and opposition to our democratic institutions. Massive parades with tanks, planes and displays of military might are the order of the day, but in America this is a day of prayerful thanks for a system of government that has brought to our people a heritage of liberty and freedom never achieved by any other people in any period of history.

You members of the Veterans of Foreign Wars have served our country in foreign fields and know from personal experience the horrors of war. You, more than any other group, recognize the need for a strong America if we are to have peace. You also are more aware of the privileges that we enjoy under the Constitution—the rights of free speech, free assembly, freedom of religion, and trial by jury. As citizens of this great country we have the right to travel anywhere we wish within the borders of the United States, the right to work at any occupation we wish and the protection of due process of law.

This heritage of basic rights is ours by virtue of the struggles and sacrifices of Americans over a period of many years. Our free institutions will be maintained only by continued sacrifice and eternal vigilance.

Our forefathers decreed that this shall be one nation, indivisible, with liberty and justice for all. They further proclaimed we hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights and among these are life, liberty and the pursuit of happiness.

It is our task, therefore, to maintain on this continent a nation of free people, strong enough to withstand tyranny and oppression, wise enough to educate our children in the ways of truths, and broad enough to accept as a self-evident truth the right of every human being to worship according to the dictates of his own conscience.

This country is unique in that it has been, from the time of its discovery, the haven of the unfortunate, the oppressed, and the persecuted. For years, people of every nationality, of every religion, of every race, have willingly and freely come to our shores in search of shelter and solace from the economic, political, and religious intolerances of other governments.

America is truly one nation with many nationalities, but it is a nation dedicated to principles for which people have been willing to sacrifice and suffer, a democracy of culture, as well as a free and tolerant association of individuals, a country in which are present the values and the ideals, the arts and the sciences, the laws, and the techniques of every civilized tradition.

We must always remember that the Constitution and the Bill of Rights are not a self-executing guaranty of liberty. Their strength depends upon the determination of a self-reliant people to preserve the institutions which the Constitution establishes. The Veterans of Foreign Wars have always been in the vanguard of organizations irrevocably committed to protecting the strength and traditions of this country.

It is fitting, therefore, that in this Bicentennial year we should rededicate ourselves to preserving those ideals and institutions so that America will maintain its rightful place of leadership in the free world.

SENATE RESOLUTION 452—CONDOLENCE RESOLUTION CONCERNING DEATH OF REPRESENTATIVE TORBERT H. MACDONALD OF MASSACHUSETTS

Mr. CULVER. Mr. President, the death of Representative Torbert Macdonald has deprived Congress of one of its most valued Members and popular colleagues.

During my years in Washington, Torby Macdonald has been an especially close friend. Even before coming to Congress, I had been aware of his extraordinary athletic ability, and the large fund of friendship he possessed both from the performance of his public duties and from his family and community activities.

In recent years his service as chairman of the House Communications Subcommittee has been exceptionally productive. Public broadcasting will always bear the imprint of his influence and legislative craftsmanship. Moreover, he did as much as any man to identify the potentialities of cable television and to begin the hard task of establishing a firm and fair statutory framework for it. And there are countless other realms of legislation which have been the beneficiaries of his quiet leadership and reliable counsel.

Torby Macdonald added another luminous chapter to his career by the courage and self-discipline he exhibited throughout his long period of illness. Happily, his life was full of accomplishment, and we shall long remember him for the vigor of his mind and body and for his memorable personal distinction.

SELLING REGULATORY REFORM

Mr. HUGH SCOTT. Mr. President, the issue of regulatory reform has received a great deal of attention in the past few weeks. President Ford has moved to the forefront in the campaign to restore competition to many sectors of the economy currently encumbered by Federal overregulation. Last week, Senator BROCK and I had the privilege of introducing his "Agenda for Regulatory Reform," which will go a long way toward elimination of unnecessary Federal regulation. An editorial in the May 19, 1976, Wall Street Journal underscores the necessity of such reform and points out President Ford's commitment to the cause of reform. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SELLING REGULATORY REFORM

One of President Ford's basic shortcomings on the hustings has been his failure to convey to the public the importance of his administration's major economic initiative, regulatory reform.

He has been attempting, against formidable odds, to set in motion processes that would systematically dismantle those activities of government that inhibit competition. It is an effort that is responsive to the very evident public concerns over the impacts of big government. Why, then, is the President having so much trouble persuading the public of the worth of his efforts?

The immediate answer, which we have touched on here before, is that he has not demonstrated sufficient dedication to it himself. He committed a primary error last December by not vetoing the Energy Policy and Conservation Act, which continued the costly, wasteful and anti-competitive federal regulation of the oil industry. Few better opportunities present themselves for a President to make a bold and dramatic stroke in defense of the market principle.

But some things should also be said in the President's defense. His initiatives in the direction of deregulation have been considerable, however low the yield in terms of political visibility and substantive results. For example, he managed to introduce more flexibility into the ICC's control over rail freight rates as part of the rail modernization bill earlier this year. He is seeking legislation that would reduce federal restraints on price competition in aviation and trucking.

Federal agencies have been asked to find ways to cut paperwork and regulatory delays, apparently with some results. The administration backed such other successes as the repeal of federal "fair trade" laws, which had allowed some manufacturers to fix retail prices, and the introduction of price competition among stock brokers.

And last week, the President asked Congress to enact a comprehensive agenda for further such attempts. It calls for a four-year national effort to identify areas where the cost of government regulation exceeds benefits and to formulate new laws to reduce regulatory interference. If Congress adopts the measure, the agenda would begin next year with transportation and agriculture, continue in 1978 into mining, heavy manufacturing and public utilities, then in 1979 into light manufacturing and construction and finally in 1980 into communication, finance, insurance, real estate, trade and services.

It is interesting that the general effort towards regulatory reform has attracted bipartisan support in Congress. Senator Kennedy, for example, has introduced his own bill to require federal agencies to promote competition as part of their decision-making processes. Senator Muskie is also taking a tougher line towards the problem of regulatory agency proliferation by promoting a "sunset" bill that would require agencies to justify their existence or shut down.

But the President is leading the movement. Why isn't he getting more credit for it?

The inarticulateness of his campaign generally is partly to blame. Further, it always is difficult to dramatize deregulatory efforts and to forecast their public benefits, even though there can be little doubt that increased market competition yields benefits. Finally, special interest groups are working mightily to try to undermine the deregulatory thrust by attempting to generate public fears about its consequences.

One of the myths the President has exploded through the deregulatory drive is the broad assumption that there is a strong resentment among businessmen of federal regulation. The airlines and trucking companies have demonstrated through their lobbying efforts that some of the strongest support for anti-competitive regulation comes from regulated industries. As one White House official notes, the proregulation constituencies are far more vocal in Washington than any antiregulation lobbies.

Since deregulation is an effort conducted on behalf of the public and often against the wishes of special interests it requires some political courage. The President has not always been bold enough. But he deserves more credit and support than he has received for the boldness he has demonstrated. What he is attempting is far more important than has so far been perceived.

PRESENTATION FROM THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Mr. SPARKMAN. Mr. President, today, in my capacity as chairman of the Foreign Relations Committee, I had the distinct privilege to act as cohost with Representative CLEMENT J. ZABLOCKI at a luncheon held in honor of Senator Guiseppe Vedovato of Italy, who is here in the United States as an emissary of the Council of Europe. The occasion for the luncheon was a presentation, made by Senator Vedovato on behalf of the Parliamentary Assembly of the Council of Europe of a formal message of congratulations to the U.S. Congress on the celebration of this Nation's Bicentenary.

On behalf of Congress, I wish to extend heartfelt thanks to Senator Vedovato and to the Council of Europe which he represents. As my colleagues are aware, the Council of Europe's Parliamentary Assembly, which meets in Strasburg, is a body of distinguished parliamentarians from 18 nations of Western Europe. Senator Vedovato, a former president of the Parliamentary Assembly, is a distinguished representative of that distinguished body.

I ask unanimous consent, Mr. President, that the text of the scroll presented today by Senator Vedovato be printed in the RECORD at the close of my remarks. The scroll itself will be appropriately framed and displayed here in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit I.)

Mr. SPARKMAN. Mr. President, may I close by reiterating my sincere appreciation to the current president of the Parliamentary Assembly, Karl Czernetz; to Senator Vedovato; and to all other members of the Council's Parliamentary Assembly. Geographically, Congress and the Assembly are separated by thousands of miles. Spiritually, in our common dedication to principles of freedom and representative government, the two bodies are joined by bonds which span the distance.

EXHIBIT I

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE; MESSAGE TO THE CONGRESS OF THE UNITED STATES OF AMERICA ON THE BICENTENARY OF THEIR INDEPENDENCE

The parliamentarians of the democratic states gathered together in the Council of Europe for the purpose of achieving greater unity between European countries sharing the same fundamental values and the same aims,

Believing that the American people's accession to independence in 1776, accompanied by the establishment of the fundamental rights of the citizen, remains for the peoples of the eighteen member countries of the Council of Europe an example of the fulfillment of a collective political resolve that succeeded in instituting unified structures which are sanctioned by law and ensure a balanced exercise of powers;

Appreciating the constant efforts of the American people to encourage the peoples of Europe to co-operate with one another for the purpose of safeguarding their independence, liberty and progress;

Convinced that the countries of Western Europe and the United States of America, which link in their constitutions human rights to democratic principles, must make the preservation of freedom a common concern and serve as a pole of attraction in an ever-changing world;

Considering that world-wide economic and political interdependence places joint responsibilities on all states and demands their close and constant co-operation and therefore close consultations between the states of Western Europe and the United States of America would be welcome;

Convinced that it is more than ever important that the parliamentary democracies should make a contribution to lowering tension and to promoting peace as well as to economic and social progress in the world by mobilizing their political and economic resources, their scientific and technological skills and, above all, the dynamism of their peoples, especially the younger generation.

Call upon their colleagues in both Houses of the United States Congress to join them in a common endeavour and

—to seize the opportunity offered by the celebrations of the bicentenary of the independence of the United States of America in order to confirm solemnly the ideal of freedom on which their society is based;

—to demonstrate the constructive vitality of representative democracy by promoting in their respective countries a greater understanding by the general public of world-wide economic and political interdependence, and encouraging meetings between representatives of the United States Congress and members of the Council of Europe Parliamentary Assembly to discuss problems of mutual concern and consider ways of tackling them jointly on an Atlantic or world-wide basis.

DESEGREGATION AND THE CITIES; PART XI—LESS FOR INTEGRATION, LESS FOR COMPENSATION

Mr. BROOKE. Mr. President, we have many debates on the Senate floor about whether we should go forward with integration of our schools, and try to help that process, or whether we should try to make the segregated ghetto and barrio schools more equal. I thought it would be interesting to see how the money we have appropriated in recent years reflects congressional judgment on these choices.

The following table, prepared for me this month by the Congressional Research Service, reflects a dismal reality. Our decisions about investing money in education show that Congress has rejected both approaches. Each year we are providing less assistance, in dollars of constant value, both for helping the integration process work better and for compensatory education.

Compensatory education funds, provided by title I of the Elementary and Secondary Education Act, peaked in fiscal year 1973 and have declined about a seventh by the current fiscal year. The decline has actually been steeper, since educational costs have been rising faster than the economy's overall inflation. In addition, we adopted a new distribution formula for this program in 1974 which took substantial amounts of money away from some of our older central cities with most severe segregation, including Washington and New York. The worse segregation becomes the less we do to help its victims.

Desegregation assistance programs have always been small, but they too have been sharply curtailed. The emergency school aid program has been cut back more than 30 percent, declining each year since the 1973 fiscal year. While Members of Congress have been denouncing the educational problems of desegregation, they have eviscerated a small assistance program intended to help local school districts adapt successfully to court orders. Even the smaller title IV technical assistance program has now begun to decline.

Anyone looking at this record could reach only one judgment. Congress really has given no priority either to protecting the constitutional rights of urban minority children through successful desegregation or to making separate schools more equal. While Congress can claim some credit for doing substantially more than the executive branch has requested in recent years, it is a grim story of declining commitment to decent education for urban children.

Mr. President, I ask unanimous consent that the above-mentioned table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS FOR SELECTED FEDERAL EDUCATION PROGRAMS, FISCAL YEARS 1965-76, EXPRESSED IN TERMS OF BOTH CURRENT AND CONSTANT DOLLARS

		Title I, ESEA[2]		Emergency School Aid Act[4]		Title IV, Civil Rights Act	
Fiscal year	Deflation ratio[1]	Appropriation-current dollars	Appropriation-1965 dollars[3]	Appropriation-current dollars	Appropriation-1965 dollars[3]	Appropriation-current dollars	Appropriation-1965 dollars
1965	1.00	0	0	0	0	6,000,000	6,000,000
1966	.973618	1,192,581,000	1,161,118,328	0	0	6,275,000	6,109,453
1967	.943231	1,053,470,000	993,665,562	0	0	6,535,000	6,164,015
1968	.910376	1,191,000,000	1,084,257,816	0	0	8,500,000	7,738,196
1969	.869318	1,123,127,000	976,354,517	0	0	9,250,000	8,041,192
1970	.823780	1,339,051,000	1,103,083,433	0	0	12,000,000	9,885,360
1971	.783611	1,500,000,000	1,175,416,500	75,000,000	58,770,825	16,000,000	12,537,776
1972	.749158	1,597,500,000	1,196,779,905	75,000,000	56,186,850	14,600,000	10,937,707
1973	.717188	1,810,000,000	1,298,110,280	249,000,000	178,579,812	21,700,000	15,562,980
1974	.665217	1,719,500,000	1,143,840,632	236,493,000	157,319,164	21,700,000	14,435,209
1975	.602066	1,876,000,000	1,129,475,816	215,000,000	129,444,190	26,700,000	16,075,162
1976[5]	.569214	1,900,000,000	1,081,506,600	215,000,000	122,391,010	26,700,000	15,198,014

[1] Calculated on the basis of the implicit GNP deflator index value for the 4 calendar quarters in each fiscal year. The "deflation ratio" is equal to the index value for fiscal year 1965 of 73.44 (where calendar year 1972=100) divided by the index value for the indicated fiscal year (for example, for 1966 the deflation ratio is equal to 73.44 divided by 75.43=0.973618). Source for implicit GNP Deflator values: U.S. Department of Commerce, "Survey of Current Business", January 1976, p. 90-91, and April 1976, p. 7.

[2] ESEA: the Elementary and Secondary Education Act of 1965, Public Law 89-10, as amended.

[3] Calculated by multiplying the current dollar appropriation by the deflation ratio for that year.

[4] Includes appropriations for fiscal years 1971-73 for the emergency school assistance program (ESAP) in effect prior to the enactment of the Emergency School Aid Act (title VII of Public Law 92-318, as amended).

[5] The deflation ratio for fiscal year 1976 is calculated on the basis of implicit GNP deflator values for the 1st 3 quarters of fiscal year 1976 only, with the value for the third quarter being a preliminary figure.

U.N. CONFERENCE ON TRADE AND DEVELOPMENT

Mr. McGEE. Mr. President, the United Nations Conference on Trade and Development, currently being held in Nairobi, Kenya, is nearing the completion of its month-long deliberations on vital international economic issues.

Earlier this month, United Nations Secretary-General Kurt Waldheim, addressed the Conference and offered some very poignant observations concerning the need to speed agreement on a multitude of proposals directed at alleviating so many of the global problems impinging upon the quality of life of all peoples of this planet Earth.

As the Secretary-General noted:

> We are now engaged upon the achievement of economic decolonization and upon the creation of a new international economic order. In a very real sense this is a liberation movement—liberation for the masses of humanity from poverty, hunger, unemployment, and despair. This is a great and difficult undertaking. No single nation or group of nations, not even one Continent, can achieve this goal alone. We meet here, therefore, in that spirit of school concern and resolution to succeed that dominated the seventh special session of the General Assembly last September. In meeting the challenges that lie before us, all nations—developed and developing—have a common interest.

He concluded his address with the following observations:

> The revelation of global interdependence is probably one of the main features which historians will record when they write the chronicle of the first half of the 1970s. They will presumably also observe that few words have elicited so many different interpretations. As a description of a factual situation, it is, of course, an undisputed proposition. As a prescription for a course of action, it implies far greater changes, innovations, reforms, than is often recognized. We should understand that the way to interdependence is through the strengthening of the sovereignties of developing countries, through greater assertion of their national identities and the development of their capacity for autonomous decision-making. It also requires important adjustments of the economies of the industrialized countries, and we cannot honestly pretend that these always will be painless. But we must realize that all will benefit from a more rational economic order, and that its achievement is a vital goal for all nations, I would even say that this is our inescapable destiny; and this emphasizes the full and crucial extent of your responsibilities. Let us rise to this challenge and meet these heavy responsibilities.

Mr. President, as he has so often done in the past, the Secretary-General has placed the present global dilemmas in their proper perspective and impressed upon us all the urgency for successful resolution of the differences between industrial and less developed nations. We all have a much more overriding common concern—that of creating a global environment of cooperation and equity in which all peoples derive mutual benefit.

I ask unanimous consent that the Secretary-General's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TEXT OF SPEECH BY THE SECRETARY-GENERAL TO THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, NAIROBI, KENYA, MAY 5, 1976

It is an honour and a pleasure for me to express, on behalf of the United Nations, our warm thanks to the President, Government, and people of Kenya for their generous hospitality to this important Conference. The fact that the headquarters of the United Nations Environment Programme is based in Nairobi, and the convening here of this Conference, emphasize the close links between Kenya and the world Organization and the significance of this great nation in the international community. For this support, and commitment to the goals of the United Nations, we are all profoundly grateful.

It is also appropriate that this Conference, on which so much depends for the future of international co-operation, should be held in this African nation. After the long era of colonial rule and exploitation, Africa has moved rapidly towards liberation. Today, only fragments of colonialism survive in this Continent, and we know that the surging tides of history will surely eliminate them. But Africa has also discovered, as have so many nations, that the achievement of political independence does not represent the end of the struggle. We are now engaged upon the achievement of economic decolonization, and upon the creation of a new international economic order. In a very real sense, this is a liberation movement—liberation for the masses of humanity from poverty, hunger, unemployment, and despair. This is a great and difficult undertaking. No single nation or group of nations, not even one Continent, can achieve this goal alone. We meet here, therefore, in that spirit of shared concern and resolution to succeed that dominated the seventh special session of the General Assembly last September. In meeting the challenges that lie before us, all nations—developed and developing—have a common interest.

We cannot but be impressed by the solemnity of the occasion, for UNCTAD was born of the same burning aspirations which are now leading Africa into the final stage of its emancipation from discrimination and political oppression. From the outset, UNCTAD's purpose and principal aim was to transform a global economic environment that was most unfavourable for the poorest two-thirds of humanity. As we embark on one more round of negotiations, we should keep in mind this broad context and derive from it additional strength.

More than two years ago, in the wake of momentous events, we perceived conditions more conducive to a new course. Some of these had been present for many years, and others had only recently emerged. To define this new course the United Nations proclaimed a new international order as the rallying cry for concerned and multiple efforts to be sustained over a number of years. During the intervening period, we experienced what was commonly referred to as a "negotiation explosion", and one looked everywhere for encouraging signs. There was the spirit of conciliation, exemplified by the seventh special session, and more recently, the shaping of a fund for agricultural development. Again, a spirit of hope and co-operation prevailed four months ago at the opening of the Paris Conference.

But I must call to your attention the fact that many of the issues presently under discussion have been under negotiation and discussion for some twelve years. It was hoped that after so many years and with an intensified process of negotiations a modest package of measures would have reached the stage of implementation. This has not yet happened. Have we, therefore, become the victims of procedural intricacies while we lose sight of our real objectives? I do not believe so, but the danger is ever-present. We cannot and must not miss the opportunity afforded to us by this Conference. Now is not the time for one more round of repetition. Instead, we must put together, and without delay, a plausible set of measures to take us at least one step closer to our agreed objectives.

Our meeting takes place at a particular point of the economic cycle which most experts describe as a moderate, or cautious, upturn. This is a crucial juncture, for while we welcome the signs of a recovery in which less developed countries are bound to share, we must not lose sight of the upheavals of the recent years and of the elements of dangerous and lasting disequilibrium in prices and production, world trade and finance, and the international monetary system. For many developing countries, the events of recent years have caused a shift from a weak and vulnerable position to one approaching the alarming. We cannot, therefore, rely once again on the "pull effect" of expansion in advanced countries to lift Third World economies out of their present predicaments. There would be no excuse for believing that our problems are only those of cyclical fluctuations, and for ignoring that they have deep roots in existing structures and patterns of economic relations. Just because we have become aware over the last few weeks of a rise in the price of a number of primary commodities, we should not forget the important agreement attained at the seventh special session whereby this Conference received a specific mandate regarding market structures in the field of raw materials and commodities as a condition of a stronger and more stable world economy. Nor can we at this late stage assume that the debt burden of a large number of countries can be taken care of simply by a new momentum in the world economy, and ignore that very specific measures are urgently required to alleviate it. Equally, even if trade statistics are looking better in the months ahead, the need for compensatory financing to be placed on a stable and sound footing is not going to disappear.

The message of the new international economic order is that we must set in motion a process of restructuring of the world economy. This will require more than expansion and growth, more than a better control over cyclical fluctuations, and I would say even more than the traditional policies which up to now have made up the agenda of UNCTAD conferences. The restructuring of the world economy implies, among other things.

That the share of developing countries in industrial activities be increased significantly before the end of the century;

That self-sufficiency in food in developing areas be attained within a reasonable period of time;

That indigenous capacity in science and technology be developed; and

That serious progress be made in the eradication of mass poverty and unemployment.

It is not enough for these objectives to remove obstacles to the exchange of merchandise and services, nor to adjust financial flows more accurately to meet the needs of individual countries. While these factors remain as relevant as ever, new goals and targets will have to be set, and new purposive actions initiated.

The major breakthrough of UNCTAD I in 1964 was that it viewed and discussed trade, not just in terms of rules and regulations, but in terms of quantitative objectives and in the light of long-term projections accepted as working hypotheses. It is within this framework that measures were devised, including those pertaining to compensatory financing, designed to cover short falls of export earnings which were to be expected if satisfactory rates of growth were to be achieved. I believe that the new international economic order complies us to broaden once again the sphere of economic co-operation to work out additional objectives with a well-defined time-table, as well as to adjust our instruments of co-operation to the pursuance of these goals.

Such a course would also reflect another important reality which is bound to permeate your discussions. Inside and outside the United Nations system there has been a re-examination of the optimistic assumptions of the 1950s and 1960s. This has led to certain significant changes in the current thinking about the content and the style of development. Not just policies, but philosophical premises have been questioned. Perhaps the key expression of this process is "self-reliance", and while it may mean very different things to the many who use it, it seems to cover a very large common ground. This, I believe, is in a number of ways very relevant to the purposes of this Conference. There is bound to be inter-action between the promotion of self-reliance and international economic policies. It is no more taken as a self-evident truth, that an ever more open world economy may be the best approach to development. Self-reliant policies are prone to look at trade and capital flows in a selective manner, in the light of the requirements of development plans.

They must avoid mis-allocations of domestic resources, or diversion of scarce human and material assets from urgent national objectives, such as the revitalization of rural areas; the substitution of subsistence crops for commercialized agriculture, and the promotion of large as well as small-scale programmes of public works. Perhaps *above all*, self-reliance emphasizes the development of a capacity for autonomous decision-making in the management of resources and in the acquisition of technology.

Emphasis on self-reliance is a constructive and positive factor. It complements and, in many ways, reinforces, the policies and objectives pursued by UNCTAD since its inception. It is true that some, in putting forward new approaches, have at times used a language which appears shrill, just as the statements about partnership which pervaded the international gatherings of the 1950s and 1960s today have a strangely tranquilizing sound. The great majority, however, takes a balanced view. The very fact that this Conference is taking place, and the shape of its agenda, demonstrate the general belief that there are beneficial ways and means of integrating developing economies within a world framework, and that financial assistance can be provided in ways which will not undermine national efforts and priorities.

The national self-reliant approach has its natural extension in the important concept of "collective self-reliance" as an expression of solidarity within the Third World. This is not the first time that UNCTAD will be discussing the expansion and strengthening of economic relations between developing countries. Greater opportunities seem to be now at hand, particularly because of the new resources available in the oil-producing countries. These are, and can be further channelled into new and sometimes large-scale productive investments, in industrial and agricultural projects, in transport and communication. It must be recognized that specific trade arrangements may be needed if new productive capacities are going to find outlets in the expanding markets of developing countries, not only for light consumer goods but also for capital equipment and more generally for the heavy manufactures which growing economies will need. Regional or interregional preferential arrangements on terms less stringent than those which are found necessary within the present rules may be needed. This notion has often been resisted, but today's perspectives should now make it more acceptable to all. Collective self-reliance within the Third World should commend the support and indeed the assistance of the industrial world, since it will enhance the over-all capacity of developing countries, and thereby facilitate a mutually beneficial dialogue with the industrialized world.

Your Excellencies, Distinguished Delegates.

The revelation of global interdependence is probably one of the main features which historians will record when they write the chronicle of the first half of the 1970s. They will presumably also observe that few words have elicited so many different interpretations. As a description of a factual situation, it is, of course, an undisputed proposition. As a prescription for a course of action, it implies far greater changes, innovations, reforms, than is often recognized. We should understand that the way to interdependence is through the strengthening of the sovereignities of developing countries, through the greater assertion of their national identities and the development of their capacity for autonomous decision-making. It also requires important adjustments of the economies of the industrialized countries, and we cannot honestly pretend that these always will be painless. But we must realize that all will benefit from a more rational economic order, and that its achievement is a vital goal for all nations. I would even say that this is our inescapable destiny; and this emphasizes the full and crucial extent of your responsibilities. Let us rise to this challenge, and meet these heavy responsibilities.

BETTER HEARING AND SPEECH MONTH

Mr. BUMPERS. Mr. President, I would like to call the attention of my colleagues to the fact that May is Better Hearing and Speech Month. This annual observance is intended to focus public attention on the problems associated with communication handicaps, and at the same time make the public aware that such conditions can be effectively treated.

Figures indicate that nearly 10 million Americans—or one out of every 20 persons—suffer from speech or language impairments. In other words, speech and language disorders comprise this Nation's single largest handicapping condition.

To shift from statistics to human terms, these handicaps present an invisible but nonetheless very real barrier to full participation in our society. As a constituent of mine noted in a recent letter:

> Communication is the cohesive force in every human culture and the dominant influence in the personal life of every one of us. Therefore, a speech disorder or a hearing impairment may inhibit an individual's social adjustment, decrease his learning ability and restrict his economic capacity.

The real tragedy is that these handicapping conditions are often susceptible *to treatment.* Speech and hearing impairments need not be the pervasive problems that they are today. We owe a debt of gratitude to our audiologists and speech pathologists for their dedication to solving these problems. We also owe them our strong support.

FEDERAL ELECTION COMMISSION'S PROPOSED REGULATIONS

Mr. PELL. Mr. President, as chairman of the Subcommittee on Privileges and Elections, I would like to bring the attention of my colleagues a Notice of Proposed Rulemaking issued by the Federal Election Commission on May 24, 1976, and ask unanimous consent that it be printed in the RECORD after my remarks.

This Notice, together with the Commission's proposed Regulations, appeared in the Federal Register of Wednesday, May 26, 1976. I understand that additional copies of the Commission's proposed Regulations are available at the Federal Election Commission, 1325 K Street, NW., Washington, D.C. for interested parties.

There being no objection the notice was ordered to be printed in the RECORD, as follows:

FEDERAL ELECTION COMMISSION—NOTICE OF PROPOSED RULEMAKING NOTICE 1976-27

The Federal Election Commission today publishes proposed regulations under the Federal Election Campaign Act of 1971, as amended in 1974, and 1976. The proposed regulations include Parts 100–108 (Disclosure), Part 109 (Independent Expenditures), Part 110 (Contribution and Expenditure Limitations), Part 111 (Compliance Procedures), Part 112 (Advisory Opinion Procedures) (Part 113 (Office Accounts), Part 114 (Corporation and Union Political Activity), Part 115 (Government Contractors), Parts 120–124 (Convention Financing), Parts 130–134 (Presidential Primary Matching Funds).

The Commission will welcome immediate critical commentary with regard to the proposed regulations. The period for comment will close on Monday June 14, 1976.

The Commission also announces the following schedule of hearings on the proposed regulations:

Monday, June 7, 1976, Parts 100–108 (Disclosure), Chaired by Commissioner Joan D. Aikens.

Tuesday, June 8, 1976, Parts 112 (Advisory Opinion Procedure), 113 (Office Accounts), 120–124 (Convention Financing), 130–134 (Presidential Primary Matching Funds), Chaired by Commission Chairman Vernon W. Thomson.

Wednesday, June 9, 1976, Part 109 (Independent Expenditures), Part 110 (Contribution and Expenditure Limitations), Part 111 (Compliance Procedure), Chaired by Commissioner Robert O. Tiernan.

Friday, June 11, 1976, Part 114 (Corporation and Union Political Activity), Part 115 (Government Contractors).

Chaired by Commissioner Thomas E. Harris.

Hearings will commence at 9:30 a.m., on each of the dates described. After a luncheon recess at 12:30 p.m., the hearings will resume at 2:00 p.m.

Persons wishing to testify should submit a request in writing to the above designated chairmen for the respective hearings, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. It will be appreciated if copies of prepared testimony are supplied the Commission at the same address at least one working day prior to the date upon which the testimony is to be submitted. The prepared material should be submitted to the Commission's Office of General Counsel, as should any other written commentary regarding these proposed regulations.

In particular, the Commission requests comment on: § 100.7(b)(5)(i), relating to the reporting of communications; the definition of common control in §§ 100.14(c)(2) and 110.3(a); the definition of independent expenditure in § 109.1; all of the provisions of Part 110, covering contribution and expenditure limitations; all of the provisions of Part 114, covering corporate and union fundraising, and especially the definition of § 114.1, and the solicitation sections, § 114.5 and 6; and Part 133, covering termination of payments to Presidential candidates receiving matching funds.

The Commission stresses the importance it attaches to the comment and hearing procedure which is initiated by this notice. Last year's hearings on disclosure, for example, produced many useful amendments to the then pending regulations. The Commission accordingly encourages the most thoroughgoing analysis and criticism of the materials published today.

Date: May 24, 1976.

VERNON W. THOMSON,
Chairman, for the
Federal Election Commission.

FEDERAL ELECTION COMMISSION
[11 CFR Chapter 1]
[Notice 1976–28]
FEDERAL ELECTION CAMPAIGN ACT
Amended Notice of Proposed Rulemaking

On Wednesday, May 26, 1976, the Federal Election Commission published a Notice of Proposed Rulemaking, 41 FR 21572, which noted that hearings on the proposed regulations would be held on June 7, June 8, June 9, and June 11, 1976, at the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. The hearing scheduled for June 11, 1976, on Parts 114 (Corporate and Union Political Activity) and 115 (Government Contractor) is hereby rescheduled for Thursday, June 10, 1976, at 9:30 a.m.

Dated: May 25, 1976.

VERNON W. THOMSON,
Chairman, for the
Federal Election Commission.

[FR Doc.76–15688 Filed 5–26–76;8:45 am]

ORGANIZATIONS ENDORSING S. 3425

Mr. NELSON. Mr. President, since I introduced S. 3425 on May 13, 10 Senators have joined as cosponsors. In addition, several organizations have endorsed S. 3425. I ask unanimous consent that an updated list of organizations endorsing S. 3425 be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

UPDATED LIST OF ORGANIZATIONS ENDORSING NELSON'S LOCKS & DAM NO. 26 BILL, S. 3425

LABOR

American Railway Supervisors' Association.
American Train Dispatchers' Association.
Brotherhood of Locomotive Engineers.
Brotherhood of Maintenance of Way Employees.
Brotherhood of Railroad Signalmen of America.
Brotherhood of Railway Carmen of the United States and Canada.
Brotherhood of Sleeping Car Porters.
Hotel and Restaurant Employees and Bartenders International Union.
International Association of Machinists ad Aerospace Workers.
International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers.
International Brotherhood of Electrical Workers.
International Brotherhood of Firemen and Oilers.
Railroad Yardmasters of America.
Railway Employees' Department, AFL-CIO.
Sheet Metal Workers' International Association.
Transport Workers Union of America.
United Transportation Union.
American Rivers Conservation Council.
Clean Air and Water Unlimited (St. Paul, Minnesota).
Defenders of Wildlife.
Environmental Action
Environmental Policy Center.
Friends of the Earth.
Izaak Walton League of America.
National Audubon Society.
National Wildlife Federation.
Natural Resources Defense Council.
The Sierra Club.
The Wilderness Society.
Wildlife Management Institute.
The Wildlife Society.

OTHER ORGANIZATIONS

State of Wisconsin—Department of Natural Resources Board.
The National Taxpayer's Union.

RAILROADS

The Atchison, Topeka and Santa Fe Railway Company.
Burlington Northern Inc.
Chicago & Eastern Illinois Railroad Company.
Chicago, Milwaukee, St. Paul & Pacific Railroad Company.

Chicago & North Western Transportation Company.

Chicago, Rock Island & Pacific Railroad Company (William M. Gibbons, Trustee).

Illinois Central Gulf Railroad Company.

The Kansas City Southern Railway Company.

Missouri-Kansas-Texas Railroad Company.

Missouri Pacific Railroad Company.

The Norfolk & Western Railway Company.

St. Louis-San Francisco Railway Company.

Soo Line Railroad Company.

The Southern Pacific Transportation Company.

The Texas and Pacific Railway Company.

Union Pacific Railroad Company.

CONGRESSMAN BRADEMAS AWARDED HONORARY DEGREE BY TUFTS UNIVERSITY

Mr. KENNEDY. Mr. President, earlier this week our distinguished colleague in the House of Representatives, the Honorable John Brademas of Indiana, was awarded the honorary degree of doctor of laws by Tufts University in Medford, Mass.

The degree was presented to Congressman Brademas by Burton Hallowell, president of the university, at the university commencement exercises on May 23, 1976.

Congressman Brademas, who serves as chief deputy majority whip of the House, is widely recognized for his outstanding leadership in the field of education, and I congratulate him on the honor he has received from one of the outstanding universities in our commonwealth.

Mr. President, I ask unanimous consent that the text of the citation for the honorary degree awarded to Congressman Brademas by Tufts University may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Congressman Brademas Awarded Honorary Degree by Tufts University

Presenter. Mr. President, I have the honor to present The Honorable John Brademas, member of the United States House of Representatives from the Third Congressional District of Indiana, and Chairman of the House Select Subcommittee on Education, to receive from your hand the honorary degree of Doctor of Laws.

President. John Brademas, during your eighteen years as a Democratic member of the Indiana delegation to the United States House of Representatives, you have earned a reputation as one of education's best friends. Indeed, in a poll conducted last year, college and university presidents and other national leaders chose you among the top four persons in this country as "most influential" in higher education. The reasons for their choice are clear. You are without question among the most able and hard-working of the legislators on Capitol Hill. As chairman of the House Select Subcommittee on Education, you have played a central role in shaping national education legislation. Your name has appeared on a wide variety of legislation concerned with elementary and secondary education, vocational education, teacher training, child development, rehabilitation for the disabled, and programs for the aged.

Like so many of your fellow Americans, your orgins were modest. You won a scholarship to Harvard and were graduated magna cum laude in 1949. You were a Rhodes Scholar and earned a doctorate in social studies from Oxford. In 1958, you were elected to your first term in the House of Representatives from the Third Congressional District of Indiana, which has returned you to Washington ever since. You are a man of principle with a pragmatic sense of the needs of your own constituency. You are a blunt speaker for the truth whatever your audience.

For outstanding and dedicated national leadership in virtually all fields of education, and for sticking to your faith in education regardless of the political weather, Tufts proudly confers upon you the honorary degree of Doctor of Laws.

MAYOR ERASTUS CORNING OF ALBANY SUPPORTS THE TAXABLE BOND OPTION

Mr. KENNEDY. Mr. President, one of the most important bills now pending in Congress is the so-called taxable bond option, which offers a Federal interest subsidy to State and local jurisdiction that issue taxable bonds.

Under the pending legislation which Congressmen Henry Reuss, Al Ullman, and I introduced in the House and Senate and which was recently approved by the House Ways and Means Committee, the Federal Government would pay 35 percent—40 percent in my Senate bill—of the market interest rate on taxable municipal bonds.

State and local jurisdictions would be free to continue to use the traditional tax exempt form of financing, which would not be affected by the proposal. But for jurisdictions that choose to make their bonds taxable, a substantial Federal interest subsidy would be available. For many jurisdictions, the program would offer an important new source of financial assistance in meeting their capital needs.

Recently, Mayor Erastus Corning 2d of Albany, N.Y., endorsed the proposal in a presentation at the Siena College discussion of municipal finances. In the course of his discussion, Mayor Corning provides an excellent analysis of the advantages and benefits of the proposal. I believe his presentation will be of interest to all of us, and I ask unanimous consent that it may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Presentation by Erastus Corning 2d at Siena College Discussion of Municipal Finances, May 20, 1976

For many generations one of the great rights of State and local governments, municipalities that is, has been the right to sell their bonds with the interest paid on those bonds exempt from Federal Income taxes. This right has always had nearly the sanctity of a Federal constitutional guarantee. It has never been tampered with lightly or thought to be cast aside without long and sober reflection. It has been of great financial benefit to the taxpayers of our municipalities.

Today there is before the Congress a most exciting proposal to provide municipalities an election under which State and local governments may issue taxable obligations and receive a Federal subsidy of 35 to 40 percent. (S. 3211) This interest subsidy compensates the municipality for higher borrowing costs caused by the elimination of the tax exempt status on its interest payments. It is a new tool for municipalities to use in marketing their securities. It expands the market. The long term right of issuing bonds where the interest is tax exempt will not be changed, or modified in the slightest degree. The new proposal will be an alternative, an option, to use only when it seems advantageous.

Let us examine why this proposal has been advanced and what its benefits are. In the first place the market for tax exempt bonds has shrunk from what it used to be. Until recently individuals of wealth and the vast banking industry bought tax exempts to provide tax free income. Today is is different. With the tremendous increase of bank holding companies, many of them having leasing companies with built in tax shelters as subsidiaries, the demand for tax exempts on the part of banks has been substantially reduced. In addition, in recent years there has been a tremendous increase in pension funds, both public and private, and profit sharing trusts, neither of which receives any benefit from the purchase of tax exempt bonds. Private pension funds alone hold around $130 billion in assets, while state and local pension funds have almost another $100 billion in investments. All of the above would seek to invest their funds in municipal bonds at rates of interest substantially higher than those usually available on tax exempts.

One simple example will show the importance of this. A tax exempt bond with an interest rate of 6 percent has the same net cost to the municipal taxpayer as a taxable bond paying 10 percent with a 40 percent Federal reimbursement. The advantage to the investor such as a tax exempt pension fund, or any taxpayer with a tax bracket under 40 percent is obvious. The net cost to the Federal Government will be the 40 percent subsidy reduced by the income taxes paid on the taxable interest. It is estimated that for every dollar of net cost to the Federal Government from two to six dollars of cash benefits will be received by the municipalities. This is good business. It is particularly so when compared to this year's estimate under the present system where the Federal treasury will lose $4.8 billion and municipalities gain $3.2 billion or but 75 cents for each Federal dollar. $1.2 billion of the Federal loss will go to banks and high income individuals.

One further point to be made is that if the supply of tax exempt bonds is reduced materially through the issuance of taxable municipals, the law of supply and demand will operate to the benefit of municipalities by causing the price of tax exempt bonds to go up and the interest cost to the taxpayers on new issues to go down accordingly.

A similar proposal to this one now before the Congress passed the House of Representatives in 1969. It was defeated in the Senate because of violent opposition on the part of State and local governments Country-wide. This opposition was caused by unreasoning fear that the legislation was an opening wedge looking to the elimination of the right to issue tax exempt bonds. Today the climate is changed materially. The demand for and advantage of tax exempts is not as great as what it was seven years ago. In addition the Congress has had it pounded into its mind to the point that it now recognizes fully that the historical right to issue tax exempts is one part of the Internal Revenue Code that is inviolate. It is only an option being added. Nothing is taken away.

Today the United States Conference of Mayors is enthusiastically in favor of this legislation. Representative Ullman, Chairman of the Ways and Means Committee, sees this measure as both a financial benefit to government; federal, state and local, and a tax reform as well. The only opposition of any substance that I know of is that of the Finance Officers Association, a most Conservative group still fearful that the tax exempt right will be lost.

It is interesting to see how this proposal will work in its actual operation. A very simple method would be for each municipality wishing to issue taxable bonds with Federal reimbursement to fill out an application thirty to sixty days before the proposed bond-sale. The basic requirements for approval need be nothing more than what are required today: (1) a statement of the amount, date, term and purpose of the bond issue; (2) the usual statistical statement of the municipality together with the recently added so called disclosure provisions; (3) a legal opinion from qualified bond counsel; (4) a standard form of contract between the municipality and the Federal government, approved and signed by the municipal official authorized to enter into such a contract. With the application, supporting documents, and duly executed contract all in order, Federal approval should be automatic and the contract executed and returned to the municipality well before the date of the bond sale.

The obligation of the Federal government would be to pay to the municipality the agreed interest reimbursement throughout the life of the bond in time for the municipality to make its periodic payments to the bond holders. The municipality would be required to pay over to the bond holders the money received from the Federal government. It could use these funds for nothing else. The obligation of the Federal government to make payments would only be to the extent that the municipality pays the bond holder. If the municipality defaults, the Federal government would pay nothing until such time as the municipality resumes interest payments. This provision is necessary because of the various types of municipal bonds. We have the full faith and credit bonds of States and local governments. We have Industrial development bonds which have no government backing of any nature whatsoever, and in between we have bonds such as those issued by the Dormitory Authority or the Urban Development Corporation. The obligation of the Federal government should be no more and no less to the bond holders than the obligation of the municipality. If the interest is paid, the Federal government pays its share. If the interest is not paid, the Federal government does not pay. With these provisions the contract between the Federal government and the municipality can be simple, clearly understood, and entered into in each case quickly and without red tape.

This legislation has been reported to the floor of the House. It will be much in the news in the next few weeks. The mechanics of how it will operate will be spelled out in detail and I am sure the number of its supporters will swell. My guess is that it will be the law of the land by the time the snow flies. This is a financial tool of value. It is of value Country-wide.

The fiscal crisis in New York City has served to call dramatic national attention to a problem which has been growing throughout our country—the problem of maintaining a sound fiscal basis for local government.

Local government provides the day-to-day services which are the foundation of our civilized society. Garbage disposal, fire protection, sewage treatment and disposal and the provision of a safe water supply may not excite the imagination and capture the headlines like moon shots and international treaties, but without them it would not be possible to maintain the lifestyle which we have come to refer to as the "American way of life."

For many years we have seen a continued erosion of the importance and prestige of state and local government as the federal government grew enormously and assumed an ever larger role in the area of public service. Now there seems to be a general agreement that a shift back to state and local government is in order. If such a shift of authority and responsibility back to the state and local level is going to take place, it will only be achieved by well conceived hard work by concerned and realistic public officials and private citizens like ourselves. Obviously financing government is one of the most basic elements in achieving this objective.

The Taxable Bond Option is not a magic solution to the problem of municipal financing; it is not necessarily even the single major answer. It is rather a tool, and an important one, which can contribute to the overall solution of the fiscal crisis of the cities. It is unique and important, in that it is imaginative and innovative and indicates our willingness to chart new ground and deviate from long established financial practices. It will be good for the State. It will be good for all our states. It will be good for our cities, towns and villages. What is truly good for all of these is good for our beloved country.

ORDER OF PROCEDURE—ENERGY ACTION NO. 2

Mr. JOHNSTON. Mr. President, I have a series of parliamentary inquiries about the possibility of business later in the day. It relates to the resolution to disapprove Energy Action No. 2, which is now on the calendar.

My first question is this——

The ACTING PRESIDENT pro tempore. Will the Senator yield? It is not on the calendar at the present time. It has been referred to the Committee on Interior and Insular Affairs.

Mr. JOHNSTON. Very well.

Under the previous unanimous-consent agreement, at 11:30 the antitrust bill comes up for debate with no time agreement. After that comes up for debate, as I understand it, any Senator can make a motion to discharge the Committee on Energy Action No. 2. That motion is subject to 1 hour of debate, is highly privileged, and will, in effect, if adopted, displace the antitrust bill for the period when it is under debate. Is that correct?

The ACTING PRESIDENT pro tempore. The Chair will advise the Senator that that is only true with regard to a Member favoring the resolution. Everything else the Senator has stated is correct.

Mr. JOHNSTON. So if I favor this resolution, then I can move to discharge the committee and it will then become the pending business for 1 hour?

The ACTING PRESIDENT pro tempore. The motion to discharge is in order and has a 1-hour limitation of debate.

Mr. JOHNSTON. Would it be in order, after that becomes the pending business, to move to reduce the time for debate to less than 1 hour?

The ACTING PRESIDENT pro tempore. No. It could be done by unanimous consent only before the resolution is actually before the Senate.

Mr. JOHNSTON. If the committee is not discharged on motion, is there any other way to bring up Senate Resolution 449, other than by discharging the committee?

The ACTING PRESIDENT pro tempore. Only by unanimous consent.

Mr. JOHNSTON. Very well. If, by a majority vote, the committee is discharged, then Senate Resolution 449 becomes the pending business?

The ACTING PRESIDENT pro tempore. No. Then a motion to proceed to its consideration would be required to make it the pending business and would be in order. The motion to proceed is not debatable pursuant to the provisions of Public Law 94–163.

Mr. JOHNSTON. It is not debatable. The question would be put immediately, then, to a vote; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. JOHNSTON. Once we proceed to Senate Resolution 449, it becomes the pending business under a 10-hour limitation.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. JOHNSTON. And any Senator may move to shorten the time for that debate, which motion is nondebatable and requires a majority vote to shorten the time for debate; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. JOHNSTON. Once we begin debate on Senate Resolution 449 under a 10-hour time limitation, it proceeds until it is disposed of. It must be disposed of by the close of business today. My question is: On the close of business today, can that be past 12 midnight tonight and still be the close of business today?

The ACTING PRESIDENT pro tempore. The Senator is now requesting a legal opinion as to whether or not, if neither the House nor the Senate passes a resolution by midnight tonight, it constitutes the end of the 15 days and the President's recommendation then goes into effect.

Mr. JOHNSTON. It must be by midnight, then?

The ACTING PRESIDENT pro tempore. The 15 days are up at midnight, tonight.

Mr. JOHNSTON. I thank the Chair.

Mr. PHILIP A. HART. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. PHILIP A. HART. I think the exchange just had between the Chair and the Senator from Louisiana suggests the reason I rise to express concern and yet, in a sense, resignation. The effort to bring the Senate to a vote on the antitrust bill, which is pending, has been supported strongly by the leadership. As a result, there is available to us today and tomorrow. The only way, given the exchange which has just occurred, those of us anxious to bring the antitrust bill forward could forestall action on Senate Resolution 449 would be for us to take the floor as of 11:30 this morning and hold it for so long as would run out the clock for the Senator from Louisiana, which would be midnight tonight. Even if the Senator from Michigan was not under some physical handicaps, he has never claimed the ability to hold the floor from 11:30 a.m. to 12 midnight. But I do feel an obligation to raise with the leadership the problem that this presents for those of us who are advocating the antitrust bill.

What is being suggested—which, as I say, unless I hold the floor until midnight, can be done by motion—is to surrender 1 of the 2 remaining days.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. PHILIP A. HART. I yield.

Mr. JOHNSTON. I would expect, as a practical matter, that we will instantaneously take up the Senator's bill. If I get the floor, I would then move to discharge the committee, we would then have a vote on that at 12:30, and after we then proceed to take up Senate Resolution 449, the leadership would propose to consider that matter under a time limitation of probably 1 hour, and if we win those two votes, I mean if we win the first vote to discharge the committee, I think we would have the votes to shorten the time for debate to 1 hour, which is all the debate we need, and I feel that the opposition would probably go along with that; they have nothing to gain by a filibuster 10 hours in length, because a filibuster 10 hours in length cannot be successful.

Mr. PHILIP A. HART. Yes.

Mr. JOHNSTON. So I would hope we could accommodate the Senator in that respect.

Mr. PHILIP A. HART. Under that scheme, how many hours would the Senator anticipate would be required to dispose of Senate Resolution 449?

Mr. JOHNSTON. A total of 2 hours, 1 hour on the motion to discharge and 1 hour for debate.

Mr. PHILIP A. HART. Perhaps the Senator would give me an opportunity to ask the Senator from Nebraska if we will be able, given the problem presented by Senate Resolution 449.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore (Mr. CULVER). If the Senator will suspend, under the previous order, the hour of 11:30 a.m. having arrived, morning business is now closed and the Senate will proceed to the consideration of H.R. 8532, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

ORDER OF PROCEDURE—ENERGY ACTION NO. 2

Mr. PHILIP A. HART. Mr. President, I have no intention of seeking to deny the floor to the Senator from Louisiana for the purpose of making a motion the discussion of which has been had during the last few minutes. Before yielding, I wonder if the Senator from Nebraska or the Senator from Alabama would be in a mood to enter into a unanimous-consent agreement that would permit us to vote finally on the antitrust matter.

Mr. HRUSKA. Mr. President, I have not consulted with other Senators. I do not think there will be any reluctance about presenting some amendments today for argument, debate, discussion, and a vote, but of course the opening debate on the bill in general has not yet been completed, and it would be premature, I believe, to consider any request for limitation of debate at this time.

Mr. PHILIP A. HART. I note that one's conclusion about the adequacy of opening debate tends to be colored by his position on the subject. The fact that we hold different views on the subject matter probably would explain why we have different opinions as to whether it has been adequately discussed.

Mr. HRUSKA. That undoubtedly has some merit.

Mr. PHILIP A. HART. Mr. President, I suggest the absence of a quorum.

Mr. GRIFFIN. Mr. President, if the Senator will withhold that, if I may just make this comment, there are two ways to proceed here. One is to proceed without any unanimous-consent agreement of any kind, and then it is a question of who has the floor and is willing to yield for what purpose.

On the other hand, some of us are very much interested in this measure, and one Senator in particular, the Senator from Tennessee (Mr. BROCK), is tied up in committee, of course, and will be tied up on a very important tax bill until probably 12:30.

If there were a unanimous-consent agreement that the floor would be made available at 12:30 for the motion to discharge the committee, there would be, of course, an hour under the statute, and we would be voting at 1:30. There would be no objection to that. Perhaps the Senator could get the floor and make the motion ahead of that; but if he wants some certainty in it, I would suggest that as a possible way of proceeding.

Mr. JOHNSTON. That would be suitable to me. As a quid pro quo, might we shorten the time for debate by 1 hour, to 9 hours?

Mr. GRIFFIN. I personally would be agreeable to that. At the moment I cannot give unanimous consent, because I am representing other Senators in the matter. But I think those Senators realize that if the Senator from Louisiana prevails on the initial vote, or if he loses, that is pretty much going to decide the situation, and we are likely not to have too much trouble one way or the other on the motion to shorten the time. That is my view.

Mr. JOHNSTON. Very well; I would agree to do that——

Mr. GRIFFIN. I think having that 1 hour scheduled at a time when interested Senators can be here and participate in the debate would be important, because they will have had the opportunity to make their arguments, and I think they will be more satisfied that the vote on the motion to discharge the committee will be a decisive vote.

Mr. JOHNSTON. I think the request is a reasonable one, and I would agree to unanimous consent, and would so move, with the concurrence of the leadership.

I ask unanimous consent that at the hour of 12:30, I be recognized to move to discharge the committee on Senate Resolution 449, to be followed by the usual 1 hour of debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HRUSKA and Mr. PHILIP A. HART addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. PHILIP A. HART. Mr. President, reserving the right to object, I think I have stated the dilemma that confronts those seeking to amend the Antitrust Act. There is no question that the leadership had sought to give us a full 2-day discussion period, but the law, as I understand it, establishes as a privileged matter the subject of Senate Resolution 449.

I have explained that the only way that we can prevent consideration of it would be for ourselves, the proponents of the bill, to filibuster the bill. That is a position I do not want to get into. In the hope that not more than an hour will be consumed, I would reluctantly enter no objection.

Mr. ALLEN. Mr. President, reserving the right to object, how much time would be allotted to the consideration of the resolution? Is a limitation placed on it?

The ACTING PRESIDENT pro tempore. Under the law, the Senator from Alabama would be required——

Mr. ALLEN. I know it is 10 hours, but how much time is being asked for?

The ACTING PRESIDENT pro tempore. One hour under the law on the motion to discharge.

Mr. ALLEN. One hour, and then we would return to the antitrust legislation at the end of 1 hour; is that correct?

The ACTING PRESIDENT pro tempore. It depends upon the disposition of the discharge motion. If it comes there will undoubtedly be further action on Senate Resolution 449.

Mr. ALLEN. All right. That 1 hour will be used; is that correct?

The ACTING PRESIDENT pro tempore. That is all that is allotted under the law.

Mr. ALLEN. Then would that mean that on the discharge resolution, there is 1 hour or is there 1 hour for the discharge motion and the resolution together?

The ACTING PRESIDENT pro tempore. There is 1 hour for the discharge motion itself.

Mr. ALLEN. And then, if that carries, the resolution itself is allocated 10 hours of debate; is that correct?

The ACTING PRESIDENT pro tempore. The resolution itself would have up to 10 hours of debate under the law.

Mr. ALLEN. Could there not be a further limit to that time? We do not want to have 10 hours of discussion.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. JOHNSTON. Right before the Senator came in we had a colloquy and the law provides for 10 hours of debate. As a practical matter, if we win the motion to discharge, then we will immediately make a motion to shorten the time for debate from 10 hours down to 1 hour. Everyone agrees that as a practical matter 1 hour of debate is all the debate we will need.

Mr. ALLEN. Could that not be included in the present request? That is what the Senator from Alabama wished to know.

Mr. JOHNSTON. It could be, but I am not in a position to make it.

Mr. ROBERT C. BYRD. It could be, but indications are there would be an objection to unanimous consent to that effect at this time.

Mr. ALLEN. We would definitely proceed to the consideration of the resolution with a potential 10 hours of debate; is that correct?

Mr. JOHNSTON. That is correct.

However, we will move to shorten the debate to 1 hour. That is a nondebatable motion which is decided by majority vote pursuant to law.

So if we have the votes to discharge the committee, we will have the votes to shorten the debate.

Mr. ALLEN. Very well.

A further parliamentary inquiry, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ALLEN. Would either the consideration of the resolution or the consideration of the motion to discharge under the unanimous-consent agreement displace the foreign assistance bill as the unfinished business?

The ACTING PRESIDENT pro tempore. No.

Mr. ALLEN. So, would it displace the——

The ACTING PRESIDENT pro tempore. Excuse me. If the Senator will yield, they would be taken up as privileged matters.

Mr. ALLEN. Yes. That would not displace then the order allowing us to proceed to antitrust on tomorrow as a first order of business.

The ACTING PRESIDENT pro tempore. No.

Mr. ALLEN. I thank the Chair, and I withdraw my objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JOHNSTON AT 1:30 P.M.

Mr. JOHNSTON. Mr. President, I further ask unanimous consent that I be recognized immediately after the vote on the motion to discharge Senate Resolution 449, if that motion prevails.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. ALLEN. Mr. President, this bill, S. 1284, the provisions of which have been offered as a substitute to H.R. 8532, the pending bill, is probably the worst item of legislation that has been brought to the floor of the Senate in this Congress. It must be rejected by the Senate or recommitted promptly to committee if we are to avoid doing grave damage to the economic well-being of our people and to the political health of our free institutions.

This is not a bill merely modifying procedural aspects of the Federal antitrust laws. This bill is, rather, a radical departure from the existing statutory scheme for antitrust enforcement, and it creates a new substantive cause of action which is revolutionary in concept and will be catastrophic in effect.

Mr. President, this bill is not primarily procedural; it is primarily substantive; but whether procedural or substantive, it is throughout ambiguous, poorly worded, badly written, inartfully structured, impractical, shortsighted, and not in the least worthy to be considered by this body. The proposed legislation is so replete with alarming and ill-conceived proposals that I truly find it difficult deciding where the greatest danger lies, or what specific provision deserves primary attention. So, Mr. President, in this dilemma I am afraid I am going to be forced to start at the beginning and from there examine each provision of this proposed substitute until I get to the end, and then possibly start over again.

TITLE I

This bill astonishingly is entitled, "The Hart-Scott Antitrust Improvements Act of 1976." Mr. President, if ever a wolf hid in sheep's clothing, it is the atrocious provisions of this bill masquerading in the guise of "improvements." Yes, Mr. President, once again under the mindless banner of improvements or "reform," the Senate is asked to adopt sweeping changes in the fabric of our legal system—changes which will wreak untold havoc in the structure of our economy and the lives of our people but which many will hail as needed and beneficial simply because they have been labeled improvements.

Mr. President, this bill will improve nothing but the bank accounts of lawyers and the political power of State attorneys general. A more appropriate and accurate title for this bill might be "The States' Attorneys General Political Relief Act of 1976," or, as has been suggested by our distinguished colleague from South Carolina, Senator THURMOND, "The Anti-Trust Lawyers Full Employment Act of 1976," because it would benefit the attorneys throughout the country who specialize in this field of practice or the attorneys who are political friends of the power structure in the various States.

Mr. President, this bill improves nothing. It destroys much that is good, including established legal procedures which guarantee due process and fair play. It will cost consumers millions of dollars. It is supposed to be in aid of consumers, but the price increases that necessarily would have to result from the tremendous damage suits and recoveries against companies furnishing consumer goods and products would be so great that there would be no recourse but to have price rises to compensate for the payment of millions of dollars in damages to those who would institute suits as provided by this bill.

It promises to bring chaos to sound judicial administration of antitrust cases.

TITLE II

The first substantive departure from commonly accepted notions of due process and plain fair play occurs in title II, which purports to set forth procedural amendments to the Antitrust Civil Process Act. In fact, title II authorizes investigatory powers foreign to our Republic and abhorrent to our tradition. Title II permits the Attorney General—and of course, that is the U.S. Attorney General, as distinguished from the State attorneys general, who are given judicial powers under this bill—the U.S. Attorney General, or the head of the Antitrust Division of the Department of Justice, to institute, in effect, roving inquisitorial panels which to me appear to be closely patterned after similar traveling witch-hunting curia utilized to root out wickedness and vice in the villages and towns of Spain during the Inquisition in the Middle Ages in Europe.

Under the provisions of title II, the Attorney General or the head of the Antitrust Division—and I would remind Senators that neither of those gentlemen are answerable to the electorate nor, to an increasing extent even to the President—the Attorney General or the head of the Antitrust Division would be authorized to demand that any person produce documents, answer interrogatories, and give oral testimony to certain inquisitors, either acting singularly or tribunal-style, to be designated from time to time at the sole discretion of the Attorney General or the head of the Antitrust Division. The scope of inquiry permitted is, astoundingly, not limited to violations of the antitrust laws. In addition to any matter related to the antitrust laws, the scope of inquiry would also encompass—and here we see an example of the bill's ambiguity and plain awkward wording—any matter relevant to "competition in a Federal administrative, or regulatory agency proceeding." Mr. President, has there ever been a Federal administrative or regulatory agency proceeding in which matters related to compensaton were not involved? Perhaps so, but the case would be rare indeed.

Mr. President, in practical effect, the Attorney General's inquisitor will have carte blanche to call on the carpet virtually anyone so long as there were some remote connection with a Government proceeding. I have no doubt that the present Attorney General, an honorable and able man, would use this immense power with discretion, but a less responsible Attorney General, armed with the inquisitorial powers granted by this bill, could do irreparable damage to individuals and to society.

Who will these inquisitors be and where will they come from? Where are the inherent safeguards of a locally selected grand jury? Mr. President, I do not believe we have come hundreds of years down the long line of the development of our legal heritage to enact in the Bicentennial Year a law which would permit unidentified designees of an appointed official to sit in unspecified numbers in our cities and towns as roving curia of the Attorney General examining whatever witnesses they care to call, inquiring with respect to virtually any matter said to affect commerce.

Perhaps, Mr. President, there are those here who think that I am overly alarmed at this roving appointed grand jury, this imperial curia, this Spanish Inquisition permitted by title II. If so, let me remind Senators that title II provides only grudgingly that the witness may be accompanied by a lawyer, who is apparently denied the right to give on-the-spot counsel and is permitted to speak only briefly to make formal objection to assert that his client is entitled to refuse to answer a question on grounds of self-incrimination or for other reasons. With respect to other functions normally performed by a lawyer present at the deposition of an individual whom he represents, the bill states bluntly, "he shall not otherwise interrupt the examination." The lawyer is thus permitted only to make for the record certain specific formal objections, but he otherwise is prohibited from interfering with the proceeding.

If a miscreant called before a title II inquisitor refuses to answer on grounds of the right against self-incrimination, testimony may nevertheless be compelled in accord with the provision of part V of title 18, United States Code. If the witness simply refuses to answer, the inquisitors may obtain the assistance of the local Federal district court in ordering an answer. If the witness still refuses, the consequences for contempt of court may be imprisonment without trial for an indefinite period. Similar imprisonment in the case of refusal to answer before a grand jury at least is limited to the duration of the grand jury proceeding, whereas under title II, no limiting period can be established. I also remind Senators that the offending witness need not himself be the actual subject of the investigation to suffer the very dire consequence I have described.

Some will say that we should not concern ourselves about the civil liberties which would be lost if this bill were enacted, since only civil antitrust investigation will be conducted; but, Mr. President, the information developed by the Federal antitrust inquisitors operating under title II may be delivered for use in any court, grand jury, or other forum in which an attorney of the Antitrust Division has been designated to appear regardless of whether the matter involved is civil or criminal. Moreover, all information developed will be made available on request to the Federal Trade Commission, where it will presumably be available to anyone who cares to inquire.

Additionally, Mr. President, this bill will permit any person instituting a civil action under the Anti-Trust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) to obtain any documentary material produced in the transcript of any criminal grand jury proceeding concerning the subject matter of that person's civil action. Such private access to grand jury information is permissible only after completion of any civil or criminal proceeding instituted by the United States, which gets the first bite, but the information delivered could include documents and testimony made available to the grand jury by one or more of the roving panels of inquisitors established by title II. The point is, Mr. President, that the traditional secrecy and care exercised in grand jury proceedings, which has served over the centuries, would be with total abandon and, I believe, completely without forethought, tossed out the window.

I refer Senators to page 34 of the majority report for policy reasons for grand jury secrecy. It is well known to all of them without the majority report.

Now, going to title III—and speaking of title III, I might comment on why there is more than one title in the House bill as it comes to us. The House bill has only one title and, obviously since it is the complete bill and there are no extra provisions on other subjects, it contains just the body of the bill, and it has to do with the parens patriae concept which, in this particular case, allows State attorneys general to file antitrust proceedings under the Federal antitrust laws.

I hardly see the applicability of the expression, English rendition, of the term "parens patriae," which would be parent of our country, I hardly see how attorneys general, acting in this capacity, could be, prove to be, parents of our country.

But, nevertheless, that is what comes to us from the House.

This House bill never went to a committee, which seems rather strange. The explanation given was that since the Senate committee was considering this provision, along with other provisions, that the Senate committee, in effect, did have an opportunity to study the area covered by the House bill. Therefore, there was not need of sending this House bill to the Senate committee.

I understand the House has certain bills on most, if not all, of the titles in the Senate bill, but they prefer to consider each title in a separate bill.

Well, does that make sense? Yes. Some of the titles have good provisions. Put together, however, it makes a mishmash of nonrelated items and, going the Senate route, you either have got to vote for this mishmash, this conglomeration, of provisions or vote against it. You cannot pick and choose.

They might say you can pick and choose by offering amendments knocking out some of the titles. But that is hardly an adequate answer because when you get down to the final vote you may still have reservations about some of these provisions.

So this House bill is to build this up, it never having gone to a committee. Well, the first crack out of the box when the bill came up for consideration here on the floor, well, they offered an amendment to the bill adding—not the Senate bill, obviously that could not be done—but they added the provisions of the Senate bill, that is, S. 1284, which goes far beyond the provisions of the House bill.

Mr. DOMENICI. Mr. President, will the Senator from Alabama yield for a request, without losing his right to the floor?

Mr. ALLEN. Yes, I would be delighted to yield to the Senator.

Mr. DOMENICI. I would suggest to the Senator that Senator Bellmon and I be granted up to 10 minutes to discuss a matter on the floor out of order without the Senator from Alabama losing his right thereafter. We have a situation, Senator, where we want to have something in the Record now without disturbing the Senator's statement in any way, and we would ask unanimous consent that we be permitted to speak for 10 minutes out of order, and that our remarks appear so as not to destroy the continuity of the Senator's remarks.

Mr. ALLEN. I thank the Senator for his request, and I certainly would be glad to accede to his request.

The Senator realizes that at 12:30 we go to another matter having to do with discharging the committee that has the FEA regulations before it. The *purpose* is to rescind the FEA regulations.

Realizing that by giving up the floor at this time the continuity of my remarks will not be interrupted, because of the Senator's request that this appear at a different point in the Record, I would be delighted to yield to the Senator at this time with the understanding that I do regain the floor, Mr. President, when the FEA regulation matter has been disposed of. I ask unanimous consent that that be the case.

The PRESIDING OFFICER (Mr. Durkin). Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I thank my good friend from Alabama.

OPTIONAL GRANT PROGRAMS FOR EDUCATION

Mr. DOMENICI. Mr. President, during hearings before the Budget Committee a few weeks ago, many Governors and education leaders spoke about the present education categorical grant programs. The consensus that day certainly was a concern for wasted dollars, duplication of efforts, and general inefficiency, and extreme redtape.

The notion occurred to me at that time that perhaps the States and local education planning agencies were in a better position to run their own education programs. Certainly individual States understand their own needs and priorities, and those needs must be different from State to State. Federal programs often overlook individual State problems, individual State priorities, and individual State proficiencies.

As my colleagues may recall, the administration recently submitted a plan to Congress which would consolidate many education categorical programs into a single block grant. States would receive the same moneys, but the strings would be removed. For the first time, a widesweeping attempt was drafted on a large scale to contain spreading Federal bureaucracy and to allow States to handle their own programs. I applaud the administration's efforts as far as they go. However, the administration's bill would be mandatory— as I see it, an approach doomed, I fear, to failure inasmuch as some States are not ready to run their own programs with the inevitable constituent pressures and, more importantly, planning skills that they might not have yet developed. Many States are ready for the opportunity—some are not.

But, perhaps, we, in Congress, and the administration may be missing the forest for the trees.

As I listened to the testimony of the Budget Committee witnesses on this issue, I came to realize that there was another alternative, as yet unexplored. Why not allow States to choose? Why not let those States ready to assume the responsibility of educational planning and management opt to take advantage of a categorical block grant approach?

After the hearings, I approached a few of my colleagues to bounce this idea around. I was encouraged by their response. I spoke with Senator BELLMON who said he wanted to be part of such an effort. That is why we are here today.

Senator BELLMON and I have directed extensive staff work to develop an optional education block grant program. As we explore the initial thrust of an optional approach, it appeared to us that perhaps the administration's block grant program was not extensive enough. The administration grouped only those programs which are formula-related, rather than philosophically or functionally related. Therefore, we have expended a great deal of effort to devise a block grant approach which we believe will be even more attractive than the administration's bill.

For example, today vocational related education programs are administered in several different categorical grant programs. We have chosen to group them all under one title in our legislation, letting States decide their own priorities within those program areas. Certainly, the result should be a savings in administrative efforts, leaving more money for learning purposes. What could be better to State education planning agencies than to reduce administrative headaches directed from Washington. Obviously, more money would be free to be used the way it was intended—to educate our young people.

Senator BELLMON and I are also thinking of grouping the programs offering services to the "high-cost" students: the disadvantaged, the handicapped, the neglected, or delinquent. A point to be emphasized is that the Domenici-Bell*mon bill* would require all States to receive at least the same moneys as they now receive and also the bill would require the money to continue to be targeted to those students to whom it was originally intended. Our desire is to merely allow more education for the dollar. The expenditures for administrative costs will, hopefully, be minimized.

The Domenici-Bellmon bill will be ready in late June, but we wanted to publicly state our intentions today so that educators—those from the States who are interested in this proposition—can begin to think about our proposal. Senator BELLMON and I also plan to testify before the House Subcommittee on Elementary, Secondary, and Vocational Education, chaired by Congressman QUIE, when that committee is considering the administration's bill. We hope that State educators, and our colleagues, will respond with some good ideas of their own. We would like to know what programs they would like to see included in a block grant program.

Mr. President, the voters polled for their views during the primary elections this spring have indicated their strong desire to minimize Washington's control over their lives. I also believe the people should have more control over our publicly financed programs. As our education programs touch every American, it seems a good place to begin.

In April of this year I polled the educators in New Mexico for their views regarding a block grant approach on an optional basis. The idea was enthusiastically received. It is obvious to me that New Mexico will be ready to run its own programs, and that many others will join when they are given the opportunity to elect to take the block grant rather than the categorical program.

Americans have voiced their preference for governmental decentralization more and more loudly these past few years. They feel they need to run their own programs. What is good for Florida is not necessarily applicable or good for Alaska, for example. I believe we now have the opportunity if we, in Congress, conscientiously and responsibly respond to the basic desires of our constituency.

Mr. President, in summary, I believe a mandatory block grant program is doomed, but I think, indeed, we will be hard-pressed not to give the option to those States who want it under a well-defined process which permits them to prepare themselves in advance.

That is the difference in our approach and block grants of the past.

We will have the categorical grant plan running for those who want it. For those States who are ready, they can elect or opt to take the block grant.

Mr. President, I yield to my friend from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, before I begin my remarks, I want to give great credit to the distinguished Senator from New Mexico (Mr. DOMENICI) for conceiving the idea of an optional grant program for education, and perhaps in other areas. He has, I believe, done a real service to the Senate, the Congress, and the whole country by coming up with the idea.

I am confident that once the legislation has been proved and the idea is understood, it will gain rapid support in both Houses of Congress and throughout the country.

I also wish to commend the staff of Senator DOMENICI, as well Dick Woods of my staff, and Dr. Chambers of the Office of Education, who have done a yeoman's service in the work that has been done already on this bill.

This, Mr. President, is a sound, positive approach to a very difficult problem and I am pleased to join with Senator DOMENICI in introducing legislation to give each State the option of electing to receive certain Federal financial assistance for educational purposes in a consolidated manner, rather than in categorical ways as is now the law. While it is not yet time to discuss the details of this legislation, it is appropriate that we should articulate the ideas which will underlie the option.

The concept of consolidation is an exciting one. It provides a vehicle for the simplification and decentralization of administration of Federal programs. The bureaucratic burden under which educational programs usually suffer is thereby lessened. State and local educational agencies, rather than remote regional or Washington bureaucracies, are responsible for the basic decisions and program actions with which they must live. Instead of having a multitude of categorical programs, each with its own funding and administrative peculiarities, programs may be grouped logically for administrative ease.

With a consolidated program, the focus can become State and local control. Given the enormous differences in local needs and conditions that we encounter in this country, that is a flexibiilty which can be appreciated. It is also a significant incentive for the development of responsibility for education at the grassroots. State and local priorities can be established and met with the result being the kind of program relevance and effectiveness which is not always possible with categorical programing. States can rise or fall on the basis of their own planning and effort, and no Federal scapegoat can be blamed for poor results.

Consolidation represents a potential turning point in the funding of Federal educational programs. For more than two decades, Federal Government initiatives created many programs of educational aid to the States and local education agencies until we now have all over 100 separately authorized program activities in the Office of Education. Today, there is Federal Government support for about 7 percent of the total cost of elementary and secondary education. Most of that support flows through many narrow categorical programs. It is distributed through the States to local educational agencies using formulas that contain such factors as school age population and income levels of students' families. As responses to national priorities, these remedies have grown into a web of administrative regulations and paper work, causing school systems to devote more time and manpower to meeting Federal requirements and completing necessary paperwork. School administration became more a matter of satisfying rigid requirements and shouldering administrative burdens than a creative process for insuring quality education to meet local needs and objectives. Success in this system often depended largely on the ability to play the grantsmanship game, and some school districts were unable to play it successfully.

It is important to stress that an optional consolidation approach, such as the one Senator DOMENICI and I will introduce, does not mandate that every State adopt the new method of financing. Conditions and preferences in some States may suggest that a continuation of categorical funding with attendant Federal Government oversight is best. Some States may not be ready to draw up and implement a plan to administer Federal funds in accordance with principles that will insure that funds will not become simply general aid. Other States may wish to wait and watch the efforts of those who do exercise their option. But those States which want to strike out on their own, free from the strictures of remote supervision, will be abe to do so. In our proposal, they will be held accountable for results, so there need be no concern that the optional consolidation will produce a costly and tragic boondoggle.

Those who may be concerned that the consolidation approach will serve to reduce the Federal commitment to education need not worry. No State which exercises this option will lose money. Nor should there be any concern that consolidation will be used as an excuse to avoid responsibility for the special educational needs of particular groups, such as the disadvantaged and the handicapped. Special "hold harmless" and maintenance of effort requirements will insure that these obligations will continue to be met. Local educational agencies will be protected by provisions for flow through of money. It will not be necessary for States to enact special legislation in order to exercise this option.

While some proposals for consolidation have chosen to lump as many as 2 dozen programs into a single block grant, our approach will group programs into clusters which are logically related in order to create several blocks. One cluster may include such high cost students as the disadvantaged, migrants, Indians, and the handicapped. Another grouping would merge vocational, adult, and career education programs. Special projects—such as environmental education, gifted and talented education, metric education, alcohol and drug abuse, ethnic heritage and women's equity—would constitute another block. Finally, administration, interstate cooperation, and planning activities would be funded in a separate category. Flexibility within each category will allow States and localities to fashion educational programs more nearly in accord with needs than is now possible under categorical programing.

Consolidation will undoubtedly create anxieties among supporters of specific categorical grant programs, since the priorities for funding will rest with State and local agencies. If a program is a legitimate priority within a State, it will undoubtedly continue to receive funding commitment under the consolidated approach. The proliferation of small categorical programs has caused local education agencies to expend, in some cases, more time and effort applying for funds than the funds were worth. Consolidating the programs into a single competitive process at the State level will significantly reduce the cost in manhours.

An important feature of this new legislation will be the requirement of a participatory planning process within each State which chooses to receive its Federal funds in the consolidation grant. The views of interested citizens, constituent groups, local education agencies, units of local government and appropriate State agencies and organizations will be solicited in the process of developing a comprehensive State plan for the expenditure of this Federal money. The resulting proposed comprehensive State plan will have to be made available to all interested parties, and public comment on the plan accepted. The same publishing and comment requirements will apply to regulations issued by the States. These are powerful remedies for the often unthinking and unresponsive actions of distant bureaucracies. It is important to point out that the Federal Office of Education will not have the authority to approve comprehensive State plans or to create extensive Federal guidelines. However, since there is a need to know if State administration and planning is effective, the U.S. Office of Education will conduct an evaluation of consolidated administration and submit it to the Congress for its use when it considers whether or not to renew consolidated legislation. In this way, there will be an important safeguard against the perpetuation of ineffective legislation.

Since those States which elect to exercise the consolidated grant option will need some time to prepare for the change, they will be eligible to receive a 1-year planning grant to provide funds for the transition. This necessary "get-ready" time will allow States to anticipate problems which otherwise might jeopardize consolidation.

Each local educational agency and the State education agency will conduct an annual program evaluation. Program evaluation reports will be used as a basis for program improvement and for updating the State and local comprehensive plans. Here again, the emphasis will be upon the development of local and State capability and responsibility, rather than dependence upon outside expertise and judgment.

Mr. President, in summary, Senator DOMENICI and I feel that the option to receive Federal education assistance as a consolidation is an important choice for the States to have. It would put State and local agencies in the driver's seat, permitting an intelligent flexibility which has been lacking in present categorical arrangements. It would push educational program decisionmaking down to the State and local levels, where the influence of the citzenry could not be ignored. It would allow States and local education agencies to develop their own capabilities, instead of merely following directions from on high. It would reduce costly paperwork, freeing educators to contribute to the learning process. It would strengthen responsibility at the grassroots level through accountability requirements. It would engage the States in full-fledged planning, a capability which might be transferable to other State activities. It would carry with it evaluation requirements which will protect the taxpayers. It would not impose consolidation upon any State which did not want it or did not find itself ready to undertake such a responsibility.

Senator DOMENICI and I will be pleased to offer this choice to the States through new legislation which will broaden the range of administrative and decisionmaking opportunities now available. We hope it will find the support it deserves.

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana is recognized.

DISAPPROVAL OF ENERGY ACTION NO. 3

Mr. JOHNSTON. Mr. President, I move that the Committee on Interior and Insular Affairs be discharged from further consideration of Senate Resolution 449, a resolution to express Senate disapproval of Energy Action No. 2, an executive branch proposal to modify the small refiner entitlement purchase exemption.

Mr. President, I ask unanimous consent that Bob Szabo, of my staff; Bill Van Ness, and Ben Cooper, of the Interior and Insular Affairs Committee staff, be granted privileges of the floor at all times during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to Public Law 94-163, the debate is limited to 1 hour on this motion. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this matter was referred to the Committee on Interior and Insular Affairs shortly after May 12, the day Energy Action No. 2 was sent to Congress. Owing to the compressed time schedule under which we were placed, the Interior and Insular Affairs Committee had to act with great haste. The committee convened to hold hearings on this matter on May 24, just 3 days ago. After the hearings, we called a markup session of the committee with virtually no notice, because the time limitations presented virtually no time for notice. The committee acted, I believe unanimously, in requesting the Federal Energy Administration to withdraw this action because we felt that the action was not appropriate; that it would be harmful to the small refiners; and that, accordingly, the FEA ought to withdraw its action and come back with a new rule.

In the spirit of compromise, we took that action as an advisory action. We took that action for two reasons: First, to act in the spirit of conciliation, and, second, because we had a markup quorum but we did not have a full quorum of the Interior and Insular Affairs Committee present. That is the reason that the Interior Committee is not here before this Senate with a report formally disapproving this action. However, I submit that the action of the Interior Committee is, in effect, a disapproval of this action of FEA.

Mr. President, this is a fairly technical subject, but I believe we can put it in terms that will make it simple enough for all Senators to understand.

Pursuant to the price control law, the Emergency Petroleum Allocation Act of 1973, crude oil is under price control. What we call old oil is priced at $5.25 a barrel. That consumes about 36 percent of the national supply. What we call upper tier domestic oil is priced at about $11.28 a barrel, and imported oil at $13.50 a barrel. There is a great disparity between old oil on the one hand and new domestic and imported oil on the other hand—almost $8 a barrel difference. In fact, the difference is more than $8 a barrel.

In order to make price regulation work, it was necessary for the FEA, pursuant to that Emergency Allocation Act, to come up with an equalization program so that refiners who had sources of old oil would not be at a competitive advantage as against those who had new oil, because those with new oil have to pay as much as $8 a barrel more. It was essential that we have that kind of equalization program.

Therefore, FEA came out, pursuant to statute, with what we call the entitlements program, whereby holders of lower-priced old oil would have to buy entitlements. In other words, persons with a large share of old oil would have to send money to those who were the owners of new high-priced oil. In the process an equalization of the price would result.

Mr. President, after this program had been in operation for some period of time, we found that small refiners who had an untoward economic scale of operation were put at a competitive disadvantage because their price per barrel of refining oil was relatively high; that this entitlements program was acting to put them at a competitive disadvantage; that it was acting in such a way as to put many of them actually out of business unless they received some kind of relief from the Federal Energy Administration.

Accordingly, Mr. President, we came to the floor of the Senate last year and passed the Small Refiners Exemption law, which had the effect of exempting the first 50,000 barrels of oil of any refiner who was classified as a small refiner, which was defined as a refiner of 100,000 barrels a day or less. He had his first 50,000 barrels of old oil exempted from the duty of buying entitlements.

Mr. President, we are frank to say that we were not able to fine tune that exemption here on the floor of the Senate. There was not a data base available to us that told us precisely where we ought to draw the line at what a small refiner should be. Should he be 100,000 barrels? Should he be 50,000 barrels? Should he be 25,000 barrels? We were not able to act with that amount of precision. All we knew, Mr. President, was that the smallest refiners were at a competitive disadvantage and were threatened with being put out of business by the Emergency Allocation Act and the entitlements program that went with it.

It was our best judgment at that time that a small refiner ought to be at a 100,000-barrel capacity and that the first 50,000 barrels of old oil ought to be exempt from the duty of buying entitlements.

Frankly, we were not sure, Mr. President, as to where we ought to draw that line. Some criticized it and said, "Well, maybe that is too high. Maybe it is inequitable. Maybe it gives a competitive advantage to those who do not need the competitive advantage." Accordingly, we put in an escape clause in the Energy Policy and Conservation Act which passed in December of last year and became effective on December 31, 1975. In any event, there was an escape clause put in that bill which said that FEA could modify the exemption if it worked to a competitive disadvantage to the non-small refiners, or if it was unfair or inequitable.

The key words there are "modify" and "unfair and inequitable."

In the latter case, these are very broad words, giving to the FEA what we wanted to give them, which was a very broad discretion concerning how they should modify the exemption. On the other hand, Mr. President, we gave them no power to repeal or to revoke the small refiners exemption. As a matter of fact, that is precisely what FEA ended up doing: revoking the small refiners exemption.

In any event, Mr. President, that was the thinking of the Committee on Interior and Insular Affairs and it was the thinking of the Senate when we passed that small refiners exemption.

On December 31, 1975, the exemption came into operation. But, Mr. President, by February 28, only 2 months later, FEA filed a notice of rulemaking to modify or to revoke this exemption.

In other words, without giving the exemption time to work; without securing the necessary data as to its fairness or unfairness, its equitability or lack of equality, FEA filed its rule February 28. As a matter of fact, when FEA filed its original notice of rulemaking, the proposed rule was very much different from the rule finally adopted and sent to Congress on May 12.

The FEA filed its notice of rulemaking only 2 months after this exemption had gone into operation, so there was virtually no data base on which to base any judgment of the FEA. As a matter of fact, by the time FEA finally sent to the Hill, on May 12, their Energy Action No. 2 containing this new rule, there was virtually no data on which one could base a reliable decision.

I presided over the hearings, Mr. President, on May 24. Let me give the Senate the information which was not contained in the data base that FEA provided us.

First. Neither FEA nor anyone else was able to furnish the market shares of refiners or the shift in those market shares which was effected by this exemption.

Second. The profits of refiners affected by the exemption were not listed. If something is unfair or inequitable or results in an undue profit, we ought to know that. Those figures are available or would be available given proper study or research.

That kind of study or research has not been done here, and a sufficient period of time has not elapsed within which to secure that information.

Third. The rates of return under Special Rule 6 versus the previous years were not furnished to the committee.

Fourth. It was not determined what impact the exemption had on product prices. In other words, how much of a price reduction did the exemption result in? We were not furnished that information.

Fifth. No data was furnished to justify the contention that the rules resulted in hardship on branded dealers. As a matter of fact, we heard some testimony from branded dealers, but when we tried to determine whether there was any competitive disadvantage to the dealers resulting from this rule, it was like grappling with a fog, because no data was available.

Sixth. We were not told if the exemption resulted in higher profits for refiners or for dealers, or in lower product prices to consumers.

In effect, Mr. President, we were asked to accept Federal Energy Action No. 2 on faith alone and without any data on which to justify that conclusion.

Mr. President, there are at least three good reasons why the Senate ought to take the action which this resolution proposes—at least three reasons why we should disapprove this Federal energy action.

The first is that the action proposed by FEA is a revocation of the small refiners' exemption, and not a modification.

That means that whereas FEA feels, and perhaps properly so, that the first exemption went too far, this one does away with the exemption altogether even though small refiners of 10,000 barrels and less, which everyone agrees need some kind of help from FEA, even those are not taken care of under this FEA action. And, Mr. President, a small refiner of 10,000 barrels or less, simply, in my view, cannot survive without some kind of help, if he is a buyer of entitlements.

We tried to work this thing out with the FEA. After our committee meeting, we recommended to FEA that they withdraw this proposal and that we try to work out a compromise proposal.

Frankly, I think we could have worked out a compromise proposal fairly easily. What were the outlines of that compromise proposal? Well, I am not prepared to give it precisely with chapter and verse, because the committee did not take a position on the compromise. But I would say the chief element on which we disagreed, or at least on which I disagreed, was that the small refiner of 10,000 barrels a day or less was given absolutely no consideration for an exemption. Unless we have some exemption in the law, the FEA action amounts to a revocation, which is not authorized under the law, and it is an inequitable revocation at that because it does not take care of the small refiner.

In other words, Mr. President, we are not asking for a perpetuation of the present exemption. We are asking that FEA draw a new rule to present to Congress: a new rule that will equitably take care of the small refiners; that will allow them to exist in this price control market; which will not cost the larger refiners or the refiners in a zero position an undue amount of money, but which will allow for the survival of the small refiners.

We do not want this market to be composed only of large Exxons and 200,000- and 300,000-barrel-a-day refiners. We do not want to run the small ones out of business. There s a place for the small refiners. The small refiners could have survived in a market not controlled by price controls. They cannot survive in a controlled market, or many of them cannot do so, unless they receive some kind of help from Congress and from the FEA.

Mr. President, the second reason for taking the action proposed today is that in my view and in the view of many lawyers, both on the staffs of committees here and in private practice, the action of the FEA is subject to Federal court injunction in that the action taken contravenes due process of law under the fifth amendment.

The reason, Mr. President, is that the time given the small refiners to testify on this matter simply was not sufficient. After holding the matter in abeyance from February 28 until May 12, asking for comments, FEA finally, on May 12, sent the action to Congress. Not until May 18, or 6 days later, did FEA print their proposal in the Federal Register. There is absolutely no excuse and no reason for holding this matter without public notice for a period of 6 days.

Only 3 days after the proposal was published, hearings were held in the House of Representatives. In other words, FEA held the rule 6 days and then allowed notice, from the time it is printed in the Federal Register until the time hearings were held in the House of Representatives of only 3 days. Only an additional 3 days transpired before the Senate held hearings.

Mr. President, if that does not violate due process under the Constitution of the United States, I can tell you this: it is not fair; it is not equitable; it is not right; and I do not think the Senate ought to countenance FEA's action in proposing this action without proper notice to everyone concerned.

Furthermore, it is subject to legal attack, as previously mentioned, because it is a revocation and not a modification. There is no authority listed in the Emergency Petroleum Allocation Act or in the Energy Policy and Conservation Act, which contains this small refiners exemption, which would allow FEA to revoke this rule. When we put in the escape clause, and I was on the conference committee that drew that escape clause, we wanted to make it possible for FEA to fine tune, modify, change, and amend the small refiners exemption to make it fit precisely the kind of limits and dimensions that small refiners ought to have with the kind of protection they ought to have. We gave no authority to repeal or to revoke this rule. But that is precisely what FEA has done.

So what does this mean, Mr. President? It means this: that the best way to perpetuate the present rule is probably to go along with the FEA's action. That would result in a suit for injunction being filed by very good lawyers uptown. The injunction would undoubtedly be granted and during the period of injunction the present Federal energy rule would remain in effect. Meanwhile, there would be no opportunity for FEA or Congress to come to some kind of meaningful and equitable modification of the present rule.

The third reason, Mr. President, that the action of the FEA should be thrown out—and I hate to say this, Mr. President—is simply because FEA has been totally nonresponsive and noncommunicative to the committee of Congress. Mr. President, we complain here in the Chamber and we read complaints in the press about the nonresponsive bureaucracy. This is the prime example of that kind of nonresponsive bureaucracy.

We have asked repeatedly, Mr. President, in the Committee on Interior and Insular Affairs for at least 7 days' notice of this kind of proposal so that we would have the opportunity to consider it; to let our staff look at it; to study it; and if necessary; to hold hearings that would be meaningful hearings so that we could at least be equal partners with the bureaucracy in trying to form rules which are going to govern this country under legislation enacted by this Congress. But, Mr. President, no such cooperation has been forthcoming and no sufficient notice was given before the rule was sent to Congress. After it was sent up and the committee disapproved the rule and asked FEA to revoke it, the answer was they were going to proceed full speed ahead.

Mr. President, I do not mean to say that FEA needs to be taught a lesson—perhaps that it is the inappropriate way to put it—but at least FEA ought to get a message from the action which I hope this Senate will take today, and that is to let us work together; let us be communicative, Congress with FEA and FEA with Congress, so that we can take action which is in the interest of this country and not take it unilaterally.

Mr. President, I ask unanimous consent that Senate Resolution 449; the FEA proposal on Special Rule No. 6 from the May 18, 1976 Federal Register; an FEA briefing paper dated May 21, 1976 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 449

Resolution to disapprove energy action numbered 2, an executive branch proposal to modify the small refiner entitlement purchase exemption

Resolved, That the Senate does not favor the energy action numbered 2 transmitted to the Congress on May 12, 1976.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 12, 1976.

Re Modification of Small Refiner Entitlement Purchase Exemption (Energy Action No. 2)

HON. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On February 28, 1976, the Federal Energy Administration gave notice of a proposal which, among other things, would revoke Special Rule No. 6 to the Appendix of Subpart C, Part 211 of Title 10, Code of Federal Regulations (41 F.R. 1044, January 6, 1976) which implements the small refiner purchase exemption and increase the amount of entitlement benefits granted through the small refiners bias. Written comments from interested persons were invited through March 24, 1976, and a public hearing regarding the proposal was held on March 23 and 24, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that Special Rule No. 6 which implements the small refiner purchase exemption should be revoked and the small refiner bias increased for all small refiners. As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94–163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended (EPAA), the amendment adopting these changes is herewith submitted to the Senate and is also being concurrently submitted to the House of Representatives, for Congressional review pursuant to section 551 of the EPCA.

FEA's determinations supporting the revocation of Special Rule No. 6 and the adjustment to the small refiners bias, which are required by section 455 of the EPCA, are set forth in the preamble to the enclosed amendment.

As Administrator of the Federal Energy Administration, I have been delegated by the President all authority granted to him by the EPAA (E.O. 11790, 39 F.R. 23185, June 27, 1974).

Unless disapproved by the Congress as provided by section 551 of the EPCA, this amendment will be effective upon expiration of the fifteen day review period under section 551.

Sincerely,

FRANK G ZARB,
Administrator.

TITLE 10—ENERGY; CHAPTER II—FEDERAL ENERGY ADMINISTRATION; PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

[Revocation of Special Rule No. 6 and Adjustment to Small Refiner Bias Under Entitlements Program]

On February 28, 1976, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (41 F.R. 9391; March 4, 1976), to amend Title 10, Part 211, of the Code of Federal Regulations with respect to the domestic crude oil allocation or entitlements program (hereinafter referred to as the "entitlements program") set forth at 10 CFR 211.67. Comments on the proposed amendments were invited through March 24, 1976, and 96 written comments were received by FEA. Public hearings were held on March 23 and 24 at which 30 persons presented statements.

In this proposal, FEA specifically requested comments on the validity of its tentative determinations that the exemption from payments under the entitlements program for certain small refiners as provided in subsection 4(e) of the Emergency Petroleum Allocation Act of 1973 ("EPAA"), as amended by the Energy Policy and Conservation Act ("EPCA"), and as implemented by Special Rule No. 6 in the Appendix to Subpart C, Part 211 of Title 10, Code of Federal Regulations, seriously impairs FEA's ability to attain the objectives set forth in section 4 (b)(1) of the EPAA, and results in an unfair economic or competitive advantage for certain small refiners with respect to other small refiners. FEA further invited comments on whether all small refiners including sellers and purchasers under the entitlements program should receive increased benefits by means of an adjustment to the small refiner bias and whether small refiners with a capacity of less than 10,000 barrels per day should be fully exempted. Finally, FEA solicited comments on the procedure for granting exception relief under the entitlements program and whether exception decisions should be made effective for longer periods.

FEA received numerous comments from all sectors of the petroleum industry including major and small and independent refiners, trade associations, branded and nonbranded independent jobbers and others concerning the proposed amendments. FEA is satisfied that the comments received fairly represent the broad range of interests which would be affected by any such changes in the benefits received by small refiners under the entitlements program.

The amendments adopted herein would eliminate the purchase exemption for certain small refiners by revoking Special Rule No. 6 and would increase the amount of additional entitlements issuable to all small refiners (whether entitlement purchasers or sellers) under the small refiner bias. These amendments will not become effective, however, if disapproved by either House of Congress under the procedures set forth in section 551 of the EPCA.

ADJUSTMENT TO THE SMALL REFINER BIAS

In conjunction with its modification of the small refiner entitlement purchase exemption discussed below by the revocation of Special Rule No. 6, FEA is hereby adopting an adjustment to the small refiner bias that increases the number of additional entitlements provided for all small refiners. In the proposal, FEA specifically invited comments as to whether the amendment adopted in this proceeding should simply increase the amount of the small refiner bias for all small refiners, which would place all small refiners on the same competitive basis under the entitlements program. At the public hearing and in the written comments on the proposal numerous small refiners, both entitlements purchasers and sellers, supported this approach and the overwhelming majority also supported an increase in the small refiner bias for both sellers and purchasers. The unanimous view expressed in this regard was that it was inequitable to favor one class of small refiners over another as far as benefits under the entitlements program are concerned.

FEA's analysis of this issue indicates that an increase in the small refiner bias in conjunction with the revocation of Special Rule No. 6 has greater merit than any other alternative course of action available to the Agency as to the overall status of small refiners under the entitlements program. This approach both eliminates any special treatment afforded to small refiner entitlement purchasers and comports more fully with the general concern as to the competitive viability of small refiners expressed throughout the EPAA and the EPCA.

FEA initially adopted the small refiner bias after a significant amount of analysis and public comment on the issue when the entitlements program was instituted in late 1974. At the time FEA determined that the historical preference granted to small refiners under the oil import program as in effect in 1972 was sufficient to preserve the competitive viability of this class. However, over the first year in which the program was in effect FEA received substantial evidence that the amount of the bias may in fact not be adequate for its intended purpose. For example, a large number of small refiners have been forced to seek exception relief since, for these firms, bias amounts were not sufficient to enable them to compete effectively or even in certain cases to maintain their financial viability. Due to the more restrictive exception standards for entitlement sellers as opposed to entitlement purchasers, FEA has received numerous indications that many small refiner entitlement sellers are also in need of additional bias amounts to remain competitive and financially viable.

Many operating and other costs for these firms have increased since 1972, and thus the bias amounts may not be representative of the current competitive disadvantages of this class and the indutry may have generally become more competitive due to increased consumer sensitivity to the higher prices.

In addition, FEA is basing its determination to increase the small refiner bias to a significant extent on the congressional concern for small refiners expressed generally, both in sections 403 and 455 of the EPCA and in the legislative history connected with the passage of the EPCA.

Therefore, FEA is hereby adopting an increase to the small refiner bias on the following basis, in conjunction with the revocation of the small refiner exemption. The small refiner bias would be modified for firms with volumes of crude oil runs to stills of less than 100,000 barrels per day by increasing the benefits at the 10,000 barrel per day crude run level by an additional 2¢ per gallon and by a declining additional amount as the refiner's volume of crude oil runs increases. At the 100,000 and up barrel per day run level, no increase over the present bias amounts is provided for. These additional benefits are expressed in terms of incremental entitlements that would be issued to small refiners based on their crude run levels. For example, a 10,000 barrel per day refiner under the bias presently in effect receives 123.8 additional entitlements for each 1,000 barrels of its crude runs up to 10,000 barrels per day; under the revised bias set forth herein such a small refiner would receive an additional 228.8 entitlements for each such 1,000 barrel per day of his crude runs, or an increase of 105 entitlements. Under the revised bias, FEA estimates that a refiner running 10,000 barrels per day will receive total benefits approximating 4.4 cents per gallon; a refiner running 30,000 barrels per day, 2 cents per gallon; a refiner running 50,000 barrels per day, .8 cents per gallon; and a refiner running 100,000 barrels per day, .24 cents per gallon, which latter amount is the same amount receivable under the bias currently in effect.

REVOCATION OF SPECIAL RULE NO. 6

Authority for the small refiner purchase exemption implemented by Special Rule No. 6 and the revocation thereof adopted herein is granted to FEA pursuant to sections 403 (a) and 455 of the EPCA. Section 455 of the EPCA amends the EPAA by adding a new section 12(g) which provides that:

(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

(1) results in unfair economic or competitive advantage with respect to other small refiners; or

(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b) (1) (D) and for the attainment of those other objectives specified in section 4(b) (1); submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such section 551.

On the basis of its preliminary findings and analysis of the competitive benefits accruing to exempted small refiners, FEA indicated in the February 28 proposal its tentative conclusion that any crude cost advantage accruing to a small refiner entitlement purchaser exceeding one cent per gallon would constitute an unfair economic or competitive advantage within the meaning of section 12 (g) of the EPAA. Thus, an increase in the small refiner's bias was proposed by FEA which would have limited permitted crude cost benefits flowing from that adjustment to one cent per gallon over and above the amounts received under the small refiner bias if the small refiner exemption were also revoked.

In the proposal, FEA set forth the range of benefits accruing to small refiners from the operation of the exemption for the months October through December 1975. The crude cost advantages received by small refiners under the exemption during that period ranged as high as 10 cents per gallon, and in some isolated cases higher and monthly benefits from the exemption were in excess of $4,000,000 in one instance. Benefits of this magnitude were also received by exempted firms for the months January and February 1976.

The following table shows for the months April through September 1975 during which Special Rule No. 6 was not in effect the number of small refiner entitlement purchasers that applied to FEA's Office of Exceptions and Appeals for relief from entitlement purchase requirements.

Entitlement exception relief for April through September 1975

	Totally exempted *	*Partially exempted* *
Number of applicants for relief for April-Sept. 1975	42	4
Number of firms receiving total relief	16	—
Number of firms receiving partial relief	10	—

* If a firm was partially exempted in any month it is counted in the partially exempted column.

Thus, it may be fairly assumed that of the total number of small refiner entitlement purchasers which have received benefits from the exemption, only 26 of these small refiners were found to be operating at below their historical level of return on sales as a result of the requirement to purchase entitlements, so as to warrant the grant of exception relief.

Impact on Competition

Information currently available to FEA suggests that the exemption as implemented by Special Rule No. 6 is resulting in unfair competitive advantages in favor of exempted small refiners over other small refiners.

Comments from small refiner sellers of entitlements and marketers supplied by such refiners cited severe price disparities as against exempted small refiner entitlement purchasers with which they have been competing directly. They stated that under Special Rule No. 6, the market shares of exempted small refiners and marketers supplied by them were tending to increase as a result of benefits conferred by the exemption.

A large number of those commenting supported FEA's preliminary conclusions that competitive imbalances among competing small refiners are occurring and that the continuation of exemption benefits to the class of exempted small refiner entitlement purchasers will inevitably contribute to further competitive distortions among small refiners generally. Some small refiners benefitting from the exemption having access primarily to upper tier domestic supplies advocated limitation of the exemption because competitive disadvantages were being experienced when such firms compete with other exempted small refiners having access to primarily lower tier oil. Other small refiners argued that an exemption operating in favor of only some small refiners constitutes unwarranted preferential treatment among all small refiners and impacts unfavorably upon all other refiners. While a significant number of small refiners commenting advocated granting additional benefits to small refiner entitlement sellers, these refiners uniformly opposed any exemption which benefited any single group within the class of small refiners.

Many of the comments stated that the full exemption provided by Special Rule No. 6 is having effects in the marketplace which are inconsistent with the EPAA objective in section 4(b) (1) (D) of fostering an economically sound and competitive petroleum industry. In addition, FEA has determined that the current exemption constitutes a serious impediment to the attainment of the EPAA's objectives in that section for the preservation of the competitive viability of various sectors of the petroleum industry including small refiners, their marketers and branded independent marketers. Comments from branded independent marketers were generally to the effect that marketing outlets of exempted small refiners with which they compete were substantially undercutting retail gasoline and distillate prices and thereby creating competitive distortions in the marketplace. They stated that the impact of an exemption is exaggerated in the context of a highly competitive retail market caused by increased consumer sensitivity to price and an abundance of supplies. Many branded retailers which compete directly with exempted small refiners marketing at the retail level alleged that they are unable to withstand the competitive pressures being exerted by such small refiners.

Branded independent marketers, and the national and regional associations representing them, cited substantial competitive difficulties attributable to the exemption, and advocated its complete elimination. In this regard, branded marketers were uniformly supported by their major oil company suppliers. These firms voiced their concern that the market shares of independent branded marketers and major oil companies in general are being reduced. Their comments also recognized that increased price sensitivity of the consumer, the softness of the product market, the imposition of lower cost marketing techniques and the competitive impact of offering self-service rather than full service gasoline retail sales were also significant factors contributing to changes in market share. Many firms commenting cited the overall negative impacts being exerted on their marketing operations and indicated that the additional unfavorable impact of granting exemption benefits to competitors is unnecessary and a serious intervention in the operations of the market. Comments were submitted which suggested that the average price differential between major brand and independent brand gasoline varied on a regional basis and that an independent brand advantage was evidenced with such advantage being largest in the areas where small refiner entitlement purchasers in competition with major brands have been exempted by Special Rule No. 6.

Groups representing branded jobbers stated that, while many independent branded marketers do not compete directly with exempted small refiners, in those areas where a marketer has to compete with a small refiner, the marketer is faced with a significant competitive disadvantage and small refiners have in fact expanded their market share in these areas because of their ability to undercut substantially branded prices. Such groups suggested that the exemption be eliminated entirely and that relief where appropriate be given on an equitable basis to small refiners by means of FEA's exceptions procedures. Short of complete elimination of the exemption, these firms indicated support for FEA's one cent per gallon limitation as proposed.

Impact on market

FEA has also determined that continuation of the full exemption constitutes unnecessary interference with market mechanisms and seriously inhibits FEA's ability to provide for the minimization of economic distortion and inflexibilities in the petroleum market under section 4(b)(1)(I) of the EPAA. Many comments maintained that where the impact of the exemption is felt it seriously distorts the economics of the market affected by providing benefits in the form of substantial crude cost advantages to one marketing entity over another. Small refiners benefitting from the exemption rebutted this by arguing that that the full exemption provided by Special Rule No. 6 is not interfering with market mechanisms because of the insignificant market share of such firms.

Furthermore, they stated that they lack the flexibility to alter refining procedures or crude input to exploit any such competitive advantage. Such firms believe that their limited volume and type of products reduces the competitive influence that such small firms can have in the marketplace.

Numerous other small refiners, however, indicated in their comments that the exemption provides preferential benefits to small refiner purchasers to the detriment of small refiner sellers of entitlements. This is particularly evident in cases where such small refiners are in direct competition. Many argued for adjustments to the bias to provide additional benefits to all small refiners. Absent this type of adjustment, there was a substantial amount of support for FEA's proposed one cent per gallon crude cost differential limitation on the exemption to ease the substantial competitive imbalances that are occurring among small refiners.

Most major companies advocated a complete elimination of the exemption, stating that the class of small refiners as a whole is currently at a competitive advantage and that the granting to some small refiners additional benefits is excessive. While most of these firms opposed the exemption many agreed that the one cent per gallon differential proposed by FEA would limit to a substantial degree the market distortions arising from the full exemption.

FEA has determined that the substantial crude cost benefits granted to some firms by application of the full exemption contribute to disparities in prices among sectors of the industry thus impairing the Agency's ability to provide for equitable prices among sectors of the petroleum industry as contemplated by section 4(b)(1)(F). In addition, the substantial artificial crude cost advantages provided by the exemption may also tend to discourage economic efficiency in a general sense within certain sectors of the industry where the full benefits are in excess of the actual need, since uneconomic refineries would be enabled to continue in operation by virtue of the exemption. Thus, retention of the exemption would run counter to the objective provided for by section 4(b)(1)(H) of the EPAA.

Disincentives to Maximize Crude Runs and to Expand Capacity

In the public comment and hearing procedures, a number of firms stated that the small refiner purchase exemption as implemented by Special Rule No. 6 provided a strong disincentive to expansion of a small refiner beneficiary's refining capacity over the 100,000 barrels per day limit. In addition, since the first 50,000 barrels per day of a refiner's crude runs are exempted from entitlement purchase obligations under Special Rule No. 6, a similar disincentive exists to maximize crude runs above the 50,000 barrel per day level.

FEA believes that these disincentives are contrary to the objective of "economic efficiency" set forth in section 4(b)(1)(H) of the EPAA and also run counter to the objective provided for in section 4(b)(1)(I) of "minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms."

Agency's Determinations as to Small Refiner Entitlement Purchase Exemption

On the basis of the foregoing, FEA has determined pursuant to section 12(g) of the EPAA that the small refiner exemption from purchasing entitlements as currently implemented by Special Rule No. 6 under section 4(e) of the EPAA is resulting in unfair competitive advantages among small refiners and is seriously impairing FEA's ability to attain the objective set forth in section 4(b)(1)(D) of providing for "preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;" the objective set forth in section 4(b)(1)(F) of providing for "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;" the objective set forth in section 4(b)(1)(H) of providing for "economic efficiency;" and the objective set forth in section 4(b)(1)(I) of providing for "minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms."

MODIFICATION OF EXCEPTION PROCEDURES

In the proposal FEA also requested comments as to the manner in which FEA's exceptions procedures with respect to the entitlements program should operate in the future. Specific comments were invited as to whether exception decisions should be made effective for longer periods than have normally been provided for by FEA and as to whether any other specific procedures relating to the filing of an exception application should be facilitated.

FEA received numerous comments on these issues and has determined in conjunction with the amendments adopted hereby to provide that, except in unusual and extenuating circumstances, exception decisions under the entitlements program would be effective for a six-month period. This contrasts with FEA's practice in the past of providing for exception relief for two and three month periods. In addition, FEA is continuing its review of the standards which will apply in its exception decisions and the types of information required to be submitted by applicants, with a view to requiring the minimum amount of information needed in order to properly evaluate exception applications.

(Emergency Petroleum Allocation Act of 1973, as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective upon expiration of the fifteen day review period under section 551 of the EPCA, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in section 551 of the EPCA.

Issued in Washington, D.C., May 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

1. Section 211.67 is revised in paragraph (e) to read as follows:

§ 211.67 Allocation of old oil.

* * * * *

(e) *Small refiner bias.* (1) In addition to the number of entitlements issuable under paragraph (a) of this section, subject to the limitation set forth in subparagraph (2) below, each small refiner with a daily average volume of crude oil runs to stills of less than 175,000 barrels for a particular month shall be issued the following number of additional entitlements for each day of that month: (i) for each small refiner with a daily average volume of crude oil runs to stills of 100,000 to 175,000 barrels, 1,258 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 100 by 16.7733; (ii) for each small refiner with a daily average volume of crude oil runs to stills of 50,000 to 100,000 barrels, 2,079 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 50 by 16.42; (iii) for each small refiner with a daily average volume of crude oil runs to stills of 30,000 to 50,000, 3,123 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 30 by 52.2; (iv) for each small refiner with a daily average volume of crude oil runs to stills of 10,000 to 30,000 barrels, 2,288 entitlements plus the number of entitlements obtained by multiplying the difference between that small refiner's daily volume of crude oil runs to stills (in thousands of barrels) and 10 by 41.75; and (v) for each small refiner with a daily average volume of crude oil runs to stills of zero to 10,000 barrels, 228.8 entitlements for each 1,000 barrels of that small refiner's daily average volume of crude oil runs to stills.

(2) No entitlements shall be issuable under subparagraph (1) above with respect to any volume of a small refiner's crude oil runs to stills attributable to a processing agreement for the account of that small refiner with another refiner where the crude oil processed pursuant to that processing agreement is purchased from and the refined products produced under that agrement are

sold, directly or indirectly, to that other refiner.

(3) Each small refiner shall separately identify in its reports filed pursuant to § 211.66(h) of this subpart any volumes of its crude oil runs to stills not eligible (under the provisions of subparagraph (2) of this paragraph) for small refiner bais entitlements.

2. Special Rule No. 6 in the Appendix to Subpart C of Part 211 is revoked.

BRIEFING PAPER ON THE INCREASE IN SMALL REFINER BIAS AND REVOCATION OF CURRENT SMALL REFINER EXEMPTION

I. EXECUTIVE SUMMARY

The Federal Energy Administration has submitted to the Congress an amendment to modify the exemption of certain small refiners from the purchase of crude oil entitlements provided in Section 403 of the Energy Policy and Conservation Act (EPCA).

The amendment both revokes Special Rule No. 6 which currently implements the small refiner purchase exemption and adjusts the Small Refiner Bias in the Entitlements Program to provide added benefits to all small refiners with crude oil runs under 100 MB/D.

The current Small Refiner Exemption creates large competitive disparities among small refiners, since it provides some entitlement purchasers with large benefits but provides no benefits to entitlement sellers. This results in economic hardships levied upon those independent marketers supplied by non-exempt refiners when they compete directly with other marketers supplied by exempted refiners.

The FEA Modification will correct these competitive disparities, while at the same time meeting the intent of Congress by providing added benefits to all small refiners, scaled proportionately to correct for diseconomies of scale in refining.

The following materials describe and compare the current operation of the Small Refiner Exemption with the FEA Modification of the Bias.

All materials are based upon February entitlements data.

Effects will vary slightly each month with changes in the crude oil operations of affected refiners.

II. OVERVIEW OF ENTITLEMENTS PROGRAM

The Entitlements Program was adopted in November 1974 for the purpose of providing equal access to the benefits of price controlled domestic oil for all domestic refiners, through the purchase or sale of entitlements.

The program eliminates competitive inequities which would otherwise occur as a result of certain domestic refiners having disproportionate amounts of lower priced domestic crude oil in their supplies.

The Entitlements Program provides for a small refiner bias which is intended to preserve the competitive viability of this class of domestic refiners vis-a-vis large domestic refiners.

The EPCA in December 1975 provided for a Small Refiner Exemption under which certain small refiners with large supplies of price controlled domestic crude oil (and therefore lower costs) have either been fully or partially exempt from the requirement to purchase entitlements, even though many of these small refiners were granted relief through the exception process.

The action being taken by FEA, in conformance with the EPCA, is intended to eliminate the competitive inequities created by the current small refiner purchase exemption which is set forth in FEA's Special Rule No. 6.

III. DESCRIPTION OF CURRENT EXEMPTION (SPECIAL RULE NO. 6)

The Entitlements Program requires refiners with more than their share of low cost domestic crude supplies to purchase entitlements from refiners with less than their share of domestic crude.

EPCA provides an exemption from entitlements purchase obligations for small refiners with 100,000 barrel per day capacity or less.

This exemption covers all purchase obligations up to 50,000 barrels per day of crude oil runs or domestic receipts.

This exemption covers a portion of purchase obligations from 100% at 50,000 barrels per day to 50% at 100,000 barrels per day of crude oil runs or domestic receipts and provides no exemption over 100,000 barrels per day.

IV. INEQUITIES OF CURRENT EXEMPTION

Because the amounts of price controlled oil received by different small refiners vary a great deal, the benefit of the exemption varies from .2 to 21.4 cents per gallon. Such a range cannot be justified on the basis of refining economics.

Sellers of entitlements, many of whom are also small refiners, must compete in the same markets and receive no comparable benefits, which results in large competitive advantages for some small refiners compared to others.

The present exemption places distributors and retailers who are supplied by non-exempt small refiners or by large refiners at a severe competitive disadvantage.

Current exemption distorts the exception process

No one regulatory program can deal equitably with the many different kinds of refinery operations in the U.S. As a result, the FEA exceptions process provides relief to those firms experiencing a severe hardship under the regulations.

In the Entitlements Program, exceptions are handled on a case-by-case basis to resolve hardships and inequities. This process grants full or partial relief from the purchase of entitlements when a showing of hardship or inequity is made.

Under the current Small Refiner Exemption, 56 firms have been fully or partially exempted. Of these 56 firms:

24 firms or 43 percent of the total had never requested exception relief from entitlements purchase requirements during the period April 1 through September 30, 1975;

6 firms had applied for exception relief which had been denied; and

26 firms had been granted full or partial exception relief prior to the time Special Rule No. 6 became effective.

The current Small Refiner Exemption clearly overlays inequities on a process designed to achieve equity.

V. FEA MODIFICATION OF CURRENT EXEMPTION

Increases the present small refiner bias for all small refiners under 100,000 barrels per day.

Revokes exemption benefits under Special Rule No. 6, which eliminates the inequitable competitive advantages of exempted small refiners.

The FEA Modification provides for an increase in the bias as shown on the following chart.

VI—ADVANTAGES OF FEA'S ACTION OVER CURRENT EXEMPTION

Comparison of total value of added benefits between current small refiner exemption and FEA modification

112 small refiners would benefit, rather than just 56.

This will assure competitiveness among small refiners.

It would provide additional advantages to small refiners vis-a-vis large refiners.

While the total value of current additional benefits would be reduced under the FEA modification, small refiners with runs of less than 30,000 B/D would receive three-quarters of the benefits. Under the current exemption, these firms receive only one-half of the benefits.

Additional benefits to a greater number of small refiners

FEA modification results in:

Fifty-six (56) more small refiners receiving additional benefits,

Thirty-one (55.4%) of these 56 refiners have crude oil runs of less than 10,000 barrels per day.

FEA modification distributes added value of benefits evenly among all small refiners in proportion to their size

Under FEA's Modification refiners with runs less than 10 MB/D receive lower average added benefits compared to the current exemption (2.1 compared to 6.9 cents/gallon). However, a larger number of these refiners (58 compared to 27) receive such benefits.

Refiners with runs 50 to 100 MB/D receive less added benefits under FEA's Modification than under current exemption (0.1 compared to 1.5 cents/gallon). However, a larger number of these refiners (12 compared to 5) receives such benefits.

Distribution of benefits

FEA Modification gives wider distribution of benefits to similar sized refiners. FEA modification avoids extremely large benefits to a few refiners.

TOTAL VALUE OF ADDED BENEFITS

Refiner runs (millions of barrels per day)	EPCA exemption			FEA modification		
	Number of firms	Value	Percent of total value	Number of firms	Value	Percent of total value
0 to 10	27	$7, 432, 357	18. 9	58	$4, 954, 791	29. 1
10 to 30	15	12, 861, 141	32. 7	30	8, 280, 524	48. 6
30 to 50	9	12, 871, 198	32. 7	12	2, 942, 538	17. 3
50 to 100	5	6, 191, 554	15. 7	12	858, 745	5. 0
Total	56	39, 356, 250	100. 0	112	17, 036, 598	100. 0

Refiner runs (barrels per day)	Added benefits under current EPCA exemption (in cents per gallon) Over 10	5 to 10	2 to 5	0 to 2	No benefits	Total
0 to 10	7	4	9	7	31	58
10 to 30	1	3	5	6	15	30
30 to 50	0	2	3	4	3	12
50 to 100	0	0	1	4	7	12
Total refiners	8	9	18	21	56	112

Refiner runs (thousand barrels per day)	Added benefits under FEA modification (in cents per gallon) Over 10	5 to 10	2 to 5	0 to 2	No benefits	Total
0 to 10	0	0	57	0	[1]1	58
10 to 30	0	0	0	30	0	30
30 to 50	0	0	0	12	0	12
50 to 100	0	0	0	12	0	12
Total refiners	0	0	57	54	1	112

[1] 1 refiner had no runs in February, but received exemption benefits.

Impact of FEA modification on inequities among small refiners

The FEA Modification Corrects Inequities in the Range of Benefits Provided to Small Refiners Under the Exemption.

RANGE OF BENEFITS PROVIDED

[Cents per gallon]

Refiner runs (millions of barrels per day)	Current exemption	FEA modification
0 to 10	0–21.4	2.0
10 to 30	0–12.7	0.9–1.9
30 to 50	0–7.0	.2– .9
50 to 100	0–3.1	0– .2

Total benefits to small refiners under current and modified bias

The total value per month of the current small refiner bias and the added benefits of the Small Refiner Exemption and FEA's Modification are compared below:

COMPARISON OF TOTAL BENEFITS (INCLUDING CURRENT BIAS) TO SMALL REFINERS, TOTAL VALUE OF BENEFITS

Refiner runs (millions of barrels per day)	EPCA exemption Number of firms	Value	Percent of total value	FEA modification Number of firms	Value	Percent of total value
0 to 10	58	$12,544,505	20.0	58	$10,064,739	25.0
10 to 30	30	22,581,269	36.1	30	18,000,652	44.7
30 to 50	12	17,357,599	27.7	12	7,428,939	18.4
50 to 100	12	10,145,391	16.2	12	4,812,585	11.9
Total	112	62,628,764	100.0	112	40,306,915	100.0

VII. CONCLUSIONS

FEA's Modification of current small refiner bias and revocation of current small refiner exemption results in:

Elimination of competitive disparities among small refiners created by current exemption.

Receipt of benefits by 112 small refiners not just 56.

Equitable distribution of added benefits among all small refiners, scaled in proportion to their size to correct for diseconomies of scale in refining.

Restoration of fair competition among independent marketers supplied by small refiners.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. McGEE. Mr. President, I thank the distinguished manager of the bill for permitting me these 2 or 3 minutes. I only wanted to underscore what he has just said, namely, that the real shortcoming that requires discharging this measure from the committee was the FEA's failure to live up to the law. The law says that FEA can modify. Under the pending action it simply is wiping out; it is revoking, and the whole spirit of the law, as intended by Congress, is being ignored. It is being flouted almost as though they wanted to defy deliberately the intent of this body.

We all know that under the existing program there are inequities among the small independent refiners themselves. Some of the independents gain by this, some of the independents lose by it, but the proposal by the FEA does not address itself to those inequities. If anything, it makes them worse.

We are confident that, if we can get this discharged and then move ahead under the resolution that is being submitted, we will have an opportunity, for the first time, to protect the little refiners and the middle-sized independents. In my State, if I may underscore it, it makes a great deal of difference. In the State of Wyoming, the activities of the small refiners underpin all of the activity in the economy of our State. It is within this category that we believe the equities could best be balanced, rather than to take the meat-axe approach that the FEA has undertaken.

I think it is well that we remember in the FEA proposal there will also be a transfer of a quarter of a billion dollars annually to the majors. We are all interested in the majors as well, but if we are talking about equity—and that is what they try to talk about—they are leaving completely out of the picture the real problem of the gap between the small refiners that lose and the small refiners that gain. And, Mr. President, we find them playing the one group against the other. It is interesting to me to note also where a lot of the lobbying has come from in this matter. They are not interested in equity; they are interested in putting the heat on the little gas station operators, telling them that their costs are going to jump and they are going to lose business. Mr. President, that just plain is not true. But it is the type of whispering campaign that panics letter writing and I do not know when before I have seen the volume of letter writing that has come into this Chamber in a long time. We have called some of those people and they told us the case was represented to them in that context. And the case that was represented to them, Mr. President, is not even a relevant factor in the pending action.

What I am saying, Mr. President, is that it is time that we address ourselves to all of the inequities in this problem, and we can do that best by discharging the committee and moving ahead to the resolution.

The FEA is not only wrong on this, it is misrepresenting the facts of the case on this. They have decided to get their backs up on it because they have to win something up here to undo the mistakes they have been making day after day.

Mr. President, it is important. It is important to me. It is important to my State of Wyoming. And it is most of all important to the basic equities in the program itself.

Mr. McGEE. Mr. President, I support the effort to discharge the Committee on Interior and Insular Affairs from further consideration of Senate Resolution 449 and urge the Senate to adopt this resolution which would disapprove the action of the Federal Energy Administration revoking special rule 6—the so-called small refiner exemption under the entitlements program.

I sponsored an identical resolution, Senate Resolution 450. I feel very strongly about this matter because it appears to me that FEA has failed to comply with section 403(a) of the Energy Policy and Conservation Act of 1975.

The practical effect of energy action No. 2 is to revoke the small refiner exemption. On the other hand, the record is clear that it was the intent of Congress that FEA should have authority only to modify the exemption program.

Second, hearings which were held last Monday by the committee demonstrate that the decision to invoke energy action No. 2 was based upon mere speculation. In any event, FEA has failed to provide Congress with hard data which would justify this action. It is my belief that the data, in fact, is lacking because the small refiners' exemption, as we all know has not been in operation long enough to accumulate the factual information necessary and to form an objective opinion as to its equity and effectiveness.

A third point which I wish to briefly make also strikes at the heart of this issue. The small refiners and others who are most directly affected by Energy Action No. 2 received no notice until May 18 when it was published in the Federal Register. FEA sent its official notice to Congress 6 days earlier on May 12. In my judgment, fairness demands that those companies who have interests which are so directly affected should have more time than 6 days to prepare their case for congressional hearings.

Now the Senate is called upon to make a decision on this incomplete record. It is impossible for us to act prudently in this matter under the circumstances. Therefore, I urge that Senate Resolution 499 be adopted and that we give FEA a message that a new proposal be sent to Congress at a later date based upon objective and substantive data.

It is important that more time be given to measure the results of the existing program before a new and possibly conflicting program is imposed. For example, FEA's proposal increased the bias for the small refiners but failed to resolve the problm of a small refiner with more than one refinery. Mr. Zarb is to be commended for recognizing that the smaller refiners have disproportionately higher operating costs than large refiners. In referring to this matter, he said:

> Issuance of these entitlements is designed to compensate for diseconomies of scale among small refiners.

Under the FEA rules, qualifying small refiners with more than one refinery are compelled to total the capacities of their small refineries, which places them on the bias curve as if they operated one large refinery. This is a gross inequity, and FEA should be urged to consider solving this problem by applying the bias on a refinery-by-refinery basis for qualifying small refiners. Such a provision for both buyers and sellers of entitlements would help solve the problem of small refiners everywhere, including those in the State of Wyoming.

We recognize, Mr. President, there are other inequities that need resolution and balancing, and we respectfully commend the FEA for the work they do under difficult circumstances. Certainly we are convinced that between the availability of the bias and the exemption, small refiners can receive the equitable consideration Congress intended.

I thank our colleague for having yielded the time.

Mr. METCALF. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. METCALF. Mr. President, I ask that we be supplied with Senate Resolution 450, which is the resolution of my distinguished colleague from Montana, and it be distributed on the desks. It is the same resolution that I have, but it is Senator MANSFIELD's resolution. May we ask the pages to distribute Senate Resolution 450?

The PRESIDING OFFICER (Mr. FORD). The Chair is delighted to ask the pages to distribute the resolution as requested by the Senator from Montana.

Mr. METCALF. I thank the Chair very much.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, in a moment I will yield to the distinguished Senator from Hawaii. First, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of and votes on Senate Resolution 449: Faye Widenmann, Carol Sacchi, Melissa Nielson, David Stang, Fred Craft, Ted Orf, Mike Hathaway, Tom Biery, Tom Imeson, Nolan McKean, Margaret Lane, and Pam Turner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I am compelled to vote in opposition to the resolution of disapproval and I will support the Federal Energy Administration's amendment to eliminate special rule No. 6.

The gross inequities and unfairness of special rule No. 6 distorts the prices of crude oil and gasoline throughout our Nation and makes a majority of our Nation's small and independent refiners uncompetitive.

In my State of Hawaii, our gasoline ranges around 80 cents a gallon, so we feel these pressures. Our one small independent refiner, due to our geographic location, operates on the most expensive foreign crude oil and receives no benefit from this special exemption. Nevertheless, by virtue of special rule No. 6, its entitlements are reduced and, as a result, it must contribute to this subsidy. During the month of March, this subsidy exceeded \$33½ million to 12 companies far from Hawaii. It is unconscionable that the people of Hawaii or any other State, should subsidize the excessive profits of a few companies. Certainly this is not consistent with the expressed intents.

The purpose of the Federal Energy Administration's crude oil equalization program is to equalize crude costs to small refiners. However, this exemption creates disparities between small independent refiners and pits them against each other. This is diametrically opposed to section (4)(b)(1) of the Energy Petroleum Allocation Act of 1973 by virtue of its inequitable distribution of costs among sectors of petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users. Without a doubt, it is also acted to interfere with market mechanisms in violation of section 4(b)(1)(I) of the EPAA.

I feel we have ample data and information upon which to act. Since the FEA published its notice of proposed rulemaking in the Federal Register on February 28, 1976—almost 2 months ago—we have been aware of the vast disparities in the cost of crude oil after consideration of the entitlements benefits. In one refining district, there was reported a \$7.47 difference between the highest and lowest postentitlement crude costs in December, and in another, a \$7.32 cost differential. It has also been reported that the subsidy to one of the few refiners who received the benefit, amounted to 21.4 cents per gallon and that seven refiners had benefits exceeding 10 cents per gallon.

I do not feel we should continue this program for another 6 months or until some small refiner goes out of business to determine whether we have adequate statistics. Section 551 of the Energy Policy and Conservation Act was designed to permit Congress to act with dispatch and thereby avoid catastraphes and flagrant inequities. Therefore, as we have the information and tools at hand, we should act to prevent further abuses which permit excessive profits for some at the expense of others.

Let me emphasize again that the FEA proposal simply reallocates what is at present excessive subsidies to a few small refiners to all small refiners.

As special rule No. 6 has acted to the detriment of the majority of the small and independent refiners—those it was intended to assist, it should not be permitted to stand.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, the matter before the Senate is not a matter of difference of opinion between the major refiners and the small refiners. It is a difference of opinion between small refiners and small refiners. It is between those who are exempted from buying entitlements, on the one side, among the small refiners and those who sell entitlements, on the other side, and their respective dealers, plus the dealers of the major companies.

So what we have here is the result of the vagaries of rationing, of the inequities that obviously go with a three-tier pricing system. It should be recognized that the only solution to this problem is to deregulate the price of oil. The FEA has made an effort here—and I think a sincere one—to improve the inequities; but there still would be inequities under their system. However, there would be less of an inequitable situation than exists today.

Also, those who have already filed or those who in the future would file complaints could receive special consideration. It seems to me that this is the only way in which we can avoid having these tremendous advantages to some small refiners over other small refiners and their respective dealers that we have today.

The present exemption benefits only one subclass of small refiners, those who normally would buy entitlements, and harms the small refiners who sell entitlements, their dealers and distributors, and the marketers of major companies.

The exemption, therefore, is not uniformly or universally applicable to small refiners as a whole. The exemption gives some small refiners, those with a large percentage of old oil in the refinery's feedstock, a tremendous cost advantage over their competitors. The greater the amount of old oil, the greater the advantage.

If the FEA amendment is disapproved, the exemption will continue, and the vast inequities caused by it will continue until the FEA makes another proposal. Thus, disapproval of the FEA proposal would continue a bad situation, which nearly everyone admits is unfair to many and is a windfall to some.

No doubt, there are some refiners who have the exemption and who would continue to need relief if the FEA proposal were adopted. In this manner, the FEA did ask in advance for appeals to them for relief, and this has been grandfathered in.

I am convinced that the ultimate solution to the energy problems is decontrol of all oil prices, as I mentioned. If this were done, we would not need the entitlements program. As long as the three tiers exist and the Government has to equalize refinery feed stocks, there will continue to be problems for some comanies; because what we are doing is requiring a few people in the FEA to play God and to make decisions that cannot fairly and equitably reflect the wishes of the consumers and the sellers in the free market because the market is controlled. So the prices are creating the inequitable situations that are causing so much concern. This is inevitable in a regulatory situation.

However, I am equally convinced that the FEA proposal is more fair to most of those companies and the individuals involved than the continuation of the present situation. It appears that those who have exemptions now want it to continue, but in many cases the exemption is not needed for financial survival or even for a reasonable profit. It is simply financially lucrative. I do not blame these companies for their position. However, this is a clear case of a special interest situation in which the Government is giving one group of small refiners and their retailers a distinct advantage in the marketplace and in obtaining market shares over other small refiners. We should take advantage of this opportunity to correct this special subsidy and institute a more universally applicable program.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I yield.

Mr. BELLMON. My colleague from Oklahoma probably knows more about the oil business than any other Member of the Senate, and I value his opinion.

I am not fully familiar with how the exemption program works or even how the allocation program works. My information is that if this action by the FEA is allowed to stand, it is going to create some rather major dislocations in the refining industry.

I wonder whether the Senator can advise me whether there is a sort of middle ground, whether if Senate Resolution 449 is agreed to, the FEA could then come back with a more moderate approach to this problem, rather than the effort they are making now to eliminate the small refiner exemption.

Mr. BARTLETT. Yes, they could do that.

The position I would favor is that the FEA decision stand, and then Congress and the Committee on Interior and Insular Affairs and those interested could try to work with the FEA to improve it. I think that the inequities that exist under the new system are less than those that exist under the present system. That is the reason why I would favor that the FEA decision stand, rather than reverting to the present situation, which has great disparities and great unfairness.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question on that point?

Mr. BARTLETT. I will yield, on the Senator's time.

Mr. JOHNSTON. I have only one minute.

Mr. BELLMON. I agree with Senator Bartlett that the solution to the problem is to wipe out the oil price control problem. Apparently, we are stuck with it, and I am trying to devise a course of action that produces the smallest amount of inequities.

It is the opinion of Senator BARTLETT that upholding the FEA position will produce fewer inequities than if Senate Resolution 449 is approved.

Mr. BARTLETT. Yes, this is my definite position.

I was pleased to learn, and I advise my colleague, that of our six small refiners in Oklahoma, five of them either are benefitted by the action of the FEA or favor it. In one particular case, one of the refiners would actually lose some of his subsidy, but nonetheless, he favors the FEA position.

I think one of their real concerns in the matter is that the subsidies to certain small refiners are so great and such a windfall that if this persists longer, it is going to root this whole business of exemption of entitlements in concrete, where it will be very difficult in the future to reduce the subsidies and to come up with a fairer program by the FEA.

I think that in the reduction of the subsidies that takes place in the FEA action, there is improvement and a fairer treatment of the problem. Nonetheless, the problems will continue and there will need to be, as there are provisions for, special treatment of special situations, because there will be certain small refiners who will be very severely hurt by the continuation of the entitlements program without the exemption.

Mr. JOHNSTON. Will the Senator yield for a question at that point?

Mr. BARTLETT. Yes.

Mr. JOHNSTON. Is the Senator aware that really, there is not a great deal of difference between the position that he has set forth and the position we are advocating? That is, we are not trying to preserve the present exemption in the present form. Rather, we want a modified exemption which will contain some exemptions for small refiners. Is the Senator aware of that?

Mr. BARTLETT. Yes, I am aware of that; but I feel very strongly that the FEA is taking a proper step and creating a better situation for, say, this interim period where we might want to make further improvements.

Let me say also to the Senator—I know that he favors very strongly and I commend very strongly his support of a deregulation of the price of oil. I know he has fought for that. I know we both agree that we would not be here now discussing this matter if we had decontrol.

Nonetheless, with the decontrol situation and the vagaries that accompany that, I think it is impossible for anyone to come up with any kind of plan that can work for everybody and not be a windfall for some and create severe inequities for others.

I do think that this new program is better than the present one. I think it can undoubtedly be improved, but I do believe that any plan we have is going to have to rely rather heavily on special consideration of very adverse conditions in a particular instance of a small refiner.

Mr. JOHNSTON. Is the Senator aware that when FEA filed its notice of proposed rulemaking on February 28, their proposed rule would have exempted refiners of 10,000 barrels a day and less of refinery production? In other words, when FEA first filed the rulemaking notice, FEA contained a provision which, in substance I think, all of us—at least a majority on the Committee on the Interior—would support. The Senator is aware of that, is he not?

Mr. BARTLETT. I was not aware of that, but I think that that is something that could be worked upon in the future. I shall want to check into it a little further before taking a position on it.

Mr. JOHNSTON. One more small question. The Senator is aware that this Senator and other Senators on what we might call the majority in the Committee on Interior have stated not only our willingness but our strong desire to work with FEA to come up with some modified rule which is somewhere between the present law and the total revocation as advocated by the FEA. The Senator is aware of that?

Mr. BARTLETT. I am aware of that, and I certainly can vouch for the efforts of the Senator from Louisiana to improve the situation, but I do feel that that could take considerable time. We have various activities this summer that are going to interfere with the regular routine. I think that right now, since the Senator has brought it before us, we should make the decision which would create the fairer situation to exist during the interim while there would be further consideration, and talk with the FEA for, perhaps, an improvement.

I am happy to yield to the distinguished Senator from Tennessee.

Mr. BROCK. The Senator was indirectly making my point. That is, if we reject this discharge petition and allow the modification of the rules to go into effect, there is nothing to preclude the committee or an individual Member of Congress or the FEA, separately or jointly, from working on further improvements and modifications. What the Senator is asking us to do is nothing, to keep what it is, in effect, an unfair situation on the books, because he does not think this is quite fair enough as an alternative. That is an unacceptable proposal to me.

The new rules may not be perfect; I personally agree that they are a long way from it. But I do not want the FEA controlling in this area, period. That is a fundamental, philosophical objection.

At least they are moving in the right direction and there is some improvement over the current circumstance. To argue against any change at all is to argue for continuation of massive inequity, market dislocation, adverse consumer effect, and a loss of energy independence on the part of this Nation and its people. I cannot accept that as an alternative.

Mr. **BARTLETT**. I concur wholeheartedly with the Senator from Tennessee and I think he is bringing out the inequities that do result from price controls, the lack of competition, the favor that is enjoyed by one group of small refiners and the disadvantage to another group and their respective dealers.

I cite to the distinguished Senator from Tennessee the specifics in this: In the first month of the exemption, the spread in crude costs of small refiners after entitlements in one Bureau of Mines Refining District was $7.47 per barrel, or 17.8 cents per gallon. Just think what you could do as a refiner or as a refiner's distributor if you had that much of an advantage over your competition. Obviously, you are going to carve out a much larger share of the market for yourself.

This points out the gross crude oil and gasoline disparities among small refiners created by the exemption.

In a more recent month, in February, the wide divergence in crude oil costs after entitlements between exempt and nonexempt small refiners persists. In southern California, crude cost disparities between small refiners marketing residual fuel oil was more than $7 a barrel.

I might say here that some of the small refiners in California pay $2 or $3 a barrel under the ceiling price for new crude oil because of the great windfall that they have and the advantage they have operating at reduced capacity, but at a more profitable level because of the old oil prices.

One company in Texas, with a capacity of 50,000 barrels per day, has received exemption benefits greater than 5 cents per gallon each month, had a request for exemption relief denied, is making an admitted after-tax return of 12 percent, and received benefits of over $18 million in the first 5 months under the exemption. This is the largest beneficiary of relief that has been provided by the FEA.

This company's crude costs are running approximately $4 below the average crude cost of all small refiners after entitlements. Clearly, the exemption relief is unnecessary in this case. In the month of February, the total dollar value of exemption benefits was $39.4 million. This company alone received $2.9 million in exemption benefits.

In toto, refiners with capacities greater than 30,000 barrels per day received $19.1 million, almost half of the total exemption benefits.

From these figures, it can be seen that other small refiners, as well as marketers and jobbers not purchasing from exempted refiners, are at a significant competitive disadvantage.

Mr. **BROCK**. The Senator makes the point accurately. I simply add that some are reaping unacceptable and unfair advantage over others that have no opportunity for equivalence at all. That, in itself, disadvantages the American consumer.

Second, we have, under the current system, a situation in which, literally, our own rules create an incentive to locate refineries outside the United States rather than inside, making us more dependent upon foreign production, foreign processing, and foreign refining. I find that an act of at least partial national suicide. I think it is ridiculous and totally unacceptable. To say that we should continue that process is surprising to me. I cannot understand the logic of those who suggest that we should continue a situation which hurts the American consumer, hurts the American working person, and makes us more dependent upon not only foreign production, but foreign refining as well.

Mr. **BARTLETT**. I agree wholeheartedly with the Senator from Tennessee. I think the action of supporting the FEA in this regard reduces the subsidy. It makes it more likely that the United States can face up sooner to the problems that it has to provide sufficient energy domestically.

Mr. **BROCK**. May I just interject that I think the greatest frustration I have at the moment is the fact that Congress after—what has it been?—about 4 years now has yet to establish an energy policy, and here we go again saying let us not act to improve anything, let us not act to change anything, let us just continue the status quo. We are now up to where a month ago over half of our domestic oil was imported instead of produced domestically. If that does not scare anybody else, it scares the wits out of me because I do not think that is an acceptable fact to the American people. I know we can do better, but I have never seen an issue on which more politics and less commonsense were used than in the whole field of energy.

It has not been an honest debate. It has not been a debate which presents the facts to the American people. For the life of me I do not understand why the American people do not appear here with pitchforks saying, "Hey, we expect a little better out of you. We want you to show commonsense and decency. We expect a change, and you should not play politics with a matter like this."

Mr. **BARTLETT**. I agree with the Senator from Tennessee that there has been a lot of hyperbole and demagoguery, and we have a lot of critical positions because this country is in the worst shape it has been so far as energy is concerned. It is more vulnerable so far as our national security and our economy. The drop last year in crude oil production was some 500,000 barrels; the year before another 500,000. There is no leveling off taking place. We are subsidizing today the OPEC production and giving them more leverage to control the price.

We are willing to pay their high price because we have to, but we do not want to pay our own producers the same price, so we continue to increase the disparity between their ability to produce and ours.

If you go back just to the fifties and sixties, we had a period there where we subsidized our domestic production, even though we had an excess, because we recognized how important it was to have that excess, and we subsidized our production and we had some 2,300 rigs running. At that time we were only importing 12.5 percent of our oil requirements. We have increased that, as the Senator said, from one period of time over 50 percent, but is averaging, I think, 42 percent.

Our position is really desperate. If we have a series of things that could happen, if there was a NATO confrontation, our ability to supervise and control properly the trade routes around Africa for the oil going to NATO and to this country and back and forth between our country and Europe would be most difficult. The loss of imported crude would be tremendous in both areas. Our reliance on crude is so vital for our national security and for our economy, so we have got ourselves in a real hole.

Here we are subsidizing our foreign competitors and giving them more control over our destiny at a time when we should really be cutting back in our use of energy by letting the price go to what would be a fair price, considering our supply-demand situation.

If we do not do this soon, then certainly there is either going to be an embargo or there is going to be a break in one of the main pipelines in the Arab countries, or there are going to be a few bombs thrown over there or a NATO flareup or something else in the world that is going to show very clearly how vulnerable we are.

To me our Achilles heel in the economic and miiltary situation is a shortage of energy, coupled with the weakness of our airlift and sealift capability. Tie all of these together and we are very, very vulnerable.

Mr. **BROCK**. There is no question about the vulnerability.

I would say that I did not favor subsidies then and I do not favor them now. I do believe that the marketplace is adequate to meet the needs, and if we will let it work instead of meddling on the part of the Federal Government, we can supply the energy needs of this country. We do not need subsidies and we do not need all kinds of false devices to allocate supplies.

The American people have enough judgment to do that, but we sure do need a policy which recognizes that this Nation can be in very great danger, and we must address that not just in our interest, but our children's interest as well.

Mr. **BARTLETT**. I thank the distinguished Senator from Tennessee, and I concur with his thinking.

Mr. President, may I ask how much time is left?

The **PRESIDING OFFICER**. The Senator from Oklahoma has approximately 3 minutes.

Mr. **BARTLETT**. Would the Senator

from Louisiana like to take some of that time?

The PRESIDING OFFICER. The Senator from Louisiana has 1 minute.

Mr. JOHNSTON. Yes, I thank the Senator.

Mr. BARTLETT. I will be glad to give the Senator 1 of the minutes I have so that he has 2.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes.

Mr. JOHNSTON. I thank the distinguished Senator from Oklahoma.

I would like to make three very simple points. We ought to throw out this FEA action for three reasons. First, the FEA action is, in my judgment and in the judgment of many distinguished lawyers—I should put that, I guess, in reverse order—but in any event, in their opinion it is illegal and unfair and probably subject to court attack, which would be the best way to perpetuate the present rule. That is to freeze it in my judgment of court and by exetensive litigation.

Second, the FEA has not been responsive to Congress. The FEA filed this rulemaking proposal on February 28. They sent their notice to Congress as to their final proposed rulemaking on May 12 and did not even bring their rule to the Interior Committee for discussion with the Senators there who have the responsibility of enacting legislation with respect to this rule.

The Interior Committee has been, is, and will be willing at all times to discuss with FEA the confection of a reasonable small refiners exemption, but we have to have a two-way conversation. We cannot speak to ourselves.

The third point is that small refiners need some exemptions. This is a revocation which leaves exemption for small refiners.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The Senator from Oklahoma has 2 minutes.

Mr. BARTLETT. Mr. President, the question before us is whether we accept the FEA action to improve the inequities that fall out of the exemption of the entitlements for some refiners.

The disparities exist between small refiners and their respective dealers and affect other dealers. But the effort of the FEA is to improve the inequitable situation that exists because of price controls in the entitlements, a three-tier system which is impossible to administer with any kind of fairness. But I do believe that even though the new program will have inequities there will be less inequities, and it will be more fair. There will also be the opportunity for those who have complaints about it to discuss those in committee or with the FEA for further improvements.

But I would like to warn them because of the three-tier system, that is a monster created by Congress, there is no opportunity at all to have a system of price controls that can be fair and equitable to everyone; or that we can have rules passed either in Congress or by the FEA that will provide equity and fairness.

There is a provision in the rule that will permit special consideration, and that will have to be used to the utmost.

Mr. TAFT. Mr. President, after careful study, I have decided to support energy action the proposal of the FEA to eliminate the exemption from the purchase of entitlements of small refiners.

The exemption, which applies to small refiners of less than 100,000 barrels per day, was intended to help all small refiners to compete with the major oil companies. It has clearly failed in its purpose.

The exemption does assist those small refiners who are rich in low cost domestic crude oil, and who would normally have to buy entitlements to help compensate companies which are domestic crude poor. However, by reducing the market for entitlements, the exemption adversely affects those small refiners which sell entitlements. This costs them nearly $39 million annually. Furthermore, and more seriously, the exemption over-compenates the small crude rich refiners—it gives them such a large benefit per gallon that they can easily undersell their principal competitors, small crude poor refiners. Nineteen crude rich refiners receive the bulk of the benefit from this exemption. Thirty-seven are helped somewhat. The remaining 63 small refiners are hurt severely.

The FEA proposal would eliminate the cause of this severe distortion in the small refiner sector of the oil industry, and it is clearly a step toward an equitable entitlements program. Furthermore, to prevent a large transfer of funds from small refiners as a class to the majors, the FEA will increase the "small refiner bias," which is a program of granting free entitlements to all small refiners, and which will benefit all members of the group. For these reasons, I oppose Senate Resolution 449, which would block the FEA's proposed energy action No. 2.

Mr. HANSEN. Mr. President, it is a rather sad note that we are here on the Senate floor debating whether or not Senate Resolution 449 should be adopted. I say sad because if there were no Government controls on the American energy industry, regulations proposed by the Federal Energy Administration would not be submitted to the Congress for a veto by either House. That is precisely why I voted against the conference report on the Energy Policy and Conservation Act. But the act, nevertheless, passed by a vote of 58 to 40 and later became law. This complicated administrative morass has resulted directly from the enactment into law of the Energy Policy and Conservation Act. It will be recalled that that act imposed a price rollback on crude production this country. That act authorized the administration to submit to the Congress certain regulatory proposals pertaining to various subject matter related to petroleum price and allocation controls. It will be recalled that a few weeks ago, energy action No. 1 was submitted to the Congress. It pertained to decontrol of residual oil. Neither House vetoed that regulatory proposal. As a consequence, that proposal has now become a Federal regulation.

On May 12, the Federal Energy Administration submitted its energy action No. 2 to the Congress. It was in the form of a proposal to revoke the small refiners exemption embodied in the Energy Policy and Conservation Act, which was implemented in Federal regulations, commonly referred to as special rule 6.

Having served on the conference committee, I recall clearly that most members of the conference committee had significant reservations about the specific nature of the small refiners exemption contained in that act. They were fearful, as was I, that it would breed certain inequities. For example, the exemption applied only to small refiners who were buyers of entitlements. The provision neglected to deal with the problem of small refiners who were sellers of entitlements. This was one reason why the act specifically provided that if the small refiners exemption resulted in inequities, the Federal Energy Administration would be authorized to propose a modification of that exemption by submitting to the Congress a proposal which, if not disapproved by either House, would then become effective and have the full force of law.

In a letter that the Senator from Louisiana and I sent to our colleagues on May 26, we pointed out that the small refiners exemption needs modification.

Let me address some of the equities involved in that matter before we get into the more troublesome procedural aspects. The exemption for small refiners provided by the Energy Policy and Conservation Act and subsequently implemented by a Federal regulation, commonly known as special rule 6, pertained to exemption or partial exemption from obligatory Federal participation in the entitlements program. To oversimplify, the entitlements program was intended to insure that each refiner in the United States would end up paying the same aggregate price for each barrel of crude oil he ran through his refinery. This to provide equitable compensation for the fact that there was a two-tier pricing system for oil. At that time, the price control system contained two categories of oil. The first was old oil, which was price controlled and the second was oil which was not price controlled, consisting of new oil, released oil, stripper oil, and imported oil.

This two-tier pricing system has remained in effect, although modified by the Energy Policy and Conservation Act. The rationale behind the small refiners exemption was predicated upon the theory that small refiners should not have to pay as much for crude oil as should larger refiners because the small refiners could not operate on such economies of scale as could the larger integrated refiners. Mr. John Hill, the Acting Administrator of the Federal Energy Administration, in a letter dated May 26, addressed to the chairman of the Senate Interior Committee, pointed out that the small refiners exemption presents basic problems. He stated:

> First, it confers substantial monetary benefits upon certain very profitable small refiners without regard to their need to receive such benefits. At the same time, it

denies benefits to other small refiners without any consideration for their very real need for benefits.

He also mentioned that—

> The distribution of benefits without regard to need results in competitive disadvantages between small refiners receiving benefits and those not receiving benefits. It further results in market distortions by causing competitive inequities between independent marketers purchasing from small refiners benefiting from the exemption and independent marketers purchasing from other refiners not benefiting from the exemption.

His latter statement raises the issue that in the minds of many independent branded dealers, special rule 6 has resulted in their losing substantial parts of the market share they heretofore enjoyed and that such loss of market share was a direct result of the ability of certain small refiners to sell product to independent dealers handling their product at a lower price than was available to branded dealers.

Returning to the first point, the small refiners who are sellers to entitlements are presently disadvantaged by special rule 6 when one looks at the prices they are required to pay for crude oil when compared to that of the exempted small refiners.

Mr. President, I have mentioned these inequities because our opposition today to energy action No. 2, proposed by the Federal Energy Administration, is not based entirely upon the merits of the issue but rather upon the procedures.

The Senator from Louisiana and I, in our letter addressed to our colleagues dated May 26, mentioned these procedural difficulties at some length. There are few of us who properly understand who will be helped by energy action No. 2 and who will be harmed. The supporting documentation received from the Federal Energy Administration has not been wholly satisfactory.

Second, as was mentioned in our letter, there is a legal question involved regarding the legality of revoking as opposed to modifying the small refiners exemption. Third, there is the fairness issue of the fact that the Federal Energy Administration submitted its energy action No. 2 to the Congress on May 12, but did not publish that same proposal in the Federal Register until May 18. Accordingly, many who are potentially affected by the Federal Energy Administration proposal before us now have not had adequate opportunity to analyze it and in turn, indicate to us their feelings about it.

Mr. President, to sum it up, we are hopeful that the administration will promptly redraft and resubmit to us a similar small refiners proposal and that such submission will be accompanied by appropriate data pertaining to the question of who is helped and who is harmed by such a proposal.

It would also be my hope that promptly after such submission the Interior Committee would conduct hearings on such a proposal so that all those persons affected by it could make their views known to the committee. The ability to evaluate the equities of such a proposal would be substantially enhanced under such an arrangement. Let me close by restating my regret that we are forced to vote on this issue at all. If there were no controls, a free market would exist and a free market is by far a preferable arrangement to the Federal Energy Administration or any other Government agency, attempting to determine prices and allocate supplies between and among any and all refiners. For these reasons I would ask my colleagues to join me in voting to support Senate Resolution 449, which would disapprove the Federal Energy Administration's small refiners proposal pending before this body at this time.

Mr. BAYH. Mr. President, I am prepared to vote for the pending resolution disapproving the proposal by the Federal Energy Administration to do away with the small refiner exemption under the entitlements program. I do so, Mr. President, with mixed feelings.

Last year I favored creating an exemption from the entitlements program for truly small refiners who would otherwise have had to buy entitlements from some of the world's largest, integrated oil companies. It was my position that the exemption should have been limited to refiners with a capacity of 30,000 barrels a day or less. Unfortunately a broader exemption was enacted, providing benefits to middle-sized refiners who had not demonstrated a real need for the exemption.

However, if the FEA proposal is permitted to take effect the small refiner exemption will be eliminated entirely, adversely affecting even the smallest, independent refiner for whom an exemption is essential. Therefore I find it necessary to vote for the resolution of disapproval. However, should FEA use its authority to propose a modification in the small refiner exemption to limit its benefits to truly small refiners I would be prepared to support that action.

I regret that the choice now before us is either to do away with the exemption entirely or to permit it to operate in its present form. While I like neither of these choice, passage of the pending resolution leaves open the possibility of adjusting the small refiner exemption so that it can work equitably for those who need it. I hope the resolution will be adopted and FEA will take advantage of the opportunity to propose a more reasonable modification.

Mr. MONDALE. Mr. President, I rise in opposition to Senate Resolution 449, to disapprove energy action No. 2.

Energy action No. 2 would increase the small refiner bias, while revoking the current small refiner exemption in the Federal Energy Administration's oil entitlements program.

The proposed action by the FEA is intended to correct an extremely inequitable situation in the way small refiners are currently treated under the entitlements program. This inequity was not intended by the Congress at the time we included the exemption in the Energy Act last December.

Congress intended to assist all small refineries in their efforts to compete with the major oil companies. At this time, there are 119 small refineries operating in this country. The exemption effectively transfers $39 million per month to the exempted refiners; however, only 56 small refiners are eligible to receive benefits under the exemption as enacted. Of these 56, 19 receive 87 percent of the money; 63, or the majority of the small refiners, receive nothing. Surely, this is not consistent with the intent of Congress to assist all small refiners.

The inequity is compounded because 63 small refiners who receive no benefit from the exemption, are also asked to pay part of the cost for the subsidy. The FEA has published figures which show that the cost disparity between small refiners has reached more than 21 cents per gallon. Since these small refineries are often in direct competition, the disparity can lead to the destruction of one small refinery at the hands of another.

Additionally, the present exemption provides benefits in excess of 5 cents per gallon for six refiners who, because they have never applied for exceptions or appeals relief, can be presumed not to need any assistance at all. In some of these cases, a company which was experiencing a 20-percent rate of return before the exemption is receiving an 8 cents per gallon subsidy. In other words, a very profitable company is receiving up to a $3 million a month subsidy that they indicated during the Interior Committee hearing they did not need, yet the cost of this subsidy must be paid by other small refiners who get no benefit.

This inequity in the distribution of exemptions benefits has major regional implications. The refiners who are presently exempt tend to be located in the historical oil producing States while those in consumer areas are not exempted. For example, refineries in the State of Minnesota, and many other States in the Midwest and East are overwhelmingly sellers rather than purchasers of entitlements. Since they are generally limited either to imported or new crude oil rather than lower-cost old crude oil. They receive no benefit from the small refiner exemption, they just pay the bill. Consumers living in the areas of the sellers of course ultimately must pay for the subsidy. Speaking for the consumers of my State, I see no reason why we should subsidize other consumers in oil rich States.

The FEA proposal will rectify this by removing the automatic exemption, and increasing the small refiner bias, thus distributing relief more equitably to all the small refiners who have less than 100,000 barrels per day capacity. Additionally, the FEA proposal will allocate the benefits according to size with benefits diminishing as the size of the refinery increases.

Questions have been raised concerning the legality of the FEA proposal since the language of the act allows the agency only to modify the exemption. In fact, FEA is revoking only the implementing regulation called special rule No. 6. FEA is not revoking the provisions of the act but merely modifying the regulations to bring the distribution of benefits more nearly in line with the requirement for equity and efficiency contained in the statement of purpose under section 4(b)(1) of the act.

Opponents of the FEA proposal claim that insufficient data has been developed to show that one small refiner who is paying $5 to $6 per barrel has a competitive advantage over a similarly sized small refiner who is paying $11 per barrel. The competitive advantage is self-evident. The detailed market studies being demanded would require up to a year of analysis. By that time, the many nonexempt small refiners who are already experiencing severe difficulty could well be out of business. Action is needed now, not a year from now when injured small refiners may no longer be able to recover.

A final argument has been advanced that proper hearings were not held on energy action No. 2. In fact, hearings were held in January and March that provided ample opportunity for all interested parties to comment on modifications of special rule No. 6, including revocation. The Senate Interior Committee, in its own hearings on this issue, received testimony from several small refineries and oil jobbers in support of energy action No. 2.

In conclusion, I believe that there is no justification for disapproval of the FEA's proposal. Small refineries in general would be far better off under energy action No. 2 than under the existing inequitable program. Any small refiner who is truly disadvantaged would still have an opportunity to receive an exemption. However, that exemption would have to be justified on grounds other than the refiner's privileged position of having disproportionate access to lower-cost crude oil.

For all of these reasons, I oppose the pending resolution. I hope that my colleagues will join me in defeating this measure.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

The question is on the motion to discharge the Committee on Interior and Insular Affairs from further consideration of Senate Resolution 449.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is on agreeing to the motion to discharge the committee from further consideration of Senate Resolution 449. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN (after having voted in the negative). On this vote I have a live pair with the distinguished Senator from California (Mr. Tunney). If he were present and voting, he would vote "yea." I voted in the negative. Therefore I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. Church), the Senator from Kentucky (Mr. Huddleston), the Senator from New Hampshire (Mr. McIntyre), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel) and the Senator from Montana (Mr. Mansfield) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from New Hampshire (Mr. McIntyre) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

On this vote, the Senator from Arizona (Mr. Goldwater) is paired with the Senator from Hawaii (Mr. Fong). If present and voting, the Senator from Arizona would vote "yea" and the Senator from Hawaii would vote "nay."

The result was announced—yeas 28, nays 57, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—28

Allen
Bayh
Bellmon
Bentsen
Byrd, Robert C.
Cranston
Domenici
Eastland
Fannin
Garn
Glenn
Hansen
Hart, Philip A.
Hartke
Hatfield
Jackson
Johnston
Long
Magnuson
McClellan
McClure
McGee
Metcalf
Moss
Randolph
Sparkman
Stennis
Stone

NAYS—57

Baker
Bartlett
Beall
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Clark
Culver
Curtis
Dole
Eagleton
Ford
Griffin
Hart, Gary
Haskell
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Javits
Kennedy
Laxalt
Leahy
Mathias
McGovern
Mondale
Morgan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Durkin, against.

NOT VOTING—14

Abourezk
Church
Fong
Goldwater
Gravel
Huddleston
Mansfield
McIntyre
Montoya
Packwood
Pastore
Pearson
Stevens
Tunney

So the motion to discharge the committee from further consideration of Senate Resolution 449 was rejected.

Mr. BARTLETT. Mr. President, I move to reconsider the vote by which the motion to discharge the committee was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, before the FEA regulations matter came up for discussion, I yielded the floor——

Mr. ROBERT C. BYRD. Mr. President, may we have order so that the Senator from Alabama may be heard?

The PRESIDING OFFICER. The Senator from West Virginia makes a good point. The Chair has been working on that for the last half hour.

The Senate will please come to order. The Senator from Alabama may proceed.

Mr. ALLEN. I thank the Chair. At 12:20 this afternoon, I was speaking on this subject and the distinguished Senator from New Mexico (Mr. Domenici) asked that I yield the floor in order that he and the distinguished Senator from Oklahoma (Mr. Bellmon) might engage in colloquy for 10 minutes.

I ask that the resumption of my remarks at this time not be considered a second speech, but merely a continuation of my first speech for the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, earlier today I was discussing the parliamentary status of the bill before us. Whereas the bill before us is in the form or the basic frame, I might say, of H.R. 8532, actually what is before us is the Senate bill, S. 1284. Earlier today I was discussing the five titles of the Senate bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request, with the understanding he not lose his right to the floor?

Mr. ALLEN. Yes.

ORDER FOR SENATE ACTION ON CERTAIN NOMINATIONS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 o'clock noon tomorrow, the Senate go into executive session to consider the nominations of Mr. David Lilly to be a member of the Board of Governors of the Federal Reserve System and of Mr. George Kuper to be Executive Director of the National Center for Productivity and Quality of Working Life; that votes occur on those nominations, in that sequence, without debate or intervening motion; that the votes occur immediately one succeeding the other; and that upon the disposition of the second nomination, the Senate return to legislative session.

The PRESIDING OFFICER (Mr. DURKIN). Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in the case of Mr. Lilly, there be a time limitation for debate thereon of not to exceed 20 minutes, controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that it may be in order to order, with one show of seconds, the yeas and nays on the two nominations which will be voted on tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on those two nominations.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. ALLEN. So the frame of the bill that we are supposed to be considering is the House bill, H.R. 8532, which had only one subject. That bill, incidentally, did not go to any committte; it was, in effect, met at the door and placed on the calendar without any committee consideration of the particular bill.

The explanation given for that method of handling the bill was that the Senate committee had considered the Senate bill, which had as one of its five parts the provisions of the House bill. Therefore, to consider the House bill would have been only a duplication of effort.

There might be some logic or validity to that. But it would have been preferable, in the view of the Senator from Alabama, that the House bill go to committee and be considered on its merits, and that bill then sent out to the floor for consideration up or down on its merits.

What has happened, however, is that the Senate, instead of considering the Senate bill—which, by the way, is on the calendar and has been reported out by the committee—instead of letting the Senate either consider the House bill on its merits or consider the Senate bill on its merits, we have before us something of a hybrid proposal here, in that we are using the framework of the House bill, but seeking to add the five titles of the Senate bill, one of which titles is the House bill.

Now, Mr. President, the other body is considering these five titles separately, as the Senator from Alabama understands it. There is a consensus of opinion in the House, and doubtless in Senate, that some of these titles are good. I would point out one that I feel is good; that is the title that requires prenotification of plans to merge corporations the effect of which merger might violate the antitrust provisions.

On others of these titles, there is not general agreement. I do not know that there is general agreement on the premerger notification, but speaking for myself, I would see no great objection to that. But the House, as I said, is considering each one of these titles in separate bills, so that they might accept some and might reject some. But the way the matter is presented to us here in the Senate, we have to, in effect, take all five titles, some of which we might approve and some of which we might not approve.

How is that accomplished? Well, they have taken this framework of the House bill—and obviously you cannot substitute the Senate bill for the House bill; what you do in effect does that by seeking to substitute the provisions of the Senate bill.

So as a result, what is happening is that the one subject from the House of Representatives is going to have added to it, if the proponents of this substitute have their way, or substituted for it, this Senate five-title bill, or its provisions.

What will happen? In testimony before the Rules Committee of the House of Representatives—I assume when they tried to get an order or a rule with respect to the bill—prominent Members of the House pointed out that they did not like the way the Senate was proceeding in this area to put all five titles in one bill. The distinguished Senator from Nebraska (Mr. HRUSKA) earlier in his debate pointed out that these titles in the Senate bill, the provisions of which are sought to be added or substituted for the provisions of the House bill, are merely a mishmash or collection of various bills that in the past have been rejected by Congress.

They must have been rejected because, if they were offered, they were not passed because they are not the law of the land as is evidenced by the fact that those offering the substitute are seeking to make them the law of the land.

We are going to have something on which to vote shortly. I have an amendment at the desk that I am going to call up in a moment.

Not satisfied with the fact that the Justice Department and the Antitrust Division of the Justice Department have jurisdiction in the area of antitrust actions, not satisfied with the fact that dozens, dozens, and dozens of these actions are being filed and have been filed, in order to provide that vast numbers of these suits and a multiplicity of such actions be filed, the House bill provides that the State attorneys general in all 50 States—and I believe, also, attorneys general of territories, if I am not mistaken—anyhow in the 50 States should have the right to file antitrust proceedings in the Federal court under the Federal antitrust provision.

Mr. President, it is fraught with great danger to the public, the consumer, businesses, large and small, causing a breakdown in the court system of the land, and in seeing unjustified and unfounded actions filed in the 50 States, disregarding the fact that the States themselves should determine the powers, duties, and responsibilities of the attorneys general. The House bill, I might say, is somewhat sounder than the provision of the Senate committee bill on the same subject. There are a number of differences in the bills. I shall point out a major one.

The Senate bill on this subject provides that the attorneys general in the various States can farm these actions out, so to speak, among their political cronies, as a reward for political support or political favors. Mr. President, in actions of this sort where millions of dollars in damages might be claimed or awarded, the very threat of such an action against a legitimate company has a very destructive effect upon that company because the company might barely be getting along and staying in the black, but if it is subjected to harassing litigation that could result in judgments of millions of dollars but only pittances in the range of only a few dollars to the individual persons, and with mammoth attorneys' fees being charged, it frequently behooves the company, rather than run the risk of being bankrupted by this type of litigation, to enter into a settlement.

In one case on record, where some drug firms were sued under the antitrust provision, where the liability could have been up in the billions of dollars, realizing that such a judgment against these companies would bankrupt all of them, they entered into a mammoth settlement in two stages, I might say, with the various States that had filed this type of a proceeding and settled these suits for, I believe, exactly $200 million.

But one State wanted more than its pro rata share of that, so it did not settle and went ahead and tried the case. But it was held in the case that the defendant company, was innocent, that it had not violated the antitrust law; therefore, that State was awarded nothing. Even though the court found that these companies had not violated the antitrust law, since they agreed to settle they had to pay out in settlement rather than take the risk of even a larger judgment than $200 million. I think some $40 million of that went as a bonanza to the attorneys representing the various plaintiffs.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. MORGAN. I just entered the Chamber, and I assume the Senator is talking about the tetracycline case.

Mr. ALLEN. That is correct.

Mr. MORGAN. The Senator mentioned one case when one State would not take it. That was my State, and I was the attorney general.

Mr. ALLEN. I would be delighted to hear from the Senator.

Mr. MORGAN. I shall inform the Senator a little about that case.

It is true that we did lose the case in the trial court, and there is now a motion pending for rehearing. I feel certain that some day the case will be retried. But I made it clear, before I filed that lawsuit, and said so around the State, that if the State of North Carolina never recovered one penny from the lawsuit, it would serve a useful purpose, because it would let these major companies know that there was somebody who could get them to court.

I wish the Senator from Alabama could have seen that trial. It cost the State of North Carolina about a half million dollars.

I had one lawyer and two younger lawyers who were what we call "gofers"—go for this and go for that, to help the other one. These five major companies relayed their attorneys down to North Carolina in groups of about 15. They had two or three lead-in lawyers, and there was one named Murphy. I recall asking him one day what he was going to say when his grandchildren asked him what he did for a living; and he was going to say, "Well, I defended the tetracycline case because I had been on it about 15 years."

I understand the point that the Senator from Alabama is making. But the other side of the coin is that the evidence is clear that during the period involved, in the late 1950's and the early 1960's, the American consumer, those people who needed these antibiotic drugs, were paying markups of 3,500 percent to 5,000 percent. I cannot believe that with all the legal staff these companies have, they would be willing to pay out these hundreds of millions of dollars.

Why did we turn it down? We were told, "Take this or nothing. In other words, this is a pittance." We wanted to try the issue, to show the people in North Carolina that we could.

There are some things about this bill I do not like, and I will be listening to the Senator debate and will be talking with him later on about it. But somewhere, in my opinion, there has to be and there should be a right for somebody to represent the people as a whole in these cases, or there will be little to deter the companies from doing what I think—well, since this matter is still in the courts, I will not try to pass judgment on them.

Mr. ALLEN. The decision was not made on the fact that the State of North Carolina was not properly in court. The decision was made, as I understand it, that there had been no violation of the antitrust law. So apparently somebody got into court under the existing law.

Mr. MORGAN. We did, but it cost the State of North Carolina a half million dollars to get into court. I do not believe that the individual consumer can fight that kind of opposition.

I will tell the Senator about the decision in the case. Those of us who are lawyers know that one of the findings of fact by the trial judge was that there was no direct evidence of a conspiracy. In what little law I practiced for 25 years, I never was able to prove many conspiracies by direct evidence. I believe that when this case ultimately is decided, the Supreme Court is going to say that you do not have to have direct evidence. So that case has not been concluded. They have paid out to all other States, and I am not sure about the Federal Government, as to whether its case is still pending.

Mr. ALLEN. I thank the Senator for his contribution.

I suggest that when the Senator from Alabama completes discussing the matter—and he will be through in a few moments—the Senator from North Carolina make his views known.

The Senator from Alabama did not recall that it was the State of North Carolina that did not participate in the settlement, and the Senator from Alabama was in nowise critical of the handling of the matter. All he stated was that the Court found, and apparently on appeal to the court of appeals they found, that there had been no violation of the antitrust law. Apparently, the State of North Carolina and the other States were before the court, and it was not a question of somebody getting into court, because they were there, and the issue was not decided on that.

The point I was making was not related to whether it was a drug firm or a grocery firm or a taxi line or a public utility. The point I was making was that companies frequently can be shaken down by harassing actions and feel that, in the interests of their stockholders, they must make a settlement, rather than run the risk of being bankrupted by allowing the matter to go to court, where they would allow treble damages—not only the damages that had been received—and it might be over a period of years. This money that may have been made by the companies may have been plowed back into the business or paid out to stockholders, and a judgment in the billions of dollars could bankrupt any company.

So the point that the Senator from Alabama is making is that it is possible to harass these companies with unfounded and unjust claims; and the mere filing of such an action with such a tremendous potential liability requires the company, in the exercise of good judgment, to settle the claim, even though they feel they are not liable.

In the particular case to which I called attention, they had settled with 49 of the 50 States, and the 50th State chose to litigate it; and they found out, according to the district court and the court of appeals, that there was no liability at all.

These companies had paid out $200 million, and they are going to have to get that somewhere in the future. The only place to get it is from the consumer. Very little of this money that is recovered in these cases actually goes to the individual consumer who has been damaged. They have some sort of procedure whereby they pay the unclaimed damages out to some cause, some State agency or some beneficiary of a State appropriation, as directed by the judge, and it very seldom in large amounts goes to the actual consumer who was damaged. His pro rata part might be $1.51. He would have to establish his right to that money, and obviously he would not do it.

The main beneficiaries would be the favored attorneys who are filing this sort of proceeding. As I say, I do not think it would happen in my State, because I do not believe my attorney general would handle the matter in that fashion; but it would be possible for attorneys general to make the assignment of these tremendous cases to favored attorneys, political supporters throughout the State.

The House bill does not have any such provision as that in it. The Senate committee, in its wisdom, either inserted or approved a provision in the Senate bill allowing this farming out of these suits all over the State.

That is one reason I favor the House provision.

The status of the parliamentary procedure at this time is that the House bill is before us. It provides just one thing: That is, the fact that attorneys general throughout the country can file these suits under the Federal law and in the Federal court. I feel that the State legislatures, the State governments, should determine what power, what authority, what jurisdiction its State officials shall have. If they want the Governor to have certain powers, the constitution or the code would stipulate what those powers would be. If they want the lieutenant governor to preside over the Senate and do nothing else, the constitution would say that. If they want to define the powers of the attorney general, the State constitution or the code or a statute would prescribe those duties.

I do not favor the Federal Government's passing a law saying that State attorneys general shall have this authority. If the State legislature takes that action, that is another thing; that is, the State legislature of the State of Alabama taking that action. Of course, I would gladly abide by the decision of our State legislature and the Governor, of course, who would sign any bill or reject any bill passed by the legislature.

Mr. President, I have an amendment at the desk that I am going to call up in just a moment. Before doing so, I am going to tell just what it does.

As I say, the House bill is before us, but, in effect, the Senate bill is before us because the provisions of the Senate bill have been offered as a complete substitute to what the House sent to us. Based on the testimony of House Members before the Committee on Rules with respect to the House bill, where a number of them stated their dissatisfaction with the fact that the Senate was going to put all of these titles into one bill and try to ram it through, I feel that in conference, there would be a good chance that the House would not agree to the Senate bill or the provisions of the Senate bill. If the Senate conferees insisted on a provision of the Senate bill and the House conferees insisted on the provisions of the House bill, we would end up with no bill. The House prefers to have separate bills covering these titles.

Now, let us see what this ploy is that is taking place on the floor here—or maneuver, shall I say, rather than ploy. By seeking to add the provisions of the Senate bill containing five titles to the House bill that does not have a title—it does not have any titles in it, just one provision, one basic provision authorizing the State attorneys general to file these suits. By this maneuver, the proponents of the pending substitute—the substitute being the provisions of the Senate bill—seek to prevent the House from expressing its will on these individual titles.

That is the picture, Mr. President. The House wants to consider these titles separately, individually, take some, reject some, and they sent one over. I understand that others are on the way over. That allows the House and the Senate to have just one matter up for consideration. Going the route of the distinguished Senator from Michigan (Mr. PHILIP A. HART) and the distinguished Senator from Massachusetts (Mr. KENNEDY), we would have all five of these titles rammed down our throat and rammed down the throat of the House, because when the five-title amendment gets back to the House, the rank and file House Member is not going to have anything to say about his feelings on these individual titles. What they will do is very quickly ask for a conference or, in the alternative, the Senate, on passing the substitute to the House bill and then through final enactment of the bill by the Senate, would pass a resolution or move that the Senate insist on its amendments and request a conference. So all they will do over in the House is order a conference, so these other four titles would not be before the House itself. They would never have an opportunity to vote on these titles separately. If we just have a vote on this substitute, the Senate Members would not have any opportunity to vote on these measures separately.

There are a couple of possibilities. One, of course, would be to seek to strike out these titles one by one or defeat the substitute. Well, that is going to be pretty difficult to do, because everybody is for antitrust legislation. I am for it; other Senators are for it.

But agreeing on all five titles—with some good, possibly, and some bad, certainly—does not give us an opportunity to vote on these separate titles.

Mr. President, I have an amendment at the desk, or a substitute. What it does is this: The House bill is pending; the substitute seeking to add four more titles, making five in all, but having a different version on the parens patriae provision under which the State attorneys general have this authority, is pending. If adopted, it would, in effect, wipe out the House provision and substitute the provisions of the Senate bill for the House bill. Then that would go over, as I say, and the House, in effect, would send it to conference and then have an up or down vote on it, because we cannot amend a conference report. We either have to accept it or reject it or send it to the committee.

So this substitute that is at the desk does this: It offers as a substitute the provisions of the House bill on this one subject, parens patriae, the conferred power on the State attorneys general to file antitrust proceedings in the Federal district court of their States and to farm out these proceedings to favored attorneys.

That is what the Senate bill provides. Now, the House bill does not have that provision in it about farming the cases out. It makes the Attorney General handle these cases.

So my substitute takes the House bill, the one subject, without the power to farm out cases to the favored few, and it adds one more section, and that section says that as to my particular State this act shall not apply unless that State by law elects to come under the provisions of this act.

I might say—and I told certain of the sponsors of the pending substitute—that so far as I am concerned—and not speaking for anyone else—if this substitute is adopted and then is adopted as a substitute to the House bill, and then is finally voted on by the Senate, I would offer no further amendments and no further objection to the bill, and would have then the House bill providing the parens patriae concept, so-called. Why, I do not know. It certainly is a misnomer. We would have the House bill, with the proviso that as to any particular State it does not apply unless the State, by legislative act that becomes law, does elect to come under its provisions.

So, Mr. President, I call up my amendment in the nature of a substitute and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the substitute amendment be dispensed with inasmuch as I have explained it, and it does take the House bill in full with this added amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment in the nature of a substitute is as follows:

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Antitrust Parens Patriae Act".

SEC. 2. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by inserting immediately after section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a) Any State attorney general may bring a civil action, in the name of the State, in the district courts of the United States under section 4 of this Act, and such State shall be entitled to recover:

"(1) threefold the damages and the cost of suit, including a reasonable attorney's fee, as parens patriae on behalf of natural persons residing in such State injured by any violation of the antitrust laws; or

"(2) single damages and the cost of suit, including a reasonable attorney's fee, as parens patriae with respect to any injury to the general economy of such State or any political subdivision thereof, as measured by any decrease in revenues, or any increase in expenditures, or both, of such State or any political subdivision thereof sustained by reason of any violation of the antitrust laws, except that such damages shall not be duplicative of any damages recoverable under paragraph (1).

"(b) In any action under subsection (a) (1), the court may in its discretion, on motion of any party or on its own motion, order that the State attorney general proceed as a representative of any class or classes of persons alleged to have been injured by any violation of the antitrust laws, notwithstanding the fact that such State attorney general may not be a member of such class or classes.

"(c) In any action under subsection (a) (1), the State attorney general shall, at such time as the court may direct prior to trial, cause notice thereof to be given by publication in accordance with applicable State law or in such manner as the court may direct: *Provided*, That such notice shall be the best notice practicable under the circumstances.

"(d) Any person on whose behalf an action is brought under subsection (a) (1) may elect to exclude his claim from adjudication in such action by filing notice of his intent to do so with the court within sixty days after the date on which notice is given under subsection (c). The final judgment in such action shall be res judicata as to any claim arising from the alleged violation of the antitrust laws of any potential claimant in such action who fails to give such notice of intent within such sixty-day period, unless he shows good cause for his failure to file such notice.

"(e) An action under subsection (a) (1) shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given in such manner as the court directs.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a) or (b) or in any other action under section 4 of this Act which is maintained as a class suit, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit, without the necessity of separately proving the individual claim of, or amount of damage to, each person on whose behalf the suit was brought.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Damages recovered under section 4C(a) (1) shall be distributed in such manner as the district court may in its discretion authorize, subject to the requirement that any distribution procedures adopted afford each person a reasonable opportunity to secure his appropriate portion of the damages awarded less unrecovered costs of litigation and administration.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under section 4A of this Act, and he has reason to believe that any State attorney general would be entitled to bring an action under section 4C(a) (1) based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification to such State attorney general with respect to such action.

"(b) If the State attorney general fails or declines to bring such an action under section 4C(a) (1) within one hundred and eighty days after the date of receipt of the notice and if the Attorney General of the United States believes that such an action would probably lead to a substantial recovery of damages, then he may bring such an action himself on behalf of the persons residing in such State injured by the alleged antitrust violation. Any such action shall be brought in the district in which the action under section 4A is pending and shall be consolidated therewith.

"(c) To assist a State attorney general in evaluating the notice and in bringing any action under section 4C of this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under section 4C.

"(d) In any action under subsection (b) of this section, the provisions of sections 4C (b), (c), and (d), 4D, and 4E shall apply.

"FEDERALLY FUNDED PROGRAMS

"SEC. 4G. (a) In any action with respect to any federally funded program affected by any violation of the antitrust laws, a State, political subdivision thereof, or any other person shall be entitled to recover—

"(1) treble the damages for the total amount of overcharges, or other injuries, sustained by such State, political subdivision thereof, or any other person, respectively, in connection with such program; and

"(2) the actual damages for the total amount of overcharges, or other injuries, sustained by the United States in connection with such program.

"(b)(1) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(2) The Attorney General may bring such an action on behalf of any State if—

"(A) he believes that cause exists for bringing such action;

"(B) he so notifies the State attorney general in writing; and

"(C) the State attorney general fails or declines to bring such action within the one-hundred-and-eighty-day period which begins on the date of the receipt of such notification.

"(c) The United States shall be entitled to secure out of any damages recovered under this section the actual damages for the total amount of overcharges, or other injuries, sustained by the United States.

"DEFINITIONS

"SEC. 4H. For purposes of this section and section 4C, 4D, 4E, 4F, and 4G:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under this Act.

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(3) Except for purposes of section 4G, the term 'antitrust laws' does not include sections 2, 2A, 2B, and 7 of this Act.".

SEC. 3. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15B), by striking out "4 of 4A" and inserting in lieu thereof "4, 4A, 4C, or 4G"; and

(2) by adding at the end of section 16 of such Act the following: "In any action under this section, the court shall award reasonable attorneys' fees to a prevailing plaintiff.".

SEC. 4G. This Act shall not be applicable in a particular State until that State shall provide by law for its applicability as to such State.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama in the nature of a substitute.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, if I may have the attention of the Senator from New York, I think we are prepared to vote on this Allen amendment right now.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. Mr. President, in rising to oppose the amendment offered by the able Senator from Alabama, I would make and I hope briefly just a few points.

As we see it, the amendment is an attempt to deny to consumers the meaningful remedy which parens patriae provides. Why do I say that? Well, if in order to make available to the consumers and to discipline the marketplace it is required that 50-odd State legislatures say "yes," if I were a young man I would still not predict that I should be alive when more than a third of them would say "yes."

Mr. ALLEN. Mr. President, will the Senator yield for 1 moment?

Mr. PHILIP A. HART. Yes.

Mr. ALLEN. The Senator, I believe, has misconstrued the amendment. What the amendment says is that as to a particular State it would not be applicable unless the State, by law, should provide for its applicability in that State. Now, it might be it would take some time before all 50 would come under it. But as many States as want to come under it would come under it, and it would not take all 50 to put it into effect.

Mr. PHILIP A. HART. Indeed no.

My point was that if each State is required to affirmatively grant to the Attorney General the right to proceed as this title would offer, I would be a very old man before about one-third had gone even that far.

I recognize that each State, independently of the attitude of 49 others, can take the action.

I say that because we had some experience with the degree of pressure, the intensity of the pressures that have been brought to bear against this legislation at the Federal level.

We can anticipate, I believe, precisely that kind of pressure on each of the State legislatures, and a legislator is given pause when an important business constituent comes to him and says, in effect, "For God's sake, don't let them do that, it will drive me up the wall; all will be lost."

We know the lobbying that is going on in this Capitol, beginning with the effort over on the House side that produced the basic House bill.

My first point, that because of the extreme, that would attach if this condition is imposed, many consumers in this country would be denied for a long time the benefits that those of us who reported the bill see in the title to which this amendment would attach.

It would have the effect, second, of denying the benefits of other titles that are contained in the substitute bill that was reported by the Committee on the Judiciary. One of those titles, the Antitrust Civil Process Act, title 2, is a title which the President and the administration has called for in at least two state of the Union messages.

It would deny the benefits of the premerger notification title.

A third point I would suggest in opposing the amendment is that it would bring into question—perhaps the Senator from Alabama can clarify and conceivably eliminate this—it would bring into question whether the existing authority which State attorneys general now have to sue under the Federal antitrust law under rule XXIII would be vitiated.

Mr. ALLEN. It would not disturb that. It applies to the added power, authority, and jurisdiction given by this act. It would not apply to existing authority that it now has.

Mr. PHILIP A. HART. I thank the Senator.

I think we should recognize that the States, through their legislators, would have the opportunity to act to deny a State attorney general the use of the authority which is granted here.

The approach would be the converse of that which is proposed by the Senator from Alabama. He would require affirmative action approving the use of the power which we grant.

I am suggesting the preferable way an authority is granted, to use a Federal law, would be for the legislature to say, "No, we reject the authority."

Mr. ALLEN. Will the Senator yield?

Would the Senator agree to that provision?

Mr. PHILIP A. HART. I see no need to make explicit what I believe to be implicit.

Is the Senator's question, would we agree to a provision that expressly authorized a State legislature to deny such power to the State attorney general?

If I am correct in saying they have that authority anyway, I would see no need for it. If that amendment was offered, it would present a very different question, and I believe I would reserve my position.

Mr. ALLEN. If this amendment does not carry, it had been planned that the Senator from Alabama would offer the amendment the Senator speaks of so approvingly and I hope that approval continues.

Mr. PHILIP A. HART. I was reserving my ultimate judgment as to my position.

The amendment would have the effect of denying fluid class recovery to a State attorney general by leaving it up to a private plaintiff consumer class action, and I am not sure that the Senator from Alabama would really want that.

The position of the Senator from Michigan is that the adoption of this amendment—admittedly, I am making a prediction—adoption of this amendment would have the effect of denying for a very long period the benefits we conceive in this title, for consumers in this title, the citizens of a great many States.

As I say, I make that prediction based upon the kind of pressure that could be applied to a State legislature. I make the prediction with some measure of confidence, although confessedly I know of no statistics which I can depend upon.

I believe the Senator from Alabama wanted a rollcall on this.

Mr. President, I suggest the absence of a quorum and ask that the attachés see if it is possible to persuade enough Senators to come to the floor in order to give us the rollcall.

The **PRESIDING OFFICER**. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **HRUSKA**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HRUSKA**. Mr. President, I rise in support of the pending amendment, the amendment which is proposed by the Senator from Alabama. It is an amendment, as I understand it, by way of a substitute for the pending measure.

Mr. President, I ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **HRUSKA**. The amendment is offered as a substitute for the pending measure. The substitute would consist of the bill approved by the other body, H.R. 8532, with one modification and one amendment. That amendment is contained in amendment No. 1702, and reads in this way:

> This title shall not be applicable in a State until that State shall provide by law for its applicability as to such State.

So my discussion will be on the amendment which is offered as a substitute.

Mr. President, this substitute authorizes State attorneys general on behalf of natural citizens residing in the State to sue for damages sustained by reason of antitrust violations. Under the bill as it now exists in amendment No. 1701, the State would no longer be required, as it is now, to be an injured consumer in order to be eligible to sue. A suit filed under a pending bill would really result in a class action suit as opposed to a pure, a historic, or a conventional parens patriae suit.

Class actions, Mr. President, are very complex. Many factors must be weighed carefully, deliberately, and judiciously in order to determine whether a given set of circumstances is such as to warrant a courts entertaining such a suit, and upon undertaking it to apply rules and procedures suitable to a fair trial and disposition of the case.

Mr. President, the substitute has a number of improvements over title IV of the bill which was processed and approved by the Committee on the Judiciary.

One of the defects of the Senate committee-approved measure is that it does not contain any provision for court leave to file and pursue a class action before it may be filed and tried. It is considered that it would be wise to have court leave, because of the many factors that are considered necessary to be satisfied to furnish safeguards for fair trial, safeguards against abuses, and as to requirements for due process.

During the years, and after much experience in courtrooms over the land, the Federal court system has developed rule 23, dealing with the subject of class actions. That rule carefully specifies various factors that go into the identifiability of the parties, to determine whether or not they are in a similar situation with those who allege that they are aggrieved by certain facts, certain violations of the antitrust law.

Also, as to proper notice, that must be given in order to formulate those who will be entitled eventually to participate in the recovery, and to give opportunity for those who wish to divorce themselves and to opt themselves out of the proceedings, if they choose, thus preserving their cause of action on their own motion and on their own resources.

There are other provisions in the bill as approved by the Senate Committee on the Judiciary which are not contained in the House-passed measure. One of them is that the contingent fee has been deleted from the House bill. There is an express provision that the contingent fee for the attorneys handling the case on behalf of the plaintiffs shall not be allowed.

The bill as approved by the Senate committee, Mr. President, is subject to this objection: That it undertakes to effectively eliminate the operability and the application of Rule 23 of the Federal Rules of Civil Procedure. It substitutes, in its own terms, the rules by which the Federal courts will be governed and with which they will be forced to comply in order to carry on the prosecution of a lawsuit of this type.

There are many of us who feel that after the development and the evolution of the rules to the point where they have been codified by the Supreme Court and the Federal court system, they should not be discarded; they should be retained, because they are on valid ground, to see that the rights of all parties are properly taken care of, and that due process is subserved and complied with.

Another respect in which the Senate passed bill is under very considerable criticism has to do with the containment in it of the formula for measuring and recovering damages. Damages, under the Senate bill, may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or subject to the method of reasonable estimation, if the court in its discretion gives permission, without separately proving the fact or amount of individual injury or damage to such actual persons.

Mr. President, if that formula is enacted into law and made the governing principle in suits of this kind, it will be the first example of the allowance and award of damages without proving damage accruing to the plaintiff who is entitled to the benefit of the bill.

It is elementary, Mr. President, that before any recovery for damages can eventuate, two things must be proved: That some damage was inflicted, and then, second, the extent of the damage suffered by the plaintiff or by the plaintiffs, if there be more than one involved.

This is a repudiation of that very salutary rule, and to that extent it is not considered within the general qualification of being a constitutional measure or a constitutional provision.

On this subject, Mr. President, the committee in the Senate was favored with a memorandum offered by Dean Erwin N. Griswold, for many years Solicitor General of the United States, for many years dean of the Harvard Law School, and considered by many as perhaps one of the leading intellects in the field of jurisprudence and the practice of law, particularly constitutional law.

He calls attention to the fact that the provision for damages under a "fluid recovery" formula is not within the constitutional jurisdiction of the Federal courts. One of the reasons he assigns, is that the Federal courts have jurisdiction which is limited to the consideration of "cases and controversies"—and I quote those two words because they are listed in the Constitution—"cases or controversies" involving actual parties properly before the court.

Dean Griswold wrote:

> The law of "case or controversy" may fairly be said to be lawyers' law.[1] But it is real. It reflects the language of the Constitution; and the language is not accidental. It was carefully chosen, and it was designed to limit the federal courts to consideration of cases of "a Judiciary nature,"[2] that is, to the decision of controversies between parties who are before the court, and subject to appropriate rules of proof.
>
> In the case of "fluid recovery," the "case or controversy" requirement is not met, for the persons on whose behalf recovery is obtained make no claim, are not parties to the case, and provide no proof. For the most part, they are simply unknown.
>
> Although no precise authority on this question is known—probably because the possibility of such a contention has seemed so far-fetched . . .

That it had never been opposed before. This is a very innovative proposition that is being advanced in the form of trying to legalize and put in statutory form the authority and the power to recover under the formula of "fluid recovery." But:

> It seems obvious that a claim on behalf of such persons does not meet the requirements of Article III of the Constitution, limiting the jurisdiction of the federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

There are a number of questions that go to the point to show that this question under article III is a substantial one which would be given serious consideration by the courts.

In the Eisen case, which is found in 479 F. 2d, at 1005, a decision vacated on other grounds but, nevertheless, a case involving an effort to maintain a fluid recovery on behalf of all persons who had bought or sold odd lots on the New York Stock Exchange between certain years, it was estimated that there were 6 million members of this group, of whom 2¼ million were identified. That is all that could be identified.

The basic question in that case was who should bear the cost of giving notice to the members of the class who could be identified. The court of appeals held that this burden could not be put on the defendant under a proper construction of Rule 23 of the Federal Rules of Civil Procedure. It would be unfair to penalize a defendant in a lawsuit which had not been proved. In fact the suit had not yet qualified to the fullest extent required by rule 23 to be prosecuted to its conclusion, one way or the other. To impose the cost of notice to the 2¼ million prospective recipients upon the defendant would be most unfair indeed.

This conclusion on the part of the circuit court was affirmed by the Supreme Court, but the court of appeals went further in an opinion by Judge Medina and discussed the impropriety of fluid recovery which had been suggested by the district court as a possible solution to the unmanageability problem posed by the case, and at page 1018 I quote this language in 479 F. 2d:

> "Even if amended Rule 23 could be read so as to permit any such fantastic procedure, *the courts would have to reject it as an unconstitutional violation of the requirement of due process of law*. . . .

And then a little further along on that same page, the opinion by Judge Medina continued:

> We hold the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper."

There are other cases, Mr. President, of similar import and of similar context and result. One of them in the Ninth Circuit Court in re Hotel Telephone Charges, 500 F. 2d at page 86. Now this fluid recovery theory, advanced in such novel and, as the court suggested, fantastic fashion, is contained in the Senate title 4 of the bill which is contained in amendment 1701. It is not contained in the House-approved bill which we find in the terms of the substitute which the Senator from Alabama is now offering in the premises.

Judge Duniway in the case in which he ruled on this same proposition in 508 F. 2d at page 236 writes language which certainly is apt to the consideration of the question of case or controversy.

It reads in the following words:

> It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each "plaintiff".

Here it can be fairly contended, Mr. President, that without such proof there is no case within the constitutional sense of that word as it is used in article III of the Federal Constitution.

Mr. President, there is another case which I shall refer to because it certainly zeroes in on this proposition of a definition and an attempted application of a theory which has already been thoroughly discredited by respectable and high level judicial precedent.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. HRUSKA. I am happy to yield for a brief question.

Mr. MORGAN. So I can more clearly follow what the Senator is trying to present, will he explain to me the real significance of the amendment that we are now considering? As I understand it, does it not delete, in effect, the Hart-Scott substitute and reinstate the House bill? Is that the effect of the amendment?

Mr. HRUSKA. That is right. That is its thrust.

Mr. MORGAN. In other words, that is the thrust of the amendment, and it also adds one further provision, as I understand it, and I may not be clear on it, because it is an unprinted amendment, that the act itself shall not then be applicable in any State until that State provides by law for the applicability to such State. Is that the Senator's understanding also?

Mr. HRUSKA. Yes, that is the language of amendment 1702 which is a part of the substitute offered by the Senator from Alabama.

Mr. MORGAN. I was trying to get clear in my own mind then. If I understand it, the amendment of the Senator from Alabama would, in effect, delete the Hart-Scott substitute, and we then would relate back to the House bill, as it came out, but it adds an added provision that even the House bill will not become effective until such time as any State legislature shall apply or shall pass an act.

Mr. HRUSKA. That is the intent, as explained by the Senator from Alabama in presenting his substitute. That is correct.

Mr. MORGAN. I raise that question because it was not clear to me and because it was a little different from what I had expected and I thought maybe other Members of the Senate or their staffs should understand that that is the case so that they can begin to consider the argument and the debate in that light.

Mr. HRUSKA. I thank the Senator for calling it to my attention, and in case there is any doubt in the minds of any Senators, who are assembled in such numbers in the Chamber at the present moment, his emphasis and his question will be very enlightening and very helpful to my proposition which is that the House bill is a superior measure to the bill that was processed by the Senate; therefore, the substitute of the Senator from Alabama should be approved and should be made the order of the day. Again, I state that by way of making a record because I know many people are very taken with this idea of fluid recovery, aggregate and averaging of damages, with no proof required, Mr. President. The judge is authorized by the language of the statute to use either the basis of statistical or sampling methods, whatever that is, Mr. President, or such other reasonable method of estimation as the court in its discretion may permit without separately proving the fact or the amount of individual injury or damage to natural persons.

That falls four-square within the purport of the judicial opinions which I have been quoting, that there is no case or controversy within the meaning of article III of the Constitution if there is no showing and if there is no fact as to the amount of individual injury or damage of even of the existing suspect's damage.

That is how farfetched the bill is which was approved in the Senate Committee on the Judiciary and which is now here in the form of a substitute to the House-approved bill. It is almost unthinkable.

However, in order to sort of clinch the point, I shall read some language from another case which was decided in 1975, the case of Warth against Seldin. This turned on an issue of standing which is required to maintain a suit in the Federal court system, and it is closely related to the proposition of case or controversy.

The case was a suit brought by organizations and residents of Rochester, N.Y., to test the validity of a zoning ordinance in the town of Penfield, adjacent to Rochester.

The contention was that this ordinance excluded persons of low and moderate income from living in Penfield. The suit originally was filed by an organization and eight individual members of that organization, called Metro Act of Rochester. It was filed on behalf of themselves and all persons similarly situated.

The court held that the plaintiffs did not have the requisite standing to maintain the suit; and, in reaching this conclusion, the court said:

> In essence, the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. The inquiry involved both constitutional limitations on Federal court jurisdictions and the prudential limitations on its exercise.

I skip some lines which are principally citations of decisions bearing on that statement. He goes on to say in his opinion:

> In its constitutional dimension, standing imports justiciability—whether the plaintiff, in other words, has made out a case or controversy between himself and a defendant within the meaning of article III. This is the threshold question in every Federal case, determining the power of the court to entertain a suit. As an aspect of justiciability, the standing question is whether the plaintiff has alleged a personal stake in the outcome of the controversy as to warrant his invocation of the Federal court jurisdiction to justify exercising that court's remedial powers on his behalf.
>
> The article III judicial power exists only to redress or otherwise protect against injury to the complaining party, even though the court's judgment may benefit others collaterally.

The court also said at page 499 of that opinion:

> Even when the plaintiff has an alleged injury sufficient to meet the case or controversy requirement, this court has held that the plaintiff generally must assert his own legal rights and interests and cannot rest his claim to relief on the legal rights or interests of third parties.

Mr. President, it seems to me that with these considerations in mind, with the idea in mind that a number of very substantial improvements are contained in the House bill over the bill which was approved by the Senate committee, much merit attaches to the amendment by way of a substitute offered by the Senator from Alabama, and it should be approved.

It would be a definite improvement over a bill which is getting to us by a rather odd method, in the first place, in its processing in the committee and, in the second place, to get to the attention of the Senate not on the direct merits of the bill approved by the Senate Committee on the Judiciary, but, rather, by way of a substitute for a bill approved by the House and consisting of only one title; whereas, the substitute to be found in amendment No. 1701 contains five titles.

Mr. President, it would be good riddance to approve the amendment proposed by the Senator from Alabama, because by that means, if it is carried to its logical conclusion, we will have disposed of this five-headed monster, which has not been properly and judiciously processed nor presented to the Senate in a way that will allow for orderly, logical, and rational consideration and understanding so that we can make an intelligent decision.

That would be another and perhaps an overriding reason why it would be well to approve the amendment proposed by the Senator from Alabama, so that we could proceed to that conclusion and that disposition.

Mr. President, I yield the floor.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I am very interested in this bill, and I have been for a long time, because I believe that it is a vital matter, if we are going to be able to enforce the antitrust laws of our country and if we are going to be able in any way to restore some semblance of competition into some of the areas in which there has been a great concentration of power in the last few years.

The effect of this amendment—and there should be no mistake about it—as the distinguished Senator from Nebraska has indicated, is to strike the entire substitute amendment proposed by the Senator from Michigan (Mr. Philip A. Hart) and the Senator from Pennsylvania (Mr. Hugh Scott). If that is not bad enough, it adds a provision that would require a State legislature to pass an act authorizing the provisions of the bill before it could become effective.

I know that sounds good to those of us who believe in States' rights, and I am one of them. But this bill will affect more than any given State. This bill will affect corporations that do business all over the State and all over the Nation. I think to gut the bill in such a way as to make it applicable only to a State here or there where the State legislature might, in effect, decide to pass it would strike the entire effectiveness of this bill. I say in all candor, Mr. President, that many times, the State legislatures do not have the time or the staff or the expertise to study and enact complex, complicated antitrust legislation. That is why it is so difficult to get that kind of legislation by.

This bill also, I think we should make no mistake about it, knocks out completely the parens patriae portion of the Senate bill and leaves the House bill intact. That, in effect, knocks out all contingency fees for attorneys in such matters.

I, for one, Mr. President, do not particularly like contingency fees in antitrust matters. When I joined, as attorney general of North Carolina, in the antibiotic drug suits against several major drug companies, I was solicited, frankly, by a number of attorneys who specialized in this kind of legislation.

North Carolina did not associate any of these attorneys, even though we were opposed, literally, by more than, I would say, 50 and as many as 100 attorneys at one time. They came in in droves and we had one attorney devoting his time to it. We at least were able to bring the case to trial. But not many other attorneys general in this country were in a position to do that. I think we talked about it at one time, that the combined staff of all the attorneys general of America did not equal the combined legal staff of seven of the major oil companies.

So, you see, the attorneys general of this country are simply not equipped to deal with the power that is concentrated in some areas of our economy.

Our bill would permit contingency fees, but it puts some rather severe restrictions and limitations on these. That is, it bases them, of course, first of all, on success, and also on an hourly basis, which takes away some of the incentive of lawyers that I think sometimes cross over that thin barrier between ethical and unethical conduct.

But, Mr. President, there is no area of law, to my knowledge, that is more complex than antitrust litigation. It takes lawyers who are willing to devote not only their time and effort, but their entire lives, to be able to meet on equal footing with the great legal resources of those industries that would monopolize some areas.

By permitting, as we do in the Senate bill, contingency fees with some reasonable limitations which the courts themselves must approve, then I think we will have added a very effective weapon and a very effective tool to the law which will help restore competition into the marketplace.

Further than that, I think my fellow attorneys ought to know and my fellow Senators ought to know that if the Senate is going to undertake to outlaw contingency fees in this case, when are we going to move to outlaw contingency fees in other areas?

I know it would be popular to say we are going to outlaw contingency fees in negligence actions because lawyers sometimes charge as much as a third and a half, and I grant that that is true. But they also sometimes help worthy litigants who are entitled to their day in court, who could not otherwise have their day in court.

I believe, Mr. President, that the provision as we now have it in the Senate bill would be a great deal of help.

Mr. President, I have here a question with regard to contingency fees and I ask unanimous consent of the Senate that the question, which is designated "Contingency Fees"—question 11 and answer 11—be printed in the Record at this point.

There being no objection, the document was ordered to be printed in the Record, as follows:

CONTINGENCY FEES

Question 11: Won't lawyers get most of the funds through the typical ¼, ⅓, or ½ contingency fee?

Answer 11: Absolutely not. The Committee was aware of this potential and adopted an amendment to prevent it from occurring.

Section 4C(e) requires court aproval of plaintiffs' attorneys' fees awarded under section 4C(a)(2). The Committee included this provision to assure both the reasonableness of the fees and that the bulk of the State recovery would be distributed to consumers—not lawyers. Both section 4 of the Clayton Act and Rule 23 of the Federal Rules of Civil Procedure require court approval of attorneys' fees under generally accepted standards articulated in *Lindy Bros.* v. *American Radiator and Standard Sanitary*, 487 F. 2d 161 (3d Cir. 1973) and *City of Detroit* v. *Grinnell*, 495 F. 2d 468 (2d Cir. 1974). It is the Committee's intention that attorneys' fees in section 4C cases be approved under the same criteria and the court is directed to look behind any fee arrangements which may be made between the State and its counsel. The criteria established by the court in *Lindy Brothers* for approving attorneys' fees are set forth below. In short, the fee is determined primarily on the basis of the number of hours spent on the case.

In awarding attorneys' fees, the district judge is empowered to exercise his informal discretion.

In detailing the standards that should guide the award of fees to attorneys successfully concluding class suits, by judgment or settlement, we must start from the purpose of the award: to compensate the attorney for the reasonable value of services benefitting the unrepresented claimant. Before the value of the attorney's services can be determined, the district court must ascertain just what were those services. To this end the first inquiry of the court should be into the hours spent by the attorneys. * * * After determining, as above, the services performed by the attorneys, the district court must attempt to value those services. * * * A logical beginning in valuing an attorney's services is to fix a reasonable hourly rate for his time—taking account of the attorney's legal reputation and status (partner, associate). Where several attorneys file a joint petition for fees, the court may find it necessary to use several different rates for the different attorneys. Similarly, the court may find that the reasonable rate of compensation differs for different activities. * * * While the amount thus found to constitute reasonable compensation should be the lodestar of the court's fee determination, there are at least two other factors that must be taken into account in computing the value of attorneys' services. The first of these is the contingent nature of success. * * * In assessing the extent to which attorneys' compensation should be increased to reflect the unlikelihood of success, the district court should consider any information that may help to establish the probability of success. * * * The second additional factor the district court must consider is the extent, if any, to which the quality of an attorney's work mandates increasing or decreasing the amount to which the court has found the attorney reasonably entitled. In evaluating the quality of an attorney's work in a case, the district court should consider the complexity and novelty of the issues presented, the quality of the work that the judge has been able to observe, and the amount of the recovery obtained. * * * The value to be placed on these additional factors will, of course, vary from case to case. (487 F.2d at 166–169)

The Committee concluded that this provision was fair and equitable to all concerned parties. It considered and rejected an amendment to prohibit all contingency fees. Such a prohibition would severely limit the usefulness of Title IV for several reasons. First, most States have a small attorney general's office, and an even smaller antitrust staff. States simply do not have the in-house capability of sustaining a complex multi-year antitrust trial Nor do many State attorneys general's offices have the budget to advance upwards of several hundred thousand or even million dollars in attorneys' fees to outside counsel, or to pay such fees if judgment is rendered for the defendant.

The Committee emphatically rejected the notion that a court approved contingency fee is either immoral or unethical, particularly when, as is the case here, the amount is subject to court approval upon prescribed criteria. To the contrary, it is often the only way to secure effective representation. As put by Virginia attorney general Andrew P. Miller:

"Another way to cripple the effectiveness of this bill would be to deny the Attorneys General, the right every other citizen enjoys, to contract for legal services on whatever basis, in his judgment, suits the needs of a particular case. At this point, substantial antitrust staff are not widespread at the State level. Furthermore, undertaking one major *parens patriae* suit can absorb the time of numerous staff persons for several years. Accordingly, this bill will go unused, and the rights created unenforced to the fullest extent possible, if the Attorneys General are not permitted to contract for expert antitrust counsel whose fees will be paid out of subsequent settlement or judgment, if any. We share the concerns of those who believe that attorneys' fees should be kept within reasonable limits. Therefore, we would support an amendment which would require the approval of the district court for any attorney fee arrangement according to standard attorney fee criteria."

Those who advocate prohibiting contingent fees contend that a contingency arrangement will encourage the filing of frivolous suits and unnecessarily subject defendants to harassment and to substantial legal and other fees incident to defending suits filed in bad faith. The Committee found the contrary to be the case. If plaintiff's attorneys fees are contingent upon success, this fact should weed out and deter the filing of frivolous or questionable cases. Moreover, section 4C(f) provides for the award of reasonable attorneys' fees to a prevailing defendant if the defendant establishes that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

It should be stressed that the contingency fees authorized under this provision are not a percentage of the recovery. The contingency fees authorized are based on success, but computed on an hourly rate.

As Congresswoman Barbara Jordan (D.-Tex.) stated (contained at page 27 of House Report No. 94–499 (94th Congress, 1st Sess.):

"I am concerned that a flat ban on 'contingency fees' will effectively place the services of perfectly ethical and highly knowledgeable attorneys beyond the reach of the States.

"There is another vital point at stake. The contingent fee is not merely an honorable means of financing litigation for those who would otherwise be unable to afford it until the award of final judgment. It is also recognized as an important tool for weeding out the frivolous and unmeritorious case on the basis of expert assessment. It is highly unlikely that a lawyer knowledgeable in any field will be prepared to invest large quantities of his own time and effort in a case on the basis that he will be uncompensated unless he obtains a successful result for the client, unless he believes after careful examination that the case has serious merit.

"This point is responsive to two concerns which have been expressed by opponents and critics of the bill. Business interests have argued that the enactment of this legislation will bring a plethora of unfounded lawsuits for enormous sums of money, which they will have to defend at great expense. And members of the committee have on several occasions questioned whether the law might not present irresistible temptations to politically ambitious state officials bent on making a reputation without regard to the ultimate disposition of the cases they bring.

"Neither of these unfortunate predictions is remotely likely to come true if the economic judgment of the legal experts is invoked in the evaluation of cases through the use of the contingent fee."

Mr. ALLEN. Will the Senator yield?

Mr. MORGAN. I am delighted to yield.

Mr. ALLEN. The Senator from North Carolina seemed worried or alarmed that this amendment of the Senator from Alabama might cause State legislatures to have to enact complex legislation that they are not qualified, the Senator seemed to think, to do. I call the Senator's attention to the fact that in the statute, at the State level, all that would be required could be contained in not over two lines in a bill. All it would have to say is that the provisions of U.S. statute 94 dash, whatever the number, shall be applicable in the State of North Carolina or in the State of Alabama. I should like to disabuse the Senator's mind from worrying about the complex nature of this legislation that is going to have to be passed at the State level.

Mr. MORGAN. I say to the distinguished Senator from Alabama that his very simplistic statement did not disabuse my mind.

Mr. ALLEN. I hope it did not confuse the Senator, then.

Mr. MORGAN. I do not think it confused me, because these little two-word or three-word acts are sometimes the ones that get us into difficulty. I think that is the kind of legislation that has gotten Congress into difficulty, where they adopt very simplistic-sounding acts which have implications far beyond any that would be considered.

So I think even if it only required those three or four little words, certainly no legislature in this country would want to adopt it unless it understood the full meaning and implications of it. I am sure that every legislature in this country is qualified to comprehend and to enact this kind of legislation, provided they have the time and the expertise.

Mr. ALLEN. Yet the Senator is seeking to force this legislation on the States without giving them any right of input whatsoever.

Mr. MORGAN. They have input, I say to the distinguished Senator from Alabama. I represent the State of North Carolina and my 5 million people. I confer with my people. I bring here, I think, as best I can, the understanding of the people of my State. That is why we are here, as representatives of the people of the State of North Carolina and of the State of Alabama. That is where the input is.

The difficulty is, I say to the Senator, suppose we adopt this law and only the State of North Carolina enacts it. Then we have a consortium of companies like those we alluded to earlier that are engaging in illegal acts in restraint of trade. If there is only one State to worry about, that is not very much of a deterrent. We can sue down in North Carolina, but the consumer up in Virginia, who is being damaged by a nationwide or worldwide conspiracy to restrain trade and fix prices, who has to pay inflated consumer prices, may not have any remedy.

This is the kind of legislation that I think needs to be enacted on a nationwide basis. I think the Senator from Alabama knows that I probably vote against as many pieces of legislation as any Member of the Senate on the grounds that this is a matter that ought to and can be handled by the States.

But you are dealing here with—what word do they use now—multinational corporations—I wanted to say nationwide—and multinational corporations, in effect, which are much larger than any one State.

Mr. ALLEN. Mr. President, will the Senator yield at that point?

Mr. MORGAN. Yes.

Mr. ALLEN. Since attorneys general would be authorized to bring these nationwide suits if this law is enacted by Congress and approved by the President, then would we see a foot race as between the 50 attorneys general throughout the Nation to enter suit against company X, company Y, company Z, company A, company B, copartnership A, copartnership B? Would all 50 State attorneys general make a beeline to the Federal courthouse in their district and file a suit against a company? Would there be 50 such suits against a company or would it be that the first attorney general who reached the courthouse, who ran the foot race the fastest would preempt the other attorneys general?

Would the Senator answer on that score?

Mr. MORGAN. I would say to my distinguished colleague if we had had attorneys general with that kind of enthusiasm and zeal for the last 25 years who were willing to go to court to right the wrongs of the people, a good portion of the time that this Senate has spent in all kinds of litigation, in civil rights litigation, would never have been necessary.

Mr. ALLEN. But the Senator still has not answered my question, and I hope he will.

Mr. MORGAN. I believe I have the floor. Will the Senator permit me to follow through?

Mr. ALLEN. Yes.

Mr. MORGAN. Unfortunately, Senator, I will say to the Senator from Alabama there are not that many attorneys general who have that kind of time.

Mr. ALLEN. Suppose we did have?

Mr. MORGAN. Well, suppose is a hypothetical question which I do not foresee because I served as attorney general for 6 years. At one time I knew them all in North America, and I attended a meeting of the Southern attorneys general last week, and I hope next month to attend the national meeting because I still maintain an interest. There are not that many who are going to get that involved.

Mr. ALLEN. Well, that being the case, what is the use of forcing this added power on these people who do not have any time?

Mr. MORGAN. It makes it available to them, Senator. There is nothing in the world that compels them to file a lawsuit As a matter of fact, if a State legislature thinks an attorney general is going beyond the bounds of reason, then all the legislature has to do is to take that power away from him.

Mr. ALLEN. I am glad to hear the Senator say that. That may be the next amendment that is offered. [Laughter.]

Mr. MORGAN. I will say to the Senator that, you know, attorneys general have a difficult position in government, as the Senator well knows. Quite often they are called upon to tell the Governor he can do something or he cannot do something.

Mr. ALLEN. The Senator still has not told the Senator from Alabama if each attorney general is going to have to be equipped with a stopwatch to indicate the time he got to the courthouse with his antitrust legislation to have the right to file this particular type of action.

Mr. MORGAN. Well, I do not believe the Senator is really serious in that kind of a question.

Mr. ALLEN. Who would have the priority, the one who got there first or the one who got there the last?

Mr. MORGAN. It would depend, of course, on who got there first. But you are not going to have that many filing their actions.

Besides that, let me say to the Senator, I filed a suit in North Carolina and the attorney general, Don McLeod filed one in South Carolina, and Attorney General Andy Miller in Virginia, but they were all consolidated, and we had to go to Minneapolis to try them.

Does the Senator know why we had to go to Minneapolis to try them? It was because there were so many attorneys for all of these five or six drug companies, they had so much power that they thought they would run us to death and that 1 week we would be in the southern district of New York, the next week we would be sitting in Judge Lord's court in Minneapolis, and we would be in Miami, Fla., the next week.

So they would be consolidated.

Mr. ALLEN. Does the Senator favor a multiplicity of suits or would it not be better to have one coming out of the Justice Department?

Mr. MORGAN. If it were practical. Let me say this to the Senator: If it were practical I would rather have one coming out of the Justice Department. But the sad truth is, and I believe the Senator knows it, and these giant corporations that have been running around here all lobbying in my office and every other office know it, that the Justice Department, the antitrust division, lacks the resources and the political clout to bring these lawsuits. They have two or three pending now, and that is about all they can handle.

Let me tell the Senator about a conversation I had one day. I went up to see, at the request of a Federal trial attorney in the U.S. Department of Justice who thought his boss was going to settle a suit out from under him, and he did not think it ought to be settled—I went and made an appointment with that assistant attorney general. I talked to him about how important I thought the case was not only to the Federal Government but to the States, and how important their expertise would be to us.

Afterwhile, the assistant U.S. attorney reared back, put his foot on his desk, and he said:

> Senator, you have got to remember that 90 percent of all damages will eventually be paid by the taxpayers anyway, so why do you want to push them back to the wall.

I told my assistant it seemed to me that we have got the fox guarding the henhouse, and that we ought to go back to North Carolina and try our own case.

That is one. That does not represent the philosophy of all of the Antitrust Division of the Department of Justice, but I say when you have got the power dispersed among 50 attorneys general you are not as likely to run into that kind of situation.

Mr. ALLEN. Would each attorney general's suit apply just to his State or would it be nationwide?

Mr. MORGAN. It would, of course, be any company, but he can only recover for the people, for the constituents, in his State.

Mr. ALLEN. The Justice Department though can file as to the entire country, and why would you want 50 suits when one would do just as well?

Mr. MORGAN. But, you see, the point I believe the Senator from Alabama fails to comprehend is that the Department of Justice cannot recover damages for and on behalf of the people.

The second answer to that is if the Attorney General of North Carolina brings an action and it is successful and he recovers for his people, and the attorneys general for the other States do not want to recover for their own people——

Mr. ALLEN. The Justice Department is not allowed to claim treble damages in their suit?

Mr. MORGAN. It is my understanding they are only entitled to damages for the U.S. purchases.

Mr. ALLEN. I say, the Senator feels that the Justice Department cannot claim treble damages?

Mr. MORGAN. That is my understanding.

Mr. ALLEN. I believe the Senator is mistaken about that. That is the whole thrust of an antitrust action, that treble damages can be claimed.

Mr. MORGAN. Mr. President, I move to lay the amendment of the Senator from Alabama on the table.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PERCY). Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Allen amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. McGEE), the Senator from New Hampshire (Mr. McINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The result was announced—yeas 36, nays 38, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—36

Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Jackson
Javits
Leahy
Long
Mathias
Morgan
Moss
Muskie
Nelson
Pell
Percy
Proxmire
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Taft
Weicker

NAYS—38

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Johnston
Laxalt
McClellan
McClure
Metcalf
Nunn
Randolph
Roth
Scott,
William L.
Sparkman
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—26

Abourezk
Case
Church
Eagleton
Fong
Goldwater
Gravel
Huddleston
Humphrey
Inouye
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Mondale
Montoya
Packwood
Pastore
Pearson
Ribicoff
Stennis
Stevens
Tunney
Williams

So the motion to table the Allen amendment was rejected.

Mr. MORGAN. Mr. President, I sent to the desk an amendment to the amendment in the nature of a substitute of the Senator from Pennsylvania (Mr. HUGH SCOTT) and the Senator from Michigan (Mr. PHILIP A. HART), and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WEICKER). The amendment will be stated.

The legislative clerk read as follows:

On page 27, line 18, strike out "done anything forbidden in" and insert in lieu thereof "engaged in any activity deemed a *per se* offense, or arising out of the fraudulent procurement or enforcement of a patent, in violation of".

On page 32, strike out lines 12 through 18, and insert in lieu thereof the following: "This title shall apply to any cause of action accruing subsequent to the date of enactment of this title."

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask unanimous consent that Jud Sommer of my staff may have the privilege of the floor during the debate on the antitrust measure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I have sent forth an amendment which, as I understand it, would amend the Hart-Scott substitute bill.

Mr. President, the parens patriae provisions of the pending Hart-Scott substitute amendment authorize State attorneys general to recover damages for violations of the Sherman Act on behalf of natural persons; that is, on behalf of consumers in their States only.

In general, Mr. President, I support this title, and I believe that it is a necessary and appropriate mechanism to prevent antitrust violators from retaining the fruits of their illegal acts and to provide recovery of damages broadly sustained among consumers.

This title of the substitute amendment will create a mechanism for collecting damages in cases in which many customers or many consumers have been damaged in a small amount.

The total loss to the consumers of a given State quite often is large, but the loss to individual ones is too small to permit thousands of lawsuits. And this is a fact I believe, Mr. President, that is generally known among the unscrupulous.

Mr. ROBERT C. BYRD. May we have order in the Senate?

The PRESIDING OFFICER (Mr. BELLMON). The Senate is not in order. The Senator will resume.

Mr. MORGAN. Mr. President, sometimes the damage to a consumer resulting from an antitrust violation is relatively small. It is too small for an individual consumer to litigate or to seek recovery or to have any kind of relief, but when we add the damage or the damages caused to the consumers of the entire State then the loss is rather large, and there ought to be some remedy for it.

I have seen cases in which I felt that this fact was so well understood by those who were engaged in acts of illegal restraint of trade or in price fixing that they were willing to take the risk because they knew it was impractical or impossible for an individual to bring a lawsuit for such a small amount.

But I must confess, Mr. President, that I am a little bit concerned about the breadth of the offenses, that is, when it says any violation of the Sherman Act for which treble damages can be recovered on behalf of consumers under title 4. Often a businessman may not know when his conduct is violating one or more provisions of the Sherman Act or one that is judged on a rule-of-reason basis. Similarly, some offenses are status offenses such as monopolization under section 2 which do not require predatory conduct as an element of the offense. On the other hand, I cannot support the effor to limit title 4 to willful price-fixing offenses.

Mr. BUMPERS. Mr. President, will the Senator yield for a question at that point?

Mr. MORGAN. I yield.

Mr. BUMPERS. One of the things that has troubled me about this bill is the method of recovery and what is going to happen to the proceeds of any recovery that the attorney general might be awarded. I was wondering whether or not the sponsors of the bill and floor managers will accept an amendment to provide as a discretionary remedy of the court a mandate that the offending company be ordered to sell the product for whatever time necessary at a reduced price to recovery so that all the consumers in the State would recover the total amount of damages. To make a hypothetical case, let us assume that the allegations proved that a company charged to have fixed prices which inured to the disadvantage of the consumers to the extent of $1 million. Now they are entitled to treble damages under the bill, so that would be $3 million that that particular State was entitled to recover.

If that were, we will say, deodorant, hair spray, or toothpaste, as the distinguished Senator has appropriately pointed out, it would be folly to think of the State trying to parcel out damages of a few pennies to all the people who bought the particular toothpaste based on the claim they might file. So my question is: Would an appropriate remedy be to order the offending company to reduce the price of the product so many cents, we will say for toothpaste so many cents a tube, until the State has recovered that $3 million, and would the sponsors and the floor managers consider accepting an amendment to so provide?

Mr. MORGAN. I say to the Senator that he raises a very real question that troubled those of us who brought such actions as attorney general as to what to do with the proceeds and his solution may be a very valid one, but I am not the floor manager of the bill, and my amendment at this time does not deal with that. But I will be glad to consult with the floor managers, come back with an answer, and discuss the matter with the Senator. Not being the floor manager and he being unable to be here, I do not believe that I should attempt to speak in his behalf, but I do recognize that the point that the Senator brought forward is a very valid point.

Mr. BUMPERS. If the Senator will yield, are we under any time restraint? I do not want to unnecessarily consume another Senator's time.

Mr. MORGAN. No. I yield for a question.

Mr. BUMPERS. I am not sure I am going to be here next week. That is the reason I want to get this off my chest now.

One other thing I have been concerned about is the possibility of being faced with a prospect of 50 different lawsuits. There are certain discretionary methods—I think of the Federal Rules of Civil Procedure now—by which a court can order consolidation of certain pretrial discovery work. But I was wondering whether or not it might not be feasible to provide in this bill that courts be strongly encouraged to order consolidation of discovery and pretrial techniques so that the specific business would not be subject to the same duplicitous cost and trouble in the 50 different States?

Mr. MORGAN. I say to the Senator, yes, it would be feasible to add such a provision. But I also add on the basis of my experience in the tetracycline case I do not think we need to encourage judges to do it because they consolidated us all over America and, actually, that is one of the reasons that makes it so difficult to try these cases, and that is why I think we need to pass some legislation that will give attorneys general some standing.

But I think the answer to it is, yes, they should be urged to consolidate.

We were meeting in Minneapolis and the next time we were meeting in New York, but it was a question of consolidating the cases and bringing them all together for trial.

Mr. BURDICK addressed the Chair.

Mr. BUMPERS. Will the Senator yield for a third question? Then I will be happy to yield to the Senator from North Dakota.

Mr. MORGAN. I yield.

Mr. BUMPERS. One other part of this bill which troubled me is, for example, in my State everything is appropriated on a line item basis. The attorney general's budget is based on a line item appropriation. This bill provides that, if the attorney general is found to have brought a spurious or specious lawsuit or one, indeed, brought in bad faith or certain other criteria set in the bill, the defendant is entitled to attorney fees. Those attorney fees in a case of some magnitude add up to several hundred thousand dollars. And in a State like mine, there is not any way for the attorney general to comply with this bill without the appropriation from the legislature and, if the legislature simply refused to do it, it occurs to me one or two things might happen. A company can file a claim with the Arkansas Claims Commission, for example. The claims commission might honor it or might not. They certainly would be under a mandate to honor the claim. And the second possibility is that the attorney general could be made personally liable in the absence of appropriation by the legislature. Would the Senator agree with that analysis?

Mr. MORGAN. Yes.

I say to the Senator that the Hart-Scott substitute would make it applicable only to cases of bad faith. However, the distinguished Senator from New York (Mr. BUCKLEY) has proposed an amendment which would make it applicable to all cases, which I think the distinguished Senator from Arkansas would want to oppose, as I would.

However, our proposal would only make it applicable to bad faith cases. I cannot conceive of a situation in which a court would order attorneys' fees paid in the absence of clear and convincing evidence of bad faith on the part of the attorney general.

I think this would serve also as a deterrent to those attorneys general about whom there seems some little fear that they might run off in every direction. I do not believe that to be true. But even if that is the tendency or if that feeling is well founded, I think the bad faith or good faith part would restrain it.

Mr. BUMPERS. Is this really a valid provision in the bill, since the attorney general cannot pay the attorney fees in the absence of a legislative appropriation?

Mr. MORGAN. I did not hear the Senator.

Mr. BUMPERS. I will repeat it.

I agree that it does serve as a deterrent, because no attorney general, from a purely political standpoint, is going to bring a case in bad faith. But, as a practical matter, is there any method by which an attorney can get attorney's fees unless the legislature appropriates money? If they fail to do so or refuse to do so, as a practical matter, is not this provision really of no validity?

Mr. MORGAN. I would be inclined to agree, if the legislature did not appropriate the money, that there would be no way we could be paid.

Mr. BUMPERS. I thank the Senator.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. BURDICK. I should like to answer one of the questions raised by the Senator from Arkansas about the method of assessing damages and paying the citizens of a State.

The entire section 4, in my opinion, is fraught with unconstitutionality, and I intend to speak at length on it tomorrow, citing chapter and verse.

The difficulty with the Senator's suggestion is that when the antitrust violations occur, there is one set of citizens in the State, one set of buyers or consumers, and at the time that the matter is settled and decided, there is an entirely different set of consumers who would be paid. In other words, the people harmed are not necessarily the people being paid.

Beyond that, the cases uniformly have held that where you have claim for damages based upon a fluid recovery, where you do not have an identified claimant, and you do not have an identified amount, that the assessment is unconstitutional. It has been suggested that the way to prevent unjust enrichment is through a penalty.

To answer the Senator's first question, the difficulty is that we would be rewarding people who were not damaged in the first place, and we run up against some legal problems.

Mr. MORGAN. Mr. President, whether a person is for this bill or not, I believe that my amendment would be acceptable and would be a good amendment, because it restricts to some degree the actions that can be brought. It restricts it to those actions that would be per se violations. Per se violations generally are defined as naked restraint of trade, with no purpose except that of stifling competition.

The second provision of the bill would keep it from being retroactive—that is, it would not apply to any actions that already may have occurred or may have accrued.

Mr. President, the parens patriae provisions of the pending Hart-Scott substitute amendment authorizes State attorneys general to recover damages for violations of the Sherman Act on behalf of natural persons—consumers—in their States.

In general, I support this title, and believe it is a necessary and appropriate mechanism to prevent antitrust violators from retaining the fruits of their illegal acts, and to provide recovery of damages broadly sustained among consumers.

This title of the substitute amendment will create a mechanism for collecting damages in cases in which many consumers have been damaged a small amount. The total loss to consumers is large, but the loss to individual ones is too small to permit thousands of suits.

I am concerned, however, about the breadth of offenses—any violation of the Sherman Act—for which treble damages can be recovered on behalf of consumers under title IV. Often a businessman may not know when his conduct is violating one of the more esoteric provisions of the Sherman Act or one that is judged on a rule-of-reason basis. Similarly, some offenses are status offenses, such as monopolization under section 2, which do not require predatory conduct as an element of the offense.

On the other hand, I cannot support the effort to limit title IV to willful price-fixing offenses. Since 1890, section 1 of the Sherman Act has prohibited "every contract, combination or conspiracy in restraint of trade." No justification exists for singling out price fixing and permitting other equally pernicious and hard-core antitrust violations such as agreements to limit production, to divide up markets, to allocate customers, to engage in group boycotts, and similar illegal conduct—all of which are per se offenses of the Sherman Act and all of which have the same effect of illegally driving up prices to consumers just as if the price of a product has been fixed.

In *Northern Pacific Railway Company* v. *U.S.*, 356 U.S. 1, 5 (1958), the Supreme Court stated:

> There are certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to the precise harm they have caused or the business excuse for their use. This principle of *per se* unreasonableness . . . makes the type of restraints which are proscribed by the Sherman Act more certain to the benefit of everyone concerned. . . .

In *U.S.* v. *Topoc Associates,* 405 U.S. 596, 607–08 (1972), the Court stated:

> It is only after considerable experience with certain business relationships that courts classify them as *per se* violations of the Sherman Act.
>
> This Court has reiterated time and time again that [*per se* offenses] are naked restraints of trade with no purpose except stifling of competition.
>
> Without the *per se* rules, businessmen would be left with little to aid them in predicting in any particular case what courts will find to be legal and illegal under The Sherman Act.

It seems to us that an appropriate middle position between both extremes is to limit the scope of Sherman Act offenses for which parens patriae actions can be filed to hard-core offenses such as per se violations and fraud on the Patent Office. I believe that such a provision will protect the consumer while at the same time protect honest businessmen against possible huge liability for inadvertent violations.

I also am concerned about the retroactive application of the liability imposed by title IV. Since title IV has both deterrent and compensatory purposes, I believe it fair for its provisions to apply prospectively only. In the context of prospective application to the most pernicious offenses, I support the retention of title IV's treble damage provision—a provision in the antitrust laws since their original enactment in 1890.

Accordingly, I have offered an amendment limiting title IV to per se offenses and fraud on the Patent Office and applying its provisions prospectively only. I have been advised that this amendment is acceptable to the managers of the bill, Mr. President, and I ask support for its moderating influence.

Mr. President, because it is a rather simple amendment and a restricting amendment, I believe it is one that can be voted for by all those who favor the bill as well as those who oppose it. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A request is pending for the yeas and nays.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Alabama wish to renew his request for a quorum call?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent that there be a 10 minute rollcall vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HRUSKA. Mr. President, I express support and sympathy for the approval of the amendment offered by the distinguished Senator from North Carolina.

Both parts of the amendment will represent an improvement. I think the second part particularly is commendable, because it will make the act prospective in nature, and it will be only fair to those who have functioned under one order of things not to be visited with a subsequently passed act of this nature and of this degree and intensity.

So I support the amendment and shall vote for it.

Mr. MATHIAS. Mr. President, I rise to join my distinguished colleague from North Carolina (Mr. Morgan), in proposing the amendment which would limit the parens patriae provisions in title IV of the Hart-Scott substitute to per se violations and fraud on the Patent Office.

I am convinced that this amendment is an appropriate compromise between the House version of title IV which limits these actions to willful price-fixing and the present version of the Hart-Scott substitute bill. I have been advised that this amendment is acceptable to the managers of the bill; and it is my hope that it will be accepted by my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel) and the Senator from Montana (Mr. Mansfield) are officially absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), and the Senator from Connecticut (Mr. Ribicoff) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. Case), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Pearson), the Senator from Virginia (Mr. Scott), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The result was announced—yeas 72, nays 0, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—72

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Fannin
Ford
Garn
Glenn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGovern
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—0

NOT VOTING—28

Abourezk
Bentsen
Case
Church
Eagleton
Eastland
Fong
Goldwater
Gravel
Huddleston
Humphrey
Inouye
Kennedy
Mansfield
McGee
McIntyre
Mondale
Montoya
Packwood
Pastore
Pearson
Pell
Ribicoff
Scott, William L.
Stennis
Stevens
Tunney
Williams

So Mr. Morgan's amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. ALLEN. Have the yeas and nays been ordered?

Mr. FORD. Mr. President, I suggest the absence of a quorum.

Mr. ALLEN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The absence of a quorum has been suggested, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Alabama.

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER (Mr. Gary Hart). Objection is heard. The clerk will continue calling the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, will the Senator yield for a unanimous-consent request without losing his right to the floor?

Mr. President, I ask unanimous consent that Mr. Ira Shapiro, a member of my staff, be permitted the privileges of the floor during the consideration of this legislation and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Fleming, of my staff, be accorded the privilege of the floor during the consideration and vote on this measure.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **MORGAN**. Mr. President, I send an amendment in the nature of a substitute for the Allen substitute to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. **MORGAN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Amendment proposed by Mr. MORGAN (for himself, Mr. Philip A. Hart, and Mr. Hugh Scott) to the Allen amendment in the nature of a substitute:

Strike out all after the enacting clause and insert the following:

SHORT TITLE

SEC. 101. This Act may be cited as the "Hart-Scott Antitrust Improvements Act of 1976".

TITLE I—DECLARATION OF POLICY

SEC. 102. (a) It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement of the antitrust laws, to improve and modernize antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

(b) The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free, democratic society;

(2) the decline of competition in the economy could contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(5) vigorous and effective enforcement of the antitrust laws, and reduction of anticompetitive practices in the economy, can contribute to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms..

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

SEC. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Subsection (a) of section 2 is amended by inserting "and" after the semicolon at the end of subparagraph (1), by striking subparagraph (2) thereof, and by renumbering subparagraph (3) and striking therefrom "(A)" after the words "with respect to," substituting a semicolon for the comma after the words "trade or commerce" and striking the remainder of the subparagraph.

(b) Subsection (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities preparatory to a merger, acquisition, joint venture, or similar transaction, which may lead to any antitrust violation;".

(c) Subsection (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including any natural person or entity acting under color or authority of State law;".

(d) Subsection (h) of section 2 is amended by striking out the words "antitrust document".

(e) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation or to competition in a Federal administrative or regulatory agency proceeding, he may, prior to the institution of a civil or criminal proceeding thereon or during the pendency of an agency proceeding, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning such information, or to furnish any combination thereof.".

(f) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the investigation and the provision of law applicable thereto or the Federal administrative or regulatory agency proceeding involved; and

"(2)(A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) propound with definiteness and certainty the written interrogatories to be answered; and

"(ii) prescribe a date or dates at which time answers to the written interrogatories shall be made; and

"(iii) identify the custodian to whom such answers shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examination, and the custodian to whom the transcript of such examination shall be given.".

(g) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any information that would be privileged from disclosure if demanded by, or pursuant to, a subpena issued by a court of the United States in aid of a grand jury investigation; and

"(2)(A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(h) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any person who, in the opinion of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, is not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(i) Section 3 is further amended by inserting the following new subsections immediately after subsection (h), as redesignated:

"(i) The production of documentary material in response to a demand for production thereof shall be made under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed or, if the person to which the demand is directed is not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer, and the answers shall be submitted under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed, or if the person to which the demand is directed is not a natural person, by a person or persons responsible for the answers, to the effect that all information required by the demand and in the possession, custody, or control of the person to whom the demand is directed, or within the knowledge of such person, has been furnished.

"(k)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the custodian. The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts personal business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) When the testimony is fully transcribed, the witness shall be afforded an opportunity to examine the transcript, in the presence of the officer, for errors in transcription. Any corrections of transcription errors which the witness desires to make shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The witness also may clarify or complete answers otherwise equivocal or incomplete on the record, which shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded an opportunity to examine it, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the custodian. Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

"(4) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer any question on grounds of privilege or other lawful grounds; but he shall not otherwise interrupt the examination. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such person had refused to answer such question after having been subpenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(5) Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person, not the subject of an antitrust investigation (or an officer, director, employee or agent thereof), who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.".

(j) Subsection (a) of section 4 is amended by striking the words "antitrust document", and by inserting immediately after the word "custodian" the words "of documentary material demanded, answers to written interrogatories served, or transcripts of oral testimony taken, pursuant to this Act".

(k) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(l) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "any" the word "such", by inserting in the first sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the second sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the third sentence immediately after the word "material", in both places where it appears, the words "or information", by inserting in the fourth sentence immediately before the word "documentary" the word "such", and by adding after the fourth sentence the following new sentence: "Such documentary material and answers to interrogatories may be used in connection with any oral testimony taken pursuant to this Act.".

(m) Subsection (d) of section 4 is amended to read as follows:

"(d)(1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding such attorney shall return to the custodian any such materials so delivered that have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony shall deliver to the Federal Trade Commission, in response to a written request, copies of such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any investigation or proceeding under its jurisdiction unless the Assistant Attorney General in charge of the Antitrust Division determines that it would not be in the public interest to provide such material to the Commission. Upon the completion of any such investigation or proceeding, the Commission shall return to the custodian any such materials so delivered that have not been introduced into the record of such case or proceeding before the Commission. While such materials are in the possession of the Commission, it shall be subject to any and all restrictions and obligations which this Act places upon the custodian of such materials while in the possession of the Antitrust Division of the Department of Justice.".

(n) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of—

"(1) the antitrust investigation for which any documentary material was produced pursuant to this Act; and

"(2) any such case or proceeding,

the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(o) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) so produced by such person.".

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced, answers to written interrogatories served, or transcripts of oral testimony taken, under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material, answers to interrogatories, or transcripts of oral testimony, and (2) transmit in writing to the person who submitted the documentary material notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

(q) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(r) The first sentence of subsection (b) of section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator or investigators named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(s) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: "*Provided*, That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(t) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(u) Subsection (c) of section 5 is amended by striking out the word "delivered", and by inserting immediately after the word "material" the words "or answers to interrogatories delivered, or transcripts of oral testimony given".

(v) The third paragraph of section 1505 of title 18, United States Code, is amended by inserting between the words "any" and "documentary" the words "oral or written information or any", and by inserting between the third and fourth paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

Sec. 202. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 16), is amended by adding at the end thereof the following new subsections:

"(j) A plea of nolo contendere in a criminal proceeding under the antitrust laws shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

"(k) The Attorney General, unless he determines it would be contrary to the public interest, shall upon written request from the Federal Trade Commission, after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding or after the termination of any grand jury proceeding which does not result in the institution of such a proceeding, permit the Commission to inspect and copy any documentary material produced in and the transcripts of such grand jury proceeding. While such materials are in the possession of the Commission, the Commission shall be subject to any and all restrictions and obligations placed upon the Attorney General with respect to the secrecy of such materials.

"(l) Any person that institutes a civil action under this Act may, upon payment of reasonable charges therefor and after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding, inspect and copy any documentary material produced in and the transcript of such grand jury proceeding concerning the subject matter of such person's civil action. Any action or proceeding to compel the grant of access under this subsection shall be brought in the United States district court for the district in which the grand jury proceeding occurred. The court may impose conditions upon the grant of access and protective orders that are required by the interests of justice.".

Sec. 203. The provisions of this title shall be effective on the date of enactment of this Act, and the provisions providing for the production of documents or information may be employed in respect of acts, practices, and conduct that occurred prior to the date of enactment thereof.

TITLE III—MISCELLANEOUS AMENDMENTS

AFFECTING COMMERCE

Sec. 301. (a) Sections 2 and 3 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes", approved October 15, 1914 (15 U.S.C. 13 and 14) and section 3 of the Act entitled "An Act to amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (15 U.S.C. 13a), are amended by striking out the words "in commerce" wherever the term appears and inserting in lieu thereof the words "in or affecting commerce".

(b) Section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 18), is amended by striking out in the first sentence thereof the words "engaged in commerce" and "engaged also in commerce,"; by striking out in the second sentence thereof the words "engaged in commerce,"; by inserting in the first sentence thereof after the word "corporation", third appearance, the words ", where the activities of either corporation are in or affect commerce and"; by inserting in the first sentence thereof a comma between the words "where" and "in"; by inserting in the second sentence thereof after the word "corporations" the words ", where the activties of either corporation are in or affect commerce and"; and by inserting in the second sentence thereof a comma between the words "where" and "in".

(c) Section 6 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 6), as amended, is amended by striking the words "and being in the course of transportation from one State to another, or to a foreign country", and inserting in lieu thereof the words "and being in or affecting commerce among the several States, or with foreign nations".

COMPLEX CASES

Sec. 302. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12), is amended by adding at the end thereof the following new section:

"Sec. 27. (a) In any civil action brought in any district court of the United States under the antitrust laws, or any other Acts having like purpose that have been or hereafter may be enacted, the chief judge of the district court or the trial judge assigned to hear and determine the case—

"(1) may, upon application of either party to the proceeding, or upon his own motion, designate the case as a complex antitrust case; and

"(2) shall, upon the filing of a certificate by the Attorney General that, in his opinion, the case is a complex antitrust case, designate the case as a complex antitrust case.

It shall be the duty of the chief judge, and the trial judge designated to hear and determine any case designated as a complex antitrust case, to set the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. Special masters, economic experts, and other personnel may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters.

"(b) Such special masters, economic experts, and other personnel as may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters, also may serve as expert witnesses. They may be used by the court in all phases of the trial, including the preparation and analysis of plans for relief. They (1) may be furnished with all evidence introduced by any party; (2) may provide additional evidence subject to objection by any party; (3) may provide an analysis of issues with particular reference to proposed orders to restore effective competition; (4) may recommend provisions for proposed orders to restore effective competition; and (5) shall be subject to cross-examination and rebuttal.

"(c) In any case designated as a complex antitrust case, the provisions of section 604 of title 28, United States Code, providing for the payment of expenses and compensation shall apply in order to provide compensation to such master, expert, or other personnel that may be appointed.".

FOREIGN ACTIONS

Sec. 303. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12), is amended by adding at the end thereof the following new section:

"Sec. 28. In any civil action or proceeding before any court of the United States, involving any Act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies, in which the court orders any party (or any officer, director, employee, agent, subsidiary, or parent thereof within the jurisdiction of the court) to furnish discovery, evidence, or testimony in the custody, possession, or control of such party (or officer, director, employee, agent, subsidiary, or parent thereof) and such party (or officer, director, employee, agent, subsidiary, or parent thereof) refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance by such party (or officer, director, employee, agent, subsidiary, or parent thereof) with such order, the court may enter an order against such party dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party: *Provided*, That where in any such action or proceeding the court orders any party to furnish discovery, evidence, or testimony in the custody, possession, or control of any officer, director, employee, agent, subsidiary, or parent of such party not subject to the jurisdiction of such court, and such party refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance by such person or entity with such order, the court shall order such party to make a good faith effort to secure a waiver from such law. If the court determines that such effort has been made and a waiver is not secured, it shall not on the basis of such refusal, declination, or failure enter an order against such party dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party.".

ATTORNEYS' FEES

Sec. 304. Section 16 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 16, 1914 (15 U.S.C. 26), is amended by adding at the end thereof the following new sentence: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.".

SEVERABILITY

SEC. 305. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Section 301 of this title shall apply to acts, practices, and conduct occurring after the date of enactment of this Act.

(b) Section 302 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed.

(c) Section 303 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Nothing contained in this subsection shall be deemed to limit the authority of any court to reenter any discovery order heretofore entered, and thereby make such section 3C3 applicable thereto.

(d) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

TITLE IV—PARENS PATRIAE AMENDMENTS

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4B the following new sections:

"SEC. 4C. (a)(1) Any attorney general of a State may bring a civil action, in the name of such State in any district court of the United States having jurisdiction of the defendant, to secure monetary and other relief as provided in this section in respect of any damage sustained, by reason of the defendant's having engaged in any activity deemed a per se offense or arising out of the fraudulent procurement or enforcement of a patent in violation of the Sherman Act, by the natural persons residing in such State, or any of them: *Provided*, That no monetary relief shall be awarded in respect of such damage that duplicates any monetary relief that has been awarded or is properly allocable to (i) such natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in subsection (a)(1) of this section; such other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act; and the cost of suit, including a reasonable attorney's fee and other expenses of the litigation.

"(b)(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person may elect to exclude from adjudication in an action brought under subsection (a)(1) of this section the portion of the State claim for monetary relief attributable to him. He shall do so by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b)(1) of this section.

"(3) The final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this Act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b)(2) of this section.

"(c)(1) In any action brought under subsection (a)(1) of this section, and in any class action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reaonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

"(2) In any action brought under subsection (a)(1) of this section, the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"(d) An action brought under this section shall not be dismissed or compromised without approval of the court after providing such notice to persons affected thereby as the court shall direct in the interests of justice.

"(e) In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"SEC. 4E. (a) In any action under section 4 or 4C of this Act, the State or any other plaintiff shall be entitled to recover treble damages in respect to the full amount of overcharges incurred or other monetary damages sustained in connection with expenditures under a federally funded program, notwithstanding the fact that the United States funded portions of the amounts claimed.

"(b) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(c) Out of any damages recovered pursuant to this section, the United States shall be entitled to the portion of the overcharges or other monetary damages, untrebled, that it sustained or funded. Whenever another Federal statute or law provides a specified method of settlement of accounts between the State and Federal governments, in respect of such recovery, such method shall be used. Otherwise, the court before which the action is pending shall determine the method.

"(d) In the event of multiple actions in respect of the same alleged overcharges or other damages relating to a federally funded program, the defendant shall not be assessed, in total, more than threefold such damages.

"SEC. 4F. For the purposes of sections 4C, 4D, and 4E of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and shall include the Corporation Counsel of the District of Columbia.

"(2) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'Sherman Act' means the the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1), as amended or as may be hereafter amended.".

SEC. 402. Section 4B of such Act is amended by striking out the words "sections 4 or 4A" and inserting in lieu thereof the words "sections 4, 4A, or 4C".

SEC. 403. Section 5(i) of such Act is amended by striking out the words "private right of action" and inserting in lieu thereof the words "private or State right of action"; and by striking out the words "section 4" and inserting in lieu thereof the words "sections 4 or 4C".

SEC. 404. If any provision of this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by such holding.

SEC. 405. This title shall apply to all civil actions filed under the antitrust laws in which the cause of action accrued before the date of enactment of this title, but shall not apply to any civil action alleging a violation previously alleged in any civil action filed on behalf of a class of consumers.

TITLE V—PREMERGER NOTIFICATION AND STAY AMENDMENTS

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 7A to read as follows:

"SEC. 7A. (a) Notwithstanding any other provision of law, except as exempted pursuant to subsection (b)(4) of this section, until expiration of the notification and waiting period specified in subsection (b)(1) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce, and—

"(1) stock or assets of a manufacturing company with annual net sales or total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(2) stock or assets of a nonmanufacturing company with total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(3) stocks or assets of a person or persons with annual net sales or total assets of $100,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $10,000,000 or more.

"(b)(1) The notification and waiting period required by this section shall expire thirty days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assisant Attorney General') duplicate originals of the notification specified in paragraph (3) of this subsection, or until expiration of any extension of such period pursuant to subsection (c)(2) of this section, whichever is later, except as the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section.

"(2) Notwithstanding any other provision of law or the applicability of subsection (a) of this section, except as exempted pursuant to subsection (b)(4) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if—

(A) the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce; and

"(B) the Federal Trade Commission, with the concurrence of the Assistant Attorney General, by general regulation requires, after notice and submission of views, pursuant to section 553 of title 5, United States Code, that such person or persons, or any class or category thereof, shall not do so until the expiration of thirty days following the filing of a notification (specified pursuant to paragraph (3) of this section), or until the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section, whichever occurs first.

"(3)(A) The notification required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553 of title 5, United States Code

"(B) The fact of the filing of the notification required by this section and all information and documentary material contained therein shall be considered confidential under section 1905, title 18, United States Code, until the fact of such filing or of the proposed merger or acquisition is public knowledge, at which time such notification, information, and documentary material shall be subject to the provisions of section 552(b), title 5, United States Code. Nothing in this section is intended to prevent disclosure to any duly authorized committee or subcommittee of the Congress, to other officers or employees concerned with carrying out this section or in connection with any proceeding under this section.

"(4)(A) The Federal Trade Commission, with the concurrence of the Assistant Attorney General, is authorized and directed to define the terms used in this section, to prescribe the content and form of reports, by general regulation to except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not inconsistent with the purposes of this section, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The following classes of transactions are exempt from the notification requirements of this section:

"(i) goods or realty transferred in the ordinary course of business;

"(ii) bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(iii) interests in a corporation at least 50 per centum of the stock of which already is owned by the acquiring person or a wholly owned subsidiary thereof;

"(iv) transfers to or from a Federal agency or a State or political subdivision thereof;

"(v) transactions exempted from collateral attack under section 7 of this Act if approved by a Federal administrative or regulatory agency: *Provided,* That duplicate originals of the information and documentary material filed with such agency shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(vi) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), as amended, or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended;

"(vii) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended, section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), as amended, or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended: *Provided,* That duplicate originals of the information and documentary material filed with such agencies shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least thirty days prior to consummation of the proposed transaction;

"(viii) acquisitions, solely for the purpose of investment, of voting securities, if, at the time of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(ix) acquisitions of voting securities, if, at the time of such acquisition, the securities acquired do not increase, directly or indirectly, the acquiring person's share of outstanding voting securities of the issuer; and

"(x) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, other than voting securities or other voting share capital, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business.

"(C) For the purpose of subsection (b)(4)(B) of this section, 'voting security' means any security presently entitling the owner or holder thereof to vote for the election of directors of a company or, with respect to unincorporated issuers, persons exercising similar functions.

'(c)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the periods specified in subsection (b)(1) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) The Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsection (b)(1) of this section for an additional period of up to twenty days after receipt of the information and documentary material submitted pursuant to subsection (c)(1) of this section.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that a proposed acquisition or merger violates section 7 of this Act, or section 1 or 2 of the Sherman Act (15 U.S.C. 1–2), and the Federal Trade Commission or the Assistant Attorney General (i) files a motion for a preliminary injunction against consummation of such acquisition or merger pendente lite, and (ii) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(1) upon the filing of such certification the chief judge of such district court shall enter an order temporarily restraining consummation of such proposed acquisition or merger until final disposition of the motion for a preliminary injunction; and shall immediately notify the chief judge of the United States court of appeals for the circuit in which court is located, who shall designate a United States district judge to whom action shall be assigned for all purposes;

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited;

"(3) a preliminary injunction shall issue restraining consummation of such proposed acquisition or merger until the order of the Federal Trade Commission in respect thereof or the judgment entered in such action has become final unless the defendants show that the Federal Trade Commission or the United States does not have a reasonable probability of ultimately prevailing on the merits, or that they will be irreparably injured by the entry of such an order, in which case the court may deny, modify, or subject such preliminary injunction to such conditions as the court shall deem just in the premises: *Provided,* That a showing of loss of anticipated financial benefits from the proposed acquisition or merger shall not be sufficient to warrant denial, modification, or conditioning of such an injunction; and

"(4) if a decision by the district court on such motion for a preliminary injunction is not issued within sixty days after issuance of the order temporarily restraining consummation of such proposed acquisition or merger, under paragraph (1) of this subsection, such order shall be vacated unless, for good cause, the chief judge of the United States court of appeals for such circuit extends such order.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b)(1) and (b)(2) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to such acquisition, at any time under any provision of law.

"(f)(1) Whenever any person violates or fails to comply with the provisions of subsection (a) of this section, such person shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Whenever any person fails to furnish information required to be submitted, pursuant to subsection (c)(1) of this section, such person shall be liable for the penalties provided for noncompliance with the provisions of the Federal Trade Commission Act or the Antitrust Civil Process Act, as the case may be.

"(g) In any proceeding instituted or action brought by the Federal Trade Commission or the United States alleging that an acquisition violates section 7 of this Act, or sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), upon application of the Federal Trade Commission or the Assistant Attorney General to the United States district court within which the respondent resides or carries on business, or in which the action is filed, such court shall, as soon as practicable, enter an order establishing the purchase price of the acquired stock or assets, requir-

> ing the acquiring person or persons to maintain the personnel, assets, stock or firm being acquired as a separate entity unless the interests of justice require otherwise, and may enter an order requiring the profits of the acquired firm, stock, or assets to be placed in an escrow account, pending the outcome of the proceeding or action. Upon entry of a final order or judgment of divestiture under section 7 of this Act, or sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), the court shall order that the divestiture be accomplished expeditiously. To the extent practicable, the court may deprive the violator of all benefits of the violation including tax benefits.".
>
> SEC. 502. The provisions of this title shall be effective one hundred and twenty days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized and directed to carry out the requirements of sections 7A (b) (3) and (b) (4) of the Clayton Act, as amended by this Act.

Mr. MORGAN. Mr. President, just a few moments ago we adopted unanimously an amendment that I offered which had the effect of substantially limiting the jurisdiction of the various attorneys general.

In the bill, as it came out of the Judiciary Committee, the attorney general could bring an action for anything done that was forbidden by the Sherman Antitrust Act.

This was a rather broad authority because there are times when businesses could violate the Sherman Antitrust Act without being aware of it.

So we amended that, we struck that out. We limited the right of the attorney general to bring an action only when such parties were engaged in any activity deemed a per se offense, or arising out of the fraudulent procurement or enforcement of a patient in violation thereof.

In other words, now, for an attorney general to bring an action under this, the acts complained of would have to be acts that would constitute a per se offense, and the per se offenses having been defined by the court time and time again are those offenses which are naked restraints of trade with no purpose except stifling of competition. It has got to be a pretty clear case.

Second, the amendment struck the part which made it retroactive. They could not bring an action for any causes which might have already arisen.

So my amendment, having been adopted, substantially reduces or restricts the judiciary bill.

As the Senator from Arkansas pointed out, there is a provision in this bill which would allow for compensation of attorneys' fees to the defendants if the attorney general acted in bad faith.

I believe, Mr. President, that this is a bill now that could be acceptable to all of us. It is the same bill that was brought out by the Judiciary Committee with those two exceptions.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, this amendment, or this substitute for a substitute, of course, cannot be amended.

For that reason, the amendments prior to that can be and, if necessary, I will offer an amendment to my substitute. But the effect of this substitute would be that of these five titles that we have in the bill, there would be no opportunity whatsoever to pick and choose as between those titles. We are frozen in. There is no opportunity here in the Senate to perfect that Senate version.

I doubt if many Members of the Senate could say what the five titles are that are in the bill. But if this amendment is adopted, if this substitute is adopted, we will not have any opportunity whatsoever to amend any further. We have got to take it just as it is.

I do not believe the Senate wants to do that. I believe the Senate would like to have some opportunity to shape this bill. But the pending amendment does not give that opportunity.

I might say also that I am wondering if we should have staff personnel representing the entire democratic body of Senators that should be advising Senators from time to time as to strategy and as to what to say in answer to arguments made by Senators.

They make no suggestions to the Senator from Alabama and I am wondering why they should be volunteering from time to time to those who are seeking to ram this substitute through.

Mr. MORGAN. If the Senator will yield, I will answer the question.

Mr. ALLEN. So, Mr. President, in order that we will have more opportunity to shape this measure, or that we will not cut off amendments, I move to take the substitute offered by the Senator from North Carolina and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Morgan substitute. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Iowa (Mr. CLARK), the Senator from Indiana (Mr. BAYH), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The result was announced—yeas 36, nays 33, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—36

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Fannin
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Johnston
Laxalt
Long
McClellan
McClure
Roth
Scott, William L.
Sparkman
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—33

Brooke
Byrd, Robert C.
Cranston
Culver
Durkin
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Jackson
Leahy
Magnuson
Mathias
McGovern
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Percy
Proxmire
Randolph
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Weicker

NOT VOTING—31

Abourezk
Bayh
Bentsen
Biden
Case
Church
Clark
Eagleton
Eastland
Fong
Goldwater
Gravel
Huddleston
Humphrey
Inouye
Javits
Kennedy
Mansfield
McGee
McIntyre
Mondale
Montoya
Packwood
Pastore
Pearson
Pell
Ribicoff
Stennis
Stevens
Tunney
Williams

So the motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I offer an amendment to the substitute of the distinguished Senator from Alabama (Mr. ALLEN), to strike the last section, which reads as follows:

> SEC. 4(g). This Act shall not be applicable in a particular State until that State shall provide by law for its applicability as to such State.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk, so that the clerk can report it?

Mr. ALLEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Alabama will state his point of order.

Mr. ALLEN. This amendment would be out of order because it would get us back to what might be called the pure House bill, which could not be a substitute because it is the House bill. It does not change the language of the House bill, if this were adopted.

The PRESIDING OFFICER. The amendment offered by the Senator from

North Carolina is not out of order. Although the Allen amendment, if originally offered in the form it would take if the Morgan amendment were agreed to, would not be in order, being changed to that form, through the legislative process, the Allen amendment would not be subject to a point of order.

Mr. MORGAN. Mr. President, the same argument that the distinguished Senator from Alabama made with regard to the amendment that I had offered applied to his. As I understnd it, now, that would preclude any other amendments, and we would be bound by it.

For that reason, Mr. President, I move that the Allen substitute, together with the amendment I just offered, be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. ALLEN. Mr. President, I make the point of order that the amendment was voted to be laid on the table just a few minutes ago, and the motion was defeated. There has been no change at all in the Allen amendment, and the motion to lay on the table was defeated, so this would be a second vote on the same issue.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. I withdraw my motion to lay on the table.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. MORGAN. Mr. President, I send to the desk in writing my amendment to the Allen amendment.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. The clerk will state the amendment. Will the Senator from North Carolina send his amendment to the desk?

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN) proposes to amend the Allen amendment by deleting section 4(g).

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. MORGAN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The Senate will be in order during the rollcall.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Senators who wish to converse will please remove themselves to the cloakrooms. The Senate will be in order. The rollcall will continue.

The rollcall was resumed.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The rollcall will continue.

The rollcall was resumed.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent to modify my amendment by having it to read section 4(i) rather than 4(g).

The PRESIDING OFFICER. The Senator has the right to modify the amendment without unanimous consent and the amendment is so modified.

Mr. MORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that Walker Nolan, of my staff, be accorded the privilege of the floor during consideration of this bill, H.R. 8532.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. I yield the floor.

Mr. ALLEN. Mr. President, the amendment of the distinguished Senator from North Carolina goes to the very heart of the substitute, and that is the question of passing the bill but allowing the State to determine whether or not it should come under the provision of the act.

As we discussed earlier today, it would be a very simple matter for a State legislature to pass a bill—it could be done in two lines—stating that the provisions of the U.S. Statute 94 dash, whatever the number is, shall be and hereby are made applicable to the State of Alabama. That would give the assent of the State to vesting the attorney general of that State with the authority to act under this bill.

It seems to me that it is the very heart of the amendment. I have stated that, so far as I am concerned—and I believe this would be the attitude of those who oppose the bill—if this substitute were adopted, we could go ahead and finish the bill and send it back to the House and get it in conference. I feel reasonably certain that there would be no major fight against the bill if this substitute were adopted.

If we eliminate this section by the amendment of the Senator from North Carolina, we are several days off from disposing of the measure. I hope that this could be dropped in conference. This amendment probably would be dropped in conference. We would end up with the House bill.

We are not anywhere near voting on my substitute, I feel sure, but at this time, if this language is not taken out of the substitute, it would give an indication that we are in for quite a long battle.

Mr. President, if no one else wishes to speak on this issue, I shall make a motion to table, but I shall not do so until those who wish to speak have that opportunity.

Mr. MORGAN. Mr. President, I should like to add a word.

Of course, I suspect that if we adopt the distinguished Senator's amendment to the bill, as he says, we will have no trouble passing it. But I do not believe it would be the kind of bill we really want to pass in the Senate.

My amendment would do this: First of all, if any State did not want its attorney general to have this authority, it wolud be much simpler for the State to exclude it than it would be to start from the ground up and have each State pass it one at a time.

We will debate later the merits of the proposal of the Senator from Alabama. However, I am of the opinion that if we get back to his substitute amendment and adopt it, we will preclude other amendments and we will be back in the same boat we would be in if we had adopted my amendment, according to the rules. So it is a question that we have to decide, and I hope we will not take it.

Mr. ALLEN. Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to table the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Regular order, Mr. President.

Mr. HRUSKA. Regular order, Mr. President.

Mr. ALLEN. Regular order, if you please, Mr. President. The time has expired.

The PRESIDING OFFICER. The regular order is for Senators in the Chamber to vote if they so choose.

Mr. ROBERT C. BYRD. Mr. President, I vote "no."

Mr. FORD. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator is recorded in the negative.

The second assistant legislative clerk

resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut, (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The result was announced—yeas 34, nays 33, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—34

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Dole
Domenici
Fannin
Garn
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
Laxalt
McClellan
McClure
Roth
Scott, William L.
Sparkman
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—33

Bayh
Brooke
Bumpers
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Jackson
Leahy
Magnuson
McGovern
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Percy
Proxmire
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Weicker

NOT VOTING—33

Abourezk
Bentsen
Biden
Case
Church
Curtis
Eagleton
Eastland
Fong
Goldwater
Gravel
Huddleston
Humphrey
Inouye
Javits
Kennedy
Long
Mansfield
Mathias
McGee
McIntyre
Mondale
Montoya
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Stennis
Stevens
Tunney
Williams

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Alabama.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUMPERS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, amendment No. 1701, which proposes to amend section 401 of the Hart substitute, provides for an award of reasonable attorneys' fees and all costs necessary to support the litigant's position when the defendant successfully defends his position. When a State attorney general brings an action under the parens patriae provisions of the pending legislation and does not prevail, the State shall be obligated to reimburse the defendant who has been literally forced into expenditures which can easily run into the hundreds of thousands of dollars but who has been vindicated by the results of the litigation. Especially given the potential for abuse, I believe it is unwise to delegate these sweeping powers to States' attorneys general without strong provisions that will insure that the private parties are left whole when and if the judicial process had vindicated them. We have heard much about Government abuse and the arrogance of power. It seems to me that, without a strong provision in the parens patriae section for full reimbursement of all reasonable costs of defense, the Congress will be establishing conditions where plaintiff's abuse of discretion or poor judgment is a burden we assign to the defendant. That is very unfair.

I am convinced that the 50 new "defenders of the public interest" proposed in the Hart-Scott substitute must be held accountable for the publicly funded litigation that proves to be unfounded. Without a legal costs section, companies can look forward to having "legal wars of attrition" waged against them in any State in which an ambitious attorney general sees political advantages in protracted antitrust litigation.

The result would be that a large corporation—or even a small one under the expanding ambit of the antitrust laws—could well be forced into a consent decree settlement for no reason other than a decision that prudence dictates avoiding what could eventually become very high legal costs.

The House took a modest step to avert such a result by allowing a discretionary grant of legal fees when a State's case is frivolous or in bad faith. It is hard to imagine how a court would define "frivolous" or "in bad faith," never mind the problem of proving their existence. We have in such language a problem not unlike the burden of proving "malicious" under the Sullivan doctrine in libel cases involving public officials. It seems to me that justice requires that the right to reimbursement be automatic in cases where the defendant is vindicated.

The mere status of being a defendant in an antitrust action is, in terms of time, money, and anxiety, more punishment than most convicted criminals ever see. Anyone who doubts this assertion should consider the case of Firestone and Goodyear. For 12 years, the Justice Department conducted discovery against those two companies, resisting any and all attempts by the defendants to bring the matter to trial. During that period, defendants spent roughly $2 million in addition to indeterminable amounts of executive time. When finally forced to come to trial, the Justice Department dropped charges, admitting in a 23-page memorandum that it had never had any direct evidence of wrongdoing and that it had used discovery in order to determine whether it had a case.

How many criminal defendants are able to pay $2 million and suffer 12 years of proceedings in anticipation of trial? How many have been forced to capitulate before charges they know to be unfounded? Clearly the time has come to recognize, and adjust, the unequal power held by Government.

Mr. President, if we are going to multiply fiftyfold the ability of Government to engage in this sort of antitrust litigation, then at least we should be willing to compensate the defendants in instances in which the Government is clearly in error. This is why I have introduced my amendment to section 401 of the Hart substitute to grant successful defendants in litigation under the parens patriae provisions their reasonable legal costs as a matter of right.

Mr. BAYH. Mr. President, I would like to take this time to speak in complete support of Senator PHILIP HART's amendment to H.R. 8532 to conform that bill to the text of S. 1284, as approved by the Judiciary Committee on April 6.

Accordingly, it is my intention to support a petition, which I understand will be filed shortly, to invoke cloture on the debate of Senator HART's amendment. If the Senate votes to invoke cloture, as I strongly hope it will, it is then my intention to support Senate passage of S. 1284 in the form approved by the Judiciary Committee.

I certainly have no desire to prolong the debate on S. 1284, but I do want to outline and explain the reasons for my positions.

Before I do that, though, I would like to digress for a moment to express my admiration and respect for the outstanding work that has been done on S. 1284 by its two sponsors, Senator HART of Michigan and Senator SCOTT of Pennsylvania. From the time they introduced S. 1284 in March of last year, Senators HART and SCOTT have been extraordinarily fair—as well as tireless—in agreeing to hold the numerous additional hearings and markup sessions requested by opponents of the bill. Their fairness to and concern for those opposed to S. 1284 has been such that I do not believe any one can plausibly claim this bill has been inadequately or hurriedly considered by the Judiciary Committee. In my view, Senator HART and Senator SCOTT have, for over a year, literally bent over backward to be as accommodating as possible to those opposed to all or part of S. 1284. And for that effort, I do not believe this body can commend them enough.

Now let me return to my decision to vote for cloture and, if that is invoked, for final passage.

My general view, since becoming a Member of this body, has been that the Senate should not be denied the right to vote on measures which reach the floor simply because a handful of Members persist in endless and meaningless debate. For that reason, it has been a rare occasion in my 13 years here when I have not supported a move to cutoff a filibuster and invoke cloture.

Leaving aside, however, my general outlook in filibusters, I can see absolutely no justification for allowing this particular bill to be subjected to a debate clearly designed for the sole purpose of preventing a vote on S. 1284.

First of all, this is not a bill, as I have already indicated, which has been hurried through the Antitrust Subcommittee or the Judiciary Committee. Indeed, there have been few bills which I can recall the Judiciary Committee considering as carefully and deliberately as this one. The record indicates that the Antitrust Subcommittee held 9 full days of hearings on S. 1284, at which more than 40 witnesses testified. And, I might add, not a single witness suggested by the opponents of the bill was denied the right to appear at one of those days of hearings. The Judiciary Committee, in considering S. 1284, held 8 separate days of markup sessions, totaling more than 16 hours of debate and involving more than 50 proposed amendments to the bill. I think those who claim this bill is being hurried through the Senate would be hard put to find another piece of legislation that has received such careful committee review.

Second, and in a similar vein, the entire Senate has devoted over 3 floor days to S. 1284 to date, and several more can be expected even if cloture were to be invoked. In light of those circumstances, it is difficult for me to give credence to any arguments that an attempt to limit debate would deny a minority the opportunity to be heard, or would help to rush a piece of legislation through the Senate without proper consideration. To the contrary, it would be the majority which is denied the right to be heard if debate continued unlimited.

Third, I think the Senate has an obligation to the Nation to record itself on a bill which has attracted such significant and bipartisan support throughout the country. There are, in any year, only a few Senate bills which gain such wide national support as S. 1284. Among the organized groups strongly supporting S. 1284 are: the National Association of State Attorneys General, the Computer Industry Association, the National Congress of Petroleum Retailers, Consumer Federation of America, United Mine Workers of America, National Farmers Union, AFL/CIO, National Rural Electric Cooperative Association, United Auto Workers, International Ladies Garment Workers Union, Independent Gasoline Marketers Council, National Consumers League, Retail Clerks International Association, National Retired Teachers Association, American Association of Retired Persons, United Steelworkers of America, Energy Action Committee, Committee for Public Advocacy, National Consumer Congress, Public Interest Economics Center, Common Cause, National Council of Senior Citizens, National Education Association, Amalgamated Clothing Workers of America, International Association of Machinists and Aerospace Workers, Congress Watch and the American Federation of State, County and Municipal Employees. I honestly do not see how we can expect the respect of these distinguished groups and their members, of our own constituents, and of the Nation if we do not even allow ourselves to vote on S. 1284.

Fourth, and finally, this is not an antitrust bill which the House will be unable to pass this year. The House has already passed a bill equivalent to the parens patriae title of S. 1284. It is very likely to soon pass bills similar to title II—Civil Process and Clayton Act Amendments and title V—Premerger Notification and Stay Amendments. And, because of changes which were made in S. 1284 prior to Judiciary Committee approval, the administration is no longer threatening a veto. I believe the chances are excellent that the President will sign a bill containing the elements of S. 1284. So if this body is at all serious about legislation designed to help enforce our antitrust laws, it has an ideal vehicle this year in S. 1284. Quite simply, this is a bill which has an excellent chance of becoming law, and we should not destroy that chance by refusing to even take a vote on S. 1284.

In sum, Mr. President, I think the arguments are compelling that the Senate should soon limit the debate on S. 1284 and be allowed to vote on this important piece of antitrust legislation. I therefore urge my colleagues to support a petition to invoke cloture on this debate.

As I have said, if cloture is invoked, I intend to vote for final passage of S. 1284 in the form approved by the Judiciary Committee. I plan to do so because this bill, the Antitrust Improvements Act of 1976, provides measures sorely needed to ensure the effective enforcement, at the Federal as well as the State levels, of our antitrust laws. Without such effective enforcement, I do not believe we can reasonably hope that our antitrust laws will ever come close to achieving their intended goals of preserving competition and protecting the public.

Let me emphasize here a point which has often been overlooked in the debate of the last few days. This bill is concerned solely with providing additional enforcement tools for existing laws and not with creating new antitrust offenses or liabilities. In other words, conduct which is permitted under our present antitrust laws will still be permitted if S. 1284 is enacted. All that will change is that the Justice Department, the Federal Trade Commission and the State attorneys general will be able to enforce the laws already passed by Congress. And, of course, under this bill, they will be able to do so through means which the experts who testified before the Antitrust Subcommittee believe are clearly and fully consistent with constitutional protections.

I think it is significant that the Judiciary Committee believes, after considerable debate among its members and after extended consultation with the leading antitrust experts in the country, that the most important way at present to generally improve the antitrust laws is not to create further offenses but rather just to enforce existing offenses. I am in complete accord with this Judiciary Committee view of the importance of meaningful enforcement of current laws. But I must add one caveat.

In the energy area, I believe strongly that more than just tightened enforcement is needed. In my view, the energy sector of our economy has become so concentrated and intertwined that greater enforcement of the Sherman and Clayton Acts is not enough For that reason, I have introduced with Senator HART of Michigan a bill, S. 2387, that would require vertical divestiture of this Nation's largest oil companies.

That bill is presently before the Judiciary Committee, having been approved by the Antitrust Subcommittee on April 8. The Judiciary Committee is scheduled to vote on S. 2387 on June 15, and I deeply hope it will approve the bill in its present form and send it to the Senate for its prompt consideration.

Obviously, S. 2387 is a very major, though absolutely necessary, step to return the industry to a truly competitive state. Perhaps if the critical enforcement tools provided for in S. 1284 had been in existence decades ago, S. 2387 would not be necessary. It is my sincere hope that by creating those tools now, we can eliminate the need in future years to apply such drastic measure to other industries.

In the last few days, a great deal has been said on this floor about the nature of the enforcement tools provided in S. 1284. They are also discussed in detail in the very thorough Judiciary Committee report on this bill, and I recommend that report to any of my colleagues who are uncertain about exactly what S. 1284 would do. I would like to use my remaining time to discuss two of the important and controversial enforcement tools that S. 1284 would create—parens patriae—title IV—and premerger notification and stays—title V.

Title IV would permit State attorneys general to bring private treble damage actions, for violations of the Sherman Act, on behalf of consumers residing in their State. The purpose of this enforcement tool is to fill a wide gap in existing enforcement of the Sherman Act. At present, violations of the Sherman Act, which injure tens of thousands of consumers, are not corrected because of inadequate resources at the Federal level. These violations can be corrected—and the consumer victims of the violations can be compensated for their losses—if State attorneys general are allowed to bring suits on behalf of the injured consumers.

In bringing these parens patriae suits, the State attorneys general will not be attempting to enforce new antitrust standards of conduct. They will only be attempting to recover damages for consumers injured by conduct violative of the Sherman Act. Without the authority to bring these parens patriae suits, such conduct would continue to occur, costing consumers tens of millions of dollars annually, and it would be virtually immune to correction.

The main components of the parens patriae concept established in title IV are, in my view, absolutely necessary to ensure the ability of parens patriae suits to compensate the victims of Sherman Act violations and to deter further violations of the act. For instance, treble damages are necessary as a measure of relief simply because relief of only single damages would provide considerably less incentive to corporations not to violate the act. And, of course, the treble damage concept is one which has been in our antitrust laws since the 1890's.

Further, the aggregation of damages concept is absolutely necessary to the effective operation of parens patriae. Unless damages can be aggregated in these suits, the courts would be clogged with thousands of consumers individually attempting to prove the extent of their damages. With aggregation, separate proof for each injured consumer will be unnecessary, though the State Attorney General will still have to prove a violation of the Sherman Act, the violation's injury to consumer, and the approximate amount of consumer damage.

I firmly believe that parens patriae is the only realistic means to insure that consumers do not remain unprotected from Sherman Act violations. I am convinced the concept is sound in law and will be effective in operation, and I urge my colleagues to support it in the form approved by the Judiciary Committee.

Title V would create a mechanism to provide advance notification to the Justice Department and the FTC of significant mergers prior to their consummation. It would also create a means by which the Attorney General or the FTC could enjoin illegal mergers before they are consummated.

Specifically, the notification provisions would amend the Clayton Act to provide for 30 days advance notification of mergers involving companies having at least $100 million in assets with companies having at least $10 million in assets. Only about 100 transactions a year would be affected by this requirement. But these are transactions which could have a serious and harmful effect on the competitive state of our economy. For that reason, it does not seem unreasonable to me to allow the Justice Department and the FTC some advance warning of such transactions. Only with advance warning will these antitrust authorities be able to determine if governmental action to prevent these mergers is appropriate prior to their consummation. At present, the Government is often placed in the nearly impossible position of seeking to prevent mergers only after it has been publicly announced that they have occurred.

The injunctive provisions would permit the Attorney General or the FTC to seek a court order preventing the consummation of mergers which they believe to be violative of the Clayton Act. If the Attorney General or the FTC certify to a court that the public interest requires relief pendente lite against a proposed merger, a court may issue a temporary restraining order of up to 60 days in duration. Before the 60-day period has expired, a court may issue a preliminary injunction as to the proposed merger, unless the defendant is able to prove the Government does not have a reasonable probability of ultimately prevailing on the merits or the defendant will be irreparably injured by the issuance of such an injunction.

It is my firm view that these injunctive provisions are a badly needed addition to our antitrust laws. Without them, we will be left with our present situation: the Government has an almost impossible burden of proof in attempting to prevent mergers prior to consummation; and once they have been consummated, they are rarely pulled apart by the courts, even where it is judicially found that the mergers were illegal. That situation must be changed, and I believe the injunctive provisions of S. 1284 will be a decided change in the right direction.

Mr. President, let me conclude by saying that I hope the Senate will soon agree to allow a vote on S. 1284 and will then pass this extremely important piece of antitrust legislation.

ORDER FOR ADJOURNMENT TO 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:45 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR HARRY F. BYRD, JR. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent after the two leaders or their designees have been recognized under the standing order tomorrow, Mr. HARRY F. BYRD, Jr., be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUME CONSIDERATION OF H.R. 8532 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of the order for the recognition of Mr. HARRY F. BYRD, Jr. tomorrow there be a period for the transaction of routine morning business not to exceed 30 minutes, with statements limited therein to 5 minutes each; at the conclusion of which morning business the Senate will resume consideration of H.R. 8532, the antitrust legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9:45 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. HARRY F. BYRD, Jr., will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will resume consideration of the antitrust legislation Rollcall votes may occur on tomorrow on procedural matters, or on amendments to the legislation, or on motions in regard to the same.

At 12 noon tomorrow, the Senate will go into executive session and after not to exceed 20 minutes for debate on the nomination of Mr. David M. Lilly of Minnesota to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1964, a rollcall vote will occur on the nomination; after which, without any intervening motion or debate, a rollcall vote will occur on the nomination of Mr. George Henry Kuper of the District of Columbia to be Executive Director of the National Center for Productivity and Quality of Working Life.

Upon the disposition of that nomination, without any intervening motion or debate, the Senate will return to legislative session and the Senate will resume immediately the consideration of the antitrust legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 6:12 p.m. the Senate adjourned until tomorrow, Friday, May 28, 1976 at 9:45 a.m.

EXTENSIONS OF REMARKS

NAVY SHIPBUILDING PLANS REQUIRE CLOSEST CONGRESSIONAL SCRUTINY—Part II

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Ms. ABZUG. Mr. Speaker, yesterday I included the first half of the transcript from a panel discussion on the "Robert MacNeil Report" on WNET–TV—PBS—in which my distinguished colleague from Colorado (Ms. Schroeder) participated.

Since the appropriations bill for the Department of Defense will soon be before the House, I would urge my colleagues to weigh carefully the arguments presented concerning the shipbuilding plans of the Navy.

The second half of this decision, which should provide guidance to my colleagues in tis matter, follows:

MacNeil. Admiral Zumwalt, given the deficiency you said you saw in the Navy, what kinds of ships should we be building so that the Navy can fulfill the roles you see for it?

Zumwalt. Well, I agree with the second scene of Admiral La Rocque there, and disagree with the first scene. In the first scene, he said that we could handle it, in the second scene he said we couldn't. He's right the second time. There is also something to be said for his views about the way in which we are doing less than an optimum job with regard to the construction of our ship program.

The views of the Chief of Naval Operations, the Secretary of the Navy, Secretary of Defense and the President of the United States each year get somewhat overruled by Admiral Rickover and his associates on Capitol Hill, and drive us in the direction of ever-costlier ships, and therefore reduced numbers . . .

MacNeil. What do you think we should do?

La Rocque. Instead of in the direction of a much larger number of lower-cost ships. There has never been any argument about the need to have nuclear propulsion in submarines, and in some aircraft carriers and some escorts to go with those nuclear aircraft carriers. But it's always been clear that when you go beyond that, and try to make every combatant ship nuclear-propelled, you're spending your money wrong because you build one huge, expensive combattant for every five that you could have if they were conventionally propelled.

MacNeil. So you are advocating this building of more smaller ships.

Zumwalt. A mix of ships. That program submitted by my successor was, I think, a good one and the efforts of Admiral Rickover to get it overturned in violation of Presidential policy are I think harmful.

MacNeil. Admiral La Rocque, what kinds of ships should be be building, do you think?

La Rocque. Well, first of all, I think you have to look at what the ships we have built today are for. And I agree with Congresswoman Schroeder; we've built the wrong kind of Navy. We've built the Navy to bomb and attack in Africa, South America, Southeast Asia under the euphemism of projection of military power ashore. So that we built a whole navy around a huge carrier force.

I would think that we ought to build no more attack carriers, then we would not have to build escorts to protect those carriers.

Mac Neil. Would you stop building the ones that are planned . . . would you not build the ones that are in the works?

La Rocque. No I would go ahead and complete those that are in the works. There's still a need for aircraft carriers, but the role is greatly diminishing, and that we must be attuned to. I think we need as Congresswoman Schroeder pointed out more in terms of anti-submarine capability. The only threat to the United States from the Soviet Union is from their strategic submarines and from their nuclear attack submarines, and that is where the United States Navy ought to be putting its emphasis, specifically on smaller ships.

We gave away in the past few years all of our anti-submarine warfare carriers. Admiral Zumwalt tried to get some smaller ones back in, was unsuccessful. But anti-submarine warfare is the most important role the Navy has to play today, and if it would get on with that instead of trying to build forces to invade South Africa or Africa anywhere, South America and Asia, this nation would be stronger and we'd have a better Navy.

MacNeil. Thank you, sir.

Jim?

Lehrer. Yes, I just can't help but note that the kind of discussion that you all have been having thus far has not been happening on the national political scene; it's not even happening in Congress.

Schroeder. Oh, yes.

Lehrer. Well, but not on these kinds of things. I was just saying—Admiral Zumwalt you said a moment ago, for instance, that the Secretary of Defense has to say certain things because he was told to do so, for political reasons. Later on, Admiral Rickover has had a tremendous influence even though it doesn't necessarily set the pattern. What's going on?

Schroeder. Let me say that this really has been an incredible year, and I've been very surprised that the press missed it, because the Seapower Subcommittee in the House did something that was just unheard of. They have always rolled over and played dead and then they brought up whatever it was and usually they've just rubber-stamped it.

Now the one great exception that everyone knows is Admiral Rickover, because he was the one who really moved out for nuclear-powered submarines and people said no, and then he won and he turned out to be very right, and so people think he has undue influence and—you know—there's been all sorts of great things attributed to Admiral Rickover.

But the Seapower Subcommittee, for the last three years, has been listening to the Navy come in and cry. You know, good crocodile tears about we don't have enough ships, we've got overruns like you can't believe, the maintenance problem is terrible, and we never knew what to do, because practically everything they've ever asked for has been voted for, but every year the script is exactly the same.

This year they came in, asked for some ships, and went through the whole thing. The Committee looked at it, they laughed, and the Committee rewrote the entire budget. Absolutely rewrote the whole entire budget. All right, a hundred and sixty-seven Admirals in the Pentagon didn't have a clue of what happened, because they looked at it, and it didn't even look like what they brought over.

Lehrer. You see that as a good thing.

Schroeder. Well, it's the first time I've ever seen Congress really assert itself, and I think it shows you what a very serious issue there is upon which many reasonable people differ. But you get politics and everything into it, and it's very tough.

Lehrer. How do you feel about that, Admiral Zumwalt, Congress rewriting what the Navy wants?

Zumwalt. Well, I think the Congress has every right to raise armies and maintain navies as the Constitution provides; I don't think this was, by any stretch of the imagination, a Congressional bill. It was a bill written by Admiral Rickover's study . . . and passed under the table.

Lehrer. What is the mystery of this man? Why can he do this?

Schroeder. Oh, no—I really would disagree there, because it really wasn't all that nuclear. What happened was the Seapower Subcommittee did pass a section called Title Eight a couple of years ago and we have had—you're right there—we have had a great debate going on as to whether or not we're going to comply with Title Eight, which says major combattants should be nuclear, and put the tonnage limit on it.

And they always come in and ask for conventional-powered major combattants. So the Committee did take all the major powered combattants — conventional-powered major combattants—and turned them into nuclear.

But the other thing they did was very interesting. They looked at those frigates and they wanted eight frigates. The President's just come in and asked for four more, part of his increase now is to have twelve frigates. The Committee looked at the frigates, and said, wait a minute, that's a single screw ship. We sent people out to look at it, they said it really doesn't have that much capability.

It had a ninety-five percent cost increase in two years; I mean, the thing is really expensive, and for a little more, you can get a ship that does much more.

Lehrer. But the bottom line is that you did rewrite it, and you added $1.1 billion to what the Defense Department had asked, and added nuclear ships.

Let me ask Admiral La Rocque how do you analyze Admiral Rickover's mastery of the Congress?

La Rocque. I think that Admiral Rickover's done a fine job in trying to explain his point of view to the Congress, and they've obviously bought some of it. I don't think it's been undue influence on the part of Admiral Rickover. I can tell you that under all the Chief of Naval Operations I ever served, we put as much influence on the Congress as possible to get our way, and we've been pretty successful over the years.

I would agree with you, too, Mr. Lehrer—that this matter of looking at the role of the Navy has not been adequately examined. I appreciate Congresswoman Schroeder's comment that there's been more effort this year than in the past. But I think we have to get right down to the basic issue of what is it we want to build this Navy for? And not argue whether it's going to be nuclear or conventional-powered, or whether they're going to be high ships or low ships—that obfuscates the problem.

What we want to do is decide what it is we're trying to do with this United States Navy.

Lehrer. You can't help but ask the question too—and I would ask you, Admiral Zumwalt. In the heat of a Presidential campaign, with all these charges flying back and forth, is this the time to make major commitments in terms of the future of the Navy?

ZUMWALT. Well, I think a Presidential campaign is one of the few times when enough voters get seized with the issues that can begin to be the kind of awakening of the public that is very important. We have all kinds of confusion; you heard some of it tonight. Admiral LaRocque confuses the difference in strategic and conventional war, and he's not quite sure which it is that we will win and which it is that we will lose. It's just very important, I think, to have an awful lot of this kind of discussion against the backdrop of an issue that seizes the major attention of people, the election of a President.

And I think both of the great parties will be debating this from now until election time, and the people will be much more enlightened about this.

LEHRER. But are they really going to be more enlightened; that's the question.

ZUMWALT. I think so; I think so. You can only fool the people some of the time . . . [UNDERTALK] . . . and the more discussion there is, the likelier people are to understand the very serious debilitation that has come to pass in our armed forces. This is what, again, when Jim Schlesinger sought to try to get the facts out, and he is continuing to write and talk about it as are others who've had access . . .

MACNEIL. Admiral La Rocque wants to respond; Admiral?

LA ROCQUE. Well, I think anytime is a good time to discuss the role of the Navy and what it is that we need in the way of weapon systems. I think anytime is a bad time to indulge in personalities to try to make your point, and Admiral Zumwalt has tried to do that some tonight. I think Ronald Reagan has gone overboard and excited the Republican party and the President has had to respond.

Now I suppose, now that Admiral Zumwalt has doffed his naval hat and is running for office in Virginia, that he will be able to avoid personalities and demagoguery in true naval tradition; I hope he will.

LEHRER. Congresswoman Schroeder, you get the last word.

SCHROEDER. I would like to just say that the thing I am afraid of, so often happens, is we don't get to the actual nitty-gritty of the issue. We tend to get to the scare tactics; it becomes again, how much is ever enough and how do you really talk about what it should do in a calm atmosphere? Plus, don't forget the money involved. If you happen to be a shipbuilding contractor, there's a lot of money involved in these things . . .

LEHRER. Thank you.

Robert?

MACNEIL. Thank you all very much; thanks, Jim. Thank you.

Jim Lehrer and I will be back tomorrow evening; I'm Robert MacNeil. Good night.

THE HUMPHREY-HAWKINS BILL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. LAFALCE. Mr. Speaker, there are many issues which we have to consider in regard to H.R. 50, the Full Employment and Balanced Growth Act. In the recent primary campaigns, candidates of all persuasions have been asked to express their views on this measure. I believe that it is important that we do not get swept away in the flurry of campaign rhetoric and sloganeering. Instead, we must take the time to carefully examine both the strengths and weaknesses of this legislation.

With that in mind, I would like to take this opportunity to share with you the excellent testimony of Mr. Charles Schultze, senior fellow, Brookings Institution, and professor of economics, University of Maryland, before the Employment, Poverty, and Migratory Labor Subcommittee of the Senate Labor and Public Welfare Committee on May 14, 1976. His testimony, which in my judgment makes it clear that many amendments to H.R. 50 are necessary before it is deserving of passage, follows:

THE ECONOMICS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976 (S. 50)

Mr. Chairman and Members of the Committee, the full Employment and Balanced Growth Act of 1976, S. 50, addresses the most important domestic problem of this decade—high and persistent unemployment. The chief obstacle to overcoming that problem, both politically and economically, is inflation. I believe that S. 50 does not sufficiently recognize that fact, and hence needs to be changed in a number of important respects. Moreover, the combination of the "employer-of-last-resort" provisions in this bill and the wage standards that go with it threaten to make the inflation problem worse. These sections, particularly, need extensive reworking.

THE IMPORTANCE OF FULL EMPLOYMENT

The emphasis which S. 50 puts upon the goal of full employment is, in my view, quite proper. We are a society in which not only economic rewards but status, dignity, and respect depend heavily on a person's place in the work force. The single most important contribution toward solving the major social problems of this generation—deteriorating inner cities, inequality among the races and between the sexes, high and still rising crime rates, poverty, insecurity, and hardship for a minority of our citizens—would be a high level of employment and a tight labor market.

However valuable some of the federal government's manpower training and other social programs may be, they cannot hold a candle to the efficacy of a tight labor market. Necessity is the mother of invention. When 4 million business firms are scrambling for labor in a highly prosperous economy, it suddenly turns out that the unemployable become employable and the untrainable trainable; discrimination against blacks or women becomes unprofitable. Instead of being the concern solely of bureaucrats in government training programs, the finding, counseling, training, and hiring of the disadvantaged becomes the goal of the entire profit-seeking private enterprise system.

In the second World War, to choose a dramatic example, we pushed the unemployment rate below 2 percent. And the result of that tight labor market was revolutionary. Black-white income differentials shrank faster than in any subsequent period; the income distribution became sharply more equal; employers scoured the back-country farm areas and turned poor and untrained sharecroppers into productive industrial workers, whose sons and daughters became the high school graduates of the 1950's and whose grandchildren will shortly begin to enter college in droves.

The importance that S. 50 attaches to high employment, therefore, is not misplaced. The nation cannot afford over the next decade to settle for a relatively sluggish economy and a high unemployment rate.

WHAT STANDS IN THE WAY OF FULL EMPLOYMENT?

The basic problem with achieving and maintaining full employment is not that we lack the economic tools to generate increased employment. The traditional weapons for stimulating economic activity—easy money, tax cuts, and government spending for worthwhile purposes—are perfectly capable of generating an increased demand for public and private goods and services thereby inducing employers to hire more workers. Moreover, we do not need to have the government hire people directly on special programs of public service employment as a long run device to reduce unemployment. The real problem is that every time we push the rate of unemployment towards acceptably low levels, by whatever means, we set off a new inflation. And, in turn, both the political and the economic consequences of inflation make it impossible to achieve full employment, or once having achieved it, to keep the economy there.

With unemployment now at 7.5 percent, the problem is not an immediate one. A rapid recovery could continue for the next year and a half or so, pushing the unemployment rate down steadily, without setting off a new inflation. But experience in the postwar period to date strongly suggests that once the overall rate of unemployment edges below 5½ percent or so, and the rate of adult unemployment gets much below 4½ percent, inflation will begin to accelerate. And since the underlying rate of inflation, even with good luck, is likely to be running at 4 or 5 percent a year, the new acceleration could lead to very high rates indeed.

The charts on the following pages illustrate the relationship between inflation and tight labor markets during the four inflationary periods since 1949—the Korean War, the inflation of 1955–'57, the Vietnam War inflation, and the current round, kicked off in 1973. Each panel of the charts depicts one of those four episodes. The dashed lines show the underlying rate of inflation, measured as the rate of wage increase adjusted for long term productivity gains. Nonfarm prices tend to follow this underlying rate of inflation, sometimes rising faster, sometimes slower, but eventually moving parallel with these adjusted wage costs. The solid lines show the adult unemployment rate, averaged over four quarters. With obvious variations in timing and magnitude, the central story is clear—as the adult unemployment rate is pushed down below the neighborhood of 4½ percent, the underlying inflation rate rises above its prior path. In the absence of major new tools for inflation control, pushing the adult unemployment rate by the 3 percent target of S. 50 would surely generate substantial inflation.

Unless the inflationary consequences of low unemployment are tackled, it will prove impossible to get the economy to that level and keep it there. The first problem is political. When unemployment is rising, layoffs are high and for every person actually unemployed many more are afraid for their own jobs. Hence, it is easy to generate political support for the fiscal and monetary measures necessary to stimulate employment, even when inflation is high (witness the 1975 tax cut and $75 billion deficit). But when unemployment is falling, even though still large, layoffs decline; concern about unemployment shrinks while concern about inflation rises. Taking the measures necessary to reduce unemployment still further becomes politically impossible when inflation begins to accelerate.

Most of the economics profession would agree that holding the rate of adult unemployment at 3 percent would lead to inflation. There is, within the profession, a division of opinion about whether the resultant inflation would be a high but steady rate or an ever-accelerating rate. If the latter view is correct, then keeping employment to the 3 percent target would eventually become impossible, since no economy could stand an ever increasing rate of *inflation*. One of the reasons we do not know the answer to this controversy is that the political consequences of inflation have been such that the nation has never persisted in holding adult unemployment to 3 percent for many years running.

I believe, therefore, that a realistic view of both the economics and the politics of inflation and unemployment lead to one central conclusion: The stumbling block to low unemployment is inflation; the supporter of a full employment policy must of necessity become a searcher for ways to reduce the inflation that accompanies full employment.

S. 50 AND INFLATION

There are a number of ways in which tight labor markets lead to inflation. One of these is the acceleration of wage increases which begins to occur well before the overall unemployment rate has been reduced to reasonable levels. In this context, it is useful to look at the structure of the labor market during periods when the unemployment rate is lower than it is during today's recession, but higher than we would like it to be.

Table 1, on the next page, presents some estimates of how unemployment would be distributed among various groups, and the nature of that unemployment when the economy operates at an overall unemployment rate of 5 percent. Despite the still high overall unemployment, the rate among men from 25 to 64 years of age is well below 3 percent, and among women 45 to 64, about 3 percent. Teenage and young adults, however, who constitute only one-quarter of the labor force make up over one-half of the unemployed.

TABLE 1.—STRUCTURE OF UNEMPLOYMENT WHEN THE OVERALL RATE IS 5 PERCENT

Group	Unemployment rate (percent)	Average duration (weeks)	Number of unemployed spells per year
Male:			
16 to 19	13.9	4.0	1.8
20 to 24	7.3	4.5	.9
25 to 44	2.7	5.7	.3
45 to 64	2.2	6.6	.2
65 plus	3.0	NA	NA
Female:			
16 to 19	15.2	4.0	2.0
20 to 24	8.4	4.1	1.1
25 to 44	4.9	4.3	.6
45 to 64	3.1	5.2	.3
64 plus	2.9	NA	NA

Addendum: Males and females age 16 to 24—percentage of labor force, 24; percentage of unemployed, 51.

Source: 1973 structure of labor force and unemployment (when the unemployment rate was 4.9 percent). Estimates of durations and spells adapted from George Perry, "Unemployment Flows in the U.S. Labor Market," "Brookings Papers on Economic Activity, 2:1972," table 3, p. 259.

The unemployment among teenagers and young adults, under such labor market conditions, arises not so much from a continuing inability to find a job, but rather from a number of short spells of unemployment, as many young people go from one unattractive job to another. The 16–19 year old, for example, would average two spells of unemployment a year, of about four weeks' duration each.[1]

The central problem is that when the overall unemployment rate gets down into the neighborhood of 5 percent, the job market for experienced prime age workers becomes very tight. There are many unfilled job vacancies and not many unemployed in this age group. The large number of younger unemployed workers do not move in to fill these vacancies. As a consequence, wages are bid up sharply and prices begin to rise, even though the overall unemployment rate is still high.

One approach to this problem lies in the whole panoply of job counseling, training, and placement services for youth. Federal efforts in this direction should be continued and expanded. And a carefully structured public service program for youth could also contribute. (Strangely, the "employer-of-last-resort" program in S. 50 is restricted to adult workers.) But in all honesty, the record of recent years does not warrant a confident hope that such programs can be the principal solution to the problem.

GOVERNMENT AS EMPLOYER OF LAST RESORT

Sec. 206(d) of S. 50 establishes a major new policy—the federal government is pledged to become the employer-of-last-resort for those who cannot find work elsewhere. Sec. 206(e)(4) provides that a person shall be eligible for an employment opportunity under this section if, among other things, he or she has not refused to accept a job that pays whichever is the *highest* of either the prevailing wage for that job or the wage paid in the government-created "employer-of-last-resort" job. In turn, Sec. 402 sets up a standard for wages in the "last resort" jobs which are bound to be highly inflationary.

Under Sec. 402(c)(i), for example, the wage paid for a "last resort" job in which a state or local government is the employing agent must be equal to that paid by the same government for people in the same occupation. But in states or cities with union agreements for municipal employees, and in many cases even without union agreements, the wage for a low-skill or semiskilled municipal job is often far higher than the wage paid for the same jobs in private industry. Given the provisions of Sec. 206(d), a person can turn down a private industry job and still be eligible for a "last resort" job, so long as the latter pays more than the former, and in many cases it will. Table 2 shows the wages paid by several randomly selected municipalities for low-skilled jobs. As you can see these are very substantially above minimum wage levels. An unskilled laborer, earning say, $2.50 an hour in private industry, can afford to quit, take unemployment compensation for four to six weeks (or whatever time might be needed to be eligible), then claim a last resort job paying (on municipal wage scales) $3.50 to $4.50 an hour, and come out way ahead.

This would show up in heightened form in any "last resort" jobs created in construction work, since Sec. 402 requires Davis-Bacon wages which in practice are set at the construction union wage scale in the nearest large city.

It is clear that in any area where municipalities or non-profit institutions pay higher scales for relatively unskilled or semi-skilled labor than does private industry, the wage scales in private industry will quickly be driven up to the higher level. Otherwise there would be a steady drain of labor away from private industry into "last resort" jobs. A new and much higher set of minimum wages would be created!

TABLE 2.—MEDIAN HOURLY WAGES IN MUNICIPAL GOVERNMENT [1]

[Dollars per hour]

City	Occupations					
	Janitors, porters, and cleaners	Laborers, class A	Laborers, class B	Park laborers	Refuse collectors	Truck drivers (heavy, other than trailer)
Cleveland, Ohio	3.83		4.36	4.36	4.93	4.67
Kansas City, Mo	3.67	3.34	3.06		4.42	5.13
Atlanta, Ga	3.38	4.16	3.53	3.68	4.00	4.35
Portland, Oreg.[2]	(4.80)	(5.17)		(5.75)		(6.08)
San Diego, Calif	4.08	4.58		4.18	5.24	5.75

[1] Except for Portland, the numbers are the median wages for workers in the indicated occupations based on U.S. Labor Department municipal wage surveys taken in various months during 1975.

[2] The data for Portland are equal to median wages as reported in September 1973, adjusted upward by 10 percent, as a "guesstimate" of the wage increase since then.

The direct and indirect effects of this on the inflationary problem would be extremely serious, once the bill was in full operation. Labor would become very scarce over a broad range of semi-skilled and unskilled jobs in private industry. Wage rates would rise sharply and prices would follow; the size of the government's job programs would grow rapidly, as workers left lower paying private jobs for the higher wages stipulated in Sec. 402.

Once you begin to ask how to correct this problem, the dilemma of any 'government-as-employer-of-last-resort" provision becomes clear. As pointed out earlier, when the unemployment rate is below 5 or 5½ percent, most unemployment is not long term. Among adult males unemployment often consists of a period of four to eight weeks after a layoff before a new job is found. Among many teenagers unemployment in such times is not a steady thing, but a period between two relatively low paying jobs. What wages do you pay in the "last resort" jobs? If you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program. Many private jobs are low-paying, and the only way to avoid attracting people from private industry is to set the "last resort" wages very low indeed. But then, except in periods of high unemployment, when even very low paying jobs aren't available, who wants the program? If you set the wage somewhat higher—even if not absolutely high—it will still exceed the wages of many people with a current job in private industry. If so, it will begin to cause an exodus from private industry, and drive up wages and prices.

Table 3, based on Labor Department Surveys of area wage structures, attempts to measure how far below the prevailing (median) wage for selected low-skill occupations, wages would have to be set in the last resort jobs in order to avoid attracting large numbers of workers from private industry. The first line of numbers for each city and occupation indicates the wage discount that would have to be applied to insure that the wage did not exceed the wages of more than 10 percent of the workers in private industry. The second line shows the discount needed to keep the last-resort job from being more attractive than 20 percent of the private jobs in the same occupation. Thus, in order for a last-resort laborer's job in Buffalo not to attract more than 10 percent of laborers in private industry, it would have to be paid at a rate of 37 percent below the area median wage for laborers. If the wage were set 28 percent below this median, it would still pay better than laborers wages received by 20 percent of the private work force.

---

[1] The unemployment duration estimated in Table 1 understates the true duration since many young people, discouraged at finding attractive jobs, drop out of the labor force for awhile.

TABLE 3.—PERCENT WAGE REDUCTION BELOW PREVAILING WAGE NEEDED TO PREVENT SPECIFIED PERCENTAGE OF WORKERS FROM LEAVING PRIVATE EMPLOYMENT; SELECTED CITIES

City and percentage cutoff	Occupation		
	Janitor porter and cleaner	Laborer	Shipping packer
Buffalo, N Y.:			
10	−18	−32	−37
20	−16	−22	−28
York, Pa.:			
10	−29	−34	−11
20	−25	−17	−10
Cleveland, Ohio:			
10	−6	−29	−27
20	0	−20	−15
Kansas City, Mo.:			
10	−22	−35	−30
20	−13	−21	−21
Richmond, Va.:			
10	−20	−28	−37
20	−17	−15	−35
Portland, Oreg.:			
10	−13	−31	−21
20	−6	−26	14

Source: Based on BLS area wage surveys; the 1st line for each city and occupation is the wage at the 10th percentile of workers, and the 2d line is the 20th percentile wage. Linear interpolations were used within the class intervals published by BLS.

Special public service employment during periods of recession is a useful tool of counter-cyclical policy. Government-financed summer employment for school age youths makes sense. And, in good times, public service employment, paid at unemployment compensation rates, may be the most appropriate way to provide for that relatively small number who have exhausted their unemployment compensation. (This would, however, imply unequal pay for equal work.) But the concept of government as employer of last resort is not a workable method of pushing the overall unemployment rate down to very low levels.

DEALING WITH INFLATION

I have no magic answer for how to reduce the inflation which accompanies full employment. But there are a series of steps, each of which could contribute.

1. As mentioned earlier, there should be continued emphasis on programs to make unemployed youths more qualified for the main stream job vacancies which increasingly appear as the overall unemployment rate is reduced. On an experimental basis, a government wage subsidy to employers who hire disadvantaged young workers for permanent career jobs should be tried.

2. Substantial, tough action is needed to deregulate areas of the economy where government itself stifles competition and holds up prices. Transportation is a key example.

3. Actions which reduce the competition from imports should be avoided. Import threats probably do much more than antitrust to keep prices down.

4. That part of the bill which directs the President to develop and submit a plan for counter-cyclical employment creating measures, including public service employment, should be retained. The government as employer-of-last-resort section should be dropped. At the same time, as I indicated earlier, several other methods to help achieve low unemployment without inflation could be added: public service employment for those who have exhausted unemployment compensation; and, on an experimental basis at first, a program of wage subsidies to employers for providing long term jobs to disadvantaged youth.

5. Finally, and most importantly, we need an incomes policy. It cannot be across-the-board wage and price controls; they can't be maintained very long, and they are ultimately far too rigid for a dynamic economy. But we do need to find a way to work out some kind of social compact, perhaps along the lines that Callaghan and Healy are trying to work out in Great Britain. In particular, any sophisticated approach to the joint attainment of full employment and price stability should incorporate use of the tax system as a means of attaining a social compact. There are a number of different alternatives, no single one of which should be locked into a long term bill like S. 50, but all of which should be part of the arsenal which a President could, from time to time, propose as part of the annual full employment and balanced growth plan. My colleague, Arthur Okun, has suggested several examples of how this might be done: in return for labor accepting a wage guideline, offer to reimburse labor, via a working man's tax cut, for any overall price increase that is out of line with the wage guideline, and finance part of the cut with a temporary surcharge on corporations; offer employers and workers an option—either to sign whatever wage contract they want *or* to sign a contract within the wage guidelines and receive a temporary reduction in social security payroll taxes.

S. 50 already contains an implicit, but not generally recognized directive to the President to spell out wage and price guidelines. Sec. 104, establishing the full employment and balanced growth plan, requires the President to set forth goals for "full purchasing power" at levels necessary for reaching goals of the Act. But the only way to set forth an explicit goal for the wage component of purchasing power is to stipulate a wage guideline to go with an employment target; and the only way to specify a purchasing power target for profits is to specify a set of guidelines on general price movements, to go with the wage, employment, and production targets.

RESTRUCTURING S. 50

I think that there would be merit in reorganizing the bill so that it jointly addressed the inflation and unemployment problems, and explicitly pointed in the direction of preventing the inflation acceleration that goes with low unemployment.

The planning and target-setting part of the bill should be rewritten to specify both unemployment and price stability goals: the policy goal would be to undertake those structural and incomes policies needed to approach both goals simultaneously. Many of the sections of the present bill, including the manpower training parts, would then become a means of reaching full employment without accelerating inflation. The hidden incomes policy sections should be made explicit, directing the President to develop guidelines and indicating the desirability of using tax policy as a possible adjunct to incomes policies.

Finally, the targets for unemployment and price stability should be made more flexible. The present bill sets an ultimate target of 3 percent adult unemployment which is roughly consistent with a 3½ percent overall rate if "adult" means over 18 years of age, and 4 percent if "adult" means over 21 years of age. But such targets should not be absolute. For example, in a situation like the middle of 1973, with inflation beginning to go into double digits and the adult unemployment rate at 3.8 percent, I cannot imagine that, for the year ahead, the federal government would pursue a policy of increasing budgetary stimulation or easier money in order to reach a mandated target of 3 percent. Hopefully, we would never be in that situation again. But no one can be sure in an uncertain world. As I read the present bill, after 1980 (assuming enactment in 1976) each year's target for unemployment would have to be no higher than 3 percent (for adults), regardless of the rate of inflation. I do not think that such a rigid specification of targets each year is consistent with the purpose of the bill which is to be a long term guideline for economic policy. Nor do I think the goal for unemployment should be expressed in terms of adult unemployment. The individual distress and social problems caused by high unemployment among youth warrant attention as well as does unemployment among other workers.

Even with the specific anti-inflation measures suggested above, we do not know how low the unemployment rate might be pushed, without running into the inflation barrier. The goals set forth in the Act, therefore, must be quantitatively imprecise. I would suggest that they be rewritten in language which directs the President to present long-run plans for reducing the inflation that heretofore has accompanied low levels of unemployment and simultaneously to outline the actions needed *to* reduce unemployment towards the lowest rate sustainable over the long-run. The specific proposals and plans that he presents each year, in response to this directive, will in any event, be widely debated before the Congress and in the media. It is unrealistic to expect that the simple inclusion of a single numerical target for unemployment, like 3 percent, in a planning bill of this type will somehow force a President to take action to get there, regardless of the consequences.

AN AUTOMATIC MAJORITY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. LENT. Mr. Speaker, much ado has been made about this so-called "veto-proof" Congress. This situation, while unpleasant for some of us, is one that we all can live with. On the international level, however, another "automatic majority" exists, but this situation is one which is not tolerable, and it threatens world peace.

The majority to which I refer is the one which swings into action each time there is an opportunity in the United Nations to do something unfavorable to Israel. We are all aware of the U.N.'s blatant anti-Israel actions, such as the resolution condemning Zionism as a form of racism. My attention was recently drawn to another action, not as dramatic perhaps, but in a way just as disturbing.

Israel, despite justifiable apprehension, consented to have three members of a special committee of experts appointed by the World Health Organization—WHO—visit Israel and Israeli-administered areas for the purpose of preparing a report for the WHO's assembly. That report, surprisingly, was generally favorable to Israel, indicating that health services in Israeli-occupied Arab territories, while far from perfect, have been showing "slow but steady" improvement since 1967.

The WHO, at its annual assembly in Geneva last week, refused to consider the report by a 65-to-18 vote with 14 abstentions. The motion to table was put forward by India on behalf of the Arab nations and the group of so-called "developing countries." The United States, of course, voted against the motion, and the U.S. representative, Dr. S. Paul Erlich, said it was the first time in his long experience "that we have failed to consider a document submitted to the assembly."

Mr. Speaker, it would be too kind to call this situation absurd. When a world health body becomes so politically motivated, there is cause for great alarm, and further room for doubt about the U.N.'s ability to cope with the massive problems facing the world today. I hope that the Congress will continue on record in favor of even-handed treatment of all nations by a body which is supposed to serve all nations.

INFLATION—ITS CAUSES AND POSSIBLE CURES

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. **TRAXLER**. Mr. Speaker, inflation hurts every American. In an effort to involve young citizens in finding solutions to this national problem, the Bay County Economics Club and the Second National Bank of Bay City, Mich., jointly sponsored an essay contest on "Inflation—Its Causes and Possible Cures."

Mr. Harrison Plum, secretary-treasurer of the Bay County Economics Club was kind enough to forward to me the winning essay by Mr. Ira J. Kreft, a sophomore at Alpena Community College. I found Mr. Kreft's analysis and suggestions valuable and I wanted to share them with my colleagues and all Americans.

The text of Mr. Kreft's essay follows:

Inflation—Its Causes and Possible Cures

(By Ira J. Kreft)

WHAT IS INFLATION?

Inflation, a serious problem facing the United States, is commonly defined as a rise in the general price level or a decline in the real purchasing power of the dollar.

Inflation is measured with price indices. The three most common indices are the Consumer Price Index, which is the relative dollar cost at different points in time of a specific market basket of goods, including food, clothing, automobiles, and doctor's fees; the Wholesale Price Index, which is the relative dollar cost at different points in time of a market basket of wholesale commodities; and the GNP Implicit Price Deflator, which is the relative dollar cost at different points in time of all goods and services produced in the United States economy.

When evaluating inflation with either the Consumer or GNP Price Indexes, it must be remembered that they are overstated 1 to 1.5% because of price increases due to product improvement and government required safety and emission-control features, which are not distinguished from pure price rise.[1]

WHAT ARE THE CAUSES OF INFLATION?

Inflation occurs when aggregate demand, which is all the money people, businesses and governments spend, grows more rapidly than aggregate supply, which is the nation's capacity to produce real goods and services. Once this condition exists, which is called demand-pull inflation, it is usually followed by cost-push inflation. Cost-push inflation, which has a spiralling effect, occurs when wages increase to keep up with inflation and are followed by price increases by the employer to maintain his profit margin. This causes prices to go up in other industries because their employees want to stay ahead of inflation. The overall effect is that the employees are fighting a losing battle, because as their wages increase, so do prices.

Some of the factors that make aggregate demand grow faster than aggregate supply are consumer expectation of rising prices, excess money creation and spending by the government, and "manufactured" shortages.

In order to have cost-push inflation, labor must be able to exert pressure on the employer for wage and salary increases; and the employer must have the ability to pass the increases to the consumer in the form of higher prices.

WHAT ARE THE DANGERS OF INFLATION?

The economic progress of the United States depends upon capital investment. To maintain even a constant level of operations, ever increasing amounts of capital are needed. The usual reinvestment model is based upon the idea that depreciation will protect enough assets, by reducing income taxes, to replace fixed assets when needed; however, when inflation exists, this concept is undermined. Approximately 90% of all capital comes from reinvested profits and capital consumption allowances.[2] To illustrate the seriousness of the problem created by inflation, assume the following: a corporation erected a warehouse in 1940 at a cost of $100,000 (when the GNP Implicit Price Deflator Index was 43.9) to be depreciated over its life of 20 years. If depreciation protects assets equivalent to the total of the depreciation charges, $100,000 of assets exist in 1960 to replace the old warehouse with a new one. However, the GNP Implicit Price Deflator Index was 103.3 in 1960; consequently, a new warehouse, identical to the old one would cost $235,300. Because of inflation, higher dividends are paid, which misleads the investor as to the company's dividend potential. Unions may be encouraged to push for wage increases, based upon inflated earnings, which the company must pass on to the consumer thus promoting cost-push inflation. The company also pays taxes on inflated earnings, that don't really exist.

If domestic inflation is greater than foreign inflation, investments will go to foreign countries and imports will be less expensive than domestic products. Inflation also involves a redistribution of income from those on fixed income, such as social security and pensions, to those on variable incomes, such as salesmen and workers whose pay is determined by cost of living escalators. If there is too great a redistribution of income, as there was in Germany following World War I, there may be social unrest and a serious threat to continuing democracy in the United States.

WHAT ARE POSSIBLE CURES?

Two basic ways of trying to bring aggregate demand into balance with aggregate supply are fiscal policy and monetary policy. Fiscal policy may involve decreased government spending, increased tax rates, or a combination of the two. This would have the effect of reducing aggregate demand. Monetary policy would involve action by the Federal Reserve System to decrease the supply of money, raise the interest rates, or a combination of the two. By making money more expensive, monetary policy has the effect of reducing long-run consumption.

The two previous measures are suitable for demand-pull inflation; however, for cost-push inflation, other measures must be used. A wage-price review board could be created, in the same fashion as utility regulatory commissions, with the power to scale down proposed increases which exceed what can be justified by economic criteria. This commission would review wage and price increases in industries with market power, such as the auto industry, trucking, and heavy manufacturing. Another possible solution is to levy a tax on employers granting excessive wage and salary increases to make the employer put more pressure on labor rather than the consumer.

Recently, the use of inflation escalators, called indexation, have become popular in contractual arrangements, where the amount paid in the future is adjusted for inflation according to an index. If the entire economy, including the tax system, was based upon indexation and accompanied by strict monetary policy, inflation could be broken and as it decreased so would wages thus avoiding layoffs due to decreased demand. Any of the policies mentioned above could be used, but judgment must be used to elicit the desired effect on the economy.[3]

RECENT INTEREST IN APPROPRIATE, OR INTERMEDIATE TECHNOLOGY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. **BROWN** of California. Mr. Speaker, over the past year the subject of intermediate technology has been frequently discussed in several committees of the Congress. The term has not been precisely defined but in general has referred to a less complex, less capital intensive, more labor intensive, frequently smaller, more decentralized, and environmentally benign type of technology appropriate to the specific needs of a community or particular area of the country or world. It is sometimes referred to as "appropriate" or "light capital" technology.

Because of the growing world pressures on energy and materials supply, the environment and capital markets resulting from growth in larger and more complex technologies, which some analysts also blame for the unique combination of inflation and unemployment which we have suffered over the past several years, strategies of encourage emphasis on intermediate technology programs have flourished. The Foreign Affairs Committee last year approved a new section to the foreign aid bill—section 107, Public Law 94-161—authorizing an intermediate technology emphasis in foreign aid. The Appropriations Committee, in the committee report accompanying the foreign assistance appropriation bill (H.R. 12203) passed March 4, 1976, said:

> The Committee expects AID to more rapidly to implement section 107 of the Foreign Assistance Act, which authorized $20 million over the next three years for activities in the field of "intermediate" or "light capital" technology.

The committee report devotes nearly four pages to the subject of intermediate technology—pages 14-15, 61-63—and should be read by those interested in a further discussion of the subject.

---

[1] Reynolds, Lloyd G., *Economics*, 4th. Edition, Richard D. Irwin, Inc.

[2] Federal Reserve System.

[3] Laing, Jonathan R., "On The Escalator", The Wall Street Journal, Wednesday, March 10, 1976.

At the instigation of leading Members of Congress, the Community Services Administration has commissioned a major study of the subject, completed in February 1976, entitled "The National Center For Appropriate Technology," which may lead to additional efforts.

The House, in the ERDA authorization bill, H.R. 13350, adopted a section 111 on May 20. Section 111 directs the Administrator of ERDA to prepare a detailed proposal to carry out an intermediate technology program within ERDA, such a proposal to be submitted to the Congress with the 1977 ERDA annual report. In a similar effort, the language of the report to accompany the NSF authorization bill, H. Rept. 94–930, contains language suggesting that NSF encourage initiatives in intermediate technology research and development, as well as education.

The interest in appropriate, or intermediate technology did not, as usual, originate in the Congress. It is a genuine "grassroots" issue, but one that is rapidly reaching a higher level of awareness.

The State of California, in a move which demonstrates that States can act at least as rapidly and as effectively as the Federal Government, has established an Office of Appropriate Technology in the Office of the Governor.

In order to describe this new California office, I would like to insert in the RECORD the Executive order which established this office, and a short background paper on the subject:

EXECUTIVE ORDER NO. B–18–76

Whereas, we live today in an era of limited resources; and

Whereas, technologies must be developed which are less wasteful, less costly, less bureaucratic, and less harmful to people and the environment than the technologies of the past; and

Whereas, state government must assert leadership in developing small-scale technologies appropriate to an era of limited resources;

Now, therefore, I, Edmund G. Brown Jr., Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. There is established in the Office of Planning and Research the Office of Appropriate Technology.
2. The Office of Appropriate Technology shall assist and advise the Governor and all state agencies in developing and implementing less costly and less energy-intensive technologies of recycling, waste disposal, transportation, agriculture, energy, and building design.
3. The Office of Appropriate Technology shall be directed by the State Architect.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 12th day of May nineteen hundred and seventy-six.

EDMUND G. BROWN, JR.,
Governor of California.

Attest:

MARCH FONG EU,
Secretary of State.

BACKGROUND PAPER, OFFICE OF APPROPRIATE TECHNOLOGY

The recognition that we live in a world of limited resources requires a conserving technology. As government tries to adapt to the new realities of diminishing resources and changing values, we must find ways to carry out our responsibilities in ways that are less wasteful, less costly and bureaucratic, less harmful to people and our environment. We need to encourage tools, techniques and processes in our economy—as well as in our communities and institutions—that are simple, direct, small scale and inexpensive: a balanced technology that is appropriate to maintaining the health of California's people, economy, and environment.

To assist in this period of transition, the Governor is creating an Office of Appropriate Technology to act as a catalyst in the areas of job development, resource conservation, environmental protection, and community development. The actions of the office will be directed toward developing human scale technologies and ways of thinking which promote wise use of resources, more harmonious connections with the natural world, and smaller, more workable governmental and social institutions.

Government now intervenes in just about every area of people's lives and yet our problems remain unsolved. Through appropriate technology there can be less need for government intervention to control the myriad, and often unanticipated effects, of "advanced" technology. Appropriate technology is here now and can be applied to many areas of our everyday life in ways that create new and satisfying jobs, save energy, and improve the quality of life:

Inexpensive, simply constructed solar hot water heaters can greatly reduce our present dependence on natural gas and electricity.

Renewable energy sources can be put to work to heat and cool our homes and work places.

Small scale intensive agricultural and farmers markets on unused land in and around our cities can provide families with fresh vegetables and healthy exercise.

Non-polluting mini-transit systems and bicycle ways can make getting around the city easy and inexpensive.

New uses for old buildings saves money and maintains neighborhood stability.

Plumbing and sewage systems can be simplified using modern biological techniques to reduce pollution, conserve water, materials and rebuild the soil.

Use of locally available materials and careful climate-based design can reduce housing costs and improve quality through greater individual choice and diversity.

Sim Van der Ryn, State Architect, will be Director of the Office of Appropriate Technology (within OPR) assisted by staff and consultants required to carry out the functions of the office. OAT will remain small, relying on cooperative working agreements with other State agencies and the use of outside consultants on specific projects to perform most of the work.

The work program of the office will include:

Seminars featuring distinguished authorities in the field of energy, environment, economics, technology designed for State policy makers and the general public.

Demonstration projects—working prototypes illustrating various appropriate technology concepts which are self-teaching examples.

Evaluation of prototype appropriate technology for use in State projects.

Public access, educational process, information center and public events.

Advisory panels of distinguished experts to advise on application of appropriate technology to ongoing State projects in areas including alternative energy, agriculture, waste management, transportation.

Mr. Speaker, I am bringing this subject to your attention because of its growing importance, and with the hope that each Member of Congress will become interested and informed on this new approach to technological growth.

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mrs. SCHROEDER. Mr. Speaker, on May 21, 1975, I was absent. Had I been present I would have voted as follows:

Rollcall No. 291, "nay."
Rollcall No. 292, "yea."
Rollcall No. 293, "yea."
Rollcall No. 294, "nay."
Rollcall No. 295, "yea."

DICKINSON QUESTIONNAIRE RESULTS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. DICKINSON. Mr. Speaker, each year I send an annual questionnaire to my constituents. I find the results of the questionnaire very helpful and I would like to share the results with my colleagues:

DICKINSON QUESTIONNAIRE RESULTS

"Reduce government spending" was the sentiment I noticed most while reviewing the responses to my 12th Annual Questionnaire. Over 10,000 persons responded to the poll and I am most gratified by the great interest they exhibited in the important issues facing us as a nation.

Only in defense, crime control and energy research and development did a clear majority favor spending more. About 65% felt federal spending should be reduced in every agency even if programs they personally favor might be reduced. Tax dollars should not be used to finance campaigns for the U.S. House and Senate, said 83% of the people—I agree!

In other results, less than one-third believe the news they read, see and hear is generally fair and accurate while more than half do not. The overwhelming majority think public employees should not be allowed to strike and that voluntarily unemployed persons such as strikers and college students should not get food stamps.

Personal service received from the new U.S. Postal Service was given a very negative rating. Changes must be made in the Social Security program, nearly half responded.

In foreign affairs, strong support for the C.I.A. was indicated, but about as many people think the U.S. should get out of the U.N. as think we should stay in.

RESULTS OF THE 12TH ANNUAL BILL DICKINSON QUESTIONNAIRE

[All figures expressed as percentages; because of rounding all totals will not exactly equal 100 percent]

1. Do you believe the news you read, see and hear is generally fair and accurate?

Yes	33.77
No	57.65
Undecided	8.65

2. Should essential local, state and federal government employees such as police, firemen, sanitation workers, teachers, etc., be allowed to strike?

Yes	21.91
No	73.11
Undecided	4.96

3. Should voluntarily unemployed persons such as college students and strikers receive food stamps?

Yes	10.58
No	85.13
Undecided	4.24

4. Should the U.S. maintain an intelligence gathering system (like the C.I.A.) in other countries?

Yes	81.84
No	13.46
Undecided	4.68

5. Do you believe the U.S. should continue to be a member of the United Nations?

Yes	42.64
No	42.20
Undecided	15.14

6. Should federal tax dollars be used to finance campaigns for the U.S. House of Representatives and the U.S. Senate?

Yes	10.58
No	82.91
Undecided	6.09

7. Do you believe the federal government should reduce spending in every federal agency even if programs you favor may be reduced?

Yes	65.28
No	28.12
Undecided	6.59

8. To eliminate political influence, in 1970 the U.S. Post Office Department was reorganized and given "independent" financial status. How would you rate the performance of this new Postal Service?

Excellent	1.12
Good	10.19
Fair	37.33
Poor	51.24

9. Last year, for the first time, the Social Security system paid out more in benefits than it received in taxes. To keep the program operational, some changes must be made. Which one of the following proposals do you prefer?

(a) Increase employee and employer Social Security taxes	15.07
(b) Decrease Social Security benefits	15.92
(c) Change the Social Security program to allow new workers to contribute to a private savings program	46.99
(d) No opinion	21.99

10. Federal spending involves your tax dollars. Should we spend more, less or the same on the following?

Defense:	
More	57.99
Less	11.95
Same	30.05
Education—College Level:	
More	20.37
Less	52.27
Same	27.34
Elementary and High School level:	
More	35.34
Less	37.32
Same	27.14
Welfare:	
More	4.06
Less	83.12
Same	12.80
Health:	
More	27.41
Less	43.83
Same	28.74
Veterans benefits:	
More	13.66
Less	50.52
Same	35.80
Foreign aid:	
More	4.99
Less	86.27
Same	8.73
Crime control:	
More	63.47
Less	13.43
Same	23.09
Highways:	
More	22.06
Less	28.15
Same	49.77
Mass Transportation:	
More	29.60
Less	39.11
Same	31.27
Energy Research and Development:	
More	60.42
Less	17.12
Same	22.44
Environment and Conservation:	
More	34.57
Less	34.04
Same	31.38

Age:	
18 to 21	1.53
22 to 35	27.57
36 to 50	28.84
51 to 65	28.34
Over 65	13.20
Voting preference:	
Republican	28.53
Democrat	24.49
Independent	49.96

"COAL SLURRY PIPELINE—2" ENERGY VERSUS TRANSPORTATION ISSUE

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. SKUBITZ. Mr. Speaker, yesterday I made a statement before the House concerning a so-called coal slurry pipeline bill, H.R. 1863, which can be found on page 15521, of the RECORD. This legislation would grant Federal powers of eminent domain to coal slurry pipelines.

Legislation to grant the Federal right of eminent domain to builders of coal slurry pipelines has been presented by its proponents as an energy measure.

It is not an energy measure. It is a transportation measure and should be so regarded by the Congress.

Coal produces energy. The vast reserves of Western low-sulfur coal hold a bright promise for the provision of a substantial portion of this Nation's energy needs.

But a coal slurry pipeline cannot produce a kilowatt of energy. The legislation before the Interior Committee simply represents a plan to superimpose an additional transportation mode on an existing system.

At present, only one—relatively small—coal slurry pipeline is in operation in the United States. Its operations are not significant to the total coal transportation picture. Yet hundreds of millions of tons of coal are transported satisfactorily, efficiently, and economically.

If no more coal slurry pipelines are built, coal will continue to be transported—even if production in the West increases many times over. Railroads haul more than 60 percent of all the coal mined in this country. It is a profitable portion of the rail business. Testimony delivered before the Interior Committee indicates that the railroads are ready, willing and eager to haul every nugget of coal that can be produced.

So we do not need coal slurry pipelines to provide us with coal for energy. If the coal is mined, it will be moved.

The only real energy issue involved in this measure is an indirect one—the fact that the transportation of coal, however accomplished, will consume energy.

Coal slurry pipelines will consume more energy than would the use of unit trains for the same job. There are steps involved in the slurry pipeline process—pumping, dewatering, drying—which are not necessary in the movement of coal by unit train.

According to a study done for the Wyoming Department of Planning and Economic Development, the total coal slurry operation would consume about 750 Btus per ton-mile versus 300 Btus per ton-mile for unit train movement of coal.

In another study, the Hudson Institute estimated that a 1,300-mile rail operation using diesel power would be three times as energy-efficient as a 1,000-mile coal slurry pipeline using electric power.

So coal slurry pipelines are not producers of energy; they are consumers of energy—to a greater degree than the transportation mode pipeline promoters would like to supplant. Yes, I said supplant, not supplement.

Yet another misapprehension about the coal slurry pipeline is the notion that it would result in the production of less expensive energy than could be produced with the use of coal transported by rail.

Certainly, the cost of transportation will play a role in the cost of electric power produced by coal. It is a relatively small component, but it is there.

Based on all the evidence thus far produced, however, there is no valid basis for the assumption that coal slurry pipelines could transport coal more economically than unit trains. A study done for the National Science Foundation, which is a part of the Interior Committee's hearing record, has determined that it would cost twice as much to build a coal slurry pipeline as to upgrade an existing rail line for equivalent service.

The pipeline cost figure so often thrown around is an estimate of $750 million for a 1,036-mile pipeline from Wyoming to Arkansas. Frankly, it is difficult to place too much credence in that estimate, because of the way it has been used. In one pronouncement by the promoters, the cost is pegged at $750 million in 1975 dollars; in another, the cost is said to be $750 million when completed at the end of the decade, assuming historical inflation trends return.

The estimate is ominously reminiscent of the estimate of $900 million advanced in 1968 for the 850-mile Alaska oil pipeline. That estimate was inflated to $2 billion in 1973; it is now $7 billion and the pipeline is not completed.

Estimates of pipeline operating costs are similarly elusive. The ones advanced by proponents are obviously based on a perfect, trouble-free operation—and this is just not realistic.

The alleged pipeline cost advantage over railroads is supposed to come from the fact a high percentage of the pipeline costs will be fixed costs, while the major portion of the rail costs would be variable operating costs. Fixed costs being less directly vulnerable to inflation, the assumption is that, over a period of years, the rail would climb higher than the pipeline rate. This dependence on high inflation seems at odds with the statement I quoted earlier assuming low inflation to keep pipeline construction costs down.

It is revealing, I think, that the rate comparison most often cited by pipeline proponents is one calculated by the president of a utility corporation, not a potential pipeline operator. One would be inclined to assume such a person would have ready access to figures upon which to base computations, at least so far as his own operation goes.

Mr. Floyd Lewis, president of Middle South Utilities, on page 749 of the Interior Hearings Report on Coal Slurry Pipeline Legislation (Serial No. 94–8) cited the comparison that $14 billion would be saved over 30 years by the use of pipeline-delivered coal in preference to rail-delivered coal.

Mr. Lewis does not document how he arrived at such figures and as far as I can perceive, the figures were arrived at by plucking from the air a pipeline rate of $7 per ton versus a rail rate of $11.80 per ton. Neither figure has any validity. Most authorities believe the initial pipeline rate would be higher than the initial rail rate.

The error was then compounded by applying unequal inflation percentages to the two rates. Four percent was applied to a small percentage of the pipeline rate, producing a rate, after 30 years of $8.40 per ton. Five percent was applied to the entire rail rate—not a percentage thereof—to produce a rate, after 30 years, of more than $50 per ton.

All this proves, I submit, is that if you allow one team to choose the ground, make the rules and apply them capriciously, you should not be surprised at the final score. After all, is it not significant that the individual who supplied the figures will be a huge consumer of coal who is interested in keeping the price of coal as low as possible? Naturally, in the make-believe land of speculation one in Mr. Lewis' position would like to have the threat of potential competition and keep the railroads from raising their rates.

To sum up, I think it is clear that in the legislation under consideration we are not talking about a measure to increase the supply of energy—it would not do that. We are not talking about a measure to fill an imagined gap in the transportation system—there is no gap. We are not talking about a measure to reduce the cost of energy—because there is no reason to believe that would happen.

We are, I suggest, talking about legislation to grant a special and totally unprecedented privilege to a small group of promoters seeking to use our legitimate concern about the Nation's energy needs as an opportunity to pocket some fast bucks.

In my next statement, which will be Tuesday, June 1, 1976, I shall speak to "Rail Transportation of Coal—a Backdrop to the Coal Slurry Pipeline Issue."

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on May 30, 1776, the Continental Congress accepted the recommendation of one of its committees and resolved to advise the Colonies to once again regulate the price of salt. The committee had reported that "avaricious, ill designing men," taking advantage of the earlier removal of price controls, were "extort(ing) from the people a most exorbitant price for salt." Congress expected the legislatures of the respective Colonies to pass the necessary pricing regulations, taking care that suppliers were assured of sufficient profit so that they would not be discouraged from importing their product.

HELPING THE POOR HELP THEMSELVES—NEW DIRECTIONS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. LONG of Maryland. Mr. Speaker, a generation ago the Earth was inhabited by about 2.5 billion people, of whom almost a billion were the poor of the underdeveloped lands. Partly in pity, partly in alarm, and imagining that a lesson could be learned from the swift success of the Marshall plan in Europe, the United States launched a foreign aid program for the underdeveloped nations.

In the years since, $200 billion were given, loaned and reloaned for economic aid and military aid. Counting the interest paid on what we borrowed to give and lend, the cost of foreign aid to the United States has totaled more than a quarter of a trillion dollars.

The results of this massive outlay are sufficiently known: There are now 4 billion people, of which about 1½ billion are poor. Although per capita income has risen here and there, frequently quit apart from foreign aid, any journey into the villages and the countryside will reveal that the poor are not only still with us but have grown with the population, which itself is proliferating to the extent that another century may see the Earth so crowded, so depleted of minerals and fossil fuels, so fouled in its water and air, so torn with misery and hatred that the present may well be looked back upon as the good old days.

What to do? There is much urging that our foreign aid has failed because we have not spent nearly enough. Yet a little scribbling on an envelope can demonstrate that no scale of conventional aid could be sufficient to raise the world's poor by a quantum margin. One development project, proudly aimed at raising the income level of 11,000 poor families, is scheduled to cost $1,000 per family. At this rate, it would cost $300 billion—a hundred times what could be realistically forthcoming—to reach the majority of poor in the non-Communist developing world.

At the same time it has dawned on many that foreign aid has not fulfilled its promise, so are being glimpsed the limits on ability to continue foreign aid. The huge deficits, the inflation of prices and interest, the shortages of energy, the destruction of nature's heritage are all evidence that the shortage of capital in the developed nations must inevitably lead to a new and more restrictive philosophy of foreign aid.

Sooner or later a choice must be made—and better that it be sooner. On the one hand, we can let foreign aid continue to discredit itself through its failures and its inequities. On the other hand, we can try something new, or almost new—actually something so old that it has been rediscovered and given a new name: "Intermediate technology" or "appropriate technology" or, as I call it, "light capital technology."

Heavy capital aid has heretofore been stressed partly out of sophistry and inertia, but also because it is profitable to politically influential firms. It is also enticing for the ruling elites in the recipient nations because of the money to be made on port developments, airport construction, dams, steel mills and similar projects, and partly for this, U.S. Government officials have found it a useful diplomatic tool. To large numbers of the aid bureaucracy and the professors in the growth field, it has been the only kind of technology in which they had any expertise. You teach what you know.

The U.S. philosophy of growth, thus oversold to the developing world, is one of bigness, speed, complexity, and disregard for what it is doing to the Earth, the water, and the air. It is beginning to dawn on thoughtful people—even Presidential candidates and Congressmen—that a new philosophy of growth is needed, even for the developed nations. Leaders of developing countries, of course, will be slow to welcome the proposition that now the United States and Western Europe have achieved industrial greatness, the latecomers should accept a permanent role of inferiority. No role, however, need be permanent. Whatever the ultimate goal, it is plain commonsense that before the developing countries can run, they must walk. And to get from a crawl to a walk, they must first try light capital technologies.

The Congress has made clear through authorizing legislation and through Appropriations Committee report language that it views light capital technology as a new and important focus of U.S. foreign aid and development policy.

In section 107 of the Foreign Assistance Act, Congress has authorized the allocation of $20 million for a private sector effort in the development and dissemination of light capital technologies, and the fiscal year 1976 Appropriations Committee report on foreign aid directs AID to move rapidly to implement this program with the aid of small, innovative organizations and without dissipating the $20 million in overhead of contracting organizations or of AID. The fiscal year 1977 Appropriations Committee report on foreign aid appropriations states that light capital technology activities are expected eventually to expand beyond the $20 million under section 107 and that the ultimate goal should be endogenous development in poor nations.

An amendment to the Inter-American Development Bank authorization bill and Appropriations Committee report language direct the U.S. representatives to the multilateral development banks to take leadership in making light capital technologies a focus of the multilateral banks' development activities and in allocating a steadily increasing share of the banks' resources to light capital activities.

The Energy Research and Development Administration authorization bill—reported to the House—urges ERDA to focus on intermediate technologies.

Other report language and views go on to direct that innovative credit institutions be created to provide small loans to large numbers of small farmers and craftsmen. "AID should focus on generating attitudes, abilities, and institutions in poor countries to make appropriate technologies 'home-grown' and 'home-created' capital and thus with the aim of making economic development endogenous rather than exogenous."

Light capital technologies "should be produced within the poor countries themselves, again through techniques emphasizing labor and the saving of capital. Home-grown technology not only minimizes the need for foreign aid, but, more importantly, it creates jobs in towns and smaller cities and generates the income to buy the greater output of farm and industry.

"Home-grown technology also creates a body of skills which are needed for maintenance and repair. It means a growing number of entrepreneurs close enough to the production process to constitute a new class of inventors such as the United States generated in our own Eli Whitney—the cotton gin—Isaac Singer—the sewing machine—Cyrus McCormick—the reaper—and John Deere—the steel plow."

AID must confer prestige on those who work in light capital technologies so that those involved will have a career interest in promoting this approach.

National appropriate technology institutes in developing countries should be encouraged to help institutionalize the development of appropriate technologies in poor nations. Regional appropriate technology institutes should be developed to encourage quicker communication between and among developing countries with similar soil, climatic, and other conditions.

So far as multilateral banks are concerned, the fiscal year 1977 Appropriations Committee report on foreign aid states that the committee strongly reiterates its view that activities in the field of intermediate or appropriate or light capital technology be a focus of activities in all sectors by the multilateral development banks. Further, the committee expects to receive responses from the U.S. representatives of these institutions regarding the banks' activities to date and their program for the future in light capital technology. These responses are expected to include a policy declaration on light capital technology, details on past and proposed activities and pilot projects, and a timetable according to which a steadily increasing share of the institutions' resources will be directed toward light capital activities.

These are broad policy outlines but the extent and success of the program will depend on the answers to a number of questions.

First. What kind of organization will be set up to carry out the section 107 intermediate technology program?

Second. How will the multilateral banks respond to the directions given to our U.S. representatives to take leadership in making light capital technology a focus of the banks' activities and to allocate increasing shares of banks' resources to light capital technology?

Third. How can political leaders, entrepreneurs, and tillers of the soil in developing countries be induced to embrace light capital technology?

Fourth. What credit institutions can be set up to provide the small loans and the appropriate technological guidance?

Fifth. What should the role of developed nations be in providing ideas, materials, and equipment, without, at the same time, stifling efforts of the developing nations gradually to make light capital technology home grown?

Sixth. Are developing nations capable of home-grown technologies?

Seventh. How can various technology programs in different industries and nations be coordinated and cross-fertilized?

Eighth. How big a program should be envisioned? Is bigness a threat to a program whose philisophy is "small is beautiful"?

Ninth. What is the role of sophisticated capital infrastructure in a growing light capital technology? Complementary or competitive? Which comes first?

Can this new approach be expected to succeed? Who can say, after so many past hopes and promises have left us with little beside the hope that the promises will be forgotten?

But this much can be said.

The resources to be committed are small.

Light capital technology supplements, rather than displaces, the approaches of the past.

It builds on what we have learned about human nature—that the human spirit thrives on its own accomplishments, and shrivels when it must live at the indulgence of others, however wise or well-meaning.

There are vast, untapped resources of ingenuity and effort in the lesser developed world ready to be tapped.

Light capital technology offers a new hope at a time of despair.

If ever mankind needed hope, it is now.

ACHIEVEMENTS OF TWO REPORTERS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WOLFF. Mr. Speaker, the New York Daily News, one of the newspapers that serves my district, can take pride in the achievements of two of its reporters who have received recent wide recognition for their series on child care in New York City. Stewart Ain, a constituent of mine, and William Heffernan of the News spent 3 months planning and developing their series on child care, and their diligence and professionalism has won deserved recognition. The six-part series on child care won an honorable mention from the Robert F. Kennedy Journalism Awards. It was cited from out of 500 entries from across the United States. It was cited for a special achievement award by the Deadline Club, the New York City chapter of Sigma Delta Chi, which is the society of professional journalists. It has won an honorable mention from the Newspaper Guild's Heywood Broun Award. It was runner-up in the public service media award of the New York chapter of the Public Relations Society of America and it was cited by the Women's Press Club in New York.

This is quite a list, and Mr. Ain and Mr. Heffernan have a right to be proud of the series. It is journalism at its best, and it is a pleasure for me to join with many others in applauding Stewart Ain and William Heffernan.

LET US STOP THE REVOLVING DOOR AT FEA

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. FITHIAN. Mr. Speaker, this Nation today faces a crisis in confidence—confidence in Government. Americans, I believe, want to have faith in their Government and their elected officials. They are, however, consistently confronted with charges of conflict of interest.

In one bureaucracy after another, it becomes evident that high ranking Government officials who are now making rules and guidelines for the sale of various commodities worked for the companies they now regulate. Many of these high ranking bureaucrats then leave Government service to take lucrative jobs in those regulated industries. The revolving door—business to Government to business—simply does not serve the public interest.

The revolving door bureaucrat might well be partial to his former or future employers, and might even be swayed by the prospects of eventual employment in a regulated industry. Steps must be taken to prevent potential conflict of interest in Government service.

The laundry list of bureaucratic agencies which have figured prominently in the business-Government-business shuffle reads like a Who's Who of Bureaucrats. Agencies such as the Food and Drug Administration, the Federal Trade Commission, Environmental Protection Agency, the Federal Power Commission, Security and Exchange Commission, and countless other agencies and Government departments have found themselves caught in the revolving door.

The revolving door, however, has been most obvious in the field of energy policy and energy regulation, especially the Federal Energy Administration. It is difficult to distinguish between the administration's proposals and policies, and the self-interested concepts put forth by the oil industry. Administration policies are usually greeted by cheers from the big oil magnates. Is it a coincidence that many former employees of oil companies now occupy key decisionmaking positions in Government agencies, including the FEA?

These oil bureaucrats exercise responsibilities that bring them into daily contact with the companies they regulate. They assist in the development of energy policy, supervise substantial Federal budgets, administer the regulations which implement policy, and make key decisions on adjustments and exemptions for various industries.

At the Federal Energy Administration, dozens of employees have ties to the major oil companies, as well as the smaller "independents." The Government Accounting Office's report to Senator ABOUREZK last year indicated that FEA had 65 individuals, at GS–13 level and above, with ties to oil companies. One of the Nation's largest companies—Exxon—is also No. 1 in former employees working for the Federal Government.

The restrictions of section 207 of title 18 of the criminal code prohibit any former officer or employee of the Federal Government from participating in a matter in which he has involved himself while in Government service for at least 1 year after leaving the Government. Despite this criminal statute, the revolving door swings steadily between Government and business.

Today I will offer an amendment to H.R. 12169, the bill to extend the life of the Federal Energy Administration. This amendment would expand the 1-year limitation to 3 years. Thus it would prevent a Federal employee who goes to work for a company regulated by FEA, from using his influence in Government on his employers behalf, for a period of 3 years. By stretching the limit from 1 to 3 years, it is hoped that conflicts of interest could be reduced to a bare minimum, that governmental regulatory policies would be less influenced by the industrial giants they regulate, and the public interest would be placed first, not second, or last.

I firmly believe that public faith and public trust in Government would be partially restored if we can close the revolving door between Government and business. By making it more difficult to move from Government to business, it would also indirectly discourage business employees from taking temporary positions with the Government that are no more than way stations between jobs in regulated industries.

I ask that my colleagues in the House join with me today to strike a major blow for confidence in Government by stopping the revolving door at the Federal Energy Administration.

HOUSING FOR RURAL PEOPLE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. AuCOIN. Mr. Speaker, recently the Rural Housing Alliance held a conference on rural housing in Portland, Oreg. The conference was attended by 150 people from Oregon, Washington, and Idaho. Mr. Clay Cochran, executive director of the Rural Housing Alliance, gave the keynote address at that conference.

I found Mr. Cochran's comments interesting and provocative and, as our Nation continues its effort to devise a viable national housing policy, I would like to share them with my colleagues:

HOUSING FOR RURAL PEOPLE

(By Clay L. Cochran)

The Rural Housing Alliance[1] was organized in 1966 and opened its first office in January 1967. Our original emphasis was on self help housing for farm workers. Before the first year was out, it was apparent that the fragile support for self help housing was crumpling under the impact of the cost of the War against Vietnam. It became apparent that, useful as self help might be, not much would be accomplished without some commitment to housing rural people in any way whatever. So we broadened our agenda to include the total rural housing problem and called a meeting, the first National Rural Housing Conference. That conference not only laid out a rough agenda for rural housing, it produced a platform for the future entitled, "People Have a Right" to decent housing. The conferees also called for the creation of a continuing lobbying organization to fight for new legislation and money. That organization is the National Rural Housing Coalition with which many of you are acquainted and to which I hope most of you belong.

Both the Rural Housing Alliance and the National Rural Housing Coalition are membership organizations subject to the control of dues-paying members. RHA is supported by a modest amount of income derived from the sale of literature, dues and funds from the Department of Labor. The Coalition is totally dependent on non-tax-deductible funds because it is a lobby. It supports itself on dues, sales of informational materials and services, and gifts which are not tax deductible.

The $15 per year for RHA dues are minimal and provide a subscription to The RHA Reporter, a monthly, and the right to a free copy of most of the literature we produce, along with the opportunity to help shape national housing policy in an organized manner. The coalition dues are $10 to $49 per year depending on type of membership, and the cost of its excellent weekly, The Congressional Round-Up, is $25 for individuals and $100 for organizations. Any one genuinely concerned with rural housing should be a contributor to the Coalition and RHA, but the contributions to the Coalition should be as high as you can make them because contributions and subscriptions to its materials are its life blood.

The struggle for decent housing has gone on for a long time and this is no time to adjourn for tea. Please consider becoming a part of both organizations if you are not already so. In Cushing Dolbeare, the Executive Secretary of the Coalition, rural people have a spokesperson in Washington and indeed all over the country whose dedication, intelligence and knowledge are rare indeed. Sometimes her pay is six months overdue.

When we started nearly 10 years ago there was nothing which could be remotely described as a rural housing movement. Indeed, although the cold figures had lain on the table for many years, few people realized that nearly two-thirds of the substandard housing in this country was located outside metropolitan areas, i.e., it was rural. In the intervening 10 years we have at least made it clear that there is a terrible rural housing problem and that the existing programs are not adequate to deal with it despite all the improvements we have made in this period.

WHY AFFLUENCE AND LEAKY SHACKS?

Why, we ask ourselves, should the richest nation on the earth, containing 6% of the world's population and consuming 40% of its energy each year, have so many people living in housing which is bad for their health, a danger to their neighbors, and degrading to the human spirit? The answer is relatively simple. The wealth in this enormously rich nation is maldistributed and millions of those at the bottom of the income pyramid just don't get enough income to make it possible for them to purchase decent housing. The time when people could squat on a piece of land and build their own house from local materials is long gone,[2] partly because somebody owns everything, partly because in most areas we do not permit that kind of housing.

WE WANT THE POOR TO GET OFF THE EARTH

In the process of "improving standards" (sometimes for the consumer, sometimes for his neighbor and frequently for his lender), we have raised the permissible standards for housing, water and sanitation until we have priced millions of people out of the system. In most areas now we do not permit the poor to house themselves, and we refuse to establish policies to provide whatever assistance they need to help themselves. In simple truth, we have told them to get lost, to get off the earth.

REDISTRIBUTE INCOME OR SUBSIDIZE

If we are going to solve the housing problem, we either have to redistribute wealth and income directly, or we must do it indirectly through the transfer of income or, in the case of housing, housing subsidies.

This we refuse to do on any scale under one pretext or another.

It is not, God knows, that we are opposed to public subsidies. In the next Fiscal Year, the Federal government will make available somewhere in the neighborhood of $17 billion in housing subsidies.[3]

But to whom do we distribute this subsidy? Is it true that the poor are "eating up the seed corn" as the propagandists for the privileged so constantly fear? Hardly.

First, I need to make sure that you understand what we mean by "tax expenditures." It is a relatively new concept. A tax expenditure is money which the government deliberately does not collect; it allows a taxpayer under certain circumstances to keep money which would otherwise go for taxes. It is a staggering source of concealed subsidies in our system.

WHO GETS THE SUBSIDIES?

For FY 1977 the total Federal subsidy for housing will be about $17 billion. About $3

Footnotes at end of article.

billion of this is what most people think of as housing subsidies, that $3 billion which winds its tortuous way through the rhetoric and tears of the Congress covering the cost of subsidized housing going back 30 years. The other $14 billion is in the form of tax expenditures about which nobody says hardly a word. And who gets that $14 billion?

HOUSING-RELATED TAX EXPENDITURES, 1977

[Dollars in millions]

	Individual	Corporate	Total
Deductibility of mortgage interest on owner-occupied homes	$4,710		$4,710
Deductibility of property taxes on owner-occupied homes	3,825		3,825
Financial institutions, excess bad debt reserves		$570	570
Exclusion of interest on State and local debt (30 percent of total tax expenditure)	417	945	1,362
Tax credit for purchase of new home, as amended by Public Law 94-45	100		100
Depreciation of rental housing in excess of straight line	455	125	580
Expensing of construction period interest and taxes	570	1,065	1,635
Deferral of capital gain on home sales	890		890
Housing rehabilitation: 5-yr amortization	40	25	65
Exclusion of capital gain on home sales if over 65	50		50
Total	11,057	2,730	13,787

Note: The Budget for fiscal year 1977 shows that tax expenditures for mortgage interest and property tax deductions are an estimated $8,500,000,000, and direct housing subsidies are $4,300,000,000.

Source: Table F-1, Special Analyses: Budget for Fiscal Year 1977.

The top 1% in income—those with incomes of $50,000 a year and above—will get 10% of all housing subsidies; the bottom 14% in income—those with $3,000 a year and below—will get 7% of the subsidies. To put it another way, the bottom half of the population in income gets a quarter of the total tax subsidy.

Ninety percent of the top 1% are subsidized on their housing. Less than 10% of the lower income people get a housing subsidy.

SUBSIDIZE THE RICH—DON'T CODDLE THE POOR

So we not only have a shocking and indecent maldistribution of income in this country which makes it impossible for many lower income people to afford decent housing, but we aggravate that maldistribution by enormous subsidies to the middle and upper income groups through tax privileges.

People are getting a lot of fun out of saying, "there is no such thing as a free lunch," but we had better laugh with some caution because, although a society as a whole may get no free lunch, there are a lot of individuals who hardly eat anything but social manna.

But in trying to figure out why we have a housing problem, we find more than maldistribution of income and the maldistribution of Federal subsidies. The game is rigged better than that.

ON THE SAD STORY OF THE FEDERAL TAX SYSTEM

Since World War II, by multifarious and not infrequently nefarious devices, we have steadily lowered the tax rates on corporations and the well-to-do, and raised Federal taxes on moderate and low income people, specifically via the Social Security tax. This has not only increased the relative burden on lower income people directly, but indirectly because business passes on its share of those taxes in prices. But worse than that: In these 3 decades, by cutting Federal taxes on one excuse or another—like encouraging investment, a favorite excuse[1]—we have forced the state and local taxing systems to bear an intolerable proportion of the total costs of government. And how do the state and local governments collect taxes? Mostly by sales taxes and property taxes.

THE BURDEN OF LOCAL PROPERTY TAXES

Local property taxes are so high in many places that if we gave a family a decent home, they could not keep it because they could not pay the cost of utilities and property taxes. Those same property taxes on well-to-do people are not a burden. In the first place, they can pay them without missing a cocktail a year; in the second place, they deduct them from their income taxes and end up paying as little as 30 cents on the dollar, while the poor person is paying 100 great big round coppers on the dollar.

The system is rigged against moderate and low income people on housing. Yearse ago, Secretary Romney said 80% of the American families could no longer afford a new home. I think that was true then, and is more true now. I need not remind you that the cost of utilities has been skyrocketing since then, so that the cost in some areas is a greater burden than local taxes. My own electric bill—for the same usage—has more than doubled, and my gas bill has nearly tripled.

METROPOLLYANNA

Why should the housing problem for rural people, whether it is the cost of buying a home or the cost of rent, be proportionately so much worse than in the cities? First, because the incomes of rural people are only about 75% of urban people, and the maldistribution is worse; and that income and the maldistribution of it, including welfare aid, is a product of a very significant influence in our society, one which I call metropollyanna.

Metropollyanna is the belief, usually unspoken, that sooner or later all of the people in small towns and rural areas are going to move to the city and live happily ever after. As long as people in our society believe that the problems of rural people can be solved if they move to town, just so long will we be able to keep our conscience clean by not thinking about their problems while they live in rural areas.

The belief in metropollyanna is as real as anything you ever heard of, and it stands in the way of everything we do, not only in housing but in education, health, public transportation .... you name it .... in rural areas. Worst of all, people who believe in metropollyanna are like "Typhoid Mary's," i.e., they don't know they are sick and doing terrible things to people around them. It is possible to run a test on Mary, but we have not yet figured out a way to prove to a believer in metropollyanna that he has a bad infection he should do something about. Sadly enough, many if not most small town and rural people also believe in metropollyanna. It's a plague!

WHERE DO WE GO FROM HERE?

So where do we go from here?

Right on down the road we've been stumbling on for 10 years!

We have to continue to study the system, criticize it, hustle it where we can, and demand that changes be made both in people's thinking and in the distribution of resources.

I give you one firm, undeviating absolute truth today: The housing problem is a political problem. It was created by the system, and it can only be cured that way. The housing problem can be cured only in the Congress and the State legislatures and the county courthouse and city hall. If you look somewhere else, you are just playing with yourself. Have fun!

THE HIGH ROAD AND THE LOW ROAD

In working on the rural housing problem we learned to roughly segregate parts of the program. We refer to "the high road and the low road." The high road is what we should do as a society. The low road is what we may be able to do this year, puttering and patching.

On the high road, we must continue to insist that people have a right to decent housing and to the right to own their own home, and create programs which make that possible. We need to expand existing programs to that end, in HUD and FmHA—mostly FmHA, because HUD does not do much outside the larger towns. We also need the RHA program of lending money for home ownership at low rates of interest, but also allowing postponement of payment on a second trust until the family can afford to make the payments. And we need the Emergency Rural Housing bill to establish a housing program patterned after the Rural Electrification Administration program: consumer controlled, building housing and selling or renting it at prices people can pay without starving the kids, and solving the problem in 5 years.

That's the high road . . . or at least it is the high road as we see it now. We keep learning.

THE LOW ROAD

The low road this year is money, appropriations and loan authorizations and the use of existing programs.

This is the fourth straight year that the administration has tried to kill the farm labor housing program, the one which permits an inadequate 90% grant and a 10% loan at 1% interest. We must save and expand that program.

Of course, Mister Ford says that he has a substitute for it, the Section 8 program, but he also says that by the end of FY 1977 he is going to produce a total of 4,000 new Section 8 units! At best, we could expect a quarter of those in rural areas.

For the third year, the administration has tried to kill the self help housing program. They say it is not cost effective. It costs too much per unit for TA. But they make no effort to reduce those costs, much of them buried in FmHA's inadequate administrative budget or its recalcitrance at the state and local level—not everywhere, but plenty where. And the administration's Mister Lynn, the late local genius at HUD, apparently missed part of his arithmetic lessons because he can add up the TA costs but he can't add up the savings to the government from the reduced cost of interest subsidies. I think we should give up on him, but not on the self help program.

THE LOW ROAD IS A HARD ROAD

The trouble with the low road, as Cushing Dolbeare has observed in her quiet way, is that we go on fighting the same battles over and over again, year after year, in the Committees, the Congress, the administration, and the courts. It's like having to run our legs off to stay in the same place.

But, we still have to fight to get an adequate FmHA staff not only to expand the program but to keep it from getting into trouble with packagers and delinquencies. Last year, Congress thought it had provided 1,000 new regular positions, but the administration managed to cut that to 400, plus 200 part-timers and another 100 temporaries.

WE MUST JEOPARDIZE THE MORAL FIBRE OF THE POOR

We are going to try again to get Section 504 grants for rural people, home repair grants. Those grants were knocked out in 1966 by one Congressman who feared that grants to the rural poor would undermine their moral fibre. I remind you of those figures in the 1% who get 10% of all the tax expenditure subsidies. One has to admire the rich for the strength of their moral fibre, and pity the poor whose moral fibre is so fragile they can hardly eat right without putting it in jeopardy. Lower income people in the cities can get rehab grants, so they must either have better moral fibre or the Appropriations Committees which control their funds must be irresponsible.

Anyway, we want those rehab grants, and I say to you that any single Congressman or Senator from this area can get them for us if he understood and wanted to. Try it.

Footnotes at end of article.

THE SORRY TALE OF RENT SUPPLEMENTS

We have already been licked for two years on rent supplements which we hoped, this year alone, would give us 7,500 low rent units in rural America. First the administration said that it was not enough for Congress to pass a law, that it also had to give them specific appropriation language. This was nonsense, but the Congress obediently did as it was told the second year. Now the administration says it still will not provide rent supplements because it likes Section 8 better.

So last week, for the third time, we went to court on rent supplements. We beat the administration on the 502 interest credit program and saved that billion dollars a year; we forced them to put out the farm labor housing money one year; and now it is rent supplements. (No wonder that Nixon-dominated Supreme Court is trying to shut the people out of the Federal courts.) And, we are confident we will win. All we have lost is two years and a little of our faith in the system.

Look again at those figures. Rent supplements would have given us 7,500 units this year alone, compared to the total of 4,000 Section 8 units promised by HUD through next year. Now do you understand why they like Section 8 and dislike rent supplements?

THERE IS NO SUBSTITUTE FOR PUBLIC HOUSING

And we continued to fight for the restoration of the public housing program. With limited success so far, but there is nothing wrong with the public housing program, and there really is no substitute for it in housing low income people. That's why it was done in. Sure there were some monstrous failures in some of the larger cities, but these were human errors and were made in an effort to hold down costs. Just because a program slips occasionally is no grounds for abandoning it. If that were true, we would all have learned to weave cocoons long ago and would be resting safely underground somewhere vegetating until the trumpets sound utopia.

IN CONCLUSION

The national organizations in the rural housing field, the Rural Housing Alliance, the Housing Assistance Council, the National Rural Housing Coalition are not great powerful groups despite what the trailer shack dealers said last year. We cannot finance elections and throw money around or launch big propaganda campaigns to show people the light. But you must believe me when I say that regardless of where people come from they can understand facts, and analysis based on facts, and they can take action on things that seem decent and make sense. And that is the way we have come—that road through a couple of dozen amendments to the law (some miniscule in importance, some important). We have come on the basis of action-oriented research, on holding up the facts to view, on pleading for equity and justice.

But there is a limit to what can be done in Washington. Members of Congress are far more interested in what the folks back home say than they are in what we say. And that's where housing loses out. The folks back home are not talking to the Congress, or it is the wrong folks. So that Congress feels that helping people get housing is a political liability. They vote right often, feeling in their guts that they are jeopardizing their jobs.

Nothing much is going to change until the people in small towns and rural areas and the great central cities do their work, until they ask that things be done so that the Congress knows a lot of people care . . . understand and care.

We do, indeed, need to send some messages to Washington on the right of people to decent housing they can afford to pay for.

Few good things in this world come big and dramatic. They come slow and hard. "It is not, as we know from experience, too hard to gain an inch here and an inch there, and these inches becomes feet and the feet become yards and this is the road we travel." [5]

FOOTNOTES

[1] Originally called the International Self Help Housing Association, a creation of the American Friends Service Committee based on the early work done in the San Joaquin Valley by Bard McAllister and Howard Washburn, and traceable in a clear line back to the Self Help Housing program in Nova Scotia, the program of the Extension Service of St. Francis Xavier University.

[2] Aside from the fact that millions of the poorly housed are old or disabled, or they are children without a practicing father.

[3] Don't be frightened by that figure; it is only one cent of each dollar of the Gross National Product.

[4] Known to our fathers as "feeding the birds through the horses."

[5] Cushing Dolbeare, Cherry Hill, N.J., March 1976.

MONTGOMERY WARD & CO. PROMOTES 21-DAY FLAG SALUTE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. McCLORY. Mr. Speaker, in a little more than 2 weeks—Monday, June 14—the Nation will celebrate Flag Day. The flag of a nation is as much a part of its identity as its name. Those who seek to defile us, haul it down. Those who seek to honor us, honor it.

And no American can ever forget the exaltation of the flag raising February 19, 1945, atop Mount Suribachi on Iwo Jima by four gallant U.S. Marines who literally fought their way to the summit. As a photograph, and now a statue near Fort Myer in northern Virginia, it says better than words what the flag as a symbol means to a nation and to its people.

Mr. Speaker, in honor of the Bicentennial, Montgomery Ward & Co., a Bicentennial Corporation by designation of the American Revolution Bicentennial Administration—ARBA—is promoting a 21-day flag salute in the 3-week period between Flag Day and July Fourth.

This special commemoration of our Nation's 200th birthday has been recognized as an "Official Bicentennial Event" by the ARBA.

By flying the flag daily during those 21 days, all Americans can participate in a personal way in the Bicentennial, a proclamation of pride in where we have been as a country and where we are going during the third century of our life as a free and independent nation.

Montgomery Ward is a national organization headquartered in Chicago. Many hundreds of my constituents are employed there. It has branch outlets in my district and Leo Schoenhofen, board chairman of MARCOR, Inc., parent company of Ward's, and Edward S. Donnell, board chairman of Montgomery Ward, both are constituents of mine.

Managers of Montgomery Ward stores in 2,300 communities are offering to assist local Bicentennial committees and other organizations in planning Flag Day and 21-day flag salute programs.

The company also has made available to all Members of Congress decorative flag standards for desk display. A miniature American flag and a miniature Bicentennial flag flank a gilt American eagle.

Mr. Speaker, I wish to thank Montgomery Ward, its officers and employees, and to congratulate them for their contributions to our Bicentennial and to Flag Day.

THE SECOND WAR BETWEEN THE STATES—PART VIII

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. HARRINGTON. Mr. Speaker, today I am inserting the last of an eight-part series concerning regional economic development which appeared in the May 17, 1976, edition of Business Week. This final segment discusses some of the steps that should be taken in order to close the growing economic gap between the South and the industrialized North, and avoid a sectional conflict between these two regions.

By entering this excellent series into the RECORD, I have attempted to demonstrate the growing regional crisis that currently exists in the United States, and the need for comprehensive policy to address it. As the wealthiest Nation in the world, the United States now has the means with which to solve its regional imbalances. If the problem continues unchecked, however, even our abundant resources will not be able to reverse a trend that threatens to wreak havoc on all sectors of the American economy.

The text of the eighth installment follows:

A POLICY FOR DOMESTIC DETENTE

The meteoric rise of Georgia's Jimmy Carter, based on appeal to voters of all races and regions, is clear evidence that the rapid rise of the South and the concomitant decline of the North has changed the face of U.S. politics. The critical question for the nation, however, is when this phenomenon will change the content of public policy.

If the war between the states is to be avoided, then the nation must embark on a path that will minimize the problems of "creative destruction," caused by the growth of the South and most experts would agree that the major steps to be taken, some of which may be unpleasant, include the following:

Federal policy's uneven impact on the various regions must be reviewed and redirected toward slow-growth areas.

"It is necessary," says University of Texas economist Bernard Weinstein, an expatriate from the State University of New York, "to find out just who is sending what to whom. The whole slew of federal programs must be reviewed in terms of whether the North is still subsidizing the South." Virtually all experts would agree that the South's need for net subsidies has long since passed, and most favor a more even-handed policy. Weinstein, among others, thinks it is time that the pendulum swung. "The South should be subsidizing the North," he says.

The North and Far West must cut back selected services and slim their fiscal profile.

Even if federal policy is gradually switched back toward the slower-growth regions, the broad underlying shift of economic activity would require a careful pruning of public outlays. New York City, for example, has maintained a system of tuition-free colleges despite the fact that most private and state universities have more than tripled their tuition charges in the last 20 years. "A city ought not to be involved in a university," says Roy Bahl of Syracuse University, "though at one time, New York's tax base could afford it." On the other hand, he cautions, service cuts can be pushed too far. "A cut in services makes the area less attractive and could accentuate the decline."

The entire fabric of state-local relationships may have to altered.

With tax bases dwindling, more and more cities find it difficult to maintain services adequately, especially education. New Jersey's Supreme Court found last year that inequities that had arisen in that state's school system could be remedied only by uniform state financing. This clearly signals less local autonomy in education. In other areas, public employee wages and pensions have spiraled out of hand, adding new dimensions to the perils of municipal finance. As a result, states will assume an increasing share of management and financial responsibilities previously reserved to the localities, perhaps including the negotiations of municipal employee wage levels.

In the older industrial regions, of course, many of the states are nearly as hard-pressed as their cities, which means that they in turn may have to bargain for federal assistance. In its recent annual report, the Joint Economic Committee cited the need to regularize such aid. "The federal government cannot completely offset the effects of economic decline, but it is necessary to provide assistance to cushion the impact of decline on public services."

Renewed emphasis will have to be placed on equalization of economic opportunity.

Ironically, the Northeast could significantly ease its burdens by encouraging greater economic opportunity in the poverty pockets of the Deep South and Puerto Rico. Such heavy loads as welfare payments and outlays for bilingual educational programs in northern cities need to be eased. "The education of both Appalachian whites and Negroes of the core South is inferior to that of the majority of the Southern population," says Harvary's John Kain. "A strong argument can be made for programs that are aimed at these groups, not after they have arrived in the metropolis but while they are still in the rural South. Enforcement of equal opportunity laws for government contractors and subcontractors is already increasing the openings for Southern Negroes, and these efforts should be stepped up. Broader legislation is also desirable."

Federalization and greater standardization of welfare should be pressed.

This will lessen interregional frictions in two ways. The overextended cities of the Northeast will gain from larger amounts of federal support—assuming they have the will to restrain further rises in benefits—for what according to most experts is a national rather than local problem. Second, disadvantaged groups in the rural South—actually the region that would receive the largest proportion of the increase in federal welfare payment—would find their economic positions improved, so pressures forcing them to migrate would be eased.

The tax code should be changed to provide a better balance of incentives between home ownership and renting and between new and existing structures.

The absence of a rental tax deduction comparable to the federal exemption of mortgage interest and property taxes on owner-occupied housing results in the renter bearing a high tax burden. This benefits the South, where home ownership predominates, relative to the metropolitan areas in the North. Furthermore, the JEC finds that "federal policies have encouraged new housing construction at the expense of rehabilitation and have supported the rapid turnover of real estate holdings." Alan Campbell, president of the National Assn. of Schools of Public Administration, questions "whether home ownership is still such a desirable pattern." Says he: "We've built in a subsidy for high energy usage and the spread city that ought to be reviewed."

Environmental constraints in the Northeast must be selectively eased and the pressures to do this should not be resisted.

"People up in the North are griping about the lousy environment," says Walter Isard of the University of Pennsylvania, "but there's a trade-off. You can't have all the industry that gives you the tax base for a fine educational system and great environmental quality, too." An obvious prospect is that pressures will mount to develop the oil and gas resources of the Atlantic Coast area. If substantial, these reserves could reduce the Northeast's energy problem.

A high-level body of experts to formulate explicitly regional growth policies is long overdue and should be created.

If the U.S. is ever to have anything resembling a coherent and efficient growth plan, sophistication and objectivity must be added to the current melange of local boosterism and self-interest. Isard feels that this could best be accomplished by the creation of a President's Council of Regional Advisers, comparable to the present Council of Economic Advisers. In its recently released 1976 report, the JEC calls for a commission whose responsibilities would include "proposals designed to provide the Congress, the Executive, and the public with information necessary for the development of effective regional economic policies."

Unfortunately, the gap between the worlds of economic necessity and political reality is wide. In some respects, of course, the possibilities for a smoothing out of regional benefits and burdens have never been better because of the many factors that have made the regions more alike. Northerners who have resettled in the South often provide some leavening to the political atmosphere of their new region, where, as the University of Houston's Bill Thomas puts it, "there are still a lot of rural counties that aren't too sure about trusting the state government, let alone the federal."

GROWING TOGETHER

The concept that Southern politics is becoming less conservative is endorsed strongly by Michael F. Macleod, executive director of the House Republican conference. "If representatives are going to win the New South," he says, "they are going to have to become more moderate."

Although surging population growth will provide the South with greater Congressional representation, much of its raw political power is eroding. At its power peak, in 1956, the South could claim the chairs of 12 of the Senate's 19 standing committees. Now, the South's share of chairmanships has fallen to 9 of 23 committees, and it has lost such key chairs as Ways & Means and Agriculture. Recent changes in Congressional rules have greatly reduced the importance of the seniority achieved by some Southern legislators. A Southern Congressional leader can no longer immobilize a committee singlehandedly.

Differences in the phases of economic development through which the various regions are passing will complicate the process of arriving at a workable regional policy. The South's relative abundance of energy riches further accentuates the tendency to mefirstism. James M. Howell, senior vice-president of First National Bank of Boston, has concluded, "You're going to have a tough row to hoe to persuade Southerners that the country is only as strong as each of its parts." As for the Northeast, another senior banking official believes that only now is a dim awareness emerging as to the true magnitude of its losses. "When they realize the full extent of what's happened," he says, "there's going to be an awful lot of bitterness back East."

And so the lines are drawn for a coming war between the states. Reason and fair play could ease its anguish, but these are rarely found during wartime.

REPRESENTATIVE LENT ON THE ARAB BOYCOTT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. LENT. Mr. Speaker, a matter which has been of grave concern to many Members of Congress is the Arab economic boycott of Israel and firms in this country doing business with Israel. This boycott is insidious not only because it results in a foreign country's dictating to the United States and its citizens a form of discrimination, but primarily because the whole concept of the boycott is counter to all the principles of nondiscrimination and freedom of choice which Americans hold dear.

It is the stated policy of the Ford administration to oppose the boycott in all forms, and this policy is slowy being implemented. However, it must be up to the U.S. Congress, which oversees Federal agencies, to insure that no antiboycott laws are being violated and to enact new laws where necessary. Recent revelations have clearly indicated that the provisions of the Securities Exchange Act and Export Administration Act dealing with nondiscrimination must be strengthened. Further, the Federal Government, through its contract award procedures, can prevent the awarding of government contracts to firms which participate in the Arab economic boycott of Israel.

The Oversight and Investigations Subcommittee of the Committee on Interstate and Foreign Commerce, on which I serve, recently issued a report indicating that the Arab boycott is greater in scope than was indicated by the Commerce Department during hearings we held last summer. It is clear now that there are perhaps hundreds of American corporations and banks, doing upward of $1 billion of business annually with Arab States, which are aiding the Arab economic boycott.

On April 8, 1976, I joined with my colleague from New York, Mr. KOCH, and more than 60 of my colleagues in sponsoring the Foreign Boycotts Act, H.R. 13125. This measure strengthens the Export Administration Act of 1969 which makes it the national policy of the United States to prevent American firms from participating in economic boycotts imposed by foreign countries against other nations friendly to the United States. It also improves the disclosure provisions of the Securities Exchange Act of 1934.

On September 30, 1975, I had introduced legislation which provides that no information obtained under section 7(c) of the Export Administration Act, including the so-called Arab boycott request forms, shall be withheld from Congress.

In addition, I was pleased to join with numerous colleagues on April 9, 1976, in writing to the chairman of the Armed Services Procurement Regulations Committee, urging the amendment of existing procurement regulations to prevent the awarding of Government contracts to American firms, firms which participate in the Arab boycott against Israel. In that letter, we recommended that contractors be required to certify that they and their subsidiaries are in no way supporting or furthering restrictive trade practices fostered by a foreign country against another country friendly to the United States.

Last November 20 the President issued an Executive order directing the Secretary of Commerce to issue regulations prohibiting U.S. exporters from "answering or complying in any way with boycott requests discriminating against U.S. citizens or firms on the basis of race, color, religion, sex, or national origin." I have not been fully satisfied that this order is being effectively carried out, but I believe that the goals expressed in that order must not be compromised.

I had hoped for congressional approval of my bill, H.R. 9932, to allow limited congressional access to confidential reports filed by American firms under section 7(c) of the Export Administration Act. The Oversight and Investigation Subcommittee subsequently, on December 8, 1975, obtained the confidential material from then Secretary of Commerce Rogers Morton under threat of a contempt of Congress citation. That issue aside, the boycott information received by the subcommittee is disquieting in that it reveals that boycott requests from Arab nations are more widespread in practice than originally contemplated and, further, that there is a significant amount of compliance with these requests by U.S. companies. These facts point out the need for additional legislation to strengthen the antiboycott provisions of the Export Administration Act. The Koch bill to accomplish this end has been introduced, and it is my sincere hope that it will receive early consideration by the International Relations and Interstate and Foreign Commerce Committees, and eventual approval in the House and Senate.

RESOLUTION PASSED BY THE SERVE YOURSELF AND MULTIPLE PUMP ASSOCIATION

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. MOORHEAD of California. Mr. Speaker, a resolution recently passed by the Serve Yourself and Multiple Pump Association in southern California points out some of the very real problems facing our country in the event legislation requiring divestiture of the oil industry is passed.

The resolution was brought to my attention by James L. Beebe, Paul T. Erdos and Bill Thompson and reads as follows:

This resolution, adopted unanimously by the attending board of directors and members of the Serve Yourself and Multiple Pump Association at a special meeting on May 26, 1976, is made with reference to the following:

"Whereas divestiture of the oil industry would shred the entire fabric of the United States economy with its resultant disastrous impact on every citizen; and

"Whereas certain individuals, both present Members of Congress and candidates running for office, have proposed legislation which would require oil companies to undergo vertical divestiture, resulting in the dismemberment of the integrated companies and creating a severe imbalance in the supply, refining, and distribution of oil, with the end result being that the supply of refined products to independents will be in jeopardy; and

"Whereas Congress has consistently established as one of its highest energy policy goals the maintenance of the competitive viability of independent oil companies and dealers; now therefore be it

"*Resolved*, That the Serve Yourself and Multiple Pump Association and its members, collectively and individually, do hereby request, need and demand, that the Members of Congress of the United States of America defeat any proposed legislation on the divestiture that has been politically inspired, and ensure the competitive posture of the oil industry by retaining the small refiners and entitlements exemption. Adopted this, the 26th day of May, 1976."

ANNOUNCEMENT OF HEARINGS BY THE SUBCOMMITTEE ON DOMESTIC MONETARY POLICY REGARDING THE IMPACT OF THE FED'S MONEY POLICIES

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. NEAL. Mr. Speaker, the functions of the Federal Reserve System and its Open Market Committee, who decide the Nation's money policy, are a mystery to most people. Most people do not know how important money policy is to the prices of the goods they buy, the interest rates they pay, their job opportunities, wages and profits.

As chairman of the Subcommittee on Domestic Monetary Policy of the Banking, Currency, and Housing Committee, it is my intention to hold hearings to bring out into the open the impact of the Federal Reserve's money policy on our economy. In specific, we are inviting testimony on:

First. How money policy affects the cost of living;

Second. How it affects production and employment;

Third. How interest rates are affected by money supply changes, both directly and through changes in prices, production, and employment;

Fourth. How government spending and tax policies affect money policy and their relationships to prices, interest rates, production, and employment; and

Fifth. Whether Congress should set economic growth, unemployment, inflation, and interest rate goals and require the Fed to promote achieving these goals.

These hearings will tentatively begin on Tuesday, June 8, at 10 a.m. in room 2128 of the Rayburn Building. I hope that all those interested in testifying before the subcommittee will call the staff director, Dr. Robert Weintraub, at 225-7315.

FUEL-EFFICIENT AUTOMOBILES ABSOLUTELY NECESSARY IN LIGHT OF OPEC THREATS OF HIGHER OIL PRICES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. DINGELL. Mr. Speaker, fuel-efficient automobiles are an absolute must if this Nation is to continue the drive toward reaching beneficial energy conservation objectives. The call for support of the energy efficient Dingell-Broyhill—Train—amendment to the pending Clean Air Act amendments, H.R. 10498, has been sent to the Members of the House in several documents that both Congressman James Broyhill and I have circulated and previously inserted in the Congressional Record.

Good cause for support of the Dingell-Broyhill—Train—amendment, containing those automobile emission control standards recommended by Administrator Train of the Environmental Protection Agency is the news report in the Washington Post, Thursday, May 27, 1976, which bears the warning of an expected increase in the price of imported petroleum from OPEC, the Organization of Petroleum Exporting Countries. The United States at this point does continue to rely on imported oil to adequately serve the requirements of the Nation.

If the OPEC cartel does increase its price to importing countries by the end of June this year as expected, it will be mandatory that U.S. consumers have fuel-efficient automobiles available for purchase.

Adoption of the Dingell-Broyhill—Train—standards is therefore mandatory. These standards have the distinct and documented advantage of providing for the manufacture of automobiles that will achieve improved gasoline mileage, conserve energy, and save consumers millions of dollars. Meanwhile, the Train standards Congressman Broyhill and I are cosponsoring will provide for the same rapid improvement in air quality and health as does the committee bill, H.R. 10498, and the so-called Waxman proposal.

See previous Congressional Record inserts:

April 27, 1976, pages 11430–11436, FEA–EPA–DOT analysis of some effects of several specified alternative automobile emission control schedules;

May 11, 1976, pages 13453–13453, Dingell/Train auto air emission standards amendment to the Clean Air Act amendments; and

May 24, 1976, pages 15243–15245, Congressman James T. Broyhill of North

Carolina joins Congressman JOHN D. DINGELL of Michigan in cosponsorship of automobile emission control amendment—including the dissenting views of Congressmen DINGELL, BROYHILL, ROONEY, BROWN, MURPHY, MCCOLLISTER, STUCKEY, COLLINS, and KRUEGER.

The tighter standards contained in H.R. 10498 are not necessary and would only burden U.S. consumers with escalated costs for gasoline due to increased auto fuel consumption. The standards in the Clean Air Act amendments, title II, section 203, would result in a higher U.S. consumer payment to the OPEC cartel whether or not OPEC does increase its oil price by 4 or 5 percent, or more, or freezes it. Either way the American consumer will be unnecessarily stuck with inflated fuel costs if the House does not adopt the Dingell-Broyhill—Train—amendment.

The Washington Post report on threatened OPEC price increases follows:

OPEC SEEN LIKELY TO INCREASE OIL PRICE 4-5 PER CENT

(By Lewis M. Simons)

BALI, INDONESIA, May 26.—Ministers of the major oil-exporting nations flew here today to decide on an expected increase in the price of petroleum.

Bound by the extraordinary security measures of the Indonesian military, the ministers of the Organization of Petroleum Exporting Countries did not reveal their specific plans for the conference, which is to begin Thursday morning.

However, several sources close to the conference suggested that there was already basic agreement on an increase of about 4 or 5 per cent over the current price of $11.51 per barrel.

Such an increase would be considered a compromise between those OPEC countries, led by Iran, demanding a rise of the magnitude of 15 per cent and those led by Saudi Arabia, in favor of holding prices at the current level.

Last September, OPEC raised prices 10 per cent and then froze them at that level until June 30. A new increase, if it is agreed to here, presumably would go into effect July 1, although there is some possibility of the freeze being extended several more months.

An increase of about 5 per cent would raise the barrel price around 50 cents and could mean a one-cent increase at the pump if it was passed along completely by the companies.

Asked if the conference would approve a 4 to 5 per cent increase, Indonesian Mining Minister Mohammroh Sadli said, "That sounds about right." Sadli, the only minister to speak to journalists so far, said Indonesia would take a "middle-of-the-road" position on any increase, going along with the majority.

According to sources close to the conference, the expected increase was agreed to last week at a meeting in Tehran between Iranian Interior Minister Jamshid Amouzegar and Saudi Arabian Petroleum Minister Sheikh Zaki Yamani.

Iran, with a population of 31 million and massive development plans, has run into a $3 billion budgetary deficit this year. Shah Mohammed Reza Pahlavi is seeking a sharp increase in oil prices to help offset this shortfall.

Saudi Arabia, largest exporter of crude oil, has a population of only 8 million on which to spend its vast wealth. Thus, the Saudis are content to keep prices relatively stable.

[Yamani told reporters at the conference's opening session Thursday morning that Saudi Arabia "will oppose any increase in price and we have a very strong position on that." Observers said, however, that a moderate increase is still a likely outcome of the meeting.]

By giving in to the Iranians and such populous oil states as Algeria, Saudi Arabia could join in a warning to Western oil-consuming nations that they must hold back inflation on products they sell to the OPEC states or risk anoher massive price increase.

In addition to the decision on a base price, the ministers are also expected to determine a new formula of price differentials for varying grades of crude oil. The third issue expected to come under discussion is whether or not to move the OPEC secretariat from Vienna. Geneva is considered a likely new location.

The issue of differentials is complex, with technical as well as economic and political implications. OPEC countries now charge a customer slightly more or less for their indigenous variety of oil than the base price, which is linked to a particular grade of crude oil known as Saudi Arabian light.

The differentials are determined largely by three considerations: density (lighter varieties are more valuable than heavy ones), sulphur content (low sulphur content is valued for antipollution efforts) and proximity of the oil to its destination.

However, these considerations are open to broad interpretation by individual member-states and there has long been disagreement on price differentials within OPEC.

Under this system, already in use by Algeria, differentials would be determined not by inherent qualities of the particular grade of oil but by its product yields. Thus, a grade of crude oil producing a high level of gasoline would be worth more than another variety that produced less valuable fuel oil.

The ministers arriving here were greeted in traditional Balinese style by two young couples wearing gold-threaded sarongs and carrying purple and gold umbrellas.

With dozens of armed police and soldiers keeping reporters and tourists away, the ministers had their necks garlanded with flowers. They were swiftly ushered into cars for the two-minute ride to the heavily guarded cottage complex where they are to be housed and to hold their conference.

Heavily armed troops are sprinkled all over the tiny island, stopping cars and motorcycles and demanding to see identification. About 150 journalists here to cover the conference have been told they will not be allowed into the meeting area—a huge, luxurious complex owned by the financially troubled Indonesian state oil company, Pertamina.

The extraordinary security is a result of a terrorist attack on an OPEC conference in Vienna last December, which has led to the possibility of moving OPEC out of that city. A number of ministers and other OPEC officials were kidnaped by the terrorists, led by the Venezuelan leftist known as Carlos.

Apologizing to reporters for keeping them outside the Pertamina cottage complex, an OPEC secretariat official said, "I'm afraid we're all prisoners of Carlos."

INCREASED LAW ENFORCEMENT SERVICES AT CORPS OF ENGINEERS WATER RESOURCES DEVELOPING PROJECTS

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mrs. KEYS. Mr. Speaker, on May 25, 1976, I introduced H.R. 14005, legislation to authorize the Secretary of the Army, acting through the Chief of Engineers, to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources developing projects under the jurisdiction of the Department of the Army. This legislation will provide a much needed increase in law enforcement services at peak-use times during the summer months at the hundreds of projects under the jurisdiction of the Corps of Engineers.

The report of the Secretary of the Army to the Congress on visitor protection services at Corps of Engineers lakes, dated December 1974, indicated that a reasonably significant level of criminal activity exists at a majority of corps lakes.

In northeastern Kansas, visitors to Milford, Tuttle Creek, Pomona, and Perry Lake total more than 6 million during the summer months, nearly three times the entire population of the State of Kansas. The strain on local law enforcement officials and their capacity to respond to emergency situations created by this influx of people outstrips what the local taxpayers can provide. The millions of people enjoying the recreational facilities at these lakes are left with little recourse in seeking help. This bill would authorize funds to be appropriated as may be necessary to insure continued enjoyment by visitors at lakes and to help with the growing problem of crime and the need for help to local officials.

I believe that passage of H.R. 14005 will provide the needed assistance to local law enforcement officials so that they will be better equipped to provide additional visitor protection services at peak-use times at Corps of Engineers lakes in the Second District of Kansas and throughout the United States.

NATURAL GAS SHORTAGE OF THE NATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. MURPHY of New York. Mr. Speaker, many of us are concerned that the year might end without enactment of legislation to alleviate the Nation's natural gas shortage. After consulting with a number of members within and without the Committee on Interstate and Foreign Commerce, Congressman KRUEGER and Congressman BROWN of Ohio and I have decided to introduce a compromise bill drawing upon both the Krueger-Broyhill bill that lost by only four votes in the House in February, and the Pearson-Bentsen bill that passed the Senate 58 to 32 last year.

The bill is very similar to the Pearson-Bentsen bill except that it omits "incremental pricing." It differs from the earlier Krueger-Broyhill bill in its more restricted definition of new gas, which specifies that only gas dedicated to interstate commerce after January 1, 1976, would be considered "new gas." Gas covered by expiring contracts would not receive the deregulated price upon release. Its essential features include:

First. Decontrol of new onshore gas production.

Second. Phased decontrol of offshore natural gas production with FPC price-setting authority through 1980, but not after.

Third. Priority for agricultural users.

Fourth. Phasing-out of natural gas as a boiler fuel for the generation of electricity.

We have also deleted title I of the original Senate and Krueger-Broyhill bills, since that provision dealt only with the winter period of high demand, which has now passed by.

The need for legislation that genuinely addresses the hard choices that we need to make on energy is permanent. I urge your support of this important legislation, which is a genuine compromise, genuinely capable of bringing additional supplies, and actually possible of being signed into law.

MEDICAL DATA SENT BY SATELLITE FROM AMBULANCE FOR FIRST TIME

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. TEAGUE. Mr. Speaker, I want to bring to the attention of my colleagues another example of the application of health care systems and concepts developed for manned space flight to down-to-Earth medicine. For the first time medical data has been sent from a moving ambulance to a hospital by satellite. I am including the text of a NASA news release describing this program for the information of my colleagues:

> Scientists and engineers at NASA's National Space Technology Laboratories—NSTL, Bay St. Louis, Miss., have sent medical data from a moving ambulance to a hospital by satellite for the first time.
>
> A special portable transmitter and antenna developed by NSTL and the Science Services Laboratory operated by General Electric Co., permits continuous transmission of voice and medical data—including electrocardiograms—from the moving ambulance to the satellite and down to a hospital receiving station.
>
> During demonstrations of the system last week on a highway near Bay St. Louis, communications from the ambulance were received at locations as far away as New Mexico. Receiving stations are equipped with an inexpensive receiver which helps make this form of remote health care economically feasible.
>
> The new system could prove to be an important breakthrough in emergency medical care. Ultimately, it could lead to development of a special medical satellite which would relay emergency medical data not only from ambulances but also from remote hospitals, ships, offshore oil platforms and other remote locations to major medical centers for medical consultation.
>
> The concept involved is similar to the telemedicine demonstration being conducted by the Johnson Space Center, Houston, Tex., at the Popago Indian Reservation in New Mexico, and use of the ATS-6 satellite for medical communications in Alaska. The NSTL system uses the data collection system on the GOES-3 satellite which transmits earth environmental information.
>
> The new system was developed under a program sponsored by the NASA Technology Utilization Office in cooperation with the Southern Regional Medical Consortium. The Consortium is comprised of the University of Southern Mississippi, the Southeast Air Ambulance District, the Forrest General Hospital in Hattiesburg, Miss., and the Mississippi Governor's Office of Science and Technology.

LOUIS M. DeVITO—A GREAT WESTCHESTER CIVIC LEADER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. OTTINGER. Mr. Speaker, on April 11, much of Westchester was saddened by the passing of my dear friend, Lou DeVito. At funeral services on April 14, a touching tribute to Lou was offered by Milton Jacobs which I would like to share with my colleagues.

The tribute follows:

TRIBUTE BY MILTON JACOBS

> I am honored beyond description to have been selected by the DeVito family to deliver a formal statement in praise of my true and devoted friend, Louis M. DeVito, who left us in body, but not in spirit, on Palm Sunday, April 11th, 1976—a day all of us will remember with profound and unrequited sorrow, until we meet him once again.
>
> It is most appropriate that those of us assembled, however briefly, pay honor to this extraordinary relative, friend and neighbor, this morning, for it is mandated in the Sayings of the Fathers, that:
>
> "He who learns from his neighbor, (a neighbor like Lou DeVito), a single chapter, a single rule, a single verse, a single expression, or even a single letter, ought to pay him honor."
>
> We all have learned so much from the life of our departed friend, far beyond the Chapter, rule, verse, expression or letter, that we more than readily acknowledge that we owe him this debt of honor. He taught us love, devotion, compassion, honesty and integrity in a lifetime where there has been a singular lack in this kind of moral character—and these characteristics of a good and decent life were not limited to his family alone. They were generously and in full measure given to his beloved City and its government, which he loved in a profound and passionate way.
>
> I only knew Lou for a relatively short, but productive time, for we only became warm and close friends in 1971. But I do recall, as if told to me yesterday, what was said of him a long time before our friendship ever began. It was related many years before and many times over by the late Arthur Peyser, a distinguished and noted architect, and a rigidly stern but fair judge of human character and personality. He appraised Lou DeVito thusly:
>
> "He is the most honest man I know. He does not have to be watched. You do not have to be on the job if he is there. The work will be done."
>
> And so it was, I later found out—if Lou was there, you didn't have to worry any more. The job would always be done. He gave to all of us the feeling of abiding security, which so many of us lack in so many ways. The City knew for 16 years while Lou was a Councilman, that the job would be done, if he was there. And the County of Westchester has, in recent years, discovered that the job would be done if Lou was there.
>
> And so it was in even greater measure with his family, I later found out, when we became friends. He was on the job with them—24 hours and more, if possible, a day, leading, loving, caring, doing—there was a never-ending search for their concerns, their problems, their aspirations, and their welfare. He was in essence—a one-man security system for all of us whom he touched. He made us feel safe and secure. He furnished the shield of a protective father to all who gave him a hand in friendship.
>
> John Donne, a noted writer, who lived in the seventeenth century and who is best known for his "For Whom The Bell Tolls" quotation, wrote in this same quotation:
>
> "Any man's death diminishes me, because I am involved in mankind. . . ."
>
> Of course, that is so true for all of us assembled here today. But in the case of our departed friend, he was not just "any man", he was a "special man", an "extraordinary man" and the "diminishment" in this case, is a staggering and overwhelming loss, felt in all of the righteous quarters of this community.
>
> Wherever I have gone in our City since Sunday, I have found a repetitive theme, a sense of loss in 5 simple words, spoken over and over again, with deepest and earnest remorse and conviction: "He Was a Good Man". This goes to the mind and heart of what we, who knew him, feel this morning—a legacy spoken in truth, and completely devoid of the frills of fancy prose, which would only have embarrassed a man who carefully expressed himself precisely and to the point. For "He Was a Good Man" and we know in this exceedingly difficult world of today, a good man is hard to find.
>
> Young Sam Mosca lovingly observed yesterday about his Grandfather—that maybe the gates of Heaven needed urgent repair and perhaps that is why the Lord called for Lou so quickly. I like to think, I hope not sacrilegiously, that maybe the ills of this world were beginning to be too heavy a burden for the Lord to carry alone, and he needed a good and competent man to assist him. That is why Lou left in such a hurry. When someone needed him, you didn't have to ask him twice.
>
> We know perfectly well and find solace in the fact that Lou will find favor with the Lord, for in the 24th Psalm, a Psalm of David, entitled, "The favored of the Lord", we see that he meets the specifications carefully drawn as if David surely had Lou in mind:
>
> "Who shall ascend the mountain of the Lord? And who shall stand in His Holy Place? He that hath clean hands, and a pure heart; He who hath not lifted up his soul unto vanity; and hath not sworn deceitfully. He shall receive a blessing from the Lord."
>
> Louis M. De Vito, our beloved husband, beloved father, beloved grandfather, beloved brother, beloved relative and friend—to all of us—He Was a Good Man.

MAY IS BETTER HEARING AND SPEECH MONTH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. KEMP. Mr. Speaker, May is National Better Hearing and Speech

Month. Speech and hearing impairments comprise the largest single handicapping condition in America today. Ten percent of all children and adults in the United States have speech, language or hearing impairments which diminish their ability to communicate effectively. Children with communication disorders can experience difficulties in learning and find it hard to establish relationships with others. Communication disorders in adults can adversely affect social interactions and often create emotional problems which may interfere with the ability to earn a living.

Speech pathologists and audiologists strive to restore the communicative facility of those persons whose educational, vocational, personal, and social functioning and adjustment are impaired by speech and/or hearing handicaps. The diagnostic and therapeutic services required by persons so afflicted are made available through a variety of hospitals, rehabilitation centers, public and private clinics, psychiatric and retarded centers and private practitioners.

One of my constituents, Richard E. Allison, chief of the speech and hearing services division at the excellent West Seneca Developmental Center and Children's Psychiatric Center in West Seneca, N.Y., has brought to my attention a series of very fine brochures recently prepared by the American Speech and Hearing Association. I commend the association for its very fine work, and for heightening the public's awareness of this very important area of health.

TRANSPORTATION OF PRUDHOE BAY NATURAL GAS TO UNITED STATES

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. RUPPE. Mr. Speaker, the Subcommittee on Energy and Power of the Interstate and Foreign Commerce Committee, under the able chairmanship of Mr. DINGELL, has been holding important and extensive hearings on the several bills which have been introduced concerning the transportation of the Prudhoe Bay natural gas to the United States. These hearings have included consideration of H.R. 11273, a bill which I and 79 of my fellow Members have cosponsored. This bill, which I firmly believe to be in the national interest, would require approval of a trans-Canadian system to transport this important new energy source directly to markets throughout the United States.

Mr. Speaker, in testifying before these hearings, Mr. John C. Bennett, vice president of the El Paso Alaska Co. which sponsors the trans-Alaska LNG tanker project, made what is, I believe, a serious and unfortunately misleading error in his prepared statement given on May 18.

Mr. Bennett stated that in considering the questions before it the committee should and, I quote, "refer to the only study made by a disinterested party." He then mentions the study made by the Department of the Interior in December 1975 and subsequently filed with the Congress. This is not the only study that has been made by a disinterested party. In November of 1975, after a 2-year study, the internationally known and respected Rand Corp. of Santa Monica, Calif., published a report entitled "Energy Alternatives for California: Paths to the Future." This report was commissioned by the California State Assembly and was funded by the California State Assembly and the Rockefeller Foundation. Certainly these are disinterested parties. I presume Mr. Bennett simply was unaware of this work. I draw his attention to it.

Mr. Speaker, one section of this large study concerned itself with the natural gas supply situation for the State of California. In considering the Prudhoe Bay gas, Rand Corp. examined the two transportation proposals—that of Arctic Gas and that of El Paso—using five criteria, namely:

First, cost; second, reliability; third, timeliness; fourth, safety; and fifth, environmental effects.

On all five criteria they judged the Arctic Gas proposal superior—and superior for California. I submit that if the El Paso system which would bring its LNG directly to California is less desirable for California, it is clearly less desirable for all other parts of our country.

The Rand report also discusses the feasibility of displacement. The ability to displace the gas successfully to market areas in the east and midwest is at the heart of the El Paso proposal. El Paso has blithely assured all that it is an easy matter—really just filling empty pipes. Rand most emphatically does not agree. Let me quote briefly—

> Conceptually, displacement appears to be a simple idea. Working out the specific details of displacement agreements covering up to two decades of displacements under changing circumstances is likely to be immensely complicated and potentially rancorous. Moreover federal intervention will probably be necessary to resolve the interregional conflicts. Because of this complexity and apparent conflict, any predictions about whether such agreements could be reached and what they might contain must be considered highly tenuous.

Mr. Speaker, let me turn briefly to the Department of the Interior's study—that alleged "only study made by a disinterested party." This study is a poorly framed and unbalanced work. First, it analyzes not the two systems actually proposed—the only systems that people were then willing to build—but two systems that those who wrote the report thought that the businessmen who had spent millions of dollars should have proposed. Second, the authors utilized a methodology—a national net economic benefit analysis—that is appropriate to the study of projects whose benefits cannot be measured in the marketplace. Of course, here by comparing actual cost to the consumer, the benefits and costs can be readily measured. And, finally, the authors skewed the results in a number of ways. For example, in determining the net economic benefits, they charged the Arctic Gas Project with the cost of taxes paid by the Canadian portion of the pipeline while ignoring as a cost for El Paso all taxes paid in the United States. The apparent rationale was that a tax paid to the U.S. Government is not really a cost but merely a transfer payment that will be spent elsewhere in the United States. I would have a hard time convincing my constituents that the portion of their gas bill that goes for Federal taxes is not really a cost.

I am not alone in feeling that this study is badly—indeed dangerously—in error. Dr. Charles Cicchetti, director of the Wisconsin office of Emergency Assistance and well-known as author of the study entitled, "Alaskan Oil: Alternative Routes and Markets" is strongly critical of the Department of the Interior study. Dr. Cicchetti submitted his comments as part of his testimony on March 25, 1976, to the Senate Committees on Interior and Commerce. He expressed "outrage" at what he said were selective omissions of fact and a distorted economic analysis that tilted the study.

Mr. Speaker, this matter is of such importance that I cannot let the Department of the Interior study go unrefuted.

MURDERS OF FOUR URUGUAYANS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WOLFF. Mr. Speaker, I rise to express a deep sense of sadness and outrage over the recent murders of four Uruguayans living in exile in Argentina. One of those murdered was former Uruguayan Senator Zelmar Michelini, whose plight was brought to my attention over a year ago by a constituent of mine who knew the senator and his family personally. Senator Michelini had tried desperately to come to the United States with the purpose of testifying before Congress about the repression of human rights in Uruguay. Because he lacked a valid passport, he was a captive in Argentina, with no option but to return to Uruguay which would have meant certain imprisonment and probable death.

Senator Michelini stayed in Argentina where, it was supposed, his life at least would be protected, if not his rights and freedoms. However, last week he was arrested by Argentine authorities, and all of our efforts to ascertain his whereabouts and to inquire about his well-being were in vain. My office made several calls to the Argentine Embassy here, and we were told that inquiries were being made and information would be gotten to us. Before that information was received, the press carried the tragic account of the murder of Senator Michelini and his colleagues, whose bodies were found in an abandoned car in Buenos Aires.

The foreign assistance bill vetoed by the President contained a provision to suspend U.S. aid to any country which consistently violates international standards of human rights. I sincerely hope that, when that provision is law, our Government will apply its conditions to countries such as Uruguay which apparently see fit to dispose of human rights and freedoms through terrorist tactics.

TRIBUTE TO JUDGE NEWELL BARRETT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WAXMAN. Mr. Speaker, I would like to commend Newell Barrett, judge of the Superior Court of Los Angeles County, who is completing two terms as president of the board of trustees of Portals House.

Portals House is a psycho-social rehabilitation agency for mentally ill adults in Los Angeles. In fact, Portals is the only agency of its kind west of Chicago.

Portals helps psychiatrically disabled persons to secure gainful employment and to function socially in the community.

While many community mental health services in southern California have been curtailed by financial crises, Portals House, under Judge Barrett's strong direction, has established a strong fiscal base. Now, thanks to Judge Barrett's leadership, Portals is operating from a good financial position.

Portals now plans to increase services to more mentally disabled persons with programs not duplicated anywhere in Los Angeles.

His leadership extends far beyond establishing fiscal policy, however. Clients and staff respond to Judge Barrett's warm, easy-going manner. He participates frequently and easily at social functions Portals provides for its clients.

Judge Barrett is concerned about people. During his tenure as presiding judge of the juvenile court, he initiated important changes for juvenile justice. His care and concern for people is shown in all of his relationships, in or out of the courtroom. On June 11, Judge Barrett turns the gavel over to the new president of Portals. At that time, representatives from government, from other agencies, and friends of Portals, including Edwin E. "Buzz" Aldrin, Jr., will be present to acknowledge his outstanding contribution to Portals and to the mental health community of Los Angeles.

THE NEW NATURAL GAS DEREGULATION AMENDMENTS OF 1976 (H.R. 14046)

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WIRTH. Mr. Speaker, the House and the Senate continue in their inability to resolve their differences on natural gas pricing. Several months ago the House and the Senate passed separate bills on the subject of natural gas pricing and regulation. The bills diverged substantially in their respective solutions to the issue of prices applicable to natural gas at the wellhead. The House bill passed narrowly while the Senate bill passed by a rather substantial margin. These circumstances alone bode ill for the prospects of conferees being able to resolve the differences between the two Houses. And indeed, since adopting these measures the two Houses have not even been able to agree on when the conferees are to meet.

Now, a bipartisan coalition of Senators have initiated new legislation in an effort to end the stalemate. This new Senate proposal (S. 3422) has already cleared the Senate Commerce Committee by a vote of 17 to 1, and should receive floor consideration shortly.

Today in a desire to initiate a reciprocal effort in the House, I am introducing the New Natural Gas Deregulation Amendments of 1976 (H.R. 14046). This bill closely parallels the provisions of S. 3422, but differs importantly in its treatment of new onshore natural gas. S. 3422 would end FPC authority to regulate new onshore natural gas provided that the price for such gas does not exceed $1.60 per thousand cubic feet during the 7 years following the date of enactment. The bill I am introducing today (H.R. 14046) would, by contrast, remove all Federal controls over the price of new natural gas produced onshore. This would result in maximum incentives for exploration and development of onshore wells, and would eliminate a significant amount of costly Federal regulatory procedure.

In addition, H.R. 14046 provides for continued Federal regulation of offshore new natural gas prices at a rate equal to the Btu equivalent of the maximum weighted average first sale price for crude oil at the time of enactment. This base price is to be adjusted by the FPC at 5-year intervals in accordance with specifically enumerated criteria including the inflation rate, prospective costs, and the adequacy of exploration incentives.

Old natural gas would be subject to a national ceiling price available upon expiration of existing contracts. This ceiling would be revised every 2 years as under existing practices of the FPC. In establishing the ceiling price applicable to old natural gas, the commission shall consider only those criteria specifically enumerated in the bill. Additional provisions of the bill are discussed in the summary which I shall insert in the RECORD at the end of these remarks.

Mr. Speaker, the patience of the American public has been sorely tried by the spectacle of this Congress legislating itself into knots over the natural gas issue. After almost 18 months of congressional wrangling, neither the consumers nor the producers of natural gas in this country have any assurance about what natural gas policy is to be. I hope that the bill which I introduce today will lead quickly to the establishment of a clear and realistic Federal policy on this issue.

SUMMARY OF THE NEW NATURAL GAS DEREGULATION AMENDMENTS OF 1976—H.R. 14046

I. NEW NATURAL GAS DEFINITION

The definition of "new natural gas" in H.R. 14046 is virtually the same as that contained in S. 2310. Natural gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas produced from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available after the expiration of short term or emergency contracts is defined as "new natural gas." (Under S. 2310 the effective date was January 1, 1975.)

II. ON-SHORE NATURAL GAS PRICING

New natural gas produced from on-shore wells would be deregulated at the well-head. Producer regulation under the Natural Gas Act is terminated for new natural gas sales. That is, the requirements for producer certification, dedication, rate filing and abandonment of new natural gas produced and sold from on-shore lands will no longer apply. State regulatory options are specifically protected.

Old natural gas pricing would be subject to revised criteria, as in S. 2310, upon the expiration of contracts by their own terms (and not through any express or implied power to terminate or power of renegotiation contained in such contracts). The FPC would establish a national ceiling price for old natural gas available upon the expiration of contracts, and this ceiling price would be revised every two years, as under current FPC practice.

III. OFF-SHORE NATURAL GAS PRICING

Under S. 2310, new natural gas produced from off-shore federal lands would be subject to FPC price ceilings for five years (through December 31, 1980). S. 2310 contained criteria for the FPC to consider in establishing such ceiling prices.

Under H.R. 14046 a permanent system of FPC ceiling price authority is established for new natural gas produced from off-shore federal lands. Initially, the FPC would establish a "base price" for sales of new natural gas from off-shore federal lands equal to the average price of domestic oil, on an energy equivalent basis, in effect on the date of enactment.

This initial base price, to be effective for five years (January 1, 1976 through December 31, 1980), would be about $1.35 per Mcf (compared to 52¢ per Mcf under current law).

On January 1, 1981, and thereafter at five year intervals, the FPC would be required to revise its base price to reflect certain criteria enumerated in H.R. 14046. The criteria are comparable to those contained in S. 2310 to govern the ceiling price for off-shore new natural gas production.

The total price, or "ceiling price" for new natural gas produced from off-shore federal lands would include the base price, plus an adjustment made quarterly for inflation (or deflation), plus other necessary, proper and customary adjustments.

Initial contracts for the sale of new natural gas from off-shore federal lands would be for a minimum term of 15 years, as in S. 2310. Successor contracts would be for the life of the reservoir.

IV. ADVANCE PAYMENTS

H.R. 14046 retains language contained in S. 2310 relating to the regulation of contracts, which provide for advance payments by purchasers to producers. The FPC is authorized to require full repayment of any advance payments, plus interest for the use of the purchaser's capital. (Current FPC practice is to prohibit advance payments.).

V. CURTAILMENT PRIORITIES

H.R. 14046 contains virtually the same provision as contained in S. 2310 for service priority during curtailments to residential users, small users, hospitals, and other users providing services vital to the health and safety of the public, agricultural producers, food processors and food packagers (both for current and expanded capacity), and for priority industrial users.

VI. SYNTHETIC NATURAL GAS

H.R. 14046 retains the provision of S. 2310, with technical redrafting, which establishes FPC jurisdiction over synthetic natural gas (SNG) production, and interstate transportation and sales. Unlike S. 2310, H.R. 14046 assures a certificate without hearing to existing SNG plants.

VII. BOILER FUEL USE OF NATURAL GAS

H.R. 14046 contains language from S. 2310 which requires electrical utilities (above a certain rated capacity) to convert to alternate fuels. The period of conversion, however, is shortened from 12 years to 10 years. Electrical utilities would be required to convert to available alternative fuels within the specified time period, or upon expiration of existing service contracts, whichever is sooner.

The term "boiler fuel use of natural gas" is expanded for future application to include not only large electrical utilities, but industrial facilities which use natural gas for space heating and/or steam generation in excess of 300 Mcf per day. Both electrical utilities and large industrial boiler fuel users would be prohibited from using natural gas as a boiler fuel unless initially contracted for prior to May 10, 1976.

H.R. 14046 retains those exceptions contained in S. 2310 that relate to protection of the environment, including the use of natural gas for pollution abatement equipment and, if necessary, to meet air quality standards.

Whether served by an interstate pipeline or an intrastate pipeline, all large, electrical utilities would be required to convert subject to the provisions of H.R. 14046. The prohibition on future boiler fuel use would also apply to interstate and intrastate consumption.

THE MISERABLE PLIGHT OF ELDERLY AMERICANS

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. BEARD of Rhode Island. Mr. Speaker, since I began my career in public life, I have championed the cause of the elderly, the infirm, and the sick. Last week I was shocked and outraged at the report of an event which took place in a Washington nursing home. The anger swelled within me when I read of the tragedy which took place.

Mr. Speaker, for the benefit of everyone here in the Congress, I am including for publication in the Record a copy of that newspaper article. It described woefully the miserable plight of some of our elderly Americans.

I intend to do everything I can to continue my crusade to protect those who direly need it.

The Washington Post article follows:

Patient Dies When Restraining Straps Cut Breath

(By Alice Bonner)

The death of a 91-year-old Arlington woman in a Washington nursing home last week was caused when straps used to bind her to a chair cut off her breathing and blood flow, the D.C. medical examiner's office has found.

Mary Frances Andler's death in the Mar-Salle Convalescent Home on May 13 was ruled accidental by the medical examiner, after an autopsy, and by homicide detectives who are continuing their investigation.

Mrs. Andler was found in a private room of the home at 2131 O St. NW, and apparently "had been dead for some time . . . the body was cool," according to the deputy chief medical examiner, Dr. Brian Blackburn, who performed the autopsy.

Sally Marsh, executive director of Mar-Salle, confirmed that an employee who was responsible for Mrs. Andler's supervision was dismissed after her death.

Mrs. Andler was the fourth elderly patient to die in Washington nursing homes or hospitals since 1972 from asphyxiation caused by restraining devices, according to Dr. Blackburn. Use of restraints is "sort of a common practice," and such deaths average one a year, he said.

"It is general medical knowledge that restraints are necessary in the nursing care of some patients when someone is confused or will not stay in bed; it's just a matter of careful supervision," Dr. Blackburn said.

Nursing homes in Washington are required to define their restraint procedures and record monitoring of restrained patients under regulations governing their licenses. Mar-Salle was licensed and certified for Medicaid and Medicare payments by the D.C. department of human resources after an inspection last December, a DHR spokesman said yesterday.

A team of DHR investigators inspected Mar-Salle this week after the medical examiner's office informed them of the death, according to Pat McShea, chief of health services in the licensing office. The team's finds were withheld.

Rita Andler, 59, the deceased woman's daughter and her usual companion, said she placed her mother in MarSalle on May 6 for a 20-day stay. "It was for my once-a-year vacation from caring for her," Miss Andler said. "We have been alone together for 57 years and she was the only thing in my life."

Miss Andler said she learned of her mother's death when a friend telephoned her Saturday in Delphi, Greece. But it was not until she saw the death certificate that she knew how her mother died, she told a reporter.

"I went to the funeral home and was shocked to read on the death certificate (that she died of) 'asphyxia and interruption of venous return to the heart from compression of the upper abdomen by restraint'," Miss Andler said. She said the certificate also read: "found on floor with restraint about waist, tied to chair." The certificate was signed by Dr. Blackburn.

Miss Andler said this last stay was her mother's 11th at Mar-Salle because "I have been lucky enough to have had 11 trips to Europe." She placed her mother in a private, third-floor room in the 200-bed facility, for $29 a day, Miss Andler said.

A former employee relations specialist at the Department of Defense, Miss Andler said she retired six years ago to care for her mother. "These years when I devoted 23 hours a day to her have gone well," she said. "I am so numb because of the way she died."

A native of Elizabeth Town, Ky., Mrs. Andler was a Washington resident for 30 years before she moved with her daughter to Arlington six years ago. They lived at 1021 Arlington Blvd., in the Arlington Tower apartments.

PROTECTION OF THE NEW RIVER

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. HARRIS. Mr. Speaker, I believe that legislation like H.R. 13372, which was introduced by Congressman Neal and which I cosponsored, is necessary to insure the preservation of the New River which is located in Virginia and North Carolina. This bill would designate a 26.5 mile segment of the New River as a component of the National Wild and Scenic Rivers System. On May 13, 1976, I presented the following statement to the National Parks and Recreation Subcommittee expressing my support for H.R. 13372, which I would like to share with my colleagues. I urge you to carefully consider the merits of this proposal which will soon be before the full House:

Statement of Herbert E. Harris, II, Member of Congress (Eighth District of Virginia) in Support of H.R. 13372 to Preserve the New River, May 13, 1976, Before the House Subcommittee on National Parks and Recreation

As cosponsor of H.R. 13372, I urge my colleagues to give their full consideration of this bill which would designate a 26.5 mile segment of the New River as a component of the National Wild and Scenic Rivers System.

The New River is unique in that it is the oldest river in the western hemisphere and the oldest free-flowing river in the world. The pure water of the river is laden with rare and endangered species of marine life and archeological evidence. It is the last unpolluted river in the east containing enough water and gentle flowing areas that can be used for canoeing and raft riding year-round. The bottomland of the valley, nourished by the river, has brought forth rich harvests of agricultural products. All of this is threatened by a power project whose benefit is as nebulous as its devastation is clear.

The Appalachian Power Company has applied for a license to construct a massive pumped-storage hydroelectric power project which would back up 44 miles of the New River and flood as many as 40,000 acres of fertile land in North Carolina and Virginia.

After careful study, I have concluded that preserving the New River far outweighs all benefits that might result from this project—a project of highly questionable merit for several reasons.

The most important point is that the project would be merely a storage facility which would consume energy, not produce it. The project would provide peak load power for transmission to the Midwest. During periods of slack demand, power generated elsewhere would be used to pump the water back into the upper reservoir. A net loss of power would result from this process, because the project would consume four units of energy for each three units it generates. This process would also add to air pollution since extra coal-fired generation would be required to return the water to the upper reservoir.

As many as 3,000 people would be displaced if dams are constructed. Their land, their homes, their way of life would be destroyed. The Agricultural Stabilization Conservation Service estimated in 1973 that the project would destroy $13.5 million in annual agricultural income. To me, this loss is more serious than the claim that the total monetary gain from the project would be $6.7 million per year.

Proponents of the power project claim it would create as many as 1,500 jobs. However, these jobs would be available only during the construction period of the project and many of them would be seasonal positions.

The North Carolina General Assembly voted unanimously to include a 26.5 segment of the New River in the North Carolina Natural and Scenic Rivers System and petitioned the Secretary of Interior to declare that segment a component of the National Wild and Scenic Rivers System. On March 12 of this year, Secretary of Interior Kleppe announced his intention to act favorably on the state's request. Additional support has come from such groups as the Conservation Councils of Virginia and North Carolina, the Izaak Walton League and the Sierra Club.

Congress must make certain that this historic and beautiful river is preserved for the enjoyment of present and future generations. The legislation we are now considering would remove any remaining doubt as to the protection given to this river and would resolve the dilemma created by those who want to sacrifice everything of value in the name of technological advancement and those who want to make the most intelligent possible use of our great but limited natural resources.

INVESTMENT TAX CREDIT FOR FARMS

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. BALDUS. Mr. Speaker, on Monday of this week, May 24, I introduced a bill to extend the benefits of the investment tax credit to individuals purchasing farm property from their ancestors. Such purchases have been excluded from the investment tax credit in the past, but I feel that there is an urgent need to reconsider that position.

The purpose of the tax credit is, of course, to encourage investment. With the number of farms in the country steadily decreasing and with the average age of the American farmer above 50 and steadily increasing, there is an urgent need to promote investment in our farms.

Skyrocketing land values, increasing farm expenses, especially in the area of petroleum-related products, and higher costs for conservation and environmental protection practices have made farming so difficult to enter into that we must take steps to encourage the passing on of farms to the sons and daughters of farmers.

Most farm capital is tied up in loans and reinvestment in the farm. The price of taking over a farm is so high as to require large and complicated loans, usually from the Government. While the quality of life on a farm is high, the hours are long and arduous and usable income is low—very frequently below minimum wages.

My bill would extend the investment tax credit only to individuals purchasing farm property from their ancestors, usually their parents. I invite my colleagues to contact me if they wish to join me in this legislation.

COMPLAINT BY COMMON CAUSE AGAINST REPRESENTATIVE SIKES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. MAGUIRE. Mr. Speaker, the Committee on Standards of Official Conduct has voted to proceed with a formal investigation of the complaint by Common Cause against Representative SIKES.

I believe the following enclosure in the RECORD will be of interest to Members:

LEGAL ARGUMENT SUBMITTED BY COMMON CAUSE REGARDING THE ALLEGATIONS AGAINST REPRESENTATIVE SIKES

The sole question before this Committee is whether to undertake an "investigation" of the facts surrounding certain charges concerning Mr. Sikes. The Committee is morally bound to undertake such an investigation if two simple conditions are both met by certain allegations of misconduct.

1. The allegations involve either:

(a) violations of the historic and central obligations of Members to behave so as not to bring discredit on the House; or (b) violations of more specific House rules or statutes in effect at the time of violation; and

2. There is a reasonable basis for believing the allegations *may* be true. In other words, the allegations are not unsupported rumor or malicious imagination; they raise reasonable suspicions requiring further investigation.

The Committee does not sit at the outset as a judge of private complaints such as this one. Its obligation, owed to the House and to the country, is to itself investigate *any* allegations satisfying these two conditions. It follows from this that, even in cases where there is an active complainant, the Committee cannot sit back and rely on the complainant to furnish the full factual record. If the allegations set forth by Common Cause satisfy the two conditions set forth above, the Committee has a duty to supplement the complainant's limited ability to investigate factual questions. The fundamental responsibility is, and always has been, the Committee's—once allegations are made satisfying the two conditions above. That burden has been met in this case.

A. The Allegations Set Forth Significant Violations of Existing Standards of Conduct.

The jurisdiction of the Committee under Rule X, Clause 4 includes investigations of "any alleged violation, by a Member . . . of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member . . . in the performance of his duties or the discharge of his responsibilities. . . ." The Committee's jurisdiction includes investigating alleged violations in years prior to 1968 of standards of conduct *in effect at that time;* no one wanted to continue the prior procedure of appointing a separate select committee for that purpose. The Committee is, of course, not to conduct any investigation of "any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation." This provision of the Rule does not shield acts which were improper when committed or limit investigations to violations of Rule XLIII alone. It simply protects acts that were entirely legitimate when they were done (such as nondisclosure before Rule XLIV became effective).

There has been no time in the history of the House of Representatives when applicable standards of conduct did not include familiar ethical standards prohibiting conflicts of interest and self-profit by use of official position. More specific rules have been added in comparatively recent years. But the basic rule has remained throughout the years that one should not bring discredit on the House by using one's position in the House for personal gain or by acting in a situation where the conflict of interest was extreme enough to give the appearance of financial self-serving to reasonable men.

The precedents establishing this continuing standard of conduct were collected by the Select Committee in *In Re Adam Clayton Powell.* For example, over one hundred years ago Rep. Oakes Ames was severely censured and almost expelled for intentionally placing other Members in a situation of conflict of interest by selling them at par value (well below true value) shares of stock in a corporation (Credit Mobilier) they might well be called upon to regulate. In 1929 Senator Bingham was censured for bringing a Representative of the Manufacturers Association of Connecticut (Eyanson) onto his office staff and into secret meetings of the Finance Committee in connection with assisting the Senator on a pending tariffs bill. Senator Bingham's honest intentions were *not* a defense. As the Select Committee reported in the *Powell* case:

The Senate adopted a resolution of censure providing that Senator Bingham's conduct regarding Eyanson "while not the result of corrupt motives . . . is contrary to good morals and Senatorial ethics and tends to bring the Senate into dishonor and disrepute. . . ."

The same standards of conduct were applied to Mr. Powell's misuse of his official authority with regard to airline tickets and staff salaries. This fundamental rule has since then been *supplemented* by a more specific "Code of Ethics" and "Code of Official Conduct." But the wording and legislative history of the resolution creating this Committee leaves absolutely no doubt that the very basic standards of ethical conduct have remained applicable and enforceable for more than a century.

In 1968 when the Committee on Standards of Official Conduct summarized, by a chart, the grounds for enforcement action, it listed before any other, "charges of violation of ethics". Report at page 45.

We have set forth in our complaint more specific provisions of the 1958 "Code of Ethics for Government Service" (the 1968 Committee Report stated "members of Congress . . . are Subject to [the Code] . . ." Report at p. 36; see also p. 44) and of House Rules XLIII and XLIV. Wholly aside from these provisions, this Committee would have to apply the fundamental and historic standards of conduct to the following factual allegations, without regard to the complex web of possible motivations of the member.

1. A member who is a substantial shareholder in a closely held corporation may not, especially without disclosing his self-interest, knowingly use his position to sponsor and lead passage of legislation, a major effect of which is to grant federal property interests to that corporation.

a. The violation is compounded if the member intentionally and knowingly hides and denies the effect of the legislation on his corporation for years thereafter, although he knows that was part of the purpose and effect in passing the bill.

2. A member who has used his official position to attempt in a variety of ways to obtain necessary governmental permits and insurance for a prospective bank may not thereafter knowingly accept any private benefits from the owners of the bank, including a right to acquire privately held stock in that bank.

a. The member's conduct is, of course, even more seriously censurable if he anticipated becoming a shareholder at the time of assisting the bank.

b. The member's conduct becomes criminal (18 U.S.C. 201) if he knew he was to receive a benefit in compensation for his use of official position.

The Committee may, of course, conclude and rule publicly that neither of these constitute censurable conduct—that a Representative is free to do either. We believe that would be profoundly wrong, but it is for the House and the public eventually to judge such basic ethical questions. If, on the other hand, the Committee agrees with us that these are ethical violations of the plainest sort under standards of conduct applicable for over a century, it must then address the second requirement for an investigation: "Is there a reasonable basis for believing the allegations warrant further investigation?"

B. There Is a Reasonable Factual Basis for Believing the Allegations Warrant Further Investigation.

It is this Committee's affirmative responsibility to investigate once allegations of substantial violations of standards of conduct are made, if it is clear that there is adequate factual reason to suspect that the allegations may be true. It is not the responsibility of a complainant to *establish* the facts before a passive tribunal of colleagues. This is totally inconsistent with the Committee's power and duty to investigate and its power and duty to control the conduct of the investigation.

We believe the necessary facts are established with respect to a number of charges (*e.g.*, the violations of Rule XLIV). As to others, the situation arouses such reasonable suspicion of wrongdoing that only an investigation can secure public confidence in the House. We will discuss two of three allegations here.

1. The Allegations with Regard to Holiday Isle.

The charge in the complaint relating to Holiday Isle turns on a key factual question: Did Representatives Sikes know that the 1962 legislation which he sponsored and shepherded through the Congress was intended to eliminate certain Federal impediments to land owned by a corporation (CBS) in which he had 25 percent of the equity? He says flatly that he did not know this. If that is the truth, the conflict of interest remains, but the moral culpability is substantially reduced.

On the other hand, if Representative Sikes has known since 1962 that the statute covered CBS land, the picture is very different and the implications particularly grave. Representative Sikes would have falsely told this committee that "I didn't consider that this leasehold would be affected by the legislation." It would be plain that he similarly knowingly and intentionally failed to inform and in fact mislead his colleagues in both Houses on a matter highly material to them and to the reputation of the Congress: that a substantial part of the benefits of the legislation would go to the bill's sponsor and important supporter (Representative Sikes). If Representative Sikes knew his bill would affect CBS, the continuing concealment of the fact that his corporation was one of the main beneficiaries demonstrates the Representative's recognition that he was involved in a transaction embarrassing to himself and not creditable to the House of Representatives. Indeed any concealment, even in recent years, in and of itself constitutes a violation of applicable standards of conduct.

Finally, there is no basis for Representative Sikes to claim the protection of lapse of time, since passage of the statute in 1962, if he has been knowingly concealing his conflict of interest throughout that period. As late as last year Representative Sikes was expressing doubt about the coverage of Holiday Isle property by the 1962 Act. *If he knew the scope of the Act's coverage from the time he sponsored it* and has nonetheless, until very recently, hidden from others the fact that his bill bestowed benefits on his corporation, he should not be heard to complain of delay by others in considering this matter. If Representative Sikes has falsely concealed for more than a decade the conflict of interest, action relatively soon after his concealment ends is all the promptness one can expect. And action at that time is doubly necessary or the concealment too will be rewarded.

The law is clear furthermore that time delays occasioned by concealment are not valid grounds for dismissal of a noncriminal charge. It is a fundamental principal of equity that "if material facts are concealed or misrepresented by a suspected wrongdoer . . . the wrongdoer cannot obtain any advantage resulting from lapse of time." *Potash Co. of America* v. *International Minerals & Chemical Corp.* 213 F.2d 153 (1954). The Supreme Court has declared that disciplinary proceedings by either House of Congress are not criminal in nature. *In Re Chapman*, 166 U.S. 661 (1897).

The simple factual question—whether Representative Sikes knew in 1962 and has known ever since that the CBS "leasehold would be affected by the legislation"—must thus be resolved.

If Representative Sikes knew that the CBS property (Holiday Isle) was held under and subject to the conditions of the 1948 statute and if he knew that all land covered by the 1948 statute was benefited by the 1962 statute, then he knew that the CBS property was granted a benefit in 1962.

Representative Sikes, one of the four owners of CBS in 1962, surely knew that the land CBS held was granted by and subject to the restrictions in the 1948 legislation which he had introduced. Representative Sikes has not denied that he knew the CBS property was held under the 1948 statute.

The coverage of the 1962 statute, also introduced by Sikes, is defined on its face, and in its opening clause, in terms of all of the land conveyed in the 1948 statute. Representative Sikes claims that he believed that somehow less than all of the land covered by the 1948 statute reecived the benefits of the 1962 statute, despite the fact that the coverage of the 1962 statute is defined simply in terms of the title of the 1948 statute.

There is no room left for honest mistake here.

Furthermore, the issue of whether the 1962 legislation covered the Holiday Isle property was specifically raised just two years later in a series of stories in the Tampa Tribune concerning Sikes' land holdings. A December 13, 1964, article, for example, stated:

"Sikes introduced and helped pass legislation which has enhanced greatly the financial potential of a two-mile strip of Gulf beach peninsula land."

"Sikes says he cannot fix a value on that land which is held by the CBS Development Corporation."

"The combination of the new lease given the CBS corporation and the removal of the government restrictions by Sikes' legislation gave the CBS corporation a free rein on what it could do with the two-mile strip of valuable property."

Representative Sikes can hardly argue he was unaware of these allegations, since the December 13 article itself indicates Representative Sikes was interviewed at length prior to publication of the article. More importantly, the Tribune on September 2, 1965, published a front page retraction and apology to Representative Sikes due to errors that "Congressman Sikes pointed out," and referred to assurances—which proved incorrect—from the Okaloosa Island Authority. Thus, despite the fact that the Tampa Tribune article was accurate in stating that Repsentative Sikes introduced and helped pass legislation of financial benefit to CBS—and himself—a retraction of that statement was successfully obtained by Sikes.

If, as Representative Sikes claims, he never intended and did not believe the 1962 legislation covered the Holiday Isle property, the December 1964 article certainly would have led him to check the accuracy of the article's allegation that Holiday Isle was included within the Act's coverage. A quick check of the legislation—and the deed conveying the land pursuant to the Act—would have clearly revealed the legislation covered Holiday Isle. Nevertheless, the process of denial continued when the retraction was issued by the Tampa Tribune.

As recently as May 30, 1975, Rep. Sikes, in a speech before the Northwest Florida Press Club, claimed that there was still the possibility that Holiday Isle was not included in the legislation and that this "could mean a cloud on the title and a futher bill could be required for clarification". Rep. Sikes and the CBS Development, however, never acted during the period from 1962 to 1975 on the assumption that the restrictions and the reverter clause were still in effect on Holiday Isle.

After the Press Club Speech, the Holiday Isle Leaseholders' Association demanded from Rep. Sikes a "proper and immediate public clarification" of statements Rep. Sikes made concerning the possibility of a cloud on Holiday Isle property titles. A letter written in 1975 by Holiday Isle Leaseholders Association President Frank H. Beatrous said in part: "We are shocked and outraged at your public statements that our leased homesites bought from you and CBS Corporation have clouds on their title. Surely you have other answers to the recent newspaper charges than one that admits you knowingly took our money for bad leases. We demand a proper and immediate public clarification from you to all lawyers, real estate brokers and title insurance companies in Okaloosa County."

The current Holiday Isle Leaseholders Association President Ann Suters has reported that prior to the Press Club speech they had never heard of any possible cloud on their titles and they remain confident that their titles are clear.

In conclusion, we believe the case is overwhelming that Rep. Sikes has always known the full coverage of the 1962 statute. Certainly, at the very least, an investigation is called for if the Committee has any remaining doubts.

2. The Allegations with Regard to the First Navy Bank.

Our complaint and opening statement establish facts which we believe are essentially uncontested. They show that Representative Sikes accepted the much-sought-after benefits of an opportunity to participate as a substantial owner of stock in a closely held corporate banking business after first exercising the influence of his official position on a number of occasions to help obtain the necessary government permits and insurance for the bank to be established on Pensacola Naval Air Station. House Rule XLIII (3) is simply one expression of a long-accepted standard of conduct that forbids accepting personal benefits following the furnishing of official services (compare 18 U.S.C. 201) and from the beneficiary of those services. The appearance of wrongdoing in any such situation is so striking as to bring discredit on the House.

Far less serious conduct was considered censurable because of the discredit such appearances of impropriety brought to the Senate in the case of Senator Bingham even if his actions were not "the result of currupt motives" (H.R. Rept. No. 27, 90th Cong., 1st Sess., at p. 26). But in this case there are additional and important factual questions as to whether the appearance of even more serious wrongdoing may not be an accurate one. The Committee has an obligation to establish: whether Representative Sikes had an expection of participating in the First Navy Bank when he intervened on its behalf; whether his participation was granted as a reward for his efforts; and whether he did or should have known that the participation was to be a reward for his efforts.

CONCLUSION

Common Cause has set forth allegations that more than satisfy the requests for an investigation to take place. We submit that the House Ethics Committee has a clear duty to proceed to an investigation of these matters and to make findings which are subject to ultimate review by the full House of Representatives.

ON ASSISTING THOSE WITH HEARING AND SPEECH DIFFICULTIES

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. KOCH. Mr. Speaker, the Manhattan Eye, Ear, and Throat Hospital has brought to my attention that the month of May has been celebrated throughout the United States as Better Hearing and Speech Month. Today, more than 10 percent of our total population—and 1½ million individuals in New York State alone—are afflicted with speech and/or hearing impairments which seriously affect their educational, vocational, personal, and social functioning and adjustment. This month is designated to highlight their needs.

Agencies such as the Manhattan Eye, Ear, and Throat Hospital in New York provide invaluable services and substantial financial savings through early detection and treatment of speech and hearing disabilities. For, unless problems in an individual's ability to communicate are discovered at an early stage, affected children find themselves unable to cope with the requirements of school. And, as adults, they are incapable of holding positions commensurate with their skills and abilities. These potential difficulties are the ones that the hospital seeks to minimize through its comprehensive rehabilitation programs.

Speech and hearing disabilities are indeed handicaps, but they need not preclude leading a full and productive life. I salute agencies such as the Manhattan Eye, Ear, and Throat Hospital which strive to restore the communicative facilities of speech- and hearing-impaired individuals, and I applaud the individuals and organizations who are working to focus the public's attention on Better Hearing and Speech Month.

CONSUMER COMMUNICATIONS REFORM ACT

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WIRTH. Mr. Speaker, for the past few months the American Telephone & Telegraph Co.—A.T. & T.—and the U.S. Independent Telephone Association—USITA—have been visiting many of our colleagues urging them to cosponsor the Consumer Communications Reform Act of 1976, a bill which the telephone companies themselves have authored and titled. To date, more than 100 Members have put their names on the "Bell bill."

While the sponsors of this legislation have undoubtedly acted with good intentions, I am concerned that some may not have been provided with the complete details of the issue of competition in the telephone industry.

As a member of the Subcommittee on Communications, I would say to my colleagues that this is an extremely complex issue and one which requires careful study and analysis before we even consider legislation of the nature A.T. & T. has proposed.

Since this is a subject about which there has been little information available, beginning today I intend to bring a comprehensive perspective on the issue of competition to my colleagues' attention.

As introductory reading, I would commend the article which appeared in Business Week on March 15, 1976, which provides a good overview of this matter.

On Tuesday, I will call my colleagues' attention to an address made recently by Federal Communications Chairman Richard E. Wiley before the 29th annual conference of the International Communications Association. In his remarks, Chairman Wiley traces the FCC and judicial decisions which led A.T. & T. to seek legislation prohibiting competition in the telephone industry.

On Wednesday, I will refer my colleagues to a speech I delivered to a Bell executive seminar in Princeton, N.J., on the subject of this legislation. Most of the thoughts expressed in my speech were based on information gathered during hearings held last November by the Subcommittee on Communications. I would also urge my colleagues to read the transcript of those hearings in order to put the Bell legislation in perspective.

On subsequent days, I will include further information which should provide a useful background for all of us who will be considering this important issue.

A.T. & T.s Bold Bid To Stifle Competitors

Within a month virtually all the major telephone companies, led by American Telephone & Telegraph Co., will loose an all out political effort on Capitol Hill to reverse recent regulatory and judicial decisions that have opened parts of their $40 billion industry to competition. "We have decided the time has come to call the public's attention to its stake in the matter," says AT&T's outspoken chairman, John D. deButts.

In the past few years AT&T's tough boss has taken a progressively harder public line against decisions handed down by the Federal Communications Commission, specifically against policies that led to the introduction of limited competition in telephone products and in specialized private-line services. Now he is convinced that he has to throw down the gauntlet.

DeButt's gauntlet is a startling request to Congress to pass a law that would stop competition in long-distance services, permit AT&T or other traditional carriers to acquire the companies that would be put out of business, and revoke the FCC's jurisdiction over technical and operating standards that affect terminal and accessory equipment attached to local telephone company facilities. Such legislation would, in effect, stop a burgeoning industry, with a multibillion dollar potential, dead in its tracks.

Pressure for such legislation has built up slowly in the past few years in the telephone industry, particularly at Bell headquarters in New York City. AT&T has suffered a long series of reversals at the hands of Washington regulators, and generally the FCC decisions that AT&T considers adverse have been upheld in federal courts. Beyond that, a massive antitrust suit by the Justice Dept. seeks to separate AT&T's operating companies from its manufacturing subsidiary, Western Electric Co., and its Long Lines Dept.

Caught in a tightening vise, AT&T's chairman decided to turn to legislation as a final resort. He hopes his industry will be able to persuade Congress to change the rules in its favor and disarm both the Justice Dept. and the FCC. Furthermore, new laws would help the company to head off the FCC before it can consider a blockbusting series of recommendations served up by its AT&T trial staff on Feb. 2.

The FCC's trial staff, backed by a special 50-man task force that has been working since 1971 on a review of Bell's rates, market behavior, and financial structure, is calling for a massive reduction in AT&T's rate base, asking for a major revision of the company's accounting practices, and—in agreement with the Justice Dept.—recommending divestiture of Western Electric. It also concludes that competition has been beneficial for AT&T, and has led to improved performance.

THE BUILDUP

For some months AT&T and the independent telephone companies, including such majors as General Telephone & Electronics, United Telecommunications, and Continental Telephone, which do not always see eye to eye with Ma Bell, have been preparing suggested legislation. According to a group of key industry executives that met with Business Week reporters on Feb. 20, that job is finished. All that remains is to polish the text into the form of a bill and to line up congressional sponsors. The industry hopes to get "at least 50" cosponsors to push its legislation through. According to Edward B. Crosland, AT&T's smooth, Virginia-bred senior vice-president, who is quarterbacking the legislative effort, the telephone companies would like hearings in May and hope that the bill will be brought to a vote this summer. Whatever the timetable, the industry's strategy amounts to its most daring political power play since the passage of the Communications Act of 1934.

Washington regulators are in a state of dismayed anticipation. AT&T is widely respected for its political muscle, although it seldom flexes it on a national level. Says FCC Chairman Richard E. Wiley: "I'm truly sorry to see this coming. I don't think new legislation is really necessary, because all the issues involved could easily be settled in cases now before the commission or awaiting court decisions." FCC Common Carrier Bureau chief Walter R. Hinchman points out that several key issues are scheduled for decision in the next 18 months.

No telephone industry representatives have yet officially consulted the FCC about the proposed billl, nor made the industry's intentions clear to the Office of Telecommunications Policy, the arm of the White House that has generally applauded the FCC's decisions to encourage competition and limit extension of Bell's monopoly into new products and new services. The OTP, like the FCC, would like to avoid an election year confrontation, and neither the FCC's Wiley nor the OTP's acting director John M. Eger believe the complex issues at stake can be adequately debated under high political pressures.

THE ISSUES

Because they have not been consulted officially and do not have a final copy of the industry's bill in hand, many regulatory officials hesitate to comment for the record on what they know of the industry's legislative plan. Most are aware of the gist of it, however.

For several months now, AT&T, the U.S. Independent Telephone Assn., and key members of the National Assn. of Regulatory Utility Commissioners, who oppose federal regulatory jurisdiction over any utilities have been circulating a white paper entitled "The Crises in Telecommunications." It summarizes the gut issues that the telephone companies will highlight and spells out the basic legislative revisions of the Communications Act that the industry wants. AT&T's Crosland and independent telephone company executives say the white paper provides an accurate description of their proposed legislation.

The two major elements would affect competition in different ways:

PRIVATE LINE SERVICES

The industry proposes to declare long distance services at utility function, to be served by a single, integrated system. That would reverse the FCC's controversial decisions to allow limited competition in specialized private line toll services by both terrestrial and satellite carriers. Communications attorneys point out that such an action would make AT&T's Long Lines Dept. a de jure monopoly rather than one that has evolved over the years as a practical extension of the traditional monopoly granted local telephone companies by laws now on the books.

The effect of such action would be to force such companies as Microwave Communications, Datran, and Southern Pacific Communications out of the business. So the planned legislation would immunize AT&T from antitrust sanctions, enabling it to acquire its erstwhile competitors. A job protection clause would guarantee employment to workers affected by acquisitions.

The legislation would also bar competitive services by satellite carriers now in operation or planned by such companies as RCA Global Communications, American Satellite, and Satellite Business Systems (the consortium of IBM, Comsat General, and Aetna Life & Casualty that plans a digital data and voice system for business).

The legislation would permit newcomers to provide services that did not in any way compete with regulated carriers. But telephone industry spokesmen cannot give any examples of unique and viable services that their own systems could not provide with advanced technology.

COMMUNICATIONS EQUIPMENT

The telephone industry's legislative strategy in this area seems intended to confuse rather than actually bar competition in communications hardware. The operating companies are fearful of too rapid disruptions from competition in ancillary telephone equipment such as extension telephones, large and small automatic switchboards, facsimile machines, and data processing equipment attached to telephone lines. So the industry proposes to give state utility commissions, instead of the FCC, regulatory control over customer-owned equipment. That could mean that telephone answering machines or data terminals might be legally connected to phone lines in some states, but not in others. This would load a complex set of new responsibilities on state utility commissions, which are notoriously understaffed and are responsible not only for telephone regulation, but for rates and standards for electric power companies, gas companies, water supply, and a potpourri of other activities. The telephone companies and regulators are well aware of the difficulties any national distributor of competing products would have in an environment involving 50 regulatory dominions.

While Federal regulators are keeping a low profile until the legislation surfaces in Congress, some competitors in the industry already are howling. Says William G. McGowan, president of MCI Telecommunications Corp., one of the companies that would be wiped out: "The proposition that this legislation would benefit the consumer is no more than the traditional big lie of the monopolist who is afraid of competition because he knows it will make his life tougher." Even some state regulators familiar with the issues see the legislation as regressive. "DeButts would love to turn the clock back to 1967" says James McCraney, chief communication engineer of the California Public Utilities Commission, referring to the era before the FCC's pro-competition moves. "But it's not going to put us back. I think competition is here to stay as far as hardware is concerned."

WAITING

Large corporations that would be hit by the proposed legislation are also waiting quietly before they get snarled in the fight. Spokesmen for IBM, ITT, and RCA all say their companies are concerned about the telephone industry's intentions, but prefer to withhold comment until the legislation is introduced in Congress. Says an RCA official: "So far this affects only a small part of our business directly. We are hardly into it yet. AT&T is a big company, and we'd rather not provoke a fight."

In the lull before the storm, there seems little doubt that AT&T's big competitors will be willing to defend their new turf, if necessary. The Computer & Business Equipment Manufacturers Assn. and IBM are fighting AT&T before the FCC over Bell's bid to supply, under telephone tariffs, an electronic data terminal with computer-like memory and logic called the Teletype Model 40. The crux of their argument is that telephone companies can extend the services of their basic monopoly simply by tariffing new devices or services. Once such tariffs are approved and have the force of law, the telephone companies can then justifiably claim they are common carrier services that can be provided only by regulated communication utilities. Then the computer industry fears that many of its competitive products and services are endangered by the slowly spreading territory of the telephone monopolies.

Telephone industry spokesmen deny they are extending their monopoly through new tariffs. They point out that Teletype, with its printers and keyboards, is a service of long standing. But they are also quick to deny competitors new access to their own businesses. The basic issue, they claim, is that their revenues should be protected from erosion by competition in order to support basic telephone service, which under law they are required to supply to all subscribers.

The telephone industry has united behind the warning that AT&T's deButts spelled out in a recent speech at Fordham University: "Were the telephone companies deprived entirely of the contribution to common costs that revenues from their more discretionary services provide, they would face the necessity of increasing the average residence customer's bill for basic service as much as 75%."

The independent telephone industry backs AT&T's estimates with a private study by a California consultant in San Rafael called Systems Applications Inc. The group issued a press release last month covering the study, and headlined it, "Federal regulatory policies on telephones will hurt consumers." The text of the release warns: "So-called competition will cause rate increases of 60% to residential users and 56% for business users of basic service within the next 10 years."

Yet AT&T's deButts concedes in his same Fordham talk that the 75% rate increase he warns of is "highly unlikely." The independents' study also cautions that "there are many other avenues of analysis that should be explored."

Telephone industry spokesmen admit that deButts' 75% figure and the group's 60% figure are extreme examples that assume phone companies will lose nearly all of their toll and equipment revenues. But the frightening numbers have been effective, so far, in lining up both Congressional and labor union support for the coming Capitol Hill test. The Communications Workers of America, which usually backs AT&T in regulatory disputes, as well as the International Brotherhood of Electrical Workers, want to support the legislation.

DATA IS NEEDED

Regulators believe that the claims of the telephone companies are exaggerated and resent being blamed for conditions they do not believe will come about. They fear the threats of rate increases may cause a consumer outcry that might have a devastating effect on Congress, where there is little knowledge of the complexity of the issues. While regulators believe that their decisions will lead to lower telephone bills, they are as hard put as the phone companies to come up with data to prove it. Historically, cross-subsidies between different services and equipment have grown with the telephone industry into an impenetrable maze that neither the phone companies nor the regulators can sort out.

The heart of the telephone industry's argument is that the revenues from long distance calling and from accessory equipment such as extensions and switchboards, help to pay for basic telephone service—particularly residential customers. Endangering such high-profit revenues, they claim, would result in higher phone bills. But the industry has not been able to prove its case with data that satisfies its regulators. For example, a current study by the New York State Public Service Commission contradicts the phone companies. It finds that basic telephone service subsidizes accessory equipment. As a result, the commission is requiring New York Telephone Co. to apply most of its rate increases to such equipment to rectify the inequity.

Sums up John Eger, of the Office of Telecommunications Policy: "There is simply no reliable evidence of any adverse impact from competition on local exchange rates, either now or in the future." Both Eger and the FCC's special AT&T trial staff insist that the telephone companies must alter their accounting procedures so that such things as cross subsidies and intercompany transfers of toll revenues are subject to reasonable audit.

Shared revenues between AT&T and the independents are vital to cover local phone system service costs. Some independent telephone companies depend for as much as half of their total revenues on the cut of long distance toll revenues they receive from AT&T Long Lines. But such "toll settlements" are reached by arbitrary formulas or individually negotiated contracts. In 1973, according to the FCC's trial staff, fewer than 10% of the more than 200 toll settlement agreements then in effect were audited.

In a kind of Catch-22 argument, the telephone companies say their toll agreements are always approved by the regulators and claim their accounting is unique because the regulators demand that they use the Uniform System of Accounts, a system that has not changed significantly since the turn of the century. Yet both regulators and phone companies agree that the uniform system is not equipped either to handle the systemic and technological changes that have occurred or to adapt to modern computerized auditing and accounting practices. "It is a dilemma," admits the OTP's Eger.

Eger, who has watched the regulatory scene heat up since 1968, when the FCC began to approve competitive participation in the telecommunications industry, is convinced a new era is beginning that will be very different from the first 100 years of the industry, when it was essentially building a universal basic service. He quotes from a 1974 speech by deButts: "The second century of the industry is going to have to be devoted not to further extension of basic service—that job has essentially been done—but to the searching for and satisfaction of a wide diversity of new service demands." Says Eger: "That's a job for which market competition is better suited than monopoly."

BATTLE JOINED

In Washington, few think Congress is prepared to debate the issue of monopoly or competition in the new communications environment. Congress has seldom shown any more interest than a cursory look at the FCC, and those looks have generally been more concerned with regulation of broadcasting than the quiet and complex workaday problems of telephone regulation. But soon the battle will be joined. Says AT&T's deButts: "However these matters are eventually resolved, the Bell System will accommodate itself with good grace to the public's decision."

At this point, no one can predict how Congress will react. But when it comes to the hard choice between monopoly and competition some strange bedfellows can pair up. FCC watchers remember that Chairman Dean Burch, a conservative Republican, and Nicholas Johnson, perhaps the most liberal Democrat ever to occupy a commissioner's office, never agreed about anything political, but they voted alike when it came to favoring competition over regulated monopoly. If the same liberal-conservative pairing happens in Congress is it did in the FCC, the coming debate could turn into deButts' last stand.

SRI LANKA ANNIVERSARY

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. McCLOSKEY. Mr. Speaker, I would like to take this opportunity to honor the fourth anniversary of the founding of the Republic of Sri Lanka on May 22, 1972. This event is particularly appropriate in our own Bicentennial Year since Sri Lanka and the United States share a common heritage of democracy.

Before the next Republic Day is celebrated in Sri Lanka in 1977, the country will have its seventh opportunity since regaining its independence in 1948 to elect by the free exercise of adult universal franchise, a new government.

The warm relationship between Sri Lanka and the United States is a hopeful sign for the growing interdependence between developed and developing nations which must exist if we are to maintain peace throughout the world.

In August of this year, Sri Lanka which has long been a leader in the group on nonalined nations will host the fifth nonalined Summit Conference—the first time such a summit has been held in Asia. The meeting which will be a focal event in the third world will be attended by the leaders of over 80 nations and will take place in the Conference hall dedicated to the memory of the late Prime Minister Mr. S. W. R. D. Bandaranaike—the architect of Sri Lanka's nonalined foreign policy—and will be chaired by his widow, the present Prime Minister, who has had the distinction of leading Sri Lanka's delegation at every nonalined summit meeting since 1961.

Sri Lanka's reputation for international diplomatic leadership has been recognized by the election of Shirley Amerasinghe as president of the 150-plus nation United Nations Conference on the Law of the Sea.

President Amerasinghe's quiet and patient leadership is credited with a substantial part of the progress made by the recent New York session of the conference, and in particular, for the new single negotiating text on dispute settlement.

Likewise, the work of another Sri Lanka diplomat, Chris Pinto, has provided a major contribution to the deep seabed mining portions of the treaty.

If the world is privileged to finally achieve a comprehensive LOS Treaty next year, the Sri Lanka contribution may well turn out to be as great as that of any of the participating nations.

As a developing country, Sri Lanka has been buffeted by the worldwide inflation and catastrophic consequence of the increases in import prices. Nevertheless, heroic efforts are being made to achieve a viable economic structure and the recently concluded land reform was a milestone in this direction. This measure asserted the economic independence of the island, and the sense of moderation displayed in the compensation negotiations that were finalized is an object lesson for the rational dialog that is possible between developed and developing countries. Another major achievement has been the inauguration of a gigantic multipurpose river diversion project whereby the waters of Sri Lanka's longest river, the Mahaweli, will be diverted into the arid dry zone of the country. State I, project I of the massive multimillion-dollar project has been completed. The country has commenced the construction of a urea fertilizer plant and Kellogg International Corp. of the United States has won the contract for this $92 million project which will provide the full requirements of urea for the agricultural sector of Sri Lanka. Sri Lanka is also exploring for oil and Pexamin Pacific, Inc.—a group of companies operating in the United States, Europe, and the Pacific regions—have been appointed as consultants to provide the necessary expertise.

Sri Lanka's social and economic development has been distinguished by a dramatic decrease in the rate of population growth. In 1974, the figure for the increase of population was as low as 1.6 percent which must surely be a record for developing countries. The finance minister in the budget which he presented in November 1975 signaled the emergence of strongly pragmatic policies, asserting a role for the private sector and welcoming the infusion of foreign private capital into the economy of Sri Lanka. A foreign investment law and the creation of a foreign investment authority to give legal form to the inducements for foreign private capital are being formulated. Sri Lanka is strenuously pursuing her objective of achieving economic development together with greater equality in the distribution of income. The share of the income of the poorest 40 percent of inhabitants has risen since 1963 from 14 to 19 percent in 1973. Correspondingly the share of income received by the top 10 percent has declined from 37 to 28 percent during the same period.

The United States continues to be an important donor of development assistance to Sri Lanka and in 1976 an agreement was signed under Public Law 480 for the sale of 100,000 tons of wheat flour to Sri Lanka. Trade between the two countries in 1975 expanded with imports by the United States increasing by 15 percent and U.S. exports to Sri Lanka increasing by over 69 percent. Sri Lanka also continues to be a popular tourist resort by virtue of its unique beauty. In a recent birthday message to Mrs. Sirimavo Bandaranaike, the Prime Minister of Sri Lanka, President Ford said:

> Under your distinguished leadership Sri Lanka continues to play an important and constructive role within the family of nations—underscored by the fact that Sri Lanka will be host this summer to the Non-Aligned Summit Conference. Your birthday provides a welcome occasion to reiterate my personal satisfaction and that of the American people with the friendship and cordial relations that exist between our two democracies. I have every confidence that this friendship will continue to prosper.

I am pleased, Mr. Speaker, to add at this point my own warm personal regard for Sri Lanka's Ambassador to the United States, the gracious and distinguished Neville Kanakaratne.

Together, may the friendship and economic interdependence between our two nations continue to assist the world's search for peace under world law and a decent respect for the rights of individuals.

ROLE, REQUIREMENTS, AND POSITIONS OF THE U.S. NAVY TODAY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. WHITEHURST. Mr. Speaker, I have a transcript of remarks made by Adm. James L. Holloway, the Chief of Naval Operations, before the Navy League National Convention in Boston on May 21, which I respectfully submit for the RECORD. Admiral Holloway's address concisely discusses the role, requirements, and position of the U.S. Navy today, and should be of interest to my colleagues:

It is a great pleasure for me to be here with you tonight at this National Convention of the Navy League of the United States. It is fitting, I think, that in our nation's Bicentennial year, we meet in Boston where so much of the American Revolutionary movement began.

Since pre-Revolutionary days, Boston has been a city closely tied to the sea. This was the site of my first active duty as a naval officer as it has been a duty station for so many of our career personnel over the years.

Tonight I am going to talk to you about the Navy, taking up where the Secretary of the Navy left off. To understand the Navy one must first put into perspective our total national defense needs.

There is consensus that U.S. military capability and strength today can be described as "sufficient." That is, we have "rough equivalence" to the Soviet Union and this essential equivalence is the foundation we must maintain.

However, the trends of the past 5–10 years are adverse with respect to the military balances. No one chart or statistic can provide the *complete* picture—but a sweeping look at resources, procurement, research and development, construction, and force levels can make clear what has taken place.

The facts drive one to the inevitable conclusion that the U.S. must act now to arrest these adverse trends, by providing real increases for national security. Unless we act the United States will find itself in the position of having to alter its policy of maintaining rough equivalence with the Soviet Union. I share the conviction of the President and the Secretary of Defense that the American people are not willing to accept a policy of inferiority.

Our National Defense Policy and Defense Budget for the coming fiscal year reflect the deep concern of our nation's leaders for the security of our country. They are advocates of strength, and deterrence through strength is the heart of our defense strategy.

I don't believe there is any question in the minds of responsible persons, that the United States needs a Navy. But there is debate centered around what kind of a Navy, and how large.

The mission of the Navy is to conduct prompt and sustained combat operations at sea in support of our national interests.

To carry out this mission the United States Navy needs ships, aircraft and people. It needs ships and aircraft individually capable of coping with the weapons systems technology that they may face in future battle, and competent and professional people who can maintain and operate those ships and aircraft to the limit of their design capabilities. We must have enough of those ships, aircraft and people to constitute a fleet, which, in coordination with our other services and in combination with our allies, can defeat the total maritime forces of our potential adversaries.

At no time since World War II has the role of the United States Navy been more important to our national defense than it is today. The military strategy of the United States is a forward strategy. It is overseas oriented, driven by basic geopolitical considerations. There are two superpowers, the United States and the Soviet Union. The Soviet Union dominates the Eurasian land mass. Her allies, the WARSAW PACT nations, are contiguous to her western border. Her principal adversaries, the People's Republic of China and NATO Europe, lie on her flanks, adjacent to her borders.

The Soviet Union can defend itself, support its allies, or launch an attack against its principal opponents without ever having to cross a major body of water.

In contrast, the United States is characterized by its insular position on the North American continent. We have only two international borders and not a potential enemy on either one. One of our states, all of our territories, and forty-one of our forty-three allies lie overseas. This forward strategy can be described as one in which we use the oceans as barriers in our defense, and as avenues for extending our influence abroad to those areas around the world in which we have vital national interest.

A forward strategy requires two things, allies and overseas forces—forces deployed to protect our allies and deter potential aggressors.

The Navy's role in this strategy is twofold—to provide components of these overseas forces such as the Sixth Fleet in the Mediterranean and the Seventh Fleet in the Western Pacific and Indian Ocean; and to protect those essential sea lines of communication between the United States and its deployed forces, between us and our allies, and between the U.S. and those areas of the world vital to our national interests, such as the Persian Gulf and South America.

To carry out these responsibilities our fleets must be offensively powerful enough to defeat the enemy forces routinely present in their theater of operations, strong enough to defend against attacks by long-range aircraft, able to project power ashore in support of our allies and our forces, and our fleets require a high degree of logistic independence from overseas bases.

A balanced fleet is necessary to give our Navy these capabilities. There must be balance among types: carriers, surface combatants, submarines, amphibious forces, and support ships. There must also be, within a constrained budget, balance between those very capable multi-purpose ships such as carriers and cruisers, which are relatively expensive, and the single-purpose vessels which, being less costly, can be procured in larger quantities and so provide our fleet with the density of force it needs to be effective on a world-wide basis.

As I have said, I believe there is little disagreement in these basic premises upon which the naval requirements for the United States must rest. The debate lies in the translation from these naval requirements to the military characteristics, or the designs of the specific ships and aircraft, and the number of these which should comprise the operating forces. As in any debate there are two sides. And in the course of this debate, myths have been generated which require a rational response. I think there is no better time or place than this occasion to confront mythology with reason.

There is a myth that the United States Navy as a matter of policy has emphasized its power projection role to the detriment of its sea control responsibilities. In reality, power projection is an essential part of sea control. Our power projection forces consist of U.S. Marines embarked in Navy amphibious shipping to constitute the nation's only major capability for injecting U.S. ground forces into a hostile environment in an opposed amphibious operation. The second main form of power projection resides in the capability of our carrier-based aircraft to strike targets more than 500 miles away from our task forces with a variety of weapons, conventional or nuclear. The use of carrier aircraft and Marines in the projection of military force can be an absolute requirement in insuring our control, or continued safe use of areas of the high seas essential to our national needs. Long range air strikes contribute significantly to our ability to control the seas by destroying enemy warships at their home bases or enroute to those ocean areas which we desire to protect, before the enemy forces come within range of our own. Marine amphibious forces, supported by carrier air, can seize and hold land areas either to deny them to the enemy for their use in interdicting our sea lines of communication, or to permit our own forces to exploit these areas as advance bases to attack enemy forces which would interdict our own.

This function of power projection as a major component of the Navy's responsibility for controlling the seas is clearly reflected in the assigned functions of the Navy, which are to "seek out and destroy enemy naval forces . . . gain and maintain general naval supremacy, to control vital sea areas and to protect vital sea lines of communications, to establish and maintain local superiority including air in an area of naval operations, to seize and defend advanced naval bases, and to conduct such land and air operations as may be necessary to the prosecution of a naval campaign."

It is interesting to remember that the island hopping campaigns in the Pacific in World War II were not to acquire real estate, but for the sole purpose of seizing advanced bases to gain control of the sea approaches to the recovery of the Philippines and the invasion of Japan.

There is a myth which states that the U.S. Navy's operational concepts are defensively oriented, citing the emphasis on fighter interceptors on our carriers, and surface-to-air missiles on our surface combatants. It is suggested that these aircraft, missiles and ships exist for the sole purpose of "defending the carrier". In reality, these fighters are for the purpose of destroying enemy aircraft or cruise missiles attacking any friendly ships, combatant or commercial, U.S. or allied. The fact that our carrier based fighters are able to effectively intercept targets more than 500 miles away make them effective in destroying hostile threats to friendly forces over large areas of the ocean's surface. The surface-to-air missile systems, such as the AEGIS controlled standard missile incorporated in the design of the strike cruiser and guided missile destroyers, is an area weapon which can intercept and destroy enemy aircraft and cruise missiles, protecting all friendly ships within the envelopes of its effective range. The tactical doctrines of the U.S. Navy emphasize the adage, "the best defense is a good offense." We defend the convoys, amphibious forces, ASW groups, and striking forces by destroying enemy surface ships, aircraft and submarines which have the capability to attack friendly forces at sea. A defense designed and calculated to destroy hostile launch platforms contributes to the overall war fighting objectives of our strategy by destroying the enemy's military forces through which he would wage war.

There is a myth that states that the Navy is concentrating its efforts on the construction of the complex nuclear powered ships, which, because of their expense compares to their' conventionally powered counterparts, will reduce the total number of ships available to the Navy in a limited budget.

In reality, the Navy's policy for the new construction of nuclear powered warships is straightforward and designed to support a limited but fundamental exploitation of the advantages of nuclear propulsion within the overall requirements of our naval strategy. This policy states that all submarines should be nuclear powered, because with nuclear power the submarine attains the ultimate capabilities of the true submersible. Among surface conbatants, only carriers and cruisers should be nuclear powered, and only enough of these to constitute a strategically significant segment of the U.S. operating forces. This would amount to five or six all-nuclear powered task forces, each consisting of a carrier, two to four cruisers, and one to three submarines. These all-nuclear powered task forces would have the ability to steam unlimited distances at high speeds, without the necessity to refuel, replenish or rearm, and arrive at a crisis point ready to conduct combat operations, for a sustained period of time, until the crisis was resolved, or conventional forces with logistic support arrive. Three of these task forces in the Atlantic Fleet for example would permit one to be forward deployed at all times, one to be combat ready based on the U.S. East coast, and the third all-nuclear task force in maintenance.

Our buildup toward this all-nuclear task force capability has been modest. The current Navy shipbuilding program includes only a total of three nuclear powered surface powered surface ships and about 50 conventionally powered surface combatants, including AEGIS destroyers and fleet frigates.

There is a myth that says that the U.S. Navy is outbuilding the Soviet Navy. In reality the situation is this: in the past fifteen years since the Soviet Naval buildup began, the Soviets have delivered to their fleet a total of 1,312 naval vessels and logistics ships. During this same time the U.S. Navy has delivered a total of 325 new ships.

If all the ships constructed over the past fifteen years for the navies of the Soviet Union and the United States are compared, regardless of size, mission, or type, the Soviet Union has clearly produced more ships at a greater dollar cost. However, if from that total list certain categories of ships are selected over specified time frames, for example surface combatants over 3,000 tons constructed between 1970 and 1975, then different stories can be told in each case depending upon the data and the criteria used. What I'm pointing out is that it is easy to manipulate this data to confuse the real issue.

A second point to be made is that the United States is not engaged in a shipbuilding race with the Soviets. What we are determined to do is to maintain maritime superiority in the face of Soviet expansion. Shipbuilding is a part of this. But the strategies of the United States and the Soviets differ. We need one kind of Navy, and they need another. We are each procuring the kinds of ships required for our own particular strategies. Therefore it is not so much who has built the most ships of what kinds, as it is how capable a Navy each of us has to do a particular task. Our analyses indicate that unless we devote more effort to our own Navy, the upward trend of Soviet maritime expansion is going to place our maritime superiority in jeopardy within the next decade.

There is a myth that says the day of the carrier is over. That, like the battleship, it has outlived its usefulness. The realities of the situation are this. The carrier represents airpower at sea. Manned aircraft remain an essential and irreplaceable part of the military force structures of all our services.

Naval warfare includes many subsidiary warfare tasks, and naval aviation is a major contributor in a number of these. Aircraft are used in an anti-air role to shoot down hostile aircraft and cruise missiles; in an anti-surface warfare role to attack hostile surface ships with bombs and missiles; in an ASW role to detect, localize, and attack submarines; and in mine warfare to implant mines or to conduct mine countermeasures operations. Aircraft have the prime responsibility for early electronic warning of hostile air and surface targets. Aircraft are prime platforms for intelligence gathering through photography and signals intelligence.

There is a myth that says we should build no more carriers because they are vulnerable. In reality carriers are vulnerable, but carriers are the least vulnerable of any surface ship afloat. With its extensive compartmentation, protection, armor, and damage control facilities it is designed to take punishment and fight on. But much more important, the carrier, with its aircraft, reduces the vulnerability and improves the survivability of all surface ships, including itself, the accompanying surface combatants, the tankers, ammo carriers and troop ships.

It has been suggested that because of its large size, a carrier is an easy target for a guided missile. With today's guidance techniques, that provide virtually no miss distance for guided missiles, no vessel on the high seas can escape the effect of such accuracy. But where a single warhead would sink or disable a smaller ship, the carrier can absorb these blows and fight on.

So the carrier is not only the least vulnerable of all surface ships, but also its very presence reduces the vulnerability of the merchant fleet, the protection of which is raison d'etre for our Navy. As long as we are determined that we are going to move people and resources across the oceans, then we must be prepared to protect them. If in our efforts to protect these vital lines of communication, we lose some ships—merchant and combatant—then so be it. But we must try to protect those ships, otherwise we are defeated before we begin.

In this debate concerning the size and composition of the future Navy, I consistently attempt to relate the composition of the fleet to the needs of the nation, in terms of the force structure that is required to enable the Navy to carry out its responsibilities within the national military strategy. That national strategy is today an overseas-oriented concept. The Navy's principal responsibility within that strategy is to make secure the sea lines of communication so vital to the United States and its allies. To carry out these responsibilities the Navy must be able to control the sea. Not all the seven-tenths of the world surface covered by the oceans, all at one time, but those selected areas of the sea through which we want our friendly forces to pass unharmed. To accomplish this we must have forces that can meet and defeat the total threat which a potential enemy could bring to bear against us.

We know that the Soviets are steadily improving their capability to conduct warfare at sea in open ocean areas, far from their homeland, in all three dimensions: above, on and below the surface. They have a growing force of supersonic naval aircraft capable of delivering air-to-surface missiles against our surface ships over vast areas of the ocean. They are continuing to build large ocean-going, long range surface combatants equipped with anti-ship missiles, and are now completing their third aircraft carrier. And the Soviets continue to produce large numbers of modern nuclear powered submarines of varied advanced designs, many of which are capable of launching anti-ship missiles while submerged.

Our Navy must be able to fight against this array of weapons systems and win. We cannot make the mistake of overemphasizing any single area of our naval capability. To do so would simply invite the enemy to exploit an area of neglect. We must also be prepared for conflict situations which involve aircraft, surface ships and submarines simultaneously. Experience has shown that is the way that wars are most effectively fought.

The response to this maritime challenge must be to build a superior fleet of balanced forces. We cannot build only carriers because these multi-purpose ships are too expensive to be procured in the quantities required for our global responsibilities. We cannot build only submarines because, although they have no equal in those tasks for which they have a capability, they are nevertheless incapable of doing everything, such as protecting convoys from air attack or providing support to Marines in assault landings. We in the Navy feel that our shipbuilding programs achieve the proper balance among our force types, and between the powerful, expensive, and nuclear powered units and the single purpose less expensive, and more procurable smaller ships.

Debate is healthy, and I welcome this opportunity to clarify the issues. But we must get on with building a fleet. And we must recognize that numbers of ships are only part of the answer. We must have the requisite numbers of individual ships which in themselves have the inherent military characteristics which will in aggregate give us a total maritime force which will permit the United States to carry out its national military strategy.

To maintain an overall level of rough equivalency with the Soviet Union, the United States Navy must maintain its seapower preeminence. The naval programs before the Congress as a result of the President's decisions will maintain that slim edge which the United States Navy now enjoys. I think it is our responsibility as American citizens with an understanding of seapower, and an awareness of the issues, to do our part to insure that we do not now or in the future vacate our position as number one in terms of maritime superiority.

I welcome your involvement and I value your support.

VETERANS' AFFAIRS

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. JAMES V. STANTON. Mr. Speaker, I believe our Nation should treat each person who has served in the Armed Forces in a very special way, for these men and women answered the country's call to perform one of the most difficult jobs in the world: A job unusually strenuous and demanding, often requiring prolonged separation from loved ones, risking injury, or death. While the United States has traditionally honored veterans, the fact is that in terms of jobs, health care for the injured and ill, and financial aid for the disabled and aged, the veterans of today often do not receive their due.

Unemployment among veterans should be less than the rate of unemployment generally, yet young veterans age 20 to 24 suffered an unemployment rate in 1975 of about 20 percent, more than double the national rate. Aged and disabled veterans should be better off financially than the population as a whole, yet 24 percent of the families receiving a VA pension have incomes below the poverty level of $3,410, as compared to the national percentage of 5.4 percent. In large measure, the Government's failure to provide adequately for the veterans is due to the callous, penny-pinching attitude of the current and past administrations, combined with a public desire to forget about tragedies like Vietnam. As a Member of Congress, I have over the past 5 years given my full support to measures to grant veterans the assistance they need and deserve, and I will continue to do so.

THE RECORD

EDUCATION

To the young veteran, there is perhaps no program more important than the GI educational benefits. Speaking for myself, I know that without these benefits I would not have been able to complete my education after leaving the Air Force in 1954. Thus I voted for the landmark 1974 legislation increasing the educational benefits by 22.7 percent, and the benefits for on-the-job training and vocational rehabilitation for the disabled by 18.2 percent; extending the period of entitlement for undergraduate work from 36 to 45 months; and extending the time in which the benefits could be used from 8 to 10 years after the date of departure from the service. Congress had cast aside the administration proposal for an 8-percent benefit raise, and so Mr. Ford vetoed the bill, saying it was too costly. I joined with overwhelming majorities in both Houses of Congress to override the veto. I also voted against the Ford proposal to end the benefits program for all who were to enter the service after December 31, 1975.

HEALTH CARE

I voted for the 1973 Veterans Health Care Expansion Act, which requires the VA to staff and maintain enough hospital beds to admit all eligible veterans in need of care, and to double the number of VA nursing home beds. Enactment of this legislation came in response to policies imposed on the VA by the President's Office of Management and Budget which had resulted in nearly half the veterans applying for care having their application rejected. The act was also intended to insure there would be no repeat of President Nixon's 1972 freeze on hiring by the VA, which had a disastrous effect on the quality of care in VA hospitals. The act also extended outpatient care privileges to those veterans currently eligible for hospital care, so that those requiring treatment short of hospitalization were covered. Enactment of this legislation would have come a year earlier, but for the pocket veto of Mr. Nixon in 1972.

In recognition of the serious problem of drug addiction among those who served in Southeast Asia—a House investigating committee estimated that as many as 1 in 10 servicemen had become addicted to heroin—I supported establishment of a special VA program to assist in rehabilitation.

In addition, to assist disabled veterans, I voted for bills approved by Congress to cover their cost in traveling to facilities for vocational rehabilitation, counseling, and health care, and to provide them a grant of up to $3,300 to pay for special equipment they require for their automobiles. Regretfully, Mr. Ford pocket-vetoed the bill for travel expenses.

DISABILITY COMPENSATION AND PENSIONS

I voted for every one of the bills to provide cost-of-living increases in the rates of service connected disability and dependency and indemnity compensation, and the rates of non-service-connected disability pensions. In the bills enacted in 1975, Congress rejected the Ford proposal to limit the benefit increase to 5 percent and enacted instead an 8-percent increase in the pension rates, and an increase of 6 to 10 percent in the rates of compensation.

JOBS

Both the public service jobs program, under which 300,000 unemployed persons have been hired by State and local governments to perform needed community service jobs, and the comprehensive manpower training act include provisions requiring that a maximum effort be made to produce jobs and job training for veterans. I fully supported both measures.

HOUSING

In order to help veterans own their own home, I supported the Veterans Housing Act of 1974, which raises the maximum level of mortgage loans guaranteed by the VA from $12,500 to $17,500, and increases the maximum grant for specially adapted housing for disabled veterans from $17,500 to $25,000.

WHAT NEEDS TO BE DONE

JOBS

Veterans will not receive the job opportunities they deserve until the Federal Government becomes an energetic partner with them in seeking out employment and arranging for appropriate job training. In order that each veteran will have individual attention and guidance, I call for the establishment in the Department of Labor of an Office of Assistant Secretary for Veterans' Employment, which would provide job counseling and employment services, and strive to improve working conditions for veterans, particularly the disabled.

OVERHAUL THE PENSION SYSTEM

The serious flaws in the non-service-connected disability pension system are obvious. A substantial number of pensioners live in poverty, while some receive a pension even though their spouses have an income exceeding $20,000. The strict limits on outside income imposed on the veteran himself means that a slight increase in his income can result in a sharp drop in the pension. Due to the social security increase of last year, on January 1 of this year 655,000 pensioners who receive social security suffered a decline in their VA pension averaging $82. Comprehensive reform of the system, to guarantee that each pensioner will have an adequate income, and that the bulk of the assistance will go to those most in need, is necessary. A bill to reform the system, including establishing an income floor for each eligible veteran—$2,700 for a single pensioner and $3,900 for one with a dependent—is now pending in Congress, and it has my complete support.

EDUCATION

The educational benefits program must be continued, with the payments being increased periodically to meet the skyrocketing cost of higher education. The extra 9 months of benefits provided by the 1974 act are restricted to undergraduate work. This restriction should be removed, so that veterans choosing to seek a graduate degree may do so. Finally, the 10-year expiration date for use of the benefits should be removed. These benefits should be available to a veteran whenever he or so chooses to use them.

HEALTH CARE

New, comprehensive legislation to end overcrowding and understaffing in VA hospitals and other facilities must be enacted. This legislation should include efforts to attract more doctors, nurses, and technicians; recognize alcoholic and drug dependency as diseases that the VA generally may treat, and providing funds for this purpose; and offer counseling to veterans and their families to help with difficult adjustments from military to civilian life. In addition, complete preventive health care services should be extended to more disabled veterans. Isolating and treating medical problems in their early stages may prevent costly hospital care later on.

SPENT FUEL STORAGE AT COMMERCIAL NUCLEAR POWERPLANTS: A SERIOUS PROBLEM

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. FASCELL. Mr. Speaker, the energy crisis is still upon us. It has not simply faded into the background. Finding practical and inexpensive alternative sources of energy remains a powerful challenge to our Nation's scientists and leaders.

Nuclear energy is one of many such alternatives. It has deservedly received great attention and merit as a viable power source for the immediate and distant future.

While the potential of nuclear energy as such a source is attractive, there are nevertheless many attendant problems which deserve to be looked at: uranium enrichment, safety and design problems of nuclear powerplants, and problems dealing with the backend of the nuclear fuel cycle—the fuel recycling process—including spent fuel storage, reprocessing, and waste management in general. It is the latter which is especially important, namely, spent fuel storage and reprocessing. Serious policy questions will have to be decided by both the Energy Research and Development Administration and the Nuclear Regulatory Commission concerning these issues.

The problem of waste management is one which has concerned me for some time. The Conservation, Energy, and Natural Resources Subcommittee of the House Government Operations Committee, of which I am a member, has held hearings on low-level radioactive waste disposal. Future hearings are planned on the disposal of high-level radioactive wastes.

The difficulties surrounding the storage of spent fuel while the Nation's three commercial reprocessing facilities are unusable is another problem of great concern.

At present, some spent fuel is being stored at the reprocessing plant in Morris, Ill. Other quantities of spent fuel are being stored at the commercial reactor sites themselves by the utilities. There is now no real problem. However, we must look to the not-so-distant future when nuclear powerplants will be accumulating more and more waste.

In order to accommodate their needs, the utilities will be forced to store their powerplants' increased spent fuel at the reactors, which have limited storage space. In about 10 years, space for storage at the nuclear powerplants will be severely limited. To provide for extra space, plants will have to increase their capability for storing spent fuel.

This is a difficulty now being faced head on by the Florida Power & Light Co., an electric utility in my district, as well as all nuclear powerplants across the country. Florida Power & Light, with admirable foresight, is now making plans to increase its storage capacity at its Turkey Point nuclear powerplant in order to handle its projected increased spent fuel. This is an encouraging step in the right direction.

However, there are adverse effects from this unfair burden to the utilities. Among those are: First, corrosion in the storage pools and keeping the radioactive material from "going critical;" second the problem of the transportation of the material to the reprocessing plant after storage at the reactor; and, most importantly, third, the potential increased cost of storage and plant expansion to the consumer.

That the cost to the consumer for this process will undoubtedly increase his utility bill is well recognized by the Nuclear Regulatory Commission.

I am glad to see that some progress is being made toward a possible solution to the storage problem. The NRC is preparing a generic environmental impact statement regarding the storage of spent fuel from light-water reactors. At the same time, they are continuing to act on license application for fuel storage, since they are aware of the adverse effects of this problem.

The Energy Research and Development Administration is also looking into the problem involved in recycling fuel. This agency is in the process of developing a plan for moving forward on reprocessing and recycling. This plan will be submitted to the Joint Atomic Energy Committee when ready. Fuel reprocessing and commercial waste management research and development appropriations under the ERDA authorization bill have increased substantially and are receiving very high visibility.

As much progress as is being made toward finding solutions to the problems of spent fuel storage and reprocessing plants, it is not enough. It is moving with the pace of a snail, while the building of nuclear powerplants is moving with the speed of sound. Some solid, substantive answers need to be provided to these complex questions before our nuclear energy program progresses at too great a speed.

Mr. Speaker, I would like to call to the attention of our colleagues an enlightening article from the Miami Herald concerning these subjects, written by Mike Toner. The article comprehensively analyzes the situation and provides a complete up-to-date report on the status of these critical problems. I think it would be of benefit to our colleagues to read the article:

SPENT FUEL CROWDING NUCLEAR PLANTS

(By Mike Toner)

Nuclear power plants, originally designed to store their fuel for only a short time after it is used, unexpectedly are becoming the repositories of large volumes of the nation's radioactive wastes.

As a result, many of the country's utilities and their customers will soon be bearing the costs—the risks—of storing a mixture of reusable uranium and long-lived wastes that they would rather not have at all.

Instead of being shipped away for reprocessing as planned, the used—but still highly radioactive—fuel discharged each year by nuclear reactors is accumulating in water-filled storage basins at power plants around the country.

Delays in the start-up of commercial fuel reprocessing plants could force many utilities to keep it there for a decade or more.

One of the three plants has been shut down since 1972 for extensive modifications. Another won't work. And the third, still unfinished has been plagued by regulatory and economic uncertainties.

But storage space is limited, and because a reactor must unload one-third of its fuel each year, the growing glut of spent fuel has confronted some utilities with a choice between expanding their storage or shutting down the plant.

At least nine reactors, including one of Florida Power and Light Co.'s units at Turkey Point, already have run out of room to discharge a full "core" of fuel—a reserve storage capacity that most operators prefer to maintain in the event it is necessary to completely empty the reactor for inspection.

Without increased storage, industry officials have estimated that 12 reactors would be unable to unload any fuel—and consequently to refuel—by the end of next year.

Operators of 22 reactors already have asked the U.S. Nuclear Regulatory Commission to approve their plans for increased storage. Work on six expansions hase been authorized.

FPL has asked for approval of a $4-million program to triple within the next 18 months the amount of fuel it can store at each of the Turkey Point reactors. Additional requests from the utilities are expected soon. Almost all of the country's 60 licensed reactors are expected to face storage difficulties within the next eight years.

Most of them have no choice. Except for limited space at the reprocessing plants themselves, there is no other place to keep the 20 to 30 tons of spent fuel that each reactor produces each year.

Utilities generally look upon the need to store more spent fuel as an inconvenience rather than a serious problem—but it is an inconvenience that their customers will share.

The cost of expanded storage will range from $1 million to $3 million for each reactor.

And as long as the fuel goes unprocessed, its owners will be unable to recover the value of reusable materials in it, estimated by one reprocessing company to be worth $10 million a year for each reactor.

There are other concerns too. The General Accounting Office has warned that spent fuel storage areas at nuclear power plants—usually located adjacent to the main reactor building—do not have "the same degree of physical protection as that provided to the reactor core," and are generally "more accessible and vulnerable to sabotage."

In its review of the security systems at nuclear power plants, the GAO concluded that increased storage of spent fuel at power plants also increased "the potential consequences of successful sabotage of the used-fuel storage facility."

And because the spent fuel is encased in bundles of metal rods that were never expected to be immersed in water for 10 years or more, the NRC is looking closely at the possibility that the fuel elements might begin to corrode after extended storage.

"There's no evidence of any problem yet, but we are researching it," says Richard Cunnningham, acting diretcor of the agency's Division of Fuel Cycle and Materials Safety.

At Turkey Point, the extended storage of spent fuel also has complicated a repair job.

Florida Power and Light Co. detected leaks in one of its spent fuel pits more than two years ago, before it began to fill it with fuel. The company didn't repair them because they were considered to be "minor."

But the leaks increased in size, and although they have been contained, actual repairs have been hampered by the presence of the spent fuel.

The possible need for utilities to store, at least temporarily, large quantities of their own wastes was recognized by the nuclear industry several years ago.

But it is only in recent months—since the full scope of reprocessing problems has become apparent—that the industry has been asking for, and getting, federal authorization to expand its storage.

Statistics gathered by both the government and the nuclear industry now show:

Growing numbers of reactors are turning out increasing amounts of spent fuel—almost 700 metric tons last year, an estimated 1,100 tions this year, and larger quantities each year in the future.

By 1980, the accumulation of unprocessed spent fuel will total approximately 9,500 tons—about the equivalent to the fuel and wastes from 300 reactor-years of operation.

But under the most optimistic expectations, only one of the country's reprocessing plants will be in service by then, and its capacity won't even match the amount of spent fuel discharged in that year alone.

As a result, the backlog of spent fuel is virtually certain to continue growing.

"Reprocessing capability probably will not catch up until sometime in the mid-1980s," explains Cunningham, "In the meantime, someone is going to have to store spent fuel."

The big question is how much for how long?

"It is prudent for utilities to plan to store spent fuel at least until the 1984 to 1985 period," says Dr. J. P. Cagnetta, chairman of the Atomic Industrial Forum's task force on the problem and director of nuclear engineering for Hartford-based Northeast Utilities.

Cagnetta's own company, however, is hedging its bets. It is preparing for the possibility that it might have to provide its own storage into the 1990s.

Even for that length of time, he says, that the cost of added storage—when compared to the $1-billion-plus price tag of a nuclear power plant—is insignificant.

The answers, however, ultimately depend on the resolution of a growing list of economic regulatory and technological problems that face the reprocessing industry—and few in the industry claim that those are insignificant.

The country's first reprocessing plant, located at West Valley, N.Y., has been closed down since 1972 for safety improvements and expansion. Because of changes in the NRC's regulations and an anticipated two-year wait for a federal construction permit, it isn't expected to be back in service until 1982 or later.

A second plant, built by General Electric and based on a commercially unproven process, may never open. The company says the $64-million plant it built near Morris, Ill., is "not reliable enough to make economic operation feasible."

Construction of the newest and largest nuclear fuel reprocessing plant is now nearly 95 per cent complete, but the venture still faces protracted hearings on its operating license, a lawsuit over possible releases of radiation, and still undetermined government regulations for the handling of its waste products.

The plant, built by Allied-General Nuclear Services at Barnwell, S.C., was scheduled to start up this year. It is now scheduled to begin operation in 1978, but could be delayed for several more years.

At least for the next few years, utilities will find it relatively easy to provide the necessary storage. There is adequate physical space in the storage basins; it's simply a matter of packing the fuel elements closer together.

But because the fuel elements are still radioactive, they will have to exercise care to see that the self-sustaining nuclear reaction which occurred inside the plant doesn't resume in the storage basins.

At most power plants today, the distance between the fuel elements and the boron in the water that surrounds them helps keep the spent fuel from "going critical" again.

But as the fuel is packed closer together, it will become necessary to install neutron-absorbing metal plates—similar in concept to the controls in a reactor core—to prevent the resumption of the chain reaction.

Those, however, are the problems of short-term storage, ones that the nuclear industry is confident it can handle. Long-term storage is a more complicated matter.

If necessary, utilities could expand the size of their basins, but that would cost far more than merely packing fuel elements closer together in the same space, an estimated $30 million or more per reactor.

They could, if necessary, shuffle fuel from reactors with little space to reactors with more storage space—but that would only postpone the point at which they all filled up.

Several utilities could team up to build separate, free-standing storage basins, but that would be equally costly and the fuel would eventually have to be moved to a reprocessing plant anyway.

The reprocessing plants could expand their storage, but they are openly reluctant to accept large amounts of spent fuel until they are sure they'll be able to reprocess it.

General Electric, for instance, recently decided to more than double its storage at Morris, Ill., but has shelved plans for a further expansion from the now-authorized capacity of 300 tons to 750 tons.

And Allied-General officials say that although the storage basin at their South Carolina plant is now almost ready to accept fuel, they may not make it available until the rest of the reprocessing operations are assured.

The government doesn't want it either. Officials say there are no facilities for the storage of commercial nuclear fuel at any of the federal installations.

The Government has, however, agreed to do what it can to ease the unexpected burden of providing extra storage.

To expedite the matter, the NRC has agreed to approve storage increases even before it completes the required environmental assessment of its actions.

Six expansions, in fact, already have been approved, although the draft of the agency's environmental impact statement won't be out until August and probably won't be in finished form for six months after that.

"We don't feel that, in terms of the environmental impact of our actions, we are making any decisions that are irreversible," says NRC's Cunningham.

The only thing that appears to be irreversible is the continued accumulation of spent fuel.

And both the nuclear industry and some of its sharpest critics agree that the continued construction of new storage space for it is really no solution at all.

"The real key to solving the spent fuel problem is for the country's reprocessing capability to keep up with the amount of spent fuel produced," explains Cunningham.

WOODY NORRIS, OF COURSE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. DICKINSON. Mr. Speaker, on May 17 there appeared an editorial in the Montgomery Advertiser, one of the papers in my district, lauding a young man, Woody Norris, for being selected as national president of the Distributive Education Clubs of America. I am a great supporter of distributive education and the work ethic which it inspires in young people, and I am certainly proud of Alabama's own native son, Woody Norris, for being selected to head this 124,000-member group.

Assistant Editorial Page Editor John Bitter wrote a very interesting and informative editorial about Woody Norris which I would like to share with my colleagues:

WOODY NORRIS, OF COURSE

(By John Bitter)

If national honors were awarded on enthusiasm alone, the Robert E. Lee High School DECA folks would most likely win each year.

It's downright inspiring to watch these Distributive Education students in action.

Not only do they do an excellent job in the clasroom, but they perform exceptionally well as workers.

And, on top of this, they are very active in civic projects, all of which is part of their course of study.

They're learning to become professionals in the fields of sales, marketing and distribution.

Therefore, they spend the first half of their school day in the classroom, the remainder on the job, working in local business establishments.

And in their scarce spare time, they're generally involved in some sort of outside endeavor: bringing cheer to the elderly, helping the less fortunate, and becoming involved in a host of other community endeavors—for this is exactly what they will be doing in later years as adult workers.

But what is most inspiring is the way they go about it all.

Indolence and sloth have no place in the DE environment. It's work, work, work. But at the same time, what's going on has all the outward appearance of fun, fun, fun. And it is both.

Well, enough of this.

These DE students in schools across the land are also members of what they call the Distributive Education Clubs of America (DECA).

And part of their club activities includes competition at the local, regional and national levels.

They vie for awards in a number of projects, including holding elective office.

Each school has DECA officers, as does the state.

They are elected by their peers, who can be extremely choosy about whom they pick for leadership positions.

Well, this year it finally happened.

One of Montgomery's own was elected as National DECA President.

Woody Norris, a senior at Lee, was elected to head the 124,000-member group at its annual convention in Chicago last week.

I know Woody, and am not surprised.

He exemplifies the spirit and enthusiasm of all DE students, both in Montgomery and Alabama, as well as across the land.

I'm happy for Woody, as well as for Mrs. Sara T. Parnell, the guiding light of Lee's DE program, and for his fellow students.

Woody has brought a signal honor to his school, and his state.

I'm sure we will be hearing more about Woody in the years to come.

And while Woody's just a typical DE student, his colleagues thought he was more typical than most.

A lot of us knew this all along.

THE PROMISE OF U.S. AFRICA POLICY * * *

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. RANGEL. Mr. Speaker, impatience and frustration are beginning to develop as the United States continues to invoke illusory promises in regard to African foreign policy. Political considerations are apparently preventing effective implementation of the positive change in our policy toward black Africa that was promised during Secretary Kissinger's recent visit. It is a delicate situation, Mr. Speaker but in this election year we are all awkwardly suffering challenges to the decisions we make every day in our capacity as elected officials. Meanwhile our dormancy toward an effective relation between the United States and Africa is bound to end in disastrous consequences if the administration does not emerge from its political straitjacket and send to the Congress specific legislative proposals to implement the policy recommendations made by Secretary Kissinger during his Africa trip. We cannot afford to allow other nations to fill in the gap given the social, economic, political and militaristic benefits that we stand to gain if the United States assert interests in the African nations as we have done with other countries.

At this time, I would like to share with my colleagues an insightful recapitulation of recent events in this area and a forceful appeal to the United States to take cognizance of these events so that we might choose the more effective route in implementing our Africa-United States relations. Herewith I submit "The Promise of U.S. Africa Policy * * *" authored by our colleague Congressman Andrew Young and recently printed in the Washington Post:

The Promise of U.S. Africa Policy . . .

(By Andrew Young)

Secretary Kissinger's trip to the African continent has generated tremendous impact. The conservatives of the President's party try to blame Ford's losses and Reagan's triumphs on Kissinger's Lusaka message; former diplomat George Kennan has reached into his cold-warrior bag of ready explanations to doomsay the Kissinger expedition; and liberals of both parties view the visit with suspicion and doubt.

There is now an image of southern Africa in flames, a holocaust of genocide against white lives and civilized values. Undoubtedly others from every corner—professors, politicians and media commentators—will soon jump on the southern African bandwagon to have their say.

But what did the Kissinger safari promise in its re-orienting of U.S. foreign policy toward Africa? We should not forget that just three months ago this country was bogged down in an African misadventure, Angola. Intervening on the wrong side, which had South African assistance, cost us a lot of black African friends and the consequences have not all been felt yet. The Cubans remain in Angola while the South Africans have left.

Angola is so haunting to our national psyche that we have yet to recognize the MPLA government. Against that background, Kissinger's efforts, however small, did begin a new era of at least minimal recognition of the importance of the Third World in U.S. policy. But what was really committed and how do the promises affect our nation's self-interest?

To me, the national self-interest is quite evident. Africa has immense mineral and other wealth upon which we will increasingly depend. Our economic future and Africa's growth will revolve on access to expanding markets as well as the availability of U.S. technology. Already our trade balance and investment volume on the African continent has shifted in favor of the black developing states as opposed to South Africa. According to the Department of Commerce, U.S. trade with Africa in the first half of 1975 increased at a much more rapid pace than our trade with the rest of the world. Nigeria, as one example, sells us her oil products and ranks sixth as a source of U.S. imports. Economics has always helped to determine politics in this country.

What seems apparent, therefore, is that the United States has agreed that whites in southern Africa cannot maintain privileged, elitist rule. This is a significant admission when one considers the Nixon-Kissinger "tilt" initiated in 1969.

There is no joy in this policy shift, only a confrontation with political realities. Angola was the hammer that struck this proper chord into place. The United States finally has deduced that there are no realistic alternatives to armed struggle, given our past refusal to be involved in diplomatic and economic approaches to pressure a political capitulation from Ian Smith. While Kissinger smiled on the Callaghan proposal, it was a throwaway. The British have never been able to do anything against Smith, but guerrilla warfare may drive him to the London constitutional table in a few months. The United States, Kissinger asserts, will remain pure in this period of struggle, unlike the Angola attempt. No arms to the liberation movements; whites will not be killed by American guns.

In addition, a commitment by the United States to South Africa has been publicly made. The already existing dialogue between Prime Minister Vorster and State Department policy-makers is now above board and clear-cut. Angola predicted this relationship, Kissinger confirmed it.

South Africa may be saved from massive turmoil and bloodshed if it does three things: force Smith to step down; set a timetable for Namibian self-rule; and abolish the cruder realities of internal apartheid. What is not said, of course, is what else South Africa then perhaps could count on from the United States: a lifting of the arms embargo; softer monetary policies in World Bank and IMF decision-making; extension of direct loans from the EXIMBANK; possibly recognition of the Transkei, South Africa's first Bantustan, for instance.

In the short run, armed struggle within Rhodesia's borders will increase. A few thousand whites will pack up and leave out of racial arrogance rather than actual danger. Political pressure on Ian Smith will escalate to set up real talks that lead to majority rule. Zimbabwe will be born, and it will be born quickly if Botswana can get the money to cut off Rhodesia's other rail link.

Namibia also will win liberation within a short time. SWAPO is poised to enter constitutional talks the moment South Africa agrees to majority rule. In reality, the 5 to 1 ratio makes this fact so. Until then, the next few months will bring increased guerrilla struggle with the threat of Cuban-Angolan intervention hanging overhead. African states, including Nigeria, welcome the Cuban threat, but privately prefer to see the liberation of Rhodesia and Namibia without their involvement. Assistance of advisers from Tanzania and Mozambique is an obvious attempt to say to Cuba and Russia. "We want to try it on our own. Arms, yes; troops, no."

So I, for one, think Kissinger's African safari was both necessary and instructive. If the Kissinger visit had not taken place now, then Ford's tendency toward Republican isolationism would have allowed a drift in events whereby further dependence on Soviet and Cuban intervention in southern Africa would become almost certain.

I am personally sorry that African affairs have to become a political football since problems there are of great magnitude and require sustained rather than expedient analysis. But the signals Secretary Kissinger set off are better than any I have seen from American policy managers since the Kennedy administration.

Whether they are too little and too late remain to be seen. A new administration in November, however, will build on them and avert unnecessary destruction and costs in human lives in the southern Africa of the future.

THE BURDEN OF REGULATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. McDONALD of Georgia. Mr. Speaker, there is growing awareness across the political spectrum of the enormous burden that must be borne by everyone due to Government regulation of the economy. But efforts to do something about it are meager, to say the least. Legislation is introduced to study the problems of the flood of Federal paperwork and to restrict the activities of a regulatory agency a smidgen here and there.

Meanwhile, the Government continues to crank out regulations restricting economic activity, eliminating jobs and driving up the price of virtually all goods and services.

Clearly the answer is deregulation—a wholesale phaseout of most, if not all, Government regulatory agencies. Once the public realizes just how enormous the burden of Government regulation is, I believe we will begin moving more quickly to free the economy from these Government-mandated restrictions on production and progress.

Therefore, I would like to call attention to the following article by Stephen M. Aug, "Burden of Regulation Is Huge, But How Huge?" which appeared in the Washington Star on May 16, 1976.

The article follows:

Burden of Regulation Huge, But How Huge?

(By Stephen M. Aug)

A year ago, the Dow Chemical Co. decided to build a new $500 million petrochemical complex near Pittsburg, Calif. Although not a spadeful of dirt has been turned since then, Dow already has spent $1.3 million just on government regulatory matters involving the project.

"We are having to obtain 60 different building permits from 19 federal, state, regional and county agencies," Charles T. Marck, Dow's Washington vice president, said recently. He predicted that in addition to the $1.3 million already spent, it will take at least two more years to obtain the necessary permits—and then there likely will be court suits in opposition.

Dow's complaints about the cost of government regulation—including the increasing burden of paperwork required by a growing federal bureaucracy—underline those of President Ford last week when he introduced legislation aimed at trimming federal controls over business.

Although the Ford Administration's activities in regulatory reform so far have been concentrated on economic regulation—principally the pervasive regulation practiced by the Interstate Commerce Commission and Civil Aeronautics Board—businessmen are equally (if not more) exercised over extremely costly paperwork, minutiae involved in occupational safety and equal employment requirements and the sometimes conflicting missions of several federal agencies.

Consider the problems facing Ervin (Pete) Pietz, board chairman and president of the Barry Wright Corp. of Watertown, Mass., a producer of computer data storage equipment and shock vibration and noise control products.

"We're up too ur ears in government regulation," said Pietz, who is also chairman of a new National Association of Manufacturers regulatory task force.

"Because we do some government work, we are, of course, under severe regulations as far as equal employment, and certain other matters like renegotiations, (renegotiating sales agreements involving the federal government), and then, of course, we do have a pension fund and the ERISA requirements involving the federal government), and then, of course, we do have a pension fund and the ERISA requirements are confounding." ERISA is the Employe Retirement Income Security Act, the new law regulating pensions and other employe benefits.

Pietz, whose firm has about 1,000 employes and does about $43 million in annual sales, has a staff of two who spend substantially all of their time on government regulatory matters.

Most of his current complaints are directed at the new pension reform law. Although he concedes a law was necessary, he believes it's gone too far. Barry Wright, he recalls, had its own pension plan, one it voluntarily set up. "Now we've got all kinds of regulations that require all kinds of forms. I think that's unnecessary."

Gordon Miller, Barry Wright's industrial relations manager, is the man in charge of the forms. "We have 12 pension or welfare plans which in one way or another are subject to ERISA," Miller says. "Five of those plans have what I call full reporting and communications requirements, and I figure that for the five in the next 12 months we've got to issue 30 reports or notices of some form or another, and then a lot of those repeat each year."

Some of the 30 reports, he points out, go to the government—principally the Internal Revenue Service and the Labor Department—while others go to employes. He figures, for instance, that he'll send eight pages of material to each employe at the end of May.

And that's just a small part of the regulatory cost to any company. Pietz has no figures on what government regulation actually costs his company, but larger corporations do. One of those with a comprehensive program for finding out the costs is Dow.

The huge chemical firm's figure on what government regulation is costing for just its one plant in California is no generalization. Joseph Bevirt, a senior analyst on Dow's marketing management staff at Midland, Mich., says the bill thus far for the Sacramento River petrochemical complex includes:

$650,000 for "an environmental impact report the first time around. How many more we'll do is hard to say."

$100,000 for an environmental statement for the U.S. Army Corps of Engineers, which apparently requires its own environmental statement different from another that Dow had to supply to all other state, local and federal agencies.

$25,000 for a special study on the effect of the plant on the particular county in which it is to be located.

$125,000 for a study on the risks of spills and cleanup, required by a federal agency Bevirt couldn't immediately identify.

$200,000 for air, water and water discharge permits.

$200,000 to build two air monitoring stations "so they know what the air was like before and what it will be after" the plant is built.

$50,000 for a study of conditions on the bottom of the Sacramento River.

Yet to come are such matters as soil and earthquake studies.

Under Bevirt's direction, Dow has under way what is probably the most detailed study of the cost of government regulation ever undertaken by a private corporation. It is expected to be a pilot study for other corporate studies and all of them are likely to be used as part of a nationwide effort by business firms to cut the amount of government regulation.

So far the Dow study covers 71 federal agencies whose activities involve the corporation, ranging from the Agency for Consumer Advocacy (which has yet to be approved by Congress) and the Atomic Energy Commission to the Securities and Exchange Commission and the Tariff Commission. Dow plans to separate the costs according to whether they are necessary, unnecessary or questionable.

Although Dow hasn't yet come up with final figures, indications are the totals will be staggering. Marck told an NAM panel on government regulation recently that in a research and development group in one of Dow's 10 product departments, the cost of federal regulations has risen from $164,000 in 1970 to $1.5 million last year, from 2 percent of the department's budget to 13 percent.

Everybody, of course, pays for these costs of regulation. General Motors Corp. contends that in 1974—the latest year for which it has figures—it utilized the equivalent services of 25,300 fulltime employes to cope with government regulation at all levels. The cost was $1.334 billion, and that doesn't include taxes.

Figuring that GM sold 4.6 million automobiles in the United States that year, and they accounted for about three-quarters of GM's $31 billion in sales, that means government regulation added more than $200 to the price of every automobile.

GM breaks down its regulatory costs this way:

Regulation of vehicles (including research and engineering, reliability, inspection, testing, facilities tooling costs—but not including the direct cost of the product): $884 million.

Regulation of plant facilities (plant pollution and solid waste control): $181 million.

Occupational safety and health: $79 million.

Government reports and administrative costs related to regulation including business statistics, energy and environmental activities, legal activities and the like: $190 million.

So far, there have been few efforts like those at GM or Dow. But under the program being pushed by the NAM more firms are expected to undertake detailed studies.

Administration officials say they'll rely heavily on outside studies—principally those by private industry—to identify the costs of regulation in connection with Ford's reform program. NAM, with its 13,000 members, and with a 50-member regulatory reform task force that includes some of the nation's largest corporations, is in a position to influence administration thinking on regulatory reform, especially if the corporate world is the sole source of such information.

So far, estimates of the cost of government regulation are just that—and nobody knows how close they come to the truth. Ford told small businessmen last Thursday that it was costing them $18 billion a year just to meet requirements for government reports.

Sen. Paul J. Fannin, R-Ariz., in a recent speech in the Senate, said the Federal Trade Commission had "found $80 billion of waste in the American economy attributable to regulatory overkill. The General Accounting Office has put the yearly costs of regulation at $60 billion. Perhaps a more meaningful figure is the $130 billion direct and indirect costs to consumers estimated by the President's Council of Economic Advisers."

Meanwhile, the government continues cranking out new rules every working day.

Consider, for example, last Thursday, the day the President announced his reform program:

The Interior Department issued new rules setting up "a greatly simplified system of permitting qualified persons to buy or sell" certain species of wildlife—along with "a record-keeping system sufficient to enable the (Fish and Wildlife) Service to monitor the well-being of the captive population."

The Federal Communications Commission issued amendments to its rules which regulate cable television systems.

The Federal Reserve System issued amendments to its Regulation B (equal credit opportunity).

The Department of Agriculture issued new standards to "more accurately describe" certain grades of tobacco; new standards governing oleo stock and tallow, and new regulations on testing and producing seeds.

How much—if anything—these new rules will cost the public in terms of additional paperwork or changes in existing procedures was not mentioned in the notices of the new rules.

In fact, it is probably true that nobody knows the cost—nor, in fact, is it likely that anyone has bothered to find out.

THE SNAGS AND DENS OF OUR FORESTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1976

Mr. BROWN of California. Mr. Speaker, the ecological balance of our forests is often referred to when the subject of multiple use management is discussed. There are many opinions regarding the effects of clearcutting large acreages of trees, especially where such cuts eliminate the natural habitats needed for particular bird species or the other wildlife of the forests. The protection of dens and snags is a major point of conflict, because the timber industry feels that such a regulation protecting their existence would be too extreme while wildilfe experts argue the strong need for such a provision—not only for the preservation of various bird and animal species, but to safeguard the biological balance which controls the size of insect and rodent populations without the heavy use of pesticides.

Gordon Robinson, consulting forester for the Sierra Club, has compiled a list of reports on most of the wildlife species of our forests—their food and habitat requirements, and their role in the natural system of pest control and regeneration of trees in our forests. From his brief summary of each report it is easy to extrapolate the effect of removing the nesting places of rodent and insect-eating birds. One such report stated:

> A reduction of bird populations within a forest could result in harmful increases in insect population. Cavity-nesting birds depend on dead and unmerchantable trees for nesting and roosting. These trees are considered a fire hazard and a physical hazard in intensively used areas and are removed by loggers in the West.

Rodent populations can easily become uncontrollable as the predators of the area, such as hawks and owls, depart for other more favorable environments. These rodents will then curtail regeneration of our forests since seeds are their required food. Another report summary states:

> In clearcutting there is no really good way to counteract the effect of rodents and seed-eating birds that retard natural and artificial re-seeding, other than keeping the openings small. Use of diseases, trapping, shooting, repellants, mulches, screens, and predator control all have met with only limited success.

Such casual destruction of our fragile forest environment should be scrutinized in a thorough deliberate fashion. I hope my colleagues will read the following summaries of the many, varied reports on wildlife and their role in our forests, prepared by Mr. Robinson. It clarifies the problems that we must deal with:

THE SNAGS AND DENS OF OUR FORESTS

(By Gordon Robinson)

SCREECH OWL, CAVITY-NESTING BIRD

Food: Major items are mice (rodents are known to deter natural regeneration by eating seeds) and insects in equal volume.

Birds and other rodents are also part of the diet.

Nest: Natural cavities and flicker holes in apple, pine, poplar, and sycamore trees.

Range: Throughout the continental US., southern Canada, and southeastern Alaska.

Scott, Virgil E. and Patton, David R. "Cavity-nesting Birds of Arizona and New Mexico Forests." USDA Forest Service Technical Report RM–10, Rocky Mountain Forest and Range Experiment Station, 1975.

AMERICAN KESTREL, CAVITY-NESTING BIRD

Food: Meadow mice, deer mice (rodents which deter natural regeneration by eating seeds) and house sparrow make up about 96% of the volume. Insects are 80% of the prey and 4% of the volume.

Nest: Usually in natural cavities or old woodpecker holes, mostly dead trees. Also lightning scars of live trees.

Range: From southeastern Alaska to South America.

Scott, Virgil E. and Patton, David R. "Cavity-nesting Birds of Arizona and New Mexico Forests." USDA Forest Service Technical Report RM–10, Rocky Mountain Forest and Range Experiment Station, 1975.

WHISKERED OWL, CAVITY-NESTING BIRD

Food: "The principal diet is insects."

Nest: In natural cavities and old flicker holes, mostly in white oak between 4,000 and 6,500 feet.

Range: Southern Arizona and southern New Mexico to El Salvador.

Scott, Virgil E. and Patton, David R. "Cavity-nesting Birds of Arizona and New Mexico Forests." USDA Forest Service Technical Report RM–10, Rocky Mountain Forest and Range Experiment Station, 1975.

PYGMY OWL, CAVITY-NESTING BIRD

Food: Mostly mice (rodents are known to deter natural regeneration by eating seeds) and larger insects such as grasshoppers.

Nesting: Usually in old holes of woodpeckers.

Range: (Resident) Western North America from Alaska to Quatemala, at 5,000 to 10,000 feet.

Scott, Virgil E. and Patton, David R. "Cavity-nesting Birds of Arizona and New Mexico Forests." USDA Forest Service Technical Report RM–10, Rocky Mountain Forest and Range Experiment Station, 1975.

CAVITY NESTING BIRDS IN THE SOUTHWEST

A reduction of bird populations within a forest could result in harmful increases in insect population. Cavity-nesting birds depend on dead and unmerchantable trees for nesting and roosting. These trees are considered a fire hazard and a physical hazard in intensively used areas and are removed by loggers in the West. Because of the economic and aesthetic value of cavity-nesting birds, their habitat requirements must be considered in management plans. There are 41 species of cavity nesting birds in the forests of Arizona and New Mexico.

Scott, Virgil E. and Patton, David R. "Cavity-nesting Birds of Arizona and New Mexico Forests." USDA Forest Service Technical Report RM–10, Rocky Mountain Forest and Range Experiment Station, 1975.

FLAMMULATED OWL, CAVITY NESTING BIRDS

Food: Insects such as beetles, moths, grasshoppers, crickets and ants.

Nest: In flicker and other woodpecker holes of dead pine, ash, and aspen trees.

Range: Breeds in forests of ponderosa pine form the Rocky Mountains west to the Pacific Coast and from British Columbia to Guatemala.

Scott, Virgil E. and Patton, David R. "Cavity-nesting Birds of Arizona and New Mexico Forests." USDA Forest Service Technical Report RM–10, Rocky Mountain Forest and Range Experiment Station, 1975.

PREDATOR CONTROL OF RODENTS

"Predators such as hawks, owls, and carniverous mammals take small rodents wherever they are found, but rarely are the rodents controlled to the point where their influence on forest regeneration is completely removed. In general, the predator-prey relationship is somewhat stabilized, so that a rodent population adequate to maintain food for the predators is oftentimes sufficient to exert serious pressure on the natural or artificial reseeding of forests."

This is an indication of the severity of disturbance produced by clearcutting. The elements of the ecosystem which normally control balance are no longer effective.

Smith, Clarence F. and S. E. Aldous, The Influence of Mammals, and Birds in Retarding Artificial and Natural Reseeding of Coniferous Forests in the United States, Journal of Forestry, 45:5, pp. 361–369.

DEER HABITAT

"Deer use was confined to perimeters of circular openings of more than 20 acres in spruce-fir habitat (or strip more than 1,050 feet across)."

This suggests that openings of more than 20 acres are disadvantageous to deer.

Reynolds, Hudson G., Improvement of Deer Habitat on Southwestern Forest Lands, Journal of Forestry, 67:11, pp. 803–805. November, 1969.

ROCKY MOUNTAINS—ELK AND DEER—RESPONSE TO CLEARCUTS AND FIRE

In the Wild Bill Range Study area, wildlife preferred an area burned by wildfire to areas thinned, clearcut, or clearcut and seeded. Elk use was declining on the clearcuts. Deer use declined on all the logged areas and continues to decrease. The deer use increased on the area burned by wildfire.

Kruse, William. "Effects of Wildfire on Elk and Deer Use of a Ponderosa Pine Forest," USFS Res. Note RM–226, USDA 1972.

SOUTH

Immediate damage to all species of wildlife. Squirrel and turkey habitat lost permanently in areas planted to pines. After one to two years, deer, quail and rabbit habitat returns, then is again lost as pines mature and shade out other species of desirable plants. Long range damage affects all species of wildlife. Loss of mast restricts carrying capacity of most wildlife species. Erosion following clear-cutting is detrimental to streams.

Statement presented by Charles D. Kelley, to the Albama Conservancy, Feb. 26, 1972, Auburn University, Auburn, Alabama. Quoted from a report from an unidentified game biologist with the State.

DEER—OPENING SIZE AND ROTATION LENGTH

"Deer use . . . tended to reflect the amount of understory vegetation present in overstory classes . . . Mature residual stands were slightly preferred over openings, and deer tended to avoid dense, pole-sized stands of timber. This suggests that factors other than understory vegetation may influence use of an area by deer."

Therefore, any management practice leading to the formation of pole-sized stands is disadvantageous to deer. Rotations should be long enough so that the stands maximally resemble the mature forest and openings should be small enough so that pole-size *stands* don't develop.

Reynolds, Hudson G., "Effect of Logging on Understory Vegetation and Deer Use in a Ponderosa Pine Forest of Arizona," December, 1962, USDA Forest Service Research Note, RM–80.

BIRDS

Many species of hawks and owls require dead standing trees as habitat. These birds devour tremendous numbers of small seed-eating rodents as determined from examination of their pellets. It is therefore important to leave the snags in order to encourage these birds who will in turn control the rodent population, and permit natural reforestation; a very important phenomenon.

Gilliard, E. Thomas. "Living Birds of the World," American Museum of Natural History, New York, 1958.

CONTROL METHODS FOR RODENTS AND SEED-EATING BIRDS

In clearcutting there is no really good way to counteract the effect of rodents and seed-eating birds that retard natural and artificial re-seeding, other than keeping the openings small. Use of diseases, trapping, shooting, repellants, mulches, screens, cultural control, and predator control all have met with only limited success.

Smith, Clarence F., and S. E. Aldous, "The Influence of Mammals and Birds in Retarding Artificial and Natural Reseeding of Coniferous Forests in the United States," Journal of Forestry, 45:5, pp. 361–369.

EASTERN WILD TURKEY

The eastern wild turkey (Meleagris gallopavo) "was once abundant in mature virgin forests, but as these forests were cut the turkey experienced hard times."

Bottom land, hardwood forests are considered prime habitat for turkey, and conversion of these forests to cropland causes serious hardship to the turkey.

"The best habitat comprises stands of mixed hardwoods, groups of conifers, relatively open understories, scattered clearings, well-distributed water, and reasonable freedom from disturbance."

Halls & Stransky, "Atlas of Southern Forest Game," Southern Forest Experiment Station, U.S.D.A., 1971.

GRAY AND FOX SQUIRRELS

Squirrel hunting reaches its peak of popularity in the South. Both species of squirrel are having a hard time. Eradication of upland hardwoods, removal of den trees, shortening of timber rotations, conversion of bottomland forests to cropland and pasture, and construction of large reservoirs restrict squirrel habitat more each year.

Halls and Stransky, "Atlas of Southern Forest Game." Southern Forest Experiment Station, 1971.

WHITE-TAIL DEER

The white-tail deer inhabits mainly bottom-land hardwood forest, also loblolly-shortleaf pine-hardwoods and to some extent oak-pine and longleaf-slash pine forests with a range within ½ to 1 mile of birthplace. Timber management determines whether cover and food are adequate for yearlong. Best habitat in forests with many small and well dispersed openings within the deer's home range, and in areas where timber thinnings are frequent and heavy. In pinelands, a favorable habitat includes where trees are at least 12 to 15 feet tall and prescribed burns every 3 to 5 years are recommended to improve forage quality and quantity and to increase legumes. These forest types are not common in national forests.

Halls & Stransky, "Atlas of Southern Forest Game," Southern Forest Experiment Station, 1971.

BOBWHITE QUAIL

Eastern bobwhite lives in the South. During the early 1900's a combination of small patch farming, timber clearing, and field burning produced population highs that are unlikely to be equalled again. Since 1939, mechanized agriculture, reforestation, limited fire use, and conversion of cropland to improved pasture have caused quail to decline. Being seedeating birds, the quail naturally decline as forest cover returns.

Halls and Stransky, "Atlas of Southern Forest Game," Southern Experiment Station, 1971.

RED-COCKADED WOODPECKER

This vanishing woodpecker nests only in shortleaf or loblolly pines suffering from redheart disease. Present timber harvesting techniques have greatly diminished its nesting habitat. A major forest products firm is modifying its harvesting techniques to protect this woodpecker.

Anderson, Walter C. "Southern Forestry Investments in an Era of Environmental Concern," Forest Products Journal, V. 22, N. 6, June, 1972.

SOUTHERN HARDWOODS WOODPECKERS AND HARDWOOD BORERS

Redbellied, Hairy, Downy, Redheaded, and Pileated Woodpeckers were observed in hardwood stands heavily infested by borers. These birds are less efficient in stands with average or low borer populations. "Borer species that infest small trees, especially those under 6 inches in diameter, are more apt to be captured by woodpeckers than those that attack larger trees."

"Although the holes made by woodpeckers may cause additional windbreakage and disease incidence in infested trees, the benefits from reduced borer populations are far more valuable than the lost timber."

Solomon, J.D. and Morris, R.C., "Woodpeckers in the Ecology of Southern Hardwood Borers," 2nd Tall Timbers Conference on Ecological Animal Control by Habitat Management, Proceedings, 1971.

RACCOON

Raccoons inhabit primarily the hardwood forests along rivers, small streams, and swamps. They are also found in mixed pine-hardwood forests, but seldom far from water.

Lack of den trees may limit populations.

Halls, Lowell K. and Stransky, John J. "Atlas of Southern Forest Game," Southern Forest Experiment Station, Nacogdoches, Texas, 1971.

AMERICAN WOODCOCK

The South is the wintering ground for migratory woodcocks (Philohela minor). The preferred winter range is in wet areas (streams, bayous, marshes) bordered by southern pines or hardwoods. Small clearings are important for mating rituals, which should be near feeding areas and brushy nesting cover.

Halls and Stransky, "Atlas of Southern Forest Game," Southern Forest Experiment Station, USDA, 1971.

QUAIL DEATH BY SEED POISON

A Questioner reported that large numbers of quail and doves have died from eating treated pine seed on direct seeded sites.

The rebuttal said that this was probably due to mis-application of the poison.

Campbell, Robert. "Manipulating Biotic Factors in the Southern Forest," "The Ecology of Southern Forests," Louisiana State. Univ. Press, 1969.

RUFFLED GROUSE

Ruffled grouse is an edge species which requires small openings in the forest. Prime habitat is found in extensive forests with a wide variety of cover types including hardwoods and conifers. Access to drumming logs is essential. Heaviest population in area of national forests in Virginia, Tennessee, and North Carolina.

Halls and Stransky, "Atlas of Southern Forest Game," Southern Forest Experiment Station, 1971.

During timber stand improvement some sportsmen advise halting the removal of den- and mast-bearing trees which are important to wildlife. These trees are the prime targets of timber stand improvement, but only where these trees are very large or in great number will the value lost to timber production be substantial.

Anderson, Walter C. "Southern Forestry Investments in an Era of Environmental Concern." Forest Products Journal, Voy. 22, No. 6. June, 1972.

BLACK BEAR

Only 9,000 black bear live in the South: mainly in areas of national forests, principally George Washington, Chattahoochee, Nantahala, Cherokee, and Osceola. Since the bear requires extensive undisturbed forests, he is now confined to less accessible forested mountains, to thickets along river bottoms, and to large swamps. Areas managed for bear should be kept remote by limiting the extent of year-round roads.

Halls, Lowell K. and Stransky, John J. "Atlas of Southern Forest Game." Southern Forest Experiment Station, F.S., USDA, 1971.

BIOLOGICAL CONTROL

"Woodpeckers are the most important predators of the spruce beetle (*Dendroctonus rufipennis* Kirby). In some areas (of Colorado Engelmann spruce stands) they have destroyed as much as 75% of the bettle population."

". . . woodpecker activity and abundance appear correlated with beetle abundance."

Massey, Calvin L. and Noel D. Wygant. "Woodpeckers: Most Important Predators of the Spruce Bettle." Colorado Field Ornithologist, No. 16, June 1973.

SENATE—*Friday, May 28, 1976*

The Senate met at 9:45 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Make ready our hearts, O Lord, for the memorial of those who have valiantly fought and bravely died for this Nation. Bring comfort to those who see again in memory's vista the parade of those who marched away never to return. Be especially near to those who even now bear in their bodies the trauma of war, granting them the assurance of a grateful people.

May our response to their self-giving be purer lives, nobler service, and deeper dedication to the causes for which they gave so much. And may we live worthily in a nation with liberty and justice for all in a world at peace.

As enjoined by the President's proclamation, may we and our fellow citizens on Monday next bow our heads and hearts in suitable memorial for the brave sons of every generation who pledged *their lives in the service of others.*

We pray in His name who went before us in the way of sacrificial service. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 27, 1976——

Mr. ALLEN. Reserving the right to object, Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. May I complete my motion? The Senator will have plenty of time to object.

Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 27, 1976, be dispensed with.

Mr. ALLEN. Mr. President, I object. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will read the Journal.

Mr. ALLEN. Mr. President, I object, and I suggested the absence of a quorum.

The ACTING PRESIDENT pro tempore. I did not hear the absence of a quorum part of the Senator's statement. The clerk will call the roll at the request of the Senator from Alabama.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will call the roll.

The call of the roll was resumed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will continue.

The second assistant legislative clerk continued with the call of the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, so that I may make a further unanimous-consent request.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ALLEN. I reserve the right to object. Will the Senator reinstate his request?

Mr. MATHIAS. Yes.

Mr. ALLEN. Mr. President, I withdraw the objection.

Mr. MATHIAS. Mr. President, I renew my request that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I now ask unanimous consent that——

The ACTING PRESIDENT pro tempore. The clerk will read the Journal.

The legislative clerk proceeded to read the Journal of Thursday, May 27, 1976.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The reading of the Journal, which has begun, may not be interrupted by a quorum call.

Mr. ALLEN. Very well.

The legislative clerk continued with the reading of the Journal of Thursday, May 27, 1976.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the Journal be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The legislative clerk continued with the reading of the Journal of Thursday, May 27, 1976.

Mr. ALLEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the Journal be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, for what reason does the Senator make the request?

Mr. ALLEN. I merely ask that further reading be dispensed with so it will not have to be read.

Mr. ROBERT C. BYRD. Very well. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, further reading of the Journal is dispensed with.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction——

Mr. ALLEN. Point of order, Mr. President, that the distinguished Senator from Virginia be recognized at this time.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Virginia is not on the floor.

Mr. ALLEN. Very well, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. In accordance with the usual procedure and going on to the next order of business that was arrived at by unanimous consent agreement, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there further morning business?

Mr. ALLEN. Mr. President——

Mr. ROBERT C. BYRD. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

Mr. ALLEN. Mr. President, I have morning business to transact. I ask recognition.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized for not to exceed 5 minutes under morning business.

Mr. ALLEN. Mr. President, the distinguished Senator from Virginia is in the Chamber now, and I ask unanimous consent, inasmuch as the Chair canceled the time reserved for him, that he be allowed to use his 15 minutes which were given to him by unanimous consent, and that that time not count against the 30 minutes time for routine morning business.

Mr. ROBERT C. BYRD. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has the floor.

Mr. ROBERT C. BYRD. I object.

Mr. ALLEN. The Senator can object. I made a request.

Mr. ROBERT C. BYRD. The Senator lost the floor when he made the request, and I objected.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I want to see the Senator from Virginia have his 15 minutes, but I insist on its being taken out of the morning business period.

Mr. HARRY F. BYRD, JR. If the Senator will yield for the purpose of clarification——

Mr. ROBERT C. BYRD. Yes.

Mr. HARRY F. BYRD, JR. I appreciate what the Senator from Alabama did. I do not need the full 15 minutes. I could be recognized in the morning hour and take my 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, the Senate is now in the period of morning business, is it not?

The ACTING PRESIDENT pro tempore. The Senate is in morning business for not to exceed 30 minutes.

Mr. ROBERT C. BYRD. So the distinguished Senator from Virginia may be recognized under morning business at this time?

The ACTING PRESIDENT pro tempore. The Senator may be recognized.

The Senator from Virginia is recognized in morning business for not to exceed 5 minutes.

"ISRAELI SHOWCASE '76"

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Jewish Community did itself proud in its presentation during the past 2 weeks of "Israeli Showcase '76."

"Israeli Showcase '76" was a cross-section of the history, culture, religions, and modern aspects of the State of Israel. The presentation was at the Jewish Community Center in the city of Richmond, Va.

I, along with Gov. Mills E. Godwin, Jr. attended the opening ceremonies on the evening of Saturday, May 15, and was tremendously impressed with the hard, painstaking work which went into the development of "Israeli Showcase '76."

Under the chairmanship of my friend, Neil November, "Showcase" was a continuous parade of performing arts, exhibits, lectures, films, Jerusalem Bazaar, Bibical Garden, and copies of the Western (Wailing) Wall, Jerusalem gates, and Christ's Tomb.

The opening ceremony, termed "A Light Unto Nations—A Ceremony of Dedication," was inspiring.

Indeed, "Israeli Showcase '76" was one of dedication on the part of the entire Jewish community of the city of Richmond.

I am pleased today in the Senate of the United States to salute my friends of the Jewish community—one and all—and the following officials, who played such a prominent part: Neil November, chairman; Jack Kreuter, Richmond Jewish Community Council; Richard November, vice president, Jewish Center of Richmond; Saul Viener, chairman, Cultural Committee, "Israeli Showcase '76"; and Mrs. Hortense Wolf, vice president, Richmond Jewish Community Council.

EVER-GROWING INTRUSION OF BIG GOVERNMENT

Mr. HARRY F. BYRD, JR. Mr. President, the people of the United States are sending many messages to Washington these days, calling for an end to the ever-growing intrusion of big government into every facet of American life.

One such message, stated with simple eloquence, was sent to me this month by the Board of Supervisors of Bedford County, Va. It was signed by the seven members of the board.

Bedford County is located in the mountainous western part of Virginia, between the cities of Lynchburg and Roanoke. Its people are sound thinking and independent minded.

One of Virginia's leading scenic attractions, the Peaks of Otter, is located in Bedford County. These spectacular peaks are not only objects of great natural beauty, but also apt symbols of the sturdy individualism of the people of Bedford.

The message from the Board of Supervisors of Bedford County was characteristically straight to the point: the elected officials of Bedford want to get big government off their backs. In no uncertain terms, they denounced "mandated" programs that impose planning decisions and appropriation of funds at the local level.

The letter of the Bedford supervisors closed with an appeal to State and Federal representatives "to oppose the institution of mandated programs to local government at the local taxpayers' expense and the further establishment of bureaucratic agencies now and forever."

To which I say, "Amen."

I ask unanimous consent that the letter of the Board of Supervisors of Bedford County be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Board of Supervisors,
County of Bedford,
Bedford, Va., May 12, 1976.

Hon. Harry F. Byrd, Jr.,
U.S. Senate Office Building,
Washington, D.C.

Dear Senator Byrd: The Bedford County Board of Supervisors is becoming increasingly concerned about the rising number of intrusions, by both the Federal and State governments, into the functions of our local government, the free enterprise system and about the effects of those encroachments upon our citizens.

We have, as yet, received no responses to appeals, formally registered with appropriate governmental agencies, in opposition to many "public" programs which they administer. Hence, we appeal to you, as our elected representative, to help us by being especially critical of each piece of legislation presented in light of its immediate and long range effects at the local level. We specifically emphasize objection in the following areas:

1 To State and Federal programs mandated at additional dollar expense to the local taxpayer.

2. To planning and appropriation decisions being made by those people not elected and thus not directly responsible to the citizenry.

3. To the establishment of another layer of bureaucratic agencies. We will oppose any attempt to establish any agencies beyond the scope and area of present planning district concept.

4. To planning not kept as local as possible, taking in jurisdictions other than those in the present planning areas which have similar interest, needs, etc.

5. To "expansion" which usually implies increased costs and locally removed control.

In conclusion, the Bedford County Board of Supervisors respectfully requests its State and Federal representatives to oppose the institution of mandated programs to local government at the local taxpayers' expense and the further establishment of bureaucratic agencies now and forever.

Sincerely yours,
H. L. COOPER,
Chairman.
JOHN H SUBLETT,
Supervisor, District 1.
SCOTT A. MAY,
Supervisor, District 4.
HUBERT A. ROBERTS,
Supervisor, District 6.
AUBREY M. WHORLEY,
Supervisor, District 3.
JOHN P. OLIVER,
Supervisor, District 5.
J. EVERETTE FAUBER, III,
Supervisor, District 7.

Mr. ALLEN. Mr. President——

Mr. ROBERT C. BYRD. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I am going to make a nondebatable motion.

I move that the Senate proceed to the consideration of H.R. 8532.

Mr. ALLEN. Mr. President——

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. ALLEN. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, the motion is not debatable.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not have to be recognized.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I suggest the clerk read the title of the bill.

The ACTING PRESIDENT pro tempore. The motion is not debatable.

The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk state——

Mr. ALLEN. Mr. President, I am asking for recognition.

The ACTING PRESIDENT pro tempore. Just a moment.

Mr. ALLEN. Mr. President——

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under the rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to close debate on the pending Hart/Scott substitute amendment to H.R. 8532, an Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mike Mansfield, Hugh Scott, Lee Metcalf, George McGovern, Hiram L. Fong, Alan Cranston, Edward M. Kennedy, Hubert H. Humphrey, Gaylord Nelson, Dick Clark, Edmund S. Muskie, Henry M. Jackson.

Birch Bayh, Frank E. Moss, Claiborne Pell, Lowell P. Weicker, Warren G. Magnuson, Vance Hartke, Harrison A. Williams, Charles H. Percy, Robert T. Stafford, Thomas F. Eagleton, Adlai E. Stevenson, Stuart Symington.

Philip A. Hart, John V. Tunney, James Abourezk, Gary Hart, Jennings Randolph, Robert C. Byrd, Patrick J. Leahy, John Glenn, John Durkin, William D. Hathaway, Charles McC. Mathias, John Culver.

Thomas J. McIntyre, Dale Bumpers, Walter D. Huddleston, Daniel K. Inouye, Mark O. Hatfield, Joseph R. Biden, Clifford P. Case, Walter F. Mondale, Floyd K. Haskell, William Proxmire, Gale W. McGee.

[During the reading of the cloture motion the following proceedings occurred:]

Mr. ALLEN. Mr. President, I suggest the absence of a quorum. Point of order, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President——

Mr. ROBERT C. BYRD. Mr. President——

Mr. ALLEN. Mr. President, a point of order. The motion is out of order.

Mr. ROBERT C. BYRD. The motion is not out of order. I ask that the clerk continue the reading.

Mr. ALLEN. Mr. President, a point of order. I would like to be heard.

The ACTING PRESIDENT pro tempore. The reading of the motion cannot be interrupted.

Mr. ALLEN. It must be the pending business, Mr. President, as the Presiding Officer knows. I ask for a ruling, Mr. President.

The legislative clerk continued with the reading of the motion.

Mr. ALLEN. Mr. President have the clerk suspend.

The legislative clerk continued with the reading of the motion.

The ACTING PRESIDENT pro tempore. The reading of the motion cannot be interrupted.

Mr. ALLEN. This is not the pending business. I raise the point of order.

The legislative clerk continued with the reading of the motion.

[This concludes the proceedings that occurred during the reading of the cloture motion. Following the reading of the cloture motion the following proceedings occurred:]

Mr. ALLEN. Mr. President, I now suggest the absense of a quorum. When the cloture comes up, I will raise the point of order because it was not properly filed. At this time, I suggest the absence of a quorum. We will discuss that matter later.

The ACTING PRESIDENT pro tempore. The motion to proceed was agreed to.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PERSONAL STATEMENT

Mr. ALLEN. Mr. President, I wish to express my displeasure at the recent rulings of the Chair.

In the first place, the Chair ruled that in the making of a unanimous-consent request, which I did to try to get the order restored to allow the distinguished Senator from Virginia to speak—the Chair took me off the floor at the request of the distinguished Senator from West Virginia, who made the point of order, which the Chair sustained, that the Senator from Alabama lost the right to the floor when he made that unanimous-consent request.

I also object to the fact that when the distinguished Senator from West Virginia moved to proceed to S. 8532, the Senator from Alabama was on his feet, constantly demanding recognition of the Chair, and the distinguished present occupant of the chair refused to recognize the Senator from Alabama, saying that the motion was not debatable.

The fact that it was not debatable, however, would not prevent or should not have prevented the Senator from Alabama from getting the floor to suggest the absence of a quorum, and, indeed, he did at the top of his voice suggest the absence of a quorum, and the distinguished present occupant of the chair refused to recognize the Senator from Alabama.

This action is reminiscent of action taken here in the Senate last year, when the Senator from Alabama could not get recognition.

I do not know how other Senators feel about it, but I do not believe the rank and file Members of the Senate will approve of these strong-arm tactics. The leadership is supposed to lead, but the leadership is not supposed to ram, and I want to express my deep displeasure at this action of the Presiding Officer and the leadership in abusing the Senate rules in this fashion.

Fairplay should be a cardinal tenet of the Senate and of the leadership, and of whoever presides in this Chamber.

So with these words, we will await the cloture vote on next Thursday on this issue. I could be wrong, but I do not believe the Senate will approve of this type of strong-arm tactics. With that, I invite the leadership to go ahead with whatever he wishes to say.

Mr. ROBERT C. BYRD. Mr. President, I rise to defend the Presiding Officer. The Presiding Officer was within the rules when he stated that Mr. HARRY F. BYRD, JR., not being present on the floor at the time, the Senate could proceed to routine morning business.

On the question of Mr. ALLEN's losing the floor after he had made a unanimous-consent request, there is a precedent which could support Mr. ALLEN's position. Nevertheless I could, I think, make a good case for a Senator's having lost the floor when he makes a request and it is objected to. But as the precedents now stand, the Senator from Alabama is correct.

As to the Senator's not having been recognized for the purpose of suggesting the absence of a quorum before the vote occurred on the motion to take up H.R. 8532, the Chair was in no position to know, under the extenuating circumstances of the moment, that the Senator from Alabama was not going to attempt to debate it. As a matter of fact, I stated at the time, "This motion is not debatable." The Chair acted under what he thought was a situation in which the Senator from Alabama was going to proceed to debate. The motion was nondebatable, and the Chair directed the clerk that he proceed with the vote.

It is also within the Chair's discretion as to whether or not to recognize a Senator. I can understand how the Chair—in a situation where several Senators are imploring him to be recognized, some Senators urging him to do one thing and others urging him to do something else, and the Parliamentarian trying to advise him—proceeded as he did.

Now, as to strong-arm tactics, Mr. President, I call attention to the fact that the leadership has been forced into a situation today which, in my judgment, fully required the actions that were taken.

First, I go back to remind the readers of the RECORD that the fact that the antitrust legislation was called up by the majority leader some days ago and made the pending business did not give it the status of the unfinished business. The unfinished business is the Foreign Military Sales Act, which means that at any time other business, such as the antitrust bill, is pending before the Senate, a call for the regular order can displace that pending business—which in this case would have been the antitrust bill—and would force up the unfinished business.

The distinguished majority leader made a commitment to the distinguished Senator from Michigan (Mr. PHILIP A. HART) many days ago that the antitrust bill would be made the business of the Senate until disposed of one way or the other.

The distinguished majority leader informed me of that fact and, when the majority leader left to go to London on the mission in reference to the Magna Carta, I was instructed by the distinguished majority leader to carry out that commitment to Senator HART and to proceed with the antitrust legislation the best we could and, if it became necessary from time to time, to lay it aside but to go as far as we could go with that legislation until the Senate reached a judgment thereon.

The fact that it had been made the pending business, rather than the unfinished business, made it extremely difficult to keep the bill before the Senate for reasons that I have already stated. Subsequently, I was able to get an order entered providing that the antitrust legislation not be vulnerable to a call for the regular order on Tuesday, Thursday, and Friday of this week. The distinguished Senator from Alabama graciously acquiesced to that order, thus protecting the antitrust legislation from being called down by a routine procedural motion today, yesterday, or this past Tuesday.

This is the situation we were in. The order protecting the antitrust legislation against a call for the regular order—which would displace that legislation—expired today. On Wednesday, June 2, the antitrust legislation cannot be called up except by unanimous consent or by motion and—except during the morning hour—such a motion would be debatable and, of course, we have seen that Senators are able to work the clock and spin out the morning hour, so that such motion would never come to a vote.

So for all intents and purposes it meant that, after today, the antitrust legislation could not be brought up by unanimous consent because there would be an objection to it; it could not be brought up except by motion which would be debatable; and a cloture motion, if offered, would go only to the motion to proceed, rather than to the bill itself, which means that there would have to be two steps taken, cloture on the motion to proceed and cloture on the measure itself—if and when cloture was invoked on the motion to proceed.

This meant that if a cloture motion were not offered today on this bill, the Senate would not get to the bill for weeks, if ever, because there is a question in my mind as to whether the Senate would have voted to invoke cloture on a motion to proceed, and so it was imperative that this cloture motion be offered today.

On yesterday, I asked the distinguished Senator from Alabama if he would agree to a unanimous-consent order that the leadership offer the cloture motion yesterday with the understanding that it not be voted on until Thursday, June 3, the day following the reconvening of the Senate after the Memorial Day weekend. But prior to that, let me go back to, I believe it was Tuesday of this week, at which time there was an order entered which provided that cloture would not be offered on Tuesday, that only one cloture motion could be offered this week on the antitrust bill, and that if any cloture motion were to be offered this week it would have to be on Thursday or Friday.

That meant just what it said, only one cloture motion could be offered and that cloture motion, if offered, could only be offered Thursday or Friday. So yesterday, when I asked that an attendance check be made as to the attendance of Senators today, I found that only 38 or 39 Senators on my side of the aisle were expected to be here and a considerable number of Senators on the other side of the aisle were to be absent, which meant that the Senate would have a problem with quorums today very likely, which also meant that if those Senators opposed to the bill or opposed to invoking cloture did not want to come in, we would be forced to adjourn for lack of a quorum and thus be prevented the opportunity to offer this cloture motion today, which is our only day under the circumstances I have outlined.

So I asked the distinguished Senator from Alabama on yesterday if he would accede to our offering the cloture motion yesterday with the understanding that it not be voted on until Thursday, June 3. And he said he would object to that. He had no objection to our offering the cloture motion yesterday, without the condition attached, which would mean that the Senate would have had to vote on cloture the first day it comes back—on Wednesday, June 2—but he would not agree to unanimous consent that that vote be delayed until the following day.

I said, "Well now, is it your intention to try to keep us from filing cloture tomorrow?" And he said: "You can go ahead and file cloture when the bill is ready. But," he said, "I would not want to surrender any of my rights under the rules," and he was perfectly within his rights to say that.

That was an indication to me, however, that if we had quorum problems today the rules would be used to prevent the offering of a cloture motion.

That made it virtually impossible to offer a cloture motion today if no quorum were to force an adjournment, because the measure has to be before the Senate before a cloture motion can be offered.

I, therefore, arranged for two rollcall votes today, hoping that that would be an additional incentive for Senators to cancel engagements and be here. The only purpose in arranging those rollcall votes was that we would not be forced to adjourn for lack of a quorum and be thus prevented from offering the cloture motion.

I realized that the distinguished Senator from Alabama could object to dispensing with the reading of the journal. That is a right that is accorded to him. It is not often utilized around here, but I realized that he could do that. I did not think he would do it, but he was within his rights to do so.

If the leadership had really wanted to use strong-arm tactics, let me remind the able Senator from Alabama what the leadership could have done. The leadership could have offered that cloture motion on yesterday and on Wednesday, June 2, when the Senate returns—no orders being entered, except to convene at 11 a.m.—the leadership could have promptly moved to adjourn. I am sure the votes would have been here to move to adjourn the Senate, in which case the vote on the cloture motion would have been forced into Thursday. But I also recognized yesterday that if the leadership had done that, the leadership would have been subjected to the criticism of having used strong-arm tactics—if the leadership had brought Senators back on Wednesday, June 2, and immediately moved to adjourn.

So, not wanting the leadership to be subjected to the criticism of strong-arm tactics, the leadership, with the approval of Mr. CRANSTON and Mr. HART, decided not to go that route.

An order is not required for the joint meeting in the House of Representatives for the address of the King of Spain. The leadership only needs to inform Senators that Senators will meet and go over to the House. That was no problem. However, not wanting to have the leadership subjected to what then might have been justified criticism of strong-arm tactics, it was decided to take our chances on offering the cloture motion today, and, as we anticipated, we ran into a great deal of difficulty today.

So I make that plea for the consideration of all Senators as to whether strong-arm tactics have been used. I do not believe they have been.

The leadership has the responsibility to press ahead with the business of the Senate. The leadership in this one instance has a very strong moral obligation and commitment to the Senator from Michigan (Mr. PHILIP A. HART) to do the best we can to get his legislation up for a vote and let the Senate work its will on the legislation.

If the Senate wants to vote the legislation down, if it wants to vote to amend it, that is the business of the Senate. I felt it my duty to do what I could to get the matter before the Senate. If the Senate does not want to invoke cloture on the motion, that is up to the Senate. I say what I have said in defense of the Presiding Officer and in defense of the leadership. Of course, Mr. MANSFIELD is away today. I have no hesitation in saying, therefore, that I am defending myself.

I yield the floor.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may proceed irrespective of the rule of germaneness.

The PRESIDING OFFICER (Mr. CRANSTON). Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, for how long, may I ask?

Mr. ALLEN. I should like to match the 23 minutes that the Senator used in explaining his actions.

Mr. ROBERT C. BYRD. The Senator will have no problem matching any time I might take speaking. I just want to be sure that the Senator does not go beyond 12 o'clock.

Mr. ALLEN. I am sure the Senator will not.

Mr. ROBERT C. BYRD. Very well, I have no objection.

The PRESIDING OFFICER. Unanimous consent is granted for the Senator from Alabama to speak until not later than 12 o'clock.

Mr. ALLEN. Mr. President, I appreciate this explanation by the distinguished assistant majority leader, a man whom I admire very much, a man who, irrespective of our controversy today, will continue to be my very close friend, a man whom I support and will support for the majority leadership.

But the distinguished majority leader, methinks, protesteth too much. I do not believe that if strong-arm tactics had not been used here, it would have been necessary to spend 22 minutes defending the actions that were taken with respect to submitting this cloture motion to the desk.

The Senator said that if they did not file the cloture motion today, we would not get the bill up again for weeks. Well, just this morning we got it up in about 2 minutes. So I do not believe there is a great deal to be said for that contention.

Also, Mr. President, the obligation to others to get up a bill does not impress me too much. It seems to me that if there were an obligation to get up a bill, it would be an obligation to get the bill up under the rules. That is what we are supposed to be governed by—to be governed by the rules.

The Chair took me off the floor when I made a unanimous-consent request to try to get time for the distinguished Senator from Virginia. Then, after this motion was made, even though it was not debatable, I was trying to get recognition to put in a quorum call and so stated. Yet, I was not recognized for that purpose.

Legislation can be important, but I do not think that the zeal to force consideration of legislation should be carried to the extreme point of flouting the Senate rules in order to do so.

That, in the judgment of the Senator from Alabama, is what has taken place.

I say again that the leadership is supposed to lead in this Chamber. We hear and read a great deal about the weak leadership in the Senate. It is hard to pick up a newspaper without finding that charge made. I do not feel that way about it. I think we have a strong leadership. It can carry its will here whenever it wants to; and if we have to kind of skirt the rules a little to get cooperation from the Parliamentarian and the Presiding Officer, that is resorted to. This matter——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Yes. I will not only yield; I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. I do not want the Senator to yield the floor. I did not mean to interrupt the Senator to the point that he would not continue his statement. I simply meant to say that the Senator from Alabama goes to the Parliamentarian quite often and utilizes the advice of the Parliamentarian, which the Senator from Alabama has a right to do, and as other Senators have a right to do.

The leadership does not feel it imperative to go to the Parliamentarian any more than does the Senator from Alabama.

I hope the Senator will continue his statement, and I beg his pardon for the interruption.

Mr. ALLEN. I believe I have said enough to express my views on the subject.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ALLEN. Let us vote on the pending amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Mr. President, I object.

The PRESIDING OFFICER (Mr. GLENN). Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under New Reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider nominations under New Reports in the U.S. Army and nominations placed on the Secretary's desk in the Air Force, in the Army, in the Navy, and in the Marine Corps.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

(The nominations confirmed today are printed at the conclusion of the Senate proceedings).

Mr. ROBERT C. BYRD. Now, Mr. President, if there is a quorum call, which there will be, and if that quorum call cannot be called off and the quorum becomes live and the Senate has to go out for lack of a quorum, this would mean that on Wednesday when the Senate returns following the Memorial Day weekend, the first order of business will be the establishment of a quorum.

Following the establishment of that quorum, the immediate order of business will be for the Senate to go into executive session to consider the two nominations which were ordered for consideration at this time. Rollcall votes have been ordered on those two nominations, and so that will be the order of business on Wednesday when the Senate returns, insofar as I can see it now, if the Senate indeed is forced to go out today because of the lack of a quorum.

Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations which the Senate has just confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ALLEN. Mr. President, I suggested that this quorum call be called off in order that these confirmations of midshipmen and cadets, who are soon to graduate, might be confirmed, so they would have their commissions at the time of their graduation.

I made the suggestion that we go back to the status quo after that had been done, and the leadership very kindly and courteously acceded to that request.

I do not see any great need for voting on these other two nominations that have rollcalls ordered, because I do not believe that a quorum of the Senate is present.

So I would like, if no one else wishes to comment, to reinstate the quorum call, and we can confirm these other nominations on Wednesday, and then absent Senators would not miss the two votes.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will withhold his suggestion of the absence of a quorum, I wish to express my appreciation to Senator ALLEN for his courtesy in permitting the confirmation of these other nominations, which otherwise would have been held over until after the Memorial Day recess.

EXTENSION OF AUTHORITY FOR FILING OF BILLS AND JOINT RESOLUTIONS, AND PRESENTATION OF STATEMENTS FOR THE RECORD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today to introduce bills and joint resolutions and to present statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I have cleared this with the distinguished Senator from Alabama, and it has previously been cleared on both sides of the aisle. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 810.

The PRESIDING OFFICER. As in legislative session?

Mr. ROBERT C. BYRD. As in legislative session.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2042) to amend and strengthen the National Gas Pipeline Safety Act of 1968, and to authorize additional appropriations therefor.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

SEC. 2. Section 2 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671) is amended—

(1) by striking out "; and" at the end of paragraph (8) thereof and inserting in lieu thereof the following: ", except that it shall not include any facility which transports gas from an interstate gas pipeline to a direct sales customer purchasing gas for its own consumption;";

(2) by redesignating paragraph (9) thereof as (10) thereof; and

(3) by inserting after paragraph (8) thereof the following new paragraph:

"(9) 'Intrastate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that such term shall include pipeline facilities within a State which transport gas from an interstate pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

SEC. 3. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672 (b)), is amended—

(1) by adding before the word "testing," in the second sentence thereof, the following: "emergency plans and procedures,"; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal standards. No State agency may adopt or continue in force any standards applicable to interstate transmission facilities, after the Federal standards become effective.".

SEC. 4. Section 4(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673) is amended by adding the following new sentence at the end thereof: "The Committee shall meet at least twice during each calendar year.".

SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674 (a)) is amended—

(1) by striking out "pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State" in the first sentence thereof and inserting in lieu thereof "intrastate pipeline transportation";

(2) by striking out "pipeline facilities and transportation of gas" in clause 1 thereof and inserting in lieu thereof "transportation";

(3) by amending clause (2) thereof to read as follows: "has adopted each Federal safety standard established under this Act as of the date of the certification which is applicable to such transportation or, with respect to each such standard which was established less than 120 days before the date of such certification, is taking such steps as are necessary under State law to adopt such standard;";

(4) by striking out "and" at the end of clause (3) thereof;

(5) by redesignating clause (4) thereof as clause (5) thereof; and

(6) by inserting the following new clause immediately after clause (3) thereof:

"(4) is encouraging and promoting programs designed to prevent damage to natural gas pipelines and other subsurface utility equipment as a consequence of any excavation activity; and".

(b) Section 5(b) of such Act (49 U.S.C. 167(b)) is amended by striking out all that begins with "With respect to" and ends with "actions to—" and inserting in lieu thereof the following: "With respect to any intrastate pipeline transportation for which the Secretary does not receive a certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—".

1674(c)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) thereof as paragraphs (3), (4), and (5) respectively;

(2) by striking out "section 15(b)" and inserting in lieu thereof "section 17(b)," and by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (2)" in newly redesignated paragraph (c) thereof; and

(3) by striking out paragraph (1) thereof and inserting in lieu thereof the following two new paragraphs immediately after "(c)":

"(1) Except as otherwise provided in this section, if an application is submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available—

"(A) one hundred percent (but not to exceed $60,000 for each State) of the cost of not more than three full-time inspectors, as determined by regulations issued by the Secretary taking into account the needs of the respective States, and

"(B) up to 50 percent of the cost of such other personnel, equipment, and activities of a State agency reasonably required, during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section or to act as agent of the Secretary with respect to interstate transmission facilities.

"(2) The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency—

"(A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or

"(B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities.

No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of expenditures for the last two fiscal years—

"(A) preceding the fiscal year for which the State agency is making application for payments made pursuant to subsection (c)(1)(A) of this section, or

"(B) preceding the date of enactment of this section with respect to payments for which the State agency is making application pursuant to subsection (c)(1)(B) of this section .".

(d) The first sentence of section 5(d) of such Act (49 U.S.C. 1674(d)) is amended to read as follows: "A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standards established after the date of such certification for intrastate pipeline transportation pursuant to this Act.".

SEC. 6. Section 7 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1676) is amended by adding at the end thereof the following new sentence: "The Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or to the exercise of rights granted under such a certificate, if such condition requires the applicant to comply with any safety standards for pipeline facilities or for the transportation of gas other than safety standards prescribed by the Secretary.".

SEC. 7. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1680) is amended to read as follows: "Each person who engages in intrastate pipeline transportation shall file with the Secretary or, with the appropriate State agency if a certification or an agreement pursuant to section 5 of this Act is in effect, a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency.".

SEC. 8. Section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C 1683 (a)(1)) is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents".

SEC. 9. The Natural Gas Pipeline Safety Act of 1968 is amended by redesignating section 15 thereof as section 17 thereof and by inserting the following two new sections after section 14 therof:

"CONSUMER EDUCATION

"SEC. 15. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary is authorized to develop materials suitable for use in such education programs.

"CITIZEN'S CIVIL ACTION

"SEC. 16. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, whenever such action constitutes a case or controversy against any person who is alleged to be in violation of a provision of this Act or of an order or regulations issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(b) No civil action may be commenced (1) prior to 60 days after the moving party have given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or (2) if the Secretary has commenced and is diligently pursuing administrative proceedings or the Attorney General has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

"(c) In any action under this section, the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

"(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any provision, order, or regulation or to seek any other relief.

"(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with represesting a person in an action brought under this subsection, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

"(f) As used in this section the term 'person' includes a governmental entity.".

SEC. 10. Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1684), as redesignated under section 9 of this Act, is amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 17. (a) There are authorized to be appropriated for purposes of carrying out this Act (other than section 5(c) of this Act) not to exceed $2,850,000 for the fiscal year ending June 30, 1976; not to exceed $650,000 for the transitional fiscal period ending September 30, 1976; not to exceed $4,500,000 for the fiscal year ending September 30, 1977; and not to exceed $5,000,000 for the fiscal year ending September 30, 1978.

"(b) There are authorized to be appropriated for purposes of carrying out section 5(c) of this Act, not to exceed $2,500,000 for the fiscal year ending June 30, 1976, and the transitional fiscal period ending September 30, 1976; not to exceed $4,500,000 for the fiscal year ending September 30, 1977; and not to exceed $4,500,000 for the fiscal year ending September 30, 1978.".

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Maryland (Mr. BEALL) in support of this measure, together with an attachment thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BEALL

As the author of S. 2042, the "Natural Gas Pipeline Safety Act Amendments of 1976," I urge the enactment of this measure.

S. 2042 was introduced by me on June 27, 1975. The measure is a product of my continued concern with respect to pipeline safety and my determination to make certain that the federal safety standards are both adequate and enforced.

My initial interest in this important subject grew out of a series of residential gas explosions which rocked the Baltimore-Maryland areas. Alarmed in particular over the natural gas explosions which occurred in Annandale, Virginia, and Columbia and Bowie, Maryland, I authored a floor amendment to the Department of Transportation (DOT) Appropriation bill earmarking $257,000 for research effort into the then growing problem of natural gas explosions in residential areas, with particular reference to a number of potential problem areas identified. Pursuant to my amendment, contracts were let by DOT to examine the following problem areas: plastic pipes; odorization; in-place evaluation of pipeline systems; and the overall safety of gas distribution systems. These studies have now been completed, and I received a copy of the last report on April 12th. DOT has distributed copies to appropriate parties in this field and has made them available to the public as well. They are being evaluated by DOT and they are expected to assist the Department in its regulatory safety responsibilities.

Then in 1974, I introduced one of the major bills providing for independence and additional authority in the surface transportation area, which includes pipelines, for the National Transportation Safety Board (NTSB). Legislation along these lines was enacted, and is now Public Law 93–633. At the time the NTSB legislation was advanced, they had only two indiviuals in the pipeline safety area, and although the work of these two gentlemen—Mr. Barry Sweedler and Mr. Henry Shepherd—were outstanding and their reports invaluable, staffing patterns at NTSB were clearly shortchanging and neglecting the surface transportation area. Since the enactment of Public Law 93–633, and with the good support of Senator Byrd of West Virginia, the surface transportation staffing has improved, increasing from two to five professionals this year. And relevant to today's discussion, pipeline safety staffing of DOT increased to 39 in the same period.

My studies of a number of years of the NTSB reports, plus a study prepared by the Library of Congress at my direction by Jean S. March, Analyst in Environmental Policy, and some additional work by Robert Anderson from the same division of the Library, led to my making recommendations in a 1974 Floor speech calling for specific regulatory change.

In this statement, I urged the Labor Department and DOT to adopt six needed regulatory changes which I felt were needed to strengthen and improve pipeline safety. In 1975, I also called upon the Department of Housing and Urban Development to implement the NTSB's recommendation relating to gas migration.

Dissatisfied with the overall response and the safety efforts at DOT, I introduced S. 2042 in June of 1975. S. 2042, along with S. 2183, an Administration bill, were the subject of hearings in September of last year. These hearings were chaired by Senator Hartke and me. I believe the hearings and the written questions and answers produced a good record for those interested in and involved in the natural gas field.

S. 2042, as reported unanimously by the Commerce Committee, combines the features of my bill—S. 2042—the Administration's proposal—S. 2183—and some committee proposals. I am particularly grateful to Senator Hartke, the Chairman of the Subcommittee on Surface Transportation, for his interest and leadership, and to Edward B. Cohen of the Majority Staff, and to Mel Sterrett, Minority Staff Director, for their excellent work and assistance in bringing this bill to the Floor.

S. 2042, as reported, contains a number of significant provisions, which I would like to discuss.

First, S. 2042 would assure that states have at least a minimum number of employees by authorizing federal assistance to finance 100 per cent of the cost of from one to three full-time inspectors, the actual number depending on the need in the various states. In the DOT report, entitled, "Federal-State Relations in Gas Pipeline Safety", it was pointed out that at least sixteen states did not have an employee working full time on pipeline safety. Our hearing record disclosed that as the result of DOT efforts, three additional states acquired a full-time employee.

Mr. President, we must keep in mind the original Pipeline Safety Act of 1968 envisioned a federal-state partnership, and I endorse that approach. We must keep in mind that the DOT, however, has the responsibility of issuing standards. Although we want the states to assume responsibility for administering and enforcing the standards, DOT has an important and continuing responsibility not only to make certain that the standards are adequate to assure the public safety, but also that they are enforced. Thus, it is the Senator's position that if the states are going to administer the Act—and I want them to do so—they must have manpower to carry out their safety responsibilities. If they do not, their citizens may be exposed to the catastrophe of a natural gas explosion; if DOT does not insist that the states do so, they are derelict in their duty and responsibilities under the Act.

This provision, in recognition of the budget problems of the states, is designed to make certain that minimum manpower and inspection are available. Eight years after the original Act and still inadequate staffing is inexcusable.

Second, S. 2042 amends the list of items delineated as appropriate for standards to include "emergency plans and procedures". S. 2042, as introduced, would in addition have required pipeline operators to file with the Secretary of Transportation a plan for "emergencies and procedures".

In 1974, when I made specific recommendations to DOT to tighten safety regulations, emergency procedures were one area addressed. Adequate emergency plans and procedures by operators are critical.

In a number of accidents, pipeline operator personnel have been on the scene in sufficient time before the accident. The National Transportation Safety Board in its 1974 report on a pipeline accident in Clinton, Missouri, stated:

"In at least 5 recent pipeline accidents (including this accident) on which the Safety Board has issued reports, the pipeline operator's personnel were at the leak site from ten minutes to more than ninety minutes before any explosions occurred. In each case, there should have been sufficient opportunity to prevent an accident. In none of the cases, however, was the flow of gas turned off, and in four, nearby buildings were not checked for the presence of gas before the explosions. As a result of these accidents, 19 persons died."

Locally, in the 1972 Annandale, Virginia, explosion, personnel of the Gas Company were on the scene some 20 to 25 minutes prior to the explosion and in its Annandale, Virginia, report the NTSB observed:

"It appears reasonable that Washington Gas Light personnel could have taken steps prior to the explosion to stop the flow of leaking gas or to reduce hazards to the public."

Last year, in Stroudsburg, Pennsylvania, it appeared that company personnel were alerted two days prior to an explosion which resulted in destruction of a home and the death of a man. To me, these reports reveal inadequate leak searches and emergency procedures and operator plans should clarify the requirements for emergency procedures. To prevent explosions, when personnel arrive on the scene in sufficient time, management has to give its personnel in the field proper training and practice for actual emergencies and appropriate guidance. It is often "ingrained" in personnel not to shut-off services. Indeed, one can understand the reluctance of companies to interrupt service to its customers. Yet, it seems we should insist that gas operators have certain emergency procedures. For example, the emergency practices should cover pipeline cut-off procedures. Further, when a leak or break in the lines occurs, the company should not have to examine maps to determine what valves to close. This should all be preplanned and programed ahead of time so that when emergencies occur the information on which valves to close is readily at hand. I am convinced that we can, with proper planning, improve emergency procedures and that management can provide clear directions to its personnel in the field.

The Department of Transportation, in response to my question with respect to gas personnel being on the scene in time to prevent an accident, but not doing so, stated:

"We believe the most likely reason is that some operators do not have adequate plans to be followed in response to an emergency or that operators with adequate plans do not implement them well on the scene."

DOT has promulgated proposed rulemaking in this area and public comments have been received. DOT should move forthwith to not only finalize their regulations but also should, with the states, make certain that operator plans are adequate and that they are implemented on the scene of any accidents. This is one of those critical areas of concern where action is required. The listing of "emergency plans and procedures" services to underscore their importance and the need for regulations and their enforcement.

Third, S. 2042 requires the Technical Pipeline Safety Standards Committee to meet at least twice yearly. This was placed in the statute in view of the rather sporadic meeting of the Committee. At the time of the hearing in September 1975, the Committee had last met in 1973 and since 1972, they had only met twice. Congress, I believe, intended this Committee to be more active. It is my position that this Committee should either be made an effective, functioning entity or be abolished. Certainly, two meetings a year would be the minimum to "evaluate pipeline safety standards." I, for one, believe they should be examining the recommendations of NTSB pipeline safety reports and the various research recommendations of the various contractors. In any event, their performance, like DOT in the pipeline safety area, can and must be improved.

Fourth, S. 2042 would require pipeline operators to conduct consumer education programs. Natural gas is a clean and safe source of fuel. Its overall good safety record can lull us into ignoring deeper signs, identifying leaks and promptly reporting them. The Washington Gas Light Company has been sending its customers a sample of the odor of natural gas (the chemical added to it since natural gas is odorless) to educate their consumers on the smell and to alert them to the necessity of reporting potential problems. Section 9 of the bill would require operators to conduct education programs, and further directs the Secretary to assist in the development of materials suitable for education efforts.

Fifth, S. 2042 requires the states to encourage and promote programs designed to prevent damage to pipelines resulting from excavation.

The Federal Power Commission in a survey of interstate gas transmission lines indicated that from 1950 to 1965, "carelessness in the operation of farming, road building, and excavation equipment caused the largest number of gas failures, accounting for 26 per cent of such failures reported."

By 1972, according to the National Transportation Safety Board, 52 percent of the gas transmission accidents were caused by outside forces; 41 per cent involved excavation damage and in 85 per cent of the excavation accidents, the pipeline operator was not notified before excavation was done. The NTSB also found that of the 70 per cent gas distribution line failures caused by outside force accidents, 42 per cent related to excavation damage. In 62 per cent of these excavation-related accidents, the pipeline operators had been given prior notice. A 1975 study of gas distribution systems showed outside forces responsible for 68 per cent of the significant leaks.

The NTSB on a number of occasions has strongly recommended programs for the prevention of excavation damage. There is also a broad consensus of support by various authorities.

As I stated when I urged regulation in 1974 on this subject:

"First, a contractor preparing to excavate should be made aware of the need to exercise care in the vicinity of underground facilities and must have an incentive to do so. Second, he should have a simple and timely way of determining all underground facilities in proximity to the proposed earthmoving activities. Third, contractor representatives, including the field crew, should be able to recognize easily the exact locations, depths, alinements, and special relationships of all affected facilities.

"To satisfy all three criteria could require that a variety of operations be performed and that the activities of multiple parties be coordinated. These include advertising, to alert the contractor to the dangers and/or penalties for violation of safety standards; simple notification system for contacting operators of affected facilities; effective facility marking systems; and followup measures when accidents do occur."

Sixth, S. 2042 would allow for private enforcement or citizen suits of pipeline standards against any persons in violation of the Act or regulations thereunder. While this was not in my proposal, and was added in Committee, it can serve a useful purpose. However, I do have one major concern. Namely, given the general inadequate staffing of DOT in the pipeline safety area, I am concerned that the staff not spend an inordinate amount of time and expend too large an effort in responding to such suits—time which must come from regulating, monitoring, and evaluation functions. I am hopeful that our Committee, in its oversight responsibilities, and the Appropriations Committee, in funding DOT will be mindful *and respond* accordingly if so required.

Seventh, S. 2042 would amend the section of the Act dealing with state certification to make it clear that certification is allowed notwithstanding the fact that a state has not adopted a standard which has been issued within 120 days of certification. This provision merely provides states with some time to implement the federal standards.

Eighth, S. 2042 would clarify the relationship between the Federal Power Commission (FPC) and the Department of Transportation with respect to pipeline safety. The FPC would not be allowed to attach additional safety conditions, other than those standards of DOT, to its certificates of public conveniences. This provision was not in my proposal. While FPC is not intended to supersede or duplicate DOT, it is our intent that FPC in granting permission to contract pipelines should instruct and require compliance with DOT's standards before issue of its certificate. This will require the highest safety standards for pipeline during construction.

Ninth, S. 2042 amends the annual report to require DOT to include a full report of gas pipeline leaks. It does this by adding the requirement that the Secretary submit a thorough compilation of "leak reports" as well as "casualties" and "accidents" under current law. This will provide the Congress and the country with a clearer understanding of the pipeline safety picture in the Nation. Under present DOT practices, only major accidents are reported. For example, in the 1973 annual report DOT reported 1,393 pipeline failures or accidents, but there were actually 770,000 leaks requiring repairs by the pipeline operators. The new section will require full reporting and reveal the total picture.

Tenth, S. 2042 substantially, although prudently, in view of the seriousness of the safety problem and the need, increases the authorizations' level for both the federal administration and grants-in-aid to the states. In view of the research needs, the training requirement, particularly for emergencies and response thereto, and the need for improved monitoring of the states and the evaluation of their performance these sums are the minimum needed to meet our responsibilities to the public.

I might add that the Committee deleted the specific delineation of research efforts, feeling it was better not to spell such effort out with such specificity in the statute. However, the Committee did agree that I had spelled out priority areas. Because such listing can serve as a useful point of inquiry when we review DOT research undertaking, I ask unanimous consent that such section from S. 2042, as introduced, be listed at this point in my remarks. (See exhibit 1.)

The Nation's gas distribution system consists of over 1.1 million miles of buried pipelines. Such systems serve some 44 million residential customers. With an average family size of approximately 3.5, this would mean that there is a population-at-risk of some 150 million citizens.

When one looks at deaths from pipelines compared to other transportation accidents, it is true that the number of pipeline fatalities is relatively small. In 1973, for example, while 61,000 Americans lost their lives in transportation accidents, only 70 of these deaths resulted from pipeline accidents.

Mr. President, while natural gas is a safe, clean and until recently, a very inexpensive form of energy, it is also potent. Its potency and its potential for catastrophe, as well as existing problems, underscore safety concerns.

Gas distribution systems are plagued with leaks, an estimated 900,000 such leaks according to the 1975 study of gas distribution systems by AMF, Inc., or an average of approximately one leak per mile. The Washington Gas and Light Company in 1973 estimated that it checked 80,000 residential leaks and that one quarter, if left unattended, were serious enough to cause an explosion. Projecting this local experience nationwide would mean that some 225,000 of the 900,000 leaks might be potentially explosive.

Fortunately, very few of these leaks produce the spectacular blasts that grab headlines, such as Bowie, Maryland, and Annandale, Virginia, explosions. However, while citizen concern is high in the wake of such disasters, such concern recedes with the passage of time, that is until another disaster occurs. We are, I fear, experiencing such a period of complacency now. And in this business, complacency—when the potential for catastrophe looms so large—has no place.

As the Washington Post concluded in a 1974 editorial following the rash of explosions in this region:

"Meanwhile, when and where will the next blowup occur? Until federal and state officials, *not* to mention the gas companies themselves, take the problem with more seriousness, the accident rate is not likely to go down. It may even go up, like the homes and buildings in the blasts."

It is true that compared to our modes of transportation, the number of fatalities from natural gas is low. Gas pipeline fatalities from 1968 to 1973 increased from sixteen to fifty-nine. In 1974, fatalities dropped to twenty-four. In 1975, they fell by one to twenty-three.

Although we welcome these improvements, one has to be careful not to relax in this area where the potential for a large scale catastrophe is even present. 1976 began with one—maybe the worst—pipeline accident in the history of the Nation. At Freemont, Nebraska, twenty individuals were killed and this drives home the danger and need for action in the pipeline area. Thus far in 1976, we have had thirty-seven.

As Barry Sweedler of the NTSB, and one of the foremost experts in the Nation, has warned:

"It's difficult to say if we're having more accidents each year or not. In some recent accidents we've been extremely lucky. If they'd happened a few miles down the line, or at another time of the day, the death rate would be very much higher. I don't foresee a drastic reduction in the number of serious accidents unless action is taken in the number of areas. . . . So far we have been lucky."

We have been lucky. One shudders to contemplate, for example, the catastrophe that could have resulted in the April, 1974, New York City twenty-four story office building explosion, if the accident had occurred at 9:30 A.M., rather than prior to working hours. The time of the explosion saved us. No one was killed although seventy individuals were injured and damaged approximated $10 million. We cannot count on or rely on luck.

I am hopeful that the new authority and funding authorized by S. 2042 will result in a new sense of urgency by the federal government and the states and give direction and impetus to improvements in pipeline safety for the American public.

EXHIBIT 1

"(a) The Secretary shall conduct, through grants or contracts, or both, with individuals, States, and nonprofit institutions, research, testing, and development in—

"(1) methods to detect leaks and the methods of repair of such leaks;

"(2) the development of monitoring devices, both automatic and manual;

"(3) improved procedures for accident control;

"(4) component reliability of gas pipelines and facilities and the development of safe service life prediction for the various components;

"(5) gas odorization and migration into buildings;

"(6) the development of safety or quality assurance programs or systems;

"(7) the development of tools and procedures for inplace evaluation;

"(8) excavation damage accidents and their prevention;

"(9) offshore and Arctic pipeline safety problems; and

"(10) other appropriate areas which will promote the purposes of this Act.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend the Natural Gas Pipeline Safety Act of 1968, to authorize additional appropriations, and for other purposes."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the circumstances as I have outlined them, if the Senate should have to go out for lack of a quorum, have I correctly stated the program for next Wednesday? I will not have another opportunity to state it. Have I correctly stated the scenario for the program then?

The PRESIDING OFFICER. The Senator was correct.

Mr. ROBERT C. BYRD. I thank the Chair.

CHANGE OF REFERENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of S. 3414, and that the bill be referred to the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. As in legislative session, without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Alabama for his courtesy.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent to proceed for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANGELA GARZA

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 223.

The PRESIDING OFFICER (Mr. GLENN) laid before the Senate the amendments of the House of Representatives to the bill (S. 223) for the relief of Angela Garza, as follows:

Strike out all after the enacting clause, and insert: That, in the administration of the Immigration and Nationality Act, Angela Garza, the widow of a citizen of the United States, and her son, Manuel Aguilar (also known as Manuel Garza), shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in their cases.

Amend the title so as to read: "An Act for the relief of Angela Garza and her son Manuel Aguilar (aka Manuel Garza).".

Mr. ROBERT C. BYRD. On June 26, 1975, the Senate passed S. 223, a bill to grant the status of permanent residence in the United States to Angela Garza.

On May 18, 1976, the House of Representatives passed S. 223 with amendments to restore immediate relative status to the beneficiary, a widow of a citizen of the United States, and her minor son. A further amendment includes the name of the beneficiary's minor son in the title of the bill.

I move that the Senate concur in the House amendments to S. 223.

The motion was agreed to.

MISS ROSARIO Y. QUIJANO, ET AL.

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 52.

The PRESIDING OFFICER Mr. GLENN) laid before the Senate the amendment of the House of Representatives to the bill (S. 52) for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano, as follows:

Page 1, line 4, strike out all after "Act," over to and including line 3, on page 2, and insert:

Rosario Y. Quijano and Walter Y. Quijano shall be held and considered to be entitled to preference status within the purview of section 230(a)(1) of that Act, and Ramon Quijano, Tarcisus Quijano, Denis Quijano, and Paul Quijano shall be held and considered to be immediate relatives within the purview of section 201(b) of that Act, and the provisions of section 204 of such Act shall not be applicable in these cases.

Mr. ROBERT C. BYRD. On June 26, 1975, the Senate passed S. 52, a bill to preserve first preference status in behalf of a daughter and five sons of a deceased citizen of the United States. The bill would also have exempted Walter York Quijano from the 2-year foreign residence requirement applicable to exchange visitors.

On April 6, 1976, the House of Representatives passed S. 52 with an amendment in the nature of a substitute to preserve first preference status in behalf of the daughter and eldest son, Walter York Quijano, and to restore immediate relative status to the four minor sons of a deceased citizen of the United States, to which status the beneficiaries would have been entitled were it not for the death of their mother. The bill S. 52, as passed by the House of Representatives, deletes reference to the waiver of the 2-year foreign residence requirement applicable in the case of Walter York Quijano, since the waiver is being resolved administratively.

I move that the Senate concur in the House amendment to S. 52.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Metcalf) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Metcalf) laid before the Senate the following letters, which were referred as indicated:

Review of Certain Deferrals

A letter from the Comptroller General of the United States, reporting, pursuant to law, on review of deferrals which the President submitted to the Congress on April 26, 1976, in his 14th special message for fiscal year 1976 pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Labor and Public Welfare, and the Committee on Finance, jointly, pursuant to order of January 30. 1975.

Review of Certain Deferrals

A letter from the Comptroller General of the United States, reporting, pursuant to law, on review of deferrals which the President submitted to the Congress on May 13, 1976, in his 15th special message for fiscal year 1976 pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Interior and Insular Affairs, and the Committee on the Judiciary, jointly, pursuant to order of January 30, 1975.

Proposed Construction Projects by the Army National Guard

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, proposed construction projects to be undertaken by the Army National Guard (with accompanying papers); to the Committee on Armed Services.

Cost Accounting Standard—Cost of Money as an Element of the Cost of Facilities Capital

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a proposed cost accounting standard—cost of money as an element of the cost of facilities capital—promulgated by the Cost Accounting Standards Board (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

Unincorporated Business Franchise Surtax Act of 1976

A letter from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act entitled Unincorporated Business Franchise Surtax Act of 1976, adopted by the Council on April 20, 1976, and signed by the Mayor on May 18, 1976 (with accompanying papers); to the Committee on the District of Columbia.

International Agreements Entered Into by the United States

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States (with accompanying papers); to the Committee on Foreign Relations.

Index Modification by the Department of Justice

A letter from the Attorney General, transmitting, pursuant to law, a report on modification of an index to existing systems of records (with an accompanying report); to the Committee on Government Operations.

Report of the General Services Administration

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, the annual report of the General Services Administration for 1975 (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on changes needed in the Revenue Sharing Act for Indian Tribes and Alaskan Native villages, Department of the Treasury (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements of the Panama Canal Company and the Canal Zone Government for fiscal years 1975 and 1974 (with an accompanying report); to the Committee on Government Operations.

Reports of the Department of Interior

Three letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, three applications for loans under the Small Reclamation Projects Act (with accompanying reports); to the Committee on Interior and Insular Affairs.

Uranium Enrichment Services Activity

A letter from Controller of the Energy Research and Development Administration transmitting the Energy Research and Development Administration's fiscal year 1975 Financial Statements for its Uranium Enrichment Services Activity (with an accompanying report); to the Joint Committee on Atomic Energy.

Proposed Legislation for the Use of Voter Registration Lists

A letter from the Deputy Director of the Administrative Office of the U.S. Courts transmitting proposed legislation amending the Jury Selection and Services Act of 1968 to establish a presumption that the use of voter registration lists as the source of names to be selected for jury service is consistent with the policies of the act (with accompanying papers); to the Committee on the Judiciary.

Report of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, reports concerning visa petitions covering the period April 16 through April 29, 1976 (with accompanying papers); to the Committee on the Judiciary.

Proposed Legislation by the Department of Health, Education, and Welfare

A letter from the Under Secretary of Health Education, and Welfare transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act (with accompanying papers); to the Committee on Labor and Public Welfare.

Report of the National Commission for Manpower Policy

A letter from the Director of the National Commission for Manpower Policy transmitting a report entitled "Current Issues in the Relationship Between Manpower Research and Policy" (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the Librarian of Congress

A letter from the Librarian of Congress transmitting, pursuant to law, a report on the activities of the Library of Congress during the fiscal year ending June 30, 1975; the Quarterly Journal of the Library of Congress; and the annual report of the Library of Congress Trust Fund Board (with accompanying reports); to the Committee on Rules and Administration.

Reports of the Assistant Secretary of Defense

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a list of names of persons who have filed reports for fiscal year 1975 required by section 210(b) of Public Law 91–121 (with accompanying papers); to the Committee on Armed Services.

International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

PETITION

The ACTING PRESIDENT pro tempore (Mr. Metcalf) laid before the Senate the following petition, which was referred as indicated:

Joint Resolution No. 48 adopted by the Legislature of the State of New York; to the Committee on Commerce:

"Joint Resolution No. 48

"Joint resolution of the Senate and Assembly of the State of New York memorializing the Congress and the United States Department of Transportation to facilitate the construction of a rapid transit system for the Buffalo-Amherst 'Corridor' of Erie County

"Whereas, Since 1967 the people and governmental jurisdictions of the City of Buffalo, Town of Amherst, and County of Erie have demonstrated their strong desire for the construction of a rapid transit system in that portion of the state; and

"Whereas, In 1971 and again in 1975 this Legislature has demonstrated its support for rapid transit serving the Buffalo-Amherst 'Corridor' through its appropriation of a total of $102,000,000 to be used for mass transit by the Niagara Frontier Transportation Authority; and

"Whereas, The Niagara Frontier Transportation Authority, in full cooperation with, and enjoying the total support of, the New York State Department of Transportation has proceeded to fulfill every requirement for funding assistance for such a line imposed by the Federal government; and

"Whereas, Officials of the Federal government have publicly commented that there was not, 'one thing which NFTA should be doing that it is not doing,' and that the 'community spirit and the solidarity of support shown for the Buffalo rail project' was widespread and impressive; and

"Whereas, Despite all of this support, the Federal government has still required further detailed studies of the feasibility of this line, as well as of suggested 'alternatives,' all of which have caused delay, leading to greatly increased costs; and

"Whereas, On February 17, 1976 the Board of the Niagara Frontier Transportation Authority unanimously approved a final application for two hundred sixty-nine million dollars in Federal capital funding to construct 6.4 mile light-rail line serving the Buffalo-Amherst "Corridor"; and

"Whereas, The people of Erie County and the entire state, as represented in this Legislature and in the Congress of the United States, have strongly demonstrated their support for a rapid transit line in this area many times over; now, therefore, be it

"Resolved, That the Legislature fully supports the construction of a rapid transit line in the Buffalo-Amherst "Corridor" and currently desires that the actual construction of such a line commence at the earliest pos*sible date;* and be it further

"Resolved, That the Legislature commends the action taken by the representatives in the Congress of the United States of this State in support of such a rapid transit line; and be it further

"Resolved, That the Legislature urges the Federal government, acting through the United States Department of Transportation, and the Urban Mass Transportation Administration, to add their support to this rapid transit line by approving the recent application for Federal funds for the construction of this line as endorsed by the Niagara Frontier Transportation Authority on February 17, 1976; and be it further

"Resolved, That the Legislature respectfully memorializes the Congress of the United States to facilitate the construction of the Buffalo-Amherst Line by appropriating funds sufficient for its construction; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of the United States Department of Transportation, the Urban Mass Transportation Administrator, and to each member of the Congress of the United States from the State of New York."

FINAL REPORT OF THE SPECIAL COMMITTEE ON NATIONAL EMERGENCIES AND DELEGATED EMERGENCY POWERS—REPT. NO. 94–922

Mr. MATHIAS submitted the final report of the Special Committee on National Emergencies and Delegated Emergency Powers, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time and referred as indicated:

By Mr. MONDALE (for himself, Mr. HUMPHREY, and Mr. McGOVERN):

S. 3506. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries and for other purposes. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 3507. A bill for the relief of Adela A. Nación. Referred to the Committee on the Judiciary.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MONDALE (for himself, Mr. HUMPHREY, and Mr. McGOVERN):

S. 3506. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries, and for other purposes. Referred to the Committee on Public Works.

Mr. MONDALE. Mr. President, I am today introducing a bill, cosponsored by Senators HUMPHREY and McGOVERN to correct several of the most serious deficiencies in the management of the Upper Mississippi River System.

The bill would authorize construction of a single new lock and dam at Alton, Ill. It would preclude by law a 12-foot channel on the Mississippi River. It would establish a long overdue planning process to reconcile the various Federal management objectives on the river, with guidelines for channel maintenance, protection of environmental and recreational values and mechanisms for enforcement. Finally it would put a ceiling on existing traffic capacity of the Upper Mississippi River and freeze all other new construction projects that might increase the capacity of the system until the master plan and guidelines had been approved by the Congress.

Our proposal recognizes that there are currently several competing and often conflicting objectives of the Federal Government on the Mississippi—maintenance of commercial navigation, environmental protection and provision of public recreational opportunities. All of these objectives are legitimate but, in my opinion, none are being adequately achieved. Traffic delays on the Upper Mississippi are resulting in millions of dollars each year in unnecessary costs that must ultimately be borne by shippers and consumers of farm commodities, coal, fertilizer, and petroleum products. At the same time significant and, to a great extent, avoidable damage to the environment is occurring as a result of present channel operation and maintenance activities.

Methods must be found to prevent destruction of wildlife habitat and water quality, without closing down the river to further navigation. The Upper Mississippi transportation system is simply too important to the economy of the Upper Midwest to be crippled by neglect or inefficiency.

Let us look at the facts. Agricultural commodities, including grain and fertilizer, comprise nearly half of the total cargoes shipped by river. Another 35 percent is composed of energy products such as coal, gasoline and residual fuels. The remainder is divided among a variety of other bulk commodities—steel, and sand gravel, salt and molasses.

A major share of the agricultural commodities transported on the river system are corn, soybeans and wheat destined for export from the Louisiana Gulf ports. In 1973, Minnesota's shipments alone had an export value of more than $500 million, representing roughly half of the State's total agricultural exports. Barge shipments from the region served by the Upper Mississippi River, represent more than 40 percent of America's total corn exports, 30 percent of all soybeans exports and about 10 percent of the Nation's wheat exports.

Even assuming that adequate capacity existed to move these commodities to market by alternate modes of transportation, the loss of commercial navigation would cost farmers in Minnesota alone a minimum of $45 million per year in increased freight charges for transportation of grain. A typical farmer in Lake Crystal, Minn., with 200 acres of corn for export, would lose over $3,000 in net income per year, if deprived of the opportunity for barge transportation. Lake Crystal is one of the 40 Minnesota communities out of more than 700 with grain elevators that has unit train loading facilities. If a farmer with a comparable crop from Tracy, Minn., were denied the opportunity for barge transportation, he would lose over $4,000 in annual income. The farmer's losses would be substantially higher because Tracy—like most Minnesota farm communities—is not served by unit rail.

The Mississippi River is nearly as important to the energy supply of the Upper Midwest region as it is to agriculture. Barge shipments of coal provide the electrical energy for over 3 million residents of the Upper Mississippi River basin area. In addition, 30 percent of the primary movement of petroleum products in the region is dependent upon barge transportation.

There is no question but that the river and the system of locks and dams for operation of the channel are a vital transportation link for farmers and communities in the Upper Midwest. The efficiency and cost of this system in turn have direct bearing on fuel bills paid by homeowners.

Unfortunately, conflicts are becoming more and more apparent between commercial and other uses of the riverway. Degradation of environmental values has all too frequently occurred as a result of poorly conceived off-channel fleeting, dredging and spoil disposal practices. These problems are not inevitable, given more adequate planning, research and funding to deal with the environmental needs of the river system. Bu there is no question that they will become more severe as traffic expands unless better management techniques are adopted.

The focal point of the controversy over management of the Upper Mississippi River is the future of lock and dam 26 at Alton, Ill. River users rightly complain that the present facility at Alton is outmoded, inefficient and structurally unsound. They point to average delays of up to 9 hours per tow at lock and dam 26 costing millions of dollars each year.

Only a few weeks ago a shutdown of the locks at Alton, Ill. led to a 10-day backup of traffic while repairs were carried out. During this period barge transportation rates increased by almost 20 percent, with total costs to farmers estimated at tens of millions of dollars.

Originally the Corps of Engineers sought to replace the existing structure at lock and dam 26 with two 110 by 1,200 foot locks. This proposal was heavily criticized by environmental leaders and other Federal agencies and construction was ultimately enjoined by the courts.

In opposing construction of the new lock and dam, environmental leaders raised two primary concerns—first that building the facility would be the opening wedge in an alleged corps' effort to build a 12-foot channel on the upper Mississippi, and second, that operation and maintenance activities, even at current traffic levels are resulting in significant environmental damage. They maintain that the existing lock and dam should be repaired rather than replaced.

Two years ago, I joined with Senator NELSON in urging that any authorization of the lock and dam 26 project be deferred until there had been an opportunity for congressional review and public hearings. Since then, there has been sufficient time to evaluate the various aspects of this issue. The corps has also greatly scaled down its original proposal, by eliminating one of the proposed new locks.

In my judgment there are now three critical questions that must be answered: First, is the new structure needed; second, could it be a first step toward a 12-foot channel on the river; and third, would traffic levels exceed the point where environmental quality and a balance transportation system in the river region could be sustained?

The threshold question is whether the new facility is needed. I believe that there is ample evidence to show that it is. Studies reveal that the original facility at Alton was constructed in an area of extremely unstable bottom material. The result is a constant shifting in the foundation of the structure that causes periodic cracking of the dam and wreaching of the locks. No amount of repair, short of building a deep, permanently cemented pool, could prevent these problems from recurring. In the interim a duplicate lock would have to be constructed to handle traffic while repairs were being carried out. Thus the cost for repair of the existing lock and dam 26 would be nearly equal to that of building an entirely new facility, but the resulting lock and dam would be far less efficient and more costly to operate.

The second question is whether a new lock and dam would be the first step toward a 12-foot channel on the Upper Mississippi. Given the degradation resulting from operation and maintenance of the existing channel, I believe a 12-foot channel would be an ecological disaster for the Upper Midwest. But with or without a new lock and dam at Alton, there is only one way to make sure that there will be no 12-foot channel on the Upper Mississippi, and that is to repeal all existing authority for feasibility studies leading toward a 12-foot channel and to provide that such authority may not be reinstated except by act of Congress. That is what this bill proposes to do and, short of a constitutional amendment, it is the best protection available against a 12-foot channel on the river.

Third, there is the question of traffic levels on the Upper Mississippi, and what tonnage volumes can be permitted consistent with the need to protect environmental quality and to promote a balanced transportation system in the region. There are no easy answers to this question. In part, the solution will depend upon what rules and guidelines are in effect to protect fish and wildlife, water quality and related values. In part, it will also depend upon projected transportation demands and the ability of all transportation modes to serve the region in an economical and efficient fashion. If thorough studies are conducted, up to 5 years might be required to collect and analyze the necessary data, prepared the rules and recommend an appropriate management strategy.

Environmental spokesmen have suggested that replacement of lock and dam 26 be postponed until all of this systemwide analysis has been completed. In my judgment, such a delay is neither necessary nor consistent with the environmental and economic interests of the region. Delay would not alter the natural bottom conditions that are responsible for structural problems at lock and dam 26. Instead, it would merely add to the costs of the new facility that will have to be built, an increase of an estimated $130 million in inflation costs alone over the 5-year period.

There is a much more reasonable way to meet the concern over future traffic levels on the Mississippi River. This could be done by placing a statutory ceiling on navigation tonnage equal to the present maximum capacity of 73 million tons until the necessary studies and planning had been carried out. In addition, a freeze would be in effect on any other new construction that would add to system capacity until a master plan with appropriate guidelines and mechanisms for enforcemnt had been approved by the Congress.

It has been alleged that construction of a new lock and dam would result in the loss of 25,000 jobs in the railroad industry and the demise of the rail system of the Upper Midwest. These allegations are totally misleading. They are based upon the assumption of duplicate locks extending up and down the river—a step specifically prohibited by the bill we are offering today. Only after studies had been carried out by the Department of Transportation and a master plan was prepared and approved by the Congress could there be any increase whatsoever in the maximum present capacity of the navigation channel.

The Midwest region must have an efficient and competitive transportation network. The best way to promote such a system is not to mandate an inefficient navigation channel. In fact, the presence of commercial navigation on the Mississippi has encouraged greater efficiencies in our rail service, including the use of unit trains and jumbo hoppers.

To a large extent the future of lock and dam 26 has become a symbolic issue. Spokesmen for commercial navigation have sought to define the issues in terms of transportation efficiency, regardless of potential environmental impacts. Spokesmen for environmental interests have sought to define the issue in terms of possible environmental impacts, even if it means permanently mandating an inefficient transportation system.

I believe that it is possible to have a navigation system on the Upper Mississippi that is both efficient economically and responsive environmentally. In fact, by applying funding that would otherwise be absorbed in delay costs, it is possible to purchase improved equipment for dredging and spoil disposal that could better protect water quality and avoid destruction of wildlife habitat. A computerized resource inventory and analysis system could also be developed to weigh the effects of alternative management strategies on the river environment. These are among the principal objectives of the bill we introduce today.

I believe it is long past the time that we recognize that navigation and fish and wildlife and recreational interests must coexist on the riverway even though they do not always coincide. Until now the Congress has never really addressed conflicts that are so clearly apparent in the mandates we have given to the Corps of Engineers, the Fish and Wildlife Service, and the Environmental Protection Agency. The result has been chaos. Frustrated citizens and State agencies have thus been increasingly turning to the courts for an interpretation of congressional intent.

Court injunctions can highlight management problems on the Mississippi River. They can provide time so that a reasonable solution can be achieved. But court injunctions cannot solve the basic problems of the river system, either environmental or economic. Solutions to these problems must come from the Congress.

The proposal we offer today is intended to address an immediate problem of commercial navigation on the riverway. But it does much more than that. It establishes a framework wherein a balanced plan, taking into account the commercial environmental and recreational objectives of the Federal Government on the Mississippi River system can be implemented. Our goal is to ensure that this river is used in a manner that is consistent with the economic needs of the Upper Midwest, but in a manner that also insure protection for fish and wildlife and for the recreational advantages of this magnificent resource. The Mississippi River is an economic and environmental asset of unsurpassed value to the Upper Midwest. I believe this bill can help assure that it remains so.

Mr. President, I ask unanimous consent that the full text of my bill and a section-by-section analysis be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 3506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to commence replacement of Locks and Dam 26, Mississippi River, Alton, Illinois, by constructing a new dam and 110 foot by 1,200 foot main lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated March 15, 1976.

Sec. 2. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in the first section, terrestrial wildlife habitat inundated as a result of the construction of the project on an acre for acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Corps for wildlife mitigation purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp and a beach, at an estimated first cost of $2,750,000.00 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act (P.L. 89–72) and undertaken independently of the navigation features of the project.

Sec. 3. Nothing in this Act shall be construed as authorizing a twelve-foot channel above Alton, Illinois. Any authority for the Secretary of the Army to study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; St. Croix River, Minnesota and Wisconsin; and in the Mississippi River north of its juncture with the Illinois River, Illinois, beyond their present limits is hereby withdrawn and may be reinstated only if specifically authorized by a future Act of Congress.

Sec. 4. (a) The Congress hereby authorizes and directs the preparation of a master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississipi River Basin Commission in cooperation with appropriate Federal, State and local government agencies. A preliminary plan shall be prepared by January 1, 1981, and shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings, shall make any appropriate revisions in the preliminary plan and shall, by July 1, 1981, submit a final master plan to Congress for approval. Approval of the final master plan shall be granted only by enactment of a joint resolution of the Congress.

(b) The master plan authorized under subsection (a) of this section, shall identify the various economic, recreational and environmental objectives of Federal, State and local agencies responsible for administration of the Upper Mississippi River, recommend guidelines to achieve such objectives and propose methods to ensure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) The Commission is authorized to carry out such studies, including the acquisition and testing of equipment for improved dredging and spoil disposal, as it deems necessary to carry out its responsibilities under this section, and may request appropriate Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to carry out any such study for the purpose of this section. With respect to economic studies and intermodal transportation analysis carried out under this section, the Department of Transportation shall be considered the primary agency for such a study, with the cooperation of the Department of the Army, the Department of Agriculture and any other agencies that the Commission deems appropriate. Studies carried out pursuant to this section shall include, but not be limited to, the following:

(1) studies concerning the environmental effects of present and projected traffic levels, including the impact of any new navigation-related construction activities upon fish and wildlife, water quality, wilderness and public recreational opportunities, including a specific analysis of the environmental effects of construction of a second lock and dam at Alton, Illinois.

(2) studies concerning the economic impacts of present and projected traffic levels, including an analysis of alternative methods for meeting future intermodal bulk commodity transportation needs of the regions served by the Upper Mississippi and Illinois Rivers and a specific evaluation of the economic effects and demand for a second lock and dam at Alton, Illinois;

(3) studies and demonstration programs including acquisition of a new dredge and spoil disposal to evaluate the equipment effectiveness of improved dredging and other equipment in minimizing the environmental effects of channel operation and maintenance activities;

(4) development of a computerized analytical inventory and analysis system by the United States Fish and Wildlife Service for the Upper Mississippi River, to facilitate evaluation of the comparative environmental effects of alternative management proposals; and

(5) such other studies as the Commission deems necessary.

(d) The Commission shall, in preparation of the master plan, utilize to the fullest extent possible the resources and results of the Upper Mississippi River Resource Management (GREAT) Study. Such study shall hereafter be funded in accordance with the provisions of subsection (h) of this section.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation and management of the Upper Mississippi Wildlife and Fish Refuge and the Mark Twain National Wildlife Refuge.

(f) Except for the provisions of the first section of this Act, and necessary operation and maintenance activities, no rehabilitation, replacement or construction of duplicate locks and dams shall be undertaken by the Secretary of the Army that will increase the present traffic capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by Congress and the President. Following approval of the master plan, construction of a second lock and dam at Alton, Illinois, shall be initiated only by Act of Congress and all other construction activities of the Secretary on such system shall be initiated only in accordance with the guidelines set forth in the master plan.

(g) Until such time as the master plan provided for in this section receives final approval by the Congress and the President, there shall be a maximum annual ceiling on navigation tonnage at lock and dam 26 of 73 million tons.

(h) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000, of which $4.4 million shall be reserved for expansion and completion of the Upper Mississippi River Resource Management Study. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

Sec. 5. There is authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of Sections 1 and 2 of this Act. Any funds which have been allocated to a replacement project for Lock and Dam No. 26 prior to the enactment of this Act shall be available for the project authorized in the first section of this Act and shall remain available until expended.

Section-by-Section Analysis

Sec. 1. Authorizes replacement of lock and dam 26 at Alton, Illinois with a new dam and a single 110 by 1200 foot main lock.

Sec. 2. Directs replacement on an acre-for-acre basis of wildlife habitat innundated as a result of the project, with public access and recreational facilities to be provided by the Corps of Engineers on a cost-sharing basis with the State of Missouri.

Sec. 3. Repeals all existing authority for studies by the Secretary of the Army of the feasibility of deepening the navigation channels on the Upper Mississippi, Minnesota, Black and St. Croix Rivers and provides that any such authority may be reinstated only by specific Act of Congress.

Sec. 4. Requires preparation by July 1981 of a master plan for the Upper Mississippi River by the Upper Mississippi River Basin Commission in cooperation with appropriate federal, state and local government agencies. The plan would—

Identify the economic, environmental and public recreational objectives of all government agencies with management responsibilities on the Mississippi River;

Recommend guidelines to ensure that such objectives are achieved, including guidelines for channel maintenance, minimization of dredging volumes, barge fleeting, protection of water quality, fish and wildlife protection and enhancement and wilderness protection;

Propose methods to ensure enforcement of the guidelines and coordination of future management policies affecting the Upper Mississippi; and

Recommend any new legislation that may be necessary to carry out the objectives and recommendations of the master plan.

Authorizes studies to be undertaken by the Commission in cooperation with appropriate government agencies and with the ongoing Upper Mississippi Resource Management (GREAT River) Study, including—

Environmental analyses of present and projected traffic levels, including the impact of a second lock and dam at Alton, Illinois;

Economic and intermodal bulk commodity transportation analyses of the impacts of present and projected traffic levels, to be directed by the Secretary of Transportation in cooperation with the Secretary of the Army, Secretary of Agriculture and other appropriate agencies (such analyses to include an evaluation of the impact of a second lock and dam at Alton, Illinois);

Acquisition and demonstration of advanced equipment for dredging and deposit of spoil material so as to minimize the environmental effects of routine operation and maintenance activities; and

Develop, by the Fish and Wildlife Service, of a computerized analytical inventory and analysis system to facilitate evaluation of the comparative environmental effects of alternative management strategies.

Forbids any additional new construction (other than the 110 by 1200 foot lock and dam at Alton authorized in Section 1) that would increase the traffic capacity of the Upper Mississippi River System until the master plan has been approved by Act of Congress, and prohibits such construction thereafter except in accordance with the master plan. Provides that construction of a second lock and dam at Alton, Illinois could be initiated only by Act of Congress. Establishes a maximum annual ceiling on navigation tonnage at lock and dam 26 of 73 million tons (present capacity of the Upper Mississippi River System) pending Congressional approval of the master plan.

Authorizes $20 million for the studies, planning and acquisition and demonstration of equipment authorized by this section.

Sec. 5. Authorizes funds necessary for construction of the new lock and dam at Alton, Illinois pursuant to section 1 of this Act.

ADDITIONAL COSPONSORS

S. 2387

At the request of Mr. Bayh, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 2387, the Petroleum Industry Competition Act, as amended.

S. 3222

At the request of Mr. Durkin, the Senator from South Dakota (Mr. Abourezk), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Huddleston), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 3222, to amend the Veterans Readjustment Benefits Act.

AMENDMENT NO. 1639

At the request of Mr. Ford, the Senator from Mississippi (Mr. Eastland), the Senator from West Virginia (Mr. Randolph), the Senator from South Carolina (Mr. Thurmond), and the Senator from Wyoming (Mr. McGee) were added as cosponsors of amendment No. 1639, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

SENATE RESOLUTION 454—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE SENATE REPORT ENTITLED "FRAUD AND ABUSE AMONG CLINICAL LABORATORIES"

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself, Mr. Percy, Mr. Williams, Mr. Church, Mr. Muskie, Mr. Kennedy, Mr. Pell, Mr. Eagleton, Mr. Tunney, Mr. Mondale, Mr. Chiles, Mr. Clark, Mr. Brooke, Mr. Beall, Mr. Domenici, Mr. Brock, and Mr. Bartlett) submitted the following resolution:

S. Res. 454

Resolved, That there be printed for the use of the Special Committee on Aging 4,500 additional copies of its report to the Senate entitled "Fraud and Abuse Among Clinical Laboratories" (Senate Report 94—).

Mr. MOSS. Mr. President, I submit a resolution which would authorize the printing of additional copies of the report "Fraud and Abuse Among Clinical Laboratories" prepared by my Subcommittee on Long-Term Care of the Senate Special Committee on Aging.

Mr. President, this report is the result of a 6-month investigation by the staff of the Committee on Aging and Chicago's Better Government Association. Senator Charles Percy, Senator Pete V. Domenici, and I were directly involved in this effort. The report documents that kickbacks are widespread among the medical laboratories and that the quality of testing can be far from adequate.

As a result of this investigation, those who offered us illegal kickbacks have been brought to the bar of justice and new tougher laws have been enacted by the Congress. The Clinical Laboratories Improvement Act of 1976, passed the Senate on April 29 by a wide margin incorporating new Federal standards for medical labs, providing Federal inspectors with access to the financial data of labs and making the offering or receiving of lab kickbacks a felony punishable by 3 years in jail and a $10,000 fine.

I am pleased to make copies of this report available to the Members of the Senate and House and intend personally to send a copy to each State Governor. I think we should all be alerted to the possibilities for defrauding the medicaid program. The public is looking to us to protect the integrity of public funds.

AMENDMENTS SUBMITTED FOR PRINTING

ANTITRUST IMPROVEMENTS ACT—H.R. 8532

AMENDMENT NO. 1727

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, this amendment is purely technical. It would conform the title of the act passed by the House (H.R. 8532) to the title of S. 1284 as reported by the Senate Judiciary Committee if the pending Hart-Scott substitute amendment is adopted. I hope it can be accepted.

AMENDMENT NO. 1728

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, a number of my colleagues have expressed concern over the lack of an express exemption from the Freedom of Information Act for material and information furnished the Department of Justice pursuant to its civil investigative authority under title II.

The point was raised in committee, and the committee concluded that existing law already contains such an exemption. The question has persisted, however, and my distinguished colleagues have asked me to allay their fears be expressly providing such an exemption.

This amendment expressly provides such exemption.

AMENDMENT NO. 1729

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, this amendment is in the nature of a committee perfecting amendment, and I hope we can consider it en bloc. It has three parts.

The first part of the amendment is purely technical and adds a new section 307 to the bill.

For years and years, the antitrust bar has been referring to the antitrust laws by short titles: the Clayton Act, the Sherman Act, the Webb-Pomerene Act, the Wilson Tariff Act, the Robinson-Patman Act, and the Federal Trade Commission Act. The 93d Congress enacted legislation adopting short titles for the Robinson-Patman and Federal Trade Commission Acts. This amendment adopts the other four commonly used short titles and gives them the force of law by inserting them in the appropriate statutes.

The second part of the amendment is purely technical. It conforms one provision of the bill—a provision adopted in committee by amendment—to the requirements of the Congressional Budget Act of 1974. In accordance with section 401(b)(1) of that act, the amendment merely sets the commencement of the new fiscal year—October 1, 1976—as the earliest date upon which the Department of Justice is authorized to incur new obligations to carry out new section 3(k)(5) of the Antitrust Civil Process Act, as amended by section 201(k) of this bill. I thank the distinguished chairman of the Budget Committee (Mr. Muskie) and his staff for calling this oversight to our attention.

The third part of the amendment addresses a technical inconsistency in subsection (f) of title V's premerger penalty provisions. Subsection (f)(1) limits the penalty for failing to comply with title V's premerger provisions to violations of subsection (a) only. Application of the penalty provision for failure to comply with the notification provisions of subsection (b) was inadvertently omitted, and the penalties for failing to comply with subsection (c) is referenced to the penalties set forth in the Antitrust Civil Process Act and the Federal Trade Commission Act.

This part of the amendment clarifies these seeming inconsistencies by deleting the reference in subsection (f)(2) to the Antitrust Civil Process Act and the Federal Trade Commission Act, and by making clear that the penalty provision of subsection (f)(1) applies to all violations of section 7A. That the inherent equity power of a court to prevent or remedy violations of section 7A is not being restricted is also made clear by the addition of a new subsection (f)(2).

AMENDMENT NO. 1730

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, this amendment limits the provisions of the bill affording access to grand jury documents and transcripts.

It limits such access to cases in which the Government has filed a criminal case and a defendant has entered a plea of guilty or of nolo contendere. Even in such cases, under the amendment, access will be possible only with respect to the documents and testimony of such defendant and its officers, directors, employees, and agents.

Mr. President, if a defendant went to trial and was convicted the grand jury evidence so vital to private plaintiffs would be publicly available on the record of the criminal trial. If a defendant pleads guilty or nolo, such defendant is just as guilty as one who stands trial and is convicted. There is no justification in such cases for private plaintiffs to be denied access to such vital information.

Under the amendment, documents and testimony from third parties would not be available under the standards set forth in title II. Thus, informers and competitors would be protected. But, as to the defendant, no justification exists to use the grand jury as a shield to cover up and protect such defendant's illegal activities.

I believe this amendment strikes an appropriate balance, and hope it will be accepted.

CRIME CONTROL ACT OF 1976—S. 2212

AMENDMENT NO. 1731

(Ordered to be printed and to lie on the table.)

BAYH URGES SENATE TO REJECT FORD ATTEMPT TO STIFLE JUVENILE CRIME PREVENTION PROGRAM

Mr. BAYH. Mr. President, today I am introducing an amendment to President Ford's Crime Control Act of 1976, S. 212. The purpose of the amendment is to assure that the long ignored area of juvenile crime prevention remains the priority of the Federal anti-crime programs.

Mr. President, I am not able to support the reported version of President Ford's "Crime Control Act of 1976," S. 2212, because it (sections 26(b) and 28) repeals significant provisions of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415).

The Juvenile Justice and Delinquency Prevention Act is a product of a bipartisan effort of groups of dedicated citizens and of strong bipartisan majorities in both the Senate (88-1) and House (329-20) to specifically address this Nation's juvenile crime problem, which finds more than one-half of all serious crimes committed by young people who have the highest recidivism rate of any age group.

This measure was designed specifically to prevent young people from entering our failing juvenile justice system and to assist communities in developing more sensible and economic approaches for youngsters already in the juvenile justice system. Its cornerstone is the acknowledgement of the vital role private nonprofit organizations must play in the fight against crime. Involvement of the millions of citizens represented by such groups, will help assure that we avoid the wasteful duplication inherent in past Federal crime policy. Under its provisions the Law Enforcement Assistance Administration (LEAA) must assist those public and private agencies who use prevention methods in dealing with juvenile offenders to help assure that those youth who should be incarcerated are and that the thousands of youth who have committed no criminal act (status offenders, such as runaways) are not jailed, but dealt with in a healthy and more appropriate manner.

Mr. President, I ask unanimous consent that a list of the groups to which I have just referred be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Organizations Endorsing the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415)

American Federation of State, County and Municipal Employees.

American Institute of Family Relations.

American Legion, National Executive Committee.

American Parents Committee.

American Psychological Association.

B'nai B'rith Women.

Children's Defense Fund.

Child Study Association of America.

Chinese Development Council.

Christian Prison Ministries.

Emergency Task Force on Juvenile Delinquency Prevention.

John Howard Association.

Juvenile Protective Association.

National Alliance on Shaping Safer Cities.

National Association of Counties.

National Association of Social Workers.

National Association of State Juvenile Delinquency Program Administrators.

National Collaboration for Youth; Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Inc., Future Homemakers of America, Girls' Clubs, Girl Scouts of U.S.A., National Federation of Settlements and Neighborhood Centers, Red Cross Youth Service Programs, 4-H Clubs, Federal Executive Service, National Jewish Welfare Board, National Board of YWCAs, and National Council of YMCAs.

National Commission on the Observance of International Women's Year Committee on Child Development Audrey Rowe Colom, Chairperson Committee Jill Ruckelshaus, Presiding Officer of Commission.

National Conference of Criminal Justice Planning Administrators.

National Conference of State Legislatures.

National Council on Crime and Delinquency.

National Council of Jewish Women.

National Council of Juvenile Court Judges.

National Council of Organizations of Children and Youth.

National Council of Organizations of Children and Youth, Youth Development Cluster; members:

AFL-CIO, Department of Community Services.

AFL-CIO, Department of Social Security.

American Association of Psychiatric Services for Children.

American Association of University Women.

American Camping Association.

American Federation of State, County and Municipal Employees.

American Federation of Teachers.

American Occupational Therapy Association.

American Optometric Association.

American Parents Committee.

American Psychological Association.

American Public Welfare Association.

American School Counselor Association.

American Society for Adolescent Psychiatry.

Association for Childhood Education International.

Association of Junior Leagues.

Big Brothers of America.

Big Sisters International.

B'nai B'rith Women.

Boys' Clubs of America.

Boy Scouts of the USA.

National Council of Organization of Children and Youth, Development Cluster; members, continued:

Child Welfare League of America.

Family Impact Seminar.

Family Service Association of America.

Four-C of Bergen County.

Girls Clubs of America.

Home and School Institute.

Lutheran Council in the USA.

Maryland Committee for Day Care.

Massachusetts Committee for Children and Youth.

Mental Health Film Board.

National Alliance Concerned With School-Age Parents.

National Association of Social Workers.

National Child Day Care Association.

National Conference of Christians and Jews.

National Council for Black Child Development.

National Council of Churches.

National Council of Jewish Women.

National Council of Juvenile Court Judges.

National Council of State Committees for Children and Youth.

National Jewish Welfare Board.

National Urban League.

National Youth Alternatives Project.

New York State Division for Youth.

Odyssey.

Palo Alto Community Child Care.

Philadelphia Community Coordinated Child Care Council.

The Salvation Army.

School Days, Inc.

Society of St. Vincent Paul.

United Auto Workers.

United Cerebral Palsy Association.

United Church of Christ—Board for Homeland Ministries, Division of Health and Welfare.

United Methodist Church—Board of Global Ministries.

United Neighborhood Houses of New York, Inc.

United Presbyterian Church, USA.

Van der Does, William.

Westchester Children's Association.

Wooden, Kenneth.

National Federation of State Youth Service Bureau Associations.

National Governors Conference.

National Information Center on Volunteers in Courts.

National League of Cities.

National Legal Aid and Defender Association.

National Network of Runaway and Youth Services.

National Urban Coalition.

Public Affairs Committee, National Association for Mental Health, Inc.

Robert F. Kennedy Action Corps.

U.S. Conference of Mayors.

Mr. BAYH. An essential aspect of the 1974 act is the "maintenance of effort" provision—section 261(b) and section 544. It requires LEAA to continue at least the fiscal year 1972—$112 million—of support for a wide range of juvenile programs. This provision assured that the 1974 act's aim, to focus on prevention, would not be the victim of a "shell game" whereby LEAA shifted traditions juvenile programs to the new act and thus guarantee that juvenile crime prevention will be a priority.

Fiscal year 1972 was selected only because it was the most recent year in which current and reportedly accurate data were available. Witnesses from LEAA represented to the Subcommittee to Investigate Juvenile Delinquency in

June 1973 that nearly $140 million had been awarded by the agency during that year to a wide range of traditional juvenile delinquency problems. Unfortunately, the actual expenditure as revealed in testimony before the subcommittee last year was $111,851,054. It was these provisions, when coupled with the new prevention thrust of the substantive program authorized by the 1971 act, which represented a commitment by the Congress to make the prevention of juvenile crime a national priority—not one of several competing programs administered by LEAA but the national crime-fighting priority.

The subcommittee has worked for years to persuade LEAA to make an effort in the delinquency field commensurate with the fact that youths under the age of 20 are responsible for half the crime in this country. In fiscal year 1970, LEAA spent an unimpressive 12 percent; in fiscal year 1971, 14 percent; and in fiscal year 1972, 20 percent of its funds in this vital area. In 1973 the Senate approved the Bayh-Cook amendment to the LEAA extension bill which required LEAA to allocate 30 percent of its dollars to juvenile crime prevention. Some who had not objected to its Senate passage opposed it in the House-Senate conference where it was deleted.

Thus, the passage of the 1974 act, which was opposed by the Nixon administration—LEAA, HEW, and OMB—was truly a turning point in Federal crime prevention policy. It was unmistakably clear that we had finally responded to the reality that juveniles commit more than half the serious crime.

Despite stiff Ford administration opposition to this congressional crime prevention program, $25 million was obtained in the fiscal year 1975 supplemental. The act authorized $125 million for fiscal year 1976; the President requested zero funding; the Senate appropriated $75 million; and the Congress approved $40 million. In January President Ford proposed to defer $15 million from fiscal year 1976 to fiscal year 1977 and requested a paltry $10 million of the $150 million authorized for fiscal year 1977, or a $30 million reduction over fiscal year 1976. On March 4, 1976, the House, on a voice vote, rejected the Ford deferral by approving a resolution offered by the chairman of the State, Justice, Commerce, and Judiciary Appropriation Subcommittee.

It is interesting to note that the primary basis for the administration's opposition to funding of the 1974 act was ostensibly the availability of the very "maintenance of effort" provision which the administration sought to repeal in S. 2212.

Mr. President, just last week the same forked-tongue approach was again articulated by Deputy Attorney General Harold Tyler before the Senate Appropriations Subcommittee. He again cited the availability of the maintenance of effort requirement in urging the Appropriations Committee to reduce by 75 percent to $10 million current funding for the new prevention program or in other words kill it.

The Ford administration was unable to persuade the Judiciary Committee to fully repeal this key section of the 1974 act, but they were able to persuade a close majority to except a substitute percentage formula for the present law, the effect of which could substantially reduce the total Federal effort for juvenile crime prevention. But what the President seeks and what his supporters will diligently pursue is the full emasculation of the program. This intent is clearly evidenced in the original version of S. 2212 and even more importantly in the President's proposal to extend the 1974 act, for 1 year, which was submitted to Congress on May 15, after the compromise version was reported from the Judiciary Committee. This new proposal again incorporates sections repealing the key maintenance of effort provisions. My subcommittee heard testimony on this measure last Thursday and it was clear to me that rather than an extension bill it is an extinction bill.

It is this type of double-talk for the better part of a decade which is in part responsible for the annual record-breaking double-digit escalation of serious crime in this country.

While I am unable to support the bill which has been reported to the Senate, I am by no means opposed entirely to the LEAA program. The LEEP program for example, has been very effective and necessary in assuring the availability of well-trained law enforcement personnel. Coincidentally, however, the Ford administration also opposes this aspect of the LEAA program. Additional programs have likewise had a positive impact. But the compromise provisions in the reported measure—the measure was defeated by a vote of 7–5—voting "yea" Senators BAYH, HART, KENNEDY, ABOUREZK, and MATHIAS and voting "nay" Senators MCCLELLAN, BURDICK, EASTLAND, HRUSKA, FONG, THURMOND, and SCOTT of Virginia—represents a clear erosion of a congressional priority for juvenile crime prevention and at best proposes that we trade current legal requirements that retain this priority for the prospect of perhaps comparable requirements.

The Ford administration has responded at best with marked indifference to the 1974 act. The President has repeatedly opposed its implementation and funding and now is working to repeal its significant provisions. This dismal record of performance is graphically documented in the subcommittee's new 526 page volume, the "Ford Administration Stifles Juvenile Justice Program." I find this and similar approaches unacceptable and will endeavor to persuade a majority of our colleagues, through sound argument and any available parliamentary tool, to reject these provisions of S. 2212 and to retain the priority placed on juvenile crime prevention in the 1974 act which has been accepted by the House Judiciary Committee.

The failure of this President, like his predecessor, to deal with juvenile crime and his insistent stifling of an act designed to curb this escalating phenomenon is the Achilles' heel of the administration's approach to crime.

I understand the President's concern that new spending programs be curtailed to help the country to get back on its feet.

But, I also believe that when it can be demonstrated that such Federal spending is an investment which can result in savings to the taxpayer far beyond the cost of the program in question, the investment must be made.

In addition to the billions of dollars in losses which result annually from juvenile crime, there are the incalculable costs of the loss of human life, of fear for the lack of personal security and the tremendous waste in human resources.

Few areas of national concern can demonstrate the cost effectiveness of governmental investment as well as an all-out effort to lessen juvenile delinquency.

During hearings on April 29, 1975, by my subcommittee regarding the implementation or more accurately *the administration's* failure to implement the act, Comptroller General Elmer Staats hit the nail on the head when he concluded: "Since juveniles account for almost half the arrests for serious crimes in the Nation, it appears that adequate funding of the Juvenile Justice and Delinquency Prevention Act of 1974 would be an essential step in any strategy to reduce crime in the Nation."

I must emphasize, however, that I do not believe that those of us in Washington have all the answers. There is no Federal solution—no magic wand or panacea—to the serious problems of crime and delinquency. More money alone will not get the job done, but putting billions into old and counterproductive approaches, $15 billion last year while we witness a record 17-percent increase in crime, must stop.

As we celebrate the 200th anniversary of the beginning of our struggle to establish a just and free society, we must recognize that whatever progress is to be made rests, in large part, on the willingness of our people to invest in the future of succeeding generations. I think we can do better for this young generation of Americans than setting them adrift in schools racked by violence, communities staggering under soaring crime rates and a juvenile system that often lacks the most important ingredient—justice.

The young people of this country are our future. How we respond to children in trouble, whether we are vindicative or considerate, will not only measure the depth of our conscience, but will determine the type of society we convey to future generations. Erosion of the commitment to children in trouble, as contained in S. 2212, is clearly not compatible with these objectives.

I urge my colleagues to support this amendment and Mr. President, I ask unanimous consent that the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1731

On page 33 beginning at line 11, strike out all through line 16.

On page 34, beginning at line 16, strike out all through line 23.

ADDITIONAL STATEMENTS

CASTRO'S INTERFERENCE IN THE DOMESTIC AFFAIRS OF OTHER COUNTRIES

Mr. STONE. Mr. President, Fidel Castro's continuing interference in the domestic affairs of other countries is a subject of great concern. On May 19, 1976, Gov. Rafael Hernandez Colon of Puerto Rico denounced subversive interference by Cuban-trained terrorists.

Unlike Latin America, the Middle East and Africa—where there are other targets of Castro's international subversion—Puerto Rico flies the flag of the United States. The terrorist bombings Castro's agents inflict there are killing and maiming citizens of the United States of America.

I ask unanimous consent to have printed in the Record an editorial on this topic which appeared in the Washington Star of May 27, 1976, an editorial published in the Tampa Tribune of May 28, 1976, regarding the announced withdrawal of Cuban troops from Angola, and a May 20, 1976 New York Times article which details Castro's subversive activities in Puerto Rico.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Star, May 27, 1976]

Cubans Come Home—To What?

There are several reasons for believing that Cuban troops are being withdrawn from Angola, although Secretary of State Kissinger says it bears checking.

Cuba already had been signaling through third parties that its Angolan military venture was being wound down, that the expeditionary force of 12,000 to 15,000 is not being given a new African assignment like the "liberation" of Rhodesia.

The development also would dovetail with the professed desire of the Soviet Union for some forms of detente with the United States, and the claim of Angolan President Agostinho Neto that he seeks to build an independent socialism.

Mr. Neto's Popular Movement for the Liberation of Angola won power in the former Portuguese colony, over two pro-western factions, with the aid of massive Russian supplies and the Cuban soldiers. Should his rivals in the late civil war stay beaten, Mr. Neto might be glad to say good-bye and thanks to the Cuban gunmen and concentrate on Angola's post-colonial economy, in which Soviet and Cuban aid also figure.

If southern Africa's Cuban problem is on the way to solution, the same cannot be said for the Western Hemisphere's Cuban problem. There has been less concern in recent years about Castro "exporting revolution" to the rest of Latin America, and the anti-Cuban sanctions of the Organization of American States have been all but dismantled. Until the Angolan flare-up even the United States was moving slowly toward restored diplomatic relations with Havana.

But there is new worry about Cuban mischiefmaking in the Hemisphere, a concern that could just be heightened by the repatriation of Castro's Angola veterans.

This was reflected in a recent speech here by Gov. Rafael Hernandez Colon of Puerto Rico. Of the instability growing out of increasing "economic trouble and political ferment" in the Caribbean, Mr. Hernandez said: "This ferment and instability appear to coincide . . . with a new, militant phase of Cuban revolutionary activity. Already, the Cubans have shown by their willingness to serve as a sort of 'foreign legion' for the Soviet Union that they could pose anew a threat to tranquility and security in the Western Hemisphere. I do not believe it is exaggerated to suggest that Cuba hopes to convert much of the Caribbean area into a totalitarian, Communist bloc hostile to the United States."

Governor Hernandez has reason to keep a beady eye on Castro, because of Cuban links to a violent fringe of the Puerto Rican independence movement that seeks to break the island's commonwealth tie to the United States. More serious effects of Cuban influence, if not interference, are feared in other, leftward-moving countries like Jamaica and Guyana.

So if Castro's foreign legion is really headed home from Africa, and there is no renewed interest in improving relations with the United States, a good question is where all that military energy and revolutionary zeal will be used next.

After the delights of Luanda the labors of the sugar harvest will seem like tame fare indeed.

[From the Tampa Tribune, May 28, 1976]

Prove It, Fidel

Fidel Castro says he is pulling out Cuban troops from Angola at the rate of 200 a week.

Let's see. For the 15,000 Cubans believed to be in Angola that would mean the last would depart 75 weeks or about a year and a half after the Angolan civil war had ended. Cuban soldiers backed the Communist faction in taking over the government.

The Cuban dictator disclosed his plans in a letter to Swedish Prime Minister Olof Palme. It so happened that Secretary of State Henry Kissinger was visiting Sweden when Castro's letter arrived.

This country's position is that there will be no U.S. dealings with Angola until all Cuban troops have gone and neither will there be further talks about improving relations between Washington and Havana.

Castro has been proved a liar in the past and there's no reason to believe he's any different now.

Even now, the wily Castro is pulling a fast one. He isn't telling where his withdrawing troops from Angola are going. Could it be to Mozambique, to organize guerrilla attacks against Rhodesia?

Secretary Kissinger's response to Castro should be: You'll have to prove it, Fidel.

[From the New York Times, May 19, 1976]

Cuba Said To Aid Puerto Rico Foes—Governor Hernandez Says Castro Is Training Terrorists

(By David Binder)

WASHINGTON, May 19—Gov. Rafael Hernández-Colón of Puerto Rico contended today that Cuba was training and aiding terrorists to overthrow the government of the island commonwealth.

He said that the rebel movement, although small, posed "a constant threat to the system we have," adding. "Therefore, we are watching its activities very, very carefully."

A high-ranking Ford Administration official, queried about the allegations of Cuban support of terrorism in Puerto Rico, said: "We have no evidence of the Cubans doing any muscle work there. Their support for the Puerto Rican Independistas is confined largely to rhetoric and providing free vacations for the leaders."

The official said he based this estimate on information available in the American intelligence community.

The remarks of Mr. Hernández, before the National Press Club, appeared to constitute one of the strongest accusations of subversive actions against Cuba in the Western Hemisphere in recent days.

"CLEAR TIE" SEEN

He said there was "a clear tie" between the Puerto Rican Socialist Party, headed by Juan Mari Bras, and Cuba, asserting that "the officers and leaders of the party travel continuously to Cuba; they receive training in Cuba."

He also noted that Prime Minister Fidel Castro of Cuba had "sponsored pro-independence activities for Puerto Rico in Cuba."

"Terrorists activities in Puerto Rico are being sponsored and they are within the mantle of Castro's Communist objectives in general." Mr. Hernández continued. "In general, it is true as to the pro-Communist Socialist forces working for the independence of Puerto Rico. There is a clear and undeniable link to Castro.

The Puerto Rican Governor said the Socialists were able to maintain a daily newspaper, Claridad, with the help of Cuban funds, adding:

"Now my party, which is the majority party of Puerto Rico, cannot even afford a weekly newspaper much less a daily newspaper—and this paper agitates and they conduct all sorts of activities supposedly geared to a revolutionary takeover of Puerto Rico."

Mr. Hernández heads the Popular Democratic Party.

"CAN MAKE TROUBLE"

As for the magnitude of the rebel threat, the Governor said: "I don't think that the Cubans can realistically hope to promote a successful revolution in Puerto Rico by any stretch of the imagination. But they can make trouble for us. They can, as they have done in the past, train these people in terrorist activities."

He said that Cuban efforts to plead the cause of independence for Puerto Rico in international organizations was causing "all sorts of embarrassment" for the United States and for Puerto Rico at the United Nations.

These developments, he said earlier in a prepared speech, were taking place at time when there was considerable instability in the Caribbean brought about by "economic trouble and political ferment."

Mr. Hernández added, "This ferment and instability coincidence, moreover, with a new militant phase of Cuban revolutionary activity."

Meanwhile, in a public opinion survey released today, a sampling of 1,017 Americans showed 57 percent held an unfavorable opinion of Cuba and opposed diplomatic recognition of the Castro Government by the United States.

The survey, by the Opinion Research Corporation of Princeton, N. J., was done on behalf of the Committee on Latin America, an ad hoc organization of conservatives formed last year in Washington on the initiative of Senator Strom Thurmond, Republican of South Carolina.

The respondents overwhelmingly rejected proposals that the United States use armed force to deal with possible military ventures by Cuba, but gave substantial support to potential blockade actions.

BETTY CROCKER SEARCH

Mr. BROCK. Mr. President, I recently had the opportunity to spend a few hours with a unique group of Americans. I would like to take this opportunity to relate the feeling that I experienced while visiting with boys and girls from across the Nation who were participants in the annual Betty Crocker Search for Leadership in Family Living educational, scholarship meeting here in Washington.

The program is exactly what the name implies, and I was taken with the strength, determination and dedication of this young group of men and women. Now, it may sound a little strange that I mention men, but this year, for the first time in the 22-year history of the leadership program, a young man won the first place award.

By way of background, the Betty Crocker Search for Leadership in Family Living group indeed searches for outstanding young men and women across the Nation who excel in education, leadership and family strength. Those are just some of the criteria. The competition begins with a written examination taken by several hundred thousand high school seniors in 14,788 schools throughout the Nation. Fifty-one winners receive a $1,500 scholarship and a trip to Washington. These finalists undergo additional oral testing and four top winners are selected.

This year, 17-year-old Daniel McVicar of Broomfield, Colo., won the competition, the first young man ever to do so. This is an outstanding tribute to Daniel. The three other top winners were Genevieve LaForet of Brooklyn, Mass., Karen Brown of Washington, D.C., and Michael Rothenberg of Santa Fe, N. Mex.

Now, having been familiar with this program for many years, I think it is outstanding that two young men placed in the top four positions. It clearly indicates that the family and the leadership required in today's world is being equally shared by all, and is of great concern to all.

I congratulate these winners, and all of those across the Nation who participated in this important program. I also extend my congratulations to General Mills for their concern about our world tomorrow and for their sponsorship of this program.

Mr. President, it is important that we have leadership in our Nation, but it is vitally important that our leaders of tomorrow have the full knowledge necessary to make the critical decisions which they will face. I am proud of this program and appreciative that I was afforded the opportunity to share a few hours with these outstanding men and women. We must count on them for the future.

JUSTICE 1976, BICENTENNIAL CITIZENS ASSEMBLY ON COURTS AND JUSTICE

Mr. BAYH. Mr. President, the American Judicature Society, founded in 1913 to promote the effective administration of justice is sponsoring a Bicentennial Citizens' Assembly on Improving Courts and Justice, to be held in Philadelphia beginning July 4, 1976. President Ford and Chief Justice Burger will serve as honorary chairmen of Justice 1976 and the principal meetings will be held at the new U.S. courthouse, with special events in the American Philosophical Society.

The assembly will commemorate the central role of justice in the development of the United States and will encourage broader citizen commitment toward improving Federal and State court systems.

This assembly will bring together delegates of leading citizens from throughout the country to re-examine the reasons for the principles upon which our system of justice has been founded. This national forum will develop goals and recommendations for improving the quality and administration of justice and will encourage greater citizen concern for and involvement in our justice system as our country moves into its third century. Rev. Theodore M. Hesburgh, president of Notre Dame University, will be the keynote speaker opening the Assembly on July 4. Father Hesburgh is eminently well qualified to discuss the direction of justice in this Bicentennial Year. For 15 years he was director of the American Civil Rights Commission; he has been president of Notre Dame University for 24 years; he is the author of many books; and Father Hesburgh is a recipient of the Presidential Medal of Freedom and many other awards for public service.

Members of the Sponsoring Committee include: Chairman Howard C. Petersen, chairman, The Fidelity Bank, Philadelphia; Charles Francis Adams, former chairman, Raytheon Company, Lexington, Mass.; Dr. Chester M. Alter, chancellor emeritus, University of Denver; Gov. Jerry Apodaca of New Mexico; Harding F. Bancroft, former vice chairman, The New York Times Co.; Gerhard D. Bleicken, chairman, John Hancock Mutual Life Insurance Co.; Mayor Tom Bradley of Los Angeles; Charles Benson Branch, chairman and president, The Dow Chemical Co.; Clarence S. Campbell, president, National Hockey League, Montreal; Tom C. Clark, former associate justice of the U.S. Supreme Court; Ruth C. Clusen, president, The National League of Women Voters of the United States.

Gloria Cole, president, Citizens' Committee on the Modernization of Maryland Courts and Justice, Bethesda; William T. Coleman, secretary, Department of Transportation; Eberhard P. Deutsch, attorney, New Orleans; Carl B. Drake, Jr., president, St. Paul Companies, Inc.; Rev. Robert F. Drinan, U.S. Representative from Massachusetts; Lois Eargle, president, Court UpDate, Conway, S.C.; Milton S. Eisenhower, president emeritus, The Johns Hopkins University; Elizabeth Hughes Gossett, president, U.S. Supreme Court Historical Society, Bloomfield Hills, Mich.; Rabbi Alfred Gottschalk, president, Hebrew Union College, Cincinnati, Ohio; Rev. Theodore M. Hesburgh, C.S.C., president, University of Notre Dame; Lee Hills, chairman, Knight-Ridder Newspapers, Inc., Detroit, Mich.; Senator Roman L. Hruska of Nebraska; Rev. Jesse L. Jackson, national president; Operation PUSH, Chicago; D. Donald Jamieson, executive vice president, First Pennsylvania Bank; Leon Jaworski, attorney, Houston; Clarence M. Kelley, director, Federal Bureau of Investigation; Philip M. Klutznick, Klutnick Investments, Chicago.

Lewis E. Lehrman, president, Rite Aid Corp., Harrisburg; Henry Luce III, vice president, Time, Inc.; John J. McCloy, past chairman, Chase Manhattan Bank; George Meany, president, AFL–CIO; W. B. Murphy, director, Campbell Soup Co.; Dr. Dorothy W. Nelson, dean, Law Center, University of Southern California; Dwight D. Opperman, president, West Publishing Co., St. Paul, Minn.; William J. Pape II, president and publisher, Waterbury Republican and American, Waterbury; Dr. Jaroslav Pelikan, dean, Graduate School, Yale *University;* Francis T. P. Plimpton, attorney, New York; Henry T. Reath, attorney, Philadelphia; Robert W. Sarnoff, former chairman, RCA Corp.; Ralph S. Saul, chairman, INA Corp.; Irving S. Shapiro, chairman, E. I. duPont de Nemours & Co., Inc.; H. Robert Sharbaugh, president, Sun Oil Co.; Dr. Henry King Stanford, president, University of Miami; B. Victor Sturdivant, president, Citizens' Association on Arizona Courts; H. A. True, True Oil Co., Casper, Wyo.; Dr. Clifton R. Wharton, Jr., president, Michigan State University; Roy Wilkins, executive director, NAACP; Leonard Woodcock, president, United Auto Workers.

A book of readings has been prepared for Justice '76 entitled, "American Courts and Justice." The book contains thoughtful essays on such varied topics as "Judicial Administration and the Bicentennial" by Chief Justice Burger; "Criminal Justice for the Future" by Judge Bazelon; and "Embarking on Our Third Century: A Time for Improvement in Our Juvenile Justice System" which was my contribution and which I ask unanimous consent to have printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. Mr. President, the book will be distributed at the Justice '76 Assembly and, in addition, will be available from the American Judicature Society's offices in Chicago, Ill.

Mr. President, I hope that my colleagues will have an opportunity to participate in this assembly—a historic assembly which begins in Philadelphia on the very day and place we celebrate the beginnings of 200 years of the longest continuous democratic government in the history of the world.

Exhibit 1

Embarking on Our Third Century: A Time for Improvement in Our Juvenile Justice System

(By Hon. Birch Bayh)

Two hundred years ago our nation was born. And we declared to the world our commitment to the justice, freedom and dignity of the human spirit.

Two hundred years later we find ourselves struggling to maintain that commitment through the public and private institutions which control our lives.

The partnership of public and private initiative built during the last two hundred years has produced the strongest representative democracy in the history of the world.

The institutions of this partnership are unique in their structure and ability to provide for the general welfare of our citizens. And since 1899, the juvenile court movement in America has established a unique approach—"a juvenile justice approach"—to handle the separate, noncriminal procedure for young people who have been brought to the attention of the court as neglected, homeless or delinquent.

The juvenile justice system has never been fully understood by most Americans, laypeople or lawyers. But, none refute the unique approach of this system: rehabilitation and prevention.

But that was yesterday. What about today?

When the average citizen hears the words "juvenile justice system" he or she believes that it means we have a system of justice for young people who break the laws of our society.

But in reality when young people first confront the American system of juvenile justice, the net result is often more injustice than equity. The idealistic experiment which began nearly 80 years ago in Illinois, tragically, has not lived up to its promise.

Can the public and private institutions serving young people, effectively counter the many destructive influences of present day society? And, can our system of juvenile justice cope effectively with those young people in need of enlightened attention?

I believe it is possible. But it requires the commitment of us all to make it happen.

The youth of America are today under greater stress and facing greater challenges than at any time in our history.

Young people are saturated daily with the violence of media and motion pictures.

Young people are subjected daily to deceit and violation of law by officials sworn to uphold their trust.

Young people are forced daily to struggle with news accounts of a world grappling with starvation, political disorder, and economic collapse.

Young people are exposed daily to ravages of poverty and the destruction of family cohesion.

And young people are being sacrificed daily by the very institutions created to serve their interest and maximize their potential.

The blame for youthful criminal behavior is bounced among the family, police, schools, courts, and juvenile institutions like a cracked ping-pong ball. The players hear the empty sound of the ball, but continue the game until the ball is destroyed or the game ends in frustration.

Our present system of juvenile justice is failing miserably. The time for games is over; the time for accepting responsibility and re-ordering our approach to juvenile justice, however painful, is here.

Five years of hearings in Washington and throughout the country by my Subcommittee to Investigate Juvenile Delinquency has led me to two important conclusions.

The first is that our present system of juvenile justice is geared primarily to react to youthful offenders rather than to prevent the youthful offense.

Secondly, the evidence is overwhelming that the system fails at the crucial point when a youngster first gets into trouble. The juvenile who takes a car for a joy ride, or vandalizes school property, or views shoplifting as a lark, is confronted by a system of justice often completely incapable of responding in a constructive manner.

The most eloquent evidence of the scope of the problem is the fact that although youngsters from ages 10 to 17 make up only 16% of our population, they account for fully 45% of all persons arrested for serious crimes.

More than 60% of all criminal arrests are of people 22 years of age or younger.

We can trace at least part of this unequal distribution of crime to the idleness of so many of our young people.

The rate of unemployment among teenagers is at a record high and among minority teen-agers it is an incredible 50%. Teen-agers are at the bottom rung of the employment ladder; in hard times they are the most expendable.

We are living in a period in which street crime has become a surrogate for employment and vandalism a release from boredom. This is not a city problem or a regional problem. Teen-age crime in rural areas has reached scandalous levels. It takes an unusual boy or girl to resist the temptations of getting into trouble when there is no constructive alternative.

But it is not just the unemployment of teen-agers that has contributed to social turmoil. The unemployment of parents deprives a family not only of income but contributes to serious instability in American households which, in turn, has serious implications for the juvenile justice system. Defiance of parental authority, truancy, and the problem of runaways are made materially worse by national economic problems. And, it is here that we confront the dismal fact that nearly 40% of all the young people involved in the juvenile justice system today fall into that category known as "status offender"—young people who have committed no criminal act in adult terms.

Yet these young people often end up in institutions with both juvenile offenders and hardened adult criminals. Instead of receiving counseling and rehabilitation outside the depersonalized environment of a jail, these youngsters are commingled with youthful and adult criminals. There should be little wonder that three of every four youthful offenders commit subsequent crimes.

Moreover, the juvenile justice system's impact on the lives of troubled girls is especially seerious.

I am reminded of testimony about the "El Paso Nine" before my Subcommittee at one of our initial hearings assessing the juvenile justice system. No, they were not mad bombers, vicious criminals, or political radicals, but youngsters with troubles. Five were girls; the oldest was seventeen. Each one had been committed to a state institution without legal representation or benefit of a judicial hearing. Of the five, most had been committed for having run away only once. Beverly J., for example, was sent to the Gainsville State School for Girls because she stayed out until 4:00 a.m. one night. Alicia M. was sent to the same school when she was seventeen because she refused to work.

This tragic story is repeated over and over again around the country. Children are in trouble. We neglect or mistreat our children, and then when they react in socially unacceptable ways—not usually crimes—we often incarcerate them. We call them "neglected" or "dependent" or, even more euphemistically, "persons in need of supervision," but whatever the label, these youngsters often end up in common jails. Fully 50 percent of all children in juvenile institutions around the country could not have been incarcerated for the same conduct had they not been minors. Children are continually incarcerated for running away from home, being truant from school, being incorrigible, or being promiscuous.

It is not surprising that many of the prejudices our society has against females are reflected in the juvenile justice system, but the ramifications of such discrimination and bias are shocking. Girls are arrested more often than boys for status offenses—running away, truancy, and the MINS, PINS, and CINS violations, (minors, persons, and children in need of supervision). And girls are jailed for status offenses longer than boys.

Between 70 and 85 percent of adjudicated girls in detention are there for status violations compared with less than 25 percent of the boys. Thus, there are 3 to 4 times more girls than boys in detention for noncriminal acts!

Additionally, the available research and evidence adduced by my Subcommittee shows that a girl is likely to be given a longer term of confinement than a boy and that her parole will be revoked for violations less serious than for a male revocation. In responding to these facts which affirm gross discrimination, the director of a state institution for girls explained: "Girls, unlike boys, offend more against themselves than against other persons or property." What she really meant was that often girls—not boys—are locked up for engaging in disapproved sexual conduct at an early age; that our society applies the term "promiscuous" to girls but not to boys.

Such arbitrariness and unequal treatment at a minimum produces more criminals. It is well documented that the earlier a young person comes into the juvenile justice system, the greater the likelihood that person will develop and continue a delinquent and criminal career. Another disturbing reality is that juvenile records normally accompany a child when arrested as an adult. What this means is that young girls incarcerated for running away from home or arguing with their parents (incorrigibility) will have a criminal record for life and if arrested as an adult will more likely be incarcerated.

The basic problem is that we have not been willing to spend either the time or the money necessary to deal with the diverse set of problems children in trouble present. We must not continue to ignore today's young delinquent for all too often he or she is tomorrow's adult criminal. Our young people are entitled to fair and humane treatment and our communities are entitled to be free of persons who threaten public safety.

Our citizens should be aware of the limited alternatives available to the juvenile judges in your communities when they are confronted with the decision of what to do with a juvenile involved in an initial, relatively minor offense. In many instances the judge has but two choices—send the juveniles back to the environment which created these problems in the first place with nothing more than a stern lecture, or incarcerate the juvenile in a system structured for serious offenders where the youth will invariably emerge only to escalate his or her level of law violations into more serious criminal behavior. Each year an excessive number of juveniles are unnecessarily incarcerated in crowded juvenile or adult institutions simply because of the lack of a workable alternative. The need for such alternatives to provide an intermediate step between essentially ignoring a youth's problems or adopting a course which can only make them worse, is evident.

Some youthful offenders must be removed from their communities for society's sake as well as their own. But the incarceration of youthful offenders should be reserved for those dangerous youths who cannot be handled by other alternatives.

As the Chairman of the Subcommittee on Juvenile Delinquency I have had a unique vantage point on this problem. I am proud of the legislation that we have produced, most notably, the Juvenile Justice and Delinquency Prevention Act of 1974. This measure had the strongest bi-partisan support as reflected in the 88–1 vote by which it passed the United States Senate and the 329–20 vote in the United States House of Representatives. The purpose of this Act is to prevent young people from becoming entangled in a juvenile justice system which has failed, and to assist state and local governments, as well as individual and private organizations in developing more sensible, less costly, and ultimately more productive assistance for youngsters already in the juvenile justice system. A major objective of the Juvenile Justice Act is to prevent youth facilities from continuing to be nurseries for crime. The Act forbids the incarceration of status offenders and requires the separation of juvenile and adult offenders.

To say that a young person is incorrigible is not the same as saying that he or she is a criminal. We must remember that even the most benevolent intentions of the State can never be a substitute for the comfort and support of a loving family. Whatever the State may do, however, it should not provide incentives disruptive of family life.

Federal efforts in the past have been inadequate and have not recognized that the best way to combat juvenile delinquency is to prevent it. The Juvenile Justice Act is based on the age-old conviction that an ounce of prevention is worth more than a pound of cure. The Act represents a Federal commitment to provide leadership, coordination, and a framework for using the nation's resources to deal with all aspects of the delinquency problem.

To do this:

It creates an Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration of the Department of Justice to coordinate all federal juvenile justice programs which are now scattered throughout the federal government.

It establishes a National Advisory Committee on Juvenile Justice and Delinquency Prevention to advise the LEAA on federal juvenile delinquency programs and broadens the representation on State LEAA boards.

It provides for block grants to state and local governments and grants to public and private agencies to develop juvenile justice programs with special emphasis on the prevention of delinquency. The purpose is not to provide a federal solution to juvenile justice problems but rather to encourage local initiative and provide some of the resources necessary for local leaders to do the job.

It creates a National Institute for Juvenile Justice and Delinquency Prevention to serve as a clearing house for delinquency information and to conduct training, research demonstrations and evaluations of juvenile justice programs.

It incorporates the Runaway Youth Act, a proposal of mine, introduced in 1971 and passed by the Senate in 1972 and 1973, which permits local communities to establish temporary shelter care facilities for youngsters who run away. It is likely that the availability of these alternatives will help to reduce detention facilities' population problems.

To meet these needs the Act authorizes $75, $125, and $150 million for fiscal year 1975, 1976, and 1977, respectively and requires the LEAA maintain its present commitments to juvenile programs. Congress has given taxpayers a bonus by recently voting to re-direct $20 million in unused LEAA funds to begin the Federal effort to reduce juvenile crime and curb juvenile delinquency.

The Juvenile Justice Act was approved overwhelmingly by Congress which realized that in the past three years, the Law Enforcement Assistance Administration had never spent more than 19 percent of its annual budget on juvenile programs, and very little of this on prevention. The Congress also recognized that the lack of coordination and absence of full funding for the many juvenile programs scattered among federal agencies had to be corrected.

I believe the Juvenile Justice Act is an important step in that direction. We have a great opportunity to make significant inroads against juvenile crime and, thus, adult crime. But, I will not assert to you that the Juvenile Justice Act, even if it is fully funded, will be a magical cure. It does, however, mark a creative beginning. For my part, I will persist in the efforts to see that this Act is brought to full fruition. But the real challenge rests with concerned citizens and dedicated community leaders. It is a people-to-people responsibility—a reaching out by one human being to another.

Now we are all aware that the President is confronted with numerous serious problems affecting millions of Americans. Each affected group is urging the President to act. All the more reason for those of us who are concerned about crime and who are aware of the inadequacies on our present approach to youthful offenders to convey our concern to the President and his advisors. We must urge the President and Congress to make the investment necessary to reverse the present alarming and inexcusable trend.

When we stop to consider that almost 75 percent of the cost of crime in America is generated by young people under twenty-five years of age . . .

When we stop to consider that these categories of crime cost Americans more dollars than the entire budget outlay of the federal government just 34 years ago and more than the current budgets of 20 states . . .

When we stop to consider that the almost $15 billion lost annually to these categories of crime is as much or more than we are currently spending by category for education, community and regional development, agriculture, transportation, environment and natural resources, energy resource and development, general science and space, manpower and social services, and law enforcement and justice.

A total lack of commitment to juvenile programs is unbelievable and patently unacceptable.

I believe that when it can be demonstrated that federal spending is an investment which can result in savings to the taxpayer far beyond the cost of the program in question, then the investment must be made.

It is important to understand that the costs involved in the broad attack on juvenile delinquency are far less than the cost to society of continued inaction.

In addition to the billions of dollars in losses which result annually from juvenile crime, there are the incalculable costs of the loss of human life, of fear for the lack of personal security and the tremendous waste in human resources.

Few areas of national concern can demonstrate the cost effectiveness of governmental investment as well as an all out effort to lessen juvenile delinquency.

We know a few things about crime and delinquency which hold serious implications for the future.

We know that recent polls reveal that half of our citizens are afraid to walk alone at night in their neighborhoods and nearly 20 percent do not feel safe in their own homes.

We know that a child born in 1974 is more likely to be murdered than a World War II American soldier was likely to die in combat.

We know that in 1974 someone in America was the victim of a violent crime every 33 seconds.

We know that last year serious crime in the United States rose 17 percent.

We know that the number of juveniles arrested for serious and violent crimes increased 1,600 percent between 1952 and 1972.

You and I are very familiar with these miserable statistics. They represent a true picture of our failure to come to grips with crime and delinquency. They represent a failure that can no longer be tolerated if we are to truly pass justice on to our future generations.

It is one matter to lament and criticize the failure of our systems of criminal and juvenile justice. But, it is altogether another matter to use the knowledge we have to correct these failures.

I must emphasize, however, that I do not believe those of us in Washington can, or should, make those decisions and policies which are quite properly made by citizens most familiar with the realities and peculiarities of specific local situations. There are no "Federal" solutions to problems such as these.

Nor can we solve these problems simply by burying them under massive amounts of Federal money. We are all aware that we are facing issues which are too troublesome, complicated and important to be solved purely by monetary grants from the Federal government.

Together though we can provide a vehicle through which our local, state and Federal governments, along with our private sector, can pool experience and resources to assist in securing the quality of juvenile justice for our young people that was intended by its 19th Century framers. Not only rededication to the original ideals, but new ideas, answers and adjustments to today's changing social patterns and problems are required.

We need to develop different ways of treating young people in trouble. We need to establish group foster homes for the neglected; halfway houses for runaways, and community-based programs for the serious juvenile delinquents. We need 24-hour crisis centers and Youth Service Bureaus to help young people find the services which they need. And we need a greatly expanded parole and probation system to provide supervision and counseling for the large majority of young people who never should face institutionalization.

In addition, we need to focus more specifically on the matter in which, and the frequency with which, females are entering the juvenile justice system. We must assure equal treatment for these young women and see to it that assistance is available to them on an equal basis.

We must see to it that the preponderance of delinquency research and study is no longer exclusively male in its orientation, for it is essential that we know more about what can be done to prevent the personal tragedies involved in the ever increasing contribution females are making to the escalating levels of delinquency and serious crime. Some assert that the proliferation of dangerous drugs and their epidemic level of abuse are responsible; others cite society's gradual adoption of egalitarian attitudes devoid of sexism as the explanation; and, several argue that modern, more efficient methods of collecting and keeping female crime statistics are the answer. Perhaps, all of these are contributing factors, but it is certain that we know far too little.

As we celebrate the 200th anniversary of the beginning of our struggle to establish a just and free society, we must recognize that whatever progress is to be made rests, in large part, on the willingness of our citizens to invest in the future of succeeding generations. I think we can do better for our young generation of Americans than setting them adrift in communities staggering under soaring crime rates and a juvenile justice system that often lacks that most important ingredient—justice.

It is often said, with much validity, that the young people of this country are our future. How we respond to youth in trouble; whether we are vindicative or considerate will not only measure the depth of our conscience, but will determine the type of society we convey to future generations. We must make a national commitment as our country moves into its third century that is commensurate with the importance of these concerns. We must acknowledge our collective duty to protect the right of our young people to develop physically, mentally and spiritually to their maximum potential. The young people of this great country, as well as the rest of us, deserve no less.

ONE LEGACY OF SENATOR FULBRIGHT: "GLOBAL COPING"

Mr. HATFIELD. Mr. President, among the legacies left by our former colleague, Senator J. William Fulbright, is the scholarship program bearing his name. As I have traveled around the world, I have met leaders who have studied here under the program, and I know outstanding Americans who have benefited greatly from receiving these awards.

Recently, the Washington Post published an editorial commenting on the 30th anniversary of the enactment of this fine program, and I ask unanimous consent that this article be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Global Coping

To students, teachers, artists and scholars in a hundred countries, "Fulbright" is the magic password that opens new worlds of knowledge, understanding and experience. It has now been 30 years since the international exchange scholarship program was created by the Fulbright Act. In the early years, much of the program was financed with foreign currency acquired from the sale of war surplus property abroad. By 1961, the Act was expanded and consolidated with other federal programs concerning educational exchange in the Fulbright-Hays Act. The program is under the overall supervision of a Board of Foreign Scholarships, appointed by the President. It is based on a series of bilateral agreements with the governments of other countries. A number of these governments also share the cost of the program. In many countries, non-governmental academic institutions help administer it. So far about 120,000 students, scholars and artists have been given the opportunity to broaden their horizons by study and travel in countries other than their own. Of these, 45,000 were Americans.

The Fulbright-Hays Board decided to mark the 30th anniversary of the program with a series of ten regional alumni seminars rather than simply with ceremonial celebrations. All told, some 2,000 intellectual leaders around the country and a number of foreign scholars have participated in these sessions which explored the meaning and potentials of educational exchange for both the United States and a troubled world. The meetings are coming to an end this week with a three-day symposium at the Freer Gallery of Art. The symposium attempted to assess the importance of international cultural exchange to our foreign policy. But the answer seems to be that there is no way to measure it except in general terms. The late historian Arnold Toynbee once called the Fulbright program one of the most generous and imaginative acts since World War II. Music critic Robert Taubman measures its impact in another way: At one point, he recalls, five out of seven stars of the Metropolitan Opera were former Fulbright scholars. Alumni have gone on to become prime ministers, Nobel prize winners, professors, parliamentarians and cultural leaders all over the world. As John Richardson, Jr., the assistant secretary for educational and cultural affairs at the State Department, put it: The program has taught America "global coping—a sense of ease in dealing with the world and of discerning reality through the dust thrown up by the clash of ideologies."

THE ADVANTAGES OF INCUMBENCY

Mr. CLARK. Mr. President, it is a fact of political life that incumbent officeholders seeking reelection are terribly hard to beat. In recent congressional elections, for example, incumbents have been successful at least 95 percent of the time.

Certainly, a major factor in that high rate of success has been the tremendous advantage enjoyed by incumbents in their ability to raise campaign funds. But money is only part of the story. The natural advantages that accrue to incumbents also play a very significant role in returning incumbents to office year after year. And, perhaps the most important natural advantage of all is the incumbents' utilization of taxpayer-financed official staff personnel.

Where incumbent Presidents are concerned, this advantage extends not only to the ever-growing White House staff, but to Cabinet officers and other high-ranking Government officials as well. Recently, this issue was raised in a complaint filed with the Federal Election Commission by the Citizens for Reagan Committee concerning alleged campaign activities on President Ford's behalf by Secretary of State Henry Kissinger.

On May 13, 1976, Alan B. Morrison, director of the Public Citizen Litigation Group, submitted to the FEC an amicus curiae brief in support of the Citizens for Reagan complaint. As Mr. Morrison stated in his letter of transmittal:

> It is the position of Public Citizen that the payment of the salary to a government official such as Secretary Kissinger, while he engages on-duty campaign activities, constitutes the making of a contribution under the Federal Election Campaign Act and therefore must be reported to the Commission and charged against the appropriate spending limitations for presidential candidates.

Mr. President, I have no basis for commenting on the merits of this particular case. But the issues raised in this case again underscore the need for Congress to act to eliminate this substantial incumbent advantage—use of official staff—both for presidential and congressional elections.

I ask unanimous consent that materials submitted by the Public Citizen Litigation Group to the Federal Election Commission be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Public Citizen Litigation Group,
Washington, D.C., May 13, 1976.

Hon. Thomas B. Curtis,
Chairman, Federal Election Commission,
Washington, D.C.

Dear Mr. Chairman: Please find eight copies of a memorandum of law which is submitted by Public Citizen as amicus curiae in support of the complaint filed by Citizens for Reagan against the Ford Election Committee, alleging that it had failed to report the on-duty campaign activities of Secretary of State Henry Kissinger as contributions and expenditures. It is the position of Public Citizen that the payment of the salary to a government official such as Secretary Kissinger, while he engages in on-duty campaign activities, constitutes the making of a contribution under the Federal Election Campaign Act and therefore must be reported to the Commission and charged against the appropriate spending limitations for Presidential candidates.

Pursuant to its regulations, the Commission has refused to confirm or deny that the Reagan complaint even exists. For your convenience in dealing with our memorandum we have attached a copy of the Reagan complaint which we obtained from his committee.

Respectfully submitted,
Alan B. Morrison.

Citizens For Reagan,
Washington, D.C., March 12, 1976.

Hon. Thomas B. Curtis,
Chairman, Federal Electron Commission,
Washington, D.C.

Dear Mr. Chairman: Citizens for Reagan respectfully requests that the Federal Election Commission, pursuant to Section 437 (d) (3 & 4) of Title 2 of the United States Code, launch an immediate investigation of Secretary of State Henry Kissinger's conduct in engaging in his current round of "political stump speeches". It is clear to everyone that Dr. Kissinger is using his high office for the express purpose of a campaign platform to promote the Ford candidacy. This raises serious questions under the Federal election laws currently on the books.

If an incumbent is to be able to use individuals like Dr. Kissinger, paid for by the public, for campaign purposes, while these individuals' expenses are not charged against the incumbent's campaign limits, then the limitations in the law are a mere mockery.

Clearly, the Commission has both a legal and a moral duty to insure that Mr. Ford does not use Dr. Kissinger as a campaign speaker at taxpayers' rather than campaign expense. Kissinger's expenses are now hidden from Commission disclosure and apparently paid out of public funds. The Commission has both the power and the responsibility under 2 U.S.C. 437(d)(6), (8) & (9) to investigate, take legal action, draft rules and formulate general policy in this matter. Some combination of these is clearly necessary.

If the various candidates for President of both political parties are to be limited to the provisions of 18 U.S.C. Section 608 while the incumbent President can freely use the resources of the Federal Government to promote his campaign, then God help our democracy. If this distortion of fairness is allowed to go unchecked, then we are giving the incumbent a $395 billion campaign budget.

It is a new and disturbing development when the Secretary of State becomes a surrogate speaker for the President's campaign while purportedly making a "nonpolitical speech". This use of the powers of incumbency carries on a bad tradition of using the powers of government to promote the reelection of the President. While this practice was always bad, it is even more unfair today when a new election law severely restricts the fundraising and expenditure ability of the challengers. While Mr. Ford may only be doing what others did before him, I had hoped that the new law would have taught us something. Apparently it has not.

The use of government powers for clearly partisan campaign purposes represents the greatest danger facing the current election laws.

I hope the Commission will act on this matter immediately.

Sincerely,
Loren A. Smith,
General Counsel.

[In the matter of the complaint of Citizens For Reagan versus President Ford Committee]

Federal Election Commission: Memorandum of Points and Authorities in Support of Complaint of Citizens for Reagan Submitted by Public Citizens as Amicus Curiae

This complaint presents a vital question for determination under the Federal Election Campaign Act of 1971, as amended by the

Federal Election Campaign Act Amendments of 1974:[1] Is the use of United States Government resources, specifically the payment of the salary of a government employee, while engaged in the patently political purpose of influencing the primary elections of 1976, a contribution under the Act? If so, then the Act requires both the contribution and expenditure to be reported to the Federal Election Commission and further requires that the expenditure be charged to the candidate's expenditure limit. Although this complaint is directed primarily against Secretary of State Henry Kissinger's campaign activities, it raises the more general question of whether the salaries of employees who are admittedly doing campaign work, must be reported when they are campaigning during regular working hours.

In this amicus curiae brief Public Citizen argues that to exempt an incumbent's use of government resources from the reporting and expenditure limit provisions of the Act would permit wholesale circumvention of the reforms brought about by the 1971 and 1974 amendments. We believe that this comprehensive reform cannot tolerate an exception for the use of government resources by an incumbent to foster his own reelection. Not only will the all-encompassing language of the Act not permit such an exception, but a contrary interpretation would create a fundamental unfairness by allowing an incumbent to exclude significant expenditures from public scrutiny and would permit him to receive far greater support for his campaign from the taxpayers than would his opposition. Finally, such an exception would raise serious equal protection questions about the constitutionality of the Act. Since equality is the cornerstone of all of the spending and disclosure limitations and the public funding provisions in the Act, a construction raising equal protection problems should be resorted to only where the language plainly requires it.

Public Citizen has long been concerned about the problems of improper use of government-paid employees to aid the reelection efforts of office holders. There is now pending a lawsuit challenging the legality of using such employees on a substantially full-time basis on the ground that Congress had made no appropriation for such purpose as required by Article 1, Section 9, Clause 7 of the Constitution and 31 U.S.C. § 628. *Public Citizen* v. *Simon*, No. 74-2025, D.C. Cir. argued Oct. 23, 1975.

Although the legal questions at issue here are different from that case, we believe that it would be useful for the Commission to have a better idea of the breadth of the misuse of White House staff in the past, and so we are submitting a copy of our brief on summary judgment in the District Court in that case. (*Public Citizen v. Shultz*, No. 72–2280, D.D.C.) We wish to emphasize, however, that whatever the outcome of that case may be, it cannot dispose of the questions presented by the instant complaint. Thus, even if the use of government-paid White House staff to perform campaign duties while on duty is not absolutely prohibited, the disclosure and limitation questions raised by this complaint are by no means foreclosed.

Lastly, although the specific matter raised in the complaint involving Secretary Kissinger is a narrow, and perhaps a unique one, the problem presented is much broader. Thus, we urge the Commission to address the legal issue presented at this time so that everyone concerned will then know what is expected in terms of reporting and spending. There will be time enough later to handle specific factual situations once the basic legal issue is resolved.

ARGUMENT: U.S. GOVERNMENT RESOURCES USED TO SUPPORT POLITICAL CAMPAIGN ACTIVITIES SHOULD BE CONSIDERED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES UNDER THE FEDERAL ELECTION LAWS

When Ronald Reagan procures from a supporter the money to pay the salary and expenses of one of his campaign workers, there is no doubt that the transaction is governed by the provisions of the Federal Election Campaign Act. This is so whether the contribution is made in cash to the Reagan Committee, or the supporter donates the services of an employee on the supporter's payroll. 2 U.S.C. § 431(e)(4). Mr. Reagan is therefore obliged to report the contribution to the Treasurer of his campaign committee, 2 U.S.C. § 432(b), who must record it, 2 U.S.C. § 432(c), and eventually report it to the Federal Election Commission, 2 U.S.C. § 434. Any member of the public is entitled to access to the reports and can see who contributed how much money and how that money was spent. 2 U.S.C. § 438(a)(4). In addition, the money is considered a "qualified campaign expense" because Mr. Reagan requested the worker to incur the expense. 26 U.S.C. § 9032 (9). As a "qualified campaign expense" the money counts towards the $10 million expenditure limit which Mr. Reagan and the other candidates have accepted as a condition to public financing. 26 U.S.C. §§ 9033(b), 9035.

When President Ford has Cabinet officials and White House advisors undertake campaign activities, the government pays their salaries, but the Ford campaign considers itself subject to none of the restraints placed upon Mr. Reagan and the other candidates in the same situation. The Ford campaign committee does not record the contribution, nor does it report the contribution or how it was spent. Thus, the information is not made available to the public so that the electorate can judge the propriety of the action.

Worse still, the salaries paid by the government to further the President's campaign effort are not charged to the candidate's campaign limit, nor do they serve to reduce the matching funds which the government is providing to candidates who qualify. In our view the Act prohibits such unfairness and we urge this Commission to so rule.

I. The Broad Language of the Federal Election Campaign Act Subsumes the Use of Government Resources For Campaign Purposes.

The Federal Election Campaign Act Amendments of 1974 represent a comprehensive reform which regulates campaign spending by imposing limits on campaign contributions and expenditures, by requiring reporting of contributions and expenditures, by providing for federal funds to finance Presidential elections, and by creating the Federal Election Commission to administer the Act. The Act was the culmination of a long line of campaign acts beginning in 1907 and its comprehensiveness came about "through the failure of piecemeal regulation to preserve the integrity of federal elections." *Buckley v. Valeo*, 519 F.2d 821, 907 (D.C. Cir. 1975) (Appendix C, "Brief History of Federal Election Regulation"), *aff'd in part and rev'd in part*, 44 U.S.L.W. 4127 (1976). In interpreting the provisions of the Act, the Supreme Court noted Congress' effort "to achieve 'total disclosure' by reaching 'every kind of political activity' in order to insure that the voters are fully informed and to achieve through publicity the maximum deterrence to corruption and undue influence possible." *Buckley v. Valeo*, 44 U.S.L.W. at 4149 (footnote omitted). When read in this light, the comprehensive language of the Act embraces contributions by all organizations, including the government.

"Contribution" is broadly defined under the Act to include, among other things, "the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose . . . ." 2 U.S.C. § 431 (e)(4); 26 U.S.C. § 9032(D). Clearly, in terms of utility to a campaign and of avoiding having to pay the salary of a campaign aide, the government payment of the salary of an official who spends a substantial part of his working hours campaigning for the President is comparable to any other contribution under this section of the Act. The only arguable basis of avoiding this common sense result would be to determine that the government is not a "person" under the Act. "Person" is also broadly defined to mean "an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons. . . ." 2 U.S.C. § 431(h).[2] Thus, on the face of it, the government is an organization, and therefore a person within the meaning of the Act.

An examination of the other uses of the word "person" in the Act confirms the view that its all-encompassing character includes the government.

Political committees must keep a record of every "person" to whom an expenditure is made and must include that information in their reports. 2 U.S.C. §§ 432(c)(4), 434(b) (9). Obviously a committee which purchases materials from the G.P.O. must include that information on its expenditure record even though the GPO is part of the government. In the same vein, it would be absurd to interpret this provision to mean that expenditures to the United Parcel Service must be recorded, but those to the Postal Service need not be because the latter is a government organization but not a "person."

Furthermore, it is clear that "person" includes "government" because the Congress found it necessary to exclude expressly some government contributions and expenditures from the provisions of the Act. For instance, one section, which has since been repealed, required "any person" who publishes or broadcasts campaign material to file a reoprt with the Federal Election Commission. The Congress saw fit to note specially in that section that this report requirement does not apply "to any publication or broadcast of the United States Government." 2 U.S.C. § 437a, *repealed*, The Federal Election Campaign Act Amendments of 1976, § 105. The inevitable inference is that without the specific exemption, the United States Government would have been considered a "person" and its broadcasts and reports would have necessitated a report to the Federal Election Commission.

Another provision exempts members of Congress from reporting as contributions or expenditures the value of photographic, matting or recording services furnished to them by the Senate Recording Studio, the House Recording Studio, or by an individual whose pay is disbursed by the Secretary of the Senate or Clerk of the House and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives . . . . 2 U.S.C. § 434(d). This provision makes it clear that without an express exception, the government would come within the meaning of person and would have otherwise been a person paying the compensation of Congressional workers who are rendering services to a candidate.[3]

---

[1] The Act has again been amended by the Federal Election Campaign Act Amendments of 1976. These Amendments are cited herein only where they are relevant.

[2] The legislative history of the Act says nothing about this definition except to repeat it. The language originated in the Federal Election Campaign Act of 1971 and the legislative history of that Act is equally unenlightening as to the meaning of "person." The only court comment on the definition is that it is a "broad definition." *Buckley v. Valeo*, 44 U.S.L.W. at 4134, 4139 n. 45.

Because "person" is broadly defined, and because express provisions are needed in the Act to except the government from the term "person," the government must be considered a person within the meaning of the Act. Since the definition of contribution includes the payment of compensation by a person to someone rendering services to a candidate, the payment of compensation by the government to an official while he campaigns on behalf of the President, should be declared a contribution under the Act.

It is also clear that the payment of such salaries by the government for work for a candidate is an "expenditure" under the Act.[4] The definition of expenditure includes "a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of . . . (B) influencing the results of a primary election. . . ." 2 U.S.C. § 431(f) (1) (B). Certainly the payment of the salary of a government official while he campaigns is a payment of money or something of value made in order to influence the election, and thus should come under the expenditure reporting provisions of the Act.

In addition, the salary expended so that government officials can work for the re-election of an incumbent should be charged to the $10 million expenditure limits which the candidate has accepted. The Federal Election Campaign Act Amendments of 1976 prohibit presidential candidates who are receiving public funding from spending in excess of $10,000,000 to obtain the nomination and $20,000,000 on the general election. § 320(b) (1). That section further states that "an expenditure is made on behalf of a candidate . . . if it is made by . . . (ii) any person authorized or requested by the candidate . . . to make the expenditure." § 320(b) (2). Certainly White House and Cabinet officials campaigning for the President are "authorized or requested" to do so by him. Therefore, the salaries the governments pays so that these officials can campaign on behalf of the President must be attributed to his spending limit.[5]

II. The Purpose of Campaign Finance Reform Can Only Be Fulfilled By Including These Salary Payments As Contributions Under The Act.

While the 1974 Amendments were the culmination of a long line of campaign acts beginning in 1907, much of the impetus for comprehensive reform came from the many abuses of the Nixon administration during the 1972 Presidential election. Among the most prominent of these abuses was the extraordinary use of the federal government for campaign purposes, including the extensive use of Cabinet officials and White House advisors in campaign activities. *See* attached brief in *Public Citizen v. Shultz*, pp. 9–26. Yet these same abuses continue to occur despite public outcry over the 1972 campaign abuses, and despite the comprehensive campaign reform designed to eradicate such behavior.

This type of abuse is even more objectionable now that Congress has enacted spending limits restraining the expenditures of candidates.[6] In order to work, these restraints must be applied equally to everyone, including the President of the United States. Otherwise, the Act would work the inequity of limiting all other candidates to $10 million in expenditures, while allowing the President greater expenditures provided that he take advantage of his incumbency and divert Government monies from their true course. The Federal Election Commission cannot reward such patently improper activities.

The shielding of this unfair use of Government resources from the full force of the campaign laws impugns everything which the reform represents. Indeed, to exempt these contributions from the provisions of the Act would be so inequitable as to undermine the entire reform. While other candidates struggle for contributions, the incumbent President could actively use government paid employees to do his campaigning for him. While other candidates must accept expenditures limits in order to obtain public financing, the President would be permitted unlimited use of White House staff to conduct his campaign. It would be a cruel irony if the very Act which was meant to eradicate political campaign corruption were to be interpreted in a way which would insure that a fair Presidential election could not be held.

Nor should the Commission shield such activity from public scrutiny. The disclosure provisions are among the most important provisions of the statute and are "supported by compelling governmental interests—informing the electorate and preventing the corruption of the political process." *Buckley v. Valeo*, 519 F.2d at 867. These interests were great enough so that all the disclosure requirements of the Act were upheld by the Supreme Court as "the least restrictive means of curbing the evils of campaign ignorance and corruption that Congress found to exist." 44 U.S.L.W. at 4147 (footnote omitted). They were upheld even though serious First Amendment rights of privacy were at stake. Certainly they should not now be defeated when no privacy interest of the government is involved, and public corruption is afoot.

Disclosure was seen to promote a compelling governmental interest because it provides the electorate with information "as to where political campaign money comes from and how it is spent by the candidate." H.R. Rep. No. 564, 92d Cong., 2d Sess. 4 (1971), *as quoted in Buckley v. Valeo*, 44 U.S.L.W. at 4147. By improving the flow of information to the voter, the disclosure provisions enable the voter to more accurately evaluate the candidate and more intelligently exercise the franchise.

Certainly there is no rational reason why the electorate should know about all campaign financing except that which the President obtains by benefit of his incumbency. To the contrary, the political use which a President makes of his incumbency would seem to be of special concern to every voter.

In addition, the disclosure requirements deter corruption by exposing it to the public at large. As Justice Brandeis wrote: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." *Other Peoples Money*, 92 (1914), *quoted in Buckley v. Valeo*, 44 U.S.L.W. at 4147.

The other candidates must report the origin and use of all resources which are intended to influence an election, so that the public may make judgments on questionable campaign practices. It would be in keeping with this notion for the government's contributions to the Ford campaign to be made public so that the public may judge them also.

Finally, the disclosure requirements were meant to prevent even the appearance of corruption. This purpose will be entirely defeated if the Act is applied to private contributions but not to government expenditures on behalf of a candidate. By shielding from public scrutiny the President's use of government resources to further his own re-election, the Act would fail to dispell one of the basic sources of the public's cynicism about elections, that is, the well-documented political use of the incumbency by Richard Nixon in the 1972 election.

III. Excepting Government Expenditures From The Scope Of The Act Would Raise Serious Questions About The Constitutionality Of The Public Funding Provisions Of The Act And The Act Should Be Interpreted So As To Avoid These Constitutional Infirmities.

In *Buckley v. Valeo*, the Supreme Court upheld the constitutionality of the public funding provisions of the Campaign Act, including the use of expenditure limits as a condition of public funding. 44 U.S.L.W. at 4154–4159. An interpretation of the Act which would effectively remove expenditure limits from the President while leaving them on other candidates would again put these provisions in Constitutional jeopardy. Interpreted to exclude government expenditures, the Act would deny equal protection by discriminating in favor of an incumbent with no conceivable rationale for limiting the expenditures of others, but not those of the President.[7]

The Supreme Court made it clear that the expenditure limitations of the 1974 Act represent the restriction of fundamental rights of expression and association protected by the First Amendment:

> "A restriction on the amount of money a person or group can spend on political com-

---

[3] By making this specific minor exception, Congress indicated that only a few express exceptions would defeat the broad definition of contribution. The Act contains seven express exceptions to the term "contribution," none of which apply here. 2 U.S.C. §§ 431(e) (5) (A)–(F), 434. The only arguably applicable exception is contained in subparagraph (A)—"Services provided without compensation by individuals who volunteer a portion or all of their time"—but since the campaign work at issue is undertaken during regular hours as part of the employee's assignment, it is hardly "voluntary." Of course, this same rationale would require Members of Congress who are running for re-election or seeking other federal offices to include on-duty work done by their staffs their FEC filings.

[4] Indeed, as soon as these payments are considered contributions, they are also expenditures since they must cancel each other out on the balance sheet used to report to the FEC. *See* 11 C.F.R. Supp. B, App. III (1975).

[5] Arguably, if the construction urged in this Memorandum is adopted, section 608 (b) (1) of Title 18 can be read to limit contributions by the Government, as well as private persons, to $1,000. We believe that such a literal interpretation of a criminal statute should not be followed, and we are aware of no purpose that would be served by so construing it, and no unfairness that would be created by not including the Government. In addition, we note that another provision which might have required the Government to report these salaries itself, 2 U.S.C. § 437()a, has been repealed by section 105 of the 1976 amendments.

[6] While the Supreme Court struck down the expenditure limitations in the Act, it upheld the $10 million primary spending limit and other limits, when used as a condition for eligibility for public financing of a campaign. *Buckley v. Valeo*, 44 U.S.L.W. at 4144, 4154–4159. It did so because the significant government aid, coupled with a desire to supplant the dominant role of the large contributor, was considered a great enough interest to justify the First Amendment restraint when undertaken voluntarily. 44 U.S.L.W. at 4155.

[7] The identical equal protection arguments would apply to the disparities in the reporting requirements as well, but we will not address them separately. In addition, these government contributions should also reduce the matching funds made available to qualifying candidates for the same reasons.

munication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditures of money. . . .

"The expenditure limitations contained in the Act represent substantial rather than merely theoretical restraints on the quantity and diversity of political speech." *Buckley v. Valeo,* 44 U.S.L.W. at 4132 (footnote omitted).

The substantial restraints on First Amendment rights which the expenditure limits represent, were declared unconstitutional except where integral to a scheme to replace private funding with public funding in order to eliminate corruption. Although the restraints are justified to further this "substantial interest," they cannot be unevenly applied. A provision which would discriminatorily restrict the "quantity and diversity" of speech of all candidates but not the President, is in no way justified.[6]

The Supreme Court has consistently held the discriminatory restriction of such fundamental rights to be unconstitutional unless found "necessary to a compelling state interest." *American Party v. White,* 415 U.S. 771, 779 (1974) and cases cited therein. Thus, filing fees which discriminatorily limit access to the ballot on the basis of wealth are unconstitutional even though the state has a legitimate interest in limiting access to the ballot. *Lubin v. Parish,* 415 U.S. 709 (1974); *Bullock v. Carter,* 405 U.S. 134 (1972). And in *Buckley v. Valeo,* the Supreme Court invalidated the expenditure limits of the Act, noting that the government's interest in equalizing the financial resources of candidates, preventing corruption, and reducing the skyrocketing costs of political campaigns were all insufficient to justify governmental restriction on campaign expenditures. 44 U.S.L.W. at 4143–44. "It is not the government but the people . . . who must retain control over the quantity and range of debate on public issues in a political campaign." 44 U.S.L.W. at 4144 (footnote omitted). An exemption for government contributions stands this statement on its head by permitting the government to limit the spending of some candidates while contributing to the President's cause.

Discriminatory restrictions have been upheld only when significant State interests were involved. For instance, in *Storer* v. *Brown,* 415 U.S. 724 (1974), the Court upheld a California Election Law restriction that independent candidates could not be members of political parties for 12 months prior to the election. It upheld the restriction only because it furthered the "compelling" goal of preventing the election from becoming a refuge for primary losers rather than a forum for major political struggles. 415 U.S. at 736. *See also American Party* v. *White,* 415 U.S. 767 (1974). In the instant case there is no comparable "compelling" interest being served by the discrimination; indeed, there is a noticeable lack of legitimate government interest in allowing the President more speech than other candidates.

Finally, the expenditure limits which are presently circumvented by the political use of government employees were a major reason for upholding the public funding provisions of the Act against an equal protection challenge. In upholding the provisions which make available more money to major parties than to minor parties, the court said:

"Any disadvantages suffered by operation of the eligibility formulae under Subtitle H is thus limited to the claimed denial of the enhancement of opportunity to communicate with the electorate that the formula affords eligible candidates. But eligible candidates suffer a countervailing denial . . . [A]cceptance of public financing entails voluntary acceptance of an expenditure ceiling. Non-eligible candidates are not subject to that limitation. Accordingly, we conclude that public financing is generally less restrictive of access to the electoral process than the ballot-access regulations dealt with in prior cases." 44 U.S.L.W. at 4155 (footnotes omitted).

The expenditure ceilings were significant because the overall effect of public funding was to enable minority candidates to increase their spending relative to those who traditionally raised great amounts of money. 44 U.S.L.W. at 4159. This line of reasoning is invalidated when the law is applied in a way which permits the President to spend far beyond the limits. Without an effective expenditure ceiling on the President, the rationale for upholding the public funding provisions of the Act is removed.

To exempt the President's use of government resources from the scope of the Act would raise again in practice the Constitutional problem solved in theory in *Buckley* v. *Valeo.* It would also raise the question of discrimination against other major party candidates who must report *all* of their resources and who must charge *all* of their expenditures to the spending limits. The Act should be read to encompass the use of government resources so that it can be construed to avoid these Constitutional infirmities. *See Buckley* v. *Valeo,* 519 F.2d at 874.

CONCLUSION

The Federal Campaign Election Act of 1971 as amended should be read to embrace the use of government resources for campaign purposes for three reasons. First, the broad language of the Act indicates that it was meant to include every type of campaign funding. Second, such a interpretation is necessary to fulfill the purposes of the Act. Third, any other interpretation would make the Act unconstitutional. Thus, we ask that government paid salaries for employees working to influence the election be declared campaign contributions and expenditures. As such they should be reported and attributed to the candidate's expenditure limit.

ALAN B. MORRISON.

[United States District Court for the District of Columbia, Civil Action No. 2280–72]

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

(Public Citizen and Ralph Nader, Plaintiffs, versus George P. Shultz, Secretary of Treasury, Defendant)

INTRODUCTION

This action seeks to recover for the benefit of the United States Treasury improperly expended federal tax monies that were utilized during the 1972 Presidential campaign to pay salaries of various government officials who were devoting substantial portions of their working time to that campaign rather than to public matters. The complaint seeks a declaration that the monies paid as salaries in such circumstances may be recovered by the United States Government since there was no lawful appropriation of funds for campaign purposes. The complaint also asks for an order requiring the defendant to take appropriate action to recover such unlawfully paid salaries, but at this time plaintiffs seek only a declaration that various payments made in the form of salaries were unauthorized and that the defendant has an obligation to take further steps to attempt to recover those unauthorized payments. We do not at this time seek injunctive relief compelling the defendant to take any specific action since we believe that defendant will, once so advised by the Court, take appropriate steps to effectuate the recovery.

We believe that, based on the five depositions; the two sets of answers to interrogatories, and the submitted testimony from the Senate Watergate Committee, it is clear that significant federal salaries were paid to White House personnel who were actively engaged in a political campaign and that plaintiffs are entitled to summary judgment. Under our view of the law, we have no obligation to establish that specific individuals received specific dollar amounts of unlawful salaries because they were engaged in specific campaign-related activities at specific times, although our proof establishes those facts in many instances. We believe that our obligation is simply to establish that significant unauthorized salary payments were made; the exact amount of these payments is a matter for further examination by defendant or other responsible federal officials, at least in the first instance. The legal inferences to be drawn from a number of the facts may be disputed by defendant and others, and there may be factual disputes as to the correct amount of salary repayment due on account of the activities of certain individuals. These disputes do not relate to material facts, however, since we are presently seeking only a declaration that there were "salary" payments made that were unauthorized and that defendant has a duty to investigate and determine the exact amounts of such payments under the rule that "doubts as to accountability may well be resolved against the one having the duty to account." *United States v. Bowen,* 290 F.2d 40, 45 (5th Cir. 1961).[1]

STATEMENT OF THE CASE [2]

Beginning at least as early as 1971, various members of the White House staff began to work on the 1972 Presidential campaign in which it was expected that President Nixon would run for re-election. Because of a specific exemption in the Hatch Act, 5 U.S.C. § 7324(d)(1), members of the White House staff are permitted to "take an active part in political management or in political campaigns" without violating section 7324 (a)(2) and subjecting themselves to removal from their positions under section 7325. That exception is, in our view, a license to engage in some incidental political activities, but does not constitute a congressional sanction that individuals employed on the federal payroll can devote a substantial portion of their working time to political activities and still continue to draw their federal salaries. As we shall demonstrate in considerable detail below in Part II of our argument, the incidental time spent on political activities in 1971 rapidly accelerated so that many individuals on the White House staff were devoting substantial portions of their time to political activities and some persons were devoting virtually full time to those activities for various segments of time.

On October 10, 1972, and again on October 24, 1972, plaintiffs called this situation to the attention of defendant and asked him to take appropriate action to prevent the continued payment of salaries to personnel who were devoting substantially all of their time to re-election matters as opposed to the public matters for which their positions were established. Defendant made no reply to either letter, and thus on November 16th after the election, plaintiffs filed this action seeking declaratory and injunctive relief with respect to the unauthorized salaries.[3]

---

[6] The Supreme Court in *Buckley v. Valeo* recognized the Constitutional problems posed by provisions which discriminatorily permit incumbents to use their offices for campaign purposes. Speaking of the exemption for photographic services furnished to Congressmen, 2 U.S.C. § 434(e), the Court was "troubled by the considerable advantages that this exception appears to give incumbents." The Court upheld this provision only because "in the absence of record evidence of misuse or undue discrimination," it served the permissible purpose of enabling legislators to serve their constituents. 44 U.S.L.W. at 4152 n. 112.

Footnotes at end of article.

After obtaining a thirty-day extension of time within which to answer the complaint, defendant chose not to answer but filed a motion to dismiss, alleging that the plaintiffs lacked standing, that the case was non-justiciable because it presented a "political question," and that the complaint failed to state a claim upon which relief could be granted. In opposition, plaintiffs filed a detailed memorandum, and on March 8, 1973, this Court entered its order denying the defendant's motion to dismiss. Thereafter, discovery took place, and while it was in progress, defendant moved for summary judgment on essentially the same grounds as previously rejected by this Court in denying defendant's motion to dismiss. That motion was ordered to be held in abeyance until discovery was completed and until plaintiffs made their motion for summary judgment, which was to take place no later than January 28, 1974.

The argument below is divided into four sections. The first establishes the proposition that the payment of salaries from the Federal Treasury to persons engaged in substantial political campaign activities is a violation of Article I, Section 9, Clause 7 of the Constitution and of 31 U.S.C. § 628 because no appropriation has ever been authorized for such purposes. Second, we will demonstrate that in fact in the 1972 campaign there were widespread uses of White House staff members to work on the re-election campaign of President Nixon. In the third part we will establish that defendant, perhaps along with other officials, has a duty to investigate and determine the exact facts behind these serious charges and to take steps to recover the unlawfully paid monies for the benefit of the United States Treasury. Finally, we will briefly discuss defendant's claim that plaintiffs lack standing, notwithstanding this Court's earlier determination to the contrary.

RELEVANT AUTHORITIES

Article 1, Section 9, Clause 7, United States Constitution: "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; . . ."

Section 628, Title 31, United States Code: "Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

ARGUMENTS

I. The use of Federal funds to pay salaries of Federal employees engaged in substantial political campaign activities violates Article I, § 9, Clause 7, U.S. Constitution and 31 U.S.C. § 628

Article 1, Section 9, Clause 7 of the Constitution and 31 U.S.C. § 628 together provide that monies shall not be drawn from the Treasury except pursuant to lawful appropriations, and then only for the purposes for which they are made and no others. It is undisputed that there were no appropriations lawfully made by the Congress to be used for the purpose of paying salaries for the campaigns of either President Nixon, Senator McGovern, or any other candidate in the 1972 Presidential election. Thus, if a federal official had written a check to the Committee to Re-elect the President in the amount of $100,000 "to be used to pay the salaries of the Director and Deputy Director of the Campaign and the Director of the Finance Committee for the Re-election of the President," there can be no doubt that that check would be unauthorized and the payment of it would violate the above provisions of law. Plaintiffs' position is, quite simply, that what is forbidden to be done directly by means of a check to the Committee to Re-elect the President, is equally forbidden when done indirectly by means of paying the salaries of persons who are nominally employed by the federal government, but who are actually working on an election campaign.

In fact, with respect to a closely related area of expenditures, many of the persons whose salaries plaintiffs contend should be recovered in whole or in part readily acknowledged that Government funds should not be expended for campaign purposes.

Thus, when questioned about whether the Committee to Re-elect or the taxpayers should pay for the travel expenses, hotel rooms, etc. of federal employees on political trips, every witness stated that the Committee to Re-elect should and did pay. They all emphasized the scrupulousness with which the entire White House staff viewed the matter and stated that there was a rule that when in doubt, the charge was to be made to the Committee to Re-elect rather than to the Government.[4] Thus, those very persons involved in the campaign themselves have acknowledged that taxpayers should not be required to bear certain costs associated with the campaign even when incurred by persons on the Federal payroll, yet it is contended that the salaries paid to these persons while on avowedly political trips are perfectly proper.

We cannot agree that the law permits to be done by the backdoor of salary payments, that which it concededly prohibits via the front door of direct payments to the Committee to Re-elect. This is not a situation in which form can be permitted to prevail over substance, and where taxpayers can be made to bear a cost simply because it is disguised in the form of a salary payment rather than a direct subsidy to a political committee. These salary costs should properly have been borne by the Committee to Re-elect the President and not by the taxpayers at large, many of whom supported other candidates, and others of whom simply prefered to support no one at all. There is nothing to suggest that Congress ever intended to appropriate a single penny for the payment of salaries for the persons working on political campaigns.[5]

The defendant nonetheless contends that the Constitutional proscription does not apply (Br. pp. 11–12) because Article I, Section 9, Clause 7 provides only that "no money shall be drawn from the Treasury but in consequence of appropriations made by law; . . . ", and there have been appropriations by law made here.[6] Thus, according to defendant, Article 1, Section 9, Clause 7 of the Constitution is not violated where monies appropriated for one purpose, are applied to a wholly different purpose. We submit that there is no rational basis for a distinction under which the Framers would have permitted misuse of appropriated funds provided that there was some appropriation, but would have been sufficiently concerned about the general problem to include a prohibition against the use of Federal funds where there was no appropriation. Similarly, defendant's argument (Br. p. 16 and note 4) that section 628 has not been violated because it applies only to transfers between agencies is without basis in reason or authority. The authorities and reasons given in our brief of March 5, 1973, at pages 11–18, however, fully support the proposition that both the Constitution and section 628 have been breached in this case.[7]

Accordingly, it is plain that if Federal monies were utilized to pay salaries of White House personnel while such persons were engaged in substantial campaign activities, there were violations of the Constitution and section 628 since there was no lawful appropriation covering such expenditures.

II. The evidence demonstrates that persons on Federal payrolls were engaged in extensive activities relating to the re-election campaign of President Nixon while continuing to draw their Federal salaries.

Beginning no later than mid-1971, various members of the White House staff while still on the Federal payroll began taking active roles in the upcoming 1972 campaign. (See Buchanan Tr. 3914 and Strachan Tr. 2492).[8] The type of campaign work done by the individual staff member varied according to his general duties and in some cases involved primarily work in the White House and in other cases involved extensive on the road campaigning or other campaign related work outside of Washington. Many of these activities, such as planning the 1972 convention for the Republican Party and making frankly partisan speeches, were campaign related under any view of the law. Others such as "information dissemination" and general liaison with special interest groups became clearly political in the context of the post-convention period.

The evidence in this case demonstrates the massive use of White House personnel to aid the re-election campaign of President Nixon. But as the location of the campaign work varied, so did the nature and extent of the work. Insofar as we have learned, the campaign work patterns broke down into four general categories.

First, there were those who were working essentially full-time on the campaign such as Gordon Strachan, Pat O'Donnell, and Ken Khachigian. A second group were persons who, for blocks of time, did work that was unequivocally campaign related, but appeared to have done normal work the rest of the time. Included in such group are William Timmons, Ron Walker, and members of their staffs. The third general category is comprised of those persons who devoted large portions of their time over an extended period to the campaign although also continuing to perform other non-campaign related functions. Included in this group are Charles Colson, Robert Finch, and Patrick Buchanan. Finally, there are those persons whose activities are at least arguably properly classified as governmental when performed by the staff of the President in normal times, but because of the fact that the campaign was on, those seemingly routine functions were clearly political acts in direct aid of the candidate. Included in this group are Herbert Klein and members of the staff of Charles Colson.

The list of persons involved in political activities on behalf of the reelection campaign of President Nixon contained in this memorandum is by no means exhaustive. For instance, the testimony of Gordon Strachan and Patrick Buchanan make it clear that both H. R. Halderman and John Mitchell (while he was Attorney General) were engaged in detailed and extensive planning activities in relation to the 1972 campaign. (Strachan Tr. 2492 and Buchanan Tr. 3910, 3940 and Exhibits 175, 176, and 179, pp. 4174, 4185, and 4197, respectively). Limitations of time and money, as well as a belief that the proper persons to make a complete, detailed examination are government employees and not private parties, led plaintiffs to conclude that the evidence presented here is sufficient to show a widespread pattern of misuse of taxpayers' money to aid the reelection campaign of a single candidate.

There are many more witnesses to examine and documents to consider, as well as a need to place dollar figures on the recoverable salaries. But the pattern is clear and unmistakable; it demonstrates that the tax-

---

Footnotes at end of article.

payers paid the salaries of many significant assistants on the 1972 reelection campaign staff of Richard Nixon.

A. Full-Time Campaign Workers

One of the prime examples of a White House employee working on the campaign on a full-time basis is Gordon Strachan. He explained his duties to the Watergate committee as follows:

"I was a staff assistant to Mr. Haldeman. My office was located in the basement of the White House. One of my responsibilities during the President's reelection campaign To to serve as liaison with the Committee To Re-elect the President. It was my job to accumulate all the information I could obtain from members of the White House staff, personnel at 1701 [the Committee to Re-elect], the Republican National Committee and from the campaign personnel in key States and cities.

"Periodically, I was to report important political matters to Mr. Haldeman. I wrote him many long reports, entitled political matters memos, describing the current status of pending political matters. He relied on me as the member of his personal staff who would obtain information on campaign matters. Either I would have the answer, or I would get it." (Strachan Tr. 2439.)

As Mr. Strachan later noted, ". . . from January 1 [1972] through the election my primary duties were in the area of polling and in the area of political data bank." (Strachan Tr. 2446). He referred to himself as the "White House conduit for reporting the activities of 1701, including the activities of Mr. Magruder . . .," the Deputy Campaign Director, a former White House staffer, and a man with whom Mr. Strachan was in daily contact (Strachan Tr. 2440, 2894). He testified that there were "very substantial contacts between all members of the White House staff and the campaign organization" (Strachan Tr. 2446), and in fact the contacts were so great that there was a regular messenger service established to handle the flow of papers (Strachan Tr. 2469).

Beyond his liaison functions, Strachan was concerned early in the campaign with political intelligence plans (Strachan Tr. 2492), and he had extensive involvement with the political polls which Mr. Haldeman requested be taken by the White House itself (Strachan Tr. 2461, 2466, and 2494). Strachan also maintained the master White House campaign files (Strachan Tr. 2491).

The answers given by Mr. Strachan to plaintiffs' interrogatories spell out clearly the extent of his involvement in the election campaign. His answer to interrogatory 3 indicated that in late 1971 he was spending 20% of his time on polling matters and 40% on the campaign. According to his answer to the fourth interrogatory, he became substantially involved in the campaign in mid-1971, with the amount of time increasing as the election approached "During the late Summer and Fall of 1972 there were many weeks when virtually all of Mr. Strachan's time was devoted to the campaign and particularly to polling and advertising matters. During August, 1972, Mr. Strachan spent a major portion of his time on matters relating to the Republican National Convention and attending the Convention."

Answer to interrogatory 4. These candid answers given by Mr. Strachan demonstrate that we have come a full circle: the Hatch Act's exception in 5 U.S.C. § 7324(d)(1) to permit incidental campaigning by White House staff personnel has been turned on its end, as the performing of governmental duties became "incidental" and the waging of a political campaign became the principal work of a significant number of highly paid Federal employees. It is clear that the candidate and the committees supporting him were unjustly enriched by having the taxpayers support Gordon Strachan while he was working on the campaign, and those payments must now be returned to the Treasury by the responsible persons.

Another White House staffer who was primarily involved in campaign activities at least for the post-convention period was Pat O'Donnell of Mr. Colson's office. According to Mr. Colson, O'Donnell had been scheduling the speeches of Administration personnel, primarily Cabinet officers, for approximately two years, he continued to do this through the campaign, and in fact this was his "primary responsibility." (Colson II, 19–20). These speakers, of which there were approximately thirty during the campaign, participated in what was referred to as the surrogate program. As Robert Finch related it, they were "literally orchestrated around the country in behalf of the President." (Finch 36). Insofar as that orchestration was performed for Cabinet officials, the responsibility was that of Pat O'Donnell, the full-time government employee on the staff of Charles Colson.

A third example of a Government employee working full-time on campaign matters is Ken Khachigian, whom Patrick Buchanan referred to as his "political assistant" (Buchanan Tr. 3914, 3933). He was engaged in extensive political research activities directly related to assessing the strengths and weaknesses of various Democratic candidates who might be opposing President Nixon in 1972 (see, *e.g.*, Exhibit 183 p. 4225). In addition, he served as Mr. Buchanan's liaison to the Committee to Re-elect the President (Buchanan Tr. 3924). Mr. Buchanan's duties are discussed in Part C of this Point II in much greater detail, and from them it is apparent that if Mr. Khachigian was Mr. Buchanan's "political assistant," he was deeply involved in the many facets of the campaign with which Mr. Buchanan concerned himself. While it is possible that he may have had other duties, the testimony of Mr. Buchanan strongly suggests that Mr. Khachigian was devoting substantially all of his time to political matters related to the 1972 campaign.

B. Full-Time for Blocks of Time

Others on the White House staff worked essentially full-time on matters relating to the campaign, but did so for fairly limited periods of time after which they resumed normal White House duties. For example, William Timmons, the White House congressional liaison, had played an important role in the 1968 Republican National Convention while he was a legislative assistant to then-Congressman William Brock (Timmons 17). Beginning in May of 1971, Mr. Timmons began working what he described as a few hours a week (Timmons 9) or about half a day a week (Timmons 23) in connection with the planning of the Republican National Convention which took place in August of 1972. Beginning in May 1972 his efforts sped up, and he spent a few hours a day working on the convention (Timmons 23). Moreover, prior to it he made four trips of about three days each to the convention site in Miami (Timmons 12). At the time of the convention itself, he went down for an extended stay of three weeks and brought with him five members of his staff who stayed and worked for about a week (Timmons 12–13).

At the convention he was aided by members of the staff of another White House employee, Ron Walker, as well as other White House staffers (Timmons 14, Walker 21, 23–24). He was primarily concerned with the coordinating of the role of President Nixon's family and Vice President Agnew and his family at the convention (Timmons 15–16), although he also coordinated the roles of other White House staff personnel at the convention (Timmons 17). After it was over, he stayed around "and made certain that the materials we had rented, typewriters and cars, etc., were, in fact, returned and all the bills paid by the Committee to Re-elect." (Timmons 18). We submit that there is simply no justification for Federal employees to draw salaries from public monies while assuming responsibilities that the Committee to Reelect and/or the Republican Party should have and could have assumed themselves. Whatever conceivable justifications there might be for permitting members of the White House staff to engage in campaign related activities when those activities consist of planning and advising the President, surely do not exist when the work involved could easily be done by a person not in the White House and is identical in kind to that done by the opposing, non-incumbent party. Of course, all of the travel and other non-salary expenses of these White House convention workers were paid by the Committee to Re-elect the President (Timmons 12–15), thus resolving all doubt as to the "political" nature of the work done by these convention workers.

The office of Ron Walker, the chief of advance work for the President, also provided significant assistance to the re-election campaign beyond the work that the staff members did at the convention.

Mr. Walker first became associated with President Nixon during the 1968 campaign when he did volunteer work as an advance man (Walker 5–6).[9] The duties of an advance man, which are set forth in detail in the Walker deposition pages 11–19, are generally to handle the logistics for the candidate, who in this case happened to be the President. Mr. Walker did that for the President at the convention where he remained for approximately two to three weeks (Walker 20). Thereafter, the President made approximately 15 to 20 trips before election day, for which Mr. Walker's office assumed the over-all responsibility (Walker 25). The President made a number of trips which were "purely political" such as the one to Atlanta for a motorcade (Walker 25, 29). In a typical trip a member of the advance staff of Mr. Walker would spend approximately 3 to 5 days in the city preparing for the Presidential visit (Walker 29–30). During these political trips all of the expenses, including travel, were paid by the Committee to Re-elect the President (Walker 27), except, of course, the salaries of the members of Mr. Walker's staff. While he used staff for some of these trips, he also utilized the services of more than 50 volunteers for Presidential, and apparently other visits as well (Walker 26, 34). It appears that the only determining factor on whether to utilize staff or volunteers was simply the availability of staff to do the job.

C. Large Portions of Times on a Continuous Basis

The third general category into which the campaign work of White House staff personnel fell was that of persons who devoted portions of their time to the political campaign, but did so over a long period of time and in that way the time became substantial in total. Charles Colson, for instance, estimated that beginning in mid-July he devoted approximately 20% of his time to political matters (Colson I 48, 50).[10] His chief admittedly political duty was his responsibility as chairman of a group which met six days a week at the White House at 9:15 (Colson I 36, 38). The members of this group included representatives from the Republican National Committee, the Committee to Re-elect the President and the White House (Colson I 37–38), and its primary purpose was to organize the replies to answer the opponents' charges and to make material available for the campaign speeches of the surrogates (Colson I 36, 41). These replies, which were obviously a central part of the strategy since the President campaigned very little, were prepared in part by the use White House

---

Footnotes at end of article.

speech writers who were on the public payroll (43–44). Beyond his responsibilities as chairman of the 9:15 group and the necessary work that had to be done to prepare himself for those daily meetings and to implement the decisions reached at them, Mr. Colson also acknowledged that he helped decide in some instances who should reply, where the reply should take place (Colson II 18–19) and consulted with regard to political ads (Colson II 22–24).

It is apparent that Gordon Strachan's description of Charles Colson as a member of the White House staff who was "politically active" (Strachan Tr. 2494) was an accurate one.

Another high-level White House staff member who was significantly involved in the 1972 campaign was Robert Finch, counsellor to the President and in charge of a number of special projects. For the post-September period he admitted to spending at least one-third and perhaps one-half of his time on partisan political campaign activities (Finch 26, 37–38). In this one-third he did not include "non-partisan" talks at which he gave the Administration's position to such groups as farmers and the DAR (Finch 26–27, 37–38). When these "non-partisan" appearances are added in, it is apparent that Mr. Finch was devoting well over half of his time to speechmaking "as a spokesman for the administration" (Finch 44–45). When the fact that he had already decided to leave the White House and was then making plans to return to California in a new job in a private law firm is taken into account (Finch 40), it is clear that the amount of time Mr. Finch was then devoting to finishing the various projects which he had started was quite small compared to his basic duty in the post-September period—to go out and campaign for the reelection of President Nixon.

During this time he continued to make use of the White House staff to get the facts that he needed for his speeches (Finch 31). Finch also testified that the other members of the Cabinet played similar parts in the 1972 campaign, speaking out with comparable frequency in a partisan effort on behalf of the Administration (Finch 27). Finally, during the last week of the campaign, Mr. Finch was fully available and working to do whatever he could to ensure the reelection of President Nixon (Finch 38–39). In short, although Robert Finch was continuing to serve in a position as counsellor to the President, he in fact was serving primarily as campaigner for the President for at least the last two months of the 1972 campaign.

Patrick Buchanan's assignment in the 1972 presidential campaign began in mid-1971 when he was "named chairman of the opposition research, opposition tracking, opposition analysis group which would be one task force within the campaign." (Buchanan Tr. 3914). His responsibilities in the campaign included those of political strategist (Buchanan Tr. 3921, 3940). In these capacities he wrote "political strategy memos," examples of which are produced in Exhibits 170–194 which are part of the Buchanan testimony. Many of them, it should be noted, were written on White House stationery.[11]

Mr. Buchanan recommended the establishment of a task force to monitor the activities of candidate Edmund Muskie known as the "Muskie watch." But as he testified, "the Muskie watch amounted to actually little more than the research files of Buchanan and Khachigian." (Buchanan Tr. 3936). However, as Exhibit 170 (p. 4146) demonstrates, the watch was a detailed and careful one and was a coordinated part of a strategy to ensure that Senator Muskie, who was viewed to be the most difficult opponent for President Nixon and the most likely person to unify his party, would not win the nomination (Buchanan Tr. 3933–3934).

In addition to the Muskie watch, similar analyses were made of Senator Humphrey (see Exhibit 171, p. 4154) and Senator Kennedy (see Exhibit 173, p. 4167). The campaign activities with which Mr. Buchanan was dealing as early as the middle of 1971 are nicely summarized by a memo he wrote to eight members of the White House staff concerning an upcoming meeting (Exhibit 174, p. 4173). Mr. Buchanan suggested that some of the questions that ought to be considered at the meeting would be, who is the likely Democratic nominee and how should he be dealt with? Who is the likely opposition within the Republican Party and how should the McCloskey movement be handled? What is the best strategy to defend against the attacks of potential Democratic nominees, as well as other thoughts on tactics to to be used to highlight the weaknesses in the other party and other candidates between now and this coming [1971] November. One can hardly conceive of a more politically oriented meeting than that one, and yet all of the participants were then on government salaries.

Beyond the political strategy function, Mr. Buchanan was involved in the hiring of pranksters to disrupt the opposition party (Buchanan Tr. 3923), he participated in the preparation of political ads (Bunchanan Tr. 3929–3930), and he prepared letters and telegrams to be sent in the name of private citizens supporting the Administration's position on a variety of matters (Buchanan Tr. 3976–77 and Exhibit 169, p. 4130). In addition, he had the specific campaign duty after September 1 of preparing a daily political analysis for the President (Buchanan Tr. 3947). And for all of this work he relied very heavily upon White House sources, particularly the daily news summary prepared by White House staffer Mort Allen for the use of the President and other members of the staff (Buchanan Tr. 3937). From these hearings alone it is clear that Patrick Buchanan spent considerable time on the campaign and that he was a key strategic beginning as early as the middle of 1971.

D. Facially Neutral Activities Which Become Campaign Activities During a Campaign

Many of the witnesses exclaimed that they were simply doing during the campaign that which they had always done while on the White House staff. It is not the intention of plaintiffs in this proceeding to challenge the propriety of taxpayers paying for many of the activities to be discussed below during the normal, noncampaign portions of a President's term. But we do contend that activities which may be facially neutral or non-political during non-election years change their character and become campaign activities during periods such as the post-convention time when the President was running for reelection.

Herbert Klein was, throughout the four and a half years that he served in the White House, a disseminator of information for the entire executive branch of government and for the Administration (Klein 13). He had no day-to-day responsibilities for briefing the press as did the press secretary but was concerned with acting as a liaison with members of the national media (Klein 14–15). Thus, when the election campaign began to become active after the convention, Mr. Klein did very little that he did not do before although he was outside Washington more than he was there and his travels increased above normal as he continued to tell the Administration's side of the story (Klein 26–28).

Mr. Klein claimed that the 1972 campaign was a different kind of campaign because he was doing the same things that he had done since January 1969. When asked about his contribution to the President's reelection, he stated "I thought I [sic] would be best served by carrying out the duties of my own office to the fullest extent possible and in an intensified fashion." (Klein 24). As he put it" . . . with the American people, part of the process in any election is that they understand what the issues are at the particular time" and it was essential in his view that "you do the best you can in at least answering questions regarding those issues." (Klein 25).

Although Mr. Klein in prior Nixon campaigns had taken leaves of absence from his positions (Klein 5, 7, 9, and 10), he did not do so this time. He traveled around the country, and on many of his trips the expenses were paid by the Committee to Re-elect the President (Klein 40). He made speeches (Klein 34) and kept himself generally available to the press (Klein 33), including servicing the needs of the National Press Corps at the Republican National Convention (Klein 19). Herbert Klein was spreading the word about the Administration, what it was doing and where it stood on issues. In his own mind he was making an important contribution to the reelection of the President, and yet it was equally clear that the taxpayers were shouldering the burden of paying his salary during this time. Whatever right the President may have to dissemniate general information about his policies at the public's expense during non-election periods does not extend to have the taxpayers support publicity agents when he is actively seeking reelection.[12] For if Herbert Klein had not been receiving a White House salary while working on the campaign, either the Committee to Re-elect would have paid him or he would have worked on a voluntary basis. That is the way that campaigns are supposed to operate, but that is not what happened in 1972.

The situation with Charles Colson and his staff is very similar to that of Herbert Klein since they were doing during the campaign that which they had done before (Colson I 46). Their regular duties were to cater to the various organized special interest groups in the country, ranging from ethnic groups to labor unions to business groups, and to ensure that these groups had a friendly ear in the White House when policy decisions were of concern to them (Colson I 8; Colson II 27–28). Although the Colson staff duplicated in some ways the substantive responsibilities of the various agencies, it was in effect a last chance for these groups to be heard before policy was to be decided in the White House. Whether those activities can fairly be characterized as governmental as opposed to political during non-election times is a matter of some debate. However, it seems clear that once the campaign was under way those workers were every bit as much campaign workers as the employees of the Committee to Re-elect.

The best evidence of the way in which Mr. Colson viewed the responsibilities of his staff is a memo he wrote to them in August 25, 1972, the Friday after he returned from the Republican National Convention (Colson I 29). This remarkable document, which is exhibit 1 to the Colson deposition, places in perspective all of the Colson testimony about the duties performed by him and his staff during the post-convention period. It is of particular significance in light of Mr. Colson's role as chairman of the 9:15 group which was concerned with devising reply strategies to the positions taken by the opposition. The memo begins by noting that there are "71 days left between now and the election. Every single one of these is a campaign day. . . ." Later on Mr. Colson observes, "[m]any of you have been through political campaigns before.

For those of you who have not, a campaign is a 24-hour a day, 7-day a week job. . . . Think to yourself at the beginning of each

---

Footnotes at end of article.

day. 'What am I going to do to help the President's reelection today?' and then at the end of each day think what you did in fact do to help the President's reelection." After stating his expectation of maximum staff output, he noted that if he bruised any feelings or injured anyone's morale, "I will be happy to make amends on the morning of November 8 when we have done our job and the results are evident."

Notwithstanding Mr. Colson's explanations as to his intentions in writing this memo, (Colson I 32), it is apparent that each member of his staff, which grew from a single secretary in 1969 (Colson I 21) to 15 professional and a like number of clerical personnel by the time of the election (Colson I 30–31), was told to devote himself to the reelection of President Nixon for the rest of the campaign and to focus entirely on campaign and campaign-related matters until that reelection was accomplished. Seen in this light it is apparent that everything that was done by the Colson staff was with that purpose in mind and that each of those thirty individuals was a campaign worker and not a servant of the government and the people as a whole.

Other facts support this conclusion. Each of the members of Mr. Colson's staff had a "counterpart" at the Committee to Re-elect who dealt with a specific area just as each of the members of the staff had a specific interest group to handle (Colson II 29). The White House counterpart provided substantive help to his colleague at the Committee to Re-elect (Colson II 30), and of course was available to the special interest group for direct White House access on any problem that might arise. It is apparent that during a campaign access of that kind is of the great importance and provides the candidate with key input as to how his policies are being received by the groups most directly affected by them.

Finally, the work of Colson's staff member Desmond Barker in coordinating the efforts of the Public Information Office of the various agencies, as he had been doing before the campaign, took on an increasingly important role as election day neared (Colson II 58–60). The ability to manage or coordinate the release of information by executive departments during a political campaign cannot be underestimated, and the political impact of it is obvious when the person managing the news effort is on the staff of the chairman of the daily 9:15 political strategy meeting. The timing of the releases of news—both good and bad—is an important campaign tool, and one which is inevitable that the incumbent will be able to have. That does not mean, however, that the taxpayers should pay the salary of the staff member who is doing the coordinating of the release of such information, as was the case in 1972.

During the course of his testimony before the Senate Watergate Committee, while obviously not considering his remarks in the context of this litigation, Patrick Buchanan made a statement which, coupled with the Colson memorandum, summarized plaintiff's case very nicely. In replying to a question as to whether the dirty tricks department played any significant role in the 1972 campaign, Mr. Buchanan stated that he agreed with the assessment of Theodore White that "these really had the weight of a feather in the campaign of 1972." He then continued with the statement:

"I think what was unprecedented for us, Senator, was the fact that we were—that we controlled the Office of the Presidency, and this was the, frankly, some of the, innovations in terms of the offensive strategy in media ads, the attack group which has gotten, the 9:15 group which has gotten a bad name, the use of surrogates, and the orchestration of our political offensive, these had nothing to do with dirty tricks. It was one of the most effective operations and one of the most enjoyable operations I have been involved in." (Buchanan Tr. 3956).

The evidence in this case demonstrates that Mr. Buchanan was entirely correct in his assessment that the uses of the Office of the President, and in particular the paying of large numbers of White House staff members from public funds while they were working on political campaign, was a major factor in the ability of the President to successfully mount his campaign and obtain his reelection. The evidence demonstrates massive misuses of government funds, and plaintiffs have established that which the complaint alleges—that government paid employees were devoting substantial portions of their time to a political campaign.

FOOTNOTES

[1] The determination here is similar to that in an action for an accounting in which the first question to be determined is whether an accounting should be ordered, *Irving Trust Co. v. McKeever*, 2 F.R.D. 1 (E.D.N.Y. 1941), and only then are the precise amounts to be repaid of relevance. Under that analogy, we are at the stage where the propriety of entering such an accounting order is to be determined.

[2] The facts are taken from the depositions of Charles Colson, Robert Finch, Herbert Klein, Ronald Walker, and William Timmons; the defendant's answers to plaintiffs' interrogatories (including the affidavit of John K. Carlock attached thereto), the answers of Gordon Strachan to plaintiff's interrogatories, and the sworn testimony of Gordon Strachan and Patrick Buchanan, along with their accompanying exhibits, before the Senate Watergate Committee. Reference to the depositions will be by the last name of the deponent and the page number: *e.g.*, (Finch 17). Because the deposition of Mr. Colson was taken on two days and the pages on the second day do not follow the first day's numbers, the Colson deposition will also include a "I" or "II" to designate the appropriate day's transcript. References to the Senate testimony will indicate the last name of the witness and the page; exhibits will be referenced by exhibit number and the page on which the exhibit starts, except where special attention is called to one part of the exhibit. For the convenience of the Court, copies of Volumes 6 and 10 of these Watergate hearings, which contain the testimony of Messrs. Strachan and Buchanan, are being provided.

[3] The complaint also sought relief with respect to unauthorized uses made of government supplies, telephones, etc. Since it is clear that White House personnel who were working on the campaign used such materials and equipment, declaratory relief with respect to that aspect of the complaint is also required.

[4] Klein 31, 40–41; Finch 27–29; Timmons 12; and Walker 27–28.

[5] To the extent that there is a congressional indication on the use of funds paid as salaries, we call the Court's attention to the various provisions of Title 5, U.S. Code, which although not directly related in all instances to White House personnel, are indicative of congressional intent to narrowly limit the purposes for which salary moneys are to be spent. For instance, § 3103 limits payments to employees for services rendered at the seat of government and only for the purposes within the appropriation; § 3107 prohibits the use of federal funds for the payment of salaries of publicity experts unless there is a specific appropriation for that purpose; and §§ 3373 and 3374 establish highly complex rules placing restrictions on the loaning of Federal officials for use by state or local governmental units. Finally, § 5502(a) prohibits the payment of salaries for unauthorized offices.

[6] He makes the Constitutional point primarily in connection with his standing defense as a means to distinguish cases such as *Flast v. Cohen* 392 U.S. 83 (1968), which sustain taxpayer standing based on violations of the rights of taxpayers secured by a specific Constitutional provision.

[7] See also § 627 of Title 31 which provides further proof that Congress intended appropriations to be narrowly construed.

[8] There is no dispute that all of the persons described herein were on the Federal payroll while engaging in campaign activities.

[9] Mr. Walker testified that he continued to draw his salary from his company during the 1968 campaign (Walker 6). Thus, it appears likely that the company made an indirect illegal political contribution in violation of 18 U.S.C. § 610, by loaning the Nixon campaign an employee whose salary it continued to pay. In our view the indirect contribution of a paid *employe* is equally prohibited by section 610, and such prohibition is analogous to the prohibition underlying the complaint here.

[10] He indicated a far lesser percentage of time when asked about "campaign" work which he defined in the narrowest sense of the word (Colson I 53–54).

[11] *E.G.*, Exhibit 170, p. 4146; Exhibit 171, p. 4154; Exhibit 179, p. 4197. The attached memo from Robert C. Odle, Jr. (p. 4204) makes it clear that the authors of Exhibit 179, noted only as "Research" were Messrs. Buchanan and Khachigian.

[12] Of course, the President is entitled, if not required to have a Press Secretary and supporting staff during a campaign, but that was not Mr. Klein's function.

REMARKS BY SENATOR JENNINGS RANDOLPH: EMPLOYMENT OPPORTUNITIES INCREASE FOR THOUSANDS OF STUDENTS THROUGH REALISTIC COLLEGE PROGRAMS

Mr. RANDOLPH. Mr. President, the true test of education is to prepare men and women to do useful work, to perform a service to society while living a productive and happy life. Over the past decade, the concept of the community college has reached into many geographic areas previously neglected by the higher education system. The story of these indigenous institutions is testimony to their responsiveness to the needs of their students and their communities. Such programs are based on actual needs as reflected by employment opportunities available to graduates in their particular communities.

On Sunday, May 2, I was privileged to join in the dedication ceremony of the new Weirton Campus of the West Virginia Northern Community Campus.

The growing educational institution began as a branch of West Liberty State College in 1965. Seven years later, the West Virginia Board of Regents created West Virginia Northern Community College with campuses at Weirton and Wheeling, and later added a third campus at New Martinsville.

Enrollment has grown dramatically, rising from a total enrollment of 1,104 students in 1972 to more than 6,000 today. The new Weirton campus, a complex of seven buildings replacing temporary classrooms in local government and private industrial structures, has risen from 492 to nearly 2,000.

College President Dr. Daniel B.

Crowder and Weirton Campus Director Terrell L. Thistlewaite have committed West Virginia Northern to provide a broad range of educational opportunities to the Hancock and Brooke Counties.

President Crowder gave the dedication address. Others participating included: Rev. John W. Cromwell of the First Baptist Church, who gave the invocation; P. Paul Altomare, master of ceremonies; Matthew Magnone, who provided welcoming remarks; Weirton Mayor Michael J. Androchick, Jr.; and Arch Miller, Jr., vice chairman of the college advisory board.

President Crowder presented an eloquent case for the community college: He said:

> As a comprehensive community college, West Virginia Northern must maintain a well-balanced curriculum. The familiar debate as to whether an institution of higher learning should emphasize career education or the liberal arts in a specious and futile argument: people must be able to earn a living, but also learn how to live. An over-emphasis in one direction is as bad as an over-emphasis in the other . . .
>
> Community college programs are based on actual needs as reflected in employment opportunities available to graduates in their particular communities. In fact, many college students find employment before completing their intended courses of study.
>
> Given these conditions, we feel it is irresponsible to overlook or ignore the Department of Labor study of 1972. This study concluded that not more than 15 to 20 percent of jobs available in the foreseeable future will require a four-year degree or post-graduate professional training. The same study indicated, however, that an increasing number of employment opportunities would require varying degrees of technical training beyond high school. Today, approximately 50 percent of all high school graduates seek some form of post-secondary education. It is irresponsible to channel even a majority of these young people into a traditional college curriculum.
>
> America's community colleges are responding to real employment conditions. At the same time, they are highly sensitive to the cultural and aesthetic needs of the people in their service areas . . .
>
> The American community college is proud to train people for useful employment; it subscribes to the time-honored American proposition that all skills and professions are valuable, providing they increase the happiness of individuals and promote the welfare of society.

Mr. President, the Weirton campus of Northern West Virginia Community College is a product of creative minds, the cooperation of community officials and of citizens whose public-spirited endeavors are well reasoned.

DIVESTITURE IN PETROLEUM INDUSTRY

Mr. HANSEN. Mr. President, in a recent edition of the Baltimore Sun, the issue of divestiture in the petroleum industry is discussed at some length by my colleagues, Senator Philip A. Hart, and Senator Hruska. At issue are the provisions of the bill, S. 2387, which is now being considered by the Committee on the Judiciary. This is a complex problem and both Senators address it articulately and wisely.

Personally, I do not believe such drastic action is necessary. It appears to be another step toward the nationalization of American industry. With the legitimization of such tremendous Government interference in the workings of the petroleum industry as a precedent, what industry will be "broken up" next? The possibilities are staggering and the consequences, I believe, would be disastrous.

Mr. President, I ask unanimous consent that the article "Should Big Oil Be Broken Up?" which appeared in the May 15 edition of the Baltimore Sun be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Debate and Discussion—Should Big Oil Be Broken Up?

The Senate Judiciary Committee moves into the final stage next week of hearings on antitrust proposals to force the giants of the oil industry to divide themselves into companies limited to production or transportation or refining or marketing. This is the highly controversial oil divestiture bill designed to break up the vertical integration that has permitted the oil majors to control operations from the wellhead to the neighborhood gas pump. The measure will be the focus of an intense struggle if it reaches the Senate floor. Senator Philip A. Hart, chairman of the Senate Antitrust and Monopoly Subcommittee, argues here for divestiture. Senator Roman L. Hruska, ranking Republican on the subcommittee, states the case against such a move.

(By Philip A. Hart)

Most of us who have read a little history—and watched quite a bit more of it made—begin to develop almost a sixth-sense for the issues that have an "inevitable" stamp on them.

These are the issues which may seem radical—even crazy—when first raised but which become conservative and respectable as we become familiar with them.

Social Security, civil rights laws and national health insurance fit the mold. So, I think, does divestiture for the major oil companies.

The basic argument for splitting the major oil companies into producers, transporters or refiner-marketers, of course, is that this is the best way to restore competition to the industry.

The industry—and its apologists—react by saying there is much competition today. They point to figures on concentration of crude oil ownership—showing that the top eight companies had about 54 per cent. Although these figures are by no means insignificant, there are other industries where the concentration of economic power figures are higher. But the real problem is who controls crude supplies. And, in this industry, control does not come only from ownership.

The majors also gain control through the joint operations which dominate the industry. As partners in these operations, smaller and independent firms may have equity interest in crude produced, yet exercise little control over it.

Offshore, to the extent that smaller firms are involved at all, it is in joint ventures with major companies who generally operate the leases and—as a practical matter—control the disposition of the oil. On shore, a great deal of the independent production is under so-called farm-out agreements with major companies. Typically, these agreements give the major first call on production.

Another important factor in the control of crude is the pipeline system. Almost invariably crude passing into a pipeline is sold to the line's owner. Two simple figures demonstrate quickly how this transaction magnifies the majors' control of the crude supply: In 1973, more than 64 per cent of all interstate crude pipeline shipments were over lines owned by the eight largest oil companies. More than 92 per cent of the crude went over lines owned or controlled by the top sixteen companies.

Thus, each of the top eight firms ends up owning volumes of crude far in excess of its own refinery needs. In effect, these firms almost totally control the crude supplies to the independent sector.

The final way the majors keep control of crude is through exchange agreements. A very large volume of crude oil changes hands after it leaves the wellhead. A substantial part does so under exchange agreements. In a crude oil exchange two or more companies agree to make approximately equal amounts of crude available to each other at mutually convenient locations. The system removes a substantial portion of crude from open cash markets and forecloses the market to potential buyers. Moreover, the system deters price competition among exchange members who would suffer retaliation if they were to injure the interest of an exchange partner. Exchanges inevitably mean the sharing of much information among firms about their respective production and refining operation.

Since the October Arab-Israeli war, this control of domestic crude has had a new dimension which threatens to suffocate the independence—if not the life—of the non-integrated refining and marketing sectors.

In three years, the price of domestic crude has risen from about $3.90 to about $7.60. If price controls were lifted, the new level no doubt would be the world market level of $11 to $12 a barrel. This price exceeds the average cost of finding, developing and producing a barrel of domestic crude by $7 or $8.

Even very efficient competitors—which most of the independents have had to be for many years—can't overcome that kind of handicap.

In sum, what we have in the domestic crude market today is: No market. The supply is historically channelled by the top sixteen companies to the areas where it will do them the most good—or the least harm. In part, the major companies now are temporarily hampered in using their crude for their own best ends by the fact that the government has stepped in and demanded that supplies be made available to independent refiners at somewhat reasonable prices.

Clearly, the control program itself offers the best evidence that federal regulation is not a good way to govern a market—let alone to create one.

But using divestiture—splitting the producers from the refiners—would create a large and accessible crude market where all refiners would bid for crude on an equal basis.

Only with such an even start, can we be assured that the players with the best services—at the best prices—will come out winners.

And that is exactly what divestiture seeks.

In other words, we are seeking to re-establish the free enterprise system in this industry. That doesn't seem to be such a radical idea.

(By Roman L. Hruska)

The oil industry divestiture bill is based on the oversimplified propositions that there are insufficient competition and inadequate enforcement of antitrust laws. The bill would require the petroleum industry to divide itself into four segments—production, transportation, refining and marketing.

No one of those components could own or have any direct or indirect interest, not even long-term contracts, in any of the other segments.

The companies affected would have to submit to the Federal Trade Commission a plan to divest themselves of the offensive units.

There are drastic penalties for violations. An individual would be subject to fines up to $100,000, a corporation up to $1 million. I can foresee wholesale resignations.

The advocates of the bill have the burden to show that a change is necessary, that the proposal they make will work, and that it will work better than the present system. In none of these major propositions have the advocates shown any degree of success in coming forward with the needed evidence.

Their contentions are that this industry is dominated by huge, vertically-integrated companies, whose assets place them in virtual control of all four phases of the petroleum business. That is not true.

This bill, instead of resorting to litigation, is a legislative shortcut to do in five years what the courts would take eight or ten years to do. Fifteen years of litigation, turmoil and confusion would curtail capital funds necessary to proceed with additional production, refining, marketing and pipelines.

The bill, in my judgment, is a knee-jerk reaction to popular resentment against the high prices for which the domestic companies are not responsible. The Organization of Petroleum Exporting Countries (OPEC) sets the price of oil here in America, and we cannot forget it.

By any known definition of "monopoly" there is no monopoly in the petroleum business in America today. A monopoly consisting of 18 companies does not make sense, does it? The normal definition of monopoly is four companies dominating up to 50 percent of the market. In the oil industry, the top four share from 25 to 33 percent of the business, depending on what segment of the industry is being examined.

A monopoly keeps out new firms, restricts supply, maintains or raises prices, divides the markets and obtains high profits. None of these is true in the petroleum industry.

Are there new entrants? Since 1950 there have been ten companies which have erected refineries with daily capacities of 50,000 barrels and more. Obviously, these new entrants are doing just fine.

The independents in the marketing field controlled 25 percent of the gasoline market in 1968, and seven years later they have 33 percent. Now if that is a monopoly, the big companies sure fell down on the job, didn't they? They let 8⅓ percent of their market get away from them.

One would expect that if big companies were effective as a monopoly, the 25 percent share held by the independents would have been cut down to 15 percent. It did not happen.

As to raising prices, I suggest that job is taken care of by OPEC. Forty percent of the oil that we use in America today is imported oil. The domestic companies don't fix that price, OPEC does.

What about those so-called excessive profits in 1974? The fact is it was a year of inventory profits. Those profits were not paid out in dividends. Virtually all the companies had to stretch to meet the cash drain necessary to replace the inventory they sold at such a large margin of profit. So the profits aren't there. Over the years the level of profits in the industry is about 12½ per cent of assets. That's about the national average for all industries—so there aren't any excessive profits.

If joint ventures and exchange agreements are so pernicious, why not make them illegal? If you did make them illegal, there would be no drilling on the outer continental shelf and there would be no finishing of the Alaska pipeline. Any time you bar joint ventures in risky projects you invite disaster and a complete immobilization of growth and progress.

There is no showing that the fragmentation of these oil companies would result in a cessation of these practices which the supporters of divestitute find objectionable.

Would divestiture work? Maybe it would, but not without great cost. The cost would be a tremendous increase in prices for consumers and a steadily rising level of prices, because each one of these component elements would be producing under the specified maximums.

Each one on its own would have to produce a sufficient profit to entice and to retain investors. That cannot be done more economically than it is done now because there are certain economies of scale which, when eliminated, will automatically result in higher prices.

Will 80 companies instead of 20 increase our ability as an industrial nation to deal successfully with the OPEC countries? Common sense tells us no. The divestiture bill will hurt the industry and America.

THE OTHER VICTIMS OF ALCOHOL

Mr. BAYH. Mr. President, "The Other Victims of Alcohol" are children, men and women whose lives are affected by someone else's drinking problem.

Unfortunately, it is still not generally known that the victims of alcoholism, other than the alcoholic, need information, help and treatment, whether or not the alcoholic seeks help or even recognizes the existence of a drinking problem.

Increasing research data would indicate that:

First, more than 40 million people in this country are directly and adversely affected by someone else's drinking problem;

Second, of these 40 million "other victims" over 28 million are children of alcoholic parents;

Third, the stigma still attached to the disease of alcoholism is the greatest deterrent to people seeking help or information; and

Fourth, it is not generally known that the impact of alcoholism on "the other victims" touches all areas of society including schools, courts, industry, insurance and health and Government agencies.

When the disease of alcoholism strikes, the alcoholic is not the only victim.

Our society must become more aware of this major health and social problem.

Mr. President, I would like to bring to the attention of my colleagues an organization which grew out of the First National Women's Forum on Our Nation's Drinking Problem: Its Impact on Society which was held last February in New York City under the direction of Josie Balaban Couture, the chairperson of the communications committee of the National Council of Women of the United States, Inc. Ms. Couture, an energetic, resourceful and dedicated woman, is the president of the National Task Force on "The Other Victims of Alcoholism, Inc." The goals of this organization include:

First. Defining the issues: To identify, through the combined efforts of private citizens and concerned groups, the impact of alcoholism on "The Other Victims of Alcoholism," the people whose lives are adversely affected by someone else's drinking problem.

To outline the need to provide information, help and treatment for these "other victims," whether or not the alcoholic seeks help or even recognizes the existence of a drinking problem.

Second. Recommendations: To develop specific policy and program recommendations for action by all levels of government, the private sector and all areas of social concern, regarding these other victims of the disease of alcoholism.

Third. Implementation: To insure, through making provisions for "The Other Victims of Alcoholism" as an ongoing focal point, that steps are taken to implement these policy and program recommendations and that positive changes occur.

The national offices of The Other Victims of Alcoholism are located at 100 West 57th Street, New York, N.Y. 10019, (212) 247–8087, and Ms. Couture may be contacted for any further information on this task force.

Many of us know someone who has a drinking problem—a loved one, a friend, a neighbor, or a business or school associate. We realize it is a sensitive situation to deal with, yet we would like to help. But how? One suggestion—understanding alcoholism through educations programs. The prize winning special "Drink—Drank—Drunk" is *available on* 16 mm. film or videocasette and was produced by public television under a grant from the 3M Co. It is available through your local community alcoholism service organization. It is also available through the Public Television Library, 475 l'Enfant Plaza S.W., Washington, D.C. 20024, (202) 488–5000. I ask unanimous consent, Mr. President, to have printed at this point in my remarks the following quiz on drinking.

There being no objection, the quiz was ordered to be printed in the Record, as follows:

DRINK, DRANK, DRUNK QUIZ ON DRINKING

The following quiz was presented by E. G. Marshall on "Drink, Drank, Drunk," the public television special hosted by Carol Burnett and produced by WQED Pittsburgh, under a grant from the 3M Company.

Over 35 million Americans are affected by the abnormal drinking of someone close. But that also means that there are over 35 million people in a good position to help problem drinkers, because they are so close. But before you can help, you have to be able to recognize the problem. I'm going to ask 20 questions that can help you decide if someone close drinks too much. Just think of the person or people whose drinking you're concerned about, and answer "yes" or "no."

1. Do you worry about how much they drink?

2. Do you complain about how often they drink?

3. Do you criticize them for the amount they spend on drinking?

4. Have you ever been hurt or embarrassed by their behavior when they drink?

5. Are holidays in your home unpleasant because of their drinking?

6. Do they ever lie about their drinking?

7. Do they deny that drinking affects their behavior?

8. Do they say or do things, and later deny having said or done them?

9. Do you sometimes feel that drinking is more important to them than you are?

10. Do they get angry if you criticize their drinking or their drinking companions?

11. Is drinking involved in almost all your social activities?

12. Does your family spend almost as much on drinking as it does on food?

13. Are you having any financial difficulties because of drinking?

14. Does their drinking keep them away from home a great deal?

15. Have you ever threatened to leave them because of their drinking?

16. Have you ever lied for them because of their drinking?

17. Do you find yourself urging them to eat instead of drink at parties?

18. Have they ever stopped drinking completely for a period of time, and then started again?

19. Have you ever thought about calling the police because of their drinking behavior?

20. Do you think that drinking created problems for them?

Mr. BAYH. Mr. President, many Americans are unable to find meaning or purpose in life, to be happy or to relate to other human beings without using alcohol. You have the unique opportunity to provide a new beginning—a second genesis—for those victims whose lives and dreams have been lost to others' alcohol dependence. It is a people-to-people responsibility—a reaching out by one human being to another.

When life itself becomes a mind expanding experience, little will be heard about alcohol for this purpose.

We must begin now.

Now is the time to stress the impact of our Nation's drinking problem on "the other victims" of the disease of alcoholism.

Now is the time to assure that resources are available to assist "the other victims" with needed information, help *or* treatment according to what has happened to them—not according to what has happened to the alcoholic.

Now is the time to show the crucial role of the communications media in acquainting the public with this major social problem.

We must make a national commitment that is commensurate with the nature and extent of these concerns. Whether young or old; male or female; black or white; rich or poor; employed or unemployed; and executive or laborer; a student or doctor; an immigrant or native born, all the citizens of this country deserve no less.

"DARKNESS AT NOON" BY HAROLD KRENTS

Mr. HATFIELD. Mr. President, earlier this week, Mr. Harold Krents wrote a moving article in New York Times entitled "Darkness at Noon." Mr. Krents is blind, and the article discusses what life has been like for Mr. Krents to grow up in a world where too little attention is paid to problems facing handicapped Americans.

I know about Mr. Krents' success as a lawyer, and he is someone who has achieved much for which to be proud—indeed many people with no impairments at all would envy his record of success.

Mr. Krents' article should remind us all about the problems facing blind Americans. He refers to the type of problem that is too often ignored, even by those who consider them sensitive to the normal problems of blindness.

I call this article to the attention of my colleagues, and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, May 26, 1976]

Darkness at Noon

(By Harold Krents)

Washington.—Blind from birth, I have never had the opportunity to see myself and have been completely dependent on the image I create in the eye of the observer. To date it has not been narcissistic.

There are those who assume that since I can't see, I obviously also cannot hear. Very often people will converse with me at the top of their lungs, enunciating each word very carefully. Conversely, people will also often whisper, assuming that since my eyes don't work, my ears don't either.

For example, when I go to the airport and ask the ticket agent for assistance to the plane, he or she will invariably pick up the phone, call a ground hostess and whisper. "Hi, Jane, we've got a 76 here." I have concluded that the word "blind" is not used for one of two reasons: Either they fear that if the dread word is spoken, the ticket agent's retina will immediately detach, or they are reluctant to inform me of my condition of which I may not have been previously aware.

On the other hand, others know that of course I can hear, but believe that I can't talk. Often, therefore, when my wife and I go out to dinner, a waiter or waitress will ask Kit if "*he* would like a drink" to which I respond that "indeed *he* would."

This point was graphically driven home to me while we were in England. I had been given a year's leave of absence from my Washington law firm to study for a diploma in law degree at Oxford University. During the year I became ill and was hospitalized. Immediately after admission, I was wheeled down to the X-ray room. Just at the door sat an elderly woman—elderly I would judge from the sound of her voice. "What is his name?" the woman asked the orderly who had been wheeling me.

"What's your name?" the orderly repeated to me.

"Harold Krents," I replied.

"Harold Krents," he repeated.

"When was he born?"

"When were you born?"

"Nov. 5, 1944, I responded.

"Nov. 5, 1944, the orderly intoned.

This procedure continued for approximately five minutes at which point even my saint-like disposition deserted me. "Look," I finally blurted out, "this is absolutely ridiculous. Okay, granted I can't see, but it's got to have become pretty clear to both of you that I don't need an interpreter."

"He says he doesn't need an interpreter," the orderly reported to the woman.

The toughest misconception of all is the view that because I can't see. I can't work. I was turned down by over forty law firms because of my blindness, even though my qualifications included a cum laude degree from Harvard College and a good ranking in my Harvard Law School class.

The attempt to find employment, the continuous frustration of being told that it was impossible for a blind person to practice law, the rejection letters, not based on my lack of ability but rather on my disability, will always remain one of the most disillusioning experiences of my life.

Fortunately, this view of limitation and exclusion is beginning to change. On April 16, the Department of Labor issued regulations that mandate equal-employment opportunities for the handicapped. By and large, the business community's response to offering employment to the disabled has been enthusiastic.

I therefore look forward to the day, with the expectation that it is certain to come, when employers will view their handicapped workers as a little child did me years ago when my family still lived in Scarsdale.

I was playing basketball with my father in our backyard according to procedures we had developed. My father would stand beneath the hoop, shout, and I would shoot over his head at the basket attached to our garage. Our next-door neighbor, aged five, wandered over into our yard with a playmate. "He's blind," our neighbor whispered to her friend in a voice that could be heard distinctly by Dad and me. Dad shot and missed; I did the same. Dad hit the rim; I missed entirely; Dad shot and missed the garage entirely. "Which one is blind?" whispered back the little friend.

I would hope that in the near future when a plant manager is touring the factory with the foreman and comes upon a handicapped and nonhandicapped person working together, his comment after watching them work will be, "Which one is disabled?"

CODE OF CONDUCT FOR MULTINATIONAL CORPORATIONS

Mr. PERCY. Mr. President, this week the Organization for Economic Cooperation and Development—OECD—has unveiled a code of conduct for multinational corporations and a code of governmental responsibilities to firms. The OECD proposals are expected to be approved by the foreign and finance ministers of OECD member nations when they meet in Paris June 21 and June 22.

Although the proposals made by OECD are voluntary, they are expected to have considerable impact on member countries and multinational corporations.

The code specifically states that multinationals "should not render and they should not be solicited or expected to render any bribe or other improper benefit, direct or indirect, to any public servant or holder of public office." It also contains warnings about multinationals becoming involved in political activities. On the other side, the proposals admonish countries to treat multinationals operating in their countries in a consistent fashion with the treatment accorded to their own national companies.

In light of the importance of these proposals made by the OECD, I ask unanimous consent that several newspaper articles of the past 2 days outlining these proposals be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, the unveiling of those proposals in the past 2 days reemphasizes the importance of a speech made on April 22, 1976, in Chicago by Mr. Gaylord Freeman, honorary chairman of the First National Bank of Chicago before the Chicago World Trade Conference. In that speech, Mr. Freeman talked about what elements should be contained in a code of conduct for business activities. In his remarks, Mr. Freeman strongly stressed that for any briber, there must also be a bribee somewhere in Government. Therefore, he strongly urged that any code of behavior not just be limited to the corporations but also be extended to potential recipients of corporate funds.

At first glance, the OECD proposals appear to provide a code of conduct for governments as well as corporations as Mr. Freeman suggested. Mr. President, I ask unanimous consent that the speech by Mr. Freeman I have just referred to also be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PERCY. Mr. President, the question of the conduct of multinational corporations has been one that the Multinational Corporations Subcommittee of the Foreign Relations Committee has been studying for some time. I know from our study and from my own personal experience of the immense benefits that multinational corporations have brought to the world economy and the millions of jobs and great contribution they have made to the strength of our country. However, we have found that, in some instances, unethical, if not illegal, payments have been made by some corporations in their business dealings.

It is my hope that the OECD proposals will help provide a climate in which multinational corporations can conduct their affairs in a straightforward and ethical manner without being subjected to the pressures they have in the past for payments in order to obtain business. I look forward to the signing of the OECD proposals next month and hope that they will help provide the framework for continued international economic activity and growth.

Exhibit 1

[From the Wall Street Journal, May 27, 1976]

OECD Plans Tougher Code on Bribery for Multinationals Than Slated Earlier

(By Jack Aboaf)

Paris.—A code of conduct for multinational enterprises, to be formally adopted next month by the Organization for Economic Cooperation and Development, will contain tougher recommendations on the bribery issue than do earlier drafts.

Unlike earlier drafts, considered too mild by the U.S. and other member countries the recommendations being pondered by the international study group are more specific and cover both bribes and involvement in local political activities.

The final draft, which has been under discussion for more than a year, states that multinationals "shouldn't render—and they shouldn't be solicited or expected to render—any bribe or other improper benefit, direct or indirect, to any public servant or holder of public office."

It further states that "unless legally permissible, multinationals shouldn't make contributions to candidates for public office or to political parties or other political organizations," adding that multinationals "should abstain from any improper involvement in local political activities."

WORDING IS STRONGER

The new wording on bribery is stronger and goes further than a previous draft, which simply called on multinationals "to observe the best standards set by relevant local customs and practices with regard to rendering gifts and other benefits to public servants."

The code urges multinationals to disclose more "factual information" about their enterprises as a whole beyond the information disclosed under national laws in the country of operation.

It urges multinationals, too, to "refrain from actions which would adversely affect completion" by abusing dominant positions of market power.

In managing their financial and commercial operations especially their liquid foreign assets and liabilities, multinationals should take into consideration the established objectives of the countries in which they operate regarding balance of payments and credit policies, the proposed code says.

TAX OBLIGATIONS

The proposed code of conduct also calls on multinationals to avoid indulging in artificial transfer pricing to get around their tax obligations.

Host countries would be requested to "accord to enterprises operating in their territories" and owned or controlled by nonnationals law and now less favorable than that accorded in like situations to domestic enterprises," the draft says.

It emphasizes, however, that the code doesn't deal with the right of member countries "to regulate the entry of foreign investment or the conditions of establishment of foreign enterprises."

Although observance of the code "is voluntary and isn't legally enforceable," corporations that depart from the general rules probably will find it difficult to operate in certain countries, some observers said.

The code of conduct is scheduled to be formally approved at the annual ministerial meeting of the OECD council set for June 21 and 22.

[From the New York Times, May 27, 1976]

Twenty-four Nations Set Up a Corporate Code—OECD Members Agree on Strict Rules of Conduct for Multinational Concerns

(By Clyde H. Farnsworth)

Paris, May 26.—After more than a year of difficult negotiations, the 24 member countries of the Organization for Economic Cooperation and Development have agreed on a strict code of conduct for multinational corporations.

The O.E.C.D. action, which represents the first time Western governments, acting in concert, have expressed an opinion about corporate behavior, follows a series of disclosures of bribery and other illicit practices by some multinationals that had broad political ramifications. The multinational companies were chiefly but not exclusively based in the United States. The voluntary code has been negotiated against a background of demands for new legal restraints upon the corporations.

Although the guidelines, which are expected to be formally adopted at an O.E.C.D. ministerial meeting in Paris June 21, are voluntary, they are expected to carry considerable political and moral weight.

The differences over specific provisions, chiefly between the United States and Sweden, were resolved by compromises in meetings here. The final agreement came last Friday, and a text is now being circulated among companies and trade unions in the member countries.

Some 700 American corporate executives are to be briefed on the new code at a meeting in Washington next Tuesday, American officials said.

Business community and labor union representatives were consulted during the long O.E.C.D. deliberations. Officials now hope to get most corporations to proclaim their adherence to the code.

A text of the agreement was obtained by The New York Times.

In a strongly worded section on illicit practices, it says that companies should "not render, and they should not be solicited or expected to render, any bribe or other improper benefit, direct or indirect, to any public servant or holder of public office; unless legally permissible, not make contributions to candidates for public office or to political parties or other political organizations, and abstain from any improper involvement in local political activities."

RESPONSIBILITIES OUTLINED

The code and associated documents, which in the O.E.C.D. are called its investment package, outline the responsibilities that governments feel companies should accept.

But for balance the package also provides a framework of government responsibilities for "fair treatment" of the companies.

In this context the governments agree that treatment of the multinationals, under laws, regulations and administrative practices, should be "no less favorable than that accorded in like situations to domestic enterprises."

The guidelines note the important role the multinationals play in international economic relations and point to the substantial benefits of international direct investment and the efficient utilization of capital, technology and human resources.

But the governments also state that the phenomenon of multinational enterprises may lead to "abuse of concentrations of economic power and to conflicts with national policy objectives."

In addition, they say, the complexity of the enterprises and their diverse structures, operations and policies "sometimes give rise to concern."

The main thrust of the guidelines, then, is on greater disclosure of information. And it was here that the major conflicts arose among the governments.

The 24 O.E.C.D. nations of Western Europe, North America and developed Asia serve as headquarters for most of the multinationals. The area accounts for two-thirds of the world's gross national product and three-quarters of its trade.

Sweden led the fight for maximum disclosure. It had sought to get companies to disclose profits, wages, sales, transfer prices and other data on a country-by-country basis.

Other countries, led by the United States, argued that companies would be forced to give away to much competitive information if they broke down their data in this manner.

Under a compromise, companies would report by "geographical area," which means groups of countries or individual countries or individual countries as each enterprise deems appropriate.

Some of the data required under the guidelines go beyond what American companies must disclose.

[From the New York Times, May 27, 1976]

Excerpts From OECD Text on Conduct Code

(Paris, May 26—Following are excerpts from the text of the annex to the declaration of June 21, 1976 by governments of member countries of the Organization for Economic Cooperation and Development on international investment and multinational enterprises.)

GENERAL POLICIES

Enterprises should

(1) Take fully into account established general policy objectives of the member countries in which they operate;

(2) In particular, give due consideration to those countries' aims and priorities with regard to economic and social progress, including industrial and regional development, the protection of the environment, the creation of employment opportunities, the promotion of innovation and the transfer of technology;

(3) While observing their legal obligations

concerning information, supply their entities with supplementary information the latter may need in order to meet requests by the authorities of the countries in which those entities are located for information relevant to the activities of those entities, taking into account legitimate requirements of business confidentiality;

(4) Favor close cooperation with the local community and business interests;

(5) Allow the component entities freedom to develop their activities and to exploit their competitive advantage in domestic and foreign markets, consistent with the need for specialization and sound commercial practice;

(6) When filling responsible posts in each country of operation, take due account of individual qualifications without discrimination as to nationality, subject to particular national requirements in this respect;

(7) Not render—and they should not be solicited or expected to render—any bribe or other improper benefits, direct or indirect, to any public servant or holder of public office;

(8) Unless legally permissible, not make contributions to candidates for public office or to political parties or other political organizations;

(9) Abstain from any improper involvement in local political activities.

DISCLOSURE OF INFORMATION

Enterprises should, having due regard to their nature and relative size in the economic context of their operations and to requirements of business confidentiality and to cost, publish in a form suited to improved public understanding a sufficient body of factual information on the structure, activities and policies of the enterprise as a whole, as a supplement, insofar as is necessary for this purpose, to information to be disclosed under the national law of the individual countries in which they operate. To this end, they should publish within reasonable time limits, on a regular basis, but at least annually, financial statements and other pertinent information relating to the enterprise as a whole, comprising in particular:

(1) The structure of the enterprise, showing the name and location of the parent company, its main affiliates, its percentage ownership, direct and indirect, in these affiliates, including shareholdings between them;

(2) The geographical areas where operations are carried out and the principal activities carried on therein by the parent company and the main affiliates;

(3) The operating results and sales by geographical area and the sales in the major lines of business for the enterprise as a whole;

(4) Significant new capital investment by geographical area and, as far as practicable, by major lines of business for the enterprise as a whole;

(5) A statement of the sources and uses of funds by the enterprise as a whole;

(6) The average number of employees in each geographical area;

(7) Research and development expenditure for the enterprise as a whole;

(8) The policies followed in respect to intragroup pricing;

(9) The accounting policies, including those on consolidation, observed in compiling the published information.

COMPETITION

Enterprises should, while conforming to official competition rules and established policies of the countries in which they operate,

(1) Refrain from actions which would adversely affect competition in the relevant market by abusing a dominant position of market power, by means of, for example, (a) anti-competitive acquisitions; (b) predatory behavior toward competitors; (c) unreasonable refusal to deal; (e) discriminatory [i.e., unreasonably differentiated pricing and using such pricing transactions between affiliated enterprises as a means of affecting adversely competition outside these enterprises.]

(2) Allow purchasers, distributors and licensees freedom to resell, export, purchase and develop their operations consistent with law, trade conditions, the need for specialization and sound commercial practice;

(3) Refrain from participating in or otherwise purposely strengthening the restrictive effect of international or domestic cartels or restrictive agreements which adversely affect or eliminate competition and which are not generally or specifically accepted under applicable national or international legislation;

(4) Be ready to consult and cooperate, including the provision of information, with competent authorities of countries whose interests are directly affected in regard to competition issues or investigations. Provision of information should be in accordance with safeguards normally applicable in this field.

FINANCING

Enterprises should, in managing the financial and commercial operations of their activities, and especially their liquid foreign asset and liabilities, take into consideration the established objective the countries in which they operate regarding balance of payments and credit policies.

TAXATION

Enterprises should

(1) Upon request of the taxation authorities of the countries in which they operate provide in accordance with the safeguards and relevant procedures of the national laws of these countries, the information necessary to determine correctly the taxes to be assessed in connection with their operations, including relevant information concerning their operations in other countries;

(2) Refrain from making use of the particular facilities available to them, such as transfer pricing which does not conform to an arm's-length standard, for modifying in ways contrary to national laws and tax base on which members of the group are assessed.

INDUSTRIAL RELATIONS

Enterprises should within the framework of law, regulations and prevailing labor relations and employment practices, in each of the countries in which they operate.

(1) Respect the right of their employees to be represented by trade unions and other bona fide organizations of employees, and engage in constructive negotiations, either individually or through employers' associations, with such employee organizations with a view to reaching agreements on employment conditions, which should include provisions for dealing with disputes arising over the interpretation of such agreements, and for insuring mutually respected rights and responsibilities.

[From the Wall Street Journal, May 28, 1976]

A CODE FOR MULTINATIONALS

(By Paul H. Boeker)

For the past 18 months the U.S. government has been working with other industrial countries of the Paris-based Organization for Economic Cooperation and Development to develop voluntary guidelines for multinational firms as well as a complementary codification of governmental responsibilities to firms. Why?

The U.S. economy and U.S. business have long benefited from a liberal climate for international investment flows among the industrial countries. Throughout the post-World War II period this basically open investment climate has been sustained simply because most industrial countries considered that it unambiguously served their interest in high growth. No multilateral structure—not GATT for investment—was needed to maintain this investment climate. The normal course of events was toward greater liberalization.

The U.S. interest in liberal treatment of investment flows among the industrial economies remains unchanged, but the environment in which the U.S. has to pursue this interest, and therefore the techniques required, have changed dramatically in the last three years. Although the basic environment of regulation regarding foreign investment among the industrial countries is still a generally liberal one, significant political and economic pressures are working to erode an open investment climate.

Most of Western Europe has attained a level of employment and a rate of growth such that the previous the-more-the-better presumption regarding incoming investment is no longer so widely accepted. Moreover, increased emphasis on the qualitative effects of investment, both domestic and international, have led to more careful scrutiny of all investment activity from the standpoint of environmental safety, health and social policy aspects.

In addition, there is a significant intellectual challenge, particularly on the part of trade union economists in the U.S. and Western Europe, to the liberal presumption underlying open investment policies; that is, the presumption that letting investment flow to where returns are greatest increases incomes all around. This challenge implies a presumption that governments should selectively encourage or restrict some kinds of outgoing investment and other kinds of incoming investment.

Most recently two significant sets of events have increased pressures for investment restrictions. First, exaggerated expectations of massive direct investment by the new oil-rich countries prompted a careful review of each industrial country's regulatory devices regarding incoming investment. Second, dramatic revelations in the United States regarding illicit payments and in some cases improper political activity by multinational enterprises has shaken confidence worldwide in this institution.

COUNTERING ERODING CONFIDENCE

Unless effectively countered, this eroding confidence can feed pressures for regulation of investment for years to come, thus threatening the real benefits that we have enjoyed and continue to derive from a liberal international investment regime. U.S.-based multinationals have recognized this problem, as indicated by the rash of company codes now being issued by U S. firms. Company codes are a useful and necessary part of an effective response to public concerns. Yet a series of company codes has limited impact on perceptions and judgments regarding the multinational enterprise as an institution.

Further, company codes do not touch the program of government behavior—an essential element of a stable investment climate. To produce a stable investment environment indications by foreign-controlled firms that they are willing to respect national policies on the environment, regional development, etc., should be balanced by government undertakings to treat these firms no less favorably than domestic firms.

Regulation at the national level can deal with some of these concerns and problems. But national regulations have to be very restrictive to affect decisively behavior in other jurisdictions; thus they involve an inherent bias towards overkill. Unilateral approaches can also invite counter actions by others. For example, even if governments could successfully pinpoint particularly favorable and less favorable investments for their interests, efforts to selectively pull these in and push them out through investment aids and restrictions would yield an unstable system of competitive actions and reactions by others; in short, the beggarthy-neighbor cycle spiraling toward the most restrictive possible environment. Finally, the benefits of the U.S. of a liberal climate for international investment depend upon other countries playing the game as well. Unilateral approaches simply cannot yield this essential reciprocity.

If valid, this analysis leads to two fundamental conclusions. First, a liberal climate for international investment flows among industrial countries will not survive resigned neglect on the part of its proponents, particularly its proponents in the United States. Second, the time has come to try to extend the discipline of multilateral cooperation to the last, uncovered area of international economic activity—international direct investment.

It is these two conclusions that have motivated the U.S. government to support development within the OECD of an integrated set of undertakings regarding international direct investment. The OECD package, which the foreign and finance ministers of the OECD countries hope to formally approve when they meet in Paris on June 21 and 22, consists of the following interrelated elements:

1. The governments of the OECD, at the ministerial level, will affirm their common orientation towards international direct investment flows. This orientation embodies the fundamental presumption that a liberal climate for international direct investment among the industrial countries is in their common interest and that therefore their common aim is to encourage the positive contribution that multinational enterprises make to the economic and social development of the countries of the region.

2. These governments reaffirm their basic responsibilities for treatment of incoming foreign investment, in particular the obligation to accord foreign-controlled enterprises operating on their territory national, or non-discriminatory, treatment; the package also includes these governments' basic understanding that they should meet their other responsibilities to multinational enterprises, particularly to treat them equitably and in accordance with international law, to respect contracts concluded with foreign enterprises and to encourage use of international dispute settlement mechanisms.

3. The governments of the OECD agree to take each other's interests into account in the field of investment aids and restrictions and to cooperate to avoid any beggar-thy-neighbor type actions pulling or pushing particular types of investment in or out of their territory.

4. In an effort to address the underlying problem of public confidence, the governments of the OECD plan to recommend to multinational enterprises operating in their territories voluntary guidelines which embody what their governments collectively consider to be high standards of good business practice for multinational firms.

5. The governments of the OECD will agree to establish a consultative process to review experience under each of these basic declarations; in particular the consultation process will review any derogations from the national treatment principle in an effort to eliminate them; consultations will also monitor the "don't-beggar-thy-neighbor" principle in the field of investment aids and restrictions; and finally, consultations will review experience with the guidelines for multinational enterprises.

Because of the importance of this negotiation to U.S. business, the Department of State, which has responsibility for these negotiations, as well as Treasury, Commerce and other government agencies involved have worked closely with U.S. business not only to consult on the course of the negotiations but also to help the administration develop its position on the substance of the guidelines. An advisory committee was set up last summer, which included representatives from the U.S. Chamber of Commerce, National Association of Manufacturers, the U.S. Council of the International Chamber of Commerce and a number of other business organizations and companies as well as representatives from labor, consumer groups, the academic community and the legal and accounting professions. Succeeding drafts of the guidelines and the related intergovernmental undertakings have been regularly provided to business and other interested private sector groups through the advisory committee at each stage of the negotiations.

STANDARDS OF BEHAVIOR

The challenge to the governments of the OECD to specify what high standards of business practice multinationals should follow has now led to a set of standards which should be ones that U.S.-based multinationals can indicate with confidence that they do follow, and intend to follow, in their operations. U.S.-based multinationals therefore will have an opportunity to indicate what is, despite the illicit payments nightmare, the actual state of business standards for the preponderance of U.S. multinations: that is, that they are internationally in the vanguard of those practicing high standards of business conduct.

The U.S. government would welcome such a response in whatever form by U.S. companies to the guidelines. There will, however, be no arm-twisting from Washington—because the U.S. objective from the beginning has been to set up a voluntary compact between governments articulating reasonable standards of business practice and enterprises indicating on their own that these are standards they do apply and intend to apply in the future. The administration has opposed binding international guidelines for multinational enterprises in significant part because it feels the problem of public confidence is most effectively addressed by voluntary guidelines. The best result is not that governments enforce high standards through regulation but that the enterprises themselves indicate from their side that they can and will apply high standards of business practice.

The U.S. objective, a liberal climate for international direct investment, is unchanged. But the approach required to sustain this objective in the current environment is no longer total laissez-faire, but rather the creation of multilateral structures for cooperation and restraint on unilateral action. The U.S. government, therefore, has supported development of OECD guidelines for multinational firms in an effort to sustain an international environment for these firms conducive to their making their full contribution to economic growth in the industrial countries. While our objective relates to the industrial country area where 70% of U.S. overseas investment is, the basic approach and successful OECD guidelines for multinationals would have a broader impact on general confidence in this institution world-wide.

[From the Washington Post, May 28, 1976]

OECD TO SET MULTINATIONALS GUIDELINES

PARIS, May 17—The main industrial countries will lay down official guidelines next month designed to overhaul the behavior of multinational companies.

With the United States doing considerable prodding, the member governments of the Organization for Economic Cooperation and Development have agreed to a sternly worded code of conduct for multinationals.

The code covers everything from bribery of local officials to pricing policies.

OECD sources said the code was much more specific and employed tougher language than had earlier drafts on the subject drawn up by OECD experts. It appeared to reflect a hardening attitude in both America and other countries following disclosures in recent months of bribery, kickbacks and an assortment of illegal or dubious practices engaged in by some multinationals as routine methods of doing business.

The code, which is expected to be formally approved at an OECD ministerial conference here late next month, is especially stringent about bribery. In contrast to earlier drafts which merely urged international firms to "observe the best standards set by relevant local customs," the final wording states that they neither "render" nor "be solicited to render" a bribe, "other improper benefits, direct or indirect" to a civil servant or public officeholder.

The code also seeks to limit the multinationals' political activity. It bans contributions to political parties and candidates unless local law clearly allows it. Multinationals are told to avoid "improper involvement" in local politics, although what is improper is not clearly defined.

In itself, the new code carries no teeth. It is therefore uncertain whether it will lead to significant changes in practice or merely amount to a batch of pious, but mainly ignored, principals.

However, OECD authorities believe that several governments which intend to ratify the code also will enact at least some portions of it into law. Certainly, multinationals that openly defy it will be running risks in several European nations where there already is rising political pressure to restrict their growth or even to force them to cut back. In both France and Italy, multinationals have become prominent whipping boys for the increasingly powerful parties of the left.

It is understood here that the American government's insistence on a toughly worded code of conduct was intended to forestall future backlash against the multinationals, many of which are controlled by American capital. U.S. government officials are known to feel that every time a multinational firm receives adverse publicity, it adds fuel to political anti-Americanism abroad.

A CODE OF CONDUCT FOR TRANSNATIONAL CORPORATIONS

(Introductory Comments by Gaylord Freeman, Honorary Chairman, the First National Bank of Chicago, to the Chicago World Trade Conference 1976)

On March 11, 1975 the directors of Gulf Oil announced the appointment of a committee to examine certain foreign payments made by Gulf Oil officials, and on January 15, 1976 four top executives of Gulf resigned.

On August 1, 1975, it was announced that the Lockheed Corporation, our country's largest military supplier, had apparently made improper payments in connection with foreign sales of aircraft and systems. Periodically the papers reported further developments in that case, and on February 13, 1976 the two senior officers of Lockheed resigned.

Early this year our government, which as recently as two years ago was giving our businessmen tips on how to get business in certain foreign countries, reversed its attitude and began an apparent "crack-down." As Ray Garrett may explain more fully, the SEC developed an intense interest in the making of such improper payments and the falsification of records to hide such payments. It began a practice of requesting voluntary disclosure of the use of corporate funds to obtain foreign sales.

This led to first a trickle and then a torrent of declarations by corporate managements of improper or at least "sensitive" payments in connection with sales abroad. A quick count of stories in *The Wall Street Journal* would indicate that approximately eighty-eight companies have reported such questionable payments.

On February 10, 1976 the Internal Revenue Service announced that in connection with the examination of tax returns it was going to question the senior executives of the top 1,200 companies about such payments. It is not likely that the agents themselves, already overworked, embraced this new assignment with enthusiasm, but they are pursuing it in a detailed way.

Upon my first reading of the IRS questions, I felt they were not unreasonable.

(1) Did the corporation, any corporate officer or employee or any third party acting on behalf of the corporation, make, directly or indirectly, any bribes, kickbacks or other payments, regardless of form, whether in money, property, or services, to any employee, person, company or organization, or any representative of any person, company or organization, to obtain favorable treatment in securing business or to otherwise obtain special concessions, or to pay for favorable treatment for business secured or for special concesions already obtained?

(5) Was any corporate officer or employee compensated, directly or indirectly, by the corporation, for time spent or expenses incurred in performing services for the benefit of, or for the purpose of opposing, any government or subdivision thereof, political party, candidate or committee, either domestic or foreign?

However, I have been informed by the officers of one of the corporations represented in the audience that the IRS agent, in going over these questions with their management interpreted question 1 to include any payment even to one of its own employees to solicit business. Thus the answer obviously is that every company has done so—though in most instances quite properly.

The Agent suggested that the answer to question 5 would have to be in the affirmative if any employee at any level had ever made a telephone call or made a personal request on company time to urge the city Sanitation Department to pick up garbage or to urge a school board member to vote in favor of expanding the school or to express the company's attitude on pending legislation. So interpreted, the question would have to be answered in the affirmative by virtually every company, and it would be literally impossible to make a list of the occasions.

Thus, the significance of these questions lies entirely in the government's interpretation of them.

That's bad enough—but now the questioning of the business executive is no longer confined to the board room or the government agency—it has been extended to his private office—and into his home.

Earlier this month a self-appointed group calling themselves the "Peoples Bicentennial Commission" mailed personal letters to over 10,000 secretaries who work for major corporate executives and 13,000 journalists offering $25,000 in cash if they could provide information leading to the arrest and imprisonment of a chief executive of one of Fortune's 500 corporations.

Last month this same group—Peoples Bicentennial Commission or PBC—mailed to the wives of many of our nation's top executives, at their home addresses and in their given names, a tape cassette on which a quiet voice conveys a message which includes in part:

"Dear Friend: We are communicating with you because your husband is one of the top business leaders in the country. For that reason, we think you should listen carefully to what we have to say. No doubt you are aware of the recent revelations of widespread corruption and criminality in the corporate board rooms. It started with the Watergate investigations when 17 major American corporations were forced to admit illegal campaign contributions and payoffs. But, that was merely the tip of the iceberg. During the past three years, corporate scandals have reached epic proportions. ITT was discovered to have worked for the overthrow of the democratically elected government in Chile. Scores of American multi-national corporations have been implicated by the Justice Department, the SEC, and the Treasury Department in scandals involving hundreds of millions of dollars in bribes, kickbacks, and payoffs in this country and abroad. Lockheed has already admitted to paying out $202 million; Northrup, $30 million; Exxon, $27 million; Tenneco, $12 million.

"We think these corporate scandals put a special responsibility on your family to ask some probing questions of your husband because it is no longer possible to argue that the rampant corporate criminality represents merely isolated incidents or the aberrational behavior of a few perverted individuals. In fact, a recent survey by the prestigious Conference Board found that over half the executives surveyed said that they would not hesitate to make the same kind of payoff if they felt it would help their company make a sale.

"Have you ever asked your husband which half of that survey he falls in? Have you ever asked him if he or his colleagues or his firm have ever been involved in criminal activity?

"Would your husband inform the authorities if he was aware of illegal conduct among his own friends and associates?

"Would you inform the authorities if you uncovered such information?

"In the spirit of '76, we are the Peoples Bicentennial Commission."

Shortly thereafter, these wives received a letter which reads in part:

"Today, 200 giant corporations already own over two-thirds of the manufacturing assets of the country. Heading up these corporate empires are a small group of nameless, faceless men who have amassed enough power to virtually dominate American life, from the aisles of the supermarket to the halls of Congress.

"Your husband is a part of this small privileged business elite. That puts a special responsibility on you and your family to speak up against corporate policies that result in price-fixing, induced unemployment, environmental destruction, excessive profiteering, unfair distribution of wealth, and other abuses.

"We hope you and your family will question your husband on these issues we have raised, as well as do your own investigating into some of the concerns that we have presented."

A week or so later, the wives received another letter as follows:

"The PBC is offering $25,000 in cash to anyone who can provide us with concrete information that leads directly to the arrest, prosecution, conviction, and imprisonment of a chief executive officer of one of America's Fortune 500 corporations for criminal activity relating to corporate operations.

"If you have any further questions or would like to provide us with information that you think is relevant, please drop us a line at PBC, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

"In the spirit of '76, The Peoples Bicentennial Commission."

In this unique and in some ways terrifying atmosphere, we are called upon to say something useful about "a code of conduct for transnational corporations."

A code of conduct sounds tempting. In the troubled waters of the current examination and secret sleuthing, many corporations are reaching for a code of conduct as for a life preserver in the stormy sea.

For some Congressmen and Senators the present atmosphere provides a joyous opportunity to point to the corruption of domestic business (and foreign officials) with an outraged sanctimonious attitude.

To some leftist groups, the revelations are merely proof of what they have always known, that business is crooked and that the bigger the business the more crooked.

To the social scientist there is the apparent incongruity of the business executive engaged in, or condoning, conduct for the benefit of the stockholders which he would never have indulged in for his own benefit.

Some business groups fear that the present disclosures and resultant discussions may lead to the adoption of more burdensome taxes on foreign income and perhaps legislation penalizing foreign investment.

To a more thoughtful group, the present atmosphere constitutes a real tragedy. It leads to a further loss of public confidence in one more basic institution. We have suffered the loss of confidence in government administration as a result of Watergate. We have suffered a less dramatic but important loss of faith in the church. And now we face a significant loss of confidence in the integrity of business.

To one who has been intimately acquainted with business morality for over forty years and has seen a dramatic upgrading in accepted standards of conduct—this current parade of executives crying "mea culpa" is devastating—it presents a grossly unfair picture of current business ethics.

Too many of today's corporate leaders are sufficiently on the defensive that they do not even consider acknowledgement and justification. The executive tends to feel that he has but two alternatives, either to:

a. declare with pride that his corporation has been entirely innocent of any wrongdoing in any part of the world (a fact of which he cannot actually be certain), or

b. acknowledge the existence of certain instances of impropriety and declare his determined commitment that no such impropriety will ever occur again.

To make this "crystal-clear" some executives are tempted to have their corporations adopt codes of conduct so self-righteous as to make a monk's vow of poverty seem greedy by comparison.

This is a simple reaction—perhaps too simple.

We have an outstanding panel today to discuss this subject: Dr. C. Fred Bergsten, Senior Fellow, The Brookings Institution; our own Ray Garrett, who took leave of absence from Gardner, Carton & Douglas for two years to serve as the Chairman of the SEC; and Alberto Jimenez De Lucio, Deputy Executive Director of the Center for Transnational Enterprise of the United Nations. I am sure that these gentlemen will each have definite ideas, and I am grateful to them for that. I myself am confused and will merely seek to raise five basic questions about self-adopted corporate codes—with no mention of governmentally imposed codes either here or abroad. My questions relate to:

1. The subject of any such code.
2. The sincerity of any such code.
3. The test of propriety.
4. The question of why this should be a matter only for the transnationals. And lastly,
5. If we are going to have a code, what should be its form?

1. THE SUBJECT

Times change. So do our ideas—even the accepted meaning of a phrase. "A code of conduct" today has a definite connotation as a result of the dramatic events of the last few months. Is this implicit connotation too limited?

As recently as two years ago, the forward looking management of a transitional corporation faced with the subject of a code might have analyzed the situation thus:

The transnational corporation has done more to increase the world's wealth than has any other institutions nation or philosophy. Without the transnational corporation, the oil of the Middle East would be undeveloped. The minerals, gold and diamonds of Africa, the rubber of the Far East, the sources of wealth in many less developed countries would be undiscovered or undeveloped.

The transnational corporation has not only created tremendous new wealth. It has caused its distribution far more widely throughout the world and within individual countries. The transnational corporation is entitled to the world's gratitude, but, by its distributive effect it has inevitably brought about changes. In addition, it is owned by "foreigners."

When a multi-national corporation in the retail field opens stores in Venezuela, it changes the purchasing habits of hundreds of thousands of Venezuelan citizens. They are enabled to obtain more consumer goods of better quality at lower prices. And the existence of this large purchasing capacity stimulates local production and hence creates additional jobs. But it also challenges and perhaps destroys hundreds of small shops and the livelihood of those shopkeepers.

Thus, this transnational corporation has well served the foreign country and its people. But it has effected changes. Many local citizens have benefited. A few have suffered, and those few are likely to be more vociferous than the many who have benefited. Thus the Venezuelan government, hearing these acomplaints and adhering to Article 21 of the Andrean Pact, has required that 80% of the ownership of the Venezuelan subsidiary must be sold to Venezuelan citizens.

So two years ago the transnational executive might well have said:

"I, and other transnational managements, both in our individual interest and our common interests should adopt more thoughtful programs or codes of conduct which might include our intentions to:

a. Better explain to the public the purpose and method of our operation;

b. Play a more significant role in local civic and charitable affairs;

c. Be sensitive to the cultural and traditional attitudes of the local population;

d. Encourage local production;

e. Offer employment to those whose current activities are jeopardized by our own operations;

f. Promote indigenous nationals to upper echelons of management as rapidly as they can be prepared for the responsibility;

g. Encourage the development of schools, whether at the trade school level or the business school level, that will enable the people of the area to develop greater capabilities in all stages; and lastly

h. Stay out of local politics except in the most unusual circumstances."

Two years ago we would not have thought to say anything about "sensitive" payments, or incorporate reference thereto in our codes although we might have known that some such payments were a recognized part of doing business in some countries. According to a front page story in *The Wall Street Journal* of April 14, 1976, William Wearly, Chairman of Ingersoll-Rand Co., said:

"Two years ago I went on a trip with other businessmen to the Mideast. The Treasury briefed us on what payments were necessary on a country-by-country basis. Payments are required. It is considered politically benevolent by rulers of those countries for companies to distribute money.

"Both the Treasury and State Department representatives were trying to keep us from spending money on the wrong people. They told us that as soon as we came into a country people would approach us, telling us that they had the right connections to get business. They said we had to find the guys who really were connected with the top people and use them as sales agents."

The same Treasury Department which two years ago was giving advice on the subject now has its Internal Revenue agents pursuing you on the apparent assumption that what you did in accordance with their recommendations is now improper.

Clearly, "a code of conduct for transnational corporations" today has an entirely different connotation that it did only two years ago.

Why then do I relate the conditions and type of code that might have been in our mind two years ago? Because it is just possible that in our society two or three years from now we may look back on the spring and summer of 1976 and say, "what a tizzy we were in." "What narrow vision we had, to think of a code of conduct in the single sense of decrying bribery or questionable payments."

Thus I would suggest for our panelists' consideration the question whether the codes that are being discussed today, largely confined to one phase of our activities abroad, serve our real purposes. In raising this question, I am a little fearful that we businessmen may tend to take a relatively cyclopic view of a single issue party because it is much easier to stand with our hands clasped and say something pious (even though we mean it) than to really dig in and attempt to make our corporation a better neighbor or a more acceptable influence in the foreign location.

2. SINCERITY

I do not doubt the sincerity that prompts a corporation to adopt a code of conduct. I believe that each corporate management has meant precisely what it has said, that it will not engage in any bribery or improper payments—none at all. Absolutely.

Let us assume that that is you own policy—100 percent.

You open a small office in a Southeast Asian country and put a very bright young man in charge. He starts out with a bang and works aggressively. He does well, but he feels a long way from home, and he is homesick that he does not hear from the home office. For a week, two weeks, three weeks, he does not receive a single communication. He feels forgotten. In the fourth week the mailman stops by and says that he is burdened with a great deal of mail everyday and that he cannot possibly deliver it all.

Besides, he can't devote all of his time to mail delivery because he is paid the equivalent of only $30 per month, and hence has to have a second job which takes much of his time. He recognizes that your company's mail is important so he would like to put in the extra time to get it delivered, but it would cost him some of the time he is devoting to his second job. So if you could afford to give him a mere 58c a week that would be adequate to cover his costs. Should you give him the 58c a week to get your mail? It is an insignificant amount.

Suppose you send a second American to that country. His household goods arrive on a ship from the United States and are unloaded on the dock. They sit there in the sun and the humidity for a day, two days, a week, two weeks, a month. The customs office is too busy to clear them. Meanwhile your new man and his family are living in a hotel at $120 a day. The customs office is too busy to clear the furniture, but for $1,000 the papers could be put on top of the pile and would consequently be approved within 24 hours. Should you pay? It is a somewhat larger amount but still insignificant.

Is bribery a matter of amount or a matter of principle? I don't question the sincerity of any corporate code. But I sometimes wonder whether the corporate boards in their initial sincerity have really asked themselves the hard question as to whether they will be able to live up to their declaration 100 percent. Perhaps our panel will have thoughts on these issues.

3. THE TEST

In that poor South Asian country the government acknowledges that its employees cannot live on their wages and hence have to have some supplemental income. Moderate bribery is considered quite appropriate. It may be illegal under the statutes, but it is not considered improper. It is a universal practice. Is bribery a matter of legality, morality or custom?

If bribery is a matter of principle absolutely, then the sad fact is that your corporation cannot do business in some countries. You will have to abandon those opportunities to competitors from other countries or to other U.S. corporations with somewhat more flexible attitudes toward such payments. Is it your duty to adopt a more moralistic attitude than that accepted in the "host" country? Are U.S. corporations to become self-appointed missionaries of morality?

Yesterday's Wall Street Journal reports that earlier this week the present Chairman of the SEC "suggested that U.S. companies can continue making payments 'extorted' by foreign tax, customs and other officials as the price of doing business overseas. 'Nothing the SEC has done interferes' with such 'grease' payments, Mr. Hills insisted, provided that they are accurately entered on the company's books and that management knows they are being made."

Let us take an easy case. Let us assume we base our code not on complex morality or custom—just on legality. Whose legality?

Of course, we don't want to do anything for which we, or our employees might be punished. Thus, we do not want to violate a law. But, whose law? Any law? Or just any law that is applicable to us? Would we feel differently if we ourselves were innocent but by our actions we made it possible for another to violate a law?

An example is presented in the relatively common practice of domestic manufacturing corporations here in the U.S. selling abroad to foreign-based individual dealers or distributors. A foreign dealer may ask the U.S. manufacturer to bill him at an artificially high price—or perhaps just refrain from giving a cash discount. The foreign dealer then pays an excess amount, and the U.S. manufacturer holds that excess for the credit of the foreign dealer. Or, on the request of the dealer, he may transfer that balance to a bank here or perhaps in Switzerland for the account of the foreign dealer. The American manufacturer is not engaged in any illegality in doing so.

But why does the foreign dealer request such an over-billing and retention? The American manufacturer doesn't know. He may suspect that it may be in order to enable the dealer to report higher costs and hence lower profits and by thus falsifying his records to evade taxes in his country. It may be that the foreign dealer uses this mechanism to escape the foreign funds control regulations of his country. Perhaps there are other reasons. The American manufacturer has not felt it necessary to inquire.

Should he? Of course he would attempt to prevent his agent or employee doing anything improper—but is he obligated to prevent an independent contractor from violating a law which is not directly applicable to him or to his employees? If so, is our standard strictly legal and not moral?

If a foreign representative increases his fee, should the transnational corporation inquire whether any of it goes from his hands to a foreign customs agent? What if a forwarding agent increases his fee? Is there greater cause for suspicion? Is the transnational's management obligated to look into this? Is so is the test the question of the independent dealer's morality—or the fact that the U.S. corporation benefited from this immorality?

There is a collateral question that gives me some discomfort. Each of us as an individual likes to be more than honest. We like to be moral. It is rewarding to the executive to live by a higher standard than the law requires. Rewarding to whom—to the stockholder or just to the manager? Is a higher standard of ethics a mark of honor or just another fringe benefit—untaxed compensation in the form of moral satisfaction to the disadvantage of the stockholder?

4. THE LOCAL SCENE

I note that our subject today is "A Code of Conduct for *Transnational* Corporations"—not domestic corporations. Is there an implication that the transnational corporation has a greater need for a code than a domestic corporation or that it needs a different code?

I am reminded of a phrase developed in a different connection a few years back—"It takes two to tango." For every corporate briber I assume there has to be a government bribe recipient. It would be my guess, based on the scale of gifts of some of the corporations, that there are many more government bribees than business bribers. Thus I suffer a little at the thought that government representatives should be accusing business.

I am also concerned that the current uproar may suggest that we have telescopic vision. Our Congress is incensed about allegations of alleged payments to some Japanese officials or Saudi princes. We immediately assume that they are guilty, as many of my friends assume that Prince Bernhard of the Netherlands is guilty. They even suggest that it foretells the fall of the House of Orange. But businessmen in the Netherlands don't assume that at all. From my own inquiries, it would seem that the majority there feel he is entirely innocent, as we all hope he is.

So far the entire emphasis has been on foreign payments. Why? My recollection is hazy, but I remember some politicians in the United States that have been accused—perhaps equally unjustly—of impropriety. In the White House there was Sherman Adams. In the Senate, Maynard Tydings of Maryland; Edward Gurney of Florida; even the current leader of the Republican Party in the Senate, Hugh Scott, has decided not to run again—under some cloud. In the House, I remember Michael Kirwan of Ohio, George Hanson of Idaho, and John Watts of Kentucky. In some recent stories about Lockheed, there are implications that there may possibly be an involvement of current governmental officials. And in Chicago, we cannot escape the recognition that in the past few years, 7 members of our City Council and 5 other local officials have been indicted for impropriety. Yesterday's Chicago Tribune contained photos of Alderman Keane going to prison, Republican Rentscheler being sentenced, and Governor Moore (of West Virginia) going on trial for extortion.

It is interesting how all of a sudden we see the U.S. military publicly criticizing its officers for accepting visits to hunting and fishing lodges maintained by military suppliers. According to last Tuesday's *Wall Street Journal* an additional 21 high ranking officers and 3 civilians were admonished last week. I don't remember any such criticism before the last few months.

I don't point out others' indiscretion to justify any illicit or immoral payments on the part of business—not at all. Like Caesar's wife, we should be above reproach, even if other segments of our society are not.

But in passing, what is above reproach?

Each of you has undoubtedly made political contributions to local and national politicians. Why? Primarily to see that the best candidate is elected. But is that the *only* reason? When you sent in your check did you hope that it came to the personal attention of the candidate? Did you attempt to make sure that he knew that you had supported him? Was this in the hope that he would listen to you if you had a suggestion—in the national interest of course?

I am not entirely clear in my own mind exactly where the magic line should be drawn, and I am not entirely comfortable about those questions which the IRS is now asking. Of course we talk to public officials—often about our own special interests. That is not improper. If we give a contribution to a candidate for public office in the hope that if he is elected "he will at least listen to us" and presumably listen to us more attentively than if we had not supported him—are we acting improperly? I don't believe our elected officials are prepared to urge that position quite yet. Are we?

5. WHAT FORM SHOULD A CODE OF CONDUCT TAKE?

Another question that bothers me is what do we mean by a "code"? Is a code a list of do's and don't's—a laundry list? Or is it a single principle?

Caterpillar Tractor Corporation, long a very highly principled and respected transnational corporation, adopted a code two years ago. It has been very well received and in such demand that 5,000 copies have been distributed. It covers a wide range of topics, including Product Quality, Competitive Conduct, Ownership and Investment, Currency Management, and Public Responsibility. It is a very good code, and the company is entitled to credit for a thoughtful approach—but it doesn't mention bribery because the Caterpillar officers, never having engaged in any such impropriety, never thought to mention it. That is one of the problems in a laundry list approach. You just can't provide for everything that may come up in the future.

To avoid this pitfall, the Chairman of Atlantic Richfield, Robert O. Anderson, after careful consideration of the laundry list approach, has written:

"I endorse a different approach. In my view, a company's conduct depends, first, on a clear line of direction from senior management, and then on the good faith and good judgment of every employee in carrying out that policy. Let me, therefore, make it unmistakably clear that our policy—a policy for which every employee is to be held accountable—is to maintain ARCO's honorable reputation as a company of the highest standards of responsibility and accountability. To accomplish this simple but sometimes difficult objective, we rely not on a book of detailed rules but on the character and judgment of every employee. Moreover, I have full faith that ARCO employees at all levels will continue to conduct themselves so that their actions will never embarrass or disgrace themselves or the company. Disclosure of conduct should, therefore, never be a matter of concern."

One can argue that the laundry list is definite. It doesn't require any interpretation. It is precise. These are advantages. On the other hand, it is difficult and probably impossible to anticipate every form of impropriety and to cover it completely.

A shorter statement of principle has the advantage of brevity. But will it be uniformly interpreted throughout the world?

In thinking about these alternate approaches, it has occurred to me that there is an example of each type in the Bible.

Moses, in attempting to provide moral leadership for the Israelites came forth with a precise code, a laundry list—Thou Shalt Not—1 through 10.

On the other hand, the Bible tells us that Jesus said, "Therefore all things whatsoever ye would that men should do to you, do ye even so to them." This has frequently been restated as "do unto others as you would have them do unto you."

Looking into your own life and those of others in your community, which of those two types of codes of conduct has been, or is likely to be, the more useful—the laundry list or the statement of principle?

Does this give us any help in determining the form of code we might want our corporation to adopt?

I am deeply grateful that I am not called upon to pass any judgment. I am interested in the subject but I am confused. I am afraid that conclusion has shown in the questions that I have raised.

Fortunately, our panel is composed of outstanding and experienced men, and I hope that they can be helpful to each of you, not only in respect of the questions that I have raised, but the more fundamental ones which I am sure they will bring to your attention, including discussion of codes which might be imposed by law.

Let me turn now to our first panelist—

CLEAN AIR AMENDMENTS—PERFORMANCE WARRANTY NEEDED TO PROTECT CONSUMERS

Mr. MUSKIE. Mr. President, under present law automobile manufacturers are required to warrant that the emission control systems of new motor vehicles and engines in actual use will conform to the emission standards for 5 years or 50,000 miles provided that the vehicle or engine is maintained properly.

The Committee on Public Works adopted several amendments which were introduced by Senator BENTSEN to insure that no anticompetitive effect would result if the emission control warranty is implemented. These include a study by the Federal Trade Commission, establishment of an aftermarket parts certification program, and a prohibition of any attempt to tie warranty protection to the use of dealer's parts and service.

Senator BENTSEN will propose an amendment—No. 1614—which would reduce the useful life in the performance warranty to 18 months/18,000 miles. The committee rejected this proposal. The other measures were deemed to be more than sufficient to protect the aftermarket industry. Adoption of this amendment would simply protect the automobile industry at the expense of the consumer and the public.

The performance warranty is designed to protect the consumer. The consumer pays for an emission control system that is required to be designed to last for the useful life of the car. Without the warranty the manufacturer has no financial responsibility to assure that a car will continue to meet standards after 18,000 miles. The Bentsen amendment would shift that burden completely to the consumer.

The warranty also helps assure that public health will be protected by providing an incentive for manufacturers to build cars that actually perform for the full 50,000 miles to which they are certified.

The choice of 50,000 miles for the useful life was based on the fact that automobiles generally last for 100,000 miles. Low mileage vehicles in certification shows emissions that are less than the standards. However, these emissions generally increase as the vehicle and engine gets older, and at mileages above 50,000 the emissions are greater than the standards. But, if a vehicle meets the emission standards at the 50,000-mile halfway point in its total life, as required, it is reasonable to assume that its average emissions over that total life will meet the emissions standards established to achieve health-related air quality. This purpose would be defeated if the performance warranty were reduced to only 18,000 miles.

And the warranty reduction is opposed by consumer groups. For example, Consumer's Union states that—

> It is highly predictable that if (a shorter warranty period) is mandated device durability will be designed downward.... This would add substantially to the consumer's cost of maintaining emission control devices.

The Consumer's Federation of America is "opposed to this anticonsumer amendment."

Ralph Nader has stated:

> Your proposed amendment to reduce the 50,000 mile/5 year... automobile emissions warranty in the Clean Air Act would not only adversely affect air quality but also would hurt consumers while benefiting only the auto manufacturers.

The major change in the warranty provision proposed by Senator Bentsen is the reduction in useful life to 18 months/18,000 miles. As noted above, this would be inconsistent with clean air goals and consumer protection.

The performance warranty is one of the most important tools for achieving air quality goals for automobiles. Any attempt to reduce its coverage must be rejected.

In order to provide further information for Members of Congress and the public in this matter, I ask unanimous consent to have printed in the Record: First, a letter from the Consumer Federation of America, sent to all Senators, opposing this anticonsumer amendment; second, a letter and attachment from Consumers Union, Publisher of Consumer Reports, which opposes reduction of the warranty on emission control devices; third, a letter from Ralph Nader to Senator Bentsen which states that the amendment would adversely affect air quality and hurt consumers while benefiting only the auto manufacturers; fourth, a letter from the Director of the Bureau of Competition, Federal Trade Commission to the Assistant Administrator for Enforcement of EPA which describes their suggestions for handling potential anticompetitive effects of emission control warranties, suggestions which were generally adopted in the committee bill, and which do not include reducing the performance warranty; and fifth, a committee staff memo, "Issues and Answers on the Aftermarket Industry and the Performance Warranty."

There being no objection, the material was ordered to be printed in the Record, as follows:

Consumer Federation of America,
Washington, D.C., April 28, 1976.

Re Bentsen amendment to effectively limit section 207(b) Auto Emissions Performance Warranty of the Clean Air Act to 18,000 miles.

Dear Senator: Consumer Federation of America, the nation's largest consumer organization, is composed of over 200 national, state and local nonprofit organizations that have joined together to espouse the consumer viewpoint.

Senator Bentsen has announced his intention to introduce an amendment on the Senate floor to limit the 50,000 mile Section 207 (b) auto emissions performance warranty to 18,000 miles. CFA is opposed to this anticonsumer amendment for the following reasons:

1. In urban areas having emission inspections, consumers whose cars fail the emission test beyond 18,000 miles will have to pay to have their cars remedied even when the cars were properly maintained. This could well create absolute consumer liability for the repair of autos that failed the test despite the fact that the manufacturer is responsible.

2. Reducing the performance warranty encourages the auto manufacturers to lower quality on the assembly line. The reduced quality control may save the consumer one dollar ($1) in the sticker price of the automobile but may well cost the new car consumer $100 in repairs on the road when a car fails to meet the emission standards between 18,000 and 50,000 miles.

3. Routine service on the emission control system can be performed by any independent garage. The Senate Public Works Committee bill, S. 3219, even provides a $10,000 fine for any auto manufacturer to communicate in any way to the car owner that the warranty is conditioned on use of parts or service provided by the manufacturer or its dealers. (Section 203(a) (4) and Section 205.)

The Senate Public Works Committee bill also requires the Environmental Protection Agency to eliminate potential anticompetitive effects of the performance warranty on the after-market parts industry by setting up a voluntary parts certification program. The auto manufacturer is prohibited from invalidating the performance warranty where certified parts were used by the consumer.

5. More vehicles are already recalled each year for safety defects (5.6 million safety recalls each year) without any significant anticompetitive effects than will be "recalled" under the Section 207(b) warranty (2 to 4.5 million vehicles each year).

6. There is no persuasive evidence that reducing the performance warranty to 18,000 miles will improve the competitive position of the independent parts and service industries in relation to the monopolistic auto industry. More stringent measures such as antitrust actions and providing independents with access to warranty repairs are indispensable steps toward the accomplishment of this goal.

7. During the hearings on the Clean Air Act, Congress did not have the benefit of testimony from consumer groups such as CFA, Consumers Union, the National Consumers Congress and Ralph Nader's Public Citizen. Consumers Union did advise the House Subcommittee on Environmental Problems Affecting Small Business by letter that it opposed reducing the 50,000 mile warranty to 18,000 miles.

Very truly yours,
Carol Tucker Foreman,
Executive Director.
Kathleen F. O'Reilly,
Legislative Director.

Consumers Union,
Washington, D.C., April 2, 1976.

Hon. Edmund S. Muskie,
Chairman, Subcommittee on Environmental Pollution, Committee on Public Works, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of April 1 asking for any update there may be of Consumers Union's June, 1975 position on the auto emissions warranty issue. We have not changed or added to our position of that date as it was stated in our letter to Representative McCollister. A copy of that letter is attached for your information.

If we can be of further assistance to you in preparing for debate, please let me know.

Sincerely,
Mark Silbergeld,
Attorney, Washington Office.

Attachment.

Consumers Union,
Washington, D.C., June 2, 1975.

Hon. John Y. McCollister,
House of Representatives,
Washington, D.C.

Dear Congressman McCollister: This is in response to your request for Consumers Union's views on H.R. 3598. This Bill, which you have introduced and which is now pending before the Health Subcommittee of the House Committee on Commerce, would prohibit EPA from requiring warranties of more than one year's duration on automobile emission control devices.

The purpose of the legislation is to prevent the automobile manufacturers and their franchised dealers from using the presently required five-year warranties to capture the markets for replacement parts—including the devices and many related parts such as spark plugs—and for repairs related to maintenance of such devices. After consultation with our Auto Test Division, we have concluded that we cannot support H.R. 3598 but prefer an alternative approach.

In response to the five-year warranty requirement promulgated by EPA, auto manufacturers have designed the control devices, and the various parts related to the performance of these devices, for substantially longer endurance than would be the case under a one-year warranty. It is highly predictable that if the one-year warranty period is mandated, device durability will be designed downward, so that devices and parts will not be expected to perform according to EPA standards for more than one year. Because there is no "quick" test which state auto inspection officials can use to determine whether devices are operating according to standards, this would mean that many more automobiles would be operating with inadequate devices than is now the case. Even when such a "quick" test is available, design of device durability for a one year period may well result in more devices operating below standards for the better parts of several years before they are detected upon inspection and required to be repaired or replaced.

In addition, a reduction in designed durability would mean an increased incidence of repair for such devices and parts. This would add substantially to the consumer's cost of maintaining emission control devices to EPA performance standards.

The alternative, we believe, is to prohibit new car manufacturers from specifying brand names or manufacturers in warranty conditions which required adequate maintenance and parts replacement. Instead, the law should limit such warranty conditions to performance specifications equal to those met by the manufacturers' own replacement parts and repair specifications, if any, required of their franchised dealers. The law should require manufacturers who use such warranty conditions to submit these specifications to EPA for inclusion in a public record available to any person. This will permit independent parts manufacturers and independent repair establishments to compete in these markets with the new car manufacturers and their franchised dealers.

This entire problem, of course, is only a part of the historical problem of restraints of trade in the "after parts" and "crash parts" markets. The Federal Trade Commission has for several years been conducting an antitrust investigation in the crash parts industry. It is our understanding that no resolution to that investigation is yet in sight. Appropriate inquiries as to what action, if any, the Commission intends to take in this market and the "after parts" market might assist in obtaining whatever action is appropriate.

We hope that these comments will assist you in finding a solution to this problem. Please feel free to call on us if we can be of further assistance.

Sincerely,

MARK SILBERGELD,
Attorney,
Washington Office.

APRIL 28, 1976.

Senator LLOYD BENTSEN,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BENTSEN: Your proposed amendment to reduce the 50,000 mile/5 year section 207(b) automobile emissions performance warranty in the Clean Air Act would not only adversely affect air quality but also would hurt consumers while benefiting only the auto manufacturers. One measure of the air quality impact is that certification of vehicles to emission standards alone results in an emission reduction of about one-third that achievable through enforcement including the full performance warranty.[1]

Reducting the performance warranty to 18,000 miles will not save consumers money but will cost them money. Lowering the performance warranty will induce auto manufacturers to reduce the initial quality of the emission control system. While the reduced quality may save consumers a few cents on the sticker price of the car,[2] it will cost them many dollars over the life of the car in increased repair costs. There is already too much planned obsolescence in the auto industry without further encouraging it by reducing the performance warranty.

Lobbyists for reducing the performance warranty to 18,000 miles attempt to justify their position on gross exaggerations of anti-competitive effects of a 50,000 mile warranty. Contrary to the lobbyists' allegations, routine service (including spark plug and point replacement, oil and filter changes, carburetor and timing adjustments and PCV and EGR valve servicing among others) can be performed by independent garages and local service stations. The Senate bill, S. 3219, would even improve the present service competitive situation by imposing a $10,000 fine on any auto manufacturer who communicates in any way to car owners that the warranty is conditioned on use of parts or service provided by the manufacturer or its dealers.

To eliminate potential anti-competitive effects, the Senate bill as suggested by the Federal Trade Commission requires the Environmental Protection Agency to set up a parts certification program where an independent parts manufacturer could voluntarily certify its parts as equivalent to an automobile manufacturer's original equipment parts. Where such equivalency of quality has been demonstrated in the aftermarket, the Federal Trade Commission has found that product manufacturers cannot force purchasers to also buy parts and services from the manufacturer.[3] The vehicle manufacturer is protected from undue warranty failures by the certified quality of the repair parts.

Manufacturer repair of cars which violate the section 207(b) performance warranty is very similar to manufacturer recall of motor vehicles for remedy of safety defects. (In both cases, the vehicle owner takes the car back to the dealer for repair of the defect at the manufacturer's cost.) The safety program recalls an average 5.6 million vehicles each year (with a high of 12 million in 1972) with no demonstrated anti-competitive effects. The section 207(b) program will subjest less vehicles (2 to 4.5 million depending upon emission test failure rate) to manufacturer remedy and hence even less potential direct anti-competitive effect through giving franchised dealers an opportunity to sell additional parts and service during a recall. In terms of the entire automobile poulation, only 2 to 4.5% of all cars will fail a section 207(b) emission test and be subject to manufacturer remedy at franchised dealers each year.

In considering other anti-consumer aspects of your proposed amendment, you may want to consult with Consumers Union and the Consumer Federation of America who are also on the reocrd as strongly opposing reduction of the 50,000 mile warranty to 18,000 miles. Both of these groups have also staunchly supported strong competition in the market and have exhibited special concern for small businesses.

Finally, enclosed is a copy of a letter to me from a member of the auto repair industry who opposes the warranty reduction position taken by the industry's Washington lobbyists. In commenting on the distorted "Destroy Your Business" lobbying campaign of the Automotive Service Industry Association (ASIA) and the Iowa Automotive Wholesalers Association, Mr. Schlebach writes:

"These people [the trade associations] are disturbed that a provision such as this is proposed to carry a 5 year/50,000 mile warranty.

"No wonder people are dissatisfied with the automotive repair industry. I am too, and I make a living from it."

Thank you for your consideration.

Sincerely,

RALPH NADER.

FEDERAL TRADE COMMISSION,
Washington, D.C., December 11, 1974.

Re: Corres. No. 97318.

Mr. ALAN G. KIRK II,
Assistant Administrator for Enforcement and General Counsel, U.S. Environmental Protection Agency, Washington, D.C.

DEAR MR. KIRK: This is in response to your letter of September 23, 1974 to Chairman Engman which requested an opinion with respect to the legality under the antitrust laws of certain language used by several automotive vehicle manufacturers in their 1975 emission control warranties and vehicle owner maintenance instructions. In accordance with your discussion with Assistant Director David L. Roll, I understand that because of time constraints you will accept the views of the Bureau of Competition on these matters rather than a letter from the Secretary expressing the views of the entire Commission.

Before commenting on the materials provided for our review, I would like to make two initial points. First, the comments herein set forth represent the views of the Bureau of Competition. They are not necessarily representative of the views of the Commission as a whole or any individual Commissioner.

Second, although the Commission has long been active in seeking to maintain competition in the automotive aftermarket parts and service industry and the Bureau itself has in recent months provided written statements to EPA and Congress concerning potential anticompetitive effects of the warranty provisions of the Clean Air Act on the parts and service industry, the Bureau does not have expertise in the technical aspects of air pollution and the technology of emission control devices.

As you know, the Bureau for some time has been concerned with the competitive problems which might arise for the independent businessman in the automotive aftermarket parts and service industry if the warranty provisions of the Clean Air Act are interpreted so as to allow each major motor vehicle manufacturer to condition the protections afforded by the statutory warranty on the use by the motoring public of parts made by such manufacturer and on the service provided by such manufacturer's franchised dealerships. Such conditions may be characterized as "tying practices" or "tie-ins" which raise serious questions under the antitrust laws because of their potential for adverse competitive impact on independent parts manufacturers and independent service outlets in the automotive aftermarket. The tie-ins which concern the Bureau are those which arise in the implementation of the Section 207(a) defects warranty and which may arise in implementing the Section 207(b) performance warranty.

In construing Section 1 of the Sherman Act and Section 3 of the Clayton Act, the Supreme Court has said that a tie-in violates those laws when the following is shown: (1) the purchase of one "product" (i.e., an automobile which carries with it Clean Air Act warranty protections) is conditioned upon the purchase of a separate distinct "product" (i.e., aftermarket parts and service); (2) sufficient economic power over the "tying" product (i.e., the automobile and its warranty) to make the tie effective; and (3) foreclosure of a substantial amount of commerce in the tied product (i.e., aftermarket parts and service). See *Fortner Enterprises, Inc.* v. *U.S. Steel Corp.*, 394 U.S. 495, 498 (1969). Moreover, if a practice does not fall squarely within the proscriptions against tying which flow from the Sherman and Clayton Acts, the Commission has the power to determine that a practice akin to a tie-in which in substance violates the spirit of the Sherman and Clayton Acts is a violation of Section 5 of the Federal Trade Commission Act. *FTC* v. *Sperry & Hutchinson Co.*, 405 U.S. 233, 244 (1972).

Based upon this authority, the Bureau is of the opinion that any language in warranties and maintenance instructions which will have the effect of substantially foreclosing the independent parts and service industry from competing for the business generated by the Clean Air Act emission control warranties will establish the basis for a violation of Section 5 of the FTC Act.

With the foregoing in mind, I turn now to the specific language of the warranty provisions and maintenance instructions which have been provided to us. They will be examined on a company-by-company basis.

1. Ford—

---

[1] Environmental Protection Agency, "Motor Vehicle Emission Control and Enforcement Strategy" 37-38 (June 1975). The performance warranty is essential to mandatory implementation of vehicle inspection and maintenance programs.

[2] The Bureau of Labor Statistics has reported that Clean Air Act warranties (primarily the section 207(a) parts warranty) has added only one dollar ($1) to the price of new cars.

[3] See in the Matter of Chock Full O'Nuts Corp., Inc. 3 CCH Trade Reg. Rep. 20,441 (Oct. 2, 1973); Dec. 11, 1974. Bureau of Competition Letter to A. G. Kirk, General Counsel, Environmental Protection Agency.

In general, Ford's warranty instructions are of more concern to us than the terms of its actual warranty. However, the 1975 Ford warranty does deviate slightly from the warranty contained in MSAPC Advisory Circular No. 15–A (July 30, 1974) which is, we believe, a clear and straight-forward statement of the warranty protection the vehicle owner should enjoy under the Section 207(a) defects warranty. The Ford warranty states that it runs to "the eligible ultimate purchaser and each eligible subsequent purchaser" while the Advisory Circular language does not contain the word "eligible." It is possible that the word "eligible" may suggest to the motorist that he needs to do more to keep the warranty in effect than follow the maintenance instructions. You may want to question Ford on the necessity for the use of this word.

Although the Ford maintenance instructions do not expressly condition the warranty protection on the purchaser's use of Ford parts and the patronizing of a Ford Dealer, the instructions, at the very least, strongly recommend to the purchaser that he use Ford parts and go to a Ford dealer for maintenance. The warranty provides that it will be performed by the selling dealer's (in some cases any authorized Ford or Lincoln/Mercury dealer's): . . . repairing, replacing, or adjusting, following delivery of the vehicle to his place of business, without charge for parts or labor and using Ford service parts or Ford Authorized Remanufactured Parts, any part of the emissions system determined by Ford to be not in conformity with the requirement of the act.

2. General Motors.—

Like the Ford language, the GM maintenance instructions constitute a strong recommendation that the motorist use GM parts and GM franchised dealers. The instructions do this by recommending that "any replacement parts used for required maintenance services or for the repair of emission control systems be new genuine GM parts." "Genuine GM parts" are defined to include those manufactured by or for Pontiac, designed for use on Pontiac vehicles and distributed by Pontiac for any division or subsidiary of General Motors Corporation.* The instructions also shift to the purchaser of the GM automobile the burden of determining if non-GM parts are warranted as equivalent to GM parts by stating that:

> If other than new genuine GM parts are used for required maintenance service replacements or for the repair of components affecting emission control, the owner should assure himself that such parts are warranted by their manufacturer to be equivalent to genuine General Motors parts in performance and durability.

Although the 1975 GM emission control systems warranty varies slightly in its wording from the provision in the Advisory Circular, the variance is not substantial.

3. British Leyland.—

The British Leyland maintenance instructions represent almost an explicit tie-in of the warranty to the use of British Leyland parts and British Leyland dealer service. The instructions indicate that the company's dealers are "trained and equipped to use proper parts, either manufactured by British Leyland or approved by it if made by others." A failure resulting from the use of non-approved replacement parts will apparently void the warranty; authorized dealers "will have spare parts that can be used." The language concerning dealer service makes it unlikely that the motorist will go anywhere else if he wishes to preserve his warranty protections:

> If replacement of any component at the manufacturer's cost is necessary under the Emission Control Warranty, the work (including parts and labor) should be performed by an authorized British Leyland dealer, *unless written approval has first been secured from British Leyland for use of another service facility.* (Emphasis added).

No British Leyland warranty was sent to us for review.

4. Nissan (Datsun)—

Both the Nissan warranty and maintenance instructions represent a subtle, but consistent, linking of the warranty protection to the use of the company's parts and the patronage of its dealers. The Nissan warranty in the last sentence states that the company's obligation under the warranty: . . . is to repair or replace, at its option, at an authorized Datsun dealership, any part which proves to be defective as required to bring the vehicle into conformity with such standards.

Like the GM maintenance instructions, the Nissan instructions attempt to shift to the motorist the burden of determining if non-Nissan parts will be usable in the automobile. Nissan does this by first warning that "it is important that genuine Nissan parts be used when servicing the system" and the use of replacement parts "which are inferior to genuine Nissan parts may reduce the effectiveness of the system" and then, in the next paragraph, stating:

> Therefore, if it becomes necessary to utilize other than genuine Nissan parts, the owner should make certain that such parts are warranted by their manufacturer to be equivalent to genuine Nissan parts in quality.

In light of the foregoing warranty language, we have come to a number of conclusions regarding the likely impact of the Clean Air Act warranty protections on the automotive aftermarket parts and service industry. In our judgment, the warranty and maintenance instructions of GM, Nissan and British Leyland, and to a lesser extent those of Ford, are likely to have a serious competitive impact on the independent aftermarket parts and service industry insofar as emission control systems are concerned. The British Leyland material comes close to an explicit attempt to tie company parts and company service outlets to the emission control system warranty. The impact of maintenance instructions like those of GM and Nissan, which seek to compel the vehicle owner to check the adequacy of the warranty provisions of other manufacturers if he is not disposed to use the company's parts, is clear. It is unlikely that more than a few motorists will take the time and trouble to find out about the warranty provisions of another manufacturer; instead, the motorist will avoid the possibility that the parts made by a company other than the vehicle maker will not have an equivalent warranty by patronizing the company's franchised outlets and allowing the company's parts to be used in the maintenance of the emission control system.

As an alternative to placing an impossible burden on the vehicle owner to investigate the adequacy under his warranty of a myriad of parts made by a large number of manufacturers, a program of voluntary certification could be undertaken by the manufacturers and EPA. The outline of such a program was disclosed in your April statement to the Subcommittee on Environmental Problems Affecting Small Business of the House Committee on Small Business. We have supported and continue to support the aims of such a program.

The major vehicle manufacturers might resist such a program on the ground that only their parts possess the quality and meet the technical requirements of the emission control systems in automobiles manufactured by them. However, the law on tying suggests that although in some circumstances a manufacturer/franchisor may require that its distributor/franchisee purchase non-specifiable items and ingredients from it, the manufacturer/franchisor cannot force the independent distributor/franchisee to buy from it those items and ingredients which could be supplied by other firms if these firms had the requisite specifications to insure quality control. In the Matter of Chock Full O' Nuts Corp., Inc., 3 CCH Trade Reg. Rep. ¶20,441 (October 2, 1973). By the same reasoning, the vehicle makers could be required to make the specifications for emission control device parts and components available to other parties. The same result could be accomplished through an industry program of voluntary certification for aftermarket parts, an approach which we favor.

None of the warranty provisions or maintenance instructions which we have reviewed contain an explicit statement that the vehicle purchaser is free to use any manufacturer's parts and service outlets in complying with the maintenance instructions so long as the parts do not impair the emission control performance. In your April testimony you indicated that EPA was "exploring the possibility of requiring the manufacturers to make a positive statement in their owner's manual that parts and service can be obtained from any competent source . . . ." We urge EPA to implement such a requirement and suggest that the statement recommended by the Motor and Equipment Manufacturers Association for use in the 1975 vehicle owners' manuals would amply suit this purpose. We also believe, as indicated above, that the warranty contained in MSAPC Advisory Circular #15–A is a clear and straightforward statement of the warranty protections the vehicle owner will enjoy under the defects warranty.

If you have any questions or are in need of further assistance regarding the matters discussed herein, please feel free to contact Assistant Director David L. Roll, Noel W. Kane, or myself.

Sincerely yours,
James T. Halverson,
Director,
Bureau of Competition.

Issues and Answers on the Aftermarket Industry and the Performance Warrant

There has been considerable mail from the aftermarket industry—service stations, independent garages, parts makers—predicting that the 50,000 mile "performance" warranty—Section 207(b) of the Clean Air Act—will "destroy" their industry and increase consumer costs by "billions of dollars a year." Their campaign seeks to reduce the Section 207(b) warranty to 18 months/18,000 miles. The Committee rejected this amendment.

Contentions of the aftermarket people are incorrect. They do not represent the experience with warranties under the Clean Air Act, and they underestimate the value of the amendments that were adopted by the Committee to resolve any problems. EPA has stated that "strong warranty provisions are essential if the clean air goals of the Act are to be achieved . . . The aftermarket has demonstrated no present loss of business resulting from the Act—any anticompetitive problem is entirely prospective." The Consumer Federation of America has attacked any shortening of the warranty provisions as "anti-consumer."

Misconception: Monopolistic, Anti-Consumer Aspects—The performance warranty has been described by the industry as monopolistic and anti-consumer in nature.

Response—Consumer organizations, speaking for themselves, including the Consumer Federation of America, Consumers Union and Ralph Nader support the performance warranty and oppose any anti-consumer amendment which would reduce it.

---

* Although only 1975 Pontiac warranty and maintenance instruction language was furnished us, it is our understanding that the language employed by the other divisions of General Motors is identical except for trade name.

Misconception: Consumer Cost—Much of the argument for reducing the warranty term involves the alleged high cost to the consumer.

Response—The Bureau of Labor Statistics has found that the existence of a Clean Air Act warranty has, so far, cost the consumer $1 per car, not the several hundred dollars per car often mentioned by the aftermarket people. (see below)

Estimates by the Bureau of Labor Statistics of the added retain costs attributable to the Clean Air Act requirements on New Cars (by model year):

Model year	Improved exhaust emission systems	Warranties
1971	$19.00	
1972	6.00	$1.00
1973 (NOx controls added)	27.70	
1974	1.40	
1975 (catalyst system added)	119.20	
1976	7.60	

Misconception: Manufacturer's Parts and Dealers Service Must be Used.—It is argued that customers must go back to the dealer for all service work during the 50,000 mile warranty period.

Response.—Antitrust laws and FTC activities prohibit such a requirement. To augment this position, the Committee included language that prohibits the manufacturer from conditioning its warranty or instructing the buyer to use the manufacturer's aftermarket parts or service to maintain the warranty (Sections 25 and 29 of S. 3219).

Misconception: Parts Covered.—It is claimed that practically all parts of the vehicle must be covered by the emissions performance warranty.

Response.—EPA draft regulations and practice require a car's owner to be responsible, as a part of "proper-maintenance," for replacing any part that has a design life of less than 50,000 miles. Spark plugs, for instance, carry a design life of 12,000 miles. EPA explains its policy on parts after this design life period: "If a manufacturer requires replacement of the positive crankcase ventilation (PCV) valve at 12,500 miles, this would constitute the normal replacement interval for the PCV valve . . . the Agency's position is that failures occurring in a component after the expiration of the normal replacement interval for that component are not covered by the . . . warranty. Such components should be replaced by the car owner at approximately the specified interval."

Misconception: Psychological Impact on Consumer.—The aftermarket industry has argued that the mere existence of the performance warranty, even with language in S. 3219 cited above, is a "psychological" impediment to the car owner's use of independent dealers.

Response.—The psychological aspects of the performance warranty have been in effect since 1970, and the industry proponents of the Bentsen amendment admit that their business has substantially increased during those years. And the proposed change does not touch the 50,000 mile defects warranty—section 207(a) of the bill—which might have just as strong an effect on the customer, if any such psychological impact exists. Similarly, the existing motor vehicle safety program recalls an average of 5.6 million vehicles each year with no demonstrated anticompetitive effects.

Misconception: Maintenance Instructions—It is claimed by the aftermarket industry that maintenance instructions provide illusory relief.

Response—The same Federal Trade Commission study cited above also recommended that maintenance instructions contain a statement that parts and service can be obtained from any competent source. Section 29 of the Committee bill prohibits the manufacturer from including in the maintenance instructions any component or service which is identified by brand, trade, or corporate name.

As stated in the Committee report:

"There is one exception to this requirement. If the manufacturer can demonstrate to the Administrator that such a captive part or service is essential to the car's operation, and if EPA finds that the exception is in the public interest, including a consideration of its impact on competition, then the Administrator may grant an exception. The Committee intends that the manufacturer will have a significant burden in making such a showing and would expect the Administrator to consult with Congress before making such an exception."

Misconception: Parts Certification—It is claimed by the aftermarket industry that certification of parts will not solve the anticompetitive problems of the performance warranty in its present form.

Response—The Federal Trade Commission concluded in a staff study in 1974 that a voluntary parts certification program would be useful in overcoming any potential anticompetitive problems of the Clean Air Act warranty. Such a program is mandated by Section 28 of the Committee bill.

Misconception: FTC Study—The aftermarket industry claims that a study of any anticompetitive effects of the performance warranty is of no help whatsoever.

Response—Such a study is mandated by Section 39 of the Committee bill, with the report required within 18 months of enactment. The performance warranty will only be triggered by the existence of a "quicky" field test with a penalty or sanction on the vehicle owner. These do not yet exist, and can only be expected to be established over a period of many months even in those communities that need them most. There is time for the FTC to conclude the study and for its findings to be considered without removing the performance warranty in the meantime.

Misconception: EPA Waiver of Parts Certification—The EPA waiver of the ban on specification of manufacturer's parts or service provides a major loophole which could hurt manufacturers of aftermarket parts.

Response—The limited authority of EPA to waive this prohibition under limited circumstances does not lessen its benefits to the consumer. The Administrator can only waive this requirement when he makes a "public interest" finding—a finding which would be indefensible if the effect would be to reduce competition.

Conclusion—It may be argued that it is better to be safe than sorry and therefore to reduce the warranty terms as a precaution. This would be unwise. The performance warranty was included to encourage the industry to design and install in its cars emission control systems that will meet the clean air standard for a car's "useful life" of 50,000 miles. Without such a requirement, there is every reason to believe the industry will not design emissions systems capable of meeting the standard for any longer than they must warranty. Shorter performance warranty means a less durable, less effective system. Time still exists to make a full FTC-EPA study and because of the need to maintain the design goals for the industry, it would be inappropriate to reduce the term of the performance warranty at this time.

REPORT OF COMMITTEE ON POST OFFICE AND CIVIL SERVICE PURSUANT TO CONGRESSIONAL BUDGET ACT

Mr. BURDICK. Mr. President, on behalf of the distinguished chairman of the Committee on Post Office and Civil Service (Mr. McGEE) I ask unanimous consent to have printed in the RECORD the report of that committee to the Senate pursuant to section 302(b) of the Congressional Budget Act.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON POST OFFICE AND CIVIL SERVICE[1]

REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

<table>
<tr><th rowspan="3">Program</th><th colspan="4">Fiscal year 1977</th></tr>
<tr><th colspan="2">Direct spending jurisdiction</th><th colspan="2">Entitlement programs that require appropriation action</th></tr>
<tr><th>Budget authority</th><th>Outlays</th><th>Budget authority</th><th>Outlays</th></tr>
<tr><td><i>Special studies, services and projects, Bureau of</i> the Census: Controllable</td><td>5</td><td>5</td><td></td><td></td></tr>
<tr><td>Federal employees health benefits fund (trust revolving fund): Uncontrollable</td><td>0</td><td>−75</td><td></td><td></td></tr>
<tr><td>Retired employees health benefits fund (trust revolving fund): Uncontrollable</td><td>0</td><td>7</td><td></td><td></td></tr>
<tr><td>Civil service retirement and disability fund (permanent, indefinite): Uncontrollable</td><td>16, 900</td><td>9, 963</td><td></td><td></td></tr>
<tr><td>Federal employees life insurance fund (trust revolving fund): Uncontrollable</td><td></td><td>−399</td><td></td><td></td></tr>
<tr><td>National Archives trust fund (revolving): Uncontrollable</td><td></td><td>−0. 4</td><td></td><td></td></tr>
<tr><td>Payment to the civil service retirement and disability fund (permanent, indefinite): Uncontrollable</td><td>4, 280</td><td>4, 279</td><td></td><td></td></tr>
<tr><td>Total</td><td>21, 185</td><td>13, 780</td><td></td><td></td></tr>
<tr><td>Controllable</td><td>(5)</td><td>(5)</td><td></td><td></td></tr>
<tr><td>All other</td><td>(21, 180)</td><td>(13, 775)</td><td></td><td></td></tr>
</table>

---

[1] The Committee on Post Office and Civil Service notes that the Senate version of S. Con. Res. 109 included $1,000,000,000 in both budget authority and outlays for the Postal Service which was excluded from the conference substitute with the understanding expressed in the Senate on May 12, 1976, that the conference substitute is not intended to tie the hands of the Post Office and Civil Service Committee in dealing with the appropriate choice between off-budget borrowing and on-budget financing of this year's postal deficit.

ORGANIST RETURNS TO NATIVE STATE

Mr. SPARKMAN. Mr. President, Quentin Lane, organist-director of Music at St. Luke's Episcopal Church in Birmingham, Ala., has been appointed as a fellow in church music at the Washington Cathedral this summer. During the 2 months he is in our Capital City he will actively participate in the musical life of the cathedral. Mr. Lane is a fine example of the progressive young black people who are returning to their native Southland to share their talent.

On this Sunday, May 30, as part of the cathedral festival 1976 year-long celebration of the completion of the nave at the Washington Cathedral, the choir of St. Luke's in Birmingham, under Mr. Lane's direction, will sing at the noon eucharist and present an afternoon recital just before evensong. Dean Francis B. Sayre, Jr., will focus on Alabama in a special prayer he has written for the occasion. I heartily encourage my colleagues to attend one of the choir's performances.

Walter Bryant of the Birmingham News recently wrote a feature story on Quentin Lane which will be of interest. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ORGANIST RETURNS TO NATIVE STATE

(By Walter Bryant, News staff writer)

If a person is born and educated in the South, he assumes a debt to that region of the country that cannot be ignored.

That is the thinking of Quentin Lane, the new organist at St. Luke's Episcopal Church, who serves part-time as a consultant in music for the Episcopal Diocese of Alabama.

"If you take something from your native region, you are obligated to share part of yourself with that region, rather than giving yourself to other sections of the country exclusively," said the 24-year-old musician.

One evidence of his commitment to both his music talents and his job is that he installed a telephone at the organ console at St. Luke's.

"I've been involved in church music as long as I can remember," said Lane. He began with the piano at age 3 and gave his first solo recital at 7.

At the University of Alabama he studied under Warren Hutton, professor or organ and university organist. Honors included being voted the outstanding freshman and sophomore in music and being judged the outstanding jazz organist at the Mobile Jazz Festival in 1970. In 1971 he won second place in the American Federation of Music Clubs national competition in organ.

While in Tuscaloosa he served as organist for Christ Episcopal Church.

He received a master's degree in organ from Eastman School of Music at the University of Rochester, N.Y, in 1973. In that city he served as organist for the Episcopal Church of the Epiphany and was a member of the music commission of the Episcopal Diocese of Rochester.

Lane said he decided to use his music talents with a church career because of his admiration of several Episcopal ministers who came to Selma during the middle 1960s to help blacks in the field of education.

"Also, very few organists can make a living just giving concerts. It gets old living out of a suitcase," he said.

He finds church musicians more committed to their work than are students in some of the private schools where he has taught. "This difference in commitment is because church musicians want to be where they are," he said.

Lane reasons that church musicians are more of a "sharing than a performing group." Their job is to make the congregation get more involved in the worship service.

While organist at Christ Church, Tuscaloosa, he became acquainted with the Rt. Rev. Furman C. Stough, bishop of the Episcopal Diocese of Alabama. Lane visited Alabama several times while in Rochester to play for church dedications or conventions of the diocese.

Conversations between Lane, Bishop Stough and representatives of St. Luke's as well as the growing cultural life of Birmingham's civic center made him decide to return to Alabama.

While not at an organ console or developing music programs, Lane is likely to be found in his kitchen enjoying his hobby of French cooking.

"As an only child I had to learn how to cook to survive at college. While in Tuscaloosa I turned to gourmet cooking," he said.

MEDICARE DEFICIT

Mr. TALMADGE. Mr. President, I have just received the 1976 annual report of the board of trustees of the Federal hospital insurance trust fund. This is the medicare part A fund which pays for hospital care. That report is shocking. It advises of a 300-percent increase in the actuarial deficit of the hospital funds over the next 25 years. The deficit is increased from 0.16 percent of taxable payroll to 0.64 percent of taxable payroll.

Let us put that in perspective. Taxable payroll are those wages and income on which social security taxes are paid by working Americans. These wages are estimated to amount to some $710 billion in calendar 1976. That 0.64 percent of taxable payroll amounts to about $4.5 billion. In 1976 dollars then, medicare will be short $4.5 billion a year in each of the next 25 years. This deficit is over and above already scheduled future significant increases in the wage base on which taxes are levied and tax rates.

Mr. President, as chairman of the Subcommittee on Health of the Committee on Finance, I have been working long and hard toward developing approaches intended to bring the costs of medicare and medicaid under reasonable control. Those costs are now rising in runaway proportions. I am hopeful that the Committee on Finance will be able to act promptly on my bill, S. 3205, designed to bring about necessary reforms in medicare and medicaid administration and reimbursement. Until effective reforms are enacted and implemented, it seems to me that we must tighten our belts. I want to serve notice that, as chairman of the Subcommittee on Health, I will scrutinize with extreme care any proposed changes in medicare which serve to increase costs and the medicare deficit, no matter how meritorious. I know there are many worth-while improvements which we could make in medicare to provide better coverage for our older and disabled citizens. I, myself, have introduced and cosponsored proposals to make some of these changes. But, I would not ask any Senator to do what I would not be willing to undertake. I will, therefore, not press for consideration of any legislation which I have sponsored which would increase medicare costs.

There are those who suggest that the answer to the enormous deficits in medicare and the rest of the social security system lies in the infusion of general revenues. To put that proposed solution in perspective, we are already committing $6 billion in general revenues to part A and part B of medicare. The many billions of general revenues which would be required annually just to make a substantial dent in the existing deficit in the various social security trust funds are not available and will not be available in the foreseeable future. Quite simply, apart from the obvious lack of general revenue dollars for this purpose, there is nothing magic about general revenues. General revenues come out of the hides of the taxpayers just as much as payroll taxes do.

Mr. President, hopefully, we can begin shortly to deal with some of the underlying causes of these enormous problems in underfinancing.

THE FEDERAL PROGRAM CONTROL ACT

Mr. HARRY F. BYRD, JR. Mr. President, on April 28, I introduced S. 3336, the Federal Program Control Act. Subsequently, the distinguished Senator from Arizona, Mr. FANNIN, joined me as a cosponsor.

This legislation would require review of Federal programs at least once every 4 years, including an examination of regulations issued pursuant to each program, and an analysis of administrative costs.

On May 3, Mr. Hubert W. Monger, superintendent of schools of Culpeper County, Va., wrote to me to express support of this legislation, setting forth reasons for his endorsement based on his experience as a local school official and citizen.

Mr. Monger's views are cogent and well stated, and I ask unanimous consent that the text of his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CULPEPER COUNTY PUBLIC SCHOOLS,
Culpeper, Va., May 3, 1976.

Hon. HARRY F. BYRD, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: This morning, in reviewing the Congressional Record of Wednesday, April 28, 1976, we noted on Page S6067 that you had introduced Senate Bill #3336 which would require a review and evaluation of all federal programs every four years, except Social Security and other contributory trusts. Even these would have to be justified by the Executive Branch. The bill speaks to a very fundamental basic problem and is long overdue.

While your rationale is most adequately stated, let us add a comment or two in the elementary language of a layman in support of your bill.

1. If the management of our financial af-

fairs is so atrociously conducted by our Legislative and our Executive bodies as to create an indebtedness of 76 billion in one fiscal year in peacetime, what would this figure be should we ever be faced with a major crisis or become involved in one? In essence, how do we pay the bills? Somehow our decision makers seem to be immune to facing this basic economic question.

2. Domestic dollars never seem to flow from Washington except those whose identity are cleverly concealed with strings attached. Somehow the one-third of our citizenry as a nation, who become engrossed in the octopus' daily activities, feels that all of the intelligence of the nation has been captivated by the octopus. A review of the headlines in our papers over the past several years soon dispels this theory.

3. Paperwork? What can be said about this that has not already been said? But, again the immunity seems to prevail. We are convinced that there are those in Washington who make a sizable sum annually designing and redesigning forms, and never let us live two years in succession by the same rules and regulations. We can't remember a year when the School Lunch Program, for instance, did not have to be completely redesigned at the local level in order to comply with the voluminous dispatches originating in our nation's Capital.

4. Finally, the administration of these is self-perpetuating and thus consumes far too much of the appropriated moneys. This denies the recipients the full benefits intended.

While one little sound is lost in a total performance of an orchestra, let us presume that the orchestra is blending together the sounds of the clarinets, trombones, cellos, etc., and is in the midst of a movement which we shall identify at this moment as Senate movement #3336 in A major. The membership of the orchestra is made up of the remaining two-thirds of our nation. The adjudicators say that the performance is far superior to that of the one-third heard regularly. Let us hope that the winner's trophy goes to the most deserving performers.

Sincerely,

Hubert W. Monger,
Superintendent of Schools.

DEFINITION OF GENOCIDE

Mr. PROXMIRE. Mr. President, I rise to answer those opponents of the Genocide Convention who object to the phrase "in whole or in part." They mistakenly claim that article II of the convention, which defines genocide as "* * * acts committed with intent to destroy, in whole or part, a national, ethnical, racial, or religious group," applies to acts against any members of any group. Critics argue that the treaty might be construed to include the incidents at My Lai and police actions against the Black Panthers.

A commonsense examination of the convention precludes such an interpretation. The qualification, "in whole or in part," is vital. It prevents the argument that atrocities directed at only half or two-thirds of, for example, Jews in Poland, are not defined as genocide. Never were these words understood to mean "some individuals."

To eliminate any possibility for misunderstanding, the Committee on Foreign Relations proposes an "understanding" to article II. It states:

> That the U.S. Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" appearing in article II to mean . . . in such a manner as to affect a substantial part of the group concerned.

The committee's "understanding," as well as commonsense, prove objections to the phrase "in whole or in part" unfounded; therefore, presenting no obstacle to ratification. Consequently, I urge speedy approval of the Genocide Convention.

THE CASE FOR SECTORAL PLANNING

Mr. STEVENSON. Mr. President, those who have been late to accept the Keynesian economics, including Presidents Nixon and Ford, have had little success in applying them. In part this is because Keynesian demand management policies are inadequate to deal with contemporary economic realities. Macroeconomic policy cannot be depended on to assure increased productivity in basic industries or to assure an adequate supply of essential commodities at free market prices. W. W. Rostow has written a provocative and persuasive paper calling for sectoral planning.

I ask unanimous consent that his remarkable exposition on this subject given before the chamber of commerce at its conference on national economic planning be printed in the Record, and I commend it to my colleagues.

There being no objection, the exposition was ordered to be printed in the Record, as follows:

The Case for Sectoral Planning

I

I am told by the organizers of this conference that I was invited to speak today because of the following passage in a paper I recently published:[1]

"We must operate in a world somewhere between a Keynesian mixed economy and an indefinitely prolonged war economy. We need to cultivate again the kind of indicative sectoral planning developed in Western Europe in the postwar years of reconstruction, but this time on a broader international level." I believe that proposition holds for the next quarter-century, and perhaps for longer.

I take that view because I believe planning the sectoral pattern of investment is the key to the problem of returning to full employment and resuming a high rate of growth in the United States, the OECD world, and in the developing nations; and it is equally the key to the structural adjustments in energy, agriculture, raw materials, and the environment required to maintain the viability of the world economy. As in wartime, we must concern ourselves not merely with the level of investment and output or with the real rate of increase in investment and national output. We must concern ourselves also with the composition of investment and the composition of output. Our concern is not, of course, as detailed as it is in a war economy where reasonably precise sectoral targets are required over a wide range: uniforms and blankets, planes and ships, tanks and guns. But we are and shall remain in a world where certain types of energy and agricultural output, certain levels of purity in the air and water, certain kinds of raw materials production are achieved and sustained in our own country and in other regions of the world. And it is my central judgment that the approximation of those targets requires a significant degree of national and international planning which is not now taking place.

The point I seek to make is at once quite simple and quite difficult. In arguing it over the past year with neo-Keynesian economists, I am reminded of Keynes' observation in the Preface to his *General Theory*[2] on the probable reaction to his book of classical economists who "will fluctuate, I expect, between a belief that I am quite wrong and a belief that I am saying nothing new." The difficulty arises because a sectoral approach to investment and output clashes directly with the reigning modes of economic thought. These suffuse our minds more powerfully than we know. They drive us towards highly aggregated concepts focused almost exclusively on the level of effective demand which make it difficult to think systematically about our structural problems of supply. Evidently, population, food, raw materials, energy, air, water, and resarch and development have moved to the center of the stage in the world economy. We must act to try to make them move in the right directions. But these are variables which in modern economics are dealt with in one of four ways: they are left out of our equations (e.g., air and water); they are assumed to be fixed; they are introduced as exogenous, from outside our equations (e.g., population); or they are assumed to be easily and automatically evoked, in the correct amounts and patterns, by the price and profit incentives set up by our equations (e.g., food, energy, etc.). For good or ill, the kind of world in which we live and shall live is not well illuminated by frames of thought which are both highly aggregated and structured so as to rule out or to make dependent critical aspects of supply. An authentic revolution in economic thought is involved in the propositions I shall develop today. As always, the constructs of the past have not been rendered wholly irrelevant. As I said at the beginning, we shall continue to live, in part, in a Keynesian mixed economy where we shall continue to need the tricks and methods of modern income analysis. But Walter Heller spoke with precision as well as wit when he said in December 1973: "We [economists] have been caught with our parameters down." A great deal of useful *ad hoc* work is now going forward, conducted by economists and others, addressed to the problems of energy, population, food, etc. But before we have a firm grasp on our times and its problems—before politicians and citizens see the panorama we confront and what we must do to cope with it—we economists will have to create new structures of thought, which fit these problems into a comprehensible dynamic theory of production and prices. That dynamic theory must be based on a different set of parameters than those now conventionally taught or buried implicitly in our arguments and prescriptions; and, in the end, it should provide the intellectual basis for the sectoral planning we require.

So much by way of introduction. I shall develop this theme in four segments:

First, the relation of sectoral planning to our return to full employment;

Second, the relation of sectoral planning to the medium term structural adjustment required in the world economy (and the United States) between now and 1985 and, indeed, over the next quarter-century, as nearly as we can perceive;

Third, a brief aside on inflation;

Finally, some observations on the implications of all this for the position of the United States in the world arena, our security, and the prospects for peace.

First, then, the return to full employment. The debate about the current state of the American economy is characterized by a curious paradox. The paradox illustrates the clash between highly aggregated and sectoral

---

Footnotes at end of article.

methods of analysis. On the one hand, we are worried about the sluggish recovery now taking place in the United States and the OECD world. The forecast is that by the end of 1976 we shall still be wallowing along with something like 7% unemployment. If past unemployment for non-whites, 18% unemployment for those (white and non-white) 16–19 years old. In Europe, governments tend to look for an export-led return to full employment; but, as the London *Economist* recently reminded its readers,[3] "You Can't All Export at Once." At the moment, the estimates are that the OECD world will move ahead in the second half of the 1970's much more slowly than in the 1960's, with serious decelerating consequences for the rate of growth in the developing regions.

On the other hand, economists and others are worried about a capital market crunch. Adding up the volume of investment required for new forms of energy and energy conservation, antipollution programs, and other investment implications of stated public objectives, many feel instinctively that, in the time ahead, the United States will require a higher investment rate in relation to gross national product than in the past. The OECD energy analysts, for example, after estimating a rise of 44%in the proportion of energy to total gross fixed capital formation, between 1977 and 1985, with oil at $9 per barrel, counsel against seeking a much higher level of energy independence because of its potential conflict with "other objectives of government policy concerning income distribution, industrial structure, and policies aimed at combating inflation."[4]

In their analysis of *Capital Needs in the Seventies,* James Duesenberry and his colleagues examined carefully whether "we could afford the future" in terms of capital requirements for high priority social purposes.[5] They conclude: "We can afford the future, but just barely"; that is, they calculate increased outlays for energy, antipollution measures, and public transport, are more or less balanced out by relatively diminished outlays for education and the interstate highway system if there are no new major social programs, if we move to a federal budget surplus, and if a high average rate of growth yields its flows of both private investment resources and government revenues.

The paradox of severe unemployment and unused capacity versus the capital crunch was vivid but unresolved in the response of Walter Heller to Secretary of the Treasury Simon's proposal this summer for increased tax incentives for private investment.[6] Heller points to American industry operating at about 80% capacity. He implies that to cut business taxes now would be pushing on a string: there would be no significant investment response. He argues that the aggregate level of investment in relation to GNP has remained stable over the past decade; that a high rate of economic growth would generate the savings and investment to meet the investment needs of the next decade; and that we require, therefore, increased general stimulus to consumption and a closing of tax loopholes rather than regressive tax changes to stimulate investment at a time of large, idle industrial capacity. As a debating matter, Professor Heller scores some good points; but this is because the Ford administration then posed the problem in an over-aggregated way, permitting Heller to reply in similar terms. With great respect, I submit that both Simon and Heller fail to get at the root of the matter.

What is required in the United States (and in other OECD countries) to get back to full employment is not an undifferentiated expansion of investment; but a rapid expansion in certain particular directions. We now know those directions in the United States: new energy resources; energy economy; investment to clean the air and water; insulated housing; mass transport. To these I would add, for reasons I shall later develop, radically expanded investment in R&D and, quite possibly, investment to rehabilitate agricultural acreage we believed was arable until we took off acreage restrictions and found the land sub-marginal.

My central point, then, is quite simple: the return to full employment should come from rapidly expanded investment in certain key sectors; private enterprise has a role in each of these sectors; but in none of them will investment expand promptly enough and on a sufficient scale to bring us back to full employment unless the government acts in various ways to make investment flow. In some cases, direct government outlays are necessary; in others, the settlement of conflicts between production and environmental criteria; in others, legislation is required; in others, one form or another of subsidy or guarantee.

Thus, to get back promptly to full employment requires more of government policy than either Simon or Heller imply; although, evidently, intelligent fiscal and monetary policies retain an important role. A return to full employment on a viable basis requires intimate and painstaking sectoral collaboration between the public and private parts of our society.

As one who would prefer to see private enterprise carry forward the economy to the maximum and who believes government intervention has its costs, as well as benefits, let me put the question bluntly: Why is it that neo-Keynesian prescriptions for reducing unemployment through stimulus to consumers demand are not now sufficient? The answer is that the inescapable imperatives of higher energy prices and, for some advanced shift in the terms of trade, have cut into real income. These factors (reflecting both price and income elasticities of demand) have radically reduced consumers' outlays on postponable items; notably, automobiles and other consumers durables. They have also reduced the demand for housing. Against this background, and the combination of inflation and recession, governments cannot compensate adequately by rapidly expanding real outlays for social services (e.g., education and health care). These may, in any case, be approaching natural limits. The rapid expansion of OECD exports to the OPEC countries has been a balancing factor in terms of employment. But it also constitutes a quite insufficient compensation for these decelerating private and public outlays. Thus, the rise in energy prices has weakened the leading sectors which have carried forward economic growth in North America, Western Europe, and Japan over the past quarter-century. Resumed prosperity and growth require a massive shift of investment in new directions; and these directions (unlike automobiles, durable consumers goods, and suburban houses) require an enlarged government role and serious, sustained public-private collaboration.

Put another way, it is the multiplier (expanding income and employment through new forms of investment) rather than the accelerator (expanding investment through the increase in income), that will be rather more required than in the recent past to pull the OECD world out of recession and back to sustained growth. In a sense, we are returning to the dynamics of the pre-1914 world economy—the world of railroads, steel, and the opening of new territories—as opposed to the environment we have known since the 1920's when the leading sectors of high mass-consumption emerged, and investment was closely linked to the expansion of consumers' outlays on durable goods and certain services. This proposition relates, of course, to a marginal shift in the relative role of the two inter-acting mechanisms, not to a complete reversal. Surely, various built-in supports to the level of income and consumption have cushioned the recession of 1974–75 in the OECD world, as have government deficits; and this cushioning has prevented even greater declines in investment levels than those which have in fact occurred. And surely, as I have said, fiscal and monetary policy must contribute further to the return to full employment. Nevertheless, the marginal shifts required in the workings of the OECD economies are of significant orders of magnitude. They are the basis for my short-run case for sectoral planning.

III

I turn now to the longer run case for sectoral planning. A new phase in the history of the world economy began at the close of 1972 when bad harvests and the Soviet grain deal caused a convulsion in grain prices. World food reserves, waning in the 1960's as a proportion of world consumption, suddenly disappeared. At the same time, United States gas and oil reserves in relation to consumption were declining, and production began absolutely to decline after 1970. Then in the autumn of 1973 came the quadrupling of the oil price. Raw material prices simultaneously moved up across the board under pressure of a powerful worldwide boom. Although raw material prices have considerably softened in the subsequent recession of the industrial world, most analysts would agree that the prospects in the time ahead are for relatively expensive energy and food; and if the world economy recovers its lost momentum, in raw materials as well. The price revolution of 1972–75 yielded an accelerated general inflation; an extremely high range of interest rates; pressure on the real wages of industrial labor and on those with relatively fixed incomes; a shift of income and in the terms of trade favorable to producers of food as well as energy.

This is the fifth time in the last two hundred years that such a shift in relative prices has occurred; and on each of the other four occasions it has been accompanied by exactly the manifestations we have experienced since 1972. The other four occasions occurred in the 1970's; the early 1850's; the second half of the 1890's and the late 1930's. On each occasion these prices then remained in a relatively high range for about a quarter-century. A roughly equal period followed in which the trends reversed. Each of these periods was, in an important sense, unique; but the fact is that the world economy for almost two centuries has been subject to a rough and irregular pattern of long cycles in which periods of about 20 to 25 years of high relative prices for food and raw materials gave way to approximately equal phases of relatively cheap food and raw materials. The last downswing ran from 1951 to 1972. I am not wedded to the notion that these cycles will continue into the future. But I would guess that the inexorable pressure of excessive population increase in the developing world; the tendency of the poor to spend increases in income disproportionately on food; the rising demand for grain-expensive proteins; the pace of industrialization among those catching up; and the strains of the energy crisis will persist. Given these powerful and sustained demands operating on food, energy and raw material prices, and the costs we shall have to incur to achieve and maintain clean air and water, I believe we are in for a long period when the prices of these basic inputs to the economy will remain relatively high. Down to 1914 the classic response was to open new agricultural and raw material producing areas: the American West, Canada, Australia, Argentina, the Ukraine. The great movements of international capital during this era were, in substantial part, induced to bring new supplies into the market and to restore bal-

---

Footnotes at end of article.

ance in the industrializing world by the price system, combined with new technologies of transport and production. But we confront this trend period in a setting quite different from that of the past. We cannot rely wholly on the automatic workings of the price system and private capital markets to restore and maintain balance. All over the world, in one way or another, policy toward resources is in the hands of governments or is strongly influenced by governments. At every stage, therefore, public policy will be involved, seeking, if we are wise, to reinforce—and in some cases to control—the incentives and constraints set up by the price system.

What, specifically, do we have to do to bring the world economy back towards some kind of balance?

First, we need a concerted effort among energy importers to generate a mixture of expanded output and energy conservation sufficient to give us the bargaining leverage to negotiate a rational and equitable long-term agreement with OPEC. A large part of that effort must be undertaken by the United States, given the availability here of alternative energy resources and, perhaps, greater margins for energy economy. As among Western Europe, Japan, and the United States, only we command the capacity to reduce sharply our OPEC imports by 1985. We owe it not only to ourselves but to all energy importers to do so. If we do, there is a fair chance that an agreement could be reached between OPEC and the importers reconciling the three criteria which ought to be respected: an energy price sufficiently high in the United States and other advanced industrial countries to encourage economy and conservation and to induce the R&D required to supplant oil and gas as a primary energy source by, say, the end of the next generation; a politically and economically reliable flow of oil to consumers in advanced industrial countries at a price which does not impose chronic economic stagnation through excessive balance of payments pressures; a reliable long-term flow of oil to non-OPEC developing nations which would permit them to accelerate agricultural production and resume over-all growth at high rates, either via a concessional oil price or via long-term OPEC aid on a scale (along with OECD aid) capable of achieving the same dual objectives. To achieve the requisite bargaining position, the OECD world evidently requires a concert among national programs of energy production, conservation, economy, and R&D we have not yet achieved. The price system is slowly pushing us in the right directions; but the price system by itself is palpably insufficient. And then we shall have to achieve a diplomatic concert for the negotiation with OPEC which also does not now exist.

Second, agriculture. It is now agreed in the international community that while the OECD world can help, the task of feeding the inescapable increase of population in the developing world between now and the year 2000 must be undertaken primarily through a sharp increase in the rate of growth of agricultural output in Latin America, Africa, the Middle East, and Asia. This is an important consensus and a major result of the various international meetings of the past two years. As I say, the OECD world can help in various ways: by generating reserves for famine; supplying capital and technical assistance; offering enlarged markets for some agricultural exports. But the crucial variable may be the rate of increase of chemical fertilizer consumption in the developing regions. To achieve that increase will require public-private collaboration on a truly international basis. The domestic agricultural policies of developing nations are involved as they affect the incentive for farmers to use more fertilizers; their policies towards foreign-private investors in their countries are, in some cases, involved; the direction of public as well as private aid flows is involved; the possibility of guarantees may have to be considered in case of temporary fertilizer surpluses, so that investment in fertilizer capacity can proceed at a high rate without excessive anxiety; and, finally, there is the question of the price of fertilizer feedstocks, which comes to rest on OPEC's price or OPEC's aid. Here, evidently, is a task for sectoral planning on an international level of critical importance.

Third, international anti-pollution measures. In the OECD world, nations have generally moved to increase investment significantly to clear the air and water. This is proving a manageable but expensive task. We may argue about standards, time periods to achieve them, and trade-offs; but the fact is that we have irreversibly accepted the fact that air and water are not free goods; and we shall have to argue about and plan the air and water sectors for as far ahead as any of us can peer. But we have barely begun the task of coming to grips with the international dimensions of the problem, notably with respect to the seas and oceans. Here, again, sectoral planning will have to become international if the Atlantic and Pacific, the Baltic, Mediterranean, and Rhine are to be tolerably maintained.

Fourth, raw materials. The world recession has, for the moment, cut raw material prices. If the world economy resumes and maintains high growth rates, a range of issues similar to but less acute than those we confront in energy will assert themselves. As in the case of energy, there is no known physical limit to raw material resources on the planet. But a great deal of creative effort will be required to continue to fend off diminishing returns; to conserve and recycle; and to create an international framework within which the legitimate interests of producers and consumers are reliably guaranteed.

Fifth, R&D. I cannot prove it, but I am morally certain that the maintenance of a rapidly growing industrial civilization requires a substantial increase of investment in the form of R&D. The imperatives of our situation are already at work in the energy sector. The most thoughtful analysis of American agriculture I know commends an increase in agricultural R&D; that is, the report of *Agricultural Production Efficiency*[7] done by the National Academy of Sciences. We ought to be learning more about climate, as well as new anti-pollution technologies. I would expect us to have to be creative with respect to raw materials over the next generation. We owe it to the developing nations to find birth control methods that are cheaper, psychologically easier to accept, and longer lasting than any we now have. There is a lot more to bringing birth rates down rapidly than birth control devices. But their inadequacy has diminished the effectiveness of family planning efforts in the southern continents.

The list could, evidently be extended; but the underlying reason for my judgment about the necessary scale of R&D is that, as compared to the longer past, we cannot generate the new, necessary inputs to the world economy simply by opening up new territories. There is no American West, Argentina, Canada, or Australia to redress the balance of industrial civilization. A few frontiers there are: Alaska and the North Sea, Siberia and the seabeds. But every projective analysis of the longer future I know—pessimistic or optimistic—comes to rest technically on the capacity of the human race to continue to defeat classical diminishing returns with R&D and thus to provide a viable base for a global industrial civilization whose vast scale will be determined by both the inescapable expansion of the world's population over the next century and the determination of the developing world to achieve a meaningful version of affluence.

From the special perspective of this discussion of planning, R&D is a form of investment that requires a significant public role. A great deal can be done and should be done by the private sectors in response to private profit incentives; but public policy must set priorities and otherwise assure that R&D is directed to ends which respect non-economic values (including the environment and national security) and which guarantee work is done which is too large, risky, or distant in time for the private sector to undertake.

And if, as I believe, R&D may prove to be our scarcest and most vital sector for the next generation at least, there is, as with energy, agriculture, raw materials, and the environment, a whole new world of diplomacy to pioneer in achieving effective coordination of national efforts geared to commonly perceived priorities.

So much for my positive longer run case for sectoral planning. I could, of course, debate the matter much more simply. The fact is governments are in the sectoral planning business, including the government of the United States. Indeed, bad sectoral planning, here and abroad, accounts not for the existence but for the severity of our current agricultural and energy problems. Governments are deeply involved in R&D There is no indication governments are about to get out of the sectoral planning business. The objective, therefore, is to do the best job intelligence and a sense of proportion permit. But to arrive at this conclusion, by one route or another, is the beginning, not the end of the matter.

Governments face tasks as basic as new forms of data collection and as difficult as guiding the private sectors on to the right patterns of investment without frustrating them and destroying their powers of initiative. With respect to energy, for example, Edward Teller's report[8] concludes with fourteen substantive recommendations for federal action under the heading of conservation; nine bearing on energy in relationship to the environment; seven with respect to oil and gas production; four with respect to coal; seven with respect to nuclear reactors; two with respect to electricity; twenty-two with respect to R&D; five bearing on demonstration plants; one concerning underground nuclear plants; three with respect to highly specific forms of international cooperation; and four general and institutional recommendations, including the creation of a National Resource Mobilization Corporation, a recommendation to which the Ford administration has already responded. Every one of these seventy-one recommendations involves technical and/or policy complexities, including, in some cases, legislation.

The Ford Foundation report on energy concludes with almost as long a list.[9] Studies of family planning, agriculture, raw materials, and the environment emerge with similar catalogues of recommended public action, national and international.

Without accepting or rejecting any particular prescriptions, they all reflect a simple fact: in the modern political world the price system will not suffice to bring about the kinds of structural adjustment—the changed patterns of investment—our common situation requires. This does not mean we must create large new bureaucracies. The bureaucratic raw materials for effective national planning are sprawled all over this city, in a variety of poorly coordinated departments and agencies. What we lack are three things:

The kind of data intelligent sectoral planning demands;

A Council of Economic Advisers and a centralized Economic Policy Council organized so that they can set, in coordination with the Congress, national sectoral targets

---

Footnotes at end of article.

in relation to what is going on in the world economy as a whole;

And, above all, new attitudes of mind in the Executive Branch and the Congress, the business community and the public, which would support the collaboration of private and public segments of our society in achieving large common purposes.

But behind each of these requirements is the basic need for a consensus on where we are in the sweep of our own economic history and the evolution of the world economy; and a common sense of direction for the next years and generation.

IV

Now one observation about inflation which is, evidently, as large a subject in itself as planning. Inflation relates to planning technically because wage-push inflation complicates the investment tasks we face, erodes provisions for the future, inhibits the vigorous pursuit of full employment, and, by setting each group in society against every other, makes difficult the national consensus we badly need for effective planning.

My observation is that the coming together of the public and private institutions of our society needed for selective sectoral planning should also make it easier for us (and the OECD nations in general) to bring under control the pathology of wage-push inflation. As an early observer of European income policies remarked, a disciplining of wages and prices must be "part of a coordinated effort to achieve a clearly defined national objective."[10] The appropriate objective of the OECD nations should be clear enough: to resume regular growth in ways which maximize the chance that their own societies and the larger civilization of which they are a part remain viable. Within the framework of that kind of consensus, it ought to be possible to achieve stable social contracts relating money wages to increases in productivity, and to do so in ways which do not result in an excessive surge of profits. My own preferred formula is radical by the standards of contemporary neo-Keynesian economists but more understandable to students of economic history who have examined the protracted periods in the past when wages were stable, prices falling, and real wages rising. It should also commend itself to those who have examined the dangerous problem of wage struggles and strikes in the public service sector of our economy. My formula is: a protracted wage freeze for at least five years, accompanied by strong, credible measures to ensure that increases in productivity are passed along to the consumer in lower prices and not trapped in excessive profits. This would require not merely mutual assurances among business, labor, and the Executive Branch, but also the backing of the Congress. Ultimately, what is involved, however, is not a technical formula, but a coming together of labor, business, and government to achieve a common goal. And, in this case, the common goal reflects the authentic long-run interests of business and labor, since both groups suffer severely, on balance, from the multiple consequences of wage-push inflation. I am well aware that it is not easy to create a negotiating framework in which authentic long-run interests triumph over even chimerical short-run interests. The mediocre record of efforts in this direction by OECD nations over the past generation underlines the psychological, institutional, and political difficulties involved. I raise this issue without naivety. But in a time when a higher sense of communal purpose will be, in any case, required to move the major sectors in the right directions, the chances of instituting more stable social contracts, capable of disciplining wage-push inflation to common advantage, should be enhanced.

V

Now a final word about the relationship of this argument about sectoral planning to the larger questions of the American role in the world and the task of moving towards stable peace.

If I am right about the character of the period we entered at the close of 1972 and the character of its remedy, the responsibilities of the United States and our potential for influencing constructively the world economy have risen in a rather dramatic way. The American role emerges from five circumstances.

First, the United States, if it continues to nurture its agricultural base, is and should remain the dominant source of food exports, including exports required to certain developing nations until their own production can be expanded at a higher pace. About 75% of the world's grain surplus flows from the United States. The United States agricultural export capacity is also a significant cushioning factor in our balance of payments strengthening the relative position of the dollar among the major currencies and making more possible large oil imports. In addition, the flow of grain from the United States is important to the Soviet Union, Eastern Europe, and China, all of which are now in a chronically deficit position. The deficit each year varies with the harvests, but it is not likely to disappear. This import requirement does not give the United States a blackmail power over the foreign policy and international behavior of these nations. But it is a fact of life with which they must reckon—and a stabilizing fact of life.

Second, as I noted earlier, the United States alone commands sufficient alternative energy resources to reduce sharply OECD dependence on OPEC oil and, thereby, set the stage for well-balanced agreement between oil producers and consumers. If we do so, OPEC would face the choice of reducing its prices or forcing certain of its members (notably, Saudi Arabia) to cut output to unacceptable levels. The combination of good weather last winter and the OECD recession began to pose this problem to OPEC at its recent meeting. But they have thus far been protected because the United States lacks an energy policy worthy of the name. If we are to get a rational oil policy in the world—relieving the burden imposed by OPEC on the poorest nations, easing the vulnerability of the OECD nations, insulating our foreign policy from blackmail—it will come about only if we break the costly impasse between the President and the Congress and get on with the job.

Third, the energy and energy-related investment requirements in the United States are so large that it should be easier for the United States to return quickly to full employment and thereby help lead the OECD world in that direction. Changed patterns of investment will be required in all OECD countries in the next phase of growth. They cannot rely wholly on a prior American revival permitting a return to full employment based on expanded exports to the United States. Nor can they continue to rely, as over the past generation, on rapid expansion in production of automobiles, durable consumers goods, and other energy-intensive products. But the scale of additional investment required in the United States in the expansion of energy output, the diffusion of methods for energy conservation, mass transport facilities, insulated housing, and energy R&D are such as to make it somewhat easier for the United States than for others to return to full employment on such foundations and to help, at least, to lead the OECD world back to full employment and regular growth.

Fourth, the United States evidently has special advantages and responsibilities in the R&D sector as a whole. The American advantage stems from the absolute scale of our R&D resources and the potentialities for orchestrating them efficiently within a single national community. The proportion of United States GNP spent on R&D has fallen into the same range as that, say, of Germany and the United Kingdom (say, 2.2% per annum); but the absolute level of American R&D expenditures still towers over that of the other major industrial nations—by a factor of ten. If organized around the appropriate priority tasks they are an asset of universal value; and they place on the United States a special responsibility in bringing about effective international cooperation in this domain.

Finally, the United States has a special responsibility for political leadership in dealing with the new economic agenda. In part, this flows from our potentialities in agriculture, energy, research and development. But it is also the case because if the United States fails to lead there is, as yet, no nation or political group that can fill the gap: Western Europe is insufficiently unified; Japan too vulnerable; the Soviet Union too constricted by its ideological commitments to lead comfortably a heterogeneous mixture of politics; China is similarly constricted and at a stage of development when its inner problems and border anxieties must dominate its energies. Leadership in this context in no way implies dominance. It requires a mixture of three elements: a national capacity to act significantly with respect to the major issues; a capacity to define common objectives in ways that are not excessively self-serving; and, then, the capacity to help translate those objectives into a working agenda, and to help move it forward with dogged stubbornness. These are assets the United States potentially commands.

After a wobbly start in 1974, the United States began to exercise this potentiality in the critical area of North-South relations during the September 1975 special session of the United Nations Assembly. Over the previous year things went badly. There was the acrimonious United Nations General Assembly debate of April 1974; the population meeting at Bucharest; the food conference at Rome; and the sterile session on the law of the sea at Caracas. In all of them, the air was filled with rhetoric about imperialism; with claims for the unilateral transfer of resources from the rich to the poor; with the ardent assertion of national sovereignty by the less developed nations, combined with equally ardent demands that the more developed states surrender sovereignty and behave in terms of the requirements of the international community. It was not difficult to envisage all this yielding a neomercantilist fragmentation of political, economic, and military affairs—and disaster for the human race—as men and nations squabbled meanly for scarce resources in a nuclear age.

The September 1975 meeting was better not only because the United States outlined the headings for a North-South partnership but for two other reasons. The developing nations, which in 1974 were talking about the excessive raw material consumption of the North, had felt fully the effects of recession in the North. Their exports and export prices were down and their development prospects were badly damaged. In addition, they had come to appreciate how badly damaged they were by OPEC's price policy. The somewhat specious unity of OPEC and other developing nations in 1974 was strained. The result was a wide-ranging series of formally agreed resolutions covering aid, trade, agricultural production, the transfer of technology, commodity agreements and the other legitimate headings for action if North-South confrontation is to be converted into the partnership the facts of interdependence demands.

But it was only a beginning. United Nations resolutions do not automatically translate themselves into action. Hard work lies

---

Footnotes at end of article.

ahead. Moreover, the United States took its distance from several important resolutions including that which reaffirmed the United Nations aid target for the 1970's: an explansion in official aid by 1980 up to the level of 0.7% of GNP, as opposed to the present figure of about one-third that proportion.

Right now, the potentialities of North-South partnership—and much more—are endangered. The danger is not of a great depression. It is of a protracted period of chronically high levels of unemployment, with its damaging social consequences compounded by continued high rates of inflation. These could bring about a kind of progressive weakening of our society like that experienced by Great Britain between the two world wars. It would enfeeble the OECD world and drag down the rate of recovery of the developing nations. The World Bank staff recently estimated that if the OECD countries grow in the second half of the decade at an average rate of 4.9%, the lower income developing countries will move ahead at 1.2% per capita—an inadequate but positive rate. If the OECD countries grow at only 3.5%, the poorest nations will virtually stagnate. Moreover, it is extremely doubtful that, if the OECD world continues to experience a disappointing recovery and sluggish growth rate, it can generate the political will to liberate trade, expand aid, and do the other things a serious North-South partnership requires.

Something of the same can be said for the prospects of détente and the stability of Europe, the Middle East, and Asia. It is worth recalling that the chronic debilitation of Great Britain between the two world wars weakened in quite direct ways the balance of power and palpably played a part in bringing on the Second World War. It is not difficult to envisage an America, failing to solve its domestic economic problems, wracked by increasing social unrest, turning away from its responsibilities in Europe, the Middle East, and Asia. In that process, the potentialities of détente could easily be lost and important parts of the world plunged into chaos or worse.

On the other hand, if we can shake loose from the neo-Keynesian framework which distorts the vision of our task, define our agenda, and act on it with the President and Congress united, the prospects are rather hopeful. The stabilization of the Middle East and Asia as well as Europe is not impossible; the economic tasks of the quarter-century ahead are difficult but doable and, in their way, rather exciting.

In a toast to the Royal Economic Society in December 1945, shortly before his death, Keynes spoke of economics and economists as "the trustees not of civilization but of the possibility of civilization." That has never been more true than of this time when we must shift from an obsessive focus on effective demand—which Keynes' *General Theory* set in motion—to the generation of the sectoral inputs required to sustain an industrial world economy. Keynes would have been the first to urge us to make that shift.[11]

FOOTNOTES

[1] "The Developing World in the Fifth Kondratieff Upswing," *Annals*, No. 420, July 1975, p. 114.

[2] J. M. Keynes, *The General Theory of Interest, Employment, and Money*, New York: Harcourt, Brace and Company, 1936, p. v.

[3] July 12, 1975, p. 68.

[4] "Energy Prospects to 1985," summarized in *OECD Observer*, No. 73, January-February 1975, pp. 18–19. The caution is expressed with respect to a full exploitation of OECD's energy import replacement potential, which would reduce the proportion of imports by 1985 to 2–7%, as opposed to 36% in the early 1970's, 21% in the "$9 case".

[5] Barry Bosworth, James S. Duesenberry, and Andrew S. Carron, *Capital Needs in the Seventies*, Washington, D.C.: The Brookings Institution, 1975.

[6] "Taxes and the 'Capital Shortfall,'" *Wall Street Journal*, August 19, 1975.

[7] Washington, D.C.: National Academy of Sciences, 1975.

[8] *Energy: A Plan for Action*, New York: Commission on Critical Choices for Americans, 1975.

[9] *A Time to Choose: America's Energy Future*, Cambridge, Masachusetts: Ballinger Publishing Company, pp. 325–343.

[10] Mark Leiserson, *A Brief Interpretative Survey of Wage-Push Problems in Europe*, Study Paper No. 11 for Consideration of the Joint Economic Committee, 86th Congress, 1st Session (Washington, D.C.: GPO, 1959), p. 55.

[11] This observation reflects not merely a judgment about Keynes' flexibility of mind but the fact that, as a young man, he was much concerned with the problem of the relative scarcity and high prices for foodstuffs and raw materials during the period 1896–1920. (See, notably, his note "Return of Estimated Value of Foreign Trade of United Kingdom at Prices of 1900," *Economic Journal*, 1912, pp. 630–31.) This anxiety suffused his *Economic Consequences of the Peace*, especially Chapter II. His focus shifted quickly, however, when the break of relative prices in 1920–21 confronted Britain with excessively favorable terms of trade, weakened export markets, and chronic high unemployment.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR DISCHARGE OF COMMITTEE AND REFERRAL OF BILL—H.R. 10138

Mr. JACKSON. Mr. President, as in legislative session, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from consideration of H.R. 10138, the Young Adult Conservation Corps Act, and that the bill be referred to the Committee on Interior and Insular Affairs.

Referral to the Committee on Labor and Public Welfare was in error. This matter has been cleared with the chairmen of both committees, Senator Williams and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 4 Ex.]

Allen
Bartlett
Bellmon
Biden
Burdick
Byrd, Robert C.
Chiles
Durkin
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Jackson
Leahy
Metcalf
Moss
Nunn
Percy
Proxmire
Randolph
Scott, Hugh
Sparkman
Stafford
Talmadge

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Bayh
Brock
Byrd, Harry F., Jr.
Clark
Cranston
Dole
Ford
Hartke
Haskell
Hollings
Johnston
Long
Magnuson
Mathias
McGovern
Muskie
Nelson
Roth
Schweiker
Stevenson
Symington
Weicker

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Gary Hart), the Senator from Maine (Mr. Hathaway), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from North Carolina (Mr. Morgan), the Senator from Rhode Island (Mr. Pell), the Senator from Rhode Island (Mr. Pastore), the Senator from New Jersey (Mr. Williams), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from Florida (Mr. Stone), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), the Senator from Alaska, (Mr. Gravel) are absent on official business.

I also announce that the Senator from Iowa (Mr. Culver) is absent attending the funeral of Congressman Torbert Macdonald.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators. This does not mean they will be subject to arrest, but it means that there will be a serious effort to persuade them to come in.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Alaska, (Mr. GRAVEL) are absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER) is absent attending the funeral of Congressman TORBERT MACDONALD.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 41, nays 6, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—41

Bartlett
Bayh
Bellmon
Biden
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Dole
Durkin
Ford
Glenn
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Jackson
Johnston
Leahy
Long
Magnuson
Mathias
McGovern
Metcalf
Moss
Muskie
Nelson
Nunn
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Symington

NAYS—6

Allen
Domenici
Garn
Hollings
Scott, William L.
Weicker

NOT VOTING—53

Abourezk
Baker
Beall
Bentsen
Brooke
Buckley
Bumpers
Cannon
Church
Cranston
Culver
Curtis
Eagleton
Eastland
Fannin
Fong
Goldwater
Gravel
Hansen
Hart, Gary
Hathaway
Helms
Hruska
Huddleston
Humphrey
Inouye
Javits
Kennedy
Laxalt
Mansfield
McClellan
McClure
McGee
McIntyre
Mondale
Montoya
Morgan
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

So the motion was agreed to.

The PRESIDING OFFICER (Mr. MCGOVERN). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

NOMINATIONS OF DAVID LILLY AND GEORGE HENRY KUPER

The PRESIDING OFFICER. The Senate will now proceed to the consideration of the nominations of Mr. David Lilly, of Minnesota, to be a member of the Board of Governors of the Federal Reserve System, and of George Henry Kuper, of the District of Columbia, to be Executive Director of the National Center for Productivity and Quality of Working Life.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed immediately to the rollcall vote on Mr. David Lilly without debate, and that there be one rollcall vote for both nominations, the one rollcall vote to count for two rollcall votes in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. Without objection, it is so ordered.

DAVID MATHER LILY

Mr. MONDALE. Mr. President, I would like to take this opportunity to speak in favor of the nomination of Mr. David M. Lilly of Minnesota. Mr. Lilly has been nominated to be a member of the Board of Governors for the Federal Reserve System and to fill the unexpired term of Robert C. Holland.

I wish to endorse this nomination for Mr. Lilly has certainly contributed a great deal to Minnesota and has been a distinguished and respected member of the Twin Cities community.

Presently Mr. Lilly is serving as the chairman of the board of the Toro Co., a Minneapolis-based equipment manufacturing firm.

After graduating from St. Paul Academy, he attended Dartmouth College and received his degree in economics. He joined the First National Bank of Minneapolis upon graduation in 1941 and then served as Assistant to the Under Secretary of the U.S. Treasury in 1942.

From 1942 to 1945, Mr. Lilly served in the U.S. Army and attained the rank of major. He was decorated with the Bronze Star for his military service.

In 1945 he joined the Toro Co. as the vice president and general manager. He became president in 1950 and the chairman of the board in 1968. At the present time, he is also director of the Dayton-Hudson Corp., General Mills, Inc., the First Bank System, the First National Bank of St. Paul and the St. Paul Companies, Inc.

Mr. Lilly serves the community as the chairman of the board of trustees of Carleton College, and is a member of the visiting committee to the Graduate School of Education, Harvard University; member-at-large, council of the alumni of Dartmouth College; and former chairman of the Board of Directors of the Federal Reserve Bank of Minneapolis.

Mr. Lilly is married and has three children: David, Jr.; Bruce, and Susanne.

I hope that the Senate will join me in supporting this nomination as Mr. Lilly has certainly evidenced his interest and dedication to the best interests of his community and will undoubtedly serve the Federal Reserve System with the same concern and deep commitment.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

Mr. JAVITS. Mr. President, last November the Congress enacted Public Law 94–136 which created the National Center on Productivity and Quality of Working Life reported out of the Government Operations Committee of which I am a member. The new National Center is the successor to the National Commission on Productivity which was originally created by Executive order, and legislatively sanctioned in the Economic Stabilization Act Amendments of 1971. From 1971 through 1975 the National Commission was continued on a year-to-year authorization.

I have, for a number of years been deeply concerned by the decline in the rate of productivity growth in the United States. This decline has been particularly distressing in contrast to the rapid productivity increases which a number of Western European nations and Japan have been experiencing over the same period. The Federal Government must take an active, leadership role in improving the productivity of American industry and its workers and in enhancing the quality of working life. The original National Commission, however, was to a large extent, unable to fulfill its vital mandate. To improve the Federal effort in this area the new National Center was established, and authorized on a 3 year basis.

The National Center for Productivity and Quality of Working Life was given authority to coordinate the activities of all other branches of the federal government aimed at productivity improvement.

One of the new Center's first orders of business is to take stock of the productivity related efforts currently being undertaken by all branches of the Federal Government. The lack of such a single coordinating body made it impossible for the Government Operations Committee to gauge the scope of diverse Federal efforts in this area, or to assess their effectiveness.

In order for this Nation to maintain its position of economic and industrial leadership, it is additionally essential that we develop legislative programs designed to stimulate the productivity of the American labor force, and to facilitate programs to improve their work environment. Renovation, improvement, and modernization of facilities also are vital factors here. Recently I introduced S. 3300, a bill which would permit collective bargaining over the establishment of joint labor-management trust funds which would, on behalf of the employees of a given company, be permitted to purchase with a stated percentage of the trust fund common stock in that company. This employee stock ownership proposal will help give employees a greater stake in the viability and profitability of the companies for which they work. This is one step in expanding the horizon of the American worker beyond the assembly line, manufacturing plant, or office in which he or she works.

There are already a number of experiments being undertaken by labor and management aimed at productivity improvement and in enriching the work environment. These initiatives range from industry wide productivity committees in the steel industry to local labor-management-public committees, as in the highly successful experiment in Jamestown, N.Y. It is my firm belief that new and innovative productivity improvement programs will be key to improved relations between labor and management in the coming years.

We are on the threshold of a new era in labor relations in this Nation, which, with proper assistance and stimulation, from the activities of the new National Center on Productivity and Quality of Working Life, and such additional legislative enactments as may prove desirable can lead to unprecedented levels of cooperation between labor and management with a common goal of improving productivity while simultaneously making the workplace safer and more rewarding.

This new National Center will have a key role to play in the shaping of national policy in the area of productivity improvement. In order to facilitate planning within the Federal Government of productivity related initiatives the Center was given authority to coordinate the activities of all other Federal agencies.

As I have noted earlier, the former National Commission on Productivity was legislatively sanctioned in the Economic Stabilization Act of 1970. That act was reported from the Senate Banking Committee. There can be no doubt that the Banking Committee has an important stake in economic planning for our Nation. But efforts at improving the productivity of American workers and enhancing their work environment are equally within the ambit of the Labor and Public Welfare Committee, where I serve as ranking minority member. In order to establish effective coordination between the activities of the National Center, and legislation on the labor side to facilitate productivity and stimulate the interest of American workers in their environment, the responsibility respecting the National Center should also be recognized in the Labor and Public Welfare Committee.

The President has recently announced his nomination of George H. Kuper, the former Executive Director of the National Commission on Productivity to be the new Executive Director of the National Center. I believe this appointment of Mr. Kuper, who is fully familiar with the efforts of that predecessor Commission, and the stumbling blocks which it encountered to be highly appropriate. Mr. Kuper was instrumental in working with the Government Operations Committee in fashioning the legislation which brought the new Center into being.

This nomination was initially referred to the Government Operations Committee which had reported the legislation creating the new National Center. However, on Monday it was rereferred to the Banking Committee.

I wish to reiterate that my statement is in no way meant to indicate the slightest dissatisfiaction with the appointment of Mr. Kuper to be Executive Director of the National Center. It is my belief however, that effective coordination between the executive and legislative branches, and proper oversight of the activities of the new Center requires also recognition of the responsibility of the Senate Labor and Public Welfare Committee with substantive jurisdiction over proposals which are likely to be forthcoming from the work of the Center, or which are likely to require implementation by the Center.

FEDERAL RESERVE SYSTEM

Nomination of David M. Lilly of Minnesota to be a member of the Board of Governors of the Federal Reserve System.

The PRESIDING OFFICER. The question is on the confirmation of the nomination of David M. Lilly of Minnesota, to be a member of the Board of Governors of the Federal Reserve System.

The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Wyoming (Mr. McGEE), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Alaska (Mr. GRAVEL), are absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER), is absent attending the funeral of Congressman TORBERT MACDONALD.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from North Carolina (Mr. MORGAN), the Senator from Minnesota (Mr. HUMPHREY), would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the

Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 51, nays 0, as follows:

[Rollcall Vote No. 207 Ex.]

YEAS—51

Allen
Bartlett
Bayh
Bellmon
Biden
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Curtis
Dole
Domenici
Durkin
Ford
Garn
Glenn
Griffin
Hansen
Hart, Philip A.
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Jackson
Johnston
Leahy
Long
Magnuson
Mathias
McGovern
Metcalf
Moss
Muskie
Nelson
Nunn
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stevenson
Symington
Weicker

NAYS—0

NOT VOTING—49

Abourezk
Baker
Beall
Bentsen
Brooke
Buckley
Bumpers
Cannon
Church
Cranston
Culver
Eagleton
Eastland
Fannin
Fong
Goldwater
Gravel
Hart, Gary
Hathaway
Huddleston
Humphrey
Inouye
Javits
Kennedy
Laxalt
Mansfield
McClellan
McClure
McGee
McIntyre
Mondale
Montoya
Morgan
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

So the nomination was confirmed.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

The PRESIDING OFFICER. The question is on the confirmation of the nomination of George H. Kuper, of the District of Columbia, to be Executive Director of the National Center for Productivity and Quality of Working Life.

The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Alaska (Mr. GRAVEL) are absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER) is absent attending the funeral of Congressman TORBERT MACDONALD.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from North Carolina (Mr. MORGAN), the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from North Dakota (Mr. Y*Z&7) are necessarily absent.

The result was announced—yeas 51, nays 0, as follows:

[Rollcall Vote No. 208 Ex.]

YEAS—51

Allen
Bartlett
Bayh
Bellmon
Biden
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Curtis
Dole
Domenici
Durkin
Ford
Garn
Glenn
Griffin
Hansen
Hart, Philip A.
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Jackson
Johnston
Leahy
Long
Magnuson
Mathias
McGovern
Metcalf
Moss
Muskie
Nelson
Nunn
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stevenson
Symington
Weicker

NAYS—0

NOT VOTING—49

Abourezk
Baker
Beall
Bentsen
Brooke
Buckley
Bumpers
Cannon
Church
Cranston
Culver
Eagleton
Eastland
Fannin
Fong
Goldwater
Gravel
Hart, Gary
Hathaway
Huddleston
Humphrey
Inouye
Javits
Kennedy
Laxalt
Mansfield
McClellan
McClure
McGee
McIntyre
Mondale
Montoya
Morgan
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume the consideration of H.R. 8532.

ADDITIONAL STATEMENT SUBMITTED ON TITLES I AND III OF THE AMENDMENT

Mr. PHILIP A. HART. Mr. President, the Senate is now considering an amendment to substitute the text of S. 1284 for the provisions of H.R. 8532, the Antitrust Parens Patriae Act. This statement comments on the provisions of title I, the Declaration of Policy, and title III, the Miscellaneous Provisions of S. 1284.

TITLE I—DECLARATION OF POLICY

Mr. President, title I reaffirms this Nation's commitment to the private enterprise system and the free market economy. It does so in the belief that competition spurs innovation; promotes productivity; prevents the undue concentration of economic, social and political power and preserves a free democratic society. In April of 1975, President Gerald R. Ford told the White House Conference on Domestic and Economic Affairs:

> Competition—I think it is good in politics, I think it is good in athletics, and I think competition is the key to productivity and innovation.

In *Northern Pacific Railway Company against The United States*, 356 U.S. 1 (1958), the underlying principles of the antitrust laws were described as follows:

> The Sherman Act was designed to be a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. It rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions.

President Franklin D. Roosevelt summed up the central political, social, and economic values antitrust policy expresses in our society when he observed in a 1944 letter to Cordell Hull:

> The Sherman and Clayton Acts have become as much a part of the American way of life as the due process clause of the Constitution.

Title I goes on to describe some of the possible effects which the decline of competition in our economy can have. Title I states that the decline of competition can contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments. In his message to Congress creating the Temporary National Economic Committee in 1938, President Franklin D. Roosevelt spoke of the decline of competition and its effects on employment as follows:

> One of the primary causes of our present difficulties lies in the disappearance of price competition in many industrial fields, particularly in basic manufacturing where concentrated economic power is most evident—and where rigid prices and fluctuating payrolls are general.
>
> Managed industrial prices mean fewer jobs. It is no accident that in industries like cement and steel where prices have remained firm in the face of a falling demand payrolls have shrunk as much as forty and fifty percent in recent months. Nor is it mere chance that in most competitive industries where prices adjust themselves quickly to falling demand, payrolls and employment have been far better maintained. By prices we mean, of course, the prices of the finished articles and not the wages paid to workers.
>
> When prices are privately managed at levels above those which would be determined by free competition, everybody pays.

Mr. President, title I goes on to state that diminished competition and increased concentration have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment. Traditional monetary and fiscal policies do not seem adequate to check inflation and reduce unemployment. Dr. Arthur Burns wrote me as follows on this subject back in 1973:

> Since the catastrophic depression of the Thirties we have learned a great deal about Government's role in helping to stabilize economic activity—how to avoid depressions and to reduce the frequency and severity of recessions. Currently we are enjoying a brisk recovery. But we are plagued with continuing inflation, and stabilization policies that rely on management of aggregate demand do not offer assurance, of themselves, of success in restoring stable prices. Selective controls on wages and prices for a limited period will be helpful, but they are no substitute for vigorous competition.
>
> Yet competition is weakened by an array of impediments that have become embodied in our economic structure. Some are doubtless needed to protect workers, consumers, producers, investors, and others against the varied risks inherent in a free market. But our economy grew strong because of our reliance on free enterprise and individual choice, and we need to make sure that the restraints on free markets that we impose or tolerate are worth their costs, including their effects on productivity and efficiency. The increased productivity that we must have in order to enjoy prosperity without inflation can be achieved only if we eliminate restrictive practices in both the private and public sectors, on the part of labor as well as management, that cannot meet this cost-benefits tests.

In his fiscal 1976 budget request, Assistant Attorney General Thomas E. Kauper elaborated on the economic consequences of artificial restraints on our economy as follows:

> Undue concentration of industry and artificial restraints on normal market forces exerted by private combinations and conspiracies exacerbate the existing pressures for inflation. These influences can be restrained by effective antitrust enforcement. The higher prices achieved by concentrated industries or by such combinations and conspiracies provide profit margins which are the natural targets for wage demands which in turn foster still further price increases, and therefore have both a long-term and a short-run effect on inflation. A dynamic antitrust program must be geared to arrest these effects.
>
> * * * * *
>
> The ultimate target of antitrust enforcement has been estimated in terms of billions of dollars of inflated prices. The precise costs of non-competitive market structure and performance are elusive, but experts in the field of economic organization estimate the economic losses due to resource misallocation, inefficiency due to ineffective cost control, wasteful promotional efforts and excessive and inefficient capacity, at from 3 to 6.2 percent of the GNP—or as much as $80 billion in terms of 1973 GNP.

Title I further states that investigations by the Federal Trade Commission, Department of Justice and others have identified conditions of excessive concentration and anticompetitive behavior in various industries. Although there is debate in academic circles as to whether or not economic concentration is a problem of national concern or whether concentration is still increasing, there seems to be little doubt that concentration does exist in our economy and persisted for a number of years. The Neal White House Task Force Report on Antitrust Policy found as follows in 1968:

> Highly concentrated industries represent a significant segment of the American economy. Industries in which four or fewer firms account for more than 70% of output produce nearly 10% of the total value of manufactured products; industries in which four or fewer firms account for more than 50% of output produce nearly 24%. An impressive body of economic opinion and analysis supports the judgment that this degree of concentration precludes effective market competition and interferes with the optimum use of economic resources. Past experience strongly suggests that, in the absence of direct action, concentration is not likely to decline significantly.

The Neal report went on to recommend specific legislation to deal with concentrated industries. The legislation we are presently debating, of course, does not deal directly with concentrated industries. It seeks only to strengthen our system of enforcement to prevent further concentration. In 1969, when the Federal Trade Commission submitted its staff report entitled "Economic Report on Corporate Mergers," Dr. Willard Mueller, the FTC's Chief Economist, testified as follows:

> This centralization of industrial control represents a substantial increase over previous levels that earlier prompted major concern on the part of the Congress. Specifically, the share of manufacturing assets held by the 100 largest corporations in 1968 was greater than the share of manufacturing assets held by the 200 largest corporations in 1950, the year Congress enacted the Celler-Kefauver amendment to section 7 of the Clayton Act. The 200 largest manufacturing corporations in 1968 controlled a share of assets equal to the share held by the 1,000 largest in 1941, when the Temporary National Economic Committee submitted to Congress its final report and recommendations on an investigation of concentration of economic power.

Title I concludes simply by saying that vigorous and effective enforcement of the antitrust laws can make a contribution to reducing prices, unemployment, and inflation. It also goes on to state that antitrust can contribute to the preservation of our democratic institutions and personal freedoms. Last June, Attorney General Edward Levi made a speech commemorating the 85th anniversary of the Sherman Act. Several of his comments are applicable to the validity of the declaration of policy in title I. They reaffirm that the premise underlying the antitrust laws and the policy of the Sherman Act against concentration and monopoly are as political and social in nature as they are economic. The antitrust laws are premised not only on economic freedom, but on personal freedom as well. On that occasion, Attorney General Levi stated as follows:

> The antitrust laws are an expression of the importance of a recognition that liberty is to be found not only in the first amendment, but in the ability to make choices free of intervention. The antitrust laws, in their basic theory, are built upon a view of enterprise and of choice which property and access to the market give, and I would claim them as among the most important civil liberties. This is an older view, often in disrepute. Although often violated, this view has been sufficiently strongly held to give our country unusual diversity and creativity. This view and its manifestations in the Sherman Act have shaped and protected our democracy.

Mr. President, title I does not attempt to lay the blame for inflation and unemployment on diminished competition and increased concentration in the marketplace, nor does it promise that enactment of this legislation will solve these difficult and continuing problems Title I merely states that vigorous and effective enforcement of the antitrust laws can make a contribution in this regard. It is difficult for me to believe that anyone would seriously quarrel over such an assertion.

TITLE III—GENERAL

Title III contains six sections, four of which amend various provisions of the existing antitrust laws on the books. The remaining two sections deal with severability and the effective date of title III.

TITLE III—SECTION 301

The purpose of section 301 is to make the jurisdictional reach of the various antitrust statutes uniform. That section amends sections 2, 3, and 7 of the Clayton Act (15 U.S.C. 13, 14 and 18), section 3 of the Robinson-Patman Price Discrimination Act (15 U.S.C. 13(a)), and section 6 of the Sherman Act (15 U.S.C. 6), to permit their application to the fullest reach of the commerce clause and to assure uniformity of application of the antitrust laws to all activities in or affecting commerce. Under section 301, decisions such as *United States against American Building Maintenance Industries*, 422 U.S. 271 (1975), and *Gulf Oil*

Corporation against Topp Paving Company, 419 U.S. 186 (1974), construing the intent of Congress to limit the reach of the antitrust laws, would no longer be applicable.

When Congress originally enacted the antitrust laws in 1890 and 1914, the full reach of the commerce clause was not as refined as it is today. Recent court decisions have construed some provisions of the antitrust laws to apply to activities "in commerce" and other provisions as applying to activities "in or affecting commerce." Section 301 substitutes the phrase "in or affecting commerce" or its equivalent for the phrase "in commerce" throughout the antitrust laws to assure that the antitrust laws reach activities directly in the stream of interstate commerce, as well as activities affecting interstate commerce. Legislation was enacted by the 93d Congress similarly extending the reach of the Federal Trade Commission Act to the fullest extent permitted by the commerce clause, that is, to activities in or affecting commerce. During the 94th Congress, the Senate passed S. 642 and S. 2935, which contain provisions identical to section 301 as regards section 3 of the Robinson-Patman Act and sections 2 and 3 of the Clayton Act.

Since 1890, section 6 of the Sherman Act has provided that:

> Sec. 6. Any property owned under any contract or any combination or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this act, and being in the course of transportation from one state to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure and condemnation of property imported into the United States contrary to law.

Section 301(c) of title III would amend section 6 of the Sherman Act by striking the words "and being in the course of transportation from one state to another, or to a foreign country," and inserting in lieu thereof the words "and being in or affecting commerce among the several states, or with foreign nations." Section 6 of the Sherman Act requires the institution of separate civil proceedings in rem. seeking the condemnation of goods which are the subject of a section 1 violation. Section 6 has been a virtual dead letter since 1890. It has never been utilized by the Department of Justice. Specifically, the question has been raised as to whether or not it is the intent of the Judiciary Committee and the sponsors of this legislation to breathe some life into section 6 of the Sherman Act. I think it is clear that this is not the intent of the Judiciary Committee or the sponsors. Section 301 simply attempts to make it clear that Congress intends that all of the various antitrust statutes have the same jurisdictional reach, namely, to activities "in or affecting interstate or foreign commerce."

TITLE III—SECTION 302

For a variety of reasons, antitrust cases take years and years to resolve. Section 302 is designed to provide the tools to expedite some of the more complex antitrust cases. A survey of section 2 Sherman Act cases shows that on the average from 23 to 39 years elapsed between the date of the violation and the final outcome of the litigation. That experience holds good for today. One of the most prominent antitrust cases filed by the Government since 1968 involves IBM, and that case has been six years just to get to the trial stage. Section 302 amends the Clayton Act (15 U.S.C. 12) by adding a new section 27, authorizing certain cases to be designated as complex antitrust cases. Cases so designated are to be expedited in every way, and special masters, economic experts, and other personnel may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters. Special masters, economic experts, and other personnel may be used by the court in all phases of the trial, including the preparation and analysis of plans for relief. They first, may be furnished with all the evidence introduced by any party; second, may provide additional evidence subject to objection by any party; third, may provide an analysis of issues with particular reference to proposed orders to restore effective competition; fourth, may recommend provisions for proposed orders to restore effective competition; and fifth, shall be subject to cross examination and rebuttal. The provisions of section 604 of title 28, United States Code, providing for payment of expenses and compensation are made applicable to complex antitrust cases in order to provide compensation to such masters, economic experts and other personnel.

TITLE III—SECTION 303—FOREIGN ACTIONS

An increasing number of antitrust cases are being filed against foreign companies, including multinationals. Problems have arisen with respect to such companies refusing to comply with subpenas or discovery orders on the basis of foreign nondisclosure laws; or on the basis that the relevant data is in the foreign home office and cannot be produced in the United States. Section 303 makes it clear that foreign companies and multinationals who choose to do business in the United States must comply with valid U.S. judicial orders, just as a domestic company must comply with such orders. Section 303 confirms the power of a Federal court to take appropriate remedial action to enforce its orders compelling discovery, evidence, or testimony in those cases in which litigants refuse to comply with such orders on the grounds that a foreign law or rule prohibits them from doing so.

The present state of the law tempts defense counsel in antitrust cases to protect their clients' interests by making overtures to foreign governments concerning the invocation of secrecy orders prohibiting compliance with valid U.S. discovery orders. (See note, 14 Virginia Journal of International Law, 747, 763–64 (1974)). The purpose of this provision is to insure that the jurisdiction and administration of our court system, and the enforcement of our regulatory and antitrust laws, are not thwarted by foreign governments. Section 303 is patterned after section 282(d) of S. 2255, the patent revision bill, which was passed by the Senate on February 26, 1976, which, in turn, was predicated upon a provision contained in the administration's patent reform bill—S. 1308. The provision also is patterned after rule 37 of the Federal Rules of Civil Procedure. Due to the decision in *Societe Internationale* v. *Rogers*, 357 U.S. 197 (1958), it is uncertain when that rule may be invoked in regard to foreign litigants. Section 303 is intended to supplement, and not replace, rule 37 with respect to such litigants.

TITLE III—SECTION 304—ATTORNEYS' FEES

Section 304 amends section 16 of the Clayton Act (15 U.S.C. 26) by providing that in any action under this section in which a plaintiff substantially prevails, the court shall award to such plaintiff the cost of suit, including reasonable attorneys' fees and other expenses of litigation. Under the recent Supreme Court decision in *Alyeska Pipeline* v. *Wilderness Society*, 421 U.S. 240 (1975), in the absence of express statutory authority courts may not award attorneys' fees to prevailing plaintiffs. Section 304 provides such statutory authority for courts to award attorneys' fees to a substantially prevailing plaintiff in equity actions under section 16 of the Clayton Act, just as section 4 of the Clayton Act authorizes the award of attorneys' fees to prevailing plaintiffs in damage actions.

In addition to reasonable attorneys' fees, section 304 provides for the award of other expenses associated with the litigation. The provision is intended to make substantially prevailing plaintiffs whole, and the phrase "other expenses of the litigation" is intended to encompass all other reasonable expenses associated with the litigation such as for expert witnesses, paralegals, transcript costs, necessary computer time, et cetera, in addition to the traditional awarding of costs.

The Alyeska decision creates a significant deterrent to potential plaintiffs bringing and maintaining lawsuits to enjoin antitrust violations. Without the opportunity to recovery attorneys' fees in the event of winning their cases, many persons and businesses would be unable to afford or unwilling to bring antitrust injunction cases.

The committee believes that the need for the awarding of attorneys' fees in section 16 injunction cases is at least equal to and probably greater than the need in section 4 treble damage cases. In damage cases, at least a prevailing plaintiff recovers compensation. In injunction cases, however, without the shifting of attorneys' fees, a plaintiff with a deserving case would personally have to pay very high price of obtaining judicial enforcement of the law and of the important national policies the antitrust laws reflect.

The antitrust laws clearly reflect the national policy of encouraging private parties—whether consumers, businesses, or possible competitors—to help enforce the antitrust laws in order to protect competition through compensation of antitrust victims, through punishment of antitrust violators, and through deterrence of antitrust violations. Litigation by "private attorneys general" for monetary relief and for injunctive relief has frequently proved to be an effective enforcement tool. In Alyeska, the Supreme Court noted that:

> It is true that under some, if not most, of the statutes providing for the allowance of reasonable fees, Congress has opted to rely heavily on private enforcement to implement public policy and to allow counsel fees so as to encourage private litigation. Fee shifting in connection with treble damage awards under the antitrust laws is a prime example.

Section 304 is the congressional response to the invitation of the Court to enact specific legislation authorizing the award of attorneys' fees when there is a strong public policy to be vindicated.

TITLE III—SECTION 305—SEVERABILITY

Section 305 is a standard severability provision. It provides that if any provision of this act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE III—SECTION 306—EFFECTIVE DATE

Section 306 provides the effective dates for the several provisions of the act. Under section 306, section 301 applies to acts, practices, and conduct occurring after the date of enactment of this act; section 302 applies to all actions on file on the date of enactment of this act or hereafter filed; section 303 applies to all actions on file on the date of enactment of the act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Unless otherwise specified, the effective date of this act is its date of enactment.

Mr. President, a number of questions have been raised, formally in debate and informally, on the Hart-Scott substitute. This statement is intended by Senator Scott and me to make available to those interested our view on these questions.

SUBSTANTIVE ANTITRUST STANDARDS

Question 1. Does the bill make any conduct illegal under the antitrust laws which would not be deemed illegal under existing law?

Answer 1. No. Substantive standards of what are or are not violations of the antitrust laws are not changed. In other words, enactment of the bill would not make illegal any conduct which is not presently illegal under existing antitrust law.

SUMMARY OF BILL

Question 2. What does the bill do?

Answer 2. The bill contains five interrelated, although separate, titles.

Many of its provisions have been the subject of direct or indirect hearings or discussions by the Antitrust and Monopoly Subcommittee over the past 17 years. Each in its own way is designed to overcome a particular and basic weakness of present antitrust law. The bill properly may be viewed as an enforcement bill, designed to make the existing antitrust laws work.

The essence of the bill is contained in titles II, IV, and V. Title II amends the Antitrust Civil Process Act, substantially improving the investigatory authority of the Antitrust Division of the Department of Justice. Title IV amends the Clayton Act, substantially improving the deterrent effect of its private damage provisions by authorizing State attorneys general to bring private treble damage actions to secure redress for damage done to natural persons residing in their States. Title V also amends the Clayton Act, substantially improving its merger provisions by providing for advance notification of large mergers and for improved procedures to enjoin mergers which are alleged to be illegal prior to consumption.

OPPONENTS OF BILL

Question 3. Why have we received so much mail in opposition to the bill?

Answer 3. That is difficult to answer with certainty. We, too, have received a substantial volume of mail in opposition.

We do know that the bill is strongly opposed by the Business Roundtable, the Chamber of Commerce, and the National Association of Manufacturers. They have asked member firms in all 50 States to write, telegram, and phone in opposition to the bill. Some have provided sample letters for that purpose. That is one reason that many of the communications received are almost identical.

We are aware that a number of large public corporations such as Hoover Ball Bearing and Standard Oil have sent letters to all shareholders, urging them to communicate their opposition to the Senate.

Finally, the Washington office of the National Association of Realtors communicated with real estate firms in the country, urging them to communicate with the Senate and express their opposition to the bill.

SUPPORTERS OF THE BILL

Question 4. Opponents of the bill term it a lawyer's bill with little public support. Who supports the bill?

Answer 4. We believe the bill has widespread support. It is supported in whole or in substantial part by Thomas E. Kauper, Assistant Attorney General in charge of the Antitrust Division; the Federal Trade Commission; the Natonal Association of State Attorneys General; each of the 50 State attorneys general; a majority of the Antitrust Section of the Federal Bar Association responding to a questionnaire soliciting their views; some 70 academic and practicing economists; a number of law professors; the Computer Industry Association; the National Congress of Petroleum Retailers; Consumer Federation of America; United Mine Workers of America; National Farmers Union; AFL/CIO; National Rural Electric Cooperative Association; United Auto Workers; International Ladies Garment Workers Union; Independent Gasoline Marketers Council; National Consumers League; Retail Clerks International Association; National Retired Teachers Association; American Association of Retired Persons; United Steelworkers of America; Energy Action Committee; Committee for Public Advocacy; National Consumer Congress; Public Interest Economics Center; Senior Citizens National Education Association; Amalgamated Clothing Workers of America; International Association of Machinists and Aerospace Workers; Congress Watch; and the American Federation of State, County, and Municipal Employees.

Mr. President, I ask unanimous consent that the following representative letters and editorials supporting the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From The St. Petersburg Times, March 23, 1975]

OVERDUE REFORM

Much that is right about America—from its high standards of living to its great universities—is rooted in its strong, aggressive industries. And so is much that is wrong.

Safeguards against excessive power have lagged behind the emergence over three decades of multinational corporations, oil companies mightier than most nations, computer Goliaths, and other enterprising giants able to exercise monopoly powers, stifle competition, and buy government favors.

Regulatory agencies have proved to be a spotty defense against abuses, succeeding here, failing there. Just as weak have been anti-trust laws, too often a paper tiger against corporate pirates. Two senators, Philip Hart, D-Mich., and Hugh Scott, R-Pa., don't like it. They have proposed legislation to tighten the anti-trust laws.

That's an overdue reform. For 20 years, while some corporations have grown more bullying, anti-trust proposals have faltered. The Hart-Scott bill would incorporate many of those proposals, from study groups, consumer organizations, presidential task forces, academic experts and others. It is an idea that Congress should support.

Part of the bill's goal is to combat inflation caused by price fixing, corporate conspiracies and lack of competition. President Ford acknowledged that such causes of higher costs exist when, in his first economic message as President, he urged tougher anti-trust action.

To jolt corporations into paying attention to anti-trust laws, part of the bill would allow states to recover for citizens damages equal to three times the economic loss suffered as a result of an anti-trust violation. Another provision would make a plea of "no contest" in a criminal anti-trust case admissible evidence in a private anti-trust case filed to collect damages.

"Currently one out of every four dollars consumers spend goes to buy products produced by a concentrated industry," Sen. Hart said. Too often that means paying prices illegally agreed to by would-be competitors or resulting from joint ventures, bought protection from prosecution and other misuses of economic muscle.

The number of firms engaged in such practices may be small numerically compared to the total number of corporate entities. But their power is outsized, and their activities discredit honorable industrialists and business leaders. The latter need have no fear of the Hart-Scott legislation.

Not just economic problems but social problems, such as welfare and crime growing from economic issues, are made worse in this country and abroad when some corporations grow too strong. Tough anti-trust legislation, enforced swiftly and fairly, is a major part of solving such problems.

[From The Charleston Gazette, April 2, 1976]

BYRD IS PRO-CONSUMER IN ANTITRUST EFFORTS

Legislation aimed at more effective enforcement of antitrust laws, a critical need for

American consumers in these inflationary times and particularly those in smaller states such as West Virginia, faces a critical test next Tuesday when it will be considered by the Senate Judiciary Committee.

The bill (S. 1284) has three major objectives: (1) it would authorize the attorneys general of the respective states to sue antitrust violators and recover triple damages on behalf of victimized consumers; (2) it would increase the investigatory powers of the Department of Justice to search out and prosecute antitrust violators more effectively; and (3) it would further provide an effective surveillance system for giant mergers so that the government receives 30-day advance notice, meaning that the government would have the power to stop an illegal merger before it occurs and before the public is harmed by it.

We're happy to report that West Virginia's Sen. Robert C. Byrd, assistant majority leader of the Senate as well as a member of the judiciary committee, is clearly on the side of the legislation—and therefore on the side of the consumers—with this unequivocal statement: "I support its enactment."

The big test, however, will be in how well Sen. Byrd can exert his considerable influence in warding off weakening amendments during the judiciary committee's consideration of the bill. In this regard, it's notable that the House passed a similar bill by voice vote on March 18—but only after adoption of several amendments that seriously limited its scope.

An encouraging indication that Sen. Byrd can be counted on to standard guard for the consumers in his perceptive recognition of the damaging effects of inflation—particularly for citizens living on low incomes—and its relation to violations of the antitrust laws.

This became apparent early in March when Sen. Byrd, addressing the Chicago Conference for Brotherhood, declared: "For many people, even the necessities of life are being priced beyond their reach. The soaring rate of inflation has many causes, but one major contributing factor is the extraction from consumers of unjustifiable and unlawful higher profits caused by infractions of the antitrust laws. Among the practices producing such illegal profits are restraints of trade and price fixing. It is estimated that as much as $80 billion a year is being overcharged nationwide as a result."

His answer to this problem was more stringent enforcement to make the antitrust laws work more effectively for the consumer, and he went on to cite other benefits of the pending legislation:

"Of equal importance . . . is the fact that these antitrust actions by the government could increase competition and help to lower the price of goods in the market. Lower prices will stimulate buying which, in turn, will stimulate production. The need for greater production will create jobs—jobs that pay real wages, jobs that will cut the rate of unemployment, jobs that will take people off unemployment compensation and welfare, jobs that will give disadvantaged men and women a chance to become economically independent."

We applaud Sen. Byrd for his views and for his logic. He gives us a feeling of confidence that he will fight for full implementation of those views by being on the alert to recognize and to put down any effort to erode the pending antitrust legislation through weakening amendments such as happened in the House.

[From the Knoxville News-Sentinel, Mar. 6, 1976]

Price-Fixing Penalties

Congress can help curb inflation by passing legislation to penalize price-fixers and foster more business competition.

A bill being considered in both the House and Senate would permit states to collect treble damages for consumers who've been hurt by illegal price-fixing arrangements. It also would give the Justice Department more power to investigate antitrust violations.

Both of these measures have presidential support, but the idea of letting states collect price-fixing damages for their citizens is running into stiff corporate opposition.

Such legislation is needed because individuals have no practical way to recover money they lose when the price of milk, or bread, or gasoline, or some other basic commodity is kept artificially high by company collusion.

This means, in effect, that price-fixers are able to retain millions of dollars in illegal profits even if they're later slapped with a Federal fine for breaking the law.

Most businessmen who believe in the free enterprise system should be in favor of more vigorous competition. But as Joe Sims, one of the Government's chief antitrust lawyers, pointed out in Dallas the other day, they often lobby against laws that would punish price-fixers and even against laws (in the trucking industry, for example) that would reduce Federal regulation.

To its credit, the Ford Administration has been a leading advocate of strong antitrust enforcement and a prime mover in repealing the so-called "fair trade" laws that stifled price competition in many of our states.

Requiring price-fixers to return their illegal profits, as Congress now proposes to do, would be a logical next step in making sure that consumers are getting the protection they deserve.

[From The Washington Post, April 4, 1976]

Waffling on Antitrust Laws

President Ford is getting himself into needless trouble over the antitrust legislation now moving through Congress. It's sadly reminiscent of the way he got himself into trouble over the common situs picketing bill. In each case the administration strongly committed itself to the legislation. Then some months later, after assiduous lobbying by businessmen, Mr. Ford began to think of reasons for backing away from it. When he reversed himself and vetoed the common situs bill, he lost his exceedingly able Secretary of Labor, John T. Dunlop. The damage in the antitrust waffle is not yet so great because the legislation is, fortunately, very much alive and the President may decide to think again and sign it. But the stakes are large and the outcome is very much in doubt.

This legislation would not expand the scope of the antitrust laws or create new penalties. It is aimed entirely at improving the enforcement of the present laws. The support is bipartisan; the sponsors in the Senate are Philip A. Hart, the chairman of the antitrust subcommittee, and Hugh Scott, the minority leader. Until a few weeks ago, this legislation, in general, was endorsed vigorously by the Justice Department. But in mid-March, Mr. Ford wrote a letter to Rep. John J. Rhodes, the House minority leader, reversing the administration's repeatedly stated position and setting out his "serious reservations" to one key provision.

That provision would authorize a state's attorney general to sue, under federal antitrust law, in federal courts, in behalf of all the state's citizens. Certain types of antitrust violations—particularly those involving consumers' goods—would suddenly become very much more dangerous to the perpetrators. A conspiracy to fix prices or share markets may add only a few cents to the price that a consumer pays for an item. But if it is one of the items that all of us use every day, the total gain to the conspirators can be huge. That is the anomaly in the present law: The profit is large, but no individual customer has lost more than a few dollars and, even with the traditional treble damages, no customer has enough of an interest to make a long and expensive suit worth his while. A wrong has been inflicted but, as a practical matter, there is at present no remedy.

Mr. Ford commented that, if states want to get into antitrust cases, they can pass their own laws. Some of them have done it already. But Mr. Ford's suggestion raises a threat to businessmen that even the most shortsighted of them ought to be able to see. If states are encouraged to proceed with their own laws, a firm accused of a violation might well find itself fighting suits in as many states as it does business in—with different legal requirements and definitions in each. Carrying on this kind of litigation under one common body of law, in the federal courts, seems clearly preferable from everybody's point of view.

The House has already passed its version of this provision, with a couple of amendments designed to respond to some of Mr. Ford's objections and avoid a veto. These amendments, unfortunately, went further than they ought to have gone. That makes it particularly important, when the Senate Judiciary Committee votes next week, that it report the bill in its stronger form.

It should be noted that Mr. Ford does not appear adamant on these issues. For example, another provision in this package of legislation would give the Justice Department the authority to take sworn testimony in pretrail investigations. It's an obscure point, perhaps, but an important one in strengthening the intricate process of fair and effective enforcement. Here the President has written a letter to Rep. Peter W. Rodino, the chairman of the House Judiciary Committee, "strongly" urging passage But it's the whole package that needs to be passed, not just excerpts.

As Mr. Ford considers this legislation further, there are a couple of points worth his particular attention. First, antitrust laws do not benefit consumers alone. Historically, they have always had strong support from enlightened businessmen who recognize them as necessary protection against predatory competition. They are not a threat to business but rather a necessary safeguard of free and open enterprise. It is a sorry commentary that the current opposition comes solely from businessmen.

Mr. Ford might also want to reflect that antitrust enforcement is a powerful weapon against inflation, a subject to which he is devoting much attention in the election campaign. Economists of all political persuasions agree in emphasizing the contribution that the antitrust laws can make to price stability. Mr. Ford seems to find all the pressures of the Republican primary elections pushing against a broader enforcement of the antitrust laws. But he might discover, on further reflection, that they actually ought to be pushing the other way.

[From The New York Times, March 20, 1976]

Consumer Antitrust

The House of Representatives this week approved a bill to permit states to file triple-damage price-fixing suits on behalf of their citizens against companies accused of violating the antitrust laws.

The Administration no longer supports the legislation, although Assistant Attorney General Kauper, head of the Antitrust Division, had said the bill would provide a "a workable mechanism for assuring that those antitrust violations which have the broadest scope and perhaps the most direct impact on consumers do not escape civil liability."

The heart of the problem is that antitrust violations that result in relatively small economic damage to a large number of people can be, in Mr. Kauper's term, "alluring" to businesses that realize that no single consumer has a sufficient financial stake to bear the costs necessary to maintain a private suit for recovery of damages.

Class-action suits in such cases have been eliminated, for all practical purposes, by a Supreme Court decision requiring that class-action plaintiffs provide individual notice to all identifiable members of the class—regardless of the cost, which obviously would be prohibitive. Further, when California claimed that consumers of sncak foods had been victims of a price-fixing conspiracy, the Ninth Circuit Court of Appeals held that under present law the state could not recover damages on behalf of consumers.

The bill now passed by the House would fill these gaps. It does not change the substance of existing antitrust law. However, it is essential that the law not lead to unfair harassment of businesses. The amendments voted by the House to reduce triple damages to single damages where the defendant can show that he acted "in good faith" and to limit the bill to "willful price-fixing" should help prevent such misuse.

The charge that this bill would in fact lead to the destruction of businesses appears to us to be attacking a straw man. It is highly improbable that states—all of which are eager to attract and hold businesses and ensure jobs for their citizens—would embark on a wave of destructive antitrust suits. In approving this measure, the House has moved to safeguard the free market and the consumer in an important area. It is unfortunate that the Administration has reversed its original support of the bill, which now goes to the Senate Judiciary Committee, where another—and broader—antitrust bill will be acted on next week.

[From the Washington Post, Feb. 29, 1976]

THE ANTITRUST BILL

Three important improvements in the antitrust laws are now being pushed vigorously by an alliance of the administration and Sen. Philip A. Hart (D.-Mich.). The bill is sponsored by Mr. Hart, as chairman of the antitrust subcommittee, and Hugh Scott (R-Pa.), the minority floor leader. With that kind of support, you might think it would be coasting rapidly along toward a happy ending. But you would, of course, be underestimating the ferocious opposition mounted by a wide variety of businesses.

They are much the same business organizations that, on other occasions, come to Washington to tell us about the great virtues of the American free market system. But the market system stays free only through enforcement of the antitrust laws. This legislation addresses some of the specific difficulties that antitrust enforcement currently faces.

The first of these improvements would give the states' attorneys general the standing to sue for damages on behalf of a state's citizens as consumers. Consider a hypothetical example: Suppose several milk producers conspire to lift the price of milk half a cent a quart. In an average state that could easily bring the conspirators millions of dollars a year. But for any one family, even one that drinks a lot of milk, the damages would be only a few dollars. Who is going to embark on an expensive antitrust suit to recover three dollars? The present law entitles consumers to punitive damages but, as a practical matter, provides them with no effective way actually to collect. A state government, winning a suit of this nature, would work out with the judge a method to return the damages to the public. In this case, for example, it might use the money to expand its school lunch program. The effect is to make certain types of antitrust violations much more dangerous to the people who attempt them.

A second improvement would broaden the Justice Department's authority to require testimony under oath in civil investigations of antitrust cases. Under present law, it can demand only documents, and it can demand them only from the people who are the direct targets of the investigation. But an antitrust case requires evidence regarding the structure of a market and which products compete with which. Often the best sources are customers, competitors and trade associations; but they may well fear retaliation and resist testifying voluntarily. Expanding the government's power to compel testimony is not a thing to be done lightly. But the authority requested here is, in fact, narrower than that already in the hands of other federal agencies, including the Federal Trade Commission, and there is no record of abuse.

Finally, the administration, Sen. Hart and Sen. Scott want a rule requiring big companies to notify the Justice Department 30 days before a merger. It would be comforting to think that the Justice Department had X-ray vision, like Superman, and that not a sparrow could fall in the corporate world without its being noted in the Antitrust Division. But the reality is a bit more modest and the department, like the rest of us, sometimes first hears of a merger through the press release announcing it as an accomplished fact. De-merging a merger is, as the lawyers are fond of saying, like unscrambling an egg. The time to weigh the legality of a merger is before, not after, it happens.

As the bill was written, it would have given the Justice Department new authority to seek a court order staying a dubious merger. A few days ago the administration backed off its original support for this authority, claiming that the present law is adequate. The premerger notification rule is worth enacting even without this new injunctive provision, but it would clearly be more effective in its original form.

Within the Senate Judiciary Committee, Sens. Roman L. Hruska (R-Neb.) and Strom Thurmond (R-S.C.) have been leading an aggressive campaign to delay this bill as long as possible. They have been moderately successful. Under an agreement worked out this week, the bill will come to the Senate floor sometime around the beginning of May. It is certain to pass the Senate. But there will never be time to get it through the House, if it has to begin the whole legislative process there in late spring. The House should have been well advanced in its consideration of all three provisions by this time. But it is not.

The House Judiciary Committee is handling these issues in separate bills. One of them—the one permitting the states to sue and collect on behalf of their citizens—has been reported in good order and is about to come to the House floor. The other two, unfortunately, are in limbo—the victims, apparently, of lethargy and inattention. On the question of expanding the Justice Department's investigative authority, the hearings ended last summer. But the Committee has made no move to report a bill. As for the premerger notification rule, there has been, unaccountably, no action at all.

It is a strange performance. There is hardly any issue on which the House Democrats are more enthusiastically united than the Republican administration's alleged toleration of monopoly. But in this instance, the House is giving President Ford much less than he has asked in enforcement powers. Its own dilatory response threatens to award a considerably victory to the tactics of purposeful delay, as pursued by Sens. Hruska and Thurmond. Mr. Hart, the Senate's leading crusader on antitrust policy, and the administration are agreed on the need for this legislation. If other Democrats cannot rouse themselves to enact it, they are hardly entitled to keep complaining about the quality of the administration's antitrust enforcement.

A THREATENED FREE MARKET SYSTEM

(By Hobart Rowen)

OTTAWA.—More than ever before, the values of the free market system are being questioned in the western world. In the United States, presidential candidate Jerry Brown openly wonders whether the market system can produce full employment.

He told this reporter and some others that in any event, should he become President, there would be the kind of economic intervention not compatible with the hands-off ideology of Messrs. Ford and Reagan.

Here in Canada, Prime Minister Trudeau shocked the business community with a year-end interview in which he said that the Canadian wage-price control system made effective last Thanksgiving was a message to Canadians that "we haven't been able to make it work, the free market system. . . ."

Even at the end of a projected three-year controls period, Trudeau said, "we don't want to go back to the same kind of society with high unemployment and high inflation. . . . There's going to be not less authority in our lives, but perhaps more."

There will be long debates, both in Canada and in the United States before there is, in fact, a broader scope for economic controls for intervention. In both countries, there is a detectable swing to the right, and public sentiment may be slow to follow the lead of the Browns and the Trudeaus.

But there is a threat to the market system from another source, and it emanates from big business itself. I refer, of course, to disclosures of international corporate bribery, and the ugly suspicion that what we have learned so far is just the tip of the iceberg.

This threat is increasingly recognized in the upper echelons of the business establishment itself. In a speech here earlier this month before the Tri-lateral Commission—an influential group of top business, political and academic leaders in North America, Europe and Japan—Washington lawyer Lloyd Cutler laid it on the line speaking of corporate bribery:

"Nothing we have recently done to ourselves has helped more to discredit private enterprise, both in the U.S. and abroad—especially multinational private enterprise—and to speed the spread of the corporate state."

As he observed, the willingness of businessmen to engage in kickbacks and bribes makes a mockery of the pious protestations by many business leaders that the free market system is necessary "to make rational economic choices on the basis of price, quality, and service."

Cutler, who has many blue-ribbon corporate clients, and who knows the business community as well as anyone in Washington, says that many of the big bosses of the multinational companies did not know that their subordinates had approved of bribery techniques.

He cites as an example that some directors of British Petroleum were not aware of BP's political contributions in Italy.

If so, that's a new black mark on the shield of the multinationals. But at least everyone now knows and acknowledges the corrupting trend, and the question remains: What are they doing about it?

Stanley Sporkin of the Securities and Exchange Commission, one of a half dozen government agencies conducting investigations into bribery, says: "I have begun to fear that the word 'morality' is going the same way as 'detente.'"

But appeals to business moraltity are not the answer, in my view. Too many businessmen, openly and covertly, still support bribery as a tactical necessity of their business operations.

"If we really want to stop improper foreign payments by international firms," Cutler said in his Ottawa speech, "the key is not to make them illegal or to read morality lectures to one another, but to work out an effective system of current disclosure of who pays what to whom, properly or improperly."

I can hear the howls now from businessmen who will say that such disclosure would impose the need to make yet another government report. And they will say that even if we adopt such a system, other governments won't impose the same disclosure standards on their companies.

They may be right on the latter point. But the SEC has the power to apply the same disclosure standards as imposed on U.S. firms on foreign-based companies whose securities are traded in this country.

So some such system is not only becoming critical, it is practical. Any businessman who mouths all of the platitudes about the free enterprise system, and who fails to advocate an effective in-house clean-up is feeding us pure bull.

Memorandum

To: All Members of the United States Senate
From: Coalition in Support of S. 1284
Date: May 12, 1976

We, the undersigned, support the prompt passage of S. 1284, particularly Title IV, which we view as important consumer legislation needed to protect our free enterprise system and assure consumers the benefits which the system is designed to achieve. Title IV of the bill would authorize states to sue violators of antitrust law on behalf of their citizens and to recover money damages for them. Other provisions would expand the authority of the United States Department of Justice to issue civil investigative demands and would require large companies to notify the Justice Department and the Federal Trade Commission before a merger.

Public confidence in the ability of government to protect its citizens from unfair business practices is eroding. Price fixing and other antitrust violations cost consumers billions of dollars annually. The Department of Justice, for example, has pending more than 90 grand jury investigations into possible antitrust violations. Such "white collar" crime is as illegal as robbery and should not be allowed to flourish because of gaps in existing law.

S. 1284 would help restore public confidence in government by expanding both federal and state antitrust enforcement powers. Title IV would allow consumers to recover damages for price fixing and other antitrust violations. By broadening the scope of inquiry, the bill would permit the Justice Department to collect oral and written testimony from all persons and businesses before a suit is filed, thus aiding the complex task of extensive data collection in antitrust cases. Currently, the Department may only order documents from persons who are the direct targets of investigation. The premerger notification provision would give the Justice Department and the Federal Trade Commission an opportunity to review proposed mergers and assess their economic impact prior to the merger becoming effective.

We believe that vigorous enforcement of the antitrust laws will have an anti-inflationary impact on the economy. Strengthened enforcement is an effective means to lower consumer prices by promoting competition, since competitive prices result from competitive markets. The antitrust laws were designed to protect business, as well as consumers, from anticompetitive practices. Therefore, effective enforcement is beneficial to businessmen who wish to compete in a market free of artificial restraints.

Combatting antitrust violations will also help lessen unemployment. Leading industrial organization economists believe that competitive market conditions stimulate employment. Strong antitrust enforcement will therefore help to ease unemployment by eliminating deliberate industry restrictions on output in order to artificially raise prices. S. 1284, particularly Title IV, can help alleviate unemployment and rising prices which have threatened our country for the past 10 years.

Opponents of the bill claim that politically ambitious state attorneys would file groundless suits indiscriminately, thus forcing some companies out of business. Yet, they do not mention that these same officials are already authorized by existing law to file suits for injunctive relief and that no such claims of abuse of such authority have been made. Opponents claim also that expanded powers of the Justice Department would be excessive and that merger prenotification would block all mergers. We affirm our belief in the dignity and responsibility of the Office of Attorney General, as well as in the Justice Department and the Federal Trade Commission to enforce the law for all citizens, and we urge the Senate to reject these and the opponents' other false arguments.

If you share our belief that antitrust violations cost consumers billions of dollars yearly, that antitrust enforcement helps lower prices, raise employment, and enables businessmen to compete in a market free of artificial restraints, then we urge you to vote favorably for S. 1284.

Respectfully submitted.

National Consumer Congress, National Council of Senior Citizens, United Mine Workers of America, Congress Watch, United Steelworkers of America, Public Interest Economics Center, National Rural Electric Cooperative Association, National Association of Retired Persons, National Retired Teachers Association, Retail Clerks International Association, International Association of Machinists and Aerospace Workers, AFL–CIO, National Farmers Union, Consumer Federation of America, Independent Gasoline Marketers Council, National Consumers League, Amalgamated Clothing Workers of America, AFL–CIO, National Education Association, American Federation of State, County, and Municipal Employees, AFL–CIO, Computer Industry Association, Cooperative League of the U.S.A., Citizens for Class Action Lawsuits, International Union of Electrical, Radio, and Machine Workers, AFL–CIO, Oil, Chemical and Atomic Workers International Union, AFL–CIO–CLC, National Congress of Hispanic American Citizens, International Ladies Garment Workers Union, MCI Communications Corporation.

National Association
of Attorneys General,
Washington, D.C., May 14, 1976.

Dear Senator: In addition to the broad spectrum of consumer, business and labor organizations which have expressed their enthusiastic support of S. 1284, this Association is also on record as strongly supporting the bill, particularly Title IV.

Price fixing and other antitrust violations cost consumers billions of dollars yearly. Although damage to each individual may be pennies, that damage multiplied by vast numbers of consumers is substantial. Individuals often lack the expertise and resources to initiate private actions for recovery. Further, existing law offers inadequate remedies for consumers and ineffective deterrents to price fixers and other antitrust violators. S. 1284 fills this gap and offers a legitimate solution to a serious problem.

Antitrust enforcement is intended to benefit both businessmen as well as citizens, and this legislation affords them the protection to which they are entitled by ensuring that their right to compete in a market free of restraints remains unaltered.

We urge you to support S. 1284 on the Senate floor and to oppose any amendments which will weaken this important consumer legislation.

Sincerely yours,

C. Raymond Marvin.

Memorandum

RE: S. 1284—Hart-Scott Antitrust Bill

The proposed antitrust bill, S. 1284, is urgently needed to strengthen state and federal antitrust enforcement. The following questions and answers may be useful to you in determining how the bill would enhance antitrust enforcement and thus, better protect citizens from anticompetitive and unfair practices

1. *Does this legislation serve a legitimate purpose?*

The present law contains loopholes which allow price fixers and other antitrust violators to proceed undeterred and unpunished. The relatively infrequent prosecution of antitrust violators and the relatively small penalties which have been imposed encourage an atmosphere conducive to antitrust violations. As one businessman commented in Business Week of June 2, 1975:

"When you are doing $30 million a year and stand to gain $3 million by fixing prices, a $30 thousand fine doesn't mean much. Face it, most of us would be willing to spend 30 days in jail to make a few extra million dollars."

In a speech of February 26, 1976, at Southern Methodist University, Joseph Simms, Deputy Attorney General of the Antitrust Division, Justice Department, stated that his agency has pending more than 90 jury investigations into possible criminal antitrust violations. He commented also that field research has shown that price fixing is a common business practice. This legislation would provide an effective remedy for consumers as well as a deterrent to violators of antitrust law.

2. *What evidence is there that consumers will benefit from parens patriae legislation?*

Records of past antitrust cases show that consumers would experience direct financial benefits from parens patriae claims authorized by Title IV of the bill. For example, in the landmark Tetracycline case, a total of $28,003,075.33 was distributed directly to 1,027,265 consumers. These figures show that such a consumer class action suit envisioned under Title IV was indeed manageable and that there was direct repayment to consumers.

3. *What effect does restraint of trade have on the American economy?*

In his book, *Industrial Market Structure and Economic Performance*, F. M Scherer, now Chief Economist at the Federal Trade Commission, estimated losses due to "collusion, the exercise of market power, and related breakdowns of competitive pricing processes" at 6.2 percent of the Gross National Product for 1966 (p. 408). Roughly, this would translate into approximately $80 billion lost from our economy due to restraint of trade. The Justice Department has made similar estimates.

S. 1284 is a step in the right direction to restore competition to the market place, thereby revitalizing our free market economy and insuring both consumers and businesses of the benefits the American system was designed to achieve.

4. *What is the Business Roundtable and why is it lobbying against S. 1284?*

The Business Roundtable, the lobbying arm of 158 Fortune 500 companies, includes the largest automobile manufacturers, the three largest banks, seven of the largest oil companies, as well as the American Telephone & Telegraph Company. Of the 158 corporate members of the Roundtable, 72 have antitrust violations cases pending, have been found to have violated antitrust laws or agreed to cease and desist orders between 1965 and 1975. (See Congressional Record, March 18, 1976, H. 2072.)

5. *Why have realtors been actively opposing this legislation?*

The National Association of Realtors sent out an urgent call to members to contact their legislators urging opposition of this antitrust legislation. This bulletin resulted in a flurry of letters criticizing the bill.

It should be noted that numerous price fixing complaints by the Justice Department against Boards of Realtors are already on the public record and were settled by consent decrees. For example:

U.S. v. *Atlanta Real Estate Board,* Civil Action No. 14744 (CCH 1972, Trade Cases ¶73,787).

U.S. v. *Cleveland Real Estate,* Civil Action No. C70 731 (ND Ohio), (CCH 1972, Trade Cases ¶74,020).

U.S. v. *Long Island Board of Realtors, Inc.,* Civil Action No. 70C1418 (E.D.N.Y., 1970), (CCH 1972, Trade Cases ¶74,068).

U.S. v. *Los Angeles Realty Board,* Southwest Branch Hollywood-Wilshire Division, Pacific Palisades Division and Westwood Division, Civil No. 70-2855CC, (CCH 1973, Trade Cases ¶74,366).

U.S. v. Memphis Board of Realtors, Civil Action No. 72-218, (CCH 1972, Trade Cases ¶ 74.056).

U.S. v. The Real Estate Board, of New York, Inc. and Tenant Owned Apartment Association, Inc., Civil Action No. 73 civ. 2719, (CCH 1974-2, Trade Cases ¶ 73,350).

U.S. v. Multiple Listing Service, Portland Board of Realtors, Washington County Board of Realtors, Clackamas County Board of Realtors, Civil No. 72-68, (CCH 1972, Trade Cases ¶ 74,221 and CCH 1973-1, Trade Cases ¶ 74,515).

U.S. v. Prince Georges County Board of Realtors, Inc., Civil Action No. 21545 (MD) 1969, (CCH 1971, Trade Cases ¶ 73,393).

U.S. v. Real Estate Board of Rochester, New York, Inc., Civil Action No. 74-535, (CCH 1974-2, Trade Cases ¶75,355).

U.S. v. Real Estate Board of Metropolitan St. Louis, Civil Action No. 72-C-793 (3), (CCH 1973-2, Trade Cases ¶ 74,744).

U.S. v. Metro MLS, Inc., Civil Action No. 210-73-N, (CCH 1974-2, Trade Cases ¶ 75,137).

The cases charged that the realtors had among other things, argreed among themselves to charge a uniform commission and combined to keep "uncooperative" real estate brokers out of their multiple listing organizations.

6. *Does the proposed law carry the potential for abuse of power by state officials?*

Under present law, state attorneys general are empowered to file for injunctive relief in antitrust violations and no claims of abuse of such power have been made. State attorneys general also have the power to file antitrust lawsuits to recover damages incurred by states in their proprietary capacity and as representatives of consumers in consumer class actions. Additionally, under state antitrust statutes, states have filed both criminal and civil cases. In no instance, has any abuse of any such power occurred. Most state attorneys general are elected officials whose duty is to safeguard the public interest and enforce the law, and an attorney general who abuses that power will be responsible to his electorate. S. 1284 provides language which also serves as a deterrent against possible abuse by providing that a court may "award reasonable attorneys' fees to a prevailing defendant upon a finding that the state attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons."

STATE OF OKLAHOMA,
THE ATTORNEY GENERAL,
Oklahoma City, May 24, 1976.

DEAR SENATOR: On May 19, the Southern Conference of this Association studied the progress of S. 1284 since the Association's winter meeting in December and noted that the Senate's debate and vote on the bill was imminent. Consequently, the Conference adopted unanimously the enclosed resolution urging your support for the bill as reported by the Judiciary Committee.

As you know, this bill, particularly Title IV, enjoys unusually wide support from numerous business, labor and consumer groups. This support is understandable in light of the benefits which will accrue to the public from its enactment. This nation is committed to the private enterprise system and a free market economy in the belief that competition spurs innovation, promotes productivity, stimulates full employment and best allocates our economic resources. The result is the achievement of "the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions." See *Northern Pacific Railway Co. v. U.S.* 356 U.S. 1 (1958).

The success of this commitment is premised upon truly competitive markets which can only be achieved by vigorous enforcement of our antitrust laws. S. 1284 would enhance that enforcement and stimulate expanded compliance with these laws without cost to the taxpaying public. Accordingly, we urge you to review this legislation carefully and to vote "aye" when it comes to the floor in the next few days.

Sincerely,

LARRY DERRYBERRY,
Chairman, Southern Conference of Attorneys General.

RESOLUTION 2—S. 1284, PARENS PATRIAE, ADOPTED UNANIMOUSLY MAY 20, 1976, SOUTHERN CONFERENCE OF ATTORNEYS GENERAL

Whereas, the Southern Regional Conference of Attorneys General recognizes the vital importance of vigorous enforcement of the antitrust laws to a freely competitive economy and the consumers' interests therein; and

Whereas, this Conference observes that a loophole has emerged in the wake of *Hawaii v. Standard Oil* and *California v. Frito Lay* which gravely restricts the rights of consumers to recover damages for antitrust violations; and

Whereas, S. 1284, *inter alia,* provides a fair, necessary and workable method to protect consumers' rights by vesting authority with Attorneys General to represent their interests under the established doctrine of parens patriae; and

Whereas, this Conference believes that without parens patriae authority a substantial gap will continue to exist leaving the citizens of the states without the substantial protection of the law; and

Whereas, this Conference holds that the nature of the Office of Attorney General warrants the exercises of parens patriae authority on behalf of the citizens of the several states by the Attorneys General:

Now, therefore, be it resolved that:

1. This Conference strongly endorses passage of S. 1284; and

2. This Conference urges the Senate to act promptly and favorably on this legislation as reported out by the Senate Judiciary Committee, without weakening amendments; and

3. This Resolution be communicated to the Members of the Senate; and

4. The Washington Council of the National Association of Attorneys General is urged to take all reasonable and appropriate steps to communicate this Conference's strong support for passage of S. 1284 and to inform members of this Conference of the progress and results thereof; and

5. The Special Subcommittee on Legislation of The National Association of Attorneys General is urged to monitor and coordinate efforts of the Washington Council and members of the Conference in regard to said legislation.

6. This Conference commends the Senate Judiciary Committee for its thorough and responsible examination of the issues relating to this legislation and commends Senators Philip Hart and Hugh Scott, the co-sponsors of S. 1284, for their strong and capable leadership with respect thereto.

STATE OF CONNECTICUT,
HARTFORD, CONN., *May 12, 1976.*

Re Hart-Scott Antitrust Improvements Act of 1976.

Hon. PHILIP A. HART,
Chairman, Antitrust and Monopoly Subcommittee, Washington, D.C.

DEAR SENATOR HART: This letter is to assure you of my continuing support of S-1284, the Anti-Trust Improvements Act of 1976. I am pleased that it was favorably reported out of Committee and is now awaiting action on the floor of the Senate.

I have taken this occasion to write to our Senators Ribicoff and Weicker from Connecticut, strongly urging their support of this matter.

With best wishes,

Sincerely,

CARL R. AJELLO,
Attorney General.

NATIONAL FARMERS UNION,
Washington, D.C., May 14, 1976.

To: Members of the U.S. Senate.
From: Tony T. Dechant, President.

DEAR SENATOR: We urge your support of S. 1284, the Antitrust Improvements Act, a bill designed, not to alter the antitrust laws, but to strengthen their effectiveness. After years of debate and hearings, the Judiciary Committee has reported this omnibus measure to the full Senate for consideration.

In particular, we support Title II, the Antitrust Civil Process Act, Title IV "Parens Patriae" and Title V, a section designed to provide premerger notification.

The last section, "premerger notification" is particularly important. Many mergers, clearly illegal, cannot be stopped until after the merger is consummated. The "unwinding" process is laborious and expensive. This change in the law is designed to assist the Justice Department in spotting mergers which would be considered illegal, and halting them before they occur. There is not only a savings to the consumer, but this provision is advantageous to industry as well.

The only change in the law is procedural. Standards for mergers are not altered by passage of this legislation.

We understand that weakening amendments will be offered. We urge you to reject them and support the Committee bill as reported.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA,
Washington, D.C., April 15, 1976.

DEAR SENATOR: Soon after the recess, the Senate will consider legislation which would substantially improve the effectiveness of antitrust enforcement. The bill is S. 1284, and the UAW urges most strongly that you support it and oppose weakening amendments.

As reported by the Judiciary Committee, S. 1284 would require large companies to notify the government of planned mergers, strengthen antitrust enforcement and investigation and permit state attorneys general to bring suits in federal courts on behalf of their citizens. This latter provision is the concept of *parens patriae*.

S. 1284 is a consumer bill deserving your enthusiastic support. We hope you will be counted among those taking a proconsumer position in votes on this important antitrust legislation.

Sincerely,

Stephen I. Schlossberg,
General Counsel.
Dick Warden,
Legislative Director.

National Council of Senior Citizens, Inc.,
Washington, D.C., May 12, 1976.

Dear Senator: The National Council of Senior Citizens actively supports the passage of S. 1284, the Anti-Trust Improvements Act. This is a bill that would amend the Clayton Act, not to change the laws surrounding anti-trust violations, but to facilitate prosecution of violators.

We are particularly in favor of Title IV of this bill, the so-called "Parens Patriae" provision. Under this Title, damages to individual consumers would be assessed in aggregate, thus avoiding the necessity of parading every consumer before the courts. The expense necessitated by assessing damages to each individual has been the primary cause for unsuccessful prosecution of anti-trust violations.

Another provision of the bill that is particularly significant is that of requiring the payment of treble damages by the violating corporations. We feel that this measure can act as a successful deterrent to future violators.

The National Council of Senior Citizens urges every member of the Senate to support S. 1284. In a time when the elderly and poor of this country are already overburdened by rising costs, the Anti-Trust Improvements Act is an attempt to give every consumer an even break.

Sincerely,

William R. Hutton,
Executive Director.

Public Interest Economics Center,
Washington, D.C., May 12, 1976.

Dear Senator: This letter is to express our support of S. 1284, a bill to improve enforcement of antitrust laws. The Public Interest Economics Center is a non-profit corporation which fosters public policies for the purpose of enhancing the efficiency and equity of the economic system. Improved enforcement of antitrust laws would serve both efficiency and equity goals, and S. 1284 would increase the efficacy of the existing antitrust statutes.

At least three sections of the bill would make vital contributions to governmental anti-monopoly efforts. They are: (1) Title II, which would correct the Department of Justice's current lack of adequate authority to gather information vital to antitrust cases; (2) Title IV, which would greatly increase the resources available for discovering and prosecuting antitrust violations; (3) Title V, which would create a more effective check on anti-competitive mergers. We believe all of these provisions of S. 1284 are constructive and significant.

The economic basis for this proposed legislation is clear. Monopoly power tends both to exascerbate inflation by producing excessively high prices to both consumers and business and to increase unemployment by restricting total output. Thus, the current conjunction of high unemployment and high inflation rates strongly recommends increased emphasis on legislation to encourage competition, without which a market system cannot function efficiently. A measure such as a S. 1284, designed to improve the current antitrust enforcement, is one logical and necessary response.

We urge you, therefore, to support S. 1284 vigorously and to oppose all weakening amendments, when this legislation is considered by the full Senate.

Sincerely,

Allen R. Ferguson,
President.
Leonard Lee Lane,
Director, Governmental Relations.

Consumer Federation of America,
Washington, D.C., May 12, 1976.

Re S. 1284—Hart-Scott Antitrust Improvement Act.

Dear Senator: Consumer Federation of America, the nation's largest consumer organization, takes this opportunity to express its active support of S. 1284, particularly Title IV which encompasses the Parens Patriae provisions.

Antitrust violations, including price-fixing, cost consumers incalculable sums of money everey year. In addition, they contribute to the increasing erosion of public confidence in industry and in the ability of the federal government to enforce antitrust laws. Obviously it is unrealistic to rely exclusively on the federal government for adequate and comprehensive antitrust enforcement, particularly when the annual funding for federal antitrust enforcement approximates the sum expended by just one large corporation in defending itself against an antitrust action.

Individual consumers usually lack the expertise and resources to bring private antitrust actions. Within the past year, seven individuals did bring an antitrust action for price-fixing against a major food chain resulting in a jury award in excess of $32.7 million. Unfortunately, however, private citizen action is very much the exception, not the rule.

S. 1284 is a practical and much needed approach to this consumer problem, it represents a logical complement to other consumer legislation including increased appropriations for antitrust enforcement, industrial reorganization, strict limitations on exemptions from antitrust laws, etc.

By allowing state Attorneys General to bring civil actions for an antitrust violations on behalf of the citizens of their states, the law increases the ability of state Attorneys General to afford consumers the protection and economic benefits they deserve.

Opponents argue that politically ambitious state Attorneys General could abuse their power to the detriment of industry and consumers alike. This position is unpersuasive for at least three reasons:

(1) Under the present law state Attorneys General are empowered to bring injunctive actions for antitrust violations. There has been no showing of an abuse of this power and it is recklessly speculative to assume that a broadening of that power will result in abuse.

(2) State Attorneys General are normally elected officials whose duty it is to promote the public interest. The accountability factor built in to the electoral system assures consumers that an Attorney General who abuses that power will be responsible to the electorate.

(3) The language of S. 1284 (Sec. 4 C.(f)) provides a safeguard and deterrent to such abuse by providing that a court may ". . . award reasonable attorney's fees to a prevailing defendant upon a finding that the state Attorney General acted in bad faith, vexatiously, wantonly, or for oppressive reasons."

At its most recent annual meeting in January of 1976, CFA's membership voted overwhelmingly in support of the following resolutions:

"Anticompetitive actions which constitute antitrust violations cost consumers billions of dollars annually, contribute significantly to high rates of unemployment, inflation, inefficiency, underutilization of economies and productive capacity, a reduction in exports, and adversely affect the balance of payments. Furthermore, they blunt the effectiveness of monetary and fiscal policies. Immediate measures must be taken to equip federal and state governments, public interest groups, and individuals, with sufficient resources and expanded legal rights to enforce strong antitrust laws.

"Price-fixing conspiracies and other antitrust violations increase the price of bread, milk, gasoline and numerous other consumer items. Existing remedies such as consumer class actions are insufficient because the courts have insisted on strict and expensive notice requirements and have demanded that the amount of each *individual's damages* be proven in courts. Accordingly, CFA urges enactment of legislation which would allow state governments to sue antitrust violators on behalf of all citizens (*parens patriae*). The majority of states do not have the economic capacity or expert staff to prosecute antitrust violations. Therefore, legislation should assure state Attorneys General with maximum flexibility including the option to hire qualified private attorneys to bring such suits on a contingency fee basis (such fees to be subject to court approval)."

As this bill is discussed on the Senate floor, we urge you to oppose any weakening amendments. Their devasting *scope could* include the elimination of the Antitrust Division's subpoena power to third parties, compulsory process to investigate violations of the antitrust laws and elimination of treble damages. In addition, proposed amendments could adversely affect notice requirements and the ability of state Attorneys General to utilize the services of attorneys on a contingency fee basis in bringing antitrust suits. In short, all such amendments which make the bill unworkable should be vigorously opposed.

Very truly yours,

Carol Tucker Foreman,
Executive Director.
Kathleen F. O'Reilly,
Legislative Director.

Public Citizen,
May 14, 1976.

Dear Senator: The Senate will soon consider S. 1284, the Antitrust Improvements Act. Even though this legislation does not alter substantive law, it is one of the few and the most significant antitrust bills to be voted upon by the Senate in years. Attempts are expected to be made to eliminate the essential powers this bill provides for the antitrust enforcement agencies, reducing the bill to an innocuous list of unobtainable goals. Most of these amendments were raised in committee and were roundly defeated. They have not improved with age.

Title IV of S. 1284 permits state attorneys general to recover damages for violations of the antitrust laws on behalf of residents of their states, known technically as parens patriae actions. This provision is intended to assure compensation for the victims of antitrust offenses, to prevent antitrust violators from being unjustly enriched, and to deter antitrust violations.

The economic burden of most antitrust violations is borne by the consumer in the form of higher prices for goods and services. Frequently, such antitrust violations as price-fixing injure thousands or even millions of consumers in relatively small amounts but often on a continuing basis. When everyday consumer purchases are involved (e.g. bread, dairy products, gasoline, etc.), the individual dollar amounts are so small that, as a practical matter, an individual antitrust law suit for price-fixing is out of the question. Yet, if a price-fixing conspiracy results in an overcharge of but 10 cents on a relatively low-priced consumer item, and 500 million such items are sold, the aggregate impact of the conspiracy upon the consumers and the illegal profits of the price-fixers are hardly insignificant—in this example $50 million; in other cases, much more. This title provides a practical remedy for these consumers.

Because consumers do not keep records of small purchases, computing damages by using the defendant's books is the most accurate (and manageable) way to remedy the violation. Under Title IV, individual consumer claims are then paid out of the aggregate recovery. S. 1284 requires that the plaintiff prove the violation and the fact and amount of damage with the same degree of proof required under present law. However, a requirement of individual proof of damages would delay recovery for years while each claimant proves his damages.

Any amendment limiting this application of aggregated damages to price-fixing cases is completely illogical. The proponents of this idea can make no rational distinction between price-fixing and other antitrust violations which also raise prices, such as restriction of output, division of territories and customers, and bid-rigging. Since collusive actions are not easily pigeon-holed into one of these categories, courts would be forced to waste time defining price-fixing rather than focusing on whether the law has been broken.

Currently, the bill permits state Attorneys General to hire private counsel to handle these suits on a contingency fee basis. A prohibition against these arrangements would leave small and medium-sized states unable to use the authority granted to them under Title IV. Since few Attorneys General employ skilled antitrust lawyers, and since paying private lawyers on a "win or lose" basis would be expensive and would encourage questionable suits, contingent fees are needed to assure effective use of the authority to file suits on behalf of consumers. Existing case law provides strict guidelines for the determination of proper compensation for such fees and is free of percentage requirements.

Title II merely seeks to put the Antitrust Division on equal footing with all other government agencies in its ability to obtain interrogatories and depositions. These requests for information will be supervised by the Court. If this provision is amended to impose any additional burdens upon the Justice Department, such amendment would only slow down an already slow judicial process. Some have expressed a concern that the civil liberties of corporations will be jeopardized by this reform. In fact, civil liberties are threatened by the overreliance of the antitrust division on grand juries which do not permit the presence of a judge or counsel, because the antitrust division now cannot use depositions and interrogatories. Rather than indicating a genuine concern for civil liberties, this argument exposes a desire to see the antitrust laws lamely enforced.

Removal of the Antitrust Division's right to a Civil Investigatory Demand for regulatory hearings would be an unwarranted restriction at a time when the Antitrust Division is participating increasingly in regulatory proceedings, as is only proper since cartelization of regulated industries costs consumers millions of dollars a year, and many regulatory laws have specialized antitrust provisions.

The pre-merger injunction provision of Title V is necessary if the government is to have an effective remedy to merger which have an illegal impact of competition. In virtually every case, the government has been unable either to obtain a pre-merger injunction or to separate the companies after the court has declared the merger illegal. If an injunction could be obtained by the government, it would be a simple task to remedy the effect of the merger: the status quo could be maintained and the companies could carry on as before. Once the two companies merge, the defendants can mire enforcement agencies in Court proceedings until the agency ends the pursuit of a remedy in frustration. The *Pillsbury* case took eight years from complaint to divestiture; six years after that the FTC gave up. The *El Paso Pipeline* case has been to the Supreme Court six times and taken 17 years even though the merger was unanimously held by that Court to be illegal.

A presumption in favor of the government's case would appear to be warranted just from a comparison of the government's success rate (over 80% of the mergers it seeks to enjoin are declared illegal) to its ability to get pre-merger injunctions in only about 15% of these cases. This shift of the burden of proof is also justified by the restrictions corporations wish to place on the amount of time the Justice Department or the FTC has to bring suit after it has been notified of a merger. If the corporation wants a *speedy* preliminary *determination* of the legality of its merger, then it should accept the burden of proving that it will probably suceed on the merits of its case. (The position of merging corporations as defendants in a civil *injunction* proceeding is not analogous to the position of a defendant in a trial on the merits of the issue.)

Mergers affected by this provision are restricted to those companies of extremely large size, and even those are not presumptively considered against the public interest, as they well might be.

The Antitrust Improvements Act has received scrutiny accorded few pieces of legislation. We urge you to oppose all weakening amendments to this landmark legislation.

Sincerely,

Mitchell Rofsky.

National Consumers League,
Washington, D.C., May 12, 1976.

Dear Senator: The National Consumers League, the nation's oldest consumer organization, would like to express its support for proposed legislation, S. 1284, which would strengthen antitrust enforcement on both state and federal levels.

S. 1284 would authorize states to sue antitrust violators on behalf of consumers and recover damages. Consumers now lose billions of dollars yearly from price fixing and other antitrust violations. Existing antitrust legislation contains gaps which allow antitrust violators to proceed undeterred and unpunished. S. 1284 is essential legislation to close these gaps.

Other provisions of the bill would strengthen federal enforcement by expanding the civil investigative demand authority of the United States Department of Justice in civil antitrust investigations, as well as by requiring large companies to notify the Justice Department and the Federal Trade Commission before a merger, so that its economic impact can be assessed.

The National Consumers League believes that our American economy is based on competition and that steps must be taken to preserve our competitive marketplace. This legislation represents a step in the right direction.

We hope that you share our belief that government has a responsibility to protect its citizens from unfair business practices. Therefore, we urge you to vote favorably for this crucial consumer legislation and to reject any weakening amendments.

Sincerely,

Robert R. Nathan,
Chairman of the Board.

National Consumers Congress,
Washington, D.C., May 12, 1976.

Dear Senator: This letter is to express our support of the Hart—Scott Antitrust Improvements Act (S. 1284). The National Consumers Congress is a grass roots consumer organization made up of consumers and consumer groups across the country. Our work in food, agriculture and energy frequently focuses upon aggregation of power and control of markets. Antitrust enforcement is essential to the efficient and equitable functioning of our economy. This bill would be a major step in improving the enforcement of antitrust laws.

We are particularly concerned with titles II, IV and V which respectively, contain provisions to the Antitrust Civil Process Act, Parens Patriae, and premerger notification requirements. These provisions would not alter the content of Sherman Antitrust but rather would increase its effectiveness, manageability and accessibility.

The bill would be a major step in restoring consumer confidence in the marketplace. It is an example of well designed legislation and provides not only good antitrust enforcement powers but also sufficient safeguards to prevent abusive or frivolous use of the powers.

We urge you to support this vital legislation in its present form and to oppose any weakening amendments proposed on the Senate floor.

Most sincerely,

Aileen Gorman,
Executive Director.

Computer Industry Association,
Rosslyn, Va.

Dear Senator: As you are aware from recent correspondence, the Computer Industry Association represents some 40 independent manufacturers of computers and related products. Our member companies are located throughout the entire United States and employ over 75,000 people.

As participants in an industry which is totally dominated by one corporation, we have a great interest in antitrust reform. We have closely followed the progress of the Antitrust Improvement Act of 1975 since its introduction last year by Senator Hart and have presented testimony before the subcommittee stating our views.

Our members, as corporations, are keenly aware of the urgent need for this legislation. Some member companies are currently facing litigation with IBM and have been confronted with the inadequate system currently open to them. Title VII of this bill would serve to expedite these, and future, antitrust cases. The provision for appointment of experts, special masters and other personnel, is critically important to properly resolve the problems which arise in a technically oriented area such as the computer or communications industry.

Our strong support of this legislation, however, is not limited to our concern in the corporate arena. As the employers of thousands of consumers, and as consumers ourselves, we are greatly interested in Title IV of this bill which will protect all of us from antitrust violations by providing the state attorneys general the means to prosecute offenders. Testimony on this legislation has indicated that this provision will act as a deterrent and eventually assist in slowing inflation and curing the economic ills our country faces.

Taking into consideration the fact that our present antitrust laws are substantially the same as they were 85 years ago—when the Wright brothers had not yet made their historic flight—and the fact that today we have the proven capability to send men to walk on the moon we strongly believe the time has come to modernize the antitrust laws to conform to the new era in which we live. It is the collective opinion of our membership that only giant corporations representing narrow interests must fear such legislation. Those of our members who might be considered "giants" in any other industry, have no such fears. Free and open competition is the back bone of our nation's greatness—the building of the better mousetrap, the American dream. Monopolistic tactics, illegal trade restrains and other antitrust violations should not prohibit our progress toward these goals.

COMMONWEALTH OF VIRGINIA,
Richmond, Va., February 18, 1976.

Re S. 1284, Title IV, *Parens Patriae.*

Hon. PHILIP A. HART,
Member, Senate Judiciary Committee,
Washington, D.C.

DEAR PHIL: I am Chairman of the Antitrust Committee of the National Association of Attorneys General and I am informed that Senator Eastland has scheduled a meeting of the Judiciary Committee for Wednesday and Thursday of this week for the purpose of considering the final form of this bill. In connection therewith, we understood that a number of amendments may be proposed which we believe would do substantial damage to the fundamental purposes of this Title.

1. FLUID CLASS RECOVERY

The very essence of the Title is to enable recovery of treble damages on behalf of the fluid class of consumers. Without it, the Title is meaningless. The factual assumption used to test the bill has generally been the small but widespread price-fix wherein each consumer of a basic commodity such as milk or bread had been damaged to the amount of $2.00 or $3.00 over the course of a year. Since consumers do not save receipts for such purchases and since it would be impossible to prove each consumer's individual claim, the subject legislation would permit recovery and distribution along the lines of fluid class recovery. It should be understood that we are discussing the last event in a long trial, *i.e.*, it has been found as a matter of fact and law that the defendants have engaged in a price-fix. To eliminate fluid class recovery would be to cripple this bill entirely.

2. CONTINGENCY FEE

Another way to cripple the effectiveness of this bill would be to deny the Attorneys General, the right every other citizen enjoys, to contract for legal services on whatever basis, in his judgment, suits the needs of a particular case. At this point, substantial antitrust staff are not widespread at the State level. Furthermore, undertaking one major *parens patriae* suit can absorb the time of numerous staff persons for several years. Accordingly, this bill will go unused, and the rights created unenforced to the fullest extent possible, if the Attorneys General are not permitted to contract for expert antitrust counsel whose fees will be paid out of subsequent settlement or judgment, if any. We share the concerns of those who believe that attorneys' fees should be kept within reasonable limits. Therefore, we would support an amendment which would require the approval of the district court for any attorney fee arrangement according to standard attorney fee criteria.

3. RECIPROCAL ATTORNEY FEE PROVISIONS

We understand that some are proposing that attorneys' fees be allowed against either side. The result of this is that no Attorney General will be able to afford the risk of initiating a lawsuit since the attorney fees in such case would possibly exceed his own appropriated budget and open the tax dollars for which he is the trustee to a contingent liability inconsistent with his duty as a law enforcement officer. Furthermore, reciprocal attorney fee provisions have never been a part of the American system but find expression only in the British experience. I believe that it would be very unwise to adopt any such arrangement.

4. SINGLE DAMAGES

It is not surprising that there are efforts by those who oppose this bill to cut it back to a provision for single damages rather than treble damages. Such an arrangement will not work. It could create an inconsistency in the provision allowing those who opted out of the class to follow on its coat tails and obtain treble damages while those consumers who are represented by the Attorney General would have to settle for single damages. Furthermore, it would treat consumers in a discriminatory fashion while allowing wholesalers and middlemen the opportunity for standard antitrust recovery, treble damages. We strongly oppose any effort to deny to all consumers the full protection of the antitrust laws which have 80 years of sound experience behind them.

I wish to thank you for taking the time to consider these points and to urge you, on behalf of the National Association of Attorneys General, to reject any crippling amendments to S. 1284.

With kindest regards, I remain
Sincerely yours,

ANDREW P. MILLER,
Attorney General.

STATE OF NEW JERSEY,
DEPARTMENT OF LAW AND PUBLIC SAFETY,
Trenton, N.J., April 14, 1976.

Re S-1284—The Hart-Scott Antitrust Improvements Act of 1975.

Hon. PHILIP A. HART,
Committee on the Judiciary, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HART: Please accept my sincerest congratulations for your success in moving this very important legislation to the floor of the Senate. It was extremely gratifying to see the bill reported out without the damaging encumbrance of many of the amendments offered to weaken it in Committee.

I am certain that this could not have been accomplished without your leadership and perseverance during this long fight.

Sincerely,

WILLIAM F. HYLAND,
Attorney General.

STATE OF NEW JERSEY,
DEPARTMENT OF LAW AND PUBLIC SAFETY,
Trenton, N.J., April 1, 1976.

Re The Hart-Scott Antitrust Improvements Act of 1975 (S. 1284)—Analysis of Proposed Amendments.

Hon. PHILIP A. HART,
Committee on the Judiciary, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HART: As this important legislation approaches mark-up, I wish to inform you once again on behalf of myself and Governor Brendan T. Byrne of our wholehearted support for S. 1284 in its present form.

I have followed your deliberations closely and am distressed by certain amendments which have recently been proposed. These amendments, if adopted, make this necessary legislation utterly useless. I have enclosed a memorandum explaining exactly how these proposed amendments will affect S. 1284.

I trust that after giving this analysis serious consideration, you will reject these amendments.

Sincerely,

WILLIAM F. HYLAND,
Attorney General.

MEMORANDUM, APRIL 1, 1976

To: All Members, Committee on the Judiciary, United States Senate.
From: William F. Hyland, Attorney General, State of New Jersey.

This will advise you of my wholehearted support for S. 1284 in its present form. A series of amendments to S. 1284 have recently been proposed, however. The design of these amendments is clear. S. 1284 expands the powers of state attorneys general to prosecute violations of the antitrust laws on behalf of state residents and the states themselves. These powers are critical to the full enforcement of the antitrust laws, a task beyond the capacity of the federal government. The proposed amendments seek to emasculate these powers. All of the proposed amendments which would have this effect should be rejected. Time does not permit a detailed recitation of my objections to each of the proposed amendments. In the following pages I shall set forth my objections to the most pernicious of the proposed amendments and defend the bill in its present form.

PROPOSED AMENDMENTS LIMITING PARENS PATRIAE SUITS TO PRICE FIXING BY COMPETITORS

The proposed amendments to Section 4 C (a)(1) limiting these suits to horizontal price fixing are unacceptable. Horizontal price fixing, *i.e.* price fixing among competitors, although the most notorious antitrust violation, is not the only volation which gives rise to monetary injury. Vertical price fixing, *i.e.* price fixing within the same distribution chain, and group boycotts, *i.e.* the boycotting of one group of competitors by another group of competitors, may lead to similar results. The bill, in its present form, allows monetary recovery for all violations of the Sherman Act which give rise to pecuniary injury.

Anticompetitive conduct of a type other than horizontal price fixing may lead the residents or economy of the states to suffer pecuniary injury. The attorney general should be allowed to recover for both the residents and the state in such situations.

PROPOSED AMENDMENTS ELIMINATING TREBLE DAMAGES

The proposed amendments to Section 4 C(a)(2) of the Bill, eliminating treble damage recoveries in antitrust suits, strike directly at the incentive for bringing these enormous actions. Without treble damages, the state will have to be certain that the extent of potentially provable damages is sufficiently large to, by itself, justify the suit, and this is rare. In addition, it would put the states in the anomalous position of being able to do less for their citizens as a group than the citizens could do for themselves since, as individuals, they are invariably permitted to recover treble damages. Of course, it should be well understood that even with treble damages available, the little individual who has suffered $5 in damages because of the price fixing of a product he uses does not presently have an adequate incentive to sue. Thus, the only individuals now who can sue effectively are rich individuals and corporate interests. To accept this amendment, then, would do little to improve the status quo and would not allow this bill to achieve its purpose of allowing the states to represent effectively hundreds of citizens at a time each of whom had been damaged slightly, but who together had been damaged greatly. The incentive to sue its thereby minimized. More important, the threat of treble damage suits of this type will be a deterrent to the anticompetitive behavior to a greater degree than at present.

PROPOSED AMENDMENTS COMPELLING INDIVIDUAL NOTICE

The proposed amendments to 4C(b)(1) eliminate notice by publication as the notice of first choice. The bill in its present form, while permitting notice by publication, nevertheless allows the court to choose another form of notice should notice by publication be manifestly unjust. Where the state is representing substantially all, or a sizeable minority of its residents in an antitrust case, notice by publication is the only feasible mechanism. To require individual notice to identifiable residents or any other form of individual notice will prevent these suits from being instituted. The burden and expense of identification and mailing would be enormous and would militate against commencing the litigation.

PROPOSED AMENDMENTS REQUIRING EACH INDIVIDUAL RESIDENT TO INCLUDE HIMSELF IN THE LITIGATION

The proposed amendment to 4C(b)(2), providing that persons receiving notice must indicate their desire to "opt-in" or be included in the adjudication, will make commencing such a suit impossible. (Currently, under the federal class action rules, either the class is formed by the court once and for all or it is formed subject to a class member's desire to "opt-out" of the class. An "opt-in" requirement is clearly unreasonable and contrary to accepted procedural practice.) Should this amendment be approved, these cases will be the great antitrust gamble—for the state will know neither the number of residents on whose behalf it is acting nor the potential size of recoveries. In short, the state will not have the information needed to decide whether to bring such a suit until after the litigation is commenced.

PROPOSED AMENDMENTS AWARDING COSTS AND FEES TO THE PREVAILING PARTY RATHER THAN THE PREVAILING PLAINTIFF

The effects of these amendments is made more pernicious by the proposed amendments to Section 4C(a)(2) of the Bill seeking to award costs and fees to the prevailing party. This proposal, when combined with the previously discussed amendments, produces the untenable result that when the state commences an action, it will not know until well into the action who is to be represented and what the potential damages are. If the state then discovers through the unprecedented and unworkable "opt-in" procedures that there are insufficient claims to justify the litigation and withdraws, it is forced to pay defendant's costs and fees. This would not result because the defendants were blameless, but only because the state could not know with reasonable certainty in the beginning whether to commence an action.

ADVANTAGES OF THE PRESENT BILL

To these amendments which gut the Bill are juxtaposed its present provisions. As presently constituted, the Bill provides an adequate incentive, through its treble damage provisions, to stimulate the commencement of the kind of major antitrust litigations needed to reduce the harm to individuals resulting from violations of the Sherman Act. The notice provisions of the Bill afford a reasonable means of informing residents of the existence of a litigation and a means of disassociating themselves from it if they wish. The award of costs and fees to the successful plaintiff provides further incentive to commence the action and is a deterrent to the illegal practices. More important, the Bill places the states in a position to determine whether a suit should be instituted and does not force them to undertake expensive gambles.

PROPOSED AMENDMENTS ELIMINATING STATISTICAL PROOF OF DAMAGES

The proposed amendments to Section 4 C(c) of the Bill effect both the proof of damages as well as the distribution of sums recovered. These amendments make statistical proof of damages unacceptable, require proof of both the fact and amount of individual damages and restrict the amount of any recoveries which may be distributed. Where the state is representing a number of its residents in an antitrust action, which may approach the state's entire population, statistics are the only practical and reliable means of proving both the fact and the amount of damages suffered by the individuals represented. To require them to prove the fact and amount of individual damage will render these suits unworkable. How, in an action where one million residents are represented, would one prove individually the fact of individual injury? Although simple solutions suggest themselves—affidavits of individuals—individual bills for purchases, the use of these will produce an administrative nightmare for both the parties and the court. They will also be expensive. And more important, uncertainty of the type previously discussed is inserted into the proceedings, as the state will have no way of knowing the extent of possible recoveries until the litigation is in an advanced state.

PROPOSED AMENDMENTS LIMITING THE AMOUNT OF DAMAGES WHICH CAN BE DISTRIBUTED TO VICTIMS OF ANTICOMPETITIVE PRACTICES

The proposed amendments to Section 4C (c)(2) limiting the amount of payment by a losing defendant to the amount of proven individual claims, except in egregious circumstances, are also unacceptable. Thus, in the absence of these egregious circumstances, this amendment would prevent payment of the aggregate damages determined to have resulted from the anticompetitive conduct and would limit recovery to the amounts of damages actually proven by the state to have been sustained by various individuals. The violator is thus allowed to retain a portion of the unjust profits derived from his illegal activity. Moreover, since aggregate damages will not be paid unless the circumstances are aggravated, the state is, once again, placed in the position of not knowing what the potential recoveries will be until after the litigation is completed and a finding is made that circumstances surrounding the violation and the past history of the defendant warrant the payment of aggregate damages.

ADVANTAGES OF THE PRESENT BILL

To these amendments are contraposed the provisions of the Bill in its present form. The Bill provides a reliable mechanism for assessing both the fact and extent of individual damages—statistical analysis. Statistical analysis is a reliable means of proof—the science is simply too far advanced for there to be substantial doubt as to its validity. Moreover, it is the only practical means of demonstrating both the fact and amount of damages in cases involving basic products, such as gasoline, antibiotics and the like, purchased by numerous persons. The distribution provision of the Bill should also be left intact. The entire amount of treble damages should be distributed to the residents of the state or to the state. The damages awarded in these cases resulted from illegal activity which caused the residents to pay higher prices. Allowing the defendant to keep any portion of these damages is to allow him to profit from his illegal activity. Further, if treble damages are not awarded and distributed, the business risks involved in engaging in anticompetitive activity are substantially minimized.

PROPOSED AMENDMENTS LIMITING THE NECESSARY EXPANSION OF EXISTING ANTIMERGER LAWS

The proposed amendments to Section 701 of the Bill seek to limit the reach of the Clayton Act. Given the degree of concentration in the American economy, these amendments are wholly inappropriate. Many state antitrust laws do not reach mergers which violate the Clayton Act. For similar reasons, the proposed elimination of Title V of the Bill is also inappropriate.

PROPOSED AMENDMENTS LIMITING THE NECESSARY EXPANSION OF THE ANTIMONOPOLIZATION PROVISIONS OF THE SHERMAN ACT

The proposed amendment to Section 704 of the Bill would eliminate a beneficial change in the law curbing attempts to monopolize. For a plaintiff to succeed in an attempt case, he must prove that the defendant's market share is large and that there is a dangerous probability that monopoly will result. This burden of proof is too high and makes the probability of succeeding in such an action minimal. Moreover the provision of the Sherman Act covering attempts to monopolize is the only section applicable to unilateral anticompetitive action. This section should be strengthened, not limited, as suggested by the proposed amendments.

CONCLUSION

While there are other amendments which are objectionable, specific comments will not be made. The Bill in its present form provides a reasonable, fair, and needed overhaul of the antitrust laws. I urge you to pass the present bill and to reject the proposed amendments.

STATE OF KANSAS,
OFFICE OF THE ATTORNEY GENERAL,
Topeka, Kans., October 10, 1975.

Senator PHILIP A. HART,
Chairman of the Subcommittee on Antitrust and Monopoly, Senate Office Building, Washington, D.C.

DEAR SENATOR HART: Senate Bill 1284 is of great importance to State Attorneys General in allowing them additional enforcement powers with Antitrust prosecutions. We urge you and fellow members of the Senate to support this legislation.

Of particular interest to us is Title IV of S. 1284. This parens patriae provision would greatly increase a State Attorney General's ability to recover the overcharges which result from illegal price-fixing activities for the average consumer.

We are following the activities of your Subcommittee on Antitrust and Monopoly with great interest, and we are urging our Kansas Congressional delegation to support S. 1136 and S. 1284.

Very truly yours,
CURT T. SCHNEIDER,
Attorney General.
By: THOMAS H. BRILL,
Assistant Attorney General.

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
Los Angeles, Calif., September 30, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: We are writing to you to express our strong support for S. 1284, the Hart-Scott Antitrust Improvements Act of 1975. Title IV of that Bill would provide state Attorneys General with authority to represent their citizens through parens patriae representation in antitrust actions.

The proposed bill, now pending before your Committee, would fill an important gap in the existing scheme of antitrust enforcement. For example, low cost consumer products affected by an antitrust conspiracy are generally purchased in small quantities by consumers who seldom keep receipts of their purchases. The tremendous expense and time involved in the litigation of the antitrust cases totally precludes individual consumers from bringing their own private lawsuits. Even if a class action is brought, this is at best only a partial solution. Practically speaking the amount of claims proven by class members will be small compared to the total damages inflicted by the antitrust violator upon consumers and compared with the illegal profits they obtained. To the extent that millions of class members could not or would not prove their claims, the violator will have committed the "perfect crime" by being able to retain their illegal profits.

We were thwarted in our attempt to recover such damages acting as parens patriae on behalf of the citizens of California in California v. Frito-Lay Inc., 475 F 2d 774 (9th Cir., 1973). The Court acknowledged that we provided a viable answer to this problem, "perhaps the most suitable yet proposed," and felt that the present statutory scheme did not permit us to bring the parens patriae action and suggested a legislative solution.

We urge you and the Judiciary Committee to give S. 1284 your earliest consideration. The proposed legislation is important and necessary, and we would be most happy to give you our assistance or further views.

Very truly yours,
EVELLE J. YOUNGER,
Attorney General.

CATHOLIC UNIVERSITY LAW SCHOOL,
Washington, D.C., October 10, 1975.
Hon. JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: As both a practitioner and professor of antitrust law, I am writing to support a strong parens patriae bill. I believe such a bill is extremely desirable in order to have effective enforcement of the antitrust laws. Without a strong bill, large corporations will often find it financially profitable to violate rules against price fixing or other rules which help maintain the competitive economy to which the United States is committed. Such violations would also be worthwhile to large corporations because the possibility of future injunctions against violations holds no terror sufficient to deter present, highly lucrative anticompetitive conduct. Nor does the possibility of criminal penalties sufficiently deter violations, since, regardless of the fact that the maximum penalties have recently been increased, the monetary penalties are still minimal in amount for large companies when compared to the profits of violation and usually the judiciary is almost insuperably reluctant to send businessmen to jail for antitrust violations.

Many of the arguments in favor of a parens patriae bill have been set forth in excellent fashion in the majority report submitted by the Committee on the Judiciary of the House of Representatives. There would be no point in reiterating those arguments here. Thus, I shall rest content with criticizing the one portion of the House Committee's bill about which I have serious question, and with answering a number of the arguments raised in the minority report of the House Judiciary Committee.

A. HIRING OUTSIDE LAWYERS ON A CONTINGENCY FEE BASIS

As reported by the House Judiciary Committee, the parens patriae bill would not allow a parens patriae suit to be brought if a state attorney general hired an outside lawyer on a contingency basis. The objective of this limitation is said to be to encourage states to develop their own in-house antitrust capability. But states are already hard pressed financially, and many states, particularly small or poor ones, might find it difficult to spend the tremendous sums of money which are involved in building up a significant in-house antitrust capability. Such sums could easily run to many hundreds of thousands or millions of dollars annually.

However, I do not think it is correct to say that an inability to utilize outside lawyers on a contingency fee basis will necessarily result in an absence of parens patriae suits by states which cannot afford to build up in-house capability. While any one of these states acting alone may be unable to afford the tremendous fees involved when outside counsel are hired to conduct an antitrust suit on an hourly fee basis, a number of states might jointly hire lawyers on an hourly basis, with each state bearing a part of the cost.

While this would likely be the practical solution to the problem, I would caution that this solution has an ironic drawback: it would necessarily reduce competition in the field of plaintiffs' antitrust litigation. If financial constraints cause five or ten states to have to band together to hire attorneys on an hourly basis, rather than each state being able to hire lawyers itself on a contingency basis, then there will be room for fewer attorneys in the field of plaintaiffs' antitrust litigation. Many may feel that the fewer lawyers, the better. But if competition is a goal to be striven for, if competition in the legal field is desirable as a means of securing better work at cheaper cost, as is the case in other fields, and if excellent legal work at a reasonable cost for plaintiffs is desirable in order to deter antitrust violations, then Congress should think carefully before taking a step that will reduce competition in the plaintiffs' antitrust field by reducing the number of persons who will be providing the necessary legal services.

B. THE ARGUMENTS OF THE MINORITY OF THE HOUSE JUDICIARY COMMITTEE

Now I shall turn to the arguments made in the minority report of the House Judiciary Committee. Frankly, most of these arguments are very weak. My purpose in replying to them is to show their weakness in case they are reiterated before the Senate Committee on the Judiciary.

The minority report argues that damages in parens patriae suits will constitute a criminal fine of astronomical but irreducible proportions, without regard for the interests of justice. However, the treble damages will not be a criminal fine at all. They are a civil penalty whose base is derived from the amount of injury the violator has caused. Moreover, the damages will be neither more nor less reducible than treble damages in a non parens patriae case. For in any legal case the courts have authority to reduce damage awards which are not supported by law.

In any event, the minority's argument concerning the compatibility between allegedly irreducible damages and the interests of justice must fail because it is totally inconsistent with the existing and well accepted situation concerning compatibility. Essentially the minority is complaining because treble damages in a parens patriae case will not be reduced on the basis of a defendant's degree of culpability, ability to pay, or ability to continue in business. Yet treble damages are not reduced on the basis of such factors in a non parens patriae case, even when such a case is a class action or other litigation involving damages of tens or scores of millions of dollars. Obviously Congress thought full scale treble damages in such cases, although huge in amount and unreduced by the factors mentioned by the minority, are consistent with justice. How, then, can it be inconsistent with justice if full scale treble damages, unreduced by the minority's factors, are also imposed in a parens patriae case?

The plain fact is that Congress has felt that unreduced treble damages are necessary to preserve our competitive economy, with the freedom of opportunity which a competitive economy gives to individual citizens. Therein lies the long run interests of justice, rather than in allowing price fixers to escape with the fruits of violations which have bilked millions of persons out of hundreds of millions of dollars.

The minority also argues that a treble damage award in a parens patriae suit will be an improper civil remedy because the damages will not be used to compensate victims even though such compensation is the goal of antitrust damages. However, the goal of treble damage awards is as much to deter violations as to compensate victims. In fact, since only one-third of treble damages is necessary to compensate victims, the only possible goal of awarding the extra two-thirds is to deter illegal conduct.

Furthermore, the parens patriae bill does in fact provide for efforts to be made to give individual victims an opportunity to come forward and receive compensation out of a damage award. And to the extent that there is a fund left over to be used for public purposes connected with the field in which the violation occurred, many of the victims will be personally benefitted.

The minority further asserts that large amounts of treble damages should not be awarded in parens patriae suits because the victims have no interest in bringing the case, the known and provable victims are few, and only a few persons will make a claim against the award. It is not necessarily correct to assert that only a few persons will make a claim against the award. As Judge Lord has shown in a recent settlement in the tetracycline cases, when the distribution of an award is handled properly, numerous consumers may come forward to make a claim. Furthermore, in regard to the provability and interest in suit of the victims, the whole point behind a parens patriae suit is that it is perfectly clear that hundreds of thousands or millions of people have each been victimized. To let the defendant escape is to reward him for engaging in a violation whose effects are so widely spread that individual victims will not sue. Such a result is wholly inconsistent with law and justice.

The minority also objects because the needs of a particular public purpose for which an award is used—e.g., the needs of a drug clinic—will not define the amount of the award. Of course the objection is wrong because the amount of an award should be defined by calculating the amount of damage which the defendant has caused and then trebling it, as will occur. But more than this, surely there is more than one public purpose for which an award can be used. Surely, there are many public purposes which are starving for funds and which could well utilize the monies awarded because of antitrust violations. Surely it is better for an award to be used for these public purposes than for ill gotten monies to be retained by price fixers. To argue that treble damages are undesirable because the need for funds of a particular public purpose will not define the award is to overlook the fact that many public purposes have a need for funds.

Finally, I take issue with the minority's assertion that parens patriae suits are undesirable because they will give politically ambitious state attorneys general an opportunity to make political capital by bringing antitrust cases which may prove not to be meritorious. In the first place, many cases will prove to be meritorious rather than unmeritorious and most attorneys general will act on wholly proper grounds in determining whether or not to bring cases. Also, state attorneys general are already permitted to bring class actions, even when using outside counsel on a contingency basis. Thus if an attorney general is determined to improperly make political capital in the antitrust field, he already can do so.

Moreover, state attorneys general have so wide ranging an opportunity to take highly publicized actions, whether properly or improperly, that it seems trivial to think that parens patriae suits present a danger which does not already exist in far greater degree due to other causes. State attorneys general can crack down on drug traffic or crime, can bring highly publicized environmental suits, can prosecute politicians, and so on. If it becomes known that they have done such things without a justifiable basis, but wholly for political reasons, then such knowledge should redound against them regardless of what political office they happen to be occupying at the time. In the long run, of course, our system relies upon the voters to turn charlatans out of office and keep good people in office. Given the many opportunities for official misfeasance by attorneys general, and our reliance upon the vote to purge miscreants, it is clutching at a weak reed indeed to argue against parens patriae suits on the ground that they afford an opportunity for misconduct.

In conclusion, I hope that the foregoing comments may be of some aid to your Committee. If I can be of help in any other way, please do not hesitate to ask.

Very truly yours,
Lawrence R. Velvel,
Professor of Law,
Catholic University Law School.

The University of Wisconsin,
Madison, Wis., December 2, 1975.
Senator Philip A. Hart,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator Hart: I read in the latest issue of Business Week that your bill requiring premerger notification and approval is in deep trouble. Business Week states that the bill will "kill off most mergers before they get started." This is nonsense. If there are compelling reasons for a merger, the prospective merger partners can afford to hold off for a time.

The simple truth is that, in most cases, the parties realize that under present law the cards are stacked against the government. Once a merger is consummated realistic relief becomes well nigh impossible.

Premerger notification and clearance is likely to present, for business, the most difficult problem in unfriendly takeover attempts. Not only are there relatively few such mergers, but such mergers should also be evaluated by the government on the merits before such precipitous actions are consummated. The recent flurry of such unfriendly tender offer mergers seems to have left the antitrust agencies stunned by the rapidity of the takeovers, some of which in my judgment violated Section 7. But the agencies stand mute.

Good luck and best wishes in your efforts to strengthen the antimerger law. We may well be on the eve of another burst of extensive merger activity.

Cordially,
Willard F. Mueller.

P.S. Enclosed is a speech I gave which may interest you.

Center for Rural Studies,
San Francisco, Calif., May 19, 1975.
Hon. Philip A. Hart,
Senate Office Building,
Washington, D.C.

Dear Senator Hart: Please accept our commendations on your introduction of S1284 and S1136.

As is apparent from the name of our organization, we are particularly interested in the aspects of anti-trust legislation which would prevent the further agglomeration of land and water rights by large corporations which by virtue of their size and tax status are able to compete unfairly in agricultural production and which by virtue of their vertical integration are in a position to set prices at both the production and consumption end of the food chain.

It is interesting to note that according to some figures we have seen, the American food bill was 132 billion dollars in 1973, of which farmers received only 50 billion. Certainly much of this tremendous gap is due to the incursions of vertically integrated agribusiness corporations, many of them now operating on a multi-national scale.

Your two bills, if enacted, should be able to have a dampening effect on further concentration of power in agriculture as well as in other sectors of the economy.

Sincerely,
James L. Draper.

The University of Utah,
Salt Lake City, June 16, 1975.
Hon. Philip A. Hart,
Chairman, Senate Antitrust and Monopoly Subcommittee, Committee on the Judiciary, Senate Office Building, Washington, D.C.

Dear Senator Hart: I fully understand and appreciate the reasons beyond your control for the cancellation of the Hearings on S.1284, scheduled for June 5 and 6, 1975. The Subcommittee staff kindly invited me to return on June 12 to testify on S. 1284. Unfortunately, prior commitments precluded acceptance of the staff's thoughtful offer to return and it was agreed that any questions you or the staff may have about my prepared statement could be handled by correspondence. Your letter of June 6 propounded six questions which I shall attempt to answer in the order asked:

1. With regard to Title I and my proposal to make it the preamble of the Sherman Act, I would strongly urge the Subcommittee to do so. A Congressional declaration of policy is often relied upon by the courts in determining the substantive scope of a statute. The antitrust laws are broadly and vaguely worded and are particularly subject to judicial expansion or contraction depending upon the decision-maker's conception of their purposes. Judicial discretion is relatively uncontrolled at this point, except perhaps for the force of precedent, and there is a rising tendency to narrowly interpret the purposes of the antitrust laws.

Several factors are contributing to the frustration of the obviously broad social, political and economic goals of the antitrust laws that Congress had in mind when these laws were passed. Mayor Alioto's testimony touches upon one such factor—the appointment of judges with little understanding of and even outright hostility to antitrust policy. In a number of cases, judges have read in limitations upon the scope of antitrust policy that have no basis in the literal language of the statute or the clear legislative history of the statute. The "in commerce" decisions of the Clayton Act, the *parens patriae* decisions, recent merger decisions, and cases like *Telex v. I.B.M.* are examples of this trend. To some extent, the trend may be partially explained by incompetence; in other cases it is simply a matter of outright hostility to antitrust policy instilled by years of representing antitrust defendants by the judges deciding the case. While I believe the judiciary is benefitted by a pluralism of background among appointees to the bench, the past few years have seen a conscious program of appointing judges with specific biases in the area of economic regulation and constitutional law. The growing "tilt" that results have been away from a broad interpretation of antitrust policy and a frustration of Congressional intent.

A second factor contributing to the trend is the overriding compulsion of many courts—with Chief Justice Burger in the lead—to limit the caseload of the courts. Clearly, judicial caseloads and backlogs have become a problem in some areas of the country and in some courts. Controlling caseloads for the sake of controlling caseloads can, of course, lead to injustice and the frustration of the policies of laws enacted by the Congress. It has always been my belief that the first duty of the courts is to see that justice be done; not that judges can begin their day at 10:00 A.M. and be on the golf links by 4:00 P.M. or enjoy a three-month summer recess. It has become rather obvious that the Supreme Court and many circuits are controlling the caseload problem by narrowly construing such laws as the Clayton Act, class actions and the securities laws to restrict the number of claims that may be filed in federal court. Frequently, this is done in contradiction to Congressional intent, to the injury of justice, and to the great expense of litigants.

Congress is partially to blame for this state of affairs by creating new causes of action without assessing their impact upon the judiciary and by a reflex reaction that most problems can be resolved by throwing the matter into a court. Rather than face the issue as one of manpower and the expense of creating additional judgeships, however, the courts are increasingly frustrating Congressional attempts to right wrongs by narrowly construing the laws Congress passes. This process is facilitated where Congress passes statutes without a general declaration of policy that can guide and restrain judicial discretion to manipulate the concepts Congress employed in passing a law in order to limit those intended beneficiaries of the law from asserting rights in federal court.

A third factor contributing to a narrow construction of the antitrust laws is the rise of "economic positivism"—a narrow and reactionary school of thought seeking to restrict the scope of antitrust policy by the deification of a form of economic analysis devoid of reality and based on unexamined presumptions. A recent example of this kind of analysis is Posner, Antitrust Policy and the Supreme Court: An Analysis of the Restricted Distribution, Horizontal Merger and Potential Competition Decisions, 75 *Colum. L. Rev.* 282 (1975). In my statement, I attempted to explain why I consider this kind of analysis superficial, jurisprudentially unsound, and clearly contrary to the Congressional purpose in enacting the antitrust laws. In addition, it is at odds with the realities of the marketplace and human conduct as anyone who has participated in the grubby world of antitrust litigation can testify.

It also is having an impact upon judicial decision-making, however, as courts rely upon the superficially facile analysis—accompanied by charts, formulae, and mechanical manipulation of economic concepts in a belief that ultimate truth is at hand—to narrowly construe antitrust policy. The net result is a form of economic positivism insisting that the scope of antitrust policy be determined solely by the proponents' peculiar perception of "economic efficiency" and the validity of the mechanical methods and theories for examining "economic efficiency."

My quarrel with all this is far deeper than a dispute over the intracacies of economic theorizing and analysis with which I am reasonably familiar. As my statement indicates, the issue is at bottom a jurisprudential issue about the "can" and "ought" of decision-making that rejects positivism as a realistic or desirable possibility. The decision-making process in law is far more complex than this and it is necessary that the realistic and humanistic side of analysis be identified and recognized as such. If Congress wishes to avoid the stripping of antitrust policy of its social and political goals—a real possibility as the fad of mechanical economic analysis continues to spawn one-dimensional scholarship and decision-making—Congress should make clear the broader objectives underlying the enactment of the antitrust laws by making Title 1 of S. 1284 a preamble to 15 U.S.C. § 1. In this way, courts will not be able to avoid or ignore Congressional intent.

The issue may be subtle and the impact of making Title I an express declaration of policy may not be immediately evident. But if the reality of what Mayor Alioto was complaining of and what I have experienced, and if the drive to limit access to the courts by narrow interpretation of laws contrary to Congressional intent is to be reversed, inserting Title I as a declaration of policy will have a substantial long-term effect in remedying these very real and growing impediments to the enforcement of the antitrust laws.

2. My views on the use of immunity to compel testimony are based on a fundamental hostility to giving the state the power to explore one's mind through the compulsion to threatened contempt proceedings. In my scheme of things, the policy of the Fifth Amendment is a guarantee of individual integrity and privacy at its most fundamental level—the protection of an individual's mental processes, knowledge and associations. One might even cite the trial of Jesus Christ as an example of the dangers in giving the state too broad an authority to compel testimony in violation of these fundamental human values.

The appropriate balance to be struck has become more difficult as the function of grand juries has evolved from that of an agency to control prosecutorial authority and discretion to a tool for prosecutors to investigate and prosecute. At common law, grand juries were created as a check on prosecutors and as a device to shield potential defendants from unjust prosecution. Today, the situation is reversed and grand juries can be manipulated since witnesses appear without the benefit of counsel, are usually under control of the prosecutor, and the authority to grant immunity may often induce witnesses to testify to that which the prosecutor wishes to hear—and not to the truth.

The rising fear of crime and continued hard-core violations of antitrust policy should not dull our sensitivity to the import of an individual being charged with a crime and the coercive impact of immunity. Reputations are destroyed, catastrophic costs are incurred, family relationships are disrupted—often permanently—and the individual's future is placed in great doubt and ofttimes destroyed. I have no sympathy for those who would violate the law—particularly clear mandates of the antitrust laws, since the policy is basic, the damage is often frightful—even though dispersed—and the perpetrators are usually not ignorant of the law, driven by poverty or bereft of competent legal counsel. But, indictments premised upon compelled testimony by witnesses receiving immunity and by grand juries under the control of prosecutors, I find inherently suspect.

While it is perhaps unrealistic to substantially reform grand jury functions and procedures and restrain the lust for a free hand in granting immunity, I believe the Subcommittee should carefully weight the discretion being granted by § 201(K)(3) of S. 1284 (page 10 of the bill) to grant immunity in oral depositions. The authority is granted before the investigation has reached the formality of a firm suspicion of an actual antitrust violation and before empanelling a grand jury or filing a complaint. I do not think it wise or consistent with fundamental liberties to vest such authority to compel testimony at that point, if at all, and would therefore simply delete lines 10-23, page 10, S. 1284.

3. My comments with regard to S. 1136 and the suggestion that the Antitrust Division utilize special counsel to litigate significant cases reflect my basic belief that the Division is geared to negotiation rather than litigation; staff trial expertise is hired away by private interests before becoming institutionalized reflected by the high turnover rate among trial attorneys; and, my experience indicates that the Division's bureaucratic structure is incompatible with efficiently litigating significant antitrust cases.

I did have occasion to listen to Mr. Handler's testimony criticising the practice of some state Attorney Generals hiring special counsel to maintain state antitrust litigation. As was the case with most of the rest of Mr. Handler's testimony, I found his observations confused, client advocacy or simply humorous. On this issue, for example, much of Mr. Handler's business as an antitrust defense counsel is the result of corporate defendants hiring special counsel to handle antitrust litigation. In any significant litigation, most major corporations do not rely on house counsel but turn to outside counsel with particular expertise in the field involved and with the expertise of well trained trial lawyers in the area—an emminently sensible course of action. If Mr. Handler's criticism of states hiring special counsel were applied to the long-standing practice of large corporations doing the same thing, Mr. Handler's firm would be out of business. Thus, I found Mr. Handler's criticism somewhat humorous, if not hypocritical, on this issue and could not really detect any rational basis for his objection. If there is a rational basis, I would guess that Mr. Handler—speaking as a representative of the class of special counsel hired primarily to represent antitrust defendants—finds the job at bit tougher when he is faced by the expertise of special counsel retained to represent antitrust plaintiffs. It is far easier to deal with young and relatively unskilled counsel for the state or federal government, subject to political and bureaucratic restraints, and looking to move on after a few short years—than it is to deal with experienced, independent and long-term special counsel with expertise in actually litigating a case rather than negotiating a settlement.

Retaining special counsel at the federal level could bring much needed litigation expertise to the Antitrust Division. Moreover, selection of such counsel can even be tailored to the particular industry involved. For example, I know one private plaintiff's lawyer who has filed and successfully litigated more cases in the oil industry in the past five years than the entire Antitrust Division has handled in the last decade. Special counsel would also be relatively immune to any political and bureaucratic incentives within the Division and may be expected to handle cases with more expedition and decisiveness than has been exhibited by the trials by committee the Division has managed in recent years.

I doubt we shall ever be able to cure completely the turnover problem in Division trial personnel and build up a dedicated force of highly skilled litigators. It is worth a try, but in the interim I would support a program of hiring special counsel to handle significant cases, assign them adequate support staff, and tell the special counsel to go do the job. I'm confident the job will get done effectively and efficiently—and at less cost and waste of resources than that presently expended on spectacles like *U.S. v. I.B.M.* Who knows, "Special Counsel Handler for the Defense" might even consider becoming "Special Counsel Handler for the Prosecution." While it might not pay as well under present G.S. salary schedules, Mr. Handler may wish to do so for the honor of the thing. He is clearly one of our most experienced, rewarded and honored "Special Counsel" in the antitrust field and might wish to try the other side for the sheer joy of the experience.

4. My support of Section 703 of S. 1284 is premised on a belief that foreign companies doing business in the United States and United States companies doing business in other nations should be treated no differently in our courts than other litigants. Persons invoking or consenting to the jurisdiction of our courts must conform to our practice and while "comity" may be a problem to be ironed out at State Department cocktail parties in the arcane world of diplomacy, it is not relevant in litigation under American laws in our courts.

United States v. Bristol Myers (D.D.C. Civ. No. 822–70) is an example of the problems encountered in this area. The Beecham Group Limited is the owner of a U.S. Patent on Ampicillin and has granted an exclusive license to Bristol Myers, a subsidiary, to market the product in the United States. The government has charged fraud in obtaining the patent and is seeking discovery of documents in the United Kingdom to prove its case. An order by a British agency enjoins release of the documents—documents necessary to determine the validity of a United States Patent. Litigation has been going on over whether sanctions should be applied under the "mushy" standard of *Societe Internationale v. Rogers,* 357 U.S. 197 (1958) requiring a balancing of interests and "comity." Allowing the validity of a U.S. Patent to be determined by "comity" to the laws of a foreign country leaves the defendants in the position of wanting our law like any other litigant (a U.S. Patent), but wanting it free of the claims of justice (discovery of whether the Patent is valid or was procured by fraud). *First National City Bank v. Republic of China,* 348 U.S. 356, 362 (1959).

The simple solution to these kinds of cases is that proposed by § 703—enter summary judgment against the party refusing to produce—thereby meeting the demands of justice while preserving "comity" by not requiring the disclosure in violation of foreign law. A declaration of this policy by Congress cannot help but resolve these kinds of problems by moving courts to a more positive stand in favor of the integrity of the judicial process of American courts and the integrity of our laws absent vague references to meaningless concepts like "comity."

5. My main statement outlines instances of where the "in commerce" standard of the Clayton Act has caused injustice and frustration of the Congressional goal of remedying a variety of anticompetitive conduct "in any line of commerce" in any part of the country." For example, competing retail gasoline dealers in the same market are presently treated differently under the Robinson-Patman Act depending upon whether they obtained their refined product in an unbroken flow across state lines or not. Thus, one set of dealers can be victimized by predatory local price-cutting while competitors are not because of Robinson-Patman Act restraints.

The outmoded and bizarre commerce standard developed recently by the courts is further potential evidence of a drive to limit access to the courts for the sake of controlling docket loads. While the legitimate concern for efficiently managing the increasing load of courts should be confronted and dealt with directly, resurrecting artificial 1900 standards for tests of "commerce" will only create further litigation to avoid the standard or arcane record building to find a nexus to the physical flow of commerce across state lines. This process is now beginning to take place as litigants seek to expand other laws to reach anticompetitive conduct formerly within the reach of the Clayton Act or engage in extended discovery to build a record or find a "hook" establishing the outmoded commerce standard. Thus, I support amending the Clayton Act standard to reflect economic reality, avoid the waste of resources that is now inevitable and resolve the practical difficulties of the law not being applied equally to those in the same competitive circumstances. As an addendum, I believe the full Judiciary Committee should look into the caseload of our courts and propose remedies for any legitimate complaints that may be discovered so we can eliminate the process of lightening caseloads by narrowly construing laws in frustration of legislative policy.

6. Title IV has received much misleading and just plain false criticism. In my judgment, Professor Rose's statement and testimony completely and fully responds to the criticism. Thus, I endorse his excellent and objective analysis of Title IV.

Mr. Handler's testimony I found to be quite confusing. In fact, I could not believe we were reading the same bill. In rather plain and straightforward language, Title IV vests a cause of action in the state—it is the state's claim—it is not a class action. Mr. Handler's testimony, however, is based upon the assumption that the claim created by Title IV is a class action and then proceeds to raise several defects of allegedly constitutional dimensions. The bill does not take away a private citizen's right to maintain a claim; deprive one of property rights; create horrendous damage issues; trample upon some concept of "privity;" dispense with proof of a nexus between violation of the law and injury nor the fact of damage; violate due process; besmirch motherhood; insult the flag; and the host of other charges raised against Title IV. Most of these charges are based on the same erroneous assumptions: That Title IV authorizes a class action rather than vesting an independent cause of action in the state with a right to opt out of the action by those whose claim would be foreclosed.

I believe the Committee can make this thrust of Title IV clearer so that the courts will not mistake the substantive change being proposed by Title IV and mistakenly analyze it as a class action provision. By making this issue clear, such problems as notice requirements take on a different focus since notice is intended primarily for the benefit of potential damage claimants rather than wrongdoing defendants in the *parens patriae* suit. Aggregate damages and passing on become problems between the state and beneficiaries of the monies collected rather than some imagined rape of constitutional rights of wrongdoing defendants. Mr. Handler's unsupported assertion that the aggregate damage provision is plainly unconstitutional because there will be no requirement to prove actual injury is clearly fallacious. A state will still be required to prove a violation of the law, a nexus between violation and injury, and the amount of injury. Whether the proof is sufficient to sustain the claimed damage is a damage issue which may be proved in a number of ways and defendants (many of whom now retain the fruits of their illegal conduct) will be free to attack the formula relied upon and show how much of the damage is not attributable to the defendant's conduct and how much was not passed along. For example, it is frequently possible to prove the amount of damage by proof of the amount of overcharge. A defendent is not deprived of any rights because the state is able to prove all of the ill-gotten gain. It is truly odd to suggest that that defendant is entitled to retain some of the ill-gotten gain because of difficulties in apportioning a recovery among the intended beneficiaries. That is like claiming in a wrongful death action that the defendant conferred a benefit on the deceased because he killed him rather than only maiming the victim. Reliance upon the "privity" and passing on cases is also anomalous since the courts rejected the passing on defense asserted by a defendant because it would allow the defendant to retain part of the ill-gotten gain resulting from a violation of the law—not because of any imagined lack of confrontation with victims. Relying on the "passing on" defense to defeat *parens patriae* turns the reason for adoption of the rule on its head. Apportioning damages among different classes of claimants may entail questions of "passing on" among beneficiaries once the damage fund is established but will hardly be of concern to the defendant; except to the extent that the confusion created by interjecting the issue as one between the state and the defendant rather than among the beneficiaries of the fund, might well allow a defendant to escape having to disgorge all of the ill-gotton gain. "Privity", a hallowed and meaningless legal conception we all may meet one day in Von Jhering's heaven of legal concepts, is a catchword for establishing a level of proof of nexus between violation and injury. I see nothing in Title IV which will relieve the state of this burden in treble damage litigation and Mr. Handler and others have shed little light on what they may be talking about by incantation of the concept of privity—a concept which ought to be consigned to that graveyard of legalisms which contains proximate cause, demurrers, fee tails and other encrusted and useless concepts of a bygone era.

Once the state establishes a violation, the nexus between violation and injury, and the fact of damage, a defendant is, of course, free to attack each element of the case, enjoy many days in court, prove how much of the damage claimed was not really suffered and so on. Thus, I foresee no substantial constitutional difficulties with Title IV other than those mentioned in my statement—all of which may be easily corrected. The time has come to take the profit out of antitrust violations causing widespread consumer injury presently beyond remedy and the Subcommittee should not be misled by fulminations based on a fundamentally incorrect reading of Title IV.

If I may respond to any other inquiries of the Subcommittee or its staff, please do not hesitate to write. It is my hope that the Subcommittee will seriously consider including Part A of Senator Bayh's amendment as modified in my prepared statement for the reasons stated therein. With regard to the remainder of my testimony, I stand by it as written. Although biased and possibly erroneous in many places, it at least is straightforward and direct. I must confess it was also an honor to participate in the deliberations of your Subcommittee and renew old acquaintances with members of the Subcommittee, its majority staff and its minority staff. Hopefully, the markup on S. 1284 can proceed apace and we can get meaningful reform of a number of difficulties which have plagued effective antitrust enforcement for too many years.

Sincerely,

JOHN J. FLYNN,
Professor of Law.

NATIONAL ASSOCIATION
OF ATTORNEYS GENERAL,
Lexington, Ky., July 11, 1975.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN HART: At the request of Attorney General Andrew P. Miller, Virginia, Chairman of the Antitrust Committee of the National Association of Attorneys General, I am forwarding to you for your information copies of Resolutions IV and V adopted at the 69th Annual Meeting of the National Association of Attorneys General in Boston, Massachusetts, June 28, 1975. The Resolutions are as follows:

Resolution IV—Resolution in Support of the Antitrust Enforcement Authorization Act.

Resolution V—Resolution in Support of the Parens Patriae Bill.

Thank you so much for your consideration of these materials. With best wishes, I am.

Sincerely,

FRANK H. BAILEY,
Secretary.

[Andrew P. Miller, Attorney General of Virginia, Antitrust Committee]

RESOLUTION V—RESOLUTION IN SUPPORT OF THE PARENS PATRIAE BILL

Whereas, the National Association of Attorneys General has previously supported in principle the parens patriae bill pending in Congress, then known as H.R. 12921; and

Whereas, the Ninety Fourth Congress currently has pending before it two similar bills, H.R. 6786 and S. 1284, which, in concept, are the same in principle as the parens patriae bill previously endorsed by the Association; and

Whereas, more than thirty Attorneys General, individually, have expressed support for these bills and this Association's Antitrust Committee, through its chairman, has testified in support thereof; and

Whereas, these bills, with certain recommended amendments, will be a major deterrent to antitrust violations and will create a means of recovering damages inflicted upon the public and the States; and

Whereas, the need for parens patriae legislation in view of recent Supreme Court decisions has been well documented and the desirability of this Association's supporting such legislation is clear.

Now, Therefore, let it be *Resolved* that the National Association of Attorneys General reemphasizes its previous positions of support for the parens patriae provisions contained in both H.R. 6786 and S. 1284 and respectfully urges that the House and Senate Judiciary Committees give full consideration to this important legislation at the earliest opportunity; and

Be it further *Resolved* that the National Association of Attorneys General, on the recommendation of its Antitrust Committee, supports the position of the Chairman of such committee as regards Title VI of S. 1284; rather than restructuring the status of nolo contendere pleas to give them prima facie effect, particular consideration should be given to statutory provisions which would require implementation of methods for an exchange of information by the Department of Justice with the various State Attorneys General to the end that a more effective rational antitrust deterrence can be achieved.

TWO WORLD TRADE CENTER,
New York, N.Y., May 29, 1975.

Hon. PHILIP A. HART,
Chairman, Antitrust and Monopolies Subcommittee, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR HART: I understand that the proposed *parens patriae* amendments to the federal Clayton Antitrust Act, as set forth in Title IV of S. 1284, are now under consideration by the Senate Antitrust and Monopolies Subcommittee of which you are the Chairman.

I regret that I will be unable to appear in person before the Committee and testify in favor of the bill. I nevertheless wish to express my strong support for the Title IV proposals, and I am therefore submitting herewith a written statement for the Committee's consideration that I request be included in the official record.

I believe that passage of the *parens patriae* proposals, as set forth in S. 1284, will provide a very important and much needed addition to the present arsenal of governmental antitrust enforcement weapons.

Best wishes.

Sincerely yours,

LOUIS J. LEFKOWITZ,
Attorney General.

STATEMENT OF JULIUS C. MICHAELSON, ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

On behalf of the Department of Attorney General of the State of Rhode Island, I would like to heartily endorse S1284, the Antitrust Improvements Act of 1975.

As one of the seven states in the nation with no antitrust statute, I cannot overemphasize the importance of Title 4 of the Antitrust Improvements Act which broadens the authority of state attorneys general to sue under federal antitrust law on behalf of the consumers of their states.

When I was elected Attorney General of Rhode Island in the fall of 1974, the No. 1 issue in my campaign was whether or not the Attorney General was going to be an advocate for the people. To be an effective advocate for the people and to make the mandate that I received in 1974 a reality, it is important that we have federal antitrust laws which allow for state enforcement on behalf of consumers.

Moreover, since it has not always been the case that state attorneys general have been sympathetic to the concerns of the consumer, I would also endorse the provision which allows the United States Attorney General to sue on behalf of the consumers of a state if the state Attorney General fails or declines to bring such an action within a reasonable period of time.

Antitrust enforcement has been too long a neglected stepchild of state and federal enforcement efforts. We need to give as equal attention to white collar crime as we do to street crime; and I commend Senator Hart and Senator Scott for their initiative with this legislation.

STATE OF MINNESOTA,
St. Paul, May 27, 1975.
Re: Title IV of the Hart-Scott Antitrust Improvements Act of 1975 (S. 1284).
Hon. PHILIP A. HART,
Chairman, Senate Judicial Antitrust Subcommittee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HART: I heartily support Title IV of S. 1284, which would authorize state attorneys general to commence antitrust actions under Section 4 of the Clayton Act to recover money damages on behalf of classes of consumers.

The provisions of Title IV—often referred to as the parens patriae provisions—would surely enhance treble damage actions as a means of enforcing our antitrust laws.

I therefore urge the prompt enactment of this important legislation.

Very truly yours,
WARREN SPANNAUS,
Attorney General.

STATE OF ARKANSAS, OFFICE OF THE ATTORNEY GENERAL,
Little Rock, Ark., May 20, 1976.
Re: In Support of the Policies Enunciated in Title 4 of S. 1284.
Hon. PHILIP A. HART,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HART: Arkansas is one of those states in the United States which has a constitutional prohibition against monopolies (Article II, Section 19, Constitution of Arkansas). Although the Arkansas General Assembly has provided by statute for the protection of its citizens from antitrust violations, I am convinced that this bill will allow our office to more fully and fairly represent the interests of Arkansas and its citizens in antitrust litigation.

It is my sincere hope that you and your Committee will be able to complete work on this Bill and recommend it to the floor for favorable consideration in the near future.

Respectfully,
JIM GUY TUCKER.

STATE OF NEW MEXICO,
DEPARTMENT OF JUSTICE,
Santa Fe, N. Mex., May 29, 1975.
Re S. 1284, Hart-Scott Antitrust Improvements Act of 1975.
Hon. PHILIP A. HART,
U.S. Senate, Chairman, Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR SENATOR HART: I wish to thank your Subcommittee for the opportunity to comment on S. 1284, and, in particular, Title IV of that bill.

The illegal and undesirable restriction of free trade and competition is a real and threatening practice in New Mexico. In fact, it may be said in all candor that its tip is only beginning to become apparent to interested law enforcement agencies. Perhaps the primary reasons it has not surfaced in the past are not only due to the lack of recognition by law enforcement officials but also due to the paucity of the substance or our State's antitrust laws. Because of this second reason, I must voice my support for the passage of S. 1284.

S. 1284 is needed as an effective antitrust tool by this office since, unless specifically provided by statute its common law powers are often limited by our courts. Although the New Mexico antitrust laws offer the consumer some protection, their scope, their remedies, and their penalty provision are limited and, in my view, inadequate to meet the exigencies of our present economy. With the increase in effectiveness which S. 1284 offers, I believe that it would be a welcome and potentially productive addition to the antitrust arsenal of my office.

In particular, I welcome the addition of "natural persons" within the scope of the Antitrust Civil Process Act, and the inclusion of State Attorneys General as "parens patriae" authorities under Title IV. This latter inclusion should provide us with the desired, additional means for detering and remedying unlawful competition.

Sincerely,
TONEY ANAYA,
Attorney General.

THE COMMONWEALTH OF MASSACHUSETTS,
Boston, Mass., June 19, 1975.
Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR HART: I am writing to express my strong support for Title IV of S. 1284, the "Antitrust Improvement Act of 1975", and to ask the Committee to consider drafting an amendment to permit state attorneys general to obtain divestiture remedies.

This legislation would substantially aid effective antitrust enforcement by granting wider authority to the state to initiate antitrust actions. At the present time, as the Committee is aware two judicial decisions bar state attorneys general from bringing *parens patriae* suits. *Hawaii v. Standard Oil Co.* 405 U.S. 251 (1971) and *California v. Frito Lay* 472 F. 2d 774 (9th Cir. 1973); cert. denied, 412 U.S. 908. As a result of these decisions, our ability to fully protect the citizens of Massachusetts from anticompetitive practices has been impaired.

The legislation is needed for several very sound reasons. First, consumers who are victimized by anticompetitive practices are ill equipped as a practical matter to initiate or conduct expensive, broadscale antitrust litigation. We in Massachusetts are particularly sensitive to the high cost of food in our grocery markets. Where these prices are the result of collusive activity, we believe the state should serve as the vehicle for recovering any illegal overcharges. While the damage to each individual consumer may be small, the aggregate damages to the citizens of the Commonwealth may run into the thousands or millions of dollars. Title IV gives us that authority.

Second, the government's role in antitrust enforcement, particularly at the Federal Trade Commission, has increasingly been concentrated on several major cases. It is my understanding that approximately twenty percent of the Bureau of Competition's budget is devoted to the *Exxon* case alone.

At the present time, serious questions exist whether a state attorney general may seek a divestiture remedy in federal court. See *International Telephone and Telegraph Corp. v. General Telephone & Electronics Corp. and Hawaiian Telephone Co.* Trade Reg. Report ¶60,291 (9th Cir., April 25, 1975). Since we believe the ultimate goal of antitrust enforcement is the promotion or restoration of competition, state attorneys general should expressly be granted this authority.

Regional and local mergers and acquisitions as well as monopolies are important subjects for state attorneys general scrutiny. In at least one instance, our litigation plans are in flux because we are uncertain whether the federal courts would be receptive to granting a divestiture order. Basically, the contemplated litigation involves a structural rather than a behavioral problem which cannot be adequately remedied by treble damage relief alone. Consequently, we believe it would be highly desirable to incorporate language into the legislation expressly granting state attorneys general the power to seek divestitures. Of course, defendants would be amply protected in such proceedings by the courts. Additionally, if the Antitrust Division of the Department of Justice desires to submit its views, it could easily intervene in the litigation or participate as an amicus curiae.

Treble damage actions serve an important function in deterring would be antitrust violators. But, treble damage actions, in themselves, cannot restore competition to the marketplace. In this sense, broader authority is needed, if the states are to truly assume a more active role in antitrust enforcement.

In conclusion, I respectfully urge that the Senate Judiciary Subcommittee favorably report Title IV of S. 1284 incorporating the foregoing suggestions.

Sincerely yours,
FRANCIS X. BELLOTTI,
Attorney General.

OFFICES OF THE ATTORNEY GENERAL OF MISSOURI,
Jefferson City, Mo., May 22, 1975.
Re: S. 1284, Title IV—Parens Patriae Legislation
Hon. PHILIP A. HART,
Chairman, Antitrust Subcommittee, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR HART: I would like to express my support for Title IV of S. 1284, which, if enacted, will give the states the authority to bring antitrust damage actions on behalf of their citizens. I believe that the bill in its present form is much improved over the proposal as it was introduced in the House last year as H.R. 12528 and this year as H.R. 38.

Four major changes appear in this bill, each designed to eliminate a substantial objection to the House bill from the standpoint of state attorneys general. First, the addition of Section 4C(a)(3) adds political subdivisions of the groups of people on whose behalf the state attorney general may sue. The right of the state to sue on behalf of its subdivisions has generally been upheld, but a recent decision casts doubt on that power. *Illinois* v. *Ampress Brick Company,* 712 ATRR A–15 (E.D. Ill. 4/28/75). It will be useful if this controversy can be resolved through this legislation.

The second major change is the addition of Subsection 4C(b), which requires publication of notice and allows people in various states the right to "opt out" of litigation. This eliminates one of the major objections to the bill, particularly as it applies to potential antitrust suits involving businesses as well as consumer groups.

A third major improvement in the bill is the allowance to state attorneys general of attorneys' fees in Section 4C(c)(2). Many states, including Missouri, have inadequately funded Attorney General's offices, and the maintenance of one or more major antitrust suits can be a substantial drain on the office's resources. By the allowance of attorneys' fees, this litigation can become self supporting, and the states will be able to conduct much more of it.

The final major improvement in this bill over H.R. 38 is the change in Section 40(b) which now permits but does not require the United States Attorney General to bring suits if the state attorney general fails to. This is a step in the right direction, since requiring these suits would have been both an infringement on the power of the states and an unwise burden on the United States Department of Justice.

My support for your bill as it was introduced is tempered by the presence of two provisions which I believe are of dubious merit. The first of these grants the power, under Section 4C(a)(2) to sue "with respect to damages to the general economy of that State. . . ." As I expressed in my letter to Chairman Rodino last summer, commenting on H.R. 12528, "to paraphrase Shakespeare, this bill would allow Richard III to sue a conspiracy of horse sellers for the loss of a kingdom, trebled. The section places a tremendous and unforeseeable burden on antitrust violators which would, if enforced literally, simply bankrupt all but the wealthiest corporations. Considering that most suits are already settled for much less than the three times direct damages presently allowed, I believe this section represents an unnecessary and unwarranted extension of antitrust law principles."

The other major problem with the bill is Section 4D. The weakness in this section is that the Attorney General of the United States is not required to provide the states with either particulars of the suit or the evidence on which he relies. Indeed, in cases involving a criminal prosecution, he may not be able to provide very much information to the states. Nonetheless, under Section 4D, the state attorney general is required to decide within ninety days if he wishes to bring a suit on behalf of the citizens of his state. This section should be changed in several ways. First, the Attorney General of the United States should be required to provide more complete information to the states to enable them to decide whether to bring a suit. Second, the bill should clearly state that the ninety-day deadline spoken of in Section 4D(b) is not a statute of limitations with respect to actions brought by the state attorney general under Section 4C. Third, Section 4D(b) should be changed to correspond to Section 4C(a)(1); as the bill now reads, the Attorney General of the United States is not authorized to bring an action with respect to damages to the general economy or on behalf of political subdivisions of the states.

Once again, however, I would like to reassert my support for the basic thrust of this legislation, and I hope it receives favorable consideration both by your Subcommittee and by the entire Congress.

Very truly yours,

JOHN C. DANFORTH,
Attorney General.

COUNCIL ON ANTITRUST AND TRADE REGULATION,
FEDERAL BAR ASSOCIATION,
Washington, D.C., July 1, 1975.

Re S. 1284 and S. 1136.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In connection with the Subcommittee's consideration of the Antitrust Improvements Act of 1975 (S. 1284) and the Antitrust Enforcement Authorization Act of 1975 (S. 1136), the Council on Antitrust and Trade Regulation of the Federal Bar Association has polled its members to ascertain and present, for your possible interest, their views regarding these bills.

The Federal Bar Association is a nationwide organization of lawyers who have served or currently serve in the Federal government and/or who have a substantial and continuing interest in Federal law. The Council on Antitrust and Trade Regulation has some nine hundred members and, as its name suggests, is composed of members of the bar interested in problems of competition and consumer protection.

It is then with pleasure that I attach hereto a copy of the survey which the Council undertook that reflects numerically the views of those responding to the questionnaire. This presentation, however, should not be construed necessarily to reflect the views of the Federal Bar Association or of the Council on Antitrust and Trade Regulation. Nevertheless, I hope this reflection of the individual views of the responding members will be of interest to the Committee.

Sincerely,

EUGENE J. MEIGHER,
Chairman.

[From the Federal Bar Association, Council on Antitrust and Trade Regulation]

SURVEY ON PENDING ANTITRUST LEGISLATION

S. 1284—ANTITRUST IMPROVEMENTS ACT OF 1975

Sponsors: Senator Philip A. Hart and Senator Hugh Scott.

Provisions

Title I—Declaration of Policy—

"It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement by improving and modernizing antitrust invesigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace and to prevent and eliminate monopoly and oligopoly power in the economy."

Title II—Antitrust Civil Process Act Amendments—

Would permit the issuance of antitrust civil process to individuals and to third parties as well as to corporations, partnerships or associations:

Do you favor such a change? Yes, 72. No, 30.

Extend the issuance of antitrust civil process to facilitate investigations of mergers:

Do you favor such a change? Yes, 73. No, 29.

Would permit the taking of depositions, the propounding of written interrogatories as well as the required production of documentary evidence:

Do you favor such a change? Yes, 65. No, 34.

Title III—Federal Trade Commission Act Amendments—

Would increase to not less than $1,000 but not more than $5,000 (in the Court's discretion) the amount of daily penalties for failure to obey FTC orders or subpeonas or for failure to file required annual or special reports required by the Commission:

Do you favor such a change? Yes, 61. No, 41.

Would articulate definite criteria (*e.g.* service of a notice of default and probable success on merits) under which the accumulation of such daily penalties could be stay:

Do you support such an amendment? Yes, 79. No, 18.

Title I—Parens Patriae—

Would enable State attorneys general to file treble damage actions (1) as parens patriae of the citizens residing in their particular states; (2) as parens patriae, with respect to damages to the general economy of the state or of subdivisions therein; or (3) on behalf of any or all of the subdivisions in a state:

Do you favor such an amendment? Yes, 50. No, 51.

Would sanction the aggregation and allocation of damages based on statistical or sampling methods, on pro rata allocation of illegal overcharges or excess profits to sales ocurring within the state or on any other reasonable system of estimating aggregate damages which the Court permits:

Do you support such a provision? Yes: 53. No: 48.

Would permit the Attorney General of the United States to sue on behalf of any state whose attorney general fails to bring an action after notification from the United States Attorney General that cause exists for bringing such action:

Do you approve of such a procedure? Yes: 39. No: 62.

Title V—Premerger Notification—

Would preclude the consummation of certain large mergers or acquisitions prior to notification of the FTC and the Antitrust Division of the proposed transaction and the expiration of a waiting period:

Do you support such a provision? Yes: 64. No: 37.

Would authorize the antitrust enforcement agencies during the waiting period to obtain information thought necessary to evaluate the transaction, to extend the waiting period if the desired information was not forthcoming:

Do you approve such a procedure? Yes: 58. No: 40.

Would enable the antitrust enforcement agencies, if they proceeded against the acquisition, to require the entry of an order enjoining consummation of the transaction pending resolution of the proceeding if the enforcement agency certified to the Court that such relief pendente lite was the public interest:

Do you favor such a procedure? Yes: 49. No: 51.

Would permit the antitrust enforcement agencies to require the entry of a hold-separate order pending resolution of the proceeding:

Do you support such a change? Yes: 47. No: 50.

Would require, in the event of the entry of an order of divestiture, that the purchase price of the unlawfully acquired stock or assets be no greater than the purchase price paid by the original acquiring company:

Do you approve such a requirement? Yes: 32. No: 57.

Title VI—Nolo Contendere—

Would provide that the entry of a plea of nolo contendere would be prima facie evidence in a civil action brought by any person as to all matters in the indictment necessary to sustain a judgment of conviction upon a jury verdict that the defendant was guilty of offense charged in the indictment:

Do you approve of the charge? Yes 37. No 63.

Would permit, in a civil damage suit, the use of a bill of particulars to construe the indictment and would permit the use of any statements made on behalf of a defendant in a proceeding in which the defendant entered a plea of nolo contendere as admissions against such defendant:

Do you favor this provision? Yes 39. No 56.

Title VII—Miscellaneous—

Would extend the jurisdiction of Section 2, 2a, 3 and 7 of the Clayton Act to acts "affecting commerce" as well as those done "in commerce":

Do you support such an amendment? Yes 65. No 35.

Would require procedures for handling and expediting complex antitrust cases similar to those provided in the Manuel for Complex and Multidistrict Litigation:

Do you favor such a requirement? Yes 77. No 20.

Would permit the imposition of certain penalties, such as dismissal of claims or striking defenses, against any person who fails or refuses to obey an order of a United States court on the ground that a foreign statute, regulation or decree, etc. prohibits compliance with such order:

Do you approve of such a provision? Yes 41. No 49.

S. 1136—ANTITRUST ENFORCEMENT AUTHORIZATION ACT OF 1975

Sponsors: Senators Philip A. Hart, Hugh Scott and 41 other Senators.

Provisions

Section 2—Policy—

"It is the purpose of the Congress in this Act to support and invigorate a national antitrust enforcement program by authorizing sufficient appropriations to the Federal Trade Commission and the Department of Justice to permit vigorous and effective enforcement of the antitrust laws and to restore and maintain competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy."

Section 3—Federal Trade Commission—

Would authorize the appropriation for use by the Bureau of Competition of the Commission in addition to any other sums otherwise authorized an amount not to exceed $25,000,000 for the fiscal year ending June 30, 1976; $6,250,000 for the period July 1, 1976 through September 30, 1976; $35,000,000 for the fiscal year ending September 30, 1977: and $45,000,000 for the fiscal year ending September 30, 1978:

Do you support such a provision? Yes 50. No 39.

Section 4—Department of Justice—

Would provide for the Antitrust Division the same level of authorizations as provided for the Bureau of Competition of the Federal Trade Commission:

Do you favor this provision? Yes 58. No 38.

New York
State Consumer Protection Board,
New York, N.Y., May 20, 1975.

Philip A. Hart,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Mr. Chairman: As Executive Director of the New York State Consumer Protection Board, I appreciate this opportunity to offer my comments on S. 1284, "The Antitrust Improvements Act of 1975," (the Act). Anticompetitive activities cost consumers as much as $80 billion each year in higher prices, according to the Bureau of Economics of the Federal Trade Commission (FTC). It is therefore time we stopped viewing a strong antitrust policy as "antibusiness" and started realizing that such a policy is essential to our economic health in this time of double-digit inflation. You are to be commended for introducing such comprehensive legislation aimed at closing the loopholes in our present antitrust laws.

Title II of the Act would amend the Antitrust Civil Process Act to expand the scope of antitrust investigations conducted by the Department of Justice. As it exists now, the law authorizes the Attorney General to institute antitrust investigations against legal entities not natural persons in order to determine whether a violation of the antitrust laws has been committed. Civil investigative demands may be served on parties under investigation in order to obtain documentary information prior to the issuance of a civil complaint. Because of the apparent need for more vigorous enforcement of the antitrust laws, Title II would permit civil investigative demands to be served on natural persons who may be in possession of relevant information prior to the commission of an unlawful act. Furthermore, oral testimony and written interrogatories could be demanded in addition to documentary material.

I strongly support these amendments with the following suggestions. As written, Section 201(g) of the Act which amends Section 3 of the Civil Process Act appears to apply only to legal entities rather than natural persons in that it permits "persons having actual knowledge" of the information sought to respond to requests for documentary material and written interrogatories instead of requiring the person served with the civil investigative demand to respond. I doubt this result was intended by the drafters of this section, and I suggest that language be added to insure that the natural person served with the demand be required to certify the response thereto.

In addition, Section 201(k)(1) of the Act states that the antitrust investigator "may" exclude the public from the place where oral testimony is given. I believe the public must be excluded from these proceedings. While expanded investigatory powers are necessary to effective enforcement of our antitrust laws, the civil liberties of those subject to process must be carefully guarded.

Title III would amend the FTC Act to increase civil penalties for failure to comply with TFC orders for annual or special reports or subpoenas. It would also restrict judicial orders to stay the accumulation of these penalties. We support these provisions. After all, it is quite clear that a penalty scheme devised in 1914 has few, if any, teeth left by 1975.

Title IV of the Act authorizes state attorneys general to bring class action-type suits to recover damages sustained by residents resulting from monopolistic practices as *parens patriae* or as the representative party in a class action under Federal Rule 23.

When suit is brought pursuant to the *parens patriae* provision above, Section 4C (b)(1) would seem to indicate that notice of the action by publication would be sufficient. Such a provision may give rise to constitutional questions as to the adequacy of this form of notice and the viability of the opt-out provision which follows. Furthermore, the section would appear to authorize state attorneys general to disregard state notice requirements even though superior to notice by publication. This would hardly be a desirable result. I would suggest that this section be redrafted to require notice in conformity with state law.

Section 4C(c) greatly simplifies the serious problems of proof of individual damages which arise in class actions by permitting statistical or sampling methods of computation. Absent such a provision, violators of antitrust laws would be able to retain the profits derived from their unlawful conduct.

While the above section would appear to solve problems of proof, Section 4C(a)(2) would appear to create such problems. This section would authorize state attorneys general to recover damages to the general economy of the state resulting from anti-competitive activity. I question whether harm to the sate can be measured independently of harm to its citizens. Since recovery for individual harm is provided for elsewhere, double recovery would seem to be unavoidable.

Title V, Premerger Notification, requires companies of significant size to notify the Department of Justice and the FTC prior to effecting a merger; establishes a waiting period during which the government is to scrutinize the proposed merger; and if any action is instituted, authorizes the government to seek a stay of the merger pending a final judgment on the merits. Title V is particularly critical during a period of recession in that attendant losses suffered by businesses leave them predisposed to merger. These provisions should eliminate the difficulties which result from orders requiring post-merger divestiture by enjoining illegal mergers before they are consummated. Additionally, they would eliminate the reaping of profits from an illegal merger during the investigatory period. Both government and industry would benefit inasmuch as costly and time-consuming litigation might well be avoided.

Title VI, *Nolo Contendere*, recognizes the need to facilitate individual prosecution of antitrust violations as well as public prosecution. It does so by permitting pleas of *nolo contendere* entered in criminal proceedings to be used as prima facie evidence of guilt in subsequent civil actions. Such a provision is highly beneficial in that it would relieve the plantiff of the senseless burden of proving a violation which has already been admitted.

Thank you again for the opportunity to support this fine legislation. I hope my comments have been helpful.

Yours truly,
Rosemary S. Pooler,
Executive Director.

National Cable
Television Association,
June 6, 1975.

Hon. Philip A. Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: Recently I have had occasion to review S. 1284 and S. 1637, the bills designed to improve enforcement of the antitrust laws. I find the ramifications of these bills to be terribly important. Therefore, I am taking the liberty of writing to you to express my organization's support for this effort.

The cable television industry has endured a sustained assault from broadcast and common carrier interests over the years. The results have been injurious and have often resulted in the adoption of repressive regulation. Much documentation of this has been submitted to your Sub-committee in recent hearings. It seems that the guardians of the *status quo* do not move aside graciously when competition from a new industry is perceived. We view much of this conduct as questionable anti-competitive activity, perhaps falling within the purview of the antitrust laws. As you know, both government and private enforcement of the antitrust laws is often cumbersome and expensive. It is thus a remedy which is of limited immediate value to our struggling industry. For this reason, anything that can be done to strengthen and streamline the application of the antitrust laws would indeed be welcome. We read this intent into S. 1284 and S. 1637, and we, therefore, support your efforts and urge prompt action on these bills.

If I can be of any aid to you in this effort, please do not hesitate to call upon me.

Sincerely,
Stuart F. Feldstein,
Vice President,
Legal/Government Relations.

AUTOMOTIVE SERVICE COUNCILS, INC.
Elmhurst, Ill., June 5, 1975.
Hon. PHILIP A. HART,
Chairman, Antitrust and Monopoly Subcommittee, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the members of this association, I wish to express our strong support for S. 1136 and S. 449, increasing appropriations for the Antitrust Division of the Department of Justice and the Federal Trade Commission.

Effective, fair enforcement of the antitrust laws is essential to the survival of the small and medium-size independent businesses.

Vigorous antitrust enforcement ensuring a free and open competitive enterprise system will be a bulwark against the artificial pressures of inflation.

Best wishes.

Sincerely,
DONALD A. RANDALL.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., May 27, 1975.
Senator PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Old Senate Office Building, Washington, D.C.

DEAR SENATOR HART: I would like to expresses my appreciation for your efforts as reported recently in the Wall Street Journal to reform and improve our antitrust laws. I am especially interested in the proposals involving the right of attorneys general to initiate treble-damage suits on behalf of the citizens of a state, since I have written quite a bit on treble-damage suits.

As you can see from the enclosed article "The Profitability of Violating the Antitrust Laws . . ." taken from the Antitrust Law and Economics Review, it is generally profitable to violate the antitrust laws, even given the prospect of paying treble damages. As discussed in the article, the reasons are:

(1) what must be assumed to be a low probability of discovery of the violation;

(2) the low coverage ratios (percentages of sales and/or profits affected by a violation that ultimately enter into a treble-damage suit). Lack of willingness of some customers to sue, the disappearance of old records, etc. mean that in the typical treble-damage case only a small portion of sales on which profits are made enter a treble-damage suit. Thus, the violator may, even if successfully proscuted, pay out damages equal only to a fraction of the profits associated with the violation;

(3) the long time lag between the discovery of a violation, the typical Department of Justice or FTC trial, the subsequent treble damage case and the eventual collection of the damages by customers or competitors. During this period—often a decade or more—the violator enjoys, interest free, the use of the profits associated with the violation.

Consequently, as Table A-1 in the enclosed article points out, in most cases it is highly profitable to violate the antitrust laws. (Exceptions are in cases where the violation is unprofitable—e.g. an unsuccessful attempt to eliminate a competitor through a price war.)

Given these circumstances, if the treble-damage provisions are to be made effective, two reforms appear to be highly desirable. First a system of interest payments needs to be incorporated into the treble-damage provisions so that the violator in addition to paying treble-damages would be required to pay interest to those damaged by the violation for the use of the funds between the time the illegal profits were acquired and the treble-damages were paid. This suggestion would have the effect of discouraging antitrust violations by tending to reduce or eliminate the profitability of antitrust violations and would be equitable to those who are hurt by the violation (who lose the use of funds even if treble damages are collected). I also believe it would have the salutary effect of speeding up treble-damage litigation; under current procedures there is obviously every incentive for the violator to delay the litigation.

Second a provision allowing plaintiffs in treble-damage suits to recover damages based on sales to non-participants to the suit and based on estimates of sales where documentation of individual contracts is not available would be helpful in increasing the coverage ratio, and hence tend to reduce or eliminate the profitability of antitrust violations. (Perhaps such estimates could be based on general accounting statements, sales ledger data, etc.) Thus based on data generated through series of individual contracts over several years, plaintiffs would be allowed to apply the derived damage estimates to sales that were known to have taken place but for which individual contracts are not available.

Fifteen years ago as a graduate student in economics I had an opportunity to work briefly for the Subcommittee, and I have always been grateful for this early experience. Having served as an expert witness on a number of private treble-damage cases, I am convinced that incorporating interest expanding coverage ratios (as well as discovering and prosecuting more antitrust violators) are crucial to making the treble-damage provisions more effective. I hope these suggestions may be as helpful to the Subcommittee as the Subcommittee was to me at an early stage in my career.

If I can be of further help, please let me know.

Cordially,
W. BRUCE ERICKSON,
Associate Professor of Government and Business.

NATIONAL RETIRED TEACHERS ASSOCIATION; AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, D.C., May 24, 1976.
U.S. SENATE,
Washington, D.C.

DEAR SENATOR: The National Retired Teachers Association and the American Association of Retired Persons, the largest national organizations for older Americans with a membership in excess of nine million persons, urge you to vote for the passage of S. 1284, a bill to strengthen present antitrust enforcement thereby helping to ensure competition in the marketplace.

As Associations representing older Americans, we are only too aware of the effects of anticompetitive practices by business on the fixed incomes of older persons. The really unfortunate fact is that most consumers, including the elderly, are unaware of their victimization through illegal practices such as price fixing. They do know what it means, however, to pay the higher prices which result when competition either does not exist or is thwarted.

Title IV of S. 1284 would strengthen present antitrust law enforcement mechanisms by allowing States Attorneys General to sue violators on behalf of the citizens of their states and to recover treble damages. These provisions would help to protect older consumers, as well as all consumers, from the excessive prices charged for products and services as a result of anticompetitive practices. In addition, Title IV would help to preserve the integrity of our free enterprise system and to encourage those business principles and ethics around which such a system must be based.

Our Associations view S. 1284 as important consumer legislation. In addition to Title IV, other provisiosn which broaden the civil investigative demand authority of the U.S. Department of Justice and which require big companies to notify the Justice Department and the Federal Trade Commission before a proposed merger would help to ensure marketplace competition, keep prices low and restore consumer faith in a government which looks out for the interests of all its citizens not just those of the business community.

We have joined in a coalition supported by a wide cross-section of consumer, labor and small business interests to seek the passage of S. 1284. We urge you to consider our statements in support of the legislation and to vote for its passage without any weakening amendments.

Sincerely,
CYRIL F. BRICKFIELD,
Legal Counsel.

ADMINISTRATION POSITION

Mr. PHILIP A. HART. Question 5. What is the position of the administration on the Hart-Scott substitute and what are the results of the negotiations between the White House and Senators SCOTT and HART?

Answer 5. Assistant Attorney General for Antitrust Thomas E. Kauper testified on behalf of the administration in support of the legislation. Thereafter, Deputy Attorney General Harold Tyler reaffirmed the administration's support for the bill with one exception: The revised premerger injunction procedures—subsection (d)—of title V. Secretary of the Treasury William Simon also informed us of his Department's opposition to subsection (d) of title V. We have not received any other communications from the administration with respect to its position on the bill. However, Senators SCOTT and HART attended a meeting at the White House prior to the April 6 markup of the bill in committee. At that meeting, we were lead to believe that the administration supports title II—the Antitrust Civil Process Act amendments; title V—the premerger notification and stay provisions—with the exception of the injunction provision of subsection (d)—and title IV—parens patriae—if modified to limit the scope of the offenses to something less than all of the Sherman Act and to eliminate the rights of consumers to file their own action if a State attorney general does not.

We discussed possible middle ground on points of disagreement and were lead to believe that further discussions would take place to iron out the differences. We are prepared to pursue those discussions with the White House.

CIVIL LIBERTIES AND TITLE II

Question 6. Does title II encroach upon individual or corporate civil liberties?

Answer 6. In our judgment, it does not. Title II amends the Antitrust Civil Process Act, originally enacted in 1962. It provides the Antitrust Division of the Department of Justice with the most basic of investigatory tools utilized by virtually every Federal regulatory agency, including the Federal Trade Commission, and by many State attorneys general.

The Antitrust Civil Process Act authorizes the Antitrust Division of the Department of Justice to issue compulsory process—called a civil investigative demand or CID—to investigate violations of the antitrust laws prior to the filing of a case. Under present law, the Division may issue a civil investigative demand to obtain only documentary evidence and then only from nonnatural persons—for example, corporations—suspected of committing an antitrust violation. Relevant evidence may not be obtained pursuant to a CID from natural persons or from third parties such as competitors, suppliers, customers, or employees. Nor may the Antitrust Division take oral testimony or written interrogatories in the course of such an investigation or issue a CID to investigate the legality of a proposed merger or acquisition until it is consummated—even though it may be publicly announced.

Title II merely rectifies these deficiencies in the Division's investigatory powers by authorizing the Antitrust Division to:

First, issue a civil investigative demand to investigate mergers and acquisitions prior to consummation;

Second, issue a civil investigative demand to obtain relevant evidence from natural persons and third parties;

Third, take oral testimony and written interrogatories, in addition to obtaining documentary evidence, pursuant to a CID; and

Fourth, issue a civil investigative demand to obtain relevant competitive evidence for use in ongoing regulatory agency proceedings.

Opponents of title II argue that the power to issue civil subpenas should not be vested in the prosecutorial arm of Government. That the Antitrust Division is a unit of the Department of Justice, in their view, is a critical element distinguishing all the other Federal agencies and the approximately 20 States that have this power. But overlooked is the fact that the Department currently has this power in enumerated areas. Title II would broaden the areas of the Division's basic investigatory authority.

The Judiciary Committee has carefully considered the issue of whether or not the safeguards contained in the Antitrust Civil Process Act as amended by section 201 are sufficient to protect the legitimate interests of the public against unreasonable Government intrusion. The original Antitrust Civil Process Act of 1962 provided for a number of procedural safeguards to protect the public against the potential for abuse of the Department's precomplaint discovery process for corporate documents. These procedural safeguards have been continued and expanded by this title. The provisions in the 1962 act have been extended to protect natural persons against an unreasonable demand for documents. These procedural sageuards have also been expanded to accord the same protection to any person who receives a civil investigative demand for the taking of an oral deposition, or for answers to written interrogatories.

We are confident that the provisions of the amended Antitrust Civil Process Act strike a fair balance between the rights of persons under investigation and third parties against unreasonable Government intrusion and the need for effective and efficient enforcement of the antitrust laws.

Among the safeguards included in title II is the requirement that documents or information subject to compulsory process must be in the "possession, custody or control" of the subpenaed party. The subpenaed documents or information must be relevant to the antitrust investigation. The subpena must describe with "definiteness and certainty" the material to be produced. A reasonable period of time is allowed before production is required, and the subpena must state the nature of the investigation and the provision of law applicable thereto.

Just as in the present law and following essentially the same procedures, the recipient of such process has an absolute right of court review before having to comply with such process. He is in no jeopardy until a judge either quashes the process or orders compliance. Full protection against disclosure of information which would be privileged from disclosure, or which would be unreasonable or impose an undue or oppressive burden is in title II. Similarly, the information which would be privileged from disclosure or held to be unreasonable if demanded in a grand jury subpena is protected in this bill just as it is protected under present law.

Additionally, persons may be accompanied by counsel to oral examinations and full fifth amendment rights apply.

Once any objection to a CID is raised, the Division's investigation may not proceed and the CID need not be answered, unless and until the Division persuades a Federal judge in the course of an adversary, de novo proceeding that the CID is proper under all these many standards that are revealed in the reported cases.

Here is what really happens if an objection to a CID is raised:

The CID witness does not answer, and the CID oral examination comes to a halt; or the recipient refuses to comply with the document demand.

Either the recipient moves to quash or the Antitrust Division goes to a U.S. district court and seeks enforcement of the CID.

After an adversary, de novo hearing on the nature of the investigation and all the objections to it, the district court will uphold, modify, or entirely set aside the disputed CID.

This decision by the district court is a "final order." Whoever loses—either the CID recipient or the Division—has an absolute right to appeal this ruling to the appropriate U.S. court of appeals, which must rule on the appeal.

While the appeal is pending, nothing happens: No documents are produced, no interrogatories are answered, and no oral testimony can be compelled.

Whoever loses in the court of appeals can ask the U.S. Supreme Court to review that ruling. The Supreme Court, in its discretion, may review the ruling by granting certiorari, or may refuse to review it, by denying certiorari. In any event, the Division cannot compel one word of testimony or obtain involuntarily any document until this entire review process has finally concluded with a ruling in favor of the Division.

Additionally, every single objection that is available under the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure can properly be raised against any CID. This is borne out by a review of the massive case law on permissible objections to grand jury subpenas, and a review of the reported cases dealing with objections to CID's issued since 1962 under the present ACPA. Both these two lines of precedent will be squarely applicable to any future CID, 15 U.S.C. section 1312(c).

These cases reveal that the Federal courts will limit, set aside, and refuse to enforce a CID if it is too *broad* and sweeping; if it seeks irrelevant or immaterial information; if it is not limited to a reasonable time period; if it is not sufficiently definite; if compliance with the CID would be too burdensome; if the CID is oppressive; if the CID is issued in the course of a "fishing expedition" or "an unlimited exploratory investigation" by the Division; if the CID is unreasonable in any respect; or if the Division is not seeking the information "in good faith."

Elaborating on this requirement of "good faith," other courts have rules that objections will be sustained if the Justice Department issued the CID "with fraudulent and improper motives;" if the CID "was inspired by and was in aid of an inquiry of a legislative and a political nature being pursued by an individual Member of Congress, since issuance and service of the CID therefore was an abuse of process and an improper use of the ACPA;" if the CID was "part of a plan to utilize the full forces of the U.S. Government and the Department of Justice to intimidate and harass" the CID recipients; or if the CID "was a product of political interference and pressure, and a subversion of the ACPA."

The argument that the Department of Justice is a prosecutor and therefore should have less investigatory authority than an agency has been rejected by the courts. In 1964, the ninth circuit stated:

> In this case, Hyster makes much of the fact that the Attorney General, whose duties include prosecution, is the party on whom the power to demand is conferred. The theory is that while it may be proper to confer such authority upon the Federal Trade Commission, or the Administrator of the Wage and Hour Division of the Department of Labor, or on other "quasi-judicial" or "administrative bodies or offices, it is not proper to confer it upon the Attorney General.

But, the opinion continues:

> We are not convinced. The F.T.C. and the Administrator have investigative and enforcement powers and duties, primarily civil in nature. So do many other commissions and administrators. So does the Attorney General under the antitrust laws. He also has the duty to institute prosecutions.
>
> We have no doubt that it is within the power of administrators or administrative boards or commissions, if in the course of authorized investigations they uncover evidence of the commission of crimes, to refer that evidence to the Attorney General. In some cases, Congress has expressly conferred such authority. In our case the [Antitrust Civil Process] Act authorizes delivery of [CID] documents to an attorney authorized to apepar before a grand jury in a proceeding involving antitrust violations.
>
> The fact that the Attorney General can himself institute a prosecution, instead of referring the information to someone else, may be a distinction, but we do not think that it makes a constitutional difference. He is still a public officer, exercising functions conferred upon him by law. There is no presumption that he will abuse his powers, quite

> the contrary, and there certainly is no showing that he is doing so in this case. Hyster Co. v. U.S., 338 F. 2d 183, 186 (CA 9 1964)

TITLE IV—PARENS PATRIAE

Question 7. Exactly what does title IV do?

Answer 7. Title IV amends the Clayton Act to permit State attorneys general to recover damages for violations of the Sherman Act on behalf of natural persons, consumers, residing in their State. The title is intended to provide compensation for the victims of antitrust offenses, to prevent antitrust violators from retaining the fruits of their illegal activities, and to deter antitrust violations.

Substantive standards as to what are or are not violations of the antitrust laws are not changed by title IV. In other words, enactment of title IV would not make any conduct illegal which is not presently illegal under the antitrust laws. Title IV merely creates an effective mechanism to permit consumers to recover damages for conduct which is prohibited by the Sherman Act, by giving State attorneys general a cause of action against antitrust violators.

State attorneys general are not supplanting the Attorney General of the United States in enforcing the antitrust laws. The U.S. Attorney General always has had and will continue to have exclusive authority to enforce the antitrust laws on a civil and criminal basis. Title IV relates to a private right of action to recover for damage to consumers. State attorneys general always have had the right to bring private actions for damages under the antitrust laws for damage done to the State and its agencies in their proprietary capacities, for injunctive relief as parens patriae, and as representatives of consumers in consumer class actions.

Title IV is a necessary extension of this private right of action—available to all damaged persons under the antitrust laws—to make manageable such lawsuits on behalf of large numbers of consumers through the principle of aggregation.

The economic burden of most antitrust violations is borne by the consumer in the form of higher prices for goods and services. Frequently, such antitrust violations as price-fixing, group boycotts, division of markets, exclusive dealings, tiein arrangements, fraud on the Patent Office, monopolization, attempts to monopolize, conspiracies to limit production, and other violations of the antitrust laws, injure thousands or even millions of consumers, each in relatively small amounts but often on a continuing basis. When every day consumer purchases are involved—for example, bread, dairy products, gasoline, and so forth—the individual dollar amounts are so small that, as a practical matter, an individual antitrust law suit is out of the question. Similarly, consumers have found little relief under the class action provisions of the Federal rules because of restrictive judicial interpretations of the notice and manageability provisions of rule 23 and practical problems in the proof of individual consumers damages under section 4 of the Clayton Act. If tens of thousands of consumers are in a class action, courts throw up their hands and say "unmanageable"—and dismiss the case under the manageability standards of rule 23. Yet, if an antitrust violation results in an overcharge of but 10 cents on a relatively low-priced consumer item, and 500 million such items are sold, the aggregate impact of the conspiracy upon the consumers and the illegal profits of the conspirators are hardly insignificant—at least $50 million.

FEDERAL ENFORCEMENT BY STATE OFFICIALS

Question 8. Are there any precedents for authorizing officials to enforce Federal law?

Answer 8. Title IV does not provide for enforcement of Federal laws by State officials.

Title IV provides a private right of action to recover damages for violations of the antitrust laws. This authority has existed since 1890, and State attorneys general have used it often. Title IV is necessary to make manageable the representation of large numbers of consumers by State attorneys general through the principle of aggregate damages. Without title IV, as a class representative State attorneys could represent small numbers of consumers seeking damages for antitrust violations—but not large numbers.

In 1972, Federal district court judge Jack B. Weinstein wrote in the "New York Law Journal":

> The matter touches on the issue of the credibility of our judicial system. Either we are committed to make reasonable efforts to provide a forum for adjudication of disputes involving all our citizens—including those deprived of human rights, consumers who overpay for products because of antitrust violations and investors who are victimized by insider trading or misleading information—or we are not. There are those who will not ignore the irony of courts ready to imprison a man who steals some goods in interstate commerce while unwilling to grant a civil remedy against the corporation which has benefited, to the extent of many millions of dollars, from collusive, illegal pricing of its goods to the public.
>
> When the organization of a modern society, such as ours, affords the possibility of illegal behavior accompanied by widespread, diffuse consequences, some procedural means must exist to remedy—or at least to deter—that conduct.

AGGREGATE DAMAGES

Question 9. Is it not unfair to impose liability without having to prove that consumers were in fact damaged?

Answer 9. Yes, but title IV does not do that.

The very essence of title IV is the provision in section 4C(c)(1) authorizing proof of consumer damage in the aggregate, without separately proving the fact or amount of each consumer's individual injury or damage.

Title IV cannot work without this provision because of both the impracticability and impossibility of bringing before the court thousands or even millions of consumers to prove, individually and separately, the fact of his or her injury and the amount of his or her damage. Under title IV, however, the State attorney general still would have the burden of proving that:

First, defendants violated the Sherman Act;

Second, consumers were damaged by such violation; and

Third, the amount of consumer damage.

Instead of adding up thousands or millions of claims, however, the total amount of consumer damage could be proved in the aggregate from the records of defendants and other entities in the chain of distribution or by other evidence. After the violation by defendants and the fact of damage to consumers have been proved, the aggregation provisions of section 4C(c)(1) would be utilized to determine the amount of defendant's liability.

The aggregation provisions of section 4C(c)(1) are necessary to make cases involving large numbers of consumers manageable and to deter and render unprofitable antitrust violations affecting consumers. Without it, antitrust violators would be able to continue to damage consumers with impunity.

Section 4C(c)(1) acknowledges the obvious reality that "it is far simpler to prove the amount of damages to the members of the class by establishing their total damages than by collecting and aggregating individual claims as a sum to be assessed against the defendants."

Section 4C(c)(1) is patterned after the landmark procedures used in the *Tetracycline* litigation, in which Federal District Court Judge Miles Lord stated:

> The court would be hesitant to conclude that conspiring defendants may freely engage in predatory price practices to the detriment of millions of individual consumers and then claim the freedom to keep their ill-gotten gains which, once lodged in the corporate coffers, are said to become a "pot of gold" inaccessible to the mulcted consumers because they are many and their individual claims small.
>
> The court's tentative conclusions concerning the trial of the damage issue eases management problems considerably. Damages would be awarded on a class-wide basis, if and when liability was established, and individual claims could then be processed administratively after entry of judgment. *In re Antibiotics Antitrust Litigation*, 333 F. Supp. 278, 282–83 (S.D.N.Y. 1971).

The section is fully consistent with long-standing Supreme Court precedent permitting damages to be proved in antitrust cases by a "just and reasonable estimate of the damages based on relevant data." As the Supreme Court put it in *Story Parchment Co.* v. *Paterson Parchment Paper Co.*, 282 U.S. 555, 562–63 (1930):

> It is true that there was uncertainty as to the extent of the damage, but there was none as to the fact of damage; and there is a clear distinction between the measure of proof necessary to establish the fact that petitioner had sustained some damage, and the measure of proof necessary to enable the jury to fix the amount. The rule which precludes the recovery of uncertain damages applies to such as are not the certain result of the wrong, not to those damages which are definitely attributable to the wrong and only uncertain in respect of their amount.
>
> * * * * *
>
> Where the tort itself is of such a nature as to preclude the ascertainment of the amount

> of damages with certainty, it would be a perversion of fundamental principles of justice to deny all relief to the injured person, and thereby relieve the wrongdoer from making any amend for his acts In such case, while the damages may not be determined by mere speculation or guess, it will be enough if the evidence shows the extent of the damages as a matter of just ana reasonable inference, although the result be only approximate. The wrongdoer is not entitled to complain that they cannot be measured with the exactness and precision that would be possible if the case, which he alone is responsible for making, were otherwise.

DISTRIBUTION OF DAMAGES TO CONSUMERS

Question 10. Is it realistic to expect that the damages will ever be distributed to consumers.

Answer 10. Yes.

Section 4C(c)(2) provides that in any action brought under subsection (a)(1), the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief.

In the settlement of the tetracycline litigation, more than $28 million was distributed directly to more than 1 million consumers. The average consumer recovery amounted to $200, with some claimants receiving as much as $12,000. The first settlement resulted in $8 million being distributed to 36,000 consumers. The second settlement by the remaining States in tetracycline benefited from the experience and experimentation of the first distribution effort. In settlement No. 2, improved techniques resulted in $20 million being distributed to 1 million consumers in 6 States. Through additional experience, further improvements will be made in distribution techniques. It should be possible for many victims of white collar crime to share in the distribution of the States' recovery if district court judges remain committed to finding the innovations necessary to dispense equal justice to the rich and poor alike. In the words of the special master:

> It is well understood that the numerical size of consumer response, regardless of its magnitude, is not by itself the sole and definitive test of manageability. It is important as well that the response be meaningful, i.e., that there be some assurances that the claims were not fraududently filed and were reasonably based upon actual purchases.

Special Master David Lebedoff concluded:

> The administrative procedures described above permitted this distribution to be successfully completed. **Each of the five goals** described at the outset was achieved. The total administrative costs involved were only slightly greater than the monies earned in interest by the settlement fund.
>
> The success of this project illustrates that the distribution of refunds to very large numbers of consumers following true class action settlements is a "manageable" enterprise and that neither fairness nor due process nor economy need be sacrificed in the effort to reach very substantial numbers of consumers. When a court is willing to make available to such a task the resources and encouragement necessary to support it, the task can be done.

In his June 25, 1975 order approving the special master's distribution, Judge Miles Lord stated:

> In approving the plan of distribution and allowance and disallowance of claims, the Court takes note of the on-going argument on manageability of fluid class actions. The Court has been hearing for years that this type of settlement, and this type of class action, are unmanageable and will not work. It has strenuously been argued for years that the consumers were not interested in such litigation and that they would not come forward to "lay claim" to the proceeds.
>
> At the hearing to approve the fairness and adequacy of this settlement, counsel for the defendants suggested that a distribution of such magnitude was not manageable:
>
> "If, for example, California can come into Court against us with the weight of possibly 10,000,000 purchasers, and in fact it turns out that the active, interested members of the class consist of 30,000 or 40,000 people, it seems to me that the author ought to consider the question of public policy of whether the scales of the adversary contest have not been unfairly weighed on the side of the plaintiff in that sort of suit. The real hard question between us, I think, and these negotiations and the question that kept us, at least this defense counsel, awake at night was not trying to assess the odds on liability, that lawyers do all of the time, but this great unknown mass of consumers. T. p. 51, February 13, 1974; 4–71 Civ. 435, 4–71 Civ. 392, et al."
>
> This prediction of 30,000 or 40,000 consumers has been proven wrong. The question was removed from the arena of judges', lawyers' and scholars' minds and put to the test in the only practical way possible. The consumers themselves were asked to come forward and express their interest. Instead of 30,000 or 40,000; nearly 1,000,000 showed their interest by filing a claim. Claims were filed even though the amount to be recovered was small and known to be small. Speculation and conjecture need no longer cloud our thoughts on this question. The consumer is in fact interested. Fluid class actions on behalf of consumers insofar as the interest of the class is concerned are as viable and "real" as any other type of litigation and should be treated accordingly.
>
> With the use of computers and the other disciplines, along with the assistance of very capable lawyers, this class action has proven to be not only manageable but a great benefit to the consumers involved. The Court again states that this case has always been and continues to be manageable. (*State of Washington* v. *Chas. Pfizer & Co.*, 4–71 Civ. 395 (June 25, 1975), pp. 30–32).

It is interesting to see the 17 sequences in the *Tetracycline* case.

There being no objection, the letter and table were ordered to be printed in the Record, as follows:

National Association of
Attorneys General,
Washington, D.C., February 27, 1976.

Hon. Philip A. Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: I understand that the record has recently become confused concerning the direct financial benefits which consumers would experience individually as a result of Title IV of S. 1284. We believe that arens patriae claims authorized under the Title would result in wide-spread repayment of overcharges to large numbers of consumers in those instances where an attorney general proved to the court that a violation occured and that liability existed. We believe that the record of antitrust cases supports this view.

The landmark Tetracycline cases are instructive. A total of $28,003,075.33 was distributed directly to 1,027,265 consumers throughout the nation. Inclosed is a tabulation of that information by state, city, and county. The fact that the $28 million was part of a settlement between the parties rather than a jury verdict is entirely immaterial to the issue of individual consumer reimbursement.

These figures support the view that the type of case envisioned by Title IV *does* in fact result in repayment to consumers. The figures also show that the later group of states, the Minnesota group, learning from the frontier experience of the first group in New York, achieved a significantly higher consumer response and lead to the conclusion that efficient methods of identifying injured consumers are already being developed. In the most fundamental sense, then, this legislation is for the benefit of consumers and they will be affected directly and personally by the Judiciary Committee's action on this Title.

Wholly apart from the $28,003,075.33 which was paid directly to consumers, the Tetracycline case is also evidence for the point that unclaimed consumer funds can be administered under traditional fiduciary concepts fairly and efficiently and for such public purposes as the court may find appropriate in the circumstances of each case.

Respectfully submitted,
C. Raymond Marvin.

Summary of consumer recovery in tetracycline litigation, southern district of New York

Entity	*Consumers*	*Amount Paid*
Alabama	280	$74, 417. 00
Alaska	6	1, 003. 53
Arizona	543	126, 663. 97
Arkansas	143	47, 618. 12
Colorado	178	40, 870. 69
Denver	135	18, 873. 12
Connecticut	793	141, 556. 75
Delaware	100	22, 404. 00
Washington, D.C	289	66, 373. 54
Florida	828	$183, 262. 35
Tampa	11	3, 753. 18
Georgia	319	87, 634. 23
Honolulu (city and county)	45	12, 235. 96
Idaho	80	16, 019. 12
Illinois	585	127, 474. 85
Chicago	263	71, 688. 10
Indiana	201	44, 247. 36
Iowa	819	94, 882. 34

Summary of consumer recovery in tetracycline litigation, southern district of New York— Continued

Entity	*Consumers*	*Amount Paid*
Kentucky	103	$36, 268. 69
Louisiana	328	145, 554. 61
Maine	67	7, 839. 42
Maryland	609	130, 528. 48
Baltimore City	84	16, 055. 76
Massachusetts	452	107, 655. 31
Boston	66	20, 441. 85
Michigan	3, 575	710, 453. 25
Dearborn	106	17, 594. 56
Detroit	714	201, 386. 02
Lansing	99	25, 181. 09
Madison Heights	14	3, 635. 87
Township, Redford	1	400. 00
Minnesota	413	76, 483. 83
Mississippi	163	66, 293. 39
Missouri	566	127, 779. 97
Montana	81	17, 668. 32
Nebraska	128	25, 599. 09
Nevada	30	8, 362. 31
New Hampshire	33	16, 258. 31
New Jersey	987	202, 455. 19
New Mexico	192	54, 097. 63
New York State	4, 056	887, 222. 29
City of Buffalo	47	10, 620. 39
Erie County	63	10, 763. 96
New York City	5, 229	1, 220, 070. 11
North Dakota	142	$17, 037. 09
Ohio	780	173, 630. 95
Akron	13	9, 826. 59
Cleveland	80	30, 508. 20
County of Summit	3	969. 31
Oklahoma	264	62, 942. 85
Pennsylvania	1, 286	264, 492. 82
Allegheny County	175	48, 893. 67
Philadelphia	1, 086	282, 144. 08
Pittsburgh	394	91, 441. 63
Puerto Rico	67	11, 954. 53
Rhode Island	293	60, 058. 17
South Carolina	62	6, 413. 94
South Dakota	125	24, 392. 09
Tennessee	69	31, 516. 46
Nashville/Davidson County	29	6, 966. 95
Memphis	17	5, 239. 68
Texas	4, 359	1, 186, 412. 28
Vermont	70	14, 105. 53
Virginia	1, 988	142, 916. 28
West Virginia	97	24, 401. 69
Wisconsin	1, 171	131, 738. 26
Wyoming	26	5, 228. 81
Total	36, 414	[1] 7, 956, 849. 78

[1] An additional 41 checks totalling $17,342.23 were written to consumers who surfaced after distribution.

Exhibit A-1 to Schedule 1, next to the "Report of Special Master Kissam, dated December 9, 1975, Recommending Termination of Settlement Proceedings, Filed in the United States District Court for the Southern District of New York, in the action entitled, *The State of West Virginia* v. *Charles Pfizer and Co., Inc., et al.* (68 Civ 240)

Summary of consumer recovery in tetracycline litigation, Minnesota case

Entity	*Consumers*	*Amount Paid*
Washington	78, 701	$2, 162, 799. 69
Oregon	61, 683	1, 038, 428. 77
California	746, 653	14, 300, 309. 41
Utah	28, 101	646, 244. 92
Kansas	73, 268	$1, 792, 757. 81
Hawaii (except Honolulu)	2, 445	105, 684. 95
Total	990, 851	20, 046, 225. 55

On file with District of Minnesota, Judge Miles W. Lord *State of Washington et al.* v. *Charles Pfizer & Co., Inc. et al.* (471 Civ. 435)

CONTINGENCY FEES

Question 11: Will not lawyers get most of the funds through the typical one-fourth, one-third, or one-half contingency fee?

Answer 11: Absolutely not. The committee was aware of this potential and adopted an amendment to prevent it from occurring.

Section 4C(e) requires court approval of plaintiff's attorneys' fees awarded under section 4C(a) (2). The committee included this provision to assure both the reasonableness of the fees and that the bulk of the State recovery would be distributed to consumers—not lawyers. Both section 4 of the Clayton Act and rule 23 of the Federal Rules of Civil Procedure require court approval of attorneys' fees under generally accepted standards articulated in *Lindy Bros.* v. *American Radiator and Standard Sanitary*, 487 F.2d 161 (3d Cir. 1973) and *City of Detroit* v. *Grinnell*, 495 F.2d 468 (2d Cir. 1974). It is the committee's intention that attorneys' fees in section 4C cases be approved under the same criteria and the court is directed to look behind any fee arrangements which may be made between the State and its counsel. The criteria established by the court in *Lindy Brothers* for approving attorneys' fees are set forth below. In short, the fee is determined primarily on the basis of the number of hours spent on the case.

In awarding attorneys' fees, the district judge is empowered to exercise his informed discretion:

> In detailing the standards that should guide the award of fees to attorneys successfully concluding class suits, by judgment or settlement, we must start from the purpose of the award: to compensate the attorney for the reasonable value of services benefiting the unrepresented claimant. Before the value of the attorney's services can be determined, the district court must ascertain just what were those services. To this end the first inquiry of the court should be into the hours spent by the attorneys. * * * After determining, as above, the services performed by the attorneys, the district court must attempt to value those services. * * * A logical beginning in valuing an attorney's services is to fix a reasonable hourly rate for his time—taking account of the attorney's legal reputation and status (partner, associate). Where several attorneys file a joint petition for fees, the court may find it necessary to use several different rates for the different attorneys. Similarly, the court may find that the reasonable rate of compensation differs for different activities. * * * While the amount thus found to constitute reasonable compensation should be the lodestar of the court's fee determination, there are at least two other factors that must be taken into account in computing the value of attorneys' services. The first of these is the contingent nature of success. * * * In assessing the extent to which attorneys' compensation should be increased to reflect the unlikelihood of success, the district court should consider any information that may help to establish the probability of success. * * * The second additional factor the district court must consider is the extent, if any, to which the quality of an attorney's work mandates increasing or decreasing the amount to which the court has found the attorney reasonably entitled. In evaluating the quality of an attorney's work in a case, the district court should consider the complexity and novelty of the issues presented, the quality of the work that the judge has been able to observe, and the amount of the recovery obtained. * * * The value to be placed on these additional factors will, of course, vary from case to case. (487 F.2d at 166–169)

The committee concluded that this provision was fair and equitable to all concerned parties. It considered and rejected an amendment to prohibit all contingency fees. Such a prohibition would severely limit the usefulness of title IV for several reasons. First, most States have a small attorney general's office, and an even smaller antitrust staff. States simply do not have the inhouse capability of sustaining a complex multiyear antitrust trial. Nor do many

State attorneys general's offices have the budget to advance upward of several hundred thousand or even million dollars in attorneys' fees to outside counsel, or to pay such fees if judgment is rendered for the defendant.

The committee emphatically rejected the notion that a court-approved contingency fee is either immoral or unethical, particularly when, as is the case here, the amount is subject to court approval upon prescribed criteria. To the contrary, it is often the only way to secure effective representation. As put by Virginia Attorney General Andrew P. Miller:

> Another way to cripple the effectiveness of this bill would be to deny the Attorneys General, the right every other citizen enjoys, to contract for legal services on whatever basis, in his judgment, suits the needs of a particular case. At this point, substantial antitrust staff are not widespread at the State level. Furthermore, undertaking one major *parens patriae* suit can absorb the time of numerous staff persons for several years. Accordingly, this bill will go unused, and the rights created unenforced to the fullest extent possible, if the Attorneys General are not permitted to contract for expert antitrust counsel whose fees will be paid out of subsequent settlement or judgment, if any. We share the concern of those who believe that attorneys' fees should be kept within reasonable limits. Therefore, we would support an amendment which would require the approval of the district court for any attorney fee arrangement according to standard attorney fee criteria.

Those who advocate prohibiting contingent fees contend that a contingency arrangement will encourage the filing of frivolous suits and unnecessarily subject defendants to harassment and to substantial legal and other fees incident to defending suits filed in bad faith. The committee found the contrary to be the case. If plaintiff's attorneys fees are contingent upon success, this fact should weed out and deter the filing of frivolous or questionable cases. Moreover, section 4C(f) provides for the award of reasonable attorneys' fees to a prevailing defendant if the defendant establishes that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

It should be stressed that the contingency fees authorized under this provision are not a percentage of the recovery. The contingency fees authorized are based on success, but computed on an hourly rate.

As Congresswoman Barbara Jordan, Democrat, of Texas, stated—contained at page 27 of House Report No. 94–499, 94th Congress, 1st session:

> I am concerned that a flat ban on "contingency fees" will effectively place the services of perfectly ethical and highly knowledgeable attorneys beyond the reach of the States.
>
> There is another vital point at stake. The contingent fee is not merely an honorable means of financing litigation for those who would otherwise be unable to afford it until the award of final judgment. It is also recognized as an important tool for weeding out the frivolous and unmeritorious case on the basis of expert assessment. It is highly unlikely that a lawyer knowledgeable in any field will be prepared to invest large quantities of his own time and effort in a case on the basis that he will be uncompensated unless he obtains a successful result for the client, unless he believes after careful examination that the case has serious merit.
>
> This point is responsible to two concerns which have been expressed by opponents and critics of the bill. Business interests have argued that the enactment of this legislation will bring a plethora of unfounded lawsuits for enormous sums of money, which they will have to defend at great expense. And members of the committee have on several occasions questioned whether the law might not present irresistible temptations to politically ambitious state officials bent on making a reputation without regard to the ultimate disposition of the cases they bring.
>
> Neither of these unfortunate predictions is remotely likely to come true if the economic judgment of the legal experts is invoked in the evaluation of cases through the use of the contingent fee.

ABUSES BY STATE ATTORNEYS GENERAL

Question 12: Is there not a risk that politically ambitious State attorneys general will file frivolous cases to harass innocent businessmen for public relations purposes?

Answer 12: Opponents of title IV contend that its enactment will pave the way for the filing of frivolous lawsuits by politically ambitious State attorneys general.

First of all, let me point out that State attorneys general have had the authority to file antitrust suits under the Clayton Act since 1890. Many have the authority to enforce State civil and criminal antitrust statutes as well.

Not one example of abuse has been put forward by those expressing this fear. I doubt very much that State attorneys general will embark upon a campaign of harassment of local businesses in their States.

Title IV does not give State attorneys general authority to file private antitrust lawsuits under the Federal antitrust laws for the first time. It permits the aggregation of damages to facilitate meaningful consumer representation.

The committee has found that State attorneys general to be effective and ideal spokesmen for the public in antitrust cases. A primary duty of the State is to protect the health and welfare of its citizens; and a State attorney general is normally an elected and accountable and responsible public officer whose duty it is to promote the public interest. In the words of Chief Judge John Sirica:

> The court is persuaded that the States, acting through their attorneys general, are the best representatives of the consumers residing within their jurisdictions. This court agrees that it is difficult to imagine a better representative of the retail consumers within a state than the State's attorney general. Historically, the common law powers of the attorney general include the right and the duty to take actions necessary to the maintenance of the general welfare and his presence here is but a modern day application of that right and duty. *Ampicillin Antitrust Litigation*, 1972 Trade Cases 73,966 (D.D.C. 1972). *See also State of Illinois* v. *Bristol-Myers Co.*, 470 F. 2d 1276 (2d Cir. 1973).

Similarly, in connection with the House counterpart to title IV (H.R. 8532), Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts, wrote that "the control of litigation would be in the hands of Government officials who may properly be expected to act responsibly in the screening of cases to be filed in the district courts."

Additionally, the bill provides for the award of attorneys' fees to defendants in the case of bad faith suits by State attorneys general.

We cannot guarantee that a State official will never abuse his office. We have all witnessed relatively recent events in Washington to demonstrate abuse of power by Federal officials. But, that does not mean we are repealing the antitrust laws or the authority of the U.S. Attorney General to enforce them. We believe, however, that title IV's authority to State attorneys general—many of whom are *elected officials*—creates no more risk of abuse than presently exists under State grand jury authority or authority for States to file private antitrust suits under the Clayton Act.

To those who are concerned about abuse, we say, given the excellent track record of State attorneys general, balance that concern with concern for the abuse of consumers by those conspiring to violate the antitrust laws because of the lack of a procedural mechanism for consumers to recover damages.

LITIGATING IN 50 STATES

Question 13: Is it not unfair to business to require them to defend possibly 50 different lawsuits in 50 different States?

Answer 13: Absolutely. But that will not happen under title IV.

Under present law, when major private antitrust cases are filed by consumers or States, all 50 States are usually involved. But that does not mean 50 trials. Discovery and trial are consolidated under the provisions of the Judicial Panel on Multidistrict Litigation and the Federal Rules. These provisions are not being changed and will govern cases filed under title IV.

STATE STATUTES

Question 14: When H.R. 8532 was before the House, President Ford expressed the view that if the States wanted this authority, then they should enact State anitrust statutes. What is the answer to that?

Answer 14: First of all, we are talking about a private right of action to secure damages for violation of a Federal statute which consumers, States, and State attorneys general have enjoyed since 1890. This legislation makes such cases involving large numbers of consumers manageable. That is primarily what is involved. We see no reason to change such a long-standing provision and discriminate against the rights of consumers to recover for violation of a Federal law.

Second, if 50 States enacted 50 different State antitrust statutes, corporations would really be confused and uncertain over that conduct was legal and what conduct was illegal.

Third, if 50 States filed suit against a corporate defendant, then that defendant could not benefit from consolidation but possibly would have to litigate 50 different trials in 50 different jurisdictions under 50 different standards.

Finally, antitrust is our fundamental national economic policy which belongs on the Federal level.

CONSTITUTIONALITY OF TITLE IV

Question 15: Questions have been raised as to whether title IV is constitutional. What is your response?

Answer 15: Opponents to title IV contend that several of its provisions are unconstitutional. Primarily, they rely on the severely criticized dictum of Judge Medina in *Eisen* v. *Carlisle & Jacquelin,* 479 F.2d 1005 (2d Cir. 1973). Of the 10 judges participating in the Eisen decision and the subsequent denial of a petition for rehearing en banc, only one judge concurred with the rationale of Judge Medina's opinion. Three judges specifically disagreed with Judge Medina's constitutional conclusions. One judge concurred in result only. The remaining four judges were silent on the merits, but voted against an en banc hearing "to speed this case on its way to the Supreme Court." (479 F.2d at 1021). As the Library of Congress advised the committee:

> The [Supreme] Court then vacated the judgment of the Court of Appeals and remanded the case for further proceedings. *Id.,* 179. The Supreme Court therefore did not endorse, even obliquely, the lower court's conclusion as to "fluid recovery" and it seems reasonably clear that its notice conclusion is founded solely on the "unambiguous requirement of Rule 23." *Id.,* 176. The lower court's decision having been superseded by a more authoritative Supreme Court opinion and its judgment vacated, the lower court's constitutional conclusions have no precedential value. They do have what value is to be accorded them on the basis of the persuasiveness of the arguments undergirding them.

A leading treatise on Federal practice, Federal Practice and Procedure, by Charles Alan Wright, professor of law, the University of Texas and Arthur R. Miller, professor of law, University of Michigan (1972), criticized the Eisen decision as follows:

> This decision is unnecessarily restrictive and demands more than is traditionally required to satisfy due process and more than seems necessary in rule 23(b) (3) actions.

Relying primarily on the second circuit decision in Eisen, another argument made is that one aspect of title IV is unconstitutional, namely, that portion of the aggregate damages awarded a State which is not claimed by individual consumers damaged by the antitrust violation, because it is a taking of property from the defendant without the necessary showing of injury to an actual person, required under a theory of damages.

In vacating and remanding Eisen, the Supreme Court specifically stated that "we therefore have no occasion to consider whether the Court of Appeals correctly resolved the issues of manageability and fluid class recovery, or indeed, whether those issues were properly before the Court of Appeals under the theory of retained jurisdiction." 417 U.S. at 172 n. 10. A review of the "solid weight of additional judicial authority" rejecting the fluid-class theory of recovery, cited by opponents of title IV, establishes that those cases were decided not on constitutional grounds but as a matter of statutory construction of the existing class action provisions of rule 23 of the Federal Rules of Civil Procedure. Before settlement of the Tetracycline litigation, the court, in the context of whether or not to certify the consumer class, considered and rejected the constitutional arguments of defendants that the procedures involved are unconstitutional. It stated:

> The court cannot conclude that the defendants are constitutionally entitled to compel a parade of individual plaintiffs to establish damages.

In re *Antibiotic Antitrust Actions,* 333 F. Supp. 278 (1971). Similarly, the second circuit, in affirming a settlement of the Tetracycline litigation, rejected the contention of plaintiff wholesalers and retailers as to the impropriety "of permitting the States to recover through their attorneys general damages on behalf of individual consumers who have not themselves filed any claims." The court concluded:

> To require those who wish to authorize the state to recover for them to affirmatively notify the court to this effect would obviously, as a practical matter, be likely to reduce the amount of these recoveries to a minimum.

West Virginia v. *Chas. Pfizer & Co., Inc.,* 440 F.2d 1079 (2d Cir. 1971). In the Daar case, the court permitted the fluid recovery theory with respect to that portion of the total illegal overcharge not claimed by individual users of taxicabs by reducing future year taxicab rate increases for the benefit of all taxicab users. "No appearance by the individual members of the class was required to recover the full amount of the overcharges." *Daar* v. *Yellow Cab Co.* 63 Cal. Rptr. 724, 433 P.2d 732 (1967).

The committee considered the constitutional issue underlying title IV and was the opinion that title IV does not encroach upon the Constitution. The committee was so advised by Assistant Attorney General Thomas E. Kauper, Professor John J. Flynn of the University of Utah College of Law, Professor Jonathan Rose of the Arizona State University College of Law, Harvard Constitutional Law Professor Arthur Miller, and the Library of Congress. Two law review articles confirm the conclusion that title IV is constitutional, and the committee noted that Congressman CHARLES WIGGINS, Republican of California, a leading opponent of the House companion measure (H.R. 8532), testified before the committee that "if individuals are brought forward to prove their damages as representative of a class or as members of a sample for purpose of aggregation of damages, then the constitutional requirements would be met." Additionally, the committee noted the following judicial precedents for the procedures contained in title IV: *Bebchick* v. *Public Utility Comm.,* 318 F.2d 187 (D.C. Cir.), *cert. den.,* 373 U.S. 913 (1963; *Daar* v. *Yellow Cab Co.,* 67 Cal. 2d 695, 433 P.2d 732, 63 Cal. Rptr. 724 (1967); *SEC* v. *Texas Gulf Sulphur Co.,* 446 F.2d 1301 (2d Cir.), *cert. den.,* 404 U.S. 1005 (1971); *West Virginia* v. *Chas. Pfizer & Co.,* 314 F. Supp. 710 (S.D. N.Y. 1970), aff'd 440 F.2d 1079 (2d Cir. 1971); and *In re Antibiotic Antitrust Actions,* 333 F. Supp. 278 (S.D. N.Y. 1971).

As to the type of notice constitutionally required, the previously referred to Oregon Law Review comment concluded that Judge Medina's opinion was erroneous in light of two earlier Supreme Court decisions which held that "in situations in which personal notice can be given only with great difficulty, notice by publication was adequate and due process did not require efforts which went beyond the value of the right involved." The Hastings Constitutional Law Quarterly article concluded that "in reading Mullane and Hansberry together there seems to be no authorization for a rigid standard of individual notice, but rather a balancing of interests with adequacy of representation playing an important role in determining what type of notice, if any, is required. Finally, professor of constitutional law at Harvard, Professor Arthur Miller, wrote the committee:

> . . . Personally, I think, that the proposed legislation, especially as revised by the Committee staff, should survive any such attack.
>
> As to the question of notice by publication, it is very important to understand that the doctrine of *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306 (1950), is completely unaffected by the Supreme Court's recent decision in *Eisen v. Carlise & Jacquelin,* 417 U.S. 156 (1974). The latter decision was based entirely on the construction of the special language in Federal Rule 23(c) (2) regarding giving individual notice to reasonably identifiable members of Rule 23 (b) (3) classes. The holding therefore is a very limited one and cannot be said to raise the constitutional notice standard higher than that set out in *Mullane.*
>
> *Mullane* itself stands for the proposition that "notice reasonably calculated, under all the circumstances to apprise interested parties" should be used. A careful reading of the facts of that case suggests that many of the contingent beneficiaries of the trust fund involved in the litigation were identifiable and locatable, but the Supreme Court declined to direct personal service to them because of the economics of the situation and the likelihood that their rights would be adequately protected by others. Extrapolating from *Mullane,* the question under S. 1284 is what is reasonable under the special circumstances presented by litigation brought by a State attorney general on behalf of numerous consumers within that State. Given the adequacy of the attorney general's representation, my own judgment is that publication-plus should suffice—the real question being what form should the "plus" take.
>
> I think that the decision to provide expressly in Section 4C(b) (1) of Title IV that the court may direct further notice in appropriate cases is very sound. There is a counterpart for this type of authorization in Federal Rule 4(i) (1) (E) and I believe that this power in the district judge plus notice by publication will solve any constitutional problem. . . .

With respect to the issue of aggregate damages, the same Oregon Law Review article concluded:

> The examination of the due process issues inherent in fluid recovery has shown that the use of fluid recoveries in consumer class

actions is not prohibited by the Constitution. Fluid recoveries can be devised which safeguard the due process rights of all the parties to a class action. The courts should recognize the constitutional validity of the fluid class recovery and address the important policy issues inherent in maintaining consumer class actions.

The Hasting Constitutional Law Quarterly article concluded:

> Indeed, to disallow the *parens patriae* suit would be a far greater denial of due process, because it would deprive the consumer of his one realistic opportunity to recover his property.

Finally, Prof. Arthur Miller advised the committee:

> As to the aggregate damage procedure, I tend to agree with Professor Rose's analysis. I start with the premise that the proposed statute establishes a new statutory cause of action that augments the existing statutory and common law remedies available to those injured by improper competitive conduct. Certainly Congress has the power to shape or implement any cause of action it creates by prescribing any mode of proof it believes desirable as a policy matter so long as due process notions and other fundamental procedural rights (such as avoiding double liability) are not violated. I find an aggregate damages procedure—pejoratively called by some the pot-of-gold approach—even when it is based on statistical or sampling techniques, to be no more offensive constitutionally than a federal no-fault statute, the elimination of certain common law defenses by the Federal Employers' Liability Act, or the enactment of a statute that would create absolute liability without fault or a limited wrongful death action. Nor could a constitutional attack be successful on a decision by Congress that circumstances warranted modifying common law notions of burdens of proof or evidentiary presumptions, which I think are proper analogies to the techniques of proof that would be validated by S. 1284. In any event, statistical methods and proof by sample are becoming acceptable methodologies. *See* Manual for Complex Litigation § 2.172 (1973).
>
> But this does not directly meet an objection based on violation of the jury trial guarantee. Under the recent Supreme Court decisions in *Curtis* v. *Loether*, 415 U.S. 189 (1974), and *Pernell* v. *Southall Realty Corp.*, 416 U.S. 363 (1974), it seems to me that the Seventh Amendment jury trial guarantee would raise a question as to whether actions under Title IV would violate the constitutional mandate because it provides that a single jury may award damages in a lump sum and does not require individual jury awards for each of the individual damage claims. My own opinion is that in light of the congressional judgment and policy that will be reflected by S. 1284 and given the special exigencies of complex and multiparty litigation, the jury trial guarantee is satisfied by enabling one jury to sit as the finder of facts and assessor of a single damage award in a mass representative action. Any objection to the practice really goes to the fairness of the individual proceeding and the techniques of proof permitted by a particular judge—matters that can be taken up as typical issues on appeal. To insist upon the incredibly cumbersome and mind-boggling procedure of having a separate jury deliberation on each and every consumer's claim in the antitrust context, would be to strike through the substance of the jury right and wallow in its form.

Finally, with respect to the contention that *Warth* v. *Seldin*, 422 U.S. 490 (1975), stands for the proposition that the issue of standing is a constitutional bar to title IV, the Court expressly held that "Congress may grant an express right of action to persons who otherwise would be barred by prudential standing rules." 422 U.S. at 501. Furthermore, the States have had such a right of action under the common law parens patriae doctrine which the Supreme Court has upheld. *Georgia* v. *Pa. R.R. Co.*, 324 U.S. 439 (1945).

BURDEN ON COURTS

Question No. 16: It has been contended that passage of title IV will swamp the courts. Opponents have pointed out that the number of antitrust cases filed already has increased by several hundred percent over the past few years. What is your response to this concern?

Answer No. 16: In a July 23, 1975, letter, Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts, advised that:

> Thus the control of litigation would be in the hands of Government officials who may properly be expected to act responsibly in the screening of cases to be filed in the district courts. For this reason we would not expect the cases filed under this bill to be numerous, although we have no information on which to base a firm estimate.

We also would point out that:

> The number of antitrust cases (based on Judicial Conference statistics) on federal appeal had a 9 percent decline in 1975 over 1974; and a 1.3 percent decline in the 6-year period of 1975 versus 1970. In fact, in the 5-year period since 1970, only in one-year, 1974, did the number of antitrust cases on appeal exceed the number on appeal in 1970.
>
> It is true that in 1975, 190 antitrust class actions were filed in Federal courts representing an increase over the 114 antitrust class actions filed in 1974. However, the number of all civil cases in Federal courts in 1975 increased over the number of all civil cases filed in 1974. More importantly, 160,602 cases were filed in Federal courts in 1975; the 190 antitrust class actions included in this number is a statistically insignificant amount.

Of the 13 districts having 30 or more filed antitrust cases in 1975, 5 districts had fewer class action cases filed in 1975 than in 1973; 5 had more; 3 remained the same. Horeover, the number of such cases ranged from 0 to 24—in contrast to the total civil filings in such courts which ranged from 1,174 to 6,282 cases. The proportion of antitrust cases to total cases ranged from 0.7 percent to 3.4 percent; and the proportion of antitrust class actions to total cases filed was less than 1 percent. Finally, the proportion of antitrust cases filed to all civil cases remained constant since 1973.

The attached tables show the numbers referred to above, and I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DISTRICTS WITH 30 OR MORE PRIVATE ANTITRUST FILINGS IN FISCAL YEAR 1975

[Data are shown for fiscal years 1973–75]

District	Total civil filings			Private antitrust filings						Class action antitrust filings [1]		
				1973		1974		1975				
	1973	1974	1975	Number	Percent of total	Number	Percent of total	Number	Percent of total	1973	1974	1975
District of Columbia	2,811	2,003	2,029	34	1.2	63	3.1	30	1.5	7	2	4
Massachusetts	4,091	4,863	5,045	38	.9	27	.6	36	.7	---	1	4
New York, southern	5,680	5,639	6,282	106	1.9	95	1.7	109	1.7	21	8	16
New Jersey	1,895	1,951	2,244	29	1.5	18	.9	35	1.6	5	2	5
Pennsylvania, eastern	2,890	3,173	3,539	64	2.2	53	1.7	59	1.7	8	4	8
Pennsylvania, western	1,271	1,345	1,629	20	1.6	31	2.3	32	2.0	---	2	---
Florida, southern	2,168	2,031	2,853	23	1.1	36	1.8	59	2.1	6	9	15
Georgia, northern	2,032	2,668	2,731	12	.6	11	.4	32	1.2	1	2	16
Illinois, northern	3,395	3,438	4,075	95	2.8	65	1.9	78	1.9	18	3	16
Minnesota	1,131	1,043	1,174	29	2.6	18	1.7	34	2.9	14	2	10
Missouri, western	1,596	1,657	1,854	39	2.4	25	1.5	33	1.8	1	2	4
California, northern	2,322	2,647	2,751	81	3.5	76	2.9	94	3.4	7	3	24
California, central	3,118	3,420	4,282	82	2.6	78	2.3	78	1.8	6	7	2

[1] These cases are included in the private antitrust case filings.

U.S. DISTRICT COURTS

CIVIL CASES FILED SHOWING PRIVATE ANTITRUST CASES AND CLASS ACTION ANTITRUST CASES

Fiscal Year	Total civil filings	Total private antitrust filings		Private antitrust class actions	
		Number	Percent of total civil filings	Number	Percent of total civil filings
1973	98,560	1,152	1.2	156	0.16
1974	103,530	1,230	1.2	113	.11
1975	117,320	1,375	1.2	189	.16

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent as in executive session that the distinguished Senator from Wisconsin (Mr. PROXMIRE) may be permitted to proceed with his remarks which he had intended to make prior to the vote on the nominations, but because of the exigencies of the situation he very courteously acceded to the request of the leadership that he forgo those remarks.

I ask that he now be permitted to make those remarks as in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL RESERVE BOARD: THE ROOKIES TAKE OVER

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from West Virginia.

Mr. President, the Senate has just confirmed the nomination of David Lilly for a term on the Federal Reserve Board. I rise because I would like to call the attention of the Senate to something that is happening to this very important agency.

Mr. President, there is no more powerful economic body in the Nation than the Federal Reserve Board. This American economy of ours is a credit economy. Jobs, the price level, as well as interest rates, depend heavily on credit policy. And of course our Nation's credit manager is the Federal Reserve Board.

When the Congress created the Fed, it made a number of provisions to give it as much solid strength and wisdom as possible. One of those provisions was for a 14-year term. This is the longest term of office any Federal appointee enjoys except top court appointments—which are for life.

That 14-year term was deliberately calculated to give the board the experience, expertise, and judgment that only years of time can give.

And yet the title the board has earned for this season is the Rookies.

Why? Because with the exception of the Chairman all the other members have been on the Board for so short a time. There has never been a time since the inception of the Federal Reserve Act more than 60 years ago, when we have had almost no one at the helm of our monetary policy but the rawest of rookies.

Although designed to have seven members each with 14 year terms, six of the present seven members, that is all except the chairman, have been on the Board of Governors for 26 months or less. What a travesty on the 14-year term.

This is not to say that a number of them did not come to the Board with very impressive backgrounds and experience. Some had superb preparation and are highly qualified for membership.

Governor Wallich who had a distinguished intellectual preparation served on the staff of the Federal Reserve Bank of New York, was a member of the Council of Economic Advisers, and taught economics at Yale.

Governor Coldwell was the head of the Dallas Reserve Bank and served on the Open Market Committee before his appointment to the Board of Governors.

Governor Partee served on the Board's staff from 1962 until his appointment and was managing director for research and economic policy when he was appointed.

Mr. Lilly, whose name is before us today, was chairman of the Minneapolis Federal Reserve Bank while he was in private industry and in that capacity spent considerable time—perhaps as much as 1 day a week—on the Minneapolis Bank's business.

My criticism is not that many of them did not have considerable collateral experience before coming to the Board. They did. But six out of the seven members have served only for one-seventh or less of the 14-year term they are appointed to serve.

Mr. President, here is a job that cannot be taught. It can only be learned by experience. A Governor who has served 5 years is likely to be a better Governor than one who has served only 3, and one who has served 10 or 12 years is likely to be still better.

But what do we have on the Board now? With the exception of the Chairman who has served 6 years, the term of service is as follows. The veteran of the Governors, Henry Wallich, has served only 26 months, Philip Coldwell 19 months, Philip Jackson 10 months, Charles Partee 5 months, Stephen F. Gardner less than 4 months, and the latest nominee, David Lilly, has not yet taken office. He has just been confirmed by the Senate.

Mr. President, the Fed has become a revolving door. Here is the agency that not only regulates banks and the Nation's payment system, but far more important it is the agency of our Government that determines the availability of credit which is so vital to our economy. The Fed makes the decisions that affect the level of interest rates for every lender and borrower in America, and in the process determines when and how and if the economy grows or contracts. No agency can approach the Fed in its influence on the economy.

Of course, we have to recognize that in this free economy of ours the level of interest rates and prices is determined in major part not only by conscious regulation but by the working of the marketplace. But the one agency which has the conscious power to affect prices significantly is the Federal Reserve Board.

All of this is to say that we face a sorry situation when, in spite of the wisdom and ability of the Chairman and the potential ability of the six other Governors, it is a rookie board run by men with a dearth of experience that would make any major league baseball or football team a bad joke if they tried to play with such limited experience.

The Fed requires far more experience than the Redskins or the Steelers or the Yankees. It is the most serious kind of public business. The public deserves more than it is getting from the rookies.

Mr. President, I ask unanimous consent that the names of the Board of Governors and the date of initial oath of office and the term of service which they have served be printed at this point in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

Name, date of initial oath of office, and year of expiration:

1. Arthur F. Burns*, Jan. 31, 1970, 1984.
2. Stephen S. Gardner*, Feb. 13, 1976, 3 months, 1990.
3. Philip F. Coldwell**, Oct. 29, 1974, 19 months, 1980.
4. Philip C. Jackson, Jr.**, July 14, 1975, 10 months, 1982.
5. Henry C. Wallich*, March 8, 1974, 26 months, 1988.
6. J. Charles Partee**, Jan. 5, 1976, 5 months, 1986.

MEMBERSHIP OF THE BOARD

1. Arthur F. Burns, Chairman: Full 14-year term which began February 1, 1970.

2. Stephen S. Gardner, Vice Chairman:

Confirmed by Senate on January 29, 1976 for full 14-year term, beginning February 1, 1976, replacing George W. Mitchell whose term expired.

Beginning in August, 1974, Mr. Gardner served as Deputy Secretary of Treasury. Prior to this appointment, Mr. Gardner was Chairman of the Board of the Girard Trust Bank in Philadelphia, which he joined in 1949.

3. Philip F. Coldwell:

Confirmed by Senate on October 9, 1974 for the unexpired term of Andrew F. Brimmer (resigned) which began on February 1, 1966.

A Texan, Mr. Coldwell was President of the Federal Reserve Bank of Dallas since 1968, which he first joined in 1952. He also served as a member of the Federal Open Market Committee of the Federal Reserve System. He holds a Doctorate in Economics.

4. Philip C. Jackson, Jr.:

Confirmed by Senate on July 18, 1975 for the unexpired term of 14 years of John Eugene Sheehan (resigned) whose term began on February 1, 1968.

From Alabama, Mr. Jackson was associated since 1949 with the Jackson Company of Birmingham, a mortgage banking concern.

5. Henry C. Wallich:

Dr. Wallich's full 14-year term began on February 1, 1974.

From Connecticut, Dr. Wallich previously was Professor of Economics at Yale University. Former member of the Council of Economic Advisors, May 1959–Jauary 1961), served as Assistant to the Secretary of the Treasury (September 1958–May 1959), and with the Federal Reserve Bank of New York (June 1941–September 1951). Also served as senior consultant to the Treasury Department, beginning in 1969.

---

*Appointed to full 14-year term.

**Filling balance of unexpired term.

6. J. Charles Partee:

Confirmed by the Senate on December 19, 1975 to serve the balance of the unexpired term of Mr. Jeffrey Bucher (resigned), which began on February 1, 1972.

A Virginian, Mr. Partee served on the FRSB's staff since 1962 in various capacities. From 1962–1965, he was Chief, Capital Markets Section, Division of Research; from 1964–65, adviser in charge of financial sections within the Research Division; from 1965–74, Associate Director and then Director, of the Division of Research; from 1973 until his confirmation, he was Managing Director for Research and Economic Policy.

Mr. PROXMIRE. Mr. President, I bring this up not, as I say, because of any derogation of Mr. Lilly or any other member of the board. As I say, some of these men have had good backgrounds. But I say this because I think we have to recognize that if we are going to have a 14-year term for the Board of Governors, and I think it is a wise provision, we should do our best to appoint men who will devote this much of their career, which in many cases is virtually a lifetime—particularly if a man is appointed at the age of 50 or older—to this very powerful agency so central to the welfare of our economy.

Mr. President, I yield the floor.

ORDER FOR RECOGNITION OF SENATOR HASKELL ON WEDNESDAY, JUNE 2, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, June 2, after the two leaders or their designees have been recognized under the standing order, Mr. HASKELL be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD ON WEDNESDAY, JUNE 2, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of Mr. HASKELL on June 2, Mr. MANSFIELD be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING THE PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON WEDNESDAY, JUNE 2, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the Senators for whom orders have been entered for recognition on Wednesday, June 2, there be a brief period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FOR JOINT MEETING OF THE TWO HOUSES OF CONGRESS ON WEDNESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate leaves to go in a body to the Hall of the House of Representatives for a joint meeting on Wednesday, June 2, it stand in recess following the address in the Hall of the House of Representatives, and that the Senate then reassemble following that address on the call of the Chair.

The PRESIDING OFFICER (Mr. HATFIELD). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

SEIZURE BY PANAMA OF U.S.-FLAG VESSEL IN U.S. TERRITORIAL WATERS

Mr. HELMS. Mr. President, on the evening of Sunday, May 23, the U.S. registry vessel *Sea Wolf* was fired upon, boarded, and seized by a gunboat of the Panamanian National Guard in the waters of the Canal Zone. The vessel was then removed to Panamanian waters where reportedly it is still anchored. The U.S. Department of State has yet to make any public announcement concerning the seizure of a ship flying the American flag, nor has it revealed what steps, if any, are being taken for the recovery of American property, or for the reassertion of U.S. rights in the waters of the Canal Zone. The only public notice this event has received is a short article published yesterday in the heavily censored Panamanian press.

A brief recital of the facts involved is therefore in order. The vessel, a $650,000 yacht, had been in litigation for 10 months in the U.S. Federal District Court in Balboa. Yesterday evening, my staff contacted the Acting Chief Deputy U.S. Marshall C. J. Spiros, who supplied the following account:

The *Sea Wolf*, home ported in Los Angeles, with U.S. registry number 547248, was seized and impounded by U.S. marshals in the Canal Zone in July 1975, because of a suit which had been brought with regard to ownership. A certain John O'Toole, a citizen of New Zealand, asserted that the *Sea Wolf* had been sold to him, and produced an alleged bill of sale for $650,000. The owner denied that the ship had been sold, and contested the genuineness of the bill of sale. Eventually the U.S. district court found against Mr. O'Toole.

Meanwhile, however, the ship remained impounded by the court. It was heavily mortgaged, and during the proceedings, the mortgage holder, the General Electric Credit Corp., sought to recover its interest. On May 5, by order of the court, the ship was auctioned off, and was purchased by GECC. The new owner had the ship refitted and hired a crew to bring the ship back to the United States.

On the evening of May 23, the *Sea Wolf*, under the command of Captain Schatner, a U.S. citizen, and a crew of three, left Cristobal for the United States. Just outside the Cristobal breakwater, and well within the 10-mile-wide sea corridor and within the 3-mile limit of the Canal Zone, the *Sea Wolf* was accosted by a vessel of the Panamanian National Guard, the *Anayancy*. The *Anayancy*, incidentally, is a former U.S. Government-owned vessel which was turned over to the Republic of Panama as a gesture of friendship.

The *Anayancy* was waiting without lights. As soon as the *Sea Wolf* arrived on the scene, the *Anayancy* fired flares across the bow of the *Sea Wolf*. The flares were followed by fire from large-caliber automatic weapons and carbines. The *Sea Wolf* crew fell to the deck to avoid injury, but the ship itself received an undetermined amount of damage. Officers of the Panamanian National Guard then boarded the *Sea Wolf*, seized it, and removed it to Panamanian waters.

I am informed that an investigation conducted by canal officials has confirmed that the incident positively took place in Canal Zone waters.

The incident can properly be described as an act of piracy. It was an act of piracy undertaken not by private individuals, but by officials of the Republic of Panama. Moreover, there are further reports which suggest that the Republic of Panama was acting on behalf of the aggrandizement of certain individuals residing in the Republic.

It is reported that while the *Sea Wolf* case was under litigation in the U.S. district court, and while the ship was still under U.S. impoundment, Mr. O'Toole allegedly took the bill of sale which was ultimately rejected as genuine by the U.S. district court, and registered the U.S. vessel as a Panamanian flag ship in Panama. It is also alleged that Mr. O'Toole is a partner with a certain Mr. Daly, a former U.S. citizen who is presently a captain in the Panamanian National Guard, in an enterprise known as Helicopters de Panama. Helicopters de Panama has asserted that it is owed $51,000 for repairs and other services done to the *Sea Wolf* while under impoundment by the U.S. district court.

On the strength of this $51,000 claim, Helicopters de Panama went to the Panamanian courts, and was granted an attachment by First Circuit Judge Warren S. Alvarado. Apparently it was on the basis of this attachment that the Panamanian National Guard seized the *Sea Wolf*.

Mr. President, it is not my purpose to comment on the competing claims surrounding the litigation of competing interests in the *Sea Wolf*. What is important is that the ship was seized in the territorial waters of the United States after a final adjudication of the rights of ownership in a U.S. district court.

It is clear that we have a direct confrontation not only over the rights of private ownership, but also over the exercise of U.S. sovereignty in the Canal Zone. If the Panamanian National Guard, acting under the veil of the authority of a Panamanian court, is allowed to exercise sovereign acts in U.S. territorial waters, then we have what may well be the first of a series of frontal challenges to our sovereign powers in the zone.

It is also highly significant that the Panamanian courts appear to have sanctioned an illegal change of registry, using papers allegedly fraudulent, which occurred while the matter of ownership was properly in litigation in the U.S. district court. And if the involvement of Captain Daly has occurred as reported, then we have a situation in which the Guardian and Captain Daly are involved in an unseemly conflict of interest for personal profit and at the expense of U.S. sovereignty.

Mr. President, we have a situation in which piracy has occurred with the collusion of the Republic of Panama; and moreover, the U.S. Department of State is implicated in this act of piracy by failing to make a public announcement of the act, and, by thus appearing to tolerate the trespass upon our sovereignty.

The Secretary of State, Dr. Kissinger, and the President jointly bear responsibility for failing to take proper measures to protect U.S. interests. In the first place, they are at fault for their conduct of the negotiations for a new treaty with Panama. The Statement of Basic Principles, signed by Secretary Kissinger and Panamanian Foreign Minister Tack on February 7, 1974, pursuant to directives signed by the President, is a document which does not reflect the fundamental status of the Canal Zone. By proposing to surrender our sovereignty, our property, and ultimately our control of the Canal Zone, the basic agreement has led Panamanians to believe that the Republic of Panama can exercise sovereign powers in the Zone.

Moreover, the Department of State has been shockingly negligent in its handling of the incident, so much so that the Department appears almost to want to be relieved of the burden of our sovereign powers in the zone. Failure to assert and exercise our sovereign powers will inevitably result in the attrition and de facto loss of those powers. Thus the Panamanians will obtain in fact what they have not yet been able to obtain through negotiation.

What should the State Department have done?

In the first place, the Department should have prevented it. This case had been in litigation in the U.S. district court in Balboa for 10 months. Is it possible that the U.S. Ambassador, Mr. William Jorden, has been so inattentive to his post that he was unaware of the developing controversy? Could he have been unaware of the potential conflict created by the illegal reregistration of a U.S.-flag vessel in Panama while the matter was in adjudication? Had no reports come to him about the activities of Mr. O'Toole and Mr. Daly? Did he not know of the auction of the vessel ordered by the U.S. district court?

Second, assuming that the information-gathering duties of our Embassy personnel had been performed with diligence, why was no protection offered to the vessel? In a situation bearing so many seeds of controversy, an escort vessel or an escort officer should have been provided until the vessel was on the high seas.

Third, if the Panamanian Government wanted to assert jurisdiction over the vessel, the proper course would have been for the State Department to have notified the Republic of Panama that such matters should be handled with diplomatic notes, negotiations, or arbitration. The failure of the State Department to be aware of the developing controversy calls into question its capability to negotiate in good faith on the more basic issues.

Fourth, the failure of the State Department to take public notice of the action even after 6 days gives the impression that we do not intend to assert our sovereign rights, and undercuts not only any negotiations, but even our present status. This is not an occasion for secret diplomacy. This is an occasion for firmness and balance. Secret diplomacy is a sign of weakness and a sign of withdrawal.

Mr. President, the State Department is not exercising its traditional diplomatic and consular functions for the protection of U.S. rights and the property of U.S. citizens. The failure to do so is endangering the future of the Panama Canal and the future of our relationship with Panama.

When a U.S.-flag ship can be captured in waters where we undisputably exercise sovereign powers, and the action is done with impunity, then the whole conduct of our foreign policy and the role of the United States in the leadership of the West is in doubt. We must immediately suspend any further negotiations on the basic treaties until this matter is fully resolved. Indeed, there is a question whether any negotiations can be pursued in good faith with a government which does not recognize the basic principles of international law.

Finally, Mr. President, this incident fully justifies the U.S. Government in reestablishing immediately the Naval Special Service Squadron based in the Canal Zone. Prior to World War II, this unit was stationed in the Canal Zone for diplomatic purposes. It consisted of the flagship *Erie* and two destroyers. If U.S.-flag vessels are not safe in Canal Zone waters, then we must underline our intention to assert our rights and the rights of free passage through the canal.

SENATE ACHIEVEMENTS—JANUARY 19 THROUGH MAY 28, 1976

Mr. ROBERT C. BYRD. Mr. President, since convening 4 months ago, the Senate has passed more measures and enacted more laws than in any similar period during the previous 4 years. A statistical profile of this session compares favorably with those of preceding sessions as illustrated by the chart which I shall submit at the conclusion of my remarks.

The Senate has dealt with a number of issues of major importance to the Nation and to the Senate as an institution. To follow up the outstanding work begun by Senator CHURCH's temporary Committee on Intelligence Activities, the Senate established a permanent Committee on Intelligence to oversee all intelligence activities of the Government. This committee has legislative, budgetary, and oversight jurisdiction over the Central Intelligence Agency and shares such authority over the FBI and other intelligence units with the standing committees. The work of this committee should greatly facilitate the Senate's ability to carry out its responsibility to share in the guidance of intelligence activities of the Federal Government while assuring the protection of the rights and liberties of American citizens.

The Senate has also created a select committee to study the Senate committee system headed by Senators STEVENSON and BROCK who have a deep interest in this matter. We anticipate that their recommendations which are due next February will lead to improvements in our present system related to committee jurisdiction, structure, number, size and staffing. The recommendations of the Commission on the Operation of the Senate, the Culver Commission, which was created last session, will be reported at the end of this year. Their studies and recommendations should shed light on means of providing better administrative support and services to Senators.

With regard to important national issues, the Senate has sought to increase employment through public works jobs and has on the calendar a measure to increase public service employment. We have extended and revised major housing programs with the realization that the housing industry is key to improving the economy and increasing employment. We have passed and sent to conference a measure to help finance home insulation improvement for low-income persons and to encourage energy conservation in the construction of new homes and commercial buildings. We have enacted a naval petroleum reserve bill to provide for exploration and limited production of certain reserves as a guard against a cutoff of foreign oil. We have also made improvements in the campaign financing act. We passed a strong foreign aid-military sales bill and will pass a second version of that bill in June.

Needless to say, a number of bills have been vetoed. In fact, President Ford has vetoed 22 measures this Congress.

He has vetoed programs to increase employment, stimulate housing construction, and help people buy a home or avoid foreclosure on their home. He has vetoed funds to improve the child day care centers, to aid the Nation's public schools, to train nurses, improve health services, continue essential health care programs, cut taxes, and control strip mining abuses. The Senate and the House have persisted, however, and more than 50 percent of these measures, or modified versions of them, have gone on to become public law—with or without the President's signature.

For further information concerning these and other measures which the Senate has passed this year, I refer you to the report prepared by the staff of the Democratic Policy Committee which I ask unanimous consent to have inserted in the RECORD at this point in addition to the other material to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

5-YR. SENATE ACTIVITY (AS OF MAY 28)

	1972	1973	1974	1975	1976
Days in session	79	70	67	73	74
Hours in session	427:36	330:00	399:03	391:55	405:28
Total measures passed	224	204	237	193	323
Public laws	81	35	48	22	86
Record votes	169	145	208	194	208
Vetoes	0	3	1	4	5
Average attendance (percent)	79.93	85.24	88.59	89.46	85.76
Saturday sessions	0	2	0.	1	0
Sessions after 8 p.m	3	1	1	8	5
Sessions before 10 a.m	15	1	6	15	13

MAY 28, 1976.

STATUS OF PRESIDENTIAL VETOES

(94TH CONGRESS—TOTAL 22)

Vetoes overridden (4):

1. H.R. 5901, Education Appropriations. Vetoed July 25, 1975. House overrode veto on September 9, 1976. Senate overrode veto on September 10, 1975. Became Public Law 94–94.

2. S. 66, Health Services—Nurse Training. Vetoed July 26, 1975. Senate overrode veto on July 26, 1975. House overrode veto on July 29, 1975. Became Public Law 94–63.

3. H.R. 4222, School Lunch Program. Vetoed October 3, 1975. House and Senate overrode veto on October 7, 1975. Became Public Law 94–105.

4. H.R. 8069, Labor—HEW Appropriations, 1976. Vetoed December 19, 1975. House overrode veto on January 27, 1976. Senate overrode veto on January 28, 1976. Became Public Law 94–206.

Vetoes for which modified versions have been repassed (11):

5. H.R. 25, Strip Mining. Vetoed May 20, 1975. House sustained veto on June 10, 1975. (Comparable provisions in S. 391 which passed the Senate on July 31, 1975, and passed the House amended January 21, 1976.)

6. H.R. 4481, Emergency Employment Appropriations. Vetoed May 28, 1975. House sustained veto on June 4, 1975. (Related measure, H.J. Res. 492 became Public Law 94–36. Public Law 94–41 contained funds for this purpose.)

7. H.R. 4485, Emergency Middle-Income Housing. Vetoed June 25, 1975. House sustained veto on June 25, 1976. (Related measure, H.R. 5398, became Public Law 94–50).

8. H.R. 1767, Oil Import Fees, President's authority to impose. Vetoed March 4, 1975. Referred to House Ways and Means Committee. (Relevant provisions contained in H.R. 4035, which was also vetoed and S. 622 which became Public Law 94–163.)

9. H.R. 4035, Oil Policy. Vetoed July 21, 1975. Referred to House Interstate and Foreign Commerce Committee. (Related provisions in S. 622 which became Public Law 94–163.)

10. S. 1849, Oil Price Controls. Vetoed September 9, 1975. Senate sustained veto on September 10, 1975. (H.R. 9524 extending controls to December 15, 1975, became Public Law 94–133. Comparable provisions are contained in S. 622 which became Public Law 94–163.)

11. H.R. 5357, Tourism Promotion. Vetoed May 28, 1976. Referred to House Interstate and Foreign Commerce Committee. (Similar measure S. 2003 became Public Law 94–55.)

12. H.R. 12, Executive Protective Service. Vetoed November 29, 1975. Referred to House Public Works and Transportation Committee. (Similar provisions are contained in H.R. 11184 which became Public Law 94–196.)

13. H.R. 5559, Tax Reduction. Vetoed December 17, 1975. House sustained veto on December 18, 1975. (Almost identical bill, H.R. 9968 became Public Law 94–164.)

14. H.R. 5247, Public Works Employment. Vetoed February 13, 1976. House overrode veto on February 19, 1976. Senate sustained veto on February 19, 1976. (Comparable provisions are contained in S. 3201 which is in conference.)

15. H.R. 9803, Child Day Care Funding. Vetoed April 6, 1976. House overrode veto on May 4, 1976; Senate sustained veto on May 5, 1976. (Comparable provisions are contained in H.R. 12455 which is in conference.)

Other vetoes (7):

16. H.R. 4296, Agricultural Price Supports. Vetoed May 1, 1976. House sustained veto on May 13, 1975. (Secretary of Agriculture will hold quarterly oversight meetings with Agriculture Committees on subject.)

17. H.R. 9497, Tobacco Price Supports. Vetoed September 30, 1975. Referred to House Agriculture Committee.

18. S. 2350, National Security Council Membership. Vetoed December 31, 1975. Senate overrode veto on January 22, 1976. House referred to Armed Services Committee January 26, 1976.

19. H.R. 5900, Common Situs Picketing—Collective Bargaining. Vetoed January 2, 1976. House referred to Education and Labor Committee.

20. S.J. Res. 121, Milk Price Supports. Vetoed January 30, 1976. Senate sustained veto on February 4, 1976.

21. H.R. 8617, Hatch Act Revision. Vetoed April 12, 1976. House sustained veto on April 29, 1976.

22. S. 2662, Foreign Aid—Military Sales. Vetoed May 7, 1976. (Comparable versions, S. 3439 and H.R. 13680, are scheduled for floor consideration in early June.)

SENATE LEGISLATIVE ACTIVITY INDEX

(94th Congress—2d Session)

(By Senate Democratic Policy Committee)

AGRICULTURE

Agriculture Department Employees' Dependents Orientation (S. 3052)
Agricultural Census (H.R. 7824, P.L. 94–)
Agricultural Loans for Losses due to Toxic Chemical Contamination (S. 2578)
Agricultural Pest Control (S. 1617, P.L. 94–231)
Beef Research and Information (H.R. 7656, P.L. 94–)
Farmer Elected Committeeman System (S. Res. 272)
Food Stamp Reform (S. 3136)
Food Stamp Vendors (S. 2853)
Grain Standards (H.R. 12572)
*Milk Price Supports (S.J. Res. 121)
Peanut Allotments (S. 1545, P.L. 94–247)
Potash Supplies (S. Res. 403)
Resource Conservation and Development Loans (S. 2485)
Rice Production (H.R. 8529, P.L. 94–214)
Rural Development Programs (H.R. 6346, P.L. 94–259)
Tobacco Allotments (S. 700)
Watershed Projects (S. 2484)
Wool Act Payments (S. 532)

APPROPRIATIONS

Fiscal 1976 and Transition Period:
Continuing (H.J. Res. 857, P.L. 94–254)
Defense (H.R. 9861, P.L. 94–212)
Foreign Aid (H.R. 12203)
*Labor-HEW (H.R. 8069, P.L. 94–206)
Supplemental (H.J. Res. 890, P.L. 94–266)
Supplemental (H.R. 13172, P.L. 94–)
Supplemental Railroad (H.J. Res. 801, P.L. 94–252)
Supplemental Legislative (H.J. Res. 811, P.L. 94–226)

ATOMIC ENERGY

Nuclear Regulatory Commission Authorization (S. 3107, P.L. 94–291)

BUDGET

Deferrals—1976:
Army Corps of Engineers (S. Res. 408)
Indian Health Facilities (S. Res. 366)
Indian Public School Construction (S. Res. 388)
Youth Conservation Corps (S. Res. 385)
Rescissions—1976:
Consumer Product Safety, Interior, Park Service, Selective Service, and State (H.R. 11665, P.L. 94–249)
Resolutions—1976:
First Budget Resolution (S. Con. Res. 109)

CONGRESS

Congressional Tax Liability (S. 2447)
Inaugural Committee (S. Con. Res. 90)
Joint Committee on the Bicentennial (S. Con. Res. 103)
Magna Carta Delegation (S. Con. Res. 98)
Professional Societies Fellowship Programs (S. Con. Res. 100)

CONSUMER AFFAIRS

Consumer Food Act (S. 641)
Consumer Leasing (H.R. 8835, P.L. 94–240)
Consumer Product Safety (S. 644, P.L. 94–284)
Equal Credit Opportunity (H.R. 6516, P.L. 94–239)
Gold Labeling (S. 3095)
Motor Vehicle Information and Cost Savings (S. 1518)

CRIME-JUDICIARY

Bankruptcy Referees Salary (H.R. 6184, P.L. 94–217)
Copyright Revision (S. 22)
District Court Judgeships (S. 287)
Drug Enforcement Administration Agents (S. Res. 391)
Lotteries (H.R. 1607)
Mississippi Judicial District (S. 2412)
North Dakota Judicial Districts (S. 2887)
Parole Reorganization (H.R. 5727, P.L. 94–233)
Patent Laws Revision (S. 2255)
Territorial Judges Cost-of-Living Adjustment (S. 14)
U.S. Magistrates Jurisdiction (S. 1283)
U.S. Magistrates Salary (S. 2923)

DEFENSE

Armed Forces Per Diem Allowance (H.R. 8089)
Assistant Commandant of the Marine Corps (S. 2117, P.L. 94–225)
Carbonyl Chloride (H.R. 9570, P.L. 94–251)
Defense Production—Voluntary Agreements (H.J. Res. 784, P.L. 94–221)
Department of Defense Employees Oath Authority (H.R. 508, P.L. 94–213)
Household Goods Shipments (S. 2023)
Military Construction Authorization (S. 3434)
Military Procurement Authorization (H.R. 12438)
Reservists Active Duty (S. 2115, P.L. 94–286)

DISTRICT OF COLUMBIA

Medical and Dental Manpower (H.R. 12132, P.L. 94–)
Metro Transit Police (H.R. 8719, P.L. 94–)
Southeastern University (S. 611, P.L. 94–250)

ECONOMY-FINANCE

Bankruptcy of Major Municipalities (H.R. 10624, P.L. 94–260)
*Child Day Care Staffing Standards (H.R. 9803) (H.R. 12455)
Library of Congress Trust Funds (S. 2619, P.L. 94–289) (S. 2620, P.L. 94–290)
New York City Retirement Systems (H.R. 11700, P.L. 94–236)
Pension Plans Tax-Free Rollover (H.R. 12725, P.L. 94–267)
Public Debt Limit Increase (H.R. 11893, P.L. 94–232)
State Taxation of Depositories (S. 2672, P.L. 94–222)

EDUCATION

Allen J. Ellender Fellowships (H.J. Res. 491, P.L. 94–277)
Indochinese Refugees Educational Assistance (S. 2145)

ELECTIONS

Federal Election Commission—Campaign Financing (S. 3065, P.L. 94–283)
Political Campaigning (S. Res. 419)

EMPLOYMENT

*Public Works Employment (H.R. 5247)
Public Works Jobs (S. 3201)

ENERGY

Coal Leasing—Strip Mining (S. 391)
Coastal Zone Management (S. 586)
Energy Conservation in Buildings (H.R. 8650)
ERDA Supplemental Authorization (S. 3106, P.L. 94-269)
Helium Conservation (S. Res. 253)
International Petroleum Exposition (S.J. Res. 59, P.L. 94-227)
Interstate Oil and Gas Compact (S.J. Res. 126)
Natural Gas Pipeline Safety (S. 2042)
Naval Petroleum Reserves Production (H.R. 49, P.L. 94-258)

ENVIRONMENT

Blackbird Control (H.R. 11510, P.L. 94-207)
Council on Environmental Quality (H.R. 11619, P.L. 94-)
Earthquake Hazard Reduction Program (S. 1174)
Endangered Species (S. 3122)
Environmental Research Authorization (H.R. 7108)
Noise Control (H.R. 5272, P.L. 94-)
Noise Control Research (S. 3436)
Scrimshaw Art Preservation (S. 229)
Toxic Substances Control (S. 3149)
Water Resources Planning (H.R. 11876, P.L. 94-285)
Water Quality Report (H.R. 12193, P.L. 94-238)
Weather Modification (S. 3383)

FISHERIES AND MARINE LIFE

Fisheries Development (Outer Pacific Ocean) (H.R. 13380).
Fisheries Management—200 Mile Limit (H.R. 200, P.L. 94-265).
Fisheries Research and Development Programs (S. 1414).
Killer Whales (S. 3130).
Marine Protection and Sanctuaries (S. 3147).

GENERAL GOVERNMENT

Action Authorization (H.R. 12216, P.L. 94-).
Animal Welfare (S. 1941, P.L. 94-279).
Bicentennial Flag Display (S. 3161).
Civil Rights Commission (H.R. 8957, P.L.).
Commission on New Technological Uses of Copyrighted Works (S. 3187).
Commodity Futures Trading Commission (S. 3051).
Daylight Saving Time (S. 2931).
Federal Trade Commission Authorizations (S. 2935), (H.R. 12527).
Fire Prevention and Control (S. 2862).
Fiscal Year Adjustment (S. 2445, P.L. 94-273).
Fiscal Year Transition (S. 2444, P.L. 94-274).
Flag Display (S.J. Res. 49).
Library of Congress James Madison Memorial Building (H.R. 11645, P.L. 94-219).
Mariana Islands (H.J. Res. 549, P.L. 94-241).
NASA Authorization (H.R. 12453, P.L. 94-).
National Foundation on the Arts and Humanities (H.R. 12838).
National Portrait Gallery (S. 1657, P.L. 94-209).
National Science Foundations Authorization (H.R. 12566).
*National Security Council (S. 2350).
National Study Commission on Records and Documents of Federal Officials (S. 3060, P.L. 94-261).
Presidential Recordings and Materials (S. Res. 428).
Privacy Protection Study Commission (S. 3435).
Regulatory Reform (S. 3308).
Science Policy (H.R. 10230, P.L. 94-282).
Small Business Amendments (S. 2498, P.L. 94-).
Smithsonian Institution—National Museum (S. 2945).
Spanish Americans, Data on (H.J. Res. 92).
Trust Territory of the Pacific (H.R. 12122, P.L. 94-2551).
White House Conference on Handicapped (S.J. Res. 154, P.L. 94-224).

GOVERNMENT EMPLOYEES

Federal Mine Safety Inspectors Protection (S. 3070).
*Hatch Act Revisions (H.R. 8617).
Secret Service Director's Salary (S. 3028).

HEALTH

Alcohol Abuse, Prevention and Treatment (S. 3184).
Biomedical and Behavioral Research (S. 2515).
Clinical Laboratories Improvement (S. 1737).
Communicable Disease Control—Consumer Health Education (S. 1466).
Drug Abuse Office and Treatment (S. 2017, P.L. 94-237).
Heart, Lung and Blood Research—Health Services (H.R. 7988, P.L. 94-278).
Helen Keller Center (H.R. 12018, P.L. 94-288).
Lead-Based Paint Poisoning Prevention (S. 1664).
Medical Device Safety (S. 510, P.L. 94—).
Rehabilitation Act Extension (H.R. 11045, P.L. 94-230).

HOUSING

Housing—Flood Insurance (H.R. 9852).
Housing Programs, (S. 3295).

INDIANS

Indian Claims Commission (S. 2981).
Indian Crimes (S. 2129), P.L. 94-).
Palms and Cabazon Mission Indians (H.R. 1465, P.L. 94-).
Pueblo Indians, New Mexico (S. 2129).

INTERNATIONAL

Asian Development Funds (S. 3103).
Brussels Conferencs (S. Con. Res. 93).
Commission on Security and Cooperation in Europe (S. 2679, P.L. 94-).
Discriminatory Trade Practices of EEC (S. Con. Res. 108).
Foreign Investment in the U.S. (S. 2839).
*Foreign Military Assistance and Arms Export Control (S. 2662)
Guatemala Relief Authorization (S. 3056, P.L. 94-276)
Guatemalan Earthquake (S. Res. 390)
Inter-American Development Bank—African Development Fund (H.R. 9721)
Inter-American Development Bank—African Development Fund (H.R. 9721, P.L. 94-)
James Smithson Bequest (S.J. Res. 196)
Laotian Refugees (S. 2760)
Lincoln Statue (H.J. Res. 406, P.L. 94-208)
Palm Oil Production Loans (S. Res. 444)
Peace Corps Authorization (H.R. 12226, P.L. 94-281)
State Department Authorization (S. 3168)
Treaties:
Inter-American Women's Rights Convention (Eq. D, 81st-1st)
Radio Regulations Revision (Ex. G, 94th-1st)
Telecommunications Convention (Ex. J, 93d-2d)
Telegraph and Telephone Regulations (Ex. E, 93d-2d)
Women's Political Rights Convention (Ex. J, 88th-1st)
U.S. International Trade Commission (S. 3420)
U.S.-Soviet Relations (S. Res. 406)
U.S. Winter Olympic Team (S. Res. 386)
U.S.I.A. Authorization (H.R. 11598, P.L. 94-272)
Wilma Rudolph Film (H.R. 6949, P.L. 94-218)

MEMORIALS, TRIBUTES AND MEDALS

Bernardo de Galvez Statue (S. 3031, P.L. 94-287)
Charles Carroll Medals (H.R. 3427, P.L. 94-257)
Clarence M. Mitchell, Jr. (S. Res. 353)
Commercial Aviation 50th Anniversary (S. Res. 381)
Congressional Country Club (S. Con. Res. 119)
International Astronautical Federation (S. Res. 412)
Jerry L. Pettis Memorial Veterans' Hospital (H.R. 4034, P.L. 94-246)
John Witherspoon Statue (S. 1996)
Library of Congress Thomas Jefferson Building (S. 2920, P.L. 94-264)
Lincoln Memorial (S. 64)
101st Airborne Memorial (S. 1847, P.L. 94-211)
Torbert H. Macdonald, Death of (S. Res. 452)
William A. Barrett, Death of (S. Res. 433)
William O. Douglas (S. 2742)
Wright Patman, Death of (S. Res. 402)

NATURAL RESOURCES-NATIONAL HISTORIC SITES

Boundary Waters Canoe Area (S. 1526)
Chickasaw National Recreation Area (H.R. 4979, P.L. 94-235)
Eugene O'Neill National Historic Site (S. 2398)
Fire Island National Seashore (S. 867)
George W. Norris Home National Historic Site (S. 3476)
Gruber Wagon Works (S. 1497)
Land and Water Conservation Fund—National Historic Preservation—Oil Shale Revenues (S. 327)
Land and Water Resource Conservation (S. 2081)
National Parks Mining Regulations (S. 2371)
National Resource Lands Management (S. 507)
National Wildlife System Administration (H.R. 5512, P.L. 94-223)
Ninety Six and Star Fort National Historic Site (S. 2642)
Rangelands Management (S. 2555)
Reclamation Projects Authorization (S. 151, P.L. 94-228)
River Basin Monetary Authorizations (S. 3432)
Santa Monica Recreation Area (S. 1640)
Wetlands Loan Extension (H.R. 5608, P.L. 94-215)
Wilderness Areas:
Badlands National Monument (S. 1068)
Bristol Cliffs Wilderness (S. 2308, P.L. 94-268)
Eagles Nest Wilderness (S. 268)
Shenadoah National Park (S. 885)
Wilderness Areas Studies: Kaiser Roadless Area (S. 75)

NOMINATIONS (ACTION BY ROLLCALL VOTE)

George Bush to be Director of Central Intelligence
S. John Byington to be Commissioner on Consumer Product Safety Commission
George Henry Kuper to be Executive Director of National Center for Productivity and Work Quality
David M. Lilly to be member of Board of Governors of Federal Reserve System
William L. Springer to be member of the Federal Election Commission
Willie J. Usery to be Secretary of Labor

PROCLAMATIONS

Bald Eagle Days (S. Res. 347)
Beta Sigma Phi Week (S.J. Res. 76)
Employ the Older Worker Week (S.J. Res. 35, P.L. 94-275)
Fair Housing Month (S. Con. Res. 112)
Family Week (S.J. Res. 101, P.L. 94-270)
Fourth of July Holiday (S.J. Res. 151)
Horse Week (S.J. Res. 182)
Independence Day (S.J. Res. 150)

Knights of Columbus Day (S.J. Res. 183)
Small Business Week (S.J. Res. 163)
Tennis Week (S.J. Res. 172)
Thomas Jefferson Day (H.J. Res. 670, P.L. 94-263)
World Habitat Day (S. Res. 398)

SENATE

Cloture Rule (S. Res. 268)
Commission on the Operation of the Senate (S. Res. 410) (S. Res. 423)
Oklahoma Senate Contest
Old Senate Chamber (S. Res. 446)
Select Committee on Committees (S. Res. 109)
Select Committee on Intelligence (S. Res. 400)
Select Committee on Intelligence Activities (S. Res. 377) (S. Res. 414) (S. Res. 435)
Select Committee on Small Business (S. Res. 104)
Watergate Reform Legislation (S. Res. 437)

TRANSPORTATION–COMMUNICATIONS

Airport and Airway Development (H.R. 9771)
Alaska Highway (S. 2071)
Boat Safety Programs (H.R. 5630)
Common Carrier Tariff Proceedings (S. 2054)
ConRail Acquisition of Bankrupt Rail Property (H.R. 12490, P.L. 94-253)
ConRail Stock (S.J. Res. 184, P.L. 94-248)
Educational Broadcasting Facilities (H.R. 9630, P.L. 94-)
Federal-Aid Highway Authorization (H.R. 8235, P.L. 94-280)
Hazardous Materials Transportation (S. 2991)
Rail Negotiations (S. Con. Res. 97)
Railroad Revitalization (S. 2718, P.L. 94-210)
Translator Broadcast Operations (S. 2847)

VETERANS

American Battle Monuments Commission Travel Expenses (H.R. 8507, 94-256)
Veterans' Housing Loans (S. 2529)
Veterans' Insurance (S. 1911)

SENATE LEGISLATIVE ACTIVITY

(94th Congress, 2d Session)

(By Senate Democratic Policy Committee)

Days in Session	74
Hours in Session	405:28
Total Measures Passed	323
Private Laws	86
Public Laws	20
Treaties	5
Confirmations	25,055
Record Votes	208
Vetoes	5

Symbols: (VV)—Passed by Voice Vote; numbers in parentheses indicate number of record vote on passage, conference report, or reconsideration—* numbers indicate vote occurred 1st session of 94th Congress (1975).

AGRICULTURE

Agriculture Department employees' dependents orientation: Authorizes the Secretary of Agriculture to use appropriated funds for the orientation and language training of dependents of officers and employees of the United States Department of Agriculture who have foreign assignments. S. 3052—Passed Senate March 16, 1976. (VV)

Agricultural census: Amends section 142, title 13, U.S.C. to change the reference years and the years for taking the census of agriculture to coincide with the economic census of manufacturing, mining, and industry which is taken every 5 years and refers to the years the last numericals of which are "2" and "7" in order to provide comparable data for evaluating the Nation's economic and agricultural status and to avoid the heavy workload in the Bureau of the Census when the agricultural census is taken in the same year as the decennial census; changes the definition of the term "farm" for census purposes to include only places which produce at least $1,000 worth of agricultural goods a year instead of, as at present, any place which produces agricultural goods selling for at least $250 in a year or a place measuring at least 10 acres and producing at least $50 in agricultural goods; and postpones until June 30, 1976, the effective date of the change in the term "farm" to give Congress an opportunity to study the possible effects of the change before it becomes effective. H.R. 7824—Public Law 94-229, approved March 15, 1976. (VV)

Agricultural loans for losses due to toxic chemical contamination: Requires the Secretary of Agriculture to make loans to bona fide farmers and ranchers who suffer losses on or after January 1, 1973, through no fault of their own due to toxic chemical contamination of their agricultural commodities or livestock; limits the amount of any loan to an individual agricultural producer to $100,000, the cost of replacing the condemned livestock or products, or the noncompensated share of the condemned products or livestock; places a 7-year maximum term on the loan at a rate of interest reflecting the cost of money to the Government; and authorizes the Secretary to grant a grace period for principal payments and the majority of interest for up to 3 years if individual circumstances warrant. S. 2578—Passed Senate March 10, 1976. (VV)

Agricultural pest control: Broadens and strengthens the authority of the Secretary of Agriculture to control and eradicate agricultural pests by (1) permitting the Secretary to carry out eradication and control programs with respect to plant pests not now covered by the Organic Act of 1944 including spider mites, slugs, and snails; (2) extending the Secretary's authority to cooperate with foreign governments including governments of the Western Hemisphere, Canada, Mexico, Central America, Colombia, the Bahama Islands, the Greater Antilles, the Lesser Antilles, and international organizations and associations in carrying out eradication and control programs; (3) making discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products for export, and extending such authority to inspection and certification of any plants or plant products offered for export or transiting the United States; (4) repealing provisions of the Act of October 6, 1917, for cooperation with Mexico and adjacent States in the extermination of pink bollworm infestations near the U.S. border which authority is now contained in the Organic Act; and (5) clarifying the Secretary's authority to cooperate with certain Western Hemisphere countries, the Bahama Islands, the Greater Antilles, the Lesser Antilles and international organizations and associations with respect to animal disease control and the carriers of animal diseases. S. 1617—Public Law 94-221, approved March 15, 1976. (VV)

Beef research and information: Authorizes the Secretary of Agriculture to issue a national order providing for the establishment of a Beef Board consisting of not more than 68 members, and alternatives who are to be appointed by the Secretary from qualified nominees representing cattle producers from each beef-producing area; provides that the Beef Board is to develop, subject to the Secretary's approval, a program of research, producer and consumer information, and promotion designed to strengthen the cattle and beef industry in the domestic and foreign market which is to be financed from assessments paid by cattle producers;

Requires approval by referendum among cattle producers before the national order may become effective; requires that approval be by two-thirds of the majority of the registered producers voting and that at least 50 percent of those registered must vote;

Authorizes the Secretary to terminate or suspend the order if he finds it does not effectuate the purposes of the bill or to hold a referendum at any time, and provides that a referendum shall be held if requested by 10 percent or more of the number of producers voting in the referendum approving the order;

Provides for funding of the program through an assessment system where each buyer of cattle would collect an assessment from the producer-seller based on the value of the cattle involved, and pass it on to the next buyer, with the slaughterer required to remit the assessment to the Beef Board; sets the maximum amount which may be assessed at 0.5 percent of the value; exempts cattle produced and slaughtered for home consumption;

Provides that producers not favoring the program may obtain a refund of the assessment if requested not more than 60 days after the end of the month in which the sale or slaughter of the cattle occurred and provides that the Beef Board make a refund within 60 days; authorizes a civil penalty of $1,000 for persons willfully failing or refusing to collect any assessments required of them or otherwise willfully violating provisions of the order;

Requires the Beef Board to submit to the Secretary for approval all plans and projects as well as a budget; and requires that copies of the budget be submitted to the House and Senate Committees on Agriculture. H.R. 7656—Public Law 94- , approved 1976. (* 539, 175).

Farmer elected committeeman system: Expresses Senate support for the participation of farmers in the programs of the Department of Agriculture through the farmer elected community committeeman; urges the Secretary of Agriculture to take the actions necesary to provide for increased involvement of farmers in the policy and decisionmaking operations of the Department of Agriculture; and requests the Secretary to discontinue any actions designed to eliminate or reduce the community committeeman program administered by the Stabilization and Conservation Service of the Department of Agriculture. S. Res. 272—Senate adopted February 5, 1976. (VV)

Food stamp reform: Makes changes in the food stamp program relating to eligibility to participate, the benefits available, administration of the program, and the penalties applicable to violations, as follows:

Changes affecting eligibility

(1) Eliminates the present system of allowing varying, itemized deductions from gross income in determining household income for purposes of the food stamp program and replaces it with a standard deduction of $100 a month for the 50 States and the District of Columbia and of $60 a month for Puerto Rico, the Virgin Islands and Guam, and provides an additional standard deduction of $25 a month in the case of a household with one or more members 60 years of age or older, or any household with earned income of $150 a month or more;

(2) Defines "gross income" as including (but not limited to) all money payments (including payments made pursuant to the Domestic Volunteer Services Act of 1973) and payments in kind, excluding: (a) medical costs payments; (b) earned income of a child under 18; (c) payments received under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (d) infrequent or irregular income not exceeding $30 during any 3 month period; (e) all loans, scholarships, fellowships, grants, and veterans' educational benefits, except those deferred to the extent they are not used for tuition and mandatory fees; (f) housing

vendor payments to landlords; (g) payments under the supplemental food program for women, infants, and children (WIC); (h) payments in kind from government benefit programs, including, but not limited to, school lunch, medicare, and elderly feeding programs, and any payments in kind which cannot be reasonably and properly computed; (i) the cost of producing self-employed income; (j) Federal, State, and local income tax refunds, Federal income tax credits, and retroactive payments under the Social Security Act provided that these amounts shall be included under household resources for eligibility purposes; and (k) income specifically excluded by other Federal laws;

(3) Bases eligibility on income received during the 30 days prior to application;

(4) Provides for semi-annual adjustment of the standard deduction and of the income poverty guidelines according to changes in the Consumer Price Index, with the first adjustments effective July 1, 1977;

(5) Freezes existing assets eligibility standards (presently set by regulation) until 60 days after a report on asset holding has been submitted to Congress;

(6) Eliminates present automatic eligibility for persons eligible for welfare programs and requires them to apply and demonstrate eligibility just as nonwelfare persons;

(7) Excludes from eligibility college students who are or can legally be claimed as tax exemptions by families which are themselves not eligible for food stamps;

(8) Excludes from eligibility those who terminate employment voluntarily, unless previously eligible; strengthens work registration requirements for persons under 60 years of age; requires a person with a child age 12 or over (instead of age 18 or over) to meet the work registration and acceptance requirements for eligibility; and makes other changes;

Changes affecting benefits

Changes the purchase-price requirement from the present varying rate based on household size and income using basis-of-issuance tables established in 1971 to a uniform price rate of 25 percent of net income as determined under the Food Stamp Act; defines a "nutritionally adequate diet" as one that is based on the thrift food plan developed in 1975 by the Department of Agriculture and provides that the cost of such diet shall be the basis for uniform coupon allotments; provides that the minimum benefit for single-person and two-person households shall be $10 per month; and allows a household to file for lost benefits due to administrative error not later than 3 months after learning of the error, and limits the cash payment for lost benefits to bonus value of its allotment for a 3-month period;

Changes affecting administration

Requires States to certify applicants and issue authorization to purchase cards within 30 days of receiving the application; gives each State the option, instead of the present requirement which would have become effective beginning October 1, 1976, to decide whether to establish a system where a household may elect to have its purchase price charge for the coupons withheld from its public assistance check; allows all food stamp recipients who are housebound, feeble, physically handicapped, or otherwise disabled, as well as all those over age 60, to use food stamps for meals-on-wheels with stamps; authorizes a pilot project on elimination of the purchase price requirements; provides that a household may be disqualified for fraudulent participation but must be found guilty in a court or by a State welfare agency, after a proper hearing; and makes other changes;

Changes affecting penalties for violations

Establishes criminal penalties for food stamp vendors who fraudulently mishandle receipts; requires timely and verified reports of receipts and deposits by vendors; reduces the maximum penalty for certain misdemeanor violations from $5,000 to $1,000 so as to permit such misdemeanors to be prosecuted before magistrates under the Federal Magistrate Act; and makes other changes. S. 3136—Passed Senate April 8, 1976. (138)

Food stamp vendors: States that receipts from the sale of food stamps are Federal funds and that any vendor using such funds for his own benefit shall be punished by a fine of not more than $10,000, or a sum equal to the amount involved, whichever is greater, or imprisonment for up to 10 years, or both; requires timely, verified reports of receipts and deposits by vendors to state agencies responsible for the administration of the program and to the Department of Agriculture; and directs the Secretary of Agriculture to establish procedures to monitor the inventories of food stamps held by vendors and to provide standards to safeguard them against misuse by vendors. S. 2852—Passed Senate April 8, 1976. (139)

Grain inspection: Amends the United States Grain Standards Act to require that (1) all grain inspections at export elevators and major inland terminal elevators be made by employees of the Federal Grain Inspection Agency established by this bill within the Department of Agriculture to administer the program; (2) all grain transferred into or out of export elevators be officially weighed by Federal employees; (3) grain may be officially weighed at major inland terminal elevators either by Federal employees or by State employees under Federal supervision; and (4) large companies engaged in merchandising grain in foreign commerce must be registered with the Agency; strengthens the civil and criminal penalties available under the Act to enforce honest and accurate grain inspection and weighing; and provides for the recovery of most of the costs of the program through fees for program services. H.R. 12572—Passed House April 12, 1976; Passed Senate amended April 26, 1976; In conference. (153)

Milk price supports: Establishes the support price for milk at 85 percent of the parity price effective on the date of enactment and ending on March 31, 1978. S.J. Res. 121—Vetoed January 30, 1976. Senate sustained veto February 4, 1976. (27)

Peanut allotments: Authorizes the Secretary of Agriculture, for 1976 and subsequent years, to permit the transfer of all or part of the peanut acreage allotments for any farm located in an area having suffered a natural disaster which would prevent the planting of peanuts on a timely basis to another farm engaged in the production of peanuts. S. 1545—Public Law 94-247, approved March 25, 1976. (VV)

Potash supplies: Expresses as the sense of the Senate that: the Department of State should express concern to the Canadian Government and the Government of the Province of Saskatchewan that supplies of the critical plant nutrient, potash, not be disrupted; the Department of State should determine the exact objectives and likely conclusions of the proposed takeover of the potash industry by the Government of the Province of Saskatchewan; and the Department of Agriculture should develop contingency plans to assure an adequate supply of potash for American agriculture in the event that supplies from Saskatchewan should be temporarily or permanently disrupted. S. Res. 403—Senate agreed to March 17, 1976. (VV)

Resource conservation and development loans: Amends the Bankhead-Jones Farm Tenant Act, as amended, to increase from $250,000 to $500,000 the amount of any loan which may be made for a research conservation and development project under the act without prior approval by the House and Senate Agriculture Committees; and redefines the term "aquaculture" to mean the culture or husbandry of aquatic animals or plants for scientific purposes or for creating or augmenting publicly owned and regulated stocks of fish in streams or rivers, in order to make certain types of fish aquaculture and hatchery fisheries eligible for loans under the act. S. 2485—Passed Senate May 25, 1976. (VV)

Rice production: Contains provisions effective for the 1976 and 1977 crops of rice; suspends marketing quotas and authorizes unrestricted planting of rice; establishes a national acreage allotment of 1.8 million acres, which is to be used only for determining program benefit recipients and amounts;

Establishes a price of $8 per hundredweight for the 1976 crop, adjusted to reflect changes in the index of prices paid by farmers for production items, interest, taxes and wage rates beginning on the date of enactment and ending July 31, 1976; provides that the established price for the 1977 crop would be the 1976 price, adjusted for changes in the index during the previous 12-month period, and that such established prices for both crops may be further adjusted for changes in yields;

Provides a 1976 loan rate of $6 per hundredweight, adjusted as in the case of the established price, and for a 1977 loan rate adjusted to reflect any change in the established price;

Authorizes payments if the 5-month average market price received by producers falls short of the established price (if the market price is higher than the established price, no payments are made);

Authorizes disaster payments, limited to $55,000 per person, under certain conditions; authorizes sales, leases, and transfers of allotments and a rice research program; and contains other provisions. H.R. 8529—Public Law 94-214, approved February 16, 1976. (23)

Tobacco allotments: Permits the lease and transfer of all types of flue-cured tobacco farm acreage allotments or marketing quotas across county lines in any State where a majority of the producers of flue-cured tobacco, voting in referendum, approve; and excludes North Carolina from the provisions of the bill. S. 700—Passed Senate January 26, 1976. (VV)

Watershed projects: Amends the Watershed Protection and Flood Prevention Act, as amended, to increase from $5 million to $10 million the limitation on any single loan or advancement for watershed works of improvement. S. 2484—Passed Senate April 13, 1976. (VV)

Wool Act payments: Authorizes the Secretary of Agriculture to amend retroactively the regulations governing the computation of price support payments under the National Wool Act of 1954 for the marketing years 1969 through 1972 to permit making Wool Act payments to certain farmers and ranchers who failed to receive the full proceeds from their sale of wool because of defaults in payments by their marketing agency; and provides that the computation be based on the lesser of (a) the net sales proceeds based on the price the farmer or rancher would have received had there been no default of payment or (b) the fair market value of the wool at the time of sale. S. 532—Passed Senate April 13, 1976. (VV)

APPROPRIATIONS

1976 and Transition Period:

Continuing: Extends the continuing resolution (Public Law 94-159) which expires on March 31, 1976, until September 30, 1976, to provide obligational authority for programs funded under the foreign assistance and District of Columbia Appropriations Acts which have not yet been enacted; extends authority for certain programs for the Department of Health, Education, and Welfare and the Corporation for Public Broadcasting; and includes $175,000 for the National Commission on Water Quality to complete its final report. H.J. Res. 857—Public Law 94-254, approved March 31, 1976. (VV)

Defense: Appropriates $90,721,789,000 for fiscal year 1976 and $21,849,816,000 for the transition period July 1–September 30, 1976, for the military functions of the Department of Defense including pay, operations and maintenance, procurement, research and development, intelligence functions, and funds for the Central Intelligence Agency; prohibits the use of funds under this Act for any activities involving Angola other than intelligence gathering and contains other provisions. H.R. 9861—Public Law 94-212, approved February 9, 1976. (*505, *602)

Foreign aid: Appropriates $5,328,640,909 in new budget (obligational) authority for Foreign Assistance Act activities, foreign military credit sales, foreign assistance and other programs and for activities of the Export-Import Bank for fiscal year 1976 and $978,179,000 for these activities for the transition period; prohibits assistance to North or South Vietnam, Cambodia, or Laos; and prohibits aid to any nation which is in default on payments of U.S. loans for more than 1 year. H.R. 12203—Passed House March 4, 1976; Passed Senate amended March 23, 1976; Conference report filed. (90)

Labor-HEW: Appropriates $36,073,748,318 for fiscal year 1976 and $8,953,070,000 for the transition period July 1–September 30, 1976, for the Departments of Labor, and Health, Education, and Welfare (HEW), and related agencies; includes programs for comprehensive manpower assistance and public service employment, occupational health and safety (OSHA), maternal and child health, emergency medical services, Public Health Service hospitals, National Institutes of Health (NIH) research, alcohol, drug abuse, and mental health programs, public assistance, human development, and community services programs;

Increases funds for OSHA to provide 333 additional compliance officers; directs the Department of Labor to take the following actions in the area of occupational safety and health: (1) upgrade the skills of OSHA inspectors through intensive retraining, (2) review and simplify existing OSHA standards and eliminate standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State departments of public health; (3) redirect enforcement programs to place increased emphasis on problems related to worker health; (4) redirect inspection efforts away from industries with good worker health and safety records so as to permit increased inspection in industries with the greatest health and safety problems; and (5) develop fine-free on-site consultation programs to advise employers of the application of OSHA standards in their workplace; requires the Secretary of Labor to report to the Senate and House Appropriations Committees 30 days prior to the first day of a scheduled hearing what actions have been taken to comply with these directives; and

Prohibits the use of funds contained in the Act to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home and which offers the courses of study pursued by the student in order to comply with title VI of the Civil Rights Act of 1964. H.R. 8069—Vetoed December 19, 1975. House overrode veto January 27, 1976; Senate overrode veto January 28, 1976. Became Public Law 94-206, without approval January 28, 1976. (*423, 15)

Supplemental: Appropriates $2,242,384,000 in emergency supplemental appropriations for fiscal year 1976 to the Department of Labor ($522,420,000 for summer youth jobs, $1.2 billion for public service employment, and $55.9 million for part time jobs for low-income older persons); HEW ($135,064,000 for a nationwide influenza immunization program to prevent an expected swine flu epidemic, and $23 million for Summer Youth Recreation and Transportation and the National Youth Sports Programs); and includes $300 million to liquidate obligations made under the Environmental Protection Agency's waste treatment construction program. H.J. Res. 890—Public Law 94-266, approved April 15, 1976. (142)

Supplemental: Makes supplemental appropriations of $9,393,791,970 in new budget authority for fiscal year 1976 and $2,647,057,180 for the transition period July 1–September 30, 1976; contains funds for the emergency school aid program (ESAP), areas facing difficulties as a result of desegregating schools such as in Boston and Louisville, drug abuse community programs, international agriculture development programs, military procurement, child nutrition and food stamp programs, cost-of-living increases, public assistance payments, veterans benefits, liquidation of obligations for the Federal-Aid Highway Program, elderly and handicapped housing loans, basic education grants, Corporation for Public Broadcasting, Regional Rail Service, National Commission on the Observance of International Women's Year, disaster relief for victims of recent earthquakes in Italy, and Corporation for Public Broadcasting; bars the use of funds under this or previous acts to continue the study of the effect of marihuana on human sexual response at Southern Illinois University and for the People's Bicentennial Commission; and contains other provisions. H.R. 13-172—Public Law 94- , approved , 1976. (173)

Supplemental legislative: Appropriates $33 million for fiscal year 1976 to complete the construction of the Library of Congress James Madison Memorial Building; retitles the Senate position of Procurement Officer, Auditor, and Deputy Sergeant at Arms to Deputy Sergeant at Arms and Doorkeeper; and increases the maximum salary which the Sergeant at Arms and Doorkeeper may fix for the position from $35,298 to $39,909 with the provision that such authority does not supersede any order of the President pro tempore of the Senate authorizing a higher salary or an adjustment under section 4 of the Federal Pay Comparability Act of 1970. H.J. Res. 811—Public Law 94-226, approved March 9, 1976. (VV)

Supplemental railroad: Makes supplemental appropriations of $587 million for fiscal year 1976, $4.25 million for the transition period July 1–September 30, 1976, $995.3 million for fiscal year 1977, and $176 million for fiscal year 1978 to implement the reorganization of the bankrupt Penn Central Railroad and 6 other railroads servicing a 17-State region in the northeastern and midwestern portion of the Nation. H.J. Res. 801—Public Law 94-252, approved March 30, 1976. (50)

ATOMIC ENERGY

Nuclear Regulatory Commission: Authorizes $274,300,000 for the Nuclear Regulatory Commission for fiscal year 1976; permits the obligation of funds received by the Commission for the cooperative nuclear safety research programs only to the extent provided in appropriation acts; and permits the retention and use of funds received by the Commission under appropriations acts for the cooperative nuclear research programs during fiscal year 1976. S. 3107—Public Law 94-291, approved May 22, 1976. (VV)

BUDGET

Deferrals—1976:

Army Corps of Engineers: Disapproves the proposed deferral of $700,000 contained in the Public Works Appropriations Act of 1976 (Public Law 94-180) for the United States Army Corps of Engineers to plan and design hopper dredges which was recommended by the President in his message of January 23, 1976. S. Res. 408—Senate agreed to April 14, 1976. (VV)

Indian health facilities: Disapproves the proposed deferral of $14,908,000 contained in the Department of the Interior and Related Agencies Appropriations Act of 1976 (Public Law 94-165) for Indian Health Facilities which was recommended by the President in his messages of July 26, 1975, and January 23, 1976. S. Res. 366—Senate agreed to March 9, 1976. (VV)

Indian public school construction: Disapproves the proposed deferral of $10,881,000 contained in the Department of the Interior and Related Agencies Appropriations Act of 1976 (Public Law 94-165) for construction grants to public schools in Indian reservation areas which was recommended by the President in his message of February 6, 1976. S. Res. 388—Senate agreed to March 9, 1976. (VV)

Youth Conservation Corps: Disapproves the proposed deferral of $23,680,000 contained in the Department of the Interior and Related Agencies Appropriations Act of 1976 (Public Law 94-165) for the Youth Conservation Corps which was recommended by the President in his message of February 6, 1976. (VV) S. Res. 385—Senate agreed to March 9, 1976. (VV)

Rescissions—1976:

Consumer Product Safety, Interior, Park Service, Selective Service, and State: Rescinds $75,831,000 of the $83,506,000 recommended by the President in his message of January 23, 1976, as follows: $2,656,000 for salaries and expenses of the Consumer Product Safety Commission; $1,775,000 for salaries and expenses of the Selective Service system; $4.9 million for the Department of Interior Bureau of Land Management, public lands development roads and trails; $58,500,000 for road construction of the National Park Service; and $8 million for road construction of the National Park Service; and $8 million for educational and cultural exchange activities of the Department of State. H.R. 11665—Public Law 94-249, approved March 25, 1976. (VV)

Resolutions—1976:

First budget resolution: Sets the level for total budget outlays for fiscal year 1976 at $413.3 billion, for total new budget authority at $454.2 billion, for the deficit at $50.8 billion, for Federal revenues at $362.5 billion and recommends a decrease in the aggregate levels of Federal revenues of $15.3 billion; and for the public debt at $713.1 billion with an increase in the temporary statutory limit on the public debt of $65.9 billion;

Sets the total levels for outlays for the major functional categories in the budget at $413.3 billion as compared to the President's budget recommendation, as revised in the spring update of March 25, 1976, for outlays of $395.2 billion, as follows (figures are in billions of dollars):

National defense: $100.8 as compared to $101.1; international affairs: $6.6 as compared to $6.9; general science, space, and technology: $4.5 as compared to $4.5; natural resources, environment, and energy: $15.7 as compared to $13.8; agriculture: $2.0 as compared to $1.9; commerce and transportation: $17.7 as compared to $16.4; community and regional development: $7.8 as compared to $5.7; education, training, employment, and social services: $23.0 as compared to $17.6; health: $37.9 as compared to $35.5; income security: $139.3 as compared to $136.5 (adjusted to exclude earned income tax credit); veterans benefits and services: $19.5 as compared to $17.2; law enforcement and justice: $3.5 as compared to $3.4; general government: $3.5 as compared to $3.6; revenue sharing and general purpose fiscal assistance: $7.35 as compared to $7.4; interest: $40.4 as compared to $41.3; allowances: $1.15 as compared to $1.5; and undistributed offsetting receipts: a minus $17.4 as compared with a minus $18.4.

Sets for the transition quarter beginning on July 1, 1976, levels of $86.0 billion for Federal revenues, $96.3 billion for total budget outlays, $16.2 billion for the deficit, and $647.2 billion for the public debt with an increase in the amount of the temporary debt limit of $20.2 billion. S. Con. Res. 109—Action completed in both Houses. (148, 175)

CONGRESS

Congressional tax liability: Amends title 4, U.S.C., to make it clear that Members of Congress may not, for the purposes of State income tax laws, including those of the District of Columbia, be treated as residents of any State other than the State from which they were elected; and provides equal treatment for delegates from the District of Columbia, Guam and the Virgin Islands and the Resident Commissioner from Puerto Rico. S. 2447—Passed Senate February 18, 1976. (VV)

Inaugural Committee: Authorizes a joint committee consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House respectively, to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect on January 20, 1977. S. Con. Res. 90—Action completed by both Houses. (VV)

Joint Committee on the Bicentennial: Amends S. Con. Res. 44 which established the Joint Committee on Arrangements for Commemoration of the Bicentennial to grant the Committee the power to enter into contracts for food, restroom, first aid, and informational facilities and to accept for transmittal to the Treasury whatever profits might be derived from such arrangements. S. Con. Res. 103—Action completed by both Houses. (VV) 1976. (VV)

Magna Carta delegation: Provides for a delegation of 25 Members of Congress consisting of the Speaker of the House, 12 members appointed by the Speaker, and 12 members appointed by the President of the Senate (upon the recommendation of the Majority and Minority Leaders) to go to the United Kingdom, at the invitation of the two Houses of Parliament, to accept a 1-year loan of an original copy of the Magna Carta for display in the Rotunda of the Capitol in connection with the Bicentennial. S. Con. Res. 98—Action completed by both Houses. (VV)

Professional societies fellowship programs: Expresses the appreciation of the Congress to the following scientific and engineering societies for their Congressional Science and Engineering Fellowship Programs: The American Association for the Advancement of Science, The American Physical Society, The Institute of Electrical and Electronic Engineers, The American Society of Mechanical Engineers, The American Psychological Association, The American Institute of Aeronautics and Astronautics, The Optical Society of America, and The Federation of American Societies for Experimental Biology, gives special thanks to The American Association for the Advancement of Science for its role in coordinating the fellowship programs of the various societies; and encourages the scientific and engineering communities to continue to expand this public service activity. S. Con. Res. 100—Action completed by both Houses. (VV)

CONSUMER AFFAIRS

Consumer Food Act: Requires food processors to develop, implement, and maintain adequate safety assurance procedures, and empowers the Secretary of Health, Education, and Welfare to develop and enforce safety assurance standards for procedures and systems that fail to provide adequate protection agains unreasonable risks of adulteration; seeks to upgrade the Nation's food safety and sanitation programs by requiring food recall coding, by providing a national registration program for food processors, and by extending the Food and Drug Administration's inspection authority to include records maintained by food processors; and requires food manufacturers to provide complete, and in some cases quantitative, food ingredient information, open dating information, and information regarding the nutritional value of food products. S. 641—Passed Senate March 18, 1976. (86)

Consumer leasing: Amends the Truth in Lending Act to make the provisions of the Act applicable to leases of consumer durables (such as automobiles and household goods) with a total contractual obligation not exceeding $25,000, to protect consumers against inadequate and misleading leasing information, to limit ultimate liability in connection with the leasing of such property, and to provide consumers with more meaningful information about the component and aggregate costs so that they can make better informed choices between leases, and between leases and credit sales. H.R. 8835—Public Law 94-240, approved March 23, 1976. (VV)

Consumer product safety: Authorizes $51 million for fiscal year 1976, $14 million for the transition period July 1–September 30, 1976, $60 million for fiscal year 1977, and $68 million for fiscal year 1978 to implement the Consumer Product Safety Act; contains provisions concerning the jurisdiction of the Consumer Product Safety Commission which: (1) eliminates pesticides from the Commission's jurisdiction under the Poison Prevention Packaging Act of 1970 as being duplicative of the Environmental Protection Agency's authority under the Federal Environmental Pesticide Control Act of 1972 to enforce pesticide-related packaging standards for the purpose of child protection; (2) provides that the Commission has no jurisdiction to regulate tobacco or tobacco products as being a "hazardous substance" under the Federal Hazardous Substances Act; (3) provides that the Commission, under the Hazardous Substances Act, may not regulate ammunition as a "hazardous substance" but may continue to establish and enforce cautionary labeling requirements relative to storage in a household, and may continue to regulate fireworks as a "hazardous substance"; requires the Commission to submit to the Senate and House Commerce Committees proposed safety rules and prohibits the Commission from adopting such a rule for 30 days; requires Commission approval prior to the submission of requests for appropriations by the Chairman; prohibits review or approval by any officer or entity within the Executive Office of the President of any employee or official other than a Commissioner; requires, in order to facilitate the identification of potential product hazards, that a product liability insurer or an independent testing laboratory which discovers a substantial product hazard in the course of its business must report that finding to its insured or its client and inform him of his obligations, if any, under the law; enlarges the enforcement authority of the Commission; provides a uniform Federal preemption clause for the Federal Hazardous Substances Act, the Flammable Fabrics Act and the Consumer Product Safety Act which provides that if the Commission has standards or regulations in effect for a product, State or local requirements must conform to the Federal standard unless the State requirement does not cause the product to be in violation of the Federal standard and provides a significantly higher degree of protection without unduly burdening the manufacture or distribution of products in interstate commerce; authorizes the Commission to seek a preliminary injunction to restrain distribution of a consumer product which the Commission has reason to believe presents a substantial product hazard; amends the Federal Tort Claims Act to allow a suit against the Consumer Product Safety Commission for a claim based upon a misrepresentation, deceit or discretionary abuse; gives courts the discretion to award attorney's fees to persons involved in obtaining judicial review under the Consumer Product Safety Act; and contains other provisions. S. 644—Public Law 94-284, approved May 11, 1976. (*297)

Equal credit opportunity: Amends title VII of the Consumer Credit Protection Act to expand the prohibitions against discrimination in credit transactions to include age, race, color, religion, national origin, receipt of public assistance benefits, and exercise of rights under the Act; provides that a rejected credit applicant may, upon request, obtain a statement giving the specific reasons credit was refused; creates a Consumer Advisory Council in the Federal Reserve Board to advise and consult with the Board concerning its supervisory functions under the Act and phases the existing Truth in Lending Advisory Committee into the Council; clarifies the relationship of this Act to existing or future State law dealing with credit discrimination, while generally allowing the State law to remain in effect if it is not inconsistent with this Act; strengthens the enforcement mechanisms in present law by continuing the present limits on punitive damages of $10,000 for individual actions and $100,000 for class actions and raising the ceiling for class action recoveries of civil penalties from the present formula of the lesser of $100,000 or 1 percent to the lesser of the $500,000 or 1 percent of the creditor's net worth; and empowers the U.S. Attorney General to bring enforcement actions, either on referral from other agencies or on his own initiative, where there are patterns or practices in violation of this Act. H.R. 6516—Public Law 94-239, approved March 23, 1976. (VV)

Gold labeling: Amends the National Gold and Silver Stamping Act of 1906 to provide that the actual fineness of gold or gold alloy (which is (1) used in any article made in whole or in part of gold or any of its alloys, (2) offered for sale, imported, exported, transported, mailed, or otherwise distributed in interstate or foreign commerce, or (3) sold by any manufacturer or importer more than 5 years after the date of enactment of this section) shall not be less than approximately $\frac{1}{14}$th carat (presently $\frac{1}{2}$ carat) of the indicated number of carats for articles made of gold or gold alloy and approximately $\frac{1}{7}$th carat (presently 1 carat) of the indicated number of carats for articles with solder or gold alloy of inferior fineness which are used to unite the parts of the article. S. 3095—Passed Senate May 13, 1976. (VV)

Motor vehicle information and cost savings: Amends the Motor Vehicle Information and Cost Savings Act to authorize additional appropriations to implement the four titles of the bill for fiscal year 1976, the transition period July 1–September 30, 1976, and fiscal year 1977 respectively, as follows: Title I, which requires the Secretary of Transportation to promulgate bumper standards applicable to all passenger motor vehicles: $500,000, $125,000 and $500,000; Title II, which provides for an automobile consumer information program: $2 million, $650,000 and $4 million; Title III, which provides for diagnostic inspection demonstration projects: $5 million, $1.5 million, $7.5 million; and Title IV, which sets odometer requirements: $450,000, $100,000 and $650,000; redefines the special motor vehicle diagnostic inspection demonstration project under title III to assure that the project will be designed for use by States for high volume inspection facilities to evaluate conditions of parts, components and repairs required to comply with State and Federal safety, noise and emission standards and to assist the owner in achieving the optimum fuel and maintenance economy and authorizes an additional $7.5 million for fiscal year 1978 to implement this program: provides the Secretary with additional authority to enforce the odometer anti-tampering provisions; and imposes a civil penalty of not to exceed $10,000 for each violation and criminal penalties of not more than $50,000 and/or 1 year in prison. S. 1518—Passed Senate June 5, 1975; Passed House amended January 22, 1976. (VV)

CRIME-JUDICIARY

Bankruptcy referees salary: Amends the procedure for fixing the salaries of bankruptcy referees and implements the Congressional Salary Adjustment Act (Public Laws 90–206 and 94–82); restores to Congress the sole authority to fix salaries of full-time bankruptcy referees which are set at $36,000 per year subject to adjustment pursuant to Public Laws 90–206 and 94–82; sets the maximum salary of a part-time bankruptcy referee at $18,400 subject to adjustment of the Judicial Conference; and provides that a retired referee may be called upon by a referee of a court of bankruptcy, and if willing, perform the duties of a bankruptcy referee within the jurisdiction of the court at the same compensation as the assigned referee serving the territory to which the retired referee is assigned. H.R. 6184—Public Law 94–217, approved February 27, 1976. (VV)

Copyright revision: Makes a general revision of the copyright law including: a lengthening of the period of a copyright from 56 years (28 years plus an allowed renewal of 28 years) to the lifetime of the author plus 50 years; the establishment of a Copyright Royalty Tribunal in the Library of Congress, which would set royalty rates, to be reviewed and changed every 10 years, for the use under a system of compulsory licenses of copyrighted works by cable television systems, public broadcasting stations, and certain jukebox owners; a requirement that jukebox owners, presently exempt from royalty payment requirements, must pay a royalty of $8 annually per machine; provisions permitting libraries to reproduce or distribute not more than one copy of a copyrighted work, which must include a notice of the copyright; and contains other provisions. S. 22—Passed Senate February 19, 1976. (40)

District court judgeships: Provides for the creation of 45 additional district court judgeships in 40 judicial districts located in 28 States and Puerto Rico so as to enable the district courts to handle more efficiently and expeditiously the increased volume of cases brought before them; reallocates the 7 judgeships authorized for the 3 judicial districts in the State of Oklahoma to provide a more equitable workload; converts the temporary judgeship in the middle district of Pennsylvania to a permanent judgeship; and contains other provisions. S. 287—Passed Senate April 1, 1976. (113)

Drug Enforcement Administration agents: Authorizes the Permanent Subcommittee on Investigations, at the discretion of its chairman, to provide the Drug Enforcement Administration with any information in its possession relevant to alleged illegal activities of certain agents of the Drug Enforcement Administration. S. Res. 391—Senate adopted February 17, 1976. (VV)

Lotteries: Amends titles 18 and 39, U.S.C., to make the present exemption which permits a newspaper published in a State with a State-conducted lottery to contain lottery information concerning that State's lottery, also apply to a newspaper published in an adjacent State in order to permit it to carry such lottery information provided the adjacent State also had a State-conducted lottery thus providing an exemption for newspapers with the same scope as that now applied to radio and television stations. H.R. 1607—Passed House June 6, 1975; Passed Senate February 4, 1976. NOTE: (A motion made on February 5, 1976, to reconsider the vote by which the Senate passed the bill is still pending.) (VV)

Mississippi judicial district: Amends title 28, U.S.C., to authorize an additional place in Corinth for holding court in the Eastern Division of the Northern Judicial District of Mississippi. S. 2412—Passed Senate May 11, 1976. (VV)

North Dakota judicial districts: Amends title 28, U.S.C., to transfer Bottineau, McHenry, Pierce, Sheridan, and Wells Counties from the Southwestern and Northeastern Judicial District of North Dakota to the Northwestern Judicial District of North Dakota in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to the nearest place of holding court. S. 2887—Passed Senate May 11, 1976. (VV)

Parole reorganization: Reorganizes the Federal parole structure by abolishing the present U.S. Board of Parole and replacing it with a 9-member U.S. Parole Commission as an independent agency attached to the Department of Justice (one to serve as Chairman, three to serve as members of a National Appeals Board, and five to serve in the five regions around the country); provides that the Commissioners shall be appointed by the President with the advice and consent of the Senate for 6 year terms except that no one may serve more than 12 years; provides for panels of hearing examiners, operating under guidelines adopted by the full Commission, to conduct parole hearings and recommend decisions subject to review by regional commissioners and the National Appeals Board before becoming final; provides an internal process by which the Attorney General or the offender may trigger a review by the National Appeals Board of any decision made by a regional commissioner; gives the Chairman the necessary administrative powers to keep the decision-making machinery of the Parole Commission operating on a timely basis; provides a procedure to insure better opportunities for decision-making and fairness in parole interviews; requires that the revocation process whereby a parolee is returned to prison for violating the conditions of his parole not based on a new criminal conviction must contain certain procedural safeguards set forth by the Supreme Court in Morrissey v. Brewer, 408 U.S. 471 (1972) and Gagnon v. Scarpelli, 411 U.S. 778 (1973), and in the case of a parolee charged with a new criminal conviction, the parole revocation process must satisfy the probable cause requirement set forth in U.S. v. Tucker, F.2d 77 (Fifth Cir. 1975); provides a process of appeal where conditions were imposed on a parole or release has been modified or denied or parole revoked with review of decisions upon written request; and provides that an offender who has demonstrated by his conduct that he has rehabilitated himself could be discharged from supervision by the Parole Commission. H.R. 5727—Public Law 94–233, approved March 15, 1976. (VV)

Patent laws revision: Provides for the general revision of the United States patent system including: duties and procedures of a generally administrative nature imposed on or carried out by the Patent and Trademark Office; substantive and procedural provisions regarding the obtaining of patents; rights of a patent holder and their enforcement; and implementation of the Patent Cooperation Treaty. S. 2255—Passed Senate February 26, 1976. (VV)

Territorial judges cost-of-living adjustment: Amends section 373, title 28, U.S.C., to grant to eligible judges the same cost-of-living adjustments in their retirement compensation as is given to annuitants under the civil service retirement fund as provided and computed in section 8340(b), title 5, U.S.C.; limits the total amount payable by any cost-of-living adjustment to 95 percent of the salary payable to a U.S. district court judge in regular active service; and excludes any life-tenure district court judge who retired by resigning the office in which event he receives the salary he was receiving at the time of his resignation for the remainder of his life. S. 14—Passed Senate February 4, 1976. (VV)

U.S. magistrates jurisdiction: Amends section 636(b), title 28, U.S.C., to clarify and further define the additional duties which may be assigned to a U.S. Magistrate in the discretion of a judge of the district court including the power to hear and determine certain pretrial motions and to hear and recommend disposition motions; provides that the order or recommendation of a magistrate is subject to final review by a judge of the court; and provides that a magistrate may be assigned any other duty not inconsistent with the Constitution and laws of the United States to enable the district courts to continue innovative experimentations in the use of the magistrate. S. 1283—Passed Senate February 5, 1976. (VV)

U.S. magistrates salary: Amends title 28, U.S.C., to provide that full-time U.S. Magistrates shall receive the same salary as full-time referees in bankruptcy and adjusts the salary of part-time magistrates to up to one-half of the amount received by full-time magistrates instead of the fixed amount of $15,000 contained in present law, thus giving the Judicial Conference of the United States which sets the salary of magistrates, the authority necessary to fix the salary of full-time magistrates at $36,000 per year, the current statutory maximum for referees in bankruptcy. S. 2923—Passed Senate February 5, 1976. (VV)

DEFENSE

Armed Services per diem allowance: Amends section 404(d) of title 37, U.S.C., to increase the maximum rate of per diem allowance for uniformed services personnel traveling on official business from $25 to $35 and from $40 to $50 for travel to "high cost" areas under "unusual circumstances." H.R. 8089—Passed House November 17, 1975: Passed Senate amended March 31, 1976. (VV)

Assistant commandant of the Marine Corps: Authorizes the Assistant Commandant of the Marine Corps to have the permanent grade of General, at the discretion of the President, with the advice and consent of the Senate, without regard to the overall strength of the Marine Corps instead of, as provided in present law, if the overall strength of the Marine Corps exceeds 200,000; and provides that the Secretary of Defense rather than the service Secretary must determine the disability retirement of general officers and medical officers. S. 2117—Public Law 94–225, approved March 4, 1976. (VV)

Carbonyl chloride: Grants the Secretary of Defense authority to sell, within the United States, all stocks of the chemical labeled carbonyl chloride (also named phosgene) or any of its commercial derivatives procured by the Department of Defense for use as a chemical warfare agent notwithstanding the provisions of section 409 of Public Law 91–441 which prohibit disposal of a chemical warfare agent before it has been detoxified (unless immediate disposal is clearly necessary, in an emergency, to safeguard human life) or transport of a chemical to or from any military installation in the United States unless the Secretary determines that it is in the interest of national security. H.R. 9570—Public Law 94–251, approved March 29, 1976. (VV)

Defense production—voluntary agreements: Amends the Defense Production Act, as amended (Public Law 94–153), to make the provisions relating to voluntary agreements developed in support of the national defense effort or the International Agreement on an International Energy Program effective 120 days after the effective date of the Act (November 30, 1975) in order to afford certain agencies adequate time to prepare voluntary agreements which conform to the new provisions. H.J. Res. 784—Public Law 94–220, approved February 27, 1976. (VV)

Department of Defense employees oath authority: Amends section 303, title 5, U.S.C., to authorize civilian employees of the Department of Defense to administer oaths to witnesses while conducting official investigations. H.R. 508—Public Law 94–213, approved February 13, 1976. (VV)

Household goods shipments: Empowers the Federal Maritime Commission to investigate and suspend non-compensatory rates submitted by movers to the Department of Defense when those rates are submitted under a traffic allocation system such as the "Okinawa Trial" which denies the opportunity for other movers to bid for the traffic within a period of time. S. 2023—Passed Senate March 29, 1976. (VV)

Military construction authorization: Authorizes $3,289,785,000 for fiscal year 1977 to provide construction and other related authority for the military departments and the Office of the Secretary of Defense, within and outside the United States, and authority for the construction of facilities for the Reserve components; includes funds for the NATO infrastructure program; the Naval nuclear weapons storage site upgrade program; the aeropropulsion systems test facility at the Arnold Engineering Development Center near Tullahoma, Tennessee; and the Trident weapon system; requires the Department of Defense to report to the Armed Services Committees of the Senate and House on a bi-monthly basis for the next 2 years the following information on each of the 2 sites for the nuclear weapons storage programs: (1) estimated cost, (2) design start date (actual or estimated), (3) construction contract award date (actual or estimated), (4) completion date (actual or estimated), and (5) remarks including the reasons for any changes from the previous report; incorporates into law present Defense Department procedures relating to base closings to alleviate the large amount of litigation that has resulted from such closings; and contains other provisions. H.R. 12384—Passed House May 7, 1976; Passed Senate amended May 20, 1976; On conference. (183)

Military procurement authorization: Authorizes a total of $31,831,348,000 for fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces; prescribes the authorized personnel strength for each active duty component and for the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense; and authorizes the military training student loads. H.R. 12438—Passed House April 9, 1976; Passed Senate amended May 26, 1976; In conference. (200)

Reservists active duty: Authorizes the President, if he determines it is necessary to augment active forces for operational missions, to authorize the Secretaries of Defense or Transportation (in the case of 50,000 Selected Reservists for a limited 90-day period, without a declaration of war or national emergency; prohibits the call-up of reservists to perform functions relating to insurrection or enforcement of State laws or to assist Federal or State Government in time of disaster, accident, or catastrophe; excludes members called up from computation of active duty strength and grade structure; requires the President to submit to the Speaker of the House and the President of the Senate a written report stating the circumstances necessitating the call up of reservists and the anticipated use of them; provides that the service of all units so called up may be terminated by order of the President or by passage of a concurrent resolution by the Congress; reaffirms that nothing contained in this Act shall be construed as amending or limiting the application of the provisions of the war powers resolution; and entitles any reserve member ordered to active duty to the same reemployment rights and benefits currently provided reservists ordered to initial active duty for training for 3 months or more. S. 2115—Public Law 94–286, approved May 14, 1976. (VV)

DISTRICT OF COLUMBIA

Medical and dental manpower: Extends for 1 year, through fiscal year 1977, title III of the District of Columbia Medical and Dental Manpower Act of 1970, as amended, which provides Federal grant assistance to Georgetown University Schools of Medicine and Dentistry and the George Washington University School of Medicine with such grants limited to the minimum amounts necessary but not to exceed $5,000 per enrolled medical student or $3,000 per enrolled dental student. H.R. 12132—Public Law 94– , approved 1976. (VV)

Metro transit police: Gives Congressional consent to amendments adopted by the Commonwealth of Virginia and the State of Maryland and favored by the District of Columbia Government by amending the Washington Metropolitan Area Transit Regulation Compact (which is the interstate compact agency for construction and operation of the METRO rapid transit system and operation of the METRO bus system) to authorize the Washington Metropolitan Area Transit Authority to establish and maintain a regular METRO Transit Police Force having jurisdiction over all METRO property and powers which are the same as those of law enforcement officers of the signatory jurisdictions; authorizes the Transit Authority to issue rules and regulations for safe and effective transit facility operations; designates the Superior Court of the District of Columbia as the court of competent jurisdiction in the District for prosecution of violations against Transit Authority rules and regulations; clarifies the authority of the D.C. Council to enact amendments to the Compact agreement; and reserves the right of Congress to amend, alter, or repeal this Act. H.R. 8719—Public Law 94– , approved 1976. (VV)

Southeastern University: Insures the continued eligibility of Southeastern University for the benefits of the several acts providing for aid to higher education; amends its Charter to make possible the continued operation of the University as a nonprofit, tax-exempt educational institution under the provisions of section 501(c)(3) of the Internal Revenue Code; and makes provisions of Federal law relating to the audit of accounts of private corporations apply to the University. S. 611—Public Law 94–350, approved March 29, 1976. (VV)

ECONOMY—FINANCE

Bankruptcy of major municipalities: Amends Chapter IX of the Bankruptcy Act to change the procedure by which the debts of political subdivisions and public agencies and instrumentalities are adjusted to enable a city to continue to function in an orderly manner while an adjustment or extension of its debts is negotiated with its creditors; provides that a legislature, or a governmental officer or organization empowered by State law is authorized to file a petition stating its eligibility to file, its inability to pay its debts as they mature, and its desire to effect a plan of composition or extension of its debts; provides that an entity is not eligible for relief unless (1) it has successfully negotiated a plan of adjustment of its debts with creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan, (2) it has negotiated in good faith with its creditors and has failed to obtain, with respect to a plan of adjustment with its debts, the agreement of creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan, (3) such negotiation is impracticable, or (4) it has a reasonable fear that a creditor may attempt to obtain a preference; provides that the filing of the petition would operate as a stay of the commencement or continuation of any court or other proceeding against the debtor; provides that while the city is negotiating with its creditors so as to work out a suitable plan, the city would remain under the management of whatever form of government is provided by State law; authorizes the city to issue certificates of indebtedness to supplement available funds on a short-term basis for essential governmental services; and requires that a final proposed plan be approved by more than 50 percent of all creditors and by creditors holding two thirds of the amount. H.R. 10264—Public Law 94–260, approved April 8, 1976. (*575)

Child day care staffing standards: Delays the date for State compliance with Federal child care staffing standards from February 1, 1976, to July 1, 1976; increases Federal funding for social services programs by $62.5 million in fiscal year 1976 and $62.5 million for the transition quarter which is to be used only for child care expenditures and would be allocated on an 80 percent matching basis; reserves 20 percent of the additional Federal funding for allocation to States having particular funding problems related to complying with Federal child care standards; authorizes a tax credit for employing welfare recipients in child care; permits, on a temporary basis until September 30, 1976, the waiver of child care standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served, or in the case of a center, no more than 5 such children, provided that it is not feasible to place the children in a facility which does meet the Federal requirements; modifies, also temporarily until September 30, 1976, the limitation on the number of children who may be cared for in a family day care home by not counting the family day care mothers own children if they are under age 6; and makes permanent certain social services provisions related to addicts and alcoholics. H.R. 9803—Vetoed April 6, 1976. House overrode veto May 4, 1976; Senate sustained veto May 5, 1976. (20,92,165)

Amends title XX of the Social Security Act to give States complete flexibility to determine what income or other eligibility conditions they wish to establish for participation in social services programs and how those conditions are to be enforced; extends the suspension of Federal staffing standards for child care for pre-school children retroactively from February 1, 1976, until October 1, 1977; provides $375 million in additional child care Federal funding to October 1, 1977; and provides incentives for the employment of welfare recipients in child care jobs. H.R. 12455—Passed House March 16, 1976; Passed Senate amended May 20, 1976; on conference. (188)

Library of Congress trust funds: Increases the amount of interest paid on the trust funds deposited with the United States Treasury by the Library of Congress Trust Fund Board to a rate which is the higher of the rate of 4 percent per annum or .25 percent less than a rate to be determined by the Secretary of the Treasury based on the current average market yield on the outstanding long-term marketable obligations of the United States having the longest periods of maturity adjusted to the nearest ⅛th of 1 percent. S. 2619—Public Law 94-289, approved May 22, 1976. (VV)

Increases the amount of interest paid on the Library of Congress Trust Fund deposited with the United States Treasury under the Act of August 20, 1912 (Bequest of Gertrude M. Hubbard, a perpetual trust, for the purpose of adding to the Gardiner Greene Hubbard collection of engravings), to a rate which is the higher of the rate of 4 percent per annum or .25 percent less than a rate to be determined by the Secretary of the Treasury based on the current average market yield on the outstanding long-term marketable obligations of the United States having the longest periods adjusted to the nearest ⅛th of 1 percent, with such interest, as income, subject to disbursement for the purposes authorized and provided in the bequest. S. 2620—Public Law 94-290, approved May 22, 1976. (VV)

New York City retirement systems: Allows five New York City pension funds to participate in the plan worked out in November of 1975 between the city and its municipal employee unions and pension funds to purchase city notes without bringing to bear certain provisions of the Internal Revenue Code which affect the tax status of beneficiaries of such pension funds; provides that the Secretary of the Treasury may disapprove any amendment which the banks' Municipal Assistance Corporation may make to the Agreement if he feels it is not consistent with the purpose of this bill; and requires that reports on the financial condition of the funds be submitted to the Treasury and the Ways and Means and Finance Committees of the House and Senate respectively. H.R. 11700—Public Law 94-236, approved March 19, 1976. (VV)

Pension plans tax-free rollover: Provides for a tax-free rollover treatment to an employee who receives a payment on account of a termination of his employer's retirement plan or a complete discontinuance of contributions under such a plan, and in certain situations involving sales of subsidiaries and divisions of corporations: requires, generally, that the payment be reinvested by the employee in a qualified plan or individual retirement account within 60 days; and makes these provisions applicable to payments received on or after July 4, 1974. H.R. 12725—Public Law 94-267, approved April 15, 1976. (VV)

Public debt limit increase: Increases the temporary debt limit by $32 billion for a total temporary and permanent debt limit of $627 billion until June 30, 1976. H.R. 11893—Public Law 94-232, approved March 15, 1976. (VV)

State taxation of depositories: Extends from January 1, 1976, to September 12, 1976, the moratorium on interest taxation of depositories to allow Congress a full year to consider the recommendations of the Advisory Commission on Intergovernmental Relations whose report was not submitted to the Congress until September 12, 1975; adds Connecticut, Rhode Island, Maine and Vermont to the list of States allowed NOW accounts; amends the Truth in Lending Act to provide that discounts offered by merchandisers for cash purchases would not, for truth in lending disclosure purposes, constitute interest or a finance charge under the State usury or time-price differential laws; places a 3-year limit on the ban against surcharges to give Congress an opportunity to review the matter during that time; and authorizes the Federal Reserve Board to delegate to its staff, the authority to issue interpretations or approvals that would have binding effect in subsequent litigation over violations of the Truth in Lending Act. S. 2672—Public Law 94-222, approved February 27, 1976. (VV)

EDUCATION

Allen J. Ellender fellowships: Extends for 4 years, through fiscal year 1980, the Allen J. Ellender Fellowship Program authorized by Public Law 92-506 which provides fellowships to disadvantaged secondary school children; increases the authorization therefor from $500,000 annually to $750,000 for fiscal years 1977 and 1978, and $1 million for fiscal years 1979 and 1980; eliminates the present limitation on the number of fellowships to be awarded annually to accommodate the increased funding; amends that section of the Program which sets forth requirements for the program to ensure that students and teachers from rural communities and small towns, as well as teachers from urban areas, will be adequately represented among the fellowship recipients. H.J. Res. 491—Public Law 94-277, approved April 21, 1976. (VV)

Indochinese refugees educational assistance: Authorizes $125.5 million to reimburse (on a 100 percent basis the first year and a 50 percent basis the second year) local educational agencies for costs incurred in educating Indochina refugee children through a basic cost of education grant plus a $300 per refugee child payment for supplementary assistance; and amends the Adult Education Act to direct the Commissioner to operate a program of grants to State and local governments for adult education programs for refugees with such funds to be appropriated from existing authorizations. S. 2145—Passed Senate October 29, 1975; Passed House amended January 19, 1976; In conference. (VV)

ELECTIONS

Federal Election Commission—campaign financing: Amends the Federal Election Campaign Act to provide for a Federal Election Commission composed of the Secretary of the Senate and the Clerk of the House of Representatives, as ex officio and non-voting members, and six members appointed by the President by and with the advice and consent of the Senate, to replace the present Commission, which is composed of the Secretary of the Senate and the Clerk of the House of Representatives, as ex officio and non-voting members, and six members, two appointed by the President pro tempore of the Senate, two by the Speaker of the House of Representatives, and two by the President, in order to meet the constitutional objections stated by the Supreme Court in *Buckley* v. *Valeo*, decided January 30, 1976, to the delegation of the administration and enforcement of the Act, which constitute executive branch functions, to officers appointed by the legislative branch instead of by the President as required under the Appointments Clause of the Constitution;

Provides that not more than three appointed members of the Commission may be of the same political party; sets terms of six years for the members, except that of the members first appointed, two are to be appointed for terms ending April 30, 1977, two for terms ending April 30, 1979, and two for terms ending April 30, 1981, and provides that none of the two shall be affiliated with the same political party;

Gives the Commission jurisdiction for civil enforcement of the Act and of the provisions of the Internal Revenue Code regarding public financing of Presidential campaigns; requires the affirmative vote of four members of the Commission to establish guidelines, initiate civil actions, render advisory opinions, make regulations, conduct investigations, or report apparent violations of law;

Makes various reporting and definitional changes, which include a requirement that (1) in any year when a candidate is not on the ballot for election the candidate and his authorized committees must file a report for any quarter in which contributions or expenditures aggregate more than $10,000; (2) records be kept by political committees only on contributions in excess of $50, instead of in excess of $10 and (3) corporations, labor organizations and other membership organizations need only report expenditures over $2,000 per election for communications to stockholders or members advocating the election or defeat of candidates; permits corporations and labor organizations to make two written solicitations per year from stockholders, executive and administrative personnel, and from employees respectively;

Restructures the penalty provisions of the law to provide criminal penalties for substantial violations and civil penalties and disclosure for less substantial violations, as well as protection for persons who enter into and adhere to conciliation agreements with the Commission;

Retains the present $1,000 per candidate per election limit on contributions by a "person" (defined as an individual, partnership, committee, association, corporation, labor organization and any other organization, which includes a non-qualified political committee) and now adds a limit on contributions by a "person" to political committees of national parties which are not the authorized political committees of any candidate at a yearly aggregate of $20,000 and at a yearly aggregate of $5,000 to any other political committee; retains the present $5,000 limit per candidate per election on contributions by a qualified multi-candidate political committee to a candidate and his authorized political committees, and now adds a limit on contributions by a multi-candidate political committee (1) to any political party committee which is not the authorized committee of any candidate at a yearly aggregate of $15,000 and (2) to any other political committee at a nearly aggregate of $5,000; contains a new provision which permits the Republican and Democratic Senatorial Campaign Committees and the national committee of a political party to contribute up to $17,500 to a candidate for nomination or for election to the U.S. Senate; treats as a single political committee all committees established by a single person or group of persons, and provides that these limits do not apply to transfers between national, State, District or local political committees, or to joint fundraising efforts; retains the present yearly aggregate limit on an individual's contributions at $25,000;

Requires that any printed or broadcast communication which expressly advocates the election or defeat of a clearly identified candidate and which is disseminated to the public must contain a notice that it is authorized by a candidate or it is not authorized by a candidate;

Prohibits a Presidential candidate who accepts public financing from spending more than $50,000 from his own personal funds or the funds of his immediate family in connection with his campaign (including funds spent in behalf of the Vice-Presidential nominee); provides for the termination of public financing for Presidential candidates who lack demonstrable support;

Amends the provisions pertaining to Congressional review of rules or regulations proposed by the Commission;

Changes the limits on honoraria which may be accepted by Federal officials from $1,000 to $2,000 (excluding amounts accepted for actual travel and subsistence expenses for self, a spouse, or an aide) for any speech, appearance, or article, and the total limit from $15,000 to $25,000; and contains other provisions. S. 3065—Public Law 94-283, approved May 11, 1976. (96,164)

Political campaigning: Condemns the conduct of certain people toward Governor George Wallace of Alabama and Senator Henry Jackson of Washington which campaigning in Wisconsin; states that such conduct, wherever it should occur, is un-American, undemocratic, and violates the principles of free speech and fair play; and declares that any loyal and patriotic citizen has the right to seek the office of President and present his or her views to the American people without fear of harassment or of bodily harm. S. Res. 419—Senate adopted March 31, 1976. (VV)

EMPLOYMENT

Public works employment: Authorizes the Secretary of Commerce to make grants to State and local governments for the total cost of construction, renovation, repair or other improvement of public works projects, to make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the cost of public works projects authorized by any other Federal law where the Federal assistance is available and construction has not started, and to make grants for all or any portion of the State or of the local share cost of any public works project authorized by any State or local law where construction has not yet started;

Assures that at least ½ of 1 percent but not more than 10 percent of funds appropriated will be granted within any one State and groups Guam, the Virgin Islands and American Samoa together for this purpose; requires the Secretary, as long as the national unemployment rate is 6½ percent or more, to give priority to applications from areas in excess of the national rate and thereafter to give priority to areas in excess of 6½ percent but less than the national unemployment rate requires that 70 percent of the funds must be used for the first priority category; authorizes up to $2.5 billion to carry out this title for the period ending September 30, 1977;

Authorizes, in title II, funds for financial assistance to State and local governments for each of 5 succeeding calendar quarters (beginning April 1, 1976) of $125 million when the national seasonally adjusted unemployment rate reaches 6 percent plus an additional $62.5 million for each one-half percentage point over 6 percent which on an annual basis means $500 million would be authorized when the national rate reaches 6 percent and an additional $250 million would be authorized for each percentage point that the rate rises over 6 percent; authorizes assistance from these amounts to States and local governments based upon their unemployment rate and level of tax revenue, as measures of recessionary impact and the level of services provided;

Amends, in title III, section 201(c) of the Public Works and Development Act of 1965 to increase the authorization for fiscal year 1976 from $75 million to $200 million, and authorizes under this section payment during the calendar year ending December 31, 1976, of interest supplements sufficient to reduce the interest up to 4 percentage points on loans guaranteed by the Secretary in order to aid firms needing financial assistance to continue current operations;

Authorizes the Secretary to designate as a redevelopment area cities of 50,000 or more and to make grants to cities with approved development programs; authorizes $50 million for fiscal year 1976 and $50 million for the transition period for this purpose;

Authorizes $500 million for fiscal year 1976 and makes the funds available for obligation until September 30, 1976, for supplementing existing programs; authorizes $1,417,968,050 for the fiscal year ending September 30, 1977, for grants for the construction of publicly owned wastewater treatment works pursuant to title II of the Federal Water Pollution Control Act; and contains other provisions. H.R. 5247—Vetoed February 13, 1976. House overrode veto February 19, 1976; Senate sustained veto February 19, 1976. (*348,41).

Public works jobs: Amends the Public Works and Economic Development Act of 1965 to provide $2.5 billion for anti-recessionary public works authorizations, of which (1) $2 billion is for grants to State and local governments for public works projects, (2) $125 million is for an increase for working capital loans to prevent the loss of jobs in the private sector, and (3) $375 million is for the Job Opportunities Program (title X, to accelerate the job-creating impact of various Federal, State and local programs; authorizes $1.375 billion for countercyclical assistance to State and local governments; and makes additional authorizations of $1.4 billion for waste treatment works construction grants under the Federal Water Pollution Control Act. S. 3201—Passed Senate April 13, 1976; Passed House amended May 13, 1976; In conference. (150)

ENERGY

Coal leasing—strip mining: Makes basic changes in the Mineral Leasing Act of 1920 governing leasing of Federally owned coal which constitutes almost 50 percent of the recoverable coal reserves in the United States; provides that all leasing shall be done under a 5-year program to be developed by the Secretary of the Interior and designed to meet national needs for Federal coal in a manner consistent with (a) timely and orderly development of Federal coal resources, (b) environmental protection, and (c) receipt of fair market value for public resources; provides that leases may be issued only by competitive bidding on either a royalty or bonus bidding basis in order to permit a wider opportunity for competition for Federal coal leases;

Requires the preparation of land use plans where the United States owns both the surface and subsurface prior to sale of leases, and provides that, in cases where the surface is not Federally owned, no lease sale shall be held if the Secretary determines that development of such coal deposits would be inconsistent with any applicable State or local land use plan except where the Secretary finds that such development would be in the national interest;

Eliminates prospecting permits and preference right leases to prospectors as no longer appropriate or necessary since considerable information has been accumulated since 1920 about Federal coal resources which provides an adequate basis for leasing decisions; provides that coal leases shall be for a specified term of 20 years and so long thereafter as coal is produced instead of for indeterminant periods dependent upon diligent production as at present; requires a lessee, within 3 years after obtaining a coal lease and before significant environmental disturbance, to formulate and submit for approval a development plan which must show the work to be done, the manner of extraction, how applicable environmental and health and safety standards as well as reclamation standards set out in title II are to be met;

Increases by 22½ percent (from 37½ to 60 percent) the share of lease revenues to the State in which the lease is located and specifies that the additional 22½ percent shall be used for planning, construction and maintenance of public facilities, and provision of public services in those areas suffering impact problems as a result of energy development;

In title II, the Federal Lands Surface Mining Control and Reclamation Act of 1975, applies to Federal lands and Federal coal the basic surface coal mining and reclamation standards of the vetoed strip mining bill (H.R. 25); requires the Secretary to issue regulations for a Federal program implementing this Act; requires after enactment of this Act that persons wishing to conduct any surface mining operations on Federal lands must obtain a permit from the Secretary; specifies the permit application information that must be given to demonstrate that the environmental protection provisions of this Act can be met, which includes submission of a reclamation plan; provides for giving public notice and holding public hearings in regard to an application; and contains other provisions. S. 391—Passed Senate July 31, 1975; Passed House amended January 21, 1976. (*364)

Coastal zone management: Amends the Coastal Zone Management Act to assist States facing Outer Continental Shelf (OCS) oil and gas development or other energy-related developments and facilities affecting the coastal zone; provides assistance in the form of grants or loans to coastal States from a new coastal energy facility impact fund, which is to be available to States receiving or anticipating impacts in their coastal zones from the exploration, development, and production of energy resources, or from the location, construction, expansion or operation of any energy facility requiring a Federal license or permit; authorizes moneys for the fund at $250 million per year for 3 fiscal years and the 1976 transition period; provides that up to 20 percent of the moneys may be used for planning grants with the balance to be used for efforts to reduce or ameliorate adverse impacts from energy exploration and development or to provide public facilities and services necessitated by such activity; requires as a condition of eligibility the provision of public facilities and services necessitated by such activity; requires as a condition of eligibility for assistance from the fund that the State must participate in a coastal zone management program and must experience or anticipate a temporary or net adverse impact or have experienced an adverse impact within the 3 years prior to enactment; authorizes automatic grants payable from the general treasury to any State where OCS oil or natural gas is being directly landed (brought ashore); provides a Federal guarantee for State or local government bonds issued to pay for measures needed to reduce adverse coastal impacts; contains provisions to clarify that Federal leases must be consistent with approved coastal zone management programs of the affected States; raises the Federal share for coastal zone management funding from 66⅔ percent to 80 percent; amends the Mineral Leasing Act of 1920 to increase from 37½ percent to 60 percent the amounts returned to the States as reclamation funds from royalties paid to the Federal Government by mining companies extracting federally-owned minerals; and contains other provisions. S. 586—Passed Senate July 16, 1975; Passed House amended March 11, 1976; In conference. *NOTE:* (Impact fund provisions are also contained in S. 521, Outer Continental Shelf Management, which passed the Senate July 30, 1975.) (*291)

Energy conservation in buildings: In title I, authorizes the Federal Energy Administration to make grants to States for financing residential insulation improvements for low-income persons; provides an authorization of $55 million annually for fiscal years 1976, 1977, and 1978, with the funds to be used chiefly for purchasing insulation materials to be installed in dwelling units occupied by persons with incomes not exceeding 50 percent of the median income for the area; includes among insulation materials items which improve the thermal efficiency of a dwelling and caulking and weather stripping but excludes all mechanical equipment costing more than $50 per dwelling unit; provides that the program shall utilize, insofar as possible, the services of volunteers and persons employed under other Federal, State, and local programs such as manpower program trainees and public service employees;

In title II directs the Secretary of Housing and Urban Development to establish energy conservation standards for new residential and commercial buildings and to facilitate

State and local adoption and implementation of such standards within a reasonable period of time; provides that the Secretary shall develop minimum performance standards for such structures in consultation with the Federal Energy Administration, the National Bureau of Standards, and the General Services Administration, and published them within a period of 36 months after the date of enactment; provides that the standards shall become effective after an additional period, not exceeding 18 months, for a review and adoption by State and local governments; defines a minimum performance standard as a standard which establishes an energy efficiency goal for a particular type of building, under varying conditions, such as climate, without specifying the means to reach that goal; allows an additional 6 months for promulgation of the standard, if needed: allows a period of 12 months for States and localities to adopt standards in their building codes that meet or exceed Federal standards; prohibits, effective one year after promulgation of the Federal standards Federal loan and grant assistance and the extension of credit by Federally supervised financial institutions for new residential and commercial construction in areas which do not adopt equivalent or stricter standards; authorizes the Secretary to make grants not to exceed $5 million in fiscal year 1976 to assist States in meeting the costs of developing performance standards and certification procedures for implementing them; and contains other provisions. H.R. 8650—Passed House September 8, 1975; Passed Senate amended March 9, 1976; In conference. (54)

ERDA supplemental authorization: Authorizes to the Energy Research and Development Administration supplemental appropriations of $34 million for fiscal year 1976 and $23 million for the transition period July 1-September 30, 1976, in budget authority and $26.5 million and $17.5 million in budget outlays for the respective periods to provide a balanced nuclear weapons research, development, and testing program, a capability to verify the peaceful nuclear explosive agreement now being negotiated with the Soviet Union as part of the Threshold Test Ban Treaty and to purchase, at reduced cost, a computer now being leased for the Lawrence Livermore Laboratory. S. 3108—Public Law 94-269, approved April 16, 1976. (VV)

Helium conservation: States the sense of the Senate that the President should direct the Secretary of the Interior to make prompt arrangements to conserve the helium, which is now being extracted by private companies in the process of upgrading natural gas prior to distribution and then vented into the atmosphere, in accordance with ERDA's conclusions that: large quantities of helium will be required for energy-related applications such as fusion reactors, superconducting magnetic energy storage, and superconducting power transmission; known existing helium reserves will be essentially exhausted at about the time that large helium demand will commence and increase; the U.S. will be dependent in part on foreign source fields and helium extracted from the atmosphere; and cost of helium extracted from the atmosphere is far greater than that extracted from natural gas. S. Res. 253—Senate adopted May 13, 1976. (VV)

International petroleum exposition: Authorizes the President to invite the several States and foreign nations to participate in the Internatonal Petroleum Exposition at Tulsa, Oklahoma, from May 16 through May 22, 1976, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products. S.J. Res. 59—Public Law 94-227, approved March 11, 1976. (VV)

Interstate oil and gas compact: Extends until December 31, 1978, the consent of Congress to the Interstate Compact to Conserve Oil and Gas consisting of 30 oil and gas producing states and 6 associate member States whose purpose is to conserve oil and gas by prevention of physical waste thereof from any cause, and calls for a special report from the Attorney General on the activities of advisory committees used in connection with activities related to the purposes of the Compact to see if they are consistent with the antitrust laws. S.J. Res. 126—Passed Senate May 3, 1976 (VV)

Natural gas pipeline safety: Amends the Natural Gas Pipeline Safety Act of 1968 to authorize an additional total of $24.5 million to implement the Natural Gas Pipeline Safety Act through fiscal 1978 and to make certain improvements to protect the public from hazards associated with natural gas pipelines; authorizes from the total $11.5 for State grant-in aid programs; defines the term "intrastate pipeline transportation" as that not subject to the jurisdiction of the Federal Power Commission under this Act and includes within the definition those pipeline facilities which transport gas from an interstate pipeline to a direct sales customer purchasing gas for its own consumption; provides that the Secretary may establish standards relating to emergency plans and procedures; requires the Technical Pipeline Safety Standards Committee to meet at least twice yearly; revises the State certification process to allow certification by a State agency even though it may not have adopted each Federal safety standard established within 120 days of the date of certification; requires States which are certified under this act, to encourage and promote programs designed to prevent natural gas pipelines and subsurface utility equipment from being damaged as a result of excavation; increases the amount of Federal contribution to State efforts to enforce Federal natural gas pipeline safety standards by authorizing the Secretary to make available to the States 100 percent (not to exceed $60,000 for each State) of the cost of up to 3 full-time inspectors under certain conditions; continues the existing authority of the Secretary of Transportation to pay up to 50 percent of the cost of personnel, equipment, and activities with respect to interstate transmission lines; makes clear that the Department of Transportation's pipeline safety standards are the only Federal pipeline safety standards that an interstate pipeline operator is required to meet; provides that the Federal Power Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or to the exercise of rights grated under such standards for pipeline facilities or for the transportation of gas, other than the standards prescribed by the Secretary of Transportation; requires the Secretary to include in his annual report to the President and Congress a full compilation of natural gas pipeline leaks occurring during that year; requires each person engaged in the transportation of natural gas to conduct a program to educate the public on the hazards associated with gas leaks and on the importance of reporting gas odors and leaks to the pipeline owner; authorizes the Secretary to develop materials suitable for use in such a consumer education program; and authorizes under specified conditions citizens' civil actions for mandatory or prohibitive injunctive relief, including interim equitable relief, against any person who is alleged to be in violation of the Act. S. 2042—Passed Senate May 28, 1976. (VV)

Naval petroleum reserves production: Transfers, effective June 1, 1977, jurisdiction of Naval Petroluem Reserve No. 4 in Alaska from the Secretary of the Navy to the Secretary of Interior and redesignates it the "National Petroleum Reserve in Alaska"; provides for continued petroleum exploration of this reserve but prohibits development and production until authorized by Congress.

Amends chapter 64, title 10, United States Code, to provide for the full exploration and development of the naval petroleum reserves and to permit limited production of Naval Petroleum Reserves No. 1—Elk Hills in California, No. 2—Buena Vista in California, and No. 3—Teapot Dome in Wyoming, within 90 days of enactment, under the authority of the Secretary of the Navy; defines "national defense" for the purposes of permitting such production in terms broad enough to permit production to offset a situation such as the Arab embargo of 1973; provides that production will not exceed the maximum efficient rate determined in accordance with sound oilfield engineering practices for a period of 6 years with provision for 3 year extensions thereafter; authorizes the President at his discretion to direct that all or any part of oil produced from the naval petroleum reserves be placed in a strategic reserve or be exchanged for petroleum of equal value to be so stored; waives, for the period of production, the requirement that the Secretary consult with the Congress on every contract; retains the requirement that the sale of oil be by competitive bidding for periods of not more than 1 year; prohibits the sale of more than 20 percent of the estimated Federal share of petroleum produced from Elk Hills to any buyer in a single year; requires that pipelines and facilities at this reserve be capable of handling 350,000 barrels of oil a day not later than 3 years after enactment; establishes a special account in the Treasury to offset outlay requirements for continued exploration and development, construction and filling of a strategic reserve and for operations in the Alaska reserve; requires that pipelines operate as common carriers; and contains other provisions. H.R. 49—Public Law 94-258, approved April 5, 1976. (*342)

ENVIRONMENT

Blackbird control: Waives certain provisions of the National Environmental Policy Act of 1969, the Federal Environmental Pesticide Control Act and other provisions of law to permit the Secretary of the Interior, to treat with chemicals registered for bird control purposes, "blackbird roosts" in Kentucky and Tennessee determined through normal survey practices of the Department of the Interior to contain in excess of 500,000 birds and upon prior certification by the Governor of the respective State that the roost is a hazard to human health unless the Secretary determines that treatment of a particular roost would pose a hazard to human health, safety, or property. H.R. 11510—Public Law 94-207, approved February 4, 1976. (VV)

Council on Environmental Quality: Authorizes $3 million for each of fiscal years survey practices of the Department of the Council on Environmental Quality. H.R. 11619—Public Law 94- , approved 1976. (VV)

Earthquake hazard reduction program: Amends the National Science Foundation Act of 1950 to establish a national earthquake hazard reduction program, under the direction of the President, to reduce and minimize the risks to life and property from future earthquakes in the United States; includes the following four elements in the program: (1) research and implementation of findings in tectonics, seismology, and geology under the supervision of the Geological Survey; (2) research in engineering, education, planning, and the social sciences under the supervision of the National Science Foundation; (3) effective information dissemination and education activities; and (4) assistance to the States (under the Disaster Relief Act of 1974) to make the results of research available; establishes a national advisory committee to assist the President on the progress, implementation and coordination of the program; requires the President to submit an annual report to the Congress describing and evaluating progress achieved in reducing earthquake hazards and including any recommendations for legislative or other action; and authorizes therefor $40 million for fiscal year 1977; $50 million for 1978, and $60 million for 1979. S. 1174—Passed Senate May 24, 1976. (VV)

Endangered species: Amends the Endangered Species Act of 1973 to extend and increase authorizations for the Departments of Interior and Commerce, who jointly administer the act, as follows: Department of the Interior—from $10 million per fiscal year to $1.8 million for the transition period July 1–September 30, 1976, and a combined total of $25 million for fiscal years 1977 and 1978; and Department of Commerce—from $2 million per fiscal year to $500,000 for the transition period July 1–September 30, 1976, and a combined total of $5 million for the fiscal years 1977 and 1978. S. 3122—Passed Senate May 18, 1976. (VV)

Environmental research authorization: Provides a separate authorization for fiscal year 1976 and the transition period July 1–September 30, 1976, with respect to the research programs of the Environmental Protection Agency (EPA) under the Noise Control Act ($2.11 million and $527,505), Federal Insecticide, Fungicide, and Rodenticide Act ($14,047,000 and $3,511,970), Public Health Service Act—Section 301 ($2,115,000 and $528,750), Safe Drinking Water Act ($12,789,200 and $3,197,300), Clean Air Act ($148,194,700 and $37,048,675), Solid Waste Disposal Act ($13,534,300 and $3,383,575), and Federal Water Pollution Control Act Amendments of 1972 ($148.7 million for fiscal year 1976 only) in order to conform the environmental research authorizations to committee jurisdictional responsibility in the House of Representatives and to synchronize their expiration; limits to 10 percent the amount of funds that may be transferred to or from particular categories; specifies that no appropriation may be made to EPA for environmental research, development, or demonstration after September 30, 1976, unless previously authorized by Congress; directs the Administrator to submit to Congress a 5-year plan for environmental research, with such plan revised yearly; and requires that whenever funds are appropriated in any fiscal year above the President's budget request for fiscal year 1977, the first $3 million of any excess for EPA shall be used to assure the adequacy, reliability and quality of the testing of chemicals and the first $25.280 million of any excess for the Federal Drug Administration shall be used to maintain and assure the preclinical and clinical adequacy, reliability, and quality of the testing of drugs, food additives, devices, and cosmetics. H.R. 7108—Passed House July 10, 1975; Passed Senate amended April 13, 1976; House requested conference April 30, 1976. (VV)

Noise control: Extends for 2 years, through fiscal year 1977, the monetary authorizations under the Noise Control Act of 1972 and authorizes therefor $24,290,000 for fiscal year 1976, $6,072,500 for the transition period July 1–September 30, 1976, and $26,719,000 for fiscal year 1977. H.R. 5272—Public Law 94- , approved 1976. (VV)

Noise control research: Amends the Noise Control Act to extend through fiscal year 1977 the research, development and demonstration programs of the Environmental Protection Agency carried on under the Noise Control program and authorizes therefor $2.5 million. S. 3436—Passed Senate May 18, 1976. (VV)

Scrimshaw art preservation: Permits the Secretary of Commerce, who administers the Endangered Species Act with respect to whales, to grant exemptions for a limited period of time for the sale of finished scrimshaw (etched designs and carvings from whale bone) products in interstate commerce. S. 229—Passed Senate April 14, 1975; Passed House amended February 17, 1976. (VV)

Toxic substance control: Directs the Environmental Protection Agency (EPA) to require testing of a chemical substance or mixture if its commercial use might present "an unreasonable risk" of injury to health or environment and if there were insufficient data to judge the effects upon health and the environment or if its use would cause wide exposure to humans and the environment and there were insufficient data available;

Establishes a Federal advisory committee of 8 members with testing expertise to develop a priority list of chemicals for testing and gives EPA 12 months after a substance is listed to begin either rulemaking proceedings to require testing or to publish its reasons for not acting;

Requires manufacturers of new chemical substances to give notification to EPA 90 days in advance of first manufacture and to supply test data along with that notification if required by EPA; provides that this requirement does not apply to research chemicals unless EPA specifically includes any such chemical;

Requires manufacturers and processors of chemical substances to maintain certain records and reports to enable the Administrator to determine if unreasonable risks exist as well as health and safety studies conducted which the Administrator is authorized to require submission of;

Authorizes EPA to take immediate action—such as seizure and condemnation—against chemicals that posed an "imminent hazard" to human health and the environment; and provides civil and criminal fines for violations of the act;

Exempts from the law pesticides, tobacco or tobacco products, nuclear materials, firearms and ammunition, and food, drugs, cosmetics and medical devices;

Prohibits discriminations against employees for participating in enforcement of the law and authorizes the Labor Department to hold hearings on alleged violations;

Authorizes citizens to bring suits to enjoin certain violations and to require the Administrator of EPA to perform his mandatory duties; and contains other provisions. S. 3149—Passed Senate March 26, 1976. (103)

Water resources planning: Increases from $1.5 million to $2 million the authorization for expenses of the Water Resources Council in administering the Water Resources Planning Act, and adds the Territory of Guam for eligibility to receive water planning grants under title III of the act. H.R. 11876—Public Law 94–285, approved May 12, 1976. (VV)

Water quality report: Amends the Federal Water Pollution Control Act to increase from $17 million to $17.25 million the authorization for the National Study Commission to complete its report on water quality. H.R. 12193—Public Law 94–238, approved March 23, 1976. (VV)

Weather modification: Authorizes $1 million to the Secretary of Commerce to develop a comprehensive and coordinated national policy on weather modification and a recommended national weather modification research and development program, taking into account the international impact of such a program, and to submit a report of his findings and recommendations to the President and Congress within 1 year of enactment. S. 3383—Passed Senate May 21, 1976. (VV)

FISHERIES AND MARINE LIFE

Fisheries development (outer Pacific Ocean): Extends for 3 years, through fiscal year 1979, the Central, Western, and South Pacific Fisheries Development Act which assists in the development of tuna and other latent fishery resources of the outer Pacific Ocean; requires the Secretary of Commerce to submit an annual report to the President and Congress on the progress of the program; and authorizes therefor a total of $4 million for the 3-year period ($1,333,333 annually). H.R. 13380—Passed House May 18, 1976; Passed Senate May 21, 1976. (VV)

Fisheries management—200-mile limit: Establishes, in title I, effective March 1, 1977, a fisheries conservation zone, contiguous to the U.S. territorial sea and extending for 200 nautical miles from the U.S. coasts; provides exclusive fishery management jurisdiction to the U.S. within this zone over all fish (except highly migratory species) and beyond this zone, over anadromous species of fish (e.g. salmon) that spawn in U.S. rivers and streams and migrate to ocean waters, and over U.S. Continental Shelf fishery resources; declares Congressional intent that this legislation support and encourage continued U.S. efforts to obtain an internationally acceptable treaty which provides for effective fishery conservation and management; and grants the Secretary of Commerce authority to conform regulations issued pursuant to this Act to the fishery management jurisdiction provisions of an international fishery agreement that may result from any U.N. Conference of the Law of the Sea once that agreement has been ratified by the U.S.;

Authorizes, in title II, foreign fishing for species and resources under the exclusive fishery management authority of the United States pursuant to (1) an international fishery agreement which is in effect as of the date of enactment of this legislation pending renegotiation (in the case of a treaty) or expiration (in any other case) and (2) a "governing international fishery agreement"; states the sense of the Congress that a governing international fishery agreement between the U.S. and a foreign national shall contain specified provisions essential to the conservation and management of fishery resources and shall not become effective until it has been submitted to and received by Congress; sets the total allowable level of foreign fishing with respect to any fishery under exclusive U.S. jurisdiction at that portion of the optimum yield which will not be harvested by U.S. vessels; prohibits a foreign fishing vessel from fishing within the U.S. fishery conservation zone after February 28, 1977, unless it has, on board the vessel, a valid permit issued by the Secretary of Commerce through the Secretary of State; authorizes the Secretary of the Treasury to embargo seafood from nations which the Secretary of State certifies bars U.S. fishing vessels from its waters, subjects them to conditions and restrictions unrelated to fishery conservation and management, or seizes U.S. fishing vessels in violation of or without authorization under agreement;

Establishes, in title III, a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S. jurisdiction which would establish national standards for fishery management; establishes eight Regional Management Fishery Councils which are empowered to recommend management plans and regulations to the Secretary of Commerce who is authorized to regulate fisheries within the expanded U.S. jurisdiction to prevent overfishing, rebuild overfished stocks, and insure conservation; contains provisions on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement;

Amends, in title IV, the Fishermen's Protective Act, the Marine Mammal Protection Act of 1972, and the Atlantic Tunas Convention Act of 1975; repeals the Acts of May 20, 1964 (Bartlett Act) and October 14, 1966; and authorizes $5 million for fiscal year 1976, $5 million for the transition period July 1–September 30, 1976, $25 million for fiscal year 1977; and $30 million for fiscal year 1978 to the Secretary of Commerce to carry out the provisions of the Act. H.R. 200—Public Law 94–265, approved April 13, 1976. (14)

Fisheries research and development programs: Amends the Commercial Fisheries Research and Development Act of 1964 to enable the Trust Territory of the Pacific Islands to receive Federal matching funds for approved research and development projects intended for the development of the Nation's commercial fisheries. S. 1414—Passed Senate May 21, 1976. (VV)

Killer whales: Amends the Marine Mammal Protection Act of 1972, as amended, to prohibit the Secretary of Commerce from issuing any permit for the taking of any marine mammal of the orcinus orca species (or killer whale) except for scientific research purposes which shall be conducted without removing the mammal from the water or endangering its health or welfare. S. 3130—Passed Senate March 29, 1976. (VV)

Marine protection and sanctuaries: Amends the Marine Protection, Research and Sanctuaries Act of 1972 to extend the authorizations under titles I, II, and III of the act for 1 year, through fiscal year 1977, as follows: Title I—ocean dumping permit program, $4.8 million; Title II—research program on the effects of ocean dumping on the marine environment, $5.6 million; and Title III—marine sanctuaries, $500,000; and requires a separate annual report from the U.S. Army Corps of Engineers and the Coast Guard on their administration of provisions under the act. S. 3147—Passed Senate May 21, 1976; Reconsidered and repassed by Senate May 25, 1976. (VV)

GENERAL GOVERNMENT

Action authorization: Amends the Domestic Volunteer Service Act of 1973 to extend for 2 years, through fiscal year 1978, the operation of certain programs of the ACTION Agency including VISTA, University Year for Action, the Youth Challenge program, the National Student Volunteer program and certain special volunteer programs; authorizes the Director to include in agreements with VISTA sponsors a requirement that the sponsor assume a share of the direct costs of supporting VISTA volunteers through a program of grants whereby up to 20 percent of the funds appropriated for VISTA may be used for a cost sharing arrangement of this type; provides that a foster grandparent can continue to serve a child under his care beyond the child's 21st year; modifies the formula of funding for the Service Learning Programs; and clarifies the authority of the Director to undertake and support volunteer service programs including the recruitment and training of volunteers. H.R. 12216—Public Law 94——, approved ———— 1976. (VV)

Animal welfare: Brings interstate carriers, intermediate handlers and terminal facilities under the regulation of the Animal Welfare Act; requires that they adhere to standards promulgated by the Secretary of Agriculture with respect to the transportation in commerce of all animals protected by the act, including standards for containers, feed, water, rest, ventilation, temperature, and handling; requires dealers, exhibitors, auction sale operators, and Federal, State and local agencies to obtain a veterinarian's certificate before delivering any dog, cat, or other animal designated by the Secretary for transportation in commerce; prohibits the transportation of dogs, cats and other animals at less than the minimum age established by the Secretary; prohibits C.O.D. transportation of animals unless the shipper guarantees payment of roundtrip fare and any out-of-pocket expenses of the carrier or intermediate handlers and carriers and authorizes the Secretary to impose upon such handlers and carriers a civil penalty of up to $1,000 for each violation of the standards for humane care; revises the present penalty provisions and provides a uniform civil penalty of up to $1,000 for violations by any person regulated under the statute; adds a new section which makes it a crime punishable by a $5,000 fine and/or of 1 year's imprisonment to sponsor knowingly, participate in, or use the mails to promote fights between live dogs or other mammals, except man; prohibits, with limited exception, such activities in connection with fights between gamefowl and other live birds; and authorizes $400,000 per year to enforce this section. S. 1941—Public Law 94–279, approved April 22, 1976. (121)

Bicentennial flag display: Permits the Secretary of the Interior to erect and maintain flag poles on the Capitol Grounds adjacent to the Union Station Plaza to fly the flags of the 50 States of the United States and its territories and possessions. S. 3161—Passed Senate March 18, 1976; Passed House amended May 17, 1976. (VV)

Civil Rights Commission: Raises the limitation on appropriations for the United States Commission on Civil Rights from $7 million to $7,893,000 for fiscal year 1976, $1,933,000 for the transition period July 1–September 30, 1976, and $9,540,000 for fiscal year 1977, and allows the Commission to give "cost of living" and other increases in employee benefits to its staff above the stated budget limitation in the same manner as other Federal executive agencies now do pursuant to law. H.R. 8957—Public Law 94– , approved 1976. (VV)

Commission on New Technological Uses of Copyrighted Works: Extends the authorization for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of the Commission which was established pursuant to Public Law 93–573 (1) to study and make recommendations to the Congress concerning the use of copyrighted works in automatic systems capable of storing, processing, retrieving, and transferring information, and by various forms of machine reproduction, not including reproduction by instructors for use in face-to-face teaching activities; and (2) the creation of new works by the application or intervention of automatic systems or machine reproduction. S. 3187—Passed Senate May 11, 1976. (VV)

Commodity Futures Trading Commission: Amends the Commodity Futures Trading Commission Act of 1974 to: delete the requirement that the appointment of the executive director of the Commission be subject to confirmation by the Senate; enable the Commission to grant immunity to witnesses; and make certain technical changes in the Commodity Exchange Act. S. 3051—Passed Senate May 25, 1976. (VV)

Daylight saving time: Temporarily supersedes certain provisions of the Uniform Time Act of 1966 and places the nation on daylight savings time for 7 months, from the second Sunday in March to the second Sunday in October for a period of two years, instead of the present 6 month period beginning the last Sunday in April and ending the last Sunday of October; continues the present authority of States to exempt themselves from periods of advanced time by State law; directs the Federal Communications Commission to minimize the impact of the time change on daytime broadcasters; and directs the Department of Transportation to study the effects of the extended advanced time periods for the next 2 years. S. 2931—Passed Senate February 25, 1976. (47)

Federal Trade Commission authorizations: Increases the authorization for the Federal Trade Commission (FTC) not to exceed the following amounts: $54 million for fiscal year 1976, $13.5 million for the transition period July 1–September 30, 1976, $70 million for fiscal year 1977, and $85 million for fiscal year 1978 of which not to exceed $25 million, $6.25 million, $35 million and $45 million for the above fiscal years shall be for the purposes of maintaining competition; authorizes the FTC to appoint 25 attorneys, economists, special experts and outside counsels for the FTC's responsibilities with regard to maintaining competition; requires the simultaneous transmission of budgetary and legislative recommendations to the President or the Office of Management and Budget and the Congress; limits appeals of Commission orders to the court of appeals for the circuit within which the resident resides or maintains its principal place of business in order to prevent "forum shopping" on appeals of Commission orders; expands the Commission's jurisdiction authorized by the Clayton Act from "in commerce" to "in or affecting commerce"; makes orders of the Commission effective 60 days after their issuance subject to a stay issued by the Commisison or the appropriate court of appeals, or the Supreme Court when an applicable petition for certiorari is pending; improves the Commission's ability to obtain information by compulsory process by imposing penalties for failure to reply in a timely manner with the Commission's processes and by providing statutory amendments reflecting current decisional law on the issues or ripeness of suits to enjoin enforcement of the Commission's compulsory processes; requires that the Commission grant or deny petitions for issuance, amendment, or repeal of rules within 120 days after the date the petition is received by the Commission; creates a 3-year program of assistance and grants to States to improve their antitrust capabilities and authorizes therefor not to exceed $10 million for each of fiscal years 1976, 1977, and 1978 and $2.5 million for the transition period; makes technical amendments to the Wool Products Labeling Act and the Fur Products Labeling Act; and amends the Textile Fiber Products Identification Act to continue the exemption of outer coverings of furniture, mattresses, and box springs from the provisions of the Act but permits the FTC to require care labeling with respect to outer coverings of furniture. S. 2935—Passed Senate March 18, 1976. (VV)

Increases the authorization for the Federal Trade Commission for fiscal years 1976 from $46 million to $47,091,000, and extends until July 5, 1978, the filing date for certain reports required under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act. H.R. 12527—Public Law 94– , approved 1976. (VV)

Fire prevention and control: Authorizes additional appropriations of $3.75 million for the transition period July 1–September 30, 1976, $15 million for fiscal year 1977 and $20 million for fiscal year 1978 to implement the Federal Fire Prevention and Control Act of 1974 except for that section relating to reimbursement for costs of firefighting on Federal property; and authorizes $1,275,000 for the transition period, $5.5 million for fiscal year 1977 and $6 million for fiscal year 1978 for activities of the Fire Research Center of the National Bureau of Standards. S. 2862—Passed Senate May 19, 1976. (VV)

Fiscal year adjustment: Amends existing law to change the dates of various provisions of law which require the submission of reports and other actions based on the present fiscal year system to conform to the new fiscal year dates of October 1–September 30 pursuant to the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). S. 2445—Public Law 94-273, approved April 21, 1976. (VV)

Fiscal year transition: Amends existing law to insure the continuation of Federal programs and activities, based by statute on the present fiscal year, through the fiscal transition period of July 1–September 30, 1976. S. 2444—Public Law 94-274, approved April 21, 1976. (VV)

Flag display: Codifies in an official code for the use and guidance of civilians and civilian organizations the proper method of using and displaying the flag of the United States including provisions which specify the display of an all-weather flag 24 hours a day; the position of the flag when displayed in churches or other than being flown from a staff (such as on automobiles or suspended in buildings); when, and who may order, a flag flown at half-staff; the use of a flag patch or pen by members of the military, policemen, firemen or members of patriotic organizations; and the conduct for salute of the flag; and reiterates existing authority whereby the President may alter, repeal, or add rules pertaining to the custom of displaying the flag whenever he deems appropriate. S.J. Res. 49—Passed Senate May 10, 1976. (VV)

Library of Congress James Madison Memorial Building: Amends the Act of October 19, 1965, as amended, to provide an additional authorization of $33 million for completion of the Library of Congress James Madison Memorial Building thus making a total authorization of $123 million. H.R. 11645—Public Law 94-219, approved February 27, 1976. (VV)

Mariana Islands: Approves the text of the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" providing for the creation of a Commonwealth of the Northern Marianas under U.S. sovereignty, local self-government including the adoption of a local constitution by the residents of the Northern Mariana Islands, granting of citizenship or national status to the residents of the Commonwealth, and the extension of the provisions of the U.S. Constitution, treaties, and statutes with some limitation to the Commonwealth. H.J. Res. 549—Public Law 94-241, approved March 24, 1976. (44)

NASA authorization: Authorizes $3,695,-170,000 for fiscal year 1977 to the National Aeronautics and Space Administration of which $2,761,425,000 is for research and development, $120,290,000 is for construction of facilities and $813,455,000 is for research and program management; includes funding for: continued development of the Space Shuttle; a solar maximum mission to measure solar activity during the peak period of maximum solar activity 1979–1980; development of the thematic mapper used for earth surveys; a magnetic mapping satellite to be used for the location of mineral resources; construction of a new transonic wind tunnel designed to support national aeronautical research and development needs; the initiation of an aircraft energy technology development project to provide the technology base for a 50 percent improvement in fuel economy in commercial transports; support of ongoing flight projects in space science an dapplications; and continuation of a series of research tasks in aeronautical and space research designed to provide a base for future undertakings, the construction of and/or modifications and upgrading of facilities to support these programs, and a highly technical staff to conduct research and manage these multidisciplinary activities; and contains other provisions. H.R. 12453—Public Law 94- , approved 1976. (VV)

National Foundation on the Arts and Humanities: Extends the National Foundation on the Arts and Humanities Act of 1965 and authorizes therefor a total of $250 million for fiscal year 1977, $300 million for fiscal year 1978, and such sums as necessary for fiscal years 1979 and 1980; amends the act to provide for specific funding for the State Humanitites program in accordance with the funding levels applicable to the State Arts program; provides for more State involvement in the Humanities program and gives them several options to enable them to carry out programs appropriate to their individual needs; gives added support to museums in funding areas which are of particular importance; contains an Arts Challenge Program whereby the Federal government will match $1 for $3 in non-Federal funds in order to improve long-range planning and development of arts organizations; authorizes the National Endowment for the Arts to develop demonstration programs in arts education; provides for the establishment of a Humanities Challenge Program with attention focused on the goals and priorities relevant to the period between the present and the 200th anniversary of the Constitution of the United States in 1989; provides for a Bicentennial Photography and Film Project to produce a comprehensive survey of the United States and to be carried out primarily by the States themselves; makes the appointment by the President of the members of the National Council on the Arts and the National Council on the Humanities subject to the advice and consent of the Senate; and applies the same fair labor practices applicable to the Art program to the activities of the Humanities Endowment where appropriate. H.R. 12838—Passed House April 26, 1976; Passed Senate amended May 20, 1976. (VV)

National Portrait Gallery: Amends the National Portrait Gallery Act of 1962 to redefine the term "portraiture" to permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in addition to "painted or sculpted likenessess". S. 1657—Public Law 94-209, approved February 5, 1976. (VV)

National Study Commission on Records and Documents of Federal Officials: Extends for 1 year, until March 31, 1977, the life and reporting date of the National Study Commission on Records and Documents of Federal Officials which is charged with studying problems relative to the control, disposition and preservation of records and documents of Federal officials; authorizes the Chief Justice of the United States to appoint a member of the Federal judiciary to serve on the Commission instead of a justice of the Supreme Court as is now provided; and corrects a reference to a provision in the law relating to payment of travel expenses for official travel by Commission members. S. 3060—Public Law 94-261, approved April 11, 1976. (VV)

National Security Council: Amends the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council. S. 2350—Vetoed December 31, 1975. Senate overrode veto January 22, 1976. (1)

Presidential recordings and materials: Disapproves certain regulations proposed by the Administrator of General Services on October 15, 1975, under section 104 of the Presidential Recordings and Materials Preservation Act which involve: the composition of the Presidential Materials Review Board, responsible for the final archival decisions regarding the disposition of the Nixon tapes and other materials; the adequacy of the provisions giving notice to affected individuals prior to the opening of these files to the public; the procedures to be followed by the Administrator in considering petitions to protect certain legal or constitutional rights by limiting access to specified materials; the procedures for allowing reproduction of the tapes; and two provisions relating to the restriction of materials which are personal in nature or which would result in a defamation of character. S. Res. 428—Senate adopted disapproval resolution April 8, 1976. (VV)

Privacy Protection Study Commission: Increases from $1.5 million to $2 million the authorization for the Privacy Protection Study Commission established under Public Law 93-579 to conduct a comprehensive study and submit its recommendations to the President and Congress on the adequacy of procedures now in force in the Government and private sector to protect personal information about individuals, and removes the $750,000 fiscal year limitation on expenditures to permit the Commission to obligate its funds at a rate necessary to initiate research studies and hold hearings. S. 3435—Passed Senate May 19, 1976. (VV)

Regulatory reform: Provides for regulatory reform with respect to the independent regulatory agencies which are subject to the jurisdiction and oversight responsibility of the Commerce Committee (the Interstate Commerce commission (ICC), Federal Trade Commission (FTC), Federal Power Commission (FPC), Federal Communications Commission (FCC), Civil Aeronautics Board (CAB), Federal Maritime Commission (FMC), and Consumer Product Safety Commission (CPSC)) by (1) directing each agency to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to prepare and submit to the Congress proposed modernization, revision, and codification of all statutes and other lawful authorities administered or applied by it; and (2) applying to each agency provisions which have been previously enacted into law with respect to one or more of the agencies and found to be useful and practicable including timely consideration of petitions, Congressional access to information, representation in civil actions, protection of officers, avoidance of conflict of interest, and accountability. S. 3308—Passed Senate May 19, 1976 (VV)

Science policy: Establishes a framework for the formulation of national policy and priorities for science and technology; establishes an Office of Science, Engineering, and Technology Policy in the Executive Office of the President to be headed by a Director with up to four Associate Directors, appointed by the President with the advice and consent of the Senate; directs the Office to prepare and update annually a 5-year forecast of Federal investment in science and technology including the allocation of Federal funds among the major expenditure areas and an estimate of options for various levels of Federal investment and to furnish the list of options to the Office of Management and Budget for use in developing budget recommendations to the President; establishes an Intergovernmental Science, Engineering, and Technology Advisory Panel to advise the Director in establishing priorities for addressing civilian problems at State, regional, and local levels which science and technology can help solve;

Provides that the Director of the Office shall, in addition to his other duties, serve as a member of the Domestic Council and shall, at the request of the National Security Council, advise the Council on such matters concerning science and technology as relate to national security; Creates a 2-year President's Committee on Science and Technology of 9 to 15 members (including the Director of the Office) all of whom shall be appointed by the President, to conduct a comprehensive survey of Federal science and technology, and to submit to the President an interim report after 1 year and a final report after 2 years of its findings; permits the President to extend the life of the Committee if he determines that it is advantageous for the Committee to continue in being;

Redesignates the Federal Council for Science and Technology (established pursuant to Executive order 10807 issued May 13, 1959, as amended by Executive Order 11381 issued November 8, 1967) as the Federal Coordinating Council for Science, Engineering, and Technology, and gives it the statutory authority to coordinate Federal plans and programs in science and technology; designates the Director of the Office as Chairman of the Committee; and

Authorizes therefor $2.5 million for fiscal year 1976 and the transition period July 1–September 30, 1976, and $4 million for fiscal year 1977. H.R. 10230—Public Law 94–282, approved May 11, 1976. (VV)

Small business amendments: Provides for the President to undertake a comprehensive review of all Federal disaster loan authorities and to submit a report of his recommendations, including possible consolidation of Federal disaster loan authorities, to the Congress not later than December 1, 1976; increases the funds available for the lease guarantee program from $10 million to $25 million and establishes a separate program to allow small businesses to finance the leasing of pollution control equipment through the sale of tax-exempt industrial revenue bonds; increases the amount which regular small business investment companies (SBIC's) may borrow from the government from 200 to 300 percent of private capital and increases the amount "venture capital" SBIC's may borrow from the government from 300 to 400 percent of private capital; extends these leverage increases to Minority Enterprise Small Business Investment Companies with a maximum leverage ceiling of $35 million; increases an SBIC's ability to guarantee a small business' minority obligations from 90 percent to 100 percent of the total obligation; authorizes limited partnerships with a corporate general partner to be licensed by SBA as small business investment companies; permits banks to own 100 percent of SBIC's voting common stock; permits SBA to make loans to State and local development companies for the acquisition of existing plant facilities and increases the maturity on such acquisitions and construction loans from 15 to 20 years plus such additional time as is necessary for construction; increases the maximum amount of economic opportunity loans from $50,000 to $100,000 per borrower and requires an equitable distribution of such loans between urban and rural areas; increases the maximum amount of financial assistance to State or local development companies from $350,000 to $500,000; increases the maximum amount of regular SBA business loans from $350,000 to $500,000 per borrower; authorizes an additional $21.5 million for the Surety Bond Guarantee Fund; directs the Chief Counsel for Advocacy of the Small Business Administration to make a comprehensive study of Small Business in America and submit a report to the President and Congress within 1 year of enactment; authorizes therefor $1 million; and establishes a uniform interest rate on SBA's share of any disaster loan except loans covering physical damage and economic injury caused by a natural disaster and product disasters which shall be made at a rate of interest not exceeding the rate of interest in effect at the time of the disaster. S. 2498—Public Law 94– , approved 1976. (*589)

Smithsonian Institution—National Museum: Authorizes $1 million annually for fiscal years 1978 through 1980 to the Smithsonian Institution for carrying out the purposes of the National Museum Act of 1966 through which the Smithsonian assists museums with specific reference to the continuing study of museum problems and opportunities, training in museum practices, preparation of museum publications, research in museum techniques, and cooperation with agencies of the government concerned with museums. S. 2945—Passed Senate April 6, 1976. (VV)

Spanish Americans, data on: Directs the Department of Labor, in cooperation with the Department of Commerce, to develop methods of improving and expanding the collection, analysis, and publication of unemployment figures for Spanish-origin Americans; directs the Departments of Commerce, Labor, HEW, and Agriculture to collect and regularly publish data pertaining to the socio-economic conditions of Spanish Americans; requires the Director of the Office of Management and Budget, in cooperation with the Secretary of Commerce and the heads of other data-gathering Federal agencies, to develop a Government-wide program for the collecton of data on Spanish Americans; directs the Department of Commerce, in cooperation with the appropriate State and local agencies and various population study groups, to determine what steps are necessary in the development of creditable estimates of undercounts of Spanish Americans in future censuses; requires the Secretary of Commerce to ensure that in the taking of future censuses and other data-collection activities, there will be provided Spanish-language questionnaires and bilingual enumerators; and directs the Department of Commerce to implement a program for the employment of Spanish Americans within the Bureau of the Census and to report to Congress within 1 year of enactment on the progress of the program. H.J. Res. 92—Passed House October 29, 1975; Passed Senate amended May 21, 1976. (VV)

Trust Territory of the Pacific: Provides the following authorizations for the continuance of civil government for the Trust Territory of the Pacific Islands: $80 million for fiscal years 1976 and 1977; $15.1 million for the transition period July 1-September 30, 1976, plus such amounts authorized but not appropriated in fiscal year 1975; $1.8 million for human development projects in the Marshall Islands; $8 million for the construction of facilities for a 4-year college to serve the Micronesian community but provides that no appropriation may be made until the President has made a study concerning the educational needs and concepts of such a college and transmitted the study to the House and Senate Interior Committees which will have 90 calendar days to review the study; and the continuation of an authorization up to but not exceeding $10 million to offset reductions in or the termination of Federal grant-in-aid programs; and provides for the extension to Guam of those laws of the United States made applicable to the Northern Marianna Islands by the provisions of Public Law 94–241, except for the provision extending certain social security act programs. H.R. 12122—Public Law 94–255, approved April 1, 1976. (VV)

White House Conference on Handicapped: Extends from 2 to 3 years the period during which the President is authorized to call a White House Conference on Handicapped Individuals pursuant to Public Law 93–516. S.J. Res. 154—Public Law 94–224, approved February 27, 1976. (VV)

GOVERNMENT EMPLOYEE.

Federal mine safety inspectors protection: Amends section 1114, title 18, U.S.C., to place Federal mine safety inspectors under those provisions which protect Federal officials from interference with the performance of their official duties. S. 3070—Passed Senate May 19, 1976. (VV)

*Hatch Act revisions: Amends present law to permit active participation by Federal employees in political processes at all levels of government, effective January 1, 1977; retains existing prohibitions on political contributions and other political activities for employees of the Internal Revenue Service, the Central Intelligence Agency, and the Justice Department except for (1) employees in non-sensitive positions, (2) employees in sensitive positions when the agency head determines that their political activity would not adversely affect public confidence and Congress does not disapprove within 30 days, and (3) Presidential appointees who determine national policies; contains provisions to protect employees from influence or coercion regarding political support and financial contributions; prohibits political activity on duty, in Federal buildings, or in uniform; establishes an independent Board on Political Activities of Federal Employees to adjudicate promptly alleged violations of the Act; mandates a 30 day suspension of any employee convicted of violating the prohibitions against use of official information or authority; provides that an employee may campaign for public elective office during his spare time or by utilizing accrued annual leave; exempts certain White House personnel from the prohibtion against political activities while on duty, on government property, or in uniform but states that this exemption is not an authorization for such activity; and contains other provisions. H.R. 8617—Vetoed April 12, 1976. House sustained April 29, 1976. (69,109)

Secret Service director's salary: Amends sections 5315 and 5316, title 5, U.S.C., to place the Director and the Deputy Director of the Secret Service in levels IV and V of the executive schedule of pay, respectively. S. 3028—Passed Senate February 26, 1976. (VV)

HEALTH

Alcohol abuse, prevention and treatment: Extends for 3 years, through fiscal year 1979, and increases the authorizations for programs administered by the Secretary of Health, Education and Welfare through the National Institute of Alcohol Abuse and Alcoholism with particular emphasis on: increased Federal assistance for States adopting the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act, expanded and improved alcoholism research programs, and the provision of services to currently underserved populations. S. 3184—Passed Senate March 29, 1976; Passed House amended May 21, 1976. (VV)

Biomedical and behavioral research: Amends the Public Health Service Act to reestablish the present National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research as an 11 member Presidential Commission (with provision that the members of the present Commission who are serving when this Act becomes law shall continue to serve on the new Commission until the President makes his appointments) and directs the Commission to assume all powers, functions and duties of the current commission to analyze the ethical, social, and legal implications of all biomedical and behavioral research involving human subjects. S. 2515—Passed Senate May 21, 1976. (VV)

Clinical laboratories improvement: Extends and expands the existing program of mandatory licensure contained in the Clinical Laboratories Improvement Act of 1967 to all laboratories (except those under the jurisdiction of Federal agencies other than the Department of Health, Education, and Welfare) soliciting and accepting specimens for laboratory analysis;

Authorizes the Secretary of Health, Education, and Welfare to license those laboratories meeting quality assurance standards, to promulgate standards and regulations to assure the quality, accuracy, and precision of laboratory testing, and to delegate his licensure authority to States implementing laboratory quality assurance programs at least equal to the Federal program, and to take necessary actions against laboratories not meeting the quality assurance standards;

Authorizes the Secretary to establish an Office of Clinical Laboratories, the purpose of which would be to establish a uniform regulatory program for all laboratories subject to Federal jurisdiction, and to establish an advisory council to advise, consult with, and make recommendations to the Office of Clinical Laboratories concerning the development of quality assurances standards and the implementation of such standards;

Provides for exemption of physicians' office laboratories under certain conditions where physicians file an affidavit with the Secretary, including but not limited to a description of the qualifications of nonphysician laboratory personnel, the quality and type of tests conducted, and the score of proficiency testing examinations taken by such personnel.

Permits the Secretary to waive from the personnel standards laboratories located in rural hospitals with fewer than 100 beds and develop specific job-related proficiency tests for personnel in rural hospital laboratories;

Allows the Secretary to utilize the services of private, nonprofit entities for the provision of inspection and proficiency testing services;

Authorizes $15 million annually to permit the Secretary to provide technical and financial assistance to States to establish or administer laboratory quality assurance programs;

Federal Trade Commission authorizations: Increases the authorization for the Federal Trade Commission (FTC) not to exceed the following amounts: $54 million for fiscal year 1976, $13.5 million for the transition period July 1—September 30, 1976, $70 million for fiscal year 1977, and $85 million for fiscal year 1978 of which not to exceed $25 million, $6.25 million, $35 million and $45 million for the above fiscal years shall be for the purposes of maintaining competition; authorizes the FTC to appoint 25 attorneys, economists, special experts and outside counsels for the FTC's responsibilities with regard to maintaining competition; requires the simultaneous transmission of budgetary and legislative recommendations to the President or the Office of Management and Budget and the Congress; limits appeals of Commission orders to the court of appeals for the circuit within which the resident resides or maintains its principal place of business in order to prevent "forum shopping" on appeals of Commission orders; expands the Commission's jurisdiction authorized by the Clayton Act from "in commerce" to "in or affecting commerce"; makes orders of the Commission effective 60 days after their issuance subject to a stay issued by the Commission or the appropriate court of appeals, or the Supreme Court when an applicable petition for certiorari is pending; improves the Commission's ability to obtain information by compulsory process by imposing penalties for failure to reply in a timely manner with the Commission's processes and by providing statutory amendments reflecting current decisional law on the issue or ripeness of suits to enjoin enforcement of the Commission's compulsory processes; requires that the Commission grant or deny petitions for issuance, amendment, or repeal of rules within 120 days after the date the petition is received by the Commission; creates a 3-year program of assistance and grants to States to improve their antitrust capabilities and authorizes therefor not to exceed $10 million for each of fiscal years 1976, 1977, and 1978 and $2.5 million for the transition period; makes technical amendments to the Wool Products Labeling Act and the Fur Products Labeling Act; and amends the Textile Fiber Products Identification Act to continue the exemption of outer coverings of furniture, mattresses, and box springs from the provisions of the Act but permits the FTC to require care labeling with respect to outer coverings of furniture. S. 2935—Passed Senate March 18, 1976. (VV)

Increases the authorization for the Federal Trade Commission for fiscal year 1976 from $46 million to $47,091,000, and extends until July 5, 1978, the filing date for certain reports required under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act. H.R. 12527—Public Law 94– approved —— 1976. (VV)

Fire prevention and control: Authorizes additional appropriations of $3.75 million for the transition period July 1–September 30, 1976, $15 million for fiscal year 1977 and $20 million for fiscal year 1978 to implement the Federal Fire Prevention and Control Act of 1974 except for that section relating to reimbursement for costs of firefighting on Federal property; and authorizes $1,275,000 for the transition period, $5.5 million for fiscal year 1977 and $6 million for fiscal year 1978 for activities of the Fire Research Center of the National Bureau of Standards. S. 2862—Passed Senate May 19, 1976. (VV)

Fiscal year adjustment: Amends existing law to change the dates of various provisions of law which require the submission of reports and other actions based on the present fiscal year system to conform to the new fiscal year dates of October 1–September 30 pursuant to the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). S. 2445—Public Law 94–273, approved April 21, 1976 (VV)

Fiscal year transition: Amends existing law to insure the continuation of Federal programs and activities, based by statute on the present fiscal year, through the fiscal transition period of July 1–September 30, 1976. S. 2444—Public Law 74–274, approved April 21, 1976. (VV)

Flag display: Codifies in an official code for the use and guidance of civilians and civilian organizations the proper method of using and displaying the flag of the United States including provisions which specify the display of an all-weather flag 24 hours a day; the position of the flag when displayed in churches or other than being flown from a staff (such as on automobiles or suspended in buildings); when, and who may order, a flag flown at half-staff; the use of a flag patch or pen by members of the military, policemen, firemen or members of patriotic organizations; and the conduct for salute of the flag; and reiterates existing authority whereby the President may alter, repeal, or add rules pertaining to the custom of displaying the flag whenever he deems appropriate. S. J. Res. 49—Passed Senate May 10, 1976. (VV)

Library of Congress James Madison Memorial Building: Amends the Act of October 19, 1965, as amended, to provide an additional authorization of $33 million for completion of the Library of Congress James Madison Memorial Building thus making a total authorization of $123 million. H.R. 11645—Public Law 94–219, approved February 27, 1976. (VV)

Mariana Islands: Approves the text of the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" providing for the creation of a Commonwealth of the Northern Marianas under U.S. sovereignty, local self-government including the adoption of a local constitution by the residents of the Northern Mariana Islands, granting of citizenship or national status to the residents of the Commonwealth, and the extension of the provisions of the U.S. Constitution, treaties, and statutes with some limitation to the Commonwealth. H.J. Res. 549—Public Law 94–241, approved March 24, 1976. (44)

NASA authorization: Authorizes $3,695,170,000 for fiscal year 1977 to the National Aeronautics and Space Administration of which $2,761,425,000 is for research and development, $10,290,000 is for construction of facilities and $813,455,000 is for research and program management; includes funding for: continued development of the Space Shuttle; a solar maximum mission to measure solar activity during the peak period of maximum solar activity 1979–1980; development of the thematic mapper used for earth surveys; a magnetic mapping satellite to be used for the location of mineral resources; construction of a new transonic wind tunnel designed to support national aeronautical research and development needs; the initiation of an aircraft energy technology development project to provide the technology base for a 50 percent improvement in fuel economy in commercial transports; support of ongoing flight projects in space science and applications; and continuation of a series of research tasks in aeronautical and space research designed to provide a base for future undertakings, the construction of and/or modifications and upgrading of facilities to support these programs, and a highly technical staff to conduct research and manage these multidisciplinary activities; and contains other provisions. H.R. 12453—Public Law 94–, approved 1976. (VV)

National Foundation on the Arts and Humanities: Extends the National Foundation on the Arts and Humanities Act of 1965 and authorizes therefor a total of $250 million for fiscal year 1977, $300 million for fiscal year 1978, and such sums as necessary for fiscal years 1979 and 1980; amends the act to provide for specific funding for the State Humanities program in accordance with the funding levels applicable to the State Arts program; provides for more State involvement in the Humanities program and gives them several options to enable them to carry out programs appropriate to their individual needs; gives added support to museums in funding areas which are of particular importance; contains an Arts Challenge Program whereby the Federal government will match $1 for $3 in non-Federal funds in order to improve long-range planning and development of arts organizations; authorizes the National Endowment for the Arts to develop demonstration programs in arts education; provides for the establishment of a Humanities Challenge Program with attention focused on the goals and priorities relevant to the period between the present and the 200th anniversary of the Constitution of the United States in 1989; provides for a Bicentennial Photography and Film Project to produce a comprehensive survey of the United States and to be carried out primarily by the States themselves; makes the appointment by the President of the members of the National Council on the Arts and the National Council on the Humanities subject to the advice and consent of the Senate; and applies the same fair labor practices applicable to the Art program to the activities of the Humanities Endowment where appropriate. H.R. 12838—Passed House April 26, 1976; Passed Senate amended May 20, 1976. (VV)

National Portrait Gallery: Amends the National Portrait Gallery Act of 1962 to redefine the term "portraiture" to permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in addition to "painted or sculpted likenesses." S. 1657—Public Law 94–209, approved February 5, 1976. (VV)

National Science Foundation authorization: Authorizes $826.4 million to the National Science Foundation for fiscal year 1977 plus an additional $6 million in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the United States. H.R. 12566—Passed House March 25, 1976; Passed Senate May 27, 1976; Senate requested conference May 27, 1976. (VV)

National Study Commission on Records and Documents of Federal Officials: Extends for 1 year, until March 31, 1977, the life and reporting date of the National Study Commission on Records and Documents of Federal Officials which is charged with studying problems relative to the control, disposition and preservation of records and documents of Federal officials; authorizes the Chief Justice of the United States to appoint a member of the Federal judiciary to serve on the Commission instead of a justice of the Supreme Court as is now provided; and corrects a reference to a provision in the law relating to payment of travel expenses for official travel by Commission members. S. 3060—Public Law 94-261, approved April 11, 1976. (VV)

National Security Council: Amends the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council. S. 2350—Vetoed December 31, 1975. Senate overrode veto January 22, 1976. (1)

Presidential recordings and materials: Disapproves certain regulations proposed by the Administrator of General Services on October 15, 1975, under section 104 of the Presidential Recordings and Materials Preservation Act which involve: the composition of the Presidential Materials Review Board, responsible for the final archival decisions regarding the disposition of the Nixon tapes and other materials; the adequacy of the provisions giving notice to affected individuals prior to the opening of these files to the public; the procedures to be followed by the Administrator in considering petitions to protect certain legal or constitutional rights by limiting access to specified materials; the procedures for allowing reproduction of the tapes; and two provisions relating to the restriction of materials which are personal in nature or which would result in a defamation of character. S. Res. 428—Senate adopted disapproval resolution April 8, 1976 (VV)

Privacy Protection Study Commission: Increases from $1.5 million to $2 million the authorization for the Privacy Protection Study Commission established under Public Law 93-579 to conduct a comprehensive study and submit its recommendations to the President and Congress on the adequacy of procedures now in force in the Government and private sector to protect personal information about individuals, and removes the $750,000 fiscal year limitation on expenditures to permit the Commission to obligate its funds at a rate necessary to initiate research studies and hold hearings. S 3435—Passed Senate May 19, 1976. (VV)

Regulatory reform: Provides for regulatory reform with respect to the independent regulatory agencies which are subject to the jurisdiction and oversight responsibility of the Commerce Committee (the Interstate Commerce Commission (ICC), Federal Trade Commission (FTC), Federal Power Commission (FPC), Federal Communications Commission (FCC), Civil Aeronautics Board (CAB), Federal Maritime Commission (FMC), and Consumer Product Safety Commission (CPSC)) by (1) directing each agency to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to prepare and submit to the Congress proposed modernization, revision, and codification of all statutes and other lawful authorities administered or applied by it; and (2) applying to each agency provisions which have been previously enacted into law with respect to one or more of the agencies and found to be useful and practicable including timely consideration of petitions, Congressional access to information, representation in civil actions, protection of officers, avoidance of conflict of interest, and accountability. S. 3308—Passed Senate May 19, 1976. (VV)

Science policy: Establishes a framework for the formulation of national policy and priorities for science and technology; establishes an Office of Science, Engineering, and Technology Policy in the Executive Office of the President to be headed by a Director with up to four Associate Directors, appointed by the President with the advice and consent of the Senate; directs the Office to prepare and update annually a 5-year forecast of Federal investment in science and technology including the allocation of Federal funds among the major expenditure areas and an estimate of options for various levels of Federal investment and to furnish the list of options to the Office of Management and Budget for use in developing budget recommendations to the President; establishes an Intergovernmental Science, Engineering, and Technology Advisory Panel to advise the Director in establishing priorities for addressing civilian problems at State, regional, and local levels which science and technology can help solve;

Provides that the Director of the Office shall, in addition to his other duties, serve as a member of the Domestic Council and shall, at the request of the National Security Council, advise the Council on such matters concerning science and technology as relate to national security; Creates a 2-year President's Committee on Science and Technology of 9 to 15 members (including the Director of the Office) all of whom shall be appointed by the President, to conduct a comprehensive survey of Federal science and technology, and to submit to the President an interim report after 1 year and a final report after 2 years of its findings; permits the President to extend the life of the Committee if he determines that it is advantageous for the Committee to continue in being;

Redesignates the Federal Council for Science and Technology (established pursuant to Executive order 10807 issued May 13, 1959, as amended by Executive Order 11381 issued November 8, 1967) as the Federal Coordinating Council for Science, Engineering, and Technology, and gives it the statutory authority to coordinate Federal plans and programs in science and technology; designates the Director of the Office as Chairman of the Committee; and

Authorizes therefor $2.5 million for fiscal year 1976 and the transition period July 1–September 30, 1976, and $4 million for fiscal year 1977. H.R. 10230—Public Law 94-282, approved May 11, 1976. (VV)

Small business amendments: Provides for the President to undertake a comprehensive review of all Federal disaster loan authorities and to submit a report of his recommendations, including possible consolidation of Federal disaster loan authorities, to the Congress not later than December 1, 1976; increases the funds available for the lease guarantee program from $10 million to $25 million and establishes a separate program to allow small businesses to finance the leasing of pollution control equipment through the sale of tax-exempt industrial revenue bonds; increases the amount which regular small business investment companies (SBIC's) may borrow from the government from 200 to 300 percent of private capital and increases the amount "venture capital" SBIC's may borrow from the government from 300 to 400 percent of private capital; extends these leverage increases to Minority Enterprise Small Business Investment Companies with a maximum leverage ceiling of $35 million; increases an SBIC's ability to guarantee a small business' minority obligations from 90 percent to 100 percent of the total obligation; authorizes limited partnerships with a corporate general partner to be licensed by SBA as small business investment companies; permits banks to own 100 percent of SBIC's voting common stock; permits SBA to make loans to State and local development companies for the acquisition of existing plant facilites and increases the maturity on such acquisitions and construction loans from 15 to 20 years plus such additional time as is necessary for construction; increases the maximum amount of economic opportunity loans from $50,000 to $100,000 per borrower and requires an equitable distribution of such loans between urban and rural areas; increases the maximum amount of financial assistance to State or local development companies from $350,000 to $500,000; increases the maximum amount of regular SBA business loans from $350,000 to $500,000 per borrower; authorizes an additional $21.5 million for the Surety Bond Guarantee Fund; directs the Chief Counsel for Advocacy of the Small Business Administration to make a comprehensive study of Small Business in America and submit a report to the President and Congress within 1 year of enactment; authorizes therefor $1 million; and establishes a uniform interest rate on SBA's share of any disaster loan except loans covering physical damage and economic injury caused by a natural disaster and product disasters which shall be made at a rate of interest not exceeding the rate of interest in effect at the time of the disaster. S. 2498—Public Law 94- , approved 1976. (*589)

Smithsonian Institution—National Museum: Authorizes $1 million annually for fiscal years 1978 through 1980 to the Smithsonian Institution for carrying out the purposes of the National Museum Act of 1966 through which the Smithsonian assists museums with specific reference to the continuing study of museum problems and opportunities, training in museum practices, preparation of museum publications, research in museum techniques, and cooperation with agencies of the government concerned with museums. S. 2945—Passed Senate April 6, 1976. (VV)

Spanish Americans, Data on: Directs the Department of Labor, in cooperation with the Department of Commerce, to develop methods of improving and expanding the collection, analysis, and publication of unemployment figures for Spanish-origin Americans; directs the Departments of Commerce, Labor, HEW, and Agriculture to collect and regularly publish data pertaining to the socio-economic conditions of Spanish Americans; requires the Director of the Office of Management and Budget, in cooperation with the Secretary of Commerce and the heads of other data-gathering Federal agencies, to develop a Government-wide program for the collection of data on Spanish Americans; directs the Department of Commerce, in cooperation with the appropriate State and local agencies and various population study groups, to determine what steps are necessary in the development of creditable estimates of undercounts of Spanish Americans in future censuses; requires the Secretary of Commerce to ensure that in the taking of future censuses and other data-collection activities, there will be provided Spanish-language questionnaires and bilingual enumerators; and directs the Department of Commerce to implement a program for the employment of Spanish Americans within the Bureau of the Census and to report to Congress within 1 year of enactment on the progress of the program. H.J. Res. 92—Passed House October 29, 1975; Passed Senate amended May 21, 1976. (VV)

Trust Territory of the Pacific: Provides the following authorizations for the continuance of civil government for the Trust Territory of the Pacific Islands: $80 million for fiscal years 1976 and 1977; $15.1 million for the transition period July 1-September 30, 1976, plus such amounts authorized but not appropriated in fiscal year 1975; $1.8 million for human development projects in the Marshall Islands; $8 million for the construction of facilities for a 4-year college to serve the Micronesian community but provides that no appropriation may be made until the President has made a study concerning the educational needs and concepts of such a college and transmitted the study to the House and Senate Interior Committees which will have 90 calendar days to review the study; and the continuation of an authorization up to but not exceeding $10 million to offset reductions in or the termination of

Federal grant-in-aid programs; and provides for the extension to Guam of those laws of the United States made applicable to the Northern Marianna Islands by the Provisions of Public Law 94-241, except for the provision extending certain social security act programs. H.R. 12122—Public Law 94-255, approved April 1, 1976 (VV)

White House conference on handicapped: Extends from 2 to 3 years the period during which the President is authorized to call a White House Conference on Handicapped Individuals pursuant to Public Law 93-516. S.J. Res. 154—Public Law 94-224, approved February 27, 1976. (VV)

GOVERNMENT EMPLOYEES

Federal mine safety inspectors protection: Amends section 1114, title 18, U.S.C., to place Federal mine safety inspectors under those provisions which protect Federal officials from interference with the performance of their offical duties. S. 3070—Passed Senate May 19, 1976. (VV)

*Hatch Act revisions: Amends present law to permit active participation by Federal employees in political processes at all levels of government, effective January 1, 1977; retains existing prohibitions on political contributions and other political activities for employees of the Internal Revenue Service, the Central Intelligence Agency, and the Justice Department except for (1) employees in non-sensitive positions, (2) employees in sensitive positions when the agency head determines that their political activity would not adversely affect public confidence and Congress does not disapprove within 30 days, and (3) Presidential appointees who determine national policies; contains provisions to protect employees from influence or coercion regarding political support and financial contributions; prohibits political activity on duty, in Federal buildings, or in uniform; establishes an independent Board on Political Activities of Federal Employees to adjudicate promptly alleged violations of the Act; mandates a 30 day suspension of any employee convicted of violating the prohibitions against use of official information or authority; provides that an employee may campaign for public elective office during his spare time or by utilizing accrued annual leave; exempts certain White House personnel from the prohibition against political activities while on duty, on government property, or in uniform but states that this exemption is not an authorization for such activity; and contains other provisions. H.R. 8617—Vetoed April 12, 1976. House sustained April 29, 1976. (69, 109).

Secret Service director's salary: Amends sections 5315 and 5316, title 5, U.S.C., to place the Director and the Deputy Director of the Secret Service in levels IV and V of the executive schedule of pay, respectively. S. 3028—Passed Senate February 26, 1976. (VV).

HEALTH

Alcohol abuse, prevention and treatment: Extends for 3 years, through fiscal year 1979, and increases the authorizations for programs administered by the Secretary of Health, Education and Welfare through the National Institute of Alcohol Abuse and Alcoholism with particular emphasis on: increased Federal assistance for States adopting the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act, expanded and improved alcoholism research programs, and the provision of services to currently underserved populations. S. 3184—Passed Senate March 29, 1976; Passed House amended May 21, 1976. (VV)

Biomedical and behavioral research: Amends the Public Health Service Act to reestablish the present National Commission for the Protection of Human subjects of Biomedical and Behavioral Research as an 11 member Presidential Commission (with provision that the members of the present Commission who are serving when this Act becomes law shall continue to serve on the new Commission until the President makes his appointments) and directs the Commission to assume all powers, functions and duties of the current commission to analyze the ethical, social, and legal implications of all biomedical and behavioral research involving human subjects. S. 2515—Passed Senate May 21, 1976. (VV)

Clinical laboratories improvement: Extends and expands the existing program of mandatory licensure contained in the Clinical Laboratories Improvement Act of 1967 to all laboratories (except those under the jurisdiction of Federal agencies other than the Department of Health, Education, and Welfare) soliciting and accepting specimens for laboratory analysis;

Authorizes the Secretary of Health, Education, and Welfare to license those laboratories meeting quality assurance standards, to promulgate standards and regulations to assure the quality, accuracy, and precision of laboratory testing, and to delegate his licensure authority to States implementing laboratory quality assurance programs at least equal to the Federal program, and to take necessary actions against laboratories not meeting the quality assurance standards;

Authorizes the Secretary to establish an Office of Clinical Laboratories, the purpose of which would be to establish a uniform regulatory program for all laboratories subject to Federal jurisdiction, and to establish an advisory council to advise, consult with, and make recommendations to the Office of Clinical Laboratories concerning the development of quality assurance standards and the implementation of such standards;

Provides for exemption of physicians' office laboratories under certain conditions where physicians file an affidavit with the Secretary, including but not limited to a description of the qualifications of nonphysician laboratory personnel, the quality and type of tests conducted, and the score of proficiency testing examinations taken by such personnel.

Permits the Secretary to waive from the personnel standards laboratories located in rural hospitals with fewer than 100 beds and develop specific job-related proficiency tests for personnel in rural hospital laboratories;

Allows the Secretary to utilize the services of private, nonprofit entities for the provision of inspection and proficiency testing services;

Authorizes $15 million annually to permit the Secretary to provide technical and financial assistance to States to establish or administer laboratory quality assurance programs;

Authorizes the inspection of laboratories; authorizes the Secretary to seek revocation of a laboratory's license where it is found that the laboratory has engaged in kickbacks, bribes, or false, fictitious, or fraudulent billing practices, and directs the Secretary to make an annual report to Congress on the relationship between costs and prices of laboratory services; and

Prohibits discrimination by any licensed laboratory against any employee who has become involved in any activity concerning allegations that the laboratory is in violation of this section; and contains other provisions. S. 1737—Passed Senate April 29, 1976. (159)

Communicable disease control—consumer health education: Revises and extends for 3 years expiring authority for prevention and control of communicable and other diseases, venereal disease, diseases borne by rodents, and lead poisoning prevention programs; provides legislative authority and authorizations for research and for community programs in health information and promotion and health care education; and establish an Office of Consumer Health Education and Promotion within HEW to promote these programs. S. 1466—Passed Senate July 30, 1975; Passed House amended April 7, 1976; Senate agreed to House amendment with an amendment May 26, 1976. (VV)

Drug abuse office and treatment: Continues the current authorization of $45 million through fiscal year 1979 for drug abuse prevention and treatment programs; increases from $100 million to $200 million the figure used to determine the minimum formula grant to any State (currently $66,666, which would increase to $133,333 if there is no change in the ratio of actual to authorized appropriations); recognizes narcotic addiction and drug abuse as a serious, long-term problem requiring continuous effort; authorizes a scaled-down Office of Drug Abuse Policy in the Office of the President, to be headed by a director appointed with the advice and consent of the Senate, which will replace the Special Action Office for Drug Abuse Prevention; authorizes the Director to make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for Federal drug abuse functions and make recommendations for the coordination of the performance of such functions by Federal Departments and agencies; authorizes $2 million annually to support the activities of the Office; transfers from the Special Action Office to the National Institute on Drug Abuse responsibility for the encouragement of certain research and development at a yearly authorization of $7 million through fiscal year 1978, and adds "less addictive" replacements for opium and its derivatives to the list of priority areas for research; extends the National Advisory Council for Drug Abuse until January 1, 1976; bars hospitals receiving Federal funds from discrimination in admissions and treatment of drug dependent persons and directs the Administrator of Veterans' Affairs to prescribe such regulations for veterans health care facilities; requires States to provide reasonable assurances that programs have proposed performances standards to measure their own effectiveness; and contains other provisions. S. 2017—Public Law 94-237, approved March 19, 1976. (VV)

Heart, lung, and blood research: Extends for 2 years the authority of the Department of Health, Education and Welfare to conduct resarch, experiments and demonstration programs regarding heart, lung, blood and blood vessel diseases; changes the name of the National Heart Lung Institute to the National Heart, Lung and Blood Institute and provides explicit authority for the Institute to conduct programs with respect to the use of blood products and the management of blood resources; amends existing law to authorize the development of 30 centers for research, training, and demonstrations (10 centers for heart diseases, 10 centers for lung diseases; and 10 centers for blood, blood vessel diseases, research in the use of blood products, and research in the management of blood resources); requires the National Heart, Lung and Blood Advisory Council to submit a report by November 30 each year to the Secretary for simultaneous transmittal to the President and Congress on the progress of the National Heart Blood Vessel, Lung and Blood Disease Program during the preceding fiscal year with the transition period July 1–September 30, 1976, to be considered as a fiscal year for such reporting purposes; and authorizes $10 million for fiscal year 1976 and $30 million for fiscal year 1977 for prevention and control programs, and $339 million for fiscal year 1976 and $373 million for fiscal year 1977 for the national heart, blood vessel, lung and blood diseases and blood resources program;

Extends for 2 years, through fiscal year 1977, the authority of the Secretary of HEW to provide awards to individuals and institutions for biomedical and behavioral research training and authorizes therefor $165 million for fiscal year 1976 and $185 million for fiscal year 1977; changes the manner in which interest accrues on National Research Service Awards to make interest on the award computed from the time the United States becomes entitled to recover all or part of the award;

Requires that the President's Panel on Biomedical Research and the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research each conduct studies on the implications or disclosure to the public of information contained in the NIH research grants or contracts;

Expands the Director of NIH's authority to conduct research into genetic diseases including but not limited to sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, and muscular dystrophy; and authorizes the Secretary to award grants and contracts for research projects with respect to such diseases;

Contains provisions relating to regulation of vitamin and mineral products under the Federal Food, Drug and Cosmetic Act;

Amends the National Arthritis Act to clarify the definition of arthritis and to raise the authorizations under the act;

Extends the expiration date of the National Diabetes Commission (Public Law 93-354) to September 30, 1976;

Amends the Public Health Service Act to add ambulatory surgical services as a supplemental health service which could be offered by migrant health and community health centers; permits the Indian Health Service to utilize non-profit recruitment agencies to assist in obtaining personnel for the Public Health Service;

Prohibits consideration of political affiliation in making appointments to advisory committees established to assist the Secretary in implementing the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, and the Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970;

Equates active service of commissioned officers of the Public Health Service with active military service in the Armed Forces for the purposes of all rights, privileges, immunities, and benefits provided under the Soldiers' and Sailors' Civil Relief Act of 1940;

Authorizes the Secretary to make awards to outstanding scientists who agree to serve as visiting scientists at institutions of post-secondary education which have significant enrollments of disadvantaged students with the amount of the award commensurate with the salary or remuneration which the individual had received from the institution with which he has, or had, a permanent or immediately prior affiliation; and

Extends the authorizations for physician shortage area scholarships at $3.5 million for fiscal year 1975 and $2 million for fiscal year 1976, and for health professions student loans, at $60 million for fiscal year 1976. H.R. 7988—Public Law 94-278, approved April 22, 1976. (*578)

Helen Keller Center: Amends the Rehabilitation Act of 1973 to provide that the center for deaf-blind youth and adults established by the Act shall be known as the "Helen Keller National Center for Deaf-Blind Youths and Adults". H.R. 12018—Public Law 94-288, approved May 21, 1976. (VV)

Lead-based paint poisoning prevention: Authorizes $91.5 million for 3 years for programs under the Lead-Based Paint Poisoning Prevention Act (Public Law 91-695) designed to: (1) provide assistance for protecting against the lead-based paint poisoning hazard in homes where cases of childhood lead-based paint poisoning have been actually identified; (2) authorize the Department of Health, Education and Welfare to safeguard against the application of lead-based paints to any cooking, drinking or eating utensil; (3) authorize the Department of Housing and Urban Development to restrict the application of lead-based paint in residential structures constructed or rehabilitated by the Federal government, or with Federal assistance; (4) authorize the Consumer Product Safety Commission to prohibit the application of lead-based paints to any toy or furniture article; and (5) limit the amount of lead contained in residential interior paints to no more than .06 percent, unless a majority of the members of the Consumer Product Safety Commission agrees to another level, not to exceed one half of one percent lead by weight, within 6 months of enactment of the bill. S. 1664—Passed Senate February 19, 1976. (42)

Medical device safety: Authorizes the Food and Drug Administration to regulate the development and marketing of medical devices;

Classifies all medical devices intended for human use into one of the following three categories based on the extent of regulation necessary to assure safety and effectiveness: Class I—General Controls, consisting of devices for which sufficient data is available to assure their safety and effectiveness or for which insufficient information exists to determine that the controls are sufficient but are not used in supporting or sustaining life or preventing impairment of health and which do not present an unreasonable risk of illness or injury; Class II—Performance Standards, consisting of devices for which Class I controls are insufficient and it is determined that insufficient information is available to establish a performance standard to assure their safety and effectiveness; and Class III—Premarket approval consisting of devices which cannot be classified as a Class I or II device because of insufficient data to assure their safety and effectiveness and which are used in supporting or sustaining human life, in preventing impairment of human health, or present an unreasonable risk of illness or injury;

Requires the Secretary to establish panels of experts to evaluate the safety and effectiveness of devices, with members having adequately diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, and other related professions; provides for the appointment to each panel of 2 non-voting members representing consumer interests and the manufacturer of the device; requires the panels to submit their recommendations with respect to the classification of devices to the Secretary who shall have such recommendations published in the Federal Register for public comment, and following review of such comments, classify the device;

Requires classification panels to submit recommendations to the Secretary respecting the classification of all "old" devices (those introduced into interstate commerce prior to the date of enactment) and places all "new" devices (those introduced into interstate commerce after the date of enactment) into Class III until they have been reclassified by the Secretary; requires that all old devices implanted into the human body or used in supporting or sustaining life be classified into class III unless there is sufficient data available to assure the safety and effectiveness of the device;

Contains provisions to assure that those who offer to develop performance standards are qualified and that a conflict of interest is not involved and provides for disclosure of information regarding the individual or group who is chosen to promulgate the standards;

Provides that a published notice requiring premarket approval of a Class III device contain an opportunity to request a change in the classification of the device which must be submitted within 15 days and acted upon within 60 days of the publication; authorizes administrative review of decisions by the Secretary with respect to premarket approval or scientific review, and product development protocols; requires that patients be notified of risks or hazards presented by devices; exempts custom devices from applicable requirements respecting performance standards and scientific review or premarket approval under specified conditions; authorizes the Secretary to limit the sale or distribution of devices under specified circumstances; contains transitional provisions designed to place articles which would be devices under the new definition of "device" but which are presently being regulated as new drugs into comparable regulatory status as devices; authorizes the export of devices which did not comply with the requirements relating to performance standards or to scientific review if the Secretary determines that such export is in the interest of public health and safety and had the approval of the country to which *it is* intended for export; and contains other provisions. S. 510—Public Law 94- , approved 1976. (*139)

Rehabilitation Act extension: Extends the authorizations for vocational rehabilitation services, research and training, grants for construction of rehabilitation facilities, vocational training for handicapped individuals, the National Center for deaf-blind youths and adults, and other programs under the Rehabilitation Act until September 30, 1977, with an additional 1-year extension if Congress fails to act on legislation extending the authorizations for programs under the Act by April 15, 1977. H.R. 11045—Public Law 94-230, approved March 15, 1976. (VV)

HOUSING

Housing—flood insurance: Permits homeowners interest subsidies under Section 235 of the National Housing Act to be extended to owners of two modular mobile homes; increases the mortgage limits eligible for insurance under Section 235 from $21,600 to $25,000 and from $25,200 to $29,200 in any geographical area where the Secretary of Housing and Urban Development (HUD) finds that cost levels so require, and from $25,200 and $28,800 to $29,200 and $33,400 respectively for a dwelling for a family with five or more persons; extends the expiration date for this program from June 30, 1976, to June 30, 1977; transfers *all* insurance obligations under the section 221 housing programs for moderate income and displaced families Below-Market-Interest-Rate program from the General Insurance Fund to the Special Risk Insurance Fund;

Amends Section 244 co-insurance program to (1) clarify the authority of the Secretary to co-insure mortgages on a basis which might require the "top" assumption of loss by the mortgagee with subsequent loss shared on a percentage or other basis with the Federal Government, (2) make the 20 percent limitation on co-insurance of mortgages or loans inapplicable where the lender is a "public housing agency," (3) authorize the Secretary to co-insure mortgages on projects which are under construction in those areas where public housing agencies are lenders, and (4) provide that the term "public housing agency" for the purposes of section 244 has the same meaning as it does in section 3(6) of the Housing Act of 1937;

Provides that assistance payments made with respect to a dwelling under the Housing Act of 1937 shall not be considered as income or as a resource for the purposes of determining eligibility under the Social Security Act or any Federal law; authorizes the section 8 subsidy housing program enacted under the Housing and Community Development Act of 1974, under which HUD pays the housing owner the difference between the tenant contribution and the approved rent a maximum of 20 years to be made available to units in rural areas financed under the Farmers Home

Administration section 515 rural rental program for the full period of the FmHA mortgage, which is generally 40 years;

Authorizes Federal savings and loan associations to invest in the share capital and capital of the Inter-American Savings and Loan Bank;

Provides that in the event of a short-fall in funding for the community development program in fiscal year 1977 that the short fall in hold-harmless funds shall be distributed equitably among all urban counties and all large metropolitan cities in order to minimize the total loss to any single jurisdiction and establishes a set-aside for discretionary balances to insure small cities access to the program;

Amends the National Flood Insurance Act to correct certain inequities resulting from the general statutory prohibition against federally supervised conventional mortgage lending in identified flood hazard areas of communities not participating in the national flood protection and insurance program, which requires compliance with HUD land use and construction standards as a prerequisite for obtaining Federally subsidized flood insurance as follows: (1) extends to nonparticipating communities the existing exception which permits conventional mortgage loans to be made for the purchase of existing, previously occupied residential dwellings, and broadens the exception to include the purchase of existing small business properties and to permit present owners of residential dwellings to extend, renew or increase the financing on their homes; (2) authorizes the making of conventional loans to finance improvements to existing residential structures up to an aggregate of $10,000 per dwelling; (3) permits the making of conventional loans to finance improvements or additions to an existing farm for non-residential agricultural purposes; and (4) eliminates the existing prohibition on Federal disaster assistance to non-participating communities which suffer disasters not involving flooding;

Amends the Securities and Exchange Act to clarify the authority of State or political subdivisions to tax stock transfers; and contains other provisions. H.R. 9852—Passed House October 20, 1975; Passed Senate amended January 23, 1976; Senate requested conference January 23, 1976. Note: (Provisions of this bill are contained in S. 3295, Housing Programs, which passed the Senate on April 27, 1976.) (VV)

Housing programs: Continues and expands section 8 housing assistance for low- and moderate-income people with increased emphasis on new housing construction areas; revises the framework governing the Department of Housing and Urban Development's use of funds for new construction under section 8 and conventional public housing, the two major assistance programs for low-income families, which include the earmarking of funds for new construction under section 8 and an increase in the funds authorized and earmarked for construction of public housing; increases the estimated $1 billion in funds available as of September 30, 1976, for housing assistance annual contributions contracts by $696 million in October 1, 1976, which is to be used as follows: for section 8 housing assistance for low- and moderate-income people—$265 million for new construction and $171 million for existing unit assistance; for conventional public housing—$200 million for new construction, and provides that the estimated available funds shall be used for new construction or substantial rehabilitation for other than section 8 housing in the same ratio as is provided in the authorization; increases the level of operating subsidies for conventional public housing to $576 million in fiscal year 1977;

Increases the earmarked funds to be set aside to assist in financing low income housing for families who are members of Indian tribes by $17.5 million on July 1, 1976;

Increases funding for the section 202 direct loan program to nonprofit sponsors of housing for the elderly and handicapped by $2.5 billion (with no expiration date placed on the authorization) to an aggregate of $3.3 billion and amends the programs's interest rate formula to tie it to the average rate on all outstanding Treasury obligations, which under current market conditions would bring the rate paid by the sponsor down from about 9 percent to approximately 7½ percent; extends the section 235 homeownership assistance subsidy program for lower income families until September 30, 1977, and adds $200 million in contract authority for this program to the current outstanding authority of $264 million; adds a new section 247 rental assistance payments program for lower income families in FHA-insured multifamily projects in or faced with foreclosure, and authorizes $154 million for this program for fiscal year 1977; extends the section 312 housing rehabilitation loan program until September 30, 1977, increases the authorization for fiscal year 1977 by $150 million, and requires an interest rate above 3 percent for higher income borrowers based on the Treasury's long-term borrowing rate plus administrative costs; extends the authorization for the section 701 comprehensive planning program for planning assistance to communities until September 30, 1977, and authorizes $100 million for fiscal year 1977; and extends the section 810 urban homesteading program through fiscal year 1978 at an authorization level of ——— and authorizes $5 million for each of fiscal years 1977 and 1978:

Extends the following programs until September 30, 1977, without new authorizations: Section 236 rental housing assistance, the Emergency Homeowners' Relief Act (a standby program for homeowners faced with foreclosure because of economic conditions), the Emergency Home Purchase Assistance Act which provides assistance to the housing market during periods of credit shortages by subsidizing interest rates, and the section 245 experimental financing program under which FHA insures loans which use flexible amortization plans corresponding to variations in family income;

Authorizes the FHA to make section 241 supplemental loans to hospitals for additions and improvements; amends the section 244 FHA loan coinsurance provisions to authorize exceptions regarding coinsurance terms applicable to public housing; broadens the section 518 compensation program for defects in housing purchased with FHA insured mortgages;

Incorporates the provisions of H.R. 9852 concerning housing, mobile home loans, and flood insurance which passed the Senate by voice vote on January 23, 1976, and includes the following provisions: permits homeowners interest subsidies under section 234 of the National Housing Act to be extended to owners of two-modular mobile homes; increases the mortgage limits eligible for insurance under section 235; provides that assistance payments made with respect to a dwelling under the Housing Act of 1937 shall not be considered as income or as a resource in determining eligibility under the Social Security Act or any Federal law; provides that in the event of a short-fall in hold-harmless funds shall be distributed equitably among all urban counties and all large metropolitan cities in order to minimize that total loss to any single jurisdiction and establish a set-aside for discretionary balances to insure small cities access to the program; extends the time for area survey under the national flood insurance program until September 30, 1977, and amends the program to correct certain inequities resulting from the general statutory prohibition against federally supervised conventional mortgage lending in identified flood hazard areas of communities not participating in the national flood protection and insurance program; and contains other provisions. S. 3295—Passed Senate April 27, 1976; Passed House amended May 26, 1976. (155)

INDIANS

Indian Claims Commission: Authorizes $1.65 million for fiscal year 1977 to the Indian Claims Commission; extends the life of the Commission until September 30, 1980, to enable it to adjudicate the 155 claims which are presently pending; provides that if the Commission feels a pending case can be handled more expeditiously by the Court of Claims, the Commission shall certify the case to the Court subject to its approval; provides that any case still pending on September 30, 1980, shall be transferred to the Court of Claims for final adjudication; prohibits the Commission from conducting any hearings or initiating any proceeding during the last 9 months of its existence to allow the Commission 5½ months to complete final action on a claim prior to its expiration date, except that hearings or proceedings leading to a compromise settlement of a claim will be permitted; and requires the Commission to submit a semi-annual report to Congress on the progress and status of all remaining cases along with a projected completion date for each case. S. 2981—Passed Senate April 9, 1976. (VV)

Indian crimes: Amends the Indian Major Crimes Act (title 18, U.S.C.) to add the crime of kidnapping to the specified major crimes triable in Federal courts when committed by an Indian in Indian country and provides that such offenses shall be tried in the same courts and in the same manner as other persons committing such offenses within the exclusive jurisdiction of the United States thus insuring Indian defendents equal treatment under applicable provisions of law. S. 2129—Public Law 94- , approved 1976. (VV)

Palms and Cabazon mission Indians: Directs the Secretary of the Interior to convey the beneficial interest in 240 acres of land held in trust jointly by the Cabazon and Twenty-nine Palms Bands of Mission Indians, to the Twenty-nine Palms bands of Mission Indians, and to distribute from the tribal fund of the Cabazon Band to the Twenty-nine Palms Bands the sum of $2,825 plus interest collected as payment for a storm channel right-of-way. H.R. 1465—Public Law 94-271, approved April 21, 1976. (VV)

Pueblo Indians, New Mexico: Repeals a 1926 statute which subjects Pueblo tribal lands to condemnation pursuant to State law. S. 217—Passed Senate May 21, 1975; Passed House amended February 2, 1976; In conference. (VV)

INTERNATIONAL

Asian development fund: Amends the Asian Development Bank Act by adding a new section authorizing the United States Governor of the Bank to agree to contribute $50 million to the Asian Development Fund replenishment approved by the Bank in December 1975, and authorizes therefor $50 million. S. 3103—Passed Senate May 6, 1976. (VV)

Brussels conference: Expresses the solidarity of the American people with the efforts to enlarge human freedom by the participants in the Second Brussels Conference on Soviet Jewry to be held February 17 to 19, 1976. S. Con. Res. 93—Senate adopted February 5, 1976; House adopted February 10, 1976. (VV)

Commission on security and cooperation in Europe: Establishes a Commission on Security and Cooperation in Europe to monitor the acts of the signatories which reflect compliance with, or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe with particular regard to the provisions relating to cooperation in humanitarian fields and to monitor and encourage the development of programs to expand East-West economic cooperation and cultural interchange; provides that the Commission shall consist of 15 members (6 from the House of Representatives, 6 from the Senate and 3 appointed by the President from the Departments of State, Defense and Commerce) with the Chairman appointed by the Speaker of the House; gives the Commission the authority to carry out its mandate including the power of subpena; requires the President to submit a semiannual report to assist the Commission in carrying out its duties which includes a detailed survey of actions of the signatories of the Final Act reflecting compliance with or violation of the provisions of the Act and a description of the planned programs and activities of the appropriate agencies of the Executive branch relating to East-West cooperation and to promoting a greater interchange of ideas and people between East and West; directs the Commission to report to Congress on a periodic basis and to provide information to Members as requested; and authorizes therefor $350,000 for each fiscal year to remain available until expended. S. 3107—Public Law 94- , approved 1976. (VV)

Discriminatory trade practices of EEC: States the sense of the Congress that the President seek immediate elimination of the discriminatory trade regulations approved by the Council of the European Economic Community (EEC) which require a surety deposit and certification system on all imported vegetable protein products thus directly affecting U.S. export of soybeans and violating certain provisions placing no duty on soybeans; and directs the President, in the event that the Community fails to eliminate these regulations, to obtain full compensation for such actions under Article XXIII of the General Agreement on Tariffs and Trade. S. Con. Res. 108—Senate adopted March 31, 1976. (VV)

Foreign investment in the United States: Authorizes the President or his designee to set up a regular and comprehensive data collection program to obtain current and continuing information from business enterprises on a wide variety of international investment issues and to publish such data on a regular and periodic basis; directs the Secretary of Commerce to conduct "benchmark surveys" of foreign direct investment in the United States and of American direct investments abroad at least once every 10 years; requires the Secretary of the Treasury to conduct a survey of foreign portfolio investment in the United States at least once every 10 years and to provide periodic benchmarks to measure such investments; grants the President and the Secretaries broad authority to determine the subject areas on which statistical information is to be gathered and for which studies may be prepared; authorizes the President, his designee, or the Secretaries to compel designated persons to keep pertinent records and to report relevant information to the agencies administering the information-collection programs; and prohibits the public disclosure of any information gathered under this act in such a way as to identify the company or individual making the report. S. 2839—Passed Senate May 19, 1976. (VV)

Foreign military assistance and arms export control: Authorizes appropriations for security assistance and related programs of $3,166,900,000 for fiscal year 1976 and $790 million for the transition period July 1–September 30, 1976, as follows:

Authorizes for grant military assistance (MAP) for fiscal year 1976 $196,700,000 to which is added $28.3 million in recoupment and reimbursements making a total of $225 million; allocates this amount as follows: $31 million to Greece, $13 million to Indonesia, $50 million to Jordan, $55 million to Korea, $17 million to the Philippines, $16 million to Thailand, $31 million to Turkey, $6 million to Ethiopia, and $6 million to unspecified countries;

Authorizes $1,766,200,000 for fiscal year 1976 for security supporting assistance programs of which not less than the following amounts will be available to the following countries: Israel, $730 million; Egypt, $705 million; Greece, $65 million; and as intended by the committee of conference, Jordan, $72.5 million; Syria, $80 million; Bahrain, $600 million; Malta, $9.5 million; Portugal, $52.5 million; United Nations Force in Cyprus, $9.6 million; Zaire, $18.9 million; and for Operating Expenses, $22.6 million;

Authorizes $1.039 billion for fiscal year 1976 for Foreign Military Sales Credits (FMS) financing; sets a ceiling of $2,374,700,000 on the aggregate total of FMS credits or participation in credits and of the principal amounts of loans guaranteed during fiscal year 1976; provides, with respect to the long-term repayments mandated for FMS financing provided to Israel that repayment shall be in not less than 20 years following a grace period of 10 years on repayment of principal:

Authorizes $50 million for the Middle East Special Requirements Fund for fiscal year 1976 and earmarks $12 million of this for use as a U.S. contribution toward the settlement of the deficit of the United Nations Relief and Works Agency for Palestine Refugees in the Middle East;

Makes the transition period authorizations on the same basis as the fiscal year 1976 authorizations;

Terminates authority to furnish grant military assistance (MAP) after September 30, 1977 (with the provision that the authority shall remain available until September 30, 1980 to carry out obligations incurred before September 30, 1977), unless Congress subsequently specifically authorizes assistance to a country; exempts the authority relating to stockpiling of defense articles for foreign countries from this termination requirement; restricts use of the President's emergency authority to draw on Department of Defense stocks and services for military assistance purposes to unforeseen emergencies requiring immediate action vital to U.S. security interests; reduces the authority from $150 million to $67.5 million in any fiscal year, and requires current reporting to Congress on the use of such authority; permits new stockpiles or additions to existing stockpiles of not to exceed $75 million in fiscal year 1976 and not to exceed $18,750,000 during the transition quarter; prohibits locating future stockpiles outside U.S. military bases except for stockpiles located in NATO countries; stipulates that stockpiled defense articles transferred to a foreign country may not be considered "excess" for valuation purposes; and requires the reporting to Congress of each new stockpile or of an addition to an existing stockpile having a value in excess of $10 million;

Places a ceiling of 34 on military assistance advisory groups and missions (MAAG's) effective September 30, 1976; authorizes $27 million for international military education and training and provides that such programs must be justified in the annual presentation to the Congress;

States the sense of Congress that the President should seek to initiate multilateral discussions for the purpose of reducing the international trade in arms and lessening the dangers of regional conflict; requires the President to conduct a comprehensive study of U.S. arms sales policies to determine whether such policies should be changed and to report to the Congress within one year; sets an annual ceiling of $9 billion on arms which are sold under the Foreign Military Sales Act or which are licensed or approved for export in connection with commercial sales for the use of a foreign country or international organization; permits the President to waive the ceiling on aggregate arms sales, on a case-by-case basis without declaring that an emergency exists if he determines that national security interests so require; provides criminal penalties for any person who attempts to avoid the ceiling by exporting without a license or approval as required; provides that the existing requirement in the Foreign Assistance Act that recipient countries must agree in advance not to transfer U.S.-supplied defense articles to a third country without prior U.S. consent shall also apply to related training and other defense services; prohibits third country arms transfers of $25 million or more unless the President certifies the transfers to the Congress and Congress does not disapprove within 30 calendar days or unless the President states an emergency exists which requires the transfer in the security interest of the United States;

Requires that all sales of "major defense equipment" in excess of $25 million must be handled on a government-to-government basis, except to NATO countries, to whom sales above that limit can continue to be made through commercial channels; requires the President to submit to Congress, for possible rejection by concurrent resolution within 30 calendar days, proposed government sales of "major defense equipment" of $7 million or more, all proposed government sales of any defense articles or services of $25 million or more and, regarding commercial sales, all proposed export licenses pursuant to commercial sales of "major defense equipment" of $7 million or more (except for those to NATO countries), with provision for waiver of the 30 calendar day waiting period if the President certifies that an emergency exists which requires the sale or the issuance of the license in the national security interest; contains provisions concerning the cancellation or suspension of licenses and contracts for arms sales if the national interest so requires;

Provides for the termination, within 90 days of continuous session, by Congress of security assistance to a country upon receiving a report from the Secretary of State that the government of a country is engaging in a consistent pattern of gross violations of internationally recognized human rights; provides for termination of assistance, sales, credits or guarantees and cancellation of export licenses, unless required by national security, to governments discriminating against U.S. nationals or persons; prohibits assistance to countries which aid, abet, or grant sanctuary to international terrorists unless required by national security;

Prohibits assistance of any kind to Angola, except for humanitarian purposes, unless specifically authorized by subsequent legislation; permits cash sales, credits, and guarantees of defense articles and services to Turkey as long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or civilian poulation on Cyprus, and does not transfer to Cyprus any additional U.S. supplied arms; prohibits military assistance and sales credits to Chile; expresses the sense of Congress in support of negotiations to limit military deployments in the Indian Ocean; eases certain restrictions on nonstrategic trade with Vietnam which are to be reimposed after 180 days unless the President certifies to Congress that the Vietnamese have accounted for a substantial number of POW's and MIA's and returned the bodies of a substantial number of dead; prohibits U.S. personnel from participating in direct police arrest actions in a foreign country in connection with narcotic control; and contains other provisions. S. 2662—Vetoed May 7, 1976. (36, 175)

Guatemala relief authorization: Amends the Foreign Assistance Act of 1961 to authorize $25 million for fiscal year 1976 (which shall remain available until expended) for relief and rehabilitation assistance to the people of Guatemala who were victims of the earthquakes which occurred in February of 1976; limits to $4 million the amount which may be used for rebuilding the Puerto Barrios Highway and encourages the use of seismic resistant materials in the rebuilding of housing; requires that such assistance be subject to the policy and general authority of section 491 of the Foreign Assistance Act of 1961 which provides a consolidated body of legislation on disaster relief and assistance; authorizes the transfer of funds only to reimburse appropriation accounts from which initial relief funds were drawn; directs that to the maximum extent practicable assistance is to be distributed through United States voluntary relief agencies and other international relief and developing organizations; and requires the President to submit to the Congress a report 60 days after enactment and quarterly thereafter on the programming and obligation of funds provided under this act. S. 3056—Public Law 94-276, approved April 21, 1976. (VV)

Guatemalan earthquake: States the sense of the Senate that the executive branch be urged to develop, in cooperation with governmental and private donors, programs to assist the people of Guatemala in their efforts to relieve the suffering caused by the recent earthquake and to rehabilitate their nation from the damage inflicted; and extends deepest sympathy to the President and the people of Guatemala in their hour of suffering and distress. S. Res. 390—Senate adopted February 17, 1976. (VV)

Inter-American Development Bank—African Development Bank: Authorizes $2.25 billion as the U.S. share of a replenishment of the funds of the Inter-American Development Bank (IDB) to be paid out in installments over a 3 and 4 year period; authorizes the U.S. Governor of the Bank to vote in favor of (1) resolutions increasing the authorized capital stock of the Bank to $5.303 billion and the resources of the Fund for Special Operations to $1.045 billion (includes *therefor* authorizations of $1.650 billion and $600 million respectively as the U.S. subscription for these increases) and admitting nonregional countries (10 European plus Japan and Israel) and the Bahamas and Guyana to membership in the Bank; and (2) amendments to the Agreement Establishing the Bank which provide for the creation of a new class of stock designated as Inter-Regional Capital Stock and for Bank lending to the Caribbean Development Bank; instructs the U.S. Executive Director of the Bank to propose a resolution providing for the development utilization of intermediate technologies as major facets of the Bank's development strategy and to report progress of the resolution to Congress;

Amends the Foreign Assistance and Related Programs Appropriations Act, 1975 (Public Law 94-11) to delete that portion of Title III, Investment in Inter-American Development Bank, which earmarks specific amounts of the appropriated U.S. contribution to the Fund for Special Operations;

Authorizes $25 million for U.S. participation in the African Development Fund (AFDF) to be paid in three annual installments of $9 million (1976), $8 million (1977) and $8 million (1978); instructs the Executive Director representing the U.S. in the AFDF to vote against loans to countries involved in unsatisfactory expropriations disputes with the United States;

Instructs the Executive Directors representing the U.S. in the IDB and AFDF to oppose loans to countries engaging in a consistent pattern of gross violations of human rights unless they directly benefit needy people or providing refuge to individuals committing acts of terrorism such as aircraft hijacking; and

States the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza. H.R. 9721—Public Law 94- , approved 1976. (VV)

James Smithson bequest: Expresses appreciation and gratitude to Her Majesty, Queen Elizabeth II, upon the occasion of her visit to the United States, for the bequest of James Smithson, (a British subject, scholar and scientist) which enabled the U.S. to establish the Smithsonian Institution in Washington, D.C. S.J. Res. 196—Passed Senate May 13, 1976. (VV)

Laotian refugees: Amends the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94-23) to make Laotian refugees eligible for the same types of assistance as are now authorized for Vietnamese and Cambodian refugees. S. 2760—Passed Senate February 16, 1976. (VV)

Lincoln statue: Authorizes the President to accept, on behalf of the United States, a statue of Abraham Lincoln from its owners, Leon and Ruth Gildesgame, of Mount Kisco, New York, for presentation to Israel. H.J. Res. 406—Public Law 94-208, approved February 4, 1976. (VV)

Palm oil production loans: States as the sense of the Senate that the International Bank for Reconstruction and Development should direct its loan activities in underdeveloped countries to the production of food and fiber needed internally to prevent starvation and to upgrade the diets of all their citizens and cease further encouragement of palm oil production for export so long as the United States remains the only entirely open major import market for palm oil. S. Res. 444—Senate agreed to May 11, 1976. (VV)

Peace Corps authorization: Authorizes $81 million to finance the operation of the Peace Corps for fiscal year 1977 including additional funds for increases in salary, retirement, or other employee benefits that may be authorized in fiscal year 1977 and $10.1 million for payment of Peace Corps volunteer's readjustment allowance which was increased from $75 to $125 a month under Public Law 94-130. H.R. 12226—Public Law 94-281, approved May 7, 1976. (VV)

State Department authorization: Authorizes $1,364,020,953 for fiscal year 1977 for the operations of the State Department (including the Office of Foreign Buildings), the United States Information Agency and the Board for International Broadcasting which makes grants to Radio Free Europe and Radio Liberty;

Extends to State Department medical personnel malpractice protection similar to that now available to employees of the Public Health Service and the Veterans Administration; removes the existing prohibition against the State Department's development of a new Travel Document and Issuance System;

Places into law the principles governing broadcasts which are in the charter of the Voice of America; calls for the U.S. Ambassador to the United Nations to seek such changes in the U.N. system for apportioning rates of assessment as are necessary to assure that the rates are closely correlated to each nation's relative ability to pay; bars use of funds authorized by this or any other act for the benefit of any country which aids or abets international terrorism, permits use of its territory as a haven for international terrorists, or cooperates with or serves as a host to military forces from other nations seeking to carry out aggression against any other nation;

Establishes a Commission on United States Participation in the United Nations which is to study and report on the United Nations and the nature and extent of United States participation therein; prohibits the giving of gifts valued at over $50 which are paid for from appropriated funds or of appropriated funds in excess of $50 to any person of a foreign country; prohibits the acceptance by U.S. employees of gifts from persons of a foreign country, and requires a yearly report by the President on the gifts given;

Adds a new title to the Foreign Service Act to equate Foreign Service retirement benefits to civil service retirement benefits; provides that not less than 75 percent of the total number of positions of ambassador which are occupied shall be career personnel in the Foreign Service; requires the Secretary of State to transmit to Congress a comprehensive plan for improvement of the State USIA personnel system; and requires the President to transmit to Congress a report on projected U.S. needs for international broadcast facilities and ways in which existing facilities can be put to more efficient use. S. 3168—Passed Senate March 29, 1976. (105)

Treaties

Inter-American Women's Rights Convention: Provides that the right to vote and to be elected to a national office shall not be denied or abridged by reason of sex. Ex. D, 81st-1st—Resolution of ratification agreed to January 22, 1976. (2)

Radio regulations revision: Updates the Radio Regulations to take account of present technology and deals with such items as the reallocation of frequency channels for radiotelephone or for narrow-band direct printed telegraphy and fascimilies (maps), for intraship radio communications and the like, plus power limitations for such channels; contains a U.S. reservation in the final protocol concerning one of the revision's frequency allocation plans, which was felt to be incompatible with the official and public correspondence needs of the United States; and contains other provisions. Ex. G, 94th-1st—Resolution of ratification agreed to January 22, 1976. (6)

Telecommunications convention: Abrogates and replaces the International Telecommunications Convention of 1965; generally follows the provisions of the 1956 Montreux Convention, but includes a considerable number of minor improvements and a few major modifications; contains an agreement recognizing the International Telecommunications Union as a United Nations specialized agency; makes major changes in the organization of the International Telecommunication Union and the functions of its subordinate agencies; increases the Administrative Council's membership from 29 to 36 seats with the understanding that there be no provision for rotation of members; continues the membership at five of the International Frequency Registration Board; deletes from the new Convention the territories of Portugal, Spain, the United Kingdom, France, and the United States as members of the Union; and changes the financial contribution of the United States from 11½ percent of the total contribution to 7 percent. Ex. J, 93d-2d—Resolution of ratification agreed to January 22, 1976. (4)

Telegraph and telephone regulations: Simplifies and completely revises versions of the 1958 Telegraph and Telephone Regulations to make it easier for the international business system guided by the Regulations to keep pace with rapidly advancing telecommunications technology; provides the same substantive framework for continued international traffic in both telegraph and telephone service which requires that (1) sufficient international systems be maintained, (2) specified services be provided to users, (3) certain operating procedures be followed, and (4) determination of rates and charges and the accounting of the collection of same follow standardized practices; prohibits re-bates on rates set by the general official tariff list and grants the right to terminal and transit telegraph offices to stop certain private telegrams, subject to reference to appropriate authorities, but not safety-of-life service of government telegrams; adds 2 reservations on the final protocol which make it clear that telegraph and telephone service on the North American continent is generally considered to fall within the scope of domestic service and is not governed by these regulations in order to insure that aeronautical service, which is primarily a private communications service, and operational communications of the airline industry are exempt; contains 2 Appendices on Payment of Balance of Accounts for converting currencies for the balances of international telecommunications accounts together with an escape clause which provides that the perscribed settlement procedures need not be observed should there be a "radical change in the international monetary system", Ex. E, 93d–2d—Resolution of ratification agreed to January 22, 1976. (5)

Women's political rights convention: Provides that women shall be entitled to vote in all elections on equal terms with men, without any discrimination; that women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination; and that women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination. Ex. J, 88th–1st—Resolution of ratification agreed to January 22, 1976. (3)

United States International Trade Commission: Authorizes $11,789,000 for fiscal year 1977 and $12,036,000 for fiscal year 1978 (plus such additional amounts as may be needed for statutory pay and employee benefit increases) for the operations of the United States International Trade Commission. S. 3420—Passed Senate May 17, 1976. (VV)

United States-Soviet relations: States the sense of the Senate that U.S. relations with the Soviet Union are a central aspect of U.S. foreign policy and that difficulties existing in that relationship should be sorted out notwithstanding the differences which separate the two governments; states that the basic premise of the U.S. approach to this relationship is that the U.S. must remain unchallengeably strong militarily to insure action in consultation with our allies; states that beyond this determination, that our national security policy should be to seek through negotiations to reduce, moderate, and stabilize the military competitions between the two governments by supporting: (1) balanced strategic arms limitation through Congressionally-approved agreements containing verifiable stipulations; (2) demonstration of mutual restraint and commitment to peace; (3) expanded relations through prudent initiatives; and (4) action in consultation with out allies; states that future treaties shall not limit the U.S. to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; calls for a joint effort by the two governments to bring about the immediate withdrawal by Cuba of all forces from Africa; states that the American objective is to achieve individual freedom and peace in the world and that although cooperation between the U.S. and the Soviet Union may be limited it is the American purpose to enlarge that sphere of cooperation;

States the sense of the Congress (1) that there has been no change in the longstanding U.S. policy on the nonrecognition of the illegal seizure and annexation by the Soviet Union of the three Baltic nations of Estonia, Latvia, and Lithuania and (2) that it will continue to be the policy of the U.S. not to recognize their annexation. S. Res. 406—Senate adopted May 5, 1976. (168)

United States Winter Olympic Team: Expresses pride in and gratitude for the conduct and achievement of the athletes, coaches, trainers and Committee members of the 1976 United States Winter Olympic Team for their excellent performance at the XII Winter Olympic Games. S. Res. 386—Senate adopted February 16, 1976. (VV)

United States information agency (U.S.I.A.) authorization: Authorizes $266,777,000 for fiscal year 1976 and $71,900,000 for the transition period July 1–September 30, 1976, to the United States Information Agency which conducts cultural informational programs. H.R. 11598—Public Law 94–272, approved April 21, 1976. (VV)

Wilma Rudolph film: Authorizes the United States Information Agency to make available to Cappy Productions, Inc., of New York City, a master copy of the film "Wilma Rudolph Olympic Champion" in order that portions of the film may be used in a television program entitled "Women Gold Medal Winners", which will be used to promote the 1976 Olympic Games. H.R. 6949—Public Law 94–218, approved February 27, 1976. (VV).

MEMORIALS, TRIBUTES, AND MEDALS

Bernardo De Galvez statue: Authorizes the Secretary of the Interior to accept a statue of Bernardo de Galvez, the Spanish Governor of Colonial Louisiana during the Revolution as a gift from the Spanish Government to the United States for the Bicentennial. S. 3031—Public Law 94–287, approved May 21, 1976. (VV)

Charles Carroll medals: Directs the Secretary of the Treasury to strike and furnish to the Baltimore Museum of Art, Baltimore, Maryland, not more than 50,000 national medals commemorating the 200th anniversary of the signing of the Declaration of Independence by Charles Carroll of Carrollton, Maryland. H.R. 3427—Public Law 94–257, approved April 1, 1976. (VV)

Clarence M. Mitchell, Jr.: Honors Clarence M. Mitchell, Jr., for his contributions to the establishment of justice and equality in America by his service as Director of the Washington Bureau of the NAACP, Legislative Chairman of the Leadership Conference on Civil Rights, and various government posts, and expresses gratitude for his efforts to improve the quality of life for all Americans. S. Res. 353—Senate adopted January 26, 1976. (VV)

Commercial aviation's 50th anniversary: Provides recognition for the 50th anniversary of American commercial aviation. S. Res. 381—Senate adopted March 31, 1976. (VV)

Congressional Country Club: Congratulates the Congressional Country Club upon being selected to host the 58th PGA championship and, in so doing, compliments the Congressional Country Club on being such a renowned and respected championship golf course. S. Con. Res. 119—Senate agreed to May 27, 1976. (VV)

International Astronautical Federation: Recognizes the importance of the 27th Congress of the International Astronautical Federation (which is a federation of societies devoted to fostering the exploration of space through space science and the development of space technology and law) to be held in Anaheim, California, from October 10 through October 16, 1976: commends the Federation and its affiliated organizations for selecting the United States as the location for its Congress in recognition of the Bicentennial; and commends the U.S. host organizations for sponsoring the Congress. S. Res. 412—Senate adopted March 24, 1976. (VV)

Jerry L. Pettis Memorial Veterans' Hospital: Designates the Veterans' Administration hospital in Loma Linda, California, as the "Jerry L. Pettis Memorial Veterans' Hospital". H.R. 4034—Public Law 94–246, approved March 25, 1976. (VV)

John Witherspoon statue: Authorizes the Secretary of the Interior to permit the relocation of the John Witherspoon statue (located on government property at Connecticut Avenue and "N" Street, N.W., Washington, D.C.) to the National Presbyterian Center and conveys title to the statue to the National Presbyterian Church. S. 1996—Passed Senate May 4, 1976. (VV)

Library of Congress Thomas Jefferson Building: Renames the building known as the Library of Congress Annex as the Library of Congress Thomas Jefferson Building. S. 2920—Public Law 94–264, approved April 13, 1976. (VV)

Lincoln Memorial: Authorizes the Secretary of the Interior to inscribe the names of Alaska and Hawaii on the walls of the Lincoln Memorial in a manner and style consistent with the names of the other 48 States and upon approval of the design and plans for the inscription by the National Capitol Planning Commission, the Commission of Fine Arts, and the Advisory Council on Historic Preservation; and authorizes therefor such sums as necessary. S. 64—Passed Senate April 6, 1976. (VV)

101st Airborne Memorial: Authorizes the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia in honor of the "Screaming Eagles" of the 101st Airborne Division, United States Army, and requires approval of the Mayor if the selected site is under his jurisdiction. S. 1847—Public Law 94–211, approved February 6, 1976. (VV)

Torbert H. Macdonald, death of: Expresses the sorrow of the Senate over the death of Representative Torbert H. Macdonald of Massachusetts. S. Res. 452—Senate agreed to May 24, 1976 (IV)

William A. Barrett, death of: Expresses the sorrow of the Senate over the death of Representative William A. Barrett, of Pennsylvania. S. Res. 433—Senate adopted April 14, 1976. (VV)

William O. Douglas: Dedicates the Chesapeake and Ohio Canal National Historical Park in the District of Columbia and Maryland to Justice William O. Douglas and requires that the words "Dedicated to Justice William O. Douglas" be prominently displayed on all existing and future signs bearing the name Chesapeake and Ohio Canal National Historical Park. S. 2742—Passed Senate February 4, 1976. (VV)

Wright Patman, Death of: Expresses the sorrow of the Senate upon the death of Congressman Wright Patman, of Texas. S. Res. 402—Senate adopted March 9, 1976. (VV)

NATURAL RESOURCES—NATIONAL HISTORIC SITES

Boundary Waters Canoe Area: Authorizes additional funds of not to exceed $4.5 million, making a total authorization of $9 million, for the acquisition of lands in the Boundary Waters Canoe System within the Superior National Forest in northeastern Minnesota. S. 1526—Passed Senate April 27, 1976. (VV)

Chickasaw National Recreation Area: Establishes the Chickasaw National Recreation Area in southern Oklahoma consisting of the Platt *National Park* and the Arbuckle reservoir, plus certain connecting lands, to protect mineral springs and other natural features and to provide increased outdoor recreation opportunities. H.R. 4979—Public Law 94–235, approved March 17, 1976. (VV)

Eugene O'Neill National Historic site: Authorizes the Secretary of the Interior to accept the donation of, or purchase with donated funds, Tao House in Contra Costa, California, which was the home of Eugene O'Neill from 1937 to 1944 and to designate it as the Eugene O'Neill National Historic Site; provides that the site shall be administered under the basic management provisions of the 1916 Organic Act of the Park Service and the 1935 Historic Sites Act as a center for the performing arts; authorizes the Secretary to enter into cooperative agreements with the

Eugene O'Neill Foundation for theatrical productions (similar to those by which Wolf Trap Farm operates) with congressional oversight of any such agreement; and authorizes such sums as necessary which is estimated at between $200,000 to $400,000 per year for operations and maintenance. S. 2398—Passed Senate May 13, 1976. (VV)

Fire Island National Seashore: Amends the Act establishing the Fire Island National Seashore to increase the authorization for land acquisition relating to the Seashore from $16 million to $18 million. S. 867—Passed Senate April 7, 1976. (VV)

George W. Norris National Historic Site: Authorizes the Secretary of the Interior to acquire by donation or purchase with donated funds the home of Senator George William Norris (who, among other achievements, authored the 20th amendment to the Constitution which deals with Presidential and Congressional terms and the sessions of Congress, and the legislation which established the Rural Electrification Administration) in the State of Nebraska and to establish it as the "George W. Norris Home National Historic Site". S. 3476—Passed Senate May 21, 1976. (VV)

Gruber Wagon Works: Modifies the Blue Marsh Lake project to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate and restore intact the historic structure and associated improvements known as the Gruber Wagon Works in Berks County, Pennsylvania which was built in 1882 provides, upon completion of relocation and restoration, that title to the Wagon Works shall be transferred to Berks County upon condition that the county agree to maintain the property in perpetuity as a public museum at no cost to the Federal Government; and authorizes therefor $520,000 which will be in addition to the $590,000 in authority under the Reservoir Salvage Act of 1960, as amended, which limits cost for salvage of historical resources affected by any one project to 1 percent of the total project cost. S. 1497—Passed Senate April 28, 1976. (VV)

Land and water conservation fund—national historic preservation—oil shale revenues: Amends the Land and Water Conservation Fund Act to increase from $300 million to $1 billion the minimum annual level of the Fund; raises from 7 to 10 percent the maximum percentage of allocated grant funds to which a State is entitled in any one year; changes the formula for land acquisition grant monies from 50–50 to 70–30; requires States to submit their Statewide plans to the areawide clearing house created under the Intergovernmental Cooperation Act for comment; provides that not to exceed 25 percent of a State's annual allocation shall be available for sheltered facilities; requires States to account for funds received on a project-by-project basis; clarifies the extent to which Land and Water Funds can be used to acquire land for endangered species or wildlife refuges

Amends the National Historic Preservation Act of 1966 to change the formula for matching grants for planning, nationally significant properties, demonstration projects, and meeting houses from 50–50 to 70–30; repeals the 50 percent limit on planning; establishes a National Historic Preservation Fund and authorizes therefor $150 million per year over a 5-year period to carry out the purposes of the Act

Provides for Senate confirmation of future appointments to the office of: Director of the Bureau of Land Management, Director of the National Park Service, Director of the Bureau of Outdoor Recreation, Commissioner of Reclamation and Governor of American Samoa; and

Amends section 35 of the Mineral Leasing Act of 1920 to permit each State to use its share of oil shale revenues for planning, construction, and maintenance of public facilities and provisions of public services. S. 327—passed Senate October 29, 1975; Passed House amended May 5, 1976; Senate requested conference May 17, 1976. (VV)

Land and water resource conservation: Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources by requiring that (1) the Secretary of Agriculture prepare an appraisal of the Nation's land, water, and related resources by December 31, 1977, and update it by December 31, 1979, and each fifth year thereafter; (2) the Secretary develop a National Land and Water Conservation Program which will set forth the direction for future soil and water conservation efforts on non-Federal land by December 31, 1977, and update it by December 31, 1979, and each fifth year thereafter; (3) the appraisal report and the program, together with a detailed statement of policy intended to be used in framing budget requests for soil conservation service activities, be submitted to Congress on the first day Congress convenes in 1978, 1980, and at each 5-year interval thereafter; (4) that programs established by law be carried out in accordance with the statement of policy unless either House of Congress within 60 days of receipt of the appraisal report, program, or statement of policy, adopts a disapproval resolution; (5) beginning with fiscal budget for 1979, requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the programs and policies projected under the budget meet the statement of policy approved by the Congress; and (6) the Secretary submit to Congress, beginning with fiscal year 1979, an annual report evaluating the programs effectiveness. S. 2081—Passed Senate May 25, 1976. (VV)

National parks mining regulations: Repeals the laws permitting mineral development under the Mining Law of 1872 in the 6 areas of the National Park System where such mining is presently permitted: Crater Lake and the Mount McKinley National Parks; Death Valley, Glacier Bay and Organ Pipe Cactus National Monuments; and Coronado National Memorial; provides express and broad authority for management by the Secretary of the Interior of mineral development on patented and unpatented mining claims within all areas of the National Park System; and imposes a 4-year moratorium on further surface disturbance within Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park in order to give the Secretary of the Interior an opportunity to determine the validity of existing mining claims and Congress an opportunity to decide whether to acquire any valid mineral rights in order to prevent further damage to these areas. S. 2371—Passed Senate February 4, 1976. (25)

National resource lands management: Provides the first comprehensive, statutory statement of purposes, goals, and authority for the use and management of about 448 million acres of federally-owned lands administered by the Secretary of the Interior through the Bureau of Land Management, which constitutes the largest system of Federal lands and comprises 20 percent of America's land base and 60 percent of all federally owned property;

Requires that the national resource lands be managed in accordance with the principles of multiple use and sustained yield and defines those principles; establishes the policy that, except where disposal is consistent with the purposes and conditions of the Act, the national resource lands will be retained in Federal ownership; includes, among other policies set by the Act, a fair return to the United States for the use of the national resource lands, full public participation, including hearings and the use of advisory boards, in decisionmaking concerning those lands, and coordination of the decisionmaking with State and local land use planning:

Repeals a number of the 3,000 public land laws which are either obsolete or conflict with the provisions of the Act; and contains other provisions. S. 507—Passed Senate February 25, 1976. (49)

National wildlife system administration: Amends the National Wildlife Refuge System Administration Act of 1966 to provide that all areas included in the System as of January 1, 1975, shall continue to be a part of the System and cannot be transferred or otherwise disposed of except by an Act of Congress; or in the case of lands acquired with duck stamp receipts, without the approval of the Migratory Bird Conservation Commission; and requires the Secretary of the Interior to administer the areas through the U.S. Fish and Wildlife System. H.R. 5512—Public Law 94–223, approved February 27, 1976. (VV)

Ninety Six and Star Fort National Historic Site: Authorizes the Secretary of the Interior to establish the Ninety Six and Star Fort National Historical Park in Greenwood, South Carolina, a 1,115 acre site consisting of the site of the village Old Ninety Six, the Star Fort with its Revolutionary War earthworks, and other historical and archeological remains associated with frontier life in South Carolina; provides that the site shall be administered as a part of the National Park system; and authorizes therefor $320,000 for land acquisition and $2 million for development. S. 2642—Passed Senate May 13, 1976. (VV)

Rangelands Management: Directs the Secretary of the Interior to establish an $895.5 million, 30-year range rehabilitation and protection program to halt deterioration and improve the quality of the rangelands on public lands administered by the Bureau of Land Management (BLM) in the Department of the Interior; requires that this rangeland thereafter be administered to insure full productive capacity consistent with the multiple use, sustained yield concept of land management; and authorizes $10 million for fiscal year 1977, with additional increases of $5 million per year for each fiscal year 1978 through 1980, and $500,000 each fiscal year thereafter through fiscal year 2006, which would be in addition to funds presently appropriated to the BLM for livestock management, soil and water, and wildlife. S. 2555—Passed Senate May 3, 1976. (162)

Reclamation projects authorization: Authorizes the Secretary of the Interior to construct, operate, and maintain (1) the Polecat Bench irrigation project of the Shoshone extension unit of the Pick-Sloan Missouri Basin program in northwest Wyoming, and (2) the Pollock-Herreld irrigation project in South Dakota; provides authority for the Secretary to modify the spillway of the existing Dickenson Dam in North Dakota to increase conservation storage and authorizes the construction of a new spillway to assure the safety of the dam from floods; and reauthorizes the existing McKay Dam in Oregon to increase the capacity of the spillway for safety purposes and to include flood control, fish and wildlife, and recreation as project functions. S. 151—Public Law 94–228, approved March 11, 1976. (VV)

River basin monetary authorizations: Authorizes a $9 million increase in the monetary authorization for the North Branch Susquehanna and the South Platte river basin projcts in order to avoid a delay in ongoing construction. S. 3432—Passed Senate May 18, 1976. (VV)

Santa Monica recreation area: Provides for the establishment of the Santa Monica Mountains and Seashore Urban Recreation Area in the State of California; creates a Federal land use planning Commission composed of members chosen by the State and local governmental subdivisions with jurisdiction over the area to ensure that local governments, which will have the ultimate responsibility for implementing a land use plan will have, in fact, drawn the plan; requires that he Commission develop a comprehensive land use plan which will achieve certain stated objectives of preservation, resource protection, and access; require that the plan inventory and classify lands within the area, indicate the permissible uses of such lands, specify the land use controls to insure such uses and prevent nonconforming uses, and identify the unit of Federal, State, or local government responsible for implementing the plan; provides for approval of the plan by the Secretary of the Interior to guarantee that the plan will meet the objectives in the legislation, that the identified units of Federal, State, or local government have the necessary authority to implement the plan and are willing to do so, and that there has been full public participation in the development of the plan; authorizes Federal grants in the total amount of $50 million for the acquisition of land and/or interest in land to assist State and local governments in implementing the plan; and assures California landowners affected by this bill due process through the State of California Federal circuit court system. S. 1640—Passed Senate February 6, 1976. (VV)

Wetlands loan extension: Extends from June 30, 1976, until September 30, 1983, the period during which the Department of the Interior can acquire wetlands for migratory waterfowl and increases therefor the authorization under the Wetlands Loan Act of 1961 from $105 million to $200 million; delays from July 1, 1976, until October 1, 1983, the date when repayment for advance loans from duck stamp receipts would begin; and changes the name of the "Migratory Hunting Stamp" to the "Migratory Bird and Conservation Stamp". H.R. 5608—Public Law 94–215, approved February 17, 1976. (VV).

Wilderness areas

Badlands National Monument: Designates approximately 64,250 acres in the Badlands National Monument, South Dakota, as wilderness under the provisions of the Wilderness Act of 1964. S. 1069—Passed Senate May 25, 1976. (VV)

Bristol Cliffs Wilderness: Modifies the boundaries of the Bristol Cliffs Wilderness Area, located in the Green Mountain National Forest, Vermont, by eliminating all privately owned lands and approximately 720 acres of noncontiguous National Forest lands thus reducing the size of the area from 6,500 acres to 3,775 acres. S. 2308—Public Law 94–268, approved April 16, 1976. (VV)

Eagles Nest Wilderness: Designates a 128,084 acre area in the Arapaho and White River National Forests, Colorado as the Eagles Nest Wilderness. S. 268—Passed Senate June 5, 1975; Passed House amended April 6, 1976; Senate requsted conference May 6, 1976. (VV)

Shenandoah National Park: Designates 79,019 acres in the Shenandoah National Park, Virginia, as wilderness under the provisions of the Wilderness Act of 1964. S. 895—Passed Senate April 7, 1976. (VV)

Wilderness areas studies

Kaiser roadless area: Directs the Secretary of Agriculture to review an approximate 28,000 acre area in the Sierra National Forest, California, known as the Kaiser Roadless Area, for possible inclusion in the National Wilderness Preservation System, and to report his findings to the President within 2 years from the date of enactment. S. 75—Passed Senate April 8, 1976. (VV)

NOMINATIONS

(Action by Roll Call Vote)

George Bush, of Texas, to be Director of Central Intelligence: Nomination confirmed January 27, 1976. (10)

S. John Byington, of Virginia, to be a Commissioner on the Consumer Product Safety Commission: Nomination rejected May 24, 1976; reconsidered and confirmed May 26, 1976. (190, 196)

George Henry Kuper, of the District of Columbia, to be Executive Director of the National Center for Productivity and Quality and Working Life: Nomination confirmed May 28, 1976. (208)

David M. Lilly, of Minnesota, to be Member of Board of Governors of Federal Reserve System: Nomination confirmed May 28, 1976. (207)

William L. Springer, of Illinois, to be Member of the Federal Election Commission: Nomination confirmed May 21, 1976. (189)

Willie J. Usery, of Georgia, to be Secretary of Labor: Nomination confirmed February 4, 1976. (26)

PROCLAMATIONS

Bald Eagle Days: States the sense of the Senate that the people of the United States observe the weekend beginning January 30, 1976, which is designated as "Bald Eagle Days", to recognize the national symbol of the United States. S. Res. 347—Senate adopted January 21, 1976. (VV)

Beta Sigma Phi Week: Designates the seven day period beginning on April 30 of each year as "National Beta Sigma Phi Week". S.J. Res. 76—Passed Senate March 31, 1976. (VV)

Employ the Older Worker Week: Designates the week beginning March 13, 1977, as "National Employ the Older Worker Week". S.J. Res. 35—Public Law 94–275, approved April 21, 1976. (VV)

Fair Housing Month: States that the Congress recognizes the month of April 1976 as "Fair Housing Month" and rededicates itself to the promulgation and practice of the letter and spirit of the Fair Housing Law throughout the month of April and thereafter. S. Con. Res. 112—Senate adopted April 27, 1976. (VV)

Family week: Designates the week beginning on November 21, 1976, as "National Family Week". S.J. Res. 101—Public Law 94–270, approved April 19, 1976. (VV)

Fourth of July holiday: Designates July 2, 1976, as an official holiday to create a 4-day holiday for the Bicentennial. S.J. Res. 151—Passed Senate March 31, 1976 (VV)

Horse week: Designates the period of May 9, 1976, through May 15, 1976, as "National Horse Week". S.J. Res. 182—Passed Senate May 6, 1976. (VV)

Independence Day: Designates July 4, of each year as "Independence Day". S.J. Res. 150—Passed Senate May 6, 1976. (VV)

Knights of Columbus: Designates March 29, 1976, as "National Knights of Columbus Day". S.J. Res. 183—Passed Senate March 18, 1976. (VV)

Small Business Week: Designates the week beginning May 9, 1976, as "National Small Business Week". S.J. Res. 163—Passed Senate May 6, 1976. (VV)

Tennis Week: Designates the fourth week in June as "National Tennis Week". S.J. Res. 172—Passed Senate March 31, 1976. (VV)

Thomas Jefferson Day: Designates April 13, 1976, as "Thomas Jefferson Day". H.J. Res. 670—Public Law 94–163, approved April 13, 1976. (VV)

World Habitat Day: Designates February 29, 1976, as "World Habitat Day". S. Res. 398—Senate adopted February 25, 1976. (VV)

SENATE

Cloture Rule: Provides that, except by unanimous consent, no amendments shall be proposed after the cloture vote unless they have been submitted in writing to the Journal Clerk prior to the end of the vote. S. Res. 268—Senate adopted April 6, 1976. (VV)

Commission on the Operation of the Senate: Authorizes the Secretary of the Senate to advance sums to the chairman of the Commission on the Operation of the Senate for expenses of the Commission not involving personal services. S. Res. 410—Senate adopted March 23, 1976. (VV)

Extends from September 30, 1976, to December 31, 1976, the date for the Commission to submit its final report. S. Res. 423—Senate adopted April 6, 1976. (VV)

Oklahoma Senate contest: Senate tabling of S. Res. 356, relating to a determination of the contested 1974 Oklahoma Senate election involving Senator Henry Bellmon and former Representative Ed Edmondson. *Subsequently* the Senate agreed to a motion to seat Senator Bellmon unconditionally.

Old Senate Chamber: Provides that on June 16, 1976, the Senate shall recess at 4:00 p.m. and immediately reassemble in legislative session for ceremonies in the Old Senate Chamber (used by the Senate from 1810 to 1859) for the dedication and reopening of the chamber in honor of the Bicentennial; provides that the taking of photographs or recording of the proceedings of the legislative session shall be done in accordance with procedures established by the Commission on Art and Antiquities of the Senate; and invites the Vice-President to address the Senate on this occasion. S. Res. 446—Senate adopted May 13, 1976. (VV)

Select Committee on Committees: Establishes a temporary select committee of the Senate to conduct a study of the Senate committee system composed of 12 Members of the Senate (6 from the Majority party and 6 from the Minority party) appointed by the President of the Senate upon the recommendation of the majority and minority leaders; directs the Committee to conduct a thorough study of the Senate committee system including structure, jurisdiction, number and optimum size of committees, number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, and other facilities and to make recommendations which promote optimum utilization of a Senator's time, optimum effectiveness of committees in the creation and oversight of Federal programs, clear procedures for the referral of legislation falling within the jurisdiction of two or more committees, and workable methods for the regular review and revision of committee jurisdictions; requires the Committee to submit a final report of its findings by February 28, 1977, with authorization to submit such interim and supplemental reports as it deems appropriate and authorizes therefor $275,000 of which not to exceed $30,000 shall be for the procurement of the services of individual consultants or organizations. S Res. 109—Senate adopted March 31, 1976. (VV)

Select Committee on Intelligence: Establishes a permanent Select Committee on Intelligence to oversee and make continuing studies of U.S. intelligence activities; provides that its members be selected by the Majority and Minority leaders with 2 Senators each from the membership of the Committees on Appropriations, Armed Services, Foreign Relations, and the Judiciary and 7 others from the Senate at large (4 selected by the Majority Leader and 3 by the Minority Leader); provides that the chairman shall be chosen by the Majority members and that service on the select committee shall not be counted against a member's service on any other committee and may be in addition to other assignments; provides that the Majority and Minority Leaders shall be non-voting ex officio members of the committee; limits service on the committee to 8 years (not including 1976 service) on a rotating basis so that approximately ⅓ of the membership will be new by the 97th Congress and each successive Congress:

Provides the Committee exclusive legislative authority over the Central Intelligence Agency and shared budgetary and oversight authority with the standing committee formerly responsible—the Armed Services Committee for the Defense Intelligence Agency, National Security Agency and other military intelligence units and the Judiciary Committee for the Federal Bureau of Investigation; provides for concurrent sequential referral of legislation and authorizations with an automatic discharge if the second committee does not act within 30 days;

Provides that the committee notify the President if it votes to disclose classified information submitted by the Executive Branch; provides for release of such information unless the President notifies the Committee within 5 days of his objection; provides that if the committee still wishes to release the data it may, by majority vote, report the matter to the full Senate for a decision within 9 days on whether or not to disclose all or any part of the information or to refer it back to the committee for its decision; and

States the sense of the Senate that the heads of intelligence agencies or departments keep the Committee informed of intelligence activities and report immediately all intelligence activities which violate the constitutional rights of any person, law, executive order or agency regulation. S. Res. 400—Senate agreed to May 19, 1976. (181)

Select Committee on Intelligence Activities: Amends S. Res. 21 to extend to March 15, 1976, the date for the temporary Select Committee to submit a final report of the results of the investigation and study conducted by it with respect to intelligence activities; provides that the committee shall cease to exist on May 31, 1976; and authorizes an additional $300,000 for the 3-month period, March 1 to May 31, 1976, of which not to exceed $10,000 shall be for the procurement of consultants. S Res. 377—Senate adopted March 1, 1976. (VV)

Amends S. Res. 377 to increase the authorization for the 3-month period March 1, to May 31, 1976, from $300,000 to $350,000 of which not to exceed $15,000 shall be for the procurement of consultants. S. Res. 414—Senate adopted March 31, 1976. (VV)

Amends S. Res. 377, as amended, to increase the authorization for the 3-month period March 1, 1976, to May 31, 1976, from $450,000 to $515,000. S. Res. 435—Senate adopted May 3, 1976. (VV)

Select Committee on Small Business: Amends S. Res 58 (81st Congress) to give legislative jurisdiction over all proposed legislation primarily relating to the Small Business Administration to the Select Committee on Small Business, which was originally created on February 20, 1950, without legislative authority and is composed of 17 members appointed in the same manner and at the same time as the chairman and members of the standing committees of the Senate. S. Res. 104—Senate adopted April 29, 1976. (158) Res. 104—Senate adopted April 29, 1976. (158)

Watergate reform legislation: States the sense of the Senate that the Senate should make every effort to reach, by July 2, 1976, a final passage vote on watergate reform, tax reform, and intelligence oversight legislation. S. Res. 437—Senate adopted May 4, 1976. (163)

TRANSPORTATION—COMMUNICATIONS

Airport and airways development: Authorizes the Secretary of Transportation to make airport development grants of $540 million for fiscal year 1976, $580 million for 1977, $620 million for 1978, $660 million for 1979 and $700 million for 1980; authorizes $250 million for each of the fiscal years 1976 through 1980 for acquiring, establishing and maintaining air navigation facilities and $50 million annually for research, development and demonstration projects with specific reference to research on a fog disperson system;

Increases the obligational authority for airport development grants for the 10 year period ending September 30, 1980 from $2.5 billion to $4.695 billion;

Amends the definitions in the Airport and Airway Development Act of 1970 to permit grants to be made not only for airfield projects but also for terminal area development such as for snow removal equipment, noise suppression barriers, devices and noise suppression landscaping on airport property, purchasing of land adjacent to airports as a noise buffer area, and the development of multimodal passenger terminals which aim to provide a common interchange point with several modes of public transportation;

Provides for the development of a revised national airport system plan to provide a basis for planned, orderly airport development throughout the nation;

Authorizes utilization of surplus Airport and Airway Trust Fund monies to maintain air safety equipment;

Changes the formula by which airport development grant funds are to be apportioned by increasing the Federal share to 90 percent with 10 percent local funding on all projects except at large hub airports which will receive 70 percent matching funds; provides that all projects involving terminal area development or improvements—as contrasted with airfield development—will receive funds based on a 50-percent Federal and 50-percent local formula; and contains other provisions. H.R. 9771—Passed House December 18, 1975; Passed Senate amended March 25, 1976; In conference. (101)

Alaska highway: Authorizes $70 million in addition to sums otherwise made available to Alaska under title 23, U.S.C., and section 7(b) of the Federal-Aid Highway Act of 1966 for repair of highways in the State which are facing substantial deterioration because of construction of the Trans-Alaska pipeline, and directs the Secretary of Transportation to report to Congress by January 1, 1977, the feasibility of Alaska repaying, out of future mineral revenues it receives, any sums paid to the State pursuant to appropriations authorized by this Act. S. 2071—Passed Senate January 26, 1976. (VV)

Boat safety programs: Amends the Federal Boat Safety Act of 1971 to increase and extend the authorization assistance for State boating safety programs for fiscal years 1977 and 1978 from $7.5 million annually to $10 million; authorizes the Secretary of Transportation to expend not to exceed 1¼ percent of the total funds appropriated annually for audit expenses; and continues the 33⅓ percent limitation on the Federal share of the annual cost of a States boating program. H.R. 5630—Passed House November 17, 1976; Passed Senate amended May 19, 1976. (VV)

Common carrier tariff proceedings: Extends to 90 days the period of time required for notification of a change in a common carrier tariff and extends to 5 months the period during which the Federal Communications Commission may suspend the effectiveness of new or revised tariff schedules. S. 2054—Passed Senate May 27, 1976. (VV)

ConRail acqusition of bankrupt rail property: Provides that pursuant to the final system plan formulated by the United States Railway Association (USRA) to restructure the midwest and northeast railroad system, the transfer of the rail properties of 11 insolvent railroads along with their subsidiaries and affiliates to ConRail shall not result in the recognition of gain or loss to the transferor companies and that the shareholders and security holders of the transferors will not recognize gain or loss on exchanging their existing interest for ConRail stock and USRA certificates of value; provides that the basis of the assets transferred to ConRail is to be the same for ConRail as the transferor; provides that no net operating losses are to be transferred from the transferors to ConRail; and contains a provision that net operating losses eligible for carry over to years after the date of the transfer are to be kept alive for tax purposes beyond their normal expiration date, but only for use by the transferor against any future income arising from awards of the courts (and the redemption of certificates of value) with respect to the transfer of their rail assets to ConRail. H.R. 12490—Public Law 94-253, approved March 31, 1976. (VV)

ConRail Stock: Amends the Regional Rail Reorganization Act of 1973, as amended, to change language describing the process of making adjustments to reflect stock splits, stock combinations, reclassifications and similar transactions that might occur after the time of the distribution of the securities pursuant to the provisions of the Act; sets the initial authorized number of series B preferred stock at 35 million; and provides that the Corporation may issue initially, for the purpose of the required deposit, such numbers of series B preferred and common stock as the Association shall certify to the Special Court including any modifications in the numbers of shares as may be ordered by the Special Court. S.J. Res. 184—Public Law 94-248, approved March 25, 1976. (VV)

Educational broadcasting facilities: Extends and perfects the matching grant program for construction of noncommercial educational radio and television broadcasting facilities and authorizes therefor $7.5 million for the transition period July 1-September 30, 1976, and $30 million for fiscal year 1977; and establishes a telecommunications demonstration program administered by HEW to promote the development of nonbroadcast telecommunications facilities for the transmission, distribution, and delivery of health, education and public or social service information whereby the Secretary of HEW is authorized, upon application, to make grants and enter into contracts with public and private nonprofit agencies, organizations and institutions to carry out this purpose and authorizes therefor $250,000 for the transition period July 1-September 30, 1976, and $1 million for fiscal year 1977. H.R. 9630—Public Law 94- , approved 1976. (VV)

Federal-Aid Highway authorization: Authorizes appropriations for the interstate system of $3.625 billion for each of fiscal years 1980 through 1990; provides authorizations out of the Highway Trust Fund for fiscal years 1977 and 1978, for various highway programs, including authorizations of $1.35 billion for each of these years for the Federal-aid primary system in rural areas, the extensions of the system in urban areas, and the priority primary routes, and $800 million for each of these years for the Federal-aid urban system; amends the Interstate transfer provision to allow funding of highway projects on the Federal-aid primary, secondary or urban systems in lieu of a non-essential Interstate link and to provide that the nationwide aggregate costs of substitute projects shall not exceed the nationwide aggregate costs of withdrawn routes, with the costs to be adjusted to the date of enactment of this act; requires States to spend 30 percent of their interstate funds during fiscal years 1978 and 1979 for the completion of intercity projects that would close essential gaps in the system; provides for increased transferability of funds between categories of highways; expands the carpool program to make it permanent and to include van pools, the purchase of vehicles, and carpooling opportunities for the elderly and handicapped within the program; authorizes a traffic control signalization program for demonstration of new technology, and a demonstration project for use in urban mass transportation of the Automated Guideway Transit system now in operation at the Dallas/Fort Worth Regional Airport; changes the apportionment for the primary system to a formula weighted two-thirds to the existing primary formula and one-third to the ratio of population in all urban areas, which reflects the change in the Federal-aid primary system to include urban extensions;

Contains authorizations for fiscal years 1977 and 1978 for programs carried out by the National Traffic Highway Safety Administration and by the Federal Highway Administration; prohibits the requiring of a State ot adopt or enforce a motorcycle law requiring motorcycle operators or passengers 18 years of age or older to wear a safety helmet; and contains other provisions. H.R. 8235—Public Law 94-280, approved May 5, 1976. (*585)

Hazardous materials transportation: Amends the Hazardous Materials Transportation Act to authorize $7 million for each of fiscal years 1977 and 1978 to implement the programs relating to the transportation of hazardous materials: strikes the word "extremely" from the requirement that shippers, carriers, and manufacturers of containers for "extremely" hazardous materials must register with the Department of Transportation; and clarifies the provision that the Secretary's authority to grant exemptions to manufacturers of hazardous materials extends to manufacturers of hazardous materials containers as well as to shippers and carriers. S. 2991—Passed Senate May 19, 1976. (VV)

Rail negotiations: Expresses the sense of the Congress that the public interest requires that the Chessie and Southern Railway Systems and the Railway Labor Organizations should resume negotiations forthwith with the assistance of the Secretaries of Labor and Transportation and exercise unusual diligence to resolve their differences to assure the acquisition and rehabilitation of properties currently owned by bankrupt railroads in the Midwest and Northeast Region pursuant to the final system plan developed by the Consolidated Rail Corporation (ConRail). S. Con. Res. 97—Senate adopted March 4, 1976; House adopted March 9, 1976. (VV)

Railroad revitalization: Provides the means to rehabilitate and restore the financial stability of the railway system of the United States; in title II, amends part I of the Interstate Commerce Act to provide for an extensive overhaul of railroad rate regulation by the Interstate Commerce Commission (ICC), which includes the establishment of new standards for determining whether a railroad rate is just and reasonable and the modification of the power of the Commission to suspend proposed railroad rates which are alleged to be unlawful; in title III, contains provisions to reform and improve the process by which the ICC regulates the railroad system; in title IV, contains provisions designed to expedite and rationalize Commission action on applications for mergers and consolidations of rail services;

In title V, establishes in the Treasury a Railroad Rehabilitation and Improvement Fund to be administered by the Secretary of Transportation for the purpose of providing the capital necessary for rehabilitation and improvement of railroads, including ConRail; directs the Secretary to issue and sell Fund anticipation notes to the Secretary of the Treasury who is to buy the notes to the extent of appropriated funds; provides that the proceeds are to be used by the Secretary of Transportation to purchase "redeemable preference shares" issued by railroads whose applications for financing are approved by the Secretary; authorizes $600 million for the Fund through September 30, 1978;

In title VI, provides for the implementation of the Final System Plan for the Northeast/Midwest Regional rail system; authorizes the United States Railway Association to purchase up to $2.1 billion of ConRail securities unless the Association's Finance Committee (composed of the Secretaries of Transportation and the Treasury and the Chairman of the Association) makes an affirmative finding that ConRail has not fulfilled a commitment to the Association, has failed to obtain the overall operating and financial results projected in the Final System Plan, or cannot achieve the results without requiring Federal assistance substantially in excess of that authorized by this act; provides that an affirmative finding by the Committee to cut off funds for ConRail will become effective after 30 calendar days of continuous session of Congress unless either House passes a resolution of disapproval: authorizes $230 million for pre-conveyance loans by the Association to Conrail to purchase material, supplies and services in anticipation of its operation;

In title VII, provides for the implementations of the Northeast Corridor project for establishment of high speed intercity rail passenger service in the heavily populated eastern seaboard, which includes the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland and the District of Columbia; provides that the projectis to be funded by the Secretary of Transportation in order to achieve within 5 years the establishment of regularly scheduled intercity service operating on at least a 3 hour and 40 minute schedule between Boston and New York City and a 2 hour and 40 minute schedule between New York City and Washington; authorizes $1.75 billion to meet this goal; sets as other goals the improvement of service on routes from the Northeast Corridor main line, improvement of stations, rail commuter service, rail freight service, and passenger radio telephone service; directs the Secretary to report to Congress in 2 years on the results of the project and on the practicability of establishing passenger service between Boston and New York City on at least a 3 hour schedule;

In title VIII, clarifies the ICC's authority over railroad abandonments and discontinuances; establishes a local rail service assistance program on a nationwide basis and authorizes $360 million for this purpose over a 5 year period; makes several changes in the local rail service assistance program for the northeast/midwest region originally provided in the Regional Rail Reorganization Act of 1973; contains various miscellaneous provisions in title IX, including the requirement of a study by the Secretary of the American Rail System and an analysis of Federal rail assistance; and contains other provisions. S. 2718—Public Law 94-210, approved February 5, 1976. (*552, *609, 16)

Translator broadcast operations: Amends section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations. S. 2847—Passed Senate May 27, 1976. (VV)

VETERANS

American Battle Monuments Commission travel expenses: Authorizes members of the American Battle Monuments Commission (which was established after World War I to provide plans and cost estimates for suitable memorials to commemorate the services of the American Armed Forces on foreign soil), when traveling outside the continental United States, variable per diem rates identical to those authorized for members of the uniformed services in special status, and makes a technical amendment consistent with the changes made by the Travel Expense Amendments for Government employees (Public Law 94-22) concerning travel by members of the Commission within the continental United States. H.R. 8507—Public Law 94-256, approved April 1, 1976. (VV)

Veterans' housing loans: Amends chapter 17, title 38, U.S.C., to extend eligibility for housing benefits to veterans who served in the Armed Forces after World War II and before the Korean conflict (July 25, 1947, to June 27, 1950); increases the maximum loan available through the Veterans' Administration direct home loan program from $21,000 to $30,000 and further increases the maximum amount for a direct home loan in "excess cost" areas from $25,000 to $35,000; makes the V.A.'s loan guaranty and direct home loan programs on going permanent programs; increases the maximum mobile home loan guaranty for the purchase of mobile homes from 30 to 50 percent; and preempts, under certain conditions, State constitutional usury provisions which limit interest rates chargeable on FHA and VA mortgages by a certain class of lenders but which do not impose such rate limits on mortgages made by another class of lenders. S. 2529—Passed Senate May 13, 1976; Passed House amended May 18, 1976. (VV)

Veterans' insurance: Amends title 38, U.S.C., to permit any Veteran insured under Servicemen's Group Life Insurance (SGLI) the right to convert to an individual policy of commercial life insurance including a term policy; permits Veterans insured under Veterans' Group Life Insurance when exercising their conversion privilege the right to choose an individual commercial policy of term insurance (convertible at a time specified in the policy to a permanent plan of insurance) or a whole life policy; extends for 1 year after enactment the period during which veterans extended retroactive eligibility by Public Law 93-289 for Veterans' Group Life Insurance may apply for such policies; and makes technical amendments to chapter 19, title 38, U.S.C., to clarify language, restructure sections and eliminate unnecessary gender references. S. 1911—Passed Senate March 15, 1976. (VV)

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene on Wednesday, June 2, at the hour of 11 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. HASKELL will be recognized for not to exceed 15 minutes, and then Mr. MANSFIELD will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon with statements therein limited to 5 minutes each.

Shortly after noon—about 12 or 15 minutes after noon—Senators will assemble for the purpose of going in a body to the Hall of the House of Representatives to attend a joint meting which will be addressed by the King of Spain. Following that address, Senators will return to the Chamber, whereupon the Senate will be called to order by the Chair.

Rollcall votes may occur during Wednesday afternoon on various and sundry items. Mr. MANSFIELD will have returned at that time.

I would say that the business before the Senate on that afternoon could very well be resumption of debate and action on amendments in relation to the antitrust legislation. It could very well be, instead, that the unfinished business, S. 3439, a bill to amend the Foreign Assistance Act of 1961 and Foreign Military Sales Act, would be called up. It also could be possible that the Clean Air Act would be called up.

Other measures that have been cleared for action could come up on that afternoon. Conference reports could be called up. Rollcall votes could occur.

ORDER THAT NO ROLLCALL VOTES OCCUR ON WEDNESDAY, JUNE 2, 1976, PRIOR TO 4 P.M.

Mr. President, I ask unanimous consent, for the protection of Senators, that no rollcall votes occur on Wednesday, June, prior to the hour of 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on Thursday, June 3, the Senate will vote under the rule 1 hour after it convenes, and a quorum is established—which may be changed by unanimous consent on Wednesday, June 2, if it be the will of the Senate—on the motion to invoke cloture on the antitrust legislation.

Other votes may occur on that day. So, there will be rollcall votes, and Senators are so alerted. The leadership urges all Senators to make every attempt to be present on Thursday, June 3. I would anticipate a large number of rollcall votes on that day.

Mr. President, for the information of Senators, only 69 days remain—counting Mondays through Fridays—until the hoped-for adjournment date of October 2. Of course, the Senate may have to come in on some Saturdays in the meantime. But excluding Saturdays, only 69 weekdays remain for the Senate to complete its business if it is to adjourn sine die by October 2.

For the information of Senators I ask unanimous consent to include in the RECORD a digest of certain measures on the Senate calendar of business, keeping in mind that other measures will appear from time to time.

I will attempt, in my whip notices, to keep Senators informed as to the continuing digest of measures on the Senate calendar of business.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DIGEST OF CERTAIN MEASURES ON THE SENATE CALENDAR OF BUSINESS

H.R. 71: The bill would provide hospital and medical care to U.S. citizens who served with the armed forces of nations allied or associated with the U.S. in World War I or II. Present law covers only those who were members of U.S. forces.

It would apply to those who were with the British Royal Air Force, for example, or the Polish resistance. Citizens who served with allied nations would be treated only on a space available basis with U.S. veterans given priority.

S. 3219: (Clean Air) Requires States to submit plans for prevention of significant deterioration of air quality in clean air regions, subject to the approval of the EPA administrator. It establishes guidelines for classification of those regions and imposes limitations on projected increases in concentrations of particulate matter and sulfur dioxide for each class of such regions. And, it requires that new sources constructed in such regions utilize the best available control technology and certify that emissions from the facility will not contribute to a cumulative change in ambient air quality greater than the appropriate limits.

S. 1624: Interstate transportation of wine. To eliminate obstructions to free flow of commerce resulting from discriminatory and unreasonable taxes or regulations affecting wine.

Prohibits any State which permits transportation or importation of wine from applying tax measures, regulations, and other measures against wines produced outside that State unless applied in same manner as to wine of same class in State seeking to impose tax or regulation. States still retain control over purchase, sale, and distribution of wines in State jurisdiction.

S. 2477: Lobbying—Requires broad public disclosure of the efforts of individuals and organizations paid to influence or attempt to influence issues before the Congress or the Executive Branch without interfering with the right of citizens to petition the government for redress of grievances.

Covers communications or lobbying solicitations to Congress or the Executive Branch which may be expected to reach 500 or more persons.

Reports must be filed with the Comptroller General on a quarterly basis.

S. Res. 436: Expresses the support of the Senate for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address at Lusaka, Zambia, on April 27, 1976.

S. Res. 68: To amend Rule XVIII of the Standing Rules of the Senate. Declares that at any time during the consideration of a bill or resolution in the Senate, it shall be in order to move that no amendment which is not germane or relevant to the subject matter of the bill or resolution shall thereafter be in order.

Any such motion must be agreed to by the affirmative vote of two-thirds of the Senators present and voting.

S. 12: To provide benefits for survivors of Federal judges. Provides that judicial officials are entitled to the same survivor annuity benefits as survivors of Members of Congress with specified limitations and that a survivor shall not be prohibited from simultaneously receiving an annuity under this act and any other annuity to which the survivor may be entitled.

S. 1284: Improvement and enforcement of the antitrust laws. It would revise discovery procedures and requirements for antitrust investigations; increase civil penalties for failure to file reports or obey subpoenas as required by the Federal Trade Commission Act; and permits the Attorney General of a State to initiate civil action to recover damages on behalf of certain classes of persons or the State for injuries resulting from violation of Federal antitrust laws.

Also requires premerger notification in order to prevent acquisition of stocks or shares or assets of another person or persons if the acquiring person or persons assets or net sales exceed certain limitations, until 60 days after filing of the notification of merger with the Department of Justice and the Federal Trade Commission.

H.R. 11559: This bill authorizes an appropriation of $6,470,000 for fiscal year 1977 to carry out programs under the Saline Water Conversion Act of 1971.

S. 1776: Authorizes the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, not to exceed 3,500 acres. Also authorizes appropriation of necessary funds.

H.R. 13069: An act to extend for one year (until September 30, 1977) the period for making loans to the unemployment fund of the Virgin Islands and increases the authorized funds by $10,000,000.

H.R. 5360: An act to increase detention benefits provided to American civilian internees in Southeast Asia from $60 per month to $150 per month under the War Claims Act of 1948.

S. 2837: A bill to amend the Act of August 30, 1890, so as to except a tract of ground located in Carbon County, Wyoming from right-of-way reservations for ditches or canals imposed on such land.

S. 972: Public Safety Officers Memorial Scholarship Act. Authorizes the U.S. Commissioner of Education to award a scholarship to any eligible applicant for full time undergraduate study at an eligible institution. An applicant must be certified by the head of the agency which employed the Public Safety Officer as a dependent of that Officer who was the victim of a homicide while engaged in the performance of his official duties.

H.R. 8532: Anti-trust—An act to authorize the Attorney General of any State to bring civil action charging unlawful monopoly practices under the Clayton Act and to recover damages for any injury to the general economy of the State or any political subdivision.

The U.S. Attorney General is directed to notify States' Attorneys General of any instances where States are entitled to bring action for violations of the act.

S. 3424: A bill to minimize the use of energy in housing, nonresidential buildings, and industrial plants through State energy conservation implementation programs and Federal financial incentives and assistance.

S. 230: Public Safety Officers Group Life Insurance Act. Authorizes the purchase of group life insurance policies to insure any public safety officer employed on a full time basis by a State or local government which has applied to participate in the program and has agreed to deduct from officers' pay the premiums payable for coverage.

Eligible insurance companies must be licensed in all 50 States and the District of Columbia and have in effect at least 1% of the total amount group life insurance in effect in the United States.

The act provides that each policy issued shall include a schedule of basic premium rates and for any adjustments. The act also sets forth the order of precedence in which survivors of officers will be awarded benefits.

An Advisory Council established by the bill and the Attorney General would meet at least once annually to review the Administration of the Act. The sum of $20,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977.

H.R. 5465: An act to allow Federal employment preference to employees of the Bureau of Indian Affairs of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of Federal laws allowing employment preference to Indians. The act defines eligible employees.

H.R. 11439: An act to amend Title 5, U.S. Code, to restore eligibility for health benefits coverage to certain individuals. It would permit a surviving spouse whose civil service annuity was terminated due to remarriage to enroll in a civil service health benefits plan upon restoration of such spouse's annuity if the spouse was covered by a health benefits plan at the time the annuity was terminated.

H R. 11481: An act to authorize the appropriation for the Department of Commerce for the Fiscal Year 1977: (1) $403,721,000 for obligations incurred for operating differential subsidy; (2) $19,500,000 for research and development activities; (3) $4,560,000 for reserve fleet expenses; (4) $13,260,000 for maritime training at the Merchant Marine Academy; and (5) $3,741,000 for financial assistance to State Marine schools.

Authorizes additional appropriations for personnel, maintenance, and other expenses of the Merchant Marine Academy.

S. 3267: A bill to amend the Motor Vehicle Information and Cost Savings Act to add a new title (Research and Development) to the act. The purpose is to encourage development of advanced, automobiles designed to meet long term goals relative to fuel economy, safety, environmental protection and to facilitate competition in development of existing and alternative automotive vehicles and components.

The Secretary of Transportation is authorized to make contracts and grants and other efforts to achieve the objectives of the bill. It authorizes the appropriation of up to $175,000,000 to pay interest on obligations and the principal balance of obligations, guaranteed by the Secretary when the obligor has defaulted.

Annual reports to Congress are required by the bill.

S. 1632: A bill to authorize the Energy Research and Development Administration to initiate programs and enter contracts for the purpose of developing and producing significant numbers of urban passenger and commercial vehicles utilizing electric propulsion systems.

Authorizes an appropriation of $40,000,000 for each of the Fiscal Years 1976, 1977, and 1978.

S. 2228: A bill to amend the Public Works and Economic Development Act of 1965 by extending the authorizations for appropriations for an additional three years until September 1979.

S. 3281: Federal Program Information Act. It creates an information center to establish and maintain a computerized system capable of identifying all existing Federal domestic assistance programs. Identification should be sufficient to allow a prospective beneficiary to determine whether personal qualifications meet requirements for eligibility.

Requires publication of an annual catalogue of domestic assistance programs.

S. 2304: Prohibits member banks of the Federal Reserve System from making loans or extensions of credit to any of their officers, directors, or other specified persons who have an interest in such bank where such loans or extension of credit exceeds statutory limits on loans to one borrower. The prohibition is extended, under the Federal Deposit Insurance Act, to non-member insured banks. Directors, officers, employees, and agents, and insured banks are subject to cease-and-desist proceedings and orders. Civil penalties for any violations are established.

S. 1926: A bill to amend the Public Health Service Act so as to eliminate the requirement that health maintenance organizations offer annual open enrollment for individual membership, and makes the offering of supplemental health services optional.

It includes State and local government employers among those who must offer employees the option of membership in a health maintenance organization.

Extends authorization of appropriations an additional two years.

S. 3369: An Act to amend the Small Business Act to increase the authorization for loans for specified small business loan programs including: (1) displaced business disaster loans; (2) loans for the handicapped; (3) the small business investment company program; and (4) loans to State and local development companies.

It increases authorization for loans in urban or rural areas having high proportion of unemployed or low-income individuals, or to businesses owned by low-income individuals.

S. 3370: A bill to amend the Small Business Investment Act of 1958 by increasing the authorization for the Surety Bond Guarantee Fund by $53,000,000 (from $35,000,000 to $88,000,000).

S. 2212: A bill to amend the Omnibus Crime Control and Safe Streets Act. Provides that any unused funds reverting the Law Enforcement Assistance Administration may be reallocated among the States. Grants to States may be used to devise methods to strengthen the court system.

LEAA may waive State liability and pursue legal remedies where a State lacks proper forum to enforce grant provisions imposing liability on Indian tribes. Permits LEAA to increase grants to Indian tribes under certain conditions.

S. 3165: A bill to establish the Office of Marine Resources, Science and Technology within the National Oceanic and Atmospheric Administration. The purpose is to initiate long term research and development programs in marine science and technology. An advisory service would impart useful information and techniques to interested organizations and individuals. Programs would be submitted to the Congress and the President and annual reports would be submitted to the Congress by the Secretary of Commerce.

The bill also establishes a National Sea Grant program for research, education, training and advisory services in ocean and coastal resource development, assessment and conservation.

S. 2069: A bill to create a Consumer Controversies Resolution Act to assure consumers a mechanism which is fair, effective, inexpensive and expeditious. It directs the Federal Trade Commission to establish a Bureau of Consumer Redress. The FTC shall perform various duties including allocation to States of funds appropriated for financial assistance under cooperative agreements; review of each State's plan for resolution of consumer controversies; and evaluation of goals for a model State System of Consumer Controversy resolutions.

The bill authorizes an appropriation not to exceed $500,000 for Fiscal Year 1976 and $20,000,000 for Fiscal Year 1977.

S. 3131: Amends the Rail Passenger Service Act by authorizing the National Railroad Passenger Corporation to establish a through route and rate with qualified motor carriers. It authorizes appropriations through Fiscal Year 1978 to the Secretary of Transportation for the benefit of the Corporation: (1) to meet specified expenses; (2) for capital acquisitions and improvements; and (3) for the payment of the principal amount of obligations of the Corporation.

S. 2323: National Traffic and Motor Vehicles Safety Act of 1966. The bill authorizes appropriations of $13,000,000 for the fiscal year 1976 transitional period, $60,000,000 for the fiscal year 1977, and $60,000,000 for fiscal year 1978.

S. 3119: Federal Railroad Safety Authorization Act. The bill would require any common carrier to provide its employees with sleeping quarters having controlled temperatures and located away from areas where switching and other disturbing operations occur. It forbids any crew members of wreck or relief trains from working 16 consecutive hours in any 24 hour period. It sets forth required safety procedures for protection against following or on-coming trains, and for employees working on, under, or about an engine, car, or train.

It divides the Federal Railroad Administration into ten regional offices for administration and enforcement of Federal railroad safety laws.

S. 2184: A bill to authorize the Secretary of Commerce to participate in the organization, planning, design and construction of facilities in connection with the 1980 Olympic Winter Games at Lake Placid, New York. It authorizes an appropriation of $50,000,000.

H.R. 11670: An Act to authorize specified appropriations for the Coast Guard for fiscal year 1977 for vessels and aircraft procurement and for facilities construction. The Act would authorize a year-end strength for active duty personnel and establish average military student loads for fiscal 1977.

S. 2150: Solid Waste Utilization Act. It directs the Administration of the Environmental Protection Agency to provide financial assistance to each State to: (1) assist in developing a State solid waste management plan; (2) assist the State in the administration of the program; and (3) develop, implement, operate, and enforce State programs for the control of hazardous waste disposal.

The Administrator must develop and implement guidelines and implementation of programs for disposal of solid or hazardous wastes.

Appropriations authorized to the Secretary of Commerce for purposes of the Act are $20,000,000 for each of the fiscal years 1976, 1977, and 1978, and $5,000,000 for the fiscal transitional period ending September 30, 1976.

S. 3037: Federal Water Pollution Control Act. A bill to authorize the appropriation of seven billion dollars for fiscal year 1977 for the construction of waste treatment works.

S. 3437: Federal Water Pollution Control Act. An original bill to authorize certain appropriations for the purpose of carrying out the provisions of the Act.

Sections of the Act affected, in brief, are 104(u), 105(h), 107(e), and 113(d).

S. 3438: Clean Air Act. Section 104(c) of the Act is amended by the authorization of an appropriation of $148,194,700 for the fiscal year ending September 30, 1977.

S. 2872: Federal Energy Administration Act of 1974. The bill extends the expiration date of the Act to September 30, 1979. It revises requirements for conflicts of interest disclosure of information and record keeping under the Act. The Federal Energy Administrator shall be afforded an opportunity to comment upon proposed Environmental Protection Agency regulations affecting energy exploration and development.

S. 3439: (Unfinished Business) Foreign Assistance Act of 1961 and the Foreign Military Sales Act.

H.R. 3650: A bill to amend Title 5, United States Code, section 8344. It provides for the termination of Federal Civil Service Annuity payments upon the reemployment of specified employees. It further provides for termination of payments upon reemployment on part-time basis for periods equivalent to at least one year of full-time service. And, it provides for termination of payments to annuitants appointed by the President to specified positions covered by civil service retirement.

S. 3105: Energy Research and Development Administration. The bill authorizes appropriations of certain sums for the following purposes: (1) $4,935,362,000 for nuclear energy research and development and other purposes; (2) $812,550,000 for non-nuclear research and development and other purposes; (3) $612,408,000 for environmental research and safety, and basic energy sciences, and for other purposes.

The bill amends prior appropriations acts to increase amounts authorized for specific energy research projects and extends authorizations through fiscal 1977.

S. 2657: Higher Education Act of 1965 and Vocational Education Act of 1963 Amendments.

The bill extends the Higher Education Act until October 1, 1982 and revises provisions dealing with grants and loans to students and regulations thereof, and repeals sections relative to attracting and qualifying teachers to meet teacher shortages.

It extends the Vocational Education Act until October 1, 1982 and provides for assistance to States to improve methods for using every available resource for vocational and manpower training. Requires establishment of State boards for vocational education in States desiring to participate in the program.

Establishes procedures for States and State boards to apply for funds, submit program plans, and maintain proper fiscal control of funds received.

Establishes various levels of educational and vocational responsibility under the U.S. Commissioner of Education and authorizes appropriations necessary to carry out the provisions of the bill.

H.R. 12987: A bill to authorize appropriations of sums necessary for fiscal year 1976 and for the transition period ending September 30, 1976 to carry out the purposes of Title VI of the Comprehensive employment and Training Act of 1973.

An emergency job program extension—it requires that not less than 85 percent of the funds for public service employment programs be used only for wages and employment benefits, with the remainder of such funds to be available for administrative costs, supplies, and equipment.

H.R. 5546: Public Health Service Act Amendments. A bill consisting of nine titles and authorizing appropriations necessary to carry out its provisions for fiscal years 1976, 1977, and 1978, for the following general purposes:

(1) Grants for trainees, construction, loan guarantees and interest subsidies, financial distress and scholarship grants; (2) training requirements for physician assistants, nurse practitioners, etc. and bars against discrimination; (3) construction of teaching facilities for medical and health personnel; (4) sets limits on student loans; (5) grants to health profession schools; (6) special project for medical and dental schools; (7) grants for graduate programs in health administration; (8) restrictions on first year medical residency training programs; (9) Secretary of HEW to contract or arrange for studies relative to the distribution of physicians geographically; to classify allied health personnel; to identify costs in each classification and shortages of critical personnel.

S. 3239: Health Professions Educational Assistance Act. The bill amends the Public Health Service Act to extend appropriation authorizations for specified medical training and education programs through Fiscal Year 1977.

The bill, consisting of 15 titles provides, in general, for the following:

(1) Extension of current authorities through Fiscal Year 1977;

(2) Recruitment of health personnel speaking language of local population;

(3) Establishes limits, conditions, eligibility, and insurance requirements for student loans;

(4) Directs Secretary of HEW to designate health manpower shortage areas, to provide health services to such areas, and to submit annual reports to Congress:

(5) Establishes post graduate physician training relating to geographic needs of physicians in certain specialties;

(6) Restricts alien immigration of foreign medical school graduates who come to the U.S. principally to perform medical services, as well as medical professionals who were granted visitor status while attending U.S. health professional schools;

(7) Develop standards for State licensing of physicians and dentists, and for continuing education programs for doctors and dentists;

(8) Prohibits grants to medical, dental and other health schools unless certain conditions for enrollment, Federal aid, and other qualifications are met;

(9) Directs Secretary of HEW to make annual grants to schools of Optometry, Pharmacy, Podiatry, and Veterinary medicine;

(10) Directs Secretary of HEW to make annual grants to public or non profit private educational institutions to support graduate health programs;

(11) Directs Secretary to make grants for allied health programs: administrators, supervisors, etc.;

(12) For special project grants and contracts in beginning, or related, or special areas of health education;

(13) Occupational health training and education centers;

(14) Construction of primary health care teaching facilities;

(15) Miscellaneous grants by the Secretary.

S. 2548: Emergency Medical Services Amendment. A bill to revise provisions of the Public Health Services Act relative to emergency medical service systems including: (1) grants and contracts for establishment and operation; (2) grants and contracts for improvement; and (3) grants and contracts for research in emergency medical techniques.

The bill authorizes an appropriation of $5,083,000 for grants during the transitional quarter ending September 30, 1976, and for additional funds through Fiscal Year 1979.

H.R. 3348: A bill to amend Title 38 of the United States Code, sections 5054 and 5055, for the purpose of continuing and improving the exchange of medical information between the Veterans' Administration and the medical community.

H.R. 10268: An act to amend Title 38 of the United States Code. It sets forth the conditions under which the Administrator of Veterans' Affairs may release names and addresses of present and former personnel of the armed services and their dependents.

Penalties for unauthorized release of such data by organizations and agencies are provided.

S. 2035: Nuclear Fuel Assurance Act. A bill to authorize the Energy Research and Development Administration to enter into arrangements with private enterprise for the production and enrichment of uranium, for technical assistance, for acquisition of equity in such enterprise, and for other purposes.

S. 2661: Independent Safety Board Act Amendments. The bill directs the Board to prohibit the disclosure of information obtained from an investigation of an aircraft accident or incident when conducted by a foreign state unless the state which conducted the investigation authorizes such disclosure.

S. 1872: A bill to enlarge the boundary of the Cibola National Forest in the State of New Mexico.

S. 3091: A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974. It directs the Secretary of Agriculture to provide for public participation in the formulation and review of proposed land management plans for units of the National Forest System and to establish procedures for developing such land.

The bill authorizes the Secretary to appraise and sell trees and other forest products in accordance with the principles of the Multiple Use and Sustained Yield Act and repeals the prohibition against sale of forest products outside the State in which the timber is located.

S. 3422: The Natural Gas Act repeals authority of the Federal Power Commission to regulate the sale of new natural gas sold to a natural gas company for resale in interstate commerce. Producers are prohibited from charging more for natural gas than the applicable ceiling prices.

For a period of seven years from the date of enactment of S. 3422 interstate pipelines are prohibited from paying more than the "onshore price" for new natural gas produced from onshore lands.

The bill continues cost-based regulation under the existing Natural Gas Act for all old gas which is all the flowing and dedicated gas for the interstate market that is not eligible for treatment as new natural gas.

New natural gas is defined as gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas producted from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available after the expiration of short term or emergency contracts.

S. Res. 448: An original resolution. The purpose is to express the hope of the Congress for the early restoration of peace in Lebanon, and also to express the willingness of the United States to assist in Lebanese relief and reconstruction.

H.R. 8948. A bill to amend the Accounting and Auditing Act of 1950. It directs the Comptroller General of the United States to make audits of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms. The Comptroller General is required to report annually to the Congress on the results of such audits.

S. 2849. A bill to amend the Investment Advisers Act of 1940. It authorizes the Security and Exchange Commission to establish standards for investment advisers and associated persons relative to training, experience, competence and other appropriate qualifications. The SEC is authorized to promulgate rules and regulations in the public interest to protect investors, to create advisory committees, employ experts, and hold public hearings.

S. Con. Res. 105. A resolution expressing the sense of the Congress that the United States reaffirms a sympathetic interest in Italian democracy and democratic institutions. It expresses the sense of the Congress that the United States is willing to participate in efforts to provide assistance to Italy through the proposed OECD Special Financing Facility with the assistance of other friends and allies of Italy.

S. 3084. A bill to amend the Export Administration Act of 1969 so as to extend for three years the authority granted under the Act to regulate exports.

S. 2343. A bill to amend the Communications Act of 1934 by increasing the maximum fines which may be imposed on an individual for violations of FCC regulations.

S. 3063. A bill to designate the Ozark Lock and Dam on the Arkansas River as the Ozark-Jeta Taylor Lock and Dam.

Mr. ALLEN. Mr. President, reserving the right to object, and I do not plan to object, as I understand the majority leader's request, the debate would be on the motion to invoke cloture, and this would not make the antitrust bill the pending business during such debate. Is that correct?

The PRESIDING OFFICER. There is no unanimous-consent request pending. It was merely a statement of the plan and program of the Senate.

Mr. ALLEN. I will ask the question then. Would the debate on the motion to invoke cloture constitute making the antitrust bill the pending business, or would the pending business merely be, Shall debate on the pending measure be brought to a close?

The PRESIDING OFFICER. The rule provides for no debate on the motion to invoke cloture.

Mr. ALLEN. No request has been made for time.

The PRESIDING OFFICER. It merely provides for a vote after 1 hour, after a quorum has been established.

Mr. ALLEN. Does the majority leader plan to set aside a portion of the time for debate on the motion?

Mr. ROBERT C. BYRD. I did not so plan today. That could be done on Wednesday.

Mr. ALLEN. But even if debate is provided, is not the debate on the question, "Shall debate be brought to a close?" rather than on the bill itself?

The PRESIDING OFFICER. The Chair informs the Senator that it depends on what the unanimous-consent request is for.

Mr. ALLEN. There has been none this far; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. And until the bill becomes the pending bill, there would be no debate, unless there is unanimous consent that the debate was on the antitrust legislation?

The PRESIDING OFFICER. If there is a request for debate on the antitrust legislation, it would come before the Senate.

Mr. ALLEN. There has been no request thus far; is that correct?

The PRESIDING OFFICER. That is correct—no request so far.

Mr. ALLEN. Very well. I remove my objection.

The PRESIDING OFFICER. What is the pleasure of the Senate?

ADJOURNMENT UNTIL WEDNESDAY, JUNE 2, 1976, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 646, that the Senate stand in adjournment until 11 a.m. on Wednesday, June 2, 1976.

The motion was agreed to; and at 2:52 p.m. the Senate adjourned until Wednesday, June 2, 1976, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 28, 1976:

DEPARTMENT OF DEFENSE

David P. Taylor, of Virginia, to be an Assistant Secretary of Defense, vice William Keith Brehm.

NATIONAL LABOR RELATIONS BOARD

John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1981 (reappointment).

DEPARTMENT OF JUSTICE

George O. Houser, Jr., of Wyoming, to be U.S. marshall for the district of Wyoming for the term of 4 years, vice Charles R. Wilcox, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 28, 1976:

FEDERAL RESERVE SYSTEM

David M. Lilly, of Minnesota, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1964.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

George Henry Kuper, of the District of Columbia, to be Executive Director of the National Center for Productivity and Quality of Working Life.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Howard Elder, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named Army Medical Department officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284, 3306, and 3307:

To be major general, Medical Corps

Maj. Gen. Robert Bernstein, [redacted], Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Marshall Edward McCabe, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Robert Wesley Green, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Brig. Gen. Charles Calvin Pixley, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general, Veterinary Corps

Col. Thomas George Murname, Jr., [redacted] Veterinary Corps, U.S. Army.

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades shown, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general, Medical Corps

Brig. Gen. Charles Calvin Pixley, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Kenneth Ray Dirks, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Col. Raymond Holmes Bishop, Jr., [redacted] Medical Corps, U.S. Army.

Col. Enrique Mendez, Jr. [redacted], Medical Corps, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Rolland Valentine Heiser, [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. William Charles Gribble, Jr., [redacted] Army of the United States (major general, U.S. Army.)

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Maj. Gen. Robert C. Kingston, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Gerd S. Grombacher, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard G. Fazakerley, [redacted] Army of the United States (colonel, U.S. Army).

Lt. Gen. Eugene J. D'Ambrosio, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Ennis C. Whitehead, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Kirwan, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Hugh F. T. Hoffman, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John L. Osteen, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. George L. McFadden, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Julius W. Becton, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Raphael D. Tice, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Harry A. Griffith, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles I. McGinnis, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. Prillaman, [redacted] Army of the United States (colonel, U.S. Army).

IN THE NAVY

Vice Adm. Daniel J. Murphy, U.S. Navy, having been designated for commands and other duties commensurate with the grade of admiral determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Rear Adm. Vincent A. Lascara, Supply Corps, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. William O. Miller, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy with the rank of rear admiral, for a term of 4 years.

IN THE AIR FORCE

Air Force nominations beginning Robert W. Johnson, to be captain and ending Robert L. Davison, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on April 26, 1976.

Air Force nominations beginning Danny J. Acock, to be second lieutenant, and ending Timothy O'Hagan, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on May 6, 1976.

IN THE ARMY

Army nominations beginning Verlin L. Abbott, to be second lieutenant, and ending Dennis M. Skelly, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 26, 1976.

Army nominations beginning William F. Carroll, to be permanent professor of mathematics, U.S. Military Academy, and ending

Francis R. Southcott, Jr., to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on **April 26, 1976.**

Army nominations beginning Roy K. Flint, to be permanent professor of history, U.S. Military Academy, and ending Joseph R. McLaughlin, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on May 24, 1976.

In the Navy

Navy nominations beginning Philip M. Abbott, to be ensign, and ending Terrell W. Williams, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on April 26, 1976.

Navy nominations beginning Robert F. Fremont II, to be a permanent lieutenant (j.g.) and a temporary lieutenant, and ending Lt. (j.g.) Macgregor H. Paul, to be a permanent ensign and a temporary lieutenant, which nominations were received by the Senate and approved in the Congressional Record on May 6, 1976.

Navy nominations beginning Randall S. Arrington, to be ensign, and ending Dennis A. Rhyne, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on May 11, 1976.

Navy nominations beginning Peter Darby Abbott, to be commander, and ending Julia H. Porter, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on May 11, 1976.

In the Marine Corps

Marine Corps nominations beginning Richard F. Armstrong, to be colonel, and ending Gerald H. Turley, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on May 4, 1976.

Marine Corps nominations beginning Ray D. Ammon, to be lieutenant colonel, and ending Mark E. Zeitvogel, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on May 4, 1976.

Marine Corps nominations beginning Crystal M. Chamberlain, to be second lieutenant, and ending Kenneth L. Williams, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on May 6, 1976.

EXTENSIONS OF REMARKS

TEACHERS, STUDENTS, AND PARENTS JOIN IN JEFFERSON COUNTY BICENTENNIAL CELEBRATION

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, May 28, 1976

Mr. RANDOLPH. Mr. President, during this Bicentennial Year there will be celebrations and festivals marking the progress of our Nation. There was a glorious and graphic display of our country's achievements in the "America Unfolds Parade" last Saturday at Shepherdstown, W. Va. It was a panorama of past events, depicting with floats and other visual displays, the significant highlights of our 200-year history.

Planning for this historical event involved more than 6,000 students of Jefferson County schools, plus 350 teachers. More than 2,000 students from 12 schools participated in the parade. A year in the making, the final result was a chronological study of America's history.

Host for the day was County School Superintendent Harold L. Pickens; Keith DuBois was the parade coordinator; Mary Stocks, who spent the past year in organizing the activities, served as coordinator.

Winners of the parade judging were: South Jefferson Elementary, "Civil War," first place; Ranson Elementary, "Roaring '20's," second place; and Shepherdstown Elementary, "Westward Expansion," third place. Judges were: Dr. Millard Bushong, professor of history, Shepherd College; Fred Weiss, newscaster with Washington's WMAL-TV; and Mrs. Victoria Goens, West Virginia University extension agent.

I was delighted to join the parade festivities with two colleagues from West Virginia, Senate Assistant Majority Leader ROBERT C. BYRD and Representative HARLEY O. STAGGERS.

Mr. President, the spirit of cooperation and pride which produced this spectacular program is deeply ingrained in the minds and methods of the citizens of Jefferson County. It was a countywide undertaking. Ms. Stocks, coordinator of "America Unfolds," commented:

> Most of our schools solicited help from parents so that in the last few weeks before the parade, our schools were busy community centers with mothers making costumes and fathers building floats.

Mr. President, communitywide involvement in our Bicentennial celebrations is the key to the success and enjoyment of our unique history. I ask unanimous consent that the parade participants and the float competitors be placed in the RECORD, with brief remarks on the historical significance of the Jefferson County area that I prepared for the celebration:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WELCOME TO JEFFERSON COUNTY SCHOOLS
AMERICA UNFOLDS PARADE

Parade Host, Superintendent Harold L. Pickens.

Coordinator of Bicentennial Events, Mary Stocks.

Parade Coordinator, Keith DuBois.

The public is cordially invited to attend an awards program immediately following this parade at the Shepherd College Stadium. Special bicentennial trophies will be awarded to the three schools best depicting their time periods in American history. Dignitaries and special guests will be introduced at this time.

JUDGES

Dr. Millard Bushong, Professor of History, Shepherd College.

Mr. Fred Weiss, Newscaster with WMAL Television.

Mrs. Victoria Goens, West Virginia University, Extension Agent.

Special thanks are due to the Jefferson County Chamber of Commerce and Shepherdstown Elementary for sponsoring a luncheon today for special guests participating in the parade.

PARADE LINEUP

1. Police Escorts.
2. Banner: Jefferson County Schools Present America's History in Parade.
3. Jefferson County Schools:

Superintendent—Harold L. Pickens.

Associate Superintendent—Raymond Frazier.

Assistant Superintendent—Lucille Heflebower.

4. United States Senator—Jennings Randolph.
5. United States Congressman—Harley O. Staggers.
6. West Virginia Senator—William J. Oates, Jr.
7. West Virginia Delegate—James M. Moler.
8. West Virginia Delegate—Luke E. Terry.
9. West Virginia Delegate—Joseph E. Caudle.
10. Mayor of Shepherdstown—Charles E. Bosley.
11. Mayor of Ranson—Kelly Lance and Mayor of Charles Town—D. C. Master.
12. Mayor of Harpers Ferry—Bradley D. Nash and Mayor of Bolivar—Robert B. Menefee.
13. Jefferson County Board of Education—Richard E. Neal, President; C. C. Hammann, Vice-President; M. S. Briscoe, Martha Josephs, Kenneth Sims.
14. Charles Town Junior High Band.

DIVISION I

Colonial Period—C. W. Shipley Elementary School Bicentennial Chairman, Mildred Hammond.

15. School Banner.
16. Float—Robert Harper and His Ferry Boat.
17. Marching Unit—Thirteen Students Representing the Thirteen Original Colonies.
18. Float—Colonial Home.
19. Marching Unit—Drum and Bugle Corp.
20. Marching Unit—Bee Line to Boston.

DIVISION II

Revolutionary War—North Jefferson Elementary School Bicentennial Chairman, Rebecca Willingham.

21. Banner—North Jefferson Patriots.
22. Marching Unit—Drum and Fife Corp.
23. Banner—Revolutionary War.
24. Mini-float—Betsy Ross and the American Flag.
25. Marching Unit—Colonial Dress.
26. Marching Unit—Famous Patriots.
27. Marching Unit—Minutemen.
28. Float—Boston Tea Party.
29. Marching Unit—Redcoats.
30. Marching Unit—King George in Effigy.
31. Marching Unit—Tar and Feathered Governor.
32. Mini-float—George Washington at Valley Forge.
33. Marching Unit—Representatives from the Thirteen Colonies.
34. Mini-float—Signing of Declaration of Independence.
35. Marching Unit—Symbols of Liberty.
36. Mini-float—Raising of Liberty Pole.

DIVISION III

Birth of a Nation—Charles Town Junior High School Bicentennial Chairman, Keith DuBois.

37. School Banner.
38. Float—George Washington's Inauguration.
39. Marching Unit—Famous People of the Period.
40. Marching Unit—Time Line of Events of the Period.
41. Harpers Ferry Junior High Band.

DIVISION IV

Westward Expansion—Shepherdstown Elementary School Bicentennial Chairman, Nancy Maddex.

42. School Banner.
43. Covered Wagon.
44. Marching Unit—Johnny Appleseed and His Apple Trees.
45. Float—Church Time from "Little House on the Prairie".
46. Marching Unit—Pony Express.
47. Marching Unit—Gold Rush.
48. Float—Lewis and Clark Expedition.
49. Famous Old West Personalities.
50. Connestoga Wagon—"Pike's Peak or Bust."
51. Horse Rider—Pecos Bill.
52. Marching Unit—Trails Used in Opening the West, Western States Join Union.

DIVISION V

Jacksonian Era—Jefferson High School Bicentennial Chairman, Sandra Cookson, William Coyle, and Marie Chisholm.

53. School Banner.
54. Float "Andrew Jackson—Choice of the Common People."
55. Jefferson High School Marching Band.
56. Float—Newspaper of the 1830's.
57. Float—"Congress in the Jacksonian Era."
58. Float—Sponsored by Junior Civitan.

DIVISION VI

Civil War—South Jefferson Elementary School Bicentennial Chairman, Linda Work.

59. School Banner.
60. Marching Unit—Union and Confererate Soldiers.
61. Marching Unit—The Firing on Fort Sumter.
62. Marching Unit—Battle of Gettysburg.
63. Marching Unit—Battle of Antietam.
64. Marching Unit—Battle of Vicksburg.
65. Marching Unit—The Navy's Part in the Civil War.
66. Marching Unit—West Virginia Becomes a State.
67. Marching Unit—Famous People of the Civil War Period.
68. Marching Unit—Abraham Lincoln, "He Held Us Together."
69. Float—Lee and Grant at Appomatox.

DIVISION VII

Progressive Era—Shepherdstown Junior High School Bicentennial Chairman, Timothy Holland.

70. School Banner.
71. Float—"Country Roads" (Based on Award Given this County in 1909 for Best Country Roads).
72. Miss Bicentennial of Shepherdstown Junior High.

DIVISION VIII

World War I—Harpers Ferry Junior High School Bicentennial Chairman, Doris Costello.

73. School Banner—Torn Pages of History.
74. Marching Units—President Woodrow Wilson, League of Nation, Liberty Bonds, Sinking of the Lusitania, Women's Suffrage, Doughboys, Selective Service Act, General Pershing.
75. Float—World War I Airplane.
76. Shepherdstown Junior High School.

DIVISION IX

Roaring 20's—Ranson Elementary School Bicentennial Chairman, Nancy Alexander.

77. School Banner.
78. Float—Speakeasy.
79. Lindberg's "Spirit of St. Louis."
80. Model T and Gangsters.
81. Marching Unit—Will Rogers, Jack Dempsey, Al Jolson, Babe Ruth, Newspaper Boy, Women's Right to Vote.
82. Automobile of the 20's.

DIVISION X

Depression Era—Wright Denny Elementary School Bicentennial Chairman, Mary Elinor Peters.

83. School Banner.
84. Marching Unit—Wall Street Crash.
85. Marching Unit—Soup Lines.
86. The Walton Family.
87. Marching Unit—Apple Sellers.
88. President Franklin Roosevelt.
89. Salvation Army.

DIVISION XI

World War II—Page Jackson Elementary School Bicentennial Chairman, Denise Burns and Bonnie Curry.

90. School Banner.
91. World War II Banner.
92. Float—Iwo Jima.
93. Marching Unit—World War II Soldiers.
94. Marching Unit—World War II Work Force.
95. Float—United Nations Float.
96. Marching Unit—United Nations Flag.
97. Marching Unit—Walt Disney Characters.

DIVISION XII

Space Age—Blue Ridge Elementary School Bicentennial Coordinator, Martha Putz.

98. School Banner—"Blast Off With Blue Ridge."
99. Marching Units—Endangered Species, Space Age Fashions, Computers, Famous Americans of the Space Age, and Women's Liberation.
100. Float—"One Giant Step."

Jefferson County Schools wish to thank the following for their cooperation in sponsoring the America Unfolds Parade:

Mr. Paul Courtney, Mr. D. Lee Morgan, Shepherd College, Mayor Charles Bosley, the parents of Jefferson County students, and the citizens of Shepherdstown.

REMARKS BY SENATOR JENNINGS RANDOLPH

It is a privilege for me to join in this inspiring and impressive Bicentennial celebration. The living panorama of our Nation's history portrays better than any textbook the saga of American independence. The many hours of study and effort that produced "America unfolds" is a moving example of teaching history—history that is exciting and enduring. I congratulate the teachers and students of Jefferson County and commend the administration of the Jefferson County school system.

Within the proverbial stone's throw of this college campus are many places where significant events of America's past unfolded. We are intimately aware of these important occurrences. Many members of the Washington family settled in and around the county seat of Charles Town. In this audience today, there might be a youngster or two whose great-great grandfather strolled along the banks of the Potomac or Shenandoah rivers with young George Washington.

I share with you some brief glimpses of this area.

Sheperdstown is the oldest settled town in West Virginia. The Governor of Virginia signed charters for Shepherdstown (known as Mecklenberg) and Romney on December 23, 1762. It is believed that this community was settled between 1730 and 1734, perhaps as early as 1719. The town's name was changed to Shepherd's-Town in 1798 for Thomas Shepherd, founder of the town. It was again changed to Shepherdstown in 1867. Thomas Shepherd built his mill here in 1739.

Shepherdstown is not only an historical community but a city with spirit. In 1974, it received the West Virginia Community of the Year Award.

Shepherdstown is one of five national historic districts in our State to be named to the national register of historic places.

There are now 95 Bicentennial communities and 45 such counties in West Virginia.

In 1790, Shepherdstown was one of three proposed sites for the Nation's Capitol.

At Shepherdstown in 1790, Nathaniel Willis, a Boston printer, set up the first printing office in the territory that is now West Virginia and developed the first Shepherdstown newspaper—the Potowmack Guardian.

The first post office in West Virginia was built here in 1793.

Jefferson County was created from Berkeley County by an act of the Virginia Assembly on January 8, 1801. This county was named after Thomas Jefferson, third President of the United States and author of the Declaration of Independence.

Charles Town, the county seat, is located on land owned by Charles Washington, brother of George Washington. We do well to honor the past and our heroes. From their example a new nation emerges for those who have the heart and the courage to make it happen.

We are grateful for the two hundred years of American history, for what has been good in it and regretful for its failures. We must allow neither the past glories, nor the failures, to keep us from our own destiny in forging a new tomorrow.

Thomas Jefferson spoke the following words in the early 19th century and they apply to the challenges we face today:

"As new discoveries are made, new truths discovered, and manners and opinions change with the change in circumstances, institutions must advance also and keep pace with the times."

This day is not just another day—it is a new day.

OUTSTANDING SERVICE IS RECOGNIZED DURING NATIONAL PUBLIC WORKS WEEK

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, May 28, 1976

Mr. RANDOLPH. Mr. President, earlier this week a luncheon, sponsored by the Virginia-District of Columbia-Maryland chapter of the American Public Works Association—APWA—at the Washington Navy Yard, called attention to the 16th annual observance of National Public Works Week which ends tomorrow.

Outstanding public service is recognized as APWA presents the "Top Ten" Public Works Men of the Year Awards each year during the special week.

Selection of the "Top Ten" is made by a panel of judges representing APWA, the American Society of Civil Engineers, the American Water Works Association, the Council of State Governments, the Institute of Transportation Engineers, the National Association of Counties, the National League of Cities, and the Water Pollution Control Federation. By such contributions of public works officials, APWA hopes to encourage excellence and loyal, dedicated service; to increase citizens' understanding of public works; and to have talented young people prepare for careers in the public works field.

The week is especially significant this year, because it coincides with the release of APWA's "History of Public Works in the United States, 1776–1976," the association's Bicentennial contribution to the Nation. At a ceremony held at Congress Hall in Philadelphia in September 1971. APWA resolved to produce this volume "so that future generations may benefit from a comprehensive review of public works in perspective." I serve as chairman of the Senate Committee on

Public Works and honorary cochairman of the APWA Bicentennial Commission. I have supported the project. I introduced on February 15, 1972, Senate Joint Resolution 204 "To authorize the preparation of a history of public works in the United States." This resolution became Public Law 92–564 on October 25, 1972. It asked that "all public works oriented agencies of the Federal Government, the Library of Congress, and the appropriate congressional committees be requested to cooperate in carrying this important project forward."

This publication is a valuable document. It portrays the accomplishment by people working within the framework of the American system. The comprehensive 750-page book discusses engineering and technological achievements within the context of broad social, economic, and political themes to illustrate how the development of public works has enhanced our national life. It surveys the growth of urban services such as water supply, sewers and wastewater treatment, solid waste disposal, and drainage and flood control. It covers streets and highways, traffic controls, urban mass transit, waterways, and airports. Other topics relating to community life include public buildings, educational facilities, public housing, parks and recreation, and power utilities. Irrigation public works are discussed as is the development of military installations and the aerospace program.

The project was directed by Dr. Ellis L. Armstrong, a renowned public works engineer-administrator. He edited the history and served as Chairman of the APWA Bicentennial Commission. Dr. Armstrong was formerly U.S. Commissioner of Public Roads—1958–61, and Commissioner of the U.S. Bureau of Reclamation—1969–73. The associate editors, Michael C. Robinson and Suellen M. Hoy, are professional historians who received their doctorates from the University of Wyoming and Indiana University. In 1975 APWA founded the Public Works Historical Society as an ongoing institution to enhance public works programs and promote better understanding of their role in the growth and development of civilization. This institution will continue the work begun by the APWA Bicentennial Commission.

APWA received assistance from many public agencies as well as professional societies. Many portions of the "History of Public Works in the United States, 1776–1976" are based on contributions from Federal agencies in accordance with Public Law 92–564. I commend the following Federal departments and agencies for their endeavor: Department of Transportation—Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, U.S. Coast Guard, Urban Mass Transit Administration; Department of *Defense—Army Corps* of Engineers, U.S. Military Academy, Naval Facilities Engineering Command, U.S. Air Force; Department of the Interior—Bureau of Reclamation, Bonneville Power Administration, Bureau of Outdoor Recreation; Department of Agriculture—Forest Service, Rural Electrification Administration, Soil Conservation Service; Department of Health, Education, and Welfare—Office of Education; Department of Commerce—Economic Development Administration; Department of Housing and Urban Development; General Services Administration; U.S. Postal Service; Veterans' Administration; Environmental Protection Agency; Energy Research and Development Administration; Federal Power Commission; Tennessee Valley Authority; and the National Aeronautics and Space Administration.

The volume offers an analysis of some of the basic workings of Government. This perspective is especially important in the Bicentennial Year as the United States examines its past to determine the best means of using its resources to provide essential public works. Information about the book and historical society is available from the American Public Works Association, 1313 East 60th Street, Chicago, Ill. 60637 or the Public Works Historical Society, 1776 Massachusetts Avenue NW., Washington, D.C. 20036.

Mr. President, I ask unanimous consent that the list of the men of the year and biographical information on each of them be printed in the Extensions of Remarks.

There being no objection, the additional information was ordered to be printed in the Record, as follows:

The Top Ten Public Works Men of the Year for 1976

Joe H. Berrier, Director of Public Works, Winston-Salem, N.C.

Enos B. Cape, Director of Public Works, Houston, Tex.

Jean L. DeSpain, Director of Public Works, King County, Wash.

Robert A. MacEwen, Director of Public Works, Needham, Mass.

Thomas D. Moreland, Commissioner and State Highway Engineer, Georgia Dept. of Transportation.

James T. Pott, Director, Transportation Agency, County of Santa Clara, Calif.

Capt. William F. Reed, Jr., Deputy Commander for Facilities Management, Naval Facilities Engineering Command, Dept. of Navy.

Walter A. Schaefer, Director of Public Works, Maplewood, N.J.

Marshall Suloway, Commissioner of Public Works, Chicago, Ill.

Donald H. Swets, Director of Public Works, Kalamazoo, Mich.

JOE H. BERRIER

With the advent of Community Development Block Grant funding from HUD in early 1975, Joe Berrier assumed the responsibilities for managing Winston-Salem's program. Faced with the task of organizing six city departments and two public agencies in planning and implementing a $15.5 million grant program, Berrier created a management team from the leaders of each operating department.

Mixing traditional public works, redevelopment, code enforcement, and rehabilitation techniques with imaginative loan and home ownership incentive, Berrier's efforts have lead to the initiation of pioneer urban renovation projects in the center city and to a new approach to life in long-established areas of the community.

Recently Berrier, who has been Winston-Salem's Director of Public Works since 1965, was Project Director of a research study to develop a checklist methodology for assessing hazards of methane gas generation and movement at solid waste disposal sites.

Berrier was also instrumental in developing the first local erosion control law in North Carolina.

ENOS B. CAPE

Providing municipal services to Houston's rapidly growing metropolitan areas is a challenging task. The city's high degree of success in keeping these services abreast of its explosive growth is due in large measure to the director of its Public Works Department, Enos B. Cape. His planning and construction of more than $550 million in public works projects in the past six years encompasses sanitary sewerage, water resource development and distribution systems, storm drainage, paving, municipal buildings, bridges, recreational facilities, and air transportation facilities. The work included installation of some 895 miles of water mains and 6,700 fire hydrants.

Cape became head of Houston's Public Works Department in 1964 and has since guided such monumental projects as the opening of Houston International Airport; construction of the $81.5 million Livingston Dam; completion of the Lake Conroe Dam; and construction of Houston's $15 million Civic and Convention Center.

JEAN L. DE SPAIN

Since 1967 he has been Director of Public Works, King County, Wash., heading a department responsible for maintaining 2,400 miles of roads and streets, managing Boeing Field International; solid waste disposal for all of King County except the City of Seattle; and flood control and river bank maintenance along the county's five major rivers. It is a department employing 800 people and having an annual budget exceeding $30 million.

DeSpain is also Chairman, River Basin Coordinating Committee of the Municipality of Metropolitan Seattle.

From 1973 to 1975 he was a member of the National Commission on Productivity, whose purpose was to assist state and local solid waste management agencies in stimulating productivity.

Among his accomplishments as King County's Director of Public Works, DeSpain implemented a maintenance management system using work standards and planning techniques for estimating and controlling the work of the Operations section of the Roads Division on a systematic basis.

DeSpain is a Past President of APWA's Institute for Municipal Engineering.

ROBERT A. MACEWEN

Robert A. MacEwen receives his second major APWA-related award within a year. In June 1975, the title of "Man of the Year" was bestowed upon him by the New England Chapter . . . which he served as President in 1969.

MacEwen has been employed by the Town of Needham, Mass. for more than 22 years, and has been its Director of Public Works since January 1972. During that time his accomplishments have been legion. Among them . . . conducted a snow school for public works personnel; introduced a merit system for public works employees; conducted thorough investigations of the rate of application of rock salt by means of mechanical spreaders; pioneered the use of Dix Seal as a thin overlay in the maintenance of roadway pavements, and published an article on that subject for Public Works Magazine; introduced a program for equipment replacement and cost; participated in a rock salt test with International Salt; and has conducted successful programs for developing labor service employees into supervisory and management personnel.

THOMAS D. MORELAND

When Thomas Moreland was appointed Commissioner in the Georgia Department of Transportation in April 1975, the state's General Assembly honored him in a unique way. They amended the State Transportation Code, permitting him to retain his prior post as State Highway Engineer.

Among his achievements are:

A program of cost-effectivness which has rendered $20 million in additional highway improvements for Georgia's transportation efforts during fiscal 1976.

Reduction of department personnel by 10% to 7,280 through attrition, without decreasing the ability to deliver services. Net identifiable savings: $19 million annually for fiscal 1976.

Chief advisor to the Chairman of the National Governors' Conference Transportation, Commerce, and Technology Committee.

Coordinated rescue, salvage, and reconstruction activities for the Sidney Lanier Bridge after a ship collision took ten lives and destroyed three spans.

Instituted significant operational improvements to Georgia's highway system through a program of improved maintenance and traffic safety.

Initiated a motorist aid program for Georgia.

Obtained annual contract sources of supply for aggregates, asphalt, etc., used in highway maintenance.

Chaired a panel for pavement design that upgraded pavement design used by the agency.

Reduced testing by 33% as a result of a program of materials acceptance.

Coauthored the AASHTO Manual on Foundation Investigation.

Prepared soils-related portion of the Georgia Standard Specifications.

Developed Georgia's nationally recognized Soils Investigation Unit.

JAMES T. POTT

As Director, Transportation Agency and Assistant Executive Director, Santa Clara County (Calif.) Transit District, James Pott is responsible for the operation and development of a countywide (population 1.2 million) publicly-owned bus transportation system and for planning other surface transportation modes to achieve a balanced transportation network.

Pott is also responsible for managing 333 miles of highway system in Santa Clara County. About 84 miles of the system is constructed to expressway standards and serves not only the unincorporated area, but several incorporated cities.

Pott also initiated and guided development of the TELLUS program, a computer-aided environmental impact assessment methodology which facilitates comparison of environmental consequences of physical alternatives considered during the design of public works projects.

He prepared a comprehensive report on transportation problems and potential solutions entitled, "On Having and Financing Balanced Transportation."

CAPT. WILLIAM F. REED, JR.

At Danang, in 1967–68, Captain William Reed, Jr. was responsible for the largest public works organization in U.S. naval history. What began as a working force of 3,000 grew to 6,400 military and civilian personnel supporting public works projects in the entire Corps area. The Command received the Navy Unit Commendation for its performance.

Captain Reed's naval career began with his entrance into the U.S. Naval Academy in 1947, from which he earned a BS in civil engineering. From 1963 through 1965, he was an Executive Officer of the Public Works Center, Yokosuka, Japan, where he was responsible for the organizational planning, negotiations, and labor relations involved in combining the public works departments of five separate commands and a separate construction office into a single operating entity.

In 1968 he handled a Maintenance and Operations Contract in Southeast Asia for which the Naval Facilities Engineering Command had received responsibility.

He assumed his present position as Deputy Commander for Facilities Management and Assistant for Facilities Management (Chief of Naval Operations) Naval Facilities Engineering Command in 1973, and is responsible for a myriad of far-flung facilities.

WALTER A. SCHAEFER

In 1969, Maplewood, N.J. received a citation cosponsored by a national magazine and the National Municipal League largely through the work of Walter A. Schaefer, Maplewood's Director of Public Works. Since assuming his post in 1955, Schaefer instituted a variety of programs to enhance the lifestyle of the township's residents.

Long before the present intense interest in ecology was prevalent, Schaefer was inaugurating programs to upgrade and protest Maplewood's environment. His leaf collection and composting program provided the citizenry with fertilizer for their gardens while saving the cost of disposal and eliminating the need for polluting the air with the smoke of burning leaves.

Under Schaefer's directorship a communitywide beautification program was expanded to maintain the "greenness" of Maplewood.

To provide Maplewood residents with recreation as well as beauty, Schaefer and his department built Richard Walter Park which contains, among its many facilities, the first municipal paddle tennis courts in New Jersey.

Schaefer restructured the Bureau of Public Works from nine independent departments into four allied sections. This move resulted in consolidation of manpower and equipment, leading to a more efficient and economical operation.

MARSHALL SULOWAY

Marshall Suloway, Commissioner of Public Works of Chicago has been greatly involved in providing modern, effective transportation modes for the citizens of his huge metropolis.

Suloway was responsible for completion of major segments of the Interstate Highway System, including the final four-mile link of the Eisenhower Expressway, the entire 11-mile Dan Ryan Expressway, and all of the 17-mile section of the Stevenson Expressway.

As for public transportation, he was responsible for design and construction of the Dan Ryan Expressway Rapid Transit Line which was put into operation on Sept. 28, 1969, and had similar involvement in the design and construction of the Kennedy Expressway Rapid Transit Line, opened Feb. 1, 1970.

Suloway coordinated the design and construction for expansion of Chicago's main airport.

Suloway has also participated in several landmark environmental programs. As Chief Engineer of the Bureau of Engineering, Department of Public Works, a position he held from September 1967 through May 1973, Suloway coordinated the design and construction of the largest household refuse incinerator in the Western Hemisphere. He was also instrumental in setting up a system of vehicle emission testing stations throughout the city. As Commissioner of Public Works, he coordinated the design and construction of a $14 million refuse processing and recycling plant.

DONALD H. SWETS

Donald H. Swets has guided Kalamazoo's vast wastewater collection and treatment program, beginning with the supervision of construction and operation of the city's original sewage treatment plant in the 1950s when Swets was Assistant City Engineer. At that time, the Kalamazoo River was grossly polluted by industrial firms located upstream of the treatment plant. Swets made this his personal concern and became the key figure in developing a joint industrial-municipal program which eventually transformed the river from an "open sewer" to one presently inhabited by fish and water fowl.

The entire scheme became a reality in 1967 after Swets became Director of Public Works and City Engineer when an expanded secondary treatment plant was put into operation.

Swets is a member of U.S. EPA's Technical Advisory Group for Municipal Wastewater Programs. He served on the Transportation Committee of the Michigan Municipal League from 1967 to 1969, and was instrumental in developing a formula for distribution of major street funds to cities and villages throughout the state.

HOUSE OF REPRESENTATIVES—*Tuesday, June 1, 1976*

The House met at 12 o'clock noon.

The Reverend Harvey L. Moore, First Presbyterian Church, Lexington, Nebr., offered the following prayer:

Father in Heaven and Lord of Daily Life, give us a sense this day that Your strong hand is on our shoulder, providing us a new lift, a new love, and a new light.

Thank You for all blessings, but especially for families, friends, associates, and the country we love and serve.

Enter with us into the necessary and practical matters of the day. Be the unseen guest in every deliberation, the sensitive listener in every debate, and the positive influence in all our decisions.

May we set principles above parties and set Your will above all else.

Forgive, at times, our foolish human ways. "Take from our souls the strain and stress, and let our ordered lives confess the beauty of Your peace." Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 305. Concurrent resolution providing for the printing of additional copies of the committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress, Final Report for the 93d Congress, December 1974."

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 52. An act for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano; and

S. 223. An act for the relief of Angela Garza.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 6512. An act for the relief of certain postmasters charged with postal deficiencies;

H.R. 12566. An act authorizing appropriations to the National Science Foundation for fiscal year 1977;

H.R. 13380. An act to amend the Central, Western, and South Pacific Fisheries Development Act to extend the appropriation authorization through fiscal year 1979, and for other purposes; and

H.J. Res. 92. Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 12566) entitled "An act authorizing appropriations to the National Science Foundation for fiscal year 1977," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. MONDALE, Mr. CRANSTON, Mr. EAGLETON, Mr. LAXALT, Mr. STAFFORD, and Mr. SCHWEIKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 1068. An act to designate certain lands in the Badlands National Monument, S. Dak., as wilderness;

S. 1174. An act to reduce the hazards of earthquakes, and for other purposes;

S. 1365. An act to authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands;

S. 1414. An act to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes;

S. 2042. An act to amend the Natural Gas Pipeline Safety Act of 1968, to authorize additional appropriations, and for other purposes;

S. 2054. An act to amend sections 203 and 204 of the Communications Act of 1934;

S. 2081. An act to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes;

S. 2485. An act to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to increase the amount of any loan for which funds may be appropriated without prior approval of such loan by congressional committees;

S. 2515. An act to amend the Public Health Service Act to establish the President's Commission for the Protection of Human Subjects Involved in Biomedical and Behavioral Research, and for other purposes;

S. 2847. An act to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations;

S. 2798. An act to eliminate a restriction on use of certain lands conveyed to the city of Yakutat, Alaska;

S. 3051. An act to amend the Commodity Exchange Act, and for other purposes;

S. 3147. An act to extend the Marine Protection, Research, and Sanctuaries Act for 2 years;

S. 3383. An act to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes;

S. 3476. An act to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes.

S. Con. Res. 107. Concurrent resolution authorizing the printing of the following committee prints of the Committee on Foreign Relations Subcommittee on Multinational Corporations;

S. Con Res. 114. Concurrent resolution authorizing the printing of additional copies of Subcommittee on Children and Youth committee print titled "Background Materials Concerning Child and Family Services Act, 1975 (S. 626)"; and

S. Con. Res. 119. Concurrent resolution extending recognition to the Congressional Country Club on being the host of the 58th PGA National Golf Championship.

REV. HARVEY L. MOORE

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SMITH of Nebraska. Mr. Speaker, I am highly honored today to present to the House of Representatives the Reverend Harvey L. Moore, minister at the First Presbyterian Church, of Lexington, Nebr.

Reverend Moore has been with his church in Lexington since 1968. This last year he was elected moderator of the presbytery, the highest elective office in the presbytery, with 12,000 members of 37 churches under his leadership.

Reverend Moore conducts regular radio programs that are heard by people in 15 States.

When I was in Lexington recently, Reverend Moore invited me to meet with people of all denominations in the Lexington community to discuss how we can better solve our Nation's problems within Christian principles. I did not have enough faith, Reverend Moore. I thought only a handful of us would be there, but there were more than 160 people.

Our country would be better off if across this Nation more of us took a look at how to tackle our problems and find solutions in accord with God's will. We in the third district are deeply grateful for the inspiration brought to us by this outstanding minister. I am honored to share him with you today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. A historic Bicentennial ceremony will take place in the rotunda of the Capitol on Thursday, June 3, 1976, when the Magna Carta is formally accepted by the Congress from the Parliament of the United Kingdom of Great Britain and Northern Ireland. Members are advised that they should assemble in the Hall of the House promptly at 10 a.m. on Thursday, June 3, 1976, in order to proceed in a body to the rotunda for the ceremony. The procession to the rotunda will be led by leadership representing both sides of the aisle and senior Members of the House, with other Members following in order of their relative seniority in the House.

The ceremony is anticipated to last approximately 1 hour and Members should note that, because of the limited space in the rotunda, no seating can be provided for other than the official delegations.

Guests with tickets will be admitted to the rotunda at 9:45 a.m. to be in place by 10:15 a.m.

Without objection, the order of proceedings will be included at this point in the RECORD:

ORDER OF PROCEEDINGS

Musical Program by the United States Air Force Orchestra to begin at 10:15 a.m.

Arrival of The Senate.

Arrival of The House of Representatives.

Procession of The American Delegation.

Procession of The British Delegation.

Arrival of The Lord Chancellor, The Speaker, The Lord Privy Seal, and The Marquess of Lothian.

Greetings by The Vice President, The Speaker, The Senate Majority Leader, The House Majority Leader, The Senate Minority Leader, and The House Minority Leader.

Playing of the British and American National Anthems by the United States Marine Band.

Procession of Congressional and Parliamentary Leaders led by the Senate and House Sergeants at Arms.

The Honorable Carl Albert.
The Rt. Hon. Lord Elwyn-Jones, Q.C.
The Rt. Hon. George Thomas, M.P.
Mr. John Watheston.
Brigadier N. E. V. Short.
The Honorable Nelson Rockefeller.
The Honorable Mike Mansfield.
The Rt. Hon. Lord Shepherd.
The Marquess of Lothian.
The Honorable Hugh Scott.
The Honorable Thomas P. O'Neill, Jr.
The Honorable John Rhodes.

Welcome by The Honorable Hugh Scott, The Minority Leader of The Senate.

Invocation by The Reverend Edward L. R. Elson, Chaplain of The Senate.

"Ballad of Magna Carta" performed by United States Air Force Orchestra and Chorus.

Remarks by The Honorable Hugh Scott.

Posting of the British Military Detail: The Grenadier Guards, The Coldstream Guards, The Scots Guards, The Irish Guards, and The Welsh Guards.

Presentation of Magna Carta by The Rt. Hon. Lord Elwyn-Jones, Q.C., The Lord Chancellor.

Opening of Presentation Case by the British Military Detail.

Acceptance of Magna Carta by The Honorable Carl Albert, The Speaker of the House of Representatives.

Posting of the American Military Detail: The United States Army, The United States Marine Corps, The United States Navy, The United States Air Force, and The United States Coast Guard.

Benediction by The Reverend Edward G. Latch, Chaplain of The House of Representatives.

The British and American Delegations will view Magna Carta, followed by Members of the Senate and House of Representatives and Guests.

Those who do not wish to view the Magna Carta at the end of the ceremony may exit through the north and south rotunda doors.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR TODAY

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The **SPEAKER.** Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REQUEST FOR CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER.** Does the gentleman from Maryland (Mr. Bauman) insist on his point of order that a quorum is not present?

Mr. BAUMAN. Mr. Speaker, in honor of our British brethren, I withdraw my point of order.

The **SPEAKER.** The Chair recognizes the gentleman from Michigan (Mr. Dingell).

FEDERAL ENERGY ADMINISTRATION AUTHORIZATION AND EXTENSION

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12169) to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes.

The **SPEAKER.** The question is on the motion offered by the gentleman from Michigan (Mr. Dingell).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 12169, with Mr. Natcher in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** When the Committee rose on Thursday, May 27, 1976, section 1 of the committee amendment in the nature of a substitute ending on line 23, page 9, had been considered as read and open to amendment at any point.

Are there any amendments to section 1?

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The **CHAIRMAN.** The Chair will count. Twenty-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The **CHAIRMAN.** One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time merely to comment on the parliamentary procedure we just have followed. I regret very much that we were unable to secure a full quorum at the beginning of a working week after a long weekend for Memorial Day. I am pleased that our British brethren were able to witness the novel so-called "short quorum" now permitted under the rules of this Congress. This rule allows us to interrupt the proceedings of the Committee of the Whole for no more than a few moments to establish the "short quorum." Shortly thereafter we witness the absence of most Members who will not reappear on the floor until they return to vote on an amendment about which they know practically nothing.

Just now through the procedure of the "short quorum" we were able to establish that there were 100 Members present and now few Members remain. I am sorry that we were unable to establish the presence of a full quorum but we have done this out of deference for these ladies and gentlemen from Great Britain.

I hope that they can fully recognize the folly of such a procedure, and I would hope that their Parliament, the Mother of Parliaments would never adopt such a procedure. Members should be here and understand what is going on and be able to know exactly what they are voting on. Here, when we are called upon to vote upon amendments, we follow the old principle of the whip system establishing the positions of the majority and the minority by the process of thumbs up or thumbs down—that is the way too many of the Members vote as they come through the doors. I just wanted to make this statement so that everyone would understand the purpose of this magnificient new procedure we have adopted that allows Congressmen to go the gym, or to go to the restaurant with their constituents, or wherever Members go these days when they are not on the floor. As one who opposed this procedure, I hope we will repeal this rule as soon as possible.

I yield back the balance of my time.

AMENDMENTS OFFERED BY MR. MOFFETT

Mr. MOFFETT. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Moffett: Page 6, line 11, strike out "33,324,000" and insert in lieu thereof "33,086,000".

Page 8, line 22, strike out "$2,274,000" and insert in lieu thereof "2,036,000".

Mr. MOFFETT. Mr. Chairman, since I have an amendment on page 6 and also an amendment on page 8 and they relate to the same matter, and merely require the changing of a figure on those pages, I ask unanimous consent that these two amendments be considered *en bloc*.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MOFFETT. Mr. Chairman, during the deliberations of the subcommittee on H.R. 12169, I succeeded in getting approval for a series of amendments that added up to a cut of $979,000, nearly a million dollars, from the Federal Energy Administration's proposed public relations budget. These cuts were well justified, as many of my colleagues know, based on our intensive scrutiny of the agency. Our staff discovered that we could very easily cut this $979,000 out of the budget. It was going for what was one of the biggest PR staffs in Washington. It was going to produce energy pamphlets—I would even call them propaganda pamphlets—such as the energy fable called "The Land of Us, which some of the Members are familiar with. After that markup we discovered that we can safely cut out another good chunk of money, $238,000 from the FEA's still swollen PR budget, and this particular cut is embodied in the amendments that I offer.

One illustration of the fact that we can make yet one more prudent cut is reflected in the recent FEA plan to increase the Washington media relations staff from 7 to 13 positions. When the FEA announced that, the subcommittee believed the agency was acting in good faith in that it submitted an initial budget request voluntarily cutting the media relations staff—which is really a euphemism for press release writers and query release answers—from 15 to 7 positions. Now we find that the FEA plans to expand that number of media relations staff to 13, a development to indicate that their earlier cut was nothing more than a ploy designed to forestall any subcommittee reductions in this controversial area.

I completely agree with FEA's early analysis that the agency can get by with seven media relations specialists, and, therefore, I propose to cut six slots at a saving of $102,000. In addition, $68,000 can easily be cut from both the Office of Visual and Electronic Communications and the Editorial Projections Office to reimpose the subcommittee's original intentions that certain slots be eliminated.

In summary, my amendments would delete $238,000 from FEA's proposed budget for the Office of Communications and Public Affairs.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I would like to commend the gentleman from Connecticut. I think his amendments are good amendments. I have no objection to the amendments, and I am happy to support them. They eliminate some money that is not necessary for the FEA to carry out its proper function in this area, and I commend the gentleman for offering the amendments.

Mr. MOFFETT. I appreciate the comments of the subcommittee chairman, the gentleman from Michigan, and I yield back the remainder of my time.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I have some difficulty with what I consider to be some ambivalence on the part of those who are looking at FEA at this point, because the argument is generally made that what we need is increased conservation efforts, ways to get the American people not to produce more energy, but to use less energy.

One of the ways that the Federal Energy Administration has been involved over the past several months in getting American people to be more energy conservation conscious is through the public relations effort that says in effect: "Let us save fuel by driving 55 miles an hour. Let us save fuel by turning back our thermostats. Let us save fuel by remodeling our homes and factories in such a way that we save energy."

Myriads of pamphlets and materials for the benefit of consumers are available from the Federal Energy Administration on exactly this point: To try to conserve energy by encouraging people to use less of it and encouraging them to do things to their homes and with reference to the use of their cars and with reference to the operation of their factories so that they will save energy—conserve.

Now we come to the part of the legislation that provides exactly this function for FEA. The FEA requested $3.25 million for this purpose.

The committee cut the $3.25 million request back to $2.274 million. The gentleman from Connecticut now wishes to cut another $200,000 out of it.

I must say that I am not known as "big spender" in this Congress but if we want to go into conservation it seems to me one of the best ways to do it is to encourage the people of America to adopt the methods by which they can conserve. Then if we can save a great deal of energy by the expenditure of $2.250 million in the public relations with respect to energy conservation, that does not seem to me to be an unwise expenditure.

Let me address myself to one other factor. In the passage of the Energy Policy and Conservation Act we required the FEA to come up with conservation programs in a wide variety of fields. Those programs are in the process now of being developed. If plans for energy conservation are approved, how in the world are we going to sell them to the American people if not through a public relations program?

We already see ourselves faced with a sharp increase in the consumption of gasoline because the average citizen has now begun to accept the 50-cent or 60-cent-per-gallon price of gasoline, perhaps not in a happiness sense but in a practicing sense. He is driving his car as much or more than he was driving it a year or so ago when those 50-cent and 60-cent-a-gallon prices first became common. So we are losing the conservation ethics brought on by higher gasoline prices.

One of the ways to encourage people to conserve in this field and others is through public relations. I just cannot see where we benefit from the saving of $200,000 in that public relations effort.

I oppose the amendment offered by the gentleman from Connecticut because I think it is more punitive to the FEA than it is practical from the standpoint of national energy policy, in particular the policy of trying to conserve energy.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. MOFFETT, and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I would point out to the gentleman, who I know is interested in austerity in this budget, that we made the following cuts, and I fail to see how they can in any way jeopardize the conservation efforts of the FEA. From the visual and electronic we cut four people. The budget had envisioned three project officers whose responsibility included contracting for motion pictures and putting together slide shows, and so forth. We determined in view of the desirability of reducing the motion picture budget that one such officer was sufficient.

For example, on the Energy Ant, a publication I know the gentleman is familiar with, two jobs in the office relating to the Energy Ant publication we felt should be abolished.

Mr. BROWN of Ohio. I am not sure I understand what the gentleman is referring to. It is the Energy Ant what?

Mr. MOFFETT. The Energy Ant is one of their more famous publications. Another energy fable called "The Land of Us" written by the head of the agency, Frank Barb, is really nothing more than propaganda.

Mr. BROWN of Ohio. Is that being repealed retroactively, that publication?

Mr. MOFFETT. We are giving them less money to do those kinds of things. I think the gentleman knows the subcommittee has given them less money.

Mr. BROWN of Ohio. How much less for using insulation for housing and how much less for insulating factories? How much is the gentleman reducing this?

Mr. MOFFETT. We are cutting the budget, but not that much less.

Mr. BROWN of Ohio. Well, how much?

Mr. MOFFETT. I told the gentleman, we cut $90,500. We are cutting another $200,000, based on the findings we had in the markup.

Mr. BROWN of Ohio. But how much is the gentleman cutting in publications?

Mr. MOFFETT. They will actually have more for conservation publications because Mr. Zarb is now aware that we in the subcommittee want the emphasis in that area, rather than in political propaganda.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I rise to correct some misinformation. I would like to refer to the activities of the Federal Energy Administration in the field of education, which the distinguished majority member of the committee has raised. I think that the tenets and activities of the gentleman in the House make it strange for me to see the gentleman opposing this money, but that is aside. I find it difficult to see that any Member of the House who understands what education is all about could be in opposition to the amendment of my friend, the gentleman from Connecticut. Those of us who have observed education over the years, those of us in the field of education, those of use who have observed what it means to have the Federal Energy Administration or any agency of the Federal Government inject itself into the schools ought to be very, very wary of opposing this amendment. I maintain that when a Federal agency can produce 4 million coloring books representing a particular point of view and insert them in the schools, then we have an agency directly lobbying, just as in the case of FEA's "The Land of US" publication to deregulate natural gas. This was held by Judge Sirica to be illegal. I find it very difficult to justify the activities of the Federal Energy Administration in the field of "educating America."

Therefore, I am strongly in favor of the amendment of the gentleman from Connecticut (Mr. MOFFETT). I think it is badly needed and those of us who want to preserve the rights of American citizens in the United States ought to oppose this encroachment of the Federal Government into the public schools. It is one thing to put out booklets on energy, but another for the Federal Government to tell our schools what to do.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I would point out to the gentleman from Indiana that there are two areas where I seek the additional cut; one is in outside contracting by FEA and the other in the answering of public inquiries.

Second, it is important to note that the Appropriations Subcommittee of the gentleman from Illinois (Mr. YATES) has gone well beyond what I have done and what our subcommittee has done in cutting slots. My understanding is that they cut them to 35, where we cut the PR staff to 49; so we have the scrutiny of two important subcommittees in this Congress saying this PR program, is grossly inflated. We find we can easily cut another $200,000 out and there will be plenty of money for conservation publications and conservation-related materials, because the administration will be moving in that direction much more speedily as a result of the subcommittee action.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I will be happy to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, let me point out there are 16 people for these public inquiries, and a budget of $760,000. If that is to be cut, how do we relate that cut to the congressional staffing that we have, that answered letters to Members of Congress on issues? Do we now answer all the energy questions?

I frankly am not overly concerned to educate the children of this country with reference to energy conservation. If the Federal Energy Administration could get my kids to turn off the television set when they walk out of the room and are not watching it anymore, it might be a public service, if not a personal service.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I wish the gentleman from Ohio would give us support for beefing up the conservation unit of FEA, which the gentleman has opposed.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. To what extent would beefing up another cut of $200,000 a year have on public relations?

To what extent is the gentleman going to beef up the so-called conservation area? How much? Could he explain?

Mr. MOFFETT. Members have been acting on those particular efforts.

Mr. BROWN of Ohio. This is cutting $200,000 here, and adding $35 million or $40 million somewhere else. I find that a little strange.

Mr. MOFFETT. I think that is the kind of priority we should have.

Mr. BROWN of Ohio. If we are going to do all this conservation business inside FEA and not tell anybody about it, where does it profit us?

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut (Mr. Moffett).

The question was taken and the Chariman announced that the ayes appeared to have it.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Thirty-seven Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. Brown) for a recorded vote.

A recorded vote was refused.

So the amendments were agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment in the nature of a substitute.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment in the nature of a substitute.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order against the amendment in the nature of a substitute.

The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. Schroeder:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs, the functions of the Office of Communications and Public Affairs; the functions of the Office of the General Counsel; the functions of the Office of the Administrator.

TRANSFER OF FUNCTIONS

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

(1) The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior.

(3) The functions of the Office of Regulatory Programs (including the Office of Private Grievances and Redress) shall be transferred to the Federal Power Commission.

(b) Personnel engaged in functions transferred under this section shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions; *Provided, however*, That no appropriated funds may be used for the payment of the salaries of personnel employed in the execution of functions transferred by this Act in excess of the number of personnel engaged in such duties on January 1, 1976.

(c) Any references in any other Federal law to the Federal Energy Administration, or to any officer or employee thereof, shall be held and considered to refer to the Director of the Energy Research and Development Administration or his delegate, the Secretary of the Interior or his delegate, and the Commissioner of the Federal Power Commission or his delegate, or jointly or severally, as the case may require.

(d) In the exercise of functions, the same authority as that vested in the Administrator of the Federal Energy Administration immediately prior to the transfer of the functions by this Act shall be found in those to whom the functions are transferred, except to the extent such functions are limited by this Act.

(e) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Federal Energy Administration, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that were transferred under this section, and

(2) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(f) This Act shall not affect any proceeding pending, at the time this section takes effect, but before any department or agency (or any component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent they relate to functions so transferred, shall be continued in the name of those persons to whom the functions are so transferred. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions, and to the same extent, that such proceeding could have been discontinued if this Act had not been enacted.

(g) No suit, action, or other proceeding commenced by or against the Federal Energy Administration or any other office or agency or any officer of the United States acting in any such official capacity shall abate by reason of this section, and in all such suits, actions, or proceedings, appeals shall be taken, and judgments rendered in the same manner and effect as if this subsection had not been enacted.

OVERSIGHT RESPONSIBILITIES

Sec. 4. (a) The Director of the Office of Management and Budget shall take such action as may be necessary to insure the abolition of functions under section 2(a), in accordance with applicable laws and regulations relating to the abolition of functions.

(b) The Director of the Office of Management and Budget is hereby directed to take such action as may be necessary to insure that the transfer of functions does not result in any unnecessary duplication.

(c) The Director of the Office of Management and Budget shall report to the Government Operations Committees of the House of Representatives and of the Senate on progress in this matter within 90 days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 5. (a) There are authorized to be appropriated, subject to the restrictions of this Act, the following sums:

(1) To carry out the functions identified as assigned to the Office of Regulatory Programs of the Federal Energy Administration as of January 1, 1976 (including the Office of Private Grievances and Redress)—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,968,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $64,650,000.

(2) To carry out the functions identified as assigned to the Office of Energy Resource Development of the Federal Energy Administration as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

(3) To carry out the functions identified as assigned to the Office of Conservation and Environment of the Federal Energy Administration as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000;

(B) for the fiscal year ending September 30, 1977, not to exceed $12,596,000; and

(C) for the period beginning July 1, 1976, and ending September 30, 1977, to carry forward demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for the purpose of intervention or participation in State regulatory proceedings.

(4) To carry out the functions identified as assigned to the Office of International Energy Affairs of the Federal Energy Administration as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

(5) To carry out the functions identified as assigned to the Office of Energy Policy Analysis of the Federal Energy Administration as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

EFFECTIVE DATE

Sec. 6. This Act shall become effective on the date of enactment or on July 1, 1976, whichever occurs first.

On page 8, strike lines 18 through 23 and insert in lieu thereof the following:

"(1) No amounts shall be expended to carry out the functions identified as assigned to the Office of Communications and Public Affairs, as of January 1, 1976; and"

Page 10, after line 4, insert the following:

TRAVEL EXPENSES

Sec. 3. Section 7(b) of the Federal Energy Administration Act of 1974 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph

(2) No officer or employee of the Federal Energy Administration may be paid or reimbursed for the difference between the cost of any first-class accommodation with respect to air travel and the cost of any other accommodation with respect to air travel, unless—

(A) no other accommodations are available;

(B) first-class accommodation is necessary because of the health of the employee involved;

(C) in the case of foreign travel, only first-class accommodations meet satisfactory standards of sanitation, health, or comfort; or

(D) the cost of first-class accommodation provided by the air carrier involved does not exceed the cost of other accommodations provided by other air carriers.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

In all fairness, Mr. Chairman, I would like to point out that the amendment in the nature of a substitute is exactly the same as the one that was printed in the Record of May 18, 1976, on page 14329, with one slight change, and that is that section 4(b) has been stricken.

Mr. BROWN of Ohio. Mr. Chairman, I make a point of order against the amendment in the nature of a substitute.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado (Mrs. Schroeder) that the amendment in the nature of a substitute be considered as read and printed in the Record?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) makes a point of order against the amendment in the nature of a substitute, and the gentleman from Michigan (Mr. Dingell) reserves a point of order against the amendment in the nature of a substitute.

Does the gentleman from Ohio (Mr. Brown) insist upon his point of order?

Mr. BROWN of Ohio. Mr. Chairman, I do. However, I would like to reserve the point of order, and I will yield to the chairman of the subcommittee to speak to his point of order first if he wishes. I believe that is proper. I also want to reserve a point of order.

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) reserves a point of order against the amendment in the nature of a substitute.

Does the gentleman from Michigan (Mr. Dingell) wish to state his point of order now, or does he reserve his point of order?

Mr. DINGELL. Mr. Chairman, in fairness to the gentlewoman from Colorado (Mrs. Schroeder), I would be content to reserve my point of order until she has had an opportunity to explain her amendment in the nature of a substitute. I am sure my colleague, the gentleman from Ohio (Mr. Brown), is in accord with that, and that he will reserve his point until the gentlewoman explains her amendment in the nature of a substitute.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order against the amendment in the nature of a substitute.

The Chair recognizes the gentlewoman from Colorado (Mrs. Schroeder).

Mrs. SCHROEDER. Mr. Chairman, in all honesty, I would prefer that the gentlemen would state their points of order now so I would know whether or not we should proceed with this.

But, let me try to explain to the House what my amendment in the nature of a substitute attempts to do.

When we created the Federal Energy Administration, the Federal Energy Administration was created to deal with a temporary problem, and that was fuel allocation during the embargo. The embargo is over, and now the FEA has grown and expanded its tentacles into all sorts of areas. Query whether or not their activities are all that important to anything but their survival as an agency.

Under the prior House legislation this temporary agency would expire as of the 30th of June. It was conceived as a temporary agency to solve a temporary problem. That is why we included the provision that the FEA would expire on the 30th of June of this year. We mandated that the President come up with a proposal 6 months before the expiration date saying where the different authorities the agency had would be transferred.

This did not happen. Instead, the President said the FEA should be continued. As a consequence, without my substitute we as a body are confronted with a tremendous problem. We can either continue the FEA or we can let it expire and see where the President will allocate these authorities, since he did not tell us 6 months before the termination date.

Mr. Chairman, what my amendment in the nature of a substitute in essence would do would be to try and provide an alternative to all or nothing.

It would allow the FEA to expire, and it would select out things the FEA is now doing which I think are important and then transfer those to agencies that are already existing.

For example, there has been an awful lot of debate about what would happen to regulations of the oil pricing bill that we passed if the FEA were to expire. Under my substitute, that power would be transferred to the Federal Power Commission.

They have similar authority with respect to natural gas. The transfer seems to me a logical extension.

With respect to a lot of the other areas where the FEA has moved in such as Federal policy and analysis and in the energy affairs internationally, those things would all be transferred to ERDA. Again, ERDA is in these fields; and there is no need to duplicate this by having two different agencies.

When it comes to energy resource development, we would transfer that back to the Department of the Interior, where it was before FEA was created

Mr. Chairman, what this really is is an attempt to find a reasonable middle ground and to do what the President had been mandated to do, but did not do, and that was to say that this was a temporary agency, and what do we do with this authority when the time comes for it to expire?

Mr. Chairman, I think that what we are seeing today is that it is impossible to ever kill an agency. They go on and on and on. A Federal agency probably has the closest thing to eternal life the world has ever seen. Why? Because the least difficult decision is to continue on. No change.

Mr. Chairman, the reason my substitute should be considered and the reason we should debate this substitute amendment and do whatever we can to make it as palatable to the Members of the House as possible is because it is the only alternative we have between killing the FEA totally or retaining the agency for 3 more years.

I think we have all heard about some of the things that the Federal Energy Administration has been doing. If my amendment were passed, we would save over $40 million alone in 1 year because the $40 million goes first to management and administration of this separate agency.

We have heard a lot of talk about all

the different PR programs they have. This has been one of the main things they have spent all their money on and we now know that one can conserve electric power by turning off the lights. The FEA has spent thousands of dollars telling the people that if they turn off their lights they can conserve electric power.

They say, "Do not be fuelish." Of course, no one wants to be "fuelish." However, the FEA does not tell us how to avoid being "fuelish."

Mr. Chairman, I think this agency has failed. We are importing a lot more oil than we were before it was created. We know from the General Accounting Office that the agency leans very heavily toward protecting big oil and that it has gone out and harassed independent oil men. They are the only ones who are really doing anything with respect to domestic production. The continued FEA harassment of independents has greatly inhibited domestic production.

Mr. Chairman, we have now expended tremendous amounts of money allowing the FEA to duplicate things that other agencies are also doing. We know that the FEA people are the highest paid group of bureaucrats in Washington.

Mr. Chairman, I went through all the reasoning in the general debate held last week on why we should preserve this agency.

I saw that there were two or three main trends. One was that nobody stood up and said the FEA was terrific. There was not one such speech. The one main defense was, "Yes, it is bad, but we are trying to make it better and it is all we have."

The CHAIRMAN. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, to continue, there was another defense of the agency, that we must preserve it because, while it is not any good or it has not been as good as it could have been, we are trying to make it better.

There is another defense by people who say, "If you think that is bad, you should see what some of the agencies are doing. They are not so great either."

All right. That is fine, but the issue is not which agency is worse but: Do we or do we not retain the FEA? What are its jobs? Are we making work for them? Are they duplicating functions?

Mr. Chairman, my feeling is, yes, we are allowing it to become a make-work agency because we have other agencies that can do these things and are doing them.

Mr. Chairman, this substitute points that out by listing the agencies to which the authority should be transferred that we wish to retain.

If my amendment passes, Mr. Chairman, we will not only save a lot of money, we will finally break that total fixation we have that the only way we can solve a problem is by continuing to build a number of agencies that are supposed to solve our problems. If they do not solve the problem, as the FEA has not we keep them in forever—hoping.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan insist upon his point of order?

Mr. DINGELL. I do insist upon my point of order, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. DINGELL. Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises, and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor.

If you will read the amendment, you will find that it transfers functions to the Energy Research and Development Administration, the Department of the Interior, and the Federal Power Commission. Nowhere in the bill before us or in the basic FEA statute are any of these agencies referred to. Furthermore, the amendment sets up a whole series of other responsibilities. It, first of all, transfers jurisdiction over litigation and has a lengthy savings clause which should have properly been referred to the Committee on the Judiciary. As the Chairman will note, that is the committee which has general jurisdiction over those areas of the Federal Constitution, both in the Constitution, and so forth. Beyond that, Mr. Chairman, the amendment imposes upon the Director of the Office of Management and Budget in at least two places certain responsibilities. For example, in the case of oversight responsibility under section 4(a), to insuring the abolition of the functions under section 2(a), something which is not in the original FEA statute and something which is not in the bill before us.

I would point out that the Director of the Office of Management and Budget is not here mentioned.

In addition to this, the Director of the Office of Management and Budget is required to make lengthy reports to special committees of the Congress which are not mentioned either in the bill, Government operation committees of the House and Senate, or in the basic FEA statute.

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the Director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the sense of amendments which might be presented to them. It is clearly obvious that no Member might have anticipated the removal of the FEA responsibilities to the Interior Department, the Federal Power Commission, or to ERDA, under the rules of the House or the language of the legislation which is brought to the floor; nor could any Member anticipate savings clauses with regard to litigation, or that there should be the transfer of matters relating to oversight to the Director of the Office of Management and Budget.

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order.

The CHAIRMAN. Does the gentlewoman from Colorado desire to be heard on the point of order?

Mrs. SCHROEDER. I do, Mr. Chairman.

There are equal precedents pro and con on the germaneness of my substitute. It is a unique question.

I therefore believe that the policy must come into play. Upholding this point of order will create the following problems down the road.

First, the Senate, which has a bill, S. 2872, soon to be before it, is considering an entirely different FEA bill than H.R. 12169. This bill comes from its Government Operations Committee. It contains sections which parcel out the FEA like my amendment. So, if my substitute is found non-germane, then considering the usual conference committee procedures, the conference report on the FEA bill will probably also later be found non-germane—since it will still parcel out the FEA and thus be non-germane to what the House has passed.

Second, rule XVI, clause 7 of germaneness is of high value to the House. But, should it defeat a proposition which is merely an innovation on what would happen if the bill to be amended by it is defeated. Is the value of the rule of germaneness great when it negates for the House a chance to consider a sound alternative to a likely possibility?

Third, much ado has been made of the proposal for sunset legislation for Federal agencies. The Federal Energy Administration Act of 1974 contains, for all intent and purposes, a variety of this legislation unique to itself. Indeed, this is why the problem we are today facing even exists. Therefore, if my amendment in the nature of a substitute is rejected on a point of order, we in the House will have a tremendously counterproductive precedent to work with if and when sunset legislation for Federal agencies is enacted.

JURISDICTION

Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute, which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

PURPOSE

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions.

If a larger interpretation is placed on the bill—or the substitute—then defeat itself of it would certainly be contrary to the rules and not permitted by the rules.

Other precedents to this point are numerous.

In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill—August 2, 1973. Both H.R. 12169 and the substitute propose to continue the functions of the FEA by Federal agencies. See very particularly the precedents of December 15, 1937, June 9, 1941, December 19, 1973.

Again, I have many citations on this, but I think my amendment is very germane on that test.

What sort of germaneness are we talking about here—where regulation was proposed in a bill one government agency and amendments which accomplished the same fundamental purpose through other Federal agencies was upheld.

But really we are just talking about who does the work and which way it is going to be carried out.

The subject matter, or scope, of both H.R. 12169 and the substitute are identical: both deal with the functions of the Federal Energy Administration and funding levels for these functions. They vary only in the degree these functions are to be carried out and in their funding levels.

The substitute does not create new authorities outside the scope of the duties which H.R. 12169 renews or creates.

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) desire to be heard on a point of order?

Mr. BROWN of Ohio. I do, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the rules of the House under rule X(1)(3) give the Committee on Government Operations jurisdiction over the reorganizations in the executive branch of the Government. The bill we have before us is an Interstate and Foreign Commerce bill. Therefore the Schroeder amendment is nongermane because it involves matter not before the Committee on Interstate and Foreign Commerce.

The title of the bill before us, both as it was originally drawn and as it is amended, does only two things, and as amended it reads:

> To amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Agency Administration, and for other purposes.

The other purposes are not accomplished in the legislation or the language of the bill. Therefore the bill before the House is a bill to authorize funds for and extend the life of the Federal Energy Administration. As such it merely extends with some modification the authorities of the FEA.

The Schroeder amendment on the other hand would completely terminate those functions and transfer them to many other Government agencies, a matter within the jurisdiction of the Government Operations Committee and not a matter within the jurisdiction of the bill. Therefore it necessarily involves reorganization of the executive branch functions and as such is within the jurisdiction of the Committee on Government Operations.

Section 3(a)(1) of the amendment transfers functions to the Energy Research and Development Administration. That is within the jurisdiction of the Science and Technology Committee but not within the jurisdiction of the Interstate and Foreign Commerce Committee.

Again such a provision is nongermane to a bill referred to the Interstate and Foreign Commerce Committee.

As has been suggested by the chairman of our subcommittee, the legislation proposed by the gentlewoman from Colorado (Mrs. SCHROEDER) calls upon the Office of Management and Budget to perform certain functions. I would like to cite Deschler's Precedents—28 section 4.26—which reads as follows:

> To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane. 119 Cong. Rec. p. —, 93rd Cong. 1st Sess., Nov. 7, 1973.

It seems to me that squares directly with the ambition of the Schroeder amendment.

Again in 28, section 6.2 of Deschler's Precedents, it says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

In other words, the effort to abolish and reorganize would not be germane to a bill to merely authorize and modify certain functions within the jurisdiction of the committee dealing with the bill on the floor.

The CHAIRMAN. Does the gentleman from Indiana (Mr. FITHIAN) desire to be heard on the point of order?

Mr. FITHIAN. I do desire to be heard briefly on the point of order, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. FITHIAN. Mr. Chairman, I will not make an argument for this based on the rules, but in the fight on the rule last Thursday the distinguished chairman of the subcommittee reported to Members coming in to vote that an open rule made everything in order.

Rather I would like to direct my attention specifically to the germaneness question which is now raised. It seems the basic point of both the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. DINGELL) pertains to the germaneness with regard to a committee jurisdiction.

We have argued this case before the Rules Committee, that perhaps in all probability this entire legislation should have gone to the Government Operations Committee first. Having lost that in the Rules Committee, I think we ought to address ourselves as to whether we can accomplish the same end, that is what we ought to do with FEA by another means. With regard to the committee jurisdiction, the House rules say quite clearly that its relationship to the bill as a whole must be the test of germaneness.

Mr. DINGELL. Mr. Chairman, will the gentleman yield, since the gentleman mentioned my name?

Mr. FITHIAN. I would be happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I heard the gentleman from Indiana indicate that I had said that the open rule made everything in order. I did not say that at all at any time to any Member. The gentleman has known me long enough to know that I have been around here a little while and have learned the rules and would know that I am extremely careful about defining how the rules of the House do work before I have seen an amendment. My colleague said what I wanted was an open rule to allow the House to work its will in the regular fashion on the legislation in the subcommittee and in the Committee on Interstate and Foreign Commerce, which was presented to my colleague.

Mr. FITHIAN. Well, I will not proceed on these differences in the debate itself, but what occurred at the time it was explained to Members arriving on the floor.

The main point, Mr. Chairman, is this: Are we or are we not in the Schroeder substitute attempting to arrive at the disposition of this matter by carrying out the functions of FEA in this authorization to appropriate and carry out these functions by other means? Now, clearly, this is brought out in rule XVI, section 789b, page 514, of the Rules of the House of Representatives:

> ... Thus to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency—

And this is the particular point at stake here—was held germane.

This is at pages 1572–89.

So it seems to me the Schroeder substitute is entirely in order and it is only a question of how to dispose of the matter.

The CHAIRMAN. The Chair is ready to rule.

Several days ago the gentlewoman from Colorado (Ms. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Ms. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—public law 93-275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII, section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93-275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair, from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

AMENDMENT OFFERED BY MR. FITHIAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MRS. SCHROEDER

Mr. FITHIAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order against the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I am also obliged to reserve a point of order against the amendment since we do not have a copy of the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) reserves a point of order against the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:
>
> "Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30, 1976' and inserting in lieu thereof 'September 30, 1977'."
>
> On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".
>
> On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:"

The CHAIRMAN. Does the gentleman from Michigan reserve his point of order?

Mr. DINGELL. Mr. Chairman, I reserve my point of order.

The CHAIRMAN. Does the gentleman from Ohio reserve his point of order?

Mr. BROWN of Ohio. Mr. Chairman, I reserve my point of order.

Mr. FITHIAN. Mr. Chairman, I would distinctly prefer to see the Federal Energy Administration terminated, as was provided for in the original legislation, that is, to go out of business on June 30, 1976. While I think that it is entirely possible that this could be done, I respect the distinguished chairman of the subcommittee's argument that many of the agency's functions could be disrupted and there could be great difficulty in the short term by the transfer of functions proposed. Mr. Chairman, the time is short at hand when we must finally determine whether the Federal Energy Administration shall or shall not continue.

Make no mistake about it, when given the opportunity, I shall consistently vote for the death of the Federal Energy Administration, because it has done much to impede energy progress. It has led us down the primrose path in expectation, and it has failed us utterly. Given the administrative difficulties, alluded to by my distinguished colleague from Michigan I would propose that the difference between the Schroeder substitute and the committee bill might well come to rest with a 15-month extension of FEA as provided by the Senate bill.

All that the amendment which is before us does is to take the Schroeder substitute and, instead of enacting it immediately, it defers the enactment of the Schroeder substitute for 15 months.

It seems to me that, in the light of an upcoming Presidential election, whether or not we reaffirm the incumbent in the White House—the wishes of the gentlemen on that side of the aisle—or whether or not we replace him with a new President directing a new administration—as those over here I am sure would subscribe to—it makes little difference. It gives either of the future administrations an opportunity to do exactly what the law required President Ford to do, but which he has failed to do; that is to provide for the orderly transfer of those responsibilities of the Federal Energy Administration back to the agencies from whence they came, or to come forth with another plan.

This administration has utterly failed on both tests.

In the light of this failure, I would argue that it is prudent to give ourselves 15 months, in the hopes of a new administration and in anticipation of new, or at least less politically motivated, White House energy policies. It should be no surprise to anyone on either side of the aisle that the presently constituted Federal Energy Administration would be a great hindrance under these circumstances.

If FEA's reports and recommendations sound like they come from the board rooms of Exxon or Gulf, they should; because that is the kind of people running the Federal Energy Administration. The GAO, in a recent report on the background of FEA personnel, indicates that.

I would argue that since most reasonable people agree that the present FEA cannot solve our problems, cannot even take just one step closer to energy independence, cannot shape any kind of overall national energy policy, the best we should give them is a life extension of 15 months, while the new administration or the present administration does the job which it has been precluded from doing because of campaign activities.

I think it is a grave matter indeed to fashion and expand upon the powers and jurisdiction of the Federal Energy Administration as H.R. 12169 does, such as giving FEA control over demonstration of solar energy. This House in the past 18 months has dumped millions of dollars into solar energy under the control of ERDA. To now duplicate that seems sheer folly.

I would argue that we should extend the FEA for a minimum time, while providing basically what will happen to its functions at the end of this 15 months. This does not preclude—I repeat, this does not preclude—a new administration within those 15 months from fashioning a comprehensive national energy commission, department, or agency, dealing not only with the oil industry, but with the coal industry, nuclear, solar, geothermal, and all of the rest.

That is what I think we should do.

In the absence of this, it seems to me that we should at least refrain from passing along such a lemon as FEA to a new administration.

Therefore, I would argue that we should extend the life of FEA for a period of 15 months, while providing what will happen to its functions.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I believe I will support the amendment offered by the gentleman, but mainly I rise to comment on the gentleman's call for input from the various companies, not just the oil and gas companies. The truth is that the same entities dominate the uranium and coal and nuclear fields; we find we are talking about the same companies.

This Nation, unfortunately, has acquiesced in the same companies dominating all energy sources, so it ill behooves the House to ask for varied views when there are none. The monopoly is frightening.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist upon his point of order?

Mr. DINGELL. I do, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. DINGELL. Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered.

The CHAIRMAN. Does the gentleman from Indiana (Mr. FITHIAN) desire to be heard on the point of order?

Mr. FITHIAN. Briefly, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. FITHIAN. Mr. Chairman, I recognize what the distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) desire to be heard on the point of order?

Mr. BROWN of Ohio. No, Mr. Chairman. I think the point of order has been adequately made to the Chairman.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. FITHIAN) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. SCHROEDER). The Chair, therefore, overrules the point of order.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish to state that I am against both the amendment offered by the gentleman from Indiana (Mr. FITHIAN) to the Schroeder amendment and against the Schroeder amendment in the nature of a substitute. I hope the Members will listen to me on this proposition, because I am one Member who has never been sold on the devotion or the diligence of the FEA. The one thing to consider, though, is that we have established an agency and given it duties. We have the power to make the FEA perform its duties. If we should dismantle it now or a few months from now, we would have to start organizing the processes necessarily for fulfilling those duties in other agencies.

I know that there are some Members here who attack the FEA from several different standpoints. Some feel that to get rid of the FEA would be to get rid of oil price control, but that of course, would not occur because the control of oil prices is established in an entirely different act than the one here before us. That bill is not available at this time for us to amend or alter; that is the Energy Policy and Conservation Act.

The Energy Policy and Conservation Act requires mandatory controls that run for 40 months, beginning at the first of February, as I recall, so that is 36 months from the present time. All we have done in this legislation is to extend the authorization of FEA through that period of mandatory control, plus 4 months, which is a reasonable time to complete its operation.

Mr. Chairman, I shall not complicate the issue by doing more than merely point out that there still remain some residual functions that run through 1980 and 1985, but my main point is this: We have created certain authority calling for functions to be performed. We have delegated those functions to an agency, and this committee has done nothing more than to write an authorization that goes through the period of mandatory control under another act plus 4 months.

I would like to point out to my colleagues that if we should dismantle an agency now in existence, called upon to carry out the functions of another act of some complexity, and if we were, as I have said, required to have those functions continued to be carried out by the other agencies, we would create an enormous disruption both in the administration and in the enforcement provisions we have set forth in the other act.

Mr. Chairman, an act does not enforce itself. The FEA has not been the best enforcer. I doubt that the Federal Power Commission would be a better enforcer, and the Federal Power Commission would always have the excuse that the function has just been thrust upon it.

What happens in the meantime? What happens to the reasonable equities, for instance, between small refiners and large refiners that the FEA has attempted to regulate? Does the Federal Power Commission have to absorb that information and administer it?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think the gentleman is making an excellent point, but one of my problems has been that I do not think the FEA has done that either. I think that is one of the complaints we have.

Mr. ECKHARDT. Mr. Chairman, if the gentlewoman from Colorado would yield back to me, I would say this: If the FEA has not performed its functions, and I think in many instances it has attempted to get out of that performance by submitting no evidence in support of its action to this Congress, this Congress can make the FEA perform its functions by simply refusing to agree to permit it to get out of any of those functions.

Mr. Chairman, I think that the FEA has not performed as well as I would have liked it to perform; but I fail to see how the Federal Power Commission would be better. In every instance the Federal Power Commission has authority over fossil fuels it has recommended in favor of deregulation.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. To continue, Mr. Chairman, the Federal Power Commission, if given this function, would continue to control that function for a long period of time, for the entire period of time I have described.

I would like for my Democratic colleagues to remember this: If this falls into the hands of the Federal Power Commission, and it fails to exercise its functions properly, there is almost nothing that can reform the conduct of the Federal Power Commission until the expiration of the terms of the present commission, or a majority of them. Actually, we would have a 3-to-2 majority on the side of decontrol in the Federal Power Commission, which neither Mr. Carter nor Mr. JACKSON nor Mr. UDALL could alter when he became President.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, I do not like to disagree with my good friend, the gentleman from Texas (Mr. ECKHARDT), because he has been in the forefront of the same battles that I have, but I would just ask this question: Does the gentleman not think that 15 months is a sufficient time for a President to perfect whatever transfer or whatever reorganization of the Commission that the President might deem necessary, and would not that be sufficient time for a Democratically controlled House to refashion the Commission?

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield back to me, I would say this, that if an agency is merely preparing its own funeral, its own reorganizational processes, it has little time in which to devote itself to policy questions and to enforcement of the acts it is called on to administer. Therefore, during that 15 months the agency would be moribund because it is too busy dissolving and transferring its functions.

I think the 15-month delay is probably worse than an immediate changeover because after the 15 months then the new agencies must gird themselves to do their jobs.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HILLIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to oppose both the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. SCHROEDER) and the amendment offered by the gentleman from Indiana (Mr. FITHIAN) to that amendment.

Before the House votes on the amendment before us, I believe it is important to remind the Members of the seriousness of the issue we are considering. America's dependence on imported oil is at an all time high. This situation continues to threaten our economic recovery not to mention our national security.

In 1974, the Congress saw the need to establish the Federal Energy Administration to carry out policies designed to achieve independence in energy. Since that time, our dependence has increased not decreased. Credit should be given where credit is due, and, in my opinion, Congress is responsible for our Nation's increased dependence on OPEC oil. The 94th Congress has proven unable to make the tough decisions necessary to develop a national energy policy which the FEA can follow. We have seen on more than one occasion this House fail to make the difficult decisions which would have led us away from our all time high dependence on OPEC oil. A vote in favor of this amendment will only prove contrary to our energy needs, however politically attractive it may appear. I have some very sincere, and I believe very real, fears that our energy situation will continue to decline over the next few years. For Congress to continue to avoid making the necessary decisions, any national energy policy will continue to be nebulous at best and our future energy independence dubious.

The purpose of the FEA is to insure an adequate energy supply for the United States. FEA is also designed to assure that in cases of energy shortages priority needs for energy are met. With our dependence on OPEC oil, another embargo such as the one we experienced in 1973, would be devastating. If the Federal Government is going to be ready to handle another possible embargo, one agency responsible for setting priorities and coordinating energy programs must exist. I, therefore, strongly urge this body to contemplate the seriousness of this issue and defeat this amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would ask the gentleman from Indiana to tell me what the FEA has done to help us deal with the energy crisis? I understand the gentleman's argument, and I think it is true that we have overlooked, or we really have not dealt very effectively with the energy crisis, but I certainly do not see anything that the FEA can point to that they have done to decrease our dependence on foreign imports.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Michigan for the purpose of making an answer to the statement of the gentlewoman from Colorado.

Mr. DINGELL. Mr. Chairman, I have asked the gentleman from Indiana to yield, because this is a technical issue.

Mr. Chairman, the FEA has done a great deal. First of all, FEA has maintained price controls and seen to it that the people are fairly treated in terms of the price of petroleum and petroleum products.

Further, FEA has maintained an allocation system which has assured that all parts of the country, all consumers, and each marketer category including wholesalers, retailers, and refiners gets a fair cut of the energy pie.

FEA has maintained the entitlement system which has equalized the cost for refiners who use higher priced oil, such as imported oil which sells for as much as $15 a barrel, or new oil which presently sells for approximately $11 per barrel, rather than cheaper "old oil" at around $5.25 per barrel.

In addition, FEA has been able to see to it that the people are aware of our continuing energy problems.

This is not to say that I have always agreed with everything the FEA has done, or how it has done it. But we are a darn sight better off with FEA than we would have been if we were totally at the mercy of the industry.

Mrs. SCHROEDER. Yet, as I stated before, what I am talking about is our continued reliance on foreign imports, and our reliance on these foreign products have risen tremendously during the FEA, and I question very seriously whether they have not been more of a problem than they have been of a solution, and I think this is borne out if we look at their track record, when we look at what has happened so far as the energy production area is concerned and our continued reliance on foreign imports since they have been in effect. So I simply cannot give them a very high grade in this regard.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to say to the gentlewoman from Colorado, with all of the kindness that I can muster, that the fact of the matter is that the FEA has been restrained by the legislation that this Congress has passed. Many of us on this side of the aisle predicted that if we froze prices on domestic production that the price of gasoline would continue to go up, because we would have decreased domestic oil supplies and, therefore, correspondingly increased reliance on foreign imports.

I do not know whether the gentlewoman from Colorado remembers that or not—I assume not—but the point of it is that we predicted precisely what was going to happen. I would gather that the gentlewoman from Colorado voted to let the FEA set the price limits on domestic production. We told our colleagues what would happen, and now what they are doing is criticizing FEA for congressional legislation. It seems to me that is the basic problem.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to carry a bit further the preceding colloquy, it never does anyone any good and it never provides any self-satisfaction to say, "I told you so." But when we initially established the Federal Energy Administration, we cautioned that we would reach a point in time wherein criticisms would be much what they are today and that people would be unhappy with FEA. We said in the instance of the enactment of the original allocation legislation that two things were certain: We would disrupt supply and the price would go up. Both of those things have come to pass. Our original objections are even more pronounced and more true today than they were at that point in time.

The assumption on the part of some—and I say it that way purposely—is that if we do away with FEA, we do away with that to which people object that FEA has authority over. But we are absolutely not doing that. We are complicating the problem and we are making it more difficult, and we are further going to disrupt any effort to achieve anything approaching energy self-sufficiency, because I do not think we are ever going to have energy self-sufficiency in my lifetime. It simply cannot be.

There is an old adage for the country boys that I think the Members will understand. We have seen the old mother and the old father out in the yard with a straw or brush broom raking leaves. They sweep them all up in a pile and set them afire. That principle is what we have with FEA. We have all the trash in one pile, because FEA, as far as I am concerned, is administering trash, which we in Congress mandated and we do not want to distribute the trash into any number of piles. We do not want to parcel out the functions because we are not going to get rid of the law which requires that these things be done. We are simply going to require that somebody else do them. We are going to take the trash out of one pile, and we are going to put it where we cannot find it, and we are going to regret that, if we do. The trash will be all over the place.

We have had an example in times gone by with, for example, the poverty program. We did exactly this. We did away with the poverty program as it was initially created, and we distributed its functions to any number of Federal agencies, and it is lost now. It is embedded there forever.

I would say to those Members who think they are going to get rid of FEA and the functions of FEA, if we ever want to do anything to aid and abet the cause of energy sufficiency, keep it where we can get rid of it at some point in time, because we will never be able to get rid of those functions if we put them out as this amendment proposes.

What does it propose? Yes, again let me say it just proposes putting the trash in a number of places. First of all, the functions of the Office of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs will be transferred to the Energy Research and Development Administration.

ERDA was not created for those purposes. ERDA was created as a research arm to help us achieve energy self-sufficiency. We are going to disrupt these programs. We are going to put them, in addition, in foreign affairs, if we give them this responsibility. They are not equipped to do it. They cannot do it and we are slowing down the energy self-sufficiency effort.

Second, the amendment proposes that the Office of Energy Resources and Development shall be transferred to the Department of the Interior. Well, the Department of the Interior might have some of that capability, but the Department of the Interior does not have that total capability.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. WAGGONNER was allowed to proceed for an additional 3 minutes.)

Mr. WAGGONNER. Mr. Chairman, that committee does not have that capability. More nearly, what we propose transferring here to the Department of the Interior should be transferred in the way of resource development to ERDA, in my personal opinion.

Third, the functions of the Office of Regulatory Programs shall be transferred to the Federal Power Commission. Now, if there is a Federal agency that must of necessity, because of their poor track record and their lack of performance, bear the responsibility for the critical lack of energy today, it is the Federal Power Commission, because, in applying their regulatory powers, they have done more to prevent the development of petroleum reserves, oil and gas reserves in this country, especially natural gas, than anybody else. They are the people who cannot make a decision. They are the people who cannot allow supply and price to be equated. They are the people with the blind bridle. They are the people those who support this amendment want to turn over the responsibility for regulation in totality to. Do not ever do it if we want to aid and abet the cause of energy self-sufficiency. They are ill equipped to do it; but even then, we suggest giving ERDA, the Department of the Interior, and FEC this authority; but the amendment ties their hands when in the next step it says:

> Personnel engaged in functions transferred under this section shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions; provided, however, that no appropriated funds may be used for the payment of the salaries of personnel employed in the execution of functions transferred by this Act in excess of the number of employees engaged in such duties as of January 1, 1976.

We are just saying to them that we are going to let the Civil Service bureaucracy make the determination about what is going to be done, when it is going to be done, how it is going to be done, and everybody who is dissatisfied with any transfer is going to oppose that transfer and we are further going to hamstring the effort.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think one of the things you have overlooked is in my substitute half of FEA will be taken apart, for there are many, many things the FEA is doing now that I think we could make a policy decision they should not be involved in. They have been used as an example many times as an agency throwing money at everything in sight.

Mr. WAGGONNER. Let me pause right there. Can the gentlewoman tell me how it is a tremendous saving, when specifically the language of the gentlewoman's amendment says they will transfer all the personnel?

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

(By unanimous consent, Mr. WAGGONNER was allowed to proceed for an additional 3 minutes.)

Mr. WAGGONNER. When they can transfer under the provisions of the existing law all the personnel employed as of January 1, 1976, to the agencies to which the gentlewoman refers.

Mrs. SCHROEDER. They can do that under prior FEA bills. We know people called in to the FEA were called in from other agencies and were on loan on the basis of that bill and will go back. Under our bill, we would end up saving $75 million.

Mr. WAGGONNER. The gentlewoman admits the gentlewoman is not getting rid of any personnel, only letting some other agency use them?

Mrs. SCHROEDER. No; we are cutting $75 million worth of other personnel needs, so we will be saving that much with my substitute.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, it should be pointed out that one of the functions the Administrator might cut out is the Office of Counsel of the Federal Energy Administration, which means there will be nobody interpreting where these various functions are being performed according to law in all these places.

Mr. WAGGONNER. If I may proceed for a moment with what little time remaining is mine—and I do not want to abuse the Committee—it is just this simple: There will be a disruption if there is a transfer, and we are going to hide forever these people in the catacombs of the bureaucracy. If we want energy sufficiency or anything approaching it, do not provide for this disruption. If we ever want to get rid of regulation, we must keep it where we can get rid of it, because we are not going to get rid of it if we transfer these functions.

We should do just exactly what I am saying for the time being, as bad as it is—and in some instances in spite of our mandate they have done a pretty good job considering the mandate we give them—but keep the trash in one pile where we can see it, and let us not disperse it to the four winds so that we can never, never do anything about getting rid of it.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, with all the gentleman's kind words about the Federal Energy Administration, I am having difficulty in knowing why he wants to extend it 39 months rather than 15 months.

Mr. WAGGONNER. I am talking about the principle of dispersing it. The gentleman knows that. I have not referred to 15 months; I have not talked about 15 minutes, 15 months, or 15 years. If we want it to function, then keep it where we can see it and exercise some control over it.

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

(On request of Mr. Fithian and by unanimous consent Mr. Waggonner was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. The amendment on the floor is for a proposition to shorten the life of this agency from 39 months to 15 months. I am having great difficulty in seeing how anyone who objects to the Federal Energy Administration could oppose this shortening of its life. That is the fundamental issues on the floor today at this moment.

Mr. WAGGONNER. This gentleman is not foolish enough to believe that when that 15 months is up, the same people who advocate giving regulation to the Federal Power Commission are going to come back and say, "We do not want the Federal Power Commission to have further regulatory authority."

I have been down that road. The gentleman from Indiana has not yet been down that road. My years of experience tell me that this is just a sop, it is a sugar-tit, and nobody who really advocates this amendment intends to get rid of regulation. That is what I want to get rid of.

Mr. FITHIAN. But the gentleman in the well does not want to get rid of it for 39 months, is that correct?

Mr. MOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I oppose both the Fithian amendment and the Schroeder amendment in the nature of a substitute. If there is one thing we do not need to do, it is to engage in ludicrous exercises, and that is what is being proposed here.

This is not the way to reorganize Government. This is not the way to legislate an agency out of existence. There has been no evaluation made of the agencies proposed to receive these powers, their competence to discharge them. I chair the Oversight and Investigation Subcommittee of the Committee on Interstate and Foreign Commerce, and as I pointed out when we debated the rule, I am ranking on the Committee on Government Operations, on the Legislative and National Security Subcommittee, so I would have a role in wherever this legislation might go.

But, it should not go under these conditions, transferring regulatory programs to the Federal Power Commission, and we are just about at the windup stage of extended oversight over the Federal Power Commission.

There is no one who can take pride in the performance of the Federal Power Commission. We are going to be proposing some changes for the Federal Power Commission, to make it carry out its mandate from Congress more effectively. It would also transfer the proposal here, the labeling function, to ERDA.

That agency has absolutely no expertise. It has no experience in this area at all. We just took the labeling functions out of the Department of Commerce, where the bill from the other body would place it, and we gave it just last year, the labeling function, to the Federal Trade Commission; and we are looking, hopefully, to the Federal Trade Commission's functions, under the rewrite of the Federal Trade Commission Act of 1975, to see if it is capable of carrying out the new duties mandated to it by the Congress.

This proposal would take the strategic reserve function and transfer it to the Department of the Interior. I do not know what evaluations others might have of the Department of Interior, but I think they have made an unholy mess of leasing programs, both offshore and domestically, and it does not matter what type of resource we are talking about, whether it is petroleum or coal or shale, they have made about all of the mistakes in the book. This would give them additional opportunity to prove how effectively they might function in that area.

The data analysis and collection would go to ERDA. Again, I do not know that there has been any demonstrated competence in that.

The important point is that the agency, as the gentlewoman states, has a clearly identified mission. It has moved along the road. It has had the Energy Act of 1975 for almost 6 months.

I can find many things that I can criticize in the performance of FEA. But I think that it is more likely that FEA will improve performance, that it is likely that ERDA, taking a new function, would be able within a reasonable period of time to become competent to perform the duties imposed under that transfer of functions.

I do not know why the proper path, the legislative path, of a piece of legislation already introduced in this House is not pursued; and if it becomes the judgment of the House, after carefully structured hearings, that a transfer should be made, then go ahead and make it.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 1 additional minute.)

Mr. MOSS. As an appendage to an authorization act, this is not the proper way to approach it. It is not the responsible way to legislate.

So I strongly urge rejection of either the 15-month proposal or of the sudden death proposal of the gentlewoman from Colorado.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. I thank the gentleman for yielding.

I know the distinguished gentleman from California was responsible for the section in the Energy Policy and Conservation Act that had to do with getting information to the agency in order that it might not have to rely wholly on that of the oil companies. But as I read the analysis of the transfer of duties, energy policy and analysis would go to ERDA, but then the Federal Power Commission would have to act on that energy policy. I really wonder if the gentleman has not envisioned that the very body that would administer the question of pricing, and matters of this nature, would not be permitted to have before it the information that the amendment provides.

Mr. MOSS. The answer is: Yes, indeed, I had so envisioned that they would not have that dual or that conflicting function.

I would point out that another very important matter is the establishment of acceptable accounting standards. Again that is a matter not addressed in this sudden transfer of functions that is proposed under either the 15-month or the sudden-death proposal.

Mr. Chairman, this is a perfect exam-of either amendment. It is not a good legislative approach. It is a very unwise legislative approach.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I certainly wish to compliment the gentleman. I think that he points out that all these policies have been hammered out in a number of acts with respect to the specific benefits sought. It would be extremely improvident to dismember the various functions deliberately placed in this agency by a hasty floor amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to both the amendment in the nature of a substitute and the amendment.

Mr. Chairman, I think we ought to look at a little history. The FEA has been given its functions by this Congress, and those functions include regulatory and conservation functions.

It seems to me that, as the gentleman from Louisiana (Mr. WAGGONNER) has pointed out, it only makes sound organizational and management sense to centralize those functions in a single location or a single agency where they can best be performed and where they can best be related directly, one to another.

Mr. Chairman, one of the basic problems of our national energy policy before we had any centralized agency and before the Arab oil embargo, which occurred at the time when we set up the old Federal energy organization, was that there was no central policymaking or functioning entity in the energy field; there was no central place where the policy which had been set up to that time by the executive branch and the Congress, working together or separately in their own functional areas of responsibility, could be implemented.

So the result was that energy responsibility was scattered, and it was not very well operated. The Department of the Interior, prior to the establishment of the Federal energy organization, handled the oil import program, and it handled the Federal leasing procedures. The Federal Power Commission dealt with the price of natural gas. The Cost of Living Council had responsibility for price and allocation controls on petroleum. The Federal Energy Office attempted to set general energy policy.

The result was confusion, chaos, and not very good policy in the energy field, and so when we had the Arab oil embargo, we did not have a very quick or organized response as to policy.

Mr. Chairman, the Schroeder and Fithian amendments would throw the Nation back into that state of confusion and chaos. The Schroeder substitute would transfer regulatory functions to the Federal Power Commission. That would be a dandy kettle of fish. The Federal Power Commission now has certain regulatory functions, and the speed with which it functions is notable by its absence. The fact of the matter is that it now takes an average of 31 months for the Federal Power Commission to reach a final decision in electric utility rate schedules. Adding more functions to the Federal Power Commission would further delay such decisions.

It is the Federal Power Commission in administering the Natural Gas Act authority, which has failed to provide the adequate incentives for the development of new natural gas sources for our society. The result is that we now "enjoy" a shortage of natural gas in a good part of our country. If the Federal Power Commission is such a dandy agency to take over a part of this operation, I fail to see the argument for it.

The gentleman from Indiana (Mr. FITHIAN) and the gentlewoman from Colorado (Mrs. SCHROEDER) have both complained that the FEA has not solved the energy crisis.

What do you know? The fact of the matter is that that is like complaining that the President has not balanced the budget.

The FEA does not make the law by which it must deal in its attempts to solve the energy crisis. FEA does what the law requires, and what the law passed by this Congress has required is that we reduce the price or the return on the production of domestic oil in the hope that that will encourage a lot of people to explore for and produce more oil.

Mr. Chairman, repealing the law of gravity is as sensible as repealing the law of supply and demand. It just cannot be done. We might as well have repealed the law of gravity and let the oil bubble out of the ground as set that low price on oil and thereby expected more domestic oil production.

The result has been, of course, that we are increasingly dependent on foreign oil. It now is creeping close to 50 percent, when it was less than 40 percent when we passed this wise piece of legislation.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, when we passed the questionable piece of legislation that set the low price on domestic oil, many of us on my side of the aisle, and some on the Democratic side of the aisle, predicted that we were going to have a decrease in domestic supplies and a corresponding increase in our reliance on foreign oil, and that the prices of oil and gasoline would go up, because that reliance was going to increase since the OPEC nations and the other people in the oil-producing cartel set the price of oil. We thought that as a result of our increasing dependence, we would wind up paying more, not to American producers, but to foreign producers. That is just what has happened.

Mr. Chairman, the gentlewoman from Colorado (Mrs. SCHROEDER) says that FEA has done nothing to solve the energy crisis. I would say that Congress has done ple of the unwise action that is being urged on this body today in the adoption nothing to solve the energy crisis. FEA has at least encouraged conservation. It has at least encouraged some understanding of the oil industry and its problems by the American people and by the people who have to deal with the problems of financing new-oil finding in this country.

I do not know whether it has helped too much with reference to understanding within the Congress, but that is a matter of economic education and not of oil industry education.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, do I understand that the gentleman is saying that the fault or the blame rests on the House of Representatives? Is that correct?

Mr. BROWN of Ohio. Indeed the blame rests on the Congress generally, not really on the FEA, because, once again, FEA only administers the laws we pass.

FEA has certain functions that it is given the responsibility of performing by law: controls of prices, allocations of products, that wonderful entitlement program, conservation plans, storage of oil resources, information gathering, and so forth.

Mr. Chairman, we can scatter these functions, but nothing in the amendment of the gentlewoman from Colorado (Mrs. SCHROEDER) terminates any of them. They all go on and on.

I should take that back, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. As I was saying, Mr. Chairman, there is one function terminated along with several other administrative centralization functions, and that is the function of the Office of General Counsel.

Who is going to interpret whether or not the laws are being properly observed by the people at the Federal level who have the responsibility of performing these functions? Obviously, it will not be the General Counsel Office of the FEA. It will be the general counsel of all of the scattered agencies to which these functions are assigned. With that many different lawyers looking at the functions that we have assigned the FEA and interpreting, in different ways, the way they should be performed, we ought to have a wonderful mess of confusion and chaos in our whole energy policy.

In short, Mr. Chairman, the Schroeder-Fithian amendments merely set us back about 4 years in our effort to try to see what we can do about our energy policy.

Mr. Chairman, I think the whole package of amendments should be defeated.

Mr. McCORMACK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana (Mr. FITHIAN) to the substitute offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

May I ask the gentlewoman from Colorado if she would answer a question.

It is my understanding that the amendment in the nature of a substitute, as the gentlewoman from Colorado has prepared it, strikes the funding in the authorization bill for the FEA for solar energy programs and also further increases in energy conservation programs?

Mrs. SCHROEDER. The gentleman is correct.

Mr. McCORMACK. I thank the gentlewoman from Colorado for that information.

I want to speak in support of the amendment offered by the gentleman from Indiana (Mr. FITHIAN) to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. SCHROEDER) without necessarily speaking to the substitute. If we are going to have the substitute before us, then I would like to have it before us with the amendment offered by the gentleman from Indiana, so that instead of talking about the immediate abolition of the FEA, we would have adequate time and give the administration time to think about it.

There is a reason for this. I want to call to the attention of the Members that on May 11, the President signed into law an act creating the Office of Science and Technology and reestablishing in the House a Presidential Science Adviser. Part of the law may have missed the attention of some of the Members, but it calls for a study by a committee established within the White House, of the reorganization of the energy agencies of the executive branch in such a way that the new President, whomever he may be, when he is elected this November, may have an opportunity, based upon these studies, to consider the reorganization of these various energy agencies.

This committee which, under the law, is referred to as the Federal Science, Technology, and Survey Committee, is created in the Federal Executive Office of the President, and has, as its first responsibility, to study and consider among other things the needs for "organizational reform, including institutional realinement designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agencies primarily or solely concerned with fuels, energy, and materials, within a single Cabinet-level department."

In other words, the executive branch today is studying the possibility of a complete reorganization within the executive branch and the possible creation of a new full Cabinet-level Department of Science and Technology on Energy and Materials.

I think it would be precipitous of us, at this particular moment, to go all the way with the recommendation made by the gentlewoman from Colorado (Mrs. SCHROEDER), because I believe this would create chaos within the organization. But with the amendment providing for a 15-month leadtime, then the bill would fit in precisely with the study that is being carried out as result of the bill that was just signed into law on May 11 and would give the new President an opportunity to make his recommendations on this subject.

For these reasons, Mr. Chairman, I urge support of the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to both the amendment offered by the gentleman from Indiana (Mr. FITHIAN) and the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

Mr. Chairman, there is nothing to prevent the Committee on Government Operations from convening in the next 15 months and reporting out a bill which would restructure the entire energy operations of the Federal Government. Nothing. I think that that would be the proper way and the orderly fashion in which this matter should be handled.

If we are to restructure the energy functions of the Federal Government, it should be done through the orderly committee process. To do it on the floor without consideration of the relative merits of the legislation or without studying the consequences would be extremely unwise.

There is nothing to prevent the Committee on Government Operations from coming forward with a total bill so far as dates are concerned, or what agencies shall have energy responsibilities.

Many of my colleagues appear to have forgotten the energy crisis which followed the Arab oil embargo in 1973.

That embargo is what triggered the creation of a Federal Energy Agency to centralize the energy regulatory processes of the Federal Government in one place inside the Federal Government.

But some of my colleagues, including the gentlewoman from Colorado, seem to have forgotten the fact that prior to that embargo in October of 1973 there were lines in the gasoline stations, and there were spot shortages of petroleum products around the country at that time.

It appears that we may very well be facing a similar period of spot shortages and disorganizations in petroleum supplies during this forthcoming summer; some predict that there are shortages which exist right now with regard to possible shortages of gasoline and other petroleum products.

I think it is proper to analyze the situation before us in the light of simple orderliness. There is today one place in the government to which the people may go with regard to prices and the allocation of petroleum products. The amendment before us would absolutely sunder that and would abolish, for example, the Office of General Counsel. It would abolish, for example, the Office of the Administrator. It would abolish the Office of Congressional Affairs. It would abolish the Office of Communications and Public Affairs. It would abolish the Office of Intergovernmental and Regulatory Programs. It would move the Office of International Affairs to the State Department which has demonstrated absolutely no competence or credibility in this area, and, worst of all, it would vest regulatory processes in the hands of the Federal Power Commission, probably the single sorriest agency in Government: the agency which has presided over the total disorganization of the natural gas industry.

So I think that we should see the amendments before us in the light of what they are, both the amendment offered by the gentleman from Indiana (Mr. FITHIAN) and the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER). They impose too early a demise upon FEA which can come about immediately if the Government Operations Subcommittee so chooses, or which can come about at a later time after the new President is elected during the fall months.

I think there are some other things that are important. It has been mentioned that there is a 2-year study which was required by the Congress just a little over a month ago as to the location of energy responsibilities inside the Federal Government. That is good. We will have those responses within 2 years, well within the period that is allowed under the committee amendment. If at that time we choose to reorganize the energy agencies the appropriate committees can hold the necessary hearings and take the necessary steps to see to it that energy responsibilities are reorganized in a fashion that the Congress might deem appropriate and proper.

This amendment does something else that should very much raise policy questions in the minds of my colleagues. It separates the allocation and pricing responsibilities, and moves them to two different agencies of Government. If we want to see a real problem with regard to how the industry shall be treated or how the consumer shall be treated, or where a citizen, whether he be in the petroleum industry or not to separate those responsibilities into two different agencies is about as good a way of creating hardship and chaos as I could recommend.

I think the last point that my colleague should remember is simply this. The committee of proper jurisdiction, the Committee on Government Operations, has not had an occasion to review this matter, has not made recommendations. I believe that they should have that opportunity to carry out their work.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

I am interested in this amendment because they are seeking ways of improving the Federal Energy Administration. We have had a serious shortage problem with oil since the days my colleague, the gentleman from Michigan, mentioned when we had the queues lined up for gasoline. But the situation today is probably more critical than it has ever been.

In this amendment that we have before us we are talking about ways of restructuring the Federal Energy Administration. We really do not need to restructure it; what we need to do is to abolish it; and the answer is simply to vote down this amendment and then when it comes time for the final vote, to vote against the Federal Energy Administration itself.

About 3 or 4 years ago when we started with this oil control, we were importing about 22 percent of our oil. Just 3 weeks ago, we hit the 50-percent level, where 50 percent of the oil for this country was being imported. What we are trying to do is to defy natural economics. We are trying to average oil per barrel at $12.50 that we pay for imports for foreign oil and then by congressional law maintaining a $7.66 per barrel average price paid for oil produced in this country. There is no way we can defy natural economics like this very long, no matter who the administrative agency is that sets up regulations.

So going back to the matter of changing the FEA around and distributing this function or that in some other agency; this amendment does not solve anything.

It is like the guy that had a ruptured appendix and put an ice pack on it. It is not going to take care of the ruptured appendix.

We must go back and live with natural economics. The major oil companies are always a target for politicians to blast. But we know that the major oil companies in the past 10 years have invested 110 percent of the earnings they have made; in other words, they have gone beyond their earnings and reinvested fully in drilling and developing oil and gas reserves.

What we need to do is develop more and more internal oil reserves within the United States. We do not want a mumbo jumbo amendment, such as we have here. The definite and only solution is to do away with the FEA entirely.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this whole debate with great interest. I think it is really amazing. I think it is no wonder that people get very disturbed with us. They hear all politicians saying they would like to cut back on the Federal Government. The people are also aware of a terrible statistic. In the last 15 years we have created 234 agencies of one sort or another and we have never been able to take 1 apart.

The genius of the original FEA bill was that it was created to deal with a temporary problem; that is, oil shortages internally caused because of the Arab embargo. That embargo is now lifted.

The legislation creating the FEA said the agency was to naturally die its own death. There were all kinds of provisions in that bill for what would happen on June 30 this year when it would die.

Now what I have heard makes it sound as though some are trying to find something for the FEA to do. We have heard all sorts of new justification for its continued existence. I have heard some say support the FEA because it is a great agency for conservation.

Yes, they have told us if we turn off electric lights we will save electric power, that poor people pay a higher percentage of their income than rich people, that high-sulfur coal is a health hazard. That is all interesting, but it has not done anything for conservation. It is the same old thing. The FEA hire a group to study conservation problems. They go out to do a study. They come back with a bunch of recommendations. No solutions occur. It is an employment program for study groups. It goes on and on and it is just one more finger in the pot.

I think our energy policy in this country has been in a disastrous state. I think to perpetuate this agency will do nothing to help.

We have a choice in this House. We can say we will continue FEA for 15 months, under the Fithian amendment to my substitute, or we can adopt my substitute that says, OK, right now we disperse it. I think both are reasonable propositions and I hope we all think about it. If we continue the Federal Energy Administration for 15 months, then we have a little time to decide whether or not those are the right dispersals.

I am not about to say I have made the right decision. I only set it out because no one else would. I do think we have an opportunity to prevent being steamrollered every time when an agency is about to expire to say that we have no alternative but to extend it in my substitute and Mr. Fithian's amendment. Many are saying here we are with the deadline and anything but straight continuance will be chaotic. Straight continuance is not the only alternative.

So I think the amendment of the gentleman from Indiana to my substitute is reasonable. It gives us 15 more months. We have had time to discuss the FEA in front of the Whole House. There may be some administrative change, come November, and we do not want to saddle any new administration with 39 months of the FEA's permanent being. We all agree our Federal energy policy at this time is a disaster. A new administration should be able to deal with it in its own fashion.

Who is to blame for our lack of energy policy? Let us not stand and point fingers at anyone. It is probably because we have dispersed it and we need a whole new approach. To continue on the way we are going is almost admitting defeat for we are using the standard Washington response when a constituent says, "What have you done about energy?"

We say, "We created an agency."

We created so many agencies on every problem we can think of, and they only seem to get bigger. The FEA is the classic agency to demonstrate my proposition for, as the gentleman from Texas (Mr. Collins) so rightly pointed out, we are now importing more oil than we were when it was created and it was created because of the problems created by importing a lot of oil. So, on that basis, we should continue it? I do not think that makes sense.

Mr. ECKHARDT. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I would hope the reporter, with his usual accuracy, will put within parentheses the name of the gentleman from Texas (Mr. Collins) when "the gentleman from Texas" is mentioned.

Mrs. SCHROEDER. That is an excellent aside. I was referring to the gentleman from Texas (Mr. Collins) and his comments about our importing more oil.

Mr. HARKIN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-four Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The question is on the amendment offered by the gentleman from Indiana (Mr. Fithian) to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder).

The question was taken; and on a division (demanded by Mr. Harkin) there were—ayes 14, noes 31.

So the amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder).

The amendment in the nature of a substitute was rejected.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I have an amendment to section 1, and I do not know whether this proposal precludes that amendment.

The CHAIRMAN. Does the Chair understand the gentleman's request to be that the entire bill be considered as read?

Mr. DINGELL. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. BROWN of Ohio. Mr. Chairman, I withdraw my reservation of objection.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the entire bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Section 2 of the bill reads as follows:

EXTENSION OF FEDERAL ENERGY ADMINISTRATION ACT

> SEC. 2. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1979".

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Brown of Ohio: Page 8, strike out line 11 and all that follows thereafter down through "1977." on line 14.

Mr. BROWN of Ohio. Mr. Chairman, this amendment would simply strike the solar energy authorizations of $2.9 million added to the bill during the full committee markup. The $2.9 million was not approved by the Subcommittee on Energy and Power, and there was no testimony during the hearings on this legislation that demonstrated the need for or the cost justification of this additional sum.

According to the bill, this money is to be used to encourage the use of solar energy in commercial and other applications. This would require the establishment of a new program authority for such purposes in FEA. In fact, this would mean unnecessary duplication of funds already being spent by the Energy Research and Development Administration in its solar energy programs. All eight of the projects to be funded, as listed in the committee report on page 15, are currently ongoing programs in ERDA.

Furthermore, the solar energy authorization is an intrusion into the jurisdiction of the Committee on Science and Technology, to which the rules of the House grant jurisdiction over all energy research and development except nuclear. In H.R. 13550, the ERDA authorization bill that has just passed this body, the House has approved $345 million for fiscal year 1977 for the solar energy program, with $116 million of that added in a floor amendment.

Mr. Chairman, $80.6 million of the total amount is earmarked for solar heating and cooling demonstration projects, which are the most developed of the solar technologies and the closest to commercial application.

My amendment would delete this unnecessary duplication and keep the FEA a regulatory and conservation-centered agency, rather than expanding its activities into the solar area, thereby setting up an entirely new function in FEA which duplicates what already exists in ERDA.

I urge the Members to support the amendment. I also welcome the support of my colleagues, the gentlewoman from Colorado (Mrs. Schroeder) and the gentleman from Indiana (Mr. Fithian) and the others who proposed the substitute which did not have in it this $2.9 million for solar energy or for the establishment of solar energy demonstration programs in the FEA that they would organize in a different way.

So, Mr. Chairman, again I urge my colleagues to take advantage of this opportunity to save us two things, first $2.9 million already being spent by ERDA in other areas, and strike the unnecessary duplication of programs because the programs to do precisely what is allowed for here already exist in ERDA.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from New York (Mr. Ottinger) is recognized for 10 minutes.

Mr. OTTINGER. Mr. Chairman, this amendment was put in on my motion in the committee. I believe it deals with a very important area that the House is going to have to consider in a number of different contexts, and that is where the ERDA authorization for research and development ends, and other agencies go out with existing technology and get it applied to our society.

What this provision that my colleague, the gentleman from Ohio (Mr. Brown) seeks to strike, does, is to add additional authorization for the FEA to promote the application of existing solar technology.

This is not a new activity for the FEA. Indeed, it was provided for by agreement between the FEA and ERDA when FEA was established. It is recognized in ERDA's own documents.

I think it is important to make it very clear, and I cannot emphasize this too strongly, that none of the funds authorized by this provision would provide for solar energy research and development or demonstrations. That is clearly stated in the committee report on page 15, wherein it states:

> In no sense did the Committee intend or desire that these funds be used to further existing or proposed research and development of solar energy technology. It was rather the feeling of the Committee that much research had already been done and that some additional incentives were called for to get this technology off the shelf and into practical, commercial use.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would like to commend the gentleman from New York (Mr. Ottinger) for reading the particular section of the report. Reiterating his comment, it was not the intention of the committee to get into research and development. It is the intention of the committee to see to it that existing technologies are implemented. The action taken by the committee effectively carries out the original budgetary authorziation of FEA for authority to commercialize uses and technologies regarding conservation of energy.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will yield to the gentleman from Ohio when I am finished, if I have the time.

Mr. Chairman, I am in the position of serving on both the Committee on Science and Technology and on the Committee on Interstate and Foreign Commerce. I am a very strong supporter of the research and development activities of the Energy Research and Development Agency that have been authorized by the Committee on Science and Technology. But I do not think that ERDA is equipped, nor is it really geared up for or interested in seeing to it that the technology which is already developed gets out into the field.

ERDA has specifically recognized that promotion of existing technology belongs with FEA. We read, for instance, from the ERDA Basic Energy Document, ERDA 76–1, and it says:

> Among all the Federal agency interactions affecting energy R,D&D, perhaps the most important is that between ERDA and the Federal Energy Administration. It is here that a strong tie is established at the working level between national energy policy and national energy R,D&D policy. ERDA's focus is the technological character of the energy system, while FEA's focus is the economic and operational aspects of the energy system. The activities of the two agencies do, of course, overlap and complement each other.
>
> In addressing technological problems, ERDA must recognize the possible institutional and social barriers to implementation of both existing and new technologies and, hence, must interact strongly with FEA as the companion agency that can mount attacks on such problems. In modifying the present energy system, FEA should recognize the existence of technological issues and, hence, must interact strongly with ERDA, the agency that can mount attacks on such problems.

The latest pronouncement on this, again from ERDA, from the ERDA 49 National Solar Energy Research Development and Demonstration Program, has an entire page devoted to the FEA's responsibility for solar energy. Here is what it says:

> The Federal Energy Administration provides the Energy Resources Council with analysis and options in the formulation of National energy policy. A key element of the National energy policy is to reduce our vulnerability to energy import interruptions and price manipulations by foreign countries through the achievement of energy self-sufficiency and through international cooperation. FEA's role is twofold in the area of solar energy:
>
> One, integrate solar energy policy into the National energy strategy;
>
> Two, promote the accelerated utilization and widespread commercialization of solar energy to assure an early and substantial contribution by solar energy to the energy self-sufficiency of our Nation.

This, again, is ERDA's document. I am continuing the quotation:

> In line with these responsibilities, FEA will:
>
> Identify and, where appropriate, work for the removal of economic, institutional and legal barriers to the widespread commercial application of solar energy technologies;

This is something that ERDA is not equipped to do.

The next point: FEA, according to ERDA, is to:

Stimulate market demand.

It is to:

Accelerate development of solar energy industry capability;

It is to:

Perform trade-off studies to assure that solar energy resource development (increased production, commercialization and increased utilization) activities are properly interwoven with other energy resource development/energy conservation endeavors.

Next: It is to:

Participate in RD&D program definitions and promote international cooperation.

Next: FEA, according to ERDA, is to:

Undertake solar energy policy analysis and development.

The ERDA document continues:

It is important that policy be formulated to aid in the growth of solar energy markets. In particular, these policy efforts should include, among other activities, identifying and, where appropriate, working for the removal of economic, institutional, legal and other barriers to the widespread commercial application of solar energy technologies. This effort would be a major responsibility of FEA in parallel with efforts by ERDA, HUD, and other Federal, state and local government agencies.

To accelerate commercialization, FEA is examining the cost and benefits of various user and producer incentives. FEA will be preparing policy recommendations on such incentives.

These authorities, again, are outside of ERDA's expertise but definitely within that of FEA.

The ERDA document continues:

Typical of activities in line with the above policy efforts, FEA is currently studying a government buildings thrust that would go significantly beyond the scope of the currently planned demonstration program. This thrust would require that:

All planning and designs for new Federal buildings or renovations would include an assessment of the feasibility of using solar heating and cooling.

Solar systems could be purchased for Government buildings whenever they are competitive with conventional systems on a life cycle cost basis.

The quantity of solar heating and cooling systems purchased by the Federal Government could be substantial enough to initiate the use of automated production techniques and thus contribute to development of a solar industrial capacity.

ERDA 49 continues:

The Federal Energy Administration, in cooperation with other agencies, is now preparing a national plan for the Accelerated Commercialization of Solar Energy. This plan will include options and requirements necessary for achieving a goal of 1 million barrels of oil equivalency per day from all solar energies by 1985.

What we are talking about is applying the solar technology which ERDA has developed, and for which I salute them for their work; however, FEA would go beyond ERDA's research and get it out in the marketplace and I think that is just absolutely critical. It is something which ERDA is not equipped to do and it is something which the FEA is peculiarly equipped to do and the FEA is presently in the course of performing these efforts.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from Connecticut and wait to recognize his fine efforts on this legislation and in promoting application now by FEA of existing solar technology.

Mr. MOFFETT. Mr. Chairman, Members have received letters, "Dear Colleague" letters from the chairman and others of Congress, saying that solar energy is in the exclusive jurisdiction of ERDA.

The gentleman from New York (Mr. Ottinger) has been reading for 3 or 4 minutes of FEA's role in solar energy as envisioned by the Energy Research Development Administration itself.

So what is the situation here?

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. Moffett, and by unanimous consent, Mr. Ottinger was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. Mr. Chairman, what I am getting at, it cannot possibly be true, that the Energy Research and Development Administration and the committees that oversee that particular agency have solar energy exclusively for themselves.

Mr. OTTINGER. Mr. Chairman, it not only is not true, but I notice that Robert Fri in his testimony before the Senate committee made it quite clear that he intended that FEA should pursue the various programs as I previously described.

Furthermore, there is also an important Department of the Interior effort, called "Western Expansion Study," which addresses, among other things, the integration of solar energy into Federal hydroelectric projects that are important for applying the technology developed by ERDA into existing programs and coordinating them with other energy programs.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent, Mr. Ottinger was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, let me read this testimony by Deputy Administrator Robert Fri on May 5 before the Senate Government Operations Committee. He said:

The FEA Act of 1974 had quite simply as its objective that the FEA Administrator shall be responsible for such actions as are taken to assure that adequate provision is made to meet the energy needs of the Nation. It established FEA as an Executive Branch regulatory agency, with major responsibilities in the operating and economics aspects of our national energy system. FEA's statutory mandate includes responsibilities for stimulating introduction of energy technologies and encouraging new, more effective patterns of energy utilization.

He strongly supported the FEA role in solar technology.

I think it is vitally important that at some point we say that ERDA's research and development stop and we get existing solar technology in use.

Another example of recognition by ERDA of FEA's solar role is in ERDA 23–A which reads as follows:

ERDA–23A, National Program for Solar Heating and Cooling, October 1975.

Although the title would indicate otherwise, the document in fact deals primarily with ERDA's demonstration program. Nevertheless, FEA is identified as having "lead responsibility" for the following: 1) Energy policy analysis and development, including overall energy policy as related to solar energy policy; and 2) regulation and incentives, including utility-related regulations.

Mr. Chairman, in the above-cited ERDA references, FEA clearly is recognized as having a major role in policy/planning, operational/planning, institutional relationships, and other commercialization considerations that go well beyond ERDA's technical/R.D. & D. responsibilities.

Mr. Chairman, in line with FEA's long recognized responsibility for solar energy commercialization, the committee has provided for, in a more viable manner, continuation of FEA's ongoing solar energy commercialization program. The committee has clearly not provided for any FEA solar energy R.D. & D. activities nor has it established a program which infringes on ERDA's jurisdiction.

Bob Fri's testimony, which I just previously cited, brings me to my second major point—what is solar energy commercialization and what agencies are responsible for its many facets. There are numerous responsibilities associated with the accelerated commercialization of solar energy. Mr. Chairman, I am inserting a chart, titled "Institutional Responsibilities Associated with Accelerated Commercialization of Solar Energy," which is being proposed within the Administration as a possible division of solar energy commercialization responsibilities in the Record at this point:

Institutional Responsibilities Associated With Accelerated Commercialization of Solar Energy

POLICY-RELATED ROLES—EXISTING OR POSSIBLE

FEA responsibilities

Promote accelerated utilization and widespread commercialization.

Coordinate development of goals, policies, legislative and regulatory recommendations, plans, program definitions, and implementation strategies for accelerated utilization and widespread commercialization.

Assure consistency of various parts of Federal Solar Energy Program with national objectives (as may be developed by the Administration or Congress).

Share in oversight/monitoring of implementation and operation aspects of commercialization with Interior, ERDA, etc.

Provide staff support to Energy Resources Council.

Assist states in developing programs to accelerate utilization and widespread commercialization.

Provide support to the International Energy Agency.

R.D. & D.—RELATED ROLES—EXISTING OR POSSIBLE

ERDA responsibilities

Provide key input into Solar R,D&D program definition;

Provide support essential in evaluating—

Overall R,D&D programs

Specific technologies

Specific projects

Provide FEA support in developing Solar Energy Accelerated Commercialization Plan.

Share responsibility for commercialization implementation/operations with DOI and FEA.

Provide support in technical and engineering/hardware aspects of commercialization programs.

Schedule R,D&D to meet commercialization implementation/operations requirements (solar & storage R,D&D).

Provide regional staffing support through ERDA labs in hardware related efforts.

Provide technical support to FEA regional offices in commercialization.

IMPLEMENTATION AND OPERATIONS-RELATED ROLES—EXISTING OR POSSIBLE

Joint/shared responsibilities [*]—FEA, DOI, ERDA

Implement policies, plans, programs of Administration.

Coordinate the implementation of appropriate incentives (as may be developed by the Administration and/or Congress) such as:

Investment tax credits

Rapid amortization

User tax credits

Loans/loan guarantees (both for users and producers of solar equipment)

Federal land leasing, etc.

Provide for Utility Planning Contracts or Grants.

Provide assistance to states for commercialization implementation/operations.

Coordinate solar energy regulations (sun rights, environmental, etc.).

Implement regulations (as appropriate).

DOI responsibilities

Share responsibility for commercialization implementation with FEA and ERDA.

Maximize integration of solar electric into the Federal hydroelectric power system.

Provide support in land, water and facilities related aspects of commercialization.

Provide support for solar electric energy-storage (pumped-hydro, compressed air, etc.) commercialization implementation/operations.

Under the present multiple energy-agency structure—that is, FEA, ERDA, and energy-related parts of DOI—different agencies might best fulfill different commercialization requirements. For example, FEA is very much concerned with the policy/planning aspects of solar energy accelerated commercialization and with providing adequate coordination of commercialization efforts among the various agencies.

The Department of Interior, DOI, particularly the Bureau of Reclamation, is conducting a "Western Energy Expansion Study," which addresses, among other things, the integration of solar into the Federal hydroelectric system. As the Nation's custodian of public lands and substantial hydroelectric resources—one-third of our land area—DOI might also be concerned with providing facilities-related support for solar and especially near-term solar storage.

ERDA, being responsible for the research, development and demonstration of solar technologies—with the objective of providing consumers with proven technology—must understand and consider commercialization requirements in the design and evaluation of R.D. & D. programs.

If FEA, DOI, and ERDA are to meet their responsibilities in accelerating the commercialization of solar energy, each agency must provide adequate resources—that is, funding and staff.

FEA has a definite sphere of interest, insights, and expertise that best lends itself to a strong leadership role in solar energy commercialization.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, in the last Congress we passed legislation called Public Law 93-473 to establish what is known as the Solar Energy Research, Development, and Demonstration Act of 1974.

In that act in section 8 it says:

> In carrying out his functions under this Act the chairman, utilizing the capabilities of the National Science Foundation, the National Aeronautics and Space Administration, the Department of Commerce, the Atomic Energy Commission, and other appropriate Federal agencies to the maximum extent possible, shall establish and operate a Solar Energy Information data bank—

And so forth. It seems to me that we have got practically everybody in the Federal Government except the Soil Conservation Service of the Department of Agriculture in on this. We really have to get more involved.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent Mr. OTTINGER was allowed to proceed for 1 additional minute).

Mr. OTTINGER. Mr. Chairman, the answer is that if we get these lines properly drawn, we will have ERDA involved in research and development on new technology and on demonstrating that it works, as we do through the solar heating and cooling demonstration program. At that point, we will get ERDA out of the picture and have FEA and other agencies dealing with commercial applications.

The same problem is coming through with respect to the synfuels program. That is basically a financing program for existing technology, and should be out of ERDA into other institutions, if it is adopted at all.

Mr. BROWN of Ohio. What concerns me about that is that the gentleman separates the scientists in ERDA from the practical demonstration of an economically feasible program, or vice versa. The gentleman has people determining the economic feasibility of something scientists may be doing the work on. It seems to me those two things should be married so that research work considers economic feasibility.

Mr. TEAGUE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. The language quoted from the report was placed in that report by our committee because the fear had been expressed by the Committee on Interstate and Foreign Commerce that our committee encroached on commercialization. This is a duplication of what is already in our legislation, and the amendment should be adopted.

Mr. McCORMACK. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, it seems surprising to me that we have to go over and over, continuously, these same facts. I would like to remind the Members of the House that we have, in the last 3 years, enacted three major solar-energy acts.

One was the Solar Heating and Cooling Demonstration Act for commercial demonstration of solar heating and cooling. That is what the act is all about. We also enacted the Omnibus Solar Energy Research, Development, and Demonstration Act. That is the title of the act. It includes all solar-energy activities, everything, and gives total jurisdiction to the Energy Research and Development Administration—not to any other agency.

We also created, in the Nonnuclear Energy Act, we assigned various responsibilities to various agencies, including solar research, development, and demonstration, exclusively to the Energy Research and Development Administration. Now, last week—or maybe the week before last, but very recently—we finished authorizing on this floor a bill for the Energy Research and Development Administration, including a total of $345 million, for solar-energy research, development, and demonstration in all categories of solar-energy research, including these various authorizations toward commercialization that have been specifically pointed out in the report associated with this bill.

Now, in going over this report—one must be fair about it—one should look at the report and say, "Just what justification is there in the report, what justification is there for the projects in the report? Are they not being carried out?"

As a matter of fact, we have gone to the Energy Research and Development Administration and asked them, are they carrying out these projects. The simple fact is that every single one of them as listed in the report is currently being conducted by the Energy Research and Development Administration. Under the law, of course, they are required to. We wrote that into the law over and over again requiring them to cooperate with other Federal agencies.

Obviously, the Federal Energy Administration has one responsibility, and that is to provide public information; and, another responsibility, which is to provide information on technologies that are commercially available, not in the demonstration phase, but after they are in the demonstration phase, just as they have the responsibility to provide information on heat pumps, on furnaces and various types of utilities and automobiles. That is part of their responsibility. But it is not part of their responsibility to carry out demonstration programs, as the gentleman from New York would have under this amendment.

---

[*] NOTE.—Coordination of the implementation and orientations-related roles associated with accelerating the utilization and widespread commercialization of solar energy should be accomplished by a joint management project or a steering group of FEA, DOI, and ERDA and coordinated by FEA.

Under solar energy accelerated commercialization, they are at work today with plans with various agencies and with various States, carrying out these projects.

Under solar energy Government buildings project, they are working at the present time under the direction of our committee.

Under solar energy heating and cooling commercialization, they have just completed awarding some $7 million at 34 projects across the country for the commercial application of solar energy for nonresidential buildings.

Under the Southwest project, specifically spelled out in the report, they are working now on this project and are about ready to improve it.

Under State solar energy commercialization plans, they are working with States.

Under solar electric and fuel projects, they have a number of projects going at the present time.

Under education and workshops, they have had scores of workshops all over the country with universities and other agencies.

And under economic, legal, environmental, and institutional problems, we have $500,000 worth of programs already underway at the direction of our committee in these areas.

This amendment simply makes mischief. One of the serious problems is that the provisions of the bill, as included by the gentleman from New York, simply make mischief, not only for the executive branch, but for the Congress and for the people of this country.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. McCormack was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, in the first place, the provisions of the bill, as would be stricken by the amendment, are simply making mischief. They are providing overlapping, duplicating, competing activities within the executive branch. They are blatant attempts to steal jurisdiction from one committee by another committee. That is what this amendment would do.

These amendments were never cleared by the subcommittee. They were tacked on at the last minute, after Members of the House had already approved $345 million. Then the gentleman from New York went and stuffed these on, at the last minute, in the full committee. I think that is the sort of thing that should be rejected. I think the amendment offered by the gentleman from Ohio should be supported, and I ask the Members to support the amendment offered by the gentleman from Ohio (Mr. Brown).

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I hope I can set the record straight, having been here when the Committee on Science and Astronautics—later the Committee on Science and Technology—was organized and having been in on part of the understanding that existed between the chairman of that committee at that time, the gentleman from California, Mr. George Miller, and the gentleman from Arkansas, Mr. Oren Harris, who was the chairman of the Committee on Interstate and Foreign Commerce. I believe it was with the consent of the Parliamentarian at that time as to what the powers of the two committees would be.

When I became chairman of the Committee on Interstate and Foreign Commerce, the gentleman from California (Mr. Miller) came to me to reiterate what I thought was the proposition that the Committee on Science and Astronautics would deal only with research and development and not get into "commercialization" in any field. This is what I have understood when the gentleman from California (Mr. Miller) and the gentleman from Arkansas (Mr. Harris) had their understanding, and it was with the Parliamentarian at that time.

I can remember one very particular case in which one member of his committee wanted to take on a commercialization program, and I said something to Mr. Miller about it. He said, "He is completely wrong." This was in reference to one of the top members of the committee at the time.

He said, "He is completely wrong, and I will not adhere to it." He was in California at the time. I talked to him, and he called the gentleman and he said, "You stay out of that field, because that has not been the understanding through the years between the two committees and between the committee chairmen and their organizations."

Mr. Chairman, if my good friend, the gentleman from Texas, wants me to yield, I will yield to him.

Mr. TEAGUE. Yes. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Chairman, is the gentleman aware that a bill from the Committee on Science and Technology has just been considered? The gentleman from New York sat and listened to every word of that, and he knows this is true. We went through the bill and took out the word "commercial" in, I think, about 25 different places because we wanted to be sure nobody could say we were getting into the field of commercialization on fuel. And that still remains the case.

But this is not what we are doing here. We are duplicating here what has already been done in our committee, which is in the field of demonstration, and that is still in the research field. We are not going to get into the commercialization of this. I can promise the gentleman that, if the committee chairman has any power to take it out, as he did in this case.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I appear to be in trouble about this, because I have a feeling that my good friend, the gentleman from Texas (Mr. Teague), and the gentleman from Washington (Mr. McCormack), who spoke earlier, have not taken the trouble to read the report. I would like my good friend, the gentleman from Texas (Mr. Teague), to understand that this is not an attempt to get into research and this is not an attempt to get into development, which are the proper jurisdictions of the Committee on Science and Technology.

Mr. TEAGUE. Right.

Mr. DINGELL. But, as the gentleman from Texas well knows—and I hope the gentleman from Washington (Mr. McCormack) will come to appreciate this—there is no authority in the Committee on Science and Technology to go into commercial applications.

Mr. TEAGUE. Correct.

Mr. DINGELL. So we have very carefully stated our position in the report, and I would like to read from this report for the benefit of my good friend, the gentleman from Texas (Mr. Teague):

> In no sense did the Committee intend or desire that these funds be used to further existing or proposed research and development of solar energy technology.

The language of the report implements what was the request of FEA in its original budgetary request to have authority to spend money for commercialization of now existent technology, and that is our purpose here.

Mr. Chairman, I would hope that the gentleman from Texas (Mr. Teague), for whom I have great affection and who has been my friend for a long time, would accept my word on this point and would understand the purposes of the committee and would also understand what the language of the bill means, what the language of the report is, and what the goals that are set out here are.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield further for the purpose of asking a question?

Mr. STAGGERS. Yes, I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Chairman, do I understand correctly that this language does not mean that the Committee on Interstate and Foreign Commerce is saying that FEA should not go into development, demonstration, and research, and that it only applies to commercialization?

Mr. STAGGERS. The gentleman is correct. And I believe that if the gentleman from Ohio (Mr. Brown) understood that, he would withdraw his amendment that is now pending, because I have been through this debate over the years.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, again I want to reiterate to my friend, the gentleman from Texas (Mr. TEAGUE), that we are not trying to get into research and development, but commercialization applications and demonstrations are clearly within the functions of the Committee on Interstate and Foreign Commerce and are clearly one of the responsibilities of FEA. I know that my good friend, the gentleman from Texas, simply misspoke himself.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. STAGGERS) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. STAGGERS was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the problem here—and it is one that only the House can resolve—is the question of what is commercialization and what is demonstration. It seems to me that demonstration is the demonstration of a researched and developed technology, and that that is properly in the function of ERDA.

When we speak of commercialization, that is the question of whether or not the private sector picks up a project and goes ahead and deals with it, and the Committee on Interstate and Foreign Commerce quite properly may regulate it. But that is where the line has to be drawn, and we have to decide whether we are in a demonstration area, which seems to me to be clearly within ERDA, or whether we as the Committee on Interstate and Foreign Commerce are functioning in our regulatory responsibilities to regulate the development of that project in private industry and in commerce.

That is why I offered the amendment, because the $2.9 million is a duplication of what is now being done in demonstration projects.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. STAGGERS) has expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. STAGGERS was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the difference between demonstration and commercialization it seems to me, is quite clearly defined. Under the Solar Energy Research and Demonstration Act, we have a number of demonstrations authorized; they are conducted under carefully controlled conditions in which data are gathered to try to accumulate information to improve the technology in the future. That is clearly a demonstration project as defined by the Committee on Science and Technology in its authorization.

What we are talking about now as commercialization is getting existing technology into general use. The solar applications FEA seeks to fund are not data gathering demonstrations—they are getting people to use existing technology.

There are at the present time 2 million solar hot-water heaters which are being used in Japan; solar energy is in use all over New Zealand, and all over Israel. We would like to see solar technology that which is presently available put into use in the United States today. That is what this provision of the bill is designed to accomplish. I hope the amendment will be defeated.

Mr. STAGGERS. Mr. Chairman, I think, under the circumstances, that the gentleman from Ohio (Mr. BROWN) would withdraw his amendment, if he wants to really see solar energy go in this country.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it seems to me that what we are faced with here is the fine line, the splitting of hairs. Where does the authority lie?

Obviously, we get ourselves into trouble when we create legislation that duplicates effort. If we are going to solve this energy problem, we have to maximize our effort. It does not do this country or this Congress any good to promote a duplication of effort in our Government.

Mr. Chairman, it appears to me that the discussion has centered around research, development, and demonstration. Who should be responsible for demonstration? How about commercialization?

The question of commercialization, has not been satisfactorily answered. Should the Government get into funding commercial-type projects?

Obviously, in the area of demonstration, there is the whole program, including research and development. This is obvious from the committee's report. In the report it is clear, at least to this Member, that when they talk about demonstration, by its very nature. it includes certain aspects of research and development.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I think that if the gentleman in the well would go back to the original act, he would find that the other committee has research and development and only demonstration work which is related thereto. I do not think he will find in there any reference to demonstration of commercial applications. That was left actually up to the Committee on Interstate and Foreign Commerce, the commercialization and demonstration, I believe. That was my understanding from the original talks and the original agreements at the time when they were made.

Mr. GOLDWATER. That may or may not be true, but as a consequence of the original act, the Committee on Science and Technology has reported out energy programs calling for demonstration. A precedent has been established here, now and for the future. Now should we not ask: Why have FEA do part of this solar energy project and ERDA do another part? That makes no sense at all.

We have clearly established by the organic acts that ERDA is the responsible agency for research, development, and demonstration. Even with respect to commercialization, why split that authority?

Within the ERDA authorization and the authorization language, they are directed to work with other agencies of the Government. Why, all of a sudden, take a little away from ERDA and put it over into FEA? That makes no sense at all.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would like to read the language of the report, which says as follows:

> In no sense did the committee intend or desire that these funds be used to further existing or proposed research and development of solar energy and technology.

Mr. Chairman, I have read the report about getting FEA into the business of doing the things they are supposed to. By its nature, this includes research and development. To some degree, there has to be some coordination. We cannot just take something out of thin air and say that we are going to commercialize it.

There has got to be some research and there has got to be some development under these programs, leading up to that commercialization. If it is not mentioned in the report it is implied.

Mr. GOLDWATER. Does the gentleman understand the difference between development, which is given the Committee on Science and Technology and the commercialization application which lies in the hands of the Committee on Interstate and Foreign Commerce?

Mr. DINGELL. I do.

Mr. GOLDWATER. I think that if the gentleman were thoroughly familiar with the original bill that was passed he would clearly understand not only was research and development in EDRA's area of jurisdiction but also demonstration as well, leading up to commercialization with the numerous programs. ERDA does precisely that what the gentleman is trying to get FEA to do.

Mr. Chairman, I have a lengthy study prepared by our staff under each of the topics presented in the committee report and in the language of the bill and the study clearly demonstrates that ERDA is precisely doing the same things that you are asking FEA to do.

I would like to be able to insert that in my remarks to support this determination.

The comparison between proposed FEA programs and that already in effect in ERDA—

SOLAR ENERGY

1. SOLAR ENERGY ACCELERATED COMMERCIALIZATION TECHNOLOGY SUPPORT AND UTILIZATION AUTHORIZATION FUNDS

The ERDA currently has several projects studying strategies and implementation approaches including a solar electric strategy underway by the Aerospace Corporation and an overall solar energy strategy and implementation analysis by the MITRE Corporation.

A $3M program plan has been developed to begin in FY 1977 under ERDA authorization. This plan will include projects to examine strategies, barriers, and incentives that will be useful for commercialization planning and for drafting legislation on solar energy incentives and reduction of barriers to commercialization.

The ERDA has developed Memoranda of Understanding (MOUs) with three states for joint participation of Federal and state agencies in developing programs and strategies for implementation through demonstration and R&D strategies and cooperation in information dissemination. The three present Memoranda of Understanding are with the States of Arizona, Hawaii, and California. Discussions are underway with many others.

ERDA–23A and ERDA–49 include plans that are being implemented to develop commercialization and R&D strategy. The FY 1976 Program Approval Document includes projects on the Southwest project and state and local cooperative projects.

2. SOLAR ENERGY GOVERNMENT BUILDINGS PROJECT THERMAL APPLICATIONS AUTHORIZING FUNDS AND TECHNOLOGY SUPPORT AND UTILIZATION AUTHORIZING FUNDS

The ERDA has cooperative agreements with GSA, DoD, HUD and other Federal agencies to develop techniques and procedures for assessing and implementing solar applications on Federal buildings.

The ERDA has an ongoing, expanding buildings program involving hardware on buildings, assessments of buildings, standards and procedures, hardware specifications, life-cycle costing guidelines, design guidelines, etc. For example,

GSA Federal Office Building, Manchester, New Hampshire and Saginaw, Michigan.

Dod Battalion Headquarters Building at Fort Hood, Texas and two base exchanges at Kirtland Air Force Base, Albuquerque, New Mexico and Randolph Air Force Base in Texas.

There are approximately 10 other Federal projects underway.

The FY 1977 Federal buildings plan is in the approval stage and involves projects that would cumulatively involve about one million square feet of collectors in systems.

These projects are leading to the routine assessment and implementation as appropriate, on all Federal buildings through the action of the individual agencies.

3. SOLAR ENERGY HEATING AND COOLING COMMERCIALIZATION THERMAL APPLICATIONS AUTHORIZING FUNDS

The ERDA has initiated a plan that is in the approval stage to implement water heating systems in Department of Defense residential and BOQ areas. This program is expected to lead to about 500,000 square feet of installed hot water systems geographically dispersed over the United States.

The ERDA is in the early planning stages for a larger hot water applications program for general domestic and commercial uses. Early emphasis in FY 1977 is being considered for hospital hot water heating systems, motels and laundromats.

The ERDA–23A plan is being implemented with three million dollar incentives/barriers plan for FY 1977 that builds on the previous 13 projects monitored by ERDA and initiated by NSF in FY 1975.

The ERDA–23A program plan is being implemented and places heavy emphasis on all phases of commercialization including over 200 demonstrations to date, large numbers of workshops, state meetings, information dissemination, traveling demonstrations and exhibits.

4. THE SOUTHWEST PROJECT SOLAR ELECTRIC AUTHORIZING FUNDS

The ERDA and FEA are collaborating in a project to be initiated in the near future to develop a southwest strategy including many of the solar energy technologies in particular, solar thermal and photovoltaics. This project is in the final approval stage.

5. STATE SOLAR ENERGY COMMERCIALIZATION PLAN—TECHNOLOGY SUPPORT AND UTILIZATION AUTHORIZING FUNDS

ERDA held a national solar energy workshop last week with 37 states and territories represented to coordinate commercialization through development of data networks for solar resource data (insulation) and solar heating and cooling demonstration projects.

Workshop sessions covered possible state building solar energy planning and programs; state and ERDA joint planning and implementation concepts directed towards improved communications, information dissemination at the grass root level and general commercialization of solar energy.

Memoranda of Understanding have been signed by ERDA with Arizona, Hawaii, and in negotiation with California. These are directed towards accelerated commercialization of solar energy at the local level.

6. SOLAR ELECTRIC AND FUEL PROJECTS—SOLAR ELECTRIC AUTHORIZING FUNDS

About five ERDA regional wind resource and applications studies are underway to evaluate the resources and potential of wind energy systems.

A ERDA-sponsored study and strategy to implement smaller wind energy systems (a few kilowatts to several hundred kilowatts) for farm applications is underway in conjunction with the Department of Agriculture.

A workshop to inform utilities of wind system potential for their use was held more than one year ago at NASA-Lewis, the ERDA collaborator in implementing wind energy technology in larger-scale systems. Several requests for proposals are currently active to involve utilities and industry in the siting and demonstration of wind energy systems.

7. EDUCATION AND WORKSHOPS TECHNOLOGY SUPPORT AND UTILIZATION AUTHORIZING FUNDS

The ERDA has conducted about 20 workshops and exhibits in FY 1976 with additional workshops planned for FY 1977. National, regional and local conferences are supported and attended, and speeches and papers presented as appropriate.

An ERDA solar mobile laboratory had been on the road for over a year and has visited over 30 major cities to date and will be continued in FY 1977.

The Department of Commerce, in collaboration with ERDA, has sponsored the development of two courses in solar heating and cooling, being given at the Colorado State University. One course involves design considerations and the second provides installation techniques. The results of the courses will be disseminated widely.

A large solar energy and energy conservation exhibit has been installed on the Mall adjacent to the Capitol which has operational solar systems on display plus educational materials available.

8. ECONOMIC, LEGAL, ENVIRONMENTAL AND INSTITUTIONS TECHNOLOGY SUPPORT AND UTILIZATION AUTHORIZING FUNDS

Five studies (approximately $500,000) have been completed or will be completed this summer relating to legal constraints to the commercialization of solar energy. These are linked to additional studies in the same completion posture covering institutional aspects such as utilities rate structures, incentive policies on manufacturers and the public. A major environmental assessment study ($500,000) covering all solar technologies will be completed in October, 1976.

The programmed 3 million barrier/incentive study in FY 1977 will cover capital formation requirements, fiscal and monetary investment policies, state and local government interfaces as to state codes, and incentives. A major policy analysis of solar commercialization and utilities will be conducted.

The CHAIRMAN. The Chair will state to the gentleman from California that the gentleman will have to secure that permission in the House.

Mr. GOLDWATER. I thank the Chairman.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to congratulate the gentleman from California (Mr. GOLDWATER), upon his statement. I think it is a terribly important one so that we do understand that ERDA has been and will continue to carry out research, development and demonstration. But demonstrating a technology, demonstrating that it is technologically feasible, and understanding what its current jurisdictions are, falls in the jurisdiction of ERDA. Then if there is a technology available, for instance, a coal gassification plant, we get a demonstration for it and if we do demonstrate that it works, then the commercialization and regulation of it would fall within the appropriate jurisdiction of the Committee on Interstate and Foreign Commerce, and, if appropriate, the Federal Energy Administration. That is what is important.

I think we should understand what demonstration is. It is not commercialization. Demonstration belongs in ERDA and in the jurisdiction of the Committee on Science and Technology.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Chairman, the gentleman from California is one of the most active members of the Committee on Science and Technology. Would the gentleman from California comment on how much discussion and how much effort our committee has made to be sure that we do not encroach on the jurisdiction of any other committee?

Mr. GOLDWATER. Mr. Chairman, the gentleman from Texas is absolutely right. There has been a tremendous effort made over the past year and previous years to clearly and carefully define these areas of jurisdiction. This whole subject has been discussed. And all of the Members, including my good friend the gentleman from New York (Mr. OTTINGER) who has been way out in front insofar as leadership in this whole area is concerned, understand that we have explained the desire and interest of not proliferating this whole solar energy effort, and that we keep it together in one program, whether it remains in commercialization, or not, or research and development and demonstration and commercialization, whatever, it should be under one agency head. And that is I think what we have tried to define. That has been the purpose of the original act. And yet all of a sudden now we have this great diversion here in the making.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to say to the gentleman from California (Mr. GOLDWATER) that he has been very helpful and very aggressive in pushing solar energy research, development and demonstration within the Committee on Science and Technology. We have worked very well together on this.

I think demonstration is proper in the scientific context, demonstration of the various technologies and gathering data from those demonstrations to be able to improve the technology. I do think, however, there is no duplication once you have existing technology, as there is at the present time in the solar energy field, for FEA promotion of existing technology. That is what we are trying to do with the committee solar and conservation provisions.

Mr. GOLDWATER. In the proposal offered by the gentleman, he called for solar energy in Government building projects. Clearly ERDA has cooperative agreements with GSA, DOD, HUD, and other Federal agencies to develop techniques for assessing and implementing the solar application to Federal buildings, clearly a duplication of all the gentleman is calling for, if FEA should get involved.

I support the gentleman's effort to accelerate and really develop this solar energy, but really let us keep it in one area. Let us keep it in one agency. Let us not proliferate and duplicate. Let us put all of our energies and money together and put them in one agency and make sure that we control it and that it is a target.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I think it might be said that the report literally lists the areas in which FEA is to use this solar money. In all eight areas of ERDA demonstration programs are already operating. One wonders why the report would do that except for this issue which is clearly a jurisdictional battle between the two committees, and the question of whether or not we want FEA to duplicate ERDA programs.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOLDWATER. Mr. Chairman, I urge passage of this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have gotten rather far afield, I think, in our discussions of this matter. It seems that for some reason or another there is a jurisdictional fuss developing here on the floor. My colleague, the gentleman from Texas (Mr. TEAGUE), has pointed out that his committee has very carefully sought to avoid jurisdictional conflicts with our committee. I can understand the gentleman from Texas. He is a man of his word and is a valuable Member of this body. I have great respect and affection for him. He has been one of my friends for years.

We have here an area with some murkiness with regard to jurisdiction. Mr. Chairman, I think it is time we recognize we are probably going to continue to have some jurisdictional problems. I do not necessarily see that demonstration goes into the commercial field. Some of the members of the Committee on Science and Technology think that it does. I am prepared to live by the rulings of the Parliamentarian and the rulings of the Speaker on that particular point.

Just recently the Speaker referred a bill to the Commerce Committee with regard to synthetic fuels under the sequential referral mechanism, and referred it also to the Committee on Banking, Currency and Housing. It is not our intention to intrude into the jurisdiction of the gentleman from Texas or his committee. As a matter of fact, it should be pointed out that this sequential referral occurred even after the gentleman had stricken the word "commercialization" because of the context of the bill and because of the broad sweep of the language which carried into commercial application something which I think may have been unwise or perhaps unfortunate; I am not sure.

In any event, I think the discussion of jurisdictional bounds has gone about as far as the body needs. I think it should be very clear that the language of the report sets out clearly that FEA is not to engage in research but is to see to it that existing technology is commercially applied. That seems to distress my friend, the gentleman from Washington, but I guess maybe after he has read the rules he will come to a better appreciation of the bounds and responsibilities of his committee. I am sure it satisfies my friend, the gentleman from Texas, who is a man of great perception.

I would point out to my colleagues if they would look at where there is need, they would see there is need for commercialization. I do not want to tell the gentleman from Texas what is needed in the way of research. If more research is needed, I am sure he will tell us and it will be authorized by his committee. But for the moment I think that there is a great payout now in taking existing technology off the shelf and seeing that it is applied properly. It is my hope that for that reason the amendment will be voted down, the action of the committee will be supported, and that we will be able to try and get ourselves to the stage of energy sufficiency through the application of technology that is developed with encouragement by the committee of the gentleman from Texas. With those words, Mr. Chairman, I oppose the amendment offered by the gentleman from Ohio. I hope that it is rejected.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

I urge the defeat of H.R. 12169, which would extend the Federal Energy Administration for an additional 3 years. This agency is not serving a useful purpose. It should be allowed to expire.

The FEA was created as a response to the energy crisis resulting from the Arab oil embargo. After more than 2 years of operation its performance can only be described as lackluster. It has done little to help solve our energy problems while engaging in a massive bureaucratic buildup.

Look at the situation in 1973. At that time we were importing 30 percent of our petroleum needs. Now, however, we are importing 50 percent. So much for those who thought the FEA would help promote energy independence. Instead, it has spent its time spreading the shortage around rather than curing the shortage. Instead, it has spent its time devising redtape and paperwork that only worsens the problem.

What the FEA has been successful in is building a large bureaucracy. The growth of that bureaucracy has been staggering. In 2 short years it has expanded from a borrowed staff to 3,400 employees. Approval of the bill as drafted by the committee would add yet another 700 employees to the Federal rolls.

A striking aspect of this bureaucracy is the amount of personnel and money devoted to public relations. Fully 112 people are employed in the press office. The cost of this operation alone is approximately $3.5 million. Such a high price tag for public relations and self-promotion is hard to justify.

Also striking is the fact that 37 bureaucrats in the FEA are receiving a salary of $37,800 or more. The average employee's salary is $19,026, which makes it the highest of any Federal agency. With so many Americans struggling to make ends meet the high salaries paid to FEA bureaucrats seem unwarranted.

The citizens of this country are tired of subsidizing thousands of unneeded Washington, D.C., bureaucrats. They are tired of having their tax dollars used to finance the operations of Federal agencies that do little to help them.

Today we have an opportunity to finally end one agency. We should not miss the chance.

I want to stress that allowing the Federal Energy Administration to expire is not a move against energy independence. It is an attempt to get Congress to focus its attention on our real energy needs. The money now being poured into bureaucrats' salaries would be far better spent on energy research and development. The hundreds of millions of dollars now being wasted in running the FEA should be utilized in solving our energy shortage.

In this regard I think it is useful to note the comments made by Secretary of the Treasury William Simon, the first Administrator of the FEA. Simon has stated his support for terminating the FEA. According to Simon:

> You're looking at a potential monster. It's an outrage. I'd abolish the agency and close its doors tomorrow.

I urge that we follow the advice of Mr. Simon and let the Federal Energy Administration expire.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Brown).

The question was taken; and on a division (demanded by Mr. Brown of Ohio), there were—ayes 46, noes 9.

Mr. DINGELL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-four Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered vacated.

The Committee will resume its business.

The CHAIRMAN. The pending business is the demand by the gentleman from Michigan (Mr. Dingell) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Brown of Ohio: Page 7, line 10, strike out "$49,961,000" and insert in lieu thereof "$12,596,000".

Mr. BROWN of Ohio. Mr. Chairman, this amendment would delete from the bill $37.4 million that was added at the full committee level for the Office of Conservation and Environment. This is a $37-million increase above the Presidential budget request and will give that Office a funding level of more than twice that in fiscal year 1976. No programmatic justification for such an increase was provided by the amendment's author at that time. Since then, the FEA has provided a tentative lists of projects that will receive funding should the money be authorized and appropriated. Some of these duplicate programs already in existence in ERDA or provide for programs that would be established under other legislation, such as the thermal efficiency standards program that H.R. 8650 would provide for as well.

However worthwhile some of these programs may be, there was no testimony or oversight during hearings on this legislation as to the need for these programs to be funded at the levels suggested or as to the amount of energy expected to be conserved. No cost-effectiveness analysis was provided by FEA, and therefore, we do not know whether these programs, or perhaps others, are the most deserving of funding up to $37 million.

While conservation is an important aspect in our Nation's efforts to achieve energy independence, blanket authorizations not tied to specific programs provide room for misallocation and inefficient use of funds. Such a free rein on funding is not a good way to legislate, and there is nothing to stop FEA from changing the programs to be funded.

The need for these additional authorizations has not been demonstrated, and I urge your support for my amendment to delete them from this bill.

Mr. Chairman, I would just point out one other thing, and that is that within our budget procedure in the Congress the detail of that procedure does not give an answer to the question of whether or not we are over the budget by this increase of $37 million. We just simply do not know, because our budget procedure is only broadly gaged, related to program areas and not specific bills.

So what can be said too casually is that we will reduce from some other area the $37 million in order not to go over the budget. Well, I would like to know where it is that we are going to reduce this $37 million. It simply is not provided for in any of the discussion on this $37 million authorization.

On the contrary, the President's budget very clearly spells out how the $12 million that he requests will be used, and it also very clearly spells out, therefore, that an additional $37 million would then be just that much over the budget.

Mr. Chairman, I urge the adoption of this amendment to save us $37 million and to prohibit FEA from getting this additional money without any program in mind from either the committee or the Congress or FEA as to how the money should be spent. It is just a free gift of an additional $37 million of the taxpayers' hard-earned money so that FEA can have a little more money to throw around on their projects that are labeled, "conservation."

Mr. WIRTH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered in the full committee came following the inability of the administration, particularly the Office of Management and Budget, to provide to the committee a clear justification for why OMB had cut back very sharply on the request for conservation funds made by the FEA. It was the feeling of a significant majority of the full committee, after we had not been able to get the information from OMB, that it was appropriate for us to go along with the request originally made by the FEA for conservation and not the hack job done by the OMB against that budget.

I believe most Members in this body are well aware of the extraordinary need in the United States for energy conservation. We are looking at a situation in which our demand for energy has increased very significantly over the last 5 years. Our demand for oil products in particular is now above preembargo levels.

So any argument that might be made that conservation is not important or is a boondoggle or is just the spending of another $37 million misses, it seems to me, the importance of conservation in 1976 and from here on out.

Finally, when it is pointed out that "no cost effectiveness studies have been done," I would state that a number of these were provided to members of the committee by Roger Sant, then the Administrator of the Conservation Office in the FEA, pointing out that dollars invested in the area of conservation, specifically in such areas as van pooling, thermal standards, and so on, provide a cost return to the taxpayer much in excess of any dollars that might be spent on the other side of the equation which has effects on the supply side.

I believe, Mr. Chairman, very clearly that to follow the intent of the full committee, after the inability of OMB to provide information to the subcommittee, to increase the amount of money back to the levels requested by FEA is probably as good an investment in energy as any we could make in this country.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to go on record as being in strong support of the amendment of the gentleman from Ohio (Mr. Brown) in striking this additional $37 million from the authorization bill for the Federal Energy Administration for an energy-conservation program; but I want it clearly understood why I am doing this.

Fundamentally, the reason is because this House, in authorizing for the Energy Research and Development Administration just 2 weeks ago—in H.R. 13350—provided a total of $202.5 million for energy conservation, specifically line-iteming end-use conservation, and calling for an Energy Conservation Extension Service to help the people of this country understand what we should be doing to save energy.

The $202 million that was authorized in the Committee on Science and Technology bill, and which was approved on this floor just 2 weeks ago was 69 percent over the administration's request and 171 percent over the fiscal year 1976 appropriated figure for energy conservation.

Mr. Chairman, almost three times what we actually are spending this year has already been authorized by this House for fiscal year 1977, by the ERDA. Therefore, what we have here again is a jurisdictional question, not so much a jurisdictional question between the two committees, because we recognize the role of the Committee on Interstate and Foreign Commerce in funding the Federal Energy Administration, and not because we do not believe in a conservation program; but fundamentally, this question: What agency in the Administration is going to carry out the program of informing the public as to how to conserve energy?

The administration has fumbled this issue.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, can the gentleman in the well tell me what all this has to do with research and development under the jurisdiction of his committee?

Mr. McCORMACK. This is not the only responsibility of the Committee on Science and Technology, nor the ERDA.

Mr. DINGELL. Then this is not exclusive within the jurisdiction of that committee, as the record clearly shows. If the gentleman will yield further, will the gentleman then tell me what it has to do with the jurisdiction of ERDA over research and development?

Mr. McCORMACK. Yes; I think it is completely appropriate. Just as in the case of the Department of Agriculture, the organization that carries out the research and development then provides that information to the general public, as in the case of the Agriculture Extension Service, which is a perfect model. It is the model the ERDA will be following.

Mr. Chairman, I would like to read from the report of the Subcommittee on Interior of the Committee on Appropriations, which handles energy conservation. At that hearing, the gentleman from Illinois (Mr. Yates), who was dealing with this subject just a few days ago, said this:

> It is quite apparent then that FEA and ERDA are headed on a collision course as to who is best suited to market both the near- and long-term solutions being sought in the energy conservation area.

Another thing the gentleman said is this:

> Public and private energy conservationists contacted by the investigative staff throughout the United States unanimously opted for having the technology transfer or marketing performed by the developing agency, in this case ERDA.

Mr. Chairman, the House has already authorized the funds that will be deleted by this amendment. The ERDA bill has been passed by the House. It carries with it $202 million for energy-conservation programs, including end-use energy conservation, public information, and an energy Conservation Extension Service. This is in existence today.

Mr. Chairman, what we have here before us in this bill is an attempt to go $37 million over the administration request in order to duplicate a program that has already been funded.

I want to suggest to the Members that the position of the Committee on Science and Technology in funding this is completely in concert with the position of the appropriating subcommittee which, again, asked to put the money into ERDA.

Therefore, Mr. Chairman, I recommend that this amendment, too, be adopted.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to make it very clear that this is not in any sense a duplication. The gentleman from Washington (Mr. McCormack) who is diligently watching his Committee on Science and Technology, lets his enthusiasm to safeguard his jurisdiction run away with his good judgment, if good it be.

The Energy Conservation Act which became law last December places upon the Federal Energy Administration a whole series of energy conservation responsibilities.

The budget as it came to us was deficient in providing enough money to permit the agency to carry out the functions intended when the Energy Conservation Act was adopted.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Washington (Mr. McCormack), has great enthusiasm but he does not have much awareness of the basic statutes that are involved here.

Under the Federal Energy Administration Act of 1974, we find in the Declaration of Purpose:

> The Congress hereby declares that the general welfare and the common defense and security require positive and effective action to conserve scarce energy supplies.

That is a mandate that is imposed by the Congress on FEA and the Administrator of FEA, not upon ERDA, and long before the creation of ERDA.

Now, the EPCA, the Act to which the gentleman from California (Mr. Moss), has just referred, says:

> The Administrator shall establish and carry out a responsible public education program—
>
> (A) To encourage Energy conservation and energy efficiency; . . .

That is a very clear mandate which has been imposed upon him and which has been adopted by the House it sets the tone for our national energy policy.

Without the money which was authorized here and which would be stricken by this amendment, it is highly doubtful that the Administrator would have the capability to carry out those two policies.

Mr. MOSS. Mr. Chairman, I would like to say to the Members of the House who are tired, as I am, of hearing that we in the Congress have not done anything to meet the energy crisis, that we did a great deal in the Energy Conservation Act.

This is now an opportunity for this House to implement it through appropriate levels of funding. The law is there. If we implement it, we can realize significant savings as a result of bona fide conservation measures.

They are set forth in great detail in Public Law 94–163, which was enacted on the 22d day of December, last year.

Mr. BROWN of Ohio. Mr. Chairman, would the gentleman yield?

Mr. MOSS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would inquire of the gentleman from California, am I not correct in thinking—and the gentleman was with me on the conference committee—that in the EPCA legislation to which the gentleman referred, that the State conservation programs to which the gentleman made reference, are authorized for in that legislation? In other words, that this legislation does not go to that? That legislation authorized $50 million for those programs did it not?

Mr. MOSS. This is the authorization for the coming fiscal year.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, that $50 million is to go to the States, that is a totally different program than that which we have before us. That $50 million goes in grants to the States to encourage the States to implement programs that would encourage the conservation of energy. It does not go to the type of programs to which the legislation now before us directs itself.

Mr. MOSS. I think the important point to recognize is that it is to make certain that the States with energy conservation programs act.

I can tell, as one of the very active participants in the Congress with the gentleman from Ohio, that here in the District of Columbia we have not even a minimal program of energy conservation. It is necessary that we fund the agency that has the jurisdiction over those programs to see that they are filed and that they do meet at least the minimum standards spelled out.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 4 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I am just trying to clarify what the record is here, and I think that the record is that the $12 million provided by the subcommittee, provided by the Office of Management and Budget, without the $37 million provides the funds for the national FEA conservation effort. We just cut out $200,000 for the promotion of that, but the $50 million is for the function of those State programs once they are devised. Is that not correct?

Mr. MOSS. I am not talking about the $50 million; I am talking about the serious deficiencies of the level of funding requested by the administration. Illustrative of that is the fact that the present budget provides for $1,252,000 for energy conservation in buildings. Now we propose to authorize $9,398,000 for the conservation in buildings. If we only go to public buildings, the opportunities for savings are enormous, but they are not if there is not a program in operation, and all that is proposed by the additional funding here is a level of funding sufficiently adequate to permit the Administrator to see that the intent of the Energy Conservation Act—remember, this is an energy conservation act—is carried out.

I think it is most unfortunate when Members step into this well as did the gentleman from Washington and irresponsibly, on the basis of extremely narrow jurisdictional questions, challenge a meaningful contribution by a committee that wrote the basic act less than 6 months ago and has been exercising oversight very diligently to see that that act is carried forward as intended by that committee. It is an example of the kind of legislative action we do not need here on this floor.

The amendment ought to be defeated. We ought to insist on funding. We can save many, many barrels of oil, and that is the name of the game if we are going to finally bring into control the importation of oil into this country.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield to the chairman of the Committee on Science and Technology, the gentleman from Texas.

Mr. TEAGUE. I thank the gentleman for yielding.

Mr. Chairman, I hope the gentleman in discussing this amendment will tell the difference in FEA and ERDA. I happen to have some knowledge of a department within the agency of ERDA that deals with conservation, and I know that he has, but I know nothing about what FEA has.

Mr. OTTINGER. I will be glad to do that, Mr. Chairman. Our work on the Committee on Science and Technology—and I think here there should be no conflict or dispute with request to jurisdiction—has been to devise new technologies to achieve better conservation, to devise new kinds of boilers to burn more efficiently, and to devise new materials for insulation, whereas the program in FEA is to apply existing technology.

Let me give the Members some examples because the administration has really fallen on its face with regard to promoting conservation programs. The FEA requested $10 million for Project Conserve and other residential conservation programs. This is to educate people about the kinds of insulation they can put in their homes. The OMB allowed for that program an exact goose egg, zero, amount of money. There is nothing in ERDA, no program in ERDA, that provides for the education of homeowners with respect to the insulation of their homes.

Federal energy management. The Federal Government can and should set an example with respect to conservation and the practices of its own operations.

The agency asked for $6 million. The OMB only allowed $1 million.

The same thing is true of industrial conservation. The FEA asked for $4.5 million. OMB only allowed $2.1 million. And so it goes.

The studies that have been made in the field of conservation show this is by far the most promising and quick way to get at Project Independence, to get independence from foreign oil. Indeed, ERDA itself has just revised its own priorities to give equal emphasis to conservation as with new kinds of supplies and fuels for energy.

There was evidence presented by a number of studies that we could actually be independent of foreign oil altogether through the year 2000 if we were to achieve the full potential that exists with respect to the exercise of conservation. This is an area where we ought to get cracking, where we ought to get into general use the known techniques of the existing technology, as in insulation. We ought to get this out to the public. FEA already has this responsibility in the Energy Conservation and Policy Act that we passed.

Mr. Chairman, I hope this amendment will be defeated.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in full support of conservation and in support of this amendment to strike the funding level for FEA in the area of conservation.

And in doing so I would have to agree with my colleague, the gentleman from California (Mr. MOSS) and those on the committee, that FEA clearly has jurisdiction for some conservation programs. The problem that I am concerned with, and I think my colleague, the gentleman from Washington (Mr. MCCORMACK) also shares this concern, is that if we expand the conservation jurisdiction of FEA, we are heading for a collision course with ERDA. While FEA conservation programs certainly have made a contribution to our national energy conservation effort, we do not believe there is any merit in presenting a massive program in a temporary regulatory agency, such as FEA.

We are also convinced that the requested level will avoid the single problem which has most plagued the environmental groups, which is competition among Federal agencies, particularly among ERDA, FEA, and the Commerce Department. A recent series of hearings on Federal energy conservation programs by our subcommittee has clearly demonstrated the duplication of competition among Federal agencies. We have commented on this in each of the ERDA authorization reports we have brought to the House. We are not the only committee concerned about this problem. The Committee on Appropriations, the Interior Subcommittee, has commented on the problem in its appropriations report and even ordered an investigation into this FEA-ERDA problem. The report of that investigation is as follows:

> It is quite apparent then that FEA and ERDA are headed on a collision course as to who is best suited to market both the near- and long-term solutions being sought in the energy conservation area.

This study and this investigation was ordered by the gentleman from Illinois (Mr. YATES), the chairman of the subcommittee. So clearly the problem is real and the investigation has concluded that FEA and ERDA are headed on a collision course. The $38 million will only make it worse.

More importantly, I would like to bring attention to the statement by Mr. Roger Sant, recently departed FEA Federal Administrator for Conservation in his last appearance before the subcommittee. He urged the Congress to clearly define the Federal role in conservation, particularly in the area of public education, which this amendment deals with, and the respective roles of the Federal agencies. That is exactly why we should not further broaden the FEA effort and further confuse the agency's role.

The report by the Appropriations Subcommittee goes on to say that the public and private energy conservationists contacted by the investigating staff throughout the United States unanimously opted for having the technology transfer or marketing function performed by the developing agency—in this case ERDA.

So, my colleagues, I only bring this point to the attention of the committee that, yes, FEA does have a part to play and it should continue in its effort, but clearly we are on a collision course, as with expanding their areas of jurisdiction, their areas of involvement. ERDA should be made the lead agency and work with the FEA as well as the Congress and other areas of the Government to maximize conservation throughout this land.

I believe I am supported by members of the Committee on Science and Technology when I say that this expansion is only going to cause problems in the area of accelerating conservation. Therefore, I would ask the members of the committee to support this amendment offered by the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think we ought to try to set the record straight where we can. FEA has been in the position of promoting conservation, and I gather that the gentleman in the well has no objection to that, such things as the 55-mile-per-hour speed limit, how to improve insulation in houses, and so forth. Under the EPCA Act, passed last December, State authorities were told that they must also come up with conservation plans. This would include the possibility of such things as turning off display lighting and the hours of shopping center opening. FEA, of course, reviews those plans, permits the States to implement those it approves.

But, the States got, under that EPCA legislation, $50 million authorized to promote those conservation plans. In other words, we have moved from national promotion of conservation under EPCA to some State promotion.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent Mr. GOLDWATER was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. So, the promotion and implementation of conservation has now moved from the national level to the State level, and we increased the total money for conservation plans in that legislation passed last December in EPCA for the States. But, here it is once again an effort to add a lot of money to FEA "in the conservation area" without a specific directive as to what it should be spent for and without a programmatic limitation. The result will be that FEA, if it gets this money, can spend it for almost anything it wants to spend it for. That is what I object to and why I think it ought to be taken out of the legislation.

Mr. GOLDWATER. I think the gentleman is precisely right, and I would only rely on the director of the FEA conservation program, Roger Sant, who did a credible job with working with the Congress. He suggested that Congress must define areas of jurisdiction and avoid duplication and confusion. Clearly, jurisdiction should lie in the ERDA agency.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 28; noes 6.

Mr. WIRTH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado (Mr. WIRTH) for a recorded vote.

Does the gentleman insist upon his demand?

Mr. WIRTH. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 154, not voting 57, as follows:

[Roll No. 315]

AYES—220

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Biester
Bolling
Bowen
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Burlison, Mo.
Byron
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Cochran
Cohen
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Findley
Fish
Fisher
Fithian
Flowers
Foley
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hammerschmidt
Harkin
Harsha
Hays, Ohio
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holt
Horton
Howard
Howe
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kazen
Kemp
Kindness
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
McClory
McCollister
McCormack
McDade
McDonald
McFall
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mazzoli
Michel
Milford
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nichols
Nix
O'Brien
Passman
Patten, N.J.
Paul
Pepper
Pettis
Peyser
Pickle
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Roncalio
Rousselot
Roybal
Runnels
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Sebelius
Shipley
Shuster
Sikes
Simon
Sisk
Slack
Smith, Nebr.
Spence
Stanton, J. William
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Ullman
Vander Jagt
Waggonner
Walsh
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wright
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—154

Abzug
Adams
Ambro
Anderson, Calif.
Aspin
Badillo
Baldus
Baucus
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carr
Clay
Cleveland
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Danielson
Dellums
Dent
Diggs
Dingell
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Fary
Fascell
Fenwick
Flood
Ford, Mich.
Ford, Tenn.
Fraser
Gonzalez
Green
Gude
Hamilton
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Holland
Holtzman
Hughes
Johnson, Calif.
Jones, Ala.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lehman
Litton
Long, Md.
Lundine
McHugh
Madden
Maguire
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Mottl
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pike
Pressler
Rangel
Reuss
Richmond
Rodino
Rogers
Rooney
Rosenthal
Rostenkowski
Roush
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schulze
Seiberling
Sharp
Skubitz
Smith, Iowa
Snyder
Solarz
Spellman
Stark
Steed
Steelman
Stratton
Studds
Sullivan
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Whalen
Wilson, Tex.
Winn
Wirth
Wolff
Yatron
Young, Ga.

NOT VOTING—57

Alexander
Allen
Beard, R.I.
Bell
Boggs
Breaux
Broomfield
Burke, Fla.
Butler
Carney
Chappell
Clawson, Del
Conlan
Conyers
du Pont
Eshleman
Florio
Flynt
Giaimo
Hanley
Hansen
Hébert
Hicks
Hinshaw
Hubbard
Jones, Tenn.
Karth
Kelly
Ketchum
Krueger
Landrum
Leggett
Lujan
McCloskey
McEwen
Mathis
Matsunaga
Mink
Mollohan
Murphy, N.Y.
O'Hara
O'Neill
Randall
Riegle
Rose
Ruppe
Shriver
Staggers
Stanton, James V.
Steiger, Ariz.
Stokes
Symington
Thompson
Udall
Weaver
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. O'Neill against.

Mrs. Boggs for, with Mr. Riegle against.

Mr. Breaux for, with Mr. Carney against.

Mr. Chappell for, with Mr. Staggers against.

Mr. Rose for, with Mr. Stokes against.

Mr. Jones of Tennessee for, with Mr. Thompson against.

Mr. Hanley for, with Mr. Conyers against.

Mr. Flynt for, with Mr. Beard of Rhode Island against.

Mr. Krueger for, with Mr. Matsunaga against.

Mr. Mathis for, with Mr. Leggett against.

Mr. Del Clawson for, with Mr. Karth against.

Mr. McEwen for, with Mr. O'Hara against.

Mr. YATES changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on all amendments to the bill and all amendments thereto end at a quarter after 5.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. MYERS of Pennsylvania. Mr. Chairman, reserving the right to object, I reserve the right to object because I think that there are a significant number of amendments at the desk. I think it would be grossly unfair for the Chairman not to take that fact into consideration.

I have a couple of amendments which address the excessive pay schedules which exist in the FEA. I think Members should have the right to debate and consider the fact that this agency has a pattern of extremely high pay levels at the executive schedule and also the supergrades. I would like to offer those amendments and give Members an opportunity to discuss them.

Mr. DINGELL. If the gentleman from Pennsylvania will yield on his reservation, does the gentleman have his amendment published in the RECORD?

Mr. MYERS of Pennsylvania. I have four amendments that were published in the RECORD.

Mr. DINGELL. Then the gentleman is protected. He has 5 minutes, and then there are 5 minutes in opposition to the amendment.

Mr. MYERS of Pennsylvania. I realize I am protected. But there are others who feel strongly about this.

Mr. DINGELL. The gentleman is protected on his amendments. He has 5 minutes. I am sure the amendments are not so complex that they cannot be voted on after that period of time.

Mr. JONES of Oklahoma. Mr. Chairman, reserving the right to object, I have two amendments that have not been printed in the RECORD. One has to do with the extension of the time of the life of the FEA, and the other has to do with the abolishing of the office of the FEA. These have not been printed in the RECORD. If the gentleman's four amendments are protected, that would generally wipe out the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I move that all debate on all amendments to the bill and all amendments thereto end at 5:30.

PARLIAMENTARY INQUIRY

Mr. HORTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HORTON. Mr. Chairman, the gentleman from Connecticut (Mr. DODD) had to leave. I am going to offer an amendment that he was going to offer. It was printed in the RECORD.

Will I be permitted to do this?

The CHAIRMAN. The Chair will advise the gentleman from New York that only those Members who have had their amendments printed in the RECORD will be protected. Only those Members.

Mr. HORTON. It was in the RECORD, but it was not under my name. It was an amendment of the gentleman from Connecticut (Mr. DODD). I would offer it in his absence.

The CHAIRMAN. The Chair will advise the gentleman from New York that the Member who places the amendment in the RECORD must offer it for there to be debate on the amendment under clause 6 of rule XXIII.

The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for 1¼ minutes each.

(By unanimous consent, Mr. FISH yielded his time to Mr. HORTON.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. HORTON).

AMENDMENT OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HORTON: Page 10, after line 4, insert the following:

AVOIDANCE OF BURDENSOME REPORTING REQUIREMENTS

SEC. 3. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g)(1) In exercising his authority under this Act or any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports on such information so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to file reports with the Administrator."

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MARTIN. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from New York (Mr. HORTON).

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HORTON. Mr. Chairman, I am offering the amendment that the gentleman from Connecticut (Mr. DODD) would have offered if he were here. He had to leave and go to his district, and I was planning to support the amendment when it was offered. I hope the committee will adopt the amendment.

The gentleman from Connecticut (Mr. DODD) sent a letter to our colleagues indicating he was going to offer this amendment, which is designed to reduce paperwork.

Mr. Chairman, this amendment would require the FEA Administrator to avoid to the greatest extent practicable overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns.

Mr. Chairman, as chairman of the Paperwork Commission, I believe this to be a simple amendment, and I hope that the committee will adopt it.

The Commission on Federal Paperwork was established by Congress to find ways of reducing the tremendous costs of paperwork requirements imposed by the Federal Government. The pending amendment is consistent with that objective.

Since its inception, the Federal Energy Administration has emerged as the major gatherer of energy-related data. It has been conservatively estimated that FEA uses 50 forms which require over 1.8 million annual responses from the private sector. These responses consume an estimated 8.1 million man-hours at a cost of $119 million. While the burden on the small business concerns does not approach this magnitude, the impact is nonetheless significant.

The following table shows those FEA forms which are potentially most burdensome to small marketers and distributors of petroleum products:

Form No. and title	Respondents	Estimated man-years	Projected cost
CLC 92 and 92A: No. 2 heating oil adjustment	4,000	144,000	$2,160,000
FEO 17: Request for assignment of a supplier or adjustment of base period supply	100,000	100,000	1,500,000
FEO 25: Certification of requirements for use under allocation levels not subject to an allocation fraction	30,000	60,000	900,000
FEA P304-M-O: Monthly survey of nonbranded independent marketers	400	144,000	2,160,000
FEA P308-S-O: Historic survey of propane, distillate fuel oil and residual fuel oil sales to ultimate consumers	15,000	360,000	5,400,000
FEA P314-M-O: Monthly survey of distillate and residual fuel oil sales to ultimate consumers	1,500	720,000	$10,800,000
FEA P108-M-O: Wholesaler, purchaser, reseller's certification of distribution to purchasers for use under allocation level not subject to an allocation fraction	20,000	240,000	3,600,000
FEA SG-1 to 3: Survey of gallonage sale of gasoline	3,200	1,440	21,660
Annual total	174,100	1,769,440	26,541,600

These figures were derived from official records maintained by the General Accounting Office and the FEA. The projected cost is based on a factor of $15 per hour which, according to both Government and industry officials, is conservative.

It is significant to note that many of the major petroleum companies have established organizational units to deal specifically with the Government reporting requirements. More importantly, the small business concerns cannot afford this luxury and therefore the impact on them may be even more critical. In both cases, industry is finding the energy paperwork burden to be a significant cost of doing business, a cost that must eventually be passed on to the consumer.

Mr. Chairman, the paperwork problem cannot be solved on a piecemeal basis and it is for that reason that the Commission's chief goal is to develop Government-wide policies that will cut paperwork and redtape throughout the entire Federal bureaucracy. I am confident that our comprehensive studies now underway, including a special task force on energy information, will produce those results.

The amendment before us can help achieve our goal by requiring that the Federal Energy Administration become more conscious of burdensome reporting requirements.

I urge my colleagues to support the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON).

The amendment was agreed to.

The CHAIRMAN. The Chair now recognizes the gentleman from Texas (Mr. ECKHARDT).

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ECKHARDT: Page 10, after line 4, insert the following:
>
> LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS
>
> SEC. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:
>
> "(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act.".

Mr. BROWN of Ohio. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) reserves a point of order against the amendment.

Mr. MOSS. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from Texas (Mr. ECKHARDT).

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ECKHARDT. Mr. Chairman, I am sorry that I have such a short time in which to explain what I think is a very important amendment. I shall try to make it as brief as possible—I have to.

The amendment simply does this: It provides that when the FEA submits a decontrol submission, it must submit the decontrol of allocation separately from submitting decontrol of price because frequently these questions are quite different questions.

When a matter comes up before this body under our ordinary process, all Members have a right to separate questions which are, in fact, based on different arguments and different principles. However, since the FEA may issue an energy recommendation in any manner it pleases, it may lump together two very different interests.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) insist upon his point of order against the amendment?

Mr. BROWN of Ohio. I do, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman from Ohio (Mr. BROWN) on his point of order.

Mr. BROWN of Ohio. Mr. Chairman, I think at least two, and perhaps more, basic principles of germaneness make the Eckhardt amendment nongermane. The first one is this:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (Cannon's Precedents, page 199).

Mr. Chairman, the Dingell bill's fundamental purpose is to authorize appropriations to the Federal Energy Administration Act of 1974—section 1—and to extend the life of that Agency—section 2. These are the only two sections of the bill and the only fundamental purpose of the bill.

Mr. Chairman, a bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit amendment to any portion of the act sought to be amended by the bill—Cannon's Precedents, page 201.

The Dingell bill amends only two sections of the Federal Energy Administration Act, section 29, dealing with the authorization of appropriations, and section 30, dealing with the termination date of the act. The Eckhardt amendment does not apply to either one of these sections.

Mr. Chairman, I would also like to cite from Deschler's Procedure 28, section 5.10 and section 5.11, as follows:

> An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related.

Then I cite section 5.11, Mr. Chairman, which says the following:

> To a section of a committee amendment in the nature of a substitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane.

If I may proceed, Mr. Chairman, restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill—section 800 of the Annotations to the Rules of the House of Representatives, specifically pertaining to clause 7 of rule 16—and I quote, Mr. Chairman:

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Mr. Chairman, even if the above is not true and is not appropriate to the circumstance—and I feel that it is—the amendment is, in effect, a modification of the Energy Petroleum Allocation Act, as amended by the Federal Energy Policy and Conservation Act, rather than an amendment of the Federal Energy Administration Act, the only legislation touched by H.R. 12169.

Mr. Chairman, the "sole purpose" of the FEA Act is to "create an administration in the executive branch, called the Federal Energy Administration," and "to vest in the administration certain functions as provided in this Act"—section 2(c) of the act.

The only reference to pricing or allocation in the FEA Act is in section 5 of that act where a very specific limitation is placed on the administrator's authority to place price controls on propane gas—section 5(b) (11).

Mr. Chairman, the Eckhardt amendment goes far beyond the very limited provisions of section 5(b) (11) of the FEA Act and substantially modifies the Emergency Petroleum Allocation Act, as amended by the Energy Policy and Conservation Act, neither of which is dealt with in the Dingell bill.

The amendment even specifically refers to sections 4 and 5(b) of the EPAA.

This is an amendment which directly modifies the provisions of section 12 of EPAA—added by EPCA—which provides in subsection (c) (1):

> Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection. . . .

The effect of the Eckhardt amendment is to strike the words "or both" from section 12(c) (1) of EPAA. As such it is, in effect, an amendment to EPAA, not to the FEA Act under consideration here, and is therefore, nongermane.

Finally, Mr. Chairman, the precedent utilized by the Chairman of the Committee of the Whole, the gentleman from Kentucky (Mr. NATCHER) in overriding the point of order against the Schroeder substitute is not applicable in this case, I would argue. That precedent, at section 2941 of volume 8 of Cannon's Precedents, stated that—

> An act continuing and reenacting an existing law is subject to amendment modifying the provision of the law carried in the Act.

The Eckhardt amendment so directly affects EPC that it is, in reality, an amendment not to the substance of the FEA Act, but to the substance of the pricing provisions of EPCA legislation.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. ECKHARDT. I do, Mr. Chairman.

The CHAIRMAN. The Chair will be delighted to hear the gentleman.

Mr. ECKHARDT. Mr. Chairman, the purpose of the amendment is, as is stated, to limit the discretion of an administrator with respect to submission of energy actions. The Federal Energy Administration Act of 1974 provided that subject to the provisions of the procedures set forth in this act, the administrator shall be responsible for such actions as are taken by this office that adequate provision is made to meet the energy needs of the Nation. To that end, they shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—and then it lists them.

What the amendment does, it limits the discretionary authority of the administrator. The act itself creates the agency and gives general authority to the administrator. It is true, of course, that there are other acts that call for certain processes but these processes are conducted under the authority of the administration as described in the energy act.

The effect of this amendment is simply to require that the FEA submit to Congress, separate from other matters, the question of price decontrol. That is, it may not package in a single proposal to Congress both price decontrol and allocation decontrol. These rest frequently on very different arguments. Therefore, all that is done here is to limit the administrator's discretion. Clearly when an authorization act is before the House, questions appropriate to the entire bill, which is extended, are germane. And I stand by the last ruling of the Chair with regard to that matter on the Schroeder amendment.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The gentleman from Ohio (Mr. BROWN) makes a point of order against the amendment offered by the gentleman from Texas (Mr. ECKHARDT) on the ground that it is not germane to the bill.

The amendment would amend section 5 of the Federal Energy Administration Act to restrict the discretion of the Administrator in the method of submitting energy action proposals to Congress, a function delegated to him by the President under the Petroleum Allocation Act of 1973. Section 5 of the Federal Energy Administration Act directs the Administrator to prepare for and conduct programs for production, conservation, use, control, distribution, rationing, and allocation of energy in connection with authorities transferred to him by law or delegated to him by the President.

The amendment of the gentleman from Texas would place a specific restriction on the exercise of that discretion to perform functions under other laws.

On March 6, 1974, when the original Federal Energy Administration Act was being considered for amendment in the Committee of the Whole, an amendment was offered to section 5 of the bill, the section of the act presently in issue. The amendment would have prohibited the Administrator from setting ceiling prices on domestic crude oil above a certain level in the exercise of the authority transferred to him in the bill, and Chairman FLYNT ruled that the amendment was germane as a limitation on the discretionary authority conferred on the Administrator in that section and as a limitation not directly amending another existing law.

For the reasons stated, the Chair finds that the amendment is germane to the bill under consideration and to the Federal Energy Administration Act which it extends, and overrules the point of order.

The Chair now recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, what the Eckhardt amendment proposes to do is to make it impossible for the President and the Federal Energy Administration to submit price and allocation decontrol plans at the same time. The problem with the amendment is that if one undertakes to either decontrol prices or separately decontrol allocations, the impact on the other part of the situation will be severe. In other words, if we decontrol prices in a proposal, then the market will shift to an area where the prices are lowest and marketers will in effect withdraw their supply from market areas where profit margins are low or no profit capability exists. So the allocation is needed to assure supplies, to various parts of the market.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Pennsylvania (Mr. MYERS).

(By unanimous consent, Mr. MYERS of Pennsylvania yielded his time to Mr. BROWN of Ohio.)

Mr. BROWN of Ohio. Similarly, if we decontrol the allocation, the price situation will be modified wherever the larger amount of the supply goes and wherever the shortage exists.

It is impractical to prohibit the extension of decontrol plans in both areas. That in effect is what the Eckhardt amendment does. This House and the Senate have twice turned down a similar kind of approach, that we would disapprove the decontrol plans of the Federal Energy Administration.

I recommend that we defeat the amendment offered by the gentleman from Texas because it is not in any way in compliance with what will happen to the market situation, and I commend the attention of the Members to four reasons why the separation of price and supply decontrol will distort the market:

REASONS FOR OPPOSING THE ECKHARDT AMENDMENT TO SEPARATE PRICE AND ALLOCATION DECONTROL PROPOSALS:

1. Consumers will quickly move to the lowest-priced suppliers, generally small refiners and non-branded independent marketers served by small refiners. Branded independent marketers whose costs and prices are generally higher than their non-branded counterparts are likely to suffer heavy losses of customers resulting in decreased market shares and a long-term adverse impact on competition at this market level. Historically, the larger integrated refiners have offered support to their branded marketers by reducing their prices in the most competitive markets and recovering any losses incurred by price increases in other markets. Under continued price controls, price increases in the less competitive markets would be prohibited and the customary method of supporting branded marketers in their efforts to compete would not be available.

2. Many of the larger suppliers serve markets in which part of their business is profitable at controlled prices and part is marginally economic or unprofitable. In the absence of allocation controls and the attendant supply obligations, marketers will abandon their unprofitable markets which are generally in rural or remote areas where no alternative supply is available.

3. Absent supply obligations, the incentive to produce a particular product is largely a function of price and profit margin. Under price controls, some product prices reflect artificially low profit margins. Without allocation controls, refinery production will be tilted toward the more profitable products. It should be noted that during Phase II of the Cost of Living Council price controls, significant disincentives to production were created because of only price controls without allocation controls, and the heating oil shortage of the winter of 1973 was correspondingly exacerbated.

4. Maintenance of price controls will deter suppliers from entering into long-term, fixed-price contracts with wholesale purchasers since suppliers will be reluctant to make supply commitments, even in the absence of allocation obligations, when current prices are held at artificially low levels and the possibility that price increases will be permitted in the future offers the prospect of greater profit.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in support of the Eckhardt amendment.

I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the statement of the distinguished gentleman from Ohio is not in his usual character. He is usually extremely accurate in his analysis of legislation.

This amendment in nowise prohibits the FEA from submitting at the same time deregulation of price and allocation, but it must do so in separate energy actions so that this body may vote separately on those two propositions.

Now it may be argued that the two depend upon each other, but we frequently have the same kind of question with respect to amendments to bill and we properly in this body permit a separation of the matters which might be considered separately in votes.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, there are frequent instances where a person would decide he would favor removal of allocation because he feels that suppliers in the market should be permitted to purchase any place they want without limitation. I happen to be one of those persons, but one who feels we should not remove price limitations and simply leave it up to the agency to restore them. Once we have given them up, we have given that power up for all time.

I would appreciate an "aye" vote on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 175, not voting 56, as follows:

[Roll No. 316]

AYES—200

Abzug
Adams
Addabbo
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Chisholm
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Diggs
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Gilman
Green
Gude
Hall
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Holtzman
Howard
Howe
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lehman
Levitas
Litton
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mazzoli
Meeds
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murtha
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Price
Rangel
Rees
Reuss
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Iowa
Solarz
Spellman
Stark
Stratton
Studds
Sullivan
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Whalen
Wilson, C. H.
Wirth
Wolff
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOES—175

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Byron
Carter
Cederberg
Clancy
Clausen, Don H.
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dingell
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Esch
Fish
Flowers
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Harsha
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Horton
Hutchinson
Hyde
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Long, La.
Lott
McClory
McCollister
McDade
McDonald
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Melcher
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Passman
Paul
Pettis
Pickle
Poage
Preyer
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—56

Alexander
Allen
Beard, R.I.
Bell
Boggs
Breaux
Broomfield
Burke, Fla.
Butler
Carney
Chappell
Clawson, Del
Clay
Conlan
Conyers
Dodd
du Pont
Edgar
Eshleman
Florio
Flynt
Giaimo
Hanley
Hansen
Hébert
Hicks
Hinshaw
Hubbard
Jones, Tenn.
Karth
Ketchum
Krueger
Landrum
Leggett
Lujan
McEwen
Matsunaga
Meyner
O'Hara
O'Neill
Randall
Riegle
Rogers
Rose
Ruppe
Staggers
Stanton, James V.
Steiger, Ariz.
Stokes
Symington
Teague
Thompson
Udall
Vander Jagt
Weaver
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill for, with Mrs. Boggs against.

Mr. Thompson for, with Mr. Jones of Tennessee against.

Mr. Carney for, with Mr. Breaux against.

Mr. Matsunaga for, with Mr. Hébert against.

Mr. Conyers for, with Mr. Chappell against.

Mr. Stokes for, with Mr. Teague against.

Mr. Clay for, with Mr. Flynt against.

Mr. Beard of Rhode Island for, with Mr. Rose against.

Mrs. Meyner for, with Mr. Landrum against.

Mr. Dodd for, with Mr. Del Clawson against.

Mr. Leggett for, with Mr. Burke of Florida against.

Mr. Hanley for, with Mr. Vander Jagt against.

Mr. GONZALEZ changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to the bill?

PARLIAMENTARY INQUIRY

Mr. FINDLEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FINDLEY. Mr. Chairman, I have an amendment which is acceptable to both the desks on the majority and minority sides. Is there any way I can have time to explain the amendment?

The CHAIRMAN. The debate on all amendments has expired. The gentleman's amendment will be read and reported. The amendment will then be voted on.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 10, after line 4, add the following:

LIMITATION ON THE ADMINISTRATOR'S DISCRETION WITH RESPECT TO CERTAIN REGULATIONS AND RULINGS

SEC. 3. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(k) The Administrator or any officer or employee of the Federal Energy Administration may not exercise his discretion to maintain a civil action or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rules, regulations, or rulings interpreting such rules or regulations if—

"(1) such civil action or order is based upon such rules, regulations, or rulings interpreting such rules or regulations which are being applied retroactively; and

"(2) the Administrator determines that such person relied in good faith upon rules, regulations or rulings interpreting such rules or regulations in effect on the date of the alleged violation."

Mr. FINDLEY. Mr. Chairman, the amendment I offer today simply requires the Federal Energy Administration to abide by the constitutional proscription against ex post facto laws.

One of the most serious problems faced by small businessmen who sell gas and oil has been the retroactive application of regulations and their interpretations by FEA. The regulations were first published in August 1973, and were substantially revised six separate times by the end of that year. All told, today the stack of FEA regulations which the small businessman is expected to have memorized is several feet thick. And despite the fact that FEA's regulations rival the Internal Revenue Code in complexity, there are almost no lawyers or accountants to help the small businessman comply with the law.

Most small gas and oil retailers do the best they can. They make a reasonable interpretation of these complex regulations. They ask their local FEA official what they should do and then they follow his advice. Six months later, FEA may issue a clarification of the regution. Then, incredibly, FEA sometimes goes out and applies the clarification retroactively and begins fining these small businessmen for violations.

For example, the original FEA regulations required marketers to group their customers into "classes of purchasers" in order to determine average prices. With no guidance as to what constituted a "class of purchasers" most of these small businessmen divided their customers up according to geography or size of purchase. Ten months later, FEA issued a "clarification" of this rule explaining how, but not when, customers should be grouped. Eight months after that—a year and a half after the regulation was first published—FEA issued a 16-page further clarification of these three words—"class of purchasers"—which, if the small businessman was to understand it, required among other rare skills a detailed knowledge of the case law under the Robison-Patman Act. This last clarification revoked the prior ruling. Now, no matter how complex the regulations, no one would get much sympathy in our over-regulated society if such regulations were made to apply only prospectively. Small businessmen might have to redo all their books to comply, but after all, we are combating an energy shortage. But FEA auditors immediately took to the fields and started applying this new regulation retroactively—issuing fines against marketers for failing to anticipate a year and a half ago how FEA would eventually define those three words—"class of purchasers."

That is just not fair. I could give you other examples of how FEA has reinterpreted or clarified its regulations and then applied the new rules retroactively and fined small businessmen, many of whom were relying upon written FEA policy.

All my amendment says is that FEA may not fine a company for violating its regulations when those regulations or interpretations of those regulations are applied retroactively; provided the company can demonstrate that it relied upon official agency policy.

In other words, if a small businessman who sells gas and oil follows official FEA policy, FEA cannot apply a new policy retroactively for the purpose of fining him. Under my amendment, FEA will still have the authority to determine in the first instance when the small petroleum marketer has relied in good faith on agency policy in effect when the alleged violation occurred. But both the question of good faith and the retroactive application of FEA rules and regulations will be subject to review by the courts.

I think that is fair. And it will protect competition in the oil and gas industry by protecting the small retailer who cannot afford a stable of high-priced lawyers and accountants such as the major oil companies have.

My amendment will not inhibit the Administrator from changing regulations and interpretations, nor will it delay the effectiveness of such changes. It relates only to changes which seek retroactive effect and then only when the person involved is found to have made a good faith effort to comply with interpretation in effect on the date of the alleged violation.

I urge its adoption.

Mr. PICKLE. Mr. Chairman, I rise in strong support of the Findley amendment. The problem addressed by the Findley amendment first came to my attention in late March of this year. This is when a group of small businessmen, who wholesale gasoline to retail service stations, came to Washington. These men and women are called gasoline marketers, and are not owners of oil companies or oil wells or any other big holding some critics associate with the petroleum industry. On the East coast, many wholesalers are the local heating oil people who deliver heaing oil in their own trucks.

My experience with this group has been one that basically tells me these people are reasonable, with no real axes to grind against anyone. This experience is why I became alarmed when I learned of the frustration and financial burdens these business people were expressing about the FEA.

I was told that these wholesalers, beginning in 1973, had sought to follow FEA regulations fully. The problem was that between 1973 to 1976, the regs were being changed frequently. The marketers had to rely on FEA statements at public seminars, which were recorded in letters and in phone conversations.

Now the FEA has started fining people because the FEA advice was wrong when compared to the 1976-issued regulations. This is unfair, and I think we can call the Findley amendment the "Fair-Play Amendment."

Having a Federal agency apply rules retroactively is bad enough, but it is a practice that is somehow tolerated by the American people. It is the second part of the problem that demands legislation, however. These retroactive applications are being used to punish people for relying on the FEA. This kind of post facto use of Government power is too much.

The Findley amendment would correct this problem in a fair way. Where the business has relied on FEA advice, and the evidence exists for the reliance on advice, fines for relying on the bad advice will not be allowed under this amendment.

I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Findley).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania: Page 5, insert immediately after line 22 the following new sections:

Section 1. Section 4 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out "level II of the Executive Schedule (5 U.S.C. 5313)" in subsection (a) and inserting in lieu thereof "level III of the Executive Schedule (5 U.S.C. 5314)";

(2) by striking out "level III of the Executive Schedule (5 U.S.C. 5314)" in subsection (c) and inserting in lieu thereof "level IV of the Executive Schedule (5 U.S.C. 5315)";

(3) by striking out "level IV of the Executive Schedule (5 U.S.C. 5315)" in subsection (d) and inserting in lieu thereof "level V of the Executive Schedule (5 U.S.C. 5316)";

(4) by striking out "level IV of the Executive Schedule (5 U.S.C. 5315)" in subsection (e) and inserting in lieu thereof "level V of the Executive Schedule (5 U.S.C. 5316)"; and

(5) by striking out subsections (f) and (g) and redesignating subsections (h), (i), and (j) as subsections (f), (g), and (h) respectively.

Sec. 2. Section 7(a)(1) of the Federal Energy Administration Act of 1974 is amended to read as follows:

"Sec. 7. (a)(1) The Administrator may appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties. The total number of positions which may be placed in GS–16, 17, and 18 shall not exceed 50, and the average grade for all positions on the General Schedule within the Administration shall not exceed GS–10, step 1; the number of positions on the General Schedule shall not exceed 3500. Except as provided in paragraph (2) of this subsection, the authority under this subsection shall be subject to the standards and procedures prescribed under chapter 51 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act.

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair wishes to inquire of the gentleman from Pennsylvania (Mr. Myers), was the amendment that is before the Committee printed in the Record?

Mr. MYERS of Pennsylvania. Mr. Chairman, the amendment was printed in the Record. Referring to the amendment at the desk, I was going to offer it in two sections. As it appears at the desk, the amendment encompasses the total of two new sections.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, may I inquire of the gentleman from Pennsylvania (Mr. Myers), is this amendment the one that was printed in the Record?

Mr. MYERS of Pennsylvania. It is identical with the one that was printed in the Record.

Mr. DINGELL. This is the one that was printed in the Record?

Mr. MYERS of Pennsylvania. Yes, it is.

Mr. DINGELL. And there are no changes from the one that was printed?

Mr. MYERS of Pennsylvania. Mr. Chairman, the only change is that I had planned to split it up as two separate sections.

Mr. DINGELL. Mr. Chairman, I do not want to foreclose the gentleman from offering his amendment, but I believe the rules require that the gentleman gets 5 minutes only on those amendments which have been printed, so I would make a point of order at this time against proceeding on consideration of this amendment until the amendment has been offered in conformity with that amendment which was printed in the Record.

The CHAIRMAN. The Chair will inquire, is this amendment identical with the one printed in the Record?

Mr. MYERS of Pennsylvania. Mr. Chairman, this is the amendment that was printed in the Record. As I explained, I had intended to split it up into two amendments. However, since the time was limited, I can only gain time on the total of the two. I have, once again, included the amendment as a single amendment, and I offer it as a single amendment.

The CHAIRMAN. But both of them were printed in the Record as one amendment?

Mr. MYERS of Pennsylvania. It was printed as one amendment, and what I submitted at the desk was an attempt to split it up.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. Myers) is recognized for 5 minutes in support of his amendment.

Mr. MYERS of Pennsylvania. I thank the Chair.

Mr. Chairman, we have heard considerable debate today about the FEA and whether basically we should continue it. We have also heard debate about whether it has been effective and as to what degree of expertise we have gotten from FEA.

One thing that is quite evident as we look at FEA is this: We will find that it has an extremely high pay schedule, considering the schedules of both the executives and the supergrades.

Mr. Chairman, even those who support the FEA and wish to continue it have criticized the quality of work and also have raised the question of whether it is acting in our best interests in all of its areas.

As we all know, FEA was brought to life in a period of crisis; and as I stated last week during general debate, I recognize the fact that under those situations it is not unexpected that higher-than-average pay levels would be considered to draw people together.

However, Mr. Chairman, if we look to extending FEA as a more permanent agency, I think we have to compare it against the pay schedules of all of the other agencies and perhaps against some Departments at the Cabinet level.

Mr. Chairman, my amendment, if adopted, would abolish nine ES V schedule level jobs; and it would reduce one ES schedule II down to III and two ES III people down to IV and seven ES IV people down to V.

Mr. Chairman, I would like to give a comparison of some of the other agencies. Right now FEA has a total of 19 members in the ES schedule. If we compare it against those of some of the other departments and agencies, we can see that in comparison with the Cabinet level, Agriculture only has 18; HEW has 23; HUD has 20; Interior has 18; Labor has 16; Treasury has 21; and there is FEA sitting with 19.

Mr. Chairman, what my amendment would do would be to reduce the total ES schedule employees in the FEA to a total of 10.

The second part of the amendment would limit the number of supergrades to 50. The amount of savings in this amendment in the nature of limiting the supergrades, and reducing the ES levels will be in excess of $2¼ million per year.

Mr. Chairman, with respect to those Members who think this would weaken FEA, let us make a comparison, for instance, with the Veterans' Administration, which has 123,000 employees. There is a total of 7 ES schedule employees. whereas with my amendment FEA would still have 10. However, FEA will only have a maximum, if my amendment were adopted, of 3,500 employees. If we compare the 3,500 employees to the 123,000 employees, I think we are still giving FEA a considerable amount of highly paid personnel.

In the second half of the amendment concerning the total number of employees also, my amendment would roll back the general pay level of GS employees to 10.0, and this is approximately the 1975 average. It is a reduction from where the bill would take us in 1976, so that the attempt that I have made here in this amendment is simply to bring the FEA pay scales, if we are going to put the FEA into a more permanent status, into comparison with other permanent agencies.

Mr. Chairman, I do not think there is any justification for continuing to keep the pay scales at extremely high levels.

Mr. Chairman, we all recognize that during the period of time in which FEA was born, there was perhaps a need for an incentive to bring together higher paid personnel, but this is the time to decide whether or not we should permit an extremely high pay level commitment.

Mr. Chairman, with respect to those Members interested in small business, the Small Business Administration only has a total of five ES schedule employees. Here again that is going to be only half as many as FEA will have even if my amendment is adopted. However, both agencies would have essentially the same number of employees, somewhere around 3,000 to 4,000.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. Meyers).

Mr. Chairman, I wish to make it known that I intend to yield part of my time to my colleague and friend, the gentleman from Ohio (Mr. Brown) in opposition to the amendment.

Mr. Chairman, this is an extremely bad amendment. First of all, it reduces every one of the executives of FEA one grade, regardless of whether they are doing a good job, regardless of whether they are good public servants. So, effectively it says that we do not think enough of that agency to even give consideration to the quality of the work done by the executives in the agency, and we are cutting the salaries by one grade.

If the Members want second-raters in charge of administering this agency with as delicate and as difficult questions that it faces, then adopt this amendment, for that would be a very fine way to accomplish this objective.

The other part of the amendment pegs the number of positions which may be in the super grade by rather a striking amount, and rolls down the overall level of grades inside of FEA. That is extremely bad because no one knows what will happen with regard to the people involved who will have their grades rolled back, what will happen to the Civil Service regulations, what will happen to the Civil Service laws, and what will happen to a whole broad spectrum of things. The amendment may well be unconstitutional as well. This can only be viewed as destroying the morale inside FEA, and I beg my colleagues to reject it.

I now yield to my colleague, the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this amendment has some of the same logic contained in it as in the amendment offered by the gentlewoman from Colorado (Mrs. Schroeder). It attempts to chastise the administrators of the agency for doing the job that we have required them to do by law and, therefore, are not now happy with. I think it is an arrow aimed at the wrong place. What we really ought to do is change what we have asked the FEA to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers).

The question was taken; and the Chairman announced that the noes appear to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there additional amendments to the bill?

AMENDMENT OFFERED BY MR. MARTIN

Mr. MARTIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Martin: Page 10, immediately after line 4, insert the following:

CONGRESSIONAL REVIEW OF CERTAIN RULES AND REGULATIONS

Sec. 3. Section 7(i)(1) is amended by adding at the end thereof the following:

"(F)(i) No rule or regulation proposed by the Administrator after the date of enactment of this subparagraph which rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses may take effect, except in accordance with subparagraph (ii) and (iii).

"(ii) The Administrator shall transmit to each House of Congress any proposed rule or regulation described in subparagraph (i), together with a detailed statement justifying such rule or regulation.

"(iii) Any such rule or regulation may take effect upon the expiration of a period of 60 legislative days after the date on which such rule or regulation and such statement are transmitted to the Congress under subparagraph (ii), unless before the expiration of such period the Congress adopts a concurrent resolution disapproving such rule or regulation.

"(iv) For purposes of this paragraph, the term 'legislative day' means any day on which either House of Congress is in session."

PARLIAMENTARY INQUIRY

Mr. MARTIN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARTIN. Will the Chair recognize me for a unanimous-consent request?

The CHAIRMAN. That request will not be in order.

Mr. MARTIN. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. MARTIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARTIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 147, not voting 58, as follows:

[Roll No. 317]

AYES—226

Abdnor
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bennett
Bevill
Blouin
Bowen
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Byron
Carr
Cederberg
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Emery
English
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Findley
Fish
Fithian
Flowers
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hannaford
Harkin
Harris
Harsha
Hays, Ohio
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howe
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Keys
Kindness
Krebs
Lagomarsino
Latta
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Lott
McCloskey
McCollister
McDade
McDonald
McHugh
McKay
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murtha
Myers, Ind.
Neal
Nichols
Nolan
Nowak
O'Brien
Passman
Paul
Perkins
Pettis
Pickle
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Robinson
Roe
Roush
Rousselot
Runnels
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steed
Steelman
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Ullman
Vander Veen
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wolff
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOES—147

Abzug
Adams
Addabbo
Anderson, Ill.
Annunzio
Ashley
Badillo
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Boland
Bolling
Bonker
Brademas
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Carter
Chisholm
Clay
Collins, Ill.
Conable
Conte
Corman
Cotter
Daniels, N.J.
Danielson
Delaney
Dellums
Derrick
Diggs
Dingell
Drinan
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Fary
Fenwick
Fisher
Flood
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gonzalez
Green
Gude
Hall
Harrington
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Howard
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Koch
LaFalce
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McClory
McCormack
McFall
McKinney
Madden
Madigan
Maguire
Meeds
Metcalfe
Mezvinsky
Mikva
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Nedzi
Nix
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Pike
Preyer
Price
Rangel
Rees
Reuss
Richmond
Rinaldo
Roberts
Rodino
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
St Germain
Scheuer
Schneebeli
Seiberling
Simon
Sisk
Smith, Iowa
Solarz
Stark
Stratton
Studds
Sullivan
Tsongas
Van Deerlin
Vanik
Vigorito
Waxman
Whalen
Wilson, Tex.
Wirth
Wydler
Yates
Young, Ga.
Zablocki

NOT VOTING—58

Alexander
Allen
Beard, R.I.
Bell
Boggs
Breaux
Broomfield
Burke, Fla.
Burton, Phillip
Butler
Carney
Chappell
Clawson, Del
Conlan
Conyers
Dodd
du Pont
Edgar
Eshleman
Florio
Flynt
Giaimo
Goodling
Hanley
Hansen
Hébert
Hicks
Hinshaw
Hubbard
Jones, Tenn.
Karth
Ketchum
Krueger
Landrum
Leggett
Lujan
McEwen
Matsunaga
Meyner
O'Hara
O'Neill
Randall
Riegle
Rose
Ruppe
Staggers
Stanton, James V.
Steiger, Ariz.
Stokes
Stuckey
Symington
Teague
Thompson
Udall
Vander Jagt
Weaver
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs for, with Mr. O'Neill against.

Mr. Chappell for, with Mr. Phillip Burton against.

Mr. Hébert for, with Mr. Beard of Rhode Island against.

Mr. Breaux for, with Mr. Conyers against.

Mr. Rose for, with Mr. Carney against.

Mr. Flynt for, with Mrs. Meyner against.

Mr. Jones of Tennessee for, with Mr. Matsunaga against.

Mr. Teague for, with Mr. Thompson against.

Mr. Landrum for, with Mr. Stokes against.

Mr. MOLLOHAN and **Mr. BROWN** of Michigan changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR: Page 10, after line 4, insert the following:

PROHIBITION ON POLLING OF PUBLIC OPINION BY THE ADMINISTRATOR

SEC. 3. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g) The Administrator, in exercising his authority under this Act, section 11 of the Energy Supply and Environmental Coordination Act of 1974, or any other provision of law which authorizes the Administrator to collect, analyze, or distribute information, shall not, directly or by contract, conduct surveys or polling of public opinion, attitudes, or views, or collect, analyze, or disseminate information concerning the public opinion, attitudes, or views gathered in surveys or polling of public opinion, attitudes, or views."

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Minnesota if the gentleman's amendment was published in the RECORD.

Mr. OBERSTAR. Mr. Chairman, the amendment was in the RECORD at page H5005.

The CHAIRMAN. The gentleman from Minnesota is recognized for 5 minutes in support of his amendment.

Mr. OBERSTAR. Mr. Chairman, this amendment bears on FEA's authority to conduct public opinion polls.

The FEA was created to help develop an energy policy; to promote energy conservation; and to develop new, economical sources of energy.

It has done those things with questionable effectiveness.

FEA has also propagandized the press and Congress with public opinion polls whose results, purposefully or not, would push the American people—and their Congress—into accepting higher energy costs and higher profits for oil companies.

And has done so with budget for public relations only larger than that of most House committees.

EXAMPLE

A multiple-choice question which offered as alternative solutions to the energy crisis: First, giving oil companies a tax break for more oil production and exploration; second, importing more oil; or third, permitting more offshore drilling. No place for those who thought we ought to break up the majors and restore real competition.

EXAMPLE

A survey which revealed that 42 percent of Democrats, 54 percent of Republicans, and 38 percent of Independents feel the energy crisis is real. The survey results were also broken down by marital status, income levels, sex, education levels, race, age, and geographic region.

EXAMPLE

Quotes from the same survey, reprinted in a slick public relations flyer:

> Considering its views overall, the public seems to be far ahead of many of its leaders, such as some key members in Congress, in accepting the blunt fact that there simply is no easy way out of the energy dilemma. Attitudes revealed in this study and other Opinion Research Corporation energy research indicate that the public seems ready to recognize and accept the fact that the energy shortage is real and that the era of cheap energy is over.

EXAMPLE

"The Natural Gas Story," an FEA publication which resulted in a court suit and a ruling by Judge John Sirica that "FEA's intent in writing the distributing copies of this booklet has been, at least in part, to influence Congress, however indirectly, to pass deregulation legislation, and that this constitutes a violation of the statute," prohibiting Federal agencies from lobbying Congress.

I strongly question the propriety of any Federal Government agency conducting public opinion research—especially when its results are used to influence legislation.

Public opinion polls are self-fulfilling prophecies which influence public attitudes and, ultimately, the votes of elected representatives.

These polls do not provide information on reserves, production rates, economic factors, or energy conservation. On the contrary, they are a substitute for that data.

My amendment would prevent the FEA from conducting public opinion research, and from using this research to influence public attitudes and, ultimately, congressional votes.

Mr. Chairman, in this case there "oughta be a law," to stop this kind of activity and I hope that at the conclusion of this bill there will be.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Michigan.

Mr. DINGELL. I have a question to ask the gentleman related to a concern I have regarding this particular amendment.

I presume the purpose of the amendment is to ban polling for polling's sake or polling for the purpose of achieving some political goal or to affect public opinion in one way or the other. Am I correct?

Mr. OBERSTAR. The gentleman states it very well. It stops polling for political purposes.

Mr. DINGELL. I would also assume, if the gentleman will yield further, that it is not his purpose to prevent the FEA from finding out what the public's view is of different regulations and problems that might lie with FEA's administration.

Mr. OBERSTAR. This relates to energy policy questions and not to how the Agency itself functions.

Mr. DINGELL. And I would assume, if the gentleman will yield further, that it is not his purpose to prevent FEA from conducting inquiries regarding the particular problems that people might have with regard to energy and the policy of the FEA concerning its programs and rules and regulations.

Mr. OBERSTAR. The gentleman is correct.

The amendment would not extend to those functions of the Agency.

Mr. DINGELL. I would assume, if the gentleman will yield further, the amendment would not, for example, ban the FEA from inquiring into the success of housing insulation programs and the questions of the effectiveness of its public information operations. It would not, for instance, ban questions directed to jobbers, to find out how regulatory programs affecting them should be conducted, modified, or improved.

Mr. OBERSTAR. The purpose of the amendment is to restore to Congress the authority that it has, without invasion by an executive agency, and that is to set energy policy.

Mr. DINGELL. If the gentleman will yield further. I gather what the gentleman is selling us is that he does not have any objection to FEA's gathering information through public inquiries.

Mr. OBERSTAR. That is correct.

Mr. DINGELL. And that the amendment is not intended to bar that kind of activity.

Mr. OBERSTAR. That activity is entirely proper.

Mr. DINGELL. Then, Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ECKHARDT: Page 10, after line 4, insert the following:
>
> LIMITATION ON DISCRETION OF THE PRESIDENT WITH RESPECT TO DELEGATION OF CERTAIN AUTHORITIES
>
> SEC. 3. Section 8(h) of the Federal Energy Administration Act of 1974 is amended by adding before the period at the end thereof the following: ", except that the President may not redelegate or terminate the delegation of those functions as pertain to the submission of energy actions relating to an amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which had been delegated to the Administrator on or before May 1, 1976, pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973."

POINT OF ORDER

Mr. BROWN of Ohio. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Ohio insist on his point of order?

Mr. BROWN of Ohio. Mr. Chairman, I am afraid that I must insist on it.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, if I understand the thrust of the amendment offered by the gentleman from Texas (Mr. ECKHARDT), it amends an amendment which the committee has already adopted, by additionally prohibiting the President from redelegating or terminating the delegations of functions that we have already modified in the previous Eckhardt amendment.

The effect of the amendment now presented to us for consideration is that it in effect amends an amendment already adopted by the committee under consideration of this bill during this sitting.

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) desire to be heard on the point of order?

Mr. ECKHARDT. Briefly, Mr. Chairman.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. ECKHARDT. Mr. Chairman, this amendment is not an amendment to the previous amendment, but it is true that it is a perfecting amendment consonant with that amendment.

In that amendment there was a limitation of the discretionary authority of the Administrator under the act that created FEA, which is the act, of course, that we are now extending. All this does is this: It prevents a possible escape by the President's taking the authority and exercising it contrary to the previous amendment rather than leaving the delegation as it is to the Administrator.

So the same arguments support both the reasons for the amendment and its germaneness as applied to the previous amendment adopted by the House.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The amendment offered by the gentleman from Texas (Mr. ECKHARDT) provides for an additional section at the end of the committee bill. The amendment offered by the gentleman from Texas (Mr. ECKHARDT) does not directly amend the first Eckhardt amendment, which also added another section at the end of the bill.

Therefore, the point of order is overruled.

The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 65, noes 87.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. FITHIAN: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977".

The CHAIRMAN. The Chair wishes to inquire of the gentleman from Indiana (Mr. FITHIAN) if the gentleman's amendment was printed in the RECORD.

Mr. FITHIAN. It was printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

Mr. FITHIAN. Mr. Chairman, I will try to conclude my remarks in less than 5 minutes.

I believe this is a very important matter to those who would like to do away with the Federal Energy Administration and those who wish to have an opportunity to vote responsibly on this bill.

For that reason, I think we should return to a compromise situation between those who want to do away with the agency entirely and those who would extend it and thus lock us in for a total of 39 months, which represents the extended duration provided by this bill.

I maintain that whenever we create an agency and whenever a distinguished committee such as the subcommittee reporting here today gives such an agency an extended life or an extended term, an additional 39 months, there is little if any hope that we might ever limit that agency or that we might ever make it tractable.

Why 18 months, Mr. Chairman?

It is simply this: The Senate has reported out in their committee a bill to extend the life of the agency 15 months. Some of the Members today objected to a 15-month extension because they said committees would not have time to come back, get organized after the election, and decide what they really wanted to do with energy.

Mr. Chairman, I would submit that the 1 year after the convening of this next 95th Congress is totally adequate for the Committee on Government Operations to decide where we shall put our energy, or is totally adequate for the Committee on Interstate and Foreign Commerce, if they decide to act in this field or for any other committee.

Therefore, Mr. Chairman, I would plead with the Members to consider seriously not extending it and thus locking us in for a total of 39 months. I would plead that they consider very seriously extending the life of this agency, which I happen to think ought to be done away with, but we ought to at least curtail it so that we give a new administration approximately 1 year in which to get its house in order and so that we give even a reelected Republican President, if that should happen, 1 year after he gets through campaigning to decide seriously what we ought to do with energy. Either way, with an incoming administration, I believe that we ought to provide an opportunity to deal with the energy matter outside of the confines of the Federal Energy Administration.

Mr. Chairman, the FEA has demonstrated conclusively the law of bureaucracies. It has grown unconscionably, and its growth has not only been in terms of performance, but in terms of the budget as well.

Mr. Chairman, I am a little bit concerned about all the Members of the minority who have talked increasingly, along with President Ford and Governor Reagan, about bureaucracy and about cutting it down. I am concerned about Democrats speaking on the same order. Many of us have made speeches against bueaucracies in our committees and in our districts.

Mr. Chairman, this is the time for the Members of this House to stand up and be counted or forever after be held a shallow mockery in terms of whether or not we really want to deal with an intractable organization such as the Federal Energy Administration.

Mr. Chairman, in the debate today, there has not been a single person who stood up and defended the agency by saying that it is doing a good job. Is it not therefore responsible to limit its life to 18 months, rather than 39?

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I rise in support of the Fithian amendment to H.R. 12169, the Federal Energy Administration Extension Act.

I think it is terribly unfortunate that the Fithian-Schroeder amendment which sought to abolish the FEA and transfer its functions to other departments and agencies failed on a voice vote. The substitute offered Congress the first genuine opportunity to reassert its control over one of the Federal agencies the Congress itself created. Now, this amendment to extend the life of FEA only 1 year, instead of the 3 years provided in the bill, permits us one final chance to review FEA's performance within a reasonable period of time, abolish it if necessary, and distribute its functions before it can grow too large and pervasive to contain.

As a cosponsor of one of the "sunset" bills recently introduced in Congress, the opportunity for eliminating government waste is an especially welcome one for me. The essence of the "sunset" concept is to establish a date on which an existing or new agency shall be abolished if the Congress has determined that such agency no longer serves the public purpose for which it was initially created. The clear intention of Congress in 1974 was that the FEA was to be a temporary agency to formulate and implement an energy policy which was narrowly defined to achieve immediate results during the severe energy crisis our nation was experiencing at the time. Hence, the "sun was to set" on the FEA on June 30, 1976.

The Federal Energy Administration Act of 1974 provided the statutory authority for the FEA, but its personnel and many of its functions were to be transferred from other existing Government agencies and departments. The act specified plainly and directly that these functions and personnel were to be returned to their original locations upon the termination of the act. In short, each step taken 2 years ago was with a view toward permitting Congress to allow the FEA to quietly expire on June 30, 1976.

And yet, today, the FEA is one of the fastest growing agencies in Washington. It is truly a classic example of an agency which has created for itself a permanance the Congress neither intended nor believed it was creating.

In only the past 2 years, the FEA has instituted, in some cases without prior legislative or executive authorization, solar and energy conservation programs in direct competition with ERDA, nuclear power promotion activities, and a natural gas deregulation lobbying effort. It has pursued lively self-promotion. Its press office is already one of Washington's largest, with 112 publicists and a $3.5 million budget which has cranked out nearly 1,000 press releases, all computerized for speedy retrieval.

Another reason why FEA has become entrenched so rapidly rests with the ability of its officials to dream up new projects or to move in on jobs other agencies are already handling.

Last summer, for example, my colleagues will recall that FEA popped up one day and predicted a natural gas crisis for this past winter. The shortage would be 1.6 trillion cubic feet, they announced, and would cause plant closings, cold homes, and unemployment. As it turned out, the Federal Power Commission, whose job it is to regulate the natural gas industry, already had projected the same shortage and was acting to deal with it. Yet, the FEA plunged ahead undaunted.

Some 20 FEA officials set to work full time preparing for the crisis. Another 10 were dispatched to regional offices. Radio spots were broadcast around the Nation urging Americans to turn down their thermostats and save jobs. As we all know, the crisis never materialized and FEA now acknowledges there never was a crisis. Yet, its natural gas experts are still on hand. These days they are helping to write an administration plan aimed, once again, at making Congress remove price controls on gas.

Most agencies today shudder at the thought of taking any actions or establishing any programs which can be criticized in public as being "duplicative" of other agency actions or programs. Not so with FEA. This year it is requesting roughly $70 million for its Office of Conservation and Environment for programs to promote energy conservation and analyze environmental impacts and implications of energy policy. And yet, except as to such things as public relations campaigns which FEA carries on among industry users, ERDA presently either duplicates or furnishes FEA with required background information on many programs which are carried on by this office. The same argument applies to the $3 million request for the proposed solar demonstration projects. As ERDA, in the Solar Energy Demonstration and Development Act of 1974, was clearly given the mandate for such activities and has already implemented many solar demonstration projects, FEA activities in this area can only be duplicative and counterproductive.

Mr. Chairman, not everything FEA does, of course, is self-generated. The Congress has enacted 45 energy laws in the past 2 years, and many of those direct FEA to take certain actions. The principal energy policy bill we have passed requires FEA to allocate petroleum products and regulate their prices. However, these controls can be lifted gradually over the next 39 months.

Ironically, deregulation is going to involve more, not fewer, FEA regulators. About 1,300 of the Agency's 3,400 employees work full time regulating the oil industry, assuring that it spreads energy products and costs evenly to all Americans. Even if we merely extend the life of the FEA 1 additional year, this number of regulators would jump to 600. What should be realized is that because we are no longer experiencing petroleum shortages, these regulators will focus on auditing every transaction affected in the previous regulations.

The paperwork generated by these regulations is awesome. Industry responses to FEA-required reports now total 2 million pages. And yet, each of us in this Chamber recognizes the burden in time and expense that paperwork generated by agencies such as FEA places on our small businessmen and small businesswomen. I do not think we can afford to permit FEA to continue to send this growing number of auditors scurrying into the offices of nearly every producer, refiner, distributor, and Main Street gas station operator in America—generating this volume of paperwork in the name of "deregulation."

As a member of the House Science and Technology Committee, I have regrettably expressed my deep concern over the inability of the Congress to adequately examine the various resources and options available in fashioning a rational, integrated approach to energy policy and planning. Tranferring most of the functions of FEA to ERDA, I believe, would have been a responsible first step in the long-overdue reorganization of existing agencies and departments which have jurisdiction over energy-related matters. That we have a long-term energy problem and need long-term solutions is an indisputable fact.

What is necessary now, and which I believe the Schroeder-Fithian substitute would have begun to address, is the need to end the FEA and with it, the narrowly focused energy policy which reflected the need for quick action in 1974. In its place we should broaden the role of existing agencies and departments in the planning and implementation of a rational energy program to fit our long-term needs. This we ought to be able to do at considerably less expense and without an additional layer of bureaucracy to hamper these efforts—both of which will occur if we do not now permit the FEA to expire.

Regrettably, my colleagues are now effectively barred from determining whether the need any longer exists for extending the life of the FEA at all. The freedom to make that determination was clearly provided in the "sunset" provision of the 1974 act. In the absence of considering this fundamental question, I urge my colleagues to extend the life of FEA just 1 additional year by supporting the Fithian amendment.

A 1-year extension affords Congress ample time in which to consider the transfer of FEA functions and authority to other agencies and departments as was proposed by the Fithian-Schroeder substitute. In particular, the House Committee on Government Operations would then have an opportunity to fully examine and explore alternatives to FEA and could analyze alternative reorganization plans.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I support the Fithian amendment wholeheartedly, and I thank the gentleman for yielding.

I have an amendment at the desk and hope it will promptly be voted on.

The CHAIRMAN. The Chair will state that the gentleman from New York (Mr. SCHEUER) will have to proceed in regular order.

The gentleman will confine his remarks to the amendment before the committee, the Fithian amendment.

Mr. SCHEUER. Mr. Chairman, I yield back to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Chairman, I will conclude briefly by saying that it is difficult to find a responsible position.

If we do not believe that the Federal Energy Administration has done a good job—and I certainly do not believe that—it is impossible to vote responsibly on the bill. If we vote down the Dingell bill, when we get all through today, it simply means that we strike the Federal Energy Administration immediately without any provision for the responsibilities which we put on it in H.R. 7014.

Therefore, Mr. Chairman, I would argue that the only responsible position for those who either want to improve the Federal Energy Administration or for those who want to do away with it is to support this amendment and limit its life to 18 months. I understand that the distinguished minority Member, the gentleman from Illinois (Mr. ANDERSON) argued for it on the rule.

Mr. Chairman, I would urge the Members to support this effort to limit the life of the Federal Energy Administration.

Mr. Chairman, as my distinguished colleagues are well aware by now, the Federal Energy Administration was intended from the outset as a temporary agency designed to perform specific functions relating to the Arab oil embargo. The Government Operations Committee, which handled the bill, decided to limit the life of the agency to 2 years. During the initial debate on the bill, Representative Chet Holifield, then the distinguished chairman of the Government Operations Committee, said:

> The new FEA will be a temporary organization largely concerned with the immediate and short-term aspects of the energy emergency situation we are facing, because of inadequate energy supplies.

And:

> Mr. Chairman, let me emphasize that this is a bill for a temporary agency. The bill provides that the act will terminate two years after the effective date. Six months before the act expires, the President is directed to transmit to the Congress a report with recommendations as to the disposition of the agency's functions.

No one I have heard in these Chambers advocates an extension of the Federal Energy Administration simply to perpetuate the FEA in its present form. Very few Members I have spoken with can find much good to say about the agency's record. Even the Commerce Committee, in its report on H.R. 12169, felt compelled to hold the agency at arm's length, with its nose pinched, implying that a Cabinet-level energy department would actually do a much better job than the FEA. The Senate Government Operations Committee, in its report on companion FEA extension legislation, concurred. It said:

> The Committee was unanimous in its desire for a short-term extension of the FEA. It is the Committee's belief that an 18 month extension allows for ample time for the planning and implementation of the reorganization plan for the Federal Government's responsibilities for energy and natural resources. Additionally, the extension of the FEA's life permits the continued implementation of programs already established, which then can be readily transferred as we move toward a reorganization of energy and natural resource functions.

Since most Members generally agree that further reorganization of Federal energy responsibilities is both necessary and inevitable, only the length of time we allow ourselves to plan for that reorganization is currently in question.

The primary, indeed the only, specific justification offered by the Commerce Committee in its report on H.R. 12169 for extending the life of the Agency for such an excessively long period as 39 months is that such a long-term extension is necessary to attract and hold the necessary talent to allow the FEA to perform its statutory functions.

Let us take a look at this argument at face value. Exactly what does it take to get qualified people for the FEA anyway? The Agency already offers the highest salaries in Government, averaging $19,000 per year. That is 35 percent higher than the Governmentwide average salary. The Agency already has the highest concentration of high-prestige upper grade and super grade positions in the Federal bureaucracy. And, according to the FEA, more than 65 percent of the Agency's 3,400 employees were hired with "section 28" rights, guaranteeing them positions with other agencies of the Federal Government in the unlikely event of FEA's demise. If an agency cannot attract qualified talent with all these extraordinary advantages, it is not likely to work out its problems in 39 months.

I, for one, cannot believe that it will take 39 months to plan and implement reorganization of energy functions in the Federal Government. Surely the task could be accomplished in 18 months or less. An 18-month extension would, for instance, give a new President nearly 1 year to set up a plan for reorganization of his own and submit it for congressional review. Even my colleagues on the other side of the aisle will be forced to admit that we may be dealing with a new chief executive in the next session. But if we are not, my Republican colleagues will surely want the President to work on a national energy policy during the next 4 years. The FEA will never get us there. If the present FEA is extended for 39 months, it would not be making much of an effort to help plan its own dismemberment.

As you may know, the Senate FEA extension bill provides a simple 18-month extension of the Agency. Since only 30 days remain before the FEA's charter expires, anything within reason that can be done to avoid excessive conflict and a lengthy conference should be done.

Let us then not lock ourselves into a lengthy extension of FEA. Let us not saddle the American people with this useless barnacle for 3½ years. Many in the Chamber prefer no extension, many want some, and some want 39 months. In the spirit of compromise, let us agree to nothing more than 18 months.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am sure the author of the amendment is sincere in his belief that it is a good amendment. That does not, however, make it a good amendment.

Mr. Chairman, the committee considered very carefully the problem of extending the life of FEA; and we settled upon a period of about long enough to allow FEA to conclude its statutory responsibility. About 2½ years we gave them to carry forward their responsibility.

Mr. Chairman, that is not an excessive amount of time; and the problem with the amendment offered by the gentleman from Indiana (Mr. Fithian) is that it, first of all, will assure that next fall the Congress will be in an almost intolerable position and that the President will be compelled to act, under very difficult conditions, in terms of either extending the life of FEA or sending up some kind of legislation reconstituting FEA in ERDA or in some other fashion creating some kind of new energy entity inside the Federal Government.

Morale inside a Federal agency is a very delicate thing. Right now FEA is having trouble holding good people because of the fact that the agency has been constricted in terms of the lifetime of its existence and in terms of the period for which it could be anticipated to exist. This kind of a situation is destroying the morale inside of FEA and making it increasingly difficult for FEA to carry out its responsibilities.

Now I will yield to my colleague, the gentleman from Texas (Mr. Eckhardt) to join me in opposition to the amendment.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the House has just turned down one amendment that would have in effect dismantled FEA and turned over its functions to other agencies. The House also turned down the Fithian amendment that would have extended the life of FEA for 15 months and then dismantled its functions. This amendment is worse than either of the others because during the 18 months it would be virtually impossible to get anyone to work for the FEA under that time limitation.

Mr. DINGELL. I now yield to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, as the gentleman from Indiana (Mr. Fithian) pointed out before, I did in fact propose such an *amendment to shorten the time below* that which is in the bill. But rather than the amendment that the gentleman from Indiana proposes, the proposal that was introduced in the subcommittee was to limit it to 2 years. In the subcommittee we worked out an agreement that we would extend the life of the agency for 3 years in this particular piece of legislation in the hope that Congress would address itself to it before that time expires. I would stick with the 3-year agreement, and therefore I oppose the amendment offered by the gentleman from Indiana (Mr. Fithian).

Mr. DINGELL. Mr. Chairman, it ought to be remembered that this authorization is for a period of 1 year. Another bill will be back before us next year. Also there is nothing to preclude a committee with appropriate jurisdiction from coming forward with legislation to terminate it or to reconstitute it in some other fashion. I urge my colleagues to vote this amendment down. The amendment will destroy the morale at FEA and make it enormously difficult for FEA to carry out its mission.

AMENDMENT OFFERED AS A SUBSTITUTE FOR THE AMENDMENT

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, line 4, strike out the words "September 30, 1979" and insert in lieu thereof "September 30, 1977".

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Pennsylvania whether the amendment the gentleman is now offering was published in the Record?

Mr. MYERS of Pennsylvania. It was, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 5 minutes in support of his amendment. Does the gentleman from Michigan still reserve his point of order on the amendment?

Mr. DINGELL. Mr. Chairman, I do reserve my point of order.

Mr. MYERS of Pennsylvania. Mr. Chairman, I had intended to offer the amendment before the gentleman from Indiana (Mr. Fithian) offered his amendment, however I would support either alternative, his or mine. I believe they are both going to establish the same point, so I will proceed to talk about some of the points the gentleman from Indiana (Mr. Fithian) brought out.

Mr. Chairman, I think we have had considerable debate not only in this Congress but in a number of the State legislatures about the theory of zero base review. I do not see any of that concept built in this bill on the concept of a 3-year extension of FEA. I think if we want zero base review it has to be on an annual basis, and as far as FEA growing to astronomical proportions is concerned, it is becoming more and more complex.

I think that if we wait 3 additional years to address the situation as to whether or not we are going to continue *it as a permanent* agency it will be more complex and it will become more difficult to reassign its duties. There will be more duplication during that 3-year period between FEA and other agencies and certainly more uncertainty about the future of a number of different agencies.

The committee chairman indicated that the committee had considered the extension of 1 year, 2 years, and 3 years. I think that is appropriate for the committee to come out with its recommendations, but that does not behoove us to accept them without some forethought of our own. For those Members who spent the day here during debate there is evidence of doubt in the Members' minds about whether or not we should continue this agency. I think we ought to have a direct vote on whether or not we ought to assure for it a 3-year life and probably permanency or whether we should have some limitation with a reassignment of duties.

The argument that we had a vote this afternoon on whether or not we want to abolish FEA in 15 months is partially true. The fact of the matter is that the House itself did not vote that way. The Committee of the Whole did take a voice vote, and we did not get a recorded vote. I think it is only appropriate, considering the debate that went on here today about whether or not we are going to continue FEA it is appropriate that Members be allowed to record their votes up or down on the issue, so I place this amendment in for a 15-month extension. If it fails, I will wholeheartedly support the 18-month extension proposed by the amendment offered by the gentleman from Indiana (Mr. Fithian).

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I do understand that the effect of this amendment is to extend the agency for only 15 months; is that right?

Mr. MYERS of Pennsylvania. To the end of 1977; yes, sir.

Mr. ECKHARDT. What it does work out to is 15 months just like the original Fithian amendment, except that the Fithian amendment provided places where the agency's powers were ultimately to reside.

Mr. MYERS of Pennsylvania. The gentleman is correct. There is nothing unusual about this. It is done in a number of departments, and I ask the same for FEA, specifically for this agency because of the controversy surrounding it and the doubt in many Members' minds about whether we want to continue it. That is essentially what it does. It does not mandate abolishment; it does not mandate transfer of its duties to other agencies and departments.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Pennsylvania. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I am reluctant to oppose the amendment of the gentleman in the well but feel I must because it shortens even the period proposed by the gentleman from Indiana (Mr. Fithian). I want to clarify the position that we arrived at in committee. I originally proposed in our subcommittee that the FEA be extended for 2 years, until September 30, 1978, in effect 27 months because of the fiscal year, so that the next Congress would have an opportunity to look at the functions of FEA and FEA's operation itself, and so that the arrangements we made in the EPCA legislation for decontrol would have the opportunity to work themselves out. In its wisdom the subcommittee went to the 3-year proposal which takes it into the next Congress.

The CHAIRMAN. The time of the gentleman has expired.

Does the gentleman from Michigan (Mr. Dingell) insist on his point of order?

Mr. DINGELL. I do not, Mr. Chairman. I withdraw my point of order.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Let me explain that the committee has done precisely what the author of this amendment is saying the amendment would do.

The committee has limited the authorization to 1 year, which is in effect 15 months from today, but the committee has not terminated the agency after 15 months.

There is a very important difference between these two approaches. It is perfectly proper for Congress to look again at how well the agency is performing and to limit the authorization to 15 months. But when we terminate the agency automatically after 15 months, who are we going to get to stay with the agency during that period of time? How in the world could we get competent people to stick with the agency when they know it terminates and destructs automatically after 15 months?

At least the original Fithian amendment told these people they might get a job somewhere else because the functions will continue, but this termination simply hangs over the head of every person who goes to work for the agency.

Let us keep the 15-month limitation on the authorization, let us keep that, and we have got that in the bill, but let us not buy the proposition of an automatic destruct.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Texas makes precisely the point the House ought to consider. The committee has given the FEA a 1-year authorization for expenditures. At the end of that time they have to come back for a thorough review of their programs, and I assure my colleagues the agency will get that thorough review. They got it this year.

But to give an automatic termination to the agency, as this proposal does, is entirely wrong. If we want to destroy the morale of the agency and make it ineffective, this is a great way to do it. If we want to constrict the time of the House and compel us to fight this out time after time when there is no real gain and when there are other compelling energy matters to consider, this is the way to do it.

I urge my colleagues to vote down the substitute amendment and the original amendment because they are both bad.

Mr. ECKHARDT. What we do if we pass this amendment is to create a self-fulfilling prophecy of mediocrity. There is no way we can get other than a mediocre staff if we employ persons with the expectation of their jobs going out of existence in 15 months.

On the other hand, if the authorization is limited we put a strong impetus behind the agency to do a good job in order to buy another authorization. That is precisely what the committee has done. The committee has done everything that the author of this amendment seeks to accomplish except that which is in the amendment which would create the self-fulfilling prophecy of mediocrity.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Pennsylvania (Mr. Myers).

Mr. MYERS of Pennsylvania. Mr. Chairman, I would say to the gentleman that he essentially agrees with my amendment and we have got to come back next year.

Mr. ECKHARDT. No, I do not agree with the amendment. I very much think it is wrong to tell an agency whether they do a good job or not they are going to be out of existence in 15 months. It is all right to tell the agency that unless they fulfill this mandate they will not get another authorization.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers) as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian).

The amendment offered as a substitute for the amendment was rejected.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FITHIAN

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian).

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment. ment.

The CHAIRMAN. The Clerk will report the amendment and then the Chair will hear the gentleman from Michigan.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

"Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

" 'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.' "

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ECKHARDT. Mr. Chairman, I object. We have no time for debate. Let us hear what the amendment is.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman man from Michigan (Mr. Dingell) insist on the point of order?

Mr. DINGELL. Mr. Chairman, I do.

The CHAIRMAN. The Chair will recognize the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act.

This is a sweeping and very different amendment than that which is before the House in the Fithian amendment.

Now, Mr. Chairman, there is a second ground on which the point of order lies and that is that the amendment to the amendment in the nature of a substitute is not even germane to the bill. It is my strong suggestion, Mr. Chairman, that the quick way to dispose of this matter is by disposal of the point of order.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. Myers) desire to be heard on the point of order?

Mr. MYERS of Pennsylvania. Mr. Chairman, I do.

Mr. MYERS of Pennsylvania. Mr. Chairman, I am sure the subcommittee chairman did not mean to mislead the Chairman on the point of order. The subcommittee chairman has read in toto all the amendments I read this afternoon, including the GS and ES schedules, which are not included in this amendment.

This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan, which the gentleman from Texas would not yield sufficient time during the previous amendment for me to present even the issues in this respect.

Mr. Chairman, I present that as my case on the point of order, that it simply amends the termination of the act.

The CHAIRMAN. The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

The CHAIRMAN. The question is on the amendment offered by the gentlemen *from Indiana* (Mr. Fithian).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FITHIAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 172, not voting 65, as follows:

[Roll No. 318]

AYES—194

Abzug
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baucus
Bauman
Bedell
Bevill
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brinkley
Brooks
Burke, Calif.
Burleson, Tex.
Burton, John
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Crane
D'Amours
Daniel, R. W.
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Duncan, Oreg.
Duncan, Tenn.
Early
Emery
English
Esch
Evans, Ind.
Fascell
Findley
Fithian
Flowers
Foley
Ford, Tenn.
Fuqua
Gibbons
Ginn
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hannaford
Harkin
Harrington
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Hightower
Holland
Holt
Holtzman
Howard
Howe
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Landrum
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
McDonald
McKay
Madden
Maguire
Mahon
Mann
Mathis
Mazzoli
Melcher
Mezvinsky
Mikva
Milford
Miller, Ohio
Mills
Mink
Mollohan
Montgomery
Moore
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Neal
Passman
Patterson, Calif.
Paul
Pickle
Pike
Poage
Pritchard
Quie
Rangel
Richmond
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Roush
Rousselot
Runnels
Russo
Ryan
Santini
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spellman
Spence
Steed
Steelman
Stephens
Symms
Taylor, Mo.
Thone
Thornton
Treen
Tsongas
Ullman
Vander Veen
Waggonner
Walsh
White
Whitehurst
Whitten
Wilson, Bob
Wright
Yates
Young, Fla.
Young, Ga.
Zeferetti

NOES—172

Abdnor
Adams
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Baldus
Beard, Tenn.
Bennett
Bergland
Biaggi
Biester
Bingham
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Byron
Carr
Carter
Cederberg
Cochran
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Daniel, Dan
Daniels, N.J.
Danielson
Dent
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evins, Tenn.
Fary
Fish
Fisher
Flood
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gaydos
Gilman
Gonzalez
Green
Gude
Harris
Hawkins
Hays, Ohio
Heinz
Henderson
Hillis
Horton
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jordan
Kastenmeier
LaFalce
Lagomarsino
Long, Md.
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Martin
Meeds
Metcalfe
Michel
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Calif.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pressler
Preyer
Price
Quillen
Railsback
Regula
Reuss
Rhodes
Rinaldo
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
St Germain
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Seiberling
Sikes
Smith, Nebr.
Solarz
Stanton, J. William
Stark
Stratton
Studds
Talcott
Taylor, N.C.
Traxler
Van Deerlin
Vanik
Wampler
Waxman
Whalen
Wiggins
Wilson, C. H.
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Zablocki

NOT VOTING—65

Allen
Beard, R.I.
Bell
Boggs
Breaux
Broomfield
Burke, Fla.
Burton, Phillip
Butler
Carney
Chappell
Clawson, Del
Conlan
Conyers
Davis
Dodd
du Pont
Edgar
Eshleman
Fenwick
Florio
Flynt
Giaimo
Goodling
Hanley
Hansen
Hébert
Hicks
Hinshaw
Hubbard
Jenrette
Jones, Tenn.
Karth
Ketchum
Krueger
Leggett
Lujan
McEwen
Matsunaga
Meyner
Mitchell, Md.
Moorhead, Pa.
O'Hara
O'Neill
Randall
Rees
Riegle
Rose
Ruppe
Staggers
Stanton, James V.
Steiger, Ariz.
Steiger, Wis.
Stokes
Stuckey
Sullivan
Symington
Teague
Thompson
Udall
Vander Jagt
Vigorito
Weaver
Wilson, Tex.
Young, Tex.

Mr. PRESSLER changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Schroeder: Page 10, after line 4, insert the following:

TRAVEL EXPENSES

Sec. 3. Section 7(b) of the Federal Energy Administration Act of 1974 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) No officer or employee of the Federal Energy Administration may be paid or reimbursed for the difference between the cost of any first-class accommodation with respect to air travel and the cost of any other accommodation with respect to air travel, unless—

"(A) no other accommodations are available;

"(B) first-class accommodation is necessary because of the health of the employee involved;

"(C) in the case of foreign travel, only first-class accommodations meet satisfactory standards of sanitation, health, or comfort; or

"(D) the cost of first-class accommodation provided by the air carrier involved does not exceed the cost of other accommodations provided by other air carriers.".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. DINGELL. I reserve the right to object, Mr. Chairman.

Mr. ECKHARDT. Reserving the right to object, Mr. Chairman, may I ask, is it a printed amendment?

Mrs. SCHROEDER. If the gentleman will yield, yes, it is a printed amendment. It has been printed in the Record prior to this, and it has to do with first-class travel expenses.

Mr. ECKHARDT. I withdraw my reservation of objection, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection

Mrs. SCHROEDER. Mr. Chairman, this is a very simple amendment.

I will be brief because the hour is late, and I will not push this, but I did have the amendment in the Record.

I think it is very important that we begin to take stands on such things, and that is that the Federal Energy Administration not be allowed to use first-class travel for their staff and all the people who tour the country talking about conservation, unless it is required for the health of the person or unless no other accommodations are available at that time for the flight that they must make.

Mr. Chairman, this is very simple. It has been published before. I do not think, Mr. Chairman, that much more needs to be said.

I know there will be discussion to the effect that maybe we are singling out this agency. Maybe we should.

Mr. Chairman, I think this limitation should be extended to all other agencies eventually; but, Mr. Chairman, this is one supposedly the most concerned about conservation in our energy policy. I think that if the FEA people tour around the country, they should do it in an economical fashion.

Mr. DINGELL. Mr. Chairman, with all due respect to the author of the amendment, I must rise in opposition to the amendment.

Mr. Chairman, we have come a long way toward guaranteeing that the employees of FEA will leave that agency en masse by having terminated the agency in as brief a period as we have by adoption of the previous amendment. This is another amendment that will go a long ways toward assuring that the employees will leave en masse because they will feel like second class citizens of America because the amendment states that no FEA employee, except under certain extraordinary circumstances, may fly first class.

I am not prepared to say that as a matter of Government policy FEA employees, or employees of any other agencies, regularly fly first class. I will say, however, that the question of whether Federal employees fly first class or not should not be done on an agency by agency basis. The question should be decided on the basis of uniform government policy, fairly, uniformly, and equally applied to the employees of all agencies.

I would point out that it is quite possible for us to arrange a situation where employees of FEA and every other agency will be faced with prohibitions against traveling first class under certain circumstances.

I am therefore compelled and constrained to oppose the amendment. I think it is a very bad amendment.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to agree with the gentleman from Michigan that this is the sort of thing that will really establish that we are not acting as we should be acting in a deliberative body. Here we are, taking another shot at this agency simply because we say we do not like something that they have done, and that is we are saying that this agency may not allow any employee to fly first class in an airplane.

We do not say this for any other agency.

Some of the Members have to fly long distances, as does the gentlewoman from Colorado. I do it almost every other week, clear across the country, and I consider that time in my mind as an opportunity for work, studying, and reading voluminous documents. I am sure that members of the FEA undoubtedly do that same thing. However, the difference between flying first class and second class over long distances is a considerable difference.

Mr. DINGELL. I thank the gentleman from Washington.

I now yield to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I do not know why we should do this, but perhaps the author of the amendment could advise me. I think most of the agencies have rules with reference to their employees with regard to this and I am curious to know whether FEA does not have such rules concerning its employees that they are not supposed to fly first class under most circumstances? Could the author of the amendment, the gentlewoman from Colorado (Mrs. Schroeder), enlighten me as to whether or not FEA apparently flies its personnel all first class?

Mrs. SCHROEDER. Would the gentleman yield?

Mr. DINGELL. I yield to the gentlewoman from Colorado very briefly.

Mrs. SCHROEDER. Mr. Chairman, my understanding is that there has been an awful lot of that going on. I think if it has not been going on then that is terrific and all the more reason to adopt the amendment.

Mr. DINGELL. Mr. Chairman, I want to point out how poorly drawn the amendment is. Ironically, the amendment does not bar FEA from chartering a jet, a 707 or a 747, but employees cannot travel first class on a regularly scheduled flight.

I think the amendment should be rejected for the additional reason that it is poorly drafted.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman has said that they should not be treated as second-class citizens, but I might point out that as a matter of policy I travel tourist class except when there is no other means of travel available and I do not consider myself a second-class citizen.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the distinguished subcommittee chairman for yielding, and I would suggest that we urge every Member who does not fly first class at the expense of the Government vote for the amendment and those who do vote against it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. Schroeder).

The question was taken; and on a division (demanded by Mrs. Schroeder) there were—ayes 47, noes 93.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino: Page 10, immediately after line 4, insert the following:

REQUIREMENTS FOR HEARINGS IN AREAS AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

Sec. 3. Section 7(i)(1) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) (i) The Administrator shall, not later than 60 days after the date of the enactment of this subparagraph, prescribe and implement rules to assure that any hearing the expenses of which are paid by any funds authorized to be appropriated under this Act shall—

"(I) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

"(II) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

"(III) if such hearing concerns a single State or the residents thereof, be held within such State. "(ii) For purposes of this subparagraph—

"(I) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(II) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"(iii) Such regulations shall provide for the consolidation of such hearings to the greatest extent possible in order to insure economy and efficiency consistent with the purposes of this subparagraph. Nothing in this subparagraph shall be construed as requiring a hearing where none is required by law or where the Administrator determines such a hearing is not appropriate."

Redesignate the succeeding subparagraphs of paragraph (1) accordingly.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, briefly, the amendment is not germane. If my colleagues will observe, we have a lengthy amendment here which embodies a number of things including extensive requirements for hearings in different parts of the country. But in addition to this it vests broad new discretion in the Administrator of FEA by saying that he can have a hearing or not have a hearing, or determine none is appropriate.

It also provides new quasi-judicial powers to the Administrator of the FEA to consolidate these hearings, raising great questions. There is also a series of cross-references to a large number of other parts of the Federal Energy Agency Act and of the EPCA, and as a result it is impossible to discern very quickly just what discretions and what authorities and what requirements are imposed upon the Administrator.

We have an enormously technical amendment here which has a number of in-built conflicts inside its boundaries and for that reason, Mr. Chairman, I insist upon my point of order.

The **CHAIRMAN**. Does the gentleman from California desire to be heard on the point of order?

Mr. **LAGOMARSINO**. I do, Mr. Chairman.

The **CHAIRMAN**. The Chair will hear the gentleman from California on the point of order.

Mr. **LAGOMARSINO**. Mr. Chairman, to alleviate any doubts any of my colleagues may have regarding the germaneness of this amendment, let me stress this in an amendment dealing not with just any hearings but would be one specifically tied to any hearing with respect to the disagreement over an expenditure of FEA funds. My amendment would assure that in connection with the administrative expenses paid out for FEA, the hearings—and it does not require any hearings to be held which are not now required to be held—will be held within the jurisdictions affected.

This is exactly the amendment that was offered and adopted to the ERDA research and development bill just a week or so ago. It is very similar to the amendment adopted to the EPA research and development bill and also adopted to the vocational education bill.

The intent is very clear in this bill that when a controversy arises in the implementation of a program, the most appropriate place to hold that hearing is at the level and in the locality where the people are who are affected, and the place where the disagreement is.

I maintain it is germane.

The **CHAIRMAN** (Mr. NATCHER). The Chair is ready to rule.

The amendment offered by the gentleman from California (Mr. LAGOMARSINO) is limited to hearings paid for by the funds authorized in this bill. The amendment restricts the uses to which such funds may be used and is germane. The Chair therefore overrules the point of order.

The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **LAGOMARSINO**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 267, noes 95, not voting 69, as follows:

[Roll No. 319]

AYES—267

Abdnor
Abzug
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baucus
Bauman
Beard, Tenn.
Bennett
Bevill
Biaggi
Biester
Blanchard
Blouin
Boland
Bowen
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burton, John
Carr
Carter
Cederberg
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Findley
Fish
Fithian
Flood
Flowers
Foley
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hannaford
Harkin
Harrington
Harsha
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Horton
Howe
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
McClory
McCloskey
McCollister
McDade
McDonald
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nichols
Nowak
O'Brien
Ottinger
Passman
Patterson, Calif.
Paul
Pepper
Perkins
Pettis
Peyser
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Rhodes
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Roush
Rousselot
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steelman
Steiger, Wis.
Stephens
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Tsongas
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti
Pattison, N.Y.
Pickle
Pike
Preyer
Price
Reuss
Richmond
Roberts
Rooney
Rosenthal
Rostenkowski
Roybal
St Germain
Scheuer
Seiberling
Sharp
Sisk
Smith, Iowa
Solarz
Stark
Steed
Stratton
Traxler
Ullman
Van Deerlin
Vanik
Waxman
Yates
Young, Ga.

NOES—95

Adams
Addabbo
Annunzio
Baldus
Bedell
Bergland
Bingham
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Chisholm
Collins, Ill.
Corman
Cornell
Cotter
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Eckhardt
Edwards, Calif.
Evins, Tenn.
Fary
Fisher
Ford, Mich.
Ford, Tenn.
Fraser
Harris
Hayes, Ind.
Holtzman
Howard
Jacobs
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Keys
Lehman
Lundine
McCormack
McFall
McHugh
Madden
Meeds
Metcalfe
Moffett
Mollohan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Nolan
Oberstar
Obey
Patten, N.J.

NOT VOTING—69

Allen
Beard, R.I.
Bell
Boggs
Breaux
Broomfield
Burke, Fla.
Burton, Phillip
Butler
Byron
Carney
Chappell
Clawson, Del
Conlan
Conyers
Davis
Dodd
du Pont
Edgar
Eshleman
Fascell
Fenwick
Florio
Flynt
Giaimo
Goodling
Hanley
Hansen
Hawkins
Hébert
Hicks
Hinshaw
Hubbard
Jenrette
Jones, Tenn.
Karth
Ketchum
Krueger
Leggett
Long, Md.
Lujan
McEwen
Matsunaga
Meyner
Mitchell, Md.
Moorhead, Pa.
Mosher
O'Hara
O'Neill
Randall
Rees
Riegle
Rose
Runnels
Ruppe
Staggers
Stanton, James V.
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Symington
Teague
Thompson
Udall
Vander Jagt
Weaver
Wirth
Young, Tex.

Mr. **RODINO** changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The **CHAIRMAN**. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **CHAIRMAN**. Under the rule, the Committee arises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 12169) to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes, pursuant to House Resolution 1220, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendments to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. **BROWN** of Ohio. Mr. Speaker, I offer a motion to recommit.

The **SPEAKER** pro tempore. Is the gentleman opposed to the bill?

Mr. **BROWN** of Ohio. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROWN of Ohio moves to recommit the bill H.R. 12169 to the Committee on Interstate and Foreign Commerce with instructions to report the same back forthwith with the following amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

AUTHORIZATIONS OF APPROPRIATIONS

SECTION 1. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $33,086,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000;

30, 1977, not to exceed $12,596,000; and

"(C) for the period beginning July 1, 1976, and ending September 30, 1977, to carry forward demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purpose of intervention or participation in State regulatory proceedings.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976 and shall not exceed $2,036,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) The Administrator of the Federal Energy Administration shall—

"(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

"(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

"(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may not be charged more than the costs incurred by the Federal Energy Administration in using such model and assigning personnel to assist such member of the public during such member's actual use of such model.".

EXTENSION OF FEDERAL ENERGY ADMINISTRATION ACT

SEC. 2. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976" and inserting in lieu thereof "December 31, 1977".

Amend the title so as to read: "A bill to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes.".

LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS

SEC. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act unless he supports such an amendment with a finding that exempting such oil or refined product category from both the allocation and the pricing provisions of the regulation is feasible and that such amendment would serve to avoid market distortions which would otherwise result from an amendment which exempted either pricing or allocation but not both.".

LIMITATION ON THE ADMINISTRATOR'S DISCRETION WITH RESPECT TO CERTAIN REGULATIONS AND RULINGS

SEC. 4. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(k) The Administrator or any officer or employee of the Federal Energy Administration may not exercise his discretion to maintain a civil action or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rules, regulations, or rulings interpreting such rules or regulations if—

"(1) such civil action or order is based upon such rules, regulations, or rulings interpreting such rules or regulations which are being applied retroactively; and

"(2) such person relied in good faith upon rules, regulations or rulings interpreting such rules or regulations in effect on the date of the alleged violation."

AVOIDANCE OF BURDENSOME REPORTING REQUIREMENTS

SEC. 5. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g)(1) In exercising his authority under this Act or any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports on such information so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to file reports with the Administrator.

CONGRESSIONAL REVIEW OF CERTAIN RULES AND REGULATIONS

SEC. 6. Section 7(i)(1) is amended by adding at the end thereof the following:

"(F)(i) No rule or regulation proposed by the Administrator after the date of enactment of this subparagraph which rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses may take effect, except in accordance with subparagraph (ii) and (iii).

"(ii) The Administrator shall transmit to each House of Congress any proposed rule or regulation described in subparagraph (i), together with a detail statement justifying such rule or regulation.

"(iii) Any such rule or regulation may take effect upon the expiration of a period of 60 legislative days after the date on which such rule or regulation and such statement are transmitted to the Congress under subparagraph (ii), unless before the expiration of such period the Congress adopts a concurrent resolution disapproving such rule or regulation.

"(iv) For purposes of this paragraph, the term 'legislative day' means any day on which either House of Congress is in session."

PROHIBITION ON POLLING OF PUBLIC OPINION BY THE ADMINISTRATOR

SEC. 7. Section 13 of the Federal Energy Administrtaion Act of 1974 is amended by adding at the end thereof the following:

"(g) The Administrator, in exercising his authority under this Act, section 11 of the Energy Supply and Environmental Coordination Act of 1974, or any other provision of law which authorizes the Administrator to collect, analyze, or distribute information, shall not, directly or by contract, conduct surveys of polling of public opinion, attitudes, or views, or collect, analyze, or disseminate information concerning the public opinion, attitudes, or views gathered in surveys or polling of public opinion, attitudes, or views.

REQUIREMENTS FOR HEARINGS IN AREAS AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

SEC. 8. Section 7(i)(1) is amended by adding after subparagraph (C) the following new subparagraph:

"(D)(i) The Administrator shall, not later than 60 days after the date of the enactment of this subparagraph, prescribe and implement rules to assure that any hearing the expenses of which are paid by any funds authorized to be appropriated under this Act shall—

"(I) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

"(II) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

"(III) if such hearing concerns a single State or the residents thereof, be held within such State.

"(ii) For purposes of this subparagraph—

"(I) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(II) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"(iii) Such regulations shall provide for the consolidation of such hearings to the greatest extent possible in order to insure economy and efficiency consistent with the purposes of this subparagraph. Nothing in this subparagraph shall be construed as requiring a hearing where none is required by law or where the Administrator determines such a hearing is not appropriate."

Redesignate the succeeding subparagraphs of paragraph (1) accordingly.

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes in support of his motion to recommit.

Mr. BROWN of Ohio. Mr. Speaker, the Eckhardt amendment, which was adopted without much in the way of debate under the time limitation, as agreed to, would prevent the President from submitting as a single energy action a proposal to both decontrol the price and allocation of a refined petroleum product. If the Eckhardt amendment stays in the bill, the President would have to send to Congress two separate proposals, one to decontrol the price and a separate amendment to decontrol supply, so Congress could act on these separately. Then depending on the congressional vote on the two separate issues, price controls could remain without supply controls or supply controls could remain without price controls.

My motion to recommit would retain the Eckhardt amendment and all the other amendments which were agreed to by the committee when we had the bill under consideration, but would provide that the President can submit a single proposal to decontrol both price and allocation for the House to vote on if he finds that decontrol of one without the other—price without allocation or allocation without price—would create market distortions.

The proposal I am making would, I believe, prohibit the development of spot shortages or the development of monopoly supply areas. Let me explain why.

Many of the larger suppliers serve markets in which part of their business is profitable at controlled prices and part is only marginally profitable or unprofitable at controlled prices. Now, if the price is controlled but in the absence of *allocation controls*, marketers would abandon their unprofitable markets or their unprofitable marketing areas where they are operating currently, and these are generally in rural or remote parts of the country where no alternative supply is available.

On the other hand, absent supply obligations, the incentive to produce a particular product is largely a function of price and profit margin. Under price controls, some product prices reflect artificially low profit margins. With price controls but without allocation controls, therefore, refinery production will be tilted toward the more profitable products. It should be noted that during phase II of the Cost of Living Council price controls, significant disincentives to production were created, because of only price controls without allocation controls, and the heating oil shortage in the winter of 1973 was correspondingly exacerbated.

Without price controls but with allocation controls, consumers will quickly move to the lowest priced suppliers. Marketers whose costs and prices are generally higher than their nonbranded counterparts are likely to suffer heavy losses of customers, resulting in decreased market shares and a long-term adverse impact on competition at that market level.

Historically, the larger integrated refiners have offered support to their branded marketers by reducing their prices in the most competitive markets and recovering any losses incurred by higher prices in other markets. Under continued price controls, price increases in the less competitive markets would be prohibited, and the customary method of supporting branded marketers in their efforts to compete would not be available.

Mr. Speaker, the point is that with one of these controls without the other, in many areas we would have either the absence of the product or we would have only one major competitor who could undersell the rest of the market, because of his particular cost situation.

Therefore, under most circumstances it would seem to me appropriate that the President would want to make an exception and see that these spot shortages or spot monopoly situations would not develop.

In any event, it would leave the option of whether or not we would have one proposal for allocation decontrol and keep price controls or the other, or the President would be able to propose both.

Mr. Speaker, the Eckhardt amendment, as it stands, prohibits the President from proposing both.

The SPEAKER pro tempore. Does the gentleman from Texas (Mr. ECKHARDT) wish to be heard on the motion to recommit?

Mr. ECKHARDT. I do, Mr. Speaker. I wish to speak against the motion to recommit.

Mr. Speaker, the gentleman from Ohio (Mr. BROWN) spoke a great deal about price controls and allocation controls; but I did not hear in any of his discussion anything really pertinent to the amendment that we agreed to earlier.

Mr. Speaker, the effect of the amendment would simply be this: It would permit this House to make the kind of decision that the gentleman from Ohio (Mr. BROWN) would permit the President to make, without this House getting a chance to make that decision.

There may be many instances in which both price and allocation control should ultimately be made, but should the President make that final decision? Should not that decision be presented to the House?

There is absolutely nothing in the amendment that was passed in the Committee of the Whole which prevented the President from presenting both allocation and price decontrol at the same time and making the very substantive arguments that the gentleman from Ohio (Mr. BROWN) made here in the well. However, the difference between proceeding with the Brown method and proceeding in the manner which we just passed in the Committee of the Whole is that the President would finally determine that the House either could take the two together or reject the two together.

All my amendment did was to say that the House could take the one, could take the other, or could receive and accept the President's argument that the two should be eliminated.

What the Brown motion to recommit does is just this: The gentleman says that it just modifies the Eckhardt amendment. What it does is that it says that the President shall submit the matter separately, unless the President decides that he does not want to.

That comes pretty nearly, I think, to going back to the precise situation that existed before the amendment was agreed to.

Mr. Speaker, why should the President finally determine that these two things have to be linked? We in the House always determine the necessity or nonnecessity of linking issues when we make the ordinary request, which is actually a demand, because one has the right to separate questions in the debate on different questions, and frequently when those questions are separated, a person urging both of them says, "I want to have them both considered together." All right. If he can carry the burden of that proof, we vote on both of them. If he cannot, we decide the one or the other.

Therefore, Mr. Speaker, I submit that we should vote down the motion to recommit with instructions and continue with the decision that we made at an earlier time in the Committee of the Whole House.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 270, nays 94, not voting 67, as follows:

[Roll No. 320]

YEAS—270

Abdnor
Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carr
Carter
Cederberg
Chisholm
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fary
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Gaydos
Gilman
Ginn
Gonzalez
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hillis
Holtzman
Horton
Howard
Hughes
Hungate
Ichord
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jordan
Kastenmeier
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Litton
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Preyer
Price
Quillen
Railsback
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Stanton, J. William
Stark
Steiger, Wis.
Stephens
Stratton
Studds
Talcott
Taylor, N.C.
Thone
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Whalen
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—94

Archer
Armstrong
Ashbrook
Bauman
Brinkley
Brooks
Brown, Ohio
Broyhill
Burleson, Tex.
Burton, John
Clancy
Clausen, Don H.
Collins, Tex.
Crane
de la Garza
Derrick
Devine
Dickinson
English
Evans, Ind.
Fithian
Fuqua
Gibbons
Goldwater
Gradison
Grassley
Guyer
Hammerschmidt
Hannaford
Harkin
Harsha
Hightower
Holland
Holt
Howe
Hutchinson
Hyde
Jacobs
Jarman
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Keys
Landrum
Latta
Lehman
Lent
Levitas
Long, La.
McDonald
Madigan
Mahon
Mikva
Milford
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Passman
Paul
Pettis
Pickle
Poage
Pritchard
Quie
Regula
Risenhoover
Roberts
Rousselot
Runnels
Ryan
Schroeder
Schulze
Sebelius
Shuster
Slack
Spence
Steed
Steelman
Symms
Taylor, Mo.
Thornton
Walsh
White
Whitehurst
Wright
Young, Alaska
Young, Fla.

NOT VOTING—67

Allen
Beard, R.I.
Bell
Boggs
Breaux
Broomfield
Burke, Fla.
Butler
Byron
Carney
Chappell
Clawson, Del
Conlan
Conyers
Davis
Dodd
du Pont
Edgar
Eshleman
Fascell
Fenwick
Florio
Flynt
Giaimo
Goodling
Hanley
Hansen
Hawkins
Hébert
Hicks
Hinshaw
Hubbard
Jenrette
Jones, Tenn.
Karth
Ketchum
Krueger
Leggett
Long, Md.
Lujan
McEwen
Matsunaga
Meyner
Mitchell, Md.
Moorhead, Pa.
Mosher
O'Hara
O'Neill
Randall
Rees
Riegle
Rose
Ruppe
Staggers
Stanton, James V.
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Symington
Teague
Thompson
Udall
Vander Jagt
Weaver
Wirth
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill for, with Mr. Florio against.

Mr. Jones of Tennessee for, with Mr. Hanley against.

Mrs. Boggs for, with Mr. Conyers against.

Mr. Chappell for, with Mr. Jenrette against.

Mr. Thompson for, with Mr. Riegle against.

Mrs. Fenwick for, with Mr. Lujan against.

Mr. Vander Jagt for, with Mr. Conlan against.

Mr. Goodling for, with Mr. Del Clawson against.

Until further notice:

Mr. Mitchell of Maryland with Mr. Weaver.

Mr. Hébert with Mr. James V. Stanton.

Mr. Carney with Mr. Breaux.

Mr. Moorhead of Pennsylvania with Mr. Leggett.

Mr. Beard of Rhode Island with Mr. Hicks.

Mr. Hawkins with Mr. Karth.

Mr. Giaimo with Mr. Teague.

Mr. Flynt with Mr. Broomfield.

Mr. Byron with Mr. Hansen.

Mr. Allen with Mr. Ruppe.

Mr. Edgar with Mr. Steiger of Arizona.

Mr. Dodd with Mr. Wirth.

Mr. Krueger with Mr. Stuckey.

Mr. Matsunaga with Mr. Mosher.

Mrs. Meyner with Mrs. Sullivan.

Mr. O'Hara with Mr. Bell.

Mr. Randall with Mr. Burke of Florida.

Mr. Staggers with Mr. Symington.

Mr. Rees with Mr. Butler.

Mr. Rose with Mr. Davis.

Mr. Stokes with Mr. du Pont.

Mr. Fascell with Mr. Eshleman.

Mr. Hubbard with Mr. Long of Maryland.

Mr. McEwen with Mr. Young of Texas.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes.".

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material, on the bill (H.R. 12169) just passed.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 12169

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 12169) the Clerk be authorized to make necessary corrections in the numbering of sections, punctuation marks, and cross-references in the legislation just passed. These are technical corrections unrelated to substance.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON U.S. INDUSTRY PRODUCING FERRICYANIDE AND FERROCYANIDE PIGMENTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-510)

The SPEAKER pro tempore. (Mr. McFall) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with Section 203(b)(2) of the Trade Act of 1974, enclosed is a report to the Congress setting forth my determination that import relief for the U.S. industry producing ferricyanide and ferrocyanide pigments is not in the national economic interest, and explaining the reasons for my decision.

GERALD R. FORD.

THE WHITE HOUSE, *May 31, 1976.*

THE WORLD SITS SILENTLY BY AS THE CHRISTIAN COMMUNITY IN LEBANON IS SLAUGHTERED

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, I continue to be distressed by events in Lebanon. Today's New York Times reports that—

> The estimated number of casualties on Sunday and through last night was about 180 killed and 400 wounded—most of them in indiscriminate shelling.

The Christian residents of Qobayat and Andakit are reported to be in fear of a massacre; and the Christian community throughout Lebanon feels that such a fate might befall the entire community.

According to the Middle East Economic Digest, the total deaths from April 1975 until the present are estimated at 20,000 and the casualties in that same period are estimated at 32,700. If one were to extrapolate the death toll in Lebanon to the U.S. population it would be comparable to 1.4 million deaths in the United States, because the Lebanese population is 3,100,000 and the U.S. population is 212,800,000. With every week the casualties and deaths are escalating so that the toll for the week of May 23–29 was 777 deaths and 1,400 wounded. These figures lend credence to the fear of genocide for the Christian population in Lebanon, although it is fair to say that Moslem-Lebanese have also died or been made casualties. But the difference is that the PLO and their allies appear to have made a decision to end the delicate balance which has heretofore existed among the various religious groups in Lebanon, and are now at the very least bent on destroying the political influence of that community and at the very worst the community itself.

What is distressing, Mr. Speaker, is that none of the nations around the world with Christian leaders and Christian population have spoken up in defense of this defenseless Christian community. Those nations quake before the Moslem-Arab threats of an oil embargo. What is now taking place in Lebanon is reminiscent of what occurred in the Ottoman-Turkish Empire with the destruction of the Armenian Christian community and what took place in Nazi Germany with the destruction of the Jewish community.

Mr. Speaker, as the Christian world sits silent, Christians are being slaughtered in Lebanon. Can one expect a greater response from these nations, if the Moslem-Arab countries confronting Israel ever have the upper hand and attempt a genocidal slaughter of the Jews? Is it any wonder, Mr. Speaker, that the Israeli government is so adamant in insisting on secure and defensible borders and a full peace treaty, before it returns any of the occupied territory?

These are black days, Mr. Speaker, for the world's conscience, and as each day passes and Lebanon suffers, humankind is lesser for it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. (Mr. McFall). The chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that tomorrow when the Houses meet in joint meeting to hear an address by the King of Spain only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor and the cooperation of all the Members is requested.

BOGGS-BEGICH MEMORIAL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. Young) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a resolution that will urge that the U.S. Board on Geographic Names act favorably on a proposal before them to have two mountain peaks near Whittier, Alaska named after the late Congressmen Hale Boggs and Nick Begich.

As everyone knows, Congressman Begich, my predecessor from Alaska, and Hale Boggs of Louisiana, former majority leader of the House, were lost while in flight from Anchorage to Juneau, Alaska in October of 1972 and were never found. Anyone that knew either of these two men would certainly agree that Congressmen Boggs and Begich both served in Congress with high distinction.

Senator Ted Stevens has submitted a proposal to the U.S. Board on Geographic Names to have these two mountain peaks named after Congressmen Boggs and Begich. Congressman Lloyd Meeds, who has been working with Senator Stevens, sent a letter early in March to the U.S. Board, urging them to act favorably on the proposal, and quite a number of Congressmen cosigned the letter with him.

It was my feeling that Congress should act officially in recognizing this proposal by urging that the U.S. Board name the peaks after Congressmen Boggs and Begich. I would urge favorable action on this resolution, and ask for its speedy consideration. The text of the resolution follows:

H. Res. 1227

Whereas, the late Congressman Hale Boggs, Representative from the State of Louisiana and former Majority Leader of the House of Representatives, and the late Congressman Nick Begich, Representative from the State of Alaska, served in Congress with highest distinction in the best tradition of public service;

Whereas, Congressmen Boggs and Begich tragically disappeared while on a flight between Anchorage and Juneau, Alaska, on October 16, 1972, while in the service of their country and their constituents;

Whereas, the character and leadership of these two men deserve the highest praise and permanent recognition;

Whereas, there are two mountain peaks located near Whittier, Alaska, along the route that Congressmen Boggs and Begich must have flown, that will be readily visible to the public; and

Whereas, the Board on Geographic Names is considering a proposal to have these two mountains named after Congressmen Boggs and Begich: Now, therefore, be it

Resolved, That the House of Representatives recommends that the Board on Geographic Names approve the proposal to name these two mountains after Congressmen Boggs and Begich.

PENSION PLAN RELIEF FOR SMALL BUSINESS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. Goldwater) is recognized for 10 minutes.

Mr. GOLDWATER. Mr. Speaker, I have today introduced the "Small Corporate Employers Retirement Pension Plans Act of 1976.

There are some 5 to 7 million private citizens who were not covered by the Employee Retirement Income Security Act—ERISA. Further, the complexity of that act and the retirement plans it sought to encourage have served to either discourage small corporate employers from utilizing ERISA or to discontinue their ERISA plans. For example, since the beginning of the ERISA program some 6,200 plans have been terminated. Most of the explanations for these terminations relate to the heavy paperwork associated with current ERISA programs, the heavy initial costs the employer must bear in establishing a plan, the complexity of drawing up a plan and administering it, and the fact that when the general economy becomes unstable or weakens, all of these other factors cause the employer to view his ERISA pension plan as one of the first things that is expendable.

Obviously, no one who supported the original ERISA legislation foresaw all of these problems or how they would combine to function as a definite disincentive. Further, I choose to believe that no Member of Congress wants to discriminate against the small corporate employer or his employees. Small business is the backbone of the American free enterprise system. We all have a basic, legitimate vested interest in seeing this important element of our economic system remain healthy, vital, and strong. Protecting small corporate employers is an essential part of encouraging and protecting small business. And, I for one believe that if we continue to let the complexities and paper burdens and other disincentives in the pension plan area work without correction; we will be hurting the very people Congress originally declared as its intention to help, and we may well be killing the goose that lays the golden egg—small corporate business.

This legislation is designed to substantially reduce the paperwork that an employer must bear in establishing and operating a pension plan. It is designed to contain the basic elements of a prototype plan. It is designed to soften the amount of startup financing that a small employer must obligate. It is designed to reduce the "built-in" disincentives that the current ERISA programs visit on the employee who is 45 years of age and older. And, finally, it is designed to encourage small employers to begin pension plans or restart employee coverage by offering the employer a tax incentive.

I will include, following the conclusion of my remarks, the full text of the legislation and a section-by-section analysis of the bill.

It is not my contention that this proposal is letter perfect in all respects. After all, it does address the ERISA program in a new and innovative way. This bill is an attempt on my part to address what I believe to be a serious problem that is confronting both employers and employees alike and to provide a reasonable alternative to the current law.

The plan contained in this proposal is a defined benefit plan. It provides for an initial vesting of 30 percent after 4 years employment, with 100 percent vesting at the conclusion of the 10th year of employment. The tax incentive, which is a tax credit for more than 100 percent of the dollar value of the employers' contribution, is designed to provide a little compensation for the paperwork that will be required by the bill and an incentive to retain a pension plan. The incentive credit increases as the plan offered becomes more generous in its coverage of the employee.

The final point I wish to bring to my colleagues' attention is that the bill limits the total yearly size of the contribution to $25,000. The bill provides that this figure be annually adjusted by the Secretary of the Treasury.

In conclusion, I wish to thank a private individual, Mr. Norman Tarver, for his assistance in the writing of this proposal. Mr. Tarver has been working for over a year with me in the preparation of the bill. His knowledge, expertise, integrity, and skill are well known throughout the actuarial and insurance communities. I fell fortunate indeed to have had his willing and able assistance. At this point I include the following material:

Analysis of Bill H.R. 13662—Small Corporate Employers Retirement Pension Plans Act of 1976

GENERAL PHILOSOPHY

The bill would amend the Internal Revenue Code so as to provide a method for securing qualification for a pension plan that would be an alternative to the methods now provided in Sections 401(a), 403(a) and 405. This would be accomplished by adding a new Section 416 to the Code and making an addition to Section 404(a) and amending Section 405.

Although the objective of adding the new Section 416 and amending Section 404(a) is to provide an extra tax incentive to encourage more small corporate employers to establish pension plans for their employees, actually the use of Section 416 is not limited to small corporate employers. However, because a ceiling would be placed on the amount of the employer's pension plan contributions that would be entitled to the extra tax incentive, the practical result would be that only small corporate employers would take advantage of the new Section 416. Making use of a contribution ceiling avoids the question of defining a small corporate employer.

The extra tax incentive would be available for only a plan that is generally more liberal than a plan meeting the qualification requirements of Section 401(a). Also, the more liberal is the plan under Section 416, the larger is the tax incentive.

Setcion 416 requires the use of a defined benefit plan or an assumed (target) benefit plan. Neither a defined contribution plan nor a profit sharing plan is available under Section 416.

Section 416 would not be available for use by a subchapter S corporation.

SECTION-BY-SECTION ANALYSIS

BILL SECTION

1. Name of the Act is Small Corporate Employers Retirement Pension Plan Act of 1976".

2. Section references relate to the Internal Revenue Code.

3. A new Section 416 is added to the Code to provide a procedure for IRS qualification of a plan (hereafter referred to as a "416 plan") alternative to a plan qualified under Section 401(a), 403(a) or 405 (hereafter referred to as a "401(a) plan"). By cross-reference, most of the requirements applicable to a 401(a) plan are applicable to a 416 plan. However, Section 416 spells out certain more stringent requirements that would apply to only a 416 plan.

CODE SECTION

416(a)(1): Subsections 401(a)(5) (relating to integration with Social Security) and 401(a)(7) (relating to minimum vesting standards) and Sections 410 (relating to minimum participation standards), 411 (relating to minimum vesting standards) and 412 (relating to minimum funding standards) are omitted from the list of requirements that apply to a 416 plan without amendment. However, as described below, more stringent requirements are applicable to a 416 plan.

416(a)(2): In lieu of the participation requirements in Section 410, more stringent participation requirements apply to a 416 plan.

416(a)(3): The 70/80 rule and the good-faith-bargaining exemption in Section 410 (b) apply to a 416 plan.

416(a)(4): A 416 plan must be a defined benefit plan or an assumed (target) benefit plan with pension units selected from a range graduating from .1% to 1.5% of the average earned income for each year of employment prior to retirement.

416(a)(5): The pension resulting from the formula in (a)(4) cannot exceed a ceiling of 30% of the average earned income in the last 5 years prior to retirement. This ceiling is intended to be a substitute for not permitting a 416 plan to be integrated with Social Security. Not permitting integration simplifies a 416 plan considerably and thereby reduces administration costs for the employer.

416(a)(6): In lieu of the various vesting schedules available under Section 411 for a 401(a) plan, a more liberal vesting schedule (graduating from 30% after 4 years of participation to 100% after 10 years of participation) is applicable to a 416 plan (with provision for more rapid graduation over a shorter period as described in Code Section 404(a)(10)(a)(C) below).

416(a)(7): A participating employee is not permitted to surrender or commute the benefits vested in him or her.

416(a)(8): See 416(f) below.

416(b): A 416 plan may be in the form of an employees' annuity plan under 430(a) instead of in the form of a trust.

416(c): In respect to vesting, "years of service" has the same meaning under a 416 plan as under a 401(a) plan.

416(d): In respect to participation, the provisions of Section 410 respecting years of service, time of participation and breaks in service that apply to a 401(a) plan also apply to a 416 plan.

416(e): In respect to normal retirement age, the regular terms of Section 411(a)(8) apply.

416(f): Generally, the minimum funding standards in Section 412 that apply to a 401(a) plan apply to a 416 plan. However, some special definitions are necessary.

416(g): Under Section 416(a)(4) above, a 416 plan may be either a defined benefit or an assumed (target) benefit plan. Subsection (g) describes a defined benefit plan in more detail.

416(h): This subsection describes an assumed (target) benefit plan in more detail.

416(i): As stated in 416(f) above, generally the terms of Section 412 (related to minimum funding standards) apply to a 416 plan. However, the amortization periods of 30 and 15 years in 412(b)(2)(B)(ii) through (v) are reduced to 20 and 10 years, respectively. Because a 416 plan is *entitled* to an extra tax incentive, it is reasonable to require the amortization period to be somewhat more stringent.

416(j): A 416 plan is not available to an "electing small business corporation" (a Subchapter S corporation) because the deduction limits available to the owners of such a corporation have been increased to 15%/$7,500, the same as for a Keogh plan for a self-employed individual.

4. This section of the Bill delineates in detail the extra tax incentives available under a 416 plan. To accomplish this, a new subsection (10) is added to Section *404(a) (relating* to deductions for employer contributions). The extra tax incentives are hinged to three important elements in a pension plan, namely,

(1) the participation requirements,
(2) the size of the pension benefit,
(3) the vesting requirements.

When a small corporate employer establishes a 416 pension plan, the employer makes selections in respect to these three elements. The philosophy is that as each of these three elements is made more liberal for the participants, the size of the extra tax incentive increases.

The actual rate of deduction that is applied to an employer's contributions to the 416 plan is calculated by multiplying together the three rates determined by (A), (B) and (C) below. For example, if the employer selects a Type II participation requirement (105%) and a pension benefit unit of .5% (115%) and a 7 year graduated vesting (109%), the rate of deduction would be 131.6% (105×115×109) of the amount of the annual contribution. This provides an extra tax incentive of 31.6%.

CODE SECTION

404(a)(10)(a): (A) As the participation requirements become more liberal, the rate of deduction increases from 100% to 110%. The liberalization is accomplished by gradually lowering the minimum age that normally applies to a 401(a) plan from 25 to 22.

(B) As the size of the pension benefit unit gradually increases from .1% to 1.5%, the rate of deduction increases from 111% to to 125%. In other words, as the pension benefits are improved for the participating employees, the rate of tax deductions is increased.

(C) As the period over which graduated vesting takes place is shortened from 10 years to 4 years, the rate of deduction increases from 100% to 118%.

404(a)(10)(b): To make sure that the extra tax incentive is confined to small corporate employers, a contribution limit of $25,000 is imposed. With this ceiling, a large employer would be most unlikely to establish a 416 plan because a liberal type of plan would have to be extended to all its employees, but the tax incentive would be limited by the ceiling. Using a contribution ceiling means that a definition of a small corporation does not have to be included in the Bill.

404(a)(10)(c): Dividends (in the Code called "return of premiums") paid by an insurance company would be applied toward the purchase of annuities.

5. Section 405(a) would be amended to permit U.S. Government Bonds to be used for 416 plans.

6. Numerous sections and subsections of the Code need to be amended due to the introduction of Section 416 and the amendment of Section 404(a).

7. Section 416 would be effective for taxable years of small corporate employers commencing after December 31, 1975.

H.R. 13662

A bill to amend the Internal Revenue Code of 1954 in order to encourage small corporate employers to establish retirement pension plans for their employees and to provide worthwhile benefits for them under such plans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Corporate Employers Retirement Pension Plans Act of 1976".

SEC. 2. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 3. SMALL CORPORATE EMPLOYER ALTERNATIVE PLAN.

(a) GENERAL RULE.—Subpart B of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"SEC. 416. SMALL CORPORATE EMPLOYER ALTERNATIVE PLAN.

"(a) GENERAL RULE.—In lieu of a trust which meets the requirements of paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16) and (19) of subsection (a) of section 401 and sections 410, 411, 412 and 415, a trust created or organized in the United States and forming part of a pension plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section only—

"(1) if the trust meets the requirements of paragraphs (1), (2), (3), (4), (6), (8), (11), (12), (13), (14), (15), (16) and (19) of subsection (a) of section 401 and the requirements of section 415;

"(2) if the plan of which it is a part, as a condition of participation in the plan—

"(A) requires that an employee complete a period of service with the employer maintaining the plan extending not beyond the later of the following dates:

"(i) for an employee starting employment before attaining age 22, the date on which the employee completes 3 years of service;

"(ii) for an employee starting employment after attaining age 22 and before attaining age 24, the date on which the employee attains 25 years of age; or

"(iii) for an employee starting employment after attaining age 24, the date on which the employee completes 1 year of service;

"(B) excludes no employee from participation (on the basis of age) except an employee who has attained a specified age, which age must be not more than 5 years before the normal retirement age specified in the plan;

"(3) if the trust satisfies the requirements contained in section 410(b);

"(4) if, through the application of contributions made to the trust by the employer, the plan of which it is a part provides (in the case of a defined benefit formula under subsection (g) of this section) or initially assumes (in the case of an assumed benefit formula under subsection (h) of this section)—

"(A) not smaller than one-tenth of 1 percent of the participating employee's average earned income in all his years of employment with the employer multiplied by the total number of years of his employment with the employer prior to his normal retirement age, but

"(B) not larger than 1½ percent of his average earned income in the last 5 years of his employment with the employer multiplied by the total number of years of his employment with the employer prior to his normal retirement age;

"(5) if the trust does not permit a pension benefit in respect to any participant to exceed 30 percent of his average earned income in the last 5 years of his employment with the employer prior to his normal retirement age;

"(6) if the trust permits the accrued benefit for each participating employee to become nonforfeitable to him not less rapidly than as defined in the following table:

"Years of participation in plan:	Percentage of nonforfeitability on completion of various periods of participation:
4	30
5	40
6	50
7	60
8	70
9	80
10	100

"(7) if the trust requires the nonforfeitable accrued benefit in respect to a participating employee to be incapable of surrender or commutation during his lifetime and withholds from any employee, personal representative or dependent, or any other person any and all right of surrendering or commuting such accrued benefit during the lifetime of such employee;

"(8) if the trust requires contributions to be made each year to the trust by the employer in accordance with the minimum funding standards described in subsection (f) below.

"(b) EMPLOYEES' ANNUITIES.—In lieu of a trust which meets the requirements of subsection (a) and in lieu of any employees' annuities plan which meets the requirements of sections 403(a) and 404(a)(2), an employees' annuities plan which meets the requirements of subsection (a) shall be deemed to constitute a qualified trust.

"(c) YEAR OF SERVICE.—For purposes of this section, the term 'year of service' means 'year of service' as defined in section 411(a)(5) and as determined under regulations prescribed by the Secretary or his delegate in respect to section 411(a)(5).

"(d) SPECIAL RULE.—For purposes of paragraph (2) of subsection (a), the terms of paragraphs (3), (4), and (5) of section 410(a) shall be applicable, except that the references in such paragraph to 'paragraph (1)' shall refer to 'paragraph (2)' of section 416 and paragraph (5)(B) of section 410 shall be inapplicable.

"(e) NORMAL RETIREMENT AGE.—For purposes of this section, the term 'normal retirement age' means 'normal retirement age' as defined in section 411(a)(8).

"(f) ACCRUED BENEFIT.—For the purposes of this section—

"(1) the term 'accrued benefit' means the employee's accrued benefit determined under the plan (except as provided in paragraph (2) below), expressed in the form of an annual benefit commencing at normal retirement age;

"(2) notwithstanding paragraph (1), if a plan is funded exclusively by the purchase of individual insurance contracts (or similar contract) which meet the requirements of section 412(i), the accrued benefit as of any applicable date shall be an annual benefit commencing at normal retirement age which has a present value not less than the cash surrender value of the contract or contracts on his life on such applicable date; or

"(3) notwithstanding paragraph (1), in the case of a plan which is based on an assumed benefit formula, the term 'accrued benefit' means the balance of the employee's account.

"(g) DEFINED BENEFIT FORMULA.—If the employer elects to use a defined benefit formula in lieu of an assumed benefit formula, a pension benefit calculated as described in subsection (a)(4) shall be provided by contributions to the plan by the employer and the trust must require such contributions to be made each year in such amounts that they will meet the minimum funding standards described in subsection (i).

"(h) ASSUMED BENEFIT FORMULA.—If the employer elects to use an assumed benefit formula in lieu of a defined benefit formula, an assumed pension benefit calculated as described in subsection (a)(4) shall be determined and a contribution rate shall be determined in respect to the assumed pension benefit for each participant. To determine such contribution rate, the contribution shall be assumed to be a constant percentage of the compensation of each participant based on investment earnings of a rate determined by regulations issued by the Secretary or his delegate, which rate may be changed from time to time by such a regulation. The minimum funding standards described in subsection (i) shall be applicable.

"(i) APPLICATION OF SECTION 412.—The terms of section 412 shall apply to a trust to which this section applies, except that, for purposes of such trust—

"(1) the wording of clauses (ii), (iii), (iv), and (v) of section 412(b)(2)(B) shall be deemed to read as follows:

"'(ii) the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 20 plan years,

"'(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 20 plan years,

"'(iv) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 10 plan years, and

"'(v) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 20 plan years,';

"(2) the wording of section 412(b)(2)(C) shall be deemed to read as follows:

"'(C) the amount necessary to amortize each waived funding deficiency (within the meaning of subsection (d)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 10 plan years, and'; and

"(3) the wording of clauses (i), (ii) and (iii) of section 412(b)(3)(B) shall be deemed to read as follows:

"'(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments in such year, over a period of 20 plan years, "'(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 10 plan years, and

"'(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 20 plan years.'

"(j) Application of Section.—A trust or plan as provided in subsection (a) or (b) hereof shall not be available to—

"(1) an electing small business corporation as defined in section 1371, or

The terms of sections 401, 402, 403, 404, 405, 406, 407, 410, 411, 412, 413, 414, 415, and 1379 shall apply to a trust or plan established by an electing small business corporation.

(b) Clerical Amendment.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 416. Small corporate employer alternative plan.".

Sec. 4. Deduction for Contributions of an Employer.

Section 404(a) (relating to deductions for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new paragraph:

"(10) Small corporate employer alternative plan.—If contributions are paid by an employer to or under a trust or an employees' annuities plan which meets the requirements of section 416, such contribution shall not be deductible under section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income); but, if they satisfy the conditions of either of such sections, they shall be deductible under this section, subject, however, to the following limitations as to the amounts deductible in any year:

"(A) In the taxable year when paid, if such contributions are paid into such trust or plan and if such taxable year ends within or with a taxable year of the trust or plan for which the trust or plan is exempt under section 501(a), the amount deductible shall be 111 percent of the contributions required to be paid under the terms of section 416 (i), subject to adjustment as follows:

"(i) If, instead of incorporating the participation requirements described in section 416(a)(2) (Type I), the trust or plan incorporates the participation requirements defined for one of type II and type III, in the following table, the amount deductible shall be 105 or 110 percent, respectively, of the amount otherwise deductible:

"Permissible deduction as a percentage of amount otherwise deductible	Type	Waiting period for commencement of participation based on age at commencement of employment (years)		
		Up to age 22	Age 23	Age 24 and up
100	I	3	2	1
105	II	2	2	1
110	III	1	1	1

"(ii) If, instead of incorporating provision for a pension benefit to be based on a unit of one-tenth of 1 percent as described in section 416(a)(4)(A), the trust or plan incorporates provision for the pension benefit to be based on one of the larger units shown in the following table, the amounts deductible shall be from 111 percent to 125 percent of the contributions required to be paid under section 416(i) as determined from the following table:

"Permissible deduction as a percentage of contributions:	Unit of pension benefit as a percentage of earned income for each year of employment:
111	0.1
112	0.2
113	0.3
114	0.4
115	0.5
116	0.6
117	0.7
118	0.8
119	0.9
120	1.0
121	1.1
122	1.2
123	1.3
124	1.4
125	1.5

"(iii) If, instead of incorporating provision for the accrued benefit to become nonforfeitable on a graduate basis after the end of 4 years of participation as described in section 416(a)(6), the trust or plan incorporates provision for the accrued benefit to become nonforfeitable on a graduated basis over a shorter period as shown in the following table, the amount shall be from 102 percent to 118 percent of the amount otherwise deductible as determined from the following table:

"Permissible deduction as a percentage of amount otherwise deductible	Percentage of vesting on completion of various periods of participation (years)						
	4	5	6	7	8	9	10
100	30.0	40.0	50	60.0	70	80	100
103	40.0	50.0	60	70.0	80	100	
106	50.0	60.0	70	80.0	100		
109	57.1	71.4	75	87.5	100		
112	66.7	83.3	100				
115	80.0	100.0					
118	100.0						

"(B) Any percentage beyond 100 percent as determined under this paragraph (10) shall not be applicable to any contribution required to be paid under the terms of section 416(i) in excess of $25,000 in any one taxable year: the deduction in respect to any contribution in excess of $25,000 in any one taxable year shall be determined by the terms of paragraph (1). The Secretary shall adjust annually the $25,000 amount specified in this subparagraph in the same manner as adjustments are made for cost of living under section 415(d).

"(C) In the case of an employee's annuities plan qualified under the terms of section 416(b), any refunds of premiums shall be applied within the current taxable year or the next succeeding taxable year towards the purchase of retirement annuities.".

Sec. 5. Qualified Bond Purchase Plans

Subsection (a) of section 405 (relating to requirements for qualification) is amended to read as follows:

"(a) Requirements for Qualification.—A plan of an employer for the purchase for and distribution to his employees or their beneficiaries of United States bonds described in subsection (b) shall constitute a qualified bond purchase plan under this section if—

"(1) the plan meets—

"(A) the requirements of section 401(a) (3), (4), (5), (6), (7), (8), (16), and (19) and, if applicable, the requirements of section 401 (a) (9) and (10) and of section 401 (d) (other than paragraphs (1), (5)(B), and (8), or

"(B) the requirements of section 416(a) but not including the requirements of section 401(a), (7), (11), (12), (13), (14), and (15), and "(2) contributions under the plan are used solely to purchase for employees or their beneficiaries United States bonds described under subsection (b).".

Sec. 6. Conforming Amendments.

(1) Each of the following sections is amended by striking out "section 401(a)" and inserting in lieu thereof "section 401(a) or section 416(a)":

(A) Section 37(c)(1)(A) (relating to retirement income).

(B) Section 72(m)(3)(A)(ii) (relating to life insurance contracts).

(C) Section 72(m)(4)(A) (relating to assignments or pledges).

(D) Section 72(m)(4)(B) (relating to assignments or pledges).

(E) Section 101(b)(2)(B)(i) (relating to nonforfeitable rights respecting employees' death benefits).

(F) Section 219(b)(2)(A)(i) (relating to coverage by certain other plan).

(G) Section 401(g) (relating to the definition of the term "annuity").

(H) Section 402(a)(1) (relating to the taxability of a beneficiary of an exempt trust).

(I) Section 402(a)(2) (relating to capital gains treatment for portion of lump-sum distribution).

(J) Section 402(a)(5) (relating to rollover amounts).

(K) Section 402(e)(4) (relating to definitions and special rules regarding lump-sum distribution).

(L) Section 403(a)(4)(B)(ii) (relating to rollover amounts).

(M) Section 403(b)(7) (relating to custodial accounts for regulated investment company stock).

(N) Section 405(c) (relating to deduction for contributions to bond purchase plans).

(O) Section 408(d)(3)(A)(ii) (relating to rollover contributions).

(P) Section 409(b)(3) (relating to rollover into an individual retirement account or annuity or a qualified plan).

(Q) Section 412(a)(1) (relating to general rules respecting minimum funding standards).

(R) Section 414(h)(A) (relating to tax treatment of certain contributions).

(S) Section 415(a)(1) (relating to limitations on benefits and contributions under qualified plans).

(T) Section 415(k)(1)(A) (relating to special rules respecting defined benefit plan and defined contribution plan).

(U) Section 501(a) (relating to exemption from tax on corporations, certain trusts, etc.).

(V) Section 503(a)(1)(B) (relating to general rules respecting denial of exemption to organizations engaged in prohibited transactions).

(W) Section 805(d)(1)(A)(i) (relating to pension plan reserves).

(X) Section 2039(c)(1) (relating to exemption of annuities under certain trusts and plans).

(Y) Section 2517(c)(1) (relating to the general rule respecting certain annuities and qualified plans).

(Z) Section 3401(a)(12)(A) (relating to wages).

(AA) Section 4975(e)(1) (relating to prohibited transactions).

(2) Each of the following sections is amended by striking out "section 403(a)" and inserting in lieu thereof "section 403(a) or section 416(b)":

(A) Section 72(m)(3)(A)(i) (relating to life insurance contracts).

(B) Section 72(m)(4)(A) (relating to assignments or pledges).

(C) Section 72(m)(4)(B) (relating to assignment or pledges).

(D) Section 101(b)(2)(B)(ii) (relating to nonforfeitable rights respecting employees' death benefits).

(E) Section 219(b)(2)(A)(ii) (relating to coverage by certain other plans).

(F) Section 402(e)(4) (relating to definitions and special rules regarding lump-sum distribution).

(G) Section 408(d)(A)(ii) (relating to rollover into an individual account or annuity or a qualified plan).

(H) Section 415(k)(1)(B) (relating to special rules respecting defined benefit plan and defined contribution plan).

(I) Section 805(d)(1)(B) (relating to pension plan reserves).

(J) Section 2039(c)(2) (relating to exemption of annuities under certain trusts and plans).

(K) Section 2517(a)(2) (relating to the general rule respecting certain annuities and qualified plans).

(L) Section 3401(a)(12)(B) (relating to wages).

(3) Section 401(b) (relating to certain retroactive changes in plan) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) and section 416".

(4) Section 401(g) (relating to the definition of the term "annuity") is amended by striking out "sections 402, 403, and 404" and inserting in lieu thereof "sections 402, 403, 404, and 416".

(5) Section 403(a)(1) (relating to the general rule respecting the taxability of the beneficiary under a qualified annuity plan) is amended by striking out "section 404(a)(2)" and inserting in lieu thereof "section 404(a) (2) or section 416".

(6) Section 404(a)(6) (relating to time when contributions deemed made) is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1), (2), (3), and (10)".

(7) Section 404(a)(7) (relating to the limit on deductions) is amended by striking out "paragraphs (1) and (3), or (2) and (3), or (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (3), or (2), and (3), or (10) and (3), or (1), (2), and (3)".

(8) Section 406(a) (relating to treatment as employees of a domestic corporation) is amended by inserting after "405(a)" in the part preceding subsection (1) the words "or a pension plan described in section 416".

(9) Section 406(a)(3) (relating to treatment as employees of a domestic corporation) is amended by striking out "section 401(a), 403(a), or 405(a)" and inserting in lieu thereof "section 401(a), or 403(a), or 405(a), or 416".

(10) Section 401(a)(1) (relating to treatment as employees of a domestic corporation) is amended by inserting after "405(a)" in the part preceding subparagraph (A) the words "or a pension plan described in seciton 416".

(11) Section 407(a)(1)(B) (relating to treatment as employees of a domestic corporation) is amended by striking out "section 401(a), 403(a), or 405(a)" and inserting in lieu thereof "section 401(a), or 403(a), or 405(a), or 416".

(12) Section 410(c)(1) (relating to the application of participation standards to certain plans) is amended by inserting after paragraph (D) the following new paragraph (E):

"(E) a plan established and maintained by a small corporate employer under the terms of section 416.".

(13) Section 411(e)(1) (relating to the application of vesting standards to certain plans) is amended by inserting after paragraph (D) the following new paragraph (E):

"(E) a plan established and maintained by a small corporate employer under the terms of section 416.".

(14) Section 412(a)(2) (relating to general rules for minimum funding standards) is amended by striking out "section 403(a) or 405(a)" and inserting in lieu thereof "section 403(a), 405(a), or 416".

(15) Section 414(b) (relating to employees of controlled groups of corporations) is amended by striking out "sections 401, 410, 411, and 415" and inserting in lieu thereof "sections 401, 410, 411, 415, and 416".

(16) Section 414(c) (relating to employees of partnerships, proprietorships, etc., which are under common control) is amended by striking out "sections 401, 410, 411, and 415" and inserting in lieu thereof "sections 401, 410, 411, 415, and 416".

(17) Section 414(h)(1)(B) (relating to tax treatment of certain contributions) is amended by striking out "section 403(a) or 405(a)" and inserting in lieu thereof "section 403(a), 405(a), or 416".

(18) Section 415(a)(2) (relating to limitations on benefits and contributions under qualified plans) is amended by inserting after paragraph (F) the following new paragraph (G):

"(G) a plan established and maintained by a small corporate employer under the terms of section 416.".

(19) Section 6057(a)(1) (relating to the general rule respecting annual registration) is amended to read as follows:

"(1) Within such peroid after the end of a plan year as the Secretary or his delegate may by regulations prescribe, the plan administrator (within the meaning of section 414(g)) of each plan—

"(A) to which the vesting standards of section 203 of part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 applies for such plan year, and

"(B) established and maintained by a small corporate employer under the terms of section 216, shall file a registration statement with the Secretary or his delegate.".

(20) Section 6104(a)(1)(B)(i) (relating to public inspection) is amended by striking out "section 401(a), 403(a), or 405(a)" and inserting in lieu thereof "section 401(a), 403(a), 405(a), or 416".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1975.

THIRTIETH ANNIVERSARY OF ITALIAN NATIONAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I am pleased to bring to the attention of my colleagues the anniversary of the Republic of Italy which will be observed on June 2.

It was 30 years ago on this day that the Italian people voted to end their constitutional monarchy and establish a republic. By replacing the Italian monarchy with a republican form of government, Italy began her return to the cultural and political prominence she had long enjoyed. Italy's contribution to Western civilization in such diverse fields as art, letters, religion, science, and philosophy has been enormous, and many of the greatest names in the history of Western man have been Italian.

From Giotto and Cimabue in the 13th century, through Da Vinci and Raphael and Titian and Michelangelo, Italian artists ranked second to none. The musical staff was established by an Italian, Guido d'Arezzo, while Palestrina, Monteverdi, Corelli, and Vivaldi left a renowned musical legacy.

Verdi and Pagannini and Donizetti helped to make the 19th century the great age of opera. Puccini and Leoncavallo were more recent operatic composers, who helped to assure that the language of music was Italian. Italian operatic singer Enrico Caruso was a legend in his time and Arturo Toscanini was generally regarded as the greatest operatic and orchestral conductor among all his contemporaries. Antonio Stradivari and Giuseppe Guarneri have bequeathed to us the beauty of their musical instruments, and Italian Bartolomeo was the inventor of the piano forte.

Italian writers have ranked among the world's greats and include Dante and Petrarch. Nobel Prizewinner Luigi Pirandello wrote plays that still serve as models to budding playwrights. Novelists Ignazio Silone and Alberto Moravia are widely read and have inspired successful motion pictures. Michelangelo Antonioni, an Italian filmmaker, has directly influenced the films Americans see today, and Federico Fellini and Vittorio de Sica produced movies no one else can hope to emulate.

Italy has produced many renowned figures in the fields of philosophy and statesmanship as well, such as Lorenzo de Medici and Giuseppe Mazzini, statesmen Camillo de Cavour and Giuseppe Garibaldi. Ranking Italian scientists include Galileo, Gugielmo Marconi, and Enrico Fermi, while our Nation can never repay its debt to Christopher Columbus and Amerigo Vespucci.

Obviously, the contributions of the above-named Italians have made our world a better place to live. Moreover, emergence of modern Western man would not have had as much impact or influence as it did, if it were not for the Italian contribution.

In light of all that the great nation of Italy has offered to the world, it is most appropriate that we pay homage today to the important anniversary of its birth as a republic. Let us not forget, moreover, that Italy has provided us with many of our citizenry as well.

From William Paca, who was a signer of the Declaration of Independence, to the present, Italian Americans have made enormous and lasting contributions to the strength and greatness of the United States. Our own Bicentennial is also a time to celebrate these achievements, and the theme of Chicago's 1975 Columbus Day parade was "From the American Revolution to the Present—the Contributions of the Italians." At that time we were proud to honor four Italian Americans who have risen to the highest ranks in each of our Nation's military services: the Navy's Rear Adm. Lucien Capone, Jr., the Army's Brig. Gen. T. B. Mancinelli, the Marines' Brig. Gen. Francis W. Tief, whose maternal grandparents were born in Potenza, near Naples, Italy, and the Air Force's Maj. Gen. Ralph J. Maglione.

It is with great personal pleasure that I extend my greetings and best wishes to the people of the Italian Republic, as well as to the Italian Americans in my own 11th Congressional District of Illinois and throughout our country, who are joining in this 30th anniversary celebration of the founding of the Italian Republic and the 200th anniversary of the founding of the United States.

May the Republic of Italy continue to experience peace, prosperity and progress in the years ahead and continue to work with our allies in NATO to bring about better understanding and mutual solutions to the economic ills that plague us at this time.

FOREIGN POLICY IN THE NEXT ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, there follow my remarks to the Chicago Council on Foreign Relations of May 28, 1976:

Foreign Policy in the Next Administration: How To Win Friends and Influence Adversaries

(Remarks of Representative Henry S. Reuss)

History seems to be closing in on the era of Nixon and Ford. Polls now show the leading Democratic candidate soundly defeating either potential Republican nominee. So it may not be too far-fetched to discuss the possible course of foreign policy in the next—Democratic—administration.

A new administration will mean an end for the central foreign policy figure of recent years. Let me give my own appraisal of Henry Kissinger's ministry, and then go on to suggest how the United States may, in the post-Kissinger era, begin to repair the large gaps in our power, prestige, and self-respect that have opened up in recent years.

During this administration the world has clearly become more secure. The United States is at peace. The land mines of the early sixties—Berlin, Formosa, Cuba, and Indochina—have been largely defused. Our relations with the Soviet Union have been regularized and strengthened. We have opened an important channel of communication and friendship with the Chinese. A three-cornered world, in which Soviet power must face both East and West, is inherently a safer place for us. To their credit, Nixon, Ford and Kissinger have helped bring such a world into being.

With this greater security, many old wounds are healing. After a period of apprehension, we now recognize and encourage the success of democratic forces in Portugal. After a period of penance for our excessive chuminess with the military dictators in Greece, our relations with that once-again democratic state are happily on the mend. In Asia, a political equilibrium of sorts may be at hand, with only Korea posing serious uncertainties for the near future. In Africa, we have at last focussed our attention on the festering problems of Rhodesia and Namibia.

Offsetting these successes is a long list of foreign policy failures. I will not dwell here on the examples of egregious Administration misconduct—the illegal bombing of Cambodia, our misguided support for the hopelessly disorganized Holden Roberto in Angola, the costly histrionics of the Mayaguez incident.

The personal criticisms that have been widely leveled against the Secretary of State—his distrust of the legislative branch and his passion for secrecy—are not really central. What are central are:

(1) The failure of Republican economic policy, and

(2) the indifference that has too often characterized our attitude toward fundamental human rights abroad.

The first is an albatross placed around the neck of Mr. Kissinger by the Republican Administration. The second is more of his own doing.

The failure of economic policy is a failure of leadership. The Administrtion has not coped adequately with the economic changes of recent years. It has permitted our economy to become unstable, and our rate of growth to sag. This, tied to other economic misfortunes, has done powerful damage elsewhere in the world, to our trading partners and especially to those who supply our non-oil resources.

Many countries now look to us to be the vanguard for their own recovery from the world-wide recession. They hope we will embark on a long period of stable growth without inflation—the kind of sustained expansion that our current macro-economic management cannot provide.

A stable, prosperous America, we must acknowledge, is more than a domestic dream. It is an international responsibility of the Government of the United States.

Current policies, producing as they do a rough four-year cycle of boom, inflation, and bust, will not achieve this goal. They should be replaced.

The second failure of American foreign policy is the casual way we have come to look at basic human rights.

The painful lesson we ought to have learned is that the benefits of development cannot be separated from the costs. The industrial discipline required for a development effort comes into conflict with the genial parliamentary procedures of a free society. India is the most recent and tragic example. In Korea and Iran, in black Africa, fledgling parliamentary systems have been suppressed by strong-arm dictators. Only a few countries, often those blessed with vast natural resources as Venezuela and Kuwait, or with continued close ties to a former colonial power as Tunisia and the Ivory Coast, have withstood the trend to authoritarian rule.

The United States is not responsible for the rise of authoritarianism in the Third World. But we have too easily accepted the trend. In our relations with Chile, Brazil, and Korea, for example, we have failed to insist on minimum standards of human rights as a precondition for assistance. Our massive arms sales to developing nations have benefitted their elites and our arms suppliers, at the expense both of democracy and of economic development. We have, in short, shown an indifference to humane government when it has been under pressure in the Third World. We have failed to cry "Enough!" to authoritarians when they exceed the limits of decent behavior.

Security, based on military strength and cautious but stable relations with the Soviet Bloc, is a necessary bulwark of our foreign policy. But let us recognize that foreign policy is a three-legged stool. The other two legs are world-wide economic growth, and basic human rights.

The security leg responds to the posture of our potential foes. Why not add the economic growth and the human rights legs—policies that appeal to the aspirations of our potential friends?

Together, they make the three-legged stool whereby we can win friends and influence adversaries.

I. ECONOMIC GROWTH

Three years ago the rise of oil prices and the Arab embargo rudely awakened us to the now celebrated phenomenon of interdependence. Since then, we have become critically aware of the impact of foreign economic events and policies on us.

But there is a crucial difference between recognizing the impact of foreign economic events on ourselves, and accepting our responsibility to maintain our domestic economy at high levels of output and employment in the interest of the rest of the world.

It is true that we are coming out of the deepest recession in nearly 40 years at a fairly healthy pace. But the fact is that the recession of 1974–75 was exacerbated by a misguided monetary crunch, by a sucession of spending vetoes, and by President Ford's failure to see the need for tax reductions until the disaster was upon us. The recovery of 1975–76 was set off by the tax reductions, and by programs for jobs and housing passed over the President's veto. It was sustained by the tax reduction extension of December, 1975, and by the Federal rescue of New York City, both achieved after long struggles.

If this Administration remains in power, it is likely that the recovery will swim along until it comes up short before supply bottlenecks and inflationary shortages.

When the bottlenecks and inflationary shortages appear, I fear a repeat of the feckless pattern of the past—a sharp contraction of money, and the economy tipped over once again into a recession. Some forecasters have already made such a prediction for 1978. It will surely come true if Chairman Burns implements his announced goal of a money supply growth rate of only 1 to 2 percent in future years.

The international effects of this action, once again ignored in making the decision, could be catastrophic—plummeting commodity prices, declining output and employment in the developed nations, and a sharp reduction of foreign investment and a renewed debt crunch for the poorer nations. Once again, we will be told that the recession is the result of factors outside *our* control.

This combination of wild swings and lame excuses cannot continue. Our domestic business cycle is a crucial part of our international relations. Our foreign policy—no more than our domestic policy—simply cannot afford a domestic economic management that lets the cycle get out of control.

Must we live forever with an attitude of oriental fatalism toward our economic condition? Emphatically not. 1976, may we recall, is as much the 40th anniversary of Keynes' General Theory as it is the bicentennial of the Wealth of Nations.

It is time for the United States to take the lead to break the back of the perpetual business cycle. We must begin work toward a stable international economic order—of high employment and low inflation.

A noninflationary, high-employment economy has been a national goal since the Employment Act of 1946. Getting to full employment now and staying there is no easy task. It will require correctly-targeted fiscal stimulus, adequate money supply growth, and special employment programs to provide jobs for those seeking work, especially in our underemployed central cities. In the private sector, we need improved manpower training policies, national and regional labor exchanges, and more relocation and retraining assistance. Perhaps more important than any specific program, achieving the full employment will require a national commitment to attack unemployment, come hell or high water, recognizing the difficulties, and to stick with it until we've found a mix of public and private sector policies that works.

Achieving stable prices is a more difficult goal. Economic recovery and sensible fiscal and monetary policies will do part of the job. But more specific measures may be required. A carefully constructed price and incomes policy, politically unpopular at present, may prove economically indispensable in the future. This would include a mechanism to moderate price increases in concentrated industries, together with a social contract with labor to avoid inflationary wage increases in return for full employment, price stability, and equality of burden-sharing.

a. A policy for the industrial democracies

The period just ahead promises relative tranquility and easy policy choices in our relations with our strongest industrial allies. Economic recovery, however, short-term is a great healer. The threats of competitive devaluations, of beggar-thy-neighbor policies, of fierce struggles over trade barriers, diminish as prosperity returns to the developed world. The political clouds overhead in France and Italy will be lightened, though hardly dispersed, by favorable developments in the world economic picture.

But what of the longer term?

One of the more intriguing developments of the past several decades has been the integration of the economies of Germany and Japan with those of their smaller neighbors.

Austria, Denmark, Belgium and Holland are closely linked with Germany. Korea, Taiwan, Indonesia, Hong Kong and Singapore rely increasingly on the prosperity of Japan. The direct economic influence of the United States in Southeast and East Asia—as well as that of the Dutch, the British, and the French among the old colonial powers—is fading.

Why not embark, with the governments of Germany and Japan, on an unprecedented experiment in international coordination? Why not undertake—on an informal basis at first—to coordinate the expansion of our three economies so that we can achieve, and hold to, the goal of stable growth at full employment for all? Why not try to avoid simultaneous and mutually reinforcing booms and busts? How better can the wealthy countries aid the poorer than by providing a full-employment demand for the latter's products? Ultimately, if the only way to ensure full employment without renewed inflation is to plan together on a host of economic issues—not just tariff and trade questions, but also issues of domestic fiscal and monetary policy—why not do it?

Germany and Japan, alone among the industrial democracies, have the economic strength and the political flexibility to make some of the sacrifices that trilateral economic coordination would require. In particular, both Germany and Japan would have to pursue export-led growth with less fervor than they have in the past, thereby permitting some of the weaker industrial economies, such as Italy and Britain, and the "upper tier" of the Third World, to export more so as to take up the slack. For similar reasons, Japan would also have to lessen its pressure on the U.S. export market. For all three major countries, better to achieve adequate domestic demand than to rely on hyped-up exports.

Coordination between our economy and those of Germany and Japan, incidentally, could provide possibilities for institutional exchange. We might study the German system of worker co-determination, for example, or a modified version of the Japanese system of permanent employment.

We may have good advice for each other from time to time, such as Chancellor Helmuth Schmidt offered last fall when he advised us not to abandon New York City.

Perhaps most important, a joint commitment among the three strongest industrial democracies to approach our economic problems jointly would set an example for the world.

Joint measures that would facilitate international coordination can be implemented now, without extensive new multilateral negotiations. The GATT and the International Monetary Fund (IMF) could contribute to keeping cut-throat exchange rate and trade competition under control. In examining the exchange rate behavior of a particular industrial nation, the IMF should look for signs that the country may be seeking to avoid its responsibility for maintaining a high level of domestic employment by the strength of its own internal demand. Any depreciation in the exchange rate in the absence of appropriate policies to sustain domestic demand should be viewed with great skepticism.

Finally, there are steps that we can take entirely on our own to improve the climate for international economic coordination. To the extent that domestic conditions permit, we should try to keep our interest rates at about the average of those in the other industrial countries, or perhaps a bit lower, and let them fluctuate as little as possible. The effect would be to promote real investment in this country—thereby stimulating our own employment and production—while discouraging massive inflows of short-term foreign capital. By keeping our rates relatively steady, we spare our major trading partners the burden of adjusting to shocks generated in the United States.

One word about style. This U.S./German/Japanese cooperation should not "come on too strong". We would simply be taking a first step toward the economic well-being of all, in which any number can play.

b. International monetary policy

Let me add a word about recent developments in international monetary policy that will reinforce such a policy toward our major trading partners. In monetary affairs, as in non-monetary economics, a high, stable rate of growth without inflation is the key to success. There will be no long-term monetary stability until we succeed in the quest for coordinated, stable growth of the major industrial nations.

The essence of last January's Jamaica agreement to reform the international monetary system was, wisely, to accept the status quo: the legitimization of floating exchange rates as opposed to a commitment to return to "stable but adjustable par values".

Thus, practically all countries now accept limits on their ability to determine exchange rates. The search for symmetry in adjustment via multi-currency intervention has been abandoned. The dollar is likely to remain the primary intervention currency throughout the foreseeable future. The role of gold in the international monetary system is being reduced by abolishing its official value and by sales from IMF stocks. But the role of the dollar is hardly being reduced, and, contrary to what was envisaged, there is no current prospect of reintroduction of dollar convertibility into gold or into Special Drawing Rights, or of additional creation of SDR's or of other actions to make them the principle reserve asset.

By accepting the status quo, the Jamaica accord has implicitly ratified an inconvertible dollar standard. The world can presumably go on for another ten, fifteen, or twenty years with the arrangement we presently have. Whether the present system will break down depends upon how IMF members view their individual responsibilities, and the degree to which they try to foist their own problems onto other countries. Special responsibilities naturally fall to the United States as the issuer of the currency held most widely as a reserve asset, and used most extensively to intervene in exchange markets. How this country discharges these responsibilities will have a major impact on the viability of the international monetary system in coming years.

The Rambouillet Declaration of last November pledged efforts to work for greater monetary stability by attempting "to restore greater stability in underlying economic and financial conditions in the world economy". At the same time, it continued, "our monetary authorities will act to counter disorderly market conditions or erratic fluctuations in exchange rates." The new Article IV arrived at in Jamaica contains similar language, obligating IMF members to "seek to promote stability by fostering orderly underlying economic conditions".

The language of Article IV is particularly important because of its emphasis on the means intended to achieve greater stability in exchange rates. A number of journalists interpreted the Rambouillet Declaration to mean that greater stability in exchange rates would henceforth be achieved through more intervention in exchange markets by monetary authorities. In fact, I take the Rambouillet philosophy to be just the opposite.

Specifically, we can expect stability in exchange rates to emerge only as a reflection of economic stability in the countries issuing currencies used in international trade and investment, and from a reduction in differences among countries in rates of inflation and productivity growth. In the absence of greater "underlying" stability—some rough harmony in rates of increase in prices and productivity—the search for greater stability in exchange rates will bear no fruit.

Some were distressed early this year by the inability of the Bank of France, after the expenditure of billions in reserves, to maintain the franc within the specified margin of the German mark, and the Bank's consequent decision to let the franc once again fall out of the "snake". This did not disturb me.

The philosophy underlying the snake—that the currencies of a group of European nations should be locked together—is antithetical to that of the Jamaica accord, which emphasizes that exchange rate stability should be expected only as the outgrowth of stability in underlying economic conditions. With the rate of inflation in France running at about twice that in Germany, the old structure of rates could not be expected to endure.

These recent developments in Europe have proved once again that authorities cannot impose stability on exchange markets or maintain a given configuration of rates if the underlying economic basis is not there to support them. By stepping in only when necessary to curb market disorder, monetary authorities can permit the private market to perform a stabilizing role. They can avoid subsidizing the rates at which funds can be exchanged. And they can help promote expectations of stability. This is the sort of example that U.S. monetary authorities ought to set.

c. Our economic stance toward the Third World

Unglamorous as it may seem, the most important thing we can do for the developing countries today is to return our economy and those of our strongest allies to a path of steady growth. The recent recession has cost poor countries more again in lost export receipts than the quadrupling of oil prices and sharply increased food and fertilizer prices. By stabilizing our economies, demand for the Third World's exports, will insure the steady growth through trade, and will distribute the benefits of expansion worldwide. It will provide a suitable climate for the poorer countries to get on with their own development programs.

Beyond maintaining growth—and hence demand—in the developed world, we need to think of taking more exports from the developing countries. Countries like Brazil, Korea, Taiwan and Mexico are beginning to export manufactured goods competitive with our own. These countries must export still more if they are going to be able to pay for the imports of capital and raw materials that they need to achieve rapid economic growth. We should encourage this process. Full employment at home, accompanied by effective adjustment assistance for workers, plants, and communities, can make it painless.

Recently, we have made some successful bows at liberalized trade. We have wisely resisted the temptation to turn protectionist against Brazilian shoes. In January, under a scheme of Generalized Special Preferences, we eliminated tariffs on a large number of exports from developing countries. The proposal to remove all tariffs on tropical products, made at the U.N. Seventh Special Session, should be carried out expeditiously. We should also start reduction of tariffs on processed raw materials. Such cuts would permit the natural growth of processing industries near the source of supply. It makes sense for bauxite producers to refine their ore to aluminum before shipping it to us.

But, while encouraging the developing world to pursue growth through trade and investment we should continue to be wary of commodity agreements—considered in some quarters to be the *sine qua non* of world economic justice. While an arrangement for nationally-held international reserves of wheat, for example, could have major benefits for all of mankind, most commodity arrangements do not produce the benefits they promise. Agreements that fix prices *too high* lead to substitution of alternative products, uneconomic investment, and the possibility of politically motivated disruption of trade. Agreements whose objective is to *stabilize* prices around an underlying trend, on the other hand, could benefit both partners to the trade by facilitating planning and investment, if it were not so difficult to identify and agree upon the underlying trend. There is little reason to believe, over the long haul, that government officials would be any more effective in fixing prices than they have been at fixing exchange rates.

The United States needs to take the lead in anticipating changing patterns of trade in the 1980's. We need to do a little planning now ourselves—what the Swedes call labor-market policies—to anticipate which industries will be faced with the most competition from the developing countries. We need to orchestrate employment opportunities between the rich and poor countries, among regions and sectors. It is time for once that we anticipated problems, instead of merely reacting when individual workers' livelihoods are threatened.

d. Aid for the poorest

Stabilizing the world's economic growth and liberalizing trade will have a great impact on the development of the Third World as a whole. But that alone is not sufficient. The United States must maintain its commitment to provide economic assistance to the poorest, to what is sometime referred to as the Fourth World.

Since 1974 our bilateral aid effort has been sensibly redirected toward rural sectors, small-scale industry, and those programs particularly designed to eliminate poverty. The soft loan windows of the multilateral development banks—International Development Association, Asian Development Bank, African Development Bank, Inter-American Development Bank—are also designed to provide assistance at terms most favorable to those who most need it. Gimmicks to help the poor countries, such as the International Resource Bank recently proposed by Secretary Kissinger, distract us from our commitment to these programs.

e. The role of private investment

This Administration has stressed the virtues of private investment, and the role of multinational corporations, in providing resources for poor countries, and has downplayed the need for direct foreign aid. Multinational corporations have mobilized capital, technology, and management for the benefit of poor countries. But this has not been without costs. Often these large corporations have meddled in domestic politics or they have used their economic leverage to sway government policy. Since most developing countries are dwarfed by the huge multinationals, the corporations can ignore a country's sovereignty and cause social and political dislocations that may offset any economic gains.

To be realistic, poor countries will have to utilize private capital flows as well as public if they wish to accelerate their development. But we need to recognize the right of poor countries to regulate capital imports, and the activities of multinational corporations, in a fashion consistent with their own development plans. Though we are less vulnerable than developing countries, we share many of their concerns about the abuse of power by large corporations. We have come to realize that what is good for General Motors is not necessarily good for the U.S. Similarly, we must not assume that what is good for U.S. multinationals is necessarily good for all the Third World.

II. HUMAN RIGHTS

We now turn to the third leg of the three-legged foreign policy stool—human rights.

I see no reason why we should continue to debase ourselves—in the eyes of our democratic allies, of our own people, and of progressive forces in the Third World—by continuing to cast our lot with petty military dictators whenever it serves some imagined short-term interest.

What conceivable benefit does the United States derive from pouring more millions down the sinkhole provided by the military dictatorship of Chile? What do we get from bankrolling General Stroessner in Paraguay? Or from the Somoza family in Nicaragua? In each of these cases—and many more besides—a little pressure could go a long way toward the reestablishment of basic human rights and political freedoms. There is no excuse for not applying it.

We should seek ways to measure our support towards governments according to their respect for basic human rights. For example, we cannot realistically withdraw our troops from South Korea. Reduction of our economic assistance would probably prove more painful to the citizens of Korea than to their government. Even if economic discontent contributed significantly to the constitutional crisis, we cannot be sure that the outcome would be preferable to the present situation. But we surely do not need to lend an air of legitimacy to regimes that trample on democratic rights by sending our President to confer with foreign dictators and to appear publicly with them.

We have found—in Angola and in Chile—that misdirected interference can produce unhappy results. In Angola we suffered a defeat we could have avoided merely by staying out of the contest. In Chile we are now desperately trying to bandage with dollars the wounds inflicted by the military with torture and assassination. If the military regime in Chile were to collapse, despite our continued support, it would be years before we could ever again enjoy a relationship of mutual respect with that beleaguered country.

We have also found—notably in Portugal—that simple non-interference can produce spectacular success. People everywhere really do share our ideals of political participation and human rights. But they do not gladly accept the imposition of these ideals from without. Had the CIA barged in to support General Antonio de Spinola or some other right-wing Portuguese general who promised to "save democracy" at the time of the aborted right-wing coup, I am sure that the improved situation we see there today would not have been attained. In a similar vein, we should accept the workings of democracy in Italy and France, rather than attempt to influence any further the results of their upcoming elections.

What general lesson can we find in these diverse examples? Only that there is a time to step in, a time to withdraw, and a time simply to trust the good sense of our friends and neighbors. We need most to keep our eyes on a common set of goals—prosperity shared, national security safeguarded, and human rights respected.

This three-legged stool, I suggest, will work better than our present one-legged stool. If there is a new Administration, look for it.

THE PLIGHT OF BORIS PENSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated. The purpose of our vigil is to focus national attention on the Soviets' persistent violation of the Helsinki Act; hopefully, our vigil will encourage the Soviets to end their policy of separating families by national boundaries.

Today I would like to bring to the attention of my colleagues the plight of Boris Penson, a "prisoner of conscience," who was sentenced to 10 years in a labor camp in the Leningrad trials. Boris' mother is now living in Israel. For some time prior to his mother's being allowed to emigrate to Israel, while she was still in the Soviet Union, Boris was denied visits by her. There was serious cause for concern over Boris' well-being, yet all of our efforts to obtain information from Soviet authorities as to his safety were in vain, and his mother's pleas to visit her son went unanswered.

For over 2 years, I communicated with Boris Penson, but recently—in fact, shortly after his mother was permitted to emigrate to Israel—all my mail to Boris was returned to me stamped "Retour Inconnu." I have not been able to obtain any information as to whether he has been moved to another camp.

Mr. Speaker, it is sufficiently distressing that Boris Penson and his mother remain separated by national boundaries; it is even more tragic that there exists a great deal of uncertainty over Boris' whereabouts and well-being.

I will persist in my efforts to obtain information about Boris and to urge the Soviets to allow him to emigrate to Israel to join his mother. I fear, however, that until the Soviets begin to honor their commitments, such as that pledged in the Helsinki Act, our efforts will continue to be in vain.

ON THE DEATH OF MARTHA MITCHELL: CASSANDRA IN THE NIXON WATERGATE YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, I regret the death of Martha Mitchell. She had the role of Cassandra in the Nixon Watergate years. Even though no one was listening and comprehending, she was alerting the country to the political and moral dereliction then taking place—and her statements and predictions on what was transpiring in the White House were all true—even the prediction that her husband, then Attorney General John N. Mitchell, would willingly go to jail for then President Nixon. While Mr. Mitchell is not yet in jail, pending appeal of his conviction to the U.S. Supreme Court, he has been sentenced and will in all probability ultimately serve time in the slammer.

Martha Mitchell had outspoken views on a whole host of social matters that an overwhelmingly majority of Americans, including myself, deplored, but she was entitled to hold them as we are entitled to hold our views. She had grace, wit, and a sense of humor and charm that was irrepressible. She was also one of my most interesting constituents. In the retelling of the saga of Watergate in the years to come, her role as a Cassandra will undoubtedly receive greater note.

Mr. Speaker, I am appending the obituary which appeared in today's New York Times.

May God grant her peace.

The obituary follows:

[From the New York Times, June 1, 1976]

MARTHA MITCHELL, 57, DIES OF BONE-MARROW CANCER

(By John T. McQuiston)

Martha Mitchell, the outspoken estranged wife of former Attorney General John N. Mitchell, died early yesterday at the Memorial Sloane-Kettering Cancer Center. She was 57 years old.

The physician, Dr. Klaus Mayer, attributed her death to multiple myeloma—a rare type of malignancy that attacks bone marrow—complicated by hemorrhage and terminal bronchial pneumonia.

Mrs. Mitchell had suffered from the malignancy since early 1975 or before and had been unconscious since her hospitalization Sunday following a cardiac arrest, according to Dr. Mayer, who is director of the blood bank and hematology laboratory of the cancer center.

None of Mrs. Mitchell's family was present at her death. Her son, C. Ray Jennings, who had been in close touch with her, was out of town and could not be reached yesterday, Dr. Mayer said. Mr. Mitchell had been apprised of her condition but did not come to the hospital because she was unconscious and because he might have been in the way in the intensive care unit, said Dr. Mayer, who added that Mr. Mitchell had been "very concerned."

Mrs. Mitchell, whose candid views were widely reported by the press, had ruffled the staid Nixon Administration both before and after the exposure of the Watergate scandal.

As a Southern conservative, she enjoyed criticizing liberals, urged "discipline" for Vietnam war protesters and suggested that the American press might be suppressed if it continued to reveal Government secrets. When the Watergate scandal broke, she did not hesitate to turn her barbs on the Nixon Administration, urging its officials "to tell it the way it really is."

It was not unusual for Mrs. Mitchell to telephone a reporter late at night and tell what was on her mind. In one such call to The New York Times in March 1973, she said that she thought somebody was trying to make her husband "the goat" for the Watergate scandal and that she was "not going to let that happen."

Mrs. Mitchell insisted that the scandal originated at the White House and that President Nixon was to blame. However, her sometimes burlesque use of the telephone and the press reduced her credibility.

When the former Attorney General was on trial in New York City in March 1974 for alleged influence peddling, Mrs. Mitchell repeated her contention that her husband had been "framed" and that some day she would document the Watergate scandal in a book—a book that has never been published.

During one of her Watergate interviews, Mrs. Mitchell charged that the White House, in an effort to discredit her, had spread "lies" and "rumors galore" about her that suggested she had been in an insane asylum.

Mrs. Mitchell had complained that on the weekend the Watergate break-in was discovered in June 1972, she was being held as a "political prisoner" at the Newport Inn at Newport Beach, Calif. She had also contended that she had been given injections and held in her room against her will by Steve King, a security official.

This was later confirmed by James W. McCord, Jr., a convicted Watergate conspirator who was Mr. Mitchell's bodyguard before he became chief of security for President Nixon's re-election campaign. Mr. McCord said Mrs. Mitchell was "basically" kidnapped in 1972 to keep her ignorant of the Watergate break-in.

At the time the Watergate scandal broke with the break-in and burglary of the Democratic national headquarters at the Watergate office and apartment complex in Washington, Mr. Mitchell was Mr. Nixon's national campaign manager. He had resigned as Attorney General to assume the campaign post, a post he was later forced to give up because of the scandal.

In subsequent trials, he was acquitted in New York of alleged influence peddling, but convicted in Washington of perjury and conspiracy to obstruct justice. He was disbarred from practicing law in New York State.

FOUR TOP AIDES CONVICTED

Mr. Mitchell was one of four Nixon Administration officials who were convicted on Jan. 1, 1975, of all counts in the Watergate cover-up trial. The others were H. R. Haldeman, John D. Ehrlichman and Robert C. Mardian. The three-month trial culminated the principal investigation and prosecution of persons responsible for the political scandal.

On Aug. 9, 1974, President Nixon, facing impeachment charges in the House for his part in the Watergate cover-up, resigned. A month later, he was pardoned by his successor, President Ford.

The Mitchells' 14-room Fifth Avenue apartment was expensively decorated and comfortable, but it eventually became a place of confinement. During the height of the public interest in Watergate and Mr. Mitchell's trials, the mood was bitter.

Hour after hour, Mr. Mitchell's chauffeur-bodyguard stood at the living-room curtains peering down on newsmen in parked cars on the street below. Mrs. Mitchell would tell visitors in the summer of 1973, a few months before their separation, "Four years ago we had everything, and now we have nothing."

In May 1976, Mrs. Mitchell won a judgment of $36,000 in back alimony from Mr. Mitchell in the New York Supreme Court in Manhattan. Justice Manuel Gomez, in making the judgment, said the former Attorney General had submitted no proof that his finances were "as precarious as he contends."

The public first learned that Mrs. Mitchell was ill of cancer in October 1975, when she was hospitalized in Washington for treatment of a bone marrow disease that her doctor described as a "type of malignancy." The disease was later defined as myeloma, a rare form of bone cancer that is always fatal, most frequently attacking the pelvis, spine and ribs.

Mrs. Mitchell had suffered fractures of the ribs, vertebrae and a femur. She was released in January 1976 after two months of chemotherapy at the Sloan-Kettering Institute for Cancer Research, but was readmitted in May to the Hospital for Special Surgery for treatment of a broken arm suffered in a fall at her Fifth Avenue apartment. Doctors said she had progressed from a wheelchair to a walker.

Mrs. Mitchell was born Martha Elizabeth Beall on Sept. 2, 1918, in Pine Bluff, Ark. She attended the University of Arkansas, graduated from the University of Miami and taught school in Mobile, Ala. She quit after a year, saying she "despised it."

During World War II, she married Clyde W. Jennings, a businessman, but the marriage ended in divorce. The couple had a son, C. Ray Jennings, now 28 years old, who during the last several months has been caring for her and serving on occasion as her spokesman.

She met Mr. Mitchell in New York City in 1954, and married him in 1957. They had a daughter, Marty, now 14 years old. Mr. Mitchell won custody of her in another highly publicized court battle after their separation.

It was in the mid-1960's that the Mitchells became friends with the Nixons. Both Mr. Mitchell and Mr. Nixon were then with the same Wall Street law firm.

Mrs. Mitchell, a Presbyterian, often went to the Marble Collegiate Church and praised its pastor, the Rev. Norman Vincent Peale.

The funeral and burial are scheduled for Thursday morning in Pine Bluff, Ark.

GAO ACCESS TO FBI FILES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, as chairwoman of the Government Operations Subcommittee on Government Information and Individual Rights, I have, for the past 6 months, been attempting to get the General Accounting Office to do various needed audits of several Federal Bureau of Investigation activities. As I reported to the House on March 23, 1976—page 7691, CONGRESSIONAL RECORD—I had asked GAO to audit the Inspection Division of the FBI and also to determine whether the FBI's published listing of its systems of records on individuals was complete and conformed to the requirements of the Privacy Act of 1974. The FBI refused to give GAO the needed access to files and records until "ground rules" could be worked out. Although I fail to understand why it should have taken 6 months for these arrangements to become final, I am pleased to report that by letter dated May 21, 1976, from the Comptroller General to FBI Director Kelley, a procedure to allow GAO access to FBI files has been agreed to. Although I am not completely satisfied with these "ground rules," at least they will allow a beginning to much overdue audits of FBI activities.

The texts of the letters follow:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 27, 1976.

Hon. BELLA S. ABZUG,
Chairman, Government Information and Individual Rights Subcommittee, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: In response to your interest, we are providing you a copy of my May 21, 1976, letter to FBI Director Kelley, which sets forth the procedures we will follow in reviewing FBI programs and operations. Also enclosed is a letter to me from Director Kelley dated May 24, 1976, in which he agreed with these procedures.

Together the letters constitute an agreement which should allow GAO to conduct independent audits of FBI activities without impeding the FBI's capability to carry out its law enforcement mission.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., May 24, 1976.
Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: I am in receipt of your letter dated May 21, 1976, detailing the procedures with which the General Accounting Office is to conform during its review of the FBI's operations. I agree with the arrangements set out therein and I will make them known to the Attorney General and to those in the FBI who may be involved in your reviews.

I want to thank you for your consideration in resolving this matter and I am pleased we have been able to agree and can move forward with the reviews.

Sincerely yours,
CLARENCE M. KELLEY,
Director.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 21, 1976.
Hon. CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation,
Department of Justice,
Washington, D.C.

DEAR MR. KELLEY: Following our March 23, 1976, meeting with the Attorney General, subsequent meetings with members of your staff, and my May 12 conversation with you, we are furnishing you the procedures under which the General Accounting Office plans to review FBI programs and operations. Our procedures will be similar to (1) those we followed during our review of the FBI's domestic intelligence program and (2) those of which we advised the Deputy Attorney General in Mr. Lowe's March 10, 1976, letter.

As with other programs of the Department of Justice, and other Federal agencies as well, the GAO will review the efficiency and economy, and effectiveness of the FBI's programs and operations. We will advise the Department of our plans as we initiate new assignments at the FBI in accordance with our previously established procedures for all work at the Department. Additionaly, we will advise the FBI, in writing, of the overall objectives and scope of anticipated reviews, an estimate of the time frame of such efforts, the FBI facilities and locations we will visit, and a general description of how we intend to carry out the reviews. We will also advise the FBI of the nature of interviews of FBI employees we will undertake during our reviews and will work through a designated FBI liaison in arranging for these interviews.

As we did with our report on the FBI's domestic intelligence operations, issued February 24 1976, we will give the FBI the opportunity to review draft reports on the results of our reviews to determine whether they contain any sensitive information which the FBI believes might compromise its operations. If GAO and FBI staffs cannot promptly resolve all differences, the matter will be referred to the Comptroller General and the FBI Director for resolution.

After agreement has been reached on the extent to which sensitive material will be included in draft reports, we will formally submit the draft report to the Department of Justice and FBI for their comments in accordance with GAO reporting procedures. Any comments will be added to GAO's final reports.

There is the possibility that GAO might receive requests from congressional committees or Members to obtain FBI documents or files of specific individuals or specific groups, including those which the FBI may, on its own, refuse to provide to such a requestor. It is our policy not to serve as a conduit for such information. We will advise the requestor that he should deal directly with the FBI in such cases.

We will need to review FBI documents during our audits of FBI programs and operations. It should be understood that a request for and use of documents during our work does not necessarily mean that information in the documents will be included in GAO reports.

The FBI has maintained that GAO should not have access to individual investigative files. We have continually emphasized that we needed such access to determine how, and to what extent, FBI policies and procedures are being implemented. The FBI is concerned that public knowledge of our access to such files could weaken the Bureau's credibility and negatively affect its capability to develop informants. The FBI policy has been that all information received from informants is received on the basis that it will be treated in strict confidence and that neither the name of the informant nor the information which he provides will ever be released outside the Bureau in a form that could lead to identification of the informant.

In our opinion, our statutory authority clearly provides for us to have access to FBI files and documents. However, in order to expedite our initiation of further work at the FBI, we will agree to try the following arrangement.

The names of all informants, confidential sources, and other appropriate individuals will be excised from all FBI documents provided GAO. Additionally, if information obtained in certain instances would identify the informant, the FBI and GAO staff will discuss the matter and work out a procedure so such information is not presented in a way that could result in identifying the informant.

GAO will be provided copies of appropriate FBI policy documents (e.g., Manuals of Instruction, and Rules and Regulations) and policy correspondence as they pertain to specific reviews GAO initiates and on individual request.

In lieu of complete access to investigative files pertinent to specific GAO reviews, GAO will be provided:

(a) A brief general description of documents in the file. (This can be orally or in writing, depending on the circumstance.)

(b) Copies of report synopses and letterhead memoranda.

(c) Copies of additional file documents on a selected basis, when information in the documents noted in (b) above is not sufficient. This step would not be performed on a large-scale basis so as to reconstruct a particular file or substantial portions thereof.

If GAO believes it is necessary, after reviewing information provided in (a), (b), and (c) above, that it must have a more complete description of documents in the file, the case summary technique used during GAO's review of FBI domestic intelligence operations will be employed. However, due to its time-consuming nature this technique will be avoided whenever possible.

Active investigations will not be reviewed by GAO where disclosure of any information contained in such cases may prejudice the prosecutive process.

GAO will state in each report the extent to which it had or did not have access to FBI investigative files.

Documents requested by GAO should be provided as quickly as possible. If a situation occurs where GAO asks for a document that the FBI considers to be highly sensitive and not releasable and FBI and GAO staff cannot promptly resolve the issue, the FBI Director and the Comptroller General will informally discuss and resolve the matter.

In carrying out our reviews, we will not disclose the names or otherwise identify individuals and we will not disclose or identify specific groups that were, or are, the subjects of investigative files to anyone outside GAO, and within GAO, only on a need-to-know basis, unless such individuals or groups have been publicly identified by the FBI.

We will take all necessary precautions to protect any documents provided to us by the FBI, and will honor any security classifications applied to those documents. All information will be treated in the greatest confidence and in accordance with FBI security standards to prevent even inadvertent release of sensitive information. All GAO staff working on FBI reviews will at least have "Secret" security clearances and to the extent possible "Top Secret" security clearances. Also, we will retain appropriate FBI documents and pertinent GAO workpapers at locations approved by the FBI.

If the above arrangements are satisfactory, please advise me in writing of your agreement. I suggest that, after your concurrence, copies of this letter and your letter to me agreeing to the arrangements be made available to all staff in the GAO and FBI who will be involved in our reviews.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

ADDRESS OF CONGRESSMAN JOHN BRADEMAS, ANNUAL MEETING, AMERICAN ASSOCIATION OF MUSEUMS, WASHINGTON, D.C., JUNE 1, 1976

The SPEAKER pro tempore, Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I had the privilege today, June 1, 1976, of delivering the keynote address to the annual meeting of the American Association of Museums here in Washington, D.C.

I insert the text of my remarks at this point in the RECORD:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS, ANNUAL MEETING, AMERICAN ASSOCIATION OF MUSEUMS, WASHINGTON, D.C., JUNE 1, 1976

As I rise to speak to you today, I cannot help recalling that it was exactly seven years ago this month—in June of 1969—that I first had the privilege of addressing an annual meeting of the American Association of Museums. The meeting was in San Francisco and I told you then that I felt that the time had come, in the country and in Congress, to start shaping a sound and intelligent public policy for the support of museums in the United States.

I am pleased, in June of 1976, to be able to report to you that, glacier-like though the progress may seem to you, we have come a long way, in no small part because of the support of the American Association of Museums and your constituents across the country.

CHANGING ROLE OF MUSEUMS

Seven years ago, I spoke of what seemed to me to be the need for the Federal government significantly to increase its assistance to the nation's museums.

I cited the principal finding of the Belmont Report, which, you will recall, was prepared by a special committee of the AAM for the Federal Council on the Arts and Humanities and which warned:

"The totally unpredicted popular success of American museums has strained their financial resources to the breaking-point, has compelled them to deny service to much of the public and will require many of them, unless help comes, to close their doors.

"Museums have arrived at the point [concluded the authors of the Belmont Report] where they can no longer preserve and exhibit the national treasure without substantial national aid."

Two years later, in 1971, I introduced in the House of Representatives, with the co-sponsorship of my colleague, Congressman Dan Rostenkowski of Illinois, the first Museum Services Bill, which was aimed at providing Federal funds to museums of every kind for operating expenses.

The Subcommittee on Select Education, which has jurisdiction over the National Endownments on the Arts and Humanities and of which I am Chairman, then began to conduct hearings around the country to inquire into the changing role of museums in American life.

These hearings continued over four years as my colleagues and I listened to testimony here in Washington, in Chicago, Los Angeles, San Francisco, Boston, Fort Worth, Brooklyn and New York City.

We heard witnesses representing the Los Angeles County Museum of Art, the Natural History Museum of San Diego, the Amon Carter Museum of Western Art, the Brooklyn Children's Museum, the Kansas City Museum of Science and History, the Museum of the American China Trade, the Boston Zoological Society and the Metropolitan Museum of Art—to name just a few of the institutions represented before our panel.

In looking into the place of museums in our society, we found immense interest among Americans in seeing and studying the works of art, historic objects and scientific collections in our museums. The intensity of this interest is demonstrated by the fact that there are over three hundred million visits paid to museums in the United States.

And museums are contributing to their communities in new ways and are building new audiences. For example, *Museums USA*, a survey conducted by the National Endowment for the Arts for the fiscal year 1971–72, showed, for a sample of 1,821 museums in the fifty states and the District of Columbia, that 31 percent of all museums had developed programs to attract senior citizens and that 27 percent had made efforts to serve economically disadvantaged groups.

Of course, particularly striking is the demand for the services of museums as educational institutions. School children visit museums daily and there is hardly a city in America without a museum offering lecture series, guided tours and classes for adults and children.

Museums are no longer regarded simply as depositories of the past but also as centers of learning with active roles in the communities of which they are a part. Indeed, a 1974 Louis Harris survey concluded:

"All in all museums are valued as an important asset: the public agreed overwhelmingly (90 percent) that 'museums are an important resource for the whole community, because they tell us so much about the art and history of different cultures or about science and our environment.' "

Yet, to reiterate, such popularity has meant serious financial pressures on our museums.

FINANCIAL PRESSURES

The *Museums USA* survey reported that operating costs of museums had increased since 1966 by 90 percent. This rise in expenditures necessitated cutbacks in services, staff or facilities, in over one-third of all the museums in the sample. And this survey was completed in 1973 since which time museum needs have, as you know better than I, continued to expand.

Fully two-thirds of the museum directors questioned in the study agreed that their current operating budgets did not permit them to use completely the resources of their museums.

For example, the Brooklyn Children's Museum, which offered workshops and visitation programs for 75,000 children in 1974, last year, because of budget cuts and staff reductions, served less than 50,000.

Because of the lack of funds, many museum directors feel unable to meet their responsibilities for cataloguing collections, providing sufficient security, conserving artifacts and training museum professionals.

And inflation has contributed to the financial problems of museums no less than to the problems of other institutions. A report made in September 1975 by the Council on Foundations to the National Council on the Arts called attention to the severe financial strains confronting the museums sampled in a survey of the relative impact of inflation on the arts:

"For some museums the the future will be truly problematic if municipal support continues to be cut and endowment income falls. (Even now the growth rate of this income seldom equals that of inflation.) The situation as a whole must still be judged "stable", but it is a stability fraught with unstable variables, any one of which could seriously damage or compromise the integrity of the museums in the sample and their counterparts elsewhere."

It is, I believe, significant that this report singled out the condition of museums as far more serious than that of other cultural institutions and said that the financial plight of museums made them particularly worthy of assistance.

THE FEDERAL ROLE

From what we have learned in our subcommittee hearings and elsewhere, it is obvious that the museums of America need help and that they need help from the Federal government.

I need not tell this audience of the radically different pattern of financing museums in the United States from that of other countries. Last year I took part in the Ditchley Conference in England on art museums and, in listening to the heads of a number of the great European museums, I realized very quickly that nearly all of them are subsidized with public money while most of the major museums in our country began with private benefactions and continue to receive much of their support from private sources.

Nonetheless, the participants at Ditchley agreed that European museums will in the future have to raise more private money while "both publicly and privately financed American museums are now in need of increased governmental support."

Now no one suggests that the Federal government should assume the full burden of supporting American museums. The directors and trustees of our museums, people like you here today, are, I know, committed to encouraging funds from private sources and from local and state governments.

Still, most of the witnesses who testified at our hearings told us that the time had come for the Federal government to lend a hand to museums not only for special projects but for operating expenses as well.

CURRENT FEDERAL SUPPORT

Most of us have been pleased with the assistance which both the Arts and Humanities Endowments have given to museums over the past few years in the form of grants for exhibitions, training for museum professionals, the purchase of objects and artifacts and the conservation of collections.

In the early years after the creation of the Arts Endowment, however, museums did not receive the attention they deserved. That is why, in 1970, my committee in the House of Representatives urged that more Arts Endowment funds go to museums and that there be created within the Endowment a separate division responsible for museums.

Since that time, both the Endowments have been responsive. In the current fiscal year the National Endowment for the Arts spent $10 million on its museum programs while the Humanities Endowment provided $5.4 million for museum projects.

In addition to funds from the two Endowments, the National Museum Act has, since 1966, enabled the Smithsonian Institution to assist the museum profession around the country with support for training, publications and research.

And, of course, the excellent museums which are part of the Smithsonian family depend on support from the Federal government—including the National Museum of History and Technology, the most popular museum in the world; the Hirshhorn Museum and Sculpture Garden, with its remarkable collection of 20th century art; the National Collection of Fine Arts; the Freer Gallery; and the National Air and Space Museum, to open on the fourth of July.

And Carter Brown would not forgive me if I failed to speak of the National Gallery of Art and of the excitement with which we look forward to I. M. Pei's handsome new wing.

ARTS AND ARTIFACTS INDEMNITY ACT

I must mention here, too, an important piece of legislation initiated by my subcommittee and enacted late last year, the Arts and Artifacts Indemnity Act.

This new law can be immensely helpful to museums throughout the United States in enabling them to bring to their communities from other countries a rich variety of works of art and other artifacts including painting, sculpture, crafts, rare books and manuscripts, photographs and motion pictures.

This measure, which I sponsored in the House of Representatives, as did Senator Pell in the Senate, provides for indemnification by the Federal government of exhibitions coming to the United States from abroad as well as of American exhibitions sent to other countries as part of an exchange program.

Prior to enactment of this law, two bills passed by Congress had provided special indemnification to make possible the showing in this country of the Chinese archeological treasures as well as the Scythian gold and silver artifacts which were the contribution of the Soviet Union in 1974 to an exchange of exhibits with the Metropolitan Museum of Art.

As you all know, both of these exhibitions had been imperiled by the high cost of insurance but the emergency laws, through the indemnification process, made possible these two remarkable showings.

The Arts and Artifacts Indemnity Act was premised on writing into general law the theory on which these two special measures were based.

Witnesses testifying on indemnification before any subcommittee reported that insurance premiums for international exhibition often account for one-half to two-thirds of the actual cost of mounting the displays. Museums have had to turn to special funds or the limited assistance of private donors to find support for the insurance for exhibitions which otherwise could not have been held.

Indeed, the high cost of insurance has compelled many American museums to curtail or cancel international exhibitions. Yet statistics show that most losses experienced in such exhibitions are less than $1,000.

The Arts and Artifacts Indemnity Act, which is administered by the Federal Council on the Arts and Humanities, provides, after the host museum has insured the first $15,000 of loss, for indemnification by the

Federal government of up to $50 million per exhibit, with a total limit of $250 million of indemnity obligations outstanding at any given time.

The regulations to implement the new law will become final following a meeting of the Federal Council on the Arts and Humanities on June 7. The first deadline for applications is set tentatively for June 11 with the first certificates of indemnification to be issued by September.

I believe that this new legislation will, over time, contribute, at very little cost, greatly to the enrichment of America's cultural life through making possible exhibitions of works from abroad in museums in communities of every size throughout our country.

MUSEUM SERVICES ACT

I turn, finally, to the overriding concern expressed by the museum directors and trustees and other witnesses as our hearings, the question of support for general operating expenses.

For, as a consequence of the hearings we have been conducting over the past four years, I again introduced in 1975 in the House again with the co-sponsorship of Senator Pell the Museum Services Bill.

This new measure will provide funds to support a variety of activities including the improvement of exhibits administrative costs, staff training, education programs, conservation, and the development of specialized programs, in short, funds for helping meet the general expenses of operating museums.

Let me here note that I expect the museum programs of the two Endowments to continue and, hopefully, to grow. But, as you are all aware, the Endowments have been reluctant to assist museums with operating expenses and have restricted their support to project grants.

My colleagues in the House and Senate and I have concluded that such limited assistance is no longer adequate.

Let me explain, too, that the Museum Services Act will provide funds to support museums of every kind, not solely museums of art. Indeed, the *Museums USA* survey commissioned by the National Arts Endowment show that more Americans visit museums of science and history than of art. Of the total number of visits made to the museums studied 38 percent were to science museums, 24 percent to museums of history and 14 percent to art museums.

Yet, understandably, museum support from the Endowments has been concentrated on art museums and somewhat less on museums of history.

The Museum Service Act would make support available to reiterate, to museums of all kinds, including those of art, science, history and technology, as well as to zoos and botanical gardens.

INSTITUTE OF MUSEUM SERVICE

You will perhaps understand why we in the House, in writing our bill, decided to locate the administering agency for the new program, an Institute of Museum Services, in the Department of Health Education and Welfare rather than in one of the two existing Endowments. For each of them has a narrower mandate in terms of the range of activities it supports than the broader spectrum of institutions to be served by the new Museum Services program.

Moreover, nearly every museum has at least some educational dimension.

As the House committee report notes:

"The measure is intended to assist museums in their educational role, to encourage the modernization of their facilities and procedures and to ease the general financial burdens experienced by museums."

The Institute of Museum Services will, in the House bill be administered by a Director, with the advice of a 15-member Board, broadly representative of the various kinds of museums as well as of the curatorial, educational and cultural resources of the nation and the general public.

The Director, Deputy Director and the Board will be appointed by the President with the advice and consent of the Senate.

As you may know the Museum Services Act is Title II of H.R. 12838, the Arts, Humanities, and Cultural Affairs Act of 1976, a bill which extends the life of the National Arts and Humanities Endowments for four more years, through 1980.

The House bill contains authorizations of $100 million each for the two Endowments for fiscal year 1977, $113.5 million each for fiscal year 1978 and such sums as Congress finds necessary for fiscal years 1979 and 1980.

For the new Institute of Museum Services, our bill authorizes $15 million and $25 million, respectively, for the first two years of the program, 1977 and 1978, and such sums as Congress may determine for 1979 and 1980.

I should also here note that the legislation contains another new title, which authorizes the National Arts Endowment and the National Humanities Endowment each to make "challenge grants" of one Federal dollar to match three dollars in private funds to cultural institutions in great need. The bill provides $15 million for the challenge grant program in fiscal year 1977, $20 million for fiscal year 1978 and such sums as Congress finds necessary for the remaining two fiscal years.

I should also remind you that the Senate version of the Arts, Humanities and Cultural Affairs Act also contains a Museum Services title, but that the Senate bill locates the administering agency in the National Foundation on the Arts and Humanities.

The issue of where the authority for running the new program should be placed can, I am confident, be resolved in conference.

What is, I believe, significant is that at long last the Federal government is moving toward recognition of the proposition that it is appropriate for Federal support to go to our museums not only for special projects but to help them meet the general expenses of their operations.

SUPPORT FOR MUSEUMS LEGISLATIONS

I realize that the Ford Administration has indicated opposition to the Museum Services program. But I realize, too, that the vote in the House of Representatives on April 26 for passage of the Arts, Humanities, and Cultural Affairs Act was 279 to 59, marking the smallest number of votes against the legislation in its history, with not a single speech on the floor in opposition to the bill.

And I note as well that no more eloquent voice in support of the Museum Services Act was raised during the debate than that of my distinguished Republican colleague, the ranking minority member of the Education and Labor Committee and the most respected Republican voice in the House on such legislation, Congressman Albert Quie of Minnesota.

But I do not think that we should take for granted the enactment into law of the Arts, Humanities, and Cultural Affairs Act of 1976.

We have in the White House the most veto-prone President of modern times.

Let me here simply say that after Senator Pell and I have gone to conference on the legislation and have produced a bill for consideration by the House and Senate, my colleagues in both bodies will need to hear from you and your colleagues across the country that you support it and, specifically, that you favor the Museum Services Act, which, I assure you, it will contain.

It has been a long time since that 64th annual meeting in San Francisco and I want you to know, speaking very personally, how deeply gratified I have been by all the help and support that you and the American Association of Museums have given those of us in Congress who share your concerns.

I believe that we are on the edge of a significant advance in the history of museums in the United States.

Will you then forgive me if I conclude these remarks with the same words which I used in speaking to you just seven years ago:

". . . You and I know that we live in a time of immense and growing pressures—of rapid urbanization, of war, of racial and social and economic conflict.

"In such a time, we need all the more, if we are to make this land what it ought to be, generously to support those institutions that elevate the character and quality of our national life.

"And among those institutions surely are the museums of America and the treasures of mind and spirit and history of which they are the keepers."

I still believe that.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, during the vote on House Resolution 1220 last Thursday, I was unavoidably absent due to illness. Had I been *present*, I would have voted "yea."

PERSONAL ANNOUNCEMENT AS TO VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, due to official House of Representatives business, attending the session of NATO parliamentarians in Brussels, Belgium, I was compelled to be absent on Wednesday, May 26, 1976, and Thursday, May 27, 1976. I would therefore like the RECORD to show how I would have voted had I been present.

Rollcall vote No. 306. H.R. 13965, making appropriations for the government of the District of Columbia. I would have voted "yea."

Rollcall vote No. 307. An amendment to H.R. 12945 that removes set-sides—earmarking—of $60 million for public housing modernization, $140 million for acquisition or construction of conventional public housing, and $575 million in operating subsidies for existing public housing projects. I would have voted "aye."

Rollcall vote No. 308. An amendment to H.R. 12945 that exempts social security cost-of-living increases in computing the rent paid by senior citizens in public housing. I would have voted "aye."

Rollcall vote No. 309. A committee amendment to H.R. 12945 that sought to insert a new section to create a Home Owners Mortgage Loan Corporation, as amended by an amendment that would include receipts and disbursements of the Corporation within the budget. I would have voted "aye."

Rollcall vote No. 310. H.R. 12945, to amend and extend laws relating to housing and community development. I would have voted "aye."

Rollcall vote No. 313. House Resolution 1220, the rule under which H.R. 12169, Federal Energy Administration authorization and extension was considered. I would have voted "aye."

HORTON AMENDMENT TO H.R. 12169, FEDERAL ENERGY ADMINISTRATION AUTHORIZATION ACT, SUPPORTED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Dodd), is recognized for 5 minutes.

Mr. **DODD.** Mr. Speaker, I rise in support of the amendment offered by the gentleman from New York (Mr. Horton) to the Federal Energy Administration authorization, H.R. 12169.

This amendment is aimed at alleviating an acknowledged burden now confronting small energy businesses.

The burden is the unreasonable and costly amount of paperwork required of these small businesses by Government agencies—particularly by the Federal Energy Administration.

A General Accounting Office survey shows that in the last 2 years, the FEA has imposed more than 7 million man-hours of work on the energy industry to complete 24 new reporting forms.

There is no doubt that the financial and administrative costs required to complete these reporting forms can be great. For instance, the FEA estimates that it takes 40 hours at about $15 an hour to fill out a report form—FEA P-314-M-O—issued to survey distillate and residual fuel oil sales. This form is sent to a sample of 1,200 fuel distributors each month.

The major petroleum companies can easily handle this type of paperwork and can pass on the costs to the consumer. Smaller, independent petroleum marketers, producers, and distributors, however, cannot afford the luxury of passing on the costs without pricing themselves out of the marketplace.

This amendment, Mr. Speaker, would insure that the FEA Administrator takes the size of the businesses required to file reporting forms into account to avoid overly burdensome requirements on small energy businesses, especially independent gasoline retailers.

There is not a day that goes by, that my office does not receive a complaint from a small businessman about bureaucratic redtape.

Insensitivity toward the small businessman by the regulatory agencies—including the FEA—was underscored in recent testimony by the Assistant Comptroller General Phillip Hughes before the Senate Interior Committee when he said, and I quote:

> Good management practices dictate that when an agency develops an information-gathering proposal, the cost and other burdens—to the respondents—of providing the information should be weighed against the expected benefits. We have found this is not done in most cases.

The assistant GAO head went on to tell the Senators that most agencies believe their need for information overrides the respondents' burden of providing that information. He said, quote,

> Agencies often put little thought into computing respondent burden and are, in any case, inclined to understate it.

By amending section 13 of the FEA Act, this measure, supported by the Independent Gasoline Marketers of America, the Nation's largest trade association representing more than 20,000 non-branded gasoline outlets; and the Independent Gasoline Marketers Council, representing some 3,000 service stations nationwide, would require the administrator to report to Congress annually on actions he has taken to reduce the reporting burden on the small businessman.

We have the opportunity now to assure the small businessman that his needs will at least be considered as the Federal Energy Administration continues its monitoring and survey activities.

I urge adoption of this amendment.

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. Harkin) is recognized for 5 minutes.

Mr. **HARKIN.** Mr. Speaker, I was unable to be present in the House of Representatives for the session of May 24, 1976, due to business in my congressional district which made it necessary to remain there on that day. Had I been present, I would have voted "aye" on rollcall No. 297, the vote on final passage of H.R. 13121 directing the Law Revision Counsel to prepare and publish the District of Columbia Code.

I would have voted "aye" on rollcall No. 298, the vote on final passage of H.R. 11009 providing for an independent audit of the financial condition of the government of the District of Columbia.

Finally, I would have voted "aye" on rollcall No. 299, the vote on the rule providing for the consideration of H.R. 6810, authorizing an additional Assistant Secretary of Commerce, and would have voted "no" on rollcall No. 300, the vote on final passage of H.R. 6810.

SANCTUARY FOR CHILEAN REFUGEES

(Mr. **OTTINGER** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. **OTTINGER.** Mr. Speaker, I am today introducing legislation to grant sanctuary and residence to refugees from Chilean political terrorism. Substantial evidence now exists to establish that both the U.S. Government and American corporations intervened covertly in domestic affairs in Chile to prevent the election of Salvadore Allende Gossens as President of Chile in 1970. These efforts resulted in a barbaric, military coup in 1973, and the death of President Allende, and the bloody repression of Allende supporters.

Supporters of the Allende democratic regime are being imprisoned, tortured and murdered, despite denials published in the press of both countries.

The Attorney General of the United States has the power to parole political refugees into the United States. Requests for parole are made by the Immigration and Naturalization Service. Through the International Committee on European Migration—ICEM—people who meet the requirements for parole under this program are identified. Chilean nationals who are or have been detained—either in jail, or under house arrest—qualify for the program.

The Chilean Government has agreed to allow a certain number of people to resettle in other countries, but its criteria for eligibility does not meet the requirements of political prisoners desiring to flee and seek sanctuary in other countries.

A New York Times article dated February 11, 1976, citing a United Nations report that "Chilean security agencies were continuing to operate with extreme ruthlessness" ranging from the methodical application of torture to "barbaric sadism" was brought home to me in a case involving a constituent whose brother was murdered by the secret police and who had been picked up by the military shortly after Allende was killed. He was arrested and subsequently tortured—brutally. He was released with threats to remain silent about what had happened or reprisals would be taken against him, his wife and family.

Fearing for his life he applied for a visa at the U.S. consulate and was given approval without question because he was a well-known public employee. He was subsequently granted political asylum.

His family, however, did not fare as well. His wife was questioned about her husband's whereabouts and why he had given up his job. A group of soldiers entered her home while she was alone with her four children and, aiming their machineguns, examined the house. The children were frightened and refused to continue to go to school. In December of last year, men not in uniform violently entered their home and carried her away blindfolded. She was questioned and tortured, and released after being cautioned not to tell anyone what had happened.

Shortly after her husband was granted political asylum, I commenced efforts to permit the wife and children to come to the United States. The Attorney General refused to parole them and, Immigration and Naturalization refused political asylum. They said asylum was only available to the husband, not to his family.

After the events involving the wife's torture she left the country and made her way to the United States, entering illegally with her four children.

I am now in the process of trying to persuade our Government to consider political asylum for the family. The complete story of atrocities against this man and woman are now of record, documented by medical statements. The picture is not pretty.

It is just such treatment that justifies the need for the legislation I am introducing today. The bill gives the consular officer authority to make determinations of eligibility for political asylum on proof showing danger to the applicant. Relatives of refugees already in the United States would be admitted with or without furnishing proof of persecution.

Our participation in the events of the past several years are a sad chapter in Chile's history. We should not seek to make the tragedy worse by denying sanctuary to the oppressed.

The text of the bill and a New York Times article elaborating on the situation in Chile follow:

H.R. 14127

A bill to grant certain nationals of Chile and the spouses, children, and parents of such national status as permanent residents of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding sections 201, 202, and 203 of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, any alien who is a national of Chile and is not in the United States shall be issued an immigrant visa—

(1) if it is determined by a consular officer that such alien—

(A) if in Chile, is being persecuted or is in danger of persecution on account of his political opinions, or

(B) if not in Chile, would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile; and

(2) if such alien applies for such a visa within the one-year period which begins on the date of enactment of this Act.

(b) Notwithstanding sections 201, 202, and 203 of the Immigration and Nationality Act section 21(e) of the Act of October 3, 1965, the status of any alien who is a national of Chile and is in the United States as a nonimmigrant shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence—

(1) if it is determined by the Attorney General that such alien would be persecuted or would be in danger of persecution on account of his political opinions if he returned to Chile; and

(2) if such alien applies for such an adjustment within the one-year period which begins on the date of enactment of this Act.

SEC. 2. (a) Notwithstanding sections 201, 202, and 203 of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965—

(1) any alien who satisfies the requirements of subsection (b) and is not in the United States shall be issued an immigrant visa; and

(2) the status of any alien who satisfies the requirements of subsection (b) and is in the United States as a nonimmigrant shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence.

(b) An alien satisfies the requirements of this subsection if—

(1) such alien is the spouse, a child, or a parent of a national of Chile who has received a visa or an adjustment of status pursuant to the first section of this Act;

(2) such alien—

(A) is a national of Chile but does not satisfy the requirements for receiving a visa or an adjustment of status pursuant to the first section of this Act, or

(B) is not a national of Chile; and

(3) such alien applies for a visa or an adjustment of status pursuant to this section within the one-year period which begins on the date of enactment of this Act.

SEC. 3. Any alien who is issued an immigrant visa pursuant to this Act or whose status is adjusted pursuant to this Act shall not be chargeable for purposes of the numerical limitations contined in section 201 or 202 of the Immigration and Nationality Act or section 21(e) of the Act of October 3, 1965.

SEC. 4. The definitions contained in sections 101(a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act.

[From the New York Times, May 26, 1976]

Human Rights in Chile

(By Jose Zalaquett)

The Chilean military junta is making yet another attempt to reduce the international opprobrium it suffers from. On his recent visit to Santiago, Secretary of the Treasury William E. Simon was greeted with the announcement of the release of 49 political prisoners and the lifting of a ban, enforced since July 1975, against visits of human rights commissions.

Likewise, in December when the Organization of American States agreed to hold its general session of June 1976 in Santiago, the number of arrests noticeably declined, and late in February the military junta issued a new decree advertised as a guarantee against the use of torture. Twice previously the junta had attempted to improve its human rights image.

In September 1974, it abolished the state of internal war in force since the 1973 coup, when the regime of President Salvador Allende Gossens was overthrown. However, since the war tribunals continued to function under new legislation, the change was in name only. In May 1975, a decree was passed to punish torture and prevent illegal detentions, and for two months, as is the case now, the number of new arrests declined substantially.

Nevertheless, during this same period correspondents of North American newspapers and magazines and the Committee of Cooperation for Peace, in Chile, an interchurch organization defending political prisoners, reported new instances of the death of prisoners, disappearances, and the continuation of torture.

In July 1975, the junta denied entry to representatives of the United Nations Human Rights Commission, which it had previously agreed to admit, and in the following months it barred North American correspondents. At the same time it mounted a strong campaign against the churches, beginning with the expulsion of the Lutheran Bishop, the Rev. Helmut Frenz, and culminating with the arrest of 11 members of the Peace Committee, among them a number of clerics. Gen. Augusto Pinochet then forced Raul Cardinal Silva Henriquez, to dissolve the committee.

One must thus question whether, in fact, the current gestures constitute any real improvement for human rights.

The 49 persons released before the visit of Secretary Simon represent little more than 1 percent of the political prisoners still in jail, and new detentions have continued. It is significant that on May 12, immediately after Mr. Simon's visit, Hernan Montealegre, one of the principal human rights lawyers in Chile, was arrested.

The process of arrest and release, which more than 95,000 persons have endured since the coup, continues. Torture remains a standard interrogation method—three cases were reported to me during the second week of April. Although the junta is carrying out fewer arrests, it has recently undertaken new measures to increase fear and silence critics. They are directed primarily against the churches, universities, labor unions, and some elements of the news media.

In March, the following events took place: Radio Balmaceda was shut down for six days for having reported a scarcity of sugar, and its director was arrested and confined to an isolated village near the Bolivian border; at least 103 adolescents were expelled from a secondary school for suspected political activities, and although General Pinochet ordered their readmission two weeks later they were still under investigation; a meeting called by the church to gather goods for indigent students was canceled; North American and Chilean labor union representatives called off a meeting because of the presence of secret police in the union hall; reprisals were taken against persons who spoke with three United States visiting Congressmen.

A sophisticated totalitarian government is more dangerous than a crude one, and the recent Chilean developments show the increased sophistication of the junta. But there is no evidence of any real progress for human rights.

Investigations by the United States Congress shows that the United States shares responsibility in creating the present situation in Chile.

If the United States Government is sincere in its professed dedication to human rights, it must reconsider its foreign-aid policy toward Chile.

The meeting in Santiago next month of the Organization of American States, whose agenda includes the question of human rights in Chile, and the projected participation of Secretary of State Henry A. Kissinger, can influence the direction the junta will take on human rights.

If the O.A.S. does not produce a clear statement on this issue, and if the United States does not make further economic and military aid to Chile conditional on a substantive change in its policy toward human rights, then the junta will have succeeded in its tactic of making small, temporary concessions during periods of increased international pressure, while continuing to silence all internal protest and maintaining a firm totalitarian grip over its citizens.

COMMENCEMENT ADDRESS OF CHIEF JUDGE MARKEY

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, at the first commencement ceremony of the International Law School, the Honorable Howard T. Markey, chief judge, U.S. Court of Customs and Patent Appeals, made an inspirational and thought-provoking address which I would like to share with my colleagues:

"Old Wine in New Bottles"—The Lawyer's Role—1976 to 2016

(By Chief Judge Howard T. Markey)

But that's enough anecdotes. It is indeed an honor and a privilege to be your first commencement speaker. When you leave today you will take with you something of this fine school and you will *leave a part of yourself* here. In a sense I join you, for I too am proud to learn this morning of the growth of your school from a mere 26 students only four years ago to over 550 students now. The only thing that has grown faster in this town is the federal budget, now running at over one thousand million dollars a day. In the two minutes I have been speaking to you, we have succeeded in spending over a million and a half dollars of the people's money. All of us old timers in this crowded theatre are anxious for you to join us in trying to get a handle on that problem.

I am pleased to see so many faculty and friends and loved ones here, but I'm going to ask them to just evesdrop while I visit with my new brothers in the law—the graduates.

You may ask, why the title "Old Wine in New Bottles?" Of course one of the joys of being a speaker is the right to select one's title. So, if, as someone has said, the Constitution is what the Supreme Court says it is, my title can be what I say it is.

I am not going to talk to you about how to make a buck. That's the easy part. Nor am I going to tell you how to acquire a clientele, because there is no set way to do that. But there are two ways guaranteed not to. One is to do sloppy work. The other is to stay always in your office, always seeking to take in, never giving out with public service or community contribution.

But I am going to talk of things I think are far more important—more important to you, to society, to your children and to your children's children.

You have learned the "3 R's" in school. In law school you learned about more "R's," like Replevin, Respondeat Emptor, Res Judicata, and the like. You read daily in your papers about the big "R" which stands for "rights." I mean to talk to you today of two more important "R's"—Respect—and—Responsibility—the two essential ingredients in every free society.

You must, of course, earn respect for yourself and for your profession. It will not be handed to you and it cannot be bought.

You must, if you would stay free, exercise responsibility, which is but the other side of the coin of freedom.

For no man's liberty can live amidst the irresponsibility of other men.

I often think what good might be done if someone were to form the American Civil Responsibilities Union—to honor those whose exercise of responsibility insured the liberty of their fellow men.

The law can be a heady, intoxicating wine to those who study and savor all of its color and taste and history and excitement. Working at the very heartbeat of a free society—the law—using and increasing your knowledge of the law to preserve and extend justice and freedom for your fellow man—is a privileged joy.

I am reminded that on a brick wall in a wash house in the Hanoi Hilton, an unidentified POW—risking punishment and death—had somehow scrawled, "Freedom has a taste to those who fight and almost die, that the protected will never know."

So I want to talk to you this morning of the old and warming wines of the law—the old wines of justice, integrity, charity, professionalism, ethics and honesty.

I will have nothing to say of the cheap, watery and bitter wines labeled, "Situational Ethics," "New Morality," and "Modern Societal Norms." Those wines lead only to a sick society of stupified winos, who just don't give a damn any more. Though those wines are labeled "new" they are the old drugs that produced the decadent declines of Greece and Rome.

But I do want to speak, also, of the new "bottles"—the shiny, modern, new bottles—which you must design, in order to safely store and preserve the old wines of law and freedom—new bottles of changed rules for practice and procedure and new, computerized bottles supplied by technology.

You begin your task in a society with many problems—but what's new? Every graduate before you has done the same. But that's the fun, the challenge, the sparkle in the wine of life and law—the meeting, defining and solving of problems.

It is true that you enter a society which has received many shocks. Just since you were born, our nation has seen the growth of TV, with its steady diet of violence, both fictional and factual; it has seen the times of Senator McCarthy; the Korean War; the Bay of Pigs; the assassinations of two Kennedys and a King; the long overdue obligations of civil rights coming to the fore; student riots and student deaths; government getting bigger and bigger; a war in Vietnam dragged out interminably. The 70's brought the landing on the moon, but no relief from shock and crisis. We got an indicted vice-president; a resigned president; Watergate; simultaneous inflation and recession; Vietnam left to our adversaries; an oil embargo and an energy shortage.

That is a lot of tremors and earthquakes for any society to absorb in so short a time—and only a free society could have absorbed them and remained alive. Though much criticism has rightfully come to lawyers involved in all that was known as Watergate, some seem to forget that it was other lawyers, working within our institutions, in the Justice Department and in the Congress, who brought order out of that chaos. If anything, the traumatic shock to our political system known as Watergate proved once again the wisdom of a government of laws and not of men and proved once again that men may fail us—not our constitutional and legal institutions.

You will face the problem of dealing with what seems an inexhorable process in which government efforts to do only what the people "cannot do for themselves" take more and more of the people's money—now some 45% in federal, state and local taxes—so that the people can do less and less for themselves. After years and years of growth in federal programs and spending, perhaps you can begin a dismantling process, carefully pruning to retain the good and eliminate the waste, the exponential duplication, the mountainous paperwork and the stifling regulation that goes nowhere.

Perhaps you can find new and workable cures for our social problems, to replace the universal cure—another government agency and more government expenditure—which seems to have been applied, like the patent medicines of old, to every single problem, regardless of its nature, for the last 60 years. Perhaps you can begin to quit treating the symptom and begin to cure the disease—to keep government a servant, not a predator.

You will face what I would call the litigation explosion. Sadly, there has been a proliferation of federal statutes creating new rights to sue—rights that are illusory when courts and judges do not exist to enable the exercise of those rights by all who wish to do so. The National Environmental Policy Act, the Federal Water Pollution Control Act, the Clean Air Act, the Equal Employment Opportunities Act, the Occupational Safety and Health Act, and the Speedy Trial Act are but a few such statutes.

You will also find a growing, centralizing impetus toward movement of all matters into the federal judicial system. Perhaps more care is needed at the legislating stage. Justice Rehnquist has pointed out that the Supreme Court invalidated two federal statutes and 35 state statutes in the first 60 years of the 19th century. In the short ten years between 1961 and 1971 the Supreme Court invalidated 21 acts of Congress and 156 state statutes. We appear to have ignored Justice Frankfurter's prescient warning that we should take care to protect the federal courts from "an excess of responsibility which may seriously impair their peculiar federal task."

In all of this, I trust you will fight for that quality of justice which can be achieved only at the slower pace which accuracy and truth require. Judges deciding many times the number of cases they did a few years ago must soon begin to approach the point of diminishing justice returns.

Truthfinding is slow and searing. Error can be fast and fun. Without care, assertion may masquerade as conclusion.

Federal judges are doing their best to correctly and justly decide three times the number of cases they decided in 1969 and for the same compensation. Have you heard of the lady who complained about a $90 bill from the plumber who was only at her house for one hour? She said, "But we only pay federal judges $20 an hour." The plumber said, "That's right, lady, when I was a federal judge I only got $20 an hour, too!"

The important thing, of course, is not individual judge compensation, but the economic law that we can only have what we pay for. I wonder if the public knows how many fine judges have left the bench and how many best qualified men have declined appointment to a federal judgeship? I wonder if the public knows that the price per opinion, to speak in crass terms, is ⅓ that of 1969? And I wonder how much longer the process can continue before "cut price opinions" lead to "bargain basement justice" which is but another name for injustice?

"Assembly line justice" is a contradiction in terms. We are all aware that justice delayed is justice denied. But it is equally true that justice rushed is justice roulette, with a right result occurring in accordance with the laws of neither God nor man but in accordance with the laws of chance.

We need time for careful, considered, contemplation. Yet in sitting with the judges of all but four of our Federal Circuit Courts in the last 18 months, I have yet to meet my first truly unharrassed and unhurried judge. Every judge I have met in my four years on the bench has been devoted to that ideal which haunts the days and dreams of every dedicated judge—that he decide every case as correctly and as justly as possible. It is a wrench of his very soul to entertain even a tiny suspicion that he is too rushed to do so.

In the proverbial parental phrase, the mere thought that he may not have done full justice hurts a judge as much as it does any losing litigant. And when justice is not done, everyone loses—our country, our society, and even the litigant who walks from the courtroom with a supposed "victory."

Multiplying judges like rabbits is not the answer. That may produce a lot of rabbits, but it will also result, again in Justice Frankfurter's words, "in the depreciation of the judicial currency."

The bar must study and recommend reduction of federal jurisdiction to that which it is necessary and important that federal courts alone should do. The alternative is to allow the cancerous growth of federal litigation to choke the very breath of life from the effectiveness of the federal judicial system.

The legal profession is famous—or infamous if you will—for its resistance to change. That may seem a strange statement to graduates of this new school, but it has long been the reputation of the bar. That characteristic can be bane or boon, depending on the problem faced and the nature of the change proposed. But familiar practices and procedures are hard to shelve, and a stubborn refusal to see that circumstances have rendered them counterproductive is but to burn justice on the altar of nostalgia.

Thus new and useful bottles must be found if the old wines are not to be allowed to spoil.

One new "bottle" you must find is a set of improved tools for settlement, for ways of softening our cutting edges, lest you be merely ushers of every controversy into the nearest friendly courthouse.

Another new bottle must be improved means, methods, and mechanisms to give reliable effect to substantive laws and constitutional guarantees.

Another new bottle must be designed to handle the number and variety of *problems*, previously considered political, which are being submitted to the federal courts, and to deal with the concomitant reduction in the ability and time that courts can devote to resolution of legal disputes.

We need a bottle to carry the old wines into new and simpler and faster ways for our people to navigate the waters of probate, home purchases, divorces and family disputes, including greater use of improved arbitration tools.

Another new bottle must serve to provide improvement throughout the criminal justice system—from arrest, through trial and sentencing—and working out perhaps new ways, other than incarceration, by which a convicted defendant may compensate society for certain types of crimes.

A further new bottle may be some imaginative way of applying the entire concept of "no fault" to many types of disputes, without undue cost to society and without diminution in the principle of fixing responsibility on the negligent and careless.

An important and necessary new bottle, perhaps employing computers and new technologies, coupled with a new sense of lawyer-responsibility, should be a procedure for avoiding the current and disgraceful abuses of the discovery and jury selection processes.

Among your new bottles may be a rediscovery of the "Forgotten Amendment"—the Tenth. Perhaps you will find new definitions for phrases like "inherent powers," "executive privilege," "general welfare," to keep those phrases and the laudable concepts they express from becoming avenues for overenlarging the powers of government until we reach George Orwell's 1984—when all choices are removed—and everything in life is either ordered or forbidden.

You may have been led to wonder whether the game is worth the candle—whether the old wines of which I speak are worth all the unbillable committee service, the expensive and extensive continuing education you'll have to undertake, and the many hours of effort without monetary compensation you will have to contribute, in order to design and install all these new bottles and more.

But let me say, first, that a predominance of honesty in a free society is an essential ingredient of justice, equity, and effectiveness of law. A society cannot be both free and dishonest.

Unlike the piling-on of knowledge and experience in the fields of science and technology, man has not yet learned to build on the history of ethics and morals. Every baby starts from scratch. Yet there is hope. For with every baby our race gets a new start. And today our law profession gets a new start with you.

Remember that there are no "small" lies and no such thing as a little dishonesty. Remember that governments, corporations, and institutions do not have ethics or morals—only people do. And your ethics are part of you, every moment of your lives. You can't shove them off on your partners or on the system. They march constantly at your elbow.

Ethics and religious tenets are not the same things. Dr. Sweitzer said that ethics is "the name we give to our concern for good behavior," i.e., our concern for the well being of others as well as for ourselves. Ethics is what our Forefathers meant when they pledged in the Declaration their lives, their fortunes, and their sacred honor "to each other." They made their pledge not to a higher standard of living or to the interest of any pressure group, but "to each other," that is, to a concern for the good of all which is the essence of ethics.

A thorough course in ethics is rare if not nonexistent in our schools, but the Supreme Court banned prayer and sectarian religion from the classroom, not ethics. Should we be surprised if an education without values produces a people without values?

Our complex, expanded society may provide an opportunity, but not an excuse, for unethical conduct. Honesty and ethics are even more needed in a crowd.

Whether you will be advising a President of the United States or a corporate executive, therefore—to paraphrase Thomas More's comment to Cromwell—I trust you will counsel what ought to be done—not merely what can be gotten away with.

You will hear much, as we have heard recently, in praise of pragmatism. But you must resist the growing cleavage between law and conscience—or it will destroy both.

We must not let law be stripped of all of its binding force except fear of its penalties. Unless law rests in justice and conscience, it is left to stand on mere naked force and interest.

Throughout recorded time, a dichotomy has existed between those, whatever their shore-lived label, who believe that man exists for the state and those who believe that the state exists for man. Hang fast to the principle that there is an area, the mind and soul of man, not subject to invasion and control by the state. Let that beacon light your every step as you thread the thickets of the law. It is dear to every lover of freedom, every respector of humanity, every admirer of our Constitution. It lighted the way of our founding Fathers to the newest political idea in history—the idea that man can govern himself.

We seem to have in the legal profession too few lovers of the law and too many who are content to be merely legal mechanics, mere parrots, mere mouthpieces. It is truly sad that a man may be called "lawyer" for 40 years—and justice never really knew he was here. It is sad when too many citizens, including lawyers, may spend 70 years on this mortal coil—and freedom never heard from them.

If you would make your maximum contribution to the preservation and growth of justice and freedom in the next 40 years, it would seem imperative that you define for yourselves a personal philosophy of the law. What is the law? Is it to you but a means of controlling social conduct? How, if at all, does it relate to ethics? To conscience?

Would you, for example, as an officer of the court, support and assist in the enforcement of witch burning, as your predecessors did 300 years ago? Will historians of the year 2276 write similar shockers about the activities of some of today's lawyers, whose anxiety to win may have clouded their conscience of what is just and their concern for the stability and integrity of the law?

A little closer, historically, is the question of whether you, as a government lawyer, would have supported and aided the enforcement of Hitler's aryan suppremacy laws, or the crime-covering lies of your government superiors.

The answer to these, and to an endless list of similar questions, depends on your personal philosophy of both life and law. Does a good end justify an evil means? Why were you born? What may be your end? What is the purpose, if any, of man? How does your concept of law relate to your concept of society and community? Choose carefully. Choose what you will. But—I beg of you—choose!

A lawyer with no philosophy of life and law is but an empty shell. Such men or women can but tinker with scraps of the law which may come their way, never filling their hollowness with the joy of true accomplishment, never knowing the satisfaction which gratitude for having lived can bring. Concentrating on each weed encountered, they neither see nor smell the beautiful flowers which abound.

But can we call one without a philosophy of life and law a "lawyer?" What is meant by that ancient title? What does it take to truly earn that title? Is it the equal of "plumber?" Or "lawncutter?" If the current concern for lawyer advertising, much of which appears to come from those who once condemned advertising as unduly influencing consumers, reflects the public's equation of the profession of law with the honorable and needed, but mechanical, skills of a plumber or a lawncutter, the fault lies with lawyers, not with the public. But it illustrates how badly the profession needs you, your youthful vigor, your dedication to integrity, your devotion to the ideals of service beyond personal interest.

If to you lawyering be merely a job, a mere means of getting, requiring of you no great contribution to society, then I cannot be sanguine about the preservation of freedom in this blessed land, nor about the continued life of either the law or the legal profession for very long. Nor can I imagine why you want to go to lawyering. It is certain that you can get more elsewhere, with less effort.

Ah, but to be truly a lawyer is to be different, to carry a special responsibility. Where cynicism is rampant, you must hold and exemplify ideals. Where patriotism and love of community is passé, you must show dedication to your fellow citizens. Where the easy life and the fast buck are sought, you must serve unstintingly the jealous mistress of the law. Where the rip-off and the slick grab are admired, your dedication to principle and ethics must stand out as a constant rebuke. Only then will you earn the title "lawyer." Only then will you return public respect to the profession of the law. Only then will you, as a lawyer, be happy. Only then will you serve the causes of justice and freedom.

The choice has always been and will always be between force and freedom—between tyranny, whatever its name, and liberty. You can be honest and free—or dishonest and controlled.

The defeat of corruption and evil must come, if at all, from the intellectuals, from you who have been favored by education, background and position.

You'll be tested. Oh, how you will be tested. It is easy to preach ethics in the abstract. It is not always easy to practice ethics in the concrete. Unless your ethical "buttons" are engrained in your hearts and minds, you'll be "going along" with the mob, or the circumstances, or the situation. Excuses abound. You'll be ridiculed, by those who can't meet the test, if you forego those excuses. When that happens, remember what it means to you to be a lawyer and what special responsibility to society that ancient and once-honored title entails.

Don't weaken when the jackals among us point with unconcealed glee to every instance of unethical lawyer conduct they can find, when the doom-sayers predict the demise of all you hold dear, when the guilt-pleaders, self-flaggelators and masochists among us hold sway. Remember that we can solve our problems, but we will never solve them looking at our feet!

You were kind to have invited me to be your first commencement speaker. I now return the invitation.

I invite you to join me in a life-long love affair with the Constitution of the United States. You'll find it a worthy recipient of your affection.

Gladstone called it "the most wonderful work * * * by the brain and purpose of man." It is the oldest written Constitution of any major nation. Yet it is so new—only 187 years old. It was signed this morning, in history's eye. It is a governmental blueprint, a guide, a contract. It, and the laws passed under it, along with our treaties, are the supreme law of the land. It is what the Supreme Court says it is. It is the protector of the poor and the rich. It is a constant threat to the scoundrel. It is, in Jefferson's thought, the chain that binds men to the rule of law.

It is, in my view, the charter authorizing the most sublime experiment in liberty in the history of man.

The Constitution is all of that, but it is much more. Its greatest asset is not its words, or its brilliant compromises, or its flexibility. Its greatest asset—like yours—is its soul.

The soul of the Constitution is to me the concept that you, and you, and you, and I—and *every* single human being—regardless of sex, of color, of creed or lack of creed, of appearance, of position, of status, of wealth or poverty—every human being, as was said a few years earlier in the Declaration, is the creation of a "Creator" and *because* of that fact, is born with certain unalienable rights. That is the newest, shiniest, most *revolutionary* idea in the history of the world. It is still so new that most of the people of the earth have never heard of it. Alas, far too few Americans ever think of it. The Constitution—and the dream it represents—the dream that man *can* govern himself—would startle most human beings on earth if anyone ever told them of it.

And that's where you come in. John Marshall said, "The people made the Constitution and the pople can unmak it. It is the creation of their own will and lives only by their will." So whether or not the Constitution lives depends on *you*. You can kill it, or "unmake" it, by neglect as well as by intent—by ignorance as well as by malice.

It will not do to accept the words of the Constitution and deny by our acts their application. It will not do to desire our own freedom but refuse to do the things that insure freedom for other men. It will not do to process but not perform—to wish but not will.

Each of us, on birth, was handed a priceless, gleaming jewel—the Constitution and all it represents—fought for and died for by many brave men before us. We hold it only a little while on this earth and must, someday, pass it—intact or shattered—on to those who come after us. How will you answer, in the year 2016, 40 years from now, if your children ask, "What have you done to keep that jewel intact and untarnished? To spread its rays to others? To protect it from devaluation, compromise, abuse or even loss?"

Each of you must answer for yourself—but answer you must—to history if to no other.

If your answer is that you fought the good, unselfish fight to preserve the old and precious wines of justice, integrity, charity, professionalism, ethics and honesty—then freedom may have for you the taste it had for that unknown POW author in the Hanoi Hilton.

And then, when you leave this life, as leave it you must, when your work is done and your time on earth has run—the spirits of Coke and Cardozo, of Blackstone and Holmes—and of their fellow romancers of the blindfolded lady of justice—will in chorus say to you—"Well done!"

THE LATE LOUIE ALLEN

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, one of the most popular and respected television personalities in the Washington metropolitan area died suddenly on May 9 of a heart attack. Louis "Louie" Allen, known to virtually all Washingtonians who have even a casual interest in the form and substance of tomorrow's weather, was a TV and radio fixture in the Nation's Capital for more than a quarter of a century. "Louie" as close friends, acquaintances, and TV viewers called him, was a teacher, trained meteorologist, and broadcaster. He had the tremendous ability to educate his viewers on the intricacies of weather patterns without becoming complex and laborious.

It is fitting and proper that Louie was respected and admired by his loyal Washington following. He was a product of the Washington school system having graduated from Central High School and Wilson Teachers College. He went on to receive his master's degree from UCLA and an advanced mathematics degree from the University of Maryland. As a meteorologist with the Navy in World War II he was involved in the sensitive and crucial weather forecasting for the Iwo Jima and Okinawa invasions. Later he became the chief civilian meteorologist for the Navy Hydrographic Office and worked for the Office of Naval Research.

Allen began his broadcast career in 1948 with WNBW, the old call letters of WRC–TV and later did broadcasting for channel 9. In 1955 he began his 19-year tenure with WMAL and returned to WTOP radio and TV in 1974. The Allen Weather Service, which is instrumental in plotting weather routes for ocean commerce and gathers and interprets the data used for weather forecasting in this area, was started by Allen in 1954.

But the Louie Allen we saw each weeknight was the pleasant, easy-going "doodler" of the weather explaining complex weather conditions and sketching the outlook for the following day. He was pleasant and highly professional, never flashy. He was a communicator coming closest to accuracy in a science which by its very nature is erratic and unpredictable. He taught us a respect for the weather by explaining the intricacies of our atmosphere. And at times, when Washington was in the midst of a "monsoon" season, Louie almost seemed to apologize for the bleakness of the forecasts he was forced to report.

I never had the privilege of personally knowing Louie, but I felt as if I did. His affable and dependable nature came through during each broadcast. I am sure his wife, Jeanette, knows best what we all missed by not knowing Louie on an individual basis. She can be consoled during this time of loss by the fact that thousands felt a camaraderie, loyalty, and affection for one of "the one and only." Her loss is ours, too.

TAX FREE SCHOLARSHIPS FOR ARMED FORCES HEALTH PROFESSIONS AND PUBLIC SERVICE

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, today I am introducing a measure to make the Armed Forces health professions scholarships and the Public Health Service scholarships permanently tax free retroactive to January 1, 1976. These scholarships were tax free until December 31, 1975. Congressman Bob Wilson has introduced an identical measure.

Seven months ago, the Department of Defense forwarded a request to OMB asking for such a permanent tax-free status for AFHP.

It is my understanding that OMB will not oppose a measure to provide some immediate tax relief for these students should Congress legislate in that direction.

In 1974, the IRS ruled that exclusion from gross income for certain amounts does not apply if the money represents compensation for past, present, or future employment services. In other words, scholarships which come with a service commitment are taxable.

As a result of this ruling, Congress passed a measure which provided that the exclusion for scholarship and fellowship grants is to apply to the AFHPS and Public Health scholarships until December 31, 1975.

One of my constituents, who is a medical student at Georgetown University, told me that his $400 monthly stipend from AFHPS on which he must rely for basic living necessities has been reduced to $241 after taxes for tuition, stipend, and retroactivity.

The intent of the Uniformed Services Health Profession Revitalization Act of 1972 which created AFHPS was to establish a scholarship program to attract adequate numbers of doctors for military facilities. The same is true of the Public Health Service scholarship program which was created in the Emergency Health Personnel Act Amendments of 1972. Under this program, a student promises to join the Public Health Service and thereby practice in a medically underserved area.

Traditionally, members of the uniformed services and their families have been able to rely on comprehensive health services provided by military facilities. However, recent DOD regulations will force military families to rely more heavily on military medical facilities. All the while, these same facilities have been hit with a shortage of medical personnel. With reductions in AFHPS tuition and stipend payouts resulting from the current taxable status, this scholarship program which was originally seen as a shot in the arm for miltary medical services is no longer an effective incentive to recruit highly qualified medical students for military hospitals.

I think it is fair to say that Congress did not intend to make life difficult for medical students enrolling in this scholarship program. Quite the contrary, the program was clearly intended to provide incentives to bring highly qualified medical personnel into military hospitals and medically underserved areas.

"COAL SLURRY PIPELINE (3)"—RAIL TRANSPORTATION OF COAL—A BACKDROP TO THE COAL SLURRY PIPELINE ISSUE

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter).

Mr. SKUBITZ. Mr. Speaker, as I said May 27, 1976, the measure to grant the right of eminent domain to the builders of coal slurry pipelines has been presented to the Interior Committee through a fundamental error as to its nature.

The measure is not energy legislation, it is transportation legislation. To uphold the fiction that the construction of coal slurry pipelines is necessary to serve the Nation's energy needs, proponents have asserted that existing systems; namely, the railroads—cannot keep pace with predicted increases in coal production.

This assertion has no basis in fact.

During the Interior Committee hearings on the coal slurry legislation, Stephen Ailes, president of the American Association of Railroads, said on page 913 of the hearings record that—

> We know that the railroads carried 391 million tons of coal in 1974.
>
> We know that coal represented 13.6 percent of all rail ton-miles.
>
> Thus, if coal ton-miles doubled while other traffic remained the same, the result would be only a 13.6 percent increase in total rail traffic spread over 10 years. Admittedly, the increase would affect individual railroads unevenly but, if the slurry pipeline proponents are trying to say that a 13.6 percent increase in traffic, spread over a decade, would place an unbearable strain on this industry, that, I submit, is foolishness—especially in the light of the fact that total rail traffic has grown 15 percent in the past three years alone.
>
> Naturally the rail industry does not expect total rail traffic to remain the same over the next 10 years. Our projections—and the governments—call for a 50 percent increase over the next decade. And let me emphasis that this projection was made—and plans to keep pace with it begun—before the energy crunch occurred.

Before the energy crisis produced lower thermostats and a determination to reduce American dependence on foreign oil, coal production had been in a decline. Along with it, rail transportation of coal declined.

With little warning, coal production increased sharply in late 1973. Railroad traffic in all commodities was reaching record levels at the same time, and backlogs in car building shops were high. Nevertheless, railroads were able to keep pace with the growing coal production. And they have continued to keep pace. In 1975, the industry handled 9.5 percent more coal tonnage than in 1973.

It seems obvious that further increases are ahead. Some have predicted a doubling of coal production nationally, over the next 10 years, but that may be a bit optimistic.

But assuming a miracle would happen could the railroads be able to haul the coal? Mr. Ailes, on page 913 of the report, continues:

> Now let us assume that the coal portion of total rail traffic increases by 100 percent instead of 50 percent. That would mean that our projections are off by about 7 percent—that the increase in total rail traffic would be 57 percent instead of 50 percent. I think you will agree this is a manageable variation.
>
> In present service involving both unit trains and other service, 12,000 cars can handle 25 million tons of coal a year. This means, that if the railroads maintain their present 67 percent share of the traffic, they would need to add about 15,485 cars per year to meet the average increase. To meet the largest increase projected in any one year, they would need to add 29,280 cars.
>
> There is now a backlog of 19,373 hopper cars on order and total car orders during 1974 amounted to 27,086, as already noted.
>
> Moreover, greater use of unit train service—which is highly likely—would reduce car needs still further. Using the type of unit train service operated today by some railroads, 4,000 cars could handle 25 million tons per year.
>
> A report prepared by Peat, Marwick, Mitchell & Co. for the Federal Energy Administration, the Commerce Department and the Department of Transportation assumed even greater coal production increases and nevertheless concluded that railroads could do the job.
>
> In fact, 25 milllon tons of coal per year is not a particularly large amount for today's railroads. Mr. Menk's railroad, the Burlington Northern, routinely operates with trains carrying 10,000 net tons over 1,000 route miles with a five-day turnaround. A simple calculation would indicate that 25 million tons could be handled on this basis by dispatching a train about every three-and-a-half hours—not particularly heavy traffic.

So in summary, what sort of capacity increase would be required? It has been estimated that the industry will need to install about 41,000 open top hoppers over the next 10 years to maintain its present coal capacity. That figure takes both car retirements and expected improvements in efficiency into account. To double coal capacity, the industry would have to install an additional 63,000 to 120,000 cars over the decade. The variation is due to the possibility of different types of service. A great number of unit trains in the total service "mix" would tend to reduce car requirements.

What all this means is that the railroad industry can double its coal capacity by adding as few as 10,400 a year or no more than 16,100 cars a year.

In 1975, the industry installed 21,748 coal cars—indicating that it should have little trouble keeping up with the projected need.

Now, let us consider another facet of the situation—timing.

It is my understanding—based on Bureau of Mines statistics—that a leadtime of 4 to 5 years is necessary to bring a new mine into production.

With this kind of advance notice, virtually any railroad would have plenty of time to prepare to handle the coal that would be produced by a new mine. At the very worst, the waiting periods for rail equipment have not been longer than about 2 years.

However, the railroad industry is not alone in its belief that it can handle the coal that can be mined.

I have noted that the administration favors the legislation before the Interior Committee. The Bureau of Mines released an information circular in 1975 which followed the administration line on the subject, this was information circular 8690, "Long Distance Coal Transport: Unit Trains or Slurry Pipeline." However, the study which prompted the circular found that railroads would be equal to the task of coal-hauling.

Let me quote:

> The capacity of the railroads to cope with substantially more western coal does not seem to be an unduly serious matter. The railroads can probably enlarge their capacity to handle larger amounts of coal as rapidly as their potential competitors can be constructed.

Let us go on.

The accounting firm of Peat, Marwick, Mitchell & Co.'s report included three scenarios based on different estimated additional tonnages of coal to be shipped by rail through 1990, along with the hopper car requirements implied by each scenario. Even the scenario involving the largest requirement was not beyond the reach of the railroads, based on current car installations.

I am aware that the foregoing has been a relatively dry recital of figures and estimates.

But I believe it vital for this body to view the proposed legislation in its true light.

If the railroads are, indeed, equal to the task of hauling all the coal that will be produced in the coming years—and I believe I have demonstrated that they are—then it should be clear that H.R. 1863 is not mandated to meet the Nation's energy requirements. In fact, that legislation will imperil the health of one of the Nation's most needed industries.

The wrong step here can place in jeopardy all that the Congress has recently done to insure that the railroads continue to play their essential role in our existing national transportation system.

OKLAHOMA'S 1776TH WATERSHED DAM COMPLETED

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, on Friday, May 14, 1976, Oklahoma's 1776th watershed structure was dedicated near Ada, Okla., which is in the district I represent in the Congress. I want to share with my colleagues in the Congress an editorial which appeared in the Duncan, Okla., Banner in its May 16, 1976, issue, commenting on this significant Bicentennial event:

> ANOTHER IMPORTANT 1776
>
> The first small watershed flood control dam in the United States was built in western Oklahoma on the Cloud Chief watershed in July of 1948.
>
> Less than 28 years later, Oklahoma's 1776th watershed structure has been completed and was dedicated Friday near Ada.
>
> All the hoopla over the Ada structure, of course, was the 1776 (Bicentennial) tie-in of the Sandy Creek dam, now to be known appropriately as Lake Liberty.
>
> But there's much more to the occasion than the Bicentennial angle. The real importance is the fact that so many such structures have been built in the state and have varied and tremendous values.
>
> The initial purpose of the watershed structure is helping prevent floods. Thousands upon thousands of acres of rich Oklahoma soil have been saved because of them. Twenty cities and towns in Oklahoma with a total population of over 450,000 people get their water supplies from them. Many provide recreational opportunities, irrigation and serve as wildlife habitats.

Stephens County is testimony to the watershed small dam structure. The Cow Creek watershed in Stephens and Jefferson covers 122,880 acres and has 46 dams planned. The first multi-purpose flood control structure to be built in the nation was right here—Lake Humphrey, the hub of Duncan's water supply.

As for the "1776" structure just finished at Ada, no other state will be able to copy that idea during the Bicentennial year. No other state is close to Oklahoma in taking advantage of the small dam plan. Over one-fourth of the completed structures in the nation are in Oklahoma.

GENERAL LEAVE

Mr. MARTIN. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks just before adoption of the Findley amendment during committee consideration of the bill (H.R. 12169) today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LEAVE OF ABSENCE

By unanimous request, leave of absence was granted to:

Mr. Matsunaga (at the request of Mr. O'Neill), for May 27 through June 8, on account of official business.

Mr. Giaimo (at the request of Mr. O'Neill), for this week, on account of recovery from eye surgery.

Mr. Hicks (at the request of Mr. O'Neill), for today, on account of illness.

Mr. Jenrette (at the request of Mr. O'Neill), for after 6:30 p.m. today, on account of official business.

Mr. Carney (at the request of Mr. McFall), for June 1 through June 9, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Martin) to revise and extend their remarks and include extraneous matter:)

Mr. Archer, for 1 hour, on June 16.

Mr. Archer, for 1 hour, on June 30.

Mr. Young of Alaska, for 5 minutes, today.

Mr. Skubitz, for 10 minutes, today.

Mr. Goldwater, for 10 minutes, today.

(The following Members (at the request of Mrs. Spellman) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Reuss, for 20 minutes, today.

Mr. Wolff, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Koch, for 10 minutes, today.

Ms. Abzug, for 15 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Miller of California, for 5 minutes, today.

Mr. Danielson, for 5 minutes, today.

Mr. Dodd, for 5 minutes, today.

Mr. Harkin, for 5 minutes, today.

Mr. Boland, for 60 minutes, June 9, 1976.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ottinger, and to include extraneous matter.

Mr. Goldwater, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,144, as part of his special order for today.

Mr. Goldwater, and to include extraneous material on H.R. 12169.

The Speaker to extend his remarks with extraneous material immediately prior to motion that the House resolve itself into the Committee of the Whole House for consideration of H.R. 12169.

(The following Members (at the request of Mr. Martin), and to include extraneous matter:)

Mr. Sarasin in two instances.

Mr. Young of Florida in five instances.

Mrs. Pettis.

Mr. Cochran.

Mr. Talcott in three instances.

Mr. Lagomarsino in two instances.

Mr. McKinney in two instances.

Mr. Derwinski in three instances.

Mr. Sebelius.

Mr. Gilman.

Mr. Rousselot.

Mr. Conte.

Mr. Esch in two instances.

Mr. Symms in three instances.

Mr. Skubitz in two instances.

Mr. Steelman.

Mr. Cohen.

Mrs. Holt.

Mr. McClory in two instances.

Mr. Martin.

Mr. Frenzel in three instances.

Mr. Kasten.

(The following members (at the request of Mrs. Spellman) and to include extraneous matter:)

Mr. Rosenthal in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Sisk.

Mrs. Lloyd of Tennessee in five instances.

Mr. Annunzio in six instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Rangel in eight instances.

Mr. Baucus.

Mr. Stark in 10 instances.

Mr. Carney in three instances.

Mr. de la Garza in 10 instances.

Mr. Rees.

Mr. Edgar in two instances.

Mr. Obey.

Mr. White.

Mr. Santini.

Mrs. Meyner.

Mr. McCormack in three instances.

Mr. Fraser.

Mr. Murphy of New York.

Mrs. Spellman.

Mr. Harrington in five instances.

Mr. John L. Burton.

Mr. Eilberg in 10 instances.

Mr. Corman in five instances.

Mr. Brademas in five instances.

Mr. Moakley in five instances.

Mr. Miller of California.

Mr. Charles H. Wilson of California.

Mr. Hawkins.

Mr. Udall.

Mr. McDonald in three instances.

Mr. Stokes.

Mr. Richmond.

Mr. Vanik.

Mr. Wirth.

Mr. Brinkley.

Mr. LaFalce.

SENATE BILLS AND CONCURRENT RESOLUTIONS REFERRED

Bills and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1068. An act to designate certain lands in the Badlands National Monument, South Dakota, as wilderness; to the Committee on Interior and Insular Affairs.

S. 1174. An act to reduce the hazards of earthquakes, and for other purposes; to the Committee on Science and Technology.

S. 1365. An act to authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands; to the Committee on Interior and Insular Affairs.

S. 1414. An act to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes; to the Committee on Merchant Marine and Fisheries.

S. 2054. An act to amend section 203 and 204 of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

S. 2081. An act to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2485. An act to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to increase the amount of any loan for which funds may be appropriated without prior approval of such loan by congressional committee; to the Committee on Agriculture.

S. 2515. An act to amend the Public Health Service Act to establish the President's Commission for the protection of human subjects involved in biomedical and behavioral research and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2847. An act to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations; to the Committee on Interstate and Foreign Commerce.

S. 2798. An act to eliminate a restriction on use of certain lands conveyed to the city of Yakutat, Alaska; to the Committee on Interior and Insular Affairs.

S. 3051. An act to amend the Commodity Exchange Act, and for other purposes; to the Committee on Agriculture.

S. 3383. An act to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes; to the Committee on Science and Technology.

S. 3476. An act to provide for the establishment of the George W. Norris Home National Historic Site in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

S. Con. Res. 107. Concurrent resolution authorizing the printing of the following committee prints of the Committee on Foreign Relations Subcommittee on Multinational Corporations; to the Committee on House Administration.

S. Con. Res. 114. Concurrent resolution authorizing the printing of additional copies of Subcommittee on Children and Youth committee print titled "Background Materials Concerning Child and Family Services Act, 1975 (S. 626)"; to the Committee on House Administration.

S. Con. Res. 119. Concurrent resolution extending recognition to the Congressional Country Club on being the host of the 58th PGA National Golf Championship; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mrs. SPELLMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 10 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 2, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3397. A letter from the President of the United States, transmitting a report on actions taken by the United Nations to obtain an accounting of Americans missing in action in Southeast Asia, pursuant to section 503(b) of Public Law 94–141; to the Committee on International Relations.

3398. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a further supplemental report on present and former officers or employees of the Department of Defense and defense contractors, pursuant to section 410(d) of Public Law 91–121; to the Committee on Armed Services.

3399. A letter from the Administrator, National Credit Union Administration, transmitting a report on the agency's activities under the Privacy Act of 1974; to the Committee on Government Operations.

3400. A letter from the Federal and State Cochairman, Federal-State Land Use Planning Commission for Alaska, transmitting the interim report of the Commission, pursuant to section 17(a)(10) of the Alaska Native Claims Settlement Act of 1971, as amended (89 Stat. 1149); to the Committee on Interior and Insular Affairs.

3401. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by Iran for permission to transfer certain U.S.-origin defense articles to Pakistan, pursuant to section 3(a) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

3402. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

3403. A letter from the Director, U.S. Information Agency, transmitting a report on the assignment of foreign service information officers to public organizations, pursuant to section 576(e) of the Foreign Service Act of 1946, as amended [89 Stat. 764; 22 U.S.C. 966(e)]; to the Committee on International Relations.

3404. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act, and related provisions in other statutes, so as to improve the protection of the public health and safety in respect to foods, drugs, and cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

3405. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the Agency's position on extension of the expiring loan guarantee provision under section 1444(d) of the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

3406. A letter from the Asssitant General Counsel for International, Conservation and Resource Development Programs, Federal Energy Administration, transmitting notice of meetings related to the International Energy Program, pursuant to section 252(c) of Public Law 94–163; to the Committee on Interstate and Foreign Commerce.

3407. A letter from the Chairman, National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, transmitting the final report of the Commission's findings and recommendations, pursuant to section 804 of Public Law 90–351, as amended; to the Committee on the Judiciary.

3408. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend section 7 of the Fishermen's Protective Act of 1967, as amended; to the Committee on Merchant Marine and Fisheries.

3409. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Wildcat-San Pablo Creeks, Contra Costa County, Calif., authorized by section 208 of the Flood Control Act approved July 14, 1960 (H. Doc. No. 94–511); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3410. A letter from the Acting Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Atlanta, Ga., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3411. A letter from the Administrator, U.S. Small Business Administration, transmitting the agency's annual report for fiscal year 1975; to the Committee on Small Business.

RECEIVED FROM THE COMPTROLLER GENERAL

3412. A letter from the Comptroller General of the United States, transmitting a report on the status of GAO's responsibilities under the Federal Reports Act; to the Committee on Government Operations.

3413. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Panama Canal Company and the Canal Zone Government for fiscal years 1975 and 1974, pursuant to section 106 of the Government Corporation Control Act, as amended (H. Doc. No. 94–512); jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Currency and Housing. H.R. 13720. A bill to amend the Consumer Credit Production Act to prohibit abusive practices by debt collectors; with amendment (Rept. No. 94–1202). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13246. A bill to amend the Securities Exchange Act of 1934; with amendment (Rept. No. 94–1203). Refered to the Committee of the Whole House on the State of the Union.

Mr. HUNGATE: Committee on the Judiciary. H.R. 13899. A bill to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the U.S. Supreme Court. (Rept. No. 94–1204). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PIKE:

H.R. 14076. A bill to amend the Social Security Act; to the Committee on Ways and Means.

By Mr. COTTER:

H.R. 14077. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Government Operations.

By Mr. EILBERG (for himself and Mr. DAVIS):

H.R. 14078. A bill to amend title 14, United States Code, to raise the mandatory retirement age for members of the Coast Guard from 62 to 65; to the Committee on Merchant Marine and Fisheries.

By Mr. LAFALCE:

H.R. 14079. A bill to permit federally chartered savings and loan associations located in New York to offer checking accounts to the extent that similar State chartered institutions in New York are permitted to do so; to the Committee on Banking, Currency and Housing.

By Mr. LEHMAN:

H.R. 14080. A bill to provide for the protection of franchised distributors and retailers of motor fuel; to the Committee on Interstate and Foreign Commerce.

By Mr. MCKINNEY:

H.R. 14081. A bill to amend the Internal Revenue Code of 1954 to allow individuals to make payments to individual retirement accounts for the benefit of their spouses; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 14082. A bill to amend title 5, United States Code, to provide premium pay for employees for time in an on-call status away from their duty posts; to the Committee on Post Office and Civil Service.

By Mr. NOLAN:

H.R. 14083. A bill to amend the Higher Education Act of 1965 to encourage the establishment of lifetime learning programs, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. BINGHAM, Mr. FRASER, Mr. GILMAN, Mr. HARRINGTON, Mr. HOWARD, Mr. HYDE, Mr. KOCH, Mr. LEHMAN, Mr. OTTINGER, Mr. RIEGLE, Mr. RODINO, Mr. ROE, Mr. ROSENTHAL, Mr. SCHEUER, Mr. TRAXLER, Mr. WAXMAN, Mr. CHARLES H. WILSON of California, Mr. YOUNG of Florida, and Mr. ZEFERETTI):

H.R. 14084. A bill to establish within the Department of Health, Education, and Welfare a Home Health Clearinghouse to provide elderly persons with a single place where they can obtain complete information on the Federal health programs available to them, and to create within the department an Assistant Secretary for Elderly Health with responsibility for all health and health-related matters involving the elderly; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14085. A bill to establish within the Department of Health, Education, and Welfare a Home Health Clearinghouse to provide elderly persons with a single place where they can obtain complete information on the Federal health program available to them, and to create within the Department an Assistant Secretary for Elderly Health with responsibility for all health and health-related matters involving the elderly; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14086. A bill to amend the Older Americans Act and the Public Health Service Act to provide expanded counseling assistance for the elderly sick and disabled; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14087. A bill to amend the Older Americans Act and the Public Health Service Act to provide expanded counseling assistance for the elderly sick and disabled; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14088. A bill to amend the Legal Services Corporation Act to provide legal assistance to older persons in connection with their participation in certain health insurance and medical assistance programs under the Social Security Act; to the Committee on the Judiciarv.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14089. A bill to amend the Legal Services Corporation Act to provide legal assistance to older persons in connection with their participation in certain health insurance and medical assistance programs under the Social Security Act; to the Committee on the Judiciary.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14090. A bill to amend title XX of the Social Security Act to provide for the reallotment of unused social services funds, in any fiscal year, to States which will use such funds during the succeeding year in furnishing services aimed at preventing or reducing inappropriate institutional care by making home or community care available; to provide additional Federal matching for multipurpose senior center programs; and to provide for the standardization of eligibility requirements for the funding of senior centers; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Mr. Walsh, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14091. A bill to amend title XX of the Social Security Act to provide for the reallotment of unused social services funds, in any fiscal year, to States which will use such funds during the succeeding year in furnishing services aimed at preventing or reducing inappropriate institutional care by making home or community care available; to provide additional Federal matching for multipurpose senior center programs; and to provide for the standardization of eligibility requirements for the funding of senior centers; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Seiberling, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14092. A bill to amend the National Housing Act and other acts for the purpose of providing assistance for outpatient-geriatric clinics and for multipurpose senior centers, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Mr. Walsh, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14093. A bill to amend the National Housing Act and other acts for the purpose of providing assistance for outpatient geriatric clinics and for multipurpose senior centers, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14094. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to taxpayers who contribute the right to use certain real property to charitable organization for outpatient geriatric clinics or for multipurpose senior centers; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Grassley, Mr. Sarasin, Mr. Walsh, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14095. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to taxpayers who contribute the right to use certain real property to charitable organizations for outpatient geriatric clinics or for multipurpose senior centers; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Seiberling, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14096. A bill to amend the Older Americans Act of 1965 to authorize funds for the establishment and operation of multipurpose senior centers, and for other purposes; jointly to the Committees on Education and Labor, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Mr. Walsh, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14097. A bill to amend the Older Americans Act of 1965 to authorize funds for the establishment and operation of multipurpose senior centers, and for other purposes; jointly to the Committees on Education and Labor, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14098. A bill making a supplemental appropriation for payments under home health service grants and making an appropriation for payments under multipurpose senior center grants; to the Committee on Appropriations.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell and Mr. Neal):

H.R. 14099. A bill making a supplemental appropriation for payments under home health service grants and making an appropriation for payments under multipurpose senior center grants; to the Committee on Appropriations.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Seiberling, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14100. A bill to amend the Social Security Act to prohibit nursing homes participating in the medicare or medicaid program, or otherwise receiving funds under that act, from requiring patients to turn over their social security benefit checks after giving reasonable advance notice of their intent to leave such homes; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14101. A bill to amend the Social Security Act to prohibit nursing homes participating in the medicare or medicaid program, or otherwise receiving funds under that act, from requiring patients to turn over their social security benefit checks after giving reasonable advance notice of their intent to leave such homes; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14102. A bill to promote the provision and availability of necessary health services for the elderly by expanding existing programs of grants for home health services, requiring the inclusion of specified preventive and home health services under the medicaid program and making various improvements in the administration of such program, providing assistance to demonstration and pilot-projects for home health and supportive services (including demonstration grants for community care), and authorizing grants for annual health fairs and mobile geriatric health units, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Mr. Walsh, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14103. A bill to promote the provision and availability of necessary health services for the elderly by expanding existing programs of grants for home health services, requiring the inclusion of specified preventive and home health services under the medicaid program and making various improvements in the administration of such program, providing assistance to demonstration and pilot projects for home health and supportive services (including demonstration grants for community care), and authorizing grants for annual health fairs and mobile geriatric health units, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Seiberling, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14104. A bill to amend title XVIII of the Social Security Act to remove all limits on the number of home health visits for which payment may be made under both part A and part B (eliminating the requirement of prior hospitalization in the case of home health care under part A), to include additional types of services as home health care, to provide coverage for preventive care and various related items and services under part B, to provide coverage for services furnished in outpatient rehabilitation facilities and elderly day care centers, to improve the administration of the medicare program, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Cohen, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Mr. Walsh, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14105. A bill to amend title XVIII of the Social Security Act to remove all limits on the number of home health visits for which payment may be made under both part A and part B (eliminating the requirement of prior hospitalization in the case of home health care under part A), to include additional types of services as home health care, to provide coverage for preventive care and various related items and services under part B, to provide coverage for services furnished in outpatient rehabilitation facilities and elderly day care centers, to improve the administration of the medicare program, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H.R. 14106. A bill to amend title XVIII of the Social Security Act to provide long-term care services as a part of the hospital insurance program, to encourage the creation of community long-term care centers to assist in providing such services, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEPPER (for himself, Mr. Randall, Mr. Andrews of North Carolina Mr. Beard of Rhode Island, Mr. Florio, Mrs. Lloyd of Tennessee, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey, of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H.R. 14107. A bill to amend title XVIII of the Social Security Act to provide long-term care services as a part of the hospital insurance program, to encourage the creation of community long-term care centers to assist in providing such services, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. PRESSLER:

H.R. 14108. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 14109. A bill to revise and reorganize the classification and the rates of duty on certain pipes and tubes and blanks therefor of iron or steel; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 14110. A bill to amend the Tariff Schedules of the United States to repeal the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

By Mr. SKUBITZ:

H.R. 14111. A bill to amend the Occupational Safety and Health Act of 1970 to provide that certain persons engaged in farming shall not be considered employers for purposes of such act; to the Committee on Education and Labor.

By Mr. ULLMAN:

H.R. 14112. A bill to amend section 101(1)(2) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 14113. A bill to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN (for himself and Mr. Schneebeli):

H.R. 14114. A bill to increase the temporary debt limit, and for other purposes; to the Committee on Ways and Means.

By Mr. ULLMAN (for himself, Mr. Aspin, Mr. Bennett, Mr. Bevill, Mr. Brinkley, Mr. Cornell, Mr. Downing of Virginia, Mr. Duncan of Oregon, Mr. Fish, Mr. Flowers, Mr. Foley, Mr. Hanley, Mr. Holland, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. LaFalce, Mr. Lujan, Mrs. Meyner, Mr. Nowak, Mr. Obey, Mr. Patten, Mr. Preyer, Mr. Riegle, and Mr. Rodino):

H.R. 14115. A bill to revise the estate and gift tax laws of the United States; to the Committee on Ways and Means.

By Mr. ULLMAN (for himself, Mr. Burke of Massachusetts, Mr. Fisher, Mr. Fraser, Mr. Gilman, Mr. Hammerschmidt, Mr. Helstoski, Mr. McKay, Mr. Randall, Mr. Runnels, Mr. Stratton, Mr. Stuckey, Mr. Teague, Mr. Vander Veen, Mr. Vigorito, Mr. Whitehurst, Mr. Charles Wilson of Texas, and Mr. Yatron):

H.R. 14116. A bill to revise the estate and gift tax laws of the United States; to the Committee on Ways and Means.

By Mr. BURLISON of Missouri:

H.R. 14117. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN:

H.R. 14118. A bill to provide for essential air transportation service for small communities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FRASER:

H.R. 14119. A bill to amend title II of the Social Security Act to create portability in social security to permitting married couples to elect to combine their earnings in any year for benefit purposes, and to make other changes designed to foster the more equitable treatment of individuals and families under the social securtiy program; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 14120. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation amounts received under certain scholarship programs; to the Committee on Ways and Means.

By Mr. McCLORY (for himself, Mr. Lott and Mr. Mitchell of New York):

H.R. 14121. A bill to protect the public from traffickers in heroin and other opiates, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, Banking, Currency and Housing, and Ways and Means.

By Mr. MELCHER:

H.R. 14122. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or for his dependents; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Ms. Chisholm, Mr. Edwards of California, Mr. Gilman, Mr. Koch, Mr. Lehman, Mr. Roybal, and Mr. Seiberling):

H.R. 14123. A bill to establish within the Energy Research and Development Administration a program of Federal grants to assist States in carrying out solar energy community utility programs; to the Committee on Banking, Currency and Housing.

By Mr. MOAKLEY (for himself and Mrs. Heckler of Massachusetts):

H.R. 14124. A bill to revise chapter 99 of title 18 of the United States Code to provide for the punishment of sexual assaults in the special jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. NOWAK:

H.R. 14125. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize States to acquire certain rail properties from the Consolidated Rail Corporation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NOWAK (for himself, Mr. Mitchell of Maryland, and Mr. D'Amours):

H.R. 14126. A bill to amend the Bankruptcy Act to provide emergency relief under certain circumstances to political subdivisions who are creditors of railroads; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 14127. A bill to grant certain nationals of Chile and the spouses, children, and parents of such nationals status as permanent residents of the United States; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 14128. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. THONE:

H.R. 14129. A bill to establish an educational institution in the United States fulfilling the goal of the Nation's first President, George Washington, to further the understanding of the process and state of peace among nations and cooperation between peoples; to consider the *dimensions* of peaceful resolution of differences among nations; to train students in the process of peaceful resolution of differences; to inform governmental leaders of peaceful methods of conflict resolution; and for other purposes; to the Committee on Education and Labor.

By Mr. TRAXLER:

H.R. 14130. A bill to amend the Federal Reserve Act to provide that all Federal Reserve notes printed after January 1, 1977, shall be in such form as to enable any individual who is totally blind to be able to identify the denomination of any such note; to the Committee on Banking, Currency and Housing.

By Ms. COLLINS of Illinois:

H. Con. Res. 648. Concurrent resolution expressing the sense of Congress that, in determining whether and in what amounts assistance should be furnished to a foreign country and in determining whether certain sales should be made to a foreign country, the President should consider the treatment of U.S. nationals arrested in such country; to the Committee on International Relations.

By Mr. PEPPER (for himself, Mr. Bingham, Mr. Fraser, Mr. Gilman, Mr. Harrington, Mr. Howard, Mr. Hyde, Mr. Koch, Mr. Lehman, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Traxler, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Young of Florida, and Mr. Zeferetti):

H. Res. 1225. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Health; to the Committee on Rules.

By Mr. PEPPER (for himself, Mr. Matsunaga, Mr. Roybal, Mr. Rooney, Mr. Biaggi, Mr. Blouin, Mr. Downey of New York, Mr. Hughes, Mr. Sarasin, Ms. Abzug, Mr. Anderson of California, Mr. Carney, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Fascell, and Mr. Neal):

H. Res. 1226. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Health; to the Committee on Rules.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Ms. Abzug, Mr. Adams, Mr. Addabbo, Mr. Alexander, Mr. Annunzio, Mr. Ashley, Mr. Badillo, Mr. Baucus, Mr. Benitez, Mr. Bergland, Mr. Bevill, Mr. Bingham, Mr. Boland, Mr. Bonker, Mr. Bowen, Mr. Brademas, Mr. Breaux, Mr. Brooks, Mr. Burgener, Mr. Phillip Burton, and Mr. Carter):

H. Res. 1227. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Ms. Chisholm, Mr. Cleveland, Mr. Conte, Mr. Corman, Mr. Drinan, Mr. du Pont, Mr. Dodd, Mr. Eilberg, Mr. Fascell, Mr. Fisher, Mr. Flood, Mr. Flowers, Mr. Ford of Michigan, Mr. Forsythe, Mr. Frenzel, Mr. Fuqua, Mr. Gradison, Mr. Haley, Mr. Hamilton, Mr. Hawkins, Mr. Hicks, and Mr. Helstoski):

H. Res. 1228. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Mr. Horton, Mr. Howard, Mr. Howe, Mr. Hubbard, Mr. Hughes, Mr. Hungate, Mr. Jeffords, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of Oklahoma, Mr. Jones of North Carolina, Mr. Kemp, Mr. Ketchum, Mr. Koch, Mr. LaFalce, Mr. Lagomarsino, Mr. Long of Louisiana, Mr. McEwen, Mr. McCormack, Mr. McClory, and Mr. Madigan):

H. Res. 1229. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Mr. Mann, Mr. Mathis, Mr. Mazzoli, Mr. Melcher, Mr. Mitchell of Maryland, Mr. Montgomery, Mr. Moorhead of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Myers of Indiana, Mr. Neal, Mr. Nedzi, Mr. Oberstar, Mr. Ottinger, Mr. Patterson of California, Mr. Pepper, Mr. Perkins, Mrs. Pettis, Mr. Pickle, Mr. Preyer, and Mr. Pritchard):

H. Res. 1230. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Mr. Risenhoover, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Roncalio, Mr. Rostenkowski, Mr. Runnels, Mr. Sarasin, Mr. Scheuer, Mr. Seiberling, Mr. Simon, Mrs. Spellman, Mr. Staggers, Mr. James V. Stanton, Mr. Stephens, Mr. Stratton, Mrs. Sullivan, Mr. Udall, Mr. Vander Veen, Mr. Vigorito, Mr. Whitehurst, and Mr. Bob Wilson):

H. Res. 1231. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Won Pat, Mr. Wolff, Mr. Yates, and Mr. Yatron):

H. Res. 1232. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

393. By the SPEAKER: Memorial of the Council of the District of Columbia, relative to roadway vending on the Mall; to the Committee on the District of Columbia.

394. Also, memorial of the Legislature of the State of California, relative to full employment; to the Committee on Education and Labor.

395. Also, memorial of the Senate of the State of Indiana, relative to federally mandated guidelines and standards for the States; to the Committee on Government Operations.

396. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to the action of Judge W. Arthur Garrity, Jr.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of the rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

476. By the SPEAKER: Petition of the Civitan Club of Fort Walton Beach, Fla., relative to disarmament; to the Committee on International Relations.

477. Also, petition of the Municipal Council, Edison Township, N.J., relative to the dumping of toxic chemicals; to the Committee on Interstate and Foreign Commerce.

478. Also, petition of Carl L. Snider, Fortville, Ind., and others, relative to redress of grievances; to the Committee on the Judiciary.

479. Also, petition of Fred E. Anderson, President of the State Senate, Denver, Colo., relative to development of oil shale technology; to the Committee on Science and Technology.

480. Also, petition of the Oil Shale Committee of the Rocky Mountain Oil and Gas Association, Denver, Colo., relative to development of oil shale technology; to the Committee on Science and Technology.

481. Also, petition of the American Chemical Society, Washington, D.C., relative to energy; jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9560

By Mr. HECHLER of West Virginia:

On page 33, after line 12, add a new section as follows:

"SUNSHINE IN GOVERNMENT

"Section 501 of the Federal Water Pollution Control Act (33 U.S.C. 1361) is amended by adding at the end thereof the following new subsections:

"(g) (1) Each officer or employee of the Environmental Protection Agency who—

"(A) performs any function or duty under this Act or any Act referred to in this Act; and

"(B) has any known financial interest in any person who (i) discharges pollutants from any point source, (ii) discharges oil, hazardous substances, or sewage from any vessel or onshore or offshore facility, (iii) is otherwise subject to regulation under this Act, or (iv) is applying for or receiving financial assistance under this Act,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interest held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of enactment of this section—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

By Mr. OBERSTAR:

On page 31 strike out all of section 17 after the colon on line 13 and insert in lieu thereof the following:

"(d) No permit shall be required under this section for discharges of dredged or fill material which—

"(i) results from normal farming, silvaculture or ranching activities, such as plowing, cultivating, seeding, or harvesting, for the production of food, fiber, or forest products;

"(ii) is placed for the purpose of maintenance, including an emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, or transportation structures; or

"(iii) is placed for the purpose of construction or maintenance of farm ponds, stock ponds or irrigation ditches, or for the purpose of maintenance of existing drainage ditches.

"(e) The Secretary of the Army, acting through the Chief of Engineers may, by rule, consistent with the requirements of subsections (a), (b), and (c) of this section, grant general permits for the discharge of dredged and fill materials, subject to such conditions as are set forth in such rule, which he determines will cause only minimal adverse environmental impact and have only minimal adverse cumulative effect on the environment. The Secretary, acting through the Chief of Engineers, may, if he determines, after opportunity for public hearing, that the cumulative effects of such discharges will have adverse cumulative effects on the environment, modify any condition theretofore prescribed, or revoke any general permit theretofore granted, under this subsection (e). The Secretary shall inform the public concerning the categories of activities and the conditions covered by such general permit to discharge dredged or fill material pursuant to this subsection (e).

"(f) The Secretary shall, on or before December 31, 1977, transmit to the Congress and to the President a report prepared by the Chief of Engineers in conjunction with the Administrator of the Environmental Protection Agency, setting forth the details of their efforts and experience in implementing this section and their recommendations for further action under, or for modification of, this section."

By Mr. PATTISON of New York:

On page 31 of the bill, strike out all of section 17 after the colon on line 13 and substitute in lieu thereof the following:

"(d) The Secretary of the Army shall authorize a State which he determines has the capability of administering a permit program which will carry out the objective of this Act to issue permits (1) for the discharge of dredge or fill material or (2) for other activities under Sections 9 and 10 of the Act of March 3, 1899, into or on the navigable waters totally within the boundaries of the States on which there is no regular and substantial waterborne transportation of commercial goods.

"(e) Secretary shall promulgate regulations to establish the requirements for state permit programs consistent with the applicable requirements of the permit programs administered by the Secretary of the Army acting through the Chief of Engineers including provision for periodic inspection and review by the Chief of Engineers of approved state programs.

"(f) The Governor of each State desiring to administer its own permit program shall submit to the Secretary a full and complete description of the program it proposes to establish and administer under State law. In addition, each State shall submit a statement from the Attorney General that the laws of such State provide adequate authority to carry out the described program.

"(g) Not later than 90 days after the date on which a State has submitted a program (or revision thereof), the Secretary shall approve such program which he determines is capable of meeting the requirement established pursuant to Subsection (e), and authorize that State to issue permits in accordance with the approved program.

"(h) No permit shall be required under this section or section 402 of this Act for discharges of dredged or fill material—

"(1) resulting from normal farming, silviculture and ranching activities such as plowing, cultivating, seeding and harvesting for the production of food, fiber and forest products;

"(2) placed for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures; or

"(3) placed for the purpose of construction or maintenance of farm and stock ponds and irrigation ditches and the maintenance of drainage ditches."

H.R. 10930

By Mr. RICHMOND:

Beginning on page 4, immediately after line 5, insert the following new section 3:

"SEC. 3. Section 7(b) of the Cotton Research and Promotion Act (7 U.S.C. 2106(b)) is amended to read as follows:

"(b) Providing that the Cotton Board shall consist of members selected by the Secretary 90 percent of whom shall be representatives of cotton producers and 10 percent of whom shall be representatives of consumers. The Secretary shall select cotton producer representatives from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 2113 of this title, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States: *Provided, however,* That each cotton-producing State shall be entitled to at least one representative on the Cotton Board. The Secretary shall select from nominations submitted by bona fide consumer organizations consumer representatives who are qualified to represent the interests of consumers, and have no interest directly or indirectly in any person or entity engaged in the commercial production of any natural or synthetic fiber or in the sale, promotion or distribution of such fibers or products derived therefrom".

H.R. 13589

By Mr. GUDE:

Page 4, line 3, strike out "films" and insert in lieu thereof "items".

Page 4, line 11, insert immediately after "(b)" the following: "and a copy, suitable for reproduction, of the exhibit described in subsection (c)".

Page 4, line 13, insert "and such exhibit" immediately after "films".

Page 5, immediately after line 12, add the following:

(5) "200", an impressionistic animated cartoon tracing the past two centuries of the development of America.

(6) "Rendezvous", a *film* portraying the frontier life of American fur trappers.

(7) "Century III—The Gift of Life," a film describing the advances that have been made in the United States, and the prospects for future such advances, in medical techniques such as organ transplants, prosthesis, and immunology.

(c) The exhibit referred to in subsection (a) is the exhibit, prepared by the United States Information Agency, entitled "Life, Liberty, and the Pursuit of Happiness". Such exhibit is a collection of pictures and captions, derived primarily from documents contemporaneous with the events represented, depicting early cultural life in the United States and tracing the early economic growth of the United States, the expansion westward, the development of the democratic spirit, and the establishment of American government and legal institutions.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of May 27, 1976, page 15539:

HOUSE BILLS

H.R. 13631. May 7, 1976. International Relations. Authorizes the President to make assistance available for the relief and rehabilitation of victims of the recent earthquakes in Italy, under the Foreign Assistance Act of 1961. Authorizes appropriations for such purposes.

H.R. 13632. May 7, 1976. Ways and Means. Authorizes a taxpayer, under the Internal Revenue Code, to elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred during the taxable year as expenses which are not chargeable to capital account. Deems such expenses so treated as allowable tax deductible expenditures.

H.R. 13633. May 7, 1976. Ways and Means. Authorizes a taxpayer, under the Internal Revenue Code, to elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred during the taxable year as expenses which are not chargeable to capital account. Deems such expenses so treated as allowable tax deductibility expenditures.

H.R. 13634. May 7, 1976. Ways and Means. Authorizes a taxpayer, under the Internal Revenue Code, to elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred during the taxable year as expenses which are not chargeable to capital account. Deems such expenses so treated as allowable tax deductible expenditures.

H.R. 13635. May 7, 1976. Ways and Means. Authorizes a taxpayer, under the Internal Revenue Code, to elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred during the taxable year as expenses which are not chargeable to capital account. Deems such expenses so treated as allowable tax deductible expenditures.

H.R. 13636. May 7, 1976. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to establish in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs to assist in aiding community and citizen groups to participate in crime prevention and other law enforcement activities.

Revises the requirements for State comprehensive law enforcement plans to require plans for the improvement of juvenile justice, adequate assistance to high crime areas, programs to combat crime against the elderly, and minimum standards to improve local jails.

Requires specific Congressional authorization of Justice Department appropriations for fiscal years beginning after October 1, 1977.

H.R. 13637. May 7, 1976. Judiciary. Authorizes the Attorney General and the President to admit certain refugees to the United States. Permits such refugees to become permanent residents of the United States upon approval of the Immigration and Naturalization Service two years after admission.

H.R. 13638. May 7, 1976. Armed Services. Permits the enlistment of Vietnamese and Cambodian alien refugees into the U.S. Armed Forces.

H.R. 13639. May 7, 1976. Interior and Insular Affairs. Increases the amount of lands authorized to be added to Morristown National Historical Park in New Jersey.

H.R. 13640. May 7, 1976. Judiciary. Permits the Attorney General, under the Immigration and Nationality Act, to adjust the status of any alien from Indochina to permanent resident without regard to immigration quotas or lack of possession by such alien of specified required immigration documents. States that such alien need only be eligible to receive an immigrant visa to qualify for such change of status.

H.R. 13641. May 7, 1976. Post Office and Civil Service. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this Act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 13642. May 7, 1976. Post Office and Civil Service. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13643. May 7, 1976. Ways and Means. Authorizes every individual whose income tax liability, under the Internal Revenue Code, is $1 or more to designate that $1 shall be used to reduce the public debt of the United States.

H.R. 13644. May 7, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13645. May 7, 1976. Judiciary. Allows judicial officers to deny pre-trial release of defendants in non-capital cases if there is no reasonable assurance that such person will not pose a danger to other individuals or the community.

H.R. 13646. May 7, 1976. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase the amount of available Federal assistance as a percentage of the total costs of Appalachian development highway projects.

H.R. 13647. May 7, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13648. May 7, 1976. Ways and Means. Amends the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under the Old-Age, Survivors, and Disability Insurance program may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned.

H.R. 13649. May 7, 1976. Ways and Means. Amends the Second Liberty Bond Act to allow the interest rates paid on United States retirement plans and individual retirement bonds to be increased to the rate paid on the United States series E savings bonds.

H.R. 13650. May 7, 1976. Banking, Currency and Housing. Provides that elderly persons residing in dwelling units receiving Federal assistance shall be entitled to specified rights concerning lease terminations.

H.R. 13651. May 7, 1976. Interior and Insular Affairs; Interstate and Foreign Commerce. Establishes procedures for administrative review and decisionmaking concerning the selection and construction of a natural gas transportation system to deliver Alaskan natural gas to the contiguous 48 States.

Suspends various procedural requirements imposed by the Mineral Leasing Act of 1920 and the National Environmental Policy Act of 1969. Imposes limitations on judicial review of administrative actions taxed pursuant to this Act.

H.R. 13652. May 7, 1976. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13653. May 10, 1976. Judiciary. Requires specified minimum prison sentences for any individual who uses or carries a firearm during the commission of a felony that may be prosecuted by a State court of a firearm transported in, or affecting, interstate commerce during the commission of a felony.

EXTENSIONS OF REMARKS

PERSONAL ANNOUNCEMENT

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. WHITE. Mr. Speaker, it has been my honor and privilege to represent the people of the 16th District of Texas in the U.S. House of Representatives for the past six consecutive terms. During this tenure, I have maintained a voting and attendance record averaging in the mid-90-percent range. This year, I found it necessary to be in my district during several weeks leading up to the May 1 Texas Democratic primary elections. At the time, I made a public statement in the mass media of my district that upon my return to Washington I would submit information to the CONGRESSIONAL RECORD indicating my stand on issues before the House during my necessitated absence. This is how I would have voted on the following:

February 26, 1976, H. Res. 868, "yes."

March 4, 1976, H.R. 12203, "yes," Burton amendment.

March 4, 1976, H.R. 12203, "no," Obey amendment.

March 4, 1976, H.R. 12203, "yes," Alexander amendment.

March 11, 1976, H.R. 3981, "yes."

March 11, 1976, H.R. 11481, "no," Emery amendment.

March 11, 1976, H.R. 11481, "yes."

March 18, 1976, H.R. 8532, "no," Flowers substitute amendment.

March 18, 1976, H.R. 8532, "no," motion to recommit.

March 19, 1976, H.R. 8532, "yes," Flowers amendment.

March 22, 1976, H.R. 12226, "yes."

March 22, 1976, H.R. 12046, "yes."

March 22, 1976, H.R. 12453, "yes."

March 23, 1976, H.R. 9803, "yes," Rule.

March 23, 1976, H.R. 9803, "no," motion to recommit.

March 23, 1976, H.R. 9803, "yes."

March 23, 1976, H.J. Res. 280, "yes," Buchanan amendment.

March 23, 1976, H.J. Res. 280, "no," Flowers amendment.

March 23, 1976, H.J. Res. 280, "yes."

March 23, 1976, H.R. 10799, "yes," Rule.

March 24, 1976, H.R. 10799, "no."

March 25, 1976, H.R. 11598, "yes."

March 25, 1976, H.J. Res. 801, "no."

March 25, 1976, H.R. 12566, "no," Bauman amendment.

March 25, 1976, H.R. 12566, "yes," Conlan amendment.

March 25, 1976, H.R. 12566, "yes."

March 29, 1976, H. Res. 1097, "yes," motion to recommit.

March 29, 1976, H. Res. 1060, "yes."

March 29, 1976, H.R. 12262, "yes."

March 30, 1976, H.R. 8617, "yes."

March 30, 1976, H.R. 200, "yes."

March 30, 1976, H.R. 12406, "yes," Rule.

March 31, 1976, H.R. 12406, "no," Frenzel amendment.

March 31, 1976, H.R. 12406, "no," Frenzel amendment.

THOMAS E. MORGAN, DOCTOR OF LAWS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. EILBERG. Mr. Speaker, on May 5, 1976, Capitol Hill was the unusual setting for an important event—perhaps the first time in the history of Congress that such an event has taken place here.

Late that afternoon in a moving and colorful ceremony the honorary degree of doctor of laws was conferred by Wayne State University, Detroit, Mich., on a distinguished alumnus and our beloved colleague, THOMAS E. MORGAN.

The chairman of the Board of Governors of Wayne State University, Max J. Pincus, University President George E. Gullen, Jr., and other officers and professors of the university, accompanied by the university band, came to Washington, D.C., to make the award. The impressive ceremony took place in the hearing room of the International Relations Committee, House of Representatives, and was witnessed by the Speaker and other Members of Congress, as well as many other friends of Congressman MORGAN and of the university.

In 1934, Congressman MORGAN was graduated from Wayne State University School of Medicine, where he was president of the graduating class. In conferring the degree upon Congressman MORGAN, Gov. Max Pincus made the following presentation:

> DOCTOR OF LAWS PRESENTED TO THOMAS E. MORGAN, M.D., BY GOV. MAX PINCUS
>
> The Congressional career of Dr. Thomas E. Morgan has been characterized by a fine combination of great administrative ability, integrity, and a strong advocacy of bipartisanship in foreign affairs policy.
>
> Chairman of the Committee on International Relations longer than any other man in United States History, Dr. Thomas E. Morgan has led historic reforms which have included a substantial enlargement of the Committee's jurisdiction. First named to the House Foreign Affairs Committee in May in 1946, he was appointed Chairman in 1959. He has been the principal sponsor of numerous international affairs measures that have been enacted into law and a frequent participant in conferences called by the President at the White House. He has been a leader in reasserting the proper constitutional role of Congress in the foreign affairs field.
>
> The Dean of the Pennsylvania Congressional delegation, Dr. Morgan has been selected to each succeeding Congress since first winning election in 1944. He served as Congressional advisor to the 1961 British-American Parliamentary Conference; as a member of U.S. Delegations to various NATO Parliamentary Conferences; as a member of the U.S. Delegation to various U.S.-Canadian Interparliamentary Group meetings; and most recently was Vice-Chairman of a Special Congressional Delegation to the People's Republic of China in 1973.
>
> While representing the people of his district for 32 years, he has also continued to serve them as practicing physician and surgeon, the profession he entered upon graduation from the Wayne State University School of Medicine in 1934.
>
> It is in recognition of these facts that the Wayne State University Medical School in 1964 presented Dr. Morgan with its Distinguished Service Award. It is with pride that his University confers yet another honor on Dr. Thomas E. Morgan, Congressional leader, humanitarian and foreign affairs expert, the degree, Doctor of Laws.

We, his colleagues, are tremendously pleased with this high honor which has come to Congressman MORGAN and congratulate him on it.

The announcement of "Doc" MORGAN's retirement, however, at the end of the present Congress has saddened many of us. For 32 years he has served his constituents, his State and country. As chairman of the Committee on International Relations, formerly the House Committee on Foreign Affairs, and a dean of the Pennsylvania congressional delegation, he has been an outstanding leader in the Congress and one of the most influential and well-liked figures in Washington.

"Doc" MORGAN will be sorely missed in the 95th Congress.

ESTATE TAX CREDIT FOR QUALIFIED FARMS AND SMALL BUSINESSES

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. FISHER. Mr. Speaker, the Ways and Means Committee hearings conducted in March of this year focused attention upon a number of aspects of the Federal estate tax laws that badly need reform. Of all the problem areas addressed during the testimony presented at the hearings, perhaps the one area in which the need for relief was most dramatically depicted was with respect to the impact that the Federal estate tax has had on the small family farm or business upon the death of the senior member of the family. Repeatedly, the testimony drew attention to the problem which farming or closely held business estates have encountered in raising sufficient cash and other liquid assets to pay the Federal estate tax as well as other debts without being forced to sell all or a portion of the business. Too often the farm has been sold to the real estate developer and the small business to the conglomerate simply to raise the cash to pay the taxes due.

A recent report prepared by the Department of Agriculture illustrates the liquidity problem faced by estates in which an interest in a farm or business constitutes a substantial portion of the value of the estate. The report found that an astonishing 91 percent of the farm estates analyzed in the survey would not have had sufficient liquid assets to pay the estate tax and death taxes plus settlement costs. Even if liquid assets held in joint tenancy and life insurance payable to named beneficiaries were used to pay the taxes and other debts, half of the estates surveyed would not have had an adequate amount of liquid funds to meet their obligations. In addition, most of the estates which do not possess sufficient liquidity to pay their Federal taxes are also those which have substantial debts or loans outstanding.

The report further shows that the percentage of illiquid assets in the typical farm estate has grown progressively larger over the past decade. In 1970, 78 percent of the total value of all U.S. farm assets consisted of real estate and machinery which are not easily sold without disrupting the continuity of the farming or small business. The alternative of using the farm property as collateral to obtain the cash required to pay the tax is unlikely to be available, because in most instances the farm property is already heavily mortgaged to supply the cash needed to conduct the day to day affairs of the business.

Mr. Speaker, for the reasons which I have discussed, I have introduced a bill designed to promote the preservation of the family farm or business after the death of the senior family member and thus prevent one of America's great institutions, the family business, from being dismantled simply for the purpose of paying the Federal estate tax. My bill provides a tax credit of up to $40,000 for estates in which the interest in the farm or closely held business represents a substantial portion of the decedent's estate for Federal estate tax purposes and that interest is transferred at death to a member of the decedent's family. The bill establishes a number of requirements which must be met before an estate may be eligible for the credit. In addition the bill requires that the tax plus interest be paid if all or a part of the business is sold to a nonfamily member or if the business is otherwise converted to a nonconforming use within 20 years after the decedent's death. This would encourage the continuation of the family business and protect against investment in small business simply as an estate tax shelter.

My bill provides a credit against the Federal estate tax of up to $40,000 for estates in which an interest in a qualified closely held business constitutes 75 percent or more in value of the decedent's estate for Federal estate tax purposes, reduced by the amount of deductions allowable under Internal Revenue Code section 2053. The reduction of the value of the estate by the amount of the decedent's debts and expenses will enable an estate in which the business relies heavily on debt financing for its operations to meet the 75 percent test to qualify for the credit. My bill adopts the definition of a qualified, closely held business found in section 6166(c) of the Internal Revenue Code which requires a qualified business interest to be either a sole proprietorship conducted by the decedent or a member of his family; a partnership in which the decedent retained a 20-percent capital interest or a partnership in which there were 10 partners or less; or a corporation in which the decedent owned voting stock equal to 20 percent or more in value of all the voting stock in the corporation. In addition, the estate must establish that the qualifying business interest was conducted by the decedent or a member of his family as his principal trade or business for each of the 5 years prior to the decedent's death. Lastly to discourage investments in farms or small businesses as estate tax shelters, the qualifying business interest must not have been characterized by the Internal Revenue Service as a business-not-engaged-in-for-profit within the meaning of Code section 183 for any of the 5 years preceding the decedent's death.

An obvious need arises for a requirement that the business interest qualifying for the credit be continued for a substantial period after the decedent's death. The purpose is to encourage the continuation of the farm or the small business. If the business is sold, converted to a nonconforming use, or transferred to a person who is not a member of the family within a short time after the decedent passed away, the reason for providing relief from estate tax vanishes. Accordingly, my bill provides for the payment by the estate or beneficiaries the entire amount of the credit plus interest from date of death if any of a number of specified events occur within 10 years following the decedent's death. The amount of the credit to be paid upon the occurrence of any of the events set forth below gradually declines for each year thereafter, until by the end of the 20th year after the decedent's death, the estate cannot be required to repay any part of the credit granted under my bill. The occurrence of any one of the following events will cause all or a portion of the credit plus interest to become due:

If all or any portion of the qualifying business interest is sold, disposed of, or otherwise transferred to a person who is unrelated to the transferor;

If 50 percent or more in value of the business interest is withdrawn by the transferor within the meaning of current code section 6166(h);

If the estate does not post adequate security to insure that the tax plus interest will be paid upon the occurrence of the proscribed events; and

If the business interest is characterized as one not engaged in for profit under current code section 183 for 5 years of the 20-year period following the death of the decedent.

In addition to creating a new credit against the Federal estate tax for farms and closely held businesses, my bill improves existing law in a number of respects. Under current law, an estate may defer payment of that portion of the Federal estate tax attributable to a decedent's interest in a closely held business, where the value of the business interest constitutes a significant portion of the decedent's estate. However, this provision has been of little value to most estates experiencing a liquidity shortage, because the executor must remain personally liable for the payment of the estate tax whenever the tax is deferred beyond the normal due date. Few executors have chosen to risk personal liability for a period as long as 10 years. My bill releases the executor from personal liability for payment of the estate tax where the executor either elects to defer payment of the tax or where the benefits of the credit are sought. Instead, the executor is given the choice of either providing collateral in the form of a lien against certain fixed assets of the business or, at his discretion, or he may post a bond equal to twice the amount of the tax deferred. The combined thrust of these changes should further ease the liquidity crisis of farming and small business estates by eliminating one of the practical problems that exists under present law.

Finally, my bill will enable more estates to defer payment of the estate tax pursuant to current code section 6161, which heretofore has afforded little relief to illiquid estates, because of uncertainties arising out of the language of the statute. Code section 6161 allows an estate to defer payment of the estate tax for a period of 10 years where it can be shown that the estate will experience "undue hardship" if it is required to pay the entire amount of the tax on the due date. The practical problem with this provision has been between taxpayers and the Internal Revenue Service regarding what circumstances constitute "undue hardship." My bill amends code section 6161 to require that only some hardship be shown to defer the payment of the estate tax beyond the due date.

I believe that the Committee on Ways and Means will take action on this important issue in the near future and I intend to offer my proposal for consideration by that committee.

REGULATORY REFORM IS STILL NEEDED

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mrs. PETTIS. Mr. Speaker, I was greatly distressed to hear last week that my distinguished colleague, Representative JOHN MOSS of California had predicted that Congress will not consider regulatory reform in this session.

Congressman Moss, who is most knowledgeable regarding Government regulation, told the Senate Government Operations Committee that a "lack of time" would make it impossible for this Congress to get around to considering reform measures such as the one which I recently cosponsored.

Congress has neglected to address itself to many important issues this session, Mr. Speaker, but that does not alter the fact that regulatory reform is still needed.

The bill, which I cosponsored earlier this year—the Regulatory Reform Act of 1976—would require the President to submit to Congress by March 31 each year—from 1977–81—a separate reform plan covering one of the five following specific areas of the economy: First, banking and finance, 1977; second, energy and environment, 1979; fourth, food, health and safety, and unfair or deceptive trade practices, 1980; and fifth, labor, housing, Government procurement and small business, 1981.

Each plan submitted by the President would include recommendations for increasing competition, and for procedural, organizational and structural reforms, including the merger, modification, establishment or abolition of Federal regulations, functions and agencies. The committees to which a plan is referred would clear it for floor action by September 15. The committees would be authorized to report a modified or alternative version. If a plan has not been enacted by December 31, and neither House was voted to disapprove the President's plan within that 9-month time frame, but Congress fails to enact an alternative plan by the following June 31, all powers of the agencies covered by that plan would terminate on that date.

Mr. Speaker, the arguments which we are hearing on the floor this week regarding whether energy problems should remain in the domain of the Federal Energy Administration and the Energy Research and Development Administration, or whether FEA should be abolished and the program authority transferred to ERDA, or whether an entirely new "energy" agency should be created, bear excellent testimony for the need to eliminate excessive, duplicative, inflationary and anticompetitive Government regulations as soon as possible.

Until such legislation is passed, taxpayers will continue spending billions of dollars every year because of the numerous unnecessary Federal regulations—and regulatory agencies—which remain a part of a festering Federal bureaucracy.

TRIBUTE TO STEPHEN MARTIN

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. REES. Mr. Speaker, on Thursday, June 3, Mr. Stephen Martin will be the recipient of the Sword of Haganah Award at the State of Israel Tribute Dinner.

Stephen Martin is an active community leader in the Los Angeles area and is recognized for his contributions in the areas of organized labor, the arts, and athletics. He is currently secretary-treasurer of Local 578 and vice president of the Joint Council 42 of the International Brotherhood of Teamsters. Under his direction, the Teamsters Joint Council 42 was the first Southern California labor organization to commemorate our Nation's Bicentennial by presenting the communities of Southern California, through various mayor's offices, with special Fort Bennington Bicentennial flags.

In the Arts, Steve Martin is known for his past role as president of the Valley Artist Guild, the American Institute of Fine Arts, and the California Arts Council. He is currently director of the Teamsters Joint Council 42 Institute of Fine Arts, and in that capacity has mounted several effective art shows. Steve attended Chouinard Art School, Otis Art School, and Temple University. He has exhibited his own work in Los Angeles and San Francisco and sold paintings to many private collections and the Motecito Jesuit Seminary.

As a former heavyweight champion of the Southern States, he has contributed his knowledge of athletics to help in the prevention of juvenile delinquency, both through a youth program sponsored by Local 1 of the Shipbuilding Workers of America, and as an original supporter of the Los Angeles Police Department's cross-country run which was part of the National Law Enforcement Week.

Mr. Martin is also cochairman of the board of advisers of Ocean State Bank in Santa Monica, and is a founder and director of the Bethlehem Foundation. He has twice received the Award for Peaceful Negotiations given by the Catholic Labor Institute, of which he is a director.

In light of Steve Martin's many accomplishments and contributions to the community in which he lives, I am sure that my colleagues will join me as I offer my sincere thanks and congratulations.

CHANNEL 4 FINALLY SCORES OUTSIDE POLITICAL CONTRIBUTIONS

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. TALCOTT. Mr. Speaker, I was amazed to watch and listen to "News Center," channel 4, Washington TV, take editorial umbrage about Virginia firms, people, and utilities sending contributions to California to support or oppose the initiative to impose a nuclear moratorium throughout California under the now famous proposition 15.

Why the sudden indignation? Because businessmen are sending contributions to oppose the moratorium which they perceive to be destructive of business, energy sufficiency, our way and standard of life and work? I trust this is not so.

For years, people, groups, political organizations, and unions have been sending huge numbers and amounts of contributions all over the Nation to influence elections of all kinds. I have heard no one, including "News Center 4" or any other media person, complain or even mention this enormous interstate trafficking in political money during almost every election campaign.

I agree with channel 4. I simply fault their tardiness and their failure to report this serious degradation of our electoral system by many more persistent and pernicious interstate contributors. When the political activists and the national unions were so freely sending their moneys, and people, often in violation of disclosure and reporting laws, into every State of the Union no one seemed to give a hoot.

For years I have been urging everyone I can to enact legislation to prohibit contributions from outside an electoral district.

We do not permit persons from outside an electoral district to vote in any electoral district on any issue. Why should we permit any person or group from outside an electoral district from influencing that vote with money or workers?

I think we should not. This degrades representative government and distorts the vote in every election.

Elections should be "of the people," "by the people" of the electoral district.

In many elections, outside contributions often dominate the election. This ought to be prohibited.

I wish channel 4, "News Center" would interest themselves in other outside contributors who are trying to influence elections everywhere, many of which are much less their business than those trying to influence the nuclear moratorium initiative, proposition 15, in California.

I wish everyone who is dissatisfied with our electoral system and our election practices would join me in trying to prohibit all outside contributions in all elections.

DOMINGA VELASQUEZ AND 75 YEARS OF CARING

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. STARK. Mr. Speaker, someone once said that "the capacity to care is that which gives life its deepest significance." No more is this the case than with Dominga Velasquez—an individual who as been helping, giving, and caring all her life. Her "capacity to care" is indeed special.

Dominga adopted this country over 60 years ago. Her affection for the Oakland Spanish-speaking community is as deep as it is significant. Dominga has served in every conceivable capacity. She is a cofounder of the Association of Latin American Women, as well as the Spanish Speaking Unity Council—both organizations being dynamic forums for Spanish-speaking community development.

But more than the formal structures, Dominga's caring is illustrated in her personal commitment. As an example, she volunteers for Our Lady's Home in Oakland—a convalescent facility. She shares her kind nature with the senior citizens she takes on walks, to doctor's appointments, and on shopping errands. Her presence is legendary. That benevolence reaches into her own home. Dominga often welcomes people in need of food, in want of shelter, or in search of a kind word. Her door is always open.

The community has often expressed its appreciation for Dominga's service. She has received awards of recognition at one time or another from every Spanish-speaking organization in Oakland. Last year, she was honored as the Mexican Immigrant of the year by the International Institute of the East Bay. On May 21, the Oakland Museum Ethnic Guild honored Dominga as the outstanding person in the community.

Dominga just celebrated her 75th birthday and is going strong. At this milestone in her life, Mr. Speaker, I know my colleagues join me in paying tribute to a fine human being. We can all learn from her infinite capacity to care, and her remarkable willingness to share.

STATES RIGHTS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mrs. HOLT. Mr. Speaker, as the Federal Revenue Sharing Act, H.R. 13367, emerges from the Government Operations Committee, it contains policy provisions that are an abomination to those of us who are committed to the survival of freedom in these United States.

It is well to remember, in this 200th anniversary of American independence, that the authors of our Constitution intended the States to retain autonomous powers for most public policy decisions that affect the lives of the citizenry. Indeed, they regarded States rights to self-government as essential to check the power of the Central Government.

We all know that State autonomy has been dramatically eroded during the past 40 years by the explosion of Federal programs that offered financial grants in return for submission to Federal rules and guidelines. It can be argued that these Federal programs were the only effective way of dealing with public needs beyond the capacity of the States. A counterargument can be offered that the Federal Government has used the tax dollars of the people to steadily erode their right to self-government.

In 1972, Congress enacted the Federal revenue sharing program, which was designed not only to increase Federal assistance to the States, but also to free them from most of the onerous Federal control that normally accompanies such assistance.

We now approach the decision on whether to extend revenue sharing, and we find that a House committee has attached policy provisions that could ultimately bring the final devastation of self-government in this Republic. I refer to the provisions known as the Rosenthal amendment.

This amendment would require each State government to develop a master plan and timetable for reorganization of State government and all local governments within its jurisdiction. The Secretary of the Treasury would become the czar of such reorganizations, annually reporting to Congress on development of the State plans and their implementation.

The Rosenthal amendment suggests that the State plans include subjects such as assignment of government functions, local government consolidation—metro government—State and local tax structure and administration, management capacity, citizen participation, interstate agreements, personnel systems, local home rule, zoning powers, and the planning process.

I know that State and local officials have been lobbying for a continuation of revenue sharing, because these funds have become part of their annual budgets, but they never bargained for conditions such as are attached to this legislation.

Many of us will do all within our power to delete the Rosenthal amendment from the legislation, but if we fail, are those State and local officials ready to sell their people's rights to self-government for the funds authorized by this act? I hope not.

It is emphatically not the business of the Federal Government to mandate the reorganization of State and local governments. It is the right of the people to determine whether, when, and how their State and local governments need reorganization.

The Rosenthal amendment violates the spirit of the Constitution, and more, it completely perverts the original intent of Federal revenue sharing.

In conclusion, I would comment only that most State and local governments are models of efficiency and usefulness compared with the huge, lumbering bureaucratic monstrosity that has been created in Washington. If Members of this Congress wish to devote themselves to governmental reform, and correcting abuses and incompetence, there is surely much to occupy them in Washington.

SUPPRESSION OF INNOVATION: PHARMACOLOGISTS SPEAK OUT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SYMMS. Mr. Speaker, the following excerpts are taken from testimony which was prepared by several noted doctors and pharmacologists and presented to the HEW Review Panel on New Drug Regulations. Dr. Gifford's statement points to some of the difficulties with FDA which have been factors causing the "drug lag" which this country is currently experiencing. Unlike Dr. Gifford. I cannot be sanguine about the prospects for upgrading FDA personnel by ever-increasing appropriations. The remarks made by the Director of the Bureau of Drugs of FDA, which appear in another section of today's CONGRESSIONAL RECORD, indicate to me that even HEW is cynical about the prospects of upgrading the in-house staff of the FDA. Thus, calls for "solutions" such as better-qualified agency staff may be unheeded, and may avoid the root cause of our problems—which is the 1962 law.

The health of Americans should never, never, I repeat never, be subjected to the whims of Congress when it comes time to pass an FDA appropriation bill. The only long-term solution is to take away from FDA, and its oftentimes inadequate staff, the power to make the terribly subjective determinations about drug "efficacy." For too long these agency determinations have been made in a secretive atmosphere, removed from critical review by qualified and disinterested parties such as academicians, pharmacologists and physicians. Many people who are critical of the shortcomings of the FDA have complained to me that nowhere else in the Government, with the exceptions of the CIA and Defense Department, is there so much secrecy.

Also a part of the "secrecy problem" is the manner in which the agency acts as a censor over information distributed to doctors. The FDA takes upon itself the task of determining which uses of drugs are "approved" and disseminates information only on these Government-approved uses. No dosage information is given about so-called "unapproved" uses.

However, it is a fact that many physicians find drugs useful for various purposes, other than those on which the government has stamped its seal of approval. Certain antihypertensives, for example, are the first drug of choice in the treatment of hypertension overseas. Those same drugs may not be approved for use in hypertension here in the United States, however. Yet doctors who take special care to stay current in the medical literature and to render top-notch treatment to their patients, learn of these unapproved uses prevalent in other countries and sometimes treat accordingly. But they are not given the valuable information about dosages and optimal treatment from FDA. And the drug industry's detail men are not permitted to give out information to these physicians which is derived from the foreign literature if it relates to unapproved uses.

In 1973, the FDA approved the use of propranolol in treatment of angina—many years after it had been approved for such use in England. However, they remained firm in their refusal to approve the drug's use in treating hypertension. A number of physicians had been using the drug for treatment of hypertension and decided to stop its use after FDA's 1973 decision. However, drug detail men were not permitted by FDA to warn these physicians about the dangers of precipitous withdrawal of the drug in hypertensive patients. British journals had mentioned that such withdrawal could bring about myocardial infarctions. No one knows the exact number of patients who may have died or suffered severe heart problems due to this. But everyone acknowledges that there were such cases. And what was the cause? Well, I feel that a blameworthy body is the FDA, which has set itself up as a censor over the dissemination of valuable medical information.

The article which follows should be most enlightening to my colleagues, who have pondered the reasons for the drug lag in this country and who are anxious to resolve the problem. It is my feeling that the Medical Freedom of Choice Act offers the only enduring solution to this problem.

STATEMENT OF THE AMERICAN SOCIETY FOR CLINICAL PHARMACOLOGY AND THERAPEUTICS TO HEW REVIEW PANEL ON NEW DRUG REGULATIONS READ BY RAY W. GIFFORD, JR., M.D., PRESIDENT OF THE AMERICAN SOCIETY FOR CLINICAL PHARMACOLOGY AND THERAPEUTICS ON MAY 10, 1976

Dr. Chalmers and distinguished Members of the Review Panel:

I am Dr. Ray W. Gifford, Jr., Head of the Department of Hypertension and Nephrology at the Cleveland Clinic Foundation and President of the American Society for Clinical Pharmacology and Therapeutics. I am pleased to have this opportunity to appear at this meeting of the HEW Review Panel on New Drug Regulations and read, on behalf of the American Society for Clinical Pharmacology and Therapeutics, the following statement which was prepared by the Drug Regulatory Committee of our Society under the chairmanship of F. Gilbert McMahon, M.D., Professor of Medicine and Head of Therapeutics Section of the Department of Medicine, Tulane University School of Medicine who is with me today. Also with me is William B. Abrams, M.D., immediate past president of the American Society for Clinical Pharmacology and Therapeutics and Executive Director of Clinical Research at Merck, Sharp & Dohme Research Laboratories.

We thank the Review Panel for giving us this opportunity to present our views which we hope will be helpful to you in your deliberations.

The American Society for Clinical Pharmacology and Therapeutics, hereinafter referred to as the Society, consists of over 1000 members including eminent clinical pharmacologists from academia, industry and the FDA, teachers of clinical pharmacology and therapeutics, and practicing physicians who are motivated to improve therapeutics in the day to day practice of medicine.

Our interests range from the development and testing of new drugs to sponsoring continuing education programs to update practitioners of medicine in the rational use of drugs, old and new, in the clinical setting. A statement of principles of the Society is furnished as Exhibit I for your information.

Our Society is unique in that its members come from industry, from the FDA, from academia and from the private sector, yet we do not speak for or represent any special interests—rather we speak for a group of scientists and physicians whose overriding concern is for the development, introduction and rational use of better and safer therapeutic agents for the patients of this nation. In a very real sense, then we speak for the consumer—for our patients, who look to us in their time of illness for advice about treatment. Like others mindful of consumer interests, we are concerned with the safety of new and old therapeutic agents, but we are in a better position than most to perceive and to judge whether the patient is being overprotected from new and useful therapeutic agents to his/her detriment.

There can be no doubt that the Kefauver-Harris amendments of 1962 have sharply reduced the number of new drugs ("New Chemical Entities") that survive the approval process and reach the market for clinical use each year. Moreover, for those drugs which are eventually approved, the length of time from the initiation of investigative studies (filing the IND) until final approval of the NDA has on the average, increased several fold since 1962.

It is equally true that many important new drugs, some of which are lifesaving, have not reached the market in the United States until several years after they were available to patients in Europe, Australia and in some cases in Canada. Other valuable therapeutic agents are still not available in the United States even though they are marketed widely throughout the world. Finally, FDA approval of new and widely accepted indications for already marketed drugs has been slow and in some cases has not been granted at this writing.

That a "drug lag" exists in this nation cannot be denied. The questions for debate are: 1) Is the drug lag harmful? 2) Whose fault is it? 3) What can or should be done about it?

IS IT HARMFUL

As comfortable as it would make us, it would be naive to deny that the drug lag has cost some Americans their lives or well being. To deny this would be tantamount to saying that none of the drugs listed in Exhibit II have lifesaving potential. While it is true that alternatives to most of the drugs listed in Exhibit III have been available in the U.S., every practicing physician knows that adverse or idiosyncratic reactions prohibit their use for some patients and no drug is universally effective for all patients.

Adverse and unfavorable reactions to drugs are always more apparent, at least to the public, than the harm that can come from not having an effective therapeutic agent available when it is urgently needed. The thalidomide tragedy is a horror story that won't soon be forgotten, but nobody can count the Americans who have died or suffered prolonged illnesses because effective new drugs were not available in this country. It is important that drugs be as safe as possible but it is unrealistic to demand that every new drug, or even old drugs, be 100 percent safe. There is no such thing. Every physician realizes that each time he makes a therapeutic decision, whether it is to treat or not to treat, he makes a value judgment of the benefits and risks of the treatment versus the risks of the disease untreated. This concept of benefit/risk ratio is not a new discovery.

It is axiomatic that every worthwhile venture involves some risk and every individual, every day, consciously or subconsciously subjects himself/herself to certain risks. Statistics show that most accidents occur in the home and that the most common site for accidents in the home is in the bathroom and on the stairsteps. Yet, who of us is not willing to accept the risk of taking a bath or of going up and down stairs? Every one in this room today took a risk in getting here, whether by plane, taxi or on foot, yet obviously, each felt that the mission we have warranted the risk, or we wouldn't be here.

No matter how long a new drug is studied in laboratory animals or in phases I, II, and III, the risks attendant upon its use can never be absolutely predicted or eliminated. To strive for perfect safety of any drug is unrealistic and will stifle development and approval of all new drugs and to deprive our fellow Americans, our children and ourselves of the advantages of many new therapeutic discoveries which other nations now enjoy. Undoubtedly, some of us in this room today owe our lives to therapeutic agents which would not have been available to us if the researchers and investigators of the previous generation had met the same obstacles which we are creating in this generation.

It is the opinion of our Society that the pendulum has swung too far and that not enough emphasis is placed on potential benefit when considering the benefit/risk ratio in the evaluation of a new drug. As much attention must be given to the risks of not having the drug available as is now given to assuring that it is as safe as possible. This crucial decision must be made by experts in the FDA and their advisory committees and should not be unduly influenced by those with little expertise in this sophisticated field, however expert they may be in other areas.

WHOSE FAULT IS IT?

As is the case in most controversies, the blame for the drug lag cannot be attributed to any one of the many participants in the drug approval process. We must all share it.

There are those who believe that the requirements of the Kefauver-Harris amendments and/or their interpretation was too rigid in the first place.

The FDA, curiously enough, has been blamed both by those who feel there is a detrimental drug lag as well as by those who hold the view that too many drugs have been released without adequate evidence for safety and/or efficacy. There seems to be general agreement that for the first 7 or 8 years after the Kefauver-Harris amendments, the FDA had a rather inflexible, overly stringent and uncommunicatively dilatory attitude towards many NDA's. Rejections without helpful suggestions for modifications were followed by resubmissions, further rejections, ad infinitum, thus prolonging the approval process endlessly.

Industry in turn became discouraged, suspicious and defensive. Stung by so many rejections with requests for more and often seemingly irrelevant data, the protocols for evaluation of new drugs and the report forms became longer and more complex, thus discouraging the clinical investigators and increasing the costs for clinical studies. Motivation for developing new chemical entities in industry research laboratories was stifled and when new compounds were developed they were often given to European investigators first; in a sudden change of roles, the American clinical pharmacologists were consistently learning about newly developed compounds from their foreign colleagues instead of vice versa.

The truth of the matter is that for many of the drugs which are available in countries other than the United States, NDA's (and in some cases IND's) have not been filed. Presumably industry, and not the FDA, is at fault, because FDA cannot act until an NDA is filled. In reality however, the hostile climate created by the FDA in earlier years is still having its effect in stagnating the development of new drugs in the United States. Because of so many rejections in the past, industry is reluctant to proceed with NDA submissions until voluminous data covering every contingency are collected.

Protocols have become so complicated, yet stereotyped, and report forms so voluminous that many clinical investigators have given up or sharply curtailed the evaluation of new drugs. In their desire to collect as much data as possible to satisfy the anticipated demands of the FDA, industry has insisted more and more that investigators follow a prescribed protocol rather than to use their own ingenuity and ideas, which makes the pedestrian job of drug trials even less attractive.

Several years ago I was asked by a well known pharmaceutical company to study a new drug for hypertension. Not only because of the size of the case report form (over 200 pages per patient for a 66 week study period!), but also because they insisted I follow their stereotyped protocol without any deviations or embellishments, I declined to do the study.

There is little doubt that the interest of clinical pharmacologists and investigators in new drugs trials has waned as the defensive posture of industry has increased the tedium of reporting voluminous and irrelevant data in order to satisfy some referee at FDA. From 1952 to 1962 I evaluated and reported on 13 new drugs, all of which were eventually marketed. From 1962 to 1970 I studied and reported on three new drugs, one of which (methyldopa) was already under investigation in 1962. Since *1970 I have* not investigated one new drug.

That my experience is not unique, I cite the result of a new survey made in 1974 in preparation for the Bethesda Conference on "Development and Introduction of New Cardiovascular Drugs". A questionnaire was submitted to 28 members of our Society who in the past were recognized for their interest in evaluation of new cardiovascular drugs. Thirteen responded that they had curtailed or stopped doing Phase III drug trials since 1968, eight stated that their activities in this regard were unchanged and seven did not respond.

Four of the 13 who were doing less or no clinical investigation of new drugs gave as their reason that fewer new drugs were being offered to them and nine stated that they objected to stereotyped protocols and/or what they perceived to be unnecessarily complicated protocols and/or report forms.

WHAT CAN BE DONE ABOUT IT?

Obviously changes must be made if the log jam is to be broken so that new and effective drugs are made available to our patients without undue delay.

First and foremost, the FDA Bureau of Drugs must be provided with the funds and personnel to get their monumental task done effectively and efficiently. While there are many knowledgeable physicians and scientists in the FDA, more are needed. Too often, important decisions regarding drug approval have been made by physicians who have little or no experience or expertise in clinical investigation or practice. Rejection of NDA's have sometimes reflected the inability to interpret data rather than any deficiency in data. Clinical pharmacologists and investigators become disillusioned when their data and conclusions are reviewed and criticized by FDA referees who are less knowledgeable and experienced than they.

More reliance must be placed on the decisions and opinions of review committees that are selected for their experience and competence so that they command the respect of the scientific community. In the past, in the selection of members of review committees, undue emphasis has been given to the possibility of remote "conflicts of interest" which precluded the appointment of many knowledgeable scientists.

Career opportunities in the FDA must be made more attractive, both scientifically and monetarily, to qualified and competent scientists. Scientists of lesser ability should not be allowed to remain in key positions because of Civil Service regulations or political pressure.

No other agency or bureau has been the target of so much Congressional inquiry as has the FDA. This Review Panel is the direct result of one of these Congressional hearings; and the Commissioner and his staff have devoted untold hours to compiling an enormous volume of data to evaluate charges made during the Kennedy hearings of 1974. Some of the most capable scientists in the FDA must devote too much time to these activities—time that could be better spent in effective administration and development of policy. If the Congress is unhappy with the FDA, then it is their prerogative to change it—but in the interest of more efficient operation of the FDA, let us put an end to these repeated hearings that syphon off precious man hours and keep the FDA in a constant state of turmoil.

Secondly, the FDA should be encouraged to adopt new policies that will expedite the approval process without abdicating their legal, ethical and moral responsibilities or sacrificing the scientific quality of their reviews. The FDA should be encouraged to make greater use of data generated by reputable foreign scientists. This would reduce duplicative research and avoid the questionable ethics of conducting clinical trials for regulatory purposes only.

The FDA should be encouraged to pursue its present policy of conferring with industry and clinical investigators during the IND phases. Rather than play a guessing game with the FDA, regarding what information they will require before approving a new drug, sponsors should design their protocols and report forms in collaboration with FDA and the clinical investigators who will be involved in their execution. Simplification of protocols and report forms by eliminating unnecessary procedures and data collection would rekindle the interest of many clinical investigators who have given up drug trials. Qualified clinical investigators need to be encouraged, not discouraged from participation in drug studies.

Expert advisory committees should be given more responsibility in adjudicating differences that arise between industry and the FDA over design of protocols and interpretation of data.

While the law and ethical and moral considerations require that a drug must be safe and effective before it is approved for marketing, safety and efficacy are relative and not *absolute terms*. More consideration should be given to balancing safety and efficacy for individual classes of drugs. It must be appreciated that efficacy is rapidly determined in relatively short-term studies, while the total spectrum of safety may require decades to be exhibited. Thus, consideration should be given to developing an effective post-marketing surveillance (or Phase IV) system to expedite the marketing of new drugs with significant therapeutic potential, while gathering better drug therapy is the way consumers benefit by medical research, there should be some governmental agency whose concern it is to work with clinical pharmacologists and other scientists in industry, government, and in the private sector to foster the development of new drugs.

Lastly, the present climate of adversarial confrontation impedes the approval process and is not in the best interest of the consumer whom we all profess to serve. Congress and consumer advocates question the motives of the FDA and industry; industry mistrusts the FDA and the FDA mistrusts industry. Caught in this cross-fire, the bewildered clinical investigator is turning his attention to areas of research other than clinical trials of new drugs. As a result, the drug lag continues. Better communications should improve this situation and dispel the *doubts and suspicions* that are impeding progress. Men and women of good faith should be able to resolve these differences.

It is reassuring that all of us who are embattled in this controversy over the FDA and drug regulation have as our primary concern the welfare of the private U.S. citizen. How is it, then, that we can take such diametrically opposed views? Perhaps it is because we do not share the same viewpoint of the private citizen. To the legislators, whose repeated investigation of the FDA eventually led to the formation of this Review Panel, the private citizen is a constituent who must be cultivated; to the HEW who impaneled this review body, the private citizen is a taxpayer who must be satisfied; to the self-appointed watchdogs of the FDA, the private citizen is a consumer who must be protected from pressure groups, real or imagined, that would prey upon his/her gullibility; to the physician the private citizen is a patient who seeks our counsel to get well when he is ill and to stay well when he isn't ill.

Of all who share concern for the private citizen, only the physician can realize the anguish of seeing a patient suffer or even die because the appropriate therapy is not available. It is the desire to be able to provide better care and better and safer drugs to our patients and to promote a better state of health for the private citizen—our patient—that motivates us to come here today. I hope that our testimony has been helpful to this Review Panel which in a very real sense has the responsibility for seeing to it that drug regulations promote rather than imperil the health of this Nation.

FOREIGN MILITARY SALES REDUCE U.S. WEAPONS COSTS

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, tomorrow the House will resume consideration of a bill which would among other things, establish a $9 billion ceiling on all U.S. military sales abroad. Before my colleagues cast their votes on the International Security Assistance and Arms Export Control Act, I urge them to consider the financial savings to our own defense programs which result from foreign military sales.

The Congressional Budget Office has just recently released a comprehensive study entitled: "Budgetary Cost Savings to the Department of Defense Resulting from Foreign Military Sales." Prepared by James R. Capra, Robert E. Schafer, and Patrick L. Renehan at the request of the House Armed Services Committee, this report finds that the current $8 billion sales program generates $560 million in cost savings to the United States annually. The primary sources of these reductions are recovery of research and development costs and lowered per unit production costs. The savings which accrue to individual weapons systems are often substantial, ranging up to 15 percent of a weapons procurement costs in a given fiscal year and 8 percent of its total R. & D. bill. While the paper notes that not all programs generate such financial benefits, it estimates that those which do save the American taxpayer 14 cents for every dollar of sales. The report concludes that a reduction in the level of foreign transactions would result in a proportional decrease in savings.

These facts are important in the face of our pending debate. I urge Members to read the excerpts which follow and perhaps to obtain a copy of the full report from CBO in order to consider more fully the merits of this presentation:

EXCERPTS FROM CONGRESSIONAL BUDGET OFFICE REPORT

INTRODUCTION

This is a report on the financial aspects of the sale of U.S. arms abroad. Specifically, this report deals with the budgetary cost savings to the U.S. Department of Defense which are generated by foreign military sales. Based on the current mix of sales of weapons, services, and construction, an $8 billion sales program would on the average generate $560 million in savings annually. This estimate of savings presumes then the U.S. would not significantly alter the defense production base in the absence of foreign military sales. If only research and development (R&D) savings are considered, an $8 billion sales program would on the average generate $160 million in R&D recoupments. If the mix of sales were to remain the same but the foreign military sales program were reduced, the savings would be reduced proportionally. For example, a $4 billion program would on the average generate $280 million in total savings of which $80 million represents R&D recoupments . . .

CATEGORIES OF SAVINGS

The savings generated by foreign military sales can be classified into five major categories. Following is a brief definition and characterization of each category. A more detailed discussion of these categories, especially research and development (R&D) recoupments and "learn-curve effects," leading to lower unit costs, can be found in CBO staff working paper, *Foreign Military Sales and U.S. Weapons Costs.*

Research and development recoupment

The first and most readily identifiable saving from foreign military sales is R&D recoupment. R&D recoupment refers to the R&D surcharge which is added to the purchase price of a weapon system sold to a foreign buyer. This surcharge represents R&D expenses which would otherwise have been borne by the U.S. alone, and consequently would appear to be a clear cut example of a cost saving. The magnitude of R&D recoupment varies, of course, with the weapon system.[1]

Learning curve effects and economies of scale

Savings from *learning curve effects* refer to those savings which result from a longer production run for weapon systems, especially aircraft and missiles. As described in "Military Equipment Cost Analysis," it is a relatively well-documented fact that in the absence of other factors the cumulative average cost of aircraft and missiles decreases as the total number produced increases.[2] Factors which are frequently mentioned as being responsible for this decreasing average cost are job familiarization by workmen, general improvement in total coordination, and development of more efficiently produced subassemblies. If the sale of arms to a foreign country makes it possible for some of the items produced for the U.S. to be purchased at a lower average cost due to learning curve effects, then the foreign sale in fact produces cost savings.

Economies of scale refer to the economic principle which states that, under some circumstances, expanding the rate of production (for example, fully utilizing an existing production facility) can result in lower average costs. Again, if a foreign sale enables U.S. weapons to be purchased at a lower average cost, then the foreign sale can be said to generate cost savings.

---

[1] For a detailed discussion of the guidelines for setting the size of the R&D surcharge, see: CBO staff working paper, *Foreign Military Sales and U.S. Weapons Costs* (May 1, 1976), p. 7; and DoD Directive 5105.38 (Aug. 11, 1971: amended May 10, 1973).

[2] Rand Corporation, *Military Equipment Cost Analysis* (Santa Monica, Calif.: Rand Corporation, June 1971).

Despite the general agreement among analysts that learning curve effects and economies of scale can generate cost savings, such savings are relatively difficult to estimate since accounting records do not facilitate isolation of these savings from other savings, such as overhead savings.

OVERHEAD

Another source of potential cost savings is related to overhead costs. In general, not all of the costs which are charged to a contractor for a weapon system are attributable to the materials and labor which are going into that weapon system. The contractor also bears certain indirect costs that are passed on to his customers. To the extent that foreign buyers pay for indirect costs that would have otherwise been borne by the U.S. Government, foreign military sales generate overhead savings.

Overhead costs can be classified in many ways. One particularly useful classification is that between fixed and variable overhead costs. Fixed overhead costs are costs which do not vary with the number of goods produced; that is, they are costs which are relatively insensitive to changes in the volume of sales. The costs of facilities or of a fixed staff of design engineers are examples. Variable overhead costs are those which do vary with the volume of sales. To the extent that the costs of facilities or the size of the staff of design engineers vary with the volume of sales, these costs can be said to be variable.

Foreign military sales generate overhead cost savings when they make it possible for fixed overhead charges to be paid partially by foreign buyers rather than solely by the U.S. Government. Unfortunately, these savings are relatively difficult to estimate. An upper bound on such savings would be the amount of overhead costs paid by foreign buyers. However, it should be noted that, to the extent that these overhead costs are not fixed or would be borne by other than U.S. Government business (e.g., private buyers such as commercial airlines), they do not represent savings which are the result of foreign military sales.

The attribution of significant overhead savings to foreign military sales assumes that in the absence of foreign sales the U.S. would not significantly change its production base. A rationale for this is the argument that the U.S. production base is sized to meet emergency requirements and would not be reduced in peacetime in the absence of foreign military sales.

The sharing of overhead costs is one savings which could theoretically result from a commercial foreign military sale as well as a government-to-government sale. For example, if a foreign country is buying equipment directly from a contractor and the contractor is simultaneously producing a weapon system for the U.S., then the commercial sale may result in the U.S. having to pay lower overhead costs than would have otherwise have been the case. It does not appear at first glance that commercial sales very often result in savings of this type. The only example identified to date is the C-130 aircraft.

Production line gap

The next major category of cost savings which may result from foreign military sales is associated with the closing and opening of production lines with concomitant setup and termination costs. If a foreign sale allows a contractor to keep a production line open for a subsequent U.S. buy, then it would appear that the foreign sale generates some cost savings. Like other savings, those associated with avoiding gaps in production lines are difficult to validate. A major difficulty is that they depend on a comparison of current, proposed, and hypothetical production plans. For example, it is clearly not the case that every time a foreign sale occurs in the middle of two production runs for the U.S., the U.S. would have incurred costs for a production line gap were it not for the foreign sale. In certain instances, the U.S. would most likely have merged the two production runs into one were it not for the foreign buy.

Other

There are other savings which may result from foreign militay sales. Most of these fall into the category of nonrecurring costs which the U.S. Government is able to share with foreign buyers. For example, suppose the U.S. wants to expand or accelerate the production of tanks from thirty to forty per month. Also, suppose the acceleration causes the opening of a new production line capable of producing an additional thirty tanks per month. Setting up a new production line involves certain nonrecurring costs for tooling and so forth. If a foreign buyer decides to purchase twenty tanks per month and assumes a prorata share of the nonrecurring costs of setting up the new production line, then the foreign sale generates savings. . .

THE EFFECT OF A BAN OR REDUCTION OF FOREIGN MILITARY SALES

The current level of foreign military sales is approximately $8 billion per year. Tables 8 and 9 contain estimates of total savings and R&D savings under an $8 billion sales program, using the current mix of sales (mix 1) and the previous mix of sales (mix 2). (As discussed earlier, R&D savings have been broken out separately since they are relatively insensitive to particular assumptions about the U.S. production base and the pace of U.S. procurement.) Under the current mix of sales, total savings would on the average be $560 million annually, while R&D savings would be $160 million per year. Tables 8 and 9 also contain estimates of the savings under a $4 billion sales program. It should be noted that the estimates are averages and in any one year the savings might be different from the estimates, depending on the mix and timing of rates.

Using Tables 8 and 9 it is possible to estimate the budgetary impact of a complete ban or a substantial reduction in the level of foreign military sales. Under the current mix of sales, a complete ban on foreign military sales would on the average result in the loss of savings of $560 million per year, which includes a $160 million loss in R&D recoupments. If the level of sales were to be reduced to $4 billion and the percentage of sales with the potential to generate savings were to remain at the current level of 50 percent, then the loss in savings would be $280 million per year, including an $80 million loss in R&D recoupments. However, if the mix of sales for a $4 billion program were assumed to be similar to the mix under $4 billion programs in previous years (70 percent of sales have the potential to generate savings), then the loss in savings would be $168 million per year, including $48 million in R&D recoupments.

TABLE 7.—AVERAGE SAVINGS PER DOLLAR OF SALES FOR FOREIGN MILITARY SALES PROGRAM

	Total savings	R. & D. savings	Other categories
Mix 1	$0.07	$0.02	$0.05
Mix 2	.10	.03	.07

TABLE 8.—TOTAL SAVINGS

[In millions of dollars]

	$8 billion sales program	$4 billion sales program
Mix 1	560	280
Mix 2	784	392

TABLE 9.—R. & D. SAVINGS

[In millions of dollars]

	$8 billion sales program	$4 billion sales program
Mix 1	160	80
Mix 2	224	112

ERDA ISSUES GEOTHERMAL LOAN GUARANTY REGULATIONS

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McCORMACK. Mr. Speaker, in 1974 the Geothermal Energy Research, Development and Demonstration Act was enacted into law. Ninety-eight Members of the House joined me in sponsoring this legislation. Title II of that act established within the Energy Research and Development Administration a loan guaranty program to encourage the commercial production of energy from geothermal resources. This provision of law was precedent setting in that it was the first program of its kind intended to spur the commercialization of a new energy source.

In the intervening time, the ERDA has prepared draft regulations for administering the loan guaranty program and published them in the Federal Register on October 24, 1975. After receiving public comments on the draft regulations, the ERDA has revised them to reflect the comments received.

On Tuesday, May 25, I had the privilege of attending the ceremony at which Dr. Robert C. Seamans, the Administrator of ERDA, signed the final regulations and authorized their publication in the Federal Register. I believe that the Geothermal Energy Demonstration loan guaranty program will move forward at a rapid pace under the able direction of Dr. Seamans; Dr. Robert L. Hirsch, Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems, and Dr. Eric H. Willis, Director of the Geothermal Energy Division.

I wish to insert in the RECORD the text of the ERDA press release, dated May 25, 1976, announcing the issuance of the final regulations for the geothermal loan guaranty program:

TEXT OF ERDA PRESS RELEASE

Regulations governing the geothermal loan guaranty program—the first Federal loan guaranty program aimed at speeding-up the commercial development of an energy resource—were issued today.

Dr. Robert C. Seamans, Jr., Administrator of the Energy Research and Development Administration (ERDA), signed the regulations at a ceremony attended by several members of Congress: Senator Paul J. Fannin, Senator Mark O. Hatfield, and Representative Mike McCormack.

The regulations will be published in the *Federal Register*. The guaranty program will go into effect thirty days thereafter.

Dr. Seamans said the geothermal loan guaranty program will assist in the growth of a geothermal industry by encouraging the flow of credit necessary to permit reservoir developers and electric utilities to undertake geothermal projects.

A total of $200 million in loans is expected to be guaranteed during the next twelve months. About $50 million has been requested in ERDA's budget for fiscal year 1977 to provide funds for promptly honoring guaranties in case of default.

In complying with the objectives of the Federal geothermal loan guaranty program, priority will be given to those projects which would result in the earliest production of useful energy.

"The loan guaranty program is financial insurance for the lender," said Seamans. "This goes hand in hand with the technical and research support which ERDA provides to the borrower."

"Neither can succeed by itself," he continued, "but, with federal support in both areas, we can help develop the full potential of our nation's geothermal resources faster, and in an environmentally safe manner."

The geothermal loan guaranty program is authorized under terms of Public Law 93-410 (The Geothermal Energy Research, Development and Demonstration Act of 1974).

The Manager of ERDA's San Francisco Operations Office will evaluate and process all guaranty applications. Responsibility for final approval of all guaranties, though, rests with the ERDA Administrator.

In October, 1975, ERDA published a proposed regulation concerning the geothermal *loan guaranty* program, and invited interested persons and Federal agencies to comment on the regulation.

Approximately sixty responses were received and considered thoroughly. Many are incorporated into the final regulations.

A copy of the final regulations and more detailed information on the geothermal loan guaranty program may be obtained by contacting Mr. Robert D. Thorne, Manager, ERDA San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Oakland, California 94612 (415-273-7881).

A special conference for lenders will be held in San Francisco in June.

DISSENT AND THE AMERICAN JEWISH COMMUNITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SOLARZ. Mr. Speaker, there has been a recent spate of stories concerning supposed divisions within the Jewish community over some Israel Government decisions as well as the most sensible path toward peace in the Middle East. Indeed, these stories have been accompanied by suggestions that there has been an erosion in the American commitment to the state of Israel.

In a recent speech to the Hadassah Northern Seaboard Regional Conference, Hyman Bookbinder, the Washington representative of the American Jewish Committee, dealt at great length with the subject of dissent within the American Jewish community. Mr. Bookbinder, who, through his many years of hard work on behalf of many worthy causes, has earned the respect of all Members of Congress, points out that the vigorous discussion going on today is only a continuation of a long-standing practice within the Jewish community. As Mr. Bookbinder so aptly points out:

> Dissent and criticism—private as well as public—is not new in Jewish life—neither in Israel nor in America.

But as Mr. Bookbinder concludes, whatever the voices of dissent, whether they be from the left or the right, the overwhelming message that Israel is getting from American Jews "is that we understand the agonies of their plight, that we share their yearning for peace, that we want to help them every way we can, that they have earned our respect and our support."

Mr. Speaker, I feel that these timely views deserve the consideration of every Member:

REMARKS OF HYMAN BOOKBINDER

Yesterday, in Baltimore, Secretary of State Henry Kissinger assured a synagogue audience that the United States government was sympathetic to Israel's political, economic and military needs and would not impose a diplomatic solution. These were welcome assurances in light of the growing speculation and concerns that there might have been an erosion in the American commitment to Israel.

It is all the more disturbing then that last week the Washington *Post* carried two articles that suggested an erosion not only in the American support generally but within the American Jewish community itself. One week ago today, the *Post* featured a major article by Marjorie Hyer with an eight-column headline that declared: "U.S. Jews Beginning to Go Public in Criticism of Israel." That very evening, Washington *Post* columnist, Steve Ronsenfeld, was the speaker at the Western New England Hadassah convention and told the delegates—as he himself reported it in a *Post* article later in the week—that "the most desirable thing for Israel would be the onset of an Arab-Israeli relationship in which Hadassah itself would decide to hand over its Mt. Scopus Hospital in East Jerusalem to the Arabs." At which point, he reports, one Hadassah lady declared "Never!"

Despite this rejection of his proposal, Rosenfeld wrote: "But I suspect that out there in the Hadassah chapters of the land, at the Jewish grass roots, there is growing a constituency that would support or at least tolerate *more right-minded American pressure on Israel.*"

In other words, Rosenfeld believes that people like you are inclined to say to Henry Kissinger: "Cut out the kind of talk we heard in Baltimore last night. Don't be so understanding. Press Israel a little more. It'll be good for them." I just don't believe that. I don't believe you do either.

From the numerous calls I've already gotten and from the comments I've been hearing, it is almost inevitable that the Hyer and Rosenfeld pieces will cause much talk in the days ahead—and will lead to many other articles and columns—about the changing attitude of American Jews towards Israel. And I fear that much of it will reflect the misconceptions contained in the Hyer and Rosenfeld pieces. So I'd like to offer some perspective.

There is indeed much discussion these days among American Jews about what might be the best policies for Israel to pursue in order to produce a breakthrough for real and lasting peace. But there always has been. Every Jewish publication, every Jewish agency's convention proceedings provides ample evidence of this.

There are indeed some voices of criticism over present Israeli government policies. But there always have been voices of dissent—the inappropriateness of a reprisal raid following some Arab terrorist act, the risks involved in establishing new settlements, the wisdom of the Sinai accord, the refusal to participate in a Security Council debate, the moral and political correctness of trade relations with South Africa—and other issues. Subjects that are fiercely debated in Israel itself become the subjects of debate among American Jews too.

So let's get one thing out of the way. Dissent and criticism—private as well as public—is not new in Jewish life—neither in Israel nor in America. Miss Hyer betrays both ignorance and a faulty sense of humor when she writes that American criticism till now has "rarely risen above the level . . . of invidious comparisons of the quality of the lox served at the King David Hotel with that of shops in Flatbush."

Israel is a democratic nation, and Jews are a democratic people. They have exercised their rights to freedom of expression, and they will continue to do so—in the Knesset and in the Cabinet, in the streets of Tel Aviv and in the streets of Flatbush.

If Hyer and Rosenfeld are wrong in their suggestion that there is something new and particularly foreboding in the fact that some American Jews are voicing concern about some current Israeli policies, they are *not* wrong in reporting, as I have already indicated, that there is a vigorous discussion now going on among Jews about the alternatives facing Israel. How could there not be? The intensified discussion—and with it, some intensified dissent—is an echo of what is happening in Israel itself. There are some critical, new realities. They have compelled agonizing assessment and reassessment of policies past and present. The economic and political clout of the oil-powerful Arab states; the lynch spirit against Israel in the United Nations; the escalating demands for Palestinian identity; the ambiguities of American commitment—these are the current realities that compel thoughtful and frank exploration.

What disturbs me about the Hyer and Rosenfeld articles is that the casual and unsophisticated reader will get a terribly wrong impression about the size, the nature, and the significance of Jewish misgivings about Israeli policies today.

The present interest in Jewish dissent stems in part from the stepped-up public-relations-motivated activities of Breira, a small but articulate and effective group of American Jews. They have chosen not only to discuss issues and forward their ideas to Israeli authorities but to "go public" in a big way, urging others to apply pressures on both American Jewish leadership and on Israeli officials. Even in this, Breira is not really unique. If they are now applying pressures in the "dovish" direction, the ZOA and some extremist groups like the JDL have been applying pressures in the "hawkish" direction. My guess is that the latter far outnumber the former. Again, this broad spectrum of American Jewish views is thus mirroring the countervailing forces in Israel itself.

Breira has every right to function. If you'll pardon the expression, "some of my best friends"—some, not many—are in Breira. Their credentials and their intentions are impeccable. They seek security for a Jewish Israel no less than other Jews. But what troubles me about Breira—as I have been troubled about JDL, though obviously they are quite different—is a shrillness, a self-righteousness, a certitude that is beginning to characterize their position. Things are just too complicated, too uncertain, too fragile to permit dogmatic, moralistic pronouncements. I don't believe that Israel needs to be lectured about morality.

I am convinced that the overwhelming majority of American Jews continue to feel fully supportive of Israel—not only supportive of a secure Israel; that we take for granted—but basically satisfied that that beleaguered country has not been guilty of intransigence or inflexibility; that it has been willing to take major risks for peace, such as the Sinai pact; that it has accepted tremendous sacrifices in order to defend itself.

This does not mean, of course, that every Israeli action or inaction has had unanimous or automatic backing by American Jews. The Israelis have not been unaware—even before there was a Breira—of occasional American misgivings. For example, a good number of American Jews and Jewish agencies felt that Israel was wrong not to acknowledge sooner that there was indeed a Palestinian problem. Representations were made on this subject. Even resolutions got discussed and adopted. But this was not done in a scolding or censuring manner. We shared our feelings and our concerns with our Israeli friends—and they did listen.

There are now some Jews in the United States, as there are some in Israel, who have decided it's time to deal with the PLO, or to abandon all settlements in administered territories, or to offer the West Bank and Gaza to the Palestinians, or to go back generally to the 1967 lines—and other such proposals. They have a right to their opinions. They deserve a hearing. They *might* be right.

But they might also be *wrong*. And wrong policies on basic security matters for Israel cannot be erased like the words in a convention resolution or in a Breira speech. For Israel it could mean life or death.

Life or death—that's what the fundamental issue really is, what it has always been and what it will continue to be until a genuine peace is achieved. And it is this root issue that unfortunately Hyer and Rosenfeld fail to grasp in their respective articles.

Rosenfeld's suggestion that Hadassah hand over the Mt. Scopus hospital to the Arabs is an illustration of this basic error. If only the Israelis would say that they're going back to the 1967 borders, he suggests, then everything else would be easy.

Territories are indeed important. Perhaps a good case can be made that under proper circumstances, Israel should in fact essentially abandon all administered territories. But that's clearly putting the cart before the horse. The issue is not territories. It is not geography. *The issue is Israel.* That has been the issue for every one of the 28 years since its rebirth in 1948.

There are those today—journalists, returning Congressmen, well-intentioned Quakers—who report private assurances from Sadat, Assad, or Hussein about finally accepting the State of Israel. But every day their actions belie these private assurances. The issue is not the Hadassah Hospital. It is not the West Bank or Gaza. It is not Sharm-el-sheik or Golan. It is not even Jerusalem. Each of these presents tough problems for Israel and Israel's resistance to withdrawal is not difficult to understand. But the real issue is the integrity of the Jewish State.

After all, the Arabs had all these areas before 1967. That did not satisfy them then. What assurances are there that if they had them in 1976, peace would be assured?

For 28 years, Israeli Jews and American Jews—and Jews and non-Jews around the world—have waited to hear at least one major Arab leader say one simple thing: "We will insist upon justice for Arabs, but we are prepared to start negotiating a peace that will include a secure, recognized Jewish State of Israel." These few words could electrify the whole world, could start a process that would soon yield that peace for which Jew and Arab alike have been yearning. Israel, I am satisfied, would need no pressures from any quarter to seize the opportunity thus made possible.

On numerous occasions, the leaders of Israel have repeated that in the context of peace and recognition the Arabs would be surprised at how generous the Israelis are prepared to be. In fact, even in the absence of such full peace, the Israelis have shown their readiness to be generous. Even though Resolution 242 does not require that Israel abandon a single inch of land until and unless there is such recognition and peace, they have given up parts of the Sinai, including critical passes and oil fields, and parts of the strategic Golan Heights.

It's not for me to say, but I suspect that if the Israeli government came to Hadassah and said, "If you give the Arabs the hospital, we can have peace," Hadassah would not hesitate for a second. Even though that hospital on Mount Scopus means more than walls and beds and surgical instruments and reasearch labs; even though it is a symbol of Israeli creativity and humaneness that is much older than the new State itself, even though 77 Jewish doctors, nurses, and scientists died on the road to the Hospital in a raid during the 1948 war, even though the Hospital has always provided loving care for Arab and Christian as well as Jew.

Rosenfeld asks you to do more than give up the hospital. He writes approvingly of Jewish pressures on the Administration to help it "edge Israel toward the compromises considered necessary for a Middle East settlement" and he seems to be inviting more such pressures to "edge" Israel. This advice will surely be resented and rejected by his Jewish readers as it should also be by non-Jews. Our government needs no more urging to edge Israel. If it needs any advice, it's to start leaning on Egypt and other Arab States we have been befriending recently rather than constantly pressuring Israel in order to establish our "even-handedess."

American Jews, to repeat, may have some differences over some specific issues—but on the central issue of Israel's integrity and on Israel's essential correctness in pursuing peace, there is close to unanimous agreement.

The near-unanimity was forcefully manifested just about one year ago—in the aftermath of the initial failure to obtain a Sinai agreement. When the Administration, disappointed and impatient, engaged in private and then public scolding of Israel for the failure, charging it with intransigence and inflexibility, American Jews just knew that that was unfair and they protested vigorously. Men and women now associated with Breira were among those who then protested this scolding of Israel. It would be most unfortunate if Breira were now engaged in such scolding of Israel. Israel did not deserve it then, and doesn't deserve it now.

The new realities in the Middle East do require flexibility, risk-taking, even greater-than-usual sacrifices by the Israelis. They will need both support and honest advice from their American friends—and we should, with sympathy and understanding, offer both.

Recent articles and speculation notwithstanding, the Israelis do not stand alone. They have two principal allies—the United States and world Jewry. Let the Arabs and the Soviets not be misled by occasional differences between Israel and its friends. Mr. Kissinger's remarks last night are most welcome, because some recent Administration policies might have led to the wrong impression that the U.S. commitment to Israel was weakening. The American people and the Congress would not tolerate *any* Administration's weakening of that commitment. And despite the talk about American Jewish misgivings, the Jewish community has never been more united and committed to the cause of Israel.

Only last week here in Washington over 600 delegates from all over the country came to the policy conference of the American Israel Public Affairs Committee, AIPAC—one of the most successful, enthusiastic meetings ever. They enthusiastically endorsed the warnings voiced by both Senator Hubert Humphrey and former Defense Secretary James Schlesinger that recent Administration actions could be perceived as a weakening commitment and that this would be unfortunate both for Israel and for America.

In summary, then, the American Jewish community is not monolithic; it is free to speak its mind and to express differences. Israel is hearing some voices of dissent from the left—and some from the right. But the overwhelming message it is getting from American Jews is that we understand the agonies of their plight, that we share their yearning for peace, that we want to help them every way we can, that they have earned our respect and our support.

Hadassah surely does not have to be told this by me. But I wanted to say it anyway.

PREMIUM PAY FOR FAA EMPLOYEES IN ON-CALL STATUS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. MOAKLEY. Mr. Speaker, I have today introduced legislation (H.R. 14082) amending title 5, United States Code, relating to pay for certain Federal workers in on-call status.

The purpose of this bill is to authorize premium pay for employees of the Federal Aviation Administration who are officially assigned to an on-call status during specified hours after they have completed their regular tours and have left their duty stations. This new authority would provide more equitable treatment for employees who now perform such service without additional pay and would permit agencies to formally assign employees to be on call.

The nature of the FAA mission precipitates operations where potential emergencies or other situations that cannot be scheduled make it necessary or desirable to have certain personnel readily available if they are needed. In some instances, the need is of such a nature that the employees must stand by at their duty stations. This type of duty is compensable under present law at up to 25 percent of that part of base pay that does not exceed the minimum rate for GS-10. In other instances, the nature of the potential events is such that employees need not be confined to a particular station but must be readily available to return to work or to respond to telephone inquiries or instructions. This is particularly true of personnel assigned to the Electronics Branch Airway Facility Divisions of the FAA; that is, electronic technicians.

While review of the practices in private employment and in State and local government does not reveal a widespread practice of paying for telephone standby or on-call duty, a number of provisions for such pay were found for employees in communications and other public service organizations. There is no typical rate of compensation. In some cases, a fixed dollar amount was specified; in others the rate was prescribed as a proportion of regular salary. The amounts ranged from $1 for each 8-hour on-call period in one telephone company to 75 percent of regular base pay for certain hospital employees. In almost all cases, the employees were paid at overtime rates if they were actually called back to work and were guaranteed credit for a minimum number of hours' pay for that work.

This bill would provide compensation for certain FAA employees at a rate equal to 35 percent of their overtime rates for all hours they are officially in an on-call status and are not entitled to other premium compensation. When an employee who is in an on-call status is required to return to duty, he would be compensated under the provision that would otherwise be applicable. For example, should he be called back to perform overtime work that is compensable under 5 United States Code 5542, he would be guaranteed a minimum of 2 hours' premium pay or be compensated under the provisions of the Fair Labor Standards Act—FLSA—whichever provided the greater benefit.

The proposed rate of premium pay for "on-call duty" is designed to maintain equity with the existing rates of additional annual premium pay for regularly scheduled "standby-duty" under 5 United States Code 5545 (c) (1).

Payment of premium compensation under this draft bill would be subject to regulations of the Civil Service Commission. These regulations may include guidelines for determining the conditions under which this form of premium pay is appropriate; its relationship to additional annual pay for standby duty, and to other forms of premium pay; the kinds of restrictions that may be placed on the employee's whereabouts; et cetera.

It is estimated that about 9,000 employees will benefit from the enactment of this proposed legislation. The increased annual cost is expected to be around $500,000. However, this may be offset to some extent by a savings where the needs of certain activities can be met by having employees in an on-call status under this new authority rather than on regular standby duty for which they receive additional pay on an annual basis under 5 United States Code 5545 (c) (1).

Mr. Speaker, I insert the text of the bill at this point in the Record:

H.R. 14082

A bill to amend title 5, United States Code, to provide premium pay for employees for time in an on-call status away from their duty posts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter V of chapter 55, title 5, United States Code, is amended by adding the following new section after section 5546:

"§ 5546 a. Pay for time in on-call status for certain employees of the Federal Aviation Administration.

"An employee of the Federal Aviation Administration, employed in the Airway Facility Division, who is officially required to remain in an on-call status away from his post of duty is entitled to premium pay at the rate of 35 percent of his hourly overtime rate of pay for each hour outside of his basic administrative workweek that he is—

"(1) in the on-call status; and

"(2) not otherwise entitled to premium pay under this subchapter."

Sec. 2. The analysis of subchapter V of chapter 55 is amended by inserting the following new item after 5546:

"5546a. Pay for time in on-call status."

Sec. 3. Section 5547 of title 5, United States Code, is amended by striking out "and 5546 (a), (b)" and inserting "5546 (a), (b) and 5546a" in place thereof.

Sec. 4. The amendments made by this Act shall take effect on the first day of the first applicable pay period which begins on or after the 90th day following the date of enactment of this Act.

THE RELATIVE ENERGY POSITIONS OF THE UNITED STATES AND THE U.S.S.R.

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McCORMACK. Mr. Speaker, in the April 30, 1976 issue of the Journal of the American Association for the Advancement of Science—the editor, Philip H. Abelson, makes some disconcerting observations about our energy status vis-a-vis the U.S.S.R. He points out that, at present, Russia is a net energy exporter and that their natural gas production will exceed that of the United States in about 4 years. He further states that the United States has joined Western Europe and Japan in facing a long era of vulnerability to crippling damage from energy supply interruptions.

If we are to minimize or avoid the negative consequences of these predictions, Mr. Abelson says, we must do everything in our power to further the development of domestic sources of energy. Coal and nuclear development must proceed with all the speed possible, consistent with sound environmental policy. The three long-range energy technologies—solar, the nuclear breeder, and nuclear fusion—must be supported to the fullest. Without such support, we may find ourselves, at some time in the future, again the target of "energy blackmail."

The text of the editorial is as follows:

Energy Diplomacy

The Soviet Union is becoming powerful in energy matters while the United States continues its drift into dependence on others. Proved Soviet oil reserves are 80 billion barrels (11 billion metric tons) in contrast to 33 billion barrels for the United States. Soviet production is about 9.8 million barrels a day (b/d) and rising, that of the United States is 8.1 million b/d and dropping. The Soviet Union is a net exporter of oil; it reinforces its military control of Eastern European countries by sending them 1.4 million b/d. In contrast, the United States is importing about 7.2 million b/d of oil and its products.

The proved reserves of natural gas in the Soviet Union (800 trillion cubic feet or 22.4 trillion cubic meters) are by far the largest in the world; those of the United States are 228 trillion cubic feet. During 1975, production in the United States (20.1 trillion cubic feet) exceeded that in the Soviet Union (10.2 trillion cubic feet). But U.S. reserves are declining rapidly. If present trends continue, which is likely, Soviet production will be exceeding that of the United States in about 4 years. Already the Soviet Union is an exporter of natural gas, and it has been negotiating with Japan and West Germany to supply part of their needs.

In late 1973 it was hoped that a combination of conservation and expanded domestic production of fuels would render the United States energy independent by 1980. This hope has been frustrated. For a short time during the embargo the public was conservation-minded, but this did not last and public consumption of energy has been increasing. A combination of industrial conservation measures and lower production levels cut overall consumption of energy by a few percent in 1974–75. But in the first 3 months of 1976, electricity demand was up 5.9 percent from a year ago. The public, responding to a price rollback on domestic oil, has been burning more gasoline and buying the larger automobiles.

A major factor in the optimism of government officials during late 1973 was the expectation that higher prices would lead to greater production of oil. This was to be accomplished by exploiting new discoveries and by enhanced recovery of oil from existing fields. The higher prices did lead to more drilling activity, but in 1975 only 1.3 billion barrels of oil was found while a total of 6 billion barrels was being consumed. In 1973 enhanced recovery of oil from existing fields was a hopeful prospect. In existing fields, conventional techniques had produced roughly a third of the oil in place, leaving about 300 billion barrels. Thus an improvement of a few percent would make a big difference. More intense exploitation of earlier methods and use of some new ones has led to an increase of 270,000 b/d, but the Energy Research and Development Administration (ERDA) now estimates that only an additional 300,000 b/d will be forthcoming by 1985. Moreover, the cost of additional oil has been as much as $20 to $25 per barrel.

In early 1974 there was hope that substantial amounts of oil might be obtained from coal or shale. Now ERDA states that comparatively little synthetic oil will be available before 1985. As for using other major energy sources instead of oil, there has been little progress. Because of environmental constraints, consumption of coal has not expanded appreciably. Nuclear energy which has replaced some oil in generating electricity, is under heavy attack. In consequence, there is no alternative but to expand dependence on foreign oil. At a recent press briefing, Exxon predicted that in 1985 the United States will be importing 11 million b/d. Most of it will come from the Middle East.

The United States has joined Western Europe and Japan in facing a long era of vulnerability to crippling damage from interruptions to energy supplies. The Soviet Union is not subject to such stoppages and indeed has much to gain by fomenting trouble. A new embargo is not the only hazard. The precedent of Angola suggests other scenarios for interruptions of oil from the Middle East.—Philip H. Abelson

THE COST OF GOVERNMENT HEALTH STANDARDS: TOO HIGH FOR SMALL HOSPITALS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SYMMS. Mr. Speaker, the Congress will soon be considering H.R. 11341, the Clinical Laboratories Improvement Act. I have been contacted by concerned health officials in Idaho regarding this legislation. Most hospitals in Idaho are small, rural institutions. The economic impact of Government health standards, particularly under the medicare and medicaid programs have been heavy indeed. Fortunately, my colleague Congressman BAUCUS has introduced legislation to alleviate the problems of small hospitals unable to cope with increased Government regulation. However, I believe that the Congress needs to be alert to pending legislation which would have an adverse impact upon small hospitals. This is the case with H.R. 11341.

Around 50 percent of the hospitals in the United States have 100 beds or fewer. Many are isolated, and offer the only hospital services in a large area. Many are community supported, and try very hard to keep their charges low for patients from the surrounding community. However, the battle to keep costs reasonable is a losing battle in view of the health legislation this Congress has been passing, and the regulations being implemented by DHEW.

The Clinical Laboratories Improvement Act is illustrative of this point. The bill sets up many standards, and directs DHEW to write still more standards, governing laboratories. The bill overlooks the fact that small hospitals cannot possibly afford many of the sophisticated tests, nor do they presently offer these types of tests, which the bill would require. The administrator of one small hospital in Idaho reviewed the bill, and reported to me his finding that the cost of an ordinary urinalysis would go up from $5 to over $60 if the legislation became law. Another problem is presented by the staffing requirements of the bill. Not only is the cost of additional personnel prohibitive, but the plain fact is that there are often not enough personnel available in rural areas to be hired by hospitals.

Idaho institutions must go to great lengths to recruit personnel from California and other States just to meet their existing standards under State law. The Federal legislation would impose a heavier burden, and one which is impossible of attainment.

The final question I have is, is this legislation really necessary? Most small hospitals are already operating under two quality control programs such as that established by the American College of Pathology. Most States have established standards also. So the question naturally arises as to whether Congress, by further extending its powers under the commerce clause, should act to preempt State programs and the private programs run by qualified specialists. Do the costs outweigh the benefits? I think that most Members, if they would take the time to consult with the small hospitals in their district and study the economic impact of this legislation, would conclude that the costs are too high.

John Hutchison of the Idaho Hospital Association has written an excellent article which appeared in the Idaho Statesman newspaper regarding the economic impact of Government regulation upon health care costs. I think that at this time, when the President's Council on Wage and Price Stability has fingered the health care industry as a prime culprit in the battle against runaway prices, we should all give serious consideration to the ways in which the Federal Government has been responsible for increased health costs. The article follows:

[From the Idaho Statesman, May 12, 1976]

MEDICARE, INCREASED DEMAND BOOST IDAHO HOSPITAL COSTS

(By John D. Hutchinson)

"Government" is the most talked about word today in hospital economics. Startled and concerned by the unabated rise in health care costs, influential political groups turn to Washington for answers. The appeals often center on health care as an American "right," not a privilege to be enjoyed only by those who can afford it. These appeals are effective. Government is moving at a rate which, in the minds of hospital people, ranges from confusing to alarming.

Without attempting to evaluate all the health-related legislation that has passed or is still under serious consideration, it should be pointed out for those who think government is not yet in the picture that hospitals already are responsible to scores of agencies with hundreds of regulations. The preparation of government forms alone constitutes a significant factor in the cost of running a hospital. Two recent acts of Congress, Public Law 02-603, the 1972 Medicare Amendments, and Public Law 93-641, the National Health Planning Law, when fully implemented, will give government a large voice in hospital construction, bed use, rates, disclosure of information, medical and surgical standards, when equipment may be introduced or replaced, when a patient may be admitted and how long he may be kept in the hospital . . . the list goes on.

The passage of Public Law 89-97 (Medicare), in 1965, marked the beginning of large-scale federal involvement in the voluntary sector of health care. Since that time a massive amount of federal funds, particularly from the Social Security Trust Fund, have been poured into the American health care system.

During the early 1960s private spending for health care, either through private insurance or direct out-of-pocket payment, grew slightly faster than federal spending. But from 1965 to 1970, with both Medicare and Medicaid operational and expanding, federal spending for health care grew at an average of 24 per cent a year, nearly three times that of the private sector. Since 1970, the federal goevrnment's share of health expenses has continued to increase 13.4 per cent annually.

One might look at this trend in federal financing as beneficial to the system, i.e., more dollars from government, fewer dollars out-of-pocket, more health benefits for people in general. A closer look will reveal that it has not worked as smoothly as originally intended by Congress. No one can argue the fact that Medicare and Medicaid have provided payment for quality health services rendered to people who otherwise would not have had them, or have been able to afford them. We are all paying, through our tax structure, to finance these programs; the Congressional intent was that people in the working levels support the "right" the elderly and the disadvantaged have to quality medical services. Group health insurance operates in a similar manner by spreading health case costs over a large number of people enrolled for coverage.

Yet, when those incurring the bills are not those paying for them directly, an alarming fact occurs, which is the essence of the health care problem today. That is, when people using medical facilities see the service as being "free" or inexpensive, rising frequency of use will send the total cost skyrocketing. Between 1960 and 1970, the number of persons in the United States rose only about 13 per cent. But the number of hospital admissions jumped nearly 27 per cent. To accommodate this increase, hospitals increased their employees to more than 2.5 million people in 1970, compared to 1.5 million a decade before. It might be noted that federal regulations require hospitals to staff adequately to assure quality services are being received by those covered under federal programs.

Government demands expensive compliance with new laws and regulations. That means greater cost for both the providers of service and the public in general. More people are hired by hospitals to perform new functions and new services, and the responsibility for supporting the constantly growing bureaucracy that writes, interprets and enforces the regulations is placed squarely on the back of the public. Government establishes new standards, as in the case of Medicare and Medicaid, which revise drastically the demand for services, again, almost always at great cost. That done, government sends out releases complaining about the rising health care bill. With the complaints, the health industry gets a long list of recommended correctives, most of them proposing "solutions"—more government legislation and regulations.

A number of the liberal members of Congress, the majority of the officials in the Department of Health, Education and Welfare, organized labor, and various elements of the media, have argued that private medical care is a shame and disgrace that should be corrected by instituting some form of federal health scheme. Being created is some form of national health insurance program.

The members of the Idaho Hospital Association do not favor such an approach, mainly due to the cost increase that would be the result in a federally controlled cradle-to-grave system. Rising utilization of services, as stated previously, would soon price the system far beyond today's range. A probable government reaction to such a situation would be significant cutbacks in federal spending, similar to current proposals in the Medicare program, which would curtail the increase, but at the same time decreased benefits and impair the quality of care rendered to patients.

The private sector of health care admits that the existing system has problems, some severe, some not, but all are within the reach of solution if cooperation between government and the health industry could be established and maintained.

Contentions, by the proponents of a federalized health care system, that in the present situation the cost is increasing, but the quality is declining are without basis. The quality of medical care in the United States, in fact, improved continuously across the decades, conquering once dreaded diseases such as polio, tuberculosis and typhoid fever. Tremendous gains have been made through cancer research, in treating cancer patients. Because of these and many other achievements, average life expectancies have increased dramatically—from 49 years in 1900 to more than 70 years today. Those in the private sector of health care realize that if Americans want good health, the system must not be directed solely at treatment after illness strikes. More emphasis must be placed on preventive medicine if optimum results are to be achieved. And yet, many Americans continue to smoke excessively, fail to eat or exercise properly, shun regular physical examinations.

The crucial point of this editorial is that members of the health care industry, here in Idaho and over the rest of the country, are deeply concerned about the direction the government continues to lead the industry. It is impossible to attempt to preserve high quality medical care, make adequate health care available to everyone, and at the same time impose cost controls without running into problems of conflicting priorities and points of view. Viable solutions to those problems are not found easily. But awareness of the dilemma by the public is the essential starting point.

The continuing rise in the cost of health services is a valid concern we all share, but continuing government action, if not applied discriminately after weighing the relevant economic factors, may only result in deepening the problem. We, the hospitals in the membership of the Idaho Hospital Association, know of no way to judge the future but by the past.

EASTERN ORTHODOX MEN'S SOCIETY 14TH ANNUAL AWARDS DINNER

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. CARNEY. Mr. Speaker, on Sunday, May 23, 1976, I had the pleasure and the privilege of attending the 14th annual awards dinner of the Eastern Orthodox Men's Society. The awards dinner was held at the Ukrainian Orthodox Center, 1025 North Belle Vista, Youngstown, Ohio.

The idea of forming the Eastern Orthodox Men's Society originated with a group of dedicated orthodox laymen. *Their* purposes were: To effect a more perfect and harmonious understanding between the community at large and the members of the various Eastern Orthodox churches in the Mahoning Valley; to stimulate the spirit of good fellowship and cooperation, and to serve the community and country by taking a more active role in community affairs.

The Eastern Orthodox Men's Society has become the first organization of its kind in the Midwestern United States. It has effectively become the instrument by which its members, representing the Orthodox churches in Mahoning County, are able to join together as one family of brothers in Christ.

The official motto of the society is "Unity Through Truth," signifying its existence because of the truth which the Eastern Orthodox faith represents, and the belief that through truth alone can unity come about.

Mr. Speaker, the Eastern Orthodox Men's Society honored me with its "Community Service" Award in 1972. During this year's awards dinner, I presented a eulogy to the late Jack Sulligan, who ably served as Mahoning County Democratic Party chairman for 26 consecutive years.

The Eastern Orthodox Men's Society has made a great contribution to the cause of understanding, cooperation, and good will among all the people of the Mahoning Valley. Because of the society, more men and women are taking an active interest in the well-being of our community and the Nation.

Mr. Speaker, I would like to take this opportunity to heartily commend all of the officers and members of the Eastern Orthodox Men's Society, and to congratulate this year's award winners. I would also like to insert portions of the 14th annual awards dinner program in the Record at this time:

PROGRAM

PLEDGE OF ALLEGIANCE

Invocation: Very Rev. William Olynyk, Pastor, Sts. Peter and Paul Ukrainian Orthodox Church.

Dinner Music: Jim Lallo.

Welcome: Dr. Matthew Siman, Program, Co-Chairman.

Toastmaster: Harry Meshel, Ohio State Senator, 33rd District.

Remarks: Rev. James Clark, Vice Chancellor, Catholic Diocese; Rabbi Samuel Meyer, Temple El Emeth; Rev. Richard W. Braun, Pastor, John Knox Presbyterian Church; Rev. George T. Pappas, Pastor, Archangel Michael Greek Orthodox Church; Emanuel Catsoules, President of Council; Rocco Greco, State Treasurer, Fraternal Order of Police.

Closing Remarks: Nicholas Pavelko.

Benediction: Rev. Paul Michelides.

PRESENTATIONS

Community Service Award to Mr. Anthony Vivo, presented by Dr. Matthew Siman.

Certificate of Mahoning County presented to Mr. Vivo by George Bindas, County Commissioner.

Humanitarian Award to Doris Burdman Rinkov, presented by Dr. James W. Kiriazis.

Social Service Award to Patricia Vivo, presented by Michael Varveris.

Commodity Service Award to Anthony Vivo, presented by Dr. Matthew Siman.

Humanitarian Award to Doris Burdman Rinkov, presented by Dr. James W. Kiriazis.

Social Service Award to Patricia Vivo, presented by Michael Varveris.

Eastern Orthodox Clergyman of the Year Award to Rev. George Hutnyan, presented by Rev. John Psinka.

Eastern Orthodox Man of the Year Award to Stephen Serednesky, presented by George Mays.

Eastern Orthodox Woman of the Year Award to Helen Mays, presented by Julia Kimotek.

Sportscaster of the Year Award to Don Gardner, presented by Don Altemese.

Eastern Orthodox Youth of the Year Award to George Shirilla, presented by Miss Ann Davis.

Special Service Award to Jim Bilas, presented by Anthony Fusco.

Memorial Award to Florence Deeter, presented by Senator Harry Meshel; Eulogy by Rev. William Jackson, Pastor, Westminister Presbyterian Church.

Memorial Award to Jack Sulligan, presented by William Karelin; Eulogy by Congressman Charles Carney.

Senator Harry Meshel: Will present Ohio State Senate Resolutions to All Recipients.

County Commissioner George Bindas: Will Present Certificate of Mahoning County, to Anthony Vivo, Patricia Vivo, Rev. George Hutnyan.

Closing Remarks: Nicholas Pavelko.

Benediction: Rev. Paul Michelides, Pastor, St. Nicholas Greek Orthodox Church.

Eastern Orthodox Youth of the Year Award presented to George Shirilla, presented by Miss Ann Davis.

Pledge of Allegiance: Boy Scout Honor Guard Troop 11. of Saint John's Orthodox Church, Campbell, Ohio; Kennith VanSuch, Larry VanSuch, Sam Skarote, John Kandracik, Scout Master.

EASTERN ORTHODOX MEN'S SOCIETY

Officers 1975

President: Steve Serednesky.
1st Vice-President: George Mays.
2nd Vice-President: Mike Baltic.
Treasurer: William Sywy.
Financial Secretary: William Karelin.
Recording Secretary: Dr. James W. Kiriazis.
Corresponding Secretary: John Resinka.
Captain of the Guard: John Wasylko.
Warden: John Popa.

Board of Trustees

Chairman: Nicholas Pavelko.
Trustee: John Parimucha.
Trustee: George Mirich.
Trustee: John Wasylko.
Trustee: Nick Deniakis.
Trustee: Thomas Kristian.
Trustee: John Bilas.
Trustee: Edward Phillips.
Trustee: George Nicholis.
Trustee: Gus Nan.

Committee Chairmen

Social: George Mays, Scholarship and Education, Dr. James W. Kiriazis, Dr. Matthew Siman.
Civic: Dan Altemese.
Athletic: Theodore Baxevandes.
Cultural: Steve Varmega.
Membership: John Parimucha.
Welfare: Nicholas Pavelko.
Public Relations: George Meshel.
Investigation: Gregory Demetri.

Banquet Committee

Chairman: Nicholas Pavelko.
Co-Chairman: Dr. Matthew Siman, Dr. James W. Kiriazis.
Tickets: Steve Serednesky.
Program Book: Nicholas Pavelko.
Publicity: James W. Kiriazis, Matthew Siman.
Flowers: Gregory Demetri.
Refreshments: William Sywy, Jeff Savarin.
Arrangements: George Meshel.
Dinner: John Yurchyk, Steve Serednesky.
Financial: William Karelin, William Sywy.

Reception Committee

All Past Presidents.

EASTERN ORTHODOX "MAN OF THE YEAR" AWARD RECIPIENTS

1963—Harvey Meshel.
1964—Nicholas Pavelko.
1965—Theodore Baxter.
1966—Dr. A. K. Phillips.
1967—Attorney Charles Zubyk.
1968—William Karelin.
1969—George Mays.
1970—James W. Kiriazis, Ph.D.
1971—Matthew Siman, Ph.D.
1972—Jacob Gricuk; Harry Kiddon.
1973—Nicholas Deniakis.
1974—Michael M. Baltic.
1975—Stephen Serednesky.

"COMMUNITY SERVICE" AWARD RECIPIENTS

1963—William F. Maag, Jr.
1964—Samuel C. Sharp.
1965—The Hon. Anthony B. Flask.
1966—Dr. Howard W. Jones.
1967—The Hon. Michael J. Kirwan, the Hon. David G. Jenkins.
1968—John W. Powers.
1969—John Parimucha.
1970—Leonard P. Caccamo, M.D.
1971—Ray T. Davis.
1972—The Hon. Charles J. Carney.
1973—Fred Beshara.
1974—William M. Cafaro.
1975—Anthony Vivo.

1975 EASTERN ORTHODOX "COMMUNITY SERVICE" AWARD

The Eastern Orthodox Men's Society is concerned with Civic and Community matters, both as citizens and participants. The "Community Service" Award this year is awarded to Anthony Vivo in recognition of the outstanding contributions he has made to our Community.

1975 EASTERN ORTHODOX "MAN OF THE YEAR" AWARD

With the objective in mind of rewarding service performed, as well as providing incentive. The Eastern Orthodox Men's Society annually honors a "Man of the Year."

The Eastern Orthodox Men's Society "Man of the Year" Award is given to Stephen Serednesky for outstanding Lay activity and personal achievement.

1975 EASTERN ORTHODOX "WOMAN OF THE YEAR" AWARD

With the objective in mind of rewarding service performed, as well as providing incentive, The Eastern Orthodox Men's Society annually honors a "Woman of the Year."

The Eastern Orthodox Men's Society "Woman of the Year" Award is given to Helen Mays for outstanding Lay activity and personal achievement.

1975 EASTERN ORTHODOX "YOUTH OF THE YEAR" AWARD

With the objective in mind of rewarding service performed, as well as providing incentive, The Eastern Orthodox Men's Society annually honors a "Youth of the Year."

The Eastern Orthodox Men's Society "Youth of the Year" Award is given to George Shirilla for outstanding Lay activity and personal achievement.

1975 EASTERN ORTHODOX "HUMANITARIAN" AWARD

The Eastern Orthodox Men's Society is concerned with Civic and Community matters, both as citizens and participants. The "Humanitarian" Award this year is awarded to Doris Burdman Rinkov in recognition of the outstanding contribution she has made to our Community.

1975 EASTERN ORTHODOX *"Social Service" Award*

The Eastern Orthodox Men's Society is concerned with Civic and Community matters, both as citizens and participants. The "Social Service" Award this year is awarded to Patricia Vivo in recognition of the outstanding contributions she has made to our Community.

1975 EASTERN ORTHODOX *"Clergyman of the Year" Award*

With the objective in mind of rewarding service performed, as well as providing incentive, The Eastern Orthodox Men's Society annually honors a "Clergyman of the Year."

The Eastern Orthodox Men's Society "Clergyman of the Year" Award is given to Rev. George Hutnyan for outstanding Lay activity and personal achievement.

1975 EASTERN ORTHODOX *"Special Award of Recognition"*

The Eastern Orthodox Men's Society is concerned with Civic and Community matters, both as citizens and participants. The "Special Award of Recognition" this year is awarded to James Bilas in recognition of the outstanding contributions he has made to our Community.

1975 EASTERN ORTHODOX *"Sportscaster of the Year" Award*

With the objective in mind of rewarding service performed, as well as providing incentive, The Eastern Orthodox Men's Society annually honors a "Sportscaster of the Year."

The Eastern Orthodox Men's Society "Sportscaster of the Year" Award is given to Don Gardner for outstanding Lay activity and personal achievement.

1975 EASTERN ORTHODOX *"Memorial" Award*

The Eastern Orthodox Men's Society is concerned with Civic and Community matters, both as citizens and participants. The "Memorial" Award this year is awarded to Florence Deeter in recognition of the outstanding contributions she has made to our Community.

1975 EASTERN ORTHODOX *"Memorial" Award*

The Eastern Orthodox Men's Society is concerned with Civic and Community matters, both as citizens and participants. The "Memorial" Award this year is awarded to Jack Sulligan in recognition of the outstanding contributions he has made to our Community.

MESSAGE IN A BOTTLE: FRED HARRIS ON FOREIGN POLICY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. HARRINGTON. Mr. Speaker, perhaps the most important byproduct of our electoral process lies in the educational value it holds for the Nation. As voters narrow down the field of candidates, many important ideas concerning the future directions and policies of government are debated, disseminated, and refined—especially in a Presidential campaign. And it is not unusual for the eventual winner to implement the proposals of the candidates he defeats.

Unfortunately, some of the best ideas inevitably get swept away by the rhetorical tide, only to wash up on our shores years later in hindsight. Such was the case with the 1900 Presidential campaign, in which William McKinley defeated William Jennings Bryan. The losing party platform of that year asserted that "no nation can long endure half republic and half empire—imperialism abroad will lead quickly and inevitably to despotism at home." As Fred Harris pointed out in a February 27 speech at Harvard,

> It has taken America 75 years to realize the wisdom of what populism was saying in 1900.

I supported the candidacy of Fred Harris for President this year because I thought his creative, bold revival of the populist tradition was uniquely suited to the fundamental issues America confronts today. His policy proposals on domestic issues received some attention, but his stance on foreign affairs went virtually unnoticed. I am therefore pleased to insert into the RECORD Mr. Harris' Harvard address entitled "A People's Foreign Policy," in the hope that Panama will not haunt future generations the way the Philippines haunts us today.

A PEOPLE'S FOREIGN POLICY

(By Fred Harris)

Domestic issues have, thus far, dominated the 1976 election—and they *are* fundamentally important. But our hopes for America and Americans cannot be separated from our relations with the rest of the world. Domestic policy and foreign policy are intertwined. And the underlying principles which should govern both are also intertwined.

But 1976 marks a watershed in postwar American politics. For the first time since World War II, a presidential election is being contested primarily on domestic issues. The questions in 1976 are not how to respond to the Communist takeover in Eastern Europe, or aggression in Korea, or Soviet missile strength, or civil war in Vietnam. The most pressing issues are jobs, prices, and taxes.

The change in issues reflects a change in our national mood. In the late sixties when I headed the Democratic Party, I thought I sensed this new mood. I used the phrase "the new populism" to describe people's growing frustration about the failure of our government to deliver on basic economic and political rights.

Today, almost every candidate for public office seems to be a "populist". And it is a stark political fact that across our land there is a rightful anger among so many of our people who feel forgotten in domestic affairs and betrayed in foreign affairs. How will candidates respond? One approach is negative and manipulative. Its most prominent feature is a denunciation of government and an unproved assertion that efforts at reform invariably make things worse. The other approach is positive, and responsive. It accepts the need to renounce programs that have not worked but refuses to renounce the idea of progress itself.

Conservatives are worried about the new popular attitude. The Tri-Lateral Commission, which Chase Manhattan Bank President David Rockefeller helped to launch, recently commissioned a study on "governability" in open market countries, and the authors reached the conclusion, comforting for those who believe in the status quo, that not the mistakes of our leaders but the demands of our people are responsible for our problems. In the words of one of the authors, we are suffering from a "democratic distemper" and urgent steps need to be taken to reinforce authority in society.

This kind of response harkens back to the way turn-of-the century populists were received. The American Journal of Politics warned in 1894, as the great tide of populist action was laying the way for the emergence of William Jennings Bryan and ultimately Wilson's New Freedom, "the Army of discontent is organizing . . ., involving a great many elements and tendencies dangerous to the state." A prominent bishop of the time attributed the rise of populist feeling to the mistake of educating the farmer. In the words of Bishop Worthington of Omaha, the problem is farm boys "who have absolutely no ability to rise and get a taste of education and follow it up.'" Like Bishop Worthington, the authors of the Tri-Lateral Commission paper appear to fear the people. (Fortunately several members of the Tri-Lateral Commission spoke out against this extraordinary conclusion and the Commission did not formally adopt the report.)

But if the conservatives are most concerned about the impact of the populist mood on *domestic* policy, it should be noted that they are joined by others, more liberal, who are genuinely worried that "populism" in *foreign* policy may be synonymous with small-minded isolationism or aggressive nationalism. One prominent foreign policy analyst has warned that "An atavistic 'America first' economic movement is entirely consistent with the isolationist mood of the mass public."

It is true that older populism's dominant focus was almost entirely domestic. And it has frequently been charged that there was sometimes a narrow nationalism or even regionalism in early populist beliefs. Attention is often called to the fact that Senators George Norris of Nebraska and Robert La-Follette of Wisconsin opposed America's entry into World War I, and that, because of his opposition to the war, William Jennings Bryan resigned as Secretary of State. In retrospect, opposition to World War I now seems less narrow and unpatriotic than it once did. (A recent account of Bryan's resignation in the widely-acclaimed book, "Resignation in Protest," reached a highly favorable assessment of his motives and his logic.) Nevertheless, such "populist" actions of the past have persuaded many that whatever the contributions of individuals like Bryan, Norris and LaFollette domestically—and they were enormous—such men had little to tell us in the field of foreign affairs.

Yet such an assessment is too abrupt. Populism put down its domestic roots before the United States became a major force in world affairs. Nevertheless, as foreign issues began to vie with domestic issues for attention, those influenced by populist and progressive thought did speak out, and the record is instructive.

In 1900, for example, the issue before the country was McKinley's decision to acquire colonies for the United States in the Caribbean and in Southeast Asia. William Jennings Bryan's 1900 campaign platform today sounds remarkably modern, warning that "to impose upon any people a government of force is to substitute the methods of imperialism for those of a republic." Moreover, following today's revelations about the illegal activities of the FBI and CIA against American citizens, we can appreciate more clearly the Democratic Party's 1900 assertion that "no nation can long endure half republic and half empire, and we warn the American people that imperialism abroad will lead quickly and inevitably to despotism at home." Condemning the American "criminal aggression" against the Philippines, the platform also called for independence for that island nation. And the 1900 Democratic Platform further warned that militarism, if permitted, meant conquest abroad and intimidation at home.

It has taken America 75 years to realize the wisdom of what populism was saying in 1900.

LaFollette in his 1924 Presidential campaign gave perhaps the most succinct and accurate description of long-run American foreign policy goals when he called for equal opposition to "the dictatorship of plutocracy and the dictatorship of the proletariat." — a fundamental precept which, if followed, would have prevented most of the serious mistakes in postwar U.S. foreign policy.

As the old populists knew, in foreign policy as in other policy, we need not fear the people. The elitists are wrong; our people are more principled and progressive than our leaders. Not a day goes by without some national figure decrying a supposed flight into isolationism on the part of the American people. Yet pollster Louis Harris has found that 66 percent of the American people reject the notion that we ought to stay out of world affairs, a figure virtually unchanged since the end of World War II. Americans are not isolationists. As Louis Harris puts it: "... The American people are prepared to take giant strides towards international participation, well beyond what their leaders have asked."

There is nothing wrong with the people of this country. It is not the people who have failed, but their leaders. We cannot change our government's policy without changing our government's leaders. ...

There is a foreign policy elite in America. It started with the economically powerful and then reached into the universities, and foundations for the Rostows, the Rusks, and the Kissingers, and into business circles for the Dillons, the Wilsons, the Packards, and the McNamaras. It has created a virtual monopoly on official and shadow-government foreign policy thought. The members of this small and powerful group are not consciously evil in intent, but they have devised and administered an American foreign policy which in recent years has caused our influence and reputation in the world to dwindle almost to nothingness.

Confused efforts today to develop what is called a "post-Vietnam" foreign policy result from the fact that too many of the leaders of the foreign policy elite do not see the connection between what America is at home and what it should be abroad. And many do not hold a strong enough commitment to economic and political democracy within our own country.

America must be a country here at home which is open and democratic and one which stands for a widespread diffusion of economic and political power. Those are exactly the same principles, too, which must characterize and guide our policies and actions throughout the world. ...

A shorthand way of saying what is wrong with American foreign policy is: Kissinger must go. American foreign policy is wrong in construction, wrong in goal, and wrong in method.

America's foreign policy has been wrong in construction. It has been elitist and secretive, characterized by basic distrust of our people. Part of the secrecy has been due to the fact that the elitists have maintained that the great mass of Americans are militaristic and jingoistic and that, therefore, a certain amount of blocking of popular control of foreign policy and national security is essential. That is not true, and it is a slander of the American people. Richard Hamilton's book, "Politics and Class in America," a scholarly survey of American public opinion in recent years, proves that working-class Americans are less militaristic than other Americans, because, it is shown, that wage earners have come to understand, consciously, that it is they who pay a disproportionate share of the costs of wars and it is their young men who mostly die in such wars.

Part of government secrecy is also a result of the fact that our leaders know they cannot justify what they are doing. So, the Soviets, the Chinese, and the Cambodians knew we were bombing Cambodia, but Americans did not. The Soviets and the Angolans knew we were intervening in the internal struggle in Angola, but Americans did not. There is no accident in this pattern.

Those in authority have felt that Americans must be shielded from the facts for fear that our government's actions could not be justified as being in the best interests of our own people. It is in exactly that way that America, step by step, became so deeply and tragically involved in South Vietnam—precisely because no justification to Americans was thought by our leaders either to be necessary or required.

America's foreign policy must be based upon consent of the governed. And consent of the governed requires that the governed know what it is they are being asked to consent to. There are many well-qualified foreign policy experts, inside and outside the government, who believe that America's foreign policy, like its domestic policy, must be justified to our own people. I would appoint just such a person as Secretary of State.

The White House staff should be cut back at least to Harry Truman's numbers, and the Cabinet should be allowed to function again—not just for show, but for policy and administration.

America must reject the unseemly and excessive concerns of President Ford and Secretary Kissinger about so-called "leaks" and breaches of security. Most government secrets protect the governors and not the governed.

My Secretary of State would actually be in charge of foreign policy, so that, once again, the Congress and the country could look to that office for explanation and justification for America's actions and philosophies. I would require that, once each quarter, the Secretary of State appear before the Congress, in a public forum chosen by the Congress, to set forth our foreign policy positions and submit to questions.

As President, I would myself appear before the Congress at least twice each year in a public forum chosen by the Congress and submit to questions on foreign and domestic policy.

Foreign policy is too important to be left to the "experts". The mystique of secrecy must be swept away. The false idea that only the President has sufficient facts to make life-and-death security and foreign policy decisions must be discarded. People are, as Jefferson thought, smart enough to govern themselves—if they are allowed to know what it is they are being asked to decide.

America's foreign policy has been wrong in goal. In has been characterized by two main aspects, anti-Communism and the preservation of the status quo. We should have learned in recent years that anti-Communism is not enough for people to die for; they must have something to live for. And, while preservation of the status quo may be pleasing to the U.S. multinationals, it places us against people and against the tide of history, because most people are not happy with the status quo—and understandably not.

The missing ingredient in American foreign policy is a statement of what sort of world we would like to see. Without that, we are engaged in little more than an attempt at a Metternichian manipualtion of the global balance of power.

The kind of world we should want to see is the same as the kind of America we should want to see; a place where there is a widespread diffusion of economic and political power.

Our ability to bring about that kind of world is limited indeed, but our ability to refrain from making it worse is unlimited—and that alone would be a marked change in American foreign policy.

But if America is truly to espouse a widespread diffusion of economic and political power in the world, it must show that it really believes in that goal for its own citizens.

At the root of our loss of prestige and influence in the world, is an adverse foreign judgment about our future here at home. Charles DeGaulle and the French press in the mid 60's began to proclaim that the U.S. was an unrealiable ally, not so much because we had the wrong foreign policy toward Europe, but because, it was said, the domestic situation in the U.S. would prevent us from carrying out the promises we were making to our allies and others abroad. Hence, DeGaulle argued, it was time for France and Eupore to strike out on their own.

In the last 10 years, it seems almost as if we have been determined to prove DeGaulle's thesis correct, as we have allowed the sense of community in America to become weaker and weaker. Millions in our work force are idle. Too many of our people cannot get housing. The schools attended by the children of poor families and workingclass families, starved for funds, are often almost criminally inferior. Our central cities are rotting to the core. And a health care delivery system for a large percentage of our people is virtually non-existent.

If our society is to be held together, it must be as the result of an implied social contract based upon mutual self-interest. Today, too many of our people feel that our social contract is either unfair or is being unfairly enforced. A majority of people in America today, as a recent survey showed, feel "there is something deeply wrong" with our country. Asked to explain their pessimism, seventy-six percent of those surveyed agreed with the statement that "the rich get richer and the poor get poorer."

If we are not to slip into a stagnant eddy of history, where we are no longer relevant to the lives of others, a country whose example has lost its force and whose institutions have lost their vitality, we must return to basic American principles of economic and political democracy.

We must have a graduated income tax rather than graduated loopholes. We must enforce anti-monopoly laws and principles against the monopolies and giant corporations that overcharge us. We must get people back to work.

Only when there is real movement toward economic and political democracy here at home will our own people support our foreign policy initiatives. Only then, to, will our influence in the world be restored,

We should seek to normalize relations with the Soviet Union and the People's Republic of China.

We should draw closer to those remaining countries in the world that are democratic.

We should recognize our self-interest in development in the Third World to help create a more stable world—and we should level a special tax on the foreign income of U.S. multinationals, earmarking such funds for development aid. This is not going to be a stable world, or one in which America's actions will give us much cause for pride so long as so many of the people in the southern half of this globe have less to eat than many of us feed our cats and dogs.

America's foreign policy is wrong in method. There is no way to separate principle from practice. And the practice of America's foreign policy has in no way paralleled our announced principles.

No agency of our government should be involved in "covert operations"—overthrowing governments, subverting free elections, attempting to assassinate leaders. There is no way that these practices can be made to comport with our principles. And, as Tom Braden, who formerly headed so-called "dirty tricks" in the CIA has made clear, they have never worked. They have always blown up in our faces and embarrassed us.

Our foreign policy should be based on announced public goals which define and state each year our intended relations with the world's democracies, with the People's Republic of China and the Soviet Union, with third world countries.

The President of the United States should meet annually with those democratic countries with which we have special economic, historic and ethnic ties—and, thereafter, issue his statement about joint foreign policy. Here at home, the President should encourage the Congress to hold hearings annually on these statements.

We must scale down our dominance in NATO and reduce our military presence throughout the world. This is not only importnt to us financially—and, therefore, domestically—but is also important in order to begin to provide for regional mutual security arrangements that are more credible because they are principally conceived and supported, with our help, by the area people and governments themselves.

In short, America's foreign policy must be an open foreign policy, openly arrived at—open with our own people and open with the governments of the world. Our goals must be clear and well-stated—and they must comport with our announced principles of economic and political democracy. And, our practices must be consistent with our stated principles.

The people of America want to be proud of their country again. And there is no reason why America cannot again be the beacon of economic and political democracy as we were in Franklin Roosevelt's time, at the end of World War II.

Thomas Jefferson said, "Equal rights for all; special privilege for none." If we place this nation squarely on the side of people, against privilege—America can again bring hope and pride into the lives of our own people, and set a standard for the nations of the world.

GOV. ROBERT F. BENNETT OF KANSAS SPEAKS ON FOOD POLICY

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SEBELIUS. Mr. Speaker, for some time now I have been receiving letters from concerned citizens in behalf of the Right to Food Resolution. At the outset, during our Bicentennial Year, I can think of no greater commitment more in keeping with the Christian spirit of our great Nation, than an expression of will declaring America's intent to provide food and fiber to those who are less fortunate.

I would like to add that the USDA recently reported 5 percent gain in the farm output of developing nations out paced recent population gains and that is certainly good news. However, this relief is temporary and the problem of hunger remains acute and serious.

While those of us who have the privilege of representing rural areas strongly support the need for America to resolve basic intent in support of a growing and humanitarian agricultural policy, I believe it is also important to recognize the practical aspects of this problem; to make sure our "food policy" is fair to the man whose job it is to feed America and to help feed a troubled and hungry world. In this regard, the farmer has become a vital national resource and his ability to produce food must not be endangered.

Last month, the Honorable Robert F. Bennett, Governor of Kansas, was asked to keynote the Conference on Food held in Madrid, Spain. Governor Bennett's remarks are not only timely but I feel represent what should be required reading for all concerned with out Nation's food policy. Bob Bennett's speech did attract considerable attention in Kansas. Press reports stated:

> The Governor put his finger on the problem.
>
> He put the agricultural situation in proper perspective.
>
> The Governor has a recipe for assuring better farm prices.
>
> Our Kansas Governor did an excellent job speaking for farmers.

Perhaps the best summation of Governor Bennett's speech, however, came from the Russell Daily News:

> Governor Bennett should be heard in Washington by the boards of trade, labor unions and provincial urban citizens who dominate policy in the Congress.

Mr. Speaker, I agree with the News and that is precisely why I would like to commend to the attention of my colleagues and everyone interested in this Nation's food policy, the following speech made by Kansas Gov. Robert F. Bennett at the recent World Food Conference held in Madrid, Spain:

MODERN GOLD FOR CORONADO: THE BOUNTY OF THE KANSAS HARVEST

Mr. Chairman, members of the Conference on "Food, a Right of the People," it is indeed a rare privilege and honor for me to be invited to address your conference which will explore the availabilities and the potentials to provide both food and fiber to the ever growing populations of our world. Though my expertise in this area is perhaps limited both by knowledge and provinciality I hope that I will be able to lend something of value to your deliberation in understanding the part which the American farmer can play in providing nourishment to his international neighbors in days which may grow more perilous as times go by if action is not taken and taken now.

The civilization of our world is locked in a basic struggle between population growth and a currently limited food supply.

While population growth can and should be limited, its complex causes are more difficult to address and less susceptible of restriction on a worldwide basis. Overpopulation stems from a rare blending of personal freedom and preference, religious convictions, lack of knowledge, indolence, improved health care, to name but a few of its causes. Some of these causes, in the passage of time, can be effectively addressed. Others, by virtue of their personal or spiritual character will be with us always. To me this means that the crisis of food and fiber which comes from overpopulation growth must be solved by increasing the availability of food and fiber supply. It is here that I may offer to you a word of hope which comes from a small part of our world known as Kansas, a sovereign state located in the middle of the United States of America and frequently referred to as the "breadbasket of the world."

While I will speak primarily of the Kansas farmer, whose industry and capability are best known to me, I would hasten to add that my comments are equally true of other American farmers who till the soil of a great and bountiful nation.

As I am sure you must know, the United States of America produces more food and fiber for foreign export than any other nation in our world. In truth and in fact we produce far more than our own citizens need or can use. We still have not reached the limits of our production capabilities. Kansas farmers contribute greatly to this tremendous productive capacity. In each of the last three years exports of food and fiber produced by the Kansas farmer have exceeded $1 billion in total value. Kansas grown wheat, sold on an international market, has accounted for about $900 million in each of these years.

More important, as productive as the farmers of Kansas and the United States have been, they do have the capacity, with appropriate encourgement from the marketplace and the removal of artificial barriers and restraints, to produce even more. It is for this reason I am optimistic that the world food race can indeed be won. But for victory to be achieved the encouragement for maximum production must also be present.

To better understand the Kansas farmer, who is not dissimilar from farmers in other areas of our nation, it is appropriate to know something about his character and something of his achievements. In our country he is known as a "rugged individualist"—a person who works hard from before dawn til after dusk—who asks little from government except to be let alone—who braves droughts, floods and pestilence to produce the kernels and muscles of life to feed his neighbors. He is involved in the oldest and most basic of civilization's endeavors. His endeavor, in fact, represents civilization itself. He has proven time and time again that he is capable of meeting and rising above adversty because he is intimately involved in life itself.

The American farmer, and particularly the Kansas farmer, is concerned with production improvement—knowing that with it more of his neighbors both at home and abroad can enjoy the nourishment that is essential to life.

The improvement in that production can be dramatically illustrated by what has occurred in my state over the last 100 years. Obviously Kansas was not always the "breadbasket of the world" but today it does grow more hard red winter wheat than any other state or province in the world. It all commenced a century ago when Mennonites migrated from Russia and introduced a new variety of wheat to our state. This introduction changed the way of early Kansas agriculture and paved the road for Kansas to become a leader in worldwide production of hard red winter wheat. This new variety of wheat greatly influenced my state's history, particularly its economic history. By the time of World War I wheat had become the most important crop of my state. Almost 45 years ago Kansas wheat production exceeded 250 million bushels in a single year, which gained it a position of leadership in the marketplace. During World War II additional demands were placed upon agriculture which the Kansas farmer readily met, experimenting with new and improved varieties and expanding production acreage so that at one time as much as 80 per cent of the acreage of my state was involved in wheat production. During the last 25 years production per acre has grown because of increased efficiency and technological advances, and because of the willingness of the Kansas farmer to stick to his task despite adversity. Through the help of private industry and academic research vastly improved varieties have been developed, improved fertilizer programs have been implemented, improved farming techniques have been utilized.

In the 1920's our Kansas farmer averaged 13.1 bushels of wheat for each acre harvested. During each decade this yield has increased until in the 1970's the average yield per acre harvested is 32 bushels.

Even today private industry and academic research continue to explore possibilities of further improved yields and there are those who estimate that with the proper economic encouragements average yields in excess of 40 bushels per acre can be anticipated in 1980 or soon thereafter.

As I have said, this story of success is not a typical of other American farmers who have increased their production through industry and research over the last quarter century.

Knowing of the world's need for wheat, the Kansas farmer has responded. Each year more and more acres have been seeded. Kansas alone has increased its seeding since 1970 by some 36 per cent and all American farmers have increased their seeding by some 12.5 per cent.

It is appropriate at this point for some to ask, "Why has your Kansas farmer increased his production to yield more than the American people need?" The answer is simple: he knows there are needs beyond the boundaries of the United States and he wants to assist in meeting those needs, knowing that he has the capabilities so to do. At the same time it should be recognized that the Kansas farmer, the American farmer, or, for that matter, free farmers anywhere in the world are not and should not be considered philanthropists. Because of need and because of their capabilities to respond they have produced more, produced better, expended more hours of their own labor, purchased better and more efficient equipment, paid greater taxes, purchased expensive fertilizers and agricultural chemicals, and in general incurred substantially increased costs—still gambling against drought, flood and pestilence. They have done so because the need which exists offers the opportunity—an opportunity created by innovativeness, production efficiencies and technology—to recover these costs and to make a reasonable profit on their labor and their investment. This, in fact, is the encouragement for the increased production which has occurred in my state and in other areas of my country. Profit opportunities and open access to markets are the essential factors that must be involved if food production is to be accelerated and if the crisis of food and fiber is to be adequately addressed.

The farmer, wherever he lives and farms, is entitled to the same consideration as any other human being who labors to provide a product or a service which is essential to life and living in a troubled civilization.

In short, the price of food and fiber—both nationally and internationally—must be at a level sufficient to entice farmers of the world to commit the factors of production—land, labor, capital and management—to bring forth the abundant supply of food that is needed and that is in fact possible with the proper incentive. If farmers receive a fair price for their labor and if they are not expected to produce food and fiber at a loss I am confident that they have both the capabilities and the desire to be effective partners in the solution of this crisis. Without these economic incentives, however, there is little inducement for the farmer to produce an abundant supply for the world, yet reap but an empty vessel for himself.

There are some who argue that this is selfish and the personification of greed. The argument is false and misleading. The Kansas farmer does not seek untold wealth. Nor does he seek to live in the lap of luxury. These goals are not his prime motivation. He does seek to regain his cost, to protect against his losses, and to have a reasonable assurance that his labors will be rewarded by his being able to adequately provide for his cost of living. These assurances are not considered unusual when applied to the businessman, to the laborer, to the academician, or to the politician. They should not be considered unusual when sought by the farmer.

Consider the plight of the Kansas farmer at the present time. Prices are now ranging from between $3.50 and $3.30 per bushel for wheat produced in our state. This is down considerably from the $4 and even $5 which was received during 1973 and 1974. Unfortunately, though the price per bushel is down, the farmer's cost of production continues to grow year by year. The latest figures developed by Kansas State University, a great agricultural institution in the midwest, show that production costs vary from $3.10 to $3.40 per bushel. These costs have increased 45 per cent in the last five years and 72 per cent in the last 10 years.

Unfortunately, these increases cannot be passed on from the farmer to the consumer as is the case with so many products and services. Consequently, at current levels, wheat prices barely cover production costs for many of our Kansas farmers. Current prices do not provide the kind of income farmers need to achieve a basic standard of living. Nor do these prices provide additional dollars needed to be able to afford the new research that would enable increased production. In my opinion, if the current price trend continues farmers will produce less wheat, instead of more. This means fewer bushels of grain will be available to feed a hungry world.

The Kansas farmer—the American farmer—has the capability and the desire to produce far more in both food and fiber if it is profitable to do so. But the economic incentives must be present. It is far past time for the world to realize that part of the solution of its food problem is to provide better incentives to its farmers—not only in Kansas and in the United States but in every other nation of our world.

Many developing countries have a "cheap food policy." As a consequence the farmers are not rewarded for their efforts. The predictable result is that they do not produce that which is possible.

There can be no doubt that the cancer of starvation must not be allowed to spread, for from it grows the seeds of anarchy and the potentials for the distribution of our civilization.

Steps must be taken now to assure that an improved free market exists, and that with that market there is sufficient economic inducement to encourage those in agriculture to take additional risks, to spend additional money and to produce the food that is necessary to feed all peoples.

Nations have no difficulty in paying substantial prices for arms and munitions. They have no reluctance in supporting the dignity of labor by providing adequate sums for living. They have no timidity in paying increased prices for machinery and equipment or for other goods and services. It is long past time that they make the conscious decision to afford equal treatment for the basic life-giving vocation of agriculture.

In my view adequate economic incentive and free world trade, though not the sole solutions to the collision of overpopulation with limited food supplies, are basic and essential ingredients to any solution that may be developed. The sooner the leaders of the world recognize the potentials for their implementation the sooner we will approach our capability to feed the starving peoples of our world.

I realize that there are those in my country and in yours, as well as other nations of the world, who now speak of national, multinational and international grain reserves, arguing that they are a solution to our crisis of food and fiber. Quite frankly I question the completeness of such a solution and I question even more the politics, both national and international, that might be played if such solutions were implemented. The potential for political and diplomatic manipulations at the expense of the producing farmer could easily amount to a *de*centive to essential increased production. A grain reserve program, with its known vicissitudes, should be viewed with caution. Should a reserve—for other than humanitarian need—be considered and created, then it *must*, I submit, contain iron-clad guidelines and restrictions which would absolutely assure that the seeds of the world's salvation would not become the tools of the world's destruction.

I most respectfully submit to you that today we have a world grain reserve and it is where it should be, essentially in the hands of the farmers who husband its production. We have the capacity to increase that world grain reserve if we have the willingness to provide the incentive and the world free trade capabilities that are essential to the encouragement of that increased production.

This is not to say that Kansas farmers, or American farmers, or farmers of other nations of the world would not generously contribute to an international disaster grain reserve. In truth and in fact farmers of my state and of my nation have been willing to do more than their share in implementing programs of our government to ship grain to hungry nations of our world. Since 1955 more than $28 billion of agricultural products have been shipped abroad to other nations found in need by force of circumstance. I am confident that this program will continue; that in cooperation with other producing nations and other contributing nations it can address the specific problem which in the spirit of humanitarianism must be addressed with the advent of national natural disasters.

The thesis of my comments to you here this evening is that the farmer has the productive capability and desire to be an effective partner in solving the crisis of food and fiber. But he must be accorded a position of equality in that joint venture and not be placed in a position of subservience. By nature he was born free, by conviction he will remain free and by encouragement he will produce free. The potential nourishing bounties of our world cannot be developed with our farmers in bondage, economic or otherwise. A policy of fair price and free world trade is essential to the continued existence of our world civilization.

Some 400 years ago a Spanish conquistador, Francisco Vasquez de Coronado sojourned to my state of Kansas in search of gold. History tells us that this Spaniard was the first white man to come to my state, where he placed the flag of Spain. Coronado roamed the gentle prairies of Kansas in search of the fabled riches of Quivira. According to folk legend near the end of his expedition he climed a lone tall hill which lies between what is now the city of Lindsborg and what is now the city of Salina. He looked in every direction and saw only gently rolling plains without evidence of the wealthy Seven Cities of Cibola and without evidence of the gold for which he quested. He left what is now Kansas in disenchantment and disgust, for gold was nowhere to be found.

Were the conquistador Coronado to return to Kansas today in midsummer and were he to climb the hill now know as Coronado Heights, he could look in all directions and see the gold which over 400 years ago he sought but never found. He would see it in fields upon fields of "amber waves of grain" waiting to be harvested and to be shared with all the peoples of the world in that partnership so well described as "our world civilization."

And so it is that I appreciate very much your invitation to speak to your conference and I find great pleasure in coming to the nation of one of my state's founders, the conquistador Coronado, to tell you that which he could not tell his King. "There is in fact gold in Kansas. But it is sown there and grown there, with the help of Divine Providence, by the industry of the Kansas farmer."

CONSTITUENTS VOICE OPINIONS

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. COCHRAN. Mr Speaker, For the information of my colleagues I am submitting to the Record the results of a questionnaire I sent to my constituents in southwest Mississippi. I think my colleagues will find their opinions significant on certain issues we are facing in Congress:

Questionnaire Results

1. On the question of abortion, would you favor:

a. letting the individual states make their own law on the subject? 56.5 percent.

b. adopting an amendment to the U.S. Constitution prohibiting abortion? 22.0 percent.

c. leaving the law as it is with no change by either the state or federal government? 21.5 percent.

2. Do you favor legislation to provide federal financing of Congressional election campaigns? yes, 14.8 percent; no, 83.6 percent; no opinion, 1.6 percent.

3. On the question of the United Nations, would you favor:

a. withdrawal from the United Nations? 18.2 percent.

b. reduction of U.S. financial contributions to the U.N.? 65.7 percent.

c. continuation of full U.S. participation and financial participation? 16.1 percent.

4. Do you favor efforts to allow members of the U.S. Armed Forces to join unions? yes, 3.2 percent; no, 95.8 percent; no opinion, 1.0 percent.

5. Do you favor federally financed jobs as a means of reducing unemployment? yes, 31.0 percent; no, 66.6 percent; no opinion, 2.4 percent.

6. Do you favor enactment of a law requiring a balanced federal budget? yes, 87.5 percent; no, 11.0 percent; no opinion, 1.5 percent.

7. Do you favor continuation of revenue sharing to assist local and state governments? yes, 69.8 percent; no, 27.4 percent; no opinion, 2.8 percent.

8. Do you favor deregulation of natural gas? yes, 53.5 percent; no, 39.6 percent; no opinion, 6.9 percent.

9. Do you favor proposals that would change the law to allow private business to compete with the Postal Service in delivery of first class mail? yes, 78.0 percent; no, 20.7 percent; no opinion, 1.3 percent.

THE RETIREMENT OF ALBERT GUARINO

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SARASIN. Mr. Speaker, this Saturday, June 5, will mark a milestone for organized labor in Waterbury, Conn., as Albert Guarino winds up almost 40 years as a key man in Laborer's Union Local 390. Al's retirement is well deserved, but it would represent a major loss to the labor movement and the community if Al's many friends and admirers were not convinced he will remain just as active and involved in the future.

Al is a local boy, born in Waterbury in 1918 and a continual resident of the area, with the exception of time out to serve with the Marines in the Pacific in World War II. He had already begun work as a laborer in 1937, joining local 390 at that time, and he returned to his job and his union after the war. Al served as president of his union until 1955, when he was elected business manager.

This was a mixed blessing, however, as the assets of the local at that time consisted of an empty cigar box, a broken desk, a bounced check, and 146 members. Al was up to the challenge, and built local 390 into a dynamic and effective organization, numbering almost 1,000 members as its peak.

Al's union activity extended beyond the local. He was cochairman of the Connecticut Laborers' Pension Fund, a trustee of the Connecticut Laborers' Health and Welfare Fund, a founder-trustee of the Connecticut Laborers' Training Trust Fund, president of the Connecticut Laborers' District Council, a member of the Waterbury and Connecticut Building Trades Councils, the Italian-American Civil Rights League, and an honorary member of the NAACP.

As a trustee of the union funds, Al was instrumental in putting together one of the most advanced and progressive health, welfare, vision, dental, and pension programs in New England, and he also has contributed greatly to the Connecticut work-release penal program, helping parolees obtain jobs and adjust to civilian life.

While Al Guarino may be officially retiring, everybody who knows him knows he will continue to contribute, so I would like to say for the record, "congratulations, Al, and keep up the good work."

A SOVIET TRAGEDY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. ROSENTHAL. Mr. Speaker, on May 18, I inserted into the Record a statement detailing the harassment and death of a prominent Soviet dissident, Colonel Yefim Davidovich. Following Colonel Davidovich's death, a group of 32 Jewish activists sent an open letter to the West condemning the KGB's brutal persecution of the former Red Army hero.

The act of penning the protest was itself a courageous gesture in honor of a brave individual. I reprint the letter below in hopes that this plea will make us all more aware of the persistent Soviet violation of the Helsinki Accord and fundamental human freedoms.

Open Letter on Davidovich

What they tried to achieve for so long has happened. Colonel Yefim Davidovich, hero of the war against facism, recipient of eighteen Soviet Orders and medals and an adamant fighter for the rights of Soviet Jews is dead. This man, the possessor of rare courage and charm, has been killed by the organs of the KGB. He was killed because he had selflessly fought for the rights of Soviet Jews to emigrate to Israel and because, not sparing himself, he had defended every victim of persecution.

What the bullet of the Hitlerites had been unable to do has been cold-bloodedly done by the butchers for the KGB. This is how they paid Davidovich for the blood he shed on the battles for Russia, for the Ukraine, and for Belorussia.

He was killed because he, a Jew, wanted to go where the Jewish State has been built, where his daughter and grandson, his near ones and his relatives would not have to submit to insolent and cowardly indignities inflicted by the anti-Semites in power.

The murder has been perpetrated without beatings-up, without needles introduced under nails, without punishment cells and other accessories of the Stalin era The present day successors to Beria and Ezhov know to kill without leaving clear traces of their crimes. They murder people by devilish methods, according to a well worked out system of psychological terror, threats, blackmail, provocations, indignities, slander and insults. They destroy a person's health, they cause fatal injuries to his heart, his nervous system and to his vitality. And people, as if of their own volition, throw themselves out of windows or die from heart failures or from other fatal illnesses. This is what happened to Davidovich.

After he expressed a desire to go to Israel over three years ago, he was incessantly subjected to indignities and persecution. He was repeatedly summoned to the KGB, subjected to interrogations, to written and spoken threats, as well as hounded in newspapers. Finally he was demoted to the ranks and deprived of his army pension, his only source of income. All this fell upon a person who gives his blood and health in the ranks of the Soviet Army.

The executioners knew what they were doing. After his fifth heart attack, when a real threat to his life appeared, we applied to the Central Committee of the CPSU and to the Ministry of Interior Affairs. We warned them that Davidovich was in a critical state and asked them to permit him to go to the country that he considers his homeland. It is possible that this would have prevented his untimely death. However, even if he would have died in Israel, at last his last wish would have been granted. The wish to die in his homeland.

Those to whom we appealed to grant the last wish of a dying man replied to us through the lips of A. Ivanov (Central Committee of the CPSU) and V. Obidin (Ministry of Interior Affairs of the USSR), that, according to the information in their possession . . . 'Davidovich feels very well.'

This hero and martyr has been murdered cruelly and senselessly. Those who like so much to call themselves . . . Defenders of Human Rights . . . Adherents of Detente . . . Fighters for Peace and Justice, and who like to don the toga of peace makers, they are murderers, hypocrites and demagogues.

Gentlemen from the West, with beautiful souls, here it is. Your detente in action, here it is, the spirit of Helsinki. Who will be their next victim? If the butchers are not stopped today, then tomorrow many people won't be able to escape from their clutches.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1946

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. ESCH. Mr. Speaker, the Humphrey-Hawkins bill is one of the most important issues being considered by the Congress. I would like to insert in the RECORD a letter which I sent to all Members of Congress on May 27 regarding this measure.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 27, 1976.

DEAR COLLEAGUE: There is a strong possibility that within the next week or two the House will be considering H.R. 50, "The Full Employment and Balanced Growth Act of 1976". This legislation will set the stage for a public discussion on the direction our nation will take in the years ahead. I believe, therefore, that it is essential that all Members of the House fully understand the implication of what may amount to the single most important vote in this entire session.

It is my contention, along with other Members of the House, through Dear Colleagues and statements in the *Congressional Record* to inform you and your staff of what we believe are the real implications of H.R. 50. I know you will take the time to see these communications and become familiar with the consequences of this legislation.

Of course, the goal of H.R. 50 is laudable. Everyone concurs that it is desirable to develop an economic system in which each of our citizens can make a contribution and become gainfully employed. The goal is good; but the effects of the processes go much further. Conceptually the bill proposes that government should, and can, make economic decisions which will bring about the desired goal—that is, through central economic planning rather than utilization of the private sector and the normal market mechanism we can achieve utopia.

It hasn't worked in other countries. It won't work here.

The fundamental issue which is before this House is not just the specific weaknesses of the bill, which are many—its abrogation of Congressional responsibility; the power it places in the hands of a few non-elected officials; its reliance on centralized planning; its faulty, if not irresponsible, economic thinking; its prescription of millions upon millions of public service jobs; or the wholesale abandonment of the rules of this House which make it a truly democratic body. No, the issue is much larger than this, for underneath the rhetoric and high blown promises is a major encroachment on individual freedom.

On its surface, H.R. 50 is an "employment bill". The legislation establishes the goal of 3% unemployment to be reached within four years, and requires the President to develop specific plans and programs to reach this goal. Chief among these would be the institution of a potentially massive public service employment program—estimated to entail perhaps 2,000,000 to 8,000,000 individuals, operated out of a Full Employment Office within the Department of Labor.

The legislation establishes elaborate procedures which, in my view, would grant inordinately vast authority to an array of government officials to make far-reaching economic decisions which would impact on almost every aspect of our lives.

The unfortunate reality of H.R. 50 is that it is not an employment bill, and fails to actually create a single job, outside of a small army of highly-paid government advisors. Rather, H.R. 50 is a blueprint for centralized government planning—and control—with no assurances whatever, that such planning will lead to either a short-term or long-term solution to our Nation's unemployment problem.

We believe that this Congress can, and must, move to address the needs of the unemployed. For example, youth unemployment has averaged well over 15% for the entire decade. Yet the Congress has done nothing. Pockets of unemployment, specifically in our Nation's larger cities, continue without Congressional action. The need to assure long-term, productive jobs is likewise essential, but Congress has failed to act on an incentive to stimulate growth in the private sector. We already have the tools, but not the "will"—and H.R. 50 would do little to change either.

During the days ahead, I will be addressing many of the more specific problems with H.R. 50. But before we do so, we must first address the fundamental choice before us. If we choose to enact this legislation, we will be opting for increasing government control—and the arbitrariness and intrusion that it implies—into all of our lives, and will, at the same time be "covering up" for the past failures of this House to act.

If we choose not to support this bill, we will be assuring that the American people will continue to have the right to choose their own destiny; at the same time committing ourselves to solving the specific needs of the unemployed with those tools we already have, and with attention and reform, we know will work.

Sincerely,

MARVIN L. ESCH,
Member of Congress.

CONGRESS CALLED INTO SESSION BY RINGING OF LIBERTY BELL

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mrs. SPELLMAN. Mr. Speaker, on Tuesday, May 11, the 94th Congress of the United States was called into session by the ringing of the Liberty Bell on Capitol Hill. It was my honor and privilege to have hosted the event.

The bell, an exact replica of this country's famous Liberty Bell, was made available through the courtesy of Fort Lincoln Cemetery in Brentwood, Md. It was cast at the Piccard Foundry in Savoie, France, and arrived in the United States January 1, 1976, aboard the U.S.S. *Young America*.

Fort Lincoln offers the bell as a community service to schools, civic clubs, and organizations in the metropolitan area during our country's Bicentennial celebration. The intent of the program is to instill in the public an appreciation of the important role the Liberty Bell has had in our American heritage.

Mr. Speaker, to you and to all those who joined me in the bellringing, I wish to express my appreciation, along with my special thanks to the Fort Lincoln representatives, Alvin E. Melton, Albert M. Sunday, Jr., Denise A. Sturm, Kenneth Melton, and Roger Judy.

INSPECTOR GENERAL FOR THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. GILMAN. Mr. Speaker, last week on May 27, I testified before the House Subcommittee on Intergovernmental Relations and Human Resources on a measure I cosponsored, H.R. 5302, establishing the Office of Inspector General in the Department of Health, Education, and Welfare.

HEW is the largest department of the Federal Government, a sprawling bureaucracy staffed by over 129,000 employees who are responsible for some 300 programs involving a budget of $116.7 billions—estimated budgetary authority for 1977 is over $145 billion.

Under these conditions, the Office of an Inspector General in HEW is urgently needed if the American people and their elected officials are to correct and control the waste, fraud, and abuse that exist within the myriad of HEW programs, to ferret out welfare cheaters and to provide effective and efficient management of taxpayer dollars.

Mr. Speaker, in the interest of accomplishing this goal, I request that the text of my statement be inserted at this point in the RECORD for the consideration of my colleagues:

TESTIMONY OF CONGRESSMAN BENJAMIN A. GILMAN

Mr. Chairman, I would like to take this opportunity to thank you and the other distinguished members of the Subcommittee of Intergovernmental Relations and Human Resources for conducting these important hearings and for affording me this opportunity to testify in support of the measure I have co-sponsored, H.R. 5302, establishing the Office of Inspector General in the Department of Health, Education, and Welfare.

The thrust of this measure authorizes the Inspector General to investigate programs that are administered by HEW to determine the extent to which these programs are complying with applicable laws and regulations and to recommend improvements in the organization, plans, or procedures of the Department's programs. The Inspector General is further authorized to submit a report to Congress and to the Secretary of HEW setting forth a summary of complaints, investigatory findings, and recommendations concerning the operations of the Department's programs. This is no small undertaking considering that HEW is the largest department of the Federal Government, a hydra-headed, sprawling bureaucracy staffed by over 129,000 employees who are responsible for some 300 programs involving a budget of $116.7 billions (estimated budgetary authority for 1977 is over $145 billions).

Mr. Chairman, the Office of an Inspector General in HEW is urgently needed if the American people and their elected officials are to correct and to control the waste, fraud, and abuse that exists within the myriad of HEW programs, to ferret out welfare cheaters, and to provide effective and efficient management of taxpayer dollars. The Inspector General, appointed by the President with the advice and consent of the Senate for a ten-year, nonrenewable term, removable by impeachment, would be independent of partisan political and institutional pressures to perform the necessary oversight functions that are needed to bring the massive health, education, and welfare programs under manageable control and to provide the necessary mechanism to correct the waste, fraud, and abuse that exist within these programs.

Mr. Chairman, a recent UPI story from Chicago, printed in The Times Herald Record of Middletown, New York, in my Congressional District on Monday, May 24th, provides an illustrative but pathetic example of the abuse that exists in the welfare system. The story reads:

BODIES FOUND IN WOMAN'S APARTMENT

CHICAGO.—Police found a 63-year-old woman living with the bodies of her mother and her son. There were also 22 live dogs in the apartment on Chicago's north side.

"She said she kept the bodies because she needed the social security checks," a policeman said Friday. "It looked like the mother has been dead approximately six weeks and the son four weeks."

Police said Lillian Glines told them her mother, about 90, died of natural causes, as had her son, aged 42. They were found in separate bedrooms. Mrs. Glines was not charged.

Police said the 22 dogs, "12 adults and 10 puppies" appeared to be well fed, but the house was filled with feces.

Unfortunately, legislators and administrators are accustomed to dealing in aggregate terms, data that can cloud the human element, the human event—in this instance, the tragic misuse of the welfare system.

The waste, fraud, and abuse within HEW programs have been detailed in the excellent Tenth Report of the Committee on Government Operations entitled, "Department of Health, Education, and Welfare (Prevention and Detection of Fraud and Program Abuse)." Summarizing the study made by this distinguished Subcommittee, the Report stated: "There is no central unit [within HEW] with the overall authority, responsibility and resources necessary to insure effective action against fraud and abuse," and it further indicated that "HEW officials apparently have little or no reliable information concerning the actual losses resulting from [large-scale fraud and program abuse]."

Mr. Chairman, by way of a comparison, in New York State, an Office of Welfare Inspector General has been established to oversee the New York State Department of Social Services. It is an 80-member agency of the audit and control system of the Comptroller of the State of New York, and it has a modest budget of $1.4 million. I have been informed that this is the only state Inspector's General Office in the Nation.

This agency's job is staggering considering that one out of every seven individuals in New York City is receiving some form of welfare assistance that consumes about 60% of the State's $6 billion welfare program. The waste and abuse in the State's welfare system for New York City amounts to an estimated $800 million. Although I do not have detailed information concerning the agency's operations, I understand that these dedicated investigators are performing an outstanding public service.

Mr. Chairman, the need for establishing the Office of Inspector General in HEW is obvious. Accordingly, I respectfully urge favorable consideration of H.R. 5302.

Thank you.

THE RURAL HOUSING RIPOFF

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SANTINI. Mr. Speaker, to my dismay, I have discovered that the Department of Housing and Urban Development has grossly neglected the unique housing needs of the elderly in the small rural States.

Under section 202 of the Housing and Community Development Act of 1974, funds are provided for direct Federal construction and permanent mortgage loans for housing projects to serve elderly and handicapped families and individuals.

Upon review of the list of those applicants approved, it is distressingly evident that small and rural States with the highest comparative need for housing assistance did not receive their fair allocation of section 202 funds. There is a crisis need for adequate housing in many of our rural areas.

It is a revealing and distressing fact that substandard housing is not confined to the inner cities. The 1970 census established that the Nation's nonmetropolitan counties, while supporting approximately one-third of the Nation's total population, contains about two-thirds of occupied substandard units. Further the President's Committee on Urban Housing in 1969 concluded that nonmetropolitan residents required a higher income than metropolitan counterparts to obtain adequate housing. These facts create a serious dilemma for housing of our rural elderly who have to rely on limited and fixed incomes.

I have detailed my protests and concerns about the arbitrary HUD action in a letter to Secretary Carla A. Hills. For all of my colleagues concerned with the housing plight of our elderly and rural populations, the letter to Secretary Hills follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 27, 1976.

Hon. CARLA A. HILLS,
Secretary of Housing and Urban Development, HUD Building, Washington, D.C.

DEAR SECRETARY HILLS: I have been advised that the Department of Housing and Urban Development has made final selection of those nonprofit applicants who are to be awarded fund reservations under the Section 202 program. I understand that 1,500 applicants were received by HUD, requesting the financing of 230,000 units. I am also aware that the loan fund authority was allocated on a regional basis in an attempt to ensure equitable distribution of funds.

However, upon review of the list of those applicants approved, it is demonstrably clear that small and rural states with great need for housing assistance did *not get their* fair share of Section 202 funds. This has been a constant failure of the Federal housing effort.

The 1970 Census shows (contrary to popular belief that substandard housing is primarily confined to the inner cities) the nation's nonmetropolitan counties, while supporting approximately one-third of the nation's total population contains about two-thirds of occupied substandard units. While 3.5 percent of year-round housing units in metropolitan areas had deficient plumbing facilities, 14.1 percent of such units *outside* of metropolitan areas had deficient plumbing. In addition, approximately 25 percent of the substandard homes in rural areas are owned by the elderly. Further the President's Committee on Urban Housing in 1969 concluded that nonmetropolitan residents required a higher income than metropolitan counterparts *to obtain* adequate housing. In the meantime, the cost of housing has increased by 74 percent in the last five years. Incomes are lower in rural areas and small towns which especially holds true for the elderly who rely on limited and usually fixed incomes.

Rural areas do not only lack adequate housing facilities, but they also lack specialized housing for the elderly designed to meet their unique needs. The Federal housing programs designed to serve small towns and sparsely populated areas have fallen short of the expressed need of senior citizens. The State of Nevada with an elderly population of 64,500—7,000 of which live in poverty—has not been a beneficiary of these programs.

The Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging, of which I am a member, held field hearings and has published a report entitled "Elderly Housing Overview: HUD's Inaction." The Nevada hearings and the report document the elderly housing needs of the State. For example, Nevada was only allocated $157,000 under Section 8 for the entire state. Dividing 7,000 needy older people into $157,000 yields a per person allowance of less that $23 per year which would hardly be enough to pay the utility bill for one month. You must remember, however, that Nevada's allocation must be used for all low-income families—not just the elderly.

I was appalled upon discovering that none of the Section 202 fund reservations went to the State of Nevada. A survey conducted by the University of Nevada shows that a large portion of the elderly population in the state is spending as much as 50 to 75 percent of their incomes for rent. In addition, there is a serious shortage of elderly housing projects in the State. Reno, with a senior population of 17,200 only has 250 units housing 298 elderly persons. Clark County has an elderly population of 33,200 and only 747 units of elderly housing. The other 14,100 senior citizens are located in the rural areas of the state and have not received any type of Federal housing assistance.

I am deeply disturbed with the lack of concern shown the housing needs of the elderly in Nevada. It is difficult to comprehend why none of the five applicants did not meet approval.

HUD must take steps to begin giving small and rural states their fair share of Federal housing assistance funds.

Although funds have been committed for this fiscal year, I am urging that Nevada, and other small and rural states, be given fair and serious consideration for future funding under the Section 202 program.

Sincerely,

JAMES D. SANTINI,
Member of Congress.

CRUELTY TO PORPOISES

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mrs. MEYNER. Mr. Speaker, the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee has completed its consideration of H.R. 13865 and reported it to the full committee. I am sure that everyone in this Chamber is aware of the effect that this legislation would have on the May 12, 1976, ruling of a U.S. district court regarding the incidental killing of porpoises in sieve nets. It would be to nullify that decision which was based on the Marine Mammal Protection Act of 1972, and which reiterated our concern for the survival of these magnificent animals. I insert the following editorial which appeared in the May 28, 1976, Washington Post. I urge my colleagues to read this editorial and, if the time comes when we are asked to cast our votes on this legislation, to consider the effect that our leniency toward this senseless slaughtering will have in the future as more and more species become threatened with extinction as a result of our self-serving predation.

The article follows:

CRUELTY TO PORPOISES

Judge Charles R. Richey spoke plainly and firmly in his recent ruling that ordered an end to the use of tuna-fishing technique that takes a heavy toll of the tuna's favorite swimming companion: the porpoise. Because these fun-loving mammals of the sea also swim close to the surface (they are air-breathing), they are easy to spot. And because they are so often accompanied by tuna, tuna fishermen tend to cast their nets indiscriminately whenever they see porpoises, with the result that porpoises all too often get caught up in the tuna nets and drown either from lack of oxygen or shock. The Marine Mammal Protection Act of 1972 was supposed to put an end to this senseless killing of porpoises; enforcement was duly turned over to a fishery agency within the Department of Commerce. But in the best tradition of regulators falling under the influence of the regulated, the agency was found by the court to be "in violation of both the letter and spirit of the law." After reviewing the record, Judge Richey had this to say:

"Steps which ensure the protection and conservation of our natural environment must, almost inevitably, impose temporary hardships on those commercial interests which have long benefited by exploiting that environment. The people of this country, speaking through their Congress, declared that porpoises and other marine mammals must be protected from the harmful and possibly irreversible effects of man's activities. It is the obligation and intention of this court to honor that declaration."

Environmental groups celebrating the Richey decision—14 were plaintiffs—had but a short victory party. To the cheers of the tuna industry, Rep. Robert L. Leggett (D-Calif.) jumped in to propose amending the law in a way that would lift current restrictions against the industry regarding the killing of porpoises. The effect of the proposals would be to render the Richey decision meaningless. Mr. Leggett bases his position on the belief that the tuna industry will suffer economic hardship unless his bill goes through. And by way of making this sound more reasonable, he offers the prediction that, in any case, less than half as many porpoises will be killed this year than last—60,000 compared with 134,000.

Congress ought to be wary of the Leggett bill. It has the mark of special interest legislation. The industry might be owed some sympathy if its record since 1972 suggested much zeal for compliance. But the Richey order reveals little more than fishing and killing as usual. Environmental groups, well aware that a successful court decision often means that an attack on the law will be made on another front, are arguing persuasively that economic hardship for tuna fishermen is unlikely because most of the U.S. tuna catch this year is expected to be from fishing that does not involve porpoises. Even if the industry made a case for the fact of economic losses—which it hasn't, to our satisfaction—Judge Richey believes such hardships would be "temporary." As for the projected 60,000 porpoises to be killed this year, the law as written actually calls for "insignificant levels" of killing, approaching a zero mortality rate. It would be one thing if the predicted decline in the porpoise kill-rate this year was predicated on the promise of a greater show of care on the part of the fishermen; that might at least offer the hope of further declines leading to a permanent solution. But the hope of a cutback in the killing this year is apparently based largely on the prospect of a more plentiful harvest among tuna caught in schools where porpoises are not trapped by nets, and this may be only a temporary trend.

There is a larger reason for defeating the Leggett bill. It offers a loophole to the tuna industry just at the moment when the United States is trying to stop other countries from slaughtering whales. For Congress to approve the Leggett bill (it is now before the Fisheries and Wildlife Conservation and the Environment Subcommittee) would be to create a double standard: What it would be saying is that it is all right for Americans to decontrol the killing of one form of harmless and threatened ocean life but it is all wrong for foreign fleets to engage in uncontrolled killing of other creatures of the sea. The point here is that these are not questions that lend themselves to compromise—if you believe, as we do, in the value of protecting the world's wild creatures from the predations of man. Cruelty to animals is only a part of it. In the end, the issue all too often is survival: When the mere existence of one or another species of wildlife is threatened, and extinction is clearly only a matter of time, the only sure means of preservation is to draw a firm line somewhere and call a halt.

MURTIS TAYLOR HONORED IN CLEVELAND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. STOKES. Mr. Speaker, I rise today to bring before my colleagues in the U.S. House of Representatives the outstanding achievements of one of Cleveland's most respected and revered citizens. Murtis Howard Taylor has done a monumental job in promoting the social and economic welfare of Cleveland's many inner-city neighborhoods. As a social worker and community mentor, she has done much to meet the crucial human needs of the urban family, helping it to maintain a healthy and sound structure in the face of often overwhelming odds.

Mr. Speaker, allow me to give some historical perspective on Mrs. Taylor's achievements. She is the founder and past president of the Community Services Center of Mount Pleasant, guiding its growth from 1948 to 1971. The creation of the center, which was to become the first multiservice center in Cleveland, was the outcome of a special study by the late Edward C. Lindeman, of the New York School of Social Work, who saw it as a needed potential force for closer cooperation and programing between public and private agencies.

During the early years of the center, Mr. Speaker, Mrs. Taylor saw the need to add further service components to meet community needs. These services included a child day care center, a teen drop-in center, a headstart/preschool program and a vocational counseling drop-in office.

During these early formative years, Mrs. Taylor's empathy and interaction with local residents made the center an effective clearinghouse for community concerns.

At the present time, Mrs. Taylor is continuing to build upon her long record of service. She is currently the director of the Project Committee for Older Persons with the Federation of Community Planning.

Mr. Speaker, my recitation of Mrs. Taylor's accomplishments is by no means finished. She has applied her skills and expertise to the following important positions: Education director of the Karamu House, director of the Kinsman Branch of the Hiram House, and director of the Alexander Hamilton Community Center.

On Saturday, June 5, friends, colleagues, coworkers, and local and State officials will attend a testimonial dinner in honor of Mrs. Taylor at the Sheraton Cleveland Hotel.

Mrs. Taylor has been honored many times before. Let me take a moment to list but a few:

1960—One of 10 social workers chosen by West Germany to study social work there.

1964—Mr. and Mrs. Taylor received Ukaya Award for outstanding contribution to the educational and cultural life in Cleveland.

1965—One of a team of six researchers with Dr. St. Clair Drake on "Race Relations in a Time of Rapid Social Change."

1967—Received Catholic Interracial Justice Award.

1968—Taylor family was chosen "Family of the Year" by the Cleveland Urban League.

Selected for "Who's Who of American Women."

1969—Cleveland Area Chapter Social Work Merit Award.

1971—Mt. Pleasant Community Council Award for dedicated service to the community.

1975—Certificate for completing Geriatric Sensory Training for Volunteers.

As you can see, Mr. Speaker, Mrs. Taylor is part of a proud family tradition. Together, she and her husband, the late Arthur L. Taylor, raised two fine sons, Howard and Bruce, who in turn made their parents the proud grandparents of two granddaughters and a grandson.

Mr. Speaker, at this time I would like to call upon my colleagues to join me in honoring Murtis Howard Taylor. Like many of our pioneering black women, both in Cleveland and nationally, she has done a yeoman job in improving lives of her brothers and sisters. Murtis Howard Taylor wanted the best for her community, and being the committed woman that she is, she was not content to sit down and wait for a better day. She knows that the fight for human dignity is still an up-hill battle, especially for black people and other disadvantaged minorities.

Mr. Speaker, the road before us is still rocky. But in Cleveland, we will continue the perilous journey as long as Murtis Howard Taylor is walking with us.

JOBS: BOON OR BOONDOGGLE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. HAWKINS. Mr. Speaker, I am pleased to call the attention of the Members to an editorial published in the Christian Science Monitor entitled "Jobs: Boon or Boondoggle." The editorial calls for comprehensive discussion not only of the economic concepts, but of the social and moral goals expressed by the Full Employment and Balanced Growth Act of 1976. The editorial, which appeared in the May 19, 1976, edition of the Monitor, follows:

JOBS: BOON OR BOONDOGGLE?

While the results of yesterday's primaries are being sorted out, the Democratic Party platform committee is meeting in Washington with an eye on the party's convention in July and subsequent election battle. The "centerpiece" of the platform, as proposed in a five-year plan by House Democrats, is full employment combined with balanced growth. A bill specifically designed to promote this goal is the subject of Senate subcommittee hearings this week. So in many ways the lines are being drawn at the moment on a major campaign issue for the rest of the year.

No candidate would admit to being in favor of unemployment, of course, even if willing to tolerate it for the sake of avoiding inflation. But by conspicuously placing a priority on jobs the Democrats dramatize their contrast with a Republican administration whose head calls their full employment bill "a vast election-year boondoggle."

Mr. Ford can point to the decline in unemployment under current policies. But the rate remains too high for the Democrats and, indeed, for any country with the wealth and the work that needs to be done which the United States has.

How to reduce it? That is where the public has to decide whether to rely on a continuation of the conservative Ford approach—which Ronald Reagan's would no doubt resemble—emphasizing the improvement of business to provide jobs in due course. Or will the public cast its lot with the Democratic sense of urgency that more has to be done about jobs now without waiting for corporate progress to trickle down?

Indeed, the bill now being considered calls for adult unemployment to be brought down to 3 percent as soon as possible or within four years at the latest. The president is given the responsibility of reporting to Congress any obstacles to such improvement and, if necessary, proposing the corrective economic measures to ensure that the timetable is achieved.

This is the so-called Humphrey-Hawkins bill—the Full Employment and Balanced Growth Act of 1976. It would certainly be vetoed if passed this year, and its sponsors already look hopefully ahead to the next president and next Congress.

A chief value of the bill now is its crystallization of a controversial sort of decision that Americans are going to have to deal with one way or another. The right to employment was supposed to have been legislatively established 30 years ago. Rep. Augustus Hawkins of California—coauthor with Sen. Hubert Humphrey—says their bill is really not to write new policy but clarify that old policy. It makes governmental cooperation and planning a significant part of the process.

Mr. Hawkins emphasized the bill's hopes for achieving its goals through the private sector, as he spoke at a Boston seminar this week sponsored by the Boston Herald American and the First National Bank of Houston. He said he was all in favor of corporate tax incentives—if they could be shown to serve not merely profits but the goals of full employment and balanced growth. It would only be the failure of the private sector to provide the jobs which would require the governmental programs provided for in the bill.

Critics say there is no way to meet the 3 percent goal without such programs. The question then burgeons into the hard economics of how far both unemployment and inflation can be reduced simultaneously as in the past—and to some degree now—or how far inflation will outstrip gains if, for example, productivity is not increased along with employment.

But Mr. Hawkins keeps coming back to the idea that this is not just economics, that it is a matter of deciding what social and moral goals the society is seeking, or deciding what the economy is really for—certainly not just to pile up riches. Economists, in this view, are not to establish the goals but to use their skills to achieve them.

This bill may turn out not to be the ideal vehicle for expressing America's goals. But full discussion of it should help illuminate them—and the kind of public and private action necessary or acceptable in their accomplishment.

B-1 BOMBER—$3 BILLION HEADACHE

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. EDGAR. Mr. Speaker, a syndicated article by Herbert Scoville, former Deputy Director for Research for the Central Intelligence Agency, was printed on May 22 in the Delaware County Daily Times. The article discusses the limitations of the B-1 bomber should it be the successor to our B-52 strategic bomber force. For the benefit of my colleagues who have not seen this provocative analysis of what may be the greatest public works boondoggle in our history, I insert it in the RECORD at this point:

B-1 BOMBER—$3-BILLION HEADACHE

(By Herbert Scoville, Jr.)

(Herbert Scoville is a former deputy director for research at the CIA, and assistant director of the Arms Control and Disarmament Agency.)

The B1, a new intercontinental strategic bomber for which the Air Force has been fighting for more than 10 years, reaches its moment of truth in 1976.

Almost $3 billion has been authorized to develop the B1 after the earlier B70 program was halted by Secretary McNamara in the early 1960s.

Since the inception of the program, costs have skyrocketed and performance plunged, but it was argued that the proper time to stop it would be after development and evaluation tests were completed rather than in mid-stream. Now the decision on procurement is officially scheduled for November 1976, but the Congress is being asked to authorize in advance about $1 billion to start production.

Secretary of Defense Ronald Rumsfeld and senior Air Force officials are acting as if they had already made the decision without waiting until November for the completion of the evaluation tests which a recent GAO report indicates are running behind schedule.

The current official cost of the B1 is $88 million per plane if all the proposed 244 are procured. Thus the total program for the aircraft alone is already estimated to exceed $20 billion, and the price continues to rise daily. Furthermore, this does not include the costs for the armament, such as missiles, nor for a whole new fleet of tankers which would be required to make the force truly useful.

A recent Brookings study, Modernizing the Strategic Bomber Force, by Quanbeck and Wood, estimates that overall 10-year (FY '76–'85) expenditures for our strategic bomber force if the B1 were incorporated into it would reach a total of $91.5 billion. The B1 will be the most expensive weapons system ever built.

Why do we need the B1 and what are we getting for all these billions? The B1 is intended to be a replacement for the B-52 as the intercontinental bomber part of our strategic deterrent triad. Submarine-launched ballistic missiles are the primary element in our deterrent, but landbased ICBMs and intercontinental bombers provide a back-up in the event of some unforeseen threat to our submarines.

Both the Minuteman ICBMs and the bombers on the ground are potentially vulnerable, but together they are secure since there is no scenario by which both can be knocked out in a surprise attack.

Bombers have the advantage of being able to fly away from their bases without waiting for the final decision to launch an attack since, unlike missiles, they can be recalled at any time until they reach Soviet borders. On the other hand, the bombs they deliver will be arriving hours after much of both countries will have been turned to rubble by missile warheads. In fact, one of the uncertainties about the B1 is whether it can fly through the debris clouds that are an inevitable aftermath of nuclear explosions.

The B1 is planned to be the replacement for the B52, but Secretary Rumsfeld admits this year that the strategic use of B52s equipped with long-range air-to-surface missiles would be an appropriate mission "through the 1980s and 1990s." Thus, there is no urgency in procuring a next-generation bomber.

In fact, premature procurement of the B1 could mean that both systems will be wearing out almost concurrently since the life of a new supersonic plane is likely to be much shorter than the extremely durable B52. We should take advantage of this breathing spell to design the best follow-on aircraft system that could be procured in the 1990s if at that time one still appeared necessary.

The one characteristic driving up the cost of the B1 more than any other is its supersonic flight capability. Although originally planned to be supersonic at all altitudes, the B1 is now designed to fly supersonically (Mach 1.6 instead of the originally planned 2.2) only at high altitudes and subsonically (450 mph) at low altitudes.

Because of the great effectiveness of current Soviet air defenses at medium and high altitudes, our operational plans have long called for the penetration of Soviet air space only close to the ground, thus precluding supersonic speeds over the Soviet Union.

Moreover, supersonic flight uses up so much fuel that it drastically curtails the B1 range and prevents supersonic speeds for any significant portion of a mission unless tankers are available for multiple aerial refueling.

Basically, the B1 is a subsonic bomber with a short supersonic dash capability at high altitudes. Since planes at high altitudes are vulnerable to Soviet defenses at any speed, this supersonic dash will only be practical outside the Soviet Union where it is not needed.

Thus, the expensive, high-performance characteristic of supersonic speed is largely wasted since it can almost never be used on any mission. Furthermore, if the plane is to fly supersonically the engines cannot be designed optimally for subsonic flight, so the supersonic capability degrades the plane's performance under conditions normally used in operations.

Military effectiveness has been sacrificed to the desire by the Air Force to fly faster and to the challenge for aircraft designers of building a supersonic plane. The U.S. taxpayer must pick up the tab for the billions of dollars these whims cost.

The B1 supersonic capability, if it is ever used, not only costs dollars but creates serious environmental hazards. A study by the Environmental Action Foundation, "Boom and Bust, the B1 Bomber and the Environment," has calculated that when B1 bombers fly in the stratosphere at supersonic speeds, they will release prodigious quantities of pollutants, such as oxides of nitrogen, threatening the same ozone depletion that has caused such concern with its civil cousins, the SST and aerosol dispensers.

Its supersonic boom would force it to fly on training missions only over uninhabited areas to avoid intolerable effects in population centers. In its life span of 25 years, billions of gallons will be consumed by a B1 fleet, hardly a pleasant outlook in an era when energy will be increasingly limited.

Reference has already been made to the limited range of the B1 when flown supersonically at high altitudes. However, even when flown subsonically the B1 only has an operational range of about 6,100 miles, so that refueling tankers are required for most missions. A B1 could not, without refueling, fly even subsonically with a full payload from the United States to the Soviet Union, penetrate Soviet defenses at low altitudes, and get back to European bases.

The plane cannot loiter, awaiting a decision to attack, but must fly directly to its assigned targets, thus reducing a key advantage of bombers over missiles. The B52 while far from having ideal endurance, has been flown 12,500 miles without refueling.

Thus, after having spent billions we will end up with a plane which will be little if any better than our current B52 for the types of missions that will normally be flown.

Despite extensive Soviet air defenses, our bombers are still believed able to reach targets in the interior of the USSR as long as they stay near the ground. However, Rumsfeld predicts that we can expect the Soviet Union to develop and eventually deploy interceptors with a look-down, shoot-down capability for destroying low-flying aircraft; thus all planes, even the B1s, will be vulnerable unless they are equipped with long-range air-to-surface missiles to saturate area defenses and avoid the need for penetrating Soviet air space.

This factor would argue strongly that any follow-on to the B52 should be optimized for a stand-off mission rather than for penetration. In the meantime the B52s should be adapted for stand-off missions by equipping them with long-range air-to-surface missiles.

Another important factor leading to the high cost of the B1 is the ability to get the planes into the air and away from the field rapidly. Because of the vulnerability of bombers on the ground to destruction by a nuclear explosion, it is important that a portion of our strategic bomber force be kept on alert so that planes can take off on warning of an attack and before the incoming missile warhead arrives at the airfield.

Although the increased weight of the B1 over the original design criterion has lengthened its takeoff distance, the B1 is still able to get off the ground and out of range faster than the current B52s. However, a recent detailed analysis of its survivability in the monograph by Quanbeck and Wood shows that this advantage is marginal.

If depressed trajectory ballistic missiles or long-range cruise missiles can be launched from Soviet submarines, capabilities the Soviets have not yet shown any evidence of developing, then all types of planes including the B1 are vulnerable to a surprise attack; if they cannot, all types can be satisfactorily protected.

Furthermore, if a refueling tanker is needed for the B1 to complete its mission, as it is in most cases, then the vulnerability of the tanker will be controlling rather than that of the B1 itself.

Only airborne alert, which is not practical for a plane with the short endurance of the B1, will provide complete protection against such a surprise attack, which is admittedly not very likely.

Even if we were prepared to pay the high cost, it is becoming increasingly apparent that the B1 is not what is needed for our security. The Brookings study, after analyzing all the factors involved, comes to the conclusion that when the B52 bombers must be replaced it would be far better to have a standoff bomber—i.e., a plane which can launch its missiles from outside the Soviet Union rather than one which has to penetrate its air defenses.

Such a plane could have a long endurance so that it would take off on any type of alert, thereby decreasing its potential vulnerability to surprise attack.

Unlike the B1, which would have to fly directly to its targets or run out of fuel, a plane designed for stand-off delivery could loiter and stay airborne for long periods of time and only be ordered to approach Soviet borders and launch its missiles after a full evaluation of the situation had been made.

It would not waste money on supersonic and other high performance capabilities which would never be used. It would be far more effective and flexible than a force of B1s supported by tankers; in fact, the tankers themselves or some similar cargo aircraft could actually be used to carry the long-range missiles, thus avoiding the need for any true bomber aircraft.

One of the strongest pressures for proceeding with such weapons programs as the B1 is the jobs that the program will produce in this time of high unemployment.

However, the thesis that we must continue military expenditures to keep people employed is a sad delusion fostered by the military-industrial complex.

Economic studies have again and again shown that dollars spent on defense employ fewer people than dollars on other types of federal spending programs. For example, using the analytical procedures developed by Roger Bedek, economist and manpower expert, in his book, Long Range Forecasting of Manpower Requirements: Theory and Application, it can be shown that $1 billion for B1 procurement will provide about 59,000 jobs; a similar sum for miscellaneous transport construction will employ 84,000 persons; and for public housing 85,000.

Furthermore, a major problem with weapons production jobs is that they create a demand for consumer goods without providing an offsetting supply, thus fueling inflation.

The administration, Congress and labor have got to realize that the shortsighted policy of allocating 70 per cent of the federal controllable funds, year after year, to national defense is a major contributory cause of our current financial difficulties.

Studies show that 44 of our states have paid out more in taxes to support the B1 than they have received back in contracts for the program. For example, it has cost the state of New York, which can ill afford it, $198 million while returning $38 million.

Finally, this is not an area where we need to be stampeded into unnecessary weapons procurement in order to maintain equivalence with the Russians. The American intercontinental bomber force is superior in every way to the Russian one and will remain so indefinitely.

The U.S.S.R. has only about 150 old bombers far inferior to our 500 B52s and FB111s. The new backfire, which is just beginning to be deployed, is not designed to be an intercontinental bomber. Although supersonic, it can't reach the United States even on a one-way mission if it flies at such speeds.

Unrefueled, it can only fly subsonically at high altitudes to reach the United States on one-way missions; if refueled, a capability which the Soviets have largely ignored, it could reach the United States and return only if staged from Arctic bases and flown subsonically at high altitudes.

The debate on the B1 procurement, which began in Congress last week, will be the successor to the ABM and the Trident, both of which passed only by close votes in the Senate.

After expenditure of more than $7 billion, ABM deployment has been phased out because it was possible to get the Russians to forego missile defense in the Moscow ABM Treaty of 1972 and because it became almost universally recognized that the Safeguard IBM was ineffective.

The Trident program goes on with the cost rising to more than $18 billion for 10 submarines and the administration planning now to buy more than 10.

If the decision is made to go ahead with the B1 this year, then it may never be possible again to stop this program and avoid this colossal drain on the taxpayer's pockets. It will always be argued that we have sunk so much into the program that we cannot afford not to go ahead. It will also be said that buying a smaller number of planes will not significantly reduce the over-all expense.

Although the administration claims it will not make its own decision until November, it is asking Congress to endorse an advance check now. Officials undoubtedly estimate it will be more difficult to stop the program in the midst of the election campaign that it would be a year later.

The lobbyists, pro and con the B1 are out in full force. Those that have fought rising defense budgets and are satisfied with nuclear sufficiency believe that unless the

B1 is halted, there will be no stopping mammoth additional increased expenditures for the military in future years.

On the day before the House vote (the vote went against deferring funding for B1 production), the Air Force by happy coincidence flew the B1 at its fastest supersonic speed to date, and the wide press coverage conveniently ignored the fact that these supersonic speeds will never be usable in any combat mission.

Congressmen, in making the multi-billion-dollar decision, must look beyond all the smoky rhetoric that the Russians are outspending us and that the United States is becoming a second-rate power, and remembering that:

(1) The strategic bomber is only a backup in the event of completely unforeseen vulnerabilities developing in our submarine-launched ballistic missile force.

(2) Its costly supersonic capability will almost never be used in any operational mission.

(3) It will be a major contributor to atmospheric pollution and an avid guzzler of increasingly scarce fuel.

(4) The Russian strategic bomber force is far inferior to our present B52s so the B1 is not needed to maintain equivalence with the Soviet Union.

(5) There is no urgency in procuring a new bomber since the B52s will continue to operate satisfactorily in the 1990s.

(6) The expenditures for the B1 system, which during its lifetime could reach $100 billion, will produce both a net decrease in employment and an inflationary stimulus.

(7) A stand-off aircraft equipped with long-range missiles is a more militarily effective system than the B1 if and when a follow-on to the B52 is found necessary.

The B1 is a costly, wrong answer at the wrong time to our real security needs.

SOCIETY OF NUCLEAR MEDICINE

HON. ALAN STEELMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. STEELMAN. Mr. Speaker, I would like to bring to the attention of my colleagues the existence of the Society of Nuclear Medicine, an organization founded in 1954, presently composed of 8,000 nuclear medicine specialists. The Society of Nuclear Medicine (SNM), the largest all-encompassing umbrella-like organization dedicated to the field of nuclear medicine in the United States, is comprised of physicians, physicists, chemists, radiopharmacists, nuclear medicine technologists, and others with career interests in the diagnostic and therapeutic use of radiopharmaceuticals.

The discipline of nuclear medicine has become a significant component of American health care. The major contributions of nuclear medicine relate to the development of tracer methods for the study of disease and the development of diagnostic procedures which influence the care of patients afflicted with various diseases ranging from pulmonary embolism and heart attacks to cancer and bone disease. The widespread application of nuclear medicine can be appreciated by the fact that one of every four hospital admissions result in a nuclear medicine procedure, and there were some 12 million procedures performed in 1975 in the United States. The field has grown to where it has a significant influence on a major segment of our total population.

The 23d annual meeting of the Society of Nuclear Medicine will run from June 8–June 11, 1976 at the Dallas Convention Center in Dallas, Tex., with an anticipated attendance of over 6,000 people. This meeting will include 4 days of indepth scientific and clinical presentations and teaching sessions where the latest concepts in nuclear medicine are presented and discussed for the purpose of permitting postgraduate continuing education to our membership. The annual meeting of the Society of Nuclear Medicine has grown to become the sixth largest medical conclave in the United States.

The Technologist Section of the Society of Nuclear Medicine was formed in 1970 to meet the needs of the nuclear medicine technologist. It is a scientific organization formed within, but operating autonomously from, the Society of Nuclear Medicine for the ultimate benefit of patient care. The ongoing objectives of the organization are to enhance the professional development of nuclear medicine technology, to stimulate continuing education activities, and to develop an international forum for the exchange of ideas and information. Through this association, nuclear medicine technologists have a mechanism for handling issues that concern them directly.

The Society of Nuclear Medicine contains within its parameters the Education and Research Foundation incorporated in 1969 by the SNM as a nonprofit organization with the mission of increasing knowledge, enchancing standards, furthering progress, encouraging research, and improving practice in the field of nuclear medicine.

The Education and Research Foundation presently operates three monetary support programs: The medical student fellowship program, enabling eight medical students to spend elective quarters in nuclear medicine laboratories working with experts in the field; seed money research grants, awarded to eight investigators to support basic and applied investigation in nuclear medicine; and support for needy groups sponsoring educational meetings deemed crucial to progress in nuclear medicine has been undertaken.

The SNM is a sponsor of the currently operating American Board of Nuclear Medicine, established in 1971. The American Board of Internal Medicine is a conjoint board of the American Board of Internal Medicine, the American Board of Pathology, and the American Board of Radiology. The American Board of Nuclear Medicine was organized to set educational standards and to evaluate the competence of individuals in nuclear medicine. It has responsibility for establishing requirements for certification, for conducting examinations leading to certification in nuclear medicine, and for issuing certificates to those who fulfill its requirements. Certification in nuclear medicine by the American Board of Nuclear Medicine certifies that the diplomate is qualified to practice as a specialist in all aspects of clinical and laboratory nuclear medicine.

At the close of 1975, the SNM was instrumental in establishing the AMA section on nuclear medicine. A permanent section on nuclear medicine within the American Medical Association was approved by the AMA's House of Delegates at its Honolulu meeting on November 30, 1975. The establishment of the section was long sought by the SNM, which will have a vital role in its organization. Section status for nuclear medicine guarantees the presentation of nuclear medicine scientific programs at the AMA annual conventions and entitles the nuclear medicine community to have its own delegate within the AMA's House of Delegates. The SNM has appointed five members to the six-member section council. The sixth at-large member of the council will be selected by those registering in the section on nuclear medicine during the AMA annual convention in June 1976. The first organizational meeting of the council was recently held on April 8, 1975 in Chicago, Ill.

FROM FLANDERS FIELDS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. COHEN. Mr. Speaker, this past Memorial Day weekend, all Americans paused to give tribute to the many thousands of patriotic men and women who have given their lives during our country's two centuries of independence to protect the rights and freedom of their countrymen.

Our memories of the sacrifice of these lives should inspire us all to take steps to insure international peace—to prevent any unnecessary additional loss of American lives.

Every war brings with it great loss, both for the victor and the vanquished. I would like to share with my colleagues the moving story of one Maine man and how the First World War affected his life. The story, "From Flanders Field," is by Kay Washburn and first appeared in the Orrington Gazette, a fine local newspaper published in Orrington, Maine, under the leadership of Mrs. Joan Howard.

The story is appropriate reading for this Memorial Day season, and I commend it to the attention of my colleagues:

FROM FLANDERS FIELDS

Occupying an honored place on the living-room wall of Rena DeGrasse's neat little house on the Snow's Corner road is a small, glass-fronted shadow-box. Inside is a brown, flattened-out, incredibly brittle flower from which time and the elements have erased almost all clues as to its species, were it not for the tiny hairs all along the greenish stem. These tiny cillia identify the flower as a poppy, and what accounts for the elaborate precautions taken to preserve it is the fact that it was picked in Flanders Field during World War I by Rena's husband, the late Fred DeGrasse, while he was serving in the AEF.

The bright crimson poppies that grow wild in the meadows of Europe have become the symbol of the first World War, that holocaust that was supposed to make the world safe for democracy. Fred DeGrasse came home from that war, bringing a small black diary, with the fragile poppy carefully pressed between its pages. Over the years the family kept it safe, but could do nothing to halt the aging process that made it increasingly dry and brittle. When, in 1965, Fred passed away, Rena, by whom the poppy was now all the more treasured, appealed for help in preserving it. A good friend, Bill Gagne (Gonyer) came to the rescue. He lifted it carefully, page and all, from the little black book and pressed it under wax paper to keep it from shattering—thus, sandwiched between two sheets of paper, the upper one transparent, the poppy, now 58 years old, was ensconced in a glass-front shadowbox where, it is presumed, it will last forever.

Born in Shippigen, New Brunswick in 1894, Fred DeGrasse was thus a Canadian citizen when the war broke out, and subject to the Canadian draft. But he had a wife and 8-months old daughter (Virginia), and he knew if he went back to Canada they would be left without support. If he enlisted in the American Army, his dependents would receive an allotment. The only hitch was that, at just that time, America wasn't drafting married men, unless their wives signed releases absolving the government from paying allotments. Finally Rena signed, knowing full well that it meant signing away her allotment, but it was Hobson's choice. However, the recruiting officer must have been a most understanding man—somehow, the release got "lost", and she got the allotment anyway.

That was in 1916. Fred didn't get shipped overseas until September, 1918. We follow his progress across Europe by notes in his diary, a diary which, incidentally, was against regulations. Possibly because of that, he wrote in such a tiny script that one almost needs a magnifying glass to read it. On just 7 pages, Fred miniaturized his entire stay in Europe. In the back are autographs of his buddies; John Morris, Sam McCrum and Harry McHenry of Portland; Arno Jewett of Amherst; Wyman Boynton of Augusta, Charley Haynes of Ellsworth and Ed Shea and Lewis White of Bangor are among the names with Maine addresses. The back page is covered with numbers, which seem to be keeping score for some kind of game, and beside that a list of names with amounts of money, viz: Sargeant Boynton, 20 marks, Harry Snow, 20 marks, Houk, 28 marks, Parkhurst, 8 marks, Karmazio, 58 francs. One assumes that Fred was either a darn good poker player or a lousy one, depending on whether the money was owed to or by him.

But to get back to the front of the book. The European odyssey starts thus: "Arrived at St. Nazaire Sept. 1r, 1918 and marched to Camp 1, Base Section. Left St. Nczaire to troop train 3 days. March to Arc-en-Barrons twelve kilos ("which is 8 miles") and went into billets. Left Arc-en-Barrons, marched to Letracy, boarded train at 7:30, left at 10 p.m. (Note: ah, the Army hasn't changed a bit—hurry up and wait!) Arrived at Thierry and marched a Kilo, pitched pup tents in the rain. Left next morning, marched 10 Kilos to next ville, pitched pup tents . . ." it goes on and on, picturing in a few words the whole weary, miserable routine of the doughboy in France.

"Marched 9 Kilos and camped in dugouts on hill 2 Kilos from Dunbazel. Moved to Montfou-con where we were shelled very heavy all night for a week, but got used to it after a while. Kaiser abdicated Nov. 10, 1918. Armistice signed Nov. 11, 1918."

If there was any elation in the ranks of slogging footsoldiers, the diary gives no indication of it; "left Dunbasel Nov. 17, and marched to Mont Fercau 12 Kilos—left Mont Fercau and marched to Dun-sur-Meuse 10 miles, and at 1 p.m. left Dun and marched to Janitz 12 miles. Left Janitz Nov. 20 at 7 a.m. and arrived at Colmy 2:30 p.m., 11 miles. Left Colmy Nov. 21 and marched 5 miles to Tillencourt." On and on they plodded across the rain-soaked countryside—12 miles to Petange, 12 miles to the Luxemburg border. Mont Fercau was "where the last battle of the Argonne Woods was fought and where the Kaiser and the Crown Prince watched the battle of Verdun. "Dun" was an "awfully nice little town." Colmy was a little village where 75 French civilians were killed by the Germans as they went through to the front; "we stayed there overnight and slept in a feather bed."

They crossed into Luxemburg, passing through Longwy, where there were 5,000 Russian prisoners of war; "it was the funniest little town I ever saw. On that same day I helped to bury an American soldier in one of their graveyards." Their first stop in Luxemburg was Petange "where we stopped seven days and had a good rest. Got good and full on German beer." The city of Luxemburg made quite an impression on the young American. "This wonderful place which we all read about. It is some place! I am awful glad I saw it—wonderful scenery."

Finally, they were in Germany, and on Dec. 9th they were "sitting by the Mozel River watching the fish jump."

Surprisingly, the parts of the diary that cover their sojourn in Germany seem more happy than those which described France. No doubt the November rains had something to do with it.

"Coblenz, Germany—went into the oldest church in Germany, and saw the knife with which Christ ate his last supper and the bones of lots of saints which were killed by the Romans, in those days, which were put in alcohol (too bad to waste alcohol like that)."

"These saints were killed 1800 years ago. The lady of the house where we stopped gave us cider 3 times a day and cigars which were 5 years old, made by the man's wife who was killed by an air raid from the Americans, and it seems awfully funny that they should treat us so well. At every meal the old lady has everything for us—fried potatoes with onions, which you know I like, Rena." This poor old lady had lost everything in the war. Hungry German soldiers passing through had killed her two cows and stripped the farm of everything edible. Fred and a buddy who were billeted with her brought her food from the company kitchen. Boyd LeClair, for many years a South Brewer Police officer, was the Company cook, and he saw to it that bread, butter, cakes, all kinds of food were sent up to her everyday. She often wept with gratitude as without these things she would have starved.

"On Dec. 9 I was drinking a glass of cider with Oscar Dube from Lewiston, Maine, and Cherlie Hanes and William Flannigan from Ellsworth. We all slept on the floor in the front room on hay and a nice coal fire and it felt awfully nice after sleeping on the ground."

Although the Armistice had been signed, the war apparently wasn't over—they had stopped traveling at last, for a few weeks—Christmas was "a great time—big Xmas tree all decorated and had chocolate and cigars and cigarettes all we wanted, and everyone in town was drunk with Moselle wine. We have been here 5 weeks. We were sent to do a job on a hospital, and about 3 in the morning the German whiz bangs began to come over. I *don't* know how we were hit, but the kitchen was all blown to hell, and everyone in it, which was 5 soldiers. We had to move all the soldiers out for safety. One night about 7 in Mount Zircon I was going up to C Co. and got up within a mile of the front and you could hear the shells whistle overhead. The M.P. said to me you can't go any farther. I told him I had a message to bring and had to, so he let me go, but I never forgot it. I was right under an air battle that was going on and a German flyer was brought down, with half his head gone. It's awfully dangerous, because in a air battle they always fire toward the ground."

He describes how the Argonne woods looked after the final battle there. "There isn't an inch of ground that isn't torn up and trees cut down flat. We used to say Meuse is the place where you don't have to cut your trees. Our line and the Hindenburg line run through this place and it is something awful. A lot of people wouldn't believe this, but it is right there to see." Fred and a buddy were taking a message through during the barrage; it was so intense they hid under some logs until the firing died down.

The last two pages of the diary tell of sightseeing trips up the Rhine and other places in Germany, so we assume that the fighting had finally stopped, and the final entry notes: "On May 25, 1919, left Winnigen for Trea, stayed at Trea 2 days and on the 27th had an inspection and at 9 o'clock at night left for France."

At last he was on his way home. The poppies were in bloom, masses of them, in the fields as they passed through, and at Waereghem, Belgium, where the great American Cemetery had been established, they looked like drops of blood among the white crosses.

"In Flanders Field the poppies grow
Between the crosses, row on row,
That mark our place; and in the sky
The larks, still bravely singing, fly,
Scarce heard amid the guns below.

We are the dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved; and now we lie
In Flanders' fields.

To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
in Flanders' fields."

We senior citizens were brought up on that poem. Most of us can recite it from memory; not only is it heartbreaking sentimental, but it teaches a lesson; although, after all these years, and all these wars, we wonder if the lesson it teaches is the same one the author intended. Those ringing lines, "if ye break faith—" what did he mean? That we should go on fighting and killing, determined that there can be only one victor and one loser? Or, did he, perhaps, mean that we must not break faith, the faith he had in our ultimate intelligence to solve disputes without the cruelty and suffering of war? Whatever the author had in mind we will never know—John McCrae, Canadian soldier and poet, was killed at the front in 1918.

MIDEAST TRAGEDY: JORDAN TURNS TO MOSCOW

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. OBEY. Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD at this time a distressing column by Rowland Evans and Robert Novak concerning the serious consequences of congressional action imposing stringent restrictions on the sale of defensive Hawk missiles to Jordan. The column, which appeared in the Washington Post on May 31, 1976, raises the serious possibility of Soviet involvement in Jordan or of King Hussein's being forced to turn to radical Arab elements for support. Should either of these possibilities become reality it would be a major setback for the forces of moderation in the Middle East and for the cause of peace and Israeli security.

The column follows:

Mideast Tragedy: Jordan Turns to Moscow

(By Rowland Evans and Robert Novak)

The tragic turn toward Moscow by Jordan's King Hussein, one of this country's stanchest friends in the Mideast until his humiliation by the U.S. Congress over the Hawk missile deal, threatens to harden still further Israel's refusal to give up the West Bank of the Jordan River.

If Hussein decides to buy Soviet antiaircraft missiles during his June visit to Moscow (his first in almost 10 years), the Israeli reaction will be both predictable and hard to refute: The insinuation of Soviet power on the East Bank of the Jordan makes continued Israeli occupation of the Arab West Bank imperative.

The West Bank could then become a counterpart of the Israeli-occupied Golan Heights of Syria: Arab territory Israel says will never be returned. That would destroy the key element of every U.S. peace plan ever devised to settle the bloody Arab-Israeli struggle: the return of the West Bank to Jordan—or to the Palestinians—under some form of international guarantee.

Even worse, King Hussein may feel compelled to turn to radical, oil-rich Libya for help in financing the purchase of anti-aircraft missiles from Moscow, now that the price of the U.S. Hawks has spiraled to $800 million.

Hussein originally wanted to buy 14 American Hawk batteries with about $350 million supplied by Saudi Arabia, like Jordan a traditional friend of the United States. Saudi Arabia, however, will not pay $800 million and is not eager to help Jordan buy much cheaper equipment from Moscow. Soviet weapons, possibly accompanied by Soviet advisers and technicians, in neighboring Jordan would be anathema to Communist-hating Saudi Arabia.

Hence, with the U.S. Hawks (including spare parts, training, computerized radar tracking and an inflation factor) now priced far beyond Jordan's and Saudi Arabia's capacity, Hussein is known to be considering help from Libya, the Arab world's well-heeled radical rogue.

Libya ended financial help to impoverished Jordan in 1970, when Hussein's troops swept Libyan-backed Palestinians out of Jordan in a shooting war. Until then, Hussein had been receiving about $80 million a year from Libya following Jordan's defeat by Israel in the six Day War of 1967.

Now, with Hussein turning toward Moscow for help in protecting his totally exposed country from possible Israeli air attack in some future war, Libya is showing renewed interest in helping. Libya might agree to make up the full $180 million in unpaid subsidies to Jordan. With financing unavailable in Saudi Arabia for any Soviet arms deal, Hussein might use that $180 million to buy Soviet surface-to-air (SAM) missiles.

The irony of Jordan turning to Moscow and Libya instead of Washington and Saudi Arabia for help in its most essential aspect of self-defense is supreme. It would play directly into the hands of Israeli Hawks (probably considerably less than a majority there) by leapfrogging Soviet weapons to the long Jordan-Israel border, submerging the fundamental issue of returning the West Bank and inviting some Israeli response.

Equally ironic is the fact that Moscow is not likely to impose non-mobility limitations on its missiles for Amman, as Congress did. Nor would Moscow's sale of SAMs to Jordan, probably at cut-rate prices, likely be the end of a new Soviet-Jordanian connection.

Yet, had the pro-Israel bloc in the U.S. Congress not savaged Hussein and his half-occupied country when the Hawk deal was first pressed by the Ford administration, the turn to Moscow would never have been contemplated by Hussein.

Congress required the Hawks to be paid for in cash, with no U.S. aid of any kind, and that the missiles be placed in fixed, immovable positions. For weeks such pro-Israel stalwarts as Republican Sen. Clifford P. Case of New Jersey tried to reduce the requested 14 batteries to less than half that number.

It was this series of humiliations to the king, who took so many grave political risks so often for his American friends, that persuaded him to seek weapons in Moscow when the cost of the U.S. deal skyrocketed beyond his reach.

No Soviet deal has yet been pinned down, but government officials here fear it probably will be on the king's June visit to the Kremlin or soon thereafter. If so, the dangerously soft-headed, pro-Israel politics so long in vogue on Capitol Hill will claim its greatest triumph: an invitation for a Soviet presence in hitherto forbidden territory and a devastating setback for all forces of moderation seeking a fair political settlement along the Jordan.

H.R. 9719—PAYMENTS-IN-LIEU-OF-TAXES BILL

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. BAUCUS. Mr. Speaker, today I would like to bring to my colleague's attention certain materials on the payments-in-lieu-of-taxes bill (H.R. 9719) as compiled by the National Association of Counties—NACO. This bill should be considered by the House later this month. It would compensate State or local governments for the costs they bear as a result of federally owned land located in their borders. The bill authorizes the Secretary of the Interior to compensate those localities based upon the amount of certain public lands within their borders. The compensation amount would be limited by a per capita population factor.

The "question and answer" section in the NACO materials provides an excellent summary of this legislation. Rural communities stand to benefit greatly from passage of this bill.

Publicly owned lands invariably contribute to the operating costs for local governments. Accordingly, Federal ownership of land should carry with it a responsibility to share the burden of taxes and to make sure the debt is not borne solely by the local governments in whose area the lands are located. Montana has over 607,000 acres of Federal domain. Under this bill my State would receive close to $9 million in payments in lieu of taxes.

I urge my colleagues to consider the implication of this program for their districts and to support this measure when it comes to the floor.

For the benefit of my constituents I am also providing today a breakdown of how much money each Montana county would receive under this law. How compensation is determined under alternatives A and B is described in the question and answer section. The amount given in the chart for each county is the greater sum that it could receive:

Part I—Questions and Answers—H.R. 9719: Payment-in-Lieu of Taxes Bill

(A) Why is this legislation needed?

The tax immunity of the public lands places an unfair burden on the taxpayers within the counties where the lands are located. The Public Land Law Review Commission best summed up the need for this legislation when it recommended:

"If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located.

"Therefore, the Federal Government should make payments to compensate state and local governments for the tax immunity of Federal lands."

More than 1,000 counties in 48 states are impacted by large holdings of tax exempt federally owned lands.

(B) Why don't current formula payments from the public lands accomplish tax equity?

First, current payments for timber, grazing, and mineral leases, etc., provide an inadequate share for local government. Timber payments are based on "net" proceeds after the costs for federal roads, overhead, etc. are deducted. Mineral payments for the most part are retained at the state level.

Second, current payments are based entirely on the amount of "production" so that many public land counties receive virtually no payments.

Third, current payments are restricted to be used for schools or roads only.

(c) Don't "economic benefits" from these lands provide compensation to local governments?

No. Intangible "benefits" to a local economy from tourist related activities adjacent to the natural resource lands do not accrue to the local governments. Income and sales taxes usually are state sources of funds. County governments must provide the law enforcement, road maintenance, hospital, social services, etc., due to the activity on these lands. The studies by the Public Land Law Review Commission demonstrated this effect.

(d) What is the estimated cost of this legislation?

This additional costs for future years are estimated at $120 million annually. This figure is compared to payment levels experienced in FY '75, FY '76 and projected for FY '77.

These costs estimates are considered to be reasonable since more than $750 million per year in federal revenues are generated by leases on the natural resource lands. The cost estimate is considered to be far less than full property tax equivalency that would be generated if the lands were taxed as privately owned lands.

(e) What lands are included as "Entitlement" lands?

The entitlemend lands included are:

1. National Forests (including grasslands)
2. BLM Lands
3. National Parks
4. Wilderness Areas
5. Corps of Engineers projects
6. Bureau of Reclamation Lands

These are categorized as federal "natural resource" lands that either produce or have the potential to produce timber, grazing or mineral lease revenues.

(f) Why aren't military, post office, and other developed lands included?

Military lands involve "impact aid" legislation. The developed lands are not considered "natural resource" lands that produce leasing revenues.

(g) How does the proposed payment formula work?

General Purpose local governments with entitlement lands within their boundaries would receive the *greater* amount, as determined by the Secretary of Interior, of:

Alternative A—75¢ per acre of entitlement lands reduced by any direct current payments; or

Alternative B—10¢ per acre of entitlement lands in addition to any direct current payments.

Payments under either alternative would be limited to a population factor based on the following scale:

Population:	*Per capita limit*
5,000 or less	$50
10,000	35
15,000	30
30,000	25
50,000 or more	20

No county would receive credit for more than 50,000 population.

Why is an acreage formula proposed instead of property tax assessment?

Legislation proposed in the past to establish payments based on a property tax assessment has been criticized as being too costly and too complex to administer.

Why 75¢ for the acreage payment?

75¢ is the threshold amount that will help the average public land county. Payments averaged 68¢ per acre in FY '75 and are projected at about the same level for FY '77.

Why 10¢ for Alternative B?

Current payments are restricted to be used for schools or roads yet the tax immunity affects all local government services. This amount will help those counties now receiving more than 75¢ more closer to tax equity. Studies have shown that current payments in no case provide as much funds for state and local governments that would be achieved if the lands were taxed as though they were in private ownership.

Why establish a population limit?

The per capita limitation—prevents any county with a low population and large acreage from receiving a "windfall" payment that would exceed property tax equivalency.

Why is there a special payment for acquired parks and wilderness?

The special payment of 1% of fair market value (for five years only) recognizes the sudden impact on the local tax base when the federal government acquires parks and *wilderness* and thereby takes the lands off the tax rolls. No assessment procedure is necessary since the fair market value is determined during acquisition.

Why do the payments go to "general purpose" local government?

Current payments go for schools and roads only. The tax burden problem is particularly acute for general local government functions.

The payments-in-lieu of taxes proposal is based on a concept of minimum payments to relieve the tax burden at the "general purpose" local government level. This would include counties, cities and townships, depending upon the location of the entitlement lands.

PT. 2.—PAYMENTS TO COUNTIES UNDER H.R. 9719 *

	Alternative A**	Alternative B**
MONTANA		
County:		
Beaverhead	328,000	
Big Horn		6,829
Blaine	149,679	
Broadwater	126,300	
Carbon		53,834
Carter	97,800	
Cascade	147,351	
Chouteau	85,730	
Custer	146,194	
Daniels		
Dawson		6,954
Deer Lodge	144,586	
Fallon		12,191
Fergus	271,945	
Flathead	887,250	
Gallatin	481,407	
Garfield	89,800	
Glacier	282,071	
Golden Valley	17,841	
Granite	136,850	
Hill	9,651	
Jefferson	250,000	
Judith Basin	133,350	
Lake	76,150	
Lewis and Clark	732,065	
Liberty		3,544
Lincoln	513,000	
Madison	250,000	
McCone	87,157	
Meagher	106,100	
Mineral	147,900	
Missoula	259,918	
Musselshell	186,700	
Park	374,000	
Petroleum	33,750	
Phillips	250,000	
Pondera	65,864	
Powder River		60,509
Powell	305,000	
Prairie	87,600	
Ravalli	434,000	
Richland		5,464
Roosevelt		469
Rosebud		32,901
Sanders	298,225	
Sheridan		
Silver Bow	164,925	
Stillwater	122,888	
Sweet Grass	149,000	
Teton	183,985	
Toole		4,541
Treasure	5,529	
Valley	374,000	
Wheatland	46,126	
Wibaux		2,588
Yellowstone	50,349	
Total	8,735,864	189,844

* Compiled by the Department of the Interior.

** See question "G" for explanation.

A TALL ORDER FOR LEADERSHIP

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. TEAGUE. Mr. Speaker, the following article by Howard and Harriet Kurtz, founders of War Control Planners, Inc., appeared in a recent issue of the Washington Star.

While I do not necessarily subscribe to the views expressed, I believe the article focuses on some very important issues and questions which deserve public attention:

A TALL ORDER FOR LEADERSHIP

The American people find no sense of security in the mindless debate between two Republican presidential candidates as to whether the United States is Number One or Number Two in the race producing the power to destroy world civilization. They find no sense of security in Democratic candidates who never mention the subject, hoping the new reality will go away. They find no sense of security in the "doves" who would weaken the U.S. unilaterally in the face of expanding world powers hostile to America, or from the "hawks" who would endlessly escalate the power to exterminate the human race.

The Washington press corps has kept the American people and the Congress in almost complete ignorance as the White House hides our deteriorating predicament in runaway world crisis behind walls of top-secrecy.

There are about 150 sovereign nations on this planet. The people of these nations (humanity as a whole) have not attached their support to either the Kremlin or the White House side of the self-generating race producing the weapons to destroy every man, woman and child now alive. No great political genius is required to grasp this.

More than a billion human beings around the world face a future of starvation, disease, pestilence, pollution, violence, agony and ugly death as the Planet Earth cannot both sustain its growing population and, in addition, burn up and waste the cream of its energies and resources and human creativity in the production of total death and destruction and devastation.

As the human situation deteriorates, more and more national governments will continue to collapse and be taken over by more primitive political leaders. In the next five years, perhaps 30 of these leaders will have their fingers on the triggers of nuclear weapons capable of igniting the final holocaust. And in these same five years, nuclear weapons may come into the possession of the world's gangsters, hijackers, kidnapers, terrorists and multinational political parties and corporations, each capable of holding humanity hostage with the threat to annihilate world civilization.

These increasingly hostile political leaders control the vast oil, mineral and other strategic energies and resources without which American civilization will shrink toward second-class status.

Mimicking the Kremlin and the White House, hungry nations like India are taking scarce energies and resources away from their own dying people to produce nuclear weapons in the hope of maintaining their places in the pecking order of nations.

In this runaway commitment to produce the power to obliterate life from the planet, the real and invisible superpower leaders are exporting tidal waves of military weapons (including nuclear capabilities) to both sides of festering wars around the world, hastening the day of disaster.

Renewed hope for life could spread across world populations in support of a massive commitment by American creativity and power to lead the world in a new kind of "race" in which all nations would be invited (challenged) to make contributions toward the development of word-sized systems and management structures, more complex and effective than the United Nations, within which the scarce energies and resources of the Earth can be utilized to produce food, clothing, housing, clean air and water, health, education and national security for world populations held within prudent limits.

Throughout the ages, whatever people have been able to envision, eventually they have been able to create. We have the creative power. We lack the leadership .

HOWARD AND HARRIET KURTZ,
Editors.

Washington, D.C.

SPOUSAL IRA'S: A NEW FORM OF RETIREMENT INCOME

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McKINNEY. Mr. Speaker, in recent years Congress has displayed an increasing degree of concern over the fact that although Americans live longer, for a great many of them living standards decline due to inadequate retirement income. For those already facing this reality we have tried to improve the social security program and increase the various benefits and services available to the elderly. There have been more than 1,250 bills introduced in the 94th Congress that would either revise, reform, or amend the social security program.

This is not the long-range solution to the constant financial pressure of an inflation-prone economy, however. We recognized that fact and Congress responded with the Employee Retirement Income Security Act of 1974, a major effort to remove some of the total dependence on social security. In the months since ERISA became operative there have been various problems encountered during the breaking-in period that accompanies any major innovative program.

In an attempt to help my constituents in Connecticut's Fourth District understand the benefits and provisions of this act, I recently conducted a series of meetings in the district with the assistance of officials from the Department of Labor. These sessions helped to answer many questions about coverage and eligibility in various programs and gave a great many people the opportunity to clarify their personal benefits.

An unexpected dividend from conversations at these pension meetings was the idea for the bill I am introducing today which amends ERISA and the Internal Revenue Code of 1954 to allow individuals to make payments to individual retirement accounts for the benefits of their spouses.

Individual retirement accounts, or IRA, were allowed to be established under ERISA for the 30 million working Americans who do not participate in group retirement plans. IRA contains built-in tax incentives to encourage such individuals to prepare for their retirement years and to reduce or eliminate their eventual dependence upon governmental assistance programs for a decent standard of living. Briefly explained, IRA's permit those who qualify to save up to 15 percent of earned income—not to exceed $1,500 annually—and to deduct the amount saved from gross income on Federal income tax returns.

Further, the earnings of these personal retirement funds are not subject to current taxation as they accumulate in the account. This IRA concept is a very sound one for both the individual and the country as a whole, but for this to be a truly effective instrument of social policy, I feel that Congress should extend participation to a very large segment of our population that has been ignored until this time.

Nonworking spouses, and I am talking mostly about housewives, constitute a major segment of the population still without any tax-related opportunities and incentives to build retirement security. While a person with earned income may have an opportunity to participate in either a group retirement plan or an IRA, a nonworking spouse has neither of these alternatives available.

Let me point out a disturbing statistic: More than 2 out of every 3 poor persons over the age of 65 are women. The reasons are many and varied. Husbands die before providing meaningful retirement funds. Divorce disrupts retirement planning. Long periods of child care limit earning power and personal social security benefits. And of course, there is the historical concentration of women in low-paying and part-time jobs, further limiting their ability to contribute to family retirement security.

There are an estimated 47.5 million husband-wife families in the United States. Approximately 21.1 million, or 45 percent, of these wives are in the work force. Of the others, 18.4 million have husbands who are working. Of the husbands, 39.5 million are in the work force and it is estimated that there are 2.4 million husband-wife homes in which only the wife works.

It is obvious to me that spouses in general and housewives in particular must be encouraged to provide for their old age if we are to generate greater financial security among the Nation's elderly citizens in future years. This can be achieved through my bill by permitting one spouse to establish and contribute to an individual retirement account owned by the other spouse and utilizing joint return income as the basis for computing the allowable contribution.

Mr. Speaker, let me summarize the benefits of this bill. It will:

First, open the way for up to 18.4 million housewives and up to 2.4 million husbands to benefit from individual retirement accounts;

Second, reduce the longer range potential need for additional governmental assistance programs for the elderly; and,

Third, encourage additional accumulation of capital to meet the country's needs for home construction, energy development, and other vital purposes.

Extending IRA to cover these Americans now can only serve to increase their feelings of self-reliance, reinforce their self-pride and help to maintain them in a decent fashion in their future years of retirement.

EQUITY IN SOCIAL SECURITY FOR INDIVIDUALS AND FAMILIES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. FRASER. Mr. Speaker, today I am introducing legislation to bring equity to the social security system. Since its beginning in 1935, the social security system has grown to become the most successful and the most complex Federal program in our Nation's history. Today, millions of Americans depend on social security not only as a retirement plan, but also as their disability, health, and life insurance plans.

Social security was predicated on the assumption that in almost all cases the worker would be a man supporting a wife and children. Today, however, in unprecedented numbers, women are participating in the workforce both before, during, and after marriage. Currently, 60 percent of all women working outside the home are married, 40 percent of the Nation's paid labor force are women, and 11 percent of all families are headed by females. Over 90 percent of all females work outside the home, for pay, during part of their adult lives. The average worklife expectancy for a typical 18-year-old female in 1970 was 33.9 years, according to the February 1976 Monthly Labor Review. This 1970's female will work outside the home a major part of her adult life. Unfortunately, while the male and female labor force participation rate has changed significantly over the last 40 years, the social security system has continued on the old assumptions.

Intertwined with the system's presumption that the worker is male, is the system's functional dependence on the institution of marriage and the permanence of individual marriages as the structural basis for social security. With our national divorce rate at an all time high and a general pattern of delaying marriage being observed through census reports, reliance on long-term fixed life situations does not fit either legal or social reality.

The social security system of the 1970's and the future must be flexible enough to look at marriage as an economic contract between two equal persons whose marriage may, or may not, last for a lifetime. It must have the foresight to realize that individual social security records can be built before, during, and after that contract and carried by each person throughout his or her working years. Social security must become portable. It must belong to the individual—not to the marriage.

In today's system, the concept of marriage as an economic partnership is applied only at the time benefits are being computed. Benefits are computed on the basis of marital status when application is made for benefits or when marital status changes. Portability in social security is the flexibility that is necessary for the social security system to adopt. It is a flexibility which responds to the changed lifestyles and work patterns of both men and women.

The intent of the bill I am introducing today, the Equity in Social Security for Individuals and Families Act, assures that the maximum number of adults will build and maintain their own social security records throughout their working lives—records on which they and their dependents may collect benefits.

This bill allows individuals not working in covered employment to maintain their own records of coverage through spouses working in covered employment. Records would be adjusted annually, based on the Federal joint income tax's income splitting and tied to that system through the annual filing of income tax returns. Married persons have a choice of filing jointly or separately for their income tax. If they file jointly they are splitting their income and share equally.

My bill carries this process to the social security system. A social security decision follows the income tax decision. Earnings records would be credited from the information on income tax forms. At the end of each year, individual social security earnings records would be credited after a couple files income tax returns. The W-2 forms currently attached to income tax forms give all the social security information necessary—income tax forms contain both the names and social security numbers of both spouses in a marriage plus income and social security contributions. To implement this reform of the system, then, requires no radical systemic change. The precedent and mechanism have been set by our income tax system.

When filing jointly, each spouse in a marriage would receive credit for earnings and quarters of coverage. Couples filing jointly would be credited with the higher of the following:

First, 50 percent of their combined earnings in covered employment, or

Second, 75 percent of the highest salary in covered employment. Like the income tax, the social security decision would be an annual one, covering the full year.

The first alternative would apply in situations where the husband and wife earn close to the same amount. Generally, women's earnings are less than mens'. If each kept only his or her own earnings, women would almost always come out with lower benefits. When—and if—womens' earnings equal mens', the 50 percent will still be fair and equitable. Crediting each with 50 percent of the combined earnings will be similar to crediting each with 100 percent of their own earnings.

The second alternative would apply when there is only one wage earner in covered employment or one wage earner with a significantly higher salary in covered employment. Essentially, the 75 percent split is what happens today when benefits are computed for a husband and wife. Now, when a husband retires, he receives 100 percent of his primary insurance amount. The total benefit for both husband and wife is 150 percent of his primary insurance amount. My proposal simply makes this computation annually, under the new formula, rather than making the computation when benefits are applied for at the end of one's working life. Thus, this method need not be costly to the social security system.

It is possible that, in order to maintain or create equity in the system, the earnings ceiling may have to be adjusted for married couples.

Workers today do not have static work records. One year both the husband and wife of a couple may be working in covered employment, full-time throughout the year. Another year one may be unemployed while the other is employed. They may divorce and remarry. Or, one partner in the marriage may be supporting both while one is a student. Later they may switch roles. All these changes currently affect benefit computations, often adversely for one of the partners in the marriage. With the portability and equity in my proposal, adverse effects of these nonstatic work records should be minimized.

Wages earned by a worker not in covered employment do not count in this system. However, the noncovered worker could maintain or build on his or her own social security earnings record through the spouse's earnings in covered employment.

This proposal also allows children to receive benefits based on both parents' social security accounts. Currently they can only benefit from one parent's record. However, since only a small number of children lose both parents, this would cost the system very little.

This proposal results in disability coverage for both spouses. If they file jointly, both would be accumulating quarters of coverage and developing wage records so both would be eligible for disability. Again, this will benefit individual families enormously but cost the system little for housewives' disability is rare.

Special dependency requirements for husbands' and widowers' benefits are removed under this system. Currently, husbands and widowers are required to prove dependency on their wives before they can collect derivative benefits. Under this new system, those filing jointly would each have their own wage records and consequently not require derivative benefits.

The spouse at home, over 50 years old, who has no wage record and is surviving a deceased spouse, may receive survivors' benefits. A wage record is developed, treating these benefits as income, and the spouse continues to receive survivors' benefits until she becomes eligible for benefits on his or her own wage record.

The transition period of the bill insures that no one in the system or anticipating entrance into the system within the next 10 years, will be adversely affected financially. At the same time, we want to change the assumptions of social security immediately and let those who would benefit under the new system, receive that benefit.

The bill provides that the family of any person who was entitled to benefits up to 10 years before the time of enactment, or becomes entitled to benefits until 10 years after enactment will have total monthly benefits computed under both the present and new systems, receiving the higher of the two benefit computations.

Mr. Speaker, I hope my colleagues will give this bill thoughtful consideration. During its development, great interest has been shown by many individuals and organizations both within and outside Congress. I realize this proposal is complex and represents a significant reform of the present system. I do not pretend this plan is perfect. However, I believe patchwork reform to eliminate specific inequities has created an act that is nearly incomprehensible and that continues to operate on outdated assumptions. This proposal is not patchwork and deserves vigorous debate. I look forward in the coming weeks to being joined by my colleagues in sponsoring this legislation.

ENERGY FOR TOMORROW: COAL, SOLAR, NUCLEAR, OR WHAT?

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McCORMACK. Mr. Speaker, the magazine, the Futurist, deals with questions of what our future will be like and what we, as rational residents of this planet, should do to prepare for and help shape the trends of the future to our advantage rather than to our disadvantage; that is, to be the masters of our fate rather than the victims of it and to make the future a better place in which to live.

In the October 1975, volume IX, No. 5 issue of the Futurist, the book "Beyond the Energy Crisis: A Global Perspective" by John Maddox, a former editor of Nature and science correspondent of the Manchester Guardian, is reviewed.

This brief book review discusses the energy options that are open to society today and particularly those that are open to Great Britain. His conclusions, it seems to me, are worthy of our consideration, and we would do well to consider seriously this quote from the author:

> Historically, it will be a time when the benefits of industry are more widely shared between rich nations and some of those which have been poor. And if some states now rich should fail, through muddle, indecision, and cowardice, to adapt to changing circumstances, that will be no surprise. Throughout the industrial revolution of the past two centuries, different communities have been justly rewarded for such good sense as they were able to command.

The article follows:

ENERGY FOR TOMORROW: COAL, SOLAR, NUCLEAR, OR WHAT?

The rapid increase in the price of oil since 1970 will have a lasting effect on the pattern of energy consumption in the West, says a noted science journalist in his new book, *Beyond the Energy Crisis: A Global Perspective.*

"Put simply," says John Maddox, a former editor of the British journal *Nature* and science correspondent of the Manchester *Guardian*, "if the increase of oil prices remains unchallenged, oil consumers will be persuaded to obtain energy from other sources. If energy as a whole becomes more expensive than other kinds of raw materials, they will be persuaded to make more economical use of energy."

Maddox reviews at some length alternative energy sources, both conventional and unconventional. All have possible uses, but all have drawbacks, he says. Solar energy, for example, may be trapped and used in the home to heat water, etc., but apparently insurmountable economic obstacles make solar power unlikely as a major source of electricity.

"The most potent uses of solar energy in the decades ahead are likely to be found in agriculture, both in the improvement of the efficiency with which plants convert solar energy into chemicals (not just for food) and in the development of crops which might replace chemical manufacturing processes dependent on fossil fuels. Thus some of the agricultural research now underway suggests that it may be possible to develop plants which are much more efficient at converting atmospheric nitrogen into nitrogenous chemicals which might make it possible to reduce considerably the present consumption of artificial fertilizers in agriculture, saving energy from fossil fuel to the tune of perhaps 100 million tons of oil a year."

Of all the futuristic schemes for extracting energy ultimately derived from the sun, the most hopeful, says Maddox, is the one that depends on the difference of temperature between the surface of the tropical oceans and water lying a thousand feet or so down.

"On paper," he says, "it should be possible to use this temperature difference, constantly maintained by the heat from the sun in the tropics, as a source of electricity. All that is necessary is to construct a machine that would function as a refrigerator in reverse, designed to float at the appropriate level in the sea."

But there is a catch: "The scale and intricacy of the machinery means we can as yet do no more than guess at the cost, let alone estimate the climatic consequences or the cost of transporting the energy, either as electricity or as hydrogen gas."

Having examined other potential sources of power, Maddox comes down firmly on the side of nuclear power as the best hope for the remaining years of the 20th century.

"Technically, nuclear power is as much one of the wonders of the modern world as the enthusiasts of the 1950s believed. Nuclear power stations will, in the years ahead, provide much of the need for energy that would otherwise have had to be met by burning oil, and they will, from the early 1980s, increasingly influence the cost of energy on the international market, provided the industrialized nations pursue the cause energetically. By the turn of the century, nuclear power will almost inevitably determine the commercial framework within which other sources of energy are used, and that situation will remain for several decades."

Maddox acknowledges that the arrival of the nuclear power industry based on fission and the prospect that the industry will grow rapidly in the decades ahead have increased the chance that people will be exposed to damaging amounts of radioactivity. He stresses, though, that all living things, now and in the past, are and have been exposed to quite substantial amounts of naturally occurring nuclear radiation. The human body is exposed not only to cosmic rays but also to the radioactive materials which occur naturally in the ground and are incorporated into the body.

Those who hope to enjoy the benefits of nuclear power should acknowledge that the risk of serious accidents, however small, is by no means negligible, Maddox stresses.

"The situation, in other words, is strictly comparable with that which attends many other recent technical innovations, like modern air transport. Although travel agents do not go out of their way to emphasize that he who purchases a ticket to travel by air thereby increases his chances of dying accidentally, the popularity of travel insurance is a proof that the travellers know the risks they run. Older industries, like coal mining, tend to concentrate their more obvious risks among those who work for them, but the calculation also takes into account the extent to which the general population is affected by air pollution. In short, and whatever may be accomplished by the reactor designers in the years ahead, the coming of nuclear power has brought with it a new kind of risk, comparable in many ways with that from other kinds of industries, but novel in that the damage might be done by radioactivity."

Despite the danger, Maddox maintains that if it were ever possible to make an abstract calculation of the benefits and risks of nuclear power, the benefits would far outweigh the risks. In any event, Maddox believes that in the advanced communities of the industrialized world, as well as in developing countries, "the need to increase energy consumption is irresistible."

"It is unthinkable that communities such as the British would consider the unemployment that a sharp decrease in energy consumption would cause as more acceptable than the small risks of reactor accidents, just as it is politically unrealistic to expect developing countries to settle for slower economic growth or reduced agricultural output for the sake of keeping nuclear power at bay." Moreover, the rapid development of nuclear power offers the most promising route to the realignment of the cost of energy on which the economic welfare of the next 10 years depends. The future, in a sense, is unavoidable."

In the long perspective of industrial history, Maddox believes, the last quarter of the 20th century will be—from a technological standpoint—the time when nuclear fuels supersede fossil fuels.

"Historically, it will be a time when the benefits of industry are more widely shared between rich nations and some of those which have been poor. And if some states now rich should fail, through muddle, indecision, and cowardice, to adapt to changing circumstances, that will be no surprise. Throughout the industrial revolution of the past two centuries, different communities have been justly rewarded for such good sense as they were able to command."

SAVE OUR PORPOISE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. YOUNG of Florida. Mr. Speaker, the House Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation and the Environment recently held hearings on H.R. 13865, a bill to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations. Due to the expedient manner in which these hearings were scheduled, I was unable to personally testify before this subcommittee. However, I did submit the following testimony, which expresses my strong objections to legislation such as H.R. 13865 which would weaken the original Marine Mammal Protection Act of 1972 by lessening the protection this act afforded our marine mammals.

TESTIMONY OF HON. C. W. BILL YOUNG

Mr. Chairman, I appreciate having the opportunity to submit testimony on H.R. 13865, a bill to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations. I would have preferred to have personally testified before your Subcommittee, but because of the "expedient" manner in which these hearings were scheduled, I was unable to do so.

As I understand it, the legislation which this Subcommittee is considering would, in effect, nullify Judge Charles Richey's May 11th decision ordering a complete ban on the taking of porpoises by the tuna industry in connection with commercial fishing operations. In a suit brought by the Committee for Humane Legislation, Judge Richey ordered the Department of Commerce to revoke all permits to the tuna fleet which permit "the incidental killing of porpoise unless and until . . . such killing is not to the disadvantage of the porpoise and is otherwise consistent with the intent of the Marine Mammal Protection Act of 1972". Judge Richey's decision is, as you know, consistent with the provisions of a bill I first introduced in 1974, and again on the opening day of the 94th Congress, which flatly prohibits the issuance of any permit to take marine mammals in connection with commercial fishing operations.

In 1972, Congress enacted the Marine Mammal Protection Act to prohibit the taking or killing of marine mammals except under certain specified conditions—such as for scientific research or for aquatic display museums. However, a two-year exemption under the Act was granted to commercial fishermen to allow them to develop special fishing techniques to protect porpoises, which exemption expired on October 20, 1974. The Marine Mammal Protection Act allowed commercial fishing operations to continue after the expiration date under permits issued in accordance with regulations designed to protect marine mammals and reduce their serious injury or mortality to insignificant levels approaching zero.

In considering the suit brought by the Committee for Humane Legislation, the Court agreed that the primary purpose of the Marine Mammal Protection Act is to protect marine mammals, and that the Act was not intended as a "balancing Act" between the interests of the fishing industry and the animals. In handing down his decision, Judge Richey stated:

"The language of the Act itself . . . clearly indicates that Congress enacted the MMPA for one basic purpose: to provide marine mammals, especially porpoise, with necessary and extensive protection against man's activities."

"The MMPA does not direct the defendants to afford porpoise only that amount of protection which is consistent with the maintenance of a healthy tuna industry. The interests of the marine mammals come first under the statutory scheme, and the interests of the industry, important as they are, must be served only after protection of the animals is assured."

In summarizing his decision to end [as of May 31st] the taking of porpoise, Judge Richey stated:

"Since the two-year grace period expired on October 20, 1974, the only limits the agency has placed on the general license to take marine mammals have concerned certain gear and fishing techniques; the agency has never set a limit [as mandated by the Marine Mammal Protection Act] on the number of porpoise which can be taken, despite the fact that incidental porpoise mortality during this period has been on the rise.

"Therefore, in light of the agency's continued failure to follow the mandate of Congress, the Court feels that the only appropriate relief at this time is to stop completely the incidental killing of porpoise unless and until the federal defendants [the Department of Commerce] are able to determine, as the Act plainly requires, that such killing is not to the disadvantage of the porpoise and is otherwise consistent with the intent of the MMPA."

Judge Richey's decision accomplishes what I have attempted to accomplish via the bill I first introduced almost two years ago. I, therefore, wish to express my strong opposition to any legislation [such as H.R. 13865] which would overturn the court's decision and the original intent of Congress in enacting the Marine Mammal Protection Act—to protect our marine mammals.

THEODORE SMYTH'S BIRTHDAY PARTY FOR UNCLE SAM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. LAGOMARSINO. Mr. Speaker, Theodore H. "Ted" Smyth lives in Santa Barbara, Calif., and is going to have a birthday party on June 26, 1976, for Uncle Sam. Ted Smyth is a patriot in the true sense. His military record during World War II as a lieutenant commander in the U.S. Navy earned him the Distinguished Flying Cross and three air medals. He is a gentleman who, in the years since World War II, has contributed greatly to our free enterprise system, and has enjoyed success there. He is active in civic affairs. He has an intense love for his country and for its flag.

To express this patriotic devotion Mr. Smyth has acquired a special, large—8 feet by 12 feet—commemorative Bicentennial American flag, which will fly at staff over his home every day.

Patriotism has been challenged recently as being old fashioned. Because of countrymen such as Ted Smyth it is back stronger than ever.

Because of this devotion to flag and country, its ideals and history, I ask the Members of the House to join with me in congratulating Ted Smyth and in wishing him a successful birthday party for Uncle Sam.

"A WORLD WALLED OUT"—FRUSTRATIONS OF THE PHYSICALLY HANDICAPPED

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. EDGAR. Mr. Speaker, an article recently appeared in the Washington Post which points out the singular frustrations of those who are confined in wheelchairs. Some months ago, I participated in a program similar to that described by Lynne Hoffman Keating in the article, entitled "A World Walled Out," and I feel that this experience is worthy of being shared by all of my colleagues. It is difficult to imagine the intimidation of 6-inch high curbs or ramps with too high a grade to those in wheelchairs, without having been in a wheelchair.

The Architectural Barriers Act of 1968 was an example of landmark legislation to minimize the limitations which handicapped people are faced with in living normal and productive lives. To comply with its provisions, all federally financed buildings must meet a set of standards set by the American National Standards Institute which makes the buildings accessible to the handicapped. A report by the GAO has uncovered that most buildings are not completely in compliance with this Act.

Mr. Speaker, I introduced H.R. 13174 on April 12, 1976, to help correct the deficiencies which the GAO found. It is based upon this Office's recommendation's.

First, H.R. 13174 would impose a clear statutory mandate that the responsible agencies named in the Architectural Barriers Act are to assure accessibility of public buildings to the physically handicapped. It would eliminate the current exemptions in the act and include all Government-leased buildings and facilities intended for public use, or in which a handicapped person may be employed. It would include under the act privately owned buildings leased to the Government for public housing.

The bill would require the agencies to establish a system of continuing surveys and investigations to insure compliance with the act. Finally, it would remove the present exemption for U.S. Postal Service facilities from coverage under the Architectural Barriers Act.

Mr. Speaker, I hope that my colleagues will be sensitive to the goals of this legislation. At this point, I wish to insert for the RECORD the article "A World Walled Out." I believe that it merits the attention of our colleagues:

A WORLD WALLED OUT

(By Lynne Hoffman Keating)

CLAREMONT, CALIF.—We all gathered at the "people's park." The park provided every convenience a family or individual could expect: a children's playground, complete with wading pool and attendant; picnic tables and barbecue pits; a drinking fountain.

We sipped drinks and lounged lazily self-satisfied. Then we noticed Sally's van approach. Sally is a law student, presides over two organizations, and serves on the board of directors of Casa Colina Hospital for Rehabilitative Medicine.

Sally also happens to be a quadriplegic confined to a wheelchair.

Immediately we spotted three stairs at the park entrance. Four of us jumped up and raced to the drive. The curb looked six inches high. Sally calmly allayed our concerns and pointed to her two portable ramps as she rolled down the ramp of her van. Others not so fortunately equipped would have had difficulty climbing the curbs and stairs. Then Sally confronted thickened grass en route to the main grounds. A lot of strength and spirit finally got our friend settled with a drink and general conversation resumed.

Had Sally needed water she could not possibly have reached the fountain, which was "42 inches high." Had Sally needed the bathroom, she could not possibly have rolled through the narrow wooden doors. We made many accommodations so our friend could enjoy the simple pleasures of a Sunday picnic in the "people's park."

Sally neither wants nor likes accommodations, having worked long to become self-sufficient. Barriers that frustrate her efforts offend her total spirit. Mere obstacles reduce an independent dynamo to a frustrated dependent.

One week later I attended a Legislative Awareness Seminar on architectural barriers at Casa Colina Hospital. The seminar hoped to enlighten public officials to the realities of such barriers.

Thirty legislators, councilmen and mayors of Los Angeles County found themselves seated in wheelchairs for the evening along with 75 other guests. Each was assigned a paralyzing condition. Soon all "wheelchaired" guests were led through a maze of architectural barriers.

I noticed smiles of challenge on the legislators' faces, then slight frustration when they reached the first curb. In a building normally quite accessible, the barriers were noticeably constructed for the event. The frustrated looks turned to grimaces as each person approached double doors that had to be pulled, raised metal moldings on the floors, grass areas in the courtyard that had to be crossed to reach the patio. Sounds of relieved sighs were heard as each individual entered the hallway, which provided easy travel.

The men who emerged from the restrooms had sober looks. No one was allowed to rise from his chair for any purpose.

After a film and panel presentation of personal experiences from other wheelchair victims, a long silence settled in the dining room. The time of truth. Until that moment we all were brothers and sisters in distress. One could seldom tell who was a paraplegic and who was not. The silence broke as half the people in the room rose and stretched their legs.

A quiet murmur filled the hall.

One by one the men and women walked away. They walked and I walked with them. One paraplegic remarked as he noticed distress on my face: "What's tragic is not what we are, but now that many of us have found joy in who we are, the barriers, the obstacles fully prevent us from enjoying normal lives."

Later as I walked into our home, I suddenly realized I could not invite my new friends to our house. The steps were too high, the doorway too narrow. No matter how aware I was or how concerned, unknowingly I lived in a dwelling that walled out a whole population.

This is a private home. The problem is magnified a thousand times in public buildings and educational facilities where services are offered that the handicapped require and desire as much as anyone—sometimes more.

The laws are on the books, but the codes are not enforced.

I am reminded of the poem by Robert Frost:

> Before I built a wall I'd ask to know
> What I was walling in or walling out,
> And to whom I was like to give offense.
> Something there is that doesn't love a wall
> That wants it down.

BUSING IS NO ANSWER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. DERWINSKI. Mr. Speaker, for a grassroots commentary on the issue of busing between school districts, I direct the attention of the Members to an excellent editorial which appeared in the Sunday, May 23, edition of the Life Newspapers which serve suburban Cook County, Ill.

BUSING IS NO ANSWER

In advocating the busing of inner city pupils into suburban school districts, the state superintendent of education, Joseph M. Cronin, has displayed a superficial and minimal knowledge of the total educational picture—especially when he cites overcrowded conditions in Chicago and declining enrollments in the suburbs as a prime motive for busing.

In advocating his theory to lessen Chicago's alleged pupil overload, Cronin listed several school districts as possible targets for busing, none of which were in this area, presumably because the pupil decline here would not compensate for any appreciable number of pupils from the inner city.

Why Dr. Robert Gentry, south Berwyn's district superintendent, was quoted in a metropolitan paper is mystifying, since Berwyn was not mentioned by Cronin, but it is to Gentry's credit that he opposes busing because "any state aid (for increased enrollment) wouldn't begin to cover our costs . . . I can see nothing gained by the (busing) approach."

While continually insisting that state aid to schools would cover the cost of educating the transient students in each community, the proponents of busing pointedly ignore the impact on each community when the community suddenly becomes morally and financially responsible for the well-being of the children of parents who do not live in the community, don't support it in any way, and in most cases couldn't care less what happens to it.

It is obvious that the light decline in enrollments in suburban schools leaves only a few seats available for the proposed busing; the 116 school districts in the suburbs lost only 29,000 students between 1968 and 1974, and the minority enrollment in Chicago is close to 400,000. The trickle of students bused to the suburbs, then, wouldn't even dent that latter figure.

Cronin does not have the minority students' interests at heart; he is interested only in busing for busing's sake—an insignificant ploy to satisfy the demands from Washington that Chicago integrate its schools or be cut off from federal funding. As in Boston and elsewhere, our suburban school districts are being made the victims of a bureaucracy trying to justify its own existence.

The obvious solution to Chicago's problem is the upgrading and renovation of its own schools—not forcing upon the suburbs the responsibility (and expense) of educating Chicago's children.

BETTER FOOD LABELING: AN INVESTMENT IN GOOD HEALTH

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. ROSENTHAL. Mr. Speaker, on January 14 of last year I introduced the Consumer Food Labeling Act, H.R. 42. This bill, which is cosponsored by 60 of our colleagues, would require the labels on foods and food products to disclose all ingredients; nutritional content; accurate weight data; storage information; true identity of the manufacturer, packer and distributor; uniform product grades; unit prices; ingredient changes, and it would bar the use of misleading brand names.

Two months later, I introduced the Price Disclosure Act, H.R. 4551, which would prevent supermarkets from removing individual price markings from groceries when they adopt the computerized Universal Product Code checkout system. The UPC's are the line markings on groceries which, when passed over an optical scanner at the supermarket checkout counter, tell the computer what was purchased. The price is then automatically rung up on the cash register.

The UPC, and the subsequent removal of price markings, could prove to have grave consequences for the consumer. In addition to the increase in food prices as a result of the cost of the system, the consumer's price consciousness may be dampened. The UPC also presents too many opportunities for abuse of the system.

Since the introduction of these two bills, the response from constituents and voters throughout the country has been greatly supportive. In a questionnaire sent recently to my constituents, nearly 57 percent of the respondents said they are totally opposed to the elimination of item pricing. The remainder said they would accept it only if it results in "significantly lower prices." Leading grocery trade groups, including the Supermarket Institute, have come out in support of retaining item pricing.

In the area of nutritional labeling, a Gallup poll on nutrition commissioned by Redbook magazine found that approximately 50 percent of the women participating said they were sufficiently interested in expanding nutritional labeling on food to pay more for it.

The poll, as reported in the May 15, 1976, New York Times, found that support cut across economic lines, although an additional 3 cents an item was mentioned as a possible surcharge. The support went from 47 percent in the under $10,000 annual income bracket to about 50 percent for women in the $10,000 to $15,000 range, with support from the highest income group falling somewhere in between. The poll also found that 90 percent of the women were concerned about the nutritional value of the foods they purchase, and 77 percent said they would definitely or probably be interested in having more nutritional information.

The poll also found that although 66 percent reported having read nutritional labeling on food products within the last few months, 58 percent of the women polled found the information now available "confusing."

This confusion is precisely what my legislation seeks to eliminate. By supplying nutritional information in a simple, consistent, and concise way, the consumer, rather than the manufacturer, will be able to decide what is best for each family.

Another finding of the poll was that women are concerned about the use of food additives. Fifty-nine percent favored banning all food additives "used to improve the food's appearance," and 20 percent either stopped or cut back on certain food purchases last year because of additives. In addition, 49 percent stopped or cut back because a food contained sugar.

Proper food labeling such as that proposed by H.R. 42 would provide consumers with all the necessary information for choosing the safest, most nutritional food for their families.

The article follows:

MANY ARE WILLING TO PAY FOR IMPROVED FOOD LABELS

(By Enid Nemy)

About half the women who participated in a Gallup poll on nutrition conducted last month said they were sufficiently interested in expanding nutritional labeling on food to pay more for it.

Support cut across economic lines, although an additional three cents an item was mentioned as a possible surcharge. Forty-seven percent of women from families with annual incomes under $10,000 were favorable to the idea, one percentage point fewer than women from families with a more than $15,000 yearly income. About half the women in the $10,000-to-$15,000 group approved.

Fifty-nine percent of the 750 women polled favored banning all food additives used only to improve the appearance of food, and 29 percent reported having stopped, or cut back, on certain food purchases in the last year because of additives. Forty-nine percent reported stopping or cutting back because a food contained sugar.

The poll, commissioned by Redbook magazine, was conducted in personal at-home interviews. Pollsters were assigned blocks in certain sampling areas. They calculated that the poll results had a margin of error of plus or minus 4 percentage points.

Almost 60 percent of the respondents had completed high school, and more than 25 percent had a college education. About 35 percent reported family incomes of more than $15,000, and slightly more than 34 percent were in the $7,000-to-$15,000 range. Just under 40 percent listed manual work as the occupation of the chief wage earner in the family, while 13 percent were in clerical and sales, and almost 21 percent in professional and business occupations.

Most of the women (90 percent) were concerned about the nutritional value of foods and 77 percent said they would definitely or probably be interested in having more nutritional information.

Although 66 percent reported having read nutritional labeling on food products within the last few months, 58 percent of the women polled found the information now available "confusing."

Fifty-seven percent blamed consumers themselves for lack of nutritional value in the American diet, while 27 percent blamed food manufacturers and 8 percent named government.

The poll found that weight control, sugar and cholesterol were prime areas of concern, and that although 65 percent thought about family likes in planning meals, only 11 percent considered that aspect "most important."

The most important consideration for 40 percent of the women was balanced meals. A minimal 15 percent listed staying within a food budget as their most important consideration.

More than 65 percent of the women rejected the idea that their children influenced them to buy foods advertised on television.

BONUS BID LEASING OF THE OCS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. UDALL. Mr. Speaker, the Ad Hoc Select Committee on the Outer Continental Shelf devoted many hearing days and markup sessions to examining how to best lease the resources on the OCS. The Congress must establish a leasing system that insures a fair return for the public's resources without erecting capital barriers that prevent involvement of potential bidders. The leasing system presently employed by the Interior Department requires a large capital outlay. This cash bonus system lessens the capital reserves available for exploration and development at a time when oil companies, administration officials, and bankers are bemoaning the shortage of capital for energy development.

One of the stated purposes of H.R. 6218 is to preserve, protect, and develop oil and natural gas resources, "in a manner which is consistent with the need to make such resources possible." The huge capital requirements of the cash bonus system cause delay. Yet the industry lobbyists who say H.R. 6218 will cause delays fought hard to retain the cash bonus system. The cash bonus system requires the payment of large sums of money regardless of whether or not the lessee ever finds oil or gas. This does not assure a fair return, but rather creates deepwater roulette. We should not be fooled: although the oil companies are taking the risks, in the end the consumers and taxpayers pay for dry holes.

I would like to share with my colleagues a letter I recently received from Thomas E. Huzzey, commissioner of the

State of West Virginia Oil and Gas Conservation Commission. Mr. Huzzey succinctly outlines the failings of the cash bonus system. I hope that when the House considers H.R. 6218 my colleagues will support George Miller's amendment to mandate greater use of alternative bidding systems. These alternatives, which are used successfully in other nations and in coastal States, will provide a fairer return to the public and will generate greater competition in OCS leasing.

The letter follows:

State of West Virginia, Oil and
Gas Conservation Commission,
Charleston, W. Va., May 20, 1976.

Re Leasing of Federal lands.

Representative Morris K. Udall,
Chairman, Committee on Interior and Insular Affairs, Washington, D.C.

Dear Mr. Udall: The quality of our remaining resource of petroleum decreases with each year's development and production. One need only become aware that the new natural gas reserve added in 1966 was about 600 cubic feet of gas per foot of hole drilled, and comparably 1973 additions were 100 cubic feet per foot of hole drilled, to appreciate the reduced quality and increased depth of the remaining natural gas resource. Oil reserves added reveal a comparable quality decline, with additions in the order of 300 barrels per foot of hole drilled in the mid 1930's that has diminished to approximately 30 barrels of oil per foot of well drilled in 1973.

It concerns me that the Interior Department in its oil and gas leasing continues to add to the extraction costs large cash bonuses that have no relationship to oil and gas production. I urge you to consider removing cash bonus bidding for leases and to substitute royalty bidding. Two major benefits will result from this approach. First, the *bonus capital* would be available for a more rapid development of the reserve, and second, companies with smaller assets would have the opportunity to bid. In this manner the leasor would share in the risk of exploring and development, but conceivably receive a higher *income* over a period of time, because of a higher royalty with more bidders involved.

Very truly yours,
Thomas E. Huzzey,
Commissioner.

NATIONAL EMERGENCY CIVIL LIBERTIES COMMITTEE: BURROWING FROM WITHIN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McDONALD. Mr. Speaker, under the guidance of the Soviet Union, the Communists have become the skilled craftsmen of subversion, adept at conducting protracted campaigns to undermine their opponents' will to resist. The Marxist-Leninists have also been quick to claim every possible "bourgeois democratic right" as they contemptuously term our Constitution and legal system, to guard their conspiratorial operations from governmental observation and public disclosure. In this context, paraphrasing Marx:

> We recognize our friend, the old mole, who knows so well how to work from within . . .

The National Emergency Civil Liberties Committee—NECLC—was formed in 1951 by the Communist Party, U.S.A.—CPUSA—as a vehicle for organizing Marxist and liberal support for Communist Party members then being prosecuted under the Smith Act. NECLC activities expanded in the 1960's to provide defense attorneys for demonstrators arrested rioting in support of the Vietcong, for members of the U.S. armed services charged with sabotage and subversion, and for draft evaders and resisters. In my remarks of September 23, 1975, I detailed NECLC's origins and activities. This report supplements and undates that report.

The NECLC has had a long and intimate relationship with the National Lawyers Guild—NLG—an organization founded as a Communist front, but which now includes considerable numbers of Castroites, Maoists, and New Left activists among its members. The NLG serves principally as the legal resource group while NECLC's function is to raise funds for litigation and distribute propaganda.

NECLC maintains headquarters at 25 East 26th Street, New York, N.Y. 10010 [212-683-8120]. In New York, the majority of NECLC litigational work is handled by the law firm Rabinowitz, Boudin & Standard, 30 East 42d Street, New York, N.Y. 10017—[212-697-8640].

Leonard Boudin, NECLC general counsel and long active NLG member, is the father of Weather Underground leader Kathy Boudin. Kathy Boudin is currently "starring" in Emile DeAntonio's long-winded propaganda film, "Underground" which has been boring radical left audiences recently in Georgetown and cities across the United States. DeAntonio's film features a group interview with the Weathermen but films their backs or their faces through a gauze screen. Leonard Boudin served as DeAntonio's lawyer in quashing a Federal subpena of DeAntonio's "outtakes" which showed undisguised Weathermen faces on the ground that the interviews with the terrorists were "news" covered by press privileges. Kathy's last "in the flesh" appearance was on March 6, 1970, when she fled naked from the collapsing townhouse on West 11th Street in New York's Greenwich Village, leaving one of her terrorist comrades trapped still alive in the rubble to die slowly of wounds and suffocation. Kathy Boudin's fingerprints were reported discovered in a Manhattan apartment that had been "sublet" as a safehouse to the Symbionese Liberation Army by the Weather Underground. Perhaps when dealing with temporary terrorists like Patty Hearst, Miss Boudin prefers to stay close to her legal advisers.

Victor Rabinowitz, a member of NECLC's executive committee and former national president of the NLG, has long been identified with the Communist Party's "professional" circles. When called before the Senate Internal Security Subcommittee, Rabinowitz refused to state on oath whether or not he was a CPUSA member on fifth amendment grounds. During the 1960's and early 1970's, Rabinowitz was a principal source of funds for many radical organizations and projects through the foundation created by his father who was not a Leninist.

Michael B. Standard, an aging "red-diaper baby," has been closely courted by the Old Left; but our information is that he has felt his NLG annual dues sufficient.

Rabinowitz, Boudin, and Standard's political "reliability" can be judged by the fact that they have been since the early 1960's the representatives of the "legal interests" of the Cuban Communist regime. It is noted that the firm has refused to register as Cuban foreign agents on the ground that lawyers should be exempt from the registration requirement—a presumption the Justice Department has ignored. Junior members of the firm handling NECLC cases include Dorian Bowman, Herbert Jordan, Michael Krinsky, Eric Lieberman, and K. Randlett Walster.

NECLC's Pittsburgh affiliate is the law office—Berlin, Roas, Isaacson, Logan, Rosenfield & Sharon—505 Court Place, Pittsburgh, Pa. 15219—412/391-7707—also houses the Pittsburgh chapter of the NLG.

NLG attorneys David Kairys and David Rudovsky, 1427 Walnut Street, Philadelphia, Pa. 19102—215/563-8312—operate the NECLC eastern Pennsylvania office. Kairys and Rudovsky, both representing the NECLC, were among the initial endorsers of the July 4th Coalition at its founding meeting called by the Cuban-controlled, violence-prone Puerto Rican Socialist Party and the Weather Underground's Prairie Fire Organizing Committee—PFOC. They are presently serving as the coalition's attorneys in negotiations with Philadelphia city officials for parade and demonstration permits.

The Washington, D.C., offices of the NECLC are located in the NLG law firm of Forer and Rein, 733 15th Street, NW., Washington, D.C. 20005—202/628-4047—which also serves as the local branch office for Rabinowitz, Boudin and Standard. David Rein was identified as a member of a secret cell of Communist Party lawyers in the U.S. Government in the 1940's, while his partner, Joseph Forer, has served as cocounsel for the CPUSA with John Abt. Alan Dranitzke, the junior partner, is counsel to the organizing committee for a fifth estate—OC-5—an organization which has made a specialty of exposing CIA agents to set them up as targets for "revolutionary justice" as with Richard Welch, murdered in Athens last December, and on which I recently testified at length before the Senate Internal Security Subcommittee.

NECLC's cluttered New York offices recently produced a docket update reviewing their current cases, sponsored by their National Emergency Civil Liberties Foundation—NECLF. Although dated December, 1975, the docket is being currently distributed. NECLC points out that it emphasized the defense of Communists in the 1950's; in the 1960's it worked to support the Soviet-backed Communist takeover of Southeast Asia by defending large numbers of protesters in the streets and by creating a "pressure at the top" group, the Lawyers Committee on American Policy Toward Vietnam. The target for the 1970's is the American intelligence community. NECLC states:

> On its 200th anniversary, the nation still confronts the need to wipe out oppressive practices * * * such as * * * surveillance * * * by the F.B.I. and C.I.A. * * *. Several NECLC cases have been directed to this end.

Among those on the NECLC docket are:

> *Hiss*—Under the Freedom of Information Act, Alger Hiss and two researchers are seeking government documents which they believe will overturn Hiss's 1950 perjury conviction. * * * The papers were the basis for then-Representative Richard Nixon's claim that Hiss had been involved in "the most treasonable conspiracy in American history." Seeing the papers for the first time, * * * William H. Reuben, Hiss' coplaintiff * * *, characterized the material as "totally useless as espionage material, total garbage." * * * The suit which resulted in the papers' release was filed by K. Randlett Walster of Rabinowitz, Boudin and Standard under the auspices of the NECLF.

NECLC's self-serving case description ignores many facts embarrassing to convicted perjurer Alger Hiss, such as the fact that it was made clear at his trial that not every document on the microfilms came from Hiss since Chambers served as a courier for several Communist espionage rings, or the fact that Hiss and his coplaintiff are not the most unbiased judges of what documents are good espionage material—

> *Harrington* v. *Colby*—A complaint filed by Congressman Michael Harrington (D-Mass.) alleged that the Central Intelligence Agency is, in both foreign and domestic activity, exceeding the limits of its charter. * * * The United States District Court for the District of Columbia dismissed the action in a one-paragraph order without reaching the merits of Harrington's contentions. Rather the court ruled that Harrington had no "standing" to bring the action and that the action, in any event, presented "political" questions which the court should not decide.
>
> The right of Congressman Harrington to challenge the legality of CIA activities is now before the United States Court of Appeals for the District of Columbia. * * * Michael Krinsky and Eric Lieberman of Rabinowitz, Boudin & Standard are representing the Congressman on behalf of the NECLF.
>
> *Avrech* v. *Secretary of the Navy*—* * * Avrech was court-martialed and convicted of violating the General Article of the Uniform Code of Military Justice, which forbids "all disorders and neglects to the prejudice of good order and discipline in the armed forces" and "all conduct of a nature to bring discredit upon the armed forces." * * * The Court of Appeals for the District of Columbia held in 1973 that the General Article was unconstitutionally vague, and therefore overturned Avrech's conviction. The United States Supreme Court reversed, upholding the Article and reinstating the conviction.
>
> The case then went back to the Court of Appeals * * * on the two remaining issues. Following reargument the Court issued a decision holding that the "disloyalty" specification was not unconstitutionally vague, and that the military court-martial properly considered and rejected Avrech's First Amendment claim. A petition for certiorari will be filed in the Supreme Court.
>
> The case was argued on behalf of NECLF by Dorian Bowman of Rabinowitz, Boudin & Standard and David Rein of Forer and Rein.
>
> *Olson* v. *CIA*—We represent the Olson family in their claim against the CIA for the wrongful death of Frank Olson who committed suicide after he was unknowingly given LSD in a drug experiment conducted by CIA agents. The matter is now under negotiation with the Justice Department. We have been provided with the entire CIA file on the case and its contents will be disclosed at an appropriate time. Kairys & Rudovsky.
>
> *Forsyth* v. *Mitchell* and *Burkhart* v. *Saxbe*—Both * * * are suits for damages for unlawful "national security" wiretapping. In both cases, the plaintiffs were overheard during electronic surveillance ordered by John Mitchell under the Nixon Administration's policy of tapping suspected "subversives" without a court order. We have overcome claims of "immunity" in both cases and have taken the deposition of Mr. Mitchell. Kairys & Rudovsky.
>
> *Philadelphia Yearly Meeting* v. *Rizzo*—This suit presents a broad scale attack on the political surveillance policies and methods of the Philadelphia Police Department. It resulted from public disclosure by Mayor Rizzo over national TV of the names of persons who have been subject to surveillance and compilation of dossiers by the civil disobedience unit. A decision by the Third Circuit Court of Appeals in this case establishes the principle that it is unlawful under the First Amendment for governmental officials to disclose the contents of dossiers, including the political beliefs and associations of citizens. Kairys & Rudovsky.
>
> *Philadelphia Resistance* v. *Mitchell*—This is a suit on behalf of the American Friends Service Committee, Philadelphia Resistance and 18 individuals against the FBI for unlawful surveillance and harassment. The major issue in the case deals with the citizen's right to privacy * * *. The case has resulted in an excellent opinion on pre-trial discovery and the release of highly significant documents of the FBI. The Court has denied the Government's motion for summary judgment and the case will either be settled or tried in the very near future. Kairys & Rudovsky.
>
> *Institute for Policy Studies* v. *Mitchell*—We have recently been retained by the Institute for Policy Studies in their suit against various governmental agencies and officials from the Nixon presidency for wiretapping, opening of mail, theft of documents and infiltration of informers. The defendants have already admitted certain illegal acts and we are in the discovery process to determine how widespread these acts may have been. Kairys & Rudovsky.

The NECLC's objectives were summarized in the late 1950's by the House Committee on Un-American Activities as including:

Extinction of the investigative powers of the Congress in the field of subversive activities;

Restriction of executive branch agencies in the investigation of subversive activities; and

Creation of a general climate of opinion against the exposure and punishment of subversion.

Certainly NECLC's track record shows that the goals of its directors have not changed.

NECLC lists its current officers as follows:

Corliss Lamont, Chairperson.
Mary Mothersill, Vice-Chairperson.
Leonard B. Boudin, General Counsel.
Sidney J. Gluck, Secretary.
Edith Tiger, Director.
John H. Scudder, Treasurer.
John M. Pickering, Vice-Chairperson.
Clark Foreman, Director Emeritus.

National Emergency Civil Liberties Committee

EXECUTIVE COMMITTEE

James Aronson, N.Y.
Dr. Alan R. Bleich, N.Y.
Bernard Brightman, N.Y.
Eleanor Brussel, N.Y.
Ernest Chanes, N.Y.
Eugene G. Eisner, N.Y.
Moe Fishman, N.Y.
Henry Foner, N.Y.
Rabbi R. E. Goldburg, Conn.
Ira Golobin, N.Y.
Samuel Gruber, Conn.
David Haber, N.Y.
Joseph Miller, Pa.
Claire Nichtern, N.Y.
Maurice Paprin, N.Y.
Leon Quat, N.Y.
Victor Rabinowitz, N.Y.
Harry I. Rand, N.Y.
Louis L. Redding, Del.
Alex J. Rosenberg, N.Y.
Esther Rowland, N.Y.
Robert J. Schwartz, N.Y.
Nathan H. Schwerner, N.Y.
Isidore Silver, N.Y.
Morton Stavis, N.Y.

NATIONAL COUNCIL

Arthur Alpert, R.I.
John S. Atlee, Md.
Charles Avery, D.C.
Michael Avery, Conn.
Rabbi L. I. Beerman, Cal.
William J. Bender, N.J.
Robert L. Boehm, N.Y.
Paul R. Booth, Ill.
Anne Braden, Ky.
Robert S. Browne, N.J.
Jane Buchenholz, N.Y.
Haywood Burns, N.Y.
Kenneth Cloke, Cal.
Aleine Austin Cohen, Md.
Sylvia Crane, N.Y.
Charles W. Collins, N.Y.
Robert S. Cohen, Mass.
Lawrence Cole, N.Y.
Joseph H. Crown, N.Y.
Ossie Davis, N.Y.
David Dellinger, N.Y.
Earl B. Dickerson, Ill.
John M. Dolan, Minn.
Douglas Dowd, Cal.
Benjamin Dreyfus, Cal.
Hester Eisenstein, N.Y.
Norman Eisner, N.Y.
Thomas I. Emerson, Conn.
Robert Engler, N.Y.
Jason Epstein, N.Y.
Al Evanoff, N.Y.
Abe Feinglass, Ill.
Shirley Fingerhood, N.Y.
Moe Foner, N.Y.
Jean Fox, N.Y.
Laurent B. Frantz, Cal.
Rev. Stephen H. Fritchman, Cal.
Rev. David Garcia, N.Y.
Charles R. Garry, Cal.
Maxwell Geismar, N.Y.
Louis Gilden, Mo.
Allen Ginsberg, N.Y.
Joseph Goldberg, N.Y.
Sally Gorton, N.Y.
Jane Gould, N.Y.
Richard Grossman, N.Y.
Charles V. Hamilton, N.Y.
James Houghton, N.Y.
Tom Hayden, Cal.
Rev. George G. Hill, Conn.
Warren Hinckle, Ill., Cal.
Edna Ruth Johnson, Fla.
Gloria Joseph, Mass.
Marc Kahn, N.Y.
Blanche Katz, N.Y.
Sanford Katz, N.Y.
Hon. Robert W. Kenny, Cal.

Arthur Kinoy, N.Y.
Andrew Kopkind, Mass.
William Kunstler, N.Y.
Edward H. Lamb, Ohio.
Paul Lehmann, Va.
Irving Lerner, N.Y.
Sandra Levinson, N.Y.
Herman Liveright, N.Y.
Oliver S. Loud, Ohio.
Jonathan W. Lubell, N.Y.
Conrad J. Lynn, N.Y.
Curtis MacDougall, Ill.
Elizabeth Martinez, N.M.
Carey McWilliams, N.Y.
William Meyers, N.Y.
Sidney Milwe, Conn.
Broadus Mitchell, N.Y.
W. Edward Morgan, Ariz.
Phillip Morrison, Mass.
Stewart Mott, N.Y.
Jack Newfield, N.Y.
Harvey O'Connor, R.I.
Grace Paley, N.Y.
Sidney M., Peck, Mass.
Eleanor Jackson Piel, N.Y.
Lawrence Pinkham, Mass.
Michael N. Pollet, N.Y.
David Rein, D.C.
Tessie Sacher, N.J.
Marjorie B. Schell, N.Y.
Diane Schulder, N.Y.
Donald Shaffer, N.Y.
Modjeska Simkins, S.C.
John Simon, N.Y.
I. Philip Sipser, N.Y.
Dr. Benjamin Spock, N.Y.
Michael Standard, N.Y.
Syd Stapleton, N.Y.
Irving Statsinger, N.Y.
Catherine Simpson, N.Y.
I. F. Stone, D.C.
William S. Susman, N.Y.
Paul M Sweezy, N.Y.
Stanley Swerdlow, N.Y.
Moe L. Tandler, N.Y.
A. Dale Tussing, N.Y.
Rev. W. S. Van Merer, Wisc
Lawrence Velvel, Md.
Bruce C. Walzer, La.
Peter Weiss, N.Y.
David Wesley, Cal.
John Wilhelm, Conn.
Frank Wilkinson, Cal.
H. H. Wilson, Pa.
James Wilson, N.Y.
Francis D. Wormuth, Utah.
Jose Yglesias, Maine.
Sidney Zion, N.Y.

REGULATORY REFORM: A VIEW FROM THE FIRING LINE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. BROWN of California. Mr. Speaker, one of the latest popular causes to sweep the Congress is regulatory reform. Like most reforms, regulatory reform is necessary, long overdue, and taken in excess, harmful.

While most members involved with regulatory reform are quite sincere about improving the accountability of Government to the people, others are primarily interested in preventing the governmental regulatory process from working.

It is naive and dangerous to the wellbeing of society to believe that we can survive without regulatory agencies. This is especially true when one considers regulations designed to protect the public health and welfare from the poisons generated by our massive, technological society.

Russell Train, the Administrator of the Environmental Protection Agency, is one of the people most responsible for protecting the public and the environment from industrial poisons. In all candor, he is not noted for being an aggressive enforcer of environmental laws and regulations. As one who has frequently criticized the EPA for its cautious approach to regulating polluters, I have observed that the EPA strives too hard to meet the objections of those it is supposed to regulate. In spite of this record, the EPA has been charged with overzealousness in regulating pollution. This is not too surprising; all violators of laws hate to be caught, or change their ways. What is surprising is that the screams of polluters carry credibility in the Congress.

Mr. Speaker, I would like to share a recent speech delivered by Administrator Train to the National Conference on Regulatory Reform last May 26. One sentence from this speech deserves repeating:

> I think we had better face the fact that increased economic growth, more intensive agricultural production, increased energy usage, more synthetics in the environment, instant global communications, the increased speed and volume of transportation, more population, crowding, and land pressures—all inevitably mean more regulation.

The speech follows:

REMARKS BY THE HONORABLE RUSSELL E. TRAIN, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

MAKING REGULATION WORK

Most of us, I am sure, would agree that one of the most striking phenomena to emerge in this country over recent years has been the increasing antipathy, even antagonism, toward government, marked by a revolt against "Washington" in general and Federal regulation in particular. This public attitude appears, indeed, to be opening up a whole new order of politics—one with which I must admit to a good deal of personal sympathy. Like most people, I have little personal liking for the constraints upon individual choice which Government regulation often imposes.

I do not think it is a bad idea to look at government with a skeptical and jaundiced eye. I believe, in fact, that we must do a far better job, as a people and as a country, of keeping an eye on government and insisting that it do its job better than it has. I am, however, deeply concerned that, while the antigovernment rhetoric finds easy and enthusiastic acceptance and is rapidly becoming the common coin of American politics, it may prove difficult and perhaps impossible in actual practice to produce the changes promised. It may well be that we have had thoroughly unrealistic expectations of what government could do for us; but I am afraid we may be replacing these with equally unrealistic expectations about how rosy life would be without government. We may, in short, be setting ourselves up for an even more shattering recurrence of the "manic-depressive" cycle we went through in the late Sixties and early Seventies—a cycle of inflated rhetoric and meager results, followed by massive public frustration and resentment.

I would suggest that the intrusion of government regulation into our lives is not the real issue before us—at least to the degree that it assumes we have a real choice between regulation or no regulation. To pose the issue in these terms is just as mistaken and misleading as to argue that, as a society, our only alternatives are between growth or no growth. It is not a question of growth or no growth. The question is how and where we are going to grow. Similarly, it is not a question of regulation or no regulation. It is a question of how and were we are going to regulate.

Surely, we can reduce and cut out some government programs; we can improve the efficiency of others; we can streamline, simplify and otherwise improve regulation—and President Ford has, in my view, exercised admirable and effective leadership along these lines. But these are very different things from simply "getting rid of regulation;" these are ways of making regulation work.

It seems to me that the increasing regulation is an inevitable, if perhaps unfortunate, by-product of our high technology and high economic growth society associated with high and rising densities of human populations. If we really wish to maintain our commitment to an increasingly complex economic, technological, and social system, it is illusory to think we are going to get away from big government. Major government programs and widespread regulation are *inherent* in that kind of society, which is the kind of society we apparently want.

I think we had better face the fact that increased economic growth, more intensive agricultural production, increased energy usage, more synthetics in the environment, instant global communictions, the increasing speed and volume of transportation, more population, crowding and land pressures—all inevitably mean more regulation. If we must have nuclear power to insure the supply of energy we feel we need, we had better accept as well the need for regulation to protect the public from accident, from radioactive wastes (perhaps for thousands of years), and from terrorist acts. If we must greatly expand the use of coal, we had better accept as well the need for regulation to protect the health and safety of miners, to protect the land, and to protect the public health from the products of combustion. If modern agriculture requires the use of highly toxic chemicals to control pests, we cannot avoid regulation to protect human health and the environment. And so it goes. There is no way to accommodate such levels and kinds of activity without regulation. To put it even more bluntly, it is really regulation that makes further growth possible at all. Alvin Weinberg has suggested that our commitment to nuclear power involves a Faustian bargain. Perhaps we need to recognize as well that ever-increasing levels of economic and technological activity may also exact a cost in terms of human freedom. This is a recognition that will come particularly hard to Americans—witness our present antagonism toward regulatory constraints—since much of our economic success has stemmed from the opportunity to exploit with few constraints the natural riches of a virgin continent. What once seemed limitless resources of soil, forest, water, minerals and energy have suddenly become a finite world in which interdependence is the new reality.

Once we understand that "government regulation" is here to stay, and that we need to focus our efforts on making it work better, we need to distinguish between two very different kinds of Federal regulatory activities and agencies: between what we might call the "social regulators" such as EPA and OSHA, and the more traditional "economic regulators" such as the Interstate Commerce or Federal Power Commissions. These traditional agencies are designed to help get rid of obstacles and inefficiencies that keep market forces from operating freely. EPA was established not to keep these forces from operating, but to make certain that they operate in the public interest by insuring that the market increasingly takes into account environmental costs that it would otherwise exclude from its calculations. Left unregulated in a highly advanced industrial society, all the normal economic incentives of a competitive, free enterprise system work to encourage the disposal of vast volumes of wastes into the environment, at rapidly increasing cost to public health and welfare and the natural environment. Regulation is required to internalize this cost, thus utilizing the free market system to achieve pollution abatement with the greatest economic efficiency. (The only alternative, or effective supplement, to such regulation would be a system of effluent and emission charges, and there has been little or no movement in this direction.)

In the area of environmental protection, therefore, there can be little question of "deregulation." What must always be open to examination—and what EPA, as an Agency, must do an increasingly better job of insuring—is the degree and extent of public participation in the regulatory process, the efficiency and effectiveness of specific regulatory approaches and timetables, and the accuracy and adequacy of the scientific and other data upon which these are based.

In this regard, EPA has pioneered a process that—to my knowledge—comes closer than that of any other agency in the Federal government to achieving the goal of full public participation in regulation development. We have, over the past several years, taken a number of major steps to overhaul and improve our processes for developing guidelines and regulations. These efforts have had four main objectives: First, to open up our processes for developing regulations; Second, to simplify our regulations; Third, to streamline our regulations; and Fourth, to reduce to the barest minimum any adverse social and economic impacts of our regulations. Let me touch briefly on each of these objectives.

First, we have in all of our regulatory efforts made great strides toward involving, from the very start of the regulatory development process, affected and interested segments of the public—including other levels of government, other Federal agencies and, where appropriate, the Congress—as well as the broad spectrum of scientific and technical expertise outside the Agency. We have made especially noteworthy improvements along these lines in our pesticides regulatory decision-making process. And just a few days ago, we announced the adoption of interim procedures and guidelines for improving the Agency's ability to assess the risks and benefits of carcinogens while offering the maximum opportunity for public review of the Agency's deliberations.

Second, we have undertaken a sustained effort to make sure that our regulations are written in clear and concise English so that they can be readily understood—not only by experts and lawyers—but by the small businessman and the farmer and the ordinary citizen whom they deeply and directly affect.

Third, we have set up rather stringent procedures for streamlining our regulations by asking, not only of every regulation we have already issued, but of every regulation we are thinking of developing: "Is this regulation really necessary?" In this regard, we have reviewed all regulations under development when these procedures were adopted. That review covered some 125 regulatory initiatives, some 20–25 of which were either deferred, dropped, or proposed in different form. These procedures also include a requirement that all regulatory proposals must be approved by my Office before their development.

Fourth, it is essential that EPA do all it can to meet its responsibilities in ways that won't put people out of business or out of work and that won't impose excessive and unreasonable costs. EPA has, in fact, been preparing economic analyses on its standards and regulations years before the President's requirements for inflationary impact statements. By the time EPA's standards and regulations reach final form, they have received—and they reflect—the scrutiny of other Federal agencies, industries, environmental groups, and the general public. While I cannot claim the process is perfect—as no process is perfect—it is the most open and rigorous process of economic impact analysis performed by any agency of the Federal government. As a result of this process, we have, in several instances, altered proposed guidelines and extended compliance deadlines in order to avoid plant closings an avert job losses. Most recently, for example, we have ruled that several iron and steel plants in the Mahoning Valley in Ohio would not have to meet national requirements for water pollution abatement until 1983. Our analysis indicated that meeting these requirements on schedule might throw as many as 25,000 workers out of jobs—about 14% of the region's total work force.

The development of EPA's Interim Primary Drinking Water Regulations under the Safe Drinking Water Act provides an excellent example of how our regulations are prepared. These regulations establish maximum levels for drinking water contaminants which may affect public health. Under this Act, the major responsibility for enforcing EPA regulations rests with the States. For that reason, representatives of State agencies attended several meetings of EPA work groups set up to develop the regulations and made a significant contribution to the regulations.

Throughout the process of developing these regulations, EPA received recommendations from the National Drinking Water Advisory Council. The Council, created by the Safe Drinking Water Act, is composed of representatives from environmental groups, consumer groups, State agencies, and private industry. In formulating its recommendations, the Council held numerous meetings and actively sought the participation and advice of industry, public interest groups, and other governmental agencies. Before the publication of the regulations in the Federal Register, the Agency also held a meeting with concerned environmental groups to explain the proposed regulations, and to discuss EPA's current thinking on other related issues.

When the National Interim Primary Drinking Water Regulations were proposed in March of last year, public comments were invited and public hearings were held in Boston, Chicago, San Francisco and Washington, D.C. Almost five hundred written submissions resulted, totaling several thousand pages, with seventy-seven witnesses testifying at the public hearings. In all, an aggregate of over 3,500 separate comments were contained in the written submission and oral testimony. Based on the comments received and further consideration of available data, the Agency made a number of changes in the regulations before they were promulgated on December 24, 1975.

The Safe Drinking Water Act also required EPA to publish regulations concerning the requirements for State implementation of the Interim Primary Regulations and for States to obtain EPA grants for such implementation. In order to insure that States had an adequate opportunity to take part in the development of these regulations, the Agency held major meetings involving all of the States in Chicago and in Dallas. The discussion and comments by the States in these two meetings were taken fully into account by the EPA work group which developed the implementation and grant regulations proposed on August 7, 1975.

Public hearings on the proposed regulations were held in San Francisco, California, on September 3, 1975, and in Washington, D.C. on September 5, 1975. Although the Act did not require these hearings, the Agency scheduled them because we believed the public should have the opportunity to comment on the regulations. Since the promulgation of the regulations on January 20, 1975, we have held numerous meetings with State representatives to discuss their implementation and enforcement programs.

Not all of our regulations have been developed with as much public participation and dialogue. But I can state that the development of these regulations serves as a model for the Agency's future regulatory development.

As a result of the improvements we have made over the past several years, every regulation we now issue must run the most grueling and rigorous gauntlet of comment, review and revision that exists anywhere in the Federal government. To be sure, our processes are by no means perfect; they are still in the early—even pioneering—stages of development, and we have a long way to go before we can be anything close to satisfied with them.

It is by thus continuing to improve the regulatory process itself and, where it is necessary, by revising the basic legislation itself, that we can expect to achieve an increasingly effective Federal regulatory approach toward safeguarding the public from the hazards of pollution. The Congress is now considering amendments to our air and water and other environmental legislation. Some of these I fully support as essential toward genuinely strengthening the legislation; others I oppose as undermining our ability to achieve the goals set forth in the legislation itself.

I am, in particular, disturbed by various measures introduced in the Congress that, while they vary in some details, would all give the Congress what amounts to a direct item veto over regulations issued by EPA and other agencies. In fact and in intent, these amendments would thoroughly subvert not only the orderly processes of government, but the separation of powers that the Constitution has established as one of the most fundamental elements of our system of government.

It is essential that the Congress continually assess and review regulations to assure that they do help achieve the goals set forth in the legislation and that they are justified and authorized by the law. But these measures go far beyond the bounds of such thoroughly legitimate Congressional oversight and review. They are unworkable; they would throw an already complex regulatory process into virtual chaos; they would put the Congress into a quasi-judicial position which could bring it into direct conflict with the courts, not to speak of the Constitution.

Beyond the extensive delays, the chaos, the conflicts with the courts that these measures would surely generate, the simple fact is that they are unworkable. EPA promulgates a large number of regulations each year, most of them required by statute. These often include extremely complex standards based on extensive scientific and factual records. It would be an enormous task for the Congress to review all the data necessary to make an informed decision regarding the correctness of the regulations. At the present, EPA's regulations add up to four volumes or 2,763 pages of the Code of Federal Regulations. While it is difficult to estimate the actual volume, we do know that the support data for our technical standards is substantial. On several effluent limitations and guidelines (promulgated pursuant to the Federal Water Pollution Control Act), the records certified to courts in connection with subsequent litigation exceeded 100,000 pages each. Routinely, the records exceed 10,000 pages. It would be a conservative estimate that the background data for twelve months of rule-making activity would exceed two million pages.

Where Congress disagrees with a particular regulation it already has procedures for voiding the actions of the regulatory agency—through amendment of the authorizing legislation or, in some cases, riders to appropriations acts, both of which techniques have been used for EPA. The Congress, on several occasions, has exercised an effective oversight on EPA implementation of its statutes such as the regulations involving transportation control plans.

I believe that the Congressional oversight of agency actions can best be accomplished by the continual exchange of information between the agencies and Congressional committees and by prompt consideration by Congress of amendments to the statute where it believes that an agency's regulations do not comply with Congressional intent. This approach will certainly avoid the problems I have referred to and preserve the traditional and complementary roles of the three branches of Government.

We have had the most success, as an Agency, in carrying out those parts of our environmental laws that involve the control of specific sources of emissions or effluents by the application of technology. We have had the least success in trying—often under deadlines imposed by the courts—to require pollution control measures that involve very real changes in life-styles and land use patterns. These are changes that can take place only over a period of time; they entail very basic social and economic and environmental choices and tradeoffs that can only be made by the people involved and affected through the political process at the State, local, and regional levels.

I see such a process as one in which societal choice *evolves* from the ground up with open "give-and-take" which recognizes and reflects the extraordinary diversity of needs, conditions and aspirations which make up this country.

Increasingly, in the years ahead, real and lasting environmental progress must substantially depend on State and local initiative and action. The Federal role must, inevitably, focus more and more not simply upon the development of national standards and regulations and guidelines, but upon encouraging and assisting in the development of joint Federal, State and local decision-making processes that can enable the citizens of this country to deal effectively with what might be called the issues of growth—the issues involved, for example, in trying to preserve and maintain air quality, to control nonpoint source water pollution, and to relate and reconcile different environmental concerns such as clean air and clean water with each other and with social and economic concerns such as housing, and jobs, and energy.

Faced with an extraordinary complex array of issues, and often forced to proceed under stringent court-imposed deadlines, EPA has put in place much of the regulatory machinery needed to ensure the eventual achievement of a sound and healthy environment for all Americans. It has made its share of mistakes, to be sure. Its success has not always been complete. But the Agency has demonstrated a very real ability to learn from its mistakes as well as a determination to take costs more effectively into account, to open up its processes of rule- and decision-making so as to include everybody affected, and to build plans and programs from the bottom up so as to place as much responsibility as possible in our regional offices and at the State and local level.

It is, as I suggested at the start, primarily in these terms—of devising the most appropriate and effective regulatory approaches and of making the regulatory process itself as open and accountable as possible—that we can most usefully approach the whole question of government regulation in our society. It is only through the political process and the machinery of government that we can expect to cope effectively with the increasingly complex public problems that are part and parcel of the high technology, high growth society that we have chosen to be. Our most urgent piece of business, in my view, is to make that process and that machinery work far better than they do. That is no easy task, and it is time we got on with it.

THE SOVIET MILITARY BUDGET CONTROVERSY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McDONALD. Mr. Speaker, the size of the Soviet defense budget is a time of growing interest to the U.S. Congress. For years the question has been asked how the Soviets could produce such large armed forces with such a small amount of money. Some thought the Soviets had developed a new magic formula. Lt. Gen. Daniel O. Graham USA, retired, formerly head of the Defense Intelligence Agency, has taken a lot of the mystery out of the problem. General Graham has always expressed the view that our calculations of the Soviet defense budget were continually too low. His view has recently gained more credence as the CIA issued an interim study in May 1976 stating that the Soviets are spending 12–13 percent of their gross national product on defense. I commend the serious attention of my colleagues to the article from Air Force magazine of May 1976 which follows:

THE SOVIET MILITARY BUDGET CONTROVERSY

(By Lt. Gen. Daniel O. Graham, USA, retired)

In the fall of 1975, shortly before the abrupt dismissal of Dr. James Schlesinger as Secretary of Defense, I found myself embroiled in a sharp public debate over the size of the Soviet defense budget. The row was sparked by the Secretary's public statement that the Soviets were spending as much as fifty percent more on military forces than was the United States. Congressional budget-cutters and some elements of the press sharply criticized this estimate, accusing Dr. Schlesinger of distorting intelligence. Sen. William Proxmire maintained that both William Colby, then Director of the Central Intelligence Agency (CIA), and I, as Director of the Defense Intelligence Agency(DIA), supported his claim that the Secretary's figures were inflated. In fact, Dr. Schlesinger's figures came from Mr. Colby's CIA, and my view was that the Secretary, far from overstating the case, was understating it. In March 1976, after Mr. Colby's forced retirement, CIA published figures that again supported Dr. Schlesinger's warnings about the gross imbalance between Soviet and U.S. military outlays. (*see also "New CIA Assessment of Soviet Military Expenditures," p. 42.—The Editors.*) The CIA analysis again, in my view, is too conservative and tends to understate the actual Soviet defense burden.

WHEELS WITHIN WHEELS

Estimating Soviet military costs has been one of the toughest jobs for American intelligence analysts. This is an area in which the new information-gathering satellites don't help much. The military analysts in the Pentagon today can state with remarkable precision how many missiles, aircraft, ships, and divisions the Soviets have. Further, they can do a pretty good job of using such data to estimate how many Soviet soldiers and sailors it takes to man the USSR's military machine. But when it comes to estimating with reasonable confidence how much it all *costs*, analysts have been faced with a nearly impossible task.

The task would be a lot easier if the Soviets openly published their defense expenditure figures as the U.S. does and if there were open debates in Moscow about the costs of various defense programs. Of course, this is not the case. If there are debates about military spending, they are among very few persons in Moscow, and they are held in utmost secrecy. The Soviets do publish the total state budget, but the figures for military expenditures are patently phony. For instance, Brezhnev recently announced the official military budget figures for 1976—17.4 billion rubles. At the Soviet official rate of exchange for foreign trade purposes—1.35 dollars to the ruble—this amounts to about $23.5 billion, a totally unbelievable figure.

Ostensibly, the 17.4 billion figure is a decrease of 200 million rubles from last year. All this means absolutely nothing except as an indicator of what figure best suits the needs of Kremlin propagandists. It must be high enough in comparison to previous figures to assure the faithful that the socialist guard will not be let down, low enough to allay any guns-vs.-butter worries in the general Soviet populace. The figure must also be both low enough and trending in the right direction to back up the Soviet peace offensive in Western minds. No reputable scholar of Soviet economics gives the slightest credence to these announced Soviet military expenditures. Moscow's official figures have remained at seventeen-point-something billion rubles for many years.

To make matters worse, we would still have serious intelligence problems even if the Soviets *did* release an accurate account of military expenditures. There are a number of large items that Western countries count as military expenditures, but the Soviets do not. For instance, retired pay for military people is carried in the budget of the Soviet Welfare Ministry. Much of the basic training of Soviet soldiers takes place in secondary and higher civilian schools. This is paid for by the Ministry of Education. Most of the costs of moving military units and materiel in the USSR are carried in the budget of the Ministry of Transportation. The wages of the hundreds of thousands of reservists periodically called to active-duty training are borne by the factories and farms where they work. Thus, even if the Soviets should release a frank presentation of the Ministry of Defense budget, it could not be taken as a fair presentation of Soviet military costs when compared with those of the United States or any other Western power.

Also, when it comes to comparisons, we would have the problem of Soviet budget figures expressed in rubles. And what is a ruble worth? Well, in the USSR it is worth whatever the Soviets say it is, because all prices are determined and manipulated by the Soviet government. Further, the Soviets don't set a given price for a particular item. There are different prices for the same items sold in different markets. For instance, a given type of Soviet-manufactured truck sold to a collective farm is priced at 40,000 rubles; sold to a state enterprise, it is priced at 10,000 rubles; sold outside the USSR, it costs only 4,000 rubles. We are not sure what the Soviet Army "pays" for this truck, but probably near the lower end of the price scale. This means that the other parts of the Soviet economy, say the collective farms, are actually paying a huge subsidy for military trucks, and it wouldn't show in a budget. Thus, even if the Soviets were not so secretive about their defense budgets, intelligence analysts would have a terrible time converting the figures to dollars to compare them to our defense budgets.

CIA'S MISLEADING METHODOLOGY

For many years, intelligence people, both at CIA and in the Pentagon, simply didn't try to estimate the Soviet military budget. It was not until the early '60s that CIA felt compelled to try to express the Soviet military budget in dollars. The pressure came from Mr. McNamara's "whiz kids." At that time. "systems analysis" and "cost-effectiveness studies" became the big game in Washington as far as military planning was concerned. The indispensable yardstick in such studies is the dollar. Nothing would do but to come up with dollar figures attached to Soviet military programs.

CIA, with its usual "can-do" attitude, responded to the pressure for dollar estimates of Soviet defense expenditures and gave it a try. The basic approach was to take a Soviet weapon system, *e.g.*, a missile, estimate what it would cost to build it in the US, estimate the relative efficiencies of the Soviet and US industries involved to obtain a "ruble-dollar" ratio, and multiply the results by an estimated number of such missiles in the Soviet inventory. The room for error in the process so far was considerable. But that wasn't the end of the problem. It was also necessary to calculate the costs of the men to man the weapons, maintain the equipment, train the crews, build the launch pads, and so on. One can imagine the enormous complexity of such efforts covering thousands of weapon systems from aircraft carriers to pistols. Naturally, the process was computerized to a large extent.

Initially, most CIA analysts connected with this effort recognized some of the method's inherent drawbacks and inaccuracies. What was not recognized was that the results of the system consistently and seriously understated the total burden of military expenditures on the Soviet budget. This fact did not become apparent for several years after the method had begun to crank out estimates of the Soviet military budget in dollars and rubles. When the costing methodology came under attack, however, many of its adherents had forgotten their initial misgivings. It became a matter of institutional and professional pride to defend the cost estimates. Figures originally suspect had become sacred cows.

The first challenge to the costing method came in 1970 from the Defense Intelligence Agency. That agency has the responsibility for projecting ten years into the future the numbers and types of Soviet weapons and units. Since such projections are bound to be imprecise, DIA always gives a range of possibilities for each weapon system projected. There is a low figure, a high figure, and one between the two representing a best guess. The high figure usually represents what would happen if the Soviets made very strong efforts to acquire quantity and quality in a particular type of weaponry. We are always worried that someone might try to add up all the high figures for the various types of weapons and units, that is, all the worst cases, and exaggerate the threat. Therefore, all such projections have for many years carried the warning to users that the high side figures should not be added together because their totality would "place an intolerable strain on the Soviet economy."

In fact, Soviet efforts resulting in all the high side estimates coming true would dislocate their economy, but not according to our costing methodology. When that methodology was applied to all the high figures, it produced a strange result. Not only did it appear that the Soviets could go all out on all types of military capabilities, but they could do so at an ever-decreasing percentage of Gross National Product! From that time forward, DIA never used the results of the CIA costing methodology in its publications.

Shortly thereafter, the validity of the costing methodology came under fire again. This time the analysis was a National Intelligence Estimate, a paper that has to be agreed to by all intelligence agencies—CIA, DIA, the State Department, and others. During the process the same case was made against the method, but from an historical rather than a futuristic point of view. CIA provided cost figures covering the Soviet military budgets for the time frame 1960–71. These figures indicated a very modest two or three percent annual increase in the Soviet budget, which to DIA estimators was incredibly low. During that time frame the Soviets had deployed 1,500 or more ICBM launchers; built more than fifty missile-launching nuclear submarines; deployed most of 700 medium and intermediate-range missile launchers, some 7,000 surface-to-air missile launchers, and a large theater force opposite China; created twenty new divisions; and introduced on a broad scale five or six new fighter aircraft. And that is only a partial list. This simply could not have been done at the low costs indicated by the methodology.

The most dubious figures were those ascribed to Soviet strategic attack forces. In 1960, the Soviet strategic offensive force consisted of four intercontinental ballistic missile launchers, no missile subs, 200 heavy bombers, and 200 or so medium-range ballistic missiles. By 1971, the Soviets had overmatched the US in ICBM's, had nearly matched us in missile subs, deployed more than 700 medium and intermediate-range missiles, and still had the 200 heavy bombers. Further, they were undertaking a massive construction program to accommodate the four new ICBM systems under test. We were to believe that costs for strategic forces in 1971 were only one-third of one percent higher than in 1960! From that point on, DIA would never agree to the inclusion of such cost figures in National Estimates even though CIA continued to produce these figures on a regular basis.

MAKING MOSCOW'S CASE

As Deputy Director for Estimates at DIA during this period, I became chief antagonist of the low cost estimates. I became even more determined to correct this anomaly in intelligence when I found that these underestimates were being used by the whole world. The U.S. was publishing an annual unclassified report on worldwide arms spending as a service to the UN. The Soviet and Warsaw Pact figures in that document were simply the totals derived from the CIA direct costing methodology, cleaned up a bit to protect intelligence sources and methods. As a result, the report, which found its way into the reference files of most universities and research institutes around the globe, stated that NATO outspent the Warsaw Pact on arms by about $30 billion a year! The Soviets must have been enormously pleased to see the U.S. making Moscow's case for them.

Although my DIA estimators and I were the first to balk at the Soviet budget figures, I would not like to leave the impression that the controversy was a purely Pentagon-vs.-CIA issue. There were analysts in DIA who supported the figures, and analysts at CIA who shared my doubts. A doubter from the outside was Joe Alsop, the well-known columnist, whose pungent criticism of low intelligence estimates of the Soviet military budget sparked half-joking barbs directed at me by my CIA colleagues. Alsop seemed to use a number of my arguments in his columns, and there was a strong suspicion that I was leaking them to him. I wasn't, but I must confess to enjoying his efforts.

This controversy boiled and bubbled along for about three years. CIA continued to publish the results of the suspect methodology; indeed, they had no other choice because there was a constant demand for such figures. There was no other official source for them. And we continued to get into controversies over dollar costs of Soviet and even Chinese efforts. During the debate over continuing aid to South Vietnam, we were asked by Congress to estimate the dollar cost of Communist aid to North Vietnam. The minute we were asked, I knew we were in for another round of outraged expressions from some congressmen based on the proposition that the U.S. had put more dollars into South Vietnam than the Soviets and Chinese had put into North Vietnam. Later, we had the same problem with regard to North and South Korea. It seemed impossible to avoid providing these rather useless dollar figures, and all the warnings of intelligence people about our lack of respect for the figures could not prevent them from becoming the centerpiece of arguments over policy.

Both DIA and CIA, meanwhile, were trying to find alternate ways of assessing the defense expenditures of the USSR. Experts on Soviet economics from academia and the "think-tank" world were assembled on the subject. Only one of them, however, had a strikingly different approach. That was a Mr. William T. Lee, a persistent, extremely objective analyst who had been previously employed at CIA. [Mr. Lee is the author of the article "Military Economics in the USSR," which appeared in the March "Soviet Aerospace Almanac" issue of Air Force Magazine.]

Mr. Lee's approach was essentially this: In order for the Soviets to manage their economy, they must publish real budget figures; otherwise, they would confuse their own bureaucrats and managers. Therefore, the *real* defense expenditures are somewhere in the overall budget figures. The trick then was to find those sums that could not be accounted for in *non*-defense outlays. The residual then would probably represent the hidden defense expenditures. This all made some sense, but unfortunately for Bill Lee, his method indicated that the results from the old direct costing method were not just a *little* too low, they were *100 percent too low*. His results showed an expenditure of some sixty billion rubles a year vs. about thirty billion estimated by CIA. Neither CIA nor DIA analysts could swallow that big an admission of error. Thus, Bill Lee's results were rejected with much criticism of his analytical approach. But Lee was eventually to have the last laugh. His method may or may not have serious flaws, but his results were far closer to the truth than those of his critics.

SENATOR PROXMIRE'S PERNICIOUS PLOY

The whole matter of Soviet defense spending came to a head again in the spring of 1975. As is the case with most intelligence controversies, this one was solved by the acquisition of good evidence. By April 1975, evidence from a variety of sources combined to provide solid proof that we had indeed been underestimating the Soviet budget by *at least* 100 percent. In terms of percentage of GNP, the new evidence showed that, our old estimates of six to eight percent were wrong. At a minimum, the Soviets are spending fifteen percent of their GNP on the military. In my view, the actual figure is probably closer to twenty percent, because the fifteen percent figure still excludes pensions, much training, and transportation costs, which remain hidden in the budgets of various nonmilitary ministries of the USSR.

This new information came to light right in the middle of the first big US defense budget fight with the new post-Watergate Congress, one that promised to be the most hostile to the military esablishment in many years. Evidence of the substantially larger Soviet defense expenditures, particularly compared to those of the US, could conceivably be used to persuade the Congress to increase, or at least maintain, the existing level of defense spending. If one chooses to believe the conventional wisdom around

Washington, one would expect military intelligence to have immediately used this bombshell to help fend off broadax cuts in the Defense budget. This was not the case. With the agreement of Dr. *Schlesinger*, *Mr.* Colby, the CIA Director, and I, now Director of DIA, elected not to release the new evidence pending a thorough redo of cost estimates. We judged that its use at this time in the congressional arena would evoke a furious attack on the validity of the evidence and endanger the sources of the information.

We were able to continue this policy until July, when Senator Proxmire requested Mr. Colby and me to testify on the Soviet budget. We did so, and we both mentioned the new evidence and informed the Senator that our estimates of the Soviet budget were going to rise sharply. Senator Proxmire asked that we be as liberal as possible in declassification of the testimony for publication. We were, and the declassified testimony was ready for publication within a few days. It seemed strange to me that the testimony remained unpublished and unreleased for three months. I cannot escape the suspicion that had Mr. Colby and I testified that the Soviet military budget was *lower* than we had previously held, that testimony would have been released with alacrity.

Senator Proxmire finally released the testimony in October 1975, in a press conference following Secretary of Defense Schlesinger's public statement that the Soviets were outspending us on military matters. To my astonishment—and, I am sure to Mr. Colby's—Proxmire's press conference managed to convey he impression to newsmen that both of us would quarrel with Dr. Schlesinger on the ground that he was overstating the case. The facts were that Dr. Schlesinger was using Mr. Colby's estimates of dollar costs of Soviet military expenditure, and my only quarrel would have been that, the revisions notwithstanding, the dollar estimates still tended to *understate* Soviet expenditures. Upon rereading my testimony to Senator Proxmire, I find it inconceivable that he would come up with the opposite impression.

MANPOWER COST: AN ANOMALY

In the controversy over Soviet military spending, the military pay factor is consistently cited by those who believe the *dollar* figures too high. The rank and file of the Soviet Army are draftees and are paid very little in rubles. If their wages are translated directly into dollars, the Soviets obviously get them very cheaply when compared to U.S. soldiers. The dollar figures provided by the CIA for the Soviet military budget, however, represent an effort to state what their forces would cost if they had to be purchased in dollars. Thus those estimates charge the Soviets U.S. wages for their military men.

On the face of it, this would appear to *inflate* the estimates of Soviet military expenditure. In reality, it does not. The dollar estimates are made for the purpose of comparing Soviet military costs to those of the U.S. The ruble prices and wages of the U.S.S.R., which are easily manipulated by the Kremlin, simply don't count in such an equation. The *actual* cost to the general economy of the U.S.S.R. of putting a main in uniform is greater than it is in the United States. The Soviet economy is manpower intensive. Not only is everyone employed, the economy is short of manpower. In agriculture the shortage is so acute that the Army is called out at harvest time to assist. In the U.S. one can reasonably deduct from the wages paid servicemen the costs that would be incurred by the country if a million or so able-bodied men were *not* in uniform and were added to the ranks of the unemployed. The problem of explaining these matters to congressmen, newsmen, and others is one of the reasons I have been a severe critic of dollar comparisons of U.S. and Soviet military budgets.

The uproar over the size of the Soviet military budget will wax and wane, but is sure to crop up frequently during the presidential campaign. As a participant in the internal intelligence debates over the issue for the past five years, I am convinced that Dr. Schlesinger did not overstate the case when he said that the Soviets may be outspending us on military matters by fifty percent in dollar terms. I am also convinced by good evidence that the Soviets are expending in rubles about twenty percent of their Gross National Product on the military. The Soviet GNP is around $750–$900 billion. Twenty percent of that gives a rough estimate of $150 to $180 billion in defense expenditures, which, in my view, is a much more accurate figure than any derived by the discredited method that has produced the erroneous figures provided by intelligence in the past.

The figure $180 billion in Soviet military spending is and should be a shockingly high one to US citizens. It would not shock the dissident Soviet academician Andre Sakharov, recent Nobel Prize winner. In fact, he would consider the estimate of twenty percent of GNP to be an understatement. In 1972, he was quoted as having calculated the burden of Soviet military expenditures at *forty percent* of GNP. This figure was roundly pooh-poohed by US intelligence experts at the time. I agree with the experts that the forty percent figure is too high, and it remains unclear as to whether Sakharov was talking about GNP or budget percentages. But I would point out to those experts that they would have roundly pooh-poohed a figure as high as fifteen percent of GNP one year ago.

STRATEGIC IMPLICATIONS

In December 1975, the Soviet government announced the civilian economic output for the year had been drastically short of expectations, particularly in agriculture. Further, Moscow announced that 1976 was going to be another bad year. Of course, part of the reason for this remarkably poor performance was bad weather, which reduced harvests, as well as the chronic bungling of an overcentralized economic system. But to these factors must be added the impact of enormous military outlays over the past several years. It is not just weather that caused a ten percent drop in agricultural output; it was also a lack of good farm machinery. Soviet military hardware is produced in the same factories with farm machine. In a Soviet plant that turns out both tractors for farms and tanks for the military, high tank production lowers tractor production. In a plant producing both war gases and insecticides, the more gas manufactured, the less insecticide. And so it goes. Heavy military expenditures are putting a severe strain on other sectors of the Soviet economy, and the Soviet leaders seem determined to endure that strain rather than check the growth of military power. They would rather expend their limited hard currency to buy grain from America than alter military priorities.

The huge Soviet military expenditures alone do not lead to the conclusion that the US is today in a militarily inferior position. They do, however, demonstrate Moscow's resolve to extend Soviet military advantages where they exist, cancel out the few remaining US advantages where they exist, and achieve recognition as the prime military power in the world. If this happens, US intelligence officers can throw away that comforting lexicon of words used in past intelligence appraisals to describe Soviet behavior in the world—"pragmatic," "cautious," "nonadventurous," "defensive," and so on. Already such adjectives fit poorly current Soviet behavior, *e.g.*, the thrust into southern Africa.

I hope that the internal intelligence struggles with the problems of estimating the Soviet military budget are behind us. My only worry is that it is very hard for some analysts to accept a 100 percent error in their long-held views, and there is bound to be a tendency to try to obscure that magnitude. But solution of an intelligence anomaly is not nearly as important as the strategic implications of very high Soviet expenditures on military matters. The Soviets are spending twenty percent of their GNP on their armed forces and civil defense; Adolf Hitler's Germany was spending somewhat less fifteen percent of GNP—for armaments in 1938 just prior to the outbreak of World War II. Can the United States continue to deter the growing Soviet military threat with a grudging 5.4 percent outlay on defense?

BOSWELL TRIBUTE DINNER

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. JOHN L. BURTON. Mr. Speaker—on behalf of Congressman PHILLIP BURTON and myself—on June 25, 1976, the friends and colleagues of the Reverend Hamilton T. Boswell will meet to honor him upon his departure from San Francisco's Jones United Methodist Church. He is leaving to take up new duties as district superintendent, Bayview District, of the California-Nevada Conference of the United Methodist Church.

This will be both a proud and sad occasion for all his friends in the bay area. Proud, because they recognize that a man of his talents and abilities must go to where he is needed; sad, because he will be missed by all those in the community he has helped and served.

A profile of Reverand Boswell will give an idea of what a truly remarkable man he really is. It is nothing less than a rollcall of service, involvement, and concern for his community, and demonstrates the devotion he has for the continued betterment of his fellow man.

Reverand Boswell was born in Dallas, Tex., in 1914, and received his B.A. degree from Wiley College in 1938. He attended the University of Southern California where he earned his Th. M. degree in 1943. He later returned to Wiley College and received his D.D. degree in 1956.

He married Eleanor B. Gragg in 1939, and they have two children, Jerilynn and Eleanor Louise, and two grandchildren, Lorraine, age 11, and Nichole, age 6.

His service in the clergy began when he was named minister of St. Johns in Los Angeles, a post he held from 1939 to 1943. He presided at Bowen Memorial from 1943 to 1947, and has served at the Jones United Methodist Church in San Francisco since 1947.

His involvement in community affairs is impressive, to say the least. From 1958 to 1962, he was the commissioner for juvenile justice in California and commissioner of the San Francisco Housing Authority from 1964 to 1974. The Reverend Boswell has been chaplain to the San Francisco Police Department since 1969, and founded the Jones Methodist Credit Union and Jones Memorial Homes in 1954.

The numerous awards he has received from his peers serves as further testimony of his dedication to his fellow man.

He is a life member of the National Association for the Advancement of Colored People and recipient of the NAACP Freedom Award for 1972 and 1974. He was presented the National Black Methodist Church Renewal Award for 1973, and was given the San Francisco Planning and Urban Renewal—SPUR—Award in 1968.

Reverend Boswell was bestowed the Human Rights Award by both the California State Senate and Assembly in 1964, and has received numerous plaques and commendations from the California State Legislature for pioneering senior citizen housing.

My brother, PHILLIP BURTON, and I have the deepest affection for Reverend Boswell. He bears a great deal of credit for both of our success. He has been a staunch friend and ally from the inception of our political careers.

Mr. Speaker, I know that my colleagues in Congress join with me and Congressman PHILLIP BURTON in extending our congratulations to Reverend Boswell for a job well done. The dinner at which he will be honored on June 25, 1976, will be but a token of the appreciation which he so richly deserves.

In closing, I would like to say that Kim's father offers Lorraine's grandpa best wishes for further success and accomplishments as he assumes the position of district superintendent of the California-Nevada Conference of the United Methodist Church.

H.R. 50 COMING UP FOR CONSIDERATION SOON

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. ESCH. Mr. Speaker, the Members of this House are fully aware, H.R. 50 will soon be coming up for consideration on the House floor. Considerable concern has been expressed over the potential impact of this legislation, part of which is detailed in the minority views to H.R. 50, contained in House Report 94–1164. I urge that these views be read by everyone concerned with the serious problems confronting H.R. 50.

Since the publishing of our views, considerable testimony has been given during Senate consideration of the companion measure, S. 50, which for all practical purposes is identical to the House bill.

Inasmuch as this testimony has come from several noted, and not altogether conservative economists, I believe these statements would be well worth the attention of the Members of this House. Accordingly, during the weeks ahead, I will be submitting several of these statements into the RECORD. The first of these is the remarks of Charles L. Schultz of the Brookings Institution before the Senate Committee on Public Welfare on May 14. To summarize Mr. Schultz's testimony: while praising the goals of S.50, the major problem facing the legislation is the bill's failure to recognize inflation as an obstacle to full employment.

The statements follow:

THE ECONOMICS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976 (S. 50)

Mr. Chairman and Members of the Committee, the Full Employment and Balanced Growth Act of 1976, S. 50, addresses the most important domestic problem of this decade—high and persistent unemployment. The chief obstacle to overcoming that problem, both politically and economically, is inflation. I believe that S. 50 does not sufficiently recognize that fact, and hence needs to be changed in a number of important respects. Moreover, the combination of the "employer-of-last-resort" provisions in this bill and the wage standards that go with it threatens to make the inflation problem worse. These sections, particularly, need extensive reworking.

THE IMPORTANCE OF FULL EMPLOYMENT

The emphasis which S. 50 puts upon the goal of full employment is, in my view, quite proper. We are a society in which not only economic rewards but status, dignity, and respect depend heavily on a person's place in the work force. The single most important contribution toward solving the major social problems of this generation—deteriorating inner cities, inequality among the races and between the sexes, high and still rising crime rates, poverty, insecurity, and hardship for a minority of our citizens—would be a high level of employment and a tight labor market.

However valuable some of the federal government's manpower training and other social programs may be, they cannot hold a candle to the efficacy of a tight labor market. Necessity is the mother of invention. When 4 million business firms are scrambling for labor in a highly prosperous economy, it suddenly turns out that the unemployable become employable and the untrainable trainable; discrimination against blacks or women becomes unprofitable. Instead of being the concern solely of bureaucrats in government training programs, the finding, counseling, training, and hiring of the disadvantaged becomes the goal of the entire profit-seeking private enterprise system.

In the second World War, to choose a dramatic example, we pushed the unemployment rate below 2 percent. And the result of that tight labor market was revolutionary. Black-white income differentials shrank faster than in any subsequent period; the income distribution became sharply more equal; employers scoured the back-country farm areas and turned poor and untrained sharecroppers into productive industrial workers, whose sons and daughters became the high school graduates of the 1950's and whose grandchildren will shortly begin to enter college in droves.

The importance that S. attaches to high employment, therefore, is not misplaced. The nation cannot afford over the next decade to settle for a relatively sluggish economy and a high unemployment rate.

WHAT STANDS IN THE WAY OF FULL EMPLOYMENT?

The basic problem with achieving and maintaining full employment is *not* that we lack the economic tools to generate increased employment. The traditional weapons for stimulating economic activity—easy money, tax cuts, and government spending for worthwhile purposes—are perfectly capable of generating an increased demand for public and private goods and services thereby inducing employers to hire more workers. Moreover, we do not need to have the government hire people directly on special programs of public service employment as a long run device to reduce unemployment. The real problem is that every time we push the rate of unemployment towards acceptably low levels, by whatever means, we set off a new inflation. And, in turn, both the political and the economic consequences of inflation make it impossible to achieve full employment, or once having achieved it, to keep the economy there.

With unemployment now at 7.5 percent, the problem is not an immediate one. A rapid recovery could continue for the next year and a half or so, pushing the unemployment rate down steadily, without setting off a new inflation. But experience in the postwar period to date strongly suggests that once the overall rate of unemployment edges below 5½ percent or so, and the rate of adult unemployment gets much below 4½ percent, inflation will begin to accelerate. And since the underlying rate of inflation, even with good luck, is likely to be running at 4 or 5 percent a year, the new acceleration could lead to very high rates indeed.

Unless the inflationary consequences of low unemployment are tackled, it will prove impossible to get the economy to that level and keep it there. The first problem is political. When unemployment is rising, layoffs are high and for every person actually unemployed many more are afraid for their own jobs. Hence, it is easy to generate political support for the fiscal and monetary measures necessary to stimulate employment, even when inflation is high (witness the 1975 tax cut and $75 billion deficit). But when unemployment is falling, even though still large, layoffs decline; concern about unemployment shrinks while concern about inflation rises. Taking the measures necessary to reduce unemployment still further becomes politically impossible when inflation begins to accelerate.

Most of the economics profession would agree that holding the rate of adult unemployment at 3 percent would lead to inflation. There is, within the profession, a division of opinion about whether the resultant inflation would be a high but steady rate or an ever-accelerating rate. If the latter view is correct, then keeping employment to the 3 percent target would eventually become impossible, since no economy could stand an ever incrasing rate of inflation. One of the reasons we do not know the answer to this controversy is that the political consequences of inflation have been such that the nation has never persisted in holding adult unemployment to 3 percent for many years running.

I believe, therefore, that a realistic view of both the economics and the politics of inflation and unemployment lead to one central conclusion: The stumbling block to low unemployment is inflation; the supporter of a full employment policy must of necessity become a searcher for ways to reduce the inflation that accompanies full employment.

S. 50 AND INFLATION

There are a number of ways in which tight labor markets lead to inflation. One of these is the acceleration of wage increases which begins to occur well before the overall unemployment rate has been reduced to reasonable levels. In this context, it is useful to look at the structure of the labor market during periods when the unemployment rate is lower than it is during today's recession, but higher than we would like it to be.

Table 1, on the next page, presents some estimates of how unemployment would be distributed among various groups, and the nature of that unemployment when the economy operates at an overall unemployment rate of 5 percent. Despite the still high overall unemployment, the rate among men from 25 to 64 years of age is well below 3 percent, and among women 45 to 64, about 3 percent. Teenage and young adults, however, who constitute only one-quarter of the labor force make up over one-half of the unemployed.

TABLE 1.—STRUCTURE OF UNEMPLOYMENT WHEN THE OVERALL RATE IS 5 PERCENT

Group	Unemployment rate (percent)	Average duration (weeks)	Number of unemployed spells per year
Male:			
16–19	13.9	4.0	1.8
20–24	7.3	4.5	.9
25–44	2.7	5.7	.3
45–64	2.2	6.6	.2
64 plus	3.0	NA	NA
Female: 16–19	15.2	4.0	2.0
20–24	8.4	4.1	1.1
25–44	4.9	4.3	.6
45–64	3.1	5.2	.3
64 plus	2.9	NA	NA

Addendum: Males and females age 16–24:

Percentage of labor force	24
Percentage of unemployed	51

Source: 1973 structure of labor force and unemployment (when the unemployment rate was 4.9 percent). Estimates of durations and spells adapted from George Perry, "Unemployment Flows Flows in the U.S. Labor Market," Brookings Papers on Economic Activity, 2:1972, table 3, p. 59.

The unemployment among teenagers and young adults, under such labor market conditions, arises not so much from a continuing inability to find a job, but rather from a number of short spells of unemployment, as many young people go from one unattractive job to another. The 16-19 year old, for example, would average two spells of unemployment a year, of about four weeks' duration each.[1]

The central problem is that when the overall unemployment rate gets down into the neighborhood of 5 percent, the job market for experienced prime age workers becomes very tight. There are many unfilled job vacancies and not many unemployed in this age group. The large number of younger unemployed workers do not move in to fill these vacancies. As a consequence, wages are bid up sharply and prices begin to rise, even though the overall unemploment rate is still high.

One approach to this problem lies in the whole panoply of job counseling, training, and placement services for youth. Federal efforts in this direction should be continued and expanded. And a carefully structured public service program for youth could also contribute. (Strangely, the "employer-of-last resort" program in S.50 is restricted to adult workers.) But in all honesty, the record of recent years does not warrant a confident hope that such programs can be the best principal solution to the problem.

GOVERNMENT AS EMPLOYER OF LAST RESORT

Sec. 206(d) of S. 50 establishes a major new policy—the federal government is pledged to become the employer-of-last-resort for those who cannot find work elsewhere. Sec. 206(e)(4) provides that a person shall be eligible for an employment opportunity under this section if, among other things, he or she has not refused to accept a job that pays whichever is the highest of either the prevailing wage for that job or the wage paid in the government-created "employer-of-last-resort" job. In turn, Sec. 402 sets up a standard for wages in the "last resort" jobs which are bound to be highly inflationary.

Under Sec. 402(c)(1), for example, the wage paid for a "last resort" job in which a state or local government is the employing agent must be equal to that paid by the same government for people in the same occupation. But in states or cities with union agreements for municipal employees, and in many cases even without union agreements, the wage for a low-skill or semi-skilled municipal job is often far higher than the wage paid for the same jobs in private industry. Given the provisions of Sec. 206(d), a person can turn down a private industry job and still be eligible for a "last resort" job, so long as the latter pays more than the former, and in many cases it will, Table 2 shows the wages paid by several randomly selected municipalities for low-skilled jobs. As you can see these are very substantially above minimum wage levels. An unskilled laborer, earning say, $2.50 an hour in private industry, can afford to quit, take unemployment compensation for four to six weeks (or whatever time might be needed to be eligible), then claim a last resort job paying (on municipal wage scales) $3.50 to $4.50 an hour, and come out way ahead.

This would show up in heightened form in any "last resort" jobs created in construction work, since Sec. 402 requires Davis-Bacon wages which in practice are set at the construction union wage scale in the nearest large city.

It is clear that in any area where municipalities or non-profit institutions pay higher scales for relatively unskilled or semi-skilled labor than does private industry, the wage scales in private industry will quickly be driven up to the higher level. Otherwise there would be a steady drain of labor away from private industry into "last resort" jobs. A new and much higher set of minimum wages would be created!

TABLE 2.—MEDIAN HOURLY WAGES IN MUNICIPAL GOVERNMENT[1]

[In dollars per hour]

City	Occupations					
	Janitors, porters, and cleaners	Laborers, class A	Laborers, class B	Park laborers	Refuse collectors	Truck drivers (heavy, other than trailer)
Cleveland, Ohio	3.83		4.36	4.36	4.93	4.67
Kansas City, Mo	3.67	3.34	3.06		4.42	5.13
Atlanta, Ga	3.38	4.16	3.53	3.68	4.00	4.35
Portland, Oreg.[2]	(4.80)	(5.17)		(5.75)		(6.08)
San Diego, Calif	4.08	4.58		4.18	5.24	5.75

[1] Except for Portland, the numbers are the median wages for workers in the indicated occupations based on U.S. Labor Department municipal wage surveys taken in various months during 1975.

[2] The data for Portland are equal to median wages as reported in September 1973, adjusted upward by 10 percent, as a "guesstimate" of the wage increase since then.

The direct and indirect effects of this on the inflationary problem would be extremely serious, once the bill was in full operation. Labor would become very scarce over a broad-range of semi-skilled and unskilled jobs in private industry. Wage rates would rise sharply and prices would follow; the size of the government's job programs would grow rapidly, as workers left lower paying private jobs for the higher wages stipulated in Sec. 402.

Once you begin to ask how to correct this problem, the dilemma of any 'government-as-employer-of-last-resort" provision becomes clear. As pointed out earlier, when the unemployment rate is below 5 or 5½ percent, most unemployment is *not* long term. Among adult males unemployment often consists of a period of four to eight weeks after a layoff before a new job is found. Among many teenagers unemployment in such times is not a steady thing, but a period between two relatively low paying jobs. What wages do you pay in the "last resort" jobs? If you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program. Many private jobs are low-paying, and the only way to avoid attracting people from private industry is to set the "last resort" wages very low indeed. But then, except in periods of high unemployment, when even very low paying jobs aren't available, who wants the program? If you set the wage somewhat higher—even if not absolutely high—it will still exceed the wages of many people with a current job in private industry. If so, it will begin to cause an exodus from private industry, and drive up wages and prices.

Table 3, based on Labor Department Surveys of area wage structures, attempts to measure how far below the prevailing (medium) wage for selected low-skill occupations, wages would have to be set in the last resort jobs in order to avoid attracting large numbers of workers from private industry. The first line of numbers for each city and occupation indicates the wage discount that would have to be applied to insure that the wage did not exceed the wages of more than 10 percent of the workers in private industry. The second line shows the discount needed to keep the last-resort job from being more attractive than 20 percent of the private jobs in the same occupation. Thus, in order for a last-resort laborer's job in Buffalo not to attract more than 10 percent of laborers in private industry, it would have to be paid at a rate of 37 percent below the area median wage for laborers. If the wage were set 28 percent below this median, it would still pay better than laborers wages received by 20 percent of the private work force.

TABLE 3.—PERCENT WAGE REDUCTION BELOW PREVAILING WAGE NEEDED TO PREVENT SPECIFIED PERCENTAGE OF WORKERS FROM LEAVING PRIVATE EMPLOYMENT; SELECTED CITIES

City	Percentage cutoff	Occupation		
		Janitor, porter, and cleaner	Laborer	Shipping packer
Buffalo, N.Y	10	−18	−32	−37
	20	−16	−22	−28
York, Pa	10	−29	−34	−11
	20	−25	−17	−10
Cleveland, Ohio	10	−6	−29	−27
	20	0	−20	−15
Kansas City, Mo	10	−22	−35	−30
	20	−13	−21	−21
Richmond, Va	10	−20	−28	−37
	20	−17	−15	−35
Portland, Oreg	10	−13	−31	−21
	20	−6	−26	−14

Source: Based on BLS area wage surveys; the 1st line for each city and occupation is the wage at the 10th percentile of workers, and the 2d line is the 20th percentile wage. Linear interpolations were used within the class intervals published by BLS.

---

[1] The unemployment duration estimated in Table 1 understates the true duration since many young people, discouraged at finding attractive jobs, drop out of the labor force for awhile.

Special public service employment during periods of recession is a useful tool of counter-cyclical policy. Government-financed summer employment for school age youths makes sense. And, in good times, public service employment, paid at unemployment compensation rates, may be the most appropriate way to provide for that relatively small number who have exhausted their unemployment compensation. (This would, however, imply unequal pay for equal work.) But the concept of government as employer of last resort is not a workable method of pushing the overall unemployment rate down to very low levels.

DEALING WITH INFLATION

I have no magic answer for how to reduce the inflation which accompanies full employment. But there are a series of steps, each of which could contribute.

1. As mentioned earlier, there should be continued emphasis on programs to make unemployed youths more qualified for the main stream job vacancies which increasingly appear as the overall unemployment rate is reduced. On an experimental basis, a government wage subsidy to employers who hire disadvantaged young workers for permanent career jobs should be tried.

2. Substantial, tough action is needed to deregulate areas of the economy where government itself stifles competition and holds up prices. Transportation is a key example.

3. Actions which reduce the competition from imports should be avoided. Import threats probably do much more than antitrust to keep prices down.

4. That part of the bill which directs the President to develop and submit a plan for counter-cyclical employment creating measures, including public service employment, should be retained. The government as employer-of-last-resort section should be dropped. At the same time, as I indicated earlier, several other methods to help achieve low unemployment without inflation could be added: public service employment for those those who have exhausted unemployment compensation; and, on an experimental basis at first, a program of wage subsidies to employer for providing long term jobs to disadvantaged youth.

5. Finally, and most importantly, we need an incomes policy. It cannot be across-the-board wage and price controls; they can't be maintained very long, and they are ultimately far too rigid for a dynamic economy. But we do need to find a way to work out some kind of social compact, perhaps along the lines that Callaghan and Healy are trying to work out in Great Britain. In particular, any sophisticated approach to the joint attainment of full employment and price stability should incorporate use of the tax system as a means of attaining a social compact. There are a number of different alternatives, no single one of which should be locked into a long term bill like S. 50, but all of which should be part of the arsenal which a President could, from time to time, propose as part of the annual full employment and balanced growth plan. My colleague, Arthur Okun, has suggested several examples of how this might be done: in return for labor accepting a wage guideline, offer to reimburse labor, via a working man's tax cut, for any overall price increase that is out of line with the wage guideline, and finance part of the cut with a temporary surcharge on corporations; offer employers and workers an option—either to sign whatever wage contract they want *or* to sign a contract within the wage guidelines and receive a temporary reduction in social security payroll taxes.

S. 50 already contains an implicit, but not generally recognized directive to the President to spell out wage and price guidelines. Sec. 104, establishing the full employment and balanced growth plan, requires the President to set forth goals for "full purchasing power" at levels necessary for reaching goals of the Act. But the only way to set forth an explicit goal for the wage component of purchasing power is to stipulate a wage guideline to go with an employment target; and the only way to specify a purchasing power target for profits is to specify a set of guidelines on general price movements, to go with the wage, employment, and production targets.

RESTRUCTURING S. 50

I think that there would be merit in reorganizing the bill so that it jointly addressed the inflation and unemployment problems, and explicitly pointed in the direction of preventing the inflation acceleration that goes with low unemployment.

The planning and target-setting part of the bill should be rewritten to specify both unemployment and price stability goals: the policy goal would be to undertake those structural and incomes policies needed to approach both goals simultaneously. Many of the sections of the present bill, including the manpower training parts, would then become a means of reaching full employment without accelerating inflation. The hidden incomes policy sections should be made explicit, directing the President to develop guidelines and indicating the desirability of using tax policy as a possible adjunct to incomes policies.

Finally, the targets for unemployment and price stability should be made more flexible. The present bill sets an ultimate target of 3 percent adult unemployment which is roughly consistent with a 3½ percent overall rate if "adult" means over 18 years of age, and 4 percent if "adult" means over 21 years of age. But such targets should not be absolute. For example, in a situation like the middle of 1973, with inflation beginning to go into double digits and the adult unemployment rate of 3.8 percent, I cannot imagine that, for the year ahead, the federal government would pursue a policy of increasing budgetary stimulation or easier money in order to reach a mandated target of 3 percent. Hopefully, we would never be in that situation again. But no one can be sure in an uncertain world. As I read the present bill, after 1980 (assuming enactment in 1976) each year's target for unemployment would have to be no higher than 3 percent (for adults), regardless of the rate of inflation. I do not think that such a rigid specification of targets each year is consistent with the purpose of the bill which is to be a long term guideline for economic policy. Nor do I think the goal for unemployment should be expressed in terms of adult unemployment. The individual distress and social problems caused by high unemployment among youth warrant attention as well as does unemployment among other workers.

Even with the specific anti-inflation measures suggested above, we do not know how low the unemployment rate might be pushed without running into the inflation barrier. The goals set forth in the Act, therefore, must be quantitatively imprecise. I would suggest that they be rewritten in language which directs the President to present long-run plans for reducing the inflation that heretofore has accompanied low levels of unemployment and simultaneously to outline the actions needed to reduce unemployment towards the lowest rate sustainable over the long-run. The specific proposals and plans that he present each year, in response to this directive, will in any event, be widely debated before the Congress and in the media. It is unrealistic to expect that the simple inclusion of a single numerical target for unemployment, like 3 percent, in a planning bill of this type will somehow force a President to take action to get there, regardless of the consequences.

SUPPORT FOR PARK GOVERNMENT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. MURPHY of New York. Mr. Speaker, there has been of late a persistent effort to eliminate security assistance funding for the Republic of South Korea, based on allegations of a denial of "human rights" which is inconsistent with the facts. Tomorrow's vote on the House floor on section 413 of H.R. 13680 has brought about a last-minute propaganda blitz of press articles, films, speeches and individual pressures to support such a cut in funds.

Those who would desert our allies have attempted to lend a small amount of credence to their cause from various members of the clergy, notably Father James Sinnott, who claims that personal and religious freedoms have been severely restricted in the Republic.

The facts do not support such inferences. Mr. WILSON of California and I just last week commented in some detail on this topic, and I have today received, and offer for the RECORD, additional commentary from a leader of the Columbian Fathers, Father Michael J. McFadden. Father McFadden's letters serve to prove just the opposite—that there is considerable, and believable support in the Republic of Korea for the Park government.

Father McFadden notes that what Father Sinnott and his followers are doing to disturb the unity of the Korean people cannot be measured. Many Korean priests, ministers and citizens are outraged at the propaganda scheme being carried out, and Father McFadden has been kind enough to bring just a few of these indications of support to the attention of my colleagues:

COLUMBAN FATHERS,
Los Angeles, Calif., May 28, 1976.

DEAR MIKE: So sorry that I will be unable to meet you as I am sure you are anxious to hear all the latest from Korea.

As you are aware there are three priests in jail at the moment for what is known as the "Myong Dong Incident." This was a meeting that was held at the Myong Dong Cathedral under a guise of a "prayer meeting." It was instigated by the opposition and the priests were simply "used" so for that reason they had no sympathy from the clergy or people.

It is so annoying to hear of the criticism that Korea is getting in the U.S. as the facts do not bear out what is being reported and those who publish such things have been misinformed. There is more freedom in Korea now than ever before and President Park is doing a wonderful job and I would safely say that 90 to 95% of the people are right behind him and his policies as they are aware that he has the good of the country at heart. Furthermore, they were never better off economically.

I wish we could meet and I could give you more details.

God's blessings.

PATRICK HEALY.

(EDITOR'S NOTE.—Father Healy has served as a Columban Missionary for 21 years in Korea. He is a pastor of a parish on the outskirts of Seoul. Father Healy departed Korea May 23, 1976. The letter is addressed to Father Michael McFadden.)

St. Peter's Rural Development
Association, Inc.,
Philadelphia, Pa., September 26, 1975.

Dear Member of Congress: Your help and understanding of the situation that exists in the Republic of Korea is of the utmost importance. Hence I am writing to solicit your aid and support. The Government of President Park Chung Hee is without doubt the strongest ally that our Country has in Asia. Yet, the U.S. Press and Media have been painting a picture for Americans that is reminiscent of reports that eventually brought the downfall of Nho Dinh Diem in 1963. Eg. Mr. Halberstam—NYT—June 16, 1963 (5 column headline) RELIGIOUS DISPUTE STIRS SOUTH VIETNAM—Buddist Struggle Poses Major Threat to Diem Rule . . . Recently, Mr. Saar, WP, September 3, 1975: (6 column headline) REPRESSION HELD THREAT TO SOUTH KOREA—Kim Dae Jung warns of "another Vietnam" . . .

In September 1963 I passed through Vietnam enroute to U.S.A. from South Korea. The allegations against Diem were particularly perplexing to me—many conflicting reports. Upon my arrival in the U.S., fortified with knowledge I gained in my travels, I tried in vain to defend Nho Diem. To my dismay even my own family were lined up with Halberstam, Brown and Sheehan—Diem must go—as a Roman Catholic priest I was prejudiced in favor of Roman Catholic Diem. With what we know now about Vietnam, imagine my frustration.

I left Korea this summer to find in the U.S. many of my fellow Americans with much the same feelings for Park Chung Hee that they had for Diem in 1963. The Fraser Committee Hearings were on, and after reading so much one-sided testimony, I felt conscience-bound to speak out again, not only as a Roman Catholic Priest in good standing, but also as an American Citizen who has spent most of the past 20 years in South Korea. I testified before the Fraser Committee on June 12th. That I disagree with many of the witnesses is obvious, both in this testimony and my testimony before the same Committee on August 5, 1974. That I am concerned with and a champion of Civil Rights, Justice and Liberty is also obvious.

I enclose excerpts from letters that I have received from Korea during the summer. Father Crosbie, a 30 year Korea veteran missionary spent over 3 of these in a North Korean Prison Camp. He was captured in June 1950 and tells his story in a book published by Newman Press, Westminster, Maryland, 1956 *MARCH TILL THEY DIE.* Father Phil is now stationed in Po Chun, about 15 miles from the DMZ. Father Frank McGann went to Korea in 1936 and is now in charge of the Columban Fathers vacation home on Cheju Island. Kim In Sang lived under the North Korean Communists from 1945 to 1951 when he with his family was able to flee to the South. His last flight from the Communists was April 28, 1975 from Saigon.

In conclusion, I beg you to take a hard realistic view of the situation in South Korea, and bring your influence to bear in any legislation that might affect 33 million South Koreans. Although there are some seemingly harsh measures by our standards taken by the Park Government, we must view these in the over-all picture, and even though we vehemently disagree with them, we should consider the form of Democracy existing in Korea, its origin and growth in 30 years, the ethnic and traditional background of the people, coupled with the imminent threat of War being provoked by North Korea. If we fail in Korea as we did in Vietnam, then we are reverting to the past, and must be held accountable for the future.

If I can be of any service to you in this field, please do not hesitate to call upon me. I am recovering from hepatitis that struck me while in Korea, and will be in the United States until early November at least according to latest reports from the Doctor, and my Superiors. You can contact me at my Mother's home in Philadelphia—telephone 215-844-9058, or write to me at her address listed along side of my Korean address on the stationery. Thanking you in advance for taking the time to read this letter, I remain,

Sincerely yours,
(Reverend) Michael J. McFadden,
Director.

Excerpts From Letters to Rev. Michael J. McFadden From South Korea

Letter from Rev. Philip Crosbie, Pastor of Po Chun, author of "March Till They Die." Newman Press, Westminster, Maryland, 1956. An account of his experiences in a North Korean Prison Camp—1950–1953—a 30 year veteran of Korean Missionary work in Korea.

August 20, 1975.

Dear Mike: You certainly have my permission to use my name, quotations from book and letters and so forth. Can't see that it would help much in the U.S. but you be the judge of that. Of course it will be said that we are both in favour of the repressive measures that Park Jong Hee allows, but that cannot be helped. In a verbal tussle, folk are not apt to make fine distinctions.

For me this is a parallel situation. You are out in an open boat with a fellow you are not exactly 'buddy-buddy' with. (Park Jong Hee & Co.) in it. If you have a disagreement with this fellow are you going to stand up in the boat and fight!

If you look around Po Chon today, Mike, life is fairly normal and the people reasonably well off. People do not seem to be worried about the political situation—I mean this supposed great lack of freedom. Here at the church we go along without anyone worrying us. The Bishop lent me some films on the Life of Christ and I mentioned to the police that I would be showing them in some of the "kong-sos" (Mission Stations[1]) in a "ma-dang" (large yard, *e.g.,* school yard[1]) because of the warm weather and a crowd would assemble. The police are supposed to be notified, as you know, about an unusual gathering of people. They told me that they thought it would be a good thing to show these movies to the people. I give that as an example. I find the police courteous and reasonable. I suppose there are C.I.A. men in Po Chon, but I do not know who they are, and I don't think many people do.

Most people seem to have a home and some means of providing a livelihood for the family. We have two Conferences of the St. Vincent de Paul Society in the parish, and they have to look hard to find folk to help.

Practically all the children are being educated and they're happy and care-free. Yet the reds would come if they had the opportunity and bring war, deaths, sufferings, mock trials and very real executions to Po Chon. The very thought of it burns me up!

Look after your health, Mike. All the best,
Yours,
Signed: Phil C.

LETTER FROM KIM IN SANG

August 25, 1975.

Lived under the North Korean Communists from 1945 to 1951 in Won San where the USS Pueblo was taken in 1968. His last flight from the Communists was April 28, 1975 from Saigon.

From 1945 to 1950 North Korean Communists undertook an educational program based on scientific and philosophical reasons in order to ignore the existence of God and taught this to laborers, peasants, and students as well as the general public. They inculcated the absolute dilectic materialism and the history of social development to replace the traditional theism which prevails in Korea.

Many Protestant Christians united all sects and organized the Christian Association in 1946, and this was used as a governmental body under the communist regime. Moreover, ministers received the same share of food as civil employees. A few prestigious ones were promoted to members of Congress and some made Governors of Provinces. In this way, the communists pretended to guarantee the freedom of religion under the pretext of democracy. The Catholic Churches were persecuted and their clergymen were arrested all over North Korea in May 1949. The Catholic Churches, schools and other properties were confiscated and their members scattered like sheep without a shepherd. While putting military efforts together for the Korean war, the North Korean regime eradicated the Catholic churches, leaving the Protestant ones intact—this was because of bitter experience the communists encountered from Catholic members who irrespective of their social status, laborers, peasants, and serfs, struggled against the communist revolutionaries in North Korea, and experience of what the Catholic and Orthodox Christians did during the Bolshevik Revolution. Even after the complete suppression of the Catholic church in North Korea, the communists still found out about members by means of disguised priests going from village to village, hearing confessions, and administering to the Catholics in secret. When reported these Catholics were immediately executed.

Eventually, all the ministers who worked with the communists and were promoted to high positions and praying for Kim Il Sung day and night were arrested when the Korean War broke out, and most of them were slaughtered when North Korea was in an unfavorable situation during the war. For example, the Reverend Hee Ryum Cho who graduated from a theological school in the United States and served as a high officer in North Korea was shot to death in a pig house near my home. After devoting himself to the communist regime, Reverend Cho deserved the consequence of his betraying God in the communist society. In those days many Korean and Foreign Catholic priests suffered from persecution and died martyrs death for their faith instead of surrendering themselves.

I hope you feel well soon, Father Nam, and return to our people in Korea.

Signed: Kim In Sang.

EXCERPTS FROM LETTER OF REVEREND FRANCIS M'GANN

N.B. References made to any persons, places or things are quoted directly from the letters. Copies of original may be had from Rev. M. McFadden. Remarks made do not cast any aspersions on the sincerity or integrity of persons involved, but merely a different point of view.

August 27, 1975.

Father McGann, an Irish National, went to Korea in 1936, was imprisoned by the Japanese during World War II, retreated to Pusan during the Korean War, was Vicar General of the Diocese of Chun Chon, and is now Superior of the Columban Fathers Vacation home in Cheju Island.

"As regards J. Sinnott—if you mentioned his name, nearly everybody would say 'Who's he?' He is a dead duck here and so is all the racket that was. People are much too sensitive about the North to do anything to disturb the peace here, and they know they never had it so good. What the news are saying about here is a damned lie and very unfair indeed—nobody thinks that here, nor does anyone want any fooling around like there was last year. The best thing I heard one of our strongmen from Wonju say was 'well, it's all over, but what are we going to do with Bud!"[2] I can tell you nobody remembers Sinnott in Korea."

---

[1] Translations of Korean words used.

Signed: FRANK.

COLUMBAN FATHERS,
Los Angeles, Calif., May 18 1976.

DEAR CONGRESSMAN MURPHY: This letter is of the utmost urgency to millions of peoples throughout the world. I beg you to take notice. Ambassador Harriman, one of our most distinguished Statesmen in modern times has stated again and again what he stated at the Foundation of the United Nations which was in essence that the philosophy of Communism was world domination. Slice by slice they have been chopping up the world and causing divisions in Nations that propaganda-wise the people of the United States can not see—because Communist Propaganda is geared for us not to see it. Our Fathers who have been imprisoned, tortured and killed testify to this.

Vietnam is gone, Angola—Italy—Portugal—any country—you name it is going through agony with Communist subversives. Kissinger just went to Africa—Why??? Ghana didn't want him—Why?? Nigeria executed 32 political prisoners on the beach—it made one page in Newsweek, and a short coverage in the daily newspapers. Nigeria and such countries are not that important yet to the Communist Cause. But take a little country of 32 million people in South Korea struggling to keep from under the Communist tyranny they have experienced, and when a few civil liberties are deprived, this country's newspapers, especially the New York Times, the Washington Post, and The Los Angeles times blow it out of all proportions.

What Congressman Fraser, and his star witness, Father Jim Sinnott and their followers are doing to disturb the unity of the Korean People can not at this time be measured. But I know many Korean Priests, Ministers and people who are outraged at the propaganda scheme they are carrying out against their country.

I enclose a letter written by the Senior priests of Korea to His Holiness, Pope Paul asking his intervention. I also enclose a signed statement from 17 of my closest Korean Priest friends telling of their freedom of Religion etc. After twenty years in Korea myself and I just left there April 22nd, I think their words convey more meaning than anything I could add.

Very Sincerely yours,
Reverend MICHAEL J. MCFADDEN,
Columban Father.

APRIL 19, 1976.

We, the undersigned, met Father Mike McFadden today in Seoul. Father McFadden informed us about the distorted reporting attitude of some American newspapers concerning the current situation in Korea. Father McFadden also told us about wrong opinions of some American Congressmen in regard to the real situation in Korea.

We would like to assure our American friends, through Father McFadden, that we fully enjoy freedom of faith in Korea. In Mynig Dong Cathedral, where the March 1st incident took place, 500 people were baptized. Over five hundred thousand Christians gathered in an Easter Sunday service. In Korea, a country facing North Korean Communists, only political-minded priests meet restrictions of the government.

Signed by the pastor, St. Joseph's Church, and 16 others.

MUN SAN CATHOLIC CHURCH,
Republic of Korea.

MOST HOLY FATHER: Kindly permit me to write this letter to Your Holiness in the spirit of loyalty to the Church and the Holy See.

In the Archdiocese of Seoul, I officially represent the first age group of senior priests (Nos. 3-58 in the order of ordination, above the age of about 42).

Since several years ago, as Your Holiness may be aware, there has been a vehement political turmoil within the Church in Korea, caused by some bishops and priests taking advantage of social participation of the Church in Korea. Unfortunately, on March the 1st, some young priests had a political rally together with some Protestant ministers and anti-government politicians during and after Mass in Myeong Dong Cathedral. Before the rally was over, they reportedly announced an anti-government declaration, demanding President Park's government to withdraw. As a result of this incident, three priests and some others are in prison and many have been accused of anti-government conspiracy.

This incident and other such events throughout the country for the past few years have had the following results:

1. Bishops, priests, religious communities, seminaries and lay people are sadly divided.
2. The national security is greatly endangered. The North Korean Communists are already capitalizing on this incident for their propaganda purpose. This incident may cause the North Korean Communists to make miscalculation to invade South Korea.
3. The dignity of the Church and clergy is considerably damaged. The image of priests and nuns shouting political slogans in church and streets in a country, facing a formidable enemy in the north, can never be in accordance with clerical and religious dignity.
4. There are many serious obstacles in pastoral activities. Many sensible Catholics feel tired of hearing noisy slogans in church, and abstain from attending Masses and church services.
5. Some political-minded bishops and priests are having the Church hopelessly involved in politics, and thus provoke religious persecutions, which nobody wants, neither the Church nor the government. We are certain that we enjoy freedom of religion in this country.

Many priests of Seoul have repeatedly given suggestions to Cardinal Kim of Seoul to keep the Church and priests away from politics and politicians. But Cardinal Kim has obviously failed so far to stop the current political turmoil within the Church in Korea.

We, therefore, beg Your Holiness to intervene in the current critical situation of the Church in Korea in order to drive politics and politicians away from the Church and priests in this country.

It has to be utmostly emphasized that the purpose of this letter is not to challenge any ecclesiastical authority or any person but to seek a way for unity of all priests in the Archdiocese of Seoul by keeping the Church intact, free from politics.

With deep sentiments of esteem, filial love and humble obedience, I am humbly and devotedly in Our Lord, given in Seoul, on March the 18th, 1976,

(Rev.) ANTONIUS PONG,
Pastor of Munsan Catholic Church, Officially representing the first age group of senior priests in the Archdiocese of Seoul.

MUN SAN CATHOLIC CHURCH,
Republic of Korea, April 8, 1976.

His Excellency Most Rev. LUIGI DOSSENA, J.C.D., *Apostolic Pro-Nuncio, Kwang Hwa Mun P.O. Box 393*

YOUR EXCELLENCY, Enclosed please find a copy of my letter sent today to the Holy Father in Rome. This letter was written as of March 18, 1976. Since then, some of our senior priests have tried to have dialogue not only with Cardinal Kim but also many younger priests of Seoul. However, our efforts for solution of the current problem within the Church through dialogue have failed so far. We have reached a conclusion that the difference of opinions among the priests of Seoul is deeper and more serious than we have thought.

All told, Cardinal Kim privately admitted that politics and politicians should be driven out of the Church in Korea. But he said he couldn't declare so publicly. The reason for his hesitation, according to Cardinal Kim, is that such public declaration (to drive politics and politicians out of the Church in Korea) may be interpreted in effect to submit to the Korean government's claim that some anti-government politicians abused the Church and priests. Many wonder if the given reason can be acceptable.

I want to assure your Excellency and the Holy See that we will continue our efforts to solve the current problem by means of dialogue in an endeavor to achieve unity among the priests of Seoul.

With deep sentiments of esteem, I am
Sincerely yours in Christ,
Rev. ANTONIUS PONG,
Pastor, Munsan Catholic Church, Officially representing the first age group of senior priests in the Archdiocese of Seoul.

SCHOOL LUNCH PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. MILLER of California. Mr. Speaker, I have taken a very strong position in support of the school lunch program during this Congress. I was pleased to work hard on behalf of its passage by the House and in overriding the President's unwise veto.

One question which I believe this Congress should take under consideration, now that the continuation of the program is assured, is the nutritional quality of the lunches served to millions of schoolchildren daily.

During committee consideration of the school lunch bill, we were told that the lunches provided under this program were sometimes the only nutritional meals a child received during the course of a day.

We never did adequately investigate, to my mind, the nutritional quality of these lunches, however. Recent stories in the press have raised what I believe to be very basic questions about the types of foods purchased under the program, and the unwillingness of many children to eat the food. The articles also illustrate some highly successful programs which offer nutritional and creatively prepared foods which children happily patronize.

I believe a proper and necessary role for the Congress would be to undertake oversight hearings at which the nutritional quality and administration of the lunch program is discussed. The overavailability of sugars, starches, high cholesterol and other nutritionally hazardous food which seem to appear frequently in lunch programs do not serve the children who need good food which the program is designated to provide.

In addition to the formal lunch program, I believe we should study the food available to schoolchildren in vending machines located in school buildings. We ought to investigate, also, the availability of cigarettes to our school age children within public buildings.

---

[2] Reference to Father Bud Holecek who was very active with Father Sinnott.

Our respective committees, by using our oversight powers, ought to look into these areas at the earliest opportunity. Hopefully, these articles will begin that process.

The articles follow:

[From the New York Times, May 19, 1976]

(First of two articles)

Lunches for Pupils Given Poor Marks

(By Mimi Sheraton)

New York City children are being fed school lunches that are both unappetizing and often far below minimum standards of sound nutrition.

Faced with food that is all too frequently soggy, salty, cold or burned, a large number of children toss the lunches, uneaten, into garbage pails.

These conclusions are based on this writer's three-year study of 150 public, private and parochial schools, and the findings on low nutrition and waste were corroborated recently in a report released by State Comptroller Arthur Levitt.

Mr. Levitt's auditors, in a study made two years ago, found that 22 of 66 lunches (containing 40,000 servings) did not meet the minimum nutrient requirements set down by the United States Department of Agriculture.

The meals eaten in New York City schools often are served in crowded, drab feeding halls to rushed children in hats and coats who have only 20 minutes to line up for food, eat it and then line up again to dispose of the trays.

To eat the food, they frequently were crammed on benches at narrow tables as they try to cut meat, scoop up soup or wind up spaghetti with a spork, a diabolical utensil that is a sort of papery plastic ice-cream scoop with blunt tines at the tip.

Only a few schools offer spoons for soup, and no children are given knives, for reasons that are depressing and obvious.

In New York City, 556,225 lunches are served on an average day to youngsters in public and nonprofit parochial schools at the elementary and junior and senior high levels. Of the total, 92 percent of the meals are given without cost to the youngsters who qualify because they come from low-income homes.

In order to obtain Federal and state subsidies that make it possible for the schools to provide free lunches, schools must serve what the United States Department of Agriculture has designated as Type A lunches, which represent one-third of the recommended daily requirements of all nutrients for 10-to-12-year-olds.

Each lunch must include a two-ounce edible portion of protein in the form of meat, fish or cheese, or one egg or half a cup of dried beans or four tablespoons of peanut butter, or an equivalent combination of any of these.

It must also include half a pint of fluid whole milk, three-quarters of a cup of vegetables or fruit, one slice of bread or a roll or muffin made of enriched flour, and one teaspoon of butter or fortified margarine.

These requirements are met in New York City with four lunch systems—the basic lunch, the cooking cafeteria, the use of bulk frozen convenience foods, and the use of so-called meal packs.

BASIC LUNCH

The simplest of these is the basic lunch, which is served in only 162 elementary schools. Because these schools have virtually no cooking facilities, the lunches consist of soup and sandwiches or of entrees heated from cans, plus a fruit desert and milk.

Cooking cafeterias are used in 528 elementary and junior and senior high schools. They use fully equipped kitchens where hot meals are cooked from fresh ingredients, sometimes supplemented with convenience items.

Bulk frozen convenience foods are served in 119 junior and senior high schools. In these places, the food is prepared in kitchens that have only convection ovens to heat fully prepared and portioned foods. Sometimes fresh fruit is added.

LIKE TV DINNERS

Meal packs make up the fourth system and they are a three-year-old program presently used in 434 elementary schools. They consist of fully prepared frozen entrees in fitted foil trays that are much like TV dinners. Unfrozen items, such as bread, fruit and dessert, are served separately.

Comptroller Levitt's report listed estimated costs for food alone in the various systems. Using a hamburger lunch as an example, the findings were these: 78 cents in a cooking cafeteria, 69 cents for bulk convenience and 75 cents for the meal pack.

The basic lunch cost for the hamburger was not calculated, but Julius J. Jacobs, director of the Board of Education's bureau of school lunches, estimates that they average 30 percent less than meal packs.

Although prices have risen since the audit two years ago, they have maintained the same relationship.

It is significant that the quality of school lunches did not depend on the age or condition of the school, nor on the income level of the neighborhood, but on the type of food system used, with smelly, tasteless and tepid meals predominating when the lunches were made from convenience foods, either frozen or canned.

I had a wonderful turkey dinner with mashed potatoes in the dilapidated cooking kitchen of Charles Evans Hughes High School in the Chelsea section of Manhattan, but I had a dreary, scorched lunch from a meal pack in Public School 6, which is in a wealthy neighborhood on upper Madison Avenue.

The fried chicken at the new John F. Kennedy High School in the Bronx was of the bulk convenience type, and it was steamy and musty. But the mildly spiced but savory chili made from scratch in the fairly modern P.S. 41 in Greenwich Village was satisfying and delicious.

The same range of features from bad to good, described in detail below, holds true for the same systems when observed in other cities that I studied—Chicago, Newark, New Orleans and Milwaukee.

THE BASIC LUNCH

The nutritional requirements are met with canned soup and sandwiches, prepared at the schools, which fulfill the bread and butter needs and the protection needs with such fillings as cheese, sliced meat, peanut butter and tuna fish. Soups such as vegetable, chicken or beef noodle, tomato and split pea are products of standard commercial packers, with the Heinz brand most in evidence.

Vegetable or fruit requirements are met with vegetables in the soup or with fresh or canned fruit desserts. Milk is included and, on special days, ice cream or cookies are added.

CHILDREN BALKED

While one might wish for a better choice of breads than the standard American white or the hamburger, hot dog or hero rolls, whenever rye or whole wheat alternatives have been tried, most children have balked at eating them.

In order to upgrade the soup-and-sandwich format, and to satisfy the demands of parents for hot food (even though most children prefer it cold), most schools with these basic lunches serve heated canned entrees once or twice a week.

These entrees include ravioli, spaghetti with meat-balls or sauce, sloppy joes, beef stew and canned cooked hamburgers in tomato sauce or gravy. Because sauces make it hard to be sure that two ounces of protein have been picked up in the serving ladle, a slice of American cheese is usually added to such entrees.

The canned pasta products are the starchy, slippery, overcooked and oversweetened types found on supermarket shelves, and are made by Chef Boy-ar-dee, Prince and an institutional packer, Venice Maid. The worst entrees are the sodden canned hamburgers, mealy with textured vegetable protein and tasting every bit as sour as they smell.

It is unfortunate that the * * * who encourage them to eat, in such bad repute, because of all the lunches observed this was the one that consistently led to the least waste because it was most preferred by the children.

Since this is also the least expensive lunch, it is too bad that it is not used at least in combination with one of the other systems. Instead soup-and-sandwich kitchens are being systematically replaced with meal pack systems.

COOKING CAFETERIAS

This is by far the best system in operation, with fresh food prepared in fully equipped kitchens. Among the more memorable entrees eaten in such kitchens were crisp oven-baked chicken, roasted fresh ham, chili, sloppy joes, meat loaves, Italian-style meat sauces, and corned beef and cabbage on St. Patrick's Day.

Some fresh vegetables are used, although most are canned, but even those are especially well handled by cooks who take pride in the meal they turn out. The vegetables are usually well drained and tossed with butter or margarine. They are altogether superior to their frozen counterparts in bulk convenience kitchens.

SOME FLEXIBILITY

Rice and potatoes are freshly cooked, but most of the potatoes are frozen or dehydrated, and convenience items such as breaded fish portions are, again, carefully handled.

With this system, it is possible to give larger portions or seconds of individual items to older children. Best of all, perhaps, is the appetizing smell of food in these kitchens when the children come in to lunch and the warmth and friendliness of staff members who encouraged them to eat.

In three dozen cooking cafeterias visited, only four turned out genuinely poor cooking.

While the waste observed in cooking cafeterias was far less than in meal-pack lunches, there was still far too much, mostly because of vegetables that were thrown away, and one still has to work around the unpredictability of children's tastes. One group of junior high school students in District 1 on the Lower East side ate almost every shred of the excellent freshly made cole slaw. Another group, in a Newark high school, left every shred of equally good and equally fresh cole slaw.

BULK FROZEN CONVENIENCE

This system, followed only in junior and senior high schools, uses precooked frozen foods. The kitchens have convection ovens for heating, conveyor belts for arranging trays and no conventional ranges or ovens.

Fried chicken that is at once dry but greasy; curled-up, dry hamburgers; gray, soggy fish portions, and metallic-tasting meatballs are among the standard hot entrees. A cold sandwich is almost always available as an alternative.

At the handsome new Martin Luther King Jr. High School at 66th Street and Amsterdam Avenue, a luncheon entree billed as a meatball hero was a thin, gray, oval slice of meat loaf, about as appetizing as the worn out sole of a shoe, which it resembled.

MEAL PACKS

As far as this observer is concerned, this system is the worst in operation, allowing for even less flexibility than bulk convenience. Foil trays hold fully cooked and frozen protein and vegetable entrees that are heated in convection ovens especially fitted for the trays. The result is a serving that looks like the dreariest, tiniest of airline meals.

The standards items are tough, sodden hamburgers that are pasty with vegetable protein and usually bitingly salty; limply breaded fried chicken; gray, pulpy fish; damp grilled cheese sandwiches; sour, sticky pizza, usually on thick soda cracker bases, and salty hot dogs, often tinged with a gray-green pallor.

Fruit, dessert, bread and milk supplied by the bureau are often the only part of the lunch the children eat.

Even more important than taste, perhaps, is the question of nutrition. At the time the Levitt audit was being made, the bureau of school lunches was purchasing meal packs from National Portion Control, Intercontinental Foods Industries, Mass Feeding and Morton's.

All concerned at the bureau swore by these suppliers in interviews, but since many of the protein portions seemed much below the two-ounce-recommended minimum requirement, I sent some of the meal packs to an independent laboratory to be weighed.

The Morton's samples' protein portions weighed 1.6, 2.0, 2.1 and 2.3 ounces, while Mass Feedings were 0.7, 1.6, 2.0 and 2.3 ounces (the 0.7-ounce one being a tiny fried chicken wing).

The Intercontinental packs had protein portions that weighed 1.2, 1.8, 2.0 and 2.3 ounces.

National Portion Control and Intercontinental were later dropped as suppliers, but Mr. Jacobs of the lunch bureau said, "They were dropped strictly on a bidding basis. Their prices were higher than those we selected."

Mass Feeding and Morton's remained as suppliers, and in the last school year, Larry's Inc., was added, and upon seeing a few of its meals, I sent one seemingly inadequate sample to the same laboratory. Tests found that it contained only 1.7 ounces of protein.

This year Larry's has been dropped. Also this year, I saw some Mass Feeding packs that looked inadequate in protein, but I was unable to have them tested: District supervisors said that it was against regulations to take them off the premises.

The Levitt study examined the nutritive values of the food and reported failures of many lunches to contain the recommended daily requirement of one-third of the youngsters' needs. National Portion Control and Intercontinental did not meet the basic requirements for 6 out of the 12 nutrients in 17 out of 47 meals, the Levitt audit said, and Morton's at times lacked sufficient iron or phosphorus. Reports were not included on Mass Feeding.

FINDINGS CORROBORATED

If these packs often are short in nutrients and in protein weight, they are almost always unappetizing. The instant mashed potatoes are caked into the compartments like library paste, carrots are waterlogged, shriveled peas are often burned black, the corn kernels are almost empty, the string beans are brownish and the baked beans are mushy.

All of this corroborates the Levitt audit's contention that the lunch bureau's inspection methods leave much to be desired, and when the report was released last week, the Board of Education said it agreed with the findings.

However, during the three years that I have been doing his research, everyone questioned in the lunch bureau insisted that inspection was adequate. It must be noted that inspection of meal packs is especially difficult, because each pack is sealed with foil for proper heating.

Only inspection of every pack as it is opened by the children would assure adequate portions. Never did I see a lunchroom attendant return a meal pack because of small portions or because the food was burned or cold.

Meal packs accounted for the greatest waste, and at one elementary school in the Williamsburg section of Brooklyn, I counted 40 children in a row who dropped unopened packs into the garbage can even though they contained hamburgers, a normally popular item.

LUNCH FROM HOME

Reasons this occurred must include the possibility that some children brought lunch from home even though they took the free lunch, that they had had bad experiences with meal packs in the past and assumed they were all alike, and that they were just shy, frightened and rushed and needed encouragement to taste the food and give it a chance.

It has been found in interviews with children, parents, supervisors and lunchroom attendants that meal packs meet with great acceptance within the first eight weeks of their introduction, but that they then begin to decline in favor. This is perhaps due to the sameness in menu and flavor that they present.

Another drawback to the meal-pack system is that the same size lunch is served to children of every age, from the tiniest first-grader to the biggest fifth-grader.

INFLEXIBLE FORMAT

And the meal packs and the bulk convenience kitchens share this shortcoming: Once the kitchens are stripped of all conventional equipment to accommodate the heating of prepared frozen foods, an inflexible format takes hold and the schools cannot take advantage of lower prices for fresh foods and seasonal bargains. They are at the mercy of the convenience-food processors.

There are opponents to this within the school establishment. Richard Reed, chief of the New York State Education Department's bureau of school foods, said of meal packs:

"They may make good stopgaps until complete kitchens are installed, but they are certainly no permanent satisfactory answer."

Others concur with Mr. Reed, including one of Mr. Jacobs's most valuable deputies in the school lunch bureau, who said, asking to remain anonymous:

"There is no room for profit-making companies in a public school lunch system. We could give the kids more and better food if we cooked it ourselves."

But Mr. Jacobs remains the school pack's greatest booster, swearing by it and the bulk convenience method, and new schools in New York City are being equipped only for these systems and in older schools as old-style equipment wears out it is replaced with convenience facilities.

"Frankly and honestly," Mr. Jacobs said last week, "this bureau is committed to convenience food lunches, both in the form of meal packs for elementary schools and bulk frozen for high schools. We feel it is less expensive than food prepared at local labor costs, the food is more sanitary, and we can get the processors to adjust their products to our specifications."

And so, the more than half of the city's more than one million schoolchildren who get their lunches in this program will be eating more and more frozen convenience foods. Those in the remaining half-million or so will do as they have done before: go home for lunch or bring it with them to school.

Observations of the latter group yield results as discouraging as those cited above. Instead of finding the nutritious, high-protein selections that one might expect, 8 out of every 10 brown-bag lunches that I have seen appear to be even more deficient than the school lunch. They feature jelly sandwiches, cookies, candy, pretzels, potato chips and, instead of milk, soda.

School Lunch Utopia: No Impossible Dream

School food does not have to be bad. As hard as that may be to believe, considering the food served in most New York City schools, there is a good deal of encouraging evidence to the contrary. Many schools throughout the country achieve more than minimum standards of palatability, all on limited budgets and within the requirements of the United States Department of Agriculture.

Based on a study of lunches in 150 schools in five cities, the key to success appears to be the amount of preparation done in the school kitchen. The formula, at its simplest, is the more the better.

If there is a school-lunch paradise, it is Milwaukee, and the lively, energetic perfectionist who is the director of that program, Thomas J. Farley, has won a number of prestigious food service awards.

Boasting a 70 percent participation out of an 105,000 enrollment, with 22,000 free lunches, Mr. Farley prepares meals from scratch in almost every school, baking everything on the premises, including hamburger rolls, and transporting hot cooked food to the few schools that have no kitchens. He does all of that at what he says is the lowest priced lunch in any major city in the United States, a figure he compiles each year by requesting prices from 50 large cities.

Elementary students pay 30 cents, while high schools charge 35 cents per lunch. The program is self-supporting and receive no municipal funds to supplement Federal and state subsidies.

Every school in Milwaukee offers the same lunch on a given day and unlike the New York high schools, no additional foods are sold à la carte nor are students permitted off the premises for lunch.

Leafy green salads with a choice of dressings, delicately seasoned Swedish meat balls, convincing lasagne and crisp golden grilled cheese sandwiches are among the understandable favorites.

Asked how he could produce such good food at such low prices, Mr. Farley gave several reasons.

"For one thing, remember you get better food," he said. "Why that meal pack stuff could gag a maggot. Since we prepare the same meal for all schools we get better bulk prices, have less waste, and pay lower delivery charges since wholesalers do not have to figure out which schools get what.

"And, of course," he continued, "it's just plain cheaper to do your own cooking than to have someone else do it for you. Our labor costs are about 30 percent lower than New York's, but even more important, we do not pay a differentiated wage scale. We can rotate kitchen workers so they learn all jobs and become well-trained."

CHOOSE MENUS

If Milwaukee food personnel hear few gripes it is mainly because two students from each of 33 high schools meet seven times a year with Mr. Farley to relay student complaints and suggestions, decide on new menus, and try out new recipes and products. Having had a voice in the menu planning through their representatives students do not resent menus imposed on them by adults.

When asked if the lack of choice might not be a shortcoming, Mr. Farley explained: "Remember, our students make a choice when they choose their menus. Choice on a cafeteria line is bunk. You could have two or even three choices a day and there would still be some kids who didn't like anything available."

But I would have to have the same commitment from the Board of Education in New York as I got in Milwaukee. That is to install cooking kitchens in new schools and add then to existing buildings. Ours here is a 20-year plan.

"It would cost more, but could still be done within Federal, state and municipal allowances. Not that I would want to have that job, of course. It's possible that there's just no way to be right in New York."

Like Milwaukee, New Orleans also cooks the same lunch from scratch, for all schools in the city each day. Every midmorning, students in classrooms are blissfully distracted from studies by the sweet smell of freshly baked rolls being taken from the oven. Entrees such as red beans and rice, chili, Italian specialties and even shark are seasoned to suit the spice-loving New Orleans palate.

SUCCESSFUL AND SIMILAR

Chicago and Newark, both of which utilize the same four lunch systems as New York, have the same record of success and failure—good lunches when cooked on the premises, mediocre to poor lunches when comprised of metal packs and bulk convenience choices.

New York does a much better job than either, however, with the basic soup and sandwich lunch.

As a group, some of the best lunches in New York were those cooked—from the basics up—in District 1 on the Lower East Side. Three years ago, the local school board chose to administer its own lunch program.

Throwing out all meal packs, bulk convenience and basic lunches at the demands mostly of parents, the local board hired its own personnel, developed its own sources for food, and planned its menus, taking advantage of all Federal and state subsidies and donated commodities.

Nine old schools with no kitchens received meals from cooking kitchens in heated conveyors just before lunch. Much fresh food is used, supplemented with about the same range of convenience items used in cooking kitchens operated by the city's school lunch bureau.

So satisfied are the parents in this district, that they voiced strong opposition when the recently completed Public School 142 was equipped only for bulk convenience foods.

When the District 1 board threatened not to open the school until a cooking kitchen was installed, a range and venting system were added.

But the single best group of school lunches sampled in New York were those served at yeshivas, under the Board of Jewish Education. Since these schools qualify for all subsidies and donated commodities, they must meet government standards. In addition, because their food must be kosher, and such convenience items are either not available or extremely expensive, they are practically required to do all cooking from scratch.

Even considering the advantage these schools have by catering to a homogeneous group with the same eating habits, and not having to meet union wage scales, they do an extraordinary job of turning out delicious food.

Beautiful vegetable and bean soups, cold beet borscht, elaborate, crisp salads, vegetable chow mein, and pizza made with donated flour are among the dairy specialties.

Meat kitchens add expertly seasoned goulash, and convincing Italian meat balls and sauce, or inventive entrees such as crisply breaded schnitzels cut from turkey roll. And the cakes and cookies could compete with those at quality neighborhood bakeries.

FOODS CHILDREN LOVE

It is not really difficult to figure out what children like to eat. In any city, among children of all ages and backgrounds, there is almost total agreement on favorites. It is a tribute to the Italian kitchen that its specialties, such as pizza, meat balls, meat sauce, spaghetti, lasagne and ravioli make up a sort of gastronomic Esperanto, understood by all palates.

Fried chicken, peanut butter (abhorred by parents, adored by children), hamburgers, and, to a slightly lesser degree, chili, hot dogs, tuna fish, grilled cheese sandwiches and fried fish round out the list. The only vegetables eaten consistently were potatoes—french fried, puffs or chips—carrot sticks and buttered corn kernels. Children who like other vegetables are regarded as the lunatic fringe by their peers.

Most children love sandwiches, often making them out of such unlikely candidates as spaghetti and pizza, and they also seem to relish oranges, bananas and canned fruits. Milk is sometimes a favorite—far more popular when chocolate flavored. As much as one might deplore the intake of sugar and artificial chocolate flavoring, it seems worth that risk to be sure children will get the calcium, protein and vitamins in the milk.

While it might seem simple to plan menus with the favorite choices, to do so would incur the wrath of many parent, consumer and nutrition groups who feel the school lunch should extend eating experiences. But without adequate classroom introduction to new foods and nutrition, and given the limitations of time and the lack of teacher supervision, it would seem preferable to give children favorite foods that they will eat instead of insisting on choices they will throw away.

Other concerns with the lunch program should include the drabness of lunchrooms in the new buildings and their sterility in newer ones, and the fact that children are not taught to pick up things dropped on the floor. In addition, there should be concern over the combined residual effects of the additives in the vast amounts of convenience foods served and which educate young palates to accept those foods when they are adult.

Certainly one of the more serious shortcomings is the lack of teacher supervision in lunchrooms. The innovative educator, Herbert Kohl, said in an interview, "The teacher's place is in the lunchroom . . . Albert Shanker will hate me for saying this, but it's true. All sorts of things can be taught to kids through food ... As organized now, the lunch period is the most wasted educational opportunity in the school day."

WAGE INCREASES SHOULD BE RELATED TO PRODUCTIVITY IMPROVEMENTS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McCLORY. Mr. Speaker, the U.S. Bureau of Labor Statistics has called attention recently to the relative wage scales in the United States for manufacturing production workers in contrast to those of the other major industrial nations. The figures disclose that the gap between the hourly wages of American industrial workers has narrowed in recent years—and, indeed, American workers receive lower wages per hour than their counterparts in Belgium and Sweden.

Mr. Speaker, the wage rates reveal only part of the story. Indeed, our Nation has been able to compete successfully with other industrial nations in the past, notwithstanding the high level of compensation in this country. However, as I pointed out recently in a statement included in the Extensions of Remarks on Wednesday, May 26, productivity among American workers is not keeping pace with the wage rates.

Mr. Speaker, I should emphasize here that I am in strong support of increased compensation for all American workers. This compensation is needed and is fully justified—where production levels are maintained or increased commensurately.

However, it is clear that we cannot expect to compete successfully in the marketplace if our wage rates go up and our productivity fails to keep pace—or drops.

An editorial which appeared in the Wednesday, May 26 issue of the Washington Post focuses attention on what has been occurring in the wage levels of manufacturing production workers in the industrialized nations—and the challenge which faces American industry and particularly the American working men and women in maintaining the high standard of living from which all of our citizens benefit.

Mr. Speaker, I am attaching the Washington Post editorial for further clarification and exposition of this subject:

WAGES HERE AND ABROAD

Americans are still accustomed to thinking that they earn by far the highest wages in the world, supporting the world's highest standard of living. But the reality is that wages and living standards in northern Europe have now generally drawn even with this country's. The trend has been toward convergence for many years, and the average industrial worker in a couple of the smaller countries now makes more than his American counterpart.

The figures are worth careful consideration, for they illustrate the truth that the rest of the industrial world is growing rapidly richer in relation to the United States. That, in turn, helps explain why the American national economy no longer works the way it used to. As the economies of North America, Western Europe and Japan become more similar, they are becoming more dependent upon each others' markets. That costs each government some considerable measure of political control over its own national economy. From World War II up through the 1960s, American economic policy assumed, for the most part correctly, that the rest of the world had only a marginal effect on the way things worked here. But the lesson of the 1970s is that the great questions of inflation and unemployment are increasingly answered by international influences that no one government commands. It is not a welcome idea, or an easy one for candidates to discuss in an election year.

The converging trend has greatly accelerated in the past several years—years which have apparently constitued, in terms not yet fully understood, a turning point in modern economic history. The pattern can be most succinctly described by the following brief table. The numbers are the average hourly wages, in U.S. dollars, for manufacturing production workers in each of nine countries.

	1965	1970	1974	1975
United States	$3.15	$4.20	$5.66	$6.22
Canada	2.29	3.46	5.50	6.20
Japan	.48	.99	2.70	3.10
Belgium	1.32	2.08	5.10	6.46
France	1.19	1.74	3.41	4.57
West Germany	1.41	2.32	5.31	6.19
Italy	1.10	1.75	3.48	4.52
Sweden	1.86	2.93	5.48	7.12
Britain	1.13	1.48	2.61	3.20

These wages include fringe benefits, and they are translated into dollars at the commercial exchange rates. The rise in wages abroad reflects not only higher pay in those countries' own currencies, but the declining exchange rate of the dollar as well. The source is the U.S. Bureau of Labor Statistics, which has also broken these figures down by industry. In Europe, it appears, wages vary much less from one industry to another than they do in this country. To take a high-wage industry, automobile manufacturing, the average production worker's wage in this country last summer was $9.29, a good deal more than Germany's $7.94 or Sweden's $7.25. But the reverse is true in the low-wage industries. In textiles, the average American production worker made $4.09 while his counterpart in Germany made $5.10 and in Sweden $6.31.

One institution that watches these figures with unblinking attention. Citibank of New York, observes in its Monthly Economic Letter that the convergence of wages is making the United States increasingly attractive to foreign companies looking for plants sites. In the 1950s and 1960s, it was American manufacturers who built plants overseas. European companies rarely tried to go into production here because of the enormous wage differentials between their countries and ours. But that's rapidly changing. One notable example is the Volvo plant now under construction at Chesapeake, Va., and another is Volkswagen's recent decision to build a plant in this country. Since those plants mean jobs, they suggest some of the practical benefits to Americans of the new prosperity abroad.

Productivity is output per man-hour, and in the seven years from 1967 to 1974 it rose 29 per cent in this country. It rose 35 per cent in Canada, and anywhere from 43 to 80 per cent in the major European countries (except in Britain, where it was slightly lower than here). In Japan, it doubled. It used to be common wisdom that, if European productivity approached the American level, the rise would slow down to the American pace. But it doesn't seem to be working out that way. Having met what used to be known as the American challenge, several European countries may well keep up a faster rate of improvement than the United States has shown for quite a long time. It is worth remembering that, as the rich economies get richer, they are also getting more competitive.

"WE WILL NEVER ABANDON ISRAEL"

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues Secretary Kissinger's speech given before the American Jewish Congress National Biennial Convention on April 4, 1976. Secretary Kissinger is to be praised for his commitment to Israel and his impartial and realistic approach as to what Israel must sacrifice in order to maintain its democratic foundation.

In his speech Secretary Kissinger asserts a humane and moralistic philosophy of what must be done to attain a Middle East resolution. One of his theories deserve special emphasis since it applies not only to the Middle East crisis but to any turbulency between men or sovereigns that demands peaceful settlement—"The ultimate safety of every minority, of every oppressed people, lies in a world where respect for human dignity governs the affairs of nations." Israel is now struggling for the preservation of that human dignity and it is this, Mr. Speaker, which makes Israel's fight legitimate.

Herewith, I submit "We Will Never Abandon Israel":

"We Will Never Abandon Israel"

(An Address by Henry A. Kissinger, Secretary of State, to the American Jewish Congress National Biennial Convention, Washington, D.C., April 4, 1976)

RABBI ARTHUR HERTZBERG

Mr. Chairman, Mr. Secretary, distinguished friends on the dais and in the room, ladies and gentlemen of the Convention. It is, a memorable moment that our 60th anniversary Convention, being given here in the City of Washington, should be closed with an address by the Secretary of State.

I would like to tell the Secretary of State something about ourselves. The American Jewish Congress is quite a unique organization. We were born in controversy—indeed, in foreign policy controversy—back in 1916 when the Jews of the United States were divided over what their policy should be towards the peace that would come after the Great War. Should they ask for group rights as a Jewish minority or individual rights as Jewish citizens? Should they demand a national Jewish home in Palestine?

The American Jewish Congress was reborn in the 1930's again in the midst of foreign policy controversy. There were those in the American Jewish community who wanted to semi-ignore Hitler, in the hope that he would go away. And the great Stephen Wise, as president of the Congress, took the attitude that Nazism had to be fought openly with every means at our disposal.

Just as we fought from our earliest beginnings for a Jewish state, so has the American Jewish Congress also been involved, from its very inception, in the domestic controversies of our country: in the struggle for racial justice and separation of church and state, for full employment and equal opportunity, for the fulfillment of the dream of full equality in a free society for all Americans.

And so, in the midst of an ongoing concern and in deep debate about issues domestic and foreign, it is absolutely fitting that a Secretary of State, one whose policies are so much the subject of national debate, should be here to speak to us. I am no expert on foreign policy and don't pretend to be, but there is something we in the American Jewish Congress do know something about, collectively: we are informed about and care about Israel.

There are two approaches to the Middle East. One is confrontation; the other is to try patiently to defuse and relieve tensions, to reduce hostility and to bring the sides closer togeteher. The basic perception of the Secretary of State as we understand it is that de-escalation of tension and of hatred—not confrontation—is the difficult but only road to peace.

We have asked you to speak to us, Mr. Secretary, because we too crave peace and believe that if a peace is achieved in our time it will more likely come to be through patient negotiation and de-escalation of tension than through confrontation and sabre-rattling. We do not promise that we will not disagree with you, as we disagree with others. But we share your basic commitment to peace and appreciate your endless and tireless pursuit of this elusive but precious goal. And in that spirit, Mr. Secretary, in a moment or two, when Henry Rosovsky takes back the chair and has said what I know he has to say, we are going to give you two things: a Jerusalem Bible, the only Hebrew Bible ever printed in the holy city of Jerusalem; and a scroll, which Dr. Rosovsky will read to you at the end of his remarks.

May I say, as the president of the American Jewish Congress, that we are deeply honored by your presence in our midst at this closing session of our bicentennial convention in this, our nation's capital.

DR. HENRY ROSOVSKY

It is no longer possible to give Secretary Kissinger an introduction in the ordinary sense of that term. The events of his life are well known to all of us. His accomplishments and honors are a matter of historical record. All I can do, therefore, is to attempt to make him feel welcome at this Convention of the American Jewish Congress, welcome in the name of our organization and also very personally.

I first met Secretary Kissinger thirty years ago—in 1946 in Oberammergau, Germany, at the European Theater Intelligence School. He had been a soldier and was now teaching German history. I was a soldier in the Army of Occupation and a student at the school, in one of his classes. We were both Hitler refugees, very young and very new Americans. Thirty years have passed, and our paths have crossed many times since then. But I allude to this common experience because I believe that it contributed to a bond of deep sympathy.

These days it is frequently suggested that Secretary Kissinger is a pessimist about the future of this country and the future of the democratic West. I do not think that he is a pessimist, but I have no difficulty in understanding his deep sense of unease when—as occasionally must happen—his thoughts go back to the spirit of this country when we were both newcomers, or when he contemplates the state of mind and the state of politics in the few democracies that remain.

My personal memory includes all the Secretaries of State since Cordell Hull. None have faced greater obstacles and none have performed the duties of the office with greater success, dedication, or intelligence, At this moment in our history, when all values are questioned; when "nothing sacred" has almost become our national motto; when public scrutiny of all affairs of state may be our highest form of political art; when our country is still reeling from the effects of the Vietnam War—a conflict that will undoubtedly rank with the Civil War in importance when history is written a hundred years from now—one sometimes wonders how it is possible to be Secretary of State at all! And yet, every time the experts on *Schadenfreude* (malicious joy) have set the latest trap and predicted certain doom, there is a new achievement—usually set against the backdrop of very long odds. May these achievements continue.

Mr. Secretary—I am tempted to say "friend Henry," though this might be considered inappropriate—we are at a Jewish convention with a largely Jewish audience, and a word or two about that is also in order. We all know that your relations with the Jewish community have sometimes been difficult, and this would have been true of anyone occupying your high office. (You will have to admit that we are not alone in giving you periodic headaches!) The American Jewish community is the largest in the world, and in some ways the most influential. We—together with Israel and the Jews of the Soviet Union, and some other small communities—are the remnants of the Holocaust. The American national interest is our own, as we have demonstrated many times. But the fate of our brethren throughout the world is crucial to everyone of us.

That is the meaning of "We are one." We do not intend that slogan to be narrowly interpreted. We are one, not only for ourselves. Our communities, and especially this organization, have stood against injustice and oppression everywhere. But we also stand for ourselves, for our remarkable though tragic past, for the concerned present, and for a peaceful and productive future.

Mr. Secretary: I know that you are one of us, and I also know that when the history of this country and the chronicle of the Jews of this era are written, you will be honored in both.

I am therefore honored to present to you this Jerusalem Bible and this scroll, which I read to you now:

AMERICAN JEWISH CONGRESS,
Washington, D.C., April 4, 1976.

To HENRY A. KISSINGER,
Scholar, Historian, Diplomat,
U.S. Secretary of State:

Who dares to dream that men and nations, despite their ideological differences, will find a way to live together in peace. Toward the realization of that dream, we offer you our prayers and our hopes so that, in the words of the Psalmist, mercy and truth may meet together and righteous and peace embrace.

RABBI ARTHUR HERTZBERG,
President,
American Jewish Congress.
HENRY ROSOVSKY,
Chairman,
Commission on Int. Affairs.

Ladies and Gentlemen: I have the honor to present to you the Secretary of State of the United States of America.

HENRY A. KISSINGER

Rabbi Hertzberg, Dean Rosovsky, Mr. Wilkins, distinguished guests, friends:

I am honored by this citation and by the very moving words you have spoken. I would like to extend to Rabbi Hertzberg my congratulations on his re-election as president of the American Jewish Congress. He and I have worked together through many difficult times in the cause of the great goals we all share. His moral strength and wisdom are in the great tradition of Jewish spiritual and community leadership and now that he is safely re-elected I can say that I consider him a friend.

I am grateful also for the remarks of my old friend Henry Rosovsky, who has maintained his humanity in the inhuman job of Dean of the Harvard faculty and his perspective during many turbulent periods. He and I share similar life experiences which impose upon us, both of us, certain perceptions and moral obligations. His words mean a lot to me.

And I am honored to share the platform with Roy Wilkins, a great American. His life long devotion to the cause of civil rights, and indeed, the partnership between the Jewish and Black communities symbolized by this occasion have a special place in the history of this democracy. America's traditional ideal of brotherhood and opportunity is becoming a reality because men like Roy Wilkins have fought for it.

Now I have wondered what I should say to this group about our foreign policy. Rabbi Hertzberg has delicately referred to some occasional disagreements usually directed, if I understand them, not at things I have done but of things I am suspected of planning. And I realize also that there is a peculiar difficulty of conducting foreign policy vis-a-vis a country of three million people and six million opinions. So let me talk a bit about some of the basic assumptions of our foreign policy and how in my view, they relate to the problems of the Middle East and the future of Israel.

The greatness of America has been not so much its physical strength as its moral significance. Since its birth this nation has stood for something larger than itself. Americans have always had a sense of moral mission; we have been inspired by the knowledge that we were champions of liberty and of progress for all mankind. We have been a refuge for those fleeing persecution, for the defense of democracy, a feeder of the hungry and a solace to the suffering. Today we bear a central responsibility for maintaining peace and shaping a global structure which can help realize mankind's dream of an end to conflict and hatred.

These are the qualities and responsibilities and hopes which tie America to Israel. No people knows more vividly than the Jewish people that morality must be more than a theory—it must be a quality of human conduct. No people yearns more for tranquillity than those who historically have been the first victims of its loss. And no people perceives more acutely that peace depends ultimately not on political arrangements but on the conscience of mankind.

History is often cruel, but the wisest are those who know that fate can be shaped by human faith and human courage. The true realists are those who recognize that all great achievements were a dream before they became a reality. These are the qualities that have enabled the Jewish people to survive their tragedies. These are the qualities that brought about the state of Israel. These are the qualities that guarantee the future of the people of Israel. And these are the qualities which people and nations everywhere must possess if they are to be free.

The moral basis of foreign policy

History challenges us among the world's ambiguities to shape events by our own purposes and ideals. If democratic societies like America and Israel are to prosper, we must summon the unity and resolve to be masters of our future on the basis of our values.

The decisions that must be made are always difficult—for foreign policy deals with the interaction of sovereign states. No county, no matter how strong, can impose its will on the world. Today, in a world of thermonuclear weapons, diffusion of power and growing interdependence, foreign policy is more than ever an enterprise of incomplete and imperfect solutions. Tension is unavoidable between moral values, which are invariably cast in absolute terms, and efforts to achieve them, which of necessity involve compromise.

This accounts for much of the foreign policy debate in democratic societies, in America and in Israel, which to some extent is a rebellion against the contemporary reality. In all democratic societies the temptation is great to deny the circumstances of the world in which we live and to blame them on individuals, to confuse optimism with the shallow projection of the desirable.

But we cannot escape conditions around us. Morality without pragmatism is empty, just as pragmatism without moral direction is like a rudderless ship. The true optimists are not those who make facile predictions but those who are prepared to face complexity and who have the faith that their people can master it by dedication and by vision.

If democracies like America and Israel are to survive and flourish in a world of competing wills and sovereign states, they must stand firmly for their belief in human dignity; otherwise we will lose our bearings. There is no way to make these choices, and to navigate between the shoals of temptation and danger, without a strong inner moral conviction. But equally, we need a mature and hard-headed understanding of the difficult choices that must be made, lest we substitute wishful thinking for the requirements of survival.

For Americans, foreign policy has always been more than the search for stability. Americans have always needed a vision of a world of justice that drives all our efforts. A purely pragmatic policy would be empty of humanity; it would lack direction, and roots, and heart.

But equally if policy becomes excessively moralistic, it can turn quixotic or dangerous. Our responsibility to conduct a moral, far-sighted and realistic policy has grown in recent years. In a world made smaller by technology and communications, events anywhere are instantly known and have effects in distant places. Never before have the destinies of nations been more interwined—not only practically but morally.

We have a stake in a peaceful world and an environment where man's aspirations for justice and liberty and dignity have the greatest chance of fullfillment. The ultimate safety of every minority, of every oppressed people, lies in a world where respect for human dignity governs the affairs of nations. Peace can be said to exist only when the insecurity of nations is eased, the hope of people for economic advance is fulfilled, international habits of restraint and conciliation are nurtured, and men experience at last the blessings of a world of justice and progress.

Peace in the Middle East

I have spoken at some length about the moral foundation of our foreign policy to this group which is so concerned and serious about the survival of Israel, because Israel cannot survive in isolation from the general context of our foreign policy and the general security and progress of the world at large and because the relationship between America and Israel depends ultimately not on formal assurances but on the links of our people and the reality of our values.

The survival and security of Israel are unequivocal and permanent moral commitments of the United States. Israel is a loyal friend and a fellow democracy, whose very existence represents the commitment of all free peoples. The moral strength of the people of Israel, which has so often meant the margin of victory in war, gives us the confidence that Israel will also win the peace. No people has earned it more.

Time and events have brought us to a threshold in Middle East history—an unprecedented opportunity to realize the peace of which we all have dreamed; a peace in the interest of all the people of a region that has experienced enough anguish for this and future generations.

Israel, having proven by its own courage that it is here to stay, has taken equally courageous steps towards a peaceful resolution of the conflict.

Some of her Arab neighbors, for the first time, are now speaking openly and wisely of making peace and ending generations of conflict.

The United States has demonstrated to both sides its commitment to continue to promote a just and enduring solution.

The relationship among the major outside powers, if conducted with reason and firmness, can create a global environment of restraint that will enhance security and the possibilities of peaceful settlement in the Middle East.

Israel obviously faces profound problems—not the least of which is that in any negotiation with her neighbors, she will be asked to yield the physical buffers of territory in exchange for pledges which are inherently intangible. The process of peace inevitably presents Israel with many anguishing decisions—and the pain is shared by all of us who are friends of Israel and who are dedicated to further progress toward peace. Throughout this process we in the U.S. owe Israel our compassion and our support.

The risks and obstacles are many. Steps taken must be carefully thought out and realistic. But we must move together, with courage and with a vision of how reality can be shaped by an idea of peace. And we must not paralyze ourselves by a suspiciousness that deprives our relationship of dignity and our cooperation of significance.

The United States will help keep Israel strong—to ensure that peace is seen clearly to be the only feasible course. We will never abandon Israel—either by failing to provide crucial assistance, or by misconceived or separate negotiations, or by irresolution when challenged to meet our own responsibility to maintain the global balance of power.

We will never forget that America's responsibility for peace includes, above all, responsibility for the fate of smaller nations that rely upon us as the ultimate defender of their survival and freedom and that Israel's fate is inseparable from the future of human dignity. America will not abandon a friend because to do so in one part of the world would shake confidence in every part of the world. There will be no American weakness or abdication, for this can only tempt adversaries, confuse allies, and undermine security in the world, ultimately to the grave peril of our country.

Moral ideals and practical interest thus come together. Peace in the Middle East is a goal shared by Americans and by Israelis alike. The road towards it will be a common one. And as we pursue the course of peace, our guarantees rest not so much in any formal agreements or reassurances endlessly repeated but in the deeper ties of emotion and morality, history and principle, that can never be sundered.

The dream of peace is the dream of the prophet Isaiah—that "nation shall not lift up sword against nation, neither shall they learn war anymore." It is the benediction of Leviticus—that "the Lord lift up his countenance upon thee and grant thee peace." This peace, this dream is both an inspiration and a duty. And those who strive for it know both the pain and the exhilaration of man's noblest endeavor.

The United States and Israel will have the courage and the faith to seek this dream and to fulfill it.

CAREY CRONAN ON WASHINGTON—A DIFFERENT VIEW

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McKINNEY. Mr. Speaker, for more than a quarter of a century, the national correspondent for the Bridgeport Post-Telegram, Carey Cronan, has been an astute observer and reporter on the Washington scene. In a recent column, he reflected on the "anti-Washington" fever which seems to have infected so many of this year's political candidates. His perspective on the City of the Potomac is a view somewhat different from what we have been hearing and perhaps, a little closer to that which can be described as commonsense. So as to share Mr. Cronan's observations with my colleagues, I would ask that his column be reprinted in the RECORD at this time:

RUN FOR POLITICAL OFFICE, GET ASKED A SILLY QUESTION

(By Carey Cronan)

WASHINGTON.—It is inevitable in any election year for any office that silly questions will be asked just as silly speeches will be made and embarrassing situations arise and blossom.

As Mr. Dooley said over 75 years ago: "What's this country comin' to, anyhow, that a man that's out f'r to be President has to set up on a high chair an' be questioned on his record be a lot iv laads that hasn't had anything to do since th' carpet-beatin' season's ended? . . . Ivry day a rayporther comes . . . with a list iv questions. 'What are ye'er views on th' issue iv eatin' custard pie with a sponge? . . . What is your opinion iv the hereafter . . . Where did you get that hat?"

But, of course, sometimes from silly questions often come serious answers and vice versa.

Take the question of Washington as a whipping boy. Nearly every candidate including the President himself harangues the populace with horrendous tales of the Potomac version of the Loch Ness monster tended by civil service Frankenstein creations that are sapping the commonweal. Yet every one of those candidates wants to become a resident of Washington and move into 1600 Pennsylvania Avenue N.W. as soon as possible.

There is no doubt that Washington is the last place in the U.S. to find out what the electorate thinks. The information is to be found on Main Street U.S.A. But Washington does have a lot of red tape, officiousness, arrogance, laziness, stupidity, and a morbid fascination with coffee breaks, 26 days' annual leave and the glories of retirement, while getting an extra job to boost the pension.

Washington can be disciplined and curtailed, the only vital aspect being that everyone has his own version of what should be cut. The defenders of a strong democracy would not touch the Pentagon and many who would slice the budget to the bone do not want the local highway or bridge projects eliminated. They do, however, want funds for summer jobs, community affairs, hospital and school construction to remain on the board for action.

As for Congress those are the people the voters send to Washington and they are supposed to represent the folks back home who want to eat their cake and have it too.

Washington can be streamlined but Main Street has to realize that if the economy program is to go into effect, federal orders to local industry will slow down, the housing industry will have to tighten its britches, the local beach will have to suffer additional erosion, the dam will not be built, funds for education will be limited and the shipyards will quiet down.

Perhaps the average voter has to realize more fully that Washington was created by the people themselves and if there is going to be a national economic diet it is going to be undertaken by everyone from sea to sea and maybe we'll only get our mail once a week.

ARE MEMBERS OF CONGRESS ACCOUNTABLE?

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. FRENZEL. Mr. Speaker, depending on whose poll you read, Congress scores a favorable rating from the American people of somewhere between 10 and 20 percent—hardly a ringing vote of confidence. The lack of trust is based both on legislative performance and on the Members' personal deportment. Three recent events have reduced that rating even further. A prominent TV show accused one Congressman of conflicts of interest. Then a national daily made charges of congressional cheating on travel expenses. Now a powerful committee chairman is accused of hiring a staff member solely to serve as his mistress.

No censures, or indictments, are in order until the completion of "due process"—timely resignations from key leadership posts by accused persons would help in the credibility department. But the unwillingness of House leaders to move swiftly on an investigation is frustrating and infuriating. Due process may never happen.

The Congress was a raging tiger in attacking the privilege and arrogance of the executive department. Its now a shrinking violet about looking into improprieties of members of its own club.

Beyond the merits of the individual cases lies a profound and *frightening* question: Are Members of Congress accountable to anyone, or to any standards, except at election time?

The three events should be catalysts to begin a thorough housecleaning. Try standards of conduct for openers. Add regular audits of expense reporting, and prohibition of nepotism. Throw in also some hiring standards, uniform salary schedules, and then supervise the whole congressional staff through the Civil Service Commission.

Last year new Members of the House bragged of their reforms. Sadly, those changes have proved to be largely cosmetic. Its easy to change the rules, but hard to make real improvements. To do so requires a commitment by Congress and its leadership which is obviously lacking today. A House that cannot be reformed is asking to be replaced.

Most Members of Congress do their jobs conscientiously and well. Yet these incidents reflect adversely on every Member, on those who control the Congress, and on the American people. A sense of public outrage stimulated the Watergate investigation, one of Congress finest hours. Will the same constituency which reelects Members of Congress with monotonous—90 percent—regularity muster the outrage to demand that the House clean up its own befouled nest?

COOKING THE OPTIONS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. McDONALD. Mr. Speaker, some of us have been less than impressed at the recent "shennanigans" as to whether Mr. Kissinger is coming or going as the Secretary of State. Indications are that he will both leave and be retained as Secretary of State should President Ford be the nominee and win the election. I, for one, am not in favor of his continuing as Secretary of State any longer than necessary. The damage he has done is beyond calculation. A very thoughful editorial on his performance in office recently appeared in the Wall Street Journal of March 15, 1976. I commend it to the attention of my colleagues:

COOKING THE OPTIONS

Secretary of State Kissinger is going public with a defense of his policies. With the genius that has served him so well inside the bureaucracy, he has now presented the American people with the following options paper:

Option A: Surrender.

Option B: Accept my policies and stop complaining.

Option C: Blow up the world.

These are the only options on the table because, the spokesman for "detente" tells us, his opponents offer only slogans. "What do those who speak so glibly about one-way streets or pre-emptive concessions propose concretely that this country do?"

1) Stop firing Secretaries of Defense who are performing well.

2) Stop telling James Reston you deplore the Ambassador to the United Nations.

3) Receive Alexander Solzhensitsyn at the White House if he's willing to forgive the last snub.

On a more forward looking note, as suggested by various of "those who speak so glibly":

4) Complain vigorously to the Soviets, and don't apologize for them to the American people, about activities that raise questions of compliance with the first strategic arms treaty—Elmo Zumwalt.

5) Start a program of mobile missiles to offset the growing Soviet strategic force—Paul Nitze.

6) Build a navy of 650 to 700 ships by the mid 1980s, instead of the 500 ships the President's budget suggests—Henry Jackson.

7) Develop the cruise missile vigorously instead of bargaining it away—Ronald Reagan.

For the sake of a 10-point program, we might add:

8) Don't go to Moscow for important negotiations in the midst of a Soviet-Cuban conquest of Angola.

9) Instead, openly interrupt the flow of American technology to the Soviet Union.

10) After getting your signals clear by doing all the above, take to the American people your case that congressional aid terminations, Pentagon budget cuts and assaults on the intelligence services make a good foreign policy impossible, and ask the people to change the Congress.

SUPPRESSION OF INNOVATION: EVEN ADMINISTRATION AND HEW COMPLAIN ABOUT FDA

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SYMMS. Mr. Speaker, during the course of my research into the FDA and the 1962 amendments to the Food and Drug Act, which my legislation addresses, I have been amazed about the criticism of the FDA which has come from its own people as well as criticism which has been directed at the agency by HEW panels and the President. With all these critical commentaries about the operation of the FDA, the drug lag caused by the unworkable 1962 amendments, and the tremendous economic and health losses inflicted upon the American consumer, I am amazed that regulatory reform has not been commenced prior to my legislation. What legislation has been introduced heretofore is in the nature of cosmetic reform, and also in the nature of augmenting the powers granted to the FDA. The recently passed Medical Devices Act now thrusts upon FDA many powers to regulate medical devices prior to marketing. I predict that throwing these additional powers at an agency which is already in a state of chaos, where professional employees engaged in spitball fights in the halls, whose own Bureau of Drugs Director has acknowledged that no one knew where documents were kept or which employee was responsible for what assignment until 12 years after the 1962 amendments, is going to bring about a medical device lag just as severe and just as harmful to Americans as the existing drug lag.

The Congress needs to be made aware of the internal problems of the FDA before it continues along the merry path of passing nice-sounding laws which delegate powers to an agency so fraught by problems that it is incapable of handling those powers.

Dr. Richard Crout, Director of the Bureau of Drugs, testified on April 19 before the HEW Panel on New Drug Regulation. What follow are comments he made during the course of his testimony:

> The administration of tho drug laws is not working properly. The battle to control chemicals properly and optimally has not been successful. I am not involved yet with all that is going on by any means. So I want to describe to you the agency as I saw it . . . My intent is to be very candid and to be fairly personal because, as I read the record and transcripts of your previous discussions with people experienced in drug regulation, I do not think you have been told things like I am going to tell you. And I think that you should know them.
>
> [After describing the problems caused by moves to different buildings which FDA made, reorganization of various bureaus within FDA and low morale of employees, Dr. Crout continued:] When I talked with M.D.s or pharmacologists about the NDA process at that time, they really were clearly interested in the loss of documents, the chaos, and the fact that managerial assignments were confused. No one liked this and people felt they were on the hook for work assignments that were never given them . . . There was a whole lot of trouble of that type . . . No one knew where anything was. There was an enormous documents room—I don't know whether you believe it or not, but this was a place where people said fights went on in a literal sense. There was absenteeism; there was open drunkenness by several employees, which went on for months; there was intimidation internally; and there was a great deal of what I would call feudalism in bureaucracy. . . . I can tell you that, in my first year at the FDA—even actually longer than that, 1972, 1973—going to certain kinds of meetings was an extraordinarily peculiar kind of exercise. People—I'm talking about Division directors and their staffs—would engage in a kind of behavior that invited insubordination; people tittered in the corners, *throwing spitballs*—now I'm describing physicians; people would slouch down in their chair and not respond to questions; and moan-and-groan, the sleeping gestures. This was a kind of behavior I have not seen in any other institution from a grown man.
>
> [Dr. Crout went on to describe the mixed results of efforts to improve the administrative operation of the FDA and allegations about influence from the drug industry which stemmed from the 1974 hearings before Senator Kennedy's Health Subcommittee. He then concluded:] Let me suggest quickly what our long-term problems are . . . FDA has a long-term problem with the recruitment of personnel, good scientific personnel. FDA staff is not strong in the same scientific sense that the staff of the NIH is. So, it is a fundamental societal concern as to whether, over the long term, FDA can operate solely with an in-house staff, or what the role of the advisory committees will be, *because I don't think we will ever solve the problem of a totally strong in-house staff*. [Emphasis added]

Mr. Speaker, and my colleagues, I cannot believe that the health of the American public and the need of consumers for newer and more effective drugs has, over the past 14 years, been blocked by such a group of bureaucrats as those described above by one of their own directors. I do not doubt that the 1962 amendments were conceived and passed by this body with every good intention of protecting the health of the American public. But intentions do not become reality when one assigns police powers over drugs to an agency beleaguered with internal strife. Intentions do not become reality when the subjective determination of drugs' "efficacy" is handed to an agency which suffers from a lack of qualified, scientific personnel. An agency which will probably never be able to upgrade the quality of its staff, according to one of its directors.

Other criticisms of the FDA's tendency to impede medical progress have been leveled. A prestigious group of doctors, academicians and scientists was gathered, pursuant to Public Law 93-352, to review and assess biomedical and behavioral research. Although the study was directed to a review of the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration, it is interesting to note the comments made by the various panelists about the Food and Drug Administration. These are contained in the Report of the President's Biomedical Research Panel which was issued on April 30, 1976. Among the report's pronouncements, we find the following:

> The FDA is constrained against a positive interest in drug development and at the same time cannot monitor utilization of approved drugs. New procedures for this function, and that of drug evaluation, require extensive collaborative review of the network of involved parties. Drug development has entailed escalating costs, increasing bureaucratic, and at time pseudoscientific, requirements, and increasing frustration for industry, the FDA, and clinical investigators. The system militates, for example, against a feasible technology using a small number of patients to study new entities at an early stage of development. Systems for rapid, relatively inexpensive, and safe answers to a drug's potential utility can be developed, but without policy change might not be utilized.
>
> The HEW, the FDA, and state and local regulations grow steadily in complexity, weighing heavily against the acquisition of useful new knowledge and applications to health. Their real utility and impact on therapeutic advances require assessment.
>
> Many feel that the American public is being denied new drugs currently available abroad because of excessive FDA requirements.
>
> There is a clear impasse arising between society's desire for new and better drugs and the barriers society is erecting to their development and introduction. These bar-

> riers, based on a valid desire to improve the standards of safety and efficacy and to assure ethnical control in clinical evaluations, increase developmental costs. There is a deal danger of bringing the development process and access to clinical resources to a halt.
>
> The FDA stands at a pivotal point in the process of technology transfer, with an extraordinary difficult and complex role, exposed to a steady crossfire of criticism and conflicting exhortations from the Congress, consumer groups, the media, industry, the academic science community and the Administration itself.
>
> At present, the FDA's most visible public function as a regulatory agency is concerned with protection of the public against hazard from new drugs, new food substitutes or additives, and new devices. The systems available for these functions seem to be effective enough, but they also seem to work ponderously and very slowly, requiring the existence of a huge, often unresponsive bureaucracy.
>
> Meanwhile, there is a different kind of hazard to public health, posed by the prolonged delays and great costs of developing new and potentially useful drugs which the FDA's own protective systems have imposed. In some respects, the agency has become a formidable roadblock.

In one section of the Report, Dr. Julius H. Comroe, Jr. discusses the lags between initial discovery and clinical application to cardiovascular plumonary medicine and surgery. At one point in this section he states:

> Conservatism of regulating bodies such as the Food and Drug Administration and committees or commissions on human investigation slow progress or block initiation of research.
>
> There is an obvious inconsistency between the insistence by some Congressmen and some branches of the Administration on "instant" clinical applications of new discoveries, and the Food and Drug Administration's regulations that insist on laboratory and clinical trails that may last for four to six years. One branch of government requires a "lag"; another wants to abolish it.
>
> Committees to approve or disapprove protocols for clinical investigation have introduced another barrier to prompt clinical trials. Consultants have noted that many life-saving drugs, sera and vaccines might never have been developed under present concern for "no risk".

These are moderate voices, indicating that an extremely serious problem exists and that action must be taken to remedy it. I call upon the Congress and the administration to take prompt action and move toward hearings and passage of the Medical Freedom of Choice Art. That this regulatory reform is badly needed, no one will disagree. In fact, the administration has called for this exact kind of regulatory reform and has taken no concrete steps to bring it about. The 1975 Economic Report of the President states the following:

> Governments . . . regulate product and input standards. For example, in the case of drugs the costs of regulation include not only the direct costs of testing (borne by the FDA and private drug manufacturers) but also its side effects: fewer new drugs and delays in the introduction of those drugs which ultimately get to the market. In 1962, Congress amended the Food, Drug and Cosmetic Act of 1938 to require that new drugs be proved effective as well as safe. Since then the rate of introduction of new drugs has fallen more than 50 percent and the average testing period has more than doubled. Moreover, it is not clear that the average efficiency of drugs introduced after 1962 is any higher than that of drugs previously introduced. One recent study estimates that the 1962 drug amendments cost consumers, on balance between $300 million and $400 million during 1970.

Let the Congress demonstrate that, where the administration has failed to follow through on regulatory reform, our legislative branch can and will follow through.

TRIBUTE TO JERRY R. LYMAN

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. ROUSSELOT. Mr. Speaker, today I would like to call to the attention of my colleagues the unique contribution that one of this city's citizens, and the radio station that he manages, have made to the cultural awareness and musical enlightenment of our Nation's Capital. The citizen is Jerry R. Lyman and the radic station is WGMS–AM/FM, owned and operated by RKO Radio.

Jerry Lyman and WGMS–AM/FM have an exemplary record of service to the arts and achievement in their industry. The station was founded in 1946 by three area businessmen who were convinced that classical music had a proven audience in the market. Originally named WQQW, it was always identified as Washington's "good music station," and in 1951, the call letters were changed to correspond with the slogan. WGMS was purchased by RKO General, Inc., in 1958 and, with the help of two full-time musicologists and an estimated 25,000 albums, they now offer the listeners in the Washington, D.C., area more "good music" than any other classical radio station in the country. Over the years, the station has pioneered a number of broadcasts, many of which are still on the air. For over 25 years, the weekly Sunday evening concerts at the National Gallery have been carried live on the station. For 18 years, WGMS carried the live broadcasts of the Library of Congress chamber music series. Nationally known critics such as Patrick Hayes and Paul Hume have broadcast musical and cultural commentaries for 25 and 19 years, respectively, and the Boston Symphony Orchestra broadcasts have been heard over the Nation's Good Music Station for 15 years.

Jerry Lyman, senior vice president of RKO Radio, was appointed general manager of WGMS in 1972 at a time when the station was operating at a loss and during a period when a decision was being contemplated to change the format on AM to rock music. However, due to public outcry and the leadership of the new, capable general manager, the station was able to retain its traditional classical format on the AM band, turn its losses into profits and begin a period of sustained growth and progress that has continued ever since. Today, WGMS, under the direction of Jerry Lyman, is the most successful classical format radio station in the United States.

The leadership of Jerry Lyman was perhaps most appreciated during 1975 when the station sustained a string of unending calamities. Beginning with a mishap that resulted in the loss of the station's broadcasting antenna, the year of misfortune also included the accidental destruction of an important phaser unit and a catastrophic fire that destroyed all of the station's offices and studios. In spite of these discouraging odds, Jerry Lyman, together with the committed and dedicated staff at WGMS, has succeeded in overcoming these setbacks and continues to produce a service that Washington, D.C. can be proud of and for which all Americans who esteem culture and the performing arts can be grateful.

Last March, Jerry Lyman and WGMS earned national recognition when the station received 1 of 27 coveted George Foster Peabody Awards that were given this year for meritorious service to broadcasting. Selected for recognition as a result of programs broadcast in 1975, WGMS won for "their combined overall efforts to provide outstanding radio entertainment . . ."

Not only is Jerry Lyman a successful broadcasting executive, he is also a devoted family man. He and his wife Judith are extremely active in civic, political, philanthropic, and cultural interests in the Washington area, and together they prodive an inspiring example of personal and professional achievement.

As we reflect upon the accomplishments of our country and its people during this Bicentennial Year, it is important that we measure the growth of our civilization not only through our advancement in science and technology but also through our cultural development. It is appropriate that we pay tribute to those citizens who are making a contribution to these endeavors. Jerry Lyman deserves our thanks and recognition for his serious and successful efforts to maintain a high degree of quality in public entertainment and provide continuous pursuit of our cultural attainments.

REFORM OF THE RAPE LAW AT THE FEDERAL LEVEL

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. MOAKLEY. Mr. Speaker, I rise today to share with my colleagues another in a series of letters I have received regarding my bill to reform the rape laws at the Federal level. The letter follows:

AURORA, ILL.,
April 7, 1976.

DEAR REPRESENTATIVE MOAKLEY: We applaud your efforts to bring about much needed reform to the country's rape laws. We are especially pleased with your substitution of "sexual assault" for rape and the non-sex specific language of the proposed legislation.

We would, however, like to suggest some changes in H.R. 11603 for your consideration.

In speaking to women's groups on the subject of rape, we have discovered that one of their biggest fears concerning reporting the crime is that a police officer will need to be present during the gynecological examination. Even if that officer is a woman, we feel that this is unnecessary and may serve as a deterrent to reporting.

One of the major factors influencing juries acquitting rapists is the harshness of the penalties for rape. It is for this reason that we urge shorter sentences for sexual assault. We are very pleased with the concept of minimum sentencing, especially for repeat offenders. However, we would urge that sentences be shorter and that the maximum penalty be less than that for murder.

Thank you very much for informing us of this upcoming legislation. We hope you will keep us advised of its progress.

Sincerely,

CYNTHIA ALLEN,
Fox Valley Women Against Rape.

A TRIBUTE TO RICK MONDAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. DERWINSKI. Mr. Speaker, the Chicago Cubs may not win the pennant, but their centerfielder, Rick Monday, certainly deserves to be considered as one of the great and patriotic Americans for his heroic action in preventing the burning of an American flag at a ball park recently. WLS–TV in Chicago telecast a fine editorial on this incident which I place in the RECORD:

RICK MONDAY

According to Chicago Cubs star Jose Cardinale, America can be proud of three great patriots: Abe Lincoln, George Washington, and Rick Monday. Cardinale included his teammate Monday following a Los Angeles ball game, where two men attempted to burn the American flag. When Monday saw the men take out lighter fluid and matches, he ran over to left-center field, grabbed the flag, and carried it to safety. His action won him praise from the Illinois legislature, which commended him for his patriotism. Mayor Daley also paid tribute to Monday, naming him Grand Marshal in Chicago's "Salute to the American Flag" parade.

As for the two who attempted to burn the flag, one was given a year's probation and ordered either to pay a $60 fine or spend three days in jail. His companion, a young boy, was not sentenced. Here in Illinois, penalties might have been stiffer. Under our Illinois Flag Act, recently upheld by the U.S. Supreme Court, anyone who mutilates, defaces, defies, tramples or casts contempt upon the flag faces up to five years in jail, and can be ordered to pay as much as a $5,000 fine.

Of course, potential fines and jail sentences aren't always enough to stop persons determined to call attention to themselves or their political beliefs by shocking the sensibilities of others. And, too often the public is reluctant to question those protesters who openly flaunt established American laws.

So, Rick Monday sets a good example for all of us who want to stand up against actions we know are offensive and illegal. Channel 7 joins Mayor Daley, Illinois legislators, thousands of baseball fans, and other citizens in applauding Rick Monday's quick thinking. He deserves our praise and our respect.

PROTECT INDEPENDENT GASOLINE RETAILERS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. LEHMAN. Mr. Speaker, I have today introduced the Motor Fuel Franchise Protection Act. The purpose of this bill is to protect independent gasoline distributors and retailers from arbitrary cancellation, termination, or nonrenewal of franchise agreements or contracts, and to give franchisees some recourse in cases where they have not been fairly or properly treated.

In increasing numbers, gasoline retailers from Florida's 13th Congressional District have been in touch with me to relate their experiences. Many of these dealers are not only the ultimate marketers of the major oil companies' products, but also tenants on company-owned property. These factors give the companies the inordinate power to direct their franchisees to follow marketing procedures which are not necessarily in the dealers' best business interests, and to end the franchises if dealers are unable to comply. Moreover, the dealers cannot try to find other franchise arrangements for the same facilities; they must, as tenants, vacate and start from scratch. In addition, if the company should decide simply to close down a franchise-operated gas station and open on the site a company-run self service facility, many independent dealers have no means of protecting their livelihood. Even if it were possible to take a large corporation to court, the small franchisee would simply be outgunned.

My bill would set standards which I believe are fair and reasonable for franchise termination, cancellation, and failure to renew, and would provide franchisees with recourse to the courts in instances where their franchises were being ended in violation of the standards. The guarantee that an independent dealer could have his day in court would go a long way toward assuring fair practices in gasoline franchises.

Mr. Speaker, the text of my bill follows:

H.R. 14080

A bill to provide for the protection of franchised distributors and retailers of motor fuel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Fuel Franchise Protection Act".

TABLE OF CONTENTS

Sec. 101. Definitions.
Sec. 102. Sanctity of franchise relationship—termination or cancellation.
Sec. 103. Sanctity of franchise relationship—failure to renew.
Sec. 104. Trial franchise period—failure to renew.
Sec. 105. Notification of termination or cancellation or failure to renew.
Sec. 106. Enforcement.
Sec. 107. Relationship of this Act to existing franchises.
Sec. 108. Relationship to State law.

DEFINITIONS

SEC. 101. As used in this Act:

(1) The term "distribution" means any person who purchases motor fuel for sale, consignment, or distribution to another, and includes any person who (other than by means of a franchise) controls, is controlled by, or is under common control with, a person who purchases motor fuels for sale, consignment, or distribution to another.

(2) The term "franchise" means any written or oral agreement or contract—

(A) between a refiner and a distributor,

(B) between a refiner and a retailer,

(C) between a distributor and another distributor, or

(D) between a distributor and a retailer, under which a refiner or distributor (as the case may be) grants the authority for, or permits, a retailer or distributor to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark, trade name, service mark, or other identifying symbol or name which is owned or controlled by such refiner or by a refiner which supplies motor fuel to such distributor. The term "franchise" includes any written or oral agreement or contract under which a retailer or distributor is granted the authority, or permitted, to occupy premises owned, leased, or in any way controlled by a refiner or a distributor, which premises are to employed in connection with the sale, consignment, or distribution of motor fuel under a motor fuel trademark, trade name, service mark, or other identifying symbol or name which is owned or controlled by such refiner which supplies motor fuel to such distributor.

(3) The term "franchisor" means a refiner or distributor (as the case may be) who grants the authority for, or permits, a distributor or retailer to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark, trade name, service mark, or other identifying symbol or name under a franchise.

(4) The term "franchisee" means a distributor or retailer (as the case may be) who is granted the authority, or permitted, to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark, trade name, service mark, or other identifying symbol or name under a franchise.

(5) The term "refiner" means a person engaged in the refining or importing of motor fuel, and includes any person who (other than by means of a franchise) controls, is controlled by, or is under common control with, a person engaged in the refining or importing of motor fuel.

(6) The term "retailer" means a person who purchases motor fuel for sale to the general public for ultimate consumption.

(7) The term "motor fuel" means gasoline and diesel fuel of a type distributed for use as a fuel in any self-propelled vehicle which is designed primarily for use on public streets, roads, and highways.

(8) The phrase "failure to comply" does not include any failure which is only technical or unimportant to the franchise relationship.

(9) The phrase "failure to renew" includes a termination or cancellation of a franchise—

(A) at the conclusion of the term, or on the expiration date, stated in the franchise, or

(B) at any time in the case of a franchise which does not state a term or an expiration date.

SANCTITY OF FRANCHISE RELATIONSHIP—
TERMINATION OR CANCELLATION

SEC. 102. No franchisor may, prior to the conclusion of the term, or the expiration date, stated in the franchise, terminate or cancel such franchise, unless—

(1) the requirements of section 105 are met; and

(2)(A) the franchise failed to comply, without reasonable excuse or justification, with any term of the franchise, which term is both reasonable and of material significance to the franchise relationship, and, with respect to such failure, the franchisor first acquired actual or constructive knowledge not more than one hundred and eighty days prior to the date of such termination or cancellation;

(B) an event occurs which is relevant to the operation of the franchise relationship, as a result of which, termination or cancellation of the franchise is reasonable, and, with respect to such event, the franchisor first acquired actual or constructive knowledge not more than one hundred and eighty days prior to the date of such termination or cancellation; or

(C) not more than one hundred and eighty days prior to the date of such termination or cancellation, the franchisor and the franchisee agree in writing to terminate or cancel the franchise, the franchisee is promptly provided with a copy of such agreement, together with a summary statement of the provisions of this Act, and, within seven days after the date on which the franchisee is provided a copy of such agreement, the franchisee has confirmed and not repudiated such agreement.

SANCTITY OF FRANCHISE RELATIONSHIP—FAILURE TO RENEW

SEC. 103. No franchisor may fail to renew a franchise unless—

(1) the requirements of section 105 are met; and (2) except as provided in section 104—

(A) the franchisee failed to comply, without reasonable excuse or justification, with any term of the franchise, which term is both reasonable and of material significance to the franchise relationship, and, with respect to such failure, the franchisor first acquired actual or constructive knowledge not more than one hundred and eighty days prior to the date of such failure to renew;

(B) an event occurs which is relevant to the operation of the franchise relationship, as a result of which, failure to renew the franchise is reasonable, and, with respect to such event, the franchisor first acquired actual or constructive knowledge not more than one hundred and eighty days prior to the date of such failure to renew; or

(C) not more than one hundred and eighty days prior to the date of such failure to renew—

(i) the franchisor and the franchisee agree in writing not to renew the franchise, the franchisee is promptly provided with a copy of such agreement, together with a summary statement of the provisions of this Act, and, within seven days after the date on which the franchisee is provided a copy of such agreement, the franchisee has confirmed and not repudiated such agreement;

(ii) the franchisor and the franchisee fail to agree to reasonable changes or reasonable additions to the terms of the franchise; or

(iii) the franchisor's interests in premises which are leased to the franchisee expires and such expiration could not reasonably have been avoided by the franchisor.

TRIAL FRANCHISE PERIOD—FAILURE TO RENEW

SEC. 104. (a) The provisions of section 103 (2) (with respect to failure to renew) shall not apply to the initial term (not including any extensions or renewals of such term) of any franchise—

(1) commenced on or after the date of enactment of this Act;

(2) in which the franchisee has not, prior to the date of enactment of this Act, been a party to a franchise relationship with a franchisor;

(3) which is in writing and which states clearly and conspicuously—

(A) that the franchise is a trial franchise;

(B) the duration of the initial term of the franchise,

(C) that the franchisor may fail to renew the franchise at the conclusion of the initial term stated in the franchise by notifying the franchisee of the franchisor's intention to fail to renew in accordance with the provisions of section 105 of this Act; and

(D) that the provisions of section 103(2), limiting the right of a franchisor to fail to renew a franchise, are not applicable; and

(4) the initial term of which is for a period of not more than one year.

(b) The provisions of section 103(2) shall apply to any failure to renew a franchise which is extended or renewed beyond the initial term of such franchise.

NOTIFICATION OF TERMINATION OR CANCELLATION OR FAILURE TO REVIEW

SEC. 105. (a) Prior to termination or cancellation, or failure to renew, a franchise, a franchisor shall furnish notification to the franchisee affected thereby—

(1) in the manner described in subsection (c); and

(2) except as provided in subsection (b) (1), not less than ninety days prior to the date on which such franchise is to be terminated or cancelled, or not renewed.

(b)(1) In circumstances in which it would not be reasonable for a franchisor to furnish notification pursuant to subsection (a)(2), such franchisor shall furnish notification to the franchisee affected thereby on the earliest date on which furnishing of such notification is reasonably practicable.

(2) With respect to any termination or cancellation, or failure to renew, a franchise to which paragraph (1) applies, the franchisor may not establish a new franchise relationship with respect to such franchise before the expiration of the thirty-day period which begins on the date notification was posted, except that a franchisor may, where specified in the franchise, repossess any facilities subject to the franchise and operate such facility through his own employees or agents during such thirty-day period in circumstances under which it would be reasonable to do so.

(c) Notification furnished under this section—

(1) shall be in writing;

(2) shall be posted by certified mail; and

(3) shall contain—

(A) a statement of intention to terminate or cancel, or fail to renew, such franchise, together with the reasons therefor;

(B) the date on which such termination or cancellation, or failure to renew, takes effect; and

(C) a summary statement of the provisions of this Act.

ENFORCEMENT

SEC. 106. (a) If a franchisor terminates or cancels, or fails to renew, a franchise in a manner which does not comply with the requirements of section 102 or 103, respectively, the franchisee affected thereby may maintain a civil action against such franchisor. Such action may be brought, without regard to the amount in controversy, in the district court of the United States in any judicial district in which the principal place of business of such franchisor is located or in which such franchisee is doing business, however, no such action may be maintained unless commenced within three years after the date of cancellation or termination, or failure to renew such franchise.

(b)(1) The court shall grant such equitable relief as is necessary to remedy the effects of any termination or cancellation of, or failure to renew, a franchise in a manner which does not comply with the requirements of section 102 or 103, respectively, including declaratory judgment and mandatory or prohibitive injunctive relief, including interim equitable relief.

(2) In any action under subsection (a), the court shall grant a preliminary injunction if—

(A) the franchisee shows that his franchise has been terminated or cancelled, or not renewed; and

(B) the franchisor does not demonstrate to the satisfaction of the court that such franchisor is likely to prevail in a trial on the merits.

In any action under subsection (a), the franchisor shall have the burden of proving that his termination or cancellation of, or failure to renew, the franchise complied with the requirements of section 102 or 103, respectively.

(3) If the franchise prevails in any action under subsection (a), the court shall award actual damages, and exemplary damages where appropriate, and shall direct that reasonable attorney and expert witness fees be paid by the franchisor, unless the court determines that only nominal damages are to be awarded to such franchise, in which case the court may, in its discretion, direct that such fees are to be paid by the franchisor.

(4) The questions of whether to award exemplary damages and the amount of such award shall be determined by the court and not by the jury.

(c)(1) In any action under subsection (a) with respect to a failure to renew, the court shall not compel a continuation or renewal of the franchise relationship if the franchisor demonstrates to the satisfaction of the court that the basis for such failure to renew is a reasonable business judgment on the part of the franchisor.

(2) The reasonable business judgment defense to permanent injunctive relief specified in paragraph (1) shall not affect any right of a franchisee to recover actual damages and reasonable attorney and expert witness fees under subsection (b).

RELATIONSHIP OF THIS ACT TO EXISTING FRANCHISES

SEC. 107. (a) Sections 102 and 104, and the provisions of section 105 (relating to the furnishing of notification with respect to termination or cancellation of a franchise before the conclusion of the term, or the expiration date, stated in the franchise), shall not apply to any franchise entered into prior to the date of enactment of this Act. Sections 102 and 104, and such provisions of section 105 shall apply to any franchise entered into on or after such date.

(b) Section 103, and the provisions of sections 105 (relating to the furnishing of notification with respect to failure to renew a franchise), shall apply to any franchise in effect on the date of enactment of this Act or entered into after such date.

RELATIONSHIP TO STATE LAW

SEC. 108. No State, territory, possession, the District of Columbia, or the Commonwealth of Puerto Rico, or any political subdivision thereof, may adopt, enforce, or continue in effect any law or regulation with respect to a termination or cancellation of, or a failure to renew, a franchise, or the furnishing of notification with respect to a termination or cancellation of, or failure to renew, a franchise, which is inconsistent with the provisions of this Act.

CONGRESSIONAL REVIEW AMENDMENT

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. MARTIN. Mr. Speaker, In the debate today on H.R. 12169, had I not been prevented by the time limit from explaining my amendment, I would have offered the following:

Mr. Chairman, the Members should be familiar with this amendment. This is similar to the Ketchum amendment which was added to the EPA research and development authorization bill on May 4 by a vote of 228 to 167—an earlier amendment by Mr. LEVITAS to the consumer product safety authorization had the same intent. Briefly, it gives the Congress "veto" power to approve or disapprove any new FEA rules or regulations which are "likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses."

For some time now, we have been paying lip service to the idea of making Government more responsive to the public. In the past, we have had the excuse that we have no control over executive agency actions. This amendment should end that excuse. It provides for a 60-day waiting period during which any rule or regulation as described above may be disapproved by concurrent resolution.

There has been a lot of talk about bureaucracy, about unnecessary and harmful rules and regulations. Here is a chance to do something positive. Something your constituents can understand.

I would not envision this body availing itself of this opportunity very frequently, but at least we would have the option of doing so, and I think the very exsitence of this possibility would lead to better and more careful rulemaking on the part of the agency.

ECONOMIC SECURITY FOR SENIOR CITIZENS

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. KASTEN. Mr. Speaker, Census Bureau statistics, released recently, conclude that if present birth trends continue, an estimated 17 percent of our population will be 65 and older by the year 2030—compared with 10.5 percent today.

Clearly, this trend demonstrates the need for Congress to express its concern about the problems—present and potential—of the elderly in the United States.

What does it mean to be old in America today?

It can mean unemployment, inadequate retirement income, a fixed income drained by inflation, chronic health problems, or taxes so high that maintaining a home is no longer possible and institutional care is not an alternative but a necessity.

These and many other concerns of our senior citizens all point to their No. 1 problem: economic security. And it is not a problem that will go away with age.

Congress can provide some solutions by better focusing on the needs and concerns of the 22 million Americans who have already celebrated their 65th birthday.

Senior citizens suffer more than any other age group from direct and indirect effects of inflation—rising costs, scarcity of goods, and reduced services. For homeowners, which comprise about 70 percent of our senior citizens, housing costs—utilities, taxes, and repairs—have risen sharply over the past several years. As a result, many have been literally taxed out of their homes, homes they have built, cherished, and maintained as a place for retirement.

Many senior citizens suffer most from high taxes and an inadequate retirement income. Retirement for most Americans means living on low, fixed incomes, which are usually not enough to adequately cover the high costs of their basic staples—food, medicine, transportation, and shelter.

Today, about 50 percent of the families headed by an individual 65 or older have incomes below $7,298, compared with $12,836 for all American families. And despite pensions, savings, and social security, almost 5 million senior citizens live on $2,000 a year.

SOCIAL SECURITY REFORM

Reform of the social security system would help alleviate the economic insecurity of many elderly Americans.

The average social security check—which most rely upon for at least one-third of their income—is not enough to enable most senior citizens to live day to day with economic security.

One of the greatest inequities in the system is the so-called outside earnings limitation. Even though an individual may have paid into the system for 40 years, he is limited to $2,760 on what he can earn in outside income and still receive social security benefits.

Under the current law, working senior citizens are, in effect, denied benefits they have paid into the system, and those on social security are discouraged from leading active, independent, productive lives.

I will introduce legislation to eliminate the outside earnings limitation so that senior citizens can receive benefits and earn a decent standard of living at the same time.

REFORM: ESTATE TAXES AND RETIREMENT INCOME CREDIT

Congress has already begun to work toward tax reform in two areas which will be of great benefit to senior citizens.

The new Tax Reform Act, which has passed the House and has just been completed by the Senate Finance Committee, revises the existing 15-percent tax credit on retirement income to apply it to earned income as well as pensions or other forms of retirement income.

The revised credit would be available on income up to $2,500 for single persons and $3,750 for joint returns. The credit would be phased down $1 for each $2 by which total adjusted gross income exceeded $7,500 for single persons and $10,000 for joint returns.

Work toward reform of Federal estate and gift taxes is gaining momentum. The House Ways and Means Committee held extensive hearings in March and is scheduled to begin drafting their recommended reforms this week.

The Senate Finance Committee had planned to include estate tax reform in their version of the Tax Reform Act. However, if the House passes a separate measure before that, the Senate may consider the bill separately as well, as there is strong support in the Senate for expediting estate tax reform.

Still, much more needs to be done by Congress to respond to the needs and concerns of America's elderly. The inequity of the outside earnings limitation is an issue which Congress must review this year. I will be working toward that end during the next several months.

RICHARD A. DICE, OUTSTANDING LEGISLATOR

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. SARASIN. Mr. Speaker, the Connecticut General Assembly will be the poorer when it convenes next year as a result of the retirement of Representative Richard A. Dice of the 93d District. As a long-time friend and admirer of Dick Dice, I want to take this opportunity to apprise my colleagues of the fine contribution he has made to good government in Connecticut and the well-being of his constituents.

Many of those who serve in this Chamber have previous experience in the legislatures of their various States and can appreciate better than most the many unique difficulties encountered at that level of government. The constraints of continuing State financial problems, the comparatively small remuneration, and the closeness of the relationship with those served make State service a labor of love.

Under these circumstances, I know you can appreciate the job done by Representative Dice, particularly in view of his leadership of the House Appropriations Committee. Dick has served as chairman and as ranking member of this most important committee during this period of intense financial pressure in our State.

It has been said that no one in the general assembly has a better grasp of State fiscal matters than Mr. Dice, and no one has done more to maintain sound management than Dick. His influence was felt throughout the general assembly, and his counsel was heeded.

Dick also found the time to maintain a close personal relationship with his constituents in the communities of Chesire and Hamden. An advocate of the open-door policy, he was always available and could be counted upon to respond to local concerns with fairness, compassion, and effectiveness.

I consider it a privilege to have served with Dick Dice in the Connecticut General Assembly in the first of his three terms and I wish I could be with the many friends and admirers honoring him at a testimonial dinner this week. I know my colleagues join me in wishing him well in the future.

OUR NATIONAL FORESTS—A THIN LINE BETWEEN ADVICE, LOBBYING, AND PUBLIC SERVICE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. BROWN of California. Mr. Speaker, I realize that when controversial subjects arise which question, to some degree, the abilities or performance of one of the Federal departments it is an understandable reaction on the part of the department to defend its activities in any way possible. The national forest management controversy is one such example for it has raised many questions and has stimulated blunt statements regarding some of the Forest Service's management practices. Though I sympathize with the position of the Forest Service administrators and personnel, I must disagree with any attempts on their part to cover up evidence or to lobby citizens on one particular piece of legislation. I can understand the desire to do so, especially in light of such a heated debate and growing national interest and input, but this is a line which they must not cross.

I have received two separate sets of materials which point toward the occurrence of such happenings. One is a news article from the San Francisco Examiner and a 14-page memorandum to John McGuire, Chief of the Forest Service, by James Moorman, attorney for the Sierra Club. These pertain to the destruction of an in-house environmental impact report which questioned the ecological impact of a paved road proposal. The report was rejected though it stated that the road would cause serious risks, including possible landslides and soil erosion. Another report was issued in its place. I find such behavior questionable.

The second set of materials I wish to include in the Record is a letter and statement. The statement was prepared by a member of the Forest Service, as the letter states, for the use of the Wisconsin Northwest Regional Planning Commission. It is a statement in support of particular forest legislation, S. 3091. I find this questionable also.

I submit the articles for my colleagues' attention:

Sierra Club Charges Six Rivers Cover-Up

(By Alan Cline)

The Sierra Club yesterday accused the U.S. Forest Service of taking the easy way out of a touchy situation—destroying an in-house study because its conclusions differed with policy.

At issue is a paved road being built in wildlands of the Six Rivers National Forest in the Siskiyou mountains.

Sierra Club attorney James Moorman told Forest Service Chief John McGuire in a 14-page memorandum that a regional engineer deep-sixed a report from two subordinates who saw the road as a potential environmental disaster.

McGuire was asked to stop construction of the six-mile stretch, investigate and reconsider his agency's approval of the $2 million project.

The road, now a subject of court action, is part of a much larger dispute between the San Francisco-based conservation organization aligned with Indian spiritual leaders over plans to log 45,000 acres of land the tribes consider sacred ground.

Moorman's target was assistant regional engineer Phillip A. Schultz, who, he said, retrieved and destroyed a road study made by engineer Douglas Scholen and geologist Eugene Kojan.

That Aug. 21, 1975, document said the Dillon-Flint section of the Gasquet-Orleans road involved serious environmental risks and hazards, that they had not been properly assessed by the Forest Service in any Environmental Impact Statement and that means for preventing landslides and soil erosion had not been analyzed.

A week later, Schultz approved a much briefer document.

Both he and deputy regional forester Glenn Haney said the first study was rejected because the authors exceeded the scope of their specialties.

"There was no intent on our part to delude anybody," Haney said. "We tried to operate in a completely open manner."

In depositions taken last week by Moorman, both Scholen and Kojan said they considered their study professional and accurate.

Asked what he thought about the Sierra Club obtaining a supposedly nonexistent document, Schultz replied that whoever supplied it "ought to be tried for treason."

Scholen said Schultz told him personally that the document supplier would be fired if discovered.

Schultz said he considered the disputed study a draft, that everything prepared by subordinates is a draft until he gives his blessing.

Schultz said in his deposition that he was embarrassed "that my people had put something in print that was beyond their employment expertise and were offering opinions of something that was contrary to management philosophy."

The regional executive also said he apologized to Austin Thompson, a Six Rivers Forest engineer and strong road advocate, because the study went beyond an agreement he had made with Thompson.

Scholen testified that he gave a copy of his report personally to Thompson and was told by Thompson after he read it that he did not like it and was going to call Schultz.

Moorman called Schultz's reasons for "suppressing the Scholen report . . . a combination of arrogance, pettiness and bad judgment."

The Sierra Club considers the study important because it backs up a report from a University of Montana professor, Robert Curry, alleging the engineering approach for the road is the wrong one.

Northwest Regional Planning
Commission,

April 29, 1976.

To: Members of Timber Resources and Wood Products Committee.

From: Ernest Skotterud, Chairman.

Dear Committee Member: A pressing matter affecting timber management on the National Forests including the Chequamegon National Forest in Northwest Wisconsin has been brought to the attention of the regional planning commission by a number of area industries and Mr. Wayne Mann, Superintendent of the Chequamegon National Forest. The Commission has asked that the Timber Resources Committee develop a position statement for the proposed legislation to correct the Monongahela decision. Background information on this matter is enclosed.

I've scheduled a Timber Resources and Wood Products Committee meeting for:

May 6, 6:00 P.M. Dinner—Order from Menu, Escape Restaurant, Division Street (½ block off Hwy 13, Downtown), Park Falls, Wisconsin.

AGENDA

Approval of Minutes of March 2, 1976 meeting.

Old Business:

1. Status of Softwood Resource Report
2. Status of French's debarking operation in Spooner

New Business:

1. The "Monongahela Decision" and proposed federal legislation

Ernest Skotterud,
Chairman, Timber Resources and Wood Products Committee.

Northwest Regional Planning
Commission,

May 3, 1976.

To: Members of Timber Resources and Wood Products Committee.

From: Mark Mueller.

Subject: May 6, 1976 Timber Resources Committee Meeting.

Enclosed for your review are two differing viewpoints on proposed legislation affecting timber harvest on the National Forests. One discusses viewpoints of the Northern Environmental Council (NOREC) and the other is a draft of a possible statement prepared by Wayne Mann of the Forest Service.

Mark Mueller.

Position Paper Drafted by USFS for Local Groups To Pressure Congressmen

The Wisconsin Northwest Regional Planning Commission is vitally interested in the pending Federal legislation concerning the future management of the country's National Forests. This Commission represents the Counties of Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor, and Washburn; and three Indian Reservations.

Our interest in the pending legislation is accentuated since the 837,000-acre Chequamegon National Forest is located in the Counties of Ashland, Bayfield, Price, Sawyer, and Taylor. This Forest contributes significantly to the area's timber resources. The Forest also is a significant factor in regard to wildlife, watershed, and recreation to this area.

We believe any legislation should recognize the major uses of the National Forests are forage, recreation, timber, water, and wildlife. The legislation should also recognize that these uses are generally *compatible* with each other and should be coordinated accordingly.

We believe, also, that sound forest management based on the application and understanding of basic ecological principles will best meet the human and natural resource needs. Because of the complexity and diversity of forests and human needs, forest land management cannot be carried out through routine, prescribed prescriptions.

The forests in this area, including the Chequamegon National Forest, are relatively young and very diverse. They are just coming into full productivity. Professional forest land management, with the needed flexibility to meet the resource needs for recreation, timber, water, wildlife, and aesthetics, is necessary for the Chequamegon National Forest to meet its full potential and contribute fully to the economic stability and quality of life in this area.

Legislation restricting the use of any of the scientifically sound silvicultural systems could have serious impacts on the ability of the Chequamegon National Forest to meet the resource needs in timber, wildlife, and other resources. Restricting sound silvicultural systems would be very critical on the Chequamegon National Forest because of the diversity of timber types and the need for a variety of silvicultural techniques for wildlife management purposes for deer, ruffed and sharptail grouse. Wildlife coordination needs would be seriously hampered if management flexibility is not permissible in the management of the 216,000 acres of Eastern northern hardwoods, and 178,000 acres of aspen on the Forest.

In reviewing the pending legislation, we feel that Senate Bill 3091, at this time, would best serve the nation's and our needs in this area. This bill requires Congress to establish the overall public policy goals and standards, and allows the necessary flexibility to land managers to carry out this policy. We feel this approach best meets the economic, natural resource, and social needs of the Northwest District. However, we suggest the following major items be considered for any future legislation:

1. New legislation should be instituted within the Forest and Rangeland Renewable Resource Planning Act of 1974, and reinforce the Multiple Use-Sustained Yield Act of 1960.
2. Any future legislation should set forth only policy and principles. Because the conditions on the ground are too varied and complex, Congress should not prescribe specific management practices.
3. Guidelines and standards for managing National Forest resources should be strengthened by the Secretary of Agriculture.
4. Public involvement should be encouraged in the relationship to the planning process and establishment of management standards.
5. The goal of balancing the production of all renewable National Forest resources which can be maintained on a sustained yield level should be top-priority.
6. Any changes in land use allocation on management goals for timber or other resources should only be made through land use plans.
7. Timber contracts should be limited to provide needed management flexibility, protect the resources, and reduce environmental problems.
8. Silvicultural guides should specifically recognize the need to better regulate and control clearcutting since it has been misapplied, in some cases, on the National Forests.

REPORT FROM WASHINGTON

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. BRINKLEY. Mr. Speaker, my May-June Report from Washington has gone out to constituents of the Third District of Georgia, which I am privileged to represent.

At this point, I offer this constituent publication in its entirety for the RECORD:

U.S. CONGRESSMAN JACK BRINKLEY REPORTS FROM WASHINGTON

THE TAX SNARL AND SOME REMEDIES

Something is fundamentally wrong with a tax system which, in effect, penalizes a person for improving his job status and moving into a different income bracket; something is fundamentally wrong when the average citizen doesn't understand the basic law under which he is taxed; something is fundamentally wrong when some individuals pay no tax at all, although they are wealthy in every sense of the word.

The tax system in the United States has just become too complex for even some accountants and trained tax specialists to fully understand. It may not be long before we find ourselves in a fix like some foreign countries, where taxation has become so confiscatory and oppressive that good citizens are fleeing.

What we need is a total overhaul of the tax system. What I envision is a system which, simply and in an unconfused manner, taxes to some extent everyone who has taxable income. Loopholes would have to be closed; some currently allowable deductions would have to be eliminated; the existing tax schedules would be completely rewritten. We wouldn't recognize most of the content of the new Internal Revenue Code. But there would be advantages to the system envisioned:

The highest-taxed individuals would pay no more than 20 to 30 per cent of their income; segments of the taxpaying population would not continue to subsidize others; taxpaying would be simplified to the point where most citizens could again prepare their own returns; and, perhaps best of all, the net revenue to the government would actually increase!

A formula based on simplicity and predictability would have to prevail over absolute equity or over adjustments for "this and that." But ease of payment and enforcement facilitated by less administration and uncomplicated by fewer legal proceedings would make our support of the U.S.A.—through tax dollars—a more palatable thing again. It is my hope and belief that others will be attracted to my position.

During the 94th Congress I have introduced legislation to:

Allow an income tax credit to parents for a child's college tuition. This credit would be on a graduated scale, and would apply only to certain fee and tuition expenses. The cost of college or vocational education is an investment, and I would envision this as a type of "investment credit."

Provide that a canceled check would be prima facie, or firsthand, evidence of a legitimate income tax deduction. Within guidelines established by IRS, this proposal would relieve taxpayers of the almost-impossible burden of detailed bookkeeping, and to a certain extent put some of the burden of proof on IRS, whereas virtually all of it is now on the taxpayer.

Provide that life insurance proceeds to a husband or wife would be exempt from the estate tax. In short, life insurance proceeds are often the only genuine "estate" a person leaves, and such funds, on which hard-earned premiums have been paid, should not be taxed like other parts of an estate.

Increase from $60,000 to $200,000 the portion of an estate which is exempt from the estate tax. The existing situation is ridiculous, based on yesterday's figures when we all know what inflation has done. As it now stands, those who inherit family farms and small businesses face the grim prospect of having to sell them to pay taxes!

Change the law to disallow the deduction of first-class air travel as a business expense. Businessmen who use coach class—as most do—and other taxpayers virtually subsidize those who currently are allowed to go first class and deduct the whole thing. This is the kind of deduction which simply can be tightened up, and needs to be.

In addition to these key measures, I have co-sponsored other proposals with the same goal: to at least alleviate some of the burden of the current tax system pending an outright overhaul of the entire tax law.

I remain convinced there is only one way to bring ultimate stability and sanity to the system—establish a minimum tax, modernize exemptions and deductions to attune them to modern times, and insure that everyone so required pays a reasonably proportionate share.

JAYCEES VISIT D.C.

Seldom do we greet as alert and energetic a group in our Washington office as when the 3rd District Jaycees come to the Nation's Capital for their annual Federal Affairs Seminar! The 3rd District sent up the largest delegation from Georgia for this year's meeting.

This year, the Jaycees and their wives brought with them John Mark Willingham of Columbus, 3rd District winner of the Good Citizenship Award, and plenty of curiosity about what goes on in their federal government. Between snacks of Georgia peanuts, we had interesting and informative exchanges consisting of their questions, my answers and their comments on Washington.

I have had a particularly full year of activity with the Jaycees in the 3rd District, ranging from an honorary membership received at the Awards Banquet in Warner Robins to visits with officials of the Georgia Epilepsy Foundation, of which the Jaycees are active participants.

We appreciate their interest in good government and will continue to look to them for advice and counsel on key issues.

Seminar participants this year included, from Columbus, Richard Olnick, Joseph Bross, Louis Willett, Don Watson, Wade Hill and Renny Daniel; from LaGrange, Rudy Quillian and Jerry Johnson; from Americus, Dan Hicks; from Forsyth, A. Lee Willingham III and Charles Funderburke.

EDITORIAL COMMENT—FARMERS INSULTED

Recent scandal surrounding grain inspection practices represents one of the most outrageous insults to the integrity and hard work of American farmers in a long while.

Allegations of bribery, weighing irregularities and inspection shortcuts have resulted in a large-scale investigation by the U.S. Department of Agriculture, the FBI, the Internal Revenue Service, the Justice Department and Congressional committees.

The foreign buyers destined to receive contaminated grain have or would have lost out on the deal, but the real losers are the farmers who grew the grain, and deserved better than the handling their product got when time came to export it.

Instead of fair treatment, they got shortchanged, and the damage done to the farmers' reputation in the world grain market is reflected in one report that the commodities of other nations are preferred to our own.

The short weights, bribery and shipping of contaminated grain are an insult to the farmer, the free enterprise system and America's image abroad. It is blatantly un-American to degrade what we have to offer, and it is my earnest hope that the guilty parties will be held to account swiftly and sharply.

LEGISLATIVE UPDATE

Coastal Plains Funding—The Brinkley-Ginn amendment to the Economic Development Act extension has been voted upon and passed by the Public Works Committee and is ready for House action pending scheduling by the Rules Committee. Passage and signing into law must occur prior to the old fiscal year deadline of June 30, in order for the City of Fort Valley to qualify for a $293,000 grant from the Coastal Plains Commission. Should House and Senate action not be completed by July 1, an effort will be made to secure "new money" by the October 1 deadline for the new fiscal year.

Veterans Home Loans—May 18th passage of an omnibus bill from the Housing Subcommittee of the Veterans Affairs Committee, chaired by Rep. Brinkley will amend chapter 37 of title 38, United States Code, to increase the limitations with respect to direct housing loans to veterans to $29,000, to permit up to 50 per centum of the amount of any mobile home loan to be guaranteed under such chapter, and to provide for the continuation of the direct loan revolving fund.

Warm Springs Rehabilitation Complex—Language adopted for House Appropriations' Labor-HEW Subcommittee report, as submitted by Congressman Brinkley: "The Committee believes that the federal government should continue the leadership and incentive for states to renovate and expand rehabilitation facilities with regional potential such as the Georgia Warm Springs Rehabilitation Complex. Since the days when Franklin Roosevelt benefited from the use of these facilities, Warm Springs has pioneered in the development of innovative services for the handicapped. The Committee recognizes that, in order for Warm Springs to maintain its current standard of excellence, funds for the implementation of planned renovation and expansion of the Complex are necessary. The Committee also expects that the Rehabilitation Services Administration will make every effort to ensure this funding during Fiscal Year 1977."

School Bus Safety Amendment—An amendment proposed by Rep. Richardson Preyer of the Interstate and Foreign Commerce Committee would further extend the effective date for school bus manufacturers to implement new safety standards from October 1, 1976 to April 1, 1977. Bus manufacturers would thus gain sufficient time to do a better job on the new safety features required. Rep. Brinkley interceded with members of the Commerce Committee towards adoption of the Preyer Amendment, and Floor action is now imminent.

Military Construction—Pursuant to the recommendations of the military construction subcommittee of the Armed Services Committee, the House has passed and sent to the Senate a bill which provides everything the Department of the Air Force requested for Robins AFB ($4,550,000) and everything requested by the Department of the Army for Fort Benning ($6,627,000), both located in the 3rd District. In addition, under an amendment by Rep. Brinkley, funds were authorized for construction of an interchange at Marne Road and the Lindsay Creek By-Pass (at Martin Army Hospital), as well as extension of the By-Pass to First Division Road ($3,767,000). The $11,355,000 authorized for the reception station at Sand Hill is good until 1978.

Gold Star Wives—To date, 54 House colleagues have joined us in introducing H.R. 12119, a much-deserved piece of legislation which would provide a federal charter to Gold Star Wives, an organization of and for widows of men who die on active duty in service of their country. Such incorporation would permit this worthy organization to engage in productive activities to improve the lot of widows and war orphans which are otherwise restricted without a federal charter.

Multi-Mode Transportation System—Both houses of Congress have cleared for the President's signature a new Federal Highway Act which includes an amendment sponsored by Representative Brinkley and Representative Bo Ginn, providing a continuing push to the Multi-Mode Transportation Corridor proposed to stretch from Brunswick, Ga., to Kansas City, and whose planning board is located in Columbus. For the first time, under this amendment, the federal Department of Transportation will actually conduct a feasibility study of the multi-mode concept, which combines highway, pipeline and water transportation into a single system along with electrical transmission and other modes.

Revenue Sharing—Backed by revenue sharing's proven track record, and with strong support by local officials from the 3rd District, the Georgia Municipal Association, and their counterparts around the nation, the House Government Operations Committee has favorably reported H.R. 13367, the state and local Fiscal Assistance Act. The Formula proposed is for a three and three-quarters year continuation with a hold harmless funding level at present rates to recipient jurisdictions.

Civil Defense—It is extremely pleasing to have the strong support of colleagues for H.R. 12899 which has been introduced to stabilize a worsening situation with regard to civil defense. This bill, which has a big boost from Civil defense authorities, would at long last amend the 1950 Civil Defense Act to assure a "dual-purpose" role for CD agencies—in the event of natural disasters as well as the original purpose of nuclear attack preparedness. The Administration had proposed limiting civil defense to nuclear work and drastically cutting its funds.

Follow-on GI Bill—Introduced by Congressman Brinkley to amend title 38 of the United States Code to establish a program of educational assistance (funded in part through contributions made to the program by individuals while on active duty) for individuals entering on active duty after the Vietnam era who are not eligible for educational assistance under earlier programs.

NFIB SPEAKS OUT

The views and counsel of constituents are very important to me. In many areas the expertise of constituents who are themselves affected by legislation is invaluable since it provides new insight and perspective. In a larger sense all of us are affected by Federal legislation because of taxation and expenditures.

To obtain as many facts as possible is a wise course of action and, once information is marshaled, decisions which are more nearly correct can be reached. In a constitutional republic the carefully weighed convictions of a Member of Congress should be exercised, but the enlightened counsel of citizens certainly helps to formulate sounder judgments. Election to office does not provide instant wisdom or infallibility, although it almost always results in a commitment to do the very best possible. For all of these reasons I express appreciation to the National Federation of Independent Businesses, others who send opinion ballots, and those who write to me on the issues for their standing up and being counted.

"It isn't hard to do right," said a former President, "it's hard to know what is right." This is true in many cases where new ground is being broken, and I always welcome your letters, calls or visits because a reasonable expression of opinion counts heavily with me.

CONSUMER COMMUNICATIONS REFORM ACT

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. WIRTH. Mr. Speaker, on May 27, I placed in the RECORD a report from Business Week on A.T. & T.'s efforts to get Members of the House and the Senate to introduce legislation which is being referred to as "the Consumer Communications Reform Act of 1976."

Today, I would like to share with my colleagues a speech delivered last month by Federal Communications Commission Chairman Richard Wiley which traces the FCC's decisions with respect to competition in the telephone industry. Chairman Wiley's speech is one of the best statements I have read on this subject and I recommend it to any of my colleagues who might be considering introducing the A.T. & T. legislation.

The speech follows:

ADDRESS BY RICHARD E. WILEY

Thank you for inviting me to be the Keynote Speaker at this 29th Annual ICA Conference. It is an honor to participate in this distinguished and world-wide gathering of telecommunications experts from industry, commerce, education and government.

Although this is, indeed, an international association, I would like to begin by addressing certain controversies which have arisen over the domestic communications policies of the Federal Communications Commission. The era of the 1970's in the common carrier field has been one marked by rapid technological change, new and innovative services, diverse and ever-expanding consumer demands and, finally, governmental action which has attempted to respond to these dynamic factors.

Now, here in 1976, one aspect of the government's response—a return to market-place principles and opportunities in limited sectors of the communications field—is under an intensive and wide-ranging attack, an attack being directed by the world's largest corporation in conjunction with other members of the telephone industry and one which has moved well beyond the Commission and the courts to the halls of Congress itself. The intended objective of this assault—and I say this factually and without rancor—is to sweep away every last vestige of this Commission-made and, to date, court-upheld policy.

Perhaps, then, the time is ripe to take a close look at the FCC's efforts in this area: what have we decided, why have we so acted and, most pertinently, what are and will be the probable results of these determinations. Let me try to summarize it for you in what, obviously, can be only a brief recitation.

Distilled to its essential ingredients, the fundamental issue which faced our agency in the late 1960's was whether the telephone company had to be the sole provider of the nation's telecommunications services or whether, instead, the public interest might be better served by eliminating regulatory barriers to the development of alternative sources and alternative supplies. Both then and today, there was no question concerning the logic or efficiency of a single integrated network to provide the basic facilities for public telephone service. Rather, the issue was whether the American consumer should be afforded an opportunity to secure equipment—from any source—which would adopt those facilities to meet his own individualized communications needs. With respect to telephone company activities outside of the public telephone field, a related question was whether similar opportunities should be permitted for specialized facilities to meet specialized non-public communications needs. The FCC answered these questions by concluding that the communications market is so vast, so vigorous and so vital that opportunities for new ideas and new sources of services could be publicly beneficial without necessarily injuring an existing monopoly supplier or its residential telephone customers.

Our policy—basically, to provide the American consumer with telecommunications options and alternatives—was restricted to two discrete areas of the market: customer-supplied terminal equipment and private line services. Just how narrow and limited these opportunities have been is best illustrated, perhaps, by the market shares which competitors have been able to obtain in economic rivalry with the telephone industry. Today, specialized common carriers account for only 1/10 of 1% of the telecommunications market while companies offering terminal equipment in competition with "telcos" have captured but 4/10ths of 1% of that market. Their combined revenues do not exceed $170 million. By way of contrast, the revenues of the telephone industry—which exceed $35 billion for all services—are over $4 billion in the competitive market sectors alone. The current dimension of the competition is perhaps best dramatized by the simple fact that AT&T's increase in revenue for private line and terminal equipment services in 1975, over 1974 figures, was more than double the total revenue of all competing suppliers of these services.

Now why has the Commission permitted competition in these discrete markets in place of a regulated monopoly? As to terminal equipment, the answer is our conviction that our citizens should have the right to use their telephone system in a manner "privately beneficial, but not publicly deterimental". Similarly, with respect to private line services, we believe that consumers should be permitetd to enjoy the communications options available from alternative sources. This principle of protecting the American consumer's right to decide how his communications needs will best be met, and who can best meet them, undergirds the FCC's decisions permitting competition in these two well defined markets.

Implementation of such precepts has borne fruit for the public in substantial forms. For one thing, there always will be some communications needs which a monopolist either does not find profitable to meet or which it simply lacks the incentive to introduce. The businessmen in this audience know this far better than I do—and you can fill in your own diverse examples. I will provide only one, rather interesting example of this reality: namely, the development of communications terminals for the deaf. As students of telephony may recall, Alexander Graham Bell first became interested in communications as a teacher of the deaf. Some 100 years later, however, telephone companies still have not produced special communications services which would enable over one and a half million deaf Americans to utilize the voice telephone network. Meanwhile in the 1960's, a deaf engineer developed a terminal which—if widely marketed—would afford a convenient system for the deaf to communicate by telephone. His initial efforts were unsuccessful because the telephone operating companies concluded that this communications market was too small to be attractive. Undaunted, the entrepreneur began selling his terminal directly to deaf users and, today, over 20,000 of those terminals are now in use.

In the area of private line offerings, it was a specialized common carrier—not a telephone company—that was the first to provide a switched digital data system so important for efficient data communications. Moreover, the first two domestic satellite systems were not launched by a telephone company but by competing private line carriers. The carriers who have pioneered this new satellite technology provide such new and novel services as: a distribution system for the Wall Street Journal; a delivery system for cable television movie services; long haul, high speed data offerings; and vital communications services to remote villages in Alaska.

I say all of this not to denigrate the telephone industry for which I have profound respect and admiration. We *do* have the finest telephone system in the world, thanks primarily to the expert and dedicated services of the men and women of the Bell System and of thousands of independent companies located throughout the nation. The question, however, remains: is it only the telephone industry which can provide telecommunications service for our citizens or can others, in selected areas, also compete to better service the public in a number of very tangible ways?

Moreover, the greatest benefit to the American consumers from increased competition may be an intangible one. The old monopolist philosophy that "you can have it if we choose to offer it" has given way to a new receptivity and responsiveness to the public which best can be summed up by AT&T's recent and highly publicized motto: "We hear you". Consumer wants and the needs of small businessmen, both of which previously might have been overlooked, now are pursued energetically by the telephone industry. Competition, in my opinion, has made AT&T and its partners better and more vigorous business entities and better and more vigorous public servants.

Critics of the Commission's pro-competitive policy originally argued that the "one carrier—one system" concept was necessary to preserve the technical integrity of the telephone network. After nearly a decade of experience with the interconnection of customer-supplied equipment and specialized common carriers, the telephone industry has yet to document any deterioration of the nationwide switched network. Thus, it is not surprising that the technical integrity arguments have now been superseded by the theme of adverse economic impact.

In point of fact, however, Bell and the independents also have yet to prove any case of harm here either—that is, any present adverse economic impact. Indeed, USITA's own study bears clear witness to this fact. This does not mean, of course, that some companies or some users could not experience economic effects in the future. But the first task in assessing such potentialities, I would suggest, is to ascertain where subsidies may exist between various classes of users served by the telephone company. Since telco services traditionally have been dealt with in the aggregate for ratemaking purposes, the FCC, and perhaps the industry itself, has paid little attention to the very fundamental social and political question of whether some classes of users do or should subsidize other classes of users.

Stated another way, rate averaging has not been conducive to record-keeping which reflects whether individual services are priced above, or below, cost. Not surprisingly then, the evidence submitted in the Commission's Docket 20003 Economic Inquiry has been conflicting. The telephone companies maintain that terminal and private line services subsidize local exchange rates. Others, most notably the New York Public Service Commission, argue that those services are priced below costs and that residential users may be subsidizing business users. For example, some suggest that residential users may well be subsidizing low private line television transmission rates for the broadcast networks and news wire services. The Commission is presently analyzing these conflicting contentions and will be issuing an initial report late this summer. Until the nature and extent of existing subsidies between classes of users are identified, however, there is no basis for any intelligent conclusions as to potential economic harm to some portion of the telephone industry or its subscribing public.

Let us assume, arguendo, that some economic impact might eventuate. What possible remedies might be available? The telephone industry seems to suggest that the only solution is to submerge or destroy their competitors—a notion vaguely akin to contending that amputation is the only cure for an incipient hangnail. There are, however, numerous other alternatives which should be considered. First and foremost is the repricing and unbundling of telephone service rates to make them more competitive with independent suppliers. Second, telcos might be authorized to impose access charges for terminals interconnected with the network. Third, specialized common carriers could be brought into the separations arrangements. Fourth, usage sensitive pricing could be adopted by state jurisdictions to allow users to pay only for the services they use and in relation to the costs they cause. And fifth, state jurisdictions could adopt a "lifeline service" offering—such as that authorized by the New York Public Service Commission—which guarantees each citizen the availability of an inexpensive phone. These are but a few of the options which might be available in the event that any real economic impact on telephone company or subscriber should occur.

The public interest equation must take into consideration the ability of the telephone industry to provide the public with quality service at reasonable rates. Obviously, not all telephone companies throughout the United States stand on the same economic footing in terms of their profitability and their resulting ability to absorb any new costs or burdens imposed by regulatory policies. Regulatory actions that have diminutive impact on large or profitable licensees may be unbearable for their smaller or less profitable brethren. The FCC has given recognition to this reality in the Broadcast and Cable Television fields by according special or different treatment for small or marginal licensees.

Once the Commission has finalized its interim report in Docket 20003, we should have—as indicated—a better idea as to how the subsidies run for telephone company services. At that juncture, the Commission will be in a position to assess whether its terminal interconnection and private line decisions pose special burdens on marginally profitable telephone companies. If so, if—for example—some cooperatives or independent telephone carriers are found unable to provide quality public service at reasonable rates with a reasonable return on their investment, I believe that the Commission will take prompt remedial action. Accordingly, the attempt by certain large companies to oppose our policy by wrapping themselves in the banner of small, rural entities is simply *not* very compelling.

One final word about our decisions in this area, both past and future: they should permit true competition and *not* market allocation. In the private line field, for example, the Commission must walk a careful tightrope between ratemaking principles which fail to adequately protect new entrants against monopoly services being utilized to subsidize competitive services, and the equally dangerous evil of erecting a protective umbrella over new entrants. If the public is to receive the benefits of innovation, efficiency and productivity stimulated by competition, telephone companies must be free to realize any efficiencies or economies of scale inherent in their operations. Furthermore, new entrants should not expect regulatory intervention to protect them from what are natural marketplace forces as opposed to anticompetitive cross-subsidies. For this reason, I expect to spend most of the next several months personally reviewing the contents of Docket 18128 dealing with ratemaking principles. This proceeding poses a tremendous challenge to the agency in assuring that the cardinal principle of full and fair competition is attained.

Having belabored domestic common carrier matters at length, let me turn very briefly to the international field. Last June, I publicly expressed my conviction that the time was long overdue for careful Commission analysis of international common carrier policies and practices. In fact, no comprehensive assessment of international common carrier issues has been undertaken by the FCC since 1943. Since last June, the Commission has been engaged in a systematic review of long pending proceedings or outdated policies. As a result, a number of major decisions have been issued—including those relating to "gateway" cities, formulas for distributing unrouted overseas telegraph messages, international dataphone and the lengthy Comsat rate case.

The Commission will continue to devote considerable time and resources to the international field during the next year. Just last week, for example, we ordered an audit of all international carriers. This will be the initial step in the first FCC review of international rates since 1958. Indeed, for some 18 years, the Commission has neither ascertained what the international carriers' costs and earnings have been nor determined what should be the allowable rate of return for their services to various points throughout the world.

While this initial audit is being conducted—with an intended conclusion date of December 1, 1976—I would hope that our agency, interested parties and members of the academic community would devote attention to possible alternatives to rate of return regulation for international and, indeed, domestic carriers. Criticisms of this form of regulation have been frequently catalogued, but practical and feasible alternatives have yet to emerge. In this connection, the Commission announced last week also that—in July—we will hold a Future Planning Conference on alternatives and possible improvements to rate base regulation.

Ladies and gentlemen, my time is up. In closing, let me simply say that the FCC today is committed to a course of addressing and resolving all of the major policy issues vital to the well-being of the nation's telecommunications capabilities—and doing so in a timely and responsible manner. We welcome your participation and the benefit of your expertise in these efforts to the end of providing our citizens with the very best communications services available and at the lowest possible cost.

LOCAL HEARING AMENDMENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. LAGOMARSINO. Mr. Speaker, had I not been precluded by the time limitation, this is what I would have said.

Mr. Speaker, this amendment has already been added to the EPA research and development bill, the vocational education bill, and the ERDA R. & D. bill, the latter having been accepted by both sides. It simply provides that any hearing, the expenses of which are paid from funds authorized under this act, which concerns a single unit of local government, single geographic area, or single State, shall be held within the affected jursidiction.

Quite simply, this would require that government be conducted for the convenience of the people rather than for the convenience of the Government. We have had numerous instances of such hearings being moved or even denied, including one in Mr. KETCHUM's district, involving HEW, and one now in my own, involving the Federal Power Commission and its hearings on liquified natural gas terminals in southern California.

I think most of you would agree with me that such hearings should be held in the affected area, and in fact, this is a requirement in many jurisdictions. This amendment will help restore people's faith in the administrative proceedings of Government, and may just lead to better Government, period.

The amendment does contain the language offered by the gentleman from Texas (Mr. TEAGUE) when the amendment was offered to the ERDA bill. That language improves the measure by making it clear that nothing shall be construed as requiring a hearing where none is now required and by allowing consolidation of hearings.

Attached is an editorial on the subject:

[From the Santa Barbara News-Press, May 28, 1976]

ARROGANT GAS PORT RULING

In a decision unfortunately bordering on governmental arrogance, the Federal Power Commission has flatly rejected a request for West Coast hearings on proposed liquified natural gas (LNG) ports at Point Conception, Oxnard and the Los Angeles area.

It also apparently will press ahead with Washington hearings despite the fact that draft environmental impact reports are still lacking on the Oxnard and Los Angeles sites. In its only possible concession, the FPC indicated that a staff member might take some testimony at one of the California locations.

The FPC ruling runs counter to the wishes of the state Public Utilities Commission, the state Energy Commission, Los Angeles County, Los Angeles Mayor Bradley, Ventura and Santa Barbara Counties. While the PUC is the only official intervener in the case, all had urged coastal hearings on the matter.

A pre-emptory action such as this one is a dis-service to the state of California and Santa Barbara. The installation and operation of these plants is of deep consequence to the West Coast, its economy, environment and general livability. Its residents should be thoroughly briefed, through local hearings, on the potential impact of such operations.

A report by the director of the State Office of Planning and Research has pointed out that the "potential consequences of a loaded LNG tanker releasing its cargo . . . are sufficiently extreme to warrant special attention." He said the analytical work done to date on risk management is mostly theoretical, incomplete and controversial. He questioned a federal agency policy that is forcing California to develop a policy response on a critical issue on the basis of incomplete or nonexistent environmental documents.

This week Santa Barbara's county supervisors asked a staff exploration of the legal possibilities of requiring the FPC to hold local hearings on this issue. They envision a co-operative effort with the state PUC.

It's a sound move, a commendable one and in the best interests of the people of the three counties immediately involved.

ILLEGAL ALIENS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. EILBERG. Mr. Speaker, legislation—H.R. 8713—providing a penalty for employers who knowingly hire illegal aliens, has been ordered favorably reported by the full Judiciary Committee. This important bill addresses the serious problem of aliens illegally residing in the United States and the consequences of their presence on the domestic labor market. Leonard F. Chapman, Jr., Commissioner of the Immigration and Naturalization Service, has estimated that there are between 6 and 8 million persons illegally residing in the United States. According to the Commissioner:

> At least 1 million illegal aliens are holding good jobs and pay well—probably another 2 or 3 million are holding lesser-paying jobs.

I want to commend the American Legion for passing a resolution urging all of its members to support legislation which would prohibit the employment of illegal aliens at their 57th Annual National Convention held in Minneapolis, Minn. It is encouraging that this important organization has chosen to courageously speak out on a problem which is plaguing our country.

At the dinner given by Comdr. Harry G. Wiles, honoring the Legion's National Executive Committee, Chapman was the principal speaker and directed his remarks to the increasing number of illegal aliens in the United States and illustrated the serious consequences caused by their presence. I am inserting the text of Gen. Chapman's remarks for your information:

ADDRESS BY LEONARD F. CHAPMAN, JR., COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Good evening ladies and gentlemen. I am very proud to be here tonight to speak to the American Legion National Commander's Banquet. And I am honored to be here among so many who have borne arms in defense of our country.

Today, as we near the celebration of our nation's Bicentennial, the need remains just as great to maintain a strong defense of our nation, and our ideals.

In this hostile world we must be vigilant and ever alert if we are to preserve the freedoms, and the way of life which so many of our veterans have fought to ensure, and for which many have laid down their lives.

As a military man for 37 years, and Marine Commandant for four years, it has been my responsibility to help ensure that our position against armed aggression was such that we could turn it back, and that there would be no doubts about our ability to do so.

Today, as Commissioner of Immigration, I am concerned about another type of invasion of our country. It is ongoing now, and has been for several years . . . although it has gone largely unnoticed. For the perpetrators are not wearing uniforms, and are not carrying weapons. They are not storming our beaches under the cover of artillery.

Rather . . . their invasion is a silent one, occurring mainly at night across our unprotected borders. Their uniform is usually the simple clothes of a peasant. They are coming not as an occupation force, but simply to find jobs and to partake of the wealth in this great land of ours.

At first glance, that may not seem to be such a serious problem. But the great numbers involved and the impacts they have upon this country, our society and our economy make it a *very serious* concern, indeed. It is growing, and will become much worse in the years ahead unless some actions are taken to slow it.

There are today in the United States six to eight million illegal aliens, and that number in increasing by a half million to a million each year. The Immigration Service arrests 800,000 a year, and we are only skimming the surface.

Just the effect on the job situation alone is enough to cause concern. At least one million illegal aliens are holding good jobs that pay well . . . probably another two or three million are holding lessor paying jobs. But today, even these are in demand by students, teenagers, minorities and young Vietnam veterans.

Three million or more jobs is a serious matter, considering there are seven million unemployed Americans today. Among these are one million or more veterans, with a half million or more Vietnam veterans unemployed.

It was the 20 per cent unemployment rate among Vietnam veterans that caused us in the Immigration Service nearly two years ago to change the policy regarding work permits for foreign students in this country. Previously, colleges had authority to allow these students to work, and most could easily obtain permission; now, they must come to the Immigration Service, and make a very convincing case for work authorization to be granted.

I hear often, especially from those who espouse an open door immigration policy for this country, that the jobs illegal aliens take are only low-paying ones which no American will have. Nothing could be further from the truth.

About two-thirds of those we apprehend working are in industry, service and construction jobs that pay good salaries. In Chicago last year, we apprehended 4,700 illegal aliens holding jobs; 4,200 or 90 per cent were earning over $2.50 an hour. Twelve per cent earned over $4.50 an hour.

It is common to find aliens illegally in the United States holding professional and technical jobs earning five figure incomes. Last year in New Hampshire we found an illegal Japanese working as a metallurgical engineer at a salary of $12,000; in Alaska we found the manager of one of the best hotels, who was illegally in the country and earning $29,000 a year.

And probably the most ironic incident of illegal aliens working concerns two Greek brothers who had deserted their merchant ships and had been here several years, building sizeable bank accounts. We found them on a construction crew, earning $9.71 an hour . . . repainting the Statue of Liberty.

Besides taking jobs that should go to Americans and legal residents, illegal aliens utilize public services, including welfare, medical care and schools, without paying their share of the costs.

This past February in the state of Washington, among one group of 130 we apprehended, 33 held food stamps, 17 resided in low-cost Government housing, 16 were collecting welfare and nine were collecting both welfare and food stamps.

In San Francisco this year we found one illegal alien who had a thirty-three thousand dollar medical bill, which had to be paid for by public funds. Another in California had a seventy thousand dollar medical bill, which he could not pay.

A spot check of welfare recipients for one month in Los Angeles confirmed 305 illegal aliens on welfare rolls.

Yes . . . the welfare load upon our taxpayers is heavy. How much is accounted for by illegal aliens we don't really know. One study we had done by a private consulting firm in Washington indicated illegals cost U.S. taxpayers about $13 billion a year . . . that's billions not million . . . in services, welfare, unemployment and costs of citizens displaced from jobs and as a result require public assistance.

There are other costs which are hidden and unmeasurable. It is estimated that illegal aliens send $3 billion each year out of this country . . . money that is lost to our economy and is a negative impact upon our balance of trade.

Every program we have ever conducted with the Internal Revenue Service has indicated that hundreds of millions of dollars each year are lost to our nation's treasury through earnings paid to illegal aliens, on which little, if any, income tax is paid. Ordinarily, the aliens claim so many dependents that no tax is withheld; and usually no return is filed.

Last December, the IRS district director in Augusta, Maine, reported to us that they contacted 282 employers of illegal aliens, after we had notified them, and they found a total of 2,500 dependents had been wrongfully claimed for tax withholding purposes. Among 261 illegal aliens IRS pursued at the same time, they found unpaid taxes of 210 thousand dollars. And IRS believed this represented only 10 per cent of what could be collected in this one small district.

The desire of persons from poverty-ridden and other less developed nations to come to this country to find jobs and enjoy the benefits of this great nation is overwhelming. There is literally no hardship they won't endure or no price too high for them to achieve their goal—to come to America and find a job.

This situation, of course, paves the way for lucrative rackets. Smugglers charge aliens as much as seven hundred dollars, and more, to aid them in entering the country or help them to the interior once they get here. Recently at Chicago's O'Hara Airport we checked an arriving flight from Los Angeles, and even our officers were surprised to find that over half of the 140 persons on board were illegal aliens.

We apprehended over 80,000 illegal aliens who had been aided by smugglers last year . . . and we caught almost 7,000 smugglers.

Another favorite and highly profitable scheme is arranging sham marriages for aliens. The spouse of a U.S. citizen is able to gain almost immediate admission to this country, so the temptation to pay someone for this privilege is very great. Recently in Texas we apprehended a man operating a small business as a tax consultant and notary public. We found he also operated a very large business finding U.S. citizen spouses for aliens who wished to enter the United States.

His own records revealed he had arranged 3,500 such marriages, at a price of $1,600 each. After the alien was admitted to the country the marriage was dissolved.

One of the more successful and imaginative marriage arrangers was uncovered about a year ago in Miami.

This was a lady, who had married six alien men to facilitate their entry to this country. She had two daughters, and each of them married three alien men. In addition, her common law husband had two marriages to alien women. All of these 14 marriages were for a price of about $1,000 each.

But in addition to the fees collected for the sham marriages, this enterprising lady applied for and collected welfare in each of her six married names. Her two daughters were also collecting welfare in each of their three married names. The lady was, in addition, collecting an Aid to Dependent Children welfare check for two children whom one of the men had brought with him.

And finally, she was assigned a rent-free public housing apartment, which she had sublet and for which she was collecting rent.

The total cost to the public of this enterprise was several thousand dollars and resulted in the fraudulent entry into this country of at least 14 aliens.

After hearing some of the horror stories, you may wonder what we in the Immigration Service are doing to earn our salaries. Well, we're trying, but despite our efforts, illegal immigration to the United States is hopelessly out of control. With our limited manpower of less than 2,900 enforcement personnel to guard our nation's 6,000 miles of open land border and seek out illegal aliens hidden among our population of over 210 million, the immigration laws of this country are unenforceable.

With six to eight million persons here illegally today, the problem is serious. But we are seeing only the beginning of a flood—a human tide that is going to engulf our country, unless something is done to stop, or at least slow it. Without improved controls against illegal immigration, this is absolutely inevitable.

Anyone who dobuts this needs only to look at the population growth occurring around the world, and at our doorstep. The world's population, which has taken since the beginning of history to reach 4 billion, will reach 6 billion within 25 years. Some experts say it may be 7 billion. Where is this growth occurring? . . . Most of it is in the underdeveloped nations—Africa, Asia and Latin America, where the birth rates are three times as great as in North America and Europe. Mexico has the world's highest birth rate—3.5 per cent—double the world average.

Official estimates place the Mexican population at 60 million today . . . with nearly 10 per cent of those people already in the United States illegally. It is expected to reach 130 million within 25 years.

By the year 2,000, some 80 percent of the world's people are expected to be concentrated in the so called developing nations, which includes Central and South America and Mexico—already the source of most illegal aliens who are in the United States. Faced with the prospect of no jobs and substandard living conditions in their own countries, millions of these persons will seek to break out . . . and most will head for the United States—as they are already doing today.

The State Department recently reported that a survey taken by the Government of Haiti—another source of heavy illegal migration to this country—revealed that 40 per cent of the persons interviewed wished to migrate to the United States. Their motivation was economic.

Some estimates are that this country must develop three million jobs a year—double the current pace—just to keep up with our own nation's additions to the work force. But this does not take into consideration the heavy flow of illegal aliens, who are also entering the U. S. job market.

I mentioned earlier a silent invasion of our country, which is underway. That may sound alarming. However, it is true. In a single day in March of this year, Border Patrol officers in one 20 mile stretch of our Southern border apprehended 1,100 illegal aliens . . . and our limited force was able to respond to less than one-third of the border sensor alarms, which indicate an intrusion has been made. Another 2,000 or more made their way past our officers, and successfully entered this country.

This is not a particularly unusual event; similar happenings are occurring almost daily along our 2,000 mile Southern border, and to a lesser extent on the 4,000 mile Canadian border.

In addition, and just as difficult to cope with are the six million tourists, students and other temporary visitors, who come to our country each year. Up to 10 per cent do not depart, but instead stay here to seek jobs. Others enter with counterfeit, altered or borrowed documents.

Well, the end result of these hundreds of thousands of illegal and fraudulent entries to this country is a large population—nearly the size of New York City—competing with our citizens for jobs, using public services, sending their earnings out of the country, and otherwise milking our economy.

But the influence of these people on our nation extends even further than an economic impact. They are rapidly gaining a political voice, which is heard loudly calling for amnesty for all illegal aliens, and has so far been successful in blocking any action to tighten controls.

This huge block of people represents an invisible sub-culture in the United States, which must exist by deceit and fraud . . . for they live in fear of exposure and discovery by the Immigration Service. They must live their lives below the surface of our society, but as their numbers grow, their influence is becoming greater.

I have one other concern that I would like to share with you tonight. Our nation has long been known as a melting pot, where persons from many countries could come, share in our freedoms, contribute to the national well-being, and blend in with our society.

Today, America is becoming no longer a melting pot, but a mosaic, made up of hundreds of nationalities, whose interests represent the countries from where they came, rather than this nation. This, of course, cannot contribute to a strong and unified country.

I have painted some pretty severe scenes for you tonight, bringing up all sorts of problems, any one of which could make a full evening's speech. By now you must be asking if I have any solutions.

Yes, I do, but the problems are large, and the solutions are not easy. To begin with, we need a national policy to discourage the employment of illegal aliens. As of now, there is no law against hiring anyone illegally in this country; there is no requirement on the part of an employer to determine if a job applicant is here legally and entitled to work. The result is that it is extremely easy for illegal aliens to obtain employment. Employment is the attraction that brings them here, and that attraction must be removed.

A bill in the House—the Rodino Bill H.R. 8713, and one in the Senate— the Eastland Bill S. 3074 would prohibit hiring of illegal aliens. We need such a law if we are to make even a beginning in shutting off the flow of illegal immigration.

Second, we need a major commitment on the part of the nation to provide adequate controls and the means to enforce current immigration laws.

And, third, we need major groups, such as the American Legion and others, to recognize this problem and become concerned about it.

The Legion is deserving of praise and gratitude for its role in demanding that our nation keep up its defenses against the forces of aggression. But, you must not look only outward, while a danger that is almost as great erodes our country from within. You must not overlook the silent invasion.

The problem I have described is growing and there is ample reason for serious concern. However, though I am concerned, I am not discouraged. Our nation has faced dark days before.

But because we are a great nation, we have hitched up our belts, gone to work and somehow gotten the job done. If there is one thing I have become firmly convinced of in 40 years of traveling this earth, it is that America is truly a great and a good nation, filled with honest and dedicated people.

Despite the differences, problems and controversies that are always among us, we are still the greatest country in the world. No wonder so many millions wish to come here.

We have welcomed some 50 million immigrants throughout our history; this is a part of our heritage, and they have helped build our nation. There is still room in this country for those who wish to come here legally, work hard and contribute to our national well being. However, we cannot let America become the haven for all the world's unemployed. We must have controls on immigration, and those controls must be enforced.

Thousands of people are seeking to come to these shores, are waiting their turn to come in legally and will be a welcome addition. This new blood can help to keep our country strong. I hope we will continue to welcome these immigrants who see here a land of freedom and opportunity.

Despite the tirades and the rhetoric against us, America is still known world wide as the land of the free and the home of the brave. Let us make certain that will never change.

INVESTING IN YOUNG PEOPLE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 1976

Mr. HARRINGTON. Mr. Speaker, the employment picture for America's young people is extremely bleak. The unemployment rate for youth ages 20 to 24 is over 13 percent, for youth 16 to 19 it is over 20 percent. In the cities the rate is higher still. Among minority youth, unemployment is above 35 percent. Thus, one out of every three black or minority youth in our cities who wants a job is denied the right to work.

The existing youth employment situation serves to perpetuate and aggravate an already chronic and grave national unemployment problem. Only by addressing unemployment at all levels can we achieve the goal of full employment.

I applaud my colleagues' recent passage of Congressman MEEDS' bill to establish a Young Adult Conservation Corps. However, it is time to stress the need for an even more comprehensive program of full employment for youth. The conservation corps idea must be expanded upon so that steps to ameliorate the unemployment situation reach directly into the cities as well. Both urban and rural environments must receive attention if we hope to accomplish our employment objectives. Moreover, the concept of jobs for youth must be transformed into community service by youth. The need for community services which can be provided by American youth is only exceeded by the personal fulfillment and growth young people may derive from such an experience.

It is to illustrate the need for a comprehensive youth employment program and to suggest the direction such a program should take that I am inserting an editorial by Neal R. Peirce entitled "Investing in Young People," which appeared in the May 24 edition of the Washington Post. I strongly commend to my colleagues this editorial and their consideration of the proposal it outlines.

The text of the editorial follows:

INVESTING IN YOUNG PEOPLE

(By Neal R. Peirce)

Universal youth service, often proposed but never instituted in the United States, has emerged again as a response to sky-high levels of unemployment—and alienation—among the nation's young people.

Even in a "full employment" economy, according to former Secretary of Labor Willard Wirtz, "there would be a 20 per cent unemployment rate among white youths and 40 per cent among black youths. More and more employers are simply not hiring anybody under 20 except for dead end jobs such as dishing out hamburgers."

"We make almost no investment in youth between 16 and 25," Rep. Andrew Young (D-Ga.) told this correspondent. "These young people wander the streets and become drifters. They lack a basic sense of direction or roots." The dearth of youth-oriented programs, Young said, leads directly to "crime and all kinds of social disorders we're now throwing money at—with few tangible results."

It would be a better idea, Young said, to "throw some love" instead, through a universal youth service (UYS) that gives young people a structured way to serve their communities and gain their first work experiences.

The start of a national campaign to enact UYS in the 1970s emerged last month at a conference of some 75 educators, labor officials, businessmen and alumni of past national youth projects at the Eleanor Roosevelt Institute in Hyde Park, N.Y.

The Roosevelt tie is a "natural." The closest the nation ever came to UYS was the Civilian Conservation Corps' forest and park camps and the wide variety of service projects under the National Youth Administration, both programs of President Franklin D. Roosevelt in the 1930s.

Youth programs since World War II have been limited to specialized groups: the GI Bill for veterans, the Peace Corps and VISTA for the highly qualified, and Great Society "war on poverty" programs for the disadvantaged. President Lyndon B. Johnson considered national service in 1966—about the time he found he couldn't have both guns for Vietnam and more social programs at home.

Among attendees at the Hyde Park conference were Young and Franklin D. Roosevelt Jr., strong supporters of Jimmy Carter, the frontrunning contender for the Democratic presidential nomination. Carter, Roosevelt said, believes a national plan and program to combat youth unemployment is essential, and is studying the universal service approach. Both Young and Roosevelt said they would strongly urge Carter, should he be elected, to back UYS. Young, as Carter's leading advocate among black elected officials, might be particularly influential.

No precise formula for UYS emerged from Hyde Park, but three points came through loud and clear: Youth must be involved in the planning. Major federal funding—$1 billion to $5.5 billion annually—would be needed. And the program should be administered at the grass-roots level to avoid federal bureaucratic red tape and to encourage local initiatives for creative service opportunities.

Under the model developed by Donald J. Eberly, a universal youth service proponent since the early 1950s, the program "must be truly open to all persons from 18 to 25." It would have two major options—community service (teacher's aides, paramedics, assistants in social agencies, etc.) and environmental service (tree planting, park improvements and the like).

Applicants would agree to a contract with public or private agencies that had requested volunteers. UYS would pay the minimum wage to all participants.

A pilot program in Washington State, first proposed by Republican Gov. Dan Evans and similar to the Eberly model, has been in operation for three years.

By all accounts this "Program for Local Service," funded by the federal volunteer agency, ACTION, and administered by the state's Office of Community Development, has been exceptionally successful. Agencies have hired 40 per cent of volunteers at the end of their year's service, and 71 per cent of the agencies reported that the volunteers "equalled or surpassed regular employees in motivation, responsibility and skills."

The Washington program does not eliminate applicants for lack of education or experience. One 22-year-old woman, considered mentally retarded, worked at a senior citizens center organizing events from pinochle tournaments to trips out of town. When her service was up, the residents successfully petitioned their city council for funds to hire her permanently.

Young envisages a prestige youth corps in non-military type uniform ("like what our Olympians wear"). Service should begin, he thinks, with physical and civics training and discipline to help young people learn to work within a group. Young believes the program should eventually be compulsory. He had opposed abolishing the draft because "the Army provided the only education a lot of poor folk got."

But compulsion, according to Washington's Secretary of State Bruce K. Chapman, "is a horrible idea that would poison the well of volunteerism and service. I don't trust the government to know what's best for people." Voluntary service, Chapman added, can be an honor and challenge for young people and provide incentives for longterm career success.

UYS could even expand to include private sector opportunities—perhaps, Roosevelt suggests, through tax breaks to employers who offer young people work experience. The arts, home crafts or even organic farming could be eligible, Chapman says.

In place of either "federal officialdom" or "local officialdom" administering UYS at the local level, Wirtz would turn to such groups as community colleges, Lions and Rotary Clubs, or Big Sisters to propose volunteer activities and run the program.

Bypassing state and local governments, however, could generate the same kind of opposition that eventually killed off Great Society projects such as the Community Action Program.

A strong point of a successful UYS program is that it might reduce future criminal justice and welfare costs so significantly that it would be cost-effective, even with annual expenditures of several billion dollars of the taxpayers' money.

But the essential point is human. As President Roosevelt said in 1935, when 2,870,000 young people were out of work and out of school, "We can ill afford to lose the skill and energy of these young men and women."

SENATE—*Wednesday, June 2, 1976*

The Senate met at 11 a.m. and was called to order by Hon. Robert Morgan, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou King of Kings and Lord of Lords, in Thee do we trust, not just as the God of the state, nor as an American God, nor as a tribal deity, but as the universal transcendent God of all life and history, of all men and nations, our Creator, Redeemer, and Judge. Remove from us all false gods, deliver us from evil, and help us to worship Thee in spirit and in truth. In our consultations here, make us wise and strong. In our dealings with other nations, help us to pursue justice and peace. In whatever we think, or say, or do, use us for the advancement of Thy kingdom.

Through Him who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., June 2, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert Morgan, a Senator from the State of North Carolina, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. MORGAN thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Morgan) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

FERROCYANIDE PIGMENT INDUSTRY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Morgan) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with Section 203(b) (2) of the Trade Act of 1974, enclosed is a report to the Congress setting forth my determination that import relief for the U.S. industry producing ferricyanide and ferrocyanide pigments is not in the national economic interest, and explaining the reasons for my decision.

Gerald R. Ford.

The White House, *May 31, 1976.*

APPROVAL OF BILLS

A message from the President of the United States announced that he had approved and signed the following bills:

On May 28, 1976:

S. 510. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for the safety and effectiveness of medical devices intended for human use, and for other purposes.

On May 29, 1976:

S. 1494. An act for the relief of Paul W. Williams.

S. 2129. An act to provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States when said crimes are committed by an Indian in order to insure equal treatment for Indian and non-Indian offenders.

S. 3399. An act to authorize and direct the Administrator of General Services to convey certain land in Cambridge, Mass., to the Commonwealth of Massachusetts.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 3295) to extend the authorization for annual contributions under the U.S. Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes, with amendments, with which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 52. An act for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano.

S. 223. An act for the relief of Angela Garza and her son, Manuel Aguilar (aka Manuel Garza.)

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Morgan).

The message further announced that the House has passed the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes, in which it requests the concurrence of the Senate.

BILL PLACED ON THE CALENDAR

The bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes, was read twice by its title and placed on the calendar.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, June 2, 1976, he presented to the President of the United States the following enrolled bills:

S 52. An act for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano.

S. 223. An act for the relief of Angela Garza and her son Manuel Aguilar (aka Manuel Garza.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, May 28, 1976, be dispensed with.

Mr. ALLEN. Reserving the right to object, Mr. President.

I reserve the right to object to this unanimous-consent request in order to show my lack of sympathy with the proceedings that took place here in the Senate on Friday, in the absence of the distinguished majority leader, regarding the filing of a cloture motion.

I state further that if any Senator today feels that there is not a quorum present and makes a request that the presence of a quorum be ascertained, the Senator from Alabama plans to assist that Senator in finding out if a quorum is present by objecting to calling off requests that proceedings under the quorum call be rescinded.

I, therefore, object.

Mr. MANSFIELD. Does the Senator wish to suggest the absence of a quorum?

Mr. ALLEN. No, sir; the Senator from Alabama does not wish to suggest the absence of a quorum. I merely objected to dispensing with the reading of the Journal. I assume that would be the first order of business.

The ACTING PRESIDENT pro tempore. The objection is heard. The Journal will be read.

The clerk will read the Journal.

The assistant legislative clerk read the Journal of Friday, May 28, 1976.

AUTHORIZATION FOR APPOINTMENT OF COMMITTEE TO ACCOMPANY THE KING OF SPAIN

Mr. MANSFIELD. Mr. President, I move that the senior Senator from Washington (Mr. MAGNUSON) be authorized to appoint a committee of Senators on the part of the Senate to be joined with a like committee on the part of the House of Representatives to escort the King of Spain into the House Chamber.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MANSFIELD. Is my understanding correct that the Senate has agreed to stand in recess at the hour of 12:15 p.m. for the purpose of going in a body to the great Hall of the House of Representatives to hear an address by King Juan Carlos of Spain to a joint meeting of the Congress?

The ACTING PRESIDENT pro tempore. There was a previous announcement, but no order for that.

ORDER FOR RECESS FOR JOINT MEETING

Mr. MANSFIELD. Mr. President, I move that at no later than the hour of 12:15 p.m. the Senate stand in recess for the purpose of going in a body to the great Hall of the House of Representatives to hear an address to the joint meeting by King Juan Carlos of Spain and that at the conclusion of the address, after a reasonable period, 5 or 10 minutes, the recess then be ended.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. Yes, I yield.

The ACTING PRESIDENT pro tempore. There is an order for the reassembly of the Senate.

Mr. MANSFIELD. Very well.

The ACTING PRESIDENT pro tempore. There is no order for the going.

Mr. MANSFIELD. Very well.

Mr. ALLEN. Will the Senator make that recess 12 instead of 12:15?

There is already an order that we go over. When we do recess at 12:15, we go over. If we could just recess at 12, I think that would be appropriate.

Mr. MANSFIELD. Mr. President, I modify my request accordingly, and at that time it would be my intention, unless a Senator intends to do so, to suggest the absence of a quorum.

Mr. ALLEN. I told the distinguished majority leader that when the suggestion is made for the absence of a quorum, I was going to insist that Senators find out if a quorum is present by calling it off.

Mr. MANSFIELD. Would the Senator reconsider his position in view of the fact that we do have a quorum, a sizable quorum, present, in view of the fact that we do have an obligation to proceed to the Chamber?

Mr. ALLEN. I have no objection to proceeding, but I do not want to proceed under a quorum call.

If the Senator already put in a motion to recess at 12 o'clock, that will take care of it.

Mr. MANSFIELD. Mr. President, I change my request accordingly.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

JOINT REFERRAL OF COMMUNICATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary to the Council of the District of Columbia relating to support of vending on the Mall be jointly referred to the Committee on Interior and Insular Affairs and the Committee on Public Works.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

DEATH OF ALFRED SELBY

Mr. MANSFIELD. Mr. President, last Saturday the Senate lost a loyal friend. Alfred Selby passed away at the age of 85 after more than 62 years of faithful service to the Members of this body.

Alfred Selby was born in Philadelphia in 1891. As a young boy he came to Washington, and, on March 14, 1914, while attending school here he was appointed to the Senate staff by the late Senator Francis G. Newlands of Nevada. That was the second session of the 63d Congress. Among the Members of the Senate that year were Henry Cabot Lodge, Robert La Follette, George Norris, William Borah, and Elihu Root.

Since then, Alfred Selby has been known and respected by the Members of this body through 31 Congresses. During his service here he saw five Members of the Senate become President of the United States—Warren G. Harding, Harry Truman, John F. Kennedy, Lyndon Johnson, and Richard Nixon.

Alfred Selby served this body longer than any person in its history. He served it in a humble capacity but with complete fidelity. He was always cordial; always friendly and always worthy of our trust, confidence, and respect. He devoted more than a lifetime to making this body a more pleasant place.

It is hard to imagine the Senate without this kind and generous man. I shall miss him and know the other Members of the Senate will.

We are saddened to mourn his departure, but we are richer for having known this man of the Senate.

On behalf of my family, I wish to extend to Mrs. Selby and her family our deepest sympathy and our profound regrets at the passing of this humble but at the same time great man. May his soul rest in peace.

DEATH OF ALFRED SELBY

Mr. HUGH SCOTT. Mr. President, I was greatly saddened to learn yesterday of the passing of a good friend to all of us in the Senate. Mr. Alfred Selby was stricken at his home over the weekend, and passed away on Monday at the age of 85. He was a resident of my home city of Philadelphia.

He served as a diligent and conscientious employee of the Senate for 62 years.

In March 1974, many of us in the Senate joined in honoring Mr. Selby at a party marking his 60th year of service.

He was a gentleman, a good man, and a friend who will be much missed.

I know my colleagues join me in paying tribute to him, and expressing our condolences to his family and many friends.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE FOR JOINT MEETING

Mr. MANSFIELD. Mr. President, I move that the Senator from Washington (Mr. MAGNUSON) be designated Acting President pro tempore for the joint meeting.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I object. I ask the Chair to put the motion to a vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

Mr. MANSFIELD. The majority leader awaits the pleasure of the Senate and its Presiding Officer.

The ACTING PRESIDENT pro tempore. Does the minority leader seek recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time. I, too, await the pleasure of the Senate.

REPORT ON SENATE PARTICIPATION IN MAGNA CARTA DELEGATION TO THE UNITED KINGDOM

Mr. MANSFIELD. Mr. President, I am about to make a report on the Senate participation in the Magna Carta delegation to the United Kingdom covering the period May 23, 1976, to May 27, 1976. I am doing so in the form of a report submitted to the Senate.

1. BACKGROUND

In the summer of 1975, the British Parliament adopted motions which authorized the loan of an original of Magna Carta to the United States for a year. This loan plus the gift of a gold replica of the Carta and a special showcase to house the document were proffered as British contributions to the celebrations of the American Bicentennial.

On October 22, 1975, the House of Representatives passed unanimously House Concurrent Resolution 458—concurred in by the Senate unanimously the following day. This resolution served to notify the British Parliament of the acceptance of the offer by the U.S. Congress.

In early March 1976, in a joint letter, the Lord Chancellor and the Speaker of the House of Commons invited the two Houses of Congress to send a delegation to the United Kingdom to participate in British ceremonies built around the presentation of Magna Carta. The dates of the official program in the United Kingdom were set as the 24th, 25th, and 26th of May and it was requested that the "delegations, consisting of 25 Members of Congress with their wives and supporting staff" should arrive in London on the 22d or 23d of May.

The Senate passed Senate Concurrent Resolution 98 by unanimous vote on March 4, 1976. This resolution was in the nature of a confirmation of the basic arrangements for the ceremony. It also provided, on the part of the Senate, for a group of not to exceed 12 Members to join House Members in a joint congressional delegation to take part in the proceedings in the United Kingdom. The resolution also made provision for the Senate to share with the House of Representatives the subsequent reception of the delegation of the United Kingdom for ceremonies in the United States.

After consideration in the House and approval there, the Senate reenacted the identical Senate Concurrent Resolution 98 on April 5, 1976.

Immediately thereafter, the Speaker and the Vice President acting on behalf of the Congress formally notified the Parliamentary leaders by letter that a U.S. delegation would participate in the British ceremonies.

2. SENATE PARTICIPANTS

Senate participants in the delegation actually consisted of 7 rather than 12 members. The following Senators were named to the delegation by the Presiding Officer on the advice of the joint Senate leadership:

MIKE MANSFIELD, HUGH SCOTT, JAMES B. PEARSON, GEORGE MCGOVERN, EDWARD BROOKE, BOB PACKWOOD, and ROBERT MORGAN.

Five of the participants were accompanied by wives. The delegation was served by a Senate support contingent consisting of five, including the Secretary of the Senate, Francis R. Valeo. The U.S. Air Force provided transportation and escort. The staff of the U.S. Embassy in London extended very helpful assistance to the delegation during the stay in that city.

3. THE CEREMONIES IN THE UNITED KINGDOM

During the first 2 days of the visit the delegation accompanied by British Parliamentary leaders and associates paid respects at the grave of Sir Winston Churchill and visited Oxford where honors were bestowed on the Speaker of the House of Representatives, both in his present capacity and as a former Rhodes scholar. In addition, the group was briefed on British parliamentary practices and attended sessions of the House of Lords and the House of Commons. Receptions were offered by the Duke of Marlborough, by the Lord President of the Council, by the British-American Parliamentary Group and the British Group of the Interparliamentary Union, and by the Lord Mayor of London and the Corporation of the City of London.

The official presentation ceremony took place on Wednesday, May 26, 1976, in the centuries-old Hall of Westminster. It was an occasion, rich in pageantry and very moving in its unfolding. The Speaker of the House (Mr. ALBERT) and the majority leader of the Senate (Mr. MANSFIELD) spoke on behalf of the delegation of the United States. Speeches were delivered on the part of the United Kingdom by the following:

Prime Minister James Callaghan;

The Speaker of the House of Commons, George Thomas;

The Leader of the Official Opposition, Mrs. Margaret Thatcher; and

The Lord Privy Seal, Lord Shepard.

Other participants on the part of the United Kingdom included:

The Lord Great Chamberlain;

The Secretary of State for the Government;

The Archbishop of Canterbury;

The Lord President of the Council;

The Minister of State for Foreign and Commonwealth Affairs; and

The Leaders of the Minority Parties.

Subsequent to the official presentation, the U.S. delegation was received by the Queen Mother, Queen Elizabeth. The last event in the ceremonies in the United Kingdom was a dinner in New Hall, Lincoln Inns offered by the entire British Parliament. Appropriately, the final events of that evening included the playing of the National Anthems of both countries and, finally, the Hymn of the U.S. Marines.

4. CONCLUDING COMMENTS

It was apparent from the broad range of modern and traditional governmental participation that the United Kingdom has attached the greatest importance to this expression of their interest in the American Bicentennial. The treatment of the U.S. Delegation on the occasion of the official presentation of the replica of Magna Carta was extraordinarily considerate. It was an expression of warm and generous friendship extended by the people of the United Kingdom through their Parliamentary government to the American people through their Congress. Throughout the ceremonies, a sense of mutual respect for national distinctions was coupled with an unmistakable recognition of special cultural kinship.

In that sense, the British ceremonies mirrored faithfully the nature of the Bicentennial gift which occasioned them. The entrusting of an original of Magna Carta to the care of the United States is an unparalleled expression of goodwill on the part of the British people. The presence of the historic document in the rotunda of the Capitol will mark the first time that this parchment which dates from 1210 A.D. will have left the shores of the United Kingdom. It will enable millions of Americans to experience a sense of the ancient roots of liberty as we know it.

Magna Carta is one of the basic documents of the progress of the human race toward freedom. It is a milestone on the road to the Declaration of Independence. The latter, as Speaker Albert noted in his remarks, could not have been written without the prior appearance of Magna Carta. As such, its loan to the United States for a period of 1 year is a singularly appropriate gesture with respect to the Bicentennial. As such, it represents the extension of the hand of friendship between the two nations as well as an authentic affirmation of the cultural ties which link the people of Great Britain and the people of the United States. It is, finally, a restatement of the commonality of purpose of Constitutional government as both nations have known it which is to safeguard the personal liberty of their peoples and to work for the greater equity of all.

A special word of thanks is due to the principal British escorts of the U.S. delegation. Among them, Sir Thomas Williams, president of the British Group of the Interparliamentary Union and Brigadier Paul Ward, C.B.E., executive secretary of the British Group together with their staff, were with the delegation constantly and made every effort to make the visit a memorable one.

Thirty-three years ago this month Prime Minister Winston Churchill addressed the Congress of the United States. As a newly elected Member of the House, I listened as the Prime Minister delivered, with his customary eloquence a report on our joint efforts to win the war. He began:

> For more than 500 days we have toiled and suffered and dared shoulder to shoulder against the cruel and mighty enemy. We have acted in close concert in many parts of the world on land, on sea and in the air.

He continued,

> I am proud that you should have found us good allies, striving forward in comradeship to the accomplishment of our task without grudging or stinting either life or treasure or indeed anything we have to give.

Mr. President, I move that certain portions of this report be printed in the RECORD at this point.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to, and the material ordered to be printed in the Record is as follows:

Statement of Senator Mike Mansfield, Westminster Hall, London, May 26, 1976

Thirty-three years ago this month Prime Minister Winston Churchill addressed the Congress of the United States. As a newly-elected member of the House, I listened as the Prime Minister delivered, with his customary eloquence a report on our joint efforts to win the war. "For more than 500 days", he began, "We have toiled and suffered and dared shoulder to shoulder against the cruel and mighty enemy. We have acted in close concert in many parts of the world on land, on sea and in the air." He continued, "I am proud that you should have found us good allies, striving forward in comradeship to the accomplishment of our task without grudging or stinting either life or treasure or indeed anything we have to give".

That address, delivered during the darkest hour of the war, served to tie ever more securely the bonds of friendship between our two nations. To this backbencher, it was an experience never to be forgotten. Mr. Churchill's words were drawn directly from the well-springs of our mutual heritage.

Two hundred years ago our political paths parted. The American Colonists set out on a difficult and dangerous journey: To declare their freedom from the British Crown. Compiling a long list of grievances against their king, they drew up a declaration of independence. George III, they argued had violated and broken the contract of constitutional government with his subjects in the colonies. By ruling without the consent of the governed, he had disregarded a principle long a part of English tradition. A principle dating back to the Magna Carta.

Today, from both sides of the Atlantic we see that these ancient common traditions rest securely upon a foundation as solid as pegmatite from the Hebrides.

Today we gather to consider once again how closely we are associated with the British nation and people. Our language, our culture and our form of government are firmly rooted in your great history.

You extend a rare honor in entrusting to us one of the greatest treasures of the English-speaking peoples. The loan of an original Magna Carta is an extraordinary gesture of generosity and friendship.

When it arrives in Washington, Magna Carta, in its resplendent display case, will occupy the center of the Rotunda in the U.S. Capitol building on the site where pre-eminent fallen American leaders, from Abraham Lincoln to John F. Kennedy have lain in state.

Millions of Americans will travel from across the country to view and seek inspiration from this hallowed document. For millions it will underscore, during our Bicentennial anniversary, the continuity rather than the disruption of our great common bonds.

Recent events remind us that safe-guarding liberty is a constant task. But we search the past to guide us in the present. Again, may we find reassurance in the words of Winston Churchill. "When the State, swollen with its own authority, has attempted to ride roughshod over the rights or liberties of (its citizens), it is to this doctrine (of the Magna Carta) that appeal has again and again been made, and never as yet without success." And so it should, and must, be.

The Magna Carta, then, stands as a landmark, reaffirming the fundamental liberties of man. So it is especially appropriate that her Majesty Queen Elizabeth II and Parliament mark our Bicentennial Celebration by lending the United States this document which is so vital to the rich heritage of freedom common to both our nations.

[94th Congress, 1st Session]

H. Con. Res. 458

CONCURRENT RESOLUTION

Whereas, the historic document known as the Magna Carta of 1215 A.D. represents an essential link in the long chain of constitutional instruments; and

Whereas, American Colonists brought with them from England the traditions of free government and the principle that all persons stand as equals before the law, concepts which had been embodied in the Magna Carta, and they regarded them as their birthright and incorporated them in their colonial charters and constitutions; and

Whereas, in drafting the Constitution and the Bill of Rights of the United States, our Founding Fathers sought to guarantee to the people of these United States the freedom of the church, an independent judiciary, the right to a speedy trial, and the concept of due process of law, which principles were clearly derived from the Magna Carta; and

Whereas, in recognition of the Bicentennial celebrations of the United States of America, the House of Lords and the House of Commons of the Parliament of the United Kingdom of Great Britain and Northern Ireland have unanimously adopted motions respectfully praying that Her Majesty, The Queen, direct that an original copy of the Magna Carta be loaned to the people of the United States, to be held by their representative, the Congress of the United States, for a period of one year; and

Whereas, this loan has been authorized by Her Majesty, The Queen, in order that this historic document may be displayed in the Capitol, enclosed in a showcase donated by the United Kingdom for that purpose; Therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States recognizes that it is natural that men should value the original documents which guarantee their rights, and thus hereby expresses its sincere gratitude to Her Majesty, The Queen, the Parliament and the people of the United Kingdom for their loan to this Nation of the Magna Carta, a document of historic and symbolic significance to the peoples of both our Nations, and believes that its temporary residence here in the country of its philosophical descendants, the Declaration of Independence, the Constitution and the Bill of Rights, will contribute an important historical perspective to the Bicentennial celebration; and be it further

Resolved, That the showcase donated to the United States by the United Kingdom to be used to display the Magna Carta may be placed in the Rotunda of the United States Capitol, and the Architect of the Capitol is hereby authorized to make the necessary arrangements therefor, including the payment of all necessary expenses incurred in connection with the installation, maintenance, and protection thereof; and be it further

Resolved, That the Secretary of State is requested to transmit a copy of these resolutions to the Parliament of the United Kingdom of Great Britain and Northern Ireland.

[94th Cong., 2d sess.]

S. Con. Res. 98

CONCURRENT RESOLUTION

Whereas, in recognition of the Bicentennial celebrations of the United States of America, the House of Lords and the House of Commons of the Parliament of the United Kingdom of Great Britain and Northern Ireland have unanimously adopted motions respectfully praying that Her Majesty, the Queen, direct that an original copy of the Magna Carta be placed on loan to the people of the United States for a period of one year; and

Whereas, this loan has now been graciously authorized by Her Majesty, the Queen, and, by concurrent resolution of the United States Congress, this historic document of freedom and of the abiding principles of law will now be displayed in the Rotunda of the United States Capitol, there to be contained within a showcase to be donated by the United Kingdom for such purpose: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) a delegation of Members of Congress shall be appointed to proceed at the invitation of the two Houses of Parliament, to the United Kingdom, there to attend the presentation of the Magna Carta, under suitable auspices, to the people of the United States, to be held in the custody of their representative, the Congress of the United States, for a period of one year.

(b) The delegation shall consist of the Speaker of the House of Representatives and not to exceed twenty-four additional Members appointed as follows:

(1) Twelve appointed by the Speaker of the House of Representatives on the recommendation of the Majority and Minority Leaders.

(2) Twelve appointed by the President of the Senate on the recommendation of the Majority and Minority Leaders.

(3) The Speaker shall be the Chairman of the delegation and the Majority Leader of the Senate shall be the Vice Chairman.

Sec. 2. There are authorized to be paid from the contingent fund of the Senate on vouchers approved by the Chairman and Vice Chairman, such amounts as the Chairman and Vice Chairman of the delegation jointly shall determine to be necessary (one-half of such expenditures shall be reimbursed by the House of Representatives and such reimbursement is hereby authorized):

(1) for the expenses of the delegation, including expenses of staff members designated by the Chairman and Vice Chairman, respectively, to assist the delegation;

(2) for the reimbursement of any department or agency of the Federal Government for expenses incurred by it on behalf of the delegation and expenses incurred in connection with the functions of the delegation in the United Kingdom;

(3) for payment of expenses in connection with the display of the Magna Carta in the United States Capitol, including those expenses associated with delegations invited from the Government of the United Kingdom or other nations in connection with joint Bicentennial ceremonies at the Capitol.

Sec. 3. All authority for such expenditures shall expire at the close of business December 31, 1976.

Visit of an American Congressional Delegation to Great Britain To Mark the Bicentenary of the United States of America

SUNDAY, 23D MAY

2000 hrs—Arrive by U.S.A.F. Special Mission Aircraft, Staying at the Churchill Hotel, 30, Portman Square, W.1.

MONDAY, 24TH MAY

0915 hrs—Leave Hotel.

1045 hrs—Arrive at Bladon Churchyard to see the grave of Sir Winston Churchill.

1110 hrs—Arrive at Blenheim Palace, tour of the Palace, drinks with His Grace the Duke of Marlborough.

1230 hrs—Leave Blenheim Palace.

1300 hrs—The Hon. Carl and Mrs. Albert

and six others of the delegation arrive at St. Peter's College and are greeted by Sir Alexander Cairncross, K.C.M.G.—Master. Luncheon.

1450 hrs—Leave for All Souls College.

1300 hrs—The remainder of the delegation arrive at All Souls College and are greeted by Mr. J. H. A. Sparrow, M.A.—Warden. Luncheon.

1500 hrs—Visit Codrington Library at All Souls. Greeted by Mr. J. S. G. Simmons—Librarian.

1530 hrs—Leave Oxford.

1700 hrs—Arrive at Hotel.

1815 hrs—Leave Hotel.

1830 hrs—Reception given by the Lord President of the Council. Lancaster House.

TUESDAY, 25TH MAY

1030 hrs—Leave Hotel.

1100 hrs—To the Palace of Westminster—Tour the Palace. Briefing on Question Time procedure.

1230 hrs for 1300 hrs—Luncheon given by the Executive Committees of the British American Parliamentary Group and the British Group of the Inter-Parliamentary Union. Harcourt Room, House of Commons.

1425 hrs—Lord Chancellor's Procession; Speaker's Procession.

1430 hrs—Attend Question Time in the House of Lords.

1500 hrs—Attend Question Time in the House of Commons.

1600 hrs—Leave the Palace of Westminster.

1810 hrs—Leave Hotel.

1830 hrs—Reception given by the Lord Mayor and Corporation of the City of London. Guildhall.

2000 hrs—Leave Guildhall.

2030 hrs—Arrive National Maritime Museum. Tour of the 1770 Exhibition. Greenwich.

2200 hrs—Embark m.v. "Silver Marlin" buffet supper on board.

2330 hrs—Disembark, Cardogan Pier.

WEDNESDAY, 26TH MAY

1000 hrs—Wives and supporting staff leave Hotel.

1030 hrs—Delegation leave Hotel.

1055 hrs—Ceremony in Westminster Hall. Palace of Westminster.

1230 hrs—Reception for the Delegation given by Her Majesty Queen Elizabeth, The Queen Mother. Clarence House, St. James's Palace.

1230 hrs—Reception for other guests given by the Prime Minister. Lancaster House.

2000 hrs for 2030 hrs—Dinner given by Parliament. New Hall, Lincoln's Inn.

THURSDAY, 27TH MAY

Departure.

BRITISH DELEGATION

The Lord Chancellor and Lady Elwyn Jones.

The Speaker.

Lord President of the Council and Mrs. Foot.

Lord Privy Seal and Lady Shepherd.

Marquess of Lothian and Lady Lothian.

Viscount Hood GCMG.

Lord Mowbray and Stourton and Lady Mowbray and Stourton.

Rt. Hon. The Lord Byers and Lady Byers.

Rt. Hon. Humphrey Atkins, M.P. and Mrs. Atkins.

Mr. Winston Churchill, M.P. and Mrs. Churchill.

Mr. Michael Hamilton, M.P. and Mrs. Hamilton.

Rt. Hon. Douglas Jay, M.P. and Mrs. Jay.

Dr. Dickson Mabon, M.P. and Mrs. Mabon.

Mr. Roger Moate, M.P. and Mrs. Moate.

Rt. Hon. John Peyton, M.P. and Mrs. Peyton.

Rt. Hon. Edward Short, M.P. and Mrs. Short.

Mr. David Steel, M.P. and Mrs. Steel.

Sir Thomas Williams, Q.C., M.P. and Lady Williams.

Mr. J. A. C. Watherston—Lord Chancellor's Private Secretary.

Brigadier N. E. V. Short, M.B.E., M.C.—Speaker's Private Secretary.

Brigadier P. S. Ward, C.B.E.—Secretary to the Delegation.

Mr. MANSFIELD. In addition to placing this report on the Senate's participation in the Magna Carta delegation which visited the United Kingdom, I wish to advise the Members that I have had a preliminary financial estimate made of the cost of Senate participation. The indications are that the full cost of Senate participation for the entire party, including staff, will be in the neighborhood of $7,500. We are awaiting further details and specifics and when they are available, they will be made a part of the record. It seems reasonable, however, to expect that the overall cost to the Senate of $7,500 will not change significantly.

EXECUTIVE SESSION

Mr. GRIFFIN. Mr. President, I move that the Senate go into executive session.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Michigan.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

CONFIRMATION OF THE NOMINATION OF S. JOHN BYINGTON—NOTIFICATION TO THE PRESIDENT

Mr. GRIFFFIN. Mr. President, I have several parliamentary inquiries.

The ACTING PRESIDENT pro tempore. The Senator will state his first inquiry.

Mr. GRIFFIN. As I understand the situation with respect to the nomination of Mr. S. John Byington to be a member of the Consumer Product Safety Commission, the Senate has confirmed his nomination, but the President as yet has not been notified. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct. The President would not be notified until the third day of actual executive session.

Mr. GRIFFIN. Would I be correct in saying that this is the third day of executive session?

The ACTING PRESIDENT pro tempore. The Senator is correct, and the President will be notified.

Mr. GRIFFIN. Will the President be notified immediately after we return to legislative session today, or will the notification be made tomorrow?

The ACTING PRESIDENT pro tempore. Immediately after the close of this executive session.

Mr. GRIFFIN. I thank the Chair. It is of some importance, because there have been plans for a swearing-in ceremony at the White House at 2 o'clock this afternoon.

LEGISLATIVE SESSION

Mr. GRIFFIN. I now move that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Michigan.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

Mr. MANSFIELD. Mr. President, I move that the Senator from Colorado (Mr. HASKELL) be recognized under the order granted on Friday last.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado (Mr. HASKELL) is recognized for a period of not to exceed 15 minutes.

THE ANTITRUST IMPROVEMENTS ACT

Mr. HASKELL. Mr. President, I would like briefly to discuss title 5 of the antitrust bill, the principal author of which is the distinguished Senator from Michigan (Mr. PHILIP A. HART). I commend the Senator from North Carolina as well as Mr. HART for putting together a particularly constructive piece of legislation.

The aspect of that bill which I would like to discuss is the premerger notification and stay amendments.

The prenotification procedure would provide the law enforcement agencies of the United States at least equality with the major corporations of this Nation. I am not sure it will put them ahead, but at least it will make them procedurally equal.

This is extremely important, Mr. President, because I think our Nation was built economically on the free enterprise system and competition. This free enterprise system, in turn, depends upon a multitude of business enterprises actively competing with each other in the marketplace.

Mr. President, if one reviews the recent economic history of this country and sees the increasing concentration of corporate structure, I believe that he will come to the conclusion that the free enterprise system is in fact in danger. For example, the present structure of American industry has approximately 200 corporations controlling 67 percent of all manufacturing assets, and the present antitrust laws, both section 7 of the Clayton Act and others, have failed in their objective, not because of the substantive thrust of those laws—I want to stress that—not because of the substantive thrust, but because of the inability to provide to the Antitrust Division of the Federal Trade Commission the necessary tools to stay mergers while they can be examined and looked into for anticompetitive effect.

I have two personal examples, Mr. President, that I can point to, that have come to my own experience, where corporations in this country have decided to merge. In one where they were willing, consenting partners to the merger, the companies thumbed their noses both at the Antitrust Division of the Justice Department and at a committee of the U.S. Senate.

This example involved an acquisition by Burma Oil Co., a British multinational conglomerate, of one of the few remaining substantial independent producers of oil and gas in this country, called Signal Oil Co. According to testimony from the Antitrust Division, one of the lawyers, I believe, for Burma called this lawyer in the Antitrust Division on Christmas Eve and informed the lawyer in the Antitrust Division of the pending merger. Subsequently there were discussions back and forth. There was a request for a delay by the Antitrust Division, asking that they be given time to take a look at what the anticompetitive effects might be.

The answer from the law firm representing Burma Oil Co. was: "Sorry, friend; go soak your head. We are going to consummate this transaction."

This was called to my attention as chairman of a subcommittee of the Committee on Interior and Insular Affairs, which was examining the structure of the integrated oil industry. I asked that pending a hearing on the matter the merger not be consummated. I received exactly the same answer as did the Antitrust Division.

I submit, Mr. President, that all other things aside, it hardly is fitting that corporate enterprise be so cavalier with both the executive and legislative branch of the Government. We did have a hearing after the merger was consummated. The Antitrust Division testified as did others, and the Antitrust Division testified to something that was quite obvious.

Once two companies are brought together they have actually been merged, and they have scrambled the eggs, and the remedy of keeping them apart is gone for all practical purposes.

There may be other remedies. There may be, for instance, the sale of a certain line of business or something like that, but the basic remedy of keeping the corporations apart and in competition with each other is gone.

Mr. President, if we believe in the free enterprise system, I state that we must do everything within our power to keep separate competitive enterprises, and this provision of the bill allows a time for examination of the facts and to determine whether or not the bill will have an anticompetitive effect. It does not add substantively in any way to the antitrust laws of the United States but merely gives the law enforcement officials the tools with which to work.

So, Mr. President, I believe that this is a much needed piece of legislation, and I stress that, if we believe in the free enterprise system, we will get behind this because this is a way in my view to preserve it.

I point out that the assistant attorney general, Mr. Kauper, testified on this particular provision and he said:

> We strongly support the premerger notification and the enhancement of our ability to obtain relief pendente lite.

Among other things, he testified that the premerger notification would prevent the consummation of so-called midnight mergers. That is the type of merger that I had reference to a while back which goes on all the time. Once they are done they cannot be undone, and they lead, in my opinion, to uneconomic concentration.

So, Mr. President, I am strongly behind the entire bill, but I did want to speak on this aspect of it since I had some personal knowledge, and I certainly hope it becomes law.

I yield back the remainder of my time.

ADDITIONAL COSPONSOR—S. 651

Mr. MANSFIELD. Mr. President, I move that Senator BURDICK be added as a cosponsor of S. 651, the Tax Neutrality Act.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

JOINT REFERRAL MOTION

Mr. MANSFIELD. Mr. President, I move that a communication transmitted by the Executive Director of the Seismic Safety Commission be referred jointly to the Committee on Interior and Insular Affairs, the Committee on Banking, Housing and Urban Affairs, and the Committee on Public Works.

The ACTING PRESIDENT pro tempore. The Chair advises that the motion is out of order; that can only be done by unanimous consent.

MRS. HOPE NAMGYAL

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1699.

The ACTING PRESIDENT pro tempore (Mr. MORGAN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1699) for the relief of Mrs. Hope Namgyal as follows:

> Strike out all after the enacting clause, and insert: That, for the purposes of the Immigration and Nationality Act, Mrs. Hope Namgyal shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. The question is on the motion of the Senator from Montana.

The motion was agreed to.

THE RELEASE OF NAMES BY THE ADMINISTRATOR OF VETERANS' AFFAIRS

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 848, H.R. 10268.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 10268) to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and the Senate proceeded to consider the bill (H.R. 10268) which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert:

> That (a) section 3301 of title 38, United States Code, is amended by—
>
> (1) inserting "(a)" before "All";
>
> (2) striking out "follows:" and inserting in lieu thereof "provided in this section.", and inserting thereafter the followng new subsection:
>
> "(b) The Administrator shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:";
>
> (3) redesignating paragraphs (6), (7), (8), and (9) as subsection (c), (d), (e), and (f), repectively;
>
> (4) striking out "The" at the beginning of subsection (e) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof "Except as otherwise specifically provided in this section with respect to certain information, the"; and
>
> (5) striking out subsection (f) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following new subsections:
>
> "(f) The Administrator may, pursuant to regulations the Administrator shall prescribe, release the names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.
>
> "(g) Any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5.".
>
> (b) The amendments made by *subsection* (a) of this section with respect to subsection (f) (as redesignated by subsection (a) (3) of this section) of section 3301 of title 38, United States Code (except for the increase in criminal penalties for a violation of the second sentence of such subsection (f)), shall be effective with respect to name or addresses released on and after October 24, 1972.

Mr. THURMOND. Mr. President, I rise in support of H.R. 10268, a bill to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.

This legislation is necessary if the Veterans' Administration is to continue to observe the practice of reporting to appropriate public health authorities the names and addresses of patients with communicable diseases who were treated at VA health care facilities.

This policy enables local and State health officials to provide for the public health and safety by seeking out and treating those who may have come in contact with various infectious diseases in the community. Mr. President, the

States need this legislation if they are to continue to provide the public health and safety functions which they are mandated to furnish under various State laws.

Mr. President, the Administration testified that they needed this authority, and I am hopeful we will pass this bill with dispatch.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and/or addresses of present and former members of the Armed Forces and their dependents.

CIBOLA NATIONAL FOREST

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 857, S. 1872.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1872) to enlarge the boundary of the Cibola National Forest.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following-described lands:

1. A tract of land in townships 13 and 14 north, range 16 and 17 west, of the New Mexico principal meridian in New Mexico, beginning at a point from which the southwest corner of section 34, township 14 north, range 17 west, bears north 89 degrees 52 minutes west 1,717.32 feet;

thence south 0 degrees 56 minutes east 1,307.46 feet to the southwest corner of the Fort Wingate Army Depot;

thence south 89 degrees 45 minutes east 897.60 feet;

thence south 89 degrees 57 minutes east 2,643.30 feet;

thence north 89 degrees 48 minutes east 5,272.08 feet;

thence north 89 degrees 51 minutes east 6,596.70 feet to the southeast corner of Fort Wingate Army Depot which bears north 89 degrees 51 minutes east 1,320.66 feet and south 1,328.58 feet from the northwest corner of section 6, township 13 north, range 16 west;

thence north 0 degrees 42 minutes west 12,945.12 feet; then due west 15,175.51 feet to the west boundary of the Fort Wingate Army Depot;

thence south 0 degrees 35 minutes west 2,598.32 feet;

thence south 0 degrees 23 minutes west 5,195.52 feet;

thence south 0 degrees 32 minutes west 3,872.88 feet to the point of beginning, containing an area of 4,556 acres, more or less. The southwest and southeast corners of Fort Wingate Army Depot mentioned in the above description are the same as was installed as of November 19, 1971, and mentioned in the Mann survey, United States Department of the Interior, Bureau of Land Management plat dated September 9, 1957.

2. Township 14 north, range 15 west, section 3, all lying south of Interstate 40; section 4, all lying south of Interstate 40; section 5, all; section 8, all; section 9, all; section 10, all lying south of Interstate 40; section 11, all lying south of Interstate 40; section 12, all lying south of Interstate 40; section 13, all lying south of Interstate 40; section 14, all; section 15, all; section 16, all; section 17, all; section 20, all; section 21, all; section 22, all; section 23, all; section 24, all; section 25, all; section 26, all; section 27, all; section 28, all; section 29, all; section 32, east half; section 33, all; section 34, all; section 35, all; section 36, all; containing 14,476.06 acres, more or less.

3. Township 10 north, range 4 east, section 2, south half northeast quarter, southeast quarter; section 11, northeast quarter, north half southeast quarter, southeast quarter southeast quarter; containing 520 acres, more or less.

4. That portion of the Elena Gallegos grant lying east of a line described as begininng at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of said grant and extending north 4,541 feet, thence east 4,541 feet, thence north 4,726 feet, thence east 634 feet, thence north 3,379 feet, thence west 1,875 feet, thence north 2,693 feet, thence west 2,006 feet, thence north 4,092 feet to a point on the north boundary of said grant, thence easterly along the said grant boundary 1,452 feet to the 7½-mile corner on the north boundary of said grant, containing 6,870 acres, more or less.

Sec. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

Sec. 3. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 11:58 a.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 12 noon, when called to order by the Acting President pro tempore (Mr. MORGAN).

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE KING OF SPAIN

Mr. MANSFIELD. Mr. President, pursuant to the request granted by the Senate this morning, I move that the Senate be notified that the hour of 12 o'clock has passed and at approximately 12:15 p.m. the Senate will proceed in a body to the other Chamber.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Senate will now stand in recess, subject to the call of the Chair, for the purpose of attending a joint meeting with the House of Representatives to hear the King of Spain.

Thereupon, the Senate, at 12:03 p.m., took a recess, subject to the call of the Chair.

The Senate, preceded by its Secretary, Francis R. Valeo, and its Sergeant at Arms, F. Nordy Hoffmann, proceeded to the Hall of the House of Representatives to hear an address delivered by the King of Spain.

(For the address delivered by King Juan Carlos of Spain see today's proceedings in the House of Representatives.)

At 1:16 p.m., the Senate having returned to its Chamber reassembled and was called to order by the Presiding Officer (Mr. LEAHY).

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8532, Calendar No. 781, the antitrust bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. ALLEN. I object, in order that the unfinished business be taken up.

The PRESIDING OFFICER. Objection by the Senator from Alabama is heard.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–1977

The PRESIDING OFFICER. Two hours having elapsed, the Chair lays before the Senate the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

QUORUM CALL

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Did the Senator suggest the absence of a quorum?

Mr. HUMPHREY. I did.

Mr. ALLEN. The Senator was not here when I stated that if any Senator suggested the absence of a quorum, feeling that a quorum was not present, I would insist on finding out, by objecting to the calling off the quorum.

If the Senator will withhold his request—or is it too late for him to do so, I ask the Chair?

The PRESIDING OFFICER. Debate is not in order during the quorum call.

The assistant legislative clerk continued the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5 Leg.]

Abourezk
Allen
Baker
Bartlett
Beall
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Culver
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. NUNN), the Senator from California (Mr. TUNNEY), and the Senator from Iowa (Mr. CLARK) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

GI BILL EXTENSION: SUBSTANTIVE ARGUMENTS AND BUDGETARY REALITIES

Mr. HARTKE. Mr. President, on May 31, 1976, for the first time since the current GI bill program was initiated in 1966, veterans who served between 1955 and 1966, approximately 3.7 million, had their eligibility for educational benefits expire. Of this number, 563,000 were enrolled in a program of education and were receiving VA benefits. Under existing law veterans have a 10-year period following discharge to utilize readjustment assistance benefits earned in military service.

Many of my colleagues have contacted me recently urging that the time period—known as the "delimiting period" in VA parlance—be extended either for a year, 2 years or for an unrestricted period of time. While there is considerable merit to some of the arguments supporting an extension of the time period, I must be candid with my colleagues. Such a general extension of the delimiting period is highly unlikely because of a lack of support or active opposition from some quarters and because insufficient funds have been allocated to veterans' benefits and services in the fiscal year 1977 concurrent resolution on the budget recently adopted by Congress.

A brief examination of the background of this problem is instructive. GI bill benefits have been generally regarded as a readjustment assistance benefit to veterans which facilitated transition from military to civilian life. Consistent with the attitude that such readjustment should occur and benefits be utilized within a reasonable period of time following release from military service, the WW II, Korean conflict, and the present GI bill all have had statutory delimiting periods. Most World War II veterans had 4 years from the date they were separated from service to begin a program of education and 9 years or until July 25, 1956 to use their entitlement. Korean veterans had 3 years following separation from service to begin a program of education or training and 8 years from separation from service or until January 31, 1965 to use their entitlement. Under the law creating the current program, (P.L. 89-358), veterans discharged after January 31, 1955—the date the Korean conflict officially ended—were allowed 8 years from June 1, 1966 or 8 years from date of discharge or release, whichever was later, to complete their program of education. Unlike their counterparts in World War II and the Korean conflict, no time limitation was imposed on the post-January 31, 1955 veterans for beginning their training.

In 1974, I sponsored legislation to extend this training period from 8 to 10 years. Despite administration opposition, this was signed into law (P.L. 93-337) by then President Nixon. There were two principal justifications for this extension. First, Congress recognized unique circumstances differentiating these veterans from earlier World War II and Korean conflict GI bill trainees. Second, I believe Congress acknowledged a broadening concept of how and when GI bill benefits might be utilized to the advantage of the veteran and the Nation as a whole. In the first instance, eligibility for benefits for the 3.7 million post-Korean veterans, who served between 1955 and 1966 occurred retroactively in 1966. Thus, veterans who were not eligible for the GI bill upon their release from military service—some as long ago as 10 years previously—were suddenly made retroactively eligible for GI bill benefits. None of these veterans received individual notification from the Government of their eligibility and many were thus not aware of the program. Initially, benefits were lower than the Korean conflict rates some 15 years earlier. The low benefit level, coupled with the fact that many veterans had taken jobs and started families, made it difficult for them to use their benefits. It was only following substantial benefit rate increases in 1972 and the initiation of active outreach by eligible schools that many of these veterans decided to enroll under the GI bill.

Many veterans also discovered that their needed retraining or that their initial education was insufficient for them to make significant career advancement. These veterans illustrate the second factor mentioned. Two years later in 1974, congressional recognition of these factors led to enactment of an extension of the delimiting period to 10 years from May 31, 1966 or date of discharge, whichever was later. Shortly after enactment of Public Law 93-337, as part of President Ford's initial budget, the administration submitted proposals in January 1976 to repeal the extension and revert to an 8-year delimiting period. This request was repeated this past January and the President's budget for fiscal year 1977 assumes enactment of legislation which he estimates would reduce first-year expenditures in excess of $600 million.

The Subcommittee on Readjustment, Education and Employment, which I chair, held a hearing last October which covered this and other subjects of concern to veterans. Arguments both in favor and against extension of the delimiting period were advanced to the committee.

Proponents noted first, the particular circumstances facing the immediate groups of veterans facing the cutoff on May 31, 1976; second, the need for upgrading or retraining of skills in an ailing economy; and third, the profitable return to the Treasury of additional taxes which have traditionally resulted from GI bill expenditures.

Opponents argued that 10 years is a sufficient period of time to "readjust" and suggested that much of the training was either avocational in nature or entered into by veterans more interested in obtaining an income supplement to their regular employment check rather than obtaining an education. For example, by offering training in the evening or weekends, one business school in recent years has increased veteran enrollments from under 100 to over 7,000 GI trainees currently enrolled.

In addition to the various arguments advanced pro and con, an implicit consideration, particularly for those impressed with the need for fiscal restraint, was the cost of any extension. A simple 2-year extension would result in the additional mandatory expenditures of $2 billion. A 1-year extension only is estimated to cost $681 million.

While it is my present judgment, based on the testimony received, that the weight of the arguments favor some form of extension, it is also clear that this view is not unanimous. The President's opposition remains firm and he could be expected to veto any extension just as he vetoed the 1974 GI bill. A House of Representatives vote on a floor amendment to the first concurrent resolution—widely regarded as a vote to add extension money to this year's budget—indicates that probably well over a third of its members would be available to sustain a Presidential veto. The Nation's three largest veterans' organizations, the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans, do not support an extension for a combination of reasons, principally because of the belief that limited funds for veterans' programs requires distribution to higher priorities.

Mr. President, irrespective of the merits of an extension proposal, the availability of funds is a crucial issue for a House and Senate now subject to the Congressional Budget Act. I believe my colleagues should clearly understand that there is a direct relationship between their votes on spending ceilings for various programs and our ability to pass and enact legislation such as extension proposals. Frankly, I have been amazed in recent weeks by the number of my colleagues—including members of the Budget Committee—who, having voted for the ceiling on veterans' benefits and services, which was $1.1 billion below the Veterans' Affairs Committee's recommendation, now urge the committee to report and pass legislation for which there are insufficient funds.

In this connection it would also be useful to briefly review the steps that have been taken as part of the congressional budget process so far this year. As required by law, on March 15, 1976, I, as chairman of the Committee on Veterans' Affairs, wrote the Budget Committee recommending fiscal year 1977 outlays of approximately $20.4 billion for veterans' benefits and services. While this figure did not include all that I believe was meritorious or desirable, it was a figure which attempted to balance the Budget Committee's expressed concern for fiscal restraint with our intention to provide sufficient moneys to fund actual cost-of-living increases for various benefits programs, to fund legislative initiatives which had passed one house or the other and to provide for more adequate health care. In this connection, given the President's strong position against extension of the GI bill, no additional explicit moneys were sought for GI bill extension. Had the $20.4 billion been granted, however, there would have been sufficient funds to grant some form of an extension by trading off—as contemplated by the congressional budget process—and, had that been the clear will of Congress, granting something less than full cost-of-living increases to GI bill recipients.

At first glance the $20.4 billion recommended figure appears to be a substantial increase over the President's budget of $17.2 billion. It was and is immediately apparent, however, that the President's budget is more of the traditional shell game practiced in recent years. Mandatory program expenditures were understated, health care needs were underestimated, and the President's budget assumed enactment of so-called cost saving legislation of very dubious merit much of which had been consistently rejected by Congress in the past. For example, mandatory GI bill expenditures were understated by over $600 million on the assumption by the President that Congress would reduce the GI bill training period from 10 to 8 years.

Second, in addition to intentionally understated costs, the President's budget ignored the need for cost-of-living increases in various veterans benefits programs. Seventy-two percent of the VA budget represents transfer payments and certain benefits programs, such as the GI bill, have not received cost-of-living increases since September 1974.

Finally, recommended VA outlays as a percentage of the Federal budget were modest when compared to past budgets and represent a long-term decline over the last 20 years. A comparison between the current fiscal year with fiscal year 1956, 20 years earlier, reveals, for example, that while veterans' population has increased by 39 percent, veterans' benefits and outlays as a share of the Federal budget has decreased by 28 percent. And this decline occurred during a period of prolonged conflict which produced many new veterans with the need for temporary but higher cost readjustment benefits.

So that my colleagues will know how we arrived at our $20.4 billion recommendation, I will request that an appropriate excerpt from the committee report be printed in the RECORD at the conclusion of my remarks.

Reasonable men can disagree, of course, and the Budget Committee decided to set veteran outlays at $19.3 billion, or $1.1 billion less than the Veterans' Affairs Committee recommended. The Budget Committee's recommendation was upheld by the full Senate when an amendment sponsored by Senator CRANSTON, myself, and others to add back $800 million was tabled by a vote of 53 to 21. Subsequently, the House of Representatives adopted a veterans' benefits and services outlay target of nearly $20 billion—a level which would have allowed our committee greater latitude. In large part, the difference between the Senate adopted and the House adopted veteran benefit outlays was prompted by concern expressed on the House floor that there be additional funds which could be utilized for extension of the GI bill training period if such legislation were enacted. However, this figure was not upheld in House-Senate conference and was reduced to $19.5 billion, the target assigned in the first concurrent resolution on the budget.

Mr. President, it was my opinion then as now that the $19.5 billion figure is insufficient to provide full cost-of-living increases for all veterans' benefits programs and to enact legislative initiatives which have passed previously in one house or the other such as pension reform, or the removal of the 9-month undergraduate restriction. The Budget Committee's "current services" approach would allow cost-of-living increases for a 1-year period only despite the fact that many veterans' benefits programs have not been increased for periods longer than 1 year. Nevertheless, we are prepared to attempt to live within the expressed will of Congress that expenditures be held to $19.5 billion. What disturbs me is the attitude of some of my colleagues who, having voted to keep expenditures at that level, now believe that they can recommend that the Veterans' Affairs Committee report any and all legislation which obviously cannot be accommodated within those budget totals.

One of the arguments advanced by proponents during initial consideration of the Congressional Budget Act was that while members often agreed that Federal spending should be kept at a certain level, they turned around and voted for a variety of programs which when totaled up clearly exceeded the agreed upon limits. This was criticized by Budget Act proponents as lacking candor at best or being irresponsible at worst. While I believe it is yet to be demonstrated that Federal spending is excessive, I recognize that there is merit in a process which allows us to decide first what overall spending should be, and second determine our priorities within those levels. Two things about the actual operation of this process, however, disturb me.

The first is the apparent abdication of these decisions by the full Senate to the Budget Committee itself. In the debate on the amendment to add money for veterans' benefits and services this year, little attention was directed as to whether this was a good amendment, whether priorities should be reordered, or whether overall Federal spending should be increased. Rather, opponents argued that to suggest something other than what the Budget Committee itself had recommended was somehow an attack on the very congressional budget process itself. Naturally, I do not share this view nor am I prepared to concede that the Budget Committee's composition or decisions are a completely accurate reflection of the attitudes and priorities of the full Senate itself.

Nevertheless, each of my colleagues must decide for himself how much and to what extent he will exercise his own judgment or defer to others. What disturbs me, however, is the apparent inability of some of my colleagues to see any connection between their vote on spending levels and the authorizing committee's ability to report and enact legislation. Could it be that a new irresponsibility has replaced that which was criticized when the budget act was initially considered? Under this new irresponsibility some members apparently believe they can vote to hold veteran expenditures down—in this case $1.1 billion below committee recommendations—and then turn around and urge the same committee to enact new legislation which would require new mandatory first-year expenditures of at least $681 million.

Of course, it is true, as pointed out in debate, that the concurrent resolution to the budget does not in and of itself say how the money assigned for veterans' benefits must be spent among various programs. But it is equally clear that our committee cannot feed the multitude with a few loaves of bread. Thus, for example, we could pay for an extension of benefits but only if we cut compensation payments for the disabled, or reduced pensions for needy elderly veterans, or shut down a substantial part of our VA health care system. None of our colleagues to date, however, has suggested to me that our committee do this.

Consequently, I suggest to some of our colleagues that biting the bullet is a year-round occupation and not limited solely to voting on the concurrent resolution on the budget. Senators must also be prepared either to bite the bullet in terms of what they recommend that the authorizing committees enact or at the very least be prepared to suggest what existing programs not be improved or even cut to provide sufficient funds for the legislation they advocate. For those of our colleagues who continue to suggest that we enact legislation extending the delimiting period I welcome hearing their specific suggestions on how we could accomplish this. To illustrate that will not be an easy task to accomplish, given the $19.5 billion outlay limit imposed on the committee, I ask unanimous consent that the recommendations of the Committee on Veterans' Affairs totaling $20.4 billion be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUDGET VIEWS AND ESTIMATES FOR FISCAL YEAR 1977

I. COMMENT ON THE GENERAL ECONOMIC SETTING FOR THE FISCAL YEAR 1977 BUDGET

The general economic setting of continued high veteran unemployment, particularly amongst younger, minority, and disabled veterans, and continuing inflation, will affect veterans' programs in a number of ways.

The state of the economy has great impact on veterans' benefits. Continual inflation, of course, erodes the purchasing power of veteran benefits. As noted previously, 72 percent of the VA budget represents transfer payments. The Committee strongly believes that past and continuing inflation should not be allowed to erode the purchasing power of these benefits.

Unemployment is also an important factor in pension, compensation, and educational assistance benefit usage. As acknowledged in the fiscal year 1977 VA budget justifications, supplemental appropriations for the current fiscal year were necessitated in large part due to increased usage by recently separated veterans who, because of high unemployment, trained in greater than anticipated numbers.

The Administration's budget does not include in its proposals any provision for cost-of-living increases in any of the veterans benefit programs. In order to prevent continued diminution of purchasing power, such cost-of-living legislation will be required. Despite the uncertain state of the economy and its relationship to veterans' benefits, the Committee has utilized the Administration's estimates as to program usage in fiscal year 1977. However, it should be noted that the continued unemployment situation, coupled with the slow pace of economic recovery, could cause those estimates to be inaccurate. The Committee, however, has been assured that the Agency believes its estimates for fiscal year 1977 to be generally accurate. Should these estimates be incorrect and the country's economic ills and high unemployment rates impact more heavily on veterans than contemplated, there may be a significant impact on usage of certain veterans' entitlement programs which can, in large part, be considered countercyclical in nature.

Finally, in regard to the relationship entitlement programs have to the overall budget, the Committee notes with interest a Congressional Budget Office (CBO) report titled "Growth of Government Spending for Income Assistance" dated December 3, 1975, which concludes that "runaway growth is not inevitable and that with prudent management, Congress can provide assistance for citizens who need it without any significant increase in the share of gross national product (GNP) devoted to income assistance programs." Unanimous Senate adoption of the Veterans and Survivors Pension Reform Act (S. 2635) was a conscious effort to assure that those most in need received assistance in the most efficient and economic fashion.

II. THE BUDGETARY IMPACT OF MAJOR NEW PROGRAMS OR PROGRAM CHANGES

A. Compensation and dependency and indemnity compensation (subfunction 701)

Compensation is an entitlement program providing monthly payments to veterans who are "compensated" for impaired earning capability resulting from service-connected disabilities. The proposed fiscal year 1977 budget projects payments of $4,247,038,000 for 2,217,512 disabled veterans.

Death compensation, or dependency and indemnity compensation (DIC), is an entitlement program providing monthly benefits to widows and dependents of veterans whose deaths were a result of service-connected causes. Approximately $953,923,000 is scheduled to be paid to 366,188 survivors in the fiscal year 1977 budget submitted by the Administration.

Both compensation and DIC rates were increased by the Veterans Disability Compensation and Survivor Benefits Act of 1975 (Pub. L. 94–71), effective August 1, 1975.

Given the continued increase in the Consumer Price Index since that time, and utilizing the economic assumptions underlying the President's budget (page 25) to project additional increases anticipated by October 1, 1976, the start of the new fiscal year, it is probable that there will be a cost-of-living rate adjustment of at least 8 percent in compensation and DIC allowances. Such a cost-of-living adjustment would result in a $314.9 million increase in disability compensation outlays, a $66.6 million increase in DIC benefits, and a $10.7 million increase in dependent's allowance for an additional fiscal year 1977 total increase in this subfunctional category of $392.2 million.

Of course, the President's economic assumptions may be subject to dispute. If the Budget Committee adopts a different set of economic assumptions, an appropriate adjustment in veteran benefit programs may be required. In this connection, new budget authority for compensation and DIC increases of 9 or 10 percent would require new 1st-year outlays of $443.6 million or $498.4 million respectively.

In addition, the Committee will review a study of dependency and indemnity compensation claim denials which will be submitted by the VA, later this year, pursuant to section 204 of Public Law 94–71 in order to determine if legislation liberalizing the criteria for entitlement to these benefits is warranted. The need for and prospect of such legislation is uncertain at this time; the costs entailed would be minimal.

B. Pension (subfunction 701)

Pensions are need-based monthly entitlement benefits payable to wartime veterans and dependents of deceased veterans for non-service-connected disability and death. (Those age 65 or over are by statute presumed to be totally disabled, leaving economic need as the only test.)

The Administration's budget assumes that 2,202,631 veterans and survivors will receive pension benefits in fiscal year 1977. Costs for veterans' pensions are projected as $1,586,868,000 while survivor pensions are estimated to cost $1,184,829,000, a total of $2,771,697,000 for pensions in fiscal year 1977.

The Committee, during this past year, completed its investigation of various proposals to restructure the VA pension program. As a result, S. 2635, the Veterans and Survivors Pension Reform Act, was unanimously ordered reported by the Committee on Veterans' Affairs on December 10, 1975.

A waiver of the provisions of section 303 (a) of the Congressional Budget Act of 1974, with respect to fiscal year 1977 new budgetary authority contained in S. 2635, was sought and granted through the adoption of Senate Resolution 322. The Veterans and Survivors Pension Reform Act was, thereafter, unanimously approved by the full Senate on December 15, 1975, and is presently pending before the House Committee on Veterans' Affairs.

The President's budget does not recommend that the provisions of the Veterans and Survivors Interim Pension Adjustment Act of 1975 (Pub. L. 94–169) scheduled to terminate on October 1, 1976, be made permanent and, hence, assumes pension reductions. If the provisions of Public Law 94–169 are extended and made permanent (as titles II and IV of S. 2635 would do), the budget is understated by $198.9 million.

Both additional veteran program outlays (function 700) and the net Federal budget outlays, which could be expected if S. 2635 is enacted into law, are uncertain. A more thorough discussion can be found in the Committee report to S. 2635 (Sen. Rept. 94–532).

In brief, however, the Veterans' Administration has estimated that the maximum fiscal year 1977 pension program outlays under S. 2635, would be $798.9 million. The Congressional Budget Office, however, in a second revised cost estimate, advised the Committee on December 10, 1975, that such pension outlays for fiscal year 1977 would be $986 million. The Committee is of the opinion that the VA estimate which was developed with the use of a sophisticated computer simulation model, is more accurate. Whatever VA outlay figure the Budget Committee chooses to utilize, however, it is important that the Committee also recognize that enactment of S. 2635 will result in certain offsets to other Federal programs for which appropriate adjustments should be made. The Congressional Budget Office has estimated that in fiscal year 1977 the maximum potential offsets in Supplementary Security Income (SSI), in Aid to Families with Dependent Children (AFDC), and in the food-stamp program would be $313 million.

Such a maximum estimate would reduce the fiscal year net cost from $798 million to $485 million. Of course, such a figure represents the maximum budget authority offset since it assumes that all veteran pensioners who would benefit from these programs would participate in them. In point of fact, there is no universally accepted data available concerning the actual participation rate in these programs for either the total eligible population or for veterans in particular. Accordingly, in order to estimate offsets to outlays, as distinguished from offsets to budget authority, the Congressional Budget Office assumed a 50 percent participation rate in SSI and AFDC programs and a 25 percent participation rate in food stamps. These assumptions result in an offset of $128 million, which when subtracted from maximum outlays, would result in a fiscal year 1977 net additional Federal budget outlay of $670.9 million if S. 2635 is enacted.

C. Readjustment benefits (subfunction 702)

Readjustment benefits under the GI bill consist of educational assistance for eligible veterans, dependents, and survivors.

In title 38, U.S.C., there are three programs of educational benefits for veterans, servicemen, and their beneficiaries: (1) Veterans educational assistance under the current GI bill (chapter 34); (2) dependents educational assistance (chapter 35); and (3) vocational rehabilitation for disabled veterans (chapter 31). In 1975, nearly $4.6 billion was expended for GI educational benefits. The current services budget presently estimates that $6.1 billion will be spent for educational benefits in fiscal year 1976. At the end of January 1976, nearly 6.3 million veterans, survivors and dependents, and service personnel, at a cost of $15.3 billion, had trained under the current GI bill since the inception of the program in June 1966.

A total of 3,300,000 veterans and service personnel will train under chapter 34 of the GI bill in the current fiscal year. This is an overall increase of 608,434 over the number who trained during fiscal year 1975. Most are training in institutions of higher learning. A 29.8 percent increase in the number who trained in college occurred between fiscal year 1975 and fiscal year 1976. Most of this increase occurred in junior or community college training. Of the 3,300,000 veterans who will have trained in fiscal year 1976, 2,077,000 were in college (68.4 percent), 773,000 (23 percent) in correspondence, flight, and other schools, and 185,000 (5.6 percent) in on-job training.

Over 131,200 dependents, wives, and widows are expected to receive chapter 35 GI educational benefits in the current fiscal year (109,300 dependents and 21,900 wives and widows). Benefit utilization increased 49 percent from fiscal year 1975 to fiscal year 1976.

More than 24,500 disabled veterans will receive chapter 31 vocational rehabilitation assistance in 1976. Of this total 20,281 were Vietnam era veterans.

Since the effective date of rate changes contained in the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (Pub. L. 93–508), when Congress last increased educational assistance benefits, the Consumer Price Index has increased 10.7 percent as of December 1975. Utilizing the economic assumptions contained in the President's budget to estimate additional inflationary growth to October 1, 1976, the total increase in the cost-of-living increase for the period involved can be expected to reach 14.5 percent. Consequently, it would appear probable that there will be cost-of-living rate adjustments for educational benefits. A 14 percent increase would result in additional fiscal year 1977 outlays of $689.5 million, which amount would decline in succeeding years. A 15 percent increase would result in new outlays of $738.8 million.

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (Pub. L. 93–508), among other things, also provided for up to an additional 9-month educational assistance benefits eligibility for those veterans entitled to the maximum eligibility of 36 months. This additional 9 months of benefits can only be used in the pursuit of an undergraduate degree. As originally passed by the Senate on June 19, 1974, by a vote of 91–0 (and subsequently unanimously ratified by the Senate in the first conference report), the additional entitlement was not so restricted. Legislation has been introduced in both bodies to remove this restriction and extend entitlement usage to graduate as well as undergraduate course study. Such an extension is included in H.R. 9576, which passed the House of Representatives on October 6, 1975. Congressional approval is anticipated, despite Administration opposition. The Veterans' Administration has reestimated their fiscal year 1977 cost of the removal of the undergraduate restriction at $124 million.

Considerable interest has also been expressed by members of Congress concerning legislation which would extend beyond 10 years the period of time following discharge or release from military service within which an eligible veteran, wife, or widow may utilize educational assistance benefits. The cold war GI bill authorized in 1966 by Public Law 89–358, extended retroactive eligibility for educational assistance for those post-Korean conflict veterans who served after January 31, 1955 and were discharged prior to June 1966. An 8-year "delimiting" period was authorized during which these veterans could utilize their educational benefits. Thus, eligibility for educational benefits for these veterans would have terminated on May 31, 1974. Public Law 93–337, enacted in June 1974, extended this delimiting date from 8 to 10 years and, thus, set the date beyond which cold war veterans would not be eligible for educational assistance as of May 31, 1976. Approximately 563,000 post-Korean veterans currently in training would be affected.

Consequently, the Committee has been asked to consider legislation which would extend the delimiting period once again. Fiscal year 1977 estimates for various proposals range from $326.8 million, a restricted extension, to $681.6 million in outlays for unrestricted extension of the delimiting date for 1 year.

Both the Administration and House have indicated strong opposition to any extension of the delimiting period and, hence, enactment would appear highly uncertain.

D. Medical care (subfunction 703)

The VA health care system (172 hospitals, 229 outpatient clinics, 89 nursing homes, and 18 domiciliary facilities) is estimated in the President's fiscal year 1977 budget to maintain an inpatient average daily patient census of 119,348, treat 1,365,443 patients on an inpatient basis, and provide 15,590,000 outpatient visits (2,372,000 on a fee basis), during the fiscal year. The fiscal year 1977 medical care budget authority request is $4,172,232,000, an increase of $307,776,000 over fiscal year 1976. This will provide for an increase of 2,122 in average employment of health care personnel.

Medical and prosthetic research, including health services research and development, would remain relatively static for the third fiscal year in a row, with $97,433,000 in budget authority requested compared to appropriations of $97,356,000 during fiscal year 1976.

The amount requested for the Medical Administration and Miscellaneous Operating Expenses (MAMOE) item—$39,941,000, an increase of $362,000 over the fiscal year 1976 appropriation, with no average employment increase—will provide for the staffing of the Central Office Department of Medicine and Surgery, provide support for certain research and development activities and continuing education programs, and support the Exchange of Medical Information program at the same level ($3,500,000) as in fiscal year 1976.

The construction (major and minor) budget authority request of $210.6 million for VA hospital and medical facilities as well as cemeteries is down $193.8 million from the figure for fiscal year 1976, with projected obligations up $26,611,000 from the level projected for fiscal year 1976 (from $330,498,000 to $357,109,000) and projected outlays up $116.9 million (from $185.7 to $302.6 million). The construction budget request would provide budget authority of $31,460,000 for replacement and modernization, $17,233,000 for general administrative costs of the Office of Construction, $13,464,000 for cemeteries, $79,835,000 for other major construction, and $68,600,000 for other minor construction.

Of the $210.6 million in construction budget authority requested for fiscal year 1977, $25,859,000 would be allocated to correct deficiencies identified in the 1974 special study of the "Quality of Patient Care at VA Hospitals and Clinics". That study identified a total of $398,893,000 in needed construction and repairs for priority funding. In fiscal year 1976, $264,803,000 of the construction funds appropriated were obligated to correct the most pressing of the deficiencies identified in that study, leaving construction and repair work totalling $134,090,000 for future fiscal years. The proposed budget for fiscal year 1977 would provide budget authority of only an additional $25,849,000 toward the elimination of the remaining uncorrected deficiencies, leaving $108,251,000 still needed for construction and repair identified in the Quality of Care study. The projects deferred to a later fiscal year would include:

Emergency generators and electrical requirements ($46,171,000);

Ambulatory care space requirements ($9,167,000);

Air conditioning requirements ($51,856,000); and

Safety and fire protection requirements ($1,057,000).

The Committee is gravely concerned about the pace at which the VA is being allowed to correct these most serious construction and repair deficiencies. With a decrease in requested budget authority for fiscal year 1977 of close to $200 million, construction obligations and outlays can be expected to decline sharply after fiscal year 1977, unless there is a substantial fiscal year 1978 appropriation for this purpose. The Committee views such a substantial budget authority figure as essential for fiscal year 1978 in order to finish the task of implementing the recommendations of the Quality of Care study. It also must be recognized that rising construction costs will increase the costs of completing these remaining construction and repair recommendations over the amounts recommended in that study.

In addition, with respect to fiscal year 1978 requirements, the Committee notes that independent studies have been completed (the last one in late February), on modernization/replacement of seven existing hospitals and construction of one new hospital. In order to permit all eight studies to be evaluated together, the fiscal year 1977 budget request includes no funds for any new starts for modernization/replacement or new facilities. Since many of the hospitals being studied for replacement are World War II temporary facilities and since the average construction cost per bed of $106,000, this fiscal year will almost certainly be 15 percent higher by fiscal year 1978, the Committee believes that the fiscal year 1978 budget must include a clear plan and forecast to begin the modernization and replacement of these outdated facilities.

The fiscal year 1977 budget authority request for assistance for health manpower training institutions under chapter 82 of title 38 is $35,000,000, an increase of $5,000,000 over the fiscal year 1976 appropriation. Of this $35,000,000, $9,200,000 is requested for continued support of the five new State medical schools supported under subchapter I of chapter 82, and $25,800,000 is requested for continued support of 98 grants made under the authorities of subchapters II, III, and IV of chapter 82 for the support of expanded training programs at affiliated health personnel training institutions.

The overall VA medical care, administration, research, construction, health manpower assistance, and other grant programs budget requests for fiscal year 1977 total $4,567,300,000, down $60,000 from the total appropriation already made or pending in a supplemental appropriation request for fiscal year 1976. Outlays, however, are projected to increase over this same period by $439.1 million—from $4,219,600,000 to $4,658,700,000 an increase of 10.4 percent. Excluding requests for construction and the revolving supply fund (which received a $120 million deficiency appropriation in fiscal year 1976), the other medical items show a budget authority increase of $313.2 million and an outlay increase of $391.5 million. Given the need to keep Federal spending within reasonable constraints, the overall hospital and medical budget request is considered generally adequate based on the workload projections and other estimates on which the budget request is premised, with the exceptions noted in part IV. D. of this report.

The Committee is giving serious consideration to S. 2908, the Veterans Omnibus Health Care Act of 1976, and approval to many of its provisions is considered likely. Introduced on February 2, 1976, the measure includes several major provisions, many of which are described on page 5 of the Committee's March 15, 1975 report to the Senate Budget Committee, several of which are cost-containment initiatives, and a number of which have already passed the House of Reprentatives in separate bills. Hearings were held on this and related legislation on February 18 and 19, and the VA is currently revising its cost estimate of S. 2908. The Congressional Budget Office is also now working on precise cost estimates. The complexity of this legislation makes precise cost estimation difficult at this time; but, based on information now available, the Committee estimates that enactment of S. 2908 with certain anticipated cost-saving modification will entail additional expenditures of $110 million in fiscal year 1977. This legislation includes a proposal to increase the per diem payable by the VA to State homes for the provision of domiciliary, nursing home, and hospital care to veterans, for which legislation has already passed the House of Representatives (H.R. 10394). Also, pending Senate consideration is H.R. 71, legislation to extend eligibility for hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II, which passed the House unanimously and has been reported by this Committee. Costs entailed by enactment of this legislation are considered minimal.

One further piece of spending legislation which will almost certainly be considered by the Committee will be an extension of the existing special pay authority enacted in Public Law 94–123, the Veterans' Administration Physician Pay Comparability Act of 1975. Under this law, the authority to enter into new special pay agreements will expire on October 11, 1976. That law requires the Director of the Office of Management and Budget to report separately to Congress by August 31, 1976, on long-range solutions to achieving physician and dentist pay comparability throughout the Federal Government. The best indications now are that a 1-year extension of the Public Law 94–123 authority will be necessary, with an estimate of approximately $6 million in both budget authority and outlays in fiscal year 1977.

One other piece of health care legislation pending before the Committee which has cost impact is legislation to extend the authorization of appropriations for the Exchange of Medical Information program, already passed by the House of Representatives (H.R. 3348). The pending Senate measure is contained in section 121(c) of S. 2908 (which section proposes an extension of the appropriations authorization through fiscal year 1980 at such sums as may be necessary). The estimates for budget authority and outlays for such an extension for fiscal year 1977 is $3.5 to $4 million. The Committee plans to act on this extension legislation so as to secure enactment in time for the fiscal year 1977 appropriations cycle.

In total, then, the Committee plans to proceed with new spending/budget authority legislation in subfunction 703 for fiscal year 1977 totalling approximately $116 million and with legislation authorizing an extension of one existing program with projected budget authority and outlays of $3.5 to $4 million.

E. Housing and insurance (subfunction 704 and subfunction 701)

The Veterans' Administration Housing program assists veterans by providing guaranteed, insured and direct loans for veterans to purchase conventional, mobile homes and condominium housing. Since the program was initiated by the Servicemen's Readjustment Act of 1944, 9.298 million veterans have received Veterans' Administration guaranteed loans in the amount of $120 billion.

The Committee unanimously ordered reported S. 2529, the Veterans Housing Amendments Act of 1976 on March 10, 1976. The measure would: (1) Extend eligibility under chapter 37 to veterans who served exclusively between World War II and the Korean conflict—between July 25, 1947, and June 27, 1950; (2) increase the VA direct loan program maximum loan amount from $21,000 to $30,000 and further increase the maximum amount in "excess cost" areas from $25,000 to $35,000; (3) make the direct home loan program permanent; (4) increase the maximum VA mobile home loan guaranty from 30 to 50 percent; (5) preempt state constitution interest limitations on FHA and VA home guaranteed loans in certain circumstances; and (6) make a number of technical amendments. The Committee estimates there will be no increased cost under clauses (3), (5) and (6). It is estimated that clause (1) will increase general operating expenses by $37,100 and increase budget outlays by $10,500 from the loan guaranty revolving fund and by $150,000 from the direct loan revolving fund. Clause (2) will necessitate an increased budget outlay of $2.65 million from the direct loan revolving fund. Finally, clause (4) will require an increased budget outlay of $2.6 million from the loan guaranty revolving fund.

There are 8 insurance programs either supervised or administered by the Veterans' Administration which provide life insurance coverage to 8 million veterans and servicepersons. Face values of the insurance provided exceed $100 billion.

The Committee unanimously reported S. 1911, the Veterans' Insurance Amendments Act of 1976 (Sen. Rep. 94–689) on March 10, 1976. The measure would: (1) Provide eligible veterans with the option of converting Servicemen's Group Life Insurance (SGLI) upon the expiration of such coverage to an individual policy including a term policy; (2) provide eligible veterans with the option of converting Veterans' Group Life Insurance upon the expiration of such coverage to an individual policy of term insurance; (3) extend for 1 year after enactment of the act the period during which veterans extended retroactive eligibility by Public Law 93–289 may apply for VGLI policies; and (4) make certain technical amendments. The Committee estimates the increased costs of S. 1911 to be $850,000 for administrative expenses.

III. BUDGETARY IMPACT OF ACTION ON PRESIDENTIAL LEGISLATIVE PROPOSALS

A. Readjustment benefits (subfunction 702)

The Administration has once again requested legislation to repeal the 2-year extension of delimiting period for readjustment assistance benefits provided by Public Law 93–337. Currently veterans have up to 10 years after separation from service to use their educational benefits. If the President's proposal is enacted, it is estimated that such legislation would affect 367,000 Vietnam era veterans and would reduce outlays by $624 million in 1977.

The Administration also proposes legislation which would eliminate new GI bill enrollments in either flight or correspondence school programs. If enacted into law, it is estimated that outlays would be further reduced by $35 million in 1977.

The repeal of Public Law 93–337 requested in the President's fiscal year 1976 budget was not assumed in either the first or second concurrent resolution on the budget adopted by Congress in fiscal year 1976. Successful passage of such legislation is considered today, as then, highly unlikely.

Finally, the Administration proposes to terminate GI educational benefits for service persons who enter military service after enactment of such legislation. Provisions contained in H.R. 9576, which passed the House of Representatives, October 6, 1975, by a vote of 298–106, would terminate the GI bill for those entering the service after December 31, 1976. It is estimated that there would be cumulative reduced outlays of $1.5 billion in a 5-year period.

However, if the proposal were enacted into law, the projected savings for all of fiscal year 1977 would only be $54 million. If a December 31, 1976 effective date were chosen instead, outlays would be reduced by $40.5 million for fiscal year 1977.

Considerable interest has been expressed in the foregoing legislation and a decision by Congress this year as to the long range future of the GI bill is expected.

It would appear unlikely, however, that action either to terminate or alter the present program would become effective prior to the end of the calendar year and, hence, the immediate fiscal impact of such a decision would be minimal.

B. Medical care (subfunction 703)

The Administration has also requested legislation to effect reimbursement to the VA by private insurers for the cost of VA inpatient hospital care and medical services provided for the non-service-connected disabilities of certain veterans with health insurance coverage. Enactment is estimated to reduce budgetary outlays by $130 million in fiscal year 1977. Identical proposals have been submitted annually since 1970 without favorable action by either body. This proposal is under close scrutiny by the Committee at this time. However, even if enactment is achieved this Congress, it seems very clear that no significant outlay savings will be realized in fiscal year 1977. Therefore, the Committee recommends that the medical care outlay total in the President's budget be increased by $130 million.

C. Additional legislation or administrative initiatives

The Administration has proposed that grants be provided to states for the establishment and operation of veterans cemeteries. Such a measure is intended to expand the number and geographic distribution of veteran burial sites. The Federal Government would be authorized to contribute up to 50 percent of the total value of the land and improvements with certain limitations on the amount any state could receive in any fiscal year. Cost for fiscal year 1977, contingent upon state usage, is estimated at $4 million. The Administration in their budget, recommends new budget authority for 1977 of $5 million.

The Administration has also requested legislation to reduce Veterans' Administration burial benefits in certain circumstances. If enacted the proposal would result in savings of $85 million for fiscal year 1977. Identical proposals have been submitted in most presidential budgets of the last several years without favorable action by either body. It is equally unlikely that this legislation will receive approval in the current fiscal year or next.

IV. COMMENTS ON PRESIDENT'S BUDGET ESTIMATES FOR PROGRAMS ALREADY AUTHORIZED

A. Compensation and pension (subfunction 701)

The compensation population is now generally stable following termination of hostilities in Vietnam. The Veterans' Administration has estimated that the compensation workload for 1977 will decrease slightly from 1976 levels in both veteran and survivor categories.

Unit cost for veterans and survivors continues to increase which in part reflects a continuing climb in average degree of disability which in 1975 reached 30.6 percent. The Administration's budget does not contain any cost-of-living increase in the compensation program to offset the increases in the Consumer Price Index which have caused the erosion of the purchasing power of the benefits.

Contrasted with a generally stable service-connected disabled veteran population, the non-service-connected pension population is increasing as the average age of World War II veterans increases (currently 57.5 years old). However, the Administration has estimated that the fiscal year 1977 pension outlay will decline $151.3 million from fiscal year 1976. The President's budget attributes this decline to increased mortality of World War I beneficiaries, and reduced eligibility because of anticipated social security increases and the September 30, 1976 termination of veteran pension cost-of-living increases authorized by Public Law 94–169.

The Administration's budget fails to recommend or assure that the *interim* increases provided by Public Law 94–169 will be made permanent. Such an assumption which will adversely affect over 1.3 million pensioners is unrealistic and, hence, the budget is understated by at least $198.9 million. The Administration's Budget also fails to make any provision for a cost-of-living increase in pension to respond to the 7.1 percent social security increase currently projected to take effect in July 1976. Nor does it make allowance for enactment of S. 2635, the Veterans and Survivors Pension Reform Act which unanimously passed the Senate December 15, 1975.

B. Readjustment benefits (subfunction 702)

The Administration proposes that $4,873,000,000 be appropriated to finance educational and rehabilitative assistance for 2,870,000 veterans and dependents. This request is a decrease of $1,341.5 million from the $6,214.5 million currently estimated for 1976 which the Administration regards as the peak year of expenditures under the current program. As noted previously, the Administration's budget contains no provision for a cost-of-living adjustment in educational benefit allowances. It is estimated that by October 1, 1976, the cost of living will have increased 14.5 perecnt since September 1974, the effective date of the last increase.

C. General operating expenses (subfunction 705)

General operating expense funds (GOE) requested in the President's budget are used to provide for the administration of nonmedical veterans benefits through the Department of Veterans Benefits; operation and maintenance of 103 national cemeteries by the National Cemetery System; data processing operations and communications systems through the Department of Data Management; and top management direction and support through Agency-level staff officers. The fiscal year 1977 appropriation budget authority requested by the President totals $512,883,000. Outlays are estimated at $512,447,000.

Although this request represents a $50 million increase over 1976 levels, the amount would appear insufficient in view of the Veterans' Administration's program responsibilities. The Committee understands that the Veterans' Administration submitted to the Office of Management and Budget a prospective GOE budget of $542.4 million (down from field estimates of $546.8 million and Department and staff office estimates of $545.1 million).

The President's budget, as submitted to Congress, however, only requests $512.9 million. The $30 million additional originally requested by the Veterans' Administration would appear more realistic and should be restored to the budget for a number of reasons.

First, the Committee is aware that it is the Administration's intent to reduce improper GI bill payments by use of increased compliance surveys and accelerated collection of overpayments. Successful efforts would result in significantly reduced Federal outlays, but sufficient additional VA personnel will be needed to assure the success of such efforts.

Second, the President's budget assumes enactment of the Administration's proposal to reduce the delimiting date for use of educational benefits from 10 to 8 years. But, as previously noted, enactment of such legislation is considered highly unlikely. As a result, there will be more GI bill trainees in fiscal year 1977 than the budget currently assumes which will require that the numbers of veterans representatives on campus and Disabled Veterans Benefits (DVB) personnel be revised upward to reflect the increased need for their services.

Third, the President's budget fails to accord sufficient man-years to permit expansion of the veteran outreach program. As a result, it is the Committee's understanding that expansion has been deferred pending availability of additional personnel. The success of veterans' programs is grounded, in part, by the dissemination of information in regard to benefits available. Expanded and extensive outreach activities to assure that information and assistance are provided for the educationally disadvantaged and disabled must be funded and to this extent the President's budget is an understatement of the need.

D. Medical care (subfunction 703)

The Committee believes the medical needs of veterans will require increases over the budget requests, in VA medical care budget authority and outlays, totalling $114.3 million (5,138 full-time employment equivalency (FTEE)):

1. *Medical care* $95.8 million (4,964 full-time employment equivalency).

a. *Staffing to meet workload underestimates.*—Additional staff (3,700 full-time employment equivalency for a total cost of $68.9 million) is needed to meet increased inpatient and outpatient workloads estimated for fiscal year 1976, which will certainly be maintained during fiscal year 1977. In the fiscal year 1976 budget, funds are provided for approximately 1.2 million inpatient visits and 12.77 million outpatient staff visits. Actual experience during the fiscal year reveals that the number of outpatient staff visits was underestimated by about 1 million visits. This underestimate is reflected in the projected workloads for fiscal year 1977 contained in the fiscal year 1977 budget request.

b. *New activations.*—The activation of 2,068 beds at one new and three replacement hospitals in the VA health care system are scheduled for fiscal year 1977. In addition, 583 nursing home care beds at 8 locations are scheduled for activation in fiscal year 1977. Yet, no additional staffing for these new activations is provided for in the fiscal year 1977 budget request. The amount necessary for these purposes if all activations meet present schedules is $12.2 million (609 full-time employment equivalency) for the hospitals (including 155 full-time employment equivalency for activation of new projects at 75 facilities) and $7.7 million (500 full-time employment equivalency) for the nursing home care beds. If these activations are not adequately funded, then opening dates will be delayed and staff and funding will have to be drained off from other areas within the system.

In view of the likelihood of some slippage in achieving activation of all of these beds and projects on schedule, however, budget authority and outlays of $14 million for 759 full-time employment equivalency would be expected for these new activations.

c. *Hospital mission change.*—In order to begin staffing the conversion of certain nonaffiliated, slow-turnover hospitals to rapid-turnover, acute facilities and the conversion of certain psychiatric hospitals to general medical and surgical hospitals, an additional $4.8 million in outlays and budget authority to support 300 full-time employment equivalency, would be needed which is half the amount which the VA requested for this purpose and which the Office of Management and Budget denied. These conversions are major aspects of upgrading the quality of care at these hospitals.

d. *Education and training.*—New affiliations with medical and dental schools in fiscal year 1977 will produce a need for more physicians and dentists participating in residency and other training programs in VA health care facilities. The budget request, however, projects no increase in the number of training positions. Nor does it contain funding for a new Regional Medical Education Center (RMEC). Additional budget authority and outlays of $7 million for 200 FTEE personnel are needed to meet residency and intern needs at new affiliations and to establish a fifth RMEC.

e. *Alcohol treatment units.*—Given the extent of the problem, the VA should continue to move toward establishing a specialized alcoholism treatment unit at every VA hospital in a major metropolitan area or where the patient demand indicates a need for such a unit. The General Accounting Office in a September 1975, report identified 15 such areas, including the city with the highest incidence of alcoholism in the Nation, where such units were needed, especially given the high proportion of VA patients with alcoholism-related diagnoses. VA hospitals in four of these very populous areas have since established a unit. The GAO study determined that about 3 million veterans suffer from alcoholism, and that alcoholism is the illness most frequently diagnosed in VA hospital patients. A census taken by the VA during 1970 and 1973 indicated that from one out of every five patients in 1970 to one out of every four in 1973.

To meet this great need, the VA has identified 46 locations where alcohol treatment units should be established, at a funding level of $216,000 (10 FTEE) per unit. Increased budget authority and outlays of $1.1 million (50 FTEE) to add 5 new alcoholism treatment units (the number the VA requested and the Office of Management and Budget denied) in those geographical areas of highest priority will be required. Funds for activation of additional units in high-priority areas will also be necessary in the fiscal year 1978 budget.

2. *Medical research* $7.4 million (150 FTEE).

The standstill budget authority request for medical and prosthetic research, which has not grown, in real dollar terms, since fiscal year 1975 despite an inflation rate in excess of 15 percent, threatens the continued vitality of the research program. Compounding the problem are two factors: The low funding, for the third year in succession, for major construction of research and educational facilities in the new fiscal year budget; and the demoralization of senior VA research physicians who have been denied the benefit of special pay under Public Law 94–123 by the administrative decision of the Chief Medical Director. Unless additional funds are provided for the research program in fiscal year 1977, that program is likely to suffer grave and potentially irreparable damage, to the detriment of the VA's entire medical care efforts. There is a need for $7.4 million in additional funding for the VA's research program to combat inflation and to permit the hiring of 150 FTEE employees, the continuation of existing research projects (including new emphasis on spinal cord injury research and expanded support for the Geriatric Research Education and Clinical Centers), and the initiation of important new projects (especially new cooperative studies).

3. *Assistance for health personnel training institution* $10.5 million.

The $9,200,000 requested for subchapter I assistance to new State medical and dental schools under chapter 82 is sufficient to provide the support necessary for the VA to carry out its commitments to the five new medical schools already identified. There are no pending requests for support of the establishment of other new medical schools.

However, there is currently a backlog of approved but unfunded grants under the other subchapters of chapter 82 totalling $14,762,000, and it is expected that another $9.5 million in grants will be approved in the review cycle scheduled for March to June 1976. The requested amount includes no funds to support any new programs. The projects which have been supported in the 2 years of this program have resulted in expanded affiliations with health personnel training institutions, have strengthened the VA's ability to provide quality care, and have expanded the training capacity of the affiliated institutions. Therefore, an addition of $10.5 million in fiscal year 1977 over the amount of the budget request to enable the VA to support the most significant of these grant applications under subchapters II, III, and IV is required.

4. *MAMOE*: $0.6 million (24 FTEE).

The Department of Medicine and Surgery has recently undertaken a major emphasis on regionalization of its field organization responsibilities so as to provide for more efficient and effective use of resources. It has also undertaken a utilization review and quality assurance program at each VA hospital, called Health Services Review Organizations.

However, despite these impressive beginnings, the budget underfunds these two critical activities designed to make VA health care most cost-effective. To provide more adequate funding, the MAMOE item should be increased by $0.6 million (24 FTEE).

V. SUMMARY

In summary, the Committee estimates that a minimum of $20,442.3 million will be required for fiscal year 1977 with respect to matters within the jurisdiction of the Committee on Veterans' Affairs. This total consists of $17,196 million budgeted by the President, $928 million from likely nonenactment of certain Administration proposals, $2,174 million from probable enactment of cost-of-living legislative initiatives, and $144.3 million for additional needed appropriations for existing budget authority.

This Committee estimate for fiscal year 1977 is $1,816 million or 9.7 percent greater than the current services base for fiscal year 1976 as projected by OMB in November 1975. The Committee, since that date, has been informed that the estimate for fiscal year 1976 should be revised upwards and that a range from $19,400 million to $19,900 million would be a more accurate current services base. Thus using these revised figures, the estimate we have projected for fiscal year 1977 is only $1,000 million to $500 million (5.4 percent or 2.7 percent) greater than fiscal year 1976 outlays.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–77

The Senate continued with the consideration of the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. ALLEN. Mr. President, what is pending?

The PRESIDING OFFICER. The pending business is S. 3439 and the pending question, the Chair advises the Senator, is the amendment of the Senator from Alabama to the pending business.

Mr. ALLEN. I thank the Chair.

Mr. President, the amendment that I in southern Africa to carry out the provision authorizing the appropriation of $25 million to certain unnamed countries in southern Africa to carry out the proposals made by the Secretary of State in Lusaka, Zambia, on April 27, 1976.

The bill does not state what countries would be the beneficiaries of this largess on the part of the American taxpayer.

But the speech of the Secretary, outlining the various proposals that the Secretary makes in this speech, says that:

> In accordance with this U.N. resolution, the United States is willing to provide $12.5 million of assistance to Mozambique.

Elsewhere in the bill I believe there is a provision saying that we are not going to assist anyone where human rights are not being respected.

Let us look at Mozambique and their record and see why we should pay to Mozambique any amount of money to help that repressive regime.

Mr. President, there is an interesting editorial in the Washington Post of Friday, May 28, 1976, and I suppose the Washington Post is just about as left leaning as any reputable newspaper in the country. They never speak out that I recall against foreign assistance in any amount. But this support of Mozambique and other revolutionary regimes in Africa was just too much for even the Washington Post to stomach.

I am going to read some from this editorial and comment possibly parenthetically on this proposal as the Washington Post sees it. It is not too often that the Washington Post agrees with the positions advocated by the Senator from Alabama, but sometimes we can find wisdom in strange places. Here we seen one instance of that where the Washington Post does support my position in this connection. The Washington Post has this to say:

> The war in Rhodesia is drawing American policy into an inconsistency that ought to be given a careful look before it hardens into a major contradiction. On the one hand the Ford administration is trying to mobilize international pressure to remove the Cuban troops already in Angola by way of ensuring among other things that they won't be used in Rhodesia. On the other hand, the administration is asking Congress for $12.5 million in aid to Mozambique; this money will make it that much easier for Mozambique to weather the effects of suspending economic ties with Rhodesia.

Mr. President, the justification for this $25 million authorization recommended by the Committee on Foreign Relations at the instance of Mr. CLARK, the distinguished Senator from Iowa, who is the chairman of the African Affairs Subcommittee of the Committee on Foreign Relations, is to aid the repressive regime in Mozambique to try to topple by whatever means are necessary the stable government in Rhodesia.

So here the Washington Post is calling attention to the fact that we are trying to move Cuban troops from Angola; yet, if this amendment is not adopted, we are aiding Mozambique in sending guerrillas and revolutionaries into Rhodesia.

So, the Washington Post seems to be of the attitude of suggesting that when we criticize Cuba for being inside Angola, and we are paying Mozambique in effect to send revolutionaries and guerrillas into Rhodesia, what is the difference? That is the effect of the Washington Post editorial so to say we are moving in the direction of a major contradiction in our policy.

The attitude in the Senate, I am sorry to say, all too often is: "So there is a contradiction; what of it? This seems to be the policy to pursue at the moment, and we want to pursue it."

Not only this $25 million is involved. The bill also provides for $60 million. The reason this amendment is not directed to that is that that does not say that that $60 million is to implement the Secretary's new African policies. But to show you a further contradiction that this provision is moving us toward on the floor of the Senate, they voted down aid to Angola. If I am not mistaken, some of the very people who support this $85 million for the African nations that join in the conflict against Rhodesia were the same people who opposed aid to certain factions in Angola.

What were those factions? We heard it said on the floor of the Senate that Zaire was one of the recipients of some of this Angolan aid money. If I am not mistaken, Zambia would come in on that, because they were aiding the factions in the south of Angola, I believe, and Zaire was taking care of the people in the north. But that was voted down when there was some hope of heading off the Cubans and the Marxists.

Now, after having seen Angola taken over by the Marxist regime—or having seen the Marxist regime stay in power—and the Cubans, 15,000 strong, take over Angola, they seem to have made an about face and say, "Let's give $30 million to Zaire and $30 million to Zambia."

I assume that the Senators who are advancing this argument will read the RECORD tomorrow, because not one of them is in the Chamber at this time. I assume they will bother to read the RECORD. If not, it seems to me that they do not want to learn a great deal about what is in their own bill.

In any event, Mr. President, one reason why I took the floor at this time is that when the time has expired for the germaneness rule of 3 hours from the time legislative business is transacted, I may wish to comment on the legislative situation that existed in the Senate on last Friday and some of the tactics used by the leadership to ram through to presentation a cloture motion with respect to a bill that was pending before the Senate at that time but now is not pending because the unfinished business is pending.

I will have something to say about that in a moment. I believe that the time will be up about 2:30. At that time, the Senator from Alabama will move to another subject.

Let us analyze this a little, with respect to the budget resolution. This $85 million was not included in the President's budget. It was not included in the congressional budget. Everybody wants to climb aboard this $85 million, and I daresay that it will be voted. I want to lay the case in the RECORD for all to see.

Any opposition to the monolithic thinking that exists in the Senate and in the media does not get any notice or any coverage, because this $85 million is dear to those who think in political terms. It would be a fine sop to those who are interested in support of the revolutionary movements in Africa.

However, I will continue with my analysis of the position of the Washington Post with regard to the provisions I am seeking to strike.

I am glad to see my distinguished friend the Senator from Minnesota in the Chamber. I was commenting on the fact that the Washington Post, which more generally supports the views of the distinguished Senator from Minnesota (Mr. HUMPHREY) than the views of the Senator from Alabama—in effect, calls this $85 million provision "American support of African violence." I do not suppose the Senator realizes that that is what this provision calls for—American support of African violence. Now that the Senator realizes that is the case, I hope his support of this provision will lessen somewhat and that his enthusiasm will dampen.

The Washington Post says, in effect, that this provision calls for $12.5 million in aid to Mozambique, and this money will make it that much easier for Mozambique to weather the effects of suspending economic ties with Rhodesia.

Not to put too fine a point on it, I think what that means is that this $12.5 million also will make it that much easier for Mozambique to fund the operation of thousands of Rhodesian guerrillas that Mozambique is sponsoring against Salisbury right now.

That is the effect of what we are doing, according to the Washington Post, and I think their conclusion is correct.

While they criticize me on the one hand for some of my views, they say:

> We think nonetheless he——

That is, the Senator from Alabama, now speaking—

> is right to ask why the United States should support an armed attack on an established government across an international border—regardless of how reprehensible that government may be and irrespective of how it holds power.
>
> You don't have to be soft on Salisbury—and we wouldn't exactly place ourselves in that category—to be worried about whether even indirect American collaboration with Mozambique in this enterprise would not create a questionable precedent in a highly explosive situation. It would move Washington uncomfortably closer to doing in Rhodesia exactly what it criticized the Soviets for doing in Angola. American sympathy for black liberation should be unhesitating and beyond question.

Certainly, the Senator from Alabama shares a similar view.

> But whether the United States should support this objective by lending its financial weight to a policy of violent intervention is quite a different issue and one that is fraught with more than enough perils and pitfalls to justify a prompt and full debate.

Mr. President, let us see; we do not know a great deal about Mozambique, this beneficiary of $12.5 million in assistance from the American taxpayer. We know that it closed its borders to Rhodesia. The Secretary says, "All right." I do not know where his authority is going to come from. Let us see what he said. This is the sixth item in his speech:

> 6. As in the case of Zambia a few years ago, steps should be taken in accordance with the recent U.N. Security Council resolution.

Mr. President, why did he not quote an act of Congress as his authority rather than "in accordance with the recent U.N. Security Council resolution?" I should think he would be governed by the laws, policies, statutes, treaties, or the Constitution of the United States of America, and not to cite as his authority that steps should be taken in accordance with the recent U.N. Security Council resolution to assist Mozambique "whose closing of its borders with Rhodesia to enforce sanctions has imposed upon it a grave additional economic hardship." In accordance with this "U.N. resolution"—not an act of Congress, Mr. President; not direction by the President; and if he did receive the President's direction, that would not make it right—in accordance with this "U.N. resolution."

I was commenting on the fact, I say to the distinguished Senator from North Carolina (Mr. HELMS), that the Secretary, in his speech giving his reasons for proceeding in saying that they are going to give Mozambique $12.5 million, gave the fact that it is in accordance with the recent U.N. Security Council resolution. He did not cite any act of Congress, any resolution of the Senate, any treaty or provision of the Constitution. He is going by the U.N. Security Council resolution. They are going to provide, the U.S. taxpayers, he says, "are willing to provide $12.5 million of assistance." It goes on:

> The United States, together with other members of the United Nations——

How in the world does he know that?

> The United States, together with other members of the United Nations.

Why, the other members of the United Nations have not been too much interested in going along with positions of the U.S. Government. We generally are outvoted about 130 to 2 or 3. And he is saying the United States, together with other members of the United Nations. I do not believe he is speaking for the United States at that point.

Then he takes it on himself to speak for the other members of the United Nations. I think he went too far in the first place, but certainly he went too far when he sought to speak for the United Nations. I wish he would tell us some of the things that are going to go on there in the United Nations, some of the positions that the members of the United Nations are going to take.

So, Mr. President, here is the Secretary, whom I admire very much as a great Secretary of State and a man who has accomplished much—at one time in the Senate, when he was under attack in connection with an effort to link him with certain phases of Watergate, I introduced a resolution in the Senate expressing complete confidence in him and our belief in him and the role he was playing in representing the United States as Secretary of State, and our feeling that he was in no way involved in the improper activity, or words to that effect. I succeeded in getting 51 Senators to cosponsor that resolution. I still have great confidence in the Secretary of State as being a man of honor, but I do not always agree with his position. Here is a position to which I take violent exception, since we are talking about violence in Africa here. I take strong exception to his African policy, which would reward nations in Africa for seeking to topple one of the two or three stable regimes in this entire continent of chaos.

What he says of the United States, together with other members of the United Nations, is that we are ready—reading from his speech——

> To help alleviate economic hardship for any countries neighboring Rhodesia which decide to enforce sanctions by closing their frontiers.

Mr. President, this, in effect, is, I will not say bribing these nations; it is giving them millions of dollars, call it what you want to—a subsidy, a payment, the American taxpayers' money—call it what you want to, but he is saying, as to any nation bordering Rhodesia that imposes economic sanctions against Rhodesia, the United States and the other members of the United Nations will pick up the tab for their economic loss.

As the Washington Post points out, we would not say that we are giving Mozambique money to finance revolutionaries and guerrillas, but it points out that by giving them this money for their economy, it better enables the other nations to support their revolutionary and guerrilla activities in Rhodesia.

Mr. President, the Washington Post warns that we are moving toward a major contradiction and I think that, certainly, they are absolutely right.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. ALLEN. Mr. President, the time for germaneness in debate, I believe, has expired. I wish, therefore, at this time to discuss—I guess I should say for the benefit of the Members of the Senate, but very few Senators are present except some of the most important ones. For that reason, I want to comment on the parliamentary situation that took place on Friday and thereby to explain why I have, from time to time, made objections to certain procedural moves here in the Senate.

The antitrust bill came up by unanimous consent on last Tuesday, and it was understood that a cloture motion would not be filed before Thursday. Wednesday was used on the military procurement bill. On Thursday, the antitrust bill was before the Senate all day, had innumerable motions, motions to table, amendments. The Senator from Alabama offered an amendment to the antitrust or a substitute to the antitrust bill. It was a substitute; opponents sought to table it and failed to do that. Then they sought to add a substitute to that and they failed to do that, and they sought to add an amendment to that and failed to do that. Then they would not let it come to a vote. But all that time, they had a right to file cloture had they so desired.

I suggested to the ones who wanted to file cloture that it would be well to file their cloture petition on Thursday. They said, well, they did not want to do that because they did want to vote on it today.

I do not think the first day of the week ought to be a throwaway day in the Senate. I think we ought to transact the Nation's business and I do not think we ought to try to accommodate Senators who want to come in here at 4 o'clock in the afternoon, if at all.

So that had no merit to it. So rather than filing it on Thursday they took the chance of filing it on Friday. There was sufficient doubt as to whether there was a quorum, and it is questionable as to whether if they got it at all on Friday it was by a mere one, and they had to squeeze quite a bit to get that.

At any rate, while the Senator from Alabama had the floor at the time of transacting routine morning business and planning at the end of his allowed time of 5 minutes to put in a quorum call, he first saw the distinguished Senator from Virginia, who had had 15 minutes time allotted to him, and had it erased by the Chair because he was not here at the time, the Senator from Alabama asked unanimous consent that he might have that time and not take it out of the time allotted for routine morning business. So the Senator from Alabama made that unanimous-consent request.

The distinguished assistant majority leader had this to say on page 15905, after I made the request:

Mr. ROBERT C. BYRD. I object.

Mr. ALLEN. The Senator can object. I made a request.

Mr. ROBERT C. BYRD. The Senator lost the floor when he made the request, and I objected.

The very next item, the Acting President pro tempore, who was the distinguished Senator from Montana (Mr. METCALF) then immediately recognized the Senator from West Virginia.

Now, let us see what Mr. ROBERT C. BYRD said later on that morning, some 10 or 15 minutes later, as to how valid that point was that he made. I refer to column 1 on page 15907. Mr. ROBERT C. BYRD, answering comments I had made, said:

On the question of Mr. ALLEN's losing the floor after he made a unanimous-consent request, there is a precedent which could support Mr. ALLEN's position. Nevertheless, I could, I think, make a good case for a Senator's having lost the floor when he makes a request and it is objected to. But as the precedents now stand, the Senator from Alabama is correct.

I was not only correct at that time, I was correct at the time the objection was made, and the point was made that it took the Senator from Alabama off the floor and, naturally, the distinguished Presiding Officer, Mr. METCALF, followed the advice from the floor. Had the Senator from Alabama not been taken off the floor he would have suggested the absence of a quorum, there would have been no quorum established, and the cloture motion could not have been filed; today the unfinished business is brought down and the antitrust goes back to the calendar.

Mr. President, the antitrust legislation concerns the Senator from Alabama very little, but how the people of Alabama are treated here on the Senate floor in this treatment accorded one of their Senators is of great concern to the Senator from Alabama.

The Constitution of the United States says that no State shall be deprived of its equal representation in the Senate. Well, Mr. President, if the Senator from Alabama cannot get the benefit of the Senate rules, he is being denied equal protection of the Senate rules, and the people of Alabama are being denied their equal representation in the United States Senate.

Now, Mr. President, that is a minor item to what came later.

When the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) got the floor he said, and I am reading here from page 15906:

Mr. ROBERT C. BYRD. Mr. President, I am going to make a nondebatable motion.

I move that the Senate proceed to the consideration of H.R. 8532.

Mr. ALLEN. Mr. President——

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. ALLEN. Mr. President——

And just about that loud, if not louder——

Mr. ROBERT C. BYRD. Mr. President, the motion is not debatable.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President——

Listen to this amazing advice from the floor, from the leadership——

Mr. ROBERT C. BYRD. Mr. President, the Senator does not have to be recognized.

Now, what kind of advice is that coming from the leadership, Mr. President? If I act like I am sore about this, I am. What kind of advice is that? The distinguished Vice President apologized to this Senate and said that he, in the future, would always recognize a Senator when he was on his feet. I was right here at my desk, no technicality could be raised of my being someplace else. What sort of business is that here in the U.S. Senate?

All right. "The Senator does not have to be recognized" is the advice coming from the leadership to the Chair. What do you think the Chair is going to do, the Chair being Mr. METCALF from Montana. What do you think he is going to do? Do you think he is going to recognize the Senator from Alabama? Why, of course, he did not.

Mr. ROBERT C. BYRD. Mr. President, I suggest the clerk read the title of the bill.

Well, the title never was read, so I do not know whether the bill ever became pending.

The ACTING PRESIDENT pro tempore. The motion is not debatable.

The question is on agreeing to the motion.

The motion was agreed to.

All right.

For now we have, assuming the bill is now pending here, eligible for a cloture motion or eligible to have a request for the years and nays, a motion to recess, a motion to adjourn, a motion to table, all of these things would be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk state——

He is still trying to get the title stated, but it never was stated, according to the RECORD, here.

Mr. ALLEN.——

This is before the cloture motion was ever read, the bill pending, and I have got a right to make any sort of motion I want to with respect to the bill now that it is pending, and I certainly ought to be able to get recognition. Nobody else is asking for recognition.

Mr. ALLEN. Mr. President, I am asking for recognition.

The ACTING PRESIDENT pro tempore. Just a moment.

Mr. ALLEN. Mr. President——

Silence from the Chair.

Next the cloture motion is filed.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

And it is read.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum. Point of order, Mr. President.

It goes on. I tried to raise a point of order that the business was not the pending business, but that is beside the point. On two occasions the rules were not adhered to. The Senator from Alabama was taken off the floor because of advice from the leadership that I had lost the floor when I made a simple unanimous-consent request. Then when I was yelling at the top of my voice for recognition, the only Senator asking for recognition, at one time the Presiding Officer said, "Just a moment," and he goes on with the proceeding, and then there is advice from the floor by the leadership that the Chair does not have to recognize the Senator from Alabama.

I view that cloture motion as absolutely void and illegal. But that is beside the point. All that is beside the point, Mr. President.

What I object to and what I resent on behalf of the people of Alabama is the fact that at a critical time in the parliamentary proceedings here on the Senate floor, the Senator from Alabama was denied the right guaranteed him by the Senate rules to get recognition.

To say the motion was nondebatable, that has not a thing, Mr. President, to do with it—as Mr. ROCKEFELLER found out, causing him to apologize to the Senate and to pledge that in the future he was going to recognize any Senator who stood on his feet and asked for recognition.

Mr. President, if the Senator from Alabama is treated in this fashion on Friday, maybe the Senator from North Carolina will be treated that way next time. More is at stake than the treatment given an individual Senator.

Any Senator, under the rules, has the right to be recognized. Advice to the Presiding Officer from the leadership that the Senator does not have to be recognized is going far beyond what the leadership should do.

They say, "Well, this is an important bill and we are trying to get it through for its sponsor, he is very much interested in this." This is a House bill, Mr. President. Why all of this haste? Why throw the rule book out the window?

In my judgment, this destroys some

of the greatness of the U.S. Senate, if any Senator, no matter how humble or lowly he may be, is denied his rights under the Senate rules at the instance of the leadership. I say that does not put the U.S. Senate in a very good light.

All for what? For saving a couple or 3 days on filing a cloture motion.

We have this foreign assistance act up. I imagine it will be disposed of on tomorrow and, in all likelihood, the other bill will come up next and they could file a cloture motion. But why ram one through just because one can, just because one can defy the Senate rules, misinterpret the Senate rules?

Mr. President, I hope that this cloture motion will be withdrawn. To use an expression made famous some years ago: It will be a cancer in the side of the Senate if it is allowed to stand.

I feel it is that important.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I admire the distinguished Senator from Alabama greatly. I am his friend. I consider him my friend and he will continue to be my friend. He is extremely adept at the use of the Senate rules and I doubt that any Senator in this body is his peer in the utilization of the Senate rules.

I say that out of great respect for the Senator and great admiration.

But the Senator from Alabama does not happen to carry the responsibility of the leadership in this body and I feel that if he stood in my shoes, or in the shoes of the distinguished majority leader, he would do, from time to time, things a bit differently in the use of the rules.

He makes a very engaging, very attractive argument here today. He points out, quite correctly, that in asking unanimous consent last Friday, he was taken off the floor. I stated later in the Record of Friday that that was correct and under the precedents he did not actually lose the floor.

He also stated that the leadership advised the Chair that the Senator did not have to be recognized.

Well, it is within the discretion of the Chair to recognize the Senator. On the spur of the moment, with many Senators asking for recognition, with tension and pressures more than normal, I imagine that the Chair, in the previous history of the Senate, has failed to recognize a Senator who was on his feet, and that is within the discretion of the Chair under such circumstances, as I so stated to the Chair.

With Senators on their feet, the Chair did not have to recognize the Senator from Alabama; it was in the discretion of the Chair.

The motion at that time was not debatable and I felt that the Chair ought to proceed and get that motion before the Senate. It was my responsibility in the absence of the distinguished majority leader to get the motion adopted, get the bill before the Senate, and offer the cloture motion thereon. That was my responsibility, that was the role I had to play.

If the Senator from Alabama had had to play my role, I assume that he might have seen things today a little differently than the way he now sees them.

He assumes his role well. He has a different role in the Senate. He represents the State of Alabama and represents it well. But we do have different roles, the two of us. He assumes his duties as he sees them. I assume my duties as I see mine.

The Senator from Alabama made a very startling statement here today. He said that had the Senator from Alabama held the floor he would have asked for a quorum, and he said there would have been no quorum established.

The question I would ask the Senator is: How does he know there would have been no quorum established?

A quorum ultimately was established—by virtue of a rollcall vote which subsequently occurred.

The Senate proceeded for over an hour in an effort to get a quorum on Friday. Failing to get a quorum, I understood from talking with a distinguished Senator on the other side of the aisle that there were some Senators around but in hiding, that they were not coming in to make the quorum.

I also understood that one of them had been told by telephone call not to come in, to stay away and not answer for the quorum.

So I proceeded to ask for the yeas and nays on the motion to have the Sergeant at Arms directed to compel the attendance of absent Senators; whereupon five Senators whose names had not previously appeared on the quorum call made entry into the Senate.

So when those five names were added, the names of Senators who had appeared on the quorum call, and the names of those who appeared on the rollcall were added together, and a quorum was thusly established.

The first rollcall vote does not show a quorum. A quorum of Senators did not answer on the rollcall vote. But the rollcall vote was in connection with the getting of a quorum. Consequently, the Senators whose names appeared in answer to the rollcall on the motion to have the Sergeant at Arms request the attendance of absent Senators were then added to those who had previously answered the quorum, thus making a quorum present. So it was then that we were able to get consent to proceed with the vote on the two nominations, whereupon three additional Senators came in because one rollcall vote gave credit for two. There was a special bonus for Senators on that rollcall. They could answer once and get credit for two rollcalls in the Record.

The whole upshot of the thing was that I have in my hands the names of eight Senators who were in hiding, who did not answer the quorum call, but who came in on the subsequent rollcall. I was asked later whether or not we should show the names of those tardy Senators on the quorum call and my answer was, "Yes, let us do that, because I do not want to embarrass them. Just let their names also appear on the live quorum." So it would not be evident as to which Senators awaited the rollcall before coming into make the quorum.

(Mr. Domenici assumed the chair at this point.)

Mr. ROBERT C. BYRD. So, Mr. President, I do not proclaim that my hands are entirely clean in this matter. I made the wrong suggestion in suggesting to the Chair that the Senator from Alabama had lost the floor when he made this unanimous-consent request. But in equity, we are supposed to do equity, and those who claim equity should also come into court with clean hands. I am not saying whose hands are not clean. I am simply saying that there was a deliberate effort to keep Senators from making a quorum here on Friday.

The Senator talks about Wednesday—why we should not have a vote on Wednesday, so as to let the people's business go forward on Wednesday. Well, the people's business should have gone forward on last Friday.

So while the Senator from Alabama is quite correct, we could have had a cloture vote on today, Wednesday. The people's business should not have to wait until Thursday. By the same token the people's business should not have been delayed on last Friday.

I maintain it was a deliberate attempt on the part of someone on Friday to keep Senators from coming to the floor so that the Senate would have to go out for lack of a quorum, thus preventing the offering of a cloture motion on the antitrust bill.

The leadership had to take some extraordinary actions in order to get that cloture motion invoked. The leadership was forced to take such extraordinary action in the face of the extraordinary action that was being taken to prevent a cloture motion from being offered.

I went to the distinguished Senator from Alabama on Thursday. I asked him if it was his intent to attempt to prevent a cloture motion from being invoked Friday. He did not say that it was his intent to do so. He simply said, "Why don't you offer it today?" My answer was that the Senators did not want to offer the cloture motion that day, on Thursday; they wanted to offer it on Friday. He said, "Go ahead and offer it on Friday." I said, "Well, will there be any attempt to prevent it? Will you let us offer it on Friday?"

The Senator said he did not want to give up any of his rights under the rules, which he was certainly right in saying. But that was a clear indication to me that we were going to have a problem on Friday.

I held in my hand an attendance sheet which showed the Democrats would only have about 38 or 39 Senators here on Friday, and it was my information that, on the other side of the aisle, they were not expecting over 18 or 19 Members, which, at best, would make us about 58 Members. So with eight Members off the floor on Friday who did not come in until we had a rollcall vote, we had no chance of getting a quorum had there been no rollcall. It was only through the force of that rollcall vote that we finally smoked them out of their hiding places and they came to the Chamber.

The leadership, had it wanted to be strong-armed—and as mean as one might get the impression the leadership is at times—could have gone ahead and offered that cloture motion on Thursday of last week, and today, when Senators came back from far distances, could simply have moved to adjourn and not had any session—just adjourned. If we had adjourned today that would have forced the cloture motion over until tomorrow.

Now that we have learned our lesson, I am not so sure but that if it ever happens again if I have anything to say about it I will simply say to my colleagues, "Well, let us go ahead and offer the cloture motion today. I would not bet on a quorum tomorrow. Those opposed to getting this cloture motion filed can keep Senators away tomorrow. We will not get a quorum. They will force us out. We will not have the opportunity to have cloture. Let us offer it today. Then on the day we come back we will just have the prayer and move to adjourn. That will force the cloture over to the next day."

But in talking with Senator HART, who is one of the finest men who ever sat in this body, it was his feeling that he would rather take the risk of no quorum last Friday, rather take the gamble, "Come in tomorrow and let us try, rather than offer it today and have Senators travel long distances back on Wednesday next only to be confronted with the motion to adjourn that day."

So we decided to go that route, knowing what it entailed.

I am sorry we had to take the steps that were taken to get the cloture motion filed. I will admit that the Senator from Alabama certainly has some reason to complain, but the role of the leadership is a difficult role. It was my judgment that we had to do the best we could do. We did that. The Senator from Alabama can be assured that I am still his friend and I know that he is mine. But to state one side of the question does not state the whole matter. There are two sides to this question just as there are two sides to those buckwheat cakes that they make in Preston County, W. Va.

The Senator has stated his side and I have stated what I consider to be the side of the leadership. I trust we can close this chapter now and get on with the cloture vote tomorrow.

I hope the Senators will vote to invoke cloture on this measure tomorrow.

Mr. ALLEN. Mr. President, it is quite obvious that the cloture motion will not be withdrawn, though I believe that is the best answer to the problem. I believe it would offer the best guarantee of eventually invoking cloture on this bill.

I do want to state my exception to what the Senator said about the discretion being in the Chair as to whether he is going to recognize a Senator. I am sure the Senator did not analyze his statement very well because there is no discretion in the Chair about whether or not a Senator shall be recognized if he is the only Senator standing on his feet desiring recognition. The Senator probably has it confused with the fact that where several Senators are asking for recognition, yes, the Chair does have discretion as to who to recognize, though the rules require that he recognize the one who is first on his feet asking recognition.

But irrespective of that, Senate Procedure, on page 674, the first line, says:

> Every Senator, in due time, has a right to recognition before the Senate acts on an issue unless by unanimous consent a limitation of debate is entered into which precludes him from such right.

The Senator from Alabama, before this question was put, was demanding the floor time and time again, and on advice from the leadership—and what do you think Mr. METCALF was going to do when the leadership advised him, "You do not have to recognize the Senator from Alabama?"

The rules clearly show every Senator has a right to recognition. The only discretion the Chair has is in deciding which of more than one he shall recognize.

Now, the Senator says that this procedure that was followed was better than following the rules and coming back here today and adjourning, and then having the cloture vote tomorrow. The Senator from Alabama had absolutely no complaint about that, because that would have been following the Senate rules.

As I get the thrust of the Senator's argument, it is that ' this is a meritorious bill, we have fine people supporting it, I told the majority leader I would get it up, and therefore I was going to get it up no matter what course I had to follow." He seems to justify the means by commenting on the ends.

As I recall, when we had this filibuster on the change of rule XXII, the distinguished majority leader was highly critical of any such policy, that you justify the means you use by the citation of the ends to be achieved, and he made a very eloquent argument against and denunciation of that type of thinking.

But here, "Yes, we bent the rules a little bit, but that was the only way we could get it done." Well, that is not much of an answer, it seems to me, for a leadership that is supposed to live by the rules and to follow the rules, and not advise the Presiding Officer to disregard the rules by not recognizing the Senator from Alabama.

The Senator says that the Senator from Alabama would have done the same or something similar to that. Mr. President, I reject that. The Senator from Alabama has always followed the rules, and always expects to follow the rules.

There was some reference to some Members not coming in. The Senator from Alabama made no request of anybody not to come to the floor. The Senator, it seems, said it was down to 58 there by his own count before we left here on Thursday, so obviously there was some doubt about whether we were going to come in or not. But irrespective of all that, the rules ought to be followed, and I resent the fact that the Senator from Alabama does not know and will not know in the future whether, when the going gets tough, that the Senator from Alabama can gain recognition here on the Senate floor. It is an uneasy feeling, Mr. President, that that situation exists.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I do not intend to prolong this discussion. I do not think it is going to settle anything in anyone's mind. But I will say that if the distinguished Senator will indicate to me in the future what his plans are, I will know more how to act in accordance with what the situation is.

I went to him, as I stated earlier, to ask if he intended to attempt to prevent the leadership from getting the cloture motion introduced, and he did not give me a flat no and he did not give me a flat yes. So I was just left to sort of fly on my own. That may be considered fair enough as far as the distinguished Senator from Alabama is concerned, but I think the leadership is entitled to know what the Senator from Alabama plans to do when he is asked; and then I think he will not have need to express concern in the future as to how he is handled on the floor.

Mr. ALLEN. Mr. President, I do not think it is incumbent on the Senator from Alabama to clear with the leadership what his plans are, and I would certainly say that the Senator from West Virginia, being the astute man that he is, knew the Senator from Alabama was seeking to prevent the cloture motion from being filed, or else he would not have handed out the advice he did to the Chair to prevent the Senator from Alabama from getting the floor.

Mr. ROBERT C. BYRD. I knew Friday morning what the Senator from Alabama was attempting to do. From his objecting to waiving the reading of the Journal, that was absolutely clear.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–1977

The Senate continued with the consideration of the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. HUMPHREY. Mr. President, will the Chair please have the amendment stated again, for the record?

The PRESIDING OFFICER. The clerk will state the amendment for the information of the Senate.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes an amendment numbered 1658:
>
> On page 81—strike all of section (b)—that is all of lines 3 through 10.

Mr. HUMPHREY. Mr. President, I yield to the Senator from West Virginia.

HOUSING AUTHORIZATION ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, in behalf of the Senator from Wisconsin (Mr. PROXMIRE) I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3295.

The PRESIDING OFFICER (Mr. DOMENICI) laid before the Senate the amendments of the House of Representatives to the bill (S. 3295) to extend the authorization for annual contribu-

tions under the United States Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes.

(The amendments of the House are printed in the RECORD of May 26, 1976, beginning at page 15517.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. CRANSTON, Mr. STEVENSON, Mr. TOWER, Mr. BROOKE, and Mr. GARN conferees on the part of the Senate.

Mr. HUMPHREY. Mr. President, I again yield to the distinguished majority whip.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to.

THE MAGNA CARTA CEREMONY

Mr. ROBERT C. BYRD. Mr. President, Senators are asked to convene at the hour of 10 o'clock tomorrow morning informally for the purpose of proceeding to the rotunda of the Capitol, where a historic ceremony in connection with the Magna Carta will be conducted. All Senators will be notified by their respective cloakrooms to assemble at the hour of 10 o'clock—not in the Chamber, I think I should state, but in the hall here in front of the Chamber.

ORDER OF BUSINESS

Mr. HUMPHREY. In other words, the official business of the Senate begins at noon?

Mr. ROBERT C. BYRD. Yes, the official business of the Senate begins at noon, and there will be a vote on the motion to invoke cloture tomorrow afternoon at, I would assume, something like 1:15 to 1:30 or some such time, under rule XXII.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. HUMPHREY. If that motion is not successful, then what is the pending business?

Mr. ROBERT C. BYRD. If that motion is not successful, the unfinished business will again be the order of the Senate, if the Senate demands it. If the motion to invoke cloture carries, then the antitrust bill will be the legislation before the Senate until action is concluded thereon.

Mr. HUMPHREY. I thank the Senator.

RECESS UNTIL 3:25 P.M.

Mr. HUMPHREY. Mr. President, I move that the Senate stand in recess for 5 minutes.

The motion was agreed to, and at 3:20 p.m. the Senate recessed until 3:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOMENICI).

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976–77

The Senate continued with the consideration of the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. There is a request for a quorum call. Does the Senator withhold the request?

Mr. HELMS. I withdraw it.

Mr. HUMPHREY. Mr. President, I thank the Senator from North Carolina for his courtesy and his cooperation which, may I say, is customary. I am very grateful.

Mr. President, the bill before us is, of course, much more comprehensive than the amendment that has been offered by the distinguished Senator from Alabama. I recognize that the Senator from Alabama is primarily concerned about that section of the bill that relates to security supporting assistance to certain areas on the continent of Africa.

Let me say, very quickly, that the total sum of the authorization for countries in central and southern Africa is $85 million, $30 million for Zaire and $30 million for Zambia, and $25 million for other countries. Both Zambia and Zaire have had a very close relationship with the United States, and I might add that there is very good reason to support assistance for these countries.

For example, Zaire was involved indirectly in an effort to prevent the Marxist takeover in Angola, as the Senator from Alabama knows. Zaire also received a large number of refugees as a result of the war in Angola.

The President of Zambia, Mr. Kaunda, has been a moderating force in southern Africa and he has been an intermediary, a negotiator, and a mediator in the many disputes that have taken place in that part of the world. That country is an acknowledged friend of the United States. There are many political reasons, in addition to economic reasons, for the modest amount of aid for Zambia.

As I said, Zambia's President Kaunda has been a major force behind efforts to find peaceful and moderate solutions to southern African conflicts. He has been compelled to declare a state of emergency, because of the hostilities on his border with Angola and other areas of southern Africa.

I think it should be pointed out that Zambia, like Zaire, relies heavily on copper as a source of its income, and copper prices have plummeted. They have gone down from $1.50 a pound to about 55 cents a pound; therefore, both of these countries' economies have suffered very grievously.

The other $25 million to which the Senator from Alabama has directed his attention relates primarily to Mozambique and Botswana, countries in southern Africa.

The Senator from Alabama has quoted the Washington Post editorial. At times I find that their editorials are refreshing, stimulating, constructive, and positive; at other times I find that they are regrettably not well informed.

Mr. ALLEN. Yes.

Mr. HUMPHREY. That is just a question of judgment. I say, on balance, it is a very positive and constructive editorial point of view.

But in this instance, I think what the Post was most concerned about was the possibility that this proposed action might finance guerrilla warfare activities, violence in southern Africa.

I have, and I will offer at the appropriate time, an amendment which will be a substitute for subsection (b) starting on page 81, line 3 through line 10, and the amendment that I will offer in due time would read:

> There is authorized to be appropriated to the President for the fiscal year 1977, $25 million for security supporting assistance and economic assistance for countries in Southern Africa other than Zaire and Zambia affected by the crisis in that region. Such sums are authorized to remain available until expended None of the funds provided in this subsection may be used to finance directly or indirectly military or paramilitary activities by any government outside of its borders.

I point out that this is only an authorization.

It seems to me—and I have talked to the distinguished Senator from Maine, the chairman of our Budget Committee—that as we develop policy relating to this area of the world, we should make it clear that this is no long-term commitment. That is No. 1.

No. 2, we should make it very clear that this authorization has the approval and support of the Office of Management and Budget, that it has official support from the President as well as the Secretary of State. But we also should make it very clear that before any money is appropriated under this section, there will have to be a detailed description as to their use and whatever certifications may be required by the Committee on Appropriations, such as a certification from the Secretary of State that none of the funds appropriated are being used directly or indirectly to finance military or paramilitary activities.

I underscore the fact that what we are talking about here is an authorization. Again, I point out that the bill before us is much more significant than just the so-called $85 million of authorizations to countries in central and southern Africa. I doubt that there is much argument about our assistance to Zaire. We have assisted Zaire before, and it has passed in the Senate without dissent.

As a matter of fact, Senators have asked that we authorize more. When we cut back on Zaire, we had Senators appear before the Committee on Foreign Relations saying it was too small, and the amendment went through in the Senate to increase those funds.

Zambia surely is a country that has caused us no stress or strain. The President of that country has been an exceedingly helpful public official and international statesman in a difficult area, in potentially the most dangerous area in the world; namely, in southern Africa, which is beset by economic and social and racial problems second to non.

The bill before the Senate, however, S. 3439, known as the International Security Assistance and Arms Export Control Act, contains several important elements. Most of these elements were talked about and voted upon in the legislation for fiscal 1976. This bill is for 2 years, because fiscal 1976 is virtually over; yet, we need an authorization for that fiscal year.

With respect to the bill that was passed by the Senate and adopted following the conference between the House and the Senate, and subsequently vetoed by the President, the features that the President found objectionable have been removed, in the main, from the proposed legislation before the Senate. The President objected to some of the restrictions placed upon the President in the use of his powers as the Commander in Chief and also the provisions providing for the use of a concurrent resolution by Congress to veto certain actions of the executive branch.

So I have no doubt that if we pass the proposed legislation, the President will sign it. We have worked in cooperation with the Defense Department, as the distinguished chairman of the Committee on Foreign Relations, Senator SPARKMAN, knows, and with the State Department. We have had very active cooperation, as we did in the initial legislation. Never have we had legislation from the Committee on Foreign Relations that has had more cooperation on the part of the legislative branch and the executive branch than the proposal known as the International Security Assistance and Arms Control Act. Every feature of that legislation has been gone over in detail, with considerable time and attention by the members of the Committee on Foreign Relations, the staff of the Committee on Foreign Relations, the subcommittee and its staff, and the membership of the executive branch assigned to work out these details.

General Fish, who is the major Defense Department spokesman on all matters of arms sales and military assistance, has worked with us personally to work out the details of this legislation.

In other words, we think we have followed the best of tradition in legislative procedure. On the one hand, we took the initiative in the Senate and in the other body, the House of Representatives. However, when the Secretary of State and representatives of the Defense Department indicated that they had some apprehensions about certain features of our legislative proposal, I, as chairman of the Subcommittee on Foreign Assistance, under instructions from the chairman of the full committee, Senator SPARKMAN, said to the State Department and to the Defense Department:

> We are prepared to work out these difficulties. We want to have a cooperative relationship.

We spent weeks in very careful negotiations and finally arrived at a piece of legislation we thought met all objections. The President took a different point of view, which is his prerogative and his right. So when the veto was handed down, we did not argue with it. We proceeded to rewrite the legislation, again in a cooperative effort, to get what we considered to be some basic essentials for guidelines and principles in this important area of arms transfers and military sales.

The bill which the Senate will now consider, S. 3439, the International Security Assistance and Arms Export Control Act of 1976–77, contains several important elements:

It authorizes military and security assistance for the fiscal year 1976, the transition quarter and fiscal year 1977;

It provides for more centralized and effective control within the executive branch over, and a stronger voice for Congress in, U.S. arms exports, both Government and commercial;

It gives statutory force to the application of nondiscrimination safeguards and human rights principles in the execution of military and security assistance programs;

It will promote the adoption of safeguards against nuclear proliferation, which is one of the most terrifying issues before the nations of the world; and

It contains specific congressional policy guidance relating to the provision of assistance in certain sensitive geographic areas such as Greece and Turkey, Chile and southern Africa.

The amounts authorized in the bill for military, security, and related assistance are $3,166,900,000 for fiscal year 1976. That, by the way, is within the Senate budget resolution, so that we do not violate our budget ceilings. Also it authorizes $2,789,800,000 for fiscal year 1977. In addition, the bill provides authority, subject to appropriations, for the funding of programs in the transition quarter at one-fourth the fiscal year 1976 level.

The specific country programs for security-supporting assistance authorized by this bill, particularly those in the Middle East, are of great importance to our foreign policy. Israel, in particular, is sorely pressed not only for supporting assistance to enable it to carry its heavy economic burden, but also for the necessary foreign military sales credits contained in this bill to finance essential arms purchases. Prompt passage will insure against any interruption of these important programs. Timely action by Congress is also necessary to allow fiscal year 1976 programing of other military assistance programs, including grant aid and military training, to be completed in an orderly manner before June 30.

Our committee has scrutinized the amounts contained in this bill with the greatest of care. Numerous cuts have been made on the basis of our analysis. This bill is within congressional budget guidelines for fiscal year 1976 and, in fiscal year 1977, for those programs in the national defense budget function. In fact, the recommended levels for programs in the bill in the national defense function are well below the levels assumed for these programs in the first concurrent budget resolution for 1977. The funds recommended by the committee in this bill for programs in the international affairs function for fiscal year 1977 are slightly higher than the levels assumed in the first concurrent budget resolution for fiscal year 1977.

I point out that the primary reason they are higher is this additional money for southern Africa. The executive branch supports our initiative. We now have a letter from the Office of Management and Budget, so that it is clear that the administration wants this.

I have a letter addressed to the Honorable JOHN SPARKMAN, chairman of the Committee on Foreign Relations, U.S. Senate, from James Lynn, Director of the Office of Management and Budget, dated May 25:

> DEAR MR. CHAIRMAN: Section 501 of S. 3439, the International Security Assistance and Arms Export Control Act of 1976–1977, contains provisions which authorize 1977 appropriations of $85 million for additional aid to Zaire, Zambia, and other southern African countries. The President supports enactment of legislation to provide $85 million in supporting assistance for these countries and will transmit a budget amendment for this purpose.

So the administration itself supports this money. I have talked to the chairman of the Committee on the Budget. He will have his own comment to make about it, but I believe that I have accurately reflected my conversation with him.

The levels recommended by the committee for 1977 represent a $239,900,000 reduction from the administration request. We have reduced this request by a quarter of a billion dollars. Of this amount, $110,700,000 results from the committee's decision to withhold funds for Greece and Turkey for fiscal year 1977 authorizations. Programs for these countries will be addressed in connection with the committee's review of implementing resolutions pursuant to the defense cooperation agreements with both countries. Irrespective of Greece and Turkey, though, the committee's cuts amount to almost $130 million.

Mr. President, I ask unanimous consent that further comments that I have prepared on this legislation be printed as a part of my remarks at this point in the RECORD.

The PRESIDING OFFICER. Without objection——

Mr. ALLEN. Reserving the right to object, Mr. President, I say to the distinguished Senator from Minnesota that earlier today, I did state that, to show my lack of approval of the proceedings which took place in the Senate on Friday, I was, for the time being, going to object to unanimous-consent requests. I am sure there will be no reason why the Senator cannot have it in. I want to object, though, to the request.

Mr. HUMPHREY. I understand the Senator's objection.

Mr. ALLEN. I really have no basic objection to its going in.

Mr. HUMPHREY. I understand, and I shall give a synopsis of the salient portions here.

The PRESIDING OFFICER. The Senator can move to have it placed in the record.

Mr. HUMPHREY. I think we shall be all right if we proceed this way. I do not mind its going over. We shall handle this very well.

The PRESIDING OFFICER. The objection is heard.

Mr. HUMPHREY. Mr. President, as our committee assessed the problem of arms sales, it became evident that the initiative for more thoughtful and coherent policies would need to come from Congress. The present bill seeks to meet this need. We do so in a number of ways which we think are exceedingly helpful.

As Members of this body are aware, S. 2662 passed the Senate by a vote of 60 to 30. That is the fiscal 1976 authorization. As I indicated earlier, it was vetoed by the President.

We believed when we presented that bill and we reiterate today with regard to this bill, that we have provided for an appropriate and effective congressional role in arms transfer matters. Notwithstanding our views with regard to the President's veto, the committee has reviewed its earlier work and the present bill retains intact those provisions of the earlier bill which the committee members consider central to updating the arms transfer procedures.

In addition, S. 3439, the bill before us, provides new procedures designed to insure that third-country transfers of U.S. supplied equipment are more carefully considered by both Congress and the executive branch. This is a matter that has caused great concern in the Committee on Armed Services, that countries that received weapons from the United States, either by gift or grant or sales, transferred them to another country. As a result of consultation with the Committee on Armed Services, we incorporated legislation in here which we think will tighten up those procedures to prevent that kind of transfer.

The committee has also included in this bill a number of other features. The committee has included forceful new provisions designed to insure that U.S. citizens and businesses are not discriminated against by aid recipient governments.

Finally, in the course of reconsidering our original action on S. 2662 and adding fiscal year 1977 authorizations, the committee adopted three new important provisions: An authorization of funds to implement forward-looking policy in southern Africa; the placing of a total embargo on military assistance to Chile; and a requirement that all forms of assistance—military and economic, grants, credits, and guarantees—be terminated in nations buying or selling nuclear enrichment or reprocessing materials without specific safeguards. I suggest that this amendment was offered by the distinguished Senator from Missouri (Mr. SYMINGTON) who serves as we know, on the Joint Committee on Atomic Energy, the Committee on Armed Services, and as chairman of our Subcommittee on Arms Control in the Committee on Foreign Relations. This, I think, has made it one of the most important features of the bill and is one that has been praised considerably by not only Members of Congress but those who are deeply concerned about nuclear proliferation.

Mr. President, it should be apparent from the foregoing that S. 3439 contains a wide range of congressional foreign policy initiatives. The bill reflects a growing sensitivity within Congress to a new range of policy considerations. It does, above all, Mr. President, I think, give us a role in the design of foreign policy which does not intervene or interfere with the prerogatives of the executive branch, but makes policy guidelines a responsibility for the Congress of the United States.

I also call to the attention of my colleagues a certain amount of material from the committee report, giving some factual statements and detailed statistical evidence or statistical information as to the bill before us.

Mr. President, I believe that the major issue, and I solicit now the cooperation and the attention of my good friend from Alabama. I know his concern over the section that relates to the security supporting assistance in the African areas. I believe that I am correct, and the Senator may help me on this, if he will, that the Senator does not have strong objection to assistance to Zaire. Is that correct?

Mr. ALLEN. Yes, I do object to that as well. The present amendment, however applies to Mozambique and Botswana. It goes to the two that I am seeking to strike out at this time.

Mr. HUMPHREY. So the amendment the Senator has before us now, the pending amendment, is related to Mozambique and Botswana?

Mr. ALLEN. Yes, but Botswana is not called by name, because the Secretary did not call it by name in his speech.

Mr. HUMPHREY. That is correct.

The Senator knows that I have prepared—and I am pleased that my associate and colleague from New York (Mr. JAVITS) is here, because he is deeply concerned about these matters. Senator CASE was to be with us but was called to the White House and has not as yet returned.

I have not been able to get hold of Senator CLARK, who is chairman of our Subcommittee on African Affairs. I do not know whether members of Senator CLARK's staff or others have attempted to get hold of him, but if not, I would deeply appreciate it.

Here is what I have in mind, Mr. President, and I solicit the attention of my associate from New York: To substitute language, starting on page 81, line 3 through line 10 of subsection (b), so that it would read as follows—let me first state the difference. The language in the bill before us reads as follows; I repeat, the language in the bill that is before us reads as follows:

> There is authorized to be appropriated to the President for the fiscal year 1977, to carry out the proposals made by the Secretary of State in Lusaka, Zambia, on April 27, 1976, $25 million for security supporting assistance and economic assistance for countries in southern Africa other than Zaire and Zambia affected by the crisis in that region. Such sums are authorized to remain available until expended.

It is to that section that the first amendment of the Senator from Alabama is directed. He would strike the entire section, as I recollect, in his amendment. I offer as a substitute to the amendment of the Senator from Alabama the following language:

> There is authorized to be appropriated to the President for the fiscal year 1977, $25 million for security supporting assistance and economic assistance for countries in southern Africa other than Zaire and Zambia affected by the crisis in that region. Such sums are authorized to remain available until expended. None of the funds provided in this subsection may be used to finance directly or indirectly military or paramilitary activities by any government outside of its borders.

Now, the reason I offer this proposal is that the concern has been stated here, particularly as there was a recitation of the editorial comment from the Washington Post and statements, I think, by other editorial writers, pointing out that there is concern as to what would happen in that area if funds were made available without restriction. I think the Senator from Alabama is correct in calling it to our attention.

Therefore, the Senator from Minnesota is removing from the section, any reference to the proposals of the Secretary of State. I think that is the kind of rhetoric that is not necessary—well, is not needed—for legislative purposes. We do not need laudatory comment in our legislative proposals.

Secondly, by removing it, there is much greater flexibility in the use of funds.

Third, my proposal would specifically deny the use of any of these funds for military or paramilitary purposes.

Finally, may I say that in our discussion, and we will have one subsequently with the distinguished Senator from Maine (Mr. MUSKIE) on budgetary matters, I will make it very clear that when appropriations are to be considered under this section there should be a detailed statement as to how the funds will be administered, to whom the funds will go, for what purpose.

I think it is very proper for the Appropriations Committee to insist that there be a necessary certification from either the President or the Secretary of State that the funds are not to be used nor will they be used for any military or paramilitary purposes outside the borders of the recipient countries.

I solicit any comment I might receive from the Senator from New York.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. It seems to me to an effort to meet the views of the Senator from Alabama and those who feel as he does, and I hope very much it may prove to be a way of resolving the situation in which we find ourselves.

I think the Senator has eliminated one very important provision, which is an implication of any general approval of the Secretary's speech at Lusaka which, whatever one may think individually, personally I think that was the right course for our country.

Second, I think the precaution suggested by Senator Allen is very appropriate, respecting the use of such funds as are provided in accordance with our intention, which is strictly for economic aid purposes which stem from an effort to deal with the implications of the United Nations resolution on Rhodesia.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes, of course, I yield.

Mr. ALLEN. The suggested amendment of the distinguished Senator from Minnesota, spoken of approvingly by the distinguished Senator from New York (Mr. JAVITS), would that change in any way the amount of money being authorized or its eventual recipients?

Mr. HUMPHREY. It does not change the amount. The Senator's question surely is appropriate. The amount remains the same, and the recipients will be, as in the original proposal, at the discretion of the President of the United States. But the recipients cannot use that money for military or paramilitary purposes. In the original legislation there was no such prohibition.

Mr. ALLEN. Well, of course, that would not prevent them from using this money for their economy and using funds they had planned to use for their economy for stirring revolution by guerrilla activity across their borders; is that not correct?

Mr. HUMPHREY. I suppose the Senator could make that point, but the simple fact is these economies are in desperate straits, and it is to be very clearly indicated that the purpose of the funds is, of course, to fortify American policy in that part of the world.

I do not travel under false colors in this debate, and in this forum we must tell each other very candidly what we are seeking to do. I simply point out that we do not, by this legislation, embrace every word and feature of the address of the Secretary of State at Lusaka in Zambia. I happen to be one, as the Senator knows, who basically approved of the policy statement made by the Secretary of State. But I speak as a person, as an individual Senator, on that matter.

The legislation before us is an authorization for funding for security assistance purposes, and those security assistance purposes can be to finance imports into the country, for budgetary support, or to aid countries that have been severely afflicted by depressed commodity prices.

I think it is fair to say the U.S. Government has pledged itself to support ongoing efforts toward the establishment of majority rule in that part of the world. This is something we have voted for in the United Nations; it is something we worked on in cooperation with our friends in Great Britain; it is something, by the way, this Senate has endorsed in earlier days.

The amount of money involved here is not substantial. I think it also has been clear that the amount does not in any way pledge us to a continuing program. It is a 1-year proposal. There may be a request for additional proposals—I would not want to say for a minute that there would not be—but there is no obligation, none whatsoever, and I make that clear, as manager of this bill, that there is no further obligation. The $25 million for the areas other than Zaire and Zambia is $25 million for fiscal 1977. The $30 million for Zaire and for Zambia is $30 million for fiscal 1977.

Mr. ALLEN. The Senator's amendment would still allow $12.5 million to go to Mozambique, would it not?

Mr. HUMPHREY. It would allow what the President feels is necessary.

But I would suggest to the Senator that before any money is made available it must pass this body a second time and the House of Representatives. It would have to come out of a subcommittee of the Appropriations Committee, and the full Committee on Appropriations. I have a feeling we will be very careful as to the amounts, No. 1; and, No. 2, as to the purposes for which the money will be used.

Mr. ALLEN. Mr. President, will the Senator yield further?

Mr. HUMPHREY. Yes.

Mr. ALLEN. I notice on page 49 of the bill, section 301, starting on line 18——

Mr. HUMPHREY. Yes.

Mr. ALLEN. "Human Rights"——

Mr. HUMPHREY. Yes, that is correct.

Mr. ALLEN. It states:

> "SEC. 502B. HUMAN RIGHTS.—(a) (1) It is the policy of the United States, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, to promote and encourage increased respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. To this end, a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries.

Mr. HUMPHREY. Yes.

Mr. ALLEN. Would the Senator feel that Mozambique would qualify under this provision?

Mr. HUMPHREY. I am not sure.

Mr. ALLEN. As those who support human rights?

Mr. HUMPHREY. It may very well not. The Senator raises a very important point, and I know he does it both as a point of debate but also as a point of principle, that it could very well be that Mozambique would not qualify because of section 301. In my book—and I will be frank with the Senator—I am not at all pleased with many of the developments in Mozambique.

I do not believe I ought to in any way camouflage my personal feelings. It is entirely probable that because of that section, assistance to Mozambique could be withheld. That is possible. I doubt that in the instance of Botswana, however, which is one of the countries that has tried to practice, as I recollect, democratic principles, that section 301 would apply.

Mr. ALLEN. The Senator realizes that Mozambique is one of the worst police states in the world?

Mr. HUMPHREY. That is why we put section 301 in this legislation. This Senator is not about ready to support nations that have a consistent pattern of gross violations of the code of human rights that is accepted and established under international law and endorsed by international agencies.

Mr. ALLEN. All right.

In view of that statement would the Senator be willing to modify his amendment where Zaire and Zambia are excluded from this $25 million, and also add Mozambique as being excluded?

Mr. HUMPHREY. No, I do not think we should do that because under section 301, if Mozambique does not qualify, it would be excluded.

May I say to the Senator that while he and I can give our personal judgments here, but there is a bigger jury than that, a larger jury, and there is a procedure established in this legislation. That procedure is, I think, a very effective one and unique one; the bill establishes an Office of Human Rights. The Congress of the United States can review facts on alleged violations of the human rights. We can stop aid to any country that has a consistent—I repeat—a consistent pattern of cruel and inhuman treatment in the field of human rights.

I see my friend from South Dakota (Mr. ABOUREZK) here, who has been very instrumental in promoting this particular section of the bill, section 301, as was the Senator from California (Mr. CRANSTON), and others.

We have revised this section so that I think it is workable.

May I say for the record, so that our legislative history is clear, we are flagging the situation in Mozambique. Before any funds are committed, I think it would be entirely appropriate for the Appropriations Committee, since no country is mentioned here as a recipient of the $25 million, for the Appropriations Committee to demand of the executive branch of Government an appropriate review of what has happened in the field of human rights in Mozambique, or any place else.

I think we are developing a legislative history, may I say, that could be very helpful in light of the proposal which I have advanced.

Mr. ALLEN. I would not agree to the amendment, but I think it should be discussed.

Mr. HUMPHREY. Mr. President, I offer the amendment in the nature of a substitute to the Allen amendment.

The PRESIDING OFFICER. The amendment of the Senator is not in order as a substitute, but as a perfecting amendment it is in order and takes precedence over the motion to strike.

Mr. HUMPHREY. In other words, it must be a perfecting amendment?

The PRESIDING OFFICER. Yes.

Mr. HUMPHREY. I so offer it for that purpose.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, line 3, strike out section (b), lines 3 through 10, and insert the following:

(b) There is authorized to be appropriated to the President for the fiscal year 1977 $25,000,000 for security supporting assistance and economic assistance for countries in southern Africa other than Zaire and Zambia affected by the crisis in that region. Such sums are authorized to remain available until expended. None of the funds provided in this subsection may be used to finance directly or indirectly military or paramilitary activities by any government outside of its borders.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. If the Senator will yield, I wish to call special attention, as I have just been reading this perfecting amendment carefully, to the last sentence which deals with this question of military or paramilitary activities by any Government—which would mean Mozambique—outside of its borders, as "may be used to finance directly or indirectly."

Mr. HUMPHREY. Yes.

Mr. JAVITS. And being cognizant of Senator Allen's point, if they got this money they could use other money in place of this money for the same purpose, I believe that the Appropriations Committee would be duty bound to see that this money was not used directly or——

Mr. HUMPHREY. Or indirectly.

Mr. JAVITS. In order to replace other funds in the Treasury of Mozambique which were being used for this purpose.

So I think it is a more effective limitation, in terms of the actual realization of any appropriations under it to benefit Mozambique, than was indicated by the Senator's argument.

I think the Appropriations Committee would be dutybound to deny the appropriation if it found it simply replaced in Mozambique's Treasury other money which was being used for these guerrilla warfare purposes.

Mr. HUMPHREY. I thank the Senator from New York.

I want it clear that this language on page 81, line 3 through line 10, in an amendment, but my amendment is an amendment to that subsection, not to the total section, but to that subsection.

Mr. JAVITS. Right.

Mr. ALLEN. Mr. President, is the Humphrey amendment subject to amendment?

The PRESIDING OFFICER. It is amendable in one more degree.

Mr. ALLEN. I offer an amendment and add the word "Mozambique" following "Zambia" so it, too, would be excluded from the right to participate in this form.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On line 4, after "Zaire" strike "and" and insert "," in lieu thereof and after "Zambia" insert "and Mozambique".

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, if this amendment is agreed to, I would agree to the substitute to the perfecting amendment.

Mr. HUMPHREY. I understand.

Mr. ALLEN. It carries out the suggestion I made that excludes Mozambique from participating in this $25 million.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ALLEN. Very well.

Mr. HUMPHREY. Mr. President, I believe there is a sufficient second here.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BROCK). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I appreciate the effort of the Senator from Alabama to get some progress on this bill, however this vote may come out.

I know there are not many of our colleagues here, but I would like to make clear that the amendment that has been offered will place restrictions upon the President of the United States. The proposal that the Senator from Minnesota offered gives the Congress of the United States adequate authority to examine into any type of authorization, under the terms of this bill, particularly under the human rights section, section 301.

The Senator from Alabama wants to be more precise in light of our discussion here because, as I have indicated to the Senator from Alabama, it may very well be that Mozambique would not qualify, but I do not want to vote as one Senator to place that inflexible limitation when I believe that the amendment that the Senator from Minnesota offered is adequate to cover any concerns that Senators might have.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. Mr. President, I would like to join Senator HUMPHREY in this position. I believe that it reflects accurately the position of the committee.

We have an enormous amount at stake in Africa. We are just opening almost new history with Africa. I believe that the general principles of the doctrine adopted by Secretary Kissinger in his Lusaka speech represents the basic doctrine of the United States which is critical to our security and also critical to the relationships which are so heavily involved in the supply of enormous quantities of raw materials to the United States.

I thoroughly agree on the point of human rights. We have already made that very clear.

I thoroughly agree on the nonutilization of any appropriation of the United States directly or indirectly for guerrilla warfare purposes.

I do believe, Mr. President, that to specifically exclude any country, even though we may not actually give any aid to that country, where the amendment does not relate to any country and only speaks of Zaire and Zambia, because we are providing for them elsewhere in the same bill, is impolitic for our country. Therefore, I, too, shall be compelled to vote "No" on Senator ALLEN's amendment.

Mr. ALLEN. Mr. President, I am glad that we are going to get an up-or-down vote on this amendment I have offered.

The original amendment which I offered knocked out the $25 million that would go to any South African state that joined in the effort to topple one of the few stable regimes in Africa—a continent of chaos.

For us to draw a bill saying that we are going to deny support to those regimes that do not respect human rights and then provide for giving $12.5 million to Mozambique certainly places us in a very inconsistent position.

Let us read something about Mozambique, what kind of a state it is.

Mass exodus. Unpersuaded, more than half of the 220,000 whites left Mozambique before independence. Consequently, Mozambique is now almost totally without skilled and professional workers. At present there are fewer than 1,000 trained administrators in the entire country. The medical situation is even worse—15 medical doctors for a population of 8.5 million people.

Whites are leaving Mozambique at a breakneck pace. At present there are less than 30,000 whites still in the country. Well-informed sources predict that only 3,000 whites will be left by July 1.

Antireligion campaign. The Machel myth of Mozambique has launched itself against all forms of religion within the country. Machel's Interior Minister Armando Guebuza, asserts that the churches have joined together to form a common front against Frelimo.

The fact that about 70 percent of the population is Christian means Machel's antichurch drive must necessitate large-scale repression—and it has. About 35,000 members of the Jehovah Witness sect have been forcibly placed in reeducation camps near central Mozambique. Diplomats estimate that over 150 missionaries and churchworkers are being held without charge in prison in the port city of Beira. Three American missionaries have been imprisoned since last summer.

That is the country they are talking about helping.

In all cases the prisoners have been jailed without charge, and they have been refused legal counsel or consultation with embassy officials.

The Frelimo government is firm on its antireligion stand. In a recent statement the government warned:

> The people must be made to understand that to attend church services or to obey the preachings of the missionaries will mean to work against Mozambique and to serve the imperialist powers.

That is how they refer to the United States, the imperialist power. We are talking about sending $12.5 million to people like that, who talk about America being the imperialist power.

Soviet influence. Though Moscow recently delivered two shiploads of armored cars, 122 millimeter mobile rocket launchers and SA-7 shoulder-fired missiles, Machel's poorly trained 10,000-man army is ill-equipped to handle them. The Soviet influence in Mozambique is unlikely to offset the country's economic and financial dependence on South Africa.

But, Mozambique is becoming a base for guerrilla fighters. Machel sent 500 Frelimos to fight for the MPLA in Angola. They are now back, and with them are Cubans to train 15,000 Mozambiquan and Rhodesian terrorists.

That is the type of government we are trying to give money to under the Humphrey plan. "Present status."

Mr. HUMPHREY. Under what plan?

Mr. ALLEN. Mr. HUMPHREY'S.

Mr. HUMPHREY. Under whose plan?

Mr. ALLEN. The distinguished Senator from Minnesota (Mr. HUMPHREY).

Mr. HUMPHREY. Could the Senator say the President's plan?

Mr. ALLEN. The President is not advocating it on the floor.

Mr. HUMPHREY. The Senator from Minnesota is advocating the whole bill which has section 301, which I am pleased to say the Senator from Alabama seems now to heartily endorse.

Mr. ALLEN. Is the Senator from Minnesota supporting it because the the President is supporting it or because he thinks it is right?

Mr. HUMPHREY. No, the Senator is supporting it because he believes section 301 on human rights will take care of any concern the Senator has.

Mr. ALLEN. If so, why not take the amendment of the Senator from Alabama?

Mr. HUMPHREY. Because the Senator does not have all the facts. I believe the Senator, who is a stickler for procedure and jury trials, would want to have all the facts.

Mr. ALLEN. I am trying to give the Senator information about Mozambique now. I am glad he is listening.

Present status. The current state of affairs in Mozambique reveals a megalomaniac directing the government so that the people of the world "may eventually be freed from oppression." To facilitate this liberation effort, Samora Machel employs such measures as:

A secret police possessing all the characteristics of the KGB and Papa Doc's Tonton Macoute. They are the SNASP pronounced by Mozambiquans as Senaspo, to rhyme with Gestapo.

Labor camps in which white women are stripped to the waist and work in the fields from dawn, dreading their return to the prison compound at sunset. In the compound they are sexually assaulted by Machel's unpaid terrorists and hired to outsiders for sex. One white escaped prisoner described the labor camp as a "center of prostitution, corruption, rape, drunkenness, and murder."

"Reeducation camps" to which religious prisoners are sent for indoctrination.

Pronouncing children as property of the state and removing them from home and family.

What the amendment of the Senator from Alabama would do is prevent any of this money that is being appropriated under the terms of this bill from going to Mozambique. I am delighted that we are going to have an up and down vote on whether this Senate wants to send $12.5 million to a country like Mozambique, or whether it would like to decline to send that money to Mozambique. The issue is just as clear as it can possibly be. I am ready to vote.

Mr. HUMPHREY. Mr. President, I just want to make the record clear. There is nothing in this bill that says $12.5 million is going to Mozambique. What it says is that $25 million shall be available for southern Africa, other than Zambia and Zaire. That is all. There is nothing in this bill that says that automatically Mozambique or Botswana or anybody else is going to get this money. There is something in this bill that says that any country that engages in a consistent practice of the violation of accepted human rights, cruel and inhuman treatment, shall be ineligible for any kind of aid.

That is a very important feature in this bill.

Before any funds are made available, particularly in an area that is as tortured and troubled as southern Africa, it would be the responsibility of the executive branch at first, and Congress in the second stage, to examine very carefully into whether or not there is a violation of human rights of such proportions as to violate section 301 of this bill.

I want it clear that we are not talking about a particular country under the language of the bill before us. There has been discussion here about Botswana and Mozambique, and there may be other areas that are involved. The only countries that are mentioned are Zambia and Zaire that the $25 million is over and above the $30 million for each of these other countries as outlined in this bill.

I understand, and I think the Senator from Alabama makes a point, that there has been talk about the fact that our Government would want to give some supporting assistance to Botswana, which, by the way, is a rather democratic state, and to Mozambique. But there is no provision in this bill for any particular amount to any one particular state outside of Zaire and Zambia.

The Secretary of State, I believe, has made some comment, but that comment would have to be made official in terms of testimony before the appropriations subcommittee and the full committee. I merely wanted the record clear so there can be no distortion in editorial comment about what we seek to do here. What we have sought to do is to back up the policy which has been affirmed by the President and by the Congress in our acceptance of the human rights covenant in the United Nations for support of the majority rule.

Now, that support for majority rule does not come within a day or a week. As we have indicated, it is a principle and a policy of the Government of the United States to support governments that are based upon majority rule and protection of minority rights.

But the legislative history here today should make it clear to the executive branch, in making any recommendation or request to the Appropriations Committee, that there should be a very careful examination as to what that money is to be used for, which countries are to receive it, and under what terms they are to receive it.

I can say, as chairman of the Subcommittee on Foreign Assistance handling this legislation, that before any funds are made available, we will examine whether or not countries meet the standards of human rights that we have outlined in this legislation.

Mr. ALLEN. Mr. President, just one brief comment to call attention to two items in the Secretary's speech. That Lusaka, Zambia change in the original bill coming out of the Foreign Relations Committee was, in effect, endorsed by the Secretary of State.

He speaks here, in item 6:

> As in the case of Zambia a few years ago, steps should be taken—in accordance with the recent U.N. Security Council resolution—to assist Mozambique.

This is what the committee, in its original bill, was endorsing.

Mr. HUMPHREY. That is one of the reasons that the Senator from Minnesota, in his substitute or his technical amendment, removed references to the Secretary's speech.

Mr. ALLEN. I am delighted that he has done so.

Mr. HUMPHREY. May I say, a speech is one thing and legislation is another. Senators ought to know that better than anyone else, because we make an awful lot of speeches, and have a great deal of trouble translating some of those speeches into legislative proposals.

I want to make it clear that this bill is not a commendation to the Secretary of State. Privately, I commend him, but this legislation is not designed to put a badge of honor on the Secretary of State and say to him, "Everything you have said, Mr. Secretary, we approve of." He came around here the other day with the resources bank they were discussing in Nairobi. That was shot down, too. The Secretary makes many proposals we do not agree with.

But I want to say, as far as the Senator from Alabama is concerned, that while we do not always agree, the Senator from Alabama is a man of integrity. His judgment I question at times, but never his veracity. He makes it clear that the Secretary did say, in accordance with the United Nations resolution, that the United States is willing to provide $12.5 million worth of assistance to Mozambique. What he should have said is that in accordance with this resolution, the United States is willing to provide $12.5 million worth of assistance provided the Congress of the United States is willing to do it.

Mr. ALLEN. Yes; I think he oversteps himself, as he does in the next item. Let me finish reading these for the RECORD. He says, "Steps should be taken in accordance with the recent U.N. Security Council resolution"—he is not citing any treaty, but:

> In accordance with the recent U.N. Security Council resolution—to assist Mozambique, whose closing of its borders with Rhodesia to enforce sanctions has imposed upon it a great

> additional economic hardship. In accordance with this U.N. resolution.

Not in accordance with sentiment expressed in Congress, or action taken by Congress—

> The United States is willing to provide $12.5 million of assistance.

And, I will say parenthetically, to Mozambique.

> Seventh, the United States—together with other members of the United Nations—

I wonder how he could speak for them, since we do not seem to have too much assistance from them in U.N. donations and votes. But he says:

> The United States—together with other members of the United Nations—is ready to help alleviate economic hardship for any countries neighboring Rhodesia which decide to enforce sanctions by closing their frontiers.

In other words, let us just use the term for what it is. He is going to bribe the other nations to break off relations with Rhodesia in order to force Rhodesia to take action that these other countries want, and by giving this aid to these African nations near Rhodesia it allows them to use that money to support subversion and revolutionary and guerrilla activities.

As the Washington Post points out in its editorial that I have referred to, this results in American support of African violence.

By adopting the amendment of the Senator from Alabama, which leaves this police state of Mozambique out from under this subsidy and prevents us from giving any money to them, that would leave the $25 million intact, but it would at least deprive Mozambique from getting any portion of it. It is an up or down vote on whether or not we are going to say here in Congress that we are not going to support a police state such as Mozambique is.

I hope the amendment will be accepted.

Mr. ABOUREZK. Mr. President, will the manager of the bill permit me to make a statement on his time?

Mr. HUMPHREY. I yield.

Mr. ABOUREZK. Mr. President, I guess everything comes full circle. I never thought I would see the day when the Senator from Alabama (Mr. ALLEN) would quote the Washington Post in support of an argument. I never thought, either, that I would see Senator ALLEN come down hard in support of human rights. For 3 years around here I have been trying to get a human rights amendment attached to a foreign aid bill. This year, Senator HUMPHREY has agreed to attach it. It has got to be cleaned up, but he says he is willing to accept it.

The human rights amendment I have been trying to get accepted has been voted against consistently by the Senator from Alabama. It has, incidentally, also been voted against by the Senator from Minnesota; until this time he has agreed to accept it on the bill.

Mr. President, I do not think the cause of human rights is anything to play games with. If the Government of Mozambique is guilty of the allegations expressed on this floor today, they ought not to get any money from the U.S. Treasury. But I do not think we ought to single out Mozambique or any country in this bill, by virtue of the fact that we have a provision, and we can make a finding of fact, as the law will provide if this bill is passed, and cut off the money by virtue of that.

If we insist on making one country the example, let us make some more. I would like to see Chile cut off right now. I would like to see South Korea cut off. I would like to see Paraguay and Brazil cut off. If the Senator will go along with me specifically on those countries on this bill, I will go along with him specifically on Mozambique.

Mr. ALLEN. I will be glad to support any such amendments of the Senator from South Dakota. I now call on him to support my amendment.

Mr. ABOUREZK. I ask unanimous consent, then, Mr. President, that I be allowed to modify the Allen amendment to include the other countries, and I suggest the absence of a quorum until I can write them down.

Mr. ALLEN. Mr. President, I object to the request, because this has nothing to do with these other countries. He would have to find a place in the bill to touch on them, because that money is going to certain African nations, it is not going to these other nations. If he wants to say they shall not get anything, he can. Of course, they already do not get anything.

The PRESIDING OFFICER. Does the Senator from South Dakota suggest the absence of a quorum?

Mr. ABOUREZK. No, I withdraw that. If I am not allowed to add those countries, there is no use in calling for a quorum.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Michigan (Mr. PHILIP A. HART), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 29, nays 45, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—29

Allen
Bartlett
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Domenici
Ford
Garn
Goldwater
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
Morgan
Nunn
Randolph
Scott, William L.
Stevens
Stone
Taft
Talmadge
Thurmond

NAYS—45

Abourezk
Baker
Beall
Biden
Brooke
Bumpers
Case
Culver
Dole
Durkin
Glenn
Gravel
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Symington
Williams

NOT VOTING—26

Bayh
Bellmon
Bentsen
Church
Clark
Cranston
Curtis
Eagleton
Eastland
Fannin
Fong
Hart, Philip A.
Inouye
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Pearson
Roth
Stennis
Tower
Tunney
Weicker
Young

So Mr. ALLEN's amendment was rejected.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Minnesota.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is the Humphrey amendment now the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Mr. President, I ask to modify that amendment if I may.

The PRESIDING OFFICER. The Senator has the right to modify it.

Mr. HUMPHREY. After the word, "paramilitary", include, "or guerrilla activities".

The PRESIDING OFFICER. The amendment will be so modified.

The amendment as modified, reads as follows:

> On page 81, line 3, strike out section (b), lines 3 through 10, and insert the following:
>
> (b) There is authorized to be appropriated to the President for the fiscal year 1977, $25,000,000 for security supporting assistance and economic assistance for countries in southern Africa other than Zaire and Zambia affected by the crisis in that region. Such sums are authorized to remain available until expended. None of the funds provided in this subsection may be used to finance directly

or indirectly military or paramilitary or guerrilla activities by any government outside of its borders.

Mr. HUMPHREY. Mr. President, we have debated this before. This amendment now will provide that none of the funds provided in this section may be used to finance directly or indirectly military or paramilitary or guerrilla activities by any government outside of its borders. I might add that none of the money may be used for military purposes within the borders, because it is economic assistance and not military assistance.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Clark), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Michigan (Mr. Philip A. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Mississippi (Mr. Stennis), the Senator from Georgia Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from Kansas (Mr. Pearson), the Senator from Delaware (Mr. Roth), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 61, nays 12, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—61

Abourezk
Baker
Bartlett
Beall
Biden
Brock
Brooke
Buckley
Bumpers
Cannon
Case
Chiles
Culver
Dole
Domenici
Durkin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Taft
Thurmond
Williams

NAYS—12

Allen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Fannin
Goldwater
Helms
Long
Randolph
Scott, William L.
Stone
Symington

NOT VOTING—27

Bayh
Bellmon
Bentsen
Church
Clark
Cranston
Curtis
Eagleton
Eastland
Fong
Hart, Philip A.
Hollings
Inouye
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Pearson
Roth
Stennis
Talmadge
Tower
Tunney
Weicker
Young

So Mr. Humphrey's amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. I yield to the Senator from South Carolina, who has an amendment. Might I say very quickly that the amendment is an extremely constructive one. I have said to the Senator that we would like very much to accept it, but I want him to present it and make a statement.

AMENDMENT NO. 1666

Mr. THURMOND. Mr. President, I call up my amendment No. 1666 to S. 3439.

The PRESIDING OFFICER (Mr. Culver). The clerk will report the amendment.

The legislative clerk read as follows:

At the appropriate place in the bill insert a new section as follows:

Sec. . (a) The Secretary of State, in consultation with the Secretary of Defense, shall conduct a comprehensive study of the effects of the enactment of the arms export control provisions contained in title II of the International Security Assistance and Arms Export Control Act of 1976–1977 with a view to determining the consequences of such provisions on (1) the foreign policy of the United States, (2) the balance of payments of the United States, (3) the trade with foreign countries, (4) unemployment in the United States, and (5) weapons procurement by the Department of Defense.

(b) The Secretary of State shall submit the results of such study to the President and the Congress within one year after the date of enactment of this section together with such comments and recommendations for legislation as he deems appropriate.

Mr. THURMOND. My amendment would require the Secretary of State, in consultation with the Secretary of Defense, to conduct a comprehensive study of the effects of the enactment of the arms export control provisions contained in title II of the pending bill.

This amendment directs such a study determine the consequences of this provision as to our foreign policy, balance of payments, trade, unemployment in the United States, and weapons procurement by the Department of Defense.

As the bill manager may recall, a large number of Senators opposed the arms export control provisions of the Military Assistance Act of 1976. However, it was adopted although the veto which brings this bill back before us with fiscal year 1977 authorizations added was based on the arms export control provisions.

Mr. President, the implications of title II of this bill are very far reaching.

The provisions of title II will have great impact upon American industry and American labor. There was very little industry and defense testimony on title II before it was presented to the Senate.

The question of arms sales is one which deserves attention by the Congress. There are many reasons this is true. To list a few I would mention the following:

First. Arms sales are useful in enabling our allies to provide for their own defense;

Second. Arms sales, as an instrument of foreign policy, provide our Nation with influence in the recipient governments;

Third. Arms sales are an instrument to preserve a balance of power in various regions of the world.

Fourth. Arms sales in recent years have served as a key element in correcting any balance of payment deficits resulting from the huge outflow of cash for oil;

Fifth. Arms sales are a means to achieve standardization in weapons systems among our allies;

Sixth. Arms sales provide jobs for American labor;

Seventh. Arms sales by U.S. firms generate tax revenues for our Government; and

Eighth. Arms sales to foreign buyers provide for increased unit production and thus lower costs for our own armed services.

I have offered this amendment because it is my view that certain sections of title II may have an unfavorable impact in those areas I have mentioned. Only a study can give us data upon which tc base future decisions in this area.

Mr. President, the floor manager of this bill, Mr. Humphrey, has indicated he would accept my amendment.

Mr. HUMPHREY. Mr. President, this is a very good amendment; I would hope the Senate would adopt it.

Mr. JAVITS. Mr. President, the same thing goes for the minority managers. I think it is a good amendment and should be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. ABOUREZK addressed the Chair.

Mr. HUMPHREY. Will the Senator yield to me?

Mr. ABOUREZK. I yield.

Mr. HUMPHREY. Mr. President, I send to the desk a series of technical amendments for the purpose of correcting the text of the bill, and ask unanimous consent for their immediate consideration en bloc and that the bill as amended be considered as original text for the purpose of further amendments.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments are as follows:

On page 1, lines 3–4, strike out "International Security Assistance and Arms Exports Control Act of 1976–1977" and insert in lieu thereof "International Security Assistance and Arms Export Control Act, Fiscal Years 1976–1977".

Strike out "International Security Assistance and Arms Export Control Act of 1976" each time it appears and insert in lieu thereof "International Security Assistance and

Arms Export Control Act, Fiscal Years 1976–1977".

On page 9, line 4, immediately before "may" insert a closing parentheses.

On page 18, line 16, strike out "(f)" and insert in lieu thereof "(e)".

On page 29, line 21, immediately before the quotation mark insert a period.

On page 30, line 15, immediately before "of" insert "or (c) (1)".

On page 33, line 6, strike out "Forces" and insert in lieu thereof "Force".

On page 35, line 20, strike out "classified" and insert in lieu thereof "unclassified".

On page 45, line 18, strike out "furnishing military assistance" and insert in lieu thereof "making military sales".

On page 46, line 10, strike out "furnishing military assistance" and insert in lieu thereof "making military sales".

On page 50, lines 20–21, strike out "beginning with the fiscal year 1977".

On page 54, line 19, strike out "guarantees" and insert in lieu thereof "guaranties".

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the following members of my staff, the staff of the Committee on Foreign Relations and the Office of the Legislative Counsel have the privilege of the floor during the consideration of S. 3439, including all votes thereon: Daniel Spiegel, Richard Moose, Robert Mantel, William Richardson, Michael J. Glennon, Constance Freeman, Peter Lakeland, Geryld Christianson, and Steve Bryen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Alan Chvotkin of my staff be given the privileges of the floor during the debate on this legislation.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 1700

Mr. ABOUREZK. Mr. President, I call up amendment No. 1700.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ALLEN. I object.

The assistant legislative clerk read as follows:

On page 78, after line 2, insert the following new section, and renumber the succeeding section accordingly:

SPECIAL LEBANON RELIEF ACT

SEC. 411. (a) This section may be cited as the "Special Lebanon Relief Act".

(b) LEBANON RELIEF AND REHABILITATION.—The Foreign Assistance Act of 1961, as amended, is further amended by adding at the end of chapter 9 of part I, relating to international disaster assistance, a new section as follows:

"SEC. 495C. LEBANON RELIEF AND REHABILITATION.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from civil strife in Lebanon and to restore the confidence of the people of Lebanon, hereby authorizes the President to furnish assistance, on such terms and conditions as he may determine including the issuance of housing guaranties in accordance with the authority and within the limitation of section 221 of this Act, for the relief and rehabilitation of refugees and other needy people in Lebanon.

"(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000, which amount is authorized to remain available until expended.

"(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

"(c) Not later than sixty days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section.".

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I yield briefly to the Senator from Montana.

Mr. METCALF. Mr. President, I ask unanimous consent that the Committees on Commerce, Armed Services, and Foreign Relations, have until June 8 to file a report on S. 313.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METCALF. I thank the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, the amendment I am now offering is a simple one. Essentially, it will add a new section to the Foreign Assistance Act bill to provide the statutory authorization for a $20 million program of humanitarian relief and reconstruction for Lebanon. The legislation would provide the basis for the United States to meet its responsibilities it has already undertaken to assist in the relief of Lebanon.

This legislation, proposed by the administration after considerable work and discussion, was not presented to the Foreign Relations Committee in time to be fully considered during the markup of this legislation. I am hopeful that the distinguished chairman of the subcommittee, and the floor manager of this bill can agree to this amendment.

During the Senate debate on the second supplemental appropriations bill, the Senate adopted an amendment providing the appropriation for the relief effort, despite the fact that the authorization had not yet been passed. This was the same action with respect to Lebanon that was taken with respect to the relief aid for earthquake victims in Italy. Unfortunately, the joint conferees did not agree to include the $20 million appropriation in the final conference report.

At the request of the Appropriations Committee, I prepared a background memo for the conferees. I ask unanimous consent to have printed at this point in the RECORD several documents relating to the special aid to Lebanon amendment. First, the background memo prepared for the Appropriations conferees on the $20 million appropriation; second, my letter to Chairman HUMPHREY indicating my intention to call up this amendment; third, a copy of the letter from the administration proposing a draft bill for Lebanon; and finally, a copy of a section-by-section analysis of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Memo to: Conferees on the Supplemental Appropriations bill.

From: Senator JAMES ABOUREZK.

Re: Appropriations for Lebanon (Amendment No. 28).

On May 11, 1976, the Administrator for International Development, on the authorization of the President, submitted a proposal to the Congress that would provide additional emergency assistance to the people of Lebanon.

During the past year, the fighting that has taken place in Lebanon has caused the death of thousands of people, including innocent, non-partisan civilians. The physical destruction to Lebanon has been estimated to reach into the hundreds of millions of dollars.

Earlier this year, the Secretary General of the United Nations sent a special study team to Lebanon to assess the extent of the damage there, and to recommend an appropriate level of needed assistance. Based on that report, the Secretary General made an appeal for both international cooperation, and $50 million for emergency, temporary assistance to the people of Lebanon.

During the debate on the emergency Guatemala Assistance bill, the Senate Foreign Relations Committee recognized the need for emergency assistance to Lebanon. Rather than utilizing an approach I had suggested (namely an amendment to the Guatemala Aid bill to provide funds for Lebanon) the Committee urged the Executive branch to give favorable consideration to participation with other nations in meeting the $50 million United Nations' request. (See Senate Report 94–679, March 3, 1976 at 4.)

The Committee felt that, based on existing obligations in the disaster relief account, and assuming that the account is fully funded for the fiscal year, the approval of this authority would make adequate funds available for disaster relief in Lebanon, and strongly favored the use of the United Nations as the vehicle for distribution. The Foreign Relations Committee was of the opinion that the disaster relief account was sufficiently broad in policy to permit its use in this situation, and in meeting the special request.

The Guatemala assistance bill was fully funded by the Appropriations Committee, but only a few of the funds initially anticipated to be made available to Lebanon have thus been freed.

Unquestionably, the State Department has provided assistance to Lebanon. At last check, that assistance had amounted to well over $1 million. But the assistance already provided has been of the most emergency type, primarily medical supplies and food. As the Administrator for the Agency for International Development indicated in his letter to the Senate accompanying the draft authorization bill, "The time has now come when additional, large-scale U.S. assistance is necessary. Although the primary purpose of this assistance is to alleviate the human suffering resulting from the civil strife, this proposed assistance can also help to restore confidence in Lebanon's future and encourage other interested governments to follow our example."

I introduced that authorization bill on May 11 (S. 3402). That legislation would provide the statutory authorization for the

State Department to meet part of the United Nations special appeal for assistance for Lebanon. The Senate Foreign Relations Committee, during its Tuesday markup of the combined fiscal year 1976 and fiscal year 1977 Foreign Assistance Authorization bill, received the proposed draft legislation too late to consider it as a part of the Committee bill. But the Committee did agree that the authorization was necessary, and agreed to consider the authorization during the floor debate.

The House International Relations Committee, on the other hand, did have sufficient time to consider the bill, and has already adopted it as a part of its Committee print. The amendment which the Senate adopted to the Supplemental Appropriations bill permitted the expenditure of funds for Lebanon that would be authorized by the Special Lebanon Relief bill. As I indicated during the floor deate of that amendment, the authorization bill had just been introduced, and the Foreign Relations Committee would undoubtedly agree with it. But there would not likely be another appropriations bill this fiscal year in which these emergency funds could be considered.

The amendment appropriated the funds for the transition quarter, providing the authorization were enacted. Information available at the time indicated that there was room for this sum in the transition quarter as opposed to the balance of fiscal year 1976.

Without the approval of the funds in this supplemental appropriations bill, it is unlikely that the United State would be able to meet its desired contribution to the United Naions' request, if at all, until the start of the 1977 fiscal year in October. The funds are needed as rapidly as possible, if they are to accomplish anything.

Of course, if the Appropriations Committee found that some funds would be available to be committed during the balance of fiscal year 1976, as opposed to the TQ, and ($5 million of the proposed $20 million would be highly satisfactory) the State Department has indicated its desire to be in a position to commit these funds as quickly as possible.

U.S. Senate,
Committee on the Budget,
Washington, D.C., May 19, 1976.

Hon. Hubert Humphrey,
Chairman, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Hubert: During the final committee markup of S. 3439, the combined FY 76–77 security assistance bill, I understand that Senator Javits attempted to introduce the "Special Lebanon Relief Act," a draft proposal submitted by the Administration that would provide $20 million in emergency, humanitarian relief and reconstruction assistance for Lebanon. Unfortunately, the Committee was just concluding its work, and was not able to discuss the proposed legislation.

Later that day, I introduced the "Special Aid to Lebanon" bill (S. 3402). I am writing to inform you that I would like to offer the legislation as an amendment to the Foreign Assistance bill when it comes to the floor.

I understand that the $20 million in additional funds would not adversely impact on the Congressional budget resolution ceilings. I hope you will be able to agree to accept this amendment. The House of Representatives has already included this authorization in their proposed legislation.

As always, I appreciate your cooperation and attention to this request. With best personal regards, I am

Sincerely,

James Abourezk,
U.S. Senate.

May 11, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate,
U.S. Senate,
Washington, D.C.

Dear Mr. President: The President has authorized transmittal of the enclosed proposal which would provide urgent and specific action for assistance to Lebanon.

For more than a year the people of Lebanon have been the victims of tragic civil strife, which has left more than 15,000 dead and an ever-increasing number of injured and homeless. This situation has evoked expressions of sympathy and a desire to help from the Congress collectively, by individual members, and by the people of the United States.

The Agency for International Development has already extend immediate aid, including both medical supplies distributed through the American University Hospital in Beirut and financial support to the activities of the International Committee of Red Cross in Lebanon. Substantial additional funds are required, however, if the United States is to carry out adequately its traditional humanitarian role in this situation.

We believe the time has now come when additional, larger scale U.S. assistance is necessary. Although the primary purpose of this assistance is to alleviate the human suffering resulting from the civil strife, this proposed assistance can also help to restore confidence in Lebanon's future and encourage other interested governments to follow our example.

The proposed Special Lebanon Relief Act would authorize $20 million to provide relief and rehabilitation assistance for the Lebanese people, tens of thousands of whom have been injured or have lost their homes, their possessions and in many cases their very means of survival.

These funds would be used in part to respond to the UN Secretary General's worldwide appeal for $50 million for immediate needs in Lebanon, as well as to support the International Committee of the Red Cross and other public and private institutions providing urgent relief and rehabilitation assistance. United States leadership in responding to the UN appeal, for which we would use $12.5 million of the proposed funds, representing 25% of the total appeal, will encourage other countries to be forthcoming. In any event, the passage of this legislation together with an appropriation, will be a tangible sign of our desire to respond positively to the people of Lebanon in their hour of need.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely,

Daniel Parker.

Enclosure.

A bill to provide emergency relief, rehabilitation and humanitarian assistance to the people of Lebanon, to amend the Foreign Assistance Act of 1961, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Lebanon Relief Act."

Sec. 2. Lebanon Relief and Rehabilitation. The Foreign Assistance Act of 1961, as amended, is further amended by adding at the end of Chapter 9 of Part I, relating to international disaster assistance, a new section as follows:

"Sec. 495C. Lebanon Relief and Rehabilitation.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from civil strife in Lebanon and to restore the confidence of the people of Lebanon, hereby authorizes the President to furnish assistance, on such terms and conditions as he may determine including the issuance of housing guaranties in accordance with the authority and within the limitation of Section 221 of this Act, for the relief and rehabilitation of refugees and other needy people in Lebanon.

"(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such *purposes, $20,000,000* which amount is authorized to remain available until expended.

"(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

"(e) Not later than 60 days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programming and obligation of funds under this section."

Section-by-Section Analysis of the Proposed Special Lebanon Relief Act

The major purpose of the proposed Special Lebanon Relief Act is to provide authorization for appropriations for disaster relief and rehabilitation activities necessitated by the civil strife in Lebanon. The bill would amend the Foreign Assistance Act of 1961 (the Act) for that purpose and would also authorize the issuance of housing guaranties in conjunction with rehabilitation efforts.

Section 2 would add a new Section 495B to Chapter 9 of Part I of the Act, relating to international disaster assistance. The provisions of that section would provide as follows:

Subsection (a) contains a finding by the Congress that United States assistance is necessary to alleviate human suffering arising from the civil strife in Lebanon and to restore the confidence of its people and to that end authorizes the President to furnish assistance for the relief and rehabilitation of refugees and other needy people in that country. The section explicitly authorizes the issuance of housing guaranties in conjunction with rehabilitation efforts. Such guaranties would be issued in accordance with the authority of and subject to the limitation contained in Section 221 of the Act. These include a worldwide ceiling on the face amount of guaranties outstanding at any one time and requirements as to eligible investors.

It is not contemplated, however, that the guaranties would be subject to the requirements contained in subsection 223(j) which limits the issuance of guaranties to countries in which A.I.D. is conducting development assistance programs and which requires that the housing projects guaranteed be coordinated with development assistance programs. On the other hand, the issuance of guaranties would be subject to the policy provisions of section 491 which require that to the greatest extent possible U.S. aid reach those most in need of relief and rehabilitation as a result of natural or man-made disasters.

Subsection (b) authorizes the appropriation of $20 million to carry out the purposes of the section. Amounts made available would be authorized to remain available until expended.

Subsection (c) provides that assistance

under the section must be provided in accordance with the policies and the general authority contained in section 491. As noted above, that section requires that to the greatest extent possible assistance reach those most in need. The authority also permits the furnishing of assistance without regard to other requirements of law, such as procurement and U.S. shipping requirements, which might impair the relief and rehabilitation efforts.

Subsection (d) provides that obligations previously incurred for the purposes of providing relief and rehabilitation assistance to the people of Lebanon as a result of the recent civil strife are authorized to be transferred to the appropriation account established by the section.

Subsection (e) requires that the President report to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives regarding the programming and obligation of funds authorized by the section. The first report would fail due 60 days after enactment of appropriations to carry out the section and subsequent reports would be required on a quarterly basis thereafter until the program has been completed.

Mr. ABOUREZK. Mr. President, it is an authorization only, as everybody understands, and at the appropriate time the Appropriations Committee will act upon this, depending on conditions in Lebanon.

Mr. HUMPHREY. Will the Senator yield?

Mr. ABOUREZK. Yes.

Mr. HUMPHREY. The Appropriations Committee has already acted on this, as a matter of fact.

Mr. ABOUREZK. It was not accepted in the House.

Mr. HUMPHREY. But the Senate Appropriations Committee——

Mr. ABOUREZK. The Senate Appropriations Committee has accepted this.

Mr. HUMPHREY. That is correct. Therefore, the chairman of the Budget Committee has already had his say on this before the Appropriations Committee.

Mr. ABOUREZK. Yes, it has been cleared by Budget.

Mr. HUMPHREY. We would have no objection.

Mr. ABOUREZK. I thank the manager of the bill.

Mr. KENNEDY. Mr. President, I rise to urge support of the amendment introduced by Senator ABOUREZK and myself to provide an emergency authorization of $20 million for humanitarian relief and rehabilitation programs in Lebanon.

The Subcommittee on Refugees, which I serve as chairman and of which Senator ABOUREZK is a member, has closely followed developments in Lebanon. In recent hearings with Under Secretary of State Joseph Sisco, as well as in consultations with various international relief agencies, the dimension of human need in Lebanon has been graphically documented.

The personal anguish and human suffering caused by the civil war in Lebanon almost defies description and belief. The frontlines are everywhere—and no one is safe from the sniper's bullet. Well over 20,000 people have been killed. Tens of thousands more have been wounded. The medical needs of the wounded grow each day. Thousands of homes are destroyed, and refugees number in the hundreds of thousands—both within the country and beyond its borders. Beirut is devastated and government services are nonexistent.

And as each cease-fire has broken down in renewed violence, so, too, have efforts to provide relief. Communications are disrupted and water and electricity are in short supply. And so is shelter for the refugees, and blankets, clothing, food and medicines for the many thousands of civilian war victims in need.

In conversations with the president of the International Committee of the Red Cross, I learned last week that the ICRC's projected program of relief and medical support will run over $2.5 million each month. This is for the Red Cross program alone.

In addition, some months ago U.N. Secretary-General Kurt Waldheim made an appeal for $50 million for Lebanon, which everyone now acknowledges has been overtaken by events and falls far short of the total relief and rehabilitation needs.

By all these measures, Mr. President, this amendment for $20 million represents the minimal American contribution to ongoing and projected relief programs for Lebanon. I urge its adoption, and I hope that officials in AID, upon its enactment, will speedily answer the appeal of the International Red Cross and approach the obligation of funds for Lebanon with the same sense of urgency and concern that Congress has shown in authorizing these humanitarian funds.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) proposes an amendment:

At the appropriate place in the bill, insert the following:

SEC. . The consent of Congress is hereby granted for the State of Minnesota or a subdivision or instrumentality thereof to enter into an agreement with the government of Canada, a Canadian Province, or a subdivision or instrumentality of either, providing for the extension of the Pinecreek Airport at Pinecreek, Minnesota, into the Province of Manitoba, Canada, and the operation of the airport by a joint Canadian-American airport authority. The effectiveness of such agreement shall be conditioned on its approval by the Secretary of State.

Mr. HUMPHREY. Mr. President, this is a rather unusual amendment for this bill. Let me explain why we offered it.

The State Department has been in negotiation with Canada on a very serious matter of airport safety in the borderline between the United States and Canada. This airport happens to fall, in part, within the jurisdiction of the State of Minnesota. The lengthening of the runway for safety purposes will extend over into Canada and under the terms of the Constitution it is required that this action take place by the Congress.

The amendment has been drawn by the Department of State in an effort to expedite negotiations. All is ready in terms of the agreement between respective governments, but we have to have the consent of the Congress.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I do not believe there are any further rollcall votes tonight. There may be some further discussion on this bill.

Might I ask my friend from Alabama what his disposition is this evening?

Mr. ALLEN. I want to discuss the bill some more.

Mr. HUMPHREY. Yes, the Senator wants to discuss the bill.

Mr. ALLEN. Also offer other amendments, in time. That can be done tomorrow.

Mr. HUMPHREY. But we understand there will be no further rollcall votes tonight.

Mr. ALLEN. That suits me.

Mr. HUMPHREY. Very good.

Mr. ALLEN. I do not have any amendments to offer, but I do wish to discuss the bill at greater length.

Mr. HUMPHREY. Very well.

The PRESIDING OFFICER. Does the Senator from Alabama seek recognition?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. Mr. President, in the votes that we have had today, the Senate took some amazing action, so it would seem to me, when it had presented to it the issue of whether or not funds out of an authorized $25 million should be denied to Mozambique.

It did not cut down on the $25 million authorization, but it merely said that this police state, Mozambique, carrying on, as it is, guerrilla and revolutionary activities against the stable Government of Rhodesia, being one of the worst police states in the entire world—even worse than the Soviet Union—when the issue was presented, Shall Mozambique be denied any funds under this bill?, the Senate, to my surprise, voted that they should not be denied money under this bill.

The Secretary of State had already made his speech, saying that because of a recent Security Council resolution the United States is willing to provide $12.5 million of assistance to Mozambique.

When they get ready to divide up the loot, they are going to see that Mozambique gets its $12.5 million out of this $25 million. And yet this action is taken in the face of a provision of the bill itself that describes the policy of the United States as being one of protecting human rights and not giving any assistance to nations that do not protect human rights. It goes on and appropriates the $25 million and allows it to be divided up, as it now stands, by the administration, I assume, or, later, by the Appropriations Committee, possibly.

The Senate refused to rule out this police state dictatorship from getting any funds.

The Washington Post in its editorial of May 28 spoke of giving this $25 million, $30 million to Zaire, and $30 million to Zambia as American Support of African Violence. That is the heading of the editorial. It seems strange to me that the United States would spend taxpayers' money in subsidizing the economies of states seeking to get them to carry on revolutionary and guerrilla activities against one of the few stable governments in all of Africa.

We criticize Russia, the Washington Post points out, for getting involved in Angola through the Cuban troops, and yet here we are doing exactly the same thing, spending taxpayers' money to subsidize guerrilla and revolutionary activities.

The Washington Post is wise enough to see that that is a contradiction on the part of the Senate but, unfortunately, Senators are not able to see the forest for the trees. They do not see that contradiction.

The Senate bill also has another amazing contradiction. Some weeks ago the Senate denied assistance to the factions that were helping Angola fighting against the Marxist government. Now, after the Cubans and the Russians have taken over Angola, they are belatedly offering or authorizing assistance to some of the very same nations that had been beneficiaries of Angolan aid some weeks ago when the Senate turned that down.

Now when it cannot do any good the Senate comes forward and says, "Yes, let us give $30 million to Zaire, $30 million to Zambia, and $25 million"—to what? Listen to what the Secretary says: $12.5 million to Mozambique.

Then the Secretary comes forth in his speech on April 27 in Zambia and says, "The United States, together with other members of the United Nations"—and how he thinks he can speak for members of the United Nations when they never or very seldom support anything the United States is interested in in the General Assembly of the U.N.—"is ready to help alleviate economic hardship for any countries neighboring Rhodesia which decide to enforce sanctions by closing their frontier."

So we have plenty of money for revolutionary activity; plenty of money for guerrilla activities. All they have to do is sign up in the effort to topple the stable Government of Rhodesia. Then they are free to dip into the American taxpayers' pockets. Just sign up for this ongoing battle against Rhodesia; sign up to carry on guerrilla and revolutionary activities; sign up for all sorts of violent activities; do whatever is necessary to topple this government.

It does seem that is going a little bit far.

Let us see this well-reasoned editorial in the Washington Post.

They criticize me for my general views. They had to do that to be respectful. They wanted to have something nice to say about my position, because they believed in my position, but had to hit at my general views.

"We think, nonetheless, he is right"—They are talking about the junior Senator from Alabama (Mr. ALLEN).

Says the editorial:

> We think, nonetheless, he is right to ask why the United States should support an armed attack on an established government across an international border, regardless of how reprehensible that government may be and irrespective of how it holds power. You don't have to be soft on Salisbury and we wouldn't exactly place ourselves in that category, to be worried about whether even indirect American collaboration with Mozambique in this enterprise would not create a questionable precedent in a highly explosive situation. It would move Washington uncomfortably closer to doing in Rhodesia exactly what it criticized the Soviets for doing in Angola.

There we have the major contradiction that the Washington Post speaks of in the action of the Senate:

> American sympathy for black liberation should be unhesitating and beyond question. But whether the United States should support this objective by lending its financial weight to a policy of violent intervention is quite a different issue, and one that is fraught with more than enough perils and pitfalls to justify a prompt and full debate.

Mr. President, many of the Senators who generally follow the line of the Washington Post—the Senator from Alabama is not usually one of those—disregarded the advice of the Washington Post here. They failed to see the contradictions that the action of the Senate resulted in. They failed to see that our aid of revolutionaries and guerrillas operating into Rhodesia from the other countries that we are assisting is not greatly different from that of the Russians in supporting the Cuban invasion of Angola. What is the difference between us arming or allowing neighboring nations to arm troops and guerrillas to go in and engage in violent and revolutionary and guerrilla activities, and the Russians in financing, furnishing, and supplying the Cuban troops? Why, there is not one bit of difference, as the Senator from Alabama sees it. So how are we going to condemn Russia for interfering in Angola, when we interfere elsewhere on the continent?

If that powder keg explodes there in South Africa, who is going to be blamed for it? A part of the blame is going to attach to the policy of the administration, strongly supported here in the Senate. If we have massacres all over that land, if we have violent overthrow of that government, if we have civilians slaughtered by the hundreds of thousands, who is going to have the blame?

The United States is supposed to help mold public opinion or world opinion in the direction of peaceful aims, of legal change in governments, and is supposed to stand against lawlessness and violence and guerrilla attacks throughout the world. But, Mr. President, what we are doing here is spending $85 million of the taxpayers' money to aid rebellions, to aid anarchy, to aid despotism, to aid police states, to aid dictators.

The distinguished Senator from Minnesota (Mr. HUMPHREY) pointed out that while the $30 million to Zambia and the $30 million to Zaire was authorized for each of 2 years, the $25 million to the other African nations was only a 1-year authorization. He—kind of with tongue in cheek, it seemed to me—naively suggested that this could well be a one-shot affair.

He knows that is not the way Federal handouts proceed. They get bigger and bigger and bigger. If we authorize $25 million this year, it will run much more than that the next year.

There is also a budgetary problem here, but I did not hear any remarks from the distinguished chairman of the Senate Budget Committee, or any other members of that committee, for that matter, about the effect on the budget this $85 million would have. It is not mentioned in any of the resolutions, or was not included in the OMB budget, but I guess $85 million is a bagatelle in the eyes of the Senate.

Mr. President, I have read from the Washington Post on this subject. Possibly the other end of the spectrum would be the Wall Street Journal, in its views. I would like to comment a little bit on what the Wall Street Journal had to say on May 31 about this subsidization of revolution and subversion and guerrilla activities in Africa.

Commenting on this policy of subsidizing these nations, and in fact urging them by holding out this subsidy or this bribe—I am not saying it is an illegal bribe in that sense, but it is certainly an immoral payment—this policy of bribing African nations to take a stand against Rhodesia by depriving them of taxpayers' money—I am reading out of context here; my reference to this policy is not commented on in this editorial, but the editorial is entitled "Henry Kissinger's African Policy," and so it is not my interpretation of it:

> This policy is not without a certain plausibility, especially since Secretary Kissinger banned arms aid to either side, and took pains to distinguish the case of Rhodesia from that of South Africa. But two things profoundly disturb us.
>
> The first is the moralistic rhetoric in which the Secretary chose to wrap this cold-blooded realpolitik. The low point of this rhetoric was his echoing the citation of the U.S. Declaration of Independence by the Lusaka manifesto, signed by black African rulers seven years ago in Zambia. Here are Jefferson's words about men being created equal and having inalienable rights, being cited by an American Secretary of State on behalf of, albeit among others, General Idi Amin.
>
> Inalienable rights are not guaranteed for blacks in Rhodesia or South Africa, but neither are they guaranteed for blacks in most of black Africa. All but about five of the 49 members of the Organization of African Unity are either military or civilian dictatorships. Some black African states "solve" their racial problems by exterminating or expelling religious, tribal or racial minorities. Rhodesia and South Africa certainly do embody deeply flawed racial and political attitudes, but to no greater an extent than most of their neighbors. If their governments were overthrown by an "African liberation movement," the likelihood is that in terms of political and civil rights the regimes that replace them would not be better but worse.
>
> The second thing that disturbs us is more substantive, which is giving aid and comfort to efforts to settle international disputes by

> force of arms. Of course, Secretary Kissinger would prefer to see the Rhodesian government negotiate rather than be overthrown in a guerrilla war. But in pledging increased economic aid and "unrelenting pressure," Secretary Kissinger is clearly encouraging resort to arms.

And that is what I object about this, Mr. President. The U.S. Government is subsidizing a resort to arms to settle the African problem:

> We much prefer one of his predecessors' strictures against governments that won't leave their neighbors alone.
>
> Now, clearly it is in the U.S. interest to avoid racial war in southern Africa, with all the opportunities for Soviet adventurism that would bring. It is altogether appropriate for the U.S. to warn black Africa about resorting to arms, and to counsel transition to black rule in Rhodesia and the end of apartheid in South Africa. Of the several keys to such an exercise, the most important is to persuade the white South African electorate to support the compromises its leaders know to be necessary. It will not help if South Africa is isolated as Rhodesia was isolated a decade ago, and it appears Secretary Kissinger's rhetoric has gone down badly even with the South Africans who oppose their government's racial policies.
>
> We can understand the tactics of Secretary Kissinger's African policy, and certainly share his concern about the Soviets. But if the tactics require rhetoric suggesting the Declaration of Independence means no more to the Secretary of State than it means to black African leaders, if they require the U.S. to take the side of forces that export revolution, if they alienate the people most necessary to a long-term solution, then perhaps it is time for tactics to yield to strategy.

Mr. President, at this time, I would request the yeas and nays on the bill on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, I assure the Senator I will do all I can to help get the yeas and nays for final passage. I do not believe we can get them at this point.

Mr. ALLEN. Very well.

I move then that the bill be postponed until tomorrow.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not need to make that motion. I intend to go out immediately as soon as the Senator gives up the floor.

Mr. ALLEN. Very well. I make the motion. Then the Senator could move to go out. I do not want merely to yield the floor. I would make the motion that we postpone this bill until——

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object at the end of the day as we are prepared to go out, and I see no reason why all Senators should be required to come back and answer the quorum call. I will not object. But that does not mean that on tomorrow I will not institute the same policy I had at the start of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CASE. Mr. President, today we are considering a revision of the International Security Assistance and Arms Export Control Act of 1976. The original measure, S. 2662, was returned to the Congress without the approval of the President. This new measure combines the 1976 authorization and the 1977 authorization for the security assistance programs and makes available authority for funding in the interim quarter period.

The revised version brings to the floor of the Senate legislation that accommodates the policy objectives of a majority of the Senate Members and, at the same time, is intended to accommodate the objections of the White House to certain procedural and policy aspects of the earlier legislation. I think this goal has been met in this new measure. If the bill is adopted and implemented, many changes for the better will be made in our security assistance programs.

This new legislation, designated S. 3439, establishes orderly procedures for the review of the complex issues involved in the sale and transfer of the weapons of war; it lays down a systematic means for the executive branch and the Congress to evaluate the important human rights component of American foreign policy; it assists in protecting American citizens against discrimination by foreign governments or by other Americans, official and unofficial.

Lest any of us forget, this legislation is of utmost importance in keeping our international commitments throughout the world including that most volatile area, the Middle East.

As the author of those parts of this legislation dealing with discrimination, the transition quarter, and as one of the coauthors of the human rights provisions of this bill, I would like to share with my colleagues my thoughts on these particular matters.

THE ANTIDISCRIMINATION AMENDMENT

When I first proposed that it was important for our Government to protect American citizens participating in our security assistance programs against discrimination by other foreign governments or by American business firms or even by our own Government at the request of foreign governments, I was reiterating the basic principles of our Constitution. I did not expect a negative reaction from the executive branch.

At the time, legislation I authored earlier this year prohibiting discrimination against Americans working in our foreign economic aid programs already had been adopted by the Congress and signed into law by the President. However, when it came to the question of prohibiting discrimination in our military assistance programs, the reaction has been intense.

It seems to stem from a great fear by our officials that certain nations will be deeply offended if we send certain Americans to them to help carry out our multibillion-dollar military assistance and sales program. They want to exclude particular American citizens—not for lack of skill or expertise, but on grounds that are unacceptable under our own laws. It is my view that we cannot continue to acquiesce in discrimination against our own citizens.

The administration has recommended that the Congress adopt policy statements on the matter of prohibiting discrimination. It has not urged sanctions that might meaningfully put an end to discrimination.

It seems strange indeed to me that our Government which opposes the South African policy of apartheid and will not, therefore, sell arms to South Africa, will do nothing substantial to assist American citizens who are being blacklisted and boycotted because of their race, religion or color, or ethnic background.

My original proposal was modest. In cases where discrimination was alleged under our military assistance or foreign military sales program, the President would have the power to investigate the situation and, if there was truth to the allegations, to seek to remedy the exclusion of an American from our assistance programs. The President's hands were not tied—no specific time limit was set. The only responsibility imposed was for the President to try and remedy cases where there was discrimination.

If the President failed in his effort to reverse a case where discrimination had occurred, then he was both empowered and required to terminate the particular transaction in which there had been discrimination.

The original measure did not ask for an end to all of our assistance and sales programs—it imposed only a requirement that if there was discrimination in one particular program then that program or "transaction" was not to continue.

The written objections in the veto message to the anti-discrimination amendment unfortunately lack precision. But private discussions with National Security Council officials, it became clear that the main complaint was not that the President was required to make a finding of whether there was discrimination against Americans, but rather that he was compelled to terminate a particular transaction as a consequence.

It is my view—and in this I am supported by the Foreign Relations Committee—that the automatic requirement for the President to terminate a particular transaction is unnecessary. Rather, the responsibility for imposing sanctions ought to be shared by both the executive branch and the Congress.

My colleagues on the Foreign Assistance Subcommittee agreed. Accordingly, this new measure provides that the President shall report to the Congress and make whatever recommendations he deems appropriate to help correct cases of discrimination against Americans. Congress may go along with the President's recommendations or, in the alternative, Congress may take any action it chooses, including termination of a transaction by joint resolution, under a privileged procedure in the Senate assuring prompt and timely action.

The best way to stop discrimination against American citizens is to bring to it full public attention. I am confident that Americans oppose bias against their fellow citizens. This amendment seeks to achieve this goal, and, I believe, it will succeed in doing so.

HUMAN RIGHTS

Respect for human rights and respect for the dignity of the individual is basic to the spirit of America. From the very start of our history, concern for "the rights of man" has been elemental for Americans. Unfortunately, the 20th century has brought with it new possibilities not only for the advancement of mankind through scientific development, but also for the destruction of man and, worst of all, the denial of the dignity of man. Outright warfare has taken a fearful toll. But even more repugnant has been the use of science backed up by brute force against people and groups living in various societies throughout the world. Repressive, totalitarian-like governments have not shirked applying the most dehumanizing techniques to achieve compliance with the demands and desires of their governments. Unfortunately, in some cases, America, along with other western countries, has found itself in the unpleasant position of assisting nations whose governments have severely abused the rights of their citizens.

In some instances, it can be argued that we have no choice—that our support is a consequence of our own security needs and giving our support does not mean that we condone torture or brutality or the denial of rights and freedoms.

But in other cases where our support is basic to the security of the recipient nation, we cannot let abuses of human rights pass unnoticed.

To me this is reason enough for the Congress to establish a procedure to deal with the question of human rights in the area of foreign affairs. Our action need not be based only on our moral sensibilities: Dealings with a government which treats its own citizens abusively is to deal with regimes that may be erratic, unreliable or short lived. So for very practical reasons, concern for human rights is of first importance.

The human rights section of S. 2662, the original 1976 authorization bill, was very strong—and I believe the new human rights provisions of S. 3439 are equally compelling. The main difference between the two provisions is the modification in this new bill replacing the concurrent resolution procedure—which was to be acted on when Congress, under the human rights section, terminated foreign military assistance programs and sales because of a finding that a specific state had carried out acts against its own people judged to be gross violations of human rights. Instead of a concurrent resolution formula, which allowed Congress to take action without the President retaining the right to veto a congressional resolution, the Foreign Relations Committee has substituted a joint resolution formula. Under this system, the Senate acts under an expedited procedure, if it deems it necessary, but the President retains the right to veto congressional action.

The question has been raised whether this new provision is adequate. I think it is, because it is not the central part of the human rights amendment. The heart of the human rights section is the requirement it places on our top leadership to recognize and act on legitimate human rights concerns. Congress can quickly and easily request reporting on specific rights abuse cases. The Secretary of State must respond to these requests through a newly created Coordinator for Human Rights in the Department of State. The Coordinator will be a specialist, appointed by the President and confirmed by the Congress. He will be answerable not only to the Secretary and to the Congress, but to the public.

This is the heart of the human rights section of this measure.

INTERIM QUARTER FUNDING FOR ISRAEL

Since the passage of S. 2662 and the initial approval in the Senate and the House of the appropriations legislation accompanying S. 2662, questions have been raised by the executive branch on so-called fifth quarter funding for Israel and other Middle Eastern aid recipients. The additional funds, particularly for Israel, have been portrayed by some officials as unjustified and excessive and not in line with Israel's true needs or U.S. pledges of help for Israel. In my view, such characterizations of the congressional decision to include fifth quarter funding for these countries, and Israel particularly, are unfair and unfounded. Our help is needed.

Particularly acute is the situation in Israel. It was best described by the Deputy Administrator for the Agency for International Development on April 5, 1976. Mr. Murphy said:

> . . . Although Israel is a developed economy by most standards, it is critically extended. Its foreign debt is estimated to be more than $7.8 billion or about $2,300 per capita, one of the highest in the world. Foreign exchange reserves are . . . equal to only about two months' imports. The trade deficit for 1975 is estimated to be $3.7 billion. The inflation rate was 24 percent in 1975, despite the Government's recent austerity measures, inflation is expected to continue at this magnitude in 1976. Defense spending, despite a slight proportional decrease, is still an estimated 40 percent of the total budget and about 30 percent of the total Gross National Product.
>
> Israel has taken strong measures to mitigate the situation. In order to maintain its competitive position in world trade, Israel has instituted successive devaluations totaling 72 percent during the last 15 months. Domestic taxes have been increased substantially, Government subsidies reduced, and the controls on nonessential imports tightened. But the magnitude of its economic problems is simply too great for Israel to cope with effectively without substantial outside help.

Especially difficult for Israel is its defense expenditures growing out of Israel's need to modernize its armed forces and to acquire equipment to counteract the new threats resulting from the 1973 war. New Soviet weapons with capabilities we had underevaluated have changed the military balance in the Middle East.

Modern equipment is expensive. Moreover, because of the heavy demands on our arms industry and the greater sophistication of weaponry and uncertainty of buyer markets, Israel, along with other nations, has been compelled to pay for arms well in advance of deliveries. This has meant an unanticipated demand on Israel's resources, it has meant, as well, that aid estimates were too low.

This point was driven home hard by Secretary of Defense Rumsfeld in a letter to the Director of the Office of Management and Budget. The Secretary of Defense stated:

> Current budget proposals provide the Government of Israel (GOI) with credit funds totaling $2.5 billion for the purchase of defense articles and services during FY 76/77. Department of Defense (DOD) cash requirement forecasts, however, indicate that Israel will need substantially more than the $2.5 billion to meet payments coming due on existing Foreign Military Sales (FMS) orders and the new orders that will be received pursuant to commitments made during Mr. Rabin's recent visit.
>
> Our projections show that the shortfall will be about $765 million by the end of FY 77. Similar forecasts made by GOI indicate that the shortfall will be $1.6 billion. GOI defense representatives insist that there are no alternative means of financing their procurement of U.S. Defense items. Thus, the shortage of credit financing is a matter of serious concern.

Consequently, the decision by the Congress to authorize fifth-quarter funding conforms to the findings of the Department of Defense on Israel's military needs and her shortage of funds to pay for the equipment. It rests also on the Agency for International Development's finding of Israel's acute economic situation, in spite of attempts by the Government of Israel to take extreme internal measures to cope with the situation.

Postponement of the purchase of arms, which we agreed to sell to Israel, will not improve the situation—for the result will be only to make the weapons more costly. Postponement which may delay some deliveries into the 1980's can create an advantage for the Soviets which will put more arms in the area and jeopardize Israel's security.

The decision by the Foreign Relations Committee to go with fifth-quarter funding was a responsible effort to deal with the worsening situation. It was taken in concert with the executive branch, as the minutes of the Foreign Relations Committee make clear. On January 29, the Foreign Relations Committee discussed fifth-quarter funding and Senator HUMPHREY reported to the committee that Secretary of State Kissinger had no objection to the action taken by the committee.

Seeking peace in the Middle East is a complex and delicate process that has been undertaken with the best good will this country can muster. But to help to get the peace we have to fulfill our commitments and assurances. Likewise, we have to take care lest we create an opportunity for the hard liners in the Soviet Union to create trouble in the region by increasing arms deliveries and tempting the Arab States away from the peacemaking process. The fifth-quarter funding mechanism is a responsible way to deal with an unanticipated financial problem encountered by Israel and to give Israel the assurance that we are looking after her legitimate needs.

There are many other important provisions of the International Security Assistance and Arms Export Control Act of 1976-77. They have been described expertly by the chairman of the Foreign Assistance Subcommittee, Senator HUMPHREY. I am pleased to join him today in urging support for this measure and prompt passage by the U.S. Senate.

THE SYMINGTON AMENDMENT

Mr. RIBICOFF. Mr. President, I rise in support of Senator SYMINGTON's amendment as provided in section 669 of the bill as reported by the Foreign Relations Committee.

This provision represents the first statutory action, as distinguished from past resolutions, by the Congress to deal with the terrible problem of the rapid spread of nuclear weapons capability around the world.

By requiring a cutoff of U.S. economic and military assistance to nations engaging in the dangerous trade of uranium enrichment or plutonium reprocessing plants, this provision takes an important step in strengthening U.S. nuclear export policy and should, therefore, receive the strong support of this body.

The nuclear export and nonproliferation policy of our Government should be structured with one very simple, but extremely important, goal in mind. That goal should be the prevention of the national production and stockpiling of commercially produced plutonium and weapons-grade uranium anywhere in the world. This provision, by making clear that such exports, if they are to take place at all, should be under multinational auspices and comprehensive safeguards, makes an important contribution toward the establishment of such a policy. I commend Senator SYMINGTON, who has spent many years studying and agonizing over this problem, for offering this provision.

I wish to note, Mr. President, that the United States, as a matter of longstanding policy, has refused to export enrichment and reprocessing facilities to any country in the world. This policy, however, has not been adhered to by other major nuclear supplier nations, particularly West Germany and France. In recent months, West Germany has agreed to export an entire nuclear fuel cycle, including reprocessing and enrichment facilities, to Brazil—a nation that has not ratified the nuclear nonproliferation treaty—NPT—and, therefore, has not made commitments to place all of its nuclear activities under the safeguards of the International Atomic Energy Agency—IAEA—and to foreswear the development of a nuclear explosion program. Germany is now considering introducing such dangerous nuclear facilities into the Middle East by negotiating an agreement similar to the Brazilian deal with Iran. France has included the sale of a reprocessing plant to Pakistan, a non-NPT nation, and is actively offering the sale of such plants on the world market.

It is essential, Mr. President, that the United States make every effort to persuade Germany and France not to proceed with these exports on a national basis, if at all. Every effort should be made by our diplomats at the upcoming Nuclear Suppliers Conference in London this month to establish cooperative arrangements among the supplier nations for providing all fuel services required by reactors that are sold abroad. This would eliminate the need for the export of fuel facilities that will lead directly to the creation of stockpiles of nuclear-weapons material under the sovereign control of individual nations.

If the massive production of plutonium as a byproduct in commercial nuclear power reactors that is projected for the near future is not to lead to the rapid spread of nuclear weapons throughout the world, then there must be a ban on the export of these facilities by any supplier. There is no commercial justification for the construction of small, nationally controlled enrichment and reprocessing plants anywhere in the world. Economies of scale and stronger safeguards that could be applied to large, multinational facilities make clear the need for the establishment of such facilities by the supplier countries as an alternative to the export of small, nationally controlled plants.

The hearings on S. 1439, the Export Reorganization Act, recently concluded by the Senate Committee on Government Operations—which were chaired on an ad hoc basis at my designation by the distinguished Senator from Ohio (Mr. GLENN)—helped to develop a compelling case for prohibiting the export of national reprocessing and enrichment plants. Senator SYMINGTON has come to the same conclusion as a result of the hearings he has held as chairman of the Foreign Relations Committee's Subcommittee on Arms Control, International Organizations and Security Agreements.

And this position is clearly laid out in the Symington amendment to the bill before us today.

My only reservation with respect to this provision is the insertion of the words "when available" which serve to modify the conditions under which a U.S. military and economic assistance cutoff would be triggered by the import of a national enrichment or reprocessing plant. The "when available" applies to the existence of a multinational framework within which such a nuclear facility would be built and operated. I wish to stress that the availability of multinational arrangements for nuclear fuel facilities is presently available if only the United States and the other nuclear supplier nations can agree to putting such a system into effect. Therefore, I would hope that this term, "when available," will not be interpreted to mean that multinational arrangements are not now available—only that they have not yet been implemented. It is essential that the United States make every effort to establish the availability of multinational arrangements at the upcoming Suppliers Conference.

I have proposed, Mr. President, that the United States go even further than provided in the Symington amendment in dealing with nations that insist upon exporting and importing national nuclear fuel facilities. I believe that the United States should offer to enter into a market-sharing arrangement with the other nuclear suppliers, but also be prepared to cut off the supply of enriched uranium to exporters like France and West Germany if they continue to engage in export activities that will lead directly to the production and stockpiling of weapons-grade materials in nonnuclear weapons countries.

I recognize that this is a drastic step—and one that should not be pursued until all avenues of negotiations have been exhausted—but an option nevertheless that should be recognized both by the United States and the noncooperative suppliers as being available if present dangerous nuclear trade is not curtailed.

Recognizing, however, that the Symington amendment is an important step toward alerting the world to a hardened U.S. position on such dangerous nuclear trade activities, I give it my strongest support and urge my colleague to do likewise.

S. 3512—INTRODUCTION OF THE CONTRACT DISPUTES ACT

By Mr. CHILES:

S. 3512. A bill to provide for the resolution of claims and disputes relating to Government contracts. Referred to the Committee on the Judiciary and the Committee on Government Operations, jointly, by unanimous consent.

Mr. CHILES. Mr. President, I am today introducing S. 3512, a bill which would reestablish principles of equitable treatment for both the Federal Government and Government contractors in contract disputes and claims.

This legislation is comparable with H.R. 6085 which has been introduced by the distinguished chairman of the House Judiciary Committee (Mr. RODINO).

CLAIMS LOGJAM THREATENS NATIONAL DEFENSE

At this very moment there is a logjam of $1.9 billion worth of claims now pending between the Navy and shipbuilding companies, which might never have arisen if the new procedures embodied in this legislation had been available. This particular situation has developed to the point where the companies suffer, the taxpayers suffer and, in the Pentagon's own words, this claims tie-up "threatens the national defense."

This bill provides us with an opportunity to assert some leadership to reform the system—rather than just sitting back until we are faced with another vote to bail-out a company under Public Law 85-804, because the system is about to collapse again.

PROVISIONS OF THE BILL

Put simply, this legislation would:

Set reasonably prompt time limits to move disputes to successively higher forums as necessary: from the contracting officer, to an agency conference and to the appeals board or to court.

Grant both the Government and contractors the right to judicial review of appeals board decisions.

Empower the court to fully dispense with the case rather than continual remand to the agency board for additional facts or evidence.

Set up an experimental small claims board to promptly dispense with claims under $25,000.

Establish added independence for agency appeals boards and authorize the Office of Federal Procurement Policy to increase efficiency and uniformity through optional board consolidations and case referral policies.

KILLING OFF COMPETITION

From one viewpoint, our present system of resolving disputes and contract claims makes some people wonder whether it is the intent of the Federal Government to literally drive business away from the Government marketplace. This is happening. I say this because after careful study of the situation, as a member of the Commission on Government Procurement, I have concluded that our current system of resolving disputes is beset by serious problems of delay. A contractor can be funneled into a long and convoluted pipeline from which he may never emerge. Such delay, combined with the impact of high interest rates, inflation and sheer frustration have driven many corporations to declare publicly that they will never again do business with the Federal Government.

And why not? Faced with an adverse agency appeals board decision, he essentially has no place to go. And even though that appeals board may have been totally fair and objective, there can be lingering doubt because the board was closely tied to the same agency which awarded the contract.

SMALL BUSINESS FRUSTRATION

A highlight of the legislation is the provision to create an experimental small claims board, similar to a small claims court, which would provide an inexpensive forum for resolving minor disputes without requiring the contractor to go to Washington to plead for relief.

There is nothing more frustrating to a small businessman who feels he's received a bum deal from the Government than to face years of protest proceedings and thousands of dollars in legal fees just to seek justice. The amounts may be small, but we frustrate anyone who wants to stand on principle.

There is no reason why we cannot provide a forum outside Washington where they can resolve their problems quickly and fairly without legal costs which exceed the value of the dispute.

ULTIMATE RESULT: NO BIDDERS

The hostility and resentment have contributed to the fact that, today, Government solicitations for the construction of some naval ships have had no bidders at all, because contractors seem to believe that when a contract dispute occurs, there is little likelihood of a fair settlement.

Unfortunately, there are many similar examples of the complete disarray which has developed in the resolution of contract disputes. Cases rebound between Federal agencies and the courts for years. Contractors have been pushed into bankruptcy or have given up in frustration and disgust. Agency programs have been delayed or halted, because of a lack of interested bidders, or because the few bids received were higher than anticipated.

PRESIDENT LINCOLN OVERRULED: THE KING CAN DO NO WRONG

To demonstrate how far we have drifted in unbalancing the powers of settlement, consider President Abraham Lincoln's conclusion in his 1862 message to Congress when he stated:

> It is as much the duty of the government to render prompt judgment against itself, in favor of citizens, as it is to administer the same between private individuals.

President Lincoln argued to relinquish the doctrine of "sovereign immunity," which Judge Spector of the U.S. Court of Claims called "one of the less attractive aspects of the common law inherited from the English, illustrated by the maxim that: 'The King Can Do No Wrong.' That is a concept that most Americans would consider repugnant today."

Yet, as a practical matter, the contract disputes arena has seen the Government move back toward a doctrine of sovereign immunity despite what turned out to be ineffective attempts by Congress to refute the doctrine in the Tucker Act of 1887 and the Anti-Wunderlich Act of 1954.

Current disputes problems are caused in part by a de facto limitation on the right to judicial review except in very limited circumstances. Congress has never clearly shaped the legal remedies system nor has it ever promoted or endorsed the drift back toward "sovereign immunity." The drift has been shaped by contract clauses fashioned by Government employees charged with drafting regulations and forms and punctuated by occasional split Supreme Court decisions interpreting those clauses, most notably in the 1950 Moorman case, the 1951 Wunderlich case and the 1963 Bianchi case.

Referring to the 1950 and 1951 cases, Judge Spector notes that:

> Both decisions featured strong dissents. Mr. Justice Douglas stated: "It makes a tyrant out of every contracting officer." The late Mr. Justice Jackson observed, with respect to the objectivity of employees of one party to the contract: "Men are more often bribed by their loyalties and ambitions than by money," adding "I still believe one should be allowed to have a judicial hearing before his business can be destroyed by administrative action."

We need this legislation, Mr. President, because when it comes to contract disputes, in many respects, "The King Can Do No Wrong."

MUTUALITY OF INTERESTS

Government contracting is coextensive with Government itself. Inefficient, unfair procurement procedures are not in the Government's best interests. Not only are essential contractors driven out of competition for Government contracts, but those who remain are forced to submit consistently higher bids at the taxpayer's expense. The point is, of course, that procurement procedures, if they are to be in the national interest, must be fair to both parties to a Government contract. Otherwise, both parties to the contract are poorly served.

SYSTEMATIC REFORM NEEDED

Mr. President, I believe the time has come for the Congress to take positive action to bring order out of this chaos. This bill would achieve the objectives sought by the Commission on Government Procurement:

Induce resolution of more contract disputes by negotiation prior to litigation.

Equalize the bargaining power of the parties when a dispute exists.

Provide alternative forums suited to handle the different types of disputes.

Insure fair and equitable treatment of contractors and Federal agencies.

Mr. President, competition, minimal Government regulation, the fair and swift resolution of disputes, these benefits can hardly be measured in dollars, yet they form an important part of the foundation on which this country prospers.

I ask unanimous consent to have some supporting documentation printed in the RECORD: letter from two highly respected jurists from the U.S. Court of Claims, Judge Louis Spector, and Chief Judge Wilson Cowen, both letters showing support for the bill's provisions and opposition to suggested deviations; a Washington Post article demonstrating how serious claims problems have become in shipbuilding; the text of the bill; and a section-by-section analysis.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Disputes Act".

DEFINITIONS

SEC. 2. As used in this Act the term—

(1) "executive agency" means an executive agency as defined in section 105 of title 5, United States Code, a military department as defined by section 102 of title 5, United States Code, the United States Postal Service, and the Postal Rate Commission, but such term does not include the General Accounting Office;

(2) "contracting officer" means a Government employee authorized to execute, award, administer, terminate, or otherwise modify or alter a contract on behalf of the Government;

(3) "contractor" means a party to a Government contract, other than the Government, except that such term does not include any third party beneficiary or subcontractor;

(4) "Panel" means the Experimental Small Claims Panel established under section 7 of this Act;

(5) "agency board" means an agency board of contract appeals established under section 8 of this Act.

(6) "Administrator" means the Administrator for Federal Procurement Policy appointed pursuant to P.L. 93-400;

(7) "district court" means a district court of the United States; and

(8) "Court of Claims" means the United States Court of Claims.

SCOPE

SEC. 3. This Act applies to any contract, except a contract by or for a military department which is payable out of non-appropriated funds, entered into by an executive agency for the procurement of—

(1) property other than real property in being;

(2) services; or

(3) construction, alteration, repair, or maintenance of real property.

It shall also apply to any other contract or agreement with the United States, which by its terms is expressly made subject to the provisions of this Act.

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

SEC. 4. The head of an executive agency is authorized to settle, compromise, pay, or otherwise adjust any claim by or against, or dispute with, a contractor relating to a contract entered into by such executive agency or another executive agency on its behalf, including a claim or dispute initiated after the award of a contract, or based on breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission, but excluding a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another executive agency is specifically authorized to administer, settle, or determine.

AUTHORITY OF THE CONTRACTING OFFICER

SEC. 5. (a) At the time of any contract formation, the executive agency shall inform the contractor of such contractor's right to receive, and such executive agency shall provide, on requst, a clear and concise written description of the authority and any limitation thereon of the contracting officer and of any other official who may have authority with respect to any claim or dispute involving that contract.

(b) When a contract claim or dispute between the contractor and an executive agency is not resolved by mutual agreement with the contracting officer, the contracting officer shall promptly issue a decision in writing disposing finally of the claim or dispute and shall mail or otherwise furnish a copy of the decision to the contractor. The written decision shall state the reasons for the decision, and shall inform the contractor of its right of appeal as provided in this Act including notice of a right to an informal administrative conference under section 6 of this Act. The decision of the contracting officer shall be final and conclusive unless the contractor appeals or commences an action as provided in this Act.

(c) A contracting officer shall issue a decision on any submitted claim promptly after he determines that a resolution of the claim by mutual agreement is not possible; but, in any event, he shall issue a decision within thirty days from his receipt of a written notice from the contractor stating the contractor's determination that resolution by mutual agreement is not possible. Any failure by the contracting officer to issue a decision on a contract claim within the period required will, subject to compliance with the provisions of section 6, below, authorize the commencement of the appeal or suit on the claim otherwise provided in this Act to occur only upon the issuance of the decision by the contracting officer. However, in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option, stay the proceedings to obtain a decision on the claim by the contracting officer.

INFORMAL ADMINISTRATIVE CONFERENCE

SEC. 6. (a) Not later than 30 days from the date of receipt of a contracting officer's decision under section 5(b), a contractor may request an informal conference with an official designated in accordance with subsection (b) to explore the possibility of resolving by mutual agreement any claim or dispute between the contractor and the executive agency. If, upon the expiration of 30 days from the date of receipt of a contracting officer's decision under section 5(b), a request for a conference has not been made, the right to a conference shall be deemed to have been waived.

(b) The conferees may consider any matters, written or oral, relevant to the claim, but testimony or evidence shall not be taken. Any documentary materials or oral statements submitted during the conference shall not be evidence in any appeal or suit in court on the claim unless offered anew and admissible under applicable rules of evidence of the board or court. Any offers of settlement or compromise during or resulting from the conference shall be without prejudice and shall not be evidence or referred to in any appeal or suit in court on the claim.

(c) The informal conference will be conducted by representatives selected by the agency head, two of whom will be from a level above the office to which the contracting officer is attached, and if feasible they shall not have participated significantly in any prior consideration of the claim.

(d) Whenever an appeal or suit is initiated pursuant to this Act and the board or court determines that an informal conference requested by the contractor has not been held, the board or court shall stay any further proceedings until the conference is held or waived by the contractor.

EXPERIMENTAL SMALL CLAIMS PANEL OF CONTRACT APPEALS

SEC. 7. (a) The Administrator shall establish in the executive branch of the Government an Experimental Small Claims Panel of Contract Appeals (hereinafter in this Act referred to as the "Panel").

(b) The Panel shall be composed of a Chairman and such additional members, as may be determined by the Administrator, who shall be appointed as provided in section 3105 of title 5, United States Code. The Chairman of the Panel shall establish such regions as he deems necessary and shall assign claims and disputes, by region, to members of the Panel for decision and shall administratively supervise the members of the Panel in the execution of their duties. The Panel, and any of its members, shall sit and act at such times and places as the Chairman may direct. The Panel shall have a seal which shall be judicially noticed.

(c) Each member of the Panel shall have jurisdiction to decide any appeal from a final decision of a contracting officer on a claim or dispute where the amount involved is $25,000 or less. Each member of the Panel may administer oaths and shall issue a decision in writing, which shall be final, or take other appropriate action on each appeal submitted to him and shall mail or otherwise furnish a copy of the decision to the contractor and to the contracting officer of the executive agency.

(d) The decision of a member of the Panel shall be final and conclusive unless, not later than 12 months from the date of receipt of a copy of the Panel's decision, or final delivery of supplies, or completion of performance of work under the contract, or acceptance where required, whichever is later, the contractor files an action on such claim in a district court of the Court of Claims.

(e) The Chairman of the Panel or his delegate may issue such rules and regulations and orders, not inconsistent with this Act, as may be necessary in the execution of the Panel's functions.

(f) Any executive agency is authorized to provide to the Panel such services as the Chairman requests, on such basis, reimbursable or otherwise, as may be agreed upon between the executive agency and the Chairman.

(g) Pursuant to the authority conferred by Public Law 93–400 and subject to the procedures set forth in such Public Law the Administrator is authorized and directed to issue such rules and regulations with respect to the establishment and functions of the Panel as may be necessary or desirable and periodically to review the maximum jurisdictional amount of the Panel, and based upon economic indices selected by the Administrator, change the dollar amount of the jurisdictional limitation of the Panel accordingly.

(h) The Administrator shall submit to the Congress, not later than 30 months after the effective date of this Act, a report on the activities and an assessment of the effectiveness of the Panel.

AGENCY BOARD OF CONTRACT APPEALS

SEC. 8. (a) Subject to the prior approval of the Administrator each executive agency head may establish within that agency a board of contract appeals (hereinafter referred to as the "agency board") whenever such executive agency head finds that the volume of procurement by such executive agency justifies the establishment of a full-time agency board of at least 5 members who shall have no other duties. The Administrator may terminate any agency board established under this subsection by giving written notice to the executive agency head 30 days prior to the date of termination. The members of agency boards shall be selected and appointed to serve in the same manner as provided under section 3105 of title 5, United States Code, except that present members of the existing boards of contract appeals or functional equivalents thereof shall be considered qualified for appointment under this section. The chairman and vice chairman of each agency board shall be designated by the executive agency head. The chairman of each agency board shall be paid at a rate not less than the maximum rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) An agency board established under this section shall have jurisdiction to decide any appeal from the final decision of a contracting officer—

(1) under a contract made by such executive agency; and

(2) under a contract made by any other executive agency when such executive agency has designated that agency board to decide appeal.

(c) An agency board shall adopt rules and regulations which provide to the fullest extent possible informal, expeditious, and inexpensive resolution of disputes, and each member, or if a board operates in panels, each Panel, shall issue a decision in writing or take other appropriate action on each appeal submitted and shall mail or otherwise furnish a copy of the decision to the contractor and to the contracting officer of the executive agency which is a party to the contract in dispute. The decision of a member, or the majority of a Panel or of a board shall be final and conclusive unless the government or the contractor files an appeal or brings an action with respect to such decision as provided in section 9.

(d) A member of an agency board may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpoena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or otherwise. In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a district court, the court, upon application of a member of an agency board, shall have jurisdiction to issue the person an order requiring him to appear before such agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

(e) Pursuant to the authority conferred by Public Law 93–400 and subject to the procedures set forth in such Public Law the Administrator is authorized and directed, as may be necessary or desirable to carry out the provisions of this Act, to issue rules and regulations with respect to—

(1) the establishment and function of the agency boards of contract appeals; and

(2) the policy for referral of specific cases or classes of cases for decision by an agency board other than one established by an executive agency head who is party to any such case.

RIGHTS OF APPEALS

Sec. 9. (a) The contractor may—

(1) not later than 90 days from the date of receipt of a contracting officer's decision under section 5, if the matter in dispute involves no more than $25,000, appeal the contracting officer's decision to the Panel, except that no action may be instituted under paragraph (3) while an appeal is pending before the Panel;

(2) not later than 90 days from the date of receipt of a contracting officer's decision under section 5 and without regard to the amount in controversy, appeal the contracting officer's decision to an agency board provided no appeal has been made to the Panel; or

(3) not later than 12 months from the date of the contracting officer's decision, or the decision of the Panel, or final delivery of supplies, or performance of the work under the contract, or acceptance where required, whichever is later, institute an action in a district court if such claim is otherwise within the monetary jurisdicton of such court or in the Court of Claims, notwithstanding any contract provision, regulations, or law to the contrary.

(b)(1) If a contractor institutes an action on an adverse panel decision under section 9(a)(3), then the decision of the Panel is not subject to review.

(2) a decision of an agency board may be appealed—

(A) by any party (other than the U.S.) adversely affected thereby, only to the Court of Claims not later than 12 months from the date of receipt of a copy of the agency board's decision; and/or

(B) by the Attorney General who, when he concurs with request for appeal from the head of an executive agency, shall file an appeal to the Court of Claims within 90 days from the date of the agency board's decision.

(3) an action in a district court or in the Court of Claims shall proceed in accordance with the rules of such court and the provisions of this Act.

REVIEW PROCEDURE AND STANDARDS

Sec. 10. (a) Notwithstanding any provision of law or any contract provision, in the event of an appeal by any party adversely affected by an adverse decision of an agency board pursuant to section 9, the decision of the agency board of any question of law or fact shall not be final and conclusive, but a presumption of correctness rebuttable by a preponderance of the evidence received in court as if in a de novo proceeding shall attach to the agency board's findings of fact. The record made before the agency board shall be admissible in evidence and shall constitute the basic record which may be added to, contradicted, or supplemented by leave of the court with any evidence admissible under the rules of evidence of the agency board unless the Federal Rules of Evidence shall be held to be more lenient in which case they shall be applied. The court may remand the case for further action by the agency board or by the executive agency as appropriate, with such direction as the court considers just and proper, or, in its discretion, the court may retain the case and take such additional evidence or action as may be necessary for final and complete disposition of the case.

(b) In any appeal by a contractor from a decision of an agency board of contract appeals pursuant to section 9, the court may render a preliminary opinion or judgment and remand the case for further action by the board of contract appeals or the executive agency as appropriate, with such direction as the court considers just and proper, or, in its discretion and in lieu of remand it may retain the case and take such additional evidence or action as may be necessary for final and complete disposition of the case.

(c) In any suit filed by a contractor under this section, the court shall have jurisdiction over any setoff, counterclaim or other claims or demand whatever by the United States.

(d) Except as otherwise provided in this Act, and notwithstanding any statute or other rule of law, or any contract provision, every claim founded upon the same express or implied contract with the United States, shall constitute a separate cause of action for purposes of any suit in a court of competent jurisdiction, and such court may, in its discretion, consolidate separate claims for purposes of decision or judgment, or delay acting on one claim pending action on another claim.

(e) Notwithstanding the provisions of sections 1404 and 1407 of title 28, United States Code, if two or more suits arising from one contract are filed in different district courts, for the convenience of parties and witnesses, in the interest of justice, the district court wherein suit was first filed may order the consolidation of such suit in that court or transfer any such suit to any district or division where it might have been brought. If two or more suits arising from one contract are filed in the Court of Claims and one or more district courts, for the convenience of parties and witnesses, in the interest of justice, the Court of Claims may order the consolidation of such suits in that court or transfer any suits among the district courts involved.

(f) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be segmented for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a partial final judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

INTEREST

Sec. 11. Interest shall accrue to amounts determined finally and conclusively to be due and owing on any contract out of which a dispute or claim has arisen and has been reviewed under this Act at a rate determined by the Secretary of Treasury, taking into consideration current private commercial rates of interest for new loans maturing in approximately five years. Interest shall accrue from the date of filing an appeal with an agency board or Panel or the commencement of an action, in a district court or the Court of Claims, whichever is first. Interest shall be paid as of the date the amount becomes due on the amount finally determined to be payable to a contractor under this Act.

PAYMENTS

Sec. 12. Any judgments against the United States shall be promptly paid in accordance with the provisions of chapter 13 of the Supplemental Appropriation Act, 1957, as amended. These include any monetary awards stemming from resolution of a contract dispute made by an agency board of contract appeals, the Panel, or a district court or the Court of Claims.

Payments made pursuant to this section shall be reimbursed to the fund within the next fiscal year by the agency under whose auspices the contract was made and the pursuant claim arose. The reimbursement will be made by the agency out of available funds or by obtaining additional appropriations for such purposes.

AUTHORIZATION OF APPROPRIATIONS

Sec. 13. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of section 8 of this Act for a period of three years from the date of enactment of this Act.

REPEALS AND AMENDMENTS

Sec. 14. (a) Section 1346(a)(2) of title 28, United States Code, is amended by striking out "not exceeding $10,000 in amount," and inserting in lieu thereof "not exceeding $100,000 in amount in contract cases or $10,000 in amount in all other cases."

(b) Section 2401(a) of title 28, United States Code, is amended by striking out "Every" and inserting in lieu thereof "Except as provided by the Contract Disputes Act, every".

(c) Section 2517(b) of title 28, United States Code, is amended by inserting immediately before the period ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged".

(d) The Act of May 11, 1954 (68 Stat. 81; 41 U.S.C. 321, 322), is repealed.

(e) Chapter 13 of the Supplemental Appropriation Act, 1957 (70 Stat. 678; 31 U.S.C. 724a), as amended, is further amended by

(1) striking out "not in excess of $100,000 or its equivalent in foreign currencies at the time of payment in any one case"; and

(2) adding after "Title 28" the first time it appears there, the following "decisions of boards of contract appeals and the Experimental Small Claims Panel".

SEVERABILITY CLAUSE

Sec. 15. If any provisions of this Act, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this Act, or the application of such provision to person or circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

Sec. 16. This Act shall apply to contracts entered into after the date of the enactment of this Act. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then or initiated thereafter.

Section-by-Section Analysis of "The Contract Disputes Act"

The purpose of this act is to provide for the resolution of claims and disputes relating to government contracts.

Section 1 states the title—"Contract Disputes Act".

DEFINITIONS

Section 2 defines terms used throughout the Act.

SCOPE

Section 3 applies to contracts entered into by an executive agency for the procurement of property, services or construction, alteration, repair, or maintenance of real property. The Act applies to contracts by or for a military department only when payable out of appropriated funds. It also applies to any contract with the United States which is made subject to the provisions of this Act.

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

Section 4 embodies recommendation #5 of the Commission on Government Procurement to enable each executive agency to decide, settle and make payment on all disputes and claims arising out of the contract entered into between the agency and a contractor apart from any boards of appeal. This would include those disputes arising out of claims under the contract, as well as those of breach of contract.

At the present time, the lack of an "all disputes" clause leads to fragmentation of claims and remedies between those under the contract and those in breach. If a contracting officer denies a claim there must be a determination as to which course of action to take. It is often difficult to differentiate between claims under the contract and breach claims. If the contractor decides to press his claim as breach of contract in a court of law and this appeal is denied, he has often lost recourse to an administrative remedy because a 30-day appeal time has been exhausted while the claim was being decided in court. He has no further recourse and his claim must then be forfeited.

This consolidated disputes authority for the agencies should strengthen and simplify the contractors' business relationship with the Government and the Government's ability to deal directly with contractors. It is more efficient for both parties if this artificial division of remedies can be simplified by statute. This increased agency jurisdiction is balanced by the provision of optional direct access to judicial forums (Section 9(a) (3)). Otherwise the contractor's opportunity for complete justice would be severely curtailed.

AUTHORITY OF THE CONTRACTING OFFICER

Section 5(a) embodies the Procurement Commission's recommendation #1 to enlarge the responsibilities of the contracting officer in resolving disputes and set time limits on his decisions. The Commission felt that this recommendation is necessary in order to "avoid misunderstandings, promote confidence in the procurement process and improve the climate for the negotiated settlement of disputes . . ." A lack of feeling of good faith between contractors and the contracting officer, who is the initial intermediary with the Government, and lack of understanding of the contracting officer's authority (and other operating authorities in the agency) cannot help but undermine at the very beginning what will happen should a dispute eventually arise.

Section 5(b) outlines the procedures to be taken by the contracting officer when a claim by a contractor or the Government is not resolved by mutual agreement, calling for a written decision and notification.

Section 5(c) sets a time limit of 30 days in which the contracting officer must take action and issue a decision. It offers an option to the contractor to commence action on a contract claim absent a decision by a contracting officer only once the time limit has been exceeded. The proceeding started in this manner may be stayed at the option of the tribunal involved in order to obtain a decision by the contracting officer on the claim.

INFORMAL ADMINISTRATIVE CONFERENCE

Section 6 deals with the Procurement Commission recommendation #2 to provide an informal administrative conference to explore the possibility of settlement of the dispute between the contractor and the agency. Under this provision the contractor may request an informal conference on a decision by the Contracting Officer for the purpose of satisfactorily disposing of the claim before it goes on to litigation.

The Commission felt that if contracting officers knew their decisions could be informally reviewed it would give them additional confidence in making decisions that they felt to be controversial or unpopular with their superiors. There is the added benefit in giving the agency the opportunity to review a decision that it may basically not agree with.

Emphasis is placed on the possibility of settlement rather than merely reviewing the decision of the contracting officer. This informal conference must be held or waived by the contractor before any further proceedings take place. Many agencies now provide for formal and informal review of a contracting officer's findings prior to board or court proceedings. However, as of now, the contractor does not normally participate.

EXPERIMENTAL SMALL CLAIMS PANEL OF CONTRACT APPEALS

Section 7 deals with Commission recommendation #4. It establishes an Experimental Small Claims Panel of Contract Appeals to resolve disputes involving $25,000 or less.

The Administrator of the Office of Federal Procurement Policy is given authority to establish in the executive branch of the government an Experimental Small Claims Panel of Contract Appeals wherever the Administrator feels the best potential exists for demonstrating the need and effectiveness of such a panel.

After a 30 month period the Administrator of Federal Procurement Policy shall report to the Congress on the effectiveness of this experimental panel.

In this, one of the most innovative of the Commission's recommendations, the elements of economy, speed, informality and geographic availability have been brought together. Because these claims will not amount to large judgments and because of the informality, which will preclude important decisions of law being made, the decisions of this board will be final to the Government but not to the contractor. Upon an adverse decision to a contractor, he may elect to go to court, where his case will be heard de novo.

Presently many smaller claims are not being appealed. These cases are too small for the contractor to expend money on travel, extensive procedures, or expensive counsel, but certainly create dissent and frustration. A forum such as the Experimental Small Claims Panel will bring these disputes out and should prove to be high in morale effectiveness.

In order to provide responsible protection to taxpayer, who bears the brunt of the formation of any new agency, no matter how necessary, a testing period is prescribed in which this experimental panel can be observed and its effectiveness ascertained.

AGENCY BOARD CONTRACT APPEALS

Section 8 implements parts of recommendation 3 of the Commission. It covers the establishment of full-time boards with members chosen in the same manner as hearing examiners under the Administrative Procedures Act. This would require that the Civil Service Commission prepare a list of qualified people from which an agency would make a selection. It is essential that the judicial agency would make a selection. It is essential that the judicial independence of the boards be beyond question.

Subject to the Administrator's approval, an agency head may establish a board in his agency when he determines that the volume of procurement justifies such a board. The rules and regulations adopted by the boards would be required to provide the most informal, expeditious, and inexpensive resolution of disputes equipped with increased powers of discovery and due process.

Subsection (d) implements recommendation No. 3 and would provide the Boards with increased subpoena, discovery and other judicial-type powers.

RIGHTS OF APPEAL

Section 9 deals with the possible avenues of action open to all parties to a dispute, both the government and contractor, specifies the time limits involved and seeks to implement recommendations No. 6, 7 and 8 of the Procurement Commission.

These recommendations point out the need for direct access to the Court of Claims and district courts, judicial review of adverse agency boards of contract appeals decisions and the establishment of uniform and relatively short time periods within which parties may seek judicial review of adverse decisions of administrative forums.

Beginning with an adverse Contracting Officer's decision, the contractor has the option of (1) pursuing his claim in an experimental small claims panel, if the claim is under $25,000, (2) placing the claim with the agency board of contract appeals, or (3) going directly to court. If his claim is under $100,000 the contractor may go to a district court of the Court of Claims; if the claim is over this amount the Court of Claims will retain jurisdiction of the dispute.

One of the concerns raised over the options opened to the contractor is that it will result in "forum shopping." However, the bill reflects the contrary judgment that there is nothing more conducive to poor performance and arbitrary action than making one body an exclusive forum, be that forum administrative or judicial. If the Boards perform their functions as they should, a very small number of contractors would go directly to Court. If the Boards are not functioning in a satisfactory manner, the contractor should have the right to go to Court.

Such direct access has been called the keystone of the entire reform system recommended by the Commission. It will provide the flexibility that the Commission saw as essential to a fair and workable system. Direct access would permit questions that ultimately must go to court because of their size, importance or nature to go there directly and without delay. It would further assure contractors of their fundamental rights to a full judicial trial.

This recommendation restores to a contractor the right to a day in court, a right which has been eroded by the creation of administrative regulation and subsequent court interpretations of such regulations. Thus, intent of the Tucker Act, which limited the doctrine of sovereign immunity, is reaffirmed.

At present, a trial on the merits is afforded to all other plaintiffs filing actions where sovereign immunity has been relinquished and was in this field until the enactment of the Wunderlich Act in 1954 (repealed by this Act).

Time limits are established in this section which give the contractor twelve months to appeal an adverse decision as opposed to the six years presently allowed. This 6-year time period often results in the government being called on to present a defense many years after personnel with knowledge about the case are available and documents or records important to the case have been destroyed.

The government is given 90 days in which to appeal an adverse decision. This stricter time limit has been placed on the government because until a final decision is made in his favor, a contractor cannot get paid for the work in dispute. Contractors must, under government contract requirements, continue work pending a final decision of the claim.

The Attorney General may appeal an adverse decision for an agency when he concurs with the request for appeal from the head of an executive agency.

REVIEW PROCEDURE AND STANDARDS

Section 10 covers recommendation #9 of the Commission. This section provides that an agency board decision will be heard by the Court as not final and conclusive but with a rebuttable presumption of correctness attached to the agency board findings of fact. That presumption may be overcome by a preponderence of the evidence received in court. The board record would be admissible in evidence and could be supplemented by leave of the court. The court, in its discretion, could finally decide all aspects of the case or remand parts of it for disposition by the agency.

This section will serve to relieve the agency Board of creating the record which they have been compelled to create over the past few years because of increasingly restrictive court decisions. United States v. Utah Construction & Mining Company . . . , 384 U.S. 394 (1966); United States v. Anthony Grace & Sons, Inc., 384 U.S. 424 (1966); United States v. Carlo Bianchi & Co., 373 U.S. 709 (1962).

Section 10 (d) would make each claim a separate cause of action to avoid the defense of splitting the cause of actions when the contractor proceeds to the board or the Court on one claim before all his claims have matured under one contract. The court may hear multiple claims, consolidating them or denying decision on one claim pending action on another.

Section 10 (e) also related to multiple claims and provides that a court may grant partial judgments in cases where no good reason exists for delaying action on one part of a case merely because other parts of the same case are still pending.

INTEREST

Section 11 implements recommendation #11 and would provide for payment of interest from the date of filing the appeal of suit. The rate of interest will be determined by taking into consideration current private commercial rates of interest for new loans maturing in approximately five years.

PAYMENTS

Section 12 is in response to recommendation #12 of the Commission to make agencies more accountable for payment of court judgments. A revolving fund is created which would pay the judgments brought against agencies by the Panel, appeals board or court. Agencies would reimburse this fund within one fiscal year out of current appropriations or by obtaining specific appropriations for this purpose. This revolving fund approach provides the accountability that the Commission believed was necessary while at the same time not disrupting any ongoing agency programs for payment of judgments.

APPROPRIATIONS

Section 13 provides a three year authorization for appropriations for the Experimental Small Claims Panel of Contract Appeals after which time further legislation would be necessary to authorize its continuance.

REPEALS AND AMENDMENTS

Section 14 implements recommendation #10 of the Commission by increasing the jurisdiction of the district courts from $10,000 to $100,000 and repeals and amends other statutes consistent with the body of this Act.

U.S. Court of Claims,
Washington, D.C., November 25, 1976.
Mr. Hugh E. Witt,
Administrator for Federal Procurement Policy, Executive Office of the President, Office of Management and Budget, Washington, D.C.

Dear Mr. Witt: This letter is in response to your request for my comments on 12 Current Proposals which you are considering regarding Recommendations G–1 to G–12 of the Commission on Government Procurement.

Current Proposals 1, 2, and 4 relate to matters of which I have so little knowledge that I refrain from comment. However, as a result of my 30 years' experience in the Court of Claims, I have acquired some knowledge and information with respect to the remaining proposals.

I do not wholeheartedly favor each of the 12 recommendations of the Commission, but I am reminded of the strong Congressional interest in the creation of the Commission on Government Procurement and the fact that its report represents the first comprehensive report in the history of Government procurement. Its membership included two Senators, two Members of the House, the Comptroller General of the United States, the Administratcr of the General Services Administration, an Assistant Secretary of the Navy, and eminent representatives from private business. Able people were recruited from Government procurement agencies to assist the Commission in its work, and its task forces included individuals having recognized experience and ability in the subject matter considered by them. The four-volume report of the Commission is the product of 2 years of intensive study by the Commission and its staff.

As a result, it is my opinion that, taken as a whole, the Commission's recommendations provide the fairest and best-balanced approach I have seen for correcting the inequities and inefficiencies in the existing system for the resolution of Government contract disputes.

As you know, the Commission's recommendations are substantially incorporated in H.R. 6085, which was introduced in the House by Mr. Rodino on April 16, 1975. I believe that the Rodino bill provides a much better method for effectuating the broad objectives of the Commission than the Current Proposals, because the latter reject or greatly modify several Commission proposals which I regard as essential elements of the whole remedial package. On that account, it is also my opinion that the current proposals will probably increase the overall cost of Government procurement and will do little to remedy the serious deficiencies in the existing system for resolving Government contract disputes. Finally, it seems to me that it would be inappropriate at this time for the Executive Branch to take action which is contrary, in important respects, to the bill introduced by the Chairman of the House Committee on the Judiciary.

Sincerely yours,
Wilson Cowen,
Chief Judge.

U.S. Court of Claims,
Washington, D.C., October 16, 1975.
Mr. Charles Goodwin,
Assistant Administrator for Procurement Law, Office of Management and Budget, Executive Office of the President, Washington, D.C.

Dear Charlie: You have asked me to comment on your draft of a proposed policy position wtih respect to recommendations G–1 to G–12 of the Commission on Government Procurement. These recommendations were developed by the Commission after 3 years of intensive, nationwide study and the expenditure of $7 million appropriated by Congress for this purpose. They were developed in the course of a completely nonpartisan investigation. I support the Commission's recommendations, for the reasons set forth in the Commission's report, Chapters 1 and 2 of Volume 4. I enclose a reprint of a short article published in 33 Fed. B. J. 160 (1974), which elaborates on that conclusion.

These recommendations are, as the Commission points out, designed to alleviate the unfairness, frustration and disillusionment which presently characterizes an important part of the procurement system. As the Commission concludes:

> If the concerns about inequities and inefficiencies in disputes—resolving procedures cause potential contractors to avoid Government work, the procurement process will suffer.

That concern is currently echoed by top procurement management, as evidenced by a number of recent press reports.

I assume that you have solicited my views on your draft proposal because I was Chairman of the Consolidated Armed Services Board of Contract Appeals from its inception in 1962 until my appointment in 1968 as a Trial Judge of the U.S. Court of Claims. That experience has provided me with a unique opportunity to observe the system, and it is precisely from that point of view that I concur wholeheartedly in the Commission Report, both with respect to recognizing the grave problems it describes, and favoring solutions which it recommends.

Except with respect to a few, minor "housekeeping" recommendations, your draft proposal of a policy position is *diametrically* opposed to the central basic recommendations of the Commission on Government Procurement. Therefore, I think it is wrong and not in the best interests of the United States. Your draft is designed to continue and, in fact, aggravate the very conditions of unfairness, frustration and disillusionment which the Commission described. They noted that the present system permits employees of one party to a Government contract to be the final judge of their own mistakes. Your proposal would continue that condition and also make those representatives of one party final judge of their own breaches.

The policy which you propose is astonishing in light of the fact that the Commission, which reached a completely contrary conclusion, was comprised of appointees of the President, Vice President and Speaker of the House. Staff people were also recruited from Government procurement agencies. The suggestions you now advocate were thoroughly considered by the Commission and staff and rejected as unfair, by the Commission. It was essentially a partisan position taken by those civil servants below the management and policymaking level who are engaged in and have a vested interest in the present unfair system, and want to preserve it. Your proposal seeks to revive the same tired and worn out arguments that were made by them, and rejected by the Commission.

I believe that your approach should be the same as that of the Commission, essentially nonpartisan, and with the paramount interest of the Nation as a whole, before you. As I stated recently at the Annual Meeting of the American Bar Association, the most serious damage in recent years has occurred in the disputes-resolving procedures within the agencies, developed by them as part of their procurement mission. Although they are already freighted down by overjudicialization, overformalization and overregulation, so that they can no longer efficiently perform their important disputes-settlement function, you would recommend further judicialization. At the same time, the Government contractor would continue to be singled out as the only class of litigant not entitled to a meaningful judicial remedy. This is, in effect, a reimposition of sovereign immunity as to citizens contracting with their Government. That doctrine was struck down over 100 years ago.

The opportunity to furnish you my comments is appreciated. I would urge you to read in its entirety the aforementioned statement at the recent ABA Annual Meeting, together with the other statements published on that occasion. Also, be aware that the entire membership of that Section of Public Contract Law has twice voted 2 to 1 against your present suggestions, as have interested industry groups.

Very truly yours,
Louis Spector,
Trial Judge.

[From the Washington Post, Apr. 11, 1976]

Rickover Urges Takeover of Shipyards Billing U.S.

(By George C. Wilson)

Adm. H. G. Rickover has recommended that the government take over privately owned shipyards slated to get special help from the Pentagon, Defense Department sources said yesterday.

Rickover, in a memo dated April 7, said the government should acquire the private yards "as a condition" for settling in a hurry the claims they have made against the Navy for past work.

Rickover has long assailed private management of shipyards, which he has called inefficient. In the memo he argued that shipbuilders should be held to the conditions of their contracts except under special circumstances.

The shipyard claims total $1.5 billion, mostly on nuclear-powered ships built in the Electric Boat Co. yard in Groton, Conn., and the Newport News (Va.) Shipbuilding and Drydock Co. Another yard involved is the Ingalls Division of Litton Industries in Pascagula, Miss.

The Rickover proposal drew immediate fire yesterday from Gordon W. Rule, the senior Navy/civilian executive for overseeing shipbuilding contracts. Said Rule when asked about the Rickover proposal:

"The United States isn't ready to change from a capitalistic, profit motive system to nationalization."

"To me," Rule said, the Rickover takeover suggestion "confirms the complaints of Electric Boat and Newport News that Adm. Rickover is trying to run their plants. I have the highest regard and affection for Uncle Rick, but he should stick to his specialty—nuclear submarines—and let the contracting specialists handle the procurement."

Rickover could not be reached for comment yesterday. An aide said he was out of town.

Rickover mentioned his idea last week to William P. Clements Jr., deputy secretary of defense, as they discussed shipbuilding problems that threaten to obstruct the Navy's plan to build a new fleet.

Defense officials said yesterday that taking over private shipyards is "absolutely the opposite direction" that Pentagon executives are trying to go. The effort instead is to patch up differences between the shipyards and the government, these sources said in predicting the Rickover proposal would be rejected.

Clements has notified Congress that he intends to resort to Public Law 804 to settle $1.5 billion in claims the yards have filed against the Navy. The law provides a shortcut for settling such claims. Congress has 60 days to disapprove of the procedure once the Pentagon has signified formally its intention to use it.

Sen. William Proxmire (D-Wis.) already has assailed the Clements plan to settle the claim as a "handout" and "bailout" for shipyards that failed to deliver on time and at the agreed upon price.

Both Proxmire and Rep. Lee Aspin (D-Wis.) have pledged to introduce disapproval resolutions in the Senate and House to stop the Pentagon from using Public Law 804.

But Rule, who often has been an ally of Proxmire in military contract disputes, said yesterday that Clements is right in using Public Law 804 because the Navy contracts for ships and proved unfair to the shipbuilders. Their claim should be settled, he said, and fair contracts must be written in the future to get the new Navy built.

Electric Boat builds nuclear-powered submarines and Newport News constructs nuclear-powered aircraft carriers and other nuclear warships. The Ingalls yard is turning out a line of destroyers at the present time.

Navy officials confirmed last week that private yards had threatened to stop bidding on Navy work unless their claims were paid and harassment of their executives stopped. Rickover, who is in charge of Navy nuclear propulsion, long has been at odds with shipyard executives as they argue who is responsible for cost overruns.

Clements, in an April 2 letter sent to Chairman John Stennis (D-Miss.) of the Senate Armed Services Committee, said the "immediate evidence" of the "marginal" Navy management of shipbuilding programs, "is the present $1.7 billion backlog of claims" filed by the yards. That claim figure was lowered to $1.5 billion last week as the Navy reached a settlement on one of Electric Boat's claims.

Congress is expected to hold new hearings on Navy management of the shipbuilding contracts before voting on whether the Pentagon should be allowed to use Public Law 804 to pay off back claims.

William I. Greener, assistant secretary of defense for public affairs, said yesterday that Clements and Rickover had discussed shipbuilding problems last week and were not at odds. Greener said he was not familiar with the Rickover proposal to take title to private shipyards in exchange for settling their claims against the Navy.

Mr. CHILES. Mr. President, I ask unanimous consent that the bill I introduce today, S. 3512, be jointly referred to the Committee on Government Operations and the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS SUBMITTED FOR PRINTING

ANTITRUST IMPROVEMENTS ACT OF 1976—H.R. 8532

AMENDMENT NO. 1732

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted an amendment intended to be proposed by him to Amendment No. 1701 proposed to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

AMENDMENTS NOS. 1733 THROUGH 1736

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART (for himself and Mr. HUGH SCOTT) submitted four amendments intended to be proposed by them jointly to Amendment No. 1701, supra.

AMENDMENTS NOS. 1737 THROUGH 1742

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted six amendments intended to be proposed by him to Amendment No. 1701, supra.

AMENDMENT NO. 1743

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to Amendment No. 1701, supra.

AMENDMENT NO. 1744

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to Amendment No. 1701, supra.

AMENDMENT NO. 1745

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. HRUSKA, and Mr. MATHIAS) submitted an amendment intended to be proposed by him to Amendment No. 1701, supra.

AMENDMENT NO. 1746

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, I am offering a new title VI to be added to the amendment in the nature of a substitute (No. 1701) proposed by Senators PHILIP HART and HUGH SCOTT to H.R. 8532. This title comprises the substantive text of S. 2028, which was approved by a vote of 7 to 0 over 2 months ago by the Subcommittee on Antitrust and Monopoly.

I offered this same amendment to S. 1284, the Hart-Scott antitrust improvements bill, in the full Judiciary Committee, and then withdrew that amendment upon agreement that my bill would be separately considered at the next executive session of the committee. Two subsequent sessions have come and gone, and while I proposed consideration and debate on my bill, certain members of the committee were able to defer our deliberations on the bill. I believe that the full Senate should have the opportunity to vote on this bill, and I am thus proposing that it be added as an amendment to the legislation before us.

My amendment would encourage and facilitate, wherever possible, the use of procompetitive policies by Federal agencies. It does this by applying a uniform antitrust standard to agency actions that significantly affect competition. Support for the objectives of the bill has been voiced by the Department of Justice, the Department of Transportation, the Council on Wage and Price Stability, the Retail Merchants Association, the Consumer Federation of America, and the National Association of Manufacturers.

The bill from which this amendment was taken was the subject of 4 days of hearings and has undergone substantial refinement since its introduction. Let me briefly summarize the amendment's provisions.

Section 601 contains three tests an agency must apply to actions whose effect "may be substantially to lessen competition, to tend to create a monopoly, or create or maintain a situation involving a significant burden on competition." The tests compel an agency to articulate clearly the statutory purpose it is seeking to further by its particular action. The agency must then determine both the anticompetitive effects of the particular action and the benefits to the general public from that action.

Although it is not expected that an agency will be able to quantify these effects with precision, it is expected that these required findings will sharpen an agency's economic analysis and force it to do some self-analysis. The benefits to the public must clearly outweigh the anticompetitive effects. The third test requires an agency to find whether or not the objectives of the action, which was articulated in finding one, can be substantially accomplished by an alternative means having lesser anticompetitive effects. All three of the tests must be met in order for the action to be taken.

The antitrust standard in this bill is neither complicated nor novel. The Supreme Court, in the case of *Silver* v. *New York Stock Exch.*, 373 U.S. 341 (1973), has already taken the view that the Securities and Exchange Commission must justify an anticompetitive result by showing that there are no less anticompetitive alternatives available. Similarly, the Court has, in *Gulf States Util. Co.*, v. *FPC*, 411 U.S. 747 (1973), held the Federal Power Commission obliged to consider antitrust values in determining whether action proposed to be taken by a regulated utility was "compatible with the public interest." Thus, while courts often—if not inevitably—impose antitrust standards on agency decision-making under the present "public interest" tests, their approaches are neither uniform nor predictable. This amendment would rectify the situation.

And it would do so by borrowing not only from the kind of criteria imposed by the judiciary, but also from statutory precedents. The standard embodied in section 601 of the amendment has been demonstrated to be both workable and useful in the areas of bank mergers and nuclear power plant licensing. In both areas, Federal regulatory agencies—the Federal Reserve Board and the Nuclear Regulatory Agency—apply statutory antitrust standards with the advice and participation of the Department of Justice. Witnesses from both agencies, appearing before the Antitrust Subcommittee, attested to the utility of this procedure.

Section 601 also provides that these three antitrust findings should be included in any opinion accompanying the action and also should be included in the statement of basis and purpose in the case of a rule or regulation.

To facilitate the rendition of timely antitrust advice and to insure rational intervention policies section 602 requires the Interstate Commerce Commission, Federal Power Commission, Federal Communications Commission, Securities and Exchange Commission, Civil Aeronautics Board, Federal Maritime Commission, and the Nuclear Regulatory Commission to devise procedures whereby the Attorney General will receive notice of important agency actions which have a significant effect on competition. In order to assure effective and meaningful participation, both the Attorney General and the Federal Trade Commission are given "party of right" status, are not precluded from using their statutory powers, and in certain situations the Attorney General can convene a hearing.

So that no new delays will be created by this Act, section 603 provides that judicial review of agency actions subject to the Act will be—with one exception—identical to what the Administrative Procedure Act already requires. The one exception is that once the court action has been filed, the agency has the burden of showing that substantial evidence was developed for the findings required by section 601. A limited right for the award of legal fees is also provided.

So that procompetitive policies are fully implemented wherever feasible, section 604 directs Federal agencies to integrate antitrust considerations into all phases of the agency's operations and are required to review their statutory authority, rules, and regulations to ascertain whether changes are needed to more effectively achieve the goals of the amendment. An in-depth analysis of the efficacy of these actions will be provided by the FTC.

Finally, provisions have been placed in section 605 to make it completely clear that the title is in addition to and not in lieu of the antitrust laws. The last paragraph of section 7 of the Clayton Act would be repealed by a provision in this section, and although this repeal would not add or subtract from exemptive authority certain agencies now possess, it does reinforce the purpose of the title, which is that agencies should subject actions affecting competition to the tests of section 601.

I would stress that this amendment is entirely complementary to and consistent with the five titles contained in the Hart-Scott amendment. While those titles go to private and Federal enforcement of the antitrust laws in the courts, my amendment strengthens the consideration of antitrust principles in Federal agencies. It will thus round out the legislation as a truly unified and significant "antitrust improvements" measure, to the benefit of both consumers and businesses.

AMENDMENTS NOS. 1747 AND 1748

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS. Mr. President, although I generally support the Hart-Scott substitute to H.R. 8532, I believe that one amendment to the premerger injunction provisions of title V is in order.

I fully understand the interest in insuring that the Government have appropriate tools to combat anticompetitive activities. At the same time, however, I believe that the injunction provisions of the bill tilts the balance unnecessarily against companies seeking to consummate what may well be a legal merger. My amendment strikes what I believe is an appropriate balance between the need to detect and prevent illegal mergers and acquisitions prior to consummation and the interest in preventing the Government from unduly burdening legitimate business activities.

I am concerned about the provisions of the Hart-Scott substitute which permits: First, a 60-day temporary restraining order with an unlimited extension; and two, which places upon the defendant the burden of proof with respect to the preliminary injunction.

As presently drafted, the bill now under consideration allows for a Federal judge to issue a temporary restraining order halting the consummation of a proposed merger or acquisition for a period of 60 days, unless a judge finds good cause exists for extending the order for an indefinite period. Thus, under the present Hart-Scott substitute, the 60-day period is not the outer limit of the duration of the temporary restraining order and the defendant would be subjected to the possibility of an open-ended good cause extension of the order.

The amendment I now offer is aimed at eliminating the uncertainty facing those seeking to consummate mergers and acquisitions by shortening the time period for the temporary restraining order. Specifically, my amendment provides a 30-day period for the TRO, with an extension for an additional 30-day period if good cause is shown. Thereafter, the TRO could not be extended beyond the 60-day limit, unless the restrained party consents to such extension. The amendment would retain the expediting provisions of subsection (D).

I am convinced that this modification of title V, when coupled with the premerger notification provisions of this bill, will provide the Federal Government with sufficient means to deter anticompetitive mergers and acquisitions—which is a necessary and appropriate addition to the Clayton Act.

My proposal will also eliminate the provision in the Hart-Scott substitute which places the burden of proof regarding the issuance of a preliminary injunction upon the defendant, Specifically, this part of the amendment would delete the provisions in the bill which require a defendant to show that the government does not have a reasonable probability prevailing on the merits of the bill, or that they will be irreparably injured by the entry of the preminary injunction. I do not share the view expressed in the Judiciary Committee report on S. 1284 that the shifting of the burden of proof is necessary to remedy existing law—which in my view will be adequate to protect the interest of the Government and the public at large now that a 30-day premerger notification provision is being enacted.

I have been advised that this admendment is acceptable to the managers of the bill; and it is my hope that it will be accepted by my colleagues.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon tomorrow.

I urge the two cloakrooms to announce to their respective clientele that Senators will meet in the Chamber tomorrow morning at 10 o'clock informally. There will be no session at that time. Senators will meet in the Chamber informally at 10 o'clock before going in a body to the Rotunda to witness the special ceremonies that will occur there in connection with the Magna Carta. The cloakrooms will so alert Senators to be on hand at 10 o'clock tomorrow morning in this Chamber for an informal gathering before proceeding to the Rotunda.

I was asked by the distinguished majority leader to make that announcement.

Mr. President, the Senate will convene at 12 o'clock noon tomorrow and after 1 hour the clerk will call the roll to establish the presence of a quorum. That will be automatic.

Upon the establishment of a quorum, the Senate will proceed to vote by rollcall on the motion to invoke cloture on the antitrust bill. If cloture is invoked, then that bill will be the exclusive business before the Senate until completed. If cloture is not invoked, then the Senate will presumably return to the consideration of the unfinished business, the Foreign Military Sales Act.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:50 p.m., the Senate adjourned until tomorrow, Thursday, June 3, 1976, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 2, 1976:

IN THE JUDICIARY

Mary Anne Richey, of Arizona, to be U.S. district judge for the district of Arizona vice James A. Walsh, retiring.

IN THE JUDICIARY

William A. Ingram, of California, to be U.S. district judge for the northern district of California vice Alfonso J. Zirpoli, retired.

IN THE JUDICIARY

William W. Schwarzer, of California, to be U.S. district judge for the northern district of California vice Albert C. Wollenberg, retired.

NATIONAL BUREAU OF STANDARDS

Ernest Ambler, of Maryland, to be Director of the National Bureau of Standards, vice Richard W. Roberts, resigned.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

John W. Snow, of the District of Columbia, to be Administrator of the National Highway Traffic Safety Administration, vice James B. Gregory, resigned.

FEDERAL ENERGY ADMINISTRATION

Samuel J. Tuthill, of Virginia, to be an Assistant Administrator of the Federal Energy Administration, vice Roger West Sant, resigned.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

The following-named persons to be members of the board of directors of the National Center for Productivity and Quality of Working Life for a term coterminous with the term of the President (new positions):

Donald C. Burnham, of Pennsylvania.
R. Heath Larry, of Pennsylvania.
Edward E. Carlson, of Illinois.
I. W. Abel, of Pennsylvania.
C. L. Dennis, of Illinois.
Frank E. Fitzsimmons, of Maryland.
James E. Holshouser, Jr., of North Carolina.
Daniel J. Evans, of Washington.
L. William Seidman, of Michigan.
Andrew E. Gibson, of New Jersey.

NATIONAL CREDIT UNION ADMINISTRATION

C. Austin Montgomery, of Illinois, to be Administrator of the National Credit Union Administration, vice Herman Nickerson, Jr., resigned.

NATIONAL SCIENCE FOUNDATION

Harvey Allan Averch, of Virginia, to be an Assistant Director of the National Science Foundation, vice Lowell J. Paige, resigned.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Richard L. Frymire, Jr., [redacted]G, Air National Guard of the United States.

To be brigadier general

Col. Harry A. Serra, [redacted]FG, Air National Guard of the United States.

IN THE ARMY

The following officers for appointment to the grade of major general, Adjutant General Corps, Army National Guard of the United States, under the provisions of title 10, United States Code, sections 593(a) and 3392:

Brig. Gen. (USAFR-Ret) Vito Joseph Castellano, [redacted].

Brig. Gen. (ARNGUS) John Coffey, Jr., [redacted].

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Norman C. Ault, Jr., [redacted].
Maj. Otis W. Bird, Jr., [redacted].
Maj. Charles L. Blount, [redacted].
Maj. Alvin H. Brody, [redacted].
Maj. Robert C. Clark, [redacted].
Maj. Jerry W. Cook, [redacted].
Maj. Joseph M. Delaney, [redacted].
Maj. Richard J. Dowling, [redacted].
Maj. Richard A. G. Emerson, [redacted].
Maj. William S. Erhart, [redacted].
Maj. George W. Finison, [redacted].
Maj. Stuart D. Fox, [redacted].
Maj. Gordon L. Galloway, [redacted].
Maj. James A. Garland, [redacted].
Maj. Reuben A. Giesick, [redacted].
Maj. Kyle L. Glendy, [redacted].
Maj. John S. Glenn, [redacted].
Maj. Morrow E. Graham, [redacted].
Maj. Francis E. Hazard, [redacted].
Maj. Roger B. Howell, [redacted].
Maj. Martin A. Hunt, [redacted].
Maj. Howard P. Jernigan, [redacted].
Maj. John M. Karibo, [redacted].
Maj. William L. Killgore, [redacted].
Maj. Troy J. Lowe, [redacted].
Maj. Charles Michelsen, [redacted].
Maj. Robert W. Miller, [redacted].
Maj. Maxime J. Montz, Jr., [redacted].
Maj. William D. Neville, [redacted].
Maj. Kai-Henni Pedersen, [redacted].
Maj. Everett S. Peterson, [redacted].
Maj. Kenneth D. Peterson, [redacted].
Maj. William J. Phaneuf, Jr., [redacted].
Maj. Frederick J. Rittenhaus, [redacted].
Maj. Billy J. Strang, [redacted].
Maj. William A. Tavares, [redacted].
Maj. Gustav N. Vansteenberg, [redacted].
Maj. Herbert O. Walker, [redacted].
Maj. Philip A. Williams, [redacted].
Maj. Clifford E. Wilson, [redacted].
Maj. Donald S. Withem, [redacted].
Maj. Norman D. Yeaton, [redacted].

MEDICAL CORPS

Maj. Martin J. Fischer, [redacted].

NURSES CORPS

Maj. Bobbie S. Fox, [redacted].

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grade indicated under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

To be captain

Aldebol, Anthony W., [redacted].
Allison, Ronald L., [redacted].
Ames, Robert R., [redacted].
Auwarter, Carmen E., [redacted].
Avery, Gerald N., [redacted].
Baker, Ellery E., [redacted].
Barber, Michael A., [redacted].
Belche, George R., [redacted].
Bentley, Bedford T., Jr., [redacted].
Berry, Alfred N., [redacted].
Berry, Arnold M., [redacted].
Bland, Lewis H., [redacted].
Bomersbach, Richard L., [redacted].
Bonin, James J., Jr., [redacted].
Boroczk, Dennis M., [redacted].
Bragaw, Charles L., [redacted].
Brasington, Herbert W., Jr., [redacted].
Brothers, James T., Jr., [redacted].
Carlton, Dennis E., [redacted].
Chilcott, Gary A., [redacted].
Chunn, Curtis W., [redacted].
Cisar, Alexander M., [redacted].
Coffman, William R., [redacted].
Comer, Edward A., Jr., [redacted].
Connely, John M., [redacted].
Cooper, Stanley J., [redacted].
Cox, Joseph H., Jr., [redacted].
Crowell, Donald M., Jr., [redacted].
Cvancara, Dennis A., [redacted].
Dade, Robert W., [redacted].
Dalton, Robert E., [redacted].
Delmar, William A., [redacted].
Dickinson, Robert T., [redacted].
Dolega, Alexander A., Jr., [redacted].
Dull, Gerald C., [redacted].
Eastham, Walter T., [redacted].
Faulk, Melvin W., Jr., [redacted].
Fleiszar, Mitchell J., Jr., [redacted].
Foose, Eugene R., [redacted].
Frederickson, Anthony C., [redacted].
Freed, James L., [redacted].
Fulton, Earnest L., [redacted].
Galvez, Julio, [redacted].
Gannon, John R., [redacted].
Garrett, James T., Jr., [redacted].
Gasparek, Robert A., [redacted].
Gates, Albert E., III, [redacted].
Gatsos, George C., [redacted].
Gentry, John P., [redacted].
Giacomazza, Robert, [redacted].
Gill, Peggy A., [redacted].
Gordon, Michael R., [redacted].
Greenberg, David A., [redacted].
Hallgren, Gordon E., [redacted].
Hamlin, Joseph R., [redacted].
Hammond, Burton V., III, [redacted].
Haney, Dennis B., [redacted].
Hansen, Barry N., [redacted].
Hasbrouck, Richard M., III, [redacted].
Hassebrock, Alan W., [redacted].
Haun, Gerald S., [redacted].
Henson, Charles E., [redacted].
Hill, Richard E., [redacted].
Hilliard, James H., [redacted].
Hobbie, Richard H., [redacted].
Hodges, Warren J., Jr., [redacted].
Hoffman, Charles W., [redacted].
Hosmer, Douglas M., [redacted].
Hunt, Allan W., [redacted].
Japs, Herbert D., [redacted].
Jette, Walter F., [redacted].
Johnson, James M., [redacted].
Johnson, Terry W., [redacted].
Jones, Peter D., [redacted].
Jones, Samuel M., [redacted].
Kemp, Charles S., [redacted].
Kilanowski, Samuel J., [redacted].
Knight, Jon M., [redacted].
Koch, William E., [redacted].
Krasche, Robert L., [redacted].
Kucynda, Stephen, [redacted].
Labarge, David G., [redacted].
Lambert, Paul J., [redacted].
Lambert, William F., [redacted].
Lanoux, Joseph H., [redacted].
Lawrence, Robert M., [redacted].
Leininger, John E., [redacted].
Leroy, Michael D., [redacted].
Liquori, William J., [redacted].
Love, Joseph E., [redacted].
Ludwig, Alfred T., [redacted].
Lynn, Dale R., [redacted].
Mace, Jennings R., II, [redacted].
Macnamee, David C., [redacted].
Magness, John E., [redacted].
Mahan, Charles E., Jr., [redacted].
Marsh, Howard E., Jr., [redacted].
Mayes, Lawrence R., [redacted].
McCarney, Michael J., [redacted].
McClure, Edward J., Jr., [redacted].
McDaniel, Stephen K., [redacted].
McGlashan, James G., [redacted].

McNickle, Paul J., [redacted].
Meadows, William L., [redacted].
Menzies, Walter P., Jr., [redacted].
Meyers, James B., [redacted].
Miller, Donald L., [redacted].
Montefusco, Michael T., Jr., [redacted].
Moody, Glenn L., [redacted].
Morales, Mario, Jr., [redacted].
Moser, Lawrence E., [redacted].
Mudie, Charles R., [redacted].
Myer, Robert R., III, [redacted].
Myers, Philip R., [redacted].
Nager, Robert S., [redacted].
Nelson, Ernest, [redacted].
Nesmith, William P., [redacted].
Newill, Curtis N., III, [redacted].
Nichols, Gary A., [redacted].
Nicholson, Thomas M., Jr., [redacted].
Noveroske, Terry L., [redacted].
Oliver, Danny, [redacted].
Ortega, Ernesto R., [redacted].
Panvini, Joseph S., [redacted].
Pearce, Michael L., [redacted].
Pector, Brian L., [redacted].
Phillips, Dennis L., [redacted].
Pitman, Benjamin C., Jr., [redacted].
Polk, Christopher J., [redacted].
Possemato, Paul A., [redacted].
Pugh John P., II, [redacted].
Radawicz, Richard C., [redacted].
Ramm, Peter E., [redacted].
Ress, Robert F., [redacted].
Reynolds, Dennis L., [redacted].
Rianda, Bruce E., [redacted].
Rogers, Robert W., [redacted].
Rohrer, Richard J., [redacted].
Rule, Robert P., [redacted].
Sarver, Joseph B., III, [redacted].
Schlieman, Ronald R., [redacted].
Schoonover, Edwin D., [redacted].
Seagren, Nelson E., [redacted].
Seifried, Thomas J., [redacted].
Shaughnessy, Thomas M., [redacted].
Shealy, Ronald W., [redacted].
Shipp, Bill J., Jr., [redacted].
Shrote, Roy L., [redacted].
Smith, Linda L., [redacted].
Smith, Richard T., [redacted].
Snover, Everett C., Jr., [redacted].
Sole, John L., [redacted].
Souhrada, Joseph F., [redacted].
Sovich, Francis E., [redacted].
Stahl, Steven C., [redacted].
Sterling, Michael J., [redacted].
Strohbehn, Gary D., [redacted].
Strong, Michael H., [redacted].
Swager, Charles M., [redacted].
Sylvester, Gerard R., [redacted].
Taylor, John G., III, [redacted].
Thomas, Quentin M., [redacted].
Tindell, James U., Jr., [redacted].
Tomhave, Steven F., [redacted].
Torbert, James B., [redacted].
Travis, Thomas E., [redacted].
Triplett, Don M., [redacted].
Underwood, David C., [redacted].
Underwood, Howard W., [redacted].
Underwood, Larry B., [redacted].
Urban, Russell J., [redacted].
Venaccio, Michael G., [redacted].
Vonhollen, Kenneth J., [redacted].
Vonlemden, Robert J., [redacted].
Walker, Paul G., Jr., [redacted].
Walsh, Michael, [redacted].
Warren, Edward F., [redacted].
Watras, Ronald E., [redacted].
Watts, Lloyd T., Jr., [redacted].
Weers, Harlan T., [redacted].
Welch, Joseph D., Jr., [redacted].
Wesley, John R., II, [redacted].
Westfall, Frederick W., [redacted].
Whited, Charles E., [redacted].
Whitley, John G., [redacted].
Wilcox, Michael D., [redacted].
Williams, Charles L., [redacted].
Willis, Lloy T., [redacted].
Wimberly, Dan P., [redacted].
Witt, Buford R., [redacted].
Woehst, Kirby A., [redacted].
Wolfe, Harry W., [redacted].
Wood, Wanda C., [redacted].
Woodward, John L., Jr., [redacted].
Yechout, Thomas R., [redacted].
Yule, James A., [redacted].
Zsedeny, Garnett J., [redacted].

To be first lieutenant

Abby, Darrell L., [redacted].
Agosto, Jose R., [redacted].
Albaugh, Harry M., II, [redacted].
Albers, Alan K., [redacted].
Allen, Eugene K., [redacted].
Allen, Francis C., [redacted].
Allen, Stephen E., [redacted].
Altizer, Russell E., [redacted].
Amundson, Mark N., [redacted].
Anderson, Carl E., [redacted].
Archibald, Richard C., [redacted].
Arnott, Neil J., [redacted].
Ashcraft, John B., [redacted].
Askins, Robert D., [redacted].
Aslakson, Thomas L., [redacted].
Avary, Harold T., [redacted].
Avirett, William U., [redacted].
Bailey, Michael J., [redacted].
Baker, Christopher J., [redacted].
Baker, Stephen L., [redacted].
Balkcom, Wellborn M., [redacted].
Ball, Ronald D., [redacted].
Barbee, Leonard F., [redacted].
Barber, Gregory W., [redacted].
Barclay, David L., [redacted].
Barnett, Jeffery R., [redacted].
Barnett, Robert E., [redacted].
Barnoski, John J., [redacted].
Barr, Thomas L., [redacted].
Bartel, Danny J., [redacted].
Barton, Joseph S., [redacted].
Bath, William A., [redacted].
Baxter, Gary D., [redacted].
Bayer, James E., [redacted].
Bean, Keith W., [redacted].
Beard, Richard E., Jr., [redacted].
Beasley, Everett L., Jr., [redacted].
Beck, Roger A., [redacted].
Becker, Richard J., [redacted].
Beckler, Stanley H., [redacted].
Bedenbaugh, James R., [redacted].
Beermann, Robert R., [redacted].
Beers, David G., [redacted].
Bein, Peter J., [redacted].
Benjamin, Clayton L., [redacted].
Bereza, George W., [redacted].
Berg, Allan E., [redacted].
Berg, Michael G., [redacted].
Bergeron, Gerald R., [redacted].
Bergtholdt, Daniel R., [redacted].
Berry, Robert L., [redacted].
Berthelot, Barry F., [redacted].
Bibby, Thomas M., [redacted].
Bielski, James L., [redacted].
Birkhimer, John D., [redacted].
Bizzell, James W., [redacted].
Blackwell, Larry W., Sr., [redacted].
Bledsoe, Jim A., [redacted].
Bledsoe, Robert M., [redacted].
Blilie, Lonnie D., [redacted].
Boatright, Donald L., [redacted].
Bock, Larry K., [redacted].
Bodenheim, Edwin H., II, [redacted].
Boggie, Douglas A., [redacted].
Boles, Lyman M., [redacted].
Boozer, John W. III, [redacted].
Bowen, Clayton P., [redacted].
Bowling, Clinton D., [redacted].
Boyle, Johnnie E., [redacted].
Boyle, Robert E., Jr., [redacted].
Boyle, Walter F., [redacted].
Boyle, William E., Jr., [redacted].
Branson, Terry W., [redacted].
Braswell, Ralph M, III, [redacted].
Braswell, Thomas S., [redacted].
Breed, John A., [redacted].
Brier, Robert B., [redacted].
Brinker, Lawrence H., [redacted].
Britton, Edward J., [redacted].
Brocki, Paul D., [redacted].
Broda, Kenneth F., [redacted].
Brooks, Randall E., [redacted].
Brown, Edward M., [redacted].
Brown, Eunice B., [redacted].
Brown, Henry C., [redacted].
Brown, Kenneth R., [redacted].
Brown, Martin J., Jr., [redacted].
Bruce, Christopher D., [redacted].
Bryce, Walter F., Jr., [redacted].
Buck, Richard L., [redacted].
Bukaty, Andrew L., [redacted].
Bumpas, Michael L., [redacted].
Buresh, James A., [redacted].
Burkhardt, James S., [redacted].
Burroughs, David M., [redacted].
Burt, Earl D., Jr., [redacted].
Butler, Gerald J., [redacted].
Butler, Jeffrey C., [redacted].
Buttry, Jimmy E., [redacted].
Byrne, Thomas J., [redacted].
Cady, Steven E., [redacted].
Cañero, Mario S., [redacted].
Caldwell, Ronald E., [redacted].
Calvert, Paul H., [redacted].
Cameron, Hugh C., [redacted].
Campbell, Andrew W., [redacted].
Capps, Kirby B., [redacted].
Carlson, Kent C., [redacted].
Carlton, James W., [redacted].
Carroll, William B., [redacted].
Carver, Mark R., [redacted].
Casto, Stephen R., [redacted].
Chabot, Richard C., [redacted].
Chadwick, Larry M., [redacted].
Chaffn, David E., [redacted].
Champion, Marvin, C., [redacted].
Chedister, Robert W., [redacted].
Chiabotti, Michael J., [redacted].
Childs, William A., [redacted].
Ciaccia, Paul, [redacted].
Ciembronowicz, David T., [redacted].
Cimino, Michael B., [redacted].
Clark, Jack, II, [redacted].
Clawson, Robert E., Jr., [redacted].
Cobb, Richard S., [redacted].
Colarco, Richard F., [redacted].
Cole, Douglas L., [redacted].
Cole, Wesley D., Jr., [redacted].
Cole, William H., [redacted].
Coleman, Marvin, [redacted].
Collins, Dennis R., [redacted].
Collins, Ross D., [redacted].
Colvin, Gregory B., [redacted].
Conley, Douglas P., [redacted].
Cornwall, Charles L., [redacted].
Corradetti, John J., Jr., [redacted].
Cote, Brian J., [redacted].
Couch, Robert M., [redacted].
Coulter, Dennis M., [redacted].
Courtney, William C., [redacted].
Coy, Gary L., [redacted].
Crawford, Robert D., [redacted].
Creighton, Allen M., III, [redacted].
Crittenden, Daniel M., [redacted].
Croft, John R., [redacted].
Crouch, Jimmie E., Jr., [redacted].
Cruse, Gary W., [redacted].
Cumings, Darryl C., [redacted].
Cunningham, Joseph R., [redacted].
Currey, Daniel A., [redacted].
Curtis, Thiery G., [redacted].
Daily, James L., [redacted].
Davenport, James E., Jr., [redacted].
Davis, John C., [redacted].
Davis, Michael R., [redacted].
Davis, Philip R., [redacted].
Davis, Rickey I., [redacted].
Davis, William C., [redacted].
Dayton, Edwin M., [redacted].
Dean, George R., Jr., [redacted].
Deaton, John D., [redacted].
Debatt, Michael R., [redacted].
Decker, Carl E., III, [redacted].
Degroot, Case, Jr., [redacted].
Deloach, Richard C., [redacted].
Derosa, August I., [redacted].
Devries, Jan P., [redacted].
Dickey, Robert P., [redacted].
Dickinson, Ross E., [redacted].
Dickson, Richard L., [redacted].
Dieltz, John P., [redacted].
Digges, Charles W., [redacted].
Dills, Gary D., [redacted].
Dobozy, George K., [redacted].
Dodson, Robert F., [redacted].

Doskocil, Kenneth L., [redacted].
Doty, Stephen L., [redacted].
Douglas, David R., [redacted].
Draper, Robert T., [redacted].
Ducharme, Paul E., [redacted].
Dudek, Michael L., [redacted].
Duke, David L., [redacted].
Duncan, Robert E., [redacted].
Dunlap, Richard D., [redacted].
Dupre, Maurice J., Jr., [redacted].
Duttry, Steven R., [redacted].
Earnest, David T., [redacted].
Earnest, William T., Jr., [redacted].
Easterly, Glenn C., [redacted].
Ebbeson, Carl L., [redacted].
Eckstein, Donald F., [redacted].
Edgerton, Robert C., [redacted].
Elbow, David P., [redacted].
Elfner, George A., [redacted].
Engquist, Timothy G., [redacted].
Enmark, Wayne B., [redacted].
Ensign, John W., [redacted].
Evans, William J., Jr., [redacted].
Fager, Edward C., [redacted].
Fay, John J., [redacted].
Ferris, Frederic E., [redacted].
Fillyaw, Richard B., [redacted].
Fischer, Gary H., [redacted].
Fitzhugh, Richard E., Jr. [redacted].
Flaherty, Stephen F., [redacted].
Fleming, Steven E., [redacted].
Flickinger, Ronald O., [redacted].
Floyd, John W., [redacted].
Forest, Ronald L., [redacted].
Fowler, James M., [redacted].
Fox, Robert D., [redacted].
Franklin, Joseph M., III, [redacted].
Franks, Larry C., [redacted].
Frederick, Charles H., Jr., [redacted].
Frescholtz, George F., [redacted].
Frost, Wilfred R., [redacted].
Fucci, Daniel T., [redacted].
Fuquay, Stephen C., [redacted].
Gaertner, Stephen J., [redacted].
Gaudioso, Robert, [redacted].
Gerardi, Kenneth B., [redacted].
Gilbert, James H., [redacted].
Gilbert, Robert F., [redacted].
Gilmore, Timm, [redacted].
Gladfelder, Owen F., [redacted].
Gonzales, Harold T., Jr., [redacted].
Gooch, Ronald W., [redacted].
Goodman, David L., [redacted].
Gore, Gary R., [redacted].
Gorham, Jim K., [redacted].
Gorman, Joe V., [redacted].
Gracy, Billy J., [redacted].
Granier, Thomas R., [redacted].
Granquist, Dennis D., [redacted].
Graves, Tommy C., [redacted].
Gray, John H., [redacted].
Greenawalt, James L., [redacted].
Greenwood, Daniel B., [redacted].
Griffin, Frankie L., [redacted].
Griffith, Gary L., [redacted].
Grisanti, Robert C., [redacted].
Haid, Robert N., [redacted].
Haigler, Daniel B., [redacted].
Hale, Robert W., [redacted].
Hallam, William J., [redacted].
Hamilton, William C., [redacted].
Hamner, Hal C., [redacted].
Hamrick, Jack T., [redacted].
Hansen, Eric J., [redacted].
Hardin, Hans R., [redacted].
Hardy, Frank D., [redacted].
Hardy, Randall B., [redacted].
Harlambakis, Christopher N., [redacted].
Harper, Stephen D., [redacted].
Harrison, Donnie E., [redacted].
Harrison, Stephen D., [redacted].
Hart, James R., [redacted].
Hart, Thomas J., [redacted].
Harvey, Gary R., [redacted].
Hathaway, Kenneth R., [redacted].
Havert, Gary A., [redacted].
Hayashi, Edwin M., [redacted].
Hayes, Michael P., [redacted].
Haynes, Henry H., [redacted].
Hays, Samuel J., III, [redacted].
Heddleston, Roy R., [redacted].
Heit, Edward E., [redacted].
Henry, Stephen A., [redacted].
Henson, Lawrence C., [redacted].
Herman, Edward T., III, [redacted].
Heslup, Scott M., [redacted].
Hessel, Glen M., [redacted].
Hester, Neil D., [redacted].
Hickman, Joel R., [redacted].
Hicks, Charles E., [redacted].
High, Walter C., [redacted].
Hoffman, George E., Jr., [redacted].
Holland, George A., II, [redacted].
Holland, Lawrence T., [redacted].
Holmes, Albert L., Jr., [redacted].
Holquist, Michael R., [redacted].
Holroyd, William H., [redacted].
Hopper, Walter H., III, [redacted].
Hornsey, Robert K., [redacted].
Horvath, Eugene G., [redacted].
Hughes, Gregg M., [redacted].
Hughes, Richard C., [redacted].
Huls, John F., [redacted].
Hurst, Herbert H., Jr., [redacted].
Hurst, Thomas P., [redacted].
Hutz, John E., [redacted].
Hypes, Terry L., [redacted].
Infelise, Jeffery T., [redacted].
Irie, Roger W., [redacted].
Irvine, Randy C., [redacted].
Island, Richard T., [redacted].
Jack, Gary C., [redacted].
Jackson, James R., [redacted].
Jackson, Thomas L., [redacted].
Jahnke, Thomas O., [redacted].
Janes, Calvin L., [redacted].
Jensen, Stephen L., [redacted].
Jezek, Theodore F., [redacted].
Jirschele, John W., [redacted].
Joffrion, Steven C., [redacted].
Johnson, John H., [redacted].
Johnson, Laurence A., [redacted].
Johnson, Rici V., [redacted].
Johnson, Robert F., [redacted].
Johnson, Robert L., [redacted].
Johnson, William L., [redacted].
Johnston, Samuel M., [redacted].
Jollett, Lewis D., [redacted].
Jones, Brent W., [redacted].
Jones, Clifford L., [redacted].
Jones, Kenneth E., [redacted].
Jones, Kenneth W., [redacted].
Jones, Larry E., [redacted].
Jones, Schumpert C., [redacted].
Joplin, Tommy F., [redacted].
Joyce, Tommy L., [redacted].
Kankiewicz, Gerard G., [redacted].
Karch, Richard P., [redacted].
Kaseman, Rickey A., [redacted].
Kegel, Donn P., [redacted].
Keller, Francis C., [redacted].
Kennedy, Paul D., [redacted].
Kenney, Arthur J., [redacted].
Kettering, Steven W., [redacted].
Keyt, Richard C., [redacted].
Kievlan, Daniel C., [redacted].
Kinney, Timothy R., [redacted].
Kissinger, Dale A., [redacted].
Kistler, Frank D., [redacted].
Klein, William M., Jr., [redacted].
Kmetz, James E., [redacted].
Kornovich, Willard M., Jr., [redacted].
Kosiba, Edward S. [redacted].
Kost, Joseph S., [redacted].
Krenek, Michael R., [redacted].
Kurtz, Ronald A., [redacted].
Kuzanek, Jack A., [redacted].
Lachner, Gerald L., [redacted].
Lafferty, Joseph, [redacted].
Lamar, David W., [redacted].
Lamm, James R., [redacted].
Larson, Eric N., [redacted].
Laskarris, Louis J., [redacted].
Lasley, Donald E., [redacted].
Latta, James M., [redacted].
Lebow, Jack S., [redacted].
Lee, Robert H., [redacted].
Lee, Stephan M., [redacted].
Legge, Leonard M., Jr., [redacted].
Letts, Stephen M., [redacted].
Lewis, Billy A., [redacted].
Lewis, John L., [redacted].
Lewis, Kenneth W., [redacted].
Lhommedieu, William C., [redacted].
Linn, John C., [redacted].
Little, Arthur M., [redacted].
Livesay, Merlin T., [redacted].
Lloyd, James H., III, [redacted].
Luina, Ramon R., Jr., [redacted].
Luke, Thomas Hall, [redacted].
Lush, Michael D., [redacted].
Lutz, Wayne A., [redacted].
Lyle, Leonard C., Jr., [redacted].
MacLean, Douglas E., [redacted].
Macon, James R., [redacted].
Maese, Peter M., [redacted].
Magaro, Raymond F., [redacted].
Mallahan, Richard A., [redacted].
Mallory, John B., [redacted].
Marchewka, Peter S., [redacted].
Marler, Brent W., [redacted].
Maroney, Michael J., [redacted].
Martin, Elmer W., Jr., [redacted].
Martin, John M., Jr., [redacted].
Mashburn, Dennis W., [redacted].
Masin, John L., [redacted].
Massengale, Robert M., [redacted].
Mateski, James E., [redacted].
Mathis, William E., [redacted].
Maul, Gregory A., [redacted].
Mayer, Lyle T., [redacted].
Maynard, Otto L., [redacted].
Mazick, Martin M., [redacted].
McAdams, Robert P., [redacted].
McCallum, Ronald P., [redacted].
McConnell, Michael G., [redacted].
McCreary, Earl E., [redacted].
McGrew, Daren P., [redacted].
McGuirk, John J., [redacted].
McNabb, Clinton E., [redacted].
McQueeney, Daniel S., [redacted].
Meighan, William J., [redacted].
Melich, Michael J., [redacted].
Mennow, Robert E., II, [redacted].
Metius, Jeffrey A., [redacted].
Miller, James F., [redacted].
Miller, John R., Jr., [redacted].
Miller, Keith R., [redacted].
Miller, Michael G., [redacted].
Miller, Phillip E., [redacted].
Miller, Robert K., [redacted].
Miller, William G., [redacted].
Millican, Robert L., [redacted].
Minish, Clyde O., [redacted].
Miyauchi, Perry R., [redacted].
Moates, Peter W., [redacted].
Mobley, Harold R., [redacted].
Moffatt, John J., [redacted].
Mohr, Dennis J., [redacted].
Moncure, Thomas B., [redacted].
Montgomery, James M., [redacted].
Moore, James W., [redacted].
Moore, John C., [redacted].
Moore, Michael D., [redacted].
Moore, Roger L., [redacted].
Morgan, Charles R., [redacted].
Morra, Richard J., II, [redacted].
Morris, Walter J., [redacted].
Morse, George A., [redacted].
Mortensen, Chad T., [redacted].
Moseley, Teed M., [redacted].
Muldowney, Kenneth J., [redacted].
Munson, Ronald D., [redacted].
Mustard, Robert E., [redacted].
Napper, Russell E., [redacted].
Neal, Thomas O. [redacted].
Near, Robert W., [redacted].
Neitzel, Michael J., [redacted].
Neuhofer, Carl M., [redacted].
Newkirk, Kenneth A., [redacted].
Nickell, Arthur M., [redacted].
Nistico, George T., Jr., [redacted].
Nogues, William J., [redacted].
Norris, Johnny F., Jr., [redacted].
Norris, Robert S., [redacted].
Novy, Steven D., [redacted].
O'Connor, William L., [redacted].
O'Day, Peter R., [redacted].
Ogonowski, John A., [redacted].
O'Leary, James P., [redacted].
Oles, David L., [redacted].

O'Neill, Timothy H., [redacted].
Ordess, Mark S., [redacted].
Otanicar, Phillip L., [redacted].
Otero, Enrique, [redacted].
Parrington, Alan J., [redacted].
Passaro, George J., Jr., [redacted].
Patrum, Charles H., [redacted].
Patterson, Clifford G., [redacted].
Patterson, Derron J., [redacted].
Patterson, James M., [redacted].
Patton, Andrew C., [redacted].
Paul, Michael W., [redacted].
Payne, Roger L., [redacted].
Pearson, Clinton C., [redacted].
Pease, Gerald F., Jr., [redacted].
Perkins, Marcus E., [redacted].
Perlee, Lawrence R., [redacted].
Perry, Dennis C., [redacted].
Pester, Robert C., [redacted].
Peterson, Frederick E., [redacted].
Peterson, Robert M., [redacted].
Pfiester, Donald C., [redacted].
Phippen, Earl F., [redacted].
Piazza, John B., [redacted].
Pieper, Delos M., [redacted].
Pomykalski, Thomas S., [redacted].
Popkess, John C., [redacted].
Pousardien, Henri J., [redacted].
Priecko, John P., [redacted].
Priester, Wyman J., III, [redacted].
Przybyl, Reginald J., [redacted].
Quigley, Michael A., [redacted].
Ramey, William P., Jr., [redacted].
Rangel, Michael J., [redacted].
Ranieri, James J., [redacted].
Rasmussen, Craig P., [redacted].
Rauch, William A., [redacted].
Ray, James J., [redacted].
Ray, Philip M., [redacted].
Read, Robyn S., [redacted].
Ready, Ronald L., [redacted].
Reedy, George K., Jr., [redacted].
Regan, Terrence M., [redacted].
Rehkop, John K., [redacted].
Reid, John E., [redacted].
Reil, John R., [redacted].
Reinhardt, Kirk D., [redacted].
Reinsmith, Leonard L., III, [redacted].
Reiser, William K., [redacted].
Remington, Michael D., [redacted].
Rendina, Rodney A., [redacted].
Renuart, Victor E., Jr., [redacted].
Reseter, Larry Andrew, [redacted].
Rich, Clark, [redacted].
Richards, William L., III, [redacted].
Richardson, Mark F., [redacted].
Richey, Robert A., [redacted].
Riefler, Louis J., Jr., [redacted].
Rivet, Jason J., [redacted].
Roberts, Brian A., [redacted].
Roberts, Gregory M., [redacted].
Roberts, Joe M., [redacted].
Robertson, Dan W., [redacted].
Robertson, Stephen I., [redacted].
Robinson, Donald L., Jr., [redacted].
Robinson, Gary D., [redacted].
Rogaliner, Gary A., [redacted].
Rogers, Charles R., III, [redacted].
Rogers, Philip W., [redacted].
Romes, Charles S., [redacted].
Ropp, Michael E., [redacted].
Roshto, Jerry E., [redacted].
Rouse, Paul M., [redacted].
Rovin, Gary L., [redacted].
Rowland, Lloyd B., [redacted].
Roy, Maurice J., [redacted].
Rubino, John A., III, [redacted].
Rudd, Robert B., [redacted].
Ruiz, Rhett J., [redacted].
Rumsey, Rocky R., [redacted].
Runft, Wendell J., [redacted].
Russell, John H., [redacted].
Russo, David S., [redacted].
Ruther, Rodney S., [redacted].
Ryker, Gary E., [redacted].
Saettel, William J., [redacted].
Salter, Thomas O., [redacted].
Sanchez, Joseph G., [redacted].
Sanders, James, [redacted].
Sarnacki, Joseph B., [redacted].
Schafer, George D., [redacted].
Schart, Thomas E., [redacted].
Schnyder, Michael D., [redacted].
Schorp, Weldon L., Jr., [redacted].
Schrader, Jeffrey J., [redacted].
Schulz, Daniel H., [redacted].
Schwab, Gregory J., [redacted].
Searles, Paul W., Jr., [redacted].
Seigle, James L., [redacted].
Shaddock, James S., [redacted].
Shaver, Craig R., [redacted].
Shaw, Richard C., [redacted].
Sheffield, Robert E., [redacted].
Shelton, James B., [redacted].
Shively, Thomas L., [redacted].
Shockro, John J., [redacted].
Shore, Guy R., Jr., [redacted].
Shultz, Ronald L., [redacted].
Sides, John W., [redacted].
Siegel, Donald C., [redacted].
Silkebaken, Dennis F., [redacted].
Slagle, Jack O., Jr., [redacted].
Slinkard, Michael E., [redacted].
Sloan, Jack C., [redacted].
Smith Brian J., [redacted].
Smith, Daniel K., [redacted].
Smith, David W., [redacted].
Smith, Gregory O., [redacted].
Smith, James A., [redacted].
Smith, William B., [redacted].
Smyrl, Gary L., [redacted].
Snyder, Gregory P., [redacted].
Sonnonstine, Thomas C., [redacted].
Souerdyke, Gilbert R., [redacted].
Sparks, Jon B., [redacted].
Spear, Mark C., [redacted].
Spencer, Kenneth A., [redacted].
Spicer, Richard K., [redacted].
Spickes, Louis D., Jr., [redacted].
Spracher, David L., [redacted].
Spurlock, Kenneth M., [redacted].
Stanko, Timothy M., [redacted].
Starbuck, Floyd R., [redacted].
Stegman, Patrick G., [redacted].
Stephenson, Michael J., [redacted].
Stewart, Douglas M., [redacted].
Stewart, Larry J., [redacted].
Stewart, William F., [redacted].
Stokes, David W., [redacted].
Stpierre, Thomas J., [redacted].
Sullivan, Billy F., [redacted].
Swain, John E., [redacted].
Szczur, Lawrence G., [redacted].
Tamez, Thomas V., [redacted].
Tanner, Jerry D., [redacted].
Tapaszi, Robert W., Jr., [redacted].
Tashima, Alan I, [redacted].
Tatum, Gregory N., [redacted].
Taylor, Paul A., [redacted].
Taylor, Roy J., Jr., [redacted].
Teeter, Dennis P., [redacted].
Teigen, James D., [redacted].
Tellefsen, Ralph D., [redacted].
Templin, Gregg T., [redacted].
Terry, Robert B., [redacted].
Thetford, Kenny M., [redacted].
Thompson, John E., Jr., [redacted].
Thuesen, Robert J., [redacted].
Timmons, Timothy T., [redacted].
Titus, Gerald T., [redacted].
Tolle, Harry A., Jr., [redacted].
Tooker, William R., [redacted].
Torgerson, Keith A., [redacted].
Tornow, Joel F., [redacted].
Totty, Edwin K., [redacted].
Trapp, Peter D., [redacted].
Trygstad, Carl D., [redacted].
Tucker, Edward L., [redacted].
Tutwiler, Charles M., [redacted].
Tylski, Craig A., [redacted].
Vanarsdale, David D., [redacted].
Vanbebber, John G., Jr., [redacted].
Vance, William, [redacted].
Vancleef, Scott P., [redacted].
Vanderford, Michael E., [redacted].
Vandermark, Michael J., [redacted].
Vanderveen, Linn L., [redacted].
Vanderweert, Ronald, [redacted].
Vangsnes, David G., [redacted].
Vanmullem, Louis D., Jr., [redacted].
Vanvelzer, Michael J., [redacted].
Vaughn, Larry E., [redacted].
Vogler, Edward R., [redacted].
Vorhies, Steven W., [redacted].
Wade, William G., [redacted].
Wall, Jeffrey L., [redacted].
Wall, Terry L., [redacted].
Wallace, Robert E., [redacted].
Walters, Gary W., [redacted].
Walters, James R., [redacted].
Walters, Thomas D., [redacted].
Waters, Larry W., [redacted].
Weaver, Michael H., [redacted].
Weed, Steven C., [redacted].
Weisbecker, Richard J., [redacted].
Weisgram, Douglas A., [redacted].
Werner, Marc H., [redacted].
Westfall, Ronald L., [redacted].
Westrom, Alan R., [redacted].
Whetzel, Paul D., Jr., [redacted].
White, James C., [redacted].
White, James L., [redacted].
Whiteford, Paul R., Jr., [redacted].
Wickers, Randolph A., [redacted].
Widder, Roy L., [redacted].
Wiggins, Dewayne L., [redacted].
Wiles, Carl J., Jr., [redacted].
Wilkinson, Stephen C., [redacted].
Willer, Wayne A., [redacted].
Williams, Edgar D., Jr., [redacted].
Williams, Gary E., [redacted].
Williams, Gary H., [redacted].
Williams, Joseph Y., Jr., [redacted].
Williamson, William H. Jr., [redacted].
Wilson, Dudley C., [redacted].
Wilson, James H., [redacted].
Winters, Harry L., [redacted].
Witte, Richard P., [redacted].
Woods, David A., III, [redacted].
Woods, David R., [redacted].
Wooley, Michael W., [redacted].
Wools, Richard R., [redacted].
Wright, David K., [redacted].
Yoder, Ellis E., [redacted].
Yost, Raymond A., [redacted].
Young, Michael J., [redacted].
Young, Paul S., [redacted].
Youngman, Neil A., [redacted].
Yowell, Kenneth E., [redacted].
Zlotkowski, Mark E., [redacted].

In the Army

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Gesulga, Theodore B., [redacted].
Karrenbauer, Thomas, [redacted].
Lauzon, Gerald R., [redacted].
MacDiarmid, Warren R., [redacted].
Quesinberry, Robert J., [redacted].
Terrell, Douglas R., [redacted].

To be captain

Alden, John B., [redacted].
Allen, Thomas S., [redacted].
Austin, Larry L., [redacted].
Bagley, Frederick J., [redacted].
Baldwin, Robert L., [redacted].
Baxley, Carl R., [redacted].
Beck, James W., [redacted].
Biekkola, James W., [redacted].
Blackburn, David A., [redacted].
Bradley, Edward J., Jr., [redacted].
Brasili, Samuel A., [redacted].
Brooks, Charles G., [redacted].
Brown, Roger B., [redacted].
Carroll, Jason D., [redacted].
Chellman, Ronald J., [redacted].
Cleveland, Horst H., [redacted].
Cooper, James W., [redacted].
Coutoumanos, George, [redacted].
Crawford, Mike O., III, [redacted].
Daniel, Thomas H., [redacted].
Davis, Guy E., [redacted].
Davis, Terrance M., [redacted].
Dawley, John E., Jr., [redacted].
Everston, Norman J., [redacted].
Fields, Richard L., [redacted].

Ford, Charles K., [redacted].
Fraser, James H., Jr., [redacted].
Halbert, Gerald A., [redacted].
Haugh, John F., [redacted].
Hefner, James R., [redacted].
Heimgartner, Harlan D., [redacted].
Hemphill, Douglass R., [redacted].
Henwood, William T., [redacted].
Houser, Charles T., [redacted].
Huff, Howard F., Jr., [redacted].
Hunter, Harold L., [redacted].
Hupman, Donald P., Jr., [redacted].
Johnson, Jesse L., [redacted].
Johnston, Kit M., [redacted].
Koch, Michael E., [redacted].
Kuehn, Michael G., [redacted].
Lalli, John E., [redacted].
Lamothe, John D., [redacted].
Laposky, Robert E., [redacted].
Lawrence, Dean M., [redacted].
Lee, Thomas S., [redacted].
Maling, Claudia K., [redacted].
McDermott, Anthony R., [redacted].
McGowan, Gregory F., [redacted].
McNeil, John J., [redacted].
McNutt, William A., [redacted].
Menix, Wilbert R., [redacted].
Mills, Hugh L., [redacted].
Molinari, Joseph D., [redacted].
Montgomery, Kingsley V., [redacted].
Moot, Raymond M., [redacted].
Murphy, Billy G., [redacted].
Nichol, John B., [redacted].
Nienhagen, Ulrich, [redacted].
Noonan, Robert W., [redacted].
Patterson, Ian T., Jr., [redacted].
Petzinger, Manfred W. A., [redacted].
Rechner, Hubert, [redacted].
Reddy, Robert P., [redacted].
Roath, Sterling Jr., [redacted].
Robson, Richard R., [redacted].
Rogers, Thomas A., [redacted].
Shipley, James E., [redacted].
Spring, Mary A. James., [redacted].
Stookey, Frank T., [redacted].
Street, Preas L., [redacted].
Thibedeau, Gordon L., [redacted].
Turdici, James, [redacted].
Varis, Peter H., [redacted].
Wagonhurst, Jeffrey A., [redacted].
Watson, Robert J., [redacted].
Weisman, David S., [redacted].
White, William K., [redacted].
Wiese, Paul J., [redacted].
Williams, Richard A., [redacted].
Wojczynski, James S., [redacted].
Yealy, Kenneth A., [redacted].
Young, Wayne R., [redacted].

To be first lieutenant

Antoskow, Zina L., II, [redacted].
Andrews, Stephen W., [redacted].
Antoskow, Zina L, II, [redacted].
Belcher, David W., [redacted].
Blake, Douglas B., [redacted].
Boulse, Gerald L., [redacted].
Breier, John A., [redacted].
Brendsel, Allan C., [redacted].
Burse, Billy J., [redacted].
Caruso, John J., [redacted].
Caswell, Kenneth L., [redacted].
Catlin, John D., [redacted].
Cheney, Craig C., [redacted].
Coberly, James B., [redacted].
Cole, Thomas P., [redacted].
Collins, James M., Jr., [redacted].
Coplen, Ricky C., [redacted].
Crawford, Steven L., [redacted].
Dale, Ronald P., [redacted].
Danielson, Jesse M., [redacted].
Decker, Dale E., [redacted].
Deluca, Thomas A., [redacted].
Deperro, Peter J., [redacted].
Doerr, Gumher E., [redacted].
Dresen, Thomas E., [redacted].
Durden, Richard L., [redacted].
Eller, Jay B., [redacted].
Eller, Robert J., [redacted].
Fitzgerald, Edward, [redacted].
Fitzpatrick, Bernard D. I., [redacted].
Foley, James E., [redacted].
Forster, Larry M., [redacted].
Frampton, Henry G., III, [redacted].
Freeman, Michael E., [redacted].
Geoghagan, Michael S., [redacted].
Gerding, Richard L., [redacted].
Glantz, Roslyn M., [redacted].
Godwin, William S., [redacted].
Goodman, Huey D., [redacted].
Griffith, Ralph E., [redacted].
Hakapian, Ambakum, [redacted].
Hart, William L., [redacted].
Hawk, William F., [redacted].
Hayden, Lewell P., [redacted].
Heelan, James E., [redacted].
Heffelfinger, James D., [redacted].
Henderson, Paul D., [redacted].
Hickman, Robert W., Jr., [redacted].
Hinton, Larry D., [redacted].
Huddleston, Robert T., Sr., [redacted].
Isler, Roderick J., [redacted].
Jankowski, Lisa T., [redacted].
Jenkins, Jerry L., [redacted].
Johnson, David M., III, [redacted].
Johnston, Charles E., [redacted].
Kirby, John D., [redacted].
Lippy, Thomas W., [redacted].
Loeffelholz, Dennis J., [redacted].
Logan, Ralph F., [redacted].
Malone, John R., Jr., [redacted].
Mann, Paul A., [redacted].
Marsh, Robert D., Jr., [redacted].
Martin, Dennis R., [redacted].
Martin, Michael J., [redacted].
McAdoo, Arvil W., [redacted].
Minger, Bruce R., [redacted].
Morford, Frederick, [redacted].
Mueller, Mark E., [redacted].
Nelson, John D., [redacted].
Neubert, Robert W., [redacted].
Neukom, Peter C., [redacted].
Novak, Stephen R., [redacted].
Nowinski, Richard W., [redacted].
Noyes, Nathen W., [redacted].
Orr, Billy T., [redacted].
Palmer, Leon F., [redacted].
Parker, Ronald M., [redacted].
Penick, Joe K., [redacted].
Peresich, Robert J., [redacted].
Perez, Ovidio E., [redacted].
Perla, Livio G., [redacted].
Prewitt, Ilona E., [redacted].
Quay, Herman E., Jr., [redacted].
Ramey, Darrell L., [redacted].
Reed, David M., [redacted].
Rice, Ronald L., [redacted].
Rieder, John E., [redacted].
Riggs, George P., [redacted].
Rivers, Wharton B., Jr., [redacted].
Rodriguez, Robert W., [redacted].
Roelse, Robert E., [redacted].
Roett, Bruce U., [redacted].
Rose, Lawrence C., Jr., [redacted].
Saarinen, Linda E., [redacted].
Scipione, John A., [redacted].
Sines, Robert G., Jr., [redacted].
Solom, Gary Q., [redacted].
Springer, Danny J., [redacted].
Stallings, Walter D., [redacted].
Stein, John D., [redacted].
Stevens, Billy W., [redacted].
Stewart, Michael R., [redacted].
Toney, Dwight D., [redacted].
Travilla, Gregg, [redacted].
Treyz, Fred A., [redacted].
Trimble, Howard T., [redacted].
Tuck, Richard A., [redacted].
Turpin, Terry S., [redacted].
Velky, Lawrence J., [redacted].
Voss, Daniel R., [redacted].
Welch, Leslie R., [redacted].
White, Glen R., [redacted].
Wilmoth, Frankie, [redacted].
Wolfe, William L., [redacted].
Zanow, William L., [redacted].

To be second lieutenant

Branch, Hugh K., [redacted].
Cooley, John T., Jr., [redacted].
Erlenkotter, Sue, [redacted].
Halter, Susan S., [redacted].
James, Clayton W., [redacted].
King, Carol D., [redacted].
Gray, Juan P., [redacted].
Lowman, Charles D., [redacted].
McKee, Charles, [redacted].
Miller, Linda K., [redacted].
Nelsen, John A., [redacted].
Salisbury, Sandra L., [redacted].

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be major

Haas, Weston Carlos F., [redacted].
Lott, Merjoery P., [redacted].
Robalino, Joffre, [redacted].
Top, Franklin H., Jr., [redacted].

To be captain

Antosh, Thomas F., [redacted].
Ballard, Basil L., [redacted].
Baumholtz, Frank C., [redacted].
Bechtold, William A., [redacted].
Bersano, Raymond B., [redacted].
Blanck, Ronald R., [redacted].
Braig, Carol C., [redacted].
Brennan, William A., [redacted].
Butler, Gerald V., [redacted].
Bufkin, Henry P., [redacted].
Cagle, Donald E., [redacted].
Carr, John C., [redacted].
Carter, Victor S., [redacted].
Colby, Edward L., [redacted].
Cramer, Dayton M., [redacted].
Face, Ronald P., Jr., [redacted].
Gaither, Richard M., [redacted].
Garrett, Robert W., [redacted].
Garrison, Raymond E., [redacted].
Gourlay, Stuart J., [redacted].
Graham, Janet V., [redacted].
Graves, Joseph L., [redacted].
Griffin, Thomas E., III, [redacted].
Handcox, Robert C., [redacted].
Helm, Frederick L., [redacted].
Hiller, George, [redacted].
Hopkins, Charles D., [redacted].
Johnsey, Ronnie T., [redacted].
Jordan, Robert D., [redacted].
Martin, Herman L., [redacted].
Mayhall, John O., Jr., [redacted].
McCaskill, Robert E., [redacted].
Mylander, Kenneth W., [redacted].
Plaut, Joyce E., [redacted].
Plummer, Roy G., [redacted].
Sigala, Joseph L., [redacted].
Simmott, Robert C., [redacted].
Smith, Peter M., [redacted].
Stright, Barbara R., [redacted].
Updegraff, Bryan R., [redacted].
Walters, Charles L., [redacted].
Watt, George W., [redacted].
Zawadsky, Peter M., [redacted].

To be first lieutenant

Alexander, Linda L., [redacted].
Bock, Frederick M., IV, [redacted].
Brown, Barry D., [redacted].
Buczynski, Ronald J., [redacted].
Call, Catherine R., [redacted].
Carney, Mary G., [redacted].
Cummings, Edward R., [redacted].
Davidson, Van M., [redacted].
Dunson, Joy E., [redacted].
Farrell, Natalie A., [redacted].
Ferrell, James C., [redacted].
Hartman, Jack M., [redacted].
Hilgenhold, Rita L., [redacted].
Hirsch, Kathleen M., [redacted].
Hoffman, Martin L., [redacted].
Hubbs, Mary E., [redacted].
Kendall, Suzanne E., [redacted].
Key, William S., [redacted].
Lamarche, Stephen M., [redacted].
Lensing, William A., [redacted].
Leon, Delores M., [redacted].
McClenney, Lacretia M., [redacted].
Perkins, Peter V., [redacted].
Posey, David M., [redacted].
Rutt, Wade T., [redacted].

Sebastian, Henry A., [redacted].
Watson, Monte R., [redacted].

To be second lieutenant

Bejamin, Marcia J., [redacted].
Hale, Carol J. P., [redacted].
Simmons, Myra D., [redacted].
Wood, Sylvia H., [redacted].

The following-named distinguished military student for appointment in the Regular Army of the United States in the grade of second lieutenant under the provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Dechau, Gregory, [redacted].

IN THE NAVY

The following-named officer to be appointpointed a permanent commander in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

* Comdr. Michael J. Dunne, Jr., Medical Corps, USNR.

The following-named officer to be oppointed a permanent lieutenant commander in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

* Lt. Comdr. Frederick E. Youngblood, Medical Corps., USNR.

The following-named officers to be appointed permanent lieutenants in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Lt. Comdr. George J. Gavrell, Medical Corps, USNR.

*Lt. Douglas C. Howard, Medical Corps, USNR.

* Lt. Comdr. Kenneth F. Wagner, Medical Corps, USNR.

*Lt. Kurt E. Werner, Medical Corps, USNR.

The following-named Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, W–3, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Ordnance Technician (Surface)

*CWO–3 John P. Dalla Mura, USN(T).

The following-named Chief Warrant Officers to be appointed permanent Chief Warrant Officers, W–2, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Operations Technician (Surface)

*CWO–2 William R. Castle, USN(T).

Engineering Technician (Surface)

*CWO–2 Edward M. Moon, Jr., USN(T).

The following-named (U.S. Navy officer (retired)) to be reappointed from the temporary disability retired list as a permanent Lieutenant (junior grade) in the Civil Engineer Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Lt. Frederick S. Messick, Jr., Civil Engineer Corps, USN (retired).

The following-named officers to be appointed temporary Lieutenant Commanders in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

* LCDR George J. Gavrell, MC, USNR.
* LCDR Kenneth F. Wagner, MC, USNR.

The following-named enlisted candidates to be appointed temporary Chief Warrant Officers, W–2, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Aviation Operations Technician

* Lewis D. Center.

Operations Technician (Surface)

* Dennis R. Mahlik.

Supply Corps Warrant

* Robert K. Ramstad.

The following-named Chief Warrant Officers to be appointed temporary Lieutenants (junior grade) in the U.S. Navy, for temporary service, for limited duty in the classification indicated, subject to the qualifications therefor as provided by law:

Operations (Surface)

* CWO2 William R. Castle, USN(T).

Ordnance (Surface)

* CWO3 John P. Dalla Mura, USN(T).

Engineering/Repair (Surface)

* CWO2 Edward M. Moon, Jr., USN(T).

The following-named (U.S. Navy officer (Ret.)) to be reappointed from the temporary disability retired list as a temporary Lieutenant in the Civil Engineer Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

* Lt. Frederick S. Messick, Jr., CEC, USN (RET.).

The following-named officers to be appointed temporary Commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

* CDR James E. Engeler, MC, USN.

* CDR George W. Kindschi, MC, USN.

* CDR William A. McGill, MC, USN.

* Appointment sent out Ad Interim (During the recess of the Senate).

IN THE NAVY

The following named officers of the United States Navy for temporary promotion to the grade of lieutenant commander in the staff corps of the United States Navy as indicated, subject to qualification therefor as provided by law:

CHAPLAIN CORPS

Latty, Allan R.
Palafox, Lorenzo J.

DENTAL CORPS

Mailander, Mark J.
Sobie, Richard F.

JUDGE ADVOCATE GENERAL'S CORPS

Nicks, Harold T.

Comdr. Donald D. Hutchings for temporary promotion to the grade of captain in the Medical Corps of the Reserve of the United States Navy, subject to qualification therefor as provided by law.

Lt. Comdr. Leonard S. Schultz for temporary promotion to the grade of commander in the Medical Corps of the Reserve of the United States Navy, subject to qualification therefor as provided by law.

The following named officers of the United States Navy for temporary promotion to the grade of lieutenant in the line and staff corps of the United States Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Alcorn Marion E.
Allison, George B.
Betschart, Bruce S.*
Burgess, James R.*
Connolly, James M.*
Consuegra, Albert R.
Curtin, Bruce E.*
Fowler, John D.*
Hampton, John J.
Henry, Charles E.*
Kerr, William G.*
Keyser, Larry L.*
Kohne, John E.
Larsen, Christopher S.*
Larsen, Thomas C.
Leininger, Mark E.
May, Stephen M.*
Miller, James E.*
Morrow, Richard J.
Nava, David*
Niebergall, Marc C.*
Palmatier, Robert J.*
Ray, James V., Jr.*
Reynolds, David H., II*
Rosemark Douglas J.*
Simpson, John P., III
Smith, Thomas B.*
Smith, Wayne E.*
Stone, Joseph R.*
Verstraete, Paul A.
Wedding Gregory L.
Wood, Joseph A., Jr.*

SUPPLY CORPS

Benson, Linwood E.
Boyce Thomas F.

CIVIL ENGINEER CORPS

Clinkingbeard, Terry A.*
Kennedy, Michael G.*
Uzarski, Donald R.*

MEDICAL SERVICE CORPS

Helm, Wade R.
Kish, Robert J.*
Monaco, William A.
Vasquez, Jesse H.*

NURSE CORPS

Bishop, Wayne F.
Boyle, Carey T.*
Christian, Tresa M. M.
Comte, Michele A.
Gallino, Alice A.*
Herzler, Ralph E., III
Mader, Suzan H.
Malich, Bernadette A.*
McDonald, Mitchel A.
McMullen, Suzanne T.*
Montmarquet, Donna M.
Myles, Linda C.
O'Donnell, Katherine G.*
Owen, Nancy J.
Rodriguez, Fe. E.
Steel, Barbara
Wayne, James F.*

---

*Indicates an interim appointment.

Lt. Comdr. Arvin L. Haukereid for temporary and permanent promotion to the grade of chief warrant officer W–4 of the United States Navy.

The following named women officers of the United States Navy, for permanent promotion to the grade of lieutenant in the line, subject to qualification therefor as provided by law:

Mitchell, Monika U.
Westfall, Susan J.

The following named officers of the United States Navy for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps of the United States Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Adams, James P., Jr.
Andersen, Richard E.
Anderson, William J.
Ackerman, John W.
Apodaca, Paul J.
Arnold, Charles D.
Artley, Fred C.
Atchison, Laurence J.
Attebury, Ervel E.
Baldwin, John B.
Bales, James L.
Barber, Richard D.
Barger, David L.
Barnett, Eben E. I.
Bauder, John T.
Beane, William L.
Beasley, Ronald L.
Biegler, Loren W.
Bullard, Bobby J.
Burris, William A.
Buzzell, Ralph C.
Calabrese, Geoffrey J.
Carawon, Bruce C.
Carpenter, Russell R.
Casper J. Kip
Chase, Bruce L.
Cherry, Stephen W.
Clayburn, Michael W.
Clements, David L.
Colman, Hubert E.
Comfort, Terrence J.
Conohan, Francis C.
Connell, James L.
Cooper, Charles W.
Crabtree, Richard E.
Crawford, George F.
Cumings, Kenneth W.
Davis, Levi
Blanchard, Tyrone R.
Bodine, Daniel L.
Boeckmann, Raymond J.
Book, Roy L.
Borner, Wesley F.
Boycourt, Ivon G.
Brandon, Earl L.
Branson, Jack R.
Brayman, Thomas E.
Breslin, Joseph J.
Brigman, William M.
Briley, Earl D.
Brittingham, Robert P.
Bromaghim, Ward M.
Brosh, Lawrence D.
Brown, Rex
Davis, William H.
Denam, Harvey E.
Dorso, John M.
Drane, Robert L.
Duran, Luis M.
Elger, Elroy B.
Enos, Russell W.
Estep, Alfred J.
Evans, James M.
Fenton, William C.
Ferguson, James H.
Fike, Delmas G.
Flamboe, Edward E.
Florida, Frank E.
Fluck, John D.
Fone, Raymond B.
Ford, Terrence J.
Fortier, Charles H.
Fortson, Frank S.
Free, James R. J.
Freegard, Sidney B.
Furst, David E.
Galen, Howard E.
German, William E.
Gibson, Walter
Gilbert, Melvin L.
Glidden, Eric S.
Godwin, Jackie E.
Grandlund, Richard
Greene, Ronald M.
Greer, Arthur W.
Gregoire, Normand L.
Greve, Kenneth R.
Grutta, Frank T.
Gschwend, David A.
Gulbrandson, Charles
Hafer, Larry E.
Hale, Roy G.
Hall, Randal R.
Hammontree, James D.
Hanley, Claude R.
Hanson, Clark R.
Heckel, Frederick R.
Heller, Richard B.
Henry, James P.
Higgins, Lloyd D.
Hill, Thomas G.
Hinen, Norman L.
Hinton, Herbert R.
Hoffman, Robert B.
Hogue, Charles W.
Honer, John G.
Hoover, Daniel L.
Hopkins, Michael R.
Hopkins, Raymond J.
Howard, John L.
Huckfeldt, Larry W.
Hulse, Reynold N.
Hurst, Ernest W.

Iannetta, John M.
Ireland, John A.
Jackson, James M.
James, Robert O.
Johnson, Lester
James, Robert O.
Johnson, Lester
Johnson, Patrick H.
Jones, Howard L.
Jones, Thomas E.
Jones, William P.
Judd, Michael R.
Justet, Patrick K.
Kaufman, David L.
Kearney, Thomas E.
Kelly, Herbert C.
Kemp, Alfred D.
Kenyon, Robert J.
Kerns, Harold E., Jr.
King, James R.
Kits, Joseph C.
Knapp, Frank C.
Kohn, Walter
Korbelik, Oakley A.
Kroeger, Daniel R.
Lane, James A.
Lapoint, John T.
Larson, Glenn K.
Layne, Claude R.
Little, David E.
Lowell, Robert O.
Lunt, Robert T.
Lynch, William A.
MacKenn, John F.
Maguire, Thomas F.
Mahaffey, Joseph W.
Malich, Thomas C.
Martin, Marion L.
Matthews, Julian T.
McConnell, Jerry C.
McKenzie, Thomas H.
McLeroy, Ronald J.
McNeal, Garrell R.
McPherson, Richard G
Meeks, Johnn D.
Mergen, William L.
Minnick, Hubert W.
Moore, Johnnie C.
Moore, Herman C., Jr.
Morris, Charles C.
Morris, Erwin C., Jr.
Moss, Curtis
Mow, Warren C.
Mundy, Merlin E.
Muse, Paul R., Jr.
Mustin, James O.
Nash, Ronald E.
Nims, George E., Jr.
Noha, Joseph P.
North, Albert L.
Odell, Joseph M.
Ovsak, Gary A.
Pattson, Gary D.
Parsons, Robert M.
Peters, Frank C.
Peyton, Michael T.
Phipps, Frank P.
Piccini, Peter G.
Pierce, Donald A.
Plimmer, Emmett L.
Poch, Richard R. S.
Poston, Charles B.
Powell, Ronald D.
Rasberry, John H.
Ray, David G.
Reed, Ralph G.
Richards, Daniel R.
Ritchie, Freddie W.
Roskoph, James E.
Ruddy, Charles L.
Rule, George G.
Runyan, Charles E.
Rutland, Roger W.
Safford, Russell M.
Sage, William R.
Saye, William A.
Schieber, William M.
Schmidt, William A.
Schulmeister, Arnold
Schultz, Edward J.
Schwartz, Gerald M.
Sheridan, Dennis D.
Shierling, Johnnie W.
Siar, Richard K.
Singleton, James L.
Slack, Robert H.
Scott, Gordon F.
Scott, Michael F.
Shriver, John M.
Shull, Kenneth G.
Sitton, William E.
Smith, Donald M.
Smith, Glenn L.
Snyder, Jerry M.
Sorensen, Ralph M.
Starnes, John H.
Steele, Terry S.
Steib, John F., Jr.
Stephens, Hugh L.
Stewart, William J.
Stolarz, Robert M.
Stuntz, Richard L.
Sulman, Bernard I.
Tanner, Marshall E.
Terrebrood, Gerald F.
Tindell, Joseph T.
Todd, Jerry L.
Treubel, Joseph T.
Vicek, Ralph M.
Wall, John
Wallace, Robert E.
Waller, Donald R.
Walthall, James E.
Weaver, Jimmie D.
Weavil, Richard L.
Werbiskkis, James J.
Whitehead, Charles E.
Wilhelm, Wallace W.
Wilson, James H.
Wise, Carlton J.
Woodbury, John S.
Zell, Ronald J.

SUPPLY CORPS

Bondurant, James P.
Brown, Robert A.
Pratt, Walter J.
Woodson, Bobby D.

CIVIL ENGINEER CORPS

Curtin, Timothy P.

MEDICAL SERVICE CORPS

Adams, Dennis L.
Anderson, Jerry T.
Ayers, James L.
Bennett, Alan H.
Bovasso, Peter.
Brodsky, Stephen M.
Brooks, David D.
Brown, William E.
Bruneile, David M.
Bubb, Ronald E.
Cesar, Niles C.
Crowell, John F.
Cruit, Carlton D.
Davis, Joe E.
Diamond, David
Dulaney, Jerry D.
Ebert, Thomas A.
Edgmon, Bobby R.
Eimers, Orin K.
Epps, Kenneth L.
Erichsen, Michael E.
Fox, Francis R.
Franklin, Kenneth W.
Fuchs, Kurt W.
Fudge, Gerald D.
Garnto, Sterling E.
Garrett, James M.
Glans, Dale C., Jr.
Goodloe, Murriel E.
Griswold, Lynn C.
Hall, James R.
Haslam, Garth S.
Hoffman, Stanley W.
Holm, Dale L.
Johnson, Ronald A.
Kulcsar, Theron A.
Lee, Eddie A.
Libby, Earle S.
McCoy, Wendel T.
McGinn, Charles F.
McIndoe, Bruce H.
Miller, Stanley C.
Otlowski, Richard.
Pariseau, Royle J.
Poppell, Gorrdon H.
Powell, Cecil D.
Rasnick, Lannes B.
Schnable, Robert M.
Shannon, Patrick A.
Soliday, James E.
Thayer, Jon E.
Vaughn, Charles D.
Wilder, Thomas W.
Wright, James A.

IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Adams, Paul D.
Dawson, Ralph D.
Donnelly, Leo M.
Flanagan, John S., II.
Fuller, Thomas M.
Joutros, Joseph E.
Loftis, Tracy K.
McCaffrey, James F.
Redman, James M.
Sisson, Glen E.
Suddarth, Margaret J.
Wood, David W.

HOUSE OF REPRESENTATIVES—*Wednesday, June 2, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the words of my mouth and the meditations of my heart be acceptable in Thy sight, O Lord, my Strength and my Redeemer.—Psalms 19: 14.

Almighty God, our Heavenly Father, as we begin the life of another day we come to Thee praying for guidance, strength and wisdom that we may be true to our faith, faithful in our tasks, and loyal to the royal within ourselves.

We know not what this day may bring forth, what burdens we may have to carry, what tests we may have to meet, or what temptations we may have to resist. Give us wisdom, courage, and strength to do what is right and good for us, for others, and for all.

Breathe Thy spirit into our hearts that we may seek to understand one another, to forgive one another, and to love one another. Thus may we learn the fine art of speaking good, the finer art of doing good, and the finest art of all, being good.

Bless the King of Spain who visits us today and graciously lead his people to a greater life together. May his country and ours learn to be one in mind and spirit as we seek a better world for all.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CALL OF THE HOUSE

Mr. MORGAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 321]

Abzug
Andrews, N.C.
Badillo
Bell
Boggs
Boland
Brademas
Breaux
Carney
Chappell
Clausen, Don H.
Clawson, Del
Collins, Tex.
Conlan
Conyers
Derwinski
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Edwards, Calif.
Esch
Eshleman
Ford, Mich.
Fraser
Giaimo
Hansen
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Hicks
Hinshaw
Jarman
Jones, Tenn.
Karth
Kastenmeier
Kemp
Krebs
Krueger
LaFalce
Leggett
Lujan
McKinney
Matsunaga
Metcalfe
Meyner
Mikva
Mills
Moorhead, Pa.
Mosher
Murphy, N.Y.
Neal
Passman
Poage
Rangel
Rees
Rhodes
Risenhoover
Rose
Shuster
St Germain
Stanton, James V.
Stephens
Stokes
Stuckey
Teague
Thompson
Udall
Waxman
Young, Ga.

The SPEAKER. On this rollcall 359 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to meet under the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RECESS

The SPEAKER. Pursuant to the order of the House of Wednesday, May 19, 1976, the House will stand in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY KING JUAN CARLOS I OF SPAIN

The SPEAKER of the House presided.

The Doorkeeper (Hon. James T. Molloy) announced the Acting President pro tempore (Mr. MAGNUSON) and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Acting President pro tempore taking the chair at the left of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to conduct the King of Spain into the Chamber the gentleman from Massachusetts (Mr. O'NEILL), the gentleman from California (Mr. MCFALL), the gentleman from California (Mr. PHILLIP BURTON), the gentleman from Pennsylvania (Mr. MORGAN), the gentleman from Illinois (Mr. MICHEL), the gentleman from Illinois (Mr. ANDERSON), and the gentleman from Michigan (Mr. BROOMFIELD).

The ACTING PRESIDENT pro tempore. Pursuant to the order of the Senate, the Chair appoints as members of the committee on the part of the Senate to accompany His Majesty, Juan Carlos I, King of Spain, into the House Chamber the Senator from Montana (Mr. MANSFIELD), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. HATHAWAY), the Senator from North Dakota (Mr. YOUNG), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Vermont (Mr. STAFFORD), the Senator from New Jersey (Mr. CASE), and the Senator from New Mexico (Mr. DOMENICI).

The Doorkeeper announced the ambassadors, ministers, and chargés d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 12 o'clock and 35 minutes p.m., the Doorkeeper announced His Majesty, Juan Carlos I, King of Spain.

Juan Carlos I, King of Spain, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor to present to you the sovereign leader of a great and friendly nation, His Majesty, Juan Carlos I, the King of Spain.

[Applause, the Members rising.]

HIS MAJESTY. Mr. Speaker, Mr. Acting President, Members of Congress, I am deeply honored to have been invited to speak to the Congress of the United States of America and, through you, to the people whom you represent.

Let me begin by talking about the past of our two countries and then proceed to examine the present and the future.

Two hundred years ago a system of public life was brought forth upon this land which you have preserved with faith so that it has come down intact to this very day. Its philosophy, inspired in the respect for the liberty of man and the sovereignty of the people, gave life and form to your Nation, whose foundation you and we, and all the other nations who are your friends, celebrate this year. On the occasion of your Bicentennial I extend to you, in the name of the people of Spain, our profound wishes for the happiness of the people of the United States and for a long and prosperous life for your Nation.

Spain cannot be indifferent to events on the American Continent. Spain discovered it and brought to it, from 1492 on and throughout the centuries, her own sons and daughters, the Christian faith, the Spanish language, European forms of life and thought, and a radical concept of the essential equality of mankind which inspires the laws of the Indies that my predecessors decreed.

This Spanish conception of the dignity of the human person, set forth by our theologians and lawgivers in respect to the American Indian, changed forever the concept of the law of nations and laid the foundation for modern international law.

A Queen of Castilla, Isabela, from whom I directly descend, with her profound feminine instincts named an unknown but expert navigator, Cristóbal Colón, as Admiral of the Spanish Fleet so that he could turn his dreams into reality. The ships of Spain found America which was waiting for them, waiting to enter fully into history and to become in a few centuries an extraordinary protagonist of human destiny.

As the first King of Spain to visit the United States, I would like to pay tribute to the Spanish pioneers of the 16th century, who in less than 50 years explored in their fragile, primitive ships all the Atlantic coast of North America from the Rio Grande to Cape Breton. They also explored a great part of the Pacific Coast, from California to southern Oregon, and, afterward, crossed the ocean to Hawaii.

Along with these navigators, I must single out as well other pioneers who, in even briefer time, walked the lands of 16 of what are now States of your Union, going inland as far as Nebraska, Kansas, and Missouri. They became the first men from the Old World to gaze in awe at the Grand Canyon of the Colorado and the first to reach the banks of the Mississippi.

These men did not enrich themselves, nor did they, in fact, enrich the Crown of Spain. Many lost their lives in the enterprise, exhausted by illness which was compounded by the rigors of nature; illusions at times fantastic, that animated them also served to destroy them. But their enterprise signified something more than a dream or an adventure, because their efforts served the good of mankind. They contributed to breaking the confines of the continents, in which men lived separated by impenetrable geography. They served man's destiny in breaking down these barriers of nature. This same force, in our century, has brought others, gifted with modern technology, to launch themselves into the exploration of space.

Today we render homage to the birth of the United States of America, to the independence you proclaimed in the Congress of Philadelphia 200 years ago. This homage cannot be limited to a few ceremonial phrases, for it has profound historic roots which rest on the common experiences in which our two nations have participated.

Word of the Congress of Philadelphia found immediate resonance in Spain. I shall make my own the words of one Spanish newspaper El Mercurio Universal which commenting on that historic occasion in January 1776 said:

> The striking description of their complaints and grievances, the spirit of concord and maturity reigning in their Congress, the forceful determination with which they unanimously manifest their resolution in the face of all danger . . . all this makes respectable their resistance and their just claims.

In 1776 the Spanish monarchy extended over immense territories of the American continent, yet still maintained the rhythm of expansion. In the same year of the Declaration of Independence Spaniards founded the city of San Francisco. Even as the societies of Spanish America were undergoing important transformations, the Spanish Government reorganized its defensive and diplomatic establishment, it recognized the state of belligerency of your Thirteen Colonies and proceeded to exchange with them special diplomatic missions.

In the first years of the Revolution before Spain entered the war, Spain gave effective aid and logistical support to the Colonies. Spain sent help in the form of military equipment, clothing, medicines, and money and let American ships use Spanish Caribbean ports. Besides this direct aid, the indirect assistance represented by the growing military preparations of Spain came to assume great importance.

In September of 1777, after the surrender of Saratoga, Spain wished to avoid direct confrontation with Great Britain and sought to act as mediator, in an effort to assure the independence of the United States. When this failed, Spain at last entered the war. In that war she would try, among other things, to recover Gibraltar.

The conquest of the Port of Mobile and, above all, the taking of Pensácola by Bernardo de Gálvez, in May of 1781, marked the triumph of the North Americans in Florida and in the Gulf of Mexico. And the victory at Pensacola foreshadowed the decisive victory at Yorktown in October of that year. The Spanish at Havana also played a part in the success at Yorktown, sending economic resources to help sustain the campaign.

Soon peace consecrated the fruits of an allied victory. As a result, the United States and Spain became neighbors. And we signed a treaty on October 27, 1795. Article 1 read:

> There shall be solid and unbreakable peace and sincere friendship between his Catholic Majesty, his successors and subjects and the United States and its citizens, without exception as to persons or places.

What united our two nations, once your independence was assured, were not only the help in war and the peaceful relations between us. My country feels itself linked to the formation of the great American Nation by the elements of Spainish culture that have been conserved and integrated, sometimes with strain and difficulty, into many States of the Union.

The map of the United States is full of hundreds of Spanish names, beginning with the city of Saint Augustine, founded in 1555, the city you consider the oldest in the Union. All these names recall for us a history that extends far back in time, one different from now. But nonetheless it was a significant expression of the early linkage the historical roots of our two nations, whose destinies converge again in our days and look toward the future of a world that must be forged by all free nations.

We, Spaniards, also understand that the integration of disparate elements into a national unity gave rise to problems that are not easy to solve. Spain was formed, over many centuries out of elements of the Iberian, Celtic, Roman, and Germanic cultures. And in the Middle Ages Spain was a conflictive crucible of men and cultures, Moslem, Jewish, and Christian, whose synthesis, however, has left an everlasting impress on our nation. But what has always mattered is the central thread of national unity.

For the people of the United States, the generous spirit of liberty that has inspired your laws and your most eminent statesmen as well as the exemplary fidelity to your ideals that has always distinguished your nation, hold the key to a future of growing concord and noble accomplishment.

Mr. Speaker, Mr. Acting President, Members of Congress, the King of Spain today is a chief of state of a modern nation of 36 million people. This people respect its tradition, and look toward the future with optimism and faith. Spain today is a nation of young people. Two-thirds of us are under 40 years of age. We are an old race, but, at the same time, a new people, dynamic, energetic, austere, and hard-working. Through an immense effort at development over the last decades, the national economy underwent a profound transformation. We have become an industrial power, the tenth in the world. A cultural explosion filled our schools and universities and generally brought the technical competence of our workers and professionals up to that of the rest of Western Europe.

The evolution of our society has not spared us from tensions, difficulties, setbacks, and even violence. We suffer from the same crisis that affects the rest of the world. That is to say, unemployment, inflation, shrinking demand and high production costs figure among the highest concerns of the government. But there is no obstacle that can prevent our community from pushing ahead, working toward the creation of a society more and more prosperous, just, and authentically free.

The Spanish Monarchy has committed itself from the first day to be an open institution, one in which every citizen has full scope for political participation without discrimination of any kind and without undue sectarian or extremist pressures. The Crown protects the whole people and each and every one of its citizens, guaranteeing through the laws and by the exercise of civil liberties the rule of justice.

The monarchy will insure, under the principles of democracy, that social peace and political stability are maintained in Spain. At the same time the monarchy will insure the orderly access to power of distinct political alternatives, in accordance with the freely expressed will of the people.

The monarchy symbolizes and maintains the unity of our Nation, the free result of the will of uncounted Spanish generations, and at the same time the fruit of a rich variety of peoples and regions, in which we take pride.

We will see to it that the monarchy reinforces the sense of family and of the value of work in our daily lives, promotes the assimilation of our history by our younger generations, and gives a new purpose and a new leadership to the society of our times.

The monarchy, linked from the beginning to national independence, will watch over its preservation. Spain does not admit foreign intervention or pressure. The cooperation with the other countries of the world, which Spain so vividly desires, will take place amid profound respect for sovereignty and national dignity.

Mr. Speaker, Mr. Acting President, Members of Congress, Spain assumes decisively her role in the international structure. Situated in a strategic place of the first magnitude, between the Atlantic and the Mediterranean, we are disposed to place every effort toward the maintenance of peace, of security and of liberty in this important region, vital to us. The people of Spain, I should add, aspire to the decolonization of Gibraltar and to its peaceful reincorporation into the national territory.

Spain is a part of Europe, and as such, we signed the Declaration of Helsinki on Security and Cooperation in Europe. The principles of this declaration inspire our policy relative to the European continent and our efforts to maintain peaceful and fruitful relations with all states. At the same time, Spain wishes to reinforce its relations with the European communities, looking toward eventual integration in them.

Spain is closely linked, because of its situation and history, to the people of North Africa. For her part, Spain has taken the necessary measures so that the decolonization of Western Sahara could take place in peace and harmony. From now on, Spain will make every effort to increase its cooperation with the states of North Africa on behalf of peace and development in the region.

Insofar as the Americas are concerned, the intimate and indestructible ties are well known that link Spain with the nations of the hemisphere of her same family and language, in which they still term her the "Madre Patria." I wish to pay homage before you to the independent nations of Spanish America, those nations whom you call the sister republics of the Americas, and whom I, as a Spaniard, also call sister nations. Spain will always make a generous effort in whatever it can do to contribute to the well-being and progress of these peoples of our same family.

The tradition of cooperation between Spain and the United States has been maintained in defensive arrangements, in being since 1953, on behalf of the protection of the values of our Western civilization. The "Founding Fathers" in Philadelphia, in their imperishable Declaration of Independence and in the Constitution established a democratic system to preserve human liberty and founded a government on the consensus of the governed. But your Founding Fathers also did not forget to point out that it is necessary for a democratic government to be strong and secure, otherwise it could not serve the general interest. You, and we, know quite well what dangers today menace liberty, and for that reason we are prepared to defend it. The sharing with the United States, through ties of strict sovereign reciprocity, of security responsibilities, will always command our preferent attention.

The spirit of enterprise, decision and adventure of the American pioneers, the deep religious faith of the first settlers, and that youthful impulse toward liberty and equality, which set the democratic foundation of a community based on free and rational discussions of its own affairs, were capable of integrating men of the most varied origins into a great nation. They have forged your Nation along the lines of a genuine ideal of liberty. This spirit and these ideals are clearly recognized by us and have a vigorous attraction in my country, where they find a profound and permanent echo.

Freedom is essential for man and for his individual fulfillment. It is an unequaled stimulus for his economic and social progress and for his cultural development. Liberty, above all, is a spiritual good to be cherished and defended. All liberty like all power, comes from God. In affirming today, with humility and simplicity, as your own forefathers did, faith in God, I ask his blessing for your leaders, for your people, and for the noble Nation of the United States of America.

[Applause, the Members rising.]

At 1 o'clock and 3 minutes p.m., the King of Spain, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper (Hon. James T. Molloy) escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Ambassadors, Ministers, and Chargé d'Affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

The Members of the Senate retired to their Chamber.

The SPEAKER. The House will continue in recess until 1 o'clock and 45 minutes p.m. today.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. McFALL) at 1 o'clock and 45 minutes p.m.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On May 27, 1976:

H.R. 8957. An act to raise the limitation on appropriations for the United States Commission on Civil Rights; and

H.R. 12216. An act to amend the Domestic Volunteer Service Act of 1973 to further extend the operation of certain programs by the ACTION Agency.

On May 28, 1976:

H.R. 7656. An act to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products.

On May 29, 1976:

H.R. 2279. An act for the relief of Mrs. Louise G. Whalen;

H.R. 8089. An act to amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business;

H.R. 11619. An act to authorize further appropriations for the Council on Environmental Quality; and

H.R. 12527. An act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes.

On May 31, 1976:

H.R. 5272. An act to amend the Noise Control Act of 1972 to authorize additional appropriations; and

H.R. 9721. An act to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

On June 1, 1976:

H.R. 13172. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ANNOUNCEMENT OF SPECIAL ORDER IN TRIBUTE TO THE LATE HONORABLE TORBERT H. MACDONALD

(Mr. BOLAND asked and was given permission to address the House for 1 minute.)

Mr. BOLAND. Mr. Speaker, I take this time to announce to the House that I have reserved a special order at the close of regular business on Wednesday, June 9, 1976, in tribute to our late distinguished colleague from Massachusetts the Honorable Torbert H. Macdonald.

CALL OF THE HOUSE

Mr. GRASSLEY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. SLACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 322]

Anderson, Ill.
Archer
Ashley
Bell
Bergland
Boggs
Brademas
Breaux
Burke, Calif.
Burke, Mass.
Burton, Phillip
Carney
Cederberg
Chisholm
Clawson, Del
Cochran
Conlan
Conyers
Corman
Diggs
Dingell
Dodd
Downing, Va.
Esch
Ford, Mich.
Giaimo
Hansen
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Hefner
Helstoski
Hicks
Hinshaw
Horton
Howard
Jarman
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kemp
Leggett
Lujan
Lundine
McCormack
McKinney
Matsunaga
Meyner
Murphy, N.Y.
Neal
Nichols
O'Neill
Patterson, Calif.
Poage
Rees
Rhodes
Rooney
Schneebeli
Stanton, James V.
Stephens
Stokes
Stuckey
Thompson
Thornton
Udall
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.

The SPEAKER pro tempore (Mr. McFALL). On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 4, 1976, TO FILE A REPORT, ALONG WITH SEPARATE OR MINORITY VIEWS, ON H.R. 14114

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Friday, June 4, 1976, to file a report, along with any separate or minority views, on H.R. 14114, a bill to increase the temporary debt limit, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT SATURDAY, JUNE 5, 1976, TO FILE REPORT ON H.R. 14070

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight Saturday, June 5, 1976, to file the committee report on H.R. 14070, as amended, to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

Mr. MORGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13680) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MORGAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13680, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, May 19, 1976, the bill had been read through line 4, page 1.

Mr. MORGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as you will recall we had debated at some length, the general provisions of H.R. 13680 on May 19, before the House was adjourned and consideration of this bill was delayed until today.

I will just summarize briefly that this bill is a compromise with the President in response to his veto of S. 2662. In it, we have retained what the committee considers to be the essential reforms contained in S. 2662, while making some adjustments to what we considered to be the most valid of the President's objections.

This bill which we resume consideration of today, is a good bill, a reasonable compromise, and guarantor of peace in many regions of the world.

I hope that the House can speedily

complete action on this bill so that we can finally put this bill into the statute books, where it should have been some time ago.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, since there has been an unfortunate delay in consideration of this measure, let me refresh the Members' recollection at this point.

When the original bill was vetoed by the President, he made it clear that it was because of the imposition of restraints, by Congress, on his responsibilities to conduct foreign policy. The bill before us meets some, but not all, of the President's objections.

Let me now emphasize what is not in controversy. The basic funding in the bill is not a major controversy except for the annual ceiling of $9 billion on defense articles and services which may be sold by the U.S. Government or commercial entities. Fiscal year 1977 authorizations are basically acceptable to all concerned. We all support the relief and rehabilitation assistance to the victims of war in Cyprus and Lebanon and of natural disasters in Italy.

The prohibition of certain military transfers to Turkey remains. Thus, no grant military assistance may be provided Turkey unless and until the President determines that Turkey is in compliance with the Foreign Assistance Act, the Foreign Military Sales Act, and any agreements entered into under such acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus.

The committee increased the authority for aid to Cyprus refugees because of the continuing problem on that island. In a separate section, the committee increased authority for Greece and this is not at issue.

The assistance and sales to Israel is not at issue. Many factors have combined to help create serious economic problems for Israel which emphasizes the need for outside assistance. Prior to the 1973 Middle East war, Israel was able to provide almost all of its defense needs from its own resources. However, losses suffered during that war coupled with worldwide inflation, increases in petroleum prices, continued need for partial mobilization and defense preparedness, and the increased dependence upon imported oil as a result of the recently concluded Sinai agreement are the major reasons for Israel's need of outside assistance.

Forgiveness of the contractual liability to repay half the earmarked sales will help Israel maintain an effective military force capable of protecting its territorial integrity.

To meet its economic problems and to insure an adequate defense establishment, Israel designates 40 percent of its budget for defense and 20 percent for debt servicing. Israel is making substantial sacrifices and has had an austerity budget for some time. This program calls for reduced imports and increased taxes. Any increase in taxation will be particularly difficult since the Israeli people are already among the most heavily taxed in the world.

We all recognize that peace and stability in the Middle East are in the best interest of the United States and of the Free World.

An economically and militarily strong Israel is necessary to meet that requirement and to provide an environment in which progress toward a negotiated settlement of the Arab-Israeli conflict will become possible.

Israel is determined and able to carry the main burden of its own defense, and is using its human and financial resources effectively and efficiently. However, it is facing states with increasing quantities of spohisticated arms financed by large oil revenues flowing to the Arab world. Our continued commitment to Israel's security and survival gives reason for our assisting Israel as best we can to preserve its defense position and meet its defense requirements.

The arbitrary termination of the grant military assistance program is most unwise in my judgment. The major issue is the Fraser amendment, section 413, which is an ill-advised amendment affecting the Republic of Korea.

The CHAIRMAN. The Clerk will now read title I.

The Clerk read as follows:

TITLE I—MILITARY ASSISTANCE PROGRAM

AUTHORIZATION

SEC. 101. Section 504(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There is authorized to be appropriated to the President to carry out the purposes of this chapter $196,700,000 for the fiscal year 1976 and $209,000,000 for the fiscal year 1977. Not more than the following amounts of funds available for carrying out this chapter (other than funds appropriated under section 507 of the International Security Assistance and Arms Export Control Act of 1976) may be allocated and made available to each of the following countries for such fiscal years:

Country	Fiscal year—	
	1976 amount	1977 amount
Greece	$31,000,000	$33,000,000
Indonesia	13,000,000	19,400,000
Jordan	50,000,000	70,000,000
Republic of Korea	55,000,000	8,300,000
Philippines	17,000,000	19,600,000
Thailand	16,000,000	20,000,000
Turkey	31,000,000	50,000,000
Ethiopia	6,000,000	11,700,000

The amount specified in this paragraph for military assistance to any such country for fiscal year 1976 or for fiscal year 1977 may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this chapter.

"(2) Not to exceed $6,000,000 of the funds available for fiscal year 1976 to carry out the purposes of this chapter, and not to exceed $3,700,000 of the funds available for fiscal year 1977 to carry out the purposes of this chapter (other than funds appropriated under section 507 of the International Security Assistance and Arms Control Act of 1976), may be used to provide assistance to international organizations and, subject to the limitations contained in paragraph (3), to countries which are not designated in paragraph (1).

"(3) Funds made available for assistance under this chapter may not be used to furnish assistance to more than 20 countries (including those countries designated in paragraph (1)) in fiscal year 1976. Funds available for assistance under this chapter (other than funds appropriated under section 507 of the International Security Assistance and Arms Export Control Act of 1976) may not be used to furnish assistance to more than 12 countries (including those countries designated in paragraph (1)) in fiscal year 1977.

"(4) The authority of section 610(a) and of section 614(a) may not be used to increase any amount specified in paragraph (1) or (2). The limitations contained in paragraphs (1), (2), and (3) shall not apply to emergency assistance furnished under section 506(a).

"(5) There is authorized to be appropriated to the President, for administrative and other related expenses incurred in carrying out the purposes of this chapter, $32,000,000 for the fiscal year 1976 and not to exceed $70,000,000 for the fiscal year 1977.

"(6) None of the funds appropriated under this subsection shall be used to furnish sophisticated weapons systems, such as missile systems or jet aircraft for military purposes, to any less developed country not specified in paragraph (1) unless the President determines that the furnishing of such weapons systems is important to the national security of the United States and reports within thirty days each such determination to the Congress.

"(7) Amounts appropriated under this subsection are authorized to remain available until expended.

"(8) Assistance for Turkey under this chapter shall be subject to the requirements of section 620(x) of this Act".

SPECIAL AUTHORITY

SEC. 102. Section 506(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) If the President first determines and reports to Congress in accordance with section 652 of this Act—

"(A) that an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization;

"(B) that a failure to respond immediately to that emergency will result in serious harm to vital United States security interests; and

"(C) that the emergency requirement cannot be met under authority of the Arms Export Control Act or any other law except this section;

he may order defense articles from the stocks of the Department of Defense and defense services for the purposes of this part, subject to reimbursement from subsequent appropriations made specifically therefor under subsection (b).

"(2) The total value of defense articles and defense services ordered under this subsection in any fiscal year may not exceed $67,500,000. The authority contained in this subsection shall be effective in any fiscal year only to the extent provided in an appropriation Act.

"(3) The President shall keep the Congress fully and currently informed of all defense articles and defense services ordered under this subsection.".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 103. Section 514 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 514. STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES.—(a) No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Arms Export Control Act, or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, 'value' means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

"(b) (1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount greater than is specified in security assistance authorizing legislation for that fiscal year.

"(2) The value of such additions to stockpiles in foreign countries shall not exceed $75,000,000 for the fiscal year 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $125,000,000 for the fiscal year 1977.

"(c) Except for stockpiles in existence on the date of enactment of the International Security Assistance and Arms Export Control Act of 1976 and for stockpiles located in countries which are members of the North Atlantic Treaty Organization, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"(d) No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess defense article for the purpose of determining the value thereof.

"(e) The President shall promptly report to the Congress each new stockpile, or addition to an existing stockpile, described in this section of defense articles valued in excess of $10,000,000 in any fiscal year.".

TERMINATION OF MILITARY ASSISTANCE ADVISORY GROUPS AND MISSILES

SEC. 104. Section 515 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "Effective July 1, 1976," and inserting in lieu thereof "(a) During the period beginning July 1, 1976, and ending September 30, 1977,"; and

(2) by adding at the end thereof the following new subsections:

"(b) (1) After September 30, 1977, no military assistance advisory group, military mission, or other organization of United States military personnel performing similar military advisory functions under this Act may operate in any foreign country unless specifically authorized by the Congress.

"(2) The President may assign not more than three members of the Armed Forces of the United States to the Chief of each United States Diplomatic Mission to perform such functions as such Chief of Mission determines necessary with respect to international military education and training provided under chapter 5 of this part, to sales of defense articles and services under the Arms Export Control Act, or to such other international security assistance programs as the President may designate. After September 30, 1977, no such functions or related activities may be performed by any defense attachés assigned, detailed, or attached to the United States Diplomatic Mission in any foreign country.

"(c) After September 30, 1976, the number of military missions, groups, and similar organizations may not exceed 34.

"(d) As used in this section, the term 'military assistance advisory group, military mission, or other organization of United States military personnel performing similar military advisory functions under this Act' does not include regular units of Armed Forces of the United States engaged in routine functions designed to bring about the standardization of military operations and procedures between the Armed Forces of the United States and allies of the United States.".

TERMINATION OF AUTHORITY TO FURNISH GRANT MILITARY ASSISTANCE

SEC. 105. Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 516. TERMINATION OF AUTHORITY.—(a) Except to the extent that the Congress may, subsequent to the enactment of this section, authorize the furnishing of military assistance in accordance with this chapter to specified countries in specified amounts, the authorities contained in this chapter (other than the authorities contained in sections 506, 514, and 515(b)(2)) may not be exercised after September 30, 1977, except that such authorities shall remain available until September 30, 1980, to the extent necessary to carry out obligations incurred under this chapter on or before September 30, 1977.

"(b) Funds available to carry out this chapter shall be available notwithstanding the limitations contained in paragraphs (2) and (3) of section 504(a) of this Act—

"(1) for the winding up of military assistance programs under this chapter, including payment of the costs of packing, crating, handling, and transporting defense articles furnished under this chapter and of related administrative costs; and

"(2) for costs incurred under section 503 (c) with respect to defense articles on loan to countries no longer eligible under section 504(a) for military assistance.".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 106. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"Chapter 5—International Military Education and Training

"SEC. 541. GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this Act as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and related civilian personnel of foreign countries. Such training and education may be provided through—

"(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad; and

"(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

"(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

"SEC. 542. AUTHORIZATION.—There are authorized to be appropriated to the President to carry out the purposes of this chapter $27,000,000 for the fiscal year 1976 and $30,200,000 for the fiscal year 1977. After June 30, 1976, no training under this section may be conducted outside the United States unless the President has reported and justified such training to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

"SEC. 543. PURPOSES.—Education and training activities conducted under this chapter shall be designed—

"(1) to encourage effective and mutually beneficial relations and increased understanding between the United States and foreign countries in furtherance of the goals of international peace and security; and

"(2) to improve the ability of participating foreign countries to utilize their resources, including defense articles and defense services obtained by them from the United States, with maximum effectiveness, thereby contributing to greater self-reliance by such countries.".

(b) The Foreign Assistance Act of 1961 is amended as follows:

(1) Section 510 is repealed.

(2) Section 622 is amended—

(A) in subsection (b) by inserting "and military education and training" immediately after "(including civic action)"; and

(B) by amending subsection (c) to read as follows:

"(c) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.".

(3) Section 623 is amended—

(A) in subsection (a)(4) by inserting "and related civilian" immediately after "military"; and

(B) in subsection (a)(6) by inserting ", education and training" immediately after "assistance".

(4) Section 632 is amended—

(A) in subsections (a) and (e) by inserting ", military education and training" immediately after "articles" wherever it appears; and

(B) in subsection (b) by striking out "and defense articles" and inserting in lieu thereof ", defense articles, or military education and training".

(5) Section 636 is amended—

(A) in subsection (g)(1) by inserting ", military education and training" immediately after "articles"; and

(B) in subsection (g)(2) and in subsection (g)(3) by striking out "personnel" and inserting in lieu thereof "and related civilian personnel".

(6) Section 644 is amended—

(A) by amending subsection (f) to read as follows:

"(f) 'Defense service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under chapter 5 of part II."; and

(B) by adding at the end thereof the following new subsection:

"(n) 'Military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.".

(c) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified, revoked or superseded by appropriate authority.

(d) Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable to those purposes or in accordance with the provisions of law currently applicable to those purposes.

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TECHNICAL AMENDMENTS OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I offer technical amendments to title I.

The Clerk read as follows:

Amendments offered by Mr. Morgan: Page 3, line 3, strike out "made"; in line 20, strike out "00,000" and insert in lieu thereof "000,000"; and also in line 20, strike out "not to exceed".

Page 4, line 9, insert a period immediately before the closing quotation mark.

Mr. MORGAN. Mr. Chairman, these amendments are simply to correct printing errors and some other minor mistakes.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. Morgan).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. HAMILTON

Mr. HAMILTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hamilton: On page 6 strike out in lines 13, 14, and 15 the phrase "shall not exceed $75,000,000 for the fiscal year 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976" and insert in lieu thereof the phrase "shall not exceed $93,750,000 for the period beginning July 1, 1975, and ending September 30, 1976".

Mr. HAMILTON. Mr. Chairman, this is a technical amendment which does not add any money to the bill nor does it increase the ceiling on stockpiling of war reserves for fiscal year 1976 and the interim quarter.

The amendment simply combines the ceilings to insure that the authority to add $75 million to the stockpiles in fiscal year 1976 can be used.

This amendment is necessary because by the time the bill becomes law there will not be enough time left in fiscal year 1976 to add to the stockpiles overseas where they are needed.

There is no substantive change in the committee bill.

Mr. Chairman, I move adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Hamilton).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALLEN

Mr. ALLEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Allen: That all language following line 8, on page 1, shall be stricken with the exception of the following, which shall be renumbered accordingly:

Beginning with line 9, page 71, and continuing through line 2, page 72; and

Beginning with line 14, page 28, through line 7, page 30, but any provisions relating to any country other than Israel shall be stricken; and

Beginning with line 11, page 73, and continuing through line 13, page 75, but any provisions therein relating to any country other than Israel shall be stricken, and then continuing from line 14, page 75, through line 4, page 87, and from line 13, page 87, through line 2, page 88.

Mr. ALLEN. Mr. Chairman, I offer this substitute amendment to the provisions of H.R. 13680. I fully support the two provisions of this bill which would provide aid for the victims of earthquake devastation in Italy, and people who may become victims of national disasters, and which would furnish aid to the nation of Israel. I hope I will be able to vote for both of them.

But, Mr. Chairman, I cannot in good conscience support the other vast military aid and foreign give-away programs which are included in this bill. I simply do not believe that this kind of massive military aid and give-away gratuities to other foreign nations is conducive to the peace of the world.

Recent history clearly shows that this country, time and again, has sent military aid to repressive regimes in other countries, to countries who war on their neighbors with our monetary encouragement. I simply do not believe this is wise.

The foolishness and indefensibility of our posture was brought home to me this morning in a meeting of the Veterans' Affairs Committee, of which I am a member.

In that meeting, we were advised that there was no money in the budget to continue our programs for the education of our own veterans, even for those who are already enrolled. Yet here we are, today, considering the authorization of a vast military assistance and give-away program for nations around the world.

Mr. Chairman, it is time for us to rethink our priorities. When it comes to the nation of Israel, however, we must remember that that country has a unique history and it was a unique creation. We helped give it birth, and we pledged our support for its people who have been hounded and persecuted across the face of the Earth through much of recorded history as they sought to establish a homeland much the same as our forefathers sought a home in the American wilderness. I, for one, intend to keep that pledge. But until we reorder our priorities so that we can continue the education of our own veterans and initiate programs to bring employment to our own people, we have no business squandering the wealth of this country in massive military aid and give-away of our own taxpayer's money for other nations.

Mr. Chairman, I offer this amendment by way of a substitute to this bill which would preserve aid for devastated Italy, and which would honor our commitment to Israel, but which would cut back our foreign aid program and take us out of the unsavory business of worldwide military assistance.

POINT OF ORDER

Mr. MORGAN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MORGAN. Mr. Chairman, this amendment goes beyond the title. The amendment amends sections of the bill that have not been read yet and are not open for amendment.

The CHAIRMAN. Does the gentleman from Tennessee (Mr. Allen) wish to be heard on the point of order?

Mr. ALLEN. Yes, I do, Mr. Chairman.

Mr. Chairman, this amendment admittedly is in the form of a substitute for the bill now under consideration.

It would, indeed, change the whole purport and thrust of the bill from beginning to end and would cut the authorized expenditures down to about $4 billion instead of close to $8 billion. It would amend almost all of the sections set out in the bill.

Mr. Chairman, if this is not the proper time to offer a substitute, I will offer it at a later time if the Chair so rules.

The CHAIRMAN. The Chair is prepared to rule.

The Chair informs the gentleman from Tennessee (Mr. Allen) that because his amendment goes beyond title I, it is not in order at this time.

Therefore, the point of order of the gentleman from Pennsylvania (Mr. Morgan) is sustained.

Mr. ALLEN. I thank the Chair.

The CHAIRMAN. Are there further amendments to Title I?

If not, the Clerk will read Title II.

The Clerk read as follows:

TITLE II—ARMS EXPORT CONTROLS

CHANGE IN TITLE

Sec. 201. (a) The first section of the Foreign Military Sales Act is amended by striking out "The Foreign Military Sales Act" and inserting in lieu thereof "the 'Arms Export Control Act".

(b) Any reference to the Foreign Military Sales Act shall be demed to be a reference to the Arms Export Control Act.

ARMS SALES POLICY

Sec. 202. (a) Section 1 of the Foreign Military Sales Act is amended by striking out the last paragraph and inserting in lieu thereof the following new paragraphs:

"It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

"It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of ths policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall cosider measures to limit conventional arms transfers in the interest of international peace and stability.".

(b)(1) The President shall conduct a comprehensive study of the arms sales policies and practices of the United States Government, including policies and practices with respect to commercial arms sales, in order to determine whether such policies and practices should be changed. Such study shall examine the rationale for arms sales to foreign countries, the benefits to the United States of such arms sales, the risks to world peace as a result of such arms sales, trends in arms sales by the United States and other countries, and steps which might be taken by the United States to provide for limitations on arms sales. In addition, such study shall include an evaluation of the impact of United States arms sales policies on the economic and social development of foreign countries and consideration of steps which might be taken by the United States to encourage the maximum use of the resources of the developing countries for economic and social development purposes.

(2) Not later than the end of the one-year period beginning on the date of enactment of this section, the President shall submit to the Congress a report setting forth in detail (A) the findings made and conclusions reached as a result of the study conducted pursuant to paragraph (1) of this subsection, together with such recommendations for legislation as the President deems appropriate, (B) the efforts made by the United States during the five years immediately preceding the submission of such report to initiate and otherwise encourage arms sales limitations, and (C) the efforts being made by the United States at the time of the submission of such report to initiate and otherwise encourage arms sales limitations in accordance with the policies stated in the amendment made by subsection (a) of this section.

TRANSFER OF DEFENSE SERVICES

SEC. 203. (a) Section 3(a)(2) of the Foreign Military Sales Act is amended, effective July 1, 1976, by inserting immediately after "article" each time it appears "or related training or other defense service".

(b) Section 505(a) of the Foreign Assistance Act of 1961 is amended, effective July 1, 1976, by inserting immediately after "articles" each time it appears "or related training or other defense service.".

APPROVAL FOR TRANSFER OF DEFENSE ARTICLES

SEC. 204. (a) Section 3 of the Foreign Military Sales Act is amended by adding at the end thereof the following new subsections:

"(e) The President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection to a transfer of a defense article, or related training or other defense service, sold under this Act and may not give his consent to such a transfer under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961 unless, 30 days prior to giving such consent, the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

"(1) the name of the country or international organization proposing to make such transfer,

"(2) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service,

"(3) the name of the proposed recipient of such defense article or related training or other defense service,

"(4) the reasons for such proposed transfer, and

"(5) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this subsection shall be unclassified, except that information regarding the dollar value and number of defense articles, or related training or other defense services, proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

"(f) If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

(b)(1) The second sentence of subsection (a) of section 3 of the Foreign Military Sales Act is amended by striking out ", and prior" and all that follows thereafter through "transferred" the second time it appears.

(2) The first sentence of section 505(e) of the Foreign Assistance Act of 1961 is amended by striking out ", and prior" and all that follows thereafter through "transferred" the second time it appears.

SALES FROM STOCKS

SEC. 205. Section 21 of the Foreign Military Sales Act is amended to read as follows:

"SEC. 21. SALES FROM STOCKS.—(a) The President may sell defense articles and defense services from the stocks of the Department of Defense to any eligible country or international organization if such country or international organiaztion agrees to pay in United States dollars—

"(1) in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;

"(2) in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

"(3) in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service.

"(b) Except as provided by subsection (d) of this subsection, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

"(c) Personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including any duties related to training, advising, or otherwise providing assistance regarding combat activities, outside the United States in connection with the performance of those defense services.

"(d) If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after the enactment of this subsection may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this Act.

"(e)(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

"(A) administrative services, calculated on an average percentage basis to recover the full estimated costs of administration of sales made under this Act to all purchasers of such articles and services;

"(B) any use of plant and production equipment in connection with such defense articles; and

"(C) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment.

"(2) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under subparagraphs (1)(B) and (1)(C) for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, or foreign procurement in the United States under coproduction arrangements.

"(f) Any contracts entered into between the United States and a foreign country under the authority of this section or section 22 of this Act shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

"(g) In carrying out section 814 of the Act of October 7, 1975 (Public Law 94–106), the President may enter into North Atlantic Treaty Organization standardization agreements for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.".

SALES FROM STOCKS AFFECTING UNITED STATES COMBAT READINESS

SEC. 206. Section 21 of the Foreign Military Sales Act, as amended by section 205 of this Act, is further amended by adding at the end thereof the following new subsection:

"(h)(1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives and the Committee on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section, any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States. Each such statement shall be unclassified except to the extent that public disclosure of any items of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified information shall be confined to a supplemental report. Each such statement shall include an explanation relating to only one such proposal to sell and shall set forth—

"(A) the country or international organization to which the sale is proposed to be made;

"(B) the amount of the proposed sale;

"(C) a description of the defense article or service proposed to be sold;

"(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

"(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

"(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph (E) of paragraph (1) is in effect.".

PROCUREMENT FOR CASH SALES

SEC. 207. (a) Section 22(a) of the Foreign Military Sales Act is amended by adding at the end thereof the following: "Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.".

(b) Section 22(b) of the Foreign Military Sales Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act.".

EXTENSION OF PAYMENT PERIOD FOR CREDIT SALES

SEC. 208. (a) Paragraph (1) of section 23 of the Foreing Military Sales Act is amended by striking out "ten years" and inserting in lieu thereof "twelve years".

(b) The amendment made by subsection (a) shall apply with respect to financing under agreements entered into on or after the date of enactment of this Act for the procurement of defense articles to be delivered, or defense services to be rendered, after such date.

ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM

SEC. 209. (a) Immediately after section 24 of the Foreign Military Sales Act, add the following new section:

"SEC. 25. ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM.—(a) The President shall transmit to the Congress, as a part of the presentation materials for security assistance programs proposed for each fiscal year, a report which sets forth—

"(1) an estimate of the amount of sales expected to be made to each country under sections 21 and 22 of this Act, including a detailed explanation of the foreign policy and United States national security considerations involved in expected sales to each country;

"(2) an estimate of the amount of credits and guaranties expected to be extended to each country under sections 23 and 24 of this Act;

"(3) a list of all findings which are in effect on the date of such transmission made by the President pursuant to section 3(a)(1) of this Act, together with a full and complete justification for each such finding, explaining how sales to each country with respect to which such finding has been made will strengthen the security of the United States and promote world peace; and

"(4) an arms control impact statement for each purchasing country, including (A) an analysis of the relationship between expected sales to each country and arms control efforts relating to that country, and (B) the impact of such expected sales on the stability of the region that includes the purchasing country.

"(b) Not later than thirty days following the receipt of a request made by the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives for additional information with respect to any estimate submitted pursuant to subsection (a), the President shall submit such information to such committee.

"(c) The President shall make every effort to submit all of the information required by this section wholly in unclassified form. In the event the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.".

(b) Section 634(d) of the Foreign Assistance Act of 1961 is amended by striking out "and military sales under this or any other Act" in the fourth sentence.

MILITARY SALES AUTHORIZATION

SEC. 210. (a) Section 31(a) of the Foreign Military Sales Act is amended by striking out "not to exceed $405,000,000 for the fiscal year 1975" and inserting in lieu thereof "not to exceed $1,039,000,000 for the fiscal year 1976 and not to exceed $840,000,000 for the fiscal year 1977".

(b) Section 31(b) of such Act is amended to read as follows:

"(b) The aggregate total of credits, or participations in credits, extended pursuant to this Act and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed $2,374,700,000 for the fiscal year 1976, of which not less than $1,500,000,000 shall be available only for Israel, and shall not exceed $2,059,600,000 for the fiscal year 1977, of which not less than $1,000,000,000 shall be available only for Israel.".

(c)(1) Section 31 of such Act is further amended by adding at the end thereof the following new subsections:

"(c) Funds made available for the fiscal years 1976 and 1977 under subsection (a) of this section shall be obligated to finance the procurement of defense articles and defense services by Israel on a long-term repayment basis either by the extensions of credits, without regard to the limitations contained in section 23, or by the issuance of guaranties under section 24. Repayment shall be in not less than twenty years, following a grace period of ten years on repayment of principal. Israel shall be released from one-half of its contractual liability to repay the United States Government with respect to defense articles and defense services so financed for each such year.

"(d) The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed $100,000,000 (exclusive of ships and their onboard stores and supplies transferred in accordance with law).".

(2) Subsections (a), (b), (c), and (e) of section 8 of the Act entitled "An Act to amend the Foreign Military Sales Act and for other purposes", approved January 12, 1971 (Public Law 91-672; 84 Stat. 2053), are repealed effective July 1, 1976. All funds in the suspense account referred to in subsection (a) of such section on July 1, 1976, shall be transferred to the general fund of the Treasury.

REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS; CONGRESSIONAL ACTION

SEC. 211. (a) Section 36 of the Foreign Military Sales Act is amended to read as follows:

"SEC. 36. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS; CONGRESSIONAL ACTION.—(a) The President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than thirty days after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b)(1) of this section) containing—

"(1) a listing of all letters of offer to sell any major defense equipment to be sold for $1,000,000 or more under this Act to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled;

"(2) a listing of all such letters of offer that have been accepted during the fiscal year in which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

"(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under section 23 and guaranty agreements under section 24 made during the fiscal year in which such report is submitted;

"(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for $1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth with respect to the listed major defense equipment—

"(A) the items to be exported under the license,

"(B) the quantity and contract price of each such item to be furnished, and

"(C) the name and address of the ultimate user of each such item;

"(5) projections of the dollar amounts, by foreign country and international organization, of cash sales expected to be made under sections 21 and 22, credits to be extended under section 23, and guaranty agreements to be made under section 24 in the quarter of the fiscal year immediately following the quarter for which such report is submitted;

"(6) a projection with respect to all cash sales expected to be made and credits expected to be extended to each country and organization for the remainder of the fiscal year in which such report is transmitted;

"(7) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel present in each such country at the end of that quarter for assignments in implementation of sales and commercial exports under this Act; and

"(8) an analysis and description of the services being performed by officers and employees of the United States Government under section 21(a) of this Act, including the number of personnel so employed.

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be; (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Force or other agency of the United States which is making the offer to sell or the sale, as the case may be.

"(b)(1) In the case of any letter of offer to sell any defense articles or services under this Act for $25,000,000 or more, or any major defense equipment for $7,000,000 or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a). In addition, the President shall, upon the request of such committee or the Committee on International Relations of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

"(A) a detailed description of the defense articles or services to be offered, including a brief description of the capabilities of any defense article to be offered;

"(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

"(C) the name of each contractor expected to provide the defense article or defense service proposed to be sold (if known on the date of transmittal of such report);

"(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;

"(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles or services which are the subject of such sale and a description of how such country or organization intends to use such defense articles or services;

"(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

"(G) the reasons why the proposed sale is in the national interest of the United States;

"(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

"(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles or services which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles or services;

"(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles or services proposed to be sold;

"(K) an analysis of the extent to which comparable kinds and amounts of defense articles or services are available from other countries; and

"(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles or services which are the subject of such sale would be delivered.

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States. The letter of offer shall not be issued if the Congress, within thirty calendar days after receiving such certification, adopts a concurrent resolution stating that it objects to the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States.

"(2) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(3) For the purpose of expediting the consideration and adoption of concurrent resolutions under this subsection, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) The amendment made by subsection (a) of this section shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act on or after the date of enactment of this Act.

CONTROL OF LICENSES WITH RESPECT TO ARMS EXPORTS AND IMPORTS

SEC. 212. (a)(1) Chapter 3 of the Foreign Military Sales Act is amended by adding at the end thereof the following new section:

"SEC 38. CONTROL OF ARMS EXPORTS AND IMPORTS.—(a)(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

"(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

"(b)(1) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

"(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this Act and regulations issued under this Act, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

"(3) No license may be issued under this Act for the export of any major defense equipment sold under a contract in the amount of $25,000,000 or more to any foreign country which is not a member of the North Atlantic Treaty Organization unless such major defense equipment was sold under this Act.

"(c) Any person who willfully violates any provision of this section or section 36(c), or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than $100,000 or imprisoned not more than two years, or both.

"(d) This section applies to and within the Canal Zone.

"(e) In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by sections 6(c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969, subject to the same terms and conditions as are applicable to such powers under such Act. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress.".

(2) Section 2(b) of the Foreign Military Sales Act is amended—

(A) by inserting "and exports" immediately after "sales" both times it appears; and

(B) by inserting "and whether there shall be delivery or other performance under such sale or export," immediately after "thereof,".

(b)(1) Section 414 of the Mutual Security Act of 1954 is repealed. Any reference to such section shall be deemed to be a reference to section 38 of the Arms Export Control Act and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.

(2) All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under section 414 of the Mutual Security Act of 1954 shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

ANNUAL CEILING ON ARMS SALES

SEC. 213. (a) Chapter 3 of the Foreign Military Sales Act, as amended by section 212 of this Act, is further amended by adding at the end thereof the following new section:

"Sec. 39. ANNUAL CEILING ON ARMS SALES.—(a) The aggregate value of defense articles and defense services—

"(1) which are sold under section 21 or section 22 of this Act; or

"(2) which are licensed or approved for export under section 38 of this Act to, for the use, or for benefit of the armed forces, police, intelligence, or other internal security forces of a foreign country or international organization under a commercial sales contract;

may not exceed $9,000,000,000 in any fiscal year in constant 1975 dollars, which ceiling shall be calculated by the President quarterly to conform to changes in the Unit Value Index of United States domestic exports of finished manufactures and reported to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. The President may waive such limitation with respect to such defense articles and services as he determines and certifies to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate are required to be furnished in the national security interests of the United States. Such determinations and certifications shall be made on a case-by-case basis. For the purposes of this subsection, the value of defense articles and defense services is the contract price for such articles or services as of the date on which the contract under which they are sold is entered into in the case of a contract of sale under this Act or as of the date of licensing or approval for export in the case of a commercial sales contract.

"(b) In implementing the requirements of subsection (a), the President may, subject to such requirements as the Congress may by law prescribe, establish such arms sales quotas for countries and regions, and for sales under this Act and commercial exports licensed or approved under this Act, as he deems appropriate.

"(c) In computing the aggregate value of defense articles and defense services sold or licensed or approved in a fiscal year for purposes of the ceiling established by subsection (a) of this section and for purposes of any quotas established under subsection (b) of this section, the following shall be excluded:

"(1) The value of any defense articles or defense services which are not actually furnished.

"(2) The value of any defense articles or defense services which are the subject of a replacement sales contract which is entered into in substitution for a contract described in subsection (a)(1) of this section, or in substitution for a contract for which there was a license or approval described in subsection (a)(2) of this section, to the extent that such value was previously included in the computations under this section.

"(d) Any person who, with intent to avoid a limitation or prohibition with respect to a ceiling or quota established by or under this section, exports or attempts to export any defense article or defense service without a license or approval required under section 38 of this Act, shall, in addition to any penalty prescribed under section 38, upon conviction be fined not more than $25,000 or imprisoned not more than two years, or both.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1976, and shall apply with respect to fiscal year 1977 and each fiscal year thereafter.

CANCELLATION AND SUSPENSION OF LICENSES AND CONTRACTS

Sec. 214. Section 42 of the Foreign Military Sales Act is amended by adding at the end thereof the following new subsection:

(e)(1) Each contract for sale entered into under sections 21 and 22 of this Act shall provide that such contract may be canceled in whole or in part, or its execution suspended, by the United States at any time under unusual or compelling circumstances if the national interest so requires.

"(2)(A) Each export license issued under section 38 of this Act shall provide that such license may be revoked, suspended, or amended by the Secretary of State, without prior notice, whenever the Secretary deems such action to be advisable.

"(B) Nothing in this paragraph may be construed as limiting the regulatory authority of the President under this Act.

"(3) There are authorized to be appropriated from time to time such sums as may be necessary (A) to refund moneys received from purchasers under contracts of sale entered into under sections 21 and 22 of this Act that are canceled or suspended under this subsection to the extent such moneys have previously been disbursed to private contractors and United States Government agencies for work in progress, and (B) to pay such damages and costs that accrue from the corresponding cancellation or suspension of the existing procurement contracts or United States Government agency work orders involved.".

ADMINISTRATIVE EXPENSES

Sec. 215. Section 43 of the Foreign Military Sales Act is amended by designating the present section as subsection (a) and by adding at the end thereof the following new subsection:

"(b) Administrative expenses incurred by any department or agency of the United States Government (including any mission or group) in carrying out functions under this Act which are primarily for the benefit of any foreign country shall be fully reimbursed from amounts received for sales under sections 21 and 22.".

DEFINITIONS

Sec. 216. Section 47 of the Foreign Military Sales Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding immediately after paragraph (2) the following new paragraphs:

"(3) 'defense article', except as provided in paragraph (7) of this section, includes—

"(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

"(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance,

"(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

"(D) any component or part of any article listed in this paragraph,

but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

"(4) 'defense service', except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 644(e) of the Foreign Assistance Act of 1961), used for the purposes of furnishing military assistance;

"(5) 'training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

"(6) 'major defense equipment' means any item of significant combat equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50,000,000 or a total production cost of more than $200,000,000; and

"(7) 'defense articles and defense services' means, with respect to commercial exports subject to the provisions of section 38 of this Act, those items designated by the President pursuant to subsection (a)(1) of such section.".

ANNUAL FOREIGN SALES REPORT

Sec. 217. Section 657 of the Foreign Assistance Act of 1961 is amended as follows:

(1) The section caption is amended by inserting "AND MILITARY EXPORTS" after "FOREIGN ASSISTANCE".

(2) Paragraph (1) of subsection (a) is amended to read as follows:

"(1) the aggregate dollar value of all foreign assistance (including military education and training), foreign military sales, sales credits, and guaranties provided or made by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance, sales, sales credits, and guaranties, by category, provided or made by the United States Government to or for each such country or organization during that fiscal year;".

(3) Paragraph (3) of subsection (a) is amended to read as follows:

"(3) the aggregate dollar value and quantity of defense articles and defense services, and of military education and training, exported to each foreign country and international organization, by category, specifying whether the export was made by grant under chapter 2 or chapter 5 of part II of this Act, by sale under chapter 2 of the Arms Export Control Act, by commercial sale licensed under chapter 3 of that Act, or by other authority; and".

(4) Paragraph (4) of subsection (a) is repealed.

(5) Paragraph (5) of subsection (a) is amended—

(A) by redesignating such paragraph as paragraph (4), and

(B) by striking out "(4)" and inserting in lieu thereof "(3)".

REPORT OF SALES OF EXCESS DEFENSE ARTICLES

Sec. 218. Not later than February 28, 1977, the President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a full and complete report regarding all sales made under the Arms Export Control Act during the period July 1, 1976, through December 31, 1976, of excess defense articles to foreign governments and international organizations (other than any such article sold solely for scrap). Such report shall set forth—

(1) the number of such sales;

(2) the total acquisition costs of the articles sold;

(3) the total gross price paid for such articles exclusive of administrative surcharges and costs of repairing, rehabilitation, or modifying such articles;

(4) the data set forth under paragraphs (1), (2), and (3) totaled separately for those sales made at less than 33⅓ per centum of the acquisition costs thereof; and

(5) the estimated total proceeds of sales of articles included under paragraph (4) if such articles had been sold instead through United States Government surplus property disposal operations and the percentage thereof that would have been paid out of such proceeds to meet direct expenses incurred in connection with such dispositions pursuant to law.

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TECHNICAL AMENDMENTS OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I again offer some technical amendments to title II.

The Clerk read as follows:

Amendments offered by Mr. Morgan: Page 20, lines 8 and 9, strike out "subsection" and insert in lieu thereof "section".

Page 22, line 8, strike out "subparagraphs" and insert in lieu thereof "paragraph".

Page 34, line 9, strike out "report" and insert in lieu thereof "statement".

Mr. MORGAN. Mr. Chairman, I again want to tell the Members of the House that these are technical amendments simply for the purpose of correcting printing errors.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. Morgan).

The amendments were agreed to.

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL LIMITATIONS

HUMAN RIGHTS

Sec. 301. Section 502B of the Foreign Assistance Act of 1961 is amended to read as follows:

"Sec. 502B. Human Rights.—(a) Except as provided in subsection (c) (3), no security assistance may be provided to any government which engages in a consistent pattern of gross violations of internationally recognized human rights.

"(b) The President shall transmit to Congress, as a part of the presentation materials for security assistance for each fiscal year, a statement for each country proposed to be included in such program on the status of internationally recognized human rights in such country.

"(c) The President, upon the request of the Committee on International Relations of the House of Representatives or the Committee on Foreign Relations of the Senate, shall transmit to such committee, within thirty days after such request is made, a report with respect to the country designated in such request, setting forth all the available information about observance of and respect for human rights and fundamental freedom in that country, and a statement that such information—

"(1) does not clearly raise a serious question that there is a consistent pattern of gross violations of internationally recognized human rights in such country;

"(2) does raise such a question, in which case no new obligation for security assistance shall be entered into with respect to such government during the then current fiscal year; or

"(3) does raise such a question but that—

"(A) extraordinary circumstances exist which necessitate a continuation of security assistance,

"(B) on all the facts it is in the national interest of the United States to provide the security assistance proposed,

"(C) all appropriate steps are being taken to disassociate the United States and the security assistance in question from the actions and circumstances giving rise to the serious question, and

"(D) substantial steps are being taken by the United States to promote respect for and observance of human rights in that country.

"(d) (1) In the event a report is requested pursuant to subsection (c) but is not transmitted in accordance therewith, after thirty days from the date on which such report was requested, no security assistance shall be furnished for the remainder of the then current fiscal year to the country with respect to which such request was made.

"(2) In the event a report with respect to a country is transmitted under subsection (c), Congress may, within the first period of ninety calendar days of continuous session after such report is transmitted, adopt a concurrent resolution which states in effect that the Congress has determined that the violations of internationally recognized human rights in such country, when considered in relation to the foreign policy interests of the United States, require a termination of security assistance to such country. After adoption of such a resolution with respect to a country, no security assistance may be furnished to such country unless thereafter specifically authorized by law.

"(3) For the purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

"(e) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to—

"(1) the relevant findings of appropriate international organizations, including nongovernmental organizations such as the International Committee of the Red Cross; and

"(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

"(f) For the purposes of this section—

"(1) 'gross violations of internationally recognized human rights' includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, and other flagrant denial of the right to life, liberty, and the security of person; and

"(2) 'security assistance' means—

"(A) assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of this part or under part VI (assistance to the Middle East) of this Act;

"(B) sales of defense articles or services, extensions of credits (including participation in credits), and guarantees of loans under the Arms Export Control Act;

"(C) any license with respect to the export of defense articles or services under section 38 of the Arms Export Control Act; and

"(D) military education and training furnished under chapter 5 of this part.".

PROHIBITION AGAINST DISCRIMINATION

Sec. 302. (a) Section 505 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(g) (1) It is the policy of the United States that no assistance under this chapter should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

"(2) (A) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

"(B) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

"(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this chapter, or education and training under chapter 5, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.".

(b) Chapter 1 of the Foreign Military Sales Act is amended by adding at the end thereof the following new section:

"Sec. 5. Prohibition Against Discrimination.—(a) It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United Staes person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this Act on the basis of race, religion, national origin, or sex.

"(b) (1) No agency performing functions under this Act shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

"(2) Each contract entered into by any such agency for the performance of any function under this Act shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

"(c) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this Act. Such reports shall include (1) a description of the facts and circumstances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.".

PROHIBITION OF ASSISTANCE TO COUNTRIES GRANTING SANCTUARY TO INTERNATIONAL TERRORISTS

Sec. 303. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 620A. Prohibition Against Furnishing Assistance to Countries Which Grant Sanctuary to International Terrorists.—(a) Except where the President finds national security to require otherwise, the President shall terminate all assistance under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism and the President may not thereafter furnish assistance to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for assistance under this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

"(b) If the President finds that national security justifies a continuation of assistance to any government described in subsection (a), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TECHNICAL AMENDMENT OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I again offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Morgan: Page 51, line 10, strike out "necesitate" and insert in lieu thereof "necessitate".

Mr. MORGAN. Mr. Chairman, again this is simply a technical amendment in order to correct a printing error.

Mr. HARKIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the chairman of the committee if I am correct that the amendment simply strikes the word "necesitate"?

Mr. MORGAN. It is a technical amendment; there is a spelling error in the word.

Mr. HARKIN. I thank the gentleman from Pennsylvania and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Morgan).

The amendment was agreed to.

Mr. HARKIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and members of the committee, I take this time not for the purpose of offering any amendments to title III, but only to raise questions of the distinguished chairman of the committee concerning section 502B, the human rights provision.

As I understand it, one of the reasons that the President gave for vetoing the last bill was the inclusion of the human rights amendment. I am concerned that the human rights amendment in this bill may have been substantially changed, although I do not think, from reading it that it has been, and for that I certainly want to commend the chairman of the subcommittee and the full committee for bringing back the human rights provision basically as it was drafted before. However, there was a change in some of the wording in the human rights provision on page 52, line 9, the phrase was inserted there "when considered in relation to the foreign policy interests of the United States."

I would like to ask the chairman of the full committee or the chairman of the subcommittee to explain the inclusion of that small phrase.

Mr. MORGAN. If the gentleman will yield, I would ask the author of the amendment, the gentleman from Minnesota (Mr. Fraser) to explain that to the gentleman from Iowa.

Mr. HARKIN. And I would also like to ask if it substantially changes the direction of the human rights amendment as it was drafted by the committee earlier.

Mr. FRASER. Mr. Chairman, if the gentleman would yield, I would say to the gentleman that we have recognized throughout section 502B that there may be extraordinary circumstances that necessitate the continuation of security assistance to a country which is determined to be engaged in a consistent pattern of violation of human rights. And so when we inserted the phrase found on line 9, the words "when considered in relation to the foreign policy interests of the United States," we were simply acknowledging that Congress ought to view the totality of foreign policy interests when coming to the conclusion that there should be a termination of aid.

So it is simply a restatement of what is to be found earlier in the amendment.

Mr. HARKIN. The phrase relates back to page 51, which would be subsection B(3) which says that it does raise a question, but then it lists (A), (B), (C), and (D), four things under which the United States could go ahead and provide this assistance to a country, and (B) states:

> On all the facts it is in the national interest of the United States to provide the security assistance proposed.

So that phrase on page 52, line 9, relates back to this section on page 51, subsection (c) (3), does it not?

Mr. FRASER. Yes. It essentially carries forward the earlier provision which imply a look at the total set of U.S. interests.

Mr. HARKIN. However, the rest of that subsection C(3) would also be operative, and I refer specifically to subparagraphs (C) and (D):

> "(C) all appropriate steps are being taken to disassociate the United States and the security assistance in question from the actions and circumstances giving rise to the serious question, and
>
> "(D) substantial steps are being taken by the United States to promote respect for and observance of human rights in that country.

So those two would still be operative under that section, even though we went ahead and gave security assistance.

Mr. FRASER. I think (C) and (D) would be taken into account. (C) and (D) are found on page 51 of the bill and refer to the report that the President is required to make, and if he makes a report saying that there are practices that raise a serious question about the observance of human rights, then he must report on these different items. I would think that when the Congress comes to look at this, the statements under (C) and (D) would be a part of the fact picture that they would examine to determine what course is the right one for the United States to follow.

Mr. HARKIN. I thank the gentleman for explaining that. I just want to again add that I congratulate the committee and the distinguished chairman. I commend them for keeping this provision intact in the bill in basically the same form as it came through before. I am hopeful that this committee and the whole Congress will stick by this human rights amendment and see to it that it is incorporated as part of our foreign policy, not only this year, but in the years to come.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Are there any amendments to title III? If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV—PROVISIONS RELATING TO SPECIFIC REGIONS OR COUNTRIES

MIDDLE EAST POLICY STATEMENT

Sec. 401. Section 901 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"It is the sense of Congress that the United States will continue to determine Middle East Policy as circumstances may require and that the authority contained in the joint resolution entitled 'Joint resolution to implement the United States proposal for the early-warning system in Sinai', approved October 13, 1975 (Public Law 94–110), and the authorizations contained in the amendments made by the International Security Assistance and Arms Export Control Act of 1976 do not, and shall not in any way be construed to, constitute congressional approval, acceptance, or endorsement (1) of any oral or written commitment, understanding, assurance, promise, or agreement, whether expressed or implied, or any other expression, oral or written (other than the 'United States Proposal for the Early Warning System in Sinai'), made by any official of the United States which Israel, Egypt, or any other nation or organization might construe or interpret as a basis on which it could rely or act, or (2) of any characterization of any such commitment, understanding, assurance promise, or agreement or other expression, as constituting a 'codification' of existing, congressionally approved United States policy.".

AID FOR CYPRIOT REFUGEES

Sec. 402. Section 495 of the Foreign Assistance Act of 1961 is amended by striking out "$30,000,000" and inserting in lieu thereof "$40,000,000".

ASSISTANCE TO TURKEY

Sec. 403. Section 620(x) (1) of the Foreign Assistance Act of 1961, as amended by section 2(c) of the Act of October 6, 1975 (Public Law 94–104), is amended by striking out *"Provided,"* and all that follows through the end of paragraph (1) and inserting in lieu thereof the following: *"Provided,* That for the fiscal year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal year 1977, the President may suspend the provisions of this subsection and of section 3(c) of the Arms Export Control Act with respect to cash sales and extensions of credits and guaranties under such Act for the procurement of such defense articles and defense services as the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, except that (A) during the fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $125,000,000, and (B) during the fiscal year 1977, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $125,000,000. Any such suspension shall be effective only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war. The determination required by the proviso in the first sentence of this paragraph shall be made, on a case-by-case basis, with respect to each cash sale, each approval for use of credits, and each approval for use of a guaranty for Turkey. Each such determination shall be reported to the Congress and shall be accompanied by a full and complete statement of the reasons supporting the President's determination and a statement containing the information specified in clauses (A) through (D) of section 2(c) (4) of the Act of October 6, 1975 (Public Law 94–104). In any case involving the sale of significant combat equipment on the United States Munitions List in which the congressional review provisions of section 36(b) of the Arms Export Control Act do not apply, the President may not issue the letter of offer or approve the use of the credits or guaranty, as the case may be, until the end of the thirty-day period beginning on the date on which the report required by the preceding sentence is submitted to the Congress.".

LIMITATION ON CERTAIN ASSISTANCE TO AND ACTIVITIES IN ANGOLA

Sec. 404. (a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, or promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until the Congress expressly authorizes such assistance by law enacted after the date of enactment of this section.

(b) If the President determines that assistance prohibited by subsection (a) shall be furnished in the national security interests of the United States, he shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

(1) a description of the amounts and categories of assistance which he recommends to be authorized and the identity of the proposed recipients of such assistance; and

(2) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement, in unclassified form, of the reasons supporting such determination.

(c) The prohibition contained in subsection (a) does not apply with respect to assistance which is furnished solely for humanitarian purposes.

(d) The provisions of this section may not be waived under any other provision of law.

SOVIET INTERVENTION IN ANGOLA

Sec. 405. The Congress views the large-scale and continuing Soviet intervention in Angola, including active sponsorship and support of Cuban armed forces in Angola, as being completely inconsistent with any reasonably defined policy of détente, as well as with Articles 1 and 2 of the United Nations Charter, the principle of noninterference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.

PROHIBITION AGAINST MILITARY ASSISTANCE AND SALES CREDITS TO CHILE

Sec. 406. (a) No military or security supporting assistance may be furnished under the Foreign Assistance Act of 1961; and no credits (including participations in credits) may be extended, and no loan may be guaranteed, under the Arms Export Control Act with respect to Chile.

(b) No deliveries of any such assistance may be made to Chile on and after the date of enactment of this section.

LIMITATION ON ECONOMIC ASSISTANCE FOR CHILE

Sec. 407. Section 320 of the International Development and Food Assistance Act of 1975 is amended to read as follows:

"LIMITATION ON ECONOMIC ASSISTANCE FOR CHILE

"Sec. 320. (a) Notwithstanding any other provision of law, the total amount of economic assistance which may be made available for Chile during the fiscal year 1976 may not exceed $90,000,000 and during the period beginning July 1, 1976, and ending September 30, 1977, may not exceed $25,000,000. For purposes of this section, economic assistance includes any assistance of any kind which is provided, directly or indirectly, to or for the benefit of Chile by any department, agency, or other instrumentality of the United States Government (other than assistance provided under chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 or credits or guaranties extended under the Arms Export Control Act), but does not include commodities furnished under title II of the Agricultural Trade Development and Assistance Act of 1954.

"(b) This section shall not be construed to authorize the furnishing of any assistance which is prohibited under any other provision of law.".

CONTROL OF MILITARY FORCES IN THE INDIAN OCEAN

Sec. 408. (a) It is the sense of Congress that the President should undertake to enter into negotiations with the Soviet Union intended to achieve an agreement limiting the deployment of naval, air, and land forces of the Soviet Union and the United States in the Indian Ocean and littoral countries. Such negotiations should be convened as soon as possible and should consider, among other things, limitations with respect to—

(1) the establishment or use of facilities for naval, air, or land forces in the Indian Ocean and littoral countries;

(2) the number of naval vessels which may be deployed in the Indian Ocean, or the number of "shipdays" allowed therein; and

(3) the type and number of military forces and facilities allowed therein.

(b) Not later than December 1, 1976, the President shall transmit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate with respect to steps he has taken to carry out the provisions of this section.

UNITED STATES CITIZENS IMPRISONED IN MEXICO

Sec. 409. (a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are combined with efforts to secure fair and humane treatment for citizens of all countries.

(b) (1) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico.

(2) The Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within one hundred and twenty days after the date of enactment of this section, and every one hundred and twenty days thereafter, on progress toward full respect for the human and legal rights of all United States citizens detained in Mexico.

EMERGENCY FOOD NEEDS OF PORTUGAL

Sec. 410. It is the sense of the Congress that the President should undertake immediately an evaluation of the emergency food needs of Portugal. It is further the sense of the Congress that the President should take timely action to alleviate such emergency by providing Portugal with food commodities under the provisions of pertinent statutes.

STRIFE IN LEBANON

Sec. 411. It is the sense of the Congress that the situation in Lebanon, a nation traditionally friendly to the United States, poses a danger to peace in the Middle East. The Congress deplores the armed civil strife and the continuing erosion of national institutions which threaten to destroy the political and economic fabric of Lebanon with such tragic impact on all its people. The Congress views with grave concern any outside efforts to exploit the current strife with the purpose of transforming Lebanon into a radical state in confrontation with Israel. The Congress requests that the President use his good offices to secure an end to the civil strife and national discord in Lebanon and to preserve the traditional friendly attitude of Lebanon toward the United States.

REPORT ON KOREA

Sec. 412. Chapter 3 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 688. Report on Korea.—Within ninety days after the enactment of this section, and at least once during each of the next five years, the President shall transmit to the Speaker of the House of Representatives and to the Committees on Foreign Relations and Armed Services of the Senate a report which (1) reviews the progress made under the announced program of the Republic of Korea to modernize its armed forces so as to achieve military self-sufficiency by 1980, (2) reports on the role of the United States in mutual security efforts in the Republic of Korea, and (3) reports on the prospects for or implementation of phased reduction of United States Armed Forces assigned to duty in the Republic of Korea, in coordination with the timetable of the Republic of Korea for military self-sufficiency.".

LIMITATION ON ASSISTANCE FOR THE REPUBLIC OF KOREA

SEC. 413. (a) (1) The aggregate amount of—

(A) funds obligated or reserved for military assistance, including supply operations, under chapter 2 of part II of the Foreign Assistance Act of 1961;

(B) funds obligated or reserved for military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961;

(C) the acquisition cost of excess defense articles, if any, ordered under part II of the Foreign Assistance Act of 1961 and not charged against appropriations for military assistance;

(D) the value of defense articles and services ordered under section 506(a) of the Foreign Assistance Act of 1961;

(E) credits, including participations in credits, extended under section 23 of the Arms Export Control Act; and

(F) the principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act;

for the Republic of Korea may not exceed $290,000,000 during the period beginning July 1, 1975, and ending September 30, 1977.

(2) The provisions of this subsection may not be waived under the authority of any other provision of law.

(b) The aggregate dollar amount of agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 for the sale of agricultural commodities to the Republic of Korea may not exceed $175,000,000 during the period beginning July 1, 1975, and ending September 30, 1977.

REPEAL OF INDOCHINA ASSISTANCE

SEC. 414. (a) Part V of the Foreign Assistance Act of 1961 and sections 34, 35, 36, 37, 38, 49, and 40 of the Foreign Assistance Act of 1974 are repealed. All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(b) Subject to the availability of appropriations therefor, the President is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract which had been funded or approved for funding by the Agency for International Development prior to June 30, 1975, for financing with funds made available under the Foreign Assistance Act of 1961 or the Foreign Assistance Act of 1974, or any equitable claim based upon a letter of intent issued prior to April 30, 1975, in which the Agency had expressed its intention to finance a transaction subject to the availability of funds, between the former Governments of Vietnam or Cambodia (including any of their agencies) or the Government of Laos (or any of its agencies) and any person and to apply with respect to any such contract the authorities of the Foreign Assistance Act of 1961.

(c) Funds made available for the purposes of part V of the Foreign Assistance Act of 1961 and of section 36 of the Foreign Assistance Act of 1974 (including amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200), as having been obligated against appropriations heretofore made, are authorized to be appropriated, and thereafter, to remain available until expended, to meet necessary expenses arising from the actions authorized by subsection (b) of this section and such funds are authoirzed to remain available until expended to meet necessary expenses arising from the termination of assistance programs authorized by such part and such section 36, which expenses may include but need not be limited to the settlement of claims and associated personnel.

LEBANON HOUSING RECONSTRUCTION

SEC. 415. Section 223(j) of the Foreign Assistance Act of 1961 is amended by striking out "and" in the last sentence and by inserting immediately before the period at the end of such sentence ", and in Lebanon, not exceeding a face amount of $15,000,000."

ITALY RELIEF AND REHABILITATION

SEC. 416. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 495B. ITALY RELIEF AND REHABILITATION.—(a) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $25,000,000 for the fiscal year 1979 to furnish assistance under this chapter for the relief and rehabilitation of the people who have been victimized by the recent earthquake in Italy. Amounts appropriated under this section are authorized to remain available until expended.

"(b) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.".

LEBANON RELIEF AND REHABILITATION

SEC. 417. The Foreign Assistance Act of 1961 is amended by adding at the end of chapter 9 of part I a new section as follows:

"SEC. 495B. LEBANON RELIEF AND REHABILITATION.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from civil strife in Lebanon and to restore the confidence of the people of Lebanon, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Lebanon.

"(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000, which amount is authorized to remain available until expended.

"(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

"(e) Not later than sixty days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I offer technical amendments.

The Clerk read as follows:

Amendments offered by Mr. MORGAN: Page 62, line 4, strike out "shall" and insert in lieu thereof "should".

Page 71, line 2, immediately after "personnel" insert "costs.".

Page 72, line 7, strike out "495B" and insert in lieu thereof "495C".

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DERWINSKI: At page 68, strike line 4 through page 69, line 4.

Mr. DERWINSKI. Mr. Chairman, there are a number of cogent reasons for supporting this amendment, which would restore the drastic cuts in U.S. support of the Republic of Korea made by section 413 of the Security Assistance Act. Under this section, FMS credit sales and military assistance to South Korea would be slashed by 40 percent, and Public Law 480 funds would be reduced by 72 percent, or over $100 million.

I believe that when the Members consider the following points, they will be convinced that section 413 would adversely affect the security of American troops remaining in South Korea as well as the stability of the entire Far East.

First, a sharp cutback in U.S. support of South Korea could trigger action by the aggressive North Korean dictator, Kim Il Sung.

The drastic reduction in FMS credit levels would destroy our timetable for phasing out grant aid. The proposed cuts would delay South Korea's program to modernize its armed forces and become self-sufficient militarily. In turn, it would delay the reduction in U.S. forces there.

This provision, by endangering the security of South Korea, would affect the stability and security of Japan and our other allies in the Far East. An objective review of post World War II history will show this.

A cut in the Public Law 480 funds would affect the Korean market for our farm products. Korea is the world's fifth largest importer of American wheat, corn, rice, and cotton.

South Korea has the outstanding record of having repaid every installment on loans and credits made by the United States since the Korean war.

Mr. Chairman, even the domestic critics of the Park government oppose these cuts in the security assistance provided by the United States. They recognize the threat they face from the North.

It is important to keep in mind the purposes of security assistance when considering levels of military assistance to the Republic of Korea. We do not provide this assistance as support to any individual or group but to help the Republic of Korea to meet its own self-defense needs.

Any major reduction in our present programs could be misunderstood by North Korea as a sign that the U.S. commitment to the security and independence of the Republic of Korea had weakened.

While we do not wish to go into details on the content of specific diplomatic discussions, we have most recently directly expressed the USG concerns to the ROKG over the current trials, as well as their impact within the United States.

In addition it should be noted that, whatever their criticisms of the policies of their own Government, President Park's critics in Korea support the continuation of the present security relationship between Korea and the United States.

AMENDMENT OFFERED BY MR. ZABLOCKI TO THE AMENDMENT OFFERED BY MR. DERWINSKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. ZABLOCKI TO THE AMENDMENT OFFERED BY MR. DERWINSKI

Strike the words "page 69, line 4" and insert in lieu thereof "page 69, line 10".

Mr. FRASER. Mr. Chairman, I make a point of order against the amendment. Could the amendment be reported once more?

The CHAIRMAN. The gentleman from Minnesota may reserve a point of order. Does the gentleman wish to reserve a point of order?

Mr. FRASER. Mr. Chairman, I would like to reserve a point of order against the amendment, yes.

The CHAIRMAN. The gentleman's point of order is reserved, and the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes in support of his amendment.

Mr. ZABLOCKI. Mr. Chairman, the amendment I have proposed to the amendment offered by the gentleman from Illinois (Mr. DERWINSKI) would complete the striking of section 413. The amendment offered by the gentleman from Illinois deletes the military assistance program ceiling. My amendment deletes the Public Law 480 ceiling that the gentleman from Minnesota had proposed and was adopted in committee.

Let me at the very outset say that I strongly support the Derwinski amendment, deleting the $290 million ceiling on the military assistance to Korea.

Mr. Chairman, I agree with the gentleman from Minnesota that we should promote human rights everywhere in the world. I submit, however, Mr. Chairman, that the Fraser amendment section 413 would be counterproductive. Mr. Chairman, the proponents of section 413, primarily my dear friend and colleague, the gentleman from Minnesota (Mr. FRASER), believe that section 413 will be a significant signal to the South Korean Government and would significantly contribute to improving human rights in Korea. I submit that section 413 is also a signal to the North Korean Government. It also may be a signal to friendly nations and allies in that part of the world.

Mr. Chairman, I have had visitors from Japan, Southeast Asia, and Taiwan. They were courtesy calls, nevertheless these visitors expressed a deep concern should the United States withdraw or curtail our military assistance to Korea. They maintained such an action would affect their own security.

Mr. Chairman, speaking to my amendment to the amendments, it is in effect perfecting amendment which would also delete, as I said earlier, from section 413 the $175 million ceiling on Public Law 480 assistance to South Korea. Imposing an arbitrary ceiling on one of our most humanitarian programs, food aid, would not serve human rights in Korea, but would serve three possibly dangerous ends: First, it would adversely affect the economy of a close friend and ally. U.S. food assistance to Korea continues to make significant contributions to Korea, which still must import a large quantity of food to feed its people. The limitation on concessional sales to Korea, which section 413 anticipates, would increase that country's 1976 balance of payments deficit beyond the presently estimated $1.5 billion amount.

Mr. Chairman, I see no point in taking food assistance from these people, whose human rights are, indeed, of concern to us all.

Second, Mr. Chairman, the ceiling would significantly damage the growing Korean market for agricultural products. In 1975 Korea was the world's fifth largest importer of U.S. farm products. During the last fiscal year Korea purchased $880 million worth of agricultural products from this country. The Public Law 480 program is in large measure responsible for developing and stimulating this growing commercial market for U.S. produce.

Should the program suddenly be reduced, the Koreans might not turn as frequently nor as reflexively to U.S. suppliers in the future. The ceiling might, in fact, encourage the Koreans to seek out other—often cheaper—sources of wheat, rice, cotton, and corn in Canada, Australia, Thailand, and other countries. Unless this ceiling is removed, our planned fiscal year 1977 Public Law 480 program for Korea will be cut by $92 million. This cut would eliminate sales of: 223,000 metric tons of wheat worth $28.5 million; 127,500 metric tons of rice worth $40.5 million; and 72,000 bales of cotton worth $23 million.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. ZABLOCKI. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. FRASER. Mr. Chairman, reserving the right to object, the gentleman is speaking, I think, on an amendment that is not in order and is speaking to the merits of the Derwinski amendment for most of the gentleman's remarks.

Mr. Chairman, I will not object, but I think we ought to dispose of the gentleman's amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Chairman, I might say to the gentleman from Minnesota that only in passing did I comment on the Derwinski amendment. I am now addressing myself to my amendment to the amendment offered by the gentleman from Illinois (Mr. DERWINSKI). My amendment would remove the ceiling of $175 million on Public Law 480 commodities.

Mr. Chairman, besides the effect that Public Law 480 ceiling would have on the economy of Korea and the trade with the United States, third, a ceiling on Public Law 480 sales would make it impossible for the United States to fulfill an understanding which we made in 1971 in connection with restraints on Korean exports of textiles to the United States. This understanding called for the Koreans to limit textile exports to the United States. This limitation immediately benefitted the U.S. textile industry by reducing competition from Korea. To help offset the potential loss of sales by Korean exporters, the United States agreed to provide Korea a total of $776.25 million in Public Law 480 commodities over a 5-year period.

The United States was unable to provide targeted levels of assistance during the 5-year period, due to emergency food needs in other countries and to the consequent lack of available commodities. A ceiling of $175 million on Public Law 480 assistance to Korea would make it impossible for us to reach these levels for another 2 years.

Mr. Chairman, each of us fully supports the promotion of human rights not only in Korea but throughout the world. Cutting our food aid to Korea, however, represents a rather awkward attempt to reach this well-intended goal. Disturbing the Korean economy, increasing that country's trade deficit, and reducing American agricultural exports by almost $100 million, can scarcely be counted as reasonable efforts to improve the lot of the Korean populace.

I urge that the ceiling on Public Law 480 assistance to Korea be removed.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Minnesota desire to be heard on his point of order?

Mr. FRASER. I do, Mr. Chairman.

Mr. Chairman, I make a point of order against the Zablocki amendment to the amendment on the grounds that it is an effort to amend a perfecting amendment. It deals with a different part of the bill, and since the bill is open to amendment by titles, the perfecting amendment, so-called, offered by the gentleman from Illinois (Mr. DERWINSKI), as I understand, only strikes section 413 down through line 4 on page 69. This is an effort to strike a different part of the title, and therefore would not be in order as an amendment to the Derwinski amendment.

I, therefore, object to its consideration.

The CHAIRMAN. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. ZABLOCKI. I do, Mr. Chairman.

Mr. Chairman, the Derwinski amendment strikes section 413 to line 4 on page 69. All my amendment does is continue striking section 413 by striking the words, "page 69, line 4," and substituting in lieu thereof, "page 69, line 10."

So, it is an amendment in order to an

amendment that was recognized in order.

The CHAIRMAN. The Chair is ready to rule.

The amendment offered by the gentleman from Illinois (Mr. DERWINSKI) strikes all of section 413, beginning with line 5, page 68, through line 4, page 69. The amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) to that amendment would increase the portion of section 413 that is stricken, expanding the area stricken down through line 10, page 69.

Under Cannon's Precedents in the House of Representatives, on page 13, in middle of the page, under the heading "amending a motion":

> When it is proposed to strike out certain words, it is not in order to amend by adding to the words of the paragraph, but it is in order to amend by striking out a portion of the words specified.

Since the question has come before the House before, in Hind's Precedents of the House of Representatives, volume V, 1907, page 389, section 5768, the Chair will quote from that decision as follows:

> 5768. When it is proposed to strike out certain words in a paragraph, it is not in order to amend by *adding to* them other words of the paragraph.—On April 3, 1902, the bill (S. 1025) to promote the efficiency of the Revenue-Cutter Service was under consideration in Committee of the Whole House on the state of the Union, when the following paragraph was read:
>
> SEC. 8. That when any commissioned officer is retired from active service, the next officer in rank shall be promoted according to the established rules of the service, and the same rule of promotion shall be applied successively to the vacancies consequent upon such retirement.
>
> Mr. James R. Mann, of Illinois, moved to strike out the words "according to the established rules of the service."
>
> Mr. John F. Lacey, of Iowa, moved to amend the amendment by adding to the words proposed to be stricken out other words in the context of the paragraph.
>
> The Chairman held that the amendment of Mr. Lacey should be offered as an independent amendment rather than as an amendment to the amendment.

For the reasons stated, the point of order of the gentleman from Minnesota is sustained.

Is there further debate on the Derwinski amendment?

Mr. FRASER. Mr. Chairman, I rise in opposition to the Derwinski amendment.

Mr. Chairman, let me make clear first that the objection to the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) to the amendment offered by the gentleman from Illinois (Mr. DERWINSKI) was made primarily on procedural grounds.

I have informed the House that I intend to support the motion to strike any restriction on the sale of Public Law 480 title I funds for South Korea. So I am prepared to support the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) after we dispose of the amendment offered by the gentleman from Illinois (Mr. DERWINSKI), but I did not want to get the two issues confused.

The amendment offered by the gentleman from Illinois (Mr. DERWINSKI) strikes just the limitation on military aid. I have an amendment that would strike the limitation on food aid. So that either the gentleman from Wisconsin (Mr. ZABLOCKI) or I, after we dispose of the amendment offered by the gentleman from Illinois (Mr. DERWINSKI), clearly can deal with the Public Law 480 title I limitation, which we agreed should come out of the bill.

On this section, Mr. Chairman, let me just make a few points. The effect of the Derwinski amendment is to take language out of the bill that would place a limitation on military aid to South Korea at the same level that military aid was provided in 1975. In other words, the committee looked at what was happening in South Korea and decided to continue the same level of military aid for 1976 and 1977 as was provided in 1975.

In addition, South Korea proposes to purchase from the United States $838 million of military arms, on the basis of cash purchases or on commercial terms. This means that if the Derwinski amendment prevailed and the limitation is taken out, South Korea will receive a total of $1.3 billion in arms aid. If the Derwinski amendment fails and the limitation stays in, South Korea will be able to receive $1,128,000,000, or 15 percent less, in aggregate arms aid and arms sales over these 2 years.

Our committee for the first time looked at the problem of human rights in South Korea in 1974, and at that time we received a report from the State Department on the human rights situation in South Korea. The statement begins:

> For the past 2 years, the trend in Korea has been toward an authoritarian mode of government. Institutional means of dissent have been rendered powerless and efforts to express opposition have been suppressed through a series of severe emergency decrees.
>
> The Constitution was amended by referendum in 1972, concentrating all effective power in the office of the President and diminishing protection of human rights. The referendum was carried out under martial law and no debate of the proposed amendments was permitted . . .

The committee held 3 days of hearings in 1974, getting all points of view. No witness disputed the growing authoritarianism in South Korea, but rather the question of whether or not there was some justification for it outside of President Park's personal desire to become a permanent fixture in Korea.

In 1975, we held 8 days of hearings on South Korea. One of the witnesses was the former Chief Cultural and Information Attache and Director of the Korean Information Office in Washington, D.C. He defected from the Korean Embassy after being asked to frame a colleague. He had served as a Korean civil servant of the Republic of Korea for nearly 20 years, and is widely respected as a person of integrity. He testified:

> . . . Park's martial law Constitution was essentially designed to eliminate criticism and opposition, to strip the South Korean people of human and civil rights and to establish a complete and permanent dictatorship.

Mr. Lee, who is now a professor of journalism at Western Illinois University, also testified:

> . . . the credibility of the United States is at stake due to the continuing support of the United States for Park Chung Hee's dictatorial rule and for his policies. . .

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. FRASER was allowed to proceed for 3 additional minutes.)

Mr. FRASER. Professor Lee, formerly with the Korean Embassy, stated that—

> The credibility of the United States is at stake due to the continuing support of the United States for Park Chung Hee's dictatorial rule and for his policies, reaffirming the American guarantee and American aid for South Korea's defense, regardless of democratic prospects in the country.
>
> The world has been told for nearly 30 years by the highest authorities of the United States that the purpose of American aid to South Korea was to defend democracy there.

He said also in that same testimony:

> In South Korea today, Park is rooting out the slightest sign of the democracy for which Americans have paid with 30,000 lives and billions of dollars and for which Koreans have paid with 2 million lives and near total destruction of the country.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FRASER. No, not at this time. I will yield when I am through.

Perhaps the most devastating constitutional change made by Park under martial law in 1972 was the enactment of article 53. It provides:

> In case the national security or the public safety and order is seriously threatened or anticipated to be threatened . . . the President . . . shall have the power to take emergency measures which temporarily suspend the freedom and rights of the people as defined in the present Constitution and enforce emergency measures with regard to the rights and powers of the executive and judiciary.

That article goes on to say that the judicial review of measures taken under this authority is forbidden.

Under that power the President issued decrees in 1974 providing for up to 15 years imprisonment for advocating amendment to the constitution; creation of courts-martial to try political offenses; punishment by death, life imprisonment or no less than 5 years imprisonment for any student who engages in political activity, and so on.

Perhaps the closest analogous section to be found in modern times is the infamous article 58 of the Soviet Criminal Code which Solzhenitsyn describes so vividly in Gulag Archipelago. The analogy to the Soviet system does not end there. The Korean Central Intelligence Agency has no closer parallel than the KGB in the Soviet Union. Pervasive with agents in every phase of Korean life, the Korean CIA is more powerful than the formal instruments of government. It is responsible only to President Park.

Some of us may have seen the Washington Post headlines last week: "South Korean CIA Power Grows and Fear Spreads."

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield at that point?

Mr. FRASER. Yes. If I can get a few more minutes, I will be glad to yield to the gentleman.

Mr. DERWINSKI. Mr. Chairman, I would just like to make the point that the gentleman is referring to allegations, and I think the gentleman should at least make it clear to the House that there is an ongoing controversy over the validity of much of the testimony and the material contained in the newspaper stories and committee.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRASER) has expired.

(By unanimous consent, Mr. FRASER was allowed to proceed for 3 additional minutes.)

Mr. DERWINSKI. Mr. Chairman, if the gentleman will yield further, I just wanted to be sure that we understand each other in that we are speaking of allegations, not absolute fact, and that we are speaking of interpretations of the issue. I believe it is in that context that the gentleman is speaking.

Mr. FRASER. Mr. Chairman, I will say to the gentleman that if he would read the statements supplied to the committee by the Department of State, especially the statement that says that for the past 2 years the trend in Korea has been toward an alternative mode of government, he would find that the facts are right from the mouth of the Department of State.

Mr. Chairman, in testimony this year we learned that the Korean CIA has been active in the United States in efforts to harass and intimidate Korean-Americans who are critical of Park.

The former Director of the Office of Korean Affairs in the Department of State was one of our witnesses last year. He was in charge of Korean affairs for the Department from 1970 to 1974. He said, with reference to the human rights problem in South Korea—and I quote—

> Unless the present course of events is arrested or reversed, there will be trouble in Korea. And should that occur, how much better for the United States that our role has been honorable and consistent with our ideals. Our conduct to date on human rights issues has not been so.

He urged that limits be placed on military assistance to Korea unless Korea's record in human relations improves substantially.

Mr. Chairman, this is what section 413 does. It places a limit on military aid at the level we supplied in 1975. But the South Korean Government is not prevented from paying $800 million for additional arms, which it proposes to do through its own resources and which this section of the bill does not prevent.

Mr. Chairman, I will just close by saying that in this year of our Bicentennial, when we reaffirm the faith and values that made this country strong and free, it would be ironic if by our vote we endorsed a government which is systematically denying those same freedoms to its own people.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I have two questions of the gentleman in the well.

First, in connection with the gentleman's reference to the former State Department employee, did he not become disenchanted with South Korea after he got bypassed on some promotions?

I have been trying to understand what his hangup is. Would the gentleman please tell me.

Mr. FRASER. I must say that I really do not regard that suggestion as being the kind that is pertinent for consideration of this Committee. Don Ranard, the gentleman in question, is probably the man who saved the life of Kim Dae Jung when the Korean CIA kidnaped him out of a hotel in Tokyo and forced him to return to South Korea.

He is the one who urged the top officials of the Department of State to call in the Korean Ambassador and lay down the law with respect to the activities of the South Korean CIA.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRASER) has expired.

(On request of Mr. CHARLES H. WILSON of California and by unanimous consent, Mr. FRASER was allowed to proceed for 5 additional minutes.)

Mr. FRASER. As I was saying, Mr. Chairman, Don Ranard is the one who asked the Department of State to call in the Korean Ambassador to lay down the law about the activities of the Korean CIA here in the United States.

He demonstrated throughout his service as the person in charge of the Korean desk here that he is concerned for human rights. Therefore, I do not think it is fair to suggest that he suddenly found this concern after he left the Department of State.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, the gentleman in the well said that Mr. Ranard saved Kim Dae Jung's life.

I should like to take exception to that because in the record of the gentleman's committee hearing, it so happened at that time that I went with our Ambassador Mr. Habib to President Park, and interceded for Kim Dae Jung.

Mr. FRASER. If the gentleman from New York (Mr. WOLFF) helped to save Kim Dae Jung's life, I should like to say "Fine."

Mr. WOLFF. The proof is in the record of the gentleman's hearing.

Mr. FRASER. However, I only want to make the point that when Kim Dae Jung was kidnapped by the Korean CIA out of the Tokyo hotel, it was only a matter of hours before he was transported across the straits, and it was widely believed that they were going to "deep-six" him. Don Ranard reacted in those early hours.

If the gentleman from New York (Mr. WOLFF) would keep working to get him out of Korea, that would be a worthwhile endeavor.

Mr. WOLFF. If the gentleman will yield further, not only am I working to help Kim Dae Jung, but I did meet with him on my last trip to Korea. At that time I again spoke to President Park about Kim Dae Jung as well as others. I am sorry to see Kim Dae Jung in jail, I am also sorry he is being used as a pawn by both sides. A letter that he gave me, which he requested that I keep confidential, contains certain elements that I think bear witness to some of the things that the gentleman has said about human rights but also oppose some of the actions that the gentleman has recommended.

I think it is important to get on the record, when we talk of these things, both sides of the story; I would hope that the gentleman does not mean, when he mentions the name of Kim Dae Jung in this fashion, to use him or others in a cavalier fashion that could put them in further jeopardy by attempting to speak for them.

Mr. FRASER. I say to the gentleman that I am not treating his fate cavalierly at all.

As the gentleman has said, Kim Dae Jung is in jail again today. He had the courage to sign a statement calling for the return of democracy in South Korea.

The gentleman, I am sure, agrees with me that this is a tragic activity on the part of the South Korean Government.

I have the statement of Jung and the religious and civic leaders and there is nothing offensive about it. It is a straight declaration calling for a return to the basic values which we hold dear in this country. For that he is being persecuted and tried along with the others.

I am sorry that there are not more voices speaking out on this matter. I wish that some of my colleagues who expressed this great concern for Korea would find the time to pen a simple note to the Korean Ambassador.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I should like to say this: Mr. MURPHY and I had lunch today with the chairman of the Committee on Foreign Affairs of the Korean Congress, and we urged him to go back to President Park and ask to have Kim Dae Jung released.

Mr. FRASER. I appreciate that.

Mr. CHARLES H. WILSON of California. We are trying to create this type of atmosphere. The gentleman knows that this is the answer. It is not the way the gentleman is trying to do this.

Mr. FRASER. The gentleman from California and I are in agreement. If the South Korean Government would change its practices, we would both support it.

Mr. CHARLES H. WILSON of California. I think we have different views on this. I have a little different perspective about South Korea than the gentleman does.

I have seen the good things in South Korea, the tremendous strides that have been made in the past 10 years, and the economy of this country has improved so greatly. I have seen democracy actually protected, I would say to the gentleman from Minnesota (Mr. Fraser), but I am sure the gentleman will disagree with me on that. But I have no question at all about stating this position.

Mr. FRASER. Does not the gentleman from California agree that since 1972, the adoption of the new constitution, under martial law with no discussion, that there has been a downward trend in human rights in South Korea?

Mr. CHARLES H. WILSON of California. No, not at all. That country has been trying to form a democracy for just 25 years. They have had three Presidents. As I related the other day when we had our little special order, we could go back to the same time in the history of our own country. There is no comparison about human rights in Korea and human rights in this country at the same time in our history as a new democracy.

I would also say we have a CIA in our country which is probably just as notable as the CIA in South Korea for suppression of human rights, if the KCIA is actually guilty as alleged.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. Derwinski).

Mr. Chairman, it has been stated that the ceiling imposed by the Committee on International Relations with regard to Korean military assistance has relatively little military significance, since it will not affect cash purchases by the Korean Government. This is just not correct. The cash sales mentioned are essentially devoted to the procurement of military items to maintain the Korean armed forces and do not include major amounts for procurement of new equipment.

Further, the Republic of Korea Government assumption of its O. & M. costs as reflected by the major increase in cash sales is already a significant burden on the Republic of Korea economy.

Republic of Korea Government must have defense guaranteed loans if it is to proceed fith the major procurement of needed new equipment to maintain the military balance and to allow us to eventually consider the question of reducing U.S. forces.

The Republic of Korea Government simply cannot procure through commercial channels alone their needed major equipment items. Foreign military sales defense guaranteed loans are an essential component.

The reduction of U.S. troop levels in Korea can only be considered when and if the Koreans develop a substantial self-defense capability. Reductions in military aid impair the attainment of this goal, and thus adversely affect the prospects for such eventual reduction.

The cut in military assistance to South Korea proposed in section 4.3 is drastic. It would represent a 40-percent cut in the foreign military sales credits and military grant aid program this 2-year bill would otherwise authorize. This is a military assistance program which is oriented increasingly toward foreign military sales credits, rather than grant aid. These credits are intended to aid the South Koreans to complete a modernization program which will put their armed forces, and particularly their air force and air defense, on a par with the North Korean Armed Forces by 1980. If the primary U.S. objective is the eventual self-sufficiency of the South Korean defense forces which will facilitate the withdrawal of U.S. troops, it is important to understand that a severe cut in assistance to Korea could delay and diminish the possibility for U.S. withdrawals.

In summary, acceptance of the Fraser ceiling—

Would seriously impede the ROK progress toward military self-sufficiency;

Would delay completion of the modernization plan; and

Would be interpreted in Korea, Japan and elsewhere as a weakening of our security commitment to the ROK with with no attendant impact on the human rights situation in the ROK.

I strongly support the Derwinski amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, did the gentleman imply that South Korea is not on a par with the North Korean forces?

Mr. LAGOMARSINO. In the question of air defense, that is certainly true.

Mr. JOHNSON of Colorado. Will the gentleman give the House some of the figures, if he has them, with respect to the total defense establishment of North Korea compared to South Korea?

Mr. LAGOMARSINO. I do not have those figures available but I am sure they can be furnished.

Mr. MURPHY of New York. Mr. Chairman, would the gentleman yield at that point?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. MURPHY of New York. I will be happy to give the gentleman a brief description of the parity of the North Korean forces and the South Korean forces. The North Korean forces are totally equipped with up-to-date Russian artillery and armor which outgun the South Korean forces in both categories by a 3- or 4-to-1 ratio. In the category of air, the North Korean forces are equipped with far superior aircraft than the South Korean forces. In the area of missiles the North Koreans are far better equipped. They have the FROG (Free Rocket Over Ground) missile which is a "blockbuster" and has the capability to reach beyond the capital city of Seoul, and the South Koreans have no such capability.

The only elements bringing parity between the forces of North Korea and South Korea on that peninsula are the American troops and the American missile ability and American air ability.

The commitment that the gentleman is talking about is the commitment for O. & M. and those are the dollars that we are ill-advisedly cutting from this bill. Those are the operation and maintenance equipment dollars for the South Korean Army.

If we live up to the moral commitment that we have made to South Korea—and that is to bring them up to parity with North Korea—then we should certainly support the Derwinski amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

I do not know where the gentleman from New York gets his figures.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Bedell, and by unanimous consent, Mr. Lagomarsino was allowed to proceed for 5 additional minutes.)

Mr. JOHNSON of Colorado. Will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

I have the figures from the International Institute for Strategic Studies of London, which is one of the most prestigious study groups for military affairs anywhere in the world, and they do not verify the figures that the gentleman has given. I intend to put these in the Record, but I think we ought to get these out in the open.

Where does the gentleman get his figures?

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

My figures come from the Commander in Chief in the Pacific Adm. Noel Gayler; they come from our U.N. commander, Gen. Richard Stilwell; they come from the former I Corps commander, the U.S. commander, Lt. Gen. James F. Hollingsworth, when I visited him last November. I also have here, a comparison of major weapons categories. For example, the North Koreans have 1,650 modern tanks; the South Koreans, 800 tanks. However, the North Korean tanks far outgun the 800 older South Korean tanks; 100 assault guns on the North Korean side, zero on the South Korean side; 2,800 field artillery pieces which far outgun and are higher calibrated than the 2,200 field artillery pieces of the South Korean side; 700 multiple rocket launchers on the North Korean side, zero on the South Korean side; 2,800 surface-to-air missiles in the North compared to none for the ROK forces.

Then we get into the Navy area. North Korea is producing in its own country submarines and has a far superior ability in high-speed infiltration ships. The figures are 400 ships and craft on the North Korean side, 190 on the South Korean side; 300 patrol class—and those patrol class are very significant because these are the high-speed patrol boats that come down the Korean coast and land insurgency teams that try to start insurgency movements in South Korea. One of the reasons they have not been successful in subverting the Government of South Korea is the fact that the South

Korean people are very anti-Communist because of what happened through 1950 to 1953. I think if we go right down through the Air Force, we find there are 625 jet tactical aircraft on the North Korean side, 237 on the South Korean side; 80 bombers on the North Korean side, zero on the South Korean side.

There is a total of—and this probably is the starkest figure of all—5,000 anti-aircraft weapons on the North Korean side to 1,000 on the South Korean side. Those are the figures we get from our own intelligence sources and our commander in chief in the Pacific.

I put these in the CONGRESSIONAL RECORD last November when I returned from that area.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the gentleman's remarks.

Mr. Chairman, Congressman FRASER indicates that the ceiling imposed by the Committee on International Relations with regard to Korean military assistance has little military significance since it will not affect cash purchases by the Korean Government. This is not correct.

The cash sales mentioned are devoted to the procurement of needed O. & M. items to maintain the Korean armed forces and do not include major amounts for procurement of new equipment.

Further, the Republic of Korean Government assumption of its O. & M. costs as reflected by the major increase in cash sales is already a significant burden on the Republic of Korea economy.

Republic of Korea Government must have Defense guaranteed loans if it is to proceed with the major procurement of needed new equipment to maintain the military balance and to allow us to eventually consider the question of reducing U.S. forces.

The Republic of Korea Government simply cannot procure through commercial channels alone their needed major equipment items. FMS defense guaranteed loans are an essential component.

The reduction of U.S. troop levels in Korea should only be considered when and if the Koreans develop a substantial self-defense capability. Reductions in military aid will impair the attainment of this goal, thus adversely affecting the prospects for such eventual reduction.

Accordingly, acceptance of the Fraser ceiling—

Would impede the Republic of Korea progress toward military self-sufficiency;

Would delay completion of the Republic of Korea modernization plan; and

Would be interpreted in Korea, Japan and elsewhere as a weakening of our security commitment to the Republic of Korea with no attendant impact on the human rights situation in the Republic of Korea.

Therefore, I urge my colleagues to support the Derwinski amendment.

Mr. LAGOMARSINO. Mr. Chairman, I strongly support the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

Mr. FASCELL. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, I just want to make some points that I think need to be emphasized.

I find no language in the bill which limits cash sales. It certainly does limit the aid program. As the gentleman from Minnesota pointed out in his discussion, on the 2-year program, the gross amount that would be available for the 2 fiscal years without the limitations in the bill is $1.333 billion. If we apply the limitations in the bill to the same 2-year period there will be available $1.128 billion.

So this means that the bill provides a $200 million cut over 2 years, $100 million for this year. If we translate that, we are talking about maintaining the aid program, at the 1975 level.

Now let us talk about the military aspect of it.

I am reading from a press report of August 1975 by President Park Chung which says in 5 years his nation will no longer need air, naval, or military support or even logistic support to repel Soviet attack or North Korean attack. Even now he says our aid is not required to fight North Korea.

If the North Koreans launch an attack against the South Koreans, without any external help, says the President, then South Korea can repel it if proper naval and air support is given by the United States with appropriate logistical support.

Mr. Chairman, I am not opposed to the South Korean modernization program. I have supported it. I think that the Koreans have done an excellent job with the aid and the material that we have given them in organizing their armed forces, making them an efficient fighting machine and being able to take care of themselves.

Mr. Chairman, I happen to believe what the President of Korea said in that statement. I do not see anything wrong or anything that is out of line with what we would do today in addressing ourselves to the question of human rights with a modest $100 million cut in terms of fulfilling our commitment to the armed forces of Korea.

Mr. Chairman, I am opposed to the amendment for another reason, and I support the limitation in the bill. Of course, we do not want to give any messages to the North Koreans. But that message, if any, has already been given by the President of Korea, by the hope and determination of the South Koreans themselves that they can take care of themselves and with our aid they can do that. We cannot, and this is no secret, indefinitely keep 40,000 troops in Korea. Sooner or later we have to have a policy which does exactly what the President of South Korea says, which makes it possible for South Korea to stand on their own two feet. But when the crunch comes they will get the needed naval and air support, as well as logistical support. So this $100 million cut keeps the 1975 level simply to get across the idea that the United States is unhappy with the repression of civil rights and liberty in Korea.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, the quotation that the gentleman states on the part of General Park is excellent; but is it not true that statement was made prior to the cut in 1975 when we put on a limit?

The CHAIRMAN. The time of the gentleman from Florida has expired.

(At the request of Mr. ZABLOCKI, and by unanimous consent, Mr. FASCELL was allowed to proceed for an additional 3 minutes.)

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, it was premised on the basis that we would fulfill our commitment of modernization of the military program in Korea. If we cut back, and the gentleman did state correctly, it is prolonged. The longer it is prolonged, the more costly it is. We are all interested in withdrawing our support of roughly 40,000 troops in Korea. As long as we do not have a program effectvely implemented in Korea, our troops will remain there longer. I think they should be withdrawn as soon as possible.

Mr. FASCELL. Mr. Chairman, I understand the point of the gentleman from Wisconsin.

Mr. ZABLOCKI. Let me ask the gentleman from Florida, if the gentleman will yield further, was not the President Park quotation made before our cut in 1975?

Mr. FASCELL. I do not know when it was made or the premise on which it was made, but I know what the man said and that is what I am relying on. He said they could take care of themselves if they had naval, air, and logistical support from the United States. I assume we want to go on with the modernization program.

I did say to the gentleman from Wisconsin, and we both know this. We are committed to the modernization of the forces of Korea and we have demonstrated that time after time with our aid programs.

Now, some reference was made to the fact that the ability to draw down from the stockpile would be adversely affected by the limitation of this amendment. The Korea limitation language is not that significant as to the draw down. In this bill the present authority for stockpiling is reduced from $100 to $67.5 million. If the President decided to use the entire stockpile within the limitation, he would still have considerable money above that. Furthermore, the limitation in no way affects cash sales.

So, this discussion today boils down to one thing: Do we want to support the judgment of the International Relations Committee when it says that the committee imposed the limitation maintaining the aid program at the 1975 level because of the gross violation of human rights which continue in South Korea.

Mr. DERWINSKI, Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I am sure the gentleman would appreciate the fact that what was really done was that a majority of the committee then present took this position. My recollection is that we barely had a quorum at the time.

Mr. FASCELL. I do not know about that, but I will say that I read what is in the report.

Mr. DERWINSKI. But let me point out one other thing. I would like to have the gentleman address himself to this issue: The request for fiscal years 1976–77 was also based on the fact that the committee terminated the grant material assistance for Korea, so what we are speaking about is a substantial cut when we take into account that at the end of fiscal year 1976 we terminated the grant material assistance in the entire bill, so what we are really talking about now is not a small cut, but a 40 percent cut.

Mr. FASCELL. Let me answer the gentleman by saying that the matter he referred to was a worldwide policy decision made by the committee. It was not directed at Korea.

Mr. DERWINSKI. No, but it applies.

Mr. FASCELL. But Korea still would get over $1 billion for the next 2 years.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I intend to support the Derwinski amendment, and at the outset I would like to make it clear that the administration is very much in accord with the Derwinski amendment, and also with the amendment that will be offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. Chairman, an abiding respect for human rights is as old as our Nation. Two centuries ago, in declaring our independence, we cited the premise that certain truths are held to be self-evident, among them the fact that "all men are endowed by their Creator with certain unalienable rights." This concern, this American concern, with human rights has been a constant, compelling factor throughout our history. Millions of Americans have given their lives in defense of human rights, here and abroad. It is our long legacy of consistent support for a dignified human existence that, more than anything else, sets us apart from most other nations of the world.

Many of you may recall that 15 years ago a new President, seeking to evoke a sense of purpose and sacrifice from a weary electorate, noted that a new generation of Americans was "unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed, and to which we are committed today at home and around the world."

I regret that the issue before us is couched solely in terms of human rights when it in fact deals with other, equally fundamental precepts such as our national security and our relationship with allied nations.

Mr. Chairman, I intend to vote in favor of the Derwinski amendment. I want the record to show that Congress is not confronted with a simple choice between good and evil, between human rights and oppression.

The point at issue is not whether individual Members of Congress are in favor of human rights: of course they are. Rather, we are being asked to determine how the foreign policy of our Government can most effectively serve the cause of individual liberty and dignity throughout the world.

Can we successfully impose our standards on nations such as South Korea where the margin of survival is measured in miles rather than in oceans?

Can the United States afford to court conflict by punishing a steadfast friend for alleged violations of human rights? Is there someone here who can tell me how this highly visible, emotional assault on our program of assistance to Seoul will improve the lot of the average Korean citizen? I would submit that it will probably have the opposite effect; it will drive a wedge between Washington and Seoul, increase South Korea's sense of threat and isolation, and decrease our ability to influence events on the Korean peninsula.

Mr. Chairman, there is widespread evidence that human rights are being abused in many countries: I deplore these violations, without exception, wherever they occur: be it in India, Mozambique, Peru, the Soviet Union, Southeast Asia, or Eastern Europe, or Chile. I do not suggest that the United States should overlook or excuse any violation of human rights in an effort to maintain alliances and friendships. I strongly believe that the dignity and security of the individual, the sanctity of law—in short, respect for human rights—must be at the heart of our foreign policy.

The U.S. Government is not indifferent to the cause of human rights. The administration is working, quietly and effectively, to promote a greater international respect for the liberties we in this country take for granted. The Government of South Korea is well aware of the importance we attribute to this issue. To the extent that Korea is prepared to react to our concerns it will do so out of respect for our friendship, not out of fear of our reprisals.

Mr. Chairman, when I voted for the Jackson-Vanik amendment, I thought it might be possible to force another government into increased respect for fundamental human rights. I was wrong on this issue; many of my colleagues were wrong. In our determination to do what was decent and right, we lost our sense of what was possible and obtainable.

We will repeat this tragic mistake if we use security assistance as a pressure point against South Korea. Let us remember that we provide security assistance to friendly nations not as a reward or punishment for their domestic practices, but because such assistance serves some significant American national interest. Failure to adopt the Derwinski amendment will inhibit our ability to act as a factor for moderation with our friends in South Korea; it may encourage adventurism from the north and jeopardize the security and stability of the region. I fail to see how we can possibly hope to improve the human rights situation in Korea by depriving that nation of the means to defend itself against a regime—North Korea—that betrays not the slightest concern with individual liberties and freedoms.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, every man and woman in this body is dedicated to the protection of human rights, not only in this country, but on a world basis; and I think the day we raise our hand and take our oath we make that statement freely, clearly, and openly. Therefore, I would not impugn anyone's motives or intentions when we debate human rights, and particularly human rights in South Korea, which is at issue in this amendment.

I think, however, we must examine the situation in light of current history. We have made a moral commitment to the Republic of Korea, a commitment that was made in 1950. It was reaffirmed by 16 other nations of the United Nations when they sent their men to fight alongside of our men.

I think we realize that communism, through its invasion in 1950 in South Korea, the probes of the West throughout Asia, certainly today we are going to analyze them and perhaps deliver messages back to the Communist areas in Asia. How will those messages be interpreted? Those messages will be interpreted differently in Pyongyang, where Kim Il-sung has just recently stated his intention to move southward to reunify the Korean peninsula but to reunify it under the Communist government. The reason he cannot do that is twofold. Number one is the ability and viability of the Government of the Republic of Korea, as it has been demonstrated conclusively over the past 15 years. And in about 4 years that country will be considered an industrialized country and not an underdeveloped country. It is truly an economic miracle. The second reason is that the United States has remained a steadfast ally of the Republic of Korea. We have maintained a minimal troop level. We have kept one infantry division off the demilitarized zone but in a position where it is a clear message to Pyongyang that the United States is there. U.S. Air, U.S. Navy, and U.S. strategic missile forces are also on the peninsula. That is the balance that we have maintained. That balance not only protects the Republic of South Korea, it also protects Japan and the entire western Pacific basin from the encroachment of communism.

The Park government I think has been a little sternly accused of repression of rights. I looked to see in just what area that repression has been. Billy Graham preached to over 1 million people just recently in South Korea. The March 1 day that we had the so-called demonstration against the government in the cathedral, 500 people were baptized that day in the cathedral in Seoul.

We did not hear about that. And on the same day a half million people attended Mass.

Mr. Chairman, last week, along with my colleague, the gentleman from California (Mr. CHARLES H. WILSON), I put in the RECORD, in a 2-hour special order, evidence by the clergy, both Protestant and Catholic, that they did not want elements of their clergy being used for political purposes, that they particularly wanted to give the message to the world that there is freedom of religion, and that there is freedom of movement within South Korea.

In the United States alone there are more than 3,300 students from South Korea who move freely to the United States and move back to their country, just the same as students from all over the free world have the ability to move here.

If we sustain the position of the gentleman from Illinois (Mr. DERWINSKI), the message that this amendment will deliver is a clear message to Pyongyang that the United States is once again reaffirming its commitment to the well being of Korea. I would say also—and I say this advisedly—that if the Derwinski amendment is defeated, it would be an uncertain trumpet broadcast from this floor to the world that the United States is once again starting to withdraw, and that message would be misinterpreted. Conceivably in Pyongyang it would have to be supported if they moved unilaterally by both Moscow and Peking, because of the Communist probes that we have seen in the past.

I say that unless we support the Derwinski amendment, we will fail to continue our moral commitment to the Korean people, and that moral commitment is to maintain on the present level the continuation of American aid.

Mr. Chairman, only 7 months ago, on November 7, 1975, North Korea's leader, Kim Il Sung, stated that—

> The occupation of South Korea by U.S. troops is the main obstacle to our national reunification.

He was, of course, referring to his often-stated goal of drawing South Korea into his totalitarian regime, making it a part of the suffocating Communist world.

The extremely limited stability of the status quo in Korea is constantly threatened by Kim's massive military presence just 30 miles north of Seoul, and his continued threats to use that power at the very first opportunity.

The short-term problem is quite simply that Kim Il Sung is essentially irrational. In the words of our CINCPAC—Commander in Chief Pacific—Intelligence Directorate, Kim is "a zealous nationalist and a dedicated Communist wholly capable of executing faulty judgments based on misconception." CINC PAC also notes that Kim "is not interested in global détente, which can only hinder his goal of reunification by force of arms."

I fully agree with that assessment, and as I pointed out in my report to the Speaker of the House last October upon my return from an extensive political, military, and economic inspection of South Korea, it is generally accepted—that one of the best assets of the Republic of Korea is the fact that Kim is looked upon as unstable by his former ally, the Republic of China. I do not believe that China is interested in a new war on the Korean peninsula, but we must face one constant. In the event Kim unilaterally invades the Republic of Korea, China or Russia would not let North Korea be extinguished.

And that is the danger we face.

Kim appears to have developed a personality cult that is at its zenith. He has complete control over the government and people of the North. He has expended huge sums—15 percent of his gross national product—on arming the North. Overall, his GNP is not growing and, being $1 billion in debt, economically his time is running out.

It is generally known that since the "shocks of Spring," the fall of Saigon and Phnom Penh, Kim has attempted to exploit what he perceived as a weakening U.S. stance in Asia. He went to Peking to ask for help, but his adventure was not encouraged there.

With a longstanding invitation to visit Moscow, he has attempted to visit Soviet leaders, ostensibly to persuade them to support a move south whereupon the longstanding invitation was withdrawn.

I will mention here that China does tacitly support North Korea's international campaign to isolate the Republic of Korea. North Korea is accomplishing this by realining itself with the nonalined countries and attempting to make South Korea the underdog in world opinion. This is why the North so avidly seeks to eliminate the imprimatur of the United Nations from South Korea. They would rewrite history to the extent that South Korea and the United States were the aggressors in the past and that Kim wishes to peacefully unite the North with the Republic of South Korea.

In advertising in U.S. newspapers recently, Kim conveniently neglects the facts and the history of the 1950's.

It was the North Koreans who, without provocation, invaded the South.

It was the North Koreans who, without warning, visited terror and violence on the South.

It was the North Koreans who tried to exert their will over the South Korean people by armed force.

Suffice it to say we found that a basis of trust does not now exist and will not develop into the foreseeable future. The North's goal is the unification of Korea under its terms and it is prepared to fight an offensive war to achieve this. The primary goal of the Republic of Korea is a reduction of tensions. However, it is prepared to fight to preserve its right to self-determination if attacked.

THE MILITARY IMBALANCE

The armed forces of the opposing sides are generally itemized as follows:

North Korea: 467,000.
South Korea: 625,000.
United States: 42,000.

Numbers are only part of the picture. Despite its numerical inferiority in manpower, North Korea is, on a scale, vastly superior because they have the initiative and large numbers of up-to-date aircraft, tanks, artillery, missile systems, et cetera.

On the other hand, the Republic of Korea army, although of excellent quality is essentially an "M-1 Army," with much equipment that still dates back to World War II and the 1950 war.

There are two aspects to the defense of the Republic of Korea; the immediate threat and the long-term modernization and self sustenance of the Republic of Korea armed forces.

In the case of an immediate attack, the Republic of Korea forces would be aided by the U.S. Forces Korea, the primary combat forces of which are the U.S. Second Division, and the 314th Air Division, comprised of 7,300 people and their aircraft.[1] Because of the propinquity of the two opposing forces, and the fact that U.S. bases are only minutes away from the Migs of North Korea, all firstline U.S. aircraft are protected under the so-called "Window Arc."[2] Our surface to air missile units, for example, have 3 minutes to respond to Mig-19's over Seoul, the flight time from the North's fighter bases to the South's capital city. The U.N. commander, Gen. Richard Stilwell, commands the Republic of Korea Army and in the case of an attack, his plans are for an immediate, violent, and successful response. He sees the Republic of Korea Army as well trained and fit, an army in which he has supreme confidence.

Because of the continued military buildup of the North, the South is, to all intents and purposes, in a suspended state of belligerency. As in the 1950 war, the North has an immutable advantage of geography. If the North wants to cause mischief, according to General Stilwell, and if they make a determined assault, they can sustain a lightning war for 5 days—which would probably put them in the city of Seoul.

As opposed to South Korea, North Korea has most of the ships for coastal operations, including fast patrol and motor torpedo boats and better supplies. They have 15 divisions just north of the DMZ, and superior armored and artillery forces.

The North has 1,650 modern tanks as compared to 801 for the South.

The North has 2,800 artillery pieces with greater range than the South's 2,200 pieces.

The North has 625 combat aircraft, incuding Mig-19's and 120 Mig-21's, compared to 237 older Republic of Korea Air Force planes supplemented by 68 U.S. aircraft.[3]

The North has 2,800 surface-to-air missiles compared to none for the ROK armed forces.

---

[1] U.S. plans call for subsequent support to come from the 3rd Marine Division currently on Okinawa and the 25th Infantry Division located in Hawaii.

[2] U.S. airfields are located south of the 36th parallel at Osan, Kunsan, Taegu, and Kwangju.

[3] Half of the ROK Air Force is made up of U.S. Sabre F86-F Fighter Bombers. One American official stated the only other place you can find such aircraft is in a museum.

The North has 19 guided missile patrol boats of the OSA and KOMAR class compared to none for the South Korean navy.

Of great significance in any assault from the North are approximately 50 "Y" shaped tunnels. These heavily fortified tunnels have at both apertures of the "Y," mobile artillery emplacements or missile launchers. Some of the artillery fire fans reach just north of Seoul, however, the North Koreans have FROG–5 missiles—free rocket over ground—which, deployed in the "Y"-emplacements could easily reach Seoul and beyond with its 155-mile range. According to the International Institute for Strategic Studies, the North Korean's also have in their inventory the FROG–7 which is the latest in the free rocket series. In addition to improvements in the rocket, it has an even greater range than the FROG–5.

These "Y" shaped emplacements have been subjected to "hardening," that is, massive concrete walls and Earth cover that, according to U.S. officials, have cost the North Korean Communists $200 million each to build. This would total $10 billion, and is probably a high estimate not taking into account the cheap labor available in the North. However, it still represents a sizable commitment of resources on the part of the North Koreans.

Inasmuch as the South Korean army has not assumed an offensive posture, I seriously doubt that those emplacements were built for defensive purposes.

THE DMZ TUNNELS

A factor of major significance to U.S. and Korean officials, and especially the military commanders south of the DMZ in terms of the true intentions of North Korea were the tunnels being dug from north to south at tactical locations under the zone. The tunnels are positioned to exit in advantageous areas in relation to known Republic of Korea military positions. The first tunnel was discovered on November 15, 1974, by a young U.S. sergeant who was on patrol. Mistaking steam rising from a crack in the Earth for a spring, he and his troops began to dig and were subjected to small arms fire from North Korean troops. Subsequent investigations indicated a massive tunneling project had been undertaken by the North Koreans beneath the DMZ. Five days after the discovery, while investigating the tunnel, one U.S. Navy officer and one Republic of Korea Marine officer were killed by a North Korean explosive device. Several others were injured.

As a result of the initial find by the sergeant, a second tunnel, the Chorwon tunnel was found. It is ironic that the discovery of the tunnels came at a time when the North had, again, fleetingly agreed to a dialog with the South to resolve differences and ease tensions.

The following information is of extreme significance had the tunnels remained undetected.

Since November 15, 1974, there have been two tunnels detected, 12 thought highly probable, and three suspected.

They are of two types. The first is a relatively small infiltration tunnel 39 inches below the surface at some points that was built for use by agents, troops trained in guerrilla warfare, and the like.

The second type of tunnel was much deeper and larger and was capable of being transversed by troops in full field pack three abreast. It is significant that the suspected and known tunnel exits were in important areas relative to allied forces which provided cover for large numbers of troops.

The four-kilometer long tunnel would allow for the passage in 1 hour of 8,000 troops in full combat gear at conventional march rates and 10,000 such troops in a forced march.

The tunnel would accommodate 12,000 troops, with rifle only, at normal speed and 15,000 in a forced march.

The significance of the above becomes obvious. Using the element of surprise, the North Koreans quickly could have infiltrated several divisions behind or within our lines, in addition to hundreds of agents and operatives, to harrass, disrupt communications, and generally cause confusion within our forces.

Aside from their importance militarily, they are of great political significance, because they prove the tenacity and complete dedication to move aggressively against the South by whatever means possible.

The tunnels leave no doubt of the intentions of Wim Il Sung and the North Korean leaders. For those who take the aggressive activities of the North lightly, I say to them, that the tunnels are further evidence of the malevolence and true motivation of the leadership of the North.

They are built for an aggressive war and the tunnels facilitate the Communist doctrine of "hugging the enemy to avoid his fire."

MODERNIZATION OF THE REPUBLIC OF KOREA ARMED FORCES

President Park is currently completing a 5-year modernization plan of the armed forces of the Republic of Korea. His goal is to eliminate the vulnerability of his armed forces relative to the North Korean army and will make the Republic of Korea army capable, weaponwise, to handle an initial North Korean assault. However, any resupply after the first engagements would still have to come from the United States.

Quantitatively, only the Republic of Korea Army is on a level with the North. Its air force and navy are far behind. The North has significant capability, in fact, "a tremendous capability" to produce its own military basics. They have the capability to produce their own submarines, and they now have approximately eight undersea craft in their fleet. Qualitatively, while numerically superior, the Republic of Korea army is comparatively substandard in terms of equipment.

Part of the weapons deficit is due to the fact that the North Koreans have put 15 percent of their gross national product into their military machine. Further, one-half of the moneys expended by Pyongyang was to purchase new military equipment. Consequently, while the North Korean army is equipped with fully automatic AK–47 rifles, large units of the Republic of Korea forces, including reserves, are still equipped with the old M–1 rifles—or no rifles at all.

The modernization of the Republic of Korea forces was brought about by the following factors:

(a) Only 6% of the South's GNP went into maintaining the ROK Army. Under President Park's plan, however, the FY 76 budget for the armed forces will double and the cost of maintaining their forces will increasingly be taken over by the Republic of Korea. For example, in 1973, 50% of the cost of the ROK forces was borne by the United States. In 1975, 90% of these costs were taken over by the Korean government.

(b) After the 1950 war, the United States left substantial quantities of equipment, most of which was of World War II vintage and which is now woefully obsolete.

(c) Eighty percent of the money spent since the 1950 war has been used to maintain the old equipment originally left by the U.S. forces.

(d) The U.S. purposefully constrained the modernization of the ROK forces in certain fields out of the fear that, with an up-to-date army, the chance of an attack to the North, if the South were provoked, would be greatly increased.

Significant progress will be made in the years ahead by the South Korean Government to make its army dependent of foreign hardware. For example, a Colt M–16 plant currently being completed in Pusan will have the capability of producing 120,000 rifles per year on a one-shift basis. In the short term, however, the Korean Government is presently pressing the United States for advanced weapons technology. Their wants are mainly in the areas of advanced radar systems, guided missiles and aircraft. They have specifically asked for a squadron of F–4's and 60 F–5–E's. In determining whether to provide Korea with advanced weapons systems, the United States must consider the possibility that the South Korean Government may go to England and France, to buy such weapons systems.

The Russians, meanwhile, are playing a relatively conservative game, having supplied the North Koreans, in the fighter plane category, for example, with Model 21 of the Mig series. Kim I Sung, according to our intelligence, has "complained bitterly" over this practice and has been refused access to the much more advanced Mig–23, the so-called FOX–BAT, which the Russians provided the Arab nations during the 1973 Yom Kippur war.

China has followed the same pattern as Russia and has provided the North Koreans with a lower level of military technology than it currently possesses. For example, China has only provided MIG–19's to the North Koreans.

As I stated earlier, the result of the North Korean's relatively huge expenditures has resulted in their being in an economic condition that one senior U.S. official characterized as "dead broke," having accrued $1 billion in long-term debt, with their current debt running at the $200 million level. The countries of Eastern Europe are disturbed over North Korea's lack of credit which has resulted in a 1-percent increase in interest on loans for them in the world money markets, an increase directly related to the North's indebtedness.

North Korea's poor cash position is a cause of pain for both Russia and China. However, if the United States should withdraw its troops from Korea, or upset the balance of power significantly by moving the Second Division south of the Han River, in the judgment of experts in the area, China and Russia would compete for assistance to North Korea.

It should be remembered that during the 1950 conflict, Russia gave $1.7 billion worth of assistance to the North, while the Chinese provided $300 million in such assistance in addition to five Chinese army groups totaling 600,000 troops.

In the opinion of both Korean and U.S. officials, any sign of retrenchment by the United States would give China cause to use North Korea to pursue its expansion and influence in the Asian world. In this equation, the age-old fears in this part of the world still exist. The Japanese still consider the Korean peninsula "a dagger pointed at its heart," and a stepping stone for a Chinese invasion of Japan, while China has historically looked upon the Korean peninsula in the reverse—a stepping stone for the invasion of China by Japan. This is not a far-fetched idea. If the United States pulls out of Asia, the Japanese could rearm in earnest, a development that would be looked upon as a "first-class disaster" by Asian countries. Of significance is the fact that our analysts feel it would disturb and frighten China to an alarming degree.

Détente with Russia and China and/or a diminution of the Chinese-Russian confrontations should not be used as excuses by the United States for a lack of commitment or decreased vigilance or concern in that part of the world around the 38th parallel.

The Congress should make no mistake that the relatively symbolic forces of the United States in South Korea are maintaining peace and security not only on the Korean peninsula, but ultimately in the entire western Pacific.

And we are not alone in the defense of Korea. Our major ally is Korea itself, who is willing to spend 7½ percent of its gross national product—$3.1 billion—on defense for fiscal year 1976–77.

Even this Congress has publicly and officially recognized the need to modernize South Korea's armed forces, with the approval of sales of F4E's and F5E's and Harpoon missiles. I find no indication that North Korea has either stopped upgrading its own military, or changed its professed goal of repossessing the South.

Critics of South Korea do not attack that country's security relationship with the United States—which, I would point out, is the only basis for the National Security Assistance and Arms Export Control Act. The critics seem to have taken it upon themselves to decide what Korea's own internal security arrangements should be.

South Koreans realize that there are very few options—they must either accept some limitations on personal freedoms in order to maintain a strong and stable government in the face of the oppression in the North, or they must face total subjugation by capitulating to Kim Il Sung's Communist dictatorship.

In yesterday's CONGRESSIONAL RECORD, I offered extensive documentation that showed freedom of religion in Korea is relatively unimpaired. But when church leaders engage in political activities, they must be prepared to accept political consequences. This is true the world over. The internal domestic programs of a nation must be measured with full consideration of its history, culture, and development patterns over the centuries, as well as its current relationship to other neighboring nations who threaten its very existence. The Fraser amendment purports to hold military aid to South Korea at what would turn out to be punitive 1975 levels in order to improve human rights. The author of the amendment has not demonstrated conclusively that a 40-percent cut in military assistance to South Korea will improve human rights. However, it is possible to state some of the negative impacts if section 413 is not deleted:

> Precludes completion of the Korean Force Modernization Plan in Fiscal 1977;
>
> Non-completion of the Korean MOD Plan delays the Korean funded Force Improvement Plan (FIP);
>
> Consideration of potential US force reduction in South Korea is dependent on completion of both the MOD Plan and the FIP by 1981;
>
> Sends destabilizing signals to Japan and North Korea.

Mr. Chairman, we have a commitment to South Korea. It began more than 25 years ago when we engaged in a major war to help bring that nation its freedom. That war has never ended for the people of the Republic of Korea—the guns are pointed directly at them every day, and the threats to pull the triggers are heard loud and clear.

The Fraser amendment has no other effect on human rights than to bring a struggling nation that much closer to disaster and the total loss of all human, political, personal, and religious rights to a Communist dictatorship. And the fall of Korea would lead directly to the instability and insecurity of all of Asia and the Pacific area.

The alleged restrictions in human rights are no more than a well-ordered society with no alternatives to political oppression from the North than to tightly control their own political process in order to extirpate insurgents out to destroy them and ultimately to remain free. To deny them that freedom through such an ill-advised amendment is the first step toward the destruction of all our interests in the Far East.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Derwinski amendment.

Mr. Chairman, I would like very briefly to review the parliamentary situation. The bill before the committee contains restrictive language sponsored by my friend and much admired colleague, the gentleman from Minnesota (Mr. FRASER). The Derwinski amendment would strike most of that language. As I understand from what the gentleman from Minnesota (Mr. FRASER) has already announced, he will offer an amendment to strike the language referring to Public Law 480.

I certainly will support the gentleman in that, but I also rise in support of the Derwinski amendment. We should take all of the language of section 413 out of the bill. I believe it does carry grave risks for our security interests in that part of the world, and that is why I think we should take the language out of the bill.

Nevertheless, I do not believe that Congress should be silent on the question of civil liberties in South Korea, and at some stage—at this point it is difficult for me to say just when I will have the opportunity—I will seek to amend section 413. I hope the Members will listen to these words that I will seek to put in the bill. Section 413 would then read as follows:

> The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests the President of the United States to communicate this concern in forceful terms.

This would mean that with that language in the bill, the Congress would be giving notice to the President of South Korea of our distress over the trend of civil liberties, but at the same time this same piece of legislation would continue the military support that is so essential to the preservation of the Republic of South Korea.

I hope that when the time comes, my colleagues on this committee will support me in that endeavor. If the Derwinski amendment is approved, the Fraser language will come out, but at that point I would seek to put in this new language for section 413. I have the assurance of the gentleman from Illinois (Mr. DERWINSKI) that he will support my amendment that I have just read.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I am sure I can assume that the gentleman from Illinois is equally concerned with any violation of human rights anywhere in the world.

Mr. FINDLEY. Of course. My language does mention the Republic of Korea, and I am sure the gentleman shares my concern for civil liberties in that country. I have, of course, the same concern for civil liberties elsewhere. I know there is broad support for striking the restriction in Public Law 480 because it has a humanitarian overtone.

It deals with food. However, in my opinion, it is difficult to draw the line between support through Public Law 480 and support through military assistance. Both are forms of support for the government.

Someone has even termed Public Law 480 as authority for "food for war," something like that.

Mr. Chairman, it is important that we maintain our support of the Government of South Korea, and it is equally important that in the same legislation we voice our concern over the trend toward restriction of civil liberties in South Korea.

Mr. Chairman, I offer this amendment out of the conviction that it is possible to find a middle course between ravaging a friend's capacity to defend herself and simply remaining silent while important civil liberties are violated. I believe the amendment I am offering strikes the appropriate balance.

We simply cannot ignore the web of history that links our country to the Republic of Korea. We cannot ignore the fact that both sides have spilled their blood in coming to the other's aid. These facts alone demand of us a special sensitivity and care.

And yet there is still much more for us to understand. We have to fact the fact that not all of the world will understand our intentions as perfectly as we might suppose. Many will look upon our cuts as yet another indication of America's unreliability. This can lead to profound disturbances.

For instance, by weakening South Korea's conventional arms, we can strengthen her desire for nuclear weapons. By weakening Japan's faith in the sturdiness of U.S. guarantees, we may even trigger that nation's remilitarization, or perhaps, her neutralization. And by misleading North Korea about the strength of our commitment, we may indeed unleash the forces of death and aggression. All of these things also have a moral content—just as Mr. FRASER's amendment seems to have. We have to recognize then the way in which isolated acts of moral goodness can lead to the most distressing consequences at another level.

All of us can see how the Fraser amendment may become the raveling which, when *pulled, loosens* the security structure of all of East Asia.

The amendment I propose will not run these risks. But neither does it place us in the position of seeming—by our silence—to excuse authoritarian excess. My amendment places us squarely and forcefully on record in censuring activities that violate our traditions and our ideals. Such an act should erase the fears of those of believe that the American response to date has been either too weak or too confused really to be heard.

Among instruments of policy that are invariably either too blunt or too timid, this seems to be the only decent and practical alternative at our disposal. The absence of a congressional declaration on this subject in all the many years of our relationship with the Republic of Korea lends to this amendment a force that it might not otherwise seem to possess. I urge my colleagues to support it and, thereby, to support the concept of morality properly understood.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

Does the gentleman imply that he is going to put in a further amendment relating to the question of human rights here on an overall basis? We already have a provision in the bill which I support and voted for and which I feel is strongly restrictive of our aid going to any country that does not observe the general tenets of human rights.

I refer the gentleman to page 50, which says:

> Except as provided in subsection (c) (3), no security assistance may be provided to any government which engages in a consistent pattern of gross violations of internationally recognized human rights.

Does not that fully protect us?

Mr. FINDLEY. I think we have special reason for concern over civil rights in South Korea.

There are very few places on earth where as much American blood has been shed as in Korea. Therefore, I think we are justified in expressing special concern over what we would consider to be unfortunate trends there.

Mr. WOLFF. If the gentleman would yield further, I would hope that the gentleman is not watering down the human rights provisions that we have insisted upon in the bill.

Mr. FINDLEY. It certainly is not watering it down, but if we strike the language of section 413, as I hope we will—and the gentleman from Minnesota (Mr. FRASER) has agreed to strike the Public Law 480 language, and I hope the Derwinski amendment will prevail—I do not believe the bill should be silent on the question of human rights in the Republic of South Korea.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and members of the committee, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

First, I would like very much to applaud the efforts of my distinguished colleague, the gentleman from Minnesota (Mr. FRASER), for seeing to it that this limitation is placed in this bill in section 413. I wish it had gone further and that the restriction had been even greater.

With the limited moments I have, Mr. Chairman, and members of the committee, I would like to address myself to two arguments: One, the moral question; and two, the issue of military threat.

With respect to the moral issue before us, each and every one of my colleagues on both sides of the aisle, irrespective of their ideological and philosophical position, have stated that we are all in support of human rights. However, some of us have followed by saying, "We must not make any move that has such serious foreign policy ramifications."

Mr. Chairman, I do not find it shocking, but I certainly find it debilitating and demoralizing that we, as representatives of the people, as we celebrate the Bicentennial of 200 years of ostensible democracy, can be on the floor of Congress arguing eloquently in support of more military aid to a dictator. I find that a fundamental contradiction that we ought to address.

Mr. Chairman, many of my colleagues have pointed out that we are all for human rights and human dignity, but have added, "Let us not do this."

Mr. Chairman, this Nation has gone to war, fought and killed and maimed people in the name of freedom and democracy. Can we do less peacefully?

We have taken thousands of American troops, sent them across the water to fight and die in the name of freedom and human rights and human dignity.

All we ask here, Mr. Chairman, is to place some pressure upon a political dictator in South Korea. Can we do less if we are willing to place the lives of our young people at stake in defense of freedom? Can we not now withdraw our dollars in the same defense of human rights and human dignity? Can we not now go on record in defense of the concept and the principle of human freedom?

Mr. Chairman, with respect to the other issue of the military threat, I have been here now going on 6 years. Every year, at a certain time, we are bombarded with the propaganda that the North Koreans are going to invade South Korea, but last year we got an interesting new wrinkle.

Someone said, "Maybe the South Koreans might get so testy they will invade North Korea." But nothing has happened in the 6 years that I have been here.

When former Secretary of Defense Schlesinger was here—and certainly he is no leftwing radical by any stretch of the imagination—I raised the following question. I said, "Mr. Schlesinger, given the reality that the South Koreans have 600,000 troops, well equipped, many of them with combat experience as a result of their recent involvement in the Vietnam war, and their ostensible enemy North Korea has between 300,000 and 400,000 troops who have not fired a shot in over 20 years——"

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I do not yield.

Mr. DERWINSKI. Just for one moment?

Mr. DELLUMS. I do not yield at this time.

And the United States has provided 42,500 troops, provided ground combat support to the combat equipped militarily experienced forces in South Korea of almost twice the size of North Korea, should the United States do this? And he said, "I agree with the gentleman from California that we cannot justify these troops on a military basis, we have to justify them on the ground of providing a political presence."

So, why are my colleagues in the Congress still arguing and insisting on the military necessity when it is clear that our presence there is strictly political? But, instead, we tried to have it both ways, not only is America providing 42,500 ground troops, but we also have 666 tactical nuclear weapons in Korea. And then when we walk into the well and offer an amendment to remove our overseas military forces, the same people rise up and say that no, we cannot recall these troops. We need to modernize the forces there and until we do modernize them we must keep those troops there.

Then someone else rises up and says let us put a limitation on the amount of money used to modernize the forces and the same people say no, we cannot do that.

You cannot walk both ways on a street. Either we are committing the American presence there for all time or we are committed to a modernization of the forces in order that eventual withdrawal of our troops can be carried out. So, in effect, we want to do it both ways, we want to keep the troops there, and keep the tactical nuclear weapons there and continue to pour in more and more money to modernize the forces there, and we have done so for over 20 years.

It seems to me that we in this Congress ought to be assuming some sort of leadership in the redirection of the priorities of this Congress.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DERWINSKI. Mr. Chairman, I will not object, if the gentleman will yield.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I will yield to the gentleman from Illinois at the appropriate time.

Mr. Chairman, I believe that we ought to start assuming some leadership here in the Congress, and we can do so with a commitment to reduce our forces overseas. If we do that, then we will be able to save the American taxpayers billions of dollars. We either should do that, or we then decide, on the other hand, to beef up the military aid that is advocated by the same people who oppose a reduction year after year so that we can reduce our forces in South Korea.

I think the point is do we want to spend billions of dollars to keep and maintain those forces there at a time when we have such great difficulty in deciding upon the choices we must make and when we have such limited resources?

There ought to be a carefully thought out system of priorities. South Korea is a country that is perfectly capable of defending itself. I do not believe that the provision that is offered in this bill in section 413, offered by my distinguished colleague, the gentleman from Minnesota (Mr. FRASER) in any way is going to threaten or endanger the military survival of South Korea, but it certainly can enhance the image of a nation—our Nation—committed to the defense of human rights and democratic principles.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DELLUMS. I now yield to my distinguished colleague, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. I thank the gentleman from California for his good intentions in offering to yield to me.

The CHAIRMAN. The Chair will state that the time of the gentleman has expired.

Mr. WINN. Mr. Chairman, I move to strike the requisite number of words.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Illinois so that the other side of the emotional debate will go on before I lay out some facts.

Mr. DERWINSKI. I thank the gentleman for yielding.

I just wanted to advise my well intended but innocently misinformed friend, the gentleman from California (Mr. DELLUMS) that when he quoted the troop levels, he made an innocent misstatement. Our figures show that the North Koreans have approximately 500,000 men in service. While the North Koreans have approximately 500,000 men, the South Koreans have just 600,000 men. If one relates that to the basis of population, the North Koreans have about 1⅔ men to 1, with half of the population they constitute a military force of almost equal size.

The gentleman from New York (Mr. MURPHY) earlier gave the figures of the equipment. In almost every category, every major category, the North Koreans have far more modern equipment than the South Koreans. All we are really debating in this amendment is to maintain the commitment we have made for a 5-year modernization program of the forces of South Korea, and the savings that the gentleman speaks of will be achieved.

In the meantime, if there is a miscalculation, it will bring about a war, and the cost of war is completely unpredictable. So I think that the gentleman from California, if he will seek the truth, will revise and extend his remarks and support my amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I do not have the time. I am sure the gentleman realizes how hard it is to get the time to yield sometimes.

Mr. WINN. Mr. Chairman, I do not yield. I said I would yield to the gentleman from California at the appropriate time.

Mr. Chairman, I rise in support of the amendment to delete section 413 which would limit military assistance to South Korea to $290 million. I consider that a military assistance level of only $290 million for fiscal year 1976, the transitional quarter, and fiscal year 1977 to be damaging to the security interests of the Republic of Korea and to those of the United States.

In 1971, the United States began a 5-year modernization plan designed to put the Armed Forces of South Korea on a par with those of North Korea. Despite the fact that congressional authorizations during the 1971–1975 period fell $428 million short of the $1.5 billion estimated to be the total cost of the modernization program, the South Koreans dramatically improved their military. They have developed a formidable ground force, on which, I might add, significantly contributed to the South Vietnamese war effort at the request of the U.S. Government.

The South Korean air force, however, remains much weaker than the Air Force of North Korea. The North Korean Air Force numbers 40,000 men with 588 combat aircraft while the South Korean Air Force has only 25,000 men with 216 combat aircraft. Half of the South Korean fighter-bombers are old Korean war-vintage F–86's.

The South Koreans have, therefore, begun a force improvement program which is designed to improve their air force and their air defense by 1980. It is a costly, ambitious undertaking. However, it is an expense that the South Koreans have decided to undertake largely on their own through cash and credit sales rather than through grant aid. In 1971, 95 percent of the modernization program was funded by U.S. military grant aid. In contrast, for 1977, only 3 percent of the administration request for security assistance to South Korea is grant aid. The remainder of the 1977 program is credits. These credits involve no transfer of funds from the United States to Korea. The U.S. Government will simply extend to the Koreans a line of credit which the Koreans will repay at a rate of interest equivalent to the interest the U.S. Government pays on the obligated funds. The line of credit will finance military purchases in the United States.

By putting this low ceiling on military assistance to South Korea we would not be saving the U.S. Government large amounts in grant aid. We would be refusing to the South Koreans credits they need to pay their own way to military self-sufficiency.

In making such a decision, it is important to understand that the North Koreans devote a greater percent of their GNP to defense expenditures than do the South Koreans and that the North also outspends the South in absolute terms. The North has a highly developed indigenous defense industry which the South does not.

South Korea is almost totally dependent upon the United States as a source of military equipment and spare parts. The North also has its two strong allies, the Soviet Union and the People's Republic of China located in close proximity and on its border respectively. These are strong advantages for the North.

The North has in its leader, Kim Il-Sung, a man who is devoted to the reunification of the Korean peninsula. Kim Il-Sung is unpredictable to say the least. After the fall of South Vietnam, he actively sought support in Peking and Moscow for his aggressive designs against the South. Should he decide to cross the border, his action would inevitably force China and the Soviet Union to give him support.

We, in Congress, should not give any signal to Kim Il-Sung that would encourage him to attack the Republic of Korea. A 40-percent cut in aid such as that proposed by section 413 could transmit to North Korea a sign of United States indifference to events in Korea. I oppose this enormous cut which could provoke instability on the Korean peninsula, thus endangering the lives of 40,000 American troops now in Korea and perhaps the lives of countless others. This cut will only delay South Korean military self-sufficiency and, therefore, also delay the eventual withdrawal of those American troops.

Military credits are needed to keep South Korea strong. The people of South Korea, no matter what their political persuasion, desperately want to avoid domination by the North. U.S. security assistance is vital to the independence of South Korea. I, therefore, strongly urge you to vote for the amendment to restore these vital military credits for South Korea.

Mr. Chairman, I yield now to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank the gentleman.

Mr. MORGAN. Mr. Chairman, I am just taking a poll, and I wonder how many Members wish to speak on this amendment?

Mr. Chairman, we have been debating this amendment for almost 2 hours. I ask unanimous consent that all debate on this amendment and all amendments thereto close at 4:10.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(By unanimous consent, Mr. FINDLEY yielded his time to Mr. HYDE.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I think it is foolish to look at South Korea in a vacuum. It is easy from the tranquil wheatfields of Minnesota or the people's parks in Berkeley to say that South Korea should have a standard of democracy like our own, but I recall it was not long ago when our country was threatened and we locked up Japanese Americans in concentration camps.

It is not unknown in our country to suspend the writ of habeas corpus. We have to look at all these things in context.

Over 80 percent of the world does not know what democratic freedoms are. Why must we use economic coercion against a nation with a murderous Communist aggressor on its border? If we feel the North Koreans are theoreticians or academicians, ask the crew of the *Pueblo*.

We must do nothing to destabilize the military balance in Asia. The stability of South Korea is indispensable to the security of Japan, and to maintain an equilibrium between China and the Soviet Union in Asia. A weakening of our commitment to South Korea is a move toward setting the stage for world war III. If we are unhappy with the state of human rights in South Korea, wait until the North Koreans take over.

By the way, Mr. Chairman, whatever became of human rights in Cambodia?

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, I support the Derwinski amendment in its purpose to remove an arbitrary limitation on U.S. military aid to South Korea. This amendment would remove such provisions from H.R. 13680.

The Committee on International Relations adopted this limitation as a well-intended measure to compel the Government of the Republic of Korea to liberalize its protection for citizenship rights. That is commendable.

Unfortunately, South Korea is faced with an imminent threat of renewed aggression from North Korea. In a sense, under the gun, the extent of civil liberties and democratic niceties which we enjoy in this country must be balanced with firm discipline for those who advocate overthrow of the government.

If the Derwinski amendment is defeated, and if the committee's limitation is retained, we may be setting in motion a series of events which would invite aggression from North Korea. Many Americans remember from personal involvement the tragic consequences of earlier relaxation of our support for our ally, South Korea.

If North Korea does then repeat its invasion as it is poised now to do, and if they succeed in conquering South Korea, what then becomes of the people of South Korea? What then becomes of their human rights that we seek to protect? What then becomes of their religious and political freedoms that we so cherish,

As commendable as the intent of the committee may be, the Derwinski amendment shows better judgment of the international situation and I urge its adoption.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I would like to have the attention of the distinguished chairman of the committee.

Has the committee had before it the high officials of the State Department in order to determine their opinion as to the purpose of our troops in Korea?

Mr. MORGAN. Mr. Chairman, if the gentleman will yield, yes, we have had the Secretary of State as a witness in hearings on the 1976 authorization and the 1977 authorization.

Mr. BEDELL. Was he under oath?

Mr. MORGAN. No; he was not under oath.

Mr. BEDELL. How did he testify?

Mr. MORGAN. Pardon?

Mr. BEDELL. What did he testify as to why our troops were in Korea?

Mr. MORGAN. He testified, not simply on the troops in Korea, but he testified on the whole bill.

Mr. BEDELL. But did he testify as to the purpose of our troops in Korea? The reason I ask the question, an official in the State Department told me in a private conversation that the reason our troops were there was not to protect the South Koreans from North Korea, but to keep the South Koreans from invading North Korea.

Mr. MORGAN. I do not think that is true and I am sure the gentleman does not believe it.

Mr. BEDELL. No; I have had no reason to believe the State Department. We have had people from other Departments testify falsely on things. If we are going to consider legislation of this kind, it is only proper that the committee should get the heads of the State Department to testify under oath, so that we know what the facts are, because we are debating whether we need greater strength or not and, as one Member, I do not know what the answer is.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. JOHNSON).

(By unanimous consent, Mr. BIESTER yielded his time to Mr. JOHNSON of Colorado.)

Mr. JOHNSON of Colorado. Mr. Chairman, I realize that we are in the position of talking this to death. We do this almost every year. I found that there was a study that had been authorized by the Committee on Appropriations.

The gentleman from Texas (Mr. MAHON) authorized a study on the need for maintaining our troops in Korea. I have referred that study to many Members. I do not know how many have read it, probably the same number that read the report of the Select Committee on Intelligence; but understanding the essence of that report is vital in deciding whether we need to maintain troops in Korea.

I really find that we have a knee-jerk reaction on the part of many Members when we start talking about maintaining troops in Korea or any place where there is a problem with a potential Communist opponent.

The real question is, what is the threat we are talking about? The gentleman from New York has given us some figures on the military establishment. I do not know how accurate those figures are, but I would like to provide the Members of the House with some figures from the International Institute for Strategic Research in London.

It is regarded much as Jane's Fighting Ships is regarded. It is an impartial, unbiased organization that makes studies of all military organizations throughout the world. Their study indicates that the South Korean Army is superior to the North Korean Army. Just listen for a moment. Let us consider it on the basis, as the gentleman from Kansas said, of talking about facts and letting the emotions go once in a while.

Here are the comparisons between North and South Korea:

KOREA: DEMOCRATIC PEOPLE'S REPUBLIC (NORTH)

Population: 15,940,000.

Military Service: Army 5 years, Navy and Air Force 3–4 years.

Total armed forces: 467,000.

Estimated GNP 1972: $3.5 bn.

Defense expenditure 1974: 1,578 m won ($770 m.)

$1=2.05 won.

Army: 410,000.

1 tank division.

3 motorized divisions.

20 infantry divisions.

3 independent infantry brigades.

3 SAM brigades with 180 SA–2.

300 T–34, 700 T–54/–55 and T–59 med tks; 80 PT–76 and 50 T–62 lt tks; 200 BA–64, BTR–40/–60/–152 APC; 200 SU–76 and SU–100 SP guns; 3,000 guns and how up to 152mm; 1,800 RL and 2,500 120mm, 160mm and 240mm mor; 82mm, 106mm RCL; 45mm, 57mm, 100mm ATk guns; 12 *FROG*–5/–7 SSM; 2,500 AA guns, incl 37mm, 57mm, ZSU–57, 85mm; SA–2 SAM.

Reserves: 250,000.

Navy: 17,000.

8 submarines (4 ex-Soviet W-class, 4 ex-Chinese R-class).

15 submarine chasers (ex-Soviet *SO1*-class).

10 *Komar* and 8 *Osa*-class FPB with *Styx* SSM.

54 MGB (15 *Shanghai*, 8 *Swatow*-class, 20 inshore).

90 torpedo boats (45 P–4, 30 P–6 class, ex-Soviet).

Air Force: 40,000; 588 combat aircraft.

2 light bomber squadrons with 60 Il–28.

13 FGA sqns with 28 Su–7 and 300 MiG–15/–17.

16 fighter sqns with 150 MiG–21 and 40 MiG–19.

1 recce sqn with 10 Il–28 *Beagle*.

1 tpt regt with 150 An–2.

1 tpt regt with 30 Mi–4 and 10 Mi–8 hel.

70 Yak–18 and 59 MiG–15 and MiG–17 trainers.

Reserves: 40,000.

Para-Military Forces: 50,000 security forces and border guards; a civilian militia of 1,500,000 with small arms and some AA artillery.

Korea: Republic of (South)

Population: 34,410,000.

Military service: Army and Marines 2½ years, Navy and Air Force 3 years.

Total armed forces: 625,000.

Estimated GNP 1974: $17.5 bn.

Defence expenditure 1975: 353.1 bn won ($719 m). $1=491 won (1975), 397 won (1974).

Army: 560,000

23 infantry divisions.

2 armoured brigades.

40 artillery battalions.

1 SSM battalion with *Honest John*.

2 SAM bns each with 2 *HAWK* and 2 *Nike Hercules* btys.

1,000 M–47, M–48 and M–60 med tks 400 M–113 and M–577 APC 2,000 105mm, 155mm and 203mm guns and how 107mm mor 57mm, 75mm and 106mm RCL *Honest John* SSM *Hawk* and *Nike Hercules* SAM.

Reserves: 1,000,000.

Navy: 20,000.

7 destroyers.

9 destroyer escorts (6 escort transports).

15 coastal escorts.

22 patrol boats (less than 100 tons).

10 coastal minesweepers.

20 landing ships (8 tank, 12 medium).

60 amphibious craft.

Reserves: 33,000.

Marines: 20,000.

1 division.

Reserves: 60,000.

Air Force: 25,000; 216 combat aircraft.

11 FB sqns: 2 with 36 F–4C/D, 5 with 100 F–86F, 4 with 707 F–5A.

1 recce sqn with 10 RF–5A.

4 tpt sqns with 20 C–46, 12 C–54 and 12 C–123.

15 hel, including 6 UH–19, 7 UH–1D/N.

Trainers incl 20 T–28, 20 T–33, 20 T–41, 14 F–5B.

Reserves: 35,000.

Para-Military Forces: A local defense militia, 2,000,000 Homeland Defence Reserve Force.

South Korea is totally able to care for itself, and the present level of funding is more than adequate. An increase in our aid is unwarranted. We should be examining withdrawal of our forces—not an unneeded increase in military aid.

The CHAIRMAN. The Chair, with regret, announces that a mistake was made in computing time, and we have been allowing Members to speak for a longer period of time than was permissible. It is with regret that a little time is shaved off the time allotted to the gentleman from Colorado, but in fairness I think that is what we should do.

The Chair now recognizes the gentlewoman from New York (Ms. Abzug).

Ms. ABUZG. Mr. Chairman, I rise in opposition to the amendment to strike the ceiling on military aid to South Korea. The Park regime is one of the most repressive governments in the world. All the classic signs of tyranny are there—a President wielding emergency powers; laws which forbid criticism of the regime; torture and political imprisonment for dissidents and opponents.

Yet the unusual facet of this issue is that, in the end, even the supporters of this amendment would not deny that serious human rights violations occur in South Korea. They might try to excuse it by pointing to the dictatorship in North Korea—which certainly is severe—or by saying that other American allies have violated democratic rights. But I think there is no real doubt in anyone's mind that democratic institutions have been crushed in South Korea.

What then is the real issue in contention? Why has this Korean military aid ceiling provoked such a heated and emotional debate?

The key unmentioned issue, it seems to me, is that South Korea has become the symbol for some groups of post-Vietnam American foreign policy. It is not only or even especially the Park regime they defend—because it is indefensible—but rather it is the principle of U.S. commitments and some undefinable national will which they see at stake here today.

That is why I feel that voting down this amendment is to vote down those forces in our country which want to pretend that the Vietnam war never happened, and who want to use South Korea to obliterate the lessons of Vietnam for American foreign policy.

South Korea is another Vietnam waiting to happen. It is another repressive regime without a genuine popular base which is waiting to explode. And the likely, perhaps inevitable, results will be to drag our 40,000 troops into another civil conflict in Asia—a second Korean war.

The ceiling on aid to South Korea in this foreign aid bill reflects one of the most important lessons of Vietnam—that American interests in the long run are not served by giving carte blanche support to dictators. Keeping the aid ceiling in the bill will not cause an invasion from the North, nor will it lead to the sudden collapse of the Seoul regime. But it will give a signal to democratic elements within South Korea that the American Congress will no longer give a green light to tyranny, to torture, and to repression. And that signal, we should be able to see by now, is in the best interests of both the American and the South Korean peoples.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Badillo).

Mr. BADILLO. Mr. Chairman, I cannot understand how the Members of this body can contradict themselves so blatantly. Mr. Speaker, we have placed a ceiling on military aid to Korea, and we have done so because there have been gross violations of the human rights of Korean citizens. And this ceiling is not only in the spirit of this legislation, but to the letter of this legislation. Section 301 of the bill reads "no security assistance may be provided to any government which engages in a consistent pattern of gross violations of internationally recognized human rights."

Many of my colleagues have spoken this afternoon, and each of them has averred how he believes in that section of the bill, and that the human rights of all citizens should be upheld. But, unfortunately, many of them have added that big "but." They have used the argument of modernizing the Korean army, they have used the argument that we must equalize the strength of the South Koreans to match that of the North, and they have used the argument that South Korea is one of our last links in the Far East. Mr. Chairman, my colleagues who oppose this amendment have taken those arguments into consideration. And they have not left South Korea out on a limb, unable to defend itself against the marauding North. The bill only limits our aid to 1975 levels. For many of them, the bill does not go far enough. But it is a beginning.

I am aware of how difficult it is for us to cut aid to any country. Our allies do need our help, and very often the perception of our commitment is measured in dollars by other countries. But the measure of our stature is gaged by how sincere we are about our commitment to our own ideals. What this ceiling means is that we are willing to do more than repeat the phrases of human rights and civil liberties. It means that the commitment expressed in the human rights section of this bill is more than words.

Sadly, many of you who rose to speak in support of the Derwinski amendment admitted that there have been visible violations of the human rights of Korean citizens, but there was an attempt to apologize for them, or gloss over them and dismiss them as the usual rhetoric of the liberal fringe. However, as far back as 1974, the State Department, at hearings held by my distinguished colleague, Don Fraser, stated:

> For the past two years the trend in Korea has been toward an authoritarian mode of government. Institutional means of dissent have been rendered powerless and efforts to express opposition have been suppressed through a series of severe emergency decrees.

And we know, through those official sources, that things have deteriorated since then.

I do not know how we can be taken seriously in the world, or how our relations with other democratic countries will fare, if it is so easy for us to mouth the rhetoric of humaneness and not be able to follow through by indicating in a very vivid way—such as this ceiling on Korean funds—that we mean what we say.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. Obey).

Mr. OBEY. Mr. Chairman, the Fraser language in the bill does not represent a dramatic and radical departure from past policies. Rather, the administration policy raising the aid level to South Korea by almost 70 percent is what is really the radical departure from past policy. There are good political and strategic reasons for sending the message to South Korea that we will not identify ourselves more clearly than is absolutely necessary with the policies of a regime which are abusive of everything we stand for.

I was amazed to hear asserted on the floor that the trend toward democracy has been up in South Korea.

The State Department said, in 1974:

> For the past two years the trend in Korea has been toward an authoritarian mode of government. Institutional means of dissent have been rendered powerless and efforts to express opposition have been suppressed through a series of severe emergency decrees.

I urge the Members to oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. GUYER).

Mr. GUYER. Mr. Chairman, I have been in public relations most of my life—the rule is—do not treat the public like you do your relations. Countries around the world demand freedom. Thirty countries in Africa alone have secured freedom since 1960. We applaud them.

Today only 20 percent of the more than 160 nations enjoy freedom as we know it. Yet, here we are—flagellating Korea, those brave people who won their freedom the hard way, and have kept peace for more than 25 years.

How many friends do we have in the Pacific? Count them on one hand and you will have fingers left.

We cannot even get into North Vietnam, Laos, or Cambodia to inquire about our missing in action. News cannot get into or out of North Korea. Yet we condemn the courageous people of Korea. We have a saying: "Never insult an alligator until you've crossed the river." If we desert Korea now, you may have to learn to talk Chinese or Russian.

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I find it is beyond my meager abilities to deal with this very complex question in only 45 seconds, so I yield the balance of my time to the distinguished gentleman from Minnesota (Mr. FRASER).

(By unanimous consent, Mr. SOLARZ yielded the balance of his time to Mr. FRASER.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman and members of the committee, it has been said that at an appropriate time we should send a message to Korea, through the President, from this Congress. It has been said that nothing has changed in the last 6 years.

I submit to the members of this committee that nothing has changed since 1950, since we got involved in Korea. I think the time has come to send a message to Korea and to let the American people know that we support foreign aid for humanitarian purposes, that we support military aid for democratic regimes around the world because it is in the best interest of this country to do so, but the time has come to tell the American people that we will not perpetuate the mistakes and follies of the 1950's, the 1960's, and the early 1970's.

(By unanimous consent, Mr. WINN yielded his time to Mr. DERWINSKI.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I would like to express my strong support of section 413 to H.R. 13680, which places a $290 million ceiling on military assistance to South Korea over the next 2 fiscal years.

First of all, I believe it is important to stress that this ceiling does not affect cash sales; nor does it affect Public Law 480—title I assistance. The amendment applies only to security assistance, or those moneys which we, in essence, "hand over" to the Government of South Korea. The $145 million per year ceiling applies to grant military assistance, military training, and FMS credit sales.

In his veto message to Congress, the President objected to six of the congressional "veto" provisions included in S. 2662. Congress relinquished disapproval authority over four of the provisions; it retained authority over two of them. One of those provisions which allowed Congress to use the method of concurrent resolution or "veto"—and which was retained in the bill we have before use today—deals with human rights issues. I commend the International Relations Committee for keeping this important section in the bill. The committee stood firm in its commitment to a provision which allows Congress to "terminate assistance to countries consistently violating internationally recognized human rights." Congress does not seem to have any objections over this section, nevertheless we are having so much trouble with section 413. In theory, this section is a mild exercise of those principles which are embodied in section 301 of this bill—human rights provisions.

It has been reported that the Korean Central Intelligence Agency, or secret police in South Korea—accountable only to President Park—conducts widespread covert investigations into both the private and public sectors of the South Korean population. Prominent Christian and civil leaders have been jailed because they openly protested the tactics of the Park regime. Many prominent individuals have been arrested because they signed the declaration of democracy and national salvation. The list includes such notable figures as former president Yun Posum, former presidential candidate Kim Dae Jung, former foreign minister Chung Yil Hyung, prominent woman lawyer Lee Tae Yong, and patriarch Hahm Sok Hon.

The South Korean social and political situation has been intolerable by citizens of that country who believe in the principles of individual freedom and democracy. The situation began deteriorating in 1972 when President Park instituted a new constitution which granted him unlimited powers, and it continues to deteriorate daily.

My friends, I am saddened by these reports, just as I am saddened by similar reports coming from the captive Baltic nations, or our Jewish friends in the Soviet Union.

I do not want us to completely sever our ties with South Korea; section 413 does not attempt to do this. We will continue to give South Korea economic aid, and access to the purchase of military wares. We must, however, make a move in protest to human suffering and violations of human rights in South Korea. The right and just gesture is before us today in the form of section 413 of this bill. I urge my colleagues to support its provisions.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, any Member of this House sufficiently masochistic to have sat through the 3 hours of debate on this proposition is probably laboring under the misapprehension that what is at stake is the question of whether or not to cut U.S. military assistance to Korea. That is not the case. We have two choices. Either to support the language of the committee bill, which sustains that aid at its current levels, or to support the language of the gentleman from Illinois (Mr. DERWINSKI), which would remove those limitations and lead to a dramatic increase in that aid.

I therefore urge the defeat of the amendment.

(By unanimous consent, Mr. BROOMFIELD yielded his time to Mr. DERWINSKI.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, let us set the record straight. The Fraser language, if maintained, cuts $200 million, 40 percent of the request for funding for South Korea. That would have a definite adverse impact on the military capability of the forces in South Korea.

I would also like to point out one fact that was not mentioned often enough in debate, and that is that there is a direct relationship between the security of Japan and the maintenance of independence in South Korea. Let us not forget that any adverse development in South Korea is automatically an adverse development to the security of Japan.

For those of you who think that an enemy which is located only 30 miles from a country's capital is not a threat, let me quote from Kim Il-song. He said,

> We must not forget the compatriots in the south even for a single moment but actively encourage and support their revolutionary struggle.

Here is another quote from that benevolent dictator in North Korea:

> The northern half of the republic is a revolutionary base for accomplishing the cause of national liberation throughout the country.

Mr. Chairman, I submit that the trouble with the approach of the gentleman from Minnesota (Mr. Fraser) is that it is totally one-sided. Who else does he concentrate on? Indonesia, the Philippines. Those are a few. All allies.

I notice very little in the work of his subcommittee to bring out the situation in North Korea. If we want to compare that to the situation in South Korea, South Korea has a free parliament, South Korea has freedom of speech in its parliament, and South Korea has religious freedom. There is no freedom in North Korea.

So the issue is not only the South Korean regime. The issue is the relative democracy of South Korea compared to North Korea. South Korea is a growing democracy, with its people facing an enemy immediately to the north.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Chairman, I want to make just two quick points. We are not talking about a reduction in aid; that is what the gentleman from Massachusetts (Mr. Studds) just pointed out. We are talking about a continuation of aid at last year's level. This, to me, is a very mild reaction to the principle that we have previously adopted earlier in this bill, as the gentleman from New York (Mr. Badillo) pointed out, and that is that a government which engages in a consistent pattern of gross violations of human rights should not get any military or security assistance whatsoever.

We are not proposing that here. We are simply proposing that we keep the aid at last year's level.

Mr. Chairman, let me also point out that the committee has found there are indeed gross violations of human rights in South Korea, and there is no contradiction of that fact in the supplemental views of the gentleman from Illinois (Mr. Derwinski).

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, the $290 million ceiling on military assistance to South Korea is a cut which would be of great significance. I conferred with my friend and colleague, the gentleman from Minnesota (Mr. Fraser), and suggested a $50 million cut rather than a $200 million cut. He did not find that acceptable.

I repeat the $290 million ceiling imposed is too deep. It would delay the withdrawal of U.S. forces in Korea. It would delay completion of the modernization program in Korea beyond fiscal year 1977.

A ceiling of $290 million would, therefore, be counterproductive and would not accomplish the objective that the sponsors of the ceiling desire.

A reduction in assistance and sales would weaken the armed forces of South Korea.

The $290 million ceiling is inconsistent with U.S. foreign and security policy objectives.

And finally, Mr. Chairman, the ceiling is unfair to South Korea and represents a unilateral repudiation of an agreement between our country and Korea.

Therefore I hope the Derwinski amendment will be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Fraser).

Mr. FRASER. Mr. Chairman, there was a statement made on the floor earlier that we have had a commitment to Korea since 1950. If we go back and examine the records, we will find that the Secretary of State announced in the early 1950's that our commitment to Korea was conditioned on the growth of a democratic system in Korea.

The problem in Korea today is that there is no external justification for the tightening grip of repression by President Park which has followed since the adoption of the Yushan Constitution in 1972 under martial law. President Park appears to be a person who is unwilling to give up power, so he seeks to perpetuate himself by cutting off any opportunity for the people of South Korea to make an orderly change in government.

This spells trouble. This spells trouble for the United States as we are so deeply engaged there. It spells trouble for the people of South Korea.

Mr. Chairman, I have only one hope, and that is that the end product of American policy will be that South Korea shall remain free and democratic. I urge that we vote in recognition of that hope.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Morgan) to conclude debate.

Mr. MORGAN. Mr. Chairman, I opposed the Fraser amendment in committee, and I still oppose it.

As for me, I am going to say just two things: Adoption of the amendment would delay the completion of the modernization program beyond fiscal year 1977. It would also delay withdrawal of U.S. Forces from South Korea, and these are two important factors in my position.

Mr. Chairman, we want to get out of South Korea as rapidly as possible consistent with our security interests.

Mr. Chairman, for this reason we should go ahead with the administration's proposal for security assistance for South Korea for the period July 1, 1975, through September 30, 1977.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Derwinski).

The question was taken; and on a division (demanded by Mr. Fraser) there were—ayes 53, noes 33.

RECORDED VOTE

Mr. FRASER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 159, not voting 32, as follows:

[Roll No. 323]

AYES—241

Abdnor
Addabbo
Albert
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Beard, Tenn.
Bevill
Biaggi
Blanchard
Bowen
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Esch
Evins, Tenn.
Fary
Findley
Fish
Flowers
Flynt
Foley
Fountain
Frey
Fuqua
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hammerschmidt
Hanley
Harsha
Hays, Ohio
Hébert
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Horton
Howard
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
O'Brien
O'Neill
Passman
Patten, N.J.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Preyer
Price
Quie
Quillen
Railsback
Randall
Rees
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rodino
Roe
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Santini
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—159

Abzug
Adams
Allen
Anderson, Calif.
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biester
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brodhead

Brown, Calif.
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
D'Amours
Dellums
Diggs
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Eshleman
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Fisher
Fithian
Florio
Ford, Tenn.
Forsythe
Fraser
Frenzel
Gaydos
Gibbons
Green
Gude
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Holtzman
Howe
Hughes
Hungate
Jacobs
Jeffords
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Koch
Krebs
LaFalce
Litton
Long, Md.
Lundine
McHugh
McKinney
Maguire
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mink
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mosher
Moss
Mottl
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pike
Pressler
Pritchard
Rangel
Reuss
Richmond
Riegle
Rinaldo
Rogers
Roncalio
Rosenthal
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Solarz
Spellman
Stark
Studds
Symington
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wirth
Young, Ga.

NOT VOTING—32

Bauman
Bell
Breaux
Buchanan
Carney
Clawson, Del
Conlan
Cotter
Dingell
Dodd
Downing, Va.
Flood
Ford, Mich.
Giaimo
Hansen
Helstoski
Hicks
Hinshaw
Jones, Ala.
Karth
Leggett
Lujan
Matsunaga
Neal
Nichols
Stanton, James V.
Stephens
Stokes
Symms
Thompson
Udall
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Dodd against.

Mr. Nichols for, with Mr. Matsunaga against.

Mr. Helstoski for, with Mr. Thompson against.

Mr. Carney for, with Mr. Udall against.

Mr. Flood for, with Mr. Stokes against.

Mr. Del Clawson for, with Mr. Ford of Michigan against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FRASER

Mr. FRASER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fraser: On page 69, strike lines 5 through 10.

Mr. FRASER. Mr. Chairman, this is the amendment which would strike the limitation on Public Law 480, title I sales, to South Korea.

Mr. Chairman, I had indicated I would offer this in the House a few days ago.

Mr. Chairman, this strikes on page 69 lines 5 through 10, which removes the limitation on Public Law 480, title I sales to South Korea. I had indicated the other day in the House that I would offer such an amendment. This is that amendment.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I will be glad to yield.

Mr. MORGAN. Mr. Chairman, I am sure the majority has no objection to the amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I would be happy to yield.

Mr. BROOMFIELD. Mr. Chairman, I would like to assure the gentleman from Minnesota that the minority is strongly for the amendment and the administration supports the admendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I would be happy to yield.

Mr. ZABLOCKI. Mr. Chairman, is this the identical amendment that I tried to offer to the Derwinski amendment?

Mr. FRASER. The gentleman is right. It is the same amendment to the Derwinski amendment.

Mr. ZABLOCKI. Mr. Chairman, I compliment the gentleman.

Mr. FRASER. Mr. Chairman, I do not think there is any controversy about this.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I would be happy to yield.

Mr. DERWINSKI. Mr. Chairman, like the gentleman from Wisconsin (Mr. Zablocki), I support the gentleman from Minnesota on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Fraser).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: Page 68, immediately after line 3, insert the following:

KOREA

Sec. 413. The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests that the President communicate this concern in forceful terms to the Government of the Republic of Korea.

Mr. FINDLEY. Mr. Chairman, a dilemma of the highest order confronted us today. For we must devise a policy to deal with a country whose fate has been, for many years, inextricably tied with our own—a country which places its very existence largely in our care. Both the United States and the Republic of Korea have spilled blood in coming to the other's aid; and this fact imposes upon us a requirement for the greatest understanding and care.

The proposal before us today would have compelled us to ravage South Korea's capacity to defend itself. We have already discussed the perils of this approach. And we have discussed why it cannot logically lead to the reconstruction of Korean civil liberties which all of us quite naturally desire.

The question remains, however, what if anything can be done when the leadership of an allied country conducts policies which we believe to be morally offensive and ultimately against its own best interests?

Our first obligation—one which derives both from the dictates of friendship and rationality—is to try to understand all of the facts as completely as we can. This means realizing, to begin with, that there is no deeply rooted tradition of democratic habits and inclinations in the Republic of Korea.

We must understand, too, that a nation routinely confronting its own possible extinction inevitably develops a quality of rule different from our own. Finally, recognition must be given to the distinctions that do exist between the North and the South yet today. In South Korea at least we still hear the reverberations of the struggle over certain liberties and we know of the citizens' continuing freedom to own property, to travel freely within the country, to change jobs, to worship as they see fit, and to enjoy the benefits of a prosperous and noncollectivized economy. From the North we hear only the silence of a tyranny that is at once both deadening and comprehensive. Those who think such distinctions are trivial and meaningless would do well to consult the eloquent words of Alexandr Solzhenitsyn. And one must recall as well Malcolm Muggeridge's telling observation that Solzhenitsyn's comments on communism struck the Western World so deeply because he told us what we already knew and yet had somehow forgot.

Yet having said all of this, we know we have not yet said enough. For it is clear to us today that, in spite of these facts, harmful and shameful excesses have occurred in South Korea. These can be neither condoned nor simply rationalized away.

But there is a middle course between jeopardizing an ally's defense or quietly seeming to excuse authoritarian excess. If by our silence we do violence to America's ideals—which are, untarnished, our greatest diplomatic resource—then let us speak out. Let us do so clearly and distinctly, knowing that the censure of one who remains in every sense a friend, may perhaps be heard. Such an act should erase the fears of many, namely, that the American response to date has been either too weak or too confused to really be heard.

Among instruments of policy that are invariably either too blunt or too weak, this seems to be the only decent alternative. The absence of a congressional declaration on this point in all the many years of our relationship with the Republic of Korea lends to this amendment a force that it might not otherwise seem to possess.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, this is not the gentleman's original amendment; all the gentleman's amendment is doing now is expressing the view of Congress about the distressing erosion of civil liberties in South Korea?

Mr. FINDLEY. That is correct.

Mr. MORGAN. Mr. Chairman, the majority has no objection to the gentleman's amendment.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I would like to ask the gentleman if the gentleman will accept the idea of a time limitation informing South Korea; to ask in the amendment to the amendment that the procedure takes place within 60 days of the enactment of this provision.

Mr. FINDLEY. Mr. Chairman, I ask unanimous consent that my amendment be modified by adding the words, "within 60 days after enactment."

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY), as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will read.

The Clerk read as follows:

TITLE V—MISCELLANEOUS AUTHORIZATIONS

SECURITY SUPPORTING ASSISTANCE

SEC. 501. Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 532. AUTHORIZATION.—There is authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1976 $1,766,200,000, of which not less than $65,000,000 shall be available only for Greece, $730,000,000 shall be available only for Israel, and $705,000,000 shall be available only for Egypt, and for the fiscal year 1977 not to exceed $1,801,500,000, of which not less than $785,000,000 shall be available only for Israel. Amounts unappropriated under this section are authorized to remain available until expended.".

MIDDLE EAST SPECIAL REQUIREMENT FUND

SEC. 502. Section 903 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a), by striking out "for the fiscal year 1975 not to exceed $100,000,000" and inserting in lieu thereof "for the fiscal year 1976 not to exceed $50,000,000 and for the fiscal year 1977 not to exceed $35,000,000"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Funds appropriated under subsection (a) shall be available to assist the Governments of Egypt and Israel in carrying out activities under the Agreement of October 10, 1975, and to pay the costs of implementing the United States proposal for the early warning system in Sinai. Such funds may be obligated without regard to the provisions of subsection (b) of this section to the extent that the proposed obligation has been justified to the Congress prior to the enactment of this subsection.

"(d) Of the amount authorized to be appropriated in subsection (a) for the fiscal years 1976 and 1977, not less than $12,000,000 for each such year shall constitute a contribution by the United States toward the settlement of the deficit of the United Nations Relief and Works Agency for Palestine Refugees in the Middle East, if the President determines that a reasonable number of other countries will contribute a fair share toward the settlement of such deficit within a reasonable period of time after the date of enactment of the International Security Assistance and Arms Export Control Act of 1976. In determining such fair share, the President shall take into consideration the economic position of each such country. Such $24,000,000 shall be in addition to any other contribution to such Agency by the United States pursuant to any other provision of law.

"(e) Funds made available under this section may be obligated without regard to the provisions of subsection (b) of this section for programs contained in the presentation materials submitted to Congress for the fiscal year 1977.".

CONTINGENCY FUND

SEC. 503. Chapter 5 of part I of the Foreign Assistance Act of 1961 is amended—

(1) in the chapter heading, by striking out "DISASTER RELIEF" and inserting in lieu thereof "CONTINGENCY FUND"; and

(2) in section 451(a)—

(A) by striking out "for the fiscal year 1975 not to exceed $5,000,000," and inserting in lieu thereof "for the fiscal year 1976 not to exceed $5,000,000 and for the fiscal year 1977 not to exceed $10,000,000";

(B) by striking out "or by section 639"; and

(C) by adding at the end thereof the following new sentence: "Amounts appropriated under this section are authorized to remain available until expended.".

INTERNATIONAL NARCOTICS CONTROL

SEC. 504. (a) Section 482 of the Foreign Assistance Act of 1961 is amended by inserting immediately before the period at the end of the first sentence ", $40,000,000 for the fiscal year 1976, no part of which may be obligated for or on behalf of any country where illegal traffic in opiates has been a significant problem unless and until the President determines and certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that assistance furnished to such country pursuant to the authority in this chapter is significantly reducing the amount of illegal opiates entering the international market, and not to exceed $34,000,000 for the fiscal year 1977".

(b) Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) (1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts.

"(2) The President shall carry out a study with respect to methods through which United States narcotics control programs in foreign countries might be placed under the auspices of international or regional organizations. The results of such study shall be transmitted to the Speaker of the House of Representatives and the President of the Senate not later than June 30, 1977.".

AUTHORIZATION FOR INTERNATIONAL ATOMIC ENERGY AGENCY

SEC. 505. Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(i) In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $5,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear fissile facilities and materials. Amounts appropriated under this subsection are authorized to remain available until expended.".

INTERIM QUARTER AUTHORIZATIONS

SEC. 506. (a) Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976, shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for the fiscal year 1976 and in accordance with the authorities applicable to operations and activities authorized under this Act or such other law, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(b) The aggregate total of credits, including participations in credits, extended pursuant to the Arms Export Control Act and of the principal amount of loans guaranteed pursuant to section 24(a) of such Act during the period beginning July 1, 1976, and ending September 30, 1976, may not exceed an amount equal to one-fourth of the amount authorized by section 31(b) of such Act to be extended and guaranteed for the fiscal year 1976.

BASE AGREEMENTS WITH SPAIN, GREECE, AND TURKEY

SEC. 507. (a) In addition to amounts authorized to be appropriated by any amendment made by this Act which may be available for such purpose, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1977 to carry out international agreements or other arrangements for the use by the Armed Forces of the United States of military facilities in Spain, Greece, or Turkey.

(b) No funds appropriated under this section may be obligated or expended to carry out any such agreement or other arrangement until legislation has been enacted approving such agreement or other arrangement.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

AMENDMENTS OFFERED BY MR. MORGAN

Mr. MORGAN. Mr. Chairman, I offer technical amendments.

The Clerk read as follows:

Amendments offered by Mr. MORGAN: Page 73, line 21, strike out "not to exceed".

Page 78, line 17, immediately after "to" the first time it appears insert "any".

Mr. MORGAN. Mr. Chairman, these are amendments which simply correct printing errors.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania.

The amendments were agreed to.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 73, line 23, immediately before the period insert "and not less than $3,500,000 shall be available only for population planning and health in Egypt".

Mr. SOLARZ. Mr. Chairman, my amendment, which I believe has the support of the chairman and ranking minority member of the committee, would change from 0.2 of 1 percent to 0.5 of 1 percent the amount of money within the framework of $750 million which is specified for Egypt for fiscal year 1977, which is earmarked for population planning and health programs.

To put it more precisely, it would increase from $1 million to $3.5 million the amount of funds, within the framework of the $750 million available for Egypt, for population planning programs. I offer this amendment because it seems to me ludicrous to provide, out of the total of $750 million in security supporting assistance for Egypt, in an effort to help that country deal with its social and economic problems, only $1 million for population planning programs.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, the majority has examined the gentleman's amendment. The gentleman from New York has been consulting for the past 3 weeks on this amendment. The majority side has no objection to the gentleman's amendment.

Mr. SOLARZ. I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. We also have examined the amendment, and we support the gentleman's amendment.

Mr. SOLARZ. I appreciate that very much.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. SOLARZ. Mr. Chairman, let me simply conclude by saying that Egypt now has a population of 38 million people. It is increasing at the rate of 800,000 to 900,000 new Egyptians per year. By the year 2000, it is going to have 64.6 million people.

The Members may be interested to know that Cairo, which 10 years ago had a population of over 4 million, today has a population in excess of 8 million. Alexandria, their second largest city, which had a population of only 400,000 at the end of World War II, today has a population of over 4,000,000.

If they are going to deal with their economic problems, we have to help them deal with their population problems. For it will avail them little to increase their rate of economic growth if they are unable to decrease their population growth.

In view of the fact that the government of Egypt is committed to population planning, and in view of the fact that our own Agency for International Development believes this really could be usefully spent, I urge my colleagues to support the amendment.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. SOLARZ).

There is no doubt that unless population growth is checked in the developing countries, the rest of our assistance will have very little impact in improving per capita income or the conditions of life for most people in the developing world. The world's population has already reached the 4 billion mark and about 70 percent of these people live in the developing countries. Even if all families in the less-developed countries were to reach an average of two children by the year 2000—an overly optimistic goal—their population would still increase two and a half times by the year 2050.

Population growth threatens the world with famine, environmental degradation, unemployment, overcrowded cities, lawlessness, and the prospect of demographic wars—all this in a world where nuclear weapons are proliferating.

As population increases, we must expect to observe a corresponding increase in the demand for food and improved standards of living. As little as 30 years ago, all areas of the world, except Western Europe, were net exporters of food. Today almost all of the world's food exports come from North America. Currently inadequate food supplies will have to be stretched even further if populations continue to expand. The fragile governments of the lesser developed countries will unquestionably have a difficult time meeting these demands for food and better living conditions. The resulting dissatisfaction, alienation and bitter resentment will inevitably lead to internal disorders, perhaps even revolution. All of this threatens severe international repercussions and regional destabilization. This will lead to further repression which will cause even more disorder—a never ending cycle.

On a recent Armed Services Committee trip to South Asia, I talked with the New Zealand Defense Minister, John Robertson, and the Chief of the New Zealand Defense Staff, Sir Richard Webb, who expressed the conviction that population control is an indispensable key to political stability and national security in the Pacific area. According to them, if the Indian Ocean is to continue as a free waterway, and if the ASEAN countries—Indonesia, the Philippines, Singapore, Malaysia, and Thailand—are to be successful in their efforts to resist Communist infiltration and subversion, then they must be assisted in getting a handle on their population growth rates. These sentiments were echoed by Indonesian President Suharto in a meeting with our group.

If the population of the developing nations continues to grow at its current rate of expansion, we all should feel threatened. Given the growing interdependence of nations and the proliferation of sophisticated weaponry around the world, no nation can escape the consequencies of the failure of other nations to stabilize their populations.

While the developing countries must assume the major responsibility for controlling their own rates of population growth, the developed countries must also rise to the challenge by assisting those developing countries which have the will and determination to implement effective family planning programs. We must use every channel available to encourage these countries in their efforts to control their growth rates. Such efforts should include development of education and health service systems which will create the proper environment so that these family planning programs can take hold. Traditionally, parents in the lesser developed countries have felt that they must have 8 to 10 children to insure that at least one survives to adulthood to care for them in their old age. We cannot permit large-family childbearing to be the social security system for the developing world. With improved maternal and child health-care systems, parents in the developing nations can be assured that all their children will survive to maturity.

If a woman is to be encouraged to limit the size of her family, she must feel that she has some other role in society other than that of a childbearer. The ability to read and write will enable her to become a member of the work force and assume a role outside the home.

Yesterday, during the opening of a United Nations conference on the problems of the world communities, Secretary General Waldheim said that—

> We are aware that we inhabit a world in which governments spend much more on armaments than they do on education or health and in which more than 500 million people live in misery, many of them on the verge of starvation. For many hundreds of millions of our fellow citizens of this planet, their human environment is simply a struggle to survive.

Thus, at least an elementary education system, including literacy training, and at least the basic elements of a public health system are needed to create the environment in which family planning programs will be successful in reducing fertility rates.

Those developing countries which have shown a commitment to family planning deserve our encouragement and assistance.

Mr. SOLARZ. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The amendment was agreed to.

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, H.R. 13680 contains a provision which relates to international narcotics control activities which are under the jurisdiction of the Department of State. At the present time a focus program is Mexico. I undertook an investigative study mission to Mexico in January of this year and found that the quantity of the illegal traffic in hard narcotics between Mexico and the United States boggles the mind—estimates range from $1 to $2 billion annually in Mexican wholesale prices.

One recommendation which I made when I returned from Mexico is that the enforcement personnel who operate on the border work in cooperation with the Civil Air Patrol who are in a position to monitor illegal flights across the border and then report their sightings to the appropriate enforcement personnel who are on the ground. I think it would be entirely appropriate to expand the mission of the Civil Air Patrol as they have equipment and personnel which could greatly increase the effectiveness of our current antitrafficking efforts and could furnish this assistance at no cost and save fuel.

At the current time the CAP conducts 80 percent of all search and rescue missions in the United States. The only cost which the Air Force reimburses is for oil and gas on requested missions. In the case of surveillance flights the only cost would be fuel and oil and would not include personnel costs or operating expenses like routine maintenance. I think you will be interested to know that during World War II the mission of CAP was expanded to include the protection of our coastlines. I personally flew on numerous missions over the Atlantic coast on surveillance flights which were looking for submarines off our shores. We are once again faced with an invasion; this time the submarines have been replaced by narcotics traffickers who utilize the most modern aircraft and communications equipment. Once again, I feel the CAP can constructively contribute to the security and safety of our citizens at home.

I was recently informed that the Director of Operations of the Civil Air Patrol visited the El Paso Intelligence Center. The El Paso Intelligence Center is basically a data collection facility. In short, EPIC provides interagency coordination and data retrieval to the U.S. Customs Service, the Border Patrol, U.S. Coast Guard, FAA, Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, and Firearms. In order to properly evaluate CAP's ability to assist the DEA, it was proposed to EPIC that CAP units conduct a test operation to determine the effectiveness and cost of CAP flights.

It is essential that CAP not engage in enforcement actions but be restricted to reporting. There will be no chases, no attempts at apprehension, and no citizens arrests. CAP flights would look for low flying aircraft; 4-wheel drive vehicles parked at remote sites which could be used for aircraft landings; truck/aircraft combinations; and newly constructed remote landing areas. The pilots would report type, color, tail number of aircraft, and if possible, time location, approximate heading, vehicle description, number of people and vehicles, and recently used isolated landing sites.

At the present time CAP is working out the final details on the test program which would include roughly 128 flights over a period of 8 days. The cost of the operation would be $3,900. I have been in contact with the Department of State in relation to the possibility that the funds which are authorized in the legislation which we are now considering be used to fund the CAP operation. I think that the minimal cost is certainly compensated by the increased control capability which we would obtain.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rangel: At page 73, line 13, after "Sec. 501" insert "(a)", and after line 24, insert the following:

"(b)" At the end of Chapter 4 of Part II of the Foreign Assistance Act, add the following new section:

"Sec. 533. Assistance to African Nations. There is authorized to be appropriated to the President for the fiscal year 1977, to carry out the proposals made by the Secretary of State in Lusaka, Zambia on April 27, 1976 and to provide economic supporting assistance for countries in southern Africa affected by the crisis in that region, in addition to funds otherwise available for such purposes $85,000,000, of which not less than $30,000,000 shall be available only for Zaire and $30,000,000 shall be available only for Zambia. Such sums are authorized to be made available without regard to the country limit in section 531 and are authorized to remain available until expended."

Mr. RANGEL. Mr. Chairman and members of the committee, this amendment merely is consistent with our new thrust, as enunciated by Secretary Kissinger in Lusaka, Zambia, in outlining a policy which relates to the continent of Africa, but more importantly, as it relates to nations of southern Africa which are abiding by the United Nations' sanctions against Rhodesia.

I think if this Nation starts on a new thrust in developing an African policy we must embark on an assistance program that is necessary in order to maintain economic and political stability in the countries involved. For these reasons I think the sum of $85 million, as outlined by the President of the United States for the State Department; $30 million for Zambia and $30 million for Zaire would really supplement and support the new policy of the administration and should reflect the will and the determination of this Congress.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I will be glad to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, it is my understanding that the President does support the enactment of the gentleman's amendment providing for $85 million, and he will transmit a budget amendment request for this purpose. I believe the important area here is that the gentleman has recognized the need for flexibility, and I certainly hope that the amendment does prevail.

Mr. RANGEL. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the reproduction on the copy of this amendment is not too clear. Do I understand that the total authorization is $85 million?

Mr. RANGEL. The gentleman is correct.

Mr. ICHORD. Of which not less than $30 million shall be available only for Zaire and $30 million only for Zambia?

Mr. RANGEL. That is the correct reading of the amendment.

Mr. ICHORD. Where does the other $25 million go?

Mr. RANGEL. Mr. Chairman, we would like to believe that the President, in his discretion, if we are to continue to develop a sound policy in Africa, should be able to have the discretion to use those funds for those countries that are complying with the United Nations policy, and if they find themselves in an economic crisis, then we would be able to stabilize those governments by giving them assistance.

Mr. ICHORD. Mr. Chairman, let me state to the distinguished gentleman from New York (Mr. Rangel) that the African nation that will be hurt the most—and I hope I may have the attention of the Members of the House on this—is the country of Mozambique, which is establishing an economic blockade of the nation of Rhodesia at the present time. They will be hurt by closing the port of Laurence Marques, and they will be hurt more than any other nation.

My concern is that the Government of Mozambique, headed by President Machel, who recently declared that Mozambique is the first black Communist nation in South Africa, may receive some of these funds. We may be providing distress aid for a newly established Communist nation on the Continent of Africa.

Mr. RANGEL. Mr. Chairman, at one point I shared the same concerns my colleague, the gentleman from Missouri, does. However, recognizing the sensitivity of our new foreign policy in Africa, it seems to me that rather than designating every country to be given assistance, that we should give that discretion to our President and rely on his discretion as to how those funds can best serve the interest of the United States of America. I am confident that the President would not be giving aid and assistance to Communist nations.

Mr. ICHORD. The gentleman would concede, however, that this would give that discretion to the President of the United States?

Mr. RANGEL. It is only a question of how much confidence we have in our Chief Executive.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the distinguished chairman of the committee.

Mr. MORGAN. Mr. Chairman, as I understand from what the gentleman from Missouri (Mr. Ichord) has just stated, this amendment would provide $85 million for assistance to southern Africa, including $30 million for Zaire and $30 million for Zambia, and $25 million for other southern African countries?

Mr. RANGEL. The gentleman is correct.

Mr. MORGAN. Mr. Chairman, as the gentleman knows, a similar amendment is contained in a Senate bill in the other body, and that it has been subject of some controversy. I further understand that the President has already sent up a message endorsing this amount of money that is contained in the gentleman's amendment.

Mr. RANGEL. I have copies of communications from the White House, as well as the OMB, supporting that amount contained in the amendment.

Mr. MORGAN. Well, for this reason, and because the Presidential request indicates we will not be busting the executive budget, I will be glad to accept this amendment.

However I do so with the reservation

that we must have more information about the use of these funds before they are expended.

We have not yet heard from Secretary Kissinger about what would be done with this $85 million. Neither the executive branch nor the proponents of this amendment have yet supplied the committee with the specific justification and detail that is normally required before Congress votes such sums for foreign aid.

I look forward to receipt by the committee of such expanded and detailed information as is necessary to justify this additional amount for southern Africa.

The CHAIRMAN. The time of the gentleman from New York (Mr. Rangel) has expired.

(On request of Mr. Morgan, and by unanimous consent, Mr. Rangel was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would just like to ask the gentleman from New York (Mr. Rangel) if there is anything in this amendment which would imply that we are approving the use of weapons that would be paid for from this for the purposes of supporting or equipping guerrilla troops in Rhodesia or South Africa.

Mr. RANGEL. No. The purpose of the funds provided in this bill or this amendment is consistent with the statements made by Secretary Kissinger, which certainly precluded the possibility of this country being involved in any arms struggle.

The only weapons that we are using are those of knowledge, technology, education, and assisting those countries through an economic crisis.

Mr. SEIBERLING. Mr. Chairman, I commend the gentleman for his amendment and would ask for its support.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I might have the attention of the gentleman from New York (Mr. Rangel), who has just offered this amendment, I would ask that he attempt to clear up something here.

I was listening to the colloquy between the gentleman from New York (Mr. Rangel) and the gentleman from Missouri (Mr. Ichord), and I cannot help but be somewhat concerned over the reply.

From what I have read, there is discretionary money in here. The gentleman stated that we should have confidence in our President; but as I recall from the news accounts, Dr. Kissinger has already promised—I do not know that this is true—but the news account is that he has already promised $12.5 million to Mozambique. Therefore, I would assume that part of this discretionary money has already been promised to Mozambique.

Mr. Chairman, I was wondering whether the gentleman from New York (Mr. Rangel) could confirm or deny this.

Mr. RANGEL. If the gentleman will yield, my response would be that with respect to whether or not this might be supporting a Communist country, I do not know whether it has been clearly established that the Government of Mozambique is a Communist country. However, what I am primarily concerned with is supporting the administration's establishing a new policy or establishing a policy in Africa.

It seems to me that as it relates to our support of majority rule, as it relates to cutting off the borders of Rhodesia and asking these countries to support the United Nations, as sometimes we have failed to do, we must be consistent and comply with our promise, and we must be consistent in giving the type of economic support that is necessary.

Mr. DICKINSON. I thank the gentleman.

If I might use a part of my time, I would like to observe that some of the promises we are talking about so glibly here Mr. Kissinger has already made with no authority from this House. I do not feel obligated in the least to have to live up to any promise that Mr. Kissinger gives without consultation with the Congress.

Therefore, I think, in line with what the gentleman is saying, he has, in fact, promised $12.5 million to Mozambique. I do not think it is seriously disputed by anyone that it is not only a Communist black nation; it is a Marxist Communist black nation.

Mr. Chairman, if we give them financial assistance, what we are doing is really underwriting the guerrilla movement there. I really do not feel constrained to back that activity in this particular instance, and I think that if this money is available, that is what is going to happen.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would state to the gentleman from Alabama (Mr. Dickinson) that in view of Dr. Kissinger's statement, this amendment can be construed as nothing else but having this House voting taxpayers' money which we do not have to uphold and support the first black Communist nation on the continent of Africa.

Mr. DICKINSON. I do not mind the various independent and emerging nations being black, but I do object to their being red, and I certainly object to this country that already owes more money than all the other countries in the world combined, giving taxpayers' dollars to support a Marxist Communist dictatorship. That is what it is.

Mr. Chairman, this is so incongruous; it is hard to believe that this Congress is seriously thinking about it or that the administration would do it.

Mr. ICHORD. If the gentleman will yield further, I do think I was using the words of Prime Minister Marcel himself. I certainly have no objection to the nation's being black, like the gentleman from Alabama (Mr. Dickinson); but this is, as he says, the first Communist nation in Africa; and we are voting taxpayers' money for that purpose in this amendment. We are forced to choose between an alleged white supremist nation in Rhodesia and a black Communist nation in Mozambique.

Mr. DICKINSON. Precisely, and it is for this reason that I think we should have a recorded vote on this when we come to the vote.

Mr. Chairman, I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe the debate is going a little beyond the amendment.

If we look carefully at the amendment, it provides economic support and assistance for countries in southern Africa. It specifically provides $30 million shall be available only for Zaire.

Zaire is in that area and is one of the stable governments in that area. There is $30 million for Zambia. Zaire is not a Marxist dictatorship.

I would also like to point out that I agree with the remarks made by many Members of the House with reference to Secretary of State Kissinger but I should also point out that we are not voting on Secretary of State Kissinger, we are voting on a proposal in support of U.S. funding of economic assistance on the African Continent. We have neglected Africa over the years because, basically, we have left jurisdiction there to the former colonial countries. They have been more interested in economic control than they have been in helping some of their former colonies. So we are offering economic support and assistance.

Also, the other body has a voice in this, and also the Committee on Appropriations has a voice in this.

I would like to reemphasize that in both Zaire and Zambia we have governments that have consistently worked with us over the years. I think it is inaccurate to emphasize a political philosophy here when it really does not have direct relationship.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from Illinois is correct in that the amendment does establish $30 million for Zaire and $30 million for Zambia, but the total is $85 million. There remains another $25 million, and that is the reason why I raise this question, as does the distinguished gentleman from Alabama (Mr. Dickinson). Dr. Kissinger has already announced that he will give Mozambique $12½ million and this would be the logical place to get that money.

Mr. DERWINSKI. Let us understand that if any money is provided, the Congress would provide it.

I would feel better if the amendment did not have a reference to the Secretary in it, for he has outlived his effectiveness. But, this is not a pro-Kissinger amendment, this is an amendment directed at what I consider to be practical economic assistance to certain countries in Africa. I honestly feel that we have too long left Africa to the supposed expertise of the British and French, the former colonial rulers and that actually they do not have that expertise. In fact, they are more interested in milking those countries economically. Therefore I believe that the United States in providing them economic assistance would be appreciated.

As a matter of fact, we do provide military assistance to Ethiopia and Zaire. Had we supported Zaire more effectively when the Cubans moved into Angola—but, that is water over the dam.

But I do think the amendment is clearly an attempt to provide economic assistance.

Mr. ICHORD. If the gentleman will yield further, the first sentence in the amendment says:

> There is authorized to be appropriated to the President for the fiscal year 1977, to carry out proposals made by the Secretary of State in Lusaka, Zambia, on April 27, 1976. . . .

That is when Secretary Kissinger made the proposal, as I understand it, to provide Mozambique \$12½ million in aid for closing the port in that country that serves as the principle port from which Rhodesia was shipping ferrochrome to the United States of America. So I do construe the amendment as directly providing aid for Mozambique.

Mr. DERWINSKI. As I say, I regret the reference to Secretary Kissinger. It may well be the kiss of death, but, still, regardless of the fact that I have often shared the views of the gentleman from Missouri, I cannot, in this instance, share the feelings of the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I relaize this is a very sensitive subject, and I must confess that I cannot stand on the floor of this House and lay out any policy for this body to follow, or even for the Secretary of State, Dr. Kissinger, to follow that will solve the very complex problems in Africa. The problems of Africa are indeed difficult and complex. I first want to disclaim any support for the racial policies of any nation, whether they be black racial policies against white, or whether they be white racial policies against black. I abhor any such system of government. But I cannot construe this amendment in the way it is drafted, stating that we shall give the President \$85 million to carry out the proposals made by the Secretary of State in Lusaka, Zambia, on April 27, 1976, earmarking only \$30 million for Zambia and only \$30 million for Zaire, as doing any other thing besides leaving \$25 million for Mozambique.

Dr. Kissinger has already stated that he is going to give \$12½ million to Mozambique because Mozambique is the country that has really been hurt by the economic blockade of Rhodesia.

Mr. Chairman, last April a year ago I went to the nation of Rhodesia along with two other colleagues of the House, the gentleman from Pennsylvania (Mr. DENT) and the gentleman from New Mexico (Mr. RUNNELS). Let me state to the Members of the House that if those who support what I call the extremely hypocritical policy established by the United Nations toward Rhodesia, had gone to Rhodesia, I do not think they would be supporting any amendment of this nature.

Rhodesia has—and it offers no threat to the peace of the world whatsoever—a long-range policy of complete economic, political, and social integration of the races based upon merit. While I was there in the capital city of Salisbury, I saw 50 percent black and 50 percent white in the University of Salisbury. In addition, Mr. Chairman, the black man in Rhodesia—and listen to this—has the highest wage of any black man in all of Africa.

Let me state to the Members of this House that the situation is completely different from the way it is generally described in the press of the world. It is completely different from the way it is described, in my opinion, by the Secretary of State, Dr. Kissinger.

In view of my strong disagreement with the policy announced by the secretary of state in Lusaka, a policy that commits the United States to the hypocritical policies pursued by the United Nations toward Rhodesia. I cannot remain silent on this amendment. I urge the defeat of the amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I certainly want to commend the gentleman for his statement. As far as I am concerned, it is 100 percent accurate. I was in Rhodesia in 1965. I have followed with interest the progress in that fine and progressive country. I would state there is no Iron Curtain there; there is no effort to prevent migration or immigration, either way, in or out of the country. It is one of the few free countries of Africa.

I think the Rangel amendment should be defeated. I agree with the gentleman 100 percent and suggest that Mr. Kissinger's hypocritical double standard should not be implemented.

Mr. ICHORD. Let me state to the gentleman that although there is guerrilla warfare being waged on the borders of Rhodesia at this moment, the trouble in Rhodesia comes from without, not from within. In fact, I would say that most Members of the House would feel safer on the streets of Salisbury at 3 o'clock in the morning than they would at 9 o'clock this evening three blocks away from this Capitol. The trouble comes from without. Most blacks and whites in Rhodesia are at peace. I hate to see this body support with taxpayers money a Communist country like Mozambique providing a haven for Rhodesian guerrillas.

The CHAIRMAN. The time of the gentleman has expired.

AMENDMENT OFFERED BY MR. CRANE TO THE AMENDMENT OFFERED BY MR. RANGEL

Mr. CRANE. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. CRANE to the amendment offered by Mr. RANGEL: After the words "fiscal year 1977" strike out the language through "April 27, 1976, and"; and immediately before the last sentence of the amendment insert the following: "None of the funds authorized by this section may be used for Mozambique."

Mr. CRANE. The amendment is really very simple, Mr. Chairman. It strikes out the line which states: "to carry out the proposals made by the Secretary of State in Lusaka, Zambia on April 27, 1976."

And then it has a specific line in there to prohibit any of the moneys that are authorized under this bill to be spent in Mozambique, and I think the debate has been explicated sufficiently by my colleagues on both sides of the aisle who have given good and cogent reasons for not giving any of this money to Mozambique. I think we have heard good arguments by my good friend, the gentleman from Minnesota (Mr. FRASER) about not giving moneys to undemocratic countries. I can assure my friend the state of affairs in Mozambique with respect to civil liberties is such that even the basic elemental principles of democracy are nonexistent.

In addition to that, I think we have one other significant difference between South Korea, which involved some of the attention of Members earlier, and Mozambique. Mozambique has committed itself to an aggressive position vis-a-vis a neighboring state. South Korea is certainly not guilty of that. That being the case, it seems to me we ought to guarantee that none of the proposals made by our distinguished Secretary of State with respect to Mozambique be given any kind of vote of approval by this Congress. I think they were ill-advised recommendations by the Secretary of State in the first place.

But, Mr. Chairman, in addition to that I find it highly offensive that the Secretary would be going around any continent of this world and making commitments of this nature without first having touched base with the Congress of the United States to see if that is consistent with this body or the body on the other side of this building.

I think to implement that properly it also requires, with respect to the amendment offered by the gentleman from New York (Mr. RANGEL) that it be amended with respect to any reference to statements or commitments made by our distinguished Secretary.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, as far as I am concerned, Mozambique is a country which is under an authoritarian form of government, and I would not give any military aid to it nor ordinarily favor committing any economic aid to it unless it met the test we have now, which says it must be demonstrated that any economic assistance actually goes to help the people.

I do not know, if Mr. Kissinger decides to give aid to Mozambique, whether he will be able to meet that test or not, that in other words the aid would go to help the people of Mozambique.

But I think in the case here, the reason Dr. Kissinger spoke to this problem is that there is a peculiar set of circumstances in southern Africa where the United States for a long time has appeared to be in favor of white regimes which accorded none of the democracy or the human rights as we understand them in the West to the black communities. That is one of the problems that has faced American policy in recent years. I think the speech of Dr. Kissinger in Lusaka was a good one.

Mr. CRANE. If I may regain some of my time, I just want to respond to one point. Admittedly, the governments of either Rhodesia or South Africa are far from the ideals represented by this Government. On the other hand, if one wants to make any odious comparisons, one need only have seen Mozambique under its present administration to find there are vastly more freedoms in either Rhodesia or South Africa than one will find in Mozambique today. That being the case, I would urge my colleagues to support this relatively minor perfecting amendment to the amendment offered by my good friend, the gentleman from New York (Mr. RANGEL).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CRANE) to the amendment offered by the gentleman from New York (Mr. RANGEL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RANGEL), as amended.

The question was taken; and the chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment, as amended, was agreed to.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in order to ask the distinguished chairman of the committee a couple questions.

Mr. Chairman, I notice that on page 44 of the committee report there is a considerable amount of lamentation over the fact that substantial progress has not occurred in negotiating on the Cyprus issue; but, nevertheless, this bill contains substantial additional funds for mutual military aid for Turkey, as well as Greece. I take it that all this bill now does in the conditions imposed on the continuing aid to Turkey is to maintain the status quo with respect to observing the cease fire and the movement of additional military personnel and equipment to Cyprus.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. SEIBERLING. Last fall when we lifted the ban on Turkish arms aid, one of the concerns I had, the gentleman will recall, is the fact that there was no limitation on commercial sales of military equipment to Turkey or to any other country. I introduced in the RECORD a letter from the State Department saying they approved Congress having a review power over commercial sales of military weapons and other arms.

The gentleman from Pennsylvania said that the gentleman would work to get such a provision written in the bill and, in fact, the bill that the President vetoed did contain a veto by Congress, a right to veto over commercial arms sales, as well as government-to-government sales.

Now, I know that in the present bill, although there is a very commendable new addition in section 202 stating it is the policy of the United States to bring about a reduction in military trade implements of war and that the President should seek to initiate negotiations to reach agreements to control the sales of arms and to conduct a comprehensive study of U.S. arms sales, the provision giving the Congress a veto power over commercial arms sales that would have to be licensed by the executive branch has been removed.

I wonder how there can be any logic in controlling government-to-government sales and not controlling private arms sales that are licensed by our Government. I wonder if the gentleman from Pennsylvania could explain that to the membership?

Mr. MORGAN. Mr. Chairman, if the gentleman will yield further, we had a provision that he described in the bill which was vetoed by the President on May 7 of this year. Our committee considered this matter very carefully. The amendment on commercial sales originated in the Senate, and was opposed by the President.

We decided to keep most of it out of this bill, but the Senate put it in again. It is in the Senate bill and the gentleman knows they are debating the bill this afternoon.

I will take this issue to conference and I can assure the gentleman I am very sympathetic to the gentleman's view. I will take it up in conference.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, in addition to the observation just made by the distinguished chairman of the committee, I think it is also important to point out that we retained in this bill a provision introduced, I think, by the distinguished gentleman from New York (Mr. BINGHAM), which would require in the future all military sales in excess of $25 million to go through the FMS route, which in effect would give the Congress the right under the so-called Nelson-Bingham amendment to disapprove that sale if in its judgment it would be unwise to proceed with it.

So, in effect, with the adoption of this legislation we will have a situation in which any military sale in excess of $25 million will come under the purview of congressional control, which means that any significant sale, in effect, the Congress would have the capacity to disapprove.

Mr. SEIBERLING. Reading the bill, I do not get that impression. I am glad that this is the interpretation. I wonder if the gentleman from New York (Mr. BINGHAM) would confirm that.

Mr. BINGHAM. Mr. Chairman, I am glad to confirm what my colleague from New York (Mr. SOLARZ) just stated. It was the point I was about to make.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to direct a question to the chairman of the committee. The gentleman from Ohio asked the chairman if the bill calls for the status quo that was developed between Cyprus and Turkey in relation to the sale of arms to Turkey last fall. It was my intention to offer an amendment today which would strike additional Turkish aid authorization for fiscal year 1977. However, in discussing the subject with the leadership on both sides of the aisle and on both sides of this issue, it is my impression that there had been a significant change in tightening up on the situation of Turkey on Cyprus and controlling the arms flow.

If that is not true, I would reconsider my efforts to offer an amendment. It would seem to me that what I am looking for is, is the gentleman indicating to me in conversation that the bill goes beyond the status quo, is the bill not tightening up the situation? I understand the issue with Cyprus had been delicately handled in this bill.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield, I think what the gentleman says is partly correct. As the gentleman knows, section 403 was worked out very carefully by the committee in consultation with all the Members of this House who were interested in the Greek-Turkish situation over the last 2 years. There were consultations, there were meetings, and this was the final language that we agreed on, which was acceptable to everybody.

Of course, it went through this House in February; it went to conference. It was retained in the conference and brought back to the House. It passed the House and was vetoed by the President. But, the President's objections did not go to this issue. It was not one of the issues given as the reason for the veto by the President.

With the markup of this bill we went through a similar procedure. The language in the bill was agreed to by all parties interested in the Turkish-Greek-Cyprus situation.

I appreciate the gentleman's action not offering the amendment, because I think that the amendment could jeopardize the very fragile situation and whatever progress has been made to get Greece and Turkey together on a mutually acceptable policy with respect to Cyprus. Some progress was made in that respect at the recent NATO ministerial meeting. So I appreciate the gentleman withdrawing his amendment because I feel it could do more damage than good at this stage.

Mr. MYERS of Pennsylvania. Would the chairman respond, is it accurate to say that there has been set forth in this bill for fiscal year 1977 funds changes with respect to the Turkish situation, or the action by Turkey on Cyprus, so that the status is not strictly a guarantee of the status quo, but there is some improvement in that area?

Mr. MORGAN. Yes.

Mr. MYERS of Pennsylvania. I thank the gentleman very much for his explanation. Last fall, I supported what I thought was a temporary aid, and as I indicated, I had intended to offer an amendment today which would eliminate an extension into fiscal year 1977. I will not do that. However, it does leave me uncertain about final passage, because this particular element still bothers me.

I thank the gentleman.

The CHAIRMAN. Are there further amendments to title V? If not, the Clerk will read title VI.

The Clerk read as follows:

TITLE VI—MISCELLANEOUS PROVISIONS

EXPEDITED PROCEDURE IN THE SENATE

SEC. 601. (a)(1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term "resolution" as used in subsection (b) of this section, means, for the purposes of such law—

(i) a resolution of either House of Congress; or

(ii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b)(1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a)(1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under paragraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

SEC. 602. In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purposes of carrying out this section.

PAYMENT OF CONSULTANTS

SEC. 603. Section 626(a) of the Foreign Assistance Act of 1961 is amended by striking out "$100 per diem" and inserting in lieu thereof "the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, United States Code".

FEES OF MILITARY SALES AGENTS AND OTHER PAYMENTS

SEC. 604. (a) Section 36 of the Foreign Military Sales Act, as amended by section 211 of this Act, is further amended as follows:

(1) In subsection (a)—

(A) strike out "and" at the end of paragraph (7);

(B) redesignate paragraph (8) as paragraph (9); and

(C) insert the following new paragraph immediately after paragraph (7):

"(8) a description of each payment, contribution, gift, commission or fee reported to the Secretary of State under subsection (c), including (A) the name of the person who made such payment, contribution, gift, commission or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission or fee was paid; (C) the date and amount of such payment, contribution, gift, commission or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report; and".

(2) In the first sentence of subsection (b), insert immediately before the period "and a description, containing the informatiin specified in paragraph (8) of subsection (a), of any contribution, gift, commission or fee paid or offered or agreed to be paid in order to solicit, promote or otherwise to secure such letter of offer".

(3) Add the following new subsection at the end of such section:

"(c)(1) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

"(A) sales of defense articles or defense services under section 22 of this Act; or

"(B) commercial sales of defense articles or defense services licensed or approved under section 38 of this Act;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments.

The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

"(2) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this Act.

"(3) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this subsection, 'improper influence' means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

"(4)(A) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this subsection shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this subsection.

"(B) Access by an agency of the United States Government to records maintained under this subsection shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.".

(b) The amendments made by this section shall take effect sixty days after the date of enactment of this Act.

USE OF PERSONNEL

SEC. 605. (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the

Arms Export Control Act and the Foreign Assistance Act of 1961.

(b) Section 42 of the Foreign Military Sales Act, as amended by section 214 of this Act, is further amended by adding at the end thereof the following new subsection:

"(f) The President shall, to the maximum extent possible and consistent with the purposes of this Act, use civilian contract personnel in any foreign country to perform defense services sold under this Act.".

ASSISTANCE FOR PRODUCTIVE ENTERPRISES

Sec. 606. Section 620(k) of the Foreign Assistance Act of 1961 is amended by inserting immediately before the period at the end of the first sentence ", except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress for fiscal year 1977".

EXTORTION AND ILLEGAL PAYMENTS

Sec. 607. Within 60 days after determining that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to title VI?

AMENDMENT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conable: Page 86, line 9, strike out the closing quotation mark and the second period; and immediately after line 9, insert the following new paragraph:

"(5) The provision of this subsection shall not apply with respect to contributions, gifts, commissions, and fees paid, or offered or agreed to be paid, by any person whose average annual sales of defense articles and defense services for export are less than $25,000,000 (as determined under regulations which the Secretary of State shall promulgate).".

Mr. CONABLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CONABLE. Mr. Chairman, I offer an amendment to title VI which embodies, among other things, extensive reporting requirements for those companies engaged in business overseas, selling defense articles and defense services, with respect to all commission and fees paid or offered and agreed to be paid.

The purpose of my amendment is to create a small business exemption to these reporting requirements. It provides, among other things, that commissions and fees paid by any person whose average annual sales of defense articles and defense services for export are less than $25 million, shall be exempted from the provisions of the subsection applying to reporting.

Mr. Chairman, I am not sure whether $25 million is the right amount or not. But let me say that I have a constituent company in my district that sells a lot of small radios, which are lumped, under the terms of this bill, under "defense equipment," even though they are not used for defense in most cases. These radios are sold through national agents abroad. The company is a small one and maintains no sales staff in foreign countries.

I think there are many companies similarly situated.

The purpose of my amendment is only, Mr. Chairman, to provide a small business exception.

The State Department is required to come up with some sort of regulations setting standards of reporting. I think we should give them some guidance, and in the process reduce the reporting burdens which can only have an adverse competitive impact for small American companies.

If, when we go to conference on this bill, it is determined that $25 million is not the right amount, then I certainly will accede to the determination of the conferees on our part. But let's accept the principle that small business in its dealings abroad should not be held to the same burdensome reporting requirements we impose as a safeguard on the larger military suppliers.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have always strongly supported the idea of small business, except I think this amendment relates to something like being half pregnant. It does not make any difference about being half pregnant. This says that a small business may not report some of its activities, and big business is required to. If there is something to be reported, I think it should be reported by all businesses.

Mr. CONABLE. The problem with small business, the kind of business I am talking about, if the gentleman will permit me, is that it has a great many small transactions. It will become a terribly burdensome requirement. The abuses in this area have been identified with very substantial military contracts, as I understand it, and therefore it seems to me that we are imposing an unnecessary burden in the small business area where the abuse is not a major concern.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I recognize the purpose the gentleman from New York (Mr. Conable) has in mind in offering his amendment, but I think that that purpose can be and will be achieved under the bill as written and that his amendment really might open a rather serious loophole.

The effect of his amendment would be to say to a company which just had one transaction abroad of $25 million and offered a bribe to someone to the extent of $1 million to achieve it, that he would not have to report that to anybody.

I know that is not the intention, but that would be the way it would work under his amendment.

Let me read what the section is that he proposes to amend: In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reports on political contributions, gifts, commissions and fees paid, and so on, in connection with sales of defense articles.

Mr. Chairman, if there are small transactions or if there is a whole series of small transactions, the Secretary can certainly by his regulations exclude those so they are not burdensome on the small businessman, but it would be a mistake in my view to permit a company that does engage in a very limited way in foreign trade to pay a large, substantial bribe to somebody and be excluded from the coverage of this reporting section.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a question for the chairman of the full committee, and that is whether or not the term, "defense article," as used in this bill, does not intend to change the present interpretation of the term, "defense article," and does not intend to include articles sold commercially in substantial quantities but which may be used in connection with defense weapons systems.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield, that is correct. The gentleman is correct.

Mr. McCLOSKEY. I thank the chairman of the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Conable).

The question was taken; and on a division (demanded by Mr. Conable) there were—ayes 36, noes 44.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ALLEN

Mr. ALLEN. Mr. Chairman, if there are no further amendments, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Allen:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "International Security Assistance and Arms Export Control Act of 1976".

TITLE I—ARMS EXPORT CONTROLS

Sec. 101. The first section of the Foreign Military Sales Act is amended by striking out "The Foreign Military Sales Act" and inserting in lieu thereof the "Arms Export Control Act".

MILITARY SALES AUTHORIZATION

Sec. 102. (a) Section 31 (a) of the Foreign Military Sales Act is amended by striking out "not to exceed $405,000,000 for the fiscal year 1975" and inserting in lieu thereof "not to exceed $1,039,000,000 for the fiscal year 1976 and not to exceed $840,000,000 for the fiscal year 1977".

(b) Section 31 (b) of such Act is amended to read as follows:

"(b) The aggregate total of credits, or participations in credits, extended pursuant to this Act and of the principal amount of loan guaranteed pursuant to section 24(a) shall not exceed $1,500,000,000 for the fiscal year 1976, which shall be available only for Israel, and shall not exceed $1,000,000,000 for the fiscal year 1977, which shall be available only for Israel.".

(c) (1) Section 31 of such Act is further amended by adding at the end thereof the following new subsections:

"(c) Funds made available for the fiscal years 1976 and 1977 under subsection (a) of this section shall be obligated to finance the procurement of defense articles and defense services by Israel on a long-term repayment basis either by the extensions of credits, without regard to the limitations contained in Section 23, or by the issuance of guaranties under section 24. Repayment shall be in not less than twenty years, following a grace period of ten years on repayment of principal. Israel shall be released from one-half of its contractual liability to repay the United States Government with respect to defense articles and defense services so financed for each such year.

"(d) The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to Israel or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed $100,000,000 (exclusive of ships and their on-board stores and supplies transferred in accordance with law)."

(2) Subsections (a), (b), (c), and (e) of section 8 of the Act entitled "An Act to amend the Foreign Military Sales Act and for other purposes", approved January 12, 1971 (Public Law 91-672; 84 Stat. 2053), are repealed effective July 1, 1976. All funds in the suspense account referred to in subsection (a) of such section on July 1, 1976, shall be transferred to the general fund of the Treasury.

TITLE II—PROVISIONS RELATING TO SPECIFIC REGIONS OR COUNTRIES

Sec. 201. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 495B. Italy Relief and Rehabilitation.—(a) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $25,000,000 for the fiscal year 1976 to furnish assistance under this chapter for the relief and rehabilitation of the people who have been victimized by the recent earthquake in Italy. Amounts appropriated under this section are authorized to remain available until expended.

"(b) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.".

TITLE III—MISCELLANEOUS AUTHORIZATIONS

Sec. 301. Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

"Sec. 532. Authorization.—There is authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1976 $730,000,000, which shall be available only for Israel, and for the fiscal year 1977 not to exceed $785,000,000, which shall be available only for Israel. Amounts appropriated under this section are authorized to remain available until expended.".

MIDDLE EAST SPECIAL REQUIREMENT FUND

Sec. 302. Section 903 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a), by striking out "for the fiscal year 1975 not to exceed $100,000,000" and inserting in lieu thereof "for the fiscal year 1976 not to exceed $50,000,000 and for the fiscal year 1977 not to exceed $35,000,000"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Funds appropriated under subsection (a) shall be available to assist the Government of Israel in carrying out activities under the Agreement of October 10, 1975, and to pay the costs of implementing the United States proposal for the early warning system in Sinai. Such funds may be obligated without regard to the provisions of subsection (b) of this section to the extent that the proposed obligation has been justified to the Congress prior to the enactment of this subsection.

"(d) Of the amount authorized to be appropriated in subsection (a) for the fiscal years 1976 and 1977, not less than $12,000,000 for each such year shall constitute a contribution by the United States toward the settlement of the deficit of the United Nations Relief and Works Agency for Palestine Refugees in the Middle East, if the President determines that a reasonable number of other countries will contribute a fair share toward the settlement of such deficit within a reasonable period of time after the date of enactment of the International Security Assistance and Arms Export Control Act of 1976. In determining such fair share, the President shall take into consideration the economic position of each such country. Such $24,000,000 shall be in addition to any other contribution to such Agency by the United States pursuant to any other provision of law.

"(d) Funds made available under this section may be obligated without regard to the provisions of subsection (b) of this section for programs contained in the presentation materials submitted to Congress for the fiscal year 1977.".

CONTINGENCY FUND

Sec. 303. Chapter 5 of part I of the Foreign Assistance Act of 1961 is amended—

(1) in the chapter heading, by striking out "Disaster Relief" and inserting in lieu thereof "Contingency Fund"; and

(2) in section 451(a)—

(A) by striking out "for the fiscal year 1975 not to exceed $5,000,000," and inserting in lieu thereof "for the fiscal year 1976 not to exceed $5,000,000 and for the fiscal year 1977 not to exceed $10,000,000";

(B) by striking out "or by section 639"; and

(C) by adding at the end thereof the following new sentence: "Amounts appropriated under this section are authorized to remain available until expended.".

INTERNATIONAL NARCOTICS CONTROL

Sec. 304. (a) Section 482 of the Foreign Assistance Act of 1961 is amended by inserting immediately before the period at the end of the first sentence ", $40,000,000 for the fiscal year 1976, no part of which may be obligated for or on behalf of any country where illegal traffic in opiates has been a significant problem unless and until the President determines and certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that assistance furnished to such country pursuant to the authority in this chapter is significantly reducing the amount of illegal opiates entering the international market, and not to exceed $34,000,000 for the fiscal year 1977".

(b) Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) (1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts.

"(2) The President shall carry out a study with respect to methods through which United States narcotics control programs in foreign countries might be placed under the auspices of international or regional organizations. The results of such study shall be transmitted to the Speaker of the House of Representatives and the President of the Senate not later than June 30, 1977.".

AUTHORIZATION FOR INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 305. Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(i) In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $5,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear fissile facilities and materials. Amounts appropriated under this subsection are authorized to remain available until expended.".

INTERIM QUARTER AUTHORIZATIONS

Sec. 306. (a) Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976, shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for the fiscal year 1976 and in accordance with the authorities applicable to operations and activities authorized under this Act or such other law, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(b) The aggregate total of credits, including participations in credits, extended pursuant to the Arms Export Control Act and of the principal amount of loans guaranteed pursuant to section 24(a) of such Act during the period beginning July 1, 1976, and ending September 30, 1976, may not exceed an amount equal to one-fourth of the amount authorized by section 31(b) of such Act to be extended and guaranteed for the fiscal year 1976.

BASE AGREEMENTS WITH SPAIN, GREECE, AND TURKEY

Sec. 307. (a) In addition to amounts authorized to be appropriated by any amendment made by this Act which may be available for such purpose, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1977 to carry out international agreements or other arrangements for the use by the Armed Forces of the United States of military facilities in Spain, Greece, or Turkey.

(b) No funds appropriated under this section may be obligated or expended to carry out any such agreement or other arrangement until legislation has been enacted approving such agreement or other arrangement.

TITLE IV—MISCELLANEOUS PROVISIONS

EXPEDITED PROCEDURE IN THE SENATE

Sec. 401. (a) (1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term "resolution" as used in subsection (b) of this section, means, for the purposes of such law—

(i) a resolution of either House of Congress; or

(ii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b) (1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a) (1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3) (A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4) (A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, a lot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) (A) motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

SEC. 502. In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purposes of carrying out this section.

PAYMENT OF CONSULTANTS

SEC. 403. Section 626(a) of the Foreign Assistance Act of 1961 is amended by striking out "$100 per diem" and inserting in lieu thereof "the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, United States Code".

FEES OF MILITARY SALES AGENTS AND OTHER PAYMENTS

SEC. 404. (a) Section 36 of the Foreign Military Sales Act, as amended by section 211 of this Act, is further amended as follows:

(1) In subsection (a)—

(A) strike out "and" at the end of paragraph (7);

(B) redesignate paragraph (8) as paragraph (9); and

(C) insert the following new paragraph immediately after paragraph (7):

"(8) a description of each payment, contribution, gift, commission or fee reported to the Secretary of State under subsection (c), including (A) the name of the person who made such payment, contribution, gift, commission or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission or fee was paid; (C) the date and amount of such payment, contribution, gift, commission or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report; and".

(2) In the first sentence of subsection (b), insert immediately before the period "and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission or fee paid or offered or agreed to be paid in order to solicit, promote or otherwise to secure such letter of offer".

(3) Add the following new subsection at the end of such section:

"(c) (1) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

"(A) sales of defense articles or defense services under section 22 of this Act; or

"(B) commercial sales of defense articles under section 38 of this Act;

or defense services licensed or approved to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

"(2) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this Act.

"(3) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this subsection, 'improper influence' means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

"(4) (A) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this subsection shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this subsection.

"(B) Access by an agency of the United States Government to records maintained under this subsection shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.".

(b) The amendments made by this section shall take effect sixty days after the date of enactment of this Act.

USE OF PERSONNEL

SEC. 405. (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961.

(b) Section 42 of the Foreign Military Sales Act, as amended by section 214 of this Act, is further amended by adding at the end thereof the following new subsection:

"(f) The President shall, to the maximum extent possible and consistent with the purposes of this Act, use civilian contract personnel in any foreign country to perform defense services sold under this Act.".

EXTORTION AND ILLEGAL PAYMENTS

SEC. 406. Within 60 days after determining that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

Mr. ALLEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

Mr. MORGAN. Mr. Chairman, reserving the right to object, I did not hear the gentleman's request.

Mr. ALLEN. Mr. Chairman, I asked unanimous consent that the amendment be considered as read, printed in the RECORD, and open to amendment at any point.

Mr. MORGAN. Further reserving the right to object, Mr. Chairman, we have not seen the amendment. I ask that it be read.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. MORGAN) object to the unanimous-consent request?

Mr. MORGAN. Yes, Mr. Chairman, I do.

The CHAIRMAN. Objection is heard. The Clerk will read.

(The Clerk continued the reading of the amendment in the nature of a substitute.)

Mr. MORGAN (during the reading). Mr. Chairman, the gentleman from Tennessee (Mr. ALLEN) has explained that this amendment in the nature of a substitute is over 20 pages. I did not realize that when I objected.

Therefore, Mr. Chairman, I withdraw my objection and ask that the gentleman be permitted to proceed to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. ALLEN. Mr. Chairman, I offer this amendment in the nature of a substitute to H.R. 13680, I fully support the provisions of this bill which would provide aid for the victims of earthquake devastation in Italy, and people who may become victims of national disasters, and which would furnish aid to the nation of Israel. I hope I will be able to vote for these provisions.

But, Mr. Chairman, I cannot in good conscience support the other vast military aid and foreign give-away programs which are included in this bill. I simply do not believe that this kind of massive military aid and give-away gratuities to other foreign nations is conducive to the peace of the world.

Recent history clearly shows that this country, time and again, has sent military aid to repressive regimes in other countries, to countries who war on their neighbors with our monetary encouragement. I simply do not believe this is wise.

The irresponsibility and indefensibility of our posture was brought home to me in a meeting of the Veterans' Affairs Committee, of which I am a member.

In that meeting, we were advised that there was no money in the budget to continue our programs for the education of our own veterans, even for those who are already enrolled. Yet here we are, today, considering the authorization of a vast military assistance and giveaway program for nations around the world.

Mr. Chairman, it is time for us to rethink our priorities. When it comes to the nation of Israel, however, we must remember that that country has a unique history and it is a unique creation. We helped give it birth, and we pledged our support for its people who have been hounded and persecuted across the face of the Earth through much of recorded history as they sought to establish a homeland much the same as our forefathers sought a home in the American wilderness. I, for one, intend to keep that pledge. But until we reorder our priorities so that we can continue the education of our own veterans and initiate programs to bring employment to our own people, we have no business squandering the wealth of this country in massive military aid and giveaway of our own taxpayer's money for other nations.

Mr. Chairman, I have also included in my amendment a reservation of the miscellaneous authorizations and provisions contained in titles V and VI of the bill, so that we will be able to support such programs as the International Narcotics Control, the International Atomic Energy Agency, base agreements with Spain, Greece, and Turkey, and a contingency fund, and such provisions as those for the payment of consultants, fees for military sales agents, procurements from small businesses, et cetera. These would be preserved.

Mr. Chairman, I offer this amendment by way of a substitute to this bill which would preserve aid for devastated Italy, which would preserve miscellaneous authorizations, and which, most importantly, would honor this country's commitment to Israel, but which would otherwise cut back our foreign aid program and take us out of the unsavory business of worldwide military assistance.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would ask the gentleman from Tennessee whether the gentleman's amendment in the nature of a substitute retains the controls over commercial sales that are in the committee's bill? Commercial sales on arms that are licensed to be sold?

Mr. ALLEN. Yes; all of the miscellaneous controls are retained.

Mr. SEIBERLING. But if the gentleman has eliminated all of the government to government sales, then the gentleman has eliminated the controls on commercial sales the way the bill is written.

Mr. ALLEN. What I have done is simply provide that the money that we would be spending for this military assistance program be cut back. All of the other provisions stay in the bill.

Mr. SEIBERLING. I thank the gentleman.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Tennessee (Mr. ALLEN).

Mr. Chairman, this amendment would gut the military assistance programs in many, many countries. It would provide authorizations only for Israel and Italy. The amendment would also cut out most of the reforms that we have been working on for nearly a year.

Mr. Chairman, I ask the Members of the House to defeat the amendment offered by the gentleman from Tennessee.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Tennessee (Mr. ALLEN).

The amendment in the nature of a substitute was rejected.

Mr. PICKLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was very glad to note that the revised version of H.R. 13680 does contain the amendment—section 607—which I offered when the House initially adopted this measure on March 3 of this year.

My amendment is an attempt to curtail some of the strong-arm tactics which have been used against honest American individuals doing business overseas. I think by adopting my amendment, requiring the President to report to the Congress his recommendation whether aid should be continued to those countries which attempt to extort American business people, we will be giving a clear signal to those who may feel that they have no alternative to paying bribes.

I am very glad that the committee has seen fit to restore my amendment after it was removed in the conference report of the bill the President vetoed. It is my firm belief that this is a step in the right direction. Certainly it is very easy for us to pontificate and say, "Bribes are bad. We should not tolerate them." My amendment puts the House on record of supporting those who have the backbone to say no. The previous bill had strong language in the report. This bill specifically states the prohibition of bribes or extortion in statutory language. This makes it the law—and is much better. I commend the chairman of the committee and the conferees for restoring the full language of the amendment in the bill.

Mr. ASHBROOK. Mr. Chairman, I supported my colleague Mr. DERWINSKI's amendment. The provisions as now contained in the bill would damage efforts at modernizing the South Korean Armed Forces. The result would be to prolong the period that American forces are needed in Korea.

If the provisions are allowed to stand as presently worded, we would pursue a policy that also contradicts the desires of the very people the action is allegedly designed to benefit. The people of the Republic of Korea, including even the strongest opponents of President Park, have implored the Congress not to take any actions that would reduce the security of their country. In a resolution passed unanimously by the Korean National Assembly last year, all political factions demonstrated their unity on the issue of American military support for their country. Section 4 of that resolution reads as follows:

> (4) We wish that the United States, an ally with ties forged on the battlefield, which has defended the front of freedom with us for the last three decades, will translate into action its resolve not to repeat on the

> Korean peninsula the sort of mistake it committed in Indochina.
>
> If the United States acts otherwise, the commitments it maintains with the allies will lose public confidence and cause a collapse of the peaceful order of the world.
>
> We expect America to complete the five-year Korean Armed Forces Modernization Plan as early as possible, and to make a show of military strength around the Korean peninsula, thus publicizing its firm resolution not to retreat.

Thus all Koreans, including those allegedly being persecuted by the Park government, indicate that the kind of action proposed in this bill would be detrimental to their most vital interests. They fully realize that whatever disagreements they may have with President Park, their own survival as an independent depends upon an adequate defense against a potential North Korean assault.

Given the actions by the North Koreans in the past year, the South Koreans have good reasons to be profoundly concerned about their security from attack.

In this period, the North Koreans have given additional support for the so-called People's Revolutionary Party in the South. They have increased their efforts at infiltration.

In his visit to Peking, Kim Il Sung reaffirmed his determination to support revolution in the South. Kim proclaimed that should a war come about—

> We will only lose the military demarcation line but gain the country's reunification.

In his trek to Peking, Kim quite significantly brought along two of his high ranking military leaders. Although it is often asserted that both Peking and Moscow desire to prevent a resumption of war in Korea, we nonetheless have the clear example of Vietnam, where the Russians and the Chinese competed with each other to supply Hanoi with military materials necessary for their successful war in Indochina.

Finally we discovered numerous tunnels which the North Koreans have dug under the DMZ in order to move large numbers of men behind South Korean lines. Overall, the Pyongyang regime of Kim Il Sung has demonstrated increasingly hostile intentions in the past year and only by taking this into account can we begin to understand the present political situation in South Korea.

Only by realizing the kind of tense climate that grips the Republic of Korea can we begin to understand actions taken by President Park.

We should note that prior to the imposition of emergency rule, Park himself secured election to the office of President on three separate occasions by the democratic vote of the people. Moreover, even the adoption of emergency rule itself under Yushin Constitution came about only after a popular referendum in which over 90 percent of the people of Korea voted in favor of the changes.

Also in our discussions today, we should not lose sight of the fact that even the strongest critics of President Park have not charged him with corruption or taking any actions for personal gain. As Selig Harrison noted in an article on Korea in "Foreign Policy":

> The saving grace for Park has been a degree of insulation from attack provided by his long-standing reputation as a man of spartan probity who has avoided personal corruption.

Thus, one can quite fairly conclude that the actions taken by President Park have been motivated by genuine nationalist considerations as he weighs the threat to the continuation of the peace and with it the independence of his country.

Given the circumstances in Korea today we must bring a halt to the kinds of unrealistic demands manifested in the current aid proposal. We cannot judge a country such as the Republic of Korea by political standards that neither Great Britain nor the United States herself could live up to in periods of crisis. The continued existence of the Republic of Korea is not threatened, as some would have us believe, by the denial of sufficient civil liberties.

By now we should have thoroughly extricated ourselves from the mythology that the countries of Indochina crumbled before the Communist onslaught because they were not sufficiently democratic. Communism prevailed in Indochina precisely as it has prevailed everywhere else in the world—by force of arms. Similarly in Korea, Kim Il Sung could only reunite Korea under Communist rule through an overwhelming military victory.

Many of the countries allied with the United States find themselves in an impossible situation. If they allow a wide latitude of dissent, we are told that the governments are unpopular and not worthy of our support. On the other hand, if the governments place any limitations upon political dissent, even in the midst of war, we are told they are oppressive and not worthy of our support. Thus, in the face of a well disciplined Communist totalitarian threat, many of our allies discover Members of the U.S. Congress unwilling to support their continued independence regardless of what they do. And then people in the United States and elsewhere wonder why the boundaries of the free world keep shrinking.

If we fail to give this help to the relatively free nations of the world who aline themselves with us, then not only will freedom cease to grow in these countries, but our own security will diminish as we become increasingly isolated in the world.

In order to inform all Members of the House of the solidarity of the Korean people on the question of their own national security and the American military assistance program, I insert the complete resolution passed unanimously by the Korean National Assembly in the RECORD at this point:

FULL TEXT OF THE FIVE-POINT RESOLUTION ON NATIONAL SECURITY, WHICH WAS ADOPTED UNANIMOUSLY AT THE SPECIAL SESSION OF THE NATIONAL ASSEMBLY MAY 20, 1975

> The communization of Indochina has brought about a grave impact on both the international political scene and the power balance in the Far East. In particular, a fresh crisis has been created on the Korean peninsula by the stubborn illusion harbored by the Kim Il-sung clique and by his various bellicose utterances and provocative acts at home and abroad.
>
> We, taking a hard look at such stark realities and relentless challenges, feel strongly the need to work out steps designed to secure the safety of this nation promptly by building up national power through national consensus, and setting up a collective security system based on consolidated relations with our allies.
>
> The National Assembly, buttressed by a sense of patriotism of our wise people and the resolute spirit to win any battle on the part of soldiers in front and rear areas, hereby confirms and resolves the national proposition to tide over this time of difficulties as follows:
>
> (1) The entire Korean people, firmly united, resolve resolutely to crush any type of North Korean provocation and aggression, thus safeguarding the nation's legitimacy as well as guaranteeing the right to survive for a free democracy in this country.
>
> (2) We strongly warn the Kim Il-sung clique that if it unleashes a reckless invasion of the South through miscalculation, it would commit another sin of disrupting world peace and causing fraticide, incurring its own self-destruction. We should take this as a sacred moment to realize the unification of our fatherland under a free democracy.
>
> (3) There will be no change in our will and endeavor to aspire to realization of peaceful unification. Our readiness for war is a manifestation of our strength to back up efforts to achieve unification by peaceful means. We restate that set of policies enunciated in the June 4 South-North Joint Communique and the June 23 Declaration offer grounds still available for peaceful unification.
>
> (4) We wish that the United States, an ally with ties forged on the battlefield, which has defended the front of freedom with us for the last three decades, will translate into action its resolve not to repeat on the Korean peninsula the sort of mistake it committed in Indochina.
>
> If the United States acts otherwise, the commitments it maintains with its allies will lose public confidence and cause a collapse of the peaceful order of the world.
>
> We expect America to complete the five-year Korean Armed Forces Modernization Plan as early as possible, and to make a show of military strength around the Korean peninsula, thus publicizing its firm resolution not to retreat.
>
> (5) We invite close vigilance against North Korean plots to create division and disturbance in the South through its common front tactics, a means of violent revolution, which is characterized by the so-called movement for "revolution or liberation of the South."
>
> Also, we resolve to launch a reform of the administration, by resolutely uprooting all types of irrationalities from this society which stand in the way of the consolidation of national consensus as well as an all-out security posture.

Mr. CRANE. Mr. Chairman, in consideration today of American assistance to the Republic of Korea, we suffer from a very distorted perspective. All too often we have engaged in debates and discussions about the suppression of human rights in countries and have never sufficiently put ourselves into any meaningful frame of reference. This is particularly true in the consideration of Korea. Most discussion of human rights in Korea suffers from three major distortions.

First we should not delude ourselves

into thinking that we are talking about another country roughly comparable in political development or strategic location to the United States. We must understand that less than 30 miles from the capital of South Korea stand the armed forces of the Korean communists and, as they demonstrated in June of 1950, they are fully capable of launching a completely unprovoked attack against their neighbors.

To put ourselves into the situation the Koreans now find themselves we must imagine having an enemy power located in the Baltimore area with a military force about equal to ours. The leader of that enemy country has vowed to destroy the United States. With constant tension and occasional skirmishes along the border, we would never know when a new invasion might take place. That is the situation that the Koreans must cope with daily. Thus, we are being unrealistic to assume that they can subscribe to the same kind of constitutonal guarantees of civil and political liberties as we have in our country, just as we are forgetting how President Lincoln reacted in 1861 when faced with Confederate troops across the Potomac and secessionist sentiment in Maryland.

At that time, the President of the United States, arbitrarily suspended the writ of habeas corpus and other constitutional rights in the name of preserving the Union. But, rather than chastising Abraham Lincoln, we have an enormous monument erected in his memory just down the Mall from this very building.

Second, we suffer from a very distorted perspective if we fail to take any note of the nature of the North Korean regime. With all of the publicity in the American press and the various charges given extensive coverage in hearings before the international relations committee, one might think that South Korea is a much more repressive society than is North Korea. We virtually hear nothing about the status of civil liberties north of the 38th parallel, and hence the dictatorial regime of Kim Il Sung has enjoyed a substantial rise in prestige around the world in recent years.

But the simple fact of the real situation is that the North Korean regime is quite possibly one of the most repressive governments in the entire world, rivalled only by the regimes in Cambodia and Albania. As the Far Eastern Economic Review noted in a rare lengthy article on North Korea:

> No matter how authoritarian Park's administration may be, it is the personification of perfect democracy compared with the bzyantine powerplay in hermetically sealed Pyongyang.

Yet, we nonetheless hear the rather bland statement that you have a dictatorship in the North and a dictatorship in the South, and thus for the people, it makes little difference which government they live under. Overlooked, however, is the very fundamental difference between an authoritarian government and an ideologically motivated totalitarian regime.

In a recent essay on Korea, published in Korea in the World Today—Council on American Affairs—the distinguished junior Senator from Utah, JAKE GARN, noted that the government in Pyongyang engages in the usualy totalitarian practice of completely regimenting the lives of the people. This, he states, has resulted in—

> The destruction of individual freedoms and personal initiative—as witnessed by the country's sagging economy.

But possibly the greatest revelation of the differences between the two Koreas is exemplified by the actions of the Koreans themselves. During the war an enormous exodus of Koreans living above the 38th parallel fled to the South. Today the loyalty of the people of South Korea to the government in Seoul has been demonstrated over and over again as spies from the North have been turned into the authorities by the local citizenry.

As Senator GARN states in his essay:

> It is certainly true that there is no comparison on any level between the lives of North and South citizens. If this distinction is not clear to Americans, whose exposure to North Korean repression has been cursory at best, it is understood perfectly by the South Koreans. It was only a month ago, on the 25th anniversary of the North Korean invasion of the South, that a million South Koreans staged an anti-Communist rally in Seoul. Most of President Park's opponents were present; in spite of their differing views on the present leader, they are virtually unanimous in preferring his policies to the Communist alternative.

Finally, as the discussion of North Korea indicates, we should not equate the definition of freedom with certain political rights. The South Koreans enjoy a wide latitude of liberties not available to their brethren above the 38th parallel. While in the North a concerted assault upon all religion has nearly obliterated the practice of Christianity or other forms of religion, one has complete freedom of religion in South Korea. Similarly, people in South Korea enjoy economic freedom similar to that which Americans have. The people are not assigned to jobs or restricted to certain parts of the country as is the case in North Korea.

We should not be so short-sighted as to ignore the very real differences that exist on the two sides of the DMZ in Korea. If Kim Il Sung conquered South Korea we would then see what the deprivation of freedom really means. We should have learned from the lesson of Vietnam that by championing complete and unrestrained liberty in a country, we may be imposing restraints upon them that will cause their obliteration as an independent nation.

We heard much discussion for many years about the suppression of civil liberties in Indochina and about political prisoners. Now, with the triumph of Hanoi's armies in Vietnam we have absolutely no press freedom or political dissent and far more political prisoners than ever before. Even more gruesome has been the massive slaughter of people in Cambodia in the name of creating a new society. What has happened in Indochina should be a lesson to us all of the frightening consequences of the imposition of a ruthless totalitarian regime that means to completely remake man and society.

By slashing military assistance to the Republic of Korea, we unwittingly play into the hands of a real totalitarian dictator, Kim Il Sung. As Senator GARN summarizes the situation:

> Those who systematically attack South Korea's Chung Hee Park are playing a dangerous game. By continually undermining the present South Korean Government—although this be in the name of democracy—we are in fact undermining the freedoms enjoyed by South Koreans—which, I repeat, are denied to the citizens of the North; by eroding the government's position and creating further political instability, we are destroying the chances of full democracy being restored. If we show ourselves an increasingly reluctant ally of South Korea, we ourselves are laying the groundwork for a Communist invasion of this country.

As is often the case, the choice is not between perfect good and perfect evil. However, it is very clear in the case of South Korea that its government is far less evil and repressive than that of its totalitarian neighbor to the north. To undercut South Korea—our allies through two wars and over 26 years—by cutting military and economic assistance would not only be unwise from a geopolitical standpoint but would be a perversion of our commitment to the principles of individual liberty and national self-determination.

I urge my colleagues to reject any such effort.

Mr. DAN DANIEL. Mr. Chairman, as we deliberate this bill today, we would do well to consider the words of our first President regarding international relations.

"The nature of foreign negotiations requires caution," he said. And caution might well be applied in relationship to allies as well as to potential adversaries. The overriding concern should be—must be—where is our national interest served?

Again going back to our beginnings, the colonists' complaints were lodged primarily against George III, and his conduct of the government of the British colonies. And, when we declared that "all men are created equal" no one added, as an aside, that the same went for the people of France, or Spain, or any other nation then living under a monarchy.

Many of those who at this time are maintaining we have an obligation to instruct Turkey in the conduct of that nation's affairs are the same ones who said we must keep out of Angola, and get out of Southeast Asia, because we lacked the right to interfere. The fact that I may not have agreed in the former instances is irrelevant—it is their argument, not mine.

The problem among the Cypriots, the Greeks and the Turks is just that—it is their problem. It is a problem which has been building for years. And it is not realistic to expect a problem which is years old to be settled by a relatively few months of negotiation, with or without an embargo, with or without our taking sides.

It is not in the U.S. national interest to maintain an embargo which jeopardizes our NATO defense by depriving our Turkish ally of the military equipment it needs to discharge its alliance responsibilities and impedes progress in the Cyprus negotiations.

NATO is the area of the world which is most vital to our security. And Turkey's position is crucial to the overall stability of the NATO defenses. We simply cannot afford a substantial weakening in our military capability in any NATO area without jeopardizing the entire structure.

Whatever goals we might wish to see achieved within or among any other nations of the world is a secondary issue here. The overriding concern is our own defense—a defense which must include Turkey. For Turkey is the key to the defense of the southern region of NATO and the eastern Mediterranean. Its loss as a part of NATO would be irreplaceable.

Mr. ASHBROOK. Mr. Chairman, the bill before us, H.R. 13680, once again shows the liberal double standard in the way it deals with Chile. Let us face it; the issue is not the smokescreen that has been put before us.

Peru has less than a sterling regard for democratic liberties. However, we find no prohibitions placed on Peru. But then the Peru military dictatorship is on the left politically and has never tried to be anti-Communist nor a friend of the United States in international relations.

For some the problem with Chile is not what its government now does or does not do, but rather that its leaders helped overthrow the Marxist Salvador Allende.

Also, there was little outcry on the part of my liberal friends when the idea was floated that perhaps aid should be given to Communist China. Can anyone deny that the totalitarian regime of that land systematically denies all civil liberties?

The issue, as I have said before, is one of a double standard and selective indignation. The rule of thumb seems to be: if the government is anti-Communist and pro-United States, do all possible against it; if the government is leftist and anti-American, help it. To me, this is masochism and a terrible basis for foreign policy.

Mr. JOHNSON of California. Mr. Chairman, I am greatly concerned about a provision of H.R. 13680 as reported by the Committee on International Relations. In particular, I refer to that section which sets a ceiling of $175 million on Public Law 480 food aid to the Republic of Korea for the period beginning July 1, 1975, and ending September 30, 1977.

This provision was not in the legislation passed earlier by the House and subsequently vetoed by the President on May 7. This is a new section which would have disastrous repercussions for American agriculture.

The time limitation placed on these funds is unrealistic. It covers two full fiscal years plus the 3-month transition period. The limitation of $175 million is quite low in view of the fact that some $135 million has already been spent for South Korea under the food aid program, and less than half of the established time period has elapsed. The effect of this limitation would be to cut the fiscal year 1977 authorization by $100 million, a 72-percent reduction.

My concern, in particular, Mr. Chairman, is the effect that this provision would have on the American rice industry. For many years, the American rice farmer has sold great portions of his crop to overseas markets through the Public Law 480 program. One of the major markets has been South Korea. South Korea is the world's fifth largest importer of U.S. farm products, buying large tonnages of wheat, corn, cotton, and rice on commercial terms. The practical effect of the provision contained in this bill is to shut off this key market for American rice.

Earlier this year, the Congress, much to my chagrin, passed comprehensive legislation replacing the present controlled rice production program with a program allowing open production. My prediction that this was ill-advised is justified when we see that the carryover in rice from the last crop year is now estimated to be 35 to 40 million bags.

The future of rice production shows little hope for improvement. The most optimistic outlook for the rice production in my own State of California indicates that there will be a carryover this year of a minimum of 12 million bags. This means a surplus equal to one half of normal rice production in the state.

The only effective means of eliminating this surplus is to sell it to overseas customers. This not only helps to stabilize the American rice industry, but also meets humanitarian needs of other nations of the world.

I am aware that the form of government practiced in the Republic of Korea has strayed from the American ideal of democracy. It seems highly unreasonable, however, to reduce food assistance to a nation, as a form of punishment or inducement for change, when that act will directly serve to harm American industry and our own citizens and consumers.

Mr. Chairman, I must oppose this provision of the bill, because, in my opinion, it is distinctly detrimental to the American rice industry, an industry which is currently suffering from substantial surpluses which could easily be relieved through sales of surplus rice to nations such as South Korea through the expenditure of Public Law 480 funds. I call on my colleagues to think of Americans first and vote to delete this restriction from the bill.

Mrs. HOLT. Mr. Chairman, I opposed the amendment of the gentleman from Minnesota to the International Security Assistance Act because it would have limited all U.S. military assistance and FMS credit sales to the Republic of Korea to no more than $290 million for the period July 1, 1975, to September 30, 1977. This would be a 40-percent reduction—a drastic reduction—in the amount requested by the President and would delay for several years the time when South Korea will be militarily self-sufficient.

The independence and self-sufficiency of South Korea are goals supported by both our governments, and I believe by the great majority of the American people; this amendment would only prolong our military involvement in Korea, not reduce it.

I oppose this amendment and support our colleagues in the International Relations Committee who argued so cogently against its adoption. Let me briefly review the many reasons why the United States has, for the past 30 years, been committed to an independent Republic of Korea.

The survival of a free South Korea is the key to preserving and maintaining the independence and sovereignty of Japan. And just as Berlin is the focal point and symbol of Western defense in Europe, Seoul and South Korea now play the same role in East Asia.

Last year, the U.N. General Assembly passed resolutions which would have dissolved the U.N. Military Command in South Korea, thus forcing the United States to remain the guarantor of the survival of South Korea. Our troops there serve as a deterrent and a concrete assurance that we will come to the aid of the South Korean Army as we did in 1950. And although the Republic of Korea has the fifth largest army in the world, to defeat an invasion by the North, U.S. strategic aid is probably essential. Our forces certainly act as a check on adventurous moves from Red China or the U.S.S.R.

Seoul is only about 30 miles from the demilitarized zone and well within range of heavy artillery. As the seat of government, the center of communications and finance, the industrial center, and the home of a fifth of the country's population, Seoul's occupation would be disastrous. The U.S. Government has fully realized this, and has provided some $3.7 billion in military assistance since June 1950.

Although the Republic of Korea forces are strictly geared to self defense, the North has been increasing its aggressive stance. North Korea now spends 15–20 percent of its gross national product on its military forces, and just recently several tunnels capable of permitting thousands of invaders to cross into South Korea were discovered running under the DMZ. In addition, armored and aircraft units were moved forward by the Communists last summer and guerrilla raids on the South Korean coasts occur frequently.

Fortunately, support for President Park's anti-Communist government runs strong and deep even among those who disagree with some of his policies. The people are firmly opposed to the Communists, having experienced their rule firsthand in 1950, and are determined to oppose another invasion with all their strength.

There has been some criticism of the restrictions on civil liberties now in effect in South Korea from some parts of the U.S. Congress and the press. Certainly Americans have always favored the widest possible individual liberty everywhere in the world; those of us who are realistic, however, know very well that current conditions differ sharply from place to place in this imperfect world.

I know that most Members of Congress who have discussed this situation with President Park have taken the opportunity to urge a lifting of certain restrictions on political activity as soon as conditions permit. They in turn have been reminded by President Park, with some justification, that Americans might have stricter laws if a roughly equal aggressive power occupied the Northeastern United States as far south as a line 30 miles from Washington, D.C. Certainly our own country has felt obliged to curtail some liberties in wartime in our history, especially during the Civil War and World War II.

No impartial observer can fail to agree that there is simply no comparison between the amount of freedom enjoyed by the ordinary citizen in South Korea and the iron discipline imposed by what is probably the firmest dictatorship in the world today—the so-called Democratic Republic of Korea. Speaking for myself, I have been impressed by the vigor of the opposition parties in South Korea who persistently press their disagreements with the government while uniting firmly behind the Constitution of an independent non-Communist South Korea.

South Korea has succeeded in the past three decades in building up a rapidly-growing economy, a stable government, and a strong national defense. It is and must remain the first line of defense for the United States in East Asia. Its strategic position makes it critical to the defense of Japan and Taiwan. The U.S. presence in Korea serves as a deterrent to Chinese or Soviet intervention.

Our continued involvement is necessary to provide security and stop further communist aggression in East Asia. It is mainly through firm U.S. support that active military aggression can be discouraged and the peace maintained in Korea. It is in our national interest to remain firm in our resolve and purpose and thereby prevent another tragic war.

Mr. MURPHY of New York. Mr. Chairman, the proposal to delete the amendment for security assistance to South Korea strikes at the very heart of our defense commitments, not only in Korea, but throughout all of Asia. We are considering a specific reduction in our long-term commitments to a single nation—one with which we joined hands some years ago to fight a major war against Communist aggression.

But our commitments go considerably further than just to that single nation. South Korea is the key to our defenses in the entire Pacific basin, including Eastern Asia. To diminish our long-standing influence on the Korean peninsula would not only destroy the 5-year rearmament plan in which we participate with Korea, but could easily upset the entire balance of power in favor of the Communist bloc on the Asian mainland.

You are, of course, aware of the threats of North Korean leader Kim Il Sung, to launch a full-scale takeover of the South. Kim has indicated that U.S. presence in the South is the single factor which deters him from such a move. But if South Korea should fall, Japan would have no viable option but to fully rearm, including the possibility of nuclear capability, and the rest of the Pacific community would be drawn into defensive expansion at the very least, and offensive action as a distinct possibility as well.

A limit to security assistance to South Korea is an incredible display of myopic vision on the part of some of our colleagues. The proposal is made, as I understand it, as an unjustified reaction to alleged violations by the South Korean Government of the human rights of the South Korean populace.

Nothing could be farther from the truth.

In the ill-advised move to cut security assistance funds to South Korea and impose a ceiling on Public Law 480, my colleagues have failed to consider all the pertinent facts so important to a balanced view.

Even the State Department, in the person of our Ambassador to Korea, Richard L. Sneider, states that the United States will abide by its commitments to its allies—including Korea—and that some Asian countries have been "too hasty" in bending their foreign policies in the wake of the fall of Indochina. The Ambassador said Korea has survived the complex international current due to the people's self-reliance, accompanied by U.S. aid. As the internal strength of South Korea, the strong will of its people, and its evolving internal policies are key factors in any discussion of this nature, we must also note that one of the most striking success stories in Asia in the past 25 years is the outstanding economic development achieved by the Korean people, with the help of U.S. economic and military aid.

Sneider explained that the main guideline of U.S. foreign policy in Asia "is to seek equilibrium of power and reconciliation of different interests," and that "continued American strength in Asia is required to realize it."

The administration has attempted to maintain that equilibrium, and the Congress has wisely accommodated for assistance to Korea through Public Law 480 and section 413 of H.R. 13680. Yet a small band of Members wish to thwart one of the most important aspects of our Asian foreign policy.

The devastating impact such deletions of funding and assistance ceilings would have is obvious:

Although Korea has made great progress in achieving self-sufficiency in food grains, in 1976 it still must import about 2.6 million metric tons of grain at a cost of about $650 million.

Korea is a major American export market. In 1975 Korea was the world's fifth largest importer of U.S. farm products, with purchases totaling $880 million.

The Public Law 480 title I program is in large part responsible for development of this growing commercial market. Were the Public Law 480 program to be substantially reduced, the Koreans might turn for their commercial purchases to other sometimes cheaper outlets for wheat, rice, cotton, and corn—in Canada, Australia, Thailand, and other countries.

Korea needs concessional sales because it still faces a substantial balance-of-payments deficit in 1976—approximately $1.5 billion.

U.S. food assistance is thus a significant contribution to Korea's economic viability, which is essential to maintenance of stability on the peninsula and throughout the Pacific.

Moreover, Public Law 480 assistance is provided to Korea in fulfillment of an understanding made in 1971 in connection with Korean acceptance of restraints on their textile exports to the United States.

IMPACT OF SECURITY ASSISTANCE

The severe cuts in funding levels in section 413 will preclude completion of our modernization plan goals for fiscal year 1977 and will cause a further stretch-out of the plan into fiscal year 1978.

The administration request was carefully considered to provide the framework under which grant material assistance for Korea would be terminated after fiscal year 1976, substituting Defense-guaranteed loans in future years. The funding levels in section 413 are so low that they seriously jeopardize this program.

The funding levels in section 413 would seriously obstruct our efforts to support the Korean Government in achieving military self-sufficiency in the foreseeable future.

Major procurement programs would be seriously affected by the section 413 ceiling—that is, FSE, F4E aircraft and Harpoon missiles. This equipment is essential for the Republic of Korea to achieve a military balance with North Korea.

This military balance is an essential element of U.S. policy for maintaining stability in northeast Asia.

The net effect of section 413 would be to stretch out our current programs and Korea could reach military self-suffi- to delay significantly the time when ciency and we could consider reduction of American forces in Korea.

Obviously, to delete the funding is a most unwise action. And to delete the funding for the reasons offered by the sponsors of that proposal is a particularly misguided move.

The great bulk of the argument against continued funding is the media attention given to alleged repression of human rights in South Korea. I will not respond to that today, but rather, I would direct my colleagues' attention to the 2-hour special order next Monday, May 24, during which my colleague Mr. WILSON of California and I will examine in considerable detail the issue of human rights, both in Korea and worldwide. We invite you to participate in that examination.

Ms. ABZUG. Mr. Chairman, I rise in support of final passage of this bill and would like to say a special word in support of the amendment which earmarks security supporting assistance to African nations, and especially to southern Africa. I want to commend my colleague from New York (Mr. RANGEL) and the other distinguished Members of the Congress for taking leadership to change our Government's policy on Africa away from support of minority, apartheid regimes and toward support for the aspirations of African peoples for majority rule and human dignity.

Secretary Kissinger's recent trip to Africa was a positive gesture for reorienting American policy on Africa. Yet it had an 11th hour character. In his Lusaka speech, he promised support for majority rule. Why were not these statements made years ago? Is majority rule a political and moral principle which the State Department or the White House have never heard of until this year? The answer is that the Nixon administration—as revealed in the National Security Study Memorandum No. 39 of January 20, 1970—decided to target its policy toward the minority white regimes without genuine regard to the black majorities who were denied democratic rights.

That is why we must examine American actions closely to insure that Secretary Kissinger's Lusaka policy statement will lead to a fundamentally new African policy rather than simply to another exercise in Kissingerian crisis management.

Earmarking this aid to Africa is one step for Congress to take to help fulfill the promise of the Lusaka commitment to majority rule. In addition to the aid to Zaire and Zambia, the $25 million proposed for aid to southern Africa could be used constructively to aid refugees and to give educational training to people from Namibia and Zimbawe—Rhodesia. Without such aid, I am afraid that the new American commitment to majority rule will lack credibility.

Mr. SPENCE. Mr. Chairman, our good friends and ally, South Korea, is in a precarious position today. Her existence is being threatened by a well-armed enemy located directly at her border. We are committed to protect South Korea, and our stated policy is to help her achieve military self-sufficiency.

In the face of that commitment to a friendly nation the International Relations Committee has adopted an amendment to the pending Foreign Assistance bill which proposes a 40 percent reduction in aid and credits requested by South Korea. It is clear that this would significantly and dangerously delay the time when Republic of Korea forces could attain the level of strength needed for defense against the Communists.

The rationale given for this drastic action is that President Park of South Korea has not measured up to the standard of rights and liberties that we offer in this country. Yet, this is a cynical argument which ignores the political realities of running a government in a tight security situation, in an environment made hostile by the threat of aggression from a neighboring country.

It is very important that we view the South Korean situation in a realistic perspective, Mr. Chairman, as we debate the foreign assistance bill.

As a recent article by Sir Robert Thompson makes clear, the South Koreans are putting forth a heroic effort in their difficult struggle to survive as a free and independent nation. Sir Robert, who is the world's leading authority on counterinsurgency, is also well known as the architect of the British victory over Communist guerrillas in Malaysia. He has written a number of books on international relations in warfare, and he is an expert on the situation in Korea.

In his article, entitled "The New Korea—An Economic Miracle," Sir Robert Thompson reviews South Korea's threatened military position and her difficult security situation, and makes the significant point that her restrictions on liberty are less than those imposed on the United Kingdom during World War II. He notes:

> In such a security situation the democratic processes are limited and there are restrictions on liberty. Surprisingly they are less than those imposed on the United Kingdom in World War II. Even Freedom House rates South Korea as 'partly free' unlike many countries with which (the British government) is seeking more cordial relations. At least there is a chance of real freedom and democracy, which is more than can be said for North Korea.

Thompson stresses South Korea's substantial economic gains, and generally presents her in the proper perspective—as a nation plagued with problems but struggling and making vast progress in the right direction.

I recommend that all of my colleagues read and consider carefully the article by Sir Robert Thompson entitled "The New Korea—An Economic Miracle," and I include it at this point in the RECORD:

THE NEW KOREA—AN ECONOMIC MIRACLE

(By Sir Robert Thompson)

Nearly 25 years ago, during the Korean war, Seoul city changed hands four times and was devastated before the armistice was finally signed at Panmunjon on 27 July, 1953. No one who knew it then would recognise it now as a teeming city of close on 7 million people with its sky-scrapers, traffic jams, factories, pollution and all, making it one of the most densely populated cities in the modern world and still expanding.

THE THREAT

The city is, however, dominated by one single over-riding fact: it is only 25 miles from the border where North Korean forces, fully armed with the most modern Russian weapons, are poised for another strike. It was probably touch and go last year, after the Vietnam debacle, but Kim Il Sung was restrained by both Russia and China. Two invasions against American allies in one year might have been more than the American people could have tolerated.

The present military situation can be compared to the United Kingdom having a cease-fire in 1940 with Hitler across the Channel except that here there is no Channel, only a demilitarized zone of 4 kilometres. Even that is being pierced by North Korean tunnels of which two have been discovered and it is thought that there may be a dozen more.

It was a most eerie experience to go down the largest of these which had been bored for 3½ kilometres through solid rock, 6 ft. high, and 6 ft. wide. It took four years to build at 2 yards a day before it was discovered, intercepted and blocked.

Above ground the scene on a fine day looks more peaceful and the demilitarized zone, in spite of constant patrolling up the central demarcation line, is becoming a bird sanctuary. Pheasants abound, and I was lucky enough to see the rare Manchurian crane. Skeins of geese frequently fly over. It is only the troops who are on a three minute alert.

SECURITY

Obviously South Korea's first priority is security because North Korea holds the complete strategic initiative to attack when and where it likes. However the invasion routes are limited and thanks to Lt-Gen. James Hollingsworth, a veteran of World War II, Korea and Vietnam, South Korea has adopted a forward defence policy aimed at defeating the invaders in a nine day war using massive firepower for the first five days to halt the invasion in its tracks and leaving four days to "tidy up" the battlefield. The proximity of Seoul and the range of modern artillery and rockets preclude any question of withdrawal followed by counter-attack. A strategy of deterrence has replaced a strategy of invitation thereby facing North Korea with the prospect of frightful casualties, subsequent readjustments to the DMZ to its disadvantage, and disastrous damage to its infrastructure. Certainly in this part of the world peace and detente depend, in Chancellor Schmidt's words, on "undiminished security".

ECONOMIC BREAKTHROUGH

In spite of heavy defence costs, US $1.4 billion this year (6.3% of GNP), South Korea over the last ten years has achieved a miraculous economic breakthrough. Traffic on the expressway to Pusan, the major port 270 miles south of Seoul, is as heavy as that on the MI. Roads and railways now link all the major industrial complexes. Quite the most outstanding achievement is the Hyundai shipyard at Ulsan—the largest in the world. The first sod was cut in March, 1972. In February, 1973, the first two 260,000 ton tankers were laid down and were completed in June, 1974. Six have now been delivered and six more are in various stages of construction all ahead of contract delivery dates. With the collapse of the tanker market the yard has switched to 23,000 ton cargo container ships of which six can be built simultaneously in each tanker dock. There is now a Norwegian order for ten roll-on roll-off ships (no dockers) at a time when we have hardly come to terms with containers.

The same company is now about to produce the "Pony" 1,200 cc. saloon car, fully made in Korea, at an ex-works price of about £1,000. In addition to the shipyard, South Korea will also shortly have the world's largest cement works and fertiliser plant. Its electronic industry is second to none. How would you like to have a watch costing under £10 with no mechanism, working solely on quartz crystals and accurate to within one second a week?

BASIC ASSETS FULLY UTILISED

To support this the country has not made the mistake of neglecting its basic agriculture. The new community (Saemaul) movement has revolutionised village production so that the country's agricultural surplus can support its industry. The country is now self-supporting in rice and barley and hundreds of acres of polythene greenhouses enable vegetable produfction to continue through even the severest winter. The lower hillsides are covered with orchards of apples, pears, peaches and grapes. Perhaps the most impressive programme has been re-afforestation. Thousands of square miles of barren mountainsides are now covered with conifer and pine.

The statistics speak for themselves. Over the last ten years the annual growth rate has averaged 10% and even last year, in the middle of a world recession, 7% was achieved. Exports have increased from $43 million in 1961 to $5 billion in 1975. At this rate Korea expects to pass the United Kingdom in the 1980s. As elsewhere, Korea too is suffering from inflation, currently about 20%, but government wages this year are being increased by 45% so that there has been a constant increase in the real standard of living.

Foreign and local investment has been massive and the debt charges are high but manageable so that credit is still good. There are prospects ahead of oil, aluminium and uranium, which will attract more capital.

POLITICAL STABILITY

Politically the country is stable. The villages, where the per capita income has increased fourfold in the last few years, are solidly behind the Government. North Korean infiltrators find little or no support. Strangers are immediately reported and apprehended. There are criticisms and complaints but no one disagrees with the basic security and economic policies.

In such a security situation the democratic processes are limited and there are restrictions on liberty. Surprisingly they are less than those imposed on the United Kingdom in WWII. Even Freedom House rates South Korea as "partly free" unlike many countries with which HMG is seeking more cordial relations. At least there is a chance of real freedom and democracy, which is more than can be said for North Korea.

Somewhere in this highly compounded mixture of maximum security and incredible economic growth there must be a lesson for us, but Korea is an experience and market which British businessmen and economists have almost totally ignored. (I could not even find a bottle of Scotch in the shops for foreigners!) Success cannot only be put down to a disciplined, hard working and comparatively cheap labour force though that undoubtedly is the country's greatest natural asset. It is even being exported for construction work in the Middle East and there are 7,500 Korean nurses in Germany. Any British doctors recruited to the oil states are likely to be joined by a further 9,000 Korean nurses.

There must still be something more than that—certainly free enterprise and good planning, with complementary research, in accordance with the disciplines of the market. But, above all, a will to survive as an independent nation.

Mr. GILMAN. Mr. Chairman, I rise in support of the proposal by the distinguished gentleman from New York (Mr. WOLFF) to authorize the experimental use of the Civil Air Patrol in monitoring illegal narcotic traffic border crossings.

While on a recent narcotics study mission to Mexico and South America with Congressman WOLFF, we were told by Mexican officials that the great demand for narcotics in this country and the relative ease of access to those U.S. markets made effective narcotics control extremely difficult.

In many of the Central and South American nations there are hundreds of clandestine air strips and little or no border patrols. Accordingly, it is important that we use all of our possible resources to stop this invasion of illegal trafficking at this end of the line.

This ingenious proposal would enlist the aid of some of the 50,000 members of the Civil Air Patrol across this country to use their privately owned planes to become a part of the eyes and ears of our border control effort. The current task of providing adequate border and customs control for our vast coastlines and the more than 2,000 miles of our shared borders with Mexico is cost prohibitive. Under this proposal, the volunteer pilots of the Civil Air Patrol with their private planes require only the cost of fuel and oil.

The rapid growth of this deadly drug business was recently revealed in a Department of State release which called attention to the staggering cost of drug abuse to this Nation. Despite intensive efforts, more than 5,000 Americans died last year from drug related causes. The Government of Mexico alone is spending $35 million annually in control programs. With our help, they have embarked upon an intensified aerial spraying campaign covering some 15,000 acres of opium poppy fields. During the January to November period of last year our joint border control programs confiscated over 900 pounds of heroin which is worth about $450,000 a pound on the streets of this Nation.

This proposal calls for a modest sum of $4,000 to help in the fight against this invasion of our country that is responsible for an estimated $20 billion in drug related crime. In the war against drug trafficking, it is imperative that we leave no stone unturned. Unless we are able to stop the free flow of illegal planes, ships, and land vehicles across our borders, we will be unable to stop the flow of illicit drugs.

As in times of national crisis, let us draw upon the resources of all our people to fight this common enemy. I urge my colleagues to join with us in support of this proposal.

Mr. LUNDINE. Mr. Chairman, I strongly support passage of the International Security Assistance and Arms Export Control Act of 1976. While modified to meet objections of the President, the bill nonetheless pursues two major objectives of the Congress: one, to phase out grant military aid, and, two, to enhance congressional oversight over our rising arms sales program.

Enactment of this legislation will permit plans to continue for the current fiscal year for $3 billion in military aid to the Middle East. The President's veto of the bill approved earlier by the Congress has prevented this aid from going forward, particularly to Israel, which, under this authorization will receive $2.2 billion for military purchases already made in the United States.

Our goals in helping keep Israel strong are twofold. America's longstanding commitment to the national survival of Israel springs from a shared dedication to democracy and freedom as well as from enlightened self-interest.

Israel, like the United States, had to face armed opposition as it emerged as a nation. Both countries have provided a refuge for the oppressed. Both countries have a common devotion to liberty and democracy.

The military assistance provided in this bill is in our own national interest as well as in the interests of world peace. Israel provides an element of military security and strategic stability for the United States in the vital oil-producing Middle East region.

By its outstanding courage, Israel has shown that it will not disappear as some of its Middle Eastern neighbors would like. As a result, some of those neighbors are talking sensibly of peaceful solutions—I hope we will soon witness further progress toward peace eventually making this kind of assistance unnecessary.

Important progress was made in the acceptance by Israel and Egypt in 1975 of an agreement under which Israel withdrew from some of the *territories it* held in the Sinai overlooking the Suez Canal. The canal has since been reopened to traffic.

The United States, by its continued commitment to Israel, can inspire the confidence in their own security which the Israelis need to make possible the politically painful decisions involved in any lasting accommodation and to make clear to Arab extremists that a solution cannot be achieved by terror.

It is the responsibility and the aim of the United States to try to get both parties to contribute to the peacemaking process. The funds we are authorizing today are an indication of our continuing commitment to the future security of Israel—evidence that the United States will continue to support the freedom and survival of the state of Israel.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment to increase military assistance to South Korea.

This amendment will authorize the administration's request for $245 million per year over the next 2 years, a total of $490 million, for South Korea. This amendment will double the International Relations Committee's amount as found in H.R. 13680. I urge my colleagues to weigh this drastic increase very carefully. The committee bill asks for the same funding to South Korea as in the previous fiscal year.

I can find no justification for this boost in military assistance in the current political situation surrounding South Korea. The House, I am sure, is aware of recent internal events wherein a prominent opposition leader, Kim Dae Jung, was arrested together with 17 other political and religious leaders and jailed for producing a document calling for the resignation of President Park Chung Hee. Kim Dae Jung's crime was to make a public call for the restoration of democratic rights and institutions in South Korea.

Reports from South Korea indicate that far from being an isolated instance, Kim Dae Jung's arrest fits a pattern of political repression and intimidation. Repeated expressions of congressional concern about this have made no impact on President Park. Whatever we may feel about President Park's rule, surely we cannot act in a way that rewards a government for its denial of free speech and for acts of oppression and suppression of civil liberties.

The state of affairs in South Korea today disturbs me deeply. We of course have no right or obligation to intervene but we do not need to support it. We do not need to double our support. Without a positive commitment to establish a democratic government we certainly do not have any duty to double this foreign aid.

The Government of South Korea's own resources are being expended on the consolidation and extension of personal power of President Park. It is therefore incumbent upon this Congress to raise questions about the effect of increased assistance under such circumstances.

Increased military assistance at this juncture and under these circumstances alines the American Government with repressive practices and gives the impression that we are less interested in our commitment to those democratic ideals which brought us to help South Korea in the first instance.

We can emphatically state our concern over the state of affairs in South Korea by rejecting this amendment. H.R. 13680 retains the fiscal year 1975 level of military assistance to South Korea at $145 million. Retention of this level reflects American willingness to stand by South Korea against the threat of North Korea. At the same time, however, rejecting this proposed dramatic increase will convey our deep distress over President Park's continued suppression of human and political liberties.

I urge this House to defeat this amendment.

The CHAIRMAN. Are there further amendments to title VI? Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore Mr. McFall having assumed the chair, Mr. Evans of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 13680), to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes, pursuant to House Resolution 1204, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ASHBROOK. Beyond a shadow of a doubt, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Ashbrook moves to recomit the bill H.R. 13680 to the Committee on International Relations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recomit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 140, not voting 36, as follows:

[Roll No. 324]

YEAS—255

Abzug
Adams
Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Beard, R.I.
Beard, Tenn.
Bergland
Biaggi
Biester
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Mich.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carr
Cederberg
Chisholm
Clancy
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dent
Derrick
Derwinski
Diggs
Dingell
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Fuqua
Gaydos
Gibbons

Gilman
Goldwater
Gradison
Green
Gude
Guyer
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hughes
Hyde
Jarman
Jeffords
Johnson, Calif.
Johnson, Pa.
Jordan
Kasten
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nix
Nowak
Oberstar
Obey

O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steelman
Steiger, Wis.
Stratton
Studds
Symington
Talcott
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Whalen
White
Whitehurst
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zeferetti

NAYS—140

Abdnor
Alexander
Allen
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Bafalis
Baldus
Baucus
Bedell
Bennett
Bevill
Blouin
Bowen
Brinkley
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Chappell
Clausen, Don H.
Cleveland
Cochran
Collins, Tex.
Cornell
Daniel, Dan
de la Garza
Dellums
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Emery
English
Eshleman
Evans, Ind.
Evins, Tenn.
Flowers
Flynt
Fountain
Frey

Ginn
Gonzalez
Goodling
Grassley
Hagedorn
Haley
Hammerschmidt
Harsha
Hechler, W. Va.
Hefner
Henderson
Hubbard
Hungate
Hutchinson
Ichord
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Landrum
Latta
Lloyd, Tenn.
Lott
McDonald
Mahon
Mann
Martin
Mathis
Melcher
Miller, Calif.
Miller, Ohio
Mills
Moffett
Montgomery
Moore
Moorhead, Calif.
Mosher

Mottl
Myers, Ind.
Myers, Pa.
Natcher
Nolan
Passman
Paul
Pettis
Pike
Poage
Pressler
Pritchard
Quillen
Risenhoover
Roberts
Robinson
Roush
Runnels
Ruppe
Russo
Santini
Satterfield
Sebelius
Shipley
Shriver
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Steed
Steiger, Ariz.
Stuckey
Sullivan
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Waggonner
Wampler
Weaver
Whitten
Wilson, Bob
Wylie
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—36

Bauman
Bell
Brademas
Breaux
Buchanan
Carney
Clawson, Del
Conlan
Cotter
Crane
Dodd
Downing, Va.
du Pont

Fish
Giaimo
Hansen
Hays, Ohio
Helstoski
Hicks
Hinshaw
Jones, Ala.
Karth
Leggett
Lujan
Matsunaga
Neal

Nichols
Rousselot
Sikes
Stanton, James V.
Stephens
Stokes
Symms
Teague
Thompson
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Bauman against.

Mr. Brademas for, with Mr. Breaux against.

Mr. Dodd for, with Mr. Nichols against.

Mr. Carney for, with Mr. Rousselot against.

Mr. Sikes for, with Mr. Symms against.

Mr. Cotter for with Mr. du Pont against.

Mr. Stokes for, with Mr. Del Clawson against.

Mr. Teague for, with Mr. Crane against.

Mr. Udall for, with Mr. Hansen against.

Mr. Matsunaga for, with Mr. Lujan against.

Mr. Karth for, with Mr. Conlan against.

Until further notice:

Mr. Giaimo with Mr. Stephens.

Mr. Neal with Mr. Hicks.

Mr. James V. Stanton with Mr. Helstoski.

Mr. Hays of Ohio with Mr. Bell.

Mr. Downing of Virginia with Mr. Buchanan.

Mr. Leggett with Mr. Fish.

Messrs. DUNCAN of Tennessee, MOSHER, and DON H. CLAUSEN changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. (Mr. McFall). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. McFall). The Chair would like to call the attention of the Members to the statement inserted in the Record of June 1 by the Speaker on page 16018. Members should be in the Chamber by 10 o'clock Thursday morning to join the procession to the rotunda to attend the Magna Carta ceremony.

Guests of Members must have tickets to attend the ceremony and must be in the rotunda before 10:15 a.m. Guests cannot be admitted after that time. The tickets made available for guests indicate the proper entrance to the rotunda to be used by the ticketholder.

The Chair would like to state also that it is the intention to take up two rules, on Automotive Research and Development and Cotton Research, and two subpena resolutions. Hopefully, we will be finished by 6:30.

PROVIDING FOR CONSIDERATION OF H.R. 13655, AUTOMOTIVE RESEARCH AND DEVELOPMENT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1222 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1222

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13655) to establish a five-year research and development program leading to advanced automobile propulsion systems, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1222 provides for an open rule, with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. After general debate has been completed, the bill shall be read for amendment under the 5-minute rule.

The Automotive Transport Research and Development Act (H.R. 13655) would establish in the Energy Research and Development Administration a 5-year program to develop advanced automobile propulsion systems which have maximum flexibility regarding the type of fuel used. The Administrator is directed to make contracts and grants with public and private agencies. Existing Federal laboratories and expertise for the effort would be utilized as well as the capabilities of NASA, the Defense Department, and other Federal agencies.

The measure also provides that within 60 days after enactment of the measure now pending in Congress creating the electric vehicle research, development, and demonstration program, all of the authorities and functions of that program will be transferred to the ERDA Administrator.

Mr. Speaker, our increasing consumption of fuel, our dependence upon the automobile, and the crisis resulting from the OPEC embargo precipitated recent legislative proposals that will involve the Federal Government in an active role in automotive research and development. H.R. 13655 extends this Federal responsibility and should accelerate our Nation's efforts to become independent in the energy field.

I urge that House Resolution 1222 be adopted so that the bill can be considered.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Florida, this rule provides for 1 hour of general debate on H.R. 13655—Automotive Transport Research and Development Act of 1976, and that the bill shall be open to all germane amendments.

The purpose of this bill is to establish a 5-year research and development program on advanced automotive propulsion systems.

The bill authorizes $20 million of taxpayers' funds for what I consider to be commercial functions which should be performed by the private sector of our society.

The administration opposes this bill which it considers unnecessary. ERDA already has authority under existing law to develop programs of the type proposed in this legislation.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 10930, AMENDMENTS TO COTTON RESEARCH AND PROMOTION PROGRAM

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1219 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1219

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10930) to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture and to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1219 provides for the consideration of the bill H.R. 10930, amendments to the cotton research and promotion program.

This is an open rule providing for 1 hour of general debate. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. It shall be in order to consider the amendment in the nature of a substitute recommended by the committee as an original bill for the purpose of amendment under the 5-minute rule.

H.R. 10930 makes two basic changes in the cotton research and promotion program. It repeals section 610 of the Agricultural Act of 1970 which authorizes Government financing to supplement funds available for the Cotton Research and Promotion Act. The bill also authorizes an increase in the assessment paid by producers to fund a self-help program of research and marketing, subject to approval by producers in a referendum.

In addition the bill provides for the Secretary of Agriculture to be reimbursed from producer assessments for costs, not to exceed $200,000, of conducting a referendum and for administrative costs, not to exceed 5 employee years, for supervisory work after a new or revised cotton research and promotion order has been approved.

The increase in producer assessments

is to be determined by the Cotton Board and the Secretary of Agriculture, but it is not to exceed 1 percent of the value of the cotton. So long as the 1 percent maximum rate is not exceeded, the supplemental assessment could be either a flat dollar and cent rate per bale or a rate based on a percentage of value per bale using past or current cotton prices.

Mr. Speaker, I urge my colleagues to adopt House Resolution 1219 so that we may proceed to consideration of H.R. 10930.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the able gentleman from California, House Resolution 1219 is a rule permitting the House to resolve itself into the Committee of the Whole for consideration of H.R. 10930, a bill amending the Cotton Research and Promotion Act and the Agricultural Act of 1970. The legislation will be open to amendment at the conclusion of 1 hour of debate. The rule further makes in order the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for purposes of amendment.

Section 610 of the Agricultural Act of 1970, the Commodity Credit Corporation provides funds for cotton research, promotion, and market development. Twenty million dollars per year are authorized for these purposes through fiscal 1978 and $10,000,000 per year thereafter. These funds are supplemented by assessments paid by cotton growers under provisions of the Cotton Research and Promotion Act.

H.R. 10930 would repeal section 610 and, thereby, would eliminate the use of Commodity Credit Corporation funds for cotton research and promotion. The legislation also would authorize the Secretary of Agriculture to issue an order to raise the level of cotton assessments, subject to the endorsement of cotton growers voting in a referendum. The Federal costs of administering the cotton research and promotion program and the cost of supervising the referendum would be reimbursed by cotton growers with funds derived from their assessments. Accordingly, this measure will result in an estimated cost savings to the Federal Government of $244,000 in fiscal 1977 and of $20,073,000 in fiscal 1978.

Mr. Speaker, I am advised that this legislation enjoys a broad base of support from cotton-producing States as well as such prominent organizations as the Board of Cotton, Inc., the National Cotton Council, the Cotton Warehousemen's Association, and others. These groups are aware of the importance of a healthy cotton industry to our domestic economy and of its significant contribution to our balance of payments in international trade. The research and promotion program provided under this bill will help guarantee a strong, competitive fiber market at no cost to the public treasury.

Therefore, I strongly urge the passage of this rule so that we may proceed to consider and pass H.R. 10930.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE—SUBPENA DUCES TECUM IN GRAND JURY INVESTIGATION PENDING IN U.S. DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

The SPEAKER pro tempore (Mr. McFALL) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
May 27, 1976.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have been served with a subpoena duces tecum by a Representative of the U.S. Department of Justice, that was issued by the United States District of New Jersey.

The subpoena commands me or my designated representatives to appear before the Grand Jury of the U.S. District Court on May 26, 1976, said date having been extended to June 2, 1976, and requests certain House records that are outlined in the subpoena itself, which is attached hereto.

House Resolution No. 9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

The SPEAKER pro tempore. Without objection, the subpena will be printed in the RECORD.

There was no objection.

The subpena referred to is as follows:

[In the U.S. District Court for the District of New Jersey]

SUBPENA TO TESTIFY BEFORE GRAND JURY

To Clerk, U.S. House of Representatives, Washington, D.C.

You are hereby commanded to appear in the United States District Court for the District of New Jersey at U.S. Post Office & Courthouse Bldg., Federal Sq., Room 483 in the city of Newark on the 26th day of May 1976 at 10:00 o'clock A.M. to testify before the Grand Jury and bring with you any and all books and records including Standard Form No. 1179, "Recapitulation of Block Control Level Totals of Checks Issued" for the disbursement listed on the attached Schedule A which were issued to Henry Helstoski and Rutherford East Corporation on the date set forth on the attached, pursuant to the voucher listed, and in the amount stated on the attached Schedule A, or other documents which set forth and identify the check numbers, disbursing officer and identification symbol.

This subpoena is issued on application of the United States.

Jonathan L. Goldstein, United States Attorney.

By: William W. Robertson, Assistant U.S. Attorney, Federal Building, 970 Broad Street, Newark, New Jersey 07102, 201-645-2251.

Date May 18, 1976.

ANGELO W. LOCASCIO,
Clerk.
By ELLEN MYERS,
Deputy Clerk.

SCHEDULE A

I. CHECKS PAYABLE TO HENRY HELSTOSKI

Year and date	Voucher No.	Amount	Purpose
1970:			
Jan. 18, 1970	5085	$300.00	Telephone.
Apr. 16, 1970	6646	900.00	Stationery.
1971: Jan. 30, 1971	4812	1,377.50	Do.
1973:			
Feb. 16, 1973	2-337	2,250.00	Transportation.
Feb. 8, 1973	2-137	3,300.00	Stationery.
1974:			
Jan. 8, 1974	1-347	500.00	Office.
Jan. 15, 1974	1-516	4,800.00	Stationery.

II. CHECKS PAYABLE TO RUTHERFORD EAST CORPORATION

[District office expense]

Date	Voucher No.	Amount
1971:		
January 4	4106	$200
February 1	4956	200
March 1	5596	200
April 1	6214	200
May 3	6399	200
June 1	7753	200
July 1	1	200
August 4	846	200
September 1	1602	200
October 1	2358	200
November 1	3051	200
December 1	3886	650
1972:		
January 3	5074	350
February 1	5905	350
March 2	6757	350
April 3	7763	350
May 1	8720A	350
June 1	9552	350
July 3	1	350
August 1	811	350
September 1	1550	350
October 2	2418	350
November 1	3316	350
December 1	4005	350
December 1	9552	350
1973:		
January 2	1-1	350
February 1	2-1	350
March 1	3-1	350
April 2	4-1	350
May 1	5-1	350
June 1	6-1	350
July 2	7-1A	350
August 1	8-1	350
September 4	9-1	350
October 1	10-1	350
November 1	11-1	350
December 3	12-1	350
1974:		
January 2	1-1	350
February 1	2-1	350
March 1	3-1	350
April 1	4-1	350
May 1	5-1	350
June 3	6-1	350
July 1	7-1A	350
August 1	8-1	350
September 3	9-1	350
October 1	10-1	350
November 1	11-1	350
December 2	12-1	485

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1233) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1233

Whereas in a Grand Jury Investigation pending in the United States District Court for the District of New Jersey, a subpena duces tecum was issued by the said court and addressed to Edmund L. Henshaw, Jr., Clerk of the House of Representatives, directing him to appear before the grand jury of said court at 10:00 antemeridian on the 26th day of May, 1976, and to bring with him certain documents in his possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the order of such court or judge, that documentary evidence in the possession and under the control of the House of Representatives is needful for use in any court of justice, or before any judge or legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and relevancy of the records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in the possession or custody of the Clerk; and the Clerk is authorized to supply certified copies of such documents or papers that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said Court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CLERK OF THE HOUSE—DEFENDANT-INTERVENOR'S REQUEST FOR PRODUCTION OF DOCUMENTS IN SOCIALIST WORKERS 1974 NATIONAL CAMPAIGN COMMITTEE, ET AL., VERSUS HON. EDMUND L. HENSHAW, JR., ET AL.

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.
May 27, 1976.

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: I have, in the case of Socialist Workers 1974 National Committee and others, against Edmund L. Henshaw, the Clerk of the House of Representatives and others, (Civil Action No. 74–1338), been served with Defendant-Intervenor's Request for Production of Documents, said pleadings requesting the Clerk of the House of Representatives to produce certain documents in the possession and under the control of the House of Representatives. House Resolution No. 9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The Defendant-Intervenor's Request for Production is attached herewith, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am

Sincerely,

Edmund L. Henshaw, Jr.,
Clerk, U.S. House of Representatives.

The SPEAKER pro tempore. Without objection, the accompanying paper will be printed in the Record.

There was no objection.

The document referred to is as follows:

[In the U.S. District Court for the District of Columbia, Civil Action No. 74–1338]

DEFENDANT-INTERVENOR'S REQUEST TO THE FEDERAL DEFENDANTS FOR PRODUCTION OF DOCUMENTS

Socialist Workers 1974 National Campaign Committee, *et al.*, Plaintiffs, v. Hon. Edmund L. Henshaw, Jr., *et al.*, Defendants.

Defendant-Intervenor hereby requests Defendants, pursuant to Rule 34, Fed.R.Civ.P., to produce at the office of Defendant-Intervenor's counsel, Kenneth J. Guido, Jr., 2030 M Street, N.W., Washington, D.C., within thirty (30) days of the date of this request all reports, statements, records or information filed by Socialist Workers Party candidates, campaign committees or officials, as required by the Federal Corrupt Practices Act (2 U.S.C. §§ 241 *et seq.*), from the period 1954 through 1972 and permit the Defendant-Intervenor to inspect and copy the documents, records, statements, letters, correspondence and other writings described in the attachment to this request.

Kenneth J. Guido, Jr.,
Ellen G. Block,
Attorneys for Defendant-Intervenor Common Cause.

April 26, 1976.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1234) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1234

Whereas in the case of Socialist Workers 1974 National Committee and others, against Edmund L. Henshaw, Jr., Clerk of the House of Representatives, and others (civil action numbered 74–1338), pending in the United States District Court for the District of Columbia, a request for the production of certain documents was propounded by the Defendant-Intervenor, Common Cause, and served upon Edmund L. Henshaw, Jr., Clerk of the House of Representatives, requesting him to provide in response to such request certain documents in the possession and under the control of the House of Representatives, and to serve the documents on counsel for Defendant-Intervenor in such proceedings: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECOMMENDATION FOR EXTENSION OF WAIVER AUTHORITY PURSUANT TO SECTION 402(d)(1) OF THE TRADE ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–513)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with section 402(d)(1) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a period of 12 months.

This recommendation sets forth the reasons for extending waiver authority, and for my determination relating to continuation of the waiver applicable to the Socialist Republic of Romania, as called for by subsections (d)(1)(B) and (d)(1)(C) of section 402 of the Trade Act. I include, as part of this recommendation, my determination that extension of the waiver authority, and continuation of the waiver applicable to the Socialist Republic of Romania, will substantially promote the objectives of section 402.

Gerald R. Ford.

The White House, *June 2, 1976.*

BUDGET OF DISTRICT OF COLUMBIA FOR FISCAL YEAR 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–514)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed with illustrations:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am today transmitting for your consideration the budget of the District of Columbia for fiscal year 1977.

Gerald R. Ford.

The White House, *June 2, 1976.*

HELP FOR THE HAND TOOL INDUSTRY

(Mr. SLACK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SLACK. Mr. Speaker, on May 25, I introduced H.R. 14010, a bill to amend the appendix to the Tariff Schedules of the United States by increasing tariff rates on imports of hand tool articles for 5 years beginning July 1, 1976. Under this legislation, the tariff rates would be phased downward again beginning in

1979 until eventually in 1981 they would return to present levels commensurate with a more healthy economic climate.

During the last 2 years, the hand tool industry has twice sought relief under the Antidumping Act from the effects of foreign imports on the hand tool market in the United States. Both times the Treasury Department found foreign imports were being dumped in this country for sale at prices more than 50 percent lower than American products, even while the producing countries charge a higher price in their home markets than the price they offer in the American market. The International Trade Commission, however, found no injury or threat of injury, even though imported hand tools continued to take a larger share of the American market, and industry profits continued to decline.

It is the intent of this legislation to provide some relief for the hand tool industry on a temporary basis so as to allow them a chance to overcome the effects of foreign competition. Section 2 (a) of this bill provides in part that during the period in which the increased rates are in effect, the International Trade Commission shall keep under review the efforts of the hand tool industry to adjust to foreign competition.

The hand tool industry in this country currently employs approximately 30,000 workers. In my home State of West Virginia, some 2,000 are employed in the manufacture of hand tools. As foreign imports gain an increasingly larger share of the U.S. market, which now appears likely, some of these workers stand to lose their jobs. With the economy still recovering from recession, there is no assurance that these workers, should they become displaced, will be able to find jobs in other industries.

With our economy operating at below full scale, we are facing a gap between what we are actually producing and what we are capable of producing. For those industries operating at less than full potential and facing hardships due to foreign imports, some encouragement in the form of a Government commitment could mean the difference between expansion and reduction of operations. A "relief tariff" of a temporary nature will provide that encouragement.

"COAL SLURRY PIPELINE—4" EFFECT OF COAL TRANSPORTATION ON RAILROAD ECONOMIC VIABILITY

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, 1976, I discussed the question of eminent domain, which can be found on page 15521 of the RECORD. On May 27, 1976, I discussed the fact that this is transportation legislation not energy legislation, this can be found on page 15878. Tuesday, June 1, 1976, I spoke on the railroad's capability of handling the increased coal production, this is on page 16078.

This is a continuation of my presentations concerning the coal slurry pipeline issue. Today, I would like to discuss the threat that slurry pipelines offer to the survival of this country's railroad industry.

Last June, Mr. George Stafford, Chairman of the Interstate Commerce Commission, appeared before the House Interior and Insular Affairs Committee in regard to House bill 1863. The ICC is charged with the development and preservation of a sound national transportation system; the agency has been subject to various criticisms, but certainly no knowledgeable person suggests that it favors any one transport mode over another. With that in mind, permit me to read a short portion of Mr. Stafford's statement dealing with slurry pipelines and railroad viability.

> Substantial diversion of the railroads' coal traffic through destructive competition would plainly have a devastating effect on an already crippled industry. At a time when Congress has committed billions of dollars in an attempt to maintain a workable railroad system in this country, it is important to note that railroads derive more revenue from coal than from any other commodity—over $1.4 billion annually, or about 10.5 percent of their total revenue. Diversion of coal traffic could result in railroads having to reduce their service to coal producing areas, further depriving them of revenue and perhaps forcing them to increase their rates on other commodities to cover operating costs. In some cases, such diversions could pose a threat to a railroad's very existence.

I doubt that there is anyone in the country better able to judge the effects of one mode of transportation on another than Mr. Stafford and his staff. If they are alarmed at the threat of the pipelines, should we not also be concerned?

In order to understand why the slurry lines would be harmful to the health of the railroads, we must look at the basic economics of the industry. Mr. John H. Lloyd, president and chief executive officer of the Missouri Pacific Railroad Co., testifying before our Interior Committee on page 977 of the hearings said, and I quote:

> It has been recognized for years that a basic problem of the nation's railroads has been the fact that they were forced to operate with, to maintain, and to pay taxes upon, an excessive physical plant. Otherwise stated, the railroads have long suffered because of an inability to attract sufficient volumes of traffic to fully utilize their inherent advantage of being able to handle tremendous tonnages at unit costs which notably decrease as a function of increased volumes. The present subject provides an illustration of the type of situation which has contributed to the railroads' problems. For many years, truck lines have been permitted to selectively skim off high-rated traffic without having to bear the truly common carrier burdens of transporting less desirable commodities; barge lines have similarly been permitted to limit their movements to bulk commodities moving over publicly provided right-of-ways between major port cities. In the case of both of these competing modes, much of this selective handling or skimming of desirable freight has been permitted under the provisions of legislative exemptions, which permit the bulk of competitive truck and barge traffic to be moved without certification or other regulation, to which the railroads are uniformly and stringently subject at all times. Now that an opportunity has arisen for the railroad industry to handle large volumes of coal—a commodity which they have a proven ability to transport most efficiently—it would be unthinkable to foreclose such increased handling by encouraging the construction of a slurry pipeline, the economics of which are, at best, highly suspect, and the environmental and water-related problems of which are obvious. Because the railroads continue to have a physical plant greatly in excess of that needed for the volumes of traffic moved thereover, it would be a grave disservice to the rail industry and to the shipping public generally to permit construction of a selective pipeline to again deprive the railroads of an opportunity to increase the efficiency of their already existing physical plant.

Railroads have huge investments in their physical plants and facilities. Consequently, their profitability depends, in a large part, on the amount of volume they handle. In recent years, they have lost an increasing amount of profitable traffic to trucks and barges, neither of which has this fixed cost burden because of the Government financing the highways and waterways on which they operate. This skimming has prevented railroads from operating to their full capacity, and as a result, unit costs have remained high and profit levels low or nonexistent.

The development of the western coal fields, however, has the potential for changing this situation for a major part of the industry. The opportunity to handle large volumes of coal, and thereby make efficient use of excess physical capacity, will allow this depressed industry to improve its financial position and, hence, it will be able to buy additional equipment and improve track and other properties. Also, additional volume helps to hold rates down. For example, according to Bureau of Mines statistics the leverage which volume brings to bear on unit costs was demonstrated during the period 1965 to 1975, when the percentage of the delivered coal price represented by rail freight cost declined from 41 percent to 17 percent. Mr. Speaker, permit me to incorporate at this point the comparison of FOB mine realization and railroad rates in bituminous coal—United States—1931 through 1975, as prepared by the U.S. Bureau of Mines:

COMPARISON OF F.O.B. MINE REALIZATION AND RAILROAD RATES ON BITUMINOUS COAL—UNITED STATES—1931 THROUGH 1975

Year	U.S. coal production (million tons)	Average realization coal f.o.b. mine	Average rail rates	Total	Percent of destination value: Coal	Percent of destination value: Rail rates
1931	382.1	$1.54	$2.22	$3.76	41.0	59.0
1932	309.7	1.31	2.26	3.57	36.7	63.3
1933	333.6	1.34	2.20	3.54	37.9	62.1
1934	359.4	1.75	2.15	3.90	44.9	55.1
1935	372.4	1.77	2.24	4.01	44.1	55.9
1936	439.1	1.76	2.25	4.01	43.9	56.1
1937	445.5	1.94	2.17	4.11	47.2	52.8
1938	348.5	1.95	2.27	4.22	46.2	53.8

Footnotes at end of table.

COMPARISON OF F.O.B. MINE REALIZATION AND RAILROAD RATES ON BITUMINOUS COAL—UNITED STATES—1931 THROUGH 1975

Year	U.S. coal production (million tons)	Average realization coal f.o.b. mine	Average rail rates	Total	Percent of destination value	
					Coal	Rail rates
1939	394.9	1.84	2.23	4.07	45.2	54.8
1940	460.8	1.91	2.22	4.13	46.2	53.8
1941	514.1	2.19	2.22	4.41	49.7	50.3
1942	582.7	2.36	2.31	4.67	50.5	49.5
1943	590.2	2.69	2.30	4.99	53.9	46.1
1944	619.6	2.92	2.21	5.13	56.9	43.1
1945	577.6	3.06	2.20	5.26	58.2	41.8
1946	533.9	3.44	2.27	5.71	60.2	39.8
1947	630.6	4.16	2.49	6.65	62.6	37.4
1948	599.5	4.99	2.74	7.73	64.6	35.4
1949	437.9	4.88	3.00	7.88	61.9	38.1
1950	516.3	4.84	3.09	7.93	61.0	39.0
1951	533.7	4.92	3.16	8.08	60.9	39.1
1952	466.8	4.90	3.35	8.25	59.4	40.6
1953	457.3	4.92	3.33	8.25	59.6	40.4
1954	392.0	4.51	3.23	7.74	58.3	41.7
1955	464.6	4.50	3.24	7.74	58.1	41.9
1956	500.9	4.82	3.45	8.27	58.3	41.7
1957	492.7	5.08	3.57	8.65	58.7	41.3
1958	410.4	4.86	3.58	8.44	57.6	42.4
1959	412.0	4.77	3.45	8.22	58.0	42.0
1960	415.5	4.69	3.40	8.09	58.0	42.0
1961	402.9	4.58	3.40	7.98	57.4	42.6
1962	422.1	4.48	3.32	7.80	57.4	42.6
1963	458.9	4.39	3.21	7.60	57.8	42.2
1964	486.9	4.45	3.11	7.56	58.9	41.1
1965	512.0	4.44	3.13	7.57	58.7	41.3
1966	533.8	4.54	3.01	7.55	60.1	39.9
1967	552.6	4.62	3.00	7.62	60.6	39.4
1968	545.2	4.67	3.01	7.68	60.8	39.2
1969	560.5	4.99	3.10	8.09	61.7	38.3
1970	602.9	6.26	3.41	9.67	64.7	35.3
1971	552.2	7.07	3.70	10.77	65.6	34.4
1972	595.4	7.66	3.67	11.33	67.6	32.4
1973	591.7	8.53	3.71	12.24	69.7	30.3
1974	601.0	15.00	3.95	18.95	79.2	20.8
1975	[1] 628.0	[1] 20.00	[2] 4.23	24.23	82.5	17.5

[1] U.S. Bureau of Mines forecast.

[2] Estimate based on 7 percent authorized general rate increases permitted to date during 1975.

Source: U.S. Bureau of Mines except as noted.

This is all the more remarkable when you consider that during the past several years the average distance of coal haul has increased as the mines in the West have opened up.

Increased coal traffic will provide another related benefit to the railroads and to the shippers of all kinds which depend on them. I refer to the fact that for many years railroads have had difficulty in attracting capital, either equity or debt, because of depressed levels of return on investment. Especially in recent years of capital shortages, railroads have been at a distinct disadvantage competing in the money markets with other borrowers having better earning capacity. However, reasonable prospect of long-term increases in coal traffic, which characteristically generates good profits, will provide the incentive for lenders to look more favorably on railroads. Given that prospect, they can be expected to provide the funds necessary for the equipment and plant improvements required to meet the public's shipping needs of every kind.

Enhancement of railroad borrowing capacity is vital, considering the huge investments that even today the railroads are attempting to make in order to handle tomorrow's coal tonnages. One railroad, the Burlington Northern, proposes to spend over a billion dollars on cars and locomotives and on improvements in track and related facilities. I quote from pages 956–58 of the hearings, wherein Mr. Louis Menk, chairman and chief executive officer, Burlington Northern, Inc., stated:

> You have been told that the need will be so great in years ahead that the railroads probably won't be able to do the job. From this false premise which demeans 500,000 railroad men and women, you are urged to conclude that the Nation must confer the power of eminent domain on coal slurry lines.
>
> I think the pipeline crowd's credibility is biodegradable and will dissipate as we expose their arguments to fresh air.
>
> Certainly, this could embarrass members of the Federal energy establishments who demonstrably have no understanding of rail capacities and potentials and who have been led to embrace the rail potential concept that is about as appropriate to the Nation's needs as the windup light bulb.
>
> * * * * *
>
> My assurance that railroads can perform the coal transport job ahead is based on an extraordinary amount of research into the needs of western coal. We learned with the greatest possible accuracy how much coal will be mined in our territory, when and where it will be mined, where it will be shipped and what routes it would follow on. On the basis of this information, we developed plans for the step-by-step expansion of our fixed plants and our car and locomotive fleets. This will permit us to increase our unit train coal traffic from the 8.2 million tons of last year to the 140 to 150 million tons that is expected to be moving in just 60 months.
>
> Computer similation have enabled us to develop careful plans for expansion improvements and to estimate with precision that in the next 60 months, we will need $448 million for roadway, $468 million for locomotives and $590 million worth of new cars, that is a $1½ billion total in private capital.
>
> In view of the opportunities and risks implicit in the, involving the coal situation, my company would have been foolhardy had we not studied the potential competition from slurry lines. For that matter, recognizing that our farflung tracks could double as pipeline routes, we considered participating in slurry lines. This was accomplished through a 2 year study carried out with the Bechtel firm and the Peabody Coal Co. We proved to our satisfaction that except for special size slurry lines in our territory cannot be self-supporting in the foreseeable future. However, we were impressed that Bechtel wants very badly to get contracts to engineer and/or build these enormously expensive facilities.

While much of the problem is obscured for many of us by the financial and transportation jargon employed by witnesses in essence it is quite simple. It is very much like the case of a man who takes on a 25-year mortgage to buy a fourplex. He plans on receiving rental income which will pay the interest and the principal on the mortgage and leave him a little for profit. If, however, in 5 years a rent-subsidized apartment is built next door and two of his renters move to the new structure, he is in deep financial trouble. He is still obligated to repay his mortgage; yet his income flow is severely diminished. About all he can do in a case like this is try to make up the lost income by increasing rents of the remaining renters and that will probably drive them out. The result is bankruptcy.

So it is with the railroads and the threat to their coal business represented by slurry lines. The Burlington Northern has estimated that it would fall short of earning its capital charges by more than $100 million if five of the proposed lines are built. The only possible way to make up this shortfall would be by raising rates on other commodities and this step entails the risk of losing this business also. The alternatives are *subsidy* or bankruptcy since they would be left with only the smaller markets to handle in bits and pieces. Consider also the adverse effect on railroad employment and the loss of thousands of actual and potential jobs. The communities involved would suffer.

Abandonment of branch lines could result, particularly those which service coal mines. In my view, it would almost certainly lead to rate increases and to cutbacks in equipment purchase commitments. Especially vulnerable to injury are the eastern lines. Mr. Jervis Langdon of the Penn Central has observed that one of the contributing factors to the bankruptcy of that company was loss of coal business, a real prospect in light of the beneficiation process described by Messrs. Jack A. Horton and John Morgan of the Department of Interior, would severely injure the ConRail system. Other roads are also clearly in jeopardy.

In closing, I would remind this body that the Congress has just committed over $6 billion of Federal funds to shore up faltering portions of the railroad industry. To now turn around, put slurry pipelines in a position to completely undermine major portions of the industry would, in my view, be a mistake of the highest order. I trust you will join me in seeing to it that this mistake is not made.

ALEXANDER LERNER

(Mr. SCHEUER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, several weeks ago, I received a very poignant note from the Soviet Union, saying only "many thanks for your concern."

Its author, Prof. Alexander Lerner, was, until 1971, chairman of the Department of Cybernetics of the Soviet Academy of Sciences, and an editor of the Soviet Encyclopedia, and the Journal of Automation and Telemechanics. He received world renown in the field of cybernetics as deputy chairman of a committee of the International Federation of Automation Administrators.

Four years ago, while on an official trip as a Member of this body, I was arrested and taken into custody by the KGB while enjoying dinner with Alexander Lerner and a number of other Soviet Jewish scientists at his home in Moscow. His—and their—only crime was a deep-felt desire to emigrate to Israel. For this Professor Lerner has been ejected from the Soviet Academy of Sciences, and is no longer allowed to earn a livelihood.

My misdemeanor—in the Soviet's eyes—was my demonstration of abiding concern and sympathy for Alexander Lerner's plight. Alexander Lerner is an example of the terrible toll that Soviet tyranny takes of human life.

This world is vast but, Mr. Speaker, we in a free land ignore the condition of an Alexander Lerner at our peril. We have learned that freedom is indivisible; that we must "ask not for whom the bell tolls."

We, in the U.S. Congress, must say to Prof. Alexander Lerner and to the Jews of Russia, "abiding thanks for your humanity and dignity in the face of oppression; you are indeed our deep and heartfelt concern. We will never forget you or cease our efforts to end your bondage and persecution."

We are determined that the leaders of the Soviet Union meet their legal obligations as set forth in both the United Nations Declaration of Human Rights and in the Helsinki accord, to which they have affixed their signature. It flys in the face of human decency as well as international law when these solemn international obligations are so systematically and flagrantly flouted.

We must say to the rulers of the Soviet Union: "Our concern for Alexander and Judith Lerner and their hundreds and thousands of coreligionists is hardened into an absolute determination that under the clear provisions of international law they must and will be free."

ALASKAN NATURAL GAS—THE NEED TO TAP IT QUICKLY AND CORRECTLY—SUPPORT FOR TRANS-ALASKAN ROUTE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 30 minutes.

Mr. MURTHA. Mr. Speaker, every Member of Congress realizes the importance of natural gas and the problems America faces in the years ahead over shortages of this energy source.

An extremely important debate is now underway in Congress that will decide a great deal about how we handle that natural gas problem. That debate is over when and how we plan to develop the natural gas reserves in Alaska.

This week I presented testimony to the House Energy and Power Subcommittee of the Interstate and Foreign Commerce Committee on this subject. In the remarks that follow I want to share the thoughts from that testimony with my colleagues.

One word before I begin. I want to congratulate my colleagues and the major spokesmen for the competing approaches to Alaskan development. To date the debate has been based on the facts, without distortion or unfairness, and has been aimed toward developing the best possible approach for the United States. I hope the following remarks will add to the facts and to that spirit.

I have divided this presentation into two parts. First, I discuss the legislation presently before the subcommittee; second, I detail my own preference for Alaskan natural gas development:

LEGISLATION

PART 1: INITIAL LEGISLATION

After debating the natural gas issue for over a year in Congress there should be little doubt that the situation is serious. While we can look to off-shore drilling, Alaska, and devonian shale for possible large inputs of new gas, we must also face the fact that development on these sources must begin quickly.

In H.R. 12983 we have a good vehicle for expediting the decision on how to tap the Alaskan natural gas. The decisions moving from the Federal Power Commission, to the President, and finally to Congress represent in my estimation a proper decision-making path.

In all candor we face a difficult time problem because it is a Presidential election year. I can understand the philosophy underlying this bill that in the interests of national policy the Presidential decision should be made by the administration taking office in 1977.

Personally, I must disagree with that philosophy. My own preference is for making the decision this year. I have two main reasons for that. The first is the severity of the natural gas situation. Most estimates I have seen indicate all known reserves of natural gas will be used up at our present rate of consumption by 1990. Last week I saw a news story reporting that a Federal Power Commission study indicated it might only be 10 years before those reserves were gone. When we have 40 million households, 135 million residents, and millions of jobs depending on this energy source, I believe we must move as quickly as possible.

Second, estimates I have seen are that each year of delay in pipeline construction increases the final project cost by 10% because of inflation, labor rates, etc. We want to add as little to that final delivery cost as possible to protect the consumer who is already hard hit by jumps in energy prices.

If a majority of the Committee believes the administration beginning in 1977 should make the determination, then I would strongly urge that the deadlines in the bill for decision-making be moved forward. I am concerned that under the time limits in the legislation it could be as late as October 1977 before the government clears the way for development of the Alaskan gas. My recommendation would be to move up the dates for Presidential and Congressional decisions in 1977 so at the latest by one year from this testimony a final decision is made. Despite the possibility of a change in administration, I believe enough evidence will be known for any new administration to make its decision earlier in 1977 than the August 1 final deadline in this bill.

I hope the Committee will report and Congress pass an outline such as in this bill, so we do develop a firm time plan for making this decision.

PART II: FINAL ROUTE

Because it is essential for Congress to debate thoroughly the final development plan for the Alaskan natural gas, I also want to take this opportunity to state my firm, positive support for the Trans-Alaskan route for transporting the gas. In the remainder of this testimony I would like to first sight the positive elements of this route, and then answer some of the criticisms being made of this Trans-Alaskan plan.

A. Outline

There have basically been two proposals for moving the gas. The Trans-Alaskan route involves building a pipeline across Alaska, paralleling the oil line, then transporting the gas as LNG to California for distribution in the continental U.S. The alternative proposal (the Trans-Canadian line) involves building a pipeline through Alaska coupled to another pipeline through Canada arriving at the U.S. in the middle west for distribution. I believe the Trans-Alaskan route is superior. [Note: A third route, the Northwest Pipeline, routed through the Fairbanks Corridor, has also been mentioned. I believe the FPC should consider this route if a firm proposal is made, but facts are scarce at this time on the idea, therefore it is excluded from the discussion.]

B. Security

The United States would have total control of a Trans-Alaskan pipeline. Only American approval would be necessary to begin the project. Only the actions of Congress, the Administration, and the State of Alaska would control the deveopment of the project.

If the route is built through Canada, several factors then complicate the issue. Canadian litigation on environmental and other problems could tie up development of the project for many years. In Canada the provinces have sovereignty over the central government and it is unknown what actions the provinces containing the pipeline will take. One option they have is taxing the line heavily, a decision we could not prevent.

Obviously, the Canadian government has traditionally been very friendly to the United States. I am confident that friendship will be strong in the years ahead. But the situations involving the Panama Canal and the Arab Oil Embargo should have shown us that the United States must control our own destiny. The oil and gas coming to the United States from Alaska should be under the total control of the United States government. We should not rely on other nations, no matter how friendly, during this key energy development.

C. Economics

The economic advantages of the Trans-Alaskan pipeline are many.

First, this project means jobs for Americans. Estimates are the Trans-Alaskan project would produce 345,000 jobs for American citizens during construction. If the Trans-Canadian line is built, the vast majority of jobs will go to Canadian citizens. After completion, the Trans-Alaskan line means 3½ times as many jobs for Americans as the Canadian line.

Second, building through Alaska will mean the U.S. government will collect some $9.3 billion in tax revenues. If the line goes through Canada, the Canadian government will collect at least $7 billion. Let us not kid ourselves, in either case the tax cost will eventually be passed on to the American consumer. But I say that if taxes are going to be collected, let us have them come into the U.S. treasuries.

Third, in studying testimony and talking to officials of the El-Paso Natural Gas Company (who would be chief builder of the Trans-Alaskan route) I am impressed with their commitment to build the pipeline with goods purchased from American companies. There is already substantial information that a Trans-Canadian line will depend on Japanese and German firms for much of their material.

Fourth, a key question to me is the purchase of pipe for the lines. The oil route was built largely with foreign steel because U.S. companies did not produce the 48 inch pipe needed. I have spoken with steel company officials and they plan to develop facilities to roll 48 inch pipe. U.S. Steel has already announced plans to build an $80 million pipe mill in Texas to produce the 48 inch pipe. Also, the El-Paso company officials are considering some use of 42 inch pipe, which is already produced by American companies (including Kaiser, Bethlehem, and U.S. Steel). If the line is built through Canada, American companies could be frozen out of pipe production, at the very least they will produce less of it. I make no secret of the fact that both Bethlehem and U.S. Steel have plants in the 12th Congressional District of Pennsylvania and I believe that if we can use American pipe on this project to help these companies and protect American jobs that we should make every effort to do so.

D. Time span

The Trans-Alaskan natural gas project will parallel the existing oil project. What that means is that the gravel roads, work parks, and camps are already built, and much of the equipment is already there and available. The start-up time will be much less. Needed construction before the project actually begins will be less.

Finally, several recent indications are that the Canadian government plans to develop and stress gas sources that will help their own nation, placing any Trans-Canadian line on a back-burner. That makes clear sense for their nation, but it is another reason why the timing on a Trans-Alaskan line will be better for our country.

E. Environment

The corridors through Alaska are already developed and environmental considerations have already been met along the routes. Some of the Trans-Canadian line will go through wilderness area that will be extremely difficult to protect environmentally. The Trans-Canadian line requires more than 5 times as many minor waterway crossings and 6 times as many major water crossings. That is just one indication of the additional harm that could be done to much of the beautiful Canadian wilderness this line would have to traverse.

F. Some questions

Concerned citizens have raised some important questions about the Trans-Alaskan route. I want to answer those questions briefly. My explanations will be a quick summary, but for the completeness of the testimony I would like to mention them.

The Trans-Alaskan line calls for shipping gas as LNG from Alaska to California, isn't shipping LNG unsafe? The U.S. Coast Guard has testified to the safety of this shipping. The danger with LNG is during loading and unloading, and the plans are being made to do this in the safest areas possible and away from population. The system involves an automatic cut-off in the pipes when they reach certain stress levels. No one should say there is no danger, but from the material I have seen I believe it is very minimal.

The Trans-Canadian line will bring gas into the Midwest which is hard pressed for gas. By bringing it into California instead, won't we just gut the West Coast market with gas? Those advocating bringing the gas into the Midwest are sincerely trying to help their area, but there are two reasons why I do not believe the Midwest would benefit more than the rest of the nation. First, because of displacement, gas coming into California from Alaska will shift the flow of gas now coming into California from the Southwest to Midwest and Eastern markets. If the gas comes into the Midwest, displacement will transfer gas now going into that region to the east or west. Second, if you don't have a contract for the gas, you aren't going to get it regardless of where it comes in unless there is government allocation which we all want to avoid.

I read where if this gas comes into California, some of it is going to be shipped to Japan. Is that true? That would be against the law. The Alaskan pipeline law says all gas and oil from the pipeline must be used in the U.S., unless Congress and the President give the right to ship it to a foreign nation. Also, the El-Paso Company has publicly stated it has no intention of marketing even the smallest quantity of Alaskan gas anywhere but in the United States.

Can't bad weather halt the shipping and mess up the plans? Sure. The weather has been checked, however, and lead time built in, so that a substantial delay because of continuing bad weather would be unlikely.

It is impossible in a short time to present all the arguments and facts. I would like to conclude, however, by restating several key points. First, I believe it is essential for Congress to act quickly on this proposal. Enough parts of the energy solution have already been delayed. We need to act quickly, and forcefully on this issue so we can stimulate the flow of Alaskan gas within the best time frame possible. Second, I believe the Trans-Alaskan line is the best route. It makes the project entirely under the control of the U.S. government. It increases jobs for Americans, and tax revenues for state and federal governments. It is the quickest project to develop. It is the most environmentally reasonable.

I am submitting a chart outlining the pros and cons of the two proposed routes prepared by the El-Paso Natural Gas Company.

FACTUAL COMPARISON OF PROJECTS

	TRANS-ALASKA PROJECT	ARCTIC GAS PROJECT
I. *Security Risks:*	None. Totally under American control.	Severe. Substantial portion of the pipeline crosses a foreign country. Contrary to Arctic Gas claims, a treaty is powerless to solve the problem.
II. *Balance of Payments Impact:*	Favorable.	Unfavorable. Adverse balance of at least $10 billion.
III. *Economic Impact:*	All goods and services will be contracted within the U.S., including the LNG carriers.	Only 6% of $6 billion of Arctic Gas' facilities in Canada will be procured in the U.S.
IV. *Environmental Impact:*	Miles of new pipe: 809 in Alaska, plus a few hundred miles, principally in west Texas, connecting with existing pipelines in the Lower 48 having idle capacity.	5,600 miles of new pipeline.
	Gravel required: approximately 7.5 million cubic yards.	Gravel required: approximately 57 million cubic yards.
	Waterway crossings: Major: 26. Total: About 600.	Waterway crossings: Major: 170. Total: About 3,000.
	Does not enter a wildlife range.	Traverses the width of the Arctic National Wildlife Range.
V. *Timing:*	With the use of Alyeska's haul road and other construction facilities which required 1½ years to complete, this project has a significant head start.	Requires the construction of camps, haul roads, and other preliminary facilities before construction of the pipeline may begin.
	The laying of *809* miles of pipe in Alaska, coincident with the construction of the liquefied natural gas (LNG) plant represent the major time requirements for the project.	Requires the laying of 5,600 miles of pipeline.
	Permits must be obtained only from American agencies.	Permits must be sought from both U.S. and Canadian agencies. Must compete before the National Energy Board (NEB) in Canada against Foothills' all-Canadian Maple Leaf Project.
	Native claims settled in Alaska, after many years of extensive efforts in the U.S. Congress.	Native claims *not settled* in Canada.
VI. *Benefits to the State of Alaska:*	Substantial.	Minimal.
	$4.7 billion worth of goods, services, and facilities.	$657 million worth of goods, services and facilities.
	Construction payroll of $840 million in Alaksa.	Construction payroll of $190 million in Alaska.
	$2.9 billion to be paid in ad valorem and income taxes to the State over the life of the project.	$360 million in ad valorem and income taxes to the State over the life of the project.
	Pipeline route provides State of Alaska direct access to 12½ percent royalty share of the gas.	Arctic Gas route precludes state access to its royalty share of gas.

FACTUAL COMPARISON OF PROJECTS—Continued

	TRANS-ALASKA PROJECT	ARCTIC GAS PROJECT
VII. *Tax Benefits to U.S.:*	$9.2 billion in Federal income taxes to the U.S. treasury over the life of the project. $3.6 billion to be paid in *other* taxes to American governmental entities over the life of the project.	$2.1 billion in Federal income taxes to the U.S. treasury over the life of the project. $1.4 billion to be paid in *other* taxes to American governmental entities over the life of the project. (In addition, $8 billion will be paid to Canada at present tax rates. Taxing powers of the provinces are sovereign and cannot be controlled by the Canadian federal government.)
VIII. *Employment:*	7,500 workers to be employed at the peak of the project in the State of Alaska. 624 permanent employees in the State after construction. Total work force in U.S. at peak of construction: 24,000 (including Alaska). Permanent number of employees in the U.S. after completion of project: 1,470 (including Alaska).	2,500 workers to be employed at the peak of the project in the State of Alaska. 39 permanent employees in the State after construction. Total work force in U.S. at peak of construction: 12,000. Permanent number of employees in the U.S. after completion of project: 420.
IX. *Shrinkage:*	11.1 percent, some of which could be recoverable in the form of cryogenic energy.	9.6 percent, *none* of which is recoverable.
X. *Total Capital Cost:*	$8 billion.	$9.2 billion.
XI. *Pipe Rolling:*	Pipe requirements (42″) can be met by U.S. mills.	Requires substantial portion of worldwide pipe mill capacity. No U.S. mill can now roll 48-inch pipe. Must be done in Canada, Germany or Japan.

APPARENT CHANGE IN POSITION TAKEN BY MR. GORDON W. RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 10 minutes.

Mr. BOB WILSON. Mr. Speaker, Mr. Gordon W. Rule, a procurement official in the Navy's Office of the Chief of Naval Material, gave a speech today before the Shipbuilder's Council of America in which he supported the decision by the Department of Defense to use the authority of Public Law 85–804, to reform shipbuilding contracts in order to resolve the Navy's shipbuilding claims problem. His speech was very interesting. In it he made a number of caustic comments which appear to be directly contrary to the positions he has advocated over the past several years.

Since many of my colleagues will doubtless read accounts of his speech in the press, I think it is important that all Members be aware of positions Mr. Rule has taken on these matters in the past, positions which my staff have researched for me. I introduce in the RECORD at this point extracts from some previous statements Mr. Rule has made which are all in the public record, but which seems to indicate a change of position or a convenient memory for the gentleman:

ON GORDON RULE'S PHILOSOPHY OF CLAIMS SETTLEMENTS

". . . The philosophy seems to be growing, that put in a big claim, scrub this contract and find every detail that you can put a claim in for and you will get it settled for 30, 40, or 50 percent or whatever you put the claim in for. That seems to be a spreading philosophy.

"I can assure you that it is a philosophy not shared by the Navy. We have a philosophy but it is not that one. Our philosophy is that when a shipbuilder or anyone else presents a claim to the Government the burden of proof is on them to prove every single dollar. We have to be fair and reasonable with them and pay them when they can establish reasonably that we, by our actions or inactions, have caused them to incur additional costs.

"But our philosophy is that the burden of proof is on them to prove that claim—and this is going to make it difficult because some of them, I don't think are going to be able to prove their claim, in which event we will make a contracting officer's determination and let them, if they wish, go to the Armed Services Board of Contract Appeals. If we are going to err it will be on the side of the Government and on the side of the taxpayer and we will not just pay these claims." (Joint Economic Committee, 1969, p. 155.)

ON INFLATED CLAIMS

"Mr. Staats testified yesterday that their records showed that the average of the claims that have been settled were settled at, I believe he said 37 percent of the amount claimed, and this ought to tell you something. This ought to tell you that the claims were almost fraudulent in the first place. Even if they were settled at 37 percent, which seems to me a little high, but even if that is the right figure, to be able to knock off of a claim 63 percent—if we had that sort of over-statement in proposals for new procurement, if people were coming in on new contract proposals and giving us amounts of money that we would reduce that much, we would yell fraud, believe me.

"When we reduce a contractor's proposal by 10 or 15 percent, that is high. But when these people come in with these claims and we can settle them at 37 percent, you have to ask yourself where was the rest, and so far as I am concerned it is just padding and this is why I take a hard-nosed view of claims. Some people do not. This is why I have gotten the American Bar Association, the claims lawyers and everybody else, p.o.'ed at me but I do not care.

"I know these things are not correct. I know that they are taking us to the cleaners. And this is why I agree with Admiral Rickover, the claims should not be a negotiation. These people file these big claims and the thing they want to do quickly is sit down and negotiate. I say that they ought not be negotiated. I agree with Admiral Rickover. We ought to look at them carefully, discuss them carefully with the claimant, go over and find the facts, discuss endlessly almost, to be fair, but then we ought to make up our minds what that claim is worth and say this is it. No negotiation." (*Joint Economic Committee*, 1972, p. 1461)

ON CONTRACTORS ABILITY TO FIND BASES FOR CLAIMS

". . . Well, as Admiral Rickover has said—I hope you don't mind me quoting him, since you quote him so much yourself, so I will follow in your footsteps—as Admiral Rickover has said, and quite properly, if somebody sets out to find something wrong in a Government drawing or a Government specification, with a view toward filing a claim, there just isn't a contract, I guess, that that couldn't take place in." (*Joint Economic Committee*, 1971, p. 1124)

BAIL OUTS

"There are these companies that take the attitude, and thankfully most companies in industry, the defense industry, do not take this attitude, but there are some, and they are pretty obvious who they are, that take this attitude that it is a way of life, 'get the contract and Uncle Sugar somehow will bail us out.' " (*Joint Economic Committee*, 1972, p. 1921)

ON HOW SOME AMOUNTS ARE COMPUTED

". . . The amount of the claim is exactly the difference between the face value of the contracts they bid on and got, and how much they lost on each one of the six, and how much it is going to cost to complete the other three. Just a nice round figure, it is exactly every dollar they have lost and that is the theory of their claim.

"I asked the man who gave me this information from the company if losing money on every contract they ever had with the Navy didn't tell him something. Didn't it perhaps tell him that they might be a little inefficient, or that maybe they shouldn't be in the shipbuilding business at all, and they said, 'Yes, it tells us that.' And I said 'Well, how do you reflect that sort of thing in the amount of this claim,' and he said, 'Oh, that is for negotiation.' " (*Joint Economic Committee*, 1969, p. 155)

ON CONTRACTS CONTAINING THE SEEDS OF CLAIMS

". . . I have learned what to look for and what not to look for to a much greater extent that I ever was capable of doing before, and I want to state for the record with all the clarity and force at my command that I am not going to approve another contract, I don't care how big they are, I am not going to approve another one and I will take it all the way to the Secretary of the Navy, if I spot in there the seeds of a claim, and you can see these things." (*Joint Economic Committee*, 1969, p. 156)

(NOTE.—As head of the Naval Material Command's Procurement Control and Clearance Division, Mr. Rule reviewed and approved most of the contracts for which P.L. 85–804 relief is being requested.)

ON REFUSING TO OVER-PAY CLAIMS

"As I say, we will take care of these (claims) as expeditiously as we can, and certainly we won't pay out $1 more than can be shown to be merited." (*Joint Economic Committee*, 1969, p. 156)

ON RESTRUCTURING CONTRACTS

"I sat in a meeting with an admiral once who was just about to do that. He made a statement, the company had come in and was crying about losing money, and he said, 'I am going to reform the contract.'

"And I said in front of the whole group, 'Over my dead body, you will reform that contract' ....

* * * * *

"...I would oppose restructuring any contract. Of course, there is such a thing now as being able to change a clause or change something for consideration, if there is adequate consideration, which I would have to see and judge whether it is adequate or not. You can do a lot of things if you have consideration. But to restructure something for no consideration, absolutely not." (*Joint Economic Committee*, 1971, pp. 1126-1127)

ON INVOLVEMENT OF SUPERIORS IN CLAIM NEGOTIATIONS

"...In my opinion, it has been wrong in the last year for the commander of the Naval Ship Systems Command to personally inject himself into and negotiate these settlements himself. I think he should stay out of them."

* * * * *

"But he wanted in the shipbuilding claims, the Commander felt that he wanted to get them settled speedily. So he charged ahead and made a couple of negotiated settlements. Now he is having a hard time justifying them. I think this is wrong." (*Joint Economic Committee*, 1971, p. 1117)

ROLE OF LAWYERS IN CLAIM SETTLEMENTS

". . . When you talk about claims against the Navy and against the Government, the first person you ought to think of is the lawyer. It is a lawyer's role in these claims to make a determination of entitlement. And until or unless he does, nobody should come up with a figure for negotiation, and certainly no negotiation should take place. . . ." (*Joint Economic Committee*, 1971, p. 1118)

ON CLAIM-FREE CLAUSES

"I would like to say that in the area of what we have done about trying to preclude claims—I would like to call your attention to the fact that in the nuclear area Admiral Rickover's group came up with what appears to be a good innovation, going to the point of late delivery of Government-furnished material, which is, as you know, always a big element in these claims. Admiral Rickover's people came up with what we call a claim-free clause. If the ship delivery date, for example, is December of this year, and there is doubt that nuclear components will get to the shipyard in time to meet that delivery date, we have asked contractors in the nuclear area to give us their estimate of a claim-free period, for example, 6 months or a year, if our Government-furnished material is late, how much it will cost us, and then they won't have a claim. It has been tried in two or three cases. It is a little too early to tell how it is going to work out. But it is a step in the right direction, and I think that Admiral Rickover's people are to be commended for coming up with this idea." (*Joint Economic Committee*, 1971, p. 1116)

ON NEGOTIATING SETTLEMENTS IN ADVANCE OF SUBSTANTIATION

". . . There are two cases now where the negotiated agreement was made with the contractors, in December 1970, and one in January 1971. And those cases haven't come to us yet, because although they have been negotiated now comes the job of substantiating what they negotiated. And that is just exactly the wrong way to do it.

"You ought to have, as Admiral Rickover, says, the legal entitlement clearly spelled out, the audit report clearly spelled out, and the technical report on which to base the amount of the negotiated settlement. It has been done exactly as you say, the wrong way." (*Joint Economic Committee*, 1971, p. 1117)

ON THE RIGHT AND WRONG WAY TO SETTLE CLAIMS

"But I want to point out that we have not rushed claims through. This is for a lot of reasons. We are having a lot of problems with them. But I can assure you, and I can assure the GAO and Admiral Rickover and anybody else who is interested, that your fears are not well founded that we are not kicking these claims around or bargaining them or settling them on a percentage basis. . . .

"Now, I will admit to you that there are people in the Navy that are handling these claims that would settle them just about the way you fear they are being settled. But those people are not getting their way. They have tried it. But all of these claims over $5 million have to go through . . . this Special Claims Review Group. And they haven't gone through there, and they are not going to go through this group, until or unless, as you and Admiral Rickover and the GAO have said, every dollar is factually supportable and legal entitlement is found." . . . (*Joint Economic Committee*, 1971, pp. 1115–1116.)

ON OUTSIDE PRESSURE FOR CLAIMS SETTLEMENT

"It is something that I personally feel strongly about because I have been working on these things for so many years. Normally, claims go through without this pressure. When anything happens outside that normal, you begin to wonder about the merits of the claim. It is just part of the business. Because a lot of people will substitute, or try to substitute pressure for merit." (*Joint Economic Committee*, 1972, p. 1257.)

ON PROPER OBJECTIVE OF CLAIMS

"The objective of a claim should be the identification and payment of those additional costs incurred, or to be incurred, by the contractor which are demonstrably caused by Government action or inaction." (*Joint Economic Committee*, 1972, pp. 1235–1236.)

THE PROBLEMS WITH SECRETARY COLEMAN AND AIRCRAFT NOISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Wolff) is recognized for 30 minutes.

Mr. WOLFF. Mr. Speaker, I am today formally requesting of Comptroller General Elmer Staats that the General Accounting Office initiate an investigation of the historical pattern of failure by the Department of Transportation and the executive branch to enforce the Noise Control Act of 1972, and other environmental protection laws passed by the Congress.

I have made this request in the wake of Transportation Secretary William Coleman's reported decision regarding the aircraft noise abatement technique known as "retrofit." I feel the Secretary's decision represents a green light to further delays on noise regulation compliance by the aircraft industry. Mr. Coleman has forwarded to the Office of Management and Budget a plan, basically originated by the airline industry's Air Transportation Association, calling for a user's tax-funded multibillion dollar pool from which the airline industry can draw to finance either retrofit, or replacement of the older Boeing 707's and DC–8's.

What concerns me is that an ATA official has told my office that the airline industry does not consider the retrofit option to be realistic in today's economy, and that it is not anticipated that any airlines will opt for retrofit.

So when I couple this with the airline industry's recent announcement that the older generation jets operational "lifetime" will be extended another decade through the 1980's, because of the economic picture, I must wonder how Mr. Coleman's plan will force the industry to live up to laws designed to protect the public from increased intrusion and health damage from noise—except in terms of 10 or 15 years due to the process of attrition.

Mr. Coleman's decision in favor of the industry plan fits the historical pattern which seems to dictate that if the industry, including foreign industry, in the case of the Concorde SST, objects to proposed U.S. noise standards or abatement methods, those standards somehow never get implemented. I trust the apparent conflict here will not be the cause of years more of delays.

As I noted last week in my opening statement to Secretary Coleman during our hearing on his Concorde decision, it is clear that in every year since 1972, efforts by one agency or another of the executive branch to implement aircraft noise abatement rules and regulations have been frustrated by some combination of industry, diplomatic, or bureaucratic pressure.

I shall present my SST statement of last week for the Record at the close of my remarks today, since it caused no small amount of interest at the time, and produced an extraordinary performance by Secretary Coleman at the hearing, and then at an afternoon press conference. But for the moment, let me note a few points which I made then, and have repeated in my letter to the Comptroller General: In December 1972, then-Transportation Secretary John Volpe attempted to get both SST and subsonic noise rules adopted for what he termed compelling political and environmental reasons. But in January 1973, then-President Richard Nixon ordered the Concorde SST exempted from the proposed fleet noise rule. Subsequently, both of Secretary Volpe's noise rule recommendations disappeared without public comment.

My office has been informally told by a DOT source that the "Nixon letters" of January 1973, to the leaders of Britain and France promising Concorde's exemption actually represented part of an elaborate shell game being played so that the British and French would not feel that the U.S. Government was timing release of the proposed noise rules in such a way as to adversely affect decisions then being made by Pan Am and TWA on whether or not to buy Concorde.

This would be fine were it not for the fact that after Pan Am and TWA ruled out Concorde for economic reasons, presumably acting independently of either each other or the Nixon administration, both the fleet noise rule and the SST proposal, as I noted above, disappeared from the bureaucratic scene, not to be heard from again.

In 1974, while the FAA was solemnly writing interested Congressmen such as myself that it was fully aware of its legal responsibilities on noise abatement, and that it was working apace, we also saw an interesting memo by EPA Administrator Russell Train telling his people to consciously slow down implementation of the Noise Control Act. Train subsequently sought to lay the blame for this ill-chosen phrase onto the OMB, but in any event the pattern was continued in that no aircraft noise rules emerged in 1974.

In 1975, the Concorde controversy sprang full force onto the scene, but from a small mountain of documents one in particular stands out, a February 18 DOT memorandum noting that a top EPA official was ordered by the White House to hold off on proposed SST regulations, and that he subsequently approved a waiver for Concorde based on diplomatic considerations, rather than the mandate of Congress.

This year, in addition to a continuation of the Concorde controversy, which I feel represents an important link in the historical pattern because of its diplomatic ramifications, we have the retrofit decision now being studied by the OMB. It is my fear, as I noted above, that while perhaps justifiable in itself, the decision represents in the historical context a green light to any polluting industry which says, in effect, that delay will always win, and that the executive branch will not enforce laws passed by Congress so long as private industry can raise objections which, purely by themselves, seem reasonable.

The bureaucratic imperative operating here is that delays produce a self-fulfilling prophecy after a certain point—of course, replacement becomes a more attractive option, economically, than retrofit, if the industry has been allowed to drag its feet for years.

The point here, of course, is that the Congress passed the Noise Control Act of 1972, and other important pieces of environmental protection legislation, with a full awareness of the larger issues of public health and welfare which are involved. On the face of it, at least, it would appear that the executive branch has determined that particular industry concerns will always be allowed to triumph over congressional mandates in the area of aircraft noise—if not in other areas.

For these reasons, if not others which could be cited, I hope that the GAO will speedily join with this House in investigating the DOT's traditional failure to enforce our laws.

I now present for the Record my opening statement of a week ago today, when Secretary Coleman and I engaged in an attempt to get to the bottom of a small mountain of documents from DOT and FAA files pertaining to the Secretary's controversial Concorde decision.

Our confrontation, as it has been labeled in various news accounts, was frankly disappointing to me because the Secretary proved himself the consummate master of using the 5-minute rule to filibuster through tough questions. As a consequence, the Congress still has no clear explanation of why an incoming Cabinet officer can logically defend a decisionmaking process fundamentally grounded in ignorance of the events leading up to his decision.

And as a result, the American people still have no clear idea as to whether or not Mr. Coleman's subordinates shielded him from the various, disquieting matters revealed by the documents, such as the fact that Mr. Coleman's decision has clear roots in the Nixon administration's pledge on Concorde which I have already discussed today.

Since Mr. Coleman took the rather extraordinary tack following the hearing of calling an afternoon press conference to personally attack me, and to characterize my opening statement as a compilation of "falsehoods," I think it might be instructive if interested parties could read that statement for themselves. I think that even the most ardent Concorde supporter would grant that while he or she might disagree with my conclusions, that nonetheless my statement represents a logically possible explanation of what we have learned in recent months about the Concorde decision, as revealed by the documents turned over to me by Mr. Coleman.

I had hoped that Mr. Coleman could correct the record. Unfortunately, he opted instead for a broadly based attack on the personal level. I frankly find this rather revealing, and not a little depressing. For what the Secretary's response says to me is that we in Congress are not allowed to make our case. We are not allowed to reach a judgment independent of Mr. Coleman's. We most specifically are not allowed to criticize Mr. Coleman for his handling of the Concorde decision.

Just one example of the unfortunate performance by Mr. Coleman 1 week ago presents, I feel, an accurate picture of the reality behind his public posture of openness. When I pushed him hard about the truth of the British Concorde pilot's sudden change of heart on which runway to depart Dulles, the Secretary charged me with saying "a falsehood" in suggesting that the British were deliberately dodging our noise measurement devices.

However, at his afternoon press conference, Mr. Coleman chose to reveal to the gathered aviation press what he had withheld from the Congress that morning—that he shared our concern over the British tactics, and in fact had called in the British Ambassador to make his displeasure known.

Telling us the truth, instead of contesting the views of opponents point by point in the most personal way, would have been more in line with Mr. Coleman's carefully orchestrated reputation for "openness" and "candor."

One final note—in my opening statement many serious questions were asked of the Secretary on Concorde to which the American people have a right to hear answers. Most of these questions remain unanswered. I trust the GAO investigation will help the Congress and the American people fully understand what has been done to them in the name of Concorde.

I now present my opening statement of May 26 for the Record:

OPENING STATEMENT OF HON. LESTER L. WOLFF, CHAIRMAN, SUBCOMMITTEE ON FUTURE FOREIGN POLICY, MAY 26, 1976

Thank you, Chairman Randall, for your usual excellent summary of the task before us today, and thank you, Mr. Thone, for your cogent advice to our distinguished witness. Let me also thank the Members of this Subcommittee, and its staff, for their dedication during the series of hearings you have held on Concorde in the past year.

I know I can speak for the people of New York in extending their thanks to this Subcommittee and its Chairman, for by shedding light on the activities of Concorde boosters in our own Government, you have helped us protect our people against the ill-effects of actions by our government.

As you have said, Mr. Chairman, we are here today to hear Secretary Coleman's explanation of several key documents culled from thousands of pages the Secretary turned over to me in April of this year. I should explain that in an effort to pursue the future foreign policy implications of the Concorde decision I requested on March 8 that Mr. Coleman produce any and all documents in FAA or DOT files which might bear on my concerns as Chairman of the Future Foreign Policy Subcommittee, House Committee on International Relations, since Mr. Coleman had repeatedly stressed the foreign policy aspects of his decision. But the documents which were produced so clearly affected major areas already probed by the Randall Subcommittee that after consultation with the Chairman the present forum was arranged.

I must add in all candor, Mr. Secretary, that I find it incredible from an administrative standpoint that upon assuming office last year, and then taking over the SST decision, you did not ask your people to produce what I have asked of you—that you apparently did not ask to see a complete Departmental record of what had transpired to cause all the commotion, particularly regarding the crucial diplomatic area.

In calling this omission "incredible" I take you at your word, Mr. Secretary, that you approached the Concorde decision with an open mind. If you did have an open mind, that, of course, suggests that you might have said "no" to Concorde. What I find specifically incredible, Mr. Secretary, is that you did not, by your account, inquire whether such a "no" answer might contravene any Presidential commitments or diplomatic representations, if for no other reason than to prepare counter-arguments. Reports of such Presidential commitments have been widespread since April of last year, and, of course, the documents you have released to me clearly confirm those reports.

From this I find it equally incredible that none of your staff people volunteered to you any information on the historical background of your decision, particularly if, in fact, there was ever the slightest possibility that you might make a negative decision, or one which the British and French might perceive as a violation of any commitments made over the years.

Of course, if you did ask for such information, and were not told the truth, I trust that today's hearing will afford you a beginning to redress the damage done to us all on behalf of Concorde in the past year and a half.

The damage I refer to hits not only the environment itself, but also the integrity of the decision-making process which Congress ordained in the National Environmental Policy Act and other legislation. Perhaps hardest hit is the faith which the American people can place in the workings of their government.

The Concorde case is one in which we have been treated to the spectacle of one misleading statement after another on the part of the plane's proponents. For example, the British and French witnesses at your Jan. 5 hearing were still insisting that Concorde's noise would be "broadly comparable" to that of subsonic jets, despite your public statements and the actual record of the November EIS showing Concorde will be perceived as being at least twice as loud as the Boeing 707. Needless to say, yesterday's debacle at Dulles, where the British demonstrated a touching, but newly-found, concern for local sensibilities which no-doubt coincidentally allowed them to dodge the noise measuring device, simply continues this tendency.

Fortunately, the French were for once less concerned with subtleties, and blasted off as planned. The results showed what we have been saying all along—Concorde is more than twice as loud, indeed, it is nearly three times as loud, as the 707, and the 707 is sufficiently bad to warrant the contemplated billion-dollar retrofit program which I trust you are about to announce.

The Concorde case is the one in which the plane's makers took a full-page ad in the New York Times last year claiming that the EPA had found Concorde's noise to be "indistinguishible" from that of other jets. While I will be the first to admit that EPA has been somewhat confusing in its Concorde position, Mr. Train quite accurately testified last November to the Randall Subcommittee that EPA had never made any such statement of Concorde.

And so, with all respect, Mr. Secretary, the American people will have to be excused if they wonder just where the Concorde cover-up ends and the truth begins. Perhaps yesterday's flight at Dulles, and today's hearing, will help us find the truth.

Also, Mr. Secretary, we have the possibility that the Federal Treasury may be opened up for billions of dollars in airport noise damage suits if the courts rule that the Port Authority of New York must give in to your recommendation that Concorde fly into J.F.K. The documents released to me show that your predecessor, Secretary Volpe, was deeply concerned that we avoid the possibility of what he termed "many billions of dollars" at risk because of the Concorde decision. What we need to know, Mr. Secretary, is if you have decided to ignore Mr. Volpe's warning and open up the U.S. Treasury to a multi-billion dollar disaster caused by the British and French. What price diplomacy, Mr. Secretary?

I originally requested the documents from you, Mr. Secretary, because I am particularly concerned that the so-called "Nixon Letters" of Jan. 19, 1973, represented a commitment on Concorde in themselves. I felt then, and your documents clearly demonstrate, that the Nixon Letters represent the tip of an iceberg in the files of the Executive Branch which, if fully explored, would reveal depths of diplomatic involvement in the domestic decision-making process which clearly contravened the intent of Congress in passing the National Environmental Policy Act and related measures. In sum, I feel that the Nixon Letters represent a very dangerous precedent regarding foreign policy concerns and the domestic decision-making process.

The documents themselves go far toward establishing that melancholy hypothesis as fact. They show that in the fall of 1972 the FAA and the DOT were eager to get on with the work of promulgating two noise regulations, the first a fleet noise rule, the second a noise rule for SST's with which the Concorde could not comply. To get around this problem the British and French were told that if they wanted an exemption from either rule, they could publicly apply for it, and let the facts justify such an exemption be laid out for public view. Evidently the British and French panicked at the suggestion of such an above-board procedure and went right to the Nixon White House, where they exacted the secret concessions only fully revealed last December in the "Nixon Letters."

For the future, as I testified at your Jan. 5 hearing, Mr. Secretary, I am concerned that your oft-stated commitment to foreign policy considerations has set up a potentially endless series of diplomatic Pandora's boxes. I do not want to see a situation where the U.S. Government is forced to explain to Iran, or Japan, or India or Australia—or to any potential Concorde customer—that only Great Britain and France carry enough diplomatic clout to push Concorde through despite the concerns spelled out in the documents produced for us today.

Mr. Secretary, telling us, as you have, that a new EIS process will be necessary in the event of other foreign SST applications begs the larger question. As both your decision and these documents make clear, the SST decision has been defined as lying somewhere among domestic environmental concerns . . . political concerns . . . and foreign policy concerns . . . thereby ensuring that a "balance" will be struck which has little to do with the concerns which in the first place prompted Congress to pass environmental and noise protection laws.

Secretary Kissinger's letter to you of last Oct. 6 seems to bear out my fears. Mr. Kissinger, after a two-page discussion of the diplomatic problems which would arise if you ruled against Concorde, concluded with this final thought:

"I hope that in taking the Administration's initial decision with specific regard to the Concorde, you will find it possible to weigh carefully the concerns of these two close allies (Britain and France) together with the environmental and other criteria that you must consider."

While aspects of this letter smack of a "memo to the file" to demonstrate concern for environmental and other matters, I wonder just what Mr. Kissinger was saying to you with the words "the Administration's initial decision with specific regard to the Concorde." The words certainly would seem to leave the door open for foreign policy "considerations" to somehow overrule any negative decision which you might have been contemplating.

I cannot emphasize enough this matter of your reliance on foreign policy, Mr. Secretary, for if we are learning nothing else this year it is that the American people are not about to dismiss foreign affairs from their concerns, and that the lesson of Vietnam appears to be a heightened awareness of the necessity of watching the Executive Branch very closely on foreign policy matters.

The Concorde has become a classic case study of how our Government places foreign interests ahead of our domestic needs, be they the problem of heroin trafficking from Burma, or the Concorde. Your decision says to the people of New York, and to the people of this area, that their concerns for the peace and tranquility of their homes, and the health of their families, are rights which can be secretly bargained away, along with their tax dollars, in the name of foreign policy. Your decision tells our people that if the French are angry because they lost out in the NATO sales game last year they can feel beter because they are winning the Battle of Long Island this year. I agree that we should recognize our debt to the French during this Bicentennial Year, but really the Concorde decision goes too far. As for the British—Robert Morley says we can come home, all is forgiven. I should think so, Mr. Secretary, I should think so!

Mr. Secretary, your General Counsel, Mr. Ely, last week sought to dismiss these documents as merely of "historical interest" since you are making the incredible claim of having little or no knowledge of them prior to your decision on Feb. 4 of this year. Even if this is so, I do not see how you can continue to claim that the "history" told by these documents portrays anything less than a vertible strait-jacket binding you or any Secretary of Transportation on Concorde.

Be that as it may, even an impartial observer of the key documents we will discuss today (as listed on the Chronological Summary Sheet) would see obvious contradictions in any claim that foreign policy considerations have not had an overriding influence on domestic environmental and political decisions. These documents prove my charges of last June, at the initial hearing in this series, that foreign policy has overwhelmed the FAA, the DOT, the EPA and the State Department as these agencies wrestled with each other over what to do about aircraft noise, as well as the Concorde.

You have already made it clear that you do not agree that you virtually had your decision dictated to you by the events of the past. But I think that if you will read these documents, you can see how, prior to your involvement, the British and French were consistently able to head-off potential problems by exerting sufficient diplomatic pressure to block promulgation of U.S. aircraft noise and related environmental standards.

These documents show that right up into 1975, and your arrival in Washington, whether it was a proposed fleet noise rule, or a specific SST noise rule, or an EPA recommendation on SST noise or emission standards, the British and French were invariably tipped off in sufficient time to muster their forces. In fact, one of the main impressions I got in reading these documents is that at every step of the way, the British and French have been given a more accurate and detailed view of Executive Branch plans than has ever been given to the Congress—let alone to the American people who will have to bear the brunt of Concorde.

The success of the British and French in putting this intelligence to use is clear on the face of it: there exists at this very moment no SST noise rule, no implementation of FAR 36 noise standards on the books since 1969, and, of course, the now-defunct Fleet Noise Rule. We have had to subsist on years of promises that such rules and regulations are just around the corner—June 1st being the latest, I believe.

Mr. Secretary, this is the heart of my statement to you today: I do not see how you can fail to see that you and we have been used by those who put foreign policy ahead of our obligations to our own people. The proof is that you will repeat today the claim that the absence of an SST noise rule means that you can't apply regulations to the present generation of Concordes without facing charges of "discrimination," charges of contravening past treaty obligations, and indeed, without opening up the entire diplomatic struggle all over again.

To repeat, Mr. Secretary, I do not see how you can ignore the fact that the absence of any enforceable SST noise and emission standards stems directly from past diplomatic pressure. These documents prove that. And, given the present triumph of diplomatic considerations, I fail to see how you can assure us today that we have no reason to fear future "foreign policy" decisions on SST's. You have set the precedent, Mr. Secretary. Foreign governments expect to be treated as equals in all matters, and they will hardly view the SST as an exception.

To move to a brief but specific discussion of the documents in the Chronological Summary: the first four, memos from the White House and the DOT, show clearly that as a result of months of close coordination between U.S., British and French experts, it was determined that Concorde could not meet proposed U.S. Aircraft noise standards. They also clearly state that Concorde had severe problems of fuel capacity, range, fuel fire safety, and airport flight pattern handling characteristics. These technical difficulties were spelled out for top officials up to and including the Cabinet level in virtually all agencies of the Executive Branch involved in any way with Concorde.

These first four documents, covering late 1972, show that until Dec. 11, 1972 the DOT was solidly on record that despite diplomatic problems, recommended SST and subsonic fleet noise rules should be promptly published in the Federal Register, and promulgated for compelling domestic political and environmental reasons. Your predecessor, Mr. Volpe, himself signed a 6-page memo recommending this course of action.

But at a Dec. 11, 1972 White House meeting, a decision was reached overriding Secretary Volpe and the best advice of the DOT, and setting the stage for the Nixon Letters the following Jan. 19. This Subcommittee has already gone over Mr. Nixon's letters with you, Mr. Secretary, and I suspect that the Members will do so again today. But from the new documents received since your December testimony, let me suggest that it is obvious that the British and French would have every reason to believe they were being told that their months of "coordination" with our people were paying off. It is obvious that regardless of Mr. Nixon's warnings about local and Congressional prerogatives, the British were claiming within one week of receiving them that the letters constituted a commitment by the U.S. Government that aircraft noise rules would not be applied to Concorde. Mr. Binder's memo of Jan. 26, 1973, makes this point very clear.

And we have had subsequent confirmation of this 1973 British claim in the somewhat tangled testimony of Mr. Roger Strelow of EPA. He at one time last year was telling us that a representative of the National Security Council and a man from the State Department came to him in early 1975 to lobby against strict SST standards then in the works, because the Nixon Letters could be construed as a commitment, and diplomatic problems might ensue. It does strike me that you ought to have been told the same thing at some stage, Mr. Secretary, but in any event, Mr. Strelow has subsequently decided that his visitors were not so definite as he portrayed them in his first rendition of the meeting. Fortunately, the historical record is now clear thanks to a DOT document you have turned over to us showing that on Feb. 18, 1975, Mr. Strelow was ordered by the White House to hold-off on proposed SST noise rules. Less than a month after receiving his marching orders, Mr. Strelow issued the so-called "waiver" for the first 16 Concordes which caused you, Mr. Secretary, to question him so closely at your Jan. 5 hearing.

I might also add that the much-trumpeted British and French "denials" of any secret deals at your hearing are unmasked as pure sophistry by the facts as reflected in these documents. I would note that the British and French did not actually deny the deals, if you read what they actually said. They merely denied that the deals were still secret. Since you had already released the Nixon Letters to Mr. Randall, the British could testify in all truthfulness that there existed no deals which were not already a part of the public record, to quote Mr. Kaufman. Similarly, the French could claim, as they did, that they knew of no secret deals—since, of course, the deals were no longer secret.

Now, Mr. Secretary, this brings me to a very critical document, Mr. Barnum's "Eyes Only" memo on the Nixon Letters to Secretary Volpe on Jan. 26, 1973. I call this group of papers to your attention because it calls into question the very foundation of your claim that you were not aware of any prior commitments on Concorde. If we accept your word on this, the only possible conclusion we can reach when analyzing your past testimony that you did not know of the Nixon Letters prior to last Dec. 12, and that prior to Feb. 4 you had no knowledge of the documents now in our hands, is that persons in your Department having control of these documents, particularly, the Nixon Letters, deliberately withheld them from you.

For from your Dec. 12 testimony it is obvious that you were not giving us copies of the Nixon Letters which Mr. John Barnum, now Deputy Secretary and then General Counsel of the Department, appended to a memo to Secretary Volpe which explained in no uncertain terms just what Mr. Nixon's words really meant.

We will need to know, of course, why this memo and its original DOT versions of the Nixon Letters were not produced in December. Perhaps more to the point today, we will need to know why Mr. Barnum could explain to his boss in January, 1973 that the British were taking the Nixon Letters as a commitment, but fail to inform you of this in 1975 when the British and French were making it abundantly clear that there was more to their diplomatic rumblings that an optimistic reading of the Chicago Convention.

It does not tax the imagination to see how the British, and, particularly, the French, could read the Nixon Letters as a general commitment promising U.S. cooperation whenever SST problems might come up at the Federal level. While later documents show that Mr. Barnum in 1975 was speaking very frankly to the French at the Paris Air Show about problems with New York and other matters alluded to in the Nixon Letters, I can only wish that your Deputy Secretary had been equally frank with you. That a broad reading of the Nixon Letters is possible, and not mere postulate, is shown by the use of the letters on Mr. Strelow in 1975 by the State Department and the National Security Council.

Mr. Secretary, we had a right to an honest appraisal last summer of the problems which our government had been studying in depth since at least 1972. Instead, we got the disgraceful performances of the Executive Summary of the CIAP report, and a DEIS which was patently fraudulent, and was so branded by the White House's Council on Environmental Quality, and even by the FAA's Eastern Regional offices in New York. But getting the facts on Concorde has been like pulling teeth from an elephant with a pair of tweezers, Mr. Secretary—at a certain point it's tough to tell who's doing what to whom.

It is perhaps a measure of how irreversible your decision really is, Mr. Secretary, that your General Counsel can blithely tell the Court of Appeals, as he did last week, that the Concorde is "environmentally questionable," particularly with regard to noise. He even threw us a bone on the ozone layer. But such candor is cynical grandstanding at this point, Mr. Secretary, since we needed it last summer, when Congressional legislation and public hearing testimony was being formulated, and court cases prepared, and when public and international opinion was being manipulated by the British and French free from the restraints which could have been imposed by a U.S. Government dedicated to the truth. And the truth was there, Mr. Secretary, as your documents show. All last summer your Department was feigning ignorance of information it had been gathering since the beginning of the decade.

In a sense I accept your contention that these documents are a history lesson, Mr. Secretary. They are a living example of how the decision-making process in your Department is contaminated, contaminated in this instance by foreign policy pressures withheld from public scrutiny. As these documents show, there has been no doubt in our Government as to the unacceptability of Concorde since at least 1972, but despite the doubts, diplomacy won out.

It will be interesting to see, Mr. Secretary, whether your 16-month "test series" will be allowed to terminate for anything less than an absolute disaster, as was the case with the Comet, the most horrible example to date of "diplomatic" aircraft certification.

Thank you, Mr. Chairman, that concludes my opening statement.

THIS TIME LET US MAKE IT WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, on May 17, 1976, I brought to the attention of the House the failure of the Treasury Department and the Internal Revenue Service to adhere to Presidential and congressional policy of seeking tax evasion convictions against the major narcotics wholesalers.

This policy was established in 1971 when Treasury and the IRS, responding to a directive by President Ford's predecessor, created the narcotics traffickers tax program and the Congress appropriated large new sums to implement it. But, as I pointed out 2 weeks ago, that program unfortunately collapsed under President Ford. It was "merged" out of existence by the IRS last July 1, and funds specifically requested of Congress for this program were diverted to other IRS programs. The result has been a dramatic drop in tax and penalty recommendations against narcotics traffickers—from $70 million in fiscal year 1974 to less than $10 million in the first 9 months of this fiscal year.

Now, President Ford is trying to get the program started up again. In a message to the Congress on April 27, 1976, he announced that he is directing the Secretary of the Treasury to work with the Commissioner of the Internal Revenue to develop a tax enforcement program aimed at high-level drug traffickers.

Last Friday, Secretary of the Treasury William Simon announced the establishment of a Treasury Department Anti-Drug Enforcement Committee to implement the President's directive. The committee will be headed by Under Secretary Jerry Thomas and will also include Assistant Secretary David R. MacDonald, Commissioner of Internal Revenue Donald C. Alexander, and Commissioner of Customs Vernon D. Acree. According to Secretary Simon's announcement, one of its objectives will be "the revitalization of an income tax enforcement program focusing on the illegal profits of high level drug dealers."

Mr. Speaker, I am gratified by this prompt response. Secretary Simon's announcement appears to be a step in the right direction. But the Congress will need to exercise its oversight function to make certain this time that the words of the President and of top officials in his administration are matched by the deeds of the bureaucracy.

ON JUNE 8, 1976, CONGRESSMAN DANIEL J. FLOOD WILL ADDRESS THE HOUSE CONCERNING RECENT PANAMA CANAL DEVELOPMENTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in an address to the House of Representatives in the Congressional Record of March 16, 1976, page 6550, I presented a summary of the more significant factors that have made the future status of the U.S. Canal Zone and Panama Canal a major national election issue.

Just as foreseen, since that time the isthmian question has been increasingly discussed all over the United States, especially by thoughtful citizens who see through the campaign of sophistry and mendacious propaganda spearheaded by the Department of State and, more recently, by the Department of Defense, for an ignominious surrender of U.S. sovereign control over the Canal Zone.

On Tuesday, June 8, 1976, I plan to address the House again on this vital policy question, analyze some of the propaganda, stress the perils involved in the surrender proposal for the Gulf-Caribbean basins, outline a canal policy derived from experience, and offer a program for implementing such policy.

Accordingly, I trust that as many Members as possible will be on the floor and participate in the discussion.

WOMEN'S EQUALITY DAY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 30 minutes.

Ms. ABZUG. Mr. Speaker, today I am introducing House Joint Resolution 969 which designates August 26, 1976, as "Women's Equality Day." As we celebrate the 200th anniversary of the founding of our Nation, it is especially important that we extend recognition to the contributions American women have made to the development of our country.

August 26 commemorates that day 56 years ago when women won the right to vote. Ratification of the 19th amendment represents a historic milestone for the women of this country. The struggle to secure the franchise involved women all across the country and produced some of our finest leaders including Susan B. Anthony, Carrie Chapman Catt, Harriet Tubman, and Elizabeth Cady Stanton. Winning the right to vote and achieving political citizenship was a vital step toward gaining human dignity and equality for women. Women of America today have united to pursue the still unattained goal of full equality for which the suffragists strived.

Since I have come to the Congress, August 26 has been designated Women's Equality Day by either Presidential proclamation or joint resolution of the Congress. Under the new House procedures, 218 cosponsors will be needed to proclaim a commemorative day.

August 26 has been celebrated by American women as a symbol of the progress achieved and the need for continued commitment to gain full equality. It is also a day for women and men to study and learn about women's earlier campaigns to gain the vote and to discuss the critical issues facing women today. Children growing up find few women in their history books and learn little about the contributions women have made to our society. This day will help to focus attention on this neglected chapter of our history.

Few of our Bicentennial events will focus on the important roles women have played in the history of our Nation. None of our national holidays commemorate women's century of struggle to achieve the vote nor do women appear on many commemorative stamps.

Designating August 26 as "Women's Equality Day," will extend national recognition to all those women who struggled for the ratification of the 19th amendment and will restate congressional support for the continuing struggle to achieve full equality for women more than half a century later.

I would like to take this opportunity to insert the text in the Record.

H.J. Res. 969

Joint resolution designating August 26, 1976, as "Women's Equality Day"

Whereas, 1976 is the 200th anniversary of the founding of this Nation and women continue to encounter legal, economic, and social barriers to their full and equal participation in American life;

Whereas, August 26, 1920, was the culmination of women's nationwide effort to gain the vote and this important chapter of American history deserves recognition;

Whereas, the women of the United States have united to assure that the task begun by the suffragists is completed and that opportunities are available to all citizens equally, regardless of sex;

Whereas, August 26th, the anniversary of the ratification of the nineteenth amendment, has been celebrated by American women as a symbol of the progress they have achieved and the need they have for continued commitment to gain full equality; and

Whereas, the women of the United States are to be commended and recognized in their organization and activities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 26, 1976, is designated as "Women's Equality Day," in commemoration of that day in 1920 on which the women of America were first guaranteed the right to vote, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

INDIA'S HYPOCRISY: POLITICS AND HEALTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, today the New York Times reports that the International League for Human Rights has asked the United Nations to investigate its allegations that the Government of India has been "trampling on the freedom of thousands of its citizens," imprisoning politicians who oppose that Indira Gandhi regime, and allowing widespread torture to occur. For some time I have been disturbed by events in India, as I am sure many Americans have been, as Prime Minister Indira Gandhi has imposed a state of emergency on India, suspended basic civil rights, imprisoned the opposition, tolerated brutality by the Indian police, and instituted strict censorship of the Indian press. If these actions had been taken because the country were truly threatened by a domestic or foreign emergency, one might be inclined to be more tolerant, but the true situation seems to be that Prime Minister Gandhi resorted to emergency rule in order to preserve her political power and that of the ruling Congress Party.

I find the record of India in its treatment of its own citizens ironic in view of India's leadership in a recent effort to suppress a World Health Organization report on medical care in the Israeli-occupied West Bank and Gaza territories. As my colleagues may remember from the press accounts of the week of May 17, India led the movement by the Arab and Third World nations to refuse to accept the report compiled by experts appointed by the World Health Organization. By a vote of 65 to 18 with 14 abstentions, the annual assembly of WHO, composed of the governmental representatives of WHO member countries, refused to consider a report of its own appointed experts that concluded that the health services in the Israeli-occupied territories have experienced "slow but steady" improvement since 1967.

India offered the motion to refuse the report as part of a continuing pattern of cooperation between Arab and Third World nations to embarrass Israel at any opportunity.

Ostensibly the report was rejected, because Israel refused to receive the inspectors from Indonesia, Senegal, and Romania as a group. Since Israel does not have diplomatic relations with either Indonesia or Senegal, and doubted the impartiality of their involvement, the inspection visit was delayed, until Israel offered a compromise to allow the experts from each nation to make separate visits to Israel and evaluate the state of health care in the occupied territories. This arrangement was accepted by the experts involved, who made their evaluation and submitted a report. That report was distributed to all 151 member states of the World Health Organization, but the politics of extremism and hate have prevented it from being officially accepted.

The continuing cooperation between the Arab countries and the underdeveloped nations on issues solely concocted to embarrass Israel as well as other Western nations on other matters does not bode well for the U.N. In the World Health Organization we are now seeing the same pattern of international political abuse of power by the Arabs and the Third World which will only lead to the demise of that organization as an effective or humanitarian international body.

It is particularly ironic that the motion to refuse to consider the report should be advanced by India, whose general level of health services and whose respect for political freedom pale in comparison with the conditions in the Israeli-occupied territories.

To the obvious chagrin of India and other countries which have taken up the cause of the Palestinians and have attempted at every opportunity to embarrass the Israelis, the report of the experts from these three countries revealed that the state of health care in the West Bank and Gaza occupied territories has been improving since the Israelis took over its administration. Based on statistical data examined and discussions with local organizations, the report revealed that in both the West Bank and Gaza regions the numbers of health personnel has increased substantially since 1967.

The report cited figures for the West Bank of the Jordan, occupied territories, which show that the number of physicians, both specalists and general practitioners has increased from 149 in 1967 to 376 in 1976. Even though the population of the West Bank has increased since 1967, the number of people per medical doctor has decreased from 4,013 in 1967 to 1,792 in 1975.

India, the nation leading the effort to suppress this report on medical conditions in the Israeli-occupied West Bank, has a much worse health record, when measured against these statistics, which are the public health statistical indicators available. In terms of population per physician India ranks 77th in the world with 4,399 persons for each physician. Other statistics, including infant mortality, life expectancy, and population per hospital bed, also indicate that India is far behind the state of health care in the world generally and Israel in patricular. Since India has led the effort to suppress the evidence about the situation in the West Bank, those are the statistics that the world should note, and ask whether India is trying to embarass Israel or whether India is embarassed by the true facts about the state of health care in the West Bank area.

However, when one considers the program of political repression in which India has engaged at home, India's leadership in suppressing this report can be seen as part of a larger, sinister disregard for the principles of fairness in human and political relations. Consider how Prime Minister Indira Gandhi has reacted to the threat of a viable political opposition. She has imposed her rule on India and systematically expunged the political freedoms which formerly existed in India, once a model democracy in Asia. Beginning with a decree of nationwide state of emergency in June 1975, Prime Minister Indira Gandhi has turned India into a dictatorship:

In January 1976, Prime Minister Gandhi's government suspended article 19 of the Indian Constitution, which guarantees freedom of assembly, freedom to form associations and unions, freedom of movement, freedom to own property, and freedom to follow any profession, trade, or business;

Freedom of the press has been suspended. The press is prohibited from criticizing the government and cannot even report about antigovernment demonstrations, political arrests, or opposition speeches in the Parliament;

The Gandhi government has taken control of India's largest newspaper, which supported the political opposition prior to the declaration of "emergency" in June 1975;

The government has imposed censorship on the reports of foreign correspondents;

India has imprisoned 40,000 people as of January 1976, for violations of the emergency decrees or for political reasons; by its own admission, the government has jailed 1,000 people solely for political reasons;

By legislation rushed through Parliament in January, the government need not disclose to anyone the reasons for arrests made under India's Internal Security Act, not even to the judiciary;

India has imprisoned 30 members of its own Parliament and has banned 26 political parties and groups; and

Elections for Parliament have been postponed a year and can be postponed year to year indefinitely.

With this regard of political repression at home, I find it amazing that India has the audacity to lead an effort to suppress the facts gathered by the World Health Organization's experts. Prime Minister Gandhi and her government will apparently go to any length to crush opposition to policies they support. Not content to accuse the Israeli Government of shortsighted or unfair policies, the Indian Government is willing to suppress the only report of the health situation in the Israeli-occupied territories, and one favorable to Israel.

I think the conduct of India in the World Health Organization is disgraceful, and the conduct of India at home in both political and health affairs reveals the hypocrisy involved.

For the interest of my colleagues, I am appending an article which appeared in today's New York Times, describing the latest charges which have been made about India's political situation:

RIGHTS LEAGUE TELLS THE U.N. INDIA TRAMPLES ON FREEDOMS

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., June 1.—The International League for Human Rights asked the United Nations today to investigate its charges that the Indian Government has been "trampling on the freedom of tens of thousands of its citizens," imprisoning political opponents and permitting extensive practice of torture.

The human rights group, in support of its allegations, submitted lists of hundreds of names of persons said to have been tortured since the Government of Prime Minister Indira Gandhi began restricting individual rights last June.

The detailed accounts of torture were collected by Indians for Democracy, a group of Indian residents in the United States whose membership includes educators, physicians, students, and businessmen. The group was organized to work against the repressive policies its members charges are being practiced in their homeland.

NOT ALL CASES PROVED

Dr. Faruk B. Preswalla, coordinator of the group and associate medical examiner of New York City, said that not every allegation made could be proved, but he declared that enough cases of torture were given so that there could be no doubt that it was occurring.

Dr. Preswalla said he gave copies of the group's report to the Indian Embassy in Washington last March, personally handing them to A. P. Venkateswaran, Minister for Political Affairs, and asking that the charges be investigated.

"There has been no inquiry," he said. In submitting the charges in the United Nations, he said, the group is not saying that Prime Minister Gandhi or her Government's leaders had ordered political opponents tortured, but was allowing the practice of mistreating prisoners.

Dr. Preswalla said the group did hold the Government responsible for the practice of torture and other abuses of political dissidents on two counts. First, that the Prime Minister had created a situation permitting arbitrary power to be given to the police and low-level bureaucrats while at the same time cutting off judicial review and other protection of citizens; second, that it was not doing anything about the conditions reported to it.

At the Indian Embassy in Washington, Mandalam Sivaramakrishnan, press spokesman, said that he did not know about the report, but the charges were known and had been denied as completely untrue. He said he was sure the Government had looked into the matter. Mr. Venkateswaran is not, available, he said.

TO REAFFIRM DESIRE OF AMERICAN PEOPLE TO MAINTAIN AND ENHANCE UNITED STATES-ITALIAN RELATIONSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, on June 2, 1946, 30 years ago today, the people of Italy held their first election following the Second World War, and thereupon replaced their monarchy with a republic.

Italy thus began a long and difficult struggle to maintain successful democratic institutions in a nation which has been historically renown for economic, cultural, scientific, educational, and commercial success.

Italy's contribution to Western civilization in such diverse fields as art, letters, religion, science, and philosophy has been enormous and some of the greatest names in the history of Western man have been Italian.

From Giotto and Cimabue in the 13th century, through Da Vinci and Raphael and Titian and Michelangelo Italian artists ranked second to none. The musical staff was established by an Italian, Guido d'Arezzo, while Palestrina, Monteverdi, Corelli, and Vivaldi left a renowned musical legacy. Verdi and Pagannini and Donizetti helped to make the 19th century the great age of opera. Puccini and Leoncavallo were more recent operatic composers, who helped to assure that the language of music was Italian. Italian operatic singer Enrico Caruso was a legend in his time and Arturo Toscanini was generally regarded as the greatest operatic and orchestral conductor among all his contemporaries. Antonio Stradivari and Giuseppe Guarneri have bequeathed to us the beauty of their musical instruments, and Italian Bartolommeo was the inventor of the piano forte.

Italian writers have ranked among the world's greats, and include Dante and Petrarch. Nobel prizewinner Luigi

Pirandello wrote plays that still serve as models to budding playwrights. Novelists Ignazio Silone and Alberto Moravia are widely read and have inspired successful motion pictures. Michelangelo Antonioni, an Italian filmmaker, directly influenced the films Americans see today, and Federico Fellino and Vittorio de Sica have produced movies no one else can hope to emulate.

Italy has produced many renowned figures in the fields of philosophy and statesmanship as well, such as Lorenzo de Medici and Niccolo Machiavelli, Giuseppe Mazzini, statesman Camillo di Cavour and Garibaldi. Ranking Italian scientists include Galileo, Gugielmo Marconi and Enrico Fermi, while our Nation can never repay its debt to Christopher Columbus and Amerigo Vespucci.

Obviously, without the contributions of the above-named Italians, our world would be a poorer place today. Some of its outstanding music, arts and letters, and scientific achievements would be lost. Moreover, the great Renaissance leading to the emergence of modern Western man, would not have had the impact nor the influence were it not for the Italian contribution.

In light of all that the great nation of Italy has offered to the world, it is most appropriate that we pay homage today to the important anniversary of its birth as a republic. Let us not forget, moreover, that Italy has not only provided us with a cultural and scientific legacy, but it has provided us with many of our citizenry as well.

It is my sincere hope that the Italian heritage, next to Greece the oldest in Europe, will continue to flourish with its present form of government. We in America wholeheartedly wish Italy every success.

In this connection, Mr. Speaker, I am today introducing a concurrent resolution that reaffirms the desire of the American people to maintain and enhance our relationships with Italy and her people. Through this measure the Congress can convey to the people of Italy its moral support for that nation's continued active membership in the world's family of free nations.

The full text of my resolution follows:

Whereas the Atlantic Alliance continues to be the cornerstone of the foreign policy of the United States;

Whereas the basic purposes of that Alliance are to preserve the security of member countries and promote the ideals of freedom and democracy they hold in common;

Whereas the effective functioning of the North Atlantic Treaty Organization (NATO) is crucial to the fulfillment of these purposes;

Whereas the effectiveness of NATO is dependent upon general agreement within the Alliance as to the security needs of its members and the means by which such needs are to be met;

Whereas the full and unencumbered participation of Italy in NATO is of vital importance in sustaining such agreement;

Whereas there exist between the United States and Italy strong ties of friendship, alliance, and kinship;

Whereas the people of the United States and Italy share broad ideals and viewpoints; and

Whereas the United States owes a debt to Italy in the creation and formation of our own country: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that for all these reasons the people and government of the United States reaffirm a sympathetic interest in Italian democracy and democratic institutions and call on the European friends and allies of Italy similarly to confirm their support for the Italian people and their government and to join in assisting Italy to renew her confidence and to attain full and lasting prosperity.

SEC. 2. It is the sense of the Congress that the economic viability of Italy is important to the Atlantic Alliance as a whole as well as to the United States.

SEC. 3. It is the sense of the Congress that the United States, in conjunction with other friends and allies of Italy, should stand ready to participate in efforts to provide financial assistance to Italy through the proposed OECD Special Financing Facility and/or by other means deemed appropriate.

FEDERAL GRAND JURY PRACTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, today I am introducing legislation to reform several serious problems related to Federal grand jury practice.

First, there are no specific limits on the length of time a person can be imprisoned for refusing to answer questions posed by the grand jury. If held in civil contempt, a witness may be imprisoned for the life of a grand jury—up to 18 months. But, when the grand jury's term expires, nothing prevents the witness from being resubpenaed, questioned again, and subjected to another 18-month period of imprisonment.

Significantly, a judge acting alone cannot imprison a witness for criminal contempt for more than 6 months. My bill brings civil contempt in line with criminal contempt and limits imprisonment to 6 months. It also prohbits reimprisoning a witness for refusing to answer questions about a matter for which he has already been held in civil contempt.

A second major problem regards the place of imprisonment for contempt of a Federal grand jury. Because a person can be subpenaed to appear before a grand jury anywhere in the Nation. he can find himself imprisoned for civil contempt far from his family, home, or attorney. This has caused some extraordinarily harsh results in the past. For example, in the case of the Fort Worth Five, five New York residents were summoned to testify before a Federal grand jury in Fort Worth, Tex. These men were held in contempt and imprisoned in Texas for almost a year and a half. Since the families of all five men and their principal attorney were in New York, imprisonment in Texas posed a serious problem. My bill permits a witness held in civil contempt to apply for a transfer of his place of imprisonment on a showing of hardship.

Furthermore, a person held in civil contempt is sometimes incarcerated in State prisons or county jails. These jails are often substandard. My bill requires that, unless a witness consents, imprisonment must be in a Federal facility.

Although many other major reforms have been suggested with respect to Federal grand jury proceedings, I suggest we begin by correcting the problems I have outlined above.

The text of my bill follows:

H.R. 14146

A bill to amend titles 18 and 28 of the United States Code to limit the circumstances in which an individual appearing before certain grand juries can be held in contempt and to limit the imprisonment for such contempt

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Contempt Reform Act of 1976".

SEC. 2. Section 1826 of title 28, United States Code, is amended to read as follows:

"§ 1826. Recalcitrant witnesses.

"(a) (1) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal and after a hearing at which the witness may be represented by counsel, may, if the court finds that such refusal was without just cause, hold the witness in contempt and order the witness to be imprisoned.

"(2) Any imprisonment for refusal to give testimony or provide information pursuant to this subsection shall be at Federal correctional institution unless the witness agrees to confinement at a non-Federal institution designated by the Attorney General.

"(3) Upon a showing of need or hardship, the court ordering such imprisonment may grant a request by the witness to be imprisoned at a suitable correctional institution near the place of residence or employment of the witness or the witness' family or relatives or the attorney of the witness.

"(4) Any imprisonment for refusal to give testimony or provide information pursuant to this subsection shall continue until such time as the witness is willing to give such testimony or provide such information except that no period of such imprisonment shall exceed the lesser of—

"(A) (i) in the case of a court proceeding, the life of the court proceeding before which such refusal to comply with the court order occurred, or

"(ii) in the case of a grand jury, the term of the grand jury, including extensions, before which such refusal to comply with the court order occurred; or

"(B) six months.

"(5) No hearing shall be held under this subsection unless ten days notice is given to the witness who has refused to comply with the court order under this subsection, except that a witness subpenaed for a trial may be given a shorter notice of not less than five days if the court, upon a showing of special need, so orders.

"(b) No person imprisoned under this section for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events may be again imprisoned under this section or under section 401 of title 18, United States Code, for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.

"(c) Any person confined pursuant to subsection (a) of this section shall be admitted to bail or released in accordance with the provisions of chapter 207 of title 18, United States Code, pending the determination of an appeal taken by such person from the order of imprisonment, unless the appeal is patently frivolous. If the person has not been released on bail or otherwise released, any appeal from an order of imprisonment under this section shall be disposed of as soon as practicable, pursuant to an expedited schedule, and in no event more than thirty days from the filing of such appeal. If the appellate court shall fail to dispose of the appeal of a person who remains confined within 30 days, the person shall automatically be released on his or her personal recognizance pending disposition of the appeal.

"(d) In any proceeding conducted under this section, counsel may be appointed in the same manner as provided in section 3006A of title 18, United States Code, for any person financially unable to obtain adequate assistance.

"(e) A refusal to answer a question or provide other information before a grand jury of the United States shall not be punishable under this section or under section 401 of title 18, United States Code, if the question asked or the request for other information is based in whole or in part upon evidence obtained by an unlawful act or in violation of the witness' Constitutional rights or of rights established or protected by any statute of the United States.".

Sec. 3. (a) Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Refusal of a witness to testify in a grand jury proceeding:

"No person who has been imprisoned or fined by a court of the United States under section 401 of this title for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events in a proceeding before a grand jury (including a special grand jury summoned under section 3331 of this title) impaneled before any district court of the United States may again be imprisoned or fined under section 401 of this title or under section 1826 of title 28, United States Code, for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.".

(b) The table of sections for chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"403. Refusal of a witness to testify in a grand jury proceeding.".

"FREEDOM AND CONTROL IN A DEMOCRATIC SOCIETY," INSTITUTE OF LIFE INSURANCE, JUNE 2, 1976

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

Mr. **BRADEMAS**. Mr. Speaker, I wish to insert in the Record the text of an address I shall deliver tonight, June 2, 1976, at a conference on "Freedom and Control in a Democratic Society," sponsored by the Institute of Life Insurance and held at Arden House, Harriman, N.Y.

The text of my address follows:

KEYNOTE ADDRESS BY CONGRESSMAN JOHN BRADEMAS (D-IND.), QUADRENNIAL CONFERENCE OF THE INSTITUTE OF LIFE INSURANCE, ARDEN HOUSE, HARRIMAN, NEW YORK, WEDNESDAY, JUNE 2, 1976 ON "FREEDOM AND CONTROL IN A DEMOCRATIC SOCIETY"

I am honored to have been invited to open this conference at Arden House on "Freedom and Control in a Democratic Society," and I salute the Institute of Life Insurance for sponsoring these discussions.

As some of you may know, my father was born in Greece but I hope that I shall not be charged with ethnic chauvinism if I begin my remarks with the first lines of a poem by that extraordinary Greek, Constantine P. Cavafy:

"Ordinary mortals know what's happening now, the gods know what the future holds because they alone are totally enlightened. Wise men are aware of future things about to happen."

As I look about at the extraordinary group of persons whom Blake Newton has assembled for this meeting, I realize that he has brought together some very wise men—and women!—indeed.

And I am glad to see among them so many old friends—Howard Bowen, Leonard Duhl, Robert Goheen, Harold Howe, Stan Karson, David Truman and others.

I shall not even pretend to touch tonight upon all dimensions of so rich a subject as "Freedom and Control in a Democratic Society."

Rather, I shall address the subject from the viewpoint of one who has been a practicing politician for nearly two decades now, a Member of Congress for eighteen years and a partisan of the difficult but unique constitutional system that characterizes the American democracy.

For that there is a relationship between government and freedom in our democratic society, I think none of us would deny.

THE FOUNDING FATHER'S VIEW OF GOVERNMENT

Indeed, the Founding Fathers viewed that relationship as a positive one, for, in affirming the rights of "life, liberty and the pursuit of happiness," they acknowledged that it was "to secure these rights that governments are instituted among men."

This is a conviction of the Founders which we today sometimes forget—the idea of government as a social contract without which, as the gloomy Hobbes put it, "No arts; no letters; no society . . . and the life of man, solitary, poor, nasty, brutish, and short."

That the Declaration of Independence reaffirmed the "social contract" theories which played so large a part in the history of 17th and 18th century America and England is worth remembering.

No less important to recall, of course, is the corollary mistrust which the Founders had for government itself and which caused them to write into the Constitution not only a governmental structure based on a separation of powers but to provide the additional insurance of a network of checks and balances.

You will recall the admonition of the author of No. 51 of *The Federalist*:

"But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

So as a Member of Congress, I see much of my task, day to day, in the context of the continuing tension between "freedom" and "control," and I am perfectly aware that what to one man is governmental action indispensable to "freedom" is to another unwarranted "control".

The theme of your conference then is the stuff with which we in government, elected and appointed, wrestle all the time even as it is a question which must preoccupy those whose lives are lived in the private sector.

In speaking to you, therefore, as a legislator, I hope not to focus on concerns peculiar only to my breed but to raise some issues which I think must impinge upon you as well, whether you are in the insurance industry or, as are many others here, in the university.

I shall talk about three subjects tonight all of which, I hope, will in some way illumine our understanding of the relationships between freedom and control in the American democracy.

I want to say something of the role of Congress in our constitutional system.

I want to speak of the need for linkages between the thinkers and the doers in our political life.

And I want to press the case for more attention to education for values in this country.

A STRONG CONGRESS

All three themes are, in my view, directly related to the leitmotif of our meetings this week.

First, I would argue strongly that if we are to maintain the balance between freedom and control that was crucial in the minds of the Founding Fathers as they shaped our Constitution, it is imperative that we have not only a strong President but a vigorous, feisty Congress.

This observation holds true with respect to both domestic and foreign policy.

Let me say generally why I believe that if Congress did not exist, it would be necessary to invent it.

There are certain functions essential to responsible and effective government in the United States which can be carried out only by an institution with the attributes of Congress.

These functions are the following: to act as a vehicle of representation and participation, to help formulate public policy, and to oversee its administration.

I do not have time here to expand on each of these roles.

Let me say simply with respect to the first function, representation and participation, that if we are, in a nation of 200 million people, to avoid still further alienation from government, a Congress composed of Senators and Representatives elected from particular states and local districts but legislating for the entire country is indispensable.

If we are concerned to reconcile freedom with a strong political authority, there must be mechanism for ongoing and effective political participation and with all its deficiencies Congress must play that role.

But Congress has two other central responsibilities: to help shape public policy and to monitor its implementation.

Congress is often attacked as either a rubber stamp of the executive or a willful obstructionist of presidential policies. It has at times warranted both descriptions. That Congress has also been a creative source of policy is less well understood. One can recite a lengthy list of major laws in recent years that were in large measure the product of Congressional initiative and effort in such fields as health, education, pollution control, immigration reform and economic development as well as in foreign policy.

Congress, independently of the executive, is a fountain of policy alternatives, an activity essential in a large, complex society like ours on the not unreasonable assumption that the executive branch has no monopoly on intelligence or new ideas.

Moreover, the give and take of the legislative process, for all its lack of decisiveness by way of contrast with the parliamentary system, is not ill-matched either to our power-diffusing Constitution or to the diverse nature of our society.

Lacking highly centralized parties as a well of innovation, we rely rather on the continuous bargaining that occurs between not only the legislative and executive branches but also between each of them and the citizenry.

I here cite but one instance of a product of Congressional creativity, the Budget Control Act of 1974, which at the same time illustrates the importance in the American structure of government of institutions capable of generating alternative policy proposals.

The new budget process, while imposing a rigorous discipline on Congress, will also enable Congress, a co-equal branch of our government, to initiate its own judgments on national priorities. No longer will the President's budget be the only overall set of spending and taxing recommendations for the nation to consider.

There is a third function Congress must serve if our governmental system is to encourage a tolerable balance between freedom and control.

That function is to appraise, criticize and oversee public policies and their administration.

It is this oversight capacity that enables Congress to provide some protection to the citizen and community against the dangers of bureaucratic insensitivity and centralism.

Furthermore, if Congress continues to vest considerable powers in the executive, all the more must Congress monitor the use of these powers. The record of recent Presidents grown too aggrandizing is familiar to us all. Need I here rehearse the history of the last few years, of our involvement in Vietnam, of the whole spectrum of issues we call Watergate or of the revelations of law-breaking by the FBI and CIA?

The Founding Fathers were right on target in their apprehension about the dangers of an overweening or tyrannical government.

And what I am saying about the role of Congress, both in the making of policy and overseeing it, applies to foreign affairs as well as domestic.

For in foreign policy, too, Congress has the responsibility to establish or give sanction to policies, to oversee their implementation and to vote or withhold money.

Aside from observing that these powers are under the American charter of government, appropriate to Congress, I would only add that members of the executive branch, elected and non-elected, are not always, to be as gentle about it as possible, accurate in their assessments of our national interests.

This, indeed, is one of the reasons for our separation of powers system and why it is imperative that a vigorous, at times combative, Congress is indispensable to checking and correcting the missteps of the executive in the life or death arena of foreign affairs.

BETTER LINKAGES BETWEEN THINKERS AND DOERS

Now I have argued that a strong Congress is, in the American democracy, essential to maintaining an appropriate balance between freedom and control.

But essential to a strong Congress, one capable of meeting the responsibilities I have suggested for it, are substantial improvements in the way we do business on Capitol Hill. I shall here focus on but one need which impresses itself on me the longer I serve in the House of Representatives.

I speak of the importance of developing more, and better, linkages between, to use an imprecise shorthand, the thinkers and the doers.

Now I know that some thinkers do and some doers think.

What I am talking about, more concretely, is the range of issues raised by what President Johnson used to say: "My problem is not so much doing what is right as knowing what is right".

I have in mind specifically the challenge to public policymakers and more particularly still, to those in Congress, to shape some sort of sensible, viable policies for dealing with the extraordinary diversity of issues which confront the American government.

Here are just a few examples from my own experience and observation.

How do you measure the differing costs of educating children with different handicaps?

What are the best ways to provide compensatory education for disadvantaged children?

How can we sort out competing claims on the part of champions of various measures for energy conservation and production?

How can beleagured Congressmen and Senators have some sensible notion of what is in a $100 billion plus defense budget, and why it is there?

I am not so innocent that I do not know that nearly all these questions are shot through with a political dimension.

But I would also assert that a keener understanding of the substance of the issues on the part of decision-makers, especially in government, can increase the likelihood of policies at once more rational (and so more effective) and more likely of receiving public support.

Harold Howe has elsewhere given voice to some of the frustrations many of us who make public policy feel as we in good faith seek better to understand what we are about:

". . . we increasingly find ourselves in a ridiculous situation. The techniques, disciplines, and methods employed by planners and policy analysts have become so complicated and so specialized that the people who must use their product—the political leaders and administrators in the case of public problems (or the university presidents in the case of institutional planning)—are no longer able to understand and participate in the processes that are supposed to assist with their decisions.

". . . Somehow we have to find accommodation and communication between those on the one hand who bear responsibility for action and those on the other hand who try to illuminate the implications of the various options action must consider."

My own view is that the development of a capability for what one might call operative access to relevant intelligence is far more important to the future place of Congress in the American constitutional system than many of us in Congress yet realize.

Reforms such as the new Congressional budget process are significant advances in achieving that capability but they are not enough. I believe that we must fashion still other methods of enabling legislators to get at the thinking of the thinkers, both those in the scholarly community and outside it, including thinkers in business, industry and other areas vital to American life.

As Woodrow Wilson told the American Political Science Association in 1919, "The man who has the time, the discrimination, and the sagacity to collect and comprehend the principal facts and the man who must act upon them must draw near to one another and feel that they are engaged in a common enterprise."

For in government, as in business, not to speak of education, knowledge is power.

And if Congress is effectively to bear its burdens in the American democracy, it must know how to know.

But knowledge alone is not enough to insure that the American democracy can meet the twin demands of freedom and order.

For knowledge, at least applied knowledge, must operate within some normative framework, some moral structure.

Surely the theme of this conference, "Freedom and Control in a Democratic Society", raises questions that are not solely instrumental in nature. We need not only to ask how to carry out a particular policy but whether we ought to or not.

THE PLACE OF VALUES

And this observation brings me to my final point tonight, the place of values in our national life.

For, in the wake of Vietnam and Watergate, the lawlessness of our intelligence agencies and the wave of revelations about the enthusiasm of some American free enterprisers for bribery, both foreign and domestic, one may well ask, "What are our values and how do we teach them in modern America?"

James H. Billington, the historian of Russian intellectual thought, said recently that our traditional institutions and values are being eroded by what he termed "a crisis of legitimacy in our society." Says Billington, ". . . the American people are no longer so sure of what institutions they wish to follow and what shared values can be used to show us the way".

Billington observes that our society is characterized still by the essentially production-oriented, secular values of the late nineteenth century, which emphasized specialization and competition for those entering the ruling elite, and stressed "minimal literacy and patriotic indoctrination" for those joining the assembly lines of our maturing industrial revolution.

The system worked not only because values were widely shared and deeply felt but also because the values, rooted in church and family and local community, could effectively counter the dehumanizing forces of economics and politics. Those values provided a sense of identity the absence of which we increasingly feel today.

A significant indication, it seems to me, of this rising sensitivity to the place of values in American life in the recent report, to quote the New York Times, that "the precipitous enrollment decline that threatened the existence of this country's Roman Catholic parochial schools has eased, and the schools are now drawing new strength from an emphasis on spiritual and moral values that many parents find lacking in public schools".

The Times report continues: "The efforts by Catholic schools to infuse the education they offer with a moral dimension at a time when many of society's traditional values are being shaken is seen as a key to enhancing the appeal of the schools".

A still more dramatic manifestation of this attention to values is, in my view, the extraordinary rise to political eminence of Jimmy Carter.

In his column last Sunday, (New York Times, May 30, 1976), entitled, "What Makes Jimmy Win?", James Reston replied:

". . . he is getting the support of a much wider constituency in America that longs for something it has lost and thinks he represents . . . (and) who see him as a new personality appealing to the old but not quite forgotten values."

A recent survey in the Knight-Ridder newspapers of Carter's ascendency to front-runner status as a presidential candidate concluded that:

"Voters of all political persuasion, watching the first presidential campaign since Watergate, desperately want someone they can believe. Carter's calculated effort to fill that need shows strong signs of succeeding. . . ."

The study gives the former Georgia governor the highest popular rating for "integrity" among the Democratic contenders, and concluded that he "has begun to rally the strong (religious) believers—no matter what the faith—against not-so-strong or nonbelievers."

I do not wish to suggest that this whole subject of the relationships among politics, morality and religion is uncomplicated, and I am certainly not here to make any endorsements!

Nonetheless, it seems to me clear that the political success of Jimmy Carter to date is in large part explained by this yearning for a return to values.

There are still other signs of a renaissance of concern for values in this country.

This reawakening has been stirred not only by the evidence of corruption in the highest political office in the land. The last couple of years have also brought unprecedented reports that a wide range of American business corporations have engaged in campaign law violations, bribery of officials of foreign governments and other unethical practices.

GOVERNMENT AND BUSINESS

At least some in the business community, troubled by these practices, are considering what to do about them, and I should think that no conference of business leaders on "freedom and control in a democratic society" can fail to take not of this entire range of problems.

In considering questions of values, freedom and control and the relationship between government and business today, there are, I think two basic points that must be made.

First, even as Watergate spawned greater governmental restrictions on political campaigns, so, too, corruption in business may be followed by increased demands that government intervene to protect the public from lawlessness and wrongdoing in the private sector.

Second, I think that in 1976 we can agree that there is no simplistic, inverse correlation between the amount of government and the degree of freedom.

Even as I hope that American business will move to put its ethical house in order and thereby diminish the impetus for governmental action, so, too, I believe, business and industry can, by displaying greater sensitivity to their social responsibilities in respect of problems most of us can agree are real, avert intervention by government.

For, as Howard Bowen reminds us, although 1976 marks the 200th anniversary of the Declaration of Independence, 1776 was also the year of the publication of *The Wealth of Nations*.

And I think it fair to assert that the principles of Thomas Jefferson are in somewhat better shape today than those of Adam Smith.

For there is clearly a broad consensus in all modern, industrialized democracies, including ours, that government must play a significant role both in encouraging a vigorous economy and in meeting a number of basic human needs.

This last observation, I am well aware, refers to what is likely to be—and should be—the subject of many of your conversations here this week—the social responsibilities of both business and government.

That, given your conference theme, I have chosen not to concentrate on this subject in no way suggests that I do not appreciate its significance but only that I have come at you from a different vantage point.

EDUCATION FOR VALUES

Now it must be clear from what I have so far said that I sympathize with the viewpoint presented by Howard Bowen in the thoughtful paper he prepared for this conference. Like him I propose no fundamental change in the structure of our government although I do press for reforms that I believe can help the modern democratic state more effectively meet its responsibilities.

Still more to the mark, however, in my judgment, is Professor Bowen's assertion that "the basic question . . . is how to change the values of the people."

Mr. Bowen is not hopeful about the church, school, family, workplace or the mass media as effective instruments for education for values.

He places more store in liberal learning at the university, and while I am sure he would not disagree that the effect on college students of all these other institutions of education can be very powerful, I would reinforce his reminder that it is still to our colleges and universities that we turn to produce the men and women who will lead in our society.

Although I realize that the question of values and the university is a minefield, it cannot be avoided for, as the theologian, Robert McAfee Brown, has put it:

"Colleges and universities are . . . in the values game, whether they like it or not. We decide all the time that some things are more important than other things and we make those decisions on the basis of at least an implicit value structure: a gym is more important than a new wing on the library. . . ."

So, says Brown, "the task . . . is to smoke out the value assumptions behind the decisions we make. . . ."

Some experiments in teaching values are going on. At the University of Notre Dame, in the district I represent, there has been initiated a "senior values seminar," based on the premise that it is part of the intellectual responsibility of the university to raise value issues for discussion and reflection and not simply to present a value system to be absorbed by the student. Faculty are therefore engaged with students in a process of mutual examination of values and clarification of them.

At Harvard, Derek Bok has urged the creation of interdisciplinary programs for students seeking careers as teachers and scholars in applied ethics.

But universities are not the only places where adults can study values. Business and professional leaders and the organizations that represent them, such as the Institute of Life Insurance, can consider arranging—perhaps, with universities—seminars and conferences that focus on the kinds of value questions to which I have been referring.

More specifically still, while attending meetings of the Fifth Assembly of the World Council on Churches in Nairobi last fall, I suggested to some leading American churchmen the possibility of a series of weekend dialogues in or near Washington, D.C., involving leaders from business and industry, labor and the professions together with officials from the government, both elected and appointed, and some historians, economists, theologians and other churchmen.

The purpose of such dialogues would be to focus, in some systematic and thoughtful way, on the relationships between values and decisionmaking in the real world.

The theme of our meeting here this week would, I suggest, take on still deeper meaning in such a context.

As I close these remarks, I realize that it may seem to you that I have strayed tonight far from the theme of "Freedom and Control in a Democratic Society."

You may have anticipated a homily on my part, as a Democratic Congressman, on the joys of a more activist government in Washington, D.C. or a strong criticism of American corporations.

Not so, for I believe, as I have tried to suggest, that the issues that confront modern democracies, at least our own, reach far beyond the continuing—and highly important—debate over the appropriate limits of government intervention in the economy.

I have rather sought to paint, from my own background as a practicing politician and a legislator, a broader canvas.

I have told you that I believe essential to the building of a free and just America, in a world in which increasingly powerful executives seem to be the order of the day, is a strong and sensitive Congress.

I have said that to play such a role, Congress requires far more effective ways of informing itself on the many issues with which it must deal.

And, finally, I have added my own to those voices calling for a new commitment to values in American life and to finding better means of teaching them.

"AMERICA: STILL THE MOST EXCITING HUMAN EXPERIMENT"

Allow me then to conclude with some moving words of my friend, and my most distinguished constituent, Father Theodore Hesburgh of Notre Dame, speaking at a bicentennial festival there earlier this year.

Said Father Hesburgh:

"I, for one, do not believe that America is a thwarted experiment, a burned-out case, a fading hope. Despite the negativism of the day, we are becoming 'twice born,' coming of age and it is not the decrepitude of old age . . . The world may or may not follow, but we must lead because our tradition says we must; liberty is worth the effort, and the creation of justice and peace abroad will in large measure depend on the measure of justice and peace that we create here at home, increasingly in our America. Whatever its faults, America is still the most exciting human experiment in all the world."

I share that conviction, and I am confident that you do, too.

STATEMENT OF CHAIRMAN ULLMAN WITH RESPECT TO THE RULE TO BE REQUESTED FOR THE CONSIDERATION OF H.R. 14114

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, on June 2, 1976, the Committee on Ways and Means ordered favorably reported to the House of Representatives the bill, H.R. 14114. Section 1 of H.R. 14114 would increase the public debt limitation to $636 billion through September 30, 1976, to $682 billion through March 31, 1977, and to $700 billion through September 30, 1977.

Section 2 of the bill would increase from $12 billion to $17 billion the amount of long-term bonds which may be issued by the Department of the Treasury without regard to the 4¼-percent ceiling.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for consideration of the bill on the floor of the House. The committee instructed me to request the Committee on Rules to grant a rule which would provide for committee amendments, which would be open as to section 1 of the bill, but which would be closed with respect to section 2 of the bill. The rule would also provide for 2 hours of general debate, to be equally divided, with one motion to recommit, and waiving one point of order regarding the Second Liberty Bond Act. We intend to file the committee report by midnight, Friday night, June 4, 1976. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.

H.R. 9560—WETLANDS BILL

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, within a short time, the House will be considering H.R. 9560 which includes the amendment proposed by the gentleman from Louisiana (Mr. Breaux). I believe that a coordinated control of our Nation's wetlands is essential to the continued viability of those important resources of our environment and this amendment should be rejected.

An editorial in this morning's Washington Post states the issue most succinctly and I include the editorial at this point in the Record:

Safeguards for the Swamps

The current anti-Washington mood has compounded Congress' perennial problem of deciding how much regulation is essential and what is too much. An important example is the issue of wetlands protection, which is scheduled to come before the House today in connection with H.R. 9560, a water resources bill.

The bill includes an amendment by Rep. John Breaux (D-La.) which would negate a 1972 law and 1975 court decision which greatly enlarged the Army Corps of Engineers' power to regulate dredging and filling in the nation's marshes, swamps and other ecologically priceless wetland areas. The Corps' expanded program has not yet taken effect. However, some of that agency's own comments have helped to stir up fears that the Army intends to assert control over farm ponds, rice paddies and every other damp spot on the continent. The Breaux amendment is meant to preclude such excesses by slashing back the Corps' authority to about its pre-1972 scope.

As a reaction to alleged regulatory overkill, the Breaux amendment is in several important respects an exercise in heavy-handedness itself. It would leave millions of acres of important wetlands open to exploitation and possible ruin. It would limit the Corps' jurisdiction so arbitrarily that in some cases the boundary of federal review might run through the middle of a marsh. At the same time, because no hearings were held on the measure, its relation to other water pollution control laws is unclear. Some allege that it might permit dumping of poisonous wastes into rivers and lakes that serve as public water supplies. Others claim that, to the contrary, withdrawing the Corps' authority might bring EPA into the wetlands permit business instead.

In view of such difficulties, some Public Works Committee members who backed the amendment have had second thoughts. Rep. Jim Wright (D-Tex.), for one, has been trying to marshal support for modifying the Breaux language or postponing the Corps program until a study has been made. There has also been some discussion of giving qualified states a larger wetlands protection role. On the other hand, EPA and the Interior Department flatly oppose the Breaux amendment and argue that any major changes in the existing program would be premature.

In the midst of this discord, Reps. William H. Harsha (R-Ohio) and James C. Cleveland (R-N.H.), in cooperation with several environmental groups, have proposed a sensible course. They would reject the Breaux amendment and respond to farmers' fears by providing that the Corps may issue general permits for minor dredging activities and may not regulate stock ponds, irrigation ditches and so forth at all. This would solve the immediate worries without tearing up the whole program.

THE ARTIFICIAL CRISIS OF AMERICAN SECURITY

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, recently the House passed its budget resolution, which contained the largest increase for military expenditures in peacetime in our history. Serious questions were raised during debate on the resolution about the adequacy of U.S. military forces.

The May 1976 issue of the Defense Monitor demonstrates that our present U.S. military strength is unmatched and explodes the myth that U.S. military might is slipping. I commend this article to my colleagues' attention.

The text follows:

THE ARTIFICIAL CRISIS OF AMERICAN SECURITY

A crucial element in the effort to shape public attitudes this year has been the extensive campaign by officials of the Defense Department to paint a picture of comparative U.S. and Soviet military power that raises serious doubts and fears about the adequacy of U.S. military forces. The United States, according to the Pentagon, has been reducing its military forces across the board in recent years while the Soviet Union is on the verge of becoming the world's number one military power if current "trends" continue.

General George Brown, Chairman of the Joint Chiefs of Staff, chastizes those who "evidently think we are still stronger than the Soviets despite what the figures show." General David Jones, Air Force Chief of Staff, states that "in relative terms the Soviets have been running full speed while we have been standing still" and that "as you look at what they are doing, it is mind boggling in every respect." Although President Ford declares that "our military power is without equal," his Secretary of Defense, Donald Rumsfeld declares that "we are not number one if one looks at the basic military capabilities as between the United States and the Soviet Union." As a result of Defense Department briefings, Senator John McClellan, Chairman of the Senate Appropriations Committee, concludes that "all the available measurements show that American power is declining while Soviet power is rising."

How accurate is the Defense Department's presentation of American military weaknesses and Soviet military strengths? Do the "trends" really indicate a sharp decline in U.S. power and the prospect of Soviet superiority? Reliable and credible answers to these questions are not impossible to come by, although election rhetoric provides more confusion than illumination. The artificial crisis of American security that has been created this year makes it difficult, but not impossible, to carry on an informed public discussion of U.S. military requirements.

A more positive appraisal

Spokesmen for the Defense Department and the military services have consistently emphasized comparisons of military forces that "demonstrate" Soviet advantage and U.S. inferiority and decline. Dr. Malcolm Currie, Director of Defense Research and Engineering, tells Congress that "we lead in helicopters and strategic bombers but that is all." Only passing reference is made to facts that complicate the image of an emergent Soviet military superiority, including the following:

1. The United States has 8500 strategic nuclear weapons; the Soviet Union has 2500. This is the most important statement about the strategic balance. The U.S. advantage has been *increasing* in recent years.

2. The United States has almost 1000 strategic missiles with multiple warheads (MIRVs) while the Soviet Union has about 60.

3. The United States has an across-the-board lead in nearly all of the important technological-effectiveness aspects of strategic weaponry, including accuracy, reliability, miniaturization, survivability, advanced electronics and computers, and penetration aids.

4. The United States has more than 400 intercontinental strategic bombers, each of which is much more capable than any Soviet bomber. The Soviet Union has 160 strategic bombers and lacks tanker refueling aircraft to support a large bomber force.

5. The United States has hundreds of military bases far from its territory and close to the Soviet Union. The Soviet Union has few, if any, permanent overseas bases.

6. The United States has a world-wide alliance system, with some allies who make a significant military contribution. The Soviet Union is still essentially a regional power, lacking strong and reliable friends and allies, and must use its forces to defend its borders and police its "allies."

7. The United States armed forces have extensive combat experience after fighting for more than ten years in Southeast Asia. Soviet military forces are almost completely lacking in combat experience.

8. The United States has 13 attack aircraft carriers. The Soviet Union has none.

9. The United States has more than 1100 fixed-wing aircraft at sea. The Soviet Union has none.

10. The United States has eight nuclear-powered surface naval ships. The Soviet Union has none.

11. The United States has 197,000 Marines. The Soviet Union has 17,000. (This and the next item are approximate measures of ability to deploy intervention forces at a distance.)

12. The United States has more than 300 strategic airlift aircraft. The Soviet Union has 60.

13. The United States has about 5400 strategic nuclear weapons on board invulnerable submarines. The Soviet Union has about 750.

14. The United States, as a result of a vigorous R&D program, is on the verge of a number of new technological advances that will probably open up a further lead over the Soviet Union. These include conventional munitions and guidance, satellite navigation systems, and highly accurate strategic missiles.

The list could be extended much further. Not all the "trends" are "adverse trends." A crucial fact that affects nearly all comparisons of numbers of weapons systems is that the United States today continues to have a significant lead in the technological effectiveness of its weapons. Not only do the United States and its allies have a quantitative advantage in many important military areas, the U.S. has a qualitative edge in nearly every respect. The few areas where the Soviet Union has surpassed American technology usually reflect a decision by the Defense Department not to pursue a particular avenue; an example is big liquid propelled ICBMs with large throw-weight.

A familiar refrain

Recent history provides a useful perspective on the present "crisis" of American security. There is little new in the alarms that the Pentagon is raising this year. In fact, the continuity of complaint and prediction about the Soviet military threat is remarkable, extending back to the 1950's and even before. One would search Defense Department statements in vain for any time of acknowledged "decisive U.S. military superiority." The famous NSC–68 report of the National Security Council in 1950 reached the same conclusion widely used today: "The Soviet Union actually possesses armed forces far in excess of those necessary to defend its national territory."

There is a striking similarity between descriptions of the Soviet Union by U.S. military spokesmen 20 years ago and today. In 1958 then-Army Chief of Staff General Maxwell Taylor described the Soviet Army in these terms: "This modernized Soviet Army, the largest in the world, has a completely new postwar arsenal of weapons in being, in the hands of trained troops capable of fighting either a nuclear or non-nuclear war, large or small, in any kind of climate or terrain." In 1958 Thomas S. Gates, the Secretary of the Navy, stated that "The threat to the United States' capacity to control the seas has never been greater" and the Chief of Naval Operations, Admiral Arleigh Burke, already perceived a blue water Soviet naval threat: "The Soviet Navy is operating more and more on the high seas—away from their home waters."

The Gaither Report to the National Security Council in 1957 predicted near-term Soviet military superiority. In 1976 this period in the 1950's is declared to have been an era of "unquestioned U.S. military superiority," a time that former Defense Secretary James Schlesinger has referred to as "Pax Americana." But American military policy makers in 1958 apparently had no confident sense of U.S. military superiority. The uncertain relationship between military forces and a sense of national security is thus evident.

Five years ago, Dr. John Foster, then-Director of Defense Research and Engineering, said that, if present trends continued, "The Soviet Union would assume technological superiority in military research and development in the middle of this decade." According to Defense Department statistics, the trends existing in 1971 *did* continue. However, in 1976 when Dr. Malcolm Currie, Dr. Foster's successor, appeared before Congress he could state that "The United States continues to hold a technological lead over the Soviet Union in most areas critical to our national security." General Daniel Graham, former head of the Defense Intelligence Agency, confirms that "in almost all military technologies we do lead them." Dr. Currie puts off the time when the Soviets might surpass the United States for another ten years, projecting "a potentially grave situation in the mid-1980's."

General George Brown, Chairman of the Joint Chiefs of Staff, has revealed some very encouraging aspects of American military capability which are not widely known. In addressing the military balance between NATO and the Warsaw Pact in Europe, General Brown observes:

"There was a time, not too long ago, when there were arguments about the length and duration of conflict and how soon one side or the other would be forced into the use of nuclear weapons. . . . Now, over a period of time, that has changed dramatically. Today the NATO forces, principally the Germans and U.S. forces, have a very respectable capability to fight without resorting, early on, to nuclear munitions."

These success stories of real increases in U.S. and allied military capability deserve more public attention than they have received.

QUESTIONABLE MILITARY SPENDING COMPARISONS

The newest, and most publicized, Defense Department rationale for a big increase in the U.S. military budget is the allegation that the Soviet Union is outspending the U.S. on defense, by more than 40%. No other "adverse trend" has had quite the impact of this new revelation in creating fears that the United States is falling behind the Soviet Union.

It is ironic that a number of U.S. weapons systems, for example, the B-1 bomber and the strategic cruise missile, are defended by military officials precisely on the grounds that such weapons will "force" the Soviets to expend more money. The Soviets have, of course, invested heavily in strategic defense. In some respect, therefore, it is official U.S. policy to encourage increases in Soviet military spending; while at the same time pointing with alarm to any increase in Soviet spending.

The Central Intelligence Agency, under pressure from the Defense Department, has produced estimates of what it would cost in dollars and U.S. prices for the United States to operate the Soviet military establishment. An exaggerated conception of Soviet military forces is thus created by cloaking them in the much higher costs of American manpower and weapons.

The dollarized estimates of Soviet military spending have nothing to do with what the Soviets actually spend on defense and provide no basis for assessing the adequacy of U.S. military forces. The "new, improved" estimates that have appeared are no refinement of our understanding of Soviet military developments. They are no measure of Soviet military capability. Such magnifications of the costs of Soviet military efforts seem only useful in producing a psychological inflation of the Soviet threat. The exaggeration is perhaps intended to produce the corrollary effect of greater public toleration for high U.S. military costs.

Some U.S. officials have on occasion recognized that the military spending comparisons have severe limitations. Secretary of Defense Donald Rumsfeld has admitted that "It is important to note that these dollar-cost analyses are not measures of how much the Soviets spend on defense, nor are they measures of Soviet military capability, either in absolute terms or in relation to U.S. military capabilities." Rumsfeld's predecessor, James Schlesinger, once commented that "I do not wish to exaggerate the significance of these numbers. Quite obviously, when one translates Soviet manpower into U.S. dollars, the effect is to lead to a much higher cost than is valid." Given these disclaimers by Rumsfeld and Schlesinger, one wonders what the estimates are good for, and it is curious that these comparisons have been given such wide circulation by the Defense Department.

The Central Intelligence Agency itself has made it clear that it does not put much stock in the dollarization of Soviet military effort. The CIA states that "dollar cost calculations tend to overstate Soviet programs relative to the U.S." William Colby, former CIA director, acknowledged that "we do this because of the demand for it" and that "our estimates probably tend to overstate the costs of the Soviet design." And General Daniel Graham, the former director of the Defense Intelligence Agency, agrees that "Any attempt to measure the efforts of a command economy such as the USSR's in terms of the currency of a free economy such as ours is doomed to produce misleading results."

One is forced to agree with General George Brown, Chairman of the Joint Chiefs of Staff, that "It is difficult, and often impossible, for us to determine accurately Soviet military expenditures and expenditure trends." Unfortunately, many spokesmen for the Defense Department have been willing to misuse the dollar estimates for purposes of raising alarm—and the military budget.

The potential threat to the U.S. comes from the size and capability of the Soviet's military effort, not from its cost. The Soviet threat must be assessed with regard to the relevance of its different components to U.S. security and recognition must also be given to the contribution of other nations to the military balance. Not every Soviet action threatens the U.S., nor does the U.S. stand alone in the world.

Need for broader assessment

Only an introduction to a broader assessment can be offered here. A useful public debate over U.S. defense policy has yet to begin as most of the discussion has dealt with irrelevant issues. A careful reading of the remarks of U.S. military leaders reveals some important, but little noted, factors that may be at work in the U.S.-Soviet arms competition.

Secretary Rumsfeld has stated that *"durable negotiations are possible only between equals."* It seems evident that the Soviet leaders have felt the same way and that this consideration has played some role in the Soviet military budget in recent years. General Brown confirms that the interrelationship between Soviet arming and negotiating postures when he predicts that the Soviets will continue to enhance their military posture in the future, "reflecting the Soviet desire to negotiate from a position of increased strength." Negotiating from "strength" is obviously a game that two can and do play. The lack of U.S. interest in naval arms control measures is in part a reflection of the fact that the Soviet Navy still lags substantially behind the U.S. Navy.

General Brown has raised another consideration that may be driving the Soviet military effort when he states that a United States that found itself with fewer friends in the world and in a "Fortress America" situation would "undoubtedly find ourselves spending much more on defense than we do now." It is the Soviet Union, particularly since the Sino-Soviet split, that has found itself in a "Fortress Russia" position. Soviet geographic vulnerabilities are striking and contribute to what William Colby has called "a national historical fixation on the problem of invasion." The "dollar" value of U.S. geographic advantages is incalculable but enormous. These facts should be a cause for confidence in U.S. security, rather than grounds for raising fears.

The Sino-Soviet split has had a fundamental impact on Soviet policy and a somewhat restricted impact on U.S. policy. The Soviet Union has tripled its forces in the Far East during the past decade and, according to President Ford, "half of their military capability is guarding that border."

The Defense Department points out that the Soviets have also improved their military forces facing NATO but this should not be surprising. NATO has improved also. Undoubtedly a number of factors are involved, including instabilities in Eastern Europe. The perceived threat from China probably has created a generalized heightened Soviet sense of insecurity. The Soviet build-up in the east and in the west may be related, rather than separate as described by the Defense Department. (A possible Soviet motivation for a conventional build-up is the belief that this will decrease the likelihood of using nuclear weapons, which may also be in the interests of the West. Raising the nuclear threshold has certainly been a major motivation for NATO's expansion of conventional forces.)

In addition to its military concern with China, the Soviet leadership has been very conscious of the build-up of European NATO forces in recent years, particularly West Germany. The military expenditures of the European NATO members have risen from $24 Billion in 1970 to $57 Billion in 1975. The combined navies of the European members of NATO are probably at least as potent as the Soviet Navy and their ship construction programs are also impressive. According to the Defense Department, America's NATO allies "can deploy more major surface combatants, more submarines, more mine warfare vessels and more sea-going patrol vessels than the U.S."

Even using the Defense Department's inflated estimates of Soviet defense spending, NATO's defense spending exceeds that of the Warsaw Pact, approximately $149 Billion versus $122 Billion in 1975. Secretary Rumsfeld states that *"Comparisons of total military manpower and numbers of weapons across a large number of categories show a rough balance between NATO and the Warsaw Pact."* The conventional force balance—the traditional area of Soviet numerical strength—indicates that NATO combines rough quantitative equality with qualitative superiority.

Consequence of Vietnam war?

In examining the broad context in which the growth of Soviet military capability has occurred, the massive long-term U.S. military involvement in Indochina has been an important factor. There was an apparent relationship between the Cuban missile crisis in 1962 and the build-up of Soviet military forces—perhaps a lesson for the U.S. in the dangerous and unanticipated consequences of the exhibition of military muscle. Just as the United States has not been indifferent to Soviet involvement in Angola, American willingness to conduct an extended war in Vietnam, far from "traditional" areas of U.S. concern, may have led the Soviet Union to strengthen its military forces. In the 1950's and 1960's the number of Soviet military personnel declined, reaching a minimum in 1965; the subsequent expansion coincided in part with the growth of U.S. involvement in Indochina.

ELEMENTS OF U.S. STRATEGIC SUPERIORITY

To excite the public about dangers of U.S. inferiority in strategic weapons requires extraordinary contortions at a time when the United States has some 8500 strategic nuclear weapons and the Soviet Union has about 2500 and the "trend" has been in favor of the U.S. [See chart on page 6.] Indeed, Secretary of State Henry Kissinger has made it clear that he considers the Defense Department's "fanciful nuclear scenarios" and other devices used to create alarm to be foolish and dangerous. He criticizes "overawed technocrats" and states that "we must not mesmerize ourselves with ficticious 'gaps'."

In part, the American people are suffering the consequences of an accidental conjunction of events. The Defense Department's "requirement" for huge increases in funding for major new strategic weapons programs—the B–1 bomber and the Trident submarine in particular—are occuring at the same time. It may appear to the Pentagon that the only way to obtain increased Congressional funding is to overstate the threat.

Secretary Kissinger has recently commented that "our technology has always been ahead of the USSR by at least five years." This remains true today, as indicated by Soviet lags in MIRVing and the tremendous U.S. advantages in miniaturization, propulsion capability, and guidance which have applications in many fields. In the strategic cruise missile program, for example, Air Force Secretary Thomas Reed estimates that the U.S. has a ten year advantage over the Soviets. Secretary Rumsfeld lists as one of the elements of U.S. advantage "accuracy of missiles, especially in the potential for a major quantum improvement." This is an instructive statement, in view of allegations that the Soviets will close the accuracy gap.

The evidence indicates that the United States has durable superiority (although of questionable military or political importance) in strategic forces over the Soviet Union and that this superiority has been increasing in recent years. The "trends" in the past five years have *not* been towards the "rough equivalence" of which Secretary Rumsfeld speaks. President Ford's speeches on the campaign trail have described some elements of U.S. strategic superiority, but Defense Department officials very rarely admit the reality of U.S. advantage. An exception is a recent statement by Major General Robert C. Marshall, the Army's Ballistic Missile Defense Program Manager, that warned a Congressional committee about Soviet programs "which could lead them to strategic equivalence" and referred to the danger that "in the next decade, we face . . . the possible loss of our strategic superiority over the Soviet Union."

The Defense Department speaks consistently of the intensification of the Soviet strategic threat. Information about new Soviet developments that indicates an increasing threat is quickly passed to the press but contrary information is usually not publicized. For example, a little-noted statement by Dr. Malcolm Currie that Soviet MIRVing has been slower than expected appeared in a recent hearing of the House Armed Services Committee: "Current information on Soviet ICBM conversions indicates a somewhat slower pace than had been projected in late 1975." In June 1975 former Defense Secretary Schlesinger announced that the Soviets had 60 operational MIRVed ICBMs but almost a year later the Pentagon has announced no new updating of this number. In fact, Secretary Rumsfeld has quietly decreased by 300 Schlesinger's estimate of how many strategic nuclear weapons the Soviets had in mid-1975. We hear little about the problems that the Soviets probably are having in mastering the enormously complex MIRV technology.

Former Defense Secretary Schlesigner attempted to provide a new thrust to U.S. strategic programs by enunciating requirements for nuclear weapons that would accomplish complex feats of politico-military coercion. This is the counterforce or "flexible options" approach. President Ford and Secretary Rumsfeld, however, have made statements that seem to question the Schlesinger doctrine. President Ford has warned against "fast and fancy gunplay with weapons that can destroy the human race." Secretary Rumsfeld states that "although we can lower their yields and refine their effects in various ways, we cannot be certain that enemies would treat them as other than very blunt instruments." The logical implication of such remarks would be to constrain programs whose rationale is the presumed usefulness of "fancy gunplay" and "refined instruments." Schlesinger stated that "the change in targeting doctrine can be implemented without the procurement of any additional weapons." Yet the new budget increases funding for such programs.

Another area of confusion within the Administration concerns the degree of seriousness to be given to scenarios of possible future Soviet nuclear attack. This involves again the military and political feasibility of nuclear war. Secretary Kissinger has decisively rejected the common Defense Department view, enunciated most explicitly by former Navy Secretary Paul Nitze and Admiral Zumwalt, that presents fanciful contingencies of Soviet nuclear attack as imminent dangers. Kissinger states:

"To be sure, there exists scenarios in planning papers which seek to demonstrate how one side could use its strategic forces and how in some presumed circumstance it would prevail. But these confuse what a technician can calculate with what a responsible statesman can decide. They are invariably based on assumptions such as that one side would permit its missile silos to be destroyed without launching its missiles before they are actually hit—on which no aggressor would rely where forces such as those possessed by either the U.S. or the USSR now and in the years ahead are involved."

This view is supported by General David Jones, Air Force Chief of Staff, who believes that "it will be a long time before they could disarm the Minuteman force with any great assurance. I question whether they will ever be able to achieve that."

Nuclear forces in particular do not deserve alarmist concerns about U.S. weaknesses, today or in the future. General Brown has observed that China has "a modest, but credible, nuclear retaliatory capability against the USSR." In China, whose nuclear forces are much smaller than those of the USSR, nevertheless has a "credible" retaliatory capability, perhaps we need not be so alarmed about our own alleged inadequacies.

CONTINUING U.S. NAVAL SUPERIORITY

Some observers point to the growth of the Soviet Navy as a cause for concern about the condition of U.S. security and a reason for a big increase in the U.S. military budget. This is certainly a more important issue than the comparisons of military spending or the strategic balance.

One school of thought maintains in essence that Russia needs no navy, and views Soviet naval activity as evidence of Soviet intention either to dominate the world or create dangerous mischief. Yet, the Soviet Union *does* have very demanding requirements for naval forces, not the least of which are caused by the enormous threat posed by American strategic submarines and nuclear weapons on board aircraft carriers. Even today's Soviet Navy cannot protect the Soviet Union from utter devastation launched from the sea.

The widely separated Soviet fleet areas also place great demands on Soviet naval forces. The fact that Soviet ships have to pass through very vulnerable geographical choke points to reach open water also drives the Soviets toward constructing more than a token navy. General Graham, former head of the Defense Intelligence Agency, has noted the problems that the Soviets face in developing a capability to *operate on the broad* oceans: "It is a tough thing for the Soviet Navy to come up with that kind of capability. Their seas are landlocked. They have to get out of the North Sea between the ice and Norway. They have to get out of the Black Sea through the Dardenelles. They have to get through the Sea of Japan. They have a tough problem."

Another factor which contributes to Soviet naval expansion is the example that the United States has set of superpower behavior. American demonstrations of naval force encourage the Soviet Union to throw its naval weight around. Joint Chiefs Chairman General Brown states that "U.S. naval task groups . . . have been routinely dispatched to crisis areas as signs of American intentions to influence the outcome." Since 1955, the Defense Department reports, aircraft carriers have been involved in 54 such situations. If the United States persists in a "routine" pattern of gunboat diplomacy, it should be no surprise if the Soviet Union follows the leader. A Soviet naval officer, reading Chief of Naval Operations Admiral James Holloway's description of the advtntages of a "forward" naval strategy, entirely for "defensive" purposes, would have little difficulty in applying the same arguments to his own country. Pointing out this fact is not an effort to portray the Soviet Navy as benign but rather a caution that for our own national interests perhaps greater circumspection in the use of naval power and less grandiose objectives may be desirable. Observing "habits of restraint" must be mutual.

Some of the commonly held impressions of the expansion of the Soviet Navy are not true. As the much-cited Library of Congress study on the U.S.-Soviet military balance concluded, "the Soviet Navy . . . is still structured primarily to protect the mother country."

President Ford stated in February 1976 that "in the last five years the Soviet Union has increased their navy tremendously." Actually, other than strategic submarines, there has been little increase in the size of the major components of the Soviet Navy in recent years. The Soviets, as has the United States, have been retiring older ships as new ones are built. This is consistent with the intelligence information revealed by Congressman Les Aspin that only 3% of the growth in Soviet defense spending over the 1964–1974 period went into naval general purpose forces.

General Brown notes that *"Soviet naval growth is moderate, below estimated shipyard facilities capacity."* He says that "the overall force level of Soviet major surface combatants is expected to gradually decrease slightly over the next decade."

Soviet naval threats

The major military threat from Soviet surface ships is the anti-ship missile. The United States has, until recently, concentrated on improving carrier-based airpower while the Soviets developed less expensive anti-ship missiles. The Soviets have deployed such missiles in profusion, although there is some doubt about their real capabilities and effectiveness. Until recently, the U.S. intelligence community ascribed triple its real range to a Soviet antiship missile which had been operational for years. The United States is in the process of closing the anti-ship missile gap. By 1980 the advanced Harpoon anti-ship missile will be deployed on virtually all U.S. surface combatants and on many aircraft as well.

Even today, without a serious U.S. anti-ship missile capability, General Brown believes that, "Soviet surface ships . . . are considered particularly vulnerable to concerted Western air or submarine attack." This is true chiefly because of the necessity for Soviet ships to pass through geographical choke points where they are vulnerable to land-based aircraft or barriers of mines and submarines. Further, as General Brown states, "once in open water, the missile-armed Soviet surface combatants once detected, must contend with carrier strike aircraft well before they can reach the launch points for their surface-to-surface missiles."

The Soviet submarine force is probably the most significant Soviet naval threat. Secretary Kissinger, in another context, has commented that "there is nothing new about the size of the Soviet army." The same is true of the Soviet submarine force. The number of Soviet attack submarines has been subsantially larger than the number of U.S. attack submarines for many years. In 1965, the Soviets had 336 attack submarines (including those armed with cruise missiles). In 1975 they had 253. The Defense Department projects a continuing decline of Soviet numbers. The United States has more nuclear-powered attack submarines—and has been deploying more in recent years—which are far superior in speed, endurance, operating depth and overall effectiveness to diesel-powered subs. Diesel subs must operate at or near the surface most of the time they are at sea and are, as a result, highly vulnerable. Soviet submarines also suffer from the serious weakness of being "noisy," which increases their vulnerability to sonar detection. U.S. anti-submarine warfare capability is substantially more extensive than that of the Soviet Union and, according to Admiral James Holloway, the U.S. advantage is growing: "they are really not moving [as] fast today in my opinion as we are."

Much attention has been given to increased Soviet naval deployments around the world, although the U.S. Navy continues to operate its ships far more extensively than does the Soviet Navy. After a period of Soviet expansion, primarily in the Mediterranean, however, the "trend" seems to have stabilized and, according to Secretary Rumsfeld, "Soviet naval peacetime presence . . . now appears to have stabilized at a level below that of the overall U.S. presence." In terms of capability to support, protect, and deploy naval forces at a distance the United States today has an overwhelming advantage over the Soviet Union, which is still essentially a regional naval power whose forces are very vulnerable when outside the protection of land-based aircover.

The "trend" in distant development capability may be in favor of the United States. General David Jones, Air Force Chief of Staff, reports that "the past few years have witnessed a major growth in our capability to deploy forces beyond our shores. . . . This capability includes not just Air Force forces but Army, Marine Corps, and Naval forces as well."

The United States has some 100 naval war ships under construction or funded. In major surface combatants—those over 3,000 tons—U.S. ship construction has greatly exceeded that of the Soviet Union in recent years, according to Defense Department figures released by Senator Patrick J. Leahy. Since 1960, the U.S. has built 122 ships over 3,000 tons, while the Soviet Union has built only 57. In every five year period since 1960, U.S. construction has exceeded that of the Soviet Union in large ocean-going naval vessels. Comparisons of total NATO with total Warsaw Pact naval construction makes the NATO advantage even sharper.

The Secretary of the Navy, J. William Middendorf, states that "The United States Navy has major assets not possessed by the Soviet Union, such as superior aircraft carriers, quieter submarines, and more highly qualified personnel. Therefore, there is no validity to the charge that 'we are falling farther and farther behind the Soviet Union in sea power.'"

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Hicks (at the request of Mr. O'Neill) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. Fenwick) and to revise and extend their remarks and include extraneous matter:)

Mr. Martin, for 10 minutes, today.
Mr. Bob Wilson, for 10 minutes, today.

The following Members (at the request of Mr. AuCoin), to revise and extend their remarks, and to include extraneous matter:)

Mr. Wolff, for 30 minutes, today.
Mr. Vanik, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Ms. Abzug, for 30 minutes, today.
Mr. Koch, for 10 minutes, today.
Mr. Minish, for 10 minutes, today.
Ms. Abzug, for 30 minutes, on June 3.
Ms. Holtzman, for 15 minutes, today.
Mr. Brademas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. Holtzman, and to include extraneous matter, notwithstanding the fact that it exceeds 3½ pages of the Record and is estimated by the Public Printer to cost $1,001.

(The following Members (at the request of Mrs. Fenwick) and to include extraneous matter:)

Mr. Schneebeli.
Mr. Gradison.
Mrs. Pettis.
Mr. Rousselot.
Mr. Esch.
Mr. Rhodes.
Mr. Armstrong.
Mr. Lagomarsino.
Mr. Anderson of Illinois in two instances.
Mr. Emery.
Mr. Gilman.
Mr. Skubitz in three instances.
Mr. Spence.

(The following Members (at the request of Mr. AuCoin) and to include extraneous matter:)

Mr. Green in three instances.
Mr. Roybal.
Mr. Vanik in three instances.
Mr. Milford.
Mr. Wolff.
Mr. Mazzoli.
Mr. Young of Georgia.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Ford of Michigan in five instances.
Mr. Maguire.
Mr. Baucus in two instances.
Mr. Badillo in two instances.
Mr. Hungate in three instances.
Mr. Ottinger.
Mrs. Burke of California.
Mr. McHugh in three instances.
Mr. Gibbons.
Mr. Rangel.
Mr. Carney.
Ms. Abzug in two instances.
Mr. Jones of Tennessee in two instances.
Mr. Alexander in two instances.
Mr. Baldus.
Mr. Breckinridge in two instances.
Mr. Waxman.
Mr. Drinan.
Mr. John L. Burton.
Mr. Lloyd of California.
Mr. Rosenthal in two instances.
Mr. Edgar.
Mrs. Collins of Illinois.
Mr. Wirth in two instances.
Mrs. Spellman.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 52. An act for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano; and

S. 223. An act for the relief of Angela Garza and her son Manual Aguilar (aka Manuel Garza.)

ADJOURNMENT

Mr. AuCOIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 19 minutes p.m.) the House adjourned until tomorrow, Thursday, June 3, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3414. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with the Korea Electric Co. (KECO) and private financial institutions which exceeds $80 million, pursuant to section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Currency and Housing.

3415. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with three Spanish electric utilities and private financial institutions which execeds $60 million, pursuant to section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Currency and Housing.

3416. A letter from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Self-Government and Government Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

3417. A letter from the U.S. Commissioner of Education and the Chairman, National Advisory Council on Career Education, transmitting a report on career education in public schools, pursuant to section 406(e) and (g)(4) of Public Law 93-380; to the Committee on Education and Labor.

3418. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the assignment of foreign service officers to public organizations, pursuant to section 576(e) of the Foreign Service Act of 1946, as amended (89 Stat. 764; 22 U.S.C. 966(e)); to the Committee on International Relations.

3419. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Pakistan (transmittal No. 76-53), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

3420. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting the annual report of the Service for fiscal year 1975; to the Committee on the Judiciary.

3421. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Urban Mass Transportation Act of 1964, as amended, to repeal section 3(h); to the Committee on Public Works and Transportation.

3422. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to extend the appropriations authorizations for reporting of weather modification activities; to the Committee on Science and Technology.

3423. A letter from the Chairman, Commission on Federal Paperwork, transmitting recommendations for reducing the paperwork burden caused by rules and regulations; jointly, to the Committees on Government Operations, and the Judiciary.

Received from the Comptroller General

3424. A letter from the Acting Comptroller General of the United States, transmitting his review of the revised deferral of budget authority contained in the message from the President dated April 13, 1976 (H. Doc. No. 94-454), pursuant to section 1014(c) of Public Law 93-344 (H. Doc. No. 94-515); to the Committee on Appropriations and ordered to be printed.

3425. A letter from the Comptroller General of the United States, transmitting a report on the evacuation and temporary care phases of the Indochina Refugee Program; jointly, to the Committees on Government Operations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1242. Resolution providing for the consideration of H.R. 8401. A bill to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope 235, to provide for authorization of contract authority therefor, and for other purposes (Rept. No. 94-1205). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1243. Resolution providing for the consideration of H.R. 10133. A bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes (Rept. No. 94-1206). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1244. Resolution providing for the consideration of H.R. 11743. A bill to establish a National Agricultural Research Policy Committee, and for other purposes (Rept. No. 94-1207). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1245. Resolution providing for the consideration of H.R. 12944. A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 6 months (Rept. No. 94-1208). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1246. Resolution providing for the consideration of H.R. 13636. A bill to amend title I (Law Enforcement Assistance) of the Omnibus Safe Streets and Crime Control Act of 1968, and for other purposes (Rept. No. 94-1209). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13500. A bill to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities; with amendment (Rept. No. 94-1210). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Post Office and Civil Service. H.R. 12114. A bill to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts; with amendment (Rept. No. 94-1211). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 14131. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, to provide benefits for certain divorced husbands and former husbands, to provide benefits to husbands based on having minor children in their care, and to provide benefits for widowed fathers with minor children, so that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers; to the Committee on Ways and Means.

H.R. 14132. A bill to amend title II of the Social Security Act to provide for the payment of full wife's, husband's, widow's, and widower's insurance benefits without regard to age in cases of disability, and for related purposes; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois (for himself, Ms. Jordan, Mr. Fithian, Mr. Hinshaw, and Mr. Koch):

H.R. 14133. A bill to reorganize the executive branch of the Federal Government to eliminate excessive, duplicative, inflationary, and anticompetitive regulation; jointly, to the Committees on Government Operations, and Rules.

By Mr. ASHLEY (for himself, Mr. Blanchard, and Mr. Broyhill):

H.R. 14134. A bill to stimulate the purchase of new and existing housing, to assure the steady flow of capital into the mortgage market, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. GIBBONS (for himself and Mr. Corman):

H.R. 14135. A bill to require the Internal Revenue Service to publicize for each year the number of individuals with economic incomes in excess of $200,000 who paid little or no Federal income taxes; to the Committee on Ways and Means.

By Mr. LOTT:

H.R. 14136. A bill to provide that amounts received under the Armed Forces health professions scholarship program shall continue to be excluded from income under section 117 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. Patterson of California, Mr. LaFalce, Mr. Hayes of Indiana, and Mr. D'Amours):

H.R. 14137. A bill to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. RONCALIO:

H.R. 14138. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mr. ST GERMAIN (for himself, Mr. Badillo, Mr. Helstoski, and Mr. Rodino):

H.R. 14139. A bill to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part in gold; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHNEEBELI:

H.R. 14140. A bill to suspend until the close of June 30, 1979, the duty on concentrade of poppy straw used in producing codeine or morphine; to the Committee on Ways and Means.

By Mr. STEELMAN (for himself and Mr. D'Amours):

H.R. 14141. A bill to regulate lobbying and related activities; jointly to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. BRINKLEY (for himself, Mr. Breckinridge, Mr. Badillo, Mr. Gilman, Mr. Guyer, Mr. Hinshaw, Mr. Hyde, Mr. Jenrette, Mr. Ketchum, Mr. Kindness, Mr. Long of Maryland, Mr. Montgomery, Mr. Pepper, Mr. Sarasin, Mr. Sisk, Mr. J. William Stanton, Mr. Stark, Mr. Walsh, Mr. White, Mr. Winn, and Mr. Won Pat):

H.R. 14142. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. EDGAR (for himself, Mr. Cornell, Mr. D'Amours, Mr. Downey of New York, Mr. Hughes, Mr. Moffett, Mr. Holland, Mr. Dodd, Mr. Beard of Rhode Island, Mr. Hannaford, Mr. Levitas, Mrs. Lloyd of Tennessee, Mr. Koch, Mr. LaFalce, Mr. de Lugo, Mr. Ford of Tennessee, Mr. MaGuire, Mr. Metcalf, Mr. Fountain, Mr. Fraser, Mr. Gilman, Mr. Florio, Mr. Harkin, Mr. Hechler of West Virginia, and Mr. Hall):

H.R. 14143. A bill to amend title 38 of the United States Code in order to extend under certain circumstances the delimiting period for completing veterans' education programs and to provide a teach-down period for veterans who have committed themselves to furthering their education; to the Committee on Veterans' Affairs.

By Mr. EDGAR (for himself, Mr. Pressler, Mr. Patten, Mr. Perkins, Mr. Ottinger, Ms. Chisholm, Mr. John L. Burton, Ms. Burke of California, Mr. Carr, Mr. Cleveland, Mr. Conte, Mr. Corman, Mr. Russo, Mr. Bedell, Mr. Duncan of Tennessee, and Mr. Stokes):

H.R. 14144. A bill to amend title 38 of the United States Code in order to extend under certain circumstances the delimiting period for completing veterans' education programs and to provide a teach-down period for veterans who have committed themselves to furthering their education; to the Committee on Veterans' Affairs.

By Mr. EDGAR (for himself, Mr. Dominick V. Daniels, Mr. Drinan, Mr. Eckhardt, Mr. Fish, Ms. Holtzman, Mr. Heinz, Mr. Kindness, Mr. Jacobs, Ms. Keys, Mr. Howe, Mr. Howard, Mr. Kastenmeier, Mr. Ambro, Mr. Horton, Mr. Jeffords, Mr. Helstoski, Mr. Jenrette, Mr. Jones of Oklahoma, and Mr. Kasten):

H.R. 14145. A bill to amend title 38 of the United States Code in order to extend under certain circumstances the delimiting period for completing veterans' education programs and to provide a teach-down period for veterans who have committed themselves to furthering their education; to the Committee on Veterans' Affairs.

By Ms. HOLTZMAN:

H.R. 14146. A bill to amend titles 18 and 28 of the United States Code to limit the circumstances in which an individual appearing before certain grand juries can be held in contempt and to limit the imprisonment for such contempt; to the Committee on the Judiciary.

By Ms. HOLTZMAN (for herself, Mr. Baucus, Mr. Fithian, Mr. Gibbons, Mr. Gude, Mr. Howard, Mr. Jones of North Carolina, Mr. Maguire, and Mr. Patterson of California):

H.R. 14147. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for certain diagnostic tests and examinations given for the detection of breast cancer; to the Committee on Ways and Means.

By Mr. LITTON:

H.R. 14148. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that the taxes presently imposed for medicare purposes shall be added to the taxes imposed for purposes of the OASDI program to assist in financing such program, and to provide that the medicare program shall hereafter be financed from general revenues rather than through such taxes; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Ms. Abzug, Mrs. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. de Lugo, Mr. Downey of New York, Mr. Eilberg, Mr. Harris, Mr. Helstoski, Mr. Koch, Mr. McFall, Mr. Rangel, Mr. Riegle, Mr. Waxman, and Mr. Charles H. Wilson of Texas):

H.R. 14149. A bill to amend title II of the Social Security Act to provide for the entitlement of disabled widows and widowers to unreduced widow's and widower's insurance benefits without regard to age; to the Committee on Ways and Means.

By Ms. ABZUG:

H.J. Res. 969. Joint resolution designating August 26, 1976, as Women's Equality Day; to the Committee on Post Office and Civil Service.

By Mr. DOWNEY of New York (for himself, Mr. Roybal, Mr. Addabbo, Mr. Riegle, Mr. Ambro, Mr. Mitchell of Maryland, Mr. Howard, Mr. Richmond, Mr. Cotter, Mr. Beard of Rhode Island, Mr. LaFalce, Mr. Eilberg, Mr. Koch, Mr. Russo, Mr. Dellums, Mr. Ottinger, Mr. Hughes, Mr. Pattison of New York, Mr. Cornell, Ms. Abzug, Ms. Holtzman, Mr. Edwards of California, Mr. Rosenthal, and Mr. Badillo):

H.J. Res. 970. Joint resolution to plan and conduct a Congressional Conference on Aging in 1977; to the Committee on Rules.

By Mr. ROYBAL (for himself, Mr. Armstrong, Mr. Cederberg, Mr. Chappell, Mr. Gilman, Mr. Jenrette, Mr. Johnson of Pennsylvania, Ms. Keys, Mr. Mann, Mr. Moakley, Mr. Murphy of New York, Mr. Patten, Mr. Patterson of California, Mr. Perkins, Mr. Solarz, Mr. Yates, and Mr. Yatron):

H.J. Res. 971. Joint resolution. authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. ANDERSON of Illinois:

H. Res. 1235 Resolution to amend rule X of the Rules of the House of Representatives to permit a majority of the House to direct the Committee on Standards of Official Conduct to investigate complaints or resolutions involving alleged misconduct if the committee fails to undertake an investigation within 15-legislative days after the receipt of such complaint or referral of such resolution; to the Committee on Rules.

By Mr. ASHBROOK:

H. Res. 1236. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. HANLEY (for himself, Mr. Clay, Mr. Neal, Mr. Jenrette, Mr. Lott, Mr. Taylor of Missouri, Mr. Abdnor, Mr. Alexander, Mr. Baldus, Mr. Baucus, Mr. Bergland, Mr. Boland, Mr. Bowen, Mr. Burgener, Mr. John L. Burton, Mrs. Chisholm, Mr. Don H. Clausen, Mr. Danielson, Mr. Davis, Mr. Downey of New York, Mr. Drinan, Mr. Edgar, Mr. English, Mr. Emery, and Mr. Findley):

H. Res. 1237. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Services.

By Mr. HANLEY (for himself, Mr. Fish, Mr. Fisher, Mr. Fithian, Mr. Flood, Mr. Flowers, Mr. Foley, Mr. Fraser, Mr. Fuqua, Mr. Gonzalez, Mr. Goodling, Mr. Haley, Mr. Hall, Mr. Hammerschmidt, Mr. Hansen, Mr. Harkin, Mr. Hays of Ohio, Mr. Hechler of West Virginia, Mr. Hefner, Mr. Hightower, Mr. Horton, Mr. Hungate, Mr. Kastenmeier, and Ms. Keys):

H. Res. 1238. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. HANLEY (for himself, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. Kindness, Mr. LaFalce, Mr. Lagomarsino, Mr. McCloskey, Mr. McDade, Mr. McEwen, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Obey, Mr. Ottinger, Mr. Perkins, Mrs. Pettis, Mr. Peyser, Mr. Poage, Mr. Pressler, Mr. Roberts, Mr. Santini, Mr. Sebelius, Mr. Shipley, Mr. Shriver, Mr. Sisk, and Mr. Slack):

H. Res. 1239. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. HANLEY (for himself, Mrs. Smith of Nebraska, Mr. Stark, Mr. Steiger of Wisconsin, Mr. Stuckey, Mr. Teague, Mr. Ullman, Mr. Vander Jagt, Mr. Walsh and Mr. Weaver):

H. Res. 1240. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland (for himself, Mr. Harris, Mr. Russo, Mr. Traxler, Mr. Tsongas, Mr. Ambro, Mr. Jeffords, Mr. Symington, Mr. Dominick V. Daniels, Mr. Duncan of Oregon, Mr. Baldus, Mr. Green, Mr. McKinney, Mr. Nolan, Mr. McDade, Ms. Fenwick, Mr. Jacobs, Mr. Moorhead of Pennsylvania, Mr. Rooney, Mr. Ashley, Mr. Matsunaga, Mr. D'Amours, Mr. Armstrong, Mr. Anderson of California, and Mr. Moffett):

H. Res. 1241. Resolution creating the Select Committee on Nuclear Proliferation and Nuclear Export Policy; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McCLOSKEY:

H.R. 14150. A bill for the relief of Doris Mauri Coonrad; to the Committee on the Judiciary.

By Mr. WIGGINS:

H.R. 14151. A bill for the relief of Mrs. Young Hee Kim Kang, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

482. The SPEAKER presented a petition of the Sparta Area Chamber of Commerce, Sparta, Wis., relative to the Arctic gas project pipeline, which was referred jointly, to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6218

By Mr. DODD:

Page 74, line 8, immediately after "laws." insert the following: "If the Attorney General or the Federal Trade Commission advises the Secretary, within such thirty-day period, that a proposed lease or extension may create or maintain a situation inconsistent with the antitrust laws, the Secretary may issue such lease or allow such extension only if—

"(1) he commences a public hearing on the record within sixty days after the date of the receipt of such advice, in accordance with chapter 5 of title 5, United States Code; and

"(2) he makes a finding, pursuant to such hearing, that the overall benefit to the public from the issuance or extension of such lease clearly outweighs any possible adverse effect upon competition and that there is no reasonable alternative which would have a lesser adverse effect upon competition."

By Mr. du PONT:

On page 56, line 14, strike "shall", and insert "may" in lieu thereof.

On page 92, line 16, strike all after "(a)" down through page 94, line 16, and insert in lieu thereof the following: "Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a study of the adequacy of safety regulations in effect on such date of enactment, and of the technology, equipment, and techniques available for the exploration, production and development of natural resources, with respect to the Outer Continental Shelf. The results of this study shall be submitted to the Congress, together with a plan of action which each Secretary proposes to take, working alone and in consultation with the other, under their respective authorities under this or other Acts, to promote safety, health, and environmental protection in the exploration, production and development of natural resources of the Outer Continental Shelf.

"(b) In exercising their respective responsibilities for floating, temporarily fixed, or permanently fixed structures for the exploration, production and development of the natural resources of the Outer Continental Shelf, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall require the use of the best available and safest technology which the respective Secretary determines to be economically achievable, wherever use of less than such technology would cause operations conducted pursuant to this Act to pose a significantly greater threat to safety, health, or the environment, on all new drilling and production operations and, wherever practicable, on existing operations.

"(c) Nothing in this section shall affect any authority otherwise provided by law to the Secretary of Labor for the protection of occupational safety and health, to the Administrator of the Environmental Protection Agency for the protection of the environment, or to the Secretary of Transportation with respect to pipeline safety."

On page 94, line 17, strike "(2)", and insert in lieu thereof "(d)".

On page 95, strike lines 4 through 7.

Strike page 95, line 14, down through page 99, line 23, and insert in lieu thereof the following:

"SEC. 22. ENFORCEMENT OF ENVIRONMENTAL, HEALTH, AND SAFETY REGULATIONS.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental, health, and safety regulations which either has promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations within one hundred and twenty days after the date of enactment of this section to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the outer Continental Shelf which is subject to any environmental, health, or safety regulation promulgated pursuant to this Act, which inspection shall include, whenever practical, testing of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health, or safety regulations.

"(c) Any authorized representative of the Secretary or of the Secretary of the Department in which the Coast Guard is operating, upon presenting appropriate credentials to the owner or operator of any facility subject to inspection pursuant to subsection (b) of this section, shall be authorized to—

"(1) enter without delay any part of such facility; and

"(2) examine any document or record which is pertinent to such inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire, major personal injury, and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four-hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary conducting such investigation shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"(e) The Secretary, or the Secretary of the Department in which the Coast Guard is operating shall consider any allegation from any person of the existence of a violation of any safety regulation which such Secretary has issued pursuant to this Act."

On page 104, after line 15, insert the following new subsection:

"(e) Notwithstanding any other provision of this section, this section shall not apply to any action which is commenced to require compliance with any provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

On page 104, line 17, strike "Labor", and insert in lieu thereof "the Army".

On page 105, line 6, strike "Labor", and insert in lieu thereof "the Army".

By Mr. FISH:

Page 45, strike out line 1 and all that follows through page 123, line 9, and insert in lieu thereof the following:

TITLE II—IMPROVED MANAGEMENT OF OUTER CONTINENTAL SHELF ENERGY RESOURCES

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the zone defined in section 304(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(a)), the inward boundaries of which may be identified by the several coastal States pursuant to the authority of section 305(b)(1) of such Act;

"(f) The term 'coastal State' means a coastal State as such term is defined in section 304(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(c));

"(g) The term 'affected State' means a State which is designated as such pursuant to section 23 of this Act;

"(h) The term 'environment' means the marine, coastal, or human environment, as appropriate, and includes economic, esthetic, and social factors;

"(i) The term 'Governor' means the Governor of a State or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(j) The term 'exploration' means the process of searching for oil, gas, or other minerals, including (1) geophysical surveys in which magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, and (3) the drilling of any additional well needed after such discovery to delineate the reservoir and to enable a lessee to determine whether to proceed with development and production;

"(k) The term 'development' means those activities which (1) take place following discovery of oil, gas, or other mineral resources in commercial quantities, including drilling, emplacement and outfitting, pipelaying, and platform construction and other on-shore support activities, and (2) are for the purpose of ultimately producing such resources;

"(l) The term 'production' means the removal of oil, gas, or other minerals from the outer Continental Shelf, and other activities which take place after the successful completion of a development well or other means for such removal, including field operation, transfer of oil, gas, or other minerals to shore, operation monitoring, maintenance, and workover drilling;

"(m) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(n) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(o) The term 'antitrust law' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer

Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the minerals of the outer Continental Shelf constitute a vital national resource held by the Federal Government in trust for the benefit of the public;

"(4) lands of the outer Continental Shelf determined to be both geologically favorable for the accumulation of oil, gas, and other minerals, and capable of supporting exploration therefor, and development and production thereof, without undue environmental harm or damage, be made available for such purposes in an orderly manner which is consistent with the maintenance of competition and other national needs;

"(5) affected States, in recognition of their rights and responsibilities to preserve and protect their environment through such means as regulation of land, air, and water uses, and of other related activity and development, be assured the opportunity to participate, to the extent consistent with the national interest and in accordance with the provisions of this Act, in policy and planning decisions relating to leasing, exploration, development, and production activities under this Act by means which include timely access to information relating to such activities and opportunity for review and comment before succh decisions are made and thereafter; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) (1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a) (1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all structures permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing and transporting resources therefrom" and inserting in lieu threof "or producing resources therefrom, or any such structure (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a) (2) of such Act is amended to read as follows:

"(2) (A) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each coastal State adjacent to the outer Continental Shelf, as in effect on the date of enactment of this paragraph, are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and those artificial islands and structures referred to in paragraph (1) of this subsection, which would be within the area of such State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf. After such date of enactment—

"(i) any change in any criminal law of such State shall be adopted as the law of the United States, for purposes of this paragraph at the same time such change takes effect in such State; and

"(ii) any change in any civil law of such State during the five-year period beginning on such date of enactment shall be adopted as the law of the United States, for purposes of this paragraph, at the end of such five-year period, and any change during any subsequent five-year period shall be adopted in the same manner at the end of the five-year period in which such change occurs.

Within one year after the date of enactment of this paragraph, the President shall determine and publish in the Federal Register projected lines extending seaward and defining each such area. The President may, prior to such determination, establish procedures for settling any outstanding boundary disputes relating to the projection of such lines. All of such applicable and consistent State laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

"(B) Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf, including any dispute involving international boundaries between the jurisdictions of the United States and Canada and between the jurisdictions of the United States and Mexico.".

(c) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island or structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the coastal State, the laws of which apply to such artificial island or structure pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the coastal State nearest the place of location of such artificial island or structure.".

(d) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)".

(e) Section 4(e) (1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(f) Section 4(e) (2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island or structure referred to in subsection (a) whenever the owner has failed suitably to mark such island or structure in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF

SEC. 204. (a) (1) The second and third sentences of section 5(a) (1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a) (1)) are amended to read as follows: "The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the maximum recovery, prevention of waste, and conservation of the natural resources of the outer Continental Shelf, and for the protection of the marine and coastal environments; and, notwithstanding any other provision of this Act, such rules and regulations shall apply to all operations conducted pursuant to any lease issued or maintained under the provisions of this Act. In the administration of conservation or environmental laws, rules, and regulations, the Secretary is authorized to cooperate with the conservation and environmental agencies of the adjacent coastal States.".

(2) The fourth sentence of such section 5(a) (1) is amended by striking out "for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value,".

(b) The first sentence of section 5(a) (2) of such Act is repealed.

SEC. 205. Section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) is amended—

(1) in the first sentence thereof, by inserting "(a)" immediately before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b) (1) Except as provided in subsection (a) of this section, in the case of any lease issued under this Act after the date of enactment of this section with respect to which production may, in the judgment of the Secretary, result in the drainage of oil or gas from lands of any State, the Secretary shall—

"(A) whenever the lands of such State have been or are about to be leased or otherwise utilized for exploration, development, or production by such State, seek to establish an agreement for unitary exploration, development, and production of the Federal and State lands; or

"(B) whenever such State has not or is not about to so lease or utilize such lands, include a term in the lease making the lessee a party to any negotiations and any suit for equitable division of the proceeds from such lease among the lessee, the State, and the Federal Government.

"(2) Whenever subparagraph (E) of paragraph (1) is applicable, and upon an allegation by the State or a determination by the Secretary that drainage of oil or gas from State lands is occurring, the Secretary shall institute negotiations among the lessee, the State, and the Federal Government for the equitable division of the proceeds from such lease. If within six months after the date on which negotiations are commenced pursuant to the preceding sentence an equitable distribution is not agreed to by the parties to the negotiations, any party to such negotiations may initiate a suit for an equitable division of the proceeds from such lease. Notwithstanding any other provision of this subsection, the Secretary shall not be required to include the term referred to in subparagraph (B) of paragraph (1) in such lease, or to institute negotiations pursuant to this paragraph, unless the State agrees to insert a similar term and to institute similar negotiations in any case in which operations on lands of such State may result in the drainage of oil or gas from Federal lands.".

REVISION OF LEASING TERMS AND PROCEDURES

SEC. 206. (a) Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a)) is amended to read as follows:

"(a) (1) In order to meet the urgent need for further exploration, development, and production of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary, pursuant to regulations which he shall prescribe, is authorized to sell and issue, to the highest responsible qualified bidder by competitive bidding, oil and gas leases for the exploration, development, and production of such submerged lands which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding for each lease shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bids with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the oil or gas extracted pursuant to such lease;

"(B) cash bonus bids with diminishing or sliding royalty based on such formulae as the Secretary shall determine are necessary to encourage continued production from the lease area as resources diminish, except that the initial royalty shall be fixed by the Secretary at not less than 12½ per centum in amount or value of the oil or gas extracted pursuant to such lease;

"(C) cash bonus bids with a share of the net profits derived from operation of the tract fixed by the Secretary at not less than 30 per centum and reserved to the United States;

"(D) cash bonus fixed by the Secretary with the per centum royalty in amount or value of the oil or gas extracted pursuant to such lease, as the bid variable;

"(E) cash bonus fixed by the Secretary with a per centum share of the net profits derived from operation of the tract reserved to the United States as the bid variable;

"(F) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, with a fixed share of the net profits derived from the production of oil and gas pursuant to a lease to be determined by the Secretary; or

"(G) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, and with a fixed or diminishing royalty based upon the production derived from operation pursuant to the lease.

"(2) No provision of this subsection shall be interpreted as diminishing the Secretary's authority under section 5(a) of this Act to provide for the reduction of royalties after production commences on any tract.

"(3) Prior to selling any lease under the provisions of subparagraph (C), (E), or (F) of paragraph (1) of this subsection, the Secretary shall establish accounting procedures and standards to govern the calculation of net profits. Such procedures and standards may be established separately for each lease to be sold and may be modified from time to time in the same manner as originally promulgated. In the event of any administrative or judicial proceeding involving a dispute between the United States and any lessee concerning the calculation of net profits, the burden of proof shall be on the lessee. The value of any net profit share reserved to the United States from any lease issued pursuant to this section shall be deemed a royalty for the purposes of this Act.

"(4) In accordance with a schedule announced at the time of the announcement of a lease sale, the Secretary may, in his discretion, defer any part of the payment of a cash bonus required to be paid pursuant to any lease sold in such lease sale, except that such payment shall be made in total not later than five years from the date of such lease sale or no later than the date of the approval of the development and production plan submitted with respect to such lease, whichever date first occurs.

"(5)(A) In the case of any lease area offered for sale pursuant to subparagraph (F) or (G) of paragraph (1), if the accepted bid per share of any person for a per centum working interest in such lease area is less than the average price per share of all accepted bids, and such person does not, within such time as the Secretary shall by regulation prescribe, agree to pay such price, then—

"(i) the Secretary shall return to such person any deposit made with respect to such bid; and

"(ii) any right acquired and any obligation incurred by such person with respect to such bid shall be demed to be canceled.

"(B)(i) In the event the Secretary sells less than 100 per centum of the interest in the lease area offered under subparagraph (F) or (G) of paragraph (1), he shall offer the additional shares to the bidders who purchased shares pursuant to the initial bidding process. The Secretary shall sell such additional shares to the bidders who have elected to purchase under this clause, except that the maximum number of additional shares which any such bidder may purchase shall be in proportion to his bidded interest.

"(ii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (F) or (G) remains unsold after the Secretary uses the procedure required by clause (i) of this subparagraph, he shall repeat such procedure for such period of time as he determines to be reasonable.

"(iii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (F) or (G) remains unsold after the Secretary uses the procedure required under clauses (i) and (ii) of this subparagraph, the Secretary shall offer any remaining shares for sale to the highest interested bidder whose bid was not accepted in the initial bidding process, except that any such bidder may not purchase a number of shares which exceeds the number for which he originally bid. The Secretary shall repeat such procedure for such period of time as he determines to be reasonable.

"(iv) Any additional shares of the interest in a lease area which are sold by the Secretary pursuant to this subparagraph shall be sold at a price equal to the price at which shares of the interest in such lease area were sold pursuant to the initial bidding process.

"(C) The Secretary shall, by regulation, provide for the cancellation of any lease sale held pursuant to subparagraph (F) or (G) of paragraph (1), if the total amount to be paid for all shares sold does not represent a fair return to the Federal Government.

"(D) The Secretary shall establish standards and procedures for the formation of a joint working group in an area leased pursuant to subparagraph (F) or (G) of paragraph (1), and shall approve one or more operators for, and the terms of management of, activities on such lease area. The United States, represented by the Secretary, shall be considered a nonvoting party to any joint working group formed pursuant to such standards and procedures.

"(6)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. If the Secretary requires bids to be submitted in accordance with this subparagraph, he shall, by a random method, determine which one of the bidding systems used in the submission of such bids shall be used in awarding leases for such area."

(b) Section 8(b) of such Act is amended to read as follows:

"(b) An oil and gas lease issued by the Secretary pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment in amount or value of a royalty as determined by one of the bidding procedures set out in subsection (a) of this section;

"(4) contain a provision that the lessee will comply with any rule or order which is issued by the President under section 106 of the Energy Policy and Conservation Act (Public Law 94–163) and which applies to such tract, and with any rule or order relating to the rate of production of oil or gas which is issued by the Secretary pursuant to section 5(a) of this Act and which applies to such tract;

"(5) provide for cancellation of the lease pursuant to section 5, section 12, or section 21 of this Act; and

"(6) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.".

(c) Section 8(f) of such Act is amended by adding at the end thereof the following: "At least thirty days prior to publishing such notice of sale, the Secretary shall publish the final selection of tracts to be offered for lease, together with an invitation for the Governor of each affected State and other interested persons to submit comments. Any such tract may be withdrawn by the Secretary at any time prior to the issuance of a lease for such tract.".

(d) Section 8 of such Act is further amended by adding at the end thereof the following new subsection:

"(k) No lease may be issued pursuant to this section until at least thirty days after the Secretary notifies the Attorney General of the United States and the Federal Trade Commission of the proposed issuance. Such notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether the issuance of such lease would create or maintain a situation inconsistent with the antitrust laws. Nothing in this subsection shall be deemed to convey to any person immunity from civil or criminal liability under any antitrust law, or to create any defense to any action under any antitrust law.".

DISPOSITION OF REVENUES

SEC. 207. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary under any lease issued or maintained under this Act shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.".

REFUNDS

Sec. 208. (a) Section 10(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is amended by striking out the last sentence thereof.

(b) Section 10(b) of such Act is amended to read as follows:

"(b) Prior to making any repayment under this section, the Secretary shall submit a report to the Congress setting forth (1) the name of the person to whom the repayment is to be made, (2) the amount of such repayment, and (3) a summary of the facts upon which the determination was made. No such repayment shall be made before the end of the first period of thirty calendar days of continuous session of the Congress after the date of such submission. For purposes of this subsection, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.".

GEOLOGICAL AND GEOPHYSICAL EXPLORATION

Sec. 209. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"Sec. 11. Geological and Geophysical Exploration.—(a) Any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease maintained or issued pursuant to this Act, and which are not unduly harmful to the marine environment.

"(b) The provisions of this section shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area leased to such person pursuant to the provisions of this Act.".

RESERVATIONS

Sec. 210. Section 12(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341 (c)) is amended—

(1) by striking out "lease; and" and inserting in lieu thereof "lease or to cancel any lease; and"; and

(2) by inserting immediately before the period at the end thereof the following: "or whose lease is thus canceled".

ANNUAL REPORT

Sec. 211. Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"Sec. 15. Annual Report.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the activities conducted pursuant to this Act during such fiscal year. Such report shall include (1) a detailed accounting of all moneys received and expended, (2) a detailing of all permits issued and all leasing, exploration, development, and production activities, (3) a summary of management, supervision, and enforcement activities, and (4) recommendations for (A) improvements in the administration of this Act, and in the safety, environmental production, and amount of oil, gas, and other minerals produced in activities conducted pursuant to this Act, and (B) the resolution of ambiguities or jurisdictional conflicts.".

NEW SECTIONS OF OUTER CONTINENTAL SHELF LANDS ACT

Sec. 212. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is further amended by adding at the end thereof the following new sections:

"Sec. 18. Outer Continental Shelf Oil and Gas Leasing Program.—(a) After consideration of alternative leasing activities which may be conducted pursuant to this Act, the Secretary shall prepare and maintain an oil and gas leasing program to implement the policy set forth in section 3 of this Act. Such leasing program shall indicate as precisely as possible the size, timing, and location of leasing activities that will best meet national energy needs without undue environmental harm or damage. Such program shall apply to the five-year period, or such longer period as the Secretary may determine, immediately following approval by the Congress of such program. In preparing such program, the Secretary shall take into consideration the following:

"(1) Management of the outer Continental Shelf in a manner which considers the economic, social, and environmental values of the renewable and nonrenewable resources contained therein, and the potential impact of oil and gas exploration, development, and production on other resource values of the Outer Continental Shelf and the marine and coastal environments.

"(2) Scheduling of lease sales to distribute such sales among the regions of the outer Continental Shelf in which commercially exploitable quantities of oil and gas may be located, based on a consideration of factors including—

"(A) information concerning the geographic, geological, and ecological characteristics of such regions;

"(B) the relationship of the general areas to be leased pursuant to such sales to the location and relative need of regional and national energy markets;

"(C) the relationship of the general areas to be leased pursuant to such sales to the location of existing or sited onshore facilities for the receipt, storage, processing, refining, transportation, or distribution of oil or gas, which facilities have, or may have, excess capacity which could be utilized for oil or gas resources from the outer Continental Shelf;

"(D) the potential effect of the leasing of such general areas on other uses of the sea and seabed, including fisheries, intracoastal navigation, sea lanes, deepwater ports, and other uses or anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the location in the coastal zone of development and production facilities necessitated by such lease sales with respect to the existence of other uses or anticipated uses of the coastal zone, including hunting and fishing, recreation, wildlife or bird sanctuaries, and housing;

"(F) interest by potential oil and gas producers in exploration for and development of resources, as indicated by nomination, consultation, or other representation;

"(G) a proper balance among the potential for discovery of oil and gas, the potential for environmental damage, and the potential for adverse impact on the coastal zone; and

"(H) an equitable sharing of developmental and energy benefits and environmental risks among various States and regions of the United States.

"(3) Consideration of the laws of adjacent coastal States.

"(4) Receipt of fair value by the public for the rights to be conveyed by such leasing activities.

"(b) The program shall include estimates of appropriations and personnel required by the Federal Government to implement such program and this Act during each fiscal year, or part thereof, covered by such program.

"(c)(1) No program prepared pursuant to this section shall take effect until it has been published in final form, and then submitted to and approved by the Congress. Such program shall be deemed approved, and the Secretary shall be authorized to proceed with activities thereunder, unless within a sixty-day period of continuous session of the Congress following the date of submission either House passes a resolution stating in substance that such House does not favor the program and setting out the reasons therefor.

"(2) For purposes of this subsection, the continuity of a session of the Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of such sixty-day period.

"(3) Whenever a program prepared pursuant to this section is submitted to the Congress pursuant to paragraph (1), such program shall be accompanied by any environmental impact statement which is prepared with respect to such program in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(d)(1) During the preparatiton of any program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any coastal State which may become an adjacent coastal State under such program. The Secretary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to submission of such program to the Congress, the Secretary shall publish the proposed program and shall transmit a copy of such proposed program to the Governor of each adjacent coastal State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to such submission and includes a request for any modification of the proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any adjacent coastal State, together with any additional information and data relating thereto, shall accompany the program when such program is submitted to the Congress.

"(3) The provisions of this subsection shall not apply to any program resubmitted to Congress subsequent to disapproval thereof under subsection (c) of this section, if the only significant modifications of such program are made in response to the reasons set forth in the resolution of disapproval, except that such resubmitted program shall be published and shall be transmitted to the Governor of each adjacent coastal State for his information.

"(e)(1) The first program submitted to the Congress under this section shall be submitted within one year after the date of enactment of this section.

"(2) At least once each year during the period to which any program approved under this section applies, the Secretary shall review such program. If the Secretary determines that it is necessary to revise such program, the provisions of subsections (a), (b), (c), and (d) of this section shall apply to any such revision. If any such revision extends the applicability of such program beyond its original term, the revised program shall be deemed a new and separate program for purposes of this section. Prior to the date of expiration of any program approved under this section, the Secretary shall prepare a new program under this section to apply to the period of not less than five years beginning immediately after such date.

"(f) The Secretary may make minor changes in an approved program, including the cancellation or delay of a scheduled lease sale, by publishing such changes and after transmitting a copy of such changes to the Congress and to the Governor of each adjacent coastal State affected by such changes.

The advancement of a lease sale by more than four months shall not constitute a minor change for purposes of this subsection.

"(g) After the first approval of a program under this section, or after eighteen months following the date of enactment of this section, whichever first occurs, no oil and gas lease may be offered for sale under this Act, except in accordance with an approved program.

"Sec. 19. Oil and Gas Exploration Pursuant to Leases.—(a) Beginning ninety days after the date of enactment of this section, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(b)(1) Prior to commencing exploration pursuant to any lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to section 21(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(c) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(d)(1) If a revision of an exploration plan approved under this section is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (b) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(e) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (b) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.

"Sec. 20. Oil and Gas Development and Production on the Outer Continental Shelf.—(a) Beginning ninety days after the date of enactment of this section, no development or production pursuant to any oil and gas lease issued or maintained under this Act may be undertaken except in accordance with the provisions of this section.

"(b)(1) Upon the discovery of oil or gas in commercial quantities, the lessee shall promptly notify the Secretary of such discovery in a discovery report which shall detail, in such form and manner as the Secretary may by regulation prescribe, pertinent information regarding such discovery, including the location thereof and the lessee's best estimate of the volume of recoverable resources discovered. The Secretary may, by regulation, require the lessee to submit supplemental reports updating such information.

"(2) After such discovery, and after drilling any additional well which may be necessary to delineate the reservoir and to enable such lessee to determine whether to proceed with development and production, such lessee shall submit for the approval of the Secretary a development and production plan described in subsection (c) of this section. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement.

"(c) A development and production plan shall include, in the degree of detail which the Secretary may by regulation require—

"(1) a schedule of anticipated development and production activities on the outer Continental Shelf;

"(2) a description of equipment intended to be used to conduct such activities;

"(3) a description and the anticipated location of development and production facilities on the outer Continental Shelf intended to be constructed or utilized by such lessee (whether or not owned or operated by such lessee), including platforms and wells, rights-of-way, pipelines, and transfer facilities, together with a statement as to the expected date of completion or availability of each such facility;

"(4) any exceptional condition, on or near the leased area and offshore rights-of-way, which may require special treatment or precautions to protect the environment or insure safe development and production of oil or gas, together with a description of the proposed means for effecting such special treatment or precautions;

"(5) the lessee's best estimate of the potential rate of production of oil or gas under such plan; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) A development and production plan shall be accompanied by a statement of the lessee's intentions regarding the type and location of development and production facilities located other than on the outer Continental Shelf (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the leased area, including support facilities, storage facilities, refineries, processing facilities, and platform construction or assembly facilities. The Secretary shall promptly transmit a copy of such statement to (1) the Secretary of Commerce, (2) the head of any other affected Federal agency, (3) the Governor of each adjacent coastal State, and (4) the governing official or body of each local government within the jurisdiction of which facilities will be constructed or utilized, as described in such statement, except that the Secretary may, by regulation, require the lessee to transmit such statement to such Governors and such officials or bodies.

"(e) Upon receipt of a development and production plan pursuant to subsection (c) of this section and an accompanying statement of intentions pursuant to subsection (d) of this section, the Secretary shall, as promptly as possible but no later than five days after the date of such receipt, publish a notification in the Federal Register that such plan and such statement are available to the general public for inspection.

"(f)(1) Within thirty days after publication under subsection (e) of this section with respect to a development and production plan, the Secretary shall evaluate such plan and—

"(A) if because of exceptional resource values in the marine or coastal environment, or other exceptional environmental factors with respect to which the lessee had no control, such plan (i) does not make adequate provisions for environmentally safe operations, or (ii) is not consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of the lease, and it is not practical to modify such plan to make such adequate provisions or achieve such consistency, the Secretary shall disapprove such plan; or

"(B) if the Secretary is not required to disapprove such plan under subparagraph (A) of this paragraph, and if any proposed activity to be conducted pursuant to such plan is not in compliance with the requirements of this Act or any other applicable Federal law and it is not practical to require modification of such plan to achieve such compliance, the Secretary shall disapprove such plan.

After the disapproval of a plan by the Secretary under this paragraph, the Secretary may require or permit the lessee to submit a new plan.

"(2)(A) If the Secetary does not, pursuant to paragraph (1) of this subsection, disapprove the plan, he shall, within the thirty-day period referred to in such paragraph—

"(i) require such modification of such plan as is necessary and practical to achieve the safety and consistency referred to in paragraph (1)(A) of this subsection, or to protect the coastal zone from avoidable adverse impacts, except that such modification shall, to the maximum extent practicable, be consistent with the coastal zone management program of any adjacent coastal State, approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

"(ii) determine whether the approval of such plan, as submitted or modified, constitutes a major Federal action.

"(B) Within the thirty-day period referred to in paragraph (1) of this subsection, the Secretary shall publish a notification in the Federal Register setting forth (i) any modification required in a development and production plan pursuant to subparagraph (A)(i) of this paragraph, (ii) the determination of the Secretary, pursuant to subparagraph (A)(ii) of this paragraph, as to whether approval of such plan constitutes a major Federal action, and (iii) any information required to be included pursuant to paragraph (1)(B) of subsection (g) of this section.

"(g)(1)(A) If the Secretary determines, pursuant to paragraph (2)(A)(ii) of subsection (f) of this section, that a plan does not constitute a major Federal action, he shall approve such plan, as submitted or modified.

"(B) If the Secretary approves a plan under subparagraph (A) of this paragraph, he shall include in the notification published pursuant to paragraph (2)(B) of subsection (f) of this section a statement that such plan has been approved and that interested persons have thirty days from the date of such publication to submit comments and request modifications with respect to such plan.

"(C) The Secretary shall review the comments and requests for modifications submitted pursuant to subparagraph (B) of this paragraph and he may, on the basis of such comments and requests, require modification of such plan in accordance with paragraph (2)(A)(i) of subsection (f) of this section.

"(2) If the Secretary determines, pursuant to paragraph (2)(A)(ii) of subsection (f) of this section, that a plan constitutes a major Federal action, he shall, not less than thirty or more than sixty days after the final environmental impact statement prepared with respect to such plan is submitted to the Council on Environmental Quality—

"(A) approve such plan, as submitted or as modified pursuant to paragraph (2)(A)(i) of such subsection (f);

"(B) require additional modification of such plan, based upon the environmental impact statement prepared with respect to such plan, and approve such plan as so modified; or

"(C) disapprove such plan, based upon the environmental impact statement prepared with respect to such plan.

The Secretary shall publish in the Federal Register his decision under this paragraph with respect to approval or disapproval of such plan, and shall include in such publication a statement setting forth any modification of such plan required pursuant to subparagraph (B) of this paragraph.

"(h) Upon approval of a development and production plan pursuant to paragraph (1) or (2) of subsection (g) of this section, the lessee may proceed with development and production pursuant to such approved plan.

"(i) Upon his own initiative or upon the request of the lessee, the Secretary may, pursuant to such regulations as he shall prescribe, require or approve revisions in a development and production plan approved under this section. In determining whether to require or approve any such revision, the Secretary shall consider—

"(1) whether such revision would lead to a significant increase in the degree of, or probability of, adverse impact on the marine or coastal environment;

"(2) whether such revision would lead to a significant and avoidable reduction (contrary to the public interest) in the rate of recovery of oil or gas from any well or in the ultimate recovery of oil or gas from any reservoir; and

"(3) whether requiring such revision, or failing to approve such revision, would result in substantial economic hardship to the lessee.

Upon the requirement or approval of a revision in an approved plan under this subsection, the lessee may proceed with development and production pursuant to such plan as so revised.

"(j) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under this section of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of this section, and may require the submission of any additional information necessary to bring such plan into such compliance.

"(k) Notwithstanding any other provision of this section, the Secretary may, by regulation, require a lessee to obtain a permit prior to drilling any well in accordance with a development and production plan.

"Sec. 21. Environmental Suspension and Cancellation of Leases.—(a) (1) (A) Whenever the Secretary has reason to believe that any lessee is conducting or planning to conduct any activitiy on the outer Continental Shelf which poses a serious threat of harm or damage—

"(i) to life;

"(ii) to property other than that of such lessee;

"(iii) to the mineral deposits on a lease or other valuable mineral deposits; or

"(iv) to the marine or coastal environment,

the Secretary shall notify such lessee that he intends to make a determination on the record, pursuant to subparagraph (B), with respect to the suspension or prohibition of such activity.

"(B) If the Secretary has given notice under subparagraph (A) or (C), he shall determine, on the record after opportunity for an agency hearing, whether the lessee is conducting or planning to conduct any activity which poses a serious threat of harm or damage, as described in subparagraph (A). If the Secretary determines that such lessee is conducting or planning to conduct any activity which poses a serious threat of such harm or damage, he shall—

"(i) suspend or temporarily prohibit such activity; or

"(ii) if such activity has been suspended or temporarily prohibited on an emergency basis under subparagraph (C), continue such suspension or temporary prohibition.

Any suspension or prohibition required pursuant to this subparagraph shall remain in effect until the Secertary determines, upon his own initiative or after a hearing held at the request of such lessee, that the activity suspended or prohibited no longer poses a serious threat of such harm or damage. If notice is provided to the lessee under subparagraph (C), the determination by the Secretary under the first sentence of this subparagraph shall be made no later than seven days after the date of such notice.

"(C) If the Secretary determines, in his discretion, that—

"(i) any lessee is conducting or planning to conduct any activity which poses a serious threat of harm or damage, as described in subparagraph (A), and

"(ii) due to the immediate nature of such threat, action must be taken prior to a determination on the record,

the Secretary may suspend or temporarily prohibit such activity on an emergency basis. Within forty-eight hours after any such suspension or prohibition, the Secretary shall notify the lessee that he intends to make a determination on the record, pursuant to subparagraph (B), with respect to the continued suspension or prohibition of such activity. The Secretary may terminate any emergency suspension or prohibition required pursuant to this subparagraph if he determines, in his discretion, that the activity suspended or prohibited no longer poses a serious threat of such harm or damage.

"(2) In the event that any suspension or prohibition under this section applies to all activity on a lease area (excluding any maintenance or safety activity), no payment of rental or minimum royalty shall be required with respect to such lease area for or during the period of such suspension or prohibition, except with respect to amounts accrued to the United States and not yet paid.

"(3) The term of any lease affected by a suspension or prohibition under this section shall be extended by a period equivalent to the period of such suspension or prohibition.

"(4) The provisions of paragraphs (2) and (3) of this subsection shall not apply if the Secretary finds that a suspension or prohibition under this section has been made necessary, in whole or in part, due to the negligence of the lessee or through the failure or refusal of the lessee to comply with any provision of this or any other Act, or any applicable regulation.

"(b) (1) If the Secretary finds that (A) it is probable that the threat of harm or damage resulting in a suspension under this section, or resulting in a delay of approval of an exploration plan under section 19 of this Act will not decrease over time, (B) it is not probable that the development of new technology or further study will lessen such threat within a reasonable period of time, (C) there is no portion of the leased area which may be safe and practical to explore and develop, and (D) such threat outweighs any environmental risks inherent in terminating all operations pursuant to the affected lease, he shall cancel such lease.

"(2) If the Secretary, pursuant to subsection (f)(1) (A) or (g)(2)(C) of section 20, disapproves a development and production plan submitted with respect to any lease issued or maintained under this Act, he shall cancel such lease, unless he determines that a change in circumstances will occur within a reasonable period of time which will permit him to approve, in accordance with the provisions of this Act, a new plan which is submitted pursuant to section 20.

"(c) (1) Except as provided in paragraph (3), upon the cancellation under subsection (b) of this section of—

"(A) any oil and gas lease issued or maintained under this Act and in effect on the date of enactment of this section; or

"(B) any producing oil and gas lease issued under this Act after such date of enactment,

the Secretary shall pay just compensation to the holder of the lease.

"(2) Except as provided in paragraph (3), upon the cancellation under subsection (b) of any nonproducing oil and gas lease issued under this Act after the date of enactment of this section, the Secretary shall (A) pay to the holder of such lease an amount equal to (i) all bonuses, rentals, royalties, and other sums paid to the Secretary pursuant to such lease, and (ii) all direct costs incurred by such holder in the conduct of activities pursuant to an approved exploration plan or any approved development and production plan, or in direct support of such activities, and (B) waive payment of any bonus with respect to such lease deferred pursuant to section 8(a)(4) of this Act.

"(3) A lessee shall have no remedy or right of recovery against the United States for the cancellation under subsection (b)(1) of any lease, if the Secretary has made a finding with respect to such lessee under subsection (a)(4) of this section.

"(d) Within sixty days after the date of enactment of this section, the Secretary shall review each regulation issued pursuant to section 5(a)(1) of this Act, and shall repeal or modify any such regulation to the extent it is inconsistent with this section. After such date of the enactment, the Secretary shall not issue any regulation pursuant to section 5(a)(1) of this Act if such regulation would be inconsistent with the provisions of this section.

"(e) If any lease may be canceled pursuant to either this section or section 5(b) of this Act, the Secretary shall cancel such lease pursuant to the provisions of this section.

"Sec. 22. Baseline and Monitoring Studies.—(a)(1) The Secretary, in consultation with the Secretary of Commerce, and in cooperation with coastal States, shall design and conduct a study of—

"(A) any area or region of the outer Continental Shelf in which a lease is in effect on the date of enactment of this section, or in which a lease is proposed to be sold within one year after such date of enactment; and

"(B) any area or region of the outer Continental Shelf in which a lease is proposed to be sold following the one-year period beginning on such date of enactment.

The Secretary may utilize information collected in any study prior to the date of enactment of this section in complying with the foregoing requirements of this subsection. Nothing in this subsection shall be interpreted as requiring the Secretary to conduct more than one study pursuant to this subsection in any area or region of the outer Continental Shelf.

"(2) Each study required by paragraph (1) shall be commenced—

"(A) with respect to any area or region described in subparagraph (A) of paragraph (1), six months after the date of enactment of this section; or

"(B) with respect to any area or region described in subparagraph (B) of paragraph (1), six months prior to the sale of a lease in such area or region.

"(3) Nothing in this section shall be interpreted as requiring any delay in the holding of any lease sale, or in approval of any plan under section 19 or 20 of this Act, pending completion of any study required by paragraph (1).

"(b) Promptly after the first lease sale held with respect to any area or region studied pursuant to subsection (a) of this section, the Secretary, in consultation with the Secretary of Commerce, shall take such action as is necessary to complete such study, and shall monitor the affected environment in a manner designed to provide data which can be compared with previously collected data for the purpose of identifying any significant change in the quality and productivity of such environment, and establishing trends in the various factors studied and monitored.

"(c) To the extent that other Federal agencies are conducting studies of or are monitoring the affected environment, the Secretary shall utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative environmental effect of activities conducted under this Act.

"Sec. 23. Affected States.—(a) For the purposes of this Act, the Secretary shall, with respect to any activity conducted or proposed to be conducted on the outer Continental Shelf (including the sale of any lease permitting such activity), designate as an affected State any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

"(b) At any time after making any designation pursuant to subsection (a) of this section, the Secretary may withdraw such designation from any State which he finds no longer meets the criteria set forth in such subsection.

"Sec. 24. Outer Continental Shelf Oil and Gas Information Program.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State or any Regional Advisory Board unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State and any appropriate Regional Advisory Board—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B) any relevant information prepared by the Secretary pursuant to subsection (b) of this section; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection(c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(f) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(g) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency), pursuant to section 11 of this Act.

"Sec. 25. Review of Environmental, Health, and Safety Regulations.—(a) Within one year after the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall each, in consultation with each other, complete a review of all current environmental, health, and safety regulations which he has promulgated pursuant to this Act. Each such review shall consider current technology and information and relevant Federal and State law, including regulations of any other Federal agency having jurisdiction over activities on the outer Continental Shelf or over similar activities elsewhere. Each such Secretary shall, within such year, revise his respective regulations as necessary in light of such review, and promulgate a complete set of such regulations, including the repromulgation of any such regulation which he finds should be retained.

"(b)(1) With respect to occupational safety and health regulations to be promulgated or repromulgated pursuant to this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall each include standards or regulations applicable to each known hazardous working condition within his jurisdiction. Subsequently, whenever any previously unregulated hazardous working condition becomes known, the Secretary having jurisdiction over such condition shall promptly promulgate standards or regulations to apply to such condition. Whenever both such Secretaries have jurisdiction over any hazardous working condition, the President shall determine which shall exercise such jurisdiction. Before either such Secretary promulgates any occupational safety or health regulation under this Act, he shall consult with the Secretary of Labor.

"(2) For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), any regulation or standard promulgated pursuant to this Act which applies to any hazardous working condition, and the enforcement of such regulation or standard by the Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall, with respect to such hazardous working condition, be deemed to be an exercise of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

"(c) Within sixty days after the date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated."

"(d) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 26. ENFORCEMENT OF ENVIRONMENTAL, HEALTH, AND SAFETY REGULATIONS.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental, health, and safety regulations which either has promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations within ninety days after the date of enactment of this section to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the outer Continental Shelf which is subject to any environmental, health, or safety regulation promulgated pursuant to this Act, which inspection shall include, whenever practical, testing of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health, or safety regulations.

"(c) All owners and operators of any such facility shall allow any inspector conducting an inspection pursuant to this section prompt access to such facility and shall provide such pertinent documents and records as such inspector may request.

"(d) (1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire, major personal injury, and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four-hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 27. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General shall institute a civil action in any United States district court having jurisdiction under the provisions of section 4(b) of this Act for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.

"(b) If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such noncompliance and after expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000, for each day of the continuance of such noncompliance. The Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, as applicable, may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with noncompliance shall have been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 28. JUDICIAL REVIEW.—(a) Notwithstanding any other provision of this or any other Act (other than the National Environmental Policy Act of 1969), any—

"(1) action, finding, or determination by the Secretary regarding the approval, modification, or revision of any exploration plan or development and production plan under this Act;

"(2) action to suspend or temporarily prohibit any activity, or to cancel any lease, pursuant to section 21 of this Act; and

"(3) any action by the Secretary under this Act to schedule or hold a specific lease sale;

shall be subject to judicial review only in a United States court of appeals for a circuit within which an adjacent coastal State is located, or in the United States Court of Appeals for the District of Columbia.

"(b) Any person who—

"(1) participated in the administrative proceedings related to an action, finding, or determination specified in subsection (a); or

"(2) submitted comments or requested modifications of a development and production plan pursuant to subsection (g) (1) (B) of section 20 of this Act, and

who is adversely affected or aggrieved, must file, within sixty days, a petition for review of such action, finding, or determination in any court of appeals having jurisdiction. Upon the filing in a court of appeals of the initial petition for review of an action, finding, or determination which is, pursuant to the provisions of this section, subject to review, all subsequent petitions for review of such action, finding, or determination shall be filed in the same court of appeals. The petitioner shall promptly transmit copies of such petition to the Secretary and to the Attorney General of the United States. The Attorney General shall represent the Secretary with respect to such review.

"(c) The Secretary shall file, in the court of appeals conducting a review pursuant to this section, the record of any public hearing held in regard to the matter under review and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code.

"(d) The court of appeals conducting a review pursuant to this section shall consider the matter under review solely on the record made before the Secretary. Such court of appeals shall hold unlawful and set aside any action, finding, or determination of the Secretary found to be unsupported by substantial evidence on the record considered as a whole.

"(e) Upon the filing of the record with the court of appeals pursuant to subsection (c), the jurisdiction of such court of appeals shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(f) The judicial review provided in this section shall constitute an exclusive remedy for any action, finding, or determination specified in subsection (a) of this section.

"SEC. 29. FEDERAL ROYALTY OIL AND GAS.—(a) Any royalty accruing or reserved to the United States from production of oil or gas pursuant to any lease issued or maintained under this Act may be taken in value at the fair market value of such oil or gas, or in amount of such oil or gas, as the Secretary may determine. If the Secretary determines to take such royalty in oil or gas, any oil or gas controlled by the lessee may be substituted for oil or gas produced under such lease, and either oil or gas may be substituted for an equivalent amount of the other, if the Secretary and the lessee so agree.

"(b) Any royalty reserved to the United States in the form of the value of a per centum share of the net profits derived from operation of any tract may be converted to an equivalent amount of the oil or gas produced on such tract at the fair market value of such oil or gas and taken in such amount by the Secretary pursuant to subsection (a) of this section.

"(c) Title to any oil or gas taken as a royalty by the Secretary pursuant to this section may be transferred by the Secretary, upon request, to the Secretary of Defense or to the Administrator of the General Services Administration for disposal within the Federal Government.

"(d) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners (as such term is defined in regulations prescribed by the Secretary) do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any amount of the royalty oil accruing or reserved to the United States pursuant to any lease issued or maintained under this Act by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase. Any oil obtained by a small refiner pursuant to this subsection shall be used only in the refinery of such small refiner and may not be resold in kind.

"(e) Whenever, after consultation with the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas exists in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner (1) by royalty gas accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or (2) by exchange for natural gas available to any other region which can be so serviced, the Secretary may sell any amount of such royalty gas at its fair market value to any person servicing the region in which such emergency shortage exists. The Secretary may allocate such gas among the competing applicants for the purchase of such gas to assure the equitable distribution of such gas among the various areas within any such region. If it is not practical to provide all such applicants with a portion of the gas to be sold under this subsection, the Secretary may conduct a lottery for the sale of such gas under such regulations as he may prescribe.

"(f) Any portion of any royalty accruing or reserved to the United States pursuant to any oil and gas lease issued or maintained under this Act which the Secretary determines to take in amount of oil or gas and which is not disposed of under any preceding subsection of this section may be offered to the public and sold by competitive bidding for not less than its fair market value, in such amounts and for such terms as he determines.

"(g) Any portion of any royalty accruing or reserved to the United States pursuant to any oil and gas lease issued or maintained under this Act which the Secretary determines to take in amount of oil or gas and which is not disposed of under any other subsection of this section shall be purchased by the lessee at the fair market value of the product determined for the period during which such royalty was accrued or reserved.

"(h) The provisions of this section shall not apply to the extent that they are inconsistent with any provision of law which applies to oil obtained from the outer Continental Shelf and which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision.

"SEC. 30. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (b) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the limitations and licensing requirements and the penalty and enforcement provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.). No oil or gas which is subject to the provisions of this subsection shall be exported until—

"(1) the President makes, publishes, and submits to the Congress an express finding that for a period of not to exceed one year the export of the amount of oil or gas as set forth in such finding will (A) not increase reliance on imported oil or gas, (B) be in the national interest, and (C) be in accordance with the provisions of the Export Administration Act of 1969; and

"(2) within sixty calendar days after receipt of such finding, thirty days of which Congress must have been in session, neither House passes a resolution stating in substance that such House does not agree with the President's finding.

The President may prepare amendments to any finding made pursuant to the provisions of the preceding sentence and such amendments shall be subject to the same requirements as set forth in such proceeding sentence.

"(b) The provisions of subsection (a) shall not apply to oil or gas produced from the outer Continental Shelf which is (1) exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign country, or (2) temporarily exported for convenience or increased efficiency of transportation.

"SEC. 31. SHUT-IN OR FLARING WELLS.—(a) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.

"(b) Within six months after the date of enactment of this section, and each year thereafter, the Secretary shall submit a report to the Comptroller General and the Congress listing each shut-in oil or gas well and each well flaring natural gas on the outer Continental Shelf. Each such report shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production or order cessation of flaring.

"(c) Within six months after receipt of each report required by subsection (b) of this section, the Comptroller General shall review and evaluate the reasons for allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

"SEC. 32. REGIONAL OUTER CONTINENTAL SHELF ADVISORY BOARDS.—(a) The Governors of coastal States and noncoastal affected States may establish Regional Outer Continental Shelf Advisory Boards for their regions with such membership as they may determine, after consultation with the Secretary and the Secretary of Commerce.

"(b) Representatives of the Secretary, the Secretary of Commerce, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, the Administrator of the Environmental Protection Agency, and the Administrator of the Occupational Safety and Health Administration shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section.

"(c) Each Board established pursuant to subsection (a) shall advise the Secretary on all matters relating to outer Continental Shelf oil and gas development, including development of the leasing program required by section 18 of this Act, approval of development and production plans required pursuant to section 20 of this Act, implementation of baseline and monitoring studies, and the preparation of environmental impact statements prepared in the course of the implementation of the provisions of this Act.

"(d) If the Governor of any affected State, or any Regional Outer Continental Shelf Advisory Board—

"(1) makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan in any case in which the approval of such sale or plan will affect the environment of such State, or of any State which is represented on such Board, and

"(2) submits such recommendations to the Secretary within sixty days after receipt of notice of such proposed lease or of such development and production plan,

the Secretary shall fully consider such recommendations in light of the national security, the desirability of obtaining oil and gas supplies in a balanced manner, and the policies and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Governor or such Board the reasons therefor.

"SEC. 33. COURT JURISDICTION.—(a) Except as otherwise provided in this Act, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any—

"(1) permit, lease, or right-of-way which is or may be maintained, issued, granted, or otherwise authorized pursuant to this Act;

"(2) exploration, development, or production activity conducted or proposed to be conducted pursuant to this Act; and

"(3) dispute involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf.

"(b) An action with respect to any matter referred to in subsection (a) of this section may be instituted (1) in the judicial district in which any defendant resides or may be found, or (2) in any judicial district located in the coastal State, the laws of which apply under section 4(a)(2)(A) of this Act to the portion of the outer Continental Shelf on which the cause of action arose, or if the President has not determined the areas within which such State laws are applicable, in any judicial district located in the coastal State nearest the place where the cause of action arose.".

On page 53, line 6, strike "structures", and insert "installations and other devices" in lieu thereof.

On page 53, line 10 strike "structure", and insert "installation or other device" in lieu thereof.

On page 53, lines 22 and 23, strike "and structures," and insert ", installations, and other devices" in lieu thereof.

On page 55, lines 9 through 19, strike "or structure" each time the words appear, and in each case insert ", installation, or other device" in lieu thereof.

On page 55, line 20, through page 56, line 8, strike "and structures" each time the words appear, and in each case insert ", installations, and other devices" in lieu thereof.

On page 56, lines 13 through 19, strike "or structure" each time the words appear, and in each case insert ", installation, or other device" in lieu thereof.

On page 57, strike all after the period on line 10, down through line 14, and insert in lieu thereof the following:

"The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the maximum recovery, prevention of waste, and conservation of the natural resources of the outer Continental Shelf, and for the protection of the environment; and, notwithstanding any other provisions of this Act, such rules and regulations shall apply to all operations conducted pursuant to any lease."

On page 57, line 15, before "enforcement", insert "administration and".

On page 70, lines 13 and 14, strike "if both the Senate and House of Representatives pass a resolution of approval" and insert in lieu thereof "unless either the Senate or the House of Representatives passes a resolution of disapproval".

On page 74, strike all of subsection (d) on lines 9 through 11, and renumber succeeding subsections accordingly.

On page 112, line 13, strike "or".

On page 112, line 15, after the comma, insert "or is otherwise not inconsistent with the provisions of this Act.".

On page 118, lines 3 through 5, strike "Upon the commencement of production of oil from the Outer Continental Shelf pursuant to any lease issued after the date of enactment of this subsection, the", and insert in lieu thereof "The".

On page 118, line 14, strike "such", and insert in lieu thereof "any".

On page 119, lines 17 through 19, strike "upon the commencement of production of gas pursuant to any lease issued after the date of enactment of this subsection,".

By Mr. FORSYTHE:

On page 47, line 12, after "finds that", insert "because of such activity".

On page 62, lines 20 and 21, strike "which is to deal with emergency shortages of oil or gas or".

On page 73, strike lines 5 through 11, and insert in lieu thereof the following:

"(5) contain a provision that the lessee will comply with any rule, order, or regulation referred to in section 5(f) of this Act which applies to the lease area;"

Strike page 74, line 16, down through page 76, line 3.

On page 63, after line 7, insert a new section as follows:

CONTROVERSY OVER JURISDICTION

SEC. 205. Section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) is amended—

(1) in the first sentence thereof, by inserting "(a)" immediately before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b) (1) Except as provided in subsection (a) of this section, in the case of any lease issued under this Act after the date of enactment of this subsection with respect to which production may, in the judgment of the Secretary, result in the drainage of oil or gas from lands of any State, the Secretary shall—

"(A) whenever the lands of such State have been or are about to be leased or otherwise utilized for exploration, development, or production by such State, seek to establish an agreement for unitary exploration, development, and production of the Federal and State lands; or

"(B) whenever such State has not or is not about to so lease or utilize such lands, include a term in the lease making the lessee a party to any negotiations and any suit for equitable division of the proceeds from such lease among the lessee, the State, and the Federal Government.

"(2) Whenever subparagraph (B) of paragraph (1) is applicable, and upon an allegation by the State or a determination by the Secretary that drainage of oil or gas from State lands is occurring, the Secretary shall institute negotiations among the lessee, the State, and the Federal Government for the equitable division of the proceeds from such lease. If within six months after the date on which negotiations are commenced pursuant to the preceding sentence an equitable distribution is not agreed to by the parties to the negotiations, any party to such negotiations may initiate a suit for an equitable division of the proceeds from such lease. Notwithstanding any other provision of this subsection, the Secretary shall not be required to include the term referred to in subparagraph (B) of paragraph (1) in such lease, or to institute negotiations pursuant to this paragraph, unless the State agrees to insert a similar term and to institute similar negotiations in any case in which operations on lands of such State may result in the drainage of oil or gas from Federal lands.".

And renumber succeeding sections accordingly.

On page 79, lines 3 through 11, strike all of subsection (g).

On page 87, line 1, after "consistency", insert ", to the maximum extent practicable,".

On page 89, strike lines 7 through 20, and insert in lieu thereof the following: "the Secretary shall fully consider such recommendations in light of national security, the desirability of obtaining oil and gas supplies in a balanced manner, and the policies and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Board or such Governor the reasons for rejection of such recommendations."

On page 109, line line 7, strike "structure, area, or".

On page 116, lines 3 and 4, strike "Notwithstanding any other provision of this section", and insert in lieu thereof "Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section".

On page 116, line 21, after "withhold transmittal", insert "and deny inspection".

By Mr. YOUNG of Alaska:

On page 72, strike lines 10 through 21, and insert in lieu thereof the following:

"(2) be for an initial period of

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;"

Strike page 85, line 3, down through page 86, line 7, and insert in lieu thereof the following:

"(c) (1) No program prepared pursuant to this section shall take effect until it has been published in final form, and then submitted to and approved by the Congress. Such program shall be deemed approved, and the Secretary shall be authorized to proceed with activities thereunder, unless within a sixty-day period of continuous session of the Congress following the date of submission either House passes a resolution stating in substance that such House does not favor the program and setting out the reasons therefor.

"(2) For purposes of this subsection, the continuity of a session of the Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of such sixty-day period.

"(3) Whenever a program prepared pursuant to this section is submitted to the Congress pursuant to paragraph (1), such program shall be accompanied by any environmental impact statement which is prepared with respect to such program in accordance with section 102(2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2) (C)).

"(d) (1) During the preparation of any program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any State which may become an adjacent coastal State under such program. The Secretary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to submission of such program to the Congress, the Secretary shall publish the proposed program and shall transmit a copy of such proposed program to the Governor of each State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to such submission and includes a request for any modification of the proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany the program when such program is submitted to the Congress.

"(3) The provisions of this subsection shall not apply to any program resubmitted to Congress subsequent to disapproval thereof under subsection (c) of this section, if the only significant modifications of such program are made in response to the reasons set forth in the resolution of disapproval, except that such resubmitted program shall be published and shall be transmitted to the Governor of each affected State for his information.

"(e) (1) The first program submitted to the Congress under this section shall be submitted within one year after the date of enactment of this section.

"(2) At least once each year during the period to which any program approved under this section applies, the Secretary shall review such program. If the Secretary determines that it is necessary to revise such program, the provisions of subsections (a), (b), (c), and (d) of this section shall apply to any such revision. Prior to the date of expiration of any program approved under this section, the Secretary shall prepare a new program under this section to apply to the five-year period beginning immediately after such date.

"(f) The Secretary may make minor changes in an approved program, including the cancellation or delay of a scheduled lease sale, by publishing such changes and after transmitting a copy of such changes to the Congress and to the Governor of each affected State. The advancement of a lease sale by more than four months shall not constitute a minor change for purposes of this subsection.

"(g) After the first approval of a program under this section, or after eighteen months following the date of enactment of this section, whichever first occurs, no oil and gas lease may be offered for sale under this Act, except in accordance with an approved program.

And redesignate succeeding subsections accordingly.

On page 82, line 5, strike "or reapproval".

Strike page 89, line 22, down through page 92, line 15, and insert in lieu thereof the following:

(a) (1) The Secretary, in consultation with the Secretary of Commerce, and in cooperation with coastal States, shall design and conduct a study of—

"(A) any area or region of the outer Continental Shelf in which a lease is in effect on the date of enactment of this section, or in which a lease is proposed to be sold within one year such date of enactment; and

"(B) any area or region of the outer Continental Shelf in which a lease is proposed to be sold following the one year period beginning on such date of enactment.

The Secretary may utilize information collected in any study prior to the date of enactment of this section complying with the foregoing requirements of this subsection. Nothing in this subsection shall be interpreted as requiring the Secretary to conduct more than one study pursuant to this subsection in any area or region of the outer Continental Shelf.

"(2) Each study required by paragraph (1) shall be commenced—

"(A) with respect to any area or region described in subparagraph (A) of paragraph (1), six months after the date of enactment of this section; or

"(B) with respect to any area or region described in subparagraph (B) of paragraph (1), six months prior to the sale of a lease in such area or region.

"(3) Nothing in this section shall be interpreted as requiring any delay in the holding of any lease sale, or in approval of any plan under section 19 or 20 of this Act, pending completion of any study required by paragraph (1).

"(b) Promptly after the first lease sale held with respect to any area or region studied pursuant to subsection (a) of this section, the Secretary, in consultation with the Secretary of Commerce, shall take such action as is necessary to complete such study, and shall monitor the affected environment in a manner designed to provide data which can be compared with previously collected data for the purpose of identifying any significant change in the quality and productivity of such environment, and establishing trends in the various factors studied and monitored.

"(c) To the extent that other Federal agencies are conducting studies of or are monitoring the affected environment, the Secretary shall utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative environmental effect of activities conducted under this Act.

"(e) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization or entity with funds appropriated to the Secretary of the Interior pursuant to this act."

On page 108, line 23, strike "After" and all that follows, down through "whether" on page 109, line 1, and insert in lieu thereof "Within thirty days after receipt of a plan, the Secretary shall review such plan in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and shall declare his findings as to whether approval of".

On page 110, lines 17 and 18, strike "one hundred and twenty", and insert in lieu thereof "sixty".

H.R. 9560

By Mr. JONES of Alabama:

Page 28, strike out line 23 and all that follows down through and including line 9 on page 31.

Renumber the succeeding sections accordingly.

By Mr. LEVITAS:

Page 33, after line 12, add the following new section:

RULE AND REGULATION REVIEW

SEC. 20. Title V of the Federal Water Pollution Control Act is amended by renumbering section 518 as section 519 and by inserting immediately after section 517 the following new section:

"RULE AND REGULATION REVIEW

"SEC. 518. (a) Any rule or regulation issued under authority of this Act after the date of enactment of this section may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Department or agency adopting same. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(b) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

By Mr. WRIGHT:

Page 31, strike out lines 11 to 25, inclusive, and insert in lieu thereof the following:

SEC. 17. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable waters subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support freshwater vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purposes of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches,

is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an evironmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation.".

H.R. 10930

By Mr. BURLISON of Missouri:

Page 4, after line 5, add the following:

SEC. 3. Section 7 of the Cotton Research and Promotion Act (7 U.S.C. 2106) is amended by adding the following new subsection at the end thereof:

"(i) Providing that no funds collected by the Cotton Board under the order shall in any manner be used for the purpose of remunerating or compensating any officer or employee of the Board or of any contracting organization or association described in subsection (g) of this section in excess of the annual compensation received by the Secretary of Agriculture.".

H.R. 13179

By Mr. WHITE:

Page 10, strike out lines 3 through 9 and insert in lieu thereof the following:

Sec. 13. (a) Section 882(b) of the Foreign Service Act of 1946 is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(b)(1)";

(2) by striking out "1 per centum plus"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) In the case of an annuity to which this subparagraph applies, there shall be paid from the Fund, in connection with the payment of the first monthly installment which reflects an increase under paragraph (1), an amount equal to the aggregate additional amount of annuity which would have been paid, for the period beginning on the first day of the three consecutive months and ending immediately before the effective date of the increase, if such annuity increase had been in effect for that period. For purposes of such computation, the annuity in effect immediately before such effective date shall be considered to have been in effect throughout such period.

"(B) Subparagraph (A) of this paragraph shall apply to any annuity which is increased under paragraph (1) of this subsection and which has a commencing date not later than the first day of the three-month period with respect to which such annuity increase is calculated. For purposes of this paragraph, the commencing date of an annuity of any surviving wife or husband which is payable under section 821(b) shall be considered to be the date on which the deceased spouse's annuity commenced."

H.R. 13589

By Ms. ABZUG:

On page 5, after line 12, insert the following new section:

VOICE OF AMERICA BROADCASTS

SEC. 7. Title V of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1461–62), is amended by adding the following new section:

"SEC. 503. The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America (the Broadcasting Service of the United States Information Agency) must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

"(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

"(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

"(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion on these policies.".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of June 1, 1976, page 16086:

HOUSE JOINT RESOLUTIONS

H.J. Res. 931. April 29, 1976. Armed Services. Directs the President to restore to Doctor Mary Edwards Walker the Congressional Medal of Honor.

H.J. Res. 932. April 30, 1976. Judiciary. Proposes a constitutional amendment to assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year and that the Federal indebtedness is eliminated.

H.J. Res. 933. April 30, 1976. Armed Services. Authorizes and requests the President to appoint John Paul Jones posthumously to the grade of admiral in the United States Navy.

H.J. Res. 934. May 3, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning on November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 935. May 4, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning on November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 936. May 5, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning June 20, 1976, as "National Truck Week."

H.J. Res. 937. May 5, 1976. Armed Services. Authorizes and requests the President to appoint George Washington posthumously to the rank of General of the Armies of the United States.

H.J. Res. 938. May 5, 1976. Ways and Means. Amends the Revenue Adjustment Act of 1975 to provide that the section relating to corporate income tax shall refer to provisions of the Internal Revenue Code dealing with the normal tax on corporations rather than corporations in general.

H.J. Res. 939. May 5, 1976. Post Office and Civil Service. Recognizes the achievement of Doctor Mahlon Loomis in being the first person to invent and demonstrate a system of wireless communications.

H.R. Res. 940. May 6, 1976. Government Operations. Expresses the general policy of the United States Government to rely upon private commercial sources for the goods and services required to meet Government needs.

H.J. Res. 941. May 6, 1976. Government Operations. Expresses the general policy of the United States Government to rely upon private commercial sources for the goods and services required to meet Government needs.

H.J. Res. 942. May 6, 1976. Judiciary. Proposes an amendment to the Constitution which includes unborn offspring within the definition of "person" for purposes of the fifth and fourteenth Articles of Amendment to the Constitution.

H.J. Res. 943. May 6, 1976. Post Office and Civil Service. Authorizes the President to issue annually a proclamation designating the seven-day period commencing on April 30 of each year as "National Beta Sigma Phi Week."

H.J. Res. 944. May 7, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning on November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 945. May 7, 1976. Rules. Establishes a Congressional Joint Committee on Intelligence to exercise exclusive legislative jurisdiction with respect to the authorization of funds in connection with any intelligence activity conducted in any foreign country by any agency or department of the Federal Government.

H.J. Res. 946. May 10, 1976. Post Office and Civil Service. Authorizes and directs the President to issue a proclamation designating the week of October 10 through 16, 1976, as "Native American Awareness Week."

H.J. Res. 947. May 10, 1976. Post Office and Civil Service. Designates the week beginning on August 22, 1976, as "National Nurse Anesthetist Week."

H.J. Res. 948. May 12, 1976. Post Office and Civil Service. Designates the fourth Wednesday in October of each year as "Seventy-Plus in High School Day."

H.J. Res. 949. May 12, 1976. Post Office and Civil Service. Expresses the appreciation and gratitude of the people of the United States to Her Majesty, Queen Elizabeth II for the bequest of James Smithson which provided for the establishment of the Smithsonian Institution.

H.J. Res. 950. May 12, 1976. Post Office and Civil Service. Designates the month of October of each year as "National Learning Disabilities Month."

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 622. May 4, 1976. House Administration. Directs that there be printed additional copies of a document entitled "The Working Congress."

H. Con. Res. 623. May 4, 1976. House Administration. Directs that copies of a booklet entitled "Duties of the Speaker" be printed as a House document.

H. Con. Res. 624. May 4, 1976. House Administration. Provides for the printing of copies of a walking tour map of the area surrounding the United States Capitol.

H. Con. Res. 625. May 4, 1976. House Administration. Calls for a restoration of the spirit of independence and self-reliance among candidates for Federal office and the American people.

H. Con. Res. 626. May 5, 1976. International Relations. Expresses the sense of Congress that the Soviet Union should release Georgi Vins from imprisonment and allow freedom of religion in that nation.

H. Con. Res. 627. May 6, 1976. Post Office and Civil Service. Expresses the sense of Congress that the U.S. Postal Service should not close or otherwise suspend the operation of any post office during the six-month period beginning on the date of adoption of this resolution.

H. Con. Res. 628. May 7, 1976. Education and Labor. Expresses the sense of the Congress that the President call a White House Conference on Marriage and the Family in order to establish a national understanding of the role played by marriage and the family in the development of a viable society.

H. Con. Res. 629. May 11, 1976. House Administration. Directs that there be printed as a House document a booklet entitled "The Working Congress."

H. Con. Res. 630. May 11, 1976. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Congress has not delegated to the Federal Trade Commission any authority to preempt the laws of the States and their political subdivisions.

H. Con. Res. 631. May 11, 1976. International Relations. Directs the President to express the request of the United States Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University to join the Harvard Ukrainian Research Institute for the 1976–1977 academic year.

H. Con. Res. 632. May 11, 1976. Rules. Creates a joint select committee to conduct a full and complete investigation and study into ways in which art works depicting the contributions of Black Americans to our Nation can be increased in the Capitol.

H. Con. Res. 633. May 12, 1976. Education and Labor. States that every foster child has specified inherent rights and standards for treatment.

H. Con. Res. 634. May 12, 1976. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Congress has not delegated to the Federal Trade Commission any authority to preempt the laws of the States and their political subdivisions.

H. Con. Res. 635. May 13, 1976. Makes specified corrections in the enrollment of the bill S. 2498.

HOUSE RESOLUTIONS

H. Res. 1166. April 28, 1976. Sets forth the rule for the consideration of H.R. 9043.

H. Res. 1167. April 28, 1976. Sets forth the rule for the consideration of H.R. 12384.

H. Res. 1168. April 29, 1976. International Relations. Expresses the support of the House of Representatives for "Solidarity Sunday" which includes efforts to remove all obstacles to the free emigration of Jews from the Soviet Union.

H. Res. 1169. April 29, 1976. Standards of Official Conduct. Amends Rule XLIII of the Rules of the House of Representatives by requiring that a Member's salary be paid into an escrow account whenever such Member is convicted by a court of record for specified crimes.

H. Res. 1170. April 29, 1976. Interstate and Foreign Commerce. Calls for measures by Federal agencies to insure that the quality and quantity of free broadcasting service is not impaired by the development of pay television.

H. Res. 1171. April 30, 1976. International Relations. Expresses the support of the House of Representatives for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address at Lusaka, Zambia, on April 27, 1976.

H. Res. 1172. May 3, 1976. Interstate and

Foreign Commerce. Calls for measures by Federal agencies to insure that the quality and quantity of free broadcasting service is not impaired by the development of pay television.

H. Res. 1173. May 5, 1976. Armed Services. Disapproves of the proposal of the executive branch to use the authority of Public Law 85-804 to obligate funds in excess of $25 million for the purpose of adjusting naval shipbuilding contracts.

H. Res. 1174. May 6, 1976. Armed Services. Disapproves the proposed obligation of the United States with respect to specified shipbuilding contracts.

H. Res. 1175. May 6, 1976. Post Office and Civil Service. Expresses congratulations and appreciation to Carnegie Hall for its 85 years of artistic achievement and cultural enrichment.

H. Res. 1176. May 6, 1976. House Administration. Provides that Members of the House of Representatives and employees of the House, except in specified cases, may not be reimbursed for the difference between the cost of first-class air travel accommodations and the costs of other air travel accommodations.

H. Res. 1177. May 6, 1976. Sets forth the rule for the consideration of H.R. 10451.

H. Res. 1178. May 6, 1976. Sets forth the rule for the consideration of H.R. 12387.

H. Res. 1179. May 6, 1976. Sets forth the rule for the consideration of H.R. 12835.

H. Res. 1180. May 6, 1976. Sets forth the rule for the consideration of H.R. 12851.

H. Res. 1181. May 6, 1976. Sets forth the rule for the consideration of H.R. 12934.

H. Res. 1182. May 6, 1976. Sets forth the rule for the consideration of H.R. 13350.

H. Res. 1183. May 10, 1976. Sets forth the rule for the consideration of H.R. 10210.

H. Res. 1184. May 10, 1976. Agriculture. Calls for an assessment of the whey supply and for a research program to utilize whey more efficiently.

H. Res. 1185. May 10, 1976. Interstate and Foreign Commerce. Calls for measures by Federal agencies to insure that the quality and quantity of free broadcasting service is not impaired by the development of pay television.

EXTENSIONS OF REMARKS

MORE ON THE CASE OF EUGENE HOLLANDER

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. KOCH. Mr. Speaker, I should like to bring to the attention of our colleagues additional information bearing upon what I consider to be the inadequate sentencing of Eugene Hollander, a nursing home operator who was one of the chief perpetrators of medicaid fraud in the State of New York, and who was given a suspended prison sentence. The sentencing judge, Justice Milton Mollen, said at the time of sentencing—

> A prison sentence in this instance is the equivalent of a death sentence.

I have since received the statement of special State prosecutor, Charles J. Hynes, deputy attorney general, which he delivered at the time of sentencing and which I believe should be read by everyone interested in justice and distressed by the court's failure to impose a prison sentence on Eugene Hollander.

What is important to note is that the same defendant committed comparable crimes in the nursing home field 16 years ago and was not jailed but was merely required to repay moneys to the city of New York. Special Prosecutor Hynes stated in his statement to the court—

> Mr. Hollander stands before Your Honor today as a second offender.

Furthermore, the special prosecutor addressed himself to the impaired physical and mental condition of the defendant and said in support of his request of a jail sentence—

> Dr. Thomas Rigney is the medical director at Fishkill. He has personally assured me that if Mr. Hollander is sent to that institution, every precaution will be taken to stabilize his medical and emotional condition. I would also like to point out that Fishkill is in no sense the usual prison environment. It is rather, as Dr. Rigney describes it, a nursing home.

I should like to repeat what I said to this House on May 19, in commenting on my distress at the failure of the court to sentence Eugene Hollander appropriately—

> I believe that if we permit white collar criminals to escape prison and simply engage in restitution, it places in question our right to punish with prison the poor who engage in physical crimes of violence. I am one of those who believes that our judicial system is verging on bankruptcy. We do not apprehend our criminals in sufficient numbers and when we do apprehend them in limited numbers, we do not adequately punish them. When the revelations are such as they were in this case, that someone has enriched himself on the bodies of those elderly entrusted to his care by the Federal Government, and at the expense of the U.S. taxpayer, it is shocking to find that such an individual does not go to jail. Such kid glove handling of Mr. Hollander must reinforce, whether true or not, the feelings that pervade so many in our society today, that the rich get richer, the poor get poorer and it is not what you know, but whom you know that counts.

I want to take this opportunity to again applaud the enormously effective efforts of Special Prosecutor Charles J. Hynes in bringing Dr. Bergman and Eugene Hollander to trial and at the same time I want to again deplore the action taken by the sentencing court.

The full statement made by Charles J. Hynes, special prosecutor, at the sentencing of Eugene Hollander follows:

STATEMENT OF SPECIAL STATE PROSECUTOR, CHARLES J. HYNES, MADE AT THE SENTENCING OF EUGENE HOLLANDER

May it please the court, when this investigation began 17 months ago, in addition to our primary aim that conditions in the nursing homes of this State be improved to an acceptable level of care, we vowed that the failures of the Kaplan investigation not be repeated.

In a very real sense, Eugene Hollander is a symbol of those failures. Beginning in 1960, Mr. Hollander served for many years as the president of the Metropolitan Nursing Home Association. He has, for two decades, operated nursing homes in this city.

Drawing upon his years of experience as an owner and from his position of leadership in the industry, Mr. Hollander could have acted as a force for a change in an industry that Louis Kaplan found pervasively corrupt 16 years ago. Instead, he holds the dubious distinction of having stolen money—more flagrantly than any other nursing home operator thus far prosecuted in the State of New York.

But your honor, it is not merely how much money he stole—more than $1 million from 1969 until his indictment this year—it is the why of that theft that is so significant and so outrageous.

The principal objective of Hollander's greed was to build for himself a life of luxury and prestige on the backs of those committed to his care. For example, he remodeled his Fifth Avenue apartment at a cost of nearly $30,000; he purchased more than $120,000 worth of paintings including two Renoirs—and in both instances, these costs were disguised as expenses related to the care of patients in his nursing homes.

Your honor, I do not intend to stand here and tell you that Eugene Hollander ran houses of horror, although the Health Department has cited enough deficiencies, including inadequate food and inadequate staffing, to conclude that Hollander is not the public's idea of one who should care for the elderly, but one thing should be crystal clear: That if Mr. Hollander as a leader of the industry had less greed and more compassion, his homes could have served as much needed models of care for others in this State.

Sixteen years ago, this same defendant and scores of other nursing home operators were caught, and forced to admit their fraud, and repay to the city of New York hundreds of thousands of dollars. But despite the publicity, the public outcry and the forced restitution, no lesson was learned by this defendant or by the other operators of the industry: and for all its hooplah, history records the Kaplan investigation to be a dismal failure.

I suggest to your honor that the reason for the failure was that those who stole went unpunished.

While no nursing home operator was prosecuted as a result of the Kaplan investigation, one thing is certain: All, including the defendant, were put on notice. And in that sense Mr. Hollander stands before your honor today as a second offender. Given the seriousness of the crimes for which he pleaded guilty, added to his total lack of remorse for past thefts, fundamental principles of justice require that he be incarcerated as any other citizen who stands convicted of crimes of such magnitude.

It is equally significant that Hollander, who had admitted to the court a net worth of almost $9 million has not taken, until the eve of sentence, a single meaningful step toward returning the money he stole. Indeed, the Renoirs and the other expensive trappings which so highlight his greed remain in his possession or under his control. How did it happen.

Your honor, I recognize another factor which exists in this case. I sympathize with Eugene Hollander because of his impaired physical and mental condition—more than he knows or believes. But jail, very much like any institution, including a nursing home, is never pleasant, albeit Hollander had a clear opportunity to be an honest citizen and thus avoid prison. I hasten to point out our elderly infirm have no choice whatsoever.

Your honor, even-handed justice demands that a thief of Mr. Hollander's calibre go to jail. His physical and emotional problems can surely be dealt with in an appropriate structured environment.

Courts have repeatedly recognized that sick people are not and should not be immune from incarceration. The test? Are there medical facilities adequate to deal with the problem? We are fortunate in this state to have such an excellent facility at Fishkill, New York, for inmates like Hollander. Of the 110 inmates at that institution, more than 24% have suffered one or more serious heart attacks before entering the institution.

Dr. Thomas Rigney is the medical director at Fishkill. He has personally assured me that if Mr. Hollander is sent to that institution, every precaution will be taken to stabilize his medical and emotional condition.

I would also like to point out that Fishkill is in no sense the usual prison environment. It is rather, as Dr. Rigney describes it, a nursing home.

I say this to your honor so that you will appreciate that the people do not seek harsh retribution for its own sake. However, experience has demonstrated that society was unable once before to separate this man from his greed. Therefore, we ask that, your honor, separate this man from the extravagant life style he has bought and paid for at the expense of the impoverished elderly. If sentencing is to carry the message of deterrence, it must be written in a bold firm hand. Hollanders must go to jail. The citizens of this state will no longer tolerate stealing at wholesale from the state monies appropriated for the care of the elderly.

As your honor knows, section 380.50 of the criminal procedure law gives me only the right to make a statement on the question of sentence. The court has previously been given by my office a sentencing memorandum which I believe fully documents Mr. Hollander's criminal activities. But in the final analysis, the court has the last word on the length of sentence if any. I can only ask that this court consider what is contained in that memorandum and to consider also what I have said here today and that you will agree with me that Mr. Hollander's acts which span 16 years be dealt with by the imposition of a substantial prison sentence.

THREE ESSAY CONTEST WINNERS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. FORD of Michigan. Mr. Speaker, I would like to share with my colleagues the three winning entries in an essay contest conducted recently in the fourth, fifth, and sixth grades at the Clarence Randall School, in Taylor, Mich., which I have the honor and privilege to represent in the Congress.

The students were asked to write on the reasons they were proud to be Americans. All the essays showed great thought and effort on the part of the students, and the winning entries are fine examples of how our young people view their Nation and the freedoms that are so dear to all of us.

The essays follow:

I AM AN AMERICAN

(By Mary Lynn Jansen, fourth grade)

I am proud that I am an American for the freedom of life. In other countries they choose what you are going to be. If you wanted to be a teacher you could be a teacher.

In American we can vote when we are of age. But in some other countries if a leader dies or if something happened, his family member would take over.

In Australia the price of gas and other products are higher than ours. In America gas costs about 50¢. In Australia it costs more. Other things like food would cost a lot more too.

I think our country is pretty. We have flowers and orange leaves in the summer and fall. We have white, fluffy snow in the winter. There's a cool breeze in the winter, and a warm breeze in the summer. There's bright-shiny, green grass in the summer too.

I AM AN AMERICAN

(By Ted Sebastian, sixth grade)

I was born an American with all the rights and freedom of a Democracy. I have never felt hunger or have never been deprived of any of the necessities but enjoy an abundance of luxuries.

One of my privileges is the right to pursue activities of interest to develop my mind and body. Among these are the martial arts and music.

Without the right of freedom of speech I would not be able to write this essay expressing my own opinion.

There are numerous occupations that I can choose from when I become an adult and I have the right to obtain the proper education to pursue the one of my choice.

An American has the right of ownership of as many properties and possessions as his earning ability will allow.

As an American I have the right to gather in public places such as parks, beaches, motorcycle and snowmobile trails, roller rinks and the freedom to travel anywhere in the world.

I can profess clearly to the Eastern Orthodox religion and be proud of my Greek background without fear.

There are Americans that abuse their privileges and do not realize how precious they are, but then, this too is one of our freedoms.

FREEDOM IN AMERICA

(By Lori Stowers, fifth grade)

I am glad to be an American, first of all, because it's a free country. We have freedom of speech, religion and press. It is a great country. We have gone to war to help people in other countries, but have been blessed so far never to have had a major war in this country.

We the people of the United States are able to go out and vote for president and who ever else we want in office. We can do what we want and go where we want and there is no one to put us in prison just because they don't like what we are doing. We have a school to go to so we can read, write and spell, while many others can't do either.

We the people of the United States ship food for the other people that are starving. We are lucky to have presidents in America because there would not be any laws and we would not know what's going on in the world and that's why I am happy to be an American.

THE CATCH-22 OF THE ETHICS RULE: HOUSE MAJORITY MAY NOT ORDER MISCONDUCT INQUIRY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, the present rules of the House contain a curious catch-22 mechanism involving investigations of alleged misconduct on the part of Members, officers, and employees of the House. Whereas article I, section 5, of the Constitution, empowers each House to determine the rules of its proceedings and punish its Members for disorderly behavior, including expulsion by two-thirds vote, clause 4(e)(2) of House rule X requires majority approval by the 12-member bipartisan Committee on Standards of Official Conduct before it can even undertake an investigation of any alleged misconduct.

Thus any six members of that committee can prevent the House from making an informed decision as to whether it should punish one of its Members for misconduct. The rule is written in such a way that a House majority cannot order the committee to undertake an investigation without majority committee approval. To quote from clause 4(e)(2)(A):

> . . . no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

Moreover, clause 4(e)(2)(B) specifies that the committee may only undertake an investigation into alleged misconduct on its own initiative, or on receipt of a sworn complaint from a Member or outsider if the latter has been refused in writing by at least three Members who are asked to transmit a complaint to the committee.

Mr. Speaker, the absolute right of six members to block a misconduct investigation would also seem to apply to any resolution of censure or expulsion which would most likely be referred to the Committee on Standards of Official Conduct. Committee investigation into any such resolution of censure or expulsion would again be subject to approval by a majority of the committee, and a 6-6 tie vote on the investigation question would deep six any such resolution. The committee would be under no obligation to report back its findings and recommendations to the House, and any attempt in the motion to refer the resolution with instructions to report back by a date certain would be subject to a point of order on the grounds that the House rules vest the exclusive authority for investigating and reporting in a committee, not House, majority. Thus it would appear that this particular committee is not a creature of the House, but rather that the House is the helpless creature of the committee.

Mr. Speaker, I was most heartened by the 11-to-0 decision of the Committee on Standards of Official Conduct today to proceed with a full investigation into the Hays matter. I would hope that the committee will be able to proceed in a thorough and expeditious fashion to make a factual determination into the allegations which have been made, and to report back its findings and recommendations to the House. I think it should be noted at this point that the committee is no longer obligated to report its findings and recommendations to the House, even after it votes to undertake an investigation. This is due to a subtle, and perhaps unintentional, change made in the House rules by House Resolution 988 in the 93d Congress, the Committee Reform Amendments of 1974.

Under the rules of the 93d Congress, clause 19(e) of rule XI, the Committee on Standards of Official Conduct was authorized to investigate any alleged misconduct, subject to the approval of a committee majority, "and, after notice and a hearing, shall recommend to the House of Representatives, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances." Under House Resolution 988, which is now incorporated in clause 4(e)(1) of rule XI, the committee is authorized to investigate alleged misconduct, again subject to the approval of a committee majority, "and after notice and hearing, to recommend to the House, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances."

The subtle change made by House Resolution 988 was the deletion of the word "shall" before "recommend." In other words, whereas in the rule of the last Congress the committee was obligated to report back to the House once it had voted to undertake an investigation, a literal reading of the present rule would indicate that the reporting requirement is now discretionary with the committee. The committee may now make a determination, after an investigation, not to report any recommendation to the House, by resolution or otherwise. This discretionary authority could thus prevent the House from acting on an allegation of misconduct except by calling up a privileged resolution of censure or expulsion but in the absence of any committee finding or recommendation. In short, the House would again be placed in the impossible situation of attempting to exercise its constitutional prerogative of punishing one of its Members without any factual basis for making a decision.

Mr. Speaker, the Catch-22 situation I have described which permits a half dozen members of a committee to block an investigation and even bury a resolution of censure or expulsion, and moreover prevents a House majority from overriding a committee decision by requiring it to undertake an investigation, was probably not intended when this procedure was devised. The House purposely created a completely bipartisan committee so that it would in no way have a partisan cast. And the requirement that a majority of the committee approve the initiation of an investigation was most likely designed to prevent a wholly partisan bloc on the committee from forcing an investigation of a Member of the other party for purely partisan reasons.

At the same time, it should be noted that this same requirement permits a solid partisan bloc to block an investigation of a Member of its own party, no matter how valid an allegation of misconduct may be. In short, this Catch-22 situation is a potential formula for deadlock and House inaction on complaints of misconduct against Members of either party. But, the failure of the Rules to permit a House majority to direct the committee to undertake an investigation without a special waiver from the Rules Committee of the committee majority approval requirement, clearly works to the advantage of the majority party which controls the Rules Committee by a better than two-thirds ratio; and moreover, the Rules Committee is considered an arm of the majority leadership.

Mr. Speaker, in my considered judgment the present House Rules militate against permitting a House majority to exercise its constitutional right to make a responsible and informed decision as to whether to punish one of its Members for disorderly behavior, including its right to censure or expel a Member. Under the present rules, six members of the Standards of Official Conduct Committee or eight members of the Committee on Rules may effectively block the right of the House to make such an informed and responsible decision. Put another way, as few as 14 Members of this body may deprive the House as a whole from exercising its constitutional right.

Mr. Speaker, I think an amendment to the House Rules is clearly in order to remedy this Catch-22 situation. I am, therefore, today introducing such an amendment which would permit any Member who files a complaint of alleged misconduct, or who has introduced a resolution of censure, expulsion or other punishment which has been referred to the Committee on Standards of Official Conduct, to call up a privileged resolution ordering the committee to undertake an investigation into the complaint or resolution if it has not acted to do so within 15 legislative days after the receipt of the complaint or referral of the resolution. Only in this manner can a House majority regain its right to act intelligently and responsibly on allegations of official misconduct.

At this point in the RECORD, Mr. Speaker, I include the text of my amendment to the House Rules:

H. RES. 1235

Resolved, That rule X of the Rules of the House of Representatives is amended in the following way:

Rule X, clause (4)(e)(2) is amended by adding the following:

"(E) If the committee fails to undertake an investigation of a complaint transmitted by a Member in accordance with the provisions of this paragraph, or of a resolution of censure, expulsion or other punishment which has been referred to the committee, within 15 legislative days after the receipt of the complaint or referral of the resolution, it shall be in order in the House, as a matter of high privilege, for a Member who has transmitted such complaint or introduced such resolution, to move to proceed to the consideration of a resolution authorizing and directing the committee to undertake an investigation of the matter mentioned in the complaint or resolution, and to report back to the House, by resolution or otherwise, its findings and recommendations.

The motion is not debatable. An amendment to the motion is not in order, and it is not in order to reconsider the vote by which the motion is agreed or disagreed to. Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit the resolution is not in order and it is not in order to reconsider the vote by which the resolution is agreed or disagreed to.

CENTENNIAL COLORADO CONFERENCE

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ARMSTRONG. Mr. Speaker, earlier this month I took part in the Centennial Colorado Conference, an annual national and State public policy forum held at Keystone Lodge near Dillon, Colo.

For 2 days, nearly 100 Coloradans from many parts of the State and representing many philosophical viewpoints met first in 10-member workshops, and then in a general assembly, for give-and-take.

It is a stimulating process, but more than that, the conference will be a source of useful input to the legislative and administrative decisionmaking process in the years ahead.

For the benefit of my colleagues, I would like to present the list of resolutions adopted by the conferees:

RESOLUTIONS PASSED BY THE 1976 COLORADO CENTENNIAL CONFERENCE

Minority Resolution No. 10. Resolved that, while pursuing greater understanding with Russia for the purpose of relaxing tensions and preventing a third World War, the United States will continue to hold firm to its principles and support democracy in all parts of the world.

Majority Resolution No. 2. Resolved that the United States should not pledge its credit to cities or municipalities of the United States who are faced with bankruptcy.

Minority Resolution No. 13. Resolved that the legislature should adopt legislation which prohibits the sale, dissemination or display of obscene material to minors and that the sale, dissemination, or display of such material to adults be regulated in a manner similar to the distribution of alcohol; i.e., through licensed retail outlets sited in accordance with *local* zoning procedures.

Majority Resolution No. 5. Resolved that the State of Colorado should establish regional rehabilitation centers for people confined to prison.

Majority Resolution No. 6. Resolved that prostitution should not be legalized.

Minority Resolution No. 11. Resolved that officials of the State of Colorado and its political subdivisions should be free to negotiate working conditions with public employees; however, public employees shall not be permitted to strike, nor shall the State or political subdivision agree to binding arbitration, nor shall any contract contain a union shop agreement.

Majority Resolution No. 8. Resolved that the state sales tax on food should not be repealed.

Majority Resolution No. 9. Resolved that the present merit system method of nomination, appointment, and removal of state judges should be retained.

Majority Resolution No. 10. Resolved that the people of Colorado should not adopt a constitutional amendment providing that nuclear facilities be sited only with the prior approval of a two-thirds majority of each House of the General Assembly.

CREATING A CAPITALIST

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. MILFORD. Mr. Speaker, more and more Americans today want to know what they can do to help add impetus to the recovery from our economic hard times.

Al Altwegg, business editor for the Dallas Morning News, in his column, "One Man's Opinion," on May 15 offered a few suggestions on how we all could become involved in our economic system.

I share these with my colleagues:

Creating a Capitalist

(By Al Altwegg)

How many other people, I wonder, have gotten tired of business executives making speeches about the need for this country to make the free enterprise system work?

If ever we had a situation comparable to "everybody talks about the weather but nobody does anything about it," it's the "free enterprise system."

Like the weather, it seems to me, free enterprise is one of those things that nobody much does anything about. And I find myself, more and more, harking back to that other old saying, Talk is cheap. What I keep pondering is, When are these talkers going to do something about it?

Or, to put it another way, why don't they get out and start making capitalists out of more Americans? And by capitalists I mean owners of common stock, owners of a stake in American enterprise.

I've got the notion that once we make stockholders of people, we make them into people who have something to lose when the American competitive market system is fiddled with or diluted, people who have a reason to defend and protect the system.

But talk won't do it. We've proved that, because we've been talked groggy for years and the situation goes from bad to worse despite all the talk.

So why not try something else? Why not attempt an alternative? Who knows, it might work. Certainly it could achieve no less.

All right then, Altwegg, so what are you talking about? Make stockholders how?

Well, let me throw up a few possibilities for thought starters.

First: A lot of corporate executives, for years now, have been lending their efforts each year to a program aimed at promoting the sale of U.S. Savings Bonds through payroll deduction plans. It's a means of promoting saving; it sells a lot of savings bonds to help finance the mammoth federal deficits. The investments are not the world's best, but they do get people to save who might not save anything otherwise.

Many of those executives are the top bosses of publicly held companies. But how many of them have ever considered starting a similar program through which their employes could buy stock in their own firms via a payroll deduction plan? And I wonder why not? Sure, there might be some problems to be solved in instituting such a plan. But anything people want to do badly enough can be worked out; it's just a case of solving the details.

Second: Back in the old days, a lot of insurance used to be sold on a weekly payment plan. Collectors would come around and collect weekly, maybe a quarter or two a week. It's not longer done, mainly because it's uneconomic to pay people to make collections of such small amounts. But that's no reason why the principle could be adapted to selling stock to people on small installments.

What would be wrong for a group of public-spirited believers in the American enterprise system to sell stock on a weekly collection program as an effort contributed in the public interest. In the interest of preserving the economic system? A group like the Jaycees might make a big contribution to our society by such an effort. It might work; we certainly can't say it would not, because it's never been tried to my knowledge.

Third: Why in the world are the utility companies, for example, not working harder to make stockholders and owners out of their customers?

I do not believe that I have ever heard of such a company—or any other company that sells to the general public and, hence has a stake in having lots of small owners on its side—really instituting an energetic program for getting its stock sold to its customers. I wonder why not?

Who is more likely to buy a product than a stockholder of the company that makes that product? Who is less likely to complain about the price of something than a person who can expect to get something back in the form of cash dividends paid by a company that is selling that something and making money at it?

It really puzzles me that more grassroots effort is not made by companies to make small stockholders for themselves, to get more people on their side thereby.

That's three ideas, just off the top of one man's head. Given some thinking, there should be a number of other ways through which Americans could be made into capitalists. If we can sell television sets to virtually everyone in the country, should it not be possible to sell dividend-paying stock to more people—with imaginative programs for doing so?

The trouble is that nobody is really merchandising the American competitive enterprise system. And that's amazing, because we can merchandise a multitude of things when there's money in it for us. Is there no incentive to really sell what we profess to believe in. We let the other guys—the opposition, or the enemy if you will—sell against us, but somehow we seem to be timid about selling what we say we believe in.

Why is it? Could it be that we don't really believe? Or could it be that the other guys are actually more dedicated believers than we are, and more willing to work for their beliefs than we are?

RETIREMENT DINNER FOR FRANCES McLACHLIN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of the Members of the House the fact that Frances McLaughlin will be given a retirement dinner on June 15, 1976, following 35 years of dedicated employment. Mrs. McLaughlin is currently employed by the Public Social Services Agency of the County of Ventura, Calif.

The following is a brief biography setting forth her many accomplishments:

Frances McLaughlin

On June 15, 1976, Frances McLaughlin is retiring from Public Social Services Agency after 35 years and 6 months of employment.

She was born on a ranch in the Simi Valley. She attended Moorpark Public Schools. In college she majored in Political Science and did graduate work in law at the University of Southern California. When she found that this activity failed to give her the self-expression she needed to satisfy her keen interest in people, especially the "underdog", she entered the field of social casework and found her niche.

In October of 1938, she became a Junior Caseworker in the Ventura County Welfare Department, interviewing applicants for public assistance, conducting investigations regarding eligibility and computing needs of eligible recipients. By July of 1947, she had risen to the classification of Public Assistance Supervisor I. In this classification she was responsible for the supervision of approximately 15 social workers, for the review of all applications for public assistance, supervision of secretarial and clerical personnel, interviewing difficult clients, and making determination of eligibility, assisting the welfare director in formulation of administrative procedures.

In November of 1949, the State Department of Social Welfare took over the administration of the Categorical Aid Assistance throughout California, and she was placed in charge of the Ventura State Office. However, in March of 1950, the County again assumed administration of the programs, and she returned to her classification of Public Assistance Supervisor I.

In July of 1950, she transferred to the Kern County Department of Social Welfare, where she was placed in charge of the Delano District Office. She returned to Ventura County in May of 1952, and assumed the position of Social Work Supervisor I.

In July of 1954, she was appointed Social Work Supervisor II. From January through April of 1955, she served as Acting Director of the Ventura County Welfare Department. On July 1, 1969, she was promoted to Chief of Program Development with subsequent promotions as follows: Acting Assistant Director on February 1, 1970, Chief of Welfare Field Services on September 8, 1970 and Chief of Welfare Services on May 9, 1972.

A TRIBUTE TO THE HONORABLE HUGH A. DOYLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. OTTINGER. Mr. Speaker, on June 12 of this year, Hugh A. Doyle will conclude his service as president of the New Rochelle chapter of the Association of Retired Persons. Hugh is a dear friend of many years and it is indeed a privilege to share with my colleagues a number of Hugh's numerous achievements and commitments to the people of Westchester County and the country

Hugh served as a commander in the U.S. Coast Guard and later held the post of president of the Reserve Officers Association. Highlights of his career in public office include service on the New Rochelle City Council from 1964 to 1971; from 1968 to 1971 he was that city's deputy mayor. He has been active as chairman and a member of the New Rochelle Recreation Commission. He has also held memberships on the New Rochelle Advisory Committee on Adult Education, the County Recreation Council, the New York State Youth Commission, and was a delegate to the White House Conference on Youth in 1960. The Scout Dad's Fund Appeal for the Boy Scouts of America and the New Rochelle Committee for American Relief in Korea have also come under Hugh's leadership. He has a long history of tireless participation in the Knights of Columbus as State deputy, State secretary, and Grand Knight. Hugh's many years of concern and devotion to the problems facing this Nation's elderly led him to his active role in the Association of Retired Persons and last year, the city of New Rochelle honored him as a Senior Citizen of the Year.

Hugh's other active involvements include memberships in the American Legion, the Friendly Sons of St. Patrick, New Rochelle Rowing Club, the Irish Benevolent Society, the Insurance Agents Association, and the Westchester Grand Jurors Association. He is also a vital part of the New York State Recreation and Parks Society, the Coast Guard Academy Alumni Association, the U.S. Naval Institute, the Mental Health Association, and the New Rochelle Urban Renewal Agency.

Hugh's leadership in the Association for Retired Persons will be sorely missed, but I know he will continue his efforts on behalf of all of our older Americans.

A JOB WELL DONE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. WOLFF. Mr. Speaker, I would like to call to the attention of the House the dedicated service which Mr. Conrad E. Diem has given to the Albertson Hook and Ladder Engine and Hose Company No. 1. Mr. Diem has recently celebrated his 50th anniversary with the fire department and he is a man well-known and respected in the firehouse and in the community alike.

He has certainly contributed a great deal to the successful efforts of the fire department and he has the most competent colleagues whose work must also be commended. Among the officers of the Albertson Fire Department are:

OFFICERS OF ALBERTSON FIRE DEPARTMENT

Chief: Peter J. Tennis.
1st Assistant Chief: Alexander Markowski.
2nd Assistant Chief: William Weisse, Jr.
Captain: Jose DaRocha.
1st Lieutenant: Dennis Craine.
2nd Lieutenant: Thomas Tilley.
President: Harry Sherman.
Vice President: R. Thomas Correll.
Secretary-Treasurer Trustees: William Clark.
Recording Secretary: William Weisse, Sr.
Corresponding Secretary: Michael Affrunti, Jr.
Financial Scretary: Peter Mancuso.
Treasurer: John Correll.
Sergeant-at-Arms: Edward Wilenski.
Company Chaplain: Paul Regeness.
Company Doctor: Dr. Lawrence Kryle.
Captain, Fire Police: Conrad E. Diem.
Captain, First Aid: Paul Regeness.

BOARD OF TRUSTEES

Carl Jetter, Chairman; John Bialobrzeski, Douglas A. Diem, Clarence Fuelling, Herman Fuelling, John S. Olivari, John Vecchione.

The excellent community service provided by this firehouse and by the many fire departments throughout the nation is greatly appreciated but too seldom outwardly acknowledged. We owe an enormous debt to these courageous men and women who risk their lives daily so that others may live.

I would like to take this opportunity to congratulate Mr. Diem and his coworkers at the Albertson Hook and Ladder Engine and Hose Company No. 1 for their many years of fine service and to thank all the firefighters of this Nation for their indispensable efforts.

SURVEY SHOWS DESERT VISITS EXCEED EARLIER ESTIMATIONS

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mrs. PETTIS. Mr. Speaker, between November 8–13, 1975, the Field Research Corp., under contract with the Bureau of Land Management conducted a statewide survey of California residents to obtain preliminary data regarding use, recreational demand, and attitudes regarding the California Desert.

The purpose of the statewide survey was to obtain a better understanding of how the people of the State feel about and relate to the California Desert. This survey was a concerted attempt to bring broad citizen and regional input into the public information and participation process of planning for the California Desert.

Mr. Speaker, the results of this survey underscore the need for Congress to act swiftly in passing the necessary legislation to protect and preserve the California Desert through a coordinated comprehensive, multiple-use plan. Briefly, the results indicate: First, a substantial use of the desert by the public; second, an expressed demand for a variety of recreational activities; and third, a general public concern in protecting and maintaining the desert's ecology, wildlife, naturalness, and historic features.

At this time, I would like to insert a more complete assessment of the survey which was included in this month's B.L.M. Newsbeat.

SURVEY SHOWS DESERT VISITS EXCEED EARLIER ESTIMATIONS

A statewide survey by Field Research Corporation last November indicates nearly one-third of all California adults aged 18 and over visited the southern California Desert last year. There are a total of 13.3 million people in this age group.

FRC's survey was made under contract from the Bureau of Land Management to help learn how Californians feel about and relate to the desert. Data was obtained on use, recreation demand and attitudes. About one-half of the 24 million acre desert is administered by BLM.

A random sampling which included interview of 1,124 persons showed some close parallels in thinking among those who had actually visited the California Desert and those who had not.

Twenty-three per cent of the desert visitors were from northern California. They and southern Californians both spent an average of a little more than 7½ days per visit.

Individual visitors often engaged in more than one activity. Uses made of the desert by visitors (percentages): sightseeing, 67.6; camping, 66.8; picnicking, 48.0; hiking, 45.9; photography, 45.5; fishing, 42.5; backpacking, 34.8; pleasure driving, 32.8; horseback riding, 34.5;

Rock climbing, 32.1; motorcycle riding, 26.1; target shooting, 24; jeeping, 19.3; dune-buggying, 19.2; hunting, 18.2; motorcycle racing, 12.2; painting, 9.9; hang gliding, 8.9; sand sailing, 7.7; other, 7.6; none of these, 2.4.

Although the percentages were close for most activities, Southern Californians showed a greater preference than Northern Californians for: photography, horseback riding, rock climbing, target shooting, motorcycle riding, dune buggying and motorcycle racing.

Northern Californians were more interested than the southerners in sightseeing, camping, picnicking, fishing, hiking, pleasure driving, backpacking, hunting, jeeping, painting, sand sailing and hang gliding.

Attitudes among all respondents, when asked to select the three most important issues affecting the desert (percentages): provide more protection of desert wildlife and ecology, 54.1; more protection of historic areas, 38.6; less developments of all kinds, 37.1; more campgrounds, 28.8; more control over recreational and other public uses, 22; more educational programs, 17.1;

More places for organized recreation, 15.4; more roads and sightseeing places, 14.1; more development of mineral resources, 10.9; more places for off-road vehicle use, 10.7; more hiking trails, 10.6; more motels and eating places, 9.8.

The protective sentiments expressed were at a stronger ratio among those who had actually visited the desert than among those who had not. This was especially true in advocating protection of historic places and limiting developments of all kinds. Larger percentages of visitors wanted more specific developments, however, such as campgrounds, roads and sight seeing places and more sites for off-road vehicle use.

INTRODUCTION OF A BILL TO SUSPEND TEMPORARILY THE DUTY ON POPPY STRAW CONCENTRATION

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. SCHNEEBELI. Mr. Speaker, I am today introducing legislation which I hope will relieve a shortage of much needed medicinal drugs in this country. The bill would suspend temporarily the duty on imports of poppy straw concentrate used in producing codeine and morphine. Both the importation and the production would be conducted under rigorous controls.

A worldwide shortage of crude gum opium, plus increasing demand for codeine and morphine, have caused U.S. firms to turn to imports of poppy straw and concentrate of poppy straw to meet their growing needs for crude opium.

The duty on poppy straw concentrate—1.5 percent ad valorem from countries accorded most-favored-nation tariff treatment and 10 percent ad valorem from other countries—serves to penalize the importation of an essential material, and to increase both the cost of the finished product and its price at the consumer level.

This legislation is designed to increase the supply and reduce the cost to consumers of essential medical drugs, the absence of which would seriously damage the level of medical care in this country.

BICENTENNIAL POEM REDEDICATING "THE AMERICAN SPIRIT OF FREEDOM"

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. McHUGH. Mr. Speaker, one of my constituents, Mr. David Karp of Kerhonksen, N.Y., recently made available to me a copy of a poem he has written commemorating the Bicentennial. Mr. Karp's poem, "The American Spirit of Freedom," very eloquently captures the spirit of America's proud past and the promise of her future, and I would like to share this moving work with my colleagues. I include "The American Spirit of Freedom" to be entered in the RECORD at this point:

"THE AMERICAN SPIRIT OF FREEDOM!"

Arise, America! . . . —Time does not wait,
Vigilance holds your freedom's fate.
Stand by your leaders in this global strife,
Alert to the noblest adventure in life.
Remember the great immortals of yore.
Behold their truths, lest we march to war!

First came the Prophet, all-wise and divine,
Whose ethics remain an eternal shrine.
He preached this law on Sinai the Mount,
From "The Commandments," most sacred fount;
But the wrath of Cain re-echoed deeper
The cry, "Am I my brother's keeper?"

"I WAS,

Then from the East, a Shepherd appeared,
With doctrines sublime, beloved, revered:
Of a Golden Rule and Brotherhood,
Of a Kingdom come, through earthly good,
Whose precepts helped lay the cornerstone,
"Man does not live by bread alone."

Take Heed, America! . . . —Pause to reflect
Nature's immutable cause and effect.
Study Man's struggle on history's page,
From Genesis, to the Space-Nuclear Age.
Outlaw, conquer, and forever eclipse
"The four horsemen of the Apocalypse."

I AM,

Now, you are summoned to Judgement Hall,
Where Statesmen gathered to Freedom's call.
May your decisions wipe out all tears,
Heralding Peace for the next thousand years:
A Peace with honor, for those 'neath the sod,
Who died to uphold "Liberty under God."

Have Faith, America! . . . —Lift up thy gaze
To His mysterious heavenly ways.
Probe "Man's inhumanity to man."
Question Destiny's ultimate plan.
Thus, as you ponder its purpose and scope,
Reason reveals this rainbow of hope.

I WILL BE,"

Democracy's heart shall ever be strong,
With courage to smite an aggressor's wrong.
Each citizen will have a duty and right,
With training, directed, preserving its might;
That nations may keep "Four Freedoms" unfurled,
The symbols of Justice, —One God, —One World!

ON ITS 30TH ANNIVERSARY, THE REPUBLIC OF ITALY FACES ITS BIGGEST CHALLENGE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BIAGGI. Mr. Speaker, on this day, millions of Italians both in this Nation and throughout the world mark the 30th anniversary of the founding of the Republic of Italy. Today, I take special pride in being an American of Italian ancestry and join with my many Italo-American friends in noting this important milestone in the annals of world history.

The people of Italy have mixed emotions on this date. There is great joy over the fact that Italy has achieved 30 years of freedom as a republic, but there is also sorrow and apprehension. The sorrow is because of the recent tragic earthquake which struck northern Italy, killing more than 1,000 people and leaving upwards of 100,000 homeless. Italians are apprehensive about the future of democracy in Italy which may be determined in the elections set for June 20.

Despite her present problems, the history of the Italian civilization has been filled with many important and successful chapters. The ideals of democracy and culture which have evolved in Italy since her earliest days, have greatly shaped our world.

Following the Second World War, Italians were once again presented with the fruits of freedom and following a national referendum, the Republic of Italy was established on June 2, 1946.

Yet like many other nations in Western Europe, the 1970's have posed new and very serious problems for Italy. The worldwide economic recession has gravely damaged the Italian economy. Unprecedented rates of inflation and unemployment as well as an unsettled world currency market, have all contributed to the worst economic situation Italy has experienced since the end of the Second World War. The economic problems of Italy have created new political problems as well. The Christian Democrat Party, the primary ruling power in postwar Italy, has been unable to turn the economic tide. This failure has contributed to the dramatic growth of the Italian Communist Party. The true extent of the Communist growth will be measured in the aforementioned June 20 elections.

So we must temper our celebration with the concerns for the future of the Republic of Italy. We must rely on the strength of the Italian people to repel the advances of communism in their nation. We must make our support of continued democratic rule in Italy clear and convincing for all to see. We must also make it clear that this Nation will not tolerate a Communist power among the NATO nations.

I am especially proud that this Nation has demonstrated its humanitarian leadership by providing $25 million in emergency relief assistance for the victims of Italy's worst earthquake in 60 years. As the first Member of Congress to introduce legislation on behalf of the Italian earthquake victims, I was proud to attend the White House ceremony yesterday, at which time the President signed into law, legislation containing this relief assistance. The President emphasized the importance of continued, strong United States-Italian relations, which I am sure was met with great support in Italy.

Besides the importance from a humanitarian standpoint, these funds are also important politically. Since the tragic earthquake of May 6, the Italian Communist Party has attempted to make a political issue of the relief efforts of the Italian Government. The $25 million in U.S. assistance will help prevent the Communists from further exploiting the misfortunes of their countrymen for political benefit. The aid will be distributed on both a local and regional basis and will represent the visible leadership of the United States on behalf of the people of Italy. This may prove decisive in thwarting Communist gains in the upcoming elections.

On this day it is also fitting to honor the many and varied contributions of the large Italo-American community to this Nation. The Italo-American influence is felt in virtually every facet of our society. Of particular significance is the growing power of the Italo-American community in the world of politics. The Italian American congressional delegation now totals 27, our highest number yet. We are proud to be led by Chairman PETER RODINO of the House Judiciary Committee, who has achieved his own place in history for the crucial role he played during the impeachment proceedings in the summer of 1973. We also note with deep regret the decision of the distinguished Senator from Rhode Island (Mr. PASTORE) not to seek reelection. He has certainly had a most commendable career of service in the United States Senate, and the absence of his leadership will certainly be felt.

As we in America celebrate a major anniversary of our own, our Bicentennial, we take time to honor the contributions of all Americans to our Nation's remarkable success. We as a people are proud to be Americans, proud of the opportunities which this Nation has provided us, and proud of our contributions to her past, present, and future. As Italo-Americans, we are also proud of Italy for achieving 30 years of democracy and hope for her continued strength and vitality as a free nation.

Mr. Speaker, I am honored as an Italo-American to note this special day. I would like to pay particular tribute to the distinguished Ambassador from the Republic of Italy, His Excellency Roberto Gaja, and wish him continued success and good health in the coming year.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district I was not present to vote on matters coming before this body. Had I been here I would have voted as follows:

Roll No. 291: Conference report on H.R. 12453 National Aeronautics and Space Administration authorization fiscal year 1977—"yea".

Roll No. 292: Consideration of H.R. 12677—"yea".

Roll No. 293: H.R. 12677, Alcohol Abuse and Alcoholism Amendments of 1976—"yea".

Roll No. 294: H.R. 12679, extension of program for health services research and statistics and medical libraries—"no".

Roll No. 295: H.R. 12679, health services research and statistics and medical libraries—"yea".

Roll No. 297: H.R. 13121, directing the law revision counsel to prepare and publish the District of Columbia Code—"yea".

Roll No. 298: H.R. 11009, amended, providing an independent audit of the financial condition of the government of the District of Columbia—"yea."

Roll No. 299: House Resolution 1190, the rule under which H.R. 6810 was considered—"yea".

Roll No 300: H.R. 6810, authorization for an additional Assistant Secretary of Commerce—"no".

Roll No. 302: H.R. 10138, creating the Young Adult Conservation Corps—"yea".

Roll No. 303: House Resolution 1214, the rule under which H.R. 12945 was considered—"yea".

LILA F. LARSON RECEIVES OUTSTANDING ACHIEVEMENT IN NURSING

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BALDUS. Mr. Speaker, I would like to take this opportunity to note in the RECORD the name of Lila F. Larson, of Ellsworth, Wis., for her outstanding achievement in the area of nursing. Lila is a registered nurse, one of five RN's from Wisconsin and among 113 in the Nation to be certified by the American Nurses' Association for excellence in clinical practice ANA certification provides formal recognition for nurses whose practice reflects excellence. It is based on assessment of knowledge, demonstration of excellence in clinical practice and endorsement by colleagues. Certification provides motivation for superior performance and serves as a means of self-evaluation for nurse practitioners. It is a tangible acknowledgement of commitment to high professional standards and helps establish and maintain such standards of nursing practice. The American Nurses' Association's certification program is a significant means by which the profession continues to maintain standards of professional practice, to assure that all citizens will receive quality nursing care. I join with my colleagues in extending Lila and the other 112 registered nurses certified this year our congratulations.

ESTATE TAX REFORM AND THE DISTRIBUTION OF WEALTH

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. VANIK. Mr. Speaker, the House Ways and Means Committee is beginning its markup of estate and gift tax reform legislation. In connection with the committee's deliberations, I am submitting the following testimony that Prof. James D. Smith presented to the committee during hearings last March. In the face of claims and counterclaims on who will be affected by estate tax reform and by how much, Professor Smith has developed hard, empirical data on the distribution of wealth in our country. Such information is imperative for responsible congressional consideration of estate and other tax reform proposals.

For the sake of brevity, I have eliminated the tables and references to them from Professor Smith's statement. I hope that the insight that Professor Smith's work provides will be helpful to House consideration of this complicated area of tax law.

The testimony follows:

TESTIMONY TO THE HOUSE WAYS AND MEANS COMMITTEE THE DISTRIBUTION AND COMPOSITION OF WEALTH HOLDINGS AND THEIR IMPLICATIONS FOR ESTATE TAX REFORM

INTRODUCTION

My name is James D. Smith. I am an economist with a long standing interest in the distribution of wealth and its implications for both politics and economics.

I have at times been dismayed that the Congress is forced to do its work with such a paucity of empirical data to guide it. I am particularly pleased, therefore, to be able to provide the Committee with data bearing on the distribution of wealth and its taxation at death.

Fortunately, grants from the National Science Foundation and The Ford Foundation to The Urban Institute permitted the basic preparation of the data base for the information presented below. Several years ago, after a long frustrating struggle by other agencies (including the Office of Statistical Standards) and myself, members of the Congress and of the White House Staff induced the Internal Revenue Service to release to me computer tapes of estate tax returns. None of the tapes contain the names or street addresses of tax filers. I burden you with this point because in the meat axe approach to protecting citizens from government dirty tricks, it is very easy to cut off the informational base needed to formulate wise public policy. Clearly, tax return data which do not contain positive identifiers, which I limit to name, street address and social security number, should be readily available to researchers and policy makers in and out of government. They form the primary basis for accessing the fairness of the tax system, making rational change in the tax statutes and addressing a host of economic and social issues.

The estate tax produces relatively little revenue, $3 billion compared to $103 billion from the personal income tax and $36 billion from the corporate income tax. It was never intended to be a basic source of public funds. Its purposes have been and I hope will continue to be (1) an impediment to the accumulation of such great economic power in the hands of the few as to undermine the political efficancy of the many, and (2) a mechanism to even out a bit of the life chances of children who had the foresight to choose rich parents and those lacking prescience. Thus, the estate tax is one of a class of instruments intended to make the market and political systems fairer and, perhaps, more efficient games. Given its peculiar functions, it is important to insure that it provide for horizontal and vertical equity, i.e., that equals are treated equally and nonequals unequally.

Unfortunately, the estate tax is *not* the best suited type of death tax for achieving its intended ends. Many of the problems (including that of liquidity) associated with the estate tax would be less troublesome if we had an inheritance tax. Under the present system of levying a tax against the value of the entire estate, the potential inheritance of a poor heir an a rich one are diminished by the same proportion. There is little point in worrying about equity among the dead and of any power that they may exercise. If a goal of the estate tax is to disperse of economic power, it would be well to tax inheritances on the basis of the combined prior wealth and inheritance of the legatees. Such a system could permit the transfer of rather sizeable amounts of wealth without any tax to persons of modest means and tax quite heavily wealth flowing to the affluent. I shall return to this issue later.

THE DISTRIBUTION OF WEALTH IN THE UNITED STATES

In most uses of wealth distribution data we would be interested in an economic unit such as the family, because it gives us a better view of one's economic status than does the wealth he holds in his own name. This is particularly true of the very young and very old. However, for purposes of formulating estate tax policies, the individual is the natural tax unit.

For practical purposes, a quarter of all U.S. citizens owned nothing in 1972. Many of these unpropertied persons were, of course, children, but also included are the old, and young adults living in poverty. About 55 percent of all individuals had a net worth of less than $5,000, and I am not talking simply about financial assets, but include houses, automobiles and personal effects in the manner in which the IRS views these things. Only about 7 percent of the population had a net worth of $60,000 or more in 1972. Nobody below this 7 percent of the population has his estate taxed if he dies, and for practical purposes, one is probably safe in saying that only the estates of the richest 5 percent of the population are taxed at all under the present estate tax system.

For some perspective about the types of assets held by the super-rich (those with a net worth of $60,000 or more), let us turn back to those persons with a net worth of $60,000 or more.

It is apparent that a substantial share of the total value of several types of assets are held by this group of wealth-holders. Taking into account the normal statistical errors attendant on data such as these, citizens with a net worth of $60,000 or more in both 1969 and 1972 held practically all the value of personally held state and local bonds, federal bonds (other than savings bonds), notes and mortgages and foreign and corporate bonds.

The most popular asset of the affluent is corporate stock, followed by real estate. As a group, the rich hold a surprisingly high proportion (13 percent) of their portfolio in cash (demand and time deposits). If various types of bonds and notes and mortgages are added to cash holdings it turns out that 25 percent of the wealth of the rich is in a highly liquid form. Although some of the corporate stock held by the rich is that of closely held by corporations, the overwhelming share represents traded securities, which are highly liquid. The general conclusion suggested by these data is that the rich, as a group, maintain very liquid portfolios. Because we had access to the micro data, it was possible for us to look behind these aggregate data. We shall return to this question a bit later, after we have laid out the general characteristics of the rich.

Looking at the distribution of wealth over a period of years one is struck by the constancy of its concentration. Because a dollar value such as $60,000 implies different levels of real wealth in different years as price levels change, secular movement in wealth concentration is best looked at by taking some fixed percent of the population arrayed by wealth level. The share of the nation's personally owned wealth held by the richest 0.5 percent of persons has been measured repeatedly at between 22 and 24 percent of the total, over a period of nearly two decades. If we go back more years, there is evidence that at times there have been trends toward less concentration. My colleague, Robert J. Lampman, of the University of Wisconsin, has provided us with estimates for selected years from 1922 through 1956. When his estimates are added to our own, a picture of the historical trend emerges. Wealth in the United States has become less concentrated in the last half century. Both the diminution is not great, and it all occurred in periods when the market system was functioning under duress or was in administrative abeyance, specifically the Great Depression and World War II.

So far we have looked only at individuals because they are the more relevant unit in the administration of a death tax. However, in viewing the success of death taxes as an impediment to the concentration of of economic power, it is important to recognize that wealthy individuals are likely to marry other wealthy individuals and thus accelerate accumulation of greater wealth by taking advantage of certain economies of scale. Families with $1,000,000 net worth or more are not exactly the economic creme de creme, but they are a rather select group, the richest three-tenths of one percent of all families. In spite of their relative fewness, these families owned 15 percent of the net worth, 36 percent of the corporate stock, 73 percent of the state and local bonds and 68 percent of the federal bonds (excluding savings bonds).

THE ISSUE OF LIQUIDITY

The President and others have pointed out that the estates of some decedents may suffer a hardship in paying their estate taxes because of lack of liquidity. The issue is felt to be particularly important in the case of family farms and small businesses. There is little question that converting assets to a liquid form to pay taxes may pose a financial burden on some estates. From a policy point of view, there are a number of questions that must be answered before one is comfortable recommending legislation to alleviate the alleged liquidity problem:

1. How extensive is the liquidity problem?
2. Are there other nonliquid assets, such as personal effects, jewelry, art, household durables and the like, which also pose a liquidity problem?
3. Is a lack of liquidity in estates an inadvertant condition of the decedent's prior economic life or is it in part due to prior inter-vivos transfers of liquid assets to the legatees who may use them to pay estate taxes?
4. Is the estate the correct unit of analysis for deciding whether a liquidity problem exists? Is not the liquidity of the legatee a relevant consideration?

These are questions which occurred to us and we have tried to shed some light on them by use of the data.

We computed for each estate filing 706s in 1973 a ratio of federal estate taxes plus costs of administering to liquid assets minus debts. This ratio is believed to be a conservative index of the estate's ability to pay estate taxes without the forced liquidation of less marketable assets.

Our calculations show that the liquidity problem is less extensive than one might expect. Nearly three-quarters of the returns filed in 1973 had a ratio of taxes and costs to liquid assets minus debts of less than .25, and 91 percent paid taxes of no more than 75 percent of their liquid assets after prior payment of all debts. Only about 6 percent of the estates filing returns in 1973 had taxes and costs equal to or greater than their liquid assets once all debts had been accounted for.

The administration's point is not without merits, the ratio is distributed differently for estates in which farm and business assets are present and those in which they are not. About 16 percent of the estates filed in 1973 with business and/or farm assets had a ratio of taxes plus costs equal to .75 or more of their liquid assets once debts had been subtracted, compared to 4 percent for estates without business and farm assets.

The estate tax base includes within it certain lifetime transfers which though not the property of the estate, are included for purposes of tax computation if they were made in contemplation of death or were for less than fair money's value. These transfers add to the taxes but have not been included as part of liquid assets in our ratio. When the returns are tabulated after excluding those with lifetime transfers, there is a further diminution of the proportion of estates with a high ratio of taxes of liquid assets. Other inter-vivos transfers may well have been made to potential heirs by the decedent. If there is a tendency for estate planning purposes, to transfer liquid assets to those who will be named as heirs, the liquidity problem will be even less a matter of concern for public policy. The IRS has the ability to match estate and gift tax returns of decedents. They have done this once in the past. If the Committee would care to request the Internal Revenue Service to provide a computer tape of such matched returns with the names, street addresses and Social Security numbers removed, we would be prepared to analyze it for its implications for estate and gift tax reform.

Finally, let me pursue the matter of liquidity a bit further. With all due respect to the Administration's proposal, I suggest that it is not the liquidity of the estate that should be the controlling issue. The real burden, the only meaningful burden of a death tax is that which falls upon the living. A death tax levied against a very nonliquid estate is not a liquidity problem to an heir who is himself in a liquid position, or if he is rich so that access to the capital market is relatively easy.

We can provide a limited amount of insight into the liquidity and wealth position of the heirs by looking at the one class of human heirs, spouse, who are identified on the 706. Married men, on average left (or the court distributed) 65 percent of their estate to their surviving spouses. Married women left about 50 percent to their spouses. We can by making a not too heroic assumption that husbands and wives share roughly equally in the ownership of assets, ask the question, What is the liquidity burden on the spouse of a tax levied against the estate of the decedent spouse? To simulate this situation, we altered the computer file in the following way:

1. The surviving spouse of each decedent was given assets which mirrored the decedent's estate. This may understate the survivor's wealth and liquidity because debt associated with the cost of last illness is not appropriate to the survivor.
2. The surviving spouse was assigned a tax equal to the proportion the total tax represents by the proportion of the distributable estate received by the spouse.
3. Finally, the ratio of ascribed tax burden to the liquidity of the surviving spouse was calculated.
4. The above procedure was also carried out by assigning to the spouse the rates of joint property reported on the return instead of procedure 1 above.

When these things are done, the liquidity problem, at least for death transfers among spouse, nearly disappears.

We are not now in a position to provide an insight regarding the liquidity problem faced by heirs other than the surviving spouse. Again, however, the data necessary to do this can be produced by the IRS. What is needed is a match of estate tax returns with the income tax returns of the heirs. Such a plan, I understand is in the offing, but it will not be implemented until 1980 or later. I once again offer to the Committee a willingness to analyze data from such a matched set of returns with all identifiers removed should the Committee wish to request the Treasury to provide the tapes. A relatively small sample of returns, if it were well designed, would suffice.

Finally, let me urge upon the Committee that it give serious consideration to undertaking a study of the inheritance tax as an alternative to our present system of death taxes. The functions of the estate tax would be better served and equity would be more easily achieved if heirs were taxed on the basis of their existing wealth plus the value of their inheritance. The tax rate schedules could be structured so that the point where one entered it was dependent upon his existing wealth. There are many problems which one would need to address, but I suggest that the Committee undertake such work so that the next time that estate tax reform is considered, an adequate body of data will be available to it.

NICARAGUAN PRESIDENT SOMOZA ON FREE ENTERPRISE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. MURPHY of New York. Mr. Speaker, in a recent speech, Nicaragua's President, Gen. Anastasio Somoza, told the Chicago World Trade Conference that U.S. businessmen must stop being shortsighted, and must think in terms of an interdependent world of nations rather than simply their individual trade prospects, if we wish to survive in a world divided into two philosophies—communism and capitalism.

The Republic of Nicaragua is a valued ally of the United States, as President Somoza has time and again proven by his staunch support of American policy in South America. And as he so ably states in his speech, the key to the future existence of the world is the interdependence of each nation with every other.

To underline his divsion of reality that "there can be no real progress unless it is world progress," I would like to insert the text of his remarks:

Interdependence Means the Survival of the Free Enterprise System—We Stand as Partners or We Fail

(By Gen. Anastasio Somoza Debayle)

Ladies and gentlemen: It is both a pleasure and an honor for me to be here in Chicago addressing such a distinguished gathering of American businessmen. I would like to thank the Chicago Association of Commerce and Industry and the International Trade Club for inviting me to participate in the 39th Annual World Trade Conference.

I hardly need to point out to you who conduct daily international transactions how small the world has become, not only in respect to travel and communications, but also in terms of natural resources. The energy crisis has made us painfully aware that the world's natural resources are strictly limited. The United States and Russia are trying to expand global frontiers with explorations of space, trips to the moon, and studies of life conditions on other planets. But for us here and now it is more important to concentrate on our relationships with each other and to recognize the interdependence of nations.

As the United States approaches its Bicentennial, let me remind you how much your prosperity has depended on the contributions of people from all parts of the world. Their technological skills, capacity for hard work, and wealth have made your country the great nation it is today. Is it not time for the United States to realize that its future does not lie within its borders, to cease thinking in an insular fashion, and to start considering the needs of the world as a whole?

The Midwest was once the stronghold of isolationism in the United States. For years this policy kept you from recognizing the growing significance of economic interdependence among nations. Fortunately, the increased need for international trade and today's advanced communications have made isolationism obsolete.

However, in most cases the new attitude of the business community fails to appreciate the fact that they can no longer treat developing countries simply as markets. Remember, the United States is already dependent on imports for many of its raw materials, for instance, up to 90 percent of some minerals, 75 percent of others. This situation has a tremendous socio-economic impact on the total output of the nation. As both your high standard of living and greater volume of trade demand the use of larger quantities of natural resources, our interdependence becomes more vital.

Should not then developing countries be allowed by industrialized countries to participate in decisions which affect their destinies? Or let me put it more strongly, the developing countries must be given a chance to participate.

In order to acquire a greater share of the benefits from trade, investment, and technological transfer, developing countries are forming blocs of economic interest that will enable them to bargain more successfully. Regional integration efforts are a strong indication that developing countries no longer believe in or accept trading on an open-market basis. The newly formed Latin American economic system (SELA) is an example of this movement. SELA is being used as a framework to structure regional commercial and financial policies for trading with the rest of the world. As national sentiments permit, it will become a negotiating power of enormous relevance.

If you do not accept discussions which will lead to cooperative and equitable agreements on pricing and marketing of essential products, you may face future pressures caused by actions such as that of the oil cartel.

Developing countries must also be allowed to participate more fully in the benefits of transnational investment. Although the very term transnational company has always been taken to mean "bad partner," I tell you, my friends, quite frankly, I admire the transnational companies. They continue to venture capital despite world conditions under which a country may have a democratic free-enterprise-oriented government one day, and a Communist-dominated state run economy the next.

Because the free-enterprise system conflicts with the aims of communism, I feel that genuine criticism of non-ethical business practices by transnationals has been used in insidious campaigns to undermine and discredit it.

We must not lose sight of the fact that the world is divided into two philosophies, communism and capitalism. I put it to you that Russia has many transnational interests which should not be overlooked simply because they are presented as government projects. Their supposedly governmental nature permits them to be used to influence national policies. Indeed, encouraging pseudo-nationalist movements is the communist way of preventing capitalist investments. So if you value the democratic way of life, stop being short-sighted and begin to think not only of your own future trade perspectives, but those of the world as a whole.

Now, though I have told you that I admire the transnational companies in general, I am still aware that there have been many abuses which should no longer be tolerated. It is true that much confidence in the integrity of business has been lost, but it is your job to restore it.

The time has come for those in business to put their houses in order. Rules of conduct must be clearly set forth so that both corporation and host country can play the game fairly. For some time, draft codes have been under discussion at the United Nations Economic and Social Council, in which developing countries have a strong voice, but thus far nothing concrete has been produced. The need is urgent. Let us hope the delay is not indefinite, especially in view of the need for new investments in the developing countries.

Equally necessary to the economic growth of developing countries is the transfer of modern technology. The United States itself is an outstanding example of this phenomenon. It is imperative, then, that transnationals find ways to convey their know-how to host countries, keeping in mind prevailing social, economic, and ecological conditions. Furthermore, emphasis should be placed on stimulating local technology without impairing national identities.

In Nicaragua the government aims to promote the socio-economic welfare of its people. We feel this can be best achieved through the free-enterprise system and welcome direct foreign investment in the hope of diversifying the economy. The government has established economic policies that make investment opportunities attractive. Later this year it will inaugurate the apex manufacturing zone, a free zone, which will offer additional advantages to local and foreign investors while accelerating the growth of national income by creating new jobs.

The Nicaraguan experience after the disastrous earthquake of 1972 demonstrates today's expanding sense of awareness and cooperation. International assistance in the form of government aid and private investment has enabled us to proceed with the orderly reconstruction of Managua. Our goal is to build a capital city with a wide variety of facilities and services which should win the attention of the international business community.

Ladies and gentlemen of the greater midwest business community, Let us frankly admit that interdependence is the key to the world's future existence. There can be no real progress unless it is world progress. In terms of trade, the basic principle must be partnership, not just marketing. If the free enterprise system is to survive, industrialized nations and developing countries must work together to achieve more equitable trade agreements, an acceptable code of conduct for transnational investment, and functional methods of transfering technology.

[From the Nicaragua News Service, New York, N.Y.]

Interdependence Means the Survival of the Free Enterprise System—"We Stand as Partners or We Fail"

CHICAGO, April 22.—President Anastasio Somoza of Nicaragua called upon U.S. businessmen to stop being shortsighted and to think in terms of the world as a whole and not just their own future trade prospects, if they value the democratic way of life.

The President made his remarks in a major address on "Interdependence Means the Survival of the Free Enterprise System" given before the delegates of the 1976 Chicago World Trade Conference held at The Hyatt Regency Hotel here today.

"We must not lose sight of the fact that the world is divided into two philosophies, Communism and Capitalism", said the President. "Russia has many transnational interests which should not be overlooked simply because they are presented as government projects. Their supposedly governmental nature permits them to influence national policies." "In fact," said Somoza, "encouraging pseudo-nationalist movements is the Communist way of preventing Capitalist investments."

The President, while recognizing some abuses by transnational corporations and the need for a code of conduct, paid tribute to the transnationals which continue to "provide venture capital despite world conditions."

In another part of his address, the President of Nicaragua urged the industrialized nations to allow developing countries to participate in decisions which affect their destinies. The formation of economic blocs to build up regional bargaining strength indicates that developing countries "no longer believe in, nor accept, trading on an open-market basis." "If industrialized nations fail to recognize this trend they may well face future pressures caused by actions such as those of the oil cartel," said President Somoza.

"Interdependence is the key to the world's future existence" the Nicaraguan President said. "There can be no real progress unless it is world progress." "If the free enterprise system is to survive, industrialized nations and developing countries must work together to achieve more equitable trade agreements, an acceptable code of conduct for transnational investments, and functional methods of transferring technology."

In direct references to his own country, the President of Nicaragua said that the disastrous earthquake of 1972, which devastated much of the capital city of Managua, demonstrated the expanding sense of awareness and cooperation between nations. "International assistance" said Somoza, "in the form of government aid and private investment has enabled us to proceed with the orderly reconstruction of Managua. Our goal is to build a capital city with a wide variety of facilities and services which should win the attention of the international business community."

HONORS PRESIDENTIAL SCHOLARS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. PICKLE. Mr. Speaker, I would like to bring to the attention of the House a speech made May 19 by our colleague, LINDY BOGGS, chairman of the Joint Committee on Arrangements for Commemoration of the Bicentennial. The occasion was a luncheon sponsored by the committee to honor the Presidential Scholars.

The Presidential Scholars, a program established by Executive order in 1964 and administered by the Office of Gifted and Talented of the Office of Education, Department of Health, Education, and Welfare, honors our Nation's most intellectually distinguished and accomplished graduating high school students. One hundred and twenty-one students representing each State in the Union, the District of Columbia, Puerto Rico, and American families living abroad are selected from public and private high schools to receive personal recognition of their abilities.

This year, as part of its Bicentennial activities, the Joint Committee on the Bicentennial held a special luncheon to honor these outstanding students and presented each of them with a scroll award on behalf of the U.S. Congress.

The text of the speech follows:

CONTINUING THE REVOLUTION—GIFTED LEADERSHIP AND THE FUTURE OF THE REPUBLIC

(Address by LINDY (MRS. HALE) BOGGS)

Today is a very special day for me. I feel privileged to be able to spend time with you, the Presidential Scholars. You represent the future leadership of our country—leadership in the arts and sciences, in industry and in government—in all of those humane activities that give this nation its strength and vitality. Military might alone has never adequately defended a complex civilization such as ours against its enemies. The first American leaders of two centuries ago understood that basic principle. The strength of a people depends on the flexibility of its institutions and the principles and ideals of its citizens. It will be your responsibility to see that the resilience of our most important institutions is maintained and to guard and nurture the principles and ideals of our citizens.

Because we are gathered here today in the United States Capitol, I think it appropriate that we spend a few minutes discussing the role of leadership and the future of this republic. Such a discussion by its very nature must be intertwined with education, participation, and revolution, because these are three cultural concepts and human activities that are woven into the sturdy fabric of our historical past as well as the unknown future life of the nation. They were of current importance two hundred years ago when the formation of this Republic was imminent, and they are equally paramount today.

The need for improved education was a central concern of our Founding Fathers. For Thomas Jefferson, the future of liberty depended on well-educated gifted leaders. It was for this very reason that he introduced "A Bill for the More General Diffusion of Knowledge" in the General Assembly of the Commonwealth of Virginia in 1779. In this revolutionary piece of legislation, Jefferson observed that in order to ensure that those who participated in government are wise and honest, citizens endowed with genius and virtue should receive a liberal education. For Jefferson the future of liberty depended on well-educated gifted leaders, the participants in government who made the difficult decisions concerning America's future.

For similar reasons, Benjamin Franklin, probably the only American of his time universally known by educated and enlightened Europeans, concluded in his Autobiography that his first "project of a public nature" was his role in organizing a "subscription library." Still in existence today, the respected Library Company of Philadelphia was counted by Franklin among his proudest achievements because so many others like it were organized throughout the colonies. Libraries were equally important, Franklin wrote, because they had contributed to the stand the Americans had made defending their privileges. In short, Franklin believed that libraries had functioned as an instrument of revolution. For him, an educated people were a free people.

We know that there were many talented and gifted people in America at the time of the revolution; and, among those who participated in that struggle for independence, some became leaders during that period that determined the future direction of American history. These leaders put their trust in the genius of an educated people and in the principles of democracy. But what did they think of revolution itself? How did they define revolution historically and intellectually? Was their definition different from ours? Finally, and perhaps most importantly, can you and I here today carry on a dialogue across generations of time with men and women long in their graves whose actions mean so much to us?

When we think of the concept of revolution today, for instance, most of us think about the American Revolution, that armed struggle against tyranny and corruption of two centuries ago. But the leaders of 1776 had a different revolution in mind as they tried to guide the American people into the future. Their concept of revolution was based on the Glorious Revolution of 1688 in Britain, a crucial event in the struggle to establish parliamentary government that had begun with the Civil War, the execution of Charles I, and the establishment of the Commonwealth by Cromwell. That was the revolution as far as Americans in the 1770s were concerned; and they saw their attempts to be represented in Parliament as part of the long struggle to establish representative government as supreme over the tyranny of a corrupt monarchy. It is precisely those tyrannical acts which are listed in great detail in the Declaration of Independence and which are the major portion of that text. The Declaration is, in fact, a commentary on "The history of the present king of Great Britain . . . a history of injuries and usurpations all having in direct object the establishment of an absolute tyranny over these states."

The American revolution, then, was part of a larger one—a revolution of ideas. It had begun in the previous century and had become a vital part of that group of ideas and customs that were an institution in themselves—the British Constitution. The American revolution, then, was both a constitutional revolution and revolution of ideas, one of institutions and principles.

John Adams was thinking of that in 1818 when he expressed what many of his compatriots of the time knew and felt, that the war and the revolution were related but separate events, that the war was fought only after the revolution in ideas and beliefs had occurred. In a letter to a friend that year he wrote: "But what do we mean by the American revolution? Do we mean the American war? The revolution was in the minds and hearts of the people. . . . This radical change in the principles, opinions, sentiments, and affections of the people was the real American revolution."

I believe that this revolution continues today. I had the opportunity to read a number of the essays that you submitted with your applications for the Presidential Scholars Program, and I was deeply impressed by your thoughtful sincerity. No less important is your real concern with principles and the need for participation, a concern you share with your predecessors of two hundred years ago, as you have shown in your essays.

Now I would like to share with you a few quotes chosen from them. Time will only allow me to read from two or three unfortunately, but these few selections represent many of the ideas and sentiments expressed in all of the essays.

"Do not rely totally upon your heritage, but persist in using it as the groundwork upon which you erect an even greater American nation of which you and your descendants will be proud."

"I strive on involvement, and only hope that some of my enthusiasm will rub off on others. It is our responsibility to keep worthwhile opportunities open and create new ones so that the spirit of '76 will live on in the hearts of generations of the future."

"All I can really be sure of is that my future, like that of my fellow Americans, must be based essentially on a belief in my own capacities, a faith in the dignity of other human beings, and commitment to my country."

I feel that these quotes and all the essays demonstrate that the future of this Republic is in good hands—your hands—the steady hands of young people who want to participate in the leadership of this nation. It will be up to you and all whom you represent to move our country into its third century and participate in this continuing revolution that stresses ideas, not wars; principles rather than tyranny. It is a peaceful revolution. Let us encourage it.

On behalf of the Joint Commitee on the Bicentennial, I would now like to present each of you with a scroll. This scroll has been prepared specifically for this occasion and for you, the Bicentennial Presidential Scholars. The body of the scroll reads as follows:

"Whereas the United States is entering its third century, and it is appropriate that the U.S. Congress recognize the country's outstanding youth and its future leadership; and

"Whereas it is in the national interest to encourage high attainment by students in secondary schools throughout the nation; and

"Whereas national acknowledgement of outstanding attainment in both leadership and scholarship will enhance the purposes of American education and will promote the future contributions of today's youth to the prudent governance of this nation; and

"Whereas it is the purpose of the Presidential Scholars Program to recognize and commemorate outstanding leadership, scholarship, and contribution to the school and community;

"Therefore, it is highly appropriate that the Joint Committee on Arrangements for Commemoration of the Bicentennial acknowledge the outstanding achievements of the 1976 Presidential Scholars through this award which recognizes the above-named as a Presidential Scholar in the Bicentennial Year 1976."

TRIBUTE TO JERRY R. LYMAN

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ROUSSELOT. Mr. Speaker, today I would like to call to the attention of my colleagues the unique contribution that one of this city's citizens, and the radio station that he manages, have made to the cultural awareness and musical enlightenment of our Nation's Capital. The citizen is Jerry R. Lyman and the radio station is WGMS-AM/FM, owned and operated by RKO Radio.

Jerry Lyman and WGMS-AM/FM have an exemplary record of service to the arts and achievement in their industry. The station was founded in 1946 by three area businessmen who were convinced that classical music had a proven audience in the market. Originally named WQQW, it was always identified as Washington's good music station, and in 1951, the call letters were changed to correspond with the slogan. WGMS was purchased by RKO General, Inc. in 1958 and, with the help of two full-time musicologists and an estimated 25,000 albums, they now offer the listeners in the Washington, D.C., area more good music than any other classical radio station in the country. Over the years, the station has pioneered a number of broadcasts, many of which are still on the air. For over 25 years, the weekly Sunday evening concerts at the National Gallery have been carried live on the station. For 18 years, WGMS carried the live broadcasts of the Library of Congress Chamber Music Series. Nationally known critics such as Patrick Hayes and Paul Hume have broadcast musical and cultural commentaries for 25 and 19 years respectively, and the Boston Symphony Orchestra broadcasts have been heard over the Nation's good music station for 15 years.

Jerry Lyman, senior vice president of RKO Radio, was appointed general manager of WGMS in 1972 at a time when the station was operating at a loss and during a period when a decision was being contemplated to change the format on AM to rock music. However, due to public outcry and the leadership of the new, capable general manager, the station was able to retain its traditional classical format on the AM band, turn its losses into profits and begin a period of sustained growth and progress that has continued ever since. Today, WGMS, under the direction of Jerry Lyman, is the most successful classical format radio station in the United States.

The leadership of Jerry Lyman was perhaps most appreciated during 1975 when the station sustained a string of unending calamities. Beginning with a mishap that resulted in the loss of the station's broadcasting antenna, the year of misfortune also included the accidental destruction of an important phaser unit and a catastrophic fire that destroyed all of the station's offices and studios. Inspite of these discouraging odds, Jerry Lyman, together with the committed and dedicated staff at WGMS, has succeeded in overcoming setbacks and continues to produce a service that Washington, D.C. can be proud of and for which all Americans who esteem culture and the performing arts can be grateful.

Last March, Jerry Lyman and WGMS earned national recognition when the station received one of 27 coveted George Foster Peabody Awards that were given this year for meritorious service to broadcasting. Selected for recognition for programs broadcast in 1975, WGMS won because of "their combined overall efforts to provide outstanding radio entertainment."

Not only is Jerry Lyman a successful broadcasting executive, he is also a devoted family man. He and his wife, Judith, are active in civic, political, philanthropic and cultural interests in the Washington area, and together they provide an inspiring example of personal and professional achievement.

As we reflect upon the accomplishments of our country and its people during this Bicentennial year, it is important that we measure the growth of our civilization not only through our advancement in science and technology but also through our cultural development. It is appropriate that we pay tribute to those citizens who are making a contribution to these endeavors. Jerry Lyman deserves our thanks and recognition for his serious and successful efforts to maintain a high degree of quality in public entertainment and provide continuous pursuit of our cultural attainments.

MILLIONS OF DOLLARS IN ESTATE TAXES GO UNCOLLECTED

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. VANIK. Mr. Speaker, this week, the House Ways and Means Committee begins consideration of legislation to lighten the burden of estate and gift taxes. While some changes need to be made in these laws, we must insure that changes in the estate and gift tax laws do not accrue to the benefit of the extremely wealthy.

In addition, I am concerned that the Internal Revenue Service already has trouble collecting the estate taxes owed to the Treasury. I have just examined 11 IRS internal audit reports on problems in the administration of the estate and gift tax laws.

It appears that many extremely wealthy estates have escaped hundreds of thousands of dollars in taxes and that the collection of estate taxes is often "sloppy." Therefore, before further "liberalization" of estate tax law is considered, we should ask the IRS what can be done to improve the quality of their collection procedures. Indeed, given the difficulty which the IRS has had in obtaining from the Office of Management and Budget adequate audit and collection manpower, I will raise in the Ways and Means Committee the idea of setting aside a portion of the estate tax to pay for the proper administration of the estate tax provisions. Adequate IRS administration of the estate tax laws is essential if we are to insure that these taxpayers—who constitute the very wealthiest segment of our population—fulfill their legal obligations.

Following is a summary of the estate tax problems described in the internal audit reports on estate and gift tax for the years 1971 through 1975:

IRS INTERNAL AUDIT REPORTS ON ESTATE AND GIFT TAX LAWS

The Internal Audit reports from IRS regional and district offices concerning estate and gift tax laws reveal many problems and raise questions as to the extent of compliance to these laws.

It must be noted, however, that a limited number of cases were reviewed, with an even smaller number of cases exhibiting problems. By their very nature, Internal Audit reports tend to portray errors in operation and fail to convey the fact that most IRS operations are proceeding quite smoothly. In addition, according to the Internal Audit reports, the IRS districts surveyed are making every effort to remedy the problems through reassignment, restaffing, and increased training.

Scope of audit in various districts

District:	*Cases reviewed*	*Problem cases*
Portland	41	13
Phoenix	23	11
Jacksonville	54	18
Louisville	30	7
Cleveland	17	3
Indianapolis	58	11

The major problems and issues noted in the Internal Audit reports include the following:

1. Faulty documentation, not supportive of examiners' valuations and conclusions. This includes valuation of personal effects in vague terms or token amounts, and the acceptance of appraisals based on mere verbal opinion and from unauthorized sources.

2. Inquiry is not always made where warranted.

3. Personal effects reported by examiners are often unrealistic when compared to the gross estate, in part due to inconsistencies between estate returns and related individual income tax returns. Problems in this area center upon income producing assets, income in respect of the decedent's income tax liabilities, duplicate assessment and double deductions, and unexplained adjustments.

4. Related income tax issues are not resolved, due to a lack of specific guidelines and meager income tax law training and experience on the part of estate examiners. The problem here centers upon unreported or understated capital gains, overstated deductions, unreported attorneys' fees and executors' commissions, etc.

5. Faulty handling of the estate taxes themselves, including lack of consideration for accrued interest of the deceased, contemplation of death transfers, funeral expenses, etc.

6. Lack of consideration for attorneys' fees and executors' commissions.

7. Inconsistencies in policy among the various districts, rendering uniform review difficult.

8. Delays in determination of reviews, leading to poor taxpayer relations and a loss of interest to the government.

9. Examiners' reports are not numbered, dated, adequately itemized, etc.

Examples cited in the reports of inadequate documentation and "token" valuation of personal effects include:

1. Central Region, Louisville District, 1974—examiners' work papers on file contain no explanation as why a farm of 131 acres was assessed at $21,000 in 1969 (date of death), but which sold a year later for $60,000.

2. Southeast Region, Jacksonville District, 1975—No explanation for the discrepancy between real estate valued at $140,000 and comparative land prices of $50,000 per acre, which would increase the value of the land in question to approximately $750,000.

3. Northeast Region, Boston, Providence, Hartford, Manhattan Districts, 1973—In 31 cases of estates of values up to $2,116,492, no personal effects were reported. In 18 cases of estates worth up to $1,119,192, only minimal personal effects (value $1,000) were reported. In 26 cases of estates worth up to $898,743, the only personal effects reported consisted solely of an automobile or an auto plus other minimal effects.

More specifically, from the Northeast Region, Boston, Providence, Hartford, Manhattan Districts, 1973—

Examples:

A. Estate value, $275,603; residence value, $24,750; personal effects returned, $7,591 (coin collection).

B. Estate value, $240,195; residence value, $45,000; personal effects returned, none.

C. Estate value, $345,977; residence value, $50,000; personal effects returned, $2,500 (automobile).

D. Estate value, $359,563; residence value, $70,000 and, $23,500; personal effects returned, $1,830 (art work).

4. Northeast Region, Hartford District, 1973—the examiner's report gives no support to the conclusion that securities in a given estate were warrants valued at $14,250 and not stock worth $60,000.

Examples of unrealistic personal effects reporting due to inconsistencies between estate returns and individual income tax returns include:

1. Western Region, Portland District, 1975—Securities were returned as being of no value while the book value of the same securities was listed as between $57,869 and $91,538.

2. Western Region, Portland District, 1975—A surviving spouse claimed a $55,000 contribution in jointly owned property, an assertion accepted by the examiner. However, other relevant data in the case file suggests that this constitutes an overstatement of $25,184.

3. Southeastern Region, Jacksonville District, 1975—An individual income tax return shows individual ownership of securities worth $41,500. However, on the estate return the same securities were reported as being under joint ownership. According to auditor's calculations, this resulted in an undervaluation of the estate equal to $42,205.

4. Central Region, Detroit District, 1974—An individual return exhibits ownership of 49,995 shares of stcok valued at $199,980. The related estate return reveals an assessment of 17,000 shares valued at $68,000. No explanation was offered for this $131,980 discrepancy.

5. Central Region, Indianapolis District, 1974—AT&T stock valued at $125,000 was completely omitted from an estate return.

6. Northeast Region, Hartford District, 1973—The personal effects of a successful doctor who resided in an affluent neighborhood were questionably valued at $500.

Examples of unresolved income tax issues include:

1. Western Region, Phoenix District, 1975—Review revealed that the decedent in question had failed to report capital gains on his income tax return. Bonds with a basis to the estate of $26,646 were sold for $61,256, representing a gain of $34,610. However, this gain was listed as a loss of $460.

2. Central Region, Cincinnati, Cleveland, Detroit District, 1975—A decedent transferred interest in a $26,000 home to his wife and son, thus excluding it from the estate return. However, the interest would be includible if the decedent had life-interest in the home. This issue was not dealt with, pointing out the unfamiliarity with income tax laws on the part of the examiner.

3. Southeastern Region, Jacksonville District, 1975—An examiner made a fair assessment of farmland worth $456,756, but failed to determine the fair market value of cattle and swine ($157,700), harvested crops ($47,485), or a breeding herd ($329,172). Also, no resolution was afforded a $272,000 difference between depreciable assets sold and depreciable assets shown on the individual income tax return.

Examples of negligence with regard to proper compliance with regulations concerning attorneys' fees and executors' commissions are cited by the Northeast Region (1973). In the Hartford District, commissions up to $16,000 were not reported, and fees up to $20,000 were not reported in the Providence District.

An example of inconsistencies in review policy is evident in the Central Region (1975). The Cincinnati District requires that a decedent's income tax form for one year be reviewed, while the Detroit and Cleveland Districts require review of forms for three years.

Examples of delays in review procedure include:

1. Central Region, Cincinnati, Cleveland, Detroit Districts, 1975—A request from an executor for an early determination of tax and release from personal liability under IRC 2204, which requires actions to be completed within one year, was not fulfilled until 17 months from the date of request. This delay included 7 full months of complete inactivity.

2. Western Region, Fresno Service Center, 1973—50 percent of cases selected for review remained unassessed for an average of six months.

3. Western Region, 1973—The Fresno Service Center notes delays in the collection of taxes amounting to $9,863,000.

BOB MICHEL: MAN OF THE YEAR

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. RHODES. Mr. Speaker, Congressman Robert H. Michel, of Illinois, the distinguished minority whip, was recently honored by the Congressional Staff Club as its 1976 "Man of the Year." Over the years, the bipartisan CSC has sought to encourage and recognize excellence in public service. Among the past recipients of the award have been Speakers Albert, McCormack, and Martin, Representative Thomas Morgan, and President Gerald R. Ford.

In my opinion, the club's selection of Bob Michel as "Man of the Year" could not have been more appropriate. As minority leader, I have a special appreciation for Bob's talents and the professionalism which he brings to his duties as whip. He is a great personal friend and a valued colleague.

The respect and affection in which Bob Michel is held is not limited to Members on the minority side of the aisle. All Members of this legislative body who have seen the man from Peoria at work in the Appropriations Committee and during floor debate, have come to rely on his consistently sound judgment. His good commonsense is equaled only by his good humor and congeniality. No one works harder in the House of Representatives than Bob Michel; yet he is always quick to remind us that we ought never take ourselves too seriously.

The people of Illinois' 18th Congressional District have every reason to be proud that their Representative, Bob Michel, is the Congressional Staff Club's 1976 "Man of the Year." It is a distinction that is richly deserved.

SWINE FLU INOCULATION

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. HUNGATE. Mr. Speaker, in light of the overwhelming vote by the House in favor of the President's swine flu inoculation program. I hope my colleagues will find this recent article from the St. Louis Post-Dispatch as interesting as the 12 of us who opposed this bill must.

The article follows:

No Rush By Other Nations To Begin Mass Inoculations Against Swine Flu

Geneva, May 29.—Although its epidemic spotters have been on a global lookout for more than three months, the World Health Organization has failed to find a single case of swine influenza after the surprise outbreak at Fort Dix, N.J., early this year.

With the southern hemisphere's winter coming on—and the flu season down there along with it—new outbreaks of last year's A-Victoria type have been reported from several countries but nothing resembling the swine flu strain officially designated "A-New Jersey-75."

International reaction to the threat of a global epidemic, or "pandemic" paralleling the disastrous 1918-19 Spanish influenza outbreak, is in calm and studied contrast to the massive antiswine flu inoculation proposed by President Gerald R. Ford in a White House announcement last March.

World Health officials who are monitoring the swine flu situation through a world-wide network of 96 health laboratories, say the United States stands alone in plans for mass immunization of its population.

And although no one in a position of responsibility will say so officially, there seems to be a belief here that U.S. leaders have overreacted.

This view is reflected in Great Britain, where ministry officials, when interviewed a few days ago, spoke guardedly of "national considerations" that might make a broad immunization campaign more desirable in the United States than in the United Kingdom.

The British government adopted a policy early in the spring of developing a triple-threat vaccine against the Victoria and Hong Kong strains as well as the swine type. Britain is now producing in limited quantities the "trivalent" vaccine for administration to "high-risk" individuals—those with heart and lung disorders that might make them more than ordinarily susceptible to flu virus. These are estimated to number about 2 per cent of Britain's population.

Dr. Charles Cockburn, chief of the communicable disease unit at the World Health Organization said the Soviet Union had "decided to make large quantities (of swine flu vaccine) but keep it in reserve" until it is needed, rather than immunizing the population in the absence of a clear threat.

"Several other countries are doing what either the British or the Russians are doing," Cockburn said. None is following the U.S. course.

Because the seasons are reversed between the northern and southern hemispheres, experience with influenza beginning about now in temperate-zone countries south of the equator has been awaited with great interest. Disease-fighters reason that if swine flu is going to hit the north temperate zone this fall, it may well telegraph its punch six months earlier in some such places as Australia.

That is what happened a year ago when a new strain of flu was detected in the Australian state of Victoria, whose capital is the large city of Melbourne. This A-Victoria strain did big damage in the United States last year—more than 10,000 deaths over the number normally expected.

The Victoria flu hit Britain proportionately even harder, causing about an equal number of deaths in a country with one-fourth the population. Britons today are a lot more worried about a continuation of the Victoria flu than about emergence of the swine variety.

IN RECOGNITION—HARRY BENET

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. GRADISON. Mr. Speaker, on June 10, the Cincinnati B'nai B'rith will present its most distinguished award, the B'nai B'rith Guardian of the Menorah to Harry Benet in recognition of the contributions which he has made to so many humanitarian endeavors.

Harry Benet has served in almost every area of civic and philanthropic endeavor.

He served as director of Adath Israel Synagogue and is also a member of Rockdale Temple. He has been active in B'nai B'rith, Zionist Organization of America, Big Brothers, Jewish National Fund, and United Appeal. Mr. Benet has received many awards for his communal and philanthropic activities, some of which are Brandeis University Family Fund. Hadassah, Friends of Youth of Hillel, and the Abba Award of Hillel. He received the Herbert Lehman Award in recognition of his contributions to Israel and the community.

He is the president of Benet Enterprises, a director of Cincinnati Economy Drug Co., and former director of Owen Laboratories.

A member of the executive board of the Israel Bond Organization, Mr. Benet has served on various committees of the bond campaign.

He served as chairman of the classification committee of the Rotary Club, a former trustee of Cuvier Press Club, a founder of the Cincinnati Drug and Chemical Association, a charter member of the Bankers Club, and member of the Cincinnati Club.

A native of Cincinnati, Mr. Benet is a graduate of the College of Pharmacy, and a member of the Hamilton County and Ohio State Pharmaceutical Associations. Mr. Benet was responsible for establishing the Benet Laboratory for Tropical Therapy at the Cincinnati College of Medicine.

In all aspects of Mr. Benet's life, he exemplifies the best of America, its culture, education, and religion. I am happy to join with his many friends in congratulating Mr. Benet upon the award of this Guardian of the Menorah and wishing him continued strength in his future endeavors.

CHILDREN—THE GREAT AMERICAN RESOURCE WE CANNOT WASTE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BIAGGI. Mr. Speaker, the May 23 edition of the New York Sunday News contained a feature article discussing the present problems facing America's children, and the need for this Nation to rededicate itself to providing a safe and healthy future for all its children.

The article discusses some of the more prevalent problems faced by America's children. One problem which is discussed is the problem of child abuse and neglect. I have long been concerned with the problems of child abuse and neglect and was one of the primary sponsors of the Child Abuse and Neglect Prevention and Treatment Act, which represented the first major Federal commitment to the reduction of this problem. I have currently undertaken an investigation in cooperation with the General Accounting Office to insure that the millions of dollars in Federal grants and contracts provided under this act are fulfilling the intent of Congress with respect to reducing the incidences of child abuse and neglect.

Another area I have donated a great deal of attention to has been the problems associated with America's 450,000 foster children. I conducted congressional hearings last summer to determine why so many foster children were kept in foster care far beyond what was necessary, and in lieu of their being reunited with their natural parents or being referred for adoption. As a result of these hearings I introduced H.R. 11185, the Adoption Opportunities Act which is designed to free more children for adoption and lessen the incidences of children being incarcerated in foster care. This bill currently enjoys the support of more than 30 of my colleagues in the House and I am hopeful that action can be completed on this bill by the end of the year.

The article discusses several other major problems confronting the children of America including drug abuse and alcoholism. The author of the article Dr. Judianne Densen Gerber, the founder of the famous Odessey House which specialized in services to children advocates the establishment of a Cabinet level Department for Children. I feel this proposal has certain basic merits and I believe she builds a strong case for it in this article. I urge my colleagues to read this excellent article and as Dr. Gerber says "begin to celebrate our country by celebrating our children."

The article follows:

PROTECT OUR GREATEST RESOURCE—KIDS

(By Judianne Densen Gerber)

Join me in asking this question:

Are all of America's children happy? Will they all be laughing at the nation's 200th birthday party on July 4?

Here are a few statistics about our 66 million youngsters under the age of 18, so you can judge for yourself: Seventeen million children, one in four, live in poverty; 95% of the nation's 1.7 million mentally retarded children live in slums; 2.5 million children are in danger of lead poisoning, a major, but preventable, cause of retardation.

A million children are at risk of bodily harm from their parents, according to a 1975 report by the National Institute of Child Abuse and Neglect. Odyssey Institute believes the number is more likely four million extrapolating from conservative estimates that show only 1 to 10 cases is reported.

60,000 SEVERELY BATTERED

Here in New York 27,000 child-abuse cases were reported last year, indicating that the true number may be as high as 270,000; New York State reported 55,000, which more likely means 550,000. Dr. C. Henry Kempe, a renowned leader in the field, testified before Congress in 1973 that 60,000 children are severely battered and abused every year. Another expert estimated last year that as many as 5% of the nation's children are victims of incest, some as young as three.

A few more facts to think about while planning your July 4 celebration:

In 1975, 830,000 babies were born to teenagers, only a third of whom were married. Many of them care for their young without any supervision.

In 1973, a group of California researchers concluded that 28% of America's teen-agers were problem drinkers. The West Coast figures showed a 38% increase in drinking among 13-year-old boys and a 76% increase for girls of the same age.

This year has ushered in the second teenage epidemic of heroin and drug addiction, with victims frequently as young as fourth-graders. America is the only civilized Western nation that does not have automatic delivery of health care to its children under five.

Pages more of statistics and facts could be presented, but one child in danger is one too many—and America has millions. It is time we started creating happiness for some of these children too; for these mini-Americans who cannot speak for themselves because of the impl[e]diment of childhood and because of their lack of voting and economic power.

It is time to raise a hue and cry for conscience and values, to demand that children be declared our nation's first priority, our greatest national resource. To do it, our country must have a Cabinet post for the concerns of children.

Such a post should have under it all the concerns of children and the family; health, child development, education, nutrition, juvenile justice and child labor, to name just a few. All services which impact on the child should be in one coordinated and comprehensive place.

Such a post would strengthen the family, reduce costs by ending duplication of services and see that the abuse and neglect of our children is fully addressed.

PAY FOR ITSELF

One abused child who came to autopsy last year in New York was known to 38 agencies, a costly wasteful professional abuse in which no one assumed responsibility to prevent death. By instituting a comprehensive program for children on federal, state and local levels, duplication will be eliminated and the program would eventually pay for itself.

Within one generation, under a Cabinet department we could expect to see a marked decrease in the number of persons on the welfare rolls, in jails and in mental hospitals. Even if it costs more in the short term, we would save in dollars and lives in the long term—and we really have no future unless we care about our future, our children.

But, you might ask, don't we have people in the Department of Health, Education and Welfare who are concerned with the needs of children?

HEW TOO BUREAUCRATIC

I can only share with you my gut-level response after working for ten years in the field of delivery of care of the disadvantaged: HEW is too big, too bureaucratic, too much of a superagency to respond. We New Yorkers have had enough experience with superagencies to be fooled by their paper reports of adequate performance. Each and every person in the street knows better than the agency head how much of every tax dollar reaches the citizen.

To effect change in the way America treats its children requires a change in the grassroots attitude that children are the property of their parents to do with what they will. Children are not the property of their parents; children are a sacred trust. When parents do not respect that trust, the community at large must step in to protect, to care and to love—even if it means removing children from their natural parents.

I, as many other, fear the creation of another bureaucracy, but I believe that if the Cabinet post emerges from the same grassroots awareness and vigilance, then such vigilance can and must watch the new secretary to insure performance according to the mandate of the people.

A very good friend of mine, a Pakistani poet and pediatrician working in Baltimore, confronted recently with the glaring facts of child abuse in America, stated:

"There is no village in America that can match those in my country for abject poverty, yet we do not have a single case of child abuse because there is always a neighbor to stop the unkind hand. The problem with America is that you have a poverty of community, a poverty of values, a poverty of caring, and that is what is destroying your great country."

Let us begin to celebrate our country by celebrating our children.

MATT PEACO

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. EMERY. Mr. Speaker, because they will soon take our places and because they must build the structure of the future on the foundation we lay, I am sure my colleagues are as interested as I am in the accomplishments of the youth of our country.

Although we have many, many fine young women and men in Maine, I would like to bring to your attention the accomplishments of Matt Peaco of Bridgton, Maine, who recently won the boys junior singles of the world championships in candlepin bowling.

The perseverance, honesty, and old-fashioned hard work that Matt has demonstrated is worthy of the attention of many of us older than Matt's 13 years.

I have attached a clipping from the Thursday, May 27, 1976, edition of the Bridgton, Maine, News which recounts Matt's achievements:

MATT PEACO IS WORLD JUNIOR BOY'S CANDLEPIN BOWLING CHAMP

(By Mike Corrigan)

Bridgton is a nice place to visit, judging from the traffic, and a lot of people live there, but it is not known as a breeding ground for World Champions. But the town has a World Champ now.

Matt Peaco started bowling when he was three, hasn't stopped since, and now he's 13. He could make the 3-10 split in his sleep. He could make the 5 pin in a coma. If he was dead, Matt could probably make the headpin. The kid's good.

Last Saturday night at Pilgrim Lanes in Haverhill, Mass., Matt Peaco was crowned Boys Junior Singles Winner of the World's Invitational Championships, candlepin bowling variety.

Candlepin bowling, little balls and cylindrical pins, is about as popular as cliff-diving in the hinterlands outside of New England, but 48 bowlers from Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and parts of Canada gathered for the "World" Invitational last weekend. And Matt beat them all, with a five-string total of 538.

George Cooper, the Pondicherry Lanes manager who has watched Matt practice day after day, told how the sturdy youngster did it.

"Matt fell behind in the middle of the last game. He punched out the middle a couple of times. But he closed with two spares and a strike in the last three boxes. Talk about rising to the occasion!"

Matt won by seven pins, over Ed Gosselin from Bangor, the same lad Matt beat out for the State Championship recently.

"I like pressure," Matt explained.

Matt says he's never nervous, but he will admit to being "a little worried" in Haverhill. "I fell behind in the middle of the fifth, then made a really tough spare (1-3-6-7-10) in the eighth box. That got me going," Matt says.

Matt's mother, Mrs. Stanley K. Thompson, will tell you he wasn't THAT worried. She told Matt after his fourth game Saturday, that if he closed with a 100 score, he could probably finish second.

"I'm not after second," Matt said, just like the young hero in storybooks. He rolled a dynamite 127 in the fifth game to win.

Nearly a dozen area residents, including Cooper and the Thompsons, watched Matt's come-from-behind win. He bowled 111-90-113-97-127 for his 538 total.

ACTIVITIES

Matt first picked up a bowling ball at age three, cupped it back on his wrist, and rolled it down the lane in a manner reminiscent of Rick Barry shooting a foul shot. No more. Now, Matt picks up the ball, cups it back on his wrist and sidewinds the ball down the lane at a terrific speed. When the ball meets the pins, it sounds like F. P. Saunders Dowel Mill falling down.

Matt is a shy, solid youngster, big for his age. He enjoys baseball, plays a little basketball, and has the typical 13-year-old's cavalier disdain for school.

Matt plans to play Pony League baseball and bowl this summer. Of course, he always plans to bowl, summer, winter, spring or fall. "He's in here every day, just about," George Cooper reported.

Matt came by his expertise the hard way—practice. The other members of his family don't bowl much. The Fern Street family includes a sister, Eileen, and a brother, Ronnie.

So Matt practices his strenuous and precise art alone.

"I bowl three to five strings a day," he said. When asked which spares he enjoys shooting at the best, he says quickly: "The easy ones."

"I can make most of them," Matt says. "It's fun, trying to see how high a string you can get. But the most fun is competition, bowling against people."

Matt averaged 119 in one competition. He once bowled a 169 string, "a long time ago", he says. Matt's closing string in the State Tourney was an absolutely out-of-sight 154. George Cooper was right when he said Matt rises to the occasion.

There will be more occasions to rise to in the future. Matt will be 14 next year, and eligible to enter the Senior Boys' Championships.

Whatever level he's on—or should be on—Matt Peaco will tell you that "bowling is just fun." And he will cup that ball back onto his wrist, sidewind the ball down the alley and knock down a few more pins.

And those pins make a World Champion clatter. Matt Peaco has another spare.

BRETT TRACY IS VALEDICTORIAN OF ALAMO HIGH SCHOOL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. JONES of Tennessee. Mr. Speaker, it was my pleasure during the past 2 months to have a bright, intelligent young man serve this body as a floor page. For all of those here who came in contact with him, I am sure that his cheerful and cooperative attitude was readily apparent.

That young man, Brett Tracy of Alamo, Tenn., graduated from high school this year and did so with the highest distinction bestowed on graduating high school seniors. He was the valedictorian of Alamo High School's class of 1976. In attaining the distinction of maintaining the highest grade average in his class, Brett also was very active in the extracurricular activities of high school. For example, he was a standout athlete in football, basketball, and baseball, and also served as editor of the Alamo High School yearbook.

I would like to take this opportunity to insert into the RECORD a copy of the speech that Brett gave at his commencement exercises. It shows, I think, a real depth of understanding about what high school graduation is all about and exposes a sensitivity found in very few 18-year-old graduates.

His maturity, intelligence, dedication, and personality will serve him well, I am sure, in any endeavor which he cares to undertake.

The speech follows:

SPEECH OF WILLIAM BRETT TRACY, 1976 ALAMO HIGH SCHOOL VALEDICTORIAN

Good Evening Parents, Faculty, Guests and Classmates: Tonight is the night—Graduation Night. The graduation for this Class of

'76 now. It has seemed so far away for so long, but now, this is it.

This is a most important night to me and probably for each member of this class. For some, this night might well be the only graduation in a lifetime; to others, this could be the first of several graduations. Who knows? Only time can yield such an answer. As the old adage goes, "Only time will tell."

Beginning tonight, our life styles and lattice will begin to take on a different or "new look." True—some probably more swiftly than others. Our "new look" will shine outside the walls and boundaries of Alamo High School, but for most of us, a great deal of our foundation on which we build our "new look" began right here within Alamo High with the guidance and leadership of our faculty and friends. The school, and its influence, along with the home, and its influence, form our very basic foundation just as the carbon chain in an organic molecule forms the skeleton of that substance.

Tonight as we dressed in our caps and gowns to walk down the halls the last time as Alamo High School students, I wondered if we would ever be together again 100 percent. I noticed, as we prepared for this event, that some of the class seemed saddened, sentimental, and had red, damp eyes—That's okay, and in order, I think. Many of us leave with good memories. The less memorable and harder times become faded and unimportant now as we recall days and events in high school. Memories are great, but we cannot survive on memories alone—we must push on.

Some class members, while dressing tonight, seemed outwardly happy, joyous, full of laughter and eager to celebrate. That's okay too, I believe. Some people show more enthusiasm toward beginning their active role in our society.

Other class members, as they dressed tonight, were rather quiet and calm—showing neither happiness nor sadness. I wondered if they were thinking thoughts like mine. I wondered if they had mixed feelings about leaving our familiar and rather stable habitat and seeking another. I wondered who else here was thinking about what happens to us after tonight—after graduation. What about tomorrow? next week? next month? this summer? this fall? What are our plans? Do we even have plans? What should we expect of ourselves? What should we expect from the world about us? How are we going to react and respond to what life offers outside the walls and halls of Alamo High and our homes? Can we make it? Are we ready to think and plan for ourselves? Are we ready to work toward further training, education, or jobs? Are we prepared to make wise decisions as to worldly things such as political policies, social problems, religious responsibilities, and financial matters?

Not just tonight have these things and many similar things clicked through my mind. This began last fall as the senior year began. By December and January, I realized the time for decisions about future plans was pressing. It is hard to know or decide about the unknown—We often think we know what we want to do, but how can we be sure if we have never done these things before? True, most of these questions and ifs going through our minds cannot be answered by our families or faculty no matter how much they care or what they want to answer for us. These are our duties—Our work is cut out for us. We have to "keep together what we already have—Seek to add to it and make our own way."

We must believe in ourselves and our teachings in order to think and try to plan our future. When pressing decisions pertaining to further education had to be made, I once thought I was afraid because I might make the wrong decision, but now I do not think of it as fear. I think of it as concern for the future and my role in it.

The term decision has become an outcropping in most of the graduating class' minds. Probably most of us have made decisions since December that were more serious than ever before. Our complex society demands wise decisions in the effort of survival and well-being. No longer are our decisions limited to what we wear to school tomorrow, who to call about homework; etc. These were once real decisions for us, but now we have outgrown these and find ourselves having several good options as to choice of schools, scholarships, jobs and vocations. This is what decision has come to mean to us as seniors. It is not simply what we want to do anymore; it is what is best related to desires concerning our future. So often good or wise decisions hurt us for a while, but we must think in terms of what is best under the specific long range circumstances.

Members of this class will be making decisions relating to the development of their theories, philosophies, and deeds that may never hit the pages of any history book. But whatever we do, we will have been another chapter in the history of Alamo High School.

We are proud tonight to be a part of the '76 Bicentennial History of this school. We wish to pay tribute to our parents, our teachers, and our advisors, as well as our friends for their role in our capacities in decision making. We sincerely aim to make you proud of us as we make our exit from this chapter of Alamo High School and as we strive to find and keep our place in God's Master Plan of Life.

Tonight—on our graduation night, which might well be our very last night to be all together, I say to each of my classmates—"I sincerely wish you well."

Thank you.

SECRETARY OF TRANSPORTATION WILLIAM THADDEUS COLEMAN, JR.

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. YOUNG of Georgia. Mr. Speaker, the unique character and professional abilities of Secretary Coleman have been brilliantly outlined in a recent article in the Washington Post by reporter, Jacqueline Trescott.

Bill Coleman is a man who exemplifies excellence in whatever he does. He makes key and instrumental decisions such as the Concorde landings with an unflinching sense of duty. And he speaks out as he did before Attorney General Levi when he discerns attempts to circumscribe the law of the land as with proposed curbing of busing as a means to educational equality.

I admire Bill Coleman's integrity and quiet determination to accomplish "good works." I hope that my colleagues will read this fine article about our Secretary of Transportation:

AN UNFLINCHING CAREER OF BEING FIRST AND No. 1

(By Jacqueline Trescott)

For the swearing-in ceremony of William Thaddeus Coleman Jr. as the fourth Secretary of Transportation, his children opened the family Bible to the verse they thought best described their father. They hit the nail on the head.

In Isaiah, Chapter One, is the well-known passage, "Come now, let us reason together, says the Lord . . . if you are willing and obedient, you shall eat the good of the land; but if you refuse and rebel, you shall be devoured by the sword."

His kids say it was simply an apt reminder for a post-Watergate public official to stay clean and obey the rules. But for Bill Coleman, whose life has been consumed with shooting for the best, hitting the out-of-the-park homers with the bases loaded and the bleachers cheering, it was more than appropriate.

Make your contribution, utilize your talents in a variety of fields, build a national reputation, do it all effectively, generously and without a whimper. That's Bill Coleman.

"I don't care if you want to be a bum, as long as you're a first-class bum," Coleman once told one of his three children. For two generations Colemans have been conditioned with words like "excell" and "first-class." And the verbal advice was minimized because examples of excellence were all around. The senior Colemans, loving and assertive parents, knew people like pioneer black sociologist and thinker William E. B. DuBois, attorney Charles Huston and Elihu Root, the Secretary of State who was also active in the Boys Club movement like Coleman Sr. In his 20s Coleman entered the Harvard circle with classmates Elliot Richardson and William Bundy and then with Richardson was a clerk for Supreme Court Justice Felix Frankfurter. You had to keep up.

So early on Coleman, 55, developed his own set of rules, playing the game of achievement brilliantly and shrewdly. Show that your interests are grounded in a love for your own people but show, too, that those are not your exclusive concerns. Adapt almost flawless legal procedures for everything and stay away from full-time public jobs until the time is right. Being a top dog in the private sector brings power, money and a little mystique. "In the private sector you learn who can cut the mustard," says Coleman. Too many public jobs make you a target.

Coleman was barely 30 and an advocate of Frankfurter's example of total personal immersion in every detail when he joined the legal team working on the Brown vs. the Board of Education case. He volunteered to coordinate the research in the 37 states, even getting a segregationist lawyer to help, and, as the attorneys sat around. Coleman debated strategies harder than anyone else. "Not because of a difference in philosophy but to deduce the best reasons from everyone," says one of the lawyers who contributed to the landmark school desegregation case.

When his children angered him Coleman held court around their Philadelphia dining room, with a portrait of Frankfurter smiling down on the proceedings. They had a choice of punishment, corporal or time, and the biggest challenge was "not to cry because Daddy had just gone through this very cool and efficient procedure." To this day the family has vigorous debates with Coleman, who "often takes the outrageous view, only to see if our thinking process is sharp."

So when Coleman assembled both sides of the SST Concorde controversy for a formal open debate in January, a move Henry Kissinger called "an act of genius," Coleman was merely operating normally. He was visible, asked the questions, listened carefully, wrote the brief personally, an exercise that helped him reach his decision that the supersonic plane be given a 16-month trial period now scheduled to begin Monday at Dulles Airport, barring last-minute Supreme Court action.

"I don't look at any of my decisions as tough. Some of them are more interesting. Some more challenging when you have to decide what's proper and those decisions often don't command public attention. But people are paying me to make decisions," says Coleman. His speech carries a judicial gravity, always with a perfectly paced nasal twang that's at once Philadelphia and Harvard.

Below his champagne-carpeted office on the

10th floor of Transportation stretches a Romare Bearden collage of the job's symbols: cars soaring along the freeway, boats anchored peacefully in the Washington Channel, Metro construction and potholes and the fleeting, cotton jet streams over National Airport. "Yes, but the I-66 veto, the Concorde and the highway program . . ." he continues, listing and savoring the controversial decisions. The controlled smile does not hide the glint of exhilaration in his eyes.

One of the reasons Coleman says he took this job, after bragging of turning down offers like Assistant Secretary of State in the '50s, an appellate judgeship from Lyndon Johnson, and more recently the Watergate Special Prosecutor post, is "because this country has been so good to me."

Indeed it has. He has been where few blacks and not that many whites have been. Head of the Harvard Law School Class of '43. At 26 the first black law clerk at the Supreme Court. The first black in major New York and Philadelphia law firms. An attorney who made $250,000 a year and built a nice portfolio of IBM, Xerox, Pan-Am, Walt Disney Productions and Philadelphia Electric Co. stocks. The second black in the Cabinet.

His friends will tell you that he's never been a token, a black selected solely for his color, and that's partly because you don't think of today's Bill Coleman as really black or white. And given the accepted diversity of black America today it probably doesn't matter that a Cabinet member is a black Republican conservative who has to worry about noise pollution.

In his swearing-in President Ford didn't even mention Coleman's race and Coleman liked that. He's a man who might say, "I'm the Secretary for all the people." When it's mentioned that he was the first black board member of Pan American Airways, he snaps: "I really don't think this 'first black' this and that is relevant. I'm trying to make a reputation in this town that's not based on color."

Swirling around him now are accusations that he hasn't been bold enough about improving minority employment at DOT though the percentages have improved in his 14 months. People still point out that after Coleman joined his prestigious Philadelphia law firm in 1952 another black (a man who is partly Jewish) wasn't hired until 1967.

If Coleman has relished the King of the Mountain role he has done an impressive job of balancing his civil rights and corporate work. Besides his work on the Brown case, Coleman won the challenge to the constitutionality of a Florida law prohibiting interracial marriage, won the case that integrated Girard College, a Philadelphia private orphan institution, and, in the 1960s, defended Freedom Riders and sit-in demonstrators.

And the only time his family remembers him being despondent is when Coleman lost the Richmond Schools case in the Supreme Court by a 4-4 decision three years ago.

He doesn't bring these accomplishments up in conversations, his friends hurriedly point out, but they say that when they are mentioned Coleman is pleased.

Now, despite Coleman's conservative look, his roly form pressed into gray and bue three-piece suits from his London tailor and the Tiffany touch of a gold watch chain, Bill Coleman is not a stick in the mud.

The word in his office is informal. Everyone has been told to call him Bill Coleman, not Mr. Secretary. A few old friends call him "Bumps," but he will not explain why. He answers his phone on Saturdays, leaves the door opened and his pictures of Ford, Lyndon Johnson, Nelson Rockefeller and the Coleman children are candids.

It's obvious that he's always been concerned about his image. Right after World War II Coleman began to put on weight and he didn't mind because he thought it made him look older and therefore more acceptable to his clients.

Very few attorneys who dream of sitting on the Supreme Court, like Bill Coleman, are mavericks. He has always lived within 15 blocks of where he was born in the Germantown section of Philadelphia. "Once you join a political party I believe you should stay with it," is his explanation for not changing his Republican registration since 1944. When his wife and two children converted to the Society of Friends in the early '60s, Coleman remained an Episcopalian, though he attends the Quaker meetings frequently. He always takes his family to Woodstock, Vt., for summers, an idyllic community reminiscent of his father's summer camp where Coleman was a counselor.

In his life there has been little dramatic change and few surprises. He once told a young lawyer in his firm, "The mark of a good attorney is often what he does not say. Consider very carefully our words—they may lead you into other areas you may not anticipate."

But he changed his mind about full-time public service (his bio lists four inches of part-time public service including the counsel for Warren Commission, co-chairman of the White House Civil Rights Conference and the United Nations alternate delegate)) when Ford offered him four Cabinet positions.

"A large part was Watergate," Coleman says. "It was a difficult experience for the country and I felt people who had never been fully involved should try." In the true Coleman form of not saying too much, he's saying that he was the kind of person to restore confidence in the government. Yes, he's pompous and "once in a while you have to remind him that he's human," says a good friend, Louis Pollack, dean of the University of Pennsylvania Law School and former dean of the Yale Law School.

There are some people who feel that Coleman is not only stuffy but an elitist and an opportunist. Sometimes he does seem behind the times. In a recent interview, for example, he referred to fighter Muhammad Ali as "Cassius Clay" without so much as a blink. He's very impatient with people who aren't as smart as he is but also, because he likes to argue, he doesnt want a cadre of yes men around him. "Coleman has a precise notion of where the power lies, who he has to please. He's one of those politicians who can put the person inside them aside and utilize their own talents at image-making. He is vindictive and people fear him because he's well-connected and well-respected," says a lawyer. Though his children adore him they admit that his total absorption in his job, the seven-day-a-week schedule, often left them short-changed.

Since last year Coleman has learned to enjoy the Washington scene. Lovida Coleman, the New Orleans history student he met at Radcliffe College and married during World War II, usually attends only the official functions and her husband shields her from interviews. "That's why I never liked politicians because they bring their wives into the public" he says crisply. When they first moved here they lived in the McLean home of Elliot Richardson and now the Colemans rent another house in the same exclusive section.

When he is home, and his worsted vest is finally unbuttoned, Coleman reads historical and biographical novels—Gore Vidal's "Burr," a recent one about Lafayette's wife—and watches sports. He's a Dodgers fan. He used to be a good tennis player. And he loves to eat. He enjoys the Sans Souci as much for its chocolate mousse as its social scene. The day after the Concorde announcement, Coleman puttered around his office wondering who to take to lunch there. He knew he would be in the limelight.

And he's popular, partly because his sophistication and unshakeable self-confidence have led to a loose and often self-deprecating humor.

One evening after leaving a dinner at the Mayflower Hotel Coleman told a friend he would walk the four blocks back to the Madison Hotel, where he stayed right after his appointment. The friend said, "But Bill we don't want a Cabinet member being mugged," and Coleman replied, "I don't have anything to worry about, I'm one of them."

Spunky, sophisticated and nervy. Once he made a polite joke while arguing a case before the Supreme Court, something almost unheard of. But then it runs in the family. Laura Coleman, his 83-year-old mother, tugged President Ford's sleeve after the swearing-in and said "Thank you for all the nice things you said about my son but I have two other children who are just as nice and I'd like you to meet them," thereby throwing off the protocol of the entire ceremony.

The cobblestone streets of historic Germantown were never as much of a playground for young Coleman as the courts. "I really don't know why" Coleman says now but at age 10 he had decided to be a lawyer and asked his father if he could go with him to the courts. The Coleman children were raised in an integrated neighborhood by parents, both college graduates, who provided a comfortable, intellectually-stimulating and religious home. "Bill was always outstanding, so outstanding that Daddy wouldn't sign our report cards some times. We all had to do our best," recalls Coleman's older sister, Emma, a school teacher in Atlantic City. His younger brother Robert, is an engineer for the railroad car firm, the Budd Company.

Though Coleman was prevented from joining the Germantown High School swim team because the local YMCA didn't allow blacks in the pool, he "had enough confidence in himself to pass over those things," says his sister and he finished at the top of the class. He finished the University of Pennsylvania (where he was on the track team) and Harvard Law, where he was on the Law Review, at the head of the class. World War II interrupted his law studies and Coleman served in the Air Corps earning his fighter's wings and also winning 17 out of 18 court martial cases he handled.

At Harvard, where he is remembered not only as a brilliant student but also a "regular" by classmates, Coleman decided, "we could only end the racial segregation by the legal process. I also thought it would only work if you fashioned your arguments with those that didn't have a racial foundation."

Along with the self-imposed principle of mastering all the law came the philosophies of Justice Frankfurter who told his young clerks, Coleman and Richardson, "be as near Michelangelo as you can." Frankfurter read five newspapers a day, chatted daily with people like Dean Acheson and applied himself tirelessly to his Court work. The two clerks read Pushkin, Auden and Shakespeare in the morning, and now, NAACP attorney Jack Greenberg, one of Coleman's closest friends marvels at "the way Bill can pull analogies in poetry, literature, philosophy and political science out of the air. He's genuinely learned but not ostentatious."

Despite the prestige of a Supreme Court clerkship (in 1948-49), Coleman was not protected from the racism of the Washington of that time and when he returned to Philadelphia he was unable to find a job in its closed and bigoted world.

Finally he commuted daily to New York where he worked for three years with Paul, Weiss, Rifkind, Wharton and Garrison. In that Wall Street Office a balance between corporate and public service law was stressed and Coleman continued the practice when he joined Philadelphia's prestigious firm of Dilworth, Paxton, Kalish and Levy. In 1956 Coleman was made a full partner in the firm. For

10 years he was special counsel to the City of Philadelphia for Transit matters, building his expertise in transportation law.

"Bill Coleman is a fellow that goes deep into whatever the situation calls for. Things by him don't come easily," says Ned LeDonne, a transportation union leader in Philadelphia who often sat on the other side of the negotiation table from Coleman. "You gotta show him a reason. He's very cool and I've never see him do anything that would discredit him."

By his example more than his words Bill Coleman set up a standard of achievement, vigor, independence and concern for his kids. One day, realizing the isolation of their private school education, Coleman put the whole family in the car and drove from their block where they were the only black family across town to the slums of North Philadelphia. "I was appalled and he meant for us to be appalled," recalls Lovida, 27, now a law clerk for a New York judge. "We had always lived the struggle. There were threatening phone calls whenever he was involved in a civil rights case."

Some of his teachings, especially independent thinking, backfired in the '60s. Lovida, who attended Radcliffe College for two years, was the only child who went to Harvard, something he wanted very badly, and the two lawyers, William III and Lovida, both attended Yale Law School. "It would have been an enormous psychological pressure being his son at Harvard. And he did not encourage me in my choice of Williams College," says Billy Coleman, 29, an antitrust lawyer in Philadelphia. Hardy Coleman, 24, his youngest, is a teacher in Philadelphia.

Next Coleman, whose life had been devoted to change through the legal process, was confronted by kids who were activists on campus and doves on the Vietnam War. "When Billy was involved in the take-over of the administration building at Williams, Dad was caught between fearing for our safety and not recognizing the value of direct action. It took some time for him to come around. But we finally won him on that and the war," says Lovida.

"The old man will never admit you've changed his mind. He takes a position that seems impenetrable and then a week later you will hear him adopting your position. We never knew on the Concorde and at Christmas, Hardy and I had argued violently against it. The only time he admitted we were right was when we argued about the value of black stuides. He said the general liberal arts taught you to think, then you could specialize. I said a balck studies course would teach the same thinking process. That was the only time we got him."

SOCIAL SECURITY—THE PARADOXICAL LAW

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. MAGUIRE. Mr. Speaker, none of us in the House of Representatives wants to hinder the handicapped in their efforts to become productive members of society. However, because of the unreasonable earnings restrictions that exist in the present social security disability insurance program, we are doing precisely that. Under the "substantial gainful activity" provision of the program, a handicapped individual attempting to become an active member of the labor force can earn no more than $2,400 annually without losing all benefits, including medicare coverage. This is a risk that many of the handicapped cannot afford to take.

One of my constituents, Mr. Elden H. Wise, who is himself handicapped, has written a thought-provoking article addressing this particular problem. I recommend this article to my colleagues in the House and hope that they will join me in trying to eliminate this work disincentive to the handicapped:

SOCIAL SECURITY—THE PARADOXICAL LAW

(By Elden H. Wise)

Since the Social Security Act was passed in 1935 an increasing number of our social welfare programs have been taken over by the federal government. These have been placed under the jurisdiction of the Social Security Administration, which has control over a significant portion of our national budget. As it currently exists, the Social Security Act is a paradox. It gives and it takes, provides both security and insecurity, and allows and restricts.

With increasing frequency we read forecasts of the ultimate bankruptcy of the insurance sections of the Act unless there are major tax increases in addition to those already scheduled, reductions in future increases in benefits, or a combination of both. This potential problem has been intensified by the combined effects of inflation and recession and has accelerated the search for acceptable solutions.

Most of our citizens consider Social Security the keystone of their retirement income and the source of Medicare insurance. Those with physical disabilities benefit from the Social Security Disability Insurance (SSDI) program, and the necessity of Unemployment Insurance can't be argued. All are parts of the Act for which we pay during our years of employment, and no one wants to lose the security provided. The investment by each of us is too great yet, unless changes are made, the danger is very real.

One obvious area for constructive change is the SSDI program. Current regulations include unreasonable earnings restrictions that prevent many who could become self-sufficient, tax-paying citizens from doing so.

Let's examine the problem and explore some possible solutions.

An individual who has been privileged to work the required period of time and then becomes disabled to the extent he is unable to engage in "substantial gainful activity" (SGA) for at least 12 months is eligible for SSDI benefits after the necessary waiting period. When benefits have been received for two consecutive years Medicare insurance is included.

One part of the problem is in the restrictive definition of "substantial gainful activity"; another centers on the repetitive two-year waiting period for Medicare. Those who losse their SSDI benefits because they engage in SGA but cannot continue working for health reasons must wait another two years before Medicare is again afforded. It is important to understand that most disabled persons cannot buy adequate health insurance. To them, Medicare is vital!

According to work done, an individual may be considered engaged in SGA if he earns between $140 and $200 in a month. If a job is unavailable or self-employment (the only option available to many severely disabled persons) is desired, work is allowed for 15 to 45 hours per month, again depending on the kind of work attempted. Should a determination of SGA be made *all* benefits are terminated, including Medicare and regardless of the physical condition of the individual. The regulations defining SGA specify that there should be no consideration given as to whether the employment is more or less challenging or rewarding than that which was done before the onset of disability.

Congress has recognized that a problem exists. The Committee Staff Report on the Disability Insurance Program, released in September, 1974, for the Committee on Ways and Means, points out that it is an "all or nothing" plan. It cites as an example of an issue which has not been dealt with ". . . the amount of earnings an individual can have and still retain disability benefits." The report continues, "The current figure appears to constitute a major inhibiting factor to work and rehabilitaion. Moreover, this work disincentive has been intensified by the major social security benefit increases in recent years."

Although our government has recognized a basic problem, it has not assembled the data necessary to arrive at a logical answer, and few have suggested any reasonable solutions. In the absence of such data, I submit that changes in the Act, mandating revision in the regulations defining SGA and the elimination of more than one waiting period for Medicare, would remove the legislative barrier currently preventing many disabled persons from attempting meaningful employment. The net result would be the savings of billions of dollars by reducing the amount paid under SSDI and combining it with a reduction in future expenses which will become necessary for those who are now unable to achieve financial independence. Since earnings would be subject to both income taxes and Social Security withholding the present SSDI beneficiary would become a contributor to rather than a recipient of our social welfare system.

We must realize that those who would directly benefit from a meaningful change are already under SSDI and receiving month are already under SSDI and receiving monthly checks. Those most affected by the limitations of the Act are those who have worked many years, have both family and financial responsibilities, and are entitled to maximum benefits under the SSDI program. For example, a person injured five years ago who, because of his earnings and the size of his family, is eligible for maximum benefits, would receive in excess of $7,000 each year in addition to Medicare coverage. Compare that with the SGA limit of $2,400!

Given a choice, most disabled persons would rather work toward financial independence. The psychological advantage to the individual is most important in relationships with spouse, children, and neighbors. Working to the extent allowed by the disability would restore the individual's self-image and enhance his dignity.

Perhaps the following will point toward an equitable solution:

1. Disabled persons should be allowed to earn an amount equal to senior citizens. Current regulations allow a retired person (65 or older) to earn up to $230 per month after which benefits are reduced $1 for each $2 earned.

2. An individual engaged in self-employment should not be limited by the number of hours he is allowed to work, but he should be granted the same incentive suggested above based on net profit earned.

3. If the two-year waiting time for Medicare is necessary, it should not be required each time an SSDA beneficiary attempts meaningful work. The current requirement, of itself, is the most effective in preventing a return to a productive life.

4. Medicare benefits should be constantly available to all who medically qualify for SSDI. This would open many employment opportunities for severely disabled persons as their potential health care needs would not be considered a threat to a prospective employer's employee benefit program.

No person should be deprived of the right to work, but because of an archaic regulation, many who could become contributing citizens are deprived of their constitutional right to "life, liberty, and the pursuit of happiness." In addition, the able-bodied taxpayer is being cheated in two ways. The insurance benefits of the Social Security Act are in jeopardy partly because payments could be reduced or eliminated by a graduated earning allowance and because a potentially productive part of our work force is denied the opportunity to contribute to our economy and pay their share of taxes.

Two identical bills introduced in the House of Representatives during 1975 and referred to the Committee on Ways and Means could, if enacted into law, solve the problem created by the earnings limitations. H.R. 3032 was sponsored by Mrs. Patsy T. Mink (Hawaii), and H.R. 3634 by Hamilton Fish, Jr. (N.Y.). Under the current Act, Section 223(d)(4) requires the Secretary of Health, Education, and Welfare to set regulations defining substantial gainful activity. These bills stipulate that the earnings standard for an SSDI beneficiary be no less than that set by the Act for recipients of retirement and survivor benefits. While neither addresses the problem of Medicare, both are major steps in the right direction and deserve support to solve one aspect of the problem. An amendment of the existing bills or a new bill changing the wording of Section 1811 of the Act would attack both aspects of the problem. To indicate your support of these measures and to suggest consideration of the Medicare problem, contact your Congressman.

H.R. 50 AND INFLATION: PART II—PROFESSOR HALL OF MIT SAYS WATCH OUT FOR WAGE INFLATION

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ESCH. Mr. Speaker, during deliberation before our Education and Labor Committee considerable concern was expressed by Prof. Robert Hall, a noted economist from the Massachusetts Institute of Technology, who feared that H.R. 50 would lead to another round in wage inflation. Dr. Hall also pointed out his concern that the bill would necessitate between 4 and 8 million public service jobs—at a cost of between $40 and $80 billion between one-half and three-fourths of which would be inflationary.

Dr. Hall's testimony, in and of itself, is lucid testimony against the "pie in the sky" approach taken by H.R. 50.

I include his testimony for the edification of the Members of the House:

AN ECONOMIC APPRAISAL OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

(By Robert E. Hall)

I am grateful for the opportunity to present an appraisal of the Full Employment and Balanced Growth Act. Since the U.S. economy is still operating far below its potential, there is no question about the central importance today of the problems that the Act proposes to solve. Any improvements in federal economic policy-making that will help prevent the repetition of the devastating economic experience of the past two years will be welcomed by every citizen of the United States.

The Full Employment and Balanced Growth Act rests on two basic premises about the American economy and the role of federal policy-makers within it. First, the Act declares that the recent unfavorable performance of the economy is in large part attributable to deficiencies in national economic policy. It creates new bodies and procedures for formulating economic policy to avoid these shortcomings in the future. Second, the Act establishes a clear numerical goal for employment policy: Unemployment is not to exceed 3 percent within the adult labor force. Policy makers are to achieve this goal through aggregate monetary and fiscal policy, and through supplementary manpower and related programs. I support many of the reforms embodied in the Act for improving the performance of federal economic policy. In this appraisal, however, I shall concentrate on the second premise, which bears on issues of primary professional concern to me.

With present structure of the labor market, and with present knowledge about the potential impact of structural reforms within the power of the federal government, the unemployment target of the Full Employment and Balanced Growth Act is unrealistically low. Unemployment rates in the range of 3 percent among adults, or 3.8 percent of the total labor force, are definitely not permanently sustainable, though they can be achieved for brief periods. In the past 20 years, the adult unemployment rate has reached 3 percent only in the three peak years, 1966, 1968, and 1969. The exceptionally tight labor markets of those years touched off a burst of wage inflation whose effects are still being felt today. Recognizing that expansionary monetary and fiscal policies cannot by themselves sustain the low unemployment target, the Act also provides for structural manpower policies to make the target feasible in the longer run. In my opinion, the Act substantially exaggerates the potential contribution of these programs, any may serve to discredit the genuine smaller contributions of such programs under more realistic goals.

At the present time, I believe it is unwise to adopt a single permanent target unemployment rate. Certainly the target for the next two years ought to be well below the present high level. But I believe that a target as low as the 3 percent in the Full Employment and Balanced Growth Act would raise false expectations about the performance of the U.S. economy. The disappointment of these expectations would only add to the prevailing mood of skepticism about government policies in general, and about the conduct of economic policy in particular.

ISSUES IN DETERMINING THE TARGET UNEMPLOYMENT RATE

One of the most striking features of the Full Employment and Balanced Growth Act is its establishment of a specific numerical target for the unemployment rate—unemployment is not to exceed 3 percent among adult members of the labor force. The limitation to adults has escaped general attention, and the Act is usually thought to mandate a target of 3 percent of the total labor force. The implied target for the total unemployment rate is in fact closer to 4 percent, as the following data reveal:

[In percent]

Year	Unemployment rate	
	Adult	Total
1965	3.8	4.5
1966	3.0	3.8
1967	3.1	3.8
1968	2.8	3.6
1969	2.8	3.5
1970	4.1	4.9
1971	5.1	5.9
1972	4.7	5.6
1973	4.0	4.9
1974	4.7	5.6
1975	7.8	8.5

The Act requires that labor market conditions like those of 1966 be made permanent. Since the target was reached in 1966 and surpassed in 1968–69, there is little question of the feasibility of the target in one year or transitory period. In fact, the target could be reached in much less than the four years permitted by the Act. The substantive question is the ability of the economy to sustain such tight labor markets year after year. The great majority of economists would agree that exceptionally tight markets cause wages to rise faster than they would otherwise. The logic of this view is quite persuasive—tight markets mean that employers bid against each other for scarce labor, and workers are able to select the best paying job from a wider set of alternatives. The view has been sustained in countless research studies using a great variety of data on wages. Among economists, many supporters of the Full Employment and Balanced Growth Act would concede the inflationary implications of the unemployment target, but would argue that the inflation could be tolerated or offset by other policies. However, another influential body of opinion holds that an unemployment target of under 4 percent is not just inflationary but is unsustainable for more than a few years. According to this view, wage inflation would worsen every successive year that monetary and fiscal policy achieved the target, and sooner or later no further expansion would be adequate to maintain such tight conditions in the labor market. Adherents of this view point to the experience in the late sixties, when four years of unemployment near or below the target level apparently provided wage inflation with a momentum that carried it through the early seventies even in the face of significantly higher unemployment in 1970 and later. Those economist who believe that 4 to 5 percent unemployment is sustainable will concede that the momentum of wage inflation cumulates during periods of unemployment much below that level.

Estimates of the unemployment rate below which wage inflation begins to develop momentum differ somewhat, but none to my knowledge that include the period 1966–1973 suggests that it is much below 5 percent or much above 6 percent. A reasonable single estimate is 5.8 percent, or 5 percent of adults, though it should be recognized that there is a good deal of uncertainty about its precise value and that it has grown over time in the past ten years. The growth was attributable to shifts in the composition of the labor force toward groups with higher unemployment rates (mainly the young) and perhaps to certain trends in the structure of employment and levels of unemployment benefits. Estimates also differ for the rate at which wage inflation accelerates when the unemployment rate is pushed below the sustainable level, but a reasonable estimate seems to be one-half percentage point of additional wage inflation for each full year during which the unemployment rate is held a percentage point below the sustainable level. As a rough illustration of the working of this process, consider the following example: Wage inflation in 1976 apparently will be about 8 percent. If the economy achieved the goal of the Full Employment and Balanced Growth Act in 1977 and subsequent years, wage inflation would be 9 percent in 1977, 10 percent in 1978, 11 percent in 1979, and 12 percent in 1980. These projections do not include the extra inflation that might accompany such a large discontinuous drop in the unemployment rate. The Act permits a much slower movement toward the target, in recognition of these adjustment costs. These projections are roughly consistent with what happened in 1966–69. Extrapolation beyond four years is dangerous, because there has been no comparable historical experience of very tight labor markets for more than four years.

The weight of the evidence suggests that the adoption of the Act's unemployment target and its achievement with expansionary monetary and fiscal policy alone would commit the United States to continuing high rates of wage inflation, inflation that would worsen progressively. The Act relies on two additional types of policies to protect the economy against this inflation: Measures that reduce prices relative to wages, and structural policies in the labor market that reduce the sustainable unemployment rate. In the first category, the Act asserts that expansion itself will reduce costs relative to wages by increasing supply. Further, it mandates policies to limit food prices and to reduce monopoly power. Whatever their magnitude, all of these have only a transitory effect on price inflation relative to wage inflation. No matter how aggressively they are pursued, within a few years the long-term historical relation between wage and price inflation will re-establish itself, with prices rising between two and three percentage points more slowly than wages. For the long run, the Full Employment and Balanced Growth Act in effect puts full reliance on structural manpower policies to eliminate the otherwise inflationary effect of its low target for the unemployment rate.

STRUCTURAL POLICIES IN THE LABOR MARKET

The Full Employment and Balanced Growth Act calls upon structural policies to reduce the sustainable unemployment rate from nearly 6 percent to below 4 percent of the total labor force, or from 5 to 3 percent for adults. It mandates two types of programs with which the federal government has had a good deal of experience since 1961: aid to depressed regions and a variety of programs directed specifically at youths. There is no question about the magnitude of the problems addressed by these programs. For example, if unemployment among teenagers could be reduced to the average level for adults, the sustainable unemployment rate for all workers would fall by nearly one percentage point. Youth unemployment is a complex problem stemming from the combination of limited entry-level opportunities for jobs with real futures and from the turnover associated with the high level of personal freedom granted to the young today. Programs that get young workers started on promising careers simply have not worked out yet, and the substantive obstacles to their large-scale implementation are very serious. Programs with the more modest goal of providing summer employment for teenagers have been successful and ought to be expanded, in my view. In any case reductions in unemployment rates for youths can do very little to help in achieving the Act's unemployment target, which relates to adult unemployment alone.

The principal structural policy proposed by the Act for the adult labor force is the creation of jobs in federally operated public employment projects and in private nonprofit projects. Direct employment certainly can reduce the unemployment rate. The central question is how much of this is a reduction in the sustainable unemployment rate and how much simply adds to inflationary pressure in the labor market. Suppose we knew the answer to this question; that is, we could specify what fraction of public jobs were non-inflationary. Then each million public jobs would reduce the sustainable unemployment rate by one percentage point (assuming a labor force of 100 million, a level that will be reached in the next few years), multiplied by the non-inflationary fraction. Further, the number of public jobs needed to bring about a two percentage point reduction in the sustainable unemployment rate is simply the non-inflationary fraction divided into two. The value of the non-inflationary fraction is a matter of debate. One extreme view holds that the fraction is one—every public job reduces sustainable unemployment by one individual. Then the Act's target could be achieved by creating two million public and nonprofit jobs. The other extreme view holds that public demand for workers is just as inflationary as demand from any source, and asserts that the fraction is zero. Under this view, no public employment program of any size could achieve the target.

There is persuasive evidence against both extremes. On the one hand, public employment tends to bring workers from groups with high unemployment rates into the labor force, even if they are not hired directly by the program. Similarly, the tightening of the labor market accomplished by public employment increases quits among workers who are dissatisfied with their jobs and take advantage of improved conditions to find better jobs. In addition, past experience with employment programs suggests that some of the workers hired under them will not come from high unemployment groups, in spite of the intent of the program. Administrators of the programs face incentives to maximize the productivity of the workers they hire, and generally the most productive workers are the least subject to unemployment. This problem is even more acute in labor market programs supporting private employment. To the extent that the workers hired are those with good propects elsewhere, a public employment program is inflationary. In view of all of these influences, it appears that the non-inflationary fraction is not above one-half, and could be even lower. On the other hand, the non-inflationary fraction is certainly greater than zero, because public employment programs can have a favorable effect on the composition of employment, biasing it toward groups with high unemployment rates. The Act contains some specific provisions with exactly this intent.

In my opinion, the evidence supports the view that between a quarter and a half of the reduction in unemployment achieved by a public employment program is non-inflationary. This implies, in turn, that between four and eight million public jobs would be required to achieve the 2 percent reduction in the sustainable unemployment rate that the Full Employment and Balanced Growth Act mandates. At a gross cost to the taxpayers of, say, $10,000 per year for each job, the total gross cost of the public employment provisions of the Act would be $40 to $80 billion per year. The net cost would be less because the cost of unemployment compensation and income maintenance would fall by perhaps $10 billion.

On the basis of these calculations, I have to conclude, regretfully but firmly, that the feasibility of the Act's structural program is very much open to question at this stage. Its open-ended guarantee to underwrite the employment of as many workers as necessary to maintain the target rate of unemployment could require an infeasibly large expansion of the federal budget. Public employment on the scale required by the Act would surely displace many other essential social expenditures. It poses a particular threat to programs that provide income to individuals who are unable to work and who would not benefit from an employment program on any scale.

CONCLUSIONS

The Full Employment and Balanced Growth Act is a move in the right direction, but it is too large a move. It establishes a target for unemployment that is simply infeasible in today's economy. There are two dangers in setting such an unrealistic target. First, the actual performance of the economy may fall short—unemployment may remain above the target in spite of the best efforts of policy makers. Then the adoption of the target invites further disillusionment about the capabilities of government. Second, the attempt to achieve the unattainable may bring an accelerating inflation and an eventual reaction against such expansionary policies, possibly terminating in deep recession. At this stage, the country would be better served by a more judicious expansionary policy.

UNEMPLOYMENT AND WAGE INFLATION, 1948–75

Year	Unemployment rate	Sustainable unemployment rate	Rate of inflation in hourly compensation	
1948	3.8	5.3	8.9	
1949	5.9	5.3	3.1	
1950	5.3	5.3	5.5	
1951	3.3	5.3	8.8	I
1952	3.0	5.3	5.5	
1953	2.9	5.3	5.7	
1954	5.5	5.3	3.2	
1955	4.4	5.3	3.5	II
1956	4.1	5.3	5.9	
1957	4.3	5.3	5.7	
1958	6.8	5.3	3.7	
1959	5.5	5.3	4.6	
1960	5.5	5.3	3.9	
1961	6.7	5.3	3.3	
1962	5.5	5.3	4.2	
1963	5.7	5.3	3.6	
1964	5.2	5.3	4.8	III[1]
1965	4.5	5.3	3.6	
1966	3.8	5.4	6.2	
1967	3.8	5.4	5.7	
1968	3.6	5.5	7.4	
1969	3.5	5.5	6.7	
1970	4.9	5.6	6.8	
1971	5.9	5.6	6.8	
1972	5.6	5.7	6.2	IV[2]
1973	4.9	5.7	7.8	
1974	5.6	5.8	—9.5	
1975	8.5	5.8	8.9	

[1] Establishment of tight labor market annual increase.

[2] New base of 7 percent range of wage inflation.

Note: Refers to wage inflation/as against price inflation: (1) Does wage inflation lead to price inflation? Is there a lag in this process? (2) What effect does inflationary expectations have on wage demands? (3) What effect does cost-of-living increases have in causing, not only causes increases in, wage inflation but raises the base of wage inflation.

WORLD WAR I PENSION ACT DISCHARGE PETITION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ANDERSON of California. Mr. Speaker, prior to the Memorial Day recess, I spoke before the House urging my colleagues to join me in signing a discharge petition for H.R. 3616, the World War I Veterans' Pension Act. Those remarks appear on page H4993 in the RECORD for May 26, 1976.

Today, I am joined by nine other Members of the House in sending a "Dear Colleague" letter to all Members with further information about the petition. It is my hope that this letter will help in gaining the requisite number of signatures to have this legislation passed out of the Committee on Veterans' Affairs.

Briefly, this bill provides a $150 per month pension to all veterans of the First World War or their widows. Not only would this be of great help to these individuals, the payments will be partial compensation for the benefits that were available to those who fought in later wars and not to those who fought in World War I.

I believe strongly that this issue deserves consideration and debate by the full House of Representatives, and it is my hope that the discharge petition will afford us that opportunity.

Those who battled for our Nation in that great conflict deserve far more than they have received from our Government, since at the time of their discharge there were no veterans hospitals, educational benefits, or employment counseling available.

Therefore, I urge my colleagues to sign this petition, in order that we may at least give this important issue the attention it so richly deserves.

SEEKS TO MAKE POSTAL SERVICE ACCOUNTABLE TO CONGRESS AND THE PUBLIC

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. LLOYD of California. Mr. Speaker, this past month I have received many inquiries from constituents in my district regarding the Postal Reorganization Act Amendments of 1975 (H.R. 8603). Specifically, their concern is with the future of postal subsidies and private express statutes.

On October 30, 1975, I supported a House-adopted amendment to the Postal Reorganization Act Amendments of 1975, requiring the Postal Service to come to Congress each year for its funding. The Senate is expected to vote on this bill in the near future. There is no doubt that this bill was necessary to make the Postal Service accountable to Congress and the public. To continue giving the Postal Service a "blank check" would only continue that agency's inefficiency.

It is important to note that this bill does not abolish the Postal Service, nor will it get the Congress back into the business of hiring postmasters or being involved in the day-to-day operations of that service.

This Nation's mail service has been free of direct government control since 1971, when Congress set up the Postal Service to replace the old Post Office. The idea was to let the mail service operate as a business, not a government bureaucracy; to eliminate needless costs without downgrading service, and to get congressional politics out of the rate-setting process. A new Postal Rate Commission was given the unpleasant chore of voting on rate increases, and a timetable was designed that calls for elimination of all Federal mail subsidies by 1984.

I am still supportive of the original congressional intent in this matter, however, I do not believe it is wise to give the Postal Service additional subsidy funding until measures have been taken to demonstrate to the public that it can operate in a more efficient and economical manner.

As for existing private express statutes of the U.S. Postal Service, I was pleased that the House rejected an amendment to this bill which would have allowed private carriers to compete with the Postal Service for delivery of first-class mail. If that statute were repealed, private companies would deliver mail only in high-density areas where they could make a profit and would leave the low-density areas to the Postal Service. Rural and marginal area delivery would then become prohibitively expensive.

It is my hope that the House and Senate can agree on legislation that will once again give the American public an efficient postal delivery system, and at a cost that all can afford.

SALES BELOW COST OR RECREATION?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BROWN of California. Mr. Speaker, I have previously discussed the national forest management problem of sales below cost. In that summary I stressed the detrimental economic factors involved—the money which comes out of our taxpayers' pockets, the resulting low payments to counties, the overharvesting of low quality timber lands.

At the time, I decided not to stress the harvesting which occurs in areas where the other multiple uses of recreation, esthetics, and wilderness should clearly argue against clearcutting. As long as the Forest Service is allowed to sell timber below the cost of the road construction involved in harvesting that timber, and as long as the major part of its budget is derived from timber sales, the pressures of the industry will balance the scales against protection and maintenance of the other multiple uses.

I would like to draw the attention of my colleagues to the following article which tells the tale of a battle well fought—of one couple who have fought for 4 years to save their backyard, Escudilla Mountain, from the ravages of clearcutting. They are not against clearcutting in general, but feel that the recreation and historical values of the mountain far outweigh the benefits of the timber sales which will net the Forest Service $200,000 but cost the taxpayers an additional $400,000 for road construction.

Such cases exist in many areas. I hope that the problems of this sales below cost mechanism will be considered in the markup of national forest management reform legislation.

The article follows:

BUZZ AND MARY ANNE YOUENS: DOGGEDLY WORKING TO SAVE ESCUDILLA MOUNTAIN

(By Peter Wild)

Driving through the forest ahead of their own clouds of dust, summer tourists might see deer peacefully grazing in the meadow beyond abandoned Tal-Wi-Wi Lodge. More to their surprise, they might also see a middle-aged man sitting on a stump at the edge of the trees, playing a recorder, a type of flute dating back to the Renaissance. If they looked the other way, they could catch a glimpse of a slender woman, his wife, off for a day's excursion in the woods. The tranquility of a summer morning can be deceptive.

At a different time the same visitors might wonder at lights in the house of the recorder player burning all night long or at the man himself out back by the woodpile, flailing away with an axe at a tough old log in a manner that psychologists describe as "displacement activity." The story behind the contradictions goes back to 1970, when Buzz Youens retired early as senior partner of a large architectural firm in Houston, Texas.

With his wife, Mary Anne, he built a cabin in Arizona's isolated White Mountains. The Vietnam War was on, with its attendant public outcries. Society's values were under fire by inpatient youths, and some people were making noise about an abused environment. The national turmoil existed on the fringes of their consciousness, more a phenomenon of Walter Cronkite than a reality in their daily lives. For their part, after the hassles of making a living and raising three children, the couple looked forward to the fulfillment of the American Dream—a house in the woods, years of quiet, a chance to indulge their love of hiking, music, and painting. The Youens' bubble burst just two years after they had settled themselves at the end of a forest meadow a few miles from the general store in Alpine, Ariz.

Mary Anne was out on one of her long strolls through their back yard; the ponderosa forest that sweeps up the slopes of Escudilla Mountain, Arizona's third highest peak. She happened upon an employe of the Apache-Sitgreaves National Forests seemingly also out for a stroll. They chatted awhile, and he mentioned that he was sizing things up for the proposed Watts Timber Sale. To soothe her alarm, he told her what has become the battle cry in the Southwest's most heated Forest Service controversy in recent years: "Lady, we aren't going to hurt the forest any, except esthetically."

The Youens had no objections to logging per se. However, Buzz emphasizes, "I had seen the results of logging elsewhere. They looked like battlegrounds. The Forest Service's whole aim is to get the timber out—anything else doesn't matter." In many cutover areas across the White Mountains, huge trucks scattered helter-skelter and eroding bulldozer trails remind the hiker of nothing less than aftermaths of artillery duels.

No battlefield can be the same after such pounding, especially in the arid Southwest, and especially on the fragile alpine ecosystem of Escudilla. Home of eagles, bear, and a variety of alpine flora, site of prehistoric Indian ruins—the mountain is a unique natural resource for the whole state.

The Youens had read Aldo Leopold's eulogy to the mountain in A Sand County Almanac. To Leopold the mass of the extinct volcano rearing above the surrounding plateau stood as a symbol both of the beauty of ecological complexity and of man's brutal treatment of what had taken nature eons to build. He noted that when a government trapper shot the legendary Old Bigfoot with a set-gun on Escudilla's slopes, he was killing far more than Arizona's last grizzly: ". . . he had toppled the spire off an edifice a-building since the morning stars sang together."

Inexperienced in conservation struggles, the Youens hoped that the Forest Service would stop the proposed Watts Timber Sale once the agency was made aware of Escudilla's treasures. The Youens pointed out to officials that the mountain is a focus for thousands of summer visitors, who contribute heavily to the area's sagging economy. They reminded the Forest Service that scientists from the state's universities are conducting a number of studies on Escudilla concerning the ecological diversity of the 11,000-foot peak. A nearby educational camp uses the mountain's coves and canyons as pleasant, outdoor laboratories.

What has happened over the past four years has been an education for the Youens, an alarming look at how political and economic forces—not concern for good stewardship—dictate how the agency goes about its work.

At first the Forest Service brushed them aside.

Though hurt at the rebuff, the couple started digging for details of the sale. They were amazed at what they found. The Watts sale is a taxpayer's rip-off and a conservationist's nightmare. According to its own figures, the Forest Service will receive about $200,000 from the sale. But the cost of the roads to remove the timber will be in the vicinity of $600,000. The difference—some $400,000—must come from the pocket of the taxpayer. In addition, the network of expensive roads would leave a legacy of eroding scars on the steep contours.

"Can this possibly be termed responsible management?" the Youens ask. Why, in view of the unfavorable conditions, does the Forest Service persist in marketing the sale?

The answer, the Youens were beginning to realize, strikes at the heart of how the agency manages the National Forest System. In the Escudilla area, one private, out-of-state company dominates not only the local Forest Service but the area's economy as well. It has the influence to push cutting practices that are to its own self-interest, whether or not they benefit the region or the country as a whole.

The Youens eyes were opening to a national, rather than to simply a local, scandal. Yet as far as saving Escudilla from the sale was concerned. "We had absolutely no experience in how to conduct a campaign. We fumbled around for months writing letters to the wrong people."

Finally they hit upon people willing to support their cause. Rep. Morris Udall (D-Ariz.), himself from a pioneer family in the White Mountain area, helped extract information from the sometimes reluctant Forest Service. Once made aware of what was planned for Escudilla, state citizen groups adopted the Youens' battle as their own. With their specialized knowledge of the mountain, scientists and educators pitched in to support the couple's formal request that the Forest Service abandon the sale—a request that still awaits a ruling by officials in Washington. With their research projects threatened, members of the Arizona Academy of Science joined the Youens in proposing that the mountain be protected as a Research Natural Area.

The Youens have come to some general conclusions about their experiences. Surprisingly, though they've fought against considerable red tape, they sympathize with the Forest Service. How the agency operates is, ". . . not entirely its fault." Backed by special interests, some Congressmen have hobbled the agency. They design its budget so that the Forest Service must emphasize timber production at the sacrifice of other values. Many professionals within the Service chafe under the situation. However, they are afraid to speak up. Timber is where the money is, and increased timber production means larger budgets.

Buzz and Mary Anne work as a team pouring through mountains of official documents, researching and writing mountains of their own in response. They estimate that they've spent some $5,000 of their personal funds and 30–40% of their time over the past four years in the still unfinished job of seeing Escudilla protected. This is in contrast to a bureaucracy that is able to defend its position with seemingly unlimited taxpayer funds and staff. As with similar struggles going on across the nation, the situation is unfair, the cards stacked heavily against the conservationists. Yet, if for no other reason, the friends that the Youens have made across the state as a result of their environmental activities have made the battle worthwhile.

Asked if she has any advice for others, Mary Anne suggests, "As soon as possible, offer positive alternatives to what you're opposing." Still keeping the humor that has seen him through when everything else seemed to be failing, Buzz's eyes sparkle: "And if you really have the conviction, sink your teeth in like a bulldog and hang on. You may be shaken half to death, but hang on."

NATIONAL ASSOCIATION OF LATINO DEMOCRATIC OFFICIALS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BADILLO. Mr. Speaker, last fall, the National Association of Latino Democratic Officials was organized in order to develop and articulate a perspective on the problems facing the American Latino community, and to actively assert the emerging Latino presence in all public and political sectors of our Nation's life.

Last month, my distinguished colleague from California, Representative Edward Roybal, who serves as chairman of NALADO, testified before the Platform Committee of the Democratic Party. The testimony he presented for NALADO could well serve as a blueprint for the steps that must be taken in the next years to finally assure the Latino community of full participation in American society.

Our priorities are those of every American who is now assailed with the problems of poverty, unemployment and lack of access to our country's institutions. I commend this document to your attention:

Testimony Presented Before the Democratic Platform Committee

Thank you for extending this invitation to the National Association of Latino Democratic Officials (NALADO) to present our views and recommendations for the 1976 Democratic Platform.

Our purpose in appearing today is to present the facts and call for the inclusion of specific language and planks in the Democratic Party Platform so that it addresses itself to the problems of the Latino community.

The very existence of an organization of Latino Democratic Officials is a challenge to the status quo within the Democratic Party about the Latino community. Our membership includes Latino governors, members of both Houses of Congress, Latino members of state legislatures, mayors, councilmen, county and city commissioners who must stand for election and be bound by the platform which you will recommend. Consequently, we believe we have a special claim on the attention of the Platform Committee.

I, for one, hope that I will never have to stand for re-election on a Democratic Platform which makes no direct commitments to the Latino community as I have often had to do in the past.

We, as Democratic Officials, look forward to the end of neglect, retreat and indifference to the plight of the Latino community by the Republican Party and to active inclusion in the Democratic Party Platform.

NALADO was organized with the conviction that the Democratic Party can be strengthened and its electoral prospects enhanced by inclusion of a Latino perspective. We are firmly convinced that the Latino community will respond to such a move by the Democratic Platform Committee, IF, the Democratic Party clearly demonstrates in its platform statement that the election of Democrats makes a difference to *Latinos.*

NALADO's goals include: Promotion of registration and voting participation of Latinos in Federal, state and local elections: Adoption of policies and statements to promote equal opportunity for all and advancing the health, social and economic welfare of Latinos and other disadvantaged groups; promotion of the participation of women at all levels of the Democratic Party; and the encouragement and advancement of the full participation of the Latino community at all policy making levels of the Democratic Party and throughout the political process.

Your actions today and in subsequent meetings will be crucial in helping us realize these goals.

To begin any meaningful discussion of the current status of the Latino community, we must first rid ourselves of the widely held misconception about the "substantial" progress made by the Latino community under this Republican Administration.

We must rid ourselves of the dogma that time equals progress, that progress is historically inevitable, and focus instead on the facts.

In 1970, our median family income was 79% of that for all families.

In 1975, our median family income was only 74%. We actually lost ground.

Our unemployment rate has practically doubled in the past 5 years. In 1970, it was 6.5. In 1975, it was 12.2.

Nearly a half a million Latinos were unemployed at the end of the first quarter of 1976. The Bureau of Labor Statistics reported 453,000 Latinos out of work.

The unemployment rate for Latino young people aged 16 to 19 was a disgraceful 21.6% in the first quarter of 1976.

In 1970, the Bureau of the Census reported that 1 out of 4 Latino families lived in overcrowded homes. Since then we have seen the cost of a single family home increase by over 74%. Our home ownership was only 46% compared to 63% for the total population in 1970.

The number of Latinos employed by the Federal government has increased seven tenths of one percent from 1966 to 1975, from 2.6 to 3.3 percent. In specific categories such as Wage Board (blue collar) we actually lost 442 positions between 1974 and 1975. In this category it took us 9 years (1966 to 1975) to "gain" a total of 905 positions.

In the very Federal agencies which play a crucial role in the solution of some of the problems we will discuss today, there is a paucity of Latinos. 1974–1975 figures for the Federal government show that Latinos comprise only 1.4% of the Health Services Staff at HEW and less than 1% of the Health Resources Administration and Alcohol, Drug Abuse and Mental Health Administration.

Even more insulting is the percentage in the entire National Institutes of Health—less than 0.6%.

The Bureau of the Census which plays a vital role in providing us with the appalling facts we will discuss today only had 1.4% Latinos in their total workforce, a paltry 68 out of 4,828. This 1.4% is actually a decline from December 1974 when the Census workforce was 1.6% Latino.

Many misinformed persons decry the amount of money spent on training of "minorities" and want us to "cut back." But let's look at the facts. Latino enrollment in medical schools was 1.2% in 1974–1975. Black and Latino first year enrollments actually declined from 9.5% to 8.8% of all participants.

Much has been made of the fact that the current generation of Latino young people are better educated than their parents and grandparents. This had led to the misconception that time equals progress. The facts are that in 1970 only half of Latino young people aged 18 to 24 had completed high school.

We in the Democratic Party must be shocked away from the comfortable reliance on the dogma that time equals progress.

The problems of our Latino communities will not go away given time. All evidence shows they will get worse. The past 5 years have given us shocking evidence that unless a positive and progressive program of reform and action is undertaken we are headed for a multi-faceted crisis for the Latino community.

Let me stress at the outset that the Latino community is diverse and includes Latino settlements in the Southwest whose culture predates the landing of the Pilgrims at Plymouth Rock, rural agricultural workers and two of the most highly urbanized Spanish speaking centers in the world (Los Angeles and New York).

The Latino community is composed of approximately 60% Mexican Americans, 15% Puerto Ricans, approximately 750 thousand Cubans, 700 thousand Central or South Americans and 1.4 million who classified themselves as of other Spanish Origin. The Bureau of the Census reports that there were 11.2 million Latinos in March 1975.

Within this diversity and despite the geographic dispersal of the Latino community throughout the United States, there are certain core values which the Latino community holds deeply. A recognition and response to these core values, we believe, should form the substantive principles upon which the platform of the Democratic Party in 1976 can be built.

These principles are:

A strong and vibrant family structure,

A deep and abiding commitment to the dignity of the individual,

A strong sense of community and,

A bilingual-bicultural worldview.

I believe it is useful to examine the "Agenda for the Spanish speaking Community" using these four basic values and how programs and policies can be developed and implemented to promote these values.

FAMILY AND COMMUNITY

I will attempt to sketch a brief profile of the Latino family and then discuss in turn programs and policies which will support this key value.

The most significant characteristic of the Latino population is that it is a young population. The median age of the Latino was 20.7 years in March 1975 compared to the median age of the total population which was 28.6 years. At the time of the 1970 Census about 41% of Latino families included children under 6 years of age compared with only 26% of all families. In March 1975 about 13% of all Latinos were under 5 years of age compared to the total population where only 8% were under 5 years of age.

This demographic pattern means that the Latino family is saddled with higher than normal costs for schooling, health care and housing at the same time that our working population is suffering from persistent and pervasive job discrimination and lack of employment opportunities. This adverse economic experience has resulted in a median income for Latino families which was only 74% of the income earned by the general population ($9,599 compared to $12,836).

This shocking discrepancy has actually become more severe in recent years. In 1970 the discrepancy was 79%. In 1975 the gap had widened to 74%.

Another way of illustrating the disparity is that 15% of all Latino families had incomes under $4,000 in 1975 whereas only 9% of all families had incomes this low.

Nearly one out of four (23.2%) of all Latino families fell below the low income level whereas only one out of ten (11.6%) of all families fell below the low income level. A significant segment of the Latino community, Puerto Ricans, were more severely impacted by poverty where one out of three (32.6%) were below the low income level.

Particularly and cruely affected by this employment discrimination are Latino women, 35% of whom had incomes of less than $2,000. Only 4% of Latino women in the workforce had incomes of over $10,000.

EMPLOYMENT

Economic security is the social cement which holds the family together. Unemployment, underemployment and job discrimination are inherently anti-family. I suggested earlier that we should examine programs and policies to see how they adhere to the basic values held by the Latino community. This approach can be applied to the Republican doctrine that the nation must tolerate unemployment rates for the general population of 8% in 1976 and rates above 5% until 1981. President Ford has given this doctrine as the principal reason why he should be nominated and elected. A brief recitation of the unemployment rates for the past six quarters comparing the Latino unemployment rate to the rate for the general population vividly illustrates what the Republicans have in mind for the Latino community.

UNEMPLOYMENT RATES BY QUARTER

	4th, 1974	1st, 1975	2d, 1975	3d, 1975	4th, 1975	1st, 1976
Latinos	8.2	12.4	12.9	11.8	11.8	11.6
General	6.1	9.1	8.7	8.3	7.8	8.5

Note: Latino unemployment rates are published only by the quarter.

The Bureau of Labor Statistics reports that an unemployment rate of 11.6 means 453,000 Latinos are unemployed.

This Republican doctrine of making the poor pay the price of economic recovery means unemployment rates for the Latino community which are 4 percentage points higher than the general population.

Unemployment rates for selected age groups within the Latino communty are even more extreme. Latino teenagers (16–19) experienced unemployment rates of 21.6% in the first quarter of 1976, for example.

These facts should suggest to us that without a commitment by the Democratic Party to a full employment policy and a vigorous and effective effort to eliminate employment discrimination, there is little hope that the Latino family can remain a strong and viable institution. I think it is a tribute to the Latino community that the Latino family has survived considering the stresses inflicted upon it by an Administration policy which takes for granted higher unemployment rates for Latinos, underemployment and job discrimination.

There is much work to be done in America which is not being done while willing workers in the Latino community stand idle. Urban decay, delapidated housing, inadequate public facilities such as parks and other recreational facilities, an antiquated transportation system—in short, enough work for everyone who can work.

The principal obstacle is the lack of political will and this we call upon the Democratic Party to supply.

We advocate a full employment policy with approaches which will entail countercyclical employment and training programs which will go into effect whenever the employment rate rises to a determined level in a given community. Such economic conditions would trigger public service employment programs, accelerated public works, anti-recession grants to state and local governments and accelerated skills training programs for the unemployed.

We advocate the establishment of domestic development banks focused on community development similar to the international development banks which would concentrate resources in certain regions of the country and specific communities, such as the Latino communities which have persistent and high unemployment.

We advocate a concerted and well conceived program combining affirmative action and effective enforcement programs to eliminate the blight of employment discrimination and to restore dignity to the workplace for men and women.

HOUSING

It should be evident by now from the profile I provided earlier that the Latino family has housing needs which are somewhat different from the general population and yet the 1970 census told us that slightly more than 46% of Latino families own or are buying their homes compared to 63% of the total population. The 1970 Census also showed us that 1 out of every four Latino families lived in "overcrowded" homes. ("Overcrowded" was defined by the Census as more than one person per room.)

At the same time that our community's housing needs are becoming more pressing, we have seen the average cost of a new single family home increase from $23,400 in 1970 to $40,000 in 1975, an increase in price of over 74%.

If this trend is allowed to continue with no positive and affirmative movement to recognize that the vast majority of all new housing will have to be subsidized, this means we are reconciling ourselves to the fact that the vast majority of Latino families will never own a home of their own.

The Latino community is not willing to accept this proposition and calls upon the Democratic Platform Committee to reaffirm the Democratic Party goal of a decent home and a suitable living environment for every American famliy.

While insisting that the Federal government play a more active and progressive role in promoting the goal of a decent home and a suitable living environment for every American family, we advocate a funding approach which will encourage the use of community controlled housing development corporation which will target construction and rehabilitation programs directly to the Latino communities in such a way as to allow Latino communities to play an active role in reconstructing, rehabilitating and developing our own communities rather than have the funds trickle down to force changes in our communities over which we have no control.

HEALTH

I discussed previously the fact that 41% of all Latino families include children under 6 years of age. Further examination discloses that Latino families below the low income level have, on the average, more children. The number of children per family combined with the youth of the population and the low income status should cue us to the tremendous need for health services in the Latino community.

Public health studies have shown that Mexican American families made only 2.3 visits a year to a physician compared to 5.6 visits by non-Latinos. Life expectancy is lower for Latinos (56.7 years for Mexican Americans in 1960 compared to 67.5 years for the general population.)

Neglect of the health of Latino children occasioned by poverty is evident in a recent study done in East Los Angeles which reported a very high percentage of childhood diseases. The study stated that Mexican American children under 1 year of age had a higher incidence and rate of disease in 10 of 15 reportable categories compared to the non-Latino population. A May 1975 report on the same community reported "high rates of amebiasis, shingellosis, salmonellosis, tuberculosis and childhood diseases—measles, mumps, rubella and chicken pox. Prevalence of these infections is usually associated with poor standards of living and poor nutrition. . . ."

The tragic story told by such studies is inexcusable when at the same time the Federal government is spending billions of dollars on exotic biomedical research and subsidies to medical schools. At the same time our present knowledge of the health problems of the Latino is totally inadequate.

Federal data gathering on the health status of Latinos has been badly neglected, for example:

The National Center for Health Statistics, the primary Federal health data gatherer, currently does not provide reliable estimates on the health problems facing Latinos, despite the fact that a selected "Ten State Nutrition Survey, 1968–1970" conducted by the Center for Disease Control suggested high levels of nutritional deficiency among Latinos;

A recent report by the National Center for Health Statistics provides data on the clinical signs of possible nutritional deficiency from age 1 to 74. The report itself emphasizes, "Nutrition is a major factor in the environment affecting life and health." And yet not one word in this 81 page report on nutritional deficiency among Latinos:

The Interview and the Examination survey reports compiled by the National Center for Health Statistics present vital facts on the health status of our population including data on personal health expenditures, physician visits, prevalence of chronic respiratory and other conditions, hypertension, dental disease, pre- and post-natal care of children. Of the 100 reports in the Interview Series not one contained any facts on the Latinos. Of the nearly 150 reports in the Examination Series not one contains any facts on the Latino;

Another important series of reports by the National Center for Health Statistics contains data on mortality, natality, fetal and maternal mortality, birth weights and other related trends. Nearly 80% of these reports provide data by race or color but none by Spanish origin. This is particularly tragic when you recall that 41% of all Latino families include children under 6 years of age and the low income family averages 3.0 children;

And lastly, the National Institute of Mental Health has published over 100 "statistical notes" since 1969 on mental health problems and care. Only one, an April 1972 study on admission rates to state and county hospitals, included data on Latinos.

This neglect and indifference must be reversed if we are to begin meeting the health care needs of the Latino. I urge the Democratic Platform Committee to take a strong and unequivocal position on this vital need.

We would like to sketch the broad outlines of an approach in the health area which must be taken.

We advocate full comprehensive national health insurance, comprehensive maternal and child care programs which stress nutrition and high quality preventive and early diagnostic health services for infants and children and support development of community based and consumer controlled health centers and migrant health centers.

We advocate the development of comprehensive health care systems including mental health services which are based on the particular and unique health conditions of the population served by the systems.

We advocate a more concerted and consistent approach to the development of adequate training and educational opportunities for the Latino in the health professions. Despite the fact that the Federal government provides nearly $1 billion in financial support to medical training we find that for the academic year 1974–1975 Latino enrollment in medical schools was only 1.2%. Even more alarming is the fact that Black and Latino first year enrollments have shown a decline from 9.5 to 8.8% for 1975–1976. The number of Black and Latino graduates from physician assistants training is expected to decline at an even more drastic rate in 1976 from its present 7.3% to 4.6% in 1976.

DIGNITY OF THE INDIVIDUAL

An integral part of the Latino value system is the notion that each individual person is entitled to equal treatment and opportunity. We believe in policies that stress and reinforce the ideal of individual development to the full extent of each person's abilities and potential.

EDUCATION

Let me profile the educational plight of the Latino community as a premise to describe some of the problems we have encountered and solutions we propose.

We have seen the public school in essence "de-educate" our Latino children, instead of nuturing their ability and pride in speaking the most widely spoken language in this hemisphere, Spanish. We have seen the educational system destroy this great national resource.

The median year of schooling completed by Latinos averaged 9.6 years compared to the general population which averaged 12.1 in 1970. For Mexican Americans in Texas the median years of education were 7.2 and in California, 10.6.

Much has been made of the fact that younger Latinos are better educated than their parents, suggesting to the unsophisticated that it is historically inevitable and that time equals progress. This illusion is dangerously in error. There is a significant gap between Latino youth and all youth at all levels of schooling. Two thirds of all young people (18–24) completed high school while only half of Latino young people reached its completion. A greater proportion of 16 year old Latinos had not even entered the junior year of high school compared to other students of the same age.

Approximately 2 out of every 10 Latino males over 25 had completed less than 5 years of school in 1975.

One out of every four Mexican American men over 25 had less than 5 years of school.

Six out of every 10 Latino males had completed less than 4 years of high school in 1975 compared to four out of 10 in the general population.

Only 14% of Latinos had completed any college, including 6% who had completed 4 or more years compared to the general population where 21% had completed some college and 11% had completed 4 years of college or more.

The reasons for this appalling profile are not difficult to understand: discrimination and denial of equal educational opportunity coupled with poverty have operated to prevent the development of the full human potential of too many Latino children.

Latino Democratic Officials take pride in the fact that their efforts have introduced the Latino community's unique contribution to American education: bilingual-bicultural education. But the promise of this basic innovation which responds to our community's deeply felt need to develop each individual remains largely a promise. Less than 3% of all Latino children are served by bilingual-bicultural programs and many school districts have been reluctant or unwilling to undertake the task, despite the U.S. Supreme Court's ruling on this issue in Lau v. Nichols.

We advocate a step up of early childhood development which is attentive to the unique health, nutrition, cultural and educational needs of the Latino child and parents as an end to segregation of Latino children into underserved 'tracks' which doom them to educational failure.

We advocate expansion and full funding of educational grants for the education of disadvantaged children, bilingual education and the handicapped for we believe that the ultimate measure of a just and responsible society is one which accommodates and encourages the development of each individual as one individual.

We advocate full funding and expansion of student assistance programs in higher education including the development of Latino health professional and scientists, bilingual teachers and public administrators. It is a cruel hoax on the Latino student to offer a 'choice' of programs which are, in fact, not available. Therefore, we advocate a more active role by the Federal government in encouraging institutions of higher education to develop programs geared to the needs of the Latino community. We have heard much about the 'mis-match' between the number of persons trained and the limited availability of position. I think we have no need to fear that we will produce 'too many' Latino health professionals, the need for such persons is practically speaking without limit at the present time.

We advocate new initiative by the Federal government to encourage community control and involvement in the educational establishment but I think its time that we stopped fooling ourselves about the ease with which this goal will be attained. I previously cited the fact that a significant number of Latinos do not own their own home, there is also a rise in the number of Latino families where both parents work. Migrant agricultural workers pose a continuing challenge to the traditional PTA approach to parent and communty involvement. I believe that what is needed is a new approach which relies on the deeply felt sense of family in the Latino community. This new approach might be called the "Family League" movement which would encourage involvement of the entire family in the education of children and adults.

Providing full educational opportunity is the key to responding to one of the most deeply held convictions of the Latino community—that the school system provide the maximum encouragement to children to develop themselves and that the educational system serve as an institution to unite and advance the child at every level within the Latino community.

EQUAL JUSTICE UNDER THE LAW

The Latino community has traditionally been the 'victim' rather than the beneficiary of the criminal and civil justice system in America. The symbols and memories of this vicitimization are to be found everywhere where Latinos have resided—in the memories of Border Patrol 'raids' on our communities, urban 'sweeps' by Immigration officials which have resulted in the detention, arrest and harassment of U.S. citizens and legal residents, Ruben Salazar in my Congressional district, the riots at Attica and the Tombs, the Texas Rangers. It is a tribute to the Latino community in this country that they have not lost faith with America's sense of fairness and justice.

But I believe the Democratic Party will demonstrate in positive ways that this faith is justified by reforming the criminal and civil justice system so that it is attentive to the unique needs of the Latino community because our deepest conviction is to the notion that the purpose of society is to preserve and defend the dignity of the individual.

We advocate the development of Federal, state and local bilingual courts which will allow the Latino community to receive equal representation and justice under the law.

We call for the elimination of discrimination in employment by police departments and throughout the criminal and civil justice system including probation and parole officers and programs to encourage the development of adequately funded public defender programs including subsidizing the education of attorneys dedicated to the practice of public interest law.

We advocate reforming the corrections system particularly the prisons and the establishment of a bill of rights for prisoners to ensure that all rights and privileges of the ordinary citizen are retained by prisoners except those expresly withdrawn by lawful orders. The Latino community's need to preserve and defend the dignity of the individual compells us to insist that basic human rights are extended to all prisoners including the right to adequate meals, medical care, acceptable levels of sanitation, proper housing, freedom from fear of physical and psychological mistreatment and opportunities to participate in well run educational and other rehabilitation programs. We also advocate the establishment of grievance procedures and the means for appointment of independent investigators. For too long the prisons have been schools for crime instead of correction.

We advocate these humane approaches to corrections not because we are unaffected by the criminal behavior in our society, but because we are firmly convinced that robbing a person of the right to individual dignity does not ennoble the victim of the crime.

EQUAL EMPLOYMENT OPPORTUNITY

The practice of looking at the color of a person's skin, whether they are male or female, noting their accent or surname first, is so commonplace in our society that the widespread practice of discriminating on these bases has lost its shock appeal. The fact that job discrimination is so commonplace should have suggested to us that its eradication meant massive social changes in our most basic institutions. Its pervasiveness should have suggested that the amount of financial and moral resources we, as a country, were willing to put into the effort were woefully inadequate.

I have touched on the topic of job discrimination under a variety of headings by noting its pernicious effect on the earnings of Latinos, differential unemployment rates, its effect on the housing conditions for Latinos, the effect of such discrimination in distorting the purposes and functioning of the criminal and civil justice system, its effect on depriving Latinos of adequate health care. This is an appropriate way to discuss job discrimination because it is like a hydrahead—complicating and aggravating all other problems faced by the Latino community.

I trust at this late date that it is not necessary to "document" the fact of discrimination against the Latino community by citing the occupational distribution of Latino workers which indicates significant difference between the types of jobs held by Latino workers and the general workforce. Although 16% of the nationwide workforce is employed in professional and technical work (white collar) only 9% of Latino workers are so employed. But it may be instructive to review the Federal government's own practices and the results because we believe that there is a relationship between the absence or low status of Latinos and the quality of services and degree of sensitivity shown by our institutions of government.

In a moment I will turn to the problems with Census counts and data gathering with respect to the Latino community, for now let's look at the hiring record of the Bureau of the Census where, as of June 30, 1975, there were 68 Latinos out of a total workforce of 4,828, or 1.4% of the Bureau of the Census workforce. In fact, there has actually been a decline in the percentage which was 1.6% in 1974.

Government wide, the percentage of Latinos employed by the government has increased by 988 jobs or to 3.3% in 1975. It had been 3.2% in 1974. The "gain" was one tenth of one percent. In specific pay categories we actually lost ground in particular Wage System jobs where the percentage stayed the same but the actual number of jobs held by Latinos declined by 442.

I previously discussed the lack of knowledge about the health status of Latinos and now contrast that to the fact that the 1974–1975 EEO data provided by Civil Service Commission shows that Latinos represent less than 0.6% of the employees in the entire National Institutes of Health. Latinos comprise only 1.4% of the workforce of the Health Service staff and less than 1% of the employees of the Health Resources Administration and in Alcohol, Drug Abuse and Mental Health Administration.

In short, I am trying to disabuse you of the notion that our progress in attaining good jobs and contributing to the solution of some of the problems facing the Latino community has been significant or substantial.

The reasons for our lack of progress in eliminating job discrimination are several but the principal problems are related to the lack of commitment by the National Administration, which has resulted in the fragmented leadership among the Federal agencies dealing with equal employment opportunity and stopped progress within the Federal establishment itself.

We advocate, therefore, the allocation of more resources to the Equal Employment Opportunity Commission and other agencies of the Federal government to revitalize this nation's commitment to the elimination of job discrimination and to attract the kind of high quality administrators and other public servants required to make these programs works.

We call upon the next Democratic administration to clean up the Federal government's own employment practices, especially in the key agencies dealing with equal employment opportunity and to resume the leadership as a model employer.

We advocate these things because the eradication of job discrimination in all its forms is essential to the achievement of the Latino community's ideal that each individual's dignity be preserved in the workplace. The illegal denial of a job because of discrimination is a denial of the access to all else.

VOTING RIGHTS

The National Association of Latino Democratic Officials has adopted as one of its guiding principles the "promotion of registration and voting participation of Latinos in Federal, state, and local elections", among other reasons because the right to vote and participate in the political process is the most direct means of expressing our commitment to the dignity of the individual.

The need for NALADO and the Democratic Party to speak out on this issue is evident when you consider that the Latino community, particularly the Mexican American community have been denied the right to exercise this first attribute of citizenship. The residual effect of this deprivation are still evident in the fact that although Mexican Americans comprise approximately 16% of California's total population and 12% of its voting age population, Mexican Americans hold only 0.7% of the elected offices in the state. Mexican Americans have only one Federal representative (elected in 1963) out of a total of 43; two state senators out of 40; and four state assemblymen out of 80.

Discriminatory practices have been devised and used to thwart and dilute the collective political influence of the Mexican American through such practices as at-large school board elections, redistricting, registration, and voting irregularities, unannounced changes in polling places and lack of bilingual registrars, election information and election officials. These problems are particularly severe in rural California as documented by the Civil Rights Commission's 1971 study. In one instance, a Spanish speaking voter asked for assistance in operating the voting machine. Since none of the Anglo election officials spoke Spanish, she obtained help from another Mexican American voter. The woman who assisted her asked the official why they failed to provide bilingual officials. The response was: "This is America, and if the woman wanted to vote, she would know how to speak English." Yes, this is America and it is time we recognized the need to provide assistance to Spanish speaking and other language minority citizens.

Although the population of certain rural counties in California had Mexican American populations from 16.7% to 44.9%, the combined total of Mexican American elected officials was only 1.2% of all elected officials in those countries.

In recognition of this history, we advocate a massive voter education effort on behalf of the Latino community and the availability of election information, registrars and election officials on a bilingual basis.

We advocate the vigorous enforcement of the Voting Rights Act and an active campaign by the Democratic Party to help the Latino community to eradicate discrimination in voting which we have discussed here today.

The Supreme Court has pointed out that "Any discrimination in determining who may participate in political affairs . . . undermines the legitimacy of a representative government." As early as 1886 the Supreme Court instructed us that "the right to vote is a fundamental political right for it protects all rights." We adhere to these beliefs and view voter discrimination as a basic attack on the dignity of the individual. The purpose of the American political process is to unite the country, not to divide it into classes based on language ability, membership in a particular cultural or racial group or on the basis of economic or social class.

BILINGUAL-BICULTURAL VIEWPOINT

We spoke earlier of the Latino community's unique contribution to American education—the notion of bilingual-bicultural education. We discussed our goals of bilingual courts and the need of bilingual assistance in the voting process. Our support for these goals is based on the belief that the preservation of the Spanish speaking heritage is the key to maintaining our strong family ties and sense of community.

Despite having to bear the brunt of job discrimination and the denial of rights and benefits of citizenship, our communities have survived. All of this is a sad commentary on our often repeated boast of being a "nation of immigrants".

We believe that this country has lost something precious and beyond monetary value. We have lost entire generations of writers, poets and composers of Spanish speaking backgrounds; this country has lost the contribution of a unique American perspective to the body of international literature in the Spanish language. Here and there our community and artistic groups, underfunded and unrecognized, valiantly work to develop regional and local creative meccas based on our traditions and experiences as Americans.

The point to be made is that the principal institutions of American society should be supporting the preservation and growth of ours and other national origin cultures. We believe strongly in a renaissance of the Latino and language minority traditions of this country. If evidence is needed of that tradition look to the names of the principal cities and traditions of my own state of California; Los Angeles, San Francisco, San Diego, the Sangre de Cristo mountains of Colorado and New Mexico, and on and on. A large part of the "American story" can only be told by recognizing this Spanish language tradition.

Mr. Chairman, there is another reason why it is important to preserve and cultivate the Spanish language in America and it relates to a fact that I mentioned earlier—Spanish is the most widely spoken language in the hemisphere. How can we be considered "Good Neighbors" and honor the culture of other nations in this hemisphere if we neglect the millions of Spanish speaking Americans of our own country?

Further, we believe it is time for us to take a closer look at U.S. policies towards Latin America; there is a clear contradiction, which is growing more conspicuous every year, between the espousal of American democratic principles and our government's failure to oppose the denial of human rights in the hemisphere and even in our own country. We should remember that attitudes and policies towards Spanish speaking Americans in this country affect our bi-lateral and international relations with others; and what we advocate for the Latino community in this country can be applied equally to the developing countries of Latin America.

PROBLEMS WITH CENSUS COUNTS AND DATA GATHERING

Mr. Chairman, we would also like to express concern over the serious deficiencies in the collection and analysis of data and statistics on the Latino. Knowledge is the first step in problem solving. We must have a better and more complete grasp of the facts if we are going to accomplish very much of the agenda we spelled out today.

There are currently some 100 Federal programs which allocate funds on the basis of population, many of which require census data by minority groups and population characteristics within specific geographic areas. These programs involve a wide range of benefits from Federal highways and mass transit funds, to general revenue sharing, education, manpower, housing, health and social services, programs for the elderly and law enforcement assistance. This basis for allocating funds seems to us to be logical and even-handed since, among other virtues, it minimizes the amount of political interference in the allocation of program funds and tends to guarantee that the funds actually go to the intended beneficiaries. In other parts of this statement we have advocated this approach for the Latino community with respect to housing, education, community development, health and employment programs.

The problem is that the 1970 Census provided a most inaccurate accounting for the Latino population. The Bureau of the Census did not actually count the Spanish origin population but relied on a 5% sample question. This small sampling was an expedient afterthought adopted by the Bureau to quell criticism against its original failure to provide a Spanish origin question for the Census. However, very little was done to insure that this sample adequately estimated the Spanish origin population. The failures were multiple. Census failed to develop appropriate data collection techniques and relied too heavily on mailout-mailback method despite the fact that mail delivery would be poor in substandard housing areas where most Latinos live; Census failed to properly consider the high mobility among migrant farmworkers many of whom are Mexican Americans; Spanish language questionnaires were not provided on a routine basis, despite the fact that many Latinos needed help in filling out the English-only forms; Census handled the count of Spanish origin as a regional phenomenon ignoring the nationwide distribution where as 40% of Latinos live outside the Southwestern United States; and lastly the Bureau failed to show its sensitivity to the need for bilingual enumerators during the 1970 census.

As a result of these failings, the U.S. Commission on Civil Rights reported in April 1974 that there was evidence of a "significant undercount" citing the Bureau's own estimate of the 1970 undercount of blacks. In 1973, the National Urban League concluded that the undercount rates for the Spanish origin population was "probably larger than those for blacks."

The Bureau of the Census' own 1973 population survey for "Persons of Spanish Origin in the United States" showed a substantial increase of more than 1.5 million over the 1970 figures. This revision of the method of counting Latinos resulted in a 17% rise in the Spanish origin population and a nearly 40% increase among Mexican Americans, which to us constitutes prima facie evidence that the original (1970) count was not accurate and not properly conducted.

Since the 1970 census, the Bureau of the Census has made some improvements in the methods used to enumerate the Latino population particularly the expansion of the category "Spanish origin for children under 14" to include Spanish origin not only of the father but also of the mother; expansion of Mexican ethnic origin from two to four categories and changes in the survey procedures with emphasis on interviewing and use of a self identification flash card, in its Current Population Survey which is conducted annually. However, the depth and scope of the Current Population Survey is not as extensive as the decennial censuses and significant gaps still exist.

We have elaborated in some detail on the deficiencies so far as health statistics are concerned; the same problem is evident in the gathering of data on unemployment. Reliable information on voter participation and other vital areas is still fragmentary.

The data which is missing could not only help us target Federal funds more accurately to reach the Latino community but also plays an important role in allowing us to measure the degree of compliance with important Federal, state and local laws which prohibit discrimination. Beyond this, the lack of reliable and compatible data on the Latino community has discouraged serious academic and scholarly works on the Latino community. We hope that, among other things, better data will encourage more research and attention to the Latino community by the scholarly community.

THE CITIES

No presentation of the needs of the Latino community can really be complete without a discussion of the urban crisis in our country. Every issue of concern to Latinos—housing, education, jobs, health care—is exacerbated and magnified in the cities. The fiscal crisis in New York has been in the news in the past months, but it is not isolated, and only presages the disastrous national consequences of the foolhardy Nixon-Ford response to the plight of our older urban areas.

Let me begin by reviewing the history of the settlement of the cities of America. Since the nation's founding, people have come with hope to America's large urban centers from lands where they were oppressed, where their opportunities were limited. The cities welcomed these newcomers and shared their riches—they opened doors to education, to employment, to good heatlh. From these immigrants arose the political and industrial leadership of our country.

Now there are new waves of immigration and migration to our cities—the people still come with hope, but they come from different places—from Mississippi, from the Southwest, from Puerto Rico, Mexico and Central and South America. And most of them are brown and black. They do not find the welcome that the earlier wave of immigrantion met. The system that offered opportunity to all has been short-circuited, and if we do not re-connect that system, the future of our country may be in doubt.

We have read a great deal lately about the political and demographic shift away from the North—we now have the Sunbelt to reckon with, an area settled by people who have had the mobility and access to leave the industrial cities behind. And, in their flight, taking their power and money with them, they have left the poor, the black and the Latinos to struggle for survival—people without a voice, without power and without access to the institutions that control their lives.

More than 83% of all Latinos—97.3% of all Puerto Ricans—live in cities. This report contains statistics that will show that they are among the most poorly educated, the most badly paid, the least healthy and the most highly unemployed segment of our society. And a major factor in these statistics is that these are urban dwellers.

There is a phrase that has gained some currency in New York lately—"planned shrinkage". It refers to a systematic plan to cut services in certain poor neighborhoods in the City so that the people who live there will move and save the city money. New York City is now just articulating what the Nixon-Ford administration has been practicing since 1969.

The Democratic Party must now undertake a program of planned revitalization. The new Democratic President who takes office next January must move forward with compelling mandate to commit the resources of this country to the rebuilding of opportunity for the citizens of the nation's cities. We are beyond the point of patchwork programs and emergency repairs.

The cities can no longer be reviled and excoriated for existing, for being places where the poor reside. They should be rewarded for the job they have done, and more concretely, for the disproportionate amount of taxes they have paid in relation to the amounts of Federal funds they have received.

We therefore advocate the establishment of an Office of Planned Urban Revitalization in the White House, an office with direct Presidential oversight—not stuck away in HEW or HUD where it can be whittled into ineffectiveness—but where every agency will have input and responsibility to do its share in the great task that must be done. I propose that the legislative mandate for the Office of Urban Revitalization carry with it the massive amounts of money needed to make those programs work. Those funds must be spent on a comprehensive and interdependent program of jobs, industrial development, housing, health care—in other words, a restoration of the human—and humane—services that have caused our more affluent citizens and businesses to flee, and left our poor to suffer. Secretary of State Kissinger recently proposed such self-help programs for Africa. Isn't it time that this country began thinking about helping itself to survive?

Soon the United Nations will meet in Vancouver to discuss the problem of human settlements. The Ford-Reagan position at that international conference will be one of indifference. Wouldn't it be appropriate if the Democratic Party committed itself to change that indifference to commitment, and to show the entire world that we indeed do care?

We must commit ourselves to advancing those who have been damaged as a result of public and private policies, we must give back to the urban poor—the blacks, the Latinos—what has been taken away from them.

A related issue that will spell survival or death for Latinos—as well as other poor that live in cities—is welfare. We have all heard that the reason most people have come to the cities is that it's easy to go on welfare, and the benefits are so high. Besides being, simply a wrong assumption, it also requires a new and radical approach. Many proposals have been put forth as to the most equitable method to nationalize welfare. Under most of them, the major cities of the country would lose because most plans incorporate maximum benefits that are below the standard of living in those places.

Therefore, we advocate a national welfare plan that incorporates a regional cost-of-living index in its formula. That is the only way a national welfare program can truly serve the citizens who need it, and the Democratic Party should—and must—take the lead in providing a welfare standard that will allow our people to survive.

In conclusion, let me restate our theme. The Democratic Party can and will attract the vote and support of the Latino community and encourage greater voter participation by this under-represented segment of our society if it is attentive to the four basic core values of the Latino community. The platform should support and advocate programs and policies which reinforce and support a strong and vibrant family structure, promote the commitment to the dignity of the individual, reinforce the Latino community's strong sense of community and promote a bilingual-bicultural worldview.

The impersonality and materialism of American life, particularly its urban life, is often decried but its cause is often misdiagnosed as the inevitable cost of "progress." In the life experience of the Latino communities in this country we can see a reaffirmation that the sense of community is a frail thing that requires nurturing and resistance to trends and influences that weaken this value.

It is in community that we raise our children, transmit our values, traditions, our language and unique view of the world. We believe that in the diversity of American life lies its strength. Consequently, we seek to preserve and improve that community.

ARKANSAS ATHLETE BREAKS WORLD POLE VAULT RECORD

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ALEXANDER. Mr. Speaker, Earl Bell of Jonesboro, Ark., and Arkansas State University in my congressional district, set a new world pole vault record last weekend at the U.S. Track and Field Federation championships in Wichita, Kans.

Bell vaulted 18 feet, 7¼ inches, a full inch better than the previous record set by Dave Roberts of the Florida Track Club in 1975 and far above Bell's own meet record of 17 feet, 8 inches, which he set at the Federation Championships last year.

Earl, a junior at Arkansas State University, cleared the bar at the 18 feet, 7¼ inch level on the first try. I wish to share this great athletic achievement with my colleagues and predict that this young man will bring home a gold medal for the United States in the upcoming Olympics Earl Bell is a credit to the field of athletic endeavor.

AFTER 38 YEARS IN BROADCASTING

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. HUNGATE. Mr. Speaker, after 38 years in broadcasting, Gene Terry, a close friend of mine and a familiar face in the Illinois and Missouri areas, has announced his retirement. I know he will be greatly missed by his viewers and fellow workers and I would like to join with them in expressing our best wishes to him for the years ahead.

I would like to share with my colleagues the attached article which highlights his career:

GENE TERRY MAPS PLANS FOR SUNNY RETIREMENT

(By Bill Bradshaw)

When he completes the 6:10 p.m. weather report and forecast Friday, Gene Terry, news director at KHQA-TV Channel 7 and WTAD Radio, will unfasten his portable "mike" and write "finis" to 38 years of broadcasting.

"Retirement has slipped up so rapidly," the popular tri-states weather and newsman explained "that it finds me leaving the WCU building with very mixed emotions."

But feeling nothing like his 65 years, Terry generally was optimistic and a bit enthusiastic about retirement. "My plans are far from complete for the long run," he said, "but it's something I've looked forward to a long time and I'm sure Ruth and I will keep as busy as we wish to be at whatever the future may have in store."

The familiar scene of Terry, or "old tornado Terry" as Tom Robey and others of the crew like to heckle him, certainly is a familiar one which will be missed by his thousands of viewers and listeners.

As George Brancado, late of the St. Louis Weather Bureau, once said, "Gene Terry is one of the most highly respected 'weather men' in the Middle West."

For the short run, there'll be some travel this summer, visiting Mrs. Terry's relatives at Portland, Oreg., and some leisure along the blue Pacific. Then it will be time for the retiree to start considering where he may become active next.

Born in Quincy, the only child of Lloyd W. and Ruby E. Terry, on May 22, 1911, Gene started his broadcasting days at WTAD in 1938, and, with the exception of four years' work in public relations and intelligence in the U.S. Air Force in the days of World War II and other brief professional stints elsewhere, Quincy has always been his point of "regravitation." "I left occasionally," he said, "but we always came back. I don't expect retirement to change that."

Completing his public school education with graduation from Quincy High in 1929, Gene went on for three years' study at Culver-Stockton College at Canton, Mo. The Depression hit at about that time, and formal education ended.

But education as such did not. Terry is an inveterate reader, and he says, "I now intend to read all those books I've been collecting for years."

His den at 1823 Hampshire is as full of trophies from his boxing days and his years of competitive pistol shooting as it is books. He doesn't collect guns that don't shoot, and he still shoots, expecting to get more active again in a hobby of 20 years standing. He often competed in meets of the Quinsippi Gun Club, and at shoots in Mt. Sterling, Macomb, Alton's Piasa Club and other spots along the river valley.

His boxing days at 147 pounds "were not particularly brilliant," he insists. "I did it some in college, before and after college and competed in some Golden Gloves tournaments. However, I have nothing to brag about from my ring career. I guess I just did it more for fun and the exercise than anything else."

A bit heavier now, his prize fighting is confined to an occasional fast spar in the TV studios with good-natured Al Morris.

Joining the Army Air Corps in February, 1942, he served at bases in Florida, Bolling Field, Washington, D.C., in the exciting World War II days when President Franklin Roosevelt was around and Prime Minister Winston Churchill visited the base; San Luis Obispo, Calif., Camp Pendleton, Ore., Spokane, Wash., and Harrisburg, Pa. An Oregon girl, Ruth Keipper, won his admiration, and the two were married on April 8, 1944, at Fort George Wright chapel in Spokane.

They waited eight years for their only son, Michael Eugene Terry, himself a recent bridegroom and an admissions counselor at his alma mater, Northeast Missouri State University at Kirksville.

Though long out of active service, Terry retained his affiliation with the Air Force Reserve and retired just five years ago as a lieutenant colonel.

With all his other interests, news reporting and broadcasting have been Terry's forte. He had the early morning news in his first days at WTAD, arising at 4 a.m. to join the late Will Sohm at the mike. Resigning to enter service after Pearl Harbor, Terry returned to civilian life at St. Louis, where he was news director at station KWK in 1947–48. Then it was back to Quincy once more with WQDI, The Herald-Whig's FM station.

While in Oregon on vacation, Terry met one of the unfortunate episodes of his life—an auto accident that badly injured a leg and led to surgeries and convalescence that took him out of action for a full year.

When he did get back on foot, Terry went with KHMO Radio at Hannibal. He spent six months there, moving for a similarly brief stint to an Amarillo, Tex., station.

Once more Quincy beckoned, and Gene Terry responded. For a year and a half he was a newscaster on WGEM Radio.

But in 1952 he went back to his first love—WTAD. "TV came in the next year," he recalls, "and everything changed. I was still on early morning radio and took the night TV weather," he said. "I didn't mind TV; rather liked it."

He recalls his earliest days at WTAD and the onset of television. "Our mayor, Don Nicholson, then was our news director. He was my boss," Terry related. "Don and I are still good friends. He was a 'helluva' newsman, and I think has been a good mayor."

About the news business in general, Terry rather rues the creeping domination of coverage by picture. "True," he admits, "a picture is worth a thousand words, and it's graphic. But sometimes I wonder if pictures don't often convey something less than the true situation—not always being what they appear to be."

So far as any news slanting or management is concerned, Terry said, "I know for certain this does not exist in local coverage, and I'm almost as sure it does not on the networks. There simply are too many good, honest reporters—far too much competition. If these things happened, there would be somebody to blow the whistle."

Once a seven-day-a-week worker in the studios and on the street, Terry has in more recent years retrenched to a five-day operation, gradually "letting go," as he says, "so that retirement will not be all that devastating."

Presently he does the noon news and weather and comes back on camera for 5:25 and 6:10 p.m. weather reviews. In addition he writes and reads the station's weekly editorial and hosts the "Face the Tri-States" interview show he originated in 1967.

"Yes, I'm rather proud of this show," he assessed. "We have personalities from all walks of life. It's a free give and take questioning, unrehearsed and unedited. No statements are ever lifted out of context. As one local judge once said, 'it's the best possible, simply because there is no editing.' "

Terry is proud of the personalities who've submitted to the "Tri-States" interviews, people like the late Otto Kerner, Senators Charles Percy and Adlai Stevenson, Gov. John Dalton of Missouri and Richard Ogilvie of Illinois, Congressmen Paul Findley and William Hungate, sports figures and religious leaders.

Gene expressed his appreciation to The Herald-Whig which is often represented on the show. "This alone," he said, "gives dimension with the differing attitudes and views of the questioners joining our news staff."

So Gene Terry won't be tracing the highs, lows and cold fronts nor giving the temperatures several times daily now from Chicago, St. Louis, New York, Miami, San Antonio, Phoenix, L.A., San Francisco, Seattle, Great Falls, Minneapolis and Denver.

Instead he'll be traveling, reading his books, shooting his pistols and enjoying life. He just finished teaching a radio-television course at Hannibal-LaGrange College and will do another one in the fall.

He will continue to be interested in his alma mater, which awarded him an "outstanding alumnus" recognition in 1962 and which he has served repeatedly in fund-raising and promotional efforts.

He will continue his interest, too, in the Red Cross, the Air Force, which he served as this area's liaison with the Academy at Colorado Springs for several years, his membership in the Quincy Kiwanis Club, American Legion Post 37, Quincy Lodge 296, AF & AM, the YMCA and the Vermont Street United Methodist Church.

Universally recognized wherever he goes, Terry observes, "yes, television definitely ended anonymity for all time. It's pleasant to be recognized and remembered by so many friends. Often it's embarrassing, and always it's a very humbling responsibility."

TRIBUTE TO GERRI AND MANNY ROHATINER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. WAXMAN. Mr. Speaker, it is my pleasure to join the Los Angeles community in paying tribute to Geri and Manny Rohatiner at a concert to be held at the Scottish Rite Auditorium on Sunday, June 12, 1976.

This event is being sponsored by the National Conference of Synagogue Youth—NCSY—in honor of Mr. and Mrs. Rohatiner, who by their leadership in chairing a city wide banquet, the first major fund-raising event for NCSY, helped establish a base of support for the organization's continued good work. Since that time, Manny has chaired the NCSY West Coast Youth Commission, and was recently elected to the vice presidency of the Union of Orthodox Jewish Congregations of America on the west coast, the official organization for the orthodox movement.

The NCSY is the youth arm of the orthodox movement. Manny and Gerri have dedicated many years of their lives with endless devotion, warmth and love, and a deep spiritual commitment to its growth on the west coast.

The Rohatiners have been actively engaged in various philanthropic endeavors within the Los Angeles Jewish community for the past 25 years. The United Jewish Appeal, the Guardians, B'nai B'rith, American Mizrachi Women, Young Musicians Foundation, City of Hope, Hillel Hebrew Academy, and Yavneh Hebrew Academy are just a few of the organizations that they have supported through the years.

Manny has also had an active political career for many years. He served as deputy for Supervisor Debs and found great satisfaction in helping people with their problems. He has actively supported many worthy candidates for public office.

Gerri and Manny Rohatiner are two very fine human beings and it is my pleasure to express to them and to my colleagues my commendation of them.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. WIRTH. Mr. Speaker, under the leave to extend my remarks in the Record, I include the following: In recent days I have placed in the Record material concerning "the Consumer Communications Reform Act of 1976," a bill written and titled by A.T. & T. and the independent telephone companies which a number of my colleagues have introduced. Today, I insert in the Record a speech on this subject which I delivered to an A.T. & T. executive seminar in Princeton, N.J., on March 8 of this year. Most of the thoughts expressed in my speech were based on information gathered during hearings held last November by the Subcommittee on Communications, of which I am a member. I have had a number of requests for copies of my remarks and given that, I thought it might be helpful to my colleagues to make my remarks available here.

In coming days, I plan to put in the Record news articles, editorials and other material on the Bell bill and on the issue of competition in the telephone industry. I hope this will provide my colleaues with information which will help them evaluate the arguments which have been made concerning the effects of competition in the telephone industry is likely to have on the public.

The article follows:

The Consumer Communications Reform Act: A View From the Hill

I'd like to talk briefly tonight about your proposal to get Congress to reaffirm its "intent" with respect to the competition in the common carrier industry. I must admit, however, that I am somewhat cautious about what I say. When Bob Timothy, Lloyd Leger, and Dick Rothmeier visited last month, my home phone was shut off just a few hours before.

I knew that AT&T was persuasive with Members of Congress but thought to myself, they really do mean business.

Seriously, Mr. Timothy, Mr. Leger, and my good friend Dick Rothmeier, were very embarrassed to learn that our phone had been disconnected. I assured them, however, that the incident was due to my failure to pay the bill on time and that Wren was just as happy to have the phone turned off. It was probably the first quiet day she's had since we moved to Washington.

You have been very forthcoming with me about your reasons for feeling that this legislation is necessary; I want to be equally frank with you in suggesting some areas of your proposal that I believe require further examination.

I do not favor Federal tinkering with an industry's fundamental structure. I gather that this is what you believe the FCC has done with your industry, imposing some adjustments which you believe make the entire mechanism more costly and less reliable. The amendments you propose to the Communications Act flow from this concern. But the decisions of the FCC which have effected these changes have been supported by the Department of Justice and the Office of Telecommunications Policy, and have been affirmed by the courts.

So I am equally hesitant about restructuring your industry by Congressional fiat, even if that action is characterized as a mere "reaffirmation" of earlier policy. It seems clearly the best policy to me to let an industry work out matters on its own, determining through the interplay between its various components the structure most naturally suited to the accomplishment of its objectives.

I am certain that none of you is afraid of the competition you have experienced to date, or are likely to face in the foreseeable future. My basic philosophical problem with your proposal springs from what I perceive as a disproportion between a negligible threat and massive retaliation. I know full well the skills—rich, diverse, unique—which exist within the telephone industry. I've seen further demonstration of them here today.

On the other hand, I was exposed during the Subcommittee's hearings to the nature and scope of your competition. As I recall it, none of the specialized carriers had yet broken even on its telecommunications operations. And none of the terminal manufacturers described its business as being much advanced from a toe-hold.

Given this state of affairs—and I believe you will agree I've stated it accurately—it is difficult to understand the dimensions of your alarm. That is not to say that I don't appreciate the underlying reason for it: You don't want the home telephone user forced to pay more than his fair share for his service. Neither do I. But can't he be protected from this possibility without Congressional intervention?

I think the answer to that is not only "yes," but that he may expect better protection from the industry that serves him than any that Congress could fashion. Let me tell you why.

Resources which we have always taken for granted are now becoming like endangered species. We are a nation of consumers, but we have been brought face-to-face with the fact that there are limits to what we can consume. Food, energy sources, and our environment daily become more clearly finite. And so the discipline of conservation has had to displace the permissiveness of consumption.

In your own industry, for instance, I understand there is growing support for aligning consumption more closely with costs and for discriminating more precisely between peak-hour usage that demands capacity enlargement and off-hour use that fills facilities that otherwise would be empty. Installation and relocation charges are going up, to offset the real costs you experience in accomplishing these activities, and many companies are initiating charges for directory assistance. Your industry is increasingly realizing—and in many jurisdictions, innovatively adopting—the utility's principle for survival: The customer who costs more to serve must pay that much more for his service.

There is, of course, in your business an irreducible minimum of service which should be made available at the lowest possible charge consistent with costs. That minimum is, basically, a black telephone, a directory listng, a fixed number of outgoing calls (perhaps with rates governed by time and distance), and unlimited incoming calls.

This is what your customers, and my constituents, must have. In any case where this essential level of service is too costly for you to provide at rates subscribers can reasonably afford, then I am convinced that application must be made to the legislative branch to provide the sums required to furnish it. Through the rural telephone assistance program, Congress has been aware of, and active in, meeting its obligation to assist the telephone industry in fulfilling basic service responsibilities in sparsely populated areas. If necessary, Congress or the state legislatures should similarly lend a helping hand to those who need residential telephone service but are too poor to pay for it.

Beyond that minimum service, though, your customers should pay you precisely what it costs to furnish them each specific add-on. Color phones, Touch-Tone, extensions, long cords, peak-hour calling, frequent and lengthy local calling—each of these should involve an economic consequence to your subscriber (of which he is aware) directly related to your costs in affording it to him.

It is in this area of the add-on—assuming that your basic service covers its costs and a fair return—that I can see room for more than one supplier. Your service is fundamental. There are no logical alternatives to the local monopoly franchises you and the independents enjoy. No one, to my knowledge, is advocating one. But suppose that, for reasons of your own, you elect not to furnish frills over the full range of styles or price options that certain customers may desire in order to enhance their own basic service. Shouldn't those customers, in that situation, be able to go to another supplier who is willing and able to satisfy their individual tastes or requirements?

The same would appear to be true in the specialized carrier area. Your long distance and WATS service comprise the basic interstate offerings. If my requirements fit within their dimensions, then I am satisfied with your wares and need go no further. And if they don't, then you've developed alternatives to them—the conventional private line, Foreign Exchange, and Common Control Switching. But, again, these are add-ons to your basic service. Here, too, may not the range and price options of your offerings, fashioned to suit the general public, be inadequate for those with special, individual requirements more suited to the specialist?

Put another way, what I am saying is that anyone who wants to offer any competing device or service in U.S. telecommunications has to come back, finally, to you—and has to pay you for the privilege. Your concerns would be more persuasive to me if the duplication you see resulting from competition *supplanted*—instead of *supplemented*—what you have built. But both terminal manufacturers and specialized carriers bring their customers to you, relying on you for the general, overall network which is necessary if their specializations are to be of value to their customers.

I don't see that as necessarily bad. The market for add-on frills can be as large a universe as there are individual tastes and requirements. But by concentrating on the basics, and on satisfying the general requirement, it seems to me that you can largely escape the caprice of those with particularized needs—the more so when there are others willing to devote themselves exclusively to these submarkets.

This is what I mean when I say that you are much better equipped to protect your customers than is the Congress, since only you know the true costs associated with the provision of your various services, and only you can maintain the cost-rate equilibrium in the face of shifting supply-demand relationships. If Congress were to cast today's reality in concrete, then you might have to come back to us in a few years' time and ask us to break the mold and re-cast things so as to fit entirely changed circumstances.

It is upon your ability to serve in the public interest that I place my own reliance. Amending the Communications Act—whether in the way you suggest, or as your competitors might prefer—offers me no assurance whatever that my telephone service will remain as good a value as it has been to date. Only you—through creative, cost-sensitive, diligent management—can preserve, improve, and pass on the truly magnificent industry you have inherited.

PROPOSAL TO ALLOW EXPIRATION OF THE FEDERAL ENERGY ADMINISTRATION

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BAUCUS. Mr. Speaker, yesterday I voted for a proposal to allow the expiration of the Federal Energy Administration—FEA—encompassed more than simple executive reorganization by congressional mandate. I supported the proposal for two reasons. First, it would have eliminated duplicative programs in the executive branch, which would have saved $75 million. Second, it would have forced Congress to reappraise its own internal jurisdictions relating to energy matters.

In the House, there are currently 17 standing committees and 34 subcommittees with jurisdiction over some aspect of the energy problem. While it is true that energy is a pervasive concern that constrains policy in virtually every area of Government, lack of a coordinated approach in solving energy problems results in administrative and executive efforts that work at cross purposes.

I applaud the cosponsors of the proposal for underscoring the duplicative efforts of the FEA and other Federal agencies. Let us not forget, however, that Congress cannot escape its share of blame for dysfunctional and wasteful energy programs. In the field of solar energy, for example, we have at least three committees exercising jurisdiction. First, the Committee on Interstate and Foreign Commerce mandated FEA to formulate strategies for solar energy commercialization. Yet, as proponents of yesterday's proposal pointed out, the Energy Research and Development Administration—ERDA—clearly has jurisdiction over solar energy as provided for by the Solar Heating and Cooling Demonstration Act, and the House Science and Technology Committee, not the Commerce Committee, has legislative and jurisdiction over ERDA. The House Banking, Currency and Housing Committee, on the other hand, has jurisdiction over H.R. 13143, my own bill to increase Federal housing loan and insurance ceilings to provide money for solar heating and cooling in homes.

While the Commerce Committee's legislation toward an FEA solar commercialization program was no doubt conceived in an earnest desire to address a real need, I cannot help wondering if the committee was aware that ERDA recently completed an extensive assessment of the scope of the challenge in both residential and commercial solar power demonstration. FEA itself was aware of the assessment since FEA people contributed significantly to the assessment in cooperation with ERDA. The next logical step is for ERDA's own Office of Commercialization to address the needs identified in the assessment. Yesterday, however, the House extended the life of the FEA and approved a mandate for FEA to formulate solar commercialization strategies. The question now remains as to how much duplication and waste taxpayers must endure if the House Science and Technology Committee moves to reinforce ERDA's own solar demonstration programs through the ERDA Office of Commercialization.

Mr. Speaker, I do not advocate depriving House committees of their respective prerogatives and jurisdictions on energy matters; energy is indeed a pervasive concern, as I mentioned before. I nonetheless believe that a coherent energy policy cannot possibly emerge from the activities of 17 standing committees and 34 subcommittees, each of which spawns and develops bits and pieces of policy. What may be needed is a joint committee similar to that envisioned in House Concurrent Resolution 318, one which is comprised of chairmen and ranking minority members of committees which have energy jurisdictions. Such a joint committee could examine energy bills and energy provisions of bills drafted by other committees for compatibility with a total congressional energy program. Costly duplication of efforts in the executive branch could thus be weeded out before the bills in question are reported to either House.

Another possibility is a standing House committee empowered to refer energy proposals—except for appropriations—to the appropriate subcommittees. Bills drafted by subcommittees would also be subject to its examination. A similar proposal is embodied in H.R. 9345. It might be useful for any new committee to submit a resolution identifying general features of congressional energy policy providing guidelines for other committees in their deliberations on energy issues.

Mr. Speaker, I am more convinced than ever that something must be done. I sympathize with those who have difficulty discerning a coherent congressional energy program. We have a fragmented and expensive energy program not because our leaders in the House lack diligence in energy matters; no indeed, the reverse is true. The House has worked hard on every aspect of the energy crisis, as has the Senate. Our program is fragmented because we ourselves are fragmented. This is a problem, Mr. Speaker, that we should tackle now.

STUDY IT SOME MORE

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, a constituent of mine recently called to my attention and interesting piece in Power Engineering magazine written by Mr. Fred Olds, the magazine's senior editor.

Mr. Olds points out quite convincingly that a substantial body of information has been assembled over the last 30 years regarding the effects of radiation on living beings, information that has been used well to set limits on the amount of radiation that people can be exposed to and not suffer any significant health effects.

But the cry continues to be made that "We need to delay to study it more" and his thesis is that it is not that nuclear energy has been studied too little, quite the contrary. It is that very few of those who are calling for the studies have bothered to inform themselves of the information that already exists.

Studies are designed to lead to decisions, not to delay. In many cases we are tempted to sidestep a difficult issue by recommending another study. In some cases it is justified, in other cases, and I believe a vast majority are in this category, further studies serve only to delay and avoid decision. Gradually our people are getting the message on nuclear power and are becoming accustomed to the emergence of this important new technology. Hopefully they are becoming adept at spotting their elected and appointed officials who continually avoid informing themselves on the issues and instead call for study after study.

At this point in the Record I insert the Power Engineering editorial for my colleagues perusal:

Nuclear Power Engineering: Analysis of Trends in Policy and Technology

". . . study it some more."

Item: By the end of 1960, more than 24,000 articles had been published on the biological effects of radiation.

Item: On November 10, 1970, the millionth document of nuclear interest was fed into the Nuclear Documentation System of the Commission of the European Communities.

Item: By the end of 1974, nuclear documents were being fed into the INIS Atomindex of the IAEA at the rate of nearly 1000 per week. Fully a fifth of them were written specifically on health, safety, environment, applied life sciences, waste management, safeguards, and like subjects.

Item: In March 1976, an Illinois State representative announced plans to introduce a safe energy bill into the General Assembly. It would provide for a 5-year moratorium on nuclear plant development, and would create an 11-member committee to study nuclear power and report on its environmental, health, and safety issues by January 1979.

The sponsor of the bill is quoted as saying that time should be taken to study the health and safety impact of nuclear power. "I think before we started on this madcap development of nuclear power, there should have been a study of these considerations."

It was useful to the nuclear industry that this legislator's views were published so that he, the hearing committee, and the house speaker could be apprised of the immense universe of knowledge about nuclear power.

There is a problem, however, of undoing in the public mind what the newspaper did with the original headline and article. The headline said, "Report on Nuclear Safety Urged." The article begins with the words, "Let's take time to study the health and safety impact of nuclear power, says State Rep. . . ." The clear implication is that these matters have not been studied. That is the only conclusion the reader can draw from the head and opening.

The question now arises: Whose responsibility is it to see that the public is not misled by important headlines on important articles? Should the nuclear industry have made all media people in the nation aware of the amount, type, caliber, scope, and conclusions of the nuclear-related research that has been done?

Should the representative have taken the time to explore the nature, time span, and findings of nuclear research? Should the reporter have thought to consult a man with credentials in the nuclear field before telling the paper's readers that nuclear power is a madcap development?

Perhaps there is blame on all sides, but a dispassionate evaluation of the question of balance in news coverage seems to show that it is more difficult to get pro-nuclear information before the public than anti-nuclear information.

The article in question here, for example, quoted just one organization's views on the proposed moratorium bill. It was a supporting view, but perhaps most readers would not know that this organization is firmly on the anti-nuclear side. This hardly can be classed as the presentation of adequate fact to the public.

Instead of enacting a moratorium, the legislature might find it both interesting and useful to just set up the 11-member committee to study nuclear power, but with certain guidelines. The committee's charter would direct it to attend all meetings of the Health Physics Society, The Institute of Nuclear Materials Management, The American Nuclear Society, and others of similar nature. There would be compulsory attendance at symposia of national laboratories, and at institutes abroad.

It would be required that a listing be made of all major repositories of nuclear studies, articles, and hearings. An estimate of the number of documents should be compiled, perhaps only to the nearest million, and an appropriate number of them should be read.

On this basis, the committee should be required to list and describe fully the areas of nuclear health and safety that had not come under scrutiny, and to demonstrate some reasonable understanding of any areas that it felt had been slighted.

Where there are claims and counterclaims, such as those over waste disposal, the committee would be obligated to read and evaluate all documents submitted by both sides.

There is a perfectly good reason for such an exercise. A society must have a reservoir of balanced, valid information on which to base its judgments, if it is to thrive. Monochromatic treatment of important questions does not constitute such a reservoir. *Somehow*, the goal of balanced information has to be served better than it is being served at present, and especially by some of those who are calling for more study.

In 1960, a National Academy of Science report said, "Despite the existing gaps in our knowledge, it is abundantly clear that radiation is by far the best understood environmental hazard. The increasing contamination of the atmosphere with potential carcinogens, the widespread use of many new and powerful drugs in medicine, and chemical agents in industry emphasize the need for vigilance over the entire environment. Only with regard to radiation has there been determination to minimize the risk at almost any cost."

This superior position has been maintained through to today. It is not so much that additional studies be made, but that there be a knowledge of what now exists.

THE BREAUX AMENDMENT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. EDGAR. Mr. Speaker, I would like to share with all the Members of the House a fine editorial which appeared in today's Washington Post supporting the Cleveland-Harsha amendment to the Federal Water Pollution Act and calling for the defeat of the Breaux amendment. I would also like to share an analysis I have prepared of the arguments which have recently been advanced for supporting the Breaux amendment. I believe that this analysis provides good reason for rejecting Breaux and supporting Cleveland-Harsha.

The articles follow:

[From the Washington Post, June 2, 1976]

Safeguards for the Swamps

The current anti-Washington mood has compounded Congress' perennial problem of deciding how much regulation is essential and what is too much. An important example is the issue of wetlands protection, which is scheduled to come before the House today in connection with H.R. 9560, a water resources bill.

The bill includes an amendment by Rep. John Breaux (D-La.) which would negate a 1972 law and 1975 court decision which greatly enlarged the Army Corps of Engineers' power to regulate dredging and filling in the nation's marshes, swamps and other ecologically priceless wetland areas. The Corps expanded program has not yet taken effect. However, some of that agency's own comments have helped to stir up fears that the Army intends to assert control over farm ponds, rice paddies and every other damp spot on the continent. The Breaux amendment is meant to preclude such excesses by slashing back the Corps' authority to about its pre-1972 scope.

As a reaction to alleged regulatory overkill, the Breaux amendment is in several important respects an exercise in heavy-handedness itself. It would leave millions of acres of important wetlands open to exploitation and possible ruin. It would limit the Corps' jurisdiction so arbitrarily that in some cases the boundary of federal review might run through the middle of a marsh. At the same time, because no hearings were held on the measure, its relation to other water pollution control laws is unclear. Some allege that it might permit dumping of poisonous wastes into rivers and lakes that serve as public water supplies. Others claim that, to the contrary, withdrawing the Corps' authority might bring EPA into the wetlands permit business instead.

In view of such difficulties, some Public Works Committee members who backed the amendment have had second thoughts. Rep. Jim Wright (D-Tex.), for one, has been trying to marshal support for modifying the Breaux language or postponing the Corps program until a study has been made. There has also been some discussion of giving qualified states a larger wetlands protection role. On the other hand, EPA and the Interior Department flatly oppose the Breaux amendment and argue that any major changes in the existing program would be premature.

In the midst of this discord, Reps. William H. Harsha (R-Ohio) and James C. Cleveland (R-N.H.), in cooperation with several environmental groups, have proposed a sensible course. They would reject the Breaux amendment and respond to farmers' fears by providing that the Corps may issue general permits for minor dredging activities and may not regulate stock ponds, irrigation ditches and so forth at all. This would solve the immediate worries without tearing up the whole program.

Congress of the United States,
House of Representatives,
Washington, D.C., June 2, 1976.

Dear Colleague: If no reasonable and environmentally sound compromise is achieved on the House floor on Section 17 of H.R. 9560, known as the Breaux Amendment, I intend to introduce an amendment to strike the entire section. The Breaux Amendment represents a giant step backward in achieving the goals of the Federal Water Pollution Control Act.

The Breaux Amendment was approved in Committee based both upon a distorted and unreliable assessment of the current Corps of Engineers' section 404 permit program, and the letter and intent of the Corps' July 25, 1976 regulations.

In a previous communication, I invited you to review the transcripts of the markup session at which the Breaux amendment was adopted, to judge for yourself how the 404 program was misrepresented. But thanks to a "Dear Colleague" we received yesterday signed by 16 of my colleagues on the Committee, a review of the transcript is unnecessary. One need only to review the statements in this letter to understand the magnitude of misinformation about the 404 program. Every one of the cosigners of this letter voted for the Breaux amendment, so it is easy to understand how such an environmental nightmare as Section 17 could be approved by a majority of the Public Works and Transportation Committee. It is clear to me that the voting majority expressed their will based upon similarly disputable information, which I hope to correct here.

Attached is my rebuttal, point by point, to the seven points raised in this letter. I have taken the time to quote liberally from the law, regulations, and other materials which have been distorted both by this June 1 letter and by other communications which support Section 17.

With all respect to my colleagues on the Committee who signed on that letter, I hope that my rebuttal will be helpful to all who are confused by this very important issue.

Cordially,

Robert W. Edgar.

Attachments.

Rebuttal to the "Dear Colleague" of June 1 on the Breaux Amendment to H.R. 9560

Point No. 1: "The Breaux language simply restores the historic definition of navigable waters, reversing a broad and sweeping Court ruling which defined them as all the waters of the United States."

Rebuttal: The Breaux Amendment neither restores the historic definition of "navigable waters" nor reverses a court decision which defined navigable waters as all waters of the United States, as alleged in Point No. 1. The Breaux Amendment completely redefines the term "navigable waters" to roll back authority the Corps of Engineers had to issue permits for the discharge of dredging and filling material into navigable waters even before the "broad and sweeping Court ruling" referred to. On the contrary, the Breaux Amendment would take away from the Corps its jurisdiction over "historic" navigable waters and restrict jurisdiction to include only "waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast)." This definition would remove from Corps jurisdiction many waters which fit the "historic" definition of navigable waters of the United States which is "administratively defined to mean waters that have been used in the past, are now used, or are susceptible to use as a means to transport interstate commerce landward to their ordinary high water mark and up to the head of navigation as determined by the Chief of Engineers, and also waters that are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast)." (33 CFR 209.120(d)(1)).

Secondly, no Court defined navigable waters as "waters of the United States, as claimed in the second part of point No. 1. It was defined by the United States Congress. The Court was only enforcing the letter and intent of P.L. 92–500, the "Federal Water Pollution Control Act" in which the Section 404 permit program was established. The definition which the Court enforced (NRDC vs. Callaway) appears in Title V of the Act:

"(7) The term 'navigable waters' means the waters of the United States including the territorial seas." (33 USC 1362(7))

There is sufficient legislative history to establish that the broad definition of "navigable waters" was the intent of Congress. And clearly, it is not the result of a Court ruling, as suggested in point No. 1.

Point No. 2: "Unless that Court ruling is set aside, the Army Corps of Engineers must require every citizen to get a formal permit before performing any earth moving work near inland lakes and tributaries. It is this which we seek to avoid."

Rebuttal: The 404 permit program does not require formal, or for that matter, any permits for earth moving work "near inland lakes and tributaries." The mandate of the 404 permit program reads as follows:

"The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites . . ."

Clearly, the program deals only with the discharge of material into navigable waters (defined as the waters of the United States in Section 502). For discharges into waters, the Corps is establishing a general permit program which would not require formal permits in many cases under section 404 (explained in the rebuttal to point No. 6).

Point No. 3: "This will provide needless harassment to individual home and land owners, agriculturists, builders and many private citizens to a degree never intended by Congress."

Rebuttal: It is true that the harassment of home and land owners, agriculturists, builders, and many private citizens was never intended by Congress. The Corps regulations of July 25, 1975, do not provide for such harassment. The regulations provide for general permit programs which the Corps would use to "the maximum possible extent relying on individual permit actions to regulate only those environmentally significant activities." (33 FCR-Part 209 Administrative Procedure.) The terms "dredged material" and "fill material" would not be included as "materials produced in normal farming, silviculture, and ranching activities such as plowing, cultivating, seeding, or harvesting, for production of food, fiber, and forest products." (33 CFR 209.120(d)(4), (6)(i).)

For those who are uncomfortable with these regulations, provisions in the Cleveland-Harsha compromise address both the concerns of the general permit program, and regulation of normal farming, silviculture, and ranching operations (see rebuttal to point No. 4). While it is correct that passage of the Breaux amendment would end all questions about the need for permits for plowing or harvesting, it would have more serious consequences such as threatening the ecological destruction of up to 85% of our wetlands, as well as other waters.

Point No. 4: "The Corps of Engineers, in an official statement issued on May 6, 1975, said this would mean requiring Federal permits for 'the *rancher* who wants to enlarge his stock pond, or the *farmer* who wants to deepen an irrigation ditch . . . or . . . protect his land from stream erosion.' "

Rebuttal: The Corps of Engineers issued a press release on May 6, 1975 which stated that "Under some of the *proposed* regulations, Federal permits may be required by the rancher who wants to enlarge his stock pond . . ." The Corps has disavowed this press release of having any applicability to the present status of the 404 controversy. The release was labeled "ridiculous" by Victor Veysey, a former colleague, and civilian head of the Corps of Engineers. Despite its gross distortion as a description of the July 25th Corps regulations, the statements in this press release surface repeatedly, including during the markup session on H.R. 9560 when the Breaux Amendment was introduced, as ammunition for those who wish to torpedo the 404 permit program. The July 25th regulations clearly preclude material resulting from normal farming, silvaculture, or ranching operations from being considered as dredge or fill. Your office may have been bombarded by communications from farmers in your district urging you to support the Breaux amendment, as a result of this absurd press release and similar communications which misrepresent the 404 permit program.

The Cleveland-Harsha compromise would place the letter and intent of the Corps' July 25th regulations into law with language that:

"No permit shall be required under this section, or section 402 of this Act, for discharges of dredged or fill material—

(1) resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

(2) placed for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures; or

(3) placed for the purpose of construction or maintenance of farm and stock ponds

and irrigation ditches and the maintenance of drainage ditches . . ."

Point No. 5: "Later, the Corps issued a 34,000 word regulation. While modifying the above a bit, the regulation would still cover an enormous area. On July 1, permits will be required on all tributaries up to their headwaters, on intrastate lakes, rivers and streams, on all bodies of standingwater created by impounding, and all areas that are periodically inundated. How often is "periodic?' Once a week or once a year?"

Rebuttal: Point No. 5 gives the impression that the Corps of Engineers' regulations are arbitrary and non-specific. It implies that terms such as "periodic" are not defined, and by innuendo, implies that the entire set of regulations is of questionable credibility. The truth is they are the result of creative work by the Corps in adjusting to a Court decision which went against it. On May 6, 1975, the Corps published four sets of alternative regulations. Over 4500 comments were received and evaluated by the Corps. The July 25th regulations are sensitive to many adverse reactions to the original alternative regulations. The citation that the regulations consist of 34,000 words are used in a negative sense. The issue is very complex, so it shouldn't be surprising that regulations of this type are "wordy" or may even contain some flaws. However, for purposes of argument, "periodic" is defined in the regulations, although indirectly, as waters which are "inundated 25% of the time and is derived by a flow-duration curve for the particular water body that is based on available water stage data . . ." (33 CFR 209.120(d) (2) (ii) (a)).

Point No. 6: "Aside from the needless harassment to citizens, this will require an enormous permit-writing bureaucracy. The Corps anticipates it will have to be issuing 30,000 to 50,000 permits a year by 1978. It will cost about $35 million simply to process and police this effort next year! The Breaux Amendment will save this needless cost."

Rebuttal: The Corps, according to Victor Veysey, civilian head of the Corps, does not anticipate the need for "30,000–50,000 permits by the year 1978." It is true that more permits will be necessary when phase III of the Corps' July 25th regulations goes into effect. However, at a meeting of the Executive Committee of the Environmental Study Conference on May 19, 1976, attended by Mr. Breaux, Veysey noted that the Corps expects that "only a few thousand" individual permits would be needed solely to comply with Section 404. This figure is based upon a successful general permit program which is currently being developed by the Corps to issue automatic permits for certain classifications of projects. The legality of such a general permit program has been questioned. The Cleveland-Harsha compromise provides legislative language which should satisfy these legitimate concerns:

"Consistent with the requirements of subsections (a)-(c) of this section, the Secretary of the Army acting through the Chief of Engineers may issue general permits for discharges of dredged or fill material where such activities are similar in nature, cause only minimal adverse environmental impact when performed separately, and will have only minimal adverse cumulative effect on the environment. Such permits shall contain such conditions as necessary to achieve the purposes of this Act and shall be for a maximum period of five years. A general permit may be revoked or modified if it is determined that the cumulative effects of the permitted activities are such that individual permit treatment is required: *Provided*, That no general permit shall be revoked or substantially modified without opportunity for public hearings." (The full text of the Cleveland-Harsha compromise can be found on page 15539 of the Record, May 26th Daily Edition.)

Point No. 6 fails to gauge the needless cost of the loss of cleaning up our waters as a result of passage of the Breaux amendment, and the cost resulting from the irrevocable loss of our wetlands.

Point No. 7: "A number of well-meaning people who consider themselves environmentalists have objected to the Breaux provision. They say it will leave too much of the nation's "wetlands" unprotected. We think most of them are afforded protection under the Coastal Zone Management Act. The Breaux Amendment will retain protection over all of those wetlands in our coastal areas and along main streams, which was what Congress originally intended. Some states protect other "wetlands" within their borders."

Rebuttal: The wetlands are not guaranteed protection under the Coastal Zone Management Act. In fact, EPA estimates that 90 percent of our wetlands are not coastal. But even coastal wetlands would not be protected under this Act. The Act is not a regulatory program. It does provide money to states meeting certain conditions for the purpose of producing state plans governing coastal zones. A state could use this money to establish a regulatory program; however, I understand that few do.

Discharges of dredge and fill material would remain under Corps' jurisdiction if they occur below the mean high water mark. But there is no clear line separating lands above and below the mean high tide. A discharge of pollutants above the mean high tide could leach through to water and land below the mean high tide. The Department of Justice, in opposing the Breaux Amendment, pointed out the legal nightmare the Breaux Amendment would create in this regard in its five page letter of May 28, 1976 expressing the official views of the Department with respect to the Breaux Amendment:

"In any event, a coastal wetland is partially above and partially below the mean high tide line. From the ecological point of view, the wetland is a unit. If you fill that part which is above the mean high tide line, the remainder is adversely affected. If Section 17 were enacted, we might be precluded from filing suit to protect those areas below the mean high tide line where the fill material was deposited above said line, but pollutants, nevertheless, were discharged below the mean high tide line by means of leaching or runoff . . . The amendment also has important implications for the disposal of dredged spoil or fill on fastland in terms of pollution abatement. For example, soil or dredged material that is highly contaminated by arsenic, mercury, or other toxic substances, could be placed on fastland adjacent to a navigable waterway and the pollutants could wash or leach into the waterway. It is open to question whether these discharges could be penalized or enjoined under the 1899 Act, as revised by Section 17 . . . The amendment is undesirable because it would remove much of the authority of the United States to protect one of its most valuable natural resources, the remaining coastal and fresh water wetlands . . . Accordingly, the Department of Justice recommends against enactment of Section 17 of H.R. 9560."

The Breaux Amendment would destroy federal protections of our valuable wetlands, which play a vital role in the food chain, in flood control, in wastewater treatment, and in recharging ground water.

THE PLUTONIUM CASE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mrs. COLLINS of Illinois. Mr. Speaker, I recently read an extremely good editorial in the Washington Post of June 2, 1976. The editorial establishes the importance of a careful and continual review of U.S. nuclear technology policy. The particular problem is the development of commercial plutonium production facilities and the transfer of nuclear technology in a world that does not provide adequate assurances against either nuclear accidents or the use of nuclear technology for military purposes.

Mr. Speaker, I consider the issue of the spread of nuclear technology an issue of enormous importance today even in the infancy of the industry. It is a concern that will grow in importance as the use of nuclear power becomes more prominent. As a consequence, I offer this article to my colleagues as an opportunity to ponder this very important matter:

The Plutonium Case

To begin the commercial production of plutonium as a fuel for nuclear reactors is an immense and portentous national decision. Once made, it will probably prove irreversible. The Nuclear Regulatory Commission has been preparing to issue licenses for plutonium fuels, on an interim basis, while it continued to work on the final draft of the environmental impact statement. Several public interest organizations—led by the Natural Resources Defense Council and the Sierra Club—challenged this hurry-up procedure. Last week in New York a federal court of appeals agreed that the short-cut is illegal.

The challenge and the decision have performed a very great public service. They require the Nuclear Regulatory Commission—and, we trust, other Americans as well—to stop and consider more carefully a choice toward which the government was drifting more through inertia than any real purpose. The judges observed that the Commission wanted to issue the interim licenses before it had finished those parts of the environmental impact statement addressing issues that some specialists consider fundamental. One of them is the possibility of alternative energy sources of a less troubling nature. Another is the possibility of theft. Unlike the current uranium fuels, plutonium can be easily refashioned into weapons. The job is simple enough that even small terrorist groups might conceivably accomplish it.

Manufacturing plutonium involves risks vastly greater than operating the present power reactors, most of which run on slightly enriched uranium. That distinction is crucial. If the cooling system of one of these reactors failed, it could result in a very bad accident. But the chance of its happening are extremely small. Against that chance it is fair, and necessary, to set the health costs of the other sources of power. Every year, for example, some thousands of Americans die of respiratory diseases fatally aggravated by air pollutants from coal-burning power generators. There are now 57 nuclear power generators in commercial operation in this country, producing about 9 per cent of the national supply of electricity. Their safety performance so far justifies a slow, cautious, but steady expansion of the uranium-fed nuclear power system.

But plutonium is an altogether different matter. If an accident released it into the atmosphere, it would be extremely lethal. Because the stuff constitutes such an invitation to amateur bomb-makers, policing the commercial transportation and storage of it raises difficulties to which no one has any very satisfactory answers. The court's decision means that there will be no licenses for the commercial production of fuels containing plutonium at least until after a series of hearings beginning next fall and running well into next year. The effect is to turn the decision over to the next administration and to an elected President. That is all to the good.

The impact of this delay on American energy production will be zero. The use of plutonium is the one area of national energy policy in which it costs the country nothing to postpone a decision indefinitely. As a practical matter, there is no manufacturer prepared to proceed with the fuel that the interim licenses would permit. Aside from any larger consideration, it appears to be abysmally unprofitable. This country's large reserves of uranium ore ensure a large enough supply of the present fuel, both safer and cheaper, to last into the 1990s. The pressure for interim licensing is coming from companies that have made large investments in plutonium technology and fight every legal impediment and restriction even when the practical effect is nil.

But granting the interim licenses would have very grave consequences throughout the world. Here we come to the most disquieting issue of all. Many other countries are also debating the manufacture of plutonium fuels. If the United States were now to permit American companies to make these fuels, it would sacrifice any hope of controlling the spread of plutonium throughout the world. That would put into the hands of every government, large or small, a substance that can be easily reworked into the most horrifying and reckless kind of weapon. The possibility is anything but remote. The West German and French governments, in their drive to sell commercial reactors, are currently on the verge of delivering plutonium production plants to Brazil and Pakistan—two authoritarian states with large ambitions, much national pride and longstanding rivalries with their neighbors.

Perhaps a time will come when the world decides to proceed with commercial production of plutonium fuels. The present uranium fuel rods, when exhausted, contain a deposit of plutonium that is the product of the radioactive process. A country with a reprocessing plant can recapture that plutonium and turn it into fuel for another cycle through another reactor. The recycling concept has an obvious appeal to those countries with no uranium ore deposits of their own. They too are seeking energy independence.

Multinational control of the reprocessing plants is the only sensible way to guarantee that the product will not be diverted into weapons. But it will take quite a lot of time to work out multinational control. The judges in New York told the government that there's no hurry to let people putting plutonium on the market. For reasons that go far beyond any that they cited, the judges are altogether right.

BILL TO REQUIRE IRS TO PUBLISH THE INCOME IN EXCESS OF $200,000

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. GIBBONS. Mr. Speaker, I have today introduced a bill to require the Internal Revenue Service to publicize for each year the number of individuals with economic incomes in excess of $200,000 who paid little or no Federal income taxes.

We have just learned, from a preliminary publication by the IRS of statistics of income on individual returns for 1974, that 220 individuals with adjusted gross incomes of more than $200,000 paid no Federal income taxes for 1974. The 220 returns are only the visible top of a huge iceberg. Many returns with large adjusted gross incomes produced a small, but not a zero, tax. If a return with an adjusted gross income in excess of $1 million produced no regular income tax, but a minimum tax of a few dollars was paid on an item of tax preference, the return would not appear in the IRS statistics of income as a nontaxable return.

Moreover, a return can show an adjusted gross income below $200,000 even though the taxpayer has an economic income shown on the return of a million dollars or more. In arriving at adjusted gross income, the taxpayer may have deducted percentage depletion on royalties from oil or other minerals. The taxpayer may have had a large long-term capital gain and one-half of that gain was deducted in arriving at adjusted gross income. The taxpayers' economic income, and his ability to pay, must, of course, be measured without deduction of percentage depletion and one-half of long-term capital gains. Percentage depletion and the deduction for long-term capital gains are items of tax preference for purposes of the minimum tax on items of tax preferences.

It is possible for a taxpayer to have a very large economic income and show a zero adjusted gross income on his Federal income tax return. For example, a corporate executive may have exercised a restricted stock option at a gain of $1 million, and his salary may have been completely offset by tax shelters or actual business losses so that his adjusted gross income is zero. The $1 million gain on the stock option is excluded in arriving at adjusted gross income, but it must be shown in the return as an item of tax preference for purposes of the minimum tax on preference items.

While the adjusted gross income shown on the return of a wage earner will generally be the same as his economic income for the year, it is quite clear that this is not true in the case of the affluent taxpayer who has enjoyed tax preference items during the year. His economic income and ability to pay can be vastly understated by the amount of his adjusted gross income.

The enactment of my bill will require the Internal Revenue Service to publish each year the following information with respect to returns showing economic incomes in excess of $200,000: first, the number of such returns which showed no regular income tax payable; second, the number of returns where the regular income tax payable was less than 5.8 percent of economic income. The rate of 5.8 percent is a little less than the rate of the social security tax the poorest workman in our land now pays on his wages. The payment of a minimum tax on items of tax preferences is not treated, under my bill, as the payment of a regular income tax, but the IRS would be free, of course, to reveal how many returns showed a minimum tax and the percent that tax was of economic income.

Economic income is defined in my bill as the adjusted gross income shown in the return plus the sum of the items of tax preference—as defined in section 57 of the tax code—shown in the return. The chief items of tax preferences listed in section 57 which would be taken into account are the following: one-half of net long-term capital gains, percentage depletion, excess of accelerated depreciation over straight line depreciation, and excluded gains on exercise of stock options. The tax reform bill of 1976, as it passed the House, would add other items to the list of tax preferences, such as deductions for intangible drilling costs of successful oil wells. However, investment interest would not be added to adjusted gross incomes since the interest is not deducted in arriving at adjusted gross income. The IRS now requires the tax return to show items of tax preference for the year if they exceed $15,000, even though a minimum tax may not be due. The return includes the taxpayer's share of any tax preference items of partnerships, subchapter S corporations, and estates and trusts.

I realize that the definition of economic income in the bill will in many cases understate the taxpayer's actual income, since only those items of tax preference which are listed in section 57 of the code and are required to be shown in the return will be added to adjusted gross income. Thus, tax exempt interest, for example, will not be added to adjusted gross income since tax-exempt interest is not treated as an item of tax preference under section 57—and is not shown on the return. And the definition of economic income makes no adjustment for the deduction of tax shelter losses since they are not items of tax preference under section 57 and the information on the return will not generally disclose whether or not such losses are economic losses. By necessity, the definition of economic income for purposes of my bill cannot include income items which are not shown on the income tax return as filed by the taxpayer.

The enactment of my bill will, for the first time, give Congress and the public pertinent figures showing how many wealthy individuals are paying no income tax on economic incomes in excess of $200,000 or are paying a tax at a rate of less than 5.8 percent of economic income. I predict the figures will be shocking, and hopefully the disclosure of the figures will hasten the day of the enactment of tax reform which will insure that every wealthy individual will pay a reasonable and fair amount of tax on his income.

MRS. SPELLMAN ADDRESSES DISNEY-BELL POST 66

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mrs. SPELLMAN. Mr. Speaker, it was my honor to have had the opportunity to speak before the American Legion Disney-Bell Post 66 in Bowie on Memorial Day. The ceremony was conducted skillfully and beautifully and I was pleased to have had the opportunity to share the occasion with my Legion friends. May I ask you to join me in giving recognition to those who gave their lives for their country. Allow me to share my remarks with you:

On this Memorial Day, in our Bicentennial Year, we are here to honor those who gave of themselves for our nation—those who fought for us, who laid down their lives for us—those who died so that others might live—those who were torn from their families so that children might continue to be born in America into a land of the free.

Because this is the year of our Bicentennial, it is a time for soul stirring. But let us not forget that it is also the time for soul searching. Yes, this is a time for looking back, but even more importantly, it is a time for looking ahead. This is the moment for recognizing and taking pride in the sacrifices of our war dead. But in their memory, we must also examine mocroscopically and mercilessly our nation, its goals, its government, and its people—the people these heroes died for. After all, in what better way can we honor our dead than to make sure that their sacrifices have built a better United States—indeed, that their sacrifices helped build a better world.

What do we see in America? There are those who tell us there is much that is wrong. We hear people say: "America has lost its values." "The government, the corporations, and the labor unions have lost touch with the people." "People have lost confidence." "The water and air have been poisoned." "There's no hope—there's nothing that we can do."

Nonsense! These statements reflect real problems, but to say that there is no hope is to deny America's finest qualities—her ability to grow, to develop, to improve as a response to adversity.

America has learned some very important lessons. We learned that national freedom is absolute, that we could declare our independence. Mr. Jefferson taught us that.

Four score and seven years later, we learned that national freedom was worthless unless every individual was also free. Mr. Lincoln taught us that.

We learned that when the pressures of complicated society became too great, we could lift up our spirits and laugh. Mr. Kennedy taught us that.

And we found that when the very system of government appeared to be threatened, when the people around the world watched our agony to see if it would cause us to self-destruct, that we weathered the storms. Yes, our system held our nation together, and our nation held our system together. And, ironically, it was Mr. Nixon who taught us that.

And we are learning new lessons today. Crisis seems ever present. Do you know how the word "crisis" is written in Chinese? It is composed of two characters, one meaning danger, the other opportunity. It is the latter, opportunity, that is the course that America has always taken. We will be up to it again and again.

We are a people with a faith in each other—without that faith, we would be weak, however heavily armed. We are a people with a faith in reason and the pursuit of new knowledge. Without that faith, we would be insecure. We are a people with a faith in the free inquiring mind. We are a people with a faith in God. Without these faiths strong within us, we would be weak, no matter how heavily armed with weapons we might be.

What is the source and the foundation of our American strength? The answer most commonly heard is: Our economic system. Now, it's true that the importance of free, competitive, private enterprise in the life of America can hardly be exaggerated. But the basic sources of the strength of American civilization go deeper. They are spiritual. They come from standards of right and wrong.

Our society is founded not upon a cold and bloodless "economic" people, but upon a faith in the individual as an end in himself. We believe in people not merely as production units, but as the children of God. We believe that the purpose of our society is not primarily to assure the safety of the state, but to safeguard human dignity and the freedom of the individual.

When I taught school some years ago, I found working with our youth an exciting and an inspiring experience. I especially enjoyed teaching them that here in America:

We believe in the dignity of labor, whether with head or hand; that the world owes no one a living, but that it owes everyone an opportunity to make a living.

We believe in the supreme worth of the individual and in his right to life, liberty and the pursuit of happiness.

We believe that truth and justice are fundamental to an enduring social order.

We believe in the sacredness of a promise, that one's word should be as good as one's bond; that character—not wealth or power or position—is of supreme worth.

We believe that every right implies a responsibility; every opportunity, an obligation; every possession, a duty.

We believe that the law was made for people and not people for the law; that government is the servant of the people and not their master.

We believe that the rendering of useful service is the common duty of mankind, and that only in the purifying fire of sacrifice is the dross of selfishness consumed and the greatness of the human soul set free.

We believe in an all-wise and all-loving God, named by whatever name, and that the individual's highest fulfillment, greatest happiness and widest usefulness are to be found in living in harmony with God's will.

We believe that love is the greatest thing in the world; that it alone can overcome hate; that right can and will triumph over might.

On this Memorial Day, let us recognize once again that it is the moral and the spiritual qualities in free people which fulfill the meaning of America. With them will come endless centuries of further greatness.

And on this Memorial Day, in honor of our veterans, both the living and the dead, let us rededicate ourselves to learning from the history of the past in order to build on our dreams for the future.

COMMITTEE FOR YOUNGSTOWN, INC., FORMED TO DEVELOP CIVIC PRIDE

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. CARNEY. Mr. Speaker, a Committee for Youngstown, Inc. has recently been formed in my hometown of Youngstown, Ohio. The committee represents a cross section of community leaders, including business, labor, the professions and the news media. The purpose of the committee is to develop civic pride in our community.

Mr. Speaker, not enough attention is being paid to the "Good News" which is happening around us each day. All too often, our attention is focused on the negative aspects, rather than the positive aspects, of human existence. As we all know, there is sometimes a tendency to stereotype and condemn whole groups on account of the misdeeds of a few. Likewise, a city can acquire a bad image, which is unjustified and often very difficult to change.

Few people would deny that many of our cities have serious problems. Few people would dispute the fact that some of our cities are not what they can and should be. On the other hand, there is a lot that is right with our cities, and there is a lot that is right with the city of Youngstown, which I have the privilege to represent. The city of Youngstown shares many of the problems of other industrial areas, but it also has a lot of good things going for it, some of which are unique.

Moreover, some of the problems of our cities can be overcome by instilling greater civic pride. Such is the case with the city of Youngstown. For this reason, I am pleased and encouraged by the creation of the committee for Youngstown, Inc. It is my sincere hope that the response of the citizens of Youngstown will be favorable, and that the compaign to develop civic pride in our community will be a tremendous success. I intend to do whatever I can to assist the committee in achieving its goal.

Mr. Speaker, I want to take this opportunity to commend the officers and trustees of the committee for Youngstown, Inc. for their public-spiritedness. The officers and trustees are as follows: Jim English, president—district manager for the East Ohio Gas Co.; Joe Gurley, vice president—director of public relations for Commercial Shearing, Inc.; Bill Bodoh, secretary—attorney with the law firm of Manchester, Bennett, Powers, & Ullman; Larry Straus, treasurer—vice president and director of Sales Promotion for Strouss Department Store; John T. Smith, trustee—president of the Greater Youngstown Area AFL–CIO Council; Jeanne Dykins, trustee—public relations director for the Youngstown Public Library, and Dick James, trustee—general manager of WBBW, WQOD Radio.

Mr. Speaker, I would also like to insert the first report of the Committee for Youngstown, Inc. and a newspaper story detailing some of the committee's activities in the RECORD at this time for the information and consideration of my colleagues in the U.S. Congress. The report and newspaper article follow:

LOOKING AROUND

WHAT IS THIS?

This is the first report to you, the opinion makers of the Youngstown area, on the progress of the exciting new campaign to develop civic pride in our community. We urge you to make this regular reading so you'll be abreast of our activities and can promote them yourself.

WHO'S ON THE COMMITTEE?

Everyone . . . everyone who believes Youngstown has a future! We're counting on your enthusiasm and your suggestions and ideas to make this three-year campaign a success.

The Committee officers and trustees represent a unique coalition of the entire community:

Jim English—President, District Manager for East Ohio Gas Company;

Joe Gurley—Vice President, Director of Public Relations—Commercial Shearing, Inc.;

Bill Bodoh—Secretary, Attorney—Manchester, Bennett, Powers, & Ullman;

Larry Straus—Treasurer, Vice President & Director of Sales Promotion—Strouss;

John T. Smith—Trustee, President—AFL–CIO Council;

Jeanne Dykins—Trustee, Public Relations Director—Youngstown Library; and

Dick James—Trustee, General Manager—WBBW, WQOD.

THE GOAL—A POSITIVE SPIRIT

Our challenge is to give Youngstowners a positive, prideful feeling about living in Youngstown. Local media are donating time and space starting mid-June for an advertising campaign which will be the backbone of the program. But the real thrust will come from people like yourself extending the theme into your own daily communications with others. We'll provide lots of tools, but you must pick them up and expand them.

WHAT CAN YOU DO NOW?

Discuss this campaign with your associates. Make sure the right people in your organization have received this report. If not, send us their names. Additional information will be coming to you in the following weeks, but if you have questions, contact us now. And check to make sure your pledge and initial contribution have been sent in to us. We need your financial support now in order to do the things we have planned.

WHERE DO WE STAND FINANCIALLY RIGHT NOW?

Broad-based support has been developed. Every segment of the community has been contacted and contributions have been received from every area. We lack the manpower and time to follow up each source, so we are relying on you to come through without prodding. An appreciation folder will be printed for the kick-off with all contributing members listed, so get your donation in now. Total pledged funds so far for this year are $35,750. and $19,050. have been received. To prepare the tools for the kick-off in June and initial phase of promotion, we need $25,000 in hand. All contributions are tax deductible, of course.

GIVE US YOUR IDEAS

If you have a pet project or idea which you feel makes Youngstown a whole lot of living, write us. Make sure we include it in the media materials. We are shooting newspaper and TV situations now, so we need your input in the next couple of weeks.

The Committee for Youngstown, Inc., disclosed today the details of a three-year advertising campaign to rid people of the notion that Youngstown is nothing more than a shabby, smoky steelmaking town.

With the $107,000 it hopes to raise from government, the professions and the business community, the committee will tell the world Youngstown's virtues with the printed word, over the radio, on television screens and even musically.

"The purpose is to increase civic pride in our community," said the president of the committee, H. James English. "We hope to expose people to the variety of facilities and components that make our area unusual. We will show those facilities through the people who use them, and make them come alive."

English, who is Youngstown division manager of the East Ohio Gas Co., and other officers and trustees of the Committee for Youngstown outlined the program this morning at a breakfast at Ramada Inn.

The campaign has all the elements to attain the high visibility necessary to the success of such a promotion.

It has a motto ("Greater Youngstown. It's a Whole Lot of Livin'"), a symbol (a red heart cradled in the fork of a capital Y) and a neatly executed jingle that'll give "Cleveland's a Great Place to Live" a run for the money any old day.

The $107,000 ($40,000 has already been pledged) will be sunk into the production of radio, and television commercials newspaper advertising billboards, bus cards, bumper stickers, placemats and T-shirts and golf shirts that carry the message.

Ira Thomas Associates, Inc. is handling public relations and the media campaign.

The campaign is reliant for success on large contributions of time and space by the radio, and television stations and the area's newspapers.

The first radio and TV spots will be broadcast June 10; the first newspaper ad will appear June 13.

The success of the campaign will be monitored by Youngstown State University. A cross section of people will be asked its opinions of Youngstown. These will be compared with another sampling at the end of the first year of the campaign to determine whether impressions are changing.

"We think people should be up on Youngstown," said English. "Compared to the lifestyle in other areas, both larger and smaller, we have many of the best things to offer right here in Youngstown. The quality of life is better, and we want people to realize that."

The advertisements and commercials will seek to capitalize on something that might by many be considered to be a liability rather than an asset—Youngstown's middling size.

The jingle treats it this way:

"There's something good about a small town.
Where the life is slow and easy.
"And there's a lot to like about big city livin'.
With so much to do and see.
"But there's more to like in Youngstown."
The friendly in-be-tween town."

Ira Thomas, whose advertising agency came up with the theme, said the emphasis was international, that a common denominator had been sought to dispel the notion that only the very big cities, or the very small, have anything to offer.

"Youngstown is a reflection of its people," Thomas remarked. "Youngstown has all types and nationalities of people. And, after all, it is the people who do the living, not places and things."

Thomas characterized the approach as "direct, positive."

The advertising itself will feature Youngstown people enjoying Youngstown.

For example, one advertisement shows a little girl consuming a hotdog at the Canfield Fair. Another shows an actor of the Youngstown Playhouse putting on his make-up. Still another shows a player serving a tennis ball in one of the city parks. "Advantage, Youngstown," reads the copy, making use of a term common to the game.

Thomas said the television commercials will follow the same general line. Weather permitting, they will be shot this week.

The radio and television commercials will be presented in various lengths, the jingle presenting the message in each. The jingle was produced by Opus III to lyrics written by Steve Sperry and has the pleasant lilt of a folk tune.

The project grew out of an idea of Martin Haber, president of the Youngstown Board of Trade. A board committee explored its possibilities, leading to the formation of Committee for Youngstown, Inc.

The committee took its ideas to industry, labor, the business community, the professions and the media, soliciting money for their implementation.

Thomas said some segments of the community adopted the project enthusiastically, but "others weren't quite so frisky."

He said some adopted a "wait-and-see" attitude, which he characterized as an attitude that has too long prevailed in matters of Youngstown and its people.

He said he hoped the success of the promotion would persuade some of the disbelievers and the reluctant to climb aboard later.

Other members of the committee are Joseph Gurley, director of public relations of Commercial Shearing, Inc., vice president; William Bodoh, an attorney, secretary; Laurence Straus, vice president and director of sales promotion for Strouss, treasurer; John T. Smith, president, AFL–CIO council, trustee; Jeanne Dykins, public relations director of the Public Library of Youngstown and Mahoning County, trustee; and Dick James, general manager of WBBW/WOOD, trustee.

TESTIMONY OF THE RELIGIOUS COALITION FOR ABORTION RIGHTS

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mrs. BURKE of California. Mr. Speaker, the House Subcommittee on Civil and Constitutional Rights has recently completed hearings on proposed constitutional amendments on abortion. During the course of these hearings, the subcommittee heard witnesses testify on the legal, religious, and medical implications of legal and illegal abortion.

I have had the privilege of reviewing testimony presented by Theresa Hoover of the Board of Global Ministries, United Methodist Church, and Rabbi Balfour Brickner of the Union of American Hebrew Congregations on behalf of the Religious Coalition for Abortion Rights. The diverse membership of the coalition includes 23 national Protestant, Jewish, Catholic, and other religious organizations. The coalition is unique in that its member organizations all hold different positions on abortion and widely differing perspectives and views on when abortion is morally justifiable. Yet they all agree in their oppostion to any constitutional amendments which would limit abortion rights.

I was extremely impressed with the thoughtful tone and constructive nature of the testimony presented by Ms. Hoover and Rabbi Brickner and I would like to take this opportunity to share with my colleagues excerpts from their statements before the Subcommittee on Civil and Constitutional Rights:

EXCERPTS FROM THE STATEMENT OF THERESA HOOVER ON BEHALF OF THE RELIGIOUS COALITION FOR ABORTION RIGHTS

FREEDOM OF RELIGION

None of our member groups would wish to impose its teachings concerning abortion on the other individuals or religious groups, and we do not wish to have the teachings of another religion on this matter imposed on us through law. We believe this to be essential for the preservation of the principles of the First Amendment—that "Congress shall make no law respecting an establishment of religion or permitting the free exercise thereof".

THE BEGINNINGS OF LIFE

Our opposition to the proposed constitutional amendments stems for the recognition that the question most basic to the abortion debate is the question of when life begins. We believe this to be above all a theological question on which each denomination or faith group must be permitted to establish and follow its own teachings, but must not be allowed to impose them through law on society at large.

Judaism and Christianity have differing interpretations on the beginnings of life, and within Christianity there are also divergent beliefs on this point.

It is not for any of us to evaluate these theories of life, nor to judge which is most credible or valid. To do so in any debate would be to insult those of us who hold any of these beliefs. And yet enactment of a constitutional amendment embodying one theory of life would be far more than an insult: it would constitute the denial of one of our most basic freedoms—the right to practice our religions freely.

PRIVACY AND DECISION-MAKING

Many Protestant denominations have a strong tradition of advocating individual responsibility in matters concerning family, sexuality, and community. This derives from their belief that God, through Jesus, encourages the freedom of humans to exercise responsibility and make responsible personal decisions.

For many religious groups, the right to privacy is intrinsic to this decisionmaking process. It is expected that a woman, guided by her religious beliefs and teachings, and her own conscience, will make a responsible decision concerning a problem pregnancy, but she has the right to make that decision in private in consultation with her doctor but without interference of other persons or the state.

CONCERN FOR WOMEN

Another basis for the support of abortion rights among our member organizations is a concern for the health and welfare of women. They are recognized as creative, loved and loving human beings who have achieved full personhood. In the sight of most Protestant denominations, to equate personhood with an unborn fetus is to dehumanize the woman, to consider her a mere "thing" through which the fetus is passing. To deny this essential tenet of our beliefs—the concept of personhood—would constitute a gross violation of our Christian faith.

As concerned, responsible organizations, we cannot dismiss lightly the many possible health reasons which would lead a woman to choose abortion. A woman suffering from heart disease, diabetes, or cancer, could suffer grave, if not fatal risks if she continued a pregnancy to term. And a woman who is the carrier of a genetic disease, such as sickle cell anemia or Taysachs, which may be transmitted to the fetus, should not be compelled to bear that fetus if she does not choose to after medical tests have confirmed that the fetus is affected. We cannot in good conscience force a woman who has been raped to carry the possible resulting pregnancy to term. To do so would be to totally disregard the anguish which women suffer in such circumstances.

Our concern for women's welfare is not limited just to physical health. We recognize that a woman rightfully has hopes and concerns in her life which do not and cannot include an unplanned pregnancy. While there are several alternatives which she may explore in the event such a pregnancy occurs, we believe that abortion should be one of the choices available to her. And should she choose abortion, safe, legal abortion services are her right.

MAKING ABORTION ILLEGAL DOES NOT PREVENT ABORTION

Our member organizations know laws prohibiting abortion have never in the past and will not in the future stop abortions. Such laws merely make abortions extremely dangerous and/or expensive. Upper income women will be able to travel to countries where abortion is safe, or will pay a doctor to perform a safe abortion in this country, disguising the operation under any number of acceptable and medically-sound euphemisms for abortion. Lower income women, on the other hand, unable to travel and lacking access to local facilities, will either bear an unwanted child or resort to paying exorbitant prices for the services of an unscrupulous abortionist under totally unsafe conditions.

REDUCING THE NEED FOR ABORTION

Our member organizations are actively involved in seeking to insure that the need for abortion is reduced, by advocating responsible family planning and working for the development of support services, such as improved health care for the poor and increased child care for those women who must work to support their families and those who choose to pursue careers while still having young children at home. Most of our members encourage their constituents to adopt and practice those values which are most conducive to achieving a society where abortions will not be necessary.

CONCERN FOR ECUMENISM

Because convictions on this issue are so strong, and because emotions around it run so high, we are concerned about the devisiveness that would be unleashed in this country should any constitutional amendment banning abortion pass the Congress and be submitted to the state legislatures for ratification. Certainly conflicts which would arise are apt to weaken the all too fragile ties now existing among religious groups in this country. Far better that our energies be devoted, in the spirit of ecumenism, towards removing the conditions which made abortion necessary, and that on this issue, we agree to disagree.

EXCERPTS OF THE TESTIMONY OF RABBI BALFOUR BRICKNER ON BEHALF OF THE RELIGIOUS COALITION FOR ABORTION RIGHTS

ESTABLISHMENT OF RELIGION

The coercive powers of the state must not be employed in the service of sectarian moral views. To do so would be to violate the establishment clause of the first amendment. "Congress shall make no law respecting the establishment of religion . . ."

THE RIGHT OF CONSCIENCE

The right of individual conscience must be maintained. That right is being challenged again, and the agencies of the state are being asked to arbitrate and decide as between conflicting theological beliefs. That places the agencies of civil government in an unfair and untenable position.

This right of conscience is a freedom which I as a religious person believe is worth fighting for even against every effort to restrict, curtail or deny that right.

JEWISH LAW ON ABORTION

In Judaism, a *fetus* is not considered a full human being and for this reason has no "juridical personality" of its own. In Judaism, the fetus in the womb is not a person (lav nefesh hu) until it is born. (Rashi, Yad Ramah, and Me'iri, all to Sanhedrin 72b) . . . Thus there is no capital liability for foeticide. By this reckoning, abortion cannot be considered murder. The basis for this decision is scriptural. The Biblical text states: "If men strike, and wound a pregnant woman so that her fruit be expelled, but no harm befall her, then shall he be fined as her husband shall assess, and the matter placed before the judges. But if harm befall her, then thou shalt give life for life." (Exodus 21:22)

Talmudic commentators made the teaching of this Biblical passage quite explicit. They said that only monetary compensation is exacted for him who causes a woman to miscarry. No prohibition is evident from this scriptural passage against destroying the unborn fetus. Clearly, and here the major rabbinic commentators on the Bible agree, the one who was responsible is not culpable for murder, since the unborn fetus is not considered a person.

Despite this plethora of evidence from Judaism recognizing the legality of abortion, Orthodox Jewish authorities have taken and continue to hold a negative view towards abortion. Indeed, most Orthodox rabbis prohibit this act, except in such special instances as when a woman is impregnated through rape or incest or when it is clear that continuation of pregnancy to birth would constitute a clear danger to the life and/or health of the mother.

SPECIAL HEALTH CONCERNS OF THE JEWISH COMMUNITY

While Jewish law teaches a reverent and responsible attitude to the question of life and thus views abortion with great concern, reasons affecting basic life and health may sanction or even require therapeutic abortion. Were the beliefs of another religion concerning abortion to be enacted into law, our right to follow our religious convictions as we understand them would be abrogated. This is a most serious matter since Jewish women are particularly subject to Tay-Sachs disease—a genetic disease fatal to infants. No Tay-Sachs child has ever lived beyond 5 years of age and they die an agonizing death. Tay-Sachs disease cannot be detected until the second trimester and thus no therapeutic action can be taken until that time.

GOVERNMENT RESPONSIBILITY TO PROTECT RIGHTS

. . . Hard as it may be, even in the absence of any theological, religious or scientific agreement, the agencies of society have an obligation to seek a path through conflicting theology, belief (and non-belief) so as to protect the rights of all.

What should be their yardstick?

In our judgment the criteria that ought to be applied should be a civil one: that is, one which interferes least with individual conscience. Or, to put it postively, that which guarantees most the individual freedom of every member of society in the free exercise of that member's religious, unreligious or even a-religious commitment.

TRADITION OF REVERENCE FOR LIFE

My religious tradition is one which has revered and sanctified human life for nearly four thousand years. During the time when "religious men" were marching heedlessly across the face of the world in wanton destruction of the family of man, in the name of Christ or Allah, we, the Jewish people, were teaching our children that the home was a "mikdash m'at", a miniature sanctuary where parents and children ministered in the house as priests before an altar of God. We have always sought to preserve a sensitive regard for the sanctity of human life. It is precisely because of this regard for that sanctity that we see as most desirable the right of any couple to be free to produce only that number of children whom they felt they could feed and clothe and educate properly: only that number to whom they could devote themeselves as real parents, as creative partners with God.

EFFECTS OF A CONSTITUTIONAL AMENDMENT LIMITING ABORTION RIGHTS

If the Supreme Court's ruling on abortion was to be overturned or if legal barriers to block the effects of that decision are imposed, the disastrous and well-known consequences that accompanied the former restrictive abortion laws could once again reach alarming proportions. That would be truly hurtful to our society already overburdened with more social problems than it can resolve.

AMNESTY LOBBY GEARS UP

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ASHBROOK. Mr. Speaker, the American left is revving up for an all-out drive to bring unconditional amnesty into the 1976 political campaign. In its recent publication, Amnesty Update, the leading proamnesty group, NCUUA/AFA which is based at 235 East 49th Street in New York City, outlined their political action plan for universal, unconditional amnesty, reconstruction aid for Communist Vietnam, diplomatic recognition for the new governments in Indochina, and so forth. Many of the old-line Communist front and radical left groups have rallied behind this new cause and, as usual, have enlisted the usual old and tired liberal groups which follow their lead.

The NCUUA lists the following national organizations as affiliated with them in this cause:

American Civil Liberties Union.
American Friends Service Committee.
Americans for Amnesty.
Black Economic Development Conference.
Catholic Peace Fellowship.
CCCO/An Agency for Military and Draft Counseling.
Church of the Brethren.
Clergy and Laity Concerned.
Council for Christian Social Action, United Church of Christ.
Emergency Ministries to the Vietnam Generation National Council of Churches.
Episcopal Peace Fellowship.
Fellowship of Reconciliation.
Gold Star Parents for Amnesty.
Jewish Peace Fellowship.
National Conference of Black Lawyers.
National Emergency Civil Liberties Committee.
National Lawyers Guild.
People's Party.
SANE.
Southern Conference Educational Fund.
War Resisters League.
Women Strike For Peace.
Women's International League for Peace and Freedom.
Women's Division, United Methodist Church of U.N.

Exile organizations affiliated with NCUUA include:

AMEX/Canada, Toronto.
American Deserters Committee, Sweden.
Paris American Exile Group, France.
Toronto American Exiles Association.
Toronto Anti-Draft Programme.
Vancouver Committee to Aid American War Objectors.

The War Resisters League, SANE, Women Strike for Peace, Women's International League for Peace and Freedom, National Lawyers Guild, and the Southern Conference Educational Fund are the hard-core pro-Communist groups in NCUUA. With them they have the second line, their peace-at-any-price, non-Communist allies such as Clergy and Laity Concerned and Fellowship of Reconciliation.

They have interviewed the Presidential candidates and compiled a list of candidates' position on total amnesty. They clearly fear the election of a pro-America conservative and report that they have carried their fight to the Democratic platform hearings.

Good Americans will not fall for their propaganda drive. While many patriotic, conservative Americans also feel mistakes were made in the Vietnam war—notably, putting our troops in a position of not fighting to win—I do not believe they are about to fall for their anti-American bunk. The American left would have you believe all the real heroes are in Sweden and Canada and only the fools went to Vietnam. Americans will never be hoodwinked by this diatribe.

While some compromise is always a part of the legislative and executive decision process, some matters of principle should never be the subject of any compromise and the concept of total amnesty is one of those which should be categorically rejected. All Americans should find out where the candidates stand on this vital issue.

STATEMENT ON THE APPEARANCE OF KING JUAN CARLOS BEFORE A JOINT SESSION OF CONGRESS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Ms. ABZUG. Mr. Speaker, I had hoped that the visit to our country by the Spanish Head of State would signal the opening of a new chapter in democracy in southern Europe. The death of Franco created for the first time in a generation the opportunity for the Spanish people to cast off the repressive fossilized structures of dictatorship. A new opening had been created to begin speedily the reconstruction of democratic institutions—the same free elections, political liberties, and trade union rights which we ourselves celebrate in this Bicentennial Year.

But this promise has not been fulfilled. Franco loyalists remain intact at every level of Government in Spain. Police killings of students and workers at peaceful demonstrations have continued. Many of the political prisoners previously released under the King's limited pardon have been rearrested.

Unfortunately, the government of King Juan Carlos is an oppressive government—shaky at its base, undemocratic and lacking in genuine popular support.

Under these conditions, I felt I could not attend the joint session of Congress today which assembled for an address by the King.

By taking this action, I intended no personal rebuke to the King. If he has been exerting his influence on behalf of democratic processes and social justice, then let him continue with his work. I wish him every success.

Rather I sought to demonstrate to democratic forces in Spain that I, as a Member of Congress, could not accept uncritical American support for a Spanish Government which simply has shown neither the will nor the ability to institute democratic reforms.

I feel strongly that the new era which the Spanish people seek and which they deserve will not come about as long as the U.S. Government gives aid, legitimacy, and uncritical approval to the regime of Juan Carlos. For this reason, I urge the U.S. Senate to delay action on the proposed base rights treaty with Spain until the political situation there is resolved in favor of the establishment of a democratic government—both in form and in practice.

As I stated in my testimony to the Senate Foreign Relations Committee on March 24, 1976: The Senate—

> * * * Should take into account that a democratically elected government in Spain might wish to negotiate a different treaty than the one now under consideration, or none at all. By ratifying a treaty, with unnecessary haste—because as we know, the current agreement does not expire until September 1976—the Senate would place itself in the position of imposing a pact upon the people of Spain over which they have had no say.
>
> It would be far better to use our voice to let the Spanish population hear from us at last that we will no longer use the wealth, power and military might of the greatest democracy on earth to deprive them of their hope of democracy.

VOTE EXPLANATION

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. JOHN L. BURTON. Mr. Speaker, my vote against the Federal Energy Administration was very difficult to make, because I have been a staunch advocate of the need to conserve energy, and the importance of the Federal Government to create and administer a comprehensive, fair, and workable national energy plan.

The FEA was created by Congress, ostensibly to help guide the Nation toward a sound energy policy and regulate responsible use of our dwindling fuel supplies.

Today, although the need for conservation continues to grow, the FEA has grown into a contradictory bureaucracy, and appears to be out to defeat the very purpose it was created for.

A case with which I am very familiar illustrates the problems of the FEA all too well.

In 1975, Mr. Bob Johnson, who has for years run a Shell Oil station in Kentfield, Calif., which is my district, wanted to convert part of his station into an automatic carwash. He applied to the Shell Oil company for a larger allocation of gasoline so he could accommodate the additional business. He was turned down by both Shell and the FEA.

One week later, however, another party was granted an enormous gas allocation in order to build an entirely new automatic carwash and gas station less than half-a-mile from Mr. Johnson's station. The new station was also a Shell outlet, and received a full allocation from the oil company 7½ times more than any other gas station in that trade area.

Despite my correspondence and meetings with FEA officials protesting its contrary ruling, this double standard was allowed to continue.

Those regulations state that while all existing gas stations must abide by the 1972 gas allocation in order to promote energy conservation, there is no limit on gasoline allocations to new stations.

The decision by the FEA to allow the higher allocation to new stations is puzzling, to say the least. It made no sense whatsoever to grant such a large allocation to a new station which is surrounded by many other gas stations. The existence of the new station no doubt had the effect of increasing gasoline use in the trade area and cutting into the business of existing independent stations.

The loophole which permitted this contradictory decision to be made and enforced has, to this day, still not been closed.

This policy by the FEA was a slap in the face to the independent small gasoline dealers across the country; it was a distortion of our energy priorities in light of severe fuel shortages; and at a time when the Agency should have been encouraging conservation, it turned down one dealer's request for an increased allocation and approved another competitor's request within a space of 7 days.

We should not have to tolerate a Federal agency which behaves too defiantly in the face of facts, and holds an apparent disregard for the very energy it was designed to conserve.

I will continue to work with my colleagues in Congress to pass legislation to prevent a return to the energy crisis of 1974. I will work for alternative sources of energy, such as solar, geothermal, and wind power.

But I cannot tolerate a Federal agency which behaves so unfairly, advocates such contradictory policies, and has in the long run hurt, rather than helped, this country toward achieving a national energy plan.

FATHER DRINAN AND THE JEWISH STRUGGLE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ROSENTHAL. Mr. Speaker, in recent years, more and more Americans have found it politically expedient to attribute this Nation's support of the State of Israel to sinister forces. These individuals, including such luminaries as Spiro Agnew and Gen. George Brown, conjure up the specter of traitorous Jewish cells manipulating our political processes and the media. The allegations are seldom more than refurbished editions of "The Protocols of the Elders of Zion." Nevertheless, many citizens accept these patently fallacious accusations as fact.

Anti-Semitism—anathema to our Nation's every ideal—flourishes.

At the same time, a growing number of Americans are swept up in the global anti-Israeli tide. Political fashions lead many to close their eyes to the moral basis of our support for the Hebrew state. The calls for "objectivity" in the Middle East are often no more than acquiescence to heady international majorities and the lure of petrodollars.

I find it reassuring, Mr. Speaker, that one of our Nation's moral and political leaders is fighting the virulent anti-Semitic epidemic: Congressman ROBERT F. DRINAN. Father DRINAN has established himself as a moral lighthouse in an often-dark nation. His courage and his humanitarianism are unsurpassed.

On May 29, 1976, Representative DRINAN spoke to the national executive committee of the Anti-Defamation League in Boston's historic Faneuil Hall. The address, entitled "Freedom versus Tyranny: The Jewish Struggle," is an important rejoinder to the hatemongers and bigots in our country. Father DRINAN's words are in the noblest spirit of both Judeo-Christian morality and American liberty. I reprint his address below so that others may share his thoughts:

FREEDOM VERSUS TYRANNY: THE JEWISH STRUGGLE

(Address by U.S. Congressman ROBERT F. DRINAN)

Ever since the completion of Faneuil Hall on September 10, 1742, outcries against tyranny and pleas for freedom have echoed in this hall. Upon this rostrum have stood most of the most famous statesmen and orators of America.

It was in Faneuil Hall that the people of Massachusetts voted against the iniquitous stamp act. When British troops had been ordered to Boston a convention of representatives of nearly every town in Massachusetts convened at Faneuil Hall and met in this room for one week. It was on November 5, 1773 that the first of a series of meetings about the tea situation was held in Faneuil Hall. It was here that George Washington as the first President in 1789 proclaimed freedom. And it was in this very hall that Wendell Phillips startled his audience with his famous speech against slavery.

For 200 years the people of Massachusetts have been coming to Faneuil Hall whenever they are troubled about threats to their freedoms. It was here that the people of this commonwealth protested the slanders of Senator Joseph McCarthy, proclaimed their solidarity with the freedom movement of the 1960's and protested the barbarism of America's war in Vietnam.

It is here today in this historic hall that we are gathered to protest the recurrence of the historic scourge of anti-Semitism. We are here also to proclaim the first freedom movement in the modern world—the rise and flowering of Zionism.

We sadly recall that neither the holocaust nor three decades of Zionism in action in Israel have eliminated basic anti-Semitism in the world. On May 26, 1976, a poll taken of 2,084 West Germans revealed that about half of the 60 million inhabitants of this nation have at least latent anti-Semitic tendencies. The anti-Jewish feeling was not limited to marginal or extremist political groups. The poll, conducted at Cologne University, indicated that some 30 percent of the population had latent prejudices against Jews which were capable of taking a violent form. The poll revealed that West Germans exaggerated almost ten-fold the number of Jews in that nation. The average answer of those polled stated that there were 268,000 Jews in West Germany; the total is just 26,000.

ANTI-ZIONISM IS THE NEW ANTI-SEMITISM

It is unbelievable that 28 years after the creation of Israel 72 nations of the earth could vote for the proposition that Zionism is a form of racism. It is incredible and shattering that representatives of nations with more than 60 percent of the world's population could categorize Zionism, a movement for moral liberation, as a "form of racism and racial discrimination".

We must be disturbed at the fallout effect of this resolution in the 72 nations which subscribed to it. But is there also a fallout from the global feeling against Zionism in the United States? On March 23, 1976, Spiro Agnew by implication stated that the Zionist dream as incarnate in Israel doer not really deserve the support of the American people. The country and the Congress support Israel, Agnew would have us believe, because of an allegedly large number of Jews in "the three networks, the two wire services, the two pollsters and their organization, the New York Times and the Washington *Post* . . . and the news weeklies, Time and Newsweek . . ." Agnew continues his fantasy by alleging that foreign aid goes to Israel because of "the influence of the Zionist lobby".

Agnew continued his crude anti-Semitism by alleging that "Israel has now embarked on an imperialistic exercise occupying Arab lands, the West Bank of the Jordan, the Golan Heights, the Gaza Strip, bringing about a police state in these areas . . ."

To those who are offended by Agnew's remarks, he adds insult to injury by claiming that "the trouble with the American Jewish community is that it is utlrasensitive". Agnew concluded his diatribe by asserting that the Anti-Defamation League of B'nai B'rith always characterizes as "bigotry" any "legitimate criticism of the Jewish community".

It is easy indeed to dismiss these charges as the ravings of a totally discredited person. But could the Agnew assault on the media and the Israeli lobby be the new way by which many Americans might express their anti-Semitic, anti-Israel and anti-Zionist prejudices?

As never before, Americans—especially Christian Americans—must reassess the fundamental reasons why the United States has a unique and profound alliance with Israel. Several poltical reasons come to mind quickly. Israel is a fighter for freedom in an area of the world where the United States needs strength and stability. Israel is a democratic state in a sea of totalitarian nations suspectible to the blandishments of the Kremlin.

However valid these reasons may be, the alliance of America with tiny Israel rests in the ultimate analysis on the moral and religious links which America has with the one nation in human history whose mission has been the ingathering of its exiles.

America has recognized from the very beginning of Israel the undeniable truth that Zionism is one of the noblest and deepest movements for liberation in modern times. Zionism is more than a political movement; it is an expression of worldwide Jewish religious beliefs and hopes.

Zionism is a profoundly held spiritual conviction of Jewish fidelity to the biblical covenant which links a people, a faith and a land in a unique religious and mystical unity.

It is not for a Christian to state whether or not Zionism and Judialsm are theologically separable. But politically they cannot be separated. Zionism is the mystique, the "elan vital" of Israel. To equate Zionism with racism represents a frontal assault against the core values of Judaism. Consequently, the assertion of the alleged connection between Zionism and racism constitutes a new form of anti-Semitism.

Traditional anti-Semitism denied the individual Jew his personhood; this new anti-

Semitism seeks to deny the Jewish people its nationhood.

In the debate which led to the UN resolution on November 10, 1975, equating Zionism with racism, **Ambassador Baroody, of** Saudi Arabia, stated that he had "no quarrel with Judaism—but with Zionism". The representative of Kuwait asserted that Zionism, born as a political movement in 1897, is not inherent in the theology of Judaism.

One wonders whether attempts to discredit Zionism while pretending to be respectful of Judaism will become the vogue in America and elsewhere with those who want to quarrel with Israel about the West Bank, the Palestinians or the theocratic characteristics of the Israeli nation.

For those who desire Israelis to have that freedom to which they are entitled as a country created by the United Nations the vindication of the validity of Zionism has now become an imperative duty. If Zionism with its religious and political implications, is not understood, there will be more and more individuals who will demand that Israel de-Zionize its culture and its legal institutions. These persons will claim that they are not against the State of Israel but only want it to be a secular democracy. In a certain sense, persons who insist that Israel conform itself to their own concepts of a value-free government are unwittingly robbing Israel of its heritage and despoiling it of its most precious legacy. Indeed, any formal call for Israel to disassociate itself from Zionism is a violation of Article I of the Charter of the United Nations, which is to promote and encourage respect "for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".

If American opinion follows world opinion and turns against Israel under the code name Zionism, America will have turned its back on the three million Jews of Israel the three million Jews in the USSR and every other Jew around the world. To debase degrade or dismiss Zionism as irrelevant or irrational is a rejection and a repudiation of Judaism.

Even in its most de-theologized or secularized manifestations Zionism expresses the noble dream of the ingathering of the exiles in the land of Israel. Zionism, even in its purely political form, cannot be separated from that fidelity to Judaism which brought about the massacre of European Jewry—fully one-third of the Jewish people.

It is apparently becoming evermore fashionable to issue calls for the de-Zionization of Israel. Such a call is sometimes preceded by the contention that Zionism is an anachronism.

The fact is that post-holocaust Jews with a "never again" determination obtained their motivation for their victories in Israel in both spirit and technology from Zionism. Zionism, it has been said, is the Jewish reassertion of manhood. Zionism demonstrated the inexhaustibility of the timeless message and meaning of the Bible.

In the 3,000 years since the term Zion was first placed in the sacred literature of the Jewish people, the concept of Zion has grown to symbolize and signify the very essence of Judaism. Those who, like Spiro Agnew, dismiss or downgrade the essential links between Zionism and Israel are not really different in their positions from the 72 nations that condemn Zionism as a form of racism. Ambassador Chaim Herzog, of Israel, noted in the UN debate about Zionism that the world was witnessing the first organized attack on an established religion since the Middle Ages."

The freedom from tyranny which we assert today in historic Faneuil Hall is the very essence of the dream and vision of Zionism Theodor Herzl, in 1897, viewed Zionism as the one way which Jews could escape the tyranny and oppression of the ghettos and the pogroms of 20 centuries. Zionism, both politically and religiously, is the implementation of the ancient Jewish hope for independence, freedom, and redemption.

Americans in their bicentennial year can understand the dream and realization of Zionism. In countless ways, Israel, like America, is a nation of refugees and pioneers living in a nation that is boundless in development.

America, like Israel, is a nation that cherishes freedom for itself and also aspires to make freedom possible for the rest of mankind. For these reasons—and countless others—Americans identify with Israel because Israel reminds us of the best in ourselves. Israel reminds us of all the lost horizons, all the broken promises, all the shattered dreams, all the things that we never did that we should have done.

It seems impossible that the unique alliance which has existed for 28 years between the United States and Israel should erode in any way. Indeed, it seems inconceivable that this friendship should even be reassessed or renegotiated. The only thing to reassess is the depth of the moral dimensions of the relationship between the United States and Israel. Those dimensions are profound, perpetual and pervasive. Our commitment and promise to Israel was made before America's policy of the containment of communism was formulated. America's commitment to Israel has remained unquestioned through six presidencies and 14 Congresses.

In this bicentennial year, let us hope that the harmony and the friendship which has existed for three decades between America and Israel will perdure for at least another 200 years!

RECOMMENDATIONS ON UNITED STATES-AFRICAN FOREIGN POLICY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. RANGEL. Mr. Speaker, I would like to submit for the Record the text of a statement issued by the Liberal Party of New York State concerning U.S. policy toward Rhodesia. I am hopeful that the statement is not only read by my colleagues, but will serve to motivate the Congress to take immediate action to implement our country's "reoriented" foreign policy toward Africa. It is becoming clear that the present administration will remain static in regard to Africa in the absence of congressional assertion of the need for immediate implementation of Secretary Kissinger's stated goals following his Africa trip. It is imperative that we begin to act on the Secretary's promises for the developing countries of Africa. The African nations are receptive to our aid if we are willing to actively assist them in their struggle for self-determination and economic development. We cannot, however, hope to establish a positive relationship with black Africa if we remain oriented toward the status quo.

Mr. Speaker, we must immediately seek the repeal of the Byrd amendment, halt any support, however implicit, for the racist apartheid regime of southern Africa, authorize additional aid for those developing countries and display a greater interest in developing United States-African relations.

Herewith, I submit the Liberal Party statement concerning Rhodesia:

Liberal Party Statement Concerning Rhodesia

Of all the nations of the world, Rhodesia—a country that free Africa knows as Zimbabwe—probably constitutes the most blatant example of anachronistic colonialism and exploitative racism. A white minority, comprising only some five percent of the total population, controls the government and systematically exploits the native black inhabitants, who comprise some 95% of the total population. The white minority generally lives in colonial-style luxury, while the black majority languishes in poverty.

Despite the recent addition of several token blacks to the government for cosmetic purposes, the Government of Rhodesia has militantly resisted all efforts toward genuine racial integration, and adamantly withholds the franchise, equal pay for equal work, and adequate educational opportunities from blacks.

Indeed, the present Government of Rhodesia came to power in 1965 by unilaterally declaring independence from Great Britain in order to forestall Britain's endeavors to develop a multiracial political system. This dictatorial regime has diplomatic recognition from only a handful of nations.

Because of the intransigence of the present Government of Rhodesia, both internal and external tensions are increasing. Domestically, a revolutionary guerrilla movement is growing; internationally, the threat of war looms between Rhodesia and the bordering independent black nations, with inevitable outside intervention and consequent danger to world peace.

While it is understandable that white settlers in Rhodesia, have developed a highly successful Western-type economy by combining Western technology and capital with easily accessible raw materials and exploited black labor, might be fearful of black social progress and majority rule, their obduracy has neither a moral nor a practical base. No society in the modern world can long exist 95% slave and 5% free. Only a change of policy leading to representative government, including all Zimbabweans, has a possibility of preserving its accomplishments and extending its benefits to all its people.

The present Government of Rhodesia has only one firm friend and ally, the Government of the Union of South Africa, originator of the notorious racist policy of "apartheid," and itself a center of internal and external racial strife.

The Liberal Party of New York State commends the new policy of the United States Department of State toward encouraging representative government throughout Africa, and strongly endorses the recommendation of the Department of State that Congress rescind legislation (the so-called Byrd Amendment) permitting the importation of Rhodesian chrome in violation of United Nations sanctions.

The Liberal Party of New York State calls upon both the executive and legislative branches of the United States Government to proceed forthwith to the logical conclusion of the new policy of the Department of State, of encouraging a government based on majority rule with due regard for the rights of minorities, and to suspend forthwith all aid or assistance of any kind to the racist Government of Rhodesia.

IMPORTS OF RHODESIAN CHROME MUST BE STOPPED

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. DRINAN. Mr. Speaker, the United States continues to spurn the international economic boycott of the racist regime in Rhodesia through the importation of Rhodesian chrome. For the past 5 years, the so-called "Byrd amendment" has placed our Government in the unworthy position of buttressing an unrepresentative and illegal government. Public attention has been focused on this important issue once again in the wake of Secretary of State Kissinger's recent visit to Africa during which he pledged the full support of the administration for the prompt repeal of the Byrd amendment. I hope that President Ford will follow through on that encouraging pledge and that Congress will act to bring our Nation into harmony with the international community by halting the importation of chrome from Rhodesia before the end of 1976.

An excellent editorial which appeared in the Christian Science Monitor of May 27, 1976, summarizes the need to resume the embargo on Rhodesian chrome. As the editorial points out, current American supplies of chrome are more than adequate and our continued importation of this product damages American relations with the nations of black Africa and reduces our credibility in the international community. The text of the editorial follows:

Repealing the Byrd Amendment on Chrome

> Prospects are poor at the moment for repeal of the controversial Byrd amendment, which permits the United States to import chrome from Rhodesia in violation of United Nations sanctions against that nation. But this does not make it any less urgent that the measure should be wiped off the statute book as soon as possible.
>
> There are compelling arguments for taking another hard look at this particular piece of legislation. It is not merely that Secretary of State Henry Kissinger called for repeal during his recent Africa trip, or that black Africans will judge American policy—and interest—in their continent partly by Washington's response. The heart of the matter is that the U.S. should look beyond its short-term need for Rhodesian chrome and fix its sights on a long-range policy toward Africa—a policy capable of dealing, without a prejudicial pre-history, with a black government some day in Rhodesia. To do otherwise is to risk repeating the blunders in Angola.
>
> For five years now, U.S. purchases of Rhodesian chrome have been supporting, and indirectly encouraging, an illegal white-minority regime in that country, a government that has opposed black majority rule. The amendment, moreover, puts the U.S., one of the founder members of the UN and a shaper of its principles, in the position of opting out of that organization's first attempt to make economic sanctions back up the sentiment of the world community—scarcely a worthy U.S. role. Finally, instead of saving jobs, as proponents of the amendment asserted, the measure has hurt the U.S. ferrochrome industry.
>
> Unfortunately, this piece of legislation is unlikely to receive urgent attention from either the Ford administration or Congress prior to the election. It is a political hot potato in an election year; the President already has felt a backlash in the South from the Kissinger verbal commitments to black majority rights and against white minority rule in Rhodesia.
>
> Thanks to strategic stockpiling of this scarce mineral, the United States three years ago had on hand approximately 10 times its estimated need for a one-year wartime supply. Thus American national security would not seem to be in jeopardy. South Africa and the Soviet Union also produce chromium, although not in the quantity or quality of the Rhodesian ore. So at least there are alternatives.
>
> Recent figures also indicate that despite purchases from Rhodesia, a major portion of U.S. chrome still comes from Russia. Thus the desired independence from Soviet ore, which was a Byrd amendment objective, has not been achieved so far.
>
> The U.S. weathered the 1966–71 ban on Rhodesian chrome with no lasting ill effects. Now there are ample grounds for turning away from this questionable lowering of American standards and giving up the Rhodesian product again.

REVENUE SHARING OVERLOOKS 13 MILLION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ROSENTHAL. Mr. Speaker, in the last 5 years, States and localities throughout the Nation have become vitally dependent on Federal revenue-sharing funds. For some 39,000 governmental units, revenue-sharing grants provide nearly 11 percent of operating funds. The State and Local Fiscal Assistance Act, with an outlay of $30 billion in 5 years, has become the largest single domestic expenditure of the Federal Government. Critics and supporters alike agree that the revenue-sharing program has attained momentous importance in our fiscal and governmental system.

It is not surprising that the revenue-sharing formula has been such a focus of concern. Small changes in key formula figures have vast impacts upon dollar distributions. Clearly, equity requires that the Government do everything humanly possible to assure the accuracy of these figures. Yet there is, Mr. Speaker, one central component of the revenue-sharing formula that not oniy is widely conceded to be inaccurate, but is correctible by available techniques—population.

The Census Bureau supplies the Office of Revenue Sharing with population statistics based upon annual adjustments of the 1970 census data. But the Bureau itself readily admits that 2.5 percent of the Nation's residents—5.3 million persons—were not included in the 1970 figures. In addition, the Immigration and Naturalization Services estimates there are as many as 8 million illegal aliens in the United States—and virtually none of them is included in any census statistics. According to a recent study of the problem by the General Accounting Office, the actual undercount may exceed 13 million.

Census inaccuracies would be academic if all population groups were overlooked equally. But that is not the case. A 1972 National Academy of Sciences study—America's Uncounted People—found that the real harm in census undercount results from "the larger deficiencies in the counts of specific population groups." The Census Bureau noted in 1975 that, while the undercount rate averages 1.5 percent nationwide, it rises to 7.7 percent for blacks and up to 9.9 for black males. Blacks are four times more likely to be missed than whites; the poor are overlooked far more often than the wealthy; illegal aliens are neglected entirely. A Census Bureau study—"Coverage of the Population in the 1970 Census and Some Implications for Public Programs"—concluded:

> It is reasonable to surmise that cities having heavy concentrations of blacks have higher undercoverage rates than areas with much smaller concentrations of blacks.

The geographic variation in undercount is equally significant, ranging from 1.5 percent in the North Central States to 3.6 percent in the South. The Census Bureau acknowledges that "geographic uniformity—in underenumeration—almost certainly does not exist. There may, in fact, be large variations in coverage rates from area to area and, if so, they are of serious concern for many users of census data."

The implications of census undercount for the revenue sharing program are serious. A May 1976 GAO study—"Programs to Reduce the Decennial Census Undercount"—found that:

> Undercounts can result in a misallocation of Federal funds distributed through formula grants because undercount rates differ between geographic regions. A larger undercount will place one area at a disadvantage with respect to other areas less undercounted when population is used in calculating Federal benefits.

Those groups most likely to be neglected in the census—the poor, the minorities, the illegal aliens—are among the greatest burdens on State and local financial resources. Yet States are denied rightful and badly needed revenue sharing funds because of statistical deficiencies which are not their fault.

The solution is adjustment of the population figures used in the revenue sharing formula to reflect undercount among the States. In the Government Operations Committee markup of H.R. 13367, Representative FUQUA and I offered an amendment directing the Secretary of the Treasury to consider census undercount in distributing funds to the States, provided that uniform and reliable figures were available.

The amendment lost on a 17 to 22 vote. Our amendment does not condone the presence of illegal aliens, nor does it alter the revenue sharing formula. The major objection to it was that the Secretary of the Treasury cannot obtain adequate undercount figures. The GAO study, published subsequent to the vote, refutes that contention. Several procedural changes adopted by the Census Bureau for the last census, at a cost of $3 million, reduced the undercount by 2,300,000—1.1 percent of the population.

The Bureau is now testing a variety of techniques to improve coverage and has developed a model to distribute undercount figures among the States. A recent paper by David L. Kaplan of the Census Bureau—"Some Current Thoughts on the 1980 Census"—notes:

> Further gains can probably be made through procedural changes and we intend to pursue all feasible possibilities.

The most relevant study, prepared for the Office of Revenue Sharing in 1974—"General Revenue Sharing Data Study"—proposed changes in the program similar to the one we have offered. The report concluded:

> Every effort must be made to achieve the highest degree of equity at the State level because allocations at this level directly impact the equity of allocations to all units of government within the State. . . . The cost of implementing State-level alternatives are minimal. . . . The adjustments of population estimates for underenumeration require data that are readily available from the Bureau of the Census. The Bureau of the Census could develop the details of the procedure and the computer programs with a relatively small investment of time and money. The full cost of developing valid underenumeration adjustments for each State-area [is] estimated at $500,000. . . .

If undercount figures prove to be unreliable, the amendment would impose no obligation on the Secretary of the Treasury to use them. But adoption of the amendment would make distribution of the undercount a higher priority for the Census Bureau and would encourage a more accurate revenue sharing distribution.

Mr. Speaker, Mr. Fuqua and I will be offering the undercount amendment to H.R. 13367, the Fiscal Assistance Amendments of 1976, on the House floor. In the words of the Revenue Sharing Office report—

> The benefits to be gained from use of accurate, timely data more than justify the relatively modest expenditures needed to improve the quality of the data now in use.

If the Congress is to insure equity in the revenue sharing program, this amendment is a simple but necessary step forward.

EXTENSION AN ILLUSTRATION OF HOME HEALTH CARE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. KOCH. Mr. Speaker, the National Home Health Care Act now has 116 House cosponsors. Since I introduced this legislation last year, support for the bill continues to grow, both in Congress and among professionals and organizations in the health field.

Chairman Claude Pepper's Subcommittee on Health and Long-Term Care has endorsed my bill, H.R. 10422, which was reintroduced on June 1 along with numerous other bills sponsored by Congressman Pepper's subcommittee.

In addition, Chairman Dan Rostenkowski's Subcommittee on Health has already held hearings on my proposals, and it is my hope that Chairman Paul Rogers will also hold hearings in his Subcommittee on Health and Environment. I urge that both the Ways and Means and Interstate and Foreign Commerce Committees soon consider my bill and other vital legislation pertaining to the health needs of our Nation's elderly.

In keeping with my continued interest in seeing home health care legislation enacted, I am placing in the Record today an article from Medical World News, May 17, 1976, describing the operation of the Chelsea-Greenwich Village home health care program run by St. Vincent's Hospital in New York. The success of the program is evident and illustrates further the value of home health care services and the need for such services to be covered under medicare and medicaid.

The article follows:

A Helping Van for the Old and Poor

A home health care delivery service for some of New York City's aged has reached 347 patients with approximately 2,110 visits in three years; it has saved an estimated $150,000 by keeping these patients out of acute care hospital beds; and it cost only half of what care in the city's nursing homes would have. Yet, until legislation is passed that permits the medical and nursing costs to be paid by such sources as Medicaid or Medicare, any hospital that attempts to duplicate the home care program of St. Vincent's Hospital should be prepared to face large "out-of-pocket" expenses.

Located "in the heart of New York City's Greenwich Village," St. Vincent's was founded in 1849 by the Catholic Sisters of Charity to provide medical succor for the "sick poor," and the 802-bed institution is still owned by these sisters and operated on a philanthropic basis. Carrying on the charitable tradition, staff physicians and residents have been visiting the grubby tenements and grimy welfare hotels within the hospital's service radius (1½ square miles, which includes Manhattan's Chelsea district), providing periodic medical care to the superannuated men and women who would not otherwise seek or receive treatment. (The area is a typical ethnic melting pot with a high population of elderly individuals living alone in poverty.)

St. Vincent's doctors are accompanied on their visits by a registered nurse and a qualified social worker or homemaker-volunteer. The home health care team is transported from door to door by a special van, whose driver is a trained ECG technician who speaks Spanish and Italian as well as English. In the first 36 months of this Chelsea-Village program, a typical visit took 1½ hours including travel time and cost an average of $105.28. Two thirds of the patients were discovered and referred by nonhospital agencies or individuals in the community. The average age of the patients seen was 80, with two over 100 years old and one (a self-sequestered drug derelict) aged 26. Women outnumbered men by 219 to 128.

"Many older people would rather die than be institutionalized," says Dr. Philip W. Brickner, director of community medicine at St. Vincent's. "Home health care services have proved to be a viable method of meeting this need." Dr. Brickner reported on three years' experience with the program to the International Congress of the International Medical Association for the Study of Conditions of Life and Health, Bologna, Italy. He says that medical disabilities of advanced age were the primary problems of 41%, followed by orthopedic (27%), psychiatric (21%), and neurologic (11%) pathologies. At various times, 98 patients required 126 periods of short-term hospitalization.

According to an independent management analysis of St. Vincent's program, commissioned and just made public by the Florence V. Burden Foundation, the noninstitutional maintenance afforded these patients cost roughly half that of statutory nursing home facilities, which (unlike the St. Vincent's program) are reimbursed by Medicaid at $800 per month minimum, acocrding to Dr. Brickner.

St. Vincent's Hospital now budgets $110,000 per year to defray fixed costs of the program, mainly transport and the salaries of driver, homemaker, and secretarial coordinator. Some grant support for these expenses has come from private philanthropies, the United Hospital Fund, and the municipal health department. Medical services are volunteered part time by a roster of staff residents and attending physicians, with the hospital administration permitting them to participate on a philanthropic basis. Similarly, St. Vincent's picks up the tab for the full-time services of the registered nurse, Sister Teresita Duque, who is widely known in the Chelsea-Greenwich Village community for her charitable activities. Dr. Bricker estimated the cash value of these freely rendered professional services at $65,000 a year.

No patient is charged for medical services, since one of the criteria for admission is inability to obtain alternative care. Rent and food are paid for by existing welfare funds, but St. Vincent's cannot recover any of its medical or nursing costs from Medicaid or Medicare. These federally funded third parties only reimburse the expense of outpatient convalescence on a 100-day time limit. This eligibility criterion excludes chronic open-ended medical care for the aged, who will by definition require it till the end of their lives.

Legislation aimed at filling this gap was introduced in Congress last year by New York City Rep. Edward I. Koch (D.-N.Y.). His Home Health Act of 1975 would authorize reimbursement to hospitals for medical maintenance of the home-bound aged. However, he doubts that the bill (H.B. 9829), now pending before the House Ways and Means Committee, will be acted upon in this session of Congress.

The Subcommittee on Health and Long-Term Care of the House Select Committee on Aging supports the proposed change. In a recently issued report, its chairman, Rep. Claude D. Pepper (D.-Fla.), proclaims roundly that "144,000 to 400,000 nursing home patients should be freed," and urges that "persons capable of remaining in their own homes should have the right to choose." On the other hand, at a meeting in Washington last February of the National Association of Home Health Agencies, an unnamed official of the congressional budget office decried estimates that perhaps 30% of the current nursing home population could be cared for at home, declaring the figure to be under 10%.

The study commissioned and released by the Burden foundation states "there is adequate evidence to warrant further study for this channel of health care in different environments to determine if the cost advantage measured here can be generalized." Citing the report data, Dr. Brickner notes that in one typical year his home visit teams saved 70 elderly patients from nursing homes, at a savings in the range of $500,000. "The nationwide implications," he observes, "are obvious."

WHERE HAVE ALL THE LIBERALS GONE?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ASHBROOK. Mr. Speaker, it is that time of year when the chameleons start changing their colors. The liberals have always been experts at changing their colors to blend into any particular limb they happen to be out on at the time but this year they are really heading for an academy award performance. Two years ago, liberals were running against inflation. Sad to say, they did a pretty effective job of hoodwinking the public and we got the most liberal group of freshmen in history. Now our liberal adversaries are running against big government and do not laugh, they might win. Think of it. Liberals running against big government. They created it.

The liberals do not want to be liberal any more. Our colleague Morris Udall was quoted in a front page story on the Washington Post—which is not so liberal any more either after union pressmen set their presses on fire during a strike—as saying he was not going to describe himself as liberal in his Presidential bid because it had gotten a bad connotation and was associated with big spending, big government, abortion, and pot. I would add that liberals came by this association honestly and I could add a few more like coddling criminals, soft on communism, antisecurity and antipolice, as well as appeasement.

Joe Tydings used to be one of the most liberal Senators of all. Not so in 1976. He flexed his muscles as a conservative in trying to win the Maryland Democratic primary in a comeback try. What a surprise to read this banner 8-column heading:

TYDINGS TO LEGION: GUN CONTROL STAND WAS A MISTAKE

Tydings did not change his spots soon enough. He lost anyway but give him an "A" for trying.

Then you read the May 18 Washington Post and see this headline:

LIBERAL CHURCH STUMPS WEST WAXING CONSERVATIVE

That warmed-over McGovernite, Jimmy Carter, is talking conservative and who bothers to read the fine print. Only Ronald Reagan of the Presidential contenders is comfortable talking conservative.

What does it prove? First, that the American public is conservative. Liberals have to be more conservative when they run for office. They revert to type when elected. Second, the American electorate is gullible. It should never fall for liberal fakers who profess to be conservative at election time. Only conservatives can be conservative. Sometimes it is hard enough for them, especially when they get a moderate or liberal President of their own party in the White House, but there is no way a liberal can ever be conservative. Voters beware, the carnival medicine men and snake oil salesmen are among you once more.

One of the few objective columns which ever appears in the New York Times is written by William Safire. In a recent essay, he noted with tongue in cheek that "There is No Left Left." He is right but should have said there is no Left at election time but they surface quickly after the ballots are counted. His column follows:

There Is No Left Left

(By William Safire)

Washington, April 7.—When Gertrude Stein bleakly surveyed Oakland, Calif., she announced: "There's no *there* there." In the same way, the results of the primary elections in New York and Wisconsin this week lead to this conclusion: "There's no Left left."

Most of the aging "New Left" has dropped out of politics; the remainder has joined much of the Old Left in the exodus to the New Right. Think of it: An articulate, attractive candidate like Congressman Udall, taking on Wisconsin's favorite label of "progressive," campaigning hard for many months, receiving help from Humphrey men who wanted to stop Carter, winds up with a third of the Democratic votes against a field generally perceived as conservative.

The message is unmistakable: The McGovernite left of the Democratic Party, so recently in the saddle, is hardly in the stable. Ideologically, the Americans for Democratic Action is down, and the Coalition for a Democratic Majority is up.

But what of the strong Udall showing in New York, where he ran a respectable second behind Senator Jackson, while Jimmy Carter was limping in fourth, behind Nobody? Doesn't that show that there is still a Left left?

Sorry: Nothing more vividly illustrates the rightward march than the Jackson victory in New York. Four years ago, a supporter of a strong defense posture would have been laughed out of a Democratic race. Jackson's win cannot be solely due to his support of Israel: He won in Elmira and in Spanish Harlem, and swept Queens County, which is more Catholic than Jewish.

New Yorkers kept Udall alive as a Vice-Presidential possibility, even as they gave Mr. Carter the worst trouncing he has suffered. But "strong showings" do not a candidacy make; in Wisconsin, Governor Reagan captured 44 percent of the vote, and it is interpreted as "pretty good, considering." In truth, had the Reagan forces in Wisconsin been better organized months ago, a stunning upset might well have been engineered. Because Mr. Reagan wrote off Wisconsin from the start, he was unable to extend his one-primary winning streak.

Wisconsin may have been the most important primary so far. Governor Reagan played it safe, pleading poverty, but it was not so much a shortage of funds as a shortage of nerve that initially kept him from making his best efforts there. Had he gambled and lost, he could have shrugged it off; had he played to win, as challengers must, he might have turned around 5 percent of the vote and headed South and West with all the momentum.

Wisconsin's Democratic squeaker killed any remote Udall chances for the top spot and virtually ensured Mr. Carter a place somewhere on the Democratic ticket. Unlike Reagan, Carter took his chances; the daring paid off with one of those moments that will be looked back upon as a turning point in a campaign.

If Mr. Carter had lost in Wisconsin, on the same day of his drubbing in New York, he could have been said to have been "stopped"; at least, during the hot-stove-league weeks ahead, he would have taken an analytical beating.

Not only did he win, but he won in such a way as to produce one of those classic we-showed-'em photos: The picture of the political year to date is of Jimmy Carter holding aloft the headline of a newspaper prematurely giving victory to his opponent, recalling the jubilant moment of Harry *Truman's* upset over Thomas E. Dewey.

With this last note reverberating through the forthcoming intermission, delegates may get the idea that Mr. Carter has an asset they consider more important than intelligence, stamina, character, integrity or charisma: It could be that he's lucky. Of the last four Presidential elections, two were the biggest landslides and two were the closest squeakers—and in a squeaker, convention delegates reason, it helps to have luck.

Here in Washington, trendier Democrats—particularly the old Kennedy crowd—are gravitating toward Mr. Carter, sensing *in him* the cool opportunism and apparent outsider's malleability that they find so attractive. (White House joke: Why can't Jimmy Carter lie? Because when he lies, he grows another tooth.)

The reaction to Carter in power-brokerage offices and in Georgetown recalls the legend of Napoleon's return from Elba as it was supposedly reported in Paris newspapers. "Hated Beast Lands in South" was the first headline; a more cautious "Napoleon Advances" was the second; finally, "Beloved Emperor at Gates of Paris."

At this moment the message from Wisconsin has generated a "Napoleon advances" feeling here about Mr. Carter. Meanwhile, the message from New York is that there are some Democrats—perhaps what's left of the Left—who might even stay home rather than vote for the supremely confident man from Georgia.

AMENDMENT TO USIA AUTHORIZATION FOR FISCAL YEAR 1977 (H.R. 13589)

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Ms. ABZUG. Mr. Speaker, I am planning to introduce an amendment to H.R. 13589, the U.S. Information Agency authorization bill for fiscal year 1977, to place into law the charter of the Voice of America—VOA.

The three main principles of the charter, which governs the VOA broadcasts, are:

First. That VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective and comprehensive.

Second. That VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

Third. That VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion on these policies.

These principles were originally set forth in an Executive direction issued during the Eisenhower Administration which is not legally binding on the USIA.

Hearings held last year by the Government Operations Subcommittee on Government Information and Individual Rights, which I chair, revealed that VOA's coverage of hard news was regularly interfered with by State Department officials and by American ambassadors overseas. The guidelines set forth in the charter were not being consistently respected. My amendment would add these principles to the USIA authorization measure, thereby giving them the force of law.

The result will be to increase the international credibility of the VOA and to help its reporters resist the pressures of policy bureaucrats to distort or cover-up important factual news.

The Senate has already included the VOA charter, as sponsored by Senator PERCY, in the USIA authorization for fiscal year 1977. I urge Members to support this amendment tomorrow to help protect the integrity of the VOA.

SUPREME COURT DECISION ON FEDERAL JOB BIAS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. HAWKINS. Mr. Speaker, I was pleased to note the Supreme Court's unanimous decision on June 1, 1976, that Federal workers charging employment discrimination have the same right to a full evidentiary trial as private employees. Up to now the courts only rendered decisions on the basis of the complaint file developed by the defendant agency. Civil Service Commission grievance regulations denied complainants the right to conduct their own evidentiary investigations.

The Subcommittee on Equal Opportunities has been involved in a thorough investigation of Federal enforcement of equal employment opportunity laws, with considerable emphasis on the Civil Service Commission's role in administering the job bias protections for Federal employees. Our review to date has revealed that Federal employees are denied the basic rights private employees have under title VII, and that systemic discrimination pervades employment in the Federal Government. Employment practices of most agencies keep minorities and women in lower paying, less responsible jobs in the Federal bureaucracy. The following is a New York Times analysis of the court's decision:

BIAS SUIT POWERS WIDENED BY COURT—JUSTICES SAY U.S. WORKERS HAVE THE SAME RIGHTS AS PRIVATE EMPLOYEES

WASHINGTON, June 1—The Supreme Court ruled unanimously today that employees of the Federal Government have the same rights as privately employed workers to have full trials in a Federal district court when they file Title VII job discrimination complaints.

The decision is a substantial victory for civil rights groups, who have been arguing the issue with the Justice Department, with mixed results, in a series of lawsuits around the country.

It is expected to give new force to the 1972 legislation that extended the protections of Title VII of the Civil Rights Act of 1964 to Federal employees.

The promise of the 1972 legislation, according to civil rights lawyers, has not been fulfilled. The lawyers place much of the blame for this on the Justice Department, and the interpretations it has advanced—with some success in the lower courts—of various aspects of the legislation.

The Justice Department has contended that in the ordinary case the district court is limited to reviewing the record of the administrative agency that first considered the employment complaint.

The Justice Department prevailed in the Court today on a related issue: That Title VII is the exclusive remedy for Federal employees who contend that their employers are discriminating against them on the basis of race or sex.

Civil rights groups had contended that Federal employees should also be able to bring suits under other statutes, such as the Civil Rights Act of 1866, as privately employed workers may.

The Court split on this issue 6 to 2, with Justices John Paul Stevens and William J. Brennan Jr. agreeing with the civil rights groups. Justice Thurgood Marshall did not participate.

The first issue, however, was considered by some civil rights lawyers the more critical in their efforts to combat discrimination in Federal agencies.

"It breathes back into the 1972 amendments the life Congress put in them," said Joel L. Selig of the Lawyers Committee for Civil Rights Under Law, the lawyer for the Federal employees in the first case.

"The reason it is so important," Mr. Selig said, "is that prior to 1972, Title VII didn't even apply to the Federal Government, and for the last four years, although Title VII now applies and you'd think the Federal Government would be moving to comply, they've done very little. They've really been dragging their feet."

OTHER CASES AFFECTED

According to Mr. Selig, several hundred pending cases could be affected by today's ruling.

The lawyers committee, and the N.A.A.C.P. Legal Defense and Educational Fund, Inc., have been involved in much of the litigation. The N.A.A.C.P. fund represented the Federal employee in the second case today and filed a friend-of-the-court brief in the first.

Justice Potter Stewart wrote the Court's opinion in both cases, and in each rested the ruling on the words of the statute and on legislative history.

Title VII is the basic civil rights era guarantee of equal employment opportunity. It prohibits discrimination based on race, color, religon, sex or national origin.

In the debates leading up to the 1972 amendments to the civil rights act, Justice Stewart said one of the central themes was "Federal employees' lack of adequate internal safeguards against employment discrimination and Congress's perception of their lack of access to the courts to raise claims of job discrimination."

It had been clear for some time, as Justice Stewart said, that "Federal employment discrimination clearly violated both the constitution and statutory law." But, he said, "the effective availability of either administrative or judicial relief was far from sure."

He said that on administrative relief charges were handled "parochially" and, judicial relief, there were such obstacles as Government claims of sovereign immunity against suit.

The Court found, basically, that the statute showed no Congressional intention to give the Federal employee the same right.

At the same time, the Court found that Congress's perception that Federal employees had no effective judicial remedy "seems to indicate that the Congressional intent v 1972 was to create an exclusive, preemptive administrative and judicial scheme for the redress of Federal employment discrimination."

The completeness with which the statute was drafted confirms this indication, the Court found.

THE BALANCES OF POWER: III(ii) STRATEGIC OFFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. BRECKINRIDGE. Mr. Speaker, in my effort to give a well-rounded view of the controversial question of counterforce in U.S. retaliatory strategy, I wish to insert the following article, which states very well the case against counterforce. It was written by Robert Sherman, who served as Senator GEORGE MCGOVERN's research director for foreign affairs and national security during the 1972 presidential campaign. The article was published in Strategic Review, volume III, No. 2, spring 1975:

Counterforce is, very simply, the strategy of attacking the adversary's military forces. It is contrasted with *countervalue,* which is the strategy of attacking the adversary's targets of high human or economic value; cities, factories, transportation choke points, energy sources, etc.

There are three varieties of counterforce which some believe offer potential advantages to the side employing them: disarming first strike, damage-limiting counterforce, and restrained counterforce.

Disarming first strike consists of a counterforce attack sufficient to reduce the adversary's *total* retaliatory capability to a level one considers tolerable.[1]

The italicized word *total* is of critical importance. The damage wrought by a nuclear detonation of a given yield, composition, accuracy, and altitude is, obviously, independent of its method of delivery. It would for example, do neither us nor the Soviets the slightest good to destroy the other's ICBMs on an initial strike, only to have the victim retaliate by destroying the aggressor's society by means of SLBMs and manned bombers.

The concept of a "disarming first strike" against only one or two elements of an adversary's triad would be a contradiction in terms, analogous to a "life-saving" operation in which a surgeon removes a cancerous lung from a patient known to be on the verge of death from incurable brain and bone cancers. The benefits from the two procedures are identically nonexistent.

* * * * *

Nevertheless, a scenario involving a large Soviet strike against, and confined to, our Minuteman silos has received considerable attention and should be discussed. It is based on the assumptions that at some point the Soviet Union will deploy the MIRV it has recently begun to test, will make major improvements in yield-to-weight efficiency and in accuracy, and will combine these advances with its large throw weight. Such an attack by such a force could eventually reduce the U.S. ICBM force remaining in silo to a delivery capability below the level needed for unacceptable retaliation.

Footnotes at end of article.

Speaking in the context of a U.S.-Soviet confrontation, perhaps in the Middle East, Senator Henry Jackson has suggested an SS-9/SS-18 attack against our ICBM silos, accompanied by the threat of a follow-up attack against our cities, which he believes would cow us into submission if we could not retaliate with an equivalent counterforce attack:

The Soviet Union might possess so many strategic weapons as to contemplate a counterforce first strike which would employ but a fraction of its total strategic force. This could well leave the bulk of its strategic force free to threaten the destruction of American cities should the United States actually launch a retaliatory strike in response to the initial Soviet attack. Since it is difficult to take seriously the prospect of American retaliation under such conditions, the credibility of the U.S. deterrent cannot help but become increasingly uncertain.[2]

Let us ask several questions about the Jackson scenario:

* * * * *

Would we then lack any useful capability we had before the strike, or any capability the Soviets would have at that point?

The answer is no on both counts. We would and the Soviets would retain the ability to destroy each other's societies but neither would have the ability to prevent itself from being destroyed, exactly as is the case today.

* * * * *

Thus, in evaluating Senator Jackson's contention that ongoing Soviet missile improvements may cause the credibility of the U.S. deterrent to become "increasingly uncertain," let us test his scenario by restating it with several key (*italicized*) words changed:

The Soviet Union might possess so many strategic weapons as to contemplate a counterforce first strike which would employ but a fraction of its total strategic force. This could well leave the bulk of *the United States'* strategic force free to threaten the destruction of *Russian* cities should the *Soviet Union* actually launch a *follow-up* strike *after* the initial Soviet attack. Since it is difficult to take seriously the prospect of a *Soviet follow-up strike* under such conditions, the credibility of *Soviet nuclear-backed aggression* cannot help but become increasingly uncertain.

The shoe fits equally well on either foot: After an initial Soviet attack on U.S. ICBMs (assuming such an attack to be effective, which would not be the case), *each* side would continue to be deterred from striking the other's cities by the sure knowledge that such a strike would lead to the destruction of its own cities. Thus, Senator Jackson's Soviet "counterforce first strike" would gain the Soviets nothing.

The second variety of counterforce offering some theoretical attractiveness is *damage-limiting*. Under this strategy, once we were attacked by a Soviet first strike, we would use our counterforce capability against Soviet reserve nuclear forces in an attempt to reduce our total damage to a point which, even though above the "acceptable" level, would be lower than that we would otherwise sustain.

I do not dispute that three per cent survival is better than one per cent survival, and I would be willing to spend considerable sums to that end. However, we cannot escape the fact that damage-limiting through counterforce is a technological impossibility and will remain so through the foreseeable future.

Once a nuclear exchange is under way, it would be the height of folly to assume that if we place our adversary's weapons in a "use them or lose them" situation, he will not use them.

If a silo appears to be targeted by an RV or a manned bomber, it will be emptied before it can be destroyed. If a bomber on airborne alert cannot be refueled—or if its tanker cannot be refueled—because its bases have been destroyed, that bomber will be sent on to its target.

Thus, any attempts to use counterforce for damage-limiting will in practice be *damage-assuring*.

A third variety of counterforce is that which, for lack of a better name, might be called *restrained counterforce*. The rationale has been set out by Secretary Schlesinger:

"Since we ourselves find it difficult to believe that we would actually implement the threat of assured destruction in response to a limited attack on military targets that caused relatively few civilian casualties, there can be no certainty that, in a crisis, prospective opponents would be deterred from testing our resolve . . . a massive retaliation against cities, in response to anything less than an all-out attack on the U.S. and its cities, appears less and less credible. . . . Deterrence can fail in many ways. What we need is a series of measured responses to aggression which bear some relation to the provocation, have prospects of terminating hostilities before general nuclear war breaks out, and leave some possibility for restoring deterrence. It has been this problem of not having sufficient options between massive response and doing nothing, as the Soviets build up their strategic forces, that has prompted the President's concern and those of our allies."[3]

In contrast with disabling first strike and damage-limiting counterforce, restrained counterforce does not involve a heavy strike for the purpose of reducing significantly the other side's capability; rather, it involves using nuclear devices to "send them a message," "demonstrate resolve," and thereby discourage further escalation.

Implementing programs include:

(1) Improved command and control and rapid retargeting ability.

(2) Improved inertial guidance for Minuteman.

(3) Higher yield for Minuteman.

(4) Increased MIRV multiplicity for Minuteman.

(5) Heavy-payload Trident II SLBM.

(6) Long-term research on terminal maneuvering warhead (MaRV) guidance, which could eventually provide ICBM and SLBM warhead accuracies not significantly different from zero CEP, and on increased MIRV multiplicity.

Item (1) is, to the best of my knowledge, noncontroversial. The remaining items constitute the focus of the counterforce debate, and of the motivation for this paper.

The function of these programs is to improve our ability to attack large numbers of hard targets. The term "hard target" has sometimes been used imprecisely, in that proponents of restrained counterforce have presented their programs as offering a more "humane" way of fighting nuclear war, allowing us to attack "military and industrial" targets rather than population centers.

Their argument is not correct, and reflects a misrepresentation of the concept of hardness. A steel mill is an imposing and hard structure if you plan to strike it with your fist, but in nuclear terms it is not significantly harder than an average downtown metropolitan area; we can easily destroy it with the accuracy-yield combination found in our present Minuteman warheads. The same is true of all Soviet above-ground factories, refineries, troop concentrations, transportation choke points, tank parks, etc. In nuclear terms, the only hard targets of strategic significance are nuclear storage depots, command posts, and missile silos. The former two categories are sufficiently small in number to be subject to total destruction by a fraction of our present force. Thus, the new counterforce programs are for all practical purposes aimed specifically and solely against Soviet missile silos.

In evaluating the usefulness of these anti-silo programs, I suggest the following:

First, improved accuracy and yield are not necessary for restrained counterforce.

Assuming 10 per cent Minuteman attrition due to malfunction, we have 90 per cent of the launched warheads arriving in the target area. Assuming three MIRV warheads of 170 KT each and CEP of .2 miles, application of standard missile effectiveness calculation procedures gives three Minuteman III RVs (one missile) about a 35 per cent kill probability against a 3000 psi silo; we will thus have to expend about three Minuteman IIIs for every silo we destroy.[4] If Minuteman IIs are used, assuming 80 per cent reliability and a single warhead of 1 MT and .3 mile CEP, approximately five missiles are required per silo destroyed.

Clearly, we can now attack two, five, ten, or even fifty improved Soviet silos without impairing the countervalue deterrence of our remaining ICBM force. Available-technology improvements—basically a doubling of yield combined with a 30 to 40 per cent reduction CEP—would increase the efficiency of Minuteman III in such an attack, perhaps by a factor of four.[5] But since present efficiency is more than adequate for any "send them a message" counterforce attack, and since these improvements would not give us anything approaching a disabling anti-silo capability[6] much less a total disabling first strike—there appears to be no requirement for these new programs.

Terminal guidance is, possibly, a different matter. I shall return to it shortly.

Second, restrained anti-silo counterforce, by whatever means, is a poor response to Soviet aggression.

Certainly we need, in Dr. Schlesinger's words, "a series of measured responses to aggression which bear some relation to the provocation, have prospects of terminating hostilities before general nuclear war breaks out, and leave some possibility for restoring deterrence." But what reason exists for assuming that a response which bears "some relation to the provocation" must be an *equivalent* response, that the desirable response to an anti-silo attack must be anti-silo retaliation?

Consider the consequences of a small Soviet attack upon U.S. ICBM fields in support of an ultimatum. The ICBMs lost would be of no military significance, since their loss would not deprive us of our countervalue capability. Neither would the attack serve as a warning of a possible follow-up disabling first strike, since such a strike is beyond the capability of the Soviet Union. The significance of the Soviet strike would lie in the value of property destroyed and the number of human lives lost; in short, unless a disarming first strike can be acheived, a counterforce attack in reality functions as a *countervalue* attack; its effectiveness is defined by the number of casualties it causes and the dollar value of the property it destroys.

This principle applies both to the Soviet attack and to our response. Our purpose must be to convince the Soviets that to their every attack we will respond with a countervalue attack of equal or greater consequence. We can, of course, do this by retaliating against their silos, but why should we? Regardless of our accuracy or yield, hard targets offer a low return on our attack investment. Our objective should be to seek targets of maximum vulnerability and maximum economic value combined with minimum population density; by these criteria, there are soft targets such as oil fields, mines, pipelines, and military supply depots that are many times more

---

Footnotes at end of article.

lucrative than low-vulnerability hardened missile silos. This is even more true if we include in our calculations the human loss that would be caused by fallout from an anti-silo attack of any appreciable magnitude.

It seems clear, then, that our response to an ongoing Soviet attack against our ICBM fields should go something like this:

(1) As soon as we have categorical evidence that a Soviet attack is in fact under way, we should launch one U.S. ICBM for every Soviet RV in flight toward us.

(2) To the greatest extent possible, we should try to launch those missiles whose silos are targeted.

(3) Our ICBMs should strike targets combining maximum vulnerable economic value with minimum human value. By this criterion, some targets will be military. But ICBM silos will be far down the list because of their modest economic value and low vulnerability.

(4) If, as in the Jackson scenario, the Soviets terminate their attack before retaliation can begin, we should tell them that we consider ourselves to have received categorical warning, and that any subsequent Soviet launch against the United States will result in the immediate launch of an equal or greater number of ICBMs following rules (2) and (3) above.

(5) We should make clear to the Soviets, now, that this will be our response should the situation arise.

In this way, we would remove all reward from a Soviet anti-ICBM attack, and we would impose an automatic and severe penalty. We would meet Dr. Schlesinger's criteria of response being relevant to provocation, of providing maximum incentive to the other side to terminate hostilities before escalating to general war, and of restoring deterrence. Moreover, we would do it without purchasing new hardware.

It is true that by permitting reduction in yield while retaining the same point-killing power,[7] high accuracy would enable us to reduce collateral damage in a restrained counterforce attack against a small soft target. Unfortunately, the same high accuracy technology that serves this purpose can also be used against hard targets; the latter capability is clearly inimical to national security, as I shall explain shortly.

It is sometimes argued that, while counterforce capability may not be militarily exploitable by either side, it nevertheless may be exploitable in psychological or diplomatic terms. The argument runs, "It's all very well for us to rely on our assured second strike capability, but what if the Russians don't know we have it? Deterrence exists only in the mind of the deterred, and when a Soviet marshal compares his SS-18 with our Minuteman, how can we be sure he feels deterred?"

Such a question supposes that the Soviet war machine, which possesses such technological sophistication that it could develop and deploy a major nuclear force, is incapable of calculating the effects U.S. nuclear forces could have on Soviet society. This is simply not credible.

However, we come upon a very serious problem when we consider that deterrence is not merely in the mind of the deterred: it is *in the mind of the deterrer as perceived by the deterred*. I will explain this somewhat obscurely worded concept with an example:

Suppose there is a U.S.-Soviet confrontation in West Berlin or the Middle East. Unless they are drooling idiots, the Soviets will not think, "We can push the Americans very hard; they will yield rather than go to the brink of nuclear war because they know our missiles are bigger than theirs and more numerous, even though we both know theirs are sufficiently big, numerous and reliable to blow us off the map no matter what we do to them first."

But if they read the writings of Secretary Schlesinger, the pages of STRATEGIC REVIEW, etc., they could very well think, "We know our big missiles don't change the nuclear balance, but the Americans don't seem to know it. They seem scared to death of our SS-9s and SS-18s. They keep talking about how they think we have a counterforce capability. If this is what they really think, we should be able to outbluff them by threatening a nuclear attack. Let's try it."

I am sure encouragement of Soviet adventurism is the last thing desired by those Americans who discuss the strategic balance in Madison Avenue relative terms. But I urge them to consider that they may be having this effect.

In the words of General Maxwell Taylor, "We run the risk of talking ourselves into a sense of inferiority which can be almost as disastrous as the real thing."[8]

There also is the question of the confidence we give to our allies in our deterrent. I frequently hear it said that even if numbers mean little in U.S.-Soviet relations, we must keep ahead in the Madison Avenue numbers game lest Japan and the European democracies conclude we cannot protect them and their best course is to throw their lot with the Soviet Union.

A similar argument may have had some validity in Vietnam where, since the differences between the two competing governments in the eyes of the average villager were minor compared to the difference between local war and local peace "loyalty" could be obtained, Mafia-style, by whichever side appeared most capable of providing "protection" against the other.

But the argument has no validity when applied to an advanced democracy. The embrace of the bear is not a pleasant prospect for a nation accustomed to political and intellectual freedom. Neither is it pleasant to contemplate having one's economic lifeblood drained off for the benefit of Mother Russia. It is absurd to suggest that West Germany would casually follow the path of East Germany simply because the Soviet Union has more ICBM throw weight than the U.S. On the contrary, by all evidence the industrial democracies would fight to the near-death to avoid the fate of Czechoslovakia.

This is not to say that the validity of our deterrent is not a matter of extreme importance to our allies. But since our deterrent is valid and we must keep it so for our own security, and since we are the world authority in strategic weapons technology, our best moral and pragmatic course is simply to lay out the facts. It is true that the military facts are not as pleasant for Europe as they were before the Soviets deployed second strike capabilities. Would we go nuclear to save Europe, now that we would thereby risk incineration of our own country? The question defies categorical answer. But the answer is not rationally influenced by "capabilities" which are incapable of useful application.

* * * * *

Bureaucratic momentum aside, even with the best intentions on both sides, the programs forming the focus of this paper do not become more effective bargaining chips once developed; on the contrary, full development ends all possibility of bargaining them away.

MIRV deployment is not verifiable and therefore not negotiable. MIRV testing, however, is verifiable. Had we frozen our MIRV program at the pretesting stage in 1968–69, conceivably we could have obtained a no-MIRV treaty with the Soviets and avoided the entire problem of Soviet anti-silo counterforce. But by blindly charging ahead with the program "because it was there," we threw away a genuinely valuable bargaining chip.

Now we face the question of whether to compound our blunder by charging ahead with terminal-homing high-accuracy MaRV. MaRV deployment, of course, is not verifiable. However, while high accuracy as such is difficult to verify, terminal MaRV tests can be verified with reasonable confidence—provided the terminal MaRV test is not incorporated into a test of a corkscrew evasive MaRV. Thus, a no-MaRV SAL treaty is possible before, and only before, either side has tested terminal MaRV or an evasive MaRV that could disguise a terminal MaRV.

By the time this discussion is printed, we will have completed several tests of evasive MaRV. This does not present a serious problem; the Soviets know that terminal MaRV technology is not yet within our grasp. But as time and evasive MaRV tests go by, we will reach a point at which the Soviets will no longer be able to believe we have not tested a terminal MaRV. At that point, we will have destroyed our MaRV as a bargaining chip and insured a Soviet MaRV, just as we insured the Soviet MIRV six years ago. Since the requirement for and effectiveness of evasive MaRV are dubious at best, the clear prudent course is to suspend all MaRV testing and to make a MaRV ban top priority at the SAL negotiations.

Let us now consider the consequences of U.S. high-accuracy MaRV deployment:

Using terminal homing, it is entirely conceivable that within a decade we can achieve the ability to take out 90 per cent of the Soviet ICBM silos by using *either* a portion of our SLBMs or a portion of our ICBMs, leaving the unexpended portion of the employed triad arm still capable of acting as a full retaliatory deterrent.

* * * * *

The question of a U.S. anti-ICBM strike would not be particularly significant if the Soviets had additional deterrents in which they had confidence. But consider the following:

A. Today the Soviet deterrent can most accurately be described as neither a triad nor a diad, but a monad.

Although the Soviets have completed or placed under construction a large number of missile submarines, their on-station rate has remained very low. I can only guess at the reasons for this, but the fact is that, should we succeed in a first strike that disabled their ICBMs and should we simultaneously strike their submarine bases, their deployed SLBM retaliatory threat would fall well below any of the usual criteria of sufficiency.

Their manned bomber force is even less consequential.

* * * * *

Today, the ICBM is the only system on which the Soviets can rely for deterrence. If we were to deploy the possible ability to destroy it in first strike, it is certain that the Soviets would become more inclined to launch on warning, thus radically increasing the probability of accidental war, decreasing the possibility of restraining a nuclear exchange short of all-out cataclysm, and weakening American national security.

B. Let us assume that, by the time we acquire the ability to kill 1500 silos, the Soviets have sorted out their SSBN problems, whatever these may be, and are able to deploy an adequate SLBM retaliatory force. Possibly they will even have a working terrain-following radar. But will this give them sufficient confidence to refrain from launch on warning?

Consider the enormous rhetorical and substantive reaction in this country to the Soviet MIRV tests: Our own deterrent is triply protected from this new threat; our submarine-based systems have been in extremely reliable operation for a decade and a half; we have also had extensive and suc-

---

Footnotes at end of article.

cessful experience with terrain-following bombers; both of these systems are immune to Soviet ICBMs; moreover, our own ICBMs are well protected by RV fratricide combined with launch on categorical warning. Yet many of our strategists talk as if we were in fact faced with a disabling first strike.

Consider, then, how the Soviets would feel if we deployed the high accuracy needed to destroy their ICBM force, which even in ten years will still be the system with which they have had the most experience and probably the only one with which they will feel comfortable.

We cannot, of course, quantify the probability that a massive U.S. counter-silo capability would cause the Soviets to become more likely to launch on initial warning, and thus more likely to launch accidentally. But the probability exists, and it is substantial. It is also very dangerous. This danger must be balanced against the virtually nonexistent advantages of massive counter-silo capability.

Moreover, if we deploy terminal MaRV silokillers, we can be sure the Soviets will follow. They will probably be ten years behind, but they will get there. So in the mid-1990s, assuming yields can be reduced to the point where RV fratricide is not prohibitive, neither side will have a viable silo-based deterrent. I have already discussed the effect of the U.S. potential strike force on the Soviets; now consider the effect of the Soviet anti-silo force on our own deterrent:

We will have to pull our ICBMs out of their silos and go to a shell-game mobile ICBM, or to a deep-buried delayed response system, or even to an active hard-point defense if we can devise one with a favorable cost-exchange ratio. All of these programs have two things in common: First, they are very expensive. Second and more importantly, all leave us with a deterrent certainly no more and possibly less secure than we have today.

The question before the nation is whether we shall allow a desire for increased technological capability for its own sake to force us into a cycle of massive expenditure and, more importantly, to decrease national security.

FOOTNOTES

[1] "Tolerable level" is incapable of precise and permanent definition, but is usually spoken of as capable of causing the death of less than one-third of the population and the destruction of less than two-thirds of the industry from the immediate effects of blast and radiation. Any substantial nuclear attack would, of course, produce massive additional long-term damage through fallout, starvation, soil and water poisoning, epidemic, etc. For this and other obvious reasons, it seems probable that national leaders on both sides will always use a considerably lower working definition of what is tolerable.

[2] Henry M. Jackson, "Credible Deterrence in a SALT II Environment," speech before the Military Committee of the North Atlantic Assembly in Bonn, Germany, November 1972.

[3] Schlesinger, op. cit., pp. 37–38.

[4] This calculation is applicable only to a restrained counterforce attack, in which each RV is directed against a different silo. Targeting multiple RVs against the same silo—essential to disabling first strike or damage-limiting—would sharply reduce the efficiency of the attack, both because of increased RV fratricide and because of the probability of wasting RVs on silos previously destroyed. Moreover, while 50 per cent probability levels should be sufficient for token counterforce, better than 99 per cent probability is required for disabling first strike.

[5] Point-killing power can be expressed as the two-thirds power of the yield divided by the square of the CEP.

[6] Recall the caution in Note 4 above. Even if we neglect the problems of RV fratricide and overkill, 99 per cent kill probability against a given silo still requires approximately 6.5 times as much point-killing power as does 50 per cent kill probability.

[7] This is hypothetical, of course. On-going programs emphasize increased rather than decreased yield.

[8] Maxwell B. Taylor, "The Legitimate Claims of National Security," *Foreign Affairs*, April 1974, p. 584.

NOT EVERYTHING IS RELATIVE FOR REPRESENTATIVE CARTER

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. SKUBITZ. Mr. Speaker, I include for the RECORD an account of my friend, Congressman TIM LEE CARTER's visits about Monroe County on election day. It is my feeling that you might enjoy, as I did, the story of his travels about the polling places in his own home area:

NOT EVERYTHING IS RELATIVE FOR REPRESENTATIVE CARTER

(By David V. Hawpe)

TOMPKINSVILLE, KY.—It was graceful. It was deft.

He eased from precinct to precinct in his family's Monroe County political preserve yesterday, remembering who had served with him in World War II, whose babies he had delivered. Whose Social Security cases he had untangled, whose businesses he had helped finance.

He remembered associations. The woman whose son had served on the U.S. Olympic rifle team. The man whose late brother had been a champion checker player.

Tim Lee Carter, six-term Republican representative seeking re-election, laughed, commisserated, cajoled, congratulated. He made certain he would get his voters to the polls.

"Brother Ben, . . . come over here," Carter said at his first stop, the Middle West precinct. Brother Ben Maxey, minister of the Church of the First Born Saints, reached a hand toward the congressman, whose iridescent blue sleeve glistened. The red-and-white polka dot collar flapped in the light wind.

"We're going to get all the black voters, aren't we?" Carter asked. It really wasn't a question. Maxey nodded.

At Northwest precinct, Marcus Sherfey, Baptist minister and assistant principal of Tompkinsville Elementary School, explained why he always backs Carter.

"When my daddy went to buy his first home, he couldn't get the money at the bank," he said. "Dr. Carter (the congressman is a physician) loaned it to him."

Wendell Carter, a "cousin and supporter," shook the U.S. representative's hand. There was a relative at every precinct—more than one at some. "We're a big family," Carter said.

Col. Prentice Anderson ("An honorary title," Carter explained) waved to Carter. "He's No. 1," Anderson said. "When he puts his name on a letter to the Veterans Administration or the Social Security, they listen. I got action five days after he sent a letter for me."

County Judge Doug Carter, a second cousin, greeted voters at Courthouse precinct.

"Losing any?" the big, soft-spoken congressman asked.

"Ford may have lost one a while ago, but that's all," the judge answered.

At the West Tompkinsville precinct, Carter took Hughie Barnes gently by the arm. He asked, "We were together in the Pacific, weren't we?" They were, in New Guinea, at Leyte, at Luzon.

"Where did you eat?" Carter asked.

Barnes grinned. "Why, right in the officers' mess."

Carter was a captain in the 38th Infantry. Barnes was an enlisted man in the 11th Airborne. When they ran across each other in the Pacific, the captain took his home town friend right to the officers' table.

Kenny Carter—"a cousin of mine"—was at the same precinct. "He has the characteristic Carter dark eyes and dark hair," the congressman said.

At Gameliel precinct, Jerome Taylor brought his two boys over for Carter's inspection. "This fella made the all-tournament team," he said, tugging at a squirming youngster in a yellow athletic shirt. "Aw, Daddy," the boy whined, pulling away.

Driving to Fountain Run precinct, the westernmost in the 5th Congressional District, Carter spotted Joe Fultz's house: "Somebody stole his bird dog a while back. A nice spaniel."

At Fountain Run, Levy Waller, the late checker player's brother, said, "Dr. Carter is the kindest doctor I ever knew. He'd talk to you when the other doctors went by. He'd stop to listen to you."

At Gum Tree precinct, where (Squire) Wallace Clarkson has worked the polls for about 40 years, Carter nagged at Tommy Thomas to have something done about a growth on his neck.

'Of course it's been there 14 years," Carter said, laughing.

Driving to Sulphur Lick, Carter recalled how he narrowly missed getting in on a gusher in the oil boom of the mid-1960s. "The first well to hit was too close to the house on Tom Willett's place so they called it a deep water well . . . hit oil at about 400 feet."

Driving by Charles Geralds' place, he noted that Geralds had just lost 8,000 pounds of catfish. He still has about 25,000 pounds in his catfish ponds, and he wants Carter to have somebody come down to help him find out what happened. "I don't blame him. . . . I'd want to know, too . . . That's a lot of fish."

Benton Baxter stood outside the Sulphur Lick voting house, adjusting his nice straw hat. He asked, "Looks like that other Carter (Jimmy) has got it, doesn't it?"

The congressman agreed it looked good for Jimmy. He recalled dinners with Jimmy and his wife last year. "A nice fellow."

At Rockridge precinct Jim Bowles entertained on a violin he got from "Preacher Swan's wife." "It was her first husband's," he explained. His fingers danced on the strings. The bow brought to life "Fisherman's Hornpipe." Uncle Wash Carter (a relative) taught him that.

He did the "Chicken Reel" next. Election Judge Drewie Woods clogged on the polished floor of the Joe Harrison Carter (a relative) Elementary School. Joe Harrison's son Leslie (obviously, also a relative) shouted, "Listen to that chicken cackel. . . . She'll lay an egg for yowu." Bowles grinned and bounced the bow on the strings again.

Jerrell Dubree, who is "coming up 11," sucked on his orange soda pop and patted his foot. His eyes never left the fiddle.

The last stop was North Tompkinsville precinct, where Carter made his original political fights. Local newspaperman Bill Brown told how Carter had arranged for an Army transfer, so that Brown could be with his dying father. "That's why I'm a Republican now," he said.

Carter spotted another former patient. He unbuttoned the man's shirt, inspecting the old knife wounds.

"I put over 200 stitches in this man," he said, fingering the scars. "It was 278," the man added.

Not everything is relative in Tim Lee Carter's Monroe County.

NADER AS INTELLECTUAL COWARD

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1976

Mr. ASHBROOK. Mr. Speaker, few charlatans have come down the pike to equal Ralph Nader. He wraps his anti-business, anti-free enterprise, socialistic package into a so-called public interest package. Like all zealots, he attracts many followers and, like all liberals, he is deified in the press and on campus.

Occasionally, however, the truth surfaces and the myth is exposed. Such a rare literary piece deserves commendation and all the readership it can muster. I include the article of my good friend, John Lofton, with these remarks and hope it will get the attention it deserves:

[From the Denver (Colo.) Rocky Mountain News, Apr. 19, 1976]

NADER AS INTELLECTUAL COWARD

(By John D. Lofton, Jr.)

HILLSDALE, MICH.—One of the reasons I looked forward to coming here to speak at Hillsdale College at a five-day seminar on government regulation was that it would provide me the opportunity to personally confront the Caped Consumer Crusader, Ralph Nader, and question him about a new book titled, "Ralph and Me," written by the managing edtior of The New Republic magazine, David Sanford.

But alas, it was not to be.

When I told Nader I wanted to talk to him about the Sanford book, he reacted like Count Dracula confronted with a crucifix. Rising abruptly from his chair, waving his arms, he declared: "No, I won't talk about the book. There may be litigation." Nader then walked out of the room and left.

Well, it's really too bad, because Sanford has some interesting things to say, things that require a response.

As a longtime Nader-watcher since 1965, Sanford, who was originally very high on Nader, has become progressively disillusioned with him over the years. He writes: "I became increasingly turned off about Nader's press agentry, about his facile way of imputing bad motives to those he disagreed with, about his successful efforts to manipulate the press and to quash negative publicity, about his clandestine ways with money, about his lust for power, in short, about the spurious Nader myth."

Sanford says that some of his sources—most of them named—have seen Nader "lie, cover up, falsely accuse antagonists, mistreat employes, disown mistakes, and behave contrary to the legend that he has tolerated, indeed nurtured, about himself."

In his book, Sanford quotes Jim Turner, who used to work for Nader, as saying his ex-boss' organizations are sweatshops. Commenting on the low pay and long hours of Nader's Raiders, Turner observes: "We spent 100 years trying to clean sweatshops out of our system and what happens? Along comes the first major reformer of any impact and he starts doing the same goddamned thing."

A 1972 Texas Law Review article by another one of Nader's former employes, Peter Schuck, criticizes Nader for constantly invoking, ad nauseum, the so-called "public interest" without ever grappling with the serious moral question of just exactly what this is and where it lies. Schuck writes:

"On what grounds may we require mature, responsible drivers to purchase seatbelts for their cars against their will? There are answers to these questions, of course. For example, 'there are times when people cannot be relied on to know their own interests'—but these answers do not comport easily with democratic theory and are susceptible to abuse." An excellent point.

Sanford tells in detail how he tried unsuccessfully to obtain a copy of an audit of Nader's organizations but, he says, Nader's people "are about as free with information as Nixon was with his White House tapes." He also explores other questions about Nader that have been raised in the press, questions such as: Was Nader trading in Ford Motor Co. stock at the time he was publicly attacking General Motors? Does Nader really live in an inexpensive rented room with a pay phone down the hall, or does he live in his brother's $100,000 house in northwest Washington?

In a story in the Toronto Globe and Mail newspaper on March 3, Nader is reported as saying that David Sanford is an "intellectual coward" because in writing his book he did not approach Nader for an interview even though his office is only a few blocks away. Sanford denies this. He says that his assistant, Henrietta Charles, did call Nader's Center for the Study of Responsive Law, she did request just such an interview, but never received an answer.

With his refusal to discuss David Sanford's book with me, with his decision to stonewall these serious charges against him, one has to wonder, however, if Ralph Nader isn't the real "intellectual coward."

SENATE—*Thursday, June 3, 1976*

The Senate met at 12 noon and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

The souls of the righteous are in the hands of God, and there shall no evil touch them. They are at peace.

Eternal Father, make sacred to us just now the memory of Thy servant Alfred Selby, who day after day and decade after decade went among us doing good. For humble tasks exalted by his doing them in the spirit of the Master, we thank Thee. For his dignified presence, his kindly manner, his quiet demeanor, his respect for his fellow man, and his love of God, we give Thee thanks. Show us once more that whoever would be greatest among us must be the servant of all.

Send us to our work with Thy light upon our pathway. Let us see more clearly Thy purposes, feel more deeply Thy transforming love, know the joy that endures all things, the peace that passes understanding, the fellowship of Thy spirit binding together in Thee all, both in time and eternity. For in Thee we live and move and have our being. Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, June 2, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 1 p.m. or the end of morning business, whichever comes later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT REFERRAL OF A COMMUNICATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication transmitted by the Executive Director of the Seismic Safety Commission be referred jointly to the Committees on Interior and Insular Affairs, Banking, Housing and Urban Affairs, and Public Works.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT REFERRAL OF A COMMUNICATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary to the Council of the District of Columbia, related to support of vending on the Mall, be referred jointly to the Committees on Interior and Insular Affairs and Public Works.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE RESOLUTION 456—SERVICE OF SENATORS ON THE SELECT COMMITTEE ON COMMITTEES

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader and myself, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 456) relating to service of Senators on the Select Committee on Committees.

The PRESIDING OFFICER (Mr. GLENN). Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES 456

Resolved, That the first section of Senate Resolution 109, 94th Congress, agreed to March 31, 1976, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of the second sentence of paragraph 6(a) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.".

SEC. 2. Section 6 of such resolution is amended by inserting before the period at the end thereof ", except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate".

AUTHORIZING APPROPRIATIONS FOR THE SALINE WATER CONVERSION PROGRAM FOR FISCAL YEAR 1977

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 766, H.R. 11559.

Mr. ALLEN. Mr. President, reserving the right to object, what does this refer to?

Mr. MANSFIELD. A bill to authorize appropriations for the saline water conversion program for fiscal year 1977.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11559) to authorize appropriations for the Saline Water Conversion Program for fiscal year 1977.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 1, in line 5, delete "$9,700,000," and insert in lieu thereof "$7,090,000,".

On page 2, in line 1, delete $2,100,000" and insert in lieu thereof "$1,200,000".

On page 2, in line 4, delete "$1,200,000" and insert in lieu thereof "$1,150,000".

On page 2, in line 7, delete "$1,600,000" and insert in lieu thereof "$500,000".

On page 2, in line 8, delete "$600,000" and insert in lieu thereof "$300,000".

On page 2, in line 10, delete "$800,000" and insert in lieu thereof "$750,000".

On page 2, in line 12, delete "$900,000" and insert in lieu thereof "$850,000".

On page 2, in line 16, delete "$1,000,000" and insert in lieu thereof "$840,000".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. JACKSON. Mr. President, the Interior Committee previously reported this act which would authorize appropriations to be used by the Office of Water Research and Technology to carry out the purpose of the Saline Water Conversion Act of 1971, as amended, during fiscal year 1977.

Congress, in 1952, authorized the Secretary of the Interior to initiate a research and development program with the objective of developing low-cost methods for desalting sea and brackish waters for beneficial consumptive purposes. Activities carried out under the Saline Water Conversion Act have been instrumental in advancing the state of the desalting art. But the budget request for fiscal year 1977 proposed by the Department of the Interior for the desalting program represents a decision to proceed with the termination of this important program.

The House of Representatives authorized $9.7 million for the saline water conversion program for the fiscal year 1977. In consideration of other programs administered by the Office of Water Research and Technology, the Interior Committee recommends a reduction in the House-passed authorization with the additional proviso that any additional funding requested but without authorization might be appropriated to other important programs, particularly the water research institutes.

This authorization will allow the continuation of the saline program and reestablish the congressional intent that a research and development program in this activity be pursued with Government support.

Mr. MANSFIELD. Mr. President, on behalf of Mr. KENNEDY and Mr. BROOKE, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 5, strike "$1,150,000" and insert in lieu thereof "$1,600,000".

Mr. KENNEDY. Mr. President, I understand that the Interior Committee is prepared to accept this amendment to add $450,000 to that item under subsection (b) of the bill entitled "Seawater Membrane Development."

Mr. JACKSON. The Senator is correct. However, is it the Senator's understanding that acceptance of this amendment is premised upon the Interior Committee proviso that the Appropriations Committee must also add a like amount to the total budget request made by the President for programs administered by the Office of Water Research and Technology?

Mr. KENNEDY. That is my understanding.

Mr. JACKSON. Mr. President, as chairman of the Interior Committee I am pleased that the Senator from Massachusetts has, once again, expressed his interest and concern over the need to research, develop, and demonstrate desalination technology. I commend him for his efforts.

The interest of the Interior Committee in maintaining an active desalting program is both strong and bipartisan. The amount to be authorized by this bill (H.R. 11559) is modest, indeed, when compared to prior years' authorizations for programs administered under the Saline Water Conversion Act. However, were the administration to have its way, there would be no clearly definable saline water conversion program in the coming fiscal year. A determined effort has been made to do away with this program. This is absolutely contrary to the expressed directive of Congress as embodied in the Saline Water Conversion Act.

When the budget request was submitted to the Congress to authorize funds for fiscal year 1977 programs, I joined with the chairman of the Subcommittee on Energy Research and Water Resources (Mr. CHURCH) in support of a House measure introduced by the Congressman from California, my good friend Congressman JOHNSON, to seek a specific authorization for the saline water program. The bill originally introduced in the House called for an authorization of $6,470,000 for saline water programs. This amount was then specifically identified out of a total budget request of $22,273,000 sought by the administration for saline water programs and other programs administered by the Office of Water Research and Technology pursuant to authority granted under the Water Resources Research Act of 1964.

Certain other programs for which funds were sought in the administration's request lacked specific authority from congressional authorizing committees. It is the judgment of the Interior Committee chairman and Senator CHURCH, the subcommittee chairman, that these excess funds should be allocated to the water resource research institutes authorized by title I of the Water Resources Research Act. This judgment has been expressed in a letter sent to the Appropriations Committee by myself and Senator CHURCH and again reiterated in a second letter sent last week.

The amendments to H.R. 11559 recommended by the Interior Committee will permit an identifiable program in saline water conversion and will also allow an option to increase the appropriations for the water resources research institutes above the amount requested by the administration.

Mr. KENNEDY. Is it the Senator's understanding that these additional funds, if appropriated, would be available for demonstrating the viability of the high temperature electrodialysis process for sea water desalting?

Mr. JACKSON. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11559) was read the third time, and passed.

EXTENSION OF TIME FOR COMMITTEES TO FILE REPORT ON S. 713

Mr. METCALF. Mr. President, I ask unanimous consent that the Committee on Commerce, the Committee on Armed Forces, and the Committee on Foreign

Relations have until June 8 to file a report on S. 713.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE DESIGNATION OF SENATOR HRUSKA TO HANDLE DEBATE FOR THE MINORITY ON CLOTURE MOTION

Mr. HUGH SCOTT. Mr. President, under the authority given me, I designate the distinguished Senator from Nebraska (Mr. Hruska) to handle the debate on the pending cloture motion on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. I yield back the remainder of my time.

REQUEST FOR RECOGNITION OF SENATOR MORGAN TOMORROW AND MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the two leaders or their designees have been recognized under the standing order, Mr. Morgan be recognized for not to exceed 15 minutes, and I make the same request for Monday.

Mr. ALLEN. Mr. President, reserving the right to object, I shall object at this time.

The PRESIDING OFFICER. Objection is heard.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER. The Chair lays before the Senate communications from the President, reports and communications from the heads of departments, as well as other communications addressed to the Senate, and such messages from the House of Representatives as may remain upon the table.

The clerk will report.

The legislative clerk read as follows:

The White House,
Washington, D.C., June 1, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate,
Washington, D.C.

Dear Mr. President: In accordance with Section 503 of the Foreign Relations Authorization Act, Fiscal Year 1976, I am transmitting to you a report on "Actions Taken by the United Nations to Obtain an Accounting of Americans Missing in Action in Southeast Asia." To fulfill the requirements of this section the United States Mission to the United Nations conferred with the Secretary General and his staff on the question of what action has been taken concerning the missing in action. The information on which the enclosed report is based was obtained as a result of their joint staff effort.

Sincerely,

Gerald R. Ford.

Referred to the Committee on Foreign Relations.

Rural Electrification
Administration,
Washington, D.C., May 25, 1976.

The Vice President,
U.S. Senate.

Dear Mr. Vice President: I have today approved a commitment to guarantee a non-REA loan in the amount of $8,031,000 to Sunflower Electric Cooperative, Inc., of Hays, Kansas. The funds from this loan will finance a 50 MW (49.3 MW nameplate rating) gas turbine generation unit and related facilities.

I hereby certify that in connection with the loan to be guaranteed I have caused a survey to be made in accordance with REA Bulletin 111–3, "Power Supply Surveys."

I further certify that, based on such survey, the funds from the loan to be guaranteed are needed to provide facilities or services for which there is no existing or proposed contract from any other power supplier.

A statement concerning the loan to be guaranteed is enclosed which provides the information requested in Senate Report No. 497, Department of Agriculture and Related Agencies Appropriation Bill, 1964.

Copies of this letter are being sent to the Honorable Gale W. McGee, the Honorable Hiram L. Fong, the Honorable Jamie L. Whitten, Mr. Dudley Miles, the Natural Resources Division of the Office of Management and Budget, and the Office of Management and Finance of the Department of Agriculture.

Sincerely,

David A. Hamil,
Administrator.

Referred to the Committee on Appropriations.

Comptroller General,
Washington, D.C., June 1, 1976.

Hon. Nelson Rockefeller,
President of the Senate.

Dear Mr. President: On April 13, 1976, the President submitted to the Congress his 13th special message for fiscal year 1976 pursuant to the Impoundment Control Act of 1974. The revised deferral (D76–12B) submitted in the message increases by $3.9 million the amount previously deferred for the Department of the Interior, Bureau of Land Management, Public Lands Development Roads and Trails program.

The Impoundment Control Act requires the Comptroller General to review each message and report to the House and Senate concerning the facts surrounding each action, including the probable effect thereof and, in the case of deferrals, to render a judgment on whether the deferral is in accordance with existing legal authority. The Comptroller General is required to notify the Congress if supplementary information revising earlier messages necessitates changes in his original reports.

Part of the budget authority proposed for deferral in this message was the subject of a rescission proposal (R76–40) submitted by the President in his 10th special message, dated January 23, 1976. The rescission bill (H.R. 11665) enacted on March 25, 1976, rescinded $4.9 million of the $8.8 million proposed for rescission in special message R76–40. For the remaining $3.9 million, the Senate Committee on Appropriations in its report (S. Rep. No. 94–640) stated:

"The Committee recommends rescission of $4,900,000 in contract authority for fiscal year 1976 provided by the Federal-Aid Highway Act, but disapproves the President's accompanying proposal to rescind another $3,900,000 available for fiscal year 1977. The latter amount should be deferred pending congressional action on the Bureau's fiscal year 1977 road construction program.

"The Committee will extend consideration to a rescission of contract authority available for fiscal year 1977 after a final determination by the Congress of the Bureau's total road construction program for that year." (Emphasis added).

As noted, the instant deferral message increases the amount being deferred by $3.9 million—a part of the budget authority proposed for rescission in rescission request R76–40 but rejected by the Congress—and is offered in response to the quoted excerpt from the Senate committee's report.

In our opinion, submitting a deferral of budget authority in this case after a rescission request has been rejected for the same budget authority violates section 1012(b) of the Impoundment Control Act which provides:

"(b) Requirement to Make Available for Obligation.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved."

We believe the Act does not provide authority in this particular case for the President to submit a deferral message following rejection by the Congress of a rescission proposal for the same funds. However, since the deferral was offered in response to the express wishes of the Senate Committee on Appropriations, in a report on a bill favorably acted upon by the Congress, and since we understand the deferred amount will be reconsidered by the Congress in its FY 1977 appropriations process, we plan no action pending further congressional actions.

Sincerely yours,

R. F. Keller,
Acting Comptroller General of the United States.

Referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Interior and Insular Affairs.

The Secretary of Transportation
Washington, D.C., June 2, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a proposed bill,

"To amend the Urban Mass Transportation Act of 1964, as amended, to repeal section 3(h)."

This bill would repeal section 3(h) of the Urban Mass Transportation Act which allows State or local agencies to divert up to one-half of transit capital grants and other financial assistance under the Act for payment of operating expenses, providing that effective arrangements are made within two years to substitute an equal amount of State or local funds towards the cost of the project for which the Federal funds were originally intended.

The Department requests repeal of this provision because it permits and encourages the highly questionable financial practice of using capital funds for operating purposes. The use of this practice in New York City has contributed to that community's financial difficulty and should not be encouraged by Federal law.

The Urban Mass Transportation Administration, which administers the section 3 capital assistance program, is very concerned that future uses of the section 3(h) provision may result in the delay of currently scheduled capital projects, and would seriously undermine the orderly development and implementation of planned mass transportation capital activities in urban areas.

The Department also fears that the large amounts of unanticipated outlays which would result from a significant increase in the use of section 3(h) would strain the Department's ability to maintain anticipated program levels within its budgetary limitations.

We have determined that this proposed legislation will not have an adverse impact on the environment.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

William T. Coleman, Jr.

Referred to the Committee on Banking, Housing, and Urban Affairs.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., May 28, 1976.
Hon. NELSON A. ROCKEFELLER,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to submit to you the final Fiscal Year 1975 Annual Report of the activities and accomplishments of the Small Business Administration.

This document supersedes a preliminary Report submitted last November.

Sincerely,
MITCHELL P. KOBELINSKI,
Administrator.

Referred to the Committee on Banking, Housing, and Urban Affairs.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 2, 1976.
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Spain:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit of $81,466,000 to three Spanish electric utilities—Empresa Nacional Hidroelectrica del Ribagorzana, S.A. (ENHER), Hidroelectrica de Cataluna, S.A. (HEC) and Hidroelectrica del Segre, S.A. (SEGRE) (Borrowers) and to guarantee loans by private financial institutions to the Borrowers in the amount of $51,842,000. Repayment of the Eximbank credit and the loans guaranteed by Eximbank will be unconditionally guaranteed by Instituto Nacional de Industria, Banco Urquijo, Banco Hispano Americano, Banca Catalana and Banco Industrial de Cataluna (Guarantors). The participation of each Borrower and Guarantor will be as follows:

Percent of Financing, Borrower, and Guarantor:

59 percent, ENHER, Instituto Nacional de Industria.

30 percent, HEC, Banco Urquijo and Banco Hispano Americano.

11 percent, SEGRE, Banca Catalana and Banca Industrial de Cataluna.

The purpose of the Eximbank financing is to facilitate the purchase from the United States of goods and services required for the construction and initial operation of one 930 MW nuclear power plant to be located in the Province of Tarragona and designated as the Vandellos 2 project. The power plant, when completed, will serve the Catalonian region of Northeast Spain, in which the Barcelona metropolitan area forms the dominant market, and will be directly tied into the Spanish national power grid. Ownership of the project will be 54% by ENHER, 28% by HEC, 10% by SEGRE and 8% by Fuerzas Electricas de Catluna, S.A.

The principal portion of the U.S. equipment and material which is to be financed by Eximbank will be manufactured in the United States by Westinghouse Electric Corporation. The related services will be performed by Westinghouse and other United States firms. The estimated total project construction cost is $836,300,000 of which $161,008,000 represents purchases of United States goods and services, including the initial fuel fabrication costs estimated to be approximately $16,002,000.

Exports of the equipment and fuel will be made within the framework of a bilateral Agreement for Cooperation Between the Government of the United States of America and the Government of Spain Concerning Civil Uses of Atomic Energy, which entered into force on June 28, 1974. Safeguard provisions required by that bilateral Agreement for Cooperation were implemented by a trilateral Agreement to Amend the Agreement of 9 December 1966 Between the International Atomic Energy Agency, the Government of Spain and the Government of the United States of America for the Application of Safeguards, which also entered into force on June 28, 1974.

Under Spanish procedures, the electric utility companies receive commitments from ENUSA, the Spanish nuclear fuel agency, for the supply of enriched uranium for fuel when needed for specific nuclear plants. ENUSA draws on various global sources for enrichment services, including the U.S. Energy Research and Development Administration. At present, ENUSA has an open commitment from ERDA to supply fuel enrichment services for several additional Spanish nuclear power plants, but a required "Appendix" to that contract which would make the commitment apply specifically to fuel for Vandellos 2 has not yet been negotiated. Thus, the Eximbank financing support for the initial fuel applies only to fabrication costs and not to enrichment services.

Export licenses must be obtained from the Nuclear Regulatory Commission before export of the equipment and fabricated fuel for the Vandellos 2 project.

2. Identity of the parties

ENHER, incorporated in 1946, is a "national enterprise" corporation controlled by Instituto Nacional de Industria, an autonomous agency of the Spanish State established in 1941 to promote the establishment and reorganization of industrial enterprises important to the economic development of Spain. ENHER is the 6th largest electric utility enterprise in Spain.

HEC was incorporated in 1946 and is the 12th largest electric utility in Spain. It is privately owned and its shares are traded on the Barcelona stock exchange.

SEGRE, a closely-held private company, is the 21st largest electric utility in Spain.

Banco Urquijo, headquartered in Madrid, was incorporated in 1918 and is the oldest and largest industrial bank in Spain. In addition to 7 branches in Spain, the bank has representative offices in New York and in Buenos Aires.

Banco Hispano Americano, a private bank headquartered in Madrid, was established in 1900. In addition to 749 branches in Spain, this bank maintains representative offices throughout Central and South America and Germany.

Banca Catalana, headquartered in Barcelona, is a private bank whose antecedents date back to 1904. Incorporated in 1960, this bank has a network of 54 branches throughout Spain and representative offices in London, New York and Paris.

Banco Industrial de Cataluna, a private industrial bank established in 1965, is headquartered in Barcelona.

Fuerzas Electricas de Cataluna, S.A., a privately-owned company established in 1951 and headquartered in Barcelona, is Spain's 3rd largest electric utility. It will be an 8% owner of the Vandellos 2 project, but will not be a borrower in this transaction.

3. Nature and use of goods and services

The principal goods to be exported from the United States for use in the construction and initial operation of the project will consist of a nuclear steam supply system and components. In addition, Westinghouse and other United States firms will perform various related technical services in connection with the design, installation, fuel fabrication and start-up operations of the nuclear power plant.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The proposed extension of credit by Eximbank in the amount of $81,466,000 and the guarantee of $51,842,000 of private financing will result in the export of $161,008,000 of United States goods and services.

Eximbank perceives no adverse impact on the United States economy from the export of these goods and services. This transaction will have a favorable impact not only on the United States balance of payments, but also on employment for substantial numbers of United States workers at a time when there have been nuclear power equipment order cancellations and deferrals in the United States and when foreign orders have become a vital portion of United States nuclear power equipment manufacturers' business which enables those manufacturers to retain specialized engineering and technical staffs and production work forces. Westinghouse estimates that, for itself and its subcontractors (expected to include, among others, Bechtel Corporation, Combustion Engineering, Cameron Iron Works, Speedway Machine and Tool, Lukens Steel, Allis-Chalmers and Esco Corporation), the Vandellos 2 project will generate 7,500 direct man/years of work in more than 30 cities in at least 18 states.

Although competitive prices and dependable performance by U.S. suppliers, together with the availability of Eximbank financial assistance, has resulted in repeat orders of nuclear plants from the United States, manufacturers in Germany, France, Japan, Canada and Sweden are today fully capable of supplying complete nuclear steam supply systems. These countries, together with Switzerland, the United Kingdom, Italy and others, are capable of supplying all or part of the equipment for the Vandellos 2 project at competitive prices and delivery schedules. The latest Spanish nuclear power plant, awarded in July, 1975, went to German suppliers. With respect to Vandellos 2, there was intense French competition with highly favorable financing terms offered through the French government-supported export credit agency, COFACE. Recent experience indicates that suppliers from these countries are continuing their intense marketing efforts in Spain and that the national export credit agencies of these countries will continue to aggressively support their manufacturers.

In view of the magnitude of the transaction and the existence of foreign competition, Eximbank's credit and guarantee are necessary to secure this sale for United States manufacturers.

2. The financing plan

The total cost of United States goods and services to be purchased by the Borrowers is $161,008,000, which will be financed as follows:

	Plant costs	Fuel costs	Total	Percent of U.S costs
Cash payment	$24,946,000	$2,754,000	$27,700,000	17.2
Eximbank credit	73,370,000	8,096,000	81,466,000	50.6
Private guaranteed loans	46,690,000	5,152,000	51,842,000	32.2
Total	145,006,000	16,002,000	161,008,000	100.0

(a) **Eximbank Charges:**

The Eximbank credit will bear interest at the rate of 8% per annum, payable semiannually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit. In addition, Eximbank will charge a guarantee fee of 0.75% per annum on disbursed amounts of the guaranteed loans and a commitment fee of 0.125% on undisbursed amounts of the guaranteed loans.

(b) Repayment Terms:

The Eximbank credit and private guaranteed loans for the nuclear plant costs, totalling $145,006,000, will be repaid by the Borrowers in 21 semiannual installments beginning March 10, 1983, of which the first 8 and a portion of the 9th installment shall be applied to repayment of the private guaranteed loans and a portion of the 9th installment and all of the last 12 installments shall be applied to repayment of the Eximbank direct credit.

The Eximbank credit and private guaranteed loans for the fuel fabrication costs, totalling $16,002,000, will be repaid by the Borrowers in 10 semiannual installments beginning March 10, 1983, of which the first 3 and a portion of the 4th installment shall be applied to repayment of the private guaranteed loans and a portion of the 4th installment and all of the last 6 installments shall be applied to repayment of the Eximbank credit.

Sincerely,

STEPHEN M. DUBRUL, Jr.

Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the reports and communications from the heads of departments be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees are recognized under the standing order, Mr. MORGAN be recognized for not to exceed 15 minutes, after which Mr. ROTH be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. The objection is heard.

The Chair calls for the presentation of petitions and memorials; reports of standing and select committees; the introduction of bills and joint resolutions; and the submission of concurrent and other resolutions.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Report of the Comptroller General

A letter from the Comptroller General reporting, pursuant to law, on certain deferrals submitted by the President to the Congress on May 13, 1976, in his 15th special message for fiscal year 1976; referred jointly pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Interior and Insular Affairs, and the Judiciary, and ordered to be printed.

Report of the Comptroller General

A letter from the Comptroller General reporting, pursuant to law, on certain deferrals submitted by the President to the Congress on April 26, 1976, in his 14th special message for fiscal year 1976; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Labor and Public Welfare, and Finance, and ordered to be printed.

Supplemental Appropriations for the Departments of Transportation and Treasury (S. Doc. 94–206)

A letter from the President of the United States transmitting amendments to the request for appropriations for the Department of the Treasury in the amount of $70 million and for the Department of Transportation the amount of $70 million for the fiscal year 1977 (with accompanying papers); to the Committee on Appropriations and ordered to be printed.

Amendment to Budget Request for the General Services Administration (S. Doc. No. 94–205)

A letter from the President of the United States transmitting an amendment to the request for limitations on the availability of revenue transmitted in the budget for the fiscal year 1977 for the General Services Administration in the amount of $11.3 million (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendment to Budget Request for the Department of Commerce (S. Doc. No. 94–204)

A letter from the President of the United States transmitting an amendment to the request for appropriations for the Department of Commerce in the amount of $7.8 million for the fiscal year 1977 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendment to Budget Request for the Department of Transportation (S. Doc. No. 94–203)

A letter from the President of the United States transmitting an amendment to the 1977 budget request for the Department of Transportation of $6 million in new budget authority (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Report of the Export-Import Bank

A letter from the Chairman of the Export-Import Bank reporting, pursuant to law, on a transaction involving United States exports to South Korea; to the Committee on Banking, Housing and Urban Affairs.

Safe Drinking Water Act

A letter from the Administrator of the Environmental Protection Agency stating that the Agency will not seek an extension of the loan guarantee provision under the Safe Drinking Water Act; to the Committee on Commerce.

Report of the National Railroad Passenger Corporation

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operations of Amtrak during the month of February 1976 (with an acompanying report); to the Committee on Commerce.

Proposed Legislation by the Secretary of Commerce

Two letters from the Acting Secretary of Commerce, each transmitting a draft of proposed legislation (1) to amend the Fishermen's Protective Act of 1967, as amended; and (2) to extend the appropriations authorization for reporting of weather modification activities (with accompanying papers); to the Committee on Commerce.

Proposed Act of the Council of the District of Columbia

A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

Response to Report of the Comptroller General

A letter from the Mayor of the District of Columbia transmitting, pursuant to law, his response to the report of the Comptroller General "B118638" (with accompanying papers); to the Committee on the District of Columbia.

UN Conference of Human Settlements

A letter from the Secretary of Housing and Urban Development transmitting a brochure and background release relating to the United Nations Conference on Human Settlements (with accompanying papers); to the Committee on Foreign Relations.

Rules and Regulations of the Commission on Federal Paperwork

A letter from the Chairman of the Commission on Federal Paperwork transmitting, pursuant to law, proposed rules and regulations being formulated by the Commission (with accompanying papers); to the Committee on Government Operations.

Report of the National Credit Union Administration

A letter from the Administrator of the National Credit Union Administration transmitting, pursuant to law, a report on the implementation of the Privacy Act of 1974 (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

Two letters from the Comptroller General transmitting, pursuant to law, reports entitled "Evacuation and Temporary Care Afforded Indochinese Refugees—Operation New Life"; and "Status of GAO's Responsibilities Under the Federal Reports Act" (with accompanying reports); to the Committee on Government Operations.

Report of the Federal-State Land Use Planning Commission

A letter from the Cochairmen of the Federal-State Land Use Planning Commission for Alaska transmitting, pursuant to law, an interim comprehensive report of the Commission (with an accompanying report); to the Committee on Interior and Insular Affairs.

Notice of Meetings Relating to International Energy Program

A letter from the Assistant General Counsel of the Federal Energy Commission transmitting, pursuant to law, notice of certain meetings relating to the international energy program (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, the report of the Service for the year ending June 30, 1975 (with an accompanying report); to the Committee on the Judiciary.

Reports of the Office of Education

A letter from the Commissioner of Education transmitting, pursuant to law, the annual report of the Commissioner for the fiscal year ending June 30, 1975; and a letter from the Commissioner of Education and the Chairperson of the National Advisory Council on Career Education transmitting, pursuant to law, a report on Career Education in the Public Schools 1974–75: a National Survey" (with accompanying reports); to the Committee on Labor and Public Welfare.

Prospectus of the General Services Administration

A letter from the Acting Administrator of General Services transmitting, pursuant to law, a prospectus for the acquisition of space by lease in Atlanta, Ga. (with accompanying papers); to the Committee on Public Works.

Proposed Legislation by the Administrative Office of the United States Courts

A letter from the Deputy Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to amend the Jury Selection and Service Act of 1968 (with accompanying papers); to the Committee on the Judiciary.

Construction Projects by the Army National Guard

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, notification of 13 construction projects to be undertaken by the Army National Guard (with accompanying papers); to the Committee on Armed Services.

Proposed Standards of the Cost Accounting Standards Board

A letter from the Chairman of the Cost Accounting Standards Board transmitting, pursuant to law, proposed standards, rules, and regulations promulgated by the Board (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

Proposed Act by the Council of the District of Columbia

A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of a proposed act adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

Report of the Attorney General

A letter from the Attorney General transmitting, pursuant to law, a report on its intention to modify an index to existing systems of records (with accompanying papers); to the Committee on Government Operations.

Report of the General Services Administration

A letter from the Administrator of General Services transmitting, pursuant to law, the Administration's annual report for 1975 (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

Two letters from the Comptroller General transmitting, pursuant to law, a report entitled "Changes Needed in Revenue Sharing Act for Indian Tribes and Alaskan Native Villages" and a report entitled "Examination of Financial Statements of the Panama Canal Company and the Canal Zone Government for fiscal years 1975 and 1974 (with accompanying reports); to the Committee on Government Operations.

Approval of Loans by the Department of the Interior

Three letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, copies of applications for loans under the Small Reclamation Projects Act (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report of the Energy Research and Development Administration

A letter from the Controller of the Energy Research and Development Administration transmitting a report on ERDA's 1975 financial statements for its uranium enrichment services activity (with an accompanying report); to the Joint Committee on Atomic Energy.

Reports of the Comptroller General

Two letters from the Comptroller General transmitting two reports, pursuant to law, entitled "Federal Fire Safety Requirements Do Not Insure Life Safety in Nursing Home Fires"; to the Committee on Labor and Public Welfare; and "Foreign Military Sales—A Growing Concern"; to the Committee on Government Operations.

Cancellation of New Systems of Records by the Department of the Treasury

A letter from the Assistant Secretary of the Treasury advising that plans by the Customs Service to establish a new system of records have been dropped because of budgetary restraints; to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **RANDOLPH**, from the Committee on Public Works, without amendment:

S. 1971. A bill to designate the plaza area of the Federal Building, Portland, Oreg., the "Terry Schrunk Plaza" (Rept. No. 94–923).

By Mr. **CANNON**, from the Committee on Rules and Administration, without amendment:

S. 3475. A bill relating to the display of certain historical documents within the U.S. Capitol Building during the calendar year 1976 (Rept. No. 94–924).

S. Res. 451. A resolution authorizing additional expenditures for the Committee on Interior and Insular Affairs for routine purposes (Rept. No. 94–925).

S. Res. 454. A resolution authorizing the printing of additional copies of the Senate Report 94– entitled "Friend and Abuse Among Clinical Laboratories" (Rept. No. 94–926).

S. Res. 455. An original resolution authorizing the printing of a revised edition of the "Election Law Guidebook" as a Senate document (Rept. No. 94–927).

H. Con. Res. 640. A concurrent resolution authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the U.S. House of Representatives" (Rept. No. 94–928).

Mr. **CANNON**, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 115. A concurrent resolution authorizing the printing of background information on the Foreign Relations Committee as a Senate document (Rept. No. 94–929).

FAIR LENDING ENFORCEMENT—SPECIAL REPORT (REPT. NO. 94–930)

BANK REGULATORY AGENCIES FAIL TO ENFORCE ANTIDISCRIMINATION LAWS FOR 8 YEARS

Mr. **PROXMIRE**. Mr. President, I file a report from the Committee on Banking, Housing, and Urban Affairs on Fair Lending Enforcement by the four Federal financial regulatory agencies.

Mr. President, this report, which presents findings and recommendations based on oversight hearings and a lengthy investigation, concludes that the bank regulatory agencies, which are required by the 1968 Civil Rights Act to carry out an affirmative program to insure that banks under their supervision do not discriminate, have failed to uphold the law.

In 8 years, neither the Federal Reserve Board, the Comptroller of the Currency, nor the Federal Deposit Insurance Corporation, has even issued regulations defining what practices shall not be tolerated, and prescribing sanctions and remedies.

Only the Home Loan Bank Board, which supervises savings and loan associations, has issued regulations. And even those are not entirely adequate.

None of the agencies, including the bank board, has ever made a formal finding of discrimination, although it is clear that discrimination continues. None has ever required a lender to take affirmative action to redress past discrimination. None has ever referred a case of apparent discrimination to the Justice Department, which is charged with litigating pattern cases. And none even requires recordkeeping that would enable the bank examiners to detect discriminatory lending patterns. It is a complete circle. They do not look for violations, and so they find none.

There are entire sections of cities, typically minority or integrated neighborhoods, where some lenders will not do business. These are often solid, middle class, residential neighborhoods. But because bank credit is not available, many minority persons who want to become homeowners must seek funds on less favorable terms elsewhere, or must forego homeownership. Yet the regulators are blind to this reality.

The failure of the bank agencies to enforce a law which has been on the books since 1968 is a national disgrace. The committee expects that the agencies will issue regulations promptly, including provisions for recordkeeping, civil rights compliance reviews as a regular part of bank examinations, affirmative action programs for lenders who discriminate, and cooperation with the Justice Department investigations.

The committee plans to continue oversight hearings at least annually to monitor the agencies' progress.

The **PRESIDING OFFICER**. The report will be received and printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. **FORD**:

S. 3508. A bill for the relief of Dr. Julio Cesar Melo, and his wife, Gloria Morales Melo. Referred to the Committee on the Judiciary.

By Mr. **STONE**:

S. 3509. A bill to amend title II of the Social Security Act to provide that the provisions thereof requiring deductions from benefits on account of excess earnings shall not be applied to any individual, if and to the extent that the application of such provisions would reduce the individual's annual income, in the form of earnings and social security benefits, to less than $7,800 (which amount shall be annually adjusted to reflect increases in the cost of living); and

S. 3510. A bill to extend coverage, under the insurance system established by title II of the Social Security Act, to service performed by an individual as a Member of Congress. Referred to the Committee on Finance.

By Mr. **BUCKLEY**:

S. 3511. A bill to amend title 38 of the United States Code relating to the recognition of representatives of the Polish Legion of American Veterans as claims agents for claims arising under laws administered by the Veterans' Administration. Referred to the Committee on Veterans' Affairs.

By Mr. CHILES (on June 2, 1976):

S. 3512. A bill to provide for the resolution of claims and disputes relating to Government contracts. Referred to the Committee on the Judiciary and the Committee on Government Operations, jointly, by unanimous consent.

By Mr. McCLURE:

S. 3513. A bill to amend the Congressional Budget Act of 1974 to limit increases in Federal revenues. Referred to the Committee on Government Operations.

By Mr. HATFIELD:

S. 3514. A bill for the relief of Gladys Yam Chan Lu. Referred to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 3515. A bill authorizing the Wichita Indian Tribe of Oklahoma, and its affiliated bands and groups of Indians, to file with the Indian Claims Commission any of their claims against the United States for lands taken without adequate compensation, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 3516. A bill requiring the President to suspend economic assistance, military assistance, Government and commercial sales of arms, Export-Import Bank loans, and the generalized system of preference to any country that willfully aids or abets terrorism. Referred to the Committe on Foreign Relations.

S. 3517. A bill to amend title 18, United States Code, relating to criminal offenses committed by terrorists. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STONE:

S. 3509. A bill to amend title II of the Social Security Act to provide that the provisions thereof requiring deductions from benefits on account of excess earnings shall not be applied to any individual, if and to the extent that the application of such provisions would reduce the individual's annual income, in the form of earnings and social security benefits, to less than $7,800 (which amount shall be annually adjusted to reflect increases in the cost of living); and

S. 3510. A bill to extend coverage, under the insurance system established by title II of the Social Security Act, to service performed by an individual as a Member of Congress. Referred to the Committee on Finance.

Mr. STONE. Mr. President, I am introducing today two bills that are designed to correct two glaring inequities in the present social security system.

The first inequity is the penalty imposed on social security recipients who continue to work. This penalty exists despite the fact that people receiving unearned income, such as investment dividends and interest, are not similarly penalized.

One bill that I am introducing would have the effect of permitting social security recipients to receive up to $7,800 per year from working before social security benefits are reduced on account of "excess earnings." This amount would be adjusted annually to reflect increases in the cost of living.

Under present law, the social security recipient who is between 65 and 72 years of age is denied $1 in social security payments for every $2 earned over $2,760 a year. This means that a social security beneficiary who receives the average $206.58 monthly payment loses all social security benefits if he or she earns $7,717 in a year.

This provision forces many senior citizens who are able and willing to work, to retire or limit drastically their earnings in order to receive social security benefits. This is a terrible injustice to American working men and women who have been led to believe that social security benefits will be paid to them as a matter of right when they reach a certain age. This right is earned by years and years of payroll deductions and matching payments by employers.

In view of the continuing rise in the cost of living, we must recognize that social security alone does not provide enough money for many people to live on. We should remove the legal barrier for those who can help provide for themselves. Can we afford to waste the specialized skills of our senior citizens by discouraging them from working? Do we wish to force our senior citizens to live unproductive lives when they have further energy and ambition? I do not think so.

This bill would not be a windfall for high income people. Their benefits would be reduced or eliminated as their income increases above the $7,800 level. Rather, this bill is tailored to assist the millions of average income older Americans who remain able to work and who need to work.

Congress originally intended social security to be a supplemental security program. People were encouraged to add to their social security protection through private pension plans, savings, and continued employment. At present, however, the law nearly forces people to fall into the ranks of the indigent in order to receive benefits. This bill would reaffirm Congress original intent.

The second conspicuous error is that Members of Congress, who set ground rules for everyone else on social security, do not have to live within those rules themselves. Members of Congress are exempt from social security coverage. This bill requires Members of Congress to participate in the social security system.

The original reason for exempting Congress was that Congress had its own retirement plan for Members. Retired Senators and Congressmen were protected by the civil service retirement fund which was established before social security. Today, many workers are members of other retirement plans but social security is mandatory for them. It is only natural for people to ask: If Members of Congress escape paying social security taxes because they have a better plan, then why can't other taxpayers who have a better plan escape too? The exemption of Congress from social security taxes is no longer justifiable.

The time has come for Congress to take a hard look at the social security system and solve the serious financial problems it faces. Including Members of Congress in social security will symbolize our good faith in this undertaking and eliminate some of the fear that exists about the soundness of the system.

I urge the Senate to pass the bills that would end these two serious inequities in the social security system.

By Mr. BUCKLEY:

S. 3511. A bill to amend title 38 of the United States Code relating to the recognition of representatives of the Polish Legion of American Veterans as claims agents for claims arising under laws administered by the Veterans' Administration. Referred to the Committee on Veterans' Affairs.

Mr. BUCKLEY. Mr. President, among the many veterans' organizations which have provided valuable services to our Nation's veterans and their dependents, is an organization known as the Polish Legion of American Veterans. For nearly a half-century, since its formation by merger between the Polish Legion of the American Army and the Alliance of American Veterans of Polish Extraction, the PLAV has striven assiduously to aid and abet the hospitalized veterans.

Among the many activities engaged in by this most worthwhile organization are: organizing fund-raising benefits; paying hospital visits to bedridden veterans; establishing charity drives for the purchase of gifts; raising funds for the blind; and establishment of a scholarship program. Based on its membership of approximately 15,000, it is my understanding that the number of VA hospitals served by this organization is proportionately quite large.

Yet we do not find the Polish Legion of American Veterans listed among the organizations recognized by the Congress as official claims agents for claims arising before the Veterans' Administration. The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the United Spanish War Veterans, and many other veterans groups have long since achieved this recognition, but not the PLAV. In my view this is an oversight which should be rectified by Congress. Such action by the Congress would constitute a long-overdue gesture of recognition toward an organization which fully deserves such status, and equally important, would be a boon to the individual veteran, who would then be able to enlist the support and assistance of the PLAV in representing him in his dealings with the Veterans' Administration.

Therefore, I am today introducing legislation to amend the United States Code to allow recognition of representatives of the Polish Legion of American Veterans as claims agents for claims arising under laws administered by the Veterans' Administration. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3402(a)(1) of title 38, United States Code, is amended by inserting "the Polish Legion of American Veterans of the United States of America," immediately after "the Veterans of Foreign Wars,".

By Mr. McCLURE:

S. 3513. A bill to amend the Congressional Budget Act of 1974 to limit increases in Federal revenues. Referred to the Committee on Government Operations.

Mr. McCLURE. Mr. President, the tax equity bill of 1976, which I introduce today, is designed to provide yet another opportunity for this Congress to control the expanding level of Federal spending and the inflationary deficits which these expenditures have created. Its enactment would, in addition, indirectly create significant incentives for the review and evaluation of current programs and the resources which have been, or are about to be, committed to them. Finally, this legislation would insure that both the Federal Government and those it represents would share in the benefits of sustainable economic growth.

During 16 of the last 20 years the Federal budget has been in deficit. The end product of continuous deficits and their financing is clearly demonstrated by the rates of inflation which have ravaged this country and its citizens. While it is true that, from time to time, modest deficits may be fruitfully incurred, it is also true that compensating surpluses should follow if we are to avoid a larger and larger mortgage on our future and on the futures of citizens yet unborn. As we all know, deficits continue at a historically high rate whether measured in current or constant dollar terms. Likewise, expenditures spiral upward as attempts are made to fund ongoing programs at levels high enough to compensate for the erosive effects of deficit induced inflation. Several attempts have been made to break this vicious budgetary cycle of expanding deficits and spiraling expenditures. Senator Carl Curtis has offered Senate Joint Resolution 180, which would require a balanced budget and force expenditures to be validated by tax adjustments. I have supported this legislation and I continue to do so. However, the task of constitutional amendment is a long and arduous one. Therefore, the legislation which I offer today has been designed as an interim measure to reduce the deficit until such time as a balanced Federal budget becomes a constitutional mandate.

The intention of this legislation is to restrict the rate of growth in Federal revenue collections to an amount which is 50 percent of the predicted change in revenues from one year to the next. It requires that section 301(a) of the Congressional Budget Act of 1974 be amended by the addition of a single paragraph.

Experience indicates that expenditures will rise to meet, or more likely, exceed revenues. It is also becoming clear that the American people have come to recognize the relationship which exists between deficits, at the Federal level, and inflation and declining real income at the individual level.

The public's desire for smaller government and more efficient government can only be met by providing, within the Budget Act, a double barreled discipline which controls both revenues and expenditures as tightly as possible. Federal revenues derived as they are, from the progressive income tax are extremely responsive to inflation and in the short run the Federal Government which has generated inflation, profits from that inflation. In the longer run however, we all lose as the random tax imposed by inflation reduces real income and leads inevitably to recession, unemployment, and even larger deficits.

It follows then that if the Federal Government can be deprived of the revenue increases which are largely the result of inflation, the incentives to produce massive deficits will be correspondingly reduced. The Budget Act, as amended, will then provide a mechanism which returns resources to individuals and permits the private sector to create new and permanent jobs within an expanding economy.

It is true that over time a smaller percentage of national income will be devoted to the public sector and a larger percentage will be devoted to reflecting the priorities and choices of those who labor to produce that national income. I find a certain pleasant equity in such a situation. Some may argue that this proposal will not eliminate but rather will expand deficits. It is my belief, however, that the increased savings and investment activity which will occur on the basis of this methodical tax reduction, will produce secure and expanding revenues for the Federal Government. In addition, as private employment increases Federal transfer payments will decline. The deficit becomes in a sense self-liquidating, squeezed by the public will and congressional restraint.

Thus the effectiveness of this legislation is dependent in part upon a public awareness of the inflationary implication of large deficits and in part upon the responsiveness of the Congress to the public will. It seems to me that this dependency is particularly appropriate for any tax-related legislation introduced in the Bicentennial Year. I encourage my colleagues to recall that Federal revenues are simply loans from the citizen to his Government. They have no valid life nor level of their own. We have, in my judgment, failed to convince the public that we are worthy borrowers and until such time as the Congress can prove itself and its programs, the public should be permitted to reduce the line of credit it has extended to its Government.

Mr. President, I ask unanimous consent that the text of the tax equity bill of 1976 be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 301 (a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new sentence:

"The recommended level of Federal revenues for the fiscal year beginning on October 1, 1977, and for each succeeding fiscal year, shall not exceed an amount equal to the sum of (A) the Federal revenues to be received during the preceding fiscal year and (B) one-half of the increase in Federal revenues to be received during the fiscal year over the Federal revenues to be received during the preceding fiscal year, as estimated (before the application of this sentence) on the basis of the same tax base for the fiscal year as was in effect for the preceding fiscal year.".

(b) The provisions of section 904 of the Congressional Budget Act of 1974 shall apply to the amendment made by subsection (a).

By Mr. HATFIELD:

S. 3514. A bill for the relief of Gladys Yan Chan Lu. Referred to the Committee on the Judiciary.

Mr. HATFIELD. Mr. President, I introduce and send to the desk legislation for the relief of Gladys Yan Chan Lu, the adopted daughter of an American family currently residing in Corvallis, Oreg.

Ms. Lu came to the United States from Singapore in 1973 at the age of 15. She was adopted by Mr. and Mrs. Kuo C. Lu shortly thereafter. Ms. Lu was admitted to this country on a nonimmigrant student visa. She now wishes to begin the process of naturalization, but disabilities in existing immigration statutes will not allow Ms. Lu to be naturalized as an adopted noncitizen child. The legislation I propose will permit Ms. Lu to be classified as a child within the meaning of section 101(b)(1)(F) of the Immigration and Nationality Act, thus facilitating the naturalization process in her case.

I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Gladys Yan Chan Lu may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Kuo C. Lu, citizens of the United States, pursuant to section 204 of such Act. The mother, father, brothers, and sisters of the said Gladys Yan Chan Lu shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

By Mr. BENTSEN:

S. 3516. A bill requiring the President to suspend economic assistance, military assistance, Government and commercial sales of arms, Export-Import Bank loans, and the Generalized System of Preferences to any country that willfully aids or abets terrorism. Referred to the Committee on Foreign Relations.

S. 3517. A bill to amend Title 18, United States Code, relating to criminal offenses committeed by terrorists. Referred to the Committee on the Judiciary.

Mr. BENTSEN. Mr. President, I am today introducing legislation which I believe will be important steps toward meeting the continuing and serious problems of terrorism, both within this country and abroad.

As the United States celebrates its Bicentennial we are facing increasing disrespect for the laws and institutions that safeguard the very concepts of liberty we are commemorating this year. Indeed, violent crime, white collar crime, and political crime threaten the very fabric of our society. But no form of lawlessness is more senseless or uncivilized than acts of terrorism. When a bomb explodes in an airline terminal, left in a locker to destroy whoever may happen to walk by, when a Government official is murdered for political purposes, when human lives are lost during hijack attempts, a blow is struck at the essence of freedom. Random violence is an infringement of individual justice and a rejection of the democratic system.

Mr. President, a civilized society must not tolerate such actions and we must enact the appropriate laws to deter the spread of terrorism and to bring to justice those who are guilty of such heinous crimes.

I am today introducing two pieces of legislation which I believe will go far toward meeting this problem. The first bill enumerates a number of crimes that are often committed in relation to terrorist activities, including assault, burglary, sabotage, kidnapping, Presidential assassinations, and transporting of explosives in interstate commerce. Those who commit these crimes pursuant to the advocacy, direction, teachings, or encouragement of a terrorist organization shall receive the normal punishment for the offense in question plus an additional sentence that will range from 2 to 10 years, with neither probation nor parole.

If a victim dies in the perpetration of the terrorist act, the convicted defendant faces a mandatory death sentence unless he falls within the specifically and narrowly defined mitigating circumstances that will allow a deviation from the penalty of death.

I believe the time has come for laws that state clearly and decisively that violent crimes, for whatever purpose, will not be tolerated. Murder and violence in the name of some higher cause are still murder and violence. No one has the right to advocate his beliefs by destroying the lives and property of another.

The penalty of death is harsh. But murder is deserving of the harshest punishment. I wish there were no need for the death penalty. But terrorism and murder continue and for those perpetrators of random murder I see no choice. The penalty must fit the crime.

My second bill, Mr. President, relates to international terrorism. It requires the President to suspend economic and military assistance, Government and commercial sales of arms, Export-Import Bank loans, and eligibility for the generalized system of preferences to any country which willfully aids and abets international terrorism.

In spite of increased efforts in recent years by certain nations to put a stop to or crack down on terrorist groups, terrorism has widened in scope and there is growing evidence of cooperation among international terrorist groups. Examples of terrorism are becoming an unfortuately daily feature of our daily news. Since 1968 alone approximately 800 people have been killed and 1,700 injured in international terrorist incidents; 114 U.S. citizens have been involved and 24 of them killed.

In spite of the fact that international terrorism has continued to grow, however, no illegal solutions are in sight. Many nations, particularly those in the Third World, are unwilling to cooperate in efforts to combat terrorism which, they say, can be justified under certain circumstances. Therefore, sources report that almost half of those terrorists captured in the last 5 years have been released. These nations' unwillingness to bring the full force of the law to bear against these international outlaws threatens the safety and peace of all nations.

It has for some time been U.S. Government policy to support adoption of an international convention to mandate sanctions against states which fail to prosecute or extradite international terrorists. However, the convention has made little headway and the prospects for enactment are remote.

I believe U.S. policy of no negotiation with terrorists is a correct one. But I believe we must go one step beyond this in an effort to meet the problem of foreign governments' harboring of terrorists. My legislation is designed to serve notice to all nations that the United States will not countenance acquiescence to terrorism and that we are willing to take serious action to deal with this problem. I urge the Senate's support for this bill. The civilized world must respond with tough, effective measures against those international outlaws who would seek to destroy the very foundations of the democratic system.

Mr. President, I ask unanimous consent to have the bills printed at this point in the Record.

There being no objection, the bills were ordered to be printed in the Record as follows:

S. 3516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That the President shall suspend, for such period as he deems appropriate—

(1) economic assistance;

(2) military assistance;

(3) government and commercial sales of defense articles and services;

(4) extensions of credits and guarantees under the Foreign Military Sales Act;

(5) loans made by the Export-Import Bank; and

(6) the designation of "beneficiary developing country" under Section 502 of the Trade Act of 1974; with respect to any country which willfully aids or abets international terrorism.

(b) If the President finds that national security justifies the continuation of assistance to any government described in Section (a), he shall report such finding to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Assistance may be furnished to such government unless the Congress, within thirty (30) calendar days of receiving such report, adopts a concurrent resolution stating that it does not find that the national security justifies assistance to such government.

S. 3517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title 18, United States Code, is amended by inserting immediately after Chapter 41 thereof the following new chapter:

"CHAPTER 41A. OFFENSES COMMITTED BY MEMBERS OF TERRORIST ORGANIZATIONS

"Sec.

"880. Terrorist activities.

"§ 880. Terrorist activities.

"(a) Whoever being a member of, or affiliated with, any terrorist organization is found guilty of, or pleads guilty to an offense under Section 81, Chapter 7 (other than Subsection (e) of Section 113 thereof), Chapter 103, Chapter 105, Section 751, Section 794, Section 844(d), Section 844(f), Section 844 (i), Section 1111, Section 1112, Section 1201, Section 2381, Section 1114, Section 1116, Section 1751, or Section 351, of this title, shall, if such offense was committed pursuant to the advocacy, direction, teachings, or encouragement of such terrorist organization, in addition to the punishment provided for the commission of such offense, be sentenced to a term of imprisonment for not less than 2 years or more than 10 years, except that, if the death of any person or injury resulting in death to any person occurred during the commission or attempted commission of or during the immediate flight from the commission or attempted commission of any such offense, such defendant so committing such offense shall, subject to the provisions of section 881 of this title, be sentenced to death.

"(b) As used in this chapter, the term 'terrorist organization' means any society, group, club, league, committee, association, or other combination or assembly of persons who advocate, direct, teach, or encourage (1) the use of murder, sabotage or other forms of violence as a means or technique to (A) demonstrate approval or disapproval of governmental policies or practices or the lack thereof, (B) express a view on public issues, or (C) bring into public notice any issue or other matter, (2) the use of murder, sabotage, or other violence as a means or technique to overthrow all forms of law, or (3) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the government of the United States or any other organized government (including law enforcement officers) because of his or their official character.

" 881. Sentencing hearing

"(a) When a defendant is found guilty of or pleads guilty to an offense referred to in section 880 and is subject to the death penalty under such section, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in subsection (d) of this section for the purpose of determining the sentence to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impanelled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged by the court for good cause;

"(D) review by a court of appeals of the original sentence to death has resulted in a remand for resentencing under this chapter; or

"(3) before the court alone upon the motion of the defendant and with the approval of the court and of the government.

"(b) Any information relevant to any of the factors set forth in subsection (d) may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The government and the defendant shall be given a fair opportunity to rebut any information received at the hearing, and to present argument as to the adequacy of the information to establish the existence or nonexistence of any of the factors set forth in subsection (d).

"(c) The burden of establishing the existence of any of the factors set forth in subsection (d) is on the defendant and is not satisfied unless established by a preponderance of the evidence.

"(d) The jury, or if there is no jury, the court, shall return a special verdict setting forth its findings as to the existence or nonexistence of the following factors—

"(1) the defendant, at the time of the offense, was under the age of eighteen years;

"(2) at the time of the offense, the defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(3) The defendant was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(4) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor, or

"(5) the defendant could not reasonably have foreseen that his or her conduct in the course of the commission of the offense for which he or she was convicted would cause, or would create a grave risk of causing, death to another person.

"(e) If the jury, or if there is no jury, the court, finds by such special verdict provided in subsection (d) that any one or more of the factors set forth in subsection (d) exists, the court shall not impose the sentence of death on the defendant, but rather shall impose the sentence otherwise provided for such offense and, in addition thereto, shall sentence such defendant to a term of imprisonment which shall not be less than 4 years and which may be up to imprisonment for life. If such jury, or if there is no jury, the court, finds by such special verdict that no factor set forth in subsection (d) exists, the court shall impose the sentence of death on the defendant.

"(f) The imposition or execution of any mandatory minimum sentence pursuant to this chapter shall not be suspended, probation shall not be granted, and section 4202 and chapters 309 and 402 of this title shall not be applicable thereto.".

ADDITIONAL COSPONSORS

S. 1173

At the request of Mr. Curtis, the Senator from Georgia (Mr. Nunn), the Senator from California (Mr. Cranston), and the Senator from Ohio (Mr. Taft) were added as cosponsors of S. 1173, to amend the Internal Revenue Code of 1954.

S. 1406

At the request of Mr. Montoya, the Senator from Kansas (Mr. Pearson) was added as a cosponsor of S. 1406, a bill to amend title 38, United States Code.

S. 2020

At the request of Mr. Ribicoff, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2020, to provide optometric coverage under part B medicare payments.

S. 2629

At the request of Mr. Bentsen, the Senator from Ohio (Mr. Taft) was added as a cosponsor of S. 2629, to amend the Internal Revenue Code of 1954.

S. 2870

At the request of Mr. Montoya, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 2870, to amend the Internal Revenue Code of 1954.

S. 2962

At the request of Mr. Hugh Scott, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 2962, to amend title 39, United States Code.

S. 2989

At the request of Mr. Hugh Scott, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 2989, to increase from 10 to 15 years the period during which veterans are eligible for educational assistance.

S. 3091

At the request of Mr. Humphrey, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 3091, to amend the Forest and Rangeland Renewable Resources Act of 1974.

S. 3182

At the request of Mr. Taft, the Senator from Nebraska (Mr. Hruska), the Senator from Alabama (Mr. Sparkman), the Senator from Nevada (Mr. Cannon), the Senator from Tennessee (Mr. Baker), and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of S. 3182, to amend the Occupational Safety and Health Act of 1970.

S. 3222

At the request of Mr. Durkin, the Senator from Alabama (Mr. Sparkman) was added as a cosponsor of S. 3222, a bill to amend the Veterans Readjustment Benefits Act.

S. 3227

At the request of Mr. Humphrey, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 3227, to accelerate solar energy research.

S. 3379

At the request of Mr. Robert C. Byrd (for Mr. Church), the Senator from Vermont (Mr. Leahy), the Senator from Connecticut (Mr. Weicker), and the Senator from New Jersey (Mr. Case) were added as cosponsors of S. 3379, to require reporting and analysis of contributions.

S. 3392

At the request of Mr. Gary Hart, the Senator from Arkansas (Mr. Bumpers), the Senator from South Dakota (Mr. McGovern), the Senator from Michigan (Mr. Philip A. Hart), and the Senator from Florida (Mr. Chiles) were added as cosponsors of S. 3392, to provide for judicial review of administrative decisions made by the Veterans' Administration.

S. 3433

At the request of Mr. Packwood, the Senator from Florida (Mr. Chiles) and the Senator from Nebraska (Mr. Hruska) were added as cosponsors of S. 3433, to require that imported meat and meat food products be labeled "imported."

S. 3441

At the request of Mr. Hugh Scott, the Senator from Arizona (Mr. Fannin), the Senator from Arkansas (Mr. Bumpers), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Humphrey), the Senator from Alabama (Mr. Allen), the Senator from New Mexico (Mr. Domenici), the Senator from Utah (Mr. Moss), the Senator from North Dakota (Mr. Young), the Senator from New Jersey (Mr. Case), the Senator from North Carolina (Mr. Morgan), the Senator from Indiana (Mr. Hartke), the Senator from Missouri (Mr. Symington), the Senator from Hawaii (Mr. Fong), the Senator from Maryland (Mr. Mathias), the Senator from Illinois (Mr. Stevenson), the Senator from Rhode Island (Mr. Pell), the Senator from Tennessee (Mr. Baker), the Senator from Louisiana (Mr. Johnston), the Senator from Nebraska (Mr. Hruska), the Senator from Florida (Mr. Chiles), and the Senator from Alabama (Mr. Sparkman) were added as cosponsors to S. 3441, a bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States.

AMENDMENTS NOS. 1598, 1599, AND 1600

At the request of Mr. Moss, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of amendments Nos. 1598, 1599, and 1600, intended to be proposed to the bill (S. 3219), the Clean Air Act amendments.

AMENDMENTS NOS. 1608, 1609, AND 1610

Mr. GARY HART. Mr. President, I ask unanimous consent that Senators Hatfield and Cranston be added as cosponsors to amendments Nos. 1608 and 1609 to S. 3219, a bill to amend the Clean Air Act.

I also ask unanimous consent to add Senator Hatfield as a cosponsor to amendment No. 1610 to S. 3219.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1705

At the request of Mr. Buckley, the Senators from Arizona (Mr. Fannin and Mr. Goldwater) were added as cosponsors of amendment No. 1705, intended to be proposed to amendment No. 1701 proposed to the bill (H.R. 8532), the Antitrust Improvements Act.

SENATE RESOLUTION 455—ORIGINAL RESOLUTION REPORTED AUTHORIZING THE PRINTING OF "ELECTION LAW GUIDEBOOK"

Mr. CANNON, from the Committee on Rules and Administration reported the following original resolution:

S. Res. 455

Resolved, That a revised edition of Senate Document Numbered 93-84, entitled "Election Law Guidebook", be printed as a Senate document, and that there be printed one thousand six hundred additional copies of such document for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL COMMISSION ON FOOD PRODUCTION—S. 3045

AMENDMENT NO. 1749

(Ordered to be printed and referred jointly to the Committee on Agriculture and Forestry and the Committee on Commerce.)

Mr. McGOVERN. Mr. President, I am, today, introducing a revised version of S. 3045, a bill to establish a National Commission on Food Production, Processing, Marketing and Pricing, which was first introduced last February.

After introduction of S. 3045, I and members of the staff of the Select Committee on Nutrition and Human Needs continued to meet with various agricultural economists, representatives of industry, national consumer organizations, trade associations, labor unions, and House and Senate staff members who are experienced in and knowledgeable about the economic structure and performance of the food industry. Valuable discussions have taken place, and from these meetings has emerged the revised bill which I am introducing today, as a substitute to my original proposal.

I urge speedy action by both committees of the Senate, and I am hopeful that this Congress will pass this legislation before adjourning for the upcoming elections.

WATERGATE REORGANIZATION AND REFORM ACT—S. 495

AMENDMENT NO. 1750

(Ordered to be printed and to lie on the table.)

Mr. HASKELL. Mr. President, I am introducing an amendment to the Watergate Reorganization and Reform Act of 1976, S. 495, to provide a coherent, consistent and enforceable ethical code to shield public policy from the personal financial interest of public policymakers. The substance of the amendment is contained in the Federal Conflicts of Interest Act, S. 2098, which I introduced in July along with seven cosponsors.

The bill, S. 495, as reported is in a sense a mixed blessing. I appreciate the Government Operations Committee including within its bill provisions on title II financial disclosure which are essentially the same as S. 2098. However, the deletion of the Commission in Ethics is the matter of concern addressed in this amendment. The legislation that I am introducing today includes this second portion of S. 2098, which was not included in S. 495. Very simply, this establishes a Commission on Ethics to promulgate a uniform set of ethics for Government employees and to adjudicate those conflicts.

There is one substantial change in this amendment from the original bill. The change is the result of hearings I recently held in the Interior Subcommittee on Environment and Land Resources into the proposed expansion of the Crested Butte, Colo., ski area.

I asked for an investigation and called the hearings after the Forest Service failed to adequately respond to questions I raised based on information given me by Crested Butte officials. The investigation disclosed that some of my constituents' worst fears were unjustified. But the hearing record thoroughly documents efforts by then-Army Secretary Howard H. Callaway to influence the Forest Service for a decision favorable to his interests as majority stockholder of the Crested Butte Development Corp.

The hearing record, Mr. President, also contains repeated denials by Forest Service personnel at every level that the pressure in any way influenced their actions. They stated repeatedly that any decision reached, tentative or otherwise, would have been reached in the normal course of events.

But I believe the appearance that personal interest has influenced public decisions is, in many ways, as damaging as the fact of such influence. For that reason, I believe we must seek ways to eliminate even the appearance. My amendment clearly empowers the Commission on Ethics to determine that the mere attempt by a Federal official to influence a Federal agency on his behalf or on behalf of any organization in which he has a financial interest is sufficient grounds for denying the action sought—regardless of the merit of the action.

Mr. President, the present patchwork of conflict of interest regulations has failed miserably. During the drafting of the original bill I found among other things:

According to a GAO report some officials of the U.S. Geological Survey own stock in companies holding mineral leases on Federal lands administered by the USGS.

The holdings were disclosed in financial statements filed in 1974 but the agency took no action to force divestiture or even to preclude the employees from acting in areas in which there would be a direct financial interest.

Another GAO report discusses a Phillips Petroleum executive who took a year's leave of absence to work for the Federal Energy Administration under the Presidential-executive interchange program.

As part of his FEA duties, the executive evaluated and projected the effects of present and proposed regulations of various sectors of the oil and gas industry. The GAO notes that the executive retained a financial interest in Phillips through the company's thrift and retirement plans and also through his continuing employment with the company.

In both these instances, Mr. President, the possible conflicts were obvious. One by the employee's own disclosure statement, the other merely by virtue of the employee's continued association with a private company directly affected by his governmental duties.

Two other examples reveal other flaws in the present procedure:

A nominee for a Federal agency post put his interest in a blind trust. But the principal assets were unmarketable and a close relative was named trustee.

The assets were conveyed by the trustee in return for stock in a family-held corporation. Thus, the family retained assets which could be affected by the nominee's decisions in his new post. The agency official responsible for such matters approved the arrangement.

Recently the Council on Economic Priorities released a study entitled "Military Maneuvers." The study charges no illegality but found that over a quarter of the 1,400-plus former Pentagon employees who went to work for defense contractors between 1969 and 1973 were involved in potential conflict of interest.

The study cites a number of instances in which former officers took jobs with contractors over which they previously had some form of authority. Existing law requires retired military officers to file reports for 3 years after leaving the service if they go to work at a salary level of $15,000 or greater with companies with $10 million or more in defense contracts. The system is not working. The CEP found an apparent lack of effort and qualitative analysis.

The explanation of the Department of Defense sums up the problems with Federal conflict of interest regulation generally:

> Since the entire procedure was not initiated by DOD, but was thrust upon it by Congress, it is not perceived as central to the goals of the DOD. By assigning the responsibility to offices with other responsibilities, and by dispersing the responsibilities, it was assured that only a minimum of effort would be exerted for evaluating and compiling the reports.

As I began querying various departments and agencies of Government, it became clear this was the pattern throughout the Federal Government.

An Executive order covers ethical conduct in the executive branch, bolstered by a regulation of the Civil Service Commission which also handles such oversight as exists.

I discovered that although the agencies use the civil service requirements for financial disclosure—with some modifications for individual agency needs—there are no firm criteria for the evaluation of the disclosure forms. Moreover, no one seemed to know who the ethics counselor in his agency actually was. Evaluation is done by an indefinite number of people, all of whom have other duties.

Generally, when a question arises on a particular form, it is given to the regional supervisor. If not resolved there, it is forwarded to agency headquarters.

There are no interagency guidelines for statement evaluation and usually only informal intraagency guidelines.

There are no standard means of investigating suspected conflicts beyond asking the employee directly or checking his file.

A job description prepared by the employee's supervisor to help pinpoint possible conflicts is so vague its value is questionable. Instead of listing specific firms and individuals the employee will deal with, only general industries are listed. It is therefore quite conceivable that an employee could be in a conflict situation without his or her supervisor's knowing it.

I was also surprised to learn that many employees had no idea of what to do in case a possible conflict arose. And several did not even understand what a conflict of interest is—in fact, one employee said that a conflict of interest was impossible in her department.

To their credit, many agencies and departments hold conferences and seminars on conflict of interest regulations. But responses to my inquiries indicate they are not communicating effectively. The Civil Service Commission has recently begun an evaluation of ethical standards in recognition of the problem.

A single person has been hired in the General Counsel's office whose full-time responsibility is ethics. This response is nowhere near sufficient.

Effective oversight and enforcement do not exist today, nor can they under the burdens of the present system: Disclosed information is confidential, precluding all but internal oversight; disclosure requirements do not provide the information necessary for effective monitoring of conflicts; personnel and resources devoted to reviewing and investigating potential conflicts are limited. Finally, decentralized in-house authority results in uneven and unequal treatment of individuals, depending upon how vigorously the agency pursues the matter.

Within the legislative branch, Members and employees of Congress are subject to the same penalties for bribery and certain other violations as are employees of the executive and judicial branches. In addition, both the House and Senate require disclosure by Members and certain employees, though the requirements vary. The disclosure, however, is confidential.

Mr. President, that is the pattern. Regulations lack uniformity; their enforcement ranges from perfunctory to nonexistent. Within this imperfect framework thousands of real and potential conflicts of interest exist—some are unwitting, some remain long after open disclosure. Others are less innocent.

Several of my colleagues have introduced bills addressing this problem. But they rely as does S. 495 on stringent disclosure requirements. As I have pointed out, disclosure alone—even thorough disclosure—is inadequate. Witness the situations I have outlined in which employees openly disclosed holdings which could very well conflict with their duties. But under the loose assortment of regulations and procedures, administered in-house, agency by agency, the conflicts were either not discovered or not acted upon.

The longer I worked on this legislation, Mr. President, the clearer it became that oversight and enforcement of conflict of interest codes must lie outside the agencies involved.

That is the foundation of the remedy I again propose today. To insure that this information effectively prevents conflict of interest—and failing that, ferrets it out and eliminates it—my amendment will establish a five member Commission on Conduct with oversight and enforcement authority for both branches.

The Commission would supervise disclosure, investigate and conduct hearings to ascertain if conflicts exist. If conflicts do exist, the Commission would have the authority to discipline employees or recommend disciplinary action. It could require divestiture of an official's or employee's conflicting interest and could prescribe the terms and conditions of such divestiture—to make certain, for example, that a "blind trust" is truly blind, not merely a cosmetic device to conceal conflicts.

The Commission will have sufficient staff to evaluate present guidelines, adopt those it considers worthwhile and promulgate, by rule, such additional guidelines as it finds necessary.

The Commission would be full time with no other responsibility than to monitor and enforce compliance. I would vest in this Commission authority to investigate violations of any of its rules. The full range of due process rights is adequately provided for.

Any such investigations would be kept confidential but individuals would be notified that an alleged violation is under investigation. If the Commission determines the complaint is sufficient, a hearing would follow. The resulting decision would be made public.

I believe counseling is an essential part of any anticonflict system and this legislation provides that the Commission may issue advisory opinions with respect to matters relating to conduct or financial disclosure. While such an advisory opinion would not have the force of law, it would constitute for the official or employee seeking it, a complete defense to civil or disciplinary action authorized under this act—assuming, of course, that the individual's statement of fact to the Commission contains no material misstatement, omits no facts, and that he otherwise acts in good faith.

The provisions I have outlined, Mr. President, would apply equally to elected officials of both branches, candidates in primaries, runoffs or general elections for Federal office, and employees and appointees. The amendment includes civil penalties. It provides civil penalties in the amount of any profit gained as a result of a violation under the bill. The Attorney General would be authorized to bring any legal action in any court of the United States to enforce provisions of this section of the act.

Action may be brought regardless of whether the individual is an officer or employee at the time, so long as the action is brought within 3 years of the violation.

There is a significant difference—and, I believe, a necessary one—between divestiture requirements for appointees and employees and for elected officials.

Appointees and employees are not directly responsible to the electorate and some other mechanism is obviously necessary to enforce minimum standards of conduct. Divestiture of conflicting or potentially conflicting interests is one such tool.

But how do we, as Members of Congress, divest ourselves of every interest our decisions might affect? I do not believe we can; conflicts are unavoidable. We are consumers, we own property, we pay taxes and have occupations or professions which precede—and will probably follow—our terms in office.

And given the range of issues considered in Congress today, our public decisions unavoidably affect our private lives, just as they do the private lives of every other citizen.

What constrains us as elected officials is our direct accountability to the American people. There is only one way, Mr. President, to improve that mechanism; full and public disclosure.

It is my view that restoring the confidence of the American people in their government depends greatly upon how successfully we eliminate misconduct, the potential for it and the appearance of it. For that reason, I have written into the legislation additional safeguards: The Commission on Conduct may recommend to the appropriate House of Congress that disciplinary proceedings be initiated against any Member or to the House of Representatives that a writ of impeachment be considered. The Commission may recommend to the President or to the Congress the removal of any civil officer of the United States and may refer cases to the Attorney General for civil or criminal action.

Mr. President, I believe the bill with this amendment offers the strongest possible combination of thorough, uniform public disclosure requirements and external monitoring and enforcement—all elements missing from present conflict of interest regulation.

I hope my colleagues will agree that the only way we in Congress can hope to rebuild Americans' faith—faith so badly shaken over the past 3 years—is by subjecting ourselves and our private financial affairs to unobstructed public scrutiny.

The people of this Nation no longer believe nor believe in us. Indeed, why should they until they know with certainty whom we really serve? That question will remain an open one until we take firm steps to remove the influence of private financial interests from public policy decisions.

Mr. President, I ask unanimous consent that the amendment, together with a section-by-section analysis, be printed in the Record.

There being no objection, the amendment and analysis were ordered to be printed in the Record, as follows:

TITLE ONE

CONDUCT OF GOVERNMENTAL PERSONNEL

Section 1. It is unlawful for any elected or appointed officer or employee of the executive and legislative branches of the Government—

(A) to engage, or attempt to engage, directly or indirectly, in any personal business transaction or private arrangement for personal profit which accrues from or is based upon such officer or employee's official position or authority or upon confidential information gained by reason of such position or authority; or

(B) to violate, knowingly, any standard of ethical conduct promulgated by the Commission on Conduct pursuant to this Act.

Sec. 2. There is imposed, on any individual who violates this section, a civil penalty in the amount of any profit gained as a result of such violation together with interest thereon computed from the date of such violation at a rate equal to the annual rate established under section 6621 of the Internal Revenue Code of 1954.

Sec. 3. The Commission on Conduct, concurrently with the Attorney General, is authorized to bring any legal action in any court of the United States to enforce the provisions of this section. Any such action may be brought without regard to whether an individual is such an officer or employee at the time such action is brought. No action under this section may be brought unless it is brought within three years after the commission of a violation of the provisions of subsection (a) of this section.

TITLE TWO

ESTABLISHMENT OF COMMISSION

Section 1. (a) There is established as an independent agency within the Executive Branch of the government a Commission on Conduct (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of five members appointed by the President, by and with the advice and consent of the Senate.

(c) The members of the Commission shall serve for staggered terms as follows: One shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years.

(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made, but the appointment to fill any vacancy shall be for the remainder of the unexpired term only.

(e) The Commission shall elect annually, a chairman and a vice-chairman from among its members. The chairman and the vice-chairman shall not be affiliated with the same political party. No member of the Commission may serve as chairman of the Commission for more than one year during his or her term of office.

(f) A quorum of the Commission shall consist of three members, except that the Commission may establish a lower number as a quorum for the purpose of taking sworn testimony.

(g) Members of the Commission shall receive compensation at the rate provided for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(h) All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the voting members of the Commission.

(i) The Commission shall meet at least once each month and also at the call of any member.

(j) The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia. The Commission may meet or exercise any of its powers anywhere in the United States.

DUTIES OF THE COMMISSION

SEC. 2(a) It is the duty of the Commission to develop and, by rule, promulgate uniform standards of ethical conduct for elected and appointed officers and employees of the executive and legislative branches of the Government. In developing such standards, the Commission shall consider the standards of conduct in effect on the date of enactment of this Act, and shall consult with the appropriate officers and employees of such branches of the Government as it deems necessary.

(b) Notwithstanding any other provision of this Act the Commission shall implement the financial disclosure requirements as required under this Act.

(c) The Commission shall perform such other functions as may be necessary to carry out the provisions of this Act.

INVESTIGATIONS

SEC. 3(a) The Commission is authorized to investigate any alleged violation of any provision of this Act for regulation promulgated pursuant thereto. An investigation may be initiated upon the motion of any member of the Commission or upon the complaint of any person. An investigation conducted under this section shall be confidential. The person under investigation shall be notified in writing that an investigation is being undertaken.

(b) The Commission is authorized to accept from any individual complaints with respect to matters with which the Commission has the authority to investigate. Any such complaints shall be signed by the complainant. If so requested, the Commission is authorized to inform the complainant of any action taken with respect to the complaint. A notice of such action shall be by letter and shall be provided within a reasonable time. Upon dismissal of any complaint the Commission shall notify the complainant of its reasons for such actions.

(c) After conducting an investigation under this section the Commission is authorized—

(1) To dismiss any complaint before it upon a finding that the complaint is insufficient in law or fact, or the complaint is unsubstantiated by creditable evidence;

(2) To refer the complaint to the attorney general for appropriate action; or

(3) Conduct a full hearing on the matter charged in the complaint and take the appropriate action in accordance with the provisions of this section.

(d)(1) Whenever the Commission orders a hearing with respect to any matter charged in the complaint or under investigation, it shall provide not less than 30 days notice to the individual charged or under investigation of the date on which any hearing is to be conducted. Any individual who is the subject of such a charge or investigation has the right to appear at any such hearing to be represented, by counsel, to confront and cross-examine witnesses, to present evidence in his own behalf, and to subpoena witnesses. Any individual who is the subject of an inquiry under this section has the right to refuse to attend and testify or produce anything ordered to be produced by the Commission on the ground that the testimony or material required to be produced would tend to incriminate such person or subject such person to penalty or forfeiture. The Commission shall provide further assurance of due process under law as may be warranted. The Commission shall maintain a record of any such hearing.

(2) The Commission in carrying out its duties under this section may sit and act at such times and places, hold such hearings, take such testimony, require by subpoena or subpoena decus tecum. The attendance of such witnesses and the production of such books, records, papers, accounts, and documents, administer such oaths and issue such other orders as may be necessary. Subpoenas, subpoena decus tecums and other orders shall issue under signature of the chairman or the member of the Commission designated by the chairman. Any member of the Commission or panel may administer such oaths or affirmations to witnesses as necessary.

(3) In case of disobedience to a subpoena or other order issued under paragraph (2) of the subsection, the Commission may invoke the aid of any district court of the United States in requiring compliance with such subpoena, subpoena decus tecum, or other order. Any district court of the United States within the jurisdiction in which the person is found or transacts business may in the case of contumacy or refusal to obey such subpoena or order issued by the Commission, issue an order to such person to appear and testify, to produce such books, records, papers, and documents. Any failure to obey the order of the court shall be punished by the court as contempt thereof.

(e)(1) The Commssion shall make findings of fact which shall be entered on the record. Upon finding that an individual has violated the standards of ethical conduct established by the Commission or has violated any other requirement of this Act the Commission may—

(A) Dismiss any such employees from the Civil Service or order such other disciplinary action as may be warranted;

(B) Recommend to the appropriate House of Congress that disciplinary proceedings be initiated with respect to any Member or employee thereof;

(C) Recommend to the House of Representatives that a writ of impeachment be considered;

(D) Recommend to the President or to the Congress the removal of any civil officer of the United States;

(E) Refer cases to the attorney general of the United States for the appropriate civil or criminal action; and

(F) Require in the appropriate cases the divestment of any interest that causes a conflict of interest and prescribe the terms and conditions of any such divestiture. Require, as the Commission deems appropriate, any agency or department to deny or rescind any application pending before it in which there has been a conflict of interest.

(G) Paragraph (e)(1)(E) shall not apply to elected officials.

(2) For purpose sof this subsection, the term "disciplinary action" shall include reprimand, suspension, and disqualification from participation in a particular policy-determining action.

(f) The court of appeals of the United States shall have jurisdiction to hear any appeal from a final decision of the Commission. Appeals of any such decision shall be brought in the same manner and subject to the same limitations as appeals from the district courts of the United States under section 1291 of Title 28, United States Code.

ADVISORY OPINIONS

SEC. 4. The Commission may issue advisory opinions with respect to such matters relating to conduct or financial disclosure. The Commission may render advisory opinions upon written request of any person as to whether any specific transaction or activity would constitute a violation of any provision of this Act or any regulation promulgated pursuant thereto. Advisory opinion shall be issued within a reasonable time of their request and shall be in writing. An advisory opinion does not have the force of law but shall constitute, for the person requesting it, a complete defense to civil or disciplinary action authorized under this Act if—

(1) A statement of fact to the Commission contains no material misstatement or omission;

(2) The transaction as consumated has not materially varied from the facts submitted in the request from the advisory opinion; and

(3) The person requesting the advisory opinion acts in good faith in relying on the opinion.

REGULATIONS

SEC. 8. The Commission is authorized to adopt, amend, modify, and repeal such rules and regulations as may be necessary to assure compliance with the requirements of this Act and with any regulation issued pursuant thereto by officers and employees of the Government.

PERSONNEL OF THE COMMISSION

SEC. 6(a) The Commission is authorized to appoint an executive director and a general counsel without regard to provisions of Title V, United States Code, governing appointments in the competitive service. The executive director shall be paid at a rate equal to the rate for Level IV of the Executive Schedule under section 5315 of Title V, United States Code. The general counsel shall be paid at a rate equal to the rate for Level V of the Executive Schedule under section 5316 of such title. With the approval of the Commission, the executive director may appoint and fix the pay of such attorneys, investigators, and additional personnel as may be necessary.

(b) With the approval of the Commission, the executive director may procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title V, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of the basic pay in effect for GS–18 of the general schedule under section 5332 of such title.

EFFECT ON OTHER LAWS

SEC. 7(a) Nothing in this Act prohibits the establishment or maintenance of standards of conduct or financial disclosure for officers and employees of the Government which are more stringent than the standards imposed by this Act or rules and regulations adopted by the Commission pursuant to this Act.

(b) The President is authorized to terminate any function assigned to any agency, other than this Commission, which duplicates any function or requirement arising under the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS

TITLE ONE

Declares unlawful for an elected or appointed officer or employee of the government to engage in activity resulting in a personal profit which accrues because of that employee's position with the government.

Establishes a civil penalty to the extent of the gain as a result of such violation.

TITLE TWO

Section 1—Establishment of Commission

A. Composition. 5 members appointed by the President with advice and consent of the Senate. No more than three shall be affiliated with the same political party.

Section 2—Duties of Commission

A. Developing Standards of Ethical Conduct. The Commission shall develop and, by rule, promulgate uniform standards of ethical conduct for appointed officers and employees of the executive and legislative branches of the government. In developing such standards, the Commission shall consider the standards of conduct in effect on the date of enactment of this Act, and shall consult with appropriate officers and employees of both such branches of the Government.

B. The Commission shall implement the financial disclosure requirements of this Act.

Section 3—Investigations

A. Commission is authorized:

1. to investigate alleged violations of this Act or regulations promulgated pursuant thereto.

a. investigation may be initiated upon motion of any member of the Commission or upon complaint of any person.

b. investigation conducted under this section shall be confidential.

c. the individual under investigation shall be notified in writing that such investigation is being conducted.

2. to accept complaints from any individual.

a. complaint shall be signed by complainant.

b. if requested, Commission is authorized to inform complainant of any action taken with respect to the complainant.

B. After conducting an investigation under this section the Commission is authorized:

1. to dismiss any complaint before it upon a finding that the complaint is insufficient in law or fact, or that the complaint is unsubstantiated by credible evidence;

2. refer the complaint to the Attorney General for appropriate action; or

3. conduct a full hearing on the matter charged in the complaint and take appropriate action in accordance with the provisions of this section.

C. Hearings:

1. 30-day notice required to individual under investigation.

2. individual who is subject of any inquiry under this section has right to appear at hearing, to be represented by counsel, to confront and cross examine witnesses, to present evidence in his own behalf, and to subpoena witnesses, but has right to refuse to attend, testify or produce material on the ground that it would tend to incriminate such person.

3. The Commission shall maintain a record of the hearing.

4. The Commission shall make findings of fact which shall be entered on the record.

D. Upon finding that an individual has violated the standards of ethical conduct established by the Commission or has violated any other requirement of this Act, the Commission may:

1. dismiss any such employee from the civil service or order such other disciplinary action as may be warranted (including reprimand, suspension, and disqualification from participation in particular policy determining actions;

2. recommend to the appropriate House of Congress that disciplinary proceedings be initiated with respect to any member or employee thereof; or to the House of Representatives that a writ of impeachment be considered.

3. recommend to the President or to the Congress the removal of any civil officer of the United States;

4. refer cases to the Attorney General for appropriate civil or criminal action; and

5. require in appropriate cases the divestment of any interest that causes a conflict of interest and prescribe the terms and conditions of any such divestiture.

E. Appeals.

The courts of appeals of the United States have jurisdiction to hear any appeal from any final decision of the Commission.

Section 4—Advisory opinions

A. The Commission may issue advisory opinions with respect to matters relating to conduct or financial disclosure, upon written request of any person as to whether any specific transaction or activity would constitute a violation of this Act or any regulation promulgated pursuant thereto.

B. Advisory opinions shall be issued within a reasonable time of their request and shall be in writing.

C. An Advisory Opinion does not have the force of law but shall constitute, for the person requesting it, a complete defense to civil or disciplinary action authorized under this Act if:

1. the statement of fact to the Commission contains no material misstatement or omission.

2. the transaction as consummated does not materially vary from the facts submitted in the request for the advisory opinions and;

3. the person requesting the advisory opinion acts in good faith in relying on the opinion.

Section 5—Regulations

A. The Commission is authorized to adopt, amend, modify, and repeal such rules and regulations as may be necessary to assure compliance with the requirements of this Act and with any regulation issued pursuant thereto by officers and employees of the Government.

Section 6—Effect on other laws

A. Nothing in this Act prohibits the establishment or maintenance of standards of conduct or financial disclosure which are more stringent than the standards imposed by this Act or rules and regulations adopted by the Commission on ethics pursuant to this Act.

B. The President is authorized to terminate any function assigned to an agency, other than the Commission, which duplicates any function or requirement arising under the provisions of this Act.

ANTITRUST IMPROVEMENTS ACT OF 1976—H.R. 8532

AMENDMENTS NOS. 1751 THROUGH 1757

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted seven amendments intended to be proposed by him to amendment No. 1701 proposed to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

AMENDMENTS NOS. 1758 THROUGH 1760

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted three amendments intended to be proposed by him to Amendment No. 1701, supra.

AMENDMENT NO. 1761

(Ordered to be printed and to lie on the table.)

Mr. BURDICK submitted an amendment intended to be proposed by him to amendment No. 1701, supra.

AMENDMENTS NOS. 1762, 1763, AND 1764

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted three amendments intended to be proposed by him to amendment No. 1701, supra.

AMENDMENTS NOS. 1765 AND 1766

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART (for himself and Mr. HUGH SCOTT) submitted two amendments intended to be proposed by them jointly to amendment No. 1701, supra.

AMENDMENT NO. 1767

(Ordered to be printed and to lie on the table.)

Mr. CHILES (for himself and Mr. BUMPERS) submitted an amendment intended to be proposed by them jointly to amendment No. 1701, supra.

AMENDMENTS NOS. 1768 THROUGH 1774

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted seven amendments intended to be proposed by him to amendment No. 1701, supra.

AMENDMENT NO. 1775

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to amendment No. 1701, supra.

AMENDMENTS NOS. 1776 AND 1777

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. HRUSKA, Mr. MATHIAS, and Mr. DOMENICI) submitted two amendments intended to be proposed by them jointly to amendment No. 1701, supra.

AMENDMENT NO. 1778

(Ordered to be printed and to lie on the table.)

Mr. HUGH SCOTT submitted an amendment intended to be proposed by him to amendment No. 1701, supra.

NOTICE OF HEARINGS

Mr. METCALF. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

June 3, full committee, 10 a.m., room 3110, business meeting, pending calendar business.

June 7, Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, hearing, S. 3394, to authorize engineering investigation, stabilization, and rehabilitation of the Leadville Mine drainage tunnel.

June 8, Minerals, Materials and Fuels Subcommittee, 10 a.m., room 3110, hearing, status report on U.N. Law of the Sea Conference.

June 10, full committee, 10 a.m., room 3110, hearing, oversight hearing on implementation of Alaska Native Land Claims Settlement Act.

June 11, Indian Affairs Subcommittee, 10 a.m., room 3110, hearing, oversight hearing on Quechan Tribe land issue.

June 14, full committee, 10 a.m., room 3110, hearing, oversight hearing on implementation of Alaska Native Land Claims Settlement Act.

June 15, Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, hearing, S. 2194, to authorize the Secretary of the Interior to construct, operate, and maintain the McGee Creek project, Oklahoma, H.R. 6622, for repair of the Del City Aqueduct, Oklahoma.

June 16, full committee, 10 a.m., room 3110, business meeting, pending calendar business.

June 17, Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing, S. 2630, to amend the Youth Conservation Corps Act of 1970.

NOTICE OF HEARINGS

Mr. McINTYRE. Mr. President, I wish to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 1343 on June 16 and 17, 1976, in room 5302, Dirksen Senate Office Building, beginning at 10 a.m.

S. 1343 is a bill to insure that the disclosure by financial institutions of the details of their customers' bank accounts to government officials and agencies be governed by procedural safeguards.

Anyone wishing information concerning these hearings should contact Mr. William R. Weber, counsel, room 5300, Dirksen Senate Office Building, 224-7391.

ADDITIONAL STATEMENTS

SOIL STEWARDSHIP WEEK

Mr. HUMPHREY. Mr. President, at a time when pressures grow on the land and as man looks for ways of increasing his food supply, it is useful to remind ourselves of the importance of soil and the origins and history of the soil stewardship observance.

In America, the soil stewardship observance has always had a strong religious tone. Throughout parts of the South, earlier in this century, churches and their congregations began to set aside the fifth Sunday after Easter as Soil and Soul Sunday.

Subsequently, this became Soil Stewardship Sunday when, in 1946, the publishers of Farm and Ranch magazine suggested to religious leaders in a few southern States that one Sunday be set aside each year to remind their congregations of man's duty to be a good steward of the land.

The response of clergymen and laymen was so warm and widespread that observance of Soil Stewardship Sunday spread steadily to additional States. In 1954, the publishers of the magazine suggested to the officers of the National Association of Conservation Districts that a still wider observance of Soil Stewardship Sunday could aid significantly in bringing about a national awakening and recognition of man's obligation to the Lord's Earth. The publishers offered to relinquish their limited sponsorship of Soil Stewardship Sunday to the association—which represents some 3,000 local soil and water conservation district organizations throughout America.

The association accepted, and beginning in 1955 undertook to encourage a nationwide observance—a mission to which it has dedicated itself ever since, under the guidance of a special Soil Stewardship Advisory Committee of clergymen representing many of the country's religious denominations. In 1956, recognizing possible conflicts with the observance of Rural Life Sunday, which was on the calendar of many churches, Soil Stewardship Sunday was changed to Soil Stewardship Week—beginning with the fifth Sunday after Easter and continuing through the sixth.

At a time when the Midwest is again faced with drought and serious soil erosion we need to give renewed thought to this valuable resource—our soil.

A recent report by the Soil Conservation Service of the U.S. Department of Agriculture indicates that the number of acres of land damaged from wind erosion in the Great Plains area increased by over 60 percent from 1975 to 1976.

This condition has many of our farmers and leaders concerned over long-range climate trends and the implications for food production here and throughout the world.

Our farmers are increasingly under pressure to produce increased amounts of food. Shelterbelts to help reduce soil erosion often appear to be in competition with the production of food. A May 15 article in Farmland News entitled, "Tree Windbreaks Fading Fast As Farmers Opt For Production" by Jill Susan Rowe details the problem which farmers face.

The article also indicates that research is clearly needed to develop a better windbreak technology which would include better tree varieties to meet conservation needs as well as new technologies to relate today's large agricultural equipment with tree belts.

One of the major needs today is to acquaint people with the importance of soil conservation. Increasingly our urban residents have become aware of the importance of agricultural production and exports in our balance of payments. But many seem unaware of the connection between conservation measures and food production.

Soil is a fragile resource. Wind and water strip fertile topsoil off of fields unless it is protected, polluting waterways with silt and depleting the fertility of the soil left in place.

Damage caused by neglecting soil and water conservation can reach disastrous proportions. Many countries today are experiencing economic and social crises because, in their push to produce more food and fiber for rapidly growing populations, they have left their soil vulnerable to erosion.

Countries of South Asia, for example, are paying a price for overcutting timber and overgrazing grasslands. Unprotected soil is blowing away, removing an estimated 30,000 acres of fertile land each year from food production in India.

But we are not helpless against the elements. The technical expertise and the tools to stop erosion and replenish the soil are available—if only we will use them.

In addition to the traditional conservation measures—stripcropping, contour farming, terracing, grassed waterways—there are new tillage practices.

Minimum tillage and notill practices reduce soil losses dramatically and conserve moisture. In addition, they decrease labor, energy and other production costs; furnish food and cover for wildlife; and often increase yields.

It is vital for this country and the world that we maintain our capacity to produce food and fiber. This need will be even more critical in the years ahead.

Mr. President, I ask unanimous consent that this Farmland News article and the Soil Conservation Service release be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Farmland News, May 15, 1976]

TREE WINDBREAKS FADING FAST AS FARMERS OPT FOR PRODUCTION

(By Jill Susan Rowe, assistant editor)

In the wake of droughts that transformed some Midwestern farms into scenes eerily reminiscent of the Dust Bowl era, many agricultural authorities are taking a new look at tree windbreaks.

"The wound of the 30s might be reopened if we aren't careful," said Lyle Bauer, a Harper, Kan., farmer and vice-president of the National Association of Conservation Districts. "Remember, this region was once known as the Great American Desert." He spoke at a symposium on Shelterbelts on the Great Plains, held in Denver by the Great Plains Agricultural Council.

No one knows how many of the 222 million trees planted by the Civilian Conservation Corps (CCC) and Works Projects Administration (WPA) during the late 30s still shade the Great Plains. Surveys by the Soil Conservation Service (SCS) in isolated counties indicate that as many as 20 to 35% of the windbreaks have been removed. Many of those still intact suffer deterioration and poor maintenance, making them unsightly, ineffective—and likely targets for the bulldozer.

"It just doesn't seem fitting to move back to the days of blowing dust again when we've learned so well how to prevent it," said Bryce Nedig, a farmer from Madison, Neb. "In a few days, a farmer can remove 30 years worth of trees, trees that have turned sandy soil into productive farms. The sad part is, we lose the beauty too. We must become tree planters again."

Nedig and Bauer are exceptions. Many Great Plains farmers, too young to remember the blowing dust of the 30s, are convinced that it can't happen again, windbreaks are eminently dispensable.

"Remember, the farmer has to make a living, said Donald Fryrear, research leader at the USDA Agricultural Research Service in Big Spring, Tex. "Windbreaks compete with crops for land and moisture. When I talk to farmers about windbreaks, they say, 'but I can't afford to take this much land out of production.' The real question is, can they afford not to?"

Ironically, the accelerated removal of the trees planted during the Prairie States Forestry Project of the 30s coincides with a return in some areas to the conditions that prompted their planting. The SCS estimates that more than one million acres in the 10-state Great Plains area were damaged by wind erosion last November and December.

Research indicates nature's perversity: wind speed is actually greater during drought years than during wetter years. The wind heightens the drying process and the drought intensifies.

"Like love and marriage, drought and wind erosion go together," said Leon Lyles of the Agricultural Research Service in Manhattan, Kan. "Only one thing can stop that wind—trees."

The benefits of windbreaks extend beyond the protection of the Great Plains' thin layer of topsoil. They shelter crops from the wind, and in combination with irrigation, increase yields significantly. A USDA study showed that wheat yields increased 22% on irrigated land sheltered by trees over irrigated land without trees. Soybean yields showed similar results. Under dryland conditions, however, windbreaks did not increase wheat or bean yields.

In addition, windbreaks increase humidity, protect livestock and humans, provide food and cover for wildlife, provide wood products, such as fenceposts and fuel, and add beauty to the plains.

It's impossible to put a dollar value on trees (although one government official estimates a worth of $128 per tree per year), but farmers speaking at the symposium said that they believed windbreaks added tremendous value to their farms. Charles Robbins, a cattle farmer from Florence, S.D., credited trees with rapid gains in his animals. "I can't put an exact value on those trees," he said. "But I believe that they'll be worth well over $100,000 to my boy someday." He said the trees are essential in helping keep roads and lanes clear so that he can get machinery out and care for his livestock even in heavy snow.

There wasn't a tree on the farm when his father homesteaded in 1902, said James Gochenauer, a farmer from Calhan, Colo. Today he has an extensive pattern of windbreaks. "It makes any land more valuable," he said. "My farm is worth two or three times more than other ranches in the same area."

Yet windbreaks seem to many farmers incompatible with modern agriculture. In an era of fencepost-to-fencepost planting, trees take up space. A mile-long windbreak uses about 16 acres of land, including the land adjoining the trees on which yields are low because trees sap the moisture.

Windbreaks interfere with the installation of irrigation systems, especially the center pivot systems increasingly used in Nebraska, Kansas and Oklahoma. Today more than 25 million acres of land in the Great Plains are irrigated.

Existing windbreaks are often in poor condition, and dead trees and branches blow into fields during windstorms.

The planting and care of windbreaks require hand labor. The farmer accustomed to covering wide swaths of land with huge machines may balk at working with a hoe in his windbreak.

Some farmers believe that newer methods such as strip cropping, stubble mulching, emergency tillage or planting grass during dry years can control erosion as effectively as windbreaks.

But the advantages of trees far outweigh their disadvantages, said Fred Atchison of the Colby (Kan.) Branch Experiment Station. "You can't design a structure or a method that will do the job of trees," he said. "We can't improve on nature. How can we forget the lessons of the 30s so quickly?"

"The more severe a drought, the less effective these other methods are and the more trees are needed," said C. E. Evans, Colorado-Wyoming Area Director for USDA's Agricultural Research Service.

"During severe drought periods, windbreaks could be the only souce of protection against wind erosion," says a report issued by the United States General Accounting Office (GAO) almost a year ago. "The continued removal of windbreaks can only make the erosion problem in the Great Plains more serious." However, the report noted, "it appears that farmers will continue to remove windbreaks."

Speakers at the Denver symposium suggested that improved technology can make windbreaks more compatible with modern farming methods. It is clearly evident that windbreak technology has not kept pace with other agricultural developments," Evans said. While research has perfected grains that grow abundantly on the plains, less than half of the trees planted on the prairie survive. "On the plains, trees and shrubs are exotic plants," he said. "We're using antiquated tree varieties. This problem should be receiving more attention than any other crop."

It is receiving little or no attention. Funds were cut off for research into more resistant and adaptable tree varieties at the Agricultural Research Station in Mandan, N.D., the only station that was studying the problem.

"We need something that only grows eight or nine feet tall, grows fast, doesn't spread and isn't affected by livestock," said Nedig. "That would be the utopian tree." Most urgently needed are trees requiring less moisture. Many species planted in the 30s sap so much moisture that nothing will grow for several yards next to the windbreak. Also needed is research into disease and insect-resistant varieties that can withstand modern pesticides and herbicides used on crops nearby.

Although the government's GAO report recommends a cost-sharing program carried out under the Agricultural Conservation Program to encourage farmers to improve and preserve existing windbreaks and plant new ones, it's unlikely that this will happen.

A bill to provide for preservation and planting of windbreaks, introduced by Rep. Larry Pressler (R-S.D.), is given little chance of passing.

"What many citizens do not realize is that farmers have maintained shelterbelts entirely at their own expense," Pressler says. "Thus, they are paying taxes on the land as well as losing the acres that might be used for agricultural production. It is highly enticing, at today's higher feed grain prices, to convert shelterbelts to cropland. This shelterbelt legislation would help insure that our farmers and ranchers receive assistance in building and renovating shelterbelts—which are important to the preservation of soil, crops, wildlife habitats, recreational development and general esthetics."

With little being done to educate farmers in the value of windbreaks and nothing being done to assist them in the expense of planting and maintaining them, the continued roar of the bulldozer seems a likelihood on the Great Plains.

"Soon we'll have nothing to break the wind but barbed wire fences," predicted John Popowski of the Department of Games, Fish and Parks in Pierre, S.D. Not only is the plains' most valuable resource, its topsoil, in danger, but men and animals may find the prairie an increasingly inhospitable *place to* live. "The wind can deal terrible punishment to the men and animals who must endure it," he said. "Shelterbelts are a measure of our commitment to improve the environment. The plains will never see enough trees."

[United States Department of Agriculture, Soil Conservation Service]

WIND EROSION CONDITIONS—GREAT PLAINS

Summary of Local Estimates As of April 30, 1976

(Fourth Report of the 1975–76 Wind Erosion Season)

This report is a summary of wind erosion conditions from November 1, 1975 to April 30, 1976. It is based on estimates from SCS field offices in cooperation with other USDA field representatives and local authorities. Reports were submitted from 351 counties in the Great Plains States. Counties reporting are those in which wind erosion is prevalent or is expected during the current wind erosion season. The acreage of land damaged is cumulative for the period. Wind erosion reports for this same period a year ago are not available. Figures for November 1 through May 31, 1975, are given for comparison since this year's totals already exceed those of last May.

LAND DAMAGED

The 351 counties reported 6,044,352 acres damaged through the end of April. Of the total land reported damaged, 1.4% (5,523,688 acres) was cropland, 6.5% (392.272 acres) rangeland, and 2.1% (128,392 acres) other land. The Northern Plains States reported 31.2% of the land damaged (1,883,208 acres), and the Southern Plains States reported 68.8% (4,161,144 acres). Texas reported the most land damaged (1,498,644 acres or 24.8% of the total), and Wyoming reported the least (21,080 acres) for this period.

ACRES OF LAND DAMAGED

Great Plains States	Co's Rpts (number)	Land damaged (acres)			Total land damaged (acres)	
		Cropland	Rangeland	Other land	Apr. 30, 1976	May 31, 1975
Northern:						
Montana	20	806, 054	68, 550	4, 650	879, 254	550, 300
Nebraska	34	207, 165	117, 032	21, 950	346, 147	49, 760
North Dakota	53	219, 500	500	50	220, 050	248, 000
South Dakota	55	413, 570	360	2, 747	416, 677	172, 489
Wyoming	7	14, 350	5, 550	1, 180	21, 080	21, 159
Subtotal	169	1, 660, 639	191, 992	30, 577	1, 883, 208	1, 041, 708
Southern:						
Colorado	37	770, 820	85, 550	10, 445	866, 815	114, 510
Kansas	47	896, 528	1, 560	6, 200	904, 288	81, 676
New Mexico	8	259, 700	20, 150	5, 675	285, 525	401, 350
Oklahoma	22	564, 242	27, 240	14, 390	605, 872	63, 465
Texas	68	1, 371, 759	65, 780	61, 105	1, 498, 644	2, 053, 735
Subtotal	182	3, 863, 049	200, 280	97, 815	4, 161, 144	2, 714, 736
Grand total	351	5, 523, 688	392, 272	128, 392	6, 044, 352	3, 756, 444

CROPS OR COVER DESTROYED ON LAND NOT DAMAGED

Crops or cover was destroyed on 2,061,083 acres of land not damaged. (Total for May 31, 1975, was 1,886,518 acres). Of this total, 94% (1,942,535 acres) was reported by the Southern Great Plains State.

LAND NOT DAMAGED DUE TO EMERGENCY TILLAGE

Emergency tillage to prevent land damage was reported in every state. A total of 2,427,694 acres was so treated. Texas reported 39.9% (897,266 acres) of the total emergency tillage. The Southern Great Plains States reported 92.6% of the emergency tillage.

LAND IN CONDITION TO BLOW

Land reported in condition to blow was 12,967,523 acres. (Last May's total was 8,136,281 acres). Of all land reported in condition to blow 47% was in the Northern Great Plains States and 53% was in the Southern Great Plains States.

Great Plains States	Crops or cover destroyed on land not damaged				Land not damaged due to emergency tillage—Total	Land in condition to blow—Total
	Crop-land	Range-land	Other land	Total		
Northern:						
Montana	22,300	3,100	50	25,450	13,400	1,595,148
Nebraska	50,600	7,100	400	58,100	7,250	46,247
North Dakota	5,500	50	25	5,575	85,020	2,202,500
South Dakota	22,783	1,130	1,070	24,983	70,958	1,727,413
Wyoming	4,440			4,440	3,500	108,500
Subtotal	105,623	11,380	1,545	118,548	180,128	6,099,808
Southern:						
Colorado	429,530	28,920		458,450	516,700	2,043,125
Kansas	644,950	2,500	800	648,250	284,800	836,700
New Mexico	84,300	320		84,620	148,460	440,000
Oklahoma	554,327	100	125	554,552	400,340	1,161,950
Texas	187,788	8,875		196,663	897,266	2,385,940
Subtotal	1,900,895	40,715	925	1,942,535	2,247,566	6,867,715
Grand total	2,006,518	52,095	2,470	2,061,083	2,427,694	12,967,523

Major contributing factors to wind erosion this season include: (1) prolonged drought; (2) high winds; (3) poor cover crops; (4) overgrazing; and (5) freezing and thawing.

In addition to direct damage from wind erosion, adverse social and environmental effects include: (1) respiratory ailments due to blowing dust; (2) highway safety hazards; (3) loss of income due to reduced crop yields; and (4) reduction of soil fertility.

ENERGY

Mr. HUGH SCOTT. Mr. President, the planet Earth has too long been regarded as a limitless supplier of energy resources. Not only have traditional fossil fuel resources been wastefully used, but we have been slow to develop alternative energy sources. These two themes—the need for cautious conservation of existing fossil fuel resources, and the need to encourage the growth of new and creative energy sources—highlight what I consider to be one of America's greatest challenges: national energy independence.

Mr. President, the establishment of energy independence through conservation and development will not be an inexpensive proposition. However, I submit that our failure to act in this regard will result in far greater costs—costs that cannot easily be measured in dollars and cents—including unemployment, stagnation of industrial growth, and a radically decreased standard of living for all Americans.

Some time ago President Ford advocated the granting of a Federal income tax credit for homeowners' energy improvement expenditures. Legislation is currently under consideration which would allow such a tax incentive for the purchase of energy conservation materials for the home. The homeowner could avail himself of either conventional measures, such as weatherstripping, storm doors and windows, caulking materials, and insulation; or nonconventional energy conservation materials, such as solar heating and cooling equipment.

This legislation could result in a massive savings of fossil fuels. The Federal Energy Administration estimates that if every household were properly caulked, weather-stripped and insulated, our Nation would save the equivalent of 1 million barrels of home heating fuel every day. Savings such as this would not only aid in establishing America's energy independence and lessening our reliance on foreign imports, but would also be a major step in the development of a sound energy conservation program for America.

America has coal reserves which are perhaps the largest in the world. Coal provides a viable energy alternative to comparatively rarer fuels, oil and natural gas. The drawback to coal utilization has been the expense of satisfying rigorous clean air standards. We have legislation pending which would authorize the Federal Energy Administration to provide assistance to industry in its efforts to procure pollution-abatement equipment.

Specifically, this bill will provide up to $1 billion over the next 10 years in low interest rate loans for pollution-abatement equipment and guarantee up to $5 billion of private loans for the same purpose. Under this program, the loan recipient will be required to carry a modest insurance policy to avoid any Federal revenue loss should default occur. If completely utilized, such programs could affect the displacement of oil and gas equivalent to two million barrels each day, roughly one-third of America's current imports.

Conservation of our energy resources alone will not assure our Nation of continued economic growth and energy independence. Encouraging the growth of the fledgling solar energy industry, for example, is a concrete and sensible step in the direction of energy self-sufficiency. Legislation providing for tax credits for the purchase and installation of business and residential solar energy equipment is extremely desirable. Solar energy equipment for heating and cooling is rapidly being developed for large-scale commercialization. Research and testing facilities should be funded which develop and evaluate not only solar energies, but the harnessing of ocean-wave and wind energies as well.

The time has come, Mr. President, to carefully examine our energy policies, and pass creative and constructive legislation such as I have outlined. We cannot and must not continue on our present course. We must plan now to develop new forms of energy and to better manage our present resources. Conservation and development must be the key principles in our national energy program, a program which we must act on now or suffer drastic consequences.

MILITARY OFFICERS CONTINUE TO USE MILITARY SERVANTS

Mr. PROXMIRE. Mr. President, today I am making public a list of the name, rank and location of 272 high ranking officers using 363 military servants at a cost of between $3.6 and $5.4 million a year.

Servants have been distributed to high ranking officers in 32 States of the Union, the District of Columbia and 20 foreign countries or territories, including Bahrain, Belgium, Brazil, Canal Zone, Germany, Greece, Iceland, Iran, Italy, Japan, Korea, Marianas, Netherlands, Norway, Philippines, Portugal, Puerto Rico, Spain, Taiwan, Turkey, and the United Kingdom.

We are exporting our own "ugly American" image abroad.

For 4 years I have fought against the use of military servants by the top military brass. In 1972, when I started the campaign, there were 1,722 servants and a training school for servants costing over $20 million a year for the entire program.

Since then my amendments in the Senate have cut the number down to as low as 200. Unfortunately, the House of Representatives has never brought up or passed similar amendments, and the House conferees have fought against reductions in the numbers of servants. The last compromise from the conference committee raised the Senate total of 200 to 396. The military services have distributed 363 servants as of March 31, 1976.

What do these men do? They clean house, do the laundry, answer the phones, prepare and serve meals, do the shopping, tend bar for private parties, run errands in Government vehicles and in general do what they are told. Although they are called enlisted aides by the services, they really are butlers, maids, dishwashers, drivers, bartenders and valets. All at public expense.

The brass argues they need aides because they have special obligations—parties and receptions to put on. Why then does not the Secretary of Defense or any civilian in the Pentagon have a servant? Surely the responsibilities of the Secretary of Defense are no less than a general or admiral.

The other argument—that they live in old houses that need care—is equally absurd. The homes for the generals and admirals with servants are provided at public expense in place of a housing allowance. And many of these homes are luxurious by any standard.

For example, of the 152 homes for high ranking officers in the Washington, D.C. area, five were remodeled last year at a cost of $35,100 each while the rest were maintained at a cost ranging as high as $44,000 a year. It can be safely concluded that these officers would not be unfairly derrived if the American taxpayers said, "enough is enough—no more servants!"

The military brass should operate just like any other citizen when it comes to the luxuries of having servants. If they want servants—fine. But they should pay for them out of their own pockets and not with public funds.

Most of the generals and admirals with servants have one or two. But some have as many as four, including all members of the Joint Chiefs of Staff. The only officer not a member of the Joint Chiefs with four servants was General Haig, the Supreme Allied Commander in Europe.

This practice of providing free servants to officers should be ended. There was a law during the Civil War that any officer who used a soldier as a servant had to pay for his services out of his own pocket. I doubt that we would have any military servants today if that law were still on the books.

Mr. President, I ask unanimous consent that the list of officers and their servant be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ENLISTED AIDE AUTHORIZATIONS BY GENERAL/FLAG OFFICER POSITION BROKEN OUT BY STATE/FOREIGN COUNTRY

U.S. ARMY—AUTHORIZATION (108)

State/foreign country and grade of officer	Name/position of officer	Number of enlisted aides (as of Mar. 31, 1976)	
		Authorized	Assigned
Alabama:			
0-8	Maddox, William J., Jr., Commanding General, U.S. Army Aviation Center, Fort Rucker, Ala.	1	1
0-8	Turnmeyer, George E., Commanding General, U.S. Army Missile Command, Redstone Arsenal, Ala.	1	1
Arizona: 0-8	Albright, Jack A., Commanding General, U.S. Army Communications Command, Fort Huachuca, Ariz.	1	1
California:			
0-11	Bradley, Omar N., General of the Army (assignment of enlisted aides to General of the Army, Omar N. Bradley, are in addition to the DOD ceiling and the Army allocation).	4	4
0-9	Flanagan, Edward M., Jr., Commanding General, 6th U.S. Army, Presidio of San Francisco, Calif.	1	1
0-8	Ross, Marion C., Commanding General, 7th Infantry Division and Fort Ord, Fort Ord, Calif.	1	1
Colorado: 0-8	Palmer, William W., Commanding General, 4th Infantry Division (mechanized), Fort Carson, Colo.	1	1
Florida: 0-10	Hennessey, John J., Commander in Chief, Readiness Command, MacDill Air Force Base, Fla.	2	2
Georgia:			
0-8	Latham, Willard, Commanding General, U.S. Army Infantry Center, Fort Benning, Ga.	1	1
0-8	Myer, Charles R., Commanding General, U.S. Army Signal Center and Fort Gordon, Fort Gordon, Ga.	1	1
0-10	Rogers, Bernard W., Commanding General, U.S. Army Forces Command, Fort McPherson, Ga.	2	2
0-9	Walker, Sam S., Deputy Commanding General U.S. Army Forces Command, Fort McPherson, Ga.	1	1
Hawaii:			
0-8	Brooks, Harry W., Jr., Commanding General 25th Infantry Division, APO, San Francisco 96225.	1	1
0-8	Greer, Thomas U., Commanding General, U.S. Army Support Command. Hawaii, APO, San Francisco 96557.	1	1
0-8	McLeod, William E., Deputy Chief of Staff, Pacific Command, FPO, San Fracisco 96610.	1	1
Illinois: 0-8	Lewis, Bennett L., Commanding General, U.S. Army Armament Command, Rock Island, Ill.	1	1
Indiana: 0-8	Mundie, William L., Commanding General, U.S. Army Administration Center and Fort Benjamin Harrison, Fort Benjamin Harrison, Ind.	1	1
Kansas:			
0-8	Brady, Morris J., Commanding General, U.S. Army Combined Arms Center & Fort Leavenworth, Fort Leavenworth, Kans.	1	1
0-8	Fuller, Marvin D., Commanding General, 1st Infantry Division (mechanized) and Fort Riley, Fort Riley, Kans.	1	1
Kentucky:			
0-8	Wickham, John A., Jr., Commanding General, 101st Airborne Division (air assault) and Fort Campbell, Fort Campbell, Ky.	1	1
0-8	McEnery, John W., Commanding General, U.S. Army Armor Center, Fort Knox, Ky.	1	1
Louisiana: 0-8	Baldane, Robert, Commanding General, 5th Infantry Division (mechanized) and Fort Polk, Fort Polk, La.	1	1
Maryland:			
0-8	Powers, Patrick W., Commanding General, U.S. Army Test and Evaluation Command, Aberdeen Proving Ground, Md.	1	1
0-9	Smith, Jeffrey G., Commanding General, 1st U.S. Army, Fort George G. Meade, Md.	1	1
Michigan: 0-8	McKeen, Chester M., Jr., Commanding General, U.S. Army Tank Automotive Command. Warren, Mich.	1	1
New Jersey:			
0-8	Crawford, Albert B., Jr., Commanding General, U.S. Army Electronics Command Fort Monmouth, N.J.	1	1
0-8	Patch, William A., Commanding General U.S. Army Training Center and Fort Dix, Fort Dix, N.J.	1	1
New York: 0-9	Berry, Sidney B., Superintendent, U.S. Military Academy, West Point, N.Y.	2	2
North Carolina:			
0-9	Emerson, Henry E., Commanding General, XVIII Airborne Corps and Fort Bragg, Fort Bragg, N.C.	1	1
0-8	Tackaberry, Thomas H., Commanding General, 82d Airborne Division, Fort Bragg, N.C.	1	1
Oklahoma: 0-8	Ott, David E., Commanding General, U.S. Army Field Artillery Center, Fort Sill, Okla.	1	1
Pennsylvania: 0-8	Smith, DeWitt C., Jr., Commandant, U.S. Army War College, Carlisle Barracks, Pa.	1	1
South Carolina: 0-8	Caldwell, William B., III, Commanding General, U.S. Army Training Center, Fort Jackson, S.C.	1	
Texas:			
0-8	Becton, Julius W., Jr., Commanding General, 1st Cavalry Division, Fort Hood, Tex.	1	1
0-9	Burdett, Allen M., Jr., Commanding General, 5th U.S. Army, Fort Sam Houston, Tex.	1	1
0-8	Levan, C. J., Commanding General, U.S. Army Air Defense Center, Fort Bliss, Tex.	1	1
0-8	Neel, Spurgeon H., Jr., Commanding General, U.S. Army Health Services Command, Fort Sam Houston, Tex.	1	1
0-8	Patton, George S., Commanding General, 2d Armored Division, Fort Hood, Tex.	1	1
0-9	Shoemaker, Robert M., Commanding General, III Corps and Fort Hood, Fort Hood, Tex.	1	1
Virginia:			
0-9	Camm, Frank A., Deputy Commanding General, U.S. Army Training and Doctrine Command, Fort Monroe, Va.	1	1
0-9	D'Ambrosio, Eugene J., Deputy Commanding General for Materiel Readiness, U.S. Army Materiel Development and Readiness Command, Alexandria, Va.	1	1
0-10	Deane, John R., Jr., Commanding General, U.S. Army Materiel Development and Readiness Command, Alexandria, Va.	2	2
0-10	Depuy, William E., Commanding General, U.S. Army Training and Doctrine Command, Fort Monroe, Va.	2	2
0-8	Johnson, James A., Commanding General, U.S. Army Engineer Center, Fort Belvoir, Va.	1	1
0-8	Post, Alton G., Commanding General, U.S. Army Transportation Center and Fort Eustis, Fort Eustis, Va.	1	1
0-9	Vaughan, Woodrow W., Director, Defense Supply Agency, Cameron Station, Alexandria, Va.	1	1
Washington: 0-8	Warner, Volney F., Commanding General, 9th Infantry Division and Fort Lewis, Fort Lewis, Wash.	1	1
Washington, D.C.:			
0-8	Aaron, Harold R., Assistant Chief of Staff for Intelligence, Department of the Army, Washington, D.C.	1	1
0-8	Antonelli, Theodore, Commandant, Industrial College of the Armed Forces, Fort Lesley J. McNair, Washington, D.C.	1	1
0-8	Bernstein, Robert, Commanding General, Walter Reed Army Medical Center, Washington, D.C.	1	1
0-9	Cooksey, Howard H., Deputy Chief of Staff for Research, Development, and Acquisition, U.S. Army, Washington, D.C.	1	1
0-8	Delmar, Henry R., Commander, Military Traffic Management Command, Washington, D.C.	1	1
0-9	Elder, John H., Jr., Director, Plans and Policy, J-5, Office Joint Chiefs of Staff, Washington, D.C.	1	1
0-9	Fulton, William B., Director of the Army Staff, Department of the Army, Washington, C.D.	1	1
0-9	Fuson, Jack C., Deputy Chief of Staff for Logistics, Department of the Army, Washington, D.C.	1	1
0-9	Gribble, William C., Jr., Chief of Engineers, Department of the Army, Washington, D.C.	1	1
0-10	Kerwin, Walter T., Jr., Vice Chief of Staff, U.S. Army, Washington, D.C.	2	2
0-9	Kjellstrom, John A., Comptroller of the Army, Department of the Army, Washington, D.C.	1	1
0-8	Lee, James M., Chief of Legislative Liaison, Office Secretary of the Army, Washington, D.C.	1	1
0-9	Maples, Herron N., The Inspector General, Department of the Army, Washington, D.C.	1	1
0-9	Moore, Harold G., Deputy Chief of Staff for Personnel, Department of the Army, Washington, D.C.	1	1
0-9	Rowny, Edward L., Joint Chiefs of Staff Representative for Strategic Arms Limitation Talks, Office Joint Chiefs of Staff, Washington, D.C.	1	1
0-9	Sumner, Gordon, Jr., Chairman, Inter-American Defense Board, Office Joint Chiefs of Staff, Washington, D.C.	1	1
0-9	Taylor, Richard R., The Surgeon General, Department of the Army, Washington, D.C.	1	1
0-9	Vessey, John W., Jr., Deputy Chief of Staff for Military Operations, Department of the Army, Washington, D.C.	1	

Footnotes at end of table.

ENLISTED AIDE AUTHORIZATIONS BY GENERAL/FLAG OFFICER POSITION BROKEN OUT BY STATE/FOREIGN COUNTRY—Continued

U.S. ARMY—AUTHORIZATION (106)—Continued

State/foreign country and grade of officer	Name/position of officer	Number of enlisted aides (as of Mar. 31, 1976)	
		Authorized	Assigned
0-9	Walters, Vernon A., Deputy Director, Central Intelligence Agency, Washington, D.C.	1	1
0-10	Weyand, Frederick C., Chief of Staff, U.S. Army, Washington, D.C.	4	3
0-9	Wilson, Samuel V., Deputy Assistant Secretary of Defense (Intelligence) (Resources and Management), Office Secretary of Defense, Washington, D.C.	1	1
0-8	Yerks, Robert G., Commanding General, U.S. Army Military District of Washington, Washington, D.C.	1	1
Belgium:			
0-8	Cantlay, George G., Deputy U.S. Military Representative, North Atlantic Treaty Organization Military Committee, APO, New York 09667.	1	1
0-10	Haig, Alexander M., Jr., Supreme Allied Commander, Europe, APO New York, 09055.	4	4
0-9	Kissinger, Harold A., Deputy Director General, North Atlantic Treaty Organization Integrated Communications System Management Agency, APO, New York 09667.	1	1
Germany:			
0-10	Blanchard, George S., Commander in Chief, U.S. Army, Europe/7th Army, APO, New York 09403.	2	2
0-8	Cleveland, John R. D., Jr., Commanding General, 8th Infantry Division (mechanized), APO, New York 09111.	1	1
0-9	Cooper, Kenneth B., Deputy Commander in Chief, U.S. Army, Europe/7th Army, APO, New York 09403.	1	1
0-8	Crizer, Pat W., Commanding General, 3d Infantry Division, APO, New York 09036.	1	1
0-9	Starry, Donn A., Commanding General, V Corps, U.S. Army, Europe, APO, New York 09079.	1	1
0-8	Fye, Robert W., Commanding General, 32d Army Air Defense Command, U.S Army Europe, APO, New York 09175.	1	1
0-8	Heiser, Rolland V., Chief of Staff, U.S. Army Europe/7th Army, APO, New York 09403.	1	1
0-9	Knowlton, William A., Chief of Staff, U.S. European Command, APO, New York 09128.	1	1
0-9	Kroesen, Frederick J., Jr., Commanding General, VII Corps, U.S. Army Europe, APO, New York 09107.	1	1
0-8	Simmons, Charles J., Commanding General, 3d Armored Division, U.S. Army Europe, APO, New York 09039.	1	1
0-8	Webb, William L., Jr., Commanding General, 1st Armored Division, U.S. Army Europe, APO, New York 09326.	1	1
Greece: 0-8	Burke, William A., Chief, Joint U.S. Military Aid Group to Greece, APO, New York 09253.	1	1
Italy:			
0-9	McAlister, Robert C., Chief of Staff, Allied Forces Southern Europe, Box 130, FPO, New York 09524.	1	1
0-8	Putnam, George W., Jr., Commanding General, U.S. Army Southern European Task Force, APO, New York 09168.	1	1
Japan: 0-9	Guthrie, John R., Commanding General, IX Corps/U.S. Army Japan, APO, San Fracnsco 96343.	1	1
Korea:			
0-8	Cushman, John H., Commanding General I Corps (Republic of Korea/United States) Group, APO, San Francisco 96358.	1	[1] 1
0-10	Stillwell, Richard G., Commanding General 8th U.S. Army, APO, San Francisco 96301.	2	[1] 2
0-8	Street, Oliver D., III, Chief, Joint U.S. Military Assistance Group, Korea, APO, San Francisco 96302.	1	[1] 1
Panama: 0-9	McAuliffe, Dennis P., Commander in Chief, U.S. Southern Command, APO, New York 09826.	2	2
Turkey:			
0-8	Wolfe, William R., Jr., Chief, Joint U.S. Military Mission for Aid to Turkey, APO, New York, 09254	1	1
0-10	Zais, Melvin, Commanding General Allied Land Forces Southeastern Europe, APO, New York 09224.	2	2

U.S. NAVY—AUTHORIZATION (112)

California:			
0-9	Baldwin, Robert B., Commander Naval Air Force, U.S. Pacific Fleet, San Diego.	2	2
0-9	Tidd, Emmet H., Commander Naval Surface Force, U.S. Pacific Fleet, San Diego.	2	2
0-8	Gravely, Samuel L., Jr., Commandant, 11th Naval District, San Diego.	1	1
0-7	Coughlin, John T., Commandant, 12th Naval District, San Francisco.	1	1
Florida: 0-9	Wilson, James B., Chief of Nava. Education and Training, Pensacola.	2	2
Hawaii:			
0-10	Gayler, Noel A. M., Commander in Chief, Pacific, Pearl Harbor.	3	3
0-10	Weisner, Maurice F., Commander in Chief, U.S. Pacific Fleet, Pearl Harbor.	3	3
0-9	St. George, William R., Deputy and Chief of Staff of Commander in Chief, U.S. Pacific Fleet, Pearl Harbor.	1	1
0-9	Coogan, Robert P., Commander, 3d Fleet, Pearl Harbor	2	2
0-8	Wentworth, Ralph S., Jr., Commandant, 14th Naval District, Pearl Harbor.	1	1
Illinois: 0-8	O'Neil, Warren H., Commandant, 9th Naval District, Great Lakes.	1	1
Louisiana:			
0-9	Charbonnet, Pierre N., Jr., Chief of Naval Reserve, New Orleans.	2	2
0-8	Cassell, George L., Commandant, 8th Naval District, New Orleans.	1	1
Maryland: 0-7	McKee, Kinnaird R. Superintendent, U.S. Naval Academy, Annapolis.	3	3
Massachusetts: 0-7	Snyder, Roy D., Jr., Commandant, 1st Naval District, Boston.	1	1
Nebraska: 0-9	Kaufman, Robert Y., Deputy Director, Joint Strategic Target Planning Staff, Offutt Air Force Base.	1	1
New York: 0-8	Guest, Frank B., Jr., Commandant, 3d Naval District, Brooklyn.	1	1
Pennsylvania: 0-8	Toole, Wycliffe D., Jr., Commandant, 4th Naval District, Philadelphia.	1	1
Rhode Island: 0-9	Le Bourgeois, Julien J., president, Naval War College, Newport.	3	3
South Carolina: 0-8	Burke, Julian T., Jr., Commander Naval Base, Charleston.	1	1
Virginia:			
0-10	Kidd, Isaac C., Jr., Command-in-Chief, Atlantic and U.S. Atlantic Fleet and Supreme Allied Commander, Atlantic, Norfolk.	3	3
0-9	Adamson, Robert E., Jr. Commander, Naval Surface Force, U.S. Atlantic Fleet, Norfolk.	2	1
0-9	Downey, Denis-James J., Chief of Staff, Supreme Allied Commander, Atlantic, Norfolk.	1	1
0-9	Williams, Joe, Jr., Commander, Submarine Force, U.S. Atlantic Fleet, Norfolk.	2	2
0-9	Greer, Howard E., Commander, Naval Air Force, U.S. Atlantic Fleet, Norfolk.	2	2
0-9	Shanahan, John J., Jr., Commander, 2d Fleet, Norfolk	2	2
0-9	Forbes, Bernard B., Jr., Deputy and Chief of Staff Commander in Chief, Atlantic and Commander in Chief, U.S. Atlantic Fleet, Norfolk.	1	1
0-8	Rumble, Richard E., Commander Naval Base, Norfolk	1	1
Washington: 0-7	Zech, Lando W., Jr., Commandant, 13th Naval District, Seattle.	1	1
Washington, D.C.:			
0-10	Holloway, James L., III, Chief of Naval Operations	4	4
0-10	Shear, Harold E., Vice Chief of Naval Operations	3	3
0-10	Michaels, Frederick H., Chief of Naval Material	3	3
0-9	Murphy, Daniel J., Jr., Deputy to the Director of Central Intelligence of the Intelligence Community.	2	2
0-9	Long, Robert L. Jr., Deputy Chief of Naval Operations (submarine warfare).	2	2
0-9	Houser, William K., Deputy Chief of Naval Operations (air warfare).	2	2
0-9	Finneran, John G., Deputy Assistant Secretary of Defense (military personnel policy) (M. & R.A.).	2	2
0-9	Bayne, Marmaduke G., president, University of National Defense.	2	2
0-9	Moorer, Joseph P., Deputy Chief of Naval Operations (plans and policy).	2	2
0-9	Doyle, James H., Deputy Chief of Naval Operations (surface warfare).	2	2
0-9	Cramer, Shannon D., Jr., Director, Defense Mapping Agency.	2	2
0-9	Custis, Donald L., Chief, Bureau of Medicine and Surgery and Surgeon General of the Navy.	2	2
0-9	Watkins, James D., Deputy Chief of Naval Operations (manpower) and Chief of Naval Personnel.	2	2
0-9	Armstrong, Parker B., Director, Research, Development, Test and Evaluation, Office of the Chief of Naval Operations.	2	2
0-9	Davis, Donald C., Director, Navy Program Planning, Office of the Chief of Naval Operations.	2	2
0-9	Boyes, Jon L., Director, Command and Control and Communications Program, Office of the Chief of Naval Operations.	1	1
0-7	Carnahan, Ralph H., Commandant, Naval District, Washington.	1	1
0-7	Kinnear, George B. R., II, Chief of Legislative Affairs	1	1
0-7	Inman, Bobby R., Director of Naval Intelligence, Office of the Chief of Naval Operations.	1	1
Bahrain: 0-7	Bigley, Thomas J., Commander, Middle East Force	1	1
Belgium: 0-10	Weinel, John P., U.S. Representative, Military Committee, NATO, Brussels.	3	3
Brazil: 0-7	Callaghan, William M., Jr., Navy member, U.S. delegation, Joint Brazil-United States Military Commission, Rio de Janeiro.	1	1
Iceland: 0-7	Rich, Harold G., Commander, Iceland Defense Force, Keflavik.	1	1
Italy:			
0-10	Turner, Stansfield, Commander in Chief, Allied Forces Southern Europe, Naples.	3	3
0-9	Turner, Frederick C., Commander, 6th Fleet, Gaeta	2	2

Footnotes at end of table.

U.S. NAVY—AUTHORIZATION (112)—Continued

State/foreign country and grade of officer	Name/position of officer	Number of enlisted aides (as of Mar. 31, 1976)	
		Authorized	Assigned
Japan:			
0-9	Hayward, Thomas B., Commander, 7th Fleet, Yokosuka	2	2
0-7	Russell, Thomas B., Jr., Commander, U.S. Naval Forces, Japan, Yokosuka.	1	1
Korea: 0-7	Frudden, Mark P., Commander, U.S. Naval Forces, Korea, Seoul.	1	1
Marianas: 0-7	Carroll, Kent J., Commander, U.S. Naval Forces, Marianas, Guam.	1	1
Philippines: 0-7	Kilcline, Thomas J., Commander, Naval Base, Subic, Subic Bay.	1	1
Portugal: 0-7	Corley, Frank W., Jr., Commander, Iberian Atlantic Area, Lisbon.	1	0
Puerto Rico: 0-8	Flanagan, William R., Commander, Naval Forces, Caribbean, Roosevelt Roads.	1	1
Spain: 0-8	Lemos, William E., Chief, Joint U.S. Military Group/Military Assistance Advisory Group.	1	1
Taiwan: 0-9	Snyder, Edwin K., Commander, U.S. Taiwan Defense Command, Taipei.	2	2
United Kingdom:			
0-10	Bagley, David H., Commander in Chief, U.S. Naval Forces, Europe, London.	3	2
0-8	Longino, James C., Jr., U.S. Defense Attache, U.S. Naval Attache and U.S. Naval Attache for Air, United Kingdom, London.	1	1

U.S. AIR FORCE—AUTHORIZATION (136)

State/foreign country and grade of officer	Name/position of officer	Number of enlisted aides (as of Mar. 31, 1976)	
		Authorized	Assigned
Alabama: 0-9	Furlong, Raymond B., Commander, Air University, Maxwell AFB.	2	2
Alaska: 0-9	Hill, James E., Commander, Alaskan Air Command, Elmendorf AFB.	2	2
California:			
0-9	Morgan, Thomas W., Commander, Space and Missiles Systems Organization, AF Systems Command, Los Angeles.	1	1
0-9	Shotts, Bryan M., Commander, 15th Air Force. Strategic Air Command, March AFB.	1	1
0-8	Adams, Ronald T., Jr., AF Inspection and Safety Center, Norton AFB.	1	1
0-8	Aldrich, Thomas A., Commander, 22d Air Force, Military Airlift Command, Travis AFB.	1	1
0-8	Gavin, Herbert J., Commander, Sacramento Air Logistics Center, AF Logistics Command, McClellan AFB.	1	1
Colorado:			
0-10	James, Daniel, Jr., Commander in Chief, Norad/Conad and Commander Aerospace Defense Command, Ent AFB.	3	3
0-9	Allen, James R., Superintendent, USAF Academy, Colo.	3	3
Florida:			
0-9	Marshall, Winton W., Deputy Commander in Chief, U.S. Readiness Command MacDil AFB.	1	1
0-8	Lane. Howard M., Commander, Armament Developmen and Test Center AF Systems Command, Eglin AFB	1	0
Georgia: 0-8	Hayes, William R., Commander, Warner Robins Air Logistics Center, AF Logistics Command, Robins AFB.	1	1
Hawaii:			
0-10	Wilson, Louis L., Jr., Commander in Chief, Pacific Air Forces, Hickam AFB.	3	3
0-9	Moore, William G., Jr., Chief of Staff, Pacific Command Pearl Harbor.	1	1
0-8	Pattillo, Charles C. Vice Commander in Chief, Pacific Air Forces, Hickam AFB.	1	[illegible]
Illinois:			
0-10	Carlton, Paul K., Commander. Military Airlift Command, Scott AFB.	3	2
0-9	Gonge, John F., Vice Commander, Military Airlift Command, Scott AFB.	1	1
0-8	Leavitt, Lloyd R., Jr., Commander, Chanute Technical Training Center, Air Training Command, Chanute AFB.	1	1
Louisiana: 0-9	Hoban, Richard M., Commander, 8th Air Force, Strategic Air Command, Barksdale AFB.	1	1
Maryland:			
0-10	Evans, William J., Commander, AF Systems, Commander, Andrews AFB.	3	3
0-9	Allen, Lew, Jr., Director, National Security Agency, Fort Meade.	2	1
0-9	Marsh, Robert T., Vice Commander, AF Systems Commander, Andrews AFB.	1	1
Massachusetts:			
0-9	Creech, Wilbur L., Commander, Electronic Systems Division, AF Systems, Command, Hanscom Field.	1	1
Mississippi: 0-8	Scott, Winfield W., Jr., Commander, Keesler Technical Training Center, Air Training Commander, Keesler AFB.	1	1
Nebraska:			
0-10	Dougherty, Russell E., Commander in Chief, Strategic Air Commander, Offutt AFB.	3	3
0-9	Keck, James M., Vice Commander in Chief, Strategic Air Commander, Offutt AFB.		
Nevada: 0-8	Knight, James A., Jr., Commander, USAF Tactical Fighter Weapons Center, Tactical Air Commander, Nellis AFB.	1	1
New Jersey: 0-8	Glauch, Alden G., Commander 21st Air Force, Military Airlift Commander, McGuire AFB.	1	1
New Mexico: 0-8	Reilly, Maurice R., Commander, AF Contract Management Division and AF Special Weapons Center, AF Systems Commander, Kirtland AFB.	1	1
New York: 0-8	Schoeneman, Richard H., Commander, 21st Norad Region, Hancock Field.	1	1
Ohio:			
0-10	Rogers, Felix M., Commander, AF Logistics Command, Wright-Patterson AFB.	3	3
0-9	Rhodes, George, Vice Commander, AF Logistics, Comand, Wright-Patterson AFB.	1	1
0-9	Stewart, James T., Commander, Aeronautical Systems Division, AF Systems Command, Wright-Patterson AFB.	1	1
Oklahoma: 0-8	Schneider, Carl G., Commander, Oklahoma City Air Logistics Center, Tinker AFB.	1	1
South Carolina: 0-9	Hartinger, James V., Commander, 9th Air Force, Tactical Air Command, Shaw AFB.	1	1
Texas:			
0-9	Hughes, James P., Commander, 12th Air Force, Tactical Air Command, Bergstrom AFB.	1	1
0-9	Roberts, John W., Commander, Air Training Command, Randolph AFB.	2	2
0-8	Flynn, John P., Commander, Air Force Military Training Center, Lackland AFB.	1	1
0-8	Fox, Cecil E., Commander, Sheppard Technical Training Center, Sheppard AFB.	1	1
0-8	Kelly, John R., Jr., Commander, San Antonio Air Logistics Center, Kelly AFB.	1	1
Utah: 0-8	Rafalko, Edmund A., Commander, Ogden Air Logistics Center, Air Force Logistics Command, Hill AFB.	1	1
Virginia:			
0-10	Dixon, Robert J., Commander, Tactical Air Command, Langley AFB.	3	3
0-9	Moats, Sanford K., Vice Commander, Tactical Air Command, Langley AFB.	1	1
0-8	Albert, John G., Commandant, Defense Systems Management School, Fort Belvoir.	1	0
Washington: 0-8	Young, James A., Commander, 25th Norad Region, McChord AFB.	1	1
Washington, D.C.:			
0-10	Brown, George S., Chairman, JCS	4	4
0-10	Jones, David C., Chief of Staff, USAF	4	3
0-10	McBride, William V., Vice Chief of Staff, USAF	3	3
0-9	Boswell, Marion L., Assistant Vice Chief of Staff, USAF	1	1
0-9	Fish, Howard M., Director, Defense Security Assistance Agency.	1	1
0-9	Hails, Robert E., DCS/Systems and Logistics, USAF	1	1
0-9	Hill, James A., DCS/Programs and Resources, USAF	1	1
0-9	Johnson, Warren D., Director, Defense Nuclear Agency	1	1
0-9	Nunn, Donald G., The Inspector General, USAF	1	1
0-9	Pauly, John W., DCS/Plans and Operations, USAF	1	1
0-9	Schafer, George E., Surgeon General of the Air Force	1	1
0-9	Sitton, Ray B., Director o' Operations, Joint Staff, JCS	1	1
0-9	Slay, Alton D., DCS/Research and Development, USAF	1	1
0-9	Tallman, Kenneth L., DCS/Personnel, USAF	1	1
0-9	Tighe, Eugene F., Jr., Deputy Director, Defense Intelligence Agency.	1	1
0-8	Ahern, Timothy I., Director, Operational Requirements and Development Plans, DCS/R. & D., USAF.	1	1
0-8	Cleveland, Charles G., Director, Personnel Programs, DCS/Personnel, USAF.	1	1
0-8	Davis, Bennie L., Director, Personnel Plans, DCS/Personnel, USAF.	1	1
0-8	Ellis, Billy J., Director of Operations, DCS/Plans and Operations, USAF.	1	1
0-8	Hairston, Guy E., Jr., Deputy Assistant Secretary of Defense (PA).	1	1
0-8	Jacobson, Hilding L., Jr., Deputy Director, Defense Mapping Agency, Naval Observatory	1	1
0-8	Kearney, Lester T., Jr., Vice Director, Plans and Policy, Joint Staff, JCS.	1	1
0-8	Maglione, Ralph J., Jr., Director, Legislative Liaison, SAF.	1	1
0-8	McCormick, Howard E., Deputy Director (Management), Office of Director Telecommunications and Command and Control Systems, OASD.	1	1
0-8	McNeil, Travis R., Deputy, Inspector General, USAF	1	1
0-8	Meade, Henry J., Chief of Chaplains, USAF	1	1
0-8	Minter, Charles F., Sr., Assistant DCS/Systems and Logistics, USAF.	1	1
0-8	Moore, Otis C., Assistant DCS/Plans and Operations, USAF.	1	1
0-8	Murphy, James J., Commandant, National War College, Fort McNair.	1	1
0-8	Russell, Kendall, Assistant DCS/Research and Development, USAF.	1	1
0-8	Sadler, Thomas M., Chief, Security Police USAF	1	1
0-8	Starr, Benjamin F., Jr., Director of Transportation, DCS/Systems and Logistics, USAF.	1	1
0-8	Sterling, Eugene B., Assistant Director, Plans, Programing and Systems, DSA.	1	0
0-8	Vague, Harold R., the Judge Advocate General, USAF	1	1
Belgium:			
0-10	Seith, Louis T., Chief of Staff, SHAPE, SHAPE Belgium	3	3
0-9	Colladay, Martin G., Deputy Chairman, NATO Military Committee, Brussels.	1	1

Footnotes at end of table.

ENLISTED AIDE AUTHORIZATIONS BY GENERAL/FLAG OFFICER POSITION BROKEN OUT BY STATE/FOREIGN COUNTRY—Continued

U.S. AIR FORCE—AUTHORIZATION (136)—Continued

State/foreign country and grade of officer	Name/position of officer	Number of enlisted aides (as of Mar. 31, 1976) Authorized	Assigned
Canal Zone: 0–8	Breedlove, James M., Deputy Commander in Chief, U.S. Southern Command and Commander, USAF Southern ADiv, TAC.	1	1
Germany:			
0–10	Ellis, Richard H., Commander in Chief, USAFE and Commander, Allied Air Forces Central Europe, Ramstein AB.	3	3
0–10	Huyser, Robert E., Deputy Commander in Chief, U.S. European Command, Vaihingen.	3	2
0–9	Poe, Bryce, II, Vice Commander in Chief, USAFE, Ramstein AB.	1	1
0–8	Bellis, Benjamin N., Commander, 17th Air Force, USAFE, Sembach AB.	1	1
Iran: 0–8	Miles, Kenneth P., Chief, Armish Military Assistance Advisory Group, Iran, Teheran.	1	1
Italy: 0–9	Wilson, Joseph G., Commander, Allied AF Southern Europe and Commander, 16th Air Force, USAFE, Naples.	2	2
Japan: 0–9	Galligan, Walter T., Commander, U.S. Forces, Japan and Commander, 5th Air Force, Pacific Air Forces, Yokota.	2	[3] 1
Korea: 0–9	Burns, John J., Deputy Commander in Chief, U.S. Forces, Korea and Deputy Commander in Chief, U.N. Command, Korea.	1	0
Netherlands: 0–8	Pattillo, Cuthbert A., DCS/OPS and Intelligence, Allied Forces Central Europe, Brunssum.	1	1
Norway: 0–8	Hodnette, Lovic P., Jr., Air Deputy, AF North, Oslo	1	1
Philippines: 0–8	Manor, Leroy J., Commander, 13th Air Force, Pacific Air Forces, Clark AFB.	1	[2] 0
Spain: 0–8	Robertson, Edwin W., II, Vice Commander, 16th Air Force, USAFE, Torrejon AFB.	1	1
——	——, Slade, ——, Military Assistance Advisory Group, Republic of China, Taipei.	1	1
Turkey	Brett, Devol, U.S. Representive to the Permanent Military Deputies Group and Chairman, U.S. Element, CENTO, Ankara.	1	0
Do	Loving, George G., Jr., Commander, 6th Allied Tactical Air Force, Izmir.	2	2
Do	Ginn, William H., Jr., Commander, U.S. Logistics Group, USAFE, Ankara.	1	1
England	Rosencrans, Evans W., Commander, 3d Air Force, USAFE, Mildenhall.	1	1
——	Local national civilian		2
Total		136	126

U.S. MARINE CORPS AUTHORIZATION (22)

State/foreign country and grade of officer	Name/position of officer	Authorized	Assigned
California:			
0–8	Hoffman, Carl W., Commanding General, Marine Corps Base, Camp Pendleton, Calif.	1	1
0–8	Houghton, Kenneth J., Commanding General, Marine Corps Recruit Depot, San Diego, Calif.	1	1
0–8	Mize, Charles D., Commanding General, 1st Marine Division, Camp Pendleton, Calif.	1	1
Hawaii: 0–9	McLaughlin, John N., Commanding General, Fleet Marine Force, Pacific.	2	2
North Carolina:			
0–8	Armstrong, Victor A., Commanding General, Marine Corps Air Station, Cherry Point, N.C.	1	1
0–8	Poggemeyer, Herman, Jr., Commanding General, Marine Corps Base, Camp Lejeune, N.C.	1	1
0–8	Spanjer, Ralph, Commanding General, 2d Marine Air Wing, Cherry Point, N.C.	1	1
South Carolina: 0–8	Poillon, Arthur J., Commanding General, Marine Corps Recruit Depot, Parris Island, S.C.	1	1
Virginia:			
0–9	Nichols, Robert L., Commanding General, Fleet Marine Forces, Atlantic, Norfolk, Va.	2	2
0–9	Fegan, Joseph C., Jr., Commanding General, Marine Corps Development and Education Command.	2	2
Washington, D.C.:			
0–10	Wilson, Louis H., Jr., Commandant of the Marine Corps	4	4
0–10	Jaskilka, Samuel, Assistant Commandant of the Marine Corps.	2	2
0–9	Brown, Leslie E., Chief of Staff, Headquarters, Maine Corps.	1	1
0–9	Barrow, Robert H. Deputy Chief of Staff for Manpower, Headquarters, Marine Corps.	1	1
0–9	Snowden, Lawrence F., Deputy Chief of Staff for Plans and Operations, Headquarters, Marine Corps.	1	1
Total		22	22

[1] Local national.

[2] 1 is a local national.

[3] —— Commander, U.S. Forces, Japan and Pacific Air Forces.

WILLIAM D. HURST RETIREMENT

Mr. DOMENICI. Mr. President, on June 5, Mr. William D. Hurst will retire from his position as Southwestern Regional Forester of the U.S. Forest Service.

Bill Hurst has been with the Forest Service since 1939 and has served as Southwestern Regional Forester for the past 10 years. As regional forester, Mr. Hurst has had the responsibility for the multiple use management of the 12 national forests in Arizona and New Mexico and the Panhandle National Grasslands in west Texas, Oklahoma, and eastern New Mexico.

In addition to his duties with the Forest Service, Bill has been active in national conservation circles. He served as chairman of the Range Management Division of the Society of American Foresters and as a national director of the American Society of Range Management.

Mr. Hurst has performed all of his duties in this difficult area with a great deal of competence and wisdom, and his outstanding performance in managing the national forests and national grasslands in New Mexico will be missed. I am pleased that Mr. and Mrs. Hurst have decided to make New Mexico their retirement home.

THE NEED FOR A VIABLE NATIONAL HOUSING POLICY

Mr. HUMPHREY. Mr. President, we have a national housing goal in this country that commits the Government to providing "a decent home in a suitable living environment for every American family." Unfortunately, our performance in meeting this goal has been woefully inadequate in the last few years. While it takes approximately 2.3 million new or substantially rehabilitated units each year to keep pace with our housing needs, there has been an average construction of only 1.3 million units annually in the period from 1974 through 1976. As a result, millions of American families are living in substandard housing of which any other industrialized nation would be ashamed.

What has gone wrong? Why have our national housing policies consistently *failed to meet our needs?* A recent article in the Christian Science Monitor offers some interesting answers to these questions. The article, titled, "In Search of a Viable U.S. Housing Policy," points out our glaring inability to develop consistent and coherent national housing policies. It demonstrates that the United States lags far behind Scandanavian and other Western European nations in the development of successful housing programs.

The article suggests that the most glaring weakness in U.S. policies is the absence of a financing mechanism to make and at low-interest rates. The article goes on to point out that most Western nations use a National Housing Bank, similar to the bank embodied in legislation I have introduced—S. 1122, the Federal Housing Bank Act of 1976—to meet this critical need.

Mr. President, since the housing needs of our Nation are of interest to all of my colleagues, I ask unanimous consent that a recent article by Mr. Fran Hosken, titled "In Search of a Viable U.S. Housing Policy," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, May 7, 1976]

LITTLE ASSISTANCE FOR LOW-INCOME FAMILIES: IN SEARCH OF A VIABLE U.S. HOUSING POLICY

(By Fran P. Hosken)

Does the United States have a national housing policy?

Such a policy must be concerned with housing those people who are unable to pay the full market price for new housing.

At the present time this is not being done.

As long as the mortgage rates depend on the interest rates set by the Federal Reserve Bank, the government influences the cost of "private" housing.

The Housing act of 1949 declared that "a decent home and suitable living environment is the right of every American family."

At the present time, with the Department of Housing and Urban Development, led by an administration that considers the building of shelter "inflationary," the United States has all but given up, with terrible consequences for low-income families.

MORATORIUM OF '73

In January, 1973, the Nixon administration declared a "housing moratorium," canceling all subsidized housing programs. Since then the money that was still in the pipelines has been exhausted.

Housing scandals and abuses of all kinds, always at the expense of the least affluent, had made headlines in all major cities, especially Detroit. But the real reason for the action of the administration was its preception "that housing subsidies and the building of housing is inflationary. This notion, with which many economists don't agree, to this day is given as the reason by HUD why, even in a presidential election year, the strangulation of housing production is upheld, despite the fact that this puts millions of people in the building trade out of work. The administration instead pays unemployment compensation of $45 billion a year.

Would it not be better and much less inflationary to use some of this money to subsidize housing and get some return for the investment in terms of desperately needed houses for low-income people?

MRS. HILLS FIELDS QUESTIONS

HUD Secretary Carla A. Hills, skillfully fielded many questions at the National Housing Conference earlier this year with the ability of an experienced administrator and lawyer. But all her ability cannot replace the absence of a viable policy. She proved that in less than a year she has taken hold of this incredibly complicated maze of programs that HUD administers today.

Yet the ailment that HUD described when Mrs. Hills took over the department as "housing starts down, construction unemployment up," "serious shortages in housing on all levels, particularly for the poor," "programs at a halt" is still very much with the country today.

Vernon Jordan, executive director of the National Urban League, told the conference that there are two choices: (1) abandon the goal of decent housing for all; and (2) intervene in the chaotic housing market to finally implement the too-long neglected housing goals.

Sen. Hubert H. Humphrey (D) of Minnesota did not mince words in his critique of HUD's policy failures and the underlying economic and monetary policies that he estimates will cost the nation more than a trillion dollars in lost production, output, and income by 1980.

"The federal government must get into the business of making mortgage money available at reasonable interest rates to the average American family. This is the heart of any national housing policy."

The Senator has introduced a bill to establish a federal housing bank in order to assure a steady supply of mortgage money to homeowners.

NORWAY'S EXAMPLE

Several Scandinavian countries, notably Norway, have had such banks for many years as a vital part of its subsidized housing programs. The Scandinavian countries, despite the cold climate, which makes building more expensive, are considered the best-housed people in the world.

One thing that is conspicuously absent from successful European housing policies is the boom-bust cycle that U.S. housing has been exposed to as a means to manipulate the economy.

Instead of a patchwork of fixed-up programs from the past, the nation needs to start out fresh. The first priority is for a housing bank or trust fund to deal with the financing at reasonable cost, as Senator Humphrey and Mr. Jordan have proposed.

There is also a need to develop programs for subsidized housing (as well as rent subsidies) that build decent housing for those who cannot afford to buy it in the private market rather than helping those who can afford it on their own.

The prerequisite for all policy is to allow it to be carried out and not to switch continuously as has been done in the U.S. for the past 40 years.

The greatest waste of all in housing comes from waste of time. The many time-consuming checks and requirements "to assure that the money is wisely spent" has only resulted in escalating all costs.

A viable housing policy needs performance standards, self-control in programming, and autonomy in financing. Most of all, it needs the political will to get the housing built.

DR. FRANCIS G. WILSON

Mr. HELMS. Mr. President, one of America's most distinguished political scientists, Dr. Francis Graham Wilson, passed away on May 24 after a brief illness.

A native of Texas, Dr. Wilson devoted most of his 74 years of life to the education of our young men and women. After earning A.B. and M.A. degrees from the University of Texas in 1923 and 1924, he continued his education, and in 1928 was graduated from Stanford University with a Ph. D. His professional career included positions at the University of California, 1924–25; Fresno, Calif., State College, 1925–26; Stanford University, 1926–28; the University of Washington, Seattle, 1928–39; the University of Illinois, 1939–67; and Long Island University, 1967–70. Dr. Wilson was chairman of the department of political science at the University of Illinois from 1953–57.

As one of the early leaders of new conservatism, the intellectual movement of the postwar era which has had such a profound influence on American politics and education, Dr. Wilson was a frequent contributor to such magazines and journals as National Review and Modern Age. As a political theorist, especially in the field of American political thought, he achieved widespread acclaim in the political science profession through his works on "The American Political Mind," 1949; "The Case for Conservatism," 1951; "A Theory of Public Opinion," 1962, and "Political Thought in National Spain," 1967. Dr. Wilson was also the author of "Labor in the League System," 1934; "The Elements of Modern Politics," 1936, and at the time of his death left behind an unfinished manuscript on Spanish political theory entitled "An Anchor in the Latin Mind."

After retiring from academic life in 1970, Dr. Wilson came to Washington where he was a member of the Cosmos Club. Not content to be a mere observer of the American scene, and concerned, as always, about the dishonesty of the press and the decline of constitutional principles, he served as president of Accuracy in Media, Inc., and of the Committee on Constitutional Integrity in his final years.

Dr. Wilson is survived by his son, Dr. Robert Rawdon Wilson, of the University of Melbourne, Melbourne, Australia, and by two grandchildren.

Mr. President, the United States has suffered a great loss in the death of Dr. Francis Wilson. Loved and admired by generations of students and educators for his warmth and friendliness, his brilliance, and his unflagging devotion to Christian values and the highest standards of scholarship, he will long be remembered as one of the great educators of our time.

INDEPENDENT JUDICIAL REVIEW OF VA DECISIONS

Mr. GARY HART. Mr. President, earlier this month I introduced a bill, S. 3392, to provide for judicial review of administrative decisions made by the Veterans' Administration, the only executive agency presently exempt from such review. Not only does this exemption violate the principle of the Administrative Procedures Act, but I believe it does our retired military personnel a serious injustice.

The measure I have offered to correct this situation will effectively open to the American veteran an avenue for independent judicial review of VA decisions.

The United Veterans Committee of Colorado, an organization representing the interests of most veterans' organizations and over 60,000 veterans in my State, has endorsed the concept of judicial review of the Veterans' Administration. They are joined by other veterans' groups, including the National Association of Concerned Veterans, in promoting this cause.

Recently I have received letters from both of these organizations, urging congressional action on this matter. I ask unanimous consent that the United Veteran Committee's resolution, together with a covering letter from Mr. Victor Grandy, who is chairman of that body, and a letter to me from James T. Deal, of the National Association of Concerned Veterans, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED VETERANS COMMITTEE
OF COLORADO,
May 5, 1976.

Hon. GARY W. HART,
U.S. Senator,
Washington, D.C.

DEAR SENATOR HART: Enclosed find a copy of the resolution unanimously passed by the United Veterans Committee of Colorado on April 19, 1976 relating to United States Code, Title 38, Section 211(a). The committee was advised that there were numerous cases within the knowledge of veterans service officers of the several veterans organizations in which judicial review was precluded by the aforementioned section.

Opinions were expressed that the fundamental rights of veterans were being trampled on by a provision which permits the Veterans Administration to be the sole judge as to whether its own decisions should stand and as to whether its own rules were being followed by its own officers in making such decisions. The vesting of administrative and judicial functions in the Veterans Administration was considered unfair considering the finality placed in the decisions of the VA Board of Appeals.

Further comment relating to this resolution evoked considerable concern that this provision relating to the VA, was unlike anything else to be found in Federal laws concerning administrative agencies. Everywhere else there are safeguards written into the law to permit review by the Courts where all else fails.

Some discussion centered around the uniformly held belief of the committee members that the constitutional provisions guaranteeing due process and equal protection of the laws were violated by Section 211(a). The bulk of the criticism expressed was, however, centered around the argument that the principle of separation of the judicial power from the executive was being ignored by this law.

I trust this gives you some of the background surrounding the adoption of said resolution.

Sincerely,

VICTOR B. GRANDY,
Chairman, UVC.

RESOLUTION ADOPTED APRIL 19, 1976, BY UNITED VETERANS COMMITTEE OF COLORADO

Whereas (U.S.C. 38, 211(a)), confines the final appeals process for applications for VA benefits to the Board of Veterans Appeals, all members of which are VA employees; and

Whereas (U.S.C. 38, 211(a)), precludes judicial review of decisions made for the VA Administrator by the Board of Veterans Appeals; and

Whereas, a government agency of the VA's size and importance and whose decisions directly and materially affect the welfare of so many citizens, having exclusive intra-agency review of its own decisions, unlike most other government agencies, is highly irregular and does not serve the needs and rights of American veterans; and,

Whereas, such exclusive intra-agency review, to the exclusion of judicial review, is a denial of due process of law which is guaranteed by the fifth amendment to the United States Constitution; and,

Whereas, according to VA Pamphlet No. 06–76–1, approximately three-fourths (73.6%) of the VA's annual budget is spent on benefit programs and 21.5% of the annual budget is spent on medical programs, thereby making fair adjudication of benefit eligibility an important aspect of the role of the VA; and,

Whereas, the existence of (U.S.C. 38, 211 (a)) is denying a veteran claimant the right to challenge unfair decisions made by the VA in a court of law; and,

Whereas, the existence of (U.S.C. 38, 211 (a)) is allowing the VA to act outside the scope of Congressional intent by drafting and implementing regulations which are inconsistent with federal law and which can never be challenged by any veteran by appeal to the federal judiciary; therefore,

Be it resolved, that the United Veterans Committee of Colorado protests the restrictive provisions of (U.S.C. 38, 211(a)) and its resultant effects on American veterans; and,

Be it further resolved, that the United Veterans Committee of Colorado supports all efforts to alleviate the injustices created by (U.S.C. 38, 211(a)), whether by judicial or legislative means, so that the appeals process of the VA will be brought into conformity with the long standing democratic procedures which govern this nation.

NATIONAL ASSOCIATION OF
CONCERNED VETERANS,
April 29, 1976.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: Section 211(a) of Title 38, United States Code (U.S.C.), must be amended or deleted entirely. This provision of law clearly places the decisions of the Administrator of Veterans Affairs above the judicial processes of this nation, thereby denying veterans, their dependents or survivors, the right to appeal those decisions.

The Fifth Article of amendment to the Constitution of the United States, ratified by three-fourths of the States on December 15, 1971, establishes that no person shall "be deprived of life, liberty, or property, without due process of law; . . ."

The certain need for amendment to, or deletion of, Section 211(a) is substantially compounded by the very nature of the appeals presently available to veterans, their dependents or survivors. Firstly, the entire appeals process structure is wholly within the Veterans Administration (VA), with all members of the regional Boards of Appeal and the Board of Veterans' Appeals in Washington, D.C. being employees of the VA.

Secondly, hearings before the Board of Veterans' Appeals are ex parte in nature, with cross-examination by parties to the hearing prohibited.

Thirdly, the rules and regulations governing the VA are written by the VA under Section 553 of Title 5, U.S.C., and thereby are, unlike most rules and regulations interpreting Federal law, virtually immune from challenge.

The VA's Board of Veterans' Appeals is bound in its decisions "by the regulations of the Veterans Administration, instructions of the Administrator, and precedent opinions of the chief law officer" of the VA. Therefore, if a veteran, or the dependent or survivor of a veteran, wishes to appeal a decision rendered the VA's Board of Veterans' Appeals, does he or she have a legal resource now that all administrative remedies have been exhausted? No. Section 211(a) prohibits any challenge to edicts of the Veterans Administration.

Surely, no action the United States Congress could take in 1976 would more clearly address the meaning of this nation's 200 year-old foundation than to grant veterans, their dependents or survivors, the right to judicial appeal of decisions regarding veterans benefits.

Respectfully,

JAMES T. DEAL,
Board of Directors.

S. 3317, PRODUCT LIABILITY

Mr. TAFT. Mr. President, the problem of products liability for manufacturers and sellers of industrial equipment, including machine tools, has reached crisis proportions. There are many factors that contribute to this circumstance and among these are the misapplication in lawsuits involving industrial equipment of tort law doctrines developed in litigation involving consumer goods; statutes of limitations that permit filing of lawsuits involving equipment that was manufactured years or even decades earlier and that frequently has changed hands or been modified many times in the interim; compensation arrangements involving plaintiff's attorneys that encourage the filing of irresponsible lawsuits and exaggerated claims for damages; the increasing reluctance of insurance companies to underwrite unpredictable product liability risks; and rampant inflation in the level of jury awards and settlements.

But another crucially important factor—and one which more than any other appears susceptible to direct, specific and relatively simple solution—is certain illogical and unfair rules of workmen's compensation law that apply in virtually every state.

One of the unfair rules of which I speak provides that a manufacturer or seller of industrial equipment who has been held liable for damages for personal injuries resulting from an industrial accident is barred from seeking contribution or indemnification from the owner or user of the equipment, even where the latter's negligence or other breach of duty was a substantial contributing cause of the accident.

I believe that this rule of State workmen's compensation law, while historically explainable, today operates unfairly and as a real disincentive to the adoption of safe inplant manufacturing practices as well as costing consumers higher prices on manufactured goods.

I believe that permitting manufacturers and sellers of industrial equipment who have been held liable for damages resulting from industrial accidents to recover contribution or indemnification from employers whose conduct or practices contributed to the accidents would both reduce the incidence of such accidents and more equitably distribute the costs of those that occur. S. 3317, which I introduced on April 14, 1976, accomplishes these most worthwhile goals.

I am very pleased to announce that S. 3317 is now cosponsored by Senators DOMENICI, GRIFFIN, NELSON, RANDOLPH, HUGH SCOTT, INOUYE, and THURMOND. While there is no action presently scheduled in the Senate labor committee, where the bill has been referred, it is my understanding that Senator NELSON, a cosponsor of S. 3317 and chairman of the Senate small business committee, plans to hold hearings in late June on the impact of product liability lawsuits on small manufacturers.

For the edification of my colleagues, I ask unanimous consent that an article entitled, "Inflation in Product Liability," reported in the May 31, 1976, edition of Business Week and an article entitled, "Productivity Faces the Courts," appearing in the April 1976 edition of Tooling & Production magazine be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Business Week, May 31, 1976]

LEGAL AFFAIRS—INFLATION IN PRODUCT LIABILITY

Nissen Corp. Treasurer James M. Rogers recently received a startling quotation for a product liability insurance policy: For an annual premium of $400,000, the Cedar Rapids (Iowa) manufacturer of gym equipment could have $300,000 worth of protection.

In Worcester, Mass., Rice-Barton Corp., manufacturers of papermaking and textile machinery since 1837, has a different problem. It was notified a few months ago of claims by users of two of its presses for damages arising out of industrial accidents. One of the presses was built in 1895, the other in 1897. "We have no records going that far back, and these presses have probably been resold and modified many times. But we still may be liable," says Rice-Barton President Winship B. Moody.

The seemingly absurd insurance bid quoted to Nissen obviously is a consequence of the kind of problem Rice-Barton faces. These are stark examples of what more and more manufacturers see as a rapidly billowing crisis in product liability law. On the heels of a Commerce Dept. study released in April and concluding that the crisis is as great as that in the medical malpractice area, Commerce Secretary Elliot L. Richardson this week announced creation of a government task force to find remedies. Premiums for machine tool makers are estimated to have shot up more than 700% since 1968, more than 10 times the inflation rate. As a result, many manufacturers are being forced to self-insure.

COMPENSATION LAWS

One such company is Safeguard Manufacturing Co., of Woodbury, Conn., a maker of industrial safety equipment. Six years ago, Safeguard paid $1,200 in annual premiums. By 1974, the cost had risen to $37,000, and during that time the company was dropped in turn by five insurers. The best offer it has been able to get recently is $180,000 for a one-year policy, which the 14-person company with $500,000 in annual sales cannot support. Now, says President E. W. Plumb, "I'm self-insuring and praying a lot."

There is good reason to pray. Since 1970 Safeguard has had to pay $75,000 in judgments or settlements. The lowest claim was for $250,000. And right now, Safeguard is defending a $4 million claim that goes to the heart of the problem for industrial manufacturers. With increasing frequency, they are being held responsible for somebody else's mistakes.

The suit was brought by an employee who lost a hand in a 3-in. stroke press that was equipped with a Safeguard device that had been sold to the employer for use on a much larger press. The device is supposed to pull the operator's hand free from the machinery, but it failed to do so because the employer disregarded Safeguard's clear instructions on how to adjust the device for the smaller press, says Plumb. Nevertheless, the suit is directed against the manufacturers, not the employer.

That is because workmen's compensation laws prohibit employees from filing suit against negligent employers. First enacted in 1910, workmen's compensation—the earliest form of no-fault insurance—was intended to cut off the right to sue in return for immediate recompense to injured workers, regardless of who caused the accident. But the state statutes all place a ceiling on the amount that can be recovered, and those ceilings have not kept pace with inflation. In Massachusetts, for example, the loss of a hand is valued at $5,250. By contrast, a federal employee who loses a hand receives $126,692 under the Federal Employees Compensation Act.

With such low limits, employers have little economic incentive to hold down the accident rate by maintaining industrial equipment in top shape. Dr. Alvin S. Weinstein, professor of mechanical engineering and public affairs at Carnegie-Mellon University and principal investigator for a National Science Foundation study of technology and law, concludes that "workmen's compensation laws are a license for poor workplace practices."

Employers' shield. In the early 1960s, the courts found a way to get around the rigidities of the law—from the employee's perspective. In state after state, workers were permitted to sue manufacturers of the equipment causing the accidents. But with few exceptions, the courts have refused to permit manufacturers to countersue employers who negligently keep the equipment in poor condition. The courts consider workmen's compensation law as an absolute shield, barring suits against employers—either by employees or by anyone else.

But the law in many states practically guarantees that manufacturers of the equipment will be sued. The workmen's compensation insurance carrier may sue the manufacturer in the name of the injured worker to recoup the insurance loss, no matter how the employer contributed to the injury.

Against this backdrop, manufacturers in a number of industries are beginning to lobby for new laws. E. H. Rosenberg, president of Thomson National Press Co., of Franklin, Mass., and founder of Retort, Inc., a national lobbying organization, says the basic push is to make workmen's compensation law once again the sole remedy for injured workers. The labor subcommittee of the Senate Labor & Public Welfare Committee is drafting such an amendment to a pending workers' (changed from "workmen's" as a bow to women's lib) compensation bill. The bill itself would set federal minimum standards for various disability benefits. Another proposal would permit manufacturers to sue employers who violate Occupational Safety & Health Administration regulations. Although there is now enough support to ensure that some product liability provision will be written in, the bill itself is given little chance this year.

[From Tooling & Production magazine, Apr. 1976]

Productivity Faces the Courts

(By Paul C. Miller)

You may be about to go out of business, or at least to the edge of bankruptcy. Today's state laws coupled with punitive court settlemens can destroy small businesses and thus encourage big ones. To control the resulting big monopolies, we'll get bigger government and a head start on socialism! Then we'll all be out of business. Yet, only our legislators can save us. What a fix!

Why? For the machine-tool builder, it's because the owner of production equipment is covered by Workmen's Compensation (WC) insurance and does not have to pay damages to an injured employee beyond the limited amounts specified by state law. The really big payments come from the machine-tool builder himself in subrogate action. Through these lavish suits, the builder may pay for the accidents caused by careless application of his machines in his customers' shops—over which he has no control.

For the consumer-goods producer, the courts' punitive awards are the culprits. The employer or machine-tool user may save by not paying his full share of the costs of industrial accidents, but he makes up for this in paying excessive amounts for damages caused by his products, whether they are defective or not. Let us say from the start, however, that the best defense is a "proper meritorious product."

SYSTEM DEFECTS

Some lawyers predict the death of the "tort reparations system" because of outmoded state WC laws and the lawyers and insurance companies who take advantage of the bad set of laws and unthinking courts. Defects within our court systems encourage the unscrupulous lawyer, and court procedures forbid full explanation to the jury of many pertinent facts. Highly technical cases require a background of education and knowledge incompatible with the realities of jury selection.

In short, the punishment does not always fit the crime, the innocent are punished and the guilty go almost scotfree—protected by the blanket of WC. The product liability problem surfaced sooner for Havir, a press builder, but is not far behind for almost all manufacturers. Few products are proof from suits. Consumer goods are vulnerable, and electrical equipment has a vast potential for devastating suits. Component parts such as stamping, screw machine parts, plastic moldings, die castings, springs etc are subject to secondary actions if not primary ones.

If the builder of the end product using these components is sued and he conducts a proper defense, he will enjoin his suppliers as codefendants. The more the merrier! Share the costs of a possible award. The failure of one small fastener can be the alleged cause of an airliner crash or an automobile accident or an electrocuted home handyman. That the component manufacturer did not know the end use of his product will be no defense.

The problem is made worse by consumerism and liberal courts enthused with the "deep pockets" theory of indemnifying injured parties. It is also alleged to be worse because of tort lawyers seeking replacement work now that no-fault auto insurance has given them more leisure. The concept of strict product liability is now a cause of action usually attractive to the plaintiff's counsel. The jurors have a gut feeling favoring the victim. There is an attitude of "let's get industry," and the machine builder or consumer-goods producer has about as much chance for a fair trial as the defendant in Gilbert and Sullivan's *Trial by Jury*.

A SOURCE OF HELP

An organization called the Defense Research Institute (DRI), 1100 West Wells St., Milwaukee, WI 53233, can help you. It is a group of lawyers who defend industry in liability suits. They offer advice and literature, plus assistance when cases go to court. A major goal, however, is to prevent the suit from going to court in the first place.

Their opposite is the ATL, the Association of Trial Lawyers, made up of those who represent the plaintiffs' cases in consumer suits. The ATL has a "traveling roadshow," a panel of handsomely paid experts who will testify in any court on any subject to give credence to the "obvious" merits of the plantiff's case. The DRI offers a counterploy, an "expert bank" to aid the defense of the manufacturer. The DRI attitude is that "a good product can be defended if all concerned realize the dangers and you can prove you worked hard to make it right." But they recognize that the liberal courts can allow a crisis of product liability much greater than the doctors' problem of recent publicity.

Michael A. Coccia, a member partner in the law firm of Baker and McKenzie in Illinois, said the events are not surprising. The problem is in direct proportion to the number of new products introduced and used in society. Consumerism results from our faith in space-age science, dimmed by the reality of the limited quality of mass-produced products. The automobile is not built to the perfection of a space vehicle, but few consumers understand the reason why—the relative cost of the two conveyances.

Mr. Coccia calls for new legislation to effect compromise between industry and the consumer and to protect the adversary system and the administration of justice. He believes that putting the defendant to the wall and stripping him of his defenses, bankrupting him and then leaving him out there to die of bankruptcy is only asking for total federal control, socialism and the loss of one of our great freedoms, that of justice and the judging of ourselves in our own environment.

He has many proposals, but an especially fascinating idea is that, if punitive damages must be awarded at all, they should be decreed as a matter of law to be awarded on behalf of a worthy charity, a school system or cancer research, but certainly not to the plaintiff, and, above all, not to the plaintiff's attorney. "The attorney must not be able to recoup fees from awards of punitive damages, and in no way should his fee be computed or based thereon."

Mr. Coccia may have said it all, but Tooling Production offers its own, relatively simple, solution. All that is really needed is to expand the Workmen's Compensation law concepts to include the machine-tool builder in subrogation suits. In other words, a limited liability rule and insurance program to cover *all* in industry, not just the first party sued. We strongly suggest that you actively promote new legislation along these lines in your state. Make your views known to your representatives in both state and federal governments. We in metalworking manufacturing are a minority. We must *all* write to make our views felt.

SURVIVAL GOALS

Study these proposals and, if you agree, encourage your representatives to initiate legislation on both state and federal levels.

(1) Adopt S. 2018 Workmen's Compensation Reform to permit a manufacturer (machine-tool builder) to raise an employer's violation of a state or OSHA standard as a defense in subrogation action and permit the employer to be held liable to the manufacturer for any payments made to the injured worker as a result of the employer's violation of these standards.

(2) Get each state to pass a statute of limitations bill to limit liability to 5 to 10 years. Watch the progress in Massachusetts.

(3) Obtain legislation to establish a joint underwriting authority to guarantee the availability of product liability insurance coverage at a reasonable cost.

(4) Eliminate excessive payments and suits that pay out to the injured party only 20 to 30 cents on the dollar, with the rest going for insurance premiums, brokerage fees, cost of experts and uncontrollable lawyers' contingency bounty.

(6) Pass laws to limit punitive liability.

(7) Recognize the responsibility of all parties involved in industrial safety, and eliminate any barrier that may shield any one party from liability. Remove the bar to holding the employer responsible for his own negligence in the event of third-party involvement. The employer is still shielded by WC against direct suit by his employee, but permit the injured to claim extra compensation if an OSHA violation is involved. This allows punitive damages against the employer, not the machine-tool builder. Also, require the WC insurance carrier to provide the employer with an adequate safety consulting program.

(8) Make WC the sole remedy available to an injured employee along with an increase in benefits. The WC carrier or employer is then given the opportunity to recover losses from the machine-tool builder or other manufacturer, but the legal action resulting from this claim will not involve potential "jury sympathy."

CONGRESSIONAL BUDGET OFFICE ANALYSIS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

Mr. HUMPHREY. Mr. President, the reaction of the Ford administration to S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1976, makes it crystal clear what the White House is prepared to do to get 7 million jobless Americans back to work: nothing.

Instead of indicating a willingness to hammer out an acceptable legislative program with Congress to deal with the Nation's worst recession since World War II, the administration is spending its time and energy denouncing the proposal with exaggerated and often inaccurate claims about its cost and inflationary impact. This boils down to another example of the serious negativism that has dominated the White House's response to national problems since 1969.

In an effort to provide objective information on these important points, the Congressional Budget Office has analyzed S. 50 and H.R. 50 to determine what the cost and inflationary impact would be of this proposal to reduce adult unemployment to 3 percent in 4 years while maintaining price stability.

The Congressional Budget Office analysis presents several points concerning the inflationary effect of efforts to achieve the bill's 3 percent adult unemployment goal by the end of 1980. It concludes that the use of general fiscal and monetary policy to achieve the 3-percent goal could increase inflation by about 1 percentage point by 1980, and roughly 2 percentage points 2 years after achieving the full employment goal. This would mean an annual average addition to inflation of approximately 0.6 percentage points over the next 5 years. Although significant, these estimates are far below the unsupported charges made by some critics.

The CBO further concludes that over the long run—

> careful development of employment programs targeted at pockets of high structural unemployment could reduce these inflationary risks. Training programs, if successful, could shift workers from situations of labor surplus to those of labor shortage. Further vigorous pursuit of anti-inflation measures might increase the feasibility of achieving a 3 percent unemployment goal in a non-inflationary environment.

Mr. President, the Full Employment and Balanced Growth Act of 1976 establishes a framework by which the administration and Congress can, on a coordinated basis, plan and implement comprehensive economic policies and programs to attain the employment and price stability goals of the legislation. First priority is to be given to devising fiscal and monetary policies that create a climate for maximum employment in the private sector.

The CBO analysis estimates that if the full employment goal is applied to workers 18 years and older, net supplemental Federal expenditures for public efforts to encourage or create new jobs could range between $8 and $16 billion 2 years after the bill is enacted. This would be the cost range after savings from reduced welfare and unemployment insurance payments together with additional tax revenue resulting from increased employment, are taken into account. These savings could range from $15 to $28 billion—savings which are far greater than the net cost estimates cited by the analysis.

The CBO analysis notes that the bill, although it stresses the need to develop and implement anti-inflationary policies and programs, does not include a numerical anti-inflation goal. Admittedly this aspect of the bill has been a cause of concern to some Members of Congress, but I am certain that this point can be resolved without diminishing the ability of the administration to achieve the full employment and balanced growth goals and process provided for in the bill.

Mr. President, it was never my intention to represent the Full Employment and Balanced Growth Act as an example of legislative perfection. I do not know of any proposal that would fit that category. It is however, a workable, broad-based measure by which the administration and Congress can launch coordinated, comprehensive efforts to put an end to the increasingly frequent and severe series of recessions that have thrown millions out of work and caused incalculable misery and deprivation in families throughout the Nation.

This is an ongoing problem that can only be labeled as a national economic policy crisis. H.R. 50 and S. 50 can be the means by which Congress fulfills its responsibility to effectively respond to this crisis in the interest of all our citizens. For the sake of the people we represent, it should be enacted and implemented as quickly as possible.

Mr. President, I ask unanimous consent that the Congressional Budget Office analysis of the Full Employment and Balanced Growth Act of 1976 be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

AN ECONOMIC ANALYSIS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

SUMMARY

S. 50, the Full Employment and Balanced Growth Act of 1976, establishes a goal of 3 percent adult unemployment to be achieved within 4 years and outlines a set of organizational structures and an administrative process designed to improve coordination of economic policy at the national level. While it mandates the use of certain types of programs to achieve the full-employment goal, it does not directly establish specific employment programs.

Both the economic impact and future budget costs of S. 50 will depend on a number of different factors:

The underlying strength of private demands in the economy that determines how much unemployment there would have been without passage of S. 50;

The particular policy mix selected to reduce unemployment to the 3 percent range;

The definition of "adult unemployment": If "adult" is defined as non-teenage, the 3 percent target for adults translates to around 4 percent for overall unemployment; if "adult" is defined as persons 18 years and older, it translates to around 3.5 percent overall unemployment.

When these factors are taken into account, this study concludes that enactment of S. 50 could result in lower unemployment, but at the risk of substantially higher inflation, particularly if the 3 percent target is viewed as a short-range goal and if teenagers are included in the definition of adult. A set of simulations by CBO shows that reaching a

3.5 percent overall unemployment rate instead of 5.0 percent by 1980 might add roughly 2 percentage point to the inflation rate by 1982. In the long run, on the other hand, it is possible that careful development of employment programs targeted at pockets of high structural unemployment could reduce these inflationary risks. Training programs, if successful, could shift workers from situations of labor surplus to those of labor shortage. Further, vigorous pursuits of anti-inflation measures might increase the feasibility of achieving a 3 percent unemployment goal in a non-inflationary environment.

Budget costs will also vary widely, depending on the state of the economy and the policy mix adopted under S. 50. This report provides estimates of the cost of public employment programs under certain hypothetical economic assumptions. They range from $16 billion to $44 billion, depending on what is assumed about the definition of adult and the amount of displacement from other employment.

If public employment programs attract previously-employed persons from low-paying jobs in the private sector or if state and local governments use public employment funds to hire workers they may have employed anyway, net employment is not increased by the full number of new public jobs. Net budget costs of a $16 to $44 billion program would be less as a result of lower unemployment insurance payments and higher tax receipts. They might range from $7.0 billion to $19.9 billion after a year of operation. It should be stressed, however, that these estimates are merely an illustration of one possible set of budgetary implications for S. 50. Under different economic conditions and using a different policy mix than those shown, budget costs could vary widely.

S. 50 provides a limited job guarantee provision whereby the government would stand ready as employer of last resort to provide jobs at prevailing wages when adult unemployment exceeds 3 percent. The section mandates wage standards for the job guarantee program, standards which add to the inflationary impact of the bill. Higher wages, on the other hand, may have other benefits as an income maintenance device and a way to draw more attention to improving pay and working conditions in low-level private sector jobs.

S. 50, the Full Employment and Balanced Growth Act of 1976, has several major aspects:

Establishment of a goal of 3 percent adult unemployment to be reached as promptly as possible, but within not more than 4 years after the date of enactment of the Act.

Recognition that achieving a 3 percent unemployment goal will require a mix of both aggregate demand policies and more selective targeted measures.

Recommendation that full employment policies be accompanied by anti-inflation measures.

Extension of the organizational structures established in the Employment Act of 1946 and the Congressional Budget Reform Act of 1974 to establish an institutional framework whereby the President, the Federal Reserve Board, and Congress can coordinate national economic policy to achieve the goals set forth in the Act.

An economic analysis of S. 50 should deal with its probable impact on the economy and an estimate of its budgetary costs. However, while the bill specifies a full-employment goal and an administrative process, and mandates the creation of certain types of programs, it does not directly establish specific programs. Both the economic impact and the budget cost will differ greatly depending on which measures are selected to achieve the full-employment goal. Some job-creating measures are likely to have a greater inflationary impact than others. Further, anti-inflation policies recommended in the bill may vary considerably in effectiveness depending on which measures are chosen and how rigorously they are pursued. Regional, inter-industry, and demographic impacts will also vary with program design.

Budget costs are also highly uncertain, since the cost per job of alternative measures to stimulate employment varies greatly. At best, an economic analysis can provide an illustration of the effect of some measures that might be enacted to achieve the full employment goal and programmatic mandates of S. 50.

Even this illustrative analysis, however, requires answers to three preliminary questions: First, what does the goal of 3 percent adult unemployment mean, in terms of who is classified as "adult"? Second, what is the starting point for measuring the effects and costs of S. 50; that is, is it to be viewed as an anti-recession bill designed to reduce unemployment from its current level of 7.5 percent, or should that short-run reduction be thought of as something the economy will probably achieve in any case and S. 50 viewed as a program to lower the long-term average unemployment rate from around 5 percent to near 3 percent? Finally, what mix of tools might be used to achieve the full employment goal?

CONSIDERATIONS IN DEFINING THE UNEMPLOYMENT GOAL

The requirements for reaching the goal of 3 percent unemployment depend, of course, on who is classified as an adult. A useful rule of thumb in this regard is that since the mid-1960s the unemployment rate for all workers aged 16 and over has been roughly one percentage point above the unemployment rate for those 20 and over and 0.5 percentage points above those 18 and over.[1] Table 1 contains more precise comparisons on a yearly basis. Although demographic factors in the future could reduce this differential, projections by the Urban Institute indicates that this approximate spread will persist through the next decade. Thus, if we speak of 3 percent nonteenage unemployment we are referring to an approximate 4 percent overall rate. Similarly, a 3 percent unemployment rate for persons 18 and over implies about a 3.5 percent overall rate.

TABLE 1.—UNEMPLOYMENT RATES FOR ALL PERSONS 16 AND OVER COMPARED WITH UNEMPLOYMENT RATES FOR PERSONS 18 AND OVER AND 20 AND OVER

Year	(1) Unemployment rate, 16 plus	(2) Unemployment rate, 18 plus	(3) Unemployment rate, 20 plus	(4) (1) minus (2)	(5) (1) minus (3)
1950..	5.3	5.1	4.8	0.2	0.5
1951..	3.3	3.1	3.0	.2	.3
1952..	3.0	2.8	2.7	.2	.3
1953..	2.9	2.7	2.6	.2	.3
1954..	5.5	5.3	5.1	.2	.4
1955..	4.4	4.2	3.9	.2	.5
1956..	4.1	3.9	3.7	.2	.4
1957..	4.3	4.0	3.8	.3	.5
1958..	6.8	6.5	6.2	.3	.6
1959..	5.5	5.2	4.8	.3	.7
1960..	5.5	5.2	4.8	.3	.7
1961..	6.7	6.4	5.9	.3	.8
1962..	5.5	5.2	4.9	.3	.6
1963..	5.7	5.2	4.8	.5	.9
1964..	5.2	4.7	4.3	.5	.9
1965..	4.5	4.1	3.6	.4	.9
1966..	3.8	3.4	2.9	.4	.9
1967..	3.8	3.5	3.0	.3	.8
1968..	3.6	3.2	2.7	.4	.9
1969..	3.5	3.1	2.7	.4	.8
1970..	4.9	4.5	4.0	.4	.9
1971..	5.9	5.4	4.9	.5	1.0
1972..	5.6	5.1	4.5	.5	1.1
1973..	4.9	4.3	3.8	.6	1.1
1974..	5.6	5.0	4.5	.6	1.1
1975..	8.5	7.9	7.3	.6	1.2

Note: Col. (1) is the unemployment rate for the civilian labor force for all persons 16 and over Col. (2) is the unemployment rate for the civilian labor force for all persons 18 and over. Col. (3) is the unemployment rate for the civilian labor force excluding teenagers, that is, persons 16 to 19.

Source: Bureau of Labor Statistics.

Footnotes at end of article.

BASELINE FOR EVALUATING EMPLOYMENT POLICY IN S. 50

In determining the starting point for reducing unemployment in S. 50, it is useful to separate the intentions of the bill into two aspects. In part, S. 50 is designed to coordinate and ensure a vigorous recovery from the current recession. In part, it is designed to improve on past performance and permanently bring adult unemployment close to 3 percent.

It is important to bear in mind that the economy is beginning a recovery from its deepest postwar recession. Even though there has been substantial growth in the economy beginning in the second half of 1975, unemployment is still 7.5 percent. Projections of economic growth based on current economic policies put unemployment in the 6.4 to 6.9 percent range by the end of 1977.[2] Further, a sustained 5 percent average annual real rate of growth beyond 1977 would not push unemployment below 5 percent until about 1981. Achieving 3 percent adult unemployment without any *special* jobs programs would require much more rapid growth over the next four years—sustained annual growth rates in the 7 percent range. Alternatively, countercyclical employment programs such as public employment, incentives to the private sector, temporary assistance to state and local governments, and accelerated public works could absorb some of the unemployment, reducing the unemployment rate associated with any rate of real output growth.

If it is viewed primarily as a long-range program for maintaining full employment, the costs of recovering from the current deep recession should not be attributed to S. 50. Viewed in this way, the role of S. 50 is to improve the long-run average behavior of unemployment. Unemployment since 1960 has averaged 5.2 percent. Some of this unemployment has resulted from the economy operating at less than full capacity in recession periods; some is due to longer-run factors. Based on this historical benchmark, the 3 percent adult unemployment target (or 3.5 to 4 percent overall) of S. 50 can be evaluated relative to a 5.2 overall rate of unemployment rather than the present 7.5 percent.

Given the many unpredictable events that befall modern economies—external price fluctuations, wars, changes in trade relationships, and the like—together with the many internal instabilities in our complex economic system, some cyclical activity is likely to occur. The role of the administrative mechanisms outlined in S. 50 is to improve coordination of economic policy and reduce cyclical instability as well as provide special employment programs. Its intended result is to reduce the historical gap between actual unemployment and the full-employment goal. However, even with improved coordination of fiscal and monetary policy, some cyclical unemployment is still likely to occur.

This paper will focus on the second, or long-range aspect of S. 50. Viewed in this way, the policies and costs attributable to S. 50 require (on the average) less additional stimulus to the economy and entail lower budget costs than would the entire job of bringing unemployment from its present 7.5 percent to 3.5 or 4 percent.

ALTERNATIVE POLICY OPTIONS

S. 50 outlines a number of policy measures that might be implemented to achieve the full-employment target. Standard fiscal and monetary measures might be supplemented by special job-creating policies like public service employment, accelerated public works, grants to state and local governments, and special tax incentives to business. A number of anti-inflation measures are also described. Further, there is a provision of a limited job guarantee for persons able and willing to work and seeking work.

Special employment programs are to be enacted to the extent that fiscal and monetary policies are unable to achieve the 3 percent adult unemployment target. Presumably what this means is that supplementary measures are to be used if the inflationary pressures or budget costs associated with using standar fiscal and monetary policy to achieve the unemployment target become unacceptably high. Further, certain demographic groups, regions, and industries may experience high unemployment rates even when the overall unemployment rate is in the target range, and special targeted programs might be sought to alleviate these special unemployment problems.

The choice of employment programs also depends on the underlying causes of unemployment. Across-the-board measures are generally not considered to be the best remedies for unemployment that results from lack of skills, job dissatisfaction, regional problems, or special industry dislocations. Increasing aggregate demand to reduce these types of unemployment in relatively tight labor markets will be more inflationary than targeted programs. However, in practice, it is not always possible to distinguish cyclical unemployment (that due to inadequate aggregate demand) from the longer-run varieties.

Cyclical Unemployment. Cyclical unemployment occurs as a result of the economy operating below capacity. This condition can be eliminated by expansionary aggregate demand policies—tax cuts, across-the-board increases in spending, and expansionary monetary policy. However, as the economy moves toward capacity, inflation typically begins to pick up. This means that one's view of whether or not the economy is at or below capacity, and hence, how much of the prevailing unemployment should be characterized as cyclical, depends on how much added inflation one is willing to accept (or reduce by direct price controls or other anti-inflation measures) in exchange for a given reduction in unemployment.

Historical evidence alone cannot provide a definitive answer to the question of how far fiscal and monetary policy can bring the economy toward a full-employment goal before inflation picks up substantially. While it is not always true that unemployment and inflation go in opposite directions—the last few years have demonstrated that they can sometimes go up together—falling unemployment has been associated with rising inflation for most of the last three decades. The periods in which the "tradeoff" appears not to exist were often characterized by special factors, such as direct wage and price controls and government materials allocation in 1951–52 when low rates of inflation were associated with falling unemployment, and large increases in food and energy prices in 1973–74 when high rates of inflation occurred simultaneously with rising unemployment. Because we are currently experiencing a legacy of inflationary expectations that has followed in the wake of recent high rates of inflation, it is extremely difficult to predict how much added inflation would be associated with any expansionary fiscal and monetary policy strategies adopted today.

While projections of the potential inflationary impact of achieving various unemployment targets are highly uncertain, simulation models can provide evidence of past relationships between prices and unemployment. Projecting these into the future is one way to gauge the magnitude of the inflation-employment tradeoff, although this technique is, of course, subject to error.

One set of simulations by CBO [2] shows that if expansionary aggregate demand measures were enacted in 1976: III (the third quarter of calendar year 1976) to achieve various unemployment targets by 1980, reducing unemployment by 0.5 percentage points (below 5 percent) would add roughly 0.3 to 0.4 percentage points to the Consumer Price Index (CPI) by 1980 and 0.5 to 0.7 by 1982. That is, if inflation were 5 percent per year in a 5 percent unemployment economy, it would be 5.5 to 5.7 percent two years after reaching a 4.5 percent unemployment economy, and roughly 7 percent per year two years after reaching a 3.5 percent unemployment economy. The details of the simulations are shown in Table 2. If this tradeoff exists, whether or not one is willing to exchange more jobs for higher prices at these rates is still a matter of values. Further, various anti-inflation measures as outlined in S. 50 could conceivably improve price performance as the economy expands towards full employment.

TABLE 2.—PROJECTIONS OF ADDED INFLATION FOR DIFFERENT UNEMPLOYMENT TARGETS

	Unemployment target for 1980 (percent)				
	5.0	4.5	4.0	3.5	3.0
Addition to CPI in 1980 (in percentage points relative to the 5.0 percent unemployment target)	0	0.3-0.4	0.8-0.9	1.1-1.4	1.6-1.9
Addition to CPI in 1982 (in percentage points relative to the 5.0 percent unemployment target)	0	0.5-0.7	1.1-1.5	1.7-2.3	2.4-3.3

Source: U.S. Congress, Congressional Budget Office, "A Simplified Wage-Price Model," September 1975.

For purposes of illustration only, we will define unemployment above 4.0 percent as cyclical and the rest noncyclical; that is, based on longer-run factors.[4] Thus, of the 5.2 percent average unemployment over the 1960–75 period, about 1.2 percentage points will be attributed to the economy operating below potential and the other 4 percentage points to longer-run factors.[5] If a higher definition of cyclical unemployment had been used, say 5.0 percent, then less of the past unemployment would be attributed to the economy operating below potential (in this case only 0.2 percentage points on the average) and more to longer-run factors.

Standard fiscal and monetary measures are one way to reduce cyclical unemployment. In addition, special countercyclical measures such as public service employment, special tax incentives to private industry, accelerated public works, and special assistance to state and local governments can also be used on a temporary basis either to provide jobs directly to the cyclically unemployed (as in public employment and public works), or to provide special incentives to private industry and state and local governments to employ more people than they would have anyway. A recent study by CBO of temporary measures to stimulate employment,[6] concluded that selective measures can potentially have a higher employment impact per dollar spent than across-the-board fiscal policy. Further, in some cases, the potential inflation impact per job is less than for standard fiscal and monetary policy, suggesting that using selective measures can improve the inflation-unemployment tradeoff.

Table 3 shows estimates of the employment impact and net budget cost (taking into account savings from unemployment compensation and higher tax payments for alternative temporary employment programs).[7] Initially, there is a fairly wide variation in cost-per-job, although these differences tend to narrow after a year or two of program operation. Public employment has a lower cost-per-job than other measures, although more costly programs have other benefits reflected in the value of their output. After a year of operation, for instance, accelerated public works may cost about one and a half to twice as much per job as public employment. But across-the-board tax cuts could entail a cost of from three to four times that of public employment.

Table 4 provides in summary form some of the considerations discussed in Temporary Measures to Stimulate Employment in making comparisons between programs. While such special measures to stimulate employment may be less costly and potentially less inflationary in the short run, aggregate demand policies are sometimes viewed as a more neutral way to stimulate economic growth and employment and are also sometimes thought to be more effective ways to create jobs in the long run than selective measures. In addition, as compared to aggregate demand programs, targeted programs may be difficult to implement and imprecise or untimely in their impact.

Footnotes at end of article.

TABLE 3.—ESTIMATES OF EMPLOYMENT AND BUDGET IMPACT OF VARIOUS PROGRAMS COSTING $1,000,000,000

	Initial impact			12 mo			24 mo		
Type of program	Increase in jobs (thousands)	Reduction in unemployment rate	Net budget cost (millions)	Increase in jobs (thousands)	Reduction in unemployment rate	Net budget cost (millions)	Increase in jobs (thousands)	Reduction in unemployment rate	Net budget cost (millions)
Public service employment	80–125	0.07–0.11	$754–$615	90–145	0.08–0.13	$492–$425	90–150	0.08–0.13	$392–$312
Anti-recession aid to State and local governments	40– 77	.04– .67	850– 716	70– 97	.07– .09	590– 570	72–100	.07– .09	480– 450
Accelerated public works	16– 16	.02– .01	915– 703	56– 70	.06– .07	537– 510	64– 80	.07– .08	430– 390
Tac cut [3]	8– 15	.01– .02	980– 960	26– 35	.02– .03	740– 720	30– 40	.02– .03	663– 637
Government purchases	20– 50	.02– .01	948– 870	40– 70	.03– .05	600– 500	60– 80	.04– .05	475– 425

[1] These estimates assume no monetary accommodation. If the money supply were increased to prevent interest rates from rising as a result of the expansionary fiscal measure, the job-creating effect would be higher and the net deficit cost lower. Accommodating monetary policy would increase the expansionary effect by 25 percent or more which, in turn would reduce the budget cost by an average of about $125,000,000

[2] The income tax cut is assumed to be ⅓ corporate and ⅔ personal. If the tax cut were entirely personal, the expansionary effect would be about 50-percent greater and the net budget cost about $175,000,000 lower.

Source: See app. B.

Source: U.S. Congress, Congressional Budget Office, "Temporary Measures to Stimulate Employment: An Evaluation of Some Alternatives," Sept. 2, 1975.

TABLE 4.—SUMMARY OF THE POTENTIAL IMPACTS OF ALTERNATIVE MEASURES TO STIMULATE EMPLOYMENT

	Employment impact per dollar expenditure	Startup time	Phaseout flexibility	Inflation impact	Value of output	Targetability
Income tax cut	Relatively low, particularly in the short run.	Subject to lags in individuals' spending.	Potentially easy to terminate.	Same as any aggregate fiscal measure.	Entirely private sector	None.
Increase in Government purchases.	Higher than tax cut; lower than special employment programs.	Potentially fast; subject to policy initiation lag.	May be hard to terminate, especially if useful output, services involved.	Same as any aggregate fiscal measure, depending on employees' skill mix.	Mostly public sector; 2d round effects on private sector.	Low.
Accelerated public works	Potentially low if wages are high; greater job impact from low-wage projects.	Potentially long; but with wide variations depending on type of program.	Wide variation; appropriations easier to stop than some other Government programs, but large-scale projects may take long to complete.	Somewhat greater than other programs if workers highly skilled; lower if aimed at less skilled workers.	Mostly public sector; 2d round effects on private sector.	Can be directed at high-employment areas, construction trades.
Public service employment	Relatively high if wages are low.	Potentially fast if existing programs expanded.	Relatively flexible if job tenure limited.	Low if aimed at unskilled workers and if wages are lower than private sector alternatives.	Low if emphasis is solely on job impact; if combined with training can produce useful skills.	Can be directed at most needy individuals.
Antirecession aid to State and local Governments.	Less than PSE if skill levels high; more than other Government purchases, public works.	Potentially fast; no new programs, only transfer of funds.	Potentially easy to terminate.	Moderate, depending on skill level of employees.	State and local government services.	Can be directed at Governments hit by recession.

Source: U.S. Congress, Congressional Budget Office, "Temporary Measures to Stimulate Employment: An Evaluation of Some Alternatives," Sept. 2, 1975, p. VIII.

Non-Cyclical Unemployment. Some unemployment is caused by factors others than the business cycle, and thus continues even when the economy approaches capacity and inflation begins to increase. In some cases, high rates of cyclical unemployment exacerbate structural problems and it is generally agreed that reducing or eliminating cyclical unemployment contributes to the effectiveness of all types of employment programs. Hence, cyclical and other types of unemployment should not be viewed as entirely separate problems.

A major cause of non-cyclical unemployment is an excess supply of labor in some pocket or pockets of the labor market. These pockets may be regional, they may result from a decline in demand for a particular product requiring labor with a specialized skill, or they may be due to the crowding of some individuals into a limited number of occupations because of discrimination, lack of education, or other barriers that prevent occupational mobility. Programs designed to increase the demand for labor in these pockets and/or to increase the mobility of individuals out of the pockets (by geographic mobility allowances, training or retraining, and removal of discriminatory barriers, to name a few) might be more effective in reducing this sort of unemployment than across-the-board increases in demand that might only drive up wages in other sectors of the labor market where unemployment is not a problem.

A second kind of non-cyclical unemployment consists of short spells of unemployment accompanying job change or initial entry into the labor force. To some extent, this represents a normal period of job search for new job-seekers or for persons who have left a job to seek a better one. (Many individuals take a first job or change jobs without experiencing unemployment, however.)[8]

Some groups of people experience frequent occurrences of unemployment, resulting in high unemployment rates. Unskilled and disadvantaged individuals—among whom blacks and young people are disproportionately represented—experience more frequent spells of this sort of unemployment than other groups. These persons tend to hold jobs at the bottom of the labor market hierarchy and they become unemployed frequently because they are fired, because they quit, and because they leave and reenter the labor force more frequently than other workers. Job attachment is weak. There is little incentive for employer or employee to maintain a long-term work relationship since there is little if any on-the-job training and hence no payoff to seniority. Job satisfaction is low, and this also weakens job ties.

Increasing job attachment by providing jobs with some training and chances for upward mobility would certainly be a desirable component of a program designed to reduce the relatively high unemployment rates of the unskilled and disadvantaged. In fact, failure to do so might result in continued high rates of unemployment for these groups, making a 3 percent adult unemployment goal difficult or even impossible to achieve.[9] Further, a case could be made that paying participants a higher wage than in the countercyclical program and providing in general a more attractive work environment would increase job attachment and reduce the frequent spells of unemployment that characterize their job market experience. This means that such programs are bound to be more costly on a per-job basis than countercyclical programs. Further, if they are made more attractive than private sector alternatives, workers will be drawn from the private sector, increasing the size of the public jobs program and driving up wages in the private sector. Over the longer run, however, this displacement could result in improved working conditions in the private sector.

If the line between cyclical and noncyclical unemployment is defined at 4 percent (the arbitrary distinction made earlier), then according to the mandate of S. 50 various programs going beyond countercyclical efforts would be required to provide enough jobs to reduce unemployment from 4 percent overall to 3 percent for adults. Presumably, eligibility to participate in the structural programs would be limited to adults. (Special programs for teenagers are also mandated in a separate section of S. 50).

If adult is defined as nonteenage, the bill would mandate a relatively small employment program (in addition to countercyclical measures) to achieve the 3 percent target, since teenagers account for about one percentage point of unemployment.[10] Projections of current demographic trends in employment and labor force participation by The Urban Institute suggest that in 1980 a 4 percent overall unemployment rate would mean about 3.2 percent for persons 20 and over, or about 186,000 unemployed persons 20 and over based on a projected labor force of 92.8 million for non-teenagers. If adult is defined as persons 18 and over there would be more unemployment over and above the 3 percent adult unemployment target when the economy is at a 4 percent overall unemployment rate. The Urban Institute projects the unemployment rate for persons 18 and over would be about 3.6 percent in 1980 if the overall rate were 4 percent. This would mean about 590,000 unemployed persons 18 and over based on a projected labor force of 98.4 million for persons 18 and over.

THE INFLATION PROBLEM

A serious problem associated with pursuing a goal of 3 percent adult unemployment is the risk that inflation will begin to accelerate as the economy approaches the goal. Two major sources of inflation need to be identified. The first is likely to be associated with any attempt to reduce unemployment to low levels. The second is related to a specific provision of S. 50.

First, as noted in the analysis of cyclical unemployment, inflation is likely to pick up as the economy moves closer to potential. As expansionary fiscal and monetary measures are used to bring the economy closer to capacity and the unemployment rate falls, some added inflation is likely. While economists' understanding of inflation is too limited to warrant any confidence in precise estimates of the inflationary risk, the historical record since 1960 does suggest that inflation picked up considerably in the late 1960s when unemployment approached 3 percent for adults. The very high rates of inflation experienced in the 1970s can be traced largely to factors other than tight labor markets, but an attempt to drive unemployment to the target mandated in S. 50 within four years would result in an acceleration of wage inflation similar to that experienced in the late 1960s. Indeed, some of the pickup of inflation in 1973 may have been due to the decline in the overall unemployment rate to 4.6 percent, a rate considerably higher than the goal of S. 50.

According to the simulations in Table 2, the added inflation associated with achieving a 3.5 percent unemployment target relative to a 5.0 percent target is around 1.25 percentage points in the year the target is achieved and around 2 percentage points two years after achieving the target. If unemployment were to be held at the 3.5 percent rate indefinitely, the simulations show a growing inflationary impact.

The second potential source of added inflation is the requirement in S. 50 that wages in public employment programs must meet certain standards. They must, for example, be at least equal to prevailing wages paid by the local government if the local government is the employer, and they must meet Davis-Bacon standards in the case of construction jobs.

Particularly since persons who refuse private sector jobs at less than prevailing wages or "fair rates of compensation" would be eligible for "employer-of-last-resort" jobs, these provisions would tend to drive up wages in private industry, where many workers do not now earn these wage rates. While higher wages, particularly in special programs targeted at the poor and unskilled might have other benefits—both as an income maintenance device and a way to reduce job turnover and frequent occurrences of unemployment—these provisions of S. 50 are likely to result in a higher average level of wages economy-wide than would otherwise prevail, adding to the inflationary pressures that

---

Footnotes at end of article.

could arise from the economy operating close to capacity. No estimate of the added inflation from this source can be made, however, without a more specific statement of the wage provisions envisioned.

It is possible that the careful coordination of employment programs proposed in S. 50 could reduce the inflationary risk. Well-designed programs could be targeted on pockets of unemployment instead of spreading their effects over all sectors of the labor market. Training programs, if successful, could shift workers from situations of labor surplus to those of labor shortage. Pursued over a period of years, such measures could improve the inflation/unemployment tradeoff. As a long-range goal, therefore, pursuit of a 3 percent adult unemployment target would seem more realistic (in terms of its potential inflationary consequences) than if it is viewed as a short-range target.

The anti-inflation section of S. 50 adds some other approaches to the reduction of inflationary pressures. These include actions to ensure adequate supplies of scarce commodities, particularly food and energy, recommendations to strengthen and enforce antitrust laws, measures to increase productivity in the private sector, and recommendations for administrative and legislative actions to promote reasonable price stability if serious inflationary pressures arise. Although the bill does not specify, these actions might include price and wage controls, guidelines, or an incomes policy. In any case, the bill focuses much less on these anti-inflation suggestions than on the unemployment goal; there is no target set for inflation as there is for unemployment.

BUDGET IMPLICATIONS OF S. 50

One concern in evaluating S. 50 is the potential budget cost. The direct cost associated with the new administrative structures proposed by S. 50 is likely to be small, but the cost of employment programs that might be needed to achieve the 3 percent adult unemployment target, while difficult to estimate, could, in some circumstances be quite high.

Indeed, the cost of such programs in any hypothetical year is impossible to estimate because the cost will depend critically on the strength of private demands in the economy and the policy mix selected to reduce unemployment to the 3 percent range. In periods of peak economic activity, program costs may be limited to targeted measures to reduce a relatively small amount of non-cyclical unemployment; in recession periods, larger and therefore more costly countercyclical employment programs would be needed. Further, costs will vary with the mix of policy options adopted.

Standard fiscal policy measures—tax cuts and across-the-board increases in spending—entail higher costs on a per-job basis than special employment programs like public service employment, public works, and special tax incentives and employment subsidies to private industry. Monetary policy, on the other hand, involves no added budget costs.

Costs in any year will also depend on the size of the labor force (in absolute terms the program cost will grow as the labor force grows), the definition of "adult," and definitions of cyclical and non-cyclical unemployment (program costs are likely to be different for cyclical programs).

Estimation of costs also depends on the baseline against which costs are evaluated. Under the Employment Act of 1946 the federal government has pursued full employment goals through a wide range of strategies, although emphasis has been on standard fiscal and monetary measures. S. 50 is intended to improve on past performance by offering a numerical goal for unemployment and an expanded set of administrative mechanisms to coordinate national economic policy in pursuit of that mandate. Consequently, one measure of the added costs of S. 50 is the cost of policies to improve on average past performance—that is, to reduce unemployment from its 1960–75 average of 5.2 percent overall to 3 percent for adults.

Given the illustrative definition of unemployment in excess of 4 percent as cyclical, then the difference between the historical average of 5.2 percent and 4 percent can be viewed as the failure of stabilization policy on the average to achieve full capacity levels of output and employment. Improved coordination of monetary and fiscal policy could potentially improve on this average past performance, reducing the average amount of cyclical unemployment in the future and hence the future costs of countercyclical employment programs.[11]

Although S. 50 may result in better coordination of national economic policy in the future and hence less cyclical unemployment than in the past, it may be useful to examine the general order of magnitude of an employment program that would provide enough jobs to bring cyclical unemployment from its 1960–75 average of 5.2 percent to 4.0 percent and to provide enough jobs in non-cyclical employment programs to reduce adult unemployment to 3 percent.[12]

In 1980, the total civilian labor force is estimated to be about 102.5 million persons (at 5.2 percent unemployment).[13] Reducing unemployment from 5.2 percent to 4.0 percent of that labor force thus involves about 1.23 million unemployed persons. Under the assumption that about 10 new jobs need to be created for every six person reduction in unemployment due to increases in the labor force as unemployment falls, a countercyclical employment program in 1980 would involve approximately 2 million jobs.

As shown in Table 3, a wide variation in the cost per job is possible depending on the policy mix adopted. Public employment, for instance, has a relatively low-cost-per-job. However, public employment programs might just displace some workers who had previously been employed, rather than increasing net employment by the full number of new public jobs. For example, some workers might be attracted from low-paying jobs in the private sector. Further, if public employment programs are administered through state and local governments, these governments may use public employment funds to hire workers they may have hired anyway. If such displacement were to run as high as 50 percent, the number of public jobs required to employ 2 million additional people doubles (to 4 million), doubling the cost per net addition to employment. Other programs like accelerated public works may entail lower displacement rates but a higher cost per job. The job-creating impact of other indirect measures, like private sector subsidies and tax incentives, is much more difficult to estimate than for direct job-creating programs.

TABLE 5.—ILLUSTRATIVE COST ESTIMATE FOR A PUBLIC SERVICE EMPLOYMENT PROGRAM

[Costs in billions of dollars]

	Initial cost				Cost after 12 mo of program operation				Cost after 24 mo of program operation			
	Estimated cost (1980)		Estimated net budget cost (1980)		Estimated cost		Estimated net budget cost		Estimated cost		Estimated net budget cost	
Unemployment target (3 percent)	Nonteenage	18 and over	Nonteenage	18 and over	Nonteenage	18 and over	Nonteenage	18 and over	Nonteenage	18 and over	Nonteenage	18 and over
Noncyclical component: Public employment and training ($10,000 average cost per job)	2.9- 5.8	10.5-21.1	1.8-3.6	7.2-14.4	2.9- 5.8	10.5-21.1	1.2- 2.5	5.0-10.1	2.9- 5.8	10.5-21.1	0.9- 1.9	3.9- 8.0
Cyclical component: Countercyclical public employment ($8,000 average cost per job)	16.4-27.4	16.4-27.4	10.3-17.1	10.3-17.1	13.7-24.4	12.7-23.0	5.8-10.6	5.3- 9.8	13.7-24.4	12.6-23.0	4.5- 8.4	4.1- 7.9
Total cost	19.3-33.2	26.9-48.5	12.1-20.7	17.5-31.5	16.6-30.2	23.2-44.1	7.0-13.1	10.3-19.9	16.6-30.2	23.1-44.1	5.4-10.3	8.0-15.9

Note: This table presents Congressional Budget Office staff calculations. Cost estimates are presented in ranges with the low end based on an assumption of zero displacement and the high end on a 40-percent displacement rate. A higher displacement rate would increase upper-range costs in all cases. Average costs per job are in 1976 dollars. Inflation that occurs between 1976 and 1980 could increase these costs. See the appendix for further details.

An illustrative cost estimate for a countercyclical public service employment program is shown in Table 5.[14] Ranges are provided, depending on what is assumed about displacement. A U.S. Department of Labor study [15] of past experience in countercyclical public employment programs administered through state and local governments estimates a 40 percent displacement rate in past experience. An evaluation of past experience with public service employment under CETA (the Comprehensive Education and Training Act of 1973) suggests that future programs could be designed to reduce this amount of displacement significantly. The most optimistic view is that displacement could be significantly reduced and perhaps even eliminated entirely by such measures as restricting eligibility to persons unemployed five weeks or longer and by administering the programs at the federal level instead of through state and local governments. At an assumed cost of $8,000 per job a program to provide 2 million new jobs would cost from $16 billion (with no displacement) to $27 billion (with 40 percent displacement.) Of course, displacement could be even higher than 40 percent, with costs going up proportionately.

Estimates of the net budget costs of the programs are also shown in Table 5. These take into account the budget savings that occur when workers no longer collect unemployment compensation and begin to pay taxes and contribute to social security. Budget savings are somewhat less when younger workers are included since they are less likely to have been drawing unemployment benefits. If jobs are given to workers

---

Footnotes at end of article.

who would have been receiving unemployment compensation, the cost per job is reduced by an average of $3,900 per worker (the current saving), in addition to the effect of increased tax payments. These offsetting savings are larger for programs like public employment that have a higher job impact than for aggregate demand measures, especially if the newly employed persons have been receiving unemployment compensation. Other budget savings result from higher corporate tax payments and personal tax payments from higher incomes of persons previously employed. These savings begin to show up more with the passage of time as higher levels of unemployment and income generate higher profits and wages through second-round "multiplier" effects. After 24 months of program operation, net budget costs amount to about a third of program outlays. Thus, a program costing from $13.7 to $24.4 billion in outlays might entail a net budget cost between $4.5 billion and $8.4 billion after two years of operation. A detailed explanation of the assumptions behind these estimates is provided in the Appendix.

In addition to countercyclical employment programs, other employment policies are also mandated under S. 50. Although the bill does not specify, these might take the form of subsidies to private industry to hire and train disadvantaged workers, grants to firms that move to regions experiencing high unemployment or mobility allowances to individuals who move out of such regions, and grants to state and local governments to provide training and job placement services. An analysis of the potential effectiveness of such measures and consequently the potential cost of reducing a given amount of unemployment by these means would be highly complex and beyond the scope of the present study.

One possible option, chosen only because the cost is less difficult to estimate than for other options, is the provision of a different kind of public employment program. Such a program would not simply provide work for people who are temporarily jobless, as in the countercyclical case. If unemployment is due to high rates of job turnover, as is the case with unskilled and disadvantaged workers, on-the-job training, an attractive wage and working environment might be needed to increase job attachment and reduce frequency of unemployment. If this were the case, it would mean a higher cost per job than for countercyclical public employment programs.

The size of the program needed to bring adult unemployment to 3 percent depends on the definition of adult. If adult is defined as nonteenage then in 1980 only about 230,000 jobs would be required, assuming countercyclical employment programs have absorbed unemployment in excess of 4 percent overall. If adult unemployment means persons 18 and above, then about 840,000 jobs would be required.

Noncyclical public employment programs may have a higher cost per job than countercyclical public employment (although not necessarily a higher cost per job than other, more costly countercyclical employment options). This is because the noncyclical programs are likely to involve training in addition to participants' salaries. If they also pay higher wages and offer a more attractive working environment in order to increase job attachment and reduce frequency of unemployment this adds to the cost per job. Moreover, the more attractive the job relative to private-sector alternatives, the higher the probable rate of displacement.

The estimates in Table 5 assume a cost per job of $10,000 and a displacement rate of between 20 percent and 60 percent. Regional and industry employment programs will also have a higher cost per job than pure countercyclical programs since they are likely to entail relocation costs and training. However, displacement is not likely to be high at this wage level.

As in the case of the countercyclical public employment programs, net budget costs for the noncyclical programs are also shown. A detailed breakdown of the computations behind these estimates is provided in the Appendix.

After 24 months of program operation, a public employment program to reduce unemployment from 5.2 percent overall to 3 percent for adults in 1980 might cost between $16.6 billion and $44.1 billion, depending on the definition of adult and on the amount of displacement of employment from other parts of the economy. Higher rates of displacement than those assumed in the estimates would result in even higher program costs. The net budget costs of such a program, taking into account savings in unemployment insurance outlays and higher tax payments, might range from $5.4 to $15.9 billion. Once again, it should be stressed that these estimates refer to only one approach to creating jobs—public employment programs—and to an "average" state of the economy.

Other Costs. Other provisions of the bill include a teenage unemployment program, increased responsibilities for the Council of Economic Advisers and the Federal Reserve Board, establishment of a Full Employment Office in the U.S. Department of Labor and a Division of Full Employment and Balanced Growth within the Congressional Budget Office. These provisions would add to the costs shown in Table 5.

OFFSETTING BENEFITS

Whatever the costs of achieving a 3 percent adult unemployment goal, there are offsetting benefits.

Joblessness entails a loss of output. The added output that results from the employment programs mandated in S. 50 will vary with the policy mix selected. Tax cuts will stimulate private employment and output. Public employment projects may add public works and government services. While an evaluation of the additional output that would be produced by 2 million additional workers would depend on what they are put to work doing, it is likely that the value of that output to the economy as a whole would at least offset the costs to the federal budget of putting them to work.

In addition, joblessness entails many social costs that cannot always be measured—deterioration of work habits and skills, loss of self esteem, increased incidence of crime, and other problems. Putting 2 million additional people to work would eliminate some of these less measurable but equally important costs.

GOVERNMENT AS EMPLOYER OF LAST RESORT

One of the difficulties with the Employment Act of 1946 is that it fails to provide an enforcement mechanism to ensure that full employment will be achieved. Section 206 of S.50 attempts to provide such a mechanism by mandating the federal government to stand as employer of last resort for adult Americans unemployed in excess of the 3 percent goal.

Section 206 of S.50 states that adult Americans able, willing, and seeking work who are unable to find jobs through other provisions of S.50 shall be provided jobs through federally operated public employment projects and approved private nonprofit employment projects. This so-called job guarantee is not necessarily unlimited, however. According to S.50, the size of the public employment program may be limited as long as adult unemployment is not in excess of 3 percent. Further, eligibility or priority criteria based essentially on need could be established under the provisions of S.50.

While there have been many interpretations of what a federal job guarantee might imply (S.50 does not specify the provisions and coverage of the job guarantee—it only lays out guidelines), one way to view the employer-of-last-resort feature of S.50 is that it might involve the rough equivalent of the structural employment programs shown in Table 5. This would mean providing *from* 230,000 to 840,000 additional jobs by 1980 (depending on the definition of "adult").

Two major questions come to mind in connection with the job guarantee program. First, Section 206 stipulates that the federal job guarantee should also carry with it a guarantee of the prevailing wage for that type of work in the labor market in which the job occurs. In the case of construction jobs, they must meet Davis-Bacon Act standards; and they must be at least equal to prevailing wages paid by a local government if the local government is the employer. This provision would undoubtedly drive up the average level of wages for the economy as a whole, both in government and in the private sector as private employers are forced to compete with government for workers. As mentioned earlier, this would add to the potential inflation impact of S.50 unless offsetting anti-inflation measures were adopted.

These wage standards are likely to attract workers from other sectors of the economy, adding to the size of the federal employment program required to achieve the 3 percent unemployment target. For instance, at a displacement rate of 50 percent, a public employment program to provide 230,000 additional jobs would have 460,000 participants.

The possibility that the employer-of-last resort feature of S.50 would result in a large and unwieldly bureaucracy cannot be ruled out, particularly in view of the attractive wages that would be offered. At the same time, however, this feature could draw more attention to improving the quality of life in the private sector. This has been the case in certain European countries that enacted job guarantee programs in the 1960s. Upgrading working conditions in low-level private-sector jobs could be facilitated by appropriate subsidies to business to provide training and an improved working environment. To the extent that increased training and better working conditions enhance worker productivity, some or all of the inflation effects of the higher wages might be offset. Further, over the longer run, individuals would return to the private sector as wages and working conditions improve.

FOOTNOTES

[1] This means 16 and 17 year olds account for about half the total of teenage unemployment.

[2] Congressional Budget Office, "Budget Options for Fiscal Year 1977: A Report to the Senate and House Committees on the Budget," March 15, 1976, p. 20.

[3] The simulations are based on a two-equation wage-price model in which there is a lagged mutual interdependence between wages and prices; price changes depend in part on wage changes and wage changes depend in part on current and past price changes. A technical paper describing the model in detail is available from the Fiscal Analysis Division, Congressional Budget Office.

[4] The distinction is made to allow an estimate of the number of jobs that would be required for various employment programs under S.50. It is not an attempt to prejudge the desired inflation-unemployment tradeoff.

[5] This distinction between cyclical and noncyclical unemployment means that whenever unemployment exceeds 4 percent, both kinds of unemployment occur simultaneously, suggesting that both countercyclical and structural programs need to be developed in tandem.

[6] U.S. Congress, Congressional Budget Office, "Temporary Measures to Stimulate Employment: An Evaluation of Some Alternatives," September 2, 1975.

[7] A detailed explanation of the assumptions behind these estimates can be found in "Temporary Measures to Stimulate Employment"; cited in footnote 6 of this paper.

[8] It is sometimes noted that this type of unemployment may be higher in the United States than in other countries because of higher mobility and greater expectations of the possibility for advancement in the labor market here.

[9] It should be noted that the unemployment rate for adult white males has been below 3 percent in six years since 1965. In 1969 the rate was 1.9 percent. High rates of noncyclical unemployment in the United States are confined to certain groups or pockets of the labor force. Further, other countries are able to achieve overall employment rates below 2 percent. Viewed in these terms, a 3 percent adult unemployment target does not seem unrealistic if employment programs are effective in dealing with the special factors contributing to high unemployment for certain groups and are not limited to across-the-board measures or programs that simply create jobs without increasing employment stability or job attachment.

Focusing on a single unemployment target for the entire labor force may give the misleading impression that once the target is achieved unemployment is not longer a problem. Serious unemployment problems may persist even if the overall target is met.

[10] If cyclical unemployment were defined as 4.5 percent, however, the structural programs would be larger and cyclical programs smaller. Further, if high rates of structural unemployment persist for certain groups—such as black teenagers—additional programs may be desired even if the mandated target has been achieved for the adult labor force.

[11] Standard fiscal policy measures are not, of course, costless. Tax cuts add to the federal budget deficit, but do not increase the resources allocated to the public sector. Increases in government purchases add to budget costs, but may not be traceable to specific employment measures. If monetary policy is used as principal stabilization instrument, there are no budget costs involved.

[12] Additional structural programs may be desired to deal with pockets of high unemployment even if the 3 percent goal is reached. However, this possibility is not specifically mandated in S.50, and consequently will not be dealt with here.

[13] This estimate is 1.3 million above the Bureau of Labor Statistics projection of 101.2 million. CBO assumes somewhat higher participation rates for certain groups in the labor force in 1980, resulting in the higher labor force estimate. The Urban Institute projects an even higher labor force for 1980.

[14] Alternative policy options would have different costs. Some, like across-the-board tax cuts would be considerably more expensive—perhaps three to four times as expensive—as public employment. Other options, like expansionary monetary policy would be less expensive.

[15] U.S. Department of Labor, Office of the Assistant Secretary for Policy Evaluation and Research, "An Evaluation of the Public Employment Program," by George E. Johnson and James D. Tomola, Technical Analysis Paper No. 17-A, September 1974, pp. 14–55.

FINANCIAL STATEMENT FOR 1976 BY SENATOR DOMENICI

Mr. DOMENICI. Mr. President, one way to restore public trust in Government is full disclosure of the financial affairs of elected and appointed public officers.

For this reason, for the 3d consecutive year, each year I have been in the Senate, I am again making public information from my 1976 Federal income tax return and an accounting of my financial net worth and business holdings.

I believe, as I did prior to my election to this office, that for me revelation of financial holdings, income tax information, and business associations is meaningful. My constituents can follow any significant changes in my net worth and income and this, I believe, will promote trust and confidence in Government. I hope that my colleagues who in the past have opposed, often on legitimate grounds, revelation by statute of Members' financial holdings and tax information, will rethink this question in light of widespread public distrust of politics and of holders of public office.

The statement follows:

Personal Financial Statement

FEDERAL INCOME TAX INFORMATION FOR 1975

Income, $64,560.93 (Senate salary of $43,025; Interest of $132.65; sale of land at Montgomery and Eubank, Albuquerque, N.M., $5,565.51; income from D&V Land Company, a family partnership, $1,488.60; Senate Campaign Committee account, $1,268.65; Honoraria, $8,800; Domenici Senate Associates, $3,932.52—an organization of small contributors established under Standing Rules of the Senate Rule No. 42, filed under Senate Procedures, 12–31–74, to help defray additional Senate expenses, including printing, mailing, and photographic expenses; and salary of Mrs. Pete (Nancy) Domenici, as a physical therapist, $348).

Gross adjusted income, $62,293.33, after a $2,267.60 adjustment for excess of expenses over reimbursements for office and travel expenses associated with official Senate duty.

Itemized deductions of $21,216.04, including New Mexico income and property taxes of $4,133.34 and interest payments of $6,377.98.

Standard dependent deductions of $7,500 for Domenici, his wife Nancy, and their eight children, all of whom live at the Domenici home.

Payment of $13,146.39 in taxes, including $9,558.20 in United States taxes, $1,157.36 in New Mexico state taxes, and $2,430.84 in property taxes.

PERSONAL NET WORTH STATEMENT

Gross assets: Cash on hand, $1,000; cash value of life insurance, $6,400; securities, $22,621 (Bank of America, $621, Edith Land Company, $22,000); household goods, $8,000; 1971 Oldsmobile and 1974 Plymouth, $3,200; real estate and family trust holdings, $275,-869.00 (home in Rockville, Md., $100,000; 1/10th interest in Kent Investment Co., real estate in Rio Puerco, N.M., $35,000; D&V Partnership (a family holding), $24,423; ¼th interest in Huber, Domenici, et. al., $70,000; mausoleum crypt, $1,490; Domenici, et al., holdings at Navajo Lake, San Juan County, N.M., $7,500; interest in the trust of the will of C. Domenici, my late father, $37,456).

Liabilities: Real estate mortgage on my Rockville, Md., home (through the District of Columbia National Bank) of $63,743.88; and debt to Albuquerque National Bank, $24,500, for a total of $88,243.88.

Net Worth: $228,846.12.

Last year I noted four transactions that I have conducted since my election to the Senate. Those four were the sale of my home in Albuquerque, the sale of four lots in that city, sale of a parcel of land in that city, and the purchase of my Rockville, Md., home.

Last year the only transaction I conducted was the sale of land at Montgomery and Eubank in Albuquerque, land which I acquired in 1964. I have conducted no other transactions nor acquired any real estate nor business interest since my election.

As has been the case since my election, I have completely disassociated myself from my previous law practice and all other business ventures requiring my active participation.

THE GENOCIDE CONVENTION AND TREATYMAKING POWER

Mr. PROXMIRE. Mr. President, I am surprised that there are still critics who argue that genocide is not a matter of international concern. It is clear from moral and legal precedent that the Genocide Convention is a legitimate expression of treatymaking power.

Moral outrage at the mass extermination of a people knows no geographic boundaries. The holocaust of World War II proved that no one is safe from those who attempt mass annihilation.

Without question, adequate precedent exists for a treaty to punish those who commit such a "crime against humanity." America has already agreed to penity." America has already agreed to penalize transgressors who violate agreements involving seal hunting, narcotics trade, and oil pollution, as well as human rights violations such as slave trading. According to retired Supreme Court Justice Thomas C. Clark:

> Treaties which deal with the rights of individuals . . . as a matter of international concern may be a proper exercise of the treatymaking power of the United States . . . It almost seems anachronistic that the question continues to be raised.

Mr. President, the Senate Foreign Relations Committee concludes that any country that can enter into an international accord that punishes men for killing seals, can certainly accede to a treaty that prevents the killing of people. I wholeheartedly agree. I urge the Senate to recognize the grave international ramifications of the heinous crime of genocide by speedily ratifying the Genocide Convention.

BUSING FOR PURPOSES OF SCHOOL DESEGREGATION

Mr. BROOKE. Mr. President, recent events once again demonstrate that there is an alarming and widespread misunderstanding of the law regarding busing and the role of the Federal courts in interpreting and implementing that law.

Because of the importance of the busing issue, I would like to share with my colleagues my remarks to the Cleveland NAACP on May 16. I hope that they will contribute to a better understanding of this highly controversial and complex issue.

Mr. President, I ask unanimous consent that my remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Senator Edward W. Brooke's Remarks Before the 17th Annual Freedom Fund Dinner, NAACP, Cleveland, Ohio, May 16, 1976

It is an honor and a privilege to address the 17th Annual Freedom Fund Dinner. I have long admired the Freedom Fund's extraordinary efforts to protect the constitutional rights of all Americans. And it is particularly appropriate that we meet on the eve of the 22nd anniversary of *Brown v. Topeka Board of Education*, the Supreme Court decision which has so profoundly affected the work of the Fund and the lives of so many Americans.

By holding that state-imposed segregation by race in public schools was a violation of the equal protection clause of the Fourteenth Amendment, the *Brown* decision precipitated social change unparalleled in American history. For two decades, the American people have moved slowly, and often painfully, toward an integrated society.

The effect of the *Brown* decision, and the passage of the Civil Rights Act of 1964, can be vividly demonstrated by examining the school systems of the South. In 1964 eight percent of all the black children in the South attended integrated schools. In 1972, 92 percent of all the black children in the South were attending integrated schools. We have ample reason to be proud of our progress.

However, our national commitment to desegregated public school systems is in a critical period. One only has to look at Louisville, Kentucky, and my own City of Boston, Massachusetts, to understand that there is still substantial resistance to taking the necessary action to assure equal educational opportunity for all Americans.

And the mood in Congress is everything but encouraging. I have been fighting antibusing amendments on the floor of the Senate a long time, and it is painful for me to tell you that the historic civil rights coalition in the United States Senate is seriously weakening. Last Fall for the first time the Senate actually passed an "antibusing" amendment. How shameful it was that on the eve of our Bicentennial year, the United States Senate was willing to deny American school children their constitutional rights. And how hypocritical it is that the great civil rights coalition in the Senate begins to disintegrate in direct proportion to the number of court orders in northern cities.

But our resolve must not weaken! The law must be the same for the north as it is for the south. Just as Little Rock and Selma desegregated years ago, so must Louisville and Boston desegregate today.

If busing has become an issue, it is not because of any inherent defect in the United States Constitution. It is not because of any tyranny practiced by the federal courts. It is because the political leaders of this country have failed to lead.

In particular, local, state, and federal public officials have been either unable or unwilling to present accurately the issue of busing to their constituents. In addition, they have allowed irresponsible and self-serving political rhetoric to distort the facts. And as an unfortunate result, few Americans understand the law regarding busing or the role of the federal courts in interpreting and implementing that law.

Tonight, in your City of Cleveland which itself faces a possible desegregation order, I would like to dispel some of the misconceptions that surround busing and suggest some positive actions that local and federal leaders may take to achieve equality of educational opportunity.

Much of the opposition to current court efforts to desegregate the nation's public schools stems from a fundamental misunderstanding of the reasons for the court decisions. One common assertion, for instance, is that the courts have gone far beyond *Brown* and are now seeking to achieve a racial balance in the classroom for no other reason than to accomplish what they deem to be a desirable social objective. The decisions make clear, however, that this is not what the courts have done or what the courts are doing.

In *Swann* v. *Board of Education*, the major decision involving busing, the Supreme Court emphasized that the courts are empowered to act only to remedy legal wrongs. Specifically, the Supreme Court stated that the task of the court "is to correct, by a balancing of individual and collective interests, the condition that offends the Constitution. In seeking to define in even broad and general terms how far the remedial power extends, it is important to remember that judicial powers may be exercised only on the basis of a constitutional violation." And in the *Keyes* decision, the Court stressed that racially segregated schools in Denver, Colorado, were in violation of the Constitution only because they came about as a result of the deliberate acts of school officials.

Lower federal court rulings have been consistent with these decisions. In the Boston case, for example, the district court ordered desegregation because officials of the school district had engaged in a series of deliberate segregative acts. Among other things, the court fund that they had overcrowded white schools and under utilized black schools. That they frequently built new facilities for white students rather than blacks. That they administered racially discriminatory vocational entrance exams. That they assigned black teachers only to black schools and placed in those schools a lower proportion of experienced teachers and a higher proportion of provisional teachers. And that they drew attendance zones and student feeder patterns so as to maintain segregation.

In other words, it was the deliberate segregation of the Boston public school system by public officials that ultimately led to federal court-ordered busing. For court orders in school cases such as Boston's are neither the product of judicial whim or caprice, nor of a motive on the part of individual judges to foster social reform. They are instead an exercise by the courts of their duty to insure that all children are accorded their constitutional right to an equal educational opportunity.

A second assertion is that busing is a failure because it has failed to produce quality education. But busing is not a remedy designed primarily to improve the quality of a child's education. Rather it is a remedy designed to assure every school child an equal educational opportunity. This point is widely misunderstood. Certainly, quality education is a legitimate, and necessary concern, but it is not the reason for desegregation.

The Constitution does not demand quality education, but it does demand equal educational opportunity. Quality education is a matter of local, state and federal policy: equal educational opportunity is a matter of constitutional law.

And the law is clear: equal educational opportunity cannot be achieved through separate educational opportunity. . . . In the field of public education, the Supreme Court held in the *Brown* case in 1954, "the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

Yet some 20 years later the "separate but equal" doctrine appears to be re-emerging, under the rubric of "quality education", particularly among some liberals. But if my years in public life have taught me anything, it is that nothing in this nation has been, is, or will be separate and equal. And nothing could be worse for our country and our children than the resurrection of this immoral and illegal doctrine—in Boston, Massachusetts, Cleveland, Ohio, or anywhere else.

The public school systems now under court orders to bus have suffered for many years from *both* segregation and poor educational quality, the former by design, the latter by negligence. The Federal District Courts are trying to remedy the first grievance, using busing as a tool of last resort. But public officials must remedy the lack of educational quality.

Desegregation remedies, including busing, can ensure equal educational opportunities, but only a massive and united effort by local, state and federal governments can ensure that these opportunities will be superior in quality.

A third assertion, one that we have heard many times in the past few years, has been that the courts are ignoring viable alternatives to student busing, specifically those set out in Title II of the Education Act Amendments of 1974. This criticism is also unfounded. The Court in *Swann* indicated that busing was only *one* of the constitutional tools that can be used to secure to school children their right to a desegregated education. But the rulings of the lower courts in several recent cases indicate that busing is being used only as a remedy of last resort where other means cannot effectively eradicate the effects of past discrimination.

In the Boston case, Federal Judge Arthur Garity employed many of the remedies authorized by the 1974 Act. His order required the alteration of student attendance boundaries, the closing of old schools and the construction of new schools, and the establishment of a large scale magnet or citywide group of 21 schools, attended by about 14,000 students. But he found that some busing was still necessary "to remedy adequately the denial of plaintiffs' constitutional rights and to eliminate the vestiges of a dual school system in Boston."

Likewise, in the Louisville case, Judge James Gordon instructed the school board to consider the 1974 law in formulating a school desegregation plan for the Louisville, Kentucky, school system. The final plan approved by the court made extensive use of school closings and the remedial altering of attendance zones "to insure the maximum desegregation of the schools without the use of any other remedy, including transportation". Judge Gordon further observed that in issuing his order he had "meticulously followed the priorities and remedies set forth in the Equal Educational Opportunity Act of 1974."

I think it is clear that the courts have acted neither precipitously, excessively nor irresponsibly in their use of busing as a tool for the purposes of school desegregation. They have ordered busing only where no other means would adequately redress violation of constitutional rights. Even then, they have exercised their authority with admirable restraint and in a fashion consistent with congressionally declared policy.

But unfortunately, many state, local and federal officials have acted excessively and irresponsibly. And we cannot begin to articulate new positive approaches to school desegregation and to the issue of busing until American leaders are honest with the American people. Not only has the public been misled regarding the legal issues involved, but they are, in large measure, unaware of the history of busing in our school systems. Simply put, busing is a universal means of transportation to school and, what is more, when used to achieve desegregation, it is generally accepted.

Every school day 20 million American school children, 40 percent of all public school pupils, ride to public schools on school buses. In addition, another 25 percent use public transportation to get to school. Added together, 65 percent of the school children in our country ride to school on either school buses or public transportation. And less than five percent are bused for the purpose of desegregation.

An interesting footnote to this discussion is that, in some instances, busing for the purposes of desegregation has entailed less time and distance traveled by students than they experienced under the dual school systems where black children were bused past all white schools to all black schools miles away, and white children were bused past all black schools to all white schools. The United States Civil Rights Commission has documented many such cases.

Public officials and the media have also failed to tell the American people the many instances where busing for the purposes of desegregation has worked. The public only sees or hears about the negative side of busing. When we turn on the nightly news or glance at the local newspaper, we see only the relatively few examples of violent anti-busing protests. But busing for the purposes of desegregation has been peacefully accepted and is effective in many cities across the country, including Charlotte, North Carolina; Jacksonville, Florida; Pontiac, Michigan; Racine, Wisconsin; *Denver*, Colorado; Pasadena, California; and in Springfield, Massachusetts.

Denver, which began busing 23,000 of its 80,000 students in September, 1974, has an excellent example of a successful busing plan. It has been successful, in large part, because the federal district court judge did a careful job of planning, including appointing advisory groups of Whites and Blacks to assist in defusing tensions. This same technique was used successfully in Jacksonville, Florida, when it began busing in 1972, and in many cities.

Where public officials have explained busing responsibly and undertaken the necessary preparations, busing has invariably worked. I am confident that if this were done nationwide, many of the misconceptions regarding busing would disappear and the American people would accept busing as one of several constitutional tools in the national effort to eliminate the unlawful segregation of our public school systems.

As I stated previously, congressional action on busing over the last few years has been essentially negative in character. The emphasis in both Houses of Congress has been on placating anti-busing sentiment, not on seeking alternative ways of solving the problem that court-ordered busing was designed to cure in the first place.

It is long past time that Congress assume a constructive and positive role in this area. The Education Act Amendments of 1974 were a useful first step toward a comprehensive legislative program to guide the courts as they choose from a wide range of remedies for denial of equal protection. These provisions instructed the judiciary to consider a number of tools for desegregation before choosing busing plans. By joining forces with experts in the educational community, the Congress may formulate even more comprehensive proposals to guide the courts in the future in order to further minimize the need for busing while not totally foreclosing it as an option where no other alternative is available. Early on, Congress left the courts to "go it alone" in implementing *Brown*, and it must not now act to obstruct accomplishment of that goal—by constitutional amendment or otherwise. Instead Congress should become an active partner with the courts in pursuit of our common objective—the best education for all our children.

Other steps we can take include providing new federal funds to extend more Emergency School Aid funding to school districts that are desegregating. We could, also, provide stronger backing for the programs of magnet schools so that students will voluntarily move to integrated and exciting educational institutions. And, we may wish to enact new incentives for states to equalize expenditures among school districts.

Once our leaders and the news media take such positive steps and present the issues related to busing fairly, we can begin to move away from the bitter divisions busing has come to symbolize.

And this must be done. For the hope for an end to racial division lies in our educational system. The opportunities we afford our young people determine the shape of our nation's future. If we deny our children the right to an equal chance in life, we deny our nation a valuable resource. If we perpetuate separate societies, divided by ignorance and suspicion, we risk future fraught with unrest and danger. For each generation of segregation in our schools, we risk another generation of division in our nation.

Thus we must reject those who for political expediency would divide a nation to conquer a few votes. For by pandering to the anxieties of some Americans, black as well as white, they play into the hands of those who flourish on divisive rhetoric, seek separation, and thrive on strife.

My determination, hope and prayers are bolstered by my abiding faith that the American people, who know what is right, will do what is right though it may be painful for some to do so.

SENATE CONFIRMS DAVID LILLY AS A MEMBER OF THE FEDERAL RESERVE BOARD

Mr. HUMPHREY. Mr. President, on May 28, the Senate confirmed the nomination of Mr. David Lilly, of Minnesota, to the unexpired term of Robert C. Holland on the Federal Reserve Board by a vote of 51 to 0.

I wish to take this opportunity to offer my personal congratulations to Mr. Lilly who is an extraordinary businessman, a respected member of the Twin Cities community, and a man I am proud to call my friend.

I am confident that Mr. Lilly will do an outstanding job as a member of the Federal Reserve Board. His experience in managing a successful manufacturing company, coupled with his expertise in finance and his experience as the former chairman of the board of directors of the Federal Reserve Bank of Minneapolis, will make a valuable contribution to the work of our Federal Reserve System.

I am particularly pleased to see the addition of an individual with substantial experience in the manufacturing segment of American business to the Board. For some time I have urged that the backgrounds of members of the Board be more diversified than they have been in the past. David Lilly has served the Toro Co. for 30 years as vice president, general manager, president, and chairman of the board. I have no doubt that he brings to the Board a perception of the needs of the American economy that will be valuable in the Board's deliberations.

Once again I congratulate Mr. David Lilly and his family on his unanimous confirmation by the U.S. Senate to the Federal Reserve Board. I am proud of this able Minnesotan and confident that he will serve the public interest in an exemplary manner.

JEC HOLDS HEARING ON THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Mr. HUMPHREY. Mr. President, in May the Joint Economic Committee held a hearing on public service employment programs financed under the Comprehensive Employment and Training Act—CETA. The committee heard testimony from representatives of local governments and from enrollees placed in jobs through CETA. Very often, these are the people who can give us better insight into a program because of their direct experience with it than those people in Washington who write and comment about it.

Our first witness was Mayor William Schaefer of Baltimore who stated that "the public service employment program has been a superb one." Mayor Schaefer went on to say—

> I think this program has worked for the major cities in the United States, and we strongly support its continuation. It has reduced unemployment in our city, given work to people, taken people off of welfare who would otherwise have been on it, and given them good, productive jobs.

He also quickly dispelled two criticisms of CETA. First, he said that CETA enrollees are doing jobs that otherwise should be done by the city but that these enrollees are doing jobs which would not be done because the city simply had other jobs of higher priority and could not financially undertake them. He also dispelled the criticism that CETA has high administrative costs by stating that administrative costs for Baltimore's program are only 4 percent of total costs.

Mr. Harry Wheeler, director of the mayor's office of employment and training for the city of Newark, stated that administrative costs for the program he administers are only 7.1 percent. Mr. Wheeler also attacked as a "complete misconception" the charge that CETA funds are used by State and local governments to simply maintain regular civil service employment. He said:

> The historical evidence will point out that this simply is not true. This is not the case at all.

Mr. William Meadows, director of CETA for Columbus, Ga., stated that his city's program is designed to "serve the unemployed and place them in positions which precipitate a multiplier effect in providing services to other disadvantaged people in the community." Mr. Meadows reported to the committee the findings of a study done for the city of Columbus by Memphis State University's Center for Manpower Studies which showed that slightly better than one job is generated in the private sector for each public service job that is funded through CETA.

The participants in public service employment programs who testified before the committee unanimously endorsed CETA. Their endorsement is best summarized by the statement of Mr. William Crawford of Columbus who said:

> Then my chance came. I was given a PSE position, a self-help type position, through CETA. CETA has been a life saver for me.

The cities which were represented before the committee have good public service employment programs but they are by no means the exception. In the past year there have been criticisms of CETA, some of which are justified; but a great many of them are based on erroneous information and are simply not supported by the facts as the testimony we received indicates. Rather, this testimony demonstrates that many local governments have made a serious, and by and large successful, effort under extremely adverse conditions during the last 2 years, to create public service jobs for those who would otherwise be unemployed.

Mr. President, I ask unanimous consent that the statements of Mayor Schaefer, Mr. Wheeler, and Mr. Meadows be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

STATEMENT OF MAYOR WILLIAM DONALD SCHAEFER

Mr. Chairman, Members of the Joint Economic Committee, I am William Donald Schaefer, Mayor of Baltimore, Maryland. I am here today to testify before you about Manpower Activities in my City funded by the Comprehensive Employment and Training Act (CETA) and to particularly focus on our recent experiences with Public Service Employment.

I am very happy to be here today, because I am extremely proud of our accomplishments, and I am gratified that some of these accomplishments are receiving national recognition. At your suggestion, I have also invited some of the participants in our activities to come with me today to share with you their own perceptions. And I also brought a few informal visual aids that graphically depict aspects of our manpower programs.

By way of a brief background, I want you to know that even before CETA became law, we recognized that Prime Sponsorship would give us the opportunity and some of the tools to deal with our local labor market problems. Baltimore responded to CETA by mounting a fully integrated Manpower Services Delivery System for both job seekers and employers in the Metropolitan Area.

You notice I said a Delivery System for the Metropolitan Area. Since we believe that manpower planning activities are most logically and economically carried out in a common labor market area, we formed a Consortium with the 5 metropolitan counties surrounding the City. Administrative authority for designing and running the system has been delegated to my Office of Manpower Resources. Let's take a look at this Manpower System.

Our CETA System provides a network of one-stop Manpower Service Centers and Mobile Vans that provide easy access to the unemployed residents of the Metropolitan Area to all CETA services and programs including Public Service Employment.

Our Manpower System provides skills development through training programs that have jobs at the end of training. Yes, even in times of high unemployment, we have found that there are still some skill shortages. We think the key to accurate information on labor market demand is close ties to our business community. And I am sure that is a large part of the reason that over 7,900 CETA enrollees are now in unsubsidized jobs since the advent of local management under CETA in July 1974. This is no small accomplishment in view of our economy over the last year and a half.

Since jobs are a key to the success of our efforts, our delivery system includes a Metropolitan Marketing Service that reduces duplicate calls on employers and increases early identification of jobs. In the past, under categorical programs, we found we had more job developers out there pounding on doors that we had jobs. We are working toward a rational system for contacting metropolitan employers in cooperation with the Employment Service and our Local Economic Development Office.

Under CETA, we at the local level and the Congress at the National Level have been able to revise our strategies as the economy changed. Midway through the recent recessionary period, Congress recognized that our problems far exceeded our resources and provided Prime Sponsors with a major tool to fight unemployment—additional Public Service Jobs.

This strategy, Public Service Employment, more than any other provides what we need most—immediate jobs for our unemployed—and immediate expansion of Public Services for our community as a whole. I cannot overstress the value and importance of this resource to Baltimore, almost 20 million dollars creating over 2,500 jobs and reaching over 3,500 unemployed people.

Given this valuable resource, what did we do with it in Baltimore? Harry Reasoner recently stated on ABC National News (and I Quote), "Many experts think Baltimore has one of the best Public Service Jobs Programs in the Country." Mr. Reasoner also stated, "It has been a good thing both for the participants and the City." (End of Quote.)

Our concept of Public Service Employment in Baltimore has been to design activities that maximize the benefit for our citizens. Not only do our newly hired Public Service Employees collect a much needed paycheck that they spend in our City, but our whole community benefits from their work projects—work projects that have been long overdue and projects that Baltimore like most other cities just could not afford. Let me describe a few of our projects to you. We also have some photographs of our projects.

Public Service Employment Teams are turning high street curbs into safety ramps so that the handicapped and the elderly, particularly in areas around hospitals, shopping centers, and community centers will be safer and less accident-prone.

Public Service Employment Teams are bringing the homes of our elderly poor up to safety and fire code standards. And this activity has brought about a new spirit of hope that is indeed heart-warming. I had the privilege recently of visiting one of these "hardship homes" and enjoyed cake and punch with a grateful 82-year old home owner.

Public Service Employment Teams are installing new safety cross-walks at intersections surrounding every school in the City.

Public Service Employment Teams are conducting an astounding clean-up of debris in our Inner Harbor Area which enhances its possibilities as a major recreational and visitors area.

Public Service Employment Teams are engaged in a City-wide tree and flower planting campaign.

Public Service Employment Teams have undertaken a major conversion of unmetered water accounts to a City-wide metered system. This conversion of flat rate accounts to metered charges will bring substantial increases of revenues to our City.

Public Service Employment Teams have repaced over 100 obsolete fire hydrants in a major drive to reduce loss of life and property through fire.

Public Service Employment Teams are assigned to expand and improve a variety of Baltimore's human resource needs as well.

For example, Public Service Employment Teams have eliminated the delay in processing clients for food stamps. Prior to PSE, there was a 46-day wait for certification of eligibility; fortunately, now a thing of the past.

And Public Service Employment Teams are assigned to our schools as Attendance Monitors in an attempt to stem the rising trend of truancy and get our kids back in school.

Other Public Service Employment Teams in our schools are working to prevent truancy by improving the communication between the family and the classroom teacher, particularly in cases of children with learning disabilities.

And in Baltimore, we have not confined Public Service Employment opportunities to government agencies.

A major expansion of cultural activities has taken place in Baltimore, because Public Service Employees are now with our Symphony, our Ballet Company, our Opera Company, our Theaters and our Museums. In fact our entire urban environment has been enhanced by a major public project—"Beautiful Walls for Baltimore" in which over 35 indoor and outdoor murals have been created. We are now completing one particularly unique painting—A Three dimensional Textured Wall at the School for the Blind.

In addition, Public Service Employees have enabled over 70 local private, non-profit social agencies to expand their activities—such as scouting, family counseling, services for the handicapped and community health services.

Reports are submitted to me monthly by each project outlining specific PSE accomplishments.

You may well ask, who are these unemployed that Baltimore has hired to accomplish all of these projects?

We have a chart that graphically demonstrates that we are reaching those who need jobs the most: The Poor, the Minorities, the Veteran, the Offender. But from the diversity of projects I have described, you can see that we have also recognized that unemployment hits all segments of our community.

[In percent]

	Title II	Title VI
Economically disadvantaged	77	71
Minority	81	65
Veterans	26	42
Offenders	13	18

Of course, what I have described is not an exhaustive list, but it does I think give you an idea of the scope of Baltimore's Public Service Employment Projects.

It is important to add that *all* of the jobs, *all* of the projects I have described are *in addition* to regularly budgeted city activities. We have used PSE to *create new jobs, to deliver new or expanded services.* I presume that is why Harry Reasoner also said, "The Baltimore program has done what it's supposed to—create jobs and cut the unemployment rolls."

But I must take this opportunity to be frank and realistic with you and place the funding and employment levels in the context of total unemployment in our area. We had funds to create 2,500 jobs for 80,000 unemployed in the metropolitan area or only one public service employment opportunity for every 32 unemployed people in our area: In other words, we are reaching only 3% of our local unemployed. Even that is probably an overrestimate, because I am using official Bureau of Labor Statistics data, and we all know that the persons too discouraged to even look for work are no longer being counted as part of the unemployed.

Therefore, I must reaffirm today my hope that the Congress and the administration will continue to support and expand this kind of useful, constructive, and productive activity. We need a continuation of Public Service Employment funding, and we need it now. I am sure I do not have to remind this committee, that although national unemployment statistics may appear encouraging to some, local unemployment statistics remain grim. Baltimore City is still living with close to 10% unemployment and the imminent danger of reduced Public Service Employment levels. So I want to express my strong support for continuity of efforts and funding directed toward Public Service Employment.

Mr. Chairman, I want to thank you for the opportunity to tell you the Baltimore Story on Public Service Employment and provide you a brief review of what Baltimore has been able to accomplish as a result of CETA. Some of our participants are here today, and you may like to meet them.

Ms. Joanne Bailey is a Public Service Employee working in the Department of Education to improve communication between parents, children and teachers for those children affected by language and hearing impairments. Ms. Bailey can probably describe the importance of her job to herself, her family and our City better than I.—Ms. Bailey.

And I would also like you to meet Mr. Lloyd Jamerson, a Vietnam veteran who is working in the fire hydrant replacement program I described.—Mr. Jamerson.

Mr. Rodney Cook is a PSE Artist Apprentice working on our "Beautiful Walls for Baltimore Project." We have a sketch of one of his Walls, and I am sure you will agree that his efforts to improve our urban environment will give us pleasure for years to come.—Mr. Cook.

In brief, Mr. Chairman, that is an overview of our story. I will be pleased to try to answer any questions you or the committee members may have.

Statement of Mr. Harry Wheeler, Director, Mayor's Office of Employment and Training, City of Newark, N.J., Accompanied by: Ms. Maribet Dumey, Interviewer, Central Ward, Manpower Center, A CETA Enrollee

Mr. Wheeler. Thank you very much.

First of all, on behalf of the Mayor of the City of Newark and certainly myself, I wish to express our thanks and appreciation for this opportunity to present our views on CETA.

I would like to start out by saying that we thoroughly believe categorically that CETA is one of the finest programs that has been created by the Congress in this modern period in American history.

We say this from the point of view of being what is characterized as a have-not, as you indicated, a city faced with a multitude of problems. When the pundits here in Washington and our newspaper people, that is the written media and the television media, talk about the unemployment rate nationally, when it was at the 9-point et cetera level, being a recession, I submit to you that in that period the unemployment rate of the City of Newark was 23 percent, and therefore it was not a recession, it was a depression.

I further submit to you that currently the unemployment rate of the City of Newark is 20 percent. This is coupled with the exodus of manufacturing to the suburbs and other parts of the country, and the change from a manufacturing area to a service area.

In my brief statement I am going to point out that there are just a multiplicity of problems associated with that kind of activity taking place.

When Senator Humphrey was present and you had not yet arrived, Congressman, he listed a number of states that had an unemployment rate in excess of 10 percent. If my hearing served me correctly, he did not mention the State of New Jersey, and for the record I would like to certainly insert that in the State of New Jersey the unemployment rate is in excess of 10 percent also.

Representative Pike. Well, far be it from me to correct the Senator's statement in his absence, but I will assure you that your statement will appear on the record.

Mr. Wheeler. Thank you very much.

What I would like to do is to first deal with some misconceptions, or rather those who have been criticizing the CETA program.

A very complete misconception has been the charge that CETA is designed to maintain permanent municipal employees. The historical evidence will point out that this is simply not true. This is not the case at all. What you have is a situation where going back to EEA '71 and coming through to CETA '73, and then into the legislation dealing with the emergency of Title VI, you have a situation developed in the last two or three years of inner cities being faced with laying off permanent Civil Service employees for any number of reasons around the economics of the respective jurisdictions.

The general descriptive term often is the inner cities as such, and we could name some of them—you could talk about Detroit with Coleman Young as the Mayor; you could talk about Newark, New Jersey with Kenneth Gibson as the Mayor; you could talk about Camden, New Jersey, with its Mayor Errichetti; and you could go on and talk about these particular situations where cities have been forced to lay off permanent Civil Service employees.

Something had to be done about that problem because you could not have the chronically unemployed through CETA walking in one door of a municipal government to provide services through jobs and the permanent Civil Service employees leaving the municipal buildings because they had been laid off.

As a result of that problem, which was brought to the attention of the Congress, and certainly to the members of the House Labor and Senate Labor Committees respectively, there was an effort to try to deal with that problem since it was not contained in the legislation, because at the time the legislation was written and enacted the problem of layoffs of permanent municipal employees was not a factor. So, those who charge that the CETA program is merely designed to maintain permanent Civil Service employees, are as far off base as the distance from here to China.

It just seems to me that in this kind of hearing that matter should have been brought to the attention of the members of the Joint Economic Committee who are present.

Now we turn to what is going on in Newark, what is happening in a city that has a 20 percent unemployment rate.

Certainly we do not have sufficient funds to really deal with these particular problems. Certainly what we are receiving can almost be characterized as a band-aid approach to a problem that is certainly the concern of everyone across this nation.

But, be that as it may, we have been able to take the hopeless in our city and give them some hope through CETA. We have been able to take people in the elderly category that had literally given up, who felt that they had no usefulness, to make a contribution to their immediate community and to themselves and through jobs provided under CETA provide a new hope, a new approach, and a feeling of being somebody.

Now, if for no other reason, anyone who in my humble judgment would criticize this kind of worth-whileness would cause me to raise serious questions. If this country is above providing the basic needs for our people, regardless of their age, then certainly there has to be respect for that kind of program that brings hope where there was once hopelessness.

The City of Newark operates its Manpower program through five Manpower centers. The political jurisdictions of our city are divided into five wards, and in each one of those wards, we have what we call also a one-stop service manpower center that provides the intake process, the employability plan, the need to provide training, if it is necessary, and finally movement into jobs for the chronically unemployed in particular, and then those who are the Welfare recipients, those who have exhausted their Unemployment Insurance and so on.

Currently we have over 3,000 people in our PSAP work experience program. This represents for all of these people the dignity that comes with having a job.

Often the program has been criticized by people who have said that we are not really serving the clientele that the act was designed for. In the case of the City of Newark that is just not so because we have all the major community base organizations participating in the CETA program—the Urban League, the NAACP, and others of that nature.

But, even more important than that, we have the other community agencies that serve so many worth-while functions. And, attending to the needs of the citizens of Newark we have CETA employees working for the ballet company; we have CETA employees as part of the Symphony Hall, which is the edifice for where we have our performing arts. We have touched all of the bases of the cultural activities of our city, and it is the Mayor of the City of Newark's contention that no city can be viable without having performing arts.

In a city like ours, where we started off this year with a budget gap of $35 million, in terms of how we were going to operate our own municipal departments further saddled with the balanced budget approach as a result of the state legislature, what that simply means is that you can only spend as much as you can raise from tax revenue—despite these kinds of problems there is a full life going on in the City of Newark, and a great deal of it can be attributed to CETA.

To continue, it is our considered judgment that this program must continue. It would simply be foolhardy to tamper with a program that has proven to be so worth-while, so important to the lives of people of all ages. You know, often in talking about CETA we forget about Title III, and the summer money that comes in for our young people, where we get or remove the whole idea of being idle and provide productive employment; and, for the first time, Congressman, in a long time, we are really getting the money on time and in a timely fashion so that we can plan to have a full summer program.

Often in talking about the jobs program in II and VI and the Manpower Services program of I, we forget that out of Title III comes the money that supports the summer jobs program for the economically disadvantaged. There again, this is so important to us as it relates to our present and future in terms of leadership for not only our local jurisdictions, but for this Nation.

So, if folk are prepared to look objectively at the merits of the CETA program, it is inconceivable to us in Newark that there would be any effort to tamper with this program or to remove this program. There is no question about the need. There is no question about a positive record on the basis of those who were prime sponsors, 423 of them across this Nation.

I would simply like to close with I am simply under a mandate from the City of Newark to tell the Joint Committee that CETA certainly is needed. It is one of the most innovative and best programs that has been produced in a long, long time in this country, and it carries the full support of the Honorable Kenneth A. Gibson, Mayor of the City of Newark.

Testimony of William F. Meadows, Jr., Director of CETA

Good morning, on behalf of the Columbus, Georgia and Chattahoochee Couny Consortium, I am happy to offer testimony before this Committee in support of the Comprehensive Employment and Training Act Public Service employment programs.

In Columbus, we have received $2.65 million in CETA Public Service Funds which have enabled us to serve 850 participants; you will find in your packets copies of the Client Characteristics. The Columbus Title II program was initiated to employ those last hired and first fired low-income individuals first affected by the recession. With the advent of Title VI funds in January 1975, CETA began to impact on the wider spectrum of unemployed caused by a deepening recession.

The Columbus Consortium has taken the approach of serving the unemployed people and placing them in positions that precipitate a multiplier effect in providing services to other disadvantaged people in the community. For instance, PSE positions were developed for welfare recipient counselors, outreach and food stamp personnel, job developers, Juvenile Court coordinators, Senior Citizens employment program, Adult Basic Education Teachers, Consumer Counselors, Nutrition Specialist, Legal Aid paralegals, Ex-Offender program personnel, Rehabilitation Therapists, Veterans Employment Representative, Handicapped Placement Counselors, Day Care Workers, as well as Recreational and Cultural Awareness programs.

It is estimated that through their PSE positions these 850 participants impact on the lives of 20,000 disadvantaged, handicapped or indigent people in the Columbus Area.

Under the CETA Legislation, with Congress decentralizing decision-making to the local level, mobilization of resources can be summoned to allow immediate reaction to changes in the labor market. An excellent example of this occurred when Title VI legislation was added to the Act. We were advised of the Title VI grant in a regional meeting on December 31, 1974; by January 8, 1975, we had a signed Grant and on January 13, 1975, we had people working. This points up the viability of the CETA concept. Even though the Act was not designed as a massive, emergency employment program vehicle, local prime sponsors implemented with unprecedented speed a large scale, quality employment program.

The number of PSE participants served by the Columbus Consortium is roughly equal to one percent of the total labor force in the SMSA. Additionally, a study produced for Columbus by Memphis State University's Center for Manpower Studies reported that slightly better than one job is generated in the private sector for each PSE job that is funded through CETA. One can conclude then that, in Columbus, termination of PSE funds would cause the unemployment level to rise by two percent.

The chart you see here reflects unemployment percentages for the last 27 months for the United States (blue), the state of Georgia (green) and the Columbus area (orange). Without PSE projects the unemployment picture would be painted two percentage points higher.

Using this logic, phase out schedules for PSE funding perhaps should be adjusted to compensate. In other words, if full employment of five percent is to be achieved, the trigger to funding should be set at the three percent unemployment level, not at seven or eight percent.

As was mentioned earlier we have served 850 PSE participants—and this is admirable—but we have 3,000 other registrants that are without jobs and unreachable through the limited resources of CETA. I might also point out that we received 800 more requests for jobs from public service agencies than we had funds to fill.

Perhaps, the nation's economy is recovering as rapidly as the administration says that it is. Perhaps all the nearly 400,000 PSE participants nationwide will be absorbed by the recovery. Perhaps the economic improvement in business and industry will cause tax bases to increase so that the ancillary services offered by PSE participants can be continued. Perhaps I can convince the 3,000 unemployed in our files that the recession is over. However, until employment and economic recovery reaches the stage where the "perhaps" are "certainties," it appears to me to be ludicrous to end Public Service Employment programs.

THE PANAMA CANAL ZONE

Mr. THURMOND. Mr. President, in the June issue of the American Legion magazine the national commander of that outstanding organization, Harry G. Wiles, has written a superb column on the Panama Canal Zone. His words reflect the concerned view of the vast majority of Americans about the status of U.S. sovereignty and control over that vital waterway.

Commander Wiles rightly recognizes that U.S. sovereignty is not negotiable in the Canal Zone, despite the prevailing State Department position on this matter. Furthermore, he understands the devastating results which could follow the surrender of American sovereignty or control of this strategic area.

Mr. President, Commander Wiles wisely points out the import of this issue on our national well-being. He recognizes the folly of those who advocate a transfer of Canal Zone sovereignty and control to the Republic of Panama. His analysis is right to the point: That our presently diminished fleet could no longer be counted as quickly available in both the Atlantic and Pacific; that access to world markets for American products would be in question; that major maritime traffic snarls could develop; that U.S. interests throughout the hemisphere would be diminished; that serious doubts would be raised around the world about America's resolve to counter blackmail; and, most important, that the sovereignty of U.S. territory is not negotiable.

Mr. President, people throughout this country have been appalled at the reports of plans to surrender this American territory, due to threats of violence. Even if the Canal Zone were not an essential part of American territory, as it is, we should not consider yielding to threats. The instability, alone, of the present, unrepresentative government in Panama would be reason enough not to turn over such a vital waterway to its keeping. However, the reasons go much deeper. It appears Gen. Omar Torrijos, the strongman who heads the present Panamanian Government, is cut from the same cloth as Fidel Castro, and, indeed, is known to have a close connection with him.

Mr. President, Commander Wiles of the American Legion cites eloquently the importance of the Panama Canal Zone to America's interests and the fallacy of any plan to give it away. I am sure my colleagues would benefit by his words. Since some may not otherwise have the opportunity to read this fine column, I ask unanimous consent that it be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

The Panama Canal Is Not Negotiable

Vigorous opposition in Congress and the tides of an election year have slowed the State Department campaign to give away the Panama Canal; but it has not been stopped.

It must not succeed!

Surrender of U.S. sovereignty over the Panama Canal Zone and loss of American control over the Atlantic-Pacific waterway could have devastating results. If the United States were relegated to the status of a concessionaire, operating the Canal at the sufferance of others, the Navy—no longer a two-ocean force—would have to reevaluate its ability to marshal forces in world trouble spots; access to Asian markets for major American farm products would be in question; the U.S. Merchant Marine and coastal shipping fleets could face major economic and traffic problems; Communist Cuba and other Latin opportunists would be encouraged to work their mischief against U.S. interests throughout the hemisphere; Puerto Rico would face massive pressures; doubts—dangerous doubts—would mushroom as friends and foes around the world reassessed the American will to resist totalitarian hypocrisy and blackmail and the people of Panama would suffer a staggering blow.

None of this has to happen.

American ownership of the Panama Canal Zone rests on legal bedrock. We purchased the land. It was ceded by the legitimate government of Panama in full accord with international law and the approval of the Panamanian parliament. We paid for it. We dug the canal and we have maintained it for almost three-quarters of a century. We have met every obligation to the government and the people of Panama. On countless occasions we have exceeded those obligations to help Panama survive crises.

Yet today the United States finds itself depicted as a heartless tyrant because it owns and operates the canal. A campaign that was launched after Castro's victory in Cuba has now reached its peak under Panama's Marxist General Omar Torrijos, the country's first President in 72 years.

The American Legion has steadfastly resisted all attacks on U.S. sovereignty over the Panama Canal. Earlier this year, I toured the Canal Zone to underscore our interest. On my return I informed the President of the United States that "I see no alternative to facing the proposition that the Canal Zone is part and parcel of U.S. territory and cannot be given away, unless and until the people of the United States, and their representatives in Congress, feel it is in their interest to do so . . ."

The State Department has proposed a new treaty with Panama that would end U.S. sovereignty over the Canal Zone in three years and subsequently surrender the canal itself. A treaty would require ratification by two-thirds of the Senate. Thirty-eight of the 100 Senators are now on record against any treaty revision. But even the Senate does not have the power to cede away sovereign property. Such an action must be joined by the House of Representatives where 246 of the 435 members are on record as opposed.

Chairman Leonor K. Sullivan of the House Committee on Merchant Marine and Fisheries puts it this way:

"The current situation is the culmination of a sustained campaign by the State Department since 1964 to erode United States sovereign rights, power and authority over the Canal Zone and the canal through the salami process. . . . Under the Constitution, only the Congress, which includes the House of Representatives, is vested with the power to dispose of territory and other property of the United States and as regards the Canal Zone it has not authorized the making of any treaty to dispose of that territory or any property in it."

Why then does the State Department persist?

We are told that if we do not surrender the canal to General Torrijos we risk unrest throughout Panama and the Caribbean, including riots or guerrilla-style terror attacks in the Canal Zone.

In short, we are confronted with blackmail and we have every right to suspect that it is Communist-inspired blackmail.

In my letter to the President I urged reestablishment of the Navy's special service squadron which was based in the Canal Zone for two decades prior to World War II. A small force today would symbolize continuing U.S. interest, reassure Americans living and working in the Canal Zone and help stabilize the area.

I also urged the President to proceed with a proposed major modernization of the canal which would give employment, improved earnings and living standards to the entire area and improve relations between Panama and the United States. Such modernization is authorized under existing treaties.

The Panama Canal is an issue of the gravest importance to the United States. It is property of the United States. In this election year the people have a right to expect clear-cut views on its future from both major political parties and from their candidates for the White House and Congress.

INSTITUTIONAL INVESTORS' COMMON STOCK—HOLDINGS AND VOTING RIGHTS

Mr. METCALF. Mr. President, Saturday the Subcommittee on Reports, Accounting, and Management released a study entitled "Institutional Investors' Common Stock—Holdings and Voting Rights." It includes information which will be useful to various committees and Members of Congress as well as others. Copies of this committee print are available from the subcommittee, 161 Russell Senate Office Building 20510, telephone 224–1474.

I ask unanimous consent to print in the RECORD my letter of transmittal regarding this study to Chairman RIBICOFF of the Senate Government Operations Committee, and Steve Aug's May 30 article in the Washington Star, "Report Says Banks Wield Less Power Than Thought."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Letter of transmittal]

COMMITTEE ON GOVERNMENT OPERATIONS, SUBCOMMITTEE ON REPORTS, ACCOUNTING AND MANAGEMENT,
Washington, D.C., May 5, 1976.

Hon. ABRAHAM RIBICOFF,
Chairman, Senate Government Operations Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN RIBICOFF: Preceding studies and hearings by the Subcommittee on Reports, Accounting and Management have dealt with the difficulty in ascertaining major voting interests in publicly held corporations. "Disclosure of Corporate Ownership," (Senate Document 93–62) dealt with the listing of stockholdings in the name of nominees for institutional investors and stock depositories. At the "Corporate Disclosure" hearings in 1974, chairmen of independent regulatory commissions and other witnesses testified as to the deficiencies in reports dealing with corporate ownership and control. This testimony led to the formation of the interagency Steering Committee on Uniform Corporate Reporting. Comprised of senior staff from the General Accounting Office, independent regulatory commissions and the Subcommittee, it developed model uniform reporting requirements dealing with corporate stockholdings, debtholdings, structure and affiliations of officers and directors.

The committee print, "Corporate Ownership and Control," issued in November, 1975, illustrated some of the reporting requirements in effect last year and described the reactions of various commissions and agencies to the model uniform reporting requirements, which have been before them since January, 1975.

One of the principal objections raised in connection with the reporting of major voting interests in corporations has been that the information is not available. Studies by the Subcommittee and its consultant show that a considerable amount of hard data on the subject is available. More information will become available when the Securities and Exchange Commission collects additional data pursuant to the Securities Act Amendments of 1975 (P.L. 94–29).

Part I of the Subcommittee's current study is the work of its consultant, Professor Robert M. Soldofsky of the University of Iowa, and his assistants. It shows the stockholdings and voting rights of mutual funds, insurance companies and many of the nation's largest banks in individual airline, broadcasting, insurance, trucking, oil and other companies. In many instances, these identified institutional investors—not including self-administered pension funds, foundations and some banks—hold voting rights to more than 30 or 40 per cent of the stock in large, well-known, individual companies. His data include summaries which show the concentration of voting rights of major institutional investors in industry groups.

Part II, by Curtiss Martin, economic analyst with the Congressional Research Service, Library of Congress, reveals previously unavailable data concerning stock held by banks in custodial accounts. The banks generally have neither investment discretion nor voting authority regarding these custodial accounts. (The principal exceptions are some smaller banks.) Banks do not keep records and make reports, regarding custodial holdings, as they do with respect to trust accounts.

The total value of the custodial holdings of those banks responding to Mr. Martin's survey were approximately 50 per cent larger than the reported trust assets of responding banks. Two banks—Citibank and Bankers Trust—each reported $20 billion in custodial accounts. State Street Bank and Trust reported $11.2 billion in its custodial account—20 times more than its trust account. Individual and family investments amounted to only from 1 per cent to 5.5 per cent of the custodial accounts of those three banks. Some banks—including Morgan Guaranty and Chase Manhattan—advised the Congressional Research Service that they do not maintain records regarding the market value of stock in custodial accounts.

An indication of the major types of depositors using bank custodial accounts is provided in Appendix B. It shows that mutual funds, pension funds, endowments, other (including foreign) banks, insurance companies and corporations are the major depositors in the three banks which reported the largest custodial accounts. The bank is the stockholder of record—but the other institutions generally have the power to vote the stock.

Regulated companies filing ownership information with Federal regulatory commissions often list the record owners as the major holders of voting stock. This overstates the influence of banks—if the holding is a custodial account—while shielding from both stockholders and regulators the identity of those empowered to vote the stock in the custodial accounts. This gross distortion of voting interests would be corrected through adoption by the regulatory commissions of the model uniform corporate reporting requirements. They provide for reporting the 30 major *voting* stockholders, except that any voting interest amounting to less than one tenth of one per cent of a company's voting stock would not have to be reported.

I believe that these studies by Professor Soldofsky and Mr. Martin will be useful to the Committee, to the commissions, and to the companies which report ownership information to them. Therefore I ask that they be published as a committee print, along with the Appendix material.

In closing I would like to express my appreciation to the banks which cooperated with the Congressional Research Service and the Subcommittee, to Vickers Associates, for permission to reprint information concerning mutual funds in Part III, and to Professor Soldofsky and Mr. Martin and their associates at the University of Iowa and the Congressional Research Service of the Library of Congress.

Very truly yours,

LEE METCALF.

[From the Washington Star, May 30, 1976]

REPORT SAYS BANKS WIELD LESS POWER THAN THOUGHT

(By Stephen M. Aug)

A congressional report says the importance of bank holdings of stock in the nation's corporations may be overblown—that a substantial source of hidden corporate voting power may be other financial institutions such as mutual funds, pension funds and insurance companies.

The latest study, citing previously unavailable information, says a very substantial share of corporate stock held by banks is not held in so-called "trust accounts" but in "custodial accounts." A key difference in the two types of accounts is that in most instances banks have voting power over what they hold in trust for others, but that the actual owners of securities vote the stock held for them in custodial accounts.

The amounts held in custodial accounts, too, are enormous and growing, according to the report, and, significantly, it says that some federal agencies responsible for regulating individual industries and keeping track of corporate affairs have no idea of the growth of concentration of corporate voting power in the hands of fewer and fewer financial institutions.

A portion of the report consists of a study by Curtiss Martin, an economic analyst at the Library of Congress Congressional Research Service. The study said that of 24 banks reporting the market value and voting rights information for trust holdings as of the end of 1974 (when stock market prices were at recent lows) showed holdings valued at $48.9 billion. The banks held full voting rights for 54.9 percent of this stock and shared voting rights for 14.2 percent.

It said 23 of these banks reported custodial accounts totaling $68.9 billion, with full voting rights for only 1.1 percent and shared voting rights for 2.1 percent.

In custodial accounts, the report said, banks typically act essentially as repositories for stock certificates. They provide no management of the funds and probably no advice as to how they should be invested.

Thus, the actual owners of these securities—insurance companies, mutual funds and the like—not only make their own investment decisions, but vote the shares in corporate elections as well.

Vic Reinemer, staff director of the Government Operations Subcommittee, said one consequence of this is that stock listed in custodial accounts shows up on public records as simply part of an overall amount of shares held by a particular bank. Yet, the bank may actually vote only a small portion of those shares, with the actual owners voting their own shares, often in substantial quantities, but not publicly known.

For example, both Citibank of New York and Bankers Trust Co. of New York, held at the end of 1974 about $20 billion of stock in custodial accounts. Yet, records the banks provided show they held voting power over none of it.

The report points out that institutional holdings of common stock continue to grow steadily relative to the total market value of traded stocks. According to Securities and Exchange Commission data, institutional holdings as a percentage of all common stock traded has risen from 30.9 percent in 1969 to 37.3 percent by the end of 1974.

Within a group of 146 stocks chosen for the study, in 8 cases more than 40 percent of the total stock was held by financial institutions. In another 27, financial institutions held between 30 and 40 percent.

The report showed that the largest concentration of institutional holdings was in National Airlines, where financial institutions held 52.31 percent of outstanding stock. Although bank trust departments held 14.8 percent, mutual funds held 31.81 percent. Northwest Airlines is shown as being 43.7 percent owned by institutions—bank trust departments held 7.3 percent (down from 23.5 percent in 1969) while mutual funds held 30.7 percent.

In an announcement that accompanied the report, Metcalf said claims by large corporations that they are owned by hardhats, working girls and senior citizens are myths. "Control of American corporations is increasingly concentrated among relatively few institutional investors," Metcalf contended, and "federal regulatory commissions are not even keeping track of the trend."

FOR A NATIONAL URBAN STRATEGY

Mr. McGOVERN. Mr. President, the New York Times of January 1 carried a penetrating article by Richard C. Wade, distinguished professor of urban history at the graduate center of the City University of New York. In his article, Professor Wade presents a national urban strategy to alleviate the mounting problems faced by New York and other cities.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

For a National Urban Strategy

(By Richard C. Wade)

New York's fiscal crisis is far from over and the package put together by Gov. Hugh Carey needs nurture and good luck to succeed. But it is not too early to examine the deeper problems that occasioned the crisis, for they threaten nearly every major metropolis in the country. And unless there is a radical change in our national approach to this urban malaise there will be more New Yorks in the future of America's cities.

Historically, it is not difficult to explain the origins of this national urban crisis. Cities have always had trouble providing essential services to their residents. Cities grew with unprecedented speed, with staggering problems accompanying soaring population expansion. But until the years after World War II they had sufficient resources to handle the job. The wealthiest and best educated for the most part lived within municipal boundaries; the major industrial and commercial facilities were also there. Even when the built-up areas spilled beyond the municipal limits, the outlying areas could be annexed to the city, thus maintaining an expanding tax base.

This flexible historical casement, however, was shattered by the suburban explosion that followed World War II. Resistance in the new communities made annexation politically impossible except in the South and West. The middle class more and more abandoned the cities; commerce and industry inevitably followed the residential flight. As tax producers left the city, tax consumers—the poor and elderly—remained behind where they were joined by Southern and Hispanic migrants. This demographic revolution profoundly altered the nature of urban life everywhere.

The old self-sufficient metropolis required no national strategy. If left alone, it could take care of itself. Even the new breed of able postwar mayors discovered they could not maintain urban services on a stagnant tax base. Increasingly, they turned to Washington for help.

The Johnson Administration responded with compassion but bewilderment. No precedents, either here or abroad, seemed appropriate. Hence, Washington sponsored all kinds of studies, embraced numberless pilot projects, and dunned the cities with money, hoping to reduce tensions and to buy time until it developed a comprehensive scheme. Yet none emerged.

Part of the Johnson Administration's sensitivity to the problems of the cities was political; traditionally they provided Democratic Presidential candidates with crucial votes. The approach of Richard M. Nixon and President Ford has been no less political.

The suburbs were to the Republicans what the cities were to the Democrats. Hence, the most important part of the Republican response was revenue-sharing. By spreading money among 39,000 communities, it ignored the disproportionate needs of the larger and older cities in favor of suburbs and small towns.

The second part of the Nixon-Ford suburban strategy was intellectual. Administration spokesmen simply announced that "the urban crisis" was over and then systematically dismantled or bureaucratically crippled programs of the "Great Society."

One might suppose that the New York crisis would have shaken this complacent policy. But Administration spokesmen quickly labeled it a mere fiscal problem. It was not until the banking community became nervous about the national—indeed international—consequences of a New York default that the Administration put aside its ideology and gave some grudging assistance.

Still, the Administration persists in its doctrine of "New York exceptionalism," contending that the rest of urban America is healthy and immune from those forces that brought the nation's largest city to its knees.

While New York tottered at the financial precipice, no one really discussed why the city had engaged in fancy fiscal flamflam in the first place. The simple fact was that the city could no longer afford to provide normal urban services with its present revenue.

Even after the return to solvency, there will still be a million poor New Yorkers, housing will be more desperate, schools will continue to decline, if not deteriorate, and the cost of medical care for the elderly and infirm will mount. And the flight of the white middle class will accelerate.

It is in this sense that New York's problems are part of a general national urban crisis. What is to be done? Clearly, neither the panicked policy of the Johnson Administration nor the suburban policy of the Nixon-Ford days has arrested the decline of our urban centers. Despite official optimism in Washington, every responsible municipal official realizes that the present fiscal solvency is illusory and the momentary social peace very fragile.

What is needed now is a new national urban strategy that will handle both the short-range financial crunch and the long-run deterioration of our metropolitan society. That policy should have, I think, at least these elements:

1. A new formula for revenue sharing that takes into account the disproportionate needs of the cities.
2. The federalization of welfare and health payments to remove a growing burden on municipalities.
3. Federal bonuses to metropolitan areas that combine suburban and urban services on a functional basis for greater efficiency.
4. A new housing policy that would require multi-unit developers receiving any public subsidy, overt or covert, to provide 10 percent to 15 percent of those units for low- and moderate-income families.
5. Federal guarantees for municipal bonds.

A RUSSIAN THREAT TO THE INTERNATIONAL PRESS

Mr. JACKSON. Mr. President, I wish to bring to the attention of my colleagues an important article by David Anable, entitled "The Russian Threat to the International Press," warning of the Soviet-led drive *to* curb press freedom by removing the mass media from the protection of accepted international standards on human rights.

Mr. Anable describes the Soviet *tactic* of putting into UNESCO documents provisions about states themselves being responsible for "all mass media under their jurisdiction." In effect, this reduces the support for press freedom under such previously accepted international agreements as the Universal Declaration of Human Rights.

Mr. President, I ask unanimous consent that Mr. Anable's article, which originally appeared in the Christian Science Monitor and was reprinted in the Washington Post of May 25, 1976, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Russian Threat to the International Press

(By David Anable)

"The condition upon which God hath given liberty to man is eternal vigilance, which condition if he break, servitude is at once the consequence of his crime, and the punishment of his guilt."

So spoke John Philpot Curran back in July 1790. His words have since been condensed into the near cliche: "The price of liberty is eternal vigilance."

Cliche or no, the sentiment is being given renewed point by a quiet Russian-inspired effort now under way to curb freedom of information and the international press. The main vehicle for this campaign is the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

Most of the attention given UNESCO over the past couple of years has related to its alleged "politicization" on Israeli and Zionist issues. Loud have been the denunciations and bold the headlines condemning this.

Almost unnoticed, however, has been a quiet accumulation of UNESCO draft documents calling for government controls over the communications media. Clearly the Soviet Union has a vested interest in such controls. To a degree the Soviet system depends upon them.

But the motives of these developing

'"Third-World" countries which go along with this viewpoint are much more varied. Some are tyrannies close to the Soviet model. Some are shaky new governments anxious to grip any levers of power to avoid anarchy. Others genuinely feel that the Western press has failed to explain the problems of development and to adequately condemn racism and colonialism. They fear that the flood of information, news, and values from the West will overwhelm their countries' own identity and culture.

The result of this Communist-led drive with its differing degrees of Third-World support was clearly visible, though not much reported last December.

A UNESCO meeting in Paris on the role of the mass media was given sudden attention when it voted to include in the preamble to its main policy document a reference to the UN General Assembly's controversial resolution last fall equating Zionism with racism. The United States delegation walked out, together with those of the nine European Community nations, Australia, Canada, and Norway.

After the walkout, however, and almost unnoticed, the Paris meeting amended its document further. It took out an operative paragraph which placed the international media under the protection of "relevant international agreements." Instead it popped in an Orwellian paragraph about states themselves being responsible for "all mass media under their jurisdiction."

In effect what was done was to diminish the protection of the media under such previously accepted (at least nominally) international standards as the Universal Declaration of Human Rights.

This declaration, passed by the UN in 1948, guarantees the "right to freedom of opinion and expression including the right to receive and impart information and ideas through any media and regardless of frontiers."

According to Ronald Stowe, the chairman of the United States delegation to the Paris UNESCO meeting, "the general thrust and the way it (the amended document) will be used is certainly to counter the free flow of information."

In Mr. Stowe's opinion, the amending of this UNESCO document is a very important sign of the Soviet Union's attempt to back off from even the weak provisions of the Helsinki agreement. "I personally think this was a very important session for our own media's interests," he warns.

A parallel effort to curb press freedoms is under way in a series of UNESCO meetings on the media and news agencies in Latin America. In Bogotá, Colombia, in 1974, and in Quito, Ecuador, in 1975, "experts in social communications" hammered out documents recommending government controls over the mass media as well as government-controlled news agencies.

A further such UNESCO meeting was to have taken place in Quito in June. But after strong criticism of the documents and of the proposed meeting by the presidents of the Inter-American Press Associations (IAPA) for newspapers and broadcasting, Ecuador is reported to have declined to host the meeting.

"The poses of the Quito conference are contrary to the charter of UNESCO and to the constitutions of all the countries of the Americas in which the right to freedom of information and opinion is clearly stated," said the IAPA joint statement April 21.

The Soviet Union's aim, it would appear, is to develop a series of restrictive international agreements, which, in time, would counterbalance the traditional weight of Western-oriented principles such as the Universal Declaration of Human Rights. If they succeed it could give a measure of international legitimacy to moves to erode the freedom, for instance, of foreign correspondents in Communist and Third-World countries.

"That is, I think, their aim," concludes Mr. Stowe.

We have been warned.

PRELIMINARY NOTIFICATION: PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive notification of proposed arms sales under that act in excess of $25 million. Upon receipt of such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on May 26, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

I ask unanimous consent that the notification of proposed arms sales be printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,

Washington, D.C., May 26, 1976.

Mr. RICHARD M. MOOSE,
Staff Associate, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. MOOSE: This provides an advance notification in accordance with our letter dated 18 February 1976 regarding possible transmittals to Congress of information as required by Section 36(b) of the Foreign Military Sales Act, as amended.

This is to advise you that we have under consideration an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA

Washington, D.C., May 8, 1976.

In reply refer to: I–2488/76.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding under separate cover Transmittal No. 76–53, concerning the Department of the Army's proposed Letter of Offer to Pakistan for an estimated cost of $28.8 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF.

TRANSMITTAL NO. 76–53—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION (36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. Prospective Purchaser: Pakistan.

b. Total Estimated Value: $28.8 million.

c. Description of Articles or Services offered: Anti-armor weapons [Deleted] TOW guided missiles and ancillary equipment.

d. Military Department: Army.

e. Date Report Delivered to Congress: 28 May 1976.

REPORT TO THE SENATE FROM THE SENATE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, I ask unanimous consent that a report from the Senate Committee on Public Works to the Senate pursuant to section 302 (b) of the Congressional Budget and Impoundment Control Act of 1974, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON PUBLIC WORKS, REPORT TO THE SENATE PURSUANT TO SECTION 302(B) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

	Fiscal year 1977			
	Direct spending jurisdiction		Entitlement programs that require appropriation action	
Program	Budget authority	Outlays	Budget authority	Outlays
Federal-aid highway program:				
Controllable	3,790			
All other				

COMMITTEE ON PUBLIC WORKS, REPORT TO THE SENATE PURSUANT TO SECTION 302(B) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

Program	Fiscal year 1977			
	Direct spending jurisdiction		Entitlement programs that require appropriation action	
	Budget authority	Outlays	Budget authority	Outlays
Corps of Engineers water resources program:				
Controllable				
All other (permanent trust fund)	28	24		
Water pollution program (oil pollution fund):				
Controllable				
All other (permanent revolving fund)	5	5		
Tennessee Valley Authority program:				
Controllable		1,030		
All other				
Appalachian regional development program:				
Controllable	65			
All other				
Regional Action Planning Commission:				
Controllable	25	29		
All other				
Appalachian regional development program (trust fund):				
Controllable				
All other	5	3		
Indian roads and trails program:				
Controllable			100	
All other				
Total	3,918	1,091	100	

S. 3422 PERTAINING TO NATURAL GAS

Mr. DURKIN. Mr. President, on Tuesday, May 19, the Senate Committee on Commerce voted to report S. 3422, a bill entitled, "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes." The vote in committee came only 6 calendar—3 legislative—days after the bill was introduced on May 12, 1976.

This must be close to the indoor record. Those of us with serious concerns about this bill, especially we as the expensive end of the pipe, had virtually no time to evaluate and analyze it. There were no hearings on the bill. It is difficult to accept that the Senate should be asked to vote on an important measure such as S. 3422 without adequate evidence as to its impact upon the cost of natural gas to consumers, its impact upon the profits of natural gas producers, or its impact upon the supplies of nattural gas.

In the very brief time that has been available since this measure was introduced, I have been able to obtain some initial estimates of its possible cost impact from the Library of Congress. This initial estimate indicates that S. 3422 will result in at least a $17.5 billion increase in the price of natural gas over the next 4 years.

It is not yet clear when the proponents of S. 3422 will attempt to bring the measure to a vote on the Senate floor. If they continue at the speed with which the matter was initially introduced and considered in committee. I fear that we may be voting in the next few days.

In order to have some relevant material before the Senate, I ask unanimous consent that the preliminary cost analysis of S. 3422 prepared by the Library of Congress be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURKIN. The vote on S. 3422 before the Committee on Commerce was 18 to 1. This lopsided vote should not be taken to imply that there is little opposition to S. 3422. On the contrary, there is substantial opposition. We have all received a letter from the Energy Policy Task Force of the Consumer Federation of America signed by 17 different consumer and public interest groups urging us to oppose S. 3422. The letter expresses some very cogent reasons for opposing S. 3422, and I ask unanimous consent that the letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

[The Library of Congress, Congressional Research Service]

COST OF S. 3422'S PRICING PROVISIONS

(By Lawrence Kumins, Analyst in Energy Economics, Economics Division)

I. INTRODUCTION

This paper is a preliminary estimate of the increases in natural gas prices which could be experienced under the Natural Gas Act Amendments of 1976 (S. 3422). We have prepared preliminary estimates in response to several urgent requests. Because of requestors' near-term needs, we have been unable to make a comparison between S. 3422 and the House passed Smith Bill in this preliminary paper. This will be included in the final draft.

S. 3422's pricing sections provide ceiling prices for new on-shore production of $1.60 Mcf (1,000 cubic feet). Adjustments for inflation and Btu contents are provided for. An exception for high cost gas is provided, and FPC regulation is terminated in 7 years. New Outer Continental Shelf (OCS) production is also repriced at $1.35 Mcf with adjustments as above, including the high cost exceptions. FPC jurisdiction is maintained, and price readjustment every 5 years is mandated.

II. PRICE IMPACTS

Below are described and estimated the potential elements which may cause escalation of the nation's natural gas bill if S. 3422 became law today—an assumption made throughout.

We should note that 1976 constant dollar figures are used throughout as well as the assumption that marketed gas production holds at the present 20 tcf (trillion cubic feet) level. This assumption implies that benefits in terms of increased production stem from S. 3422.

a. Intrastate gas

About 8.5 tcf is currently sold in intrastate commerce at prices which are both largely unknown and unregulated. The FPC collects data from jurisdictional producers on their *new* intrastate sales, which now average about $1.30/Mcf. Estimates of the weighted average new-old contract prices for this gas vary. We discussed this matter with Chip Schroeder of the House Energy and Power Subcommittee Staff, and he indicated that 60 cents was a consensus estimate. Intrastate contracts contain a number of vehicles facilitating price escalations, such as redetermination clauses, favored nation clauses, etc. They also tend to be of short term. With on shore gas set at a base price of $1.60 plus high cost gas adjustments, upward pressure will certainly be brought to bear on intrastate contracts. Let us assume that the 8.5 tcf under contract to intrastate customers will be eligible to rise over three years with 3 tcf escalating in each of the first and second years, and 2.5 tcf in the third year.

The question of what intrastate prices will rise to must be raised, along with the matter of how much is attributable to S. 3422. We will proceed here as if gas contracts would rise to the current new intrastate price of $1.30 regardless of S. 3422 passage, with time phasing described above. Also assumed, in order to keep gas within intrastate markets, intrastate users must pay a 10 cent/Mcf premium over the interstate rate. Let us further assume that 20 percent of intrastate gas is categorized as high cost, and priced at $2.00, yielding an interstate blend price of about $1.70/Mcf. If intrastate users must outbid the interstate market by paying a 10 cent/Mcf premium, first year costs here will be (3 billion Mcf x [$1.80–$1.30]) or $1.5 billion at a yearly rate at the end of the first full year after S. 3422's passage. This will grow to $3 billion at the end of the second year and $4.3 billion at the third year's end.

b. Expiring gas contracts

Appendix A of Commissioner Smith's dissent in FPC Opinion 699 H contained the table 1 figures on the volume of gas subject to release from expiring contracts.

TABLE 1.—GAS RELEASED FROM EXPIRING CONTRACTS AND RELATED COSTS

(1)	(2)	(3)	(4)	(5)
Year	Amount (trillion cubic feet)	FPC price/million cubic feet (1976 real dollars)	Yearly cost (dollars in billions—1976)	Cumulative cost (dollars in billions—1976)
1976	0.545	0.60	0.5	0.5
1977	.748	.65	.7	1.2
1978	.918	.70	.8	2.0
1979	1.250	.75	1.1	3.1
1980	1.342	.80	1.1	4.2
1981	1.402	.85	1.1	5.3

Gas involved in expiring long-term contracts is still considered old gas, as we understand S. 3422's definitions. However, the FPC's Opinion 699–H permits the renegotiation of these contracts up to the new gas ceiling. While the gas is continued in intrastate commerce, the experience has been that in virtually all cases both parties have agreed to contract renegotiation. We assume this will continue. Under this assumption, this gas would be continued in interstate commerce. It would sell for a blend price of $1.61 Mcf in 1976 constant dollars based on a mix of 20 percent high cost gas at $2.00, 56 percent on-shore gas at $1.60 and 24 percent OCS gas at $1.35. This "new" gas is compared to an alternative wherein FPC refused to permit abandonment of service for gas in expiring contracts and continued this "new" gas in interstate commerce at a hypothesized regulated "new" gas rate displayed in col. 3 on table 1. These figures are in real 1976 dollars.

Column 4 contains cumulative costs, which show what impacts would be effective during each year of the 1976–1981 time frame, based on the set assumptions discussed above.

It should be noted that this is not the only way of thinking about gas associated with expiring contracts. We discussed this with the Senate Commerce Committee staff. Under their rationale, expired contract gas would either be diverted to intrastate markets or remain unsold. Their thinking further suggests that this high priced expired contract gas is a bonus to the interstate market which, their logic implies, would not otherwise receive it. In any event, this viewpoint would exclude expired contract gas as a cost element, because it is based on the belief that the FPC would not continue the gas in interstate commerce by forbidding service abandonment. The implication is that no gas flowing in interstate commerce would mean no attributable costs.

c. New gas

If interstate production were to remain constant, each year roughly 1/10th of the flowing stream would be new gas, replacing that which previously flowed from now depleted reservoirs. Here, almost 1.2 tcf annually would be added to the gas mix flowing in interstate pipelines. We assume this will be a 50–50 blend of on-shore and OCS gas, 20 percent of which is $2.00 high cost, at a composite price of $1.58/Mcf. Costs for each year are calculated from the differential between the hypothetical FPC price and $1.58. These figures are in Table 2.

TABLE 2.—CUMULATIVE COST OF "NEW" GAS UNDER S. 3422

[Constant 1976 dollars]

(1) Year	(2) Amount (trillion cubic feet)	(3) FPC price (amount/million cubic feet)	(4) Yearly costs (billions)	(5) Cumulative yearly cost
1976	1.2	$0.60	$1.2	$1.2
1977	1.2	.65	1.1	2.3
1978	1.2	.70	1.1	3.4
1979	1.2	.75	1.0	4.4
1980	1.2	.80	.9	5.3
1981	1.2	.85	.9	6.2

d. Non jurisdictional sales

During 1974, pipelines otherwise jurisdictional to the FPC, sold 1.2 Tcf to ultimate consumers many of whom are in the state wherein the gas was produced. These sales, which are assumed to average 1.0 Tcf during 1976 and thereafter, are not FPC price controlled. They are made at rates competitive with alternative fuels and other local natural gas sales. When other intrastate prices rise to $1.70 as assumed above, most nonjurisdictional sales will too, costing about $5 billion [1 billion Mcf x ($1.80 — $1.25)].

e. A possible loophole in the new gas definition

Section 4, item 7 of S. 3422 defines new gas as follows:

"(7) 'New natural gas' means natural gas sold or delivered in interstate commerce (except synthetic natural gas) (A) which is dedicated to interstate commerce for the first time on or after January 1, 1976: *Provided,* That natural gas so sold or delivered from offshore Federal lands shall be dedicated for the life of the reservoir and committed for an initial contract term of not less than 15 years or for the life of the reservior if less than 15 years: *Provided further,* That any natural gas sold by a producer in interstate commerce prior to the date of enactment of the 1976 Amendments pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) natural gas produced from a reservoir discovered on or after January 1, 1976, or produced from wells initiated and completed in an extension of a previously discovered reservoir, as determined by rule by the Commission on or after January 1, 1976, regardless of whether or not the leases covering such newly discovered or extended reservoir were theretofore committed by contract or otherwise dedicated to the interstate market."

Critics of this measure have asserted that, because much gas reserve additions come from extensions of existing fields and reservoirs and new reservoir discoveries in old fields, it will be possible, under this definition, to produce disproportionately large amounts of "new" gas and circumvent the bill's intentions. As table 3 shows, an average of nearly 80 percent (excluding 1970 which is distorted by the Alaskan discoveries) of yearly reserve additions are basically expansions of already known producing areas. The remaining 20 percent, new field discoveries, is genuine new gas from previously unknown fields.

TABLE 3.—U.S. PROVED RESERVES OF NATURAL GAS, AS OF DEC. 31

[Millions of cubic feet—14.73 PSIA, at 60° F.]

Year	Revisions	Extensions	New field discoveries	New reservoir discoveries in old fields	Total discoveries revisions and extensions
1966	4,937,962	9,224,745	2,947,329	3,110,396	20,220,432
1967	6,570,578	9,538,584	3,170,520	2,524,651	21,804,333
1968	3,016,146	7,758,821	1,376,429	1,545,612	13,697,008
1969	(1,238,261)	5,800,489	1,769,557	2,043,219	8,375,004
1970	(99,721)	6,158,168	27,770,223	3,367,689	37,196,359
1971	(1,227,400)	6,374,706	1,317,574	3,360,541	9,825,421
1972	(1,077,791)	6,153,683	1,462,539	3,096,132	9,634,563
1973	(3,474,756)	6,177,286	2,152,151	1,970,368	6,825,049
1974	(1,333,285)	5,847,251	2,013,745	2,151,473	8,679,184

Source: Annual Statistical Review—Retroleum Ihdustry Statistics—1965–1974; American Petroleum Institute (p. 2).

Given the large reserve additions achievable by simple stepout drilling (drilling just outside the perimeter of an existing reservoir or field) substantial "new" gas could be produced from extensions of chronologically old fields and reservoirs. Two geologists have indicated to us that it would be relatively easy to produce substantial amounts of gas nominally "new" gas this way. With only 10.5 tcf under effective FPC pricing jurisdiction, estimates range up to 2½ tcf per year of definitionally new gas obtainable through stepout drilling. This will be replacing flowing old gas, now priced at an average of 36 cents/Mcf with definitionally new gas at a 50–50 OCS/on-shore ($1.60/$1.35) blend price of $1.48. Every tcf replaced this way will cost $1.5 billion per year. We believe that one tcf per year could flow through this potential loophole.

III. CONSOLIDATING IMPACT ELEMENTS

Below are tallied costs[1] of the various potential effects of S. 3422. The effects are cumulated over the 1976–1979 time frame. By the end of 1978 or mid-1979 there would be no gas under FPC Area and National Rates and a ceiling impact estimated at $17.5 billion would be reached. For this reason, the elements in the 1979 (which are year end impacts) column would add to a sum in excess of S. 3422's estimated maximum cost.

This should be compared with our December 31, 1975 estimate of S. 2310's impact (*Economic Impact of S. 2310's Pricing Provisions*). In that paper we estimate a $12.8–$14.9 billion first year impact and cost in the $27.9–$38.4 billion range after 5 years.

IV. S. 3422'S PROPONENTS' VIEW OF THESE IMPACT ESTIMATES

In order to offer a balanced presentation, some comments on our own estimates are made, based on the Senate Commerce Committee Staffs view point. They hold that:

a. Comparatively speaking, intrastate gas prices will rise (i) under any other form of deregulation/regulation legislation, and (ii) any time market forces act to increase intrastate prices even in the absence of any legislation. Therefore they do not see this as a relevant cost element uniquely attributable to their bill. And their view is the same on nonjurisdictional gas as well.

b. With regard to expiring contracts and gas obtaining the new gas price, S. 3422's backers hold that there would be little continuance of expired interstate gas and any new gas offsets imputs of expensive oil, implying a net saving.

c. Supporters would also argue that their new gas definition is without loopholes and that the bill's language provides for FPC prevention of circumventing its intent.

With this mind, Table 4 is offered to those who wish to make their own estimates, discounting any area that they believe would not be applicable.

TABLE 4.—COST CONSOLIDATION

Year category	1976	1977	1978	1979
Intrastate gas escalation	$1.5	$3.0	$4.3	$4.3
Expiring contracts	.5	1.2	2.0	3.1
New gas	1.2	2.3	4.4	5.3
Nonjurisdictional gas	.5	.5	.5	.5
Definitionally new gas	1.5	3.0	4.5	6.0
Total	5.2	10.0	15.7	------

EXHIBIT 2

ENERGY POLICY TASK FORCE,
Washington, D.C., May 23, 1976.

DEAR SENATOR: Last Tuesday, the Senate Commerce Committee, after a mere two hours of markup and less than one week after its introduction, reported out the Natural Gas Act Amendments of 1976, S. 3422. The undersigned organizations, representing millions of the Nation's consumers, including workers and farmers, find the bill unacceptable and unresponsive to the best interests of consumers.

---

[1] These cost figures represent incremental costs relative to a hypothetical status quo national natural gas bill.

S. 3422 marks a radical departure from the principle of cost-based regulation which the undersigned so strongly support. It is alarming that a provision of S. 3422 ties the price of natural gas to the energy equivalent of oil, whose prices are greatly influenced by the OPEC cartel. The obvious result of that approach is skyrocketing cost increases to consumers, even greater profits to the already wealthy oil giants, and no assurance of increased supplies of natural gas.

In an attempt to race the bill to Senate consideration and passage, perhaps even before the Memorial Day recess, there has been a total abandonment of the normal and reasonable Congressional procedures, including hearings, public comment, and comprehensive economic analysis.

Cost estimates based on an initial analysis indicate that the bill will cost American consumers over $8 billion a year in higher gas prices. Further analyses may well reveal even higher costs.

Another glaring defect of S. 3422 is that it leaves the intrastate market (where gas is produced and sold in the same state) price unregulated, yet provides no assurances that gas supplies will be committed to the interstate market. It is this interstate market upon which the Nation so vitally depends for the natural gas consumers and workers need for home heating and cooking and priority industrial and agricultural uses.

The bill's cosponsors may sincerely be attempting to break the impasse that has existed since the Senate passed S. 2310 last October and the House passed H.R. 9464 in February. We, too, are interested in resolving the natural gas issue. Nonetheless, we are disturbed by the substantive imperfections of the bill and by its serious departure from established procedural precedent. The obvious complexities involved and the potentially devastating impact on consumers and the economy are compelling reasons why we urge a more prudent course of action than passage of S. 3422.

Hearing should be immediately scheduled to develop a full analysis of the impact of S. 3422 and to permit carefu scrutiny of the benefits and liabilities of the bill before rushing ahead with floor action. We further urge you, as we did in February, to follow the normal and logical procedural order of going to Conference with the House-passed H.R. 9464 and resolving your differences in that forum.

American Federation of Teachers; American Public Gas Association; Communications Workers of America, Congress Watch, Nader; Energy Action Committee; Energy Policy Task Force of the Consumer Federation of America; National Council of Senior Citizens; National Farmers Organization; National Farmers Union; National Retired Teachers Association—National Association of Retired Persons; National Rural Electric Cooperative Association; United Auto Workers; United Mine Workers; and United States Conference of Mayors.

S. 3219 AND AUTOMOBILE EMISSION CONTROLS

Mr. GARY HART. Mr. President, soon the Senate will take up S. 3219, the Clean Air Act Amendments of 1976. One major provision in the bill would substantially relax the automobile emission standards required for cars produced in 1978 and thereafter.

Supporters of this provision argue that existing statutory emission standards are too stringent, that necessary emission control technology has not been developed, and that even if such technology does exist, it involves a substantial decrease in fuel economy.

Sincerely,

Recent information, documented in a letter to me from the California Air Resources Board, demonstrates that these claims are completely unjustified. Volvo has just certified cars in California which meet existing 1978 Federal standards with a 10-percent gain in fuel economy over last year's models. In fact, these cars do substantially better than the current 1978 Federal standards, beating the hydrocarbon standard by 51 percent, the carbon monoxide standard by 18 percent, and the nitrogen oxide standard by 58 percent.

This information proves that the technology is available, that existing standards can be met, and that we can have an increase in gas mileage as well.

Nevertheless, S. 3219 would relax 1978 Federal emission standards in two critical areas: it would delay the compliance deadline for all automobile emission standards, and it would substantially relax the nitrogen oxide standard. Thus, S. 3219 would not require until 1979 hydrocarbon and carbon monoxide emission standards that are being achieved in California today. More importantly, S. 3219 would not require until 1980 a nitrogen oxide emission standard that is six times weaker than levels now being achieved in California.

Mr. President, I believe this information clearly demonstrates why S. 3219's proposed revisions should be strengthened. When the Senate considers S. 3219, I shall offer two compromise amendments which strengthen the bill and which take into account the production schedules currently faced by the automobile industry.

I ask unanimous consent that the letter from the chairman of the California Air Resources Board be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF CALIFORNIA,
AIR RESOURCES BOARD,
Sacramento, Calif., May 26, 1976.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR GARY: Your letter of May 13 requested information on the 1977 model automobiles being certified for sale in California. We are developing a summary of the 1977 certification data which will be available soon, but the most significant data as we discussed on the phone, is from Volvo's 3-way catalyst cars which have just completed certification testing.

The following table summarizes the test results for the 1977 four-cylinder Volvo cars:

		Emissions extrapolated to 50,000 mi			Fuel economy	
	Test-weight	HC	CO	NOx	City	High-way
Auto transmission	3,000	0.22	2.9	0.08	18.7	25.4
Manual transmission	3,000	.20	2.7	.21	18.1	31.4
Auto transmission	3,500	.17	2.4	.17	18.2	25.9
Manual transmission	3,500	22	3.3	.21	18.0	29.9
Average		.2	2.8	.17		
1978 statutory standards		.41	3.4	.4		

The above data represent a significant and unexpected advancement in emission control technology. Besides comfortably meeting the 90% reduction standards of the Clean Air Act Amendments of 1970, the new Volvo system also results in a 10% fuel economy improvement over the 1970 Volvo models sold in both California and other states. The new catalyst system is far more efficient than previously available systems. All estimates of driveability and fuel economy penalties associated with lower levels of emission standards which were made without consideration of these new data are now obsolete.

The key component of the Volvo system is a new catalytic converter developed by Engelhard Industries of Edison, New Jersey. This catalyst simultaneously reduces HC, CO and NOx emissions while the engine is calibrated for nearly optimum fuel economy and driveability. Volvo currently uses the Engelhard catalyst in conjunction with a fuel injection system; however, the system also has potential for use with more conventional carburetor systems.

In view of the emission control technology now available, it appears as though an automobile emission standard schedule more stringent than is being contemplated by the Senate should be considered. Your proposal to retain the 0.4 NOx standard is a particularly good idea in light of the recently available data. We are recommending that the California delegation support the following schedule:

1978, HC .9, CO 9, NOx 2.0. Same as California standard for 1975–6.

1979, HC .41, CO 9, NOx 1.5. Same as California standard for 1977–8.

1980, HC .41, CO 9, NOx 1.5. Same as California standard for 1977–8.

1981, HC .41, CO 3.4, NOx .4.

Sincerely,

TOM QUINN,
Chairman.

KISSINGER, SIMON, AND CHILE

Mr. ABOUREZK. Mr. President, Chile remains very much in the news; in part because of the continuing violation of basic human rights; in part because of the impending Organization of American States General Assembly session which is to begin this week in Santiago; and in part because of Secretary of the Treasury William Simon's recent "economic sojourn" to Latin America, and Chile.

Laurence Birns, the Director of the new Council on Hemispheric Affairs, has written on these very crucial matters. I share his concerns and conclusions that the recent Simon trip has done nothing for the cause of human rights, that the Secretary's visit to Santiago to attend the OAS conference will do nothing for human rights, and that the State Department's possible next Assistant Secretary for Latin American Affairs needs to be closely examined.

Mr. President, I ask unanimous consent that the statement by Larry Birns be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF LARRY BIRNS

Secretary of the Treasury William Simon is faithfully furthering the Chile policy pioneered by his predecessor, John Connally, in conjunction with Mr. Kissinger. If Connally made it almost a matter of mission that the Allende government be cut off from any possible source of economic aid, his successor is determined that the present military regime, universally condemned for the barbaric manner which it treats its own citizens, should not suffer from want. Simon recently affirmed his own and Mr. Kissinger's well-known concern for human rights and assured us that due to this concern the pace of the release of prisoners from the political detention camps scattered throughout Chile would be accelerated.

This is somewhat mystifying because Kissinger has been long assuring us that all along he and the Administration have been exercising a maximum amount of influence upon the Chilean authorities to relent on the fury which they have been visiting upon their hapless victims since the coup of September 1973 which overthrew the Allende government—the most violent act which had occurred in Latin America for a generation—His assurances were somewhat diminished by our recollection that he had chided the U.S. ambassador in Santiago's efforts to link U.S. economic assistance to a respect for the minimal standards of human rights for boring him with an academic "political science" lecture.

While Prof. Kissinger's Chile policy has been perfectly clear for at least 7 years, and Mr. Ford has already assured us in very simple and direct language that Chile's fate is too important to leave to the vagaries of the Chilean electoral system and the aimlessness of local public opinion, Mr. Simon is a new face on the Chile scene and his scenario is deceptively clear. He plans a recent trip to Santiago which will produce a rationale for even more economic assistance to the beleaguered generals. Millions in tribute will be paid to Chile in the form of increased economic assistance but the hitch is that the Chilean junta must commit a cosmetic act of humanity by releasing some political prisoners.

Previous Administration efforts at managed humanitarianism had been prompted by a desire to tart up Mr. Kissinger's tarnished image which arose from the public's misunderstanding of his efforts to suborn a democratically-elected regime even though he could not properly pronounce the name of the president who his concealed activities would eventually help to kill.

But now the *Administration* was having increasing difficulty in skirting a Congressional intent to tie military and economic aid to the prevailing condition of human rights in Chile. More and more Congress was becoming a troublesome gnat which had to be swatted with vetoes of its human rights amendments and alternately be fed some consoling morsels supplied by a glossy and well-financed public relations campaign to sell the most globally condemned member of the international community—the present government of Chile—to the American people.

The Administration's mania to support its protege in Santiago has become the centerpiece of its Latin American policy. In category after category, and in spite of the fact that Chile traditionally has had one of the highest standards of living in the region, no other sister republic has received more economic assistance from Washington. And the U.S. embassy in Santiago which presided over the operations of the CIA's illegal interference in Chile's internal affairs experienced a record number of promotions of its staff handed out by a grateful Kissinger.

The latest celebrational occasion is the pending nomination of Harry Shlauderman to be the Assistant Secretary of State for Inter-American Affairs. Mr. Shlauderman was the second-in-command of the embassy during the Allende years and no man is more firmly fixed in the Latin American mind as a ruthless hard-line warrior than he. The insensitivity of this controversial appointment is simply staggering but it at least honestly indicates the contempt that the Administration has of Congress's capacity to care about what's going on with our Latin American policy or do anything about it.

Now Mr. Simon comes up with his simplistic scenario. He aggressively proselytizes individual Senators and Congressman claiming that Chile's recent release of political prisoners on the occasion of his trip is an indication that the generals are modifying their harsh human-rights stand. A more fundamental and truthful analysis of the situation would be that the Chilean authorities have simply caught on to the requirements of the Administration's efforts to sanitize the Chilean military junta for the American people.

While some political prisoners had been released, some even before Simon announced that his trip had purchased the freedom of 49 inmates, more Chileans were arrested on the very days of his visit and the arrests continue. Mr. Simon's disingenuous and contrived statements cannot disguise the fact that the Chilean military is always arresting its citizens—100,000 of them since the coup—just as it is always releasing a portion of them. The periodic releases occur not out of any sense of mercy or a respect for civil procedures, but because the continued maintenance of military rule requires the existence of a system of repression which obtains its victims by periodic raids throughout the nation, processes them by means of degradation and ill-usage in its prison camps, and then releases supposedly cowed and submissive parolees who would not dare petition the generals for the humble rights which Mr. Simon takes for granted in his own life.

As for Simon's technocratic praise of the virtues of the Chilean economy, he regretfully fails to mention that the policies of the government which he lauds have been accompanied by one of the highest rates of malnutrition within the Latin American region. Even though the poor have paid a dreadful price, in truth, the Chilean economy is in still a desperate state, Mr. Simon's words notwithstanding.

One would think that it is time for an end to the sordid record of this nation's actions against what was once the most democratic nation in Latin America and that a true democratic reconstruction of Chile's shattered institutions would commence with the aid of the U.S. For all of Mr. Simon's gladhanding bravura, nothing has changed.

FREER EMIGRATION FROM SOVIET UNION

Mr. JACKSON. Mr. President, the Jackson-Vanik amendment on freer emigration is part of the struggle for human rights for all peoples. The amendment applies to nonmarket economy countries and to all the people in those countries—whether they be Jewish or gentile, without discrimination on the basis of race, religion, or national origin.

I believe that the day the President of the United States makes it plain to the Soviet leaders that he will uphold the law of the land—that there will be no U.S. trade concessions without movement toward freer emigration—we will see a change for the better in the cause of freer emigration for which so many of us have fought for so long.

I ask unanimous consent that the remarks on the struggle for freer emigration from the Soviet Union which I addressed to the National Conference on Soviet Jewry in Washington, D.C. on May 17, 1976, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HENRY M. JACKSON

MAY 17, 1976.

Four years ago I appeared before you to ask for your support in preventing this country from walking yet another one-way street in the name of detente. I urged you to join me in turning the cul de sac of unilateral trade concessions into a highway to freedom for the thousands of brave Soviet Jews and non-Jews who demanded the right to emigrate. I called upon Americans of all faiths to support our national commitment to human rights by requiring respect for those rights, on a non-discriminatory basis, as a condition of most-favored-nation status and access to subsidized credits.

The fight for free emigration from the Soviet Union is part of the larger struggle for human rights in all lands and for all people. We see it taking place today in Rhodesia, in Chile, in the Far East and in Latin America. We see it, in the Soviet Union, among Jews and Gentiles, in the Baltic States, in the assertion of new demands for local autonomy. The struggle is being waged by Catholics, by Baptists, by Ethnic Germans and Tartars. It has acquired a universal character to which Americans have proven themselves generous in responding.

The Jackson amendment has been a part of this great movement. Contrary to the general impression created by the media, the Jackson amendment applies to many countries and to all the people in those countries—whether they be Jew or Gentile, without discrimination on the basis of race, religion or national origin. It is as universal as the movement of which it is a part, limited only by its application to those countries that did not enjoy the benefits of most-favored-nation status on the date that it was enacted.

The response of the American people has been overwhelming, a reaffirmation of our deepest national values. By staggering majorities in the House and Senate the Congress adopted the Jackson amendment. And despite a massive campaign by the Soviet Union, the White House and powerful businessmen, all efforts to abandon the commitment to freedom embodied in that historic legislation have been turned aside.

I don't need to tell those of you who have been in from the beginning that we made every effort to achieve a reasonable compromise with an administration that opposed us every step of the way.

But because the history of our effort to achieve a reasonable arrangement is so widely misunderstood, I wish to take a moment to recall the flow of events.

Following the passage of the Jackson amendment in the House in December, 1973, and with its passage in the Senate where it had 77 co-sponsors virtually assured, the Soviets and the Administration began to show interest in a compromise. There followed a long negotiation extending over many months that culminated in an agreement on the texts of two letters—one from Secretary Kissinger to me and one from me to him. The exchange of letters embodying the compromise we had achieved took place at the White House on October 18, 1974. In essence the compromise was this: the Administration would convey assurances to the Congress that the rate of emigration from the Soviet Union would increase and punitive action against persons wishing to emigrate would cease. In exchange I agreed to introduce an amendment to the trade bill that would authorize the President to waive the credit and MFN restrictions of the Jackson amendment for 18 months with subsequent one-year waivers subject to Congressional approval.

The compromise of October 18 had been negotiated with Secretary Kissinger and approved by President Ford. Indeed, it was President Ford who invited the White House photographers into his office to record what we all regarded as a constructive compromise.

The October 18 compromise thus revolved around the assurances conveyed to Congress. As a result, the Soviet renunciation of the Trade Agreement cannot be understood unless the substance of those assurances, and the attitude of the participants toward the compromise to which they led is clear. On these issues Secretary Kissinger's testimony before the Senate Finance Committee on December 3 is especially instructive. Asked about the nature of the assurances in his October 18 letter, Secretary Kissinger went beyond what had already been made public:

"I have had many conferences on this subject with Ambassador Dobrynin and conferences with Foreign Minister Gromyko. . . . In addition, when President Ford took office he had some conferences in which the statements that I have made here were reconfirmed by the same individuals. Finally, General Secretary Brezhnev has made analogous statements to President Nixon, to myself and recently to Presilent Ford. This is the structure of the assurances that we have."

Senator HARTKE. "Are the assurances then made from Mr. Brezhnev, Mr. Gromyko and Mr. Dobrynin?"

Secretary KISSINGER. "That is correct."

At the same hearing, urging support for the new proposed waiver amendment, Secretary Kissinger stated:

"I believe a satisfactory compromise was achieved on an unprecedented and extraordinarily sensitive set of issues . . . I believe it is now essential to let the provisions and understandings of the compromise proceed in practice."

Clearly, an arrangement such as the October 18 compromise could only be negotiated on the basis of good faith on the part of all the participants, and continuing good faith was a prerequisite for its successful implementation. Secretary Kissinger and President Ford understood this well. As the Secretary put it on December 3:

"This understanding which is reflected in these letters can operate only on the basis of good faith by all the parties concerned and good will among the Senators and ourselves . . . This is a specific assurance which has been extended on a number of occasions, the violation of which would certainly be one that the Administration would take very seriously. The President, on a number of occasions, has told the three Senators that with respect to what is contained in our letter he believes that he can stand behind it."

It is significant that when the trade bill containing the modified Jackson amendment was finally signed by President Ford at the White House on January 3, 1975, Stanley Lowell and Israel Miller were among the invited guests. Clearly the President regarded the October 18 compromise as a milestone in the struggle to obtain freedom for Russian Jewry.

Between the agreement of October 18 and the December 3 testimony by Secretary Kissinger that I cited, an important event took place in Moscow. On October 26, eight days after the compromise, Foreign Secretary Gromyko handed Secretary of State Kissinger a letter that had the effect of repudiating the assurances conveyed to the Congress on October 18. The Secretary of State never informed me even of the existence of such a letter, much less its contents. Nor, so far as I have been able to determine, was anyone else outside the Administration apprised of that startling development. The letter only came to light when the Soviets chose to release it on the eve of passage of the trade bill.

The withholding of that crucial document must surely rank among the shabbiest deceits ever perpetrated by a Secretary of State on the Congress of the United States. As it is, I suspect that we shall have to wait for Dr. Kissinger's memoir to discover how he intends to answer for this deplorable breach of good faith.

What is most disturbing in all of this is the Ford Administration's refusal to stand by its pledge, to support the compromise of which it was a part. The facts are simple: on January 14, a mere 11 days after the President signed the trade bill into law, the Secretary of State announced the intention of the Administration to seek its repeal. The ink was hardly dry when the Secretary of State sent the Kremlin an astounding message: despite the assurances, despite the negotiations, despite the Presidential pledges, the Administration would work to wreck the law of the land by contriving to give the Soviets what they wanted. President Ford echoed this dismal message in his State of the Union speech.

We always knew that even a negotiated agreement with the Soviets could, if they so chose, be violated. We did not believe that the man who put in writing the Soviet pladge to permit freer emigration, the Secretary of State, would violate his solemn undertaking. And to this very day I remain disappointed beyond my capacity to express it at the ease with which the President of the United States callously betrayed the confidence we had placed in him in agreeing to a compromise version of the Jackson amendment.

From the time we met four years ago, at the beginning of a long and hard and still uncompleted journey, much has been accomplished. Under the threat of the Jackson amendment the odious education tax, that threatened to bring to a halt the emigration of educated Russians, was rescinded. In 1972, 3 and 4, unprecedented numbers of Soviet Jews were permitted to seek freedom in the West. We have succeded in placing the issue of human rights on the agenda of successive summit meetings, in bringing it to the center stage of world attention, in forcing the question of freedom on the conscience of the world that has too often looked the other way when individual liberty was threatened. I believe that our efforts that began in the circumstances in which we meet again today had much to do with the inclusion of human rights provisions in the Helsinki accords.

Of the course upon which we set four years ago there has been much criticism. I have heard it all. I have heard it from Moscow. I have heard it from the board rooms of corporations. I have reard it from the Department of State and from the White House. I have listened to the criticism.

And I remain proud of what we have accomplished. I remain firm in my conviction. I will not retreat. I will not turn my back on those who are struggling to obtain their freedom. They have the will to fight and I am proud to fight alongside them. Let those who believe that the Soviets will reward weakness and retreat with a generous emigration policy take their case to Moscow—to Levich and Lerner, to Vitaly Rubin and Georgi Vins, to Edward Kuznetsov and Sender Levin. And let them visit the camps as well as the Kremlin.

I urge those who wish to see the Jackson amendment modified to begin by reading the Jackson amendment. Do they know that the President can extend most-favored-nation status and Exim credits if he certifies that doing so will lead to a significant improvement in Soviet emigration policy? Do they know—those who argue that a gesture now will free those who languish in the camps—that the Jackson amendment gives the President all the legal authority he needs to make the gesture they are urging? The logic of the Jackson amendment is simple: the Soviet rulers must choose between their emigration practices and trade concessions from the United States. They cannot have both. Freer emigration will bring the trade relationship they desire, and it will do so under the Jackson amendment. Those who wish to modify the amendment must understand that they will relieve the Soviets of the necessity to choose; for their approach would enable the Soviets to receive the trade benefits they desire without changing their brutal and capricious emigration policy.

I am not prepared to let the Soviets escape the choice they now face. We have seen the results of giving the Soviets what they desire first and waiting for the promise of progress on human rights later. That is the formula to which we succumbed at Helsinki. It didn't work there and it will not work here.

What will work is patience, steadfastness and unity within the government of the United States. Nothing has been so damaging to the cause of free emigration as the Administration's ill-conceived pledge to reward the Soviets with a reversal of the Jackson amendment in return for Moscow's refusal to honor its pledge to freer emigration. The day that the President of the United States makes it plain to the Soviet leaders that he will uphold the law of the land, that there will be no trade concessions without movement toward free emigration, we will see the beginning of the change for which we have fought so long.

Let us look for that day—together

PARAGUAY

Mr. ABOUREZK. Mr. President, recently, the International League for the Rights of Man held a press conference in New York. At that time, Mr. Morris Abram, a member of the league's board of directors, chairman of the United Negro College Fund, and past president of Brandeis University, made a statement with respect to the current situation in Paraguay, and the need for congressional action with respect to the human rights violations there.

Mr. Abram formerly served as U.S. Representative to the United Nations Human Rights Commission. Mr. President, I ask unanimous consent that his statement be printed in the RECORD, for the benefit of all of my colleagues concerned about the conditions of human rights in Paraguay.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY MORRIS B. ABRAM

APRIL 5, 1976.

The United States has been Paraguay's staunch ally and supporter throughout the rule of General Stroessner. Our positive attitude toward Paraguay has resulted, not from its adherence to democratic principles, but because of its professed opposition to communism. The fact that Paraguay, in the conduct of its internal affairs, flagrantly violates both international treaties and universally recognized human rights has had no effect on our relationship with that country. The US has extended generous amounts of economic and military assistance to the Stroessner dictatorship for the past 22 years, helping it to support the perpetration of inhumanities against its citizens.

Economic aid to Paraguay from 1946 to 1976 totaled more than $180 million. In addition, more than $200 million in loans were extended by the Inter-American Development Bank, World Bank and US A.I.D. from 1961–1973. Last month the Paraguayan Government requested an additional $150 million from Robert McNamara, President of the World Bank, on his visit to that country.

American private investment is flourishing in Paraguay. According to US Government statistics, American firms are supplying $14 million worth of machinery to Paraguay for hydro-electric projects and are principal partners in the consortiums constructing them. In addition, US oil companies have been investing millions of dollars in exploratory work in the Chaco region, among them, Union Oil Company (a subsidiary of Standard Oil), Esso and Texaco. The United States furthermore is one of Paraguay's principal trading partners.

Military assistance extended to the Stroessner dictatorship over the past 5 years totalled $13.5 million. According to the Congressional Record (March 3), "The administration request for 1976 shows a marked increase to $8.8 million. The US additionally trains Paraguayan military forces in the Panama Canal Zone. The Department of Defense in its "Congressional Presentation Document for Fiscal Year 1976" claims that one of the major objectives of US military assistance is to increase the internal security capabilities of the Stroessner regime.

Against this background of military and economic arrangements must be viewed Washington's refusal to speak out against Paraguayan atrocities, Washington's attempts to depict them as "internal" matters, and Washington's deliberate cover-up of the flagrant hair-raising abuses perpetrated by the Stroessner tyranny. The International League has letters and materials demonstrating that the State Department 1) is spreading a version of events that parrots the official Paraguayan position; 2) is misinforming Congress about conditions in the country; and 3) is publishing materials portraying the Stroessner dictatorship in a favorable light.

The State Department publication, Background Notes on Paraguay (September 1974) which I have before me, describes the Paraguayan Government as a "constitutional" one "with a powerful executive branch" and a "popularly elected" President. Conspicuously absent is any mention of the state of siege under which General Stroessner rules and the suspension of civil liberties. The publication states in a complimentary fashion that "since his ascent to power in 1954, President Stroessner has been concerned with the establishment of internal order as a basis for economic development." It notes that Paraguay's foreign policy has been "strongly pro-Western and anti-Communist" and that the US "wants to continue its constructive relations with the Paraguayan Government and maintain the friendship and respect of the Paraguayan people."

I would interject here that the United States will never maintain the friendship and respect of the Paraguayan people by supporting and condoning one of the darkest tyrannies on this continent.

I also have here before me a letter of October 26, 1973 from the Assistant Secretary of Inter-American Affairs to Congressman Dante Fascell on the reported genocide against the Ache Indians. After noting that "the treatment of the Ache Indians is basically an internal matter," the letter reports that the Paraguayan Government has "denied ever giving tacit approval for the systematic extermination or mistreatment of the Ache Indians." It states US agreement with Paraguay's denial, declaring that "the unfortunate acts in remote areas seem to have been individual ones," carried out by irresponsible ranch hands.

The United States Government does "not believe that there has been a planned or conscious effort on the part of the Government of Paraguay to exterminate, molest or harm the Ache Indians in any way." No mention is made in the letter of the drop in population of the Ache Indians from thousands to a few hundred in the last years. Certainly this could not be attributed to a few irresponsible ranch hands acting without Government knowledge or approval. The fact that Stroessner is a military dictator and that the reservation as well as Indian policy is controlled by the Defense Department is also not mentioned. We thereby must conclude that although considerable evidence of mistreatment and deaths of Indians has been brought to the State Department's attention, actually admitted in the letter, it prefers to hold the Paraguayan Government not responsible.

A second letter before me of February 17, 1976 from the Assistant Secretary for Congressional Relations to Senator Buckley of New York on the arrest of the Marandu staff declares that the Marandu affair is one of "exclusive Paraguayan responsibility." It reports that the U.S. has been informed by the Paraguayan Government that arrested Project Director, Chase-Sardi "is well," that "the arrests in no way were directed against Project Marandu," but rather against communism, and that "the Paraguayan Government's policy of support for the Indians (sic) is to continue."

It would be a gross understatement to say that Senator Packwood is being misinformed by the shocking omissions and cover-ups in this letter. It is evidence of a clear and deliberate choice by the State Department to distort the truth and present a version of events paralleling Paraguay's explanation. It thoroughly ignores the view of the Inter-American Foundation, the U.S. Government agency funding the Project, that the arrests were aimed at disrupting the Project. It ignores information that the Project is at a standstill, its jeep destroyed by the police, its offices raided, its papers seized, its remaining staff reduced to working in an atmosphere of fear, daring not leave the Asuncion offices to work with Indians in the field. It ignores the credible evidence of torture received. In telephone conversations with the Paraguayan Desk of the State Department, a Government representative stated that the Department was not in a position to confirm or deny reports of torture received by the International League, the Inter-American Foundation, members of Congress, international church organizations, anthropological groups and human rights organizations throughout the world. According to the State Department's information, provided by the Paraguayan Government, Dr. Chase-Sardi was in good health.

Since the Project Marandu is financed by a U.S. Government agency, it is the responsibility and duty of this Government to express its opposition publicly to the arrests of those connected with the Project. Washington's silence is a striking example of the bankrupt foreign policy of this government which supports dubious political alliances with dictatorships often at the expense of the human rights of their peoples. Whereas our Embassy has made "discreet" inquiries, we should be loudly and clearly protesting this barbarous act against U.S.-paid staff members and demanding their immediate release. Secondly, our Government has a responsibility to investigate the reports of torture, denial of medical attention, prolonged detention, and denial of legal counsel to the Marandu staff, as well as the current and future status of the Project.

Because Paraguay is a recipient of regular military and economic aid from the U.S., it is incumbent upon Congress to investigate reported atrocities in Paraguay with a view to termination of aid to that Government until it releases the Marandu staff and halts its flagrant violations of the rights of its citizens.

Termination of US foreign aid to Paraguay accords with new US laws which prohibit assistance to dictatorship governments suppressing their populations. Public Law 94-161 of December 20, 1975 forbids economic assistance to "any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person." Bills passed by the House and Senate (HR. 11963 and S. 2662), soon to become law, prohibit military aid on the same human rights grounds. Paraguay's latest atrocities, together with its history of repression should have already deprived it of US economic and military aid. Congressman Drinan reaches that very conclusion in a statement in the CONGRESSIONAL RECORD (March 3). In urging rapid termination of US military aid to Paraguay in accordance with human rights provisions in the Foreign Assistance Act, the Congressman noted that Paraguay faced no real external or internal threat, and asked, "Why does the Stroessner regime need this equipment and training other than to further suppress its own people?"

The United States was founded on a commitment to individual rights, a commitment not only enunciated by its founding fathers but also regularly reaffirmed throughout its history. The integrity of America's own traditions, its deepest beliefs and its national self-esteem thus demand that we cease supporting inhumane governments and that we treat human rights evenhandedly against friend and foe alike. Although opposition to another nation's human rights violations may set back or make more difficult the achievement of various political, military or economic objectives, the US, to be true to itself, must cease subordinating human rights to dubious political considerations.

It is not just an American bias to think that political dissidents should not be persecuted, or that indigenous peoples should not be enslaved. Although we Americans have not invariably lived by our principles, when we are indifferent to them, we do violence to our sense of ourselves and destroy a principal source of our power in the world. Every day we witness how our morally shameful policies prove politically disastrous. And when the rulers of Paraguay lose their power, as in due course one may hope they will, their successors are not likely to be grateful to the United States. An unfriendly Paraguay will then be one more triumph of realpolitik.

U.S. failure to challenge the Stroessner dictatorship's arrest and torture of the staff of a U.S.-funded project will go down as a page of shame in U.S. diplomatic history. This nation has an obligation to live up to human rights principles. We should not have to beg our Secretary of State to carry out these principles and values in our foreign policy. The Secretary of State is our servant, not our master. It is his duty to protect the human rights standards incorporated in the Universal Declaration of Human Rights and implement them as best he can worldwide. If we are to have a moral purpose, as Dr. Kissinger himself advocated, then human rights obligations must have a high priority in the establishment of foreign policy goals. These obligations would appear to be of a priori dimension. We call upon the Secretary of State and Congress to affirm America's moral purpose by acting in the case of Paraguay in a way that would make our founding fathers proud.

THE RETIREMENT OF RABBI ISRAEL M. GOLDMAN

Mr. MATHIAS. Mr. President, on Sunday, June 6, one of Maryland's most distinguished citizens, Rabbi Israel M. Goldman, is retiring after 28 years as the spiritual leader of the Chizuk Amuno Congregation in Baltimore. His retirement also marks the completion of a half-century of service to American Judaism. He was ordained a rabbi at the Jewish Theological Seminary of America on June 6, 1926.

The Chizuk Amuno Congregation is honoring Rabbi Goldman with a testimonial service on June 6 that also is a celebration of the golden jubilee of his ordination.

Rabbi Goldman has been a prime mover and inspirational figure not only in the affairs of Chizuk Amuno, but also in interfaith and interracial activities in Baltimore and throughout Maryland. In addition, he has been a pioneer and a creative force in the field of adult Jewish education in America. A leader in conservative Judaism, he is a former president of the Rabbinical Assembly of America.

Before he came to the Chizuk Amuno Congregation in 1948, he was the founding rabbi of Temple Emanu-El in Providence, R.I. While in the active rabbinate, he became the first director of the National Academy for Adult Jewish Studies of the Jewish Theological Seminary in 1940 and served in that capacity for 14 years.

He has written extensively on the need for revitalizing the ancient Jewish tradition of lifelong learning and has developed methods, materials, and techniques for the achievement of this goal. He brought a new dimension of vitality and usefulness to the American synagogue by advocating the establishment of schools for adults, along with schools for children, within the congregational program.

During the 28 years of his rabbinate in Baltimore, Rabbi Goldman has served as president of some of the most important Jewish community agencies, including the Baltimore Zionist District, the Baltimore Jewish Council, the Baltimore Board of Rabbis, and the Jewish Historical Society of Maryland.

During Rabbi Goldman's presidency of the Baltimore Jewish Council, the threat to the survival of the State of Israel reached a high point in the 6-day war. It was during this period that Rabbi Goldman and the council organized the largest Jewish mass meeting in the history of the Baltimore community. It was on the first Sunday night in June 1967, at the Pikesville Armory, and the newspapers the next day reported that more than 6,000 persons attended.

During Rabbi Goldman's presidency of the Jewish Historical Society, there was a noticeable increase in the membership and the programing of this important communal agency.

These are all organizations within the Jewish community. Rabbi Goldman also has been a leader in the general community of Baltimore. He served as vice chairman for 18 years of the Maryland Commission on Human Relations and, with Cardinal Shehan, was cofounder and cochairman of the Interfaith Council of Greater Baltimore. In these positions, Rabbi Goldman worked for the passage of civil rights legislation for the State in the general assembly and in the community, and helped launch a practical program of social action on an interfaith basis for the benefit of the total community.

He long has been known and respected as a Jewish goodwill ambassador, and still serves in that capacity as a member of the Ecumenical Commission of the Catholic Archdiocese of Baltimore.

This is only a fragment of the record of distinguished service to the city of Baltimore, the State of Maryland, and the American Jewish community that Rabbi Goldman has developed. Just as important is the inspiration that he has provided to all who have come to know him. I am pleased and honored to be included among his friends, and I know my colleagues in the Senate join me in wishing him well upon the occasion of his retirement.

HOW OTHERS SEE US

Mr. MATHIAS. Mr. President, I am very pleased to bring to the attention of my colleagues what I consider to be one of the most remarkable studies of public opinion compiled in recent years. Lloyd A. Free, the president of the Institute for International Research, has polled representative samples of the leadership and the people of Western Europe, Japan, Mexico, Brazil, and Canada in a single, integrated questionnaire. He was commissioned to do this by the Commission on Critical Choices for Americans, which wanted to determine the basic attitudes of these leaders and peoples toward the United States, and toward their own future.

His resulting book, entitled "How Others See Us," is the first of a series of 14 volumes on national and international affairs to be produced by the Commission on Critical Choices. The second book to appear, "The Americans; 1976" is edited by Irving Kristol and Paul Weaver. It contains 16 essays that focus on the human values underlying selected U.S. institutions. The series is being published by Lexington Books, a division of D.C. Heath and Co. of Lexington, Mass., through 1976. "How Others See Us," by Lloyd A. Free, with its challenges to almost all the previous assumptions about our alliances is a fitting opener to what should be a distinguished series. I commend it to my colleagues as a stimulating work.

BOB REBEIN—A RECORD OF SERVICE AT THE ICC

Mr. DOLE. Mr. President, far too often bureaucrats are made the target of those who would point to and lament the shortcomings of Government. It is easy to make our civil servants the scapegoat for all the ills of democracy, particularly in an election year.

Unfortunately, this scorn is misplaced and often clouds the reputations of those who day in and day out perform their duties with distinction and honor. There are literally thousands of these dedicated men and women at all levels of our Government. And today, I would like to pay tribute to one of them—Robert L. Rebein, the managing director of the Interstate Commerce Commission, a fellow Kansan, and a dedicated civil servant.

Bob Rebein has contributed significantly to a large number of internal reforms which have made our regulatory process more effective and has given our taxpayers a more efficient forum to address their transportation needs. Under his leadership, administrative actions were planned, initiated, and implemented to help the Commission eliminate red tape, waste, and bring about greater cost savings and productivity in all areas of its operations. From computer technology—which he strengthened in the Commission—to innovative program and personnel management and fiscal controls, his achievements have left their mark in this important regulatory agency.

The ICC enjoys the reputation of being a great organization in which to work and a great organization with which to do business. Bob's versatile talents, insights, and accomplishments have helped to make the ICC such an organization.

I wish to join with everyone who knows Bob in paying tribute to him for the great service he has rendered. He will soon be leaving his ICC position to take an executive position with the IRS in June. We wish him well in his new assignment, and know he will continue to utilize his versatile skills in this new position. Mr. President, I ask unanimous consent to have printed in the RECORD the press release issued by ICC Chairman George M. Stafford announcing Mr. Rebein's departure from the Commission.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., May 17, 1976.

MANAGING DIRECTOR REBEIN TO LEAVE; CHAIRMAN STAFFORD LAUDS ACCOMPLISHMENTS

Interstate Commerce Commission Chairman George M. Stafford today paid special tribute to Robert L. Rebein, the Commission's Managing Director, who will be moving to an executive position with the Internal Revenue Service in June.

In his five years at the ICC—first as Assistant Managing Director and later as Managing Director—Rebein, 46, was directly responsible for a large number of far-reaching internal reforms which helped to eliminate costly red tape and put the agency on a sound fiscal basis. During his tenure, several blue ribbon studies and an in-depth examination of the ICC's compliance program were undertaken at Rebein's direction, and presently are at the focal point of an on-going Commission effort to make surface transportation regulation more responsive to the public's interest and needs.

Among many of the changes effected under Rebein's direction were the introduction of budgetary controls, a system of office and bureau reappraisals to help reduce regulatory time lags and speed case processing, advanced computer technology, a new set of procurement procedures, and an expanded Commission training program for both processional and clerical employees.

"During Mr. Rebein's time here, he has shown himself to be a true professional and dedicated public servant in every respect," Chairman Stafford said. "On behalf of everyone at the Commission, we wish him well and continued success as he moves to his new position."

THE INDEPENDENCE OF THE FEDERAL RESERVE

Mr. PERCY. Mr. President, the Federal Reserve was established in 1913 as an independent, nonpartisan body. Measures to further insure its independence have been enacted during the intervening years. However, recently there has been an increasing and disturbing tendency to blame the Federal Reserve for real or perceived failures in the economy and to recommend greater executive or legislative political control of the Federal Reserve as a solution.

In point of fact, the economic problems we have suffered in recent years must be laid in part to poorly conceived fiscal policy, if the nonsystem we operated under prior to *implementation* of the Budget Reform Act can be said to have produced policy. Furthermore, excessive deficit spending has often forced the restrictive monetary policies that opponents of Federal Reserve independence have deplored.

The independence of the Federal Reserve is the key to three aspects of the Board's operation that make it far superior to either the executive or legislative branches guiding the Nation's monetary affairs. First, the Board is not subject to or influenced by political repercussions from actions which are initially unpopular; second, the Board is not bound by the political programs of a particular administration or party; and third, the Board can move quickly and decisively as economic conditions change. As Chairman Burns states:

> Flexibility is the great virtue of instruments of monetary and credit policy. Changes in the course of monetary policy can be made promptly and—if need be—frequently. Under our scheme of governmental organization, the Federal Reserve can make the hard decisions that might be avoided by decision-makers subject to the day-to-day pressures of political life.

Mr. President, before moving to restrict the independence that has allowed the Federal Reserve to act as an effective agent in the fight against inflation, I urge my colleagues to heed Chairman Burns' cautions. I ask unanimous consent that the text of a May 22 commencement address by Chairman Arthur Burns at Bryant College be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

THE INDEPENDENCE OF THE FEDERAL RESERVE SYSTEM

(By Arthur F. Burns)

It is a pleasure to be here on this beautiful campus and to join the audience in honoring the graduating class of Bryant College.

In earlier and calmer times, it was customary for a commencement orator to address the principles of life that he thought would be most helpful to members of the graduating class. Such pronouncements are less fitting in our turbulent age, which has sharply narrowed the gap in knowledge—if not also in wisdom—that once separated the generations.

Yet each of us, and here your elders may have some advantage, has had opportunity to reflect with more than ordinary care on his own range of responsibilities. I therefore want to share with you today a few thoughts about the Federal Reserve System, which serves as our Nation's authority for controlling the supply of money and credit.

Industrial nations, including our own, nowadays rely heavily on monetary policy to promote expansion of production and employment, to limit any decline that may occur in overall economic activity, or to blunt the forces of inflation.

There are two major reasons for the emphasis on monetary policy. In the first place, manipulation of governmental expenditures has proved to be a rather clumsy device for dealing with rapidly changing economic developments. Secondly, the process of reaching a consensus on needed tax changes usually turns out to be complex and time-consuming. Experience has thus taught us that alterations of fiscal policy, once undertaken, frequently have a large part of their economic effect too late to be of much value in moderating fluctuations in business activity.

Even when the economy is booming, legislatures are rarely willing to increase tax rates or to restrain the rising curve of governmental expenditures. Such reluctance also limits the discretionary use of fiscal measures to counter the forces of recession that develop from time to time in a free enterprise economy. Once reduced, tax rates cannot easily be increased again, and new expenditure programs to stimulate a lagging economy all too often are the source of a new inflationary problem later on.

Fortunately, monetary policy is relatively free of these shortcomings. Flexibility is the great virtue of instruments of monetary and credit policy. Changes in the course of monetary policy can be made promptly and—if need be—frequently.

Under our scheme of governmental organization, the Federal Reserve can make the hard decisions that might be avoided by decision-makers subject to the day-to-day pressures of political life. And experience indicates that the effects of substantial changes in the supply of money and credit are rather speedily transmitted through financial markets to the workshops of the economy—that is, our factories, mines, construction yards, and the range of service establishments.

The founders of the Federal Reserve System were well aware of the dangers that would inhere in the creation of a monetary authority subservient to the executive branch of government—and thus subject to political manipulation. Senator Nelson Aldrich, Chairman of the National Monetary Commission, whose investigations of central banking laid the basis for establishing the Federal Reserve System, was deeply impressed with the need for a strong monetary authority capable of exercising discipline over the financial affairs of a nation. Carter Glass, Chairman of the House Banking and Currency Committee when the Federal Reserve Act was passed in 1913, reported that the Committee regarded the Federal Reserve Board "as a distinctly nonpartisan organization whose functions are to be wholly divorced from politics." That view was fully shared by President Woodrow Wilson, who was extremely careful to avoid any suggestion of interference with the newly-created monetary authority, thereby setting a precedent that has been usually followed by succeeding Presidents.

The concept of independence of the monetary authority within the structure of government is congenial to the basic principles of our Constitution. As Alexander Hamilton put it in one of the Federalist Papers, our system of government is based on the precept that partitions between the various branches of government "ought to be so contrived as to render the one independent of the other." Such a division of power, according to another of the Federalist Papers, is "essential to the preservation of liberty."

The principle of independence of the monetary authority within the structure of our Federal Government was embodied in the original Federal Reserve Act in several ways. First, individuals appointed to the Federal Reserve Board by the President were to have 10-year terms, and they could be removed from office only for cause. A President could not, therefore, remove a Board Member from office simply because he disagreed with his views, and the term of office was long enough to minimize the threat of covert political pressure on Board Members. Moreover, the law provided for staggered terms in order to avoid Presidential "packing" of the monetary authority.

Second, the newly-created Federal Reserve Board was required to report on, and to account for, its actions to the legislative branch of government, not to the Administration.

Third, the operations of the Federal Reserve System were to be financed from its own internal sources, and thus protected from the political pressures that may be exercised through the congressional appropriations process.

Fourth, power was to be diffused within the Federal Reserve System, so that the interests of borrowers, lenders, and the general public were to be recognized and blended in the new regional Federal Reserve Banks.

In the years that followed creation of the Federal Reserve System, experience—particularly during the Great Depression—suggested that the degree of independence assigned to the monetary authority was insufficient. The Banking Acts of 1933 and 1935 sought to rectify this and other defects in the financial structure.

Under the new legislation, the Secretary of the Treasury and the Comptroller of the Currency, who originally were *ex officio* members of the Board, were relieved of this responsibility. The terms of the members of the Board were lengthened from 10 years to 12 years, and then to 14 years, to insulate the Board still more from political pressures. A new agency—the Federal Open Market Committee, including representatives of the regional Federal Reserve Banks as well as members of the Board located in Washington—was established to conduct open-market operations, which by the early 1930's had come to play a major role in implementing monetary policy. Moreover, the principle was reaffirmed that funds used by the Federal Reserve to finance its operations were not to be construed as government funds or as appropriated monies. All of these legislative changes strengthened the ability of the Federal Reserve System to resist efforts by the Treasury, or the White House, or any other agency in the executive branch to influence unduly the course of monetary and credit policy.

Senator Carter Glass once stated that intelligent and fearless performance of the functions of the monetary authority "involves as much of sanctity and of consequence to the American people as a like discharge of duty by the Supreme Court of the United States." We at the Federal Reserve have in fact sought to model our conduct on that of the Supreme Court.

In the exercise of our adjudicatory responsibilities, the members of the Board scrupulously avoid any contact with interested parties. In our deliberations on monetary and credit policies, not the slightest consideration is given to questions of political partisanship. Every member of the Board, and every member of the Federal Open Market Committee, weighs the issues of monetary and credit policy solely from the viewpoint of the public interest and the general welfare. My colleagues at the Federal Reserve are highly qualified individuals possessing a diversity of skills essential to the management of the nation's financial affairs. They live and work under a Spartan code that avoids political entanglement, conflicts of interest, or even the appearance of such conflicts. At the same time, the members of the Board, particularly its Chairman, maintain close contact with members of the Executive and the Congress in order to assure that the activities of the Federal Reserve are appropriately coordinated with what other branches of government are doing.

Our system of monetary management, I believe, is thus working in the way the founders of the Federal Reserve intended. Nonetheless, there are now, as there have been over the years, some well-meaning individuals in our country who believe that the authority of the Federal Reserve to make decisions about the course of monetary policy should be circumscribed. The specific proposals that have been put forth over the years differ greatly, but they usually have had one feature in common—namely, control by the Executive Branch of government over the monetary authority.

A move in this direction would be unwise and even dangerous. It is encouraging to find that, despite occasional outbursts of temper, a majority of the Congress share this belief. I doubt that the American people would want to see the power to create money lodged in the presidency—which may mean that it would in fact be exercised by political aides in the White House. Such a step would create a potential for political mischief or abuse on a larger scale than we have yet seen. Certainly, if the spending propensities of the Federal officials were given freer rein, the inflationary tendency that weakened our economy over much of the past decade would in all likelihood be aggravated.

The need for a strong monetary authority to discipline the inflationary tendency inherent in modern economies is evident from the historical experience of the nations around the world. Among the major industrial countries, West Germany and the United States appear to have achieved the greatest successes—albeit woefully insufficient success—in resisting inflationary pressures in the period since World War II. It is no accident that both countries have strong central banks. In some other countries, where the monetary authority is dominated by the Executive or the legislature, inflationary financial policies have brought economic chaos and even extinguished political freedom.

It is, of course, essential that the monetary authority observe the spirit as well as the letter of our laws. In our democratic society the independence of a governmental agency can never be absolute. The Federal Reserve System is thus subject not only to the provisions of the Federal Reserve Act, but also to the Employment Act and numerous other statutes. The original design of the Federal Reserve System recognized this duty by requiring the Federal Reserve to account for its stewardship to the Congress. The oversight responsibilities of the Congress for the conduct of the monetary authority do not, however, require congressional involvement in the details of implementing monetary policy. The technical complexities of adjusting monetary or credit instruments to the needs of a modern industrial economy are far too great to be dealt with by a large deliberative body. At the same time, there is a significant role for the Congress in setting forth the economic and financial objectives that the monetary authority is expected to observe and honor.

Over the past year, the Congress has been exercising its vital oversight function through a new and more systematic procedure, spelled out in House Concurrent Resolution No. 133. That resolution requires the Federal Reserve to report to the Congress at quarterly intervals on the course of monetary policy, and to project ranges of growth in the major monetary and credit aggregates for the year ahead.

We at the Federal Reserve regard the dialogue between the monetary authority and the Congress stimulated by the Concurrent Resolution as constructive. It has given the Congress a better opportunity to express its views on the appropriateness of our actions. It has also provided us at the Federal Reserve with an opportunity to explain fully the reasons of our actions, and to communicate to the Congress and to the public at large our firm intention to adhere to a course of monetary policy that is consistent not only with continued economic expansion at a satisfactory rate, but also with further gradual unwinding of inflationary tendencies.

Such a course of policy, I believe, is the only option open to us if we as a nation are to have any hope of regaining price stability and maintaining a robust economy. Our country is passing through a fateful stage in its history. Economic, social, and political trends of the past several decades have released powerful forces of inflation that threaten the vitality of our economy and the freedom of our people.

Defeating the forces of inflation requires determined action. Greater discipline is needed in our fiscal affairs, and structural reforms are required to improve the functioning of our labor and product markets. But all such reforms would come to naught in the absence of a prudent course of monetary policy. At this critical time in our history, any interference with the ability of the Federal Reserve to stick to a moderate rate of monetary expansion could have grave consequences for the economic and political future of our country.

SMALL BUSINESS COMMITTEE ADVANCES THE CAUSE OF FAMILY FARM AND SMALL BUSINESS ESTATE AND GIFT TAX LEGISLATION

Mr. CULVER. Mr. President, I am pleased to report that the Senate Small Business Committee, of which I am a member, is taking a leading part in developing estate and gift tax reform legislation for the benefit of family farms and small and independent businesses.

Under the chairmanship of the Senator from Wisconsin (Mr. NELSON), the committee conducted public hearings in the Midwest last year in Minneapolis, Minn., and LaCrosse, Wis., and also heard from experts in Washington, D.C., on September 23, 1975. This investigation became the basis for a series of bills breaking new ground in this area which has not been changed since 1942, an entire generation ago.

The comprehensive Small Business Estate and Gift Tax Reform Act (S. 2819) was the first to propose an increase in the gift tax at a level equal to estate tax relief. Two further bills (S. 3139 and S. 3140) proposed the use of credits equivalent to exemptions and also introduced the idea of concentrating the relief on family farms and small business by means of an additional credit.

The most recent legislation introduced on May 21 (S. 3478) contains several refinements of earlier bills, and also proposes an innovative common credit for estate and gift tax transfers, and a 15-year deferral of estate taxes, with payment of interest only for the first 3 years at the cost-of-money to the Federal Government, plus one-fourth of 1 percent.

A few days later, on May 24, the chairman of the House Ways and Means Committee (Mr. ULLMAN) introduced a bill (H.R. 13966) which is similar to many of the Small Business Committee recommendations, although different in other aspects.

I believe that Senator NELSON's bill, representing the continuing efforts of the State Small Business Committee, deserves to be closely analyzed by all concerned, and for that purpose, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection the analysis was ordered to be printed in the RECORD.

(See exhibit No. 1.)

I hope that our activity will be successful in bringing about meaningful estate and gift tax reform for family farms and small businesses during this session of Congress.

THE PROBLEM

As this body is aware, there have been no changes in the fixed-dollar limitations of the estate and gift tax for the last 34 years. During this time, general inflation has increased almost 300 percent. However, the cost of tangible business and farm assets have soared even higher, in some cases as much as 1,000 percent, depending on the worth of the farm acreage in different parts of the country. This is causing an acute problem to farmers and businessmen wishing their children to take over the enterprises which they have nurtured throughout their lifetimes. It has also brought the country to a point of decision about whether we wish to continue farms and businesses in family and local ownership.

POSSIBLE SOLUTIONS EXPLORED

The Senate Small Business Committee, which I serve as chairman, has made an intensive investigation of this area since mid-1975, in an effort to identify the problems and to prepare solutions which are practical and responsible from a budgetary standpoint.

These studies resulted in the formation of the following bills for revising estate and gift tax laws in behalf of small family enterprise:

S. 2394—the Mondale-Nelson bill.

S. 2819—the Nelson-Mondale-Humphrey "Small Business Estate and Gift Tax Reform Act".

S. 3139 and S. 3140—the Nelson-Packwood bills proposing a credit mechanism as an alternative to the exemption.

We were most gratified when the President joined with the congressional advocates by making proposals on January 5 and March 5, 1976, which have undoubtedly advanced the public and congressional discussion of these important policy matters.

The Small Business Committee has continued its study, and testimony summarizing this work was rendered by myself and the Senator from Oregon (Mr. PACKWOOD) and the Senator from Colorado (Mr. HASKELL) before the House Ways and Means Committee on March 16. On May 17, I also testified at the Senate Finance Committee hearing on this subject, to update the committee's observations and suggestions. We were pleased to observe on that occasion that the Senator from Massachusetts (Mr. KENNEDY) also advanced positive proposals for relief of farms and small business which are quite similar to those of the committee.

The bill being introduced today contains several of the more recent recommendations stemming from our research which we feel have several advantages over earlier bills. We feel that it would be helpful for the tax-writing committees to have them in bill form for consideration when the time comes to prepare final proposals in executive session.

The chairman of the Ways and Means Committee (Mr. ULLMAN) indicates that he expects the House of Representatives to act in this area this year. The Senate Finance has just concluded an extra day of hearings on this subject, setting the stage for adopting the long overdue changes in this session of Congress.

CONTINUING EFFORTS

I want to emphasize that the legislative prospects for tax reform, and estate and gift tax revision in particular, are continuing to evolve almost daily. Our committee likewise wishes to continue its efforts. After the Ways and Means Committee makes its proposals public, we may, if it appears to serve a useful purpose, consolidate many of the small business proposals which appear to have the greatest merit into a *final omnibus* small business estate and gift tax bill. In all events, we will try to be of maximum assistance to the many Members of this body, small business and farm groups, and members of the public who are concerned with continuation of family farms and small business in this area.

We will be doing all we can to bring about the consensus in this matter envisioned by the New York Times editorial of May 10 so that meaningful estate and gift tax relief and revision legislation can be enacted during 1976.

The section-by-section analysis follows:

ANALYSIS OF THE BILL

SMALL BUSINESS AND FAMILY FARM ESTATE TAX RELIEF AMENDMENTS

The following is a brief description of each of the provisions of this bill in non-technical terms.

Overall, the bill is intended to provide a framework for estate and gift tax relief with proportionately greater benefits of a $40,000 credit going to areas of greatest need—the surviving spouse and owners of small and modest-sized family farms and small businesses. Estates between $600,000 and $2 million and those not possessing business or farm property would receive a $25,000 credit—approximately 2½ time the level of tax-free relief provided by the present $60,000 exemption. The bill also provides for the credit to be phased down and out, so that wealthy estates above $2 million would not enjoy windfall benefits.

The bill is preliminarily estimated to involve a revenue loss of approximately $300 million less than President Ford's proposal, or about $800 million.

Sec. 1. *Title:* "Small Business and Family Farm Estate and Gift Tax Relief Amendments."

Sec. 2. *Common Credit:* There are presently two separate systems for estate and gift taxes, with separate schedules, exemptions, and conditions. The bill proposes a common credit which could be used for either gift or (to the extent unused) estate property. A single credit would simplify this area of the law and would be another step closer to integration of the two taxes. It builds upon the concepts advanced in the bill proposed by many Small Business Committee members in December (S. 2819), and opens the way to "full integration," a concept which is increasingly attractive but beyond the resources of the Small Business Committee to develop.

The objective of a common credit is to restore the option of lifetime gifts of business interests so that farms and businesses can be transferred while the older generation is present to assist in the transitional problems. The present gift tax exemption of $30,000 seriously inhibits this possibility.

Phasedown: In S. 3139 Senators PACKWOOD and NELSON proposed a special "family enterprise credit" which would provide the additional and needed relief for family farms and small business, accompanied by the idea of a rapid phasedown for the larger estates. This bill represents an additional effort to refine this concept, which appears to be gaining additional support.

The graduation proposed in section 2016(c) which would be added by section 2 of this bill builds upon this concept. It attempts to target the relief for family farms and small businesses, which in the distribution and manufacturing fields can easily reach a level of $2 to $3 million in assets over an entrepreneur's 30- or 40-year career. At the $2 million level, the relief of such a phased-down credit would taper off more gradually than in S. 3139, but quickly enough to avoid windfall benefits.

The benefits compared to present law are approximated by the following table:

ESTATE TAX SAVINGS OF PHASED-DOWN $40,000 CREDIT[1]

	If left to wife		If all left to children	
Net estate[2]	Present law	Nelson bill[3]	Present law	Nelson bill $40,000 (phased-down credit)[1]
$50,000	0	0	0	0
$100,000	0	0	$4,800	0
$150,000	$1,050	0	17,900	0
$200,000	4,800	0	32,700	$10,700
$300,000	17,900	0	62,700	41,700
$400,000	32,700	$700	94,500	78,700
$500,000	47,700	20,700	126,500	115,700
$750,000	86,500	64,000	212,200	208,200
$1,000,000	126,500	104,700	299,700	300,700
$2,000,000	299,700	282,200	726,200	728,200
$5,000,000	998,200	968,800	2,430,400	2,468,200

[1] $40,000 credit for small businesses and family farm property stepped down pro rata $5,000 per $100,000 of taxable estate beginning between $300,000 and leveling off with a $25,000 credit between $600,000 and $2,000,000 and phasing down to 0 between $2,000,000 and $5,000,000.

[2] Gross estate less debts and funeral expenses.

[3] Marital deduction of $100,000 plus 50 percent plus $40,000 phased-down credit.

Small Business and Family Farm Property: The property eligible for the extra credit up to $600,000 is defined in section 2016(d) as a business interest in a company or firm of less than 10 members, pursuant to section 6166 of the Internal Revenue Code which has been actively managed by the decedent for 5 years prior to death and which constitutes at least 35 percent of his adjusted gross estate or 50 percent of his taxable estate.

It is intended if there is both qualified and unqualified property in the same estate, that the two types of credit will apply pro rata.

Sec. 3. *Increased and Graduated Marital Deduction:* The same principles of graduation are next applied in the area of a marital deduction, subject to further evaluation in light of possible problems with community property states.

The proposal in this bill is aimed at remedying one of the worst inequalities in the present estate tax law, the situation where a surviving wife cannot prove she has contributed "money or moneysworth" to building up the estate, and therefore faces taxes on what both marriage partners had considered partly "hers."

Originally S. 2819, suggested a formula of $240.000, plus 50 percent of the remaining assets be allowed as a marital deduction. However, the adoption of a substantially increased credit or exemption would also help the surviving wife considerably. Therefore, an allowance of $100,000 plus 50 percent, in combination with an additional exemption or credit is therefore proposed as sufficient.

Also, the marital deduction would, under this bill, be phased down to $100,000 plus 25% of the amount between $300,000 and $1,000,000, and out entirely over $1 million. This should provide a maximum of one-half million tax free to any surviving spouse, plus the additional property which would be likely to be so transferred in the case of more sizable estates, so that the survivor would be sure to have very generous means of support.

Sec. 4. *Deferral:* The idea for a prolonged extension of the period for payment of the estate tax was offered by President Ford in January with a suggestion of a 25-year period. Many observers have felt that length of time would be impractical. It might ultimately involve two estates. Further, during the lifetime of the survivor, improvements might be inhibited because title to the land and property would be clouded by a lien of the Internal Revenue Service.

The approach contained in Section 4(b) of this bill is to extend the present deferral of Section 6166 to 15 years, and allow the payment of only interest for the first 3 years. The interest rate would be at the cost of money to the Federal Government plus ¼ of 1 percent, so that Treasury would not lose on such transactions. This is also the formula which has been used successfully in Section 7(b) 5 of the Small Business Act.

A further provision, Section 4(a) 1, would permit the owner of a business interest substantial enough to be potentially disruptive of the business if immediately liquidated—here 20%—to defer payment of the tax on the portion of such interest up to $2,000,000. Such interests would not necessarily be eligible for the business-credit benefit of the bill unless fully qualified under other sections of the bill.

The provisions of S. 2819 relating to relieving the executor of personal liability would be a desirable adjunct to this section for the purpose of making deferral under Section 6166 a practical possibility. They are therefore carried over to Section 4(c) and Section 2016(a) 4 added by Section 2 of this bill.

Sec. 5. *Extension of Redemption Provision:* This carries over and updates the proposal contained in S. 2819 for extension of the Section 303 redemption period by making it conform to the deferral provision in Section 4 above and reducing the eligibility standard to 50% ownership in the case of more than one business.

Sec. 6. *Study.* Carries over the S. 2819 provision re: Treasury study of consequences of estate and gift tax limitations.

S. 3478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business and Family Farm Estate and Gift Tax Relief Amendments".

SEC. 2. COMMON GIFT AND ESTATE TAX CREDIT.

(a) IN GENERAL.—Part II of subchapter A of chapter 11 of the Internal Revenue Code of 1954 (relating to credits against estate tax) is amended—

(1) by redesignating section 2016 as 2017, and

(2) by inserting after section 2015 the following new section:

"SEC. 2016. CREDIT AGAINST TAX.

"(a) GENERAL RULE.—

"(1) GENERAL CREDIT.—There is allowed against the tax imposed by section 2001 a credit of $25,000.

"(2) QUALIFIED ESTATE CREDIT.—If the executor of a qualified estate so elects, there is allowed against the tax imposed by section 2001 a credit of $40,000 in lieu of the credit allowed by paragraph (1).

"(b) REDUCTION OF CREDIT FOR GIFT TAX USE.—The amount of the credit allowable under subsection (a) shall be reduced by the amount of the credit allowable to the taxpayer under section 2521 claimed by the decedent during his lifetime.

"(c) PHASEOUT OF CREDIT FOR LARGE ESTATES.—The amount of the credit allowable under this section, after the application of subsection (b), shall be reduced—

"(1) in the case of a qualified estate with respect to which the executor elects to claim the credit determined under subsection (a) (2), by an amount equal to 5 percent of the amount by which the adjusted gross estate exceeds $300,000 (but such amount shall not be reduced under this paragraph below $25,000), and

"(2) in the case of any other estate, and in the case of an estate described in paragraph (1), by an amount equal to .83 percent of the amount by which the adjusted gross estate exceeds $2,000,000.

"(2) in the case of any other estate, and in the case of an estate described in paragraph (1), by an amount equal to .83 percent of the amount by which the adjusted gross estate exceeds $2,000,000.

"(d) DEFINITION; SPECIAL RULES.—

"(1) QUALIFIED ESTATES.—An estate qualifies for the additional credit allowed by paragraph (2) of subsection (a) if 65 percent or more of the value of the adjusted gross estate is attributable to a qualified property.

"(2) QUALIFIED PROPERTY.—For purposes of this section, the term 'qualified property' means property held by a closely held business (within the meaning of section 6166(c)) which has been actively managed by the decedent or his immediate family for the 60 months preceding the date of death of the decedent. For the purposes of this paragraph—

"(A) the term 'immediate family' means the spouse of the decedent, the parent, brother, sister, child, or grandchild of the decedent, and the spouse or child of the brother, sister, child, or grandchild of the decedent, and

"(B) the term 'active management' means the principal employment of the decedent or a member or members of his immediate family, and the exercise of substantial personal control by such person or persons.

"(3) RECAPTURE OF CREDIT FOR EARLY DISPOSITION, ETC.—If the immediate family of the decedent does not own and actively manage the qualifying small business taken into account for purposes of this section for 60 months after the date of death of the decedent, the liability of the estate for tax under this chapter shall be increased by an amount equal to the excess of the amount of the additional credit allowed under paragraph (2) of subsection (a) over the amount of the credit allowed under paragraph (1) of subsection (a).

"(4) DISCHARGE OF FIDUCIARY FROM PERSONAL LIABILITY.—In the case of an estate claiming the credit provided by paragraph (2) of subsection (a), an executor may apply for and be granted discharge of personal liability under sections 2204 and 6165 for any additional tax that may arise because of paragraph (5).".

(b) USE FOR GIFT TAX PURPOSES.—Section 2521 of such Code (relating to specific exemption) is amended to read as follows:

"SEC. 2521. CREDIT AGAINST TAX.

"There is allowed as a credit against the tax imposed by this chapter for all calendar quarters of a citizen or resident a total of $25,000 for gifts of property which is not qualified property (as defined in section 2016(d)(2)) and $40,000 for gifts of qualified property (as defined in section 2016(d)(2)), but the total credit allowable under this section shall not exceed $40,000 in any event.".

(c) REPEAL OF ESTATE TAX EXEMPTION.—Section 2052 of such Code (relating to exemption) is repealed.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by striking out the item relating to section 2052.

(2) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 2016. Credit against tax.
"Sec. 2017. Recovery of taxes claimed as credit.".

(3) The heading of subchapter C of chapter 12 of such Code is amended by inserting "CREDIT AND" before "DEDUCTIONS".

(4) The table of sections for such subchapter is amended by striking out the item relating to section 2521 and inserting in lieu thereof the following:

"Sec. 2521. Credit against tax.".

(e) EFFECTIVE DATE.—The amendments made by this section apply to estates of decedents dying after the date of enactment of this Act and to calendar quarters ending after such date.

SEC. 3. INCREASE IN MARTIAL DEDUCTION.

(a) IN GENERAL.—Section 2056 (c) (1) of the Internal Revenue Code of 1954 is amended to read as follows:

"(1) GENERAL RULE.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed—

"(A) $100,000, plus

"(B) an amount equal to 50 percent of the amount by which the adjusted gross estate exceeds $100,000 and does not exceed $300,000, plus

"(C) an amount equal to 25 percent of the amount by which the adjusted gross estate exceeds $300,000.

(b) EFFECTIVE DATE.—The amendment made by this section applies to estates of decedents dying after the date of enactment of this Act.

SEC. 4. CHANGES IN PRESENT LAW APPLICABLE TO CLOSELY-HELD BUSINESSES, ETC.

(a) IN GENERAL.—Section 6166 (a) of the Internal Revenue Code of 1954 (relating to extension permitted) is amended to read as follows:

"(a) EXTENSION PERMITTED.—

"(1) GENERAL RULE.—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (on the date of his death) a citizen or resident of the United States exceeds either—

"(A) 35 percent of the value of the gross estate of such decedent, or

"(B) 50 percent of the taxable estate of such decedent, the executor may elect to pay part or all of the tax imposed by section 2001 in two or more (but not more than 15) equal installments.

"(2) CERTAIN NONMARKETABLE ASSETS.—If there is included in the gross estate of a decedent who was (on the date of his death) a citizen or resident of the United States an interest of 20 percent or more in a closely held business, the executor may elect to pay part or all of so much of the tax imposed by section 2001 which is attributable under regulations prescribed by the Secretary, to so much of such interest (of a value not in excess of $2,000,000) as consists of nonmarketable assets, in two or more (but not more than 15) equal installments.

(b) INTEREST PAYABLE ON EXTENSION.—Section 6166(g) of such Code (relating to time for payment of interest) is amended by adding at the end thereof the following: "Notwithstanding the provisions of section 6621, the rate of interest payable on any such unpaid portion shall not exceed a rate determined by the Secretary or his delegate to be one-fourth of one percentage point above the average rate payable by the United States on short term securities issued during the 12-month period preceding the date on which an installment payment is due. At the election of the executor, payments of interest only may be made for the first 3 installments.".

(c) LIEN ON ASSETS OF CLOSELY HELD BUSINESS IN LIEU OF EXECUTOR'S BOND.—

(1) IMPOSITION OF LIEN.—Section 6165 of such Code (relating to bonds where time to pay tax or deficiencies has been extended) is amended by adding at the end thereof the following: "In the event of an extension of time for payment of estate tax under section 6166, the Secretary or his delegate may, at the election of the taxpayer, impose a lien on such of the assets of the closely held business on which such extension is based as may be necessary in lieu of the bond which he may require under the preceding sentence.".

(2) DISCHARGE OF FIDUCIARY.—Section 2204 of such Code (relating to discharge fiduciary impersonal liability) is amended by inserting at the end of subsection (a) and at the end of subsection (b) the following: "For purposes of this subsection, a lien imposed under the last sentence of section 6165 shall be treated as a bond.".

(d) EFFECTIVE DATE.—The amendments made by this section apply to the estates of decedents dying after the date of enactment of this Act.

SEC. 5. CHANGES IN PRESENT LAW APPLICABLE TO STOCK REDEMPTIONS TO PAY DEATH TAXES.

(a) INCREASE IN PERIOD WITHIN WHICH DISTRIBUTIONS IN REDEMPTION OF STOCK TO PAY DEATH TAXES MUST BE MADE.—Section 303(b)(1) of such Code (relating to period for distribution) is amended to read as follows:

"(1) PERIOD FOR DISTRIBUTION.—Subsection (a) shall apply to amounts distributed after the death of the decedent and before the end of the period within which final payment of the tax imposed by section 2001 must be made (including any extensions thereof).".

(b) ELIGIBILITY OF CERTAIN CORPORATIONS FOR SECTION 303 STOCK REDEMPTION RULES.—Section 303(b)(2)(B) of such Code (relating to distributions and redemption of stock to pay death taxes) is amended by striking out "75 percent" each place it appears and inserting in lieu thereof "50 percent".

(c) EFFECTIVE DATE.—The amendments made by this section apply to the estates of decedents dying after the date of enactment of this Act.

SEC. 6. STUDY OF DEFERRAL AND EXTENSION AND OTHER PROVISIONS

(a) The Secretary or his delegate shall study the effect of the provisions of section 6161(a)(2) and section 6166 of the Internal Revenue Code of 1954 (relating to hardship estate tax and installments thereof and extensions of time for payment of estate tax where estate consists largely of interest in closely held business) and the regulations prescribed thereunder on decisions to continue a small business or closely held business, including farming business rather than to sell or liquidate such business. The study shall include, but not be limited to, a survey of how such sections and the regulations thereunder are applied in the different Internal Revenue Districts and the impact of the present sections and regulations upon the continuity of such enterprises. The Secretary or his delegate shall submit a report of his findings and conclusions to the Congress within 12 months after the date of enactment of this Act, together with such recommendations for legislation as he deems appropriate.

(b) The report described in subsection (a) shall contain findings, conclusions, and such recommendations for legislation, or otherwise, as the Secretary or his delegate deems appropriate upon the general subject of the impact of estate, gift, and related tax provisions of the Internal Revenue Code and Regulations thereunder upon smaller business, and how these provisions should be modified to encourage the prospect of preserving the continuity of smaller, independent, and locally owned businesses and farms in order to strengthen the free enterprise system and the overall economy of the nation. In performing these studies, the Secretary or his delegate shall consult appropriately with the Small Business Administration and private organizations of smaller and independent business persons and farmers.

SMALL BUSINESS

Mr. CULVER. Mr. President, I was pleased to have been a strong supporter and cosponsor of Senate Resolution 104 and gratified that the Senate acted decisively to pass this essential legislation.

The Senate Select Committee on Small Business, since its creation nearly 26 years ago, has developed considerable expertise in the problems facing small business. However, because of its lack of legislative jurisdiction, the committee has been unable to implement many of the concepts it has developed.

The resolution would give the Small Business Committee jurisdiction over legislation relating to the Small Business Administration. It is my conviction that the role of small business in our society has grown to a level of importance to justify a legislation-producing committee devoted to that subject. The Banking, Housing, and Urban Affairs Committee has been admirably supportive of the needs of small business, but because of the broad scope of responsibilities it has, it has not had the resources to concentrate the attention on this area which is now plainly needed.

Small businesses, which provide 55 percent of the total U.S. business employment and livelihoods for 100 million Americans, are an essential element in our economic system and in the fabric of our society. In recent years, we have seen a steady deterioration in the number of businesses and in the proportion of the market which is in the hands of small business. It has also become increasingly difficult for an individual to start his own enterprise.

For the sake of our economic structure and for the well being of millions of Americans, it is of the utmost importance to reverse these trends. Small business, including farming, is the very heart of the competitive, free enterprise system in this country and our future depends to a great degree on its strength and vitality.

Antitrust legislation is, of course, one approach to remedy monopolistic, anticompetitive practices that could destroy our open economy.

However, I believe we all would prefer a positive approach—namely, to do everything possible to maintain small business as a vital force in the marketplace.

I would underscore again the crucial importance of the social implications of small business to the health and well being of the nation. Small business operators generally live in the communities where their enterprises are located. They have historically demonstrated the kind of creativity and leadership that strengthen our society at the grass roots level.

At the present time, small business operators throughout America are feeling that they are caught in a squeeze between the competition of big business and the regulatory pressures of Government. The act of giving the Senate Small Business Committee this carefully defined legislative jurisdiction—to parallel that of the House—is a rousing vote of assurance to those free enterprising Americans who operate more than 95 percent of all businesses in the United States. This action makes clear that Congress really cares about finding sound ways to encourage and assist small business operators and farmers and fully recognizes their importance to the overall state of the Nation.

FREEDOM OF INFORMATION ACT CASES

Mr. KENNEDY. Mr. President, pursuant to the requirements of section 552 (d) of the Freedom of Information Act, the Attorney General must submit a listing of the cases arising under the FOIA. On September 10 and 24, 1975, I inserted in the Record lists of pending and previously decided cases involving the Freedom of Information Act.

Because so many actions have been brought in the courts challenging the agency withholding information, it is useful for Congress, agencies and members of the public who are concerned with the implementation of the act to keep abreast of current litigation. The cases already decided provide guidance on the interpretation of various portions of the act, as well as indicate to Congress the direction and utility of the act as amended.

The Subcommittee on Administrative Practice and Procedure recently received a new list compiled by the Justice Department with their 1975 annual report. The length of this list certainly points to an increased use of the act by the public. While the FOIA is designed to provide an efficient and speedy route by which the public can obtain information concerning Government programs and policies, the large number of cases in the courts attests to many of the problems in agency implementation of the law.

Since this compilation is not generally available to the public, I ask unanimous consent that the entire list be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Freedom of Information Act Cases Received by the Civil Division in 1975

Almeida, Yolanda Cano v. Chapman, N.D. Ill., Civil Action No. 76C416.

American Federation of Government Employees, et al. v. Bernard Rosen, et al., N.D. Ill., Civil Action No. 75–C–3336.

American Federation of Government Employees, et al. v. Bernard Rosen, et al., N.D. Ill., Civil Action No. 75–C–3337.

American Jewish Congress, et al. v. Rogers Morton, et al., D.D.C., Civil Action No. 75–1541.

Amway Corporation v. FTC, et al., D.D.C., Civil Action No. 75–1374.

Anagnos, Aris v. Central Intelligence Agency, C.D. Calif., Civil Action No. CV 75 2451.

Anti-Defamation League of B'nai B'rith v. Rogers Morton, S.D. N.Y., Civil Action No. 75 Civ. 4432.

de Antonio, Emile v. Kelley, et al., D.D.C., Civil Action No. 75–1071.

de Antonio, Emile v. Colby, et al., D.D.C., Civil Action No. 75–0761.

Arkeketa, Nova Maria v. Pawnee Agency and James Hale, N.D. Okla., Civil Action No. 75–C–234.

Arviso, Nellie v. Anthony P. Lincoln, et al., D. Ariz., Civil Action No. 75–719 PHX WEC.

Association of National Advertisers, Inc. v. FTC, et al., D.D.C., Civil Action No. 75–0896.

Association of National Advertisers, Inc. v. FTC, et al., D.D.C., Civil Action No. 75–1304.

Bachrack, Stanley D. v. Central Intelligence Agency, C.D. Calif., Civil Action No. 75–3727.

Baldwin, Roy, et al. v. Jervis Finney, et al., D.D.C., Civil Action No. 75–1221.

Bast, Richard L. v. Army Intelligence Agency, E.D. Va., Civil Action No. 75–0658–R.

Bast, Richard L. v. Central Intelligence Agency, E.D. Va., Civil Action No. 75–0657–R.

Bast, Richard L. v. Civil Division, Department of Justice, E.D. Va., Civil Action No. 75–0635–R.

Bast, Richard L. v. Criminal Division, E.D. Va., Civil Action No. 75–0660–R.

Bast, Richard L. v. Department of the Army, E.D. Va., Civil Action No. 75–0656–R.

Bast, Richard L. v. Drug Enforcement Administration, D.D.C., Civil Action No. 75–2092.

Bast, Richard L. v. F.C.C., et al., E.D. Va., Civil Action No. 75–0637–R.

Bast, Richard L. v. National Security Agency, et al., E.D. Va., Civil Action No. 75–0638–R.

Bast, Richard L. v. Office of Security, Department of State, et al., E.D. Va., Civil Action No. CA75–0639–R.

Bast, Richard L. v. Office of Special Investigations Department of Air Force, E.D. Va., Civil Action No. 75–0640–R.

Bast, Richard L. v. U.S. Naval Intelligence Command, E.D. Va., Civil Action No. 75–0659–R.

Bast, Richard L. v. United States Secret Service, E.D. Va., Civil Action No. 75–0661–R.

Bast, Richard L. v. Watergate Special Prosecution Force, D.D.C., Civil Action No. 75–2093.

Bell, Ernest L., III v. United States of America, Department of Defense, et al., D. N.H., Civil Action No. 75–331.

Bell, Garnett E. v. U.S. Air Force, C.D. Calif., Civil Aceion No. CV 75 2755 RF.

Benitez, Roberto Rexach v. Nuclear Regulatory Comm'n., D. P.R., Civil Action No. 75–679.

Bennett, Doyle W. v. Veterans Administration, S.D. Ind., Civil Action No. IP 75–547–C.

Bennett, Jonathan A. v. U.S. Attorney General, et al., S.D. N.Y., Civil Action No. 75–CIV. 5055.

Bevic, Vladislav v. Kelley, N.D. Calif., Civil Action No. 75–1106–SW.

Bevic, Vladislav v. Henry Kissinger, etc., N.D. Calif., Civil Action No. 75–1107–RFP.

Black, Edwin and Elizabeth Black, d/b/a Chicago Independent v. William Simon, N.D. Ill., Civil Action No. 75C3815.

Block Drug Company, Inc. v. Federal Trade Commission, et al., D.D.C., Civil Action No. 75–1101.

Block Drug Company, Inc. v. Federal Trade Commission, D.D.C., Civil Action No. 75–1712.

Blunt, Edward v. Detroit, Wayne County Criminal Justice System, et al., E.D. Mich., Civil Action No. 75–71865.

Borosage, Robert B. v. Central Intelligence Agency, et al., D.D.C., Civil Action No. 75–0944.

Bowdach, Gary v. Robert Rust, United States Attorney and Levi, S.D. Fla., Civil Action No. 75–1824 CIV–CA.

Burke, Robert T. v. Kelley, D.D.C., Civil Action No. 75–336–B.

Byrd, Delores, Administratrix of the estate of Melvin Farrow v. Veterans Administration, et al., N.D. Ohio, Civil Action No. C75-116Y.

Camejo, Peter v. Department of Justice, S.D. N.Y., Civil Action No. 75 Civ. 2574.

Campbell, Wallace H., et al. v. U.S. Civil Service Commission, D. Colo., Civil Action No. 75-494.

Chamberlain, Bart B., Jr. v. Department of Commerce, et al., D.D.C., Civil Action No. 75-1629.

Chamberlain, Bart B., Jr. v. Federal Energy Administration, D.D.C., Civil Action No. 75-1630.

Chesapeake-Portsmouth Broadcasting Corp. v. FCC, D.D.C., Civil Action No. 75-0787.

Church of Scientology of California, Inc. v. Colby, et al., D.D.C., Civil Action No. 75-1048.

Church of Scientology of California v. Department of the Army, et al., C.D. Calif., Civil Action No. 75-3056.

Church of Scientology of California v. Department of Defense, et al., C.D. Calif., Civil Action No. CV 75 4072 WMB.

Church of Sicentology of California, Inc. v. Department of State, C.D. Calif., Civil Action No. 75-2562.

Church of Scientology of California v. Department of Transportation, et al., C.D. Calif., Civil Action No. 3482.

Church of Scientology of California v. United States, et al., N.D. Calif., Civil Action No. C-75-1699-RFP.

Church of Scientology of California, Inc. v. U.S. Customs Service, et al., D.D.C., Civil Action No. 75-1364.

Church of Scientology of California v. United States Postal Service, et al., C. D. Calif., Civil Action No. 75-2004R.

Ciba-Geigy Corporation v. David Mathews, et al., S.D. N.Y., Civil Action No. 75-5049.

Citizens for a Better Environment v. United States Department of Commerce, N.D. Ill., Civil Action No. 75C 3577.

Cole, Melvin H. T., M.D. v. United States Department of Justice, et al., D. Conn., Civil Action No. N 75-5.

Collier, LeRoy v. United States of America, E.D. Mich., Civil Action No. 5-70151.

Columbia Packing Company, Inc., v. United States Department of Agriculture and Animal and Plant Health Inspection Service, D. Mass., Civil Action No. 75-5230-M.

Communist Party of the United States v. U.S. Department of Justice, D.D.C., Civil Action No. 75-1770.

Consumers Union of United States, Inc., et al. v. Consumer Products Safety Commission, et al., D.D.C., Civil Action No. 75-0705.

Cooper, Robert S., Jr. v. Department of the Navy, et al., M.D. La., Civil Action No. 75-69.

Coppola, Ronald, et al. v. Levi, D. Mass., Civil Action No. 75-3221-S.

Counihan Cassey & Loomis v. Department of Justice, et al., D.D.C., Civil Action No. 75-1342.

Curry, Willie A. v. Director, Drug Enforcement Administration, D.D.C., Civil Action No. 75-1416.

Davies, Jeanne E. v. Clarence Kelley, C.D. Calif., Civil Action No. CV 75 4154 JWC.

Davis, Joe M. v. Department of Agriculture, N.D. Ala., Civil Action No. 75-M-0687.

DeFina, Madeline v. Kelley, E.D. Va., Civil Action No. 75 C 1547.

DeFina, Richard J. v. Federal Bureau of Investigation, et al., E.D. N.Y., Civil Action No. 75 C 591.

DeFina, Richard J. v. Kelley, S.D. N.Y., Civil Action No. 75 Civ. 2119.

DeFina, Richard J. v. Williams, et al., S.D. N.Y., Civil Action No. 75-2362.

Deuel, Thomas F., MD., et al. v. Dunlop, D.D.C., Civil Action No. 75-0682.

Dietz, Charles v. Department of Treasury, et al., S.D. N.Y., Civil Action No. 75 Civ. 3808.

Dinsio, Amil v. Attorney General of the United States, N.D. Ohio, Civil Action No. 75-3911.

Diviaio, Guy v. Clarence M. Kelley, et al., S.D. Ind., Civil Action No. 75-0723.

Diviaio, Guy v. United States Department of Justice, S.D. Ind., Civil Action No. TH 75-122-C.

Doe, John v. Acree, D.D.C., Civil Action No. 75-0257.

Dori, Roland T. v. Edward Levi, et al., N.D. N.J., Civil Action No. 75-2077.

Dorman, Peter J. v. United States Department of Justice, W.D. Wis., Civil Action No. 75C522.

Douglas Lawndale Corporations, I, II, III, IV, V, and VI, et al. v. Carla Hills, et al., N.D. Ill., Civil Action No. 75-3516.

Edge, Cornelius H. v. United States of America, N.D. Ill., Civil Action No. 75 C 254.

Eichen, Morrell N. v. John L. McLucas, S.D. Ill., Civil Action No. 75-S-CIV-0137.

Ellsworth, Gregory v. Mittendorf, N.D. Calif., Civil Action No. C-75-0914.

Emery, John Fosdick v. Laise, et al., D.D.C., Civil Action No. 75-0381.

Encyclopedia Britannica, Inc. v. FTC, N.D. Ill., Civil Action No. 75-C-1669.

FAHR, Helen v. Department of Labor, et al., D. N.J., Civil Action No. 75-1286.

Falcon Enterprises, Inc. v. Federal Trade Commission, et al., W.D. Mo., Civil Action No. 75 Civ. 296-W-4.

Farris, Joseph v. Postal Service, W.D. Okla., Civil Action No. 75-0982-D.

Fellner, Michael Lee v. Kelley, et al., W.D. Wis., Civil Action No. 75-C-430.

Fensterwald, Bernard, Jr. v. CIA, D.D.C., Civil Action No. 75-0897.

Fensterwald, Bernard, Jr. v. United States C.I.A., E.D. Va., Civil Action No. 75-282-A.

Fernandez, Fernando, M. v. United States, et al., D.D.C., Civil Action No.

Firestone Tire & Rubber Company v. William T. Coleman, Jr., et al., N.D. Ohio, Civil Action No. C75-232 A.

Firestone Tire & Rubber Co. v. United States Department of Labor, et al., D.D.C., Civil Action No. 75-0183.

First Girl, Inc. and Vizia Chinthala v. Regional Manpower Administrator of the U.S. Department of Labor, N.D. Ill., Civil Action No. 75C 3133.

Florence, William v. U.S. Department of Defense, et al., D.D.C., Civil Action No. 75-1869.

Ford, Robert D. v. Selective Service System, et al., M.D. Pa., Civil Action No. 75-952.

Forsham, Peter H., et al. v. Mathews, et al., D.D.C., Civil Action No. 75-1608.

Founding Church of Scientology of Washington, D.C., Inc. v. Levi, et al., D.D.C., Civil Action No. 75-1577

Founding Church of Scientology of Washington, D.C. v. Lee M. Paschall, et al., D.D.C., Civil Action No. 75-1397.

Founding Church of Scientology of Washington, D.C., Inc. v. William E. Simon, et al., D.D.C., Civil Action No. 75-1471.

Freed, Donald v. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, C.D. Calif., Civil Action No. CV 75 3049 RJK.

Friedman, Phoebe L. v. Clarence Kelley, D. Ore., Civil Action No. 75-965.

Garner, Robert E., Sr. v. Department of Justice, M.D. Fla., Civil Action No. 75-889-TH.

Gibson, Casper Carroll v. Rex Davis, S.D. Ohio, Civil Action No. 3-76-316.

Gifford-Hill & Company, Inc. v. Federal Trade Commission, D.D.C., Civil Action No. 75-1033.

Goff, Mayo M. v. Veterans Administration, E.D. N.Y., Civil Action No. 75C 1741.

Goldberg, Philip J. v. FBI, et al., C.D. Calif., Civil Action No. CV 75-2509 JWC.

Goldberg, Philip J. v. U.S. Government, C.D. Calif., Civil Action No. 75-1934-WMB.

Goldberg, Philip J. v. U.S. Government, Bureau of Prisons, et al., C.D. Calif., Civil Action No. CV75-1935-R.

Goldberg, Philip v. U.S. Government Federal Deposit Insurance Corp. Agency, et al., C.D. Calif., Civil Action No. CV 75 2347 LTL.

Goldberg, Philip J. v. U.S. Government Postal Service, et al., C.D. Calif., Civil Action No. 75-1715 RJK.

Goldstein, Alvin H. v. Levi, D.D.C., Civil Action No. 75-0993.

Grammer, Ray v. United States of America, E.D. Ill., Civil Action No. 745-116.

Grandview Bank and Trust Co. v. Smith, et al., W.D. Mo., Civil Action No. 75CV425-W-4.

Grassetti, David R. v. Weinberger, et al., N.D. Calif., Civil Action No. C75 1198-SC.

Grove Press, Inc. v. Defense, S.D. N.Y., Civil Action No. 75 Civ. 6206.

Grove Press, Inc, et al. v. Department of State, S.D. N.Y., Civil Action No. 75-Civ. 6205.

Grove Press, Inc. v. Levi, et al., S.D. N.Y., Civil Action No. 75 Civ. 6204.

Guckian, James P., et al. v. General Services Administration, et al., D.D.C., Civil Action No. 72-2156.

Gutman, Richard v. Edward H. Levi, et al., N.D. Ill., Civil Action No. 75C-3576.

Hagen, Dennis LeRoy v. U.S. Army Reserve Center, Superior Court, State of Arizona, Maricopa County, Case No. C312055.

Halperin, Morton H. v. William H. Colby, D.D.C., Civil Action No. 75-0676.

Halperin, Morton H. v. William H. Colby, D.D.C., Civil Action No. 75-0677.

Halperin, Morton H. v. Department of State, D.D.C., Civil Action No. 75-0674.

Halperin, Morton H. v. National Security Council, et al., D.D.C., Civil Action No. 75-0675.

Harbolt, Don Victor v. Kelley, D. Kansas, Civil Action No. 75-255-C3.

Harmon, Hudson D. v. United States of America, U.S. Army, et al., N.D. Calif., Civil Action No. C-75-2459.

Headley, Lake W. v. Drug Enforcement Administration, C.D. Calif., Civil Action No. 75-2916.

Headley, Lake W. v. FBI, C.D. Calif., Civil Action No. 75-3200.

Henry, Billy Gayle v. Kelley, E.D. Va., Civil Action No. 243-72-N.

Henry, Billy Gale v. Clarence Kelley, et al., E.D. Va., Civil Action No. 75-442-N.

Hermany, Kathryn Davis v. J. William Middendorf, D.D.C., Civil Action No. 75-1246.

Holly, Norman E. v. Vernon B. Acree, D.D.C., Civil Action No. 75-2116.

Holston, Hugh, Jr. v. U.S. Attorney R. Siegal, N.D. Ill, Civil Action No. 75C 3506.

Holston, Hugh, Jr. v. Dave Wilson, N.D. Ill., Civil Action No. 75C 3457.

Hyde Park Project Corp. v. Acree, S.D. N.Y., Civil Action No. 75-Civ-2713.

Hrynko, Michael H., et al. v. Crawford, E.D. Pa., Civil Action No. 75-582.

International Computaprint Corporation v. Rogers C. B. Morton, et al., D.D.C., Civil Action No. 75-1618.

Irons, Peter H. v. Levi, D. Mass, Civil Action No. 75-2215-T.

Irons & Sears v. C. Marshall Dann, D.D.C., Civil Action No. 75-1408.

Jacobson, Phyllis, et al., v. United States of America, et al., E.D. N.Y., Civil Action No. 75C 1377.

James, Raymond E. v. Kelley, et al., D.D.C., Civil Action No. 75-1405.

Jeffcoat, William Dale v. Federal Bureau of Investigation, D. S.C., Civil Action No. 75-1953.

Jones, Harliel B. v. Kelley, et al., N.D. Ohio, Civil Action No. C-75-1090.

Jones, Wilson (or L. D. Terrence v. U.S. Postal Corporation, CIA and FBI, E.D. Mo., Civil Action No. 75-676c(3).

The Journal-Courier, et al, v. The United States Department of Labor, D. Conn., Civil Action No. N 75-28.

Kaminski, Ronald v. Richard J. Arcara, et al., W.D. N.Y., Civil Action No. CIV-75-458.

Katz, Harry M., v. John L. Briggs, United States Attorney and Clerk of the Court, M.D. Fla., Civil Action No. 75-446-T-K.

Kawasaki Heavy Industries, Ltd. v. Department of the Navy, U.S.A., S.D. N.Y., Civil Action No. 75 CIV 6005.

Kaye, Richard S. v. Arthur F. Burns, S.D. N.Y., Civil Action No. 75 CIV 1873.

Kete, Philip, et al. v. Hampton, et al., D.D.C., Civil Action No. 75–0543.

Kiffer, John C. v. Bureau of Prisons, et al., M.D. Pa., Civil Action No. 75–777.

Kiffer, John C. v. Taylor, M.D. Pa., Civil Action No. 75–546.

Klaus, David and Morton H. Helperin v. National Security Council, et al., D.D.C., Civil Action No. 75–1093.

Kohn, Edward A., et al., v. United States Department of Agriculture, et al., D.D.C., Civil Action No. 75–0053.

Kornfield, Julia M. v. Defense Industrial Supply Center, et al., E.D. Pa., Civil Action No. 75–3565.

Kramer, Victor H. v. Antitrust Division, D.D.C., Civil Action No. 75–2095.

Krohn, Kenneth B. v. Department of Justice, et al., D. Mass., Civil Action No. 75–3222–M.

Kroll, Karen A. v. Department of Housing and Urban Development, et al., E.D. Mich., Civil Action No. 570917.

Kruh, Louis v. General Services Administration, E.D. N.Y., Civil Action No. 75–C–909.

Lambert, George A. v. U.S. Veterans Administration, D. Mass., Civil Action No. 75–380–T.

LaRouche, Lyndon H., Jr., et al. v. Kelley et al., S.D. N.Y., Civil Action No. 75 Civ. 6010.

Larrivee, Joseph E. v. Edward T. Coyne, S.D. N.Y., Civil Action No. 75–Civ. 1178.

Lawrence, Paul, et al. v. General Services Administration, D. Mass., Civil Action No. 75–168–7.

Lord, Richard H. v. W. H. Rauch, Warden, et al., W.D. Wash., Civil Action No. C75–138T.

Lord & Taylor v. United States Department of Labor, et al., S.D. N.Y., Civil Action No. 75 CIV. 2839.

Lucas, Edward E. v. Goodemont, et al., E.D. Mich., Civil Action No. 5–70695.

Lybarger, Barbara L., et al. v. James Bruce Cardwell, et al., D. Mass., Civil Action No. A–75–4262–M.

Management Services, Inc. v. NASA, N.D. Ala., Civil Action No. 75–L–2105–NE.

Manos, Thomas G. v. Taylor, et al., M.D. Pa., Civil Action No. 75–150.

Marks, John D. v. Central Intelligence Agency, et al., D.D.C., Civil Action No. 75–1735.

Marquez, Raymond v. Hon. Thomas Cahill, S.D. N.Y., Civil Action No. 75 Civ. 6321.

Mason, Irving H., et al. v. Gerald R. Ford, et al., E.D. Va., Civil Action No. 75–505–A.

Mason, Irvin H., et al. v. Levi, et al., E.D. Va., Civil Action No. 75–728–A.

Mathews, Joseph W. v. Defense Contract Audit Agency, N.D. Ala., Civil Action No. 75–G–0649–S.

Maxwell Broadcasting Corporation v. Federal Communications Commission, N.D. Texas, Civil Action No. 3–75–0421B.

Maxwell Broadcasting Corp. v. Federal Bureau of Investigation, N.D. Texas, Civil Action No. 3–75–0318–F.

Maxwell, James E. v. James C. Fletcher, S.D. Tex., Civil Action No. 75–H–2153.

May, Stephen v. Central Intelligence Agency, et al., S.D. Calif., Civil Action No. CD75–1981.

McAdams, Joseph M. v. Norman A. Carlson, W.D. Texas, Civil Action No. EP75–CA–175.

McClelland, B. Riley v. Kleppe, et al., D.D.C., Civil Action No. 75–1969.

McDonald, Jeffrey R. v. Levi, D.D.C., Civil Action No. 75–0958.

McGrew, Spencer P. v. Federal Aviation Agency, N.D. Calif., Civil Action No. C 75 19195 OJC.

McManus, Robert H. v. Faver, D. Colo., Civil Action No. 75–596.

Mead Data Central, Inc. v. Department of Justice, et al., D.D.C., Civil Action No. 75–1637.

Meade Data Central, Inc. v. U.S. Department of the Air Force, et al., D.D.C., Civil Action No. 75–0927.

Meeropol, Michael, a/k/a Rosenberg v. Levi, et al., D.D.C., Civil Action No. 75–1121.

Meisler, Richard Allen v. FBI, et al., W.D. N.Y., Civil Action No. Civ–75–417.

Merrell, David R., et al. v. Federal Open Market Committee of the Federal Reserve System, D.D.C., Civil Action No. 75–0736.

Meyer, Lynn Bruce v. Rex D. Davis, Director, Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, W.D. Wash., Civil Action No. C75–681 M.

Meyer, Lynn Bruce v. Secretary of the Army, et al., W.D. Wash., Civil Action No. C75–679M.

Meyer, Lynn Bruce v. United States of America, W.D. Wash., Civil Action No. C75–680M.

Military Audit Project, et al. v. Colby, et al., D.D.C., Civil Action No. 75–2103.

Military Audit Project v. Kettles, et al., D.D.C., Civil Action No. 75–0666.

Moreno, David Gregory v. Enright, D. Colo, Civil Action No. 75–M–634.

Nashville Banner Publishing Co. v. Levi, et al., M.D. Tenn., Civil Action No. 75–352–NA–CV.

National Cable Television Association, Inc. v. FCC, D.D.C., Civil Action No. 75–1378.

National Commission of Law Enforcement and Social Justice v. Central Intelligence Agency, C.D. Calif., Civil Action No. 75–3644.

National Consumer Finance Association v. Federal Trade Commission, et al., D.D.C., Civil Action No. 75–1072.

National Public Radio, et al. v. Levi, D.D.C., Civil Action No. 75–1593.

Nationwide Building Maintenance, Inc. v. Arthur Sampson, et al., D.D.C., Civil Action No. 75–1511.

Nix, Daniel v. Federal Bureau of Investigation, D.S.C., Civil Action No. 75–935.

Nolen, Lenard Wallace, Sr. v. Schlesigner, M.D., Ga., Civil Action No. 75–22–MAC.

Norred, Douglas v. Federal Aviation Administration, et al., N.D. Ga., Civil Action No. C75–2226A.

North American Telephone Association v. FCC, D.D.C., Civil Action No. 75–0992.

Ocean Electric Corporation v. Department of the Navy, et al., E.D. Va., Civil Action No. 75–359–N.

Oglesby, Margaret v. United States Army ROTC Instructor Group, M.D. Tenn., Civil Action No. 75–074–NA–CV.

Open America, et al. v. Executive Office of the President, et al., D.D.C., Civil Action No. 75–1045.

Orange County Vegetable Improvement Cooperative Association, Inc. v. Department of Agriculture, D.D.C., Civil Action No. 75–0842.

Ott, Carl v. Levi, et al., E.D. Mo., Civil Action No. 75–440C(1).

Pace, Dean Francis v. Lynn, C.D. Calif., Civil Action No. CV–75–1167 RJK.

Papini, Giancarlo G. v. U.S. Department of Labor Manpower Administration, S.D. Fla., Civil Action No. WPB 75–171–CIV CF.

Parker, Ray Elbert v. John G. Lorenz, et al., D.D.C., Civil Action No. 75–1085.

Philadelphia Newspapers, Inc., et al. v. U.S. Department of Justice, et al., E.D. Pa., Civil Action No. 75–1523.

Phillippi, Harriet Ann v. CIA, D.D.C., Civil Action No. 75–1265.

Porter, Charles O. v. Central Intelligence Agency, D. Oregon, Civil Action No. 75–156.

Radosh, Ronald v. Central Intelligence Agency, S.D. N.Y., Civil Action No. 75 Civ. 3371.

Retail Credit Company v. FTC, D.D.C., Civil Action No. 74–0895.

Richardson, William B. v. J. T. Spahr, W.D. Pa., Civil Action No. 75–297.

Richardson, William B. v. Young, et al., W.D. Pa., Civil Action No. 75–298.

Robertson, John v. United States Department of Transportation and Fed. Highway Administration, C.D. Calif., Civil Action No. 75 3391–F.

Ruiz, Vanessa v. Bedell, D.D.C., Civil Action No. 75–0465.

Sahley, Lloyd William George v. FBI, et al., E.D. La., Civil Action No. 75–1831.

St. Louis Post-Dispatch and Richard Dudman v. F.B.I. and Department of Justice, D.D.C., Civil Action No. 75–1025.

Salant, Stephen W. v. Levi, et al., D.D.C., Civil Action No. 75–0909.

Sami, Mohammad v. Department of the Treasury, D.D.C., Civil Action No. 75–1900.

Sande, Leonard J. v. United States, et al., M.D. Pa., Civil Action No 75–675.

Saunders, Robert Patrick v. Dogin, et al., C.D. Calif., Civil Action No. CV 75 1409 MML.

Schwartz, Marvin v. George Ferrero, et al., S.D. N.Y., Civil Action No. 75 Civ. 4884.

SCM Corp. v. Schlesinger, N.D. Ill., Civil Action No. 75 C 1430.

S.D.C. Development Corp. v. Weinberger, C.D. Calif., Civil Action No. CV 75–1799–IH.

Sellers, W. Foster v. Kelley, N.D. Ga., Civil Action No. C75–1458A.

Sexton, Billy Wayne v. Osborne, E.D. Texas, Civil Action No. TX–75–113–CA.

Shaka, Nichijo v. Veterans Administration, D. Hawaii, Civil Action No. 75–0118

Sharp, Frank W. v. Federal Deposit Insurance Corporation, D.D.C., Civil Action No. 75–1428.

Shaver, Paul E. v. Levi, et al., N.D. Ga., Civil Action No. C75–1206A.

Shouse, Harry Ray v. Jim D. Burris, S.D. Ga., Civil Action No. 475–198.

Smith, Stephen A. v. Department of Air Force, N.D. Calif., Civil Action No. 75–2615 SC.

Southern Africa Committee v. Clarence M. Kelley, S.D. N.Y., Civil Action No. 75 CIV 5497.

State of New Mexico, ex rel. S.E. Reynolds v. Kleppe, D. N.Mex., Civil Action No. CIV 75–684–B.

Stemmer, Donald R. v. Department of the Army, et al., E.D. Pa., Civil Action No. 75–2617.

Stencel Aero Engineering Corp. v. Department of the Air Force et al., N.D. Calif., Civil Action No. C75–0586 SAW.

Sullivan, Jimmy W. v. Maurice H. Sigler, D. Kansas, Civil Action No. 75–196–C3.

Taylor, Randy v. FBI, N.D. Texas, Civil Action No. CA 3–75–757–B.

Tennessean Newspaper, Inc. v. Edward Levi, et al., M.D. Tenn., Civil Action No. 75–350–NA–CV.

Thomas, Allen v. Levi, et al., N.D. Ga., Civil Action No. C75–2370A.

Tucker, Anne v. Federal Bureau of Investigation, et al., S.D. Texas, Civil Action No. 74–H–1845.

Vermont Low Income Advocacy Council, Inc. v. John Dunlop, D. Vt., Civil Action No. 75–247.

Vizer, Jay, D.P.M. v. Weinberger, et al., E.D. Pa., Civil Action No. 75–2234.

Walker, G. Daniel v. John Doe, et al., E.D. Mo., Civil Action No. 75–632C(1).

Wallrich, Burt v. FBI, et al., S.D. Calif., Civil Action No. 75–0420–N.

Washington Research Project Inc. v. U.S. Department of H.E.W., et al., D.D.C., Civil Action No. 75–0743.

Waterman Heights Nursing Home Inc. et al. v. Weinberger, et al., D. R.I., Civil Action No. 750063.

Weisberg, Harold v. National Archives and Records Service, D.D.C., Civil Action No. 75–1448.

Weisberg, Harold v. U.S. Department of Justice, D.D.C., Civil Action No. 75–1996.

Weisberg, Harold v. United States Department of Justice, et al., D.D.C., Civil Action No. 75–0226.

Weiss, Marc Nelson v. Kelley, et al., D.D.C., Civil Action No. 75-1456.

Weiss, Marc Nelson v. Clarence Kelley, et al., D.D.C., Civil Action No. 75-1481.

Weissman, Gary A. v. Central Intelligence Agency, et al., D.D.C, Civil Action No. 75-1583.

Whipple, Edson L. v. Federal Bureau of Investigation, et al., D. Ariz., Civil Action No. 75-235 TUC JAW.

Whipple, Edson L. v. Jack Salter and DEA, D. Ariz., Civil Action No. 75-239.

Whipple, Edson L. v. Bailey Thomas, et al., D. Ariz., Civil Action No. 75-237-TUC JAW.

Whipple, Edson L. v. U.S. Customs Service, et al., D. Ariz., Civil Action No. 75-238 TUC JAW.

Wilson, Elaine M. v. William O. Miller, W.D. Wash., Civil Action No. C75-431S.

WLAC-TV, INC. v. Levi, et al., M.D. Tenn., Civil Action No. 75-251-NA-CV.

Wolfish, Louis v. United States Department of Justice, FBI, S.D. N.Y., Civil Action No. 75 CIV. 4810.

Wolfish, Louis R. v. United States, et al., S.D. N.Y., Civil Action No. 75 Civ. 3815.

Wolfish, Louis R. v. Department of Justice, FBI, D.D.C., Civil Action No. 75-1714.

Wood, Robert Thomas v. CIA, M.D. Fla., Civil Action No. 75-366-CIV-T-K.

Worthen, Juanita J. v. Resor, et al., W.D. Ky., Civil Action No. 75-0037P(G).

Zeldin, Marvin v. Martin Hoffman, D.D.C., Civil Action No. 75-1913.

List of Freedom of Information Act Cases Handled by the Civil Division in Which a Final Decision Issued in 1975, Including the Disposition of Each Case, the Exemptions Asserted and the Fees and Costs Awarded Plaintiff if Any

Anchorage Building Grades Council v. Department of Housing and Urban Development, D. Alaska, Civil Action No. A184-72. X 4, 5 ,7. Dismissed.

Arkeketa, Nova Maria v. Pawnee Agency, et al., N.D. Okla., Civil Action No. 75-C-234. No Exemptions. Dismissed.

Arviso, Nellie v. Anthony P. Lincoln, D. Ariz., Civil Action No. CIV-75-719-PHX-WEC. No Exemptions. Dismissed.

Benitez, Roberto Rexach v. Nuclear Regulatory Commission, D.P.R., Civil Action No. 75-679. No Exemptions. Plaintiff moved for dismissal.

Bennion, Sam H. v. U.S. Geological Survey, D. Idaho, Civil Action No. 4-73-42. No Exemptions. Dismissed.

Biezup, John T. v. Social Security Administration, E.D. Pa., Civil Action No. 73-2052. No Exemptions. Dismissed.

Brockway, David L. v. Air Force, M.D. Iowa, Civil Action No. 75-C-11-CR. X 4, 5. Judgment for defendants.

Campbell, Wallace H. and Pope, Joseph H. v. Civil Service Commission, D. Colo., Civil Action No. 75-M-494. X 2, 5. Partial judgment for plaintiff, partial judgment for defendant.

Chesapeake-Portsmouth Broadcasting Corporation v. Federal Communications Commission, D.D.C., Civil Action No. 75-0787. X 7. Judgment for defendant.

Church of Scientology of California v. U.S. Postal Service, et al., C.D. Calif., Civil Action No. CV 75-2004-R. X 3, 6. Judgment for defendant.

Consumers Union of the United States, Inc. v. Board of Governors of the Federal Reserve System, et al., D.D.C., Civil Action No. 1766-73. X 4, 8. Judgment for plaintiffs. Amount of attorney's fees and court costs, if any, has not yet been determined.

Control Data Corp. v. FTC, D. Minn., Civil Action No. 4-74-Civ-412. X 5, 7(A). Judgment partly for plaintiff, partly for defendants.

Cooper, Robert S. v. Department of the Navy, M.D. La., Civil Action No. 75-69. X 4, 5. Judgment for defendants.

Counihan, Casey & Loomis v. Department of Justice, D.D.C., Civil Action No. 75-1342. No Exemption. Dismissed.

Cuneo, Gilbert A., et al. v. Schlesinger, D.D.C., Civil Action No. 1826-67. X 2, 5, 7. Dismissed.

Cutler, Mimi v. CAB, D.D.C, Civil Action No. 74-8. X 3, 4. Dismissed.

Davis, Joe M. v. Butz, et al., M.D. Ala., Civil Action No 75-M-0687. No exemptions. Costs awarded to plaintiff, $223.25 attorney's fees and $21.00 costs. Dismissed.

DeFina, Richard v. F.B.I., et al., E.D. NY., Civil Action No 75C591. No exemption. Dismissed.

Edge, Cornelius H. v. USA, M.D. Ill., Civil Action No. 75C254. No exemptions. Dismissed.

Emery, Pohn Fosnick v. Laise, D.D.C., Civil Action No. 75-331. No Exemptions. Dismissed.

Evening Star Newspaper v. FCC, D.D.C., Civil Action No. 1287-75. No Exemptions. Dismissed.

Falcon Enterprises, Inc. v. FTC, Civil Action No. 75-CIV-294W-4. No Exemptions. Dismissed.

Fensterwald v. CIA, E.D. Va., Civil Action No. 75-282-A. X 1. Plaintiff awarded court costs but has yet to file a cost bill.

The Firestone Tire & Rubber Co. v. United State Department of Labor, et al., D.D.C., Civil Action No. 75-183. No Exemptions. Dismissed.

Grumman Aircraft Engineering Corp. v. Renegotiation Board, 421 U.S. 168 (1975). X 5. Judgment for defendants.

Halperin, Morton v. William C. Colby, et al., D.D.C., Civil Action No. 75-0677. X 1. Payment to plaintiff of $2,733.01 on settlement of all claims for costs. Stipulation for dismissal not filed until 1976.

Hawkes, Roger E. v. Bureau of Customs, et al., W.D. Wash., Civil Action No. 127-73C2. No Exemptions. Dismissed.

Henry, John P. v. Ridgeway, E.D. Mich., Civil Action No 4-72313. No Exemptions. Dismissed.

Hiss, Alger, et al. v. United States, et al., S.D. N.Y., Civil Action No. 75 Civ-2693. No Exemptions. Dismissed by Stipulation and Order of Discontinuance.

Hrynko v. Crawford, E.D. Pa., Civil Action No. 75-582. No Exemptions. Judgment for defendant.

Hyde Park Products Corp. v. Vernon Acree, S.D. N.Y., Civil Action No. 75 Civ 2713 (LPG). X 7(D), 7(E). Judgment for defendant.

Kiffer, John C. v. United States Bureau of Prisons, M.D. Pa., Civil Action No. 75-777. No exemptions. Judgment for plaintiff.

Mason, Irvin H., et al. v. Buchen, et al., E.D. Va., Civil Action No. 75-505-A. No Exemptions. Dismissed.

Mason, Irvin H., et al. v. Edward Levi, E.D. Va., Civil Action No. CV-75-728-A. No Exemptions. Judgment entered for defendants.

McMannus, Robert v. Dudley Faver, D. Colo., Civil Action No. 75-596. No Exemptions. Settled and dismissed. U.S. agreed to pay plaintiff $594.96 for attorneys' fees and court costs.

Mead Data Control, Inc. v. U.S. Department of the Air Force, D.D.C., Civil Action No. 75-27. X 5. Judgment for defendant.

Moreno, David Gregory v. John Ray Enright, D. Colo., Civil Action No. 75-M-634. No Exemptions. Judgment for defendant.

Nader, Ralph v. Baroody, D.D.C., Civil Action No. 74-1675. No Exemptions. Dismissed.

Nader, Ralph v. Ray, D.D.C., Civil Action No. 74-670. No Exemptions. Dismissed.

National Airlines, Inc. v. CAB, D.D.C., Civil Action No. 75-613. X 3. Dismissed.

National Banner Publishing Co. v. Levi, M.D. Tenn., Civil Action No. 75-352-NA-CV. X 6, 7(C). Judgment for plaintiff.

National Consumer Finance Ass'n v. FTC, D.D.C., Civil Action No. 1072-75. X 5. Dismissed.

National Parks and Conservation Association v. Morton, D.D.C., Civil Action No. 426-72. X 4. Judgment for defendants.

National Wildlife Federation v. Brinegar, D.D.C., Civil Action No. 1269-73. No Exemptions. Judgment primarily for plaintiffs. $3,003.50 awarded plaintiff for attorneys' fees and costs.

Nolen, Lenard Wallace v. Schlesinger, M.D. Ga., Civil Action No. 75-22-MAC. No Exemptions. Judgment for defendant.

Ocean Electric Corp. v. Navy, et al., E.D. Va., Civil Action No. 75-359-N. No Exemptions. Dismissed.

Ollestad, Norman T. v. Kelley, C.D. Calif., Civil Action No. 74-2486-LTL. X 5, 6, 7. Judgment for defendants.

Orange County Vegetable Improvement Cooperative Association, Inc. v. Department of Agriculture, et al., D.D.C., Civil Action No. 75-842. X 5. Decision for plaintiff.

Pacific Architects and Engineers, Inc. v. Renegotiation Board, D.D.C., Civil Action No. 9-1873. X 4, 5. Dismissed.

Philadelphia Newspapers v. Department of Justice, E.D. Pa., Civil Action No. 75-1523. X 6, 7(C), 7(D). Judgment for plaintiffs.

Phillipi, Harriet v. CIA, D.D.C., Civil Action No. 75-1265. X 1,3. Judgment for defendant.

Ruiz, Vanessa v. Bedell, D.D.C., Civil Action No. 75-0465. No Exemptions. Cost $18.00 to Plaintiff.

Rural Housing Alliance v. Department of Agriculture, D.D.C., Civil Action No. 2460-72. X 4, 6, 7. Dismissed.

Robertson v. Administrator of FAA, D.D.C., 422 U.S. 255 (1975). X 3. Judgment for defendants.

Save the Dolphins v. Department of Commerce, M.D. Calif. X 4. Judgment partially for plaintiff.

Schaffer, Frederick E. v. Kissinger, et al., D.D.C., Civil Action No. 72-2520. X 1. Dismissed.

Schechter, Melvin v. Weinberger, D.D.C. Civil Action No. 2319-72. X 3. Dismissed.

SCM Corporation v. Schlesinger, et al., M.D., Ill., Civil Action No. 75-C-1430. No Exemptions. Attorneys' fees awarded to plaintiffs $1,582.50.

SDC Development Corp. v. Weinberger, C.D. Calif., Civil Action No. 75-1799-IH. No Exemptions. Dismissed.

Seiler, Fay P. v. Department of Transportation, W.D. Mo., Civil Action No. 73-CV-143-C. X5, 6, Judgment for plaintiff.

Sharp, Frank v. FDIC, D.D.C., Civil Action No. 75-1425. No Exemptions. Dismissed.

Shouse, Harry Ray v. Jim D. Harris, S.D. Ga., Civil Action No. CV 475-198. X 7(C). Dismissed.

Spawn, Roy M., Jr. v. Cantrell, S.D. Texas, Civil Action No. 75-H-2142. No Exemptions. Dismissed.

Stencel Aero Engineering Corp. v. Department of the Air Force, N.D. Calif., Civil Action No. C75-0586-SAW. No Exemptions. Dismissed.

Stone, Richard v. Export-Import Bank of the United States, N.D. Fla., Civil Action No. TCA74-129. X 4. Judgment for defendants.

Television Digest, Inc. v. FCC, D.D.C., Civil Action No. 75-1281. No Exemptions. Dismissed.

Tennessean Newspapers, Inc. v. Levi, M.D. Tenn., Civil Action No. 75-350. X 6, 7(C). Judgment for plaintiff.

Theriault, Tate v. United States, C.D. Calif. X 4, 5. Judgment for defendants.

David V. Tilly Corp. v. Renegotiation Board D.D.C., Civil Action No. 2055-70. 521 F.2d 315.

Tobin, William v. Department of Justice, N.D. Ill., Civil Action No. 74-C-3583. No Exemptions. Dismissed.

Tracy, Robert E. v. Department of Justice, W.D. Okla, Civil Action No. CIV-75-1052-T. No Exemptions. Dismissed.

Washington Research Project, Inc. v. Department of Health, Education and Welfare, D.D.C., Civil Action No. 75-0473. No Exemptions. Plaintiffs filed a precipe for dismissal.

Weisberg, Harold v. United States Department of Justice, D.D.C., Civil Action No. 75–226. No Exemptions. Dismissed.

Wilson, Elaine M. v. William O. Miller, W.D., Wash., Civil Action No. C75–4315. No Exemptions. Dismissed.

WLAC–TV, Inc., v. Levi, et al., M.D. Tenn., Civil Action No. 75–251–NA–CV. X 6, 7(C). Judgment for plaintiff.

GENERAL MORRIS NAMED CHIEF OF ENGINEERS

Mr. DOMENICI. Mr. President, late last month, the President announced his selection of Maj. Gen. John W. Morris as the new Chief of Engineers, succeeding Lt. Gen. William C. Gribble, Jr., who will retire at the end of this month. I commend President Ford on his selection.

As the ranking Republican member of the Water Resources Subcommittee, I have had the opportunity to work with General Morris. He is a man of imagination. He understands the water resources problems and opportunities available to our Nation. The recent leadership of General Morris as Chief of Civil Works and as Deputy Chief of Engineers has demonstrated his ability to lead the Corps of Engineers and to solve the many water resources challenges facing us.

As Chief of Engineers, General Morris will direct one of the world's largest and most respected engineering, construction, and research organizations. He will serve as the principal advisor to the Army Chief of Staff on military engineering and construction, maintenance and repair of Army installations, and family housing. His responsibilities include support for the Air Force and other U.S. Government agencies, plus foreign governments.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the biography of General Morris.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

MAJOR GENERAL JOHN W. MORRIS

Major General John W. Morris will become Chief of Engineers on July 1, 1976.

Major General Morris is presently Deputy Chief of Engineers.

His 33 years of active service have provided a broad range of experience in public works, military construction, military staff and command, and congressional liaison from the field to the highest levels of responsibility.

Selected positions, both stateside and overseas, include Director of Civil Works, Office of the Chief of Engineers, Washington, D.C.; Division Engineer, Missouri River Division, Omaha, Nebraska; Deputy Chief of Legislative Liaison for the Secretary of the Army, and Deputy Commandant, U.S. Military Academy.

General Morris has commanded troops at every level from platoon to a separate brigade of 15,000 engineer officers and men.

Additional previous assignments include: Resident Engineer, Goose Bay Air Base, Labrador; Deputy District Engineer, Savannah, Georgia; and District Engineer, Tulsa, Oklahoma.

Throughout all of these duties, General Morris has developed a reputation for being people-oriented and for being sensitive to the prudent management of our national water resources.

Major General Morris is married to the former Geraldine King Ludwig of Wilmington, North Carolina, and they have two children—a son, John, who is a Lieutenant stationed at Fort Riley, Kansas, and a daughter, Susan, who teaches school in Arlington, Virginia.

Major General Morris was born in Princess Anne, Maryland. He was commissioned in the Corps of Engineers in 1943 upon graduation from the U.S. Military Academy. He received his master's degree in civil engineering from the University of Iowa. He is also a graduate of the Command and General Staff College, the Army War College, and the Management Program for Executives at the University of Pittsburgh. He is a registered Professional Engineer in Oklahoma, a fellow in the American Society of Civil Engineers, and a member of numerous other professional engineering associations.

His numerous military awards and decorations include the Distinguished Service Medal, the Legion of Merit with three Oak Leaf Clusters, the Bronze Star, Army Commendation Medal with two Oak Leaf Clusters, and the Air Medal.

SCOUTING FOR THE HANDICAPPED

Mr. DOLE. Mr. President, there are few organizations I know of that are so committed to the development of the total person as the Boy Scouts of America. Through the years, the Boy Scouts, as a group, has shaped the character of literally millions of men and boys through programs and activities that train one's mind and body. I am proud of my Boy Scout affiliation, and appreciate the benefits I have received from Scouting.

In line with the Boy Scout philosophy, it is hardly surprising that the handicapped are enthusiastically included in Scouting. Through the Boy Scouts, handicapped persons are treated—perhaps more completely here than anywhere else—as equal individuals. As a member of the National Advisory Committee of Scouting for the Handicapped, I appreciate the opportunity to be a part of this aspect of Scouting. It is consistent with my personal commitments, and with the goals I have worked for through legislative action.

Because of the accomplishments of the Scouts, I believe more people, especially the Congress, should know about the speech made by Mr. Arch Monson, Jr., president of the Boy Scouts of America, at the recent "Scouting for the Handicapped" breakfast in New York. In it, Mr. Monson describes the affirmative action that the Boy Scouts of America is taking to include the handicapped in all phases of Scouting. Other groups would do well to follow their example.

I ask unanimous consent that Mr. Monson's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SCOUTING FOR THE HANDICAPPED

(By Arch Monson, Jr.)

As your President, I have many invitations to speak, and I do my best to respond whenever I can. But this morning's opportunity brings me a very special pleasure. As you know, Scouting for the Handicapped, comes under Relationships, and I am a product of the Relationships part of Scouting. As a matter of fact, modesty does not prevent me from saying that the National Advisory Committee on Scouting for the Handicapped was established while I was chairman of the Relationships Committee. So you will pardon me if I have a personal, almost a fatherly, interest in NACOSH and all that it does.

At the outset, may I say I am particularly proud of what has been accomplished these past six years under the leadership of Bill McCahill, Dick Wilson, and Robert Dievendorf and the staff direction of Lucien Rice and Jack Richmond. We know for a fact that we have more than a 100 percent increase in young people with disabilities in our Cub Scouting, Scouting and Exploring programs since the Disabled American Veterans joined partners with the Boy Scouts of America to provide major support to Scouting for the Handicapped. This is a great achievement for the DAV and for people like Dick Wilson and Bill McCahill who are DAV Life Members, the one a staff official, the other your NACOSH volunteer Chairman.

Since 1971, in addition to the Disabled American Veterans, we have developed new bonds with the National Association of Retarded Citizens, Council of Exceptional Children, Agencies for the Blind, and a number of societies and organizations related to specific handicaps.

Scouting, if it is anything, is a set of principles, a wonderful combination of an ageless Oath and Law providing guidelines by which men and boys, and now, teen-age girls can live and grow in a free society. Our young people and our leaders, both volunteer and professional, must have some assurance of continued support for their ideas and their ideals. For that reason, I am happy to say today that we shall continue to support your efforts in any way we can. Within our presently limited resources, we shall continue to encourage the development of council, area and regional committees on Scouting for the Handicapped.

Already, there are committees in being in 75 councils, in 8 areas, and in 3 regions. At the 1978 breakfast, I expect to hear a 100 percent report at all three levels. We would like to see a duplication of the efforts of Judge Nathaniel Sorkin, of the New York Civil Court, who is Chairman of the Advisory Committee on Scouting for the Handicapped in the Greater New York Councils. You may have seen the article in the New York Times related to the committee's success and plans. America has long been known as the land of the free and the home of the brave, but for youth to really be free and brave they must belong and must be accepted. That's what your work in Scouting is all about as you serve handicapped youth, be they physically or mentally handicapped or retarded.

Let me just indicate some of the goals and objectives of Scouting for the Handicapped in the years ahead:

1. We want to create new partnerships and preserve old ones that will serve units of handicapped youth. We will organize special units for handicapped Scouts where desirable and wherever possible.

2. I have already mentioned the council, area and regional committees, essential to any successful plan.

3. We shall continue to encourage the employment of new Special Projects Executives in councils to serve the handicapped in addition to those already on duty in nine councils.

4. We hope to produce a manual on *Scouting for the Emotionally Disturbed* to be included with the fine array of pamphlets already available, while continuing to implement the Special Recognition program for the Moderately Retarded.

5. We promise increased publicity in our magazines of the heartwarming success stories about this program and continued regional and national breakfasts of this nature.

6. In addition, we shall continue our efforts to make our facilities more accessible to those with disabilities. It has long since been established that with minor modifications, our facilities can be safe for everyone, including the handicapped.

If we manage to do all these things well, and they can be done, then councils and districts will be able to fit the handicapped into established units or be inclined to form new units for these young folks. They can expect to involve young handicapped people in Scouting by emphasizing individual ability, while making necessary allowances for disability.

They can develop to the fullest measure the potential of these young people through our advancement program. (Already we have blind, deaf, palsied, and retarded Eagle Scouts.) They can develop leaders who have confidence in serving and teaching boys who may be "different," but who first are boys. And, we can be more true to the Scout Oath and Law by providing nonhandicapped young people with an understanding and an empathy for others who are not as fortunate.

Let me give you just one moving example of what Scouting can mean to a family that has a member who is handicapepd. Just last month, we received the following letter in the national office:

"Dear Sir:

"I am the father of a boy who is a student at a school for the retarded and a member of Boy Scout Troop 464. Our family attended the Scout Show last Sunday.

"Being accepted as equals is not a moment which comes often in their lives. Being permitted to participate in the tug-of-war was a delight and to see them enthused, excited, but under perfect control was a heartwarming and encouraging sight for any parent, let alone a parent of those who participated." He said.

And then this father added:

"The Scouts have always had a very special place in my heart, and I have raised funds for various Scouting activities over the years. I now have had a chance to see those efforts come back a thousand fold. I will be sending funds to the troop to enable the 14 to be properly outfitted as true and complete Scouts and please count upon my support in future Scouting activities."

As an idea of what lies ahead, let me just mention three pioneering events or programs on the drawing boards:

1. At the 1977 National Jamboree one of the activities wil be a "Handicapped Awareness Trail." We think this has exciting possibilities.

2. At Philmont this coming July, an Explorer Post from Ottawa, Illinois, a mentally retarded and handicapped post, will participate in the High Adventure Camping program, and we're of course very interested in the outcome of this experiment.

3. At the National Catholic Committee on Scouting business meeting last month where the new Ad Altare Dei Award was approved it was agreed that the Philadelphia Archdiocese Ad Altare Dei Award program for the retarded would be modified for use by all Catholic troops throughout the country, and this is certainly a step forward for Scouting for the Handicapped.

As you know, the President of the United States is always the Honorary President of the Boy Scouts of America, and we are proud that President Ford was once an Eagle Scout. But if you reflect, Franklin Roosevelt served for 12 years from a wheelchair, Dwight Eisenhower suffered from two severe disabilities during his Presidency, John Kennedy overcame his back injuries to lead this country during his thousand days, and Lyndon Johnson came back from a severe heart attack to serve as Senate Majority Leader and President.

Who knows, how many youths today who may be considered "different" physically may rise to high public office and perform great service to mankind because of the initial opportunity of Scouting.

We can dream great dreams. We can provide the staff and the programs. We can urge and encourage. Only you can make it happen.

I salute you and wish you Godspeed in all of your endeavors.

DESEGREGATION AND THE CITIES—PART XII: HEW'S RECORD OF NON-ENFORCEMENT

Mr. BROOKE. Mr. President, last year the Senate's annual antibusing fight was built around proposals to restrain HEW enforcement of school desegregation law. In the end the Senate adopted amendments designed by Senator ROBERT C. BYRD and Senator BIDEN to limit HEW's authority to enforce the 1964 Civil Rights Act. It was the first time since 1954 that the Senate has clearly voted to limit school desegregation and it indicated a willingness to sharply curtail one of the most basic and important provisions of the 1964 law—the requirement that Federal subsidies be denied to institutions which violate the constitutional rights of minority group members.

Fortunately last year's vote was on an appropriation bill and the restrictions will expire with the new fiscal year. Before we risk permanently repealing part of the most important civil rights bill in this century, I hope we will think more carefully about the meaning of the change and the wisdom of destroying the one alternative to endless litigation.

The great irony of the vote to restrain HEW was the fact that HEW had not been enforcing the Civil Rights Act with any vigor since mid-1969. The record of nonenforcement in the South was so very clear, in fact, that the Federal courts found the Department guilty of intentional subversion of the law. In the extraordinary Adams against Richardson decision the District of Columbia Circuit Court of Appeals held that the record was so clear that no argument of administrative discretion could justify HEW's consistent failure to act against clear constitutional violations.

An exhaustive study of HEW's almost nonexistent enforcement record in the North reached similar conclusions. This study, by the Center for National Policy Review at Catholic University, found that HEW had been following policy of nonenforcement for years and that it consistently failed to act in the face of massive evidence of local violations. Thus the Senate's action restricting HEW authority was almost wholly redundant since HEW's policy for years had been to ignore its enforcement responsibilities in the cities.

The extent of HEW's withdrawal from urban desegregation was evident even in the operation of the relatively uncontroversial title IV program, which was intended to provide technical assistance to make desegregation work better. After HEW turned responsibility over to the courts in 1969 a number of Federal judges asked the HEW experts to assist in the design of sensible desegregation plans. In January 1972, however, HEW changed its policy and decided to deny such aid. This decision severely limits the expertise available to judges in developing a plan when the local school officials refuse to design their own.

Members of the Senate should be thinking about ways to use the resources of the executive branch to make the desegregation process work better, not engaging in meaningless and misleading action to restrain an agency that has already restrained itself. Everyone admits that courts are not the best place to restructure school systems. The entire process of desegregation worked far better and more rapidly in the South during the mid-1960's, when HEW played the central role. By striking at HEW's power to develop desegregation policies we only guarantee that the role of the courts in our school systems will continue to grow.

Today's insertions include a history of HEW's enforcement activities taken from a study prepared by the U.S. Commission on Civil Rights and an analysis of HEW's enforcement record in the North prepared by the Center for National Policy Review at Catholic University Law School.

Mr. President, I ask unanimous consent that these materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SELECTON FROM "TWENTY YEARS AFTER BROWN: EQUALITY OF EDUCATIONAL OPPORTUNITY"

(A Report of the U.S. Commission on Civil Rights, March 1975)

HEW AND SOUTHERN DESEGREGATION

The Civil Rights Act of 1964 provided additional support for the desegregation process through Titles IV and VI. Under Title IV, technical assistance may be given to applicant school boards in the preparation, adoption, and implementation of plans for desegregation of public schools. The title also provides for grants or contracts to institutes or university centers for training to improve the ability of teachers and other personnel to deal with special educational problems occasioned by desegregation. The Commissioner of Education may also make grants to local school boards, upon their request, to pay for staff training to deal with problems accompanying desegregation and for employment of desegregation specialists.

If efforts to secure a school district's voluntary desegregation failed, administrative enforcement proceedings under Title VI would be initiated. Title VI compliance procedures begin with a review of districts where data indicate substantial segregation or where complaints of discrimination have been filed. If deficiencies are found, letters of probable noncompliance which define the deficiencies then are sent to the districts involved. Negotiations subsequently are initiated with each district to secure correction of the deficiencies and development of a desegregation plan, although there are no time schedules for such negotiations or for followup reviews. If satisfactory results are not obtained through negotiations, enforcement action may be taken—either through administrative enforcement proceedings or referral to the Justice Department for litigation. The administrative enforcement proceedings include a hearing, a decision by an administrative judge, and an appeal process. If noncompliance with Title VI is found, Federal funds may be terminated. In short, Title IV represents the carrot and Title VI the stick.

An additional section of Title VI permits suits by the Attorney General, upon receipt of meritorious written complaints from parents that their children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws. A similar provision covers college admission and retention, authorizing the Attorney General to intervene in equal protection suits of public importance.

Following approval of the Civil Rights Act, with the Title VI provision for administrative enforcement, progress in desegregation accelerated as school districts sought to avoid termination of Federal financial assistance. Section 601 of Title VI provides:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Both the threat and the fact of termination helped to secure compliance from wavering districts so that funds made available under such legislation as the National Defense Education Act and the Elementary and Secondary Education Act of 1965 would not be lost.

Between 1964 and 1968, freedom of choice plans were the principal means school districts used to desegregate under U.S. Department of Health, Education, and Welfare (HEW) voluntary plans and court-ordered plans. Such plans permitted a parent or a child (if 14 years of age or older) to select any school in the district for attendance in the ensuring school year.

The HEW guidelines of 1965 required desegregation of at least four grades by September 1965. In 1966 the guidelines were amended to include specific percentages of desegregation for measuring plan effectiveness. The Title VI guidelines were again modified in 1968, providing that, if "under a free choice plan, vestiges of a dual school structure remain . . . additional steps are necessary to complete the desegregation of its schools," including the use of geographic attendance zones, reorganization of grade structures, school closings, consolidation, and construction.

The Court concluded that what the school board had done through its freedom of choice plan was simply to burden children and their parents with a responsibility which Brown II placed squarely on the School Board, such as zoning, fashion steps which promise realistically to convert promptly to a system without a "white" school and a "Negro" school, but just schools.

Although the Supreme Court did not expressly rule out the use of freedom of choice plans, the effect of the *Green* decision was to do so, since freedom of choice plans did not result in prompt conversion to a system without black or white schools "but just schools." By requiring the development of a plan that promised realistically to work immediately, HEW's position that terminal desegregation plans be implemented no later than the 1969–1970 school year was reinforced. There is evidence that HEW was prepared to recede, and in fact did recede, from this position under certain circumstances. Nevertheless, on balance it is clear that with the use of the guidelines and threatened or actual cut-off of Federal funds, desegregation increased for 5 years after passage of the 1964 Civil Rights Act, especially in the South.

Despite cautious use of the enforcement mechanism, HEW had made more progress toward desegregation than had been achieved through litigation in the 10 years following *Brown*. But the emphasis in Government enforcement of desegregation soon shifted as the policy of the new national administration, in 1969 and thereafter, apparently was to move away from the "administrative fund cut-off requirements and return the burden, politically as well as actually, to the courts for compliance . . ."

On July 3, 1969, the Attorney General and the Secretary of Health, Education, and Welfare reported that the Government was minimizing use of administrative enforcement under Title VI in favor of a return to litigation. In conformity with the statement, a change in Federal efforts to secure desegregation at the elementary and secondary level occurred.

The joint statement also declared that desegregation plans for school districts "must provide for full compliance now—that is, the 'terminal date' must be the 1969–70 school year." Yet, the statement continued, "limited delay" might be permitted: "In considering whether and how much additional time is justified, we will take into account only *bona fide* educational and administrative problems. Examples of such problems would be serious shortages of necessary physical facilities, financial resources or faculty." The two Cabinet members said that "additional time will be allowed only where those requesting it sustain the heavy factual burden of proving that compliance with the 1969–70 time schedule cannot be achieved; where additional time is allowed, it will be the minimum shown to be necessary."

In the same statement, however, more than a year after the Supreme Court's decision in *Green*, freedom of choice was declared an acceptable means to desegregate if the school district could "demonstrate, on the basis of its record, that . . . the plan as a whole genuinely promises to achieve a complete end to racial discrimination at the earliest practicable date.

The changed policy on enforcement of school desegregation was illustrated in the case of 33 Mississippi school districts. In July and August 1969, the Office of Education in HEW had drafted "terminal" desegregation plans for implementation in fall 1969. This was in accordance with a July 3, 1969, court of appeals' order which directed these school districts to cooperate with HEW in developing desegregation plans. The plans were to be submitted to the district court by August 11, ruled on September 1, and plans adopted by the court were to be implemented in the 1969–1970 school year.

The plans were submitted on August 11, as required. They called for an end to freedom of choice and, in almost all cases, complete desegregation in the 1969–1970 school year. Later in August, however, the Secretary of Health, Education, and Welfare wrote to the three district court judges of the Southern District of Mississippi, who were to decide which plans to adopt, and to a judge on the court of appeals. The Secretary requested that the submitted plans be withdrawn from consideration and that HEW be given until December to submit new plans. On August 28, 1969, the court of appeals suspended its previous order and postponed the date for submission of the new plans to December 1, 1969.

The Secretary's letter stated that the major reasons for requesting withdrawal of the plans were that "the time allowed for the development of these terminal plans has been much too short" and that implementation of the plans "must surely, in my judgment, produce chaos, confusion, and a catastrophic educational setback." The court of appeals noted, however, that the timetable established had been proposed by the Government and that Government witnesses had stated unequivocally that the timetable was reasonable.

Although, as a condition of the delay granted, school districts were to take "significant action" to desegregate in 1969–1970, the districts continued to operate under their ineffective freedom of choice plans. Private plaintiffs sought to vacate the postponement order, but Supreme Court Justice Hugo Black denied the request, at the same time inviting the applicants to "present the issue to the full court at the earliest possible opportunity." The petition for a hearing by the Supreme Court was granted on October 9, set down for argument on October 23, and decided October 29, 1969.

In the hearing before the full Court in *Alexander*, a case in which the Department of Justice intervened against black students, the Supreme Court refused to accede to the Government's request for delay, stating in a unanimous unsigned decision:

"The question presented is one of paramount importance, involving as it does the denial of fundamental rights to many thousands of school children, who are presently attending Mississippi schools under segregated conditions contrary to the applicable decisions of the Supreme Court. Against this background the Court of Appeals should have denied all motions for additional time because continued operation of segregated schools under a standard of allowing "all deliberate speed" for desegregation is no longer constitutionally permissible. Under the explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools."

The Court held that local school systems are constitutionally required to desegregate first and litigate later. By staying the implementation of plans for full desegregation, the court of appeals had illegally frozen the status quo of past discrimination, even if for a short period.

On December 1, 1969, following the Supreme Court's order in *Alexander*, the court of appeals, in *Carter* v. *West Feliciana Parish School Board*, ordered the Louisiana school board to adopt plans for desegregating faculty completely but authorized a delay in pupil desegregation until September 1970. Further review by the Supreme Court resulted in a January 14, 1970, unanimous unsigned opinion that stated:

"Insofar as the Court of Appeals authorized deferral of student desegregation beyond February 1, 1970, that court misconstrued our holding in Alexander . . . the judgments of the Court of Appeals are reversed, and the cases remanded for further proceedings consistent with this opinion. The judgments in these cases are to issue forthwith."

Although the Mississippi plans and those covered in *Carter* were implemented, HEW soon began to place primary emphasis on the first step in the enforcement process, namely, negotiation with school districts to secure voluntary compliance. However, few enforcement proceedings were initiated when compliance was not secured, and those proceedings already underway did not result in termination of Federal financial assistance, even after a determination of noncompliance. As a result, HEW failed to use its authority to achieve the objective established by *Alexander*, which was to eliminate dual school systems at once. In only 15 school districts have funds been terminated since 1968. * * *

Following *Alexander* and *Carter*, on March 24, 1970, the President issued a statement on elementary and secondary desegregation in which the question of busing was raised. The President cautioned that desegregation must proceed with the least possible disruption and emphasized the desirability of maintaining the neighborhood school principle.

Subsequently, in 1971, the President disavowed an HEW desegregation plan which included the transportation of children and restated his position. The President said that he "consistently opposed busing of our nation's school children to achieve racial balance" and that he was "opposed to the busing of children simply for the sake of busing." Finally, the President said that he had instructed the Attorney General and the HEW Secretary "to hold busing to the minimum required by the law."

The Supreme Court dealt with these issues the same year, in *Swann* v. *Charlotte-Mecklenburg Board of Education*. The Charlotte-Mecklenburg, North Carolina, school system is a consolidated one, including the city of Charlotte and surrounding Mecklenburg County. The plan approved by the district court and upheld by the Supreme Court in *Swann* attempted to desegregate the system by distributing students throughout the 107 schools of the district so that the schools' compositions reflected the overall racial pattern of the system.

In *Swann*, the Court noted that busing of students is "a normal and accepted tool of educational policy" and announced that "desegregation plans cannot be limited to the walk-in school." The Court, in effect, placed its approval on busing as an appropriate remedy for use in school desegregation. The Court carefully recognized that busing may be validly objectionable "when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process. * * *

Following the *Swann* decision, HEW remained inactive despite the mandate provided. *Swann* required, for example, appropriate affirmative steps to correct constitutional abuses by use of such techniques as noncontiguous zoning and transportation of students. The Court also had indicated that, although precise racial balance was not required to dismantle dual school systems: "in a system with a history of segregation the need for remedial criteria of sufficient specificity to assure a school authority's compliance with its constitutional duty warrants a presumption against schools that are substantially disproportionate in their racial composition."

In addition, the Court placed the burden upon the school district to justify the continued existence of any schools that are "all or predominantly of one race."

After *Swann* was decided, HEW attempted to ascertain which school districts had "racially identifiable" schools. Ultimately, 650 were identified, of which 300 were under HEW's primary jurisdiction. HEW then analyzed its data on these districts:

"A school system which is 45 percent black, and which has only one majority black school which is 52 percent black, (was) eliminated from the group subject to potential enforcement . . . Of the initial 300 districts, about 75 were eliminated on this basis alone at first review, leaving the balance for further analysis."

In the remaining 225 school districts having one or more predominantly minority schools, HEW did not shift the burden of proof to the school districts. It was unnecessary to satisfy HEW that the composition of the schools was not the result of the district's present or past discriminatory action, despite the fact that the racial composition of these schools could not satisfy the requirements of the Court.

Letters relating to *Swann* were sent to 91 school districts. In only 37 of these districts did HEW secure desegregation plans. In 3 instances administrative enforcement proceedings were initiated, and in 9 *Swann* was found applicable. The remaining 42 districts remained "under review" well after the commencement of the 1971–1972 school year, several months subsequent to the decision in *Swann*. The Office for Civil Rights director described the situation:

"In other words, in those cases where we didn't get plans that met Federal standards, we did not accept what was proposed. Instead, we held tight and are currently in the process of continuing our negotiations and law enforcement action against those districts."

The immediate desegregation mandate of *Alexander* and the insistence in *Swann* that schools having disproportionately minority enrollment were presumptively in violation, thus, were not acted upon by HEW, which permitted these districts to remain "under review." In 134 other districts, HEW did not even send a letter requesting an explanation of racially disproportionate schools. HEW attempted to secure compliance through persuasion and negotiation, and the Title VI enforcement mechanism fell into disuse. These conditions led to the initiation of *Adams* v. *Richardson*.

This suit alleged that HEW had defaulted in the administration of its responsibilities under Title VI of the Civil Rights Act of 1964. The district court stated on February 16, 1973, that, where efforts to secure voluntary compliance with Title VI failed, the limited discretion of HEW officials was exhausted. Where negotiation and conciliation did not secure compliance, HEW officials were obliged to implement the provisions of the Title VI regulation: provide for a hearing; determine compliance or noncompliance; and, following a determination of noncompliance, terminate Federal financial assistance.

The district court's decision was modified and affirmed by the court of appeals. Essentially, the district court order requires that HEW properly recognize its statutory obligations, ensuring that the policies it adopts and implements are consistent with those duties and not a negation of them.

Selection From Center for National Policy Review—"Justice Delayed and Denied: HEW and Northern School Desegregation, 1974"

IV. AN OVERVIEW OF THE CURRENT NEW NORTHERN SCHOOL DESEGREATION EFFORT

Current efforts by the Office for Civil Rights to enforce northern school desegregation . . . cover but a few districts of the 12,500 in the North and West. The districts themselves vary from those like Chicago with large black residential areas where busing is necessary to desegregate the system to rural districts like Bonner County, Idaho, where busing is taken as a matter of course for all children. The districts vary in size from Philadelphia and Detroit, with enrollments exceeding a quarter of a million children, to districts like Mountain View, Wyoming, and Wilkes-Barre Township, Pennsylvania, with less than 500 children. Superimposed on these wide ranges in size and geography are wide variations in racial composition. Many of the 12,500 northern districts like Phillipsburg, Montana, have no minority children at all or only a very small number. On the other hand, others, such as Newark, which is 72 percent black and 13 percent Spanish American, are overwhelmingly composed of minority pupils.

Thus, OCR's task has been to try to identify problems and the districts in which they exist, and to determine priorities. The office has tackled the task by analyzing statistics it receives annually from districts throughout the country and by scrutinizing the complaints generated by minority parents, teachers, and community groups. As a result of these efforts some 84 northern and western school systems have been visited for routine Title VI compliance reviews. * * *

This composite enrollment figure of 2.1 million pupils, the number of children covered by HEW compliance efforts in the North, overstates the actual reach of HEW activities. First of all, 187,000 of these 2.1 million children are enrolled in Pontiac, San Francisco, Evansville-Vanderburgh, and San Bernardino. In these districts HEW conducted reviews, but the schools were actually brought into compliance by the litigation efforts of private parties.

Moreover, as to one-third of the 2.1 million pupils, enforcement action has been taken over by the Department of Justice, which has instituted civil actions in federal court for the purpose of obtaining relief. . . . In short, only about 1.2 million pupils, only 255,000 of whom are black and less than 100,000 of whom are Spanish American, may be or have been affected mainly by HEW civil rights enforcement action in the North and West.

Most significantly, the 255,000 black pupils and 99,000 Spanish American pupils represent less than 9 percent of all black pupils and less than 5 percent of all Spanish American pupils attending public schools in the North and West.

Another way of assessing HEW's record is to compare the minority pupil enrollment of districts where the courts have found discrimination with the minority enrollment of districts where HEW has found discrimination. The latter includes both those in which HEW has made a finding of probable noncompliance and those in which it has secured compliance prior to a formal finding.

HEW has found discrimination in and sent letters of probable non-compliance to 22 northern and western school districts and has settled 3 others without sending a letter. As is shown in Table 2, below, the total enrollment of these 25 HEW districts is 554,000 pupils, of whom 105,000 are black and 48,000 Spanish American. The 20 districts found to be discriminating in private law suits involved 991,000 pupils of whom 348,000 are black and 56,000 Spanish American. Put another way, the efforts of private litigants have affected almost three times as many minority pupils as the actions of the federal agency charged by Congress with assuring there is no discrimination in federally aided public schools.

TABLE 2.—*Districts where discrimination has been found: A comparison of private efforts and HEW efforts*

	HEW	Private parties
Number of districts	25	20
Number of pupils (total)	554, 000	991, 000
Number of black pupils	105, 000	348, 000
Number of Spanish-American pupils	48, 000	56, 000

A second disconcerting fact is the steady decline in the number of reviews that HEW has initiated each year since 1968. HEW initiates a review by selecting a district with problems and writing a letter to the superintendent announcing the agency's intention to conduct an on-site review. HEW began conducting reviews in 1965 with Chicago. The agency initiated its second review in 1966 in San Bernardino, California, and in 1967, started two more reviews, Penn Hills Township, a Pittsburgh suburb, and in Wichita, Kansas. Beginning in 1968 when the northern and western school desegregation effort gained momentum because of congressional pressure and an increase in staff, the number of reviews picked up. In 1968, reviews were initiated in 28 new school districts.

Since 1968, the trend has been downhill. Although the number of staff continued to increase, the number of reviews initiated has steadily decreased. In 1969 reviews were initiated in 16 new districts; in 1970, 15; in 1971, 11; in 1972, 9; and in 1973, one. Part of the reason for the drop to zero after January, 1973, was the decision to initiate no new reviews until all existing reviews were completed and disposed of. In some cases that have remained unresolved for years, the data originally collected have become stale, and feelings of frustration have arisen among regional investigating teams who did the work. Much of the decline can also be attributed to the emergence of a new responsibility in 1970, that of reviewing thousands of districts receiving Emergency School Assistance Program funds. Nevertheless the fact remains that a steady increase of staff has brought with it a steady decline in initiating new reviews.

Another measure of the vigor of HEW in its northern effort is the rate at which cases proceed after a review is initiated. If any pattern at all is discernible, it is that the overwhelming majority of cases have moved at a snail's pace.

By July 1, 1973, of the 84 districts where reviews had been started, the cases of 52 remain open or unresolved. Of the 32 which have been closed, 10 were closed on the grounds that the evidence showing non-compliance was insufficient. Three more were closed after HEW accepted voluntary changes when the Title VI deficiencies were brought to the attention of school officials after the on-site reviews. Another four cases were closed when the Justice Department acquired jurisdiction over them. Five more cases were closed when private litigants successfully obtained relief by court order. Eight cases were closed after letters of non-compliance were sent to the districts and a satisfactory negotiated settlement was obtained thereafter. The other two closed cases went through an administrative hearing for the termination of federal funds. In one of these cases, Wichita, Kansas, the school board negotiated an acceptable plan after a decision unfavorable to them was rendered by the hearing examiner. In the other termination case, Ferndale, Michigan, the school board, after losing all appeals, had its federal funds terminated and still today refuses to desegregate a black elementary school.

All other HEW cases are still open, although many, ripe with old age, are somewhat inactive. This group of open cases, a total of 52 districts, has an average age in excess of 37 months. This means that, typically, more than three years have elapsed from the time of the initial review to the end of fiscal 1973.

In only 11 of the 52 cases has a letter of non-compliance been sent and of these only two—Boston and Mount Vernon, New York—have reached the administrative hearing stage. Four more have been stayed pending the outcome of private litigation. Three of these are suburban Detroit districts set aside by HEW on grounds that they might be encompassed in a metropolitan plan of relief being sought in the Bradley case. Since the Supreme Court recently reversed the lower court decision requiring metropolitan relief, HEW's stay effectively delayed and denied vindication of the rights of suburban black children for five years.

Thirty-seven (or three-fourths) of these cases are still under review, with no enforcement action at all. As will be discussed later, this pattern of protracted pre-enforcement review stems in part from problems in the Office of General Counsel. It should be noted that in all cases (even those in the hearing stage) the school district is still receiving federal funds.

Put another way, HEW conducted reviews in 84 northern and western school districts. In 10 cases HEW made a judgment that the evidence was insufficient to go further. In the remaining 74, relief had been obtained in 17 cases, but had yet to be obtained in 56 cases. * * *

The large number of unresolved cases is all the more striking because the overwhelming majority are not new, but old, cases that have been pending for years. OCR staffers concede that, in most northern and western school district cases, no more than a year should elapse from the time a district is reviewed by the regional office to the time a determination is made by OCR and OGC that the district is not in compliance. In fact, in eight early cases the time required to write the report and clear it through the national OCR office and OGC in Washington averaged considerably less than a year. However, from 1971 on, the administrative, investigative, and clearance process averaged more than 32 months. * * *

The excessive time lag in the above cases is exceeded only by the extraordinary delay in enforcement encountered in those districts where investigations went on for years and no findings were made at all by June 30, 1973. In 37 open school cases investigations were pending for an average of 33 months and the Office for Civil Rights had yet to send districts a letter stating the areas in which investigators had found the district in probable non-compliance.

The 3 cases being reviewed in Washington by the Office for Civil Rights desk chiefs, as of the end of fiscal 1973, had been there between two and four months, indicating very little lag at this point in the process.

The remaining 23 of the 37 cases were at the regional level. Some 13 of these 23 districts had been under review by the regional offices for more than two year as of the end of fiscal 1973.

In summary, the pattern seems to be that cases stay in the regional offices after initial on-site reviews for inordinate lengths of time. As will be explained later, sometimes the reason they remain there so long is for exhaustive investigation to meet the strict standards of the Office of General Counsel for clearance, and sometimes the reason is simply regional office procrastination. Once they do leave the regional offices, cases are quickly processed by the Desk Chiefs of the Office for Civil Rights in Washington before becoming bogged down again at the Office of General Counsel where delay tends to make the factual findings of the regional investigation obsolete.

Another key determinant in gauging OCR's alacrity in meeting its statutory responsibilities is the span of time between the dispatch of a letter of non-compliance to the district and settlement or the initiation of an administrative hearing. Twenty-two districts have received letters of non-compliance. Only four of them have been taken to an administrative hearing. The rest are either still negotiating or have reached some form of settlement.

The average time lag from a determination of non-compliance to the scheduling of an administrative hearing has been 18 months. The average length of time between the hearing and a decision by the hearing examiner has been 7 more months. As of July, 1974, one case—Mount Vernon, New York—has gone to the hearing stage, but not further; two cases—Ferndale, Michigan and Boston, Mass.—have gone beyond this stage; and one district—Wichita, Kansas—negotiated an acceptable plan three months after the initial decision by the hearing examiner. In the Ferndale, Michigan case, it took 12 months for the decisions of the hearing examiner to be affirmed by the Reviewing Authority. Even then, funds were not immediately terminated. Ferndale petitioned the Secretary of HEW to review the case. Several months later, the Secretary denied Ferndale's request for review. Ferndale then sought and obtained an additional month's stay of HEW's order cutting off funds in order to perfect its appeal for judicial review and to apply to the Sixth Circuit Court of Appeals for a further stay. Funds were finally terminated in June, 1972, some 42 months after the Office for Civil Rights had found the district in non-compliance. Ferndale is the only school district in the North and West which has had federal funds terminated.

Eighteen of the 22 districts found in non-compliance did not go or have not yet gone through an administrative hearing. Nine of the 18 were settled with the implementation of an acceptable plan to remedy the areas of non-compliance. The average length of time of negotiations before settlement was reached was 14 months. The remaining nine districts are still in the process of negotiating with the Office for Civil Rights. As of the end of fiscal 1973, the average length of negotiating time was 16 months. During the course of negotiations all school districts have continued to receive federal funds.

A final observation is needed with respect to the foregoing figures. Where average time spans are used they obscure the fact that many districts have been under review for even longer before receiving noncompliance letters, or have been negotiating with HEW for even longer before receiving notice of a hearing.

V. AN ANALYSIS OF SOME OF THE DEFICIENCIES IN HEW'S COMPLIANCE EFFORT

A widely accepted assumption concerning HEW's laggard performance is that political shackles have been placed upon the agency by President Nixon and his chief domestic policymakers. Politics unquestionably has played an important if incalculable role. But there are other, largely non-political, factors at work, as well. These include sloppy investigation work, bureaucratic caution, unbalanced staffing, and unrealistic requirements for clearing cases for action. The factors that have caused the compliance machinery to falter and foul up can be categorized under two general headings: (1) the failure of OCR to assert jurisdiction and investigate and (2) the inordinate delay or failure of HEW to act on evidence of discrimination.

A. Failure to assert jurisdiction

1. THE CHOICE OF WHICH DISTRICTS TO REVIEW

The Office for Civil Rights has tended in recent years to choose safe districts for review and declined to assert itself in large urban districts where racial isolation is the greatest. This was not always the case.

Beginning in 1966, all districts were selected for reviews by the Washington office, and decisions were based mainly on whether a complaint had been received about a district. For example, HEW staff chose to initiate reviews in Chicago, Boston, San Francisco, Wichita, and Poughkeepsie, New York, because local groups such as the NAACP had sent in complaints.

When the volume of complaints increased, however, the small staff could no longer handle them and so new procedures were adopted. Beginning in 1967, all new complaints were forwarded to the Justice Department for resolution. No one in HEW knows how many school districts were complained about because the complaints were neither screened nor logged. What is known is that of all districts referred to the Justice Department, not one was subject to a Justice Department lawsuit before 1968, and only four were sued by the end of that year.

It soon became evident that a systematic method of picking school districts was needed, dependent not on complainants but upon HEW itself. Regional offices were established in 1968 in New York, Chicago, Boston, and San Francisco, and regional staff was asked to suggest which districts in their areas should be selected for routine compliance reviews. Ultimately, selections were based on several factors. The districts had to have at least one school with an enrollment more than 50 percent minority; the districts had to be evenly spread among different states; and the districts had to be equally divided between Democratic and Republican congressional districts. And, most important, the district could not be so large as to tie up all the staff. * * *

OCR maintains that it has been able to identify and conduct reviews in all districts in the North and West where significant civil rights problems exist. The fact is, however, that even allowing for OCR policy not to intervene in districts where litigation is pending, there are many cities in the North where large numbers of school children are racially isolated, but where the Office for Civil Rights has not conducted reviews to determine whether racial isolation is caused in part by actions of school officials, past and present. * * *

4. *Giving cases to the Justice Department*

The Office for Civil Rights has relinquished its jurisdiction over cases not only when private litigation has begun in the district but also from time to time when the Department of Justice appeared to be interested in the district. A total of five northern district cases which HEW originally investigated have been requested by the Justice Department (generally because HEW has persuaded Justice to request them): Pasadena, California; Waterbury, Connecticut; Kansas City, Kansas; Omaha, Nebraska; and Chicago, Illinois.

The progress in these five cases has been painfully slow. The Waterbury, Connecticut, case was given to Justice because Justice was looking for good factual situations involving disparities in facilities between black and white schools. Although the case was forwarded to Justice in 1968 and Justice filed suit in 1969, a consent decree was not entered until June, 1973, and the first stage of relief under the decree is not scheduled to be implemented until September, 1975. HEW forwarded the Kansas City case to the Justice Department because it feared that no hearing examiner would buck *Downs v. Board of Education*, a 1964 decision concerning Kansas City holding that the Fourteenth Amendment only prohibits purposeful discrimination, and that plaintiff had failed to establish that school authorities acted with racial intent in segregating students. Newer cases including *Green* 1968, *Swann* 1971, and *Keyes*, indicate that a school board does not discharge its constitutional obligations by remaining neutral in the face of past discrimination. Although the Kansas City case was transferred to Justice in 1972, after *Green* and *Swann*, and Justice filed suit on May 18, 1973, after *Keyes*, the original complaint asked only for relief from faculty segregation, not pupil segregation. (It has since been amended.)

Omaha, Nebraska was another case of HEW's in which the Justice Department assumed enforcement responsibility. Despite the fact that HEW had completed an investigation of the district and cleared its findings with the Office of General Counsel, it took the Justice Department more than one and a half years to file suit. The delays in these tarnsferred cases can be attributed in part to the fact that despite HEW's lengthy investigations, the Justice Department has a policy of conducting its own investigations with personnel from the Federal Bureau of Investigation and its own attorneys. But even taking this into account, delays are sometimes extraordinary. In Chicago, the Justice Department took over enforcement responsibility from HEW more than half a dozen years ago. For all these years, Justice has been negotiating two issues—faculty desegregation and equalizing per pupil instructional expenditures—but no settlement has been reached and Justice has not filed suit. No negotiations have taken place on the issue of student segregation.

However one assesses the record of the Justice Department in handling school desegregation cases, it does not appear that HEW's practice of voluntarily relinquishing jurisdiction can be justified on grounds that referral to Justice is a means to speedy and effective relief for children who have suffered discrimination. Indeed, the result is to permit federal aid to continue for years to districts in probable violation of Title VI, notwithstanding HEW's primary duty to see that discrimination is ended in programs which it funds.

Legal problems

While a manpower shortage in OGC (HEW's legal office) is part of the problem, the main cause for delay in OGC is the quantum of evidence that OGC feels is necessary to meet the burden of persuasion in each northern and western school case. Under general principles of law, OCR bears the burden of persuasion as to issues of pupil segregation or other Title VI violations. OCR must convince the hearing examiner of the existence of each violation which it alleges.

All that is needed, however, is a preponderance of evidence to convince the trier of fact, even though there may be lingering doubts or uncertainties. No mathematical ratio or quantum of evidence is required. It is sufficient if OCR's case is stronger than the district's defense, though the scales drop but a feather's weight."

The Office of General Counsel, however, differs radically with this fundamental principle of law. OGC's attitude is best revealed in the Office for Civil Rights' training materials:

"A strong factual base is essential to any case and is even more essential in a Title VI case where the burden of proof is carried completely by the Department. Even in southern cases, where *Swann* has shifted the burden of proving one-race schools in formerly segregated systems are discriminatory to the school district (sic), HEW will continue to present the facts as if the burden was on the Department."

Instead of adopting the preponderance of evidence rule, OGC insists that the evidence be sufficient to create a virtually airtight case. To authorize the dispatch of a letter of probable non-compliance, the case must be not just convincing or highly probable but free of lingering doubt or uncertainty. Similarly, for OGC to take a case to a hearing after negotiations have failed, it insists that a preponderance of evidence is simply not enough. The evidence must be so overwhelming as to exclude reasonable doubt.

One result of this policy is that OGC has never lost a northern school district case. But another result is that OGC has imposed unnecessary data-gathering burdens and unnecessary delays on OCR, as documented above. And as a further result, OGC has been reluctant to take good cases to a hearing.

In addition to delaying enforcement proceedings, the pursuit of overwhelming evidence has overburdened regional staff investigators, requiring extra manpower and time to collect voluminous data. The unduly long delays encountered in many districts such as Fort Wayne, Indiana; Tucson, Arizona; Bakersfield, California; Colorado Springs, Colorado; and Flint, Michigan; for example, have been caused in part by the repeated insistence by OGC that minor gaps and small loopholes in information already compiled be filled so no lingering doubts remain.

A second legal problem is reluctance of the Office of General Counsel to take advanced legal positions or to venture outside clearly defined limits of school desegregation case precedents, despite the fact that this is one of the most rapidly developing areas of constitutional law. The OCR training manual section on legal matters states OGC policy: "No new law will be made in the enforcement of . . . cases pursuant to Title VI." In fact OGC is even unwilling to use precedents already available. Another section of the training manual flatly declares: "Some of the recent cases go beyond . . . the position of the Department." * * *

Contrasted with the court's treatment of what is required to find de jure segregation is the treatment by the Office of General Counsel of the same issue in Ogden, Utah. The Ogden school system has 28 schools and 15,163 pupils of whom 1,783 are Spanish American. Although the district is 85 percent Anglo white, several elementary schools were predominantly minority. In August, 1970, the superintendent was sent a letter of probable non-compliance because the district maintained three racially identifiable schools—Grant 82 percent, Pingree 81 percent, and Hopkins 65 percent minority—and because, due to the construction of Jefferson and the closing of Grant and Pingree, the district was making boundary changes effective fall, 1970, which would establish Jefferson's student population as more than ⅔ minority. On October 11, 1972, in an OGC memo that was partly responsible for the case being dropped, a staff attorney indicated considerably more was necessary to establish a case of de jure segregation.

In addition to ignoring case law which goes beyond positions taken by the Department and to requiring overwhelming amounts of factual evidence of pupil segregation before proceeding against a school district, the Office of General Counsel impedes Title VI enforcement efforts in relation to faculty composition. * * *

Time lag in the Federal fund cutoff

Even after the Office of General Counsel is satisfied that it has enough evidence to meet the burden of persuasion in a given school case, it may take a long time to subject a school district to the real possibility of federal aid termination. To this point, our discussion has primarily dealt with the timelag between HEW's initial entry into a district and the dispatch of a letter of probable non-compliance, or between the date of the letter of non-compliance and the commencement of a fund-termination hearing after negotiations fail. But there is further delay later on, between the time HEW goes to a hearing and the time when federal funds are actually cut off. While four districts—Wichita, Boston, Ferndale, and Mt. Vernon—have been taken to a hearing, only one—Ferndale—has had its funds terminated. Wichita negotiated an acceptable plan after the hearing examiner ruled adversely to the district; in Boston the administrative Reviewing Authority has affirmed the hearing examiner's determination of non-compliance, and in Mt. Vernon the hearing examiner has issued a decision of non-compliance, but no further action has been taken.

The Ferndale case was relatively simply, but it took a long time to terminate the federal aid. Ferndale had built an all black elementary school 46 years ago and had restricted it to blacks ever since. All but a few of the district's 400 black elementary pupils were assigned to this school, although there were nine other elementary schools in the system. Similarly, black elementary teachers were concentrated in this minority school. Below is a chronology from first review to final action:

Ferndale

October, 1968—Initial review held.

November, 1968—Report written.

December, 1968—Letter of non-compliance sent.

(date unknown)—District notified of a hearing.

July and September 1969, and April, 1970—Hearing held.

September, 1970—Hearing examiner finds the district in non-compliance.

December, 1970—Ferndale files request for review.

September, 1971—On appeal, the Reviewing Authority affirms.

November, 1971—OGC recommends Secretary decline to review.

April, 1972—Congress notified of cutoff to be effective in 30 days.

May, 1972—Secretary of HEW delays termination for 30 days to allow the district to perfect a petition for judicial review and to apply to the Sixth Circuit Court of Appeals for a further stay of the HEW order.

June, 1972—Order of termination becomes effective.

Federal funds were terminated in June, 1972, when the Sixth Circuit denied the district's request for a stay of the HEW order. Nevertheless almost three years elapsed between the time the administrative hearings began and the time the cut-off eventually came. . . . The practical effect of these actions, however, is clear. The message to Boston and Mt. Vernon school officials and others is that even after formal enforcement has begun there is no reason to fear an imminent cut-off of federal moneys.

C. Policy considerations

While HEW's failure to enforce school desegregation requirements is often attributed to political considerations, this report has shown that other considerations weigh heavily. But in one area—busing—politics has dominated OCR actions. The furor over busing as a means to desegregate schools has repeatedly surfaced as an emotional political issue in recent years. It reached new heights in April, 1971, when the Supreme Court in *Swann* v. *Charlotte-Mecklenburg Board of Education* ruled that the use of non-contiguous school zones and the busing of pupils are permissible tools for desegregating schools. The Nixon Administration had fought the case since 1970, when the Justice Department filed an *amicus* brief suggesting that the district judge had committed an abuse of discretion by ordering an "extreme" busing plan. But the Supreme Court, Mr. Nixon's own appointees included, unanimously overrode Administration objections.

The first test of how the Administration would react to Swann came a month later in the Austin, Texas, school desegregation case. The federal district court ordered the Justice Department to submit a plan for desegregating Austin schools and Justice turned to HEW's Title IV office for technical assistance. The plan developed by the Title IV office did not require racial balance as the Charlotte-Mecklenburg plan had but did provide for extensive transportation, necessitating the purchase of 100 school buses. The plan was screened and cleared by HEW Secretary Elliot Richardson, Attorney General John Mitchell, and two White House representatives, Edwin L. Morgan (an assistant to John Ehrlichman) and Special Consultant Leonard Garment. In July, the plan was submitted to the court, but the district judge rejected it in favor of a legally inadequate one drawn up by the board. The acid test then became whether the Justice Department would appeal.

On August 3, 1971, the Justice Department did appeal, but only after an extraordinary act of intervention by the White House. The White House made it known that Justice was disavowing the HEW plan in the course of its appeal. The President issued a statement asserting that he was against busing and had instructed Messrs. Mitchell and Richardson to have government officials hold busing to a minimum.

Three days later, Alabama Governor George Wallace announced that he would run for President in 1972 and that busing would be an important campaign issue. Mr. Wallace goaded the White House by sending a telegram urging the President to seek a Supreme Court ruling that busing for racial balance was unconstitutional. The White House responded on August 11, when Press Secretary Ronald Ziegler, in a statement to newsmen for the President, unveiled a strongly worded threat which rippled through government halls, especially those of HEW. He announced that government officials would lose their jobs or be transferred elsewhere if they went counter to the President's wishes by seeking to impose busing on school districts.

The effect these actions had on the northern school desegregation efforts of HEW is exemplified by what happened in the Evansville-Vanderburgh County, Indiana, case. Evansville is a city of 139,000 located in the southwestern tip of Indiana on the Ohio River. Its city-county school system has 42 schools with an enrollment of 34,000 pupils, 9 percent of whom are black. Until the time of the Austin busing plan reversal and the Ziegler threat, the Evansville school board had been under pressure. The board had received a letter of non-compliance in July, 1971 indicating that transfer policies had perpetuated the effects of segregated housing and school segregation by state law. Thus, of 37 elementary schools, nine were entirely white, ten or more were over 99 percent white. One of the elementary schools, Lincoln, was 99.8 percent black, retaining its original segregated status. Two other elementary schools, although not originally black, had now become so by allowing whites to transfer out. Further, there was racial discrimination in the assignment and promotion of black teachers. The Chicago OCR regional office persuaded the board to draw up a plan to be implemented by September 1. The plan, never publicly disclosed, called for the use of busing to bring all of the system's schools, not just the three black schools, into racial balance.

Then on August 3, President Nixon issued his statement disavowing the HEW drawn-up busing plan for Austin and ordered federal administrators to hold busing to the "minimum required by law," followed by the threat a week later. The Evansville school board thereupon withdrew its busing plan and sat back, waiting for OCR to react. School opened with no new desegregation plan. The case remained under study by OCR in Washington. Finally, in October, OCR Director J. Stanley Pottinger announced that no busing was necessary and that an exchange of students between Lincoln and two neighboring white schools within a radius of 1.2 miles was acceptable. The other black schools were to be closed, and the pupils to be dispersed to various white schools. No deadline was set for effecting the plan, despite the Supreme Court's admonition in *Alexander v. Holmes County Board of Education* for de jure segregated districts to desegregate "at once." Although the plan was formally adopted in November, the school board decided not to implement it in January, the beginning of the second semester, but to wait until the following September. Outraged members of the black community filed suit in federal court, but in May, before the issue came to a hearing, the school board adopted a more progressive revised plan and the parties filed a stipulation of dismissal of the suit. Then in August, 1972, a reconstituted school board rescinded the revised plan. Plaintiffs hurriedly re-opened the case and by September, 1972, got the court to reinstate the May plan, with orders to prepare a final county wide plan by January, 1973. In short, Presidential politics deprived Evansville's black children of their constitutional rights for an additional school year. * * *

VI. CONCLUSION

The theme that emerges from this investigation of HEW's performance of its legal duty to enforce the law of school desegregation in the North and West is that of delay—delay that has resulted in an effective denial of the fundamental rights of hundreds of thousands of children, and the granting of millions of dollars in federal tax funds to the school districts denying these rights.

This bleak picture emerges twenty years after the Supreme Court in *Brown v. Board of Education* declared that "in the field of public education, 'separate but equal' has no place"; ten years after Congress enacted Title VI of the Civil Rights Act of 1964, an expression of national dismay that constitutional rights were still widely denied and a mandate to HEW and other agencies to aid the courts in securing prompt and effective remedies; and five years after *Alexander v. Holmes County* in which the Supreme Court made clear the obligation of every school district to terminate de jure segregation "at once."

Segregation that violates the Constitution and laws of the United States is not confined to school systems south of the Mason-Dixon line. If any doubt existed on this question, it was removed by the Supreme Court's decision in *Keyes v. School District No. 1, Denver, Colorado* capping and confirming a host of lower federal court decisions which found *de jure* segregation in schools in the North and West. Thus, *Alexander's* urgency reaches into the North and West as well. But the command for immediate relief has not been implemented in HEW's offices of Civil Rights and General Counsel. Semesters slip into years and then into more years. Investigations may continue for three years before a district is advised that it is not in compliance with the law. Yet another year may pass before an acceptable plan is negotiated or negotiations are abandoned as fruitless. It may take 5 more months before the district is taken to a hearing. After the hearing is held, a year and a half may elapse to negotiate compliance, or to conclude the appeals and finally terminate federal funds. As a result of these massive delays, only a handful of children in the North and West have won their right to equal treatment in public schools through the efforts of HEW in the ten years the Civil Rights Act of 1964 has been in force. * * *

HEW's files literally bulge with documented evidence of violation of laws. This includes not only the assignment of children to segregated schools, but discrimination in the hiring and assignment of minority teachers, discrimination in the classifying and assigning of children to classrooms and failure to assist minority children with language difficulties or special learning problems.

HEW officials are aware that the evidence of violations of law exists; that is why they have failed to close files, in some cases years after the investigation began. Such paralysis in the face of this knowledge is a bureaucratic disease—whose consequences, unfortunately, afflict not bureaucrats but children. * * *

The drastic political limitations placed on busing by President Nixon and his White House staff, constitute the most prominent and publicized barrier to the agency's fair enforcement of the civil rights laws. And there is little question that the Nixon Administration's negative policy declarations have impaired enforcement action and demoralized the HEW civil rights staff. But political restraints are only part of the explanation of HEW's dismal performance.

A vigorous dedicated agency staff, committed to carrying out its statutory mandate, will test to the limit the constraints it operates under. This has not happened at HEW; integration that might have been brought about without raising a political storm has not occurred because the cases have never been brought to the point of decision. The fact is that as HEW's civil rights program has grown older it has become increasingly bureaucratized. * * *

As HEW's civil rights staff has grown, its work product appears to have diminished. Indeed, it is only the court order in *Adams v. Richardson,* directing HEW to take enforcement action against a large number of noncomplying southern school districts, that has injected the agency's civil rights recent operations with any life or sense of purpose. At present there is no court order or other external stimulus to prod HEW into performing its statutory responsibilities in the North.

Nor is there any action on the horizon that promises to alter the current situation.

SIR PETER RAMSBOTHAM AT THE UNIVERSITY OF MARYLAND

Mr. MATHIAS. Mr. President, one of the unique elements that distinguishes a capital from other cities in a nation is the presence of the diplomatic corps. These welcome sojourners with us add a breadth of vision and a depth and variety of experience to our civic life that few metropolitan communities can boast.

Washington is particularly fortunate because the prominent position of the United States in the world encourages other countries to send us their best representatives, and we are better for them.

This is certainly true of the present Ambassador of Great Britain, the Honorable Sir Peter Ramsbotham. He has been tested by service in a number of vital posts and in a series of critical situations, through each he has enhanced his knowledge and refined his wisdom. Since coming to the United States as Ambassador in 1974 and during his years here from 1953 to 1957 with the British delegation to the United Nations, he has traveled widely and tirelessly, observing and absorbing, asking questions and listening to our answers.

He has the faculty of being always ready to learn. Fortunately, for us, he is always equally ready to share his learning with us.

It is typical of Peter Ramsbotham that he would devote the time to prepare and to deliver the graduation speech to a class of 1976.

We of Maryland are proud that he chose to do this for the graduating class at the University of Maryland. I personally feel that his visit to Maryland was an enriching experience for all of us, not so much because he is the Ambassador of a historic and friendly power, but because he revealed to us through his clear intellect and articulate expression how a disciplined mind, a lively curiosity and a warm heart can combine to form a truly civilized man. He set, by his own example, a high standard for the class of 1976.

And I am sure that each graduate will long remember his "injunction to any would-be dissenters: that dissent—if you feel you must dissent—should be a contribution to, not a substraction from, the strength of your society."

I ask unanimous consent that Peter Ramsbotham's commencement address to the class of 1976 at the University of Maryland be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Courage of Dissent

(Address by the British Ambassador, the Honorable Sir Peter Ramsbotham)

It is a great honour to be invited to deliver the principal address at the 176th Commencement Exercise of this distinguished University of Maryland. Nothing could give me more pleasure than to bring the good wishes of the people of Great Britain to the State of Maryland and to its University, in the year when we are celebrating together the birth of the American nation and its great achievements in the two hundred years that followed.

There has been much talk this year about the winners and losers in 1776. As British Ambassador, I have often found myself questioned about British feelings, on this anniversary of one of our most notable defeats. Many Americans appear surprised that we are contributing so enthusiastically to your celebrations. Was not the United States born from a series of British mistakes? Even the American national anthem was inspired by a British defeat on Maryland soil. Are not the British, people ask, embarrassed by the memory of these disasters?

I do not try to re-write history when I reply to such questions. I sometimes ask whether it can really be considered a defeat to be released from controlling—from three thousand miles away—the most powerful collection of individualists that have ever been assembled within a single society. And I often remind people that we British have little difficulty in celebrating one of our defeats; they are all the more memorable for being so few.

But the important point to remember is that, whatever happened in those volatile times, our two countries could not be firmer friends than they are today.

You will know that the British make friends slowly—the first two hundred years are always the most tentative—but once we have made up our minds, it is hard to shake us off.

One of the values of the Bicentenary is that it encourages us to think about America in its third century, as well as in its first two. It will be a century of uncertainty. The challenges of uniting, and then extending, this vast country were huge; but they were, in a sense, uncomplicated challenges. A man could set his line and not deviate from it.

But the world of the next one hundred years will not be like that. The factors that affect the health and the livelihood of your people and of mine will be many times multiplied; and there will be intense and sometimes troubled debates about the courses we should follow. I believe we have the strength and the versatility to adapt to what is coming; but the pressures will be great.

In such circumstances, the younger people in Britain and America are right to ask what trust they may credibly place in their governments, and while they should not question the judgments and the actions of their authorities. In both our countries there is a tendency amongst the young—(which was not so prevalent in my generation)—to withhold the benefit of the doubt in judging those who are set in authority—the establishment—whether in politics, the administration, the schools and universities, the hospitals or whatever. But I also sometimes detect a feeling of disquiet that such dissent and such doubts may, in certain circumstances, be evidence of disloyalty and lack of patriotism. To what extent is that feeling justified? Can one speak today of the Courage of Dissent?

In a search for an answer to that question, I think it is profitable to look at the story of the dissenters of 1776, the Loyalists: some lessons can usefully be drawn.

The War of American Independence was not just about American Independence; nor was it just a War between two countries, America and Britain. For one thing, neither country was united about it, nor indeed united within itself. The United Kingdom had only become a Union seventy years before; and there was a considerable body of opinion in the mother country that sympathised with the aspirations of the colonists. Likewise, on the other side of the ocean, there were many American Loyalists; loyal, in and after 1776, to George III.

Historians cannot be precise about the number of the Loyalists. Probably about one-fifth of the American population, that is to say about half a million people were Loyalist at heart; and many more were loyal to the King when Independence came. They believed in the status quo. They included, but they were not confined to, customs officers, Admiralty officials, judges and Revenue officers, and that whole colonial bureaucracy that was familiarly described as "the friends of government". But they were, indeed, to be found in all the colonies and in every walk of life.

When in June 1776 a number of people were arrested in New York on suspicion of plotting to kill George Washington, they included the Mayor of New York, and some officials, but they also included farmers, tavern-keepers, two gunsmiths, two doctors, two tanners, one silversmith, one saddler, one shoemaker, 'a pensioner with one arm', and an unfortunate man described tersely as 'a damned rascal'. The majority of those loyalists who *settled Canada* were not parts of any Establishment. They were poor, they were without jobs, and most of them signed their names with a cross.

But if the Loyalists were not fewer in number than the Patriots (indeed probably the reverse), they were certainly less vocal, and less addicted to pamphleteering and protest. In large measure the Loyalists lost the battle for men's minds in America, lost it early, long before 1776; and in some measure lost it by default. Equally, they lacked the organisation, the capacity for riot and rebellion; lacked, too, the minute-men, prompt to come out to the cause, and the whole paraphernalia of revolution.

What then did they stand for, what did they believe in, other than straightforward loyalty to the King? Perhaps it was not necessary to believe in anything more than that in 1770. America then was part of the British Empire, the King was young, 'born and bred in Britain' as he was prompt to boast—and it was a significant boast, since several of his predecessors had been conspicuous by their very foreignness. He was "farmer George". A recent biography of King George III shows how unjustly maligned he has been. He was cultured. He was well-informed on American affairs. And he was sympathetic to the needs of his people. He was far from being the 'senile and inept monarch', disparingly described in the Declaration of Independence. In fact he was six years younger than George Washington.

The colonies, remember, were over eighty per cent British in racial character. And they were prosperous. The revolution had no natural momentum. It was the case for change that had to be made, *not* the case for the status quo.

The colony of Maryland, in those days, was blessed with a particularly generous share of English culture. The libraries of the well-to-do in Maryland at that time testify to tastes which had been cultivated in England. Many had a special predilection for the classics, with a preference for works of history and political thought. Maryland's literary product was penetrated with worldly wisdom and rationalistic thought. The Maryland Assembly excelled in the use of the language of English parliamentarianism.

But, if the colony of Maryland developed, along with the others, a culture that was modeled largely on a British pattern, it also shared with the other colonies an increasing movement of self-government in America. In a remarkably short space of time, the local assemblies engendered an atmosphere of autonomy, establishing themselves as true legislatures with powers to introduce and enact laws of many kinds. Even though these powers were balanced by the authoritative control of the Governor, derived from the mother country, the feeling grew that analogy and precedent had less force than the expression of the will of the people in the enacting and administering of the law.

Gradually, therefore, people were pulled in two directions.

Joseph Galloway and John Dickinson each came from a propertied family in Maryland. They were of almost the same age: Dickinson had been born in 1732 and Galloway in 1731. Each had married money, and was a successful lawyer. Each worked professionally in Philadelphia. Each feared the effects of Yankee levelling, and was regarded as, in essence, a Tory Why did Galloway go one way, and Dickinson go another, as the events of the 1770s rolled on? Joseph Galloway, who was Benjamin Franklin's earlier ally against the Penns in Pennsylvaia; Galloway, the wise thinker of 1774—(he had proposed the setting-up then of an American Parliament)—ended up as a Loyalist in London, criticising General Howe for losing the war, and claiming damages on a considerable scale. John Dickinson, a man of means, who volunteered to serve in the Continental Line, and helped to draft the Articles of Confederation became a vigorous champion of the rights of small states, and thus a Patriot. Like two streams on a peak of the Continental Divide, Joseph Galloway and John Dickinson began from approximate positions, and ended oceans apart.

We enter here the intriguing, but almost impenetrable, area of taste and preference, courage and cowardice, self-interest and opportunism, judgement and calculation, conscience—and sheer chance.

The intellectual conflict of 1776 was not between Whig and Tory, but between Whig and Whig, or, to use Burke's language—between Old Whig and New Whig. Both sides took as their texts the writings of the great English thinkers, Locke and Coke; and rested their case on the achievements of the Glorious Revolution of 1683: both sides favoured a balanced constitution, the harmonious order of ranks and classes, a religion that emphasised obedience and virtue, an acceptance of property as the basis of suffrage and office-holding. Before March 1776, all but a handful of Americans looked upon the British Constitution as their model of government. The differences were very narrow; to many Loyalists like Joseph Galloway of Maryland, this meant, primarily, loyalty to Crown and Governor. To Patriots, on the other hand, like John Dickinson, it meant primarily loyalty to colony and assembly.

Many Tories—that is to say Old Whigs—were quite as emphatic about the right of resistance to tyranny as were the New or Radical Whigs. American Whigs stood for the same rights of property and trade, the same respect for charters, the same control of taxation which had been the backbone of Whigism in seventeenth century England.

The influence of John Locke was strong, yet this was Locke with a difference. Locke had been emphatic on the importance of the centralised character of Parliament. He believed in a supreme power in the State, and in the necessary existence of one legislature. To him, irrespective of the size of the Atlantic, the authority of the British Parliament was co-extensive with the Empire; there could be no 'colonial' Parliament and no division of sovereignty. This point was also made—uncompromisingly—by William Blackstone, whose first volume of Commentaries on the Laws of England came out in the same year as the Stamp Act. "There is and must be," he wrote," in every state a supreme, irresistible, absolute and uncontrolled authority in which the rights of sovereignty reside, and this supreme power is by the Constitution of Great Britain vested in the King, Lords and Commons".

Thus the Tories in America cited Locke for one reason, to emphasize the supremacy of the Crown in Parliament, and the rights of Parliament against the Crown: while the American Whigs cited Locke for another reason—they had their local colonial assemblies in mind, and it was for these that they demanded liberty. But it was a distortion, because the authority Locke supported was that of the British Parliament. And yet all this has not prevented Locke and Blackstone from being regarded, in later years, and indeed today, as mentors of the laws and liberties of the United States.

Federalism and the notion of divided sovereignty were still strange ideas in the eighteenth century. Even amongst the Founding Fathers, drafting the Constitution thirteen years later, there were many who did not believe that republicanism and federalism could last very long in a vast and unmapped continent. The Anti-Federalists argued that Sovereignty was indivisible. In the eyes of the political nation in Britain, the assemblies in the New World were not mini-parliaments curbing royal governors, as they saw themselves. They were no more than "municipal corporations", dependent on the will of the Mother Parliament in London and entirely subordinate to it. Since the majority of the people of Britain at that time were not themselves represented in the House of Commons, there was no case that was genuinely sustainable for having an elected parliament in North America, nor for having American MPs in the House of Commons in London. Distance and slowness of communications prevented that anyway.

So we can call the Loyalists the First American Conservatives, the first natural pessimists; those who believed that the visions of the Founding Fathers would not, could not, work out as those idealists dreamed, and who knew from a knowledge not only of books, but of human nature, that man is imperfect, addicted to error, acquainted with sin. Many of the Loyalists were the doom-watchers of their day. They saw the trends of the future, and judged they would not work, and they would have none of it.

And they suffered for their views. Indeed they were known at first as "the American sufferers". They went into exile, 60,000 of them, to the West Indies; to Canada, whose Founding Fathers they are; to London, Bristol, Birmingham; 8,000 of them settled in Britain, and some of the Blacks went on to Sierra Leone. There were more emigrés from America per head of population than from Revolutionary France. At least 5,000 of them took refuge in Florida, believing that it would stay British; only to find that in the Peace Treaty of 1783 Britain agreed—in order to retain Gibraltar, to give Florida back to Spain, and so they had to move on again.

History is not kind to failures, and it has rarely been fashionable to write the story of the unsuccessful. Today, however, history from the bottom up has become acceptable, even perhaps in fashion. As sufferers and exiles, as failures, as men and women who agonised and then guessed wrong, the Loyalists offer some corrective to the success story of the Yankees.

Our world today is disturbingly familiar, with loyalty oaths and guerilla wars, with charges and counter-charges of treason and loyalty, spies and counter-spies. The United States has again, in recent years, faced the question of whether it is a punishable offence for the individual to follow the dictates of his conscience rather than the requirements of his Government. The debate is a sharper one here than in my country: The British are an older, more tightly-knit society, whose strength as a nation has been tested from outside more often, century for century, than the United States. The story of your birth as a nation, and of the opening up of your vast continent, has illuminated more dramatically the qualities of determination, inventiveness and vigour inherent in the American character, which accentuate the strength of will of the individual.

Two hundred years ago, the signatories to the Declaration of Independence held certain truths to be self-evident. But behind that statement lay an assumption that every American was capable of perceiving these truths for himself; that each of them bore a certain responsibility, as an individual, for a continuous relationship with his government. What could not be deduced from the statement of principles in the Declaration was that there were specific political consequences that followed. It turned out that different individuals did have different moral apprehensions; and some of these apprehensions were wide enough apart to allow for almost directly opposite interpretations of the obligations of the colonists in the dilemma they faced.

Widely varying opinions about the obligations of the citizen are no less a modern phenomenon; indeed, no democracy is fully alive without such a debate. It is a question of the degree to which dissent is taken and the country's need for unity at the time. The parallels between Britain's war with the colonies in the 1770s and the American war in Vietnam in this last decade have been pointed out by modern historians. Both wars raised painful questions of judgment and balance, of courage and loyalty. There is a time when dissent and pacifism are intolerable, when a nation is fighting for its life. To encourage disunity in such circumstances can be treason. But there are other times when it is possible to afford the luxury of debate and disagreement.

What, then, is the criterion by which we should judge the behaviour of the dissenter? By the fervour of his convictions? By the firmness of his courage? By the worth of the proposed alternative?

We are reaching out here to the extreme point of perspective, where a people can effectively pass judgment on themselves. But it is well to remind ourselves that the relationship between authority and those dissenting from it may, at a time of crisis, be a decisive factor in the survival of the community.

Philosophers and historians have pondered over these problems for millenia, and there is little I can add. But I would leave one thought in the minds of the young people here today—as an injunction to any would-be dissenters: that dissent (if you feel you must dissent) should be a contribution to, not a subtraction from, the strength of your society. There should be a firm element of thought and courage in the foundations of your action. Democracy rests on debate, not on mindless opposition. In order to preserve the freedoms that we have, there are freedoms which we do not have, which we must deny ourselves; the freedom, for instance, to escape from the interest which society (any society) has in you, as an individual and as a contributor.

If your argument measures up to the most stringent test you can subject it to, in its relationship to the truth and to the needs of your country, then follow it with all the courage at your command. You may not be remembered for your stand: the Loyalists of 1776 were the first in American history to pose the question of what loyalty is; and to what Americans should be loyal. They lost, and all but disappeared, and history for almost two centuries has passed them by. But the question has recurred, from Lexington to Fort Sumter—to Saigon; and will occur again in the future.

I believe it will remain at the very heart of the struggle for the survival of democracy in the world; a struggle in which the leadership of the free world will fall upon the shoulders of your generation. And it is within your country—the greatest experiment in democracy that the world has seen—fostered by the training to think for yourselves (which is the blessing of a university education), that the courage of dissent can be most nobly matched with the nation's highest callings.

THE SPIRIT OF LIBERTY

Mr. SPARKMAN. Mr. President, in this Bicentennial Year, it is appropriate to recall some of the great occasions of our history, as a reminder of the past and an inspiration for the future. With this in mind, I ask unanimous consent to have printed in the Record for the benefit of all its readers, in and out of the Congress, one of the most illuminating and moving statements of American philosophy that has ever been given. I refer to "The Spirit of Liberty," an address given by Judge Learned Hand, of the U.S. Court of Appeals for the Second Circuit, at a ceremony on " I am an American Day" in Central Park, New York, in May of 1944.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Spirit of Liberty

We have gathered here to affirm a faith, a faith in a common purpose, a common conviction, a common devotion. Some of us have chosen America as the land of our adoption; the rest have come from those who did the same. For this reason we have some right to consider ourselves a picked group, a group of those who had the courage to break from the past and brave the dangers and the loneliness of a strange land. What was the object that nerved us, or those who went before us, to this choice? We sought liberty; freedom from oppression, freedom from want, freedom to be ourselves. This we then sought; this we now believe that we are by way of winning. What do we mean when we say that first of all we seek liberty? I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to save it. And what is this liberty which must lie in the hearts of men and women? It is not the ruthless, the unbridled will; it is not freedom to do as one likes. That is the denial of liberty, and leads straight to its overthrow. A society in which men recognize no check upon their freedom soon becomes a society where freedom is the possession of only a savage few; as we have learned to our sorrow.

What then is the spirit of liberty? I cannot define it; I can only tell you my own faith. The spirit of liberty is the spirit which is not sure that it is right; the spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias; the spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of Him who, near two thousand years ago, taught mankind that lesson it has never learned, but has never quite forgotten; that there may be a kingdom where the least shall be heard and considered side by side with the greatest. And now in that spirit, that spirit of an America which has never been, and which may never be; nay, which never will be except as the conscience and courage of Americans create it; yet in the spirit of that America which lies hidden in some form in the aspirations of us all; in the spirit of that America for which our young men are at this moment fighting and dying; in that spirit of liberty and of America I ask you to rise and with me pledge our faith in the glorious destiny of our beloved country.

AN INTERVIEW WITH FEDERAL RESERVE BOARD CHAIRMAN ARTHUR BURNS

Mr. TOWER. Mr. President, Federal Reserve Board Chairman Arthur Burns was recently interviewed by the editors of U.S. News & World Report. As everyone knows, Dr. Burns is not only Chairman of one of the most important financial bodies in the world but is also one of the world's leading experts in economic and financial matters.

This interview with Dr. Burns, which appeared in May 17, 1976, issue of U.S. News & World Report, covered a broad range of economic subjects, and his opinions in each of these areas should be given careful consideration.

In my opinion, one of the most significant points which Dr. Burns made during the interview is that money supply growth will have to be gradually reduced from what it has been if we are to ever regain general price stability in this country. In Dr. Burns' opinion, this would have a significant impact on interest rates. As Dr. Burns noted:

> I think that once people become fairly convinced that the rate of inflation not only has come down but is going to stay down—once this conviction spreads and grows among the people—very powerful forces making for lower interest rates will come into being, particularly in the long-term market.

I believe that Dr. Burns' concern over the effect which monetary policy can have on inflation and the effect which inflation, in turn, can have on interest rates is well placed. For this, and other reasons, I commend Dr. Burns' remarks to the Members of this body and ask unanimous consent that the interview with Chairman Burns be printed in full in the Record.

There being no objection, the interview was ordered to be printed in the Record, as follows:

[Interview with Arthur F. Burns, Chairman of the Federal Reserve Board]

Where the Economy Goes From Here

Q. Dr. Burns, where does the economy of this country go from here?

A. If we have learned our lessons, an era of lasting prosperity is in prospect.

Loose financial practices prevailed in our country from about 1965 through 1973 and into 1974. We first had speculation in corporate take-overs; then speculation in the stock market; later still, heavy speculation in the real-estate market and, finally, speculation in inventories. And these speculative waves were partly overlapping.

During this period, inflation got out of control, and a deep recession inevitably followed. We're all, I think, a little wiser now than before. We realize that the basic source of our inflationary problem was the tendency of the Federal Government to run large deficits, year in and year out. And we know that as a result of this lack of financial discipline, the strength of our economy was undermined and that a severe recession occurred.

We now know that the business cycle is still very much with us; that fine tuning of the economy is as yet an unattainable goal; that recessions are an ever-present danger, and that a return to rapid inflation—if we allow that to happen—will bring on new economic trouble, perhaps even greater trouble than we've gone through recently. I see a mood spreading in our country to avoid this kind of experience.

The Congress is now following new budgetary procedures. I think this is one of the most promising developments that we've had in our country in a long while. There also is a mood in the Congress at the present time to experiment with zero-base budgeting. That would be a very salutary step to take, and I believe it will be taken before long.

We at the Federal Reserve are pursuing a moderate course of monetary policy. We're firmly resolved not to permit money and credit to expand at a rate that might release a new wave of inflation. Let there be no doubt about that.

A new mood is also spreading among private citizens. Our business people, our bankers, even our trade-union leaders have learned a lesson. The recovery of our economy is moving along in balanced fashion.

If we avoid the temptation to overstimulate the economy; if we realize—as many people now do—that the current economic expansion has developed a momentum of its own; if we avoid any further governmental stimulation at this time and prepare to apply some governmental restraint later on; if we keep all that in mind, we may move into an era of lasting prosperity—an era that this country deserves.

Q. How much danger is there that inflation will get out of hand again this year or next?

A. I don't think there's much danger this year, but we'd better watch our step next year.

Q. What do you mean?

A. Industrial raw-material prices have been advancing fairly briskly for well over a year. And if you put aside erratic items such as foodstuffs and fuels, we find that wholesale prices and consumer prices generally have been rising fairly steadily at an annual rate of about 6 or 7 per cent since the middle of last year.

Moreover, wage increases are still proceeding at a pace well above the rate of increase in productivity. Some new collective bargaining settlements are being made with cost increases that average approximately 10 per cent at an annual rate.

With wage costs rising and the economy continuing to advance, there is a fair chance that price increases will multiply and we may have trouble on the inflation front in 1977.

Q. Do federal deficits contribute to the danger of inflation?

A. With the economic advance gathering momentum, the Federal Government, unless it gets the budget deficit down sharply, will be adding to the inflationary danger.

What we have to do is to reduce the deficit, and we must also keep the growth of money and credit at a moderate rate. That is the way to return to general price stability. Unless we do that, inflationary expectations may worsen, and our country would be headed for new and perhaps more-serious trouble than we've yet had.

Q. Do you mean another recession?

A. Yes. If we were to return to double-digit inflation, that recession could be more severe than the one we've just gone through.

Q. Is there a chance that the recovery will be halted because the Federal Reserve is restraining the availability of money and letting interest rates go up?

A. We're not restraining the availability of money. Pay no attention to that kind of talk. The country is awash with liquidity.

You know, all this talk about the growth of money misses the point that what is important about money, particularly in the short run, is the willingness to use it—not the size of the stock of money or the rate at which the stock is growing.

Q. What's holding that back?

A. With confidence returning, nothing is holding back the willingness to use money.

In fact, the turnover of existing money balances has been moving up at an extraordinary pace. We've been able to finance a rapid economic expansion, along with declining interest rates, with only a modest rate of growth of the money supply. The basic reason is that confidence has returned. People are feeling better about their future prospects and, therefore, are using their existing cash balances more freely.

Q. Is that true for corporations as well as individuals?

A. Sure. We all live in the same world.

Q. And you're afraid that a return to *double-digit* inflation would destroy this confidence—

A. I don't think there is any doubt about that. Look at our own experience in 1973 and 1974. Look at Great Britain and Italy today.

The three major countries that, by and large, have had the best economic performance in the postwar period are the United States, Germany and Japan. And the average inflation rate in these countries has been lower than in most of the rest of the world.

Q. Many economists say the U.S. has a built-in inflation of around 5 or 6 per cent a year. Do you agree with that?

A. I might set the figure a little higher than that—but, in any event, the inflationary bias in our country can and must be corrected.

Q. What should we be looking for in trying to figure out whether this recovery will run beyond mid-1977?

A. We should be thinking of economic balance. The recovery thus far has been well balanced except for a lag in business-capital investment, but there are increasing signs that business-capital investment will experience a significant expansion before this year is over.

We should be watching inventories. If inventories begin increasing rapidly relative to sales, that could be a sign of trouble for the future.

We should certainly be watching the relation between costs of production and prices. If we see the rate of inflation quickening, we should anticipate trouble a year or two down the road.

If we see consumer credit expanding at a rate that is well above average, that may be a sign that consumer spending, particularly for durable goods, will turn sluggish before long.

In short, we have to watch numerous indicators and try to judge whether reasonable balance is being maintained among the major economic factors.

Q. How do you as an economist decide whether any major segment of the economy is getting out of balance?

A. Well, being a student of the business cycle, I've made a study of historical patterns: what the typical experience has been during previous business-cycle expansions. If the economy is deviating fairly significantly from those norms, that gives me some clue to the future.

Q. Is there a minimum rate of inflation which is sustainable over a very long period of time?

A. I doubt it. We should aim at price stability—that is, a zero rate of inflation. If we set as our goal a rate of inflation of 2 per cent or 3 per cent a year, as some have suggested, we will exceed that figure and get into trouble again.

Q. Is it politically possible to put an end to inflation altogether?

A. I think we should strive for it.

Q. Would some form of guidelines or incomes policy be helpful in fighting inflation?

A. I would not like to see a return to mandatory price and wage controls. They rarely work well, even for a short period, and they never work well for a long period.

I would, however, be inclined to breathe a little more life into the present Council on Wage and Price Stability by giving it the authority to delay proposed price and wage increases for a short period—perhaps 30 to 45 days.

I would hope that such a Council would limit its activity to price and wage increases in key industries. It could hold public hearings, make recommendations and follow them up to see if they're being observed. But it should not go beyond that.

Q. Wouldn't mandatory wage-price controls be the next step?

A. I would consider that a very long step. We don't have to take it, I wouldn't want to take it, and I would hope we never take it.

Q. What's the real obstacle to getting rid of inflation?

A. I think it's mainly a political and psychological problem. The main source of inflation is the tendency of modern governments to expand their outlays at a rapid rate in response to incessant demands from the electorate.

Governments nowadays try to solve almost every economic and social ill by spending money. With expenditures increasing faster than revenues, our own Government has been persistently paying out a great deal more to the public than it takes in from the public by way of taxes.

In the past 10 years, including the fiscal year that is just coming to a close, the accumulated deficit under the unified budget comes to something like 220 billion dollars. If you add in the off-budget outlays and the outlays of Government-sponsored enterprises, as I think you should, the accumulated-deficit comes to about 300 billion dollars.

This has been the main cause of our inflation since the mid-60s.

Q. What happened to the idea that these massive deficits would soak up all the available capital in the country and make it difficult for business to finance needed investments in new plant and equipment?

A. That's an unfinished story.

The demand for bank credit by private enterprises diminished during the past year. A lot of business corporations permitted their inventories to run down; their profits, meanwhile, were improving.

Furthermore, they were able to borrow substantial sums in the capital market and to float stock issues in large volume. So the pressure for bank loans that many people expected did not develop.

With the economy continuing to expand and with the Federal Government still running a huge deficit—having to borrow almost as much this calendar year as it borrowed in 1975—there could be some "crowding out" before long. The best way to avoid that, or to minimize this danger, is to reduce the budget deficit sharply.

Q. Has the Federal Reserve taken steps to tighten credit?

A. We have modified our monetary-growth targets very slightly.

However, I have no way of knowing whether the money supply will increase less rapidly in the months ahead than in the preceding months. What the Federal Reserve has indicated is simply this: The recovery has now been running for a full year. We're looking ahead to another full year of expansion, and a slight reduction in the rate of growth of the money supply would thus be logical. Whether that will actually occur or not is still uncertain. Our projections for the monetary aggregates are specified as ranges. Over much of the past year, we've been well below the lower limit of the range. It is hard to say where we will be three months from now or a year from now.

Contrary to widespread opinion, our control over the money supply is quite limited over short periods.

Q. We get the impression from bankers that there is plenty of money for loans. Is that the way you see it?

A. I would agree with that. As I've said, this country is awash with liquidity.

Q. When you announced slightly lower money targets for the Federal Reserve, you added that "further downward adjustments will be needed." Does that mean we can look for slower monetary growth and higher interest rates later this year?

A. What I had in mind is that if we're ever to regain general price stability in our country, the rate of growth in currency and demand deposits, instead of being in the 4½ to 7 per cent zone, will eventually have to come down to something like 1 or 2 per cent a year. That is something we should strive for, not this year but gradually over the next few years.

Q. Would you say the bond market found your policy statement reassuring?

A. Yes. They're sensible people.

They regard the Federal Reserve as a thoroughly responsible institution. They know that we will act cautiously, and that nothing we have said or done threatens the stability of the bond market.

Q. Does your policy imply that short-term interest rates have seen their lows for the foreseeable future?

A. Not necessarily. We have merely signaled an intention to pursue a monetary policy that will prevent any re-igniting of inflationary fires in this coutry.

WHY INTEREST RATES COULD FALL

Q. Are higher interest rates to be expected as the recovery progresses?

A. All that I can tell you is that, historically, interest rates have moved with the business cycle, tending to rise during periods of business-cycle expansion and to decline during periods of business-cycle contraction.

Experience thus far in the present upswing of the economy has been unusual. Interest rates, instead of rising, have actually come down during the past year.

As for the future, I would not venture a prediction. But I would not lose sight of the fact that history has something to teach us. Nor would I lose sight of the fact that recent experience, which deviates from historical patterns, also has something to teach us. Actually, I think that once people become fairly convinced that the rate of inflation not only has come down but is going to stay down—once this conviction spreads and grows among the people—very powerful forces making for lower interest rates will come into being, particularly in the long-term market.

Q. Are fiscal and monetary restraint all that is needed to curb inflation, or are there other things that ought to be done?

A. There is also a range of structural policies that we need to follow. Far too much attention is given to monetary and fiscal policies, while structural policies are neglected.

Q. What kind of policies are you talking about?

A. The concept is very broad. Let me give you a few examples. First of all, we need to improve productivity in our country. The trend of productivity has flattened out, partly because people aren't working as hard as they used to.

Q. How can that be improved?

A. One way of improving the trend of productivity is to stimulate greater investment in modern equipment. More modern facilities will help to enlarge the output per manhour.

As for getting people to work harder, there are habits that will have to be changed. We still have featherbedding in many industries. Absenteeism has been increasing. So have the number of holidays and the length of vacations, the frequency of coffee breaks and their duration. These are habits that can be changed.

"SLOW THE PACE" OF COSTLY PROGRAMS

Q. In addition to greater productivity, what other changes are needed?

A. Environmental and safety programs have been pushed very intensively in the last few years, and they've been running up costs in numerous industries. Without giving up our environmental and safety objectives, we can slow down the pace at which we expect progress in those areas.

Next, we ought to try to increase employment and reduce unemployment by changing some of our labor-market policies and not rely so heavily on expansionary fiscal or monetary policies.

Q. What do you have in mind there?

A. One way would be to cut back on our unemployment-insurance programs. They've become too liberal. Many people now are able to draw unemployment insurance for a period of 65 weeks. Such a long duration tends to increase the unemployment rate, as various studies have indicated.

Moreover, the minimum wage ought to be reduced for teen-agers, many of whom are being priced out of the labor market.

We didn't have a serious teen-age unemployment problem before the federal minimum wage was enacted. Japan doesn't have any teen-age unemployment problem now. In Japan, youngsters are underpaid relative to their productivity, and therefore the demand for teen-age labor exceeds the supply. In our country, we have just the reverse.

We've also talked for years about establishing computerized job banks, so that the labor market would be better organized and frictional unemployment could be reduced. But we haven't done this on the scale that modern technology makes possible.

Q. Should the Federal Government hire the unemployed?

A. Well, if it were to do it my way—

Q. What's your plan?

A. You know, we've had debates for many years about what rate of unemployment corresponds to full employment, and all kinds of numbers are bandied about. To my mind, we as a nation should be aiming literally at a zero rate of involuntary unemployment. To accomplish this, besides encouraging private enterprise and investment, the Federal Government may need to serve as the employer of last resort.

The wage paid by the Government, however, should not be so attactive as to blunt incentives to find a job in private industry. The wage that would be appropriate for this purpose, I think, must be somewhat below the minimum wage.

I say that because we have something like 7 million people in our country who, at the present time, are working in the private sector at a wage equal to or below the minimum. If the Federal Government, acting as the employer of last resort, were to pay more than the minimum wage, there could be a large exodus of individuals from private employment into governmental work. That, I think, would weaken private industry and burden the Government and taxpayers unduly.

Q. Does your concept envision taking many people off relief and forcing them to take jobs?

A. Yes, it does. And it also calls for reducing drastically the length of time that an individual could draw unemployment insurance. I've suggested a period of 13 weeks.

Q. Is the country ready for that?

A. No, I don't think it is. Conservatives are afraid of it because they fear that reliance upon Government would become even greater than it is at the present time, and that budget expenditures would grow if such a responsibility were assumed by the Federal Government. Liberals are opposed to my scheme because they would like to have the Government pay prevailing wages, or something close to that.

However, I wouldn't be surprised if a plan such as mine received increasing support 5 years from now or 10 years from now or 20 years from now.

The character of our society has changed. Ours is now an urban society. Very few of us have folks back on the farm with whom we could stay and live for a while. And family life is no longer as close, as intimate, as it once was. People live preponderantly in cities, and many lead lonely lives.

When an economic society reaches a state such as that, the Government—in the interest also of economic and political stability—should seriously consider undertaking the responsibility of becoming an employer of last resort.

It should do so, however, in a manner that will respect free private enterprise and in a manner that will not burden the federal budget.

I think if my scheme were applied, the added cost to the Government might well be nil, because there would be large savings in welfare payments, unemployment-insurance payments and the like.

Q. Is it possible that your scheme would eventually run out of control, as Congress came under pressure to raise the wages for these Government jobs?

A. Yes, there is. The wage paid by the Federal Government might be below the minimum at first, but then be increased year after year through congressional action. Congress has been known to do things like that. Conservatives fear this, and rightly so.

To prevent such a "development," we might need a constitutional amendment providing that, when the Government is acting as an employer of last resort, this special wage would be linked irrevocably to the minimum wage.

ENERGY PLANS: BIG TALK, LITTLE RESULT

Q. Dr. Burns, do you think the U.S. still needs to worry about an energy problem?

A. I think this country has a very serious long-range energy problem. We've talked a great deal about energy independence, but we've done very little about it.

As things stand now, this country is at the mercy of what a few foreign countries may decide to do about the price of oil or about the amount of oil they are willing to sell us. Our dependence on oil imports is growing, while our production of oil and natural gas is declining. We are enjoying ourselves once again without worrying about queues at the gasoline stations.

Q. Would you favor imposing quotas to hold down our imports of oil?

A. I wouldn't favor quotas, but I would favor building up our energy resources. And I would favor businesslike negotiations at the financial, economic and political level with the oil-producing countries in the Middle East and elsewhere.

I don't think we can count on being secure, militarily or economically, unless we attend to the energy problem.

Q. How can we build up our energy resources?

A. I'm not an expert in this area. But we have enormous amounts of coal available. Also, other countries in the world are making faster progress in utilizing nuclear power than we are. And there are all kinds of sophisticated new energy possibilities.

I think we've got to take our chances with new technology and be willing to make some investment in it.

Q. Should the Federal Government subsidize such development along the lines of Vice President Nelson Rockefeller's plan, which would establish a 100-billion-dollar federal corporation?

A. I would be willing to subsidize it, yes, but not on the scale suggested by Mr. Rockefeller.

And I certainly would want to finance any subsidy through the regular budget and avoid off-budget financing, which, I believe, was a part of the scheme originally advocated by the Administration.

Q. Are you concerned about the impact on our trade balance of the rising oil imports?

A. Fortunately, the position of the dollar is very strong at present. I think we can reasonably count on its remaining strong for some time, but not indefinitely.

If our imports of oil should continue to rise rapidly, as will happen if we continue to be careless in our use of oil, that could well leave its mark eventually on the value of the dollar in exchange markets.

Q. What, if anything, should be done to make more funds available to industry for capital investment?

A. I think that changes in tax policy could be very helpful. We tax our corporations more heavily than *many* countries around the world.

I would like to see the corporate income-tax rate reduced, the capital-gains tax reduced, and double taxation of dividends diminished. Measures of this sort, I think, would be helpful in stimulating capital investment.

Q. Should ordinary individual income taxes be reduced?

A. I'd like to see all kinds of taxes reduced, but we can reduce taxes responsibly only if we reduce Government spending.

Q. Dr. Burns, are the nation's banks stronger today than they were during the recession?

A. It's undoubtedly true that during the early 1970s many of our banks, particularly the large banks, shared in the euphoria that spread through the business community. I went to Honolulu in October, 1974, and lectured the American Bankers Association on some of the carelessness that had crept into banking practices.

I must say that within the past year and a half, I have found no need to lecture the bankers. They have mended their ways. We have better management in our banks now than we've had in some years. The bankers have learned their lesson.

Banks around the country have improved their liquidity position dramatically within the past year. Their reliance on volatile funds has diminished. Their capital position has improved. They've put aside huge sums in the form of reserves to cover loan losses. And in spite of that, their profits in 1975 were somewhat larger than during 1974.

So our banking system is sound, improvements are taking place within it, and our banks are well prepared to finance economic expansion.

Q. When you lectured the bankers, did you fear there would be failures among the big banks?

A. I had some fears that, unless bankers mended their ways, some very troublesome situations could develop. But bear this in mind:

We've had only a small number of bank failures in our country in recent years, although two or three of these failed banks were quite large. During the 1920s and early 1930s, by way of contrast, some 12,000 banks failed. Moreover, the few bank failures that we've had recently have not resulted in losses to depositors. The banks continued to do business under a new arrangement, and bank-customer relationships were maintained.

So our banking system has been tested very severely in the course of the recent recession—the deepest since the 1930s—and the test has been well met.

ON LOANS ABROAD, "RECORD IS GOOD"

Q. Are you worried about the loans American banks have made to underdeveloped countries?

A. Thus far, losses in connection with loans made to foreign enterprises or foreign governments have been much smaller than losses on loans made to domestic borrowers. Some of those foreign loans are made to American enterprises operating abroad.

As for loans to foreigners, a foreign government that has borrowed abroad and has permitted its business firms to borrow extensively abroad has a strong stake in maintaining its reputation. Even when interest payments are difficult to meet, a serious effort is made to keep payments current so that the reputation of the country for financial integrity will not suffer.

The record so far is good. That doesn't mean it will necessarily remain good. This is an area where I feel that our banking firms should be very cautious, since their loans abroad have grown to very large sums.

One of the secrets of good banking is balancing your portfolio. Too large a fraction of loans made to the less developed countries—or to any single category of borrowers—could be an invitation to trouble. This is something that our bankers are aware of, and I think they are pursuing more-prudent policies now than they did two or three years ago, or even a year ago.

MARTHA MITCHELL: BRAVE WOMAN

Mr. McGOVERN. Mr. President, I regret the sad and painful death of Martha Mitchell. She was a brave and colorful woman who enlivened our national politics. Obviously, I did not agree with much of what she said.

But I can never forget that she was the first person in the Nixon entourage who had the courage and the decency to blow the whistle on the corruption inside that administration. She told us loud and clear early in the summer of 1972 that the administration was morally wrong. She said that Richard Nixon knew the whole story as well as her husband did. And she called early for Nixon's resignation saying that he had "let the country down."

She and I had one bond in common: We both warned the Nation as loudly as we could in 1972 that the Nixon administration was the most corrupt administration in our national history. We were both disbelieved by a majority.

The distinguished reporter, Helen Thomas, has written a fitting tribute to Martha Mitchell which appears in the June 1 issue of the Washington Star.

I ask unanimous consent that the article by Ms. Thomas be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARTHA MITCHELL EPITAPH: "SHE TOLD THE TRUTH"

(By Helen Thomas)

As the parade passes by, I salute Martha Mitchell.

Perhaps it is fitting that she died on Memorial Day, the holiday of tribute to the nation's war dead. In a sense, she was a personal victim of the political war of Watergate, and one of its very few heroines.

She loved her country and she proved it. Her epitaph might read: "She told the truth." No, she shouted it from the housetops. And at the end, her credibility stacked up better than that of some recent presidents.

Knowing Martha as I did, she probably did not go gently into the night.

There were so many things she wanted to do. She was working on a book to be titled "Martha, Martha." She was planning to write a column. She would have her own television show.

"I'm going to live the life of Martha Mitchell," she once said, and live it she did before fatal illness struck her down.

But as outgoing and people-loving as she was, Martha always seemed to be alone. She was privately insecure and her sudden celebrity status as the outspoken, headline-making wife of Atty. Gen. John Mitchell made her even more insecure.

She loved the limelight and seized it with a flamboyance that came as naturally as her wide smile and her soft Arkansas drawl. Among the Cabinet wives in Richard Nixon's first administration, Martha was a standout.

It was not what she did but what she said.

Only a few months after she came to Washington, Martha gave a television interview in which she chided anti-Vietnam war demonstrators. "As my husband has said many times, some of the liberals in this country . . . he'd like to change them for Russian Communists," she said.

"Give 'em hell," Nixon told her approvingly. He was amused, liked what she said and welcomed the flair that Martha added to his sober administration.

Reporters sought out her highly readable opinions. Most of the time, she would say she loved the press in return. With a national audience always available, she spoke out loud and clear—and always in support of "Mr. President."

"Fulbright should be crucified," she said, speaking of former Sen. J. William Fulbright, D-Ark., then chairman of the Senate Foreign Relations Committee and a leader of the anti-war sentiment. "The Supreme Court should be abolished."

In those days Mitchell used to grin and bear it—"I love her, that's all I can say."

Martha did not discover the telephone, as some believed. But her late-night telephone calls to reporters became legendary. She never phoned unless she had something to say, and she stressed she had learned "never to lie."

I think I saw a break coming before Watergate one day when I was in the "press pool" flying back to Washington from California aboard Air Force One. The Mitchells were aboard as guests of the Nixons.

During the flight, Martha wandered back into the press section and, in her customary hip-shooting way, informed us that "the Vietnam War stinks."

She never flew on the President's plane again.

Somewhere along the way, someone told Martha that if she talked to a wire service reporter, her story would get out in a hurry. She wanted that.

She became upset when she had not heard from her son, Lt. Jay Jennings, for several months after he went to Vietnam. Intuition told her he was in danger. At her request, UPI tracked him down. He was serving in a combat fire zone.

She was the authentic heroine of Watergate at a time when no other women involved were sticking their necks out.

She also was a victim of Watergate. In June 1972, after the break-in at Democratic party headquarters at the Watergate, Martha blew the whistle on her husband. She gave him an ultimatum: either quit as Nixon's campaign manager or she would leave him.

Mitchell left the Committee for the Re-Election of the President, but he never abandoned his loyalty to Nixon.

During the 1972 campaign, after she said "politics is a dirty business," Martha was effectively silenced.

The Mitchells moved to New York and tried to start a new life. That was impossible. The Watergate scandal had begun to unravel and Martha's fears for her husband grew.

She knew a lot and she was not going to be shut up. She began to call reporters and say her husband would be made the "fall guy" and the "goat" for Watergate.

Martha begged her husband to make a clean break, but she failed. "I don't think he's going to get out of it," she told me.

She was one of the first to accuse Nixon. She said he knew everything her husband knew.

She also was the first to demand Nixon's resignation. "Mr. President should resign immediately. I think he's let the country down," she said early in 1973. "It's going to take a helluva lot to get him out."

Her remarks were prophetic. And the scandal took its personal toll. Her husband walked out of their plush, 14-room Fifth Avenue apartment with their daughter, Marty. The bills piled up. Her lawyers said she was sick and alone.

When she discovered she had cancer, she was shocked and closed her mind to it. She was not fatalistic. She lived with hope. Well-wishers sent cards, letters and telegrams by the hundreds. She knew she was moved and a symbol to many women. She was religious in her fashion.

In her bedroom, she allowed photographs of her husband and daughter to remain in a prominent place. She read newspapers avidly. "What's going on in Washington?" she would ask telephone callers.

Washington will remember her fondly.

GOVERNMENT OVERREGULATION AND ITS EFFECTS ON INDUSTRY

Mr. FANNIN. Mr. President, Dr. Murray Weidenbaum, the distinguished economist who is director of the Center for the Study of American Business at Washington University, is one of our Nation's leading specialists on the subject of industry regulation and a most perceptive critic of the Federal regulatory system and its effects on business.

I wish to call my colleagues' attention to a paper delivered by Professor Weidenbaum to the First International Petrochemical Conference in San Antonio, Tex. on April 6, 1976. This was a particularly good address because it presented an excellent overview of the problems created by government overregulation which the Congress must consider in its current efforts at regulatory reform.

In his address Mr. Weidenbaum analyzed and contrasted the two major kinds of government regulation—the traditional system of establishing different Federal Commissions to regulate a specific industry and the newer model of a government agency having jurisdiction over numerous industries and authority over almost every sector of the private productive sphere. Weidenbaum pointed out that regulators in the newer agencies—for instance, the Consumer Product Safety Commission and Occupational Safety and Health Administration—unlike commissioners of the ICC or the FCC, are not terribly concerned with the economic condition or overall well-being of any particular industry, and, for this reason, pay little attention to the consequences of their regulatory activity on the businesses affected or, for that matter, on consumers, inflation, or the economy as a whole. While the stated objectives of these multi-industry agencies may be laudable—who can quarrel with improving job safety or promoting cleaner air?—there has been little perception in the Washington bureaucratic establishment and only limited realization among the public concerning the significant impact, the high direct and indirect costs, of government regulation upon the economy.

Mr. Weidenbaum discussed at length these costs on the private sector, stressing that, first, they are very significant indeed and second, they must be and are passed along to consumers as a "hidden tax", in the form of higher prices for essential goods and services. Weidenbaum identified these costs as first, Federal administrative costs, estimated at $2.8 billion in fiscal 1976; second, the mammoth paperwork burden on businesses; and third, the reduced rate of technological innovation and introduction of new products into the American marketplace.

Concurrent with these costs, Federal regulators have become increasingly occupied with minutiae, losing sight of their primary mission and goals of regulation, to a point which Weidenbaum describes as "sheer nonsense." The proliferation of rules and regulations has inevitably led to conflicts and contradictions, to waste, confusion and arbitrariness. This, in turn, has produced a situation which is intolerable for many small businessmen and dangerous for a Nation concerned about notions of fundamental fairness and economic liberty.

Dr. Weidenbaum concluded his remarks by offering a few practical suggestions for improving the regulatory process without repealing regulation altogether. The problem, he stated—

> Requires a new way of looking at the microeconomic effects of government programs.

First of all, he suggested—

> Because of the very substantial costs and other adverse side-effects that they give rise to, society should take a new and hard look at the existing array of government controls over business. A substantial effort should be made to change or eliminate those controls that generate excessive costs. Rather than blithely continuing to proliferate government controls over business, alternative means of achieving important national objectives should be explored and developed, solutions that expand rather than reduce the role of the market.

Weidenbaum recommended a "more balanced attitude" toward new regulatory programs, weighing the benefits to be derived from proposed regulation against projected costs to productivity, employment and other economic factors. Again, I quote Dr. Weidenbaum:

> In a fundamental sense, it is a way of thinking that needs to be developed in public policymaking, rather than a new concentration on statistical expertise. Regulation is a powerful tool. It must be used carefully and with full regard for the often unintentional side effects. For example, we hear about environmental impact statements that list every type of weed on the property to be developed, and that also describe the measures that will be taken to preserve those weeds. Our concern thus need not be limited to what critics call the cold green eyeshade approach of benefit/cost accounting. Rather, we may mourn for all the trees that have been cut down to yield the paper for the proliferation of environmental impact statements.
>
> In a sense, I am proposing that public policy take the best from both the old and the new models of government regulation of business. As in most things in life, the sensible questions are not matters of either/or, but rather of more or less and how. To an economist, government regulation should be carried to the point where the incremental benefits equal the incremental cost—and no further. Overregulation—which can be defined as situations where the costs exceed the benefits—should be avoided.

Mr. President, Murray Weidenbaum's analysis merits our serious consideration. I ask unanimous consent that the complete text of his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

GOVERNMENT OVERREGULATION AND ITS EFFECTS ON INDUSTRY

(By Murray L. Weidenbaum)

(An address to the First International Petrochemical Conference, San Antonio, Tex, April 6, 1976)

A massive expansion of government controls over private industry is under way in the United States. Government officials are exercising an ever larger role in what traditionally has been internal business decision-making. Just as an example, I took a recent issue of the Wall Street Journal, and cut out all of the articles that dealt with one or more aspects of government-business relations. There wasn't much left except the ads. Let me just read the headlines in order to convey the variation and intensity of the trend:

"More Regulation by Government Gets 56% Backing in Poll".

"DuPont, Christian To Defend Merger Plan in U.S. Court Today"

"U.S. Is Seen Ready to Require Firestone To Begin Largest Tire Recall on Record"

"G. D. Searle's Low-Calorie Sweetener Is Delayed Again, for a Health Review"

"Bill to Make Some Banks Give Loan Data To Government Clears House Committee"

"U.S. Official Urges SEC To Slow Loan-Loss Rule"

"Phaseout of Controls On Oil Prices Voted by House Subpanel"

"Senate Votes Funds Requested by Amtrak"

"Honduran Panel Verifies Bribe by United Brands"

"Better Planning of Less"

"Thiokol Gets Order to Run Army Ammunition Facility"

"AT&T Agrees to Boost Efforts on Hiring And Promoting of Women and Minorities"

NOTE.—Mr. Weidenbaum is Director of the Center for the Study of American Business at Washington University in St. Louis and also adjunct scholar at the American Enterprise Institute for Public Policy Research.

"EPA Says Auto Makers Haven't Tried to Meet '78 Standard on Nitrogen Oxide"

"Ralston Purina Says Judge Denies Order on Tuna Ads"

"Consumer Unit Debate Is Halted By Senate, 71–27"

SEC to Sue Ashland for Not Disclosing Payments Made to Gain Oil Concessions"

"Mobil's Advocacy Ads Lead a Growing Trend, Draw Praise, Criticism"

"Futures Panel Sets More Guidelines to Regulate Trades"

"Minnesota Mining Annual Meeting Is Surprisingly Tame—Management Criticism Is Little Despite Earnings Decline and Illegal Political Gifts"

It is not just a matter of more of the same. This new wave of government regulation is not merely an intensification of existing activities; in good measure, it is a new departure.

The traditional theory of government regulation of business, which is still in general use and has dominated professional and public thinking on the subject, is based on the model of the Interstate Commerce Commission. Under this approach, a federal commission is established to regulate a specific industry, with the related concern of promoting the well-being of that industry. Often the public or consumer interest is viewed as subordinated, or even ignored, as the agency focuses on the needs and concerns of the industry that it is regulating.[1]

In some cases—because of the unique expertise possessed by the members of the industry or its job enticements for regulators who leave government employment—the regulatory commission is alleged to become a captive of the industry which it is supposed to regulate. At the least, this is a popularly held view of the development of the federal regulatory process. In addition to the ICC, other examples of this development which have been cited from time to time include the Civil Aeronautics Board, the Federal Communications Commission, the Federal Power Commission, and the Federal Maritime Commission.

THE NEW MODEL OF GOVERNMENT REGULATION

Although the traditional type of federal regulation of business surely continues, the new regulatory efforts established by the Congress in recent years follow, in the main, a fundamentally different pattern. Evaluating the activities of these newer regulatory efforts with the ICC type of model is inappropriate and may lead to undesirable public policy.

The new federal regulatory agencies are simultaneously broader in the scope of their jurisdiction than the ICC–CAB–FCC–FPC model. Yet in important aspects they are far more restricted. This anomoly lies at the heart of the problem of relating their efforts to the national interest.

In the cases of the Environmental Protection Agency, the Equal Employment Opportunity Commission, the Consumer Product Safety Commission, the Federal Energy Administration, and the Occupational Safety and Health Administration, the regulatory agency is not limited to a single industry. In the case of each of these relative newcomers to the Federal bureaucracy, its jurisdiction exceeds to the bulk of the private sector and at times to productive activities in the public sector itself. It is this far-ranging characteristic that makes it impractical for any single industry to dominate these regulatory activities in the manner of the traditional model. What specific industry is going to capture the EEOC or OSHA? Or would have the incentive to do so?

Yet in comparison to the older agencies, the newer federal regulators in many important ways operate in a far narrower sphere. That is, they are not concerned with the totality of a company or industry, but only with the narrow segment of operations which falls under their jurisdiction. The ICC, for example, must pay attention to the basic mission of the trucking industry, to provide transportation services to the public, as part of its supervision of rates and entry into the trucking business. The EPA, on the other hand, is interested almost exclusively in the effect of trucking operations on the environment. This limitation prevents the agency from developing too close a concern with the overall well-being of any company or industry. Rather, it can result in total lack of concern over the effects of its specific actions on a company or industry.

If there is any special interest that may come to dominate such an agency, it is the

---

Footnotes at end of article.

one that is preoccupied with its specific task—ecologists, unions, civil rights groups, and consumerists.

Thus, little if any attention may be given to the basic mission of the industry to provide goods and services to the public. Also ignored are cross-cutting concerns or matters broader than the specific charter of the regulating agency, such as productivity, economic growth, employment, cost to the consumer, effects on overall living standards, and inflationary impacts. At times the process may seem to be epitomized by that proverbial dentist who sees his patient as merely two rows of teeth surrounded by a mass of miscellaneous material.

To be sure, there are important cases which combine a blend of the old and new forms of regulation. The Securities and Exchange Commission is a good example. In one aspect of its activities, it regulates a specific branch of the economy, the securities industry. Yet, many of its rules also influence the way in which a great many companies prepare their financial statements and reports to shareholders. Economy-wide regulatory agencies are not a recent creation. The Federal Trade Commission has existed for years, moreover, a few one-industry agencies continue to be created, notably the Commodity Futures Trading Commission. This new commission regulates the financial markets dealing with products of agriculture and other extractive industries.

The result of the new approach to government regulation of business may be the reverse of the traditional situation. Rather than being dominated by a given industry, the newer type of federal regulatory activity is far more likely to utilize the resouces of various industries, or to ignore their needs, in order to further the specific objectives of the agency. My personal study of the activities of these new regulatory agencies reveals many negative aspects of considerable importance.

To begin with, we must recognize that it is difficult to criticize their basic mission. One has to possess the personality of Scrooge to quarrel with the intent of the new wave of federal regulation—safer working conditions, better products for the consumer, elimination of discrimination in employment, reduction of environmental pollution, dealing with the energy problem, and so forth. And we must recognize that the programs established to deal with these problems have at times yielded significant benefits. In any event these federal programs were established by the Congress in response to a surge of rising public expectations about corporate performance.

Although business executives rarely talk or write in terms of the external costs and benefits of their actions to society as a whole, they often are aware of that basic justification for governmental intervention. The president of Chrysler furnished a cogent example in justifying governmental automobile pollution controls:

> ". . . a large part of the public will not voluntarily spend extra money to install emission control systems which will help clean the air. Any manufacturer who installs and charges for such equipment while his competition doesn't soon finds he is losing sales and customers. In cases like this, a Government standard requiring everyone to have such equipment is the only way to protect both the public and the manufacturer." [2]

But no realistic evaluation of the overall practice of government regulation comfortably fits the notion of benign and wise officials making altogether sensible decisions in the society's greater interests. An examination of the actual practice of regulation yields numerous examples of high cost, stupidity, concentration on trivia, conflicts among the regulators, and arbitrary power. These are not idle statements. Let me cite chapter and verse to support them.

THE HIGH COST OF GOVERNMENT REGULATION

The direct cost of government regulation, a topic rarely studied, is substantial. The number and size of the agencies carrying out federal regulation are expanding, and far more rapidly than the industries that they are regulating. In the past decade alone, we have seen the formation of the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Energy Administration, the Cost Accounting Standards Board, the National Bureau of Fire Prevention, the Mining Enforcement and Safety Administration, the National Highway Traffic Safety Administration, and the Occupational Safety and Health Administration, to cite the better known ones.

The administrative cost of this veritable army of enforcers is large and growing. As shown in Table 1, the expenditures of the major federal regulatory agencies came to almost $1.9 billion in the fiscal year 1974. A 48 percent increase is budgeted over the next two years, with the total federal costs of these regulatory activities rising to $2.8 billion in fiscal 1976. It is apparent that the biggest regulatory budgets are not those for the traditional independent regulatory commissions, such as the ICC ($50 million) or the CAB ($85 million). Rather, the largest proportion of the funds is devoted to the broader regulatory activities of the Department of Labor ($397 million, mainly for wage and hour standards and job safety), Agriculture ($381 million, largely for food inspection), and the Federal Energy Administration ($208 million).

But this represents only the tip of the iceberg. It is the costs imposed on the private sector that are really huge, the added expenses of business firms which must comply with government directives, and which inevitably pass on these costs to their customers.

The public does not get a free or even low-cost lunch by imposing requirements on private industry.[3] In large measure, the costs of government regulation show up in higher prices of the goods and services that consumers buy. These higher prices represent the hidden tax imposed by government regulation on the consumer. Moreover, to the extent that government-mandated requirements impose similar costs on all price categories of a given product (say, automobiles), this hidden tax will tend to be more regressive than the federal income tax. That is, the costs may be a higher burden on lower income groups than on higher income groups.

Purchasers of new cars produced in the United States in 1974 paid over $3 billion extra for the equipment and modifications needed to meet federal requirements (see Table 2). Mandatory auto buzzers and harnesses (the widely detested "interlock" system) will rapidly fade into history due to recent congressional action, but not until after more than 40 percent of the owners of those expensive and annoying contraptions disconnected them or otherwise found ways of avoiding their use. Nevertheless, the phenomenon of government adding to the costs of private production is continuing.

Another cost of government controls is the growing paperwork burden imposed on business firms: the expensive and time-consuming process of submitting reports, making applications, filling out questionnaires, replying to orders and directives, and appealing in the courts from some of the regulatory rulings. As of June 30, 1974, there were 5,146 different types of approved government forms, excluding tax and banking forms. Individuals and business firms spend over 130 million man-hours a year filling them out.[4]

TABLE 1.—FEDERAL EXPENDITURES FOR BUSINESS REGULATION

[Fiscal years; millions of dollars]

Agency	1974	1975	1976
Agriculture	330	376	381
Health, Education, and Welfare	145	173	189
Interior	59	74	79
Justice	121	153	171
Labor	232	343	397
Transportation	178	212	234
Treasury	246	306	320
Civil Aeronautics Board	89	85	85
Commodity Futures Trading Commission			11
Consumer Product Safety Commission	19	43	37
Cost Accounting Standards Board	1	2	2
Council on Wage and Price Stability		1	2
Environmental Protection Agency	46	53	54
Equal Employment Opportunity Commission	42	54	60
Federal Communications Commission	38	49	50
Federal Energy Administration	33	127	208
Federal Maritime Commission	6	7	8
Federal Power Commission	27	37	36
Federal Trade Commission	32	41	45
International Trade Commission	7	9	10
Interstate Commerce Commission	38	47	50
National Labor Relations Board	55	63	70
National Transportation Safety Board	8	10	10
Nuclear Regulatory Commission	80	139	198
Occupational Safety and Health Review Commission	5	6	6
Renegotiation Board	5	5	5
Securities and Exchange Commission	35	45	49
Total	1,868	2,460	2,767

Source: Budget of the U.S. Government for the fiscal year 1976.

TABLE 2.—*Price increases of passenger automobiles resulting from Federal requirements*

(Estimated Retail Cost At Time of Introduction)

Model year and action:		Price per car
1968	Seat and shoulder belt installations	$11.51
	HEW standards for exhaust emission systems	16.00
1968 and 1969 combined	Windshield defrosting and defogging systems	.70
	Windshield wiping and washing systems	1.25
	Door latches and hinge systems	.55
	Lamps, reflective devices and associated equipment	6.30
1969	Head restraints	16.65
1970	Lamps, reflective devices, and associated equipment	4.00
	HEW standards for exhaust emission systems	5.50
1968–1970 combined	Theft protection (steering, transmission, and ignition locking and buzzing system)	7.85
	Occupant protection in interior impact (glove box door remains closed on impact)	.35
1971	Fuel evaporative systems	19.00
1972	Improved exhaust emissions standards required by Clean Air Act	6.00
	Warranty changes resulting from Federal requirement that all exhaust emissions systems be warranted for 5 years or 50,000 miles	1.00

Footnotes at end of article.

TABLE 2.—*Price increases of passenger automobiles resulting from Federal requirements*—Continued

(Estimated Retail Cost At Time of Introduction)

Model year and action:		Price per car
	Voluntarily added safety features in anticipation of future safety requirements	2.00
	Seat belt warning system and locking device on retractors	20.25
1972 and 1973 combined	Exterior protection (Standard #215)	69.90
1973	Location, identification, and illumination of controls improvements	.60
	Reduced flammability of interior materials	5.80
1969–1973 combined	Improved side door strength	15.30
1974	Interlock system and other changes to meet federal safety requirements	107.60
	Improved exhaust emissions systems to comply with the Federal Clean Air Act	1.40
	Total	319.51

SOURCE.—U.S. Department of Labor, Bureau of Labor Statistics.

A small, 5000 watt radio station in New Hampshire reported that it spent over $26 just to mail to the Federal Communications Commission its application for renewing its license—and that was before the last rate increase. An Oregon company, operating three small televisions stations, reported that its license renewal application weighed 45 pounds. At the other end of the spectrum, one large corporation, Standard Oil Company of Indiana, is required to file approximately 1,000 reports annually to 35 federal agencies including the Federal Power Commission, the Federal Energy Administration, the Bureau of Indian Affairs, and the Small Business Administration. In the first half of 1975, Standard added 16 major new reports to be submitted on a regular basis to its list of required paperwork. Duplication inevitably occurs. Standard must report its oil and gas reserves, with each report taking slightly different form, to the FEA, the FPC, the FTC, and the U.S. Geological Survey. It requires 636 miles of computer tape to store the data that the company must supply to the Federal Energy Administration. In total, Indiana Standard has 100 full-time employees whose work is centered around meeting federal regulations, at an annual cost of about $3 million.

Another hidden cost of federal regulation is a reduced rate of technological innovation. The longer that it takes for some change to be approved by a federal regulatory agency—a new product or a more efficient production process—the less likely that the change will be made. In any event, innovation will be delayed. A recent case is the new asthma drug beclomethasome dipropionate (I call it BD). Although this drug has been used successfully by millions of asthma patients in England, it still has not received approval of the U.S. Food and Drug Administration.

BD is described as a safe and effective replacement for the drugs which are now administered to chronic asthma patients, but without the adverse side effects of the drugs in use in the United States. Unlike BD, the steroids currently used in this country, such as prednisone, can stunt growth in children, worsen diabetes, increase weight through water retention, and cause bone softening. The delaying procedures of the FDA are preventing Americans from switching to the safer product, DB.[5]

Professor Sam Peltzman of the University of Chicago estimates that the 1962 amendments to the Food and Drug Act are delaying the introduction of effective drugs by about four years, as well as leading to higher prices for drugs.[6] The Food and Drug Act is delaying the introduction of effective drugs by about four years. As a result we are no longer the leaders in medical science. The United States was the 30th country to approve the anti-asthma drug metaporoterenol, the 32nd country to approve the anti-cancer drug adriamycin, the 51st country to approve the anti-tuberculosis drug rifampin, the 64th country to approve the anti-allergenic drug cromolyn, and the 106th country to approve the anti-bacterial drug co-trimexazole.

The adverse effect of regulation on innovation may be felt more strongly by smaller firms and thus have an anti-competitive impact. According to Dr. Mitchell Zavon, president of the American Association of Poison Control Centers:

"We've got to the point in regulatory action where it's become so costly and risky to bring out products that only the very largest firms can afford to engage in these risky ventures. To bring out a new pesticide you have to figure a cost of $7,000,000 and seven years of time."

An expected result of the lack of attention to the costs of regulation is the opportunity for regulators to engage in many exercises in trivia and on occasion sheer nonsense. Consider the plight of the small businessman who tries to deal with the Occupational Safety and Health Administration rules without paying for expensive outside assistance. These are the kinds of questions that he must face: What size to establish for toilet partitions? How big is a hole? (it depends where it is). When is a roof a floor? What colors to paint various parts of a building? How frequently are spittoons to be cleaned? The public's taxes actually support people who are willing to establish and administer regulations dealing with these burning issues.

Let us start with a supposedly simple matter, the definition of an exit. The dictionary tells us that exit is "a passage or way out." For OSHA enforcers, defining exit is a challenge to their bureaucratic instincts and they are not found wanting. To OSHA, an exit is "that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to provide a protected way of travel to the exit discharge."

Obviously, you have to find out what is "a means of egress" as well as an "exit discharge." Exit discharge is defined merely as "that portion of a means of egress between the termination of an exit and a public way." But OSHA defines a means of egress as "a continuous and unobstructed way of exit travel from any point in a building or structure to a public way and consists of three separate and distinct parts: the way of exit access, the exit, and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and shall include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, exits, escalators, horizontal exits, courts, and yards."

Shades of Gertrude Stein, OSHA is saying that an exit is an exit. Unlike the dictionary, the agency is unable to provide a definition of exit which does not contain the word exit in it. And exit is a comparatively easy one. In the case of ladder, the reader literally has to cope with three renditions of the same tedious set of definitions plus one trigonometric function. The puzzlement over OSHA regulations extends to the chairman of the Occupational Safety and Health Review Commission, the independent agency created to hear appeals from rulings by OSHA inspectors. After citing one vague standard, he lamented:

"What do you think it tells us to do?

"I have no idea—and I don't think OSHA could tell you either, before an inspection, citation, complaint, hearing and post-hearing brief.

"I submit that there isn't a person on earth who can be certain he is in full compliance with the requirement of this standard at any particular point of time."[7]

OSHA does not have a monopoly position in the realm of regulatory foolishness. An examination of the proposed Uniform Guidelines on Employee Selection Procedures is revealing. The Guidelines were drafted by the U.S. Equal Employment Opportunity Coordinating Council to assure that the procedures, in both the public and the private sectors, do not discriminate on the basis of race, color, religion, sex or national origin. The objective surely is worthy. Yet the specific guidelines which the Council has developed have been challenged by such professional organizations as the American Society for Personnel Administration and the American Psychological Association.

A mere reading of the proposed regulations reveals the basis for the concern. Smaller employers would have great difficulty in just understanding the regulations, while large and small companies alike would find it extremely difficult and expensive to comply. Even when the Coordinating Council tries to ease the burden on employers, the result challenges the understanding of the average business executive:

"A selection procedure has criterion-related validity, for the purpose of these guidelines, when the relationship between the performance on the procedure and performance on at least one relevant criterion measure is statistically significant at the .05 level of significance. . . . If the relationship between a selection procedure and a criterion measure is significant but nonlinear, the score distribution should be studied to determine if there are sections of the regression curve with zero or near zero slope where scores do not reliably predict different levels of job performance."[8]

Should these guidelines be enforced, the result is not likely to be fairer testing but a shift from what would become more costly and cumbersome procedures back to the simpler but far more bias-prone subjective oral interview.

CONFLICTS AMONG REGULATIONS

It is perhaps inevitable, but the proliferation of government controls has led to conflicts among controls and controllers. In some cases, the rules of a given agency work at cross purposes with each other. OSHA mandates back-up alarms on vehicles at construction sites. Yet simultaneously the agency requires employees to wear earplugs, to protect them against noise, that can make it extremely difficult to hear the alarms. More serious and more frequent are the contradictions between the rulings of two or more government agencies where the regulated have little recourse.

The simple task of washing children's pajamas in New York exemplifies how two sets of laws can pit one worthy objective against another, in this case ecology versus safety. Because of a ban on phosphates in detergents, the mother who launders her child's sleepwear in an ecologically sound way may risk washing away its required fire-resistant properties.

In 1973, New York State banned the sale of detergents containing phosphates, in an effort to halt water pollution. Less than two months later, a federal regulation took effect requiring children's sleepwear to be flame-

---

Footnotes at end of article.

retardant. New York housewives now face a dilemma, because phosphates are the strongest protector of fire-retardancy. They hold soil and minerals in solution, preventing the formation of a mask on the fabric that would inactivate flame-resistancy. What does a conscientious mother do in a phosphate-banned area to avoid dressing her child in nightclothes that could burn up. Smuggle in the forbidden detergents? Commit an illegal act of laundry?

The controversy over restrooms furnishes another example of the conflict among different regulations. It also demonstrates that common sense is in short supply in the administration of government controls. The Labor Department, in carrying out its weighty responsibilities under the Occupational Safety and Health Act, has provided industry with detailed instructions concerning the size, shape, dimensions, and number of toilet seats. For well-known biological reasons, it also requires some type of lounge area to be adjacent to women's restrooms.

However, the Equal Employment Opportunity Commission entered this vital area of government-business relations. The Commission at one point required that male toilet and lounge facilities, although separate, must be equal to those provided to women. Hence, either equivalent lounges must be built adjacent to the men's toilets or the women's lounges must be dismantled, OSHA and state laws to the contrary notwithstanding. To those who may insist that nature did not create men and women with exactly identical physical characteristics and needs, we can only reply that regulation, like justice, must be blind.

UNCONTROLLED POWER OF GOVERNMENT REGULATORS

The instances of waste and foolishness on the part of government regulators pale into insignificance when compared to the arbitrary power that they can exert. To cite a member of the Consumer Product Safety Commission, "any time that consumer safety is threatened, we're going to go for the company's throat." That this statement is not merely an overblown metaphor can be seen by examining the case of Marlin Toy Products of Horicon, Wisconsin.

The firm's two main products, Flutter Ball and Birdie Ball, were plastic toys for children, identical except that one contained a butterfly and the other a bird. The toys originally held plastic pellets that rattled. This led the Food and Drug Administration in 1972 to place the products on its ban list because it was worried that, if the toys cracked, the pellets could be swallowed by a child. The company recalled the toys and redesigned its product line to eliminate the pellets and thus be removed from the ban list.

The newly-formed Consumer Product Safety Commission in 1973 assumed responsibility in this area. Because of an "editorial error," it put the Marlin products on its new ban list, although there was no longer any reason to ban them. Apparently the Commission incorporated an out-of-date FDA list. The error was called to the Commission's attention, but it replied that it was not about to recall 250,000 lists "just to take one or two toys off."

Marlin Toy Products was forced out of the toy business and had to lay off 75 percent of its employees due to the federal error. It is ironic to note that the Commission specializes in ordering companies to recall their products if any defective ones have been produced, but refuses to recall its own product when there is a defect in every single one.[9]

CONCLUSION

This is not a general attack on all forms of government regulation. Unless you are an anarchist, you believe that government should set rules for society.

But there are serious questions as to what rules to set, how detailed they should be, and how they are to be carried out. Thus, controls to avoid infant crib deaths can be advocated without supporting a plethora of detailed federal rules and regulations dealing with the color of exit lights and the maintenance of cuspidors. Let me now sketch out the positive approach that I favor.

Numerous government activities, often unwittingly, generate inflationary pressures or otherwise interfere with the attainment of important national goals unrelated to the specific activities. These unwanted side-effects occur in good measure because government policymakers often tend to ignore the effects of government programs on productivity, capital formation, innovation, and inflation.

For example, government imposition of socially desirable requirements on business through the regulatory process appears to be an inexpensive way of achieving national objectives. It costs the government little and is no significant burden on the taxpayer. But, the public does not escape paying the cost. Every time that the Occupational Safety and Health Administration imposes a more costly, albeit safer, method of production, the cost of the resultant product will tend to rise. Similarly, each time that the Consumer Product Safety Commission sets a standard which is more costly to attain, some product costs will tend to rise.

The monetary authorities could offset the inflationary effects of regulation by attempting to maintain a lower rate of monetary growth. In practice, however, public policy makers tend to prefer the higher rate of inflation to the additional monetary restraint and the resulting decreases in employment and real output.

This problem requires a new way of looking at the microeconomic effects of government programs. A parallel can be drawn to macroeconomic policymaking, where important and at times conflicting objectives are recognized. Attempts at reconciliation or trade-off are made, such as among economic growth, employment, income distribution, and price stability.

At the programmatic or microeconomic level, it is also necessary to reconcile the goals of specific government programs with other important national objectives, which are not now in practice the concern of many of those agencies. Healthy working conditions are an important national objective—but surely not the only one.

Professor F. A. Hayek has presented the theoretical basis for this approach:

"... a free market system does not exclude on principle ... all regulations governing the techniques of production ... They will normally raise the cost of production, or what amounts to the same thing, reduce overall productivity. But if this effect on cost is fully taken into account and it is still thought worthwhile to incur the cost to achieve a given end, there is little more to be said about it. The appropriateness of such measures must be judged by comparing the over-all costs with the gain; it cannot be conclusively determined by appeal to a general principle."[10]

Because of the very substantial costs and other adverse side-effects that they give rise to, society should take a new and hard look at the existing array of government controls over business. A substantial effort should be made to change or eliminate those controls that generate excessive costs. Rather than blithely continuing to proliferate government controls over business, alternative means of achieving important national objectives should be explored and developed, solutions that expand rather than reduce the role of the market.

A good beginning might be based, oddly enough, on the environmental regulations. In general, the society is supposed to examine the impact on the environment of various actions that it takes. Sometimes it seems that you cannot sneeze without filing an environmental impact statement. Would it not also be appropriate to require each environmental agency to assess the impacts of its actions on the society as a whole and particularly on the economy? Surely a cleaner environment is an important national objective. But it is not the only national objective, and certainly society has no stake in selecting the most expensive and most disruptive ways of achieving its environmental goals. I urge the same balanced attitude for the other new regulatory programs, including product safety, job health, equal employment, energy, et al. In November 1974, President Gerald Ford instructed the federal agencies under his jurisdiction to examine the effects of the major regulatory actions that they would be taking on costs, productivity, employment, and other economic factors (Executive Order 11821). Although a useful step forward, there are severe shortcomings in this effort. First of all, many of the key regulatory agencies—ranging from the Consumer Product Safety Commission to the Federal Trade Commission—are so-called "independent agencies", which are beyond the President's purview.

Even in the case of the regulatory activities which come within the President's jurisdiction, the new policy is limited to the regulations which, in the issuing agency's own estimation, are "major." In any event, the agencies covered by the Executive Order are only required to examine the economic aspects of their actions. A broader approach seems to be warranted.

Merely legislating the performance of some economic analysis by an unsympathetic regulator would only delay the regulatory process and make it more costly. But limiting government regulation to those instances where the total benefits to society exceed the cost would be a major departure. It could significantly slow down if not reverse the current rising trend of federal regulation of business. Those who question our ability to make such estimates should be required to justify powerful governmental actions in the absence of adequate knowledge of their effects.

Senator Hubert Humphrey has provided a very cogent example of the shortcomings of the existing regulatory approach:

"The government goes around willy-nilly making decisions of consequence. There was no estimate of the economic impact of the Occupational Safety Act, for example. I happen to be for the occupational safety program, but what were its economic implications? Did anyone think that through? No."[11]

In a fundamental sense, it is a way of thinking that needs to be developed in public policymaking, rather than a new concentration on statistical expertise. Regulation is a powerful tool. It must be used carefully and with full regard for the often unintentional side effects. For example, we hear about environmental impact statements that list every type of weed on the property to be developed, and that also describe the measures that will be taken to preserve those weeds. Our concern thus need not be limited to what critics call the cold green eyeshade approach of benefit/cost accounting. Rather, we may mourn for all the trees that have been cut down to yield the paper for the proliferation of environmental impact statements.

In a sense, I am proposing that public policy take the best from both the old and

---

Footnotes at end of article.

the new models of government regulation of business. As in most things in life, the sensible questions are not matters of either/or, but rather of more or less and how. To an economist, government regulation should be carried to the point where the incremental benefits equal the incremental costs—and no further. Overregulation—which can be defined as situations where the costs exceed the benefits—should be avoided.

But if policy makers tend to ignore or downplay the costs, we are bound to operate in the zone of overregulation, which is where we are today. The situation is not likely to improve in a substantial way until consumers in general learn that it is they who ultimately pay the growing costs imposed by government regulation of private production.

FOOTNOTES

[1] See, for example, Manuel F. Cohen and George J. Stigler, *Can Regulatory Agencies Protect Consumers?* Washington, American Enterprise Institute for Public Research, 1971.

[2] John J. Riccardo, "Regulation: A Threat to Prosperity," *The New York Times*, July 20, 1975, p. F–12.

[3] See Murray L. Weidenbaum, *Government-Mandated Price Increases*, Washington, American Enterprise Institute for Public Policy Research, 1975.

[4] *Statement of Robert H. Marik, Associate Director for Management and Operations, Office of Management and Budget, before the House Committee on Government Operations*, September 12, 1974, p. 5.

[5] William Franklin and Francis Lowell, "Unapproved Drugs in the Practice of Medicine," *New England Journal of Medicine*, May 15, 1975, pp. 1075–1077.

[6] Sam Peltzman, "An Evaluation of Consumer Protection Legislation: The 1972 Drug Amendments," *Journal of Political Economy*, September/October 1973, p. 1090.

[7] Robert D. Moran, "Our Job Safety Law Should Say What It Means," *Nation's Business*, April 1974, p. 25.

[8] U.S. Equal Employment Opportunity Coordinating Council, *Uniform Guidelines on Employees Selection Procedures*, June 24, 1974, Section 14(a)(5)(6).

[9] "CPSC Mistake Leaves Company Clinging for Its Life," *Industry Week*, November 4, 1974, p. 54.

[10] F. A. Hayek, *The Constitution of Liberty*, Chicago, University of Chicago Press, 1960, pp. 224–5.

[11] Hubert H. Humphrey "Planning Economic Policy," *Challenge*, March-April 1975, p. 22.

ALCOHOL AND DRUG ABUSE: A SERIOUS NATIONWIDE PROBLEM

Mr. HUMPHREY. Mr. President, alcoholism and drug abuse are two of the most pervasive social problems of this Nation. Both are addictive and the use of both continues at increasing levels among our people—young and old alike.

Both are costly to society in general and to the individual. Both can be successfully treated. But neither can be controlled without an effective partnership between governments at all levels and a continuing expanding effort by the private and voluntary sectors of our society.

The Wall Street Journal recently reported that 56 percent of the American people think that too little is spent to combat drug abuse; 57 percent, too little on health; and 61 percent, too little to fight crime.

Despite these facts, the administration continues to pursue a course of action which is in direct conflict with congressional directives to refine and reinforce the basic Federal commitment to provide the leadership to address these problems.

The fight for adequate funding and authority for alcoholism programs has always been difficult. The National Institute of Alcohol Abuse and Alcoholism, though now an autonomous unit in the Department of Health, Education, and Welfare, is under almost perpetual strain of threatened administration defunding of its programs and dismantling of its administrative aparatus. This year is no exception. The administration has proposed to include alcoholism in the block grant program at a reduced level of almost 50 percent overall.

In an action directly disregarding a congressional directive to formulate and execute a national drug abuse policy, the President, in his statement on signing the recently passed Drug Abuse Act, announced his opposition to the very creation of an Office of Drug Abuse Policy mandated in title II of that act. In doing so, he also disregarded his own Domestic Council's White Paper on Drug Abuse," which recommended better coordination of Federal drug abuse policies among the many agencies which address this problem. Instead, he announced he was establishing two separate subcabinet committees to deal with the basic components of the drug problem: Crime and treatment.

But the absence of a focal point to address this complex problem—through a task force as mandated by Congress—seriously reduces the accountability of Federal policymakers. It is my understanding that following the release of the White Paper last September, no member of the administration ever agreed to testify on its contents in spite of the diligent efforts of the distinguished chairmen of the Senate Committees on Labor and Public Welfare and Government Operations.

Mr. President, I would like to take this opportunity to review the issues surrounding alcoholism and drug abuse.

The Drug Abuse Office and Treatment Act of 1972 enacted by Congress was intended to bring the resources of the Federal Government together to develop a comprehensive coordinated long-term Federal strategy to combat drug abuse. At that time there were nine Federal agencies involved with the problems of drug addiction, ranging from vocational rehabilitation to highway safety. The magnitude of the threat was such that a fragmented, piecemeal approach with limited resources was ineffective.

The record of the coordinated Federal effort has been significant. There was an eight-fold expansion of national treatment capacity. Treatment alternatives to street crime provided an important interface with the criminal justice system, and the drug abuse warning network provided information about the rapidly shifting trends of abuse. Innovative work programs enhanced vocational rehabilitation as the treatment process progressed. New initiatives to prevent populations-at-risk from becoming active abusers were developed. With the development of a large cadre of skilled dedicated professionals in the field, a comprehensive treatment system replaced earlier independent, piecemeal efforts.

In 1973, statistics showing fewer overdose deaths and high treatment program occupancy in urban areas contributed to a temporary optimism that the corner had been turned on drug addiction in the United States.

But whatever improvement which occurred in 1973 has proven to be temporary.

According to the National Institute on Drug Abuse, there are an estimated 300,000 to 400,000 daily heroin users in the country today, compared with 200,000 to 300,000 during 1973. Although this is still below the 500,000 to 600,000 figure of 1971, it indicates a sharp increase in use and one which requires renewed effort to solve.

Several additional factors have contributed to this.

There is a marked change in the supply situation. "Brown" heroin from Mexico, virtually unknown until 1974, is now widely available.

"White" heroin is also available again, presumably in anticipation of resumed opium production by Turkey. Southeast Asia is still a significant supplier of heroin.

Polydrug abuse is a new phenomenon. Many persons are abusing drugs other than heroin and are abusing different kinds of drugs concurrently.

Finally, there is now a very real question as to whether data from large metropolitan centers, upon which the 1973 optimism was based, accurately reflect the situation in the Nation. It appears that heroin addiction, like other social problems, may begin in urban areas and then spread to smaller, more remote communities in a "ripple effect."

Taken together, these signs are ominous. They indicate that the work of 1972–74 is incomplete. Some of the significant gains achieved during this period have been lost already. And new losses may accumulate unless our efforts are intensified.

The drug abuse problem of today is, therefore, in a number of ways more serious and more complicated than that of 1974.

Drug treatment programs are full with long waiting lists.

Serum hepatitis is on the increase.

Drug-related deaths are mounting.

Domestic seizures of heroin were greater during the last 6 months of 1974 than in the previous 12 months.

Methadone treatment for heroin addiction has been less than successful in the judgment of two physicians who pioneered its development.

Drug abuse is not limited to youth or to the disadvantaged. It extends to citizens of all ages and walks of life—from the housewife to the college professor.

The estimated cost of drug abuse—counting narcotics-related crime, health care, drug program costs, and lost productivity of addicts—ranges upward to $17 billion a year. In addition, the Nation bears an incalculable burden in terms of ruined lives, broken homes, and divided communities.

Drug-related deaths are a major part of deaths among males aged 15 to 25 in New York City.

Some evidence of intellectual impairment has been reported as well as acute and chronic behavioral effects. Certain drugs taken during pregnancy may cause a second generation to suffer casualties.

Poor nutrition and neglected hygiene are further adverse consequences of drug abuse.

Because of the continued severity of the problems of drug abuse, the need to refine and underline the basic Federal commitment to deal effectively with this problem is great. Our response must strike a balance between law enforcement through the Drug Enforcement Administration and prevention activities.

Enforcement is an important aspect of the overall effort against drug abuse. We must persevere with our efforts to stem the illicit drug traffic, both in the streets and overseas. We must take the profit out of an activity which is contributing so heavily to the misery and suffering of others.

Law enforcement strategy must fully use the resources of all organizations involved in law enforcement. Jurisdictional disputes between the Drug Enforcement Administration and the U.S. Customs Service need to be resolved.

The Law Enforcement Assistance Administration and DEA activities aimed at strengthening State and local law enforcement agencies should be continued and expanded. Other agencies need to reemphasize their programs of prosecuting drug traffickers, and stricter sentencing for traffickers should be considered, particularly for repeat offenders.

But law enforcement alone is not the answer.

We need a better means for determining the incidence and prevalence of drug abuse so that funds can be more effectively directed.

We need to incorporate drug abuse treatment services into the general health care delivery system and develop better evaluation techniques to determine the effectiveness of this treatment. Priority should be given to the high risk drugs such as heroin and amphetamines.

Treatment, however, will not stick without rehabilitation. Successful rehabilitation depends to a great extent on reestablishing an addict's self-esteem and dignity. The key is jobs.

Finally, we need to increase our research into the causes and epidemiology of drug abuse.

The Congress has acted to revitalize and refine our commiment to these goals. It has passed the Drug Abuse Office and Treatment Act Amendments of 1976 (Public Law 94-237), providing for the extension of earlier legislation which laid the groundwork for the job that remains to be done. Equally important, the Congress funded, over Presidential objection, the Office of Drug Abuse Policy which will serve as a focal point for policy direction and priorities for diverse Federal drug abuse functions.

The fight for adequate funding for alcoholism treatment and prevention has always been difficult. Passage of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, established a framework within which, for the first time, Federal, State, and local governments could effectively use their health and rehabilitation resources to bring the problem under control. Prevention and treatment facilities were fostered throughout the Nation.

As a result of this legislation, States have increasingly committed themselves to deal with the broad spectrum of economic, social, and personal consequences of alcoholism. Administration attempts to diminish Federal involvement by folding alcoholism into the block grant proposal at this stage will seriously jeopardize the commitment to this carefully nurtured partnership.

The recent extension of the 1970 legislation, by the Senate, will assure that this does not happen.

More than 10 million Americans suffer from alcoholism. It is considered to be the third largest killer of our citizens.

The economic cost to society of the misuse of alcohol is a staggering $25 billion in lost productivity, related health problems, traffic accidents, the increased demands on criminal justice, and social welfare systems.

As with drug abuse, the causes of alcoholism are not generally known. Yet it is on the increase in every age group and on every economic, cultural, and educational rung of the social ladder.

Between the early 1960's and early 1970's, the U.S. per capita consumption of alcoholic beverages rose over 25 percent. In 1974, the United States outranked all but two of the 25 other countries from which similar reports were available. There has also been a 44-percent increase in the consumption of wine during this period.

A greater proportion of people suffering from alcoholism are women, minorities, and persons who are under 25.

Teenage alcoholism is increasing at alarming rates. Recent surveys show that 81 percent of junior and senior high school youth drink alcoholic beverages and there are an estimated 450,000 teenage alcoholics in this country.

Fifty percent of the felonies committed in this country, including homicides, directly involve the abuse of alcohol.

Over 30 percent of the Nation's traffic fatalities are related to alcohol. Nearly 8,000 young Americans are killed in 1 year in drunk-driving accidents.

About one-third of the Nation's alcoholics are women. Helping prevent alcoholism among women will help prevent alcoholism and other emotional problems in their children.

We need a continued Federal commitment in a partnership with the States and local health planning officials to combat this problem which directly or indirectly affects almost one-fourth of the people of this Nation.

We need to improve and expand the program of formula grants to States. Because men have been considered to have a much higher incidence of alcoholism than women, treatment facilities for women are virtually nonexistent in many communities. We need to close the gap in equal access to treatment.

We need a coordinated effort between treatment personnel and the criminal justice system.

We need to develop a better and more complete evaluation of the efficacy of alcohol abuse treatment and rehabilitation efforts.

And, finally, we need to continue coordinated, sustained research into the causes of alcoholism through the establishment of national research centers.

It makes good economic sense to identify and treat alcoholics. The National Institute on Alcohol Abuse and Alcoholism in a recent study showed that for every dollar spent on treatment, $3 are returned to the economy through, among other things, decreased health care costs and increased earnings of over 35 percent.

We must rededicate ourselves to ridding the Nation of the spreading malignancy of drug abuse and alcoholism. To do this, we must alter the fundamental conditions which cause an individual to abuse drugs and alcohol. One well-supported conclusion is that neither occurs in isolation. Programs which address the broad developmental needs of children and youth are the most effective in preventing and reducing drug abuse, alcoholism and other forms of self-destructive behavior such as truancy and juvenile delinquency.

We also need to look at other sociological relationships which may contribute to drug use and alcoholism.

Statistics have shown a correlation between an unstable economy and increases in distilled spirit consumption, mental illness, heart disease, and other health problems. We need to explore the relationship of a declining sense of community and family life to the occurrence of alcoholism and drug abuse. Does the decline of real neighborhoods, our cities, and our smaller towns and the lack of a balanced growth policy contribute to this phenomenon?

This is a task which cannot be accomplished by any one organization. The problems of drug abuse and alcoholism should be approached on a comprehensive basis. The Federal Government can and indeed must provide the leadership in the national effort. But ultimate success in containing drug abuse and alcoholism and in minimizing its costs to the individual and society depends on the development of a new partnership and deep commitment among State and local governments, private business and community organizations to get the job done.

U.S. OBJECTIVES IN FAO

Mr. PERCY. Mr. President, on March 5, 1976, the Select Committee on Nutrition and Human Needs held a hearing on U.S. policy and policymaking with respect to our participation in the Food and Agriculture Organization of the United Nations. As a result of the hearing, Assistant Secretary Richard E. Bell, of the Department of Agriculture, agreed on behalf of all the administering agencies to submit to the committee no later than May 1 a statement of U.S.

policy objectives in the FAO. According to the agencies, this statement has been in preparation for some time—since 1965 to be exact. Due to some unavoidable delays, the statement was received in mid-May.

Although policymaking for international organizations is an executive branch function, I believe very strongly that Congress and the public should take part in the process by which the executive branch develops and refines such policy. I would, therefore, like to share with my colleagues the official statement of "United States Objectives in FAO," and invite their comment on it. My colleagues from the Agriculture and Foreign Relations Committees may in particular wish to review and comment on the specifics of the statement. I intend to ask the minority staff of the select committee to compile all congressional and public comments which I will then forward to the relevant Government officials for consideration.

I ask unanimous consent that a copy of "U.S. Objectives in FAO" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

U.S. OBJECTIVES IN FAO

Our general objectives in the Food and Agriculture Organization of the United Nations (FAO) support broad United States foreign policy considerations, and stress the importance of international agriculture for the United States. Within this country's overall foreign policy framework, the following objectives guide United States participation in FAO:

(i) Stimulating global economic development;

(ii) Increasing national agricultural outputs through the effective international exchange of scientific and technological information;

(iii) Improving the quality and availability of global agricultural commodity information, as a basis for planning production and facilitating international trade in agricultural products; and

(iv) Facilitating this country's dynamic participation in international agricultural markets.

FAO was brought formally into existence in Quebec on October 16, 1945. The President of the United States convened the Hot Springs Conference which, in 1943, developed the basic ideas and plans that led to the creation of the Organization. The United States took a leading part in the promulgation of FAO's purposes, and has had a leading role in the interpretation and amplification of those purposes over the years since the Quebec Conference.

Our objectives as described briefly above are consistent with the purposes of FAO, as set out in the Preamble of the FAO Constitution:

(i) Raising levels of nutrition and standards of living of the peoples under the Member Governments' respective jurisdictions;

(ii) Securing improvements in the efficiency of the production and distribution of all food and agricultural products;

(iii) Bettering the condition of rural populations; and

(iv) Thus contributing toward an expanding world economy and ensuring humanity's freedom from hunger.

FAO's purposes are achieved through many types of activities, but these may be grouped into three broad categories:

(i) The collection, analysis and dissemination of data and other information relating to food and agriculture;

(ii) The provision of international forums for the consideration of problems of common concern to the Member Countries of the Organization, on either regional or worldwide bases; and

(iii) The provision of technical assistance to developing countries in the planning and implementation of national or regional development projects and programs.

Among FAO's functions, as defined in its Constitution, is the furnishing of such technical assistance as governments may request. At the outset, attention to this function was minimal. However, from 1950 onward, as many new countries emerged in the developing areas of the world, and as development funds became available, FAO responded rapidly to the need and, throughout the last two decades, a large proportion of its total resources has been devoted to the development aspects of its Program of Work.

Since FAO is a primary multilateral source of advice and technical assistance to the developing countries in the broad area of agricultural development planning and programs, substantive competence and administrative capacity to plan and manage its extensive advisory services and technical assistance to the developing countries are essential. This development assistance element is discussed further in the following comments on individual sectors of FAO responsibility.

The United States has a profound interest in these activities as evidenced by its own large bilateral aid programs, its substantial contributions to the multilateral development agencies and to the interrelated elements of agricultural production, rural development and reduction of poverty. Thus, the United States has a special interest in close inter-action between its own efforts in these areas and those of FAO.

SPECIFIC OBJECTIVE

Agriculture

By far the largest portion of the increasing amounts of food required by an ever-expanding population must be produced in the countries where that food is consumed. It follows that a major objective must be the expansion of economic agricultural production, particularly in the developing, heavily-populated countries.

Other major objectives must be to conserve and use effectively the planet's limited soil, water, plant and animal resources, both in the relatively short term and over the longer term.

Within these broad guidelines, the United States considers it important that FAO concentrate on those areas which can improve man's present and future welfare. FAO is in an excellent position to take effective action or to assist Member Countries in taking effective action in such important areas as:

(i) Identification, evaluation, preservation and effective use of important animal and plant genetic resources;

(ii) Development of efficient national seed industries;

(iii) Reduction of post-harvest crop losses;

(iv) Establishment of effective animal and plant quarantine regulations and procedures;

(v) Development of safe and effective plant and animal pest and disease control and eradication techniques;

(vi) Development of economical, effective water storage and irrigation systems; including adequate measures to control soil erosion, and to conserve water through the control of run-off;

(vii) Development of balanced labor-intensive farming systems for small holders; and

(viii) Development of on-farm and other rural processing of agricultural products, and more efficient marketing systems for farm products.

Economic and social affairs

FAO should be concerned with the economic aspects of agriculture and with the social benefits that can accrue from greater and more efficient production. Specifically, United States objectives for effective action by FAO center in four major areas:

(i) Collection and dissemination of essential statistical and economic data on agricultural, fishery and forestry production, distribution and utilization;

(ii) Analyzing these data, and providing guidance to Member Countries, including the making of long-term projections;

(iii) Providing advisory assistance, particularly to developing countries, with a view to improving their capabilities to collect and disseminate statistics, conduct economic policy planning in the agricultural, fisheries and forestry fields;

(iv) Providing information, guidance and advisory or technical assistance to Member Countries on the development and strengthening of the rural institutions essential to the achievement of agricultural, fishery and forestry development, and the betterment of rural living conditions. Such institutions relate to both the technical and economic and social aspects.

FAO is in a particularly good position to collect, tabulate and publish statistical information, on a world wide basis, for all major aspects of agricultural, fishery and forestry production, distribution and utilization. While it is in a position to do useful economic analytical and projection work, such work should be kept in proper balance in relation to technical activities aimed at improving production, conservation, distribution and utilization.

Commodities

Although FAO's activities relating to commodities are a part of the Organization's overall economic activities, those activities which relate to the major agricultural commodities, and particularly to those portions which move in international trade, are of special importance.

The United States objectives in regard to FAO's agricultural commodity activities relate primarily to the following areas in which the Organization is in position to render effective service to its Member Countries:

(i) The collection and exchange of data and other information on current production, consumption and trade;

(ii) The analyses of commodity data and the consideration of problems to which they relate, in the Committee on Commodity Problems (CCP) and its subsidiary bodies, i.e., the various Intergovernmental Groups, and the Consultative Sub-Committee on Surplus Disposal; and

(iii) The judicious assessment of prevailing food stocks and requirements.

In its work to achieve these objectives, the United States has traditionally supported the general discussion and study of agricultural trade matters in the CCP and other appropriate FAO fora. On the other hand, FAO has no implementing authority in this area, and the United States believes specific trade matters should be dealt with in the appropriate negotiating fora, e.g., GATT.

The United States considers it important that, with the formation of new bodies, CCP and its subsidiary groups should maintain their traditional roles, which may include the monitoring of progress in international agricultural adjustment. As a corollary, the new bodies (such as the Committee on World Food Security) should take into account the work of the CCP and its subsidiary groups, and to the extent possible should rely on existing FAO staff and supporting services.

Fisheries

Marine and inland fish comprise an important protein source. The nature of this resource is such that an extraordinary degree of regional and international cooperation and coordination is required to ensure its continuing availability, and to avoid decreases, sometimes irretrievable, in fish production. FAO is uniquely qualified to provide this needed global approach that will be all the more necessary under the new ocean regime that is expected to emerge from current Law of the Sea negotiations.

Specifically, United States objectives are:

(i) Achievement of proper management of world fish stocks through regional and international cooperation;

(ii) Contributing to and benefiting from the collection, analyses and dissemination of data basic to sound fishery conservation and utilization;

(iii) Extending and coordinating effective technical assistance to developing countries, through national and regional projects, and including major attention to projects that maximize benefits to low income, small-scale fishermen and fish culturists. In this connection, the United States believes that management and development should be pursued in a complementary manner and that technical assistance should be appropriately proportioned among all stages and types of fishery development, including stock assessment, harvesting, culture, processing, and marketing;

(iv) Utilization of the FAO regional fishery bodies to promote and facilitate the adoption of cooperative management approaches, and to enhance development processes by providing more accurate assessments of local needs and suggesting more productive application of available resources to regional development projects; and

(v) Utilization of the FAO Committee on Fisheries (COFI), as the only truly global forum for discussion of fishery problems, for provision of the informed overview and guidance necessary to optimize FAO fishery efforts.

Forestry

As with food, demands for timber and other forest products continue to expand as the human population increases. As that population increases, it places increased pressure upon the finite portions of the earth's surface which can be devoted to forests. Managing the world's forests in such a manner as to ensure maximum continuing output is, therefore, essential to man's welfare. The United States considers that FAO can make an important contribution to the achievement of this overall objective. Specific areas in which FAO's participation and assistance can be most beneficial include the following:

(i) Development of tropical forestry, thus making substantially greater use of the world's largest underused and least effectively managed forest resource;

(ii) Development of pulp and paper industries, in appropriate places, to ensure effective use of available forest resources;

(iii) Fostering development of forestry activities and processing of forest products in areas and in ways whereby they can contribute effectively to rural development; and to meeting world needs for forest products.

The United States considers FAO's work on forestry statistics to be especially helpful. Regarding research, it is the United States view that FAO's emphasis should be on the strengthening of national forestry research institutions.

Nutrition

To help raise levels of nutrition for all peoples in all countries, ahd to improve the quality of food products, the United States through its participation in FAO seeks:

(i) To facilitate the exchange of information on nutrition;

(ii) To promote coordination among approaches and activities of various international organizations and among national and private organizations that are in position to contribute to the objective of rising levels of nutrition;

(iii) To achieve sustained improvement in nutritional levels in Member Countries, and particularly in the developing countries; and

(iv) To support the development and application of international food standards.

In order to achieve these objectives, it is the view of the United States that:

(i) FAO's nutrition activities should give attention to the scientific, technical and planning aspects, and that there should be a reasonable balance among these sectors;

(ii) FAO should assist countries in developing their own capacities to analyze problems, and to plan, implement and evaluate nutrition programs;

(iii) FAO, in cooperation with other organizations should encourage and—where practicable—coordinate the conduct of applied nutrition research;

(iv) FAO should also cooperate with other organizations, as appropriate, in continued efforts to develop an early warning system for predicting serious nutritional problems; and

(v) FAO should continue to cooperate with WHO, and with Member Countries that chair Codex Committees, of the Codex Alimentarius Commission, with a view to moving forward expeditiously in the establishment of Codex standards.

FAO should identify in cooperation with other donor organizations and agencies, geographic and substantive areas of greatest need, and identify areas wherein various organizations and agencies might concentrate, thus avoiding duplication and ensuring effective use of available resources.

The United States is of the view that adequate nutrition can most effectively be achieved through diets that include an appropriate variety of foods. However, where specific deficiencies need to be addressed and where economic, social or health conditions make the use of a varied diet difficult or not feasible, use of fortified or fabricated foods, or single foods rich in specific nutrients may often be a useful and practical strategy.

Role of women in rural development

The United States sees as a primary consideration the need to utilize effectively all human resources in rural development programs and the obligation to improve the status and welfare of women. The United States believes that FAO could and should play a decisive role in (a) giving full weight to the contribution that women make in the total rural development effort; (b) insuring their participation in the shaping of development policies and programs in the agricultural sector; (c) developing effective training and information programs for both home-based and out-of home activities of women; and (d) appropriate institution building. FAO should monitor programs in which it is involved to insure that these impact favorably on women as participants and beneficiaries.

Rural home and family development

Essential to rural development are: (a) the improvement of nutrition through improved planning and preparation of family meals; (b) improved efficiency in household production, conservation and storage of many foods and other products; (c) the improvement of household management and technology and conditions of rural living; (d) the acceptance and implementation of family planning programs and (e) the fuller participation of the rural family in the development process.

The United States believes FAO should have a strong home economics program to deal with the development and application of scientific and technical knowledge in these areas. make efficient use of this knowledge in the related nutrition and rural development programs, and encourage countries to utilize this knowledge more fully.

Development

The provision of technical assistance is a major function of FAO. The United States' interest and effort in this area is of such a magnitude that this function is deserving of special emphasis. The United States has supported and encouraged FAO's technical assistance, and more broadly, its development activities as they have increased over the last twenty-five years. The United States believes that:

(a) Major attention should be directed to increasing food production, and improvement of nutritional levels, in all the developing countries;

(i) Major attention should be directed to increasing the efficiency and outputs of small farms, and to increasing the participation of poor farmers in development;

(iii) Major attention should also be given to the essential activities that must accompany increases in production, i.e., reduction of post-harvest losses, adequate storage, preservation and processing, effective marketing systems and increased supply of inputs; and

(iv) The achievement of the foregoing objectives, while important in the short term, are essentially long-term goals, and their achievement will require particular emphasis upon the institution building and infrastructure that is necessary for such long-term but relatively rapid growth; i.e., (a) Expansion of national agricultural research systems and further strengthening of international research institutions; (b) Rapid development and growth of a wide range of institutions including extension, marketing, credit and input supply; (c) Accelerated expansion of educational institutions to provide the large numbers of trained personnel needed; (d) Large investment in the physical capital of rural development including roads, electrification, irrigation, and market towns; (e) Special emphasis throughout on including the small farmer and the rural landless, in the various development processes; and (f) Special concern for the role women do and can play at all levels with respect to the policy determination, administration and implementation of programs for the production and utilization of food.

CONCLUSION

In the light of the general and specific objectives set out above, it is the intention of the United States to make full use of FAO as an instrument for progress in world agricultural, fishery and forestry matters. In so doing the United States will:

(i) Contribute to, and effectively utilize the services FAO provides, as an international center for statistical and many other kinds of economic, and scientific and technical information;

(ii) Utilize the wide variety of mechanisms FAO provides for consultations and cooperation among countries;

(iii) Support and benefit from the effective mechanisms FAO provides for assistance to developing countries; and

(iv) Support and benefit from the constructive leadership FAO is in position to provide in international agricultural, fishery and forestry affairs, given the status the Organization has achieved in these fields.

FEDERAL ENERGY ADMINISTRATION TURNOVER RATE

Mr. LEAHY. Mr. President, on February 25, 1976, I introduced S. 3027 which would transfer the compliance and enforcement functions of the Federal Energy Administration to the Department of the Treasury. At that time, I stated that some of the problems with the present arrangement have arisen from the low morale and high turnover among FEA auditors and investigators.

In my introductory remarks I stated that the FEA turnover rate in 1975 was 38 percent, one of the highest in the Federal bureaucracy. FEA officials had previously provided me with three conflicting sets of turnover figures ranging from a high of 68 percent to a low of 13 percent. To resolve this serious discrepancy, I asked the General Accounting Office for a preliminary estimate of the overall turnover rate, and received the 38-percent figure. I subsequently requested the GAO to furnish me with a detailed turnover rate for each of the national components and the 10 FEA regions.

Mr. President, on May 24, 1976, the General Accounting Office sent me the results of their study. I ask unanimous consent that the cover letter from Monte Canfield, Jr., Director of the Office of Special Programs, and the information he provided be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., May 24, 1976.

Hon. PATRICK J. LEAHY,
U.S. Senate.

DEAR SENATOR LEAHY: Your letter of March 10, 1976, requested that we calculate actual personnel turnover rates for calendar year 1975 in each of the Federal Energy Administration's (FEA) national components and within each of its 10 regions. On April 22, 1976, at the request of your office, we furnished preliminary personnel turnover rates for FEA's Office of Regulatory Programs and for each regional office. In preparing this response, we examined personnel payroll records and interviewed officials at FEA headquarters in Washington, D.C.

Personnel turnover rates for calendar year 1975 at FEA headquarters and in its 10 regional offices were 39.4 percent and 37.6 percent, respectively. The overall agency turnover rate for calendar year 1975 was 38.6 percent. As agreed with your office, all personnel—including 145 consultants, experts, summer aides, and student assistants—terminating FEA employment during 1975 were counted as separations. Enclosed are breakdowns of FEA's personnel turnover rates. Enclosure I summarizes FEA's overall turnover rate. Enclosures II and III show turnover rates by national component and regional office, respectively.

Sincerely yours,

MONTE CANFIELD, Jr.,
Director.

Enclosures—3.

FEDERAL ENERGY ADMINISTRATION

OVERALL PERSONNEL TURNOVER RATES, CALENDAR YEAR 1975

	Separations				Average on-board strength	Turnover percent rate
	Professional	Clerical	Support[1]	Total		
National components	330	217	154	701	1,777	39.4
Regional offices	300	214	50	564	1,499	37.6
Total	630	431	204	[2] 1,265	3,276	38.6

[1] Includes nonprofessionals, such as statistical assistants, application examiners, motor vehicle operators, and computer technicians.

[2] Includes 145 consultants, experts, summer aids, and student assistants.

PERSONNEL TURNOVER RATES BY NATIONAL COMPONENT, CALENDAR YEAR 1975

	Separations				Average on-board strength	Turnover percent rate
	Professional	Clerical	Support	Total		
National component:						
Administrator	3	1	2	6	32	18.8
Management and administration	54	45	33	132	295	44.7
Policy and analysis	72	39	34	145	384	37.8
Conservation and environment	35	22	18	75	183	41.0
Energy resource development	46	19	23	88	209	42.1
Regulatory programs	46	37	16	99	287	34.5
International energy affairs	9	5	4	18	42	42.9
General counsel	15	11	5	31	82	37.8
Communications and public affairs	20	19	10	49	123	39.8
Private grievances and redress	9	6	4	19	49	38.8
Congressional affairs	8	10	3	21	43	48.8
Intergovernmental, regional, and special programs	9	1	1	11	36	30.6
Energy research and development	4	2	1	7	12	58.3
Total	330	217	154	701	1,777	39.4

PERSONNEL TURNOVER RATES BY REGIONAL OFFICE, CALENDAR YEAR 1975

Regional office:						
Boston	39	19	4	62	94	66.0
New York	53	25	1	79	147	53.7
Philadelphia	30	19	9	58	155	37.4
Atlanta	45	15	0	60	165	36.4
Chicago	24	24	4	52	205	25.4
Dallas	30	27	5	62	254	24.4
Kansas City	11	17	6	34	142	23.9
Denver	17	19	6	42	100	42.0
San Francisco	40	20	6	66	159	41.5
Seattle	11	29	9	49	78	62.8
Total	300	214	50	564	1,499	37.6

Mr. LEAHY. Mr. President, the FEA had an overall turnover rate of 38.6 percent for 1975. This is clearly one of the highest within the Federal Government. By comparison, the Civil Service Commission reported to my office that the overall turnover rate for all executive branch agencies in 1975 was 22.4 percent. FEA's rate is, therefore, 72 percent higher than that for the Government as a whole.

Some of the regional offices where the real compliance and enforcement work takes place, had incredibly high annual turnover rates: Boston's region I office had an annual rate of 66.0 percent; New York's region II turned over at a rate of 53.7 percent; and Seattle's region X had a rate of 62.8 percent. These three regional offices had rates exceeding half of their average onboard strength. Even the low turnover offices in Chicago, Dallas, and Kansas City had rates greater than those reported for the executive branch as a whole.

What makes this such a critical problem is that experts in the field of regulation of the petroleum industry contend that it takes an auditor at least 6 to 8 months to get "up to speed." This would mean that in some of the highest turnover offices the mean efficiency rating of its auditors at any given time is well below half of what one would expect to find in a well-run agency.

I also wish to point out that the compliance and enforcement functions of the Treasury Department had a turnover rate of only 11.6 percent in 1975, half that of the executive branch as a whole and a third of that within the FEA's regulatory programs.

I believe that the evidence is clear. If the Congress desires to have energy regulations enforced by a stable and well-run agency, then the compliance functions should be removed from the FEA as soon as possible.

THE REPUBLIC OF SRI LANKA

Mr. MATHIAS. Mr. President, May 22, 1976, marked the fourth anniversary of the founding of the Republic of Sri Lanka. The occasion has a significance to the citizens of that country which Americans can appreciate as we commemorate the Bicentennial of the United States. Any anniversary of this sort lends itself to a look back as well as a look ahead. From either perspective, the citizens of Sri Lanka have reason to be proud of their country and their accomplishments and to look to the future with hope.

It has been my privilege to visit Sri Lanka and to be welcomed there by everyone I met, beginning with the Prime Minister, Mrs. Bandaranaike. It is a country of unusual beauty and charm with a breathtaking boldness in the scenery of its high mountains and deep valleys. The culture is deep rooted in antiquity and the people translate their traditions into modern life with a grace that much of the world can envy.

It is not a land without problems, but what country is?

The fact that Sri Lanka's problems are different from our own should not create a distance between us, but rather encourage each of us to supplement our several weaknesses with our separate strengths.

Relations between Sri Lanka and the United States continue to be friendly, based on links forged by the common identity of both countries as democracies, and reinforced by economic and cultural exchanges. President Ford expressed his confidence recently that this friendship will continue to prosper. I am certain that the Members of this body feel the same way, as we congratulate the Government and the citizens of Sri Lanka and extend our best wishes for them on their national day and for God's blessing on them and their children throughout the year.

THE NATIONAL FOREST MANAGEMENT ACT OF 1976

Mr. HUMPHREY. Mr. President, within the next few weeks the Senate will be taking up S. 3091, the National Forest Management Act of 1976. This bill is the product of hearings held by the Committee on Agriculture and Forestry, joined in by the Committee on Interior and Insular Affairs at the request of Senator TALMADGE, chairman of the Committee on Agriculture and Forestry.

The hearings covered 3 full days with nearly 100 witnesses plus many more written communications. The markup of the bill covered 4 days, and in addition to the members of these two committees it included the chairman of the Public Works Committee, the senior Senator from West Virginia, Mr. JENNINGS RANDOLPH, sponsor of a companion bill who was in constant attendance.

S. 3091 is cosponsored by Senators EASTLAND, BAYH, CHURCH, DOLE, EAGLETON, GRAVEL, HANSEN, HATFIELD, HELMS, HOLLINGS, HUDDLESTON, JOHNSTON, MCCLURE, MCGOVERN, METCALF, MOSS, PACKWOOD, STEVENS, STONE, and THURMOND.

The bill was unanimously reported by the two committees. It represents a joint effort which used S. 3091 as its base, but it also reflects many of the thoughts in S. 2926, the bill Senator RANDOLPH had sponsored.

The fundamental goal of this bill is to improve the management of all of the renewable resources on the 187 million acres of national forests in the 44 States of the United States so that these public lands and resources can more effectively serve the needs not only of the 215 million Americans today, but future generations as well.

Beyond the unanimous vote of the two committees, the bill has the support of a wide range of professional resource organizations, public spirited conservation organizations, educators from university schools of forestry and conservation, as well as many high caliber professional resource managers, county and State officials.

Initially the bill had the support of the forest products industry, but the reported version has caused them to raise objections to the bill as reported. In spite of numerous changes to reflect environmental concerns, it still has the strenuous objections of several organizations which banded together under the name of the Coalition to Save the National Forests.

The National Forest Products Association—NFPA—has said:

> While much of the philosophy that runs throughout the amended bill is harmful to forestry, primary concern is over three major subject areas:
>
> (1) Section 5 that sets forth land management planning prescriptions, denies near-term benefits from forestry investments and management practices, and restricts timber management and harvesting on millions of acres of productive forest lands that are not considered optimum growth lands.
>
> (2) The adoption of a statutory requirement that National Forests be managed under the "non-declining yield" concept that would result in the loss, and waste, of billions of board feet of timber in western National Forests.
>
> (3) The repeal of restrictions on Forest Service use of timber value to offset road construction costs, including repeal of the "prudent operator" provision of the 1964 Forest Roads and Trails Act that could result in roads being overbuilt beyond the requirements of access to remove harvested timber.

The Sierra Club bulletin reacts this way:

> Although the Humphrey bill was strengthened in several respects, the overall thrust of the bill is still to leave the Forest Service with too much discretion to perpetuate poor logging practices.

The bulletin states that changes are needed to:

> (1) guarantee multiple use and sustained yield of timber; (2) give protection to Eastern mixed hardwood forests from excessive clearcutting; (3) prohibit excessive cutting of immature trees; (4) give better protection to critical wildlife habitat and plant communities; (5) require that all forest areas scheduled for timber sale be inspected by professional foresters first; (6) require the Forest Service to delay and give notice before it begins logging in any roadless area; and (7) further limit logging in economically marginal areas.

All of the points that both these groups expressed concern about were considered and acted upon by the committees, although, obviously somewhat differently than these contending groups would like.

In order to aid my colleagues in their understanding of the issues, I would like to set forth some observations about the various contentions. The NFPA states that section 5 would limit timber management and harvesting on millions of productive acres of national forestland, while the Sierra Club states that there should be further limitations.

The committee bill does not prescribe the limits but rather directs that the Secretary, by regulation, set up guides to management so that investments over and above the regular multiple use investments will not be made for incremental timber production where the cost will exceed likely returns.

The bill does not even exclude timber harvesting on lands where the growing of trees for wood production under investment concepts would be unprofitable.

What it says, however, is that if the cost to conduct regular multiple use management on lands were, for example, $50 per acre and in the process trees were grown that had a value of $20, these trees could be harvested and trees could be planted again for multiple use purposes.

On the other hand, assume that on top of these multiple use costs and benefits it would take an added $100 to intensively grow trees for timber, but the likely total returns for timber would be only $90. The added investment would then push this land into the marginal classification as far as timber production goes. In the first example, for $50 the public would be getting all of the multiple use values plus $20 in timber income. In the second example, for $150 the public would get the same multiple use values but only $90 in income from timber.

The course we are recommending emphasizes the wise use of resources and dollars. We are not recommending a course that would have the Government spend more than it will bring in.

We are saying that $50 can be spent for conservation multiple use benefits even though only $20 in cash timber income will be realized. We recognize there are many national forest acres that do not have marketable timber resources on them. Under this bill, there is a clear directive in such cases to secure the multiple use values of water, wildlife, soil, and forests.

Frankly, I fail to see the validity of the industry concerns and especially when there are such excellent opportunities to make intensive investments and secure good timber returns on the more productive forest lands in the national forest system. And further, quite frankly, if we are going to vote to put more Federal dollars into timber growing, I would recommend that we put them into higher site private lands—and there are millions of such acres—that would increase the timber supplies in the Nation.

The second area of industry concern is the language adopted in section 11 dealing with what is called the sustained yield of timber. Here the committees also considered three alternatives, and I shall quote from the committee report.

> SUSTAINED YIELD POLICY
>
> The Committee, in reaching its decision on the issue of sustained yield, recognized the importance of the issue to overall National Forest management policy.
>
> Section 5 of S. 3091, as reported, amends the Forest and Rangeland Renewable Resources Planning Act of 1974, to add criteria for the Secretary of Agriculture to follow in specifying guidelines to be applied in setting harvesting levels on National Forest System lands.
>
> Section 11 of S. 3091 also adds a new section 13 to the 1974 Act. It sets the limits for the sale of timber from each National Forest to a quantity equal to or less than a quantity which can be removed from each forest annually in perpetuity on a sustained yield basis.
>
> The annual limitation may be exceeded from time to time so long as sales over any 10-year period do not exceed such quantity limitation.
>
> Where a National Forest has less than 200,000 acres of commercial forest land, two or more forests may be combined for the purpose of determining sustained yield. The limitations do not prevent exceeding the planned level in order to salvage timber stands substantially damaged by fire, windthrow, or other catastrophe.
>
> In amending S. 3091, the Committee considered various suggestions about the sustained yield levels appropriate for the various resources on the National Forests. The 1897 Organic Act and the Multiple-Use Sustained Yield Act of 1960 outline the purposes for which the National Forests may be established and shall be managed. The 1960 Act defines multiple use and sustained yield in terms of all renewable resources of the National Forests.
>
> The Committee considered three alternative policies for establishing timber harvest levels—
>
> The first policy would permit a rapid and significant increase in annual harvest levels now, despite the fact that this would lead to a decline in harvest levels in the future. This increase would come from currently mature timber, most of which is on Western National Forests.
>
> The second policy would substantially reduce the annual harvest levels now and stress managing trees to an age when they reach physiological maturity.
>
> The third policy would establish a harvest level at the quantity which can be removed in perpetuity on a sustained yield basis, as provided in the 1960 Act.
>
> The rapid, widespread cutting of currently mature trees may well be an advisable practice on privately-held lands where the basic management objective is maximizing short-term economic returns. The Committee believes, however, that such practices are incompatible with the management of the National Forests, where decisions must be based on the numerous public values of the forest, in addition to economic returns.
>
> The Committee also recognized that a system of harvest designed to concentrate attention on developing mature stands of large trees could fill a desire for supplies of such material but would reduce yields and affect other values.
>
> The Committee concluded that managing the timber resource on a sustained yield basis is the most advisable means of guaranteeing a continuous flow of timber and related resources to meet the needs of the American people as called for by the 1897 and 1960 Acts. This approach also provides the best assurance that the other forest resources will not be subjected to sudden potentially adverse changes or disruptions.
>
> The approach adopted by the Committee (1) means that allowable timber harvest levels can be increased where justified by management practices, (2) specifically permits the annual harvest to vary, and (3) permits the planned output over a decade to increase.
>
> Indeed, the Committee expects that the allowable harvest will increase if the intensified management programs called for by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by S. 3091, are implemented.

Both the view of the industry and the coalition group were weighed and again, I believe, the committees took a solid conservation position. There will not be "the loss and waste, of billions of board feet of timber" that the industry charges, nor will there be the threat to a guaranteed "multiple use and sustained yield of timber," as the Sierra Club fears.

Under section 11, adding a new section 13 to the 1974 Resources Planning Act, the sale of timber is to be regulated to assure a sustained yield in perpetuity. What does this mean? On the 500 million acres of commercial forest land in the United States, 73 percent is privately owned. These private holdings have a capacity to grow an average of 74 cubic feet of wood per acre per year. Their actual rate of growth is only 38 cubic feet.

Each ownership is in a different condition and situation consisting of small farm holdings, industrial forests, State forests, and national forests. The national forests are growing 30 cubic feet of wood per acre per year, but they could grow 73 cubic feet per acre per year.

However, our national forests have but 92 million acres of commercial timber land in their 187 million acres—18 percent of the Nation's commercial forest land. They are, however, well stocked in the West with mature trees while in the East and South they have mainly younger forests. In general, the national forests have less ability to grow timber than do private lands and in addition they must be managed for multiple use purposes.

Because the national forests are mainly in the West and because they have been protected from fire and destructive cutting they today carry a stand of 217 billion cubic feet of timber. These lands have 34 percent of the Nation's timber despite the fact that they are but 18 percent of the Nation's forest land.

The National forests have these heavy demands not because they were better endowed by nature but because they have been protected. They are not like the other lands which have had their timber liquidated and are mainly young growing trees.

The national forests carry 46 percent of the Nation's softwoods and 8 percent of the Nation's hardwoods. The reason why their proportion of softwoods is higher than their 18 percent of the timber land and their hardwood supply is below their acreage proportion is because most of the national forests are in areas that naturally grow softwoods.

The members of the committees were not insensitive to the arguments set forth for speeding up the harvest on the national forests even if it meant that future harvests would decline, nor were they insensitive to the argument that the cut should be slowed down and the public forest policy directed toward growing trees to nearer full maturity based on age and attaining high quality saw timber.

The fast cut policy is a "fly now—maybe pay later" *one*. We would be placing a lien on our forests for the future generations. At the same time the "slow cut" policy would hurt both the present and future generations by not permitting realization of optimum multiple use values now and in the future. The committee did not want to adopt a "go slow" policy.

Instead the policy that we adopted is a balanced one that seeks to build solid progress.

The harvest of trees can be increased as effective management practices are applied which increase the timber growth rate. The increased yield can be sustained in perpetuity at the newly selected level.

It is the large supply of mature timber in the national forests that permits these public forests to provide adequate perpetual supplies of all renewable resources.

A third major area the committee treated was roads, and this is very closely tied to sustaining the yield of resources. It is also tied to avoiding the needless loss of trees that cannot be used simply because their is no effective way to reach them and bring them to market.

One of the problems in forests, both young and old, is that many trees will die in the life cycle process, not because of lack of attention but simply because this is the process of nature. In younger stands the losses will be in unusable material thinned to increase growth.

After the forest reaches the age of about 25 years, the tree numbers will still naturally thin out. By thinning, these trees can be cut and used if the forest is accessible.

In mature stands, where losses rise due to old age, trees can be stored on the stump if roads are in place, and the harvest can remove trees that are dead or likely to die. These trees can be put to effective economic use.

Road issues are discussed in detail on pages 28–32 of the committee report.

The National Forest Products Association takes a narrow position on the road question, but the committee did recognize that access roads have been overbuilt.

The coalition likewise expressed concern about the road policy. In many cases they felt that roads were designed to forestall the opportunity to create wilderness. They also expressed the view that roads were a major contributor to erosion and soil losses. The committee received much effective testimony on this subject from competent resource professionals.

There is no doubt the roads are vital to better resource management and better road planning is needed to reduce damage to resources. The position adopted was a comprehensive overhaul in the methods and systems for forest roads.

Under the bill, roads must be planned as a part of the land management planning process and the forest transportation plan. Roads must not be overbuilt and care must be taken to respect soil, water and other values.

The committee position is that it does not matter whether the timber is sold with a requirement that the purchaser build the road, or the road is built with appropriated funds in advance of the sale. The net result is the same. The taxpayers of the United States are paying for the road. The Forest Service is to be a prudent land manager weighing all the relevant factors.

I would note that the large timber companies often sell timber or have contract loggers cut their timber. In these situations they do not let the purchaser or logger come on their land and build the road as they wish. The large firms require that the road be built where it will be needed to meet the firm's management goals and built to their standards.

I believe that the committee took a most reasonable position on the use of the taxpayers' money, and set about fashioning a policy to strengthen the multiple use and sustained yield concept and deliver to the American people the maximum benefits.

I would also like to call attention to the sort of underpinning we have to the broad conservation charge that this bill contains.

We provided for an effective system of local, regional and national advisory boards to be composed of a cross section of people. This gives the citizen, no matter what his interest or calling, a chance to have his voice heard in the development of guidelines and management processes.

We provided another device to aid both the land manager and the citizen—an advisory board of scientists to advise on the guidelines.

We also provided for greater use of research plus monitoring of the effects of management systems to get the best management practiced that is possible, given the state of man's knowledge. In addition, we provided that when a practice is found to be wanting it will be modified or discontinued.

There are other provisions in the bill that are of great conservation and economic significance, and I will touch on one more.

The underlying issue that brought this legislation to a head was the court decisions that would, if applied nationwide, significantly curtail effective forest management and make a major reduction in the sale of timber from the national forests.

Acting on the advice of the court, we reviewed whether that language in the 1897 law was an anachronism. We decided that it was. We decided to validate all timber sale contracts that had been made under that act. I personally was persuaded this was a reasonable thing to do.

It did not seem proper to me, since some 30 billion board feet of national forest timber had been sold in good faith and is under contract, that we should upend all of these contracts and disrupt the timber market and the supply flow of forest products.

Further, we revised the language of the 1897 act to set the policy of the 1960 Multiple Use and Sustained Yield Act and the 1974 Resources Planning Act as the guides for the sale of timber. Thus, those contracts which contain trees that are not dead, matured or large growth will be permitted to continue, and new sales will be made under new standards, subject, of course, to the sustained yield constraints. However, the bill does provide machinery for bringing old contracts into conformity with the requirements of this law when practicable.

This is a big plus for the industry, not done as a favor to it, but done in the public interest. For the industry spokesmen to now complain when their interests have been considered and, I believe, met, does not serve the needs of their workers, stockholders and investors.

All in all, this is an excellent bill which is the product of a considerable amount of hard and dedicated work by all members of the two committees and Senator Randolph.

While I will be a manager, I want to make special note of the fact that Senator Talmadge, Chairman of the Committee on Agriculture and Forestry, who acted as chairman for both committees and Senator Metcalf who served as chairman for the Interior and Insular Affairs Committee, deserve great credit for the way they brought together and reconciled various views.

They effectively moved the bill forward through the arduous days of markup. I would be remiss if I did not mention Senators Stone, Huddleston, Eastland, Bellmon, and Dole on the Committee on Agriculture and Forestry and Senators Bumpers, Johnston, McClure, and Hatfield on the Interior and Insular Affairs Committee for the extra effort they made in helping to work out a useful and constructive bill.

It is my hope that this bill and the accompanying report will be carefully studied to help all of us in understanding the complex issues which we will face when the bill is considered.

Mr. President, to further this process, I ask unanimous consent that the section-by-section analysis of the bill be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Section-by-Section Analysis

SHORT TITLE

The first section provides that the Act may be cited as the "National Forest Management Act of 1976."

SECTION 2. FINDINGS

Section 2 of the bill (1) adds a new section 2 to the Forest and Rangeland Renewable Resources Planning Act of 1974, which sets forth seven Congressional findings regarding the Nation's renewable natural resources; and (2) redesignates sections 2 through 11 of the 1974 Act as sections 3 through 12, respectviely.

The first finding recognizes that the management of renewable resources is highly complex and that the uses, demand for, and supply of such resources will not remain constant but will vary over time.

In the second finding, the Congress finds that an assessment of the Nation's renewable resources and a national program for such resources prepared by the Forest Service, in cooperation with other agencies, is in the public interest.

The third finding is that in order to serve the national interest the program for the Nation's renewable resources must rest on a sound, comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from public and private forest and rangelands. Furthermore, the program must carefully analyze both environmental and economic impacts and must coordinate multiple-use and sustained-yield opportunities as provided by the 1960 Multiple-Use Sustained-Yield Act. Finally, the public is to have an opportunity to participate in the program's development.

The fourth finding recognizes that a sound technical and ecological information base for effective management, use and protection of the Nation's renewable resources results from increased knowledge gained through coordinated public and private research.

In the fifth finding, Congress recognizes that since the majority of the Nation's forest and rangeland is in private, State or local ownership, non-Federally owned land has the major capacity to produce the goods and services derived from renewable resources and that the Federal Government, consistent with the principles of multiple use and sustained yield, should be a motivating force in promoting the efficient long-term use and improvement of the renewable resources of non-Federally owned lands.

The sixth finding recognizes that the Forest Service, by virtue of its authority for management of the National Forest System, for programs of cooperative forestry and research, and its role as an agency of the Department of Agriculture, has a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture to meet the needs of future generations of Americans.

The seventh finding recognizes that recycled timber product materials are as much a part of our renewable forest resources as the trees from which such materials come; and, in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials use, develop techniques for substituting secondary materials for primary timber materials, and promote and encourage the use of recycled product materials.

SECTION 3. REPORT ON FIBER POTENTIAL

Section 3 of the bill amends redesignated section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 to require that the Secretary of Agriculture include in the 1980 Renewable Resource Assessment and each subsequent update of the Assessment a report on the additional fiber potential of National Forest System lands, including forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple-use considerations.

SECTION 4. RENEWABLE RESOURCES PROGRAM

Section 4 of the bill amends redesignated section 4 of the Forest and Rangeland Renewable Resources Planning Act of 1974 by adding a fifth requirement to be included in the Renewable Resource Program. The requirement is for recommendations covering four specific subject areas. These recommendations will: (1) evaluate major Forest Service program objectives so as to make it possible to determine on a national basis the multiple-use and sustained-yield relationships among and within the various renewable resources; (2) explain opportunities for owners of forests and rangelands to participate in programs which will improve the condition of their land and renewable resources; (3) recognize the need to protect and improve (where this can be appropriately done) the quality of soil, water, and air resources, fundamental to the regeneration of renewable resources; and (4) set national goals recognizing the interrelationships between, and interdependence within, the various renewable resources.

SECTION 5. NATIONAL FOREST SYSTEM LAND MANAGEMENT PLANNING

Section 5 of the bill amends redesignated section 6 of the Forest and Rangeland Renewable Resources Planning Act 1974 by adding new subsections (c) through (h), which provide additional direction in the preparation and revision of land management plans for the protection, use, and development of the renewable resources of the National Forest System.

New subsection (*c*) requires the Secretary of Agriculture to provide for participation by the public in the development, review, and revision of land management plans.

New subsection (*d*) requires the Secretary of Agriculture to promulgate regulations pursuant to the rulemaking procedures of the Administrative Procedure Act within two years after enactment of the bill which set out (a) the process for the development and revision of land management plans, and (b) the guidelines and standards to be applied in land management planning. The process for developing and revising land management plans is to include the requirements of paragraphs (1) through (4) of this subsection, and the guidelines and standards for land management planning are to cover those specifically called for in paragraphs (5) and (6) of the subsection. The Secretary may, in the regulations, prescribe land management planning procedures or guidelines and standards to be applied in formulating land management plans in addition to those set forth in subsection (d), but all such procedures, guidelines, and standards are to conform to the principles of the Multiple-Use Sustained-Yield Act of 1960.

Under paragraphs (*1*) *through* (*4*) *of new subsection* (*d*), regulations are required to spell out (1) how the interdisciplinary approach will be used in land management planning; (2) the types of land management plans to be used and how the plans relate to the Renewable Resource Program; (3) the procedures for involving the public in the formulation and review of land management plans and revisions of such plans; and (4) procedures to insure that plans for land management are developed in accordance with the National Environmental Policy Act, including the preparation of environmental impact statements. (Paragraph (4) does not alter the responsibilities of the Forest Service to comply with the National Environmental Policy Act, or the guidelines of the Council on Environmental Quality.)

Paragraph (*5*) *of new section* (*d*) sets out certain specific guidelines for land management plans relating to land suitability and inventory. Under subparagraph (A), there are to be guidelines for identifying the suitability of the lands for management for the various renewable resources. Redesignated section 5 of the Forest and Rangeland Renewable Reosurces Planning Act requires the Secretary of Agriculture to maintain an inventory of all National Forest System lands and resources. In connection with that requirement, the guidelines to be developed under subparagraph (B) are to provide for obtaining inventory data on the various renewable resources and for soil and water resources, including pertinent maps, graphic material and other explanatory aids. Guidelines called for in subparagraph (C) are to provide methods to identify any special conditions or situations in the land area covered by the plan which involve hazards to the resources and the relationship of such special conditions or situations to alternative activities for the land area.

Paragraph (*6*) *of new subsection* (*d*) provides for more detailed guidelines in formulating management direction for land management plans for the multiple uses of units of the National Forest System.

Subparagraph (*A*) *of paragraph* (*6*) calls for specifying guidelines to insure consideration of the environmental and economic aspects of various sytems of renewable resources management, including the related systems of silviculture and protection of forest resources, methods to provide for recreation (including wilderness), range, timber, watershed, wildlife and fish—the resources set forth in the Multiple-Use Sustained-Yield Act of 1960.

Subparagraph (*B*) *of paragraph* (*6*) requires that land management plan guidelines provide for diversity of plant and animal communities based on the suitability and capability of the specific land area, so that overall multiple-use objective are met.

Subparagraph (*C*) *of paragraph* (*6*) requires guidelines which recognize the requirements necessary to coordinate the multiple uses applicable to special or unique management areas. (Certain areas of National Forest System lands will have unique natural features found in only a few places, such as rare or endangered species of plants or animals, which necessitate special management requirements. Other areas are designated for special uses, such as Wildernesses or National Recreation Aresa, where management requirements must provide particular resource emphasis. Other areas are designated by the Secretary or the Chief for special management emphasis.)

Subparagraph (*D*) *of paragraph* (*6*) provides for guidelines which will recognize the need for special provisions necessary to protect soil, water, esthetic, and wildlife resources in those areas where conditions are critical for tree regeneration within a reasonable period of time, or where the size of a timber sale or cutting areas, or stand size and species composition are critical in terms of multiple-use impacts.

Subparagraph (*E*) *of paragraph* (*6*) calls for guidelines specifying how the interdisciplinary approach required by subsection (b) of redesignated section 6, including the manner in which the expertise of State agencies affected by resource management planning on National Forest System lands, will be obtained and how such expertise will be used in preparing land management plans.

Subparagraph (*F*) *of paragraph* (*6*) requires guidelines to prescribe the appropriate silvicultural systems, according to geographic areas, forest types or other suitable classifications, to include, but not be limited to, thinnings, harvesting of trees and forest products, regeneration and other treatment methods.

Subparagraph (*G*) *of paragraph* (*6*) calls for guidelines to insure research on and evaluation of each management system in use or proposed for use. The evaluation is to be based on continuous monitoring and assessment in the field. When such research or evaluation shows that a system or method of management is impairing land productivity, guidelines will provide that the system or method be modified or discontinued.

Subparagraph (*H*)(*i*) *of paragraph* (*6*) calls for guidelines to provide that the quantity of timber harvested from any National Forest System lands shall be determined only through the process of preparing and revising land management plans.

In subparagraph (*H*)(*ii*), guidelines are to provide that allowable harvests on National Forest System lands shall be based exclusively on lands available and suitable for timber production. These lands are identified under the guidelines required by paragraph (6), and the harvest levels established are to be reviewed and adjusted periodically.

Subparagraph (*H*)(*iii*) calls for guidelines relating to the amount of timber harvested from National Forest System lands. The guidelines are to identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where estimated production cost exceeds estimated economic return. However, the estimated production cost is to include only direct timber production costs and not costs unrelated to such production. Access, protection, revegetation, and administrative costs for multiple-use purposes are not direct timber production costs.

Subparagraph (*H*)(*iv*) requires guidelines to provide that increases in the allowable harvest resulting from intensified management practices, such as reforestation, thinnings, or tree improvement, are to be made only when it can be demonstrated that such practices warrant increased allowable harvests and continued only as long as the output increases projected by using such practices are being attained.

Under subparagraphs (*I*)(*i*) *through* (*iii*) *of paragraph* (*6*), guidelines are to specify that timber will be harvested from National Forest System lands only where (1) soil, slope, or other watershed conditions will not be irreversibly damaged; (2) there is assurance that lands can be adequately restocked with trees within five years after being harvested; and (3) protection is provided for lakes, shorelines, streams, streambanks, wetlands, and other bodies of water from change in water temperature, blockages of water courses, and deposits of sediment, where harvesting could seriously and adversely affect water conditions or fish habitat.

Subparagraphs (*J*)(*i*) *through* (*v*) *of paragraph* (*6*) deal with guidelines for cutting practices associated with even-aged management. They are to insure that clearcutting (including seed-tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber) is used as a cutting method only where (1) it is determined to be the optimum method (that is, in the light of all land planning considerations, it is the best way to achieve the objectives and requirements of land management planning for the area to be cut); (2) the completed interdisciplinary review has assessed for the area to be cut the potential environmental, biological, esthetics, engineering, economic impacts, and impacts on non-timber resources, and has assessed the consistency of the sale with the multiple uses of the general area, which uses are set forth in the land management plans for that area; (3) clearcut blocks, patches, or strips are shaped and blended, to the extent practicable, with the natural terrain; (4) there are established by geographic areas, forest types, or other suitable classifications, the maximum size limits for clearcuts in one harvest operation, including provision to exceed size limits after appropriate public notice and review by the responsible Forest Service officer one level above the officer who normally approves the harvest proposal, except that size limits do not apply to areas to be harvested because of damage due to natural catastrophic conditions, such as fire, insect and disease attack, or windstorm; and (5) the cutting is carried out in a manner consistent with protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources, and with timber resource regeneration.

Paragraph (7) *of new subsection* (*d*) calls for guidelines applying to the preparation and revision of resource plans using the interdisciplinary approach required in subsection (b) of redesignated section 6.

New subsection (*e*) requires the Secretary of Agriculture, in implementing the purposes of subsection (d), to appoint a committee of scientists. No officers or employees of the Forest Service may be members. The committee's function is to provide scientific and technical advice and counsel on the proposed guidelines and procedures for the Secretary's regulations in order to assure that an effective interdisciplinary approach is proposed and adopted. Once the regulations are promulgated, the committee will terminate. The Secretary is given the discretionary authority to appoint, from time to time, committees of scientists, when considering revisions of the regulations provided for under subsection (d). The information available to the public at the time proposed regulations or revisions are issued shall include the views of the committee. The Department of Agriculture is to furnish the committee the personnel for clerical and technical assistance necessary to discharge its duties. The committee members shall be entitled to compensation while attending committee meetings at a rate of $100 per diem, including travel time, and may be allowed travel expenses while away from their homes or regular places of business, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

New subsection (*f*) requires consistency between land management plans and resource plans and permits, contracts, and other instruments providing for use and occupancy of National Forest System lands. After the date of the bill, new resource plans, permits, contracts, and other legal instruments granting or authorizing use and occupancy of National Forest lands are required to be consistent with the land management direction provided in the land management plan. Where resource plans or permits, contracts, and other legal instruments are in existence at the time a land management plan is approved, they will be revised as soon as practicable to be made consistent. The same requirements pertain to existing authorizations when a land management plan is revised. Any revision of permits, contracts, or other legal instruments to make them consistent with land management plans or revised plans shall be subject to valid existing rights.

New Subsection (*g*) provides that new land management plans or revisions of existing plans will not become effective until 30 days after completion of the public participation process provided for in subsection (c) of redesignated section 6 and publication of notification by the Secretary of the approval of a plan or revision.

New Subsection (*h*) requires the Secretary to adopt interim procedures relating to the guides for the land management planning within 120 days after the enactment of the bill. The principal purpose of interim procedures is to provide greater public awareness by identifying and publishing the directives that apply in land management planning during the two-year period during which regulations are being promulgated. Prior to the promulgation of the regulations required by subsection (d) of redesignated section 6, management of National Forest System lands will be in accordance with existing regulations and with the interim guidelines when adopted. As soon as practicable, those land management plans in effect when this bill is enacted will be revised, when necessary, to make them consistent with the guidelines specified pursuant to subsection (d) of redesignated section 6. These provisions will permit National Forest System land planning and management to continue under present policies, together with the guidelines issued as interim procedures, during the period that comprehensive regulations are being drafted, published for public comment, and reviewed for final adoption.

SECTION 6. NATIONAL PARTICIPATION

Section 6 of the bill amends redesignated section 8(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974. The provision of that Act specifying sixty calendar days of continuous session for Congress to adopt a resolution disapproving the President's Statement of Policy is changed to ninety calendar days of continuous session. Unchanged is the provision of redesignated section 8 that, in computing calendar days of continuous session, the days on which either House is not in session because of an adjournment of more than three days to a day certain are not counted. Also unchanged is the provision that the only way the continuity of session can be broken is by an adjournment without setting a day certain for reconvening.

Section 6 of the bill also amends redesignated section 8 by adding a provision to subsection (b) requiring the Director of the Office of Management and Budget to appear before the Senate Committees on Agriculture and Forestry, Interior and Insular Affairs, and Public Works, and the House Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation, to explain the failure to request funds to meet the policies approved by the Congress for the management of the renewable resources of the National Forest System.

SECTION 7. RESTORATION OF VEGETATIVE COVER

Section 7 of the bill amends redesignated section 9 of the Forest and Rangeland Renewable Resources Planning Act of 1974 by adding a new provision relating to the restoration of vegetative cover. The Secretary of Agriculture is required, within five years after removal of vegetative cover from any forest or rangeland by man or natural causes, to report to Congress either the funds needed to properly restore useful vegetative cover or to report that such lands are not in need of revegetation. The report requirement does not apply to areas which are to be used for specific purposes, such as rights-of-way, campgrounds, reservoirs, and the like, or to areas where permits or other provisions are made which assure that revegetation will be undertaken.

SECTION 8. TRANSPORTATION SYSTEM

Section 8 of the bill amends redesignated section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974 by adding two new subsections relating to the National Forest Transportation System.

New subsection (*b*) requires that roads authorized to be constructed on National Forest System lands in timber sale contracts or in other permits or leases are to be designed with the goal of reestablishing vegetation on the roadway and areas where road construction disturbs vegetative cover. Unless the need for roads constructed in connection with the timber sale contracts, or other permits or leases, as permanent roads is identified in the forest development road system plan, the vegetative cover is to be reestablished by artificial or natural means within ten years after the termination of the contract, permit, or lease. Reestablishment is not required if it is determined prior to the expiration of the ten-year period following contract, permit, or lease termination that the road is needed for use as a part of the forest development road system. The provisions of new subsection (b) are prospective and apply only to future sales.

New subsection (*c*) requires that all roads constructed on National Forest System lands be designed to standards which are appropriate for the intended uses. Factors of safety, transportation cost, and impacts on land and resources are to be considered in designing road standards.

SECTION 9. NATIONAL FOREST SYSTEM

Section 9 of the bill amends redesignated section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 by adding a provision which, in effect, gives Congressional status to National Forest lands reserved from the public domain. Other National Forest lands already have Congressional status through specific Acts, such as the Weeks Act. The new provision states that, notwithstanding the authority conferred on the President to revoke, modify, or suspend proclamations or executive orders setting apart and reserving public domain land as National Forests, public domain lands which are now or may hereafter be reserved as National Forests are not to be returned to the public domain except by an act of Congress. This does not affect the President's authority to combine National Forests, separate a forest into two or more National Forests, or change the boundary lines of a forest, providing such changes do not remove lands from National Forest status. Also unaffected are existing authorities regarding exchanges of lands involving public domain National Forests.

SECTION 10. RENEWABLE RESOURCES

Section 10 amends redesignated section 12 of the Forest and Rangeland Renewable Resources Planning Act of 1974 to provide that the term "renewable resources" is to be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on the date of the Forest and Rangeland Renewable Resources Planning Act of 1974 and on the date of enactment of acts which amend or supplement the 1974 Act. Thus, the scope of the Forest Service's responsibilities and authorities respecting "renewable resources" will encompass those matters covered by the amendments in the National Forest Management Act of 1976, as well as any future act affecting such responsibilities and authorities.

SECTION 11. LIMITATIONS ON TIMBER REMOVAL; PUBLIC PARTICIPATION AND ADVISORY BOARDS

Section 11 amends the Forest and Rangeland Renewable Resources Planning Act by adding new sections 13 and 14 relating to the sustained yield of the timber resource and to public involvement in land management planning.

Subsection (*a*) of new section 13 restricts the sale of timber from each National Forest to a quantity equal to or less than a quantity which can be removed from that forest annually in perpetuity on a sustained-yield basis. The Secretary of Agriculture is permitted, however, to exceed, from time to time, this sale limitation on timber quantity from each National Forest, provided the average sales from the forest over any ten-year period do not exceed the quantity limitation. The Secretary may combine two or more National Forests as the area for which to determine the sustained yield where a forest has less than 200,000 acres of commercial forest land.

Subsection (*b*) of new section 13 provides that the Secretary is not precluded by the quantity sales limitation from salvaging timber stands which are substantially damaged by fire, wind throw, or other catastrophes (such as insect infestation or disease).

New section 14 requires the Secretary of Agriculture to establish by regulation procedures to give Federal agencies, State, and local governmental agencies, and the public, adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs. These procedures are to include provision for public hearings where appropriate. This public participation requirement is broader than that in subsection (c) of section 6, which requires guidelines for public involvement in the formulation and review of proposed land management plans and revisions thereof. The procedures required by section 14(a) are to apply in the exercise of the Secretary's authorities under this bill and other laws applicable to the Forest Service and its programs.

Subsection (*b*) of new section 14 requires that in planning for and management of National Forest System lands, the Secretary, in accordance with the Federal Advisory Committee Act and other applicable law, is to establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities.

SECTION 12. CONFORMING AMENDMENTS TO THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

Section 12 amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to conform section references in the text of that Act to the section redesignation in section 2 of this bill.

SECTION 13. AMENDMENT TO THE ORGANIC ACT

Section 13 repeals the twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897, which relates to timber sales on National Forest System lands. Section 13 eliminates the provision of the 1897 Act, as interpreted in recent court decisions, that trees sold from the National Forests must be "dead, matured, or large growth" (which affects the application of scientifically-progressive silvicultural practices).

SECTION 14. TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

Section 14 places seven requirements on sales of timber on National Forest System lands.

Subsection (*a*) authorizes the Secretary to sell trees, portions of trees, or forests products located on National Forest System lands. This authority is to be exercised to achieve the policies set forth in the Multiple-Use Sustained-Yield Act and the Forest and Rangeland Renewable Resources Planning Act, as amended. The Secretary is required to sell at not less than appraised value so that the United States will obtain fair market value for timber and forest products.

Subsection (*b*) requires that those timber sales which are advertised shall be shown on suitable maps, and the sale map and prospectus shall be made available to the public and interested potential bidders. (Although these practices have been widely applied by the Forest Service in timber sales, this requirement will insure that it is done for all advertised sales.)

Subsection (*c*) provides that the duration of the contract and the other contract terms shall be designed to promote the orderly harvesting of the timber included in the sale. Such contract terms must be consistent with the principles set forth in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Although timber sales contracts may be for fewer years, they may not be for longer than ten years, unless the Secretary makes a finding that better utilization of the various forest resources, consistent with the principles of the Multiple-Use Sustained-Yield Act, will result from a sale for a period of longer than ten years. The ten-year period may be adjusted to provide additional time if delays in contract performance are due to acts of agents of the United States or to other circumstances beyond the purchaser's control. The purchaser is to prepare and file, as soon as practicable after a contract has been executed by the parties, a plan of operation which is to be approved by the Secretary. Revised plans would also be subject to the Secretary's approval. The plan of operation requirement only applies to contracts for an advertised sale with a term of two years or more. The Secretary is not to extend any contract period with an original term of two or more years unless he finds that he purchaser has diligently performed under an approved plan of operation, or that a contract extension would be in the public interest.

Subsection (*d*) requires the Secretary to advertise all timber sales, but there are no requirements (as in the 1897 Act) for advertisements for thirty days in one or more newspapers of general circulation. This gives the Secretary greater flexibility in the length of time for advertising and in the means used. Where extraordinary conditions exist, which are to be spelled out in regulations, or where the appraised value of the timber or products to be sold is less than $10,000, no advertising is required. This increases the present ceiling of $2,000 for non-advertised sales and eliminates advertising in emergencies, such as fire salvage sales where rapid removal is necessary to reduce loss of timber and revenue. Further, sales may be made without advertising where the timber has been offered for sale by advertisement and no satisfactory bid is received, or where the bidder fails to complete the purchase. The provision of the 1897 Act that timber previously advertised but unpurchased may be sold "in quantities to suit purchasers" is eliminated. Sales of such timber will be subject to the same management requirements as timber initially offered for sale.

Subsection (*e*) authorizes the Secretary to dispose of, by sale or other means, trees, portions of trees, or other forest products in connection with research and demonstration projects. (This new authority does not preclude the Secretary from using any other authorities he has under existing law, such as free use under the 1897 Act.)

Subsection (*f*) requires persons employed by the Secretary of Agriculture to designate the trees or other forest products to be harvested, to mark the trees or forest products when the marking of individual trees or forest products is considered necessary, and to supervise the harvesting operations. (The existing provision of the 1897 Act, as interpreted by the courts, requires the marking of the individual trees to be cut and removed, as well as designating the sale area.) Subsection (f) will provide the Secretary with sufficient flexibility to indicate the timber to be harvested by designating an area in which all timber will be cut, where trees to be cut will be marked, or where trees to be left will be marked. The subsection incorporates the provisions of the 1897 Act that persons who supervise timber harvesting shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the purchaser's employment.

Subsection (*g*) provides that the Secretary shall establish utilization standards and methods of measurement for removal of trees, portions of trees or forest products to achieve optimum practical use of wood material. In developing such standards, consideration is to be given to opportunities to promote effective wood utilization, regional conditions, and species characteristics. In keeping with requirements for balance land-use management, utilization standards are to be compatible with multiple use resource management objectives for the areas involved. (However, it is not necessary that a tree, once cut, be entirely removed from the forest, as recent court decisions have held is required under the 1897 Act.) To accomplish the purposes of subsection (g) in situations involving salvage of timber which is dead, down, insect-infested, or damaged (for example, by fire or disease), the Secretary is authorized to require purchasers of such timber to make deposits of money, in addition to the payment for the timber, to cover the Government's cost for design, engineering, and supervision of the construction of needed roads and the cost for supervision of the harvesting of such timber by Forest Service personnel. This authority is similar to that for deposits for forest improvement work under the Knutson-Vandenberg Act (16 U.S.C. 576–576b) and for brush disposal under the Act of August 11, 1916 (16 U.S.C. 490).

Without the money available from these deposits to cover the cost to the Forest Service of supervision of road construction and timber harvesting, the Forest Service might not be able to salvage timber from the forests to the degree intended. Hence, it is intended that these funds be immediately available upon deposit for these purposes.

SECTION 15. VALIDATION OF TIMBER SALES CONTRACTS

Subsection (*a*) of section 15 validates all timber sales entered into prior to the enactment of the bill under the Secretary's authority in the Act of June 4, 1897 (16 U.S.C. 476), subject to the provisions of subsection (b). To the extent the terms and conditions of existing contracts permit, they are to be made consistent with land management plans as provided by section 6(f) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

Subsection (*b*) provides that the validation of the three existing fifty-year timber sale contracts in Alaska is subject to the Congressional direction to the Secretary to revise such contracts in developing five-year operating plans to make them consistent with the guidelines and standards provided for in the bill. The Secretary is also directed to reflect the additional costs of such revisions to the purchaser in the contract price of the timber included in the contract. Contract revisions made will be subject to subsequent court review and are not to be inconsistent with those provisions of the contract which are valid, as determined by the final judgment of a court of competent jurisidiction in the event it is necessary to determine valid contract rights through litigation.

SECTION 16. PAYMENTS TO STATES FOR SCHOOLS AND ROADS

Section 16 amends the Act of May 23, 1908, as amended, and the Act of March 1, 1911, as amended, by adding a provision which requires that all amounts earned or allowed any timber purchaser as purchaser credits in timber sale contracts for the construction of roads on the National Forest Transportation System and all collections under the Knutson-Vandenberg Act of June 9, 1930, are included as "moneys received" against which the percentage authorized by the provisions of the foregoing Acts is applied for determining the amount payable to any State for public schools and roads. The amounts collected pursuant to the Knutson-Vandenberg Act are deposits of money in addition to the payments for timber. Although these deposits may result in a stumpage price below that which would have been paid if no deposits were required, the money deposited is not "money received" under the twenty-five percent payment-to-States provision of existing law. The amendment adds these deposits to "moneys received," and the States will receive twenty-five percent of such deposits. As for purchaser credits, an estimated cost for constructing roads on the National Forest Transportation System is established as purchaser credits in the timber sale contract. As the road is built, the purchaser "earns" or is "allowed" credits equal to the cost of construction. The road is not, however, paid for through the use of credits toward timber purchase until the value of timber harvested by the purchaser is set off against the earned or allowed credits. Under the amendment, the earned or allowed purchaser credits used through set-off against the value of timber which would otherwise have produced receipts will be included in "money received," and States will receive twenty-five percent of that amount.

The section 16 amendment also provides that the Secretary of Agriculture is required, from time to time, as he develops estimates of National Forest revenues, to make available to States current projections of revenues and estimated payments to be made under the Act of May 23, 1908, as amended, or any other special acts making payments in lieu of taxes, for use by States for local budget planning purposes.

SECTION 17. ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

Subsection (*a*) of section 17 abolishes the National Forest Reservation Commission established by the Act of March 1, 1911, and transfers all functions of the Commission to the Secretary of Agriculture.

Subsection (*b*) requires the Secretary to prepare an annual report of all land purchases and exchanges relating to the National Forest System, and to submit the report to the Congress as a part of the report prepared in compliance with redesignated section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. This report is to provide information to aid the Congress in its oversight responsibilities, and to improve the accountability of expenditures for forest land acquisitions. Included in the report is to be an evaluation of purchase price criteria and guidelines used by the Secretary in acquiring forest land.

SECTION 18. AMENDMENT TO THE KNUTSON-VANDENBERG ACT

Section 18 amends section 3 of the Knutson-Vandenberg Act of June 9, 1930, in two ways. First, the amendment eliminates the proviso which limits the total amount of money any timber purchaser can be required to deposit to an amount not to exceed, on an acreage basis, the average cost of planting other comparable National Forest lands during the previous three years. The repeal of the proviso permits deposits of amounts which more reasonably relate to the cost of planting lands harvested by timber purchasers.

Secondly, the amendment adds another purpose for which deposits may be required of the timber purchaser. The cost of the United States of protecting and improving the future productivity of the renewable resources of the forest lands on the sale area, including sale area improvement operations, maintenance and construction, reforestation and forest habitat management, may be included in the deposits requirement of timber sale contracts.

SECTION 19. AMENDMENT TO THE ACT OF JUNE 12, 1960

Section 19 amends the Act of June 12, 1960, by adding a new section 8 providing that the Act may be cited as the "Multiple-Use Sustained-Yield Act."

SECTION 20. AMENDMENT TO THE NATIONAL FOREST ROADS AND TRAILS SYSTEMS ACT

Section 20 amends section 4 of the National Forest Roads and Trails Systems Act of October 13, 1964, by striking out the proviso in that section. The proviso provides that, in financing forest development roads, where roads of a higher standard than those needed in the harvesting and removal of the timber and other forest products covered by the particular sale are to be constructed, the purchaser is not required to bear that part of the costs necessary to meet the higher standard. The purchaser does not actually bear the cost of road construction because purchaser credit is provided in the timber sale contract, which reduces the price paid for the timber. The elimination of the proviso will permit roads to be placed in locations and built to standards which better serve present and future uses and reduce in the long run the amount of funds necessary to obtain an adequate road system. The total amount of road construction funds obtained by purchaser credit and by appropriation are now subject to Congressional determination under section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by the bill.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census approximations, the total population of the United States as of June 1, 1976, reached 215,533,087. This represents an increase of 1,731,907 since June 1 of last year. It also represents an increase of 134,795 since May 1 of this year, that is, in just 1 short month.

Thus, in this last year, we have added enough additional people to our population to more than fill the combined cities of Houston, Tex., Minneapolis, Minn., and Medford, Mass. And in 1 month our population has grown enough to more than fill a city the size of Torrance, Calif.

CLEAN AIR AMENDMENTS

Mr. MOSS. Mr. President, I wish to add the name of the Senator from South Carolina, Mr. THURMOND, to the list of those cosponsoring my amendments to the Clean Air Act Amendments (S. 3219). I thank Senator THURMOND for his support and will be pleased to add his name to the considerable list of those who have previously joined in this important issue.

I would also ask unanimous consent that a statement on clean air prepared by the National Construction Industry Council be printed in the RECORD for the benefit of the Members of the Senate.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON BEHALF OF THE NATIONAL CONSTRUCTION INDUSTRY COUNCIL FOR SUBMISSION TO MEMBERS OF THE UNITED STATES SENATE

CLEAN AIR ACT AMENDMENTS, S. 3219

The National Construction Industry Council, formed in 1974, speaks with a single voice for 30 (thirty) associations in the construction industry representing contractors, suppliers, design professionals and others associated with our industry.

The following members join in this submission:

American Concrete Paving Association.
American Consulting Engineers Council.
American Institute of Architects.
American Institute of Steel Construction, Inc.
American Road Builders Association.
American Society of Civil Engineers.
American Society of Landscape Architects.
American Subcontractors Association.
Associated Builders and Contractors, Inc.
Associated Equipment Distributors.
Associated General Contractors of America, Inc.
Associated Landscape Contractors of America, Inc.
Ceilings and Interior Systems Contractors Association.
Concrete Reinforcing Steel Institute.
Council of Construction Employers, Inc.
Mechanical Contractors Association of America, Inc.
National Asphalt Pavement Association.
National Association of Plumbing-Heating-Cooling Contractors.
National Constructors Association.
National Council of Erectors, Fabricators, and Riggers.
National Crushed Stone Association.
National Electrical Contractors Association.
National Society of Professional Engineers.
National Utility Contractors Association, Inc.
Portland Cement Association.
Power and Communications Contractors Association.
Prestressed Concrete Institute.
Producer's Council, Inc.
Sheet Metal and Air Conditioning Contractors National Association.
Society of American Registered Architects.

NCIC collectively, and its member associations individually, have reviewed the subject legislation at great length and with a sincere recognition of the need for a clean, healthy environment to which all our members subscribe. NCIC believes that legislation such as this must reconcile the need for protecting our environment with the need to accommodate population growth and maintain a viable economy. Unfortunately, the non-deterioration provisions included in the Clean Air Act Amendments, currently being considered in Congress, and which are the subject of this statement, do not have the effect of achieving such a balance. These provisions superimpose a radically stringent set of standards over existing standards before the effect of meeting either have been determined. Further, this is being done at a time when this country is engaged in a precarious recovery from a severe recession. Congress has not had time to ascertain the effects such a policy would have on economic recovery, employment, energy conservation and other national goals. The uncertainty surrounding the concept of non-deterioration could easily be dispelled if Congress would endeavor to study the ramifications of such legislation.

For this reason, the National Construction Industry Council is in complete agreement with the amendments offered by Senator Moss which would prohibit the adoption of non-deterioration as a policy until a thorough investigation of the impact and consequences of the proposal has been conducted.

CONGRESS AND FOREIGN POLICY-MAKING—SPARKMAN SYMPOSIUM

Mr. PERCY. Mr. President, on May 20, 1976, I had the opportunity to give the keynote address at the first Sparkman Symposium on Foreign Policy at the University of Alabama in Huntsville. This was the first of an annual series of symposia inspired by the service to country of our distinguished colleague, the chairman of the Committee on Foreign Relations, Senator JOHN SPARKMAN.

During my brief time at the campus, I had the occasion to talk with faculty members and students about the work of the Senate on foreign policy issues. During the course of these conversations there were many expressions of admiration for Senator SPARKMAN who is obviously as popular among his constituents as he is among his friends and colleagues in the U.S. Senate.

At the university I addressed the question of the congressional role in foreign policymaking and the use of the legislative veto. I ask unanimous consent that my comments be printed in the RECORD for the information of my colleagues.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

CONGRESS AND FOREIGN POLICYMAKING

(By Senator CHARLES H. PERCY)

It is a very happy occasion for me when I can come here to Alabama, the State where my grandfather spent so many years of his life and where my father was born and grew up. My mother, who is now a spry 84, eventually lured my father to the Midwest, but he always regarded himself as an Alabamian and was always proud of it.

It is doubly happy for me to participate in this symposium honoring my friend and colleague, John Sparkman. As Chairman of the Senate Foreign Relations Committee, Senator Sparkman has won the appreciation of the other members of the Committee for his leadership and his counsel, but especially for his openness to new ideas and to new procedures. Since John Sparkman has been Chairman, the Committee has worked more closely with the Executive Branch, while retaining its ruggedly independent attitude. Equally important, the Committee has opened up its meetings to the public, except, of course, for occasional sessions when classified information must be discussed.

I know you all are proud of Senator Sparkman and of his distinguished service to Alabama and the country. Having served under him on both the Banking and Foreign Relations committees, I can tell you that your pride in his service is fully justified.

Tonight I want to address one of the most complex questions concerning the role of Congress in foreign policymaking.

During the traumatic era of Vietnam and Watergate, the American people became aware of shocking evidence of an improper assumption of power by the Executive Branch and an intolerable disregard for the separation of powers envisioned by the writers of the Constitution. Yet, while the Executive aggressively overstepped its bounds, for too long it met little resistance from Congress.

There is no question that Congress now has a resonsibility to correct the many abuses of that period, but Congress also has a responsibility to correct those abuses in ways which will not create new problems. In reasserting our proper constitutional role, I am concerned that in some cases we in Congress are insisting on taking control over Executive actions which we are really not capable of dealing with. I have an even greater concern that we may take over powers which constitutionally belong to the Executive.

In the past three and a half years, more than 275 pieces of legislation were introduced that would in some way restrict the powers of the President. Many—perhaps most—of these proposals are necessary or desirable. However, the fact that such a large number of proposals were introduced suggests to me that Congress may be overreacting to compensate for the abuses of the recent past. It would be tragic if Congress were to go too far and to actually cripple the Executive Branch. Excessive restrictions on the powers of the Presidency could paralyze the government.

Without question, we in Congress do have a proper role to play in the formation of national policy. We also have a responsibility to oversee the activities of the Executive Branch so that when the effect of a law is contrary to what was intended, when a program doesn't work as it was meant to, when the law is not being carried out properly, Congress can identify the problem and work to correct it through legislation.

However, this does not mean that Congress should involve itself with the day-to-day implementation of law. Congress simply does not have the expertise, the capability, or the authority for dealing with the daily operations of government. It simply isn't our job to duplicate the bureaucracy of the Executive Branch. For example, I am a member of several Senate committees, one of them being the Foreign Relations Committee. The sixteen Committee members are assisted by about 40 staff aides. The State Department, in contrast to this, has 6500 employees in Washington alone, whose full-time job is the conduct of foreign affairs.

I tried to make this point during the Senate debate on the military assistance bill, when I objected to an original provision requiring legislative approval of military-related equipment sales of under $25 million to any one country. This would have required the review of hundreds of applications each year, yet would not have served any clear policy purpose for the Congress. I pointed out that this review would involve complex technical subjects, and that Congress doesn't have the staff to deal with them. Nor should it build such a staff. I felt that while the Congress does have the duty and the Constitutional authority to get a handle on vital aspects of U.S. foreign policy, this intervention in the day-to-day administration of foreign relations could bog down the operations of both Congress and Executive Branch.

There is a clear difference between the two branches. Congress speaks in many voices, expressing the attitudes and concerns of many constituencies and interest groups. Congress directly reflects the remarkable diversity of American public opinion.

Since it takes into account so many different views, Congress responds more slowly than the Executive Branch, which can ultimately speak with one voice. This is not a drawback, but it is a difference. Congress itself wisely acknowledged this fact in the War Powers Act of 1973. While the War Powers Act was intended to prevent the President from bypassing the constitutional warmuling authority of the Congress, it still allows the President some independence in responding quickly to a crisis.

Congress must be careful not to destroy the flexibility and leadership capability of the President while we seek to restore the balance among the branches of government. This seems to be an especially serious concern in the area of foreign affairs. We in Congress pass laws, thereby playing a major role in influencing policy, but as a practical matter, we must acknowledge the important role the President has to play in the conduct of foreign policy. Louis Henkin, Professor of International Law and Diplomacy at Columbia University, makes the point that the governments of other countries look to the President of the United States to speak of America. He said:

"From the beginning the President represented the U.S. to the world . . . He, or his cabinet, or his ambassadors, made a myriad of smaller decisions—'formulated national policy'—in conducting relations with other countries every day . . . From the Monroe Doctrine and earlier, to the Nixon Doctrine and since, Presidents have developed and announced prospective national policy committing the United States to directions and future actions, and other states have treated these declarations as U.S. policy."

We do not serve the national interest if congressional-executive *conflicts become* a constant source of worry and unease in the international community; if our government appears unable to develop a foreign policy and carry it out. We can argue that the members of Congress are the representatives of the people, but we must remember that the President also, is elected by the people. In Myers v. United States, in which the Supreme Court in 1926 upheld the power of the President to remove executive officers appointed with Senatorial advice and consent, Chief Justice William Howard Taft wrote. "The President is a representative of the people just as the members of the Senate and of the House are, and it may be, at some times, on some subjects, that the President elected by all the people is rather more representative of them all than are the members of either body of the Legislature."

What is important here is that each branch has something to contribute. Each works in the separate ways that it can perform best. Each should acknowledge that the other also is working to achieve what is best for the country Unfortunately, a residue of the Vietnam-Watergate era is the sediment of suspicion that has settled over Washington.

One serious result of the present mood of Congressional distrust of the Executive Branch is the increasing use of what is commonly referred to as the "Congressional veto." This is a mechanism by which Congress delegates authority to the Executive Branch, but makes that authority subject to later approval or veto by resolution of one House of Congress, a concurrent resolution of both Houses, or sometimes just a resolution of one or two committees of Congress. A "Congressional veto" can stop activities which have already begun, or prevent proposed actions from being carried out.

The concept is not new, but it is being used with increasing frequency. The Library of Congress has informed me that in the 30's only five laws of this type were enacted. In the 50's, 35 such laws were passed, but in the last 3½ years, 63 laws with the legislative veto were enacted, and some of these laws contain multiple "veto" provisions.

Although the legislative veto has never been tested in the courts, there is a growing body of opinion that the mechanism raises serious constitutional questions and that it violates the principle of separation of powers. A *California Law Review* article of July 1975 argues that the legislative veto can take Congress out of its proper constitutional role and into the position of exercising day-to-day discretionary power normally associated with administrative agencies.

To give you an idea of what this could lead to: There is now pending in the House Judiciary Committee a bill which would require that any rule or regulation proposed by any officer or agency of the Executive Branch, to implement a law or a program pursuant to a law, be submitted to both Houses of Congress for review. It would only allow a rule or regulation to become effective if Congress were to pass a concurrent resolution of approval, or if it doesn't pass a resolution of disapproval within a period of two months. If this bill were to pass, Congress would be taking on a workload that would require creation of a whole new monitoring bureaucracy. Already the Federal Register publishes about 80 new and proposed Federal rules and regulations every day. In 1975, this came to a total of about 21,000 pages.

Another similar bill has already passed the Congress. That is the new Federal Election Commission bill which makes all advisory opinions, or rulings, of the Commission subject to Congressional veto.

In my own consideration of the Congressional veto, I sought the counsel of Professor Philip B. Kurland of the University of Chicago Law School regarding its constitutionality. Professor Kurland has tentatively concluded that, if the issue were to go to the courts, it is likely that the veto by concurrent resolution would be regarded as an invalid device, if its effects were mandatory rather than advisory. Professor Kurland further states that he finds Congressional veto by committee or by only one House of Congress to be unacceptable. Such a veto has the additional constitutional defect that functions assigned by the Constitution to the whole Congress are exercised by only a part of it.

During the Senate debate on the military assistance bill, which in its original form contained some provisions for veto by concurrent resolution of certain transactions, Senator Howard Baker expressed his strong concern by saying: "If the provisions of this bill regarding legislative vetoes are valid, there would seem to be no limit to the extent to which Congress could reserve to itself in legislation the right to exclude the President from his constitutional role . . . and no limit to the extent to which Congress could involve itself directly in the process of carrying out the laws it has enacted."

Incidentally, the President vetoed the military assistance bill, citing as one of his principal objections the provisions for Congressional veto. The Senate Foreign Relations Committee has now proposed a new approach; that if the Congress wants to disapprove a proposed transaction, it do so by means of a joint resolution. A joint resolution which is very similar to a bill, unlike a concurrent resolution, leaves open to the President the opportunity to use his veto.

The Congressional veto has been proposed in other areas of our foreign affairs as well, *such as* in proposals for Congressional review within 60 days of executive agreements. These are international agreements other than treaties. When the International Law Section of the American Bar Association met at the end of last year to consider this issue, it questioned the wisdom of passing legislation providing for a Congressional veto by resolution of one or both Houses of Congress. It also reported the consensus of many lawyers that the constitutionality of this kind of legislation is at best doubtful. To delay the binding effect of every executive agreement could seriously cripple the day-to-day conduct of our foreign affairs.

I have not come to any final conclusion about the Congressional veto. I do believe, however, that it raises many serious and highly complex constitutional and separation-of-powers questions. Again, I would point out that my basic concern is that the increasing use of the Congressional veto is an indication of the current attitude in Congress. In a recent Senate speech entitled "Balance and Judgment in America Foreign Policy", Senator Sparkman described the attitude as a tendency to question the good motives of the Executive.

This attitude reached full flower with demands that a new Senate intelligence oversight committee should have the right of prior approval of all covert actions by United States intelligence agencies. During the debate on this subject, I maintained that the oversight committee should be kept *informed* of all covert activities, but that it should not be put in the position of approving day-to-day decisions, which is quite different from performing an oversight function. Congress can be a responsible overseer without actually running the executive agencies.

There is no question but that such efforts to take over executive functions are unwise. I think it is time for Congress to accept that the Executive Branch also wishes to serve the common good. It is time to stop overcompensating for the abuses of the Vietnam-Watergate era by continually trying to increase Congressional control over activities which are the legitimate responsibility of the Executive Branch.

Congress would do well to heed Senator Sparkman's advice when he said, "Our proper stance toward the executive is one of judicious independence—skeptical perhaps, but friendly, with a continuing awareness that while powers in our system can be separated, the national interest cannot."

Senator Sparkman is right of course. And it is because he is so often right, and because he is such a fine man, and such a fine friend, that I am pleased to be here tonight to meet his friends on his home ground.

Thank you.

PRELIMINARY NOTIFICATION—PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive notification of proposed arms sales under that act in excess of $25 million. Upon receipt of such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on June 2, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

Mr. President, I ask unanimous consent that the notification be printed in the Record.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Office of the Director,
Defense Security
Assistance Agency,
Washington, D.C., June 2, 1976.

Mr. Richard M. Moose,
Staff Associate, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Moose: This provides an advance notification in accordance with our letter dated 18 February 1976 regarding possible transmittals to Congress of information as required by Section 36(b) of the Foreign Military Sales Act, as amended.

This is to advise you that we have under consideration an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

LIBRARY OF CONGRESS REPORT DISCLOSES POSTAL SERVICE SALARY INCREASES OUTSTRIP GS RAISES BY $5.4 BILLION

Mr. GOLDWATER. Mr. President, Postal Service budget deficits are increasing by leaps and bounds, but no one has tried to get at the basic problem. The solution the Postal Service itself gives is in the form of increased postage rates and reduced service. Among other things, the post office is considering closing as many as 12,000 rural facilities, cutting mail delivery to three times a week, and slowing the speed of service.

Congress is doing no better. The major solution being talked about in the Halls of Congress is an increase in the Federal subsidy paid to the post office. This is money that comes out of the taxpayer's pockets. Yet, nowhere have I seen a suggestion that a clamp be placed on the single, most important cause of post office troubles, and that is wage increases.

Mr. President, in fiscal year 1972, the first year of its operation, the Postal Service ran a deficit of $175 million. By fiscal year 1976, this deficit had increased to $1.5 billion. The accumulated deficit at the end of this fiscal year will be over $3.1 billion.

A study just handed to me today by the Library of Congress shows that this deficit could have been turned into a surplus of $2.3 billion—or better yet reduced postage rates—if only postal employees were paid at the same wage scales as other Government workers. This is the first time I believe that these statistics have been tabulated, and the Library of Congress paper is an extremely important contribution to any discussions about the Postal Service future.

In all, the Library of Congress estimates that Postal Service wages have outstripped equivalent General Schedule workers salaries by $5.4 billion since 1971, the effective date of postal reorganization. Listen to this rundown of salary increases which postal employees have had in just the last 5 years. First, they enjoyed a 16.3 wage hike effective July 1, 1971. Then, for the 2-year period starting July of 1973, they negotiated a 23.1 percent salary increase. Next, in July of 1975, postal workers received another pay hike of 7.9 percent.

Needless to say, the salary increases of other government workers were far below the level of Postal Service increases. If we start with the base figure of $8,694, which was the average annual salary of postal employees in 1971, pay hikes within the Postal Service since then have brought that same salary up to $13,430. In comparison, GS workers, who had an average annual salary of $8,694 in 1971, have been granted raises which would bring their salaries up to only $11,191. This is over $2,000 less than postal employees have benefited.

Moreover, Mr. President, the Library of Congress calculations are conservative estimates. The true difference between the increases postal workers have received and those other Government workers were granted exceeds even the enormous total of $5.4 billion. There are at least three reasons for this. One, Postal Service workers obtain their increases some months before GS employees do each year. Two, fringe benefits are not included in the Library of Congress statistics, and needless to say, the fringes granted postal employees are higher than what GS employees receive. Three, postal workers are granted step increases more frequently than GS workers.

Why has this happened? Well, we might remember that when the post office changed its name to the new U.S. Postal Service, lobbyists slipped into law a provision allowing postal unions to bargain on wages. The sky is the limit as far as postal worker negotiations are concerned. Employees of the Postal Service are simply not subject to the same salary ceilings as other Government workers are.

Mr. President, as Congress proceeds with its consideration of changes in the postal reorganization law, I hope that we will explore completely the implications of the shocking statistics I have just brought before the Senate. Rather than ask the American public to pay higher and higher postage costs, I believe we should examine the basic question of whether or not postal workers are to be singled out from all other Government workers for entitlement to wage increases that the rest of the Government's employees cannot receive. I am not suggesting that we take away any benefits that have already been negotiated for by postal unions, but we should take a close look at the justification, if any, for continuing this special treatment for postal workers, which appears to be at the source of the grave difficulties which the Postal Service finds itself in today.

Mr. President, in order that my colleagues may share the information contained in the Library of Congress report, I ask unanimous consent that it may be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

To the Honorable Barry Goldwater.

From Richard Kogan and James P. McGrath, Analysts, Government Division (Frederick Scott, Assistant Division Chief)

Cost Differential Between U.S. Postal Workers' Salaries and General Schedule Workers' Salaries, 1971–1976

Since 1971 Postal Service employees, formerly part of the General Schedule system gained the right to independent collective bargaining and hence to negotiate wage increases. They have done so at a rate which has outstripped the annual cost-of-living increases granted to GS workers. This memo is an attempt to estimate the aggregate dollar amount by which Postal Service employees have benefitted as a result of their quasi-independent status.

We estimate that, since 1971, Postal Service wages have exceeded the equivalent GS wages by $5.4 billion. That figure is derived in the following manner: according to the General Accounting Office, the average annual salary of Postal Service employees was $8,694. However, a 16.3% wage hike was granted to Postal Service workers, effective during the period July 1971 to July 1973.

This produces an average salary of $10,111 which, multiplied by the average number of employees during that period (688,135 according to the Manpower Statistics Division, U.S. Civil Service Commission) produces an annual payroll of almost $7 billion. For the next two-year period, July 1973 to July 1975, Postal Service employees negotiated a 23.1% salary increase, thus increasing the average salary to $12,447. The average number of employees increased to 704,659, producing an annual payroll of approximately $8.8 billion. In July 1975 postal workers received a 7.9% pay hike, to an average of $13,430. This, multiplied by an estimated 691,654 employees, produced a payroll of almost $9.3 billion. The total estimated five-year payroll of the Postal Service sums to about $40.7 billion.

The same process was then applied with GS salary increases substituted for the actual Postal Service increases. GS workers have been garnted the following pay hikes, providing the following estimated average salaries from the base figure of $8,694:

Date of Increase	*Percent increase*	*Average salary*
January 1972	5.5	$9,172
January 1973	5.1	9,640
October 1973	4.8	10,103
October 1974	5.5	10,658
October 1975	5.0	11,191

These average salaries, multiplied by 688,135 average Postal Service employment in 1972 and 1973, 704,659 average employment in 1974 and 1975, and 691,654 average employment in 1976 produce a total payroll figure for the five years of $35.3 billion, about $5.4 billion less than the Postal Service workers actually received.

The figure of $5.4 billion can be considered conservative for the following reasons: (1) Postal Service workers obtained their increases some months before GS employees did each year; (2) the base salary of $8,694 does not include fringe benefits; (3) the Postal Service has experienced "step-creep", i.e., its employees are granted step increases more frequently than GS workers, so the computed average estimated salary of Postal Service employees is now (according to GAO) a few hundred dollars higher than the $13,430 estimate we used. Unfortunately GAO does not have average salary data for all the other years in question.

AFL-CIO PRESENTS THE PHILIP MURRAY-WILLIAM GREEN AWARD TO MRS. GOLDA MEIR

Mr. WILLIAMS. Mr. President, the AFL-CIO presented its Philip Murray-William Green Humanitarian Award to Mrs. Golda Meir, the former Prime Minister of Israel, on May 20. The award dinner that night signified one more link in the strong chain of friendship between American organized labor and Israel.

AFL-CIO President George Meany pointed out in his remarks that the American trade union movement has always had a keen sense of what freedom means. At a time when Israel has been castigated for being "intransigent" in its search for meaningful peace, Mr. Meany stated that:

> Labor understands the simple facts of life as far as the Israel-Arab conflict is concerned. We are committed to a preservation of freedom in that part of the world. And we intend to give our continuing all-out support to the people of Israel and use whatever influence we have in this country to see that our country does its share, does play its part in preserving freedom and democracy in the Middle East.

I know that the hundreds of people in attendance at the awards dinner were deeply touched by the words of Mrs. Meir. From the perspective of her unique service to Israel she spoke of the eternal Jewish people, saying:

> For over 2,000 years, after being driven out of our country twice before, we have never given up hope. We just refuse to die.

Mrs. Meir summarized the purpose of Zionism, the movement in which she has played such an important part, by saying:

> I wanted to be free . . . I wanted that my children and grandchildren should live in a sovereign state where they can meet other people equals. I wanted to live to see the day when the Jewish people are not pitied. Because throughout the ages, some killed us and some pitied us. And I wanted my children and children's children to live as independent, free citizens of a free democratic state. That's all.

I believe that we should all have the benefit of Mrs. Meir's concluding remarks at the AFL-CIO dinner. They illustrate the bond which is the base of the friendship between the United States and Israel. Her words illuminate a dream of peace shared by the United States and Israel:

> I only want to live one day after finally there will be peace between us and the Arabs, because I believe in it . . . That day will come. I would love to live one day—and use part of that day, to come to you people and say, "It's not only your great day of liberty, freedom and justice. You have an enormous share in it."

Mr. President, I ask unanimous consent that the full texts of the remarks of Mr. Meany and Mrs. Meir be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Address Delivered by AFL-CIO President George Meany

I think that this award tonight is outstanding in the long list of humanitarian awards under the names of William Green and Philip Murray. I don't think any recipient deserves the honor more than our honored guest tonight.

She has served her country during the most trying years of its existence in many capacities, most notably as Prime Minister in 1973 when a sneak attack plunged the Middle East into war.

She has shown tremendous courage and tremendous fortitude in defending the sacred rights of the people of Israel to live as free men and women. For many, many years she had exemplified the spirit of Israel—the determination of a people to live in freedom and democracy even when surrounded by neighbors who are openly committed to a policy that would result in the extermination of Israel as a nation.

So, I am happy to be here tonight to play a small part in extending a welcome to Golda Meir once again to our country. I am happy to play a part in presenting her with this honor, the Murray-Green award, awarded every year at the recommendation of the Community Services Committee of the AFL-CIO.

It is significant that her visit comes at a time when politicians and profit-hungry businessmen are trying to pressure the State of Israel into some kind of a position that could destroy the freedom of her people. We have critics of Israel now raising their voices in this country saying that Israel is too rigid in its attitude towards its Arab neighbors; that it is not flexible enough.

Well, when they say that, remember this: that Israel's neighbors have practically taken an oath in blood to bring about the destruction of Israel as a nation. The first requisite for peace in the Middle East is a commitment to the sovereignty of Israel—not by the United States, not by the Soviet Union and not by the United States and the Soviet Union in combination. That sovereignty must be guaranteed by Israel's neighbors. And when that happens, Israel, I am sure, can then afford to be a little less rigid and a little more reasonable. Then we would have a real foundation for peace in the Middle East.

I think we have to keep in mind that America, whether it accepts the challenge or not, is looked upon by people all over this world as the foremost champion of human freedom, the foremost champion of democracy. And this means, if we accept this challenge, we want freedom not only for ourselves but we want freedom for people everywhere, especially for those who are willing to stand up and fight for their freedom.

And as a nation, we cannot afford for our own selfish interest, if you please, to let Israel go down the drain. America must continue to provide whatever material aid that we can give this nation in order for it to continue to exist in a part of the world where freedom and democracy are practically unknown, and not to be tied down by concessions that would jeopardize the very existence of these people.

So, let our politicians and statesmen who become experts after short congressional junkets to many parts of the world, let them look back at the history of recent years. Let them look back to ten years ago when Mr. Nasser, Abdel Nasser of Egypt, united, at least so he said, all the Arab nations on a policy that was designed to destroy Israel or as they said, "Push them into the sea."

Let us remember that it was Nasser who ordered the UN troops out of the buffer zone and, then, when he got them out, he attacked Israel in 1967.

Let those who want to do something to bring peace in the Middle East, let them put the pressure on the Arabs. And all the Arabs have to do is to simply recognize the right of the Israels to live—the right of these people to work out their own destiny in democracy and freedom.

The American trade union movement has always had a keen sense of what freedom means. I can recall back in 1933, in the month of April (I was a very young man), I attended a meeting with William Green, David Dubinsky, Matthew Woll, Johnny Vladeck and a number of people in New York who were interested in what was going on 6,000 miles away in Hitler's Germany. And that night two organizations were formed—in April of 1933—the Anti-Nazi Nonsectarian League to boycott the products of Nazi Germany and the so-called German Labor Chest to help the labor trade union victims of Hitler who were in the concentration camps or who had to flee the country.

Now, the significant thing about this is that this happened in April in 1933. Hitler came to power on January 30, 1933, so a bare two months later the American trade union movement was aware of the threat to our way of life—the threat to freedom all over the world—that was coming at that time from Hitler's Germany. And I can say to you, without any fear of contradiction, that there were very, very few people, very, very few organized groups in America at that time that saw the German situation as the trade union movement saw it.

So, labor understands the simple facts of life as far as the Israel-Arab conflict is concerned. We are committed to a preservation of freedom in that part of the world, as we are in any other part of the world. And we intend to give our continuing all-out support to the people of Israel and use whatever influence we have in this country to see that our country does its share, does play its part in preserving freedom and democracy in the Middle East.

It is in that spirit that I again welcome Golda Meir to an AFL-CIO gathering and say to her, "Come what may, we will be there when the chips are down."

SPEECH BY MRS. GOLDA MEIR, FORMER PRIME MINISTER OF ISRAEL

Maybe if I could sing, I would be able to express exactly what I feel.

George Meany, all our friends on the dais, I want to tell you how I feel about getting this award. About a year ago, I got the highest award offered by the State of Israel on the day of its anniversary, called the Israel Award. It was said that I got it for my life's work.

On that day awards are given to outstanding people in science, literature, music, teachers, doctors. People, who we all feel that if it wasn't for their particular work that they have done in each of one of these fields we would be poorer. Therefore, they deserve it.

But I said I honestly feel that I do not, and why.

There wasn't anything special that I did that other people did not do. I lived my life the only way that I could live it, as a member of the Jewish people. Therefore, there is nothing that is due me.

The Jewish people throughout history have not always been pampered with what is happening here tonight. The history of our people is well known. For over 2,000 years, after being driven out of our country twice before, we have never given up hope.

One of the finest teachers that we have in the labor movement, the Zionist labor movement in Israel, said, "For 2,000 years the Jewish people remained alive by believing, and having absolute faith in what they did not possess."

We did not possess territory. We did not possess self government. We were dispersed among all the peoples of the world. We did not have one language. Each group of Jews, in the country in which they lived, naturally adopted the language of that country. We had nothing that a people need in order to remain a people and be sovereign.

But we believed throughout the centuries. We didn't have it, but we believed that the day will come.

The six million Jews that were driven to the gas chambers under the Hitler occupation of almost all of Europe. Old Rabbis led their people, teachers went at the head of their pupils, little ones, bearly able to walk, and all of them with one song on their lips, Ani Mamin, "I believe."

And as they went to the gas chambers they knew that their life was over. But not the life of the Jewish people.

And this is one of the things, my friends, for which we are not forgiven by many in the world—the stubbornness, inflexibility. We just refuse to die. We just remain, no matter what happens.

And it was only here and there, throughout the ages, that others stood with us.

We are living through a difficult period in Israel today. In 28 years we have had to fight five wars. And that does not include what is called "border incidents." For instance, a group crosses the border, the PLO freedom fighters, into a school in Northern Galilee and killing tens of children. That's merely a "border incident." And tens of tens of these "border incidents" for years, almost every night.

And, God forbid, that the Israelis should retaliate—not against little children, no. But against those that have killed children, merely because they are Jewish. That isn't a nice think to do. That is discussed at the United Nations. And, as a result of these terrible deeds and as a result of being alive and as a result of another sin that we cannot be forgiven, that five times attacked by forces against which we are only a tiny fraction, we won these wars, and we are still there.

And I admit, sitting here tonight, knowing exactly what the men and women in this room represent, knowing as it was said here on the programs that we have received, that you people do not believe that a trade union movement fulfills its task only in fighting for the rights—the legitimate rights of workers—but it must have a greater vision of rights and freedom and equality and decency for men and women individually and for nations.

With a program of that kind, it's no wonder that you have stood with us through thick and thin.

What wonder then, when in those terrible days of October 1973, when we were overrun on the northern border and the southern border by the Egyptians and Syrians, and we were not prepared. We are optimists, and we wanted to believe that there's no sense in another war. And on the holiest days of the Jewish people, we were cowardly attacked.

And men walked out quietly from the synagogues in their praying shawls, stopped for a minute in their homes and walked out with a pack on their shoulders to the front. Friends, these were very, very bitter hours. And one really had to have a lot of faith—beyond rationalization—that this time, too, we will win. But after many casualties and very bitter hours what wonder then, when in this world, which is a sad world, I as Prime Minister looked around—"Who in the world can I call on for help, for understanding with the knowledge that if I call him, I do not have to go into long explanations. He will know. He will understand."

What wonder that I called George Meany at your convention in Miami. I didn't know that he was speaking just at that time. But George Meany didn't say, "Tell her to call me an hour later, I'm in the midst of my speech now." He left the platform, went to the telephone.

I don't think he knows, because I don't know how to say it, what it meant to me just to hear his voice. What it meant to me, knowing what is happening in the Golan Heights, knowing what is happening down South, knowing, believing, having faith that we will come out all right, but in the meantime, boys are losing their lives for no reason.

This wasn't the first time that George Meany understood. I remember 1956—when we were asked by the United Nations, "move back; go home where you came from; clear the desert—the Sinai desert. Leave Sharm el Sheikh"—when it promised that from now on our boats will have free passage to the Canal.

It was Meany in this country with whom I had the honor of sharing platforms in New York and in Chicago. That with the natural courage that this man has to speak his mind for the things that believes are right. He spoke it at that time.

As we heard tonight from him and his colleagues here, what do people want us to do? After the Six Day war, my predecessor, my friend, Levi Eshkol and his cabinet immediately passed a resolution saying "for peace, we will move back. All we want is that the Arabs should sit down with us and negotiate."

And over and over again we have repeated it, not as victors and losers, but let us sit as peoples around the negotiating table and come to a peace agreement. Not only because Israel wants peace and needs peace, but because maybe we know better or, at any rate, are more sensitive to the needs of tens and tens and tens of millions of people in these Arab countries who go hungry, whose children die for lack of medical aid and for lack of food, because of that mad dream of their leaders to push us into the sea.

And, only today, I spoke to a very important gentleman, who said to me, "People don't like the fact of your creating settlements in the occupied territory."

I said, "OK." I said, "How many of you have had the courage to say to the Arabs: look, why don't you sit down with the Israelis and negotiate peace agreements?"

He said, "I did."

"Glory to you. And what answer did you get."

"I got an answer that you must go back to the '67 borders."

I said, "That's fine. Without negotiating?"

He said, "That's the only precondition that they have."

You do as I want you to do, as precondition, and then there's nothing to negotiate anymore. Everything is done. You can do it by long distance. And these are not people who are not intelligent. They are not people who do not understand. They are not people that do not know old Jewish history and modern Israeli history. But it takes, evidently, in this area in which we live, courage for people to stand by what is right.

And when I hear this said, "The Israelis must move, and both sides must take risks," I said before the last agreement that we had with the Egyptians, "Tell me what risks is Sadat taking by the fact that the Israelis are moving away from the Suez Canal? What risk and what danger is there to Egypt?"

When we give up strategic points, we are taking risks. We've done that in the past. We are prepared to do it in the future. Not merely to please people who would like to see us move, but if it is for peace, yes.

And I will never understand why in the United Nations there isn't a voice raised on this very, very simple question, telling the Arabs, "Maybe the Israelis are inflexible, maybe they are not prepared to compromise, sit with them, prove by your negotiations with them that they are not prepared."

But, the Arabs know us better. And they know that when we will sit around the negotiating table there are territorial compromises decided upon by all governments, and I believe by the vast majority of our people, that—yes, for peace. But to just keep moving, so that when again from the north and the south and maybe the east we are attacked again, is there anybody in this world who honestly and sincerely, in good faith, in good conscience, can say to us—you know this world is so altruistic, everybody runs to save anybody else.

For instance, why are there over 20,000 men, women and children killed in Lebanon? Why? Why are there over 50,000 wounded? Do you hear a lot about this at the United Nations? People are worried about it, maybe individuals. Where is the world that stands up in horror at this slaughtering of people for no reason whatsoever? There aren't even racist Zionists in Lebanon. This is all pure Arabs, killing each other. Some Christians, some Moslems, why? Nobody says anything. Did you hear any word of condemnation that when, about a year ago, the brave Kurd people, really brave people, were sold down the river in one moment. Did anybody weep over their faith. Did anybody protest? Is anybody interested in what happened to that people? What do they want? They are not even asking for a state of their own. They just wanted to live in part of Iraq, but be masters of their own lives.

No, that can't be granted in this good world. Nobody says a word. And we are accused more than once for the trouble, they say with the Israelis, and has been said about me personally, we have complexes, and I plead guilty, I have. What does it mean when the people have complexes? The simple word for it is that we have a memory and we just refuse to block out from our memories the history of our people. We can forget what has happened to us for 2,000 years? We can forget what happened to us in our own life, in our generation?

George Meany said, "Where were the people in '33 that stood up and understood and had the courage to stand up against Hitler?" Here, a few, again, labor.

I was in London by chance when Chamberlain came back from Munich a great hero. He came back and announced "I brought you a world of peace." All he had to do is sell Czechoslovakia. So it's a little people—maybe even hurting to do it, I want to believe—but a little people on the one hand and saving the entire world from war on the other hand, naturally the Czechoslovaks can go. Czechoslovakia was sold out and the whole world was at war and one-third of the Jewish people gone.

I have to forget when I came to the secretary of the Mandatory Government at one time and said to him, "There are rumors, maybe we can save 4,000 children from Hungary." And I wanted a boat. And he looked at me and he said, "Don't you know that there is a war and we need all the boats for the war effort?" I said, "Yes. I've heard about that." And I always have said this to his credit, I said to him, "Tell me, if these were British children, would you manage to get a boat?" And to his credit, I must say, he didn't answer. He didn't lie.

I should forget that? I should forget the world in which we live today? I feel sorry for my children, for my grandchildren. What kind of a world? We the older generation at the end of the First World War really believed that a new world was born. The Czar gone, the Kaiser gone, all of the Europe democratic. That was the world. Wilson's 14 points, the League of Nations, this was the world. Today in what world do our children and our grandchildren live in?

And, therefore, my friends, when I stand here tonight, believe me, I did only what every one of you, every one of you would do in a similar situation. I wanted to be free. I wanted to be a free Jewess. I wanted that my children and grandchildren should live in a sovereign state where they can meet other people as equals.

I wanted to live to see the day when the Jewish people are not pitied. Because throughout the ages, some killed us and some pitied us.

And I wanted my children and children's children to live as independent, free citizens of a free democratic state. That's all.

That's what every one of you would do. That's what your forefathers did in this country, where now we live to celebrate the bicentennial. They had to pay for it. It wasn't easy. Nobody handed them this on a silver platter.

Just after the war of liberation in Israel, one of our finest young poets wrote a poem—"The Silver Platter." In that the wiseman walks around in the desert and there are a young boy and a young girl and he says, "Who are you?" And they say, "We are the silver platter on which you got the free state of Israel" and fell. These were boys and girls who paid with their lives for it.

But when I stand here tonight, believe me, it is not that I'm conscious of anything great that I have done. But I feel, if I could give an award, it's you that should get the award. It's you that should get an award.

In this world there is an island of this kind—an island of understanding, an island of decent humanity, an island that is reasonable and knows the world will be free only when everybody is free.

And when I go back home and I say we are living through a very difficult period. For instance, at the end of May, according to agreement, Syria has to renew its consent to have UN personnel on the Golan Heights. Last time the UN paid him for renewing that agreement by having a special debate on the Near East in Security Council and a representative of the PLO, of the "freedom fighters", sat there as though they represented the state. I don't know what he will ask for this time.

As far as I'm concerned, and I'm not speaking for my government now but for myself, if Assad can do without the UN, we too can do without them.

I don't know why anybody should be blackmailed to give them something for no reason whatsoever.

So, when I stand here, I wish I knew, wish I was capable of putting in words what I feel to all of you and to all that you represent and to all of you and what you represent in your leadership.

I only want to live one day after finally there will be peace between us and the Arabs, because I believe in it.

I can't imagine that a country, for instance like Egypt—every year a million people are added to its population. Every year the highest infantile rate of death of the children of Egypt, of the babies of Egypt. I can't imagine that that will go on forever. Some day these mothers will say, "We don't want our babies to die for lack of food. And we don't want our sons to die for the great glory of trying to destroy others."

Not because Egypt needs us, not because in that immense territory of the Middle East, 20 independent Arab countries, there's no room for a little tiny Jewish state. That day will come.

I would love to live one day—and use part of that day to come to you people and say, "It's not only our great day of liberty, freedom and justice. You have an enormous share in it."

I won't even say, "thank you," because I think you couldn't live otherwise. This is your nature. This is your vision. This is your contribution not only to Israel and to the Jewish people. This is your contribution to the hope that we all cherish that some day the world will be a different world as you and we want it to be.

CLEAN AIR ACT AMENDMENTS

Mr. GARN. Mr. President, within a very few days, it is likely that we will be debating on the floor of the Senate legislation amending the present Clean Air Act. There has been a great deal of uncertainty over these amendments, and their actual impact on the Nation. Part of that uncertainty has stemmed from the fact that different parts of the administration have taken somewhat independent lines with respect to the proposed amendments.

Many of us have urged the President to come out clearly with a position on the bill, giving us the best interpretation or synthesis of how the bill would affect the different functions for which the Federal Government has responsibility. I am happy to announce, Mr. President, that President Ford has now announced, in a letter to the chairman of the House Committee on Interstate and Foreign Commerce, a clearcut position with respect to the bills now before the Senate and the House of Representatives. The President is clearly worried that there are large areas of uncertainty that could be greatly reduced if we had more information, particularly in the area of significant deterioration of air quality.

I ask unanimous consent, Mr. President, that the President's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., May 28, 1976.
Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

FISCAL YEAR 1977 FUNDING FOR AGRICULTURAL PROGRAMS

Mr. HUMPHREY. Mr. President, I wish to share with this body two letters which I earlier sent to Senator GALE MCGEE, chairman of the Subcommittee on Agriculture and Related Agency Appropriations, regarding fiscal year 1977 funding for programs in agriculture and related areas.

Each year I have made it a point to communicate with Senator MCGEE regarding the funding for various agricultural and related appropriations. He brings to these concerns a great deal of knowledge and understanding. I appreciate the concern and insight which he brings to these deliberations.

Unfortunately, some of our Members and certainly this administration have failed to realize the importance of these investments in the life and the prosperity of our rural communities. They also overlook the fact that the impact of these programs is felt far beyond agricultural America.

These programs also involve the health of our children and the nutrition of our elderly. They involve the conservation of our soil which has been sorely beset by drought and erosion in the last year.

Rural housing programs not only improve the lives of our people, but they also stimulate employment and the economy in general. I am very concerned that the administration has seemed particularly eager to cut back on these vital programs.

Mr. President, I ask unanimous consent that these two letters on funding for agricultural, nutrition, conservation, and rural development be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
March 24, 1976.
Hon. GALE W. MCGEE,
Chairman, Subcommittee on Agriculture and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am again contacting your Subcommittee this year in order to offer my comments and recommendations regarding the Federal budget and in particular the agricultural and related funding.

The Federal budget shortchanges many important needs for this country. Unfortunately, this Administration has posed as a budget cutter whereas it has cut many important programs which are investments in the future and which would represent important investments for future growth and development.

It is important that Congress take the lead in being fiscally responsible and not follow the Administration's example in making irresponsible and non-existent "cuts" in the budget. One gimmick used is the proposal of a number of bloc grants. While a bloc grant could be an effective technique, we cannot call upon the states to implement these programs without adequate preparation and planning or sufficient funding. Simply dumping this responsibility on the states is ignoring the facts of life and engaging in fiscal gamesmanship.

If the Administration were to depart from their restrictive economic policies, we could begin to make a dent in our budget deficit and unemployment level. Each unemployment percentage represents $17 billion in either lost tax revenues or additional payments required for unemployed people.

Our farmers have also been caught in the wash of the Administration's unwise and unsound economic policies. During the past six years, we have had three years when the parity level was just above 70 percent. But our Department keeps telling us that they have given us a free market policy, and things have never been so good. We have never had so little stability or predictability in our agricultural markets, and, of course, our farmers have been feeling the severe increases in production costs, be it energy, credit or agricultural inputs.

The agricultural budget has also been the scene of cosmetic shavings in order to meet predetermined budget target levels. The most glaring examples of such proposed reductions are the food stamp program, child nutrition programs and the Farmers Home Administration Loan program.

However, there are many less obvious cases of programs which are eliminated or reduced. We should keep in mind that because of rising personnel costs the effective level of many of our agricultural programs has been reduced in recent years. This process is still going on, and it means that we need to look very carefully at each agency's request in terms of its present mission.

I am not suggesting that all programs should be increased or that they should be increased at a rate commensurate with the level of inflation. But the increasing cost of government does mean that we need to examine each program carefully, and particularly in light of its priority to determine an adequate and appropriate funding level.

CHILD NUTRITION

The U.S.D.A. has recommended that a bloc grant proposal should be implemented to pick up on a number of programs in the child nutrition field. Since the Congress indicated its will in this area last year, and in rather forthright terms, this proposal should be disregarded and funding targets set on the basis of existing legislation.

I am particularly concerned that in addition to the bloc grant proposal, the Administration proposed to eliminate funding for the special milk program. I believe that we should provide $150 million to continue this program which is important to our children in securing a nutritionally adequate diet.

In addition it is vitally important that adequate funding be provided for the state administrative expenses. For this year the Administration has been telling states that they will likely have less money than last year while the program responsibilities have been significantly expanded. I would recommend that, counting the transition quarter, at least $16 million be included for this purpose.

The need for non-food equipment to support the school lunch and child feeding programs still continues and the recommendation I would offer is that $34 million be provided for this purpose.

There have been numerous rumors over the Administration's interest in phasing out the Supplemental Commodity Program which some of the major urban areas prefer over W.I.C. The funding for commodities should be set at $550 million in FY 1977 and the full amount for W.I.C., $250 million should be provided. It also should be stated in the report language again that the Department is to utilize the full amount provided plus any carryover funds from previous years. In spite of earlier language to this effect, the Administration has been most reluctant to spend the whole amount provided for the W.I.C. program.

While the amounts required for individual programs may be adjusted slightly, I would suggest that a total of $3.3 billion would be required to adequately fund these programs.

FOOD STAMP PROGRAM

The Congress should express its concern over the President's plan to reduce the costs of the food stamp program without adequate congressional input.

The Senate Committee on Agriculture and Forestry has completed work on a bill which makes significant savings in the food stamp program of approximately $600 million. However, there has been some debate over the present level of the Current Services Budget. I would recommend that the Subcommittee budget no less than $6 billion for this program.

At this point, we cannot accurately predict what the final action of the Senate will be much less what changes will be made by the House of Representatives. And, of course, we cannot predict with any certainty what will happen to the economy which is the major factor in determining the cost of the food stamp program.

SOIL, WATER, AND CONSERVATION ACTIVITIES

In the recent months we have seen severe dust storms in the midwest which have threatened to make significant reductions in our production levels for this year. Unfortunately, conservation efforts have not received the attention which they warrant, and farmers have been encouraged to plant fence row to fence row without giving adequate consideration to conserving the soil and following good conservation practices.

The government has consistently underfunded these programs and attempted to downplay their importance.

Consequently, I would recommend that the Agricultural Conservation Program be funded at $185 million in FY 1977 and the Conservation Operations of the Soil and Water Conservation Services should be funded at $240 million. The Great Plains Conservation Program should be increased to $25 million. Funding for the Watershed Planning Program should be established at $14 million and Watershed Operations at $145 million.

Under the ASCS programs, funding for Waterbank activities should be set at $10 million and funding under the Forestry Incentives Program should be at the level of $20 million.

RURAL ELECTRIFICATION PROGRAMS

The administrative funding for the Rural Electrification and Rural Telephone programs should be modestly increased to $22.5 million dollars in order to assure that these important programs are adequately handled and monitored.

And, I strongly recommend that no cap, as recommended by the Administration at $1.5 billion, be established for guaranteed loans.

FARMERS' HOME ADMINISTRATION

In light of the recent escalation in the price of farm land and operating costs it is essential that the levels for farm ownership loans and operating loans be raised significantly. The ownership loan amount should be set at $600 million and the operating loans at $750 million. I would also recommend that the emergency loan level be set at $400 million, the same level as the current year.

Grants for water and waste disposal should be continued in FY 1977, at $150 million. This is in contrast to the Administration's proposal to do away with grants for this purpose. Loans for these activities should be funded at $470 million. I would recommend that the funding for community facilities loans be set at $300 million in FY 1977. In order to stimulate industrial development in the rural areas, business and industrial loans should be funded at $700 million in FY 1977.

Also, I would recommend that rural fire protection grants be appropriated at $7 million and rural development grants at $10 million.

Housing programs continue to be a major part of the FmHA's total dollar and loan activity. The Agency projects its insured rural building and rental programs under sections 502 and 515 will be $2.7 billion in FY 1976 for over 137,600 units. This does not count the $500,000,000 in additional obligational loan authority provided by Congress to meet a rapid drain on the loan fund early in the fiscal year. We should aim for at least $3.5 billion under these sections.

This budget is not one that recognizes the continuing high level of need in rural areas for decent housing for low and moderate income families. The Administration, as in previous years, proposes to eliminate the self-help technical assistance program (Section 523) which offers aid to those who use sweat equity to lower the cost of a newly constructed house. We should set $10 million for this program.

Also slated for extinction are the farmworker loan and grant programs (Sections 514/516). These programs should be continued and at a minimum of $10 mililon for each section.

The Section 504 home repair program should be continued at a level of $20,000,000. The main users of this program are rural elderly homeowners not eligible because of low-income for the regular FmHA programs. Congress should reinstate the grant provisions of the program, with the grant and loan funds divided evenly.

The Administration continues to violate the Housing Community Development Act of 1974 by refusing to implement the Rural Rental Supplemental Program, despite very explicit instructions by Congress in the 1976 Agriculture Appropriations Act, P. L. 94–122, to start this important aid for low and moderate income rural renters. Report language should again direct that this program be implemented and at a level of $6 million.

It is not possible to leave the subject of the Farmers Home Administration without mentioning staffing needs. The agency programs have grown dramatically. Last year Congress recognized this and provided enough funds to hire over 1000 new employees. In characteristic fashion, the Administration plans to hire only 700 additional employees and of this number, only 400 will be full-time permanent employees.

Congress should require that 600 full-time employees be added this year. These programs are important and necessary for rural America. It is important that they be adequately managed and operated.

INTERNATIONAL PROGRAMS

Last year the Foreign Agricultural Policy Subcommittee recommended the establishment of attaches in Egypt and the Peoples' Republic of China. This important step has been accomplished and our Subcommittee again has recommendations regarding the establishment of two new attaché posts in Kiev, Russia and the Middle East. In the case of the attaché position for the Middle East, this will afford us the opportunity to make further expansions in our market in that region.

The attaché post in Kiev will be of major significance in improving our informaiton regarding the prospects for Soviet harvests. As you are aware, this is a most critical area in the Soviet grain production picture, and we will need to continue to make every effort to establish better working relations and a more regular exchange of data with the Soviets. These two posts will require the appropriation of an additional $176,000.

I would also recommend that the level of funding for PL 480 commodities be increased above the Administration request. 1.4 billion dollars should be provided. The Administration had assumed that the cost of commodities would decline and that CCC funding could be utilized, but this shortcut would require later additional funding by the Congress.

RESEARCH ACTIVITIES

I had earlier written to the Subcommittee urging that funding be continued for honey research activities. I recommend that $100,000 be established for this purpose.

Over the years, I and other members of the Senate Committee on Agriculture and Forestry have strongly urged that priority attention be given to funding for nitrogen fixation. The Committee on Agriculture and Forestry has recommended $1.2 million additional in funding for nitrogen fixation, photosynthesis and cell biological research. I would urge that this amount be set at $1.5 million and that every effort be made to keep this amount intact.

Under the Cooperative State Research Program of the Smith-Lever Act I would urge that the funding for payments to states under the Cooperative Extension Program be increased to $140 million. This increase would barely allow states to stay ahead of the general inflation level. It is also important that we increase the funding for the expanded Nutrition and Family Education program under this same Act. Rather than reduce this program by $10 million as the Administration proposes, I would recommend that the total be increased to $55 million.

I would also recommend that the funding for rural development activities under the Smith-Lever Act be increased to at least $2.5 million.

I would also recommend that funding for cooperative forestry research under the McIntyre-Stennis Act be increased to $10.5 million in FY 1977. These programs are vitally important to the state research programs and improving our forestry practices throughout the nation.

OTHER

I had earlier written to the Subcommittee urging that the $1.5 million be continued for the dairy herd improvement program. This is an urgent need which is also supported by the Report of the Committee on Agriculture and Forestry.

While our legislative work on reforming the grain inspection and weighing system is not yet completed, the full Committee recommends that $35 million be provided to implement a new system when the House and the Senate have completed their deliberations. I concur in this recommendation. It is urgent that we move ahead on whatever new arrangements are agreed upon.

I would also recommend that an indepth study be conducted of the palm oil situation and the threat which it offers to our own domestic producers. There are serious and well-founded concerns as to the implications which duty-free imports of palm oil carry for our own soybean and cotton seed production over the years ahead.

In conclusion I would again wish to express my gratitude to you and the Subcommittee staff for the cooperation, dedication, and diligence which you have brought to the agricultural and related budgets. The Report of the Committee on Agriculture and Forestry clearly points out that the Administration has not presented an adequate budget for agriculture, and I have attempted to point out some of the major areas in their presentation.

The Administration has been penny wise and dollar foolish. Secretary Butz has periodically pointed out that food and so-called "welfare programs" have strained his budget, implying that reducing these programs would somehow mean more money for conventional agricultural programs. This is both misleading and false.

We need to look at all of these programs in terms of their importance and priority.

Our consumers are concerned over the lack of a national food policy and the instability which this Administration's policies have encouraged.

We need to be aware that the stocks of U.S. food have increased significantly this year. However, the world food supply situation remains highly precarious.

This is the situation and the backdrop against which these appropriations must be considered. Ideally, we ought to be enacting legislation this year to improve the level of protection for our producers and our consumers. But, barring major change, this prospect does not appear a likely one.

I have provided these requests in summary form because I am aware that your Subcommittee is quite familiar with the details of the program and in addition can easily refer to the Report of the Committee on Agriculture and Forestry for background data.

Best wishes.

Sincerely,

Hubert H. Humphrey.

WASHINGTON, D.C.,
March 26, 1976.

Hon. Gale W. McGee,
Chairman, Subcommitee on Agriculture and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am forwarding to your Subcommittee a supplemental letter regarding appropriations in the agriculture and related areas going beyond the letter which I sent to you on March 24th.

I have received a number of letters from concerned individuals throughout the country plus Minnesota soil conservation personnel regarding the role of the S.C.S. in carrying out the planning work regarding non-point source pollution planning. The S.C.S. is well qualified to be the lead organization in carrying out this work, and I would recommend report language to this effect.

I would also like to recommend that your Subcommittee restore funding relating to crop estimating and reporting for commercial floriculture.

This item was restored by Congress last year, and it is my understanding that the Committee on Agriculture and Forestry overlooked this item in their discussions with the Statistical Reporting Service of the U.S.D.A. I would recommend that $200,000 be provided to meet this very important need.

I would also like to point out that there are two pending bills on which the Congress may be able to complete action this year. The House has already passed a Direct Consumer Marketing bill, and the Senate Committee on Agriculture and Forestry is expected to hold hearings in the near future. I would urge that $3 million be provided to meet this need which would be of real assistance to both our consumers and producers.

As you are well aware, I have introduced legislation to reconstitute the National Food Commission of the early 1960's. Senator McGovern has also introduced legislation of a similar nature, and both of these bills have been introduced on the House side. Hearings are scheduled on the House side on these two bills. While the likelihood of action is not firm, it would appear advisable to earmark approximately $3 million to meet the requirements of a reconstituted food commission.

Again, Mr. Chairman, I wish to thank you and your staff for the helpfulness in trying to meet the needs of our producers and consumers.

With best wishes.

Sincerely,

Hubert H. Humphrey.

THE B-1 BOMBER

Mr. GOLDWATER. Mr. President, during the debate on the Culver amendment to the military procurement bill, I pointed out the economic impact that would result in the adoption of this uncalled for and unneeded amendment. I use these two terms rather advisedly, because there is already one aircraft in the production schedule and even if we had not voted the Culver amendment a part of the present bill appropriations would be needed, and that it is not likely to take place until close to November of this year. Nevertheless, a preliminary impact has been made on the Senate's adoption of the Culver amendment on the cost of the B-1 bomber. In addition to these items which are counted in dollars, we have to consider the very, very important item of labor which is counted in people and I have seen enough of these aircraft production slowdowns to assure my colleagues that there will be expensive layoffs across the whole spectrum of the manufacturing of this aircraft. I am strongly in hope that the conference will reject the Culver approach.

Mr. President, I ask unanimous consent that a statement on the B-1 cost impact published in Aviation Week & Space Technology, May 31, 1976, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

B-1 Cost Impact Detailed

Washington—Impact of the Senate's adoption of the Culver amendment on the cost of the Rockwell International B-1 bomber includes:

$158 million increase in direct labor and overhead rate in a program which would have to run five months longer.

$18 million increase for procurement of small lots of material.

$8 million increase associated with interruption of long-lead production.

$130 million increase in costs-for-lay-off and close down followed by restart.

$305 million increase for economic escalation to 1948 based on a five-month slip.

$101 million cost reduction caused by cutting from three to two the aircraft procured in Fiscal 1977.

$26 million cost reduction in Fiscal 1978 by slowing long-lead production.

The current program costs of $17.473 billion for 240 aircraft is increased to $17.965 billion with all of the added costs and by subtraction of the $101 million and $26 million, leaving a total increase of $492 million for the stretchout.

JOSEPHINE BAKER OF ST. LOUIS

Mr. SYMINGTON. Mr. President, I take pleasure today in paying tribute to a great lady of the theater on the occasion of her 70th birthday. Miss Josephine Baker, reared in the slums of St. Louis, Mo., rose to become the first black woman to achieve international stardom.

Josephine Baker was a tireless fighter for brotherhood and a faithful contributor to humanitarian causes, refusing to perform where blacks were not admitted, speaking out against anti-Semitism wherever she found it. She earned from France the Legion of Honor and Rosette of the Resistance for her outstanding service against Nazism during World War II.

In the early 1950's, Miss Baker purchased Les Milandes, a 300-acre estate in southwestern France which she populated with her beloved animals and the first adopted members of her "rainbow tribe" of orphaned children from all over the world. Les Milandes was to become her lifetime "experiment in brotherhood" for she believed that people of all races and religions could live together as brothers.

In 1956, she retired from the theater; yet, even with her permanently damaged heart, she was forced to return many times in effort to meet the mounting debts of Les Milandes and to support her children.

On April 8, 1975, Miss Baker opened her most lavish show at the Bobino Music Hall in Paris. It was to have been her final show, a retrospective view of her long and illustrious career—the greatest of all shows. Friends and fans throughout the world joined in commemorating her 50 years in the theater; but on April 12, 1975, she died of a cerebral hemorrhage. On most of that day French Radio played her theme song, "J'ai Deux Amours, Mon Pays et Paris"—I Have Two Loves—My Country and Paris.

This year, on the first anniversary of her death, tributes were paid to Josephine Baker in New York City, Rome, Monte Carlo, Paris, and Buenos Aires. Today, on the 70th anniversary of her birth, we fondly remember this lovely Missouri lady and pay homage to her life of dedication to the concept of brotherhood.

A WELCOME STATEMENT BY THE KING OF SPAIN

Mr. PERCY. Mr. President, those who attended or heard reports of the joint meeting of Congress, which was addressed by His Majesty, the King of Spain yesterday, were very pleased and favorably impressed by His Majesty's welcome statement of devotion to liberty and freedom.

It was good to hear a Spanish chief of state express democratic convictions after the decades of authoritarian rule in that beautiful country.

As the first King of Spain to visit the United States, His Majesty said without equivocation that:

> There is no obstacle which could prevent Spain from working toward the creation of a society more and more prosperous, just and authentically free.

He said that:

> The Spanish Monarchy has committed itself from the first day to be an open institution, one in which every citizen has full scope for political participation without discrim-

> ination of any kind and without undue sectarian or extremist pressures.

Continuing, he said,

> The Crown protects the whole people and each and every one of its citizens, guaranteeing through the laws and by the exercise of civil liberties the rule of justice.

To this he added that:

> The Monarchy will ensure the orderly access of power to distinct political alternatives, in accordance with the freely expressed will of the people.

The King's great emphasis on liberty and freedom will have a highly favorable reception in the United States, because our citizens are very sympathetic to the people of Spain, much admiring of Spanish culture, and well aware of Spanish contributions to world civilization.

Following the King's speech, at a luncheon in the Capitol, I mentioned to the King and His Excellency Jose Maria de Areilza, Spain's very distinguished and dedicated Foreign Minister my concern about the future of Radio Liberty's transmission facilities in Spain, for which a new lease is now being negotiated. I was reassured by the Foreign Minister's statement that the negotiations are continuing in a cordial atmosphere, that another meeting will be held in 2 weeks, and that the lease can be expected to be renewed for a multiyear period. I am sure that the Spanish Government's cooperative attitude in this regard will serve to further cement the strong ties between our two countries and will strengthen popular support of Spanish-American relations in our country.

The King of Spain is welcomed to the United States by a people who have cared deeply about Spain since our earliest history, by a people who wish the King and the people of Spain the greatest possible measure of liberty, justice, peace, and prosperity. I believe that the King's visit will begin a new and mutually beneficial era in Spanish-American relations. The work of Spain's able Ambassador, His Excellency Jaime Alba, will be greatly facilitated.

FIGHTING INFLATION WITH UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, a great deal of myth making and double talk on the part of the administration and its friends is being spread on Capitol Hill these days as part of a concerted effort to discredit and defeat the Full Employment and Balanced Growth Act of 1976.

In essence, their line of argumentation states, in effect, that as a condition of life millions of American workers ought to willingly sacrifice themselves and their families on the altar of unemployment so that the more fortunate members of our society can enjoy price stability.

If this train of thought appears to be a little difficult to follow, it only seems that way because it is.

But, regrettably, it is the kind of callous economic gibberish that is being foisted on Congress by some of the most vocal opponents of S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1976, introduced by me and by Representative Augustus Hawkins of California. The opponents say in effect that we cannot achieve the bill's goal of 3 percent adult unemployment in 4 years without rampant inflation. The only way to keep inflation in check, according to them, is to make sure a few million people stay out of work indefinitely. In this manner we can avoid a tight labor market, full utilization of plant capacity, and everything else that is required to produce widespread and just prosperity.

The bottom line in the inflation fighting formula proposed by the administration is that the American people should accept a policy of maintaining unemployment at around the 5-percent level. After all, 5 percent, they say is a small number. It only means that about 4½ million people will be out of work at any one time, using the deflated official figures. Meanwhile, these well paid and comfortable people are fully prepared to wait and do nothing while the official unemployment rate is currently at 7.5 percent and 7 million people are out of work.

These appalling circumstances, they would have us believe, are characteristic of our democratic enterprise system operating in what they regard as a state of near perfection. The system must not be tampered with. Substantial unemployment, according to them, is just the price that has to be paid to control inflation—paid, of course, by someone else.

In my judgment, the people who advocate this nonsense are really abandoning their faith in our economic system. They are saying the American economic system cannot remain stable and provide jobs for those citizens who are able and willing to work. They, therefore, view S. 50 as a serious threat to their position because the heart of the bill requires the administration and Congress to develop and implement coordinated comprehensive policies and programs aimed at establishing and maintaining an economic climate that will fully utilize our Nation's human and capital resources.

In their alarm that a new and effective approach to vastly improve our economy might actually be put into operation, they claim that the bill emphasizes only full employment and fails to address the problem of inflation.

Mr. President, I would simply advise these critics to go back and read the bill. They will find that the measure clearly emphasizes the need to check inflation and it requires both the President and Congress to make price stability an integral part of their effort to reach and hold a full employment economy.

In this connection constructive critics of the bill say that although it aims at reducing adult unemployment to 3 percent of the labor force in 4 years while maintaining price stability, there is no numerical goal stated for reduction of inflation. This is true. I think it is a valid point and deserves careful consideration in committee.

I share the concern about the seriousness of inflation and the need to deal effectively with it, as this argument was made by Prof. John Galbraith, one of the Nation's leading economists, at a recent Senate Banking Committee hearing on S. 50. While I do not subscribe to all of Dr. Galbraith's proposals, they do deserve serious attention.

Mr. President, I ask unanimous consent that Professor Galbraith's prepared statement to the Senate Committee on Banking, Housing and Urban Affairs, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimony by John Kenneth Galbraith

Mr. Chairman, Members of the Committee:

I endorse the Bill before you today. I will urge some important improvements; these do not prevent my applauding the strongly progressive and affirmative mood which S50 reflects. Discussion and passage could not come at a better time. It will affirm, despite much current rhetoric to the contrary, that the government of the United States can be, as it has been, a force for compassion and good in the Republic. It does not solve the unemployment problem by asking the unemployed to accommodate themselves to the new era of lowered expectations. It accepts that those who ask for a reduced role of government are usually the rich who ask for a reduced level of taxes or the predatory who wish a lessened volume of regulation. Their voices being loud, they are regularly mistaken for those of the masses. In dismissing, as I trust they will, the opposition of the President's conservative advisers, the sponsors show their understanding of one of the great constants of economic and political behavior. It is that those who speak most passionately about defending capitalism oppose most predictably all measures by which its injustices are diminished, its performance improved and its future improved or secured.

The Bill is especially to be commended for the planning features it incorporates from the companion legislation of Senators Humphrey and Javits. The modern economic system, as recent experience with petroleum products, fertilizer, electrical energy, numerous raw materials and food demonstrates, contains no mechanism for adjusting supply to demand without shortages or disruptive movements in prices. This is increasingly the case as market prices give way to those administered by the larger corporate enterprises or, as in the case of petroleum products, by international cartels. A determined effort to anticipate and forestall such dislocation is thus an essential adaptation to the facts of modern life. You will doubtless be told that a firm commitment to free enterprise and the American system precludes any effort to foresee problems and prevent their occurrence, that it excludes any exercise of anticipatory intelligence by government. This foolishness can safely be ignored. Theology we have always with us.[1]

The Bill before you places emphasis on affirmative job creation either by the Federal government or as an alternative to layoffs, reduced services and resulting unemployment by the states and cities.[2] This I much applaud. In recent years we have been using the regressive and discreditable device of reducing Federal taxes when there is need to expand employment. One group of otherwise distinguished economists recommends such action for all economic malperformance and on occasion also for chronic nose-drip.

---

[1] Students of the higher corporate argument, both in and out of Congress, will wish to reflect on the judicious reaction of Mr. Walter Wriston of Citicorp and therewith of the First National City Bank. Such exercise of intelligence, he has concluded, would be the first step toward an "economic police state," a difficult but alarming concept and "would destroy both our personal liberty and our productive power."

[2] More thought needs to be given to the means for giving countercyclical support to states and localities.

It is a policy that returns money to corporations and those in the upper quartiles of the personal income tax brackets—those who least need it. It is inefficient as a form of stimulation for, not being urgently needed, the tax saving is not as reliably spent—it is by no means as reliably spent as money for jobs. It cannot be directed—targeted—as can jobs to the areas of greatest unemployment. And, coming as it does at a time of recession, unemployment and associated stringency in state and local finance, its effect is offset by increases in state and local taxes and cuts in local services. Last autumn, as a continuing cut in Federal income taxes was being voted in Congress, numerous states and localities, New York state and city being the extreme cases, were increasing local sales, business, property and other taxes and reducing police, *fire, school* and other employment. Such policies make no economic sense whatever. Commenting on the negative reactions of numerous economists to this Bill, Senator Humphrey offered the opinion that in the recent "climate of negativism" they had "lost their nerve and sense of creativity."[3] They have also, I fear, remained too comfortably, too long with policies that once seemed innovative but which, in the full light of experience, have become very conservative.

There will be much learned debate over whether the four percent unemployment goal set in the Bill is too low. This brings me to a major—I should say my major—point. There is no answer. It depends entirely on the companion action to prevent inflation.

At a four percent unemployment rate, there is no question, the American economy can be disastrously inflationary. Western European countries, notably Germany, Switzerland and some others, can come much closer to full employment than we do. That is because they have an implicit incomes policy, which I will mention in a moment, but also because they rely heavily on foreign labor. This they send or keep at home when it is not needed. Thus their unemployment remains uncounted in unemployment back home in Yugoslavia, Turkey, Italy, Spain or Portugal. Our unemployment figures in contrast are relatively honest. In the United States in recent years with unemployment varying from seven up to ten percent, industrial prices have gone steadily upward. Such stabilization as has been achieved has been at the expense of farm prices and some other commodity prices. By these facts we must be warned.

I must specifically and deliberately warn my liberal friends not to engage in the wishful economics that causes them to hope that there is some still undiscovered fiscal or monetary magic which will combine low unemployment with a low level of inflation. That expectation is in conflict with the purposes of this Bill. Both fiscal and monetary policy achieve price stability by creating idle plant and unemployment and using these to bring moderating or downward pressure on prices and wages. Let all who advocate this legislation be mature. Let us not imagine that God is a liberal gentleman who will work miracles for liberals merely because He loves His own.

We cannot combine full employment with policies that use unemployment to stabilize prices. There is no substance to the wishful thought, hinted at in this Bill, that the higher output that goes with full employment will lower unit costs or otherwise stabilize prices.

In step with the higher output goes higher income to buy the product. Markets are not less strong with the greater supply. And as capacity is approached, the ability of corporations to raise prices increases. And the pressure of higher living costs causes unions to ask for high wage settlements when they have the bargaining power to get them. As full employment is approached, inflation will become more severe.

There is also no future in the belief that inflation should be accepted as the lesser evil. Voters will always react to the evil that they are experiencing, will not measure it against the evil they avoided. I hope that we will never have a political debate in which liberals accept inflation, conservatives accept unemployment.

Since fiscal and monetary policy operate against inflation by creating unemployment—this, not an act of nature, is the cause of the present recession and unemployment—the only remaining alternative is direct intervention in wage bargaining and administered prices. I would be as anxious to avoid this course as anyone—were there an alternative. Unfortunately there is none.

I'm aware of some wording in the Bill which allows of this action if all else fails. Section 107(7) asks that the Economic Report make "recommendations for administrative and legislative actions to promote price stability." That form of words is not an adequate or even a very brave response to what all must agree is, perhaps, the major question raised by this Bill.

I'm also aware of the reason for wanting to sweep this issue under the rug. The required actions are a bold departure from past practice; there is fear of losing the support, not only of the corporations, but also of the unions. However this might have been better than losing the support of those who fear inflation. And Mr. George Meany has said many times that labor will accept an incomes policy if it applies to all incomes, does not single out the union man for special attention. No one can object to that position; no trade union leaders could or should ask for less.

The Bill should be amended to allow of prompt executive action as full employment is approached. The authorization should include provision for restraints on prices of corporations where there is substantial market power, provision for tripartite negotiation of limits on wage and salary increases, a requirement of equitable restraints on other incomes, and provision for serious, impartial administration of the policy. If, as some may still hope, the danger of inflation is not real, these provisions will not be invoked, will do no harm. If they are needed, they are there.

This is a matter, it should be added, on which events are in the saddle. Nearly all European countries now have an implicit incomes policy based on calculations of the effect of wage increases on both domestic inflation and the competitive position of the country's industries in foreign markets. There are implicit price ceilings from the same source. Britain and Canada have gone on to establish and enforce formal wage and price restraints.

The recent British limitation on wage increases of 4.5 percent for the next year has gone into effect with the acquiescence of the unions and both Government and opposition. Numerous American economists still resist these thoughts. No one should imagine that my professional colleagues are disinterested. They have a deeply vested interest in both the textbooks and the personal knowledge which this policy would make obsolete.

Thus I come here to urge a strong stand against unemployment and an equally unequivocal stand against inflation too. When the original Employment Act was passed, after the long experience of depression, peacetime inflation was not perceived to be a problem. We have much experience since to show that it is. Our stand for full employment will be stronger if we end or neutralize the legitimate anxieties of those who fear inflation just as we will be in a better position to deal with inflation if our remedy does not, as now, require that there be unemployment and recession.

In concentrating on major issues, it would be wrong to neglect the lesser, smaller provisions for reporting and discussion that the Bill contains. The Employment Act of 1946 made the management of the American economy a matter of specific yearly discussion and decision and, in the best democratic manner, greatly widened the participation in that discussion. This legislation extends and gives more specific point to that earlier legislation.

It also, though marginally, brings monetary policy into the complex of active economic policy. It was earlier excluded on the curious grounds that anything having to do with banking was too sacred and delicate for the ordinary processes of economic decision. Thus the independence, so-called, of the Federal Reserve—an independence in theory even of the President, although it has been my observation that no Federal Reserve chairman long resists when told plainly by a President what he should do. There was never any basis for this aristocratic idea except the prestige arising from the association with money. Were it my choice I would make the Federal Reserve explicity subject to the economic policy and planning herein provided. However I recognize the desire of the authors of the Bill to avoid battles over largely totemic issues.

I urge the strengthening of S50 along the lines that I have indicated. And I urge its passage.

CHEATING AT WEST POINT

Mr. GOLDWATER. Mr. President, many of us have been understandably upset by the cheating scandal which has recently rocked the U.S. Military Academy at West Point. As I have pointed out in remarks on the floor, there are some complicating factors involved in this situation.

A recent essay by William Safire in the New York Times raises a question of whether it is correct to demand of our students in the military academies much higher standards of honesty than prevail at other colleges or in the Government or in business. This raises the question of whether we should lower standards to realistically match conduct or try to change conduct to match extremely high ideals.

Because of the importance of this question, I ask unanimous consent that the Times essay be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record,

[From the New York Times, May 31, 1976]

Duty, Honor, Country

(By William Safire)

The cheating scandal rocking the United States Military Academy at West Point involves a principle that should be discussed by our candidate for Commander in Chief.

The situation is this: Some 250 cadets, members of the class of 1977 may face hearings to see if they broke the honor code that demands a cadet "will not lie, cheat or steal, or tolerate those who do." The traditional punishment for breaking the honor code is dismissal from the Academy.

---

[3] Challenge magazine, May/June 1976

The extenuations offered by friends and attorneys of the accused are these: (a) Since entire military careers are affected by class standing, the atmosphere of competition produces an incentive to cheat that is overwhelming; (b) since the punishment of expulsion is so severe, the time has come to change the rules to give the offenders a second chance; (c) since everybody cheats or shades the truth in school and in life, it is both cruel and foolish to expect cadets to be paragons of virtue.

The question at issue is this: Is it right or wrong to demand that students in our military academies be held to much higher standards of honesty than prevail at other colleges, or in the armed forces, or in the government, or in business?

The underlying question of principle is this: Should we lower standards to realistically match conduct, or do we try to change conduct to match ideals?

An internal Army report prepared last year on the honor code, unearthed by James Feron of The New York Times, takes a behaviorist line, to the consternation of many army officers: "Men are not simply honorable or dishonorable, but fall . . . between those two positions." The report called for retaining the code only" as a goal rather than an actuality."

Former Army Secretary and West Point graduate Howard "Bo" Calloway is quoted as calling the honor code "too idealistic, too absolute," and "does not equip the Military Academy graduate to deal with the 'realities' of today's world." (At the time he was saying that, Mr. Calloway was attuned to the realities of using his Government office to help along his private ski resort, the exposure of which caused a political reality requiring him later to step down as President Ford's campaign manager.)

What's going on here? The humanists on the side of "realism" and the generals on the side of "idealism"? That's natural; behaviorists want to lessen guilt, and the generals must justify the need for an "officer corps."

The idea behind an officer corps and the reason-for-being of military academies, is that the nation needs a group of men with the training and the discipline to take battlefield positions of leadership in wartime. The cadet's willingness to undergo strict self-discipline, and thus to earn the right to command the discipline of others, is the *esprit of de corps.*

The General Accounting Office figures that it costs the taxpayer $97,500 to train, feed, clothe, house and educate each cadet. What does the taxpayer get for that? He gets a young man who is proud to be held to higher standards than other men his age. Such a man is more likely than most to lead his fellow Americans—in a life-and-death situation—with honor.

We do not need military academies because we like to see parades of men who march with precision of Radio City Music Hall Rockettes. We do not need military academies that turn out graduates equipped the same as graduates of Harvard, or a technical school, or a two-year community college. We are paying about $25,000 per year per man to produce a graduate who is special and different.

We want—and expect and demand—that the cadet who comes out of West Point is a man who takes seriously the motto "Duty, Honor, Country." We do not want him to think of those words as cornball, old-fashioned, or unrealistic. Some of us dare to hope that he will carry the higher-than-normal requirements of the honor code into his military career.

All the Academies can use improvement—sadistic hazing is a perversion of discipline and the percentage of graduates motivated to choose careers in the armed forces is too low—but West Point's honor code needs no relaxation.

If anything, the honor code now needs ringing reaffirmation. Is it really so burdensome for well-subsidized young men to pledge not to cheat and to mean it? Is it unrealistic to tell them if they are unwilling to make the grade honestly there are other young men who would like that opportunity?

Nobody is forced to go to a service academy. It is an honor the taxpayer gives to certain young men who freely choose a more disciplined way of life, and it is not too much for the American people to expect honor in return.

H.R. 10268: VETERANS' ADMINISTRATION RELEASE OF CERTAIN PATIENT INFORMATION

Mr. CRANSTON. Mr. President, yesterday the Senate passed and returned to the House H.R. 10268 as amended and reported by the Committee on Veterans' Affairs. As passed, H.R. 10268 would provide a legislative solution to a difficult and potentially dangerous problem that has concerned State and national public health officials for almost 2 years.

The most effective way to prevent the spread of communicable disease is to contact and treat all persons who may have been exposed to an infected carrier of the disease. To facilitate the task of contacting infected persons, all 50 States have established communicable disease units in the State health agency, and have enacted laws requiring that hospitals routinely report to those units the names and addresses of persons treated for any of an enumerated list of communicable diseases.

While Veterans' Administration hospitals and clinics are clearly not bound by State law reporting requirements, the VA for many years followed universally recognized principles of epidemiology by voluntarily cooperating with State and local health agencies in reporting to those agencies the names and addresses of persons treated for communicable diseases at VA health care facilities. Abruptly, 2 years ago, the VA's Office of General Counsel ruled that the Administrator of Veterans' Affairs did not have the authority voluntarily to comply with the State reporting requirements, and held that Federal law barred the release of patient-identifying information to public health authorities. In September and October 1975, the VA dispatched communications to every hospital and clinic in its vast health-care system requiring each facility to stop the release of patient names and addresses to public health agencies.

The reaction of public health officials and other responsible community spokespersons was one of dismay and concern. Health officials in Los Angeles County were denied access to information on a patient treated for tuberculosis at the Veterans' Administration Hospital in Long Beach, Calif., and feared the possible outbreak of dozens or even hundreds of cases of the disease because of their inability to contact relatives or associates of the infected veteran as a preventive measure. Health officials in other counties across the country encountered similar difficulties, prompting the Association of State and Territorial Health Officials to urge the VA to reinstitute its policy of voluntary compliance with State law reporting requirements.

Mr. President, on December 15, 1975, the House of Representatives by unanimous vote passed H.R. 10268, legislation to provide the administrator with unambiguous authority to comply with State laws by releasing identifying information to public health agencies on patients treated for communicable diseases.

On February 2, 1976, I introduced S. 2908, the proposed Veterans Omnibus Health Care Act of 1976, in this body. Section 113 of S. 2908 contained provisions which were similar in scope and purpose to those of the House-passed H.R. 10268. On February 18 and 19, my Subcommittee on Health and Hospitals held hearings on S. 2908 and other pending veterans health care legislation. Several witnesses testified specifically on section 113 of the omnibus bill and H.R. 10268. These witnesses impressed upon the members of the Committee on Veterans' Affairs the urgency of the problem, and the need to proceed with a resolution of this problem separately while congressional attention focused on the many other provisions of S. 2908. At those hearings, I announced my intention to separate section 113 of the omnibus bill and consider it independently and on an expedited basis.

Mr. President, in open executive session on March 10, 1976, the full committee unanimously ordered H.R. 10268 favorably reported, with an amendment substituting the text of section 113 of S. 2908—with minor technical and clarifying adjustments—for the text of the House-passed bill. It was H.R. 10268, as so amended, that the Senate passed yesterday.

Mr. President, the VA's interpretation of existing Federal law is well explained in Senate Committee Report No. 94–892 to accompany H.R. 10268. Rather than repeat this fairly complicated statutory-legal explanation, I ask unanimous consent that copies of the VA's and our own legal analysis of this issue be printed in the Record at this point, followed by appropriate excerpts from the committee report summarizing the provisions of the bill as reported, explaining the purpose, scope, and content of the bill, and highlighting some special areas of concern also be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

General Counsel's Opinion, Veterans' Administration—OP. G.C. 13–74

Subject Release of names and addresses.

Question presented: The question has arisen as to whether the Administrator has discretionary authority to release the names and addresses of present or former personnel of the armed services, and their dependents, in accordance with the provisions of 38 U.S.C. 3301 (1) through (8) as well as 3301(9), or whether the latter provision of law, since its enactment in October 1972, constitutes his only discretionary authority for the release of such names and addresses, thus restricting exceptions 3301 (1) through (8) as they may be concerned with releasing names and addresses. In particular, this question has recently been brought to our attention in the context of whether or not the Veterans' Administration should comply with an Arkansas statute requiring the reporting of the name, age, sex, and address of persons found to have venereal infection to the Arkansas Department of Health, and a Maryland Statute requiring the reporting of names and addresses of persons being treated for certain specified disorders to the Department of Motor Vehicles.

Comments: The specific state statutes with which this Opinion is concerned read, in pertinent part, as follows:

In Maryland, at Maryland Code Annotated Section 6–1103,

". . . all physicians and other persons authorized to diagnose, detect, or treat disorders and disabilities defined by the State Department of Health and Mental Hygiene shall report to the Medical Advisory Board of the Department of Motor Vehicles and to the person who is the subject of each report, in writing, the full name, date of birth, and address of every person over 15 years of age having any such specified disorder or disability within 10 days of diagnosis."

In Arkansas, Act 60, Acts of Arkansas 1973,

"Any person who determines by laboratory examination that a specimen derived from a human body yields microscopic, cultural, serological, or other evidence suggestive of those venereal diseases enumerated hereinafter shall notify the Division of Communicable Diseases, Arkansas State Department of Health, of such findings, . . . Notification of positive or doubtful test results shall contain the name, age, sex, and address of the person from whom the specimen was obtained. . . ."

While it is clear that the Veterans' Administration cannot be compelled by the several states to comply with their statutory requirements to report matters of the types with which the Maryland and Arkansas statutes deal, the agency has, through the years, as a matter of policy, voluntarily filed reports of this nature.

Section 10 of Public Law No. 866, 76th Congress, October 17, 1940, first enacted a provision authorizing the Administrator of Veterans' Affairs to "release information, statistics, or reports to individuals or organizations when, in his judgment, such release would serve a useful purpose." Identical language has since been reflected in the law and is now set out as 38 U.S.C. 3301(8). Since 1940 this authority has been utilized by the several administrators on a number of occasions to release names and addresses of veterans and their survivors (and, of course, other information, statistics, and reports) when it was determined that the release "would serve a useful purpose."

In addition, through the years, the names and addresses of veterans, and their dependents, have been released in accordance with other enumerated exceptions to the basic confidentiality provisions of 38 U.S.C. 3301, some of which are discretionary in nature while others are directive. This could have been done, for example, when required by process of a United States Court to be produced in any suit or proceeding therein pending (exception (2)); when required by any department or other agency of the United States Government (exception (3)); in all proceedings in the nature of an inquest into the mental competency of a claimant (exception (4)); when furnished to independent medical experts for purpose of obtaining an advisory opinion pursuant to 38 U.S.C. 4089 (exception (1)); and in any suit or other judicial proceeding when "in the judgment of the Administrator" the disclosure is deemed necessary and proper (exception (5)).

In 1972, the Congress (by section 412 of P.L. 92–540) revised the provisions of 38 U.S.C. 3301 to specifically provide that the "names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the VA" shall be confidential and privileged, and to add an additional exception to such confidentiality, reading:

"(9) the Administrator may, pursuant to regulations he shall prescribe, release the names and addresses of present or former personnel of the armed services, and/or dependents to any nonprofit organization but only if the release is directly connected with the conduct of programs and the utilization of benefits under this title. Any such organization or member thereof which uses such names and addresses for purposes other than those specified in the clause shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of subsequent offenses."

At the outset, it is apparent that the enactment of section 3301(9) in no way affects the authority of the Administrator to release "information, statistics, or reports" encompassed by 38 U.S.C. 3301 other than names and addresses. However, under the doctrine of *ejusdem generis*, the new section 3301(9) has no effect on the release of names and addresses pursuant to those subsections of 38 U.S.C. 3301 which *direct* rather than *grant discretionary authority* to the Administrator to affect such release.

While the language added by P.L. 92–540 seems to be permissive in nature, i.e., "the Administrator *may, pursuant to regulations he shall prescribe,* release the names and addresses", it should be noted that at the same time the new subsection (9) was enacted, the Congress amended the basic paragraph of section 3301 to declare that names and addresses in the Veterans' Administration's possession, generally, are confidential and privileged, and also limited whatever discretionary authority it was providing to the Administrator "to nonprofit organizations" and then only if the release satisfied certain specified criteria. This would seem to suggest that the Congress believed it was removing names and addresses from the Administrator's broad authority under 3301(8) and other discretionary exceptions to section 3301, and was identifying the only group to which the names and addresses could be released and the criteria governing such release. The comments of Chairman Hartke of the Senate Committee on Veterans' Affairs, on the Senate floor on October 13, 1972, during the consideration of the bill that was ultimately enacted as P.L. 92–540, add support to this conclusion. He stated, for example, that the Committee believed that "if the names are to be released *at all,* it should be done on a nondiscriminatory basis *to those who are working to aid the veteran in utilization of his benefits*", and "The names are not to be released to any commercial organization." This latter sentence suggests that the Administrator no longer has authority under section 3301 to release names and addresses to organizations for any commercial use.

Another compelling consideration is the establishment of criminal penalties for the use of the names and addresses by any organization (or member thereof) to whom they are released, for any purpose other than the conduct of programs or the utilization of benefits under title 38, United States Code. To conclude that the Administrator's discretionary authority under section 3301 continues to encompass names and addresses would negate the Congressionally prescribed criminal penalties merely by releasing the names and addresses to such organization under one of the other subsections rather than section 3301 (9). Having seen fit to limit the release to nonprofit organizations and to specify fairly narrow purposes for which the released names and addresses may be used, and having prescribed criminal penalties for violation, we conclude that the Congress did not anticipate that the Administrator would continue to have authority to release names and addresses to other groups or individuals who do not meet the test prescribed, for purposes outside of those specified, and not subject to the criminal penalties established.

We recognize that the Congress could have resolved any doubts by amending section 3301(8) to specifically exclude it from application to names and addresses (assuming that was its intention). The Congress failure to so amend section 3301(8) does not necessarily mean that that provision remains available for use with respect to names and addresses, since the Congress may have believed that having provided only one specific exception, that that was the only way the several provisions could be interpreted. A review of the legislative background of this amendment supports this interpretation.

In light of the foregoing, I conclude that 38 U.S.C. 3301(9), as enacted by P.L. 92–540, constitutes the Administrator's only discretionary authority for, and specifies the conditions governing, the release of names and addresses of present or former personnel of the armed services and/or dependents. This conclusion also applies to the release of a single name and/or address. To say that the restricted release provisions for names and addresses in section 3301(9) apply only to *lists* of names and addresses, which might be assumed from the Congressional discussion, would not change this interpretation since a list may consist of a single item (see Bouvier's Law Dictionary, citing 14 New Hampshire 35).

Held: Any names and addresses or any name or address of present or former personnel of the armed services, and/or dependents may only be released by the Veterans' Administration in accordance with the provisions of 38 U.S.C. 3301(9), that is, to a nonprofit organization, and only if directly connected with the conduct of programs and the utilization of benefits under title 38. (As noted above, the conclusion reached in this Opinion does not affect the mandatory exceptions to 38 U.S.C. 3301, i.e., (2), (3), and (4).)

Held further: While the Arkansas Department of Health and the Maryland Department of Motor Vehicles would meet the requirement of "nonprofit organization" in 38 U.S.C. 3301(9), it cannot be said that the release of names or addresses to such bodies would be directly connected with the conduct of programs or the utilization of benefits under title 38.

JOHN J. CORCORAN,
General Counsel.

NOTE. This opinion combines the opinions expressed in letters released to the Chief Attorney in Little Rock on June 24, 1974, and the Chief Attorney in Baltimore on June 27, 1974.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., November 11, 1975.

Hon. RICHARD L. ROUDEBUSH,
Administration of Veterans' Affairs, Veterans' Administration, 810 Vermont Avenue, N.W., Washington, D.C.

DEAR MR. ADMINISTRATOR: We are deeply concerned by the action the Veterans' Administration has recently taken to discontinue the longstanding VA policy under which VA physicians and hospital administrators cooperated with State and local health agencies by reporting, pursuant to State law, the names and addresses of patients with communicable diseases who have been treated at VA health care facilities. We believe that this action by the VA is contrary to the public health and safety and is not required by law, as contended in General Counsel's Opinion 13-74 of May 30, 1974. We urge a more reasonable and flexible interpretation of existing law in order to conform to Conrgessional intent and to the dictates of sound medical practice. We respectfully request that you direct that the VA's position on this very important issue be reconsidered, and that, pending the outcome of such reconsideration, you reinstate the discontinued policy of cooperation with State and local public health authorities.

In 1972, Congress enacted Public Law 92-540, the Vietnam Era Veterans' Readjustment Assistance Act of 1972. Section 412 of that Act amended section 3301 of title 38, United States Code, in two respects: (1) a reference to "the names and addresses of present or former personnel of the armed services, and their dependents" was added to the first sentence of the section (which requires that certain records and information be confidential and privileged except as specified thereafter); and (2) a new paragraph (9) was added at the end of the section to describe circumstances under which "names and addresses" could be released by the Administrator.

The General Counsel in his Opinion of May 30, 1974, interpreted these amendments as an expression of Congressional intent that names and addresses of veterans could no longer be released pursuant to paragraph (8) of the section (allowing the Administrator to release "information . . . when in his judgment such release would serve a useful purpose . . ."), but could only be released in accordance with the requirements of paragraph (9) (to any nonprofit organization but only "if the release is directly connected with the conduct of programs and the utilization of benefits under . . . title [38] . . ."). The 1972 amendments, the General Counsel concluded, had the effect of prohibiting the Administrator from continuing the VA's longstanding policy of cooperation with State and local public health authorities by advising them of the identity of any veteran patient with a communicable disease. We disagree.

On September 25, 1975, the Department of Medicine and Surgery notified all stations by telegram that the names and addresses of patients suffering from communicable diseases were no longer to be reported to State or local public health agencies. On October 30, the Department released an interim issue, generally implementing the Privacy Act of 1974 (Public Law 93-579), reiterating the prohibition on the release of names and addresses to those agencies.

In our view, alternative interpretations of existing law permit you to continue the VA's longstanding policy of advising the appropriate local public health authority of the identity of any VA patient with a communicable disease.

We believe, first of all, that there is no basis for concluding that Congress, by amending section 3301 in 1972, intended that *information from medical records*, including the identity of a patient treated for a communicable disease, fall under the limitation of paragraph (9) of that section, as the General Counsel contends. As the principal Senate authors of Public Law 92-540, we conclude that the preexisting authority in paragraph (8), as limited by other applicable State and Federal laws, was not in any way altered by that 1972 law insofar as the release of information from a VA patient's medical records is concerned.

Second, we believe, alternatively, that, even under the more restrictive language of paragraph (9)—and we stress that we believe that paragraph (8) continues to apply to the release of information from VA medical records, as discussed above—there is authority for the Administrator to release the name and address of a patient to State or local public health authorities, because we are unable to conclude that such release would not be "directly connected with the conduct of programs and the utilization of benefits" under title 38. The General Counsel's holding to the contrary is not supported by the legislative history of the 1972 amendments to section 3301 as interpreted in accordance with well-recognized canons of statutory construction.

Our detailed analysis in support of these conclusions is set forth in the enclosed Memorandum of Points and Authorities.

We feel that a more flexible interpretation of the applicable Federal law will avoid the dangerous risk of the uncontrolled spread of highly infectious disease. The urgency of the present situation is underscored by the enclosed recent article and editorial on this matter in the Los Angeles Times and the enclosed copy of a letter from the Los Angeles County Board of Supervisors.

In view of the fact that both the House and Senate Committees on Veterans' Affairs have expressed strong disagreement with the VA's interpretation of applicable law on this question, a full review, and, we hope, redetermination of the issue in question would seem the most appropriate course of action. We, therefore, urge that you direct that such a review be undertaken and that, pending the result of such review, the appropriate administrative steps be taken to permit physicians and administrators in VA health care facilities to continue the policy of cooperating fully with appropriate local health agencies consistent with reporting requirements under State law and regulation.

At the same time, we recognize the advisability of clarifying applicable provisions of title 38, and would greatly appreciate the technical assistance of your General Counsel's office in revising the law appropriately so its meaning will be free from doubt. However, we believe that there are some subtle and complex issues involved in making such revision, and we would greatly prefer not to make this revision in the emergent circumstances necessitated by the Department of Medicine and Surgery's issuances of September 25 and October 30, on advice of the General Counsel, directing discontinuation of the VA's longstanding policy of releasing a communicable disease patient's name and address to appropriate public health authorities.

As a final matter, we understand that the May 30, 1974, Opinion of the General Counsel referred to above was circulated to all VA facility directors. Had we received a copy, we might have been able to resolve this matter long ago. To prevent repetition of such situations in the future, we believe it would be helpful if we received all circulated General Counsel Opinions as a matter of course, and we would appreciate your making the arrangements to have each of our names added to the circulation list for all such published Opinions.

Thank you for your continuing cooperation with the Committee and Subcommittee. We look forward to receiving a reply as promptly as possible.

Sincerely,

VANCE HARTKE,
Chairman, Committee on Veterans' Affairs.

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

Enclosures.

[From the Los Angeles Times, Oct. 28, 1975]

REPORTS ON COMMUNICABLE DISEASES HALTED BY VA

AGENCY MOVE IN VIOLATION OF STATE LAW TAKEN AFTER FEDERAL PRIVACY ACT BECAME EFFECTIVE

(By Harry Nelson)

The Veterans' Administration's legal interpretation of confidentiality laws has brought to a halt the agency's reporting of communicable diseases to county and state health officials, although reporting is required by state law.

No cases of venereal disease, tuberculosis or other communicable diseases have been reported by the VA to Los Angeles public health officials since Sept. 27, according to Dr. Shirley Fannin, chief of communicable diseases for the county.

She said such information is used by public health investigators to see whether persons who have been in contact with patients have contracted diseases.

Dr. James Chin, chief of infectious diseases for the state Department of Health, said the problem is statewide and appears to be nationwide with the VA but not with other Federal agencies such as the Department of Defense.

Because Monday was a legal holiday for Federal employees, VA administrators were not available for comment.

However, Fannin said she has been told by the local VA legal counsel that the action was taken as a consequence of a reinterpretation of a 1972 Federal law directed at the VA and dealing with confidentiality of patients' records.

In December, 1974, Congress passed the Privacy Act that included patient medical record confidentiality. While preparing for implementation of this act, which went into effect on Sept. 27, 1975, the VA reinterpreted the earlier law to include a prohibition providing public health agencies with information about communicable disease cases, Fannin said.

She said the VA sent a message to all its facilities on Sept. 25 telling them not to provide other agencies with information that could identify a patient.

It is this type of information that California state law requires be reported to public health agencies for certain diseases.

Fannin said the VA has been reporting about 5% of all the TB cases reported in the state. A total of about 3,500 new cases of TB are reported in the state annually. She said no data is available on how many VD or other contagious diseases stem from veterans.

"Everybody in the VA is sympathetic and understanding but they're not doing anything about it," she said in an interview.

She said an amendment to exclude health agency reporting from the 1972 law is before Congress but has not been acted on.

[From the Los Angeles Times, Oct. 31, 1975]

PRIVACY LAW AND PUBLIC HEALTH

When communicable diseases are reported to them, health authorities act promptly to check the families and possible contacts of the patients and take steps necessary to prevent spread of the disease.

That is why state law requires such reporting by doctors and hospitals. But the Veterans' Administration in Washington has decided that Federal privacy statutes make patient medical records confidential. VA officials can report the number of cases treated in any given period but not the names and addresses of the patients.

That's plain crazy, in the judgment of one local health expert, and we agree. It means that patients treated in VA hospitals for tuberculosis, diphtheria, hepatitis, venereal and other infectious diseases have their privacy protected at the expense of their families and others in society who might have been exposed to them. It sounds disturbingly like an invitation to epidemics.

We are strong advocates of the laws protecting privacy, but we believe that the laws should make provision for sharing disease information when there is potential jeopardy to the health of other individuals and communities.

An initial attempt to correct the situation with new legislation was made by Rep. John Paul Hammerschmidt (R-Ark.) but attorneys for the Veterans' Administration held that his proposal was too broad. A revised version was then introduced by Rep. David E. Satterfield (D-Va.), chairman of the Hospital Subcommittee of the House Veterans' Affairs Committee. That measure, HR 10268, amends the VA Act to permit release of patients' names for the protection of public health and safety and is so worded as to remove such disclosures from the strictures of the 1974 Privacy Act. That is the way to go.

Board of Supervisors,
County of Los Angeles,
Washington, D.C., November 3, 1975.
Hon. Alan Cranston,
U.S. Senate,
Washington, D.C.

Dear Senator: We would like to call your attention to a very serious problem that has arisen regarding the Veterans' Administration.

Recently, the Veterans' Administration ruled that records involving Veterans' Administration hospital patients afflicted with communicable diseases are not accessible. As a direct result of this ruling, Los Angeles County public health officials were denied access to information on a tubercular case at the Long Beach Veterans Hospital, and the health officials have been unable to contact relatives or associates of the infected patient as a preventative measure.

The Veterans' Administration contends that this action is based on a recent interpretation of the law dealing with confidentiality requirements, a law in effect since 1972, but not strictly enforced until it was reviewed following adoption of the Federal Privacy Act of 1974.

The immediate effect of this interpretation has been to deny information to the County's Department of Health Services in the areas of communicable disease control.

Our Los Angeles County Supervisor, Pete Schabarum, has alerted our Board of this problem, and it is hopeful that you may be able to assist in this matter.

Thank you for your interest. If you need further information please do not hesitate to call.

Sincerely,

Joseph M. Pollard,
Legislative Consultant.

Memorandum of Points and Authorities, November 11, 1975

To: Richard L. Roudebush, Administrator of Veterans' Affairs.

From: Vance Hartke, Chairman, and Alan Cranston, Chairman, Subcommittee on Health and Hospitals.

Re: Legal Conclusions and Analysis in November 11, 1975, Letter Regarding Authority in Section 3301 of Title 38 to Advise Public Health Authorities about Identity of VA Communicable Disease Patients

BACKGROUND

Medical experts widely agree that the most effective way to prevent the spread of communicable diseases such as tuberculosis, venereal disease, and virulent forms of hepatitis and influenza is to contact and treat all persons who may have been exposed to an infected carrier of the disease. According to HEW's Center for Disease Control, all fifty States have established infectious disease units or their equivalents in the State health agency to facilitate and coordinate the treatment of communicable diseases, and have enacted State laws requiring that hospitals submit to the unit the names and addresses of persons who contract one of the dangerous communicable diseases. The necessity for such a procedure was recently summarized in cogent fashion by Dr. John J. Hanlon, Assistant Surgeon General of the United States Public Health Service and an eminent professor and authority on public health:

> To be segregated and subsequently rendered noncommunicable, diseased individuals first must be discovered. Fundamental to this is a system for the reporting of cases of communicable diseases both by physicians in the area and by health authorities in other localities to which infected individuals may emigrate. . . . The value of a report of a case of communicable disease is not in the counting of a "vital fact" or merely in the control of the patient but in the lead it gives in finding sources and contacts. This implies engaging in what some have termed *shoe-leather epidemiology*. A routine procedure must operate to determine and locate for subsequent examination members of a group in which active infection of either recent or earlier origin is most likely to exist. (*Public Health Administration and Practice* (6th ed., 1974), pp. 391–392; emphasis in the original)

While VA hospitals and clinics, as Federal installations, are clearly not bound by State law reporting requirements, the VA for many years has followed universally recognized principles of epidemiology by voluntarily cooperating with State and local health agencies in reporting to those agencies the names and addresses of persons with communicable diseases who received treatment at VA health care facilities. This policy of voluntary release of names and addresses has rested on the authority in paragraph (8) of section 3301 of title 38, United States Code, as follows:

"The Administrator may release information, statistics, or reports to individuals or organizations when in his judgment such release would serve a useful purpose."

Even after section 3301 was amended in 1972 to restrict the Administrator's authority to release the names and addresses of veterans in certain situations (see below, page 4 of this Memorandum), the VA continued to cooperate with State and local health agencies.

Eighteen months ago, in General Counsel's Opinion 13–74 of May 30, 1974, the General Counsel held that the Administrator no longer had the discretionary authority to release the names and addresses of veterans to State and local health agencies. The Opinion relied upon paragraph (9) of section 3301 as requiring this conclusion of law. The pertinent part of section 3301 reads as follows:

"All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as follows:

* * * * *

"(9) The Administrator may, pursuant to regulations he shall prescribe, release the names and addresses of present or former personnel of the armed services, and/or dependents to any nonprofit organization but only if the release is directly connected with the conduct of programs and the utilization of benefits under this title. . . ."

Paragraph (9) was added to section 3301 by section 412(2) of Public Law 92–540 in 1972, specifically for the purpose of precluding the distribution of mailing lists of veterans' names and addresses to commercial organizations, and ensuring that the release of such lists for purposes in connection with the use of VA benefits (generally for outreach purposes) by veterans' service organizations and other nonprofit entities would be carried out on an evenhanded basis. The General Counsel's Opinion concluded that, by adding paragraph (9) and amending the first sentence of the section to refer specifically to "names and addresses" as within the confidentiality protection of the section, Congress intended to remove altogether the release of veterans' names and addresses from the Administrator's broad authority under the existing paragraph (8) to release information "when in his judgment such release would serve a useful purpose" and to restrict release of names and addresses only to the circumstances of paragraph (9)—when the release is to a nonprofit organization and "is directly connected with the conduct of programs and the utilization of benefits under this title. . . ."

On September 25 of this year, the Department of Medicine and Surgery dispatched a telegram to the Directors of hospitals, domiciliaries and outpatient clinics in the VA health care system requiring them to stop the release of all "information containing personal identification" to State health data banks, cancer registries, and similar organizations. On October 30, the Department of Medicine and Surgery implemented the September 25 directive by releasing an interim issue, in implementation of the Privacy Act of 1974 (Public Law 93–579), which, in pertinent part, prohibited the release of patient names and addresses to State health agencies:

"The names and addresses of present or former personnel of the armed services and/or dependents may be released to any nonprofit organization without the consent of that individual *but* only if the release is directly connected with the conduct of programs and utilization of benefits under title 38, U.S.C. (38 U.S.C. 3301(9)). This prohibition on release would include, but would not be limited to, *the voluntary release of information on communicable diseases to health departments*. . . ." (Emphasis added.)

The effect of the September 25 directive and the interim issue of October 30 has been to halt the traditional cooperation between VA health care facilities and public health authorities in reporting the identity of patients with communicable diseases. The VA's new policy of noncooperation raises the distinct possibility that health officials might be unable to control the spread of a dangerous communicable disease, a point made in the "Statement of the Association of State and Territorial Health Officials" sent last week to the Subcommittee on Health and Hospitals by Dr. E. Kenneth Aycock, the Association's President:

"Recent rulings by the Veterans' Administration's General Counsel on legislation affecting the confidentiality of VA medical information have precluded routine reporting of infectious diseases to State and local health authorities, although such cooperation is required by State law. This creates a situation in which a Federal enclave exists within a community where some persons with communicable diseases are diagnosed and treated but where there is no possibility of thereafter containing spread. Cooperation is thus mandatory because the VA has no authority for protecting the health of the general public and must rely on the constituted health agencies at State and local level. If State or local health authorities do not know the existence of a VA beneficiary with a communicable disease, the disease will be permitted to spread for an unacceptable period of time, affecting both VA beneficiaries and other members of the community. The Federal Government is committed to assisting State and local agencies in controlling communicable diseases and also has a direct responsibility for controlling interstate spread. The current VA position undermines both of these goals. We propose that the VA rely on the requirements of the Privacy Act of 1974, to ensure that the personal privacy of VA beneficiaries is protected, and that appropriate regulations be promulgated immediately to ensure disease reporting. (Other Federal agencies are able to report diseases to State and local health agencies under the Privacy Act.) We view this as an urgent matter. We request further that Congress approve legislation such as H.R. 10268, now pending in the House Committee on Veterans' Affairs."

DISCUSSION

Alternative Interpretations of Applicable Law Authorizing Continuation of VA Policy of Cooperation with State and Local Public Health Authorities

We believe that two alternative interpretations of section 3301 permit the Administrator to continue the VA's longstanding policy of advising the appropriate public health authority of the identity of any VA patient with a communicable disease.

We believe, first of all, that there is no basis for concluding that Congress, by amending section 3301 in 1972, intended that *information from medical records*, including the name and address of a patient treated for a communicable disease, fall under the limitation of paragraph (9), as the General Conusel contends. As the principal Senate authors of Public Law 92-540(we conclude that the preexisting authority in paragraph (8), as limited by other applicable State and Federal laws, was not in any way altered by the 1972 law insofar as the release of information from a VA patient's medical records is concerned.

Second, we believe, alternatively, that even under the more restrictive language of paragraph (9)—and we stress that we believe that paragraph (8) continues to apply to the release of information from VA medical records, as discussed above—there is authority for the Administrator to release the names and addresses of patients to State or local public health agencies, because we are unable to conclude that such release would not be "directly connected with the conduct of programs and the utilization of benefits" under title 38. The General Counsel's holding to the contrary is not supported by the legislative history of the 1972 amendments to section 3301 as interpreted in accordance with well-recognized canons of statutory construction.

A. Continuation of Authority Under Paragraph (8) To Release Certain Medical Information to State and Local Public Health Authorities

The 1972 amendments to section 3301 were intended to cut back on the Administrator's broad discretion to release lists of the names and addresses of veterans under paragraph (8) of the section. Unclear on the face of the statutory provision is whether the curb on the Administrator's discretion was intended to extend to the release of certain information—in this case the name and address of a veteran with a communicable disease—to State and local public health agencies under long-honored cooperative procedures.

The language of the statute offers little guidance to clarify this ambiguity. The legislative history of the amendments indicates that Congress had two very clear intentions—to halt the unauthorized release of lists of veterans' names and addresses to commercial organizations interested in solicitation or lobbying and to provide for even-handed standards to govern the release of such lists for VA-program-related purposes—but says nothing about Congress' intent with regard to existing provisions governing the release of information from VA medical records (including the name and address of a patient) to public health authorities.

The General Counsel, in his Opinion of May 30, 1974, concluded that by amending section 3301 to add a reference to "names and addresses" in the first sentence and a new paragraph (9) limiting the release of "names and addresses" to certain specific circumstances, Congress "believed it was removing names and addresses from the Administrator's broad authority under [section] 3301(8) and other discretionary exceptions to section 3301, and was identifying the only group to which the names and addresses could be released and the criteria governing such release." We can find no support for any such sweeping implicit repealer of much of paragraph (8). The fact is that paragraph (8) was not directly amended in the 1972 Act, nor since then, and that there is no substantive reference whatsoever to paragraph (8) anywhere in the House or Senate legislative history surrounding that Act.

The General Counsel's interpretation of Congress' 1972 amendments to section 3301 severely limits the scope of paragraph (8) without any affirmative indication from the Congress that it intended any such limit, and abrogates a longstanding VA policy of voluntary cooperation with State and local public health authorities without any indication from the Congress that it disapproved of the policy. In view of the ambiguity of the statute insofar as the relationship of paragraphs (8) and (9) is concerned and the complete silence of the legislative history specifically regarding medical records, we believe that an implicit repealer of paragraph (8) cannot be inferred except to the extent absolutely essential to carry out the stated purposes underlying the addition of paragraph (9). In fact, that Congress clearly did not intend any repealer with regard to medical records is clear, we think, from the broader legislative context in which the 1972 amendments were considered and enacted.

An analysis of the legislative history of Public Law 92-540 in the context of the many measures on the confidentiality of medical information enacted by Congress during the 91st through 93d Congresses (the period during which Public Law 92-540 was considered, enacted, and implemented) reveals three reasons for concluding that Congress did not intend to remove the release of medical record information from the Administrator's discretionary authority under paragraph (8).

1. *Legislation affecting the confidentiality of medical records has always clearly been identified as such by Congress.* During the period from 1970 to 1974, Congress enacted five major measures dealing with the confidentiality of information bearing on medical treatment.[1] In each case, Congress used specific and carefully drawn statutory language to describe the confidentiality requirements and disclosure circumstances, and the legislative history of each measure carefully justified the reason for the requirement and the scope of confidentiality to be observed.[2] By contrast, Public Law 92-540 was not a medical bill, but a readjustment assistance bill. It was not considered by the Senate Veterans' Affairs Committee's Subcommittee on Health and Hospitals, but by the Subcommittee on Readjustment, Education, and Employment. (It was similarly considered in the House Committee.) It contained no provisions that related directly to the Department of Medicine and Surgery or to any medical program under the direction of the VA. There was no testimony or discussion during hearings before the House Committee on Veterans' Affairs (where the amendments to section 3301 originated) on the effect the amendments would have on the confidentiality of medical record information, nor did the VA make any reference to such an effect in its official report to the Senate Committee on the House-passed bill, H.R. 12828.

In light of Congress' careful consideration of other bills affecting the confidentiality of medical information, it seems most unlikely to us that Congress would have chosen such an unorthodox procedure for formulating a major new policy on confidentiality of VA patient information. In every case, Congress proceeded deliberately and openly by drafting a confidentiality requirement within the context of a larger health bill, and by justifying the requirement by appropriate language in the legislative history. Here, if the General Counsel's analysis is correct, Congress would have cosen a readjustment assistance measure as the vehicle for a broad change in VA medical confidentiality requirements, and then proceeded to effect the change without any express statutory language or even the most rudimentary mention—let alone a justification—in the legislative history.

We believe that the broad legislative context in which Public Law 92-540 was considered and passed supports our assertion that the amendments to section 3301 were not intended to reduce or in any way affect the Administrator's authority under paragraph (8) of the section to release the identity of a communicable disease patient to State or local public health authorities. This context makes clear to us that, if Congress had intended to remove that authority from the Administrator, then it would have done so specifically, in both the law and legislative history.

2. *The stated purpose for which section 3301 was amended in 1972 in no way supports the conclusion that Congress withdrew the Administrator's authority under paragraph (8) of the section to release medical record information in order to cooperate with State and local public health authorities.* The legislative history of Public Law 92-540 shows clearly that the amendments to section 3301 were designed by the House Committee to prevent the distribution of mass mailing lists of veterans' names and addresses to "persons who desire such information for debt collection, canvassing, harassing, or propaganda purposes." (House Rept. No. 92-887, p. 18 (Feb. 29, 1972)). Prior to the amendments, the VA permitted distribution of lists of veterans' names to commercial organizations which used the lists for solicitation campaigns and direct-mail lobbying and propagandizing. Primarily prompted by complaints of harassment and invasion of privacy by concerned veterans and veterans groups, Congress then acted to prevent the release of lists of names and addresses to commercial organizations by making the appropriate amendments to section 3301.

What was important to commercial groups seeking access to veterans' mailing lists was the veteran's status as a veteran. This status, and nothing else, made him a prime "target" for the commercial organizations' appeals. The same analysis obtains in the case of release of lists of veterans' names and addresses to veterans' service organizations, a subsidiary focus of the 1972 amendment.

In contrast, public health authorities do not seek lists of names or identity of individuals because of their veteran status, but rather the identity of an individual who has contracted a communicable disease. The authorities are not interested in the patient's status as a veteran *per se*, but in his status as a carrier of a communicable disease. They are primarily interested, not in contacting and treating the particular veteran (who presumably has already been treated by the VA), but in seeking out other persons with whom the infected veteran might have, or might thereafter, come in contact.

In short, by giving the name of a patient to State or local public health authorities, the Administrator is communicating "information" from that patient's medical record that he has contracted and is being treated for a communicable disease. In our view, paragraph (8), under which the Administrator may release "information . . . when in

---

Footnotes at end of article.

his judgment such release would serve a useful purpose," remains unaffected by Public Law 92–540 as a fully operative authority for the release of a communicable disease patient's identity to public health authorities. Paragraph (9) was designed to apply only to the altogether different situation of veterans' name and address lists, and has no applicability to this medical information context.

3. *Protection of the privacy rights of patients with communicable diseases is adequately achieved by existing State and Federal law.* Section 3301 and its longstanding underlying regulations operate to protect the confidentiality of VA records, including medical records, from unwarranted disclosure without authorization by the subjects of those records. When, however, the agency to which VA medical records are disclosed is a State or local public health agency, then their confidentiality is more than adequately safeguarded by existing State and Federal laws.

According to officials of HEW's Center for Disease Control, all fifty States have laws or regulations that safeguard the identity and addresses of persons with infectious diseases who are reported to public health authorities. The VA's laudable concern for the privacy rights of patients with communicable diseases is wholly consistent with notifying public health authorities of a communicable disease patient's name and address, since those agencies are legally obliged to preserve the confidentiality of the patient's identity and hospital records.

Nor does the Privacy Act of 1974, Public Law 93–579, require the VA to withhold such information. That Act restricts the circumstances under which any Federal agency, including the VA, may release records or information contained in their systems of records, and attaches civil and criminal penalties to the unauthorized disclosures of such records or information by agency officers or employers.

The Act expressly authorizes a Federal agency to make disclosure pursuant to a "routine use" as that term is used in the Act and defined in the agency's published regulations and recordkeeping system notices. Both of the other major Federal health care systems—the Department of Defense and the United States Public Health Service—have defined the release of a communicable disease patient's identity to public health authorities as a "routine use" in their published system notices,[3] and cooperate as a matter of course with State and local authorities in preventing the spread and facilitating the treatment of communicable disease.

(We note that, in a related context, one other set of laws governs directly the release of information from certain VA medical records. The Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255) and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (Public Law 93–282) establish criteria for the protection of the privacy of drug and alcohol abuse patients treated in federally assisted programs and specifically make these criteria generally applicable to VA health care facilities.)

In view of the foregoing discussion, we conclude that the amendments to section 3301 in 1972 were not intended to limit the Administrator's longstanding discretionary authority under paragraph (8) to release information (including the name and address) about a patient or former patient in a VA health care facility "when in his judgment such release would serve a useful purpose." There is no disagreement, we believe, that the release of such information to public health authorities to prevent the spread and facilitate the treatment of communicable diseases, consistent with the requirements of State and Federal law, is a "useful purpose" within the meaning of that term as used in paragraph (8) of section 3301.

B. Alternative theory: Application of paragraph (9)

Even assuming (as we do not) that paragraph (9) constitutes, after its enactment, the applicable standard under which to determine the appropriateness of notifying public health authorities about a communicable disease patient's identity, we find that the General Counsel's final conclusion of law is not supported by any stated analysis or by any we can reasonably posit. In the last paragraph of the May 30, 1974, Opinion, the General Counsel stated:

> "While [State health agencies] . . . would meet the requirement of "nonprofit organization" in 38 U.S.C. 3301(9), it cannot be said that the release of names or addresses to such bodies would be directly connected with the conduct of programs or the utilization of benefits under title 38."

This holding is offered without any explanation, justification, or citation to legislative history. In the third-from-the-last paragraph of the Administrator's June 3, 1975, letter to House Veterans' Affairs Committee Chairman Roberts on this question, the General Counsel's conclusion was repeated almost *verbatim* without any explanation or support.

We are not aware of any legislative history whatsoever to support a conclusion that information about the treatment of a veteran with a communicable disease at VA facilities and the release of the veteran's name and address to public health authorities to help prevent the spread of the disease cannot be said to be "directly connected with the conduct of programs and the utilization of benefits" under title 38. In fact, a common sense interpretation of the statutory words in question indicates very much the opposite conclusion. According to section 4101(a) of title 38:

> ". . . The functions of the Department of Medicine and Surgery shall be *those necessary for a complete medical and hospital service* . . . for the medical care and treatment of veterans." (Emphasis added.)

Under the medical program carried out by the VA's Department of Medicine and Surgery, eligible veterans receive broad health care benefits as prescribed in chapter 17 of title 38 ("Hospital, Domiciliary, and Medical Care"). The release of the name and address of a patient with a communicable disease prevents the spread and facilitates the treatment of the disease among members of the community, including other veterans. Because it promotes the health of veterans in general, the release of names and addresses to public health authorities thereby reduces the demand for hospital and other health care services provided by the VA health care system for eligible veterans. Such release is, therefore, "directly connected with the conduct of [the DM&S medical and hospital service] programs and the utilization of [chapter 17] benefits" under title 38, within the meaning of paragraph (9), since such release serves a necessary and vital purpose in a "complete medical and hospital service".

Because the statutory language is not free from ambiguity, and the legislative history does not offer the illumination necessary to resolve all ambiguities, the VA is required by well-recognized canons of statutory construction to read the provision in light of its purpose and to avoid any interpretation of the language of the provision that would yield an unreasonable result.[4] Yet that is prescisely the result of the VA's interpretation, for it has resolved the statutory ambiguity in such a way as to contravene sound epidemiological practice and the VA's longstanding procedure (in effect until less than two months ago) of cooperating with State health agencies in releasing the name and address of a patient with a communicable disease.

We thus conclude that paragraph (9) itself permits the release of the name and address of a VA patient to State and local health agencies for the purpose of controlling communicable diseases.

C. Three special problems

In addition to the legal and medical issues described above, there are three areas of particular concern to us which we believe the VA should consider in its exercise of policymaking discretion on this issue.

1. *State and local law enforcement agencies.*—First, although we have focused on the issues of law and policy concerning the Administrator's cooperation with public health authorities only, the same considerations would apply to VA cooperation with State and local law enforcement agencies. The General Counsel's Opinion of May 30, 1974, concluded that the 1972 amendments to section 3301 precluded the Administrator from releasing names and addresses of patients treated for certain ailments to, for example, a State department of motor vehicles, and the October 30, 1975, interim issue of the Department of Medicine and Surgery prohibits the "notification to police departments of patients admitted for gunshot wounds. . . ." This policy of VA noncooperation with law enforcement authorities may be substantively a somewhat different and less emergent issue than noncooperation with public health authorities, since the latter poses an immediate serious threat to the public health and welfare. However, we feel that voluntary cooperation with law enforcement authorities by the VA is still authorized under paragraph (8) of section 3301, (or, in the alternative, under paragraph (9)) by virtue of the same analysis set forth above in the context of cooperation with public health authorities. We, therefore, urge that your review of the General Counsel's Opinion and VA policies in this area extent to consideration of this issue.

2. *Venereal disease patients.*—Second, we believe there may be special concerns—which you should evaluate—involved in the release to public health authorities of the names of patients with venereal disease. In 1972, by enacting Public Law 92–449, the Communicable Disease Control Amendments Act of 1972, Congress recognized the extraordinary sensitivity surrounding the medical records, and the release of information from them, of patients treated for venereal disease. The 1972 Act contained a provision prohibiting the release of a patient's name to public health authorities when the patient received treatment for venereal disease in a program under a venereal disease grant.[5]

The purpose of this confidentiality requirement was to encourage persons with venereal disease to seek treatment by giving them the assurance that their treatment would be handled in the strictest confidence. We feel that, for two reasons, these considerations may not be as compelling in the present context. First, almost all patients seeking treatment for venereal disease in VA health care facilities are adult males, as opposed to the females and juvenile males who make up a significant proportion of patients at non-VA facilities, and for whose benefit the confidentiality protection in Public Law 92–449 seems primarily intended. Second, the Privacy Act of 1974 has been enacted since the Communicable Disease Control Amendments Act of 1972, and requires greater protection by Federal agencies of the privacy of patient records than was previously required by law.

We therefore believe that there should be particular sensitivity to the implications of

---

Footnotes at end of article.

releasing the identity of patients treated for venereal disease; but we also doubt that any blanket exclusion should be made for communication to public health authorities of the identity of patients with venereal disease, the most common communicable disease in the United States.

3. *Privacy Considerations.*—Third, we recognize that many State laws provide for communication of the information on communicable diseases to *State* public health authorities, which in turn share this information with appropriate local authorities which in most States actually carry out all investigative and epidemiological activities. We believe that it might be preferable for the VA, as a matter of policy, to limit disclosure only to local officials in order to ensure that this information receives the narrowest dissemination. We raise this point because of our deep concern about the possible misuse of information such as this in States with data banks or computer information systems to which a broad spectrum of public and quasi-public agencies and organizations may have access. We hope that the Administrator will give this matter further close consideration.

FOOTNOTES

[1] Public Law 91–616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970), section 333; Public Law 92–255 (Drug Abuse Office and Treatment Act of 1972), section 408; Public Law 92–449 (Communicable Disease Control Amendments Act of 1972), section 203 (adding a new section 318 to the Public Health Service Act, 42 U.S.C. §§ 201 ff.); Public Law 93–82 (Veterans Health Care Expansion Act of 1973), section 109 (adding a section 653, "Voluntary participation; confidentiality", to subchapter VI ("Sickle Cell Anemia") of title 38); and Public Law 93–282 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974), section 122.

[2] The report of the Senate Committee on Labor and Public Welfare on legislation that later became Public Law 91–616, the Comprehensive Alcohol Abuse and Alcoholism Prevention. Treatment, and Rehabilitation Act of 1970, contained the following explanation of the Act's confidentiality requirement:

"It is, of course, essential that the confidentiality of a patient's records . . . be honored at all times. It takes little imagination to realize that alcoholics will be far more hesitant to consider treatment if they will be in danger of public ridicule by exposure of their illness. This factor is of particular significance because a treatment program's success is dependent upon the voluntary cooperation of the patient. Disclosure of an individual's name is of no value for research purposes and should be avoided in all situations." (Sen. Rept. No. 91–1069, p. 19 (August 3, 1970).)

See also Sen. Rept. No. 92–700, p. 33 (March 17, 1972), where a similar justification is offered for the confidentiality requirement in the Drug Abuse Office and Treatment Act of 1972 (later Public Law 92–255).

The Senate Committee on Labor and Public Welfare was strongly impressed with the need for confidentiality in the treatment of venereal disease, and included in its report on legislation which later became Public Law 92–449, the Communicable Disease Control Amendments Act of 1972, the following statement:

"The Committee was impressed with the need to overcome the . . . problem of venereal disease sufferers failing to seek treatment due to their concern that their identity would be divulged and physician failure to report incidence of venereal disease cases because of local public health laws which require them to breach the "physician-patient" relationship of confidentiality by providing the patient's name. The Committee amended the bill to ensure that patient examination, care and treatment shall be held confidential and identity sacrosanct except with the individual's consent or as may be necessary to provide service to the individual, in the utilization of any funds made available under this bill.

"Any provision of information to State public health authorities from programs so funded would thus have to be made without identifying the patient. The Committee was also concerned that in writing up clinical studies, researchers should do all possible to ensure that the particulars of the case do not reveal the identity of the patient." (Sen. Rept. No. 92–825, pp. 10–11 (June 1, 1972).)

See also Sen. Rept. No. 93–54, p. 34 (March 2, 1973), describing the confidentiality requirement in the Sickle Cell anemia program added to title 38 by Public Law 93–82, the Veterans Health Care Expansion Act of 1973; and House Rept. No. 93–759, pp. 10–11, 13–14 (January 21, 1974), describing the confidentiality provisions in H.R. 11387, legislation that later became Public Law 93–282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974.

[3] *Federal Register*, Vol. 40, p. 35256 (August 18, 1975) (U.S. Army); p. 35657 (August 18, 1975) (U.S. Air Force); p. 35899 (August 18, 1975) (U.S. Navy); p. 38632 (August 27, 1975) (Public Health Service).

[4] All statutes must be construed in the light of their purpose. A literal reading of them which would lead to absurd results is to be avoided when they can be given a "reasonable application consistent with their words and with the legislative purpose." *Haager Co.* v. *Helvering*, 308 U.S. 389 (1940).

See also 2A Sutherland, Statutory Construction 4th ed. (edited by C. Dallas Sands), § 45.12 ("[U]nreasonableness of the result produced by one among alternative possible interpretations of a statute is reason for rejecting that interpretation in favor of another which would produce a reasonable result".)

[5] See *supra*, fn. 2.

* * * * *

Excerpt From Senate Report No. 94–892

Basic purpose

The basic purpose of the Committee bill is to clarify existing law permitting the Veterans' Administration to release the names or addresses of patients who are receiving or have received treatment in VA health care facilities. The Committee bill would authorize the release of names or addresses (1) to any nonprofit entity if the release is directly connected with the conduct of programs and the utilization of benefits under title 38, United States Code (an authority which the Administrator now possesses under 38 U.S.C. 3301(9)), or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law. The knowing use or release of names or addresses under conditions not authorized as described above would subject the violator to substantial fines and criminal liability.

Summary of provisions

H.R. 10268 as reported would:

(1) Make technical, stylistic, and conforming modifications in existing section 3301 of title 38, United States Code.

(2) Limit the Administrator's broad authority under existing section 3301(8) (subsection (g), as revised by the bill) to release information, statistics, or reports in the possession of the VA by prohibiting the release, under this provision, of information the release of which is specifically limited or otherwise provided for in other subsections of section 3301, as amended.

(3) Specifically authorize the release of patient names or addresses to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by applicable Federal, State, or local law. Under this specific statutory authority, the Administrator could report the names or addresses of patients with communicable or environmentally related diseases to State or local public health authorities; could cooperate with State or local law enforcement agencies in reporting on patients whose injuries or disabilities suggest potential criminal liability; and could comply with State or local laws that require the names of patients treated for certain diseases or disabilities to be reported to departments or registries of motor vehicles. At present, the VA's official policy, under its interpretation of existing law, is not to cooperate with State or local public health or law enforcement agencies in any of the circumstances above.

(4) Require that any disclosure of information under section 3301 be made in accordance with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

(5) Increase the fines for knowing and willful violations of the conditions under which patient names or addresses may be released or used, and subject violators to criminal liability. Current law prescribes fines of up to $500 for a first offense, and $5,000 for subsequent offenses. Under the Committee bill, these maximum fines would be increased to $5,000 and $20,000, respectively.

(6) Make the clarifying amendments as to release of names or addresses effective as of October 24, 1972 (except for increases in criminal penalties), the date of enactment of Public Law 92–540.

BACKGROUND AND DISCUSSION

Origin of problem

Medical experts widely agree that the most effective way to prevent the spread of communicable diseases such as tuberculosis, venereal disease, and virulent forms of hepatitis and influenza is to contact and treat all persons who may have been exposed to an infected carrier of the disease. According to HEW's Center for Disease Control, all 50 States have established infectious disease units or their equivalents in the State health agency to facilitate and coordinate the treatment of communicable diseases, and have enacted State laws requiring that hospitals submit to the unit the names and addresses of persons who contract one of the dangerous communicable diseases. The necessity for such a procedure was recently summarized in cogent fashion by Dr. John J. Hanlon, Assistant Surgeon General of the United States Public Health Service and an eminent professor and authority on public health:

"To be segregated and subsequently rendered noncommunicable, diseased individuals first must be discovered. Fundamental to this is a system for the reporting of cases of communicable diseases both by physicians in the area and by health authorities in other localities to which infected individuals may emigrate. . . . The value of a report of a case of communicable disease is not in the counting of a "vital fact" or merely in the control of the patient but in the lead it gives in finding sources and contacts. This implies engaging in what some have termed *shoe-leather epidemiology*. A routine procedure must operate to determine and locate for subsequent examination members of a group in which active infection of either recent or earlier origin is most likely to exist." (*Public Health Administration and Practice* (6th ed., 1974), pp. 391–392; emphasis in the original.)

While VA hospitals and clinics, as Federal installations, are clearly not bound by State law reporting requirements, the VA for many years has followed universally recognized principles of epidemiology by voluntarily cooperating with State and local health agencies in reporting to those agencies the names and addresses of persons with communicable diseases who received treatment at VA health care facilities. This policy of voluntary release of names and addresses has rested on the authority in paragraph (8) of section 3301 of title 38, United States Code, as follows:

"The Administrator may release information, statistics, or reports to individuals or organizations when in his judgment such release would serve a useful purpose."

Even after section 3301 was amended in 1972 to restrict the Administrator's authority to release the names and addresses of veterans in certain situations, the VA continued to cooperate with State and local health agencies.

However, in General Counsel's Opinion 13–74 of May 30, 1974, the General Counsel held that the Administrator no longer had the discretionary authority to release the names and addresses of veterans to State and local health agencies. The Opinion relied upon paragraph (9) of section *3301* as requiring this conclusion of law. The pertinent part of section 3301 reads as follows:

"All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as follows:

* * * * *

"(9) The Administrator may, pursuant to regulations he shall prescribe, release the names and addresses of present or former personnel of the armed services, and/or dependents to any nonprofit organization but only if the release is directly connected with the conduct of programs and the utilization of benefits under this title. . . ."

Paragraph (9) was added to section 3301, by section 412(2) of Public Law 92–540 in 1972, specifically for the purpose of precluding the distribution of mailing lists of veterans' names and addresses to commercial organizations, and ensuring that the release of such lists for purposes in connection with the use of VA benefits (generally for outreach purposes) by veterans' service organizations and other nonprofit entities would be carried out on an evenhanded basis. The General Counsel's Opinion concluded that, by adding paragraph (9) and amending the first sentence of the section to refer specifically to "names and addresses" as within the confidentiality protection of the section, Congress intended to remove altogether the release of veterans' names and addresses from the Administrator's broad authority under the existing paragraph (8) to release information when in his judgment such release would serve a useful purpose and to restrict release of names and addresses only to the circumstances of paragraph (9)—when the release is to a nonprofit organization and "is directly connected with the conduct of programs and the utilization of benefits under this title. . . ."

On September 25, 1975, the Department of Medicine and Surgery dispatched a telegram to the Directors of hospitals, domiciliaries, and outpatient clinics in the VA health care system requiring them to stop the release of all "information containing personal identification" to State health data banks, cancer registries, and similar organzations. On October 30, the Department of Medicine and Surgery implemented the September 25 directive by releasing an interim issue, in implementation of the Privacy Act of 1974 (Pub. L. 93–579) generally, which, in pertinent part, prohibited the release of patient names and addresses to State health agencies—although not in any way, apparently, in reliance upon restrictions in that Act:

"The names and addresses of present or former personnel of the armed services, and/or dependents may be released to any nonprofit organization without the consent of that individual *but* only if the release is directly connected with the conduct of programs and utilization of benefits under title 38, U.S.C. (38 U.S.C. 3301(9)). This prohibition on release would include, but would not be limited to, *the voluntary release of information on communicable diseases to health departments*. . . ." (Emphasis added.)

The effect of the September 25 directive and the interim issue of October 30 has been generally to halt the traditional cooperation between VA health care facilities and public health authorities in reporting to them the identity of patients with communicable diseases, a point made by the Association of State and Territorial Health Officials in testimony before the Subcommittee on Health and Hospitals on February 19, 1976:

"Recent rulings by the Veterans' Administration's General Counsel on legislation affecting the confidentiality of VA medical information have precluded routine reporting of infectious diseases to State and local health authorities, although such cooperation is required by State law. This creates a situation in which a Federal enclave exists within a community where some persons with communicable diseases are diagnosed and treated but where there is no possibility of thereafter containing spread. Cooperation is thus mandatory because the VA has no authority for protecting the health of the general public and must rely on the constituted health agencies at [the] State and local level. If State or local health authorities do not know the existence of a VA beneficiary with a communicable disease, the disease will be permitted to spread for an unacceptable period of time, affecting both VA beneficiaries and other members of the community. The Federal Government is committed to assisting State and local agencies in controlling communicable diseases and also has a direct responsibility for controlling interstate spread. The current VA position undermines both of these goals. We propose that the VA rely on the requirements of the Privacy Act of 1974, to ensure that the personal privacy of VA beneficiaries is protected, and that appropriate regulations be promulgated immediately to ensure disease reporting. (Other Federal agencies are able to report diseases to State and local health agencies under the Privacy Act.) We view this as an urgent matter."

The VA's sudden decision to stop complying with State laws in all 50 States requiring the disclosure of the identity of certain hospital patients to State and local public health authorities and other agencies raised the distinct possibility that health officials might be unable to control the spread of a dangerous disease, threatening the health of literally millions of Americans inside and outside the VA health care system. Also abruptly ended was the VA's amicable working relationship with other agencies of State and local government, including law enforcement agencies, and motor vehicle departments, to which, under applicable law, hospitals were required to release information on relevant patients.

Alarmed by the VA's sudden reversal of policy, and convinced that the VA's new policy of noncooperation with State and local agencies accorded neither with the dictates of Federal law nor with principles of sound public policy, the chairman of the Committee on Veterans' Affairs and the chairman of its Subcommittee on Health and Hospitals wrote jointly to Administrator Richard L. Roudebush on November 11, 1975, requesting that the VA reconsider its position and that, pending the outcome of such reconsideration, the policy of cooperation with State and local agencies be reinstituted. Accompanying the letter was a lengthy Memorandum of Points and Authorities in support of the Chairmen's contention that the legislative history and plain meaning of section 3301 did not support the VA's new interpretation of that section. This request was reinforced in a November 17, 1975 letter from the ranking minority members of the Committee and Subcommittee.

The General Counsel's Opinion 13–74 of May 30, 1974, the letters of November 11 and 17, 1975, to Administrator Roudebush, and the Memorandum of Points and Authorities that accompanied the November 11 letter are set forth in the section entitled "Agency Reports," *infra*.

Although there has been no formal answer to the November 11 letter from Chairman Hartke and Senator Cranston, the Committee understands that the opinion of the General Counsel is unchanged and that no change in policy will be forthcoming unless the law is changed. The VA has officially requested that clarifying legislation be enacted.

The Committee is unconvinced that the VA's interpretation is correct as a matter of law. Further, the VA's own policy guidelines have been contradictory on this question. As part of its regulations under the Privacy Act of 1974, the VA included these routine uses for patient medical records:

"Disclosure of medical record data as deemed necessary and proper to Federal, State and local government agencies and national health organizations in order to assist in the development of programs that will be beneficial to claimants and to protect their rights under law and assure that they are receiving all benefits to which they are entitled. . . .

"A record from this system of records may be disclosed as a "routine use" to Federal, State or local agency maintaining civil, criminal or other relevant information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other health, educational, or welfare benefit." (From MP–1, Part II, Chapter 21, Appendix B, page B–58, Veterans' Administration, September 27, 1975.)

The Committee is puzzled that the VA deemed, in 1975, the release of such information to Federal, State, and local agencies as a "routine use", when, in 1974, it had concluded that section 3301 banned the release of exactly this sort of information under any circumstances. This example of inconsistency in VA policy is noted simply to illustrate that the confusion engendered by the current VA interpretation of the state of the law is unsatisfactory and must be rectified so as to restore the VA's traditional cooperative relations with State and local governmental agencies.

Purpose of legislation

Under the Committee bill, the Administrator is authorized to release the name or address, or both, of any patient or former patient treated in a VA health care facility to any criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety. The Committee, in drafting this language, has substantially tracked the language of subsection (b)(7) of the Privacy

Act of 1974, 5 U.S.C. 552a(b)(7), which authorizes disclosure of agency records to "another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity." The legislative history of this subsection of the Privacy Act and the well-developed body of regulatory and case law arising thereunder make it quite clear that a "civil or criminal law enforcement activity" includes the activities of Federal, State, and local public health authorities, and Federal, State, and local law enforcement agencies and departments or registries of motor vehicles. Thus, the amendments to section 3301 contained in the Committee bill would authorize the release of patient names or addresses to all of the Federal, State, and local agencies and instrumentalities specified in the previous sentence for purposes for which those agencies or instrumentalities are authorized to use the information by applicable law.

As an additional precondition of the release of patient names or addresses to such agencies or instrumentalities, the Committee bill would require that a qualified representative of the agency or instrumentality make a written request of the VA asking that the names or addresses be provided and stating that they are required for a purpose authorized by law. The Committee does not intend that State or local agencies will have to file written requests each time patient identification is sought, or with each hospital from which data must be obtained. Rather, the Committee believes that the purposes of this written request requirement are adequately served if each agency which needs or will need patient identification data files with the Department of Medicine and Surgery in Washington, D.C., a written request stating the information needed and the purpose, as authorized by applicable law, for which the information is needed. Regulations which the Administrator is required to prescribe pursuant to the amended section 3301 can specify whether such written requests should be resubmitted annually or otherwise.

The scope of disclosure

The Committee recognizes that the language of its amendment vests considerable discretion in the Administrator to prescribe regulations with regard to the release of patient names or addresses to governmental agencies or instrumentalities for public health and safety purposes pursuant to State laws. This is because the Committee believes it cannot anticipate all potential situations which might call for the release of such information, and is reluctant under such circumstances to recommend statutory language that might prove unduly restrictive or inflexible. Thus, the Committee intends to give the Administrator the latitude necessary to develop regulations in accordance with the sound dictates of practical experience. But the Committee stresses that the Administrator, in prescribing and implementing those regulations, should be guided by the principle that the scope of the Veterans' Administration's disclosure of names and addresses to governmental agencies or instrumentalities should be no broader than is absolutely necessary to accomplish the "protection of the public health or safety" purpose designated by the Administrator, and should in all circumstances comport with Federal and State privacy statutes and with the constitutionally protected right of privacy.

Accordingly, the Committee directs the Administrator to specify with particularity in the regulations required to be prescribed pursuant to this new provision the standards to be used in designating those governmental agencies and instrumentalities to which disclosure would be authorized; the ambit of authorized disclosure to those agencies and instrumentalities; the public health or safety purposes for which such disclosure is to be made; and the procedures (including concurrence in the release decision by a VA physician or responsible administrative official in addition to the treating physician) to be followed in each VA health care facility for the disclosure of patient identification information pursuant to this provision. Disclosure of patient names or addresses should be authorized only under the circumstances, and according to the guidelines, described in the regulations.

The Committee recognizes that occasional cases will pose interpretive questions under the regulations, and directs that in such cases no disclosure of patient identification information be made until the Director of the VA health care facility (or the Director's designee) has consulted, either orally or in writing, with the Office of General Counsel in a way so as to ensure uniformity of interpretation. The Committee expects that VA Central Office will work closely and cooperatively with facility directors in the field to ensure that the regulations are implemented fully and in accordance with the underlying Congressional intent.

Because of the sensitivity of the question of disclosure of veterans' names or addresses, and becausee of the widespread concern voiced at all levels of government over this issue, the Committee plans to monitor closely the manner in which the VA implements the authority contained in new subsections (f) and (g). If the Committee is dissatisfied, further legislation may be considered to provide additional clarification or modification of this important authority.

Areas of special concern

The Committee believes there may be special concerns involved in the release to public health authorities of the names of patients with venereal disease. In 1972, by enacting Public Law 92–449, the Communicable Disease Control Amendments Act of 1972, Congress recognized the extraordinary sensitivity surrounding the medical records, and the release of information from them, of patients treated for venereal disease. The 1972 Act contained a provision prohibiting the release of a patient's name to public health authorities when the patient received treatment for venereal disease in a program under a venereal disease grant.

The purpose of this confidentiality requirement was to encourage persons with venereal disease to seek treatment by giving them the assurance that their treatment would be handled in the strictest confidence. The Committee feels that, for two reasons, these considerations may not be as compelling in the present context. First, almost all patients seeking treatment for venereal disease in VA health care facilities are adult males, as opposed to the females and juvenile males who make up a significant proportion of patients at non-VA facilities, and for whose benefit the confidentiality protection in Public Law 92–449 seems primarily intended. Second, the Privacy Act of 1974 has been enacted since the Communicable Disease Control Amendments of 1972, and requires greater protection by Federal agencies of the privacy of patient records than was previously required by law.

While believing that there should be particular sensitivity to the implications of releasing the identity of patients treated for venereal disease, the Committee nevertheless doubts that any blanket exclusion should be made for communication to public health authorities of the identity of patients with venereal disease, the most common communicable disease in the United States.

There is one additional area of special concern to the Committee. Many State laws provide for communication of the information on communicable diseases to State public health authorities, which in turn share this information with appropriate local authorities which in most States actually carry out the investigative and epidemiological activities. The Committee believes that it may well be preferable for the VA, as a matter of policy, to limit disclosure only to such local officials in order to ensure that this information receives only that degree of dissemination which is absolutely essential to the achievement of the public health goal. The Committee raises this point because of its deep concern about the possible misuse of information such as this in States with data banks or computer information systems to which a broad spectrum of public and quasi-public agencies and organizations may have access.

The Administrator should give both of these matters close consideration in prescribing regulations pursuant to this legislation.

Relationship to the Privacy Act

The Committee bill would add a new subsection to section 3301 requiring that any disclosure of information made pursuant to that section accord with the provisions of the Privacy Act of 1974, 5 U.S.C. 552a. Because of the overlap, in certain respects, between the Privacy Act and section 3301 of title 38, difficult questions of statutory interpretation and Congressional intent could conceivably arise as a result of this post-Privacy Act legislation, without further explication of the relationship between these two Federal laws.

The potential problem is illustrated by the following example: Present section 3301(3) of title 38 (which, under the Committee bill, would be redesignated as section 3301(b)(3), but the substance of which would not be altered) authorizes the disclosure of information "[w]hen required by any department or other agency of the United States Government". Subsection (b)(7) of the Privacy Act also authorizes disclosure of information to another Federal agency, but imposes three additional requirements on the disclosure—it must be for "a civil or criminal law enforcement activity", the activity must be "authorized by law", and the head of the agency seeking disclosure must make a written request specifying the particular portion of the information desired and the law enforcement activity for which it is sought. In this instance, the Privacy Act clearly imposes more restrictions on the release of information than section 3301 of title 38 does. If, then, the releasing agency is the VA, which law applies?

The Committee's guiding principle in resolving this problem has been that the confidentiality of patient records should always be protected to the maximum extent authorized by Federal law. The Committee understands that this comports with the VA's interpretation. By amending section 3301 to make the provisions of the Privacy Act specifically applicable to all disclosures of information under that section, the Committee has made sure that this policy will continue, as follows: Each law applies to the release of information, and in situations where either law could apply, then the stricter of the two applicable provisions is operable. By "stricter", the Committee means the provision more protective of the confidentiality of the individual's records.

Thus, in the example cited above, the stricter provisions of the Privacy Act would apply, and the VA could release information to another Federal agency only when the three additional requirements contained in subsection (b)(7) of the Privacy Act—but not contained in section 3301(3) of title 38—were satisfied. Conversely, in situations where the applicable provision in title 38 is stricter than the applicable Privacy Act provision—for example, the criminal fine for a second or subsequent violation of the confidentiality provisions, which would be up to $20,000 under title 38, but no more than $5,000 under the Privacy Act—then the title 38 provision would apply.

The Committee views these two Federal laws as complements serving the same objective—protection of the privacy and confidentiality of individuals and their records.

The limited release of patient identification data authorized by the Committee bill is consistent with the underlying purpose of the Privacy Act. In this context, it is noteworthy that both of the other major Federal health care systems—the Department of Defense and the U.S. Public Health Service—have defined the release of patient identification information to State and local public health authorities as a "routine use" under the Privacy Act, and cooperate as a matter of course with these authorities to prevent the spread and facilitate the treatment of communicable disease.

Mr. CRANSTON. Before concluding, Mr. President, I want to express my gratitude to the members of our committee, whose interest and cooperation in drafting and reporting this legislation contributed significantly to our bringing this critical bill to the floor for action. I thank again the distinguished chairman of the Committee on Veterans' Affairs (Mr. Hartke), the ranking minority member of the committee (Mr. Hansen), and of the Health and Hospitals Subcommittee (Mr. Thurmond), and my very good friend and colleague from West Virginia (Mr. Randolph), our subcommittee's ranking majority member.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976 IS BALONEY

Mr. GARN. Mr. President, a provocative editorial by columnist James J. Kilpatrick appearing in the May 22 edition of the Washington Star exposed the Full Employment and Balanced Growth Act of 1976 for what it is—political baloney.

Kilpatrick points out that the bill is a rehash of liberal schemes offered up as a panacea for all social and economic ills. This elexir, according to the columnist, contains the same old patented extract—more bureaucracy, more grants in aid, more manpower training programs, more make-work jobs in the public sector. Simply proclaiming paper goals and printing paper money will not provide real solutions but will leave us less prosperous and less free.

I am in complete agreement with Mr. Kilpatrick that the solution lies not in more Government interference but in more private jobs, business incentives, capital formation, lower taxes, and greater productivity. Herein lies the road to a higher standard of living for all and more meaningful job opportunities.

Because of the importance of this article to the current debate on the Full Employment and Balanced Growth Act, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, May 22, 1976]

H-H Bill Is Baloney Whoever Swallows It

(By James J. Kilpatrick)

When this nice plump package was unwrapped in March, it was described as the Hubert H. Humphrey-Augustus F. Hawkins Full Employment and Balanced Growth Act of 1976. This soon was whittled down to the Humphrey-Hawkins bill, then to Hump-Hawk, then to H-H. No matter how thin you slice it, it's still baloney.

Baloney or not, the H-H bill has become a kind of talisman in the presidential campaign. A talisman is a stone, or ring, or charm that is supposed to work wonders; it is a source of occult power; it is hocus-pocus, dominocus. One by one, the Democratic candidates have been put to the test: Do you believe in Humphrey-Hawkins?

Jimmy Carter was at first a doubter, but he got the Hump-Hawk religion; he is born again, and now believes. Jerry Brown remains a skeptic, but he has become an agreeable skeptic; he would give it a try. Sen. Humphrey, of course, believes absolutely. So does Sen. Birch Bayh. The AFL–CIO fully supports the measure. More than 100 members of the House are co-sponsors in the lower chamber.

The H-H bill is 100 per cent pure liberalism. Its economic thinking contains no synthetics, no preservatives, no artificial flavors. It is the whole-grain product. Its benevolent purpose is to get the unemployment rate down to 3 per cent within four years, but that is only the beginning of the millennial delights.

Sen. Humphrey, whose innocent faith is positively boundless, believes his talismanic scheme would also reduce crime, drug addiction and vandalism. It would achieve nearly universal prosperity. It would benefit labor, industry, big business, little business, women, children and minorities. It would diminish heart attacks, alcoholism, infant mortality, mental disorders and suicides.

It would be good for man or beast. It would produce a balanced budget by fiscal 1979 and a $13.9 billion surplus in calendar 1980.

The permanent new mechanisms created by the bill would put an end to inflation and recession. Under H-H, we would live happily ever after.

You may well inquire: How would all this be achieved? Alas it is at this point that the magic charm begins to lose its luster. Mr. Humphrey stoutly insists that he is proposing "fundamental reform in the management of the economy." What he is proposing is more of the same old patented extract—more bureaucracy, more grant-in-aid, more manpower training programs, more make-work jobs in the public sector.

Mr. Humphrey is the liberals' Lydia Pinkham. He has here bottled the same kind of vegetable compound on which little old ladies once got genteelly blotto.

The H-H bill wouldn't cure our economic ills; it would only provide a rosy glow.

Mr. Humphrey wants "goals." He wants "targets." There is nothing wrong in this, of course, so long as the proclaiming is not confused with the achieving.

He wants the president annually to produce "comprehensive proposals to raise productivity and to increase the supplies of food and energy." In some fashion, not altogether clear, he would have Congress manipulate monetary and fiscal policies "in the optimum manner necessary to achieve full employment and balanced growth." If the Federal Reserve Board refused to go along, the Fed would be made to go along.

Under the H-H bill, there would be a new Full Employment Office within the Department of Labor. Its role would duplicate the role of perhaps 50 agencies already charged with "training, assisting and providing employment for those people who are otherwise unable to find employment."

The bill would create a "permanent counter-cyclical grant program" for states and localities. It would provide new supplies of credit. It would require that persons employed in federal makework jobs be paid at rates fully comparable to the private sector.

This is the stuff that dreams are made on. An answer to our economic problems lies not in the bottom of some boozy bottle, but in the old sober remedies: private jobs, business incentives capital formation, lower taxes, greater productivity.

Proclaiming paper goals and printing paper money will produce merely paper solutions that would leave us, 10 years hence, less prosperous—and less free.

COMMENCEMENT ADDRESS AT THE CITADEL

Mr. HOLLINGS. Mr. President, one of the year's most noteworthy commencement addresses was delivered at the Citadel, in Charleston, S.C., on May 22. The speaker was the Honorable Joseph J. Sisco, Under Secretary of State for Political Affairs, and soon-to-be president of the American University here in Washington.

I found two of the themes of Secretary Sisco's address of particular insight and relevance. One is his discussion of the political relevance of moral principles, and the need to maintain our moral compass while at the same time being sufficiently flexible and pragmatic to deal with the rapidly changing landscape of world affairs.

The second theme is the burden and the opportunity of America's great potential. Secretary Sisco understands that in spite of all we have been through, America still has the potential to lead, and to lead effectively.

I also mention, Mr. President, that the Citadel took the occasion of Secretary Sisco's appearance to present him with an honorary doctor of laws degree. It is indeed a well-deserved honor for this most able, dedicated, and productive public servant. I hope his wise counsel will continue to be available to us all.

This address is concise and to the point, and I believe it merits wide attention. For that reason, I ask unanimous consent that it be printed in today's edition of the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by the Honorable Joseph J. Sisco

General Seignious, honored graduates, cadets, ladies and gentlemen:

I deeply appreciate the privilege of participating in this graduation ceremony, and I am grateful for the honor you have bestowed on me.

This is an extraordinary occasion to be with you. Your 116th commencement takes place during the Bicentennial year—a special time for all Americans to take stock of themselves, reflect on their past and plan for our Nation's third century. It is a pleasure to visit The Citadel whose origins lie in our struggle for independence. It is also a privilege to be in Charleston—one of the great and certainly the most beautiful cities of Revolutionary America.

It is especially important for me to be with you for America's next century is more yours than it will be mine. It belongs to men like you who are prepared through determination, courage and personal commitment to shape events. And youth is no detriment. Nineteen of the 56 signers of the Declaration of Independence were in their forties, 16 in their thirties and two were only 27. Thomas

Jefferson was 33, Madison 35 and Hamilton 25.

Our respective situations are not without paradox. I have been in our Nation's service for thirty years. In several weeks, I will be leaving our country's service, which you The Citadel's graduates are entering, to return to the academic life which you are leaving.

For both of us, therefore, the days ahead are days of anticipation and anxiety, of leaving the familiar and experiencing the new. We must all make choices on how to spend our lives. You enter our Nation's service as soldiers of peace. I believe you will find public service stimulating and satisfying. An ancient Greek definition of happiness allowed that happiness was "the exercise of vital powers along lines of excellence, in a life affording them scope." Whether in the military or civilian service, the satisfaction which I have found in public life lies in the greatness of scope, the vastness of tasks, the infinite horizons which a public servant confronts in a career. I wish each of you well.

It has been said that a diplomat often has to choose between committing an indiscretion or uttering a cliche. I hope I can avoid each of these pitfalls in the few thoughts I wish to leave with you.

My theme is drawn from the familiar opening line of Dickens' A Tale of Two Cities: "It was the best of times; it was the worst of times."

It seems to me this aptly describes the environment—domestic and international—in which we live and into which this graduating class enters.

Never have we seen a decade of such affluence and material and technological progress as the past decade. Yet, we seem to be going through a period which is painful, confusing, frustrating and down-right irritating.

It brings to mind the school teacher who asked the class, "What shape is the earth?" A small boy quickly replied, "My father says it's in the worst shape it ever was." I dare say that each of us has probably said something like this in recent days.

This feeling is understandable.

After years of relative well being, most of us regard any intrusion upon our way of life as an indignity not to be borne lightly.

At home, we have painfully experienced a decade of social turmoil and political assassinations. We have witnessed the ignominy of Watergate and weathered the constitutional crisis that followed.

On the international scene, the trauma and anguish of events in Indo-China linger, though the war is finished as far as America is concerned. The trouble spots in the Eastern Mediterranean and the Middle East pose continuing grave risks; the attempt to stabilize our relations with our adversaries remains incomplete and uncertain; the imperatives of global economic interdependence are only partially met; and above all, the survival of man is no longer a figure of speech but an operational problem before governments and peoples of the world.

For America—for a self-confident, buoyant, can-do America—this has been hard to take. As understandable as these feelings are, we cannot—we dare not—shirk our responsibilities at home or overseas. If in a time past the only thing we had to fear was fear itself, then today we must fear the temptation to submit to resignation, apathy and cynicism.

Yes, it is "the worst of times,"in a sense, but it is also "the best of times" as well.

I prefer to believe that we can look beyond our election process this year to a creative and challenging period which will test our fiber, ingenuity and fortitude, and that we are equal to the test.

It is not in the American character to shrug and declare problems insoluble or take the attitude that problems are for someone else to tackle. I have a favorite philosopher. His name is Charlie Brown. He has put it this way: "There is no heavier burden than great potential." I happen to believe that America and Americans still have the world's greatest potential. We have material strength, technological leadership, a strong defense and sound political and social ideals rooted in our history. And I believe that the American people, despite periodic alarm bells, are responsive to effective leadership.

What are the tasks ahead?

First, at home:

Our first requirement is to regain our sense of purpose and find ways to restore confidence in our leaders and institutions. As Macauley put it so well, people need to "learn that it is the spirit we are of, not the machinery we employ, that binds us together."

If we have learned anything from developments of recent years, it is that there must be greater probity and accountability in the exercise of governmental leadership by all of us who are in responsible positions. We must be pragmatic, but at the same time be practitioners and shapers of values. I hope we at least learn the political relevance of moral principle. The quality of our moral response to national and international problems has become a decisive issue in politics. This is due to the simple fact that many of today's problems present themselves in moral terms. Those who seek office need to heed this reality more than ever if they are to gain and maintain the support of an informed electorate.

If this is the political challenge, we confront an equally important one on the economic front. I am a product of the depression, and I hope I have not forgotten what recession means in human terms, despite years of living in the comfort and protective cloister of suburbia. None of our experts have found clear-cut answers, including our economists. But I remain hopeful. America in 1976 is not the America of 1929. The world of the '70s is not the world of the '30s. We are not dealing with an economic crisis like that in 1929. We have learned something from the past and have set about using what we have learned. We are more skilled in checking economic decline and more resourceful in mitigating the hardships that flow from it. And we are beginning to see meaningful improvement in our economy.

Our task overseas is equally demanding, and it presents itself in a context of rapid change.

We are living in an interdependent world, living literally in each other's backyards. We have moved from the period of atomic supremacy through the Cold War and now deal with problems in a world more complex as well as more perplexing. No longer can we make the distinction between domestic and international policies. America has faced great and seemingly overwhelming challenges before and has shown its inherent capacity to overcome them and indeed create something new from the old. This is the critical task before us in our foreign policy as we strive to seize the historic opportunity to create a more stable and equitable world order.

While we are no longer directly engaged in war, we know that peace cannot be taken for granted. The nuclear equation makes restraint imperative for the alternative is nuclear holocaust. We have come to realize that in the nuclear age the relationship between military strength and politically usable power is more complicated than ever before.

We have also learned, I believe, that our resources are not unlimited, that there cannot be a Washington blueprint or panacea for every international problem.

We have learned, I hope, of both the potential and the limits of power, aware that we are neither omniscient nor can we be omnipresent.

It is clear that the United States does not seek today to play the role of world policeman.

But the alternative is not to turn inward and withdraw to a new neo-isolationism. It is essential that our policy be one of selective engagement, of establishing priorities based on their relevancy to our interests and geared to our capacities.

And our foreign policy, to be effective, must rest on a broad national base and reflect a shared community of values. This does not mean rubber stamping, and we cannot expect unanimity. But we must recapture the habit of concentrating on what binds us together to shape a broad consensus, a new unity, a renewed trust, and fresh confidence.

I leave with you this concluding thought. Your generation is faced with the prospect of continuing political turmoil, economic uncertainty and threats to the peace.

These dangers have raised doubts as to the ability of our society not only to overcome these challenges but also to satisfy the most basic needs of our people—the need to provide a sense of welfare, of equal justice, and achievement and participation for all our citizens. Any organized society is, in the last analysis, judged by how it serves these basic human needs—and we can only measure our success against our own expectations of ourself as a people.

The task in meeting domestic and global issues before us is to draw on the best in our own historical experience and to formulate relevant policies. Amidst reverses and difficulties at home and abroad, a sense of some disarray admittedly is still with us. But if we view the scene with some discernment, the basis for a new assurance can emerge—in fact, I believe we are moving in this direction.

I am an optimist when it comes to America's future. The negativism of the past decade is evaporating and the sense of balance and fair play in American life is coming back. We are, in a meaningful way, emerging a people refreshed.

As a mature people with an historical perspective, we should no longer feel dismayed or feel betrayed if there is no perfect harmony in our domestic or foreign affairs. Despite the profound changes we have experienced at home, our democratic institutions have survived unprecedented trials.

In our effort to meet the emerging complex challenges at home and abroad, we, as a people, must display the same patient, practical wisdom and persistence that has served us so well in the past in our effort to secure the blessings of liberty, justice and peace.

This great task is now rapidly becoming the responsibility of your generation. I am confident that you will grasp this historic opportunity to help make "the worst of times, the best of times."

LABOR UNIONS AND POLITICAL CONTRIBUTIONS

Mr. GOLDWATER. Mr. President, from time to time I have placed in the RECORD items that reveal the growing effort by the labor unions to control the body in which we serve. For example, if we total what the political contributions of unions come to, we can see that it is not exactly small potatoes.

Mr. President, it often appears to me that the only place in which the American public can easily read about the millions of dollars being spent by labor unions on political efforts is the daily RECORD, and in the interest of the public's right to this information, I ask unanimous consent that a compilation of recent items that I have collected be printed in the Record.

There being no objection, the compilation was ordered to be printed in the Record, as follows:

Contributions of $5,000 or more from organized labor to various Democrat organizations and Senate candidates in April 1976

Democratic Congressional Dinner Committee:	
Apr. 12, 1976, Machinists NPPL	$10,000
Apr. 14, 1976, Industrial Union Department AFL–CIO COPE	15,000
Apr. 22, 1976, United Steel Workers PAF	10,000
Apr. 22, 1976, AFSCME–PEOPLE	5,000
Apr. 23, 1976, IBEW–COPE	5,000
Apr. 8, 1976, Carpenters LIC	5,000
Democratic National Committee:	
Apr. 12, 1976, United Auto Workers	25,000
Apr. 21, 1976, AFSCME–PEOPLE	18,000
Democratic *Senatorial Campaign* Committee:	
Apr. 12, 1976, MEBA–PAF	5,000
Marine Engineers Benevolent Association (MEBA-political action fund) was active behind the scenes in Tuesday's primary in Maryland. They gave to the following:	
Apr. 12, 1976, Eastside Democratic Committee (Baltimore)	5,000
Apr. 12, 1976, Five in Five Democratic Club (Baltimore)	5,000
Apr. 12, 1976, Fourth District Democratic Organization (Baltimore)	5,000
Apr. 12, 1976, Peoples Democratic Action Organization (Baltimore)	5,000
Apr. 12, 1976, Metro Democratic Organization (Baltimore)	5,000
Senators and Senate candidates	
William Green (Pa.):	
Apr. 12, 1976, MEBA–PAF	5,000
Apr. 12, 1976, AFL–CIO COPE	5,000
Senator Quentin Burdick (N.D.):	
Apr. 12, 1976, MEBA–PAF	5,000
Senator Lloyd Bentsen (Tex.):	
Apr.13, 1976, AFL–CIO COPE	5,000
Senator Vance Hartke (Ind.):	
Apr. 29, 1976, AFL–CIO COPE	5,000
Senator Hubert Humphrey (Minn.):	
Apr. 8, 1976, Active Ballot Club (Retail Clerks	5,000
Apr. 26, 1976, Railway Clerks Political League	5,000
Senator Edward Kennedy (Mass.):	
Apr. 5, 1976, Railway Clerks Political League	5,000
Howard Metzenbaum (Ohio):	
Apr. 1976, Machinists NPPL	5,000
Apr. 21, 1976, United Steelworkers PAF	5,000

"MAJORITY RULE" AFRICAN POLICY

Mr. HARRY F. BYRD, JR. Mr. President, Secretary of State Kissinger recently returned from Africa, where he enunciated a new African policy based, he said, upon the principle of support for majority rule.

In a column published in newspapers of May 12, Allan C. Brownfeld analyzes the Kissinger "majority rule" doctrine and finds it based upon "mythology and double standard."

Mr. Brownfeld points out that while great concern is expressed by Dr. Kissinger for "human rights" in Rhodesia, nothing is said about infringement of such rights in the Communist world. Nor is any criticism voiced of oppression and one-party rule in African nations with black governments.

I ask unanimous consent that the text of Mr. Brownfeld's article, "'Majority Rule' Only an Illusion in Africa," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Phoenix Gazette, May 12, 1976]

"Majority Rule" Only an Illusion in Africa

(By Allan C. Brownfeld)

The allegedly new U.S. African policy enunciated by Secretary of State Henry Kissinger in Zambia is, if his rhetoric is to be taken seriously, based upon mythology and double standard—not on the real world.

For Dr. Kissinger to say that we will provide financial aid to the Maoist dictatorship in Mozambique to, in effect, thank it for closing its borders to trade with Rhodesia (but not closing its border to violent terrorists) is an outrageous suggestion for use of the taxpayers' money. To say, further, that we support "majority rule" in Rhodesia, and demand that the government of Ian Smith turn over power to some unknown and undefined "majority" in his country, is to directly interfere in the internal affairs of another state—something Dr. Kissinger refuses to do when it comes to the truly brutal dictatorships in today's world: the Soviet Union and Communist China.

The Kissinger policy appears to be based upon the proposition that Soviet and Cuban intervention has occurred in Africa because the U.S. is viewed as the friend of the white governments in Rhodesia and South Africa. Therefore, according to this formula, all the U.S. must do is align itself with the radical terrorists who seek to overthrow these regimes and the black Africans will have no reason to turn to the Communists for support. It is a call to out-radicalize the Soviet Union and turn the anti-Communist white-ruled states in Africa over to radical regimes unlikely to become friends of the West.

The mythological content of the Kissinger formula concerns the term "majority rule." Except for Botswana, Gambia and Mauritius, not a single black African country has anything like parliamentary democracy, freedom of religion, a free press, or an opposition party. In Botswana, perhaps the most "democratic" government to emerge in black Africa in the post-colonial period, there are only three opposition members of parliament—and these were recently warned by Serets Khama that if they didn't toe the line, they would be in trouble.

"Majority rule," therefore, does not mean democratic rule. Recently returned from a trip to Rhodesia, University of Chicago economist Milton Friedman discusses the "majority rule" concept: "The other former African colonies of Britain that were granted independence without question and without sanctions do not have anything approximating what Americans regard as majority rule. They have minority rule by a black elite that controls the one party permitted to exist. If the elite minority in Rhodesia had happened to be black instead of white, Britain would have rushed to grant them independence . . . 'Majority rule' for Rhodesia today is a euphemism for a black majority government, which would almost surely mean both the eviction or exodus of most of the whites and also a drastically lower level of living and of opportunity for the masses of black Rhodesians. That . . . has been the typical experience in Africa—most recently in Mozambique."

Dr. Friedman concludes that "Rhodesia has a freer press, a more democratic form of government, a greater sympathy with Western ideals, than most if not all of the states of black Africa. Yet we play straight into the hands of our Communist enemies by imposing sanctions upon it. The minister of justice of Rhodesia cannot get a visa to visit the U.S.—yet we welcome the ministers of the Gulag archipelago with open arms."

Secretary Kissinger's call for a repeal of the Byrd Amendment—which permits the U.S. to import chrome from Rhodesia—is unlikely to be heeded in the Congress. Already, there have been voices raised in criticism of his Zambia speech. Rep. John Ashbrook, R-Ohio, declared that "Dr. Kissinger's performance in Africa can only be described as disgusting . . . This is a coup for the Soviet Union. The Soviets have long wanted to destabilize the situation in southern Africa. They have encouraged and suplied insurgent activities in and around Rhodesia. Now, the U.S. apparently will help the Soviets overthrow a stable, pro-American government."

Rep. Steve Symms, R-Idaho, declared that "The fundemental question is not one of a minority rule in Rhodesia, nor white supremacy, nor self-determination. We have minority rule in almost every country in Africa today . . . So-called self-determination has frequently meant not liberation, but the imposition of tyrannical regimes that have reduced both political freedom and the standard of living for both blacks and whites . . . the U.S. abandons her own vital strategic interests by turning against the government . . . in Rhodesia. If we deny ourselves the possibility of importing chrome from Rhodesia, we . . . will have to make purchases of the material from the Soviet Union at exorbitant prices . . . American policymakers now propose to reward Soviet intervention in Africa with direct monetary payments."

Dr. Kissinger says that his anti-Rhodesia position is based upon the U.S. commitment to "human rights." What about "human rights" in the Communist world? To criticize the Communists Dr. Kissinger has told us is not "in the spirit of detente." Rhodesia, however, is different.

There is no doubt that Rhodesia will have to involve more blacks in the government of that country, just as there is no doubt that apartheid will have to be ended in South Africa. Yet, the fact must not be forgotten that both Rhodesia and South Africa are more free than any of the black states surrounding them—for both blacks and whites. In addition, they are an intrinsic part of the Western world and are strategically located both geographically and with regard to resources. It is a policy of suicide to encourage their destruction and barbarization.

NONPROFIT HOSPITAL SYSTEM

Mr. BROCK. Mr. President, one of the great concerns today is not only adequate health care, but the cost of that care. There have been numerous proposals and numerous studies in this regard. Certainly, any information on this subject can be helpful.

Recently, 16 nonprofit hospitals in my State of Tennessee commissioned a study by the respected firm of Ernst & Ernst to study the nonprofit hospital system. With the need for further information in mind, I ask unanimous consent that this study be printed in the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

The Story of the Nonprofit Hospital System—Its Future Is In Your Hands!

PREFACE

Not-for-profit hospitals seem to be the object of considerable criticism punitive or unrealistic regulation.

To prove the injustice of the criticism and show the dangers of continued inequitable regulation, 16 of Tennessee's largest not-for-profit hospitals in early 1975 engaged the independent accounting firm of Ernst & Ernst to conduct a detailed examination of their finances and study of their operating characteristics. The firm was given unrestricted access to all needed records and data.

To help interpret the E & E Study, and put it into perspective, this report was produced by a task-force of personnel selected from the sponsoring institutions.

The sponsors recognize inherent dangers in this action. Critics now will have definite data which already may be narrowly interpreted and distorted. Casual students of health care socioeconomics can misunderstand and misinterpret data. However, the sponsors feel the necessity of attempting to explain existing misconceptions, and the danger of continuing existing federal policy outweighs the risk.

The reader should recognize that while these 16 sponsoring institutions only constitute 13 percent of all community hospitals in Tennessee, they provide nearly a third of all total community hospital care and health services. They are among the largest, best managed institutions in the state.

In their story will be found the story of the entire not-for-profit hospital industry.

THE COST OF DOING BUSINESS IS NOT THE COST OF STAYING IN BUSINESS

Every businessman knows his business must earn revenue in excess of operating expense to enable it to expand, modernize, acquire more efficient equipment, and accumulate reserves to meet unforeseen contingencies.

Hospitals are a big business. In Tennessee the 157 hospitals are almost a billion-dollar industry, hiring 600,000 people having an aggregate payroll in excess of $400 million.

Their business is service, life and health saving service. Every year they handle more than 3 million outpatient visits and admit more than 800,000 people to their beds.

And each hospital, like any other business, must have revenue over and above operating expense—especially not-for-profit institutions.

In a not-for-profit hospital, the difference between operating expense and net total revenue is called the "operating margin." It is the margin between staying in business and providing more and better health care services, and reducing services or going out of business.

Not all purchasers of hospital services recognize their obligation to contribute their share toward this needed operating margin. This is especially true of the federal government when it pays for care of its beneficiaries. It is now paying a rapidly increasing amount of the national health bill. Since 1965 the federal share has increased 100 percent.

Its failure to help meet the hospital's economic cost of staying in business has forced them to ask other patients to subsidize the government's share, a hidden form of double taxation. This is partly why hospital costs have risen so sharply since 1966.

In addition, as it gains more and more control over the institution's cash flow, the government has been able to impose ever stricter regulations on hospitals. These include requirements for elaborate accounting systems that assure there can be no unauthorized charge to the government for the hospital's economic costs.

Thus the economic hardship to hospitals has steadily intensified. The 1970's inflation, recession and the Economic Stabilization Program combined with the inequitable and unpredictable reimbursement policies to plunge hospitals into an unprecedented "tight money" situation.

The reason government and other payors of hospital charges have remained insensitive to this situation has never been adequately explained.

The assumption seems to have been made, however, that hospitals are inherently wasteful, over-equipped, over-bedded, ill-managed, duplicative, and accumulating excessive financial reserves. This charge is especially directed at not-for-profit hospitals.

One common "proof" of alleged not-for-profit hospital inefficiency is the comparison of narrowly interpreted data from the for-profit and not-for-profit hospital industries.

These data show not-for-profit hospitals have a higher ratio of employees to beds, a longer average patient length of stay, and higher average daily charge to patients than for-profit institutions.

When a person examines these empirical data and considers the fact that a for-profit hospital pays taxes and must return a profit to investors, which not-for-profit hospitals do not do, the generalization that not-for-profit hospitals are inefficient and wasteful comes easily.

The central question, then, is whether these generalizations concerning the not-for-profit hospitals are true, and whether the refusal by some purchasers of services to reimburse on the basis of full economic cost is justifiable.

THE TENNESSEE COMMUNITY HOSPITAL SYSTEM

When you talk about the nation's health care system, you are primarily talking about the hospital system. Hospitals are the centers of therapeutic, diagnostic and restorative medicine. They are the prime source of medical knowledge, training and excellence.

Not all hospitals, however, are alike. They vary greatly according to size, location, purpose and ownership. Governmental policymakers generally are not sensitive to these differences.

In Tennessee there are 121 community hospitals. For the purpose of the Ernst & Ernst Study, these hospitals have been defined as "any nonfederal, short-term general hospital open to the general public, excluding special purpose institutions."

Of these 121 community hospitals, 86 (71%) are not-for-profit institutions. They provide 86 percent of all beds, handle 88 percent of the total annual admissions, and contain 84 percent of all American Hospital Association identified services.

For all practical purposes, the Tennessee not-for-profit community hospitals are "the system."

Within the not-for-profit community hospital category, there are two subcategories, those owned by state and local government, and those largely owned by religious or philanthropic organizations called "nongovernmental, not-for-profit hospitals."

The second major category of hospital is, of course, the "proprietary" or "for-profit" hospitals, generally called the investor-owned hospitals. They may be owned by a sole proprietor, partnership or corporation.

There is a strong correlation between ownership and size. As a general rule, investor-owned hospitals tend to be smallest in size, state and local government hospitals medium in size, and nongovernmental, not-for-profit hospitals the largest in size.

In Tennessee, the nongovernmental, not-for-profit hospitals average 302 beds; state and local government hospitals average 127, and for-profits 75.

THE SIZE-SERVICE-OWNERSHIP RELATIONSHIP

There also seems to be a strong correlation between the number of services offered by a hospital and its size.

The E & E Study shows the not-for-profit hospitals routinely have a much larger percentage of the 46 AHA-identified services than do for-profits.

This analysis shows the break-down by ownership of the aggregate number of AHA-identified services shown in the 121 community hospitals. Again, the larger the average number of beds, the more services offered.

There is good reason why there is a correlation of ownership to size, and size to service. It has to do with the fundamental difference between management philosophies of the ownership.

Not-for-profit hospitals exist but for one purpose, to provide service. They are said to have a "service maximization" operating philosophy. All excess revenue over operating expense is returned to operations.

This management philosophy makes it possible for not-for-profit hospitals to establish a relatively efficient growth-service cycle.

Simply stated, the higher the volume of patients treated, the easier it is for the hospital to accumulate an operating margin through a reasonable mark-up in charges over costs. These excess revenues, in turn, allow the hospital to offer specialized services which typically do not pay for themselves. Profit-making services support profit-losing services.

In addition, excess revenue over expense is returned to operations in the form of new and expanded services. This, in turn, generates more patient utilization, and the cycle repeats itself.

For-profit institutions cannot operate in this mode. The first priority on profits is held by the investors, the people who made it possible for the hospital to exist through the investment of capital. In addition, these institutions must pay taxes.

Both these factors limit their ability to invest extensively in services which typically cannot pay for themselves, or which do not furnish a reasonable profit.

Thus, while investor-owned hospitals can (and do) grow in size, the ratio of services to bed-size tends to lag behind that of nonprofit institutions.

THE DEADLY DECEPTION

The for-profit hospital managerial efficiency myth has grown as rapidly as the percentage increase in the cost of hospitalization.

The increase in the cost of hospitalization is totally justifiable when examined properly within the broad context of social and economic imperatives. Unfortunately, exceedingly complex situations encourage simplistic interpretation and demagogic manipulation. The myth of for-profit hospital managerial efficiency is a case in point.

The data shows Tennessee not-for-profit hospitals, on the average, keep patients a half-day longer than for-profits. Also, they utlize an extra employee for every two beds, when compared with for-profits.

Obviously, there would be enormous saving if the not-for-profits could reduce these levels to those of the for-profit industry.

Why the difference? The glib answer most often given is that for-profit hospitals are more efficiently managed.

This answer is as dangerous as it is deceptive and erroneous.

The truth is that these so called "efficiency indicators" have little or nothing to do with managerial efficiency. They are more a result of plain, old profiteering opportunism in the grand American tradition.

The editors of Consumer Reports, in the 1974 edition of Consumers Union's "The Medicine Show", very succinctly explain the "success" of for-profit hospitals:

"Although there are notable exceptions, proprietary hospitals tend to concentrate on the type of illness that can be treated relatively simply, without elaborate equipment or a highly specialized technical staff.

"Despite the hope for profit, and need to pay taxes (from which voluntary hospitals are exempt), proprietary hospitals, by offering fewer medical services, can sometimes affect a savings in capital expenditure and staff expenses."

It is well to remember, the authors say, that the real worth of a hospital lies in its capabilities.

By this criterion, for-profit investor-owned hospitals are hopelessly outclassed.

The U.S. House of Representatives' Committee on Ways and Means staff, in its April, 1974 "National Health Insurance Resource Book", is even more blunt about the op*portunistic nature of some* for-profit Hospitals:

"There is also some evidence that some for-profit hospitals restrict their admission to patients with certain types of disorders, or who would need rather simple forms of surgery, tending to avoid the complicated cases with their longer stays."

What is deadly about the for-profit hospital managerial efficiency myth is that it is is being used as a rationale for the imposition of harsh, unrealistic controls on not-for-profit hospitals.

The result is that these hospitals are being driven to the profit maximization philosophy. It is not happening by choice, but by necessity, and as it happens the real hallmark of the hospital—medical capability—is being jeopardized.

This, of course, involves not only the health of future patients, but their very lives.

HAS GOVERNMENT BEEN UNFAIR?

The central issue is whether government—by failing to take into account the full economic needs of hospitals according to ownership, size and service capability—has been unfair.

And if so, what are the consequences of this unfairness?

In asking these questions, not-for-profit institutions will immediately point to a glaring inequity in the federal reimbursement formula.

Government recognizes the necessity of for-profit hospitals having a mark-up over cost (return on equity). It permits for-profit institutions to bill for service to federal program beneficiaries on a cost-plus basis.

Why does it not recognize this same need in not-for-profit institutions? Why does it insist on reimbursing them only on the basis of accounting cost? Why will government not recognize the not-for-profit hospital's full economic cost of staying in business?

Federal program beneficiaries utilize 31.21 percent of the total services provided during the fiscal year ending in 1974, but only provided 28.85 percent of the net revenue.

What this means is that federal reimbursement policies forced these 16 hospitals to provide the federal patient a day of care at a discount of $7.85 per day, compared to what was paid by patients who pay the full charge.

The E&E Study shows that, on the average, every time a hospital in the Study Group provides a patient a day of care, it must do the following to make-up the difference between its accounting cost of providing the care, and its economic cost of staying in business:

Obtain through philanthropy	$0.05
Sell assets worth	.13
Use of its own reserves	3.00
Borrow from an outside lender	5.27
Total	8.45

Patient revenue no longer pays the full economic operating expense of the average Tennessee community hospital and has not in any year since 1969.

THE TURN OF THE SCREW

Effective July 1, 1975, the government has tightened the squeeze on hospitals even more. On that date it began requiring hospitals to report on the basis of departmental cost centers, and they can only seek reimbursement of the care of federal program beneficiaries on the basis of charges or costs, whichever are the least.

The implications of this policy to not-for-profit hospital finance could be devastating.

Until now, they have been able to subsidize cost-living services (those which can't be supported by revenue from patients who utilize them) by charging small mark-ups for more heavily utilized services offering a "profit" potential.

This system is clearly illustrated in the E&E Study Figures 11 and 12. For example, the 88 cent deficit per patient day in the delivery room can be offset by a corresponding mark-up in medical supplies.

Now, however, hospitals will be reimbursed on the basis of whichever is the least charges or costs. The hospital will be forced to increase charges to coincide with costs, which means that bargain services will soon go out the window for all patients.

The E&E Study, for example, indicates that among these 16 hospitals, the cost of a delivery could increase an average of $76.74; a stay in the Coronary Care Unit by $27.43, and an emergency room visit by $4.50.

THE END OF SERVICE MAXIMIZATION?

In the face of this unremitting economic hardship, and the callous disregard for the economic needs of not-for-profit institutions, they have had to turn increasingly to debt financing.

The E&E Study shows that in the fiscal year of 1974 the 16 hospitals, on the average, repaid about $500,000 on long-term debt, and borrowed nearly another million dollars in new credit.

For what purpose?

The answer is the data on "additions to fixed assets." In order to meet community needs, these 16 institutions averaged an investment of $2.5 million in fiscal 1974, and had to borrow money to do it. This is the "service maximization" philosophy of the not-for-profit hospital industry at work.

The argument of critics that these additions to fixed assets are not needed, and are in fact evidence of duplication and waste, are totally unsupportable. No addition to fixed assets in excess of $100,000 expense can be made by any hospital without conclusive proof of community need,[1] as determined through state and federal government's planning process and its Health Facilities Commission.

The Hospitals' effectiveness in meeting community need is being severely restricted by high interest rates and the availability of funds.

More importantly, the ability of management to maximize service decreases in proportion to the amount of money it borrows.

WHEN CREDITORS MOVE IN

In 1968, according to the American Hospital Association, only 33.7 percent of all hospital construction was financed through debt. By 1973 it had increased to 54.3 percent.

The percentage borrowed by nonprofit community hospitals was even greater, amounting to 61.9 percent in 1973. Tax exempt bonds were the largest source of loans, providing 18.2 percent of the borrowed money.

Lenders require that the creditor protect its equity. They demand assurance that interest and principle can be repaid. Thus, in a community where the hospital is heavily financed through borrowed money, the lender must receive first consideration by management. Community need must come second.

In effect, then, a heavily indebted hospital must adopt a profit maximization philosophy. The protection of equity position requires the abandonment of service maximization as the primary operating philosophy.

THE FINAL IRONY

It almost seems as though government has deliberately set out to destroy the service maximization philosophy, for it has even taken action which is causing lenders to doubt whether not-for-profit hospitals have the capability of protecting their equity position in the future.

For example, Public Law 93–641, the National Health Planning and Resource Development Act, signed into law by President Ford on January 5, 1975, contains extremely tight control over expenditures.

It also contains a curious provision which requires that all services provided by a hospital be reviewed "for appropriateness" at least once each five years, and that the findings be made public.

It is now generally accepted that national health insurance will require reimbursement on the basis of prospective budgeting (prospective reimbursement), rather than historical budgeting.

It is also assumed that the prospective reimbursement rate will be contingent upon not only approval of new services, but also the approval of all existing services.

Services deemed to be "inappropriate" would be excluded from the prospective budget.

Lenders are not stupid. They recognize full well that the managerial discretion of not-for-profit hospitals is being steadily eroded away. The next thing to be taken away could be the hospital's ability to continue existing services.

When that goes, so will its ability to protect its equity position.

Who wants to lend money to a business which can't be run by its own managers, and which cannot guarantee that it will be able to maintain an adequate operating margin?

Already the bond market is "drying up" and some institutions are finding it difficult to find other sources of loans.

THE PROFIT MAXIMIZATION SEDUCTION

Given the pressures and the realities of the situation, the lure of abandoning the service maximization mode of operation, for one of profit maximization, is exceedingly seductive.

Here are the pressures and realities:

The Federal Government has said it will tell the voluntary hospitals what services they will provide, and determine which of the services they now provide are inappropriate (Public Law 93–641).

The Federal Government says it will tell the not-for-profit hospital how to calculate its charges, budget, plan for the future, and bill patients (Public Law 93–601).

The Federal Government says it will assume responsibility for determining what patients may be admitted to the hospital, how long they may stay, and what kind of services they may be given (Professional Standards Review).

The Federal Government, through these policies and attendant rules and regulations, repeatedly announces a vote of "no confidence" in the not-for-profit hospital system, implying waste and inefficiency.

The Federal Government will soon pay the majority of the health care bills for the nation.

Why should the not-for-profit hospital system cling to its community service philosophy in the face of these realities?

If the system would convert to a profit-making system, as it is continually accused of being, it could quickly remove itself from the spotlight of public condemnation and the arena of federal punishment.

In fact, by declaring itself to be a profit-making industry it would quickly receive federal recognition of the need for cost-plus financing.

---

[1] Mandatory Certificate of Need law became effective in Tennessee on July 1, 1974.

It is the irony of ironies that by merely becoming a for-profit institution, a not-for-profit hospital would be permitted to charge a mark-up over cost as a return on equity investment—as any existing for-profit hospital will attest.

THE FEASIBILITY OF TURNING "FOR-PROFIT"

The most important aspect of the Ernst & Ernst Study of the 16 hospitals is that it proves the feasibility of turning "for-profit."

In the E&E Study will be found information and data concerning "A Pro Forma Income Statement for participating hospitals showing income taxes in lieu of educational and community services."

The Pro Forma study identifies certain special services typically not offered by other categories of hospitals (because they must be subsidized by revenue other than that derived from patients who use the services). In other words, these services don't pay their way.

By eliminating these services, offered as a service to the community, the 16 hospitals in the study group could, on the average:

Decrease the average cost of all other services offered by more than $2.2 million, or $15.18 per patient day.

Pay property and income taxes and through a return on equity from cost-payment-only reimbursers, increase its net profit per patient day from $6.33 to $8.15.

The not-for-profit hospital industry will, of course, not willingly abandon its service maximization philosophy, for to do so would be to deny its very reason for existence.

However, if all purchasers of hospital services—especially the federal government—do not soon recognize their obligation to share in paying the hospital's full economic cost of staying in business, the industry's capacity to meet community health needs will soon be eliminated, and to stay in business it may be forced to eliminate or reduce existing services.

IN CONCLUSION

The 1966–1975 Medicare decade has seen a steady growth in federal control of the not-for-profit hospital industry cash flow and through attendant laws, rules and regulations, the usurpation of managerial discretion.

The loss of managerial discretion has made difficult, or eliminated, the industry's ability to adequately meet community need, provide improved technology and services, and maintain a level of financial soundness needed to enable it to meet problems posed by the general economy within which it must function.

The failure of all purchasers to share in meeting the not-for-profit hospital industry's full economic costs of staying in business has caused many hospitals to use essential reserves to meet operating expense, and turn to debt financing.

The rapid increase in debt financing means a rapidly increasing amount of the industry is coming under the control of outside creditors, further reducing management's discretion in meeting community health needs.

Although the utilization of borrowed money is an undesirable alternative to obtaining adequate resources, it is now the only alternative. Even this is being eliminated by unrealistic policies being imposed upon hospitals.

So the very crucial, immediate question is:

"What is to be the fate of the nation's not-for-profit hospital industry, which is the backbone of the nation's entire health system?"

The question is yours to answer.

REPORT OF THE COMMITTEE ON COMMERCE

Mr. MAGNUSON. Mr. President, pursuant to section 302(b) of the Budget Act I am submitting to the Senate the required information on how the Committee on Commerce proposes to allocate funds to programs within its spending jurisdiction and entitlement authority. I ask unanimous consent that this information be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

SENATE COMMERCE COMMITTEE—ALLOCATIONS OF FIRST CONCURRENT RESOLUTION AMOUNTS FOR FISCAL YEAR 1977

PT. I—PROGRAMS WITHIN SPENDING JURISDICTION OF THE COMMITTEE

Function Agency Bureau Appropriation account Legislation Program	Account No.	President's budget, fiscal year 1977		Committee allocation, fiscal year 1977	
		Budget authority	Outlays	Budget authority	Outlays
International affairs (150):					
Department of State:					
Other:					
Payment to the Republic of Panama	14-25-2026-0-1-152				
Isthmian Canal Treaty of 1903		2,328	2,328	2,328	2,328
Total, function (150)		2,328	2,328	2,328	2,328
Natural resources, environment, and energy (300):					
Department of Commerce:					
National Oceanic and Atmospheric Administration:					
Miscellaneous trust funds	06-48-9998-0-7-306				
Fish and Wildlife Coordination Act:					
Contributed funds		6,000	4,600	6,000	4,600
Department of Defense—Civil:					
Miscellaneous accounts:					
Wildlife conservation, et cetera, military reservations	08-30-5095-0-2-303				
Wildlife Conservation on Military Reservations Act:					
Conservation of game		806	806	806	806
Department of the Interior:					
U.S. Fish and Wildlife Service:					
Migratory bird conservation	10-18-5137-0-2-303				
Migratory Bird Conservation Act:					
Printing, sale hunting stamps; acquisition of refuges		12,000	11,000	12,000	11,000
Contributed funds	10-18-8216-0-7-303				
Great Lakes Fishery Act:					
Great Lakes fisheries		2,063	2,000	2,063	2,000
Miscellaneous appropriations	10-18-9999-0-2-303				
Dingell-Johnson Sport Fish Restoration Act:					
Grants-in-aid		[1]23,494	[1]20,100	23,539	20,120
	Adjustment	[1]45	[1]20		
Pitman-Robertson Wildlife Restoration Act:					
Grants-in-aid		[1]66,447	[1]58,780	66,447	58,780
Total, function 300		110,855	97,306	110,855	97,306
Commerce and transportation (400):					
Department of Commerce:					
General administration:					
Miscellaneous trust funds	06-05-9999-0-7-403				
Commerce Department Gift Acceptance Act:					
Gifts and bequests		461	497	461	497
Special studies law:					
Special studies, services, projects		39	3	39	3
Bureau of Economic Analysis:					
Special studies, services, and projects	06-08-8543-0-7-403				
Special studies law:					
Special studies, services, and projects		64	63	64	63
Domestic and International Business Administration:					
Miscellaneous trust funds	06-25-9999-0-7-403				
Special studies law:					
Special studies, services, projects		925	660	925	660

SENATE COMMERCE COMMITTEE—ALLOCATIONS OF FIRST CONCURRENT RESOLUTION AMOUNTS FOR FISCAL YEAR 1977—Continued

PT. I—PROGRAMS WITHIN SPENDING JURISDICTION OF THE COMMITTEE—Continued

Function Agency Bureau Appropriation account Legislation Program	Account No.	President's budget, fiscal year 1977		Committee allocation, fiscal year 1977	
		Budget authority	Outlays	Budget authority	Outlays
Commerce and Transportation (400)—Continued					
Department of Commerce—Continued					
National Oceanic and Atmospheric Administration:					
Promote and develop fishery products and research pertaining to American fisheries	06-48-5139-0-2-403				
Surplus Fishery Products Act, as amended:					
Promote and develop fishery products		7,944	8,944	7,944	8,944
Science and technical research:					
Information products and services	06-52-8546-0-7-403				
Special studies law:					
Information, products, and services		11,700	11,700	11,700	11,700
Maritime Administration:					
Operating-differential subsidies	06-70-1709-0-1-406				
Merchant Marine Act of 1936, as amended:					
Title VI, sec. 601:					
Operating-differential subsidies (liquidation of contract authority)		338,300		338,300	
Federal ship financing fund	06-70-4301-0-3-406				
Merchant Marine Act of 1936, as amended:					
Title XI, sec. 1103:					
Federal ship financing fund			−19,675		−19,675
Special studies, services, and projects	06-70-8547-0-7-406				
Special studies law:					
Special studies, services and projects		38	36	36	36
Department of Transportation:					
Coast Guard:					
Miscellaneous trust revolving funds	21-15-9999-0-8-406				
14 U.S.C. 487 or Public Law 81–207:					
Cadet activities, commissary sales			41		41
Federal Aviation Administration:					
Grants-in-aid for airports (airport and airway trust fund)	21-20-8106-0-7-405				
Airport and Airway Development Act of 1970, as amended, sec. 2:					
Grants-in-aid for airports		350,000		535,000	
Total, function 400		709,469	2,269	894,469	2,269
Revenue sharing and general purpose fiscal assistance (850):					
Other independent agencies:					
Federal Power Commission:					
Payments to States under Federal Power Act	30-80-5105-0-2-852				
The Federal Power Act:					
Payments to States of portions of receipts		85	85	85	85
Department of Defense—Civil:					
Corps of Engineers:					
Permanent appropriations	08-10-9998-0-2-852				
Federal Water Power Act:					
Payments to States		4,000	1,100	4,000	1,100
Department of Interior:					
U.S. Fish and Wildlife Service:					
Miscellaneous appropriations	10-18-9999-0-2-852				
Wildlife restoration projects:					
Wildlife restoration		4,300	4,400	4,300	4,400
Total, function 850		8,385	5,585	8,385	5,585

PT. II—ENTITLEMENT PROGRAMS AUTHORIZED BY THE COMMITTEE (REQUIRING SUBSEQUENT APPROPRIATIONS)

Function Agency Bureau Appropriation account Legislation Program	Account No.	President's budget, fiscal year 1977		Committee allocation, fiscal year 1977	
		Budget authority	Outlays	Budget authority	Outlays
Commerce and Transportation (400):					
Department of Commerce:					
National Oceanic and Atmospheric Administration:					
Fishermen's guarantee fund	06-48-4318-0-3-403				
U.S. vessels, seizure on high seas:					
Payment of claims		61	180	61	180
Department of the Treasury:					
Bureau of Government Financial Operations:					
Fishermen's protective fund	15-10-4507-0-4-403				
Fishermen's Protective Act of 1967:					
Payments to vessel owners			741		741
Department of Transportation:					
U.S. Coast Guard:					
Retired pay	21-15-0241-0-1-406				
14 U.S.C. (Coast Guard retirees):					
Payments		147,103	147,103		147,103
Total, function 400		147,164	[2] 148,024	146,000	[2] 147,000
Income security (600):					
Other independent agencies:					
Railroad Retirement Board:					
Regional rail transportation:					
Protective account	32-20-0110-0-1-604				
Regional Rail Reorganization Act of 1973:					
Payment of benefits		40,000	40,000	40,000	40,000
Total, function 600		40,000	40,000	40,000	40,000

[1] The budget authority and outlay amounts are the same as those in the Senate Committee on Commerce Mar. 15 1976, report; the adjustment is added to make the account total agree with the account total in the fiscal year 1977 "Budget Appendix" and in the CBO May 21, 1976, report on Senate spending committee amounts.

[2] The difference in these amounts is caused by rounding.

CONCORDE SUPERSONIC TRANSPORT

Mr. GOLDWATER. Mr. President, never has so much misinformation and downright falsehood been used to prevent the technological advancement of man as has been in the case of the Concorde supersonic transport. We have had everything from a great increase in skin cancer deaths, heart attacks, nervous disruptions, and Lord knows what else to now bring to mind that there must have been some organized effort behind this which for reasons unbeknownst to anyone outside his own group do not want to see any further advancements made in this world in any areas. Well, the Concorde has come and it has gone and they are continuing to come and to go, and people are not complaining, except, of course, those people who would complain about rain after a 12-month drought or complain about drought after a 12-month rain, but we will get those kinds of people no matter what comes along. The important thing is that the people who live near the airports, the ones who are supposed to be most affected, have not seemed overly exercised about the aircraft's landing or takeoff. Mr. Robert Hotz writing in Aviation Week & Space Technology of May 31 has put this whole thing rather well in an editorial entitled "The Supersonic Air Bridge," which I ask unanimous consent be printed in the Record at this point in my remarks. I also made a few remarks on this subject in my daily radio report, Viewpoint, which I also ask unanimous consent be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE SUPERSONIC AIR BRIDGE

(By Robert Hotz)

Air France and British Airways forged a supersonic air bridge between Europe and America last week by inaugurating regularly scheduled service with the Anglo-French Mach 2 transport. When the two supersonic Concordes stopped nose to nose in front of the Dulles Airport terminal and disgorged their fare-paying passengers just three and a fraction hours after takeoff from London and Paris a new era began in transatlantic travel. The vast expanse of the Atlantic Ocean, which began shrinking with the beginning of air travel in 1940 and was reduced to the dimensions of a lake by the subsonic jet, is now merely a broad river in the supersonic era.

The Concorde service, as Henry Marking, managing director of British Airways, said in Washington, is not merely a link between three cities but a truly intercontinental air bridge providing the critical express segment that brings about 50 European cities and nearly 100 North American cities within daylight travel distance of each other. This pattern, once it is fully developed and appreciated, will do more than merely reroute existing traffic. It will create new traffic just as the subsonic jet created a new travel market far beyond the dimensions of the piston engine age. There is already evidence to show how Concorde supersonic schedules are changing travel habits. Much of the Air France Concorde traffic for South America is coming from Italy, Germany and even Britain. Similarly, the Concorde traffic from Dulles will siphon travelers from the Gulf of Mexico to the Mississippi River and Great Lakes. If New York persists in banning Concorde service it will quickly lose the economic benefits of a gateway city in the supersonic era.

Concorde made an auspicious debut in the Washington area before large and friendly crowds in both Maryland and Virginia. People in the Washington area were introduced to three Concordes in a week. They were pleasantly surprised by what they saw and heard. Knots of Prince Georges County residents gathered with friends to witness the broken windows and cracked plaster expected when French President Valery Giscard d'Estaing's Concorde landed at Andrews Air Force Base in Maryland for his state visit. They were flabbergasted by its relatively quiet landing approach, enchanted by its graceful lines and not unduly disturbed by its takeoff noise. Most agreed that USAF Lockheed C–141 and C–5A cargo planes and President Ford's Boeing 707 flying regularly out of Andrews make considerably more noise than Concorde. The insurance agents had no claims to record.

MYTH, FANTASY EXPLODED

At Dulles Airport in Virginia a few days later, 8,000 people jammed the airport and surrounding highways to view the dual Concorde inaugural by Air France and British Airways. They came to cheer, not to sneer. Their enthusiasm was another demonstration of Abe Lincoln's adage: "You can't fool all of the people all of the time." The crowds at Dulles realized what a mess of myth and fantasy they had been fed on supersonic transport and how little this resembled the reality of Concorde in the air and on the ground. At Frederick, Md., a group of citizens gathered to watch the Concordes make their final turn toward Dulles over the local omnirange. "In just a few minutes the Boeing 707 changed before our eyes from a beautiful silver bird to an old stage coach," they told us. "When those two slim, beautiful Concordes swept overhead we knew a new era had begun."

The Concordes were piloted by Pierre Dudal and Richard Puyperaux for Air France and Brian Calvert and Norman Todd for British Airways.

After observing the Dulles arrivals, we departed next day on British Airways Flight 578 Concorde service to London shortly after Air France's Concorde departed for Paris. Although this was our fifth Concorde flight and our fourth supersonic transatlantic crossing, it was the first in an airline configured Concorde operated by airline personnel.

We arrived in London three hours and 37 minutes later with barely time to finish a splendid meal before starting the approach descent from 59,000 ft.

There was time though at 55,000 feet and Mach 2.01 to clock a supersonic snoot at Anthony Lewis, that precious pundit of the New York Times who wrote from London in 1970: "No wise man would put much down on the proposition that Concorde will ever fly the Atlantic in regular service."

FATIGUE CONQUERED

The airline interior design has done much to alleviate any "tube" effect. The seats are comfortable. Cabin noise level is slightly higher than on the test aircraft. This is apparently due to the air conditioning system and a low rumble of subsystem machinery below the cabin floor. Across-the-aisle conversation was feasible. We spent some time listening to the reminiscing of 71-year-old Capt. John Kelly-Rogers, who flew the first British transatlantic passenger service in 1940 in a Short flying boat taking 35 hr. and four stops at an average speed of 145 mph.

We looked around the cabin for the "jet set" whom the antisupersonic politicians have been assuring us are the only people who will fly Concorde. Instead we found two conductors—one who runs a bus in Edinburgh and invested his holiday in Concorde and the other who runs symphony orchestras in Wales and Canada and was using the Concorde speed to fiulfill some otherwise impossible engagements in Canada without missing his regular stints in Wales. There was a businessman who was in a hurry to get home with a $500 million dollar contract he had just signed and some stamp dealers who had turned a neat profit on their suitcases full of first day covers. Aside from officialdom and the press, the people were much like those encountered in the first class section of any trasatlantic jet. Both Air France and British Airways report solidly booked flights through June with advance reservations already running about 50% of capacity through the rest of the summer. British Airways is already increasing its transatlantic supersonic schedule.

We arrived in London bereft of that mossy green fatigue that accompanies the seven to hour subsonic rumbles and have been doing a normal day's work in London ever since, without the drag of the usual travel strains. This is one of the biggest attractions of supersonic flight. But nobody will believe it until he has done it. The word-of-mouth-advertising by early supersonic travelers will be a potent sales force. Supersonic scheduled travel across the Atlantic is off to an auspicious start. Concorde will do the pioneering job of whetting the high volume travelers' appetite for supersonic travel. The big question now is who will capitalize on this market to build a second generation supersonic transport that utilizes new technology to reduce noise, extend range and raise profits.

VIEWPOINT, NO. 141, JUNE 17, 1976

Will the Concorde supersonic aircraft become a dominant issue in French-American relations? This is Barry Goldwater with a viewpoint on this and I'll be right back.

The development of the Concorde SST represents a 13 year commitment of nearly 3 billion dollars by the governments of Britain and France. For this and other reasons, the question of whether the Concorde can land in the United States has grown into a large-scale issue in the minds of the British and French people. Based on current reports from France, this is the number one issue in French-American relations. The Concorde is a source of enormous national pride for the French. They view it as a triumph of Anglo-French technology and persistence. The feelings of the French people toward the Concorde can be compared to American pride in our own space and aviation achievements.

The vast majority of the French people believe that American opposition to the Concorde is based on economic grounds and not simply on environmental grounds. The results of a nationwide poll in January revealed that 81 per cent of the French people believe that anti-Concorde feelings in the United States are primarily either commercial or political. The French cannot understand why there is so much fuss in this country about the Concorde when it has been flown in France without any ill effects.

Actually there have been over 2,000 takeoffs and landings of this airplane from an airport located only three miles from the heart of the fourth largest city of France. And yet, residents of the town say that the flights have proven not to be a problem. There is actually a 300 bed heart clinic located only two miles from the end of the runway and not once has the clinic received a complaint from a patient regarding Concorde flights. On top of this, the noise of the Concorde has never disturbed any doctors or surgeons, even during delicate operations. Their own experience in living with the Concorde explains why the French people believe that the arguments against supersonic aircraft are frivolous. They feel, and probably rightly so, that if the Concorde had been built in America, we would be insisting that other nations of the world allow it to land in their countries. That's the way I see it. This is Barry Goldwater, and thanks for listening.

VIEWPOINT

(Reprint of a Radio Program entitled "The Supersonic Transport"—Commentary by Senator Barry Goldwater)

A few months ago, a heated debate once more broke into the open about the relative merits of a new generation of commercial aircraft known as the supersonic transport. The focus of this argument was whether the British-French Concorde SST should be granted landing privileges at two U.S. airports.

In reality, the debate goes back to 1971 when a small, but vocal, group of so-called environmentalists were able to convince enough members of the United States Congress that this country should quit the SST race. As the result of Congress' decision, the evolutionary void in plane manufacturing was filled by Russia with its TU–144 and the British-French combine with the Concorde.

While America conveniently forgot about SST's, the Concorde was slowly developing into a reasonably effective mode of transportation.

The problem came to a head a year ago when the British and French governments requested permission to make six landings a day in the United States, four in New York and two in Washington. Immediately, the same group who had led the charge against the American SST began their same campaign against the Concorde, only the difference was that this time they were being led by the E.P.A., a part of our own government!

The arguments used by this group were a mixture of half-truths and unproven theories. These critics claim that it will increase noise pollution and air pollution, waste fuel and possibly deplete the ozone layer in the upper atmosphere thereby causing increased skin cancer. As far as the noise pollution charge is concerned, the Concorde is slightly noisier on take-off, but actually quieter on approach than conventional jets now using our airports. What the critics fail to mention is that the differences are so slight that only a delicate instrument can detect them.

The other major criticism leveled at the Concorde is that it will deplete the ozone layer in the upper atmosphere from its engine exhaust. This novel theory has been around for a few years and has been applied to everything from airplanes to aerosols and yet, there is not one scientific measurement to indicate, let alone prove, the validity of this theory.

In some respects, one cannot help but wonder what the United States and the rest of the industrialized world would be if the environmentalists had the power one hundred years ago that they have today. In all likelihood, the Ford Motor Company would be the Ford Covered Wagon Company and the Wright Brothers' Bicycle Company would be doing a booming business in Dayton, Ohio.

There is no particular joy in finishing second, but it is certainly the height of ingratitude and smallmindedness not to congratulate the winner.

VIEWPOINT

(Reprint of a Radio Program entitled "The Supersonic Transport"—Commentary by Senator Barry Goldwater)

When the President of France landed at Andrews Air Force Base aboard the controversial European SST, the Concorde, a new era in aviation history began. It was followed a week later by regular flights of the largest, fastest jet to Dulles International Airport in Washington, D.C.

The flight which brought the President of France to this country was more than just an airplane for a European leader—it was a test of how a Concorde landing in this country would actually affect the residents around the airport. They had been fed many alarming stories about what a plane of such size would do, not only to the atmosphere, but to their own residences.

One woman, for example, had a witness at her side to attest to how the Concorde landing would shatter her windows and glasses, and to everyone's amazement, no glass was shattered and most witnesses said the huge plane landed with less noise than that made by the President's Air Force One.

Unfortunately, the new era in aviation history is being ushered in with the United States playing no active part. Our chance to move with progress and play a leading role in the development of a new family of aircraft was shot down in 1970 by a timid and short-sighted Senate. My colleagues yielded to arguments by environmentalists and others who told wild tales about how destructive the supersonic transport would be to the world's atmosphere and to the eardrums of all Americans. They convinced sufficient members of the Senate that supersonic transport development was very uncertain. They pooh-poohed the whole idea that the British and the French with their Concorde would ever manage to establish commercial air service. They didn't believe the Russions would ever get theirs into the commercial field. Now we know the British and French are entirely serious and the Russians aren't too far behind.

One of the silliest things that came out of the Senate debate on this was the idea that action in this country could somehow protect the atmosphere all over the world. It was never sufficiently clear that if everything the SST opponents claimed about atmospheric pollution were true, that it could begin all over Europe as well as this country.

The mere fact that the United States stopped all development on the SST had no effect in Europe except to accelerate the efforts of American competitors abroad. When the final vote was taken in the Senate, many people thought that a vote against the SST was a vote against pollution and the ridiculous fear of skin cancer epidemics resulting from it. As a mater of fact, a vote against the SST at that time was a vote to sacrifice America's leading role in commercial aviation and hand it over to more farsighted Europeans.

Mr. GOLDWATER. The thought that all this leaves with me is that the United States, where the aircraft was invented and developed to the point that it provides this country with its greatest balance-of-payments source has now watched its first true competitor fly over our skies and land on our airports be accepted by the American people and, at the same time, herald the beginning of the end of America's domination of world aircraft.

THE AMBULATORY CARE CENTER OF ST. LOUIS UNIVERSITY

Mr. EAGLETON. Mr. President, I recently had the honor of speaking at the dedication ceremony for an important new health facility in St. Louis, the Ambulatory Care Center of St. Louis University. I wish to draw my colleagues' attention to the center not only because of its importance to St. Louis, but because it is an example of a vital new direction in health care for our country.

The ambulatory care center will continue St. Louis University's long and proud record of providing medical services to St. Louis residents and especially to those in the inner city. It is only too common that the superior health care that our doctors and hospitals are capable of delivering is unavailable to important segments of the population. The newly expanded center will now be able to provide more services to more people than before and will itself be an integral part of the community it serves.

The ambulatory care center is also of great importance in demonstrating the type of health care services that we need to provide today. We have all learned in the past few years that many services can be provided to those in need on an outpatient basis, that is, without hospitalizing the individual. This reduces the direct health care cost and lets the patient remain in his or her familiar environment. The ambulatory care center provides these out patient services and, equally important, it places emphasis on education, which is the well-acknowledged key to personal health.

Mr. President, on May 14 the St. Louis Globe-Democrat printed a story about the new St. Louis University Ambulatory Care Center, describing its history and its mission. I ask unanimous consent that the article be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

St. Louis University Strengthens Its Outpatient Thrust

(By Robert Koenig)

Although it's an inconspicious brick building tucked behind hospitals off Grand Boulevard, St. Louis University's new Ambulatory Care Center means a great deal to many people.

To Dr. G. O. Broun Sr., dean emeritus of the medical school and long-time outpatient director, it marks another step forward in the outpatient program he helped organize more than 50 years ago.

To Dr. George E. Thoma, vice president of the St. Louis University Medical Center, it signifies an important concept in health care delivery and the continuation of the university's commitment to the inner city.

For Mrs. Kristine Gebbie, outpatient director, the shining and efficient new center will relieve most of the space and scheduling problems she had in the old location in Firmin Lesloge Hospital, and give her increased time for more important tasks of patient care.

For Mrs. Janet Meckler, R.N., a nurse practitioner, it means a chance to continue her work with her patients on a long-term basis.

And for the thousands of patients who will come to the new building each year, it will mean faster, better and—in the long run—less expensive medical care.

"Facilities such as this are going to be the largest single factor in keeping down health care costs," Thoma said, waving toward the new building. "By treating more people as outpatients, we can lower their hospitalization expenses and lessen the amount of time they lose at their jobs."

Ambulatory care—for those who are not familiar with hospital terms—is simply medical care for patients who are not confined to hospitals. The three-story center, officially called the University Health Center-Doctors Offices, will house 26 medical specialty clinics now located at Fermin Lesloge, as well as a number of private doctors' offices.

In addition, X-ray, laboratory, hemodialysis, pharmacy and optical shop services will be available on the first floor of the building.

An unusual system of differently-colored floor tiles help lead patients to the color-coded waiting rooms in each clinic area. "We'll just tell the patient to follow the green line, and he'll have no trouble finding his way." Mrs. Meckler said.

It is fitting that the dedication of the Ambulatory Care Clinic Friday will be part of a Bicentennial conference, "Health Parameters in Revitalizing the American City," for the new building deepens the university's commitment to medical care in St. Louis.

A decade ago, the Medical Center considered following other St. Louis hospitals and medical organizations into the more prosperous county suburbs. But officials at the center elected to remain in the city. In the last decade, St. Louis University outpatient clinics have handled more than 320,000 patient visits.

After opening to patients June 1, the ambulatory care clinics at 3660 Vista Ave. are expected to handle about 36,000 patient visits a year. Combined with the number of visits to other university-affiliated outpatient clinics, an estimated 83,000 yearly patient visits will be accommodated.

"Although we take care of patients from all social and economic groups, traditionally most of our patients have come from the inner city areas," Dr. Thoma said.

The St. Louis University School of Medicine first offered medical care to outpatients more than 50 years ago in the building on the corner of Grand Boulevard and Caroline Street that is now part of the site of the present medical school.

Dr. Broun was among the first to suggest an extensive ambulatory care plan for inner-city residents.

The outpatient clinic at St. Mary's Infirmary opened in the 1920s, offering free nursing services. A few years later, the Sisters of St. Mary and the university began an outpatient clinic in Girmin Desloge, distributing free drugs and charging only 25 cents for patient visits in the 1930s.

By 1940, outpatient clinics associated with the university handled nearly 97,800 yearly visits, with most treatments given by volunteer doctors serving without pay. Although the demand for outpatient treatments decreased in the following years, as late as 1955 about 70 per cent of treatments and drugs were free of charge.

After opening in 1956, the Cardinal Glennon Memorial Hospital for Children soon became the second largest pediatric outpatient hospital in the nation. St. Louis University also has been in charge of outpatient clinics at St. Louis County Hospital and—in conjunction with Washington University's School of Medicine—at St. Louis City and Veterans Hospitals.

The special services provided by these ambulatory clinics range from pre-natal care to special social programs for old persons.

At the new Ambulatory Care Center, the innovative primary nursing program allows for home visits, special medical education sessions and in-depth nursing services.

"In the old days, there was very little long-term association between nurses and their patients. Patients drifted from one medical specialty to another, developed a chart six inches thick—and no one medical person really knew their case in depth," said Mrs. Gebbie, who directs the program.

"Our nurses are assigned to individual patients, and try to provide the advice and care they did not have in the past."

The nurse practitioners take patient histories and referrals from doctors, who teach them about specific illnesses, the need for medications and treatments. Each nurse has a specialty area—from emotional problems to heart disease—and is assigned an area of the city for community medicine work.

"This nursing program offers tremendous satisfaction," said Mrs. Meckler, one of the nurse practitioners. "We take care of the total patient, and we're able to see more of the results of our work."

On a typical day as a nurse practitioner, Mrs. Donna Foody paid a visit to Mrs. Dixie Miller's North Side home to check her heartbeat, blood pressure and circulation. She visits patients at their homes when their medical conditions or family situation makes it necessary.

"We're making good, personalized care available in places we need it," Mrs. Gebbie said. "That's the essence of the program."

Such personalized care is also provided in other university-affiliated outpatient clinics all over St. Louis. The nurse midwifery program at City Hospital has expanded rapidly since it was established in 1971. Dr. Anne Bannon's neonatal (newborn infant) clinic at the same hospital has helped save babies weighing as little as 400 grams (less than 1 lb.).

Sister Jean Meurer has established a clinic for pregnant teenagers at City Hospital and teaches special classes for expectant parents.

"These mothers are raising the future citizens of our society, and so we have a great obligation to help them to be the best mothers possible so that the children will be off to a good start in the future," she said.

WHO NEEDS THE ENERGY AGENCY?

Mr. PEARSON. Mr. President, I ask unanimous consent that an article from the May 30, 1976, New York Times by Edward Cowan, entitled "Who Needs the Energy Agency," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO NEEDS THE ENERGY AGENCY?

(By Edward Cowan)

WASHINGTON.—Nobody loves the Federal Energy Administration—nobody in Congress, nobody in the executive branch, nobody in the oil industry, nobody in the state capitals.

A "temporary" agency created during the 1973–74 Arab oil embargo, its legislative mandate is due to expire June 30. The "crisis" atmosphere of long gasoline lines is gone. Some people ask whether the F.E.A. is even needed now. But despite the agency's lack of a solid constituency anywhere, its life almost surely will be extended by Congress and with it the jobs of its 3,445 employees.

In a year in which principal Presidential candidates in both parties are running against government, the survival of an unloved and much criticized agency with numerous detractors in both parties would have to be regarded as a phenomenon.

From the political right comes the impulse to vote against the agency because it represents a major and relatively new form of government regulation of business—price controls.

From the left comes a stronger barrage—criticism for not being tough enough on the oil industry, for having regulations that are too complex, for advocating deregulation of natural gas, for opposing the liberal Democratic Senate bill to break up the major oil companies, for allegedly short-changing energy conservation, for recommending tax breaks for electric utilities, for promoting nuclear power.

Apart from these policy differences, there have been accusations that the energy agency usually favors major oil companies. One Senate subcommittee criticized the agency for assigning too few auditors to major refiners. The agency promptly made an increase.

More generally, liberals have been frustrated by charges of nickel-and-dime pricing violations against independent oil producers and distributors and relatively few violations charges against major refiners. Most frustrating of all has been the complexity of the pricing regulations, which officials concede have often made it difficult to determine if prices were excessive.

The catalogue of grievances is considerable. Yet Congress left itself few alternatives to extending the agency's life.

The Senate Government Operations Committee has reluctantly recommended continuation of the agency for only 15 months. The House Commerce Committee, which wrote most of the legislation the agency administers, would extend its mandate to Sept. 30, 1979. Presumably the difference will be split if the House and Senate pass their respective committees' bills.

If the energy agency did go out of business, who would administer the complex oil-pricing regulations through the spring of 1979? Who would execute the Congressional command to build a national oil reserve as a buffer against another embargo?

Who would see to the conversion to coal of natural gas and oil-burning utility and industrial boilers? Who would help the states develop energy conservation programs and standby emergency measures?

Who would have allocation plans ready to put into effect in the event of another embargo or shortage?

There is in the two-year Federal Energy Administration Act of 1974 a formula for parceling out the agency's responsibilities upon its demise, but only a few members of Congress seem to think dispersion is a good idea.

"You would do the industry a great disservice to switch all of these price and cost records in the middle to another agency," said an aide to a Congressman who rarely has much good to say about the energy agency.

One of the criticisms leveled at the agency was that it spent too much money on public relations. In a pact with the House Commerce subcommittee on energy and power, Energy Administrator Frank G. Zarb agreed to chop the public affairs staff of 120 persons to 63. About 20 jobs, such as answering Freedom of Information Act inquiries and distribution of publications, have been tucked into the agency's management office, according to J. Gene Curella, head of media relations, and 37 other public affairs positions have been abolished. No one has actually been separated from the payroll because Civil Service procedures allow them to apply for other vacancies in the agency or elsewhere in the Government.

The agency's total employment would grow by 300 from the current 3,445 employees in the 12 months that start Oct. 1 under President Ford's budget request. It would also spend $751 million in that period, including $558 million to start on a strategic oil reserve. However, a House Appropriations subcommittee is understood to have cut deeply into the money, even for enforcement of oil price controls. Congress renewed the controls last December for 40 months, the only residue of the general price controls of 1971–74.

The energy agency has come in for other accusations, largely from those who disagree with Administration energy policy, that the agency had tried to influence the public in favor of gas deregulation and other Administration proposals. Just what is legal and what is excessive policy advocacy is a question not easily answered.

These charges and criticisms, and recommendations from members such as Representative Patricia Schroeder, Democrat of Colorado, that the agency be killed, have created an atmosphere quite different from the one in which the agency was created late in November 1973.

After the United States resupplied Israel's military arms during the October 1973 war with Arab nations, the Arabs retaliated by curtailing oil production and prohibiting shipments to the United States. By late November, a sense of grave danger was growing in Washington.

The magnitude of the problem wasn't clear. The oil-allocation system that a Navy Admiral was supposed to be setting up was a mess. The former governor, John Love of Colorado, had come in months earlier to direct energy policy which hadn't taken hold.

William E. Simon, who had learned about energy as chairman of a Cabinet committee and who had demonstrated a knack of getting on with Congress, was given the task of centralizing the Government's—and the country's—preparations for the unfolding oil shortage, and of centralizing energy policy making.

Those were heady days—and nights, nights of ragged 7 P.M. staff meetings with energy "czar" Simon, and 10 P.M. pizza-and-pop sessions in the Deputy Secretary's Treasury office.

Then, Mr. Simon was mobilizing a team of energetic, eager lawyers and analysts from the Interior Department, the Budget Office, other agencies and the business world to rescue the country from the threat of the oil embargo. Now Mr. Simon as Treasury Secretary is understood to be among those who would dismantle the agency. Mr. Simon has long sought to abolish oil price controls and generally seeks to scale back government regulation of business.

In the earlier "crisis" days—in the face of a sense of danger and national purpose—criticism was muted and the new energy office began growing before it was fully conceived. It took over oil price controls from the Cost of Living Council, which was going out of business. Within weeks Mr. Simon and his deputy, John C. Sawhill, made an unsuccessful bid to capture the Energy Research and Development Agency, then being carved out of the Atomic Energy Commission by Congress.

As gasoline lines grew long and more numerous tempers grew shorter and murmurs of discontent were voiced. But Mr. Simon knew the importance of oiling squeaky wheels brought to his attention by members of Congress being harried by constituents. Moreover, as the heating season moved toward spring and Washington became increasingly confident the embargo would soon end, Mr. Simon told the oil companies to relieve the gasoline shortage by drawing down inventories. This calculated risk, which succeeded, gave rise to the belief among some liberals that allocation alone, without rationing of end-use consumption or high prices, could take the sting out of a shortage.

If those were halcyon days, they were few. Politics and ideological conflict returned to the fore. The Administration wanted to hold down the size of the energy agency and end price controls as soon as possible. The Democratic Congresses of 1974 and 1975 wouldn't buy that—especially in a time of recession and inflation.

Much of the critcism leveled at the energy agency's performance or organization may be partly a disguised expression of frustration and policy disagreement. The Senate committee, for example, asserted that the agency's "role as data collector and data analyst conflicts with its role as the nation's principal policy formulator with respect to energy."

Precisely what the conflict is the committee report didn't say. Nor did it say why there was not a similar conflict in the Treasury with respect to tax data and tax policy or in the Agriculture Department with respect to crop data and farm policy.

Some officials say that the separation would lead to partial duplication because a policy body must have a data arm.

Another criticism is that enforcement of price regulations should be separated from promotion of energy resources development. On its face, there appears to be a conflict here. Whether it is more real than conceptual is debated.

A few weeks ago, the most menacing statements about killing the energy agency came from Senator Abraham A. Ribicoff, chairman of the Government Operations Committee. However, he has relented, partly because dispersion would conflict with his desire to go in the opposite direction—to create a permanent energy department headed by a cabinet-rank officer.

Staff aides to the Connecticut Democrat suggest that the Administration has cooled on its 1971 and 1973 proposals for a Department of Energy and Natural Resources, to embody the Interior Department and parts of some other agencies. It was Congress that resisted the idea then because of jurisdictional rivalries among committees. Whether that obstacle to action has been removed is an open question.

AN "APPROPRIATE" FAMILY DEFICIT

Mr. HARRY F. BYRD, JR. Mr. President, Senate Concurrent Resolution 109, the Senate version of the congressional budget, stated that the "appropriate" level of Government spending for the coming fiscal year was $412 billion.

It also said that the appropriate level of Federal revenues was $362 billion.

Those two declarations led to the statement—also contained in Senate Concurrent Resolution 109—that the appropriate Federal deficit was $50 billion.

I made the statement that a deficit of $50 billion is not "appropriate—it is appalling."

Having read this statement, a Virginian with an analytical mind and a sense of humor composed a letter to me applying Federal budgetary principles to his family budget—and reaching the conclusion that his "appropriate" annual deficit was $5,188.

The author of the letter—Mr. Charles J. Hanzlik, Jr., of Alexandria, Va., also gave me his assessment—not very flattering—of the kind of economics that finds huge deficits appropriate.

Mr. Hanzlik has an excellent grasp of sound fiscal policy, and I ask unanimous consent that his letter to me be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Alexandria, Va.,
May 11, 1976.

Hon. Harry F. Byrd, Jr.,
U.S. Senate,
Senate Office Building,
Washington, D.C.

Dear Senator Byrd: The attached observation extracted from your May 1976 "Report to Virginia" (Vol. X, No. 2) intrigues me. Of course, it comes as no surprise that the U.S. Government appears to be embarked upon a continuing program of deficit spending . . . but it becomes quite fascinating if one applies that implied policy to one's personal finances. For example, the $50 billion "appropriate" annual spending deficit represents approximately 13.81% of the "appropriate" level of revenues of $362 billion. Application to my own situation would go something like this:

Annual salary income	$37,573
"Appropriate" deficit (percent)	×13.81
Annual deficit spending	5,188
Earned annual income	+37,573
Total annual "appropriate" expenditure	42,761

This is great!!! I can buy that new boat that I dream of! But who's going to make up my $5,188 deficit expenditure each year? My creditors will carry me only so long as I can continue to pay the interest . . . but my heirs will still get stuck with the principal debt! So, obviously I do not buy the boat.

That is appalling Senator . . . please keep up your attempts to protect our heirs by getting us closer to a "pay-as-you-go" plan through cutting the "dream boats" out of the budget.

Sincerely,

Charles J. Hanzlik, Jr.

SENATOR MUSKIE ADDRESSES THE DEMOCRATIC PARTY PLATFORM COMMITTEE

Mr. GLENN. Mr. President, a few days ago Senator Ed Muskie made a statement before the Democratic Party Platform Committee which is worthy of note to a much wider audience. In that statement, Senator Muskie addressed the mounting public concern regarding attitudes toward Government. He noted the programs and policies of the 1960's, social programs of human concerns which were many and far-reaching, programs which demonstrated not Government callousness or disinterest but to the contrary programs of a Government of compassion with tremendous concern for those least able to make it in our complicated society.

Eliminating those programs with a meat-axe approach is not the answer to the current disenchantment with Government, but there is a tremendous need to simplify the programs and make them more efficient.

In particular, Senator Muskie addressed the great need for what has been termed the "Sunset Bill," legislation which I have been privileged to introduce with Senator Muskie, along with Senators Roth and Bellmon. This bill would require review of all Federal programs at not beyond 5-year intervals, with a view toward eliminating some and revamping others to a more efficient size. I have added to that legislation a tax expenditure—or tax incentive—amendment which would require the same type of review of tax revenue now lost each year via the tax incentive route.

Mr. President, I am very glad that Senator Muskie stressed the need for this legislation in his statement, for I firmly believe this can be one of the most far-reaching pieces of legislation now being considered by Congress.

Senator Muskie closed his statement before the Platform Committee with a challenge, a vision of promises that we as a Nation have not yet kept. The "Sunset" idea, if enacted and properly implemented, could move us significantly in the direction of that vision.

I recommend this statement to my colleagues and ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Remarks by Senator Edmund S. Muskie Before the Democratic Party Platform Committee, Washington, D.C., May 20, 1976

The Democratic Party has rarely entered an election year stronger and more assured of victory.

We are, after all, the majority party of this nation.

In State after State, in Congress, in the entire public arena, we hold an overwhelming edge over our opposition party.

In the forthcoming presidential campaign, we can capitalize easily on the past seven years of Republican failure and betrayal.

We can probably win the White House with such a campaign.

But I have a broader concern today than

simply winning an election. I think that you share that concern.

I am talking about the deep skepticism and lack of confidence of Americans about government—especially the Federal government.

In 1972, only half the registered voters bothered to vote. In 1974, only two out of five voted.

And if we win this election with such a turnout—if we win simply because we are the least unpopular choice—it will be a hollow victory, indeed.

Yet such a hollow victory is possible if we continue politics as usual—if we continue to make easy promises—and if we rely just on the old party and ideological appeals.

For Americans today want action—action toward a radically improved government that can deliver on its promises.

And while the 1976 Democratic Platform should—and must—propose to revitalize our cities, to care for the elderly and poor, and to reorder our economy—we must also propose the kind of government that can again reassure, unite and inspire the people of America.

When we write this Platform, we must avoid the trap that snared us in 1972.

For in those 15,000 words, we cataloged virtually every problem that we thought bothers Americans. We showed that we knew all about government—and precisely what programs needed change.

We knew about the Longshoremen and Harbor Workers' Compensation Act, the Protocol on Chemical Warfare, ethnic studies, the Uniform Code of Military Justice, nutritional unit pricing, the Comprehensive Child Development Act, and hundreds of other areas of government.

Yet the election results showed that our platform was irrelevant, for all practical purposes.

Despite our good intentions—despite our grasp of problems—despite the details we mastered—our platform ignored the deep misgivings that Americans felt about their government, their society, and themselves.

For every new program we promised, Americans wondered about the ones we already had—and felt cheated that we ignored the waste and inefficiency of existing programs.

And rather than going away, those misgivings are even greater and more dangerous today.

This forms our most immediate, important task. For we have little hope to solve problems of human need—as long as the government to solve them bears this burden of no confidence.

I am not suggesting that we join in the Republican chorus that government has been the cause of American's problems, and that everyone—weak and strong—must solve their own problems.

Nor will I suggest that the Democratic policies of the 1960's were failures.

Let us remember instead—and be proud—that during the 1960's we cut nearly in half the number of poverty stricken in America.

That we dismantled the centuries-old legal barriers to open housing, schools, voting, public accommodations, and employment for all.

That we made life better for our aged with medicare and improved social security.

That we provided food for millions of families who once knew only hunger.

That we built hundreds of thousands of decent homes for needy Americans.

Let us remember, in other words, that the 1960's was a truly extraordinary period of social progress. And that this party can take credit for that progress.

Let us also remember that today's lack of confidence comes not from government attempting to solve human problems, but rather in not solving them well enough.

The great majority of Americans share our aspirations—they just want to achieve human progress without needless waste and mismanagement.

They see today over 1,000 Federal programs—that touch virtually every aspect of daily life—with nobody in Washington who knows how well most of those programs work.

They see a government grown needlessly complex, expensive, and ineffective—suffocating too many of the programs we worked for.

And they see too many political leaders, who either ignore or pay lip service to government reform.

We have reached the point where government reform—using each tax dollar more effectively—is a social good in itself.

For every dollar that is wasted—whether for health care or fighter-bombers—that much less is there to meet human needs.

We have also reached the point where government reform will be accomplished. Americans demand it. They will get it. The only question is, who will carry it out?

I'm betting that it will be the Democratic Party.

The Democratic Congress has already begun this reform.

Two years ago, we passed a budget reform that for the first time consolidated into one decision where and how much Federal spending will be.

In the course of this the congressional budget provided the dollars needed to get our economy back on the long road to recovery.

And for the first time in decades, Congress has taken control of the budget, and set spending priorities that more closely match human needs.

Now we are going beyond that. Congress is now considering spending reforms to pinpoint wasteful programs.

I'm pushing for it in the Senate. In the House, the freshman Democrats are pushing for it, under the leadership of Jim Blanchard.

Some people call it the "sunset bill."

It would mean just that—sunset for Federal programs that overlap better ones, that have outlived their usefulness, or just don't work anymore.

It would make virtually all Federal programs and agencies—including tax expenditures—rejustify themselves every five years—subject to zero-base review.

If they don't make a strong enough case, they go out of business.

And for once, the burden of proof to justify spending tax dollars will be on the agencies, and not the taxpayers.

Now, these are modest reforms. But they go to the heart of public discontent with government.

And they present the Democratic Party the opportunity to do something about it.

We have the opportunity to write a platform that takes seriously that public discontent—that recognizes the urgent need for government reform.

I have drafted and submitted separately suggested language for your consideration.

I strongly urge that we adopt this as a major Democratic program—and that we overcome the reluctance I detect of some Democrats even to discuss government efficiency.

For some Democrats seem to accept waste and inefficiency as a cost of helping people—a commission we pay for a faustian bargain to protect what little we have gained—and that attacking waste somehow amounts to a repudiation of the New Deal.

Well, all I can say is, what's so damn liberal about wasting money?

And what do waste and inefficiency have to do with the New Deal?

I never heard Franklin Roosevelt tell us that government had to stifle competition and innovation to protect consumers.

I never heard Franklin Roosevelt say that waste and inefficiency are unavoidable if we want to help poor people.

And I never heard Franklin Roosevelt say we had to reject reform ideas because we had more to lose than to gain.

Instead, I heard him call for "bold, persistent experimentation," and say in 1936 that "A government without good management is a house built on sand."

And at the same time, Franklin Roosevelt established the Brownlow Commission to restructure government and improve its effectiveness.

A government that spends money wisely—that fights problems realistically—that discards unworkable solutions to seek better ones—that respects the individuality of its citizens—*that* is exactly the kind of government that Franklin Roosevelt and we have worked for all these years.

That is the kind of government my good friend Hubert Humphrey described when he said recently that "we do not need to defend blindly everything government has done in the last 40 years. There have been mistakes, and there is a special obligation on those who believe in positive and strong government to understand and correct these shortcomings."

That is exactly the kind of government we talk of in our vision of a nation strong, confident and compassionate.

And by working hard for that kind of government we can make bright again that vision of America.

It is a vision of equality for the black, brown, red and other Americans who still wait for their full rights.

A vision of dignity for our poor, our elderly, our young, and our working citizens.

A vision of reborn cities, full of life and the spirit of community.

A vision of decent health care, housing and education for all.

A vision of open access to political institutions, a just legal system, fair taxation, and economic justice.

A vision of clean air and water, an environment that blooms and fluorishes again.

A vision that America will once again lead other nations from their deprivation, their hatreds and conflicts.

So when we talk about effective government, it means seizing the initiative from those who scorn that vision—who would use the issue of government reform to turn back the clock—who want government to ignore deep human problems—who would let the powerful and selfish once again dominate this nation.

They have no interest in a truly effective government—and every year of neglect and waste simply plays into their hands.

The people of this country have already spoken. They want government to put its house in order—to get ready for the enormous challenges ahead.

I think that the Democratic Party can listen pretty well. I think that we got the message.

So let's give the people our answer.

Let's show them that this party can make government work better—that we know how to make this economy work again—that we know how to bend government back to the vision of economic and social justice in America.

COACH KERMIT AMBROSE HONORED BY MICHIGAN COMMUNITY

Mr. PHILIP A. HART. Mr. President, on June 9, 1976, the citizens of Birmingham, Mich., will be honoring a man who has contributed a great deal to their community. He is Kermit Ambrose who is retiring after 26 years as teacher and coach at Birmingham High School and Ernest W. Seaholm High School. I would like to bring to the attention of the Senate some of his accomplishments.

Kermit Ambrose has established an outstanding record in his many years with these two high schools. Under the guidance as cross country coach, the schools' teams were State champions twice, State runners-up twice, State regional champions nine times, and league champions 10 times. Twelve of the 13 cross country teams coached by Coach Ambrose finished in the top seven teams in the State championships.

With Kermit Ambrose as coach, the track teams were State regional champions five times and league champions 11 times. One of his former track stars, Jack Bachlor, went on to represent the United States in the marathon event in the 1972 Olympics. Besides track and cross country, Mr. Ambrose also has coached football, basketball, and baseball.

But more important than establishing an enviable win record, Kermit Ambrose has worked to instill within students with whom he has dealt a sense of sportsmanship and dedication. His steadfast guidance has helped to develop not only their physical capacities but also their mental talents. He has taught them how to work together and how to help each other out.

Individuals such as Kermit Ambrose rarely get as much recognition as politicians or the sport stars they coach, but they perhaps play a much more important role in the personal development of our Nation's youth, and it seems very appropriate that we honor such leaders.

WALL STREET JOURNAL ARTICLE ON FEA

Mr. PEARSON. Mr. President, I ask unanimous consent that a March 9, 1976, article from the Wall Street Journal on the Federal Energy Administration be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Mar. 9, 1976]

Getting Entrenched: Energy Agency Spends Much Energy To Insure a Long Life, Foes Say—FEA Drums Up Jobs To Do: 112 PR Aides Crank Out Some 1,000 Press Releases; New Laws Expand Its Duties

(By Karen Elliott House)

Washington.—All over America, 1.7 million third-graders are coloring pictures of a bug-eyed cartoon character named Energy Ant and are pondering his riddles: "What did the light bulb say to the light switch?" Answer: "Are we going out tonight?"

The coloring books were provided to schools by the Energy Ant's creator, the Federal Energy Administration. That's the same Federal Energy Administration that was set up in a hurry back in December 1973 to try to help the country cope with a big crisis: the Arab oil embargo. Today, the crisis is long gone, but the agency is still around—big and getting bigger.

Coming soon is a second cartoon book, this one written by the wife of the FEA's administrator, Frank Zarb. There are plans to put Energy Ant into television commercials and onto cereal boxes. The agency even is seeking trademark protection for him.

The agency spends much time and, well, energy in such self-promotion. Among other things, its 112 publicists have cranked out nearly 1,000 press releases—all computerized for speedy retrieval. It also has a growing constituency, including many oil companies supposedly regulated by the FEA—companies that would hate to see it abolished.

GROWING LIST OF DUTIES

Also growing is the agency's list of duties. Congress keeps enacting more energy laws for the FEA to enforce. And Mr. Zarb has been adept at creating tasks or jumping in to manage new crises predicted by his staff. One result: The FEA is awash in two million pieces of paper now being hauled from one building to another.

"You're looking at a potential monster," Treasury Secretary William Simon, the agency's first administrator, said in a recent interview. "It's an outrage. I'd abolish the agency and close its doors tomorrow."

But far from closing it down, President Ford wants to expand it. Although he is making lots of campaign speeches about the evils of bureaucracy. Mr. Ford intends to ask Congress to extend the FEA's life three more years and to triple its $142 million budget to about $440 million, partly so the agency can hire 700 more people. (The FEA now has 3,400 employees.)

It's generally assumed Congress will go along with the President's requests, partly because he has pointed out to the lawmakers that the FEA must expand to administer various new energy laws Congress has enacted.

HIGH-PAYING JOBS

Meanwhile life is pleasant at the agency. Because the FEA was expected to be a temporary operation, it got more than its share of top salary jobs. Congress wanted the government to be able to attract first-rate managers to deal with embargo problems. Consequently, 37 FEA officials are paid $37,800 or more a year and the salary mean is $19,026, the highest of any federal agency.

What has happened at the FEA shows how a bureaucracy can grow and entrench itself in Washington, even after its main reason for being has disappeared. And a close look at the FEA helps explain why voters shouldn't take very seriously presidential candidates' talk about slimming down government.

Nobody at the FEA seems particularly embarrassed about its emerging status as a permanent bureaucracy. "We're beginning to be just like every other agency in town," FEA Deputy Administrator John Hill says. "We have a set program to carry out and that program is here to stay."

FEA officials respond to criticisms by arguing that the country still faces a potentially serious energy problem and that the FEA is the only governmental body concentrating exclusively on trying to deal with it. Beyond that, Mr. Zarb says, much of the FEA's growth has been caused by Congress, which keeps giving the agency new jobs to do. Mr. Zarb says something eventually will have to be done, however, about the growth and duplication of governmental activities related to energy matters. "I think we ought to create a new, Cabinet-level energy agency and condense all these other agencies into it," he says.

FINDING OUTSIDE BACKERS

One reason young agencies such as the FEA *become* entrenched so quickly is that they tend to develop outside constituencies, in the industries they regulate and among companies they buy from.

A notable supplier of the FEA, for example, is Amerada Hess Corp., an oil company with sales last year of $3.3 billion. Because of FEA regulations, major oil companies were forced to pay Hess $258 million in 1973. All told, these big companies paid about $1 billion to Hess and 90 other independent refiners as compensation for the difference between the unregulated foreign oil independents must buy at $13 a barrel and the regulated domestic oil the big companies sell their refineries for $5.25 a barrel.

The FEA is popular, too, with contractors who hope to share in the $300 million FEA will pass out his year and with lawyers who have mastered its 700 pages of rules—and exceptions to rules. Consumer advocate Ralph Nader notes that most government agencies take years to develop such large constituencies, whereas the FEA's seems to have popped up instantly. The FEA, Mr. Nader says, "sprang forth from the bottom of an oil barrel."

Lively self-promotion also has helped root the agency. Its press office is already one of Washington's largest, with its 112 people and a $3.5 million budget. "It's the best-oiled press shop in town," boasts PR Director Robert Nipp.

For two years, press releases have poured forth at the rate of approximately two a day, touting the agency for taking some pro-consumer action or quoting FEA officials berating Congress for rejecting presidential energy proposals.

Explains Mr. Nipp: "There is a cynicism in Congress and the public that there isn't really an energy problem. We've got a long way to go to convince people."

The PR boss doesn't intend to miss opportunities. Not only has he computerized all his press releases, but he also can instantly retrieve officials' old speeches in order to deal with queries from the press, Congress or the public. His staff includes a black and a Spanish American who try to get more FEA news into newspapers aimed at minorities. For the small town press and radio stations, Mr. Nipp every month issues "energy saving tips, one for each day. For instance, he suggests, "To cut down on showering time and save energy to heat water, keep a small timer in the bathroom and set a limit. Three to five minutes is reasonable."

To manage PR on the road, Mr. Nipp almost always goes along on Administrator Zarb's trips. Mr. Zarb, who loves to travel, made 36 trips last year, including 14 on chartered planes at a cost of $25,000, prompting Wisconsin Sen. William Proxmire to denounce him as one of the most wasteful spenders in the government. Last month the Zarb-Nipp team went to Venezuela, where Mr. Zarb made a speech and met with energy officials. The administrator hopes to go this spring to the Mideast and Moscow for more talks.

DREAMING UP PROJECTS

One of the secrets of the FEA's survival lies in the astounding ability of its officials to dream up new projects or to horn in on jobs other agencies already are doing.

Last August, for example, while Washington was sweltering, the FEA people suddenly predicted a natural gas crisis this winter. The shortage would be 1.16 trillion cubic feet, they announced, and would cause plant closings, unemployment and possibly cold homes. It happened that the Federal Power Commission, whose job it is to regulate the natural gas industry, already had predicted the same shortage and was acting to deal with it. The FEA plunged ahead anyway.

Twenty FEA people set to work full time preparing for the crisis. Another 10 were dispatched to regional offices. Mr. Nipp turned out a pamphlet. "The Natural Gas Story," warning of catastrophe and urging Congress to lift price controls. The pamphlet's distribution was halted after consumer groups went to court charging it was an illegal use of taxpayers money for lobbying. A radio spot urging Americans to turn down their thermostats and save jobs was mailed to broadcasters.

Now the winter is almost over, the FEA acknowledges that there wasn't a crisis and won't be one. But its gas experts remain. These days they are helping to write an administration plan aimed once more at getting Congress to remove price controls on natural gas.

Looking about, Mr. Zarb recently decided that the government needs a nuclear power advocate and naturally concluded that it should be the FEA. No matter that Washington already has the Energy Research and Development Administration and the Nuclear Regulatory Commission. Those are research and regulatory bodies, he reasoned, not advocates. So Mr. Zarb created an Office of Nuclear Affairs at the FEA and hired a staff of 21, headed by a former nuclear industry official. Then he asked Congress for nearly $2 million to run the office.

Congress refused and ordered the office abolished. Undeterred, Mr. Zarb simply removed its name from the building directory and shuttled the workers into another office where each continues to work on nuclear issues. He is planning to ask Congress to provide funds to keep the new operation going.

The FEA also has its own Office of International Energy Affairs. The agency even managed to send one of its men along when State Department officials met in Moscow to discuss purchasing Russian oil. While an international office at FEA might appear to duplicate State Department activities, White House and FEA officials say that's a simplistic view. Our energy interests aren't always compatible with State's diplomatic interests, a White House official says.

Not everything FEA does, of course, is self-generated. Congress has enacted 45 energy laws since the Arab embargo two years ago, and many of those direct the FEA to take various actions. The major congressional mandate requires the FEA to allocate petroleum products and regulate their prices. Mr. Ford fought to kill that law last year but finally signed it after Congress agreed to lift the controls gradually over the next 40 months.

AUDITING OLD TRANSACTIONS

Ironically, this deregulation is going to involve more, not fewer, FEA regulators. About 1,300 of the agency's 3,400 employees work full time regulating the oil industry assuring that it spreads energy products and costs evenly to all Americans. The number of regulators will jump by 600 this year. There aren't any petroleum shortages anymore, so the regulators will focus on auditing every transaction effected under previous regulations. "If we don't do a good job of deregulating," Mr. Zarb argues, "those controls will never be taken off."

The paper generated by the regulations is phenomenal. Industry responses to FEA required reports now total two million pages. The agency is busy moving all that paper from one building to the basement of another to make room for still more paper. Part of the $15 million the agency spends each year on computer data processing is aimed at storing information on computer tapes to reduce the mountains of paper. It seems inconceivable that all this material really needs to be saved, but the agency evidently could improve its paper-handling system. A Shell Oil Co. official says FEA lawyers had to ask his company three times for the same document because they kept losing it.

The agency spends a lot of time and money on studies. Many are done by FEA personnel but last year the agency spent $17 million on 157 studies by outside organizations on such questions as how to build a more efficient water heater and why the U.S. uses twice as much energy per person as West Germany. "No one ever pays attention to most of these studies," a top FEA official admits. "They're one of the biggest wastes here."

LITTLE ON CONSERVATION

Most of the studies involves ways to conserve energy. But the FEA has done little to encourage conservation. Roger Sant, assistant administrator for conservation, does make lots of speeches. Last summer he appeared at a New York fashion show and urged women to turn down their thermostats and wear more clothes.

The FEA has diverse critics. Mr. Nader assails the agency saying it is little more than an advocate for higher energy prices. "Mr. Zarb has spent two years haggling with Congress over prices," he says. "The country would be better off without the FEA. The Justice Department could enforce price regulations and the oil industry could again do its own lobbying without help from Frank Zarb.

Charles DiBona, vice president of the American Petroleum Institute, also wants the FEA abolished. He says FEA regulations result in artificially high prices to consumers in some areas by limiting competition among oil companies. Mr. DiBona, who worked on energy policy at the White House until Mr. Nixon created the FEA, says, "I'm afraid it's here to stay. The biggest impediment to dissolving it is 3,400 employees whose jobs depend on the agency."

And although Sen. Charles Percy of Illinois has introduced the bill to extend the FEA's life for three more years, he told his colleagues, "It's my fervent hope that FEA will expire on Sept. 30, 1979 and not be extended again. It could become the first known exception to the rule that 'nothing is more permanent than a temporary agency' and set a much needed precedent for future government agencies."

SENATOR GLENN PICKED FOR AVIATION HALL OF FAME

Mr. RIBICOFF. Mr. President, the Aviation Hall of Fame, located in Dayton, Ohio, is an institution, chartered by an act of Congress, wherein persons who have made significant contributions to aviation are honored.

A member of the Senate will be so honored July 24 when Senator JOHN GLENN of Ohio will be inducted into the Aviation Hall of Fame.

I know I speak for other Senators when I extend my congratulations to him on yet another achievement in a career that has been one of high resolve, courage and dedication to public service.

Senator GLENN is an extraordinary person, gifted with the ability to accomplish difficult tasks himself and, at the same time, inspire and encourage those around him. For example, somewhere in the vast files of recordings of manned space flights stored at the National Aeronautics and Space Administration there is a tape that carries the voice of one man saying to another, "God speed, John Glenn."

The words were spoken from the blockhouse by fellow astronaut Scott Carpenter. But the words could have been spoken by millions of others of us as we waited for the launch of Mercury-Atlas 6, the flight that made John Glenn the first American to orbit the Earth.

Lieutenant Commander Carpenter's invocation, "God speed, John Glenn," was a very appropriate way of saying to a very special man on a very special mission that he carried with him the hopes and prayers of an entire Nation for a successful flight and a safe journey home. It is worthwhile to recall that occasion for a moment.

The day was Tuesday, February 20, 1962. The place was Launch Pad 14 at Cape Canaveral, Fla. A man-rated Air Force missile, about to unleash 360,000 pounds of thrust, was ready for launch. Atop the Atlas booster was the tiny 6-by-9½-foot, 2,400-pound, bell-shaped Mercury spacecraft. Inside the spacecraft was a Marine aviator, Lt. Col. John Herschel Glenn, Jr., a former fighter pilot decorated for combat in World War II and in Korea. The first man to fly supersonic from Los Angeles to New York, Colonel Glenn had named his Mercury spacecraft *Friendship 7*.

Lift-off occurred at 9:47 a.m. Orbit was achieved about 5 minutes later. John Glenn became the first American to orbit the Earth. *Friendship 7* circled the planet three times. Colonel Glenn traveled at speeds of nearly 18,000 miles an hour for a total of 81,000 miles in 4 hours and 56 minutes before splashing down in the Atlantic Ocean near Grand Turk Island in the Bahamas.

The flight of *Friendship 7* may seem ordinary by today's standards, particularly when compared to later achievements of this Nation in manned space flight.

The Mercury spacecraft—so small that it was referred to not as a spacecraft but as a capsule—seems primitive when placed beside the giant Apollo spaceship that ferried Neil Armstrong and other American astronauts to the Moon and back. Similarly, the Atlas booster is dwarfed when compared to the Saturn V with its 7.5 million pounds of thrust.

But the Mercury-Atlas 6 missions—the flight of *Friendship 7*—was not an ordinary event by any means. It was one of the major historic events of this century and ranks alongside the flight of the Kitty Hawk, Lindbergh's transatlantic flight, the first supersonic flight and the first lunar landing in terms of its contribution to aeronautics and astronautics and in terms of the positive impact it had on this Nation, its people, and mankind's ability to explore and utilize space for peaceful purposes.

In 1962, the massive Apollo-Saturn configuration was still on the drawing boards. The incredible engineering feats of the two-man Gemini spacecraft—the 2-month launch schedule, Ed White's walk in space, rendezvous and dock and long-duration flights—were still 2 and 3 years away. Moreover, the Nation, stunned by Russian successes, was suffering through a period of self-doubt in which it seemed that we might have fallen behind in technology and national purpose.

Already the Russians had twice sent men into orbit. Soviet Maj. Yuri A. Gagarin had circled the globe once April 12, 1961. Soviet Maj. Gherman S. Titov had made a 17-orbit flight August 6, 1961.

To be sure, two of our astronauts—Navy Cmdr. Alan B. Shepard, Jr., and Air Force Capt. Virgil I. (Gus) Grissom—had made successful suborbital flights. Thus, the Mercury spacecraft seemed capable of orbit and the rigors of extended flight. But no one could be sure. No American had actually orbited the Earth. Americans wondered if we had the know-how and the determination to do what the Russians had done.

The *Friendship 7 mission*, should it have failed, would have caused even greater doubts about our own capabilities and enterprise in the new frontier of space exploration. President Kennedy had said we would have men on the moon by the end of the decade. But we still had not put men into orbit.

There was another factor that made this mission significant. That factor was the pilot, the "man in the loop." Almost from the start of the American manned space program, JOHN GLENN had stood out in a group of seven distinguished men, each of who was exceptional and outstanding in his own right.

The original seven astronauts—Alan Shepard, Gus Grissom, JOHN GLENN, Scott Carpenter, Walter M. Schirra, L. Gordon Cooper, and Donald K. "Deke" Slayton—were well trained, intelligent, and courageous pilots. Each of them might have flown the first orbital mission. But, in retrospect anyway, it seems inevitable that the one who would be given this assignment would be JOHN GLENN.

I do not know how NASA went about selecting which astronaut for which Mercury flight. But I am glad JOHN GLENN got the call for the first orbital mission. Overnight, he became a genuine folk hero. And overnight—perhaps in the short time it took *Friendship* 7 to lift off from pad 14, circle the Earth three times and splash down in the Atlantic—the American people and our friends around the world, as well as those who did not wish us well, were reminded, and persuaded when need be, that this Nation could be and would be, preeminent in space exploration, that, for whatever our faults, we were, as our young President said we were, a nation of vigor, courage, and competence.

There had been space flights before. There would be many after. But, for the American people, the flight of *Friendship* 7, had, and will always have, a unique importance. So, too, will the astronaut who flew it. Thus, when Scott Carpenter said, "God speed, John Glenn" moments before launch, he was voicing the wishes of all of us for a successful flight, a safe return—and a vivid demonstration of American spirit. John Glenn and the flight of *Friendship* 7 gave us that and more.

Colonel Glenn did not fly another space flight. He later left the space program and resigned his commission in the Marine Corps. He entered politics and today is the junior Senator from Ohio, serving his first term.

Senator GLENN was appointed to the Government Operations Committee, of which I am chairman. As a member of this committee, Senator GLENN has demonstrated the same qualities of intelligence, leadership, good sense and industriousness that featured his career as an aviator. Senator GLENN is cooperative, confident and modest. He is capable, hardworking, and imaginative.

Because of his background in science and technology, I asked him to serve as acting chairman of the Government Operations Committee for the committee's examination of the Government's efforts to control nuclear proliferation.

Senator GLENN brought to this assignment extensive knowledge about a highly technical and complicated field. But, equally important, he approached the subject with a refreshing sense of humility and a genuine desire to learn. The sense of duty and purpose which Senator GLENN brought to this assignment set an example for all of us.

There was also something rather fitting about Senator GLENN heading up the committee's examination of the ways this Nation could improve its efforts to control the spread of nuclear technology. The central issue, of course, is that the same nuclear technology, materials and equipment that can bring inexpensive energy and a higher level of comfort to the peoples of the world can also be used to make atomic bombs. Senator GLENN is striving to insure that nuclear technology be used for peaceful purposes—not war.

There is a parallel between Senator GLENN's important work in seeking to control the spread of nuclear technology and his own space flight. The booster that launched *Friendship* 7—the Atlas—was, in its military configuration, the most reliable intercontinental ballistic missile in the U.S. arsenal. The Atlas could thrust a thermonuclear warhead 9,000 miles.

Yet, on February 20, 1962, that missile, man-rated, was launched in full view of the world and powered a spacecraft named *Friendship* into orbit. It was a major step forward in our Nation's determination to use space for peaceful purposes. Moreover, the astronaut on board *Friendship 7*, while proud of his military service that included 5 Distinguished Flying Crosses and the Air Medal with 18 clusters, was a man of peace. All over the world people have recognized this quality of JOHN GLENN and have responded to it accordingly.

Having served with Senator GLENN now for some 2 years, I have come to know him personally and consider him a friend. I have seen at first hand that certain quality that makes JOHN GLENN a special person, whether he is flying airplanes, piloting spacecraft, writing legislation or simply smiling on the many well-wishers who greet him on the street.

It is a certain undefinable quality that JOHN GLENN had when he was an astronaut, has now as a U.S. Senator and will, I know, carry with him to any new goal he may wish to pursue.

On this occasion of his selection to be inducted into the Aviation Hall of Fame, may I remark, as Scott Carpenter did at the launch of *Friendship 7*, God speed, JOHN GLENN.

CLEAN AIR ACT AMENDMENTS

Mr. BUCKLEY. Mr. President, I have read President Ford's letter to the distinguished chairman of the Senate Public Works Committee, Mr. RANDOLPH, concerning the automobile standards and the no significant deterioration provisions of the proposed Clean Air Act amendments. I must respectfully disagree with the President's conclusions.

The President stated his opposition to the Senate Public Works' position on preventing significant deterioration of air quality. I believe the President's letter reflects a misunderstanding of the provisions that the committee adopted after lengthy discussion and deliberation. Our committee developed an approach stressing flexibility and shifting responsibility for implementation to the States. It provides criteria that will reduce areas of uncertainty that have inhibited economic development, while insuring that such development is consistent with our national environmental goals.

I do not believe that it would be wise to eliminate the committee's language, leaving in place the present EPA regulations. That would continue to leave power solely in the hands of Federal Government. To eliminate both the committee position and also the EPA program would be equally unwise, as it would fail to protect the clean air areas of the Nation, including national parks and wilderness areas.

I have polled the Republican members of the Public Works Committee, and find that none of us can support the President's requests with respect to the nondegradation provisions. We have requested a meeting with him to urge that he reconsider his position.

The President's letter also supports a relaxation and delay in the proposed modifications of the clean-air standards. The committee's proposal represents a 4-year moratorium from the goals of the 1970 act and a permanent relaxation in the standard of nitrogen oxide. I support the committee's position as a reasonable compromise of conflicting interests. According to projections in the recent DOT–EPA–FEA study mentioned by the President, at no time will there be a failure to achieve annual fuel economy gains under the Senate language, and the differential with the delay proposed by the President would initially be about 3 percent, with the penalty vanishing entirely within 3 years. The lifetime cost differential is about 1½ percent, and that too diminishes quickly.

For these reasons, I continue to support the proposals contained in the committee's bill.

Mr. President, I ask unanimous consent that the President's letter to the chairman of the Public Works Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., May 28, 1976.

Hon. JENNINGS RANDOLPH,
Chairman, Public Works Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air

Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

Gerald R. Ford.

EDITORIAL ON SENATOR INOUYE

Mr. HARRY F. BYRD, JR. Mr. President, the Northern Virginia Daily on Wednesday, June 2, had an excellent editorial on our colleague, the Senator from Hawaii, Mr. Inouye.

The Northern Virginia Daily applauded the selection of Senator Inouye as chairman of the new permanent Select Committee on Intelligence. The Virginia newspaper termed Senator Inouye "a notably perceptive and persistent man."

The Senator from Virginia concurs in the words of praise for the Senator from Hawaii, and I ask unanimous consent that the editorial from The Northern Virginia Daily be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Inouye at the Helm

Sen. Daniel K. Inouye is a good choice as chairman of the Senate's new permanent Select Committee on Intelligence. He is a notably perceptive and persistent man, as was demonstrated during the Watergate committee hearings in 1973. The Hawaii senator's record generates confidence that his role as chief watchdog over the activities of intelligence agencies will be discharged with equal zeal and discretion.

The importance of such an approach to this delicate task could scarcely be overemphasized—and that applies, of course, to the other 14 members of this committee as well as to its chairman. The panel must function as (in Inouye's words) "a legislative guardian of liberty," but at the same time it must carefully avoid handicapping legal intelligence operations.

This will involve, above all, extreme care in preventing committee leaks of national security matters—by which we do not mean anything given a blanket "national security" label, but activities properly classified under guidelines established by Congress and the executive branch. Precautions must be taken to assure that legitimate intelligence activities will not be compromised through premature disclosure.

Senator Inouye aptly summarized the matter in his balanced statement: "I pledge that the security of this country will not be compromised by the work of this committee. I pledge that the CIA and other intelligence agencies will not violate the civil rights of any American." There is reason for confidence that he will make a sustained and capable effort to deliver on these pledges.

VIOLENCE SHOWN IN NETWORK PRIME TIME

Mr. MATHIAS. Mr. President, during the past 25 years, American television has bombarded, entertained, tantalized, and informed an audience that is probably larger and more diverse than any other in the world. At a time when events and demands are straining the fabric of our society, broadcasting has the potential of being one of the few common experiences that can help to bind the American people together. For unlike most other forms of entertainment, television can be uniquely part of the family. It follows then, that broadcasters have an equally unique obligation to program in a manner that is responsive and sensitive to the needs, tastes, and interests of the family unit; and it also follows that broadcasters have a special obligation to exercise the maturity to impose upon themselves self-restraint and self-discipline when they are needed.

For the 1975–76 television season the networks, in cooperation with the National Association of Broadcasters, designated the first 2 early evening hours of prime time television as a "family viewing" period in which all network programing would be suitable for all members of the family, including children. One of the major objectives of the family viewing concept was the curbing of the amount of programing oriented toward violence aired during the first 2 hours of prime time viewing. This concept has provoked debate between those who argue that the networks have not gone far enough in their efforts to eliminate unsuitable programing and others who contend that it constitutes an implicit form of censorship.

A recent study by the CBS Office of Social Research shows that the introduction of the family viewing period has been accompanied by a marked decrease from last year in the number of portrayals of violent incidents that occur in the pre-9 p.m. period.

The CBS study is based on 13 weeks of monitoring of prime time television, and it finds that incidents of "dramatic violence" have declined by 24 percent this season, as compared with the 1974–75 season, on all three networks combined, and by 36 percent on the CBS Television Network.

At this point, Mr. President, I ask unanimous consent to have printed in the Record the CBS study of network prime time violence tabulations for the 1975–76 season.

There being no objection, the study was ordered to be printed in the Record, as follows:

Network Prime-Time Violence Tabulations for 1975–76 Season

SUMMARY

The number of violent incidents in prime time on all three networks combined has substantially declined, compared with the 1974–75 season, and are at their lowest level since our monitoring activities began in the 1972–73 season. On each of the three networks, the amount of prime-time violence is down from last year; CBS and NBC are both at their lowest level since the inception of monitoring.

Finally, there is relatively little violence before 9:00 PM (only 11 percent of the total for prime time), and the amount of violence after 9:00 PM is down from last year, although somewhat above the level of prior years.

DETAILS OF THE STUDY

The violence tabulations for the 1975–76 season, covering 13 weeks for each network, indicate a decline in violence during prime-time programming.[1] For the three networks combined, the occurrence of incidents of dramatic violence has declined by 24 percent. The rate per hour of dramatic violence has dropped to a corresponding extent and is now at the level of about 1.9 incidents per hour of prime-time television.

On CBS, the occurrence of incidents of dramatic violence has markedly declined from last season, decreasing by 36 percent. CBS has the lowest rate of violence of the three networks and is at its lowest level of violence since these tabulations began in September, 1972 (Table 1).

Most of the decline in violence on CBS can be attributed to a decline in the average number of violent incidents on CBS "action" programs. For the 13 weeks included in this report, the average number of violent incidents per hour of "action" programming was 3.7; last season it was closer to 5. There has also been a reduction in the number of hours devoted to feature films, which results in a lesser contribution of film violence to the overall total (Table 2).

Both NBC and ABC show a decline in

Footnotes at end of article.

prime-time violence from last season. The amount of violence on NBC is at its lowest level since these tabulations began in 1972. ABC shows a decline from last year, but not from prior years (Table 1).

THE QUESTION OF WEEK-TO-WEEK VARIATION

The data in this memorandum covers 13 weeks of programming for each network and provides enough information to assess the extent of week-to-week variation.

In previous tabulations, which included only two weeks of programming, an effort was made to select weeks that represented as little variation from regularly scheduled programming as possible. The decision was made this season to expand the sample to a longer time interval that would more closely approximate the true average incidence of dramatic violence in prime-time programming. Preemptions for specials and sports events occur throughout the season, and weeks in which preemptions occur are as characteristic of prime-time programming as weeks which adhere to the regular schedule. Both types of weeks are included in the sample, and this is one of the major sources of week-to-week variation.

Another source of week-to-week variation is differences in the nature of the films shown. Each of the networks had some weeks in which films with little or no violence were shown; conversely, each of the networks had at least one week dominated by extremely violent film content.

"Action" programs are more stable in rate of violence (averaging between 3–5 violent incidents per hour) but even here there is some week-to-week variation. There is also the additional factor of preemptions which result in fewer than the number of "action" programs scheduled being shown in some weeks.

Because of all these factors, the week-to-week variation in the extent of dramatic violence becomes quite large, as shown in Table 3. For each of the networks, one or more individual weeks varied considerably from the overall 13-week average. If only one week had been selected to represent this season, the outcomes might have been considerably higher or lower than those obtained. Thus, confirming our earlier hypothesis, we find that expansion of the number of weeks monitored results in a much more realistic appraisal of the amounts of violence on prime-time network programs.[2]

PRE- AND POST-9 P.M. VIOLENCE (ALL NETWORKS COMBINED)

In the current season, dramatic violence is confined mainly to the post-9:00 PM ET period. Only 11 percent of the total incidents of dramatic violence recorded occurred in what has been defined as the network family viewing period, which constitutes 36 percent of prime-time hours. In the sample weeks in previous years, programs involving dramatic violence seem to have been about evenly distributed over the prime-time period, so that about one-third, more or less, of the dramatic violence occurred before 9:00 PM. In the 1974–75 season, however, there was already some evidence of declining violence in the early evening hours; in the March, 1975 sample week in particular, only 17 percent of prime-time violence occurred before 9:00 PM (Table 4).

In absolute terms, there has been a marked decline in the number of violent incidents that occur in the pre-9:00 PM period (Table 5). It should also be noted that the introduction of the family viewing period in the current season has been accompanied by a perceptible decrease in post-9:00 PM violence as compared with the 1974–75 season. Violence in the post-9:00 PM prime-time period is somewhat above the levels occurring in 1972–73 and 1973–74.

Footnotes at end of article.

CHANGES IN REGULARLY SCHEDULED "ACTION" PROGRAMS

In general, a major share of the dramatic violence that occurs in prime-time entertainment television programming occurs in regularly scheduled "action" programs. This season 71 percent of the violent incidents recorded occurred in this type of program.

The number of hours of "action" programming scheduled this season is slightly higher than the 1974–75 season: 25.5 hours as compared to 24.

For each network, the average number of hours of "action" programming tabulated is less than the number of scheduled hours. This is to be expected in a sample carried over many weeks, since the replacement of regularly scheduled "action" programming by specials of a nonviolent nature is bound to occur occasionally. NBC "action" programs in particular appeared less frequently than scheduled in the sample weeks because of preemptions for the World Series and other special programming.

With regard to the average number of violent incidents of "action" programs, CBS shows a substantial decline from last year. There was an average of close to five incidents in each hour of "action" programming in the 1974–75 season on CBS, compared to a rate of 3.7 this season (Table 6).

NBC "action" programs are at about the same level of violence as those of CBS, decreasing slightly from last season's rate. ABC's "action" programs contain, on average, a somewhat higher rate of violence than they did last year (Tables 7 and 8).

TABLE 1.—CHANGES IN PRIME-TIME DRAMATIC VIOLENCE

	Average Number of incidents of dramatic violence	Average number of hours	Average rate of violent incidents per hour	Percent increase or decrease in incidents	Percent increase or decrease in rate per hour
CBS					
1972–73 (2-week average)	48.0	20.5	2.3		
1973–74 (2-week average)	40.5	21.0	1.9	−16	−17
1974–75 (2-week average)	51.0	21.0	2.4	+26	+26
1975–76 (13-week average)	32.5	21.3	1.5	−36	−38
NBC					
1972–73 (2-week average)	49.5	20	2.5		
1973–74 (2-week average)	54.5	20.9	2.6	+10	+4
1974–75 (2-week average)	47.5	21.2	2.2	−13	−15
1975–76 (13-week average)	37.9	20.5	1.8	−20	−18
ABC					
1972–73 (2-week average)	40.5	19.5	2.1		
1973–74 (2-week average)	46.0	20.0	2.3	+14	+10
1974–75 (2-week average)	58.5	20.1	2.9	+27	+26
1975–76 (13-week average)	49.5	20.2	2.4	−15	−17

TABLE 2.—EXTENT OF DRAMATIC VIOLENCE ON PRIME-TIME ENTERTAINMENT TELEVISION—13-WEEK SAMPLE

	Average number of incidents of dramatic violence	Average number of hours	Average rate per hour
CBS			
"Action" programs [1]	24.8	6.6	3.73
Other programs [2]	1.3	12.4	.10
Made-for-TV and feature films	6.4	2.2	2.88
Total [3]	32.5	21.3	1.53
NBC			
"Action" programs [1]	25.0	7.5	3.32
Other programs [2]	2.8	8.4	.33
Made-for-TV and feature films	10.2	4.5	2.24
Total [3]	37.9	20.5	1.85
ABC			
"Action" programs [1]	35.9	8.2	4.36
Other programs [2]	2.5	6.9	.37
Made-for-TV and feature films	11.0	5.1	2.16
Total [3]	49.5	20.2	2.45

[1] Regularly scheduled crime, mystery, western programs.
[2] General drama, comedy, variety—both regularly scheduled and special.
[3] Minor differences between final totals and sum of figures due to rounding.

TABLE 3.—RANGE OF WEEK-TO-WEEK VARIATION IN DRAMATIC VIOLENCE

	Range in number of incidents of dramatic violence	Range in number of hours	Range in average rate per hour
CBS			
"Action" programs [1]	15–32	5– 7	3.0–4.6
Other programs [2]	0– 3	11–14	0– .2
Made-for-TV and feature films	0–21	0– 4	0–6
Total [3]	19–44	20–22.3	.9–2
NBC			
"Action" programs [1]	12–36	4– 9.5	2.7–4.1
Other programs [2]	0– 9	4–12	0– .8
Made-for-TV and feature films	0–29	4– 7	0–4.8
Total [3]	19–56	13–22.5	1.2–2.5
ABC			
"Action" programs [1]	19–47	7– 9	2.7–5.2
Other programs [2]	0–10	4.5– 9	0–1.4
Made-for-TV and feature films	2–26	3.5– 7.8	.4–3.5
Total [3]	32–65	16–22.2	1.8–3.1

[1] Regularly scheduled crime, mystery, western programs.

[2] General drama, comedy, variety—both regularly scheduled and special.

[3] Minimum and maximum range for weekly totals, including all 3 program categories.

TABLE 4.—PROPORTION OF ALL DRAMATIC VIOLENCE IN PRIME TIME BEFORE 9 P.M., E.T.

[All 3 networks combined]

	Percent of dramatic violence before 9 p.m., ET
September 1972 (1 week)	34
February 1973 (1 week)	29
October 1973 (1 week)	35
February 1974 (1 week)	31
November 1974 (1 week)	27
March 1975 (1 week)	17
1975–76 (13-week average)	11

TABLE 5.—INCIDENTS OF DRAMATIC VIOLENCE BEFORE AND AFTER 9 P.M., E.S.T.

[All 3 networks combined]

	Weekly number of incidents before 9 p.m., E.T.	Weekly number of incidents after 9 p.m., E.T.
1972–73 (2-week average)	44	94
1973–74 (2-week average)	46	95
1974–75 (2-week average)	35	122
1975–76 (13-week average)	14	106

TABLE 6.—CHANGES IN RATE PER HOUR OF DRAMATIC VIOLENCE ON REGULARLY SCHEDULED "ACTION" PROGRAMS—CBS

	Number of hours of regularly scheduled "action" programs	Rate per hour of dramatic violence
September 1972	5.0	5.6
February 1973	6.0	4.7
1972–73 season (2-week average)	5.5	5.1
October 1973	8.5	4.2
February 1974	6.0	3.2
1973–74 season (2-week average)	7.2	3.8
November 1974	8.0	4.2
March 1975	7.0	5.4
1974–75 season (2-week average)	7.5	4.8
1975–76 (13-week average)	[1] 6.6	3.7

[1] There were 7 hr of "action" programing scheduled on CBS in both the 1st and 2d half of the season.

TABLE 7.—CHANGES IN RATE PER HOUR OF DRAMATIC VIOLENCE ON REGULARLY SCHEDULED "ACTION" PROGRAMS—NBC

	Number of hours of regularly scheduled "action" programs	Rate per hour of dramatic violence
September 1972	9.0	5.8
February 1973	5.5	4.0
1972–73 season (2-week average)	7.2	5.1
October 1973	7.5	3.9
February 1974	8.0	3.5
1973–74 season (2-week average)	7.8	3.7
November 1974	7.5	4.0
March 1975	7.5	3.2
1974–75 season (2-week average)	7.5	3.6
1975–76 (13-week average)	[1] 7.5	3.3

[1] There were 9 hrs of "action" programs scheduled on NBC in the 1st half of the season and 10 in the 2d half.

TABLE 8.—CHANGES IN RATE PER HOUR OF DRAMATIC VIOLENCE ON REGULARLY SCHEDULED "ACTION" PROGRAMS—ABC

	Number of hours of regularly scheduled "action" programs	Rate per hour of dramatic violence
September 1972	7.0	4.1
February 1973	5.0	5.4
1972–73 season (2-week average)	6.0	4.7
October 1973	6.0	4.7
February 1974	7.5	5.7
1973–74 season (2-week average)	6.8	5.2
November 1974	8.0	4.4
March 1975	10.0	3.5
1974–75 season (2-week average)	9.0	3.9
1975–76 (13-week average)	[1] 8.2	4.4

[1] There were 9 hr of "action" programs scheduled on ABC for both the 1st and the 2d half of the season.

TECHNICAL APPENDICES

I. Analysis of violence in prime-time programming

In previous seasons, the Office of Social Research has monitored two sample weeks of prime-time television a year. One of the two sample weeks was monitored in the fall and the other after February 1, in order to take account of any midseason program changes. The sample weeks were chosen to reflect, as closely as possible, the normal prime-time schedule. Weeks containing no or few "specials" were favored over weeks containing several specials.

For the 1975–76 season, thirteen weeks, or half of the 1975–76 season, are included in the sample to reflect more adequately the total range of programming.

Monitoring during the sample weeks covers all regular-series programming and such entertainment specials as are scheduled, as well as theatrical features and made-for-television films. News, documentaries and sports are excluded.

DEFINITION OF VIOLENCE

Violence was defined for the monitoring as follows:

"The use of physical force against persons or animals, or the articulated, explicit threat of physical force to compel particular behavior on the part of a person."

The implementation of the definition included accidents or acts of nature which occurred in a violent context as, for example, a person being killed in an automobile accident while escaping from a crime. Further, all acts intended to cause physical harm (for example, attempted murder) were included, whether they were successful or not.

Violence was counted in terms of incidents. An incident is not absolutely synonymous with an "act." One "incident" might include brief breaks in the action, as in a protracted chase scene, interrupted by pauses for regrouping and reloading or acts of violence by more than one person, as, for example, in a fight scene involving several people.

Unintentional injuries (such as might result from a shove merely intended to get someone out of one's way) were not considered violent, nor were threats that were not backed up by a show of force (along the lines of "I'll get you some day").

A separate count was made of comic violence (e.g., the proverbial slapstick scene of hitting someone with a custard pie). Incidents of comic violence were few and are not included in the total counts of dramatic violence shown here.

Further details regarding the counting procedure will be found in the appended "Definitions and Guideline as Furnished to Coders."

II. Definitions and guidelines, as furnished to coders

Definition of Violent Episodes

One sustained, dramatically continuous event involving violence, with essentially the same group of participants and with no major interruptions in continuity.

Duration of a Violent Episode

A violent episode begins with either the violent act itself or with a threat of violence (as defined below). For example, if a policeman shouts "Stop or I'll shoot," and then shoots at the person fleeing, the episode would be counted as beginning with the initial shout.

Categories of Violence

Physical. The use of physical force against persons or animals, whether or not it is successful. For example, if a person shoots at another person and misses, this is still an act of violence. Also included are accidents or acts of nature in a violent context. For example, if a person is killed in an auto accident while escaping from the scene of a crime or the villain of the play is struck by lightning.

Threats of physical force. The articulated, explicit threat of physical force used as compulsion so as to create in the person threatened the fear *of bodily harm if he* did not comply. However, if threat is accompanied by or immediately followed by physical injury, it will not be counted separately. Do not include those physical actions which are not intended to and apparently do not produce bodily harm (e.g., a shove intended only to get someone out of one's way).

Results of Violence[3]

There are two categories of results:

(1) Lethal injury (death). Note that if a person is shot and falls down, he cannot be assumed to be dead unless it is clearly indicated. Often it is only later in the program that someone says that the person involved is dead, in the hospital, etc.

(2) Injury. This includes every infliction of pain from a single blow to a gunshot wound.

Comic Violence

An episode of "comic" violence is one in which the violence is in a context which would ordinarily produce laughter.

FOOTNOTES

[1] All prime-time entertainment programming, excluding news, sports, and documentaries, was monitored for incidents of dramatic violence. Comic violence was not included in the tabulations. (See Technical Appendix for definitions of violence.) Dates of specific weeks analyzed are available on request.

[2] Standard deviations of the mean number of incidents (a statistical measure of dispersion or variation from the average) were 7.38, 10.67, and 10.80 for CBS, NBC, and ABC, respectively. Means are shown in Table 1.

[3] These "results of violence" data are not included in this report.

THE GENOCIDE CONVENTION AND LEGAL JURISDICTION

Mr. PROXMIRE. Mr. President, once again I urge that the Senate delay no longer the consideration and ratification of the Genocide Convention.

Some have raised objections related to article VI of the treaty. They believe that our ratification of the Convention would lead to the trial of American citizens by foreign courts on charges of genocide. This is misleading. Those who attempt to make such a connection overlook the existing legal sovereignty of nations within their own territorial boundaries. Americans are already being held accountable for their actions in other countries. Consider the hundreds of young Americans in foreign prisons now serving time for narcotics violations. Thus, our citizens can be tried for genocide abroad whether we ratify the Convention or not.

Our ratification of the treaty does not alter or expand existing legal jurisdictions. The judicial authority of each signatory remains the same. American citizens can be charged with any crime, no matter how trivial, according to the legal system of the nation they are in.

Section 3 of the implementing legislation (S. 3155) clearly directs that the Secretary of State, in negotiating extradition treaties, "reserve for the United States the right to refuse extradition of a U.S. national to a foreign country when the offense has been committed outside the country" and the United States is either trying the individual or intends to exercise its jurisdiction. Thus, the safeguards for treatment of our own citizens are quite explicit.

Our continuing avoidance of the Genocide Convention casts a shadow of doubt over our national reputation for humanitarian concern. It seems a contradiction to the high regard we as a Nation hold toward the sanctity of human life.

WELFARE FRAUD

Mr. BUCKLEY. Mr. President, on May 26, the Foundation for Child Development released a report entitled, "State of the Child: New York City." The result of a 2-year study costing $200,000, this report reveals that there are on New York City's welfare rolls 100,000 more children than the total number of children listed by the Census Bureau as residing in New York. This astounding revelation underscores the fact that welfare fraud and abuse is a problem which demands our immediate attention. Although everyone realizes that welfare abuse is widespread, the magnitude of these figures is truly astonishing.

According to the New York Times, the authors of "State of the Child: New York City" approached city and State welfare officials with their findings and asked for an explanation. This request was met with "stunned silence." Although I understand the desire of those officials to see the foundation's final report before making any comments, their lack of an immediate response shows little concern for the seriousness of this problem. Unfortunately, silence has become the habitual reaction of many public officials to each new revelation about the scandalous abuse of our welfare programs.

The foundation's timely report emphasizes that all levels of Government must take immediate and effective steps to insure that the disgrace of welfare fraud is eliminated. Taxpayers throughout the United States are being forced to pay higher and higher percentages of their earned income to support mushrooming welfare budgets. Elected officials owe it to the hard-working citizens of this country to see to it that their tax dollars are not wasted.

"State of the Child: New York City" comes at a time when private citizens and public officials alike are calling for welfare reform. I have received considerable correspondence from constituents who are concerned that welfare fraud is costing them substantial sums of money. These concerned citizens who are writing to me do not want to alter America's traditional policy of generosity to the needy; they are merely asking that the Government take steps to insure that their tax money is accounted for and not squandered on inefficient programs.

One minor but especially alarming sidelight of this study is the fact that the Foundation for Child Development was unable to detail exactly who these 100,000 children were and where they came from. Welfare officials could not explain "nonexistent" children. This lack of accountability is perhaps even more shocking than the figures concerning welfare fraud.

The authors of the Child Development Foundation's report speculate that some of the 100,000 "phantom" children may be in New York illegally. Last October, I introduced a bill designed to stem the flow of illegal aliens into our country. When I introduced S. 2531, I pointed out that illegal aliens often make use of public assistance, thus forcing American taxpayers to support their unlawful residency in the United States. My bill contains a provision which would prohibit the appropriation of Federal funds for any assistance program which did not, as a condition of eligibility, require proof of citizenship, or legal residency. I believe that the enactment of this provision would cause welfare officials to become more zealous in their efforts to enforce eligibility requirements. It would eventually reduce the number of illegal aliens who are receiving welfare benefits at the expense of the taxpayers. "The State of the Child: New York City" shows just how serious this problem may be and makes it all the more urgent for Congress to act on the legislation I have proposed.

Although "State of the Child: New York City" deals exclusively with New York, it cannot be denied that welfare fraud is a national disgrace. If 100,000 nonexistent children are on New York's welfare rolls, we can be assured that there are hundreds of thousands more throughout the rest of the country. I recently introduced in the Senate a resolution calling for the establishment of a select committee of the Senate to investigate the widespread allegation of fraud and inefficiency in federally funded public assistance programs. This select committee would provide the Senate with the mechanism it needs to effectively study the scandal of welfare fraud.

Congress' silence on this issue eloquently testifies to its refusal to face this problem. Let the Senate abandon its habitual policy of ignoring the pleas of beleaguered taxpayers. Let it proceed to the important task of implementing substantive welfare reform. A Select Senate Committee on Welfare Fraud would allow us to undertake that task. Mr. President, it is time for us to escape from vacuous rhetoric about welfare reform and to seriously study the problem of welfare fraud. The time is ripe for the Senate to establish a select committee specifically charged with the responsibility to determine the prevalence of fraud in public assistance programs, and to recommend necessary standards and reforms. To emphasize that point, I ask unanimous consent that the Times article on "State of the Child: New York City," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WELFARE FIGURES CITED IN REPORT—STUDY FINDS MORE CHILDREN GET AID THAN THE CENSUS LISTS FOR WHOLE CITY

(By Edith Evans Asbury)

A two-year study had found that 100,000 more children are on New York City's welfare roles than the total number of children that the Census Bureau lists for the city.

The findings of the $200,000 study appear in a 187-page book that was released yesterday by the Foundation for Child Development, a private organization that sponsored the study.

Trude Lash, co-author of the book, which is titled, "State of the Child: New York City," said she had asked state and city welfare officials for an explanation of the 100,000 "phantom children" several months ago. "The only answer we have received so far is stunned silence," she said.

Some of the children may have been "borrowed" by applicants for welfare and some may be here illegally, Mrs. Lash added, but "nobody can explain."

"INFORMAL DISCUSSIONS"

A spokesman for the State Commissioner of Social Services said that there had been "informal discussions" between its staff and Mrs. Lash about the statistics, but that "we would like to see the report before commenting."

J. Henry Smith, who became City Human Resources Administrator last March after the post had been vacant since December, also preferred to see the report before commenting, according to his spokesman.

Mrs. Lash, senior staff scientist with the foundation; her coauthor, Heidi Sigal, a researcher with the foundation, and others associated with the study discussed the findings at a news conference yesterday at the foundation's office at 345 East 46th Street.

The "incredible discrepency" between welfare and census figures is typical of the inadequacy of data about the city's children that was found, according to Nicholas Zill, a scientist for the foundation who worked on the study.

"Many collectors of data have blinders," Mr. Zill said. "They collect it for their own administrative purposes only", and we're often unwilling to share it.

One in four of the city's two million children (one black child in two) lives in a household that is headed by a woman, suggesting the need for drastic revision of family-assistance policy, the study found.

The policy "appears to create disincentives for some women who head households to marry or remarry," the report states.

COURTS SCORED

The Family Court system, Mrs. Lash said, "now a mishmash of 'no system,' is no longer a social court but an adversary court."

She added that children were being "dragged into court for playing out late at night" while other children, arrested for serious crimes, were not.

The study also found a sharp increase in crimes committed by youths.

"Questions need to be asked," the report declares, about various agencies involved in the juvenile justice system, and ways found to "avoid wasteful duplication, assure that no one falls between the cracks and clearly place accountability."

Two thirds of the city's schoolchildren are not able to read at their grade level and nearly 200,000 are staying away from school a day, which amounts to "a massive school boycott," the study found. The large number of drop-outs and of those suspended from high school indicates that teacher's are not functioning properly, Mrs. Lash said.

SOLAR ENERGY REPORT AT SANDIA LABORATORIES, NEW MEXICO

Mr. MONTOYA. Mr. President, recently, the Wall Street Journal published an interesting article on a highly significant solar energy project that is being developed by ERDA's Sandia Laboratories in Albuquerque, N. Mex.

The project's aim is to convert the sun's limitless energy into electricity on a massive scale. Construction has already begun on the 320 huge mirrors and 200-foot boiler tower which will be heating water to run steam turbines.

Mr. President, the importance of this project cannot be overemphasized. As our need for energy grows, it is critical that we explore all potential alternative energy sources. Because it is a limitless source, all facets of solar energy must be researched and developed to enable us to decide if solar energy can be utilized economically. I believe it can.

The fact that this project is being developed in New Mexico is not incidental. Sandia Laboratories have been conducting solar energy research for years. Beyond this, the University of New Mexico, New Mexico State University, and other colleges in the State provide, through their work in solar research, assistance, and cooperation with Sandia in the area of solar energy research. Los Alamos Scientific Laboratory, located in New Mexico, is also involved in solar energy development, and they, too, work collectively with all organizations in the State in exploring this potentially valuable energy source. Given all this technical expertise and support, coupled with the enthusiasm of the citizens of New Mexico toward solar energy, it is no wonder that New Mexico is taking a leading role in research, development, and implementation of solar energy.

Mr. President, I ask unanimous consent that the article from the Wall Street Journal of May 28, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DISTANT GLIMMER: HUGE POWER STATIONS FOR SOLAR ELECTRICITY ARE DECADES IN FUTURE—SUN VIEWED AS ENERGY HOPE, BUT PLANNERS SAY COSTS ARE BIG STUMBLING BLOCK; THROUGH A LENS BRIGHTLY

(By Les Gapay)

ALBUQUERQUE, N.M.—U.S. energy researchers are drawing up elaborate, and costly, plans for the home and factory of the future to plug into the power of the sun. The aim is to convert the sun's limitless energy into electricity on a massive scale.

Construction has begun here on the pioneering project. There will be 320 huge mirrors on the ground reflecting sunlight onto a boiler atop a 200-foot concrete tower. Water will be pumped into the boiler and heated to make steam. Eventually, the steam could be used to produce electricity.

Testing of the solar tower is to begin next year here at the Energy Research and Development Administration's Sandia Laboratories. In 1980. ERDA plans to complete a similar solar tower that will actually put out 10,000 kilowatts of electricity, enough to serve a town of about 10,000 people. This would be the nation's first solar electric pilot plant.

The technology needed for such an operation already exists. "We know it will make electricity," says George Kaplan, an ERDA official in Washington. "There isn't any high technology here. A mirror is a mirror."

A DISTANT GLIMMER?

The use of solar energy for the large scale production of electricity clearly holds dazzling promise. Solar energy advocates see this harnessing of the sun's power as helping to meet shortages that threaten as the earth's oil and natural gas supplies dwindle and as coal and nuclear power encounter increased public concern *over pollution and safety*. Certainly, solar electricity would have a much wider application than the solar energy now captured with rooftop collectors that increasingly are being used to heat buildings. The most popular units use warm circulating water to provide central heating.

But to more pragmatic energy planners, the dazzling promise of solar electricity looks like a distant glimmer. The first commercial-size generating plant isn't expected to begin operating until 1990, and scientists agree this new power source won't become commonplace until beyond the turn of the century. "Large-scale utilization . . . is not anticipated sooner than the year 2000," says Piet Bos, solar program manager for the Electric Power Research Institute, a utility industry group. Even when lumping in all other solar energy applications together with solar electricity, ERDA officials forecast that sun power will supply only 7% of the nation's energy by the end of the century.

The main obstacle is the high cost of building what would have to be massive solar power stations with complex energy storage systems for use on overcast days. This high capital cost would, in turn, mean very expensive electricity. "The technology is already here, but solar isn't yet economically competitive with other energy forms," says Henry H. Marvin, director of ERDA's solar division.

ERDA economist Paul Maycock calculates that a solar power station today using a reflecting tower would cost $7,500 per kilowatt of generating capacity to build; a drop to about $1,500 per kilowatt is needed to make such a project competitive with fossil-fueled plants of intermediate size, he says.

AN EXPANSIVE EXPERIMENT

Here at Sandia Labs, operated for ERDA by Western Electric Co., the cost problems can already be glimpsed. They arise in part from the expanse of land needed for a solar tower project. Even next year's first test operation, for which land grading has begun, will spread across about 100 acres, says Arthur J. Clark, Jr., the project's manager here. Of the total, about 40 acres are needed just for the 320 20-foot-square mirrors that will reflect the sun's rays onto the tower. The remaining 60 acres will contain the tower, the reflection zone and various test buildings.

The mirrors are particularly costly because each is mounted on a motor-driven device that tracks the sun across the sky. The entire contraption is called a heliostat. Further solar tower plants may need 20,000 or more heliostats, and Mr. Bos calls them the key to the cost competitiveness of such plants. He figures that mass production could bring their cost down to the needed $7 a square foot by 1990. The price now would be three or four times as much.

The need for storing energy for use on cloudy days adds to the cost pressures. ERDA's contractors here, Martin Marietta Corp., McDonnell Douglas Corp. and Honeywell Inc., are developing various experimental systems for the *planned 10,000 kilowatt* experimental plant. The storage devices would be able to hold enough energy, in the form of heat, to maintain the plant's electrical output for four to six hours. Any greater storage capacity would push the system's cost beyond competitive levels, ERDA officials say.

INTERMEDIATE-SIZE PLANTS

The developers anticipate that the solar electric plants will be used for the foreseeable future mainly in the sunny Southwest and only to supplement *more* conventional power sources. That means these plants will be of intermediate size, each generating from 50,000 to 250,000 kilowatts, rather than the size of the one-million-kilowatt coal-fired and nuclear plants that utilities are now building.

There is some disagreement, though, over the significance of the high costs now looming for solar electricity. Floyd Blake, an executive of Martin Marietta, says the current economic obstacles are "part of a natural cycle" and that "cost reduction is the last stage of any new development. The first computers weren't cost-effective." He predicts that solar electric plants will become economically competitive with nuclear plants and some fossil-fueled plants sometime between 1990 and 1995.

Critics, however, say the government and industry aren't pushing solar electricity or other solar energy projects as fast as they could. Environmentalist Barry Commoner, in his recently published book "The Poverty of Power," says the government has dismissed the sun's potential as "only a faint distant hope" and argues that solar energy could replace most and perhaps all of the use of conventional fuels.

Whether it's doing enough or not, ERDA, the government's leading developer of energy technology, is putting two-thirds of its solar energy dollars into work on electricity; the rest goes into heating and cooling via the rooftop collector method. "Solar electric has the most eventual impact, the highest payoff," declares James Mitchell, the top energy budget official for the White House.

The solar tower approach is just one ERDA-backed project to make electricity from sun power. Another major effort involves work on so-called solar cells that convert the sun's rays directly into electricity, without any need for towers or mirrors. Sunlight activates electrons in a disk of sensitive material and produces electricity.

Joseph Lindmayer, president of Solarex Corp. in Rockville, Md., which makes solar cells, predicts that by 1985 they will be commercially available to be installed atop houses and buildings to provide electricity. Others envision eventual use of the cells in utilities' generating stations, and even orbiting them in satellites to beam power back to ground reecivers. In this way there would be no clouds to block the reception of the sun's rays.

Solar cells, originally developed for use in space exploration, have recently begun to find small-scale applications in remote areas, such as powering radio equipment and lights on buoys and even supplying current for a U.S. Forest Service restroom in Montana. But high cost is holding back commercial use. ERDA officials calculate the average cost today of a cell capable of generating one watt of electricity is $20. They say it must come down to 50 cents for cells to begin to compete with other energy sources. The government's goal is to achieve that figure by 1985.

ERDA economist Mr. Maycock figures the present $20-a-watt cost of a solar cell translates into a capital cost for a utility's solar cell system in a central generating station of $20,000 a peak kilowatt of generating capacity (peak meaning maximum output at noon on a sunny day). He says that if the needed storage capability of three to six hours of the station's output is added, the present cost would be $40,000 to $50,000 per peak kilowatt. For such a system to compete with fossil-fueled or nuclear power plants, he estimates, the cost would have to tumble all the way to $1,000 to $1,100 per peak kilowatt, figured in today's dollars.

In producing electricity from solar cells, much of the expense is in the manufacturing of the cell itself. The most common cells are made from silicon, which is the second most abundant element on earth and is usually found in a compound form like sand; refining silicon to the needed purity and single crystal form is a very expensive process.

But efforts are being made to shrink this expense. One company, Mobil Tyco Solar Energy Corp., a joint venture of Mobil Oil Corp. and Tyco Laboratories Inc., is working on speeding, and thus cutting the cost, of processing silicon into the form needed for solar cells. Other companies are experimenting with alternate materials that might be less expensive than silicon, such as cadmium sulphide and gallium arsenide.

Here at Sandia, researchers are taking another promising path: They are using lenses to concentrate sunlight on solar cells to boost the cells' electrical output. In this way, fewer cells are needed to produce a given wattage.

Recently, Sandia scientist Donald Schueler, atop the roof of a laboratory, felt the sun's warmth on his hand under a lens that was concentrating sunlight onto a silicon solar cell two inches in diameter. The lens, the size of a phonograph record, can "on a hot day burn wood, asphalt, almost anything," he said, pulling out his hand. This lens has increased the one-fifth-watt output of an individual solar cell to 10 watts. This summer, Sandia plans to have in operation a system of 150 lenses and 150 solar cells expected to produce 1 kilowatt of electricity.

Researchers here are trying other ways of turning sun power into electricity. They have a complete solar energy system actually producing electricity on a small test scale. What was a parking lot just last year is now covered with a score of 9-by-12-foot trough-shaped, aluminum reflectors. These devices track the sun across the sky and reflect its rays to a thin tube of fluid (a chemical called toluene, which is one of the ingredients of TNT) that flows across the shiny reflecting surface. The fluid is heated and the resulting vapor drives a turbine to produce electricity.

The system is also designed to use the heat normally wasted in the electrical generation process. It's planned to use the electricity for lighting a nearby building and to channel the waste heat into the building both to heat it and for use in an air-conditioning system to cool it.

Eventually such systems might "provide all the energy needed by small subdivisions, apartment buildings or shopping centers," says Sandia researcher James A. Leonard. ERDA plans to test the economics of such a system in 1979 or 1980 with a pilot plant capable of serving about 20 homes or a 20-unit apartment building.

When they think of solar electricity, ERDA researchers think big. Besides projects involving solar towers and solar cells, their work includes efforts to generate power by harnessing both the winds (a form of solar energy since they result from the sun's unequal heating of the atmosphere) and ocean currents (which are influenced by the sun's unequal warming of sea waters).

The developers of all these technologies are looking beyond the end of this century. Despite today's cost problems, ERDA officials forecast that solar sources, direct or indirect, could yield 15% of the nation's electrical output by the year 2020.

NUCLEAR POWER AS A SOCIAL ISSUE

Mr. BAKER. Mr. President, George Will writes in this morning's Washington Post of the potential social impact of the antinuclear movement now urging citizens to oppose Proposition 15 in California. Many of those who oppose nuclear power have caricatured an industry-establishment coalition versus the "little people." Nothing could be further from the truth. As Mr. Will correctly notes, the negative impact of inadequate energy will influence a broad cross-section of the American populace, but will most severely impact the less wealthy, those whom Will defines as living near "the waterline of life."

I believe that those of us who are advocates of safe and effective nuclear energy generation have the best interests of the American people at heart more so than do our opponents. Viewing the issue from a purely sociological standpoint, George Will would seem to agree.

Mr. President, I congratulate Mr. Will for his penetrating insight and thoughtful commentary, and I ask unanimous consent that his remarks as published in the Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR POWER AS A SOCIAL ISSUE

(By George F. Will)

When the Titanic steamed into an iceberg, the disaster was not democratic. Fifty-six per cent of third class women passengers died. Only four of the 143 first class passengers died. You do not need to ask which class was traveling near or below the waterline.

The social structure of the Titanic was like that of society; hard times come first and hardest to persons living close to life's waterline. This fact is relevant to much argument about social policies, including the growing argument about the use of nuclear power plants to generate electricity.

Few things are as surversive of public reasonableness as the misdescription of social issues. Opponents of nuclear power have managed to present this as an "environmental issue." But the dispute concerns the allocation of significant social costs and opportunities.

Hence it is a "social justice" issue. This means that values other than those usually thought of as "environmental" are at stake.

Thirty-four states are considering legislation or referenda to restrict or eliminate commercial nuclear power plants. And California will vote June 8 on a measure that may set a pattern. If passed, Proposition 15 will mean the closing of some existing nuclear plants. Others will be harder, perhaps impossible, to build.

At one level the dispute is esoteric and ideological. Around the nation, and especially in California—home of much high technology industry—an intense, articulate and growing minority believes that technology and the economic growth it supports, has gone too far. This idea, which has a pedigree more ancient than steam power, is part of the fuel for the anti-nuclear movement.

But, at another level, the argument is about practical questions of safety. Opponents of nuclear power argue that it involves intolerable risks of catastrophic accidents (release of a radioactive cloud); that the disposal of nuclear wastes is an unsolved problem; that terrorists can build devices with material pilfered from nuclear plants.

These fears, although not groundless, are not substantial enough to merit an action as severe as Proposition 15. It might indeed (as many of its supporters hope) stop all nuclear power in California and show how to do that elsewhere.

There is nothing inherently insoluble about nuclear waste disposal problems. Terrorists will have many plants to attack in nations where security is more lax than in the United States. And after hundreds of reactor-years of operation, there has not been a single radiation fatality in any of the 162 commercial nuclear plants around the world.

The costs of banishing nuclear power are more certain than the risks of not doing so. Conservation can dampen but not halt the growth of demand for electricity, and the choice is not between demonstrably dangerous and perfectly benign ways of producing it. Against the remote possibility of an unprecedented nuclear catastrophe stands the certainty of numerous deaths attributable to respiratory ailments aggravated by increased use of coal in power plants.

That is just one way of illustrating the point that there are many ways to adversely affect the "quality of life." One sure way is to restrict the life changes of the less well-placed members of society.

When the necessities of life become more dear, the pain is worse for persons whose conditions are most necessitous. Electricity generated by nuclear power is less expensive than that generated in oil or coal plants, and lower income persons are apt to spend significantly more of their disposable income on utility costs than are more affluent people.

In addition, curtailment of nuclear power in California, and elsewhere, would mean slowing economic growth. It is arguable that that would be good for our souls. What is certain is that persons who have farthest to rise in a society have most to lose from the dampening of society's dynamism.

To persons well above society's "waterline," Proposition 15 may look like an "environmental issue." Those at or below the line will be forgiven for thinking that what is at stake is the social environment. Hence, Proposition 15 is a question of social justice. Life at the waterline does concentrate the mind.

INTERIOR DEPARTMENT'S CONSERVATION YEARBOOK

Mr. McGEE. Mr. President, the Department of the Interior has released a very special publication for the Bicentennial entitled: "America 200—The Legacy of Our Lands." I want to commend the Department and the individuals involved in this publication and urge my colleagues to look through the copies provided them by the Department.

I note with interest that my good friend, Jerry O'Callaghan, provided the historical material for the book. Jerry is a former University of Wyoming professor, worked for the late Senator Joseph C. O'Mahoney as I did, and ran for the U.S. House of Representatives from Wyoming. I appreciate the Wyoming influence in this publication.

Mr. President, I ask unanimous consent that a Department of the Interior press release on this publication be printed in the Record.

There being no objection, the press release was ordered to be printed in the Record, as follows:

INTERIOR'S 1976 YEARBOOK CHRONICLES PUBLIC LANDS STORY SINCE 1776

A special issue of the Interior Department's Conservation Yearbook—called "America 200: The Legacy of Our Lands"—was released today.

The book is a 160-page paperback, in color and black and white, with more than 200 illustrations including rare documents, engravings, paintings and glass plate photography.

The text, largely the work of Jerry A. O'Callaghan, with editing by Virginia S. Hart, traces some of the connections between public lands policies and sociopolitical developments in the U.S. from pre-Revolutionary days to the present.

The author drew from diaries of early settlers, records of Indian tribes, Interior Department archives, newspapers and records of Congress for much of the material, to bring together glimpses of the humor, pathos, ingenuity and general character of travelers through American history. It is a story of land and resources as they affect people—Indians and pioneers, railroaders and miners, conservationists and developers—and a story of public figures and public moods.

Significant but little-known bits of information are peppered throughout the text. For instance, did you know—

That oil shale was "discovered" when one Mathew Callahan built a fireplace of the oily rock, lit a fire, and saw his house burn down?

That 1913 was the biggest year in history for the Homestead Act?

That the earliest transportation land grants were not for railroads but for wagon trails and canals?

That Abraham Lincoln received land for his service in the Black Hawk Indian War?

That the great public land survey of 1785 is the reason for the tidy configurations of farmlands and townships west of the Mississippi?

That 5,000 Hessians were lured away from the British Army by the Continental Congress with the promise of 50 acres of land?

That in 1975 the National Parks had 240 million visitors; that the Fish and Wildlife Service runs lab tests on ailing species; and that the Forest Service is *not* in the Department of the Interior?

"America 200: The Legacy of Our Lands" contains more detail about these and countless other facts relating to public lands. The price is $5.55 per single copy. It may be purchased at Government Printing Office bookstores, or ordered by mail. Send check or money order to: Manager, Public Documents Distribution Center, Pueblo Industrial Park, Pueblo, Colorado 81009.

THE BUCKLEY PRIVACY AMENDMENT TWO YEARS LATER

Mr. BUCKLEY. Mr. President, 2 years ago I introduced the Family Educational Rights and Privacy Act of 1974 to protect certain basic rights, of students and their parents.

The act, which became known as the Buckley amendment, was passed as part of the Education Amendments of 1974. It took effect on November 19, 1974.

The initial reaction of many sectors of the education community was one of alarm. They professed a fear of endless red tape and court suits which would interfere with legitimate educational functions.

Interested citizens' groups regarded the amendment as giving parents and students authority they needed to deal more effectively with insensitive and overreaching institutions.

The Buckley amendment has been in effect for 18 months. There is continuing interest in its requirements and legal effects. A recent report prepared for a Right of Privacy Seminar conducted by the Georgetown University Law Center explores the amendment's implementation and some of its legal implications. I ask unanimous consent that this report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

THE BUCKLEY AMENDMENT TWO YEARS LATER

(By Katherine Cudlipp)

The Family Educational Rights and Privacy of 1974,[1] the so-called Buckley Amendment, grants parents the right to inspect all records that schools maintain on their children and to challenge any contents they believe are inaccurate or misleading. The Act also requires that parents consent before information from school records is released to those outside specified educational categories. Once a student reaches eighteen years of age or enters a postsecondary educational institution, he assumes these rights in his parents' stead. Penalty for failure of an educational system or institution to comply with the law is loss of all federal assistance administered by the U.S. Office of Education.

The Act, which had a somewhat unusual legislative history in that it never received consideration by a Congressional committee,[2] grew out of the concerns of Senator James L. Buckley that educators were usurping parents' authority. Supporters of the Amendment saw it as advancing the rights of individuals—parents and students—against institutional encroachments. Detractors feared it would enmesh schools in more federal red tape and upset delicate relationships among educators and educational institutions.[3]

Rights granted by the Amendment are consistent with standards suggested by studies and records and recordkeeping:[4] Subjects of records have the right to know of the existence of the files; the right to inspect the records for accuracy; to challenge allegedly erroneous information, and to limit distribution to those with a legitimate and immediate interest in the information. Other federal legislation has extended similar protection to individuals in different contexts.[5]

Ths paper will examine in brief the state of the law regarding school records prior to passage of the Act, progress thus far in implementing the Act, and the likelihood that courts will find in the Act new grounds for relief in cases dealing with student records.

THE STATE OF THE LAW PRIOR TO PASSAGE OF THE BUCKLEY AMENDMENT

Before passage of the Buckley Amendment, laws regarding school records varied widely among States. Twenty-four States provided for some form of parental or student access to school records.[6] Of these twenty-four, fifteen conferred the right by statute, three by administrative regulations and six through administrative guidelines. Only five States explicitly granted the right to contest, correct or expunge information in school files. Ten states expressly permitted release of student's files without parental consent to other than educational agencies while nine prohibited such release.

Decisions by courts have also affected the rights of parents and students vis-a-vis educational institutions. It will be useful to examine separately the effects of decisions on (1) parent or student access to records, (2) modification or challenge of the contents of records, and (3) dissemination of records to third parties. Before beginning that discussion, it might be pointed out that practices in individual school districts may not be in accord with rulings by State courts. For example, although most analysts agree that

---

Footnotes at end of article.

under common law principles parents have a right to inspect school records of their children, one study showed that in only twenty of fifty-four districts were parents given access to complete school records on their child.[7] Of the same fifty-four districts, however, twenty-nine gave complete access to CIA and FBI officials, twenty-three to juvenile authorities and twenty-one to health department officials.

The common law creates a strong presumption in favor of access to records of a public nature by persons having sufficient interest in the subject matter, where access is not detrimental to the public interest.[8] On 1961 a New York court found that "absent constitutional, legislative, or administrative permission or prohibition," a parent has the right "to inspect the records of his child maintained by school authorities as required by law."[9] The court reasoned that although school records are not, strictly speaking, public records, the fact that they are required by law to be kept by a public officer subjects them to the common law rule that a person with an interest in the subject matter is entitled to inspection.

More recent common law cases dealing with rights to inspect public records suggest that agencies bear a heavy burden in showing that inspection is inappropriate or unduly onerous.[10] With respect to school records in particular, the state of the law by the mid-1960's appeared to be that where such records were required to be kept by statute or regulation, parents possessed the requisite interest to be given inspection rights.[11]

Court decisions affecting parental and student right to question entries in records have arisen in a number of contexts. Where certain information is the basis for decisions affecting a student's legal rights—for example, prejudicial or exclusionary decisions—parents (or students) have been granted the right to challenge the information on procedural due process grounds. Where students were threatened with expulsion from college[12] or high school,[13] it was held that they had the right to presentation of the facts in the record, a hearing, and an opportunity for the students to present witnesses and their own version of the facts.

Similarly, where students are threatened with exclusion from the school system or placement in special programs, parents have been given the right to notification of the reasons for such proposed action and a hearing at which they may question the basis for the school's decision. In one instance the court explictly provided that the parents had the right to "examine the child's records before the hearing, including any tests or reports upon which the proposed action may be based."[14]

One court agreed not only that certain information should not be included in a student's file but found that the program generating the information was an invasion of the student's constitutional right of privacy and ordered the program terminated.[15] In addition to the privacy ground for its decision, the court found that the school system had not met minimum due process requirements in obtaining parental permission and undertaking a program of marginal reliability which could have resulted in imposing the lifelong label of "potential drug abuser" on the child.

Suits have brought to challenge inclusion of certain factual informaton in a student's file, even where the accuracy of such information was not contested. The trend of decisions in such cases is not clear. In one case[16] high school students and their parents sought a preliminary injunction against school officials to prevent the latter from communicating with colleges or prospective employers about the students' orderly demonstration at graduation exercises. The school proposed to send a short letter accurately describing the fact that plaintiffs had worn armbands at graduation even though requested not to. The court denied the injunction, finding no proof of irreparable harm, saying:

"School officials have the right and, we think a duty to record and to communicate the factual information about their students to institutions of higher learning, for the purpose of giving to the latter an accurate and complete picture of applicants for admission."[17]

In another case,[18] however, high school students challenged disciplinary action taken against their passing out leaflets opposing the school's dress code and requested an order requiring school officials to expunge from school records any mention of the action. The trial court dismissed the complaint, but on appeal the case was remanded for consideration on the merits.

With respect to dissemination of records to third persons, it is probably safe to say that prior to passage of the Buckley Amendment, courts did not sanction release of school records to anyone not having an interest in them.[19] The requisite interest may have been established by statute or regulation. In the absence of either, standards established under the common law of the jurisdiction controlled access, and these standards varied widely.

ACTIVITY SINCE PASSAGE OF THE BUCKLEY AMENDMENT

The Buckley Amendment has created a national standard for treatment of student records. It eliminates most questions as to what records are to be made available to parents and students[20] and sets a time limit for compliance with a parent's request to inspect the records.[21] The provision prohibits disclosure of all but so-called "directory" information[22] in a record to anyone other than enumerated officials or organizations without written, informed consent from the parents or responsible student.[23] It provides the opportunity for parents or a student to challenge the contents of the education records, at a hearing if necessary.[24] While not requiring that any material in the records be expunged, the law does require that parents be given the opportunity to add to the record written explanations of the contents.[25]

The Secretary of the Department of Health, Education, and Welfare (hereinafter HEW) is directed to establish regulations with respect to the conduct of such hearings.[26] The law also requires HEW to establish an office and review board to administer the Act and adjudicate violations.[27] In order to achieve a high degree of uniformity in implementing the law, the amendment requires that all functions other than the conduct of hearings be carried out in the Washington headquarters.[28]

HEW has designated an office within the Office of the Secretary as the one responsible for carrying out requirements of the Act. This office serves as "the focal point for investigating, processing and reviewing violations of the Act" and handles inquiries from those "seeking information related to the protection of the rights and privacy of parents and students."[29]

Since its creation the office has received more than 10,000 requests for information.[30] Approximately 1000 of these were in the form of complaints but when analyzed only about 100 stated actual violations of the Act. The others were based on misunderstandings of what the law requires.

The procedure of the office upon receiving a complaint entails corresponding with the superintendent of the school district or president of the university against which the complaint is made. Allegations from the complaint are summarized and the official is asked for a response within thirty days. In many cases remedial action is taken by the institution or system in the first instance. Once HEW is satisfied that the problem has been resolved, it closes its files on the matter. In some cases the office remains a participant in efforts to reach accommodation between individuals and school authorities or to see that policies and practices of the school are brought into conformity with the law.

Although at least one organization suggested that HEW require affected institutions to submit plans for implementing the Amendment,[31] the Department did not adopt this approach. Instead, the office charged with enforcing the law relies on complaints from those outside HEW who are aware of the law to bring problems of interpretation to its attention. To increase the number of those familiar with the law, HEW's proposed regulation would require that schools notify parents (or students) annually of their rights.[32] The regulations do not mandate any set procedures to achieve this notice.

The office enforcing the Buckley Amendment is small.[33] It is currently working under the handicap of having sketchy final regulations to enforce.

At this writing only those portions of the final regulations dealing with the rights to amend educational records, the right to a hearing to challenge the contents of records, and the disclosure of information in health or safety emergencies have been published.[34]

Until final regulations are promulgated the office has only the broad outlines of the statute as a standard and must work almost totally on a case-by-case basis.

Nothing approaching a comprehensive survey is possible to determine how great an effect the law has had on the practices of school systems and colleges. To a great extent its effect depends on whether individuals are aware of their rights under the Amendment and this, in turn, depends on the effectiveness of the notice schools are required to give annually to parents and students and on efforts by HEW and private organizations to publicize the Amendment.[35]

Reports in the press and comments by national education association representatives and HEW officials provide some evidence that changes have been made. Some have referred to a "purging" of student files, cleaning out material which is irrelevant, and perhaps damaging, to a student's education.[36] Others note changes in procedures for transmitting recommendations to colleges or potential employers.[37] Apparently the law has given some educators a much sought-after basis for refusing to turn over files to police, the armed services, or the FBI.[38]

Four States to date have amended or propose to amend existing laws or regulations to conform to Buckley amendment requirements.[39] Some are waiting on publication of final regulations in order to insure that State requirements are consistent.

There is continuing disagreement over whether the Buckley Amendment does more harm than good. Especially in the postsecondary context it is argued that giving students or parents access to recommendations sent to colleges or potential employers imperils the candor of the recommendations and leads to increased emphasis on objective measures of ability, possibly to students' detriment.

Another criticism charges that the cost to schools of complying with the law, that is, figuring out what the law requires and instituting procedures which conform, is overwhelming at a time when these institutions are under extreme financial pressures.[40] Compliance may not be as costly as some at first feared. As noted above, HEW does not require schools to develop and submit detailed procedures for implementing the law. Nor, it now appears, will HEW in its final regula-

---

Footnotes at end of article.

tions require that assurance of compliance be submitted with any application for any type of federal funding. Such requirements were contained in proposed regulations. As one association official put it: "The Amendment, in fact, requires little more than what many schools were already doing." [41]

PRIVATE RIGHTS OF ACTION UNDER THE AMENDMENT

Whether or not passage of the Act is bringing about salutary changes in school record-keeping practices, there may be potential benefits to parents and students if it appears that courts will imply new civil causes of action as a result of the Act One commentary [42] reported that the original amendment proposed by Senator Buckley [43] contained a section which, by reference to another part of the Senate bill,[44] permitted private rights of action. Analysis of the Senate bill, however, reveals that private parties were expressly given only the right to appeal to the Commissioner of Education and not to the courts.

Although another basis has been suggested for allowing private actions under the Buckley Amendment,[45] one of two theories has usually provided the basis for finding that a statute implies an individual right of action.[46] The first—the standard-setting theory—is that the statute provides standards by which to judge conduct already required or proscribed by existing law. The second view is that the statute declares wrongful certain behavior and implicitly authorizes the courts to create a new cause of action in order to give full effect to the legislative determination.

Plaintiffs bringing suits in State courts, where statutory or common law causes of action already exist, may successfully be able to argue that the Buckley Amendment provides evidence of the standard to which school officials should be held in dealing with school records. For example, a court in a State where the common law permits release of records to health or welfare authorities might be persuaded to prohibit such releases, given the standards established by the Buckley Amendment.

Where State statutes conflict with the Amendment, the question of which law will prevail is more difficult. Because the Buckley Amendment does not require or proscribe conduct, State courts might well conclude that it is the function of the legislature to alter State laws so as not to lose federal funds and might refuse to invoke the Buckley Amendment to overrule existing State statutes.

In a recent California case, however, the court did not follow this reasoning.[47] In order to be eligible for certain State aid, California law required school districts to submit lists of students who were non-citizens without immigration status to the U.S. Immigration and Naturalization Service. A suit was brought on behalf of one such student to enjoin the State Superintendent of Schools from requiring the release of, and the local school district from releasing, the lists except as provided by the Buckley Amendment. The court granted a preliminary injunction holding that the State law was in conflict with the Buckley Amendment and was void under the Supremacy Clause of the United States Constitution. Subsequent to the suit, California has changed the offending State statute.

A more perplexing issue is whether federal courts will entertain private suits based on the Buckley Amendment. Willingness by federal courts to hear these cases would be most meaningful in States where courts or statutes traditionally have favored school and other institutional rights over those of parents and students; where State courts therefore might be unlikely to look to a federal law which sets standards different from those already adhered to.

Federal courts have not hesitated to find private causes of action implied where federal legislation was clearly intended to benefit a particular class. One such case [48] was based on the Agricultural Marketing Agreement Act of 1937, which gave the Secretary of Agriculture authority to set minimum milk prices in defined geographic areas. He did so for the Boston area but included in his order certain deductions from the price, which action plaintiffs claimed exceeded his authority. The Supreme Court found that the statute and order created in plaintiffs the right to avail themselves of the minimum price. In finding that such a private right had been created, the Court said:

"When . . . definite personal rights are created by federal statute, similar in kind to those customarily treated in courts of law, the silence of Congress as to judicial review is, at any rate in the absence of administrative remedy, not to be construed as a denial of authority to the aggrieved person to seek appropriate relief in the federal courts in the exercise of their general jurisdiction." [49]

In another case [50] the federal legislation involved was the Railway Labor Act, which was intended to benefit the class of railway employees. The Act provided that one labor organization be selected to act as exclusive bargaining representative for a craft or class of railway employees. When in the instant case that organization failed to represent all such employees, those discriminated against had no remedy other than a private action. The court appeared to give great weight to the fact that the federal statute imposed a duty on defendant union and conferred concomitant rights on plaintiffs to challenge the union because the federal scheme deprived plaintiffs of certain rights they otherwise would have possessed. Absence of other remedies was also emphasized:

"In the absence of any available administrative remedy, the right here asserted, to a remedy for breach of the statutory duty . . . is of judicial cognizance. That right would be sacrificed or obliterated if it were without the remedy which courts can give for breach of such a duty . . ." [51]

It appears that in each of the above cases the Court felt impelled to recognize private claims not expressly provided for in the statute because federal statutory duties were violated. The same line of thought is apparent in cases where violations of federal laws regulating securities have been found to confer private rights of action. For example, one court which permitted shareholders to sue on the basis of alleged proxy rule violations noted "the long established general rule that a breach of statutory duty normally gives rise to a right of action on behalf of the injured persons for whose benefit the statute was enacted." [52]

Statutory duty is most easily discerned where criminal penalties are imposed for failure to behave in a prescribed manner. The willingness of federal courts to allow private actions when a criminal statute is involved is described as the "doctrine, which, in the absence of contrary implications, construes a criminal statute enacted for the protection of a specified class, as creating a civil right in members of the class, although the only express sanctions are criminal." [53] The apparent basis for this doctrine is that a criminal sanction is the legislature's strongest indication that the conduct proscribed is contrary to public policy. Such conduct is to be deterred by any acceptable means and courts are impliedly empowered to fashion remedies to carry out legislative intent.

Application of this doctrine can be seen in a case where the plaintiff contended he had been discriminated against by an airline company.[54] He was removed from an oversold flight for which he held a valid reservation in favor of a first class pasenger. The Federal Aviation Act prohibits "unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever." The law does not provide a private right of action but only for injunctive or criminal sanctions which may be sought by the federal government. The statute does allow individuals to complain to the Civil Aeronautics Board about alleged violations, permits the CAB to ask for satisfaction from the person complained against, and if not satisfied with the response, to investigate the matter. If, after notice and a hearing the Board finds that the person has failed to comply, it can issue an order to compel compliance. The court found that the strong policy to protect individual passengers against discrimination could not be implemented by sanctions provided in the legislation, alone:

"Every pertinent consideration of reason and policy, therefore, points to the compelling desirability of permitting a Federal cause of action to the aggrieved *passenger* as a needed force to assure full compliance with the requirements of the Act." [55]

The cases so far reviewed suggest that three considerations may weigh heavily in the decision to imply a private federal right under the Buckley Amendment. The first is whether the law was clearly intended to protect the rights of a particular class or group. The second is whether the Act provides remedies sufficient to protect the intended beneficiaries. The third might be characterized as a determination whether the law was intended to create new federal rights in the class of beneficiaries or whether it was meant merely to encourage certain actions by State and local authorities and legislatures.

The answer to the first inquiry is clear: the entire amendment is directed toward enhancing parents' and students' rights vis-a-vis the alleged interests of society's institutions.

With respect to whether the remedies provided by the Act are adequate, reference to Wills v. Trans World Airlines [56] may be helpful. There, although the passenger could have complained to the CAB, the court found that such a complaint would have been useless to compensate the particular *plaintiff*.

"Without judicial intervention to redress past violations of the statute, the rights of passengers declared in the Act . . . would be robbed of vitality and the purposes of the Act substantially thwarted." [57]

The court awarded plaintiff punitive damages in addition to actual damages which were nominal.

A private litigant asserting violation of rights under the Buckley Amendment could be seeking damages for past violations, such as the release of information to non-authorized recipients, or he might request injunctive relief such as a prohibition against such release. Inadequacy of statutory remedies appear more glaring in the former context than in the latter. At least in the latter situation courts would likely give some attention to the doctrines of primary jurisdiction and exhaustion of administrative remedies before providing a judicial remedy. The doctrine of primary jurisdiction requires a complaint to seek relief in an administrative proceeding before a remedy will be supplied by the courts, even though the matter might properly be presented to the court as well as to the administrative agency.[58] The doctrine of exhaustion of administrative remedies requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting this remedy before the courts will act.[59]

In an important case [60] the Supreme Court did not require exhaustion of administrative remedies prior to resort to judicial relief. Welfare recipients requested court review of the compatibility of New York's welfare laws

---

Footnotes at end of article.

with requirements of the Social Security Act. HEW was, at the time of the suit, reviewing New York's statutes, and could have terminated federal funding if the State laws were found not to comply with federal criteria. The Court based its holding, in part, on the fact that petitioners could not "trigger" or participate in the Department's review of State laws.

Complainants under the Buckley Amendment, in contrast, do have recourse to HEW; in fact, it is individual complaints which trigger HEW's investigation. Past experience indicates that most conflicts can be resolved through the administrative mechanism provided by the Department. It would appear that in most cases plaintiffs seeking injunctive relief from a federal court would first have to pursue available remedies with HEW.

If the relief sought by individuals cannot be obtained from the agency or if the administrative remedy is not "complete and efficient,"[61] courts may not await final agency action. When "great and obvious damage" might be suffered, courts may likewise provide injunctive relief before an agency completes its review.[62] Thus if a case arose where violation of provisions of the Buckley Amendment raised the specter of great and immediate injury, where HEW's procedures would not provide prompt enough relief, federal courts might excuse the failure to exhaust administrative remedies. However, if potential harm were of such a magnitude, it seems reasonable to expect that a cause of action under State law—common or statutory—would hold promise of success and the federal court might decline to imply a remedy under the Buckley Amendment because of available relief elsewhere.

This possibility brings up the third question likely to be asked by a court before it determines whether there exist federal private rights of action: Does the Family Educational Rights and Privacy Act create new federal rights or is it intended merely to encourage States to undertake certain actions?

It should first be observed that the Buckley Amendment does not make any conduct unlawful; it merely conditions receipt of certain government benefits on prescribed behavior. This fact could be used by the courts to find that Congress did not intend to create new federal rights. As noted above[63] the courts have often relied on the presence of criminal sanctions in a statute to conclude that court-created remedies were appropriate to effect the goals of legislation.

It should also be noted that the Buckley Amendment, unlike the statutes dealt with in *Stark* v. *Wickard*[64] or *Steele* v. *Louisville & Nashville Railroad Co.*,[65] does not create a new federal program or a wholly new set of rights and duties. The Amendment is more akin to federal statutes which define standards by which to judge pre-existing duties.

Neither of the above observations would necessarily be dispositive in determining whether or not to imply private federal rights. Federal courts would likely refer to remedies available in State courts before declining to imply new federal rights. Where some form of redress is provided by States, the interest in limiting new sources of litigation in federal courts militates against implying a federal cause of action. One commentator[66] sugests that this consideration provides the best explanation for federal courts refusing to find implied private causes of action under the Safety Appliances Act. In *Jacobson v. New York, New Haven and Hartford Railroad Company*,[67] for example, the court without explanation concluded that although they possessed the authority, federal courts had declined to imply private causes of action where railway employees or passengers had been injured by alleged violations of the Act. Potential plaintiffs in these cases clearly could sue under well-established causes of action in State courts.

The fact that States provide some form of relief does not close the inquiry, however. First, a federal court might look to determine whether the apparent relief, because of procedural requirements such as difficulties of proof, is chimerical.[68] Second, a federal court might examine the interest in availability of uniform relief throughout the nation.[69] There is evidence to support the view that Congress was seeking uniformity under the Buckley Amendment when it directed that enforcement activities be undertaken by HEW in Washington and not be delegated to regional offices.

In seeking to answer the question of whether adequate State remedies exist, a federal court should consider the national picture. In any one case it may be that the State concerned provides adequate relief. A decision against implying a federal right by a court in such a State, however, could carry weight in other federal courts where no adequate State remedy exists.

CONCLUSION

The Family Educational Rights and Privacy Act was passed in response to growing national concern over abuse of student records. Practices with respect to these records varied widely among States and school districts, leaving parents and students with little guidance as to their rights. While no one publicly objected to the goals of the legislation, the education establishment questioned whether the Act's requirements were not unduly burdensome.

Approximately eighteen months have passed since the effective date of the Act. Although institutions have modified certain practices, some of the worst fears about red tape have not been realized. There has been no great surge in requests by parents or students for access to files, but significant interest—measured by reports in the press and inquiries to HEW—has been shown in the provisions of the Amendment.

Some argue that the effect of the Act would be greater and compliance more complete if institutions were required to submit periodic reports on its implementation. Instead, federal enforcement rests solely on complaints initiated by individuals who must learn of their rights from school notices or from the media and private organizations. There is no good way to measure the effectiveness of the Amendment; as with most laws, its full impact will never be known.

It is suggested that the real value of the Amendment may be first, that it has caused educational institutions to consider their policies and practices with respect to student records—many, perhaps, for the first time. The continuing possibility of complaints by individuals to HEW and, ultimately, loss of funds, may make school officials more conscientious in their disposition of information in school files. Furthermore, the Act spells out standards schools must meet, removing a good deal of uncertainty from the patchwork of State and local laws and regulations.

Second, while it may be desirable that everyone know of his rights, this is probably less important than providing those with concrete grievances the possibility of redress. Even the most detailed regulations and procedures would not guarantee that every parent or student knows and asserts his rights. The existence of the Buckley Amendment, however, probably increases the chances that an individual with a complaint will be informed of his rights, either by the school, itself, or by others with whom he is likely to confer. He may then attempt to get satisfaction from the school; he may enlist the assistance of HEW; or, ultimately, he may seek relief in the courts.

It is unlikely that many complaints under the Act will reach a court, but when one does, the detailed requirements of the law will provide definite standards for the court to apply. This fact should assist plaintiffs who are threatened by or have suffered injury from violations of the Act.

A survey of federal decisions suggests that while federal courts would probably prefer to see Buckley Amendment controversies resolved administratively or in State courts, there might be some willingness in unusual circumstances—such as where the State forum has historically applied less demanding standards than those mandated in the Act—to entertain private damage suits for past injuries. It is suggested here that federal courts would be less likely to find grounds for providing injunctive relief to private litigants.

FOOTNOTES

[1] 20 U.S.C. § 1232g (Supp. 1975).

[2] *See* Recent Developments, *The Buckley Amendment: Opening School Files for Student and Parental Review*, 24 CATH. U.L. REV. 588 (1975).

[3] *See, e.g.*, A. Fitt, *The Buckley Amendment: Understanding It, Living With It*, THE COLLEGE BOARD REVIEW, Summer, 1975 at 2. *See also* C. Davis, *The Buckley Regulations: Rights and Restraints*, Educational Researcher, February, 1975 at 11.

[4] *See, e.g.*, REPORT OF THE SECRETARY'S ADVISORY COMMITTEE ON AUTOMATED PERSONAL DATA SYSTEMS, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, RECORDS, COMPUTERS AND THE RIGHTS OF CITIZENS, at xx (1973).

[5] *E.g.*, Privacy Act of 1974, 5 U.S.C. § 552a (Supp. 1975); Fair Credit Reporting Act, 15 U.S.C. § 1601 (1970).

[6] NATIONAL COMMITTEE FOR CITIZENS IN EDUCATION, CHILDREN, PARENTS AND SCHOOL RECORDS (1974). This book contains the results of a recent survey of all State laws and regulations.

[7] D. Goslin & N. Bordier, *Record-Keeping in Elementary and Secondary Schools*, in ON RECORD: FILES AND DOSSIERS IN AMERICAN SOCIETY (S. Wheeler ed. 1969).

[8] 76 C.J.S. *Records* § 35 (1952).

[9] Van Allen v. McLeary, 27 Misc. 2d 81, 211 N.Y.S. 2d 501 (Sup. Ct. 1961).

[10] S. Carey, *Students, Parents and the School Record Prison: A Legal Strategy* for Preventing Abuse, at 32 in CHILDREN, PARENTS AND SCHOOL RECORDS (National Committee for Citizens in Education ed. 1974).

[11] L. Burt, *Inspection and Release of Records to Parents*, at 48 in LAW OF GUIDANCE AND COUNSELING (Ware ed. 1964).

[12] Dixon v. Alabama State Board of Education, 294 F.2d 150 (5th Cir. 1961).

[13] Vought v. Van Buren Public Schools, 306 F. Supp. 1388 (E. D. Mich. S. D. 1969).

[14] Mills v. Board of Education of D. S., 348 F. Supp. 866 (D. D. C. 1972).

[15] Merriken v. Cressman, 364 F. Supp. 913 (E. D. Pa. 1973).

[16] Einhorn v. Maus, 300 Supp. 1169 (E. D. Pa. 1969).

[17] *Id.* at 1171.

[18] Hatter v. Los Angeles City High School District, 452 F.2d 673 (9th Cir. 1971).

[19] H. BUTLER, K. MORAN & VANDERPOOL, LEGAL ASPECTS OF STUDENT RECORDS, at 26 (1972).

[20] 20 U.S.C. § 1232g(a) (4) (Supp. 1975).

[21] *Id.*, § (a) (1) (A).

[22] *Id.*, § (a) (5) (A).

[23] *Id.*, § (b) (1).

[24] *Id.*, § (a) (2).

[25] *Id.*

[26] *Id.*

[27] *Id.*, § (g).

[28] *Id.*

[29] HEW Press Release (November 18, 1974).

[30] Interview with William Riley, Special Assistant for the Family Educational Rights and Privacy Act, Office of the Deputy Assistant Secretary for Management Planning and

Technology, in Washington, D.C., March 23, 1976.

[31] The Children's Defense Fund, in commenting on HEW's proposed regulations, made such a proposal, according to an officer of the Fund. Interview with Linda Lipton, Children's Defense Fund, in Washington, D.C., March 16, 1976.

[32] 40 Fed. Reg. 1211 (1975).

[33] The office consists of one person who investigates and attempts to resolve disputes, two employees who draft responses to inquiries and one clerk who catalogs all contacts with the office.

[34] 41 Fed. Reg. 9062 (1976). Proposed regulations were published January 6, 1975; the period for public comment ended March 7, 1975. The proposed regulations in large part restated provisions of the law, leaving many questions of interpretation unanswered. More than 300 comments were received. According to a report in the March edition of Networks, a newspaper published by the National Committee for Citizens in Education, final regulations had been submitted to HEW Secretary Matthews by January, 1976. An account in the Washington Star for February 6, 1976, reported that the Secretary wanted the regulations to reflect broad interpretations of the law, apparently to permit flexibility at the local level in carrying out the Act's provisions and was personally reviewing the draft regulations to eliminate overly restrictive requirements.

[35] The HEW official primarily responsible for implementing the Buckley Amendment has spent a significant amount of time since his office was created traveling and speaking to groups of educators and parents to explain provisions in the law. Two private organizations—the National Committee for Citizens in Education with headquarters in Columbia, Maryland and the Children's Defense Fund in Washington, D.C.—have also made extensive efforts through mailings and personal contacts to alert parents to their rights. Articles have appeared in several mass circulation magazines, including the September, 1975 issue of *Ladies' Home Journal* and the December, 1975 issue of *Family Circle*, which describe the Amendment and provide names and addresses to write for further information.

[36] *Unlocking School Files: The Buckley Amendment*, Washington Post, November 17, 1974, § C, at 5, col. 4.

[37] *Year Later Access to Students' Records Poses Burdens*, N.Y. Times, February 1, 1976, at 33, col. 2; 24 Cath. U. L. R., *supra* note 2, at 601.

[38] *Time*, Feb. 2, 1976, at 44.

[39] California has already amended certain of its statutes dealing with school records. Maryland, Florida and Texas have indicated an intention to do so. Interview with William Riley, *supra*, note 30.

[40] T. Ehrlich, *Legal Pollution*, N.Y. Times Magazine, February 8, 1976.

[41] Telephone interview with Edward Keller, National Association of Elementary School Principles, in Washington, D.C. March 17, 1976.

[42] Section 14 of a memorandum by John Kwapisz, aide to Senator Buckley, Questions About and Objections to the Buckley Amendment, printed in 120 Cong. Rec., p. 36533 (November 19, 1974).

[43] Amend. No. 1289, 93d Cong., 2d Sess. (1974) reprinted in 120 CONG. REC., p. 13955 (May 9, 1974).

[44] S. 1539, 93d Cong., 2d Sess. (1974).

[45] In a paper prepared by Barry George as a Washington Semester Thesis at American University and reprinted in THE LAW AND CONSTRUCTIVE CHANGE, UNIVERSITY OF GEORGIA, INSTITUTE OF HIGHER EDUCATION, 1975, the possibility is raised that a court might consider Buckley privacy rights as an essential part of an institution's general policy and hence, an element in a contract between the individual parent or student and the institution. If this view prevailed, rather than one which regards the Act's requirements only as conditions in the contract between HEW and the institution, individuals could sue for breach of contract.

[46] Note, *Implying Civil Remedies from Federal Regulatory Statutes*, 77 Harv. L. Rev. 285, 286 (1963).

[47] Maria P. v. Riles, No. C 121905 (Cal. Super. Ct., Los Angeles County, Sept. 17, 1975).

[48] Stark v. Wickard, 321 U.S. 288 (1944).

[49] *Id.*, at 309.

[50] Steele v. Louisville & Nashville R.R. Co., 323 U.S. 192 (1944).

[51] *Id.*, at 207.

[52] Dann v. Studebaker-Packard Corp., 288 F.2d 201, 208 (6th Cir. 1961).

[53] Reitmaster v. Reitmaster, 162 F.2d 691, 694 (2d Cir. 1947) (L. Hand, J.).

[54] Wills v. Trans World Airlines, 200 F. Supp. 360 (S. D. Cal. 1961).

[55] *Id.*, at 365.

[56] 200 F. Supp. 360 (S. D. Cal. 1961).

[57] *Id.*, at 364.

[58] 2 Am Jur. 2d *Administrative Law* § 595 (1962).

[59] *Id.*, at § 788.

[60] Rosado v. Wyman, 397 U.S. 397 (1970).

[61] Goldstein v. Grosbeck, 142 F.2d 422 (2d Cir. 1944).

[62] Utah Fuel Co. v. National Bituminous Coal Comm'n, 306 U.S. 57 (1939).

[63] *See*, text acompanying n. 53, *supra*.

[64] 321 U.S. 288 (1944).

[65] 323 U.S. 192 (1944).

[66] 77 HARV. L. REV., *supra* note 46, at 292.

[67] 206 F.2d 153 (1st Cir. 1953).

[68] *See* 3 LOSS, SECURITIES REGULATION 1683 (2d ed. 1961).

[69] *See* Fitzgerald v. Pan American Airways, 229 F.2d 499, 502 (2d Cir. 1956).

SALUTE TO THE VETERANS OF THE JUDEAN BATTALION

Mr. CRANSTON. Mr. President, it seems fitting, in this year of celebration, that we should include a salute to the Veterans of the Judean Battalion—the men of the first Jewish Army since the Macabees, who served with great honor and dignity as part of the British Expeditionary Forces in Gallipoli and Palestine during World War I. These valiant young Jews enlisted in the Jewish legion to help the British Army liberate Palestine and re-establish the Jewish homeland promised in the Balfour Declaration. Their heroic effort served as a major impetus in the establishment of the State of Israel.

We are privileged to have among us in California some veterans who participated in this great enterprise. Among the members of the west coast division of Veterans of the Judean Battalions are such leaders as Irving T. Kruss, commander; Louis Silk, past commander and present vice commander; Samuel Ellenhorn, treasurer; Morris Roseman, chaplain; Rabbi Irvin Lawton, chaplain; Judge Jess Nathan, honorary commander; Mosheh J. Nathan; Charles Bes; William Berris; Issac Behar; Jacob Bernstein; George Bass; Morris Covner; Abraham Einhorn; Seymour Elkins; Mirris Feinberg; Jack Greenberg; Rabbi Maxwell Dubin; Samuel Gach; Ben Hyman; Hyman King; Charles Lewis; Gustave Lossos; Jack Lerman; Harry Malmuth, past commander; Maurice J. Mantell; Morris Malavsky; William Z. Porter; Harry Rice; Abraham Goodwein; Charles Roffeld; Louis Sitorsky; Jack Markus; Louis Ryna; Isadore Taub; Emanuel True; Harry Shillan; Maxwell Siegel, past commander Samuel Amital and past commander Jack Gittelson.

Finally, we should commend the National Officers of the Veterans of the Judean battalions in the west coast: Honorary president Fred J. Mallet; presidium members: William Braiterman, Jacob Goodman and Herman Lehman; vice president Phil Bloom; officers in Israel: Leon Cheifetz, secretary, and Hyman Reiskin, treasurer.

All people who love freedom owe deep gratitude to these warriors whose boldness and unselfishness help realize the dream of a Jewish nation. The memory of their actions will long endure.

ELDERLY NUTRITION PROGRAM

Mr. McGOVERN. Mr. President, I am pleased to add my name to the growing list of cosponsors to the Eagleton-Brooke amendment to the Labor-HEW Appropriations bill for 1977. I am particularly gratified by the proposed increase in the funding level of title VII of the Older Americans Act.

The title VII elderly nutrition program, which provides a hot meal and various supportive services in a congregate setting, is one of our finest social efforts. Last year this program served over 240,000 meals per week day and provided organized recreation for senior citizens who otherwise might have remained isolated and alone. We should not hesitate in our commitment to this program and to the thousands of senior citizens which it serves.

The operating level of $225 million contained in the Eagleton-Brooke amendment combines unused funds of approximately $22 million with new funds of $203 million. These are the same figures which have already been approved by the House Appropriations Subcommittee for Labor-HEW and will allow for an orderly but significant increase in the services which title VII provides. Equally important, this spending level is sufficient to allow the termination of forward funding without a program cutback.

Mr. President, in my role as chairman of the Select Committee on Nutrition and Human Needs, I have heard much testimony on the relationship of adequate nutrition to the physical and emotional well-being of elderly persons. There is little doubt regarding the essential role of a proper diet in the prevention of a wide range of nutrition-related disorders which commonly afflict the elderly and often result in costly hospitalization and unnecessary suffering.

Title VII is designed to minimize unnecessary illness and hospitalization while providing an environment where the isolated aged are reintegrated into society.

As part of the Nutrition Committee's efforts to improve this program, local title VII project directors across the country were recently asked to answer a 55-question survey which sought to isolate areas for legislative improvement. Among other things, the title VII survey points out the near unanimous conviction that the congregate nutrition program has been highly successful in providing nutritional support and warm friendship to those who participate.

Nevertheless, the project directors in our communities strongly believe they need increased Federal funds to reach a larger percentage of the eligible population. Last year, less than 1 percent of the senior citizens potentially eligible for this program were served by it.

The situation has become increasingly severe. The rising cost of food and energy has made it nearly impossible to expand or even maintain the current level of services which we all agree are vital. Many programs, despite these increased costs, have not received an equivalent increase in Federal funds. The result has been larger and longer waiting lists filled with persons who may not have the time to wait. Some projects have even stopped using waiting lists, not because there is no one waiting, but because the directors feel the lists unconscionably raise expectations.

The persons who administer these programs at the local level with the help of dedicated community volunteers have done wonders with their limited resources. But they require our support and approval of the modest and reasonable funding increase embodied in the Eagleton-Brooke amendment. We can do no less even if the sad state of our economy allows us to do no more.

A WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Mr. MONTOYA. Mr. President, the Subcommittee on Economic Development, which I am privileged to chair, recently reported S. 2228, a bill to extend the Public Works and Economic Development Act of 1965 for a period of 3 years, to October 1979. Because the programs under that act were in disfavor for many of the Nixon years, we were pleased to receive a request from the administration for this extension.

Senators will recall that this act authorizes the Economic Development Administration and the seven title V regional action planning commissions. The legislation evolved from the earlier Area Redevelopment Act which gave official recognition to the existence of economically lagging areas.

Title II of S. 2228 authorizes and requests the President to convene a White House Conference on Balanced National Growth and Economic Development within a year from the time of enactment of the bill. Chairman RANDOLPH of the Public Works Committee once again demonstrates his vision in pressing for such a conference. I join him in the conviction that a national town meeting in the White House on these issues is long overdue.

Do we need a national policy on growth? Or on population dispersal? A rising tide of authoritative voices seems to be saying yes—and please hurry. There are many others, of course, who prefer the marketplace to determine where jobs are to be located and where people live.

There is no policy in Washington today guiding our national growth. Nor can one aggregate policy areas such as housing or rural development or urban development and arrive at a national policy focus of sorts.

One of the reasons for a White House Conference on Balanced Growth and Economic Development is the phenomena of vast interregional population shifts from the Northwest and Midwest to the South, Southwest, and West in the past 4 to 5 years and the continuing intraurban migration from city to suburb.

Population in the South and Southwest since 1970 has grown 6 times as fast as the Great Lakes regions and 10 times as fast as in the combined Mideast and New England regions. The regions receiving the population are the beneficiaries of growth in industry, markets, and tax revenues. The slower growth regions with declining populations are experiencing declining tax bases leading to higher taxes of those remaining as public services are being reduced.

This unprecedented reverse migration flow is complicated by the question of growth versus the limits of growth, inflation, unemployment, the high cost of limited energy, and the environment.

I remind my colleagues that President Nixon, in his 1970 state of the Union message, called for the development of a national growth policy. When he set up the Domestic Council he charged it with this task. The Congress plunged ahead. It passed the Agricultural Act of 1970 and the Urban Growth and New Community Development Act of 1970.

The Urban Growth—Housing—Act stated that "the Federal Government must assume responsibility for the development of a national urban growth policy" and that such a policy would "help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities." The policy would serve as a guide and provide a framework "for the development of interstate, State, and local growth and stabilization policy." The act required the President to submit to the Nation a growth report every 2 years.

The Agricultural Act declared that "the Congress is—committed to a sound balance between rural and urban America," and that a high priority be given to the "revitalization and development of rural areas."

On the eve of the 1968 election, both party platforms called for national attention to these questions of growth and balance. The Governors, the cities, and the counties, in their respective organizations, expressed similar sentiments.

Yet, in all these years we never got beyond the rhetoric. We have had growth reports without recommendations. We saw the Nixon administration become increasingly respectful of the sanctity of free market forces in determining where people will live and where jobs will be located.

Mr. President, today nearly every European country has in place a balanced growth or population policy. The European Economic Community is now developing policies on balanced growth—and it has some program tools to begin implementation of those policies. Some of our own States are examining whether a growth policy within States is feasible but most concede that such policies are not realistic without a Federal policy guide or framework.

An excellent special report appearing in the May 17, 1976 issue of Business Week titled "The Second War Between the States" provides many reasons why a White House Conference on Balanced National Growth and Economic Development would be timely in 1977 in the early months of a new administration—whether that be Gerald Ford's administration or a new President. The article provides factual data on the recent trends in population shifts, and the consequent interregional growth and decline. I ask unanimous consent that the article be printed at the conclusion of these remarks as well as title II of S. 2228 authorizing the White House Conference and the justification from the committee report (94–839, pp. 5–6).

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONTOYA. Mr. President, I am aware that the movement of people and industry and the rise in income is beneficially affecting my own State of New Mexico. But we have a long way to come—from 49th among the States in per capita income. We need the kind of growth that is beginning to take place. But as chairman of the Economic Development Subcommittee I am also aware of the hardships in prospect for the great manufacturing northeast quadrant of this Nation. I have listened to the mayors and Governors from these States compellingly describe the decline in revenues, the loss of economic base, and the demand for greater public services. I am convinced we need a policy—both for growth and for decline, both for urban areas and for the steadily declining rural areas.

In this Presidential election year we are recommending little more than extension of the present Public Works and Economic Development Act. However, I hope a White House Conference, or failing that, a Presidential task force to be appointed in the early weeks of a new administration, will undertake the study and evaluation that will produce the recommendations to Congress on what policies this Nation must adopt if we are to begin to manage our own national growth in a rational manner.

[EXHIBIT 1]

THE SECOND WAR BETWEEN THE STATES

The great Harvard economist, Joseph A. Schumpeter, explained to the world that dynamic capitalist economic growth is a process of "creative destruction," in which new and rapidly growing industries inflict pain and distress on those that are declining. As long as this process takes place within a given region, labor and capital thrown out of employment in the declining sectors can easily be reemployed in the rising sector, so growth creates no real problems.

But when this process causes some political jurisdictions to decline and others to rise, trouble is bound to ensue. This is happening in the U.S. today, and it is threatening to lead to internecine conflict between the states. The 17th Century wars between Holland, a declining country, and Britain, a nation on the economic ascent, trace to the creative destruction of economic growth. Nearly three centuries later, Britain's role was reversed, as she and her allies, attempting to defend their interests against the provocative outward thrusts of an industrially belligerent Germany found themselves plunged into history's first global war—World War I.

Politically the U.S. is a union of 50 states with taxing and spending powers of their own and 80,000 lesser units of local government with varying degrees of fiscal clout. Economically the nation is a vast common market comprising disparate areas that are growing at vastly different rates—since 1970 population in the booming South and Southwest have grown six times as fast as in the Great Lakes regions and 10 times as fast as in the combined Mideast and New England regions (map).

Areas with different growth rates obviously have different policy interests. Sharp differences in regional economic interests played a major role, for example, in the origins of the U.S. Civil War. At present, the nation's disparate economic growth is pushing the regions toward a sharp conflict with each other even though the country is more firmly knit together constitutionally, culturally, and ideologically than at any time since the pioneers first pushed beyond the Appalachians. The second war between the states will take the form of political and economic maneuver. But the conflict can nonetheless be bitter and divisive because it will be a struggle for income, jobs, people, and capital.

As long as the migration of industry and population was gradual from what was a relatively rich Northeast to what was a relatively impoverished South and Southwest, it helped to unify the nation. But within the past five years the process has burst beyond the bounds that can be accommodated by existing political institutions.

Less than three years ago, the Commerce Dept.'s Bureau of Economic Analysis published projections for 1980 and 1990 of the population, personal income, and employment in each of the 50 states. By last year nine growth states—Arkansas, Louisiana, Mississippi, South Carolina, Arizona, Texas, Utah, Alaska, and Hawaii—had already exceeded their 1980 projections in population, and one state—New Mexico—had already surpassed the 1990 figure. By the same token, the shortfall in slower-growing regions has been enormous. For example, New York was expected to grow by 1.1 million people from 1970 to 1980, but thus far the state has lost more than 100,000. Pennsylvania, slated to gain nearly 800,000 during the 1970s, has increased its population by barely 30,000 thus far. This is virtually the same growth posted by Illinois, where the BEA expected a rise of nearly 900,000.

The Commerce Dept. totally underestimated the pace—and in some cases direction—of population movements between regions. During the 1960s the major movements were of middle-class whites to the South and low-income blacks to the North. These flows were almost equal in size, with the South attaining only a small net increase. Since 1970, however, burgeoning economic opportunity—especially in the South and Southwest but also in the Plains states—greatly retarded the outflow and accelerated the inflow. As a result, population growth in many of these areas has been meteoric.

The impact on U.S. society

Once under way, the process of migration gathers a momentum that becomes self-sustaining. The migration itself shifts incomes, spelling accelerated market growth in the favored region. As new markets spring up, the region begins to attract a broad array of industries—from manufacturing to all of its financial, advertising, wholesaling, printing, and other support services. This rapid growth of taxable economic activity assures adequate revenues for maintaining or even increasing public services without increases in tax rates. And as people and companies recognize this, the lure of the fast-growing regions intensifies.

Meanwhile, in the slower-growth regions, a declining tax base leads to higher rates of taxation or a cutback in public services. And as people and companies recognize this, the rush to move out intensifies. Both fast growth and slow growth have a tendency to snowball. The new migration of people and industry will have a strong impact on various aspects of U.S. society:

The urban haves and have-nots

Continued economic decline and fiscal crisis is likely for cities and states of the industrial North. Data show that by 1972 the per capita income of Charlotte, N.C., among other Southern cities, had exceeded that of New York City as well as that of most other large cities in the Northeast and Midwest, from Hartford to Milwaukee. Furthermore, this is without correction for differences in cost of living—an adjustment that would show that average living standards are actually higher in many other growth-area cities, from Little Rock to Louisville.

This breathtaking relative decline means recurrent fiscal difficulties for older cities, particularly those that provide the broadest range of public services and the most generous assistance to the poor. New York City, which has assumed local welfare costs over and above federal and state levels of more than $100 per capita, receives the most publicity, but nearby Yonkers, once a thriving suburban community, is also on the brink of default. Roy Bahl, an economist who heads metropolitan studies at Syracuse University, says, "Five to seven years ago, New York had to choose between moving toward either financial default or a service default, because of slow growth. The factors that make expenditures rise are the same in all big cities. The difference is that in the rapidly growing regions, the tax base is growing just as rapidly."

University of Pennsylvania economist Walter Isard, perhaps the nation's leading regional economist, also emphasizes economic forces much broader in magnitude than an individual jurisdiction's fiscal stance. "New Jersey isn't very social welfare-conscious," he says. "Pennsylvania and Connecticut are much less so than New York, yet all these states have the same growth problems."

Furthermore, although detailed data are unavailable, capital from the Northeast and Midwest has financed the industrial expansion of the South. On a regional basis, therefore, the North may well be running a balance-of-payments deficit against the rest of the country.

When a nation suffers a payments crisis, it can devalue its currency, tighten its monetary policy, impose import bans, or borrow from an international agency such as the International Monetary Fund. A region of the U.S. has no such options. One policy response it has left—applying fiscal constraint to dampen demand—would only exacerbate its problems by further reducing public services and job opportunities.

"The only fiscal response the state can make is to stimulate investment by reducing the tax burden of the area," says Arthur B. Laffer of the University of Chicago. But that is a difficult task indeed for areas already under tight budgetary pressure. Fiscal restraint, however, will be an inescapable tactic for the staggering industrial regions. But it will not be enough to set them back on their feet. Only a reversal of migration or deliberate federal policy could do that, and neither of these is in sight.

The North-South labor gap

Rapid industrial growth—particularly in the rural areas—will continue in the South and Southwest. Although the South's cost advantages are bound to shrink, particularly in metropolitan areas, as rapid migration continues, the rural South will for some time provide a large pool of inexpensive and willing labor and abundant land. Leonard Yasseen, chairman and chief executive officer of Fantus Co., tells the story of a bicycle company that his firm recently relocated to a small community in Tennessee. "In this community of 5,000," he says, "we had no fewer than 20,000 people who applied for jobs. There are tremendous labor pools there just waiting to be tapped."

Unions are planning to launch organizing drives in the South, but it will be a long time before wages reach national levels. "Though unions have made headway in the South, you start negotiating from a low base. You never actually catch up with wage rates you're paying in the North," says William Y. Hensge, vice-president for industrial relations at Chicago-based Allied Products.

Environment vs. Growth

Social and environmental pressures will increase in the South and the Southwest. Those who have left the Northeast should not imagine that they have escaped its problems forever. Clearly there is a trade-off between environmental and industrial growth. So far, social attitudes have been more favorable to growth, and less hostile to environmental damage, in the South than in the North. But as fast growth continues in the South, it will begin to press on the environment in the same way that it has in the North and Far West. Therefore, costs will increase in the South, particularly in metropolitan areas. "In the long run, and not all that long," says political scientist Alan Campbell, president of the National Assn. of Schools of Public Administration, "growth in the South will create an urban infrastructure which will lead their costs to approach those in the older regions, even though, from time to time, the people who are running those governments down there don't seem to think so."

The New Trade Competitiveness

Whatever tensions it may create domestically, the tide of migration is making U.S. exports more competitive in international markets. In the early postwar years, Germany and France were able to achieve huge productivity gains relative to the U.S., largely as the result of the migration of low-wage workers from the farm to the city. In the next decade, the U.S. may redress the balance through the migration of industry from the high-cost urbanized North to the low-cost rural South.

Moreover, the benefits will not be confined to companies that move. According to James Silvia, of the National Planning Assn., "With industry and jobs leaving the Northeast, there should be a tendency for wage gains to be smaller and union strength to dwindle." Peter Cassimatis, an economist at Fairleigh Dickinson University, says: "Inflationary pressures in the U.S. as a whole will be lower than they otherwise would have been."

Foreigners have recognized this, and their response further accelerates the South's growth. Italy's Montedison is putting up a petrochemical plant near Houston, and Japan's Y. K. K. is manufacturing zippers at a plant in Georgia. France's Lafarge and Connecticut's Lone Star Industries Inc. are putting $110 million into a joint venture to produce and market cement in the Southeast. South Carolina has attracted a flock of German companies, ranging from chemical manufacturers to makers of textile machinery, and France's Michelin is building a $300 million tire plant there.

WHY MIGRATION BECAME A FLOOD TIDE

There is always something mysterious about mass migrations. Some causes of the movement to the South and Southwest are familiar: good climate, cheap land and labor, and the sheer availability of materials and space.

But what is mysterious is the sudden acceleration. Perhaps the most important factor that seems to have been overlooked is that at some point around the late 1960's, Southern growth achieved a critical mass, turning orderly migration into a flood tide.

Growth became self-sustaining as the South's industrial base broadened and deepened. This process, which amounts to "import substitution," will continue, and it is now clear that Northern leaders who minimize manufacturing losses by promising economic vitality based on exportable business services are whistling "Dixie."

The emergence of a large population of financially independent retirees and professional people was also an important stimulus. The maturing of both federal and private pension plans is perhaps the major factor underlying this group's migration toward warmer climates and the countryside.

The impact of good agricultural conditions combined with the end of the draft to give the South an extra push relative to the North. People stay on the farm when agricultural prices are favorable. The rise of farm prices in the early 1970s thus cut sharply into a traditional Northeastern source of immigration. Furthermore, the end of the military draft reduced the tendency of farm youths to return to cities visited while in uniform.

The energy crunch also had a major impact on business relocation. In the late 1960s, supplies of natural gas for interstate shipment were sharply reduced because of the unrealistically low prices set by the Federal Power Commission. To obtain adequate supplies, many companies found it necessary to locate in energy-rich areas and buy unregulated intrastate gas. Although pressures are mounting for deregulation, the availability of gas continues to provide Louisiana, Alabama, and many other Southern states with a strong locational advantage. In addition, the explosive rise in the over-all price level for energy has greatly accentuated the South's long-standing climatic advantage, which permits lower plant construction and operating costs.

The seeds of hostility

These economic factors, of course, are not the whole story. However the underlying motivations are viewed, relatively generous Northern assistance for the poor, public education, and job opportunities for blacks have combined powerfully with increased employment opportunities for managers and professionals in the South to produce an interregional exchange of human capital that amounts to a multibillion-dollar Point Four program of technical assistance. Although it appears that there has been a marked decrease in the black outflow to the North since 1970, this informal program continues in a major sense: Those who migrate southward tend to be above average in income and educational level, while the thousands who continue to flow to the older industrial cities of the Northeast and Midwest are below average in these resepcts. This has placed an awesome burden on the already eroding tax base of the North.

Moreover, national economic recovery may lead disadvantaged Southern blacks and whites to migrate as heavily as before. "As the economy improves," says Harvard University's John F. Cain, an economist and professor or city and regional planning, "the net migration of blacks could shift back to the North. The slowdown the the last five years, say, is occurring because of the particularly high unemployment in older industrial cities, such as Cleveland. This is relatively temporary."

Other experts maintain that the South's economic advantages mean it will continue to be the region of opportunity for blacks as well as whites. NASPA's Campbell says: "When recovery intensifies, you'll get a further pick-up in the South and Southwest. The exodus of Southern blacks appears to be over for the foreseeable future. With regard to Puerto Ricans, however, the problems are similar, and their inflow may resume once the Northeast shows signs of life." Thus the pressures on Northern cities will continue.

But this impact of the vast migration is not the only aspect of public policy that contains the seeds of interregional hostility. An even more striking element, which is certain to lie at the center of the coming war between the states, is that the largest net flows of federal spending continue to go to those regions that are growing the fastest. As Roy Bahl puts it, "The Northeast is not getting federal assistance, and in the Southeast and Southwest, where they have no fiscal problems at all, its flowing right in."

This pattern was readily justified when the South still lagged behind other regions. Furthermore, there is an underlying logic that draws major federal projects toward useless land. Huge irrigation projects toward dams, highway systems, navigable rivers and canals—projects that defy the profit calculus of the private sector—have always lured federal bureaucrats and engineers to backwater bayous and vast open places. But the consequences of this tradition have drawn the ire of the Joint Economic Committee. In its 1976 report, the committee notes: "In recent years the largest increases in direct federal employment have occurred in precisely those regions that are experiencing the greatest private sector growth Federal nonmilitary payrolls as a percentage of nonfarm income are often three to four times higher in growing states than in stable or declining states. Many of these expenditures could be shifted to high unemployment areas."

Moreover, these projects no longer require large inputs from Northern industry. "Years ago," Bahl says, "when the federal government made disbursements for big projects, there were major leakages—TVA, for instance, generated a considerable volume of contracts for the Middle Atlantic states. Now that the South is relatively self-sufficient, those leakages no longer occur." Further distortions of federal effort arise from regional differences in the cost of living. "The categorical grants tend to be directed toward lower-income states," Bahl adds. "Now if you don't correct for differences in living costs, it looks as though the Southern regions are still the lower, so they continue to get most of the money."

The winners and the losers

Although data on the regional distribution of the total federal impact are of recent vintage, the sense that there is a chronic imbalance has been growing for some time. Aside from the highly visible incidence of federal employees—more than half of them civilian—and of such projects as the Tennessee Valley Authority, the Arkansas River project, Cape Canaveral in Florida, the Redstone Arsenal in Huntsville, Ala., and the Lyndon B. Johnson Space Center in Houston, there is the evidence of the regional economic growth differentials themselves. Looking at growth in these regions, the high degree of association between net federal benefit and faster growth becomes manifest:

The Northeast

To some extent the victim of its earlier prosperity, this area (New England and Mideast) is singled out by experts as the most severely affected by the South's steamroller drive toward self-sufficiency. Says Bahl: "The Northeast is overdeveloped relative to its future role. The reason they had the central-office, for instance, was agglomeration, the need to be near other businesses. But that is disappearing in two ways—firms can decentralize to other regions, or they can move to the suburbs. Transportation and communications changes have played an important role. New York is still a fine deepwater port, for instance, but that's no longer so important. This part of the situation is going to continue."

In short, changes that new highways, airports, pipelines, canals and communications have wrought in the calculus of locational strategy mean that it will gradually be stripped of many of the "export" functions it once sold to other regions, including both manufactured goods and business services. At this point the region's most conspicuous harbinger is perhaps the incredible magnitude of the negatives. As Alvin L. Erlich, president of the Ward-Johnston subsidiary of Chicago's Ward Foods, sees it: "I don't think people are going to uproot in those kinds of dimensions. What do you do? Duplicate the whole city of New York? Somewhere along the way the economics are going to be such that you do not move."

The view that so populous a region cannot slide forever is also advanced by BEA economist Robert Bretzfelder. "It's difficult to picture the economy getting anywhere near full employment," he says, "without New York and the other industrial states growing more than they did during 1969–73, even before the recession hit them."

The Great Lakes

In this region, which shows the highest per capita rate of net outpayments to the federal government (chart, page 94), manufacturing is still the king, queen, and court of the economy, accounting for nearly 50% of all private wage and salary payments. But employment in this vital "export" sector slipped by 8% from 1970 to 1975, and population, which rose at the national rate during the 1950s, has plummeted to 39% of the national average since 1970. Like the Northeast, this region is lagging behind the BEA's estimates as its "overdeveloped" heavy manufacturing sector continues a migration toward Southern markets and raw materials. Strong agricultural earnings of such states as Wisconsin have provided an offset, but the empty factories and fiscal hardships of such cities as Cleveland and South Bend bear witness to the uneven grace of federal activism.

Northwest-Central (Plains plus Rocky Mountains)

Right now, forecasting the future growth trends of this area is something like tracking one of Colorado's bighorns up the side of a glacier on a snowy night. The eight Rocky Mountain states stands out both for their No. 1 position in terms of net federal outlays and for breakneck rates of growth from a very small base. On the other hand, despite this growth, the region has fewer than 300,000 factory hands. The BEA's Bretzfelder identifies energy projects and associated construction as the major nonfederal source of growth, and many of the region's residents show no interest in matching the South's open-door industrial policy. NASPA President Campbell recalls a recent speaking engagement in Denver wistfully. "There were a lot of complaints about growth," he says. "I said, if you don't like growth, you should come back East and try decline for a while."

Plains population has grown at only about half the national rate since 1950 but the region has staked out a solid inducement for manufacturers. Says economist Clyde Hartz, of Schlage Lock Co.: "The Bible Belt of the Plains states is the place to be if you want very, productive labor, conservatism and a good place to raise your family." Spending has also benefited enormously from the virtual doubling in farm income levels that began in 1972. On the other hand, only Missouri has a population density equal to the national average, so local markets are still small.

The Far West

This region is decelerating, and its per capita income is virtually the same as the Northeast's. Nonetheless, the consequence will not be so visible, for this area never developed greatly as a service center for other regions. Climatic advantages and a heavy infusion of federal funds provide it with a growth cushion not enjoyed by the Northeast or the Great Lakes area. Furthermore, most of its cities have been shaped largely by the single-family construction, highways, and private automotive transportation that have predominated in the newer growth regions.

Already, however, many parts of this region have equaled or exceeded Northeastern cost levels for both labor and land, environmental constraints are critical, and some firms are beginning to move out. Bethlehem Steel Corp. is selling an 800,000-sq.-ft. facility in Richmond, Calif., and other companies, such as Hewlett-Packard, National Semiconductor, and Schlage Lock, have tilted expansion programs toward the Plains, Rocky, and Southern regions. But agriculture-food processing, still California's largest sector, is strong, electronics has spurted because of new consumer and industrial applications, and California is slated for the prime contract on the B–1 bomber.

The South

Both regions (Southeast plus Southwest) are richly endowed with land, minerals, energy, and net federal outlays. Vincent Barabba, director of the U.S. Census Bureau, emphasizes changes in transportation. "One of the major reasons for the shift to net immigation in the South and net outmigration in the Northeast has been the nation's reliance on truck transportation," he says. "Massive highway construction in the 1950s and 1960s opened up many parts of the South to manufacturing plants."

In sharp contrast to the rest of the nation, state coffers are overflowing here, since energy prices have generated enormous windfalls for coal and oil producers and the governments that tax them. According to a staff report of the JEC, 80% of the tax increases posted by energy states in 1975 were based on higher coal and oil levies, and the 13 energy-rich states account for more than 70% of the combined surpluses of all 50 state governments.

Federal defense outlays have also worked powerfully to offset the region's homegrown educational shortcomings. "The acquisition of knowhow, both from the standpoint of mobility of Northern management and labor and improvement occurring within the South itself, is a key factor," says economist Elsie Watters of the Tax Foundation. "And this is the kind of advantage that can snowball." The South is on its way to virtual self-sufficiency in education, as well as business output.

BEHIND THE DECLINE IN MIDWEST MANUFACTURING

For a century, Midwesterners watched with pride as the Great Lakes states of Ohio, Michigan, Indiana, Illinois, and Wisconsin evolved from an agricultural center into the country's mightiest and most concentrated industrial complex. The economic power came from mining, steel production, refining, and transportation systems tied to the Great Lakes. In turn, the lakes and railroads linked the region with the rich timber and iron ore of the North and the coalfields of the lower Midwest and Appalachia. A chain of ethnic cities along the Southern rim of the lakes, swollen by a massive influx of European immigrants, emerged as strategic manufacturing centers, major markets, and gateways to the West.

Today, this vast industrial heartland is losing momentum. Its old manufacturing cities, faced with shrinking tax bases, are decaying. Like New England two decades ago, the region's growth rates in population, personal income, and employment are rapidly slipping behind those of the booming Southeast and Southwest.

Since 1950 manufacturing employment in the Great Lakes states has grown only 4.3%. That compares with 76% in the Southeast, 141% in the Southwest, and a national average of 20%. Between 1967 and 1972, capital expenditures in manufacturing increased only 12% in the Great Lakes states and Pennsylvania (the latter is economically tied to that region by the steel industry). During the same period, they rose 21% in the Southeast, 19% in the Southwest, and 12% across the U.S.

Ralph Widner, former head of the Appalachian Regional Commission and now director of the Ohio-based Academy for Contemporary Problems, puts it bluntly when he says, "The industrial Midwest is the new economic problem area of the country."

The traditional vigor of the industrial Midwest is being sapped by three important national trends:

The economic shift from manufacturing to services—which now represents nearly two-thirds of the nation's private-sector employment—means that more and more companies are less shackled by geographical requirements. Unlike manufacturing companies, which are often restricted by transportation and raw material needs, service companies are freer to move wherever they choose. And many choose to go where the living is cheaper—and often better.

The industrial Midwest—like New England—is losing a growing number of factories to the Southeast and Southwest. In the past 20 years, for instance, the Akron-based rubber companies have moved production facilities closer to new Southern markets, trimming employment of rubber workers in Akron by half.

Automation may be taking the biggest job toll of all. According to Edmund Ayoub, assistant research director of the United Steelworkers of America, employment among production and maintenance workers in the industry peaked in 1953 at 571,000. By the early 1970s, employment dropped to a recession low of 400,000. Along the way, productivity increases have taken up the slack.

The region's booster

Regional developers, government planners, and others concerned about the growth problems of the industrial Midwest are busily trying to reverse the trend. In their industry recruiting, city fathers can still make a strong case for the Great Lakes. Despite its economic troubles, the region continues to account for 32% of total U.S. manufacturing employment and absorbs nearly 30% of all U.S. capital spending for manufacturing plant and equipment.

The five-state region and bordering metropolitan areas, such as Pittsburgh and St. Louis, produce 80% of the nation automobiles, 75% of its steel, and 62% of its machine tools. Because of the region's central location, transportation network, and skilled labor force, developers can also sell the industrial Midwest as an attractive primary location. Within a few weeks, in *fact*, *Volkswagen* is expected to announce that its first U.S. assembly plant will be in Ohio.

In many ways, in fact, Ohio could be representative of many of the problems of the industrial Midwest—and its sales appeal. "Ohio is preeminently a manufacturing state," says Paul Craig, an economist at Ohio State University. "Some 35% of all Ohio employment and 40% of gross state product are in manufacturing. Nationally, only 25% of employment is in manufacturing." Furthermore, Craig adds, Ohio manufacturing is heavily concentrated in durable goods: primary metals, metal fabricating, machinery, electrical equipment, and transportation equipment.

"There is a general misimpression that the durable manufacturing industries are sick and stagnant nationally," says Craig. "Nothing could be further from the truth." From 1948 to 1973, Craig notes, the country's real output of durable goods—the combined total of consumer durables and producer durable equipment—expanded by 251%, while real gross national product expanded only 159%.

To help lure industry, boosters are spreading far and wide. Ohio's Governor James A. Rhodes personally led a group of local and state officials that lobbied in Wolfsburg, Germany, for the U.S. Volkswagen plant. Two weeks ago, Rhodes joined another regional trade mission to Japan. Robert D. Orr, Lieutenant Governor of Indiana and the leader of that state's industry-recruiting drive, hopes to get the topic of regional economic development on the agenda for the Midwest Governors Conference in Indianapolis in July.

With the rapid growth of service industries, many metropolitan areas are also going after service companies—so far, with only mixed success. At a time when Chicago, Cincinnati, Cleveland, Detroit, Pittsburgh, and other manufacturing centers are losing population, other metropolitan areas that have become education and service centers are growing and thriving. Among the healthiest are Columbus, Ann Arbor, and Indianapolis. Yet the region's services employment continues to trail the rest of the country. Since 1950 services hiring in the Great Lakes region has grown only 55%, compared with a national average of 65% and a growth rate in the Southeast and Southwest of 79%.

Many Midwestern economists look to New England for answers to their regional problems. New England, for instance, has made a fairly successful attempt to attract more and more high-value-added technology industries. However, the industrial Midwest lags behind the Northeast and other regions in attracting the federal research and development funds crucial to such industries. Only 5% of federal R&D dollars are now spent in the region.

A PhD drain

As shown in the chart on page 94, in fact, the region receives total federal outlays equal to only 64% of its federal tax burden. Comparing actual tax collections with total federal aid, payroll, defense contracts, and veterans and Social Security benefits, the payback ratio falls to only 49%. "A good deal of the wealth of these states goes to Washington and gets distributed in the South and West," says Indiana's Orr. "We are now actually subsidizing the states that are successfully competing against us."

The Great Lakes states are also looking for ways to attract and hold top professional talent. Like capital and jobs, professional talent now tends to flow southward or westward. While one of every four PhDs in the country is educated in the region, only one in six works there.

Some limited growth proponents praise the new economic character of the Midwest. Other experts, such as Widner, find bitter irony in the region's problems. "The industrial Midwest has historically inherited the outmigration of the poor from the South," Widner says. "Now the tax base to handle that problem is draining back to the South, but the poor are left behind," he adds. "The industrial Midwest is simply bleeding to death."

HUYCK: THE CASE OF A COMPANY THAT MOVED SOUTH

As a Northern-based manufacturer, Huyck Corp. faced a special problem in the early 1970s when it decided to find a new headquarters location. Earlier management decisions had actually split the home base between two communities 120 mi. apart. Top officers worked in Stamford, Conn., while major staff executives—chiefly those in finance—operated out of Rensselaer, N.Y. "As our business grew and became more complex, the disadvantages of operating on that basis became acute," says Donald H. Grubb, president and chief executive of Huyck. "Clearly we had to combine them. The question was where."

Because of high local operating costs, neither Stamford nor Rensselaer was considered. Instead, Huyck, a $120 million manufacturer of belting products for the pulp and paper industry, ended up on a rolling, 85-acre site near Wake Forest, N.C., just north of Raleigh. There, in 1973, Huyck moved into a headquarters building of 8,500 sq. ft. and a second plant for Huyck's Formex Div., based in Greenville, Tenn. "Our distribution pattern dictated a site east of the Mississippi River," says Grubb. "Beyond that, we looked at everything from northern New Jersey on down."

One key deciding factor was a Huyck study indicating that North Carolina's building costs ran about 24% lower than those in the New York-Connecticut area. In the early 1970s, Huyck's leased office space in Stamford cost just over $7 per sq. ft. per year, while space in the Raleigh area averaged $4.50. "The cost of our headquarters building came to $265,000, and the cost of relocating our employees was $375,000," says Grubb. "We figure our operating savings on taxes, utilities, and such will pay back the onetime cost of the move in just under nine years."

Job turnover is high

Huyck finds that the average payroll for manufacturing employees runs 10% less in the Southeast than in the New York metropolitan area. But the company has not discovered any wonderland of cheap labor. "Had we been looking for a strictly manufacturing site," says Grubb, "we'd probably have gone to a smaller town without all the amenities we needed for our corporate managers. But we realized we were making a compromise. Manufacturing unemployment in the Raleigh area is only about 2.5%. So labor turnover tends to be high." In Huyck's first six months, in fact, labor turnover averaged 44%, which obviously cut into productivity and profits, though Huyck cannot put an exact figure on the cost. "Part of this was due to the normal problems of starting up a new plant in an area where you are not known," Grubb says. "In the last six months, the rate has stabilized at 17%."

Grubb claims that Huyck's current clerical help costs 10% to 15% less than in Stamford, "and we feel we get a better grade of employee," he adds. "A young girl who was doing some typing for me recently changed a percentage figure I had used in a letter. I changed it back, and she said, 'That's wrong.' I checked and found she was correct. In Stamford, that kind of thing just wouldn't happen."

For the benefit of employees who moved south with the company, Huyck paid special attention to the local tax bite on transferees. Connecticut has no state income tax—only a capital-gains tax and a fairly stiff property tax. New York's state income tax runs to a maximum 14% on $14,000. The North Carolina rate, meantime, is 7% on a maximum $10,000. However, North Carolina also collects an "intangibles tax" computed at 10¢ per $100 of average quarterly cash on hand and 25¢ per $100 of securities owned at yearend.

On the basis of income tax alone, the move's impact on lower-to-middle level executives, most of whom were based in New York, proved negligible. An employee with a $20,000 salary, $1,500 in cash on hand, $25,000 in securities, and $2,000 in dividend and interest income or capital gains would pay $1,023 in New York compared with $985 in North Carolina.

The tax bite on upper management, which had been based mostly in Stamford, was higher in the North. While Connecticut has no income tax, a Huyck study showed that a manager with a $50,000 salary, $3,000 in cash on hand, an unusually large securities portfolio worth $400,000, and $18,000 in dividend or interest income and capital gains would pay Connecticut $1,048 in capital-gains taxes. By comparison, his income and "intangibles" taxes in North Carolina would run $4,637. (If he lived in New York, his income and capital-gains taxes would run $6,250.)

Higher taxes, cheaper services

North Carolina's high income taxes, however, are offset by savings in other areas. Smaller real and personal property taxes in North Carolina eliminate about two-thirds of the difference between the northern and southern locations. In the Raleigh area, for instance, the rate on property taxes averages $1.89 per $100 of property value. In Stamford, property taxes average roughly $4.60 per $100, while in Rensselaer, they go up to a startling $17.50 per $100. In Huyck's North Carolina location, savings on housing and transportation more than make up the rest of the difference. Thomas M. McCrary, senior vice-president, says: "In buying a house in Raleigh, I doubled my floor space and went from pine siding to brick at about the same monthly payment."

In the same way, Grubb notes of his Stamford days, an evening out in New York was a major undertaking. "Here," he says, "you can be downtown in 15 minutes—and find a parking place."

"We found little difference in food costs, but car insurance is considerably cheaper down here," says Frederick A. Ferraro, vice-president for finances. "Clothing is not as expensive, and you don't need as many heavy clothes. Compared to what we were used to, the winters down here are quite mild and a lot shorter." Services ranging from orthodontists to bricklayers, painters, or auto mechanics are also cheaper in price. "And they come when you call them, instead of maybe six or eight weeks later," says Ferraro.

He is equally enthusiastic about local financial services. For most routine corporate services, he turns to North Carolina banks. But he maintains his relationship with New York banks. "We actually find our New York banks call on us more frequently down here than they did when we were in Stamford," he says. "I guess they just like to come to this area." Johnson & Higgins, a New York company that handles most of Huyck's international insurance, now has a branch in Charlotte, 100 mi. away.

As proof of the move's success, Grubb notes, all but one of the 35 executives who were originally asked to relocate accepted. Of those 34 executives, only one has since returned to the North. "Today if we were making the same decision on whether or not to move, there is no question that the decision would be the same as our previous decision," says Grubb. "We have no regrets. In fact, if we build another plant, I'd be very surprised if we didn't build it somewhere in the South."

REECE: THE CASE OF A COMPANY THAT STAYED UP NORTH

Like Huyck Corp., Reece Corp. of Waltham, Mass., also considered a move to the South—in this case, construction of a major Southern plant. After analyzing the pluses and minuses of migration, however, the company finally decided to build in New England. Today, Reece—an 83-year-old, $34 million manufacturer of machines that sew buttonholes—supplies its world-wide markets from a 218,000 sq. ft. plant in Waltham and another 100,000 sq. ft. plant in Gorham, Me. While conceding many of the problems of running a business in New England, President John B. Reece is not all that convinced that the Southeast and Southwest are everything they are cracked up to be. "The same thing that's happened in Massachusetts can happen there too," he insists.

As an old New England company with deep roots, Reece was even slow to make its first move out of cramped, downtown Boston. That came in 1949, when Reece relocated to the Boston suburb of Waltham. By 1970, following five plant expansions, the company started searching for a second plant site. Because half of the company's sales come from outside the U.S., Reece began looking in Asia and Europe. While foreign wage rates then ran lower than those in the U.S.—fully two-thirds lower in Holland, for instance, where Reece has a small parts plant—unfamiliar laws and language, the need for new supplier networks, and sheer distance from Massachusetts manufacturing specialists soon ruled out a foreign site.

Feeling recession's pinch

Next the company turned to the Southeast and Southwest. "But the case for building in those areas," says Reece, "was just not compelling"—at least, compared with Gorham, which is near Portland and less than two hours from Waltham by car.

Average hourly manufacturing earnings in Portland ran only $3.68 in 1974, the latest year for which figures are available. That was sharply less than the $4.55 of the Boston area and even less than the U.S. average of $4.41. The same general earnings were only slightly lower in North Carolina, at $3.28—while actually being higher in Georgia, at $4.02, and Texas, at $4.08. Perhaps more significant, the rate of hourly wage increases among manufacturing employees was also higher in parts of the South, compared with Portland. Between 1964 and 1974, average hourly manufacturing earnings rose 72% in both Portland and Boston, while increasing 80% in North Carolina and Georgia. In Texas, they rose 65%.

While the tax load is decidedly less in many Southern areas than in either Massachusetts or Maine, rates of increase in the South are often only slightly lower. Between 1964 and 1974, per capita state and local taxes jumped 171%, to $766.68, in Massachusetts and 176%, to $597.42, in Maine. In North Carolina, they rose 162%, reaching $461.35. The median increase for the U.S. came to 141%, with the national median running $572.71.

For John Reece himself, one of the biggest lures of Maine was more subtle and subjective and traced directly to the Yankee work ethic. "We were impressed by the quality of workmanship and the general work attitude," he says. "I've had men look me in the eye and say thanks for the chance to work. That's an attitude that can have a bigger impact on costs than taxes."

In Maine, Reece also likes "the good living environment, which is so important to a good business climate." And he speaks enthusiastically about the cooperation of local government officials. "People in Maine bent over backwards to help us," he says. "They introduced us to key people. They really showed that they wanted us. Before the company even signed a contract, in fact, the builder was out clearing the site—just on the strength of a handshake."

Feeling recession's pinch

The company ended up buying 31 acres of land for $230,000 and investing another $2 million in construction and $2.2 million for tooling. A $2.5 million industrial revenue bond, offered by the city of Gorham at 5.8% interest, helped cement the deal.

Even with Maine's friendly reception, John Reece is the first to admit that staying in New England will be no bed of roses. Before moving into the new Gorham plant in 1974, the company's 1973 profits hit an all-time high of $6.3 million on record sales of $34.3 million. Then came the recession, which hit New England harder than most other regions of the country. Last year, Reece's profits were down to $3.1 million on sales of $34.2 million, cutting profit margins from 18% in 1973 to 9%.

To get better control of costs and profit margins, the company spent $4.6 million between 1968 and 1974 for new computer equipment, machine tools, and other capital equipment aimed at boosting productivity in Waltham. So far, the effects have not been dramatic. During the same six-year period, employment at Waltham climbed from 440 to a peak of 790. Total company sales, meantime, rose 60%. Today, Waltham employment is down to 600—but mainly because of the recession, which still lingers in the Northeast. Reece's manufacturing production is now running only 60% of capacity in Waltham and a dismal 40% in Gorham.

While many of the company's problems may be unresolved, John Reece—nevertheless—is still firm in his commitment to Northern manufacturing. "We have no intention of moving from New England," he insists.

Spending More and Buying Better Things

With the staggering growth of Southern markets, Northern and Western companies alike are casting covetous eyes southward. Many are expanding their distribution in the Southeast and Southwest. Others are looking for acquisitions. Several leading merchants—including Carter Hawley Hale Stores Inc., of Los Angeles, and Dayton-Hudson Corp., of Detroit—have held preliminary talks with Rich's Inc., the big Atlanta retailer.

"This is a market still in its infancy," marvels Gregory R. Dillon, senior vice president of corporate properties for Hilton Hotels Corp. "We're looking at a population that has grown from 50 million to 80 million in the last 30 years." During the 1960s, the Southeast and Southwest represented no more than 10% of Hilton's property growth. Since 1970 as much as half of the company's growth has originated in those regions. Of the 11 new franchised hotels that Hilton will open this year, seven will be located in the South.

Unquestionably, the 16 states of the Southeast and Southwest have become the hottest and fastest-growing markets in the country. As Alfred Hong, managing director of Marketing Economics Institute, notes: "For an indication of the South's strength and resilience, just look at the way its markets bounced back from the recession."

In many ways, in fact, the South is leading the way. Last January during the early stages of the recovery, the country's average personal income rose 11% above the same month a year earlier. By comparison, personal incomes jumped nearly 20% in the Carolinas, 15% in Texas, 16% in Arkansas and New Mexico, and 14% in Kentucky, Mississippi, and Tennessee. During the same month, retail sales spurted 14% in the South Atlantic states from Maryland to Florida; 17% in Kentucky, Tennessee, Mississippi, and Alabama, and 18% in Texas, Louisiana, Arkansas, and Oklahoma. That compared with an average national increase of 12% and below-average increases of 11% for New England, 8% for the Mideast or Middle Atlantic states, and 10% for the Great Lakes region.

Along the way, adds Vincent P. Barabba, director of the U.S. Bureau of the Census, "we are starting to see a very significant leveling and homogenizing of markets." Back in 1950 per capita income in 78 out of 173 "economic areas" charted by the Bureau of Economic Analysis ran 15% or more below average, while income in 19 areas ran 15% or more above average. By 1973 only 63 areas had income levels 15% or more below average, while 10 were 15% or more above average. The biggest loser was the six-state region of New England. During the five years from 1970 through 1974, per capita income in New England dropped from 7% above average to only 4%—"a rather formidable loss of ground," notes Fabian Linden, consumer economist for the Conference Board.

Consumers are trading up

The gradual narrowing of the gap is already beginning to show up in consumption patterns among Northern and Southern markets. H. John Meany, president of Los Angeles-based Norris Industries Inc., notes that more and more Southern consumers are purchasing higher-quality garbage disposals, dishwashers, ovens and other appliances. "Twenty years ago," he says, "all we ever sold in the South were bottom-of-the-line products. Today, we sell quality levels."

Kellogg Co. sees a similar shift in cereal sales. Historically, ready-to-eat cereals have not been hot sellers in the South. Yet from 1972 to last year, per capita consumption zoomed 37% in the Southeast and 40% in the Southwest. While that was still slightly less than the 42% increase in total national sales, Kellogg Vice-President Robert C. Bland calls the gain "significant" for Kellogg's future marketing plans. "The South has simply become more like other areas of the country," Bland says. Northerners who moved South, he notes, "have taken their eating habits with them."

Typical of many of these transplanted consumers is Nancy Johnson. Three years ago, she quit a $13,000 job with American Telephone & Telegraph Co. in New Jersey, married a Georgian and moved to Atlanta, where she took a $10,000 position with Citizens & Southern National Bank. Now a corporate trust officer at C&S, she earns $16,500. "You still have about a $3,000 lag when you come south," she says. But she claims Atlanta living costs are lower, transportation is better, and the living is certainly easier.

Seven months ago, Donald R. May actually ran into higher living costs when he moved his family from Midland, Mich., to Miami and went to work for Cordis Dow Corp., a manufacturer of artificial kidney machines. May, who earns between $25,000 and $35,000 a year as controller-treasurer for Cordis Dow, estimates the difference in living costs at 8% to 10%. Compared with the house he owned back in Midland, May paid 80% more for an even smaller home in Miami. While he finds clothing and food less expensive in Florida, he says: "Our auto insurance is 365% higher. And we were surprised to find that it costs as much to cool a home here as it does to heat one in Midland." Yet he has no regrets about moving. "My wife and children and I are quite happy," he says.

In the low-growth Northern markets that many consumers are leaving behind, manufacturers and merchants are doing what they always do when things get tough: They are tightening up, watching their costs, and holding fast. "We're just not expanding in the Northeast," says Nelson S. Gifford, president of Dennison Mfg. Co., a Massachusetts-based manufacturer of industrial and commerical products.

Many of these same companies are giving far more attention and emphasis to Southern markets. For the first time this year, for instance, Ford Motor Co. has abandoned its national network TV commercials and switched to regional TV "spots." These will plug the Mustang in the Southeast, the Pinto in California, and bigger Fords in the Northeast. Five or 10 years ago, notes Ronald J. Robbins, corporate marketing analyst for Ford, the primary car-buying group in Atlanta ran 30 to 45 years of age. "It bought nothing smaller than intermediate-sized cars," Robbins says. Now because of changing migration trends, he notes, the 20-to-34 age group predominates, "and it is buying small" (a preference, of course, that at least partly reflects higher energy costs).

Del Monte Corp. abandoned blanket national advertising five years ago. With its $15 million annual ad budget. Del Monte now advertises five basic product groups to 17 "mini-markets" around the country. That means 85 possible combinations for advertising and marketing. Depending upon the season and local preferences, for instance Del Monte might push pineapple in Florida, catsup in Texas, and green beans in Arizona. In one of nine catsup markets, the new strategy added two market-share percentage points, and in one of five pineapple markets, five points. By breaking out markets, Del Monte Vice-President Fernando R. Gumucio claims that the big food company is getting "much more marketing productivity."

Sears, Penney, and other leading merchants also are sharpening their Southern focus. Throughout the South, they are adding more and more stores, distribution centers, and special regional merchandise. With an eye on Southern population projections, Montgomery Ward & Co. even changed its entire regional structure in 1972. By splitting its Eastern region in half, Ward added a fifth regional organization for the Southeast. During the next five years, Ward plans to build 12 to 15 stores a year, mostly in the Southeast and Southwest. "Those areas are going to be wall-to-wall people," says an exuberant Frederick H. Veach, who is executive vice-president of corporate development for the Chicago-based retailer. "And we build stores to serve people."

Industrial customers, too

John R. Welty, the vice-president who heads the Semiconductor Group of Motorola Inc., says the same thing about industrial customers. Welty's group now divides the country into nine sales regions of nearly equal volume. Recently, says Welty, his Orlando (Fla.) sales manager found his regional volume mushrooming 30% above all other regions. "Ten years ago," says Welty, "Florida was a desert as far as the sales of high-technology electronic components were concerned. Today it is a fast-growing market, as are Alabama, Texas, and other parts of the South. High-technology manufacturing is prospering in the South because talented people want to live there."

That also applies to semiconductor makers themselves. "If one looks back to the mid-50's," Welty says, "you find the center of gravity for the semiconductor industry right around Schenectady, N.Y. It was virtually all there in the Northeast. Today the industry leaders are in Arizona, Texas, and California." Among them are: Texas Instruments, Fairchild, and, of course, Motorola's Semiconductor Group, which is based in Phoenix.

Does this portend an even larger and more massive migration of markets in the coming years? Not necessarily, says Hilton's Dillon. "Certainly there's some drain of resources from the North," Dillon concedes. "But I don't see it as some malady that spells the demise of the great Northern cities. There are still good markets all over the country." For the South, adds George Brown, former director of the Census Bureau and now corporate secretary for the Conference Board, the present market shifts are helping the country to achieve more economic equilibrium. "The South is catching up—that's all," says Brown. "And that has to make our economy and our markets just that much stronger."

NO WELCOME MAT FOR UNIONS IN THE SUNBELT

The migration of industry to the South is an old, but now ominously increasing, threat to organized labor. Faced by shrinking memberships and an erosion of bargaining power in the North, unions are stepping up their pursuit of "runaway shops"—with only limited success. Southern culture remains inhospitable to unions, and the AFL–CIO's strategy for the near future will be to attempt breakthroughs in selected areas of Southern industry rather than mount a full-scale invasion.

The result will be growing numbers of union vs. management brushfires in the region and major confrontations in single industries, particularly textiles. A major target will be J. P. Stevens & Co., the nation's second largest textile manufacturer, which for years has fiercely resisted unionization, by means often found to be illegal. An AFL–CIO-supported boycott will probably be launched against Stevens sometime after the merger next month of the Textile Workers Union (TWU) and the Amalgamated Clothing Workers.

Such a boycott would be the largest and most difficult ever attempted in the U.S., and it could well fail. The TWU and the ACW are making preparations now, and if it does succeed, the Stevens campaign could provide a base for the ACW–TWU to organize some 650,000 nonunion textile workers in the South. A major organizing effort in textiles will take years, and even if it results in a victory over Stevens—a company the AFL–CIO regards as the symbol of "the South's anti-union conspiracy"—the rest of the region's nonunion industry will not topple like dominoes.

The existence of state right-to-work laws throughout the South and Southwest, except in Louisiana, Kentucky, and New Mexico, deters organizing, as does a deep Southern cultural bias against unions. Not only have smaller companies by the hundreds escaped unions by moving South, but major companies in the rubber, autos, and electrical equipment industries, among others, also have been spotting plants outside the Northern strongholds.

In the electrical industry, General Electric Co. and Westinghouse Electric Corp. are each less than 50% organized. Only 190,000 of 450,000 rubber and plastic workers belong to unions. Even the powerful United Auto Workers has failed to organize six Southern plants owned by General Motors Corp. For the unions that bargain on a national basis, this means a weakening of leverage. In addition, union chiefs with declining memberships have less clout with legislators.

In 1974 national unions claimed 1.7 million members in the eight Southeastern states, an increase of 6.7% over 1972. But nonfarm employment increased by 9.4% in the same period, and so union membership as a percentage of the work force declined, from 14.3% to 14%. North Carolina, where industrial jobs that offer low wages are mushrooming, ranked last among the 50 states in 1974, with only 6.9% of its work force unionized. In contrast, industry has been moving out of states with high rates of unionization: Michigan (38.4%), New York (38%), and Pennsylavnia (37.5%).

Despite past setbacks, the more militant union leaders still dream of mounting a massive, unionwide organizing campaign in the South. But the AFL–CIO leadership is unlikely to issue marching orders for such a campaign in the near future, partly because President George Meany feels that organizing is the responsibility of individual unions. There are no Walter Reuthers around to prod labor's hierarchy to launch an all-out drive.

In the 1960s, the AFL–CIO's Industrial Union Dept. poured $13 million into such a drive but rounded up only 93,000 members. A similar effort by the old CIO in the late 1940s also ended up "something of a flop," as one of its leaders conceded. Says an official of one major union: "Everybody recognizes the need for a massive campaign. It will come eventually—but after Meany."

"The unions can succeed in the South only where management decides it wants them, says W. A. Wilson, executive director of Piedmont Associated Industries in North Carolina. But some unions are making gains. In fiscal 1975, unions won 757, or 45%, of 1,671 representation elections in the South, lower than the 48.2% national success rate. The International Brotherhood of Teamsters won about a quarter of these elections, and the United Steelworkers took in 30,868 Southern workers from 1970 through 1974.

In addition, there is much evidence that the threat of unionization has pulled up wage rates in the South. The Clothing Workers union, with 35,000 to 40,000 Southern members, has 100 organizers campaigning constantly in the South. "Even where we don't organize, we tend to improve conditions," says ACW Secretary-Treasurer Jacob Sheinkman. "But the workers still don't have industrial democracy."

At present, labor has three major bases in the South: the steel industry in Alabama, tobacco manufacturing in the Carolinas, and the trucking industry throughout the region. But even the major steel companies, which have a long history of accommodation with the USW, make the union fight "tooth and toenail," as one USW leader puts it, when they locate a satellite plan in the South. Rarely do companies voluntarily extend recognition to a union, and they are not well received in the South if they do.

When companies go south, they often hire labor relations consultants—"unionbusters," as the unions brand them—to advise them on how to keep unions out. Another popular tactic is to take a very hard line in bargaining if the union does get in. Typically, a company will reject demands for dues checkoff, arbitration of unresolved grievances, and a seniority system—the very core of a union's strength. "You can strike the company over these issues," says a Southern union official, "but the people just can't hold out long *enough*."

The USW, however, does have strong leverage in organizing Southern plants in the can manufacturing industry. Its can industry contracts specify that if the union is certified at a new plant, the workers receive the high wages and benefits in the national agreements. "When you can go to the workers and say, 'You will automatically get these benefits if you vote for the union,' the workers know that they won't have to strike to get a contract. That's the big fear that the companies play on in the South," says head organizer Elmer Chatak.

Custom and accents

In addition to the political and economic barriers, unions must contend with a host of Southern cultural factors that frustrate organizers from the North. Rural people who are pouring into the South's new manufacturing work force value their independence and tend to distrust third parties, such as unions. And in a region where religion—particularly Protestant fundamentalism—is a major force in every-day life, the churches usually give implicit support for business. "People are used to a religion in which each individual has a personal relationship with the Almighty," says Tony Zivlovich, a Teamsters organizer in the South for 17 years. "Everybody feels you've got to do things for yourself."

Stephen I. Schlossberg, general counsel of the UAW and a native of Virginia, says another major problem has been "the reluctance of the unions to accept the South as part of the country." He continues: "They make fun of Southern customs and Southern accents."

Some unionists familiar with the South feel that prospects for unionization are changing for the better, partly because blacks are flooding into the industrial work force. In some respects, says the Teamsters' Zivlovich, there is more integration in the South than in the North. "Most workers in the South now have at least a few friends of the other race and will go to each other's houses," he says. "People realize they have to get together, and they're getting smarter economically. If the unions will get off their duffs, and if they will stop looking down on the South, great progress can be made."

A POLICY FOR DOMESTIC DÉTENTE

The meteoric rise of Georgia's Jimmy Carter, based on appeal to voters of all races and regions, is clear evidence that the rapid rise of the South and the concomitant decline of the North has changed the face of U.S. politics. The critical question for the nation, however, is when this phenomenon will change the content of public policy.

"It is necessary," says University of Texas avoided, then the nation must embark on a path that will minimize the problems of "creative destruction," caused by the growth of the South and most experts would agree that the major steps to be taken, some of which may be unpleasant, include the following:

Federal policy's uneven impact on the various regions must be reviewed and redirected toward slow-growth areas.

"It is necessary," says University of Texas economist Bernard Weinstein, an expatriate from the State University of New York, "to find out just who is sending what to whom. The whole slew of federal programs must be reviewed in terms of whether the North is still subsidizing the South." Virtually all experts would agree that the South's need for net subsidies has long since passed, and most favor a more even-handed policy. Weinstein, among others, thinks it is time that the pendulum swung. "The South should be subsidizing the North," he says.

The North and Far West must cut back selected services and slim their fiscal profile.

Even if federal policy is gradually switched back toward the slower-growth regions, the broad underlying shift of economic activity would require a careful pruning of public outlays. New York City, for example, has maintained a system of tuition-free colleges despite the fact that most private and state universities have more than tripled their tuition charges in the last 20 years. "A city ought not to be involved in a university," says Roy Bahl of Syracuse University, "though at one time, New York's tax base could afford it." On the other hand, he cautions, service cuts can be pushed to far. "A cut in services makes the area less attractive and could accentuate the decline."

The entire fabric of state-local relationships may have to be altered.

With tax bases dwindling, more and more cities find it difficult to maintain services adequately, especially education. New Jersey's Supreme Court found last year that inequities that had arisen in that state's school system could be remedied only by uniform state financing. This clearly signals less local autonomy in education. In other areas, public employee wages and pensions have spiraled out of hand, adding new dimensions to the perils of municipal finance. As a result, states will assume an increasing share of management and financial responsibilities previously reserved to the localities, perhaps including the negotiation of municipal employee wage levels.

In the older industrial regions, of course, many of the states are nearly as hard-pressed as their cities, which means that they in turn may have to bargain for federal assistance. In its recent annual report, the Joint Economic Committee cited the need to regularize such aid. "The federal government cannot completely offset the effects of economic decline, but it is necessary to provide assistance to cushion the impact of decline on public services."

Renewed emphasis will have to be placed on equalization of economic opportunity.

Ironically, the Northeast could significantly ease its burdens by encouraging greater economic opportunity in the poverty pockets of the Deep South and Puerto Rico. Such heavy loads as welfare payments and outlays for bilingual educational programs in northern cities need to be eased. "The education of both Appalachian whites and Negroes of the core South is inferior to that of the majority of the Southern population," says Harvard's John Kain. "A strong argument can be made for programs that are aimed at these groups, not after they have arrived in the metropolis but while they are still in the rural South. Enforcement of equal opportunity laws for government contractors and subcontractors is already increasing the openings for Southern Negroes, and these efforts should be stepped up. Broader legislation is also desirable.

Federalization and greater standardization of welfare should be pressed.

This will lessen interregional frictions in two ways. The overextended cities of the Northeast will gain from larger amounts of federal support—assuming they have the will to restrain further rises in benefits—for what according to most experts is a national rather than local problem. Second, disadvantaged groups in the rural South—actually the region that would receive the largest proportion of the increase in federal welfare payments—would find their economic positions improved, so pressures forcing them to migrate would be eased.

The tax code should be changed to provide a better balance of incentives between home ownership and renting and between new and existing structures.

The absence of a rental tax deduction comparable to the federal exemption of mortgage interest and property taxes on owner-occupied housing results in the renter bearing a high tax burden. This benefits the South, where home ownership predominates, relative to the metropolitan areas in the North. Furthermore, the JEC finds that "federal policies have encouraged new housing construction at the expense of rehabilitation and have supported the rapid turnover of real estate holdings." Alan Campbell, president of the National Assn. of Schools of Public Administration, questions "whether home ownership is still such a desirable pattern." Says he: "We've built in a subsidy for high energy usage and the spread city that ought to be reviewed."

Environmental constraints in the Northeast must be selectively eased and the pressures to do this should not be resisted.

"People up in the North are griping about the lousy environment," says Walter Isard of the University of Pennsylvania, "but there's a trade-off. You can't have all the industry that gives you the tax base for a fine educational system and great environmental quality, too." An obvious prospect is that pressures will mount to develop the oil and gas resources of the Atlantic Coast area. If substantial, these reserves could reduce the Northeast's energy problem.

A high-level body of experts to formulate explicitly regional growth policies is long overdue and should be created.

If the U.S. is ever to have anything resembling a coherent and efficient growth plan, sophistication and objectivity must be added to the current melange of local boosterism and self-interest. Isard feels that this could best be accomplished by the creation of a President's Council of Regional Advisers, comparable to the present Council of Economic Advisers. In its recently released 1976 report, the JEC calls for a commission whose responsibilities would include "proposals designed to provide the Congress, the Executive, and the public with information necessary for the development of effective regional economic policies."

Unfortunately, the gap between the worlds of economic necessity and political reality is wide. In some respects, of course, the possibilities for a smoothing out of regional benefits and burdens have never been better because of the many factors that have made the regions more alike. Northerners who have resettled in the South often provide some leavening to the political atmosphere of their new region, where, as the University of Houston's Bill Thomas puts it, "there are still a lot of rural counties that aren't too sure about trusting the state government, let alone the federal."

Growing together

The concept that Southern politics is becoming less conservative is endorsed strongly by Michael F. Macleod, executive director of the House Republican conference. "If representatives are going to win in the New South," he says, "they are going to have to become more moderate."

Although surging population growth will provide the South with greater Congressional representation, much of its raw political power is eroding. At its power peak, in 1956, the South could claim the chairs of 12 of the Senate's 19 standing committees. Now, the South's share of chairmanships has fallen to 9 of 23 committees, and it has lost such key chairs as Ways and Means and Agriculture. Recent changes in Congressional rules have greatly reduced the importance of the seniority achieved by some Southern legislators. A Southern Congressional leader can no longer immobilize a committee single-handedly.

Differences in the phases of economic development through which the various regions are passing will complicate the process of arriving at a workable regional policy. The South's relative abundance of energy riches further accentuates the tendency to mefirstism. James M. Howell, senior vice-president of First National Bank of Boston, has concluded, "You're going to have a tough row to hoe to persuade Southerners that the country is only as strong as each of its parts." As for the Northeast, another senior banking official believes that only now is a dim awareness emerging as to the true magnitude of its losses. "When they realize the full extent of what's happened," he says, "there's going to be an awful lot of bitterness back East."

And so the lines are drawn for a coming war between the states. Reason and fair play could ease it's anguish, but these are rarely found during wartime.

S. 2228

A bill to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a three-year period

TITLE II

SEC. 201. The President of the United States is authorized and requested to call a White House Conference on Balanced National Growth and Economic Development within one year of the date of enactment of this Act in order to develop recommendations for further action toward balanced national growth and economic development, and to take account of present conditions and trends as set forth in the report accompanying this Act. Such conference shall be planned and conducted under the direction of the domestic council with the cooperation and assistance of such other Federal departments and agencies, including the regional commissions established under the Appalachian Regional Development Act and title V of Public Works and Economic Development Act.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of our country's social and economic needs, the conference shall assemble representatives of government, business, labor, and other citizens and representatives of institutions who could work together for balanced national growth and economic development.

(c) A final report of the White House Conference on Balanced National Growth and Economic Development shall be submitted to the President not later than one hundred and eighty days following the date on which the conference is called and findings and recommendations included therein shall be immediately made available to the public. The President shall, within ninety days after the submission of such final report, transmit to the Congress his recommendations for the administrative action and legislation necessary to implement the recommendations contained in such report.

SEC. 202. In administering this joint resolution, the Secretaries shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) give all reasonable assistance, including financial assistance, to the States to enable them to organize and conduct conferences on balanced growth and economic development;

(3) prepare and make available background materials for the use of delegates to the White House Conference on Balanced National Growth and Economic Development as they may deem necessary;

(4) prepare and distribute interim reports of the White House Conference on Balanced National Growth and Economic Development as may be appropriate; and

(5) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 203. For the purpose of this joint resolution the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Sec. 204. The Secretaries are authorized and directed to establish an Advisory Committee to the White House Conference on Balanced National Growth and Economic Development composed of fifteen members of whom not less than five shall represent businesses in the private sector and the Secretaries of the Departments of Commerce, Agriculture, Housing and Urban Deevlopment, and relevant Federal program managers.

White House Conference on Balanced National Growth and Economic Development

Title II of the bill authorizes and requests the President to call a White House Conference on Balanced National Growth and Economic Development within one year after enactment of this legislation. The Conference shall be composed of representatives of Federal, State and local governments and the broad spectrum of the private sector.

A review of existing patterns of development in this country indicates the need for such a conference.

This Nation, comprising approximately one-twentieth of the world's population and producing about one-fifth of the world's food supplies, one-fifth of all steel manufactured and one-third of all electric power, and creating a technology unparalleled in this world—nevertheless, has not achieved satisfactory levels of employment and distribution of economic growth among its citizens.

At the beginning of this century, 60 percent of the people lived on farms or in villages, while today 70 percent of the American people live in metropolitan areas (cities of 50,000 or more) and the surrounding country or counties; and as high as 85 percent of the population is expected to live in metropolitan areas by the year 2000.

We have undergone a transition from an agrarian to an industrial and now to a service-oriented economy and the economic development of the United States can be traced through the impact it has had on the distribution of population.

Many proposals have been made to encourage shifting of a large share of future economic growth from existing metropolitan areas to rural areas or smaller non-metropolitan cities or "new cities" because of excessive air, water and other environmental pollution, inefficiency transportation, high-cost infrastructure and the generation of urban decay.

Presently there is little recognition of the geographic consequences of public decisions and policies and policies for balanced national growth and economic development must take account of these public decisions as well as engage the cooperation of private enterprise and private citizens.

The Public Works and Economic Development Act of 1965 is the most specific Federal grant and loan program aimed at redressing unemployment in depressed and less developed areas; and, the Rural Development Act of 1972 declared that high priority be given in all programs of the Federal Government to the revitalization of rural areas as an integral component of a national policy of balanced growth; and the Housing and Urban Development Act of 1970 also declared the problems of poverty and unemployment associated with disorderly urbanization and rural decline must be treated comprehensively.

The precipitous onslaught of the energy shortage is a superb example of our national inability to anticipate expected economic, environmental and social problems caused by chaotic growth, technological change, increased consumption levels and public demand.

The development of policies such as a National Public Works Investment Policy will enable Federal programs to be used more effectively to stimulate and implement balanced national growth and economic development.

A continuing reassessment of our failure to delineate a balanced growth and economic development policy is required in view of the lasting consequences of the serious recession the Nation is experiencing as well as a marked increase in governmental functions, attention to environmental quality, ecological planning and energy conservation and development.

SECRETARY HILLS' REMARKS AT HABITAT

Mr. BROOKE. Mr. President, I am pleased to direct the attention of my colleagues to the remarks delivered yesterday by Carla A. Hills, Secretary of Housing and Urban Development, at HABITAT, the United Nations Conference on Human Settlements, being held this week at Vancouver, British Columbia.

I ask unanimous consent that the Secretary's remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Carla A. Hills at the HABITAT

Mr. President, Mr. Secretary General, distinguished delegates—Ladies and Gentleman:

The President of the United States has sent me here committed to a constructive and cooperative role in these discussions—and to help bring about that enduring spirit of peaceful, global habitat to which this international assemblage is dedicated.

President Ford gave me this message, before I left Washington, to deliver to you, here, in person:

"Your Conference will focus world attention on a challenge which confronts us all—how to enhance human dignity in the villages, towns and cities where people live. It is an imposing task. It will take all the imagination, determination and perseverance that people and their governments can summon.

"In a few weeks the United States will celebrate a great milestone in its history—the 20th anniversary of American independence. This will serve as an occasion for pondering the lessons of two centuries of experience—of the successes and failures and how we all may benefit from them as we contemplate our future.

"In this sense, the Conference on Human Settlements which is intended to make possible a global exchange of experience comes at an especially appropriate time for us Americans. Our history is a reflection of other peoples in other places. Throughout our existence as a nation, we have been enriched by ideas brought to our shores by millions of immigrants from all parts of the globe and by those who did not stay but whose ideas left an enduring impression on our lives and human settlements. The Conference will provide us with yet another means by which we can benefit from the wealth of experience of others and add new dimensions to our vision of our next 100 years.

"There is no task more compelling than the improvement of man's condition. The recommendations you make could have a profound and lasting influence on all of us. The United States will cooperate with you in seeking to chart paths that offer the promise of better and fuller lives for all people and habitats truly worthy of man."—Signed: Gerald R. Ford.

As we search for the key to what President Ford calls "habitats worthy of man," the people of our planet have a right to expect that our actions here are worthy of man! We will be judged, not so much on our skills in the arena of world politics, but in our willingness to lay aside the debates that divide us and concentrate on the greater needs that brought us here in the first place.

HABITAT is a creative challenge. Since it is certain that our often sterile—and too often rigid—thinking of the past will not serve the awesome needs of the future, this Conference demands a radical change in our entire perception of human settlements. Above all it calls for a long range comprehensive approach to the problems and opportunities of human settlements rather than dealing separately and short range with each contributing factor.

We are here because we have much to learn from each other; much to take back with us for possible application to similar national problems of our own. For, although the numbers and the problems are global—unifying us in resolve—the choice of action by the nations here assembled will be defined in the long run by national application dictated by local needs, local economics, local customs and local experience.

The experience of my country is set against the backdrop of our fundamental belief in a free society in which the establishment of public policy is based on the active participation and involvement of all our citizens.

It is the combined voice, and force, of all our citizens, representing all sides and all aspects of the question of human settlements which provide our national government with the critical information and judgment essential to balancing the opposing forces of inevitable growth and finite resources, while responding to our needs.

Never has the flexibility of our national institutions been more challenged than by our experience in urbanization. In the space of less than 100 years we have moved from a sparse agrarian society to a crowded urban society. In the process we have experimented with hundreds of programs and virtually thousands of institutional arrangements to deal with this change.

Both our mistakes and our triumphs have been highly visible to us—and to the rest of the world—and offer a laboratory of hard lessons to other nations at this Conference, now, and long after HABITAT has been adjourned.

We are here to share the knowledge we derived from the approaches we have tried—both those that worked and those that failed.

For example, we know now that in spite of the support of urbanists and government officials, in spite of our noble intentions and hard work, and in spite of strong public and private financing—wholesale urban renewal can destroy the culture, spirit and social fabric of an urban neighborhood.

That is not to say that urban development is no longer one of the most important priorities of my nation—which it most certainly is—but it is an admission of our failure to recognize the hazards.

We learned by that mistake, and now rather than by clearing them out, up-rooting the residents and rebuilding the neighborhood from the ground up we are reclaiming our center-cities by preserving and restoring and adding.

With resources so scarce, we must be creative in the re-use of every existing and serviceable resource that remains in the neighborhood larder.

As a nation of the world, our experience and our lessons cannot be isolated from the global experience. Indeed, the discovery and development of the Western Hemisphere—and the establishment of my country—was part of that global experience.

Today, as the rapid shrinking of our planetary habitat affirms the naivete of some of our past concepts, we must concede that: . . . No nation's growth and development can be insulated from the global economy—nor from the necessity of positive international cooperation of the kind we are engaged in right here.

For sound national planning benefits the entire world community; and cooperative international effort augments the effectiveness of national programs.

We cannot shirk our obligations—as world citizens—to the needs of the many poor people and poor nations among us. Together, we do have the technical ability to provide a suitable quality of life for every living member of the human race today. The question is our moral commitment to that oldest quest of humanity—a world without poverty.

It is clear that the increasing number of human beings in settlements, resulting both from high birth rates and from migration, critically complicates the task of providing a higher quality of life for each and calls for a rededication to the World Population Plan of Action adopted almost unanimously in Bucharest in 1974 and now being effectively implemented in many parts of the world.

It is also clear that we cannot achieve a world without poverty without the establishment of an expanding world economy. Good intentions alone will not turn the magic key. We cannot accomplish it with a one-way flow of funds from the richer nations to the poorer nations—a method tried and found wanting, both by the nations who have borne the heavy burden and by those who have felt their national pride compromised by a relationship of continuing dependency on the good will of others.

Thus, we bring to this Conference a number of practical international programs—tempered by our national experience and faithful to the fundamental beliefs of the American people—particularly responding to the expressed concerns of developing nations.

The United States emphasizes four areas of priorities and programs to assist those countries:

Food production, distribution and nutrition.

Population planning and health.

Education.

Human resources.

Each of these is essential to the establishment of human settlements policy—but, until now, we have tended to deal with them individually.

HABITAT itself, in its comprehensive approach to the human settlement, reinforces our national determination to effect changes in some of our assistance programs:

First: To achieve improved rural/urban balance, we are developing new integrated and comprehensive approaches to help nations who wish to strengthen their rural regions. This would focus on the development of market towns as an alternative to the boundless growth of single urban centers. It is aimed at the increase of agricultural production—and with it, the sound development of rural regions.

Second: We are turning to a more comprehensive approach to providing shelter for the urban poor.

One of our most important instruments for this is our Housing Investment Guarantee Program, which has financed more than $1 billion of shelter projects, and which is now the largest single source of international financing for shelter. At its inception, this was a program for those of moderate income. We are shifting that emphasis to meet the needs of the poor.

The Housing Investment Guarantee Program will be used increasingly to assist the poor to help themselves, in two ways: (1) by financing sites and services for those who build or complete their own housing; and (2) by financing the improvement of slum and squatter settlements to provide better living conditions.

Third: We will support the integration of major development components—appropriate technology and credit for small producers, family planning, health, nutrition, and education—so that the programs will provide better opportunities for the poor to expand their incomes and gain easier access to the services they need.

Fourth, in technology. Last month, at the United Nations Conference on Trade and Development, Secretary Kissinger outlined the most comprehensive effort ever put forward by the United States to deal with the application of technology to development. Many of the programs have important relevance to human settlements activities.

Satellite technology offers enormous promise as an instrument for development and human settlements planning. Remote sensing satellites can be used to collect data on land use, soil types, transportation and demographic patterns. Supplemented by other means, they can be used to prepare maps to identify features important to regional planning. Remote sensing can help foresee and evaluate natural disasters and is particularly useful in isolated areas.

Modern communication technologies, including satellites, have a large, untapped potential to improve education, training, health services, food production and other activities.

We are intensifying our research and development of technology in two other areas in order to improve housing, especially for the poor.

These include new low-cost materials, designs and construction techniques which do not depend so much on the use of highly skilled labor, capital intensive equipment or costly imported materials; and low cost structures resistant to natural disasters for use in disaster-prone areas.

Obviously, since every nation is different, all of our scientific advances will not be appropriate to all nations. But, we offer access to the technologies which help the United States in managing our urban/rural environment—both as an insight to our national experience and as evidence of our desire to share our accumulation of knowledge with developing countries whose urban growth is already out-pacing our own.

Few subjects are more central to the improvement of our habitats than the utilization of water resources. The technology of storing, transporting and purifying water is fundamental to the health and even the survival of human settlements.

The United States will encourage its universities, institutes and training centers to establish special programs for students and personnel of developing nations—in business, industrial problems, public management, health, welfare and related socio-economic fields.

My Government will encourage formation of a Technology Corps—to parallel our Executive Service Corps—to work with and help train local officials in the new and complex problems of human settlements management.

And we are committed to helping expand the capabilities of the United Nations International Center for Exchange of Technological Information. To that end, the United States already has moved to improve and speed up the Center's access to the existing information centers of our country.

The sole object is to deliver the maximum usable settlements information to the developing countries in the minimum time and with the least number of bars to ready accessibility.

My Government offers this Conference and the nations of the world the best of what we have to contribute—not out of charity nor a sense of beholden indebtedness.

The resources of the world—wherever located—are vital to all of us; as is the world economy by which we all must live.

At the 7th Special Session of the United Nations, last September, our nations agreed on an agenda of mutual international action. Since that time we have moved forward with historic international negotiations on trade and finance.

We have accomplished much. We still have much to do.

To conclude with the words of Secretary Kissinger:

"Materially, as well as morally, our destinies are intertwined. There remain enormous things for us to do. We say (once more) to the new nations of the world: We have heard your voices. We embrace your hopes. We will join your efforts.

"We are committed to our common success."

Thank you.

Mr. BROOKE. Mr. President, HABITAT represents one of the most ambitious efforts ever to bring together a wide variety of international experts and world citizens concerned with human living conditions to share ideas for housing the world's growing population.

I am sure my colleagues will join me in congratulating Secretary Hills and the other members of the U.S. delegation on their contribution to the Conference, and in offering our thanks and best wishes to all the participants in HABITAT for undertaking this important task.

THE INTERNATIONAL PEACE GARDEN

Mr. BURDICK. Mr. President, one of North Dakota's nicknames is the Peace Garden State. As many of my colleagues know, we have chosen this title, of which we are very proud, because the International Peace Garden is located on the border between North Dakota and Manitoba, just north of Dunseith, N. Dak. This is the only garden of its kind in the world. It symbolizes the peace and friendship existing between the United States and Canada. It is maintained by both Nations as a monument to the longest unguarded international border in the world. It is dedicated to the ideal of peace in our world.

In this age of increasing violence and potential world destruction through misuse of atomic weapons, it is important for us to stop and contemplate the value of peace in our time, in particular the special relationship we enjoy with our neighbor to the north, Canada. In this regard, I believe it is important to bring to the attention of my colleagues a poem written by Mrs. Hazel Webster Byrnes of Mayville, N. Dak., entitled "International Peace Garden."

Mr. President, I ask unanimous consent that this stirring poem, which details the beauty and significance of the Peace Garden, be printed in the Record.

There being no objection, the poem was ordered to be printed in the Record, as follows:

International Peace Garden

(By Hazel Webster Brynes)

Two Nations! Neighbors in civic pride
But in rivalry they pledge that no matter what betide
They will not take up arms against each other;

Two flags do fly across the border!
A Peace Tower is erected to God in His Glory
And a Church of all Faiths tells the same story

Between Sunken Gardens and tumbling Water Falls
Is Memorial Center, a place to dine, and secure a guide
"Where are we," we ask, and he replied

"In the American Continent, halfway
Between the Province of Manitoba, Canada
And the State of North Dakota, USA."

"Observe our Floral Clock, it tells the time
Watch for the animals: not wild, but may cause delay
And now be on your way, "Good Day!"

In the distance we see youth at play
Soon we discern the Amphitheater and the Music Camp
We pause; we stop; we are enrapt:

"Tis told that Europe's Festivals
Requested for talent, a loan
When it received "Top Honors," 'Twas eagerly sought "To whom"

Proud the reply, "The International Peace Garden."
Here is the best of Heaven's break-through
Seek it, and your soul will grow.

DESEGREGATION AND THE CITIES, PART XIII—THE ROLE OF THE STATE GOVERNMENTS

Mr. BROOKE. Mr. President, while we in Washington have been involved in endless anti-busing battles, a growing number of State officials are beginning to assert leadership to protect the constitutional rights of black and Latino children and to slow the spread of racial separation in our schools. While most of these actions have been limited so far, to relatively small desegregation plans, usually in smaller cities and suburbs, State officials in several regions deserve congratulations for their courage in acting in the face of intense political opposition.

State government plays a decisive role in public education and state assistance can greatly increase the change of developing positive, educationally effective desegregation plans. This was clear in the Southern and Border States in the 1960's where States with supportive school officials, particularly Florida, were notably more successful in managing desegregation.

Today's insertions include documents and reports on the efforts of four States—Pennsylvania, Wisconsin, Illinois, and New Jersey. Pennsylvania has had perhaps the most active State enforcement effort in the Nation, led by the State Human Relations Commission and the Department of Public Instruction. This effort includes pending litigation involving the Philadelphia and Pittsburgh public schools. Wisconsin offers an example of a State searching for a positive way to encourage metropolitan desegregation, particularly around Milwaukee, where most of the black students are concentrated. It offers the rare example of a State reacting to a Federal court order in its largest city with efforts to help instead of proposals for unconstitutional antibusing laws. Illinois shows the effort of a new State superintendent, Joseph Cronin, to begin substantial desegregation in a very intensely segregated State. The New Jersey materials reflect years of effort by State and local school officials and the continuing frustration of expanding segregation in the schools of the declining central cities.

The list could have easily been extended. State officials were very important in the successful drive to end segregation in Rhode Island. Massachusetts achieved extensive desegregation outside Boston. Iowa is now involved in a serious enforcement effort. Others could also be cited. It should also be acknowledged that most States have yet to display any positive leadership in meeting this responsibility.

A growing number of State officials are doing what Congress has failed to do—affirming the central importance of building an integrated society with integrated schools. They have been fighting long and difficult battles and Congress has offered no assistance. We need to devise ways to similarly engage HEW in constructive support of the desegregation process.

Mr. President, I ask unanimous consent that the above-mentioned items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESEGREGATATION GUIDELINES FOR PUBLIC SCHOOLS

COMMONWEALTH OF PENNSYLVANIA

The Pennsylvania Human Relations Commission together with the Department of Public Instruction of the Commonwealth of Pennsylvania set forth the following guidelines for school districts (administrative units) in dealing with segregation in public schools.

1. Segregation as a factor in public education

When any one public school building comes to be viewed as improperly exclusive in fact or in spirit; when it is viewed as being reserved for certain community groups; when morale, teacher and pupil motivation and achievement are affected by the racial imbalance, the school system is being adversely affected by segregation. In other words, segregation is not an arbitrary numerical relationship of one group to another. Segregation becomes a factor adversely affecting education when an untoward concentration of any racial group in one building begins to destroy the functioning of the entire system as a "common school."

The common school has long been viewed as a basic social instrument in attaining our traditional goals of equal opportunity and personal fulfillment. The presence in a single school of children from varied backgrounds is an important element in the preparation of young people for active participation in the social and political affairs of our democracy.

In-so-far as possible every school building should reflect in its enrollment a cross section of the entire community.

2. Responsibility for correcting discriminatory actions

Any action, direct or indirect, overt or covert, which fosters racial segregation in the public schools, is against the public interest, and should not be taken by any public agency. Whenever any such action, past or present, has adversely affected public education, it is the responsibility of public school authorities to correct it, forthwith.

3. Racial inclusiveness of staff

A component of quality education is a racially inclusive staff at all professional, non-professional and administrative levels. A desegregated staff affords positive educational values. All children need role models with whose ethnic backgrounds they can identify, and they also need to be taught at times by those who are racially different. Nothing herein is to be interpreted as calling for discrimination in favor of less qualified teachers because of their race.

4. Desegregation a local responsibility

Responsibility for coping with segregation rests with local school authorities. This is in keeping with the spirit of local control. It allows consideration for local conditions which may affect desegregated education. Such policy allows for the widest innovation in school assignment and program to meet local needs. Hence, the Department of Public Instruction and the Human Relations Commission proceed in correcting segregated conditions by requiring that each local public school district affected submit its own plans for dealing with the problem as the first step in their enforcement procedure.

5. Program consistent with policy

The state agencies involved in supervising the desegregation process realize that changing policies and desegregation of pupils, teachers and staff are but the first steps in meeting the requirements of these guidelines. These agencies wish to cooperate with public school officials in every way possible to strengthen programs designed to produce mutual respect and trust between groups. They urge the reexamination of curriculum to make sure the contributions of all groups are included. They urge the reexamination of the treatment of all minorities in our common history. This they propose for all schools—not just those which have minority children enrolled. In other words, these proposals are designed to achieve good education for all children—not just special education for the minorities. Further, they ask cooperation of local school districts in the development of stronger programs of in-service training in human relations both for administrative staff and teachers.

6. Continuous evaluation and preventive action

Public school districts with concentrations which adversely affect education will be subject to continuing examination by the Pennsylvania Human Relations Commission and the Department of Public Instruction. Hence constant study and evaluation should be made at the local level to catch these undesirable trends in their incipient stages, and deal with them while they are in manageable proportions. In situations where action is being taken to apply corrective measures to existing concentrations, care should be taken to provide follow-up to make sure future imbalances do not occur.

7. Community participation

Local boards of education should make wide use of community involvement in the preparation of their plans.

RECOMMENDED ELEMENTS OF A SCHOOL DESEGREGATION PLAN

(By Pennsylvania Human Relations Commission and Department of Public Instruction)

1. Does the desegregation plan indicate the projected racial composition of each elementary and secondary school attendance area and the racial composition of the total

staff of each building as of the completion dates of each step?

2. Does the desegregation plan identify the location of proposed school building construction sites?

3. How nearly does the desegregation plan bring the percent of Negro pupils in each building to within 30 percent of the percent Negro pupils among the buildings of the same grade span?

4. Does the desegregation plan include procedures to affirmatively and effectively recruit and assign an integrated staff at all levels for all schools?

5. Does the desegregation plan correct any untoward concentrations of professional or non-professional Negro staff in any buildings?

6. Does the desegregation plan equally match the services of its professional staff and program with the educational needs of each school building?

7. Does the desegregation plan include plans for in-service training of staff to meet the needs and problems incident to the implementation of desegregation plans?

8. Does the desegregation plan include steps to include intergroup education programming and the inclusion of the contributions of Negroes and other racial and ethnic groups in the history courses about Pennsylvania and the United States?

9. Does the desegregation plan include a time table indicating deadline dates by which each step will be completed? Are these dates as early as possible?

10. Does the desegregation plan indicate involvement of the community in its development and implementation?

11. Is the desegregation plan consistent with the Long Range Developmental Plan submitted to the Department of Public Instruction?

NOV. 14, 1975—SCHOOLS AND PUPILS DESEGREGATED BY AUTHORITY OF PENNSYLVANIA HUMAN RELATIONS COMMISSION

[Prepared by Division of Education, Pennsylvania Human Relations Commission]

School district	Year completed desegregation	Time to complete desegregation from date requested		Desegregated[1]					
				Segregated schools[2]			Segregated pupils[2]		
		Years	Months	White[3]	Black	Total	White[3]	Black	Total
Aliquippa	1970	2	7	5	2	7	1,289	952	2,241
Allentown	1971	1	4	14	5	19	7,303	272	7,575
Central Dauphin	1972		10	0	2	2	357	131	488
Chester City				5	8	13	2,444	5,582	8,026
Chester Township	1968		7	1	0	1	65	328	393
Clairton	1968		7	2	1	3	849	449	1,298
Coatesville area	1968		7	5	5	10	2,457	1,104	3,561
Duquesne	1972	2	4	2	1	3	605	332	937
Erie	[4] 1975			14	10	24	11,013	2,160	13,173
Farrell area	1969	1	7	3	2	5	632	575	1,207
Greater Johnstown	1971	1	4	9	3	12	2,846	475	3,321
Harrisburg	1970	2	7	7	5	12	3,340	3,502	6,842
McKeesport area	1971	3	7	17	3	20	7,102	1,090	8,192
New Castle area	1974	4	4	8	3	11	4,769	532	5,301
New Kensington-Arnold	1974	4	4	2	1	3	861	60	921
Norristown				2	1	3	1,646	384	2,030
Penn Hills Township	1969	1	7	12	2	14	9,619	592	10,211
Pittsburgh				10	1	11	6,395	1,782	8,177
Susquehanna Township	1968		7	3	1	4	1,427	221	1,648
Uniontown area	1975	5	4	4	2	6	1,047	200	1,247
Washington	1698		7	5	1	6	1,665	307	1,972
Wilkinsburg	1971	3	7	2	2	4	1,170	821	1,991
York	1971	1	4		4	10	4,152	1,312	5,464
Total, 23 districts				138	65	203	73,053	23,163	96,216

[1] "Desegregated" means these schools and pupils were changed from being segregated to being desegregated.

[2] "Segregated schools" are schools whose percent black enrollment was less than or more than 30 percent of the percent black students in that schools grade span. "Segregated pupils" are the enrollments in those schools when segregated.

[3] "White" students are all pupils who are not "black."

[4] Erie's 1 remaining segregated school will be desegregated fall 1977. This school and its pupils are counted as desegregated.

DESEGREGATION OF SCHOOLS

(By Pennsylvania Human Relations Commission)

Eloquent testimony in support of school desegregation and the vital role of the Pennsylvania Human Relations Commission in eliminating de facto segregation was presented by officials of two Pennsylvania school systems August 4, 1971 before the United States Senate Select Committee on Equal Educational Opportunity.

The educators are Dr. David H. Porter, Superintendent of Schools, Harrisburg, Pa. and Harry R. Faulk, Superintendent of Schools, McKeesport, Pa.

Listen as these two school superintendents talk about:

Why they desegregated their schools;
The effect on black pupils;
The effect on white pupils;
White flight;
Busing;
The cost;
Tension in the schools; and
Quality Education.

WHY THEY DESEGREGATED

"The mandate from the State Human Relations Commission to eliminate de facto segregation, though castigated by many, may well have been precisely the right thing at the right time"—Superintendent Porter, Harrisburg.

"No one can deny that if the Pennsylvania Human Relations Commission had not directed the McKeesport Area School District to bring about racial balance in its schools, nothing would have been done. It was too easy to maintain the status quo"—Superintendent Faulk, McKeesport.

THE EFFECT ON BLACK PUPILS

"The same (black) students in an integrated school had an average achievement of over nine months in a school year as compared to an average achievement of six months in a school year in a predominantly black school. These data would tend to support the premise that black students achieve better in an integrated school than in a racially-segregated school"—Superintendent Faulk, McKeesport.

THE EFFECT ON WHITE PUPILS

"We have now completed two years of operation as a racially-balanced school system. Our test results show that the achievement of the white students did not suffer as a result of racially balancing the schools"—Superintendent Faulk, McKeesport.

WHITE FLIGHT

"Of course there is some flight to the suburbs by white families, but the outmigration is nowhere near what opponents of reorganization predicted nor even what supporters expected. The racial composition of the kindergarten program for four year olds for the upcoming September term shows that for the first time in years, we will have more white children entering the program than black"—Superintendent Porter, Harrisburg.

BUSING

"We had discovered that there was no possible way to achieve racial balance in our schools and classrooms without an extensive program of busing . . . Suburban and rural school districts all over America bus students back and forth to school and very few complaints are heard. Bus students to achieve racial balance and often the accompanying roar is from human throats and not internal combustion engines. We had to bus students and we knew it. There was no other way."—Superintendent Porter, Harrisburg.

"One of the chief objections that was raised to the racial balance plan was the use of local tax money to transport students to achieve racial balance . . . This source of the money for transportation (Title I of the Elementary and Secondary Education Act) silenced those who objected to the use of local tax money for this purpose."—Superintendent Faulk, McKeesport.

THE COST

"The requirements of federal agencies for the elimination of segregation so that a district may continue eligibility for federal programs and the mandate for desegregation from the State Human Relations Commission places heavy financial burdens upon any school district with no promise of additional state or local support. Our point is not that the requirements are outrageous and therefore others should help pay the bill. Frankly, we think the requirements are morally, constitutionally and educationally right and good. However, the dollar cost of meeting these requirements is a responsibility that must be shared by every level of government.—Superintendent Porter, Harrisburg.

TENSION IN THE SCHOOLS

"We know that the system is working because we live with it every day. We have seen the lid about to blow off two junior high schools and have seen the change in students and administrators as we move to the Middle School concept. There are still problems with student control and discipline but now the answers are within our grasp."—Superintendent Porter, Harrisburg.

"Schools everywhere are marked with a great deal of tension and disruption. This seems to be especially true in schools with a significant number of black students. At McKeesport we have a relatively calm and quiet situation. We have no evidence to support any reason that one might advance for this. However, one might assume that all of the community work that had gone into the development and implementation of the plan for racial balance had helped build a climate that was conducive to the settlement of differences through negotiations rather than through violence."—Superintendent Faulk, McKeesport.

QUALITY EDUCATION

"The change has been dramatic. Walk into an Early Childhood Center or an Elementary School and look at the faces, hear the sounds, watch the kids at work and play. You can't show it on paper yet, but down inside you know its working."—Superintendent Porter, Harrisburg.

"Education in the McKeesport Area School District has improved for both white and black students as a result of the racial balance program . . . Because the Commission spoke out to the McKeesport Area School District, education for black and white students is a richer and more meaningful experience."—Superintendent Faulk, McKeesport.

[From the New York Times, Apr. 3, 1975]

Wisconsin Ponders a Plan for State To Legislate Desegregation of Four Schools in Milwaukee and Suburbs

(By Paul Delaney)

Milwaukee, March 29.—The villages of Shorewood and Whitefish Bay, just north of Milwaukee along Lake Michigan, are typical of the suburbs that ring most of the big cities of the country.

The well-kept homes are a mixture of styles and sizes, but all with lawns and grounds that look as though they are cared for daily. Shorewood, which borders Milwaukee, is more middle-income, but its sections closer to Whitefish Bay blend in perfectly with that upper income village, especially the homes and estates near and overlooking the lake.

Their neighborhoods are quiet. Their streets are peaceful and tranquil and they are almost lily-white. Residents of both towns hope to keep them that way.

That tranquillity has been broken by a renewed and unusual effort to merge city and suburban schools. Such efforts up to now have been fought in Federal courts. But a young state legislator, who believes metropolitan desegregation is inevitable, has added a bold and controversial twist with a proposal that the state sponsor consolidation of city and suburban schools to promote economic and racial integration.

CROSS-DISTRICT ISSUE

If the Wisconsin Legislature adopts the proposal of Dennis J. Conta, an Assemblyman from Milwaukee, it will mark the first time a state has voluntarily addressed itself to the issue of cross-district school desegregation.

His proposal, which he plans to introduce when the Legislature returns from an Easter recess, would merge into a single school district—two high schools in the city, Lincoln which is 94 per cent black and Riverside with 61 per cent black enrollment, with Shorewood High, 98 per cent white, and Whitefish Bay High, 99 per cent white.

The plan has generated a storm of protests, mainly by white residents of the two villages. The protest movement is taking shape and is expected to heat up more at a public hearing set for April 14 in Milwaukee.

Mr. Conta, a Democrat, is not a radical.

James F. Sensenbrenner, a Republican opponent of the bill who represents Shorewood and Whitefish Bay in the Assembly, said that Mr. Conta was "probably the most powerful man in the Assembly as he is co-chairman of the powerful Finance Committee."

Thus, the proposal is given a good chance of passage "if Mr. Conta decides to collect on a lot of I.O.U.'s he has outstanding," according to Mr. Sensenbrenner.

The controversy has national implications. If adopted by Wisconsin, the plan could change the course of the drive by proponents of school integration, who would surely move their fight from the Federal courts to the legislatures.

Mr. Conta says he feels certain that the Supreme Court will eventually uphold metropolitan desegregation. The court refused to do so last summer in a case that came from Detroit. But several similar cases are headed for possible court decision, particularly cases from Louisville and Wilmington, Del.

A three-judge Federal panel ordered on Thursday Wilmington officials to draw up a new plan that more than likely will embrace the metropolitan desegregation concept and include cross-district busing.

"If we're interested in economic and racial integration, the only way it's going to be accomplished is by combining city and suburban school districts and creating metropolitan school districts," Mr. Conta remarked during an interview in his office at the Capitol in Madison.

"My legislation begins with one of those districts and offers a model to examine and develop that possibility. I happen to feel that metropolitan desegregation is inevitable, so why wait for a court decision in 1980, why not do it in 1977 (when his proposal would take effect), and do it voluntarily with state aid.

"The economic, social and educational problems nourished by growing segregation will reach limits which are politically unmanageable and morally unacceptable. Rather than wait for a crisis or be governed by court decrees, I suggest we begin now to develop metropolitan school districts."

Mr. Conta's proposal, which does not mention busing at all, would use money incentives to encourage local school districts to consolidate. The state would substantially increase the financial aid to metropolitan districts that implement desegregation programs.

Under Mr. Conta's formula, a heavily white school district would receive double aid credit for each minority student who transferred from a school with more than 35 per cent minority enrollment. Also, double credit would be given for white students who transferred from a district with more than 35 per cent white enrollment to a district with less than 35 per cent white enrollment.

The proposal would attempt to check "tipping" and "white flight," or prevent a predominantly white school from becoming predominantly black, by cutting off the credits when transfer students make up 20 per cent of the enrollment.

One supporter noted that higher income suburban whites "do not panic and abandon their neighborhoods in similar patterns as lower income whites, therefore the possibility of, say, Whitefish Bay becoming predominantly black is remote."

While the proposal has generated substantial controversy in Shorewood and Whitefish Bay, it has yet to become the areawide issue many expect that it will eventually. The Milwaukee Education Association has come out against it, but its parent organization, the Wisconsin Education Association, from which the local group broke away, has yet to take a position and observers expect the state group to favor Mr. Conta's plan.

Moreover, the city's two daily papers, The Milwaukee Journal and The Milwaukee Sentinel, have yet to take a position and Gov. Patrick J. Lucey has not yet spoken on the plan either. Mr. Conta said the Governor's support, which he expects, would be highly beneficial.

Nevertheless, Mr. Conta said he expected opposition from school administrators' organizations and teachers' unions over job protection issues. On the other hand, he has the support of Lloyd A. Barbee, a black assemblyman who is chairman of the judiciary committee. The state Senate's only black, Monroe Swan of Milwaukee, opposes the measure.

[From the Milwaukee Journal, Jan. 22, 1976]

Student Exchange Endorsed

(By Ralph D. Olive)

Madison, Wis.—A legislative proposal to promote racial integration in Wisconsin schools won endorsement from a number of speakers Wednesday at an Assembly hearing.

Several, however, also urged the Assembly Education Committee to put more compulsory features in the bill.

The committee conducted an all-day hearing on the bill introduced by State Rep. Rod Johnston (R-Fox Point). An identical measure has been introduced in the Senate by State Rep. F. James Sensenbrenner Jr. (R-Shorewood).

The plan calls for voluntary exchanges of pupils between districts that have mainly white students and those with a large number of minority students. It would mainly affect Milwaukee area schools.

NO MINIMUM

Michele Goldstein of Milwaukee, a parent, said that while the Johnston bill had many good points, it depended too much on co-operation between school districts. She noted that a student from Milwaukee, for instance, who volunteered to go to a suburb could be turned down.

Also, Mrs. Goldstein noted, there is no minimum number required for transfer once a suburban district decides to enter an exchange plan.

Belden H. Paulson, professor of political science at the University of Wisconsin—Milwaukee, said he was afraid that the Johnston bill would encourage the best students to transfer from Milwaukee to suburban schools. He urged a provision that would require schools to accept students in the order they applied.

A strong, workable plan to bring minority students to the suburbs is essential, Paulson said.

"If this matter is not acted on now by the Legislature, I predict it will not be many years before it is acted on by the courts," he said.

ORDER CITED

Several speakers referred to the recent order by Federal Judge John W. Reynolds to integrate Milwaukee schools. Suburban schools also have a responsibility these speakers said.

Some members of the Assembly Education Committee also indicated doubts about a purely voluntary plan. Rep. R. Michael Ferrall (D-Racine), committee chairman, said the law now provided for transfers from public schools to state vocational-technical schools. But few students take advantage of the plan, Ferrall said.

A number of speakers defended the voluntary concept. Henry Mixter, Whitefish Bay village president, said a survey in several North Shore suburbs showed that parents and students would accept a voluntary plan.

"We believe sincerely that the citizens of

Whitefish Bay will welcome these students and encourage their own to take part," Mixter said.

SUCCESS PREDICTED

Hazelyn McComas, a member of the Whitefish Bay School Board, predicted success for the Johnston plan.

"We have committed ourselves to implement it," she said.

Mrs. McComas noted that Whitefish Bay, as well as other districts, faced a declining enrollment. These districts need more students to maintain strong academic and extracurricular activities, she said.

James O. Reiels, superintendent of the Nicolet Union High School District, Glendale, told the committee that Nicolet had a long record of admitting foreign students on a tuition free basis.

"It reflects the kind of commitment we have," he said. "If the people have the commitment to make a program work, I know it will work."

[From the Milwaukee Sentinal, Jan. 22, 1976]

CHANGES URGED IN SCHOOL TRANSFER BILL

(By Rick Janka)

MADISON, WIS.—A plan sponsored by North Shore legislators for voluntary pupil transfers between Milwaukee and suburban schools needs major revision and more teeth, several persons said in testimony before the Assembly Education Committee here Wednesday.

Some committee members also said the bill, by State Sen. F. James Sensenbrenner (R-Shorewood) and State Rep. Rod Johnston (R-Fox Point), needs mandatory restrictions on school districts rather than leaving the plan totally voluntary.

State Rep. Michael Farrel (D-Racine) and other members of his committee, particularly State Rep. Marjorie Miller (D-Madison), were skeptical about keeping the plan voluntary.

Much of the testimony and committee questioning revolved around whether Federal Judge John W. Reynolds' ruling that Milwaukee Public Schools be desegregated will affect the transfer bill.

Under the transfer plan, drafted by a citizen group from Whitefish Bay and Shorewood, pupils could volunteer to transfer between city and suburban schools.

Both the receiving and sending school districts would have a major voice in which pupils and how many to accept.

Incentives in the form of increased state aid would be given to both districts if the transfers promoted racial integration.

"Students can volunteer but they may not be accepted" under the plan, said Michelle Goldstein, a Milwaukee mother of two who opposed the legislation without revision.

"It seems that by not requiring the school district to accept the transfers you actually eliminate the volunteerism of the plan," she said.

Mrs. Miller said that while volunteerism should remain for pupils and parents, the bill may have to require school districts to accept the transfers.

Farrell pointed out that a volunteer transfer option is in the state statutes for school districts in nearby vocational districts, but "no one has taken advantage of it."

He saw the lack of a requirement that school districts accept transfers as a possible loophole.

Whitefish Bay Village President Henry Mixter assured the committee that because the plan is voluntary does not mean citizens will refuse to participate.

He said a survey taken in Whitefish Bay, Shorewood and Fox Point shows there is a "high degree of acceptance" of any voluntary plan.

"We believe sincerely that the citizens of Whitefish Bay will welcome these students and encourage their own to take part," he said.

Mixter, along with several others who testified, underlined the need for specialty schools in Milwaukee, as proposed by Milwaukee School Supt. Lee R. McMurrin, to increase the attractiveness of city schools to suburban youngsters.

Sensenbrenner testified that voluntary integration plans such as his proposal could "prevent forced busing" in Milwaukee.

[From the Milwaukee Journal, Jan. 22, 1976]

STATE READY TO HELP, SCHOOL OFFICIALS TOLD

Barbara Thompson, state superintendent of public instruction, said Wednesday that the Department of Public Instruction was ready to assist Milwaukee school officials in developing an integration plan as ordered Monday by Federal Judge John W. Reynolds.

"I think Milwaukee will be well served by that decision," she said. "It gives us a point of departure."

She said there was some federal money available to help pay for developing an integration plan, but she did not know how much.

* * * * *

In the delegate assembly for the Wisconsin Association of School Boards (WASB) Wednesday, members adopted a resolution seeking state legislation to make it easier for school districts to exchange students.

The resolution, in effect, put WASB in favor of legislative proposals for transferring students to promote racial integration.

* * * * *

[From the Milwaukee Journal, Jan. 28, 1976]

SUBURB ROLE URGED IN INTEGRATION

(By Clinton Barter)

A suburban school administrator said Tuesday night that integration of Milwaukee public schools could not succeed unless the suburbs were involved.

Clinton Barter, Brown Deer school superintendent, said a voluntary integration plan would not be successful unless it was part of a mandatory plan.

In other words, he said, a court or legislative body can order that the school districts desegregate but the actual desegregation plan should be carried out voluntarily by the people in the districts.

"As much as I would like to believe a voluntary plan (involving all of the suburbs) could work, it can't," Barter said.

Barter's statement was one of the strongest so far by a suburban school administrator in favor of involving the suburbs in school integration here.

A plan restricted to Milwaukee would promote white flight to the suburbs, Barter told about 125 persons at the Children's Outing Association annual dinner at the War Memorial Center.

"The solution has to include much more than the city," he said. "It has to include and involve the suburbs. It goes beyond the schools. We have to look at housing and zoning ordinances that perpetuate and maintain segregation."

Integration plans involving the suburbs have to include incentives which will make them attractive to the suburbs, Barter said.

These programs would have to include funds for the school districts and program incentives attractive to the parents, he said.

Barter also called for widespread citizen involvement in working out desegregation plans.

"The people who are going to raise cain because they were not involved in the decisions forced on them will drain their emotion by involving themselves in the decisions and a Boston situation can be avoided," Barter said.

C. Richard Nelson, Racine School Superintendent, said one of the keys to the successful integration of the Racine schools was community participation in the planning.

Another speaker, Donald G. Braun, Riverside High School principal, said students attending integrated schools had an advantage because "the world has progressed to where in order to survive it is necessary to deal with each other as individuals."

ASSEMBLY SUBSTITUTE AMENDMENT 2, TO 1975 ASSEMBLY BILL 1040

An act . . . relating to the creation of transfer programs between certain schools and school districts and making an appropriation

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SEC. 1. *Legislative Declaration.* The state of Wisconsin hereby declares that it is the announced policy of the state to facilitate the transfer of students between schools and between school districts to promote cultural and racial integration in education where students and their parents desire such transfer and where schools and school districts determine that such transfers serve educational interests. The state further declares that it is a proper state expense to encourage such transfers through the provision of special aids.

* * * * *

(2) Applicability of Section. This section applies to transfers:

(a) *Interdistrict.* 1. By minority group pupils who reside in an attendance area in a school district where minority group pupils constitute 30 percent or more of the number of pupils enrolled in the school serving that attendance area and which the pupil would normally attend, from that district to a school in a school district where minority group pupils constitute less than 30 percent of the number of pupils enrolled in that school.

2. By nonminority group pupils who reside in an attendance area in a school district where minority group pupils constitute less than 30 percent of the number of pupils enrolled in the school serving that attendance area and which the pupil would normally attend in the district, from that district to a school in a school district where minority group pupils constitute 30 percent or more of the number of pupils enrolled in that school.

(b) *Intradistrict.* 1. By minority group pupils who reside in an attendance area where minority group pupils constitute 30 percent or more of the number of pupils enrolled in the school serving that attendance area and which the pupil normally would attend, from that school to another school within the district where minority group pupils constitute less than 30 percent of the number of pupils enrolled in that school.

2. By nonminority group pupils who reside in an attendance area where minority group pupils constitute less than 30% of the number of pupils enrolled in the school serving that attendance area and which the pupil normally would attend, from that school to another school within the district where minority group pupils constitute 30% or more of the number of pupils enrolled in that school.

(3) Transfer Agreements. In accordance with sub. (2) and with the approval of the parents or guardian of the pupil:

(a) *Interdistrict.* The school board of the district of residence and the school board of the district of attendance may enter into annual written agreements to permit a pupil to attend a public school outside the school district of residence.

(b) *Intradistrict.* The school board of the district may permit a pupil to attend a public school within the district which is outside the pupil's attendance area.

(4) Other Plans To Reduce Racial Imbalance. Pupil transfers resulting from a plan implemented by the school board to reduce

racial imbalance in a school district or attendance area shall be deemed to be transfer agreements under sub. (3) and shall be eligible for state aid under this section if the transfers comply with sub. (2).

(5) Part-Time Transfers. Part-time transfers for *curriculum offerings also* may be permitted under this section. The department shall establish procedures for aid computations in such cases.

(6) State Aids. (a) *Intradistrict transfer.* The school district of attendance of pupils transferring from one attendance area to another under subs. (3) (b) and (4) shall be entitled to:

1. An amount equal to that produced by counting each transfer pupil as one pupil enrolled in computing state aid under ss. 121.07 and 121.08; plus

2. An amount equal to that produced by counting each transfer pupil as .2 pupil enrolled for state aid computation purposes under ss. 121.07 and 121.08.

(b) *Interdistrict transfer.* 1. If a pupil transfers from one school district to another under sub. (3) (a), the school district of residence shall count each such pupil as one pupil enrolled for state aid computation purposes under ss. 121.07 and 121.08 throughout the period of transfer.

2. If, in any one school year, the number of pupils transferring from one school district to another under sub. (3) (a) constitute less than 5% of the total pupils enrolled in the school district of attendance, the school district of attendance shall receive an amount equal to that produced by multiplying the number of pupils transferred into the district under sub. (3) (a) by the amount produced by dividing the school district's total cost by the sum of the number of resident pupils enrolled, as defined under s. 121.07 (1), plus the number of pupils transferred into the district of attendance under sub. (3) (a).

3. If, in any one school year, the number of pupils transferring from one school district to another under sub. (3) (a) constitute 5% or more of the total pupils enrolled in the school district of attendance, the school district of attendance shall receive an amount equal to 1.2 multiplied by the amount to which the district is entitled under subd. 2.

(c) *Special applications.* If a school district finds that it has incurred costs beyond aids received because of the number of pupils which it has accepted as transfers under this section, it may apply to the department for supplementary aids under this subsection. If the department finds that the school dis*trict has* incurred costs for which reimbursement has not been made under par. (b) 2 or 3, it shall supplement the state aids paid to the district in an amount equal to the unreimbursed cost.

* * * * *

(7) Transportation. Transportation shall be provided to pupils transferring schools under this section if required under subch. II. Transportation for a pupil attending a public school under sub. (3) (a) outside the pupil's school district of residence shall be provided pursuant to agreement between the school district of residence and the school district of attendance. Transportation for a pupil attending a public school under sub. (3) (b) outside his or her attendance area of residence may be provided by his or her school district. A school district providing transportation under this subsection shall be paid state aid for full costs incurred therefor from the appropriation . . .

* * * * *

(9) Planning Councils. (a) Annually, beginning within 60 days after the effective date of this act (1975), and thereafter on or before October 1, the school board of each school district lying wholly or partially within a county having a population of 500,000 or more shall organize a planning council with the school board of the school district within such county containing a city of the 1st class. Each planning council shall consist of 10 members, 5 members from the school district containing a city of the 1st class and 5 members from the school district which does not contain a city of the 1st class. The representatives of the planning council from each school district shall include, for terms of membership determined by the school board, 3 school board members, the school district administrator and one public member who resides in the school district. In the case of school districts containing a city of the 1st class, the school board may appoint the same persons as representatives to more than one planning council, and the school district administrator may select a representative to serve in his or her place on any planning council. Within 180 days after its appointment, each planning council shall make a recommendation to its appointing school boards on a cooperative program designed to facilitate transfers under sub. (3) (a) for the ensuing school term to promote cultural and racial integration. The recommendations shall include socio-economic, achievement and other relevant factors for the school boards to consider in permitting pupils to transfer for the purpose of facilitating, so far as possible, a balanced representation of the pupils who might transfer under sub. (3) (a). Within 90 days after receiving the recommendation of the planning council, each school board shall determine the extent to which its district will participate in the cooperative program. Upon making its determination, each school board shall disseminate information concerning the cooperative program to pupils and parents and guardians of pupils in the school district. Information shall be disseminated regarding the availability of transfers, the nature of the transportation to be provided, the courses and programs to be available to transfer pupils and any other aspects which the school board determines to be appropriate.

(b) Within 90 days after determining that its district will participate in transfers under this section, the school board of a district not subject to par. (a) shall make appointments to, and shall organize with other participating school districts, a planning council to make recommendations to facilitate cooperative programs.

(c) The obligation under par. (a) to organize planning councils shall apply only with regard to school terms for which full pupil transfer aids are appropriated under S. 20.255 (1) (fp) and planning council assistance funds are appropriated under S. 20.255(1) (a).

* * * * *

SEC. 9. *Interdistrict Transfer Plan Preparation Appropriation.*—The appropriation in section 20.255(1) (a) of the statutes, as affected by the laws of 1975, is increased by $100,000 for the 1976–77 fiscal year for the purpose of providing financial assistance to school boards required to establish planning councils under section 121.85(9) (a) of the statutes, as created by this act. Of this amount, $50,000 shall be made available to the board of school directors for the city of the 1st class which is subject to section 121.85(9) (a) and $50,000 shall be made available to the cooperative educational service agency for the affected area for distribution to those other school boards subject thereto.

STATE AND LOCAL FISCAL EFFECT

Fiscal Note: This proposal provides for additional state aid to be paid to local school districts which establish a program of student transfers to promote cultural and racial integration. The transfers may be from one attendance area to another within a single school district (intra-district transfers) or from a racially unbalanced school district to a racially balanced school district (inter-district transfers).

"Minority group pupil" means a pupil who is a black American, a Native American, a Spanish-surnamed American, or an Oriental American.

"Total Cost" is the cost of operation, minus the operational receipts, plus the principal and interest payments on long-term indebtedness and annual capital outlay, for the current year.

Intra-district Transfers: (1) The transfer by minority group pupils who reside in an attendance area where minority group pupils constituted 30 percent or more of the number of pupils residing in the attendance area in the previous school year, from that attendance area to another attendance area within the district where minority group pupils constituted less than 30 percent of the number of pupils residing in that attendance area in the previous school year.

(2) By non-minority group pupils who reside in an attendance area where minority group pupils constituted less than 30 percent of the number of pupils residing in the attendance area, from that attendance area to another attendance area within the district where minority group pupils constituted 30 percent or more of the number of pupils residing in that attendance area in the previous school year.

Minority group pupils who transfer from a racially unbalanced attendance area to a racially balanced attendance area, and non-minority group pupils who transfer from a racially balanced attendance area to a racially unbalanced attendance area will be counted for state aid purposes as 1.2 pupils enrolled.

Inter-district Transfers: (1) By minority group pupils who reside in an attendance area in a school district where minority group pupils constitute 30 percent or more of the number of pupils enrolled in the school serving that attendance area and which the pupil would normally attend, from that district to a school in a school district where minority group pupils constitute less than 30 percent of the number of pupils enrolled in that school.

(2) By non-minority group pupils who reside in an attendance area in a school district where minority group pupils constitute less than 30 percent of the number of pupils enrolled in the school serving that attendance area and which the pupil would normally attend in the district, from that district to a school in a school district where minority group pupils constitute 30 percent or more of the number of pupils enrolled in that school.

The school district of residence shall count each minority student who transfers to another district under this proposal as 1.0 pupil enrolled.

The school district of attendance will receive state aid for each minority student transferring under sub. (3) (a) as follows:

If the number of students transferring constitutes less than 5 percent of the total pupils enrolled in the school district of attendance, the district of attendance will receive for each student transferring an amount equal to that produced by dividing the school district total cost by the sum of the resident pupils enrolled plus the number of pupils transferred into the district under sub. 2.

If the number of students transferring constitutes 5 percent or more of the total pupils enrolled in the school district of attendance, the state aid payment would be an amount equal to 1.2 multiplied by the amount to which the district is entitled under sub. 2.

Example:

Total cost: $5,608,575—$5,608,575 divided by 3561 equals $1,575.

Resident membership	3, 541
Transfers	20
Total	3, 561

Total transfer less than 5 percent: 20 times $1,575 equals $31,500.

Total transfer 5 percent or more: 20 times 1.2 times $1,575 equals $37,800.

Special applications:

If a school district finds that it has incurred costs beyond aids received because of the number of pupils which it has accepted as transfers under this section, it may apply to the Department of Public Instruction for supplementary aids under this subsection.

If the department finds that the school district has incurred costs for which reimbursement has not been made under paragraph (b) 2 or 3, it shall supplement the state aids paid to the district in an amount equal to the unreimbursed cost.

* * * * *

MILWAUKEE SCHOOL DISTRICT

The Milwaukee school district anticipates an intra-district transfer of 2900 pupils. An increase of .2 per student transferred would increase the membership by 580 students.

1975–77 membership

Original 1976–77 membership	106,235
Intra-district transfer of 2000 pupils	580
Adjusted membership	106,815

The transfer of minority group students from the Milwaukee school district to other districts in Milwaukee County for 1976–77:

	1976–77
Brown Deer	66
Cudahy	110
Fox Point, Jt. No. 2	22
Fox Point, Jt. No. 8	18
Franklin	64
Glendale UHS	54
Glendale, Jt No. 1	30
Glendale	95
Greenefild	102
Hales Corners	62
Oak Creek	116
St. Francis	41
Shorewood	52
South Milwaukee	106
Wauwatosa	200
West Allis	270
Whitefish Bay	76
Total	1,484

RACINE SCHOOL DISTRICT

Racine has nine elementary school districts with an enrollment of 2126 minority students. A transfer of 1367 minority students and 819 non-minority students within the school district is anticipated.

State aids computed by increasing the membership by 437.

SUMMARY

	1976–77
Intra-District transfers	$790,130
Inter-District transfers	2,804,419
Receiving districts	1,122,071
Sending districts	4,716,620
1976–77	4,716,620

* * * * *

No effort has been made to determine the fiscal impact of the special application under 5C of this proposal or for the cost of transportation.

Long-range effects narrative: Annual impact approximately $5 million.

[Selection from Integrated Education, May–June 1976]

ILLINOIS

By a 12–1 vote, the state board of education approved amendments to desegregation guidelines which will place non-complying school districts on one year's probation. Following that, the board may initiate a cutoff of state aid and recommend similar federal action. "The board means business," stated state schools superintendent Joseph Cronin, "Desegregation is its number one priority. But the board also regards the cutoff of state and federal aid as a last resort." Dr. Cronin later emphasized that the board "seeks quality integrated education, desegregation, and the elimination of racially identifiable schools." Last December, the state board reported that thirteen noncomplying school districts had failed to submit satisfactory desegregation plans while twenty-one more submitted no plan at all.

On February 26 the state board cited nine districts, including Chicago, for noncompliance under the amended guidelines. A deadline of thirty days was established for submission of an acceptable plan. Other districts cited are Rockford, Springfield, Waukegan, Cahokia, Chicago Heights, Madison, Hazelcrest, and Argo-Summit.

OAK PARK

The school board of this Chicago suburb, acting voluntarily, adopted a desegregation plan to desegregate all the schools of the village, effective in September. The board stated that "it was guided not only by legal precedents and requirements, but also by the conviction that separation of children by race is neither healthy for the community nor in the educational interest of the child." Board action followed a series of citizen discussions sponsored by school officials at which every conceivable viewpoint was voiced.

CAHOKIA

HEW rejected—for the third time—a school board plan for limited desegregation through the building of a magnet school at some later date, some open enrollment, and preferential hiring of blacks and women for the next five years. HEW had charged the school district with "discrimination in the assignment of students, selection of sites for schools and assignment of faculty." An HEW administrative law judge will conduct a hearing at which the city will challenge HEW's action.

MADISON

U.S. Department of Justice efforts to obtain desegregation continued as they have since 1974. Since voluntary action has not been forthcoming, federal officials prepared to file a suit. A 1973 state court finding of segregation followed by an order to desegregate has not been enforced. [See *Integrateducation*, July–October 1973.]

ROCK ISLAND

In response to state orders for action, the board of education announced plans to desegregate four junior high schools by pairing. Some elementary schools will remain segregated.

ST. ANNE

Predominantly black St. Anne High School, in overwhelmingly white Kankakee County, may be closed permanently by state order; it has been on probation on account of its double sessions and numerous safety hazards. Students attend for four hours instead of the legally-required five hours a day. Voters have three times rejected a proposal for a new school.

EAST ST. LOUIS

In this 94.4 percent black school district, nearly all white students are enrolled in four elementary schools; in one of these, four students are black and 311 white. The board of education asked the state not to require student reassignments to desegregate those schools. "If we start busing," said Superintendent Leroy J. Ducksworth, "white parents will send their children to parochial schools."

JOLIET

School officials moved to meet charges of segregation by HEW and the state school board. In mid-January, the city board of education adopted a desegregation plan, to be implemented over three years. The plan includes both required and voluntary busing, magnet schools, school pairings, and grade level changes. A state official commented that he was pleased with Joliet's action but that "there may be some negotiations needed on certain points." The city is now seeking a $1.2 million federal grant to help carry out the plan.

Despite state laws forbidding school segregation, most of the twenty-one school districts declared by the state three years earlier to be segregated "are as segregated or more segregated than they were at the time of the finding," according to the Illinois Advisory Committee to the U.S. Commission on Civil Rights. Desegregation, charged the group has been "ignored in many school districts and barely addressed in others."

A new report by the board of education shows that fewer schools meet state desegregation guidelines. The absolute number of blacks and whites in the schools declined while the percent black rose from 57.9 to 58.4 and percent white fell from 28.2 to 26.8. The percentage of Latinos rose from 12.7 to 13.4 percent. Somewhat more than one out of twenty schools has an ethnic or racial enrollment that the state classifies as nonsegregated.

Mrs. Carey B. Preston, school board vice-president, told the *Chicago Tribune*: "It's nothing new to anyone. I don't know that I have the answer, but the beginning is at least to discuss it and take a position on what the board wants." Mrs. Preston, who joined the board in 1968, continued: "The board has never discussed it, not since I've been there." Mrs. Louise Malis, another long-time member commented: "The federal government is putting our school system under great pressure. We must reach some kind of accommodation."

Several days after the city schools were officially cited for noncompliance by the state board of education, local officials threw doubt on the feasibility of desegregating the city. A staff report warned that "white flight" would result from desegregation. "Quality education may precede racial equity," said Superintendent Hannon.

[November 5, 1969]

NEW JERSEY STATE BOARD OF EDUCATION RESOLUTION

Whereas, there are certain school districts in the State of New Jersey maintaining racially imbalanced public schools; and

Whereas, the maintenance of racially imbalanced schools by any school district is in violation of the law and public policy of the State of New Jersey; and

Whereas, the State Board has determined that it is appropriate to deal with problems of racial imbalance without awaiting formal complaints by aggrieved citizens; now, therefore, be it

Resolved, that the attached statement of policy reaffirm the position of the State Board of Education and be it further

Resolved, that the Commissioner of Education in cooperation with local school districts undertake to determine in which school districts of the State of New York racially imbalanced schools are maintained; and be it further

Resolved, that the Commissioner of Education under the policy of the State Board undertake such steps as he shall deem necessary to correct such conditions of racial imbalance as may be found; and be it further

Resolved, that the Commissioner shall, at reasonably frequent intervals, report his progress to the State Board of Education.

STATEMENT OF POLICY

The New Jersey State Board of Education has long held that in a democratic society a fundamental precept of education is that each and every individual have an opportunity to develop the full potential of his capabilities, and that it is the responsibility of the State to insure that equality of opportunity is provided for every child regardless of his race, creed, color, place of residence, social or economic background.

Experience and research have demonstrated that:

The opportunity for children from a variety of backgrounds to work and learn together is essential for achieving the objectives of education.

The racially imbalanced schools in this State deny this opportunity to large numbers of boys and girls—white and black alike, as well as children of other minority groups.

Segregation of children on the basis of race is educationally harmful to all children.

Pupils in schools in which the population is predominantly Negro and of low socioeconomic background show significantly diminished levels of achievement.

A commitment to equal educational opportunity has been reaffirmed and mandated by the New Jersey Constitution of 1947 Article 1, paragraph 5 and the Judicial determinations of the Supreme Court of the United States (Brown v. Board of Education of Topeka, 374, U.S. 483, 98 L.Ed. 873 '1954') and the Supreme Court of New Jersey (Booker v. Board of Education of Plainfield, 45 N.J. 161 ('1965').

In suggesting that it is the duty of school officials and administrators to deal effectively with this problem, the New Jersey Supreme Court in the latter cited case stated:

"In a society such as ours, it is not enough that the 3R's are being taught properly for there are other vital considerations. The children must learn to respect and live with one another in multi-racial and multi-cultural communities and the earlier they do so the better. It is during their formative school years that firm foundations may be laid for good citizenship and broad participation in the mainstream of affairs. Recognizing this, leading educators stress the democratic and educational advantages of heterogeneous student populations, particularly when they are composed of a racial minority whose separation generates feelings of inferiority." (See also "Executive Order No. 21 Governor's Code of Fair Practices" Articles VIII, IX, June 24, 1965.)

Local school districts must continually assess their own situations. Plans must be developed and actions taken which will eliminate racial imbalance before problems and pressures arise that cause community opinion to become polarized.

A number of guidelines have been developed by the Office of Equal Educational Opportunity, New Jersey State Department of Education, and adopted by the State Board of Education to aid Administrative staffs and Boards of local school districts in planning and carrying out school desegregation. These should be carefully considered by all school districts in the development of school desegregation plans.

SELECTION FROM: "DESEGREGATION CAN WORK AND DOES"

(Prepared by State of New Jersey Department of Education, Fred G. Burke, Commissioner; Office of Equal Educational Opportunity, Nida E. Thomas, Director)

DESEGREGATION CAN WORK AND DOES

"New Jersey State Board of Education has long held that in a democratic society a fundamental precept of education is that each and every individual must have an opportunity to develop his full potential, and that it is the responsibility of the State to insure that equality of opportunity is provided for every child regardless of his race, creed, color, place of residency, social or economic background."

STATEMENT OF POLICY NOVEMBER 5, 1969

The question of who should go to school with whom is one of the most critical problems in the United States today. Recent Supreme Court decisions and federal legislation heighten its immediacy for many school districts. Equality of opportunity in education must be met. Each individual must be considered as a person, not as a favored White or inferior minority. The schools have a duel role. They must help Whites and minorities understand themselves and each other, they must also provide the kind of education that helps every youngster fulfill his maximum educational potential.

This packet is designed by the Office of Equal Educational Opportunity to show educators and members of "Project Harmony" desegregation plans which have been successfully used to meet the educational problems caused by generations of racial inequality.

The Princeton plan

Princeton Regional School System, Princeton, New Jersey. The Princeton Plan, the best known of the desegregation plans in New Jersey, reorganized the school system into one four year high school consisting of grades 9–12; a three year middle school complex for grades 6–8; and the elementary grades K–5 which were assigned to four elementary schools according to a pattern of attendance zones adopted by the Board of Education.

Prior to the middle school being established, all the Black students in grades (K–6) attended the Community Park School. The Community Park School was incorporated into the Middle School complex in this plan. All the Black students (11%) were dispersed by assigning students residing on certain streets in the neighborhood to specific elementary schools. There was no need for busing in Princeton.

This plan has resulted in a near perfect balance in each elementary school and complete integration in grades 6–12.

The Princeton Plan has been put into effect very successfully in Salem, N.C., White Plains, N.Y. and Greenburgh, N.Y.

Central desegregation plan

Lawrence Township, New Jersey desegregation plan

The Lawrence Township Board of Education adopted a desegregation plan which was implemented successfully in two stages. The plan established a district-wide fourth grade at the Eldridge Park School and new attendance boundaries for the remaining K–3 schools producing racial balance in the three schools. Grades 5 thru 12 were integrated since they first opened.

One of the more important parts of this plan is the special emphasis that the district puts on developing the educational component of the plan. Every effort was made to orient the staff, parents and students to the new fourth grade school and their newly defined boundary lines. The aim of the district was to help the community adjust to the new situations and to orient everyone to the special needs of students—both white and minority.

Evaluation plan

An improvement in attitudes and understanding on the part of the students has been noted by guidance counselors and teachers on all levels.

Union Township's Central school plan

Union Township, New Jersey is a suburban community located five miles from Newark. The town has a population of 55,000. Approximately 9% of the population is non-White.

In 1968 H.E.W. surveyed the Union Township Public School System. As a result of this survey, it was determined that the township was not complying with the provisions of the 1964 Civil Rights Act.

On October 17, 1968, H.E.W., Office of Civil Rights, ordered the end of racial imbalance at Jefferson School. The situation at that time was that there were 312 pupils in this school, of which only two were white. An open enrollment plan had been in effect in the district since 1963.

The Union Township Board of Education was given until December 15, 1968, to submit a plan to end racial imbalance at Jefferson School. An extension was granted until January 15, 1969 at the Board's request.

The plan finally submitted proposed a "Central Six" solution. A central school is one that is established to serve a single grade for a much larger geographical area. All sixth graders would be housed in Jefferson. All other students Kindergarten through 5th, residing in the Jeffersor School area would be distributed among the 6 other elementary schools so that there would be about 15% Black students in each school. Children who lived more than 1½ miles from school would be bused, in addition to students already being bused.

Community reaction

There was little or no White flight from the community. School Board elections revealed no indication of public discontent over school desegregation. Students and their parents both accept the plan.

Success of the Union Township desegregation plan is attributed to the Board's positive unanimity, its ability to "stick to its guns", the dedication and commitment of the superintendent of schools, the enthusiasm of the teachers, and the support of the media. Careful preparation and systematic contact with all elements of the community kept the minds of the people at ease.

Reflections

The Union Township experiment has resulted in an improvement in student attitudes towards one another and in greater scholastic achievement, as witness the Central Six Jefferson School motto, "Her to Learn and Have Concern." The community attitude is also more relaxed.

Ewing Township, New Jersey reorganizes their schools

Improving the educational system and achieving a better racial balance were the primary purposes for reorganizing the public schools in Ewing Township.

In an attempt to comply with an order from the Commissioner of Education to racially balance the schools, the District turned to the computer. This process attempted to achieve balance, keeping children who live within walking distance at their neighborhood school, keeping neighborhoods together at one school, keeping children in one family together in the same school, and minimizing the amount of busing.

The district also had an overcrowding condition at the secondary level which had to be worked on, since space at the junior high school was limited.

Developing the plan

A citizen's advisory committee was formed to come up with a desegregation plan. It consisted of representatives from over sixty organizations and groups in the Township. Every organization was asked to send a representative. Once the general committee was organized, they were subdivided into three groups:

Curriculum;

Student, Faculty and Administration Feelings; and

Racial Imbalance.

Three separate reports were completed and submitted to the Board of Education. The Board reviewed these findings and made them public. Recommendations were made from these findings.

The reorganization plan

The system contains seven elementary schools (K–6), two junior high schools (7–9) and one senior high school (10–12).

The plan called for making 1 elementary school into a middle school containing grades 6–7 and another elementary school into a junior high school housing grades 8–9.

This meant that all sixth grades would be taken out of the 7 elementary schools. Portable classrooms had to be purchased in order to meet the needs of the broader course offerings at the Junior High School.

Advantages of reorganization

These are numerous advantages educationally, economically, morally and socially to this plan.

1. Improvement of the educational programs.

(a) Student groups of grades 6–7, 8–9. Children of the same age will be together.

2. Administration and guidance.

Grades 6–7 and 8–9 will have their own administrator who will provide for a more unified curriculum. Guidance service was provided to the 6th grades, which is important today.

3. New Programs

A host of new programs were offered to 6th grades. (home economics, shops, science labs, etc.)

4. Better Student Relations—Grades 6–9

Many social advantages were offered because of age grouping.

5. Intramural Sports 6–7

Resulted in a more competitive sports program at the junior high school.

Eliminate overcrowding

1. Better transition to high school because all students come from the same school. Curriculum continuity will be strengthened by having the same curriculum exposure.

2. Three Total Community Schools—Racial balance will be achieved since all students in the community in those grade levels will attend one school rather than being separated around the community.

3. Better Staff Utilization

(a) Teachers (by having all 6–7 and 8–9) will be together in one building. Teachers can experiment with team teaching, special grouping, combining their talents etc. In addition, all teachers have been provided the opportunity to change schools based on interest and certification.

(b) Principals who have special interest in curriculum or methods will be provided the opportunity to work in these areas.

(c) Inservice Training will be provided all teachers to improve on curriculum and teaching methods.

(d) Team Teaching, individualized instruction, and other techniques can be experimented with.

Neighborhood School Concept can be retained. Children can walk to school whenever possible.

Racial Balance through redistricting will be accomplished.

Centralization of Instructional Materials.

Pairing plan

Morris School District, Morristown, N.J.

The Board of Education authorized the implementation of a paired school plan for achieving full integration of Morris School District by September 1974. The plan paired 8 elementary schools; four grades, K–3, and four grades 4–6. It also reorganized the grades with pupil-attendance districts established for each pair of schools.

A positive aspect of this plan is that parents will know which school their children will attend in grades K through 6.

The Township judged the plan a success because it not only gave them an excellent solution to the problem of desegregation with a minimum of confusion, inconvenience and expense, but also improved the educational program.

Grade reorganization

Montclair School Plan of Action, Montclair, New Jersey

The Montclair School system implemented a desegregation plan that reorganized grades K thru 4. Each child attends his neighborhood school for four of his five years. Thus, the major aspect of the neighborhood school is preserved.

Each child will attend Kindergarten and 1st grade in his neighborhood school. For one of the three remaining years he will attend another school in the district.

To accomplish this goal, Montclair's 9 elementary schools were organized into three clusters of three schools each.

Grades 5 thru 8 were reorganized into a Middle School.

What the Plan Accomplished:

1. All children retain a neighborhood base.
2. Busing is held to a minimum.
3. Instructional process was improved.
4. Movement between schools is minimized.
5. Facilities are used to the maximum.
6. Racial balance was accomplished.

Grade reorganization plan

Pontiac, Michigan, Desegregation Plan

This plan involves all students in grades 1–9 and requires that the schools they attend have a student body which is between 20% to 40% minority. At the time the Plan was drawn 33% of Pontiac school students were minority.

At the Elementary level, integration was accomplished by grade reorganizing and clustering. Most elementary schools were reorganized into either primary (K plus 1-2-3) or interim, (K plus 4–6) and then clustered in groups of 3 to 5 schools.

Students generally attend their "neighborhood" schools for K and grades 1, 2, and 3 or for K and grades 4, 5, and 6. The plan necessitated transportation for 3 of their 7 elementary schools.

Pontiac's 6 junior high schools were reorganized by grade and paired under the plan. Each junior high school contains 1 grade and serves approximately ½ the school district.

What does this plan accomplish:

The schools are fully integrated.

Students who enter 1st grade together will generally be able to remain together through all their school years.

[State of New Jersey, Department of Education]

Office of Equal Educational Opportunity Suggested District (LEA) Format for Desegregation Plans to the Commissioner for Approval

Table of Contents.

Preface—Statement of Board Policy (date). (Date Approved).

Introduction—Statement on scope of this document.

Sec. I.

Demographic Overview—This section would contain that information showing the district's population characteristics (size, racial, economic condition). This section would also contain necessary information on population growth/lack of growth and other profile data on the district.

A. Map of District Schools.

Sec. II.

Profile of Schools.

(a) Student Enrollment data—General statistical data (Grade data by race, school population).

(b) School Administration data—Statistical data showing race/sex of all personnel classified as Administrative staff, assignment level (school, central office).

(c) Instructional Staff (data showing race/sex—place of assignment).

(d) Support staff (Balance of school personnel not classified above). Include data on race/sex and place of assignment.

Sec. III.

Profile—information placed here will identify those problems related to and including racial imbalance.

(a) Pupil assignment data—by school and grade level (racial imbalance level).

(b) Teacher assignment information—(racial imbalance).

(c) Administrative staff (by school)—racial imbalance data.

(d) Supervisory, special services personnel/racial imbalance information.

(e) Curriculum data—(Program information that shows need for curriculum change for increased multi-ethnic data.

(f) Building Renovation Plans data.

(g) Transportation (as needed) data.

(h) Staff Training data.

(i) Details of an Annual Monitoring Process.

Sec. IV.

Plans for Correction of Racial Imbalance.

Indicate in this section those plans for each item indicated in (A–E).

Section III to include: Responsible personnel; Target of actions; Timeliness for change; Necessary support documents; Policy changes; and Curriculum documents (Anticipated Changes).

Section V.

Community Involvement Plans for involving the Community in the Desegregation Process.

A. Public Information Plans.

Sec. VI.

Summary Statement—District Comment.

Desegregation Plan Status for Selected Districts by County

ACCEPTABLE—APPROVED BY NEW JERSEY COMMISSIONER OF EDUCATION

Atlantic County: Buena Vista, Galloway Twp., Hammonton, Longport, Weymouth.

Bergen County: Teaneck.

Burlington County: Burlington City, Burlington Twp., Mount Holly Twp., Palmyra, Pemberton Twp., West Hampton.

Camden County: Lawnside, Lower Camden Co. Reg., Magnola, Winslow.

Cape May County: Middle Twp., Wildwood, Woodbine.

Cumberland County: Commercial Twp., Deerfield Twp., Downe Twp., Fairfield Twp., Greenwich Twp., Lawrence.

Essex County: East Orange, Orange, So. Orange/Maplewood.

Gloucester County: Deptford, Elk, Franklin Twp., Glassboro, Swedesboro, Woodbury.

Hudson County: Hoboken, Union City, West New York.

Mercer County: Ewing Twp., Lawrence

Mercer County: Ewing Twp., Lawrence Twp.

Middlesex County: Carteret, Monroe Twp.

Monmouth County: Belmar, Freehold, Monmouth Twp., Red Bank, Tinton Falls.

Morris County: Dover Town, Morris.

Ocean County: Lakewood, Manchester Twp.

Salem County: Mannington, Oldmans Twp., Pittsgrove, Quinton Twp., Salem.

Union County: Elizabeth, Plainfield Rahway, Summit, Union Twp., Westfield, Scotch Plains/Fanwood.

ACCEPTABLE—RESEGREGATION AND UPDATING OF PLANS

Atlantic County: Egg Harbor Twp.

Bergen County: Englewood.

Essex County: Montclair, Newark.

Monmouth County: Neptune.

Somerset County: Franklin Twp.

Union County: Linden.

STAGED IMPLEMENTATION—PHASING A PLAN

Atlantic County: Atlantic City.

Bergen County: Hackensack.

Cumberland County: Vineland.

Middlesex County: Perth Amboy, Piscataway.

Monmouth County: Ashbury Park, Long Branch.

INITIATING PLANS—DEVELOPING PLANS

Atlantic County: Pleasantville.

Burlington County: North Hanover, Willingboro.

Camden County: Camden City.

Cumberland County: Bridgeton.

Essex County: Belleville, Irvington.

Hudson County: Bayonne, Jersey City.

Mercer County: Hamilton Twp., Trenton.

Monmouth County: Eatontown.

Passaic County: Passaic.

Salem County: Penns Grove/Upper Penns Neck.

Union County: Roselle Boro.

MONITORING STAGE

Essex County: Bloomfield, Essex County Voc. School.

Morris County: Madison.

Somerset County: Somerville.

OTHER STATUS—IN LITIGATION

Union County: Hillside.

BACKGROUND

There are 100 districts included in the status summary. Three of these districts had desegregated prior to the establishment of OEEO. Five were identified during the year as being racially imbalanced. Technical assistance has been provided to these districts as well as comprehensive information related to federal funding, assistance with proposal writing, participation and help in designing administrators inservice workshops.

* * * * *

There has been little improvement in some problems experienced by staff which make it difficult to institute a systematic approach to its commitment to equal educational opportunity as affirmed by the New Jersey State Constitution. The most pressing of these problems for OEEO is that of urban centers. Urban Centers present particular complex impediments to desegregation. Each is unique, but all are burdened by at least part of the following problems:

Inadequate funds to finance educational programs;

A high concentration of minority students in the schools;

Inadequate facilities to allow for viable alternatives;

Administration and staff not reflective of minority student population ratios;

Complexity of school-community relationships, and the community's push to be more involved in school policies which affect the lives of their children;

Political situations which are not supportive of quality education;

Resegregation; and

Reluctance to provide equal employment opportunities for women and minorities in administrative and supervisory positions in schools.

Office of Equal Educational Opportunity

NEW JERSEY SCHOOLS

NEW JERSEY SCHOOLS THAT ARE TRANSPORTING STUDENTS FOR SCHOOL DESEGREGATION

DISTRICT AND GRADE LEVELS INVOLVED AS OF 5-7-76

Bergen County: Englewood, Pre-K thru 5; Teaneck, K thru 5.

Burlington County: Burlington Township, K thru 5; Pemberton, K thru 8.

Cumberland County: Bridgeton, K thru 6; Commercial Township, K thru 6.

Essex County: Montclair, 2 thru 8.

Gloucester County: Deptford Township, K thru 6; Elk Township, K thru 6; Franklin Township, K thru 6; Glassboro, K thru 3; Swedesboro, K thru 6.

Mercer County: Ewing, K thru 6; Lawrence, K thru 8.

Middlesex County: Carteret, K thru 8; Monroe Township, K thru 8; New Brunswick, 1 thru 5.

Monmouth County: Neptune, K thru 4; Tinton Falls, K thru 8.

Morris County: Dover, K thru 6; Morris School District, K thru 8.

Ocean County: Lakewood, K thru 4.

Salem County: Pittsgrove, K thru 8.

Union County: Plainfield, K thru 5; Rahway, K thru 5; Union, K thru 6; Scotch Plains, K thru 6; Westfield, K thru 2.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? Morning business is closed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The second assistant legislative clerk continued the call of the roll and the following Senators answered to their names:

[Quorum No. 6 Leg.]

Allen
Bentsen
Buckley
Byrd, Robert C.
Dole
Ford
Garn
Glenn
Goldwater
Griffin
Helms
Hruska
Mansfield
McClure
Scott, Hugh
Sparkman
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk
Baker
Bartlett
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Cannon
Case
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fannin
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
William L.
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

REQUEST FOR RECOGNITION OF CERTAIN SENATORS UNDER SPECIAL ORDERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina be recognized for not to exceed 15 minutes on tomorrow and that he be recognized for not to exceed 15 minutes on Monday next, and that the distinguished Senator from Delaware (Mr. ROTH) be recognized for not to exceed 15 minutes tomorrow, these special orders to come after the two leaders have been recognized.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senate will proceed to the consideration of the calendar of bills and resolutions.

The Senate will be in order.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remaining period in the hour under the rule allocated for consideration of cloture be equally divided between the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from North Carolina (Mr. MORGAN).

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I do not want to object, if this debate does take place for this length of time, could a cloture motion on the bill itself be filed during this time?

The PRESIDING OFFICER. Does the Senator from Montana yield for a parliamentary inquiry?

Mr. MANSFIELD. Yes, indeed.

The PRESIDING OFFICER. No, the bill is not before the Senate, and cloture could not be invoked.

Mr. ALLEN. Then I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, since the distinguished Senator from North Carolina is not on the floor, I ask that his portion of the time be allocated to the distinguished Senator from Michigan (Mr. PHILIP A. HART).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, it has been reported in the press, I understand, that this will be the one and only vote on cloture on the pending measure. I do not know what the source of that information is. I do not know that there has been any foreclosure of further efforts, according to the thinking of any Senator.

Mr. ALLEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HRUSKA. I do not know that there has been any commitment by any Senator or any group of Senators that that will be the case. It might serve some purpose by way of inducing Members of this body to announce themselves and vote in one way, if they knew there was only one cloture vote. On the other hand, if they knew there would be others to follow if the instant attempt at cloture fails, perhaps they might vote in a different way.

I just make note of that for whatever it is worth.

Mr. MANSFIELD. Mr. President, will the Senator from Michigan yield me a minute to respond?

Mr. PHILIP A. HART. I do.

Mr. MANSFIELD. Mr. President, responding to the statement just made by the distinguished Senator from Nebraska (Mr. HRUSKA), I do not know if there will be a second vote on cloture if this one fails, because it will be some time before the antitrust legislation will again become the pending business. If cloture fails, if the necessary 60 votes are not acquired, it will mean that the pending business, the antitrust legislation, will be turned aside automatically, and automatically the foreign aid arms control bill, or whatever it is called, which was pending on yesterday, would, as the unfinished business, be laid before the Senate, and then it would be a question of timing as to when the Senate would have the opportunity to return to the consideration of the antitrust legislation.

I think the RECORD ought to be made quite clear that this is a vitally important vote on cloture, and I hope that 60 votes, at least, will be forthcoming.

The PRESIDING OFFICER. Who yields time?

Mr. PHILIP A. HART. Mr. President, very shortly we will determine the will of the Senate with respect to acting upon a proposal which has had a rather slow and tedious course in the last year. Of course, I hope very much that we will be permitted to act upon—favorably, I trust—and in any event dispose of the antitrust improvements bill.

I rise simply to express my appreciation to the Members who have cooperated so effectively in the effort to bring this matter to a vote. While I have been necessarily absent for the past few days, I have noticed in RECORD very severe criticism voiced with respect to certain procedures. I think that my testimony would be regarded as of dubious objectivity. As I see it, I rise out of a sense of obligation to thank Senator MANSFIELD and Senator ROBERT C. BYRD for their leadership in bringing the matter to this stage.

Mr. DOLE. Mr. President, I shall vote against the pending motion to invoke cloture because there are a number of provisions in the Hart-Scott substitute which should be modified. Since we have little assurance that any meaningful changes at all can be successfully proposed once we begin operating under rule XXII, it is my view that we should keep the debate open at this point.

I am not against the overall thrust of S. 1284, the language of which is sought to be incorporated into H.R. 8532, but do believe all of its sections can be improved upon. In particular, I am concerned by the "parens patriae" concept and its extension to other than willful price fixing violations.

If a limitation of that sort could be imposed—as well as the mandatory treble damages and "fluid recovery" or statistical aggregation principles dropped—I think we might have a bill which establishes more reasonable and realistic enforcement mechanisms. With serious questions being presented anyway as to whether we even need to bypass State Legislatures by giving their attorneys general this authority, it would seem highly desirable that we go no further than necessary to insure effective deterrence.

By continuing our deliberation until the more objectionable features of this legislation are overcome, I trust we can reach a compromise which is acceptable to the vast majority of us who have reservations now.

The PRESIDING OFFICER (Mr. FORD). The Senator's time has expired. All time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the Senate convened, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to close debate on the pending Hart/Scott substitute amendment to H.R. 8532, an Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mike Mansfield, Hugh Scott, Lee Metcalf, George McGovern, Hiram L. Fong, Alan Cranston, Edward M. Kennedy, Hubert H. Humphrey, Gaylord Nelson, Dick Clark, Edmund S. Muskie, Henry M. Jackson.

Birch Bayh, Frank E. Moss, Claiborne Pell, Lowell P. Weicker, Warren G. Magnuson, Vance Hartke, Harrison A. Williams, Charles H. Percy, Robert T. Stafford, Thomas F. Eagleton, Adlai E. Stevenson, Stuart Symington.

Philip A. Hart, John V. Tunney, James Abourezk, Gary Hart, Jennings Randolph, Robert C. Byrd, Patrick J. Leahy, John Glenn, John Durkin, William D. Hathaway, Charles McC. Mathias, John Culver.

Thomas J. McIntyre, Dale Bumpers, Walter D. Huddleston, Daniel K. Inouye, Mark O. Hatfield, Joseph R. Biden, Clifford P. Case, Walter F. Mondale, Floyd K. Haskell, William Proxmire, Gale W. McGee.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names.

[Quorum No. 7 Leg.]

Abourezk
Allen
Baker
Bartlett
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the pending Hart-Scott substitute amendment to H.R. 8532, an act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, shall be brought to a close?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The yeas and nays are mandatory under the rule.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. HELMS. Inasmuch as the clerk never reported H.R. 8532 on Friday prior to the filing of the cloture motion, I suggest that the Senate rules did not meet necessary compliance in connection with the distinguished assistant majority leader's motion that the bill be made the pending business.

Therefore, I question the validity of the motion.

The PRESIDING OFFICER. The motion to proceed to the bill was agreed to. If there was inadvertence and the bill was not reported, the Chair rules that that does not change the fact that the bill was before the Senate.

Mr. HELMS. Mr. President, a parliamentary inquiry. Have we not, by this action, set the precedent that a bill no longer needs reporting before——

The PRESIDING OFFICER. No, we have not.

Mr. HELMS. Just so that is made clear for the record, the Senator from North Carolina is satisfied.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. Does the Senator withdraw his point of order?

Mr. HELMS. I withdraw it.

The PRESIDING OFFICER. The clerk will call the roll.

The *assistant legislative* clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The yeas and nays resulted—yeas 67, nays 22, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—67

Abourezk
Baker
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Symington
Taft
Tunney
Williams

NAYS—22

Allen
Bartlett
Bentsen
Buckley
Byrd, Harry F., Jr.
Cannon
Dole
Domenici
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
McClure
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Bayh
Beall
Bellmon
Church
Curtis
Eastland
Fong
Laxalt
McClellan
Stevens
Weicker

The PRESIDING OFFICER. On this vote, the yeas are 67, the nays are 22. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Each Senator now has 1 hour for debate.

ORDER FOR MODIFICATION OF TIME AGREEMENT ON S. 1776

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. MANSFIELD. Mr. President, I yield myself such time as I may desire on my 1 hour, and I yield to the distinguished Republican leader.

Mr. HUGH SCOTT. Mr. President, I thank the distinguished majority leader.

I rise for two purposes. The first is that invoking cloture inevitably delays action on S. 1776, a bill to create Valley Forge as a Federal facility rather than a State one. I understand that we did have a time agreement and an amendment is being considered by the Senator from Idaho (Mr. MCCLURE). I believe that he will have no objection to some assurance that we might bring this bill up early next week. The Senator from Montana has inquired of me whether we could have a change in the time agreement on the amendment from 1 hour to 40 minutes, 30 minutes to the Senator from Idaho and 10 minutes to the Senator from Pennsylvania.

Mr. MANSFIELD. Mr. President, the Senator is correct. The Senator from Idaho has been most understanding. We shall not take up the bill S. 1776 today or tomorrow but, hopefully, as early next week as possible.

Mr. President, I ask unanimous consent that the agreement already entered into be modified as follows: When the bill is brought up, there will be an amendment offered by the distinguished Senator from Idaho (Mr. MCCLURE). On that amendment, I ask that 30 minutes be allocated to the Senator from Idaho and 10 minutes to the Senator from Pennsylvania, the Republican leader and the author of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

VISIT TO THE SENATE BY THE MAGNA CARTA DELEGATION

Mr. HUGH SCOTT. I thank the majority leader.

I call to the attention of the Senate, with the indulgence of the majority leader, that we expect to have some visitors to the Senate in 15 to 30 minutes from now. They will include the members of the Magna Carta delegation who are entitled to privileges of the floor as Members of Parliament, plus the British Ambassador, and they will, as I should have said, include the distinguished Speaker of the House of Commons, the Lord Chancellor of the House of Lords, the Lord Privy Seal, and a number of distinguished Members of the Houses of Lords and Commons, including at least one Member who is a direct lineal descendant of a Baron of the Magna Carta. I think it would be regarded as a tribute to our friends, who were extremely cordial to us, if as many Senators as possible would have an opportunity to meet them and shake hands and have a very brief greeting.

Mr. MANSFIELD. Mr. President, I agree completely with the distinguished Republican leader. I ask unanimous consent at this time that it be in order when our visitors arrive or shortly before they arrive to declare a recess for the purpose of allowing our colleagues from the House of Lords and the House of Commons, and their wives, plus the British Ambassador, to enter the Chamber for the purpose of being introduced informally and shaking hands with our guests.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. And that there be a time of the Senator from Montana's choosing, after consultation with the Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, they did bring us a message that "All is forgiven, come home." But I did not read into that message any compulsion on our part to return.

Mr. MANSFIELD. That is right.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. MANSFIELD. Mr. President, I thank my distinguished colleagues for the wisdom of allowing the Senate to work its will on the merits of what some have called the most important antitrust bill to reach the floor of the Senate since 1914.

In order that we can now turn to the orderly processing of the Hart-Scott substitute amendment, numbered 1701, which is identical to S. 1284, as reported on April 26 from the Judiciary Committee, I move to table the pending Allen amendment, numbered 1712, in the nature of a substitute to the Hart-Scott amendment numbered 1701.

As my colleagues well know, the Allen amendment, numbered 1712, would totally strike the provisions reported from the Judiciary Committee and leave us nothing, with nothing but the House-passed parens patriae bill.

Mr. ALLEN. Point of order.

Mr. MANSFIELD. Mr. President, I move to table the pending substitute.

Mr. ALLEN. Point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ALLEN. The Senate has had before it this very same question and voted against tabling this amendment. I make a point of order that an additional motion to table after one has already failed and has not been reconsidered is now out of order.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair will advise the Senator from Alabama that 3 days must elapse, 3 days. Under the precedents, 3 days having elapsed, the motion is in order.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. It is not debatable.

Mr. ALLEN. I do not see that provision in the rules. Is this a rule for this particular occasion?

The PRESIDING OFFICER. It is a matter of precedent.

Mr. ROBERT C. BYRD. Mr. President, it is written in the book of precedents.

The PRESIDING OFFICER. If the Senators will address their questions to the Chair, the Chair will try to answer them.

The point of order is not well taken.

The clerk will call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. John Speer be allowed on the floor during the consideration and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Montana to table the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Utah (Mr. MOSS) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 48, nays 37, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—48

Abourezk
Biden
Brooke
Bumpers
Burdick
Case
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Williams

NAYS—37

Allen
Baker
Bartlett
Bentsen
Brock
Buckley
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Dole
Domenici
Fannin
Garn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
Long
McClure
Nunn
Randolph
Roth
Scott,
William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—15

Bayh
Beall
Bellmon
Church
Curtis
Eastland
Fong
Inouye
Laxalt
McClellan
McGee
Moss
Symington
Tunney
Weicker

So the motion to table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight——

The PRESIDING OFFICER. Will the Senator suspend? Will the Senate come to order?

Mr. ALLEN. Will the majority leader use the microphone, please, so **that all** can hear?

The PRESIDING OFFICER. Will the Senate come to order? The Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, this evening, it stand in recess until the hour of 9 a.m. tomorrow.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I make the same request for 10 o'clock.

The PRESIDING OFFICER. Without objection——

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I make the same request for 11 o'clock.

The PRESIDING OFFICER. Without objection——

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, the reason for making the request for an early convening tomorrow was to comply with the requests made by a number of Senators on both sides of the aisle. All the leadership can do is try. If it is successful, fine; if it is not successful, that is to be considered in the light of the circumstances which have given rise to the verdict rendered.

RECESS UNTIL 2:13 P.M.

Mr. MANSFIELD. Now, Mr. President, under the previous order I ask that the Senate stand in recess for 15 minutes for the purpose of introducing the parliamentary delegation from the United Kingdom visiting here for the purpose of allowing us to retain the original copy of the Magna Carta for the rest of this Bicentennial Year, and also for the purpose of allowing those of us who wish to do so, and I believe that will include all of us, to shake hands with our distinguished guests, the time not to exceed 15 minutes.

There being no objection, the Senate, at 1:58 p.m., recessed until 2:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FANNIN).

(During the recess, the following proceedings occurred:)

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, and if Senators will take their seats temporarily, I would like to welcome, on behalf of the Senate, the delegation from the Parliament of the United Kingdom and their associates.

This delegation, which the distinguished Republican leader and I met with in England, is over in this country as our guests. It is here for the presentation of the original copy of the Magna Carta, to emphasize the link between our respective countries based on two of the greatest documents in the world insofar as the rights of people are concerned, the Magna Carta and the Declaration of Independence.

Their hospitality has been extraordinary; we hope that, in some small way, we have been able to repay them.

I would like at this time to introduce the members of the delegation of the United Kingdom and their associates. I would suggest that their wives rise at the time of the announcement of the names of their husbands.

The Rt. Hon. Lord Elwyn-Jones, Q.C., Lord Chancellor, accompanied by Lady Elwyn-Jones.

The Rt. Hon. George Thomas, M.P., Speaker.

The Rt. Hon. Michael Foot, M.P., Lord President of the Council (who I believe is absent due to official business of the Council.)

The Rt. Hon. Lord Shepherd, Lord Privy Seal, accompanied by Lady Shepherd.

The Marquess of Lothian.

Viscount Hood, G.C.M.G.

Lord Mowbray and Stourton, accompanied by Lady Mowbray and Stourton.

The Rt. Hon. Lord Byers, O.B.E., accompanied by Lady Byers.

The Rt. Hon. Douglas Jay, M.P., accompanied by Mrs. Jay.

The Rt. Hon. John Peyton, M.P., accompanied by Mrs. Peyton.

The Rt. Hon. Humphrey Atkins, M.P., accompanied by Mrs. Atkins.

Sir Thomas Williams, Q.C., M.P., accompanied by Lady Williams.

Dr. Dickson Mabon, M.P., accompanied by Mrs. Mabon.

Mr. Michael Hamilton, M.P., accompanied by Mrs. Hamilton.

Mr. David Steel, M.P., accompanied by Mrs. Steel.

Mr. Winston Churchill, M.P., accompanied by Mrs. Churchill.

Mr. Roger Moate, M.P., accompanied by Mrs. Moate.

Mr. John Watherston, Secretary to the Lord Chancellor.

Brigadier N.E.V. Short, M.B.E., M.C., Secretary to the Speaker.

And finally, one of the real spark plugs in this gathering, Brigadier P.S. Ward, C.B.E., Secretary of the Parliamentary Bicentenary Committee.

[Applause, Senators rising.]

Thereupon the distinguished visitors were greeted by Senators in the well of the Chamber.

(This concludes proceedings that occurred during the recess.)

MAGNA CARTA

Mr. TOWER. Mr. President, a British visitor to this country once observed that the United States is a virtual museum of British legal and political institutions; in fact, Mr. President, we owe a great deal to the constitutions of Clarendon, the Magna Carta, and the English Bill of Rights of 1688.

I think never have I seen a more persuasive sense of history in this Capitol than was the case this morning with the very moving presentation of the Magna Carta by our British friends and the acceptance by the Speaker.

I, therefore, Mr. President, ask unanimous consent that there be printed in the RECORD the remarks made by Senator HUGH SCOTT, as the keynote, the presentation speech made by the Lord Chancellor, Lord Elwyn-Jones, and the acceptance speech made by the Speaker of the House of Representatives, Congressman ALBERT.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks by U.S. Senator Hugh Scott

Another distinguished British observer, Lord Bryce, visited the United States during the time of our centennial celebration. He observed that Americans love all that is old and established. He explained our evident pride in our history and government by reference to the deeply-rooted instincts of our British heritage "that practical shrewdness which recognizes the value of permanence and solidity in institutions."

We meet here today in the Rotunda of the United States Capitol surrounded by reminders of our appreciation for the remembered past and of our respect for constitutional government.

We are here to consider the age-old parchment that is so magnificently displayed before us.

Magna Carta's awesome presence here reminds us that our common heritage is far stronger than our differences. The tradition to which it gave rise, the tradition of freedom under law is the bedrock upon which our governments rest. Magna Carta established the fundamental principles that justice will not be sold, denied or delayed and that justice is not a whim of authority but a matter of right. Magna Carta may seem to be only a piece of parchment but its words have toppled tyrants and given rise to whole nations.

The influence of the Magna Carta is recognized most explicitly in the Fifth and Fourteenth Amendments to the U.S. Constitution—that all men, regardless of station, stand as equal before the Bar of Justice; no one shall be above the law.

The principle of Constitutional government, firmly rooted in the American heritage, has been cited many times throughout our history. Three weeks before the signing of the Declaration of Independence, when the Virginia House of Burgesses approved a Declaration of Rights, the Colonists quoted Magna Carta directly: "That no man be deprived of his liberty, except by the law of the land or the judgment of his peers."

Thomas Jefferson wrote in the Declaration of Independence, "That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

The Constitution, the Bill of Rights, the checks and balances built into our Federal system of government have taken the Constitutional foundation of Magna Carta and added a profound tradition of Democratic government under law.

Salus populi suprema lex: that regard for the public welfare is the highest law.

We are grateful to Her Majesty Queen Elizabeth II and to the Parliament for making possible the loan of this most priceless and cherished charter of freedom.

Millions of visitors to this building will be deeply moved by the simplicity of the document, the beauty of its resplendent display case and the gift of its golden replica evidencing the generosity of the British people.

Its presence here will remind us of the words of Winston Churchill, which were quoted by the Senate Majority Leader, Senator Mansfield, in Westminster Hall a few days ago: "When the state, swollen with its own authority, has attempted to ride roughshod over the rights or liberties of its citizens, it is to this doctrine that appeal has again and again been made, and never as yet without success."

So it should be, and so it must be.

Address by the Lord Chancellor, Lord Elwyn-Jones

It is my honour and pleasure first to bring to this great Assembly of representatives of the American people the greetings and abundant good wishes of my fellow Parliamentarians and of the people of the United Kingdom.

It was our privilege to welcome you, Mr. Speaker, and your distinguished Delegation to Westminster Hall last week, the historic centre from which the system of Common Law was taken to every quarter of the globe. It is now our privilege to be received at the very heart of your Congress, the Rotunda.

On behalf of my colleagues and myself, I would like to thank you for the warmth of your hospitality. On this historic occasion your generosity has extended to permitting Mr. Speaker Thomas and myself to appear before you in the full bottomed wig, which has been traditionally worn by our predecessors for the past 200 years. We have ventured to do so, despite the firm resolution of our fellow Welshman, Thomas Jefferson, that English judicial wigs should not on any account be worn in these United States. As for our robes, I can only repeat the assurance of a certain English clergyman, who betook himself two centuries ago to a village in my native Wales called Carrigy Druidion—Druid's Stones. The clergyman appeared in such unfamiliar garments that upon the sight of him "a general roar of laughter shook the village". But he was not abashed. His response was to say: "Gentlemen, you may consider us as ridiculous as you please, but I do assure you that at home we pass for decent men". I hope our colleagues from Westminster will be willing to give you the same assurance about Mr. Speaker Thomas and myself.

One of the great precepts of friendship is "rejoice with those who do rejoice and weep with those that do weep". Our peoples have been borne together by the sorrows of two World Wars. Now we rejoice that we can share your Bicentennial celebrations. Peoples not familiar with our ways have thought it paradoxical for the British to be joining in the celebration of the Bicentenary of what was, after all, the loss of the American colonies. They overlook our traditions of compromise. We now regard the events of two centuries ago as a victory for the English-speaking world.

In truth there is much to celebrate in this Bicentennial Year.

There is the enduring relationship between our two countries which overcame the severance of political links between us two centuries ago. Only six years after the Declaration of Independence King George III expressed the hope to the Parliament of his day that "Religion, language, interests, affection may prove a bond of permanent union between the two countries". And so it was to be. For two centuries now we have been linked by those bonds. Fundamental among our common values is the principle of the rule of law, expressed in the words of your President John Adams and incorporated in the Declaration of Rights—"a government of laws and not of men". This principle, which is basic to any free society, found one of its earliest written expressions in King John's Great Charter of 1215. Beginning as an affirmation of the privileges of the dominant classes of feudal society, it gradually became a charter of liberty for all men. It became a fundamental law against which all other laws and executive acts should be tested. The famous clauses 39 and 40 ring down the centuries: "no free man shall be proceeded against, except by the lawful judgment of his equals or by the law of the land. To no-one will we sell, and no-one deny or delay, right or justice". For centuries Magna Carta lay dormant. I don't think Shakespeare ever mentioned it, even in his play King John. But its finest hour was to come. The Common Lawyers of the seventeenth century used it as a powerful weapon against the absolutist claims of the Stuart Monarchy, for its main theme was that government governs under the law and is itself subject to law. "Magna Carta", thundered Lord Chief Justice Coke, "is such a fellow that he will have no sovereign".

It was a formidable weapon for use at that critical time in Parliament's history. "We are the last monarchy in Christendom that retain our original rights and constitutions" said one English MP in the 1620s. Unless they insisted on their rights, said another, "then farewell Parliaments and farewell England". Fifteen years later, the English Parliament was able to challenge the King and defeat him in civil war. Parliamentary sovereignty was assured. In that very time the English settlers were going across the sea to the New World, taking the message of Magna Carta and the substance and spirit of the Common Law with them, with its insistence on individual rights and its repudiation of arbitrary power in any form. They took it to Virginia in 1607, and Massachusetts in 1620, and Maryland in 1632, and Rhode Island in 1636. And when the testing time came in the 1770's it was on the principles of Magna Carta that John Adams based his first appeal to the colonists. As streams join and make a mighty river, so have our Magna Carta and Bill of Rights and your Declaration of Independence and Constitution mingled to form a common heritage and tradition which has served as an inspiration to both our countries. We can together therefore repeat the familiar lines of Rudyard Kipling: "All we have of freedom, all we need to know; This our fathers won for us long and long ago".

We in Britain recognise, in this Bicentennial Year, the achievements of your great nation, whose institutions, whose air of freedom, whose enterprise, idealism and courage have gained our admiration and respect. The leadership of the free world rests on the shoulders of a powerful and generous people. Your recovery from the tribulations of recent years has especially impressed us. Both at home and abroad, you have been beset by circumstances and adversities which appeared to shatter your confidence and to threaten the principles on which depends the smooth running of a great democracy; circumstances which might have broken a less resilient people. But now it is evident to all your friends that your strength is untouched and your resolution firm. Above all, your Constitution has proved its soundness and its vitality.

Britain, too, has had her serious problems. But we British are also a resilient people. I shall never forget my emotion when, at the Nuremburg Trials in 1944, I handled the text of Hitler's Operation Sea Lion, prepared for the invasion of Britain in the summer of 1940. The first paragraph reads "Although the British military situation is hopeless, they do not show the least sign of giving in". With your help we survived that threat. We shall once again resolve the problems that now face us; and, in partnership with you, will continue to stand for the freedom which our heritage has bequeathed to us.

We have accordingly thought it fitting—and you have graciously agreed—that Magna Carta should be selected as the focal point of the participation of our Parliament in your Bicentennial celebrations.

The copy of Magna Carta which we hand over today to your care is the best of the four surviving originals of the 1215 version. At the wish of Her Majesty The Queen and on behalf of the members of both Houses of Parliament, it is my honour to present to you this show case and to ask you to accept into the safe keeping of Congress, for the Bicentennial Year, the Magna Carta. May we continue to respect and defend the principles which it symbolises and may the friendship between our countries and our peoples long endure.

Remarks by the Speaker of the House of Representatives, Carl Albert

We meet here today to complete what was begun in such warm good will ten days ago. The Members of Parliament of the United Kingdom welcomed my colleagues and me then at Westminster Hall, the most historic structure in Britain.

It is now my pleasure to return their hospitable greeting here in the Great Rotunda of the Capitol, one of the most historic places in our own United States.

By our action today, we add a new chapter to the story of the Rotunda. From this time forward, the attention of each visitor will be drawn to this spot.

Here, he will be told, will rest in honor, for one year, one of the four existing copies of Magna Carta. In addition, this magnificent gold and silver showcase, designed by Louis Osman, will house a gold-engraved replica of Magna Carta, which will be on permanent display in the Great Rotunda.

To me, what we do here today will be the most significant part of our Bicentennial celebration, because it means that our Capitol will house, out of the generosity of the British Parliament, the most important single political document in the long history of the English-speaking nations.

Let me express, on behalf of the Congress and all the citizens of the United States, our heartfelt gratitude to our English-speaking brother parliamentarians from across the ocean.

We commemorate this year the sundering of constitutional bonds between our two Nations. But throughout the past two centuries, there has been more to units us than to pull us apart—common history, common language, literature and culture, a common devotion to the ideals of freedom of speech, freedom of the press and the priceless freedom to worship the way we choose, unhindered by the hand of government.

Nothing better symbolizes the strength of those bonds than Magna Carta. It was the first expression of the idea of liberty under law and limitation of arbitrary powers of government.

One of the most momentous of our experiences in England last week was a visit to Runnymede. On those plains, more than 700 years ago, the Barons gathered to make their demands upon King John. Out of that confrontation came Magna Carta, symbol of liberty and the rule of law.

Since 1215, the idea of the rights and liberties of Englishmen have undergone a continuous process of growth and transformation over the ensuing centuries, culminating in the Glorious Revolution of 1688.

A century later and an ocean away, Thomas Jefferson would draw on those precedents and traditions to draft the Declaration of Independence.

Cynics have stated: Nations have no permanent friends, only permanent interests. What we say and do here today disproves that assertion. Our special relationship transcends time and distance and the changing conditions of our world.

It has been, and remains, the world's finest example of a partnership between peoples, forged from a lasting commonality of traditions and goals rather than a fleeting one of selfish interests.

I salute this friendship. I salute the generosity of the British peoples, their sovereign and their government. I thank them for giving Americans the opportunity to view, during the coming year, an original copy of Magna Carta and the superb replica and the showcase of gold, silver and enamel that will find their permanent home here.

It was Edmund Burke who observed that, "people will not look forward to posterity who never look backward to their ancestors."

It is in this spirit that we pay tribute today, not only to Washington and Jefferson, but also to the Barons of Runnymede. That which our ancestors have bequeathed, we must earn and earn again.

Only thus, will we be able to maintain that spirit of liberty which, more than any other, has characterized English-speaking peoples.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. Mr. President, I desire to call up an unprinted amendment that has been filed with the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Morgan) proposes an amendment.

The amendment is as follows:

In lieu of the language proposed to be inserted, at the end of title IV add the following new section:

"Sec. 405. Nothing in this title shall be construed to (a) require any State or State attorney general to utilize the provisions of this title; or (b) preclude any State from enacting legislation to bar utilization of the provisions of this title if enactment of such legislation is permitted by State law.".

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that George Shanks of my staff be granted the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I ask unanimous consent, also, that Bob Jackson of my staff be granted privilege of the floor during consideration and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, the unnumbered amendment that has just been read, in effect, gives to each State or State legislature the right to opt out from under the provisions of this bill if the State so desires.

What it really says is that nothing in this bill shall be considered to require or compel an attorney general to bring an action under the provisions of this bill, and also it would give a legislature the right, if it saw fit, to pass an act prohibiting an attorney general from acting under the bill. It is the reverse of the part of the amendment offered by the Senator from Alabama some days ago in which a State would come under it only by affirmative act.

It has been thought by some of us, and this has been cleared with the manager of the bill, that this would be a safeguard for those who might fear that some attorney general might in some cases act irresponsibly. For those of us who pride ourselves in believing in the rights of the States, I think this is an amendment that would afford the States that right.

The PRESIDING OFFICER. Who yields time?

Mr. PHILIP A. HART. Mr. President, I yield myself one-half minute.

The amendment as described by the Senator from North Carolina reflects, I think, a responsible one, and I hope it will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

Mr. MANSFIELD. Vote.

Mr. BUMPERS. I am sorry. I misunderstood.

Mr. MANSFIELD. Are we going to vote on the pending amendment?

The PRESIDING OFFICER. There has been no vote on the pending amendment.

QUORUM CALL

Mr. PHILIP A. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 8 Leg.]

Allen
Bartlett
Bumpers
Byrd, Robert C.
Case
Clark
Culver
Fannin
Gravel
Hart, Gary
Hart, Philip A.
Hruska
Javits
Long
Mansfield
Morgan
Percy
Randolph
Thurmond

The PRESIDING OFFICER (Mr. Fannin). A quorum is not present.

Mr. PHILIP A. HART. Mr. President, would it be in order to move to request the Sergeant at Arms to obtain the attendance of absentees?

The PRESIDING OFFICER. It would be in order.

Mr. PHILIP A. HART. I so move.

The PRESIDING OFFICER. The question is on agreeing to the motion (putting the question).

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will be so instructed.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk
Baker
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Cranston
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Jackson
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClure
McGovern
McIntyre
Metcalf
Montoya
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Tower
Williams
Young

The PRESIDING OFFICER. A quorum is present.

Who yields time?

Mr. MORGAN. Mr. President, I ask that my amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BUMPERS. Mr. President, I have two unprinted amendments at the desk, one in my own name and one on behalf of Mr. Chiles and myself. I would like to call up the first amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 32, between lines 18 and 19, insert the following:

Sec. 406. Section 1407 of title 28, United

States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multi-district litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Act of October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), as amended by section 401 of the Hart-Scott Antitrust Improvements Act of 1976. The authority granted by this subsection (h) shall be liberally construed and applied.".

Mr. BUMPERS. Mr. President, I yield to the Senator from Maryland for a unanimous-consent request.

Mr. BEALL. Mr. President, I ask unanimous consent that Maurice White be granted the privileges of the floor during the debate and the votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I would like to add the distinguished Senator from Georgia (Mr. Nunn) as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, this amendment is a very simple one. It goes to what I think is a very serious flaw in the bill. Under my amendment the Judicial Panel on Multidistrict Litigation would be encouraged to consolidate actions brought in more than one State for pretrial and trial purposes.

To illustrate: Assume that Bristol-Myers was being sued by 20 attorneys general in 20 separate jurisdictions. The Multidistrict Judicial Panel would have the authority to consolidate all pretrial work, discovery, and so on, as well as the trials, and this would save the defendant a tremendous amount of work and result in tremendous savings in attorneys' fees and other litigation costs.

It occurs to me this is the sort of an amendment that would make this bill considerably more palatable to some people who have serious reservations about it. It certainly would make it palatable to potential defendants in actions brought by State attorneys general.

Conceivably a national corporation doing business in 50 States could be sued in 50 States. Under this amendment the Judicial Panel would have the right to consolidate all of those actions so that costs on both sides would be minimized.

This amendment is acceptable to the managers of the bill.

Mr. MORGAN. Mr. President, I have talked with the distinguished Senator from Michigan, and the amendment is acceptable to us. I think it is a good amendment and it would help the bill.

Mr. HRUSKA. Mr. President, I rise to oppose the amendment. This multicourt panel is really a task and an assignment for the court rules and the court system to work out. It is dependent upon many other sections and many other provisions in the code as it now exists and in the court rules as well.

I think it would be well to leave it to the courts to work out the details of the assignment of these cases, their consolidation and the other procedures which are involved.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, in response to the distinguished Senator from Nebraska's comments, I would like to add that the amendment is permissive not mandatory. The Judicial Panel would have the right in each case to determine the feasibility and the practicality of each consolidation, and would do so only in those cases where obvious savings, benefits, justice, and equity would be done.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), the Senator from Minnesota (Mr. Mondale), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh) and the Senator from Utah (Mr. Moss) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 67, nays 18, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—67

Abourezk
Allen
Beall
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Williams

NAYS—18

Baker
Bartlett
Brock
Buckley
Domenici
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
McClure
Scott, William L.
Stone
Taft
Thurmond
Tower
Young

NOT VOTING—15

Bayh
Bellmon
Church
Curtis
Eastland
Fong
Inouye
Laxalt
McClellan
McGee
Mondale
Moss
Symington
Tunney
Weicker

So Mr. Bumpers' amendment was agreed to.

Mr. BUMPERS addressed the Chair.

Mr. MORGAN. Will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. Yes.

Mr. MORGAN. Mr. President, I ask unanimous consent that Steve Kittrell, of Senator Dole's staff, be granted the privilege of the floor during the consideration of the pending legislation, including any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, will the Senator yield for another unanimous-consent request?

Mr. BUMPERS. I yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Herbert Jolovitz, of my staff, be granted the privileges of the floor during the consideration of, and votes upon, the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the last amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I have an unprinted amendment at the desk on behalf of Senator Chiles and myself, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 29, line 16, after the period add the following: "In the event that any monetary relief awarded to a State is not completely distributed the court may, in its discretion, after the lapse of a reasonable period of time, direct that the undistributed portion be (1) utilized to reduce future prices of the commodity involved in the violation; or (2) deemed a civil penalty and deposited with the State as general revenues.".

Mr. BUMPERS. Mr. President, I yield to the Senator from Ohio for a unanimous-consent request.

Mr. TAFT. Mr. President, I ask unanimous consent that Robert Hunter, of the Committee on Labor and Public Welfare minority staff, be granted the privilege of the floor during consideration of the pending legislation and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. Nunn) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, this amendment has been discussed with the floor manager of the bill, and has also been accepted. Without rereading the amendment, I would like to discuss what it does.

It would allow the court in a lawsuit involving a defendant who is the seller of small items—let us use toothpaste as an example—in those cases where a recovery is granted to the Attorney General, two additional remedies for the handling of such funds that are recovered.

Let us assume that the Attorney General establishes a million dollars in damages. Under the bill, he would be entitled to recover treble damages, or $3 million.

Let us assume that the product is toothpaste. It would be unusual for any except the largest purchasers, such as State hospitals or the children's colonies or other State institutions, to file affidavits to prove the actual purchases of so many tubes of toothpaste and that they are entitled to recover against the funds recovered.

So, say there is a $3 million recovery had, and various people file claims supported by affidavits to only one-third of it, or $1 million; $2 million will be left to be handled in some manner.

My amendment gives the court two additional remedies which it may order at its discretion: First, it allows the court to order the defendant to sell enough of the same product over a sufficient period of time and in sufficient quantities at a reduced price, long enough for the $2 million to be recovered by the people of the State.

The second possibility would be that the court could order the $2 million that was left in the fund to be paid over to the State treasury as a civil penalty.

To my colleagues, that is as simply put as I can make it. In large items, if someone were selling automobiles or Caterpillars or tractors at a fixed price and found to be in violation, obviously a large amount would be involved and the consumers damaged would take the time to file a claim and recover from the trust fund. But in small items such as pharmaceuticals, hair sprays, and toiletry items, only the largest consumers of the State would take the time to file an affidavit to prove a claim.

There will undoubtedly be substantial sums left in the fund in those cases where the product is a small one. One might use 10 tubes of Crest toothpaste in a year's time. Let us assume the price had been fixed 3 cents above what it should have been. The State would recover three times that amount, and the person would be entitled to 90 cents in damages, but would that person take the time to file a claim? Probably not.

There are two methods by which all the people of the State could be benefited by the distribution of the additional recovery. One method would be to order the defendant to sell his product at a reduced price, as the Federal Trade Commission required in the Listerine case; and the second would be to order all funds left in the fund after claims had been paid, after a reasonable length of time, to be paid over to the general treasury for the benefit of the people of that State.

Mr. MORGAN. Mr. President, in behalf of the Senator from Michigan, who is one of the sponsors and the manager of the bill, we are willing to accept this amendment. We think it is a very good amendment, and offers to the court an alternate choice which is a desirable one, and one which has been troublesome to the courts in the past.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HRUSKA. Mr. President, we do not have copies of the amendment, or did not have until this very moment, when the page hands me one.

Again here we get into a subject, Mr. President, which falls into the purview of the opinion of Dean Griswold of Harvard, for many years the Solicitor General of the United States.

He calls attention to the fact that a susbtantial constitutional argument can be made against the proposition of recovering moneys from a defendant for the purpose, not of reimbursing a party who has been in court and who has proved damages, but to give that money to somebody else. In this case it would be to give it to the State treasury instead of to a charity, as has been done in many of the class action cases where a consent decree is entered, where a settlement has been effected. Although I would prefer that that money would go to the State treasury rather than to a charity, the plain fact is that article III of our Constitution assumes only to redress or otherwise protect against injury to complaining parties. A person cannot be penalized, he cannot be fined for wrongdoing, except pursuant to a criminal statute, or pursuant to a statute which imposes a civil penalty or forfeiture, and subject to proper requirements and standards of proof.

In the type of case envisioned here, where moneys are unclaimed by anyone who has been damaged, the retention of that money is a penalty or a forfeiture or a fine. The opinion of Dean Griswold is that it is unconstitutional to do that under article III, and we are undertaking to do something which will not be within the confines of article III of the Constitution, which deals in general with cases and controversies.

I would urge that this amendment be rejected. I think the proposition will be raised in a larger way when amendments are directed to eliminating that type of action without the members of the complaining class being properly in court, and combined with other refinements of article III, and particularly the case and controversy limitation contained therein.

The PRESIDING OFFICER (Mr. Taft). The question is on agreeing to the amendment of the Senator from Arkansas.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from Washington (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Minnesota (Mr. Humphrey), and the Senator from Utah (Mr. Moss) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 69, nays 15, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—69

Abourezk
Beall
Bentsen
Biden
Brock
Brooke
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Williams
Young

NAYS—15

Allen
Baker
Bartlett
Buckley
Burdick
Fannin
Garn
Hansen
Helms
Hruska
McClure
Scott, William L.
Stone
Thurmond
Tower

NOT VOTING—16

Bayh
Bellmon
Church
Curtis
Eastland
Fong
Goldwater
Humphrey
Inouye
Laxalt
McClellan
McGee
Mondale
Moss
Tunney
Weicker

So Mr. Bumpers' amendment was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Bartlett). The Senator from North Carolina is recognized.

AMENDMENT NO. 1739

Mr. MORGAN. Mr. President, with the consent of the distinguished Senator from Alabama, I call up his amendment No. 1739.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN), on behalf of Mr. ALLEN, proposes an amendment numbered 1739:

At the end of title IV add the following new section:

SEC. 406. This title shall be applicable in a State until that State shall provide by law for its nonapplicability as to such State.

Mr. MORGAN. Mr. President, this, in effect, is the same amendment that I offered earlier and that the Senator and I discussed yesterday. It would give the right to any State legislature to take that State out from under the provisions of this act if the legislature sees fit.

The managers of the bill and the committee are agreeable to the amendment. They think it is a good amendment and will add to the bill.

Mr. ALLEN. Mr. President, I support this amendment. In fact, it is my amendment which the distinguished Senator from North Carolina has called up. However, it was what might be called a backup amendment, because the amendment I really support is the amendment with respect to the parens patriae section of title 4, giving the various States attorneys general the right to file antitrust suits in Federal court.

The amendment called up would say that this power would be granted to the attorneys general until such time as a particular State came out from under it. Then, subsequent to that, this power would not be given in that State to the attorney general, but it would be applicable throughout the country. The amendment I support more strongly than this is the one that would say that the law shall not be applicable in a State until the State passes a law coming under it. In supporting that amendment, of course, I do not waive my right to insist later on the amendment that we have had before the Senate before, attached to the substitute that I had pending to the Hart substitute, which failed of being tabled on Thursday, but was tabled today. So at a subsequent time during this cloture period, the Senator from Alabama will offer an amendment that will go to the other procedure or offer a substitute which would have that provision in it. Certainly, this is better than no amendment. I certainly support it.

In order that we might have added support for the amendment in conference, I think it would be well to call for the yeas and nays on the amendment. I do call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. I do support this amendment.

Mr. HRUSKA. Mr. President, I ask the Senator from Alabama whether it is his intention to call up and have a vote on amendment 1702, which is the counterpart of this amendment.

Mr. ALLEN. Yes; I do hope in time to offer that. If that is adopted in addition to this, that will leave the conference free to choose one or the other or neither, if it sees fit; so it will have three options before it.

Mr. HRUSKA. One is a backup for the other?

Mr. ALLEN. That is correct.

Mr. HRUSKA. I agree with the position of the Senator from Alabama and I shall support both amendments.

Mr. ALLEN. I thank the distinguished Senator from Nebraska.

Mr. BAKER. Mr. President, I ask unanimous consent that Jim Range of my staff have privileges of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr, President, before we vote, I commend the distinguished Senator from North Carolina (Mr. MORGAN) and the distinguished Senator from Michigan (Mr. PHILIP A. HART) for agreeing to accept this amendment. I think it is not as much to be preferred as the other amendment, but it is a step toward accommodation with those who do not favor this bill. I commend them for their fairness in this matter.

Mr. PERCY. Mr. President, I ask unanimous consent that Robert Sloan of the Committee on Government Operations have access to the floor during votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on June 3, 1976, he approved and signed the bill (S. 2679) to establish a Commission on Security and Cooperation in Europe.

TRADE WITH SOCIALIST REPUBLIC OF ROMANIA—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with section 402(d)(1) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a period of 12 months.

This recommendation sets forth the reasons for extending waiver authority, and for my determination relating to continuation of the waiver applicable to the Socialist Republic of Romania, as called for by subsections (d)(1)(B) and (d)(1)(C) of section 402 of the Trade Act. I include, as part of this recommendation, my determination that extension of the waiver authority, and continuation of the waiver applicable to the Socialist Republic of Romania, will substantially promote the objectives of section 402.

GERALD R. FORD.

THE WHITE HOUSE, *June 2, 1976.*

DISTRICT OF COLUMBIA BUDGET—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am today transmitting for your consideration the budget of the District of Columbia for fiscal year 1977.

GERALD R. FORD.

THE WHITE HOUSE, *June 2, 1976.*

REPORT ON EMPLOYMENT AND TRAINING REQUIREMENTS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am transmitting to the Congress the 14th annual report pertaining to employment and training requirements, resources, and utilization, as required by section 705(a) of the Comprehensive Employment and Training Act of 1973, as amended. This Employment and Training Report of the President also includes reports required by sections 209, 413(a), 705(b), and 705(d) of the same act, as well as a report on veterans services, as required by 38 U.S.C., section 2007(c).

GERALD R. FORD.

THE WHITE HOUSE, *June 3, 1976.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendment to the bill—S. 268—to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MELCHER, Mr. PHILLIP BURTON, Mr. MEEDS, Mr. BYRON, Mr. SANTINI, Mr.

TSONGAS, Mr. WEAVER, Mr. STEIGER of Arizona, Mr. DON H. CLAUSEN, and Mr. JOHNSON of California were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill—H.R. 11438—to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

The message further announced that the House has passed the bill—H.R. 13680—to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes, in which it requests the concurrence of the Senate.

BILL PLACED ON THE CALENDAR

The bill (H.R. 13680) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes, was read twice by its title and placed on the calendar.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Utah (Mr. MOSS) would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 83, nays 2, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—83

Abourezk
Allen
Baker
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGovern
McIntyre
Metcalf
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—2

Hart, Gary
Kennedy

NOT VOTING—15

Bayh
Bellmon
Church
Eastland
Fong
Humphrey
Inouye
Laxalt
McClellan
McGee
Mondale
Moss
Tunney
Weicker
Williams

So Mr. MORGAN's amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1747

Mr. MATHIAS. Mr. President, I call up an amendment at the desk, No. 1747.

The PRESIDING OFFICER (Mr. GARN). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment No. 1747.

The amendment is as follows:

On page 40, line 25, insert "and" immediately after the semicolon.

On page 41, strike out lines 1 through 15; and redesignate paragraph number (4) as paragraph number (3).

On page 41, line 18, strike out "sixty" and insert in lieu thereof "thirty".

On page 41, line 23, strike out the period and insert in lieu thereof "for a period not to exceed thirty days, or unless the part against whom the order is directed consents that it may be extended for a longer period.".

Mr. MATHIAS. Mr. President, I fully understand the interest in insuring that the Government have appropriate tools to combat anticompetitive activities. At the same time, however, I believe that the injunction provisions of the bill tilts the balance unnecessarily against companies seeking to consummate what may well be a legal merger. My amendment strikes what I believe is an appropriate balance between the need to detect and prevent illegal mergers and acquisitions prior to consummation and the interest in preventing the Government from unduly burdening legitimate business activities.

I am concerned about the provisions of the Hart-Scott substitute which permits a 60-day temporary restraining order with an unlimited extension, and which places upon the defendant the burden of proof with respect to the preliminary injunction.

As presently drafted, the bill now under consideration allows for a Federal judge to issue a temporary restraining order halting the consummation of a proposed merger or acquisition for a period of 60 days, unless a judge finds good cause exists for extending the order for an indefinite period. Thus, under the present Hart-Scott substitute, the 60-day period is not the outer limit of the duration of the temporary restraining order and the defendant would be subjected to the possibility of an open-ended good cause extension of the order.

The amendment I now offer is aimed at eliminating the uncertainty facing those seeking to consummate mergers and acquisitions by shortening the time period for the temporary restraining order. Specifically, my amendment provides a 30-day period for the TRO, with an extension for an additional 30-day period if good cause is shown. Thereafter, the TRO could not be extended beyond the 60-day limit, unless the restrained party consents to such extension. The amendment would retain the expediting provisions of subsection (d).

I am convinced that this modification of title V, when coupled with the premerger notification provision of this bill, will provide the Federal Government with sufficient means to deter anti-competitive mergers and acquisitions—which is a necessary and appropriate addition to the Clayton Act.

My proposal will also eliminate the provision in the Hart-Scott substitute which places the burden of proof regarding the issuance of a preliminary injunction upon the defendant. Specifically, this part of the amendment would delete the provisions in the bill which require a defendant to show that the government does not have a reasonable probability prevailing on the merits of the bill, or that they will be irreparably injured by the entry of the preliminary injunction. I do not share the view expressed in the Committee on the Judiciary report on S. 1284 that the shifting of the burden of proof is necessary to remedy existing law—which in my view will be adequate to protect the interest of the government and the public at large now that a 30-day premerger notification provision is being enacted.

This is a view I propounded in the committee and I bring it again to the floor for the judgment of the full Senate.

I have been advised that this amendment is acceptable to the managers of the bill; and it is my hope that it will be accepted by the Senate.

Mr. MORGAN. Mr. President, on behalf of Senator HART and myself, and the managers of the bill, we accept the amendment offered by the distinguished Senator from Maryland.

In Senator HART's statement, previously read, he continues to believe that the injunctive provision reported by the Committee on the Judiciary appropriately balances the legitimate needs both of business and government; there certainly is room for reasonable men to differ.

This particular provision—subsection (d)—of the bill has been a lightning rod with respect to title V. A number of my distinguished colleagues have expressed support for the bill's merger provisions, but suggested that we temper the injunction standard.

We believe the amendment of the Senator from Maryland should attract the support of those Senators, and thus widen the base of support for the bill.

The Senator's amendment is silent with respect to the *standard* to be applied in determining whether the Government has sustained its burden of proof with respect to its motion for a preliminary injunction.

It is my understanding that the weight of judicial authority in interpreting section 7 of the Clayton Act has found that the overriding factor to be considered in such preliminary injunctive proceedings is the likelihood of the Government's success on the merits. Those cases hold that in order to obtain a preliminary injunction barring consummation of a merger or acquisition transaction pending the outcome of a suit instituted by the Government challenging the transaction under the antitrust laws, the Government must demonstrate only a "reasonable probability" that it will prevail on the merits. See *United States* v. *Atlantic Richfield Co.*, 297 F. Supp. 1061 (S.D.N.Y. 1969); *United States* v. *Ingersoll-Rand Co.*, 218 F. Supp. 530 (W.D. Pa. 1963), affirmed, 320 F.2d 509 (C.A. 3 1963); *United States* v. *Crocker-Anglo National Bank*, 223 F. Supp. 849 (N.D. Calif. 1963); *United States* v. *Chrysler Corp.*, 323 F. Supp. 651 (D.N.J. 1964).

No separate showing by the Government of "irreparable injury" is required, as such is embodied in the policy of the antitrust laws. In United States against Crocker-Anglo National Bank, supra, the three-judge court stated:

> We start with the premise that the governmental policy stated in the antitrust laws is an overriding one; that the need to preserve that policy obviates any further showing of irreparable damage; and that if there is a reasonable probability that the Government will prevail on the merits we ought to preserve the status quo by an injunction. 223 F. Supp. at 850.

See also *United States* v. *Chrysler Corp.* 232 F. Supp. 651, 657 (D.N.J. 1964). In United States against Ingersoll-Rand Co., supra, the court held that—

> The Congressional pronouncement in § 7 embodies the irreparable injury of violations of its provisions. No further showing need be made by those directed to enforce that section than that it is being violated or threatened with violation.

And that—

> When the Government acts to enforce a statute or make effective a declared policy of Congress, the standard of the public interest and not the requirements of private litigation measure the propriety and need for injunctive relief. 218 F. Supp. at 544–45.

Mr. President, I address this question to the Senator, Does the Senator's amendment change or modify these holdings?

Mr. MATHIAS. No; I think I can assure the distinguished Senator from North Carolina that the amendment will not in any way modify the substantive law on the question, but I think it does provide a more equitable procedure.

Mr. MORGAN. Mr. President, I agree with the distinguished Senator that his amendment does not change the substantive law. With that, we are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendment, the first one I submitted, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from South Carolina (Mr. THURMOND) proposes an amendment.
>
> On page 12, delete line 13, beginning after the word "person" through line 15 up to the word "who".

Mr. THURMOND. Mr. President, I think probably those handling the bill will accept this amendment, so I wish they would listen closely to this.

Mr. MORGAN. Is this an unprinted amendment?

Mr. THURMOND. It is an unprinted amendment.

Mr. MORGAN. Will the Senator explain it so we can mark it on our bill? We will then be able to follow it.

Mr. THURMOND. I will send the Senator a copy of it. Meanwhile I will explain it.

The purpose of this amendment is to clarify that the provision allowing for attorney's fees for a person served with a demand envisions any court action necessary to preserve one's legal rights, as well as having a lawyer present at a deposition. Currently the bill speaks of the cost of preparing or appearing for examination.

Among the main reasons for this provision is to insure the viability of the constitutional protection against self-incrimination as well as other legal rights. But such protection cannot be insured in the deposition alone. S. 1284 provides a variety of judicial methods by which these rights can be protected or testimony compelled. If a person served with a demand cannot take advantage of these methods or resist the Justice Department when it attempts to compel testimony, the protection intended by this provision will be sorely debilitated.

Mr. President, I believe that explains the amendment. In just a moment or two we will have a copy of the amendment to hand to the Senator.

Mr. MORGAN. Will the Senator yield for a question or so on the amendment?

Mr. THURMOND. I thought the Senator might wait until I hand him the amendment.

Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Will the Senator withhold that?

Mr. THURMOND. I will be glad to withhold it.

Mr. MANSFIELD. Mr. President, I seek recognition for 2 minutes on my own time.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 minutes.

Mr. PHILIP A. HART. Mr. President, would I be permitted to anticipate the argument that may be made in support of this amendment?

First, may I ask the Senator from South Carolina if the purpose of the amendment is to require payment by the Government of attorney fees and other necessary expenses incurred by someone who is the target of an antitrust investigation and who has been served with a civil investigative demand? Is that the purpose of the amendment?

Mr. THURMOND. Let me explain it again.

The purpose of this amendment is to clarify that the provision allowing for attorney's fees for a person served with a demand envisions any court action necessary to preserve one's legal rights, as well as having a lawyer present at a deposition. Currently the bill speaks of the cost of preparing or appearing for examination.

Among the main reasons for this provision is to insure the viability of the constitutional protection against self-incrimination as well as other legal rights. But such protection cannot be insured in the deposition alone. S. 1284 provides a variety of judicial methods by which these rights can be protected or testimony compelled. If a persaon served with a demand cannot take advantage of these methods or resist the Justice Department when it attempts to compel testimony, the protection intended by this provision will be sorely debilitated.

I will pass the amendment to the Senator so he can read it.

Mr. PHILIP A. HART. Mr. President, the committee went further in providing reimbursement to persons who, though not the subjects of antitrust investigations, nonetheless incur attorneys' fees and other expenses. It was a proposal that was initiated by the Senator from North Dakota (Mr. BURDICK). It caused considerable discussion in the committee. At no point, I believe, was it suggested that the target of an investigation be extended this reimbursement. Our debates in committee rather hinged on the question. Is there some way where we can insure that the small entrepreneur, the independent businessman, who would find this out-of-pocket expense substantial, could be reimbursed, but not Mr. Xerox, not Mr. IBM?

We found it and we come out now, not being able to slice it with that precision in committee, with a proposition that grants to all who may incur attorney and other expenses connected with producing documentary material or responding for depositions, attorneys fees, and the resonable expenses associated with those. This, I believe, would be the first occasion when this kind of reimbursement is provided for any investigation undertaken by any branch of our Federal Government. And there are those who disagree with the wisdom of that first step.

But surely, Mr. President, the amendment offered by the Senator from South Carolina goes far beyond the point that reason would suggest we move. The amendment offered by Senator Thurmond would have just one effect: to insure that the committee's effort to reimburse nontargets of investigation attorneys' fees and other expenses is extended to the target itself.

That kind of proposal, I hope, will on consideration be rejected by the Senate.

I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. THURMOND. Mr. President, I just wish to say, on page 12 here, that this is the way that paragraph would read if my amendment were adopted:

> Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.

Mr. President, if the Justice Department goes out here and summons a man, a witness out across the country, puts him to the expense of coming here, and does not allow him any expenses, and later finds there is no merit in the reason why they called him, should they not pay his expenses? That is all this amendment would do.

In other words, I believe it is not fair for them to be calling people in here and putting them through all kinds of cross examinations, swearing them in, and maybe subjecting them to perjury, and for them to have to pay their own expenses and pay their own lawyers, and then it turns out that there is no merit after all.

I can see where this provision could be used with great prejudice against some citizen of this country. It seems to me that we ought to provide here to protect the citizen, to give him the benefit of the doubt. A man is presumed to be innocent until he is proven guilty. Throughout this bill, the idea is to provide adequate fees in reasonable cases where the man is not guilty.

Mr. President, I think it is nothing but fair and just that this payment be allowed.

Mr. PHILIP A. HART. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announced that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Minnesota (Mr. Humphrey), and the Senator from Utah (Mr. Moss) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Hawaii (Mr. Fong), the Senator from Nevada (Mr. Laxalt), the Senator from Ohio (Mr. Taft), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 18, nays 65, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—18

Allen
Bartlett
Buckley
Curtis
Fannin
Goldwater
Hansen
Helms
Hruska
McClure
Roth
Scott, William L.
Stennis
Stevens
Stone
Thurmond
Tower
Young

NAYS—65

Abourezk
Baker
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Symington
Talmadge

NOT VOTING—17

Bayh
Bellmon
Bumpers
Church
Eastland
Fong
Humphrey
Inouye
Laxalt
McClellan
McGee
Mondale
Moss
Taft
Tunney
Weicker
Williams

So Mr. Thurmond's amendment was rejected.

Mr. PHILIP A. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

AMENDMENT NO. 1729

Mr. PHILIP A. HART. Mr. President, I call up amendment No. 1729.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. Philip A. Hart) proposes an amendment numbered 1729.

The amendment is as follows:

On page 27, between lines 6 and 7, insert the following new section:

"SHORT TITLES

"Sec. 307. (a) The Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1 et seq.), as amended, is amended by adding at the end thereof the following new section:

" 'Sec. 9. This Act may be cited as the "Sherman Act".'.

"(b) The Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12 et seq.), as amended, is amended by adding at the end thereof the following new section:

" 'Sec. 27. This Act may be cited as the "Clayton Act".'.

"(c) The Act entitled 'An Act to promote export trade, and for other purposes', approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.), as amended, is amended by adding at the end thereof the following new section:

" 'Sec. 6. This Act may be cited as the "Web-Pomerene Act".'.

"(d) The Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), as amended, is amended by adding at the end thereof the following new section:

" 'Sec. 78. Sections 73 and 74 of this Act may be cited as the "Wilson Tariff Act".' ".

On page 20, line 21, immediately before "the" insert "(a)".

On page 20, line 21, immediately after "title" insert the following: ", except as provided in subsection (b),".

On page 20, immediately after line 25 insert the following:

"(b) The provisions of section 3(k)(5) of the Antitrust Civil Process Act, as added by section 201(1) of this Act, shall become effective on October 1, 1976, or upon enactment, whichever date is later.".

On page 42, line 9, strike out "subsection (a) of"; and on page 42, strike out lines 16 through 21 and insert in lieu thereof the following:

"(2) Nothing in this section shall be construed as a limitation on the equity power of the courts of the United States, or as limiting the power of the courts of the United States as provided under section 1651 of title 28, United States Code.".

Mr. PHILIP A. HART. Mr. President, this amendment is in the nature of a committee perfecting amendment, and I hope we can consider it en bloc. It has three parts.

The first part of the amendment is purely technical and adds a new section 307 to the bill.

For years and years, the antitrust bar has been referring to the antitrust laws by short titles: the "Clayton Act," the "Sherman Act," the "Webb-Pomerene Act," the "Wilson Tariff Act," the "Robinson-Patman Act," and the "Federal Trade Commission Act." The 93d Congress enacted legislation adopting short titles for the Robinson-Patman and Federal Trade Commission Acts. This amendment adopts the other four commonly used short titles and gives them the force of law by inserting them in the appropriate statutes.

The second part of the amendment is purely technical. It conforms one provision of the bill—a provision adopted in committee by amendment—to the requirements of the Congressional Budget Act of 1974. In accordance with section 401(b)(1) of that act, the amendment merely sets the commencement of the new fiscal year—October 1, 1976—as the earliest date upon which the Department of Justice is authorized to incur new obligations to carry out new section 3(k)(5) of the Antitrust Civil Process Act, as amended by section 201(k) of this bill. I thank the distinguished chairman of the Budget Committee (Mr. MUSKIE) and his staff for calling this oversight to our attention.

The third part of the amendment addresses a technical inconsistency in subsection (f) of title V's premerger penalty provisions. Subsection (f)(1) limits the penalty for failing to comply with title V's premerger provisions to violations of subsection (a) only. Application of the penalty provision for failure to comply with the notification provisions of subsection (b) was inadvertently omitted, and the penalties for failing to comply with subsection (c) is referenced to the penalties set forth in the Antitrust Civil Process Act and the Federal Trade Commission Act.

This part of the amendment clarifies these seeming inconsistencies by deleting the reference in subsection (f)(2) to the Antitrust Civil Process Act and the Federal Trade Commission Act, and by making clear that the penalty provision of subsection (f)(1) applies to all violations of section 7A. That the inherent equity power of a court to prevent or remedy violations of section 7A is not being restricted is also made clear by the addition of a new subsection (f)(2).

Again, Mr. President, this amendment is in the nature of a perfecting amendment. I ask unanimous consent that it be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PHILIP A. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1728

Mr. PHILIP A. HART. Mr. President, I call up amendment No. 1728.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. PHILIP A. HART) proposes an amendment numbered 1728, for himself and Mr. HUGH SCOTT.

The amendment is as follows:

On page 19 between lines 8 and 9, insert the following:

(w) Section 5 is amended by adding at the end thereof the following:

"(f) Any material or information provided pursuant to any demand under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

Mr. PHILIP A. HART. Mr. President, a number of my colleagues have expressed concern over the lack of an express exemption from the Freedom of Information Act for material and information furnished the Department of Justice pursuant to its civil investigative authority under title II.

The point was raised in committee, and the committee concluded that existing law already contains such an exemption. The question has persisted, however, and my distinguished colleagues have asked me to allay their fears by expressly providing such an exemption.

The pending amendment does precisely that. It exempts from the Freedom of Information Act material and information furnished the Department of Justice pursuant to its civil investigative authority under title II.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. PHILIP A. HART. I yield.

Mr. HRUSKA. What is the substance of title V, section 552, that this attaches to?

Mr. PHILIP A. HART. Title V of section 552 is the Freedom of Information Act. The amendment is intended to exempt and does exempt materials delivered under our title II from the application of title V—namely, the Freedom of Information Act.

Mr. HRUSKA. So that the material would not be subject to a demand for public disclosure.

Mr. PHILIP A. HART. That is correct.

Mr. HRUSKA. I thank the Senator.

Mr. PHILIP A. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PHILIP A. HART. Mr. President, I regret that the amendment I now call up is not printed, but I think it is of particular interest to those who feel strongly that the Hart-Scott substitute opens up a very menacing threat to American business.

I send the amendment to the desk and ask that it be stated, and I will make a brief explanation.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. PHILIP A. HART) proposes an amendment:

In lieu of the language proposed to be inserted, insert the following:

On page 21, strike out lines 3 through 14.

On page 22, strike out lines 7 through 14.

On page 21, line 15, strike out "(b)" and insert in lieu thereof "SEC. 301. (a)".

Mr. PHILIP A. HART. Mr. President, maybe the antitrust specialists in this country had clearly in mind a provision of the old Sherman or Clayton Act that provided authority to the Federal Government to levy on goods in commerce in the event there had been established a monopoly offense. It was the Sherman Act. Since 1890, Mr. President, section 6 of that act has provided that "Any property owned under any contract or by any combination, or pursuant to any conspiracy" mentioned in section 1 of this act, "and being in the course of transportation from one State to another or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture," et cetera, "of property imported into the United States contrary to law."

There is only one reference in all of legislative history to the inclusion and the meaning of this section 6 of the original Sherman Act.

The bill as reported by the Judiciary Committee in that Congress and as enacted into law embraced the suggestions of Senator Morgan of Alabama. It has never, Mr. President, been used. We have been unable to find any cases in which section 6 has been utilized.

What we did in drafting the original bill and in reporting the bill from the committee was attempt to add the language in our effecting clause in every case where, "in commerce" earlier had been used. In most of the antitrust laws, I believe that change had already occurred, but we ran a track and picked up those instances where the language was still in the "in commerce" style and did not reflect over the intervening years the development of the concept of the commerce clause. In that tracking, we picked up this section 6. It has alarmed people. I confess it alarmed me. I plead guilty; I did not know that there was such power to levy in the event a monopoly case was made in section 1.

I see no useful purpose, Mr. President, in changing that language as the Hart-Scott substitute would. Rather, Mr. President, I suggest, through this amendment, that we make clear that we are not attempting to give new life or vitality to that section 6 of the Sherman Act. We leave it as it was and as it has been in repose for 86 years.

I hope, Mr. President, that by the adoption of this amendment, the feelings that some have expressed, that we have, in some fashion, tended to not alone conform the concept of "in commerce" to all the antitrust laws, but that we intended also, or even unconsciously, nonetheless would have caused a revivification of section 6, and section 6 has long been dormant.

Mr. ALLEN. Will the Senator yield?

Mr. PHILIP A. HART. I yield.

Mr. ALLEN. The Senator has accomplished his purpose of striking my section 301(c).

Mr. PHILIP A. HART. We strike section 301(c), page 21.

Mr. ALLEN. I think that is a very fine amendment and I am delighted that the manager of the bill is going to offer the amendment himself. The distinguished Senator from Nebraska, I know, has an amendment that will accomplish this purpose, but I would much rather it would come from the floor manager of the bill. I feel it has a much better chance of being passed.

Mr. PHILIP A. HART. It was indeed the Senator from Alabama, perhaps preeminent among those who voiced this concern, that caused it to come to my attention. I am glad for his support.

Mr. ALLEN. May we ask, then, that the amendment be read so there will be no doubt about it?

Mr. PHILIP A. HART. Yes, if we can withhold that just a moment.

We strike also section 301(a), the Robinson-Patman title III. We do this for the reason that twice in this session, the Senate has passed this language. We think a third time is unnecessary.

May the clerk read the amendment?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. HART) for himself and Mr. HUGH SCOTT, proposes the following amendment in the nature of a substitute: In lieu of the language proposed to be inserted, insert the following:

On page 21, strike out lines 3 through 14. On page 22, strike out lines 7 through 14. On page 21, line 15, strike out "(b)" and insert in lieu thereof "Section 301(a)."

Mr. HRUSKA. Mr. President, I am afraid I cannot follow that quickly the reading of those pages. Are there copies of the amendment available? This Senator has two amendments. First is No. 1732, which would delete section 301(c). The other is amendment 1723, which would treat with section 301(a).

Mr. PHILIP A. HART. Mr. President, I think the amendment that was sent forward, which is a typed amendment, includes both of those changes. If the Senator will be patient a moment, we shall get that.

It was not a printed amendment, Mr. President. As I explained, it had two sections.

Mr. HRUSKA. Does the Senator intend, then, by his amendment to leave section 301(b) intact as it appears in the text of the substitute?

Mr. PHILIP A. HART. Yes.

Mr. HRUSKA. That will be the subject of an amendment that I shall propose later.

Mr. PHILIP A. HART. Mr. President, I ask the Chair if we have made clear that the amendment which I sent forward will have the effect of striking two sections from title III: First, 301(a); and second, 301(c).

The PRESIDING OFFICER. If the Senator will yield, the amendment as drafted is not directed toward the pending substitute. It is directed toward an amendment which is not pending, amendment No. 1723.

Mr. PHILIP A. HART. Would there be objection, Mr. President, to modifying the amendment that was sent forth so that it is framed as an amendment to the Hart-Scott substitute, as was its intention?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, the amendment submitted by the Senator from Michigan is equivalent to two amendments that are pending under the name of the Senator from Nebraska, to wit, amendment 1723, which strikes 301(a), and then amendment 1732, which strikes 301(c).

Mr. President, this illustrates the type of draftsmanship that unfortunately exists in other places in this bill—a bill, Mr. President, containing five titles, dealing with one of the most technical, complex laws on the statute books. Here we have an apparently innocuous amendment which would have most drastic consequences if were allowed to stand. The essence of the amendment is that every piece of property in section 301(c), every piece of property embraced by any unlawful contract, is to be forfeited to the Government in the event the charge of antitrust law violation is found to be true. In the case where a merger is challenged, for example, under the Sherman Act, the properties of the buyer and seller are forfeited if the acquisition is declared unlawful. And that is mandatory upon the court; it is a mandatory sentence.

In cases where prices are conspiratorially fixed, whether the product be electric equipment or plumbing fixtures or steel or sugar or other commodities, those products become the property of the United States after judgment of illegality is entered. That is a sample of the draftsmanship found in this law. It is the most sweeping revision of antitrust law we have had since the Clayton Act was passed in 1913 and, in some respects, even more drastic than that.

I am happy to see that the Senator from Michigan has profited by the introduction of the two amendments that I have offered, and is himself moving to correct it.

In due time I shall introduce an amendment which will strike the remaining section of title III.

The PRESIDING OFFICER. The question is on agreeing to the Hart-Scott amendment.

The amendment was agreed to.

Mr. PHILIP A. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Did the amendment strike sections 301(a) and 301(c)?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. I thank the Chair.

Mr. PASTORE. Mr. President, I understand a motion is pending to lay on the table.

The PRESIDING OFFICER. The question recurs on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1726

Mr. HRUSKA. Mr. President, I call up my amendment No. 1726.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes amendment numbered 1726:

Section 303 be deleted in its entirety by striking lines 10 through 24 on page 24, and lines 1 through 25 on page 25.

Mr. HRUSKA. Mr. President, the purpose of this proposed amendment is to preserve the present functions of the executive and judiciary in their control of the conduct of foreign relations and application of international law, respectively.

Section 303 appears to undercut the doctrines of sovereign immunity and act of state, and disregards the general considerations of comity which are traditionally used in deciding such issues. Permitting, in effect, a default judgment for failure to make discovery of furnished evidence which is forbidden by foreign law, it encroaches on the conduct of foreign relations, which is the province of the executive and not a matter for the judiciary. Moreover, section 303 may unconstitutionally permit judgment which conflicts with the foreign policy of the United States, or *violates* international law.

The amendment made in committee, which appears to offer a "good faith effort to comply" exception to the provision's mandate actually does little to mitigate the intrusiveness of the section. It merely says that when a party's employee or subsidiary is not subject to the jurisdiction of the court and has control of the material, the material need not be produced. But, of course, most of the time a foreign employee or subsidiary will officially be subject to the court's jurisdiction as an element of the party, as well as subject to foreign jurisdiction. The conflict will still be present in the vast majority of cases.

Courts faced with the problems addressed by section 303 have arrived at practical solutions based upon a balancing of conflicting interests. Section 303 would overrule—perhaps unconstitutionally—decisions prohibiting a court from dismissing a party's claim or defenses for nonproduction of evidence or failure to testify when it would result in criminal liability under foreign law, see *Societe Internationale* v. *Rogers*, 357 U.S. 197 (1958), or some other substantial hardship such as revocation of a license to do business in a foregin country, see *United States* v. *First Nat'l City Bank*, 396 F. 2d 897 (2d Cir. 1968). There is no apparent reason for changing such limited exceptions, developed through years of judicial experience. Foreign and multinational litigants—including U.S. corporations operating overseas—should not be required to risk criminal liability or catastrophic losses in other countries in order to prosecute or defend claims effectively in Federal courts.

Section 303 would also make a party responsible for the failure of any person "in privity" with him to comply with a court order. The concept of privity is a very broad one; it goes substantially beyond control, and for this reason is inappropriate in this legislation.

The section which this amendment would eliminate would overrule decisions prohibiting a court from dismissing a party's claim or defenses for nonproduction of evidence or failure to testify when it would result in criminal liability under foreign law.

Obviously this is a situation where the amendment is directed at interference in areas not within the competence of legislation. I urge that the amendment be approved.

The PRESIDING OFFICER. The Chair wishes to point out to the Senator that in the drafting of his amendment in the next-to-the-last sentence of that amendment he speaks of lines 1 through 25 on page 25. The Chair wishes to advise the Senator there are only 24 lines and ask should that read 1 through 24?

Mr. HRUSKA. Mr. President, my amendment is addressed to the entire section.

The PRESIDING OFFICER. But there is no line 25. Does the Senator wish to make a technical change and have it read lines 1 through 24?

Mr. HRUSKA. Mr. President, I was mistaken. Amendment 1726 does pertain to the deletion of section 303 which is found starting on line 10 on page 24 and extending to line 24 on page 25. I directed my comments to the wrong numbered section.

The PRESIDING OFFICER. The Chair thanks the Senator. Without objection, the amendment will be so modified.

Mr. PHILIP A. HART. Mr. President, in the last few minutes I have had my attention called to a substitute to the Hruska amendment which the Senator from Pennsylvania (Mr. HUGH SCOTT) has filed. In the last minute I have sent a copy of that to the Senator from Nebraska and he may have in a few moments an opportunity to react to the proposal. The proposal would be that the Hruska amendment be agreed to but that the language proposed by Senator HUGH SCOTT be added in that section.

Mr. HRUSKA. Is that the sense-of-Congress amendment?

Mr. PHILIP A. HART. Yes.

Mr. HRUSKA. I have not seen its text, but that would not affect the adoption of my amendment.

Mr. PHILIP A. HART. It would if we accepted it as a substitute for it, but I have no disposition to do that.

Mr. HRUSKA. To accept the text of the Scott amendment?

Mr. PHILIP A. HART. My question is whether the Senator from Nebraska, whom I can assure will prevail on his motion to strike the remainder of section 303——

Mr. HRUSKA. The entirety of section 303?

Mr. PHILIP A. HART. That is right, whether he would consider agreeing to the language proposed in the draft amendment by Senator HUGH SCOTT, a sense-of-the-Congress expression, that in those instances—and I do not have a copy of the amendment——

Mr. HRUSKA. I do not either.

Mr. PHILIP A. HART. In those instances where an international rule of law——

Mr. HRUSKA. Mr. President, I simply suggest that we act on my amendment and if the Senator from Pennsylvania wants to pursue his amendment, he can do it on his own because he can justify his language. I am not familiar with it and I would not want to undertake to speak on it.

Mr. PHILIP A. HART. Very well.

Mr. President, I am prepared to vote and to support the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PHILIP A. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PHILIP A. HART. Mr. President, I send to the desk the amendment that I described a few moments ago and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. PHILIP A. HART) on behalf of the Senator from Pennsylvania (Mr. HUGH SCOTT), proposes an amendment:

At the appropriate place, substitute the following: "It is the sense of the Congress that, in the interest of promoting an international rule of law and eliminating safehavens for wrongdoers, that in any civil action or proceeding before any court of the U.S. involving any act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies where a party refuses, declines or fails to furnish discovery, evidence or testimony on the ground that a foreign statute, order, decree or other law prohibits compliance, the court should consider utilizing all sanctions available under Rule 37(b) of the Federal Rules of Civil Procedure in order to reach a fair and equitable determination of the action or proceeding. In determining proper sanctions under Rule 37, the court should take account of good faith efforts by the party to comply with the request for discovery, evidence or testimony, the reasonableness of the foreign statute, order, decree or other law prohibiting such compliance, and the pattern of enforcement thereof."

Mr. PHILIP A. HART. Mr. President, as I indicated, this is an amendment that the Senator from Pennsylvania (Mr. HUGH SCOTT) intended to file. In view of the action which has just occurred, namely, striking the balance of 303, I am sure, were he able to be on the floor, he would rise now to propose the substitution of this language. This language, necessarily, would have to bear a new number, 303.

The language that has been stricken by the Hruska amendment was the committee's best effort to insure that materials, information, appearance, response, be obtained in connection with antitrust investigations and proceedings to the maximum extent permissible under national and international law.

We realized, and our floor action confirms, that we are not sure precisely best how to wrestle with the problem that is presented, and increasingly, in these multinationals.

I think the Senator from Pennsylvania has suggested language which, if included in the bill, would develop a discussion and would give guidance both to the executive and to the judicial branch as to how we think at this moment it most wisely could proceed.

It would seek to insure that, to the extent possible, subjects of an investigation or a proceeding did respond, as they would be obliged to respond, in terms of material and appearance if they were a national company in this country. Where, for whatever reason of foreign law, that performance they say is prevented, then the Scott proposal would have rule XXXVII used to insure a maximum compliance, notwithstanding such limitations as might be cited under foreign law.

I think it wholly useful. I, indeed, commend the Senator from Pennsylvania for developing it. I hope very much it will be agreed to.

Mr. HRUSKA. Mr. President, the way I read the proposed amendment by the Senator from Pennsylvania, there would still be determination of sanctions under rule XXXVII of the Federal Rules of Civil Procedure and the point of it is that decisions by courts in such cases are not controlling.

Section 303 in that connection would overrule decisions prohibiting a court from dismissing a party's claim or defenses for nonproduction of evidence or failure to testify when it would result in criminal liability under foreign law.

So I would seriously question that the proposed substitute by the Senator from Pennsylvania would obviate the criticism that has been directed against 303 itself.

Mr. PHILIP A. HART. I think the criticism that was directed at 303 itself was that 303 ordered the court to follow rule XXXVII, period.

The Scott proposal is that to the extent international law permits and taking into account good faith efforts of the party to comply, then rule XXXVII proceedings shall be applicable.

The PRESIDING OFFICER. If the Senator from Michigan will be kind enough to yield, the Chair wishes to advise that the language of his amendment has the effect of striking the language that has already been stricken from the bill and, therefore, it should be amended by unanimous consent request to read that this language be included at the appropriate point.

Is there objection?

Mr. PHILIP A. HART. I would ask that be included.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. PHILIP A. HART. And the language to be printed at the appropriate point would say that to the extent that international law be taken into account, the restraints that may be imposed there, considering the good faith effort made by the party, the court should consider in determining sanctions the procedures of rule XXXVII.

I think it is a distinction with a difference.

As reported from the committee, as incorporated in the Hart-Scott substitute, the court was required to adhere to rule XXXVII notwithstanding any inhibition of international or foreign law.

I am sure it is the intention of the

Senator from Pennsylvania in the language I am offering in his behalf not to make such a flat direction, but, rather, to guide the court in the fashion outlined in the language.

For that reason, I hope it will be agreed to and at the appropriate point will be made a part of the Record.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. **PHILIP A. HART**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **MANSFIELD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **HRUSKA**. Mr. President, I call up an amendment numbered——

Mr. **MANSFIELD**. Will the Senator withhold that until tomorrow?

Mr. **HRUSKA**. Surely.

ADDITIONAL STATEMENTS SUBMITTED

Mr. **HATHAWAY**. Mr. President, there are several antitrust procedure issues dealt with in this bill, but three major ones seem to be coming in for most of the criticism:

Title II—the amendments to the Antitrust Civil Process Act, which extends the authorization for use of civil investigative demand to justice department investigations prior to the filing of a case.

Title IV—the so-called parens patriae amendment, which permits State attorneys to file Sherman Act suits on behalf of natural persons within their States.

And title V—which involves advance notification of mergers.

The latter part of the bill, title V, was specifically requested by the administration, and has their support. Essentially, it involves the creation of a mechanism to provide advance notification to the antitrust authorities of very large mergers prior to their consummation, and to improve procedures to facilitate enjoining illegal mergers before they are consummated. Presently, the Government can stop few illegal mergers before they take place. Once a merger is consummated, the average case takes 5 to 6 years to resolve, during which time the acquiring entity retains the illegal profits and other fruits of the transaction. Securing adequate relief after the assets, management and technology of the two merged firms have been commingled for that 5- to 6-year period is virtually impossible.

Unfortunately, the original state of competition is rarely restored upon ultimate disposition of the judicial proceeding.

This provision is considered by most observers a fair and equitable solution to a problem that has perplexed the Government since the antimerger provisions were first passed. It provides for more than ample relief to corporations, in the form of authority to waive the waiting periods and a 60-day limit on preliminary injunctions, and exempts certain kinds of transactions from its provisions.

The "parens patriae" provision is also a good procedural remedy to fill a gap that currently exists in the enforcement of the law. Often, consumers have no effective mechanism to check abuses by corporations which violate the Sherman Act, since no single consumer can amass a claim large enough to make it worth their effort. Such a situation can result in massive overcharge due to price fixing, monopoly, and other violations, with little or no hope for relief.

Giving State attorneys general the right to bring such suits on the consumer's behalf, and permitting damages to be determined by corporate records and by other means, will almost certainly have a beneficial effect of holding consumer prices down and preventing future violations.

The argument made by some that such action will encourage frivolous or politically biased lawsuits is simply not borne out by the facts. Attorneys general in 19 States already have the authority to enforce similar State antitrust laws, and all attorneys general have the authority to demand injunctive relief, or to sue on behalf of the State. And yet, there was not a single instance of abuse of those authorities cited in the hearings before the Committee on the Judiciary.

Title II of the proposed legislation, which amends the Antitrust Civil Process Act, is an equally vital element of this bill. It is substantially similar to an administration-sponsored bill introduced by Senator Fong and cosponsored by Senators Phil Hart and Hugh Scott. It provides the Justice Department with one of the most basic tools of antitrust prosecution, one which is utilized by virtually every other Federal regulatory agency and by many State attorneys general.

The issuance of compulsory process, known formally as "civil investigative demands," or "CID's," to investigate violations prior to filing a case would seem to me to be essential to the effective enforcement of the antitrust laws. Yet the Justice Department may only use CID's to obtain documentary evidence from nonnatural persons who are themselves suspected of committing an antitrust violation.

Relevant evidence may not be obtained pursuant to a CID from natural persons or from second parties such as competitors, suppliers, customers, or employees. Nor may the Antitrust Division take oral testimony or written interrogatories in the course of such an investigation.

Title II rectifies these glaring deficiencies in the Division's investigatory powers by authorizing the Antitrust Division to:

First, issue a civil investigative demand to investigate mergers and acquisitions prior to consummation;

Second, issue a civil investigative demand to obtain relevant evidence from natural persons and third parties;

Third, take oral testimony and written interrogatories, in addition to obtaining documentary evidence, pursuant to a CID; and

Fourth, issue a civil investigative demand to obtain relevant competitive evidence for use in ongoing regulatory agency proceedings.

Critics of this title of S. 1284, such as those members who filed minority views to the committee's report, claim the title will give the Justice Department "sweeping and unprecedented powers of secret inquisition," and that the title represents an "extraordinary departure from our legal and historical traditions." As analysis of the current situation in the Federal Government, and in various States demonstrates, however, both those statements are inaccurate.

I need go no further afield than my own home State of Maine, for example, to demonstrate that such fears are ungrounded. Maine is one of several States that confer even stronger and broader powers for precomplaint antitrust investigations than is found in this title. Yet there have been no indications that such powers have ever been abused. Statutes such as Maine's have time and again been upheld by the courts. As Assistant Attorney General Thomas Kauper said in a letter earlier this year to the House Judiciary Committee:

> There has been much litigation concerning these state statutes. Decisions can be found both upholding the authority of the state officials to employ these useful tools, and also protecting the rights of persons subject to subpoena.

Nor have there been significant problems with the many Federal regulatory agencies which possess such powers. Indeed, some of the authorities, at both the State and Federal level, go back many, many years.

The minority report tries to claim that there is a difference between regulatory agencies and the Justice Department, because the latter is a prosecutor rather than a regulator. In fact, a number of nonregulatory agencies also possess such authority, including the Departments of Agriculture, Labor, Transportation, Treasury, and HEW.

What is more, the link between such agencies and the Justice Department, when the latter is prosecuting a case brought to its attention by one of the former, is so close, and the cooperation so complete, as to make the functions of one virtually indistinguishable from the other with regard both to means and to end.

The critics of this title clearly stand on thin ice. Even within its current authority, fewer than 20 of the approximately 1,700 CID's issued by the Justice Department since the passage of the original Antitrust Civil Process Act have been challenged in court.

Meanwhile, without the additional powers, corporations have an ever increasing number of ways to thwart effective investigations of their activities, from paper shredders, to pressure on third parties not to comply with voluntary requests.

As I said earlier, Mr. President, I believe this bill to be a sensible, moderate approach to ease the enforcement of our current antitrust laws, not a broadening or expanding of the laws themselves. There are no new illegalities created under this bill, because the substance of our antitrust laws—if properly and speedily enforced—is adequate to remedy most of our anticompetitive ills.

TITLE II

Mr. **FANNIN**. Mr. President, it was just a few weeks ago that the Washington Post quoted a warning issued in 1924 about secret law enforcement by then Attorney General Harlan Fiske Stone:

> There is always the possibility that a secret police may become a menace to free government and free institutions because it carries with it the possibility of abuses of power which are not always quickly apprehended or understood.

We have just read the report of the Senate Intelligence Committee's investigation of all of the abuses of the FBI since that warning was issued and ignored. Will we read another report 40 years from now about the abuses of the power of secret inquisition conferred upon the Department of Justice by title II of S. 1284? Let me make a few additional remarks about this bill so that no one in the future can say that we were not warned.

Most of the attention, controversy, and criticism surrounding this antitrust legislation has focused on title IV, the so-called parens patriae provisions. This attention is certainly justified. As I have already stated and the minority report points out in detail, this is terrible legislation.

Title II is equally terrible, however. It may in fact be more dangerous because its surface plausibility and its underlying complexity have obscured the hidden dangers. The problems involved are very subtle indeed. But let us not be lulled into thinking they can be ignored.

Title II is, in reality, quite extraordinary legislation. It gives wholly unprecedented powers of secret inquisition to the prosecutor of the U.S. Government. Under the bill, the Antitrust Division will be able to compel sworn testimony from individuals and State officials on virtually any subject affecting commerce in the United States. It will be able to do this without suspecting the individual of any wrongdoing, without prior court approval, and without notice to potentially affected parties. The bill, of course, does more. It permits the Antitrust Division to compel answers to written interrogatories. And, as the majority report points out, it permits the Division to demand "personal records such as telephone bills, expenses, and calendars" from individuals whether or not they are suspected of any violation of the antitrust laws.

Why are we establishing this roving star chamber, this unchecked grand inquisitor? Title II is both necessary and appropriate, we are told, because the Department of Justices' antitrust enforcement is suffering without it, and past history under existing law demonstrates that there has been—and therefore will be—no abuse. Let me examine briefly these two assertions.

As the minority report points out, the Department of Justice did not cite one example of frustrated antitrust enforcement when it testified on behalf of this legislation. Indeed, the Assistant Attorney General was asked how the authority of title II would have aided enforcement in the past when he testified before the House on the companion bill. His answer should stand as a stark warning to us all:

> It would be easier to answer that after we had the authority and see what we can do with it.

This answer is shocking. If the standard is "what we can do with it," why not permit wiretapping, surreptitious entry, and bugging so that we can really know what goes on in corporate board rooms? If capitalists are among the most unsavory elements of our society, why do we stop with secret interrogation and demands for personal papers?

The Department of Justice did subsequently attempt to identify some past investigations where antitrust enforcement had suffered because of the constraints of existing law. Let us see, then, what the record shows.

The Department has had authority since the initial Civil Investigative Demand Act was enacted in 1962 to compel documents relevant to alleged violations from companies under investigation. It has conducted some 1,700 CID investigations under the existing law since that time. Out of that number, the Department has been able to identify only 14 examples of frustrated investigations. Half of these, moreover, involved mergers, which are subject to the broad investigatory and premerger notice authority of the FTC which cooperates closely with the Department of Justice, at least in the merger area.

The other seven examples are not persuasive, as the minority report points out. Even if there were, they could not justify what the Senate is proposing to enact. This is because utility and efficiency can never constitute the sole standard for judging the propriety of executive power. The need must be balanced against the burdens. The Department, 14 years ago, rejected the authority it now seeks, even though a few investigations had suffered without it, precisely because the burdens and risks far outweighed the benefits.

For reasons known only to it, the Department has now changed its mind. Title II, we are told, would make civil antitrust investigations more "efficient." But so would wiretapping and physical surveillance and other similar devices. So would elimination of the fourth amendment altogether. But we do not propose to approve these things because the burdens and the potential for abuse outweigh the benefits.

What about the potential for abuse? The majority report states emphatically that we should ignore as vastly inflated the warnings about abuse because "no history of abuse under the 1962 act—or even a single instance of abuse—was brought to the committee's attention."

To cite the absence of abuse because of existing protections as a reason for discarding those protections is extraordinary reasoning. If there has been no abuse of the 1962 act, I think I can confidently say this is because the Department of Justice and the Congress deliberately refused the extraordinary powers this legislation will now grant. The past record thus confirms the wisdom of the 1962 act's limitations. This wisdom is underscored by the contrasting experience with grand jury abuse under the Organized Crime Control Act of 1970 and with the FBI and CIA abuses as recently revealed by the Senate Select Committee report.

The Organized Crime Control Act of 1970 and our grand jury experience thereunder provide an appropriate contrasting example. As Senator KENNEDY testified before the House only 3 years ago:

> Perhaps the most ominous single sign of our national drift away from liberty is the epidemic of grand jury harassment that has plagued the country in recent years.[1]

As he explained it:

> The novel, wide-ranging so-called use immunity power conferred by the Organized Crime Control Act of 1970 appears to be responsible for almost all of the current problems. Indeed, the promiscuous and wholesale current application of this power threatens to make a shambles of the Fifth Amendment's protection against self-incrimination . . .[2]

What has been the result? As this House witness summarized:

> Today, in consequence, the investigative grand jury has become a powerful new agency of political oppression.[3]

It is important to recognize here, as Senator KENNEDY put it then, that "there are no short-cuts to law and order and certainly not to justice."[4] Certainly, it would be more efficient for the Department's antitrust investigations if there were no limits on either the material it could obtain or the manner in which it obtains it. But such an approach is directly contrary to our traditions of liberty and justice.

Justice Hugo Black of the Supreme Court explained these traditions eloquently:

> Secret inquisitions are dangerous things justly feared by free men everywhere. They are the breeding place for arbitrary misuse of official power. They are often the beginning of tyranny as well as indispensable instruments for its survival. Modern as well as ancient history bears witness that both innocent and guilty have been seized by officers of the state and wisked away for secret interrogation or worse until the ground work has been securely laid for their inevitable conviction. While the labels applied to this practice have frequently changed, the central idea . . . remains unchanging—extraction of 'statements' by one means or another from an individual by officers of the state while he is held incommunicado.

Title II, of course, adopts the "use immunity" provisions of the Organized Crime Control Act of 1970. It seems clear to me, therefore, that the relevant basis for assessing the wisdom of title II is that act, not the original 1962 CID statute which Congress carefully limited for reasons that should be more, rather than less, obvious.

It would be wrong to leave the impression that not one single instance of abuse of the 1962 act was cited to the committee. We all should know about Watergate, though the Congress now seems determined to forget it. I believe it was the Senate Watergate Committee that discovered John Dean's memorandum on "how we can use the available Federal machinery to screw our political enemies." I do not know how faithfully that memorandum was executed. But I do know that there was implementation of Mr. Magruder's proposal to Mr. Haldeman "to utilize the Antitrust Division to investigate various media relating to antitrust violations; even the possible threat of antitrust action, I think would be effective in changing their views." [5]

---

[1] Hearings Before Subcommittee No. 1 of the House Judiciary Committee on H. Res. 220, 93d Cong., 1st Sess., p. 34.

[2] *Id.* at 37.

[3] *Ibid.*

[4] *Id.* at 34.

Remember, this threat was made pursuant to the existing law. Think how much more effective the threat would have been had there been power to take sworn testimony in secret from Walter Cronkite or John Chancellor and deny them—as title II permits the Department to do—a copy of their own testimony.

The Government subsequently in 1972 filed an antitrust action against the networks, which the court later dismissed when the Antitrust Division defied a court order to turn over documents and tapes bearing on the decision to bring the action. This is, to my way of thinking, an example of abuse of the current law. The potential for abuse of the media, of course, was never fully realized. And the potential for abuse will increase even if we do not adopt title II. I shudder to think of what can happen if title II becomes law.

The distinguished columnist Marquis Childs commented very recently on this very problem. In a book review of "Assault on the Media" in the April 22 Washington Post, Mr. Childs wrote that:

> Obviously the potential effect of the Nixon offensive against the media were not wiped out by his resignation and the resignation of his staff. The author reviews . . . (the possibilities for) future intimidation and repression. One way is antitrust, which was used only casually or ineptly by the Nixon White House. It can be used with much more powerful effects and, as (the Author) notes, the vulnerability of the communications industry to it increases every year. One reason for this is the tendency of large newspapers to diversity with the acquisition not only of other publications but also of businesses entirely unrelated to communications.

I want to make it clear that I am not attacking the fairness or integrity of the current administration or its current antitrust chief. They want this legislation, and I understand why. They obviously believe they will not abuse the powers. Again, I understand their point of view. But I cannot agree with it. If all Presidents in the future were to have Mr. Ford's sense of decency, I would not be concerned. But if history is any guide, I cannot be confident that they will.

The issue, clearly is not this administration, the next, or the last necessarily. The issue is the potential for abuse by someone in the future—maybe after we have left the political scene. As one of the supporters of the 1962 act put it in explaining the necessity for all of the safeguards the Congress now discards:

> I do not suggest that this Attorney General or, perhaps, any Attorney General or his assistants would abuse this tremendous grant of authority, but I think we should concern ourselves with the possibilities of its abuse rather than with the prospects and possibilities of its proper exercise.[6]

Unfortunately, Watergate and the abuses of the grand jury and the FBI are concrete examples of abuses we can expect sooner or later from title II if it is enacted.

Let me then return to one of the questions I raised at the outset. Do we really need this legislation? I think it is pretty clear that the only relevant things that have happened since the 1962 act was passed are the abuses I have outlined. These abuses obviously suggest the need for continued restraint, not added powers. Otherwise, we are today where we were prior to 1962 when the Department of Justice explained why it was not seeking the power to subpena individual citizens:

> We have had very few instances where we have need for such powers where individuals were included and, frankly, we felt that it might be burdensome to an individual and that the need was not so great that we ought to place that burden on the individual.[7]

So what has changed? We hear so much of price fixing. But that can be—and is—investigated through the grand jury. Indeed, I have read that the Department is now conducting 90 grand jury investigations into alleged price fixing. I am shocked at what appears to be the widespread nature of price fixing. But price fixing by a few businessmen is no reason for enacting this legislation. To the contrary, it underscores the adequacy of the authority now available to the Department.

I am, therefore, prompted to look elsewhere for the motivating force behind title II. What I sense when I read the minority report is that we are really revisiting the Agency for Consumer Advocacy. The Department does not have authority today to use the existing CID statute in its appearances before the various administrative and regulatory agencies. This is because the existing law can be directed only at targets of an antitrust investigation, and regulatory proceedings do not have targets.

This is not to say that the Department should have its own discovery powers independent of whatever discovery is available to other parties to a proceeding. To the contrary, fairness and good sense indicate quite clearly that it should not. But the Department's desire to have the authority is, I believe, prompted by the proposed Agency for Consumer Advocacy and the independent discovery authority it will have, if created.

Now, if we do have an agency for consumer protection, what happens to the Department? It has in recent years begun to intervene in and appeal from various agency proceedings which do not in its view pay enough attention to competition. The reasoning is that administrative and regulatory agencies have become the captives of the industries they are supposed to regulate. As a result, these agencies confer benefits on protected industries at the expense of the public.

I think we all share this concern about the overprotectiveness of agencies. But it is this very same concern that has already once led us down the senseless path of proposing yet another super agency to address the problem. The Agency for Consumer Advocacy is simply the wrong way to respond. While that legislation has passed both Houses of Congress, it will, I believe, quite properly be vetoed by the President.

If the legislation is not vetoed, then it will either take over the role now being assumed by the Justice Department, or compete with Justice, to the detriment of us all. Nothing will ever get accomplished. One superagency is bad enough, and having two would be intolerable. On the other hand, if there is a veto and the veto is sustained, then we should not permit the creation of a similar super agency indirectly. Yet, to create such an agency is precisely what title II will do.

It seems senseless to go over *all this* worn ground again. If there is a problem with the regulatory agencies, let us deal with that problem directly. Let us not try to correct the problems that have resulted from our delegating too much authority by delegating still more authority. There is only so much power in the domestic area that we can give up, and only so many places to pass the buck.

The notion of the Department of Justice acting as an Agency for Consumer Advocacy is extremely dangerous. The CPA legislation was bad enough. But the proposed Agency for Consumer Advocacy was at least theoretically subject to direct congressional oversight. The Department of Justice is decidedly not.

Judge Friendly's observations are pertinent here. As he observed after staying a proposal to transfer policymaking to executive departments:

> Quite simply, I find it hard to think of anything worse. Determination "of basic needs of public policy" within the general command of the statute is what Congress created the Commission to do. Either the Commission can perform the task or it cannot. If it cannot it should be abolished. . . . What would be intolerable would be . . . the prospect of making "day to day" decisions in line with the policy guides of White House assistants, whether or not the latter were characterized by "a passion for anonymity." (There would be) . . . the extravagance of having two groups share a common responsibility (and) we would be worse off rather than better.[8]

The Department of Justice is, after all, an enforcement agency. It should remain one.

It is no wonder that the public is politically receptive to anti-Washington rhetoric. Too often our response to the problems of Government is simply more Government. The public, I think, has the justified feeling that bureaucracies spend most of their time simply trying to expand their little empires at the expense of other bureaucracies. And if power cannot be grabbed away from someone else, then it is simply created. No one benefits except the bureaucrats and the lawyers who are paid to try to follow the latest little power struggle. And in the end, we in the Congress are primarily at fault, because we delegate the power initially, and we can take it back.

---

[5] See S. 1284 Hearings at 442.

[6] See S. 1284 Hearings at 456.

[7] Quoted in S. 1284 Hearings at 456, n. 15.

[8] Friendly, the Federal Administrative Agencies, p. 118 (1961).

Where does it all lead us? Nowhere for the public good. A speechwriter for President Kennedy once likened Washington to "a steering wheel that is unattached to the motor." We owe the public better service than to foment the baronial wars between the various parts of the executive branch. The Founding Fathers did envision creative tension between the three major branches of Government. But I am sure that Madison would be shocked to find us in the Congress in the 200th anniversary falling all over each other trying literally to choke the Executive with power at our expense.

In sum, there was no need for title II in 1962, and there is no need now. Nothing has transpired in the intervening period except the abuses of Watergate and of the grand jury, which confirm Congress wisdom in 1962 in adopting the limitations the committee now carelessly discards.

We seem incapable of learning anything from history. It is a real tragedy that in this Bicentennial Year of celebrating our independence we are now in fact in the process of reversing the great effort 200 years ago to get Government off the backs of the people. The sad lesson of this country in this century is that once the Government obtains power it is very difficult to take it away. Congress had made some recent efforts to cut back on the ever-growing power of the executive branch from the Roosevelt Presidency. These efforts are doomed to everlasting failure if we insist, as we do here, on just throwing to the Executive the kinds of powers our forefathers fought so hard against 200 years ago.

ANTITRUST IMPROVEMENTS ACT: SPECIAL INTEREST LEGISLATION THAT WILL HURT CONSUMERS

Mr. FANNIN. Mr. President, I urge my colleagues to join me in opposition to S. 1284, the mislabeled Antitrust Improvements Act of 1976. The bill says its purpose is "to improve and modernize" the enforcement of antitrust laws. But none of its provisions are needed to improve the enforcement of the law. And moreover, rather than modernizing law enforcement, this bill for the most part represents ideas which Congress and the courts have already rejected.

It would be more appropriate to refer to this legislation as "an act for the special relief of lawyers and attorneys general" or "the Taxpayers' Ripoff Act of 1976." This bill is basically a power grab for the lawyers. Its technical complexity is such that I fear only lawyers can understand all of its ramifications. But even a layman can note that the bill would grant vast new powers to government prosecutors and other lawyers in Federal and State government antitrust enforcement agencies.

It would endorse an unprecedented new power for the State attorneys general. It would encourage a proliferation of private lawsuits, which experience has shown are often stirred up by the lawyers involved. Certainly, the lawyers seem to benefit more than any other participants; including the defense lawyers for the businesses under attack who, of course, do not work for free.

As the proverb says, "God bless the man who sues my client." This bill promises nothing, if not many, many lawsuits. As such, it promises to cost consumers billions of dollars since the legal fees, judgments and out-of-court settlements engendered by S. 1284 will be passed along by business defendants to the purchasing public.

Mr. President, I shall concentrate my remarks now on title IV of the bill, the so-called "parens patriae" amendments. We are told that this title is intended to fill some supposed gap in the law, that somehow it will be possible to do something after this title is passed which cannot now be done, and which presumably should be done.

But what is this supposed gap? The law already allows anybody injured by an antitrust violation to bring a suit and recover three times his damages, plus attorneys' fees and cost of suit. These suits can be brought irrespective of the size of injury, and if the injuries are small, class actions are authorized now by existing rules.

And there is no impediment to State enforcement of antitrust laws, duly adopted and authorized by State legislatures. I note that in my own State, in addition to some other activities which I will describe in a moment, the State attorney general of Arizona has proceeded vigorously with antitrust investigations, under State authorization and State law, of alleged local antitrust violations. See, for example, in re Antitrust Investigation of Liquified Petroleum Gas Industry, Maricopa County Superior Court, May 7, 1976.

Indeed, we have already witnessed ambitious suits brought by State attorneys general, purporting to recover on behalf of the consumers who elected them. These suits, and other massive class actions under the antitrust laws, have pointed out serious practical and even ethical problems, which title IV would not solve, but would magnify.

In a lawsuit on behalf of literally millions of people, each allegedly suffering some damages measurable in a few dollars, or perhaps only in pennies, no individual consumer will really get a significant benefit. The large cost of distributing these small sums is not worth the bother, and experience has shown that most "consumers" likewise do not bother to claim the small sums involved.

Instead, the booty goes largely to the lawyers, who have collected contingent fees in such cases ranging up into several millions of dollars. Title IV not only would authorize such arrangements, but indeed expressly encourages them, by permitting a State to authorize persons other than the attorney general to bring these lawsuits.

The famous antibiotics litigation, *West Virginia* v. *Charles Pfizer & Co.*, 440 F. 2d 1079 (4th Cir., 1971), in the drug industry which we have heard so much about is a classic example of this problem. There were apparently two different settlements in that case, one covering some 43 States, and the other covering 6 States.

In the settlements covering most of the country, with a population well over 150 million people, far less than one-tenth of 1 percent of those persons even bothered to ask for any of the money which was to go to "consumers," because the amounts involved were simply too small to bother with. And in the other settlement involving six States, where an ambitious give-away ad campaign was undertaken, inviting everyone to line up for the handout of free money—even there, refunds went only to about 4 percent of the "consumers" in those States. One-fourth of the consumers filing large claims refused to allow inspection of the records they said backed up their claims. Ninety percent of the "documented claims" were found to be overstated. When checked out, many of the claims turned out, unsurprisingly, to be phoney; for example, some 22,000 claims were filed by people who clearly would have been too young during the period of alleged violation to have actually purchased the product whose price was purportedly fixed. These details of the settlement are found in the hearings on S. 1284 part 3, pages 441–446.

As could have been suspected, however, the lawyers involved to date have taken a neat $41 million for the plaintiffs' lawyers alone, not counting the heavy legal fees paid by the drug companies to their counsel.

Existing class actions have already proven to be an unsettling invitation to lawyers' avarice. The parens patriae action promises to have not only this same lucrative feature for the private attorneys involved, but an irresistible political appeal as well for ambitious State officials.

In my own State of Arizona, the attorney general has conspicuously involved himself in antitrust "class actions," entering the lists on behalf of the consumer at the last minute, when it appeared that settlement was in the offing. In one case, in re Arizona Bakery Products litigation, in the U.S. District Court in Phoenix, the attorney general's name will appear prominently on a notice, to be mailed to everyone in the State, announcing that several million dollars in settlement money is available for the asking. This official has already announced his intention of joining at least one other antitrust class action in progress, on behalf of the Arizona consumer; and there are some others in the courts which we can expect he will join as well.

Mr. President, I ask unanimous consent that the texts of Arizona Republic articles concerning the $6 million settlement in the bread firm suit be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDGE WILL APPROVE SETTLEMENT OF $6 MILLION IN BREAD-FIRM SUIT

A federal judge said Monday that he will approve a proposed $6 million anti-trust settlement against five Arizona bakeries accused of conspiring to fix prices.

U.S. District Court Judge Carl A. Muecke said he will approve the settlement and a timetable for consumers to file claims after lawyers present him with a formal written order.

At the same time, Muecke was critical of a proposal by Charles R. Johnston, court-appointed trustee for bankrupt Prescott College, that proceeds from the settlement be used to buy the college for the state.

Muecke told Johnston that he was hesitant to complicate the settlement by opening the door to third-party claimants. He said it was a "shame" that no one had bought the college, but added that he was not sure that Johnston's proposal was the way to rectify the situation.

However, the judge fell short of denying the proposal. He said Johnston would be allowed to file a written motion with the court outlining his plan.

Muecke added that Johnston is third in line behind St. Mary's Food Bank and a group of Valley community organizations in requesting funds from the settlement.

Under the settlement, consumers who purchased bread products in Arizona from Jan. 1, 1969, through Dec. 31, 1973, will be able to share in $6 million that has been alloted to five classes of bread buyers.

A total of $3.9 million is earmarked for households and grocery stores. One claim will be allowed per household. The remaining $2.1 million will go to restaurants, government agencies and hospitals.

According to the timetable to be approved by Muecke, July 9 will be the deadline for the mailing of notices informing members of the consumer class of their eligibility to join in the lawsuit.

The state attorney general's office, which is representing the household class of consumers, plans to supplement the notification of this class with newspaper advertisements, notices in state public buildings, public service announcements on radio and television and a toll-free telephone line.

The timetable provides that Sept. 9 will be the last day for claims to be accepted. This means that consumers will have 60 days from the time the notices are sent to file their claims. Those wishing to be excluded from the settlement must do so by Aug. 9.

Class members will have until Aug. 16 to file comments on or objections to the settlement. Muecke will conduct a hearing on Sept. 8 on the adequacy of the settlement.

The judge will conduct another hearing on Oct. 12 to consider the fees and expenses to be paid lawyers in the case. The actual amount to be distributed will be lower than $6 million because attorneys' fees and expenses will be subtracted from the settlement fund, according to court records.

The settlement stems from federal criminal and civil price-fixing charges lodged against the bread companies and six of their executives in February 1974.

The executives pleaded no contest. The pleas were treated as guilty pleas. Muecke fined all of the officials and sentenced two of them to 30-day prison terms.

The bakery defendants have agreed to pay these amounts:

Rainbo Baking Co. of Phoenix, $2,633,500; Rainbo Baking Co. of Tucson, $1,267,500; C. J. Patterson Co., $1 million; Holsum Bakery Inc., $500,000; and Baird's Bread Co., $500,000.

Public To Get Half of $6 Million Bread-Suit Settlement

Individual Arizona consumers will receive about half of a $6 million price-fixing damage settlement from five bread companies, Attorney General Bruce Babbitt disclosed Tuesday.

Terms of the settlement were revealed during a news conference at the Phoenix Press Club in the Hotel Westward Ho by Babbitt and lawyers representing various plaintiffs in a federal court antitrust suit against the bakeries.

Robert L. Bluemle, liaison counsel for other classes of plaintiffs who will share in the damages, characterized the $6 million as the "highest private antitrust recovery to date in Arizona."

How the consumers' share of the settlement will be distributed among individual households will be decided by future court action, Babbitt said. The settlement requires federal court approval before it becomes final, the attorneys said.

The settlement stems from federal criminal and civil price-fixing charges lodged against the bread companies and six of their executives in February 1974.

The companies' officials pleaded no contest to the charges. The pleas were treated as guilty pleas by U.S. District Judge Carl A. Muecke, who fined all of them and sentenced two of the six to 30-day prison terms.

The alleged price-fixing conspiracy began sometime before 1963, according to the U.S. Justice Department, which initially accused the companies of the violations.

According to Babbitt and Bluemle, the bakery defendants have agreed to pay the following amounts:

Rainbo Baking Co. of Phoenix, $2,633,500; Rainbo Baking Co. of Tucson, $1,267,500; C. J. Patterson Co., $1 million; Holsum Bakery Inc., $600,000, and Baird's Bread Co., $500,000.

The settlements with Baird and Patterson had already been announced and were approved by Muecke.

Although the bread companies were invited to participate in the news conference, each refused to be represented, Bluemle said.

A hearing before Muecke is scheduled for 1:30 p.m. May 10 to approve the admission of Arizona consumers, represented by Babbitt, as a class of plaintiffs in the litigation. Also up for approval are the settlements with the Holsum and Rainbo companies.

The total of damages assessed against each bread company was predicated on its share of the market, the degree of participation in the price-fixing conspiracy and ability to pay damages, Bluemle explained.

A damage suit previously filed against the companies on behalf of individual consumers by the Arizona Consumers Council will be consolidated with the similar action subsequently filed by the attorney general's office, he said.

Other plaintiff classes include grocery stores, restaurants, the private health-care industry and governmental entities such as school districts.

Babbitt said that he believes that two-thirds of the excessive price-fixed cost of bread was paid by consumers and grocery stores. However, he added, stores probably passed whatever excess costs they paid to the bakeries "100 per cent on to the consumers."

Babbitt said he did not expect the bread industry settlement to result in higher bread prices.

Instead, Babbitt said he assumes that the damage settlement will be reflected in lower investment profits to the bakery corporations' stockholders.

Furthermore, he said current competition in the baking industry would make it "economically impossible" for these five companies to raise prices in order to compensate for lost profits.

Babbitt pointed out that his office also has petitioned a federal court in San Francisco for permission to represent Arizona consumers in damages claimed in connection with a multistate price-fixing antitrust suit against several sugar companies.

Babbitt also disclosed that he plans a similar action "in another industrial area within a couple of months."

Mr. FANNIN. I do not know if Mr. Babbitt, the current attorney general of Arizona, has further political ambitions, and I express no personal criticism of Mr. Babbitt, or any other State official. I merely wish to point out that should this parens patriae provision become law, there will be a tremendous temptation, supported by legal authority, for an aspiring attorney general to try to become a political hero by instituting antitrust actions, allegedly on behalf of the people.

Let me mention an interesting situation several years ago in the State of Washington. There, the State attorney general represented several localities in class action suits against electrical equipment manufacturers. There was a private law firm involved as well, and the attorney general and the private lawyer split the fees which resulted, some $2.3 million. This was allowed, because the attorney general was not forbidden from practicing law while in office—even though all of his correspondence in the lawsuit went out on his official letterhead, and he identified himself by his official title. The story is told in the law reports of the State in the case of *Washington* v. *O'Connell*, 523 Pacific 2d 872 (1974). After making his fortune, and his headlines, in the litigation, the attorney general then made a run for the governorship.

Thus, Mr. President, even under existing law, there is a temptation and potential for what must be called abuse. But the existing law contains some safeguards against blatant abuse, in the form of the class action procedural rules and other principles of the law which title IV would obliterate.

Under the Federal Rules of Practice, the courts can refuse to hear a suit which is simply unmanageable, involving too many millions of different claims and different fact situations. But a title IV action brought by a State attorney general could not be so controlled.

Under the existing law, a plaintiff can recover damages only when he has proven that he has in fact been injured. A defendant must give up his property only when it has been proven it in fact belongs to somebody else.

But title IV would do away with the requirement, instead allowing some undefined statistical guesswork to be employed in calculating how much money the defendant must pay up. And not only would this open invitation to "blackmail settlements" be available in actions brought by State attorneys general—Title IV would authorize the private bar to use this in consumer class action suits completely unrelated to parens patriae actions.

In short, title IV represents an attempt to radically revolutionize antitrust litigation.

And for whose benefit?

Certainly not the consumers, who will at most receive a few dollars from one of these lawsuits. Even those few dollars will be lost in higher prices, as all business is forced to raise product prices to account for the high costs of settlement and the increased legal expenses from this kind of litigation.

Mr. President, S. 1284 is special interest legislation, and the interest served is largely that of the legal profession—the plaintiffs' lawyers and the defense lawyers. This is evident throughout the bill. Title IV benefits the private bar, and the lawyers who have been elected to State office; title II and V are for the benefit of the Federal Government's lawyer's, in the Justice Department and the Federal Trade Commission.

Those titles grant unnecessary, even arbitrary and inquisitorial powers, to these unaccountable Washington bureaucratic officials. To increase the effectiveness of antitrust investigation, we are told, Justice Department investigators will be made the equivalent of grand juries unto themselves. To increase the effectiveness of Government control over private business, we are told, the law will be turned on its head, and in a merger case, the injunction will come first and the trial afterwards.

Mr. President, I cannot see any public benefit to be gained from any of the titles of S. 1284, but instead, can see only the obvious earmarks of special interest legislation in consumer and public interest clothing. I urge my colleagues to vote against this unnecessary and ill-considered bill.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow it stand in recess until the hour of 11 a.m. on Monday.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business on tomorrow it stand in recess until the hour of 12 noon on Monday.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR RECOGNITION OF SENATORS AND DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow under the standing order, Mr. Morgan, Mr. Roth, and Mr. Metcalf each be recognized for not to exceed 15 minutes and in that order.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, I believe I asked the distinguished assistant majority leader if he would ask for the transaction of routine morning business in that request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of aforementioned Senators on tomorrow there be a period for the trasaction of routine morning business of not to exceed 10 minutes with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HRUSKA. Will the Senator be kind enough to add my name to the list of 15-minute statements?

Mr. ROBERT C. BYRD. Yes. Mr. President, I add the name of Mr. Hruska.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate now stand in recess until the hour of 9 a.m. tomorrow morning.

Mr. ALLEN. I object.

The PRESIDING OFFICER. The question is on agreeing to the motion. [Putting the question.]

The motion was agreed to.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 5:21 p.m. the Senate recessed until Friday, June 4, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 3, 1976:

Commodity Futures Trading Commission

Robert L. Martin, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 1981 (reappointment).

Federal Energy Administration

Clement B. Malin, of Virginia, to be an Assistant Administrator of the Federal Energy Administration, vice Melvin A. Conant, resigned.

National Mediation Board

David H. Stowe, of Maryland, to be a member of the National Mediation Board for the term expiring July 1, 1979 (reappointment).

HOUSE OF REPRESENTATIVES—*Thursday, June 3, 1976*

The House met at 12 o'clock noon.

Rev. Max L. Brown, pastor, First Baptist Church, Brownwood, Tex., offered the following prayer:

Eternal Father, teach us Thy purpose for our free Nation, for we are still learning what it means to be free. We have great strength but also great weakness. Some days we walk with courage and purpose; other days we stumble as children groping in darkness for light. Father, help us be aware of our selfish desire to publish our strengths and hide our weaknesses.

We are grateful for strength but also for weakness. In Thy strength we are able to pursue freedom. In our weakness we learn to depend on Thee.

May these who make decisions affecting the life of our country and world see within themselves strength and weakness. Lord, help us realize that only strong, honest men can lead people into freedom. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1699. An act for the relief of Mrs. Hope Namgyal.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10268. An act to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of the Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3295) entitled "An act to extend the authorization for annual contributions under the United States Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Proxmire, Mr. Sparkman, Mr. Williams, Mr. Cranston, Mr. Stevenson, Mr. Tower, Mr. Brooke, and Mr. Garn to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1872. An act to enlarge the boundary of the Cibola National Forest.

APPOINTMENT OF CONFEREES ON S. 268, DESIGNATING THE EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS

Mr. HALEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 268) to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. MELCHER, PHILLIP BURTON, MEEDS, BYRON, SANTINI, TSONGAS, WEAVER, STEIGER of Arizona, DON H. CLAUSEN, and JOHNSON of Colorado.

THE NAVY'S ANTI-RICKOVER CAMPAIGN

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, as a frequently strong supporter of the Navy on this floor, I take this occasion to voice a very strong demurrer, and express my very deep personal concern over the violent, unprecedented, and obviously inspired campaign that the Navy has mounted against Adm. Hyman Rickover. First it was Admiral Holloway's attack before the Senate Armed Services Committee on the issue of the Navy's shipbuilding budget. Now, today, it is a fresh and even more hysterical attack by Navy civilian Gordon Rule in the Washington Post on the matter of settling almost $2 billion in pending shipbuilders' claims against the Navy.

I am not one who believes that Admiral Rickover is infallible. He can no doubt make mistakes like the rest of us. But his track record over the past 30 years has been phenomenal, and I daresay he has done more for the Navy than any other man or woman alive today.

What troubles me most is that neither Admiral Holloway nor Mr. Rule has bothered to address any of the crucial and complex issues involved. All they have done is to pull rank, tell him to shut up and follow the Navy party line. This is unworthy of any top Navy officer or civilian. And in any case it will not work with Congress, which ultimately will have the final say on both questions. We intend to listen to the arguments and get the full facts, whether the Navy or the Defense Department likes it or not.

The decision to launch this "get Rickover" campaign while Congress is still deciding the fate of the Navy's budget is, in my judgment, a very grave error which both the Navy and the administration will come to regret.

MARK NASHPITZ

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GILMAN. Mr Speaker, at this time I would like to bring to the attention of my colleagues the continuing difficulties of Soviet Jews who are being stymied in their efforts to leave Russia. Permit me to bring to your attention the plight of Mark Nashpitz, who is imprisoned in a work camp in Siberia.

Mark is a 28-year-old dentist from Moscow who on February 24, 1975, was arrested in a brief public demonstration for exit visas. He was tried, convicted, and shipped off to a Siberian work camp as part of his 5-year sentence. His protest against the bigoted Russian authorities lasted an estimated 30 seconds, and for this, they take 5 years of his life.

Early this year I received a touching letter from Mark's mother who resides in Haifa, Israel. It was in September of 1975 that I adopted Mark as my second "prisoner of conscience" and his mother wrote to thank interested Members of Congress who are seeking the release of Jews from Soviet prisons. A portion of her poignant letter reads as follows:

> The heads of governments have signed in Helsinki the document which gives the citizens of the world the right to join their families, and the right to freedom. But the Kremlin does not follow the terms of the Helsinki Accord. Why does the free world keep quiet about this? All our pleas to the Soviet Union, to Brezhnev, Podgorny and Kosygin, have all remained unanswered. We are only afraid that the whole world underestimates the Communists and their ways and means of dealing with things.

Mrs. Nashpitz, the free world has not forgotten, and we have not forgotten your son, Mark Nashpitz; we will continue to press for his release and the emigration of all Soviet Jewry to Israel as long as they remain victims of oppression and bigotry.

PROPOSAL TO RECONSTITUTE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Speaker, the House Committee on Standards of Official Conduct has voted to begin an investigation of the allegations surrounding Mr. HAYS of Ohio. I commend that action. It is clear, however, that the past performance of this committee has been woefully inadequate. Mr. Speaker, under the Constitution, in article 1, section 5, the House is given the power to punish or expel Members for wrongdoing. Some years ago, the House gave the power to make recommendations for ethical standards and the power to investigate the conduct of Members to this committee. By any standard of judgment, the performance of this duty has not been successful. The numerous instances of alleged and, in some cases, proven criminal activity by Members of this House have not resulted in any meaningful action by this committee.

We in the House are quick to allege, investigate, and seek to root out misconduct in the executive branch. But it is becoming obvious that there is a double standard in effect, for we have closed our eyes to wrongdoing in our own ranks. I propose that we seek to reconstitute the Committee on Standards of Official Conduct with new membership and new rules governing its activity, with the goal of having a committee that is as rigorous, as forthright, and as open as the House committees which look into the conduct of the executive department.

The Constitution gives us the power and the duty to clean our own House. Let us today resolve to discharge that responsibility.

PETER BURKE—WEST POINT GRADUATE DENIED COMMISSION

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, yesterday the U.S. Military Academy at West Point held its graduation exercises.

One of the cadets graduated was Peter Burke—but his case was different from the others. He did not receive a commission in the U.S. Army after successfully completing the West Point curriculum.

The reason for this, we understand from national network television, is that Cadet Peter Burke is a victim of Hodgkin's disease.

The disease was diagnosed somewhere along in his first or second year at West Point, but there was reportedly a remission, and Cadet Burke was permitted to go on with his studies.

Now, after having invested 4 years of his life at the Academy, in the expectation of serving his country as an officer in its Armed Forces, Cadet Burke is denied a commission.

Mr. Speaker, Peter Burke is not a resident of my congressional district. I never met this young man, nor do I know his parents. But I believe he has been poorly used and badly treated by the Department of Defense and the Academy. I think he is a victim of redtape and bureaucratic fumbling that has given Government a bad name.

The Congress, the country, and certainly Cadet Burke need a straight answer from someone in authority as to why he was permitted to proceed with his studies if he was not to receive a commission.

I certainly hope that the President has the good judgment to see that Cadet Burke very shortly becomes Second Lieutenant Burke, U.S. Army, and that his date of rank is the same as that of his classmates in the class of 1976.

COMMITTEE ON HOUSE ADMINISTRATION HAS TOO MUCH AUTHORITY

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, we have made a lot of mistakes around here over the years and one of those occurred in 1971 when this House passed a resolution, later enacted into permanent law, to turn over the authority to fix and adjust the amounts of allowances for clerk hire, postage, telephones, stationery, and other expenses to the Committee on House Administration.

Some of us were very much opposed to that move. No one in the current Republican leadership voted for the resolution, and in debate on July 21, 1971, one Member summed up the argument this way: "Once this authority is given to this Committee," he said, "it will never be retrieved by the House as a whole until and unless there is a scandal. I think the better way to avoid that scandal is to require these additional benefits be voted on in the House by each and every Member."

Those were the words of the then minority leader, Gerald Ford, and how prophetic they were.

The Committee on House Administration has too much authority and now that the scandal prophesied by Mr. Ford has occurred, the least we can do is to take away some of the excess.

I am today introducing a resolution cosponsored by all Members of our Republican leadership to do just that, and I hope I can count on the support of Members of all persuasions to support it.

POWERS OF THE COMMITTEE ON HOUSE ADMINISTRATION MUST BE CURBED

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I want to commend the gentleman from Illinois (Mr. Michel) for his statement. Last year on May 21, 1975, the gentleman from Maryland offered an amendment to the legislative appropriations bill that would do precisely what the gentleman proposes in the resolution he is introducing today.

Mr. Speaker, I am not at all confident that under the present leadership of the Committee on House Administration that the resolution of the gentleman from Illinois will ever be reported to the floor. I do intend to introduce again in a few weeks the same amendment I offered last year to the legislative appropriation bill. The Committee on House Administration would then no longer have the final say over these matters if my amendment succeeds. Instead these actions would have to come to the floor for a final determination by the full House.

Mr. Speaker, last year my amendment received only 156 votes, with 259 opposed. I suspect this year it will pass and it should pass with good reason.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PRINTING OF PROCEEDINGS OF THURSDAY, MAY 27, 1976, IN WESTMINSTER HALL AND OF TODAY IN THE ROTUNDA DURING ACCEPTANCE OF MAGNA CARTA

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the proceedings on Thursday, May 27, 1976, in Westminster Hall and the proceedings of today in the rotunda during acceptance of the Magna Carta be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GRANTING LEAVE TO FEDERAL EMPLOYEES WHEN CALLED AS WITNESSES

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11438) to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 5, strike out "130(b)(2)" and insert: "130b(b)(2)".

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous matter on the bill (H.R. 13655) to be considered today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 325]

Andrews, N.C.
Beard, R.I.
Bell
Bolling
Breaux
Burgener
Carney
Cederberg
Chappell
Chisholm
Clawson, Del
Clay
Cohen
Conlan
Conyers
Cotter
Derwinski
Diggs
Edwards, Ala.
Esch
Eshleman
Ford, Mich.
Fraser
Giaimo
Hansen
Hays, Ohio
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Jarman
Johnson, Pa.
Jones, Ala.
Karth
Krueger
Landrum
Leggett
Lent
Litton
Lujan
McKinney
Matsunaga
Mikva
Milford
Mills
Moffett
Moorhead, Pa.
Morgan
Murphy, N.Y.
O'Hara
Pepper
Pettis
Peyser
Pike
Rees
Risenhoover
Rousselot
Roybal
Ruppe
Sarasin
Scheuer
Spellman
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stokes
Stuckey
Thompson
Udall
Vander Veen
Waxman
Whitten
Wilson, Bob
Wilson, C. H.
Yates

The SPEAKER pro tempore (Mr. McFall). On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AUTOMOTIVE TRANSPORTATION RESEARCH AND DEVELOPMENT ACT OF 1976

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13655) to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Teague).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13655, with Mr. Hanley in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. Teague) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Mosher) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Teague).

Mr. TEAGUE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 13655 establishes a 5-year research and development program in the Energy Research and Development Administration with the primary goal of overcoming the various technological problems associated with the development of advanced automobile propulsion systems. The program will work toward developing the technology of advanced engines and other parts of the drive train so that by the early 1980's industry should be able to make a decision whether or not to produce these engines. These advanced propulsion systems will be developed so that they are significantly more energy efficient; so that they emit far less pollutants; so that they can use a broad variety of fuels—solids, liquids, and gases—and so that they have a number of other desirable features described in the bill. The bill was approved overwhelmingly by a voice vote in the Science and Technology Committee on May 11, and it was reported on May 15 along with House Report 94-1169.

Mr. Chairman, this bill is the product of a lot of hard work by the committee and its Subcommittee on Energy Research, Development and Demonstration. I want to congratulate the ranking minority member of the committee, CHARLIE MOSHER, who is retiring at the end of this session after many years of illustrious service to the House, for his excellent work on this bill. I also want to commend MIKE MCCORMACK, the subcommittee chairman; BARRY GOLDWATER, JR., the ranking minority member of the subcommittee; and GEORGE BROWN, the prime sponsor of this legislation. Their efforts helped make this bill the fine example of legislative craftsmanship that it is.

The engines developed should play a vital role in the Nation's personal transportation system as we take steps to reduce foreign petroleum resources. In addition, the superior emissions characteristics achievable with these advanced systems is an attractive enough feature by itself to make this legislation important.

The program established in ERDA by this bill is designed to complement and supplement, as well as stimulate, the research and development efforts of industry in this area. The basic program anticipates that both Government and industry will participate in a phased funding schedule so that Government levels decline and industry levels increase as each technology progresses from research toward commercial reality. The legislation provides for an active Government-industry fellowship program to insure indepth communication. This should help keep the Government participation realistic in terms of engines which are mass producible with a cost that can compete in the marketplace, and will keep the Government aware of other characteristics of engines which are important to this consumer oriented product.

With the small businessman or individual in mind, the bill provides that Federal expertise and facilities will be made available to develop and test components and subsystems which hold the highest promise of contributing to advanced automobile propulsion systems.

Mr. Chairman, H.R. 13655 calls for the Administrator of ERDA to fully consider the capabilities of our great national laboratories in carrying out this program. NASA and the Department of Defense labs should be especially effective in the conduct of portions of the research needed on these systems.

The bill provides for ERDA to develop a comprehensive program definition, to update it annually, and submit it to Congress in its annual report of activities under the bill.

The authorization in fiscal year 1977 is set at $20 million. When this is coupled with the $12.8 million requested by the President for fiscal year 1977 and the $10 million added by this House in passage of H.R. 13550. This would make a $43 million program in this general area for fiscal year 1977.

Funding for subsequent years will be included in the annual authorization for nonnuclear programs in ERDA.

Mr. Chairman, passage of H.R. 13655 will put the people of this Nation on record as recognizing the extreme importance of acting now to insure a viable efficient, clean, personal transportation system tomorrow, and it gets the work started now at a rate that will be meaningful. This is a good bill, and I urge the support of each Member of this body.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. MCCORMACK), who is the chairman of the subcommittee.

Mr. McCORMACK. Mr. Chairman, for a number of years Members of Congress have recognized a great need for improving our automobiles in terms of energy efficiency and pollutants. Today we can take a significant step toward seizing that opportunity by voting in favor of H.R. 13655.

This bill establishes as national policy vigorous pursuit of alternative automobile powerplants for upgrading the personal transportation system of this country. It mandates a research and development program aimed at improving and creating alternatives to today's internal combustion engine. These new engines hold promise to be significantly more efficient in terms of energy use; they will burn a broad variety of fuels so that our dependence on petroleum-refined fuels would be cut; and they will operate cleaner thus eliminating the degrading emissions of current engines that blighted our environment and impaired our health.

The automobile and associated industries are a significant part of the American economy. One out of every six or seven jobs is related to the automobile, and motor vehicles and related industries account for about one-sixth of the gross national product. The personal transportation system in this country is second to none, and citizens move about the country with an ease and abandon now taken for granted. The car permits total freedom in the determination of when and where a person goes. The economic health and national security of our Nation are closely tied to our highway transportation system.

But the evolution of the American car has occurred in a period highlighted by the use of vast sources of artificially cheap energy and in a period when, seemingly, the atmosphere was considered as a dumping ground that could absorb pollutants without limit. The cars resulting from this evolution are admirable in many respects. However, as Americans have come to recognize the need to live in harmony with the Earth and its resources, they have realized that the average automobile as it has evolved is needlessly inefficient. Furthermore, the extensive use of these cars is recognized as delivering a significant polluting insult to the Earth's atmosphere—an insult which is passed on to the health of the American people.

The need for change is recognized by every thoughtful person. The Congress has mandated clean air standards, and the industry response has been the development and implementation of catalytic converters—a move which has required the investment of billions of dollars, but a move which has led to only partial solutions.

Considering the economic role of the auto in the country, it is not surprising that automobiles use about one-seventh of the Nation's total energy and about one-fourth of the petroleum consumed. The Arab embargo and the subsequent careful evaluation of the Nation's energy posture have dramatized the importance of fuel economy. Petroleum production in this country is on the decline. People who were born in the 1930's will see in their lifetime the disappearance of 80 percent of this country's total petroleum. People who were born in the 1960's will live to see 80 percent of the world's supply of oil consumed. Conservation of petroleum fuels and use of alternative fuels is a must. Every 1-mile-per-gallon improvement in fuel economy for all autos on the road would result in a petroleum savings of 400,000 barrels per day. At the $11 per barrel import price, that is about $1.6 billion per year. Clearly, there is a need to find ways to achieve both clean air and maximum energy efficiency.

A significant improvement to fuel economy can be achieved through changes to the automobile itself—such as weight reduction and transmission improvements. Fuel reductions of 25 to 45 percent are possible, depending on car size, and the industry is proceeding to effect some of these changes—partly in response to the fuel economy standards mandated by this Congress.

There are many indications that further developments of the internal combustion engine can lead to modest improvements in efficiency. The industry and the public have the better part of a century invested with this engine. They are familiar with it—that have confidence in it—repair knowhow is readily available—and inventories of parts are plentiful. There is a strong tendency for industry to continue its momentum in this low risk direction.

However, there are alternatives which appear to be superior. With refinements expected from research and development, alternative engines such as the Stirling, (Brayton) turbine, or diesel are projected to be significantly better from the standpoint of the efficiency versus emissions than the internal combustion engine. The aim of this legislation is to provide a vigorous program for the research and development needed to make these alternatives a reality.

Now let me outline a bit more quantitatively what alternative engines should do for us:

First, these new engines are projected to be from 24 to 32 percent more efficient than the conventional internal combustion engine as improved in any way now known. They can use a broad variety of fuels.

Second, three of these alternative engines have already been shown in preliminary versions to meet the strictest mandated emission standards of 0.4 grams per mile hydrocarbons, 3.4 grams per mile carbon monoxide, and 0.41 grams per mile oxides of nitrogen. You are aware that the industry persists in asking to have these standards postponed for the standard spark ignited internal combustion engine. Furthermore, these advanced engines are projected to be a factor of several times better than required by these strictest mandated standards.

And thirdly, cars using these advanced engines are projected to save money to the owners. The initial car may cost up to $200 to $300 more, but the overall cost to the first owner will be up to $850 less.

Clearly, the following question comes to the mind of the skeptics:

> If these engines are so great, and the incentives are there, then why do we not leave the job for industry to do?

The answer to this is multifaceted and complex, and I shall discuss only the major reasons here.

The first answer comes from looking at what industry is doing and has done. Industry has over a number of years had a very modest program to look at these engines, but the pace has been very comfortable and slow. Since 1970 the tempo of activity has indeed picked up, coinciding with the incentives of the Clean Air Act and the sudden recognition of the "energy crisis." However, when we consider the amount spent by an individual company on any given engine alternative, it is perhaps $5 million per year. This is currently a factor of 5 to 10 short of meeting the need for finishing the R. & D. in a time frame to permit a production decision by the mid-1980's. So, the first answer to the question of why not leave it to industry is that they have not had a strong enough commitment in this area to be meaningful in a time frame that will meet societal needs. The fact is that the industry's R. & D. dollars are dominantly routed to the solution of very near-term questions. Projects which bear on possible innovation several years in the future receive relatively lower priority.

Dr. Lawrence Linden who testified before our subcommittee has analyzed the motivation and the incentives of the auto industry to do advanced research and to make resulting changes:

> Our study (next) examined the question of whether or not there was any justification for the Federal Government to be supporting R. & D. on alternative automotive already underway. In attempting to determine whether or not it is appropriate for the Federal Government to invest tax revenues in such R. & D. it is not enough to merely find projects which are attractive from a social standpoint and are not being performed by industry. The automobile manufacturers have substantial programs underway in the area of low emission, high fuel economy alternatives to the ICE. They have the usual business incentive to develop and produce a product which will satisfy customer demand for fuel-efficient vehicles, and are under a legal mandate to meet Federal fuel economy and air pollutant emissions standards. Since they are also motivated not to waste money, it is natural that there are some R. & D. projects which they have rejected as unlikely to result in an acceptable payoff by incorporation in a marketplace product. There is no *a priori* reason to assume that these rejected projects would make sound government investments. We examined industry alternative powerplant programs and found that they reflect a reasonable approach to the allocation of internal funds to this area, given the potentials of the different engine technologies and the current environment for alternative powerplant development which the government and the public have created.
>
> The issue, then, hinges on the question of the incentives to the manufacturers for developments in this area. If those incentives fairly reflect the costs and benefits of society generally, then there is no need for government support. If they do not, then government support is well justified. The possible disparities between the social and private incentives to alternative powerplant R & D lie in three areas: the features of investment in R & D which apply to all technologies, the externality associated with the air pollutant emissions, and the value of reduced fuel consumption.
>
> Very often no one firm can capture all the benefits of a technological advance. This is the economists' usual argument in favor of government support of R & D. It applies particularly in the case of basic research, and is a sound justification for much of the work supported by the National Science Foundation. It is not as relevant with respect to product development efforts; if it were it might justify Federal subsidies for new, less expensive, washing machines, for example. However, the vast impact of the production and operation of automobiles increases the importance of this argument in the automotive area.
>
> The second possible social-private disparity is in the area of air pollutant emissions. One might assume that this disparity has been rectified by the Clean Air Act, which virtually forbids the sale of vehicles which do not meet standards theoretically set to protect the public health and welfare. The Act is an effort to transform the costs associated with air pollutant emissions from the health and other losses, implicitly paid by users of air generally, to the costs of emissions control, paid by the motor vehicle buyer. The motor vehicle manufacturers then have an incentive to provide emission-controlled vehicles at minimum additional cost; this incentive makes R & D in this area a reasonable investment.
>
> However, for a number of reasons the incentives provided for long-range R & D projects, such as those concerned with advanced powerplants, have not been nearly as high as the firmness of the Clean Air Act would lead one to believe. First, the standards of the Clean Air Act, in spite of the tough language of the Act, have had to be adjusted several times to levels that could be met by the ICE without drastic performance degradation or cost increase, or increase in emissions of unregulated pollutants. There is therefore little advantage to a manufacturer in introducing a powerplant which offers lower emissions as a cost premium. Thus the social benefits of reduced emissions have not been effectively internalized and provide a limited incentive to alternative powerplant R & D.
>
> Second, the uncertainties inherent in the administration of the Act are inhibiting investments in alternative powerplants by making them riskier. For example, the long-term standard for oxides of nitrogen is effectively unknown right now, due to the number of credible alternatives to the statuary 0.4 g/mile standard. The underlying problem is the lack of a solid technical justification. A similar problem arises with respect to standards for emissions of a number of presently unregulated pollutants which are emitted by some of the alternative powerplants. For example, an emission standard for particulates would probably be imposed if the diesel engine were to become widely used. The standard might result in significant costs added to the diesel vehicle, or it might not, but the uncertainty inhibits private investment in the system.
>
> Third, the requirement that each of the vehicles produced in any one year must meet the same standard means that there is no mechanism whereby a vehicle with an advanced engine, whose emissions are superior to those of the ICE, can be gradually introduced, providing a significant obstacle to any major technological change. This feature of the law reflects the industry's traditional annual model change, and it encourages exactly the type of innovations made in the model change, namely, incremental ones. Major technological innovations take much longer than one year to diffuse across the industry's product lines.
>
> Finally, the year-by-year approach for strengthening, then postponing, the standards, has forced the manufacturers to concentrate their resources on short-term modifications which can be rapidly introduced. The House Commerce Committee decided just last week, on March 9, its position on the Model Year 1978 emission standards. When the Congress will complete its consideration of the near-term standards is unclear. Yet Model Year 1978 vehicles will be in the showrooms in only about a year and a half. This type of uncertainty is totally inconsistent with the type of planning necessary in capital-intensive industries, and again inhibits investments in long-range emissions-related R & D.
>
> Lastly, there is the issue of the value of the fuel which might be conserved by development and introduction of some of the alternative powerplants. There is obviously a desire on the part of new car buyers for vehicles which are efficient. The manufacturers are responding to this, and it provides an incentive for the development of new efficient engines. However, the petroleum product price controls hold the domestic price of automotive fuels well below their effective value to the nation, which is, unfortunately, determined by the OPEC cartel. Thus, investments in any fuel-conserving technology are undervalued in private calculations, by automobile buyers or producers. This affects a number of the alternative powerplants, which would cost more than an equivalent ICE but provide an operating cost advantage due to their superior fuel economy. The key parameter determining the trade-off between initial and operating costs is the price of fuel. Thus, for example, Stirling-powered vehicles might have a life-cycle cost advantage over ICE-powered vehicles when the social value of fuel is used in the calculation, but not when the controlled domestic price is used. This inhibits investment in R. & D. on more efficient powerplants.
>
> Another reason why fuel is undervalued in private terms is that high fuel consumption increases the vulnerability of the nation to embargo by the Arab oil producers.
>
> These social-private disparities in the value of improved fuel economy have probably been rectified to some extent by the fuel economy standards contained in the Energy Policy and Conservation Act, which became law last December. The flexibility inherent in the use of fleetwide standards should avoid some of the difficulties associated with the individual vehicle standards of the Clean Air Act. However, the complicated provisions of this Act and their effect on the industry's R. & D. investment behavior are very difficult to analyze.
>
> Considering the total effect of the traditional economic arguments, the impact of the Clean Air Act, and the fuel economy issues, we have concluded that there probably is a significant disparity between the social and private costs and benefits of alternative powerplant R. & D.

The detailed study by the Jet Propulsion Laboratory which I mentioned earlier concluded that it will cost about $30 million per year for R. & D. on a given engine type to develop it to the point where a production decision can be made in the mid 1980's. They recommend work on two engine types—the turbine (Brayton) and Stirling cycle engines. I have just noted that industry's programs of about $5 million on each engine type is woefully inadequate compared to the need.

Next, it is important to look at the existing Government programs. In the 5 years from 1969–74, the EPA alternative engines program received funds averaging a total of only $5 million/year for all programs—mostly concentrated on steam (Rankine) and turbine (Brayton) engines—with primary emphasis on emissions. In fiscal year 1975 the total program now transferred to the ERDA received approximately $8 million for work on heat engines. In fiscal year 1976 the program is funded at $8.6 million. On the two most promising alternatives the Brayton and Stirling engines, the program this year is for $6.5 million and $0.5 million respectively. This is a far cry from the $30 million per year program needed for each engine to bring it to a stage by the mid 1980's so that a production decision can be reached by industry.

Mr. Chairman, the benefits to the American people of an adequate program are clear. The potential fuel savings and health costs savings come to many billions of dollars per year. We are talking of a program in the $40 to $50 million per year range for a period of only 5 years.

I would like now to address some of the objections to this legislation that have been raised.

To the argument that industry R. & D. in these areas is adequate, I would reply that the industry programs of only $5 million on a given engine—a factor of 5 or 6 below that recommended by experts—can hardly be considered adequate.

To the retort that Government already has a program, my response is that I have presented the facts showing that it, too, is several times too small.

To the request that we await the results of additional studies I must say that there have been and will continue to be expert studies. We must not continue to hope that a study will say the problem does not exist. Every minute that we delay solution of a recognized problem we increase the possibility for the problem to become more critical. The exponential growth of population and of resource use is something that we cannot take a lax attitude toward year after year. There have been studies within the past 4 years dealing with the question of alternative engines. This is not to downgrade the forthcoming studies. They will be useful in their context when they are issued. However, we cannot wait until all the paper studies are done before we begin in earnest. We included in the committee report the statements of the importance for the ERDA to recognize and take into account various studies as they come along, but we cannot wait endlessly until all the paper studies are done before we take action. Expert testimony before our subcommittee strongly emphasized this fact.

To the comment that the R. & D. program is undefined and does not fit together well with the existing ERDA program, my answer is that the legislation defines the program to the extent to which it should be defined. It defines the objectives, it defines the time frame, and it defines the institution structure to achieve the goals. The report is much more specific in mentioning two particular advanced engines, but properly does not insist that these have to constitute the program, even though we perceive that the ERDA and nearly all experts agree that these are the best engines to work on. As far as fitting into the ERDA current program, the fiscal year 1975 funding level was a mere $8 million, and in fiscal year 1976 it was only $8.6 million.

For fiscal year 1977 the President asked for $12.8 million, and the House has authorized $10 million more. If this roughly $23 million were appropriated for fiscal 1977 along with the $20 million authorized in this bill, there would be $43 million in funds for the program next year. This is the minimum needed for solid programs on two advanced engines. It fits perfectly with the ERDA existing program and is exactly what is needed to make the program strong enough to meet the future needs of the people of this Nation.

To the point that this bill is intended primarily to aid Federal laboratories, my comment is, Mr. Chairman, that the bill recognizes that there are several agencies that can make potential contributions to this research, and sets a limit on the fraction of funds that can go to Federal labs. Even if the miximum—60 percent—of the authorized $20 million went to only one agency's laboratories, it would only be a fraction of a percent of that agency's budget. Every one in this Chamber respects the technical competence of our national laboratories, and recognizes the potential contribution that can be made in certain parts of the R. & D. on this very important national problem. This bill seeks the best scientific and technical talent and facilities for working on a problem for the American people. Some of the talent and facilities will be found in the Federal laboratories for some of the specific problems. Some of it will be found in the industry. Mr. Chairman, one aspect of this bill, the industry-Government fellowship program, will help optimize the interface between these two great sources of talent.

Now, I mentioned at the beginning that the people of this country, the Congress and the administration have long recognized the need to begin a vigorous program in this area. More than 20 bills have been introduced in this 94th Congress addressing this opportunity to act on behalf of the American people. This bill distills much of the best of those and sets forth a realistic and aggressive program to properly meet the challenge in the automotive area. This is a good bill. It is needed, and I urge the strong support of the Members of the House.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I would like to ask the gentleman from Washington whether or not the provisions contained in this legislation are duplicative of the work in the private sector. We have a great deal of research facilities contained in the private sector. I am wondering whether the program that is outlined in the legislation before us would be supplemental to those private research facilities where certain work of this character is going on right now.

Mr. McCORMACK. Yes, the program would be supplemental to the industrial effort, rather than supplanting it. However, in most cases it would initiate new programs that are not now being carried on by private industry. It is not designed to be duplicative, but it is designed so that it would actually take the lead in certain areas where private industry is not initiating programs or carrying them forward fast enough. This is where this legislation would be of help.

Mr. HILLIS. Mr. Chairman, if the gentleman will yield still further, I might mention that I have had occasion to visit the General Motors research center facilities and they are certainly quite extensive. I would ask the gentleman from Washington whether this program would be supportive of that type of endeavor that is going on there?

Mr. McCORMACK. Mr. Chairman, in answering the gentleman from Indiana I want to choose my words very carefully so that I do not confuse the situation. The Energy Research and Development Administration is going to determine what the needs are concerning engines, pollution abatement systems, transmission systems and drive systems, and so forth, as well as the improvement of fuel versatility. Each of these are important programs. It is obvious, of course, that we must recognize that some research of this sort is being carried out by private industry and we do not intend that what the ERDA will be doing will be duplicative of that research.

Mr. HILLIS. That was my main interest.

Mr. McCORMACK. Does that answer the gentleman's question?

Mr. HILLIS. Yes, I think it does.

It also seems to me that perhaps with this bill we will be taking a different stance, that of being able to stand back and look over the whole problem whereas the private industry is dealing pretty much under the gun, so to speak, in order to meet pollution standards by a certain time, and also to make significant savings in fuel by 1980, and so forth. In that respect the private industry is probably pretty well started down the road toward ways that they see to solve their problems and therefore do not have time to do some of the basic research and development work in the energy fields that this bill would do.

Mr. McCORMACK. The gentleman from Indiana is making a very important statement. There is no question about the fact that the automobile manufacturers are doing research and development work but along with that they are faced with certain restraints—technical restraints and economic restraints. At the same time there is work in many fields today that must be done. This is what we are contemplating through this legislation.

Mr. HILLIS. Mr. Chairman, I thank the gentleman from Washington and I support the legislation.

Mr. GOLDWATER. Mr. Chairman, would the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, the question the gentleman from Indiana (Mr. HILLIS) has been pursuing is probably one of the key questions in regard to this legislative approach toward automotive power plant development. It must be complementary, and that was one of my grave concerns during the markup. I must compliment the gentleman from California (Mr. BROWN) and the gentleman from Washington (Mr. McCORMACK) and also agree in essence to that same posture.

The last figures that I have for the various amounts of money that the three automobile companies are putting into this powerplant research is in the year 1973, the General Motors program, $23 million; Ford, $26 million; Chrysler, $3 million. It seems to me consistent throughout the rest of the years, the point being that they are spending a considerable amount of money. What we want to do is, as the gentleman says, to supplement and not supplant. In fact, we were able to agree to language that under the duties of the Administrator it says specifically that the Administrator shall, in section 4(11), insure that research and development under this act supplements but does not supplant the automotive research and development efforts of private industry.

Mr. HILLIS. I thank the gentleman very much.

Mr. McCORMACK. I thank the gentleman from California for that addition.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

What is there already in ERDA, both in program and money authorized as related to automotive propulsion?

Mr. McCORMACK. There is a limited program for heat engines already established within the Energy Research and Development Administration for automotive propulsion. The problem is it is too small and inadequately directed. What this program essentially does is expand it and redirect it.

Mrs. FENWICK. I thank the gentleman.

Mr. MOSHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I like the colloquy which we have just heard among the gentlemen from Washington, Indiana, and California. It certainly is true that the automotive industry is under the gun right now and is forced to concentrate on near-term needs, whereas this legislation is intended to stimulate and to provide initiatives for advanced R. & D. I feel the private industry sector cannot do so now and is not likely to do so in the near future. That is the nature of our present situation. Therefore, Mr. Chairman, I strongly support this legislation.

However, for the record, I think it must be said that there were some doubts on our side of the aisle, and it is possible that my colleague and friend, the gentleman from California (Mr. GOLDWATER) will express some of those doubts for the record. I will yield him time as soon as I complete my own remarks.

Moreover, I think it must be in the record that the Office of Management and Budget has some doubts about the necessity of this legislation. However, it is my complete belief that this legislation is in the national interest. This is the direction in which the Congress should go.

Mr. Chairman, I strongly support the bill before us, H.R. 13655, the Automotive Transport Research and Development Act of 1976.

But I must admit, Mr. Chairman, that there is some difference of opinion on our side of the aisle concerning this proposal. My esteemed colleague and friend, Mr. GOLDWATER, the ranking minority member of the subcommittee, has some doubts about this legislation, and I will yield time to him to express those doubts as soon as I complete my own remarks here. I have great respect for the views of the gentleman from California.

Moreover, I am told that the Office of Management and Budget considers this legislation not necessary. But I believe the evidence before our committee, and the general situation in this Nation make it very evident that this bill is necessary.

It is very necessary in the public interest, that the Government initiate, stimulate, and persistently support an aggressive program of research and development to improve automotive performance. That is exactly what we are proposing in this bill.

Frankly, I doubt that the automotive industry itself feels that sufficient incentives exist for that industry on its own to conduct as quickly as is needed the type of research and development that this bill would initiate. In fact, I see some disincentives for private industry to accept full responsibility for this needed research and development.

The automobile's effect on 20th century American life can hardly be overstated. It helped establish a strong industrial base which lies at the foundation of many other achievements. As examples, the automobile was responsible for promoting advances in rubber technology; metals and materials; safety glass and artificial fabrics. The "ripple effect" of the automotive industry is perhaps greater than any other such activity in our national life.

Recognizing that, H.R. 13655 looks ahead to a new, needed era of automotive development. It proposes a 5-year intensive program of R. & D. to bring into being, new and very advanced propulsion systems.

This need for meaningful improvements in automotive performance has been reinforced by the energy crisis. The transportation sector of our economy consumers 25 percent of the total U.S. energy usage. The automobile accounts for over 10 percent of domestic energy consumption, and trucks account for about 5 percent. It is clear that the cumulative effect of even small improvements in automotive performance can make a significant contribution to conserving petroleum.

The lead agency selected to manage the program is the Energy Research and Development Administration—ERDA. Elements of ERDA's role include: R. & D. in its own laboratories and those of other Federal agencies; industry-government exchange of scientists; and the testing of promising ideas in advanced propulsion systems. The Department of Transportation assists by collecting and disseminating technical information; evaluating current activities in the private sector; and making its facilities available for testing and certification. The National Aeronautics and Space Administration—NASA—also participates in the effort because of its long history of success in fostering advanced technological systems. The most innovative Federal R. & D. may well be performed by NASA.

I personally am very familiar with and impressed by the superb competence of NASA's Lewis Research Center at Cleveland, for R. & D. in all forms of propulsion. I believe it is a material imperative that we make the best possible use of that competence, and give it considerable freedom of initiative for this R. & D.

While the Federal Government had conducted research activities on various aspects of automotive propulsion systems in the past, those efforts were relatively small in scale and fragmented. In the period 1969–74 the Federal effort totaled $35 million. Beginning in 1974, increased activity emerged in Federal agencies such as NASA, DOT, and NSF. The Federal effort was partially consolidated under the Energy Reorganization Act of 1974 which established ERDA as the lead energy agency.

This bill focuses on the very heart of our personal transportation system, the automotive engine. However, the purpose of the bill is not simply to accelerate engine technology, but also to erect the framework for a strong industry-government partnership. I would hope this partnership would become as effective as that which exists in civil aviation.

It is no accident that U.S. aircraft engines have been the finest in the world for three decades. NASA's partnership with industry has had a lot to do with that. In fact, I believe that a similar partnership in automotive propulsion could go a long way toward achieving a positive balance of payments from expanded U.S. automotive sales abroad, such as has been enjoyed by the U.S. aircraft industry.

There are no cries of unnecessary Government intervention from the manufacturers of aircraft engines; they understand that NASA truly complements their research role and this makes them stronger competitors at home and abroad.

I hope that industry further perceives the intention of this bill to place ERDA and NASA in the critical role of "technical broker" between them and the regulatory agencies. Thus, this new relationship will give added vitality to automotive research while precluding the imposition of unrealistic regulatory standards.

Let us support this bill which provides

the automotive industry with real return on their tax dollar in the form of the Federal Government's support in focusing advanced technology.

The Federal effort in advanced automotive propulsion systems is intended to complement and stimulate corresponding efforts in the private sector. The Federal activity could well bring a fresh perspective and accompanying advances in automotive technology.

It is important to note that the systems to be investigated go beyond the conventional gasoline-powered internal combustion engine. Innovative systems involving turbines, diesel engines and electric drive will receive attention.

The program will thus have dual objectives. The first is to take an independent look at conventional automotive systems and search for ways of improving them. The second objective is to stimulate the emergence of new automotive concepts.

Current automotive systems have evolved over several generations. This has resulted in a somewhat patchwork arrangement of technologies in today's models. A fresh "start from scratch" may well yield improvements and economies which go beyond merely "add-ons" to current technology.

H.R. 13655 authorizes $20 million in fiscal year 1977 for the bill's program. The projected cost over the next 4 fiscal years is $130 million. The total Federal level of effort in fiscal year 1977 will exceed $20 million, because parts of ERDA's current program in conservation technology also address some automotive topics.

Mr. Chairman, in the past the Federal Government has been criticized for mandating technological results of the private sector but not itself contributing to the achievement of its objectives.

H.R. 13655 recognizes the fact that the Government must work with the private sector in encouraging advances in technology. The direct exposure of Federal agencies to the realities of automotive technology will give a sense of appreciation and understanding which should carry over into other governmental decisionmaking processes.

Mr. Chairman, the Automotive Transport Research and Development Act of 1976 is a worthwhile measure which deserves our support.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I thank my colleague, the gentleman from Ohio (Mr. MOSHER) for yielding.

I want to say that I have opposed H.R. 13655, the Automotive Transportation Research and Development Act of 1976, and I have opposed this legislation from the beginning, as I basically do now. Without going into a great deal of detail, I would only refer my colleagues to page 53 of the report for further explanation of my basic concerns.

I want at this point to compliment the members of the Subcommittee on Energy Research, Development, and Demonstration, specifically the Chairman, the gentleman from Washington (Mr. McCORMACK), and also other Members, my colleague, the gentleman from California (Mr. BROWN), for the spirit of cooperation as well as concern that was demonstrated in allowing me the opportunity to express my objections, to have those objections thoroughly debated, aired, explored, and in some instances adopted.

It is the kind of cooperation that I personally believe produces good legislation and it encourages me as one legislator when I am able to work with such distinguished people, as well as legislators, who recognize that in debate and out of debate comes good legislation which all of us can live with and that all of us can respect.

In particular I would like to recognize a staff member, Mr. Gordon Dunn, who came to the Science and Technology Committee as a Commerce Science Fellow. He singlehandedly ran the hearings and pretty much drafted the legislation and he did an excellent job in allowing us the opportunity to bring to the floor this bill.

I previously have strongly opposed H.R. 13655, the Automotive Transport Research and Development Act of 1976 for three basic reasons. Before addressing my current position, I think it would be best to review those reasons.

First, I was convinced that the bill, as reported, was objectionable and further, that there was no justification for separate automotive R. & D. legislation at this time, because:

First. It is primarily oriented toward Federal labs—NASA labs and NASA with at least 60 percent of the funds intended for them;

Second. The R. & D. program is undefined, with total discretion over types of R. & D.;

Third. Industry R. & D. in these areas is substantial and adequate;

Fourth. ERDA already has an existing program in this R. & D., with $34 million authorized for it in the ERDA bill;

Fifth. The H.R. 13655 relationship to the existing ERDA program is undefined and the impact on the existing program is potentially damaging;

Sixth. There is absolutely no justification to act now;

Seventh. There is every justification to not act now, in order to get input from major executive branch and OTA studies in progress; and

Eighth. The ERDA annual authorization is the better way to handle this R. & D.

Each of these points is discussed in detail in my individual view on this bill, at page 53 in the committee report. That discussion at least provides persuasive support for these points, if not totally conclusive support.

Second, I was convinced that the passage of H.R. 13655 is not simply passage of this objectionable, but limited to $20 million, auto R. & D. bill. Rather, I believed H.R. 13655 was intended by its proponents to provide a legislative vehicle to bring the companion Senate bill, S. 3267, back to the House. The original subcommittee draft of H.R. 13655 closely approximated much of S. 3267, but amendments I sucessfully offered materially reduced the scope of the bill to its reported provisions. Consequently, passage would probably lead to a conference bill with close to the S. 3267 funding of $155 million in direct grants, $175 million in loan guarantees and a series of objectionable provisions.

S. 3267, apart from the wholly unjustified $155 million funding and $175 million in loan guarantees, is totally objectionable in its general thrust. The R. & D. is directly focused on the Federal Government developing a production prototype(s) of advanced automobiles. There is absolutely no justification for the Federal Government supplanting the auto industry in such R. & D. except, as the Senate Commerce report on S. 3267 strongly implies, as a first step toward imposing such Federal Government prototype designs on the auto industry by regulation. Production line technology and production prototypes is just the area where industry has the greatest expertise and the greatest economic incentive in light of foreign competition. That is also the area, conversely, in which the Federal Government is least capable of effecting meaningful research and development.

The specific provisions of S. 3267 are equally objectionable. The program is placed in the Department of Transportation, not in the Energy Research and Development Administration — ERDA, which has the statutory authority for such R. & D. under the Energy Reorganization Act and the Federal Nonnuclear Energy Research and Development Act. There is no clear restriction on the size of the recipients of these funds, so that one of the big four automobile corporations could be funded under the bill. There is no restriction on nationality of recipients so funds could go to Volkswagen or Toyota or Datsun. There is no restriction on where the research is done, so that it could be done overseas. In short, a conference bill approximating S. 3267 would be wholly unjustified and objectionable.

Third, I was convinced and I continue to be convinced that the House already acted resolutely to reject this Senate program and that H.R. 13655 could lead to yet another attempt to impose the Senate's will in the House. The House voted 300–103 on my motion last December to strike a nongermane auto R. & D. part of the S. 622 conference bill, the Energy Policy and Conservation Act of 1975, or the so-called oil deregulation bill. That auto R. & D. part was virtually the same bill as S. 3267, albeit with slightly lower authorized levels than S. 3267. The auto R. & D. part was included in the conference bill on the demand of the Senate, which previously has passed it as one title of S. 1883, a bill on which the House has never acted. In reality, then, H.R. 13655 could be another attempt to get, by way of a new conference, what the House previously rejected in S. 622 conference bill. I objected in December to that attempt, and I would object again now.

For these reasons, I previously urged each Member to oppose H.R. 13655.

As should be clear from this discussion, my past objections to this bill have been based as much on what it could become in conference, as on what it is now, as reported. While I continue to believe that the eight points I mentioned earlier about the current House bill are still valid criticisms, I also believe that reasonable men may differ as to the exact details on how best to structure a Federal program for advanced automotive propulsion systems. And that is basically where I differ with the committee on the bill before us. I would hasten to add that the bill has been materially reshaped by the 11 amendments I offered which were adopted in subcommittee and committee.

And, in the final analysis, this bill does make future years' authorizations subject to the annual authorization process after an intial $20 million in fiscal year 1977 to get it started, so we can continue our debate in that process. So, at this point, I can state that my most severe objection to the bill is what it can become in conference; and how the conference bill might circumvent the safeguards in my amendments, which are now in the House bill.

Specifically, this bill in its current condition is vastly more acceptable than any other auto R. & D. bill we could have before us. That condition, as I mentioned earlier, partially is a reflection of my 11 amendments. What could make this bill acceptable to the House are several key points which distinguish this bill from the other auto R. & D. bills being considered in this session.

This bill only has funding of $20 million for fiscal year 1977, which is consistent with the testimony we received supporting a $20 million to $30 million annual level.

This bill has annual authorizations for subsequent years, rather than setting levels now, thereby allowing us to take into account the major Interagency and OTA studies now in progress and to insure that the program is implemented in conformance with the limitations and requirements in the bill, such as not supplanting industry R. & D. All of our testimony supported annual authorizations, instead of rigid legislation now.

This bill will probably lead to a total $150 million program over 5 years, instead of the same total over 2 years proposed by others, consistent with our testimony on the costs of advanced propulsion R. & D.

This bill focuses on advanced propulsion R. & D. rather than development of advanced prototype vehicles or production prototypes, again consistent with all of our testimony and our committee conclusion that such developments be left to industry.

This bill includes authority for direct grants to support this R. & D., but does not authorize loan guarantees since there is no production or commercial demonstration aspect in the bill. It is particularly noteworthy that there was no testimony supporting loan guarantees or any form of Federal assistance other than direct grants.

This bill specifically provides that this R. & D. should supplement, but not supplant the auto industry's R. & D. And this R. & D., consistent with our testimony and committee conclusions, should focus on areas where industry does not have the economic incentive or the capability to do the research.

There are key elements of this bill which could strike a reasonable balance of the competing positions on a new Federal auto R. & D. program and auto R. & D. legislation. Again, however, I am most concerned about what may happen to these elements and safeguards in conference.

I therefore would like to inquire of our distinguished chairman and subcommittee chairman about those amendments and safeguards.

Mr. McCORMACK. Mr. Chairman, if the gentleman will yield I will be glad to answer whatever questions he will ask.

Mr. GOLDWATER. I wonder if the gentleman will respond to a few of these questions?

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent that in this colloquy with the gentleman from California (Mr. GOLDWATER) we both be granted permission to revise and extend and modify our remarks made throughout the colloquy.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. GOLDWATER. Is the bill's funding of $20 million for fiscal year 1977 the appropriate and justified level for fiscal year 1977, and further that funding much beyond this level in fiscal year 1977 would be wasteful and unjustified?

Mr. McCORMACK. Yes; in response to the gentleman, I feel that the $20 million authorized by this bill is adequate for fiscal year 1977 when taken in conjunction with the funds for the heat engine activities included on the transportation conservation program in the ERDA authorization bill for fiscal year 1977, which was passed by the House on May 20.

Mr. GOLDWATER. Would the gentleman agree that annual authorizations for future years after fiscal 1977 are the best way to legislate this program, rather than setting levels now for later years, in order to take into account the major interagency and OTA studies on this program now in progress, and to insure that this program continues to be in conformity with the requirements of the bill—such as not supplanting industry R. & D.

Mr. McCORMACK. I agree with the gentleman that we should look at each program on an annual basis to see what progress is being made both in this program and the industrial programs and what the current situation is in terms of energy supply, pollution problems, and foreign competition. This is a more prudent approach because we might authorize levels of funding today which prove unrealistic in the future. The studies now in progress will aid our efforts to decide on the authorization for this program in fiscal year 1978 as part of the normal ERDA authorization bill.

Mr. GOLDWATER. Would the gentleman agree that an approximate level of funding of $150 million over 5 years was the figure which our testimony supports, certainly not $120–$150 million for 2 years?

Mr. McCORMACK. I think that it is clear that the program established by this bill can not profitably commit $120 to $150 million for research and development over the next 2 years. Whether $150 million will suffice for 5 years is a question which I do not think we can decide now. It should be left to the annual review. If we should decide to develop two alternative propulsion systems, it may require on the order of $200 million over 5 years. The decision to develop one or more must be based on the results of the early work.

Mr. GOLDWATER. Would the gentleman agree that the most appropriate focus for any Federal auto R. & D. is on advanced propulsion systems and not on advanced prototype vehicles, nor commercial demonstration vehicles? This refers to any program other than the electric vehicle demonstration program.

Mr. McCORMACK. My feeling is that with an existing automobile industry which is highly competent in reducing technology to practice through mass production techniques, it is unwise for the Federal Government to initiate a program aimed at producing production prototypes where hundreds or thousands of vehicles are fleet-tested before actual mass production. Testimony before our subcommittee substantiates this position. However, we do not want to preclude fabrication of a few test vehicles to evaluate the performance of alternative propulsion systems, and components under realistic conditions.

Mr. GOLDWATER. Since the basic thrust of this bill is R. & D. and not production prototypes and commercial demonstrations, would the gentleman agree that loan guarantees are not a desirable or justified form of Federal incentive to accomplish this R. & D., and further that no testimony supported loan guarantees for this R. & D.?

Mr. McCORMACK. Yes, I agree with the gentleman that loan guarantees are not an advisable provision for research and development related to conventional automobiles when there is no guarantee for sales of any marketable products resulting from the program and when there is an existing industry which will provide stiff competition for new entrants into the business. Repayment of loans for R. & D. would seem in general to be tenuous at best.

Mr. GOLDWATER. Does the gentleman agree that any auto R. & D. bill should require a comprehensive plan and program, adequate protection of proprietary information, and a patent policy consistent with Public Law 93–577?

Mr. McCORMACK. I agree totally with the gentleman. The annual ERDA plan and program must address this new responsibility in detail. We must also insure the protection of proprietary information for all concerned, not only the large automotive companies, but also for the individual inventor or small company whose only standing in the field may be a proprietary design, a fabrication method, or an unpatentable idea. The patent policy of Public Law 93–577, the Federal Nonnuclear Energy Research and Development Act is the most comprehensive patent policy in the Federal Government and is flexible enough to meet equitably the needs of both the Government and the contractors. I definitely support its applicability to the program established by this bill.

Mr. GOLDWATER. Does the gentleman agree that any Federal auto R. & D. program should only supplement, not supplant, the auto industry's R. & D., and should be closely coordinated with industry so as to avoid unnecessarily duplicating industry's R. & D. successes or failures. And, additionally, that testimony and the committee agree that Federal R. & D. should focus on areas where industry does not have the incentive or the capability for research?

Mr. McCORMACK. I totally agree with the gentleman's first two points regarding supplementation of and coordination with the industrial efforts. I would point out with regard to the focus of the R. & D. that in some cases the existing industry may very well be the only capable participant for certain projects so that we do not want to preclude such joint or cost-shared activities in attaining our goals.

Mr. GOLDWATER. Does the gentleman agree that ERDA and not the Department of Transportation should have the responsibility for this R. & D. and that the relationship of this new ERDA program and the existing ERDA auto R. & D. efforts, as well as existing DOT and DOD programs, should be clarified in future appropriation and authorization requests.

Mr. McCORMACK. The ERDA should definitely have total responsibility for R. & D. on alternative propulsion systems and I understand that there is a memorandum of understanding between the ERDA and Department of Transportation on this point. I do not think it requires clarification beyond this interagency agreement. Naturally, we can expect the ERDA to inform the committee of its intended approach to dovetail its activities under this act with its existing activities in automotive R. & D.

Mr. GOLDWATER. Just the last concern. Do I understand that the Department of Transportation activities related to evaluation of industrial utilization of current technology in meeting societal needs are not intended to result in any mandatory Federal requirement that specific technologies be incorporated in future automobiles, but rather should be focused on incentives where appropriate to accomplish the same end.

Mr. McCORMACK. Yes; the DOT activities are intended to see that the technology developed in this program is utilized to the extent that it will aid the domestic automobile industry.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for his responses.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, I know the gentleman from California is very familiar with the NASA Lewis Research Center in Cleveland. I wonder if the gentleman would agree with me that the superb competence at that Center, particularly in advanced propulsion systems and especially in gas turbine technology and the supporting material research, especially in ceramics and that sort of thing; and is it not true that that type of competence for really advanced research is the type of competence that we want to make abundant use of in this legislation which we are considering today, as something that will be very supportive of and useful to private industry?

Mr. GOLDWATER. Mr. Chairman, I would agree with the gentleman from Ohio that at the Lewis Laboratory, as well as other laboratories such as JPL, we have a great natural resource.

We certainly should utilize that expertise, because it can complement this effort, specifically in automotive R. & D.

Mr. MOSHER. If the gentleman will yield further, does the gentleman agree that it is intended that we use that expertise through this legislation?

Mr. GOLDWATER. It is intended to use that expertise, but it is my concern that we do not utilize these limited amounts of money to further expand laboratory personnel at the expense of the expertise that lies in the private sector. Certainly I think the intention of this bill is to bring to bear against the problem the expertise that lies throughout this country, whether it be in the laboratory or in the private sector.

I would look with a certain amount of distaste if every dollar we appropriated for this legislation wound up solely in our laboratories; but certainly that great resource that exists in our laboratories is the type of expertise that we need in this particular type of program.

Mr. MOSHER. If the gentleman will yield further, I think for the record it needs to be pointed out that historically only 20 percent of NASA propulsion R. & D. funds have been spent inhouse.

So, inhouse funds, if we follow that example, will amount to but a relatively small amount, and private industry will have a very major role in this effort. I know that is important to the gentleman in the well.

Mr. GOLDWATER. It certainly is. One of the problems I had with the legislation was being unable to pin down precisely the role of the laboratories and the amounts of moneys we are talking about. I do not know if it is 20 percent or not. I dislike seeing us substituting Government-run, owned and operated facilities for the private sector, but there again we would be wrong in not recognizing the tremendous wealth of resource, of expertise, that lie in our laboratories. I think we would be wrong in not utilizing them.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Kansas.

Mr. WINN. Mr. Chairman, I rise in support of H.R. 13655, the Automotive Transport Research and Development Act of 1976.

The automobile has contributed significantly to our modern society. First and most obviously, it increased the mobility of persons to travel for personal and employment purposes. This provided a general stimulus for economic activity. Second, the automobile created an entire new American industry; an industry which permeates our industrial sector. It is a tribute to the private sector that the automobile was developed almost exclusively through private initiative. It stands as a shining example of American ingenuity and resourcefulness.

Because of the special place the automobile has in our economy, it is in the public interest to maintain a keen awareness of automotive technology. The automobile affects employment, energy consumption, and environmental quality. To fill this need, H.R. 13655 establishes a 5-year program within ERDA to investigate advanced automotive propulsion systems. The program will cover both conventional and nonconventional systems. Work on conventional systems may yield near-term results on how to improve the performance of current propulsion systems. Work on nonconventional systems could point the way to future propulsion systems which may be significantly better than the internal combustion engine.

The bill directs ERDA to undertake a multiphased effort. ERDA will contract with other agencies and the private sector for R. & D. on advanced propulsion systems; establish its own laboratory capability in automotive technology; and conduct an industry-Government fellowship program with provision for scientist exchanges. In order to maximize the Federal effort ERDA is directed to make use of the skills of other Federal agencies. One prominent agency is the National Aeronautics and Space Administration, NASA. NASA has a long history of success in developing technology. It has the experience and managerial breadth to analyze the problem, devise a plan for investigating all important aspects, and then integrate the individual results together.

Mr. Chairman, the Federal Government's active pursuit of advanced automotive technology should not be perceived as a sign of criticism by our private automobile industry. As I pointed out earlier, the automobile has made a valuable contribution to our country and we should be grateful for it. The Federal involvement will bring a new point of view to bear on an old topic. The goal is to foster some innovative ideas to emerge which may someday find their way into our automobiles.

We recognize and appreciate that an automobile is a complex aggregate of technologies. Besides pure technical advances, the realities of automotive marketing include production, service, maintenance, and warranty aspects. It would be naive to believe that some isolated laboratory achievement could be casually incorporated into production model cars. H.R. 13655 will keep private enterprise in the driver's seat with respect to the design of production models and the timing of the introduction of any modifications.

This bill is not the first Federal activity in automotive technology. Between 1969 and 1974, the Environmental Protection Agency devoted $35 million to automotive techologies such as modified engine systems, batteries, alternative fuels, and flywheel systems. The actual level of effort in any one area was rather small and the program as a whole tended to be fragmented. The program which H.R. 13655 establishes will focus the Federal efforts in our main energy agency, ERDA. It will provide a solid framework on which to design and implement a coordinated Federal program. Previous Federal automotive research lacked this comprehensive approach.

Mr. Chairman, H.R. 13655 is a bill which will enable the automobile to maintain its outstanding track record in employment, enjoyment, basic transportation, and to have a positive stimulative effect on the overall economy. I invite my colleagues to join me in supporting it.

Mr. McCORMACK. Mr. Chairman, in behalf of Chairman TEAGUE, I yield such time as he may need to the gentleman from California (Mr. BROWN). However, before I do that, I would like to commend to the Members the gentleman from California, who has done a great portion of work on this bill—more than any other Member—and is responsible for the appearance of the bill on the floor today. He chaired most of the hearings in the subcommittee on this subject. I want to pay great tribute to him for his work.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I just want to say that normally I would hope that this type of activity would not have to be funded by the Government. But it would appear that the automobile industry in this Nation has not responded as I think it could and should have.

This was pointed up only recently with findings that a foreign automobile manufacturer, manufacturing the Volvo, has now met all the statutory air pollution standards and has also increased mileage as well. I think it is disappointing to the American public that this latest advance has not been made by American industry, leaving no alternative but for us to at least to try to do something to develop knowledge to get this country moving. Obviously foreign manufacturers have been more diligent in their efforts.

So I would support the legislation, although I had hoped that our own American industry would use enough initiative to do something about it.

Mr. BROWN of California. Mr. Chairman, I want to thank the gentleman from Florida for his comments. As long as he is on that subject, I might mention that while Volvo indeed has developed a system for controlling automotive emissions which meets the most stringent California standards, to the credit of U.S. industry it should be revealed that the three-way catalytic converter which they are using is produced in New Jersey. That is the main ingredient, I think, in the ability of the Volvo manufacturers to meet those stringent standards.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield with regard to the comment of the gentleman from Florida?

Mr. BROWN of California. I yield.

Mr. GOLDWATER. I would not necessarily come to the same conclusion that the automobile industry has not totally been responsive. I think we have to look further than that when we make that kind of statement, and ask the question, why not.

I would point out to the gentleman that General Motors, Ford, Chrysler, any of our corporations, have a limited amount of capital which they would be able to expend for research and development for any of that type of development.

I would only point out to the gentleman that from 1967 to 1973, General Motors alone spent $1 billion, just to comply with emission standards, while in that same period of time they spent less than $100 million on automotive powerplants.

It seems to me that a lot of this capital—and I do not know if we can draw these conclusions—went into meeting Government mandated requirements for clear air standards, perhaps, instead of going into automotive powerplant type of development.

In other words, the money was diverted to some sort of a bandaid, short-term solution instead of what would more sensibly be a long-term, new powerplant.

So although the gentleman may arrive at the conclusion that they have not done anything, they, in fact, have expended literally billions of dollars, not in coming up with a new powerplant, but in meeting short-term standards mandated by the Government.

In that, we see the folly of our legitimate efforts in environmental protection, in that we mandated the expenditures of capital perhaps going in the wrong direction, when it should have been going toward a new powerplant.

I only bring that up for the record so that we understand that when we argue that the automobile companies have not met the needs, we will know the reasons they have not met those needs.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I will be glad to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I do not share the gentleman's feelings because we have gone into this in some depth and in great detail in our committee and we are finding that the emission standards probably never would have been met or anything really basically done if we had not put a deadline in the law.

I think the consent decree signed by the auto makers pretty much points that up. Emission devices were developed in the 1960's, but the auto industry conspired not to use them. As the gentleman from California (Mr. BROWN) has just stated, even though it was an American company developing the device, we could not get our automotive companies to use it. It has been a foreign company that has done it. So they did not have to spend their money developing the three-way catalytic converter. That was done by Englehart. They could have developed any proposal they wanted. There was nothing to prevent them from doing this.

Mr. BROWN of California. I thank the gentleman.

Mr. GOLDWATER. If the gentleman will yield further, I will read from the report which analyzes these expenditures.

It says that the largest portion of this amount, of this $1 billion, was expended for capital items, equipment and facilities needed for the production and assembly of the emission control devices, especially catalytic converters, not in the research and development but in equipment to produce it.

Mr. ROGERS. If the gentleman will yield further, they charged the consumer. They do not pay it. They charge the consumer.

Mr. GOLDWATER. If the gentleman will yield further, the whole point here is that money might better have been used by putting it into advanced powerplant research for the long term, instead of the catalytic converter which is a short-term mandate.

Mr. ROGERS. If the gentleman will yield further, I doubt if the companies would have done it if they could have made more money that way.

Mr. BROWN of California. Mr. Chairman, if I may reclaim my time, despite this very excellent debate, I would like to thank my colleagues for their kind remarks, those made by the gentleman from Washington and by the gentleman from California, and indicate my own feelings that this was very much a team effort. This bill could not have been brought to the floor without full cooperation of everyone involved.

I wanted to indicate very briefly the amount of work that has gone into this bill. Extensive hearings have been held on the subject matter of this legislation in both the 93d and 94th Congresses. Copies of those hearings are available, of course, for anyone who might care to read them. The report on the bill, which summarizes these hearings, is one of the finest reports that I have seen. I appreciate very much the fact that the chairman of the subcommittee and the gentleman from California (Mr. GOLDWATER) both mentioned the excellence of the report and gave proper credit to the staff members who had been involved in that.

I should also point out that legislation similar to this has not only been introduced in the Senate but has passed the Senate on two occasions, to the best of my knowledge. This legislation has not previously been acted on by the House. So as a practical matter we are, I believe, very well prepared for this legislation on both sides, and it seems to me quite likely that we may be able to get House and Senate agreement on a suitable piece of legislation.

One of the basic problems in such legislation has been thoroughly discussed in the earlier colloquy and in the remarks of the gentleman from California (Mr. GOLDWATER). We are moving into an area which is obviously of concern to private industry. We need to set up a program in such a way that it compliments the efforts of private industry and does not conflict with or duplicate those efforts.

Mr. Chairman, on this point the gentleman from California (Mr. GOLDWATER) made a very great contribution. A good deal of the effort in tailoring this legislation was in drafting it to make sure it did in fact achieve this goal.

There have been a number of extensive reports commissioned earlier on this subject of the need for automotive research and development. To my knowledge, the most recent one was actually commissioned by the Ford Motor Co. and done by the Jet Propulsion Laboratory and Cal-Tech in the State of California. That report very definitely indicated the need for a program of this sort, and it spelled out the dividing lines between the Government role and the industry role.

We have received letters from all of the major automotive companies indicating that they feel the need for a Government role in research and development and again spelling out what in their minds are the proper boundaries. We have tried to establish these boundaries in this bill, and if it has any merit, I think the merit is that the committee has in my opinion done a good job in these areas and in trying to solve this very delicate problem of the proper division of work in necessary research and development as between the Government sector and the private sector.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, first of all, I want to compliment the gentleman from California (Mr. BROWN) for his fine work on this legislation.

Mr. Chairman, we have before us a bill that symbolizes America's ability to plan ahead for problems we foresee in the near and long-term future. The Automotive Transport Research and Development Act of 1976 (H.R. 13655) recognizes that our dwindling production of domestic petroleum coupled with our increased dependence on foreign imports, must be met with immediate action.

Transportation, which uses 50 percent of all the petroleum consumed in the United States each year, is crucial to the economic stability and national security of this country. Highway vehicles, including autos, trucks, and buses, use 75 percent of this transportation energy. Since our present propulsion system, the internal combustion Otto-cycle engine uses petroleum-based fuel with reduced efficiency to control pollutants, any research effort must produce an alternative propulsion system which will significantly increase the energy efficiency of our highway vehicles while protecting the environment. The Automotive Transport Research and Development Act wisely mandates that we begin now to develop such alternative propulsion systems.

Although the automobile industry has been experimenting for years with alternative engines, their efforts have been inadequate to the need. In testimony before the House Subcommittee on Energy Research Development and Demonstration, Dr. Lawrence Linden of the energy laboratory at the Massachusetts Institute of Technology, based on a recent study, emphasized that—

> The industry's alternative powerpant R&D programs have been small compared to its massive investments in other R&D such as in plant and equipment for modifying the standard internal combustion engine (ICE), the associated driveline, and the bodies and frames of their new vehicles . . . The industry position has traditionally been that they provide what the automobile customer wants . . .

According to Dr. Linden—

> Any major technological chance must . . . be preceded by a lengthy and expensive R&D process, and major investments in plant and automated mass production, before being introduced into an uncertain market place.
>
> Fuel injection and air suspension systems were two innovations which were introduced in the late 1950's without success in the market place. It is not surprising, therefore, that the industry is conservative in its approach to major technological changes . . .

For this reason, Mr. Chairman, I believe the Federal Government should supplement the automobile industry's efforts at R. & D. in alternative propulsion systems and should encourage cooperation between the research programs in the private and the public sectors.

If we expect to have a working alternative to the internal combustion engine by the mid-1980's we cannot afford to sit back and wait for industry to produce it with its current reticence to an accelerated effort.

Mr. Chairman, H.R. 13655 will encourage the automotive industry to develop a more intensive R. & D. program for new engines while making optimum use of knowledge gained through the activities sponsored by Federal Government. I consider it particularly important that the bill provides for a fellowship program to exchange scientists between government and industry. This will not only avoid the possibility of two projects pursuing the same research, independent and duplicative of each other, but it will enhance our chances for early success.

To further guarantee that there is no duplication of effort, on the behalf of the Science and Technology Committee, I am contacting Dr. Seamans at ERDA to investigate the feasibility of conducting a patent search of past inventions and ideas on automotive research. This should insure that adequate consideration is given to already patented but perhaps forgotten or overlooked innovations. In our efforts to solve our energy problems and create better transportation system, we must be sure that our time and money is not spent simply "reinventing the wheel."

Mr. Chairman, I believe that this legislation strikes a practical balance to achieve its goal of developing an alternative that will use various fuels efficiently and within safe environmental limits.

Mr. BROWN of California. Mr. Chairman, I believe the bill has been adequately explained by Members on both sides of the aisle. I have no further remarks to make, and I yield back the balance of my time.

Mr. VANIK. Mr. Chairman, I am pleased to rise in support of H.R. 13655, the Automotive Transport Research and Development Act of 1976. I would like to commend my colleague from California for his diligence in developing this important piece of legislation.

Nearly 2 years ago the Science Subcommittee on Space Science and Applications held hearings on legislation to authorize NASA to conduct research and development into ground propulsions systems to reduce fuel consumption. I was privileged to appear before the subcommittee to present testimony in support of this legislation.

One point in my testimony should be repeated. Any Federal program to conduct research and development into advanced automotive propulsion systems must not only emphasize the development of new engine types, but also emphasize the development of new fuel sources.

Of particular importance in this regard is hydrogen fuel. Hydrogen is a virtually inexhaustible source of energy. The fuel can be generated by splitting apart—electrolysing—water. When hydrogen is burned, the only byproduct is water vapor. Despite its appeal as an abundant, pollution-free fuel source, there are many obstacles to the widespread use of hydrogen fuel in automobiles. Safety, materials embrittlement, and the low energy-to-volume ratio of hydrogen make its application to automobile travel a difficult challenge.

But the payoff is high. We are talking here of the possibility of developing a totally closed-cycle, pollution-free energy system. I can envision the day in which huge solar power stations generate electricity from the Sun. This electricity will in turn be used to electrolyse water into its component parts—hydrogen and oxygen. The hydrogen gas will then be pumped through a network of underground pipelines to homes and service stations. People will be able to fill up their automobiles with the same convenience of plugging in an iron.

The best feature of this vision of the future is that it sees man living in harmony with nature. No more automobiles belching huge clouds of smoke, no more cartels greedily controlling the precious energy resources of the earth.

Admittedly this future is a long way off. But we must begin with small steps. This legislation represents such a step. We are initiating a program of research which the private sector finds itself either unwilling or unable to perform. It is my hope that passage of this legislation will signal an aggressive search for new and innovate answers on which our energy future depends.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 13655, the Automotive Transport Research and Development Act of 1976. Last July, I was pleased to join 24 other Members of Congress in cosponsorship of a similar piece of legislation, H.R. 8494.

Mr. Chairman, the worthy goal of Project Independence has received equally worthy lip service. This bill will put our money where our mouths are. It establishes a 5-year research and development program to accelerate the development of more energy-efficient, less polluting, and safer auto propulsion systems.

The question asked about the Organization of Petroleum Exporting Countries recent meeting in Bali was simply: Will they or will they not raise the price of oil?

Mr. Chairman, I am sure the American consumer is sick and tired of living by the decisions of conspiratorial oil barons, who decide that price. This bill is a positive step toward developing cars that will reduce our demand for that oil. We all know that our consumption rate has gone up since the embargo, while our supplies have dwindled. Conservation is one of the answers the Congress has the responsibility of implementing. This bill implements a conservation strategy. I urge my colleagues to cast an "aye" vote for this bill.

Mr. WIRTH. Mr. Chairman, the problem of air pollution in America has grown at an alarming rate. The public is increasingly aware of both the health hazards and the economic damage caused by this silent and ominous presence.

The automobile, a seemingly permanent fixture of the American life, poses a major threat to our air quality by its poisonous emissions. Even the legendary clean air of the Rocky Mountains is being degraded in the population centers such as Denver. It is foolish to assume that the American people will abandon their cars to alleviate this problem; but it is realistic to suggest that the automobile itself could be modified to the point of less significant emissions.

Mr. Chairman, it has been estimated that from 1953–70 the emissions from automobiles were responsible for $1.1 billion of damage to plants and crops in this country.

Although the cost of damage to human health from automobile emissions is more difficult to calculate, the Federal Government's share of these costs reaches into billions of dollars when considering income tax not paid because of premature death, social security payments to workers disabled by automobile-related pollution, and loss of productivity by Federal Government workers as a result of eye irritation and other pollution-related ailments.

The cost of health damage to private citizens from automobile emissions is almost impossible to estimate.

Mr. Chairman, when we consider these costs, plus the cost of human suffering which is incalculable, I believe that the Automotive Transport Research and Development Act represents an investment in the future health, safety, and productivity of our people.

H.R. 13655 is designed primarily to advance research and development of alternative propulsion systems to replace the conventional internal combustion engine. This bill would provide funds for both private industry and the Federal Government to develop and test new engine types, prominent among them the Stirling and Brayton engines.

In studies recently conducted by the Jet Propulsion Laboratory and the Massachusetts Institute of Technology, both the Stirling and Brayton engines were found to give off very low emissions, while offering substantial savings in fuel consumption. According to the studies, these engines were both considered to be the primary candidates for development to road operational status by the mid-1980's.

The 5 year research and development program outlined in this legislation could produce a new means of automobile propulsion that would serve this Nation in its quest for more efficient transportation, while safeguarding the health of its citizens.

Unless we provide the incentive for this research now, we may have to wait decades for its fruition. We know the facts, we understand their implications for the future and we can take action now to enhance the quality of life in America for many generations.

Mr. THORNTON. Mr. Chairman, this bill addresses a complex problem. The production of cars, trucks, and allied industries account for about one-sixth of our gross national product, and whatever affects auto production has an effect throughout the economy.

Our personal transportation system using automobiles is a heavy consumer of the country's finite supply of petroleum, while its byproducts are serious polluters of our atmosphere.

Viewed from a different perspective, the automotive industry in 1973 consumed 21 percent of the steel, 12 percent of the aluminum, 9 percent of the copper, 47 percent of the malleable iron, 64 percent of all the rubber, 63 percent of the lead, and about 33 percent of all the zinc—that was used in the United States.

It has been estimated that for every 10 people employed in the production of cars, trucks, and parts, another 15 are employed to produce the materials that go into them.

These realities foretell necessary change for the automobile industry and the Nation. For American automobile production to remain strong, it will be necessary to build cars with significantly better conventional engines or with propulsion systems other than the conventional internal combustion engine. The cars of the future will have to have engines that can be adapted to a variety of clean burning fuels.

For years the automobile industry has been conducting research on new engine types but they have been conservative in alloting funds for this research; thus progress has been slow.

Other nations have been working actively on new engine types. Development of the Stirling engine is centered almost exclusively in Europe. The gas or Brayton turbine engine is under development in both Germany and Japan, which incidentally are the two largest exporters of cars to America.

America needs alternative propulsion systems ready for production by the mid-1980's. The Automotive Transport Research and Development Act (H.R. 13655) is designed to help us in development of these new propulsion systems, not only to decrease our consumption of petroleum and promote a cleaner atmosphere, but also to permit our automobile industry to compete in future world markets.

I believe the provisions of the bill will allow us to take optimum advantage of the knowledge and expertise in both the Government and the private sector. When so much is at stake in this race of time and technology against finite resources and threatened environments, we must employ every possible resource. The use of both Federal and private laboratories coupled with the fellowship program for scientific exchange can bring us closer to our goal in a shorter time.

And it is time that is our enemy. We can no longer afford a leisurely research and development effort to produce new engine types. We cannot wait for happenchance results; we must make every effort to succeed now.

Mr. Chairman, I support the Automotive Transport Research and Development Act and consider it an important part of a large set of objectives which we must effectively pursue to insure a strong and secure economic base for a high quality of life for all of us.

Mr. FREY. Mr. Chairman, I support this bill for the simple good reason that it opens a new technology era in automotive engine research. This era will see the fruits of a government industry partnership in which industry carries out development and demonstration with Government's strong support in the basic research and technology phases. I want to point out to my colleagues that I also see the ingredients for a strong intragovernment partnership between ERDA and NASA from my perspective on their respective authorization subcommittees.

I hope this bill will catalyze useful discussion on just what is the role of the Federal Government in automotive R. & D. It seems to me that ERDA and NASA should serve to broaden and strengthen the technical capability of the industry. I am certain the industry would agree that this is a desirable goal. This bill has been carefully drafted to leave the prototype and demonstration responsibilities to industry. Industry must produce and market these vehicles and no one has lost sight of that. The intention of the committee is clearly to see that the resources of Government are employed to strengthen the automotive industry in advanced technology.

This partnership prevents an adversary relationship and as Mr. MOSHER mentioned, this close technical interplay between Government and industry should preclude the imposition of any unrealistic regulatory standards. Thus we see the ERDA-NASA combine functioning as a technically competent broker between the industry and the regulatory agencies EPA and DOT. I believe that this broker combination will have technical credibility with industry and the regulatory agencies and should go a long way toward reducing the industry's investment in emissions technology which was $2 billion in the period 1967–74.

I also would like to point out that this $20 million authorization was carefully arrived at and is needed now to accelerate advanced propulsion work on Brayton cycle gas turbine and Stirling engines. The amount included is the fiscal year 1977 Government piece of a 10-year cost-sharing program which should culminate in the early introduction of these advanced engines in the marketplace by 1985.

The goals of the program are well-defined, the promise of these new engine systems is as much as a 50-percent increase in fuel efficiency over the present internal combustion version with increased life. Let me remind you that the automobiles and trucks use 25 percent of this Nation's energy and consume as much petroleum as we import. A basic assumption that a lot of us have made in framing this bill is that person transportation is here to stay. So let us see to it that we use all our resources in attacking this major piece of the energy problem.

I think it is no secret that automotive R. & D. has been a stepchild thus far in ERDA. Certainly the funding for this area belies the importance of this sector in the overall energy problem. I believe this disparity exists chiefly because there has been all too much emotional discussion and no real substantial discourse on what R. & D. model might best be emulated in the automotive area. Let me add that the modest program outlined in this bill could have major impact. The reason that this bill should be acted on now is that we lose billions of gallons of fuel savings for each year that we delay these advanced engine programs.

The Science and Technology Committee has been very concerned that ERDA should use NASA expertise where appropriate. We are gratified that ERDA will utilize the materials and propulsion capability of the Lewis Gas Turbine Laboratory in Cleveland and the overall systems capability of the Jet Propulsion Laboratory in Pasadena to carry out this program. In searching for useful models for automotive R. & D., it has occurred to a number of thoughtful people that it might be useful to study the manner in which NASA has conducted aeronautical R. & D. This particular activity in NASA seemed most appropriate because unlike the majority of its space enterprises, the agency is not the final customer. It is worth noting that NASA historically spends 80 percent of its R. & D. aeronautical dollar on outside contracts so I am sure the technology will be implemented if the aeronautical approach is followed.

It seems to me that the 6 billion plus balance of payments contribution of aviation is largely due to the NASA–DOD partnership with industry. For under $400 million NASA provides a supporting research base for the aircraft industry. This bill is tailored to achieve a comparable base for the automotive industry at a tenth of the funding level for civil aviation.

The organizational arrangement of ERDA program managers at headquarters working with NASA project managers at field centers seems to be maturing rapidly and should be particularly effective for automotive R. & D. Both ERDA and NASA have had extensive interaction with industry at all levels and are convinced they can make this program work.

Finally, let me answer the specific question of what Government can do in the research on advanced automotive propulsion systems. The need to have the gas turbine engine fulfill its real potential will only come with the use of ceramic materials. Industry should not be expected to make a major investment in ceramic research and technology and should be allowed to capitalize on the NASA-Lewis in-place expertise in advanced gas turbines and life prediction techniques for engine materials. Thus it seems to me that the Government role is sufficiently delineated so that ERDA, NASA, and industry can reach mutual agreement on this important engine program.

This bill is timely and tailored to a real need for a new and necessary partnership. Let us give the automotive industry some dividends on their tax investment in the Federal laboratories. In reaping these dividends I believe they will achieve the worldwide market penetration that we enjoy with U.S. jet engines. Let us not aim our sights any lower.

Mr. BADILLO. Mr. Chairman, I rise in support of H.R. 13655, the Automotive Transport and Research Development Act of 1976. I concur with the finding expressed in the committee report that existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection and energy conservation. I am opposed to lowering our expectations or goals regarding the improvement of both the quality of our environment and clean air standards. Since insufficient resources are being devoted, both by the Federal Government and by the private sector, to research and development of advanced automobile propulsion systems the need for this legislation is clear. If the information is distributed to all automobile manufacturers on an equal basis the consumer should be protected. It is imperative that the Committee on Science and Technology protect the interests of the consumer. Since the taxpayer is providing the capital for this research and development the taxpayer should not be expected to pay again for these research costs when purchasing the product in the marketplace. Congress has a special responsibility to see that the consumer is protected when this product is manufactured and sold to the public.

Finally, as a member of the Committee on Small Business I am concerned that the minority and small business enterprises of our country receive a fair share of the contracts ERDA will award. Many of the services and manufacturing tasks needed to complete this project can be done by small businesses. I hope that there will be proper congressional oversight to insure that the small business sector is obtaining the proper technical assistance and contract information so that their bidding will be competitive.

Mr. SCHEUER. Mr. Chairman, I rise to speak in favor of H.R. 13655, the Automotive Transport Research and Development Act of 1976. I am deeply concerned with the two major problems to which this legislation is addressed: the control of auto emissions and energy conservation.

Serving on the Commerce Committee's Subcommittee on Health and the Environment, I have faced the task of resolving the competing national goals of a cleaner environment and energy conservation. During our deliberations on the Clean Air Act, I have come to the conclusion that this issue is confusing at best and impossible to resolve at worst. I was unable to obtain a clear answer as to whether we could achieve both a clean and energy-efficient engine with our present technology. What I did find was a clear and disturbing division of opinion between those who believe we can achieve such a desirable goal—the National Science Foundation, the Environmental Protection Agency, and the California Air Resources Board, and those who do not—the Department of Transportation, the Federal Energy Administration, and the auto *manufacturers*.

Today, we import over 42 percent of the energy we consume. In fact, for 1 week this year, for the first time in our history we imported over 50 percent of our energy needs. Our dependence on foreign energy sources is ever increasing. Recent FEA reports indicate that we have reversed the trend of the past 2 years during which domestic automotive energy consumption declined. Consumption in April and May of 1976 is up 9.8 percent over a similar period in 1974. This is certainly an alarming situation and emphasizes the need for developing an energy-efficient—and environmentally sound—engine. We must develop such an engine if we are to reduce our dependence on foreign oil and protect our national security. We also must develop such an engine if we are to reduce pollution and protect our national health.

Evidence presented yesterday has convinced me that it is indeed possible to produce an automobile which can be both energy efficient and environmentally sound. The California Air Resources Board tested four 1976 Volvos with three-way catalysts and exhaust sensors. These cars achieved a combined city-highway driving cycle of 22 miles per gallon, 2 miles per gallon greater than the standard 1976 Volvos. At the same time, the emissions produced by these specially equipped cars were significantly lower than the stringent goals of the Clean Air Act. The anticipated combined cost of the three-way catalyst and exhaust sensor is only $25 to $50, surely a meager price to pay for such large benefits.

This success can be duplicated and improved upon through use of the research and development funds provided in this bill. I, therefore, urge my colleagues to join me in supporting this urgently needed legislation.

Mr. SCHEUER. Mr. Chairman, I rise to speak in favor of H.R. 13655, the Automotive Transport Research and Development Act of 1976. I am deeply concerned with the two major problems to which this legislation is addressed: The control of auto emissions and energy conservation.

Serving on the Commerce Committee's Subcommittee on Health and the Environment, I have faced the task of resolving the competing national goals of a cleaner environment and energy con-

servation. During our deliberations on the Clean Air Act, I have come to the conclusion that this issue is confusing at best and impossible to resolve at worst. I was unable *to obtain* a clear answer as to whether we could achieve both a clean and energy efficient engine with our present technology. What I did find was a clear and disturbing division of opinion between those who believe we can achieve such a desirable goal—the National Science Foundation, the Environmental Protection Agency, and the California air resources board and those who do not—the Department of Transportation, the Federal Energy Administration, and the auto manufacturers.

Today we import over 42 percent of the energy we consume. In fact, at one point this year for the first time in our history we imported over 50 percent of our energy needs. Our dependence on foreign energy sources is ever increasing. Recent FEA reports indicate that we have reversed the trend of the past 2 years during which domestic automotive energy consumption declined. Consumption in April and May of 1976 is up 9.8 percent over a similar period in 1974. This is certainly an alarming situation and emphasizes the need for developing an energy efficient—and environmentally sound—engine. We must develop such an engine if we are to reduce our dependence on foreign oil and protect our national security. We also must develop such an engine if we are to reduce pollution and protect our national health.

Evidence presented yesterday has convinced me that it is indeed possible to produce an automobile which can be both energy efficient and environmentally sound. The California Air Resources Board tested four 1976 Volvos with 3-way catalysts and exhaust sensors. These cars achieved a combined city-highway driving cycle of 22 miles per gallon, 2 miles per gallon greater than the standard 1976 Volvos. At the same time, the emissions produced by these specially equipped cars were significantly lower than the stringent goals of the Clean Air Act. The anticipated combined cost of the 3-way catalyst and exhaust sensor is only $25 to $50, surely a meager price to pay for such large benefits.

This success can be duplicated and improved upon through use of the research and development funds provided in this bill. I therefore urge my colleagues to join me in supporting this urgently needed legislation.

Mr. MOSHER. Mr. Chairman, I have no further requests for time.

Mr. TEAGUE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 13655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Automotive Transport Research and Development Act of 1976".

FINDINGS AND PURPOSES

Sec. 2. (a) Findings.—The Congress finds that—

(1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and automobiles with advanced propulsion systems could be operated with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted, both by the Federal Government and by the private sector, to research on and development of advanced automobile propulsion system and their components;

(4) an expanded research and development effort to research on and development of advanced automobile propulsion systems and their components would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the substitution of such advanced alternatives for existing automobile propulsion systems and their components; and

(5) the Nation's energy, safety, and environmental problems are urgent, and therefore advanced automobile propulsion systems and components should be developed, tested, and prepared for manufacture within the shortest practicable time.

(b) Purposes.—It is therefore the purpose of the Congress in this Act—

(1) to make contracts and grants under a five-year program for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy and supply, environmental protection, and other objectives;

(2) to preserve, enhance, and facilitate competition in research and development in and production of existing and alternative automobiles, automobile propulsion systems, and automobile components; and

(3) to supplement, but not supplant, the automotive research and development efforts of private industry.

DEFINITIONS

Sec. 3. As used in this Act—

(1) the term "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) the term "advanced automobile" means a personal use transportation vehicle which is fuel-propelled and is energy efficient, safe, reliable, damage resistant, and environmentally sound, and which—

(A) requires, consistent with environmental requirements, the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing automobiles with respect to such factors;

(B) can be mass produced at the lowest possible cost consistent with the requirements of this Act;

(C) has a projected ownership cost to the first owner which is comparable with automobiles of the same size and class which are produced using standard technology;

(D) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

(E) to the extent practicable, is capable of intermodal adaptability; and

(F) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance;

(3) the term "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which is used to propel an advanced automobile;

(4) the term "damage resistance" refers to the ability of an automobile to withstand physical damage when involved in an accident;

(5) the term "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobiles, advanced automobile propulsion systems, or components thereof;

(6) the term "fuel" means any energy source capable of propelling an automobile;

(7) the term "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(8) the term "intermodal adaptability" refers to any characteristic of an automobile which enables it to be operated or carried, or which facilities its operation or carriage, by or on an alternative mode or other system of transportation;

(9) the term "reliability" refers to the average time and distance over which normal automobile operation can be expected without extensive repair or replacement of parts, and to the ease of diagnosis and repair of an automobile and of its systems and parts which fail during use or are damaged in an accident;

(10) the term "safety" refers to the performance of an automobile or automobile system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(11) the term "Secretary" means the Secretary of Transportation; and

(12) the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

Sec. 4. The Administrator shall establish, within the Energy Research and Development Administration, a five-year program aimed at the development of advanced automobile propulsion systems which to the maximum extent practicable are flexible in the type of fuel used. In furtherance of the purposes of this Act, and in order to stimulate such development of advanced automobile propulsion systems by private interests, the Administrator shall—

(1) make contracts and grants for research and development efforts on advanced automobile propulsion systems which are likely to lead or contribute to the development of an advanced automobile or advanced automobiles;

(2) make such contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership or individual;

(3) establish a research, development, and demonstration program within the Energy Research and Development Administration which may contribute to the development of advanced automobile propulsion systems or advanced automobiles;

(4) intensify research in key basic science areas which limit development of advanced automobile propulsion systems;

(5) give full consideration to the capabilities of the Federal laboratories in the conduct of the research, development, and demonstration program: *Provided*, That not more than 60 per centum of the funds authorized

in section 11 shall be directly expended in Federal laboratories;

(6) conduct an active industry-government fellowship program providing for exchange of governmental and industrial scientists involved in research and development relating to advanced automobile propulsion systems;

(7) prepare and submit studies, as required under this Act;

(8) (A) consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion systems or their components;

(B) make available at laboratories described in paragraph (5) facilities and expertise for developing and proof-testing components and subsystems which in the Administrator's judgment show promise of contributing to advanced automobile propulsion systems; and

(C) establish procedures for utilizing the Office of Energy Related Inventions at the National Bureau of Standards;

(9) give due consideration to the capabilities of the National Aeronautics and Space Administration, the Department of Defense, and other Federal agencies, and coordinate with them in the conduct of research, development, and demonstration programs;

(10) consult with the Administrator of the Environmental Protection Agency and establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of automobile research, development, and technology, and establish such advisory panel or panels as he deems appropriate to review and make recommendations with respect to applications for funding under this Act; and

(11) insure that research and development under this Act supplements, but does not supplant, the automotive research and development efforts of private industry.

DUTIES OF THE SECRETARY

SEC. 5. The Secretary, in furtherance of the purposes of this Act, shall—

(1) make available facilities and expertise for testing any prototypes which may be developed based on activities related to the programs under paragraphs (1), (2), and (3) of section 4, and secure certification as advanced automobiles for those which meet the applicable requirements;

(2) collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion systems or advanced automobiles; and

(3) evaluate the posture of the automotive industry in meeting societal needs by the utilization of current technology, and recommend incentive measures to the Congress on an annual basis.

COORDINATION BETWEEN THE SECRETARY AND THE ADMINISTRATOR

SEC. 6. The Secretary and the Administrator shall consult and cooperate with respect to their respective duties and responsibilities, and they shall coordinate their respective activities, in areas of shared concern, to the extent practicable, in order that the duties and responsibilities of both officers under this Act may be performed in a way that will lead to the most meaningful and effective results from the program in an efficient manner: *Provided*, That nothing in this section shall alter the assigned responsibilities of the Administrator under other sections of this Act: *And provided further*, That nothing in this section shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974.

REPORTS

SEC. 7. As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6(a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this Act. Such report shall include, but need not be limited to—

(1) a current comprehensive program definition for implementing this Act;

(2) an account of the state of automobile research and development in the United States;

(3) the number and amount of contracts and grants made;

(4) the progress made in developing advanced automobile propulsion systems and their components; and

(5) suggestions for improvements in advanced automobile research and development, including recommendations for legislation.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 8. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (d) as subsection (e), and by inserting immediately after subsection (c) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 2(b) of the Automotive Transport Research and Development Act of 1976.".

(b) The subsection of section 102 of such Act redesignated as subsection (e) by subsection (a) of this section is amended by striking out "and (c)" and inserting in lieu thereof "(c), and (d)".

INFORMATION DISSEMINATION

SEC. 9. The information maintained by the Administrator under this Act shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this Act by the Administrator directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 195 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Transportation, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Administrator of the National Aeronautics and Space Administration, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term "person" shall include any borrower.

TRANSFER OF FUNCTIONS

SEC. 10. Within sixty days after the date of the enactment of the law creating the electric vehicle research, development, and demonstration program, all of the authorities of such program and all of the research, development, and other functions which are vested in Federal agencies under such program, along with related records, documents, personnel, obligations, and other items, to the extent necessary or appropriate, shall, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in the Administrator of the Energy Research and Development Administration and exercised by him as a part of the program established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a) There are authorized to be appropriated to carry out the purposes of this Act—

(1) not to exceed $20,000,000 for the fiscal year 1977,

(2) not to exceed $30,000,000 for the fiscal year 1978,

(3) not to exceed $35,000,000 for the fiscal year 1979,

(4) not to exceed $35,000,000 for the fiscal year 1980, and

(5) not to exceed $30,000,000 for the fiscal year 1981.

(b) Any request for appropriations pursuant to the authority in subsection (a) shall specify the relationship between the research, development, and demonstration to be supported with such appropriations and any related programs which are being supported or proposed to be supported under the authority of other laws or that have been requested for authorization.

Mr. TEAGUE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 14, line 18, add "and" after the comma.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 14, strike out lines 19 through 24, and page 15, strike out lines 1 and 2 and insert in lieu thereof the following:

"(2) such sums as may be included in the annual authorization for the nonnuclear programs of the Energy Research and Development Administration for each subsequent fiscal year."

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. HANLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13655) to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes, pursuant to House Resolution 1222, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCORMACK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 86, not voting 49, as follows:

[Roll No. 326]

YEAS—296

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, Tenn.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derwinski
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Hightower
Hillis
Holtzman
Horton
Howard
Hungate
Hyde
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Ketchum
Koch
Krebs
LaFalce
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McFall
Madden
Madigan
Maguire
Mahon
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schulze
Seiberling
Sharp
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vanik
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zeferetti

NAYS—86

Archer
Armstrong
Ashbrook
Bafalis
Bauman
Bevill
Brown, Mich.
Broyhill
Buchanan
Burke, Fla.
Burleson, Tex.
Butler
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Davis
de la Garza
Derrick
Devine
Dickinson
Edwards, Ala.
English
Esch
Eshleman
Evans, Ind.
Goldwater
Hammerschmidt
Hefner
Henderson
Holland
Holt
Howe
Hubbard
Hughes
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Keys
Lagomarsino
Latta
Levitas
McCollister
McDonald
McEwen
McKay
Mann
Martin
Mathis
Montgomery
Moore
Myers, Ind.
Neal
Nichols
Paul
Poage
Risenhoover
Robinson
Rose
Satterfield
Schroeder
Sebelius
Shipley
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stuckey
Symms
Taylor, Mo.
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Young, Alaska
Young, Fla.

NOT VOTING—49

Anderson, Ill.
Beard, R.I.
Bell
Bolling
Burgener
Carney
Clawson, Del
Clay
Conlan
Conyers
Diggs
Flynt
Ford, Mich.
Fraser
Giaimo
Gradison
Hansen
Helstoski
Hicks
Hinshaw
Johnson, Pa.
Karth
Kindness
Krueger
Landrum
Leggett
Litton
Lujan
McHugh
McKinney
Matsunaga
Milford
Morgan
O'Hara
Peyser
Rees
Rousselot
Ruppe
Stanton, James V.
Steiger, Ariz.
Stephens
Stokes
Sullivan
Thompson
Udall
Vander Veen
Vigorito
Wilson, Bob
Zablocki

The Clerk announced the following pairs:

Mr. Thompson with Mr. Vigorito.
Mr. Diggs with Mr. Karth.
Mr. Helstoski with Mr. Conyers.
Mr. Giaimo with Mr. Stephens.
Mr. Milford with Mr. Anderson of Illinois.
Mr. Udall with Mr. Burgener.
Mr. Stokes with Mr. Rees.
Mr. Beard of Rhode Island with Mr. Conlan.
Mr. Carney with Mr. Fraser.
Mr. Matsunaga with Mr. Gradison.
Mr. McHugh with Mr. Bob Wilson.
Mr. Morgan with Mr. Bell.
Mr. O'Hara with Mr. Hansen.
Mr. Flynt with Mr. Steiger of Arizona.
Mr. Ford of Michigan with Mr. Ruppe.
Mr. Zablocki with Mr. Del Clawson.
Mr. Peyser with Mr. Rousselot.
Mr. Clay with Mr. McKinney.
Mr. Leggett with Mr. Lujan.
Mr. Krueger with Mr. Kindness.
Mr. Litton with Mr. Johnson of Pennsylvania.
Mr. Vander Veen with Mrs. Sullivan.
Mr. James V. Stanton with Mr. Hicks.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS TO COTTON RESEARCH AND PROMOTION PROGRAM

Mr. BOWEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10930) to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture and to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi (Mr. BOWEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10930, with Mr. HANLEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Mississippi (Mr. BOWEN) will be recognized for 30 minutes, and the gentleman from Louisiana (Mr. MOORE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Agriculture, the gentleman from Washington, (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I rise in support of H.R. 10930, a bill which amends provisions of law regarding the cotton research and promotion program. H.R. 10930 makes two basic changes in the cotton research and promotion program. First, the bill repeals section 610 of the Agricultural Act of 1970 which authorizes Government financing to supplement funds available for the Cotton Research and Promotion Act. Second, it authorizes an increase in the assessment paid by producers to fund a self-help program of research and marketing, subject to approval by producers in a referendum.

The Cotton Research and Promotion Act was adopted in 1966 to enable cotton producers to establish, finance, and carry out a coordinated program of research and promotion to improve the competitive position of, and to expand markets for, cotton. The act authorized an assessment of $1 per bale on cotton producers and accorded each producer the right to obtain a refund if he was not in favor of the program. These funds were supplemented by Government funds under section 610 of the Agricultural Act of 1970. H.R. 10930 does not change the Cotton Research and Promotion Act in any basic way. It ends public support for the program and at the same time provides cotton growers in the United States an opportunity to decide for themselves as to whether or not they will assess themselves additional charges to support the research and promotion effort.

A healthy, profitable cotton economy is an asset to the national economy for its contributions to the domestic economy and its significant contribution to our export trade and the all important balance of payments in international trade.

There is a need for a coordinated research and promotion program to be carried out by approximately 250,000 cotton producers in the United States if cotton is to maintain and expand its markets. Cotton is facing well organized and highly financed competition from synthetic fabrics.

The program provided for by the Cotten Research and Promotion Act has provided concentrated effort in research and promotion to enable cotton to regain markets which have been lost to synthetics and other competing fabrics over the last number of years. In 1960, cotton had about 65 percent of the U.S. textile fiber market and this fell below 30 percent in 1973. Cotton was gradually losing its markets to synthetics, in part, because of the vast resources provided for research and development and for advertising and marketing support. In the early 1960's, synthetic fiber corporations were spending about $120 million a year for research and advertising alone. In 1974 the synthetic industry invested $234 million in fiber research and $60 million in advertising to promote sales of synthetic fibers.

By comparison the amount spent in 1974 under the cotton research and promotion program was but $5.4 million for fiber research and $3.4 million for advertising for cotton. In part, as a result of the program authorized by the Cotton Research and Promotion Act, cotton moved back to 30.3 percent of the fiber market in 1974. It has held steady since and looks better yet for the future assuming proper support is provided for the program.

Many benefits have been derived from the research and promotion efforts funded by the act. For example, a coordinated research program through contracts and cooperative agreements with State experiment stations resulted in the development of the mechanical rick compactors and the module builder system. These systems permit the handling of seed cotton in a much more efficient manner for the grower, preserving the quality of the lint and seed, and reducing field loss.

Textile research at Cotton Inc.'s plant and under contract and cooperative agreements have been responsible for new and better fabrics, such as fire retardant and easy-care fabrics. Research is on-going now to combat the occupational and safety health hazard of byssinosis. In the promotion area, Cotton Inc. has been concentrating in advertising, mill motivation and new product merchandising to increase cotton consumption at the mill, manufacturer, and retail levels.

The program provided under the act guarantees a strongly competitive fiber market by establishing a cooperative effort to accomplish research and marketing programs that is now beginning to show positive results.

It will, if adequately funded, restore cotton to its rightful position as a fabric unequaled for comfort, durability and economy of use. The bill provides the needed financial support to assure the success of the program—from producer assessments rather than from Government funding.

I would like now to summarize some of the details of the bill.

Section 1 repeals section 610 of the Agricultural Act of 1970, as amended, effective October 1, 1977, thereby terminating public funding of the program. After that date the program will be supported entirely with funds collected from producers of cotton. Section 610 authorizes Commodity Credit Corporation to make available $10 million annually for research and promotion programs conducted through the Cotton Board established under the Cotton Research and Promotion Act and provides discretionary authority to the Secretary to make additional sums available for such purpose not exceeding $10 million. There is an amount of $3 million appropriated pursuant to this authority in the Appropriation Act for the Department of Agriculture for the current fiscal year. While testimony at the hearing indicated that it was not anticipated additional funds would be made available pursuant to section 610 for the next fiscal year, the effective date of this provision is postponed until October 1, 1977, to allow funds appropriated in the current fiscal year to be obligated and utilized under ongoing contracts which will continue into the next year.

Section 2 amends section 7(e) of the Cotton Research and Promotion Act in a number of particulars. First, it provides an authorization for a supplemental rate of assessment of an amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary. The supplemental rate set forth in the bill is a maximum. So long as this amount is not exceeded, the amended order could provide either a flat dollar-and-cent rate per bale or a rate based on a percentage of value per bale using past or current cotton prices.

Second, it amends the act to provide cost savings to the Government by requiring that the assessments collected under the order shall be used to reimburse the Secretary: First, for expenses, not to exceed $200,000, incurred by him in connection with any referendum conducted under section 8 for approval of an order or an amendment of an order and second, for administrative costs incurred by the Secretary for supervisory work up to 5 employee-years after an order or amendment to an order has been issued and made effective. The dollar limitation on the USDA expenses to be borne by producer assessments—$200,000 for the cost of the referendum and 5 employee-years for the administrative costs for supervisory work—are ceilings and are not requirements that the full amount be utilized. It is expected that these amounts will be more than adequate to offset expenses incurred for these items.

The provision of the bill also states that no authority under the act be used to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under the act. This provision does not derogate from the authority of the Cotton Board or Cotton, Inc., to conduct ongoing promotion programs in its customary and usual manner in which it explains the work that is being performed under the order, but it is not expected that this activity would be conducted in such manner as to advertise or solicit votes in the referendum.

In the committee markup, there was discussion of the question whether the Secretary would have authority after enactment of H.R. 10930 to review effectively expenditures of funds under the program. In response to the question, reference was made to various provisions of the Cotton Research and Promotion Act which are unchanged by H.R. 10930 and help to assure that the Secretary would continue to be authorized to exercise his authority in this area. The Cotton Board also has responsibilities under the act which the committee expects will be carried out fully. These include, among other things, the responsibility to administer the order in accordance with its terms and conditions and to develop the plans and projects for advertising, sales promotion and research and development as well as the fiscal year budget which are submitted to the Secretary for his approval.

At the hearings on the bill, testimony was received in support of the legislation from representatives of many producer organizations including organizations from the States of Arizona, California, Alabama, Florida, Louisiana, Georgia, Virginia, the Carolinas, Tennessee, and Texas. Support for the legislation also came from members of the Board of

Cotton, Inc., and from a representative of the National Cotton Council, the National Cottonseed Producers Association, the American Cotton Shippers Association, the Cotton Warehousemen's Association, and the American Farm Bureau Federation. The *U.S. Department* of Agriculture also testified and made suggestions for improvements in the bill which were largely adopted by the committee.

The committee estimates that H.R. 10930 should not result in any Government costs during the current and 5 subsequent fiscal year period. To the contrary, it should result in cost savings to the United States. The repeal of section 610 should result in potential savings of $20 million in fiscal year 1978, when the repeal first becomes effective and $10 million each year thereafter, assuming the full authorization under section 610 would otherwise have been made available for the program. The savings in other costs resulting from enactment of H.R. 10930 should amount to $244,000 in 1977 and from $73,000 to $87,000 for the next 4 years. The higher figure in 1977 results from the fact that the referendum is expected to be conducted in that year.

Mr. Chairman, I urge the Members of the House to join me in support of H.R. 10930, as amended by the Committee on Agriculture.

Mr. MOORE. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of this bill, H.R. 10930, which will end public funding for cotton incorporated.

For the past 5 years, cotton incorporated has been a boll weevil in the Federal Treasury, eating a double-knit loophole in the taxpayers' pocketbooks. By pulling strings, this outfit has harvested subsidies of $29 million from the U.S. Treasury. But with these bales of money, cotton incorporated has flaunted the public's investment, by spending lavishly for offices, furnishings, executive salaries, chauffeured limousines, country club memberships, and plush apartments.

I have fought to unravel this throwaway subsidy to cotton incorporated for each of the past 5 years. So I am very pleased today to see this bill to repeal this outrageous boondoggle on the floor today.

The subsidy program for cotton incorporated has served neither the private nor the public interest. The annual payments have been just large enough to stir cotton incorporated's appetite for bigger and bigger subsidies. But they have been too small to allow cotton incorporated to pursue its gandiose promotion and research schemes.

On the other hand, these payments have been a drain on the public Treasury. The special program for cotton has stimulated other farm commodity groups to demand the same favors. And the spending scandals at cotton incorporated have mired Congress in hours of annual debate that should not have been necessary.

In 1972, the first House debate on Cotton Inc.'s financial escapades focused on the size of the Federal subsidy. Under the law passed in 1970, payments to Cotton Inc., could not be more than the savings achieved by the $55,000 limitation on subsidy payments to cotton farmers. Savings that year from the payment limitation were substantially less than $10 million. But, in one of the most bizarre and tortured bureaucratic decisions I have seen in Washington, the Secretary of Agriculture ruled that Cotton Inc., was entitled to the full $10 million.

In 1973 and 1974, Cotton Inc., got into hot water over its lavish spending for offices and furnishings, after which Congress shrunk its budget down to $3 million a year.

And then last year, Cotton Inc., was again called on the carpet for trying to pull the wool over congressional eyes about its executive payroll. At that time, I brought out the fact that the chief executive of Cotton Inc., whose salary was being subsidized by the U.S. taxpayers, was being paid twice as much as the Secretary of Agriculture. In addition, he was enjoying lavish fringe benefits, including plush apartments, a chauffered limosine, several club memberships, and generous insurance benefits.

I am hopeful that this speech will commemorate the end of my 5-year fight against Cotton Inc.'s public subsidy. At the end of this fiscal year, taxpayer subsidies for this outfit will terminate. No funds are budgeted for Cotton Inc., for the coming fiscal year or included in the Agriculture appropriations bill. With passage of this bill, authority for any future payments after next year will cease.

With the end of public subsidies, Cotton Inc.'s funding and spending practices will be removed to the private sector—where they have always belonged.

I welcome this legislation to end the Federal Government's role in promoting a particular farm commodity. And I applaud the committee's work to mend this special interest loophole.

I support the passage of this bill.

Mr. BOWEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 10930 was introduced after comprehensive hearings in December involving all segments of the American cotton industry and the interested public. Testimony was almost unanimous in support of this legislation, including the national farm organizations. It is fair to say that American agriculture is strongly united in support of this legislation.

At a time when demands upon the American taxpayer have grown, are growing, and show every sign of continuing to grow, it gives me a great deal of satisfaction to give the House of Representatives an opportunity to eliminate public support for a successful and ongoing program and to replace those appropriated funds with private support.

This bill would repeal section 610 of the Agricultural Act of 1970, under which for 2 years research and promotion activities in the cotton industry received annual appropriations of $10 million and for an additional 3 years received $3 million each year. This bill changes the research and promotion program in the cotton industry from a partly-public program to an all-private, producer-financed, self-help program.

Through H.R. 10930, we are at the same time, therefore, eliminating public support for this program and amending the Cotton Research and Promotion Act of 1966 to give America's cotton farmers the right to decide for themselves through public referendum whether or not they want to provide from their own agricultural incomes additional financial support to compensate for the appropriated funds which they are giving up and for the continuing impact of inflation upon the research and promotion activities which they are financing.

In order to insure that all taxpayer support is eliminated from this program, we amended H.R. 10930 in subcommittee and full committee to cover all costs of administering this program by USDA, based upon USDA's own figures. The only other amendment added in commitee to the original bill—other than technical amendments—was one intended to assure that companies or organizations contracted with under this legislation should not engage in direct advertising or soliciting of votes in any referendum related to the assessment of producer funds collected under this act.

Mr. Chairman, during the decade of the 1960's and shortly thereafter a major revolution took place in America's textile industry. Cotton fell from 65 percent of the U.S. textile fiber market to below 30 percent in 1973. At the same time synthetics increased their share of the market from around 30 percent to almost 68 percent, with only 1 percent remaining for other natural fibers, such as wool, silk, and linen.

Cotton was losing its market to synthetics in part because of the vast sums invested by synthetic fiber corporations in research and advertising. There are seven major chemical companies in this country which controlled 84 percent of the synthetic market in 1974, with the two largest of these companies dominating the market with 54 percent of the sales. The almost unlimited resources of these synthetic fiber giants have led to outlays such as the following: In 1974 the U.S. synthetics industry spent $234 million in fiber research and $60 million in advertising. By comparison, the amount spent by the corporation contracted with under this legislation for research and promotion in cotton, known as Cotton, Inc., was able in that same year to invest only $5.4 million in research and $3.4 million in advertising cotton products. That amounts to a 30-to-1 advantage for the synthetics industry, and even considering all other cotton research activities of the Government that year, almost a 9-to-1 advantage for synthetics over cotton.

As a result of cotton research activities under the Cotton Research and Promotion Act of 1966 and through a reorganized and rejuvenated Cotton, Inc. program, by 1973 the precipitous fall of cotton in the fiber market was checked and since that time has been stabilized slightly over 30% of the market. This year cotton saw the largest increase in use by domestic mills since 1941 and through continued support through this cotton research program shows every indication not only of holding its own with synthetics but outgaining them.

Mr. Chairman, this program has been administered with a keen and ongoing concern for the well-being of the American consumer. It has involved extensive consumer surveys and close communication with the consumers of America and the world. I know of no agricultural commodity which has had a deeper commitment to meeting the needs of the American consumer. This program has helped finance research in easy-care textile products and natural blends which have given the American consumer the comfort of cotton with no-iron features previously associated only with synthetics. Research in the area of fire retardants has resulted in major breakthroughts for fabrics for that purpose and this program is the major source of research into byssinosis or white lung disease in our textile mills. Much valuable research has also been conducted in processing and handling cotton.

Mr. Chairman, without the efforts of this program, to be continued through this legislation, the American consumer as well as the textile mills of this Nation might be subjected to market domination by the synthetic giants of this country, without the price and product competition of a natural fiber industry and the wide range of choices thereby offered to the American consumer.

Mr. Chairman, this bill has yet to have the first vote cast against it either in subcommittee, full committee, or the Rules Committee. This speaks well for its soundness and for its broad support throughout the House of Representatives.

Mr. Chairman, I urge the House to adopt H.R. 10930 without amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

First I wish to commend the gentleman in the well, the gentleman from Mississippi (Mr. Bowen), for guiding this legislation and bringing it to the floor.

Mr. Chairman, I rise in strong support of H.R. 10930 and urge its passage by my colleagues. This bill is of vital importance to the cotton producers of the Nation and will go a long way toward improving cotton's share of the clothing market.

I would point out that the legislation has the support of the majority of the cotton producers in Mississippi who are interested in ways of improving cotton research and promotion without the use of taxpayers' moneys. It is important to note that this bill will not cost the Government any money, in fact it will save some several millions dollars of Federal expenditures.

What it does do is give the cotton producers a greater say so in the program of cotton research and promotion and how much they are willing to assess themselves to finance the effort. The program will become producer run and producer financed. Past accomplishments of this program have benefited the consumer through the development of fire-retardant and easy-care fabrics.

Mr. Speaker, I hope my colleagues will consider H.R. 10930 carefully and give it their unanimous support on final passage.

Mr. BOWEN. Mr. Chairman, I thank the gentleman for his contribution.

Mr. MOORE. Mr. Chairman, I yield 5 minutes to the distinguished ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. Wampler).

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 10930, the cotton research and promotion bill. This bill has been carefully considered both in the Cotton Subcommittee and in the full Committee on Agriculture, and in my opinion it will be good for the entire cotton industry—farmers, handlers, processors, manufacturers—as well as the American taxpayer.

Fifteen years ago cotton accounted for about two-thirds of the U.S. textile fiber market. However, because of a series of events cotton lost a significant portion of this market to synthetic fibers. It was for that reason, in 1966, that the Cotton Research and Promotion Act came into being. It was designed to provide both Government and private capital to find ways to recapture and find new markets for cotton. Through the years the program has, in the aggregate, been successful. The economic picture for cotton has improved and the promotion work that has been done appears to have helped considerably. Since the program started, producers have put up about $77 million for the cotton research and promotion activity. At the same time, taxpayer funds have augmented the program by approximately $29 million. In the fiscal year 1976, the current year, the taxpayer contribution will be $3 million.

This bill will repeal the taxpayer contribution for the program completely, starting with the 1978 fiscal year. At the same time, the legislation authorizes an increase in the producer assessment, at a rate not to exceed 1 percent of the value of the cotton. It also sets up a referendum of producers and assesses the cost of that referendum, as well as subsequent administrative expenses, to the cotton producers.

I believe this legislation will be fair not only to the taxpayers but to all cotton farmers. Those who support the program can feel confident that their money is being spent effectively. Those who do not consent to the program can, first, vote against it in the producer referendum, and then, if they still object, can seek and obtain a refund of their assessment.

In summary, Mr. Chairman, I feel this legislation will strengthen the cotton research and promotion effort while reducing Government costs. I therefore hope the House will follow the recommendation of the committee and approve this bill today.

Mr. Chairman, I include as a part of my remarks, a copy of a telegram I received from Mr. Robert B. Delano, president of the Virginia Farm Bureau Federation, endorsing the passage of H.R. 10930:

Hon. William C. Wampler,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Wampler: Please support HR 10930, amendments to the Cotton Research and Information Act which will be considered on the floor of the House on June 1. The bill will increase the check-off per bale on cotton by one dollar. The few cotton growers that we have in southside Virginia feel this increase is justified to promote the use of cotton fibers.

Thank you for your support of HR 10930.

Robert B. Delano,
President, Virginia Farm Bureau Federation.

Mr. BOWEN. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. Mahon).

Mr. MAHON. Mr. Chairman, I wish to thank my friend, the gentleman from Mississippi (Mr. Bowen), for yielding this time to me. I want to commend the Committee on Agriculture for bringing out this bill. It is a major step forward, and I think it will mean a lot to American agriculture and to the overall situation of the Nation.

Mr. Chairman, I realize my time is limited. Under these circumstances let me express my strong support of the pending legislation concerning the Cotton Research and Promotion Act. The legislation is urgently needed. By way of extending my remarks in support of the pending measure, let me add the following.

This measure allows the cotton farmer to increase the amount of money that he contributes to cotton research and promotion and ends the Federal appropriation for cotton research. It is a bill that will improve the situation of both the farmer and consumer and I am hopeful that it will be overwhelmingly supported by the House.

Cotton has made a significant contribution to the American standard of living in terms of clothing for many years now. But the fact of the matter is that cotton is a crop which produces both food and fiber. Some of our finest vegetable oils today are those produced from cottonseed. Valuable, high-protein supplements for feeding livestock and beef cattle are made from cottonseed meal and hulls. And efforts are now underway to fully exploit cottonseed's potential for supplying food-grade protein to a hungry world.

It should be pointed out that besides being this Nation's only crop that produces both food and fiber, cotton provides employment for a large number of Americans. More than 5 million citizens owe their incomes directly to cotton, and another 12 million work in jobs that are related to cotton in all sections of the Nation, both urban and rural.

A vitally important point is the contribution that cotton makes to our Nation's balance of trade, and the extent to which it helps strengthen the American dollar. U.S. exports of cotton and cottonseed products in a normal crop year are valued at $1 billion annually.

These are just some of the benefits that cotton research and promotion mean to the Nation's economy. In addition, of course, the American consumer reaps benefits in the form of improved products, a wider range of choices, and the economic advantages resulting from volume production.

Mr. Chairman, I urge adoption of this measure.

Mr. BOWEN. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. Jones), a member of the subcommittee that handled this legislation.

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of H.R. 10930. As has already been mentioned this legislation would provide for a farmer referendum where cotton producers would decide if they want to increase their contribution to the cotton research and promotion program.

In the past, part of the funds for this research and promotion program have been appropriated funds and part have been producers funds. This legislation was written in the spirit of letting private industry have the full responsibility for programs such as the cotton research and promotion program rather than saddling the Federal Government with the responsibility that the industry can handle on its own. I feel very strongly that this is a move in the right direction.

This legislation will not cost the Federal Government any money; even the referendum will be paid for by the producers. In fact it will save the Federal Government money, since there will no longer be an appropriation for the cotton research and promotion program.

In addition to the financial aspects of this legislation, I would like to point out that the cotton research and promotion program has made a very real and beneficial contribution to the cotton industry. But like all other programs it has had problems with inflation. The $1 per bale does not go nearly as far as when the program first began, and without the flexibility to increase the contributions, parts of the program will have to be dropped.

I feel very strongly that if the cotton producers in a referendum vote to increase the amount of their contribution to this program, they should be allowed to do so. The legislation before us would allow an increase in the amount contributed, if and only if, producers vote to do so.

Therefore, I would like to commend this legislation to you and urge you to support it. Thank you.

Mr. MOORE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. Findley), a member of the full committee.

Mr. FINDLEY. Mr. Chairman, this bill is an advance, I believe, for our Nation. In fact, today ought to be a day of celebration because it is one of the very few occasions that I can recall when the House has seen fit to terminate a subsidy program. The only other one that comes to mind was the occasion last year when we voted finally to end the subsidy program for the production of tung nuts.

One aspect of the bill now pending that has not been mentioned is that the legislation does give the Secretary of Agriculture authority to continue to monitor the expenditure money which would be raised by the checkoff system. It is a prudent provision because the spending authority, Cotton, Inc., during its lifetime, has been involved in some controversial enterprises, the most recent of which was the junket to the Innsbruck Olympic games. Despite the objection of the Secretary of Agriculture to that expenditure, Cotton, Inc. found funds for that purpose, and went ahead. So the impulse for mischief is still there within the leadership of Cotton, Inc.

Mr. Chairman, the legislation can provide a beneficial restraint on such activities, and I congratulate those who have brought forth this bill.

Mr. BOWEN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Krebs).

Mr. KREBS. Mr. Chairman, I can think of no greater or more convincing argument as to the merits of this proposal than the fact that both the distinguished gentleman from Massachusetts (Mr. Conte) and the distinguished gentleman from Illinois (Mr. Findley), who in the past have not always seen eye to eye with the cotton industry, have seen fit to give their enthusiastic support to this legislation, and I think for good reason.

Mr. Chairman, there is not very much that I can add to what has been said already other than to emphasize the fact that here we have an industry that is willing to help itself, that is willing to pay the price of the promotion of its products. I think the promotion of cotton as a product at a time when we face some very serious problems as far as energy consumption is concerned, is extremely important and should not be overlooked.

I wish other segments of our population who in one form or another are now on the public payroll would take a lesson from the cotton industry and try to get out of the pockets of the American taxpayers.

It is for this reason and many other reasons that I urge Members of the House to act favorably on this legislation.

Mr. MOORE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to point out to the Members of the Committee of the Whole that, historically, cotton has always been a very important crop to this entire country. It has been important in a number of ways.

First, domestically, for those areas that actually produce the cotton, gin cotton, bale cotton, transport the cotton and sell the cotton, and those that use the cotton to make goods from it.

Second, it is also important to those who export the cotton because of its effect on the balance of trade. We are in the position of having a balance of trade which is in the black, and that is due to the export of agricultural products including cotton. Because of this, the goods that we bring into our country we are able to buy at a lower rate because of the favorable balance of trade.

Third, cotton is of importance to the consumers. There are many products made from cotton that cannot be made as well from anything else, and for that reason it is important, as I say, to the consumers.

Fourth, cotton has recently taken on a new dimension in the last year or two because of the need for energy conservation. We all know that many popular synthetic fibers are now made from petroleum products. Petroleum is becoming scarce and will become more and more scarce in the future. However, because of our ability to continue to produce vast quantities of natural fibers, such as cotton, cotton will take on increased importance in the next few years as we have a greater problem on securing foreign imports of petroleum and the rising costs of such imports. Therefore, cotton represents a conservation measure. Cotton is a balance-of-trade measure. Cotton is a domestic product that is of great importance for the people who raise it and make it into products. It is also important to all of the consumers.

This bill before us today, Mr. Chairman, not only helps the cotton producers to help themselves in a better fashion than ever before, but it helps in each of these four areas. But, in addition to that, Mr. Chairman, it also helps the taxpayers of America. As we have heard Members point out in the debate today, this legislation actually ends the subsidy program that cost the taxpayers of our country about $3 million a year. This is a healthy trend in getting agricultural programs to stand on their own two feet, without Government financial support.

Mr. Chairman, this is indeed a good day for agriculture in general, as well as the cotton industry.

Mr. Chairman, we have had no objections to this bill in the subcommittee on which I am privileged to serve, nor have we had any objections in the full Committee on Agriculture, indicating that the measure has full support on all spectrums from both sides of the aisle.

We ought to continue this program to allow cotton producers to help themselves which, in turn, is going to help us in all of the ways I have outlined here this afternoon.

In closing, Mr. Chairman, I would like to compliment and commend the chairman of the subcommittee, the gentleman from Mississippi (Mr. Bowen), who has done an admirable job in handling this bill that is now before us in guiding it not only through the subcommittee, but through the full committee and now on the floor of the house this afternoon.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I want to express my compliments to the gentleman from Louisiana (Mr. Moore), the ranking minority member of the Subcommittee on Cotton, and also to the chairman of the Subcommittee on Cotton, the gentleman from Mississippi (Mr. Bowen), for the way in which they have handled this legislation. I believe that they have done an outstanding job. I know they both have been good friends to agriculture. I think this bill does represent an intelligent approach to this problem. I want the record to show that they have worked very effectively to bring this bill to the floor of the House today.

Mr. MOORE. Mr. Chairman, I certainly thank the ranking minority member of the full Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER, for the kind comments he has made.

Mr. BOWEN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HIGHTOWER), a member of the Cotton Subcommittee.

Mr. HIGHTOWER. Mr. Chairman, for many, many years cotton was king in the South. It is no longer king, and it is not even chairman of the board. We do believe that cotton does have a great future. Much money has been appropriated by Congress in the past for cotton research. Cotton research has also been funded by many of the State research organizations but still more needs to be done. There is a great future for cotton as an economic product of this country. It can contribute greatly to our agricultural economy and to the needs of the world.

We believe that by taking this method we are approaching cotton research in the proper way, and the cotton producers have indicated a willingness to carry the burden to produce a better, cheaper product for the users of the world. We think that this measure is entitled to the support of the representatives of the people.

Mr. BOWEN. Mr. Chairman, I yield myself 1 minute.

I would like to thank the members of the Cotton Subcommittee and the full Committee on Agriculture for the effort and consideration on their part that has gone into the preparation of this bill. I would also like to thank my colleague and good friend, the gentleman from Louisiana (Mr. MOORE), the ranking minority member of the Cotton Subcommittee, who has worked closely with me in preparation of the legislation and who has been of great value in its development.

I want to commend this bill to the attention of the House and urge its adoption without amendment. I have no further requests for time, Mr. Chairman.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the amendment of the gentleman from New York (Mr. RICHMOND) when it is offered, to the cotton research and promotion program (H.R. 10930).

The bill authorizes an increase in the assessment paid by producers—approximately 2½ times more—to fund a self-help program of research and marketing, subject to approval by producers in a referendum.

Mr. Chairman, Congress faced a similar situation when it considered the Beef Research and Information Act. At that time, I voted against the conference report to H.R. 7656, because I felt the bill would create a totally unnecessary advertising, promotion, and research campaign for cattlemen, paid for by the consumers, who are not members of the Beef Board.

If the Cotton Board wants to expand its markets to meet the challenge of the synthetic fiber industry, I see no reason why the consumers of the product cannot participate in the process. After all, the price of this self-help research and marketing program will be borne by the average family who buys clothes made of cotton. I cannot believe that an increase in the assessment—up to 1 percent of the value of cotton—will not affect the price of raw cotton.

Mr. Chairman, I am 100 percent behind a healthy, profitable cotton economy. The industry is an asset to the national economy, and the all important balance of payments in international trade. But, if the price of raw cotton is going to go up, thus pinching the budget of the American family trying to buy clothes, then I think the consumers have the right to be represented on the board.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 610 of the Agricultural Act of 1970, as amended (7 U.S.C. 2119), is repealed effective October 1, 1977.

SEC. 2. Section 7(e) of the Cotton Research and Promotion Act (7 U.S.C. 2106(e)) is amended as follows:

(1) At the end of the first sentence strike the period and add the following: ", and for reimbursing the Secretary (1) for expenses not to exceed $200,000 incurred by him in connection with any referendum conducted under section 8, and (2) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.".

(2) At the end of the second sentence strike the period and add the following: ", unless specifically authorized by provisions of this subsection.".

(3) At the end of the third sentence strike the period and add the following: "but, subject to approval in a referendum as provided in section 8, the Secretary shall issue an amendment to the order which shall provide that, in each marketing year, the rate shall be supplemented by an additional per bale amount to be collected or paid as provided in this subsection, such amount to be at a rate as prescribed in the amendment to the order, but not to exceed 1 per centum of the value of cotton as determined by the Cotton Board and the Secretary. Neither the amendment to the order authorized by the foregoing provisions nor the disapproval of such amendment in a referendum shall operate to decrease or otherwise affect the amount of the assessment of $1 per bale in effect under the order published in the Federal Register on December 31, 1966. No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.".

Mr. BOWEN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. RICHMOND. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHMOND: Beginning on page 4, immediately after line 5, insert the following new section 3:

"SEC. 3. Section 7(b) of the Cotton Research and Promotion Act (7 U.S.C. 2106(b)) is amended to read as follows:

"(b) Providing that the Cotton Board shall consist of members selected by the Secretary 90 percent of whom shall be representatives of cotton producers and 10 percent of whom shall be representatives of consumers. The Secretary shall select cotton producer representatives from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 2113 of this title, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the matter authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States: *Provided, however,* That each cotton-producing State shall be entitled to at least one representative on the Cotton Board. The Secretary shall select from nominations submitted by bona fide consumer organizations consumer representatives who are qualified to represent the interests of consumers, and have no interest directly or indirectly in any person or entity engaged in the commercial production of any natural or synthetic fiber or in the sale, promotion or distribution of such fibers or products derived therefrom.".

Mr. RICHMOND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RICHMOND. Mr. Chairman, this amendment would simply add 10-percent consumer representation to the Cotton Board which administers the cotton research and promotion program.

The amendment would require that 2 of the 20 Cotton Board members be nominated by bona fide consumer organizations to represent the interests of consumers.

The $1 per bale collected under this act will ultimately be paid by consumers. It will be absorbed into the cost of cotton products as a normal business expense.

Shoppers would be forced to pay the entire cost with no voice at all in the program.

With domestic consumption in 1974 of 7.5 million bales, and an assessment of $1 per bale, the consumers fabric bill will rise $7.5 million. The total expenses of Cotton Inc., will rise from $10 million to over $20 million.

The price of sheets, pillow cases, and towels will rise by $600,000.

The price of shirts, pants, dresses, and socks will rise over $6 million.

The consumers' bill for tablecloths and other household articles will increase by $300,000.

The housewife's expenses for gloves, hosiery, and handkerchiefs will go up $150,000.

Consumers who are paying the bills have a rightful place on the Cotton Board.

They must have a voice in setting research priorities, designing promotions, and deciding how the money is to be spent.

Anything less than bona fide representation is an affront to real consumer needs and interests.

Anything less means the cotton producers do not have the interests of consumers in mind.

My amendment makes this a consumer-oriented bill which will help promote new cotton products to compete with synthetics. This benefits all Americans.

With consumers on the Board this bill will fund research on safer fire-retardant products, and new easy-to-care-for fabrics.

It will fund research on remedies for "brown lung" disease, which affects thousands of cotton mill workers.

It will promote the use of fabrics which use less petroleum in their production. This benefits the entire American public.

Without consumers, this bill is only another special-interest bill for the cotton producers.

Without consumers, this bill should be defeated.

We have an opportunity here today to pass legislation which ends Government subsidies of $3 million per year and may save U.S. taxpayers $20 million next year, and $10 million each succeeding year.

I urge my colleagues to give the public its rightful place on the Cotton Board and insure that this bill is a fair reasonable attempt to improve the cotton industry.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman from New York for his concern for the best interests of the consumer and, in my own opinion, the best interests of the producers as well. It seems to me that if the cotton producers of this country really were motivated by their enlightened self-interest, they would recognize the need for consumer representation and voluntarily ask consumers to join their board in this situation. Obviously, the purpose of the board is to make cotton more attractive to the consumers of this country, and that could best be done if consumers are included in the representation on that board.

Mr. Chairman, I also want to pay tribute to the diligence which the gentleman in the well has shown consistently in representing the interests of the consumers on the Committee on Agriculture. I hope his constituents are aware of the great job he is doing.

Mr. RICHMOND. I thank the gentleman from California for his remarks.

AMENDMENT OFFERED BY MR. BOWEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RICHMOND

Mr. BOWEN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BOWEN as a substitute for the amendment offered by Mr. RICHMOND: Beginning on page 4, immediately after line 5, insert the following new section 3:

"SEC. 3. Section 7(b) of the Cotton Research and Promotion Act (7 U.S.C. 2106(b)) is amended by adding at the end thereof the following: 'The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 per centum of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.' ".

Mr. BOWEN. Mr. Chairman, I, too, want to note that the gentleman from New York has been quite diligent in supporting consumer propositions on the committee. I think I have a substitute amendment here which will accomplish precisely what he wants to do and will not wreak havoc with the cotton industry of the country. In fact, I would add three consumers, rather than two to the Board, but they would be advisory members and nonvoting members.

There are a number of reasons why the amendment offered by the gentleman from New York (Mr. RICHMOND) would be very damaging. Let me point out that he, although a member of the Committee on Agriculture, did not see fit to offer this amendment in the committee. The vote on the bill was unanimous, and that amendment was not offered.

There is no other Government checkoff program in the field of agriculture, or any other, that I know of, which has voting consumer members on it. I think that should be taken into consideration. For example, recently we passed a beef checkoff bill here, and in the committee language there was a recommendation for an advisory board. This would be simply parallel to that practice.

The fact is quite frankly, throughout the cotton industry of this country the producers of the Nation feel that since they pay the piper, they should pick the tune. They finance it. There is not a dime of tax money in the program, so why should a voting member be placed on the board? At one time we thought about no taxation without representation. Perhaps today we should consider the principle of no representation without taxation.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

If it is of merit to have consumer advisory committees in larger numbers than would be anticipated by the gentleman's amendment, why is it so frightening, why is it such a frightening prospect to have consumers on the Board? Putting aside the argument of where the money is coming from, what is so terribly dangerous about having consumers on the Board?

Mr. BOWEN. I do not regard it as a frightening prospect. I feel it would be likely to result in the defeat and the killing of the program simply because of the public relations among the 200,000 cotton growers of America, who are very strongly opposed to putting their money and earnings into the program and having someone who does not participate at all and who does not support it financially making the decisions. In fact, it would result in the firing of 2 of the members of the Board, giving the Secretary the responsibility of trying to decide who to take off the Board and who to leave on. Who should presume to form a two-person elite to represent the consumers of this country?

Mr. MITCHELL of Maryland. I thank the gentleman.

I do not think we should worry about taking two off and having two consumers on.

Mr. BOWEN. Let me point out that the program we are talking about has had a commitment to the welfare of the consumers. They have done research work on flammability and other aspects, and they work constantly with consumer groups. Consumer surveys are constantly underway. I think, frankly, that the whole concept of trying to take private money—and this is truly private money, let me point out, with not one penny of public money—and then trying to put on the governing board to oversee the expenditure of those private funds consumer representatives, who do not participate in the levying or raising of those funds, is entirely unwise. However, I feel that what I have to offer the committee is a sound compromise substitute which allows 3 nonvoting consumer advisers to be selected by the Secretary, in addition to the 20 voting members. They would be compensated in the same manner as are voting members for any expenditures necessary to attend meetings of the Cotton Board.

Mr. Chairman, I commend this substitute amendment to the members of the committee and urge its adoption.

Mr. RICHMOND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in reply to the remarks of the distinguished gentleman from Mississippi (Mr. BOWEN), I would like to bring out the fact that the Federal Government is being asked to supervise an election, and the Federal Government is being asked to get itself involved in the Cotton Board.

I believe that any time the Federal Government is asked to be involved in any board, consumers should be consulted and consumers should have some representation on that board. By "representation on the board" I mean real representation, and all we are asking for is 2 members out of 20, just 2 legitimate consumer representatives to be appointed by the Secretary of Agriculture out of 20 members of the board.

Mr. Chairman, providing for three members on an advisory committee is mere tokenism. We know that it is meaningless. We know that an advisory committee has no power to act. We know that this is just a way to gloss over a serious situation, which we have here in the Committee on Agriculture. We have dozens of boards representing each and every commodity. I believe many of us here in Congress would like to see real, legitimate consumers representing real, legitimate consumer organizations with professional consumer experience sitting on those boards and giving them their valuable input.

After all, the consumer is the ultimate user of all these materials. Why should the consumer, therefore, not have seats on these boards.

Mr. Chairman, I urge the House to defeat the substitute amendment offered by the gentleman from Mississippi (Mr. Bowen) and to vote "aye" on my amendment.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the substitute amendment and in opposition to the Richmond amendment.

Mr. Chairman, we defeated a similar proposition on the beef checkoff bill earlier in this Congress. I think in that bill we learned and we ought to learn here that there is no need for consumer representatives sitting as voting members of the Board when there are no public funds involved. It would be most inequitable to have noncontributors deciding how to spend the contributors funds.

We have heard arguments saying that it does not matter that public funds are not involved as the consumer is going to pay for all this in the end result. There has been no evidence presented during this debate and there has been no evidence presented in any hearing to show that the cotton producer determines the cost of cotton. The market determines that cost.

There is no way the cotton producer can say, "I am going to raise the price of cotton to offset what I am paying in this program." As a matter of fact, if the program works in the areas of production and research, it will reduce the price of cotton to the consumer; it will not raise the price, it will reduce the price.

In addition to that, let me say this: We hear about this consumer issue as if to say there are certain organizations that represent consumers and nobody else does. The Congress of the United States represents consumers, and the Committee on Agriculture represents consumers. These boards are composed of consumers as a cotton producer is a consumer.

I do not believe there is any consumer organization or representative in America who can tell us what cotton should cost. In our system of free enterprise, only the market can determine such. This being the case, there is no need or justification for consumer representatives on the Board of this program.

A "consumer representative" without any knowledge of cotton production would be of no use to such a Board since he has no idea where research needs to be done, what new strains of cotton should be produced or developed, what production or marketing problems should be considered or what possible new uses of cotton should be explored. If one is of no use, then one should not be appointed.

I do not think that we need even the nonvoting consumer members, but the chairman of the subcommittee has offered this substitute and I will support it because he has done a fine job in handling this bill thus far and I will continue to support him in his efforts.

Mr. Chairman, I urge the members of the committee to vote down the Richmond amendment and vote for the Bowen substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. Bowen) as a substitute for the amendment offered by the gentleman from New York (Mr. Richmond).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. RICHMOND. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Richmond), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Natcher) having assumed the chair, Mr. Hanley, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10930) to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture and to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion, pursuant to House Resolution 1219, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee on the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 6, not voting 55, as follows:

[Roll No. 327]

YEAS—370

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent

Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zeferetti

NAYS—6

Abzug
Dellums
Hechler, W. Va.
Holtzman
Miller, Calif.
Myers, Pa.

NOT VOTING—55

Anderson, Ill.
Beard, R.I.
Bell
Brooks
Burgener
Carney
Clawson, Del
Clay
Conlan
Conyers
Danielson
Diggs
Dodd
Fish
Ford, Mich.
Fountain
Fraser
Giaimo
Hansen
Harrington
Helstoski
Hicks
Hinshaw
Horton
Johnson, Pa.
Karth
Kindness
Leggett
Litton
Lloyd, Calif.
Lujan
Lundine
McKinney
Matsunaga
Michel
Milford
O'Hara
O'Neill
Rhodes
Rodino
Rousselot
Ruppe
Schneebeli
Stanton, James V.
Steiger, Ariz.
Stephens
Stokes
Symington
Thompson
Udall
Vander Veen
Vigorito
Wilson, Bob
Wydler
Zablocki

The Clerk announced the following pairs:

Mr. Thompson with Mr. Bell.
Mr. Brooks with Mr. Del Clawson.
Mr. Beard of Rhode Island with Mr. Fish.
Mr. Danielson with Mr. Burgener.
Mr. Giaimo with Mr. Harrington.
Mr. Helstoski with Mr. Bob Wilson.
Mr. Matsunaga with Mr. Hansen.
Mr. Milford with Mr. Stephens.
Mr. O'Neill with Mr. Anderson of Illinois.
Mr. Rodino with Mr. Wydler.
Mr. Zablocki with Mr. Horton.
Mr. Vigorito with Mr. McKinney.
Mr. Diggs with Mr. Karth.
Mr. Dodd with Mr. Lujan.
Mr. Leggett with Mr. Steiger of Arizona.
Mr. Clay with Mr. Hicks.
Mr. Conyers with Mr. Fraser.
Mr. Ford of Michigan with Mr. Conlan.
Mr. O'Hara with Mr. Michel.
Mr. Stokes with Mr. Rousselot.
Mr. Symington with Mr. Johnson of Pennsylvania.
Mr. Carney with Mr. Kindness.
Mr. Udall with Mr. Ruppe.
Mr. Fountain with Mr. Schneebeli.
Mr. Vander Veen with Mr. Lundine.
Mr. Lloyd of California with Mr. Litton.

Mr. DELLUMS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion and to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOWEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 10930), just passed.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1218 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1218

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9560) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes. After general debate which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 9560 it shall be in order in the House to take from the Speaker's table the bill S. 2710 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 9560 as passed by the House.

The SPEAKER pro tempore (Mr. McFALL). The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, I know of no objection to this rule and, therefore, reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Missouri, this rule provides for 2 hours of general debate on H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976, and that the bill shall be open to all germane amendments. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment. Also, to facilitate going to conference, the rule makes it in order to insert the House passed language in the Senate bill.

This bill extends the authorization for the programs mandated by the Federal Water Pollution Control Act of 1972, and makes other changes in the current law that affect Federal costs. It also provides additional authorizations for fiscal years 1977 and 1978 for training of treatment plant personnel, the forecasting of manpower needs, the administrative costs of local water pollution control agencies, the planning efforts of areawide waste treatment agencies, scholarships and training grants, the pollution control programs for freshwater lakes, and the Federal cost of administering the act. A new provision authorizes the EPA to guarantee the bonds of municipalities that cannot obtain reasonable financing for their share of treatment plant construction costs. Also a $5 million contingency fund is set up to be used for pollution emergencies.

The bill authorizes $5,764,000,000 for fiscal year 1977; $6,471,500,000 for fiscal year 1978; and $6,000,000,000 for fiscal year 1979.

The administration strongly opposes enactment of H.R. 9560 which would authorize in budget authority $5 billion more than the President's fiscal year 1977 budget request for water pollution control.

Mr. Speaker, like the gentleman from Missouri, I know of no opposition to this rule; but I would like to point out, being a Member from Ohio, that as I look over the chart in the committee report showing the construction grant allotment by State for fiscal years 1977 and 1978 that we have an increase of $1 billion from fiscal year 1977 to 1978, and that all other States with the exception of Ohio are gaining funds in fiscal year 1978, as opposed to 1977.

Mr. Speaker, for example, in the fiscal year 1977, Ohio will get $282.5 million and in fiscal year 1978 would only get $239 million, which is quite a sizable reduction.

Hopefully, during the discussion of this bill, we will learn whether or not that is an error, which I hope it is, or what the rationale is for this reduction.

Mr. Speaker, I have no requests for time and reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. JONES of Alabama. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9560) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from Alabama (Mr. Jones).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9560, with Mr. Stratton in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Alabama (Mr. Jones) will be recognized for 1 hour, and the gentleman from California (Mr. Don H. Clausen) will be recognized for 1 hour.

The Chair recognizes the gentleman from Alabama (Mr. Jones).

Mr. JONES of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House has before it H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976.

As my colleagues may recall, it was just 4 years ago that we enacted Public Law 92-500 with its major amendments to the Federal Water Pollution Control Act which completely restructured and rewrote all previous Federal legislation in the water pollution control area. That bill was the result of 2 years of hard study and work by the Committee on Public Works and stands as a landmark in the field of environmental legislation. The 1972 amendments to the act called for a major and accelerated investment in cleaning our Nation's water resources—setting water quality goals for 1983 and 1985 and establishing strict effluent requirements for both industries and municipalities for 1977 and 1983. These goals and requirements were backed up with major programs, foremost of which was the provision of $18 billion for 3 years of investment in 75-percent Federal grants for the construction of municipal waste treatment works. In 1972 it took 39 conference sessions between the House and the Senate, and a vote to override a Presidential veto to enact the legislation.

The Federal Water Pollution Control Act Amendments of 1972 was then and still remains a major milestone in the environmental history of the country.

Since 1972 it has been a hard and rocky road to the implementation of this legislation. Our studies and monitoring of this program have shown both good and bad news. In many areas of the country, the water is not only improving but improving faster than some had expected. Investment in waste water control and treatment and the recuperative capacity of our streams are combining to create better water quality quickly.

Nationally, however, the program is behind the schedule the Congress contemplated. Among the causes of delay are the intricacy of the law, bureaucratic complexities, extensive litigation, and the impoundment of funds in the Federal grant program for construction of municipal sewage treatment plants.

The Congress recognized that the impact of the 1972 amendments would be far reaching and that the implementation of the act would require a major national effort. The Congress also recognized that as we proceed along the road, and as we learn about the benefits and the cost to the Nation, there might be a need for mid-term corrections. For that reason Congress established the National Commission on Water Quality.

The Commission was established by the 1972 act for the purpose of making a complete study of the technological, economic and social environmental impacts of the effluent limitations and goals of the act.

The Commission was chaired by Vice President Nelson Rockefeller, and I was privileged to serve as a Vice Chairman with Senator Edmund Muskie. Five members of the House Public Works and Transportation Committee, five members of the Senate Public Works Committee, and five members of the public sat as Commissioners.

I consider my participation on this Commission to be one of the most significant of my opportunities to serve the public during my years of work in the House. I would, therefore, like to submit for the Record a copy of my additional views to the Report of the National Commission on Water Quality of March 18, 1976:

ADDITIONAL VIEWS OF HON. ROBERT E. JONES ON REPORT OF THE NATIONAL COMMISSION ON WATER QUALITY

It has been a privilege to serve with the distinguished members of the National Commission on Water Quality in the development of this most important report on the condition of our waters and the progress of our clean-up program. We are indebted to Vice President Nelson A. Rockefeller for his outstanding leadership and tireless efforts as Chairman of this Commission.

This timely report, almost three years in the making, represents a significant contribution to the national effort. I find in the Commission's report heartening evidence of how far we have come since that day in 1948, during my first term in the House, when we participated in the enactment of the first Federal Water Pollution Control Act. By today's standards, it was a very small step forward—less than $1 million was actually appropriated for the annual Federal contribution to water protection—but it was a trailblazing step: it was the first real Federal involvement in an area that then (and for some years afterward) was widely viewed as "a local problem."

It was not until eight years later that sufficient public interest and support were generated to permit passage of the 1956 Water Pollution Control Act. Once again, when measured against the size of the job to be done, it was a modest effort. A total of one-half billion dollars was authorized to be given to States and local communities over a ten-year period, and the Federal contribution was generally limited to 30 percent of project cost. Administration of the program remained with the Public Health Service.

But the 1956 Act broke important new ground, first in the authorization of direct Federal grants for water pollution control, and second in establishing Federal enforcement authority. I count it among the highlights of my 30 years of congressional service to have been a member of the Public Works Committee at the time and to have contributed to the development and passage of that historic enactment.

Ten years later, with growing recognition of the truly grave threat to our water resources, we succeeded in enacting the Clean Water Restoration Act of 1966, this time with more meaningful funding. The Act authorized annual Federal grants rising from $150 million in fiscal year 1966 to $1.25 billion in 1971. But, again, the Federal contribution was restricted to 30 percent of the cost of each clean-up project.

Then, after the passage of another six years, our Public Works Committee came forward with the landmark Federal Water Pollution Control Act Amendments of 1972, clearly establishing the Federal role in the enormous task of preserving and protecting our terribly polluted national waters. The Act authorized direct, 75 percent Federal grants for the construction of municipal wastewater treatment plants, created a permit program under the Environmental Protection Agency, and set as a national goal a clean-up that would make our rivers, streams, and lakes fishable and swimmable by 1983.

The difficulties that still bar our way toward achievement of that goal are many and all but insurmountable; the problems and suggested solutions are detailed in the Commission Report. But the 1972 Act, in whose development I am proud to have played a part, will be recorded as one of the great environmental decisions of our time. With its enactment, we were at last mobilized and moving to save our waters. And not a moment too soon.

The Commission report properly concerns itself with water quality, which is inextricably linked to the supply of usable water that will be available to meet the manifold and almost insatiable demands of our society. And on that supply hangs the future of the Nation, the very future of life on this continent.

The easy abundance we have accepted so complacently as part of the natural order is, today, a thing of the past. We are coming face-to-face with a water crisis that could dwarf in severity the energy shortages that have so shaken our economy in recent years.

The best estimates I have been able to find indicate that by 1980—just four years hence—our farms, our commerce, and our households will impose a daily demand of almost 600 billion gallons on our water resources against a dependable supply of 515 billion gallons.

But the problem is far more complicated than a simple balancing of total demand against total supply would suggest. Some parts of the country are traditionally short of water, others suffer from periodic drought, while still others are ravaged from time to time by floods.

With few exceptions, our rivers and streams are no longer able to purify themselves naturally, as they did in the past gen-

> erations. The pressures of a still-growing population and an increasingly industrialized economy have become more than our waters can withstand on their own. There must be decisive, costly, and nationwide action to reverse the conditions that have brought us to our *present sorry state.*
>
> It can be done. There is enough water in and around the continental United States to meet all our foreseeable needs if we use it wisely. Our trouble lies in the fact that the water is not always where it is needed, in the quantities that are needed.
>
> How do we set about the task? Achieving and maintaining the highest possible degree of water quality is, of course, critical to any lasting solution of the problem. But it is equally essential that we plan and build adequate storage facilities to capture water when it is available and to hold it for later use.
>
> Furthermore, we cannot and must not confine ourselves to traditional approaches and traditional measures, because the problem we face today goes beyond all our past experience. We are going to have to investigate and develop new means, such as large-scale desalinization, weather modification, and restraints on water use. Inter-regional transfers of water must be considered, and perhaps the redirection of people and economic activities into different areas.
>
> But we must start now and we must start by rearranging our national and local priorities. Water resources will be competing with an increasing number of public programs for a share of our limited dollar resources. And they will lose out if there is not a broad public consensus, a national recognition that our waters must be saved if our future is to be saved.
>
> As I prepare to leave the Congress after three decades of uphill battle to restore and preserve our waters, I find grounds for hope and confidence that public support will be forthcoming, that the people, finally aroused to their danger, wil set their priorities straight. I could wish for no more.

Unfortunately, the report and recommendations of the National Commission on Water Quality were not before the committee when H.R. 9560 was being developed. This report, representing 3 years of solid effort by some of our most talented scientists and analysts, deserves and requires an extensive review by Congress. It is my view that we would do the Commission's effort an injustice should we become involved in major legislative changes before that report is thoroughly evaluated. The committee is in the process of examining the report and expects to conduct a thorough review of both the report and the act during the next session of Congress. Therefore, the overall recommendations of the Commission are not reflected in H.R. 9560, but some of the Commission's recommendations are the same as some of the provisions in the bill.

The bill before the House today, H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976, is the culmination of the committee's findings during its continuous monitoring of the implementation of the act since its enactment in 1972. The committee's review has included extensive oversight and legislative hearings of two separate subcommittees of the Committee on Public Works and Transportation. Oversight hearings were held by the Subcommittee on Investigations and Review under the excellent leadership of the gentleman from Texas, Congressman JIM WRIGHT, and legislative hearings were conducted by the Subcommittee on Water Resources by another distinguished gentleman from Texas, Congressman RAY ROBERTS.

These hearings mark only part of the extensive monitoring of the implementation of the act that has taken place since 1972. The committee has regularly conducted field inspections and daily discussions with representatives of professional organizations and affected industries, members of the public, and representatives of the Environmental Protection Agency, which has the primary responsibility of implementing the act.

H.R. 9560 does much to disentangle the redtape which has characterized the implementation of this program. It includes several provisions requested by the Environmental Protection Agency, in addition to others which they endorse. Also there are several provisions which, as I noted before, were included in the recommendations of the National Commission on Water Quality.

There has been considerable discussion pertaining to section 17 of the bill, which would amend section 404 of Public Law 92–500.

Without regard to this particular amendment, I would like to point out some of the confusion that already has plagued the proper administration of section 404. The Corps of Engineers has incorrectly taken the position that section 404 of the FWPCA requires the Tennessee Valley Authority to obtain corps permits for its activities within the Tennessee River system.

Since the inception of TVA, Congress has entrusted to the TVA Board of Directors the responsibility for the unified development of the Tennessee River system. Before passage of the TVA Act, the Tennessee River was threatened with piecemeal, haphazard development by a multiplicity of agencies—Federal, State, and local. Congress recognized the tremendous waste involved in that kind of approach and, in charging TVA with the responsibility for the unified development of the river, undertook what has been universally recognized as one of the more successful experiments ever attempted by organized government. It is this vital principle of unified development which to this day makes TVA a model for worldwide river development.

It is inconceivable that Congress would at this late stage attempt to return to the days of piecemeal development with its attendant delays and legal disputes, by requiring Corps of Engineers permits for TVA projects on the Tennessee River. This is especially true in light of the clear wording of section 26a of the TVA Act. That section provides that the construction, operation, or maintenance of structures by TVA in the Tennessee River system would not be subject to any permit "now or hereafter required." While section 313 of the FWPCA does subject Federal agencies in a general manner to Federal and State requirements respecting the control and abatement of water pollution, Congress certainly never intended section 313 to override the clear wording of section 26a.

In many ways, the discussions on section 404 have obscured the many other important measures contained in H.R. 9560.

I call your attention to the fact that H.R. 9560 provides a total of $18,235,500,000 in authorizations; $17,000,000,000 of this is for Federal grants for the construction of waste treatment works for fiscal years 1977, 1978, and 1979. The remaining $1,235,000,000 is for authorizations for fiscal years 1977 and 1978 for such important programs as manpower training and forecasting, grants to State and interstate water pollution control agencies, training grants and scholarships, grants for areawide waste treatment management agencies, the clean lakes program, and funds for EPA to carry out its responsibilities under the act. These authorizations are contained in section 3 of H.R. 9560.

It is of special concern to the committee that these programs have never been funded at the levels necessary to insure an overall effective water pollution control program. Good examples of this are the programs for manpower development, training, and retraining provided by section 104(g)(1) of the Act and the employment forecasting program provided by section 104(g)(2).

The manpower training program was created for the purpose of insuring an adequate supply of trained personnel to operate and maintain existing and future treatment works and for the purpose of substantially enhancing the proficiency of those currently engaged in such work.

Although this program has been authorized at the level of $7,500,000 from fiscal year 1973 through fiscal year 1975, the President's budget indicates a distinct downward drop in the funding effort. In fiscal years 1973 and 1974 the program was funded at approximately $1,900,000. In fiscal year 1975 the level dropped by about $500,000; and in fiscal year 1976, the President's budget provided only $819,000 for this program, a decrease of more than $1,100,000 since fiscal year 1974.

The provision of properly qualified personnel to operate and maintain municipal treatment works is a relative unnoticed but vital aspect of the overall water pollution control program. Billions of Federal and local dollars are being expended annually for the purpose of constructing municipal treatment works. The completed plants can contribute to a reduction in the water pollution problem only if properly operated and maintained. It is well worth the investment of a few million dollars to insure that the billions of dollars invested in construction grant awards will indeed accomplish their objective—clean water.

Section 3(a) of H.R. 9560 amends section 104(a)(2) of the Federal Water Pollution Control Act to provide authorizations of $2,000,000 for fiscal year 1977 and $3,000,000 for fiscal year 1978 for this program, and it is expected that the manpower training effort authorized by section 104(g)(1) of the act to be funded at the level authorized.

Section 3(b) of H.R. 9360 amends section 104(u)(3) of the act to provide authorizations of $1,000,000 for fiscal year 1977 and $1,500,000 for fiscal year 1978 for the employment needs and forecasting program provided by section 104(g)(2) of the act.

Authorizations of $2,500,000 for each of fiscal years 1973, 1974, and 1975 have been provided for the employment forecasting program. However, the funding for the program has averaged little more than $300,000. It is expected that this program will be expanded to the $1,000,000 level in fiscal year 1977 and $1,500,000 in fiscal year 1978 as is provided in the authorization contained in H.R. 9560.

The employment forecasting program for which funds are being provided in section 3(b) of H.R. 9560 authorizes the administration to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, reduction, and elimination of pollution in each region, State, or area of the United States and to periodically publish the results of such forecasts.

Among the information to be included in the administration's report is a summary of the actions taken to implement this program, their effectiveness, the number of persons trained, the occupational categories for which training was provided, estimates of future needs, and recommendations on improving training programs, including legislative proposals. The first report was due December 31, 1973, and was submitted to Congress in January 1974. To date no subsequent reports have been received.

The committee expects EPA to continue its efforts in this area and report again to the Congress before March 15, 1978, when the committee will be preparing its recommendations for the fiscal year 1979 authorization for this program.

In addition to underfunding important programs, the administration has attempted to refrain from implementing and to phase out programs authorized by Congress. An example of this is the program of academic training authorized by sections 109, 110, 111, and 112 of the act.

Section 3(d) of H.R. 9560 amends section 112(c) of the act and authorizes $6,000,000 for fiscal year 1977 and $7,000,000 for fiscal year 1978 for the program of training grants and scholarships with institutions of higher education to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter occupations involving the design, operation, and maintenance of facilities whose purpose is water quality control. This program is provided for by sections 109, 110, 111, and 112 of the Federal Water Pollution Control Act.

In fiscal years 1973, 1974, and 1975 $25,000,000 was authorized for this program. In fiscal year 1973 the program was funded at $335,000 and in fiscal year 1974 funding was reduced to $331,000. In fiscal years 1975 and 1976 funding was further reduced to $231,000. No funds were requested by EPA for fiscal year 1977.

The progressively reduced levels of budget authority reflect the statement made by the Agency on June 20, 1973, when it formally announced its intent to phase out by July 1, 1976, the postsecondary education training and scholarship program authorized by sections 104, 109, 110, 111, and 112 of the Federal Water Pollution Control Act, pursuant to a directive issued by the Office of Management and Budget. The Environmental Protection Agency planned to phaseout the graduate training program by gradually reducing the number of participating institutions and the number of student slots over a 3-year period and by making no grants to new institutions.

The Congress, however, indicated its interest in continuing this program by appropriating $2,700,000 for academic training in fiscal year 1976. It is expected that this program will be gradually increased to the full authorization levels of $6,000,000 and $7,000,000 for fiscal years 1977 and 1978. These funds are intended to be available for grants and scholarships to all eligible institutions of higher education, not only those to which the Agency issued grants prior to 1973. The Agency is expected to use the funds authorized for the section 104(g)(2) employment forecasting program to determine the need for additional professional persons in the field in water quality control and to submit such estimates to the Congress before March 15, 1979. At that time the committee will reassess the need to gradually expand this program to its initial authorization level of $25,000,000.

One of the provisions of H.R. 9560 which is directed toward reinstating a program originally created by Public Law 92–500 is the new section 215 which is created by section 12 of the bill.

Section 215 provides the Environmental Protection Agency with the authority to guarantee loans for the non-Federal share of the construction grant to the municipality from the Federal Financing Bank. This provision represents a revival of the authority originally provided by the Environmental Financing Act of 1972 which was created by section 12 of the Federal Water Pollution Control Act Amendments of 1972.

The Environmental Financing Authority was created to insure that public bodies eligible for Federal financial assistance in constructing waste treatment facilities would be able to borrow on reasonable terms any amount necessary to finance the non-Federal share of construction costs. Therefore, if public bodies were unable to sell their obligations in the private market to finance their share of construction costs the Authority was authorized to purchase such obligations until July 1, 1975.

Final regulations implementing the Authority were not published until June 14, 1974. The committee was advised that no formal requests for financing were received and that by early 1975 the Authority had not purchased or entered into commitments to purchase any obligations. The reported lack of applications may have been due to the short period of time during which procedures existed for utilizing the Authority and to the relatively stable bond markets.

In 1975 the committee received communications from the Environmental Protection Agency and the Comptroller General recommending that the authority not be extended. The Comptroller General's communication stated, in pertinent part:

> The Treasury Department does not believe the Authority is needed since any lending it might undertake can be accomplished through the Federal Financing Bank. Section 2 of the Federal Financing Bank Act (P.L. 93–224, 87 Stat. 937) states that one of the purposes of the Bank is to assure coordination of borrowing programs with the overall economic and fiscal policies of the Government.

On this advice, the committee permitted the authorization for the Environmental Financing Authority to lapse.

The Federal Financing Bank has the authority to purchase any obligations issued, sold or guaranteed by a Federal agency. Currently 17 other Federal agencies, which have the authority to issue, sell, or guarantee obligations, are participating in the Federal Financing Bank program.

Section 215 of H.R. 9560 gives the Administrator of the Environmental Protection Agency the necessary authority to guarantee loans for the non-Federal share of a construction grant award if the grantee municipality is unable to finance its share at a reasonable interest rate. For the purposes of this section, a reasonable interest rate is defined as one-half of 1 percent above the current interest rate at which the Federal Financing Bank is making loans for comparable maturities.

In order for a grantee to be eligible to sell its bonds to the Federal Financing Bank, EPA would have to certify that the grantee is unable to obtain the necessary credit on reasonable terms, and make a determination that there is a reasonable assurance of repayment of the loan. EPA would then guarantee repayment of the loan to the Federal Financing Bank, and the grantee would issue its obligations directly and exclusively to the Federal Financing Bank for the sole purpose of financing the non-Federal share of the cost of any project for the construction of a waste treatment works which EPA has determined is eligible for a Federal grant.

It is intended that the program administration funds authorized by section 517 of the Federal Water Pollution Control Act be used to defray the costs of administering this loan guarantee program and to repay to the Federal Financing Bank any loans which are in default. In addition, EPA is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

Mr. Chairman, I have highlighted just a few of the many important provisions of H.R. 9560. Other important provisions include: A redefinition of the term "navigable waters" as it applies to the Corps of Engineers' permit program regulating the discharge of dredged or fill materials; a case-by-case extension of the 1977 effluent requirement for municipalities; a program that will permit eligible states to certify to the Administrator that certain Federal requirements for a construction grant have been complied with; permission for the use of ad valorem taxes to collect operation and maintenance costs; permission for a reduction in the number of separate administrative steps that must be completed by a municipality for the construction of a small treatment works project; and creation of a contingency fund to be used by the Environmental Protection Agency in handling emergency situations such as those which present an imminent and substantial danger to public health or welfare.

I would take one moment to congratulate my two friends from Texas, Mr. Wright and Mr. Roberts, for their excellent work and leadership in bringing forth this bill; and also express my appreciation to the ranking minority member of the committee, Mr. Harsha, and the ranking minority member of the subcommittees involved in this legislation, Mr. Clausen and Mr. Cleveland, for their splendid cooperation.

H.R. 9560 is a good bill and it addresses problems which need immediate resolution.

Mr. Chairman, at this point, I would like to insert for the Record, a section-by-section summary of H.R. 9560:

Section-by-Section Summary of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976, Reported by the Committee on Public Works and Transportation, May 7, 1976

H.R. 9560 amends the Federal Water Pollution Control Act (P.L. 92-500). The total cost of the bill is $18,235,500,000. Costs include a total authorization of $17,000,000,000 for the construction grant program for fiscal years 1977, 1978, and 1979.

SECTION 1—TITLE

H.R. 9560 may be cited as the Federal Water Pollution Control Act Amendments of 1976.

SECTION 2—APPROVAL OF AUTHORIZATIONS FOR FISCAL YEAR 1976 AND THE TRANSITION QUARTER

Provides a general authorization for fiscal year 1976 and the transition quarter for several programs for which funds have already been appropriated. Such authorizations expired on June 30, 1975. Section 3 contains a listing of these programs.

SECTION 3—AUTHORIZATIONS FOR FISCAL YEARS 1977 AND 1978

(Amends sections 104, 106, 112, 208, 314, and 517 of P.L. 92-500).

Authorizations for fiscal years (FY) 1977 and 1978 are provided for the following programs: manpower training (section 104(u)(2))—$2,000,000 for FY 1977 and $3,000,000 for FY 1978; manpower forecasting (section 104(u)(3))—$1,000,000 for FY 1977 and $1,500,000 for FY 1978; program grants to State and interstate water pollution control agencies (section 106(a))—$100,000,000 for FY 1977 and $100,000,000 for FY 1978, training grants and scholarships (section 112(c))—$6,000,000 for FY 1977 and $7,000,000 for FY 1978; grants for areawide waste treatment management planning processes (section 208(f))—$150,000,000 for FY 1977 and $150,000,000 for FY 1978; "Clean Lakes" program (section 314(c))—$50,000,000 for FY 1977 and $60,000,000 for FY 1978; funds for the Environmental Protection Agency (EPA) to carry out provisions of the Act for which funds have not otherwise been authorized (section 517)—$100,000,000 for FY 1977 and $150,000,000 for FY 1978.

SECTION 4—SEWAGE COLLECTION SYSTEM GRANTS

(Amends section 202 of P.L. 92-500)

Would correct inequities in the treatment works construction grants program resulting from procedural requirements. Some communities received a grant for the estimated costs of the treatment facilities that proved to be in excess of the actual contract price to complete the treatment facilities.

Communities cannot use these excess funds to pay for collection systems on which construction has already been initiated. Section 4 is intended to provide the basis to authorize the Administrator to permit the grantee to apply such excess funds to such collection systems up to the limit of 75 percent grant for the eligible cost of the collection system or $2,800,000, whichever is less.

SECTION 5—COMBINED STEP 2 AND STEP 3 GRANTS FOR SMALL TREATMENT WORKS PROJECTS

(Amends section 203 of P.L. 92-500)

At present, EPA administratively divides the process of grant approval for a treatment works into three steps, each subject to a separate grant application, regardless of the size of the project: Development of facility plans (Step 1), preparation of construction drawings and specifications (Step 2), and actual construction (Step 3).

Section 5 provides that the Administrator may after approval of a Step 1 facility plan which contains estimates of the cost to complete the project, award a single grant for Step 2 and Step 3 combined in a single application, where the total cost of Steps 2 and 3 for this grant would not exceed $1,000,000.

SECTION 6—USER CHARGES

(Amends section 4 of P.L. 92-500)

Provides that a grant applicant which is using an ad valorem tax system to collect any municipal revenues at the time of application for a Federal construction grant may be eligible to use this system for the purpose of collecting revenues to defray the costs of operating and maintaining the proposed treatment works. The Administrator would be required to determine that the ad valorem tax system would result in a proportional distribution of costs between user classes according to each class' use of the treatment works.

In addition, section 6 requires proportionality within the class of industrial users as defined by section 502(18) of the Act. The grant applicant would be required to establish surcharges to ensure that each industrial user pays its proportionate share of the costs on the basis of volume, strength, and other relevant factors.

SECTION 7—CONSTRUCTION GRANT FUND ALLOTMENT FORMULA AND PROCEDURE

(Amends section 205 of P.L. 92-500)

Provides an allotment formula for waste treatment works construction grant funds authorized for fiscal years 1977 and 1978. The allotment formula is as follows: ¼ on the basis of population, ½ on the basis of partial needs (secondary treatment, more stringent treatment to meet water quality standards, interceptor sewers and appurtenances), and ¼ on the basis of total needs (partial needs plus collector sewers, combined sewers, and infiltration/inflow). The formula does not include any estimates of treating stormwater flows. The formula is based on the May 6, 1975, EPA report, "Cost Estimates for Construction of Publicly-Owned Waste Treatment Facilities–1974 'Needs' Survey."

In addition to providing a new allotment formula, section 7 establishes a new allotment procedure for funds authorized for fiscal year 1977 and beyond. The entire authorization for the fiscal year is allotted to the States on the first day of the fiscal year which it is authorized according to the statutory allotment formula. This eliminates the six-month lead time now in the law.

The amount of the authorization available for obligation in any fiscal year is subject to limitations on obligation set by appropriation acts. The limitations shall be applied to each State in proportion to its allotment. Any amount not made available for obligation remains authorized until expended. Any portion of an authorization originally not released for obligation which is subsequently released shall be available to each State from the time of the release in accordance with provisions of the act applicable to those amounts not subject to any limitations on obligation (including, but not limited to, the time requirements for obligation).

The amounts which are available for obligation remain available for obligation for the fiscal year during which they could first be obligated and for the period of the next 16 months. Therefore, funds will be available for reallotment on February 1.

Any funds not obligated by the end of the period for which they were made available will be immediately reallotted among the States by EPA according to the formula applicable to sums allotted for the current fiscal year. Any State which contributes funds to the amounts subject to reallotment is ineligible to receive any portion of the reallotted monies. Any sum made available to a State by reallotment shall be in addition to any funds otherwise allotted to that State for waste treatment works construction grants during any fiscal year.

A major change in the Act is the provision making the amounts of each authorization subject to obligational limitations established by appropriations acts. This provision was adopted so as to comply with the Congressional Budget and Impoundment Control Act of 1974.

SECTION 8—REIMBURSEMENT AND ADVANCED CONSTRUCTION

(Amends section 206 of P.L. 92-500)

Extends from July 1, 1972, to July 1, 1973, the date by which initiation of construction on treatment works projects must have occurred in order for such projects to be eligible for reimbursement grants of 50 to 55 percent of project costs. Applications for reimbursement for those projects on which construction was initiated between July 1, 1972, and July 1, 1973, must be filed within ninety days after the date of enactment of this section.

Section 8 also amends section 206(e) of the Act to increase the authorization for reimbursement grants from $2,600,000,000 to $2,950,000,000 for the purpose of fully reimbursing the total eligible grant amount of 50 or 55 percent to all those communities which have previously qualified under section 206(a) and those communities which become eligible under the provision of this section.

SECTION 9—CONSTRUCTION GRANT AUTHORIZATIONS

(Amends section 207 of P.L. 92-500)

Provides an authorization of $5,000,000,000 for FY 1977, $6,000,000,000 for FY 1978, and $6,000,000,000 for FY 1979 for the program of 75% Federal grants for the construction of municipal waste treatment works.

SECTION 10—FEDERAL SHARE OF AREAWIDE WASTE TREATMENT MANAGEMENT PROCESSES

(Amends section 208 of P.L. 92-500)

Extends the availability of 100 percent Federal grants for the first two years of plan development by newly designated area-wide waste treatment management agencies if the first grants are approved by EPA before October 1, 1977.

Grants of up to 75% of the costs of developing and operating a continuing areawide waste treatment management process in any one year, are provided for each succeeding one year period to newly designated agencies whose first grants are approved after October 1, 1977, as well as for subsequent grants for each succeeding one year period to agencies which have already utilized their first grant.

SECTION 11—CONTRACT AUTHORITY FOR AREA-WIDE PLANNING PROCESSES

(Amends section 208 of P.L. 92–500)

Provides that the contract authority provisions for grants to areawide waste treatment management agencies will be subject to such amounts as provided by appropriation Acts, as is provided for by the Congressional Budget and Impoundment Control Act of 1974.

SECTION 12—NEW PROVISIONS

Creates new sections 213, 214, 215, and 216

STATE CERTIFICATION

(New section 213 created by section 12 of H.R. 9560)

Provides a program for State certification, which gives to the States the authority to carry out certain requirements for Federal grants for the construction of municipal waste treatment works.

Provides that EPA may accept from States, qualifying to participate, certifications as to their compliance with the Act in developing applications for treatment works grants. Qualified states are defined as those whose water pollution control agencies have the authority, responsibility and capability to effect all actions, determinations or approvals for which certification is submitted.

Section 213 authorizes the Administrator to accept a certification by a State that the following Federal requirements for a construction grant award had been complied with:

Evaluation of alternative waste management techniques; determination that the proposed treatment works will provide for the application of the best practicable waste treatment technology over the life of the works and will allow for the later application of advanced treatment technology (section 201(g)(2));

The proposed treatment works is not subject to excessive infiltration (section 201(g)(3));

Plans, specifications, and estimates have been submitted (section 203(a));

Stages of projects may be eligible for a grant award (section 203(d));

The proposed works are consistent with applicable areawide waste treatment management plans and State water treatment management plans and State water quality plans (section 204(a)(1) and (a)(2));

The works are entitled to priority for funding over other works in the State (section 204(a)(3));

The grant applicant agrees to pay non-Federal costs and has made provisions for proper operation and maintenance of the works (section 204(a)(4));

The proposed works contains sufficient reserve capacity (section 204(a)(5));

Bid specification requirements will be conplied with (section 204(a)(6));

The user charge and industrial cost recovery provisions of the Act have been complied with (section 204(b)(1) and (b)(3));

The proposed treatment works system is eligible for a grant under the definition of "treatment works" (section 212(2)(B)).

Subject to the Administrator's approval, after public hearings, and to judicial review, with respect to qualifications to conduct a certification program, States receiving certification authority would exercise this authority by certifying to the Administrator that projects are in compliance with all or a portion of legal, financial, technical, and administrative requirements.

Certification authority could be carried out by a State for all or a part of the actions, determinations or approvals for which certification may be accepted as its capabilities warrant at a given time. Certification by the States is subject to partial or total suspension after public hearings upon a showing or poor performance.

Also, the section provides that the Administrator must determine that the State is following practices that conform to the Federal construction grant regulations under P.L. 92–500, and that the State has an enforceable requirement that any person having a significant financial interest in the construction of treatment works will not be a member of any State board or body which processes an application for a grant under this title.

If, after public hearing, the Administrator determines a State is not meeting the requirements for one or more of the actions, determinations, or approvals for which certification is accepted from that State, he may suspend acceptance for any or all projects in the State. In the event of such suspension, the Administrator at his discretion may reinstate that State's program for any or all projects upon receiving evidence that the deficiencies have been corrected.

The responsibilities of the Administrator under any other Federal law including the National Environmental Policy Act of 1969 are not affected by this section.

This section does not change the Administrator's responsibility to award Federal grants. Neither does it affect the existing procedures for environmental assessments.

States participating in this program are permitted to expend up to two percent of their construction allotments from section 205 of the Act for the reasonable costs of carrying out this responsibility. A grant made from the amount reserved may be obligated by the States in the same manner as for construction projects and during the same period as the allotment from which the grant is made. Funds so obligated shall be available until expended.

Regulations implementing section 213 are to be promulgated within 90 days of enactment of this section.

DETERMINATION OF PRIORITY

(New section 214 created by section 12 of H.R. 9560)

Clarifies Congressional intent that categories of treatment works construction needs that are eligible under P.L. 92–500 for Federal grant assistance may, at a State's election, be included on the State's construction priority list. The categories of projects for construction of publicly owned treatment works include: secondary treatment, treatment more stringent than secondary treatment as is necessary to meet water quality standards, correction of infiltration/inflow, major sewer system rehabilitation, new collector sewers and appurtenances, new interceptor sewers and appurtenances, and correction of combined sewer overflows.

Loan guarantees for non-Federal share of construction grant

(New section 215 created by section 12 of H.R. 9560.)

Gives the Administrator of EPA the necessary authority to guarantee loans for the non-Federal share of construction costs if the grantee is unable to finance its share at a reasonable interest rate. For the purposes of this section, an unreasonable interest rate is defined as one which is more than one-half of 1 percent above the current interest rate at which the Federal Financing Bank is making loans for comparable maturities.

In order for a grantee to be eligible to sell its bonds to the Federal Financing Bank, EPA would certify that the grantee is unable to obtain the necessary credit on reasonable terms, and make a determination that there is a reasonable assurance of repayment of the loan. EPA would then guarantee repayment of the loan to the Federal Financing Bank, and the grantee would issue its obligations directly and exclusively to the Federal Financing Bank for the sole purpose of financing the non-Federal share of the cost of any project for the construction of a waste treatment works which EPA has determined is eligible.

EPA is authorized to charge reasonable fees for the investigation of an application for a guaranty and for the issuance of a commitment to make a guaranty.

Waiver of non-Federal share

(New section 216 created by section 12 of H.R. 9560.)

If a grant applicant can demonstrate to the Administrator that it is unable to obtain financing for the non-Federal share of project construction costs from either the private financial market or by an EPA-guaranteed loan from the Federal Financing Bank, the new section 216 created by section 12 of H.R. 9560 provides that the Administrator may waiver any requirement that the grantee pay the non-Federal share of the project for which a Federal grant application is made.

In such a case, the Administrator could approve a project to be built with the 75 percent Federal share only, which means that the revised project will be built solely with Federal funds. In order to properly *utilize* these funds the grantee must, for example, scale down the size of the treatment works or stage the construction of the treatment works.

The Administrator's authority extends only to a waiver of the 25 percent non-Federal matching share for a specific project and would not operate to reduce Federal construction grant funds for any other project on the State's priority list, or reduce the amounts allocated to other States. The Administrator's authority to waive the non-Federal share is applicable only to those grants awarded after the enactment of this section.

SECTION 13—CASE-BY-CASE EXTENSION OF 1977 MUNICIPAL EFFLUENT REQUIREMENT

(Amends section 301 of P.L. 92–500)

Authorizes the Administrator to make-case-by-case extensions of the 1977 effluent requirements for municipalities if he determines that the construction of necessary treatment works cannot be completed by July 1, 1977. No time extension may exceed July 1, 1982. However, if the municipality is utilizing innovative technology in the development of its treatment works the time extension may not exceed July 1, 1983.

Any industry which proposes to tie in with a municipal treatment works that receives a time extension under this section shall not be subject to its 1977 industrial effluent requirements until the date the municipal treatment works must meet its 1977 effluent requirements if, within 60 days after the municipality gets its time extension, the industry enters into a contract, enforceable against the industry, to tie in with the completed treatment works.

All time extensions granted to both municipalities and industries under this section shall be enforceable through the permit program established by sections 309 and 402 of the Act.

SECTION 14—STATE REPORTS

(Amends section 305 of P.L. 92–500)

Permits the State water quality inventory report to be submitted biennially beginning April 1, 1976, in view of the present requirement for annual reports.

SECTION 15—TOXIC EFFLUENT STANDARDS

(Amends section 307 of P.L. 92–500)

Authorizes the Administrator to hold a public hearing on a proposed toxic standard within six months of its publication, and would permit the Administrator to require compliance with final toxic effluent standards within three years where he determined it would be technologically infeasible for industries to comply with such standards within a one year period.

SECTION 16—PENALTIES FOR DISCHARGE OF HAZARDOUS SUBSTANCES

(Amends section 311 of P.L. 92–500)

Provides for a $50,000 penalty in the event of a discharge of a hazardous substance. If there is a second discharge within a three year period, the maximum penalty is $100,000. The maximum penalty for any subsequent discharge within the three year period is $500,000.

Under the existing law the penalty for discharging hazardous substances is at the discretion of the Administrator either (1) a penalty between $500 and $500,000, or (2) a penalty based on units discharged but not more than $5,000,000 in the case of a vessel and $500,000 in the case of a facility.

It provides an unlimited penalty in two types of situations: (1) where the discharge is the result of willful negligence or willful misconduct, or (2) where there is willful failure by the discharger to act to remove the substance discharged as deemed appropriate by the responsible Federal officer specified in the National Contingency Plan prepared under section 311(c)(2) of P.L. 92–500, unless the discharger has taken reasonable actions to remove the discharge.

In addition, section 16 provides that where the discharge is the result of willful negligence or willful misconduct the discharger is liable for an unlimited penalty, to be established by the Administrator, based either on the characteristics of the substance discharged, or the damage to the public health and welfare or both.

Section 16 also amends section 311 to provide that the discharge of any amount of a designated hazardous substance, within the privity and knowledge of the owner or operator, must be immediately reported with failure to do so subject to penalty.

SECTION 17—PERMITS FOR DREDGED OF FILL MATERIAL

(Amends section 404 of P.L. 92–500)

Amends section 404 of the Act by defining the term "navigable waters" as used in that section as all waters which are presently used or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. The physical limits of these waters extend shoreward to their ordinary high water mark. In the case of waters subject to the ebb and flow of the tide the physical limits extend also to their mean high water mark except on the west coast where the limit is the mean higher high water mark. This is the definition of navigable waters of the United States which has been enunciated by the courts for the purpose of other regulatory jurisdiction of the Corps of Engineers, except that this definition omits the historical test for navigability.

SECTION 18—EMERGENCY FUND

(Amends section 504 of P.L. 92–500)

Establishes a $5,000,000 contingency fund to be used by EPA in handling emergency situations such as those which present an imminent and substantial danger to public health or welfare, require the protection of persons where the endangerment is to their livelihood, and those which result from natural and other disasters. EPA would be required to report annually to the Congress on its activities under this section.

Nothing in this section shall be construed to relieve the Administrator of any requirement imposed on the Administrator by an other Federal law. Also, nothing in this section shall affect any final action taken under such other Federal law, or affect in any way the extent to which human health on the environment is to be protected under such other Federal law.

SECTION 19—JUDICIAL REVIEW BY U.S. COURT OF APPEALS

(Amends section 509 of P.L. 92–500)

Section 19 adds two items for which a review of actions by the Administrator may be had in the Court of Appeals:

A new item (H) is added to section 509 (b)(1) to provide that the decision of the Administrator to approve a State certification program pursuant to section (b) of the new subsection 213 of the Act, may be reviewed by the Circuit Court of Appeals of the United States for the Federal Judical District in which person seeking review resides or transacts business.

Also a new item (G) is added to section 509(b)(1) to expressly provide for review of the Administrator's actions in promulgating or revising regulations, providing guidelines for effluent limitations, under section 304(b) of P.L. 92–500 by any interested person in the Circuit Court of Appeals of the United States for Federal Judicial District in which such person resides or transacts such business.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman's yielding. I would like to propound a question.

Section 10 of the bill changes the existing section 208 Federal contribution for both 1976 and 1977 from 75 percent to 100 percent.

As the gentleman knows, the 1976 appropriation act provided $53 million for section 208 on the basis of a 75 percent Federal contribution.

The question is: Does the committee construe the language on page 20, lines 19 and 20, "subject to such amounts as are provided in appropriation acts," as authorizing the 1977 appropriations bill to limit both 1976 and 1977 appropriations for section 208 to a Federal contribution of 75 percent?

Is that how the Committee interprets this language?

Mr. JONES of Alabama. That is exactly and precisely correct.

Mr. BOLAND. If the gentleman will yield further, I would like to direct the same question to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, in response to the question of the gentleman from Massachusetts (Mr. BOLAND), we agree with the statement of the Chairman, the gentleman from Alabama (Mr. JONES), and we concur in the position taken.

Mr. BOLAND. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, in the debate on the rule concerning H.R. 9560 the question was raised as to the report language concerning allocations for fiscal year 1978 for construction grants, specifically as it applied to the State of Ohio. In that report language it shows the allocation due Ohio for fiscal year 1977 to be the sum of $282,500,000; then it shows the allocation due the State of Ohio for the fiscal year 1978 to be the sum of $239 million.

This is a typographical error, Mr. Chairman, and the accurate and true figure appears in the Committee Print 94–39 of the 94th Congress, 2d session, entitled "Allotment of Grant Funds for the Fiscal Years Ending September 30, 1977, and September 30, 1978, for the Construction of Publicly Owned Waste Water Treatment Works." That was printed in May 1976.

The true figure for Ohio in fiscal year 1977 should have been $282,500,000, as appears in the report, and for the fiscal year 1978, it should have been $339 million, as it appears in the document I just referred to. That is the accurate figure.

I make this point at this time because other Members may find some discrepancy in the chart printed on page 7 of the report, but that chart does not represent a true reflection of the actual allocations. The true reflection and the accurate figures are contained in the document I made reference to when I pointed out the discrepancy insofar as it applied to Ohio.

Mr. Chairman, I rise in support of this legislation, and I want to urge my colleagues to read the bill carefully. We on the Committee on Public Works and Transportation think it goes a long way to rectify the many problem areas that now exist in the Federal Water Pollution Control Act.

The real guts of this bill is the State certification section. That is the most important section of all, because if we are going to get on with the task we assigned for this country and for ourselves—that is the task of cleaning up the waterways of this Nation—we must eliminate much of the bureaucracy, much of the duplication, and much of the redtape that is bogging down this very worthwhile program.

Mr. Chairman, State certification as provided in H.R. 9560 is intended to speed up construction of waste water treatment works, hold down costs and strengthen the environmental and fiscal integrity of the program.

It would increase the authority, responsibility, and funding of State water pollution control agencies in administering the construction grants program, which has managed to date to obligate less than 10 percent of the $16 billion we authorized in 1972.

We on the Committee on Public Works and Transportation have consistently maintained that the principal purpose of H.R. 9560 is to enact those amendments which experience has proven over the past 3 years to be needed to make the program work, consistent with the thrust of the original legislation, Public Law 92–500.

State certification exemplifies that approach. It builds on the policies stated in Public Law 92–500 which, had they been carried out as intended, would have moved the program ahead as indeed we intend under State certification.

In my view, it was no exercise in boilerplate rhetoric when we said in 1972 that a chief policy goal of Public Law 92–500 was to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, as stated in section 101(b).

Further, we stated in section 101(f) of the act, that—

> It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best

use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

EPA, which strongly supports this provision, would be authorized to delegate to qualified States which seek to participate the authority to certify compliance with the act in developing applications for facilities funding.

Subject to the Administrator's discretion, and to public hearings and judicial review, qualifying States would undertake certification authority—with respect to all or a portion of certain standard requirements specified in the act, as their capabilities warrant, simultaneously or in stages, and subject further to partial or total withdrawal of certification on the basis of poor performance.

All substantive requirements of statute and regulation would still have to be met, and EPA would retain ultimate authority over the program. Specifically excluded from certification would be compliance with applicable laws other than Public Law 92-500, including the National Environmental Policy Act of 1969, with its mandate that environmental and other secondary effects of treatment projects be fully assessed.

Our report on H.R. 9560 makes it clear that as States phase into certification, EPA manpower resources would be freed to perform critically needed audit, inspection, monitoring and trouble-shooting functions.

Just a brief word about costs. Under State certification, a State participating in the certification program or getting geared up to participate would become eligible to use up to 2 percent of its construction funds for this purpose. The so-called Group of Ten, State water pollution control administrators working in continuing consultation with EPA, has told us that the full 2 percent may not be needed in all instances. But even if it were it would be a bargain.

There is no doubt in my mind that this amount would be recouped many times over in terms of improved management, not to mention the cost savings in knocking months if not years off the time needed to develop projects, yielding additional savings by avoiding construction cost escalation.

In conclusion, Mr. Chairman, State certification is a major step forward toward the goals of clean water which we set for the Nation in the 1972 act and should be enacted into law without further delay.

Mr. Chairman, there are some areas of the bill which I find troublesome, particularly section 404. However, the House will have an opportunity to work its will on that section, and regardless of how we come out on that, I am sure the proceedings have advanced to a stage that there will be some amendments on that section. However the outcome of that effort turns out, I would urge my colleagues not to lose sight of the overall compelling requirement that this legislation be passed so that we can get on with the task of cleaning up the waters of this Nation.

Mr. Chairman, that is an effort that every member of the committee and, I am sure, every Member of the Congress sincerely and wholeheartedly supports.

Mr. JONES of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Roberts), the chairman of the subcommittee.

Mr. ROBERTS. Mr. Chairman, I rise in support of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976 which amends the Federal Water Pollution Control Act, Public Law 92-500. I would like to congratulate Congressman Jones on his excellent leadership in guiding this bill through the Committee on Public Works and Transportation to bring it before the House today.

H.R. 9560 is the result of almost 4 years of continuous monitoring by the committee of the implementation of Public Law 92-500. This monitoring has taken the form of more than 15 days of intensive investigative hearings by the Subcommittee on Investigations and Review chaired by the gentleman from Texas, the Honorable Jim Wright. Several provisions in the bill are the direct result of the subcommittee's findings.

Also, legislative hearings have been held by the Subcommittee on Water Resources on which I serve as chairman.

At these hearings testimony was received from representatives of the public, industry, local and State government, public interest groups including environmental organizations, and the Environmental Protection Agency, which has the major responsibility of implementing Public Law 92-500. The subcommittee's efforts in developing H.R. 9560 were greatly aided by the presence of two distinguished gentlemen from California—Congressman Don Clausen, the ranking minority member of the subcommittee, and Congressman Bizz Johnson.

At the time H.R. 9560 was being developed the report of the National Commission on Water Quality was not before the Committee. However, some of the Commission's recommendations are similar to several provisions of the bill. Also, several of the provisions in H.R. 9560 were either requested by EPA or have received the Agency's support.

Included among the provisions of the bill are an extension of authorizations, included among those which are of especial importance are grants to interstate and State agencies, program administration funds for EPA, and funds for the clean lakes program.

The Federal Water Pollution Control Act Amendments of 1972 greatly expanded the responsibilities of both the States and EPA. For that reason, Congress provided specific authorizations of funds to assist both the States and EPA. However, neither of these authorizations have been properly utilized, and both EPA and many States still suffer from inadequate staff resources, greatly hindering their ability to carry out the water pollution control program.

Section 3(c) of H.R. 9560 authorizes $100,000,000 for each of fiscal years 1977 and 1978 for the purpose of providing program grants to State and interstate water pollution control agencies under section 106 of the Federal Water Pollution Control Act.

The section 106 grant program is the principal source for Federal aid to State and interstate water pollution control agencies. The grants are available to an interstate or State agency to assist them in administering programs for the prevention, reduction, and elimination of water pollution, including enforcement directly or through appropriate State law enforcement officers or agencies. These grants are available to eligible agencies for any fiscal year when the expenditure of non-Federal funds is equal to or greater than that expended during fiscal year 1972 which ended June 30, 1971. Therefore, the moneys authorized by section 106 supplement State funds for activities which include administration of the construction grant program; permitting, monitoring, and enforcing activities; basin plans for all navigable waters within the State; training programs for treatment works operators; a variety of reports that are required by the act; and other requirements of the act.

Public Law 92-500 authorized $60,000,000 for these grants for fiscal year 1973 and $75,000,000 for fiscal year 1974. An authorization of $75 million for fiscal year 1975 was subsequently provided in Public Law 93-592.

Since fiscal year 1973, the Congress has recognized the importance of providing adequate assistance to the State and interstate agencies by appropriating approximately $10,000,000 more each year than has been requested by the Environmental Protection Agency. Therefore, an average of $50,000,000 has been appropriated for each of fiscal years 1974, 1975, and 1976.

The increase in Federal assistance to the State and interstate water pollution control agencies has been matched by a nearly three-fold increase in State funding of these operations. In 1968, before the advent of the present law, State funding amounted to $19,000,000 but by 1976 this had increased to $80,000,000. Although the total Federal and State funding for these agencies has increased between 1972 and 1976, much of the effects of the increased funding have been eroded by inflation.

The committee's authorization of $100,000,000 for each of fiscal years 1977 and 1978 is an increase of $25,000,000 over the level authorized for fiscal year 1975. This increased authorization directly reflects the high priority the committee gives to this program and to the critical role played by State and interstate water pollution control agencies in implementing the Federal Water Pollution Control Act. The ability of many States to further increase State funding for their control agencies appears to be quite limited in the present budgetary and economic climate. This inability occurs at a time when there are renewed efforts and pressure to further increase State program responsibilities under the act. Therefore, the $10,000,000 level is seen as the minimum amount of Federal assistance required by these agencies to properly fulfill the goals and requirements of the act and is the level of funding for fiscal year 1977 recommended by the committee in its March 15, 1976 report to the Committee on the Budget.

Section 3(g) of H.R. 9560 amends section 517 of the act to authorize $100,-

000,000 for fiscal year 1977 and $150,000,000 for fiscal year 1978 for funds to be utilized by the Environmental Protection Agency in carrying out the provisions of the Federal Water Pollution Control Act for which funds have not already been authorized. Although authorizations of $250,000,000 were provided for fiscal year 1973, $300,000,000 for fiscal year 1974, and $350,000,000 for fiscal year 1975 the Agency has rarely utilized more than $60,000,000. This is of special concern to the committee because the Federal Water Pollution Control Act greatly increased the program responsibilities of the Agency. The series of oversight hearings conducted by the Subcommittee on Investigations and Review in 1974, 1975, and 1976 have revealed a multitude of administrative problems in, for example, the construction grant program, the establishment of water quality standards, and the issuance of municipal and industrial permits under the national permit discharge elimination system.

Furthermore, there are entire programs for which final implementing regulations have yet to be published, such as the control of discharges of toxic substances and pretreatment standards for industries provided by section 307, and the regulation of discharges of hazardous substances provided by section 311 of the act. Many of these difficulties can be directly traced to inadequate staffing and program support.

The funds authorized by section 3(g) of H.R. 9560 are intended to be used by the Agency to strengthen its staff and program resources. In addition, these funds are intended to defray the administrative costs of programs for which funds have not already been specifically authorized in the act and for new programs established by the enactment of the Federal Water Pollution Control Act Amendments of 1976. For example, the committee expects that the section 517 authorization for fiscal years 1977 and 1978 will be used to administer the activities of the Administrator under the loan guarantee program established by the new section 215 contained in section 12 of H.R. 9560, and that the section 517 funds would be used to liquidate any loans made under this provision which are in default.

Section 3(f) of H.R. 9560 amends section 314(c) of the act to authorize $50,000,000 for fiscal year 1977 and $60,000,000 for fiscal year 1978 for the "clean lakes" program. Section 314 provides that each State shall submit to the Administrator:

First, an identification and classification, according to eutrophic condition of all public fresh water lakes in the State;

Second, procedures and methods to control the sources polluting these lakes; and

Third, methods and procedures, in conjunction with appropriate Federal agencies, to restore the water quality of these lakes.

The Administrator is authorized to grant each State up to 70 percent of the funds expended by the States in any fiscal year for carrying out approved methods and procedures for restoring lake water quality. For this purpose, $50,000,000 was authorized for fiscal year 1973, $100,000,000 for fiscal year 1974, and $150,000,000 for fiscal year 1975.

To date no new funds have been requested by the Agency to implement the clean lakes program. In fiscal year 1975 the Congress recognized the need to get this program underway by appropriating $4,000,000. In fiscal year 1976, the Congress again indicated the importance of expanding the implementation of water quality control measures in lakes by appropriating $15,000,000. A request by the administration to rescind these funds was submitted to Congress on November 11, 1975. This request was denied by House Resolution No. 924 which was passed on December 12, 1975. The President's budget request for fiscal year 1977 shows no new funds for this program.

When section 314 was developed, it was intended that the Agency would take an aggressive role in working with and guiding the States in developing and implementing lake pollution control. In reality, there has been almost no program implementation by the Agency. Regulations have yet to be published, and on February 24, 1975, and March 1, 1976, two guidances were sent to the regions which essentially reduced the 314 program to a small research and demonstration effort. In January 1976 the Environmental Protection Agency approved grants of a research nature to 6 States for 11 lake quality control projects. The total amount of the grants was $2,103,526 with the average grant funded at about $191,000. Even in this effort there has been an absence of rigorious Agency leadership and there is yet to be developed the lake identification and classification, and development of methods and procedures to restore lake quality which is called for by the act. It is expected that EPA will fully utilize the funds authorized for fiscal years 1977 and 1978 to implement the clean lakes program in the manner intended by Congress.

Another important provision of H.R. 9560 provides for a case-by-case extension of the 1977 requirements for municipalities. This provision was requested by EPA and is included in the recommendations of the National Commission on Water Quality.

Section 13 of H.R. 9560 amends section 301 of Public Law 92-500 by adding a new subsection (g) which authorizes EPA to modify the time for achieving the treatment requirements imposed on municipal treatment works by section 301(b)(1)(B) and (C). Section 13 permits EPA to grant time extensions on a case-by-case basis up to July 1, 1982. In those cases where the treatment works, as determined by the Administrator, will utilize innovative technology time modifications may extend up to July 1, 1983. It is expected that particular emphasis would be given to land treatment and new chemical techniques. However, the 1983 effluent requirements of section 301 (a)(2)(B) of Public Law 92-500 are not affected by section 13.

Testimony was received by both the Subcommittees on Water Resources and the Subcommittee on Investigations and Review by many witnesses, including EPA, indicating that many publicly owned treatment works will not meet the July 1, 1977, treatment requirements. At this time it is estimated that 40 to 50 percent of the publicly owned treatment works will be in compliance with the 1977 requirements. Therefore about 11,000 of the estimated 20,000 publicly owned treatment works will not be incompliance. This means that less than 40 percent of the population will be served by waste water treatment facilities which meet the 1977 requirements. This situation will occur largely because cities will not have had sufficient time to complete needed construction.

As I have discussed on many occasions with my good friend and colleague from Hawaii, Congressman SPARKY MATSUNAGA, section 13 provides for a case-by-case extension of the 1977 requirements at municipal ocean outfall facilities. As originally introduced in September 1975, H.R. 9560 contained a provision to extend the time for meeting secondary treatment at municipal ocean outfalls in certain circumstances. At the subcommittee's markup of H.R. 9560 in November 1975, this provision was deleted because it was felt that authority to grant extensions to municipal outfalls was already contained in the time requirement provision of the bill. Therefore, the intent of the original language of section 9 of H.R. 9560, as introduced, will be carried out under section 13, as reported.

Since the enactment of Public Law 92-500, there has been considerable discussion of the necessity of requiring secondary treatment for publicly owned treatment works which have or plan outfalls. Most of the municipalities affected have argued that BOD and suspended solids, major pollutants addressed in secondary treatment regulations promulgated by EPA are not of concern in many marine waters and that expenditures for secondary treatment of ocean discharges waste public funds.

EPA's definition of secondary treatment in regulations includes limitations on BOD, suspended solids, pH, and fecal coliform bacteria. These regulations are uniform and applicable nationwide. Under present law consideration cannot be given to levels of treatment less than secondary for ocean outfalls based on water quality needs specific to ocean discharges.

It is expected that during any extensions of time made in accordance with this section for ocean outfalls, EPA will make grants pursuant to section 201(g) (1) of the act for facility planning—Step 1 grants—to be utilized to make necessary environmental assessments of the need for secondary treatment. It is expected that these studies and evaluations will be thorough and will include the determination of treatment alternatives and the environmental effects of such alternatives.

Any extensions of time granted to municipalities with existing ocean outfalls or which plan future ocean outfalls or which are currently considering ocean outfalls as a viable alternative are to be reflected in schedules of compliance with which include a final date for completion of necessary treatment.

The studies for large municipalities could take as much as 3 years and it is expected that extensions of this length will be made in those instances for those municipalities for which multi-year and repetitive multiseason evaluations and studies are necessary. It is also recognized that some municipalities or regions such as Seattle, Hawaii, Puerto Rico, and the southern California regions have already made extensive studies which may provide most of the information and data necessary to grant extensions. Added studies may not be necessary.

It is expected this provision will result in EPA's accelerating of research and development efforts to better identify the pollutants for which some base levels of control is necessary and to develop and demonstrate improved technologies for marine pollution control.

Section 13 does not modify the rights of the States under section 510 of the act. The States would continue to have the right to adopt or enforce, first, any standard on limitation respecting discharges of pollutants, or second, any requirement respecting control or abatement of pollution.

Section 13 of H.R. 9560 creates a subparagraph 301(g)(3) of the act which provides that no time modifications shall be granted under this subsection unless there is an approved schedule of compliance. Failure to meet the approved schedule of compliance would be a violation of the requirements of section 301 and would be subject to enforcement under the permit provisions of section 309 in the same manner as another violation of the requirements of section 301. It is expected in the promulgation of rules and regulations that EPA require that these schedules of compliance would be made a part of any permit issued to publicly-owned treatment works under section 402.

Section 13 of H.R. 9560 adds a new subparagraph 301(g)(4) to the act which addresses the question of industrial point sources which introduce their effluents into publicly-owned treatment works. It provides that any point source which has a contract enforceable against that point source or the owners or operators thereof to participate in a publicly-owned treatment works and shall not be subject to the best practicable control technical requirements of subsection 301(b)(1)(A) or the more stringent requirements necessary to meet the necessary water quality standards required by subsection 301(b)(1)(C) until the date which the treatment works receiving the effluent is itself required to meet subsections 301 (b)(1) (B) and (C), secondary treatment or water quality standards, respectively.

The publicly-owned treatment works which is planned to receive the industrial effluents must be either on a state priority list with assurance of construction or must be sufficiently along in the planning stages such that future construction is reasonably assured. Five years beyond the enactment of the Federal Water Pollution Control Act Amendments of 1976 should be considered to be a maximum time modification for industrial point sources.

The above-mentioned enforceable contract must be in effect not later than 60 days after the date the time modification to the publicly-owned treatment works. Failure to enter into an enforceable contract not later than 60 days will deny to the point source the opportunity to receive a modification of the time requirements provided for by the new subsection (g)(4).

The language of new subsection (g)(3) of section 301 regarding schedules of compliance applies also to industrial dischargers who receive time modifications under new section (g)(4). It is expected that no industry will be permitted to reduce its current level of treatment. The schedules of compliance for industrial dischargers should reflect the installation and operation of pretreatment at the earliest reasonable time and in no case later than three years from the date applicable pretreatment requirements are promulgated.

It is expected that the Administrator will immediately promulgate regulations to implement the new subsection (g) of section 301 and that no source will be penalized because of the delays on the part of EPA to promulgate regulations.

One of the provisions of H.R. 9560, the new section 214 created by section 12 addresses the matter of EPA's dictating to the States the manner in which they may establish their priority lists for the construction of treatment works. This has been a matter of great personal concern to me.

For some time now, I have been concerned that small towns were not receiving an equitable share of the grant funds authorized by the Federal Water Pollution Control Act because of EPA's criteria for development of a priority list for the award of grant funds. EPA's criteria tended to favor large cities to the detriment of smaller towns with severe pollution problems. It seems to me that an equitable response to this problem would be to develop two priority lists, one for large communities and another for small communities with a reasonable share of funding reserved for each such list. In June 1975, EPA permitted Texas to develop such a list. Since then I have been encouraging EPA to permit any State to develop a dual priority list if it should choose to do so.

At my September 30, 1975, hearing on the water pollution control program, Russell E. Train, Administrator of the Environmental Protection Agency gave me a copy of guidance that was sent out to all of EPA's regions informing them that EPA has no objection if a State chooses to set aside a reasonable percentage of its funds for projects of smaller communities and instructing the regions to work with all interested States to establish priority lists which reflect a set aside of a proportionate share of construction funds for small communities. In this way, States that choose to do so may reserve an equitable share of funds for their smaller towns.

Mr. Chairman, I would like to insert for the Record a copy of the guidance which was given to me as well as a letter on this matter that I received from John Quarles, Deputy Administrator of EPA:

U.S. Environmental
Protection Agency,
Washington, D.C., August 13, 1975.

Hon. Ray Roberts,
Chairman, Subcommittee on Water Resources, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of July 17 which addresses your concern for providing all States the opportunity to reserve a share of their Federal construction grant funds for small communities. I agree that fairness mandates the extension of this policy to each State, and the Agency plans to prepare guidance to this effect.

Currently, the Regional Offices are in the process of approving fiscal year 1976 State project priority lists. In an attempt to insure that the small community issue not complicate and delay this process, we have decided to issue guidance on the small community reserve once all, or virtually all, of the lists have been approved. This approach will prevent additional complications in the negotiations between EPA and States and result in earlier project list approvals. When the FY76 lists are approved, the States may amend their priority systems to allow for the small community reserve without delaying the flow of funds.

I expect all project lists to be approved during the next two months. At that time the States and EPA Regions will receive the necessary guidance for setting up the small community reserve. We will simultaneously provide you with the guidance.

I appreciate your interest and cooperation with us on this issue. Please do not hestitate to contact me or a member of the water programs staff if you have further questions or comments.

Sincerely yours,
John R. Quarles, Jr.,
Deputy Administrator.

U.S. Environmental Protection
Agency,
September 29, 1975.

Subject: Guidance for Development of State Priority Systems.

Attn: Deputy Assistant Administrator for Water Program Operations, Deputy Assistant Administrator for Water Planning and Standards.

To: All Regional Administrators.

The attached guidance memorandum has been prepared to clarify some of the gray areas in State priority systems development. There has been increasing interest in this aspect of the water program on Capitol Hill, particularly from the House Public Works Committee. We have experienced considerable interest from that committee for the past several months with regard to guidance which addresses the small community reserve. However, we waited until now for release of guidance to ensure against complications in the FY76 State program and State project priority list approval process.

State priority systems involve very difficult and complex issues which often complicate discussions with States over appropriate criteria and the proper application of those criteria. These are tough decisions and we appreciate the difficulty involved.

In order to minimize your problems in dealing with the States on these sensitive issues, we have attempted to provide you with guidance which allows significant latitude in dealing with specific State problems. If you have any questions or suggestions on these matters, please do not hesitate to contact either of us.

Attachment.

PROGRAM GUIDANCE MEMORANDUM: SM-5

Subject: State Priority Systems Used in the Development of State Project Priority Lists.

Attn: Director, Water Planning Division (WH-554).

To: All Regional Administrators.

Attn: Water Division Directors.

PURPOSE

This memorandum is to clarify and reiterate previous guidance concerning State priority systems used in the development of State project priority lists. As there has been limited guidance in this area during the last two years and because several major policy issues with respect to priority lists have been raised, there is a need for additional guidance. The guidance should serve to continue the accelerated pace of the grants program while retaining the Agency's objective of dealing with the worst pollution problems first.

BACKGROUND

The Water Strategy Paper and several EPA regulations address the development of priorities for the submission and approval of construction grant applications. The relevant regulations are those for the State Planning Process (40 CFR Part 130), State Programs (40 CFR Part 35 Subpart B), and Construction Grants (40 CFR Part 35 Subpart E). In addition, an all-Region TWX title *Guidance for State Development and Regional Review of Construction Grant Priority Lists* was transmitted on May 7, 1973, to assist the States and Regions in ensuring the use of proper criteria for developing State project priority lists.

The May 7, 1973 guidance TWX highlighted four general criteria for use in the development of the State project priority lists: 1) severity of pollution problems, 2) population affected, 3) need for preservation of high quality waters and 4) national priorities. Title II regulations published on February 11, 1974, added total funds available and project and treatment works sequence as possible supplementary factors. Additional factors to be considered in the development of the list related to treatment levels and were outlined in the 1974 and 1975 Water Strategies. General priority was to be given to: 1) projects required to meet water quality standards which must comply with the enforceable provisions of the law, 2) projects that are desirable in terms of water improvement, but against which the enforceable provisions of the law for secondary treatment can not be applied and 3) projects which do not directly involve discharge of pollutants.

In the past few months, several Regions and States have inquired about EPA policy regarding various priority systems issues not sufficiently covered by the previous guidance. The most frequent inquiry deals with the use of population as a criterion. The expressed concern relates to growth policy and whether the population value used should be existing or future population. The Agency's position supports the legislative history of P.L. 92-500 that construction grant funds are intended to be used primarily for abatement of existing pollution rather than treatment of expected future wastewater flows. Thus, where population affected is used as a priority system criterion population should be defined as that presently existing.

There have also been recent requests for a clarification of EPA policy concerning adequate construction grant funding for small communities. To ensure that per capita distribution of grant funds to communities of differing population size is generally proportional, the Agency has no objection if a State chooses to set aside a reasonable percentage of its funds for projects of smaller communities. Thus, a State may establish a reserve for small communities (as defined by the State and approved by the Regional Office) and one for the remaining larger communities. However, in ranking projects within each community size category and in consolidating the lists of both categories, the State must consider the severity of the pollution problem and the need for preservation of high quality waters. Funds may not be allocated on any basis not related to water pollution needs.

An additional issue arises from the fact that some States have developed priority systems which heavily emphasize advanced waste treatment works at the expense of projects to achieve secondary treatment. This may not be the most cost-effective use of available funds. Thus, where advanced waste treatment works which only slightly improve water quality are given higher priority than projects with less than secondary treatment, the Regional Administrator should question the State priority system and seek a change if appropriate.

POLICY

The basic national criteria for use in State project priority systems are retained. However, Regional Administrators continue to be advised that they may approve other criteria consistent with these.

The Regional Offices shall advise each State of the policies established in this memorandum relative to the development of the next project list, and shall determine jointly with each State the need for revision, if any, of the States' priority systems. In those cases, where a revision is determined to be necessary, the Region shall obtain a commitment from the State as to when such revision will be completed, recognizing the need to prepare FY 1977 State program plans next Spring.

The Regions shall work with all interested States to establish priority lists which reflect a set aside of a proportional share of construction funds for small communities. In addition, the Regions should examine closely situations where projects requiring advanced waste treatment compete on the project list with other projects requiring secondary treatment. Close examination of the priority system is also required to ensure that population is construed only as existing and not future population.

Finally, it is the responsibility of the Regional Administrator to assure that the priority system for each State is applied correctly in the development of the project list.

CONCURRENCES

(WH-551), Beck, Concur.

(WH-546), Rhett, Concur.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 9560. This bill contains urgently needed versions to the Federal Water Pollution Control Act. It meets the immediate needs of our water pollution control effort. It is intended to do those things which must be done now.

My good friend, ROBERT JONES of Alabama, the distinguished chairman of the Committee on Public Works and Transportation as well as my good friend from Texas, RAY ROBERTS, the chairman of the subcommittee are to be commended for their leadership in bringing this bill to the floor.

I do appreciate the leadership provided by my most able friend and colleague, BILL HARSHA of Ohio. He has been a source of major assistance.

Even though I support H.R. 9560 because it meets our immediate needs, two sections give me concern.

I have particular reservations on the amendment to section 404 of the Federal Water Pollution Control Act as set forth in section 17 of H.R. 9560 and the waiver of the 25-percent Federal share of the cost of publicly owned wastewater treatment works as set forth in section 12 of H.R. 9560. I shall have more to say on this.

As ranking minority member of the Subcommittee on Water Resources, I can testify that with the exceptions I noted, this is an urgently needed piece of legislation and one which merits immediate action by this body. This need has been repeatedly exhibited by Federal, State, and local officials as well as those regulated by the act. Our water pollution control effort needs H.R. 9560.

Mr. Chairman, I emphasize H.R. 9560 was intended to and does provide those new or revised water pollution control tools which cannot wait.

As everyone knows, the National Commission on Water Quality, established pursuant to section 315 of the Federal Water Pollution Control Act, transmitted its report and recommendations to Congress on March 18. The Commission which was chaired by Vice President Rockefeller has completed a 2½-year study at a cost of $17 million, of the technological, economic, social, and environmental effects of the requirements and goals set forth in the act for 1983.

This report must be thoroughly reviewed and Congress must hold extensive hearings to evaluate all aspects of the Commission's recommendations and the future needs of the water pollution control program. I expect our committee to devote many months of vigorous study to this effort.

Because it requires intensive, time-consuming study and because it is so important, I expect this will be one of the first items of business in the 95th Congress. The initiation of this effort early in the next Congress will allow the necessary time to complete this most important effort.

It is for this reason that most of the recommendations of the Commission are not included in H.R. 9560. However, H.R. 9560, which addresses those things which must be done now, does address the readily apparent impossibility of over one-half of our municipalities to install secondary treatment by July 1, 1977. Unlike the situation for publicly owned treatment works, it is believed that most industrial discharges will meet the July 1, 1977, requirements. Thus, the recommendations of the National Commission on Water Quality regarding industrial dischargers will be evaluated next year.

The Federal Water Pollution Control Act was intended to serve as an incentive for industrial dischargers to participate in municipal systems. We sought to minimize the number of discharges, to benefit from the better management and control available at regional facilities and to benefit from the economics of scale. We provided this incentive in a number of ways including reduced requirements and long-term interest free loans. Unfortunately, the implementation of the pretreatment requirements of section 307(b) of the Federal Water Pollution Control Act by the Environmental Protection Agency has been grossly deficient. As we point out on page 18 of our report, the "failure of EPA to promulgate pretreatment standards is disappointing. The content of pretreatment regulations should weigh heavily on the decision of industrial point sources to participate in municipal systems. It is expected, therefore, that the EPA will make every effort to promulgate required regulations at the earliest time. Major emphasis must be and is expected to be given to this problem."

New section 301(g)(4), which is added by section 13 of H.R. 9560, provides a further incentive to participate in regional systems. It recognizes the desirability of having industrial participation in municipal systems by allowing time modifications of the requirements for industrial discharges if they meet the requirements of the new section.

This provision could result in mischief if not carefully implemented. For an industry to receive a time modification, there must be an enforceable contract. Obviously, a contract is not enforceable if it is illusory and there is not good assurance that the publicly-owned treatment works will be constructed.

Before granting time modifications to publicly owned treatment works, I expect that there will in each case be an evaluation viable alternative waste water treatment technologies. Specifically included should be an analysis of chemical treatment technology as a cost-effective method for the separation of solids and liquids by coagulation, flocculation and sludge conditioning. Presently, available chemical treatment technology will allow publicly owned treatment works in many areas to meet secondary treatment at current funding levels.

Ocean discharges of primary treatment effluents from publicly owned treatment works is addressed carefully on pages 16 and 17 of our committee report. One comment should be made to clarify any misunderstandings. Treatment of industrial effluents in accordance with pretreatment standards will remove many of the materials which may be toxic to ocean life. Thus, a decision to utilize ocean outfalls consistent with section 13 as explained in the committee report is not intended to be a basis for reducing the level of pretreatment. We believe our position is consistent with the needs of the ocean environment; thus pretreatment standards apply for discharges into all publicly owned treatment works when they are consistent with water quality standards.

Section 9 of H.R. 9560 provides an authorization of $5 billion for fiscal year 1977, $6 billion for fiscal year 1978 and $6 billion for fiscal year 1979 for construction grants for publicly owned treatment works. All should recognize that these new authorizations are in furtherance of the intent of Congress to fund fully the grant program for the construction of municipal treatment works. This is a most important part of the water pollution control program and it is recognized that it will require continued assurance of congressional intent to bring all municipalities up to the necessary levels.

State and local officials should recognize this added $17 billion as assurance of a continued Federal grant program until the time all treatment works meet the requirements.

One of the most difficult aspects of any Federal grant program is the determination of the formula for the allotment of grant funds. In the case of the construction grants programs the allotments are made to the States.

In the past, the committee has been adamant that actual environmental needs and only such needs should be the basis for allotment. On the other hand, there is a body of opinion that other factors such as population should be recognized. Needless to say, the advocates of one formula extreme or another generally base their decision on what formula will provide the most funds for their particular State.

In our system of Government, compromise is the basis for reaching difficult program or political decisions. The key is fairness to all. This is what we have achieved. On the one hand, we have the formula in existing law which is based 100 percent on needs. On the other hand, there is the proposal to have a formula based 50 percent on needs, 50 percent on population. Our compromise which is reflected in section 7 of H.R. 9560 strikes a perfect compromise which is supported fully by our committee. It recognizes population and needs while emphasizing those categories of construction where most of the money is currently being spent and will be spent in the near future. Yet, it also recognizes those longer term needs such as collector sewers combined sewer overflows.

The formula we picked is a compromise for each State and each member of the committee, could have urged a more parochial view—perhaps successfully. However, the committee adopted a national view. I urge you to support the committee on this.

Section 5 of H.R. 9560 provides that the Administrator may, after approval of a step 1 facility plan which contains estimates of the cost to complete the project, award a single grant for step 2—design—and step 3—construction—combined in a single application, where the total cost of steps 2 and 3 for this grant would not exceed $1,000,000. Roughly a fourth to a third of all projects nationwide would fall within the $1,000,000 combined ceiling, and would include complete systems for small communities newly instituting treatment or replacing old facilities, as well as extension of existing systems in larger communities. This procedure will speed up the construction program and will reduce costly delays and redtape.

The Environmental Protection Agency should recognize that projects can be segmented to allow orderly construction with allotments for each fiscal year. The provision of section 203(d) of the Act, as amended, make this clear. However, it is clearly not intended that section 5 of H.R. 9560 serve as an incentive to segment projects solely for the purpose of being able to combine steps 2 and 3. The qualitative evaluation and consideration obtained by going through steps 2 and 3 may be necessary for thorough review of large projects.

The provision or determination of priority in section 12 of H.R. 9560 requires clarification. This provision does not preclude EPA from setting guidelines for the proper expenditure of Federal funds. It simply prohibits the Administrator from promulgating regulations which have the effect of precluding the inclusion of certain categories of construction. While cost effectiveness and value engineering criteria must still be followed, EPA cannot preclude the inclusion of collector sewers or correction of combined sewer overflow, for example.

The provision in section 12 of H.R. 9560 for waiver of the non-Federal share of the cost of wastewater treatment works would be better eliminated from the bill. It is confusing, poorly drafted, illusory, and simply unwise.

Your municipalities and mine must contribute to the non-Federal share of the cost of construction of municipal treatment works. The Federal grant pays 75 percent. The provision on waiver of the non-Federal share would require the Federal Government to pay 100 percent.

My good friend, Mr. WALSH of New York, introduced an amendment intended to preclude the waiver from resulting in any community or State having its share of Federal grant funds reduced. Thus, as reported, no municipality could benefit from this section if the result would be to reduce the funds to any project on any State priority list—present or future. Where will the money come from? Far from being facetious, foreign aid may be the only source.

The only way this section can work is the construction of facilities with 75 percent funding which do not measure up to the requirements of the act. We certainly do not want to encourage this. Also, I suppose, it would be possible to overdesign or add miles of interceptor or collector sewers. If 75 percent of the system were then constructed it would all be with Federal funds—100 percent. However, it is not our intent to encourage deception.

The section cannot work and is poor policy; it should be rejected.

My remarks do not address the details of section 16 of H.R. 9560 which amends section 311 of the act. This section revises the penalties for spills of hazardous substances. There will be a committee amendment to delete this section.

EPA has proposed regulations to implement the hazardous substance provision of section 311 and it is best at this time that we hold up action to allow for a thorough review next year of the experience under those regulations.

SECTION 404

I hesitate to leap into this but I am concerned by the Breaux amendment to section 404 of Public Law 92-500, the Federal Water Pollution Control Act Amendments of 1972, which is incorporated as section 17 of H.R. 9560.

The Corps of Engineers expanded regulatory authority results from a March 27, 1975, decision by the U.S. District

Court of the District of Columbia which directed the corps to expand the 404 program to all waters of the United States. Previously the corps was applying section 404 to waters which were used in the past, are presently used, or could be used with reasonable improvement, to transport interstate commerce.

This court decision forced the Corps of Engineers to administratively define "waters of the United States" as well as what activities would be regulated. On May 6, 1975, draft regulations were published and on July 26, 1975, "interim-final" regulations were promulgated. These regulations extend in three phases the Army Engineers' authority to control dredge and fill operations. Phase I, effective July 25, 1975, covers traditional navigable waters of the United States and contiguous or adjacent wetlands. Phase II, effective July 1, 1976, will expand the corps permit program into primary tributaries of navigable waters of the United States, lakes, and the contiguous or adjacent wetlands. After July 1, 1977, the corps will exercise its section 404 authority over all waters of the United States, administratively defined as a stream with 5 cubic feet per second flow.

Originally, I supported a moratorium on the implementation of phases II and III contained in the Corps of Engineers regulation and I would not eliminate the possibility of this option at this time. However, I think we should preserve the opportunity to consider this on the floor today and in the committee on conference with the other body.

Section 4 of H.R. 9560 adds a new subsection (c) to section 202 of the act. The purpose of this section is to correct inequities in the treatment works construction grants program resulting from procedural requirements.

In the switchover of the Department of Housing and Urban Development—HUD—program from a categorical grant program for water and sewer projects to a bloc grant program, some municipalities were unfairly penalized. Some communities such as Derry Township, Pennsylvania, had a grant application filed with HUD for the collection system as part of a treatment works and, at the same time, a grant application filed with EPA for the treatment facilities for the same sewage treatment works. Both the collection system and the treatment facilities were necessary for the treatment works to be fully operational to serve the community. When the HUD program went to a bloc grant format, the grant applications for the collection systems were left unfunded. In the meantime, the EPA grant was received and the community began construction of the treatment facilities, leaving the collection system to be unexpectedly funded and constructed with the communities' own resources, this certainly was not the intent of Congress.

Some communities received a grant for the estimated costs of sewage treatment facilities that proved to be in excess of the actual contract price. These communities were then left with excess funds in the grant that could be used to pay for the unfunded collection system on which construction had already been initiated prior to the time collections systems were eligible for grants. The new subsection (c) is intended to provide the legal basis to authorize the Administrator to permit the grantee to apply such excess funds to such collection systems up to the limit of a 75 percent grant for the eligible cost of the collection system or $2,800,000, whichever is less. If such excess funds have already been returned to the States, then the State would restore such funds up to the total of the original grant from any year's appropriation. No additional appropriation of funds is necessary to put this amendment into effect. The total of all such grants shall not exceed $2.8 million. If there are other municipalities similarly situated besides Derry Township, Pa., additional authorization will be required.

I would like to point out that there may be a misunderstanding in the wording of the second paragraph of the discussion of this section. The sense of the paragraph is that presently communities cannot use these excess funds to pay for collection systems on which construction has already been initiated. However, the new subsection (c) would provide the authority to do so.

Section 8 of H.R. 9560 extends by 1 year the period of "initiation of construction" which pertains to eligibility for reimbursement grants. As carefully explained on page 8 of the report, it is expected that any funds appropriated in the future for reimbursement will be used to reimburse those newly eligible projects to the same proportionate level as had already been provided currently eligible projects.

The provisions of section 8(c) of H.R. 9560 are directly applicable to Rocky River, Ohio. I include for the Record correspondence from Senator Taft of Ohio setting forth the history of the Rocky River construction program and the EPA determinations that as a result of section 8 of H.R. 9560 Rocky River is eligible for reimbursement payments in accordance with section 206 of the act.

Section 6 which amends the "user charge" provisions of the act recognizes the onerous and unfair burden which would be imposed if water or sewage meters had to be installed on every residence. Thus, section 6 is intended to rectify this for residences in eligibile municipalities.

Industrial and other classes of significant waste users must pay their proportionate share. If ad valorem taxes are utilized to collect user charges, a system of surcharges will be required to insure that residential customers do not subsidize industrial or other classes and that each industry source pays its fair share based upon volume, strength, and other relevent factors.

While there should be a reasonable relationship between the level of user charge income and the cost of operations the user charge system, the system to correct inequities in charges, high or low, should be accurate enough to result in a clear recognition of water treatment costs in the economics of each water users facility.

Mr. Chairman, I want to call particular attention to State certification, which I have long supported as one of the early cosponsors and which I consider to be one of the principal merits of H.R. 9560.

This is a badly needed reform and one which stands the best chance of any single provision considered since enactment of Public Law 92–500 of enabling that act to deliver—to make performance live up to its promise.

I am pleased to be able to say that it is strongly supported by the water pollution control agency in my own State of California as well as the Federal Environmental Protection Agency. As a matter of fact, EPA Administrator Russell Train has cited the performance and capabilities of my own State's agency as an argument in support of State certification.

This is a limited and carefully crafted provision, an optional alternative to the current procedure followed by EPA and the States, and is focused directly on problems that have swamped the construction grants program since its inception.

It will mean more State responsibility, more State authority, stronger State agencies and better State performance in assuring that the construction grants program is subject to strengthened management by increasing numbers of qualified personnel.

This provision had its inception in oversight hearings of the Subcommittee on Investigations and Review more than 2 years ago, when the main concern was failure to get the funds out to the States and into construction. Those concerns are equally valid today in terms of getting projects under way and accelerating achievement of the clean-water goals of the 1972 act.

We should not lose sight of other benefits, however, represented by its impact on jobs. Getting this construction program on track will mean jobs in the construction of facilities. But more than that, it will mean jobs in other types of construction in countless communities where housing and business and industrial development have been impeded by the lack of sewage facilities.

Beyond this, it will mean permanent jobs in areas where unemployment is high, improved water quality, and greater local and State input and control.

For all that, we are not telling EPA to close its eyes and shovel out the money. On the contrary, State certification will meet the increasingly recognized need to strengthen management over the program, whose $6 billion annual authorization level exceeds interstate highway construction. It will provide greatly strengthened staffs at the State level, familiar with applicant communities and their problems and needs, familiar with the public officials involved and with the consultants and contractors involved in the process.

Under State certification, 2 percent of a State's construction grant allotment would be reserved, and upon approval of the Administrator would be obligated and available until expended. In specific terms, this would mean that a State like

California could make an application identifying the staffing levels and activities to be performed on a group of projects initiated during a given year, some of which would take years to complete. This would be analogous to plans, specifications and estimated in construction terms. Approval plus a statement of intent by the States would constitute an obligation of funds, assuring their availability to support the needed manpower to perform all activities necessary to meet certification responsibilities throughout the life of the projects involved.

For these reasons, State certification has been endorsed by a number of environmental groups in California, State water pollution control administrators in at least 48 of the 50 States, the National Governors Conference, the Conference of State Legislatures, the Water Pollution Control Federation and other organizations, the National Commission on Water Quality and nearly 140 House cosponsors.

This is an outstanding measure reflecting credit on its author, the gentleman from New Hampshire (Mr. CLEVELAND), the principal cosponsor, the gentleman from Texas (Mr. WRIGHT), and the strong bipartisan majority on the Subcommittee on Water Resources and the full committee responsible for bringing it to the floor.

Mr. Chairman, many of my comments addressed amendments to H.R. 9560 incorporated in markup of the full committee. Some in my opinion are unwise. I shall vote to support the committee and to delete section 16 on hazardous substances, to modify section 17 on dredge and fill permits, and to delete that part of section 12 regarding waiver of the non-Federal share.

Nevertheless, Mr. Chairman, I shall support H.R. 9560 vigorously. It can be improved over its present form, but it contains other more important provisions which are most necessary at this time. I urge the support of this body for the mainstream of H.R. 9560.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I take this time to point out the fact that probably had it not been for the Breaux amendment that was offered in the committee, we would probably be finished with this bill by now. In the committee hearings I offered an amendment which became known as the Breaux amendment to section 404 of the Federal Water Pollution Control Act. I did so because I thought that the original intent of the Congress was not being carried out by court decisions and subsequent regulations that had been issued by the Corps of Engineers.

The goal of the Federal Water Pollution Control Act is to insure water quality for all of America, a goal that I think no one in this body can have any disagreement with, and one that I support very strongly.

I come from a State and I come from an area of the State of Louisiana which has approximately 25 percent of all of the wetlands of the United States. I am concerned about reserving and protecting those wetlands. I want my children and their children to be able to hunt and fish, and commercial farmers to be able to use those wetlands in the way that they can be best used. However, suits were filed under the original Water Pollution Control Act which said that the Corps of Engineers should require permits not just for navigable bodies of water, but for all waters of the United States. I did not think that that was the original intent of the Congress.

I think that Congress originally intended that someone would have to go to a Federal agency to get a permit only if it affected areas that were navigable, and navigable in the sense of interstate and foreign commerce. The greatly expanded jurisdiction, I think, was a prime example of what we hear so much about today, that being that regulatory agencies are making our laws rather than this Congress. So my amendment restored basically the original definition of what a permit would be required for, saying it would only be required for navigable bodies of water.

I think my amendment accomplished one very important thing. It got this committee and it got this Congress to really focus in on this particular problem and work to try to come up with a solution.

Mr. Chairman, I would like to point out that since my amendment passed, there have been numerous meetings between staff representatives, between Members who represent both sides of this issue, trying to see if we could focus in on an amendment or a substitute which accomplish what I originally intended and at the same time provide adequate protection for this country's wetlands, a goal that I strongly support.

Mr. Chairman, I am happy to be able to report that later on under the 5-minute rule we are going to have amendments offered and an amendment will be offered by the gentleman from Texas (Mr. WRIGHT) which I plan to support. I think the amendment of the gentleman from Texas (Mr. WRIGHT), offers a substitute which is a good, sound, solid approach. It basically says that the corps' jurisdiction is going to be over navigable water and it spells out what that is.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. WRIGHT. Mr. Chairman, I yield 2 additional minutes to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, the Wright amendment says that a 404 permit is going to be required for any dredging work in navigable waters. In addition, it would be required for any activities in adjacent wetlands. It also sets up a procedure for delegating to the States a means for handling these permits, if the State has an approved program.

In addition, it says that the corps is authorized to issue general permits for activities that occur on a regular basis. I think this is an acceptable compromise. Everybody is not going to be completely happy with it. I think, however, it is reinforcing the intent of the Congress as the body that has to make the law, rather than the regulatory agency.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I want to compliment the gentleman from Louisiana for taking the leadership in the committee and having the committee adopt the gentleman's amendment.

I understand the gentleman has said that the gentleman from Texas will offer an amendment to the gentleman's amendment which is the language that is now in the bill.

Would the gentleman state specifically how the Wright amendment will narrow the prohibition of the gentleman's amendment?

Mr. BREAUX. Mr. Chairman, I would say to the gentleman that we *are going* to get into it during the 5-minute rule and I think it would be probably better to let the author of the amendment explain it in detail then, rather than taking up time in general debate, if the gentleman would agree.

Mr. ICHORD. Mr. Chairman, I will be satisfied with that.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to compliment the gentleman from Louisiana for offering his amendment to section 404 and for the gentleman's leadership in this matter. I offered a companion bill along the lines of the gentleman's amendment that was heard before one of the subcommittees of the Committee on Public Works last year.

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

Mr. WRIGHT. Mr. Chairman, I yield 1 additional minute to the gentleman from Louisiana.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield further?

Mr. BREAUX. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I hope my colleagues will understand the problems of those of us from coastal areas. We face a great many problems dealing with the bureaucracy because of extended Federal controls, not only over wetlands, but over many activities of our citizens. The State of Maryland has a strong wetlands control law which is far superior to anything the Corps of Engineers has proposed in its rules. Yet under the Cleveland-Harsha substitute, that law would be superseded by Federal regulations and our much more stringent law would be encumbered by a new layer of Federal procedures and controls.

At least the Wright amendment seeks to deal with this problem although I would prefer the Breaux amendment as contained in the bill.

Mr. Chairman, again I compliment the gentleman for his leadership.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, I

thank the gentleman from California for yielding.

Mr. Chairman, although I am concerned about the spending levels contained in H.R. 9560, I would like to express my support for most of the substantive amendments contained in this bill. Generally, I believe that they will have the effect of cutting redtape in the wastewater treatment process, increasing State input into this process, and recognizing the unrealistic compliance deadlines contained in the 1972 act. At the same time, the bill continues its strong commitment to preserving and enhancing the environmental integrity of our Nation's waterways.

Specifically, I would like to endorse section 13 which postpones the compliance deadline for publicly owned wastewater treatment facilities with respect to treatment standards from July 1, 1977, to July 1, 1982. Time extensions, however, are to be given only on a case-by-case basis contingent upon the submission of an approved schedule for compliance by the municipality. Not only is the current deadline unrealistic, but it has also had the counter-productive effect of interfering with the orderly development of compliance schedules. The central role played by these essentially unattainable deadlines has resulted in a general lack of coordination of programs contained within the 1972 act.

In Minnesota alone, there are more than 400 communities that have expressed some need for sewage treatment construction grants, with estimates by the Minnesota Pollution Control Agency that no more than 10 to 12 percent could be financed with presently available funds. This same trend seems to exist elsewhere across the Nation. By establishing more realistic target dates, I believe that we will be extricating ourselves from a pro forma "numbers game" and again attempting to insure that our Nation's water pollution problems are cleared up as rapidly and as efficiently as possible.

I also would like to support the amendment which will be offered at a later point by the gentleman from Louisiana (Mr. BREAUX) and the gentleman from Texas (Mr. WRIGHT). We are moving forward and redefining the role of the Corps of Engineers, and I look forward to having an opportunity to support that amendment.

Mr. WRIGHT. I yield 4 minutes to the gentleman from New York (Mr. NOWAK).

Mr. NOWAK. Mr. Chairman, I thank my distinguished subcommittee chairman for yielding.

No one can argue that the expenditure of billions of dollars in the construction grant program is not the principal ingredient in the national effort to control and abate pollution in our lakes, rivers, and streams. But contributing to this overall effort are countless other factors. One of these—and the gentleman and I have discussed this concern previously—is the safe and efficient operation of sewage treatment plants. In the long and short run, cost effective operations and maintenance are necessary ingredients in saving money and promoting better water quality.

Mr. WRIGHT. The gentleman from New York and I have discussed this mutual concern at length and I would certainly agree that safe and effective operation of municipally owned waste water treatment works needs more priority in the administration of the clean water program. When we are spending as much as we are to do a job which all of us know is necessary, we should at least make sure we are getting the most for our money.

Mr. NOWAK. I thank the gentleman. Mr. Chairman, we all know that improved water quality will cost the citizens more as this national effort steps up. With several thousands of sewage treatment plants coming online each year, we have a firm obligation to assure that optimum use of resources is achieved—both in terms of "hardware" performance and manpower. This can be achieved in a number of ways.

The process by which plants are evaluated must be improved. EPA is required under Public Law 92-500 to annually survey and report to Congress on the efficiency of treatment works financed with Federal funds. The EPA reports to Congress in 1973, 1974, and 1975 and a GAO report of December 1975 clearly demonstrate that nearly half of the waste water treatment plants cannot be evaluated and that one-fourth to one-third of those surveyed were operating below design standards. With this type of data, obviously something needs to be done.

State operations and maintenance programs have been relied on heavily to conduct O. & M. inspections and to follow up on identified deficiencies. The December 1975 GAO report states:

> That State O&M inspection programs and reporting requirements cannot be expected to greatly improve these conditions unless EPA improves its monitoring of State programs.

Clearly, an important prerequisite to efficient operation of these plants is the assurance that inspections are taking place and the deficiencies are corrected.

Another factor in the optimum use of resources and efficient plant operation is a sufficient supply of adequately trained personnel to operate and maintain them. The manpower training effort authorized by section 104(g)(1) of the 1972 act is continued in H.R. 9560 at a level of $2 million for fiscal year 1977 and $3 million for fiscal year 1978. This program was created to insure an adequate supply of trained personnel to operate and maintain existing and future treatment works and for the purpose of substantially enhancing the proficiency of those currently engaged in such work. These funds are principally used for grants to public and private institutions for training or retraining of individual operators.

The value of academic "classroom" training for treatment works operators does not detract from or displace the necessity of onsite "on-the-job" training. Extensive onsite training provides a dimension which simply cannot be simulated in a classroom. In addition, while the 104 program funds are "individual" oriented, we should give more consideration and encouragement to plant-oriented funding. With the data quoted earlier on the marginal operating efficiency of plants surveyed by EPA, clearly onsite technical assistance needs more emphasis.

Under the construction grant program, the contractor is responsible for demonstrating that the completed treatment plant meets performance standards and that onsite personnel can properly operate the machinery. These requirements are customarily included in a standard construction contract and in many cases the contractor is required to conduct some type of onsite training that varies in time length from several days to several weeks.

In addition to training included in the construction contractor's responsibilities, States should use 106 program moneys, when necessary, to provide for specialized on-site, start-up training. The 106 grant program is the principal source of Federal aid to State and interstate water pollution control agencies to assist them in carrying out their responsibilities under the Federal Water Pollution Control Act. It is my understanding that some States have chosen to use a portion of these funds to provide operations and maintenance training programs, but that the extent of such activity is not great. These funds should be used for this purpose not only for actual on-site operations assistance to assure that personnel at newly constructed treatment works, as well as existing treatment works, have the necessary skills and knowledge to keep these plants effectively operated and maintained. In providing such on-site training, States should give full consideration to the best contractors available to provide such training and this should include both public and private sector organizations.

Although making State and interstate agencies program money available for this type of technical on-site assistance is a step in the right direction in bringing plants up to optimum efficiency, operation, and maintenance of municipal treatment works will continue to be a problem while the program is still getting into full swing. When we get to the point of having 5,000 plants going online annually—which will be happening in the next few years—O. & M. will be a major problem.

The National Commission on Water Quality addresses this issue and the problem of obtaining an adequate supply of skilled sewage treatment personnel. I think we will find that modifications may be necessary and that O. & M. certainly deserves a high priority in the comprehensive legislative review of the Water Pollution Control Act which the committee will undertake in the next Congress.

Mr. WRIGHT. The gentleman is absolutely correct in his assessment of the great need to provide experienced and skilled operators to promote efficient and safe operation of sewage treatment plants. I certainly concur with his interpretation that the States should be encouraged to use their 106 program funds to provide technical on-site training and assistance, and his remarks will be most helpful in stating the legislative intent that these funds should be used for such purposes.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I too have discussed the subject with the gentleman from time to time, and I know of his deep interest in it.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. WRIGHT. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. HARSHA. By a reading of the statutes involved, it is abundantly clear to me that when we wrote the 1972 amendments to the Federal Water Pollution Control Act, we were seriously concerned by the lack of adequate, properly trained personnel to run these facilities after we went to the expense of constructing them, and to the extent that we went into a multibillion dollar program to provide these facilities all over the United States.

There is no question in my mind but what the Administrator of the Environmental Protection Agency could enter into a contract with either an institution, or public or private group, or consultant, to provide the training for this, and there are a number of sections in the law providing for training facilities, training grants, and training programs to try to train adequate personnel for these.

Also, in section 106, alluded to earlier, I feel sure that the Congress intended that the States could use part of their grant money to adequately train sufficient personnel to complete the job that has to be done, even after the facilities are constructed.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HARSHA. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. HARSHA. In addition, when the community makes an application for a grant to construct a facility, the contractor could put in his contract enough money to provide the funds to be sure that when he turns that plant over to the community he provides training adequate to insure that they can operate the facilities. So the clear intent of the Congress is to use all appropriate and proper means available to train enough people to do the job.

I think that will resolve the gentleman's problems. I think he is absolutely right in his contention. I hope amendments are adopted to grant the States that latitude so that this matter could be dealt with promptly.

Mr. NOWAK. I thank the gentleman for his very complete and comprehensive statement. I think we are into an area that will become more and more evident in its importance as we review the reports of our successful operations and completions.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 8 minutes to the gentleman from New Hampshire (Mr. CLEVELAND), a member of the committee.

Mr. CLEVELAND. Mr. Chairman, I am going to address at this time a rather narrow aspect of H.R. 9560, although I am, of course, interested in the entire bill, including the section 404 problem that was discussed very briefly earlier in these proceedings. However, I agree that the debate on section 404 can probably be debated more profitably, when, under the 5-minute rule, the Cleveland-Harsha amendment and the Wright proposal and others will be considered.

Mr. Chairman, the part of H.R. 9560 that I want to address now is the so-called State certification section. This is known as the Cleveland-Wright bill, and I would like to thank the chairman of the full committee, the gentleman from Alabama (Mr. JONES) and the chairman of the subcommittee, the gentleman from Texas (Mr. ROBERTS); together with the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA), and the ranking minority member of the subcommittee, the gentleman from California (Mr. DON H. CLAUSEN), for their having considered the Cleveland-Wright bill and incorporated it into H.R. 9560.

State certification has been fully and fairly described in the committee report, and its provisions will doubtless be more fully discussed before this matter is concluded. So rather than devote my time to a recitation of its contents, I think it might be more useful and more interesting, perhaps, to the Members if I trace its evolution over the past 2 years to place it in perspective.

The problems that the State certification section of the bill, the Cleveland-Wright legislation addresses were fully aired, principally by witnesses from four key States, including New York and Pennsylvania, among others, at oversight hearings held by the Subcommittee on Investigations and Review in early 1974. An interim report on those hearings was made to the House by the gentleman from Texas (Mr. WRIGHT) the chairman of the Investigations Subcommittee, under a special order; and I welcomed the opportunity to contribute to the discussion at that time.

The merits of the State certification approval were apparent to me then, as I was later to find that they were apparent in a study of the construction grants program made by EPA itself.

Following the special order, I talked to Russell Train, at EPA, to inform him of my intention to proceed with legislation and to ask for his support. At that time EPA still had hopes of resolving the problems bogging down the construction grants program by internal administrative reforms. But they did agree that something had to be done, and the only question was what.

The original version of State certification was introduced shortly thereafter and circulated to the States for comment. I want to stress the fact that it was circulated for comment. I did not think it made much sense for one branch of the Federal Government to try to help the States deal with another branch of the Federal Government without obtaining extensive State views on the subject. Their response was encouraging, but they did point out two main deficiencies.

First, the original draft should have been more precise in spelling out exactly what requirements under Public Law 92-500 were to be made subject to certification; second, and perhaps more important, was the fact that the original draft provided no funding to help the States equip themselves to assume the increased authority and responsibility contemplated under the bill.

For this reason, the Cleveland-Wright bill was redrafted, in consultation with EPA, to accommodate many of those concerns, and introduced with my friend from Texas as the principal cosponsor.

During the intervening period, it has picked up the support of nearly 140 House cosponsors and a number of agencies and organizations. Russell Train endorsed State certification, and my idea of going the legislative route as early as October 1974. Early supporters included the American Consulting Engineers Council and other groups with direct concern for the implementation of the construction grants program, including the Water Pollution Control Federation. The group of 10 State water pollution control administrators serving in a consulting capacity with EPA helped build support here on Capitol Hill and in various States to the point where State certification has now been endorsed by at least 48 of the 50 State administrators.

More recent expressions of support have come from the National Governors Conference and the National Conference of State Legislators.

State certification has also had the benefit of exhaustive review by the National Commission on Water Quality, on which I had the privilege of serving, and which endorses this approach.

Throughout the development of this provision I have constantly maintained that it has not been perfect and, of course, can be improved by amendment.

As recently as the full committee markup, I offered an amendment to assure that the all-important decisions made by the EPA Administrator with respect to a State's ability to undertake certification would certainly be subject to judicial review.

But now I feel that this provision has been brought to the point where it should be enacted as it is and given a chance to work. Next year the Congress will undertake an extensive review of the entire water pollution control program in our consideration of the findings of the National Commission on Water Quality and its recommendations. Certainly any problem that might arise could be addressed at that time.

In conclusion, Mr. Chairman, I wish to again express my appreciation to the chairman and ranking minority members of the full Committee on Public Works and Transportation and the Subcommittee on Water Resources—the gentleman from Alabama (Mr. JONES), the gentleman from Ohio (Mr. HARSHA), the gentleman from Texas (Mr. ROBERTS), and the gentleman from California (Mr. DON H. CLAUSEN)—and particularly I want to thank the gentleman from Texas (Mr.

WRIGHT), who has been so helpful to me as we have worked together to develop this proposal.

Mr. Chairman, I yield back the balance of my time.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976. As everyone knows, the 1972 Water Pollution Control Act was a massive undertaking to clean up our Nation's waters. In any legislation as complex as the 1972 act oftentimes fine tuning is necessary to smooth out program performance. The Public Works Committee is fortunate in having JIM WRIGHT'S Investigations Subcommittee keeping a close eye on the Agency's performance in carrying out the massive congressional mandate. Over the past 2 years, I have been honored to have been a member of the National Commission on Water Quality led by Vice President NELSON ROCKEFELLER and Chairman BOB JONES. This study has concentrated on the impact of the 1972 act on society. In the next Congress the Public Works Committee will be holding extensive hearings on our national water pollution program with the Commission report as its basis.

The bill before us today, for the most part, does not change the thrust of the 1972 act. H.R. 9560 extends the 1972 act through fiscal years 1978 and 1979 and also calls for:

Greater State authority over administration of the program, subject to continuing Federal oversight;

A new formula for allocating Federal construction funds among the States which, for the first time since 1972, takes into consideration the relative populations of the various States;

A $5 billion authorization for fiscal year 1977 and $6 billion for fiscal year 1978 and 1979 each for construction grants;

A moratorium of up to 6 years for municipalities which cannot meet the present July 1, 1977 deadline for secondary treatment of their wastes; and

Several provisions to eliminate cumbersome redtape.

In addition, under H.R. 9560, municipalities would be permitted to collect the cost of operation and maintenance of their treatment plants through ad valorem taxes. Existing law requires that such costs be recovered by user charges.

All of these provisions are important to maintaining the momentum that is building behind our water pollution cleanup efforts while cutting away some of the unnecessary red tape that has kept the program from moving as fast as we would like.

One section of H.R. 9560 which has received a considerable amount of attention is the amendment to section 404. If section 404 continues in the law without amendment, the committee is concerned that the program will prove impossible to administer and that more will be lost than gained in the protection of the Nation's waters. Rather than managing a more limited program well, the corps will be in the position of managing a too large program poorly because the required additional personnel cannot be realistically expected to be approved by either the administration or by the Congress.

The committee is, however, much more concerned about other aspects of an expanded section 404 permit program. The Federal Government cannot and should not be expected to assume the entire responsibility for environmental protection. The states and local governments also have a significant role to play. Yet an expanded section 404 program will discourage the States from exercising their present responsibilities in protecting water and wetland areas. Moreover, the hope which section 404 holds out is incapable of fulfillment because of inadequate Federal resources. It is not only a false hope, but counterproductive as well.

In addition, under the existing section 404 program given its broadest reach, all matters of small agricultural and forestry activities could be subject to Federal permit regulation. The permit program of the Corps of Engineers attempts to address this problem through issuance of so-called general permits. There is, however, no assurance that such permits upon challenge will not be declared invalid.

Even specific statutory enactments of Congress are being challenged as being subject to veto through the present section 404 program. For example, a Bureau of Reclamation or watershed project authorized by the Congress is alleged by some to require a Section 404 permit before it can be constructed. Executive agencies have not been granted such powers to overturn specific congressional enactments.

Since the Public Works Committee markup of H.R. 9560 the controversy and misinformation surrounding section 404 has continued to grow. Our colleague, JIM WRIGHT, has proposed a compromise that will go a long way to satisfying all affected parties. His amendment will preserve the Breaux amendment while making clear that the coastal wetlands and wetlands lying adjacent and contiguous to the navigable waters are protected. The Wright amendment also will allow the States and Federal Government to agree on what wetlands are ecologically valuable and would be protected. Also, under the Wright amendment projects specifically authorized by Congress along with normal farming operations are exempted. Finally, to restore incentive to the States, the Wright amendment provides a mechanism to delegate portions of the permit program to the States.

I urge all my colleagues to support the Wright amendment. It is a reasonable approach to a difficult problem.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of H.R. 9560. The bill as reported by the Committee on Public Works and Transportation represents a landmark effort to properly maintain our water resources. A major aspect of this effort is the program of grants for the construction of municipal waste treatment works.

In 1972 the Congress authorized a total of $18 billion for allotment and appropriation over the 3 fiscal years 1973, 1974, and 1975 for the purpose of providing 75 percent Federal grants for the construction of waste treatment works. Five billion dollars was to have been allotted for fiscal year 1973, $6,000,000,000 for fiscal year 1974, and $7,000,000,000 for fiscal year 1975. The administration, however, actually allotted only $2,000,000,000 in fiscal year 1973, $3,000,000,000 in fiscal year 1974, and $4,000,000,000 in fiscal year 1975 holding a total of $9,000,000,000 in reserve, $3,000,000,000 from each fiscal year's authorization.

Suits were filed challenging the legality of the administration's refusal to make $9,000,000,000 available to the States. The suits eventually came before the U.S. Supreme Court, and on February 18, 1975, the U.S. Supreme Court ruled that the administration did not have the power to defer the allotment of $9,000,000,000 in construction grant funds authorized by sections 205 and 207 of the Federal Water Pollution Control Act. Shortly after this decision the Environmental Protection Agency allotted the $9,000,000,000 among the States using the allotment formulas that would have been used had the monies been allotted as originally intended by Congress.

In addition to problems caused by the impoundment of funds, the first 2 years of the program were plagued with problems of bureaucratic and administrative delays in implementing the program.

Oversight hearings conducted by the Subcommittee on Investigations and Review indicated that the enactment of the Federal Water Pollution Control Act Amendments of 1972 resulted in a slowdown in construction of wastewater treatment facilities rather than the accelerated and expended effort that was so clearly intended.

Despite initial problems such as these, all of the States managed to fully obligate their share of the $2 billion allotted for fiscal year 1973 and the $3 billion allotted for fiscal year 1974. It is expected that all States will obligate their share of the fiscal year 1975 allotment of $4 billion by July 1, 1976, when a State's unobligated funds would be subject to redistribution among the States. Therefore, the Committee expects that $9 billion of the original $18 billion authorized will be obligated by July 1, 1976. Moreover, there is still $9 billion available to the States for obligation until September 30, 1977. These funds were released pursuant to the Supreme Court decision in February 1975. Three States, Arizona, Hawaii, and Nevada, have already fully obligated their share of the $9 billion. It is anticipated that 19 other States will have fully obligated their share of the $9 billion by mid-fiscal year 1977. Therefore, if no new funds are authorized for fiscal year 1977, 22 States will be forced to halt their program shortly after the administrative problems have been somewhat smoothed out.

In order to maintain the States' program at a level rate, secion 9 of H.R. 9560 would amend section 207 of the act to provide an authorization of $5 billion for fiscal year 1977, $6 billion for fiscal year 1978, and $6 billion for fiscal year 1979 for the program of 75 percent Federal grants for the construction of municipal waste treatment works. It is estimated that more than 1 million jobs will be created if these authorizations are fully utilized.

Section 7 of H.R. 9560 would amend section 205 of the act to provide an allotment formula for the fiscal year 1977 and fiscal year 1978 authorizations.

The allotment formula for waste treatment works construction grant funds authorized for fiscal years 1977 and 1978 is: one-fourth population, one-half partial needs—secondary treatment, more stringent treatment to meet water quality standards, interceptor sewers and appurtenances—and one-fourth total needs—partial needs plus collector sewers, combined sewers, and infiltration/inflow. This formula is based 50 percent on the fiscal year 1975 formula and one-half partial needs.

The formula for fiscal years 1977 and 1978 is based on data contained in the final 1974 needs study which was submitted to Congress in May 1975. The next needs study, the 1976 survey, is to be submitted to the Congress in February 1977. It is expected that this study will be used to develop an allotment formula for the funds authorized for fiscal year 1979.

Mr. Chairman, I would like to insert for the Record:

Each State's allotment of funds for fiscal year 1977 and 1978 as authorized in section 7 of H.R. 9560 and as set forth in Committee Print 94–39:

State	$5,000,000,000	$6,000,000,000
Alabama	$53.5	$54.2
Alaska	24.0	28.8
Arizona	35.5	43.8
Arkansas	52.0	62.4
California	423.5	508.2
Colorado	40.0	48.0
Connecticut	63.5	76.2
Delaware	21.0	25.2
District of Columbia	20.0	24.0
Florida	190.0	228.0
Georgia	100.5	120.6
Hawaii	34.5	41.4
Idaho	20.0	24.0
Illinois	263.0	315.6
Indiana	110.5	132.6
Iowa	54.0	64.8
Kansas	61.0	73.2
Kentucky	74.5	89.4
Louisiana	62.0	74.4
Maine	27.0	32.4
Maryland	194.0	232.8
Massachusetts	140.0	168.0
Michigan	233.0	285.6
Minnesota	76.0	91.2
Mississippi	35.5	43.8
Missouri	99.0	118.8
Montana	9.5	11.4
Nebraska	30.5	36.6
Nevada	16.5	19.8
New Hampshire	34.0	40.8
New Jersey	240.5	283.5
New Mexico	13.0	15.6
New York	533.0	639.5
North Carolina	102.0	122.4
North Dakota	9.0	10.8
Ohio	282.5	239.0
Oklahoma	67.4	81.0
Oregon	43.5	52.2
Pennsylvania	216.5	259.8
Rhode Island	21.0	25.2
South Carolina	65.5	78.6
South Dakota	7.5	9.0
Tennessee	74.0	88.8
Texas	213.5	266.2
Utah	22.5	27.0
Vermont	12.0	14.4
Virginia	112.0	134.4
Washington	78.5	94.2
West Virginia	108.0	129.6
Wisconsin	100.0	120.0
Wyoming	7.0	8.4
Virgin Islands	3.0	3.6
Puerto Rico	45.5	54.6
American Samoa	2.0	2.4
Trust Territory of Pacific Islands	10.0	12.0
Guam	5.5	6.6

Mr. Chairman, sections 7 and 9 of H.R. 9560 constitute a realistic approach to the maintenance of our national water pollution control effort for the next several years.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. Roe).

Mr. ROE. Mr. Chairman, I rise in support of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976. I was privileged to be a conferee in 1972 on the basic act which is being amended today, the Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500. Since then I have watched the implementation of this act—often with a sense of horror—as I see repeated subversions of the intent of Congress by the EPA.

EPA's implementation of the act, the never-ending flow of confusing and massive regulations, has created a situation whereby it often seems that the country will never be able to get down to the business of building treatment works and sewers necessary to the use of the works.

In fact, EPA has so entangled the grant approval process that States have effectively been deprived of the use of their funds. One example of this, a problem I have personally been shepherding in my State of New Jersey, which perhaps has some of the roughest and toughest pollution problems in this Nation, is the unilateral decision by EPA that collector sewers and the elimination of combined sewers would be the lowest priority among the six categories of treatment works eligible for funding under the act.

In 1972, we made it abundantly clear that collector systems and the elimination of combined sewers were coequal in authorization and in priority. Apparently we did not spell that out clearly enough, though, because EPA came back and passed a regulation, saying top priority could only be given to the construction of a sewage disposal plant. This means that if a city wants to build its collector system they cannot do it because EPA, by fiat, not by direction of the Congress, comes back and says that is of lower priority.

It is fundamental that if you cannot get the sewage to the plant because there is no collection system how are the cities going to bond and create a viable flow of capital, the 25 percent that they have to put up, unless they can bill the customer? If the customer has no sewer in front of his house, how are you going to get the sewage to the plant?

There are two provisions in H.R. 9560 which address this problem—the new section 214 created by section 12 regarding state priority lists and section 9 which provides an allotment formula for the construction grant funds.

Section 214 makes absolutely clear what Congress had intended in 1972—that the State has the right to determine its own needs and to allocate its funds among those needs in any priority they choose. Section 214 provides that the States should have the authority to apply their grant funds to any portion of the total treatment system or to the plant facility only. Section 214 makes clear that all of the categories of treatment works construction needs that are eligible for Federal grant assistance under the act may, at a State's discretion, be given any level of priority on a State's construction priority list. These categories of projects include secondary treatment, treatment more stringent than secondary treatment to meet water quality standards, correction of infiltration/inflow, major sewer system rehabilitation, new collector sewers, new interceptor sewers and appurtenances, and correction of combined sewer overflows. These categories comprise the total treatment works system and each category is eligible for Federal funding under the act.

The allotment formula for construction grant funds provided by section 9 of the bill also reaffirms congressional intent that all categories of needs of a total treatment works system are eligible for Federal grant assistance.

The formula is based one-fourth on population, one-half on partial needs, and one-fourth on total needs. Partial needs include secondary treatment, treatment more stringent than secondary to meet water quality standards, and interceptor sewers and appurtenances. Total needs include partial needs plus collector sewers, infiltration/inflow, and correction of combined sewers.

The formula that we worked with in fiscal year 1975 was based solely on needs. The Talmadge-Nunn formula which was proposed to redistribute funds that had already been distributed among the States was based one-half on population and one-half on needs. The formula developed by the committee is a reasonable compromise between these two positions, one that we can all live with.

Section 9 provides that these funds that were originally authorized and allocated under the needs formula, under the existing legislation, remain intact. Therefore, we are not denigrating those previously allocated funds.

We recognized this problem, when we dealt with the Talmadge-Nunn amendment in our conference on the public works employment bill, and we tried to be fair and equitable, and we added $1.4 billion in that bill, which was vetoed, to accommodate that particular problem, to be fair with our neighbors.

Now, we came back and we are saying here, "In order to carry the equity through, we are not going to take away from States funds that were previously authorized and allocated."

We are saying, that $11 billion of the new $17 billion authorized by H.R. 9560 will be allotted by a formula that is more equitable—a moderate formula based on one-quarter population, one-half partial needs, and one-quarter on total needs. So we are not trying to go as far as Talmadge-Nunn formula, but about halfway between.

Now, when we speak in this formula of total needs, on the basis of which one-fourth of the money is to be distributed, we expressly include collector systems. Collector systems, combined sewers, and major sewer rehabilitation would have been excluded by the Talmadge-Nunn formula.

Therefore, the committee formula not only represents an equitable balance between two extreme approaches to distributing funds, but also makes clear that we include and mandate that collector sewers and the elimination of the combined sewers, which are part of the needs, are eligible for Federal funding. EPA is no longer going to be able, by regulation, to do what they have been doing in the past—eliminate necessary collector systems from eligibility for funding.

Mr. Chairman, these provisions are vital to an effective water pollution control program, and I urge their adoption.

Mr. WRIGHT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD of Tennessee. Mr. Chairman, I rise in support of H.R. 9560.

Mr. Chairman, almost 4 years ago, through the enactment of the Federal Water Pollution Control Act Amendments of 1972 the Congress set in motion a massive and massively funded national effort to halt the pollution that was destroying our priceless water resources, to restore them, and to preserve them for future generations.

The Committee on Public Works and Transportation, which played a major part in launching that effort, now presents to the House a series of amendments to the 1972 act that are intended to provide some modifications in the original program, to strengthen it, and to speed up its implementation.

These amendments, the Federal Water Pollution Control Act Amendments of 1976, H.R. 9560, will give the States greater authority and greater responsibility than they have had in the past, without waiving the overall authority of the Federal Government to make certain that the program is properly executed. They modify deadlines for completion of municipal treatment plant construction that have proved unreasonable and unworkable for some communities; they will correct some implementation problems that have developed in the distribution of areawide management planning grants, in the financing of operating and maintenance costs for local treatment plants, and in the reimbursement of treatment works construction grants.

Mr. Chairman, the Committee on Public Works and Transportation has given careful consideration to the revisions to the original act proposed in H.R. 9560 today. They are essential to the success of the water pollution control program. And they are needed now. I urge passage of H.R. 9560.

Mr. WRIGHT. Mr. Chairman, I yield 4 minutes to the gentleman from Utah (Mr. HOWE).

Mr. HOWE. Mr. Chairman, I rise in support of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976, and I strongly urge passage of the bill as it was reported from the committee.

Our national commitment to cleaner waterways was affirmed with the enactment of the 1972 amendments, perhaps the most comprehensive and far-reaching environmental effort ever authorized by the Congress. That bill represented a fundamental shift in strategy—an attempt to cut off pollution at the source by controlling effluents, with an emphasis on attacking municipal sewage through an accelerated construction grants program. We have reason to be disappointed, because we are behind schedule in the realization of the ambitious goals set by the act, but we also have good reason to feel encouraged because we have seen that the framework provided by the act brings results, and in some areas, faster than we had expected.

I join the rest of my colleagues on the House Committee on Public Works and Transportation today in stressing our continued commitment to the direction and goals of the 1972 act. The bill before us today—H.R. 9560—indicates that support. It represents a reasonable extension of the present law, with certain modifications which the committee, through careful study and oversight, has determined are necessary and urgent to carry out the intent of the act. Some of these reforms were recommended by EPA and a couple of them coincide with recommendations made by the National Commission on Water Quality. These new provisions have already been explained fully today and I will therefore not take the time to enumerate them, but I do want to point out that all of them are aimed at making the job of cleaning up our Nation's waters an easier one for the local governments charged with most of this responsibility.

I would like to comment briefly on one section of the bill—section 17, dealing with the Army Corps of Engineers permit program for dredge and fill material, and known as the Breaux amendment. The Breaux amendment would restore the traditional definition of navigable waters, which was broadened beyond intent by last year's Court decision, and would effectively limit the corps authority to regulate dredge and fill activities to only those waters. I supported this amendment in committee because under the current regulations mandated by the Court we have a lot of confused water users who are not sure which projects need permits, we have a Corps of Engineers facing a huge morass of paperwork, and we have a potential waste of taxpayers' money with the Federal Government duplicating what many States—including my own Utah—are already doing.

I understand Congressman WRIGHT will be offering an amendment to the Breaux amendment which was reported out of committee and that his amendment will go a step further in refining the Breaux provision and answering some of the concerns I just mentioned. Although it will preserve the general definition of navigable waters contained in the Breaux section, it will extend protection to the adjacent wetlands—the area which has caused us the greatest environmental concern in this whole debate. It will clear up confusion by insuring the exemption of normal farming operations from any corps permit authority, and it will avoid the waste of time and money, by allowing the corps to delegate its authority to States willing to take that responsibility and capable of doing so. I think Mr. WRIGHT is a genius at compromise, and I will support his amendment. I ask the rest of the House to do so.

This is an important bill and it is a good one. Next year we hope to give a more detailed study to the National Commission on Water Quality's recommendations for additional improvements in the law. But this year we have dealt with high priority items, with problems we need to remedy now if we are to move ahead to a better water quality throughout the Nation. I urge the House reaffirm our support for these goals today and pass H.R. 9560.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nebraska (Mrs. SMITH), who has come before the committee on a number of occasions to express her concern about this important bill.

Mrs. SMITH of Nebraska. Mr. Chairman, my purpose here today is to heartily commend to my colleagues House Public Works Committee's report on H.R. 9650, which amends the Federal Water Pollution Control Act, Public Law 92-500. A most significant provision cleared by the committee was section 17 redefining the term "navigable waters" as it applied to the Corps of Engineers permit authority. The effect of this section would be to limit Federal jurisdiction over waters which are not, in fact, navigable for interstate commerce purposes. This would be an important breakthrough which restores to the States their traditional and legitimate role in determining policy for use of their own natural resources.

The story of how waters which would not even support a boat became "navigable" and within the Corps of Engineers' permit program is a classic example of the mysterious growth characteristics of Federal authority. Because this expansion is a typical theme, I would like to note the legislative background of the regulations which the Army Corps is now using to restrict the rights of riparian owners and other water users.

The Rivers and Harbors Act of 1899, 33 U.S.C. 401, is the traditional basis for Federal jurisdiction over navigable waters. The plain intent of this law is to insure that the Nation's navigable waterways remain unobstructed for interstate commercial traffic. Sections 9 and 10 of that act required permits before bridges, dams, dikes, piers or other structures inhibiting free water transportation could be constructed. Early courts interpreted the act to clarify that the Congress could only claim Federal jurisdiction if the waterway did, in fact, carry commercial goods "amongst the States". *The Steamer Daniel Ball v. United States*, 77 U.S. (10 Wall.) 557 (1871).

This limited concept of Federal control of waters gradually grew as the Supreme Court's view of the Commerce Clause of the Constitution mushroomed. While in 1899 a water body had to be navigable in fact to fall within the scope of Federal powers, a 1940 case gave the corps authority over any water that is potentially navigable with reasonable improvements. *United States v. Ap-*

palachian Electric Power Co., 311 U.S. 377 (1940). This action, however, did not approach the questionable wisdom of another Superme Court case which made any waterway navigable which had ever in the distant past been used to carry commercial goods. *Economy Light and Power Co. v. United States*, 256 U.S. 113 (1920). Under this interpretation, even a stream 1 foot deep which an 18th-century trapper used to canoe his furs to market could be within the purview of Federal regulation. Thus, a river or stream, such as the Platte River in my district, which has not been navigable for over 100 years suddenly was legally declared subject to Federal management. And these broad potential and historical navigability doctrines could inflate Federal authority to reach up every tributary of the Platte and into the streams feeding some of the most productive farmlands in the world.

The real target of these comprehensive legal definitions of navigability was evident—the Rivers and Harbors Act of 1899 was being used to promote nebulous clean environment goals, despite the law's traditional interstate commerce focus. Although everyone feels strongly about pure water and beautiful wetlands, it is debatable whether this objective is more properly entrusted to a central Federal Government instead of those State and local communities who are directly involved.

Then in 1972, at the height of impassioned environmental awareness, the Federal Water Pollution Control Act Amendments added still more confusion to the jumbled overlapping of Federal and State water authority. This act introduced two new permit structures in addition to the permit programs remaining under sections 9 and 10 of the 1899 law. The two new permit programs were section 402 of the act allowing the Environmental Protection Agency to regulate any discharges into navigable waters and section 404 requiring the consent of the Corps of Engineers before beginning any dredge or fill activities in navigable waters.

In April of 1974 the Corps promulgated regulations specifying their responsibilities under this new act. These rules relied on the basic definition of "navigable waters" that had evolved from court interpretation. As I discussed previously, that definition encompassed those waters which are, were in the past, or could likely in the future be used for commercial water transportation. In spite of the bloated definition, some felt it still too confined for their purposes. No wonder then that controversy quickly flared up because section 502 of the 1972 act defined the term "navigable waters" to mean "the waters of the United States." As a result the Natural Resources Defense Council and the National Wildlife Federation filed suit in August 1974 contending that since Public Law 92–500 redefined navigable waters, the Corps must apply its dredge and fill regulations over a broader jurisdiction. Early in 1975 the District Court for the District of Columbia acknowledged this view and ordered the Corps to implement their regulations to their fullest scope. *Natural Resources Defense Council* v. *Callaway*, — F Supp. —, (D.D.C., March 27, 1975).

In July of 1975, the Corps brought forth another set of complex regulations to be phased in over 2 years. Phase I, immediately effective, applied the dredge and fill permit program to include wetlands adjacent to traditionally navigable waters. Phase II, effective July 1, 1976, extended the regulations to all primary tributaries of navigable waters, as well as to all lakes with a surface area exceeding 5 acres. Phase III, effective July 1, 1977, would regulate all other waters up to their headwaters where a stream flows at less than 5 cubic feet per second.

It was at this point that many of us in the Congress saw the need for some clarification of congressional policy to quiet the waters muddied by this dredge and fill issue. H.R. 7420 which I sponsored with others includes the same language that Congressman Breaux attached to the Federal Water Pollution Control Act in committee on April 13. This carefully drafted language would redefine "navigable waters" as it applies to all Corps of Engineers permit authority.

Not only will this action negate the controversial Callaway case, but it will also restrict the corps authority to genuinely navigable waters, thus eliminating absurd historical searches for evidence of ancient commerce before deciding if a river or lake is navigable. To cling to this illogical historical test for navigability will only undermine the public's respect for the rationality of the law itself and jeopardize the law's enforceability.

In addition to section 17 of this bill, the so-called Breaux amendment, Congressman Jim Wright has proposed another amendment for consideration on the floor today which is equally desirable. Mr. Wright's proposal would retain the limiting definition of "navigable waters." Under the Wright concept, the permit program would only cover waters lying in the coastal zone, and those adjacent to commercially navigable waters. His language also specifically exempts all normal farming and ranching activities and removes farm and stock ponds as well as irrigation ditches from Federal jurisdiction. One further benefit of Mr. Wright's approach is that it would allow the corps to delegate the remaining restricted permit programs to State agencies. This is in line with the Congress intent under the Federal Water Pollution Control Act.

There are many reasons for supporting the Breaux and Wright concepts amending the Federal Water Pollution Control Act, but I will focus on just a few of them: to insure agriculture an unrestricted use of water resources, to perpetuate the States right to set its own water use policy, and to avoid a needless expense.

Since the corps release of May 6, 1975 in response to the Callaway decision which stated in part: "Under some of the proposed regulation, Federal permits may be required by the rancher who wants to enlarge his stockpond, or the farmer who wants to deepen an irrigation ditch or plow a field, or the mountaineer who wants to protect his land against stream erosion", there has been great concern over the impact such regulation could have on crop production. Although the corps was quick to retract its May 6 statement and promise moderate and reasonable implementation of its "404" regulations, if even a potential exists to put Federal controls on agricultural water, that potential is a threat to the Nation's food supply and the livelihood of thousands of farmers. It must be undisputed that a farmer can fill an irrigation ditch or divert a stream on his own land without a Federal permit. The Breaux and Wright amendments will insure that normal farming operations would be free from corps control.

The right of the States to govern their own water policy has long been accepted. The allocation of water necessarily demands a careful balancing of many important social and economic interests. It should be the State's role to weigh these concerns at a local level where all the questions are best understood and handled. Many States, Nebraska included, have sensed such a prominent responsibility to determine water policy that their constitutions set forth specific guidelines for water resource management. The dominant role of the States becomes even more evident when a lake or stream is entirely within one State. There is great wisdom in leaving this authority with the States, where it belongs.

Finally, section 17 of this bill, or the Wright language would prevent the expenditure of millions of dollars toward misguided pollution control programs. While the Army Corps only issued some 2,900 permits under the "404" program 2 years ago, under its present jurisdiction it may have to monitor and police as many as 30,000 permits a year. Thousands of Federal employees would be needed to just handle the paperwork, not to mention the tremendous expense and delay for private businessmen and farmers. In both human and monetary cost, the current program under swollen Federal jurisdiction does not merit continuance.

Finally let me stress one thing that the Breaux and Wright language will not do. It will not, as some critics charge, destroy this Nation's valuable wetlands. Removing some wetlands from the Corps jurisdiction does not leave them without protection, for there is an ample body of Federal and State law designed to preserve wildlife habitats and wetlands. Although my list may not include them all, allow me to isolate 15 different laws protecting wetlands:

Alternative Laws and Programs Already Designed to Protect Wetlands—

(1) The Water Bank Act.

(2) The Rural Development Act.

(3) The Coastal Zone Management Act.

(4) The Marine Protection Research & Sanctuaries Act.

(5) The Appalachian Regional Development Act.

(6) Watershed Protection & Flood Prevention Act.

(7) The Land & Water Conservation Fund Act.

(8) The Federal Aid in Fish Restoration Act.

(9) The Federal Aid in Wildlife Restoration Act.

(10) The Migratory Bird Conservative Act.

(11) The Fish & Wildlife Coordination Act.

(12) Forestry Cooperative Programs.

(13) Great Plains Conservation Program.

(14) Soil and Water Program.

(15) The Wetlands Acquisition Act.

This is an important matter, Mr. Chairman, and I hope that this background will help others of my colleagues see the wisdom of supporting this bill as it now stands including the Breaux amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Chairman, I strongly support this Nation's Clean Water program and I am hopeful that this legislation will enhance our efforts to recover pollution-free rivers, lakes, and streams. However, I am also anxious to insure that the public funds which we spend for pollution abatement are utilized in the most effective manner possible and, therefore, I wish to bring to the attention of this body a very serious deficiency in the public law which we are amending today.

Public Law 92-500 specifically stated that:

> It is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985—and that—wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.

As you know, the statute also sets deadlines which municipalities and industries must meet in order to accomplish these goals. These deadlines make sense in many areas, but in some areas they cause more problems than they solve, and they actually promote fiscal mismanagement.

The problems arise when municipalities—in order to comply with the statute—must plan, design, and seek financing for the construction of treatment facilities which, once in operation, will not appreciably improve the quality of the waterway into which their effluents are deposited. The municipalities and the Federal Government must spend millions of dollars to comply with the law, while they are fully aware that the funds could be more productively spent on other pollution abatement projects.

The city of Bangor, Maine, in my district, is one of the many communities in this country which face this problem. Bangor contributes a 3.6 percent of the pollution in the Penobscot River. A large industrial plant upriver from Bangor contributes approximately 80 percent. The rest of the pollution in the river comes from a number of smaller riverside communities.

Under the present requirements of Public Law 92-500, Bangor must advance to secondary treatment by July 1, 1977, at a cost of over $8,000,000. Despite the fact that when this treatment works is completed, there will be no appreciable change in the water quality of the Penobscot.

I should like to point out at this time that the Environmental Protection Agency has acknowledged that Bangor's advancement to secondary treatment will not appreciably enhance the quality of the Penobscot River. In a letter to a Senate committee staff member in 1973. Assistant EPA Administrator Robert L. Sansom conceded this fact. He wrote:

> Although there is firm evidence that something less than secondary treatment is all that is needed for a small percentage of the total wasteloads in the Penobscot, to make an exception to a uniform nationwide policy would be contrary to a unified effort to clean up our rivers.

Mr. Chairman, the bill we are considering today extends the deadlines for publicly owned waste treatment facilities to achieve treatment standards from July 1, 1779, to July 1, 1982. While I am confident that such a postponement will be welcomed by cities such as Bangor, this delaying action does not really address the serious problems which these communities face. I would like to ask Mr. ROBERTS or Mr. WRIGHT if any efforts are being made by his committee to provide relief to communities such as Bangor.

Would it be reasonable to allow the Regional Directors of EPA discretion to grant waivers of this requirement if such construction is unnecessary?

Mr. Chairman, I would like to ask either of the gentleman from Texas, Mr. ROBERTS or Mr. WRIGHT, what efforts are being made by the committee to provide relief for communities such as Bangor, Maine?

Mr. ROBERTS. Mr. Chairman, if the gentleman will yield, we are making no effort in this bill to waive the requirement for secondary treatment. This matter will be part of the midpoint examination of the act we do expect to go into next year in the next Congress.

We have discussed the matter of Bangor, Maine and we have discussed the matter of Hawaii and some of the others who filed objections to the secondary treatment. The problem is not what or how much effect an effluent is going to contribute to the total pollution, but it is: Is it contributing any toward pollution? In section 13 of the bill we are providing for a case-by-case extension of the requirement giving the EPA and these areas on opportunity in which to make the necessary examinations. We will then have the benefit of these studies in the next session of Congress when we conduct a complete review this legislation.

Mr. COHEN. The gentleman from Texas then would agree that it would be a good program to at least provide the regional EPA administrators with the discretion and flexibility to grant exceptions or waivers to the requirement that they go to secondary treatment if in fact there is reliable certification and documentation that such treatment facilities are not likely to have the desired effect and that they will not appreciably enhance the water quality.

Mr. ROBERTS. What we are saying is that EPA can grant an extension of time to meet the secondary requirement but they cannot waive it; we will have to do that by law.

Mr. COHEN. Does the gentleman not agree that that is a tremendous waste of the taxpayers' money to require construction of facilities at a cost of $8 million when, in fact, this will not enhance the water quality?

Mr. ROBERTS. I do not agree with that position.

Mr. COHEN. Would the gentleman explain his rationale?

Mr. ROBERTS. A decision as to whether there is actually a waste of taxpayer's funds will have to be more or less on a case-by-case basis.

Mr. COHEN. Should not Bangor, Maine, or any other municipality, have the right to reject the construction of this facility if it is not going to enhance the water quality level one iota? Why should it be required to have secondary treatment if it is unnecessary? What is the rationale that requires the expenditure of public funds from the taxpayers money if it is to produce facilities which are not going to enhance the water quality?

Mr. ROBERTS. I am afraid the gentleman from Maine is incorrect in his statement. Secondary treatment will enhance the water quality. Whether it will do it to a greater or less degree, I do not know, but that is why we have got to do it in the way provided in section 13, and that is why we hope to be able to do it in the next bill.

Mr. COHEN. Mr. Chairman, in this particular case the University of Maine conducted a study funded by the Ford Foundation, which apparently is not disputed by the EPA, in fact it has been agreed to by the EPA, that the construction of this facility will not increase the water quality at all, or to any appreciable degree.

Yet, here is a city that has to spend taxpayer dollars to construct a facility that will have a substantial environmental impact. For example, let me quote from the city engineer. The fact is that the primary treatment plant now consumes 900,000 kWh of electricity per year. The new facility is going to require 2,500,000 kWh per year. What a tremendous expenditure and waste of electricity when in fact we are not going to be enhancing the water quality at all.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield the gentleman from Maine 4 additional minutes.

Mr. COHEN. I would simply like to suggest to the Committee that they undertake to examine why it would not be possible to allow the EPA Administrators the flexibility and discreation to determine when it is not necessary to expend large sums of taxpayer and local funds to construct facilities which are not going to achieve their goal.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

I want to associate myself with the gentleman's sensible remarks and endorse the question he has just put forth.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would also like to commend the gentleman for his remarks and hope that the subject he is bringing up today will receive serious attention from the committee. I have a similar situation in my district where the directors of the Golete Sanitary District have been informed that they have to provide some $24 million in new facilities. They can only obtain a grant of about $18 million leaving $6 million, or so, to be raised by the local taxpayers. There is no way they can get a bond issue passed when in fact there is no assurance it will improve the water quality at all or that it is required.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

I would be inclined to be more sympathetic with the gentleman, and I want to concur in what the chairman, the gentleman from Texas (Mr. Roberts) has stated, that we are going to address ourselves to this next year. I would strongly suggest, however, that the people of Bangor, Maine, who are expressing concern honestly to the gentleman from Maine should certainly go to the Senator from Maine, Mr. Muskie, who has a dominant influence on the entire water pollution measure and has from the beginning. I would think that certainly if they went to him, they should be able to get some sympathy.

Mr. COHEN. I thank the gentleman for his remarks.

In addition to going to Senator Muskie, I would suggest also that this body has the responsibility to amend that act and take into account the needs of a community such as Bangor.

Mr. DON H. CLAUSEN. I think we can assure the gentleman that this kind of thing will be considered next year.

Mr. COHEN. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Chairman, I rise in support of the provisions of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976, which correct inequitable situations that have resulted from the administration of the Federal Water Pollution Control Act (P.L. 92-500). Two such situations are corrected by sections 3 and 10 of H.R. 9560 concerning the section 208 areawide planning processes and section 8 of the bill concerning the program of reimbursement grants for treatment works on which construction was initiated between 1966 and 1972. The program of areawide waste treatment management planning processes to be established by section 208 of the act is of key importance to the entire water pollution control program but has been crippled by EPA's early failure to implement it as intended by Congress.

Sections 3(c) and 10 of H.R. 9560 amend section 208. Section 3(c) provides authorizations of $150,000,000 for each of fiscal years 1977 and 1978. Section 10 provides for the level of Federal funding and the time period for which such funding shall be available.

Section 208 of the act provides for the development of continuous areawide waste treatment management planning processes in areas within a State having substantial water quality control problems as a result or urban industrial concentrations or other factors. Section 208(a)(6) provides that the State is to act as a planning agency for all portions of the State which are not designated as areawide management areas.

Section 208(f) of Public Law 92-500 provides 100 percent grants to areawide agencies for each of the fiscal years ending on June 30, 1973, 1974, and 1975. Grants for subsequent years are to be 75 percent. It was intended that many agencies would be designated immediately after the enactment of Public Law 92-500 and that the provision of 100 percent funding would allow them to initiate their planning processes immediately. However, implementing regulations were not published until almost 1 year after Public Law 92-500 was enacted and the EPA did not begin actively implementing section 208 until after that date.

It is only recently that agencies have been designated in significant numbers. Because of EPA's delay in implementing the program in June 1975, about 17 agencies which had been led to expect 100 percent funding were told by EPA that the fiscal year 1975 funds had been exhausted, that they could receive only a 75 percent grant, and that any other newly designated agencies would also be eligible only for 75 percent funding. It is estimated that a total of 125 areas remain to be designated and funded.

Furthermore, in 1975 the U.S. district court ruled that States are required to conduct section 208 planning in all nondesignated areas, and that the initial planning must be completed by November 1978. The court also stated that section 208 funds are available to the States to assist them in conducting this planning. It is estimated that $400 million will be required to conduct the initial planning effort by November 1978.

Section 10 of H.R. 9560 amends section 208(f)(2) to provide for 100 percent Federal grants to designated areawide waste treatment management planning agencies for the first 2 years of the costs of developing and operating a continuing areawide waste treatment management planning process if the first grants are approved by EPA before October 1, 1977. The 2-year period begins on the date the first grant is made. Grants of up to 75 percent of the costs of developing and operating a continuing areawide waste treatment management process in any one year, are provided for each succeeding 1-year period to newly designated agencies whose first grants are approved after October 1, 1977. Also subsequent grants of up to 75 percent are to be made for each succeeding 1-year period to agencies which have already utilized their first grant. However, if within the 2-year period, it is determined that the first grant is insufficient to cover the costs of the planning process, it is expected that the first grant will be amended by EPA to provide the necessary additional funds. If such a determination is made after the expiration of the 2-year period, the grantee is eligible for a second grant of up to 75 percent of the costs.

It is expected that any agency which receives a first 208 grant of less than 100 percent of the planning process costs before the enactment of this section will receive an amended grant award raising their grant to the 100-percent level. It is expected that any such amended grant awards will be made from funds appropriated after the enactment of this section.

Section 8 of the bill amends section 206 of the act to correct inequities that have occurred in the implementation of the reimbursement grant program. Section 206(a) provides that any treatment works on which construction was initiated after June 30, 1966, but before July 1, 1972, that meets certain requirements of that section, would be eligible for reimbursement of 50 percent or 55 percent of eligible project costs.

The first proposed regulations implementing section 206(a) were not published until June 23, 1973. Since there was a substantial lapse between the date EPA's definition was published and the final date for qualifying for reimbursement, it is estimated that 62 projects in 19 States which would have otherwise qualified for reimbursement were declared ineligible.

Section 8 of H.R. 9560 corrects this inequity by extending to July 1, 1973, the date by which treatment works projects must have initiated construction in order to be eligible for reimbursement grants.

Section 8 also amends section 206(e) of the act to increase the authorization for reimbursement grants from $2,600,000,000 to $2,950,000,000.

Two billion dollars was initially authorized for reimbursement payments by Public Law 92-500. This was later increased to $2.6 billion by Public Law 93-207 which was enacted on December 28, 1973.

The Environmental Protection Agency has estimated that $2,765,000,000 could be required to fully reimburse those projects which are currently eligible for reimbursement under section 206(a). This estimate does not include cost increases that may have occurred since January 1974, and does not include an estimate of funding necessary to reimburse those projects which would be eligible for reimbursement under the expanded time period of July 1, 1972, to July 1, 1973. The authorization of $2,950,000,000 provided by section 8 would provide sufficient funds to fully reimburse all eligible projects.

To date, the Environmental Protection Agency has requested only $1,900,000 for the purpose of reimbursing all eligible projects. However, it has been a constant struggle to get those funds released to the States and localities. No payments were made for an 18-month period following the enactment of Public Law 92-500. Obligations and cash payments were finally underway in March 1974, following the passage of Public Law 93-207 in December 1973, which provided for interim payments for eligible projects and the conduct of oversight hearings by the Subcommittee on Investigations and Review in February 1974, which made public EPA's failure to make partial or full payments for eligible projects.

The committee was recently advised that almost all of the $1,900,000,000 has been obligated. This amount has been sufficient to reimburse those communities which initiated construction between 1966 and 1972 to little more than two-thirds of the 50- or 55-percent grant which is due them. However, the President's budget request for fiscal year 1977 provided no additional funds for reimbursement grants.

The committee intends to continue to carefully monitor the implementation of this program to assure that all eligible communities are fully reimbursed.

Mr. Chairman, I believe that the section 208 planning program and the program of reimbursement grants are vital aspects of the entire water pollution control effort. The provisions of H.R. 9560 amending these sections are necessary to insure the correction of inequities that have resulted from the administration of the Federal Water Pollution Control Act.

Mr. Chairman, I also wish to comment on the provision of section 12 of H.R. 9560 which permits a waiver of the non-Federal match in cases in which the local government demonstrates that it cannot provide the local match.

The national water pollution control program, one of the most important efforts we have undertaken to achieve an acceptable environment for our citizens, has been hindered by a large variety of problems which have prevented it from full implementation. The provision in section 12 of H.R. 9560, creating a new section 216 of the Federal Water Pollution Control Act is aimed directly at overcoming one of those problems, and thus at maintaining the schedule for cleaning our Nation's waters.

The major barrier to implementation of this program was the decision of the Nixon administration, later voided by the Supreme Court, to hold up $9 billion in water pollution control funds. This decision by former President Nixon dealt a severe blow to the program. Another barrier has been the administrative delays involved in EPA processing these grants. Still another problem, which has been raised at hearings which the Public Works Committee has had on the problem is that inability of local areas to provide the match required under this program. A variety of factors, including the recession we have been experiencing which has had an adverse effect throughout the country, has made it impossible for certain local governments to put up the necessary funds.

Interest rates exceeding 11 percent have been required of some governments which have attempted to float bond issues to provide the local match. We have dealt with this problem in H.R. 9560 by revitalizing the Federal Financing Bank. However, this bank will not be an answer for certain areas which simply have exhausted their borrowing capacity. Further borrowing is just not possible either because of these fiscal constraints, or because State legal limitations bar further borrowing. In these limited situations, the EPA Administrator may waive the local match under this provision.

There have been certain misstatements as to the conditions under which this waiver may be granted. This provision cannot be used as a method to trick the Administrator into approving a project which will only use Federal funds, as has been suggested. The Administrator must be convinced:

First, that the original project is practical and not overstated;

Second, that the local government cannot obtain the necessary financing for the local match, even with the use of the Federal Financing Bank; and

Third, that a scaled-down project, or one that could be built in stages, is practical.

If the Administrator agrees that such a scaled-down project is practical, or that the time to complete it can be extended, then he may approve the revised design.

Furthermore, this provision could not be used by one State to take water pollution funds from another State. According to a formula included in H.R. 9560, funds are allocated to each State in a specified amount. Since this formula is legislatively determined, neither this provision, nor a decision of the EPA Administrator can change the amount each State is to receive. Also, language was added in committee by the gentleman from New York (Mr. WALSH), to prevent the possibility that funds could be taken from one project in a State and moved to another project. That is not possible under this provision, since the match is waived—it cannot be taken from another State or from another project. That is why a scaled down or extended project is what is substituted after approval by EPA.

While I approve the basic thrust and most of the provisions of H.R. 9560, I am seriously concerned that certain of the provisions may ultimately hinder the national clean water effort.

The funds authorized for 1977 and 1978 have been allocated based upon a formula which reduces the element of the needs of each state to overcome the pollution of its waters, although the 1972 Amendments to the Water Pollution Control Act had specifically employed a needs formula to allocate the funds. A more refined needs formula will be forthcoming in early 1977. It would be more advisable to wait for the publication of this study before adopting a formula which reduces the element of need. In the meantime certain States may require additional Federal moneys to meet their water pollution problems. These situations can be dealt with by an additional authorization, such as that which was added by the Senate to the public works bill and accepted by the House, and which has again been passed by the Senate in its revised public works bill.

The new section 213, as added by section 12 of H.R. 9560, permits States under certain conditions to administer Federal grants for the construction of sewage treatment plants, without the Federal approval and scrutiny that has been required since the grants program began in the late 1950's. Many States simply do not have the capability to administer these grants properly. There is a danger therefore that this provision could result in a less strict application of the national standards and safeguards which have been developed to insure that these treatment systems do not result in more environmental damage than benefits.

Section 17 of H.R. 9560 limits the authority of the Corps of Engineers, which was granted in section 404 of the Federal Water Pollution Control Act to grant permits for the dredging and filling in wetlands and other waters. Section 404 was added in recognition of the fact that our wetlands and coastal areas were endangered, and required particular protection. This limitation threatens the future of the rapidly disappearing wetland areas, although there has been no clear evidence presented that the corps is exercising its authority under section 404 in a manner which is causing undue hardship and requires legislative change.

Mr. Chairman, rather than taking the radical steps outlined in section 17, which we would pose a real threat to our precious and rapidly disappearing wetlands, we should allow time for these administrative procedures to be adopted.

While there has been a great deal of misstatement and undue alarm about the impact of the section 404 program, there is real cause for alarm because of the hundreds of thousands of acres of wetlands which we have lost and are continuing to lose.

Another concern I have is that limiting the permit program could ultimately result in the pollution of a number of city water supplies. No real hearings have been held on the overall impact of the permit program. Until such adequate review is had, and while the real and potential dangers exist, no curtailment of the program is appropriate.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I rise in support of H.R. 9560. The Committee on Public Works and Transportation has worked hard and effectively to report a bill that expedites the Nation's quest for clean waters. As a former mayor of a city of 550,000, I know that one of the features of the bill which is vital and important, is the establishment of an alternative method of collecting operation and maintenance fees.

Specifically, section 6 of H.R. 9560 amends section 204(b) of the Federal Water Pollution Control Act to permit the use of ad valorem taxes as a method of collecting the costs of operating and maintaining a municipal waste treatment works which was constructed with the assistance of a Federal grant provided under title II of the act. This provision has generated a great deal of interest as evidenced by 10 bills with 29 cosponsors in support of this type of provisions.

Section 6 provides that a grant applicant which is using an ad valorem tax system to collect any municipal revenues at the time of application for a Federal construction grant may be eligible to use this system for the purpose of collecting revenues to defray the costs of operating and maintaining the proposed treatment works. The Administrator would be required to determine that the ad valorem tax system would result in a proportional distribution of costs between user classes according to each class' use of the treatment works. The committee expects that there will be no less than two classes of users, one composed of residential users of the treatment works, the other composed of industrial users.

For the purposes of this section "industrial user" includes those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget—1967, as amended and supplemented, under the category "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate. The committee expects that where there are major commercial users of water, such as laundromats and car washes, that depending upon the local situation, these facilities may be considered "industrial users" for the purpose of this section or they may be considered as a separate class of users.

In addition to requiring proportionality among user classes, section 6 requires proportionality within the class of industrial users. The grant applicant would be required to establish surcharges to insure that each industrial user pays its proportionate share of the costs on the basis of volume, strength, and other relevant factors.

Indirect costs not identifiable with any individual user, such as administrative costs, treatment of storm sewer and combined sewer flows, correction of infiltration/inflow, and services for exempt property shall be equitably prorated among all user classes. The committee expects that EPA will accept the designations of properties as tax-exempt as made by the local community in accordance with Federal, State, and local law.

Section 204 of the act now provides that the Administrator shall not approve any grant for any treatment works after March 1, 1973, unless he has determined that the grant applicant will establish a system of charges to assure that each recipient of waste treatment services will pay its proportionate share of the costs of operating and maintaining the treatment works. This provision was intended to insure that the users of treatment work systems bear their fair share of the costs and that each treatment works will have a self-sustaining source of revenue. It was also intended that these charges serve as an incentive to users of the treatment works to reduce their contribution to the waste water load of the plant.

In 1972 the committee recognized a fair and equitable system of user charges should be established and that differing circumstances and conditions in local areas may call for especially designed systems with the foremost underlying objective being the achievement of a local system that is self-sufficient.

The Environmental Protection Agency has advised the committee that during its effort to implement section 204(b), it discovered that numerous cities and districts, including many large metropolitan areas, presently finance operations and maintenance costs through ad valorem taxes. On April 15, 1974, EPA issued a program guidance memorandum which would have allowed municipalities to establish ad valorem tax-based user charge systems. Included among the criteria used by EPA in approving such systems was a determination that appropriate user classes would be established and charged on a basis roughly proportionate to their use of the system, and that industrial users would be surcharged based on the strength and volume of their wastes.

On July 2, 1974, the Comptroller General of the United States issued an opinion advising that it would be illegal for EPA to fund new projects in cases where communities are utilizing ad valorem tax systems.

The committee has been advised by EPA, and by witnesses at hearings conducted by the Subcommittee on Investigations and Review and the Subcommittee on Water Resources that the institution of user charges in areas which have traditionally used an ad valorem tax system could be both costly and disruptive. EPA has formally requested the Congress to consider legislative action which would permit the use of ad valorem tax systems as a method of collecting waste treatment works operations and maintenance costs. And, in an April 7, 1976, letter to Chairman Robert E. Jones the Honorable Russell Train, Administrator of EPA, indicated the importance of the committee's amendment to section 204(b) when he stated that unless an amendment to section 204 is enacted, the decision by the Comptroller General will have a severe impact on both the implementation of the construction grant program and on municipal compliance with the requirements of the act.

Mr. Chairman, I believe that section 6 is the appropriate answer to this problem and will help expedite the construction of waste treatment facilities.

Mr. FARY. If the gentleman will yield, I have several questions.

My questions address section 6 of the bill. This section would permit the use of ad valorem taxes as a method for raising revenue to pay the cost of operations and maintenance of treatment works. Is that correct?

Mr. MINETA. Yes.

Mr. FARY. Is it the intent here that costs would be distributed proportionately between classes of users so that say residential users as a group are not paying for more than it costs to treat all the discharge from residences and industrial users as a group are not paying less than it costs to treat all industrial discharge?

Mr. MINETA. Yes.

Mr. FARY. Is it the intent then that as long as the industrial users as a class are paying their proportional share of costs, it is not necessary to sample and determine precise proportionality within the class, but to apply an approximate proportionate cost to like industries, using a surcharge where appropriate?

Mr. MINETA. Yes.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Chairman, I am concerned about a likely impact of the amendment to section 208 of the Federal Water Pollution Control Act set forth in section 10 of H.R. 9560.

Section 208 (f) (2) of the existing law provides that grants for the cost of developing and operating the continuing areawide waste treatment management planning process under section 208 shall be 100 percent of the cost for each of the fiscal years ending June 30, 1973, June 30, 1974 and June 30, 1975. Under existing law these grants shall not exceed 75 percent of the cost in each succeeding fiscal year.

Fiscal year 1975 has come and gone, and without further amendment to the Federal Water Pollution Control Act. Grants now cannot exceed 75 percent.

Section 10 of H.R. 9560 recognizes that money was not made available to EPA for the intended number of grants, that the planning program has not been started at the level expected by Congress, and that new agencies cannot now receive the intended 100 percent of the cost of developing and operating their planning process.

I commend the committee for recognizing this problem and for providing in a much more reasonable fashion that new agencies would receive 100 percent of their costs for the first 2 years of their existence. This is the most important time in the life of local agencies. It is an incentive to proceed.

My concern, however, is about what happens in the interim between the end of fiscal year 1975 and the period when 100 percent would be made under section 10 of H.R. 9560. In the future, the Environmental Protection Agency may interpret section 10 to the effect that it does not provide for 100-percent grants in this interim period. My question, therefore, is: Is it the intend of the committee to provide 100-percent grants during this interim period?

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I can assure my good friend from Connecticut that it is the intent of the committee in our amendment in section 10 of H.R. 9560 to provide 100-percent grants during this interim period. I recognize that there may be question whether our language is clear in this regard. Let me say this, the Environmental Protection Agency has a draft legal opinion stating their interpretation of their language that 100-percent grants would be made during the interim period under the amendment in section 10. Further, let me say if there is still question on the interpretation of section 10, it is my intent to clarify section 10 in the committee on conference with the other body. Any such increase in a grant award would be made from appropriations required if the current amendments are enacted.

If any State accepted a 75-percent grant before section 10 is enacted, it is our clear intent that that grant be increased to 100 percent and we shall certainly make it clear in the committee on conference. I thank the gentleman for bringing this to our attention. I would like to ask the distinguished gentleman from the Water Resources Subcommittee and the manager of H.R. 9560 if he agrees with my comment.

Mr. ROBERTS. Let me thank the gentleman from Connecticut for bringing this to our attention. I have listened carefully to his question and the answer given by the manager for the minority. His explanation is quite clear and consistent with our intent.

Mr. SARASIN. Mr. Chairman, I thank the gentleman for clearing up this matter and I commend them for their efforts on this bill.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I would first like to express my congratulations and extend compliments to the chairman of the committee and to the ranking member, as well as the chairman of the subcommittee, and the ranking member as well; in addition, I commend the gentleman from Texas (Mr. WRIGHT) and the gentleman from New Hampshire (Mr. CLEVELAND) for their outstanding work on this important legislation.

Mr. Chairman, I rise in support of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976. The amendments provide for cutting through redtape to speed up the national effort to clean up the waters. We hear a lot of talk about cutting down on the bureaucracy and cutting out redtape, but little is ever done about it. Now, we have a bill which is not just political rhetoric. It does something. It cuts down on unnecessary bureauracy and redtape. When Congress passed the landmark 1972 amendments to the Federal Water Pollution Control Act, it imposed a large administrative burden on the EPA. Today the Public Works and Transportation Committee is proposing amendments to alleviate some of this redtape. I ask my colleagues to pay particular attention to section 5 and to new section 213 which is contained in section 12.

Section 5 provides for combining the construction grant process when certain conditions are met. Presently the EPA divides the grant process into three steps: First, development of facilities plans, second, preparation of construction drawings and specifications, and third, actual construction. Section 5 provides that steps 2 and 3 may be combined when the total cost of steps 2 and 3 does not exceed $1,000,000. The EPA estimates that roughly 25 percent of the projects nationwide will fall into this category. I want to emphasize, Mr. Chairman, that in existing communities this accelerated process may help accelerate the enlargement and rehabilitation of their treatment works systems.

We all know, Mr. Chairman, that bureaucracy and redtape are choking and frustrating the effort to clean up the Nation's waters. The passage of this provision, Mr. Chairman, will eliminate two layers of redtape, one at the local level and one at the national level, thus getting the effort moving forward.

The other provision that goes to the heart of eliminating redtape is a new program. The new section 213 which is created by section 12 of H.R. 9560, Mr. Chairman, gives States the authority to carry out certain requirements of the facility grants process. Section 213 allows the administrator to accept a certification by a State that certain Federal requirements for a construction grant have been complied with.

I want to emphasize, Mr. Chairman, that the committee has included many safeguards to protect the environment. Even though this provision will eliminate redtape and bureaucratic duplication, it will not be done at the expense of the environment. Nothing in either section of the bill changes the responsibility of the Administrator under the National Environmental Policy Act of 1969.

I hope all my colleagues join me in this attempt to move the clean water program forward. I want to congratulate BOB JONES, chairman of the Public Works and Transportation Committee, JIM WRIGHT, chairman of the Subcommittee on Investigations and Review, and RAY ROBERTS, chairman of the Subcommittee on Water Resources, in their effort to get this program moving forward.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, at the proper time I will offer an amendment on behalf of the gentleman from Ohio (Mr. HARSHA) and myself to resolve the controversy over section 404 of Public Law 92-500.

It has the wholehearted support of a member of major environmental organizations, and I am gratified that President Ford, after consulting all departments and agencies involved on this and other alternatives, has endorsed our amendment.

Our purpose is to preserve reasonable, responsible, and workable regulatory authority essential to safeguard the environmental values of wetlands while protecting certain farming and forestry activities from excessively extensive regulation or excessively burdensome regulation. It is that simple.

The amendment would exempt a variety of specifically enumerated farming and forestry practices from regulation by the Corps of Engineers, and provide the corps with statutory authority to employ general permits to deal with other practices having minimal environmental impact.

Thus it would avoid subjecting to any regulation many activities which the Congress never intended to have regulated by the corps, and would also ease the regulatory burden on many other activities by assuring that general rather than individual permits would suffice.

It would do so by building into statute exemptions with respect to certain enumerated activities singled out for exemption in interim corps regulations, and others precisely identified in our amendment, thereby protecting these practices from reversal by administrative action or court challenge.

Also assured would be the corps' authority to proceed with general permits, which I understand would also be subject to court challenge in the absence of statutory authority.

The gentleman from Ohio and I have described this as a compromise, and that it is. For in the sense of traditional Christmas-tree trade-offs, but rather in the sense of a legislative response precisely focused on a real problem without sideswiping a lot of innocent people.

As much as any Member of this body, I am concerned about the excesses of bureaucracy, redtape, and harassment of one group or another by Government. I am concerned about administrative agencies, and the courts, going beyond the intent of Congress or failing to give full expression to that intent.

My consistent support for a responsible highway program, as well as that of the gentleman from Ohio, ought to entitle us to some pretty good credentials in that department. The same goes for my authorship, and his support, for State certification in the construction grants program for wastewater treatment works.

But as we try to curb overregulation and bureaucratic excess, we must be careful not to trim back too far. That is why we have picked up the assurances against overregulation provided in the corps' interim regulations with respect to exemptions—broadened within defined limits—general permits and the intent underlying both, and incorporated them in our amendment.

This is the only constructive way to cut through the controversy and confusion which has surrounded the evolution of the corps' regulatory approach.

Before we get to a vote, I urge colleagues to review our amendment and the materials we have circulated concerning it, including the pledges of support it has received from environmental groups. Members will find it a constructive approach: Not a mere pullback as in the Breaux amendment; not a straight deletion of the Breaux amendment; not a moratorium leaving vast areas of wetlands unprotected for a year or a year and a half, nor a last-minute rewrite of the Breaux amendment.

I also understand that other alternatives may be offered, including one based on State delegation. As author of State certification in the construction grants program, I see great merit in giving States a larger role. But I would also offer two other observations in this regard:

First, a State role would not be foreclosed under the amendment I am cosponsoring with the gentleman from Ohio. The corps will undoubtedly give great weight to the regulatory practices of the States in exercising its general permit authority.

Second, I understand that there are wide differences in the competence and commitment of State agencies to the goals of water quality and wetlands protection.

Variations among State agencies were fully recognized under State certification, which provides for phased implementation and extensive safeguards to avoid abuses. State certification evolved after extensive consultation with the States and EPA, and has been subjected to extensive hearings by oversight and legislative subcommittees. I would therefore caution against legislating in this area of Federal-State relations without doing a similar amount of homework.

A final point: We all know that an article of faith in the other body holds that Public Law 92–500 is Holy Writ, and to change it in any respect would amount to heresy. It will be tough enough to get a workable solution to the 404 controversy through, and here I think the support of environmental groups for the Harsha-Cleveland approach will be most useful. Their position has been consistent throughout in that they have maintained that they do not want to see the Corps of Engineers all over the farmer's back; nor do they want to see dredge and fill regulations used as a subterfuge to shut down the highway program. And they are willing to see these assurances built into statute in terms of the enumerated exemptions and the provision for general permits.

The commitment of these organizations to our amendment—and no other—should strengthen those of us on the Committee on Public Works and Transportation who will serve on the conference committee to assure that a workable compromise is actually signed into law.

On the basis of the foregoing, I commend our amendment to my colleagues and urge their support when it reaches a vote.

Mr. WALSH. I thank the gentleman for yielding. I would like to begin by commending the gentleman from Texas (Mr. WRIGHT), the gentleman from Ohio (Mr. HARSHA), and the gentleman from California (Mr. DON H. CLAUSEN) for drafting this bill and steering it through the committee. I think that they have done a simply marvelous job.

I do have some questions, however, that I would like to raise with the gentleman from Texas (Mr. WRIGHT). We have discussed this question before, but I think for the purpose of establishing legislative intent it is necessary that we raise it here on the floor.

As my colleague knows, I am concerned over the possibility that section 5, 203(a) of the bill, the section which completes the combining of step 2 and step 3 grants, might be interpreted by EPA as authorizing issuance of one grant to cover both design and construction, but also authorizing acceptance and approval by EPA for a single contract for both these steps.

Under the combination step 1 and step 2 grants provision of this bill, would a single corporation be permitted to both design and build a waste water treatment plant as a community project, including installation of that company's products, equipment, and assistance? If so, I am afraid it would create some problems with contract procedures in New York and some other States which require separate bids for such contracts.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from Texas.

Mr. WRIGHT. It is neither intended nor recommended that section 5 should constitute a blank authorization to the EPA to approve a single contract for both design and construction. We all recognize that a potential for conflicts of interest exist when the designer and contractor are both associated with the same company, and that potential would be further magnified when the designer and contractor are both owned by a manufacturer whose products would be likely to be incorporated in construction specifications.

It is envisioned that waste water treatment facilities will continue to be designed and built in the traditional way; plans and specifications prepared by qualified engineers, experienced construction contractors, using plans and specifications approved by the States and the EPA, and we will have construction separately monitored and inspected by representatives of the community for whom the plants are being built.

Mr. WALSH. I thank the gentleman for that clarification. My second question, and third and fourth, relate to the so-called Abzug-Roe amendment to the bill. As the gentleman knows, this amendment was originally defeated in the committee, and then was brought up again and was passed. Following the passage of that amendment, I introduced an amendment which was also unanimously passed. Some of us had thought about the possibility of introducing an amendment to strike the Abzug-Roe amendment, but I think if we could get clarification again of the leigslative intent it will not be necessary to do that.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 5 additional minutes to the gentleman from New York.

Mr. WALSH. I would like to raise the following questions about the funding of the non-Federal share, or the waiver of the non-Federal share. I would like to raise these three questions:

First, I would assume that the Abzug-Roe amendment does not reduce the Federal share for any other project in that State.

Mr. WRIGHT. The gentleman is absolutely correct.

Mr. WALSH. I thank the gentleman. Second, I would like to make sure, as we tried to do in committee, that the Abzug-Roe amendment does not defer the Federal share for any other project in that State.

Mr. WRIGHT. The gentleman, if he will yield, is again absolutely correct.

Mr. WALSH. I thank the gentleman. Third, I would like to make certain that the Abzug-Roe amendment does not reduce the authority for the allotment for that State or any other State.

Mr. WRIGHT. Once again the gentleman is precisely correct.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I just want to say for the record that I concur in the responses made by the Chairman. I concur an behalf of the minority.

Mr. WALSH. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from Ohio.

Mr. HARSHA. If it does not reduce the share of any other grant, would the gentleman advise me as to where the money comes from to meet the local matching share?

Mr. WRIGHT. If the gentleman will yield, I think the practical result would be that the community which is entitled to a given amount of money would have to perform its function over a longer period of time, stage it, and make it capable of being performed in segments of somewhat smaller size.

Mr. HARSHA. Mr. Chairman, will the gentleman yield further?

Mr. WALSH. I yield to the gentleman.

Mr. HARSHA. Mr. Chairman, does that mean, initially, when you design a project, and make application for a Federal grant, and ask for, let us say, $100,000, and under the law you get $75,000 in Federal funds and would have a non-Federal share of $25,000, what would you do about the $25,000 that was waived? Do you have to redesign the project or do you have to reduce the level of expenditure somewhat?

Mr. WRIGHT. If the gentleman will yield, I would imagine that the practical result would be that the project would be either built over a longer period of time or scaled down, so as to produce a workable unit within the framework of the lesser amount of money available.

Mr. HARSHA. Mr. Chairman, will the gentleman yield further?

Mr. WALSH. I yield to the gentleman from Ohio.

Mr. HARSHA. This amendment contained in the bill, is this discretionary with the Administrator?

Mr. WRIGHT. If the gentleman will yield, as the bill is drafted, there are very tight constraints, and it is discretionary, because line 15 on page 25 declares the Administrator may waive any requirement. It does not say that he shall. He may. Therefore, it is discretionary with the Secretary.

Mr. HARSHA. I thank the gentleman.

Mr. WALSH. Mr. Chairman, I, too, express my concern over the provisions of that amendment, and I am afraid that it may provide for the overdesign of plants. But I think that this is something that can be safely left to the judgment of the Administrator, rather than trying to clarify it in the law. I think if we left it that way, we can all live with the provisions of this amendment.

Mr. Chairman, I strongly urge support of the bill.

The CHAIRMAN. The Chair will advise the Committee that the gentleman from Texas has 21 minutes remaining, and the gentleman from California has 17 minutes remaining.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I rise in weak support of the legislation before us. Everybody has been saying how strongly they support the legislation. I think that someone has to stand up and say that there are a few problems with the bill.

I do commend the chairman for the prospect of offering an amendment to delete section 16 of the bill, which was an attempt to water down the penalty section of the bill. I commend the chairman for his wisdom in offering the amendment to delete that section. But, frankly, I am curious about section 17 of the bill, which is the so-called Breaux amendment. I am curious about a number of things. Many people have been contending that this bill is simply minor amendments to the Water Pollution Control Act and that at some time in the future, specifically at a midcourse correction a year from now, we will deal with major changes. I would suggest to the Members here that the Breaux amendment is a major change in the operation of the act which is in force, and that the subject concerning the Breaux amendment should wait until that midcourse correction.

I am also curious about the change in direction of the committee itself, because in the committee report, when Public Law 92-500 was passed by this House, it states this:

> One term that the committee was reluctant to define was the term "navigable waters." The reluctance was based on the fear that the interpretation would be read narrowly. However, this is not the committee's intent. The committee fully intends that the term "navigable waters" be given the broadest possible constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes.

I am curious as to why our committee has changed its intention from that at the time of the original passage of Public Law 92-500.

Mr. Chairman, I am also curious about our ignoring Russell Train's letter, in which he indicates to us on April 7, 1976, these words:

> We testified in the July 1975 hearings before the House Subcommittee on Water Resources that the Army Corps of Engineers and EPA had agreed to cooperate in establishing a joint program. Thereafter, interim final regulations and guidelines were promulgated to direct implementation of a manageable program for balanced decision-making with improved opportunities for State and local participation.

He goes on in the letter to point this out:

> A comprehensive assessment of State programs is nearing the first stage of completion. We all recognize that this analysis of the new program may lead to specific legislative recommendations in the near future.

He further points out that he fears that "any premature amendment of the basically sound program goals embodied in section 404 would result only in further delays and create dangerous inconsistencies in the statutory scheme."

Finally, and even more importantly, he goes on to say that "joint implementation of the program is now only 8 months old. We would be in a better position to present a comprehensive analysis and report that should prove more valuable at the end of the calendar year."

Russell Train has indicated that he, too, would like us to put off the consideration of this important issue.

Mr. Chairman, my final concern and curiosity is over the regulations themselves which I have taken the time to read. I would like to draw the committee's attention to the rules and regulations themselves, printed in the Federal Register, volume 40, No. 144, for Friday, July 25, 1975, and specifically to the definition section of the regulations where it talks about dredge materials, where it talks about discharge of dredge materials, and where it talks about fill materials. In the regulations themselves it specifically cites:

> (4) *"Dredged material"*. The term "dredged material" means material that is excavated or dredged from navigable waters. The term does not include material resulting from normal farming, silvaculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for production of food, fiber, and forest products.
>
> (5) *"Discharge of dredged material"*. The term "discharge of dredged material" means any addition of dredged material, in excess of one cubic yard when used in a single or incidental operation, into navigable waters. The term includes, without limitation, the addition of dredged material to a specified disposal site located in navigable waters and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into navigable waters resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to section 402 of the Federal Water Pollution Control Act even though the extraction of such material may require a permit from the Corps of Engineers under section 10 of the River and Harbor Act of 1899.
>
> (6) *"Fill material"*. The term "fill material" means any pollutant used to create fill in the traditional sense of replacing an aquatic area with dry land or of changing the bottom elevation of a water body for any purpose. "Fill material" does not include the following:
>
> (i) Material resulting from normal farming, silvaculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for the production of food, fiber, and forest products;
>
> (ii) Material placed for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures.
>
> (iii) Additions to these categories of activities that are not "fill" will be considered periodically and these regulations amended accordingly.
>
> (7) *"Discharge of fill material"*. The term "discharge of fill material" means the addition of fill material into navigable waters for the purpose of creating fastlands, elevations of land beneath navigable waters, or for impoundments of water. The term generally includes, without limitation, the following activities: placement of fill that is necessary to the construction of any structure in a navigable water; the building of any structure or impoundment requiring rock, sand, dirt, or other pollutants for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands, property protection and/or reclamation devices such as riprap, groins, seawalls, breakwalls, and bulkheads and fills; beach nourishment; levess; sanitary landfills; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants, and subaqueous utility lines; and artificial reefs.

I would hope that the members of the committee who are so upset at the rules and regulations that have been promulgated for implementation would carefully review the regulations themselves, because I think we are far outstepping our authority.

Mr. Chairman, I would urge all the Members to accept the Harsha-Cleveland substitute to the Breaux amendment, and oppose the Wright substitute, because I think the Cleveland-Harsha substitute clearly has in mind the farmer and those who are in logging operations and those who are concerned that these regulations might in some way impact on their industries. I hope that as we move toward the amending process, we will take seriously these curious things I have tried to bring to the committee's attention.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, the House will soon be voting on H.R. 9560. The effect of section 17 of this bill is to drastically limit the regulatory scope of section 404 of the Federal Water Pollution Control Act of 1972.

Section 17 redefines "navigable waters" under the current 404 program to mean those waters to their mean high water mark which are or could be used for transportation of interstate commerce. It also states that the disposal of dredge or fill materials in waters other than those defined as "navigable" in section 17 is not prohibited by any other provision of the 1972 Federal Water-Pollution Control Act or sections 9, 10, or 13 of the Rivers and Harbors Act of 1899.

Section 17 in its effect overturns the decision of the Federal district court in NRDC against Callaway. In that decision, the court held that Congress, in the Federal Water Pollution Control Act Amendments of 1972, defined the term "navigable" waters to mean the waters of the United States, including the territorial seas. That broad definition gave the Army Corps of Engineers and the EPA authority to regulate the discharge of dredged and fill materials in most U.S. waters. By its language, section 17 also says loudly and clearly that the disposal of dredge or fill material should be Federal responsibility only in a limited portion of the Nation's waters.

It is my judgment that the disposal of dredge and fill materials into all the Nation's waters is a legitimate Federal responsibility. Consequently, I will vote to strike completely section 17 of H.R. 9560.

The value of wetlands as an economic and biologically essential natural resource is beyond debate. The Nation's fisheries are dependent upon the secondary productivity occurring in these wetlands to feed the estuarine dependent fish that constitute 66 percent of the yearly catch. Over 50 species of fur and game animals inhabit these wetlands to secure food, water, and cover. Coastal and inland wetlands are crucial for migratory waterfowl as essential nesting, resting, and rearing grounds.

Inland waters are important in storing floodwater and recharging groundwater supplies. It is the basic nature of a wetland to store tremendous amounts of water. Thus they act as natural buffers to prevent flood losses.

Wetlands also act as natural waste treatment plants using bacterial agents living in the sediments to break down or assimilate sulfates, nitrates, phosphates, and ammonia. The quality and quantity of life in the water is affected by the ability of these sites to control organic and inorganic nutrient transfers.

The country has already lost an estimated 46 percent of this resource by dredging, filling, and draining between 1850 and 1956. Since 1956, 6 million additional estuarine areas have been destroyed. In my own State of Maryland, 23,700 acres were destroyed from 1942 to 1967.

The goal of the Federal Water Pollution Control Act of 1972 is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. This goal cannot be achieved by regulating the discharge of dredge and fill pollutants in some waters, but not in the vast majority of waters. Nor can it be achieved by establishing a program which regulates dredge and fill disposal only to the mean high water line of the water body.

The geographical extent of a wetland cannot be arbitrarily defined by a survey line which ignores the wetland as an ecological unit. Research on plant productivity, nutrient cycling, animal food habits, and man's impact have led to the basic conclusion that fresh water marshes and swamps which only lie above the mean high water mark play an important role in the maintenance of estuarine productivity and hence our Nation's fisheries. Dr. John W. Day, center for wetland resources at Louisiana State University, has been studying Louisiana wetlands for the past 5 years. In response to my request regarding the extent and importance of wetlands above the high water line, he states:

> We believe that if the fresh areas, which are normally above high water, were significantly altered there would be severe effects on estaurine water quality and fisheries. There are examples from Louisiana where dredging activity in fresh areas has led to detrimental effects in estuarine areas.
>
> For proper management, estuarine basins in Louisiana must be considered as whole, functioning ecosystems with areas above the high water level considered as integral parts of the system.

Only a handful of other States have wetlands management programs and these are reportedly disjointed and disorganized efforts. This is a major reason why a Federal program is needed. Furthermore it is in the national interest that America's fisheries be adequately maintained and managed. The preservation of these fisheries is properly a Federal responsibility. Since fisheries maintenance is highly dependent on wetlands maintenance, Federal regulation of dredge and fill disposal operations is totally consistent with Federal fisheries conservation policies.

Available statistics indicate that the current 404 program is not nearly the bureaucratic nightmare its critics allege. Based upon the first 10 months of the 404 program, projected estimates of the total number of permits for 1976 clearly show that the predicted surge of applications for permits has simply not materialized. In 1976 only 700 permits nationwide will be issued specifically for the 404 program. Section 10 permits deal with small construction activities such as a private pier. Sections 10 and 404 permits cover construction activities which require the discharge of fill material. Section 404 alone deals with the discharge of materials on a water quality basis. The 1976 projected figures as supplied by the corps:

Expected permit numbers, 1976

Section 10	11,200
Section 10 and 404	6,200
Section 404 only	700

The reason for the low number of 404 permits is the fact that the corps has devised a general permit system which covers activities deemed to be of minimal impact on the aquatic resource such as small construction work requiring minimum filling. As long as the activity does not violate the minimum guidelines, no permit is required. The corps' current guidelines also exempt certain activities from classification as a discharge of dredge or fill material—for example, plowing.

In view of the fact that uncertainty surrounds the legality of the general permit approach, I support the proposed Cleveland-Harsha amendment to H.R. 9560 which provides statutory authority for general permits. The Cleveland-Harsha amendment also exempts a wide range of routine farming practices never intended to fall under 404 jurisdiction. I support this proposal as well.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I rise to strongly support section 6, the user charges provision of H.R. 9560, which gives communities the option of using the ad valorem tax method, instead of user charges, to pay the operating costs of their wastewater treatment plants.

This is a needed midcourse correction to Public Law 92–500, the Federal Water Pollution Control Act Amendments of 1972, which imposed user charges on all communities as a condition for receiving Federal funds for construction of waste treatment plants.

One of the objections to user charges, in communities which have traditionally used the ad valorem tax method, is that it requires local ordinances to be passed, and adds a heavy burden of redtape, additional cost of installing meters, and cost of additional personnel, to already strained local budgets.

But more fundamental, as so eloquently explained by then Mayor J. Edward Pearsall of Virginia, Minn., during committee hearings on H.R. 9560, the user charge goes directly to each homeowner, regardless of his or her ability to pay.

The ad valorem method is far more responsive to individual income levels—and this point is important in view of the heavy costs which communities will incur under the provisions of Public Law 92–500.

Virginia, Minn., for example, is a community of 13,000 people. They were one of the first communities to apply for, and receive, funds to build their new treatment plant.

The cost of running Virginia's tertiary treatment will be $200,000 a year—compared to $38,000 to operate and maintain a secondary treatment plant.

This increase, apportioned equally among the residents of Virginia, would be a heavy burden.

The ad valorem method would get the job done, and spare the individual homeowner one more burden at a time when homeowning is becoming an increasingly losing proposition from any standpoint.

Additionally, Mr. Chairman, I would like to comment on a provision of Public Law 92–500 which the bill before us does not address—and that is the requirement that industries joining areawide treatment plants pay their proportionate share of the construction costs as well as of operation.

This has caused member industries of the Western Lake Superior Sanitary District, encompassing the Duluth, Minn. area in my district, to have second thoughts about remaining in WLSSD; and if they should pull out, the entire system would fail.

These industries rightly point out that companies joining a treatment plant already in existence before the 1972 act have no such requirement.

Further, the costs of joining and participating in a new areawide treatment plant—the ideal of Public Law 92–500—have encouraged industry to locate in established and already overcrowded metropolitan areas rather than build in growing parts of the country where their economic impact is most needed.

EPA advises me that there are about seven areas where industry is having second thoughts about joining a regional treatment plant. The Agency prefers a policy of watchful waiting now, rather than action, to see if the same situation develops in other parts of the country.

I strongly suspect that it will—that companies will refuse to join new regional treatment plants, and further, that the construction cost requirement will continue to force industry to locate in established areas rather than in economically developing parts of the country.

I think this provision should be closely considered by the committee and the Congress next time we consider amendments to Public Law 92–500.

Mr. Chairman, the Bureau amendment to section 404 of the 1972 Water Pollution Control Act, section 17 of H.R. 9560, proclaims to reduce redtape. In support of this amendment, guesstimates of up to 50,000 section 404 permits a year have been bandied about.

That specter should be laid to rest.

Assistant Secretary of the Army—Civil Works—Victor V. Veysey, the Corps of Engineers' immediate superior, flatly states that experience with the program is too limited to make any estimate of section 404 permit applications at this time. He does, however, consider the most often cited figures out of the ball park, and opposes any legislative action based on scare tactics.

He further points out that the general permit may not even require an application at all, merely notification to the corps of the work to be accomplished.

Mr. Chairman, before we casually wipe away the only protection available to all waters of the United States, we should erase the misunderstandings and overestimates raised in support of the Breaux amendment.

I therefore include a letter to me from Assistant Secretary Veysey, together with his report on the number of permit applications received to date; and a status report on general permits, and the type of activities covered.

The letter follows:

Department of the Army,
Washington, D.C., June 3, 1976.

Hon. James L. Oberstar,
House of Representatives,
Washington, D.C.

Dear Mr. Oberstar: I am replying to your recent letter concerning Section 404 of P.L. 92–500 in which you asked several questions regarding the Corps' permit program.

You made note of the Committee Report of 7 May 1976 on the Federal Water Pollution Control Act Amendments of 1976 and the cited figures regarding numbers of permits. I feel further clarification and amplification is required on those numbers. Specifically, the discussion on page 22 could lead one to believe that the 404 program would cause a fourfold increase by 1978 in the permit workload of the Corps of Engineers.

Frankly, I just don't believe we are going to see that kind of an effect. Although the Corps has made a strong effort to assess the impact of the program, we are dealing with so many unknowns that a firm project of permits is not possible. Very recently the Corps has compiled their experience data thru the first nine months of FY 76; the direct impact of Section 404 has been 561 additional permit applications deriving from the expanded jurisdiction. The enclosure shows the new Section 404 workload compared to that of Section 10.

I think we should resist legislative courses of action premised on huge projections of permit applications and be patient in seeing how the actual workload develops. My own belief is that the General Permit concept will reduce the number of permits processed substantially.

Although we will be moving into Phase II of the program next month, and this will undoubtedly increase our workload significantly, we are also moving toward the use of General Permits. Although we are still in the formulative stages of General Permits, the Corps has approximately sixty in various stages of active development. Of the 13 issued as of 1 June 1976, most are for construction and are applicable to the Section 10 program. A short status report is inclosed. As we gain additional experience with General Permits we will be expanding into more of the dredge and fill activities applicable to Section 404.

With regard to General Permits, there has been occasional misunderstanding of how the system would work. Basically, the General Permit allows the Corps to consider a great number of permit applications for similar type work at one time. There still is a requirement for a public interest review, an environmental impact assessment, the issuance of a public notice, preparation of a statement of findings, and even public hearings and an environmental impact statement if warranted. But all of this is done once for each General Permit, rather than for each application. This greatly simplifies the administrative procedures and also reduces the inconvenience to the public for work meeting the requirements of the General Permit once it is issued. I am enclosing a copy of a General Permit issued by the Buffalo District. You will note by condition (n) that an application is required and work may not be performed until a determination is made by the District Engineer that the proposed work complies with the terms of the General Permit. This normally would be accomplished within a few days, as opposed to two months for a normal individual permit application. Other General Permits might only require the applicant to notify the District that he is accomplishing work under the General Permit.

Although a simple permit application might be processed in two months, or even less time, the average for all permits is approximately four months. This average includes those permits that are large in scope, are very controversial and where there are significant objections raised. Processing of these type of permits may take two or three years, particularly when an extensive Environmental Impact Statement is prepared and where resolution cannot be achieved at the District level.

I hope that this information is of interest to you. Thank you for your interest in the permit program.

Sincerely,

Victor V. Veysey,
Assistant Secretary of the Army (Civil Work).

Table 1. *Number of permit applications—June 3, 1966*

Fiscal year:	*Section 10* [1]	*Section 404*
1969	7,400	---
1970	7,500	---
1971	8,200	---
1972	9,600	---
1973	12,600	---
1974	13,692	---
1975	14,692	---
1976 [2]	13,049	561

[1] Includes some applications which also require permits under section 404 jurisdiction or section 103 jurisdiction (Ocean Dumping Act).

[2] First 9 months only.

Table 2.—*Status of general permit program, as of June 1, 1976*

1. Public notice issued	32
2. Draft in preparation	18
3. General permits issued	13
a. Shore protection riprap, bulkheads, timber cribs, etc	2
b. Small boat docks and piers (fill type)	2
c. Culverts	1
d. Open pile docks (small boat)	5
e. Bridge construction	1
f. Mooring buoys and stakes	1
g. Aids to navigation	1

Mr. ICHORD. Mr. Chairman, I wish to rise in support today of the language in H.R. 9560 which would return the corps section 404 permit program to its original jurisdiction. As my colleagues know, on May 6, 1975, the corps and EPA were forced to drastically expand the 404 program due to a court decision issued on March 27, 1975, stating that the Corps of Engineers had failed to implement the full statutory mandate of section 404 of the Federal Water Pollution Control Act Amendments of 1972 by limiting its regulatory permit program to only navigable waters of the United States which has been the traditional and historical jurisdictional limit of the corps' permit program for the water disposal of dredged or fill materials. In response to this court decision and within judicially imposed time constraints the corps had to hastily draft regulations designed to fulfill the judicial order without even benefit of an environmental assessment or an environmental impact or inflation impact statement. The expansion of the 404 permit program created immediate and strong opposition in my own State of Missouri. My own personal view was that the rules forced by judicial edict represented a disastrous expansion of bureaucratic controls, a backdoor approach to land use planning, and an unconscionable harassment to many rural Americans who have enough to worry about without additional Federal red-tape and penalties.

Given my concerns I testified against this judicial interpretation of congressional intent before the Water Resources Subcommittee and have pressed for legislation to restore the corps permit authority to its historical and traditional jurisdiction. And given my concerns, I also strongly support language which will restrict the corps. I am firmly convinced that it was not the intention of Congress in passing the FWPCA to drastically expand the crops permit program to the extent that a permit might possibly be demanded for the disposal of dredged or fill material in virtually any natural or artificial body of water in the United States. It was Congress that enacted the FWPCA, and it is in Congress that the ultimate interpretation of its intention and mandate should rest. I am frankly appalled that we have passed a law whose meaning we have allowed to be the subject of interagency infighting and the unilateral interpretation of the U.S. District Court for the District of Columbia. Since enactment of FWPCA, Congress has watched both the corps and the EPA define the term "navigable water" as two distinctly different entities and has allowed several court cases to produce other definitions vis-a-vis a particular fill or pollutant discharge activity. I believe that it is high time that Congress provide the Federal agencies and the judicial system with a clear statement of what it means by "navigable waters" and what its intent was in the application of this term to the corps permit program, and I believe the language in this bill accomplishes this and once and for all.

The issue at hand is not one of minor import. The court decision and the resulting regulations are far reaching and impact on not only a substantial segment of the American public but also place severe strains on Federal and State resources required to carry out the proposed rules. The corps permit activity is currently extended over some 50,000 miles of rivers. Under the alternative required by the court, this jurisdiction could possibly be expanded to cover 3.5 million miles of rivers, adjacent wetlands, and areas supporting aquatic vegetation. Likewise, the corps permit authority is drastically expanded over tidal shoreline areas and lake shorelines as well as possibly extend to periodically inundated areas.

The corps has asked what I believe is the salient question in this dispute: "What are the corps responsibilities?" The EPA and the court system seem readily inclined to respond for Congress, and unless Congress acts now, the American people may yet have another law of the land issued for all practical purposes by Federal bureaucrats rather than their elected representatives. I believe the time to act is now. It is estimated that under its old jurisdiction some 9,000 permits will be required by the corps in fiscal year 1976. Under the court-imposed jurisdiction, the corps may have to require over 50,000 permits per year by 1978. My State is against this expanded jurisdiction, and on behalf of Missouri and the American people, I urge my colleagues to support the language which is known as the Breaux amendment and not weaken the language to the extent that we will still be faced with the situation we now have.

Mr. BADILLO. Mr. Chairman, the bill before us this afternoon, the Federal Water Pollution Control Act Amendments, is the result of extensive deliberation, research, and effort. I recognize this measure as a valuable step toward clearing away much of the redtape which has thus far hindered the success of the present act, and actually cleaning up and adequately protecting our Nation's waters.

H.R. 9560 authorizes $18.2 billion for Federal grants for the construction of waste treatment works for fiscal years 1977 through 1979; it funds such programs as manpower training and forecasting, grants to States and interstate water pollution control agencies; training grants and scholarships; grants for areawide waste treatment agencies, and others. This measure makes some significant changes from the current law that will alleviate some existing difficulties, simplify regulations and facilitate construction and cleanup efforts. While I am not in favor of all of the provisions in this bill, most of the proposed amendments deserve our support.

One provision in particular, is unique in its intent and will prove invaluable on a far wider scale than many realize. I am referring to the new section 216, the Abzug-Roe amendment, which will permit a municipality in financial difficulty to fully participate in this program. The provision states that if a municipality is unable to obtain credit for the non-Federal share of treatment facility construction costs at a "reasonable rate"—which is defined as less than one-half of 1 percent above the current rate at which the Federal Financing Bank is making loans for comparable maturities—then the EPA will guarantee repayment to the bank. And, if the municipality is still unable to obtain financing with that assistance, the EPA is authorized to waive the requirement for that municipality to pay the 25-percent non-Federal share of the project.

This provision should be incorporated into every major Federal program we enact. It is designed to overcome, at least, one of the most serious problems which States have in participating in and benefiting from Federal programs—that of furnishing the local share of a matching grant.

Opponents of this provision maintain that it will not work effectively; that States will take advantage of this opportunity by overestimating their projects, claiming they cannot meet their requirement, and then whittling down the project to the size originally planned and letting the Federal Government cover the full cost. This simply will not happen. First, only those States which can thoroughly demonstrate that they do not have the financial capability to provide their local share, to borrow sufficiently, or to float enough bonds to cover it, will be allowed to benefit from this provision. After a State proves its financial deficiency, EPA must approve the initial design for the project, revise it, and then approve the revision in terms of practicality and necessity. We can assume that, in most instances, EPA will reduce the size of the project, and/or stretch out the duration of its construction in order to finance the full project with the 75-percent Federal share, since no one will pay the remaining 25 percent. A waiver of the local share of a matching grant, therefore, means that no funds will be taken from one State and given to another, nor will funds be taken from another project within that State to cover the needed 25 percent.

Yes, I am speaking as a Member from New York. My State, for example, should not be prevented from constructing a waste-water treatment facility simply because it cannot come up with its share of the funding. It is the intent of this act that the Nation's waters be cleansed and protected from pollution, and Congress should not institutionalize a discriminatory precedent that the richer the State. the cleaner the water. But more important, in a broader frame, no State should suffer from a lack of funding or a reduction in vital projects, because it is poor. We are working for the betterment of the whole Nation, and cannot afford to discriminate against those parts which are financially unsound.

Mr. ASHBROOK. Mr. Chairman, I rise in support of section 17, which was added to the bill by the gentleman from Louisiana (Mr. BREAUX). This provision amends section 404 of the Federal Water Pollution Control Act. I do not believe the Wright amendment is necessary but the debate clearly shows the more liberal Members will prevail if this amendment is not adopted.

Specifically, section 17 redefines the term "navigable waters" for purposes of section 404 to mean all waters which are presently used or are susceptible to use in their natural condition or by reasonable improvement to transport interstate or foreign commerce. It also provides that the discharge of dredged or fill material is not prohibited or subject to regulation under the act. Consequently the jurisdiction of the Army Corps of Engineers over dredge and fill activities would be greatly restricted.

Section 17 is needed to bring some commonsense into water pollution control activities. Without it many farming and forestry activities—even those which are conservation practices to reduce soil erosion and improve water quality—would require permits. Included would be such activities as the construction and maintenance of drainage ditches, ponds, sod waterways, and roads with related culvert and bridge installations.

This is no idle speculation. In an official statement issued last year, the Corps of Engineers said Federal permits would be required for "the rancher who wants to enlarge his stock pond, or the farmer who wants to deepen an irrigation ditch—or—protect his land from stream erosion."

Section 17 has received broad support, including the Department of Agriculture and the National Association of Home Builders. According to the Department of Agriculture:

> Enactment of the Breaux amendment would also help remove the threat of section 404 being used to—
>
> Impose Federal land use control under 404 without legislative authority;
>
> Deprive land owners of certain rights without due process and just *compensation*; and
>
> Delay and otherwise impede farmers and ranchers in their everyday efforts to produce food, fiber, and forest products needed for national and international markets.

The National Association of Home Builders has stated:

> We believe that the permit program which is being implemented by the Army Corps of Engineers has gone well beyond the Congressional intent behind Section 404. The regulations would have the Federal Government exercising a form of land use control which we believe is best handled at the lowest level of government possible . . . The Breaux amendment will place Section 404 in line with the spirit of joint federal-state cooperation which is found in the rest of the Federal Water Pollution Control Act, and we support it.

This section also has the backing of soil and water conservation districts in the 17th Congressional District of Ohio. Following are the letters I received from the Crawford, Holmes, Huron, Licking, and Richland County soil and water conservation districts:

CRAWFORD SOIL AND WATER
CONSERVATION DISTRICT,
Bucyrus, Ohio, April 23, 1976.

Hon. JOHN M. ASHBROOK,
House Office Building,
Washington, D.C.

DEAR MR. ASHBROOK: As Chairman of the Crawford Soil and Water Conservation District I am writing to you to express our opinion of H.R. 9560 as amended by the House Public Works Committee which will remove the Corps 404 permit responsibility for dredge and fill activities beyond the traditional definition of navigable waters. We are in favor of the passage of H.R. 9560 as amended.

If the Corps responsibility is extended beyond the traditional definition of Navigable Waters then effective July 1, 1977 projects such as open drainage ditches carrying more than 5 C.F.S., ponds over 5 acres in size and numerous other conservation practices that we are involved in would require a permit from the Corps. The time involved (est. 6 months to 1 year) in getting the permits would delay most drainage projects by that much more time. We don't feel this is necessary since the work we are involved in is constructed and installed under the direction of the USDA Soil Conservation Service. The projects that the Soil Conservation Service is involved with must meet their standards and specifications that have been proven over the years. If the farmers are going to maintain or increase the present rate of food and fiber production drainage must be maintained and improved without delay.

Your attention to this Bill will be greatly appreciated. Thank you.

Sincerely yours,

ARLO LUTZ,
Chairman, Board of Supervisors.

HOLMES SOIL AND WATER
CONSERVATION DISTRICT,
Millersburg, Ohio, April 23, 1976.

Hon. JOHN M. ASHBROOK,
House Office Building,
Washington, D.C.

DEAR MR. ASHBROOK: We are again asking for your help. We have been concerned with section 404 of PL-92-500 (Water Law). This section, as now interpreted would force farmers to obtain permits for all small earth moving jobs as of July 1, 1977. This bill would have a detrimental effect on conservation practices just at a time when conservation is becoming increasingly important. It would also result in needless taxpayer expense in a time of much concern over federal spending.

We ask that you support HR-9560 as amended. This amendment changes the interpretation of "navigable waters" back to "those waters that carry interstate commerce" rather than all waters of 5 CFS or greater.

Section 404 as now interpreted is almost an insult to the capability of U.S. Farmers and Conservation Districts. We ask that you support this amendment (H.R.-9560), and also to give serious thought to a bill already passed in the senate asking for money to support Sec. 404.

Sincerely,

HAROLD LANG, JR.,
Chairman.

HURON SOIL AND WATER
CONSERVATION DISTRICT,
Norwalk, Ohio., April 22, 1976.

Representative JOHN ASHBROOK,
House Office Building,
Washington, D.C.

DEAR SIR: There is a Water Bill (Pending HR9560) to be voted on in late April.

The House Public Works and Transportation Committee passed this amendment to PL 92-500 FWPCA by a 22-13 vote. It would return the definition of the water of the U.S. to vote traditional definition.

Without the amendment, a cumbersome permit process will be initiated on July 1, 1977 which will require permits for ponds greater than 5 acres, ditches, and numerous conservation practices. These practices are our concern and adding to the detail and confusion by changing to a permit procedure would cost time and money and certainly curtail our program.

Please consider the problem. Our recommendation is to return to the traditional definition of water of the U.S. and avoid requiring permits for conservation work.

Sincerely,

ROBERT GRAY,
Chairman, Huron SWCD.

LICKING COUNTY SOIL AND
WATER CONSERVATION DISTRICT,
Newark, Ohio, April 23, 1976.

Hon. JOHN ASHBROOK,
House of Representatives,
Washington, D.C.

DEAR MR. ASHBROOK: You are probably aware that as of July 1, 1977, Section 404 of the Water Law (PL-92-500) will require farmers installing common conservation practices such as farm ponds, sod waterways, and open drainage to obtain permits from the Army Corps of Engineers before any earth can be moved.

We feel that this would seriously slow, and in many cases halt, the installation of conservation practices that are so vital to the protection of this nation's soil and water resource base.

We, therefore, request that you support H.R. 9560 as amended. The amendment would revert back to the original interpretation of navigable waters as being those waters that carry interstate commerce rather than all waters of 5 cubic feet per second or greater.

This would mean that farmers would not need permits for small conservation and other earthmoving jobs resulting in less expense to taxpayers at the same time. By and large, this work will not affect navigable waters.

Can you let us know how House Rule 9560 is currently being evaluated and its final disposition?

Sincerely,

CHARLES E. SANDS,
Chairman, Licking County Board of Supervisors.

RICHLAND SOIL AND WATER
CONSERVATION DISTRICT,
Mansfield, Ohio, April 23, 1976.

Hon. JOHN ASHBROOK,
House of Representatives, Longworth Office Building, Washington, D.C.

DEAR SIR: The Richland County Board of Supervisors urge you to support H.R. 9560 as amended.

It is our feeling that anything which would impede putting conservation on the land, especially with farmers, is a detriment to our services under State Law of Ohio.

We urge you to take a positive attitude and support H.R. 9560 as amended.

Sincerely yours,

RICHARD FORBES,
Chairman, Board of Supervisors.

Mr. WAMPLER. Mr. Chairman, I support H.R. 9560, and I support and commend the efforts of my colleagues of the Committee on Public Works and Transportation to get the Water Pollution Control Act of 1972 (Public Law 92-500) back on the main track. During the last 3½ years' startup period, the water quality programs envisioned by Congress have been greatly sidetracked both by court interpretations and over regulation by its Administrators. The only way we can get it back on the main track is to provide clear direction to insure commonsense, workable programs: This means focusing of our national energies on the priority tasks of water pollution control and reducing both further wasteful litigation and the chance for courts and administrative agencies to dilute this effort by straying off chasing rabbits into regulatory brierpatches that completely stop progress.

Getting back on the main track also means an implementation that carries out the national policies as set out in section 101 of Public Law 92-500 "to recognize, preserve and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate (water) pollution, (and) to plan the development and use of land and water resources * * *" (Section 101(b)) and to "encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of Government." (Section 101(a)). If the objectives of Public Law 92-500 are to be achieved with fiscal responsibility, these basic policies must first be achieved.

The provisions of H.R. 9560 are a significant step toward making Public Law 92-500 a workable law. They are essential to reduce the absurd redtape and time delays associated with the construction of needed municipal waste treatment facilities.

Section 17 of H.R. 9560 is an essential provision to insure that the U.S. Army Corps of Engineers dredge or fill permit program under section 404 of Public Law 92-500 will be carried out in a commonsense, workable manner. For over 75 years, the U.S. Army Corps of Engineers has had responsibility for keeping the Nation's navigable waterways open for waterborne commerce and has done it well.

It is my understanding that the purpose of section 404 was to insure that the corps together with the Administrator give proper consideration to water quality impact in disposal of the large volume of dredge spoils resulting from its navigable waters maintenance programs. This makes sense.

But it makes no sense to me whatsoever to have the U.S. Army Corps of Engineers expand the scope of its regulatory programs to either include all the waters of the United States in a broad physical sense or include all the everyday minor activities of farming, forestry, and road building related to all of those waters.

In March 1975, the U.S. District Court for the District of Columbia found that the corps initial section 404 regulations, which applied only to the traditional navigable waters, were illegal. The court ordered the corps to expand its regulatory program to all the waters of the United States to the full extent permissible under the Commerce Clause.

Unless the Congress takes immediate corrective action, the corps' new, expanded regulations resulting from this court order, will go into effect just 4 weeks from now.

The corps' expanded regulatory program would mean a huge increase in the corps' jurisdiction from the 50,000 miles of rivers and harbors it presently administers to over 3.5 million miles of rivers and adjacent wetlands; from less than 50,000 miles of lake shoreline to 4.7 million miles. The corps' new definition of navigable waters also includes all "areas" that are "periodically inundated" by waters and are characterized by the prevalence of "vegetation that requires saturated soil conditions for growth and reproduction." This definition is so broad that it encompasses many acres of solid land—not "wetlands" in the sense most people think of, but merely "wet" land—lands with a high water table, or that are occasionally flooded, or that have poor drainage or slow percolation of water. Lands of this type, common throughout the country, are used for growing important agricultural crops.

The corps' expanded regulatory program will subject the normal everyday activities of millions of farm and forest landowners, all state and county road construction and maintenance agencies, and all Federal land management gencies to the onerous requirements of section 404 permits.

In Virginia alone there are about 125,000 farm and forest landowners. Under Federal programs administered by the Department of Agriculture and complementary State programs, these people are being encouraged through research, education, technical assistance, and incentive payments to employ sound conservation practices to improve productivity of the land and water quality by reducing soil erosion. I have seen the good results of these constructive programs.

To impose now a burdensome, costly, and delaying regulatory permit program administered by the U.S. Army which smacks of Federal land use control will not only reduce this excellent progress but also further convince these people that Congress is unwilling to do something about excessive Federal regulation.

The corps' new definition of navigable waters would require a section 404 permit for almost every road or railroad construction project in the United States, both public and private. These transportation construction activities have no significant adverse impact on water quality or wetlands, and, in the case of public roads are always subject to stringent State and Federal environmental safeguards.

Based on past experience, State highway agencies anticipate it would take months, or even years, to issue section 404 permits. As an example, in my own district, an application was filed for a section 404 permit for the installation of a road drainage culvert; that is, discharge of fill—in Levise Fork near Grundy last November. The corps, after 6 months, has not yet even issued a public notice on the application.

These types of delays will not result in environmental improvements. But they will cause great uncertainty and a further loss of jobs in the road construction industry.

Mr. Chairman, I would like to insert for the RECORD letters from two State highway officials from Virginia and Maine that fully describe this problem.

In summary I strongly urge your support for H.R. 9560 with section 17 intact as reported out of the Committee on Public Works, and I urge you to vote against any amendment to section 17 that would lock the current expanded corps regulations into law. Such a move is not a solution to this problem. The only rational solution to take now is to return the corps' jurisdiction to traditional navigable waters as proposed in section 17 and then, if need be, for the Committee on Public Works and Transportation to carry out a full review of the section 404 program during the complete oversight review of Public Law 92–500 which I understand will begin early next year.

The letters are as follows:

RICHMOND, VA.,
May 18, 1976.

HON. WILLIAM C. WAMPLER,
Rayburn House Office Building,
Washington, D.C.

DEAR BILL: I am enclosing a copy of a letter addressed to the Honorable Edmund S. Muskie, member of the United States Senate, from Mr. Roger L. Mallar, Commissioner of Transportation for the State of Maine.

Mr. Mallar has expressed at great length and in very strong terms the frustration which most state transportation administrators feel in attempting to meet the multitude of overlapping and oft illogical federal requirements necessary to get a public works project under way these days. It has reached the point that a federal aid highway project requires up to eight years from inception to award of contract; and much of this time results from duplication, failure to take action and implementation of transportation and, in some cases, a determination to erect every possible roadblock in the way of the highway program.

As Mr. Mallar points out, it has now become necessary to get a permit from the Army Corps of Engineers to install a box culvert; and more recently, the Urban Mass Transportation Administration, together with the Federal Highway Administration, has completely changed the law by rules and regulations published in the Federal Register which, in effect, set up regional governments in contravention of state law for the initiation and implementation of transportation projects, including highway programs financed entirely with state funds.

The Federal Register route is very often used by federal administrators to give the full force and effect of law to their interpretation of a Congressional act which was clearly not meant to achieve the objectives set forth in the regulations.

I think citizens in general are growing weary of too much federal regulation. I will appreciate your reading Mr. Mallar's letter and as time goes on taking every possible opportunity to clear the obstacles which prevent carrying out federal aid programs in an efficient and economical manner with, of course, due regard for the necessity of environmental protection and desirable citizen participation.

Sincerely,

DOUGLAS B. FUGATE,
Commissioner.

AUGUSTA, MAINE, *May 5, 1976.*

HON. EDMUND S. MUSKIE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR ED: I am writing to you to describe an example of why so many people in this country are completely losing faith in our governmental processes. What I will describe to you is an area of ludicrous duplication of effort between federal agencies and between the federal and state governments in the administration of our environmental laws. I am writing this letter specifically to you because of your long interest and involvement in improved intergovernmental relations, your continuing leadership position in environmentally related legislation and as Chairman of the Senate Budget Committee and, therefore, your obvious interest in efficient and effective governmental processes.

As you are aware, the National Environmental Policy Act (NEPA) of 1969, as amended, requires, among other things, that federal agencies proposing "major Federal actions significantly affecting the quality of the human environment" prepare a detailed statement regarding environmental impacts after obtaining . . . comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." This Department has prepared such statements in accordance with NEPA for proposed major actions involving federal funding which could significantly affect the environment. The problem is not so much with these actions which are relatively few in number and which certainly deserve detailed study. The real—and growing—problem is with the numerous, routine, federally funded projects in Maine and in other states which do not significantly affect the quality of the human environment but which are subject to increasingly burdensome, duplicative, and expensive federal procedural requirements that unfortunately do not appreciably benefit the public. These unnecessary requirements result in long delays and extra expenses for the public. This situation appears to be due primarily to the promulgation of regulations by federal agencies in response to such laws as NEPA and the Federal Water Pollution Control Act (FWPCA). These regulations not only ignore state environmental protection laws but also the analogous regulations of federal sister agencies.

To illustrate the above, let us consider the situation concerning certain highway projects as we have found it here in Maine. Bridges crossing navigable waters require a permit from the U.S. Coast Guard, an agency of the Federal Department of Transportation (FDOT), prior to construction. However, the Coast Guard has no listing available indicating which waters are navigable and which ones are not and, thus, requests for determination of navigability must be made in each case. Our department submitted 160 such requests to the Coast Guard during the period of November 1969 to December 1975. Twenty-three of these were determined to involve navigable waters. The Coast Guard time period to reach such determinations has averaged nine months in recent years with a maximum of 20 months. A determination of navigability means that a permit must then be applied for; and because the Coast Guard for some reason automatically considers all such projects as major Federal actions according to NEPA, detailed environmental statements must be prepared and forwarded to them. This permit process means further expense and months of delay and is not even compatible with that of the Federal Highway Administration, also an agency of the Federal Department of Transportation which operates under the same FDOT guidelines (Order 5610.1B), and which has approved our department's response to the mandates of NEPA. All of this involves public notification and hearing procedures which differ from agency to agency.

The problem does not end here. The Army Corps of Engineers has recently promulgated regulations to fulfill its obligations under the FWPCA. These regulations duplicate concerns of the above agencies and, again, require different permit, public notification, comment solicitation, and public hearing procedures. The Corps' regulations are scheduled eventually to extend even to small brooks and ponds far inland. As with the Coast Guard, there is no available list of waters under their jurisdiction to guide the potential applicant as to whether or not a permit is required.

Still the problem continues to grow. Maine has a comprehensive and complete set of statutes relating to land use and water resources which are administered by several different agencies. Permits are required for many of the activities proposed in or adjacent to streams, brooks, and rivers (including contiguous wetlands), ponds and lakes (including contiguous wetlands), and coastal wetlands. Other statutes concerning location of developments and land use in the unorganized areas of Maine (about one-half of our land area) provide additional protection. Review requirements concerning indirect sources of air emissions are more strict than federal regulations. These state regulations also overlap in jurisdiction as do the federal ones.

This, then, is the situation. Instead of a rational implementation of these most important federal environmental protection laws, we have had a proliferation of independent, duplicative regulations by a variety of agencies which has resulted in an expensive, frustrating procedural morass of permit layering, having little, if any, substantive value in the quest for environmental protection. Instead of an evolutionary process of environmental laws and regulations culminating in a simpler, more effective bureaucratic process, the federal direction has been to promulgate complex procedures which are insensitive to the public need but instead serve the self-interests of the regulatory agencies.

The problem is therefore real, most serious, and increasing in magnitude. To allow it to continue unsolved could result in unjust attacks upon the environmental laws themselves and the eventual loss of their much needed protection. What is the solution? I believe it lies in simplifying the federal bureaucratic requirements and in recognizing state environmental laws. For example, Maine environmental agencies are working together to simplify and to eliminate overlap of environmental regulations without sacrificing protection. Partial success has already been achieved and I feel that continued emphasis upon the problem will eventually result in a most efficient process. There is no valid reason why federal agencies cannot also work together similarly. The Coast Guard and FHWA should have processes which dovetail, not duplicate. The Army Corps of Engineers should likewise tailor their processes to fit those of other federal agencies having similar jurisdiction. All agencies should restrict their comments concerning proposed actions to those matters over which they have jurisdiction by law or for which they possess special expertise and should recognize as sufficient procedures other than their own which accomplish the needed consideration and protection of environmental concerns. There is no valid reason to have each project go through public notification/comment/hearing processes three or four separate times. An additional part of the solution lies in identifying states which have adequate environmental protection laws and in following a process by which such states may administer these programs, similar perhaps to the Clean Air Act and State Implementation Plans. State control over administration of the FWPCA should be extended to Section 404 now controlled by the Army Corps of Engineers if there is an approved state permit program. The recent clarification of NEPA regarding federal and state responsibilities for impact statement preparation is an example of the type of responsible congressional action that is needed.

We have expressed our concerns repeatedly to various federal agencies but have had little if any substantive response. Each agency is caught up in its own bureaucratic machinery, having lost sight of what it is we're trying to protect and enhance and for whom these laws were written. I feel it is most imperative that Congress make clear to these agencies what their roles are in relation to environmental statutes and assure that their implementation procedures and decisions are made in accordance with these congressional instructions. There is no excuse, particularly in these times of increasing population and concomitant demands upon our environment and our very difficult economic problems to allow self-serving bureaucratic interests to continue to grow at the expense of the public and at the risk of losing the very environmental qualities these agencies are expected to protect.

I have long observed your ability to clear away the cobwebs of intergovernmental problems and find solutions that are in the best interests of those served. I am also confident that your leadership abilities and interest in the various subjects affected in this regard can lead to significant progress if you agree with the need to require major changes in direction in these areas.

Very truly yours,

ROGER L. MALLAR,
Commissioner of Transportation.

Mr. CONTE. Mr. Chairman, I rise in opposition to section 17 of this act. As a member of the Migratory Bird Conservation Commission, a conservationist, and environmentalist I urge my colleagues to support the amendment to strike this section from the bill.

I serve as a member of the Migratory Bird Conservation Commission which is responsible to Congress for the wetland acquisition program. To date slightly more than 1.8 million acres have been purchased. The wetland acquisition program was recently extended by statute to 1983 with an authorizing ceiling of $200 million and a total acquisition goal of 3.8 million acres.

As I have said time and time again since my first days in this Chamber, once we destroy our natural resources we lose them forever. I fear the Breaux amendment, or section 17 of this legislation, will unnecessarily jeopardize the purity of virtually hundreds of thousands of acres of wetlands.

The effect of section 17 of this act is to place only navigable waterways under the jurisdiction of the Corps of Engineers, leaving 85 percent of the Nation's remaining wetlands excluded from protection under this act. This would leave these precious wetlands subject to destructive dredging and filling. This would result in unregulated filling and the dumping of spoils polluted with mercury, cadmium, and lead into many streams, rivers, and lakes simply because they are not considered navigable waterways. The premise on which this amendment is based is that only waterways carrying commercial traffic should be carefully protected. This is inconceivable.

Wetlands which may not qualify as navigable waterways are essential to the sustenance of migratory birds. Further, over two-thirds of the economic value of U.S. commercial fish and shellfish production is dependent on wetlands based food chains.

It may be argued that many of the wetlands will come under the protection of the Migratory Marine Game Fish Act, the Fish and Wildlife Coordination Act, and other Federal legislation and extensive State laws on wetlands, swamps, and the wildlife dependent on these areas.

The fact of the matter is that these acts do not effectively cover the situation on all the wetlands. Some are not tributaries of navigable waterways and thus are dependent upon the Water Pollution Control Act for protection. Section 17 discontinues that protection.

It is so ironic that with section 17 left in this legislation, mass pollution can occur—the very antithesis of the legislation itself. For example, this section would actually permit the removal of kepone laden sediments in the James River—Virginia—to be dumped in lakes and streams where humans frequently fish and swim. This section would turn the wetlands, such as those surrounding the James River into a virtual cesspool.

I urge my colleagues to see the veritable damage embodied in section 17 of this legislation and support the amendment to strike it.

Thank you, Mr. Chairman.

Mr. McCOLLISTER. Mr. Chairman, I want to voice my support for two important provisions contained in H.R. 9560—the redefinition of the term "navigable waters" and the expansion of State certification of municipal sewage treatment systems. I cosponsored legislation last year on both of these issues and support the Public Works Committee's efforts to deal with these problems that have added further to the redtape and bureaucratic nightmares that the Federal Water Pollution Control Act of 1972 has caused.

The Breaux amendment or section 17 of H.R. 9560 redefines navigable waters as all waters which are presently used or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. Enactment of this section will solve the problem brought about by the Federal district court ruling last year that "navigable waters" means all the waters of the United States. This ruling caused the Corps of Engineers to draw up regulations that would extend Federal jurisdiction to cover "the rancher who wants to enlarge his stockpond, or the farmer who wants to deepen an irrigation ditch or plow a field, or the mountaineer who wants to protect his land against stream erosion." I oppose this unwarranted Federal intervention. We in Nebraska know how valuable our water resources are and have accepted the responsibility of wise management of this vital resource. Nebraskans should not be asked to relinquish their freedoms in this area to a distant bureaucracy. The corps current proposed regulations go further than Congress ever intended when they defined "navigable waters" in the 1972 Federal Water Pollution Control Act.

The term "navigable waters" was never intended to encompass such rivers as the Platte in Nebraska which, while it may once have provided passage for a few fur-laden canoes, is not now commercially navigable and, in fact, is dry at times during the year. Not only does extension of Federal jurisdiction over such streams controvert the intended constitutional scope of Federal control, but it is just plain bad public policy to short-circuit responsible State attempts to provide that regulation.

State certification of Federal compliance in waste water treatment plant construction will go a long way in breaking the bottleneck at EPA. EPA redtape has snarled and delayed allocation of funds authorized in the 1972 act. Congress authorized a 3-year $18 billion program to help the Nation's communities comply with the standards set up in the law by building much needed waste treatment plants. At the end of last year about 9 percent, or $1.7 billion, had actually been spent on these projects. The paperwork nightmare for cities in complying with EPA regulations has been appalling. State certification and combining two of three procedural steps required for applications under $1 million will go a long way toward solving this problem. The resultant acceleration of construction schedules will save millions of tax dollars, because construction costs for treatment plants are inflating 15 percent a year.

Adoption of these provisions will help to realistically achieve the goals Congress set in 1972 to clean up our Nation's waterways.

Mr. FRENZEL. Mr. Chairman, when we passed the Water Pollution Control Act in 1972 we promised our constituents a massive cleanup of the Nation's streams and water bodies. We mandated a 3-year, $18 billion crash program to get our local and State sewage and waste control programs back in gear. At the end of those 3 years less than 10 percent of that money had been effectively allocated and the programs have been largely stifled by confusing regulations, court orders, and rivers of paperwork.

The bill before us makes an honest attempt to clear up the mess which we and the bureaucracy seem to have jointly created. H.R. 9560 substantially streamlines the application process. It permits reasonable changes in local taxation policies, readjusts the unfortunately slanted allotment schedule, and provides for substantial lessening of paperwork through State certification of project compliance. Although these provisions are not perfect they represent important improvements over the existing mishmash. Hopefully they can be improved even further through the amendment process.

One of the thorniest of the many problems created by the 1972 act is the matter embraced in section 404, navigable waters. Much has been said about the Federal court orders which applied the definitions of section 404 to the 1899 act. Many hours have been spent in public meetings across the country. Over 100 bills have been introduced in response to the new authorities and responsibilities allocated to the Corps of Engineers.

In truth, the corps has not always handled its end of this operation with finesse, but the primary responsibility for change lies with us. We must somehow remove from the States and municipalities the silly regulations formulated under the general provisions of "waters of the United States" rather than the traditional definition of "navigable waters."

Section 17, the Breaux amendment, is a well-intentioned, but crude, starting place for the necessary changes. I like its recognition of the problem, but I am not convinced that it is the best way to get the job done.

In March, I introduced a number of bills which would have amended 404. One of the amendments to be considered today closely follows my intentions to protect our environmental wetland needs while permitting needed exceptions and a certain degree of leeway to the State and local governments most intimately concerned. The Pattison amendment seems to do about what I wanted to do. It will enable individual States with the will and capacity to handle their own permit programs to be given this authority through the Secretary.

But the amendment provides assurance that State programs will be consistent with our national needs and Federal permit programs. The amendment draws a fine line between those waters which are uniquely intrastate and noncommercial and those which affect the national interest. It also exempts normal farming practices, silvaculture, ranching operations, stock ponds, farm ponds, irrigation ditches, and drainage ditches. It is a sound base for future program development.

The bill needs to be passed to get these programs back on the right track and the committee should be complimented for its work. However, I am hopeful that several amendments to streamline the process and protect our fragile ecosystems, including the Pattison amendment, will be accepted.

The CHAIRMAN. Does the gentleman from Texas (Mr. Wright) have any further requests for time?

Mr. WRIGHT. Mr. Chairman, I have no further requests for time.

Mr. DON H. CLAUSEN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. All time having expired, pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1976".

AUTHORIZATION APPROVAL

Sec. 2. Funds appropriated before the date of enactment of this Act for expenditure during the fiscal year ending June 30, 1976, and the transition quarter ending September 30, 1976, under authority of the Federal Water Pollution Control Act, are hereby authorized for such purposes.

AUTHORIZATION EXTENSION

Sec. 3. (a) Section 104(u)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $2,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978,".

(b) Section 104(u)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $1,000,000 for fiscal year 1977, and $1,500,000 for fiscal year 1978,".

(c) Section 106(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1256) is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $100,000,000 per fiscal year for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978;".

(d) Section 112(c) of the Federal Water Pollution Control Act (33 U.S.C. 1262) is amended by inserting "$6,000,000 for the fiscal year ending September 30, 1977, and $7,000,000 for the fiscal year ending September 30, 1978," immediately after "June 30, 1975,".

(e) Section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, and September 30, 1978.".

(f) Section 314(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1324) is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof ", $150,000,000 for the fiscal year 1975; $50,000,000 for fiscal year 1977; and $60,000,000 for fiscal year 1978".

(g) Section 517 of the Federal Water Pollution Control Act (33 U.S.C. 1376) is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, and $150,000,000 for the fiscal year ending September 30, 1978.".

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that sections 1 through 15 of H.R. 9560 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HARSHA. Reserving the right to object, Mr. Chairman, what is the gentleman's unanimous-consent request?

Mr. WRIGHT. Mr. Chairman, let me repeat my unanimous-consent request. I ask unanimous consent that sections 1 through 15 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HARSHA. I object, Mr. Chairman. Will the gentleman agree to have the bill read section by section?

Mr. WRIGHT. Mr. Chairman, I withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman from Texas withdraws his unanimous-consent request, and the Clerk will continue to read.

The Clerk continued to read.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I renew the unanimous-consent request that the bill be considered as read through section 15, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. HARSHA. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will continue to read.

The Clerk continued to read.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. Is there any amendment to section 3?

The Chair hears none, so the Clerk will continue to read.

The Clerk read as follows:

SEWAGE COLLECTION SYSTEM GRANTS

Sec. 4. Section 202 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, in any case where the total of all grants made under section 201 for the same treatment works exceeds the actual construction costs for such treatment works such excess amount shall be a grant of the Federal share of the cost of construction of a sewage collection system if—

"(1) such sewage collection system was constructed as part of the same total waste treatment system as the treatment works for which such section 201 grants were approved, and

"(2) an application for assistance for the construction of such sewage collection system was filed in acordance with section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102) before all such section 201 grants were made and such section 702 grant could not be approved due to lack of funding under such section 702.

The total of all grants for sewage collection systems made under this subsection shall not exceed $2,800,000.".

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will read.

The Clerk read as follows:

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

Sec. 5. Section 203(a) of the Federal Water Pollution Control Act (33 U.S.C. 1283) is amended by adding at the end thereof the following new sentence: "In the case of a treatment works that has an estimated total cost of $1,000,000 or less (as approved by the Administrator) upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction drawings and specifications, and the building and erection of the treatment works.".

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will read.

The Clerk read as follows:

USER CHARGES

Sec. 6. Clause (A) of paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act (33 U.S.C. 1284) is amended—

(1) by striking out "proportionate share" and inserting in lieu thereof "proportionate share (except as otherwise provided in this paragraph)"; and

(2) by adding at the end of such paragraph (1) the following: "In any case where an applicant uses an ad valorem tax system and the Administrator determines such system results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total waste water loading of the treatment works by each such user class, and such applicant establishes surcharges which will insure that each industrial user will pay its proportionate share on the basis of volume, strength, and other relevant factors, then such ad valorem tax system and surcharges shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph.".

ALLOTMENT

Sec. 7. (a) The first sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act (33 U.S.C. 1285) is amended by striking out "June 30, 1972," and inserting in lieu thereof "June 30, 1972, and before September 30, 1976,".

(b) Such section 205 is further amended by adding at the end thereof the following new subsections:

"(c) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1976, shall be allotted by the Administrator on October 1 of the fiscal year for which authorized. Sums authorized for the fiscal years ending September 30, 1977, and September 30, 1978, shall be allotted in accordance with table 1 of Committee Print Number 94–39 of the Committee on Public Works and Transportation of the House of Representatives.

"(d) If the sums allotted to the States for a fiscal year are made subject to a limitation on obligations by an appropriation Act, such limitation shall apply to each State in proportion to its allotment. So much of any allotment not subject to such a limitation on obligation shall remain available for obligation for the fiscal year during which it can first be obligated and for the period of the next succeeding sixteen months, the remaining amount of the allotment shall remain available until expended. The amount of any allotment not subject to such a limitation on obligation which is not obligated by the end of such sixteen-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.".

REIMBURSEMENT AND ADVANCED CONSTRUCTION

Sec. 8. (a) Subsection (a) of section 206 of the Federal Water Pollution Control Act (33 U.S.C. 1286) is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(b) Subsection (e) of such section 206 is amended by striking out "$2,600,000,000" and inserting in lieu thereof "$2,950,000,000".

(c) Notwithstanding section 206(c) of the Federal Water Pollution Control Act and section 2 of Public Law 93–207, in the case of publicly owned treatment works on which construction was initiated between July 1, 1972, and June 30, 1973 (both dates inclusive), applications for assistance under such section 206 shall be filed not later than the ninetieth day after the date of enactment of the Federal Water Pollution Control Act Amendments of 1976.

CONSTRUCTION GRANT AUTHORIZATIONS

Sec. 9. Section 207 of the Federal Water Pollution Control Act (33 U.S.C. 1287) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and for the fiscal year ending September 30, 1977, subject to such amounts as are provided in appropriation Acts, not to exceed $5,000,000,000 and for the fiscal years ending September 30, 1978, and September 30, 1979, subject to such amounts as are provided in appropriation Acts, not to exceed $6,000,000,000 per fiscal year.".

FEDERAL SHARE OF MANAGEMENT PLANNING PROCESS COSTS

Sec. 10. Section 208(f)(2) of the Federal Water Pollution Control Act (33 U.S.C. 2188) is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

CONTACT AUTHORITY

Sec. 11. The second sentence of section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

NEW PROVISIONS

Sec. 12. Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end thereof the following new sections:

"CERTIFICATION

"Sec. 213. (a)(1) The Administrator may carry out any of his responsibilities for actions, determinations, or approval under sections 201(g) (2) and (3), 203(a) and (d), 204(a), (b)(1), and (b)(3), and 212(2)(B) of this Act with respect to projects or proposed projects for treatment works by accepting a certification by the State water pollution control agency of its performance of such responsibilities.

"(2) Nothing in this section shall affect or discharge any responsibility or obligation of the Administrator under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) The Administrator shall not accept any certification provided for in subsection (a) of this section unless the Administrator determines after public hearings that the State water pollution control agency has the authority, responsibility, and capability to take all of the actions, determinations, or approvals for which certification is submitted under subsection (a) of this section and the Administrator has determined that the State is following practices that conform to the Federal construction grant regulations under section 201 of this Act, including specifically that the State has the enforceable requirement that any person having a significant financial interest in the construction of treatment works will not be a member of any State board or body which processes an application for a grant under this title.

"(c) If the Administrator determines after public hearings that a State water pollution control agency, with respect to any requirement, condition, or limitation for which he has accepted a certification under subsection (a), fails to meet the requirements of this section, he shall suspend his acceptance of certification as to such requirement, condition, or limitation with respect to any project, or may suspend such acceptance with respect to all projects in such State, as he determines necessary, and during such suspension he shall be responsible for such requirement, condition, or limitation.

"(d) The Administrator shall conduct interim and final inspections and audits, and shall require such information, data, and reports as he determines to carry out this section.

"(e)(1) The Administrator shall reserve an amount not to exceed 2 per centum of the allotment made to each State under section 205 on or after February 1, 1975. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (b) of section 205, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available, and any reserved amount at the request of the State, shall be added to the amounts last allotted to such State under section 205 and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"(2) The Administrator is authorized to grant to any State exercising, or proposing to exercise certification authority under this section, from amounts reserved to such State under this subsection, the reasonable costs, as determined by the Administrator, of carrying out such authority.

"(f) The Administrator shall promulgate such rules and regulations as may be necessary to carry out this section. The initial rules and regulations necessary to carry out this section shall be promulgated not later than the ninetieth day after date of enactment of this section.

"DETERMINATION OF PRIORITY

"Sec. 214. Notwithstanding any other provision of this Act, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-inflow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows.

"LOAN GUARANTEE FOR CONSTRUCTION OF TREATMENT WORKS

"Sec. 215. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance the non-Federal share of the cost of any project for the construction of publicly owned treatment works which the Administrator has determined to be eligible for Federal financial assistance under this title.

"(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

"(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guaranty; and

"(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

Any loan, obligation, or participation therein with such terms and conditions as to yield a rate of return of more than one-half of 1 per centum above the current interest rate at which the Federal Financing Bank is making loans for comparable maturities shall be deemed, for purposes of paragraph (1) of this subsection, not to be obtainable on reasonable terms.

"(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guaranty and for the issuance of a commitment to make a guaranty.

"NON-FEDERAL SHARE WAIVER

"Sec. 216. (a) Notwithstanding any other provision of this title, the Administrator may waive any requirement that an applicant for a grant under section 201 of this title pay the non-Federal share of the costs of the project for which such grant application is made, if such applicant demonstrates to the satisfaction of the Administrator that it is unable to obtain financing in the private financial market or pursuant to section 215 of this title for the purpose of obtaining the non-Federal share.

"(b) Subsection (a) of this section shall only apply to grants made under section 201 of this Act after the date of enactment of this section.

"(c) Nothing in this section shall be construed to authorize the Administrator to reduce funds to a project on a State priority list.".

TIME REQUIREMENTS

Sec. 13. Section 301 of the Federal Water Pollution Control Act (33 U.S.C. 1311) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Administrator may modify the time for achieving the requirements of subsections (b)(1) (B) and (C) of this section for any publicly owned treatment works to extend such time beyond the dates specified in such paragraphs, if the Administrator determines that the construction of such treatment works necessary for the achievement of such requirements cannot be completed by the dates specified in such paragraphs.

"(2) No time modification granted by the Administrator under this subsection shall extend beyond July 1, 1982, except in the case of treatment works which the Administrator determines are based on innovative technology relating to the abatement and control of water pollution in which case time modifications may extend up to, but not beyond, July 1, 1983.

"(3) No time modification shall be granted under this subsection unless the applicant shall have first submitted to the Administrator, and the Administrator shall have approved, a schedule of compliance with the modified date. Failure to meet the approved schedule of compliance shall be a violation of this section and shall be subject to enforcement under section 309 in the same manner as any other violation of this section. The Administrator shall promulgate such rules and regulations as may be necessary to carry out this paragraph.

"(4) Any point source (other than a publicly owned treatment works) which has, either on the date a time modification is granted a publicly owned treatment works under paragraph (1) of this subsection or not later than the sixtieth day after the date such time modification is granted, a contract (enforceable against such point source) to discharge its effluent into such publicly owned treatment works, shall not be subject to the requirements of subsection (b)(1) (A) and (C) of this section until the date such treatment works must meet the requirements of subsections (b)(1) (B) and (C) of this section.".

STATE REPORTS

Sec. 14. Subsection (b) of section 305 of the Federal Water Pollution Control Act (33 U.S.C. 1315) is amended—

(1) by striking out "January 1, 1975, and shall bring up to date each year thereafter," in paragraph (1) and inserting in lieu thereof "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter."; and

(2) by striking out "annually" in paragraph (2) and inserting in lieu thereof the following: "October 1, 1976, and biennially".

TOXIC AND PRETREATMENT STANDARDS

Sec. 15. (a) The first sentence of paragraph (2) of subsection (a) of section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317) is amended by striking out "to be held within thirty days".

(b) Paragraph (6) of subsection (a) of section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317) is amended by adding at the end thereof the following new sentence: "In any case where the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator shall establish the effective date of the effluent standard (or prohibition) for such category of sources at the earliest date which compliance can be feasibly attained by such sources, but in no case shall such date be more than three years after the date of promulgation.".

Mr. HARSHA (during the reading). Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the gentleman from Texas (Mr. Wright) wishes to reoffer his unanimous-consent request at this point, then I have no objection.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that sections 6 through 15 may be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to sections 6 through 15? If not, the Clerk will read.

The Clerk read as follows:

CIVIL PENALTY

Sec. 16. (a) Subparagraph (B) of paragraph (2) of subsection (b) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended to read as follows:

"(B) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged any hazardous substance shall, subject to the defenses to liability provided in subsection (f) of this section, as appropriate, be liable to the United States for a civil penalty established by the Administrator not to exceed $50,000 per discharge based either on the characteristics of the substance discharged, or damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches resulting from such discharge, or based on both such factors, except that if such an owner or operator is liable to the United States for a civil penalty for a discharge of a hazardous substance and within three years of the date of such discharge is liable for such a penalty for a second discharge, the maximum amount of the civil penalty for such second discharge shall be $100,000. The maximum amount of the civil penalty for every subsequent discharge by such owner or operator within such three-year period shall be $500,000. The Administrator shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed against a violator of this section to the extent necessary to prevent bankruptcy or insolvency, but only if the Administrator has determined that the discharge was not the result of negligence or willful misconduct by the violator, and that reasonable safeguards had been implemented to avoid such a discharge. In assessing such penalty, the Administrator shall take into account the actions taken by the owner or operator to prevent such discharge and to remove the substance discharged. In any case where the United States can show such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner or operator, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based either on the characteristics of the substance discharged or damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches resulting from such discharge, or based on both such factors. Willful failure to act to remove discharges of hazardous substances as deemed appropriate by the responsible *Federal officer* specified in the National Contingency Plan prepared under subsection (c) (2) shall be deemed to constitute willful misconduct for the purposes of this subparagraph, unless alternative actions reasonable under the circumstances were taken to remove such discharges.".

(b) The first sentence of paragraph (5) of subsection (b) of such section 311 is amended to read as follows: "Any person in charge of a vessel or of an onshore or offshore facility shall, as soon as he has knowledge of any discharge of oil from such vessel or facility in violation of paragraph (3) of this subsection, or of any discharge of a hazardous substance designated under paragraph (b) (2) (A) of this subsection from such vessel or facility, immediately notify the appropriate agency of the United States Government of such discharge. It shall be the duty of the Administrator to insure that any violator of this section adopts a plan designed to prevent future discharges of hazardous substances.".

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama

There was no objection.

AMENDMENT OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Alabama: Page 28, strike out line 23 and all that follows down through and including line 9 on page 31.

Renumber the succeeding sections accordingly.

Mr. JONES of Alabama. Mr. Chairman, the amendment which I offer will delete section 16 of H.R. 9560 which amends section 311 of the Federal Water Pollution Control Act (P.L. 92-500) concerning penalties for the discharge of hazardous substances.

In 1972 the Congress developed section 311 of the act for the purpose of providing a strict program of penalties for discharges of hazardous substances. However, in 1975 when the Subcommittee on Water Resources was developing H.R. 9560, the Environmental Protection Agency had yet to undertake the implementation of section 311.

At hearings conducted by the subcommittee on H.R. 9560, testimony was received indicating that the penalties provisions of section 311 were not capable of implementation in their present form and required legislative modification.

Therefore, the subcommittee developed section 16 of H.R. 9560 in an effort to provide penalties that could be implemented while still maintaining strong environmental safeguards.

Following the action by the subcommittee in November 1975, EPA has published proposed regulations implementing section 311. The comment period for these regulations has not yet expired.

Since H.R. 9560 is intended to be an interim piece of legislation taking care of only those matters which require resolutions now, I am of the opinion that the publication of the proposed regulations removes the necessity of amending section 311 now. I believe that EPA should be permitted to gain experience in implementing section 311 as it now exists. In this way both the agency, affected industries, the public, and the Congress will be better informed when the Congress conducts a more extensive review of the Federal Water Pollution Control Act in 1977.

Mr. Chairman, I urge the adoption of my amendment which will delete, without prejudice to any future actions, section 16 of H.R. 9560.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the hearings on the implementation of the Federal Water Pollution Control Act Amendments of 1972, the issue of penalties for spills of hazardous substances into waters of the United States was identified as an area where further legislative action may be needed. The penalty provisions of section 311 of the act provide for an unlimited upper limit for assessing penalties for willful negligence or misconduct or willful failure to remove substances discharged. It may be that this provision is too restrictive in that waterway operators have testified that they are unable to get insurance when they carry hazardous substances because of the possibility of being assessed a severe penalty under this section. The waterway interests point out that the water mode is the safest way to transport these goods but without the ability to secure insurance, these materials will be transported by other modes and may have an extremely adverse impact on those industries located on waterways which use these materials.

As a result of our hearings limits were placed on the penalty provisions in section 311. These are incorporated as section 16 of H.R. 9560.

However, legislative action may be premature. EPA is about to publish regulations for the implementation of section 311 and our action may preempt these regulations. I believe that we should wait and see what EPA and those to be regulated can work out. The Congress should exercise oversight of the implementation of these regulations and if changes are necessary in the law, then act. But when we act it should be on the basis of experience and therefore I urge the Members to support the deletion of section 16 of H.R. 9560.

I would like to ask the author of the amendment to explain the amendment. Unfortunately, I must apologize to my distinguished chairman as we were engaged in colloquy here at the table, and I did not get to hear all of his arguments.

Mr. JONES of Alabama. If the gentleman will yield, it was a very strenuous argument.

Mr. HARSHA. As I understand the gentleman's amendment, it would strike the entire section 16 out of this bill.

Mr. JONES of Alabama. If the gentleman will yield, that is the amendment in toto.

Mr. HARSHA. I know there was considerable testimony on this before the subcommittee when they had hearings about the inability of certain waterway users to contract for adequate insurance to protect them, and there was great difficulty with rules and regulations in this regard, but I am wondering if the existing law still offers some protection from spills that would occur.

Mr. JONES of Alabama. If the gentleman will yield, yes, it would. Also, the gentleman recalls the fact that we had great difficulty trying to ascertain as to whether or not the carriers could get the proper insurance. That is the premise on which we approached it. Now we are advised that the insurance can be obtained at a reasonable rate; therefore, we thought it would be wise to go back to the original provisions of section 311 and let it remain in the administrative discretion of the people down at the Environmental Protection Agency.

Mr. HARSHA. As I understand it, the Environmental Protection Agency is about to publish regulations on this very subject matter.

Mr. JONES of Alabama. If the gentleman will yield further, I have just stated in the explanation of the amendment that they have published proposed regulations and that the comment period on these regulations has not yet expired.

Mr. HARSHA. I thank the gentleman.

Mr. JONES of Alabama. Final regulations will probably be forthcoming soon.

Mr. HARSHA. I have no objection, Mr. Chairman, to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. JONES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DU PONT

Mr. DU PONT. Mr. Chairman, I offer an amendment and ask unanimous consent that it be considered at this time before we read section 17.

The CHAIRMAN. To what section is the amendment?

Mr. DU PONT. To section 12, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DU PONT: Page 20, after line 20, insert the following:

AQUIFER PROTECTION

SEC. 12. Section 212(2) (B) of the Federal Water Pollution Control Act is amended by inserting after the words "or disposing of municipal waste," and before the words "including storm water runoff," the following language: "or protect natural aquifers from pollution by public waste disposal facilities,".

Renumber succeeding sections and references thereto accordingly.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

Mr. WRIGHT. Reserving the right to

object, Mr. Chairman, I do not like to preclude the gentleman's having an opportunity to offer an amendment. I do believe orderly procedure should be followed if it is possible to do so. The gentleman did not offer the amendment in a timely fashion. I am wondering if it would be possible for the gentleman to draft his amendment in such a way that it could be presented as an additional section to the bill following the consideration of the section that we now have before us. I would like very much to get section 17 behind us before we begin to consider extraneous amendments of this type, particularly when they come in an untimely way.

I would like to give the gentleman the opportunity to offer the language and the substance of the amendment. I wonder if it would not be possible for him to draft it in such a way that that would come as a separate section at the end of the bill.

Mr. du PONT. If the gentleman from Texas will yield, I apologize to the chairman for proceeding in an untimely fashion. It was my understanding the bill was going to be open for the first 16 sections, and while I was out the door I discovered we had skipped by, but if the gentleman has no objection to my changing the title and will allow the amendment to be offered at the conclusion of the other sections, I would certainly have no objection to that.

Mr. WRIGHT. I would have no objection to the gentleman's presenting it as another section, if he would withdraw it at this time. Or, to accomplish that, I object to the offering of the amendment at this time.

The CHAIRMAN. Objection is heard to the offering of the amendment at this time.

The Clerk will read.

The Clerk read as follows:

PERMITS FOR DREDGED OR FILL MATERIAL

Sec. 17. Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding at the end thereof the following new subsections:

"(d) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in then natural condition or by reasonable improvement as a means to transport interstate or foreign commerce, shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast).

"(e) The discharge of dredged or fill material in waters other than navigable waters is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.".

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cleveland: On page 31 of the bill, strike out all of Section 17 after the colon on line 13 and substitute in lieu thereof the following:

"(d) No permit shall be required under this section, or section 402 of this Act, for discharges of dredged or fill material.

(1) resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for the production of food, fiber, and forest products;

(2) placed for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures; or

(3) placed for the purpose of construction or maintenance of farm and stockponds and irrigation ditches and the maintenance of drainage ditches.

"(e)(1) Consistent with the requirement of subsections (a)–(c) of this section the Secretary of the Army acting through the Chief of Engineers may issue general permits for discharges of dredged or fill material where such activities are similar in nature, cause only minimal adverse environmental impact when performed separately, and will have only a minimal adverse cumulative effect on the environment. Such permits shall contain such conditions as necessary to achieve the purposes of this Act and shall be for a maximum period of five years. A general permit may be revoked or modified if it is determined that the cumulative effects of the permitted activities are such that individual permit treatment is required: *Provided,* That no general permit shall be revoked or substantially modified without opportunity for public hearings.

"(e)(2) The Secretary shall distribute through normal public notice procedures, notice of all categories of activities proposed for processing by means of general permits.

"(f) The Secretary shall submit a detailed report to the Congress, on or before December 31, 1977, on the implementation to such date by the Department of the Army of the provisions of this section. This report, which shall be prepared in conjunction with the Administrator of the Environmental Protection Agency, shall detail the progress made in implementing the requirements of this section and the objectives of this act.

The CHAIRMAN. The gentleman from New Hampshire (Mr. Cleveland) is recognized for 5 minutes in support of his amendment.

Mr. EDGAR. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 328]

Ambro
Andrews, N.C.
Armstrong
Ashley
Aspin
Badillo
Beard, R.I.
Bell
Bevill
Bolling
Brademas
Burgener
Burton, Phillip
Butler
Carney
Clawson, Del
Clay
Conlan
Conyers
D'Amours
Dent
Diggs
Dodd
Downing, Va.
Drinan
Esch
Eshleman
Fish
Ford, Mich.
Fraser
Frenzel
Giaimo
Hagedorn
Hansen
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Jones, N.C.
Karth
Kindness
LaFalce
Landrum
Leggett
Litton
Lujan
McCollister
McCormack
McDonald
McEwen
McKinney
Matsunaga
Metcalfe
Milford
Mitchell, Md.
Moakley
Mosher
Murphy, N.Y.
Murtha
Obey
O'Hara
O'Neill
Peyser
Preyer
Railsback
Rees
Richmond
Riegle
Rooney
Rousselot
Ruppe
Russo
St Germain
Santini
Scheuer
Schneebeli
Schulze
Shipley
Shuster
Sikes
Stanton, James V.
Steiger, Ariz.
Stephens
Stokes
Stuckey
Symington
Symms
Talcott
Teague
Thompson
Udall
Vander Jagt
Vander Veen
Vigorito
Wiggins
Wilson, Bob

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFall) having assumed the chair, Mr. Stratton, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 9560, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 333 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of no quorum was made, the gentleman from New Hampshire (Mr. Cleveland) had been recognized for 5 minutes in support of his amendment.

Mr. CLEVELAND. Mr. Chairman, my amendment, which is known as the Cleveland-Harsha amendment, which is supported by the administration and several major environmental groups, is designed to resolve the question of possible overregulation by the Corps of Engineers by providing statutory exemptions from regulations, coupled with statutory authority for the Corps to issue general permits.

For the information of the Members, I am sure they have all received a certain amount of mail, not only from the gentleman from Ohio (Mr. Harsha) and myself, but also from the gentleman from Texas (Mr. Wright) who has a substitute. The controversy that these various legislative offerings attempt to solve came about as a result of the so-called Breaux amendment to the bill which we have under consideration. Also I am sure the Members have received some communications from their constituents for or against that amendment.

Mr. Chairman, I think it is fair to say that there is a considerable amount of misinformation floating around about these various proposals. The Breaux amendment was adopted by the Committee on Public Works by a record vote. The amendment that the gentleman from Ohio (Mr. Harsha) and I are offering has been circulated now for more than a week. The gentleman from Texas (Mr. Wright) was the last to cross the *line, his offering* having been finalized yesterday, I believe, and circulated yesterday and today.

The Cleveland-Harsha amendment would provide exemptions for certain specified farming and forestry practices, plus maintenance and emergency reconstruction of a number of enumerated structures and facilities essential to agriculture and transportation. This amendment builds into the statute assurances that these activities, these farming and forestry activities, would be exempt from the Corps of Engineers, regulations. As those Members know who are familiar with the problem, last year as a result of a court decision the Corps of Engineers was given jurisdiction over all the waters in the country in regards to dredging and filling operations. I believe the decision reflected congressional intent.

Initially there was a feeling that one would have to get a permit from the Corps of Engineers to build a farm pond or even the most simple farming-type operations. Our amendment very clearly takes care of this and spells it out.

I think it is essential that we do build these assurances into law to ease justified fears of farming and forestry interests with respect to the reach of regulation. This is due in part to the controversy surrounding the issue of 404 regulation, and in part to the fact that statutory language is needed to prevent reversal of policy.

It has come to my attention that there is some misinformation concerning this amendment, to the effect that it may be subject to misinterpretation and thus create loopholes. I will also add that it is manifestly not the case, and that the practices enumerated in the amendment embrace the substance and intent of the assurances written into the exemptions in the Corps' regulations.

Thus, for example, the use of the term "normal farming, silviculture, and ranching activities" can hardly be interpreted as broadening of the regulations in the course of their translation into statutory law. There is a broadening, but within specific limits. Exemptions would be extended to construction and maintenance of farm and stock ponds and irrigation ditches.

Also exempt would be maintenance—as distinguished from construction, expansion or extension—of drainage ditches. The purpose of this distinction is to assure that new or expanded ditches, which could be employed to drain extensive wetlands areas, could not be undertaken under statutory exemption but would still require an individual or general permit.

I think the language and the "administrative history"—if you will—also make clear that it is not the intent by the authors of this amendment, the gentleman from Ohio and myself, to authorize exemptions for stream channelization projects.

With respect to general permits, it is not our intent to assure that the Corps has statutory authority, immune from court challenge, to issue general permits covering some practices other than those dealt with by exemption. Such practices would include those which singly—or cumulatively as they affect a given area of wetlands—do not have such an environmental impact as to warrant individual permits.

It is our hope that first the exemptions and then the general permit procedure would reduce the volume of regulatory activity, and the procedural burden, which in turn would free the Corps to devote enough resources to individual permits and thereby expedite their processing.

In conclusion, this is a carefully crafted measure, designed to avoid the twin ills of regulation that is insufficient to do the job, on one hand, or goes overboard on the other.

I urge acceptance of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

AMENDMENT OFFERED BY MR. WRIGHT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CLEVELAND

Mr. WRIGHT. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Wright as a substitute for the amendment offered by Mr. Cleveland:

Page 31, strike out lines 11 to 25, inclusive, and insert in lieu thereof the following:

Sec. 17. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable water subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support freshwater vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches,

is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredge or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation."

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Chairman, this morning Members of the House and of the Senate participated with some of our British cousins in celebrating the loan of an original copy of the Magna Carta. I think it quite significant in connection with the action we are about to take that during that proceeding this morning we heard a ballad of Magna Carta. Some of the language addressed to King John in that ballad as follows:

> Now all who speak in English in city, farm or town
> Refuse to recognize a law unless it's written down.
> Because a law is not a law when it's a ruling made by a King or an Executive, arrived at by a commission or a committee, drawn up by a secret board or council . . .

That is a question that is at the heart of this issue. Shall the Congress determine in law those areas that are to be required to report to the Army before they are permitted to do ordinary things? Or shall we allow the Army or any other administrative agency simply at its whim to write lengthy regulations that have the effect of law? That is the question at issue.

In the 1972 law we provided, and wisely so, that any dredging and filling of material into the navigable streams of the country would require permission from the Corps of Army Engineers.

But then a Federal court, in judicial lawmaking almost unprecedented, interpreted that to mean that the navigable waters are all the waters of the United States. Consider that.

Pursuant to that sweeping and almost unprecedented ruling, the U.S. Army has issued regulations consisting of more than 34,000 words as to the applicability of this requirement that private citizens must be monitored by and harassed on occasion by members of the U.S. Army.

Mr. Chairman, that was the reason the Breaux amendment was adopted in the first place: to reinstate the historic definition of a navigable stream.

Some have expressed a sincere concern that reinstitution of that historic definition might leave some of our invaluable national wetlands subject to exploitation. It is to correct this that we have perfected a substitute amendment which voids the court ruling and voids these regulations, which the Cleveland amendment would reinstate and allow to go into effect except for certain narrow interpretations. We would allow the Breaux amendment as a definition of navigable waters.

We would make clear, however, that the dredge and fill requirements shall apply not only to the navigable waters as so defined, but also to the coastal wetlands and to those wetlands lying adjacent and contiguous to navigable streams. Those would be automatically protected under this substitute. Beyond that, the substitute grants a mechanism for the States and the Federal Government to identify additional wetlands of sufficient ecological importance to warrant dredge and fill permits.

As with the amendment offered by the gentleman from New Hampshire, this one exempts the normal farm or stock ponds and irrigation ditches and also federally approved projects on which environmental statements have already been issued. Those things ought to be exempted.

Finally, it allows States, such as New York which has expressed an interest to do so and such as Florida and Oregon, which have also expressed a desire to do so to administer these programs themselves whenever the Secretary of the Army finds they have sufficient legal authority to do it within their own borders and are sufficiently competent to carry out those charges.

Mr. Chairman, I think this answers the legitimate concerns of all sides.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the Wright substitute to the Cleveland-Harsha amendment to section 404 of the Federal Water Pollution Control Act. This amendment offers a reasonable alternative to the so-called Breaux amendment which is incorporated as section 17 of H.R. 9560.

The gentleman from Texas has already aptly explained his amendment and I do not wish to be repetitive. However, I do think it is important to restate the fact that this amendment does satisfy the concerns of those who fear that the law as presently interpreted by the Corps of Engineers is too restrictive.

It is intended to assuage the fears expressed by our Nation's farming and ranching interests as well as our forest products industry.

This amendment returns to the States the power to determine how and in what manner their wetlands will be regulated, and thus prevents overregulation and usurpation of States rights by the Federal Government. It is designed to be flexible, allowing the States to assume the corps responsibilities in the "navigable waters" within the State. It also provides that a State may choose to have the Army engineers involved in the regulation of dredge and fill activities in those State areas not subject to Federal jurisdiction. But again, the decision rests with the State. And this is a principle that our Founding Fathers firmly believed in, but today our Federal agencies seem to have forgotten.

Mr. Chairman, I urge adoption of this very well conceived provision as a reasonable and acceptable alternative to the Breaux amendment. I also, of course, support strongly the intent of the Federal Water Pollution Control Act toward a national effort to clean our waters or keep clean those that have not suffered a serious deterioration of quality. I was an original cosponsor in 1972 and will continue to support it.

Mr. HOWE. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Utah.

Mr. HOWE. Mr. Chairman, the amendment the gentleman is proposing to substitute for section (h) gives exemption for some of these things, such as normal farming, silviculture, and ranching activities; would they include those things?

Mr. WRIGHT. Certainly, This would include all those things necessary to the harvesting or cultivating of crops or timber products.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. WRIGHT. This includes such things as terracing, irrigating, plowing, planting, building roads to harvest timber, all those things that are related to agricultural harvesting and agricultural cultivating and production.

Mr. HOWE. If the gentleman will yield further, it eliminates the problem we have had in anticipating the difficulties of approving the activities regarding those traditional farming and ranching activities?

Mr. WRIGHT. Yes; it is expressly designed to do that. It will protect the important wetlands from exploitation. It will protect the Congress from executive and judicial lawmaking and also it will protect the citizens from needless harassment by an overzealous regulatory agency.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman yielding.

I want to ask a question now. In my State of Florida, the State has set aside certain lands of critical concern that they feel should be protected.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. FUQUA and by unanimous consent Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. FUQUA. I wondered, under the gentleman's amendment, would that land that the States have already decided that are critical, would that land be protected and would the States have the right to continue the control of those wetlands?

Mr. WRIGHT. The answer is, absolutely "Yes." Under subsection (f) and subsection (j) of the amendment that I have offered, the gentleman would discover that it yields to the States quite considerable initiatives for those States like his own and the State of Georgia, like the State of California, like the State of New York, and like the State of Oregon, which are actively pursuing ongoing programs of their own.

Mr. FUQUA. I thank the gentleman.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I rise in strong support of the Wright substitute. It is a substitute amendment which will go a long way towards contributing to the beneficial effect of this bill.

I urge every Member to support it.

Mr. Chairman, and my colleagues, I strongly support this bill, and emphasize, particularly, the importance of section 6, which incorporates the provisions of my bill H.R. 2183, which will permit the use of an ad valorem tax as a user-charge for a waste treatment, sewage system when the Administrator of the Environmental Protection Agency determines such a system results in a proportionate distribution of operation and maintenance cost among recipients of sewer services, based on the user's contribution to the total waste water treated by the system.

BACKGROUND

Presently section 204 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500, (33 U.S. Code 1284) of October 18, 1972, provides as follows:

> (b)(1) Notwithstanding any other provision of this subchapter, the Administrator shall not approve any grant for any treatments work . . . unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant.

The above provision is essentially the same as section 204 of the Senate bill, S. 2770 (92d Cong., 2d Sess.), dated October 28, 1971. The committee report states, in part, as follows, in explanation of section 204(b)(1):

> Although the committee is aware of the many different legal and financial circumstances that characterize state and local governments and agencies throughout the country, the bill directs the Administrator to promulgate guidelines for the establishment and imposition of user charge systems as a guide to grant applicants for waste treatment works grants. . . . As a general rule, the volume and character of each discharge into a publicly owned system should form the basis of determining the rate at which each user should be required to pay.

In my congressional district in Los Angeles County, sewage treatment costs have traditionally been paid through an ad valorem tax on the real property served. Initially, there was some question as to whether the ad valorem tax system met the requirements of the Federal Water Pollution Control Act Amendments of 1972. Then, in response to my objection that the creation and inauguration of a new user-charge system, or the installation of sewage meters, would be prohibitively expensive and an undue burden on the people served by the sanitation districts within my congressional district, and others similarly situated, the Environmental Protection Agency, on April 5, 1974, issued Program Guidance Memorandum No. 28, which authorized the use of the ad valorem tax as a user charge under the act, under certain narrow, well-defined circumstances, as follows:

> The use of ad valorem taxes can be permitted as a source of funds for operation and maintenance only in those cases where such a method has been used historically. Where there is a history of the use of ad valorem taxation for collection of operation and maintenance costs, and it is properly demonstrated that it would be administratively difficult, more costly, and disruptive to change that system, and that the goal of proportionality among user classes can be achieved by means of an ad valorem tax system, such a system may be used.

On July 2, 1974, however, the Comptroller General rendered a decision that an ad valorem tax for the payment of sewage charges does not meet the requirements of the Federal Water Pollution Control Act Amendments of 1972. That decision, in effect, reversed the authorization of EPA Memorandum No. 28.

After reviewing the legislative history of the amendments, the Comptroller General stated, in part, that:

> The basic difficulty with EPA's position is that the ad valorem system is clearly a tax based on the value of the property and, conceptually at least, the Congress did not intend that a tax be used to obtain the user charges . . . Of major importance also is the fact that the ad valorem tax does not in any way reward conservation of water and this was clearly an important factor in the congressional adoption of the user charge.
>
> Accordingly, while the matter is quite complex and not entirely free from doubt, it is our view that the Section 204(b)(1) requirement that each recipient of the sewer services will pay its proportionate share of the treatment works' operation and maintenance expenses may not be met through an ad valorem tax system.

Those responsible for the providing and operation of sanitation districts in Los Angeles County have advised me that there are really only two alternatives to the ad valorem tax as a method of imposing a "user charge." The first of these, which would accomplish a precise measurement of waste water discharge, is the sewage meter. However, in order to comply with the act, sanitation districts within Los Angeles County, exclusive of the city of Los Angeles, would have to install some 1,200,000 sewage meters. If we were to add the city of Los Angeles, which operates its own sanitation system, the number of meters would be doubled. It has been determined that it would cost more than $6 billion to purchase such meters, to say nothing of the astronomical cost of installation and maintenance.

The other alternative which would meet the requirements of the Comptroller General's decision, would be to base sewage charges on the amount of water going into each place of use as determined by water meters, on the assumption that water input will bear a direct relationship to sewage output. That system although less costly, would still result in an estimated cost of $5 million to design and set up the system, plus $2 million per year in additional accounting expense to the sanitation districts within Los Angeles County, but not including the city of Los Angeles. That is because, in my area, the water supply systems are not coterminus with, do not have the same boundaries as, the sewage collection systems. In other words, a given residential area may receive its water from one source, but it may be served by two or more different sanitation districts, or conversely, although a given area is in a single sanitation district, it may receive its water from a number of different suppliers. Matching up the sewage output with the water input would, in many cases, result in an administrative nightmare, as well as great additional expense which would have to be passed on to the consumers.

This problem is not limited to Los Angeles County. It is nationwide, although many jurisdictions may yet be unaware that they have the problem, because they have not yet applied for, and have not yet been refused, Federal aid. However, the EPA has provided me with a list of those areas which they already know to be affected, inasmuch as those areas have applied for aid.

Besides Los Angeles County, Calif., Cook County, Ill., which includes Chicago, is affected. So are several cities in Indiana. San Francisco and Santa Rosa, Calif., are affected. Others are: Fairbanks, Alaska; Wellesley, Mass.; Hampton, N.H.; Woonsocket, R.I.; and Phoenix, Ariz.

Those are just the areas that have already been identified and made known to me. I am certain that there are many more which will be found to be ineligible for Federal aid because they use the ad valorem tax to pay for sewage collection and treatment.

The goal of the law seems to be to provide for an equitable sharing of the cost of operating and maintaining sanitation systems and a financial incentive for people and industries to conserve water and thereby avoid unnecessary loading of the sewage system. I am doubtful that such a laudable goal can be achieved, when adoption of the type of system necessary to carry out that goal will automatically result in a greater expense to the consumer, rather than a saving. The overall purpose of the Federal Water Pollution Control Act is to clean the Nation's water, but so long as the added expense to the taxpayer defeats eligibility for grants, water will not be cleaned.

Section 6 of this bill, which I strongly support, simply provides that an ad valorem tax is to be regarded as an acceptable form of user charge for sewage collection and treatment, provided that it results in an equal distribution of costs among the various classes of users. The ad valorem tax can be structured to insure that each user pays his fair share. This provision will in no way hinder the primary goal of the Federal water pollution control program, namely, to clean up our rivers, lakes, and streams. The legislation merely attempts to permit the program to operate as efficiently and economically as possible.

Mr. Chairman, I would like to share with the Members a brief history of the events which made it imperative that we adopt this bill and authorize the use of the ad valorem tax as an acceptable user charge:

> 1. Background: Section 204 of the Federal Water Pollution Control Act (33 U.S. Code Sec. 1284) requires local authorities to have a system of sewage treatment user-charges as a pre-requisite to Federal financial assistance.
>
> 2. Chronology of Events:
>
> Oct. 18, 1972—Enactment of Federal Water Pollution Control Act (P.L. 92–500).
>
> Sept. 1973—EPA adopts guidelines for "user charges" which exclude ad valorem taxes.
>
> Mar. 14, 1974—Danielson urges EPA to revise regulations so as to permit ad valorem taxes.
>
> Apr. 5, 1974—EPA approves ad valorem tax as an acceptable user charge (PG 28).

July 2, 1974—General Accounting Office disapproves ad valorem taxes (reverses EPA).

Sept. 16, 1974—Danielson introduces H.R. 16662 to reinstate ad valorem taxes (referred to Public Works Committee).

Sept. 24, 1974—Public Works Committee requests comments from EPA, Comptroller General, and the Office of Management and Budget.

Oct. 31, 1974—Comments received from GAO (Neutral comments—not for or against).

Jan. 28, 1975—Danielson introduces H.R. 2183 for the 94th Congress (identical to old bill).

May 13, 1975—Subcommittee on Investigations and Review, Committee on Public Works and Transportation recommends user charge alteration to permit ad valorem tax.

Sept. 11, 1975—H.R. 9560 introduced by Mr. Jones of Alabama, incorporating the ad valorem tax provisions of Section 6.

Sept. 23, 1975—Hearings held on ad valorem tax provisions.

May 7, 1976—H.R. 9560, as amended, reported favorably by the Committee on Public Works, incorporating fully the ad valorem tax provisions.

3. The Situation in Los Angeles County:

In Los Angeles County, of the 78 incorporated cities, 72 are members of "Los Angeles County Sanitation Districts", a "special district" organized under the laws of California, (all cities except Avalon, Burbank, Glendale, Hidden Hills, San Fernando and Santa Monica, and the vastly largest part of the City of Los Angeles).

Abandonment of the existing ad valorem tax system in favor of a new user charge system would require one of the following two actions:

1,200,000 sewage meters (not including City of Los Angeles), at a purchase cost of $6 billion, plus an equivalent cost for installation.

$2,000,000 per year for an administrative system that will measure sewage output based on water input, after a one-time cost of $5 million to set up the system.

4. Other Areas Currently Using Ad Valorem Tax User-Charges:

a. In California: San Francisco, Santa Rosa, Orange County—more than 400,000 connections.

Elsewhere: Arizona—95% of all systems; Chicago, Illinois, several cities in Indiana, several cities in New England region, Massachusetts—90% of all systems.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. GOLDWATER and by unanimous consent Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. GOLDWATER. Will the gentleman respond to this question? I think my colleagues possibly have the same concerns on the West Coast. We do not have the wetland situation; we have a lot of estuary-type land that is slowly disappearing over the past many years. I am wondering, in his amendment, when he makes the statement that the dredging and filling shall apply, would that apply in this instance to privately or publicly-owned lands on the west coast?

Mr. WRIGHT. If they are adjacent wetlands to navigable waters, it would automatically apply. If they are not adjacent to navigable waters, it would apply only in those cases where the Governor of the State and the Secretary of the Army mutually agreed; where the government nominates it to apply. Beyond that, the State could apply for the designation by the Army as the agent to carry out these functions. Those things would be provided for in this substitute.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield for a question?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. McCLOSKEY. Our problem in California is that we have a lot of areas that were once navigable waters and would once have fallen within the criteria in the gentleman's amendment, but have been diked off by salt companies or other developers, and for some years have not been navigable waters.

Until this point in time, the Corps of Engineers has said, "We have the jurisdiction to grant or deny permits to all waters that were navigable waters up to high tide."

The gentleman's amendment refers to navigable waters as presently navigable. What would be the status, under the amendment, of lands that once were navigable but which subsequently have been diked off and are held behind dikes?

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. McCLOSKEY and by unanimous consent Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. I would be happy to answer the gentleman's question. The answer is that if those waters to which he refers are wetlands adjacent or contiguous to navigable waters, as so defined, it automatically covers them. If they are not, they will be covered if the State of California desires for them to be covered, and if the State of California does not desire them to be covered, they will not be covered. That is basically the answer to the gentleman's question.

Mr. McCLOSKEY. Do I understand the gentleman correctly, then, that lands which would now require a permit to be filled, have been diked off, say for 30 years, the State of California would have to pass a separate law to grant this jurisdiction to the Corps of Engineers to grant a permit?

Mr. WRIGHT. I think the answer would be no. The State of California has adequate general law to permit it to do so either under its own permit authority or to permit it to designate these areas, which covers each of the two questions, under the Corps of Engineers.

Mr. McCLOSKEY. My problem is that the State of California never would have had jurisdiction because those were clearly under the control of the Corps of Engineers.

Mr. WRIGHT. Let me just answer the gentleman's question this way: If they were controlled by the Corps of Engineers prior to 1972, they still will be, because all this does is restore the historic definition that was in effect from 1899 until 1972.

Mr. McCLOSKEY. I want to make very sure then, on the legislative history of this bill, that the gentleman is saying that the lands under Corps of Engineer jurisdiction on the main high water mark in California up to 1972 would still be under Corps of Engineeers jurisdiction today.

Mr. WRIGHT. The main high water mark is in the language. I reiterate that all this definition does, in addition to expanding the application to adjacent wetlands, which are clearly defined in my amendment, is to state again the historic and traditional definition of navigable waters that has been in effect up until 1972 and, in fact, in effect up until the time the Court decided that navigable waters meant all of the waters in the United States.

AMENDMENT OFFERED BY MR. HARSHA TO THE AMENDMENT OFFERED BY MR. CLEVELAND

Mr. HARSHA. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA to the amendment offered by Mr. CLEVELAND: The new subsection (d) is amended as follows:

(1) by striking "(d)" and inserting in lieu thereof "(d)(1),"

(2) by redesignating the existing subparagraphs (1), (2), and (3) as (A), (B), and (C) respectively, and

(3) by inserting the following new paragraph immediately after redesignated subparagraph (C):

"(2) Any discharge of dredged or fill material for which a permit is not required under this section shall be in compliance under section 301(a)."

Mr. HARSHA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA) to the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment to the amendment was agreed to.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to share with my colleagues my views on the Wright substitute which deletes the original language that I had offered in the committee. I offered the original amendment in the committee, which passed by a 22-to-13 vote, because I thought it was high time that this Congress and this body set the policy and determine what the law should be in this country, rather than the district court here in the District of Columbia by rendering a decision which was never appealed or by allowing the regulatory agencies in this country to write the laws for us.

I never thought that Congress ever intended that when we wrote the Federal Water Pollution Control Act that we intended to cover all waters of the United States. I felt, and still really feel, that we intended to require a permit for any dredge or fill activities being done only in navigable waters.

That was a very broad definition that

the court gave as to what was navigable and what was not. For instance, I daresay that all of the areas in my congressional district were already covered by that definition because they had a very broad definition of what was navigable. It went as far as the high tide mark from a navigable body of water. So I feel that we should properly restrict it to that and do not let them extend it even further to small ponds in the middle of Kansas or any other activities which we never intended.

Mr. Chairman, most of the statements showing concern about my original amendment and most of the correspondence that the Members have probably received simply pointed out that perhaps we were leaving the wetlands of this country unprotected and we were going to destroy the wetlands, which are vital to our estuary systems for the breeding of fish and wildlife throughout the United States. I am of the firm opinion that my amendment would not have done that, because those areas would still have been covered under that broad definition of "navigable."

What has happened is that, in an attempt to compromise and in an effort to try and legislate what we really intended and yet protect the wetlands, the gentleman from Texas (Mr. WRIGHT), along with others—and I commend them for it—has worked up a compromise which is now being offered as a substitute. I strongly support the Wright substitute. It does not contain all the things in it that I would like to see, but I think it is a vast improvement over letting regulatory agencies and courts legislate instead of this body.

What does the amendment do? It simply keeps a section 404 Corps of Engineers permit requirement for any dredge or fill activities that are being done in navigable waters, and it says that "navigable waters" are waters that are navigable now or waters that are susceptible of being made navigable by reasonable improvement.

Mr. Chairman, that simply means that we would require a permit for an area or a waterway that is not navigable now but which could be made navigable. So those areas are protected.

Specifically, in addition, it includes adjacent wetlands, and it defines what "wetlands" are. It is a very broad definition. It means coastal wetlands, mudflats, swamps, marshes, shallows, and even those areas that are periodically inundated by saline or brackish waters.

So specifically it says that permits will be required so that those areas will be protected. It does something else that is very important, in addition, though, and that is this:

It provides for general permits. General permits are those permits that would be allowed to be given for activities that occur on a regular basis so the small, independent operator does not have to go back to the corps or to the Federal Government for a permit time after time for activities that were said to be all right the first time. It establishes a general permit section, which is very, very important.

It specifically exempts normal farming operations. We never intended farmers to be included. It was never contemplated that if a farmer, for instance, wants to put a cattle guard across a stream, he would have to go to the Corps of Engineers for a permit. The Wright amendment specifically says that is not included.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I guess the one thing that concerns some of us who have supported the gentleman's amendment would probably be embodied in the question I wish to ask my colleague.

Was there something lacking in the gentleman's amendment that is now being rectified by the Wright amendment? Was there something that needed to be revised or refined, or is the gentleman in some way backing away from his amendment or watering down his amendment now?

I think this is the basic issue we have wondered about after listening to the debate, and after supporting the gentleman's amendment in the first place.

Mr. BREAUX. The main thing that was lacking was votes.

Mr. ASHBROOK. The gentleman has answered my question.

Mr. BREAUX. Mr. Chairman, in summary, I think what the Wright approach does is it continues the permit authority, and "navigable waters" are covered under very broad definitions.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(On request of Mr. HALEY and by unanimous consent, Mr. BREAUX was allowed to continue for 2 additional minutes.)

Mr. BREAUX. Very briefly, Mr. Chairman, this keeps the Corps of Engineers in the permit business, and "navigable waters" is very broadly defined, and it exempts farming operations.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the question was asked as to what is contained in the Wright amendment that was not in the gentleman's amendment.

I would gather that the main thing that is added is the section on "adjacent wetlands," which I do not believe the gentleman's amendment covered.

Mr. BREAUX. Mr. Chairman, that is a matter of interpretation, I will say to the gentleman from Texas. I felt under the definition of "navigable waters," as it was originally being handled and stated by the Breaux amendment, all of those wetlands were covered, because that broad definition then referred to lands subject to the high-tide flow. That included the wetlands. But this section of the amendment offered by the gentleman from Texas (Mr. WRIGHT) specifically says that they are definitely in and would require a permit; there is no question about that.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. BREAUX. Surely.

Mr. ECKHARDT. There is one thing that has concerned me here, and it is frankly purely a technical question.

That is this: I wonder why we apply mean high water mark on the west coast and not elsewhere. Now, as I understand it, the difference between mean high water mark and high water mark is this: That we have got the diurnal tides.

The mean high-water mark is the average of the high tide during the day, whereas the high-water mark is the average of all of the tides counting the two per day.

As I understood it, the mean high or high-water mark is that which was used in the Roman law and in the areas that were originally under Spanish or Mexican law; but I am just wondering why this is applied only to the west coast. Some of that was under Spanish law. California was, but Oregon was not.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(On request of Mr. EDGAR and by unanimous consent, Mr. BREAUX was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. BREAUX. I yield to the gentleman from Texas.

Mr. ECKHARDT. Furthermore, Mr. Chairman, as I understand it, most of the gulf coast and Mexican shoreline was actually, under Spanish law, under mean high or high-water mark, as, for instance, Texas, Florida, and I am not sure about Louisiana, but I think Louisiana would be included.

Why not just use mean high or high-water mark everywhere? What difference does it make? It is a few feet, but why not use it everywhere because otherwise I think we are restricting the area in places like Texas by using the high-water mark, which is the common high-water mark and not the Roman water mark.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Texas, who offered the amendment.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for yielding.

This is a traditional definition that has been generally accepted down through the years, I would say to my friend, the gentleman from Texas (Mr. ECKHARDT).

On the west coast, as I am sure the gentleman is aware, the tides have greater variance than they do on our gulf coast or on the east coast of the country. Generally the courts have recognized a mean mark that is higher on the west coast than has been the case with respect to the gulf coast or the east coast.

I do not know how many feet are involved. I would have to say to the gentleman from Texas that it is just a matter that has evolved over the years; and as the gentleman knows, it has been fairly well ratified by time and by court cases and other legal instruments with respect to the west coast.

Mr. ECKHARDT. If the gentleman will yield further, in the Texas case, the Lux case, the line of ownership by the State went back to the point of mean high or high tide.

What I am a little bit afraid of is that we are not concerning ourselves with the entire area subject to governmental control. However, I cannot see how it would hurt to use the mean high or high-water mark everywhere. It would only be a few feet.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. Breaux) has expired.

(On request of Mr. Haley and by unanimous consent, Mr. Breaux was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I have in my hand a letter dated May 28, 1976, from the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice.

Although this is a lengthy brief on the negative aspects of section 17, the original amendment, in light of the Wright amendment, I was wondering whether the gentleman could explain or answer the question that is raised on page 4 of this brief, which points out that, for example, spoil or dredge material that is highly contaminated by arsenic, mercury, or other toxic substances could be placed on fast land adjacent to the navigable waterways, and the pollutants could wash or leach into the waterway.

It is open to question whether these discharges could be penalized or enjoined under the 1899 act, as revised by section 17.

Mr. BREAUX. Mr. Chairman, I will say to the gentleman that I have heard the statement. I think it is basically a scare tactic. I might point out to the gentleman that section 402 of this act clearly regulates the discharge of pollutants into navigable waters and puts them completely and totally under the jurisdiction of the Environmental Protection Agency. If they make a determination that it is a discharge of pollutants, they could come in and take appropriate action.

I think it is clearly protected under other sections of the act.

Mr. EDGAR. Does the gentleman believe that it is protected if, in fact, there is a water supply such as the Potomac River used by the metropolitan area of Washington, and if upstream there is an estuary of the main stream that is not protected under the Water Pollution Control Act, or under existing laws, the Department of Justice is wrong in its discussion of this section?

Mr. BREAUX. Mr. Chairman, I disagree. I think what it does, if we have a dredge filled with fill material which contains pollutants, then clearly——

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Dingell, and by unanimous consent, Mr. Breaux was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. Mr. Chairman, let me finish my reply to the inquiry of the gentleman from Pennsylvania (Mr. Edgar).

Let me say that I think that if a dredge of fill material contains pollutants as determined by an environmental protection agency, clearly this would be authority to come in and regulate the discharge under section 402 of the act which covers the discharging of pollutants if it is determined that it is a discharge of pollutants.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, as I understand it, the difference between the Wright amendment and the Breaux amendment, the Wright amendment includes, in its entirety, the Breaux amendment and adds to that subsequent language, which adds to that roughly those wetlands which are adjacent to the navigable waters. Am I correct?

Mr. BREAUX. The gentleman is right, but it adds some other things.

Mr. DINGELL. Wherein have I erred?

Mr. BREAUX. There is no error, we just did not finish what it adds.

Mr. DINGELL. What does it add in addition to the wetlands adjacent to the navigable waters?

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Dingell, and by unanimous consent, Mr. Breaux was allowed to proceed for 2 additional minutes.)

Mr. BREAUX. In addition to the adjacent wetlands, the Wright amendment provides for general permits to be issued by the corps for normal activities, which they cannot do now.

Mr. DINGELL. I am particularly interested in the wetlands. Can the gentleman from Louisiana tell me what is the change that the Wright amendment and the Breaux amendment make in the definition of navigability?

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. Certainly, if I have time.

Mr. WRIGHT. Mr. Chairman, I would suggest to the gentleman from Michigan that in addition to those points the gentleman is talking about, the Wright substitute would add those waters that are adjacent to the coastal area and to the navigable streams and any other area which a State in conjunction with the Secretary of the Army may designate within its borders to be added.

Mr. DINGELL. Mr. Chairman, I appreciate what the gentleman has said, but it is not answering the question. My question, for the benefit of the gentleman from Texas, (Mr. Wright) and the gentleman from Louisiana (Mr. Breaux) is that the Breaux amendment and the Wright amendment change the definition of navigability which now obtains with regard to these.

Mr. WRIGHT. If the gentleman will yield further, they maintain the present definition ratified by the district court and not appealed by the Government, incidentally, which says that navigable waters are all the waters of the United States, including the water in this glass.

Mr. DINGELL. That is not what the court's decision was. It said that the Water Pollution Control Act applies to all navigable waters, but it does not define navigable waters that way.

My question is: What are navigable waters?

Mr. WRIGHT. For the purpose of this permit section, the court has decreed that navigable waters are all of the waters of the United States.

Mr. DINGELL. I did not ask the gentleman from Texas that question.

Mr. WRIGHT. That is all that the definition applies to.

Mr. DINGELL. What change does this make in the traditional normal definition of navigable waters of the United States?

Mr. WRIGHT. It restores the traditional meaning.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Dingell, and by unanimous consent, Mr. Breaux was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, I think that the problem we have here is that the water pollution control act has been amended in an earlier Congress to apply to all of the waters of the United States. My question relates to a very specific question: What is the definition of navigable waters and how does the Wright amendment, or the Breaux amendment, or either of them, change that definition?

Mr. BREAUX. Mr. Chairman, I think I see what the gentleman from Michigan is trying to get at. The Wright approach, so far as defining what navigable water is, is the same definition as contained in my original amendment in the committee. That definition changes it from what it was originally by taking out the historic language of what was navigable. In other words, prior to this legislation, historically, any kind of river, or stream, or a body of water was navigable, if it is navigable now, presently, or if by reasonable improvements it could be made navigable or where, if historically, it was navigable.

This simply meant if it was navigable 100 years ago, they consider it navigable today regardless of what condition it is in. We have removed that test because I do not think it is necessary.

Mr. DINGELL. That has been removed, if the gentleman will yield further, both as to the EPA permit under the Wright-Breaux amendment for polluting, and also insofar as the dredging-filling-dumping requirements of the 1899 act, it is carried forward into the water pollution control program, am I correct?

Mr. BREAUX. I disagree with the gentleman. It does not change the definition of section 402 which says "regulates the discharge of pollutants." That definition is still there.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Before that court decision, the stock tanks in my ranching area were not included as navigable waters. After the court decision, my ranchers' stock ponds were included as navigable waters.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Hughes of New Jersey, and by unanimous consent, Mr. Breaux was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I am inclined to support the Wright substitute. As I understand it, under subsection (j) it is the intent of the legislation to delegate where possible responsibility to the States. For instance, in the State of New Jersey we have a very effective Department of Environmental Protection that has promulgated a number of rules and regulations to protect our wetlands and estuaries. Do I understand it is the intent of this substitute in the legislation, if this substitute is adopted, that whatever authority can be delegated by the Army of Corps of Engineers to a State that has the authority and the capacity to so regulate activities within the wetlands, it is the intent to do so?

Mr. BREAUX. The gentleman from New Jersey is correct. The bill delegates under section (j) the authority to a State that has a workable program to grant permits in adjacent wetlands, not in navigable waters but in adjacent wetlands, if they have an approved program. The gentleman is correct.

Mr. HUGHES. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ROBERTS. I object. We have got to yield some time to the other side. We have been using all of the time.

The CHAIRMAN. Objection is heard.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas, and I do so with a great deal of reluctance because I recognize that the gentleman is trying to resolve a very real and a very difficult problem, a problem I recognize as well. I am trying to deal with it with an alternative approach that the gentleman from New Hampshire (Mr. Cleveland) and I have offered. I particularly regret having to oppose the amendment offered by the gentleman from Texas, moreover, because I welcomed his enormous contributions to H.R. 9560 in the area of State certification.

Let me tell the Members why we are in this dilemma. In the first place, the courts did not adjudicate a new definition of navigable waters. When this bill was first brought before the House back in 1970 to 1972, the House tried to define the term "navigable waters" because we were afraid that without a statutory definition the term might be interpreted too narrowly. It is not the committee's intent to interpret that term narrowly. The committee fully intends that the term "navigable waters" be given the broadest possible constitutional interpretation, unencumbered by Agency determinations which have been made or may be made for administrative purposes.

Then we took that bill, after making that declaration of intent here on the floor of the House, and went to conference.

When we came out of conference we defined the term "navigable waters" and that definition is this, and I quote:

> The term "navigable waters" means the waters of the United States including the territorial seas.

In other words, it means all of the waters of the United States. The Court has upheld our position on that. It did not redefine navigable waters.

We, the Congress of the United States and some of the Members standing here debating this very issue, signed that conference report. So it seems rather obvious to me that what we intended was to cover all of the waters of the United States in dealing with this program.

Now there is one other point I want to make. In the definition offered by the gentleman from Texas as well as the gentleman from Louisiana, the Wright substitute to the Cleveland-Harsha amendment and the Breaux amendment, they further chain and encompass the Corps of Engineers by changing even the historic, common law definition of navigable waters. The historic definition of navigable waters was defined to include waters that have been used in the past for commerce. The gentleman from California was raising that question. I think it is very proper to note that we are further limiting the corps activities in that regard.

Now my main opposition to the Wright amendment is that it still contains the Breaux amendment, and the Breaux amendment, I must regretfully say, is merely a meat-ax approach to try to allay some of the fears that many of us have over the overregulation and overinvolvement of the Federal Government in our affairs.

But I oppose it on two other grounds: One is the ability of the States to undertake a delegated responsibility at this time; and the second is the absolute lack of information as to just what this amendment would do.

I submit that we just do not know what we are getting into at this stage of the game. This is an emotional issue, and unfortunately we always find ourselves legislating in a vacuum. We legislate under emotional strains and we are not really sure where we are going with this amendment.

Take first the ability of the States to undertake a delegated program or even the question whether they are interested in doing it. This amendment would delegate or permit authority to the States and impose upon them a considerable workload in terms of manpower and other expenses.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. Harsha was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. Very briefly I yield because I want to complete my statement.

Mr. BAUMAN. I understand and I appreciate the gentleman yielding.

The gentleman has mentioned the inability of States to handle this additional work that might result from the regulation of wetlands, but the unfortunate thing about the amendment that the gentleman from New Hampshire is offering is that in States such as Maryland where we have a strict wetlands control law, the Cleveland-Harsha amendment offers no relief to what would become a dual system with State law and procedures applying on wetlands and then a new Federal procedure and control being imposed.

The Wright amendment at least has the beauty of the Court permitting the delegation of authority in States such as Oregon or Maryland and other coastal States which could handle it. I do not think the gentleman's fear is well placed.

Mr. HARSHA. The gentleman from Maryland might be able to handle it in his State but other States would not be able to handle it. That is what the problem is. They have even come in and asked for more money in planning their present programs or to handle them. If we do delegate this to the States they will have to come in for more money to carry out their tasks because they are not geared up to do it. If we would delegate authority to the States we would be imposing upon them programs which would increase their workload and need for more manpower and other expense.

It is my understanding that the States do not have a shred of interest in assuming this without more funds and more help. They do not have enough ability to carry on the burdens they have, and if we give them this additional burden they will not have the money and they will not be able to undertake it.

Now, we will recall, when the Cleveland State certification bill was first circulated to the States for comment in its original form, the principal objection was that they would be confronted with the prospect of more work and no funds. The great bulk of the States are not geared up to carry out the Wright amendment. They do not have the financial capacity to do it. In the certification program we provide the money. Here we do not.

I suppose we could offer an amendment to give them the additional money, but that in itself will not cure all these inconsistencies in this amendment.

Let me further point this out. First, under a delegated permit program, there is no safeguard to assure that the intent of Congress, as expressed in the National Environmental Policy Act, the Fish and Wildlife Coordination Act, or the Endangered Species Act, would be observed. All the gentleman's amendment talks about is requirements as the Secretary determines necessary.

I would also caution my colleagues that this element of uncertainty could cut two ways. Far more stringent requirements just might be what the Secretary determines is necessary.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for an additional 2 minutes.)

Mr. HARSHA. Now, there is confusion also, Mr. Chairman, with respect to any parallel with the delegation of the permit program under section 402 of the act. This is regarded by some as a model of a State delegation system, but there is no similarity under the gentleman's amendment. There are no safeguards in the Wright amendment. There are no criteria for delegation of permits. There is no requirement for fixed terms, no interstate coordination, no Federal review authority over permits. And it could be an outright giveaway.

A great hue and cry has been raised by the environmental community over the Breaux amendment. The article published in the May 16 Washington Post—"Who Is Protecting the Wetlands"—is a good example of the concerns raised by these groups. The article states that as much as 85 percent of all wetlands area would not be subject to any regulatory review if the Breaux amendment were to pass.

Because of these concerns, Congressman CLEVELAND and I have offered an amendment which we hope will alleviate the issues surrounding the jurisdiction of the Corps of Engineers and wetlands protection.

Our amendment is intended to meet the concerns of farming and forestry interests who fear excessive and burdensome regulation by the corps, as well as those environmental groups opposed to what they regard as a legislative retreat from environmental safeguards.

As a balanced, constructive compromise, our amendment would employ a two-pronged approach strongly supported by environmental organizations and we hope equally consistent with expressions of concern which were received from agricultural groups.

First, it would exempt by statute a wide range of routine farming practices never intended to fall under corps jurisdiction.

Second, it would provide statutory authority for issuance by the corps of general permits covering other practices which—singly or cumulatively—have such minimal environmental impact as not to warrant individual permits.

Thus, it would foster two objectives not met under the corps regulations for the implementation of section 404 of Public Law 92-500 or under the Breaux amendment, which prescribes a de facto navigability standard for the Corps dredge and fill jurisdiction.

It recognizes that normal farm practices should not be subjected to a regulatory mechanism intended for a different purpose: water quality. In other words, regulation should not go too far.

But it further recognizes that pursuit of this objective should not jeopardize genuine and widely shared environmental objectives by exempting practices with substantial impact on wetlands. In other words, regulatory "reform" should not go too far either.

Now, Mr. Chairman, there are many other points I would like to take the time to point out about this substitute amendment, but I can recognize the tenor of the House. I just want to make one point and make it as succinctly as I can. The reason the gentleman from New Hampshire (Mr. CLEVELAND) and I have offered this amendment is our deep concern with the wetlands, and with environmental problems created by polluting those wetlands.

I want this House to know that more than 40 percent of the Nation's wetlands were eliminated between the years of 1850 and 1956. More recently, some 600,000 acres of estuary were destroyed by dredging and filling in the years 1950 to 1969. These wetlands, estuaries, and tidal areas are the nursery for much of our marine life including our ocean fisheries. Their importance is inestimable. They must be protected. They can cleanse themselves of only so much. They must be protected in quality and quantity. So I think it is imperative that we have a well-defined, well-marked effort to try to control this pollution and yet eliminate the overregulation and the necessity of trying to require permits for some of the minor farming problems which have been alluded to by previous speakers.

Mr. Chairman, the Cleveland-Harsha amendment will do that. It should allay all the fears of the farming and forestry interests.

We believe that our amendment best reflects the intent of Congress and ameliorates the concerns of those whose activities were never intended to come under the purview of section 404.

Mr. Chairman, I urge the adoption of the Cleveland-Harsha amendment to section 404.

Mr. WRIGHT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to see if we can get some agreement on time. I do not want to shut off Members who want to be heard, but I know there is a general desire on the part of all Members to conclude as soon as possible.

Mr. Chairman, I ask unanimous consent that all debate on section 17 and any amendments thereto shall conclude at 6:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. EDGAR. Mr. Chairman, reserving the right to object, I would like to ask the chairman a question. It seems to me that a number of us have had great concern about the implications of the Wright substitute which we received last night and which is a last-minute effort.

We also have the Cleveland-Harsha amendment, which has many complicated things in it. In light of the fact we had no public hearings on this issue of major intent, it seems to me to be of value not to cut off debate today, but to provide for an opportunity for full discussion on this issue.

Mr. Chairman, I think 15 minutes does not give us opportunity for full discussion. If the gentleman wants to talk about an hour, that might give us an opportunity for full discussion.

Perhaps 45 minutes would be acceptable, but 15 minutes clearly would not fill the bill. I would like to hear some response from the gentleman from Texas.

Mr. WRIGHT. I wonder if we could get the Members to agree that all debate on section 17 and all amendments thereto shall conclude at 6:40. I make that unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. EDGAR. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WRIGHT. Mr. Chairman, I move that all debate on section 17 and any amendments thereto shall conclude at 6:40 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for 50 seconds each.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, section 404 has caused considerable controversy, raising fears that farmers, ranchers, and other small businessmen would be unnecessarily burdened by redtape in carrying out their normal activities. Fears also were raised of a growing Federal bureaucracy to process thousands and thousands of permits each year for minor, harmless activities.

The Breaux amendment sought to reduce the unnecessary burden on the public and the Federal Government by redefining "navigable" waters to exclude headwaters, and exempt from coverage the substantial acreage of wetlands protected by the initial legislation.

This sweeping amendment will create more problems than it solves and will wipe out major environmental gains by trying to solve two simple problems the wrong way. The Duluth News-Tribune underscored this fact in a May 21, 1976, article. The Breaux amendment will provide Federal protection to only 10 million of the remaining 70 million acres of wetlands, which we are losing at a rate of over 300,000 acres each year. The amendment also rolls back the traditional administrative jurisdiction of the Corps of Engineers, which will have a sizable impact on all current corps activities related to the definition of "navigable" waters:

U.S. Aide Warns on Wetlands

Washington.—A top Interior Department official has joined environmentalists in opposing legislation to exempt most wetlands from federal protection. The exemption could open up wildlife and fish habitat to unrestricted development.

Nathaniel P. Reed, assistant secretary for fish, wildlife and parks, said the legislation would make vital wetlands "vulnerable to wholesale obliteration through filling and spoil disposal."

"Millions of acres of lakes, swamps and marshes, and many thousands of miles of streams and rivers," would be affected, Reed said.

Moreover, he added, the legislation "would be flagrantly in conflict" with the Water Pollution Control act whose fundamental purpose is "to restore and maintain the chemical, physical and biological integrity of the nation's waters."

Reed's comments came in a letter to Thomas Kimball, executive vice president of the National Wildlife Federation. The letter was released by the federation on Thursday.

The National Wildlife Federation estimates the amendment by Rep. John B. Breaux, D-La., would exempt up to 90 per cent of the wetlands in the contiguous 48 states from federal regulation and "leave millions of acres of the irreplaceable, ecologically important lands at the mercy of developers."

Breaux's amendment, which recently passed the House Public Works Committee, would severely restrict the Army Corps of Engineers' authority to regulate dredge and fill operations in wetlands. Currently, a federal permit from the Corps is required before any dredging or filling can begin.

The Corps acquired regulatory power last year when a U.S. District Court ruled it has jurisdiction over dredge and fill operations in "waters of the United States." The Corps previously limited its jurisdiction primarily to the tidal mean high-water mark in coastal areas and the ordinary high water mark in navigable inland lakes and streams.

Breaux contends tidal wetlands can best be protected through the Coastal Zone Management Act, which permits local and state governments to adopt protective regulations. The coastal act does not affect inland marshes.

The U.S. Fish and Wildlife Service has not completed its study of the consequences of the Breaux amendment but "the partial results are alarming," Reed said. "The Breaux amendment would broadly and adversely impact the effectiveness of federal agencies directly concerned with the quality of the nation's waters and with the vitality of the living resources (including man) which they support."

Wetlands provide important spawning grounds for many species of fish and shellfish that are harvested commercially and taken by anglers. They are used by millions of waterfowl, wading birds and fur-bearing animals. Atlantic Coast salt meadows also act as natural water purifiers, removing sediments, nutrients and toxic materials from upland runoff waters flowing into estuarine bays and sounds.

The purifying process is essential to "help maintain estuarine water quality needed to support fisheries and shell fisheries," Reed said.

All of these problems can be avoided quite easily, by directing our attention to the specific concerns, and inserting the legislative amendments that directly address these concerns.

If we want to assure that normal farming operations will not be burdened by permit requirements, this can be accomplished directly by the following language:

"No permit shall be required under this section for discharges of dredged or fill material: First, resulting from normal farming, silviculture, or ranching activities such as plowing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products; second, placed for purposes of maintenance or emergency reconstruction of dikes, dams, levees, breakwaters, bridge abutments, and so forth; and, third, placed for the purpose of construction or maintenance of farm and stock ponds and irrigation ditches and the maintenance of drainage ditches."

If we want to prevent a growing bureaucracy handling thousands and thousands of permits, entangled in redtape, we can do it directly by authorizing the Corps of Engineers to issue general permits for discharges of dredged or fill material where such activities are similar in nature, and cause minimal environmental impact. Victor Veysey, Assistant Secretary of Army, has stated that with the use of general permits, only a "few thousand" individual permits will be required in this program. Applications may not be required for many general permits, which provide a "carte blanche" to engage in the designated activities under specified conditions.

Congress has recognized in this and other legislation the need to protect our valuable wetlands. To eliminate this protection or arbitrarily exclude some wetlands from protection is contrary to existing congressional policy. The administration opposes enactment of the Breaux amendment, and, through EPA Administrator Russell Train, suggests the approach which I have just stated. I encourage my colleagues to support the Harsha-Cleveland substitute.

Section 404 has caused considerable controversy, and has raised fears that farmers, ranchers, and other small businessmen would be unnecessarily burdened by redtape in carrying out their normal activities. Fears also were raised of a growing Federal bureaucracy to process thousands and thousands of permits each year for minor, harmless activities.

Most of the alarm over the numbers of permits required and the application of these permits to normal farming operations followed the publication of alternative permit policy proposals by the Corps of Engineers on May 6, 1975 (Federal Register). However, in July 1975 the corps issued regulations which specifically excluded normal farming operations and established a procedure for issuance of general permits. Critics ignore this second publication (Federal Register, July 25, 1975) in misstating the effects of section 404.

Victor Veysey, Assistant Secretary of Army, Civil Works, appeared before the Subcommittee on Water Resources on July 15, 1975. His prepared statement contained the exclusions listed in the corps regulations, and now incorporated into the Oberstar and Cleveland-Harsha amendments.

The Breaux amendment sought to reduce the unnecessary burden on the public and the Federal Government by redefining "navigable" water to exclude headwaters, and exempt from coverage the substantial acreage of wetlands protected by the initial legislation.

This sweeping amendment will create more problems than it solves, and will wipe out major environmental gains by trying to solve two simple problems the wrong way. The Breaux amendment will provide Federal protection to only 10 million of the remaining 70 million acres of wetlands, which we are losing at a rate of over 300,000 acres each year.

The Breaux amendment would specifically exclude from Federal protection all wetlands above the mean high water mark of rivers and ocean inlets. This leaves without Federal protection the shoreward half of coastal marshes, all inland marshes and swamps, and all tributaries of historically navigable rivers. These areas serve as essential sources of food and as breeding and refuge areas for most of the Nation's commercially valuable fish and shellfish, and for sport fisheries, wildlife, and waterfowl.

About 57 million acres of the Nation's—contiguous 48 States—original inventory of wetlands already have been destroyed—according to an EPA internal memorandum, and the remaining 70 million acres are being progressively destroyed. Between 1955 and 1975, 6 million wetland acres were lost, according to recent speech—March 20, 1976—of Lynn Greenwalt, Director, U.S. Fish and Wildlife Service. Estimates generally agreed upon by EPA and environmental groups is that about 15 percent of the remaining wetlands would be protected by the Breaux amendment.

The Wetlands Loan Extension Act of 1976 provides $114 million from 1976 to 1983 for wetland acquisition. The passage of legislation that would limit wetland protection while such funds are being used to purchase wetlands, would constitute an unwise budgetary decision, and would represent conflicting objectives.

The Wright amendment will include "adjacent wetlands," both coastal and freshwater, and provides for the Corps of Engineers and State Governors to determine whether other waters should be regulated.

This seems like an attempt to satisfy some of the marginal members by including some freshwater wetlands, and leaving others to State-Federal jurisdiction subject to veto by either party. There is no logical basis for protecting wetlands adjacent to navigable waters, and leaving the remaining wetlands unprotected. If wetlands are worth protecting, the issue is not whether they are adjacent to navigable waters. The section providing for joint agreement for protecting wetlands assumes that the Governors' interests will reflect the Federal interest in preserving these areas. Also, this would add to redtape, something Mr. Wright is against.

The Breaux amendment also rolls back the traditional administrative jurisdiction of the Corps of Engineers, a move that will have a sizable impact on all current corps activities related to the definition of "navigable" waters.

In section 13(d) of the Breaux amendment, the definition of "navigable waters" is changed to eliminate both the historical administrative application used by the Corps of Engineers as well as the definition given by Congress in title V of Public Law 92-500. After changing this definition, section 13(e) states that the discharge of dredged or fill material in waters other than navigable waters is not prohibited by or otherwise subject to regulation under this act, or section 9, section 10, or section 13 of the act of March 3, 1899.

The Breaux amendment changes the definition for dredge and fill material, but does not change the definition for other effluents covered under the basic act. It seems inappropriate to have a certain waterway defined as "navigable" for discharge of some materials, yet not "navigable" if materials are dredged or fill. This seems like the kind of baseless differentiation that will cause untold confusion and procrastination in EPA.

Because the Breaux definition does not include recreation navigation as a basis for determining a "navigable" waterway, such waters would no longer require permits for construction of a dam or dike—section 9—obstructions or alterations—section 10—or discharge of refuse—section 13, as superseded by section 402 and 405 of Public Law 92-500.

All of these problems can be avoided quite easily, by directing our attention to the specific concerns, and inserting the legislative amendments that directly address these concerns.

To quote from the Wright newsletter of May 13, 1976, page 2:

> The Corps of Engineers, charged with policing, issuing and policing permits, said this could require a federal permit for a rancher who wants to enlarge his stock pond, a farmer wanting to deepen an irrigation ditch or plow a field, or somebody desiring to protect his land against stream erosion. Congress certainly did *not* intend that!

I would respond that Corps of Engineers regulations, issued July 25, 1975, also did not intend that. As stated on page 31321 of Federal Register, dredged or fill material did not include plowing, cultivating, seeding, harvesting; farm conservation practices; or drainage and irrigation ditches.

Quoting again from Mr. Wright's newsletter:

> The Army says it will have to monitor as many as 30,000 permits a year.

Secretary Veysey indicated in meeting that you attended that only a "few thousand" permits will be required in this program. His letter of June 3, 1976 to you backs off of this figure, but he indicates that "my own belief is that the general permit concept will reduce the numbers of permits processed substantially."

Again quoting from the Wright newsletter:

> We don't think the Army has any business policing literally thousands of well-intentioned, law-abiding citizens in the conduct of heretofore routine activities.

General permits will be used for such routine activities. Some permits, according to Veysey, might only require the applicant to notify the corps that he is accomplishing the work under the general permit.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Roe).

Mr. ROE. Mr. Chairman, I rise in support of the Wright amendment because I think what he is trying to do basically is return the decision of who is going to decide how we are going to use our bodies of water, return that back to the people. I think that if we have any more layers of government, we are never going to get the job done. I think it is a reasonable compromise, and support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Gude).

Mr. GUDE. Mr. Chairman, section 404 is vitally needed to regulate the disposal of materials which contain extremely dangerous substances. The importance of regulating such dredged material is highlighted by the Corps of Engineers recently denying the dredging and disposal of Potomac sediments containing mercury, arsenic, and poisonous herbicides.

Under the Breaux amendment the corps could in no way prevent the disposal of extremely harmful materials in many wetland areas where there could be considerable damage inflicted on valuable resources.

Section 404 is needed to regulate the discharge of polluted materials like these whenever they are dredged up. If the Breaux amendment passes, the corps could only regulate their discharge into waterways used for interstate commerce. The broad public interest review afforded by section 404 is sorely needed in cases like this one.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I will be offering, as soon as I can be recognized, if it is possible, an amendment that would strike all of the Breaux amendment and all of the Cleveland amendment.

We are faced here with a very difficult situation. The Breaux amendment is complex, controversial and violently opposed by conservationists.

The amendment offered by the gentleman from New Hampshire (Mr. Cleveland) is also controversial, is difficult to explain, and has defects.

Mr. Chairman, I think in order to properly handle this matter in the very limited time in which we must act we should strike out the entire section. Then at some time in the future, later on in the handling of this bill, or through the action of the Committee on Public Works on some other legislation we can address the matter in a more finished and carefully done legislative fashion. In that way we can best correct the difficulty with which we are beset.

I therefore urge my colleagues to vote down the Wright amendment, and to vote down the amendment offered by the gentleman from New Hampshire (Mr. Cleveland).

Then the motion to strike can be properly considered under the rules.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Chairman, I rise in support of the Wright amendment.

One thing in this whole debate that leaves me in utter amazement is why all the environmental groups are willing to let the Army Corps of Engineers exercise such broad powers under the district court decision and at other times and other places want to restrict the authority of the Army Corps because of the ecological damage the corps does or might do. An example of the latter instance is the rebuilding of locks and dam 26 on the Mississippi River. Obviously these groups and their spokesmen in Congress cannot make up their minds as to what the corps role should be.

The Wright amendment as well as my own thinking, says those powers ought to be determined by Congress.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Pattison).

Mr. PATTISON of New York. Mr. Chairman, I reluctantly will support the Wright substitute.

The problem with the Wright amendment is that it leaves vast areas of wetlands—those not adjacent to navigable waterways—totally unregulated by the Federal Government. Unless a State chooses to do so, those wetlands will also be unregulated by the States. The Water Pollution Control Act as originally enacted recognized that there is a national interest in the Nation's wetlands. We all recognize that normal farming or silviculture operations should be exempted. This is accomplished by both the Cleveland-Harsha amendment and the Wright substitute.

The Wright substitute contains an excellent feature allowing for delegation to States of the Corps of Engineers regulatory authority. This feature is not found in the Cleveland-Harsha amendment.

I would have preferred an amendment to the Wright substitute which would reaffirm the motion that there is a national interest in the wetlands wherever located, but would extend the ability of the corps to delegate its regulatory authority to those States which are willing and able to administer the program, if they meet minimal national standards.

The delegation feature is similar to the bill I introduced last year in response to the real concern expressed by the people of my congressional district, particularly, those who live in or near Lake George. This feature basically solves that problem. Unfortunately, since the Wright substitute does not recognize the national interest in wetlands not adjacent to navigable waters, it is environmentally deficient. I would hope that the Congress would address itself to this deficiency in the near future.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. Cochran).

Mr. COCHRAN. Mr. Chairman, the difficulty with the proposal made by the gentleman from Michigan (Mr. Dingell) is that on July 1 of this year, phase 2 of the Corps of Engineers regulations will become enforceable and they will begin enforcing these regulations that have been drawn up in response to the decision of the U.S. District Court here in the District of Columbia.

If we do vote down the Wright amendment, I would recommend that we impose a moratorium on the enforcement of these regulations, to give the Congress an opportunity to draft a response to the problem.

But, Mr. Chairman, I am going to support the Wright amendment because I do not think we have the opportunity to go into the hearings that would be required to come up with an amendment to answer the problem before July 1.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN. Mr. Chairman, having sat here and listened to the debate on the relative merits of the various alternatives offered by my colleagues, Mr. Breaux, Mr. Wright, Mr. Cleveland, Mr. Eckhardt, and Mr. Edgar, I must admit to some confusion because of conflicting claims. The names mentioned covered a full spectrum of approaches.

Mr. Breaux seeks to minimize the impact of environmental regulations which have severely restricted the economic value of water resources. Mr. Eckhardt argues for the status quo and its present balance of values and Mr. Edgar would press forward with greater environmental-over-economic priority. Mr. Cleveland and Mr. Wright have sought a middle ground, which appeals to a sense of balance between various interests. Of these two the Cleveland amendment is the more carefully constructed, but neglects the pending Corps of Engineers regulations, which Mr. Wright properly restrains.

Faced with this spectrum, I will vote first for the Wright amendment with a hope that it will be carefully refined in conference with the Senate. If that fails I will vote for the Cleveland amendment, and rely on the amendment to be proposed later by Mr. Levitas to restrain the Army Engineers.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Kazen).

Mr. KAZEN. Mr. Chairman, I rise in support of the Wright amendment. I believe that the framers of our Constitution intended for this Government to be divided into three separate branches, and I think that this, the legislative, is where we legislate. Let us adopt this amendment and leave no doubt as to what we want done and reject what the district court in the District of Columbia legislated in its decision. The Wright amendment should be adopted.

(By unanimous consent, Mr. Hightower yielded his time to Mr. Wright.)

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. Haley).

Mr. HALEY. Mr. Chairman, I rise in support of the Wright amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Chairman, as one of the 13 members of the committee who voted against the Breaux amendment because I did not believe it adequately protected our environmental concerns, I rise today in support of the Wright amendment, which I believe strikes an appropriate balance between the conservation needs and the needs of other legitimate pursuits, without the overly broad and unnecessary overregulation and requiring of permits by the Corps of Engineers in areas it is not needed.

Mr. Chairman, I believe the Wright substitute does strike this balance, and I urge its adoption.

Mr. Chairman, the Wright amendment clearly protects the vital coastal and inland marshlands, swamps and wetlands. We in Georgia know how vital this is. I opposed the Breaux amendment because I feared our vital marshland resources would not be protected. The Wright amendment protects them. In addition the Wright amendment lets the States, such as Georgia, where there is deep concern for environmental matters, to place other lands under the scope of this protection and also permits these States to have ever more stringent protections than the Federal Government would provide, under State laws administered by people who well know the importance of these important resources.

For these reasons. I support the Wright amendment. If it is not adopted I will support the Cleveland-Harsha amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. McCloskey).

AMENDMENT OFFERED BY MR. M'CLOSKEY TO THE AMENDMENT OFFERED BY MR. WRIGHT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CLEVELAND, AS AMENDED

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as amended.

The Clerk read as follows:

> Amendment offered by Mr. McCloskey to the amendment offered by Mr. Wright as a substitute for the amendment offered by Mr. Cleveland, as amended: In the 2nd line of subparagraph (d)(1) after the word "which" insert the words "have been used in the past,"

Mr. McCLOSKEY. Mr. Chairman, this amendment is very simple. If the gentleman from Texas (Mr. Wright) meant what he said in stating that this is not meant to intrude on the historical definition of "navigable waters," I believe he should accept this amendment.

The language of his amendment, as he states it, is this:

> The term 'navigable waters' . . . shall mean all waters which are presently used. . . .

I have merely inserted the words, "have been used in the past."

In the San Francisco Bay Area this covers roughly 188 square miles of land that has been diked and which cannot be considered presently as navigable. The amendment offered by the gentleman from Texas (Mr. Wright) would only apply to estuaries, tidelands, and wetlands, or lands that have somehow been diked and drained off.

Mr. Chairman, I would suspect that the gentleman might accept my amendment.

The CHAIRMAN. Are there any Members whose names remain on the list and who wish to be heard on the McCloskey amendment?

Mr. BREAUX. Mr. Chairman, I wish to be heard on the McCloskey amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. Breaux).

Mr. BREAUX. Mr. Chairman, I would just like to take this time to make the point that what the gentleman from California (Mr. McCloskey) is doing is restoring a historical test to determine what is navigable. I think that what was navigable a 100 years ago is really not the issue.

The question should be: Is it navigable right now, or is it susceptible to being made navigable in the future? If one of those two points are met, then we require a permit. It does not mean if it was navigable in 1890. That should not be the test.

Mr. Chairman, I urge the defeat of the gentleman's amendment.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, the question that the gentleman from California (Mr. McCloskey) raises is a moot question. Why does the gentleman want to resurrect something that does not any longer exist?

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield, I do so because there are 188 square miles of land involved in the San Francisco Bay Area.

Mr. JONES of Alabama. Mr. Chairman, the gentleman does not understand the 1899 Act which identifies "navigable waters." It does not affect those activities under the 1899 Act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey) to the amendment offered by the gentleman from Texas (Mr. Wright) as a substitute for the amendment offered by the gentleman from New Hampshire (Mr. Cleveland), as amended.

The amendment to the amendment offered as a substitute for the amendment, as amended, was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, I rise in support of the Wright amendment. I do so somewhat reluctantly because I would have preferred the Breaux amendment.

Mr. Chairman, no one who represents the Chesapeake Bay country as I do can fail to appreciate the importance of wetlands and the vital part they play in the ecological chain which produces shellfish, crabs, and finfish.

My State of Maryland already has a statute which fully protects our wetlands and strictly limits their use and abuse. We do not need Federal intervention by the Corps of Engineers over areas of our State which always have been under State and not Federal jurisdiction. Along with the gentleman from Louisiana (Mr. BREAUX) and others I introduced legislation to nullify the court decision which greatly expanded the definition of "navigable waters." With that goal in mind, I am reluctantly supporting the Wright amendment although I would have much preferred the committee bill and the Breaux language in section 17. At least the Wright amendment will permit the Secretary of the Army to delegate the Corps' authority to State governments, such as Maryland's, who are capable of administerin their own wetlands law. It also contains an important exemption from Corps authority for agriculture, forestry, and soil conservation practices. I urge the adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I am constrained to oppose the amendment offered by the gentleman from Texas (Mr. WRIGHT) on the ground that it looks like overkill. In terms of the wetlands, it would appear to trim back the scope of the regulations to exclude some wetland areas already covered by phase I of the corps' interim regulations.

This hardly strikes me as a response to the more speculative problems which may or may not be encountered under phase 3—problems which I submit would be more directly and precisely addressed under the Cleveland-Harsha amendment.

I submit, Mr. Chairman, we would do far better and serve our constituents far more by supporting the Cleveland-Harsha amendment rather than to shortcut the corps' initiative in this area relative to exemptions and statutory permits.

I am afraid that we would also fragment this body, and we will face the very real prospect of coming up with no resolution to the section 404 controversy because we will not be capable of getting something together that could pass both Houses of Congress. In that event, someone or something is going to be adversely impacted. We may wind up with excessive regulation; we may wind up with great damage to vast areas of wetlands, possibly even irretrievably losing them. With the shape these amendments are in, we could wind up with the worst of both worlds and wind up with both excessive regulations and no real environmental protection.

I urge rejection of the substitute amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise in support of the Wright amendment.

In our State, a State that uses a great deal of irrigation water, the Wright amendment gives us protection. Also, as it relates to our timber industry in the mountains, it gives us protection.

Every time we turn around in the mountains we are crossing some tributary to a stream.

Mr. Chairman, the Wright amendment would give us protection. California is in support the the Wright amendment.

The CHAIRMAN. The Chair now recognizes the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I rise in opposition to the Wright amendment.

I am reluctant to oppose the Wright amendment because insofar as it parallels our State-certification principle, of course, it is a principle that I would like to support. However, the trouble with the Wright amendment, Mr. Chairman, is that it was rather hastily put together; and it does not take care of any more problems than the Cleveland-Harsha amendment takes care of. It leaves many questions unanswered.

In all seriousness, Mr. Chairman, I think it will expose enormous tracts of wetlands to risks that this body clearly does not want to have them exposed to.

It is regrettable that the hue and cry raised about the legitimate farming practices, which have been taken care of very clearly in the Cleveland-Harsha amendment, are being used in arguments in support of the Wright substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. EDGAR).

PREFERENTIAL MOTION OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. EDGAR moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. EDGAR. Mr. Chairman, I think this whole exercise this afternoon is a bit silly.

We have an amendment that has been prepared overnight to change, in the process of this act, something that was instituted in the law, Public Law 92-500; and it is amusing to me that we would limit debate on this important issue since we have taken so much time today to participate in a ceremonial function on the Magna Carta, while we do not spend the time to really look carefully at two very important compromise pieces of legislation to the Breaux amendment.

Mr. Chairman, it is my opinion, being a member of the Committee on Public Works and Transportation, that the committee has not had adequate public hearings to enable it to look at this issue.

I have letters from Russell Train, from the Justice Department, and from the administration pointing out how the regulations which they are setting forth have only been set forth in a trial opportunity, and that those regulations have not been given the opportunity to be impacted or to be looked at in a very serious way.

Mr. Chairman, it seems to me that it is a real sham to come here today and to spend all of our time in general debate, with no one in the audience, and then to spend a few minutes in talking about the Cleveland-Harsha amendment, and a few minutes in talking about the Wright amendment, and then suddenly finding ourselves in a parliamentary situation where we have 50 seconds in which to state our support or opposition.

Mr. Chairman, I have consistently supported a motion to delete the Breaux amendment and then have supported the Harsha-Cleveland compromise, finding this morning that the Wright substitute is before us, and then we suddenly have a house full of experts who know everything about the Wright substitute.

I would suggest that what we are about to do is something that the majority of this House do not know the impact of.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, I would state to the gentleman from Pennsylvania that I have an amendment pending at the Clerk's desk which would strike the entire section 17. And if we vote both amendments down, we can get to that amendment and dispose of that and then let the Committee on Public Works and Transportation reconsider the matter and come back with a better and more thoughtful provision.

Mr. EDGAR. The gentleman from Michigan has an important contribution to add to the discussion. I wish we had more time. I would like to point out to the colleagues that are here that the Wright amendment has no standards or criteria for program adequacy, has no standards for adequacy of state issued permits, for procedures for review of them, has no requirements for input for other affected States or interested parties.

The Wright amendment has no requirements that the States have any capability to enforce their permits. In other words, it is not at all clear what the relationship of the Wright amendment is to NEPA.

It seems to me that as we look at the Wright substitute that there are clearly many questions that have to be asked.

I have before me, Mr. Chairman, a "Dear Colleague" letter that has gone out and I took the time to have my staff personally look at each of the sections of this particular "Dear Colleague" letter. It is my feeling that much of the information that is there is, in fact, inaccurate.

I would hope that the House in its future deliberations would be more deliberative, would look at the issues more clearly and would spend more time and permit more discussion on the floor so as to assure the Members of the Congress who are interested in the debate that they can make a logical decision.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

In the little time that we have had to discuss the Wright amendment, it has come to my attention that it is very possible that the Wright amendment will again require the courts to reconsider the section, the jurisdiction of the 404 program. Does the gentleman from Pennsylvania have any information on that?

Mr. EDGAR. It is clear that what will probably happen is that the courts will tear into the Water Pollution Act amendments and there will be more delay. And it is my feeling that there will be another battle in the courts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, I am fully aware that the amendment which we have drafted on the majority side of this committee is probably somewhat short of perfection. But we do not find perfection in this world. Yet it was not hastily drafted, I would remind my dear friend, the gentleman from Pennsylvania (Mr. EDGAR). We have been wrestling with this, as the gentleman from Minnesota knows, for more than a week.

We have subjected it to six drafts. It has been as carefully put together as we could craft it. I think it does exactly what it says it does, and I would suggest to my friends in this Chamber that that amendment which is before them, a copy of which was sent to everyone this morning, is much clearer and far more understandable than the regulations they will vote into effect as of July 1 written by the Army, not by the Congress, consisting of 34,000 words. If we do not adopt the Wright substitute, and if we do adopt the Cleveland language, these regulations will go into effect on July 1.

To what will they apply? Here is what they will apply to: all tributaries and secondary and tertiary tributaries of all navigable streams, in other words, the smallest creek that runs through a private pasture. Here is what they will apply to: every lake of 5 acres or more that is a natural lake, and every body of water, however small, that was created by impounding. That is what they will apply to. People will have to get permits to do anything with respect to those small areas.

Here is what else it will apply to: any water that is used by an interstate traveler for recreation—any water that is used by an interstate traveler for recreation. There are many, many other things, but if those things are not enough, the regulation further says that any other areas not covered may be covered upon the determination of the district engineer.

Are the Members going to invest in the district engineer the right to decide whether their civilian citizens have to go and ask for a permit from the Army to do those things that normally they might otherwise do? If so, vote for the Cleveland amendment. If, however, they want to protect the wetlands but also want to protect their citizens against needless harassment from a regulatory, overzealous administrative agency, then vote for the Wright amendment.

Recognize, perhaps, that it is not perfect. I make no claim that it is. But it is not hastily put together; it has been put together after much deliberation, after much consultation with members of the committee on both sides, and I believe the Members will discover that it is at least protecting the Congress in the privilege of asserting its will, instead of enshrining the will of the Army and EPA regulation writers.

In a period when we wrote 500 laws last session, administrative regulators were writing 10,000 regulations that have the effect of law. Do we want to encourage that, or do we want to put a stop to that?

This bill protects the wetlands. It allows States to add additional wetlands if they want to, and I would say that fully answers the problem of the gentleman from California. In addition to that, it protects citizens and lets them know where they stand. At least they can look to the Congress instead of to some administrative agency for the scope of the laws by which they are governed.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

I objected to the Breaux amendment in committee, but I am going to support the Wright amendment for a different reason. Much has been said about the legislation here today and the defintion of "navigable waters." I have supported a moratorium, and I feel that by going the direction of the Wright amendment, once we go into conference, we will have more opportunity to refine, if this be necessary. We can meet the criticism of those who say the Wright amendment was hastily prepared and defective.

At this point I bring to the attention of the House the additional views of Mr. COCHRAN, Mr. GOLDWATER, Mr. MYERS, and myself, contained in the report on H.R. 9560:

> We do not feel that enough is known about the impact of the section 404 program to begin to limit its jurisdiction by changing the definition of "navigable waters." While corrective action is necessary, we cannot support at this time a change in the definition without hearings. The Federal Water Pollution Control Act is a very complex law, and to begin altering definitions for the purpose of only one section needs to be well thought out and subject to input from the public. For instance, we support fill protection for wetlands, and the "Breaux amendment" is not sensitive to this need. To put in such a major amendment during a full Committee markup of H.R. 9560 is not in anyone's interest. More information is required.
>
> We could, however, support a moratorium on the implementation of the second and third phases of the Corps proposed regulatory program. This moratorium would enable Congress to conduct extensive hearings on the 404 program, including field hearings if necessary, to enable members to ascertain what are the actual problems being experienced on the execution of this regulatory program. It would also hold up advanced implementation of the Corps regulations.
>
> We believe it is a fair statement that problems are beginning to surface with the 404 program. In this regard, we would like to point out that we do not believe it was the intent of Congress that normal farming practices come under the purview of section 404 or that small water courses and ponds be included. We do not believe the Corps has gone far enough in assuring that these activities are exempt. It is our hope that this and other issues will be addressed in hearings by the Water Resources Subcommittee of the Committee on Public Works and Transportation on the administration of the 404 program. If, based on these hearings, corrective action is indicated we will be able to act prudently with all the facts before us.

I have been asked by a representative of an environmentally responsive organization to support a moratorium on implementation of the corps regulations for phases II and III.

A moratorium will give us time to review the problem of farmers and foresters with the corps regulations—and they are severe.

The Wright amendment will give us a vehicle in conference to come to a proper solution or to establish the moratorium I spoke about earlier. Next year when we consider the report of the National Commission on Water Quality we will have the necessary time.

Mr. WRIGHT. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Pennsylvania (Mr. EDGAR).

The preferential motion was rejected.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT) as a substitute for the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND), as amended.

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLEVELAND. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 121, not voting 76, as follows:

[Roll No. 329]

AYES—234

Abdnor
Adams
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
AuCoin
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Broyhill
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Cochran
Collins, Ill.
Collins, Tex.
Conable
Corman
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Findley
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fuqua
Gaydos
Ginn
Gonzalez
Goodling
Grassley
Guyer
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Harkin
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kemp
Ketchum
Keys
Krueger
LaFalce
Lagomarsino
Latta
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McDade
McDonald
McFall
McHugh
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Melcher
Meyner
Michel
Mills
Minish
Mitchell, N.Y.
Mollohan

Montgomery
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nichols
Nix
Nowak
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Regula
Risenhoover
Roberts
Robinson
Roe
Roncalio
Rooney
Rose
Rostenkowski
Runnels
Russo
St Germain
Satterfield
Sebelius
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steelman
Stratton
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Ullman
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Yates
Yatron
Young, Alaska
Young, Tex.
Zablocki

NOES—121

Abzug
Addabbo
Anderson, Ill.
Badillo
Bafalis
Bergland
Biester
Bingham
Boland
Bolling
Brodhead
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Chisholm
Clancy
Cleveland
Cohen
Conte
Cornell
Coughlin
D'Amours
Delaney
Dellums
Dingell
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Fascell
Fenwick
Fish
Fisher
Frey
Gibbons
Gilman
Goldwater
Gradison
Gude
Hannaford
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heinz
Holtzman
Jeffords
Kasten
Kastenmeier
Kelly
Koch
Krebs
Lehman
Lent
McClory
McCloskey
Maguire
Meeds
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Mink
Mitchell, Md.
Moffett
Moorhead, Calif.
Moss
Mottl
Myers, Pa.
Nedzi
Nolan
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patterson, Calif.
Pepper
Pike
Quie
Rangel
Reuss
Richmond
Rinaldo
Rodino
Rogers
Roush
Roybal
Ryan
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Solarz
Spellman
Stark
Steiger, Wis.
Studds
Sullivan
Tsongas
Van Deerlin
Vanik
Waxman
Whalen
Wiggins
Wirth
Wolff
Wydler
Wylie
Young, Fla.
Young, Ga.
Zeferetti

NOT VOTING—76

Ambro
Armstrong
Aspin
Bell
Brown, Calif.
Burgener
Burke, Mass.
Butler
Carney
Clawson, Del
Clay
Conlan
Conyers
de la Garza
Dent
Diggs
Dodd
Downing, Va.
Esch
Eshleman
Ford, Mich.
Fraser
Frenzel
Giaimo
Green
Hagedorn
Hansen
Hawkins
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Karth
Kindness
Landrum
Leggett
Litton
Lujan
McCollister
McCormack
McEwen
McKinney
Matsunaga
Metcalfe
Milford
Moakley
Mosher
Murtha
O'Hara
Peyser
Rees
Rhodes
Riegle
Rosenthal
Rousselot
Ruppe
Santini
Schneebeli
Schulze
Sikes
Stanton, James V.
Steiger, Ariz.
Stephens
Stokes
Stuckey
Symington
Talcott
Teague
Thompson
Udall
Vander Jagt
Vander Veen
Vigorito
Wilson, Bob

The Clerk announced the following pairs:

On this vote:

Mr. Vigorito for, with Mr. Ambro against.

Mr. Milford for, with Mr. Conyers against.

Mr. Thompson for, with Mr. Diggs against.

Mr. Dent for, with Mr. Stokes against.

Mr. Rhodes for, with Mr. Burke of Massachusetts against.

Mr. Helstoski for, with Mr. Moakley against.

Mr. Sikes for, with Mrs. Heckler of Massachusetts against.

Mr. Teague for, with Mr. Clay against.

Mr. Hébert for, with Mr. Ford of Michigan against.

Mr. Carney for, with Mr. Metcalfe against.

Mr. Butler for, with Mr. Rosenthal against.

Mr. Talcott for, with Mr. Matsunaga against.

Mr. Hagedorn for, with Mr. Riegle against.

Mr. Vander Jagt for, with Mr. Hawkins against.

Mr. FASCELL changed his vote from "aye" to "no."

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. Cleveland), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Eckhardt).

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

POINT OF ORDER

Mr. LEVITAS. Mr. Chairman, I make a point of order.

Mr. CHAIRMAN. The gentleman will state it.

Mr. LEVITAS. Mr. Chairman, the gentleman from Texas (Mr. Eckhardt) is not a member of the committee. I was seeking recognition at the same time.

The CHAIRMAN. The Chair apologizes to the gentleman for not having recognized him, but the gentleman from Texas (Mr. Eckhardt) has been recognized.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 31, after line 25 and after the Cleveland amendment as amended by the Wright substitute add the following: Add a new section 18 as follows:

Section 404 is amended by adding after (j) thereof (k), as follows:

"(k) 'Navigable waters' in paragraph (d), (1) hereof and 'adjacent wetlands' as used in paragraph (d)(2) hereof shall be deemed to include such navigable waters and wetlands which existed prior to any artificial fill or dike which separated them from navigable waters or wetlands."

And redesignate section 18 and the following sections accordingly.

Mr. WRIGHT. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. Wright) reserves a point of order against the amendment.

Mr. ECKHARDT. Mr. Chairman, I should like to have order on this because I want to clearly explain it. I do not think it runs in any way counter to the purpose of the Wright amendment, but I do believe that it takes care of the question that the gentleman from California raised.

Mr. Chairman, I apologize, first, for not having copies of the amendment. I did not know that the Wright amendment would be adopted, and there is one thing that I think ought to be clarified.

As the gentleman from California said, there may be some question that wetlands which have been divided and separated from existing wetlands or from existing navigable waters by artificial dikes or fill, though they may continue to be salt and they may continue to be brackish, might be excluded from this definition.

All this definition says is if they were connected and if they did exist in the past and but for the fact that an artificial dike or fill has been placed between them, they will continue to be within the definition of wetlands.

If this is not added, it is conceivable that someone could dike off or fill between existing wetlands, existing swamp areas, and so forth, and in that way remove that area from control of the Corps of Engineers.

Mr. Chairman, I am very, very interested in this amendment because in my area there are some of the most important shrimp nursery grounds that constitute present wetlands. The amendment offered by the gentleman from Texas (Mr. Wright) takes care of that situation except for any situation in which a dike or fill had been artificially built to separate them, and I am afraid that then they might not be considered adjacent wetlands.

That is all I intend to do. I do not mean to go to the extent of saying that anything that was ever before navigable remains forever navigable. This only says that if there has been an artificial change, the wetland or the navigable area will continue to be navigable, subject to the definition of "navigable waters."

Mr. Chairman, I would very much appreciate an "aye" vote on this very narrow amendment which I think is more or less in the nature of a perfecting amendment.

The CHAIRMAN. Does the gentleman from Texas (Mr. Wright) insist upon his point of order?

Mr. WRIGHT. No, I will withdraw my point of order, Mr. Chairman. I do not think a point of order properly lies against this amendment.

However, I would like to be heard in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Under the bill or under the amendment just adopted, would the Corps of Engineers not have authority to prevent the damming or diking of a coastal waterway that was navigable or which came within the definition that is already in the bill as amended?

Mr. ECKHARDT. That is true, but since the definition of "adjacent wetlands" says they are lands adjacent to navigable waters subject to the ebb and flow of tides, I want to be sure that such artificial diking and filling which may have existed in the past will not be construed as blocking off those wetlands from the definition.

Mr. SEIBERLING. Then the gentleman's amendment goes not only to future diking but to past diking?

Mr. ECKHARDT. That is right, but only with respect to artificial change, and it would not pertain, for instance, to the ox bows in the Mississippi River or something of that nature.

Mr. WRIGHT. Mr. Chairman, I rise in reluctant opposition to the amendment.

Mr. Chairman, I am not at all sure that I disagree with what my very good friend, the gentleman from Texas (Mr. ECKHARDT), is attempting to achieve here, but I find it quite nebulous. I find it incapable of complete comprehension by any of those of us who have been attempting to identify exactly where the wetlands involved might occur.

Let me read to the Members exactly what would be done by the proposed Eckhardt amendment. It would extend the definition of "navigable waters" and "adjacent wetlands" to include such navigable waters and adjacent wetlands which existed prior to any artificial fill or dike which separated them from navigable waters or wetlands.

In other words, if at one time, prior to accretion and devulsion, or if at some moment prior to the construction of a levee or the construction of a city or the construction of a highway these wetlands were connected with other wetlands, under the amendment as offered by the gentleman from Texas (Mr. ECKHARDT), they then would have to be subject to the requirements of section 404, and anyone attempting to perform any construction in those areas would have to seek a permit from the Army Corps of Engineers.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield on that point?

Mr. WRIGHT. Yes, I yield to the gentleman from Texas.

Mr. ECKHARDT. An accretion would not come under my definition. It would only be a separation because of artificial diking and filling. That is the difference.

Mr. WRIGHT. Mr. Chairman, let me ask this of the gentleman:

Let us take the situation of a rice paddy or the situation of an area that has been reclaimed for agricultural production by the deliberate, purposeful, and intentional construction of a dam or a dike so as to permit the growth of agricultural commodities and foodstuffs on those acres.

I am afraid that a literal interpretation of the gentleman's amendment could apply to those agricultural lands which have been deliberately rescued from the swamps for agricultural purposes by means of an artificial fill or artificial dike subject to the Corps of Engineers.

Mr. ECKHARDT. If the gentleman will yield further, section 8 with respect to the discharge of dredge or fill material, describing what may be done and that which might not be prohibited, would protect him in that way.

Mr. WRIGHT. Mr. Chairman, may I make this suggestion to the gentleman: If we vote down this amendment, I will consult with the gentleman and see if there is a possibility of achieving what he desires in conference, without running the risk of making the application of Corps of Engineers permit requirements to lands that were deliberately rescued from swamps so that crops and foodstuffs could be grown upon them. However, for the moment I would ask for a "no" vote on the gentleman's amendment.

Mr. ECKHARDT. If the gentleman will read his own amendment, he certainly has control in conference to perfect it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to ask the gentleman from Texas (Mr. ECKHARDT) a question with respect to what the gentleman from Texas (Mr. WRIGHT) inquired about.

Is it not true that what the Eckhardt amendment addresses are the existing wetlands and not lands which can no longer be classified as wetlands? In other words, a rice paddy certainly is not a wetland.

Mr. ECKHARDT. If the gentleman will yield, that is correct, absolutely. The only thing it says is that if it falls under the description of wetlands, that is, if it is brackish or salt-covered, as it is described in the section—I believe it is (d)(2)—if it falls within that description and has never been filled in, but has merely been separated from its natural connections to other wetlands, it remains within the corps' jurisdiction.

Mr. MYERS of Pennsylvania. If I may interrupt, the separation is a separation of wetlands not a change in the characteristics. The separation is an artificial separation only, in the sense of whether it is navigable or not; is that not the fact?

Mr. ECKHARDT. That is right.

Mr. MYERS of Pennsylvania. Therefore, essentially we still have the ecological value remaining there, and it is not a question of whether it is now being farmed or whether homes are being built on it or anything else, but the question of whether or not it is navigable.

Mr. Chairman, I support the gentleman's amendment.

Mr. ECKHARDT. If the gentleman will yield further, if it has been changed so as to make it arable, it is not included because it ceases to be a wetland.

The only situation is that if it remains a wetland and it is not now connected because of artificial fill, it is not changed by the artificial fill.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. HARSHA. Mr. Chairman, reserving the right to object, does the gentleman have an amendment or a substitute to offer to anything remaining?

Mr. LEVITAS. If the gentleman will yield, I have an amendment that follows the last section of the bill, as reported.

Mr. HARSHA. The last section of the bill?

Mr. LEVITAS. That follows the last section of the bill, as reported.

Mr. HARSHA. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. Accordingly, the remainder of the bill is considered as read, printed in the RECORD, and open to amendment at any point.

The remainder of the bill is as follows:

EMERGENCY FUND

SEC. 18. Section 504 of the Federal Water Pollution Control Act is amended by designating the initial subsection therein as subsection "(a)" and adding the following new subsections at the end thereof as follows:

"(b) There is hereby established a contingency fund to provide assistance for emergencies, including, but not limited to, those which present an imminent and substantive endangerment to the public health or welfare, those which require protection of persons where the endangerment is to the livelihood of such persons, and those resulting from natural and other disasters.

"(c) There is authorized to be appropriated not to exceed $5,000,000 to carry out subsection (b) of this section. The amounts appropriated under this subsection shall remain available until expended. There is authorized to be appropriated such sums annually as are necessary to maintain such fund at a $5,000,000 level.

"(d) The Administrator shall submit a report annually to each House of Congress on his activities in carrying out subsections (b) and (c) of this section.

"(e) This section shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal laws. Nothing contained in this subsection shall (1) affect any final action taken under such other Federal law, or (2) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.".

JUDICIAL REVIEW

SEC. 19. Subsection (b)(1) of section 509 of the Federal Water Pollution Control Act is amended by striking out "and (F) in issuing or denying any permit under section 402," and inserting in lieu thereof the following: "(F) in issuing or denying any permit under section 402, (G) in promulgating or revising guidelines for effluent limitations under section 304(b), and (H) in making any determination as to a program for State certification under section 213,".

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARSHA. Mr. Chairman, I understood the Chair to say that the bill was open to amendment at any point.

The CHAIRMAN. The remainder of the bill is open to amendment at any point.

AMENDMENT OFFERED BY MR. DU PONT

Mr. DU PONT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DU PONT: Page 20, after line 20, insert the following:

AQUIFER PROTECTION

SEC. 12. Section 212(2)(B) of the Federal Water Pollution Control Act is amended by inserting after the words "or disposing of municipal waste," and before the words "including storm water runoff," the following language: "or protect natural aquifers from pollution by public waste disposal facilities,".

Renumber succeeding sections and references thereto accordingly.

Mr. DU PONT. Mr. Chairman, this is a very simple and a very narrow amendment. It costs no money. It gives the local jurisdictions the option to solve a problem that has been an acute one for a great many of them.

Under the existing law, the protection of a community's water supply is incomplete. We have a situation that has arisen in Lincoln, Del., in which an existing solid refuse dump is leaching pollutants into the water supply of a large community south of Wilmington. Under the existing law this situation is neither covered by the Solid Waste Disposal Act nor covered by the Federal Water Pollution Control Act.

My amendment would simply permit the money already allocated to the States under this act to be used to solve this problem.

In the Delaware case it is going to cost about $2 million to solve it. They have $58 million allocated to them under the bill. They would like to use some of this money to protect the water supplies of the local communities.

I do not see any harm in it. It does not cost anything and allows us to solve a very difficult problem for a local jurisdiction.

I ask the committee to support the amendment.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Delaware (Mr. DU PONT).

Mr. JONES of Alabama. Mr. Chairman, I do not think that there is any possible amendment that could have been proposed to this bill that could be as preposterous as this amendment. It would require an entire geological survey to be made in any aquifer of the United States, particularly in the midwestern part of the United States where we have saline discharges in almost all of the areas. So, consequently, how could we predetermine where the natural responsibilities of carrying out those kind of situations involving all of the aquifers in the United States lies in relationship to the disposition of solid waste treatment?

Mr. Chairman, I hope the amendment is defeated.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Delaware.

Mr. DU PONT. Mr. Chairman, I would be concerned if I thought that the analysis of the chairman, the gentleman from Alabama (Mr. JONES) was correct, but this is not going to require any sort of a survey.

Mr. JONES of Alabama. Except for one thing and that is that the gentleman makes a universal application in his amendment to the entire United States to take care of a particular project.

Under the terms of this bill, the gentleman from Delaware can seek remedial help through the existing provisions of the bill. But now the gentleman comes back and provides for an aquifer survey, my goodness.

Mr. DU PONT. Mr. Chairman, if the gentleman would yield further, we have tried to do this under the existing law and have found out that it is not available. Further, this is only insofar as existing landfills that are leaching. There is no survey required.

Mr. JONES of Alabama. Of course there is, we have got to determine the aquifers to see where the drainage is going. An aquifer may have a discharge here and the water rises up 10 miles from where it went in. So we have got to predetermine the aquifer and that means a geological survey to determine the aquifer flow. That means the water underneath the soil, underneath the ground. How are we going to determine the underground flow of a stream with this type of an amendment? The amendment is wholly and totally unnecessary to this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. DU PONT).

The amendment was rejected.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 33, after line 12, add the following new section:

RULE AND REGULATION REVIEW

SEC. 20. Title 1 of the Federal Water Pollution Control Act is amended by renumbering section 518 as section 519 and by inserting immediately after section 517 the following new section:

"RULE AND REGULATION REVIEW"

"SEC. 518. (a) Any rule or regulation issued under authority of this Act after the date of enactment of this section may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Department or agency adopting same. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(b) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment provides that any rule or regulation adopted by any agency or department under the authority of this act would be transmitted to the Congress, and during a period of 60 calendar days while Congress is in session, either body could adopt a resolution which would result in disapproval of that resolution.

The amendment also provides that congressional inaction on or rejection of that resolution shall not be deemed to be an expression of approval of such rule.

As the gentleman from Texas (Mr. WRIGHT) pointed out in his remarks, the laws are to be written in the Congress and not in the regulatory agencies. If there has ever been a law or a bill that needs this protection for the people, I believe this is one.

Administrative rules have the force of law. They control our lives. They are promulgated at a rate of 18 to 1 compared with solemn acts of Congress. Yet, they are passed by an unelected bureaucracy not responsive to the public. Too often well-intentioned laws passed by Congress are changed around by the regulations.

This morning at the Magna Carta ceremonies there was a ballad that was sung, the Ballad of the Magna Carta. In that ballad these words were spoken, speaking of the document that comes down to us from the Magna Carta. It says:

> Because a law is not a law when it's a ruling made by a King or an executive, arrived at by a commission or a committee, drawn up by a secret board or council, prepared by a party caucus or a kitchen cabinet.

I think that really, Mr. Chairman, embodies what we are talking about. Congress is responsible for passing the laws, and it seems to me that we ought to have the right to reject those regulations which are in fact laws when those regulations go beyond the intent of Congress or are arbitrary and oppressive and this amendment will provide for that.

Should a citizen decide to balk or challenge the bureaucracy, he is in for expense, delay, frustration, and probably sanction. If one moves to change a proposed rule during the comment period, he is often faced with 30 days to study and respond to what may be an extraordinarily complex regulation which has been under study by the agency for more than a year. If one challenges the promulgated rule with the agency he more than likely meets the same bureaucrats who drew the rule in the first place—a meeting characterized by a bureaucratic lack of sympathy and understanding. A court challenge to a rule is all the more costly and frustrating and of a very limited scope of review.

Not surprisingly, the public is angry and frustrated, too often feeling that they have no choice but to obey a burdensome, costly, and perhaps ridiculous regulation promulgated by bureaucrats they do not know, have not elected, and cannot remove. To many, the bureaucracy has become the enemy. This is not simply "anti-Washington" campaign rhetoric. It is a statement of fact documented by poll after poll and perceived by me and other Members of Congress who go home and listen to their constituents.

Mr. Chairman, it is our duty to see that the public is given an input, through their elected representatives, in the promulgation of these rules. This is basic to restoring citizen confidence in Government. An unresponsive government is not a vehicle which carries the faith and confidence of the public.

The answer to the argument that there will be too much work for Congress is that it begs the question. Since administrative rules are in effect laws, we have and cannot shirk or pass the buck for making laws. To say we will abandon our responsibility for lawmaking means we are abandoning our basic constitutional responsibility as legislators. This is untenable.

As the size and reach of the Federal bureaucracy has grown, the need to reexamine its force and power has come upon us. While we know of the hard and dedicated work of most civil servants, we have too many examples of administrative excess and zeal, going beyond any congressional intent. Congress now has the responsibility of facing up to a reexamination of congressional control over the administrative process.

Two hundred years ago, our Founding Fathers recognized a similar situation and addressed it in the Declaration of Independence:

> (King George) has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People and eat out their Substance.

That was 1776 and the solution our Founding Fathers employed was revolution. The problem is once again before us, more serious and more crippling than ever before.

Legislative veto over administrative rulemaking is a way—without revolution—to make a start restoring to the American people those rights the Declaration of Independence spoke for, two centuries ago.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER OF West Virginia: On page 33, after line 12, add a new section as follows:

"SUNSHINE IN GOVERNMENT

"Section 501 of the Federal Water Pollution Control Act (33 U.S.C. 1361) is amended by adding at the end thereof the following new subsection:

"(g)(1) Each officer or employee of the Environmental Protection Agency who—

"(A) performs any function or duty under this Act; and

"(B) has any known financial interest in any person who (i) discharges pollutants from any point source, (ii) discharges oil, hazardous substances, or sewage from any vessel, (iii) discharges oil or hazardous substances from any onshore or offshore facility, (iv) is otherwise subject to regulation under this Act, or (v) is applying for or receiving financial assistance under this Act,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of the enactment of this section—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. HECHLER of West Virginia (during the reading). In view of the fact that this amendment has been printed in the RECORD on June 1, 1976, at page H5116, Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, this is an amendment that is jointly sponsored by the gentleman from Pennsylvania (Mr. MYERS) and myself. It is a financial disclosure amendment, which is similar to the amendment which was attached to the Energy Policy and Conservation Act passed by the Congress last December, and to the Energy Research and Development Administration Authorization Act which was passed by the Congress May *20, 1976.*

The purpose of this amendment is to bring more sunshine into Government.

The amendment requires officers and employees of the Environmental Protection Agency who perform any function under the Federal Water Pollution Control Act to file annually statements of any known financial interest in the person or persons they are regulating or providing Federal funds to. Such statements would be available to the public and would have to be reviewed by EPA. Positions at EPA that are of a nonregulatory and nonpolicymaking nature could be exempt from this requirement by EPA.

The amendment does not prevent EPA employees from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, EPA and other Federal agencies require their employees who are at the GS-13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. My amendment does.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at several agencies, including in the collection and timely review of such statements, the identification of employees who should file such statements, and the resolution of problems associated with the statements. At Interior, the GAO said of the 1,435 additional employees who should file statements, over 1,100 were below the GS-13 level.

My amendment makes it clear that EPA must look at the positions to determine who should file and not base their decision on the grade level of an employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for EPA to define what a "known financial interest" is. Indeed, the FEA published proposed regulations defining this term on April 2, 1976.

I urge adoption of my amendment.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

I find the purpose addressed by this amendment a commendatory one. I must say I have some reservation about some of the language and its applicability to certain persons who discharge pollutants from any point of source, which I think may be a bit broader than the gentleman intends.

But I would be willing and I think the committee would be willing, with the understanding that we might want to look at that language and to refine it a bit in conference, to accept the amendment because the purpose of it is in accordance with the purpose of the bill.

Mr. HECHLER of West Virginia. I thank my good friend, the gentleman from Texas.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, with the understanding stated by the chairman that we could look at the language in conference to see whether or not there is a possibility to refine it, I accept the amendment.

Mr. HECHLER of West Virginia. I appreciate the assurances of the gentlemen from California and Texas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

Mr. BAUCUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think here today we have finally drafted a bill that is going to mean a great deal to America. Some of the provisions of it will mean a great deal to some of us here today too.

One of the points which is not in the bill and which I think perhaps should not be considered here today or this evening but which should be considered the next time we draft such a bill is that there are water pollution problems which are caused across the Canadian border which accrue environmental damage to the United States and also such developments in the country of Mexico which also pollute the waters of perhaps California and Texas.

It is a difficult question which occurred to me in the last couple of weeks. I drafted a proposal of an amendment to deal with this problem to give the Congress perhaps in conjunction with the Department of State some encouragement to look at this. I will not offer it because perhaps it is not germane to this bill but I will ask the subcommittee and perhaps the Public Works Committee to consider it when they deal with water pollution problems and ask them to do what they can to try to draft a provision to deal with this problem, because it will mean a great deal to us in the Northern States as well as to the people in the Southern States.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, the gentleman from Montana has today discussed with members of the committee his very legitimate concerns related to certain pollution that occurs as a result of projects constructed in one country which inflict damage upon the citizens of another. It is a serious and important concern.

On behalf of the committee I should think we would want to invite the gentleman and do hereby invite the gentleman from Montana to come to us and let us discuss this question at some depth in order that we may resolve whether or not there is any viable manner by which this committee and his Congress can address this matter.

Mr. BAUCUS. I welcome the gentleman's help in this area.

I think next year we will have a better bill if we do adopt some such provision to deal with this problem.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. STRATTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9560) to amend the Federal Water Pollution Control Act to provide for addition authorizations, and for other purposes, pursuant to House Resolution 1218, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HARSHA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 339, noes 5, not voting 87, as follows:

[Roll No. 330]

AYES—339

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Derrick
Derwinski
Devine
Dingell
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Hefner
Heinz
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McDade
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stratton
Studds
Sullivan
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vanik
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOES—5

Crane
Evans, Ind.
McCloskey
McDonald
Paul

NOT VOTING—87

Ambro
Anderson, Ill.
Armstrong
Aspin
Bell
Bolling
Brown, Calif.
Burgener
Burke, Mass.
Butler
Carney
Clawson, Del
Clay
Conlan
Conyers
de la Garza
Dellums
Dent
Dickinson
Diggs
Dodd
Downing, Va.
Esch
Eshleman
Findley
Ford, Mich.
Fraser
Frenzel
Giaimo
Green
Hagedorn
Hansen
Hawkins
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Henderson
Hicks
Hinshaw
Horton
Karth
Kindness
Landrum
Leggett
Litton
Lujan
McCollister
McCormack
McEwen
McKinney
Matsunaga
Metcalfe
Milford
Moakley
Moorhead, Pa.
Morgan
Mosher
Murtha
O'Hara

Peyser
Rees
Rhodes
Riegle
Rosenthal
Rousselot
Ruppe
Santini
Schneebeli
Schulze
Sikes
Stanton,
James V.
Steiger, Ariz.
Stephens
Stokes
Stuckey
Symington
Symms
Talcott
Teague
Thompson
Udall
Vander Jagt
Vander Veen
Vigorito
Waxman
Wilson, Bob

The Clerk announced the following pairs:

Mr. McCormack with Mr. Aspin.
Mr. Hébert with Mr. de la Garza.
Mr. Burke of Massachusetts with Mr. Green.
Mr. Ambro with Mr. Brown of California.
Mr. Vigorito with Mr. Karth.
Mr. Sikes with Mr. Conlan.
Mr. Helstoski with Mr. Bell.
Mr. Teague with Mr. Kindness.
Mr. Thompson with Mr. Eshleman.
Mr. Carney with Mr. Dickinson.
Mr. Stokes with Mr. Downing of Virginia.
Mr. Diggs with Mr. Esch.
Mr. Moakley with Mr. Burgener.
Mr. Ford of Michigan with Mr. Horton.
Mr. Rosenthal with Mr. Conyers.
Mr. Hawkins with Mr. Frenzel.
Mr. Riegle with Mr. Landrum.
Mr. Clay with Mr. Fraser.
Mr. Metcalfe with Mr. Henderson.
Mr. Dent with Mr. Findley.
Mr. Milford with Mr. Butler.
Mr. James V. Stanton with Mr. Hagedorn.
Mr. Udall with Mr. Dellums.
Mr. Symington with Mr. Hansen.
Mr. Dodd with Mr. Lujan.
Mr. Giaimo with Mr. Del Clawson.
Mr. O'Hara with Mr. McCollister.
Mr. Matsunaga with Mrs. Heckler of Massachuetts.
Mr. Leggett with Mr. McEwen.
Mr. Hays of Ohio with Mr. Hicks.
Mr. Litton with Mr. McKinney.
Mr. Rees with Mr. Mosher.
Mr. Vander Veen with Mr. Peyser.
Mr. Anderson of Illinois with Mr. Morgan.
Mr. Rhodes with Mr. Moorhead of Pennsylvania.
Mr. Armstrong with Mr. Rousselot.
Mr. Murtha with Mr. Ruppe.
Mr. Santini with Mr. Schneebeli.
Mr. Schulze with Mr. Steiger of Arizona.
Mr. Stephens with Mr. Vander Jagt.
Mr. Talcott with Mr. Symms.
Mr. Stuckey with Mr. Waxman.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WRIGHT. Mr. Speaker, pursuant to the provisions of House Resolution 1218, I call up from the Speaker's table the Senate bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WRIGHT moves to strike out all after the enacting clause of the Senate bill S. 2710, and to insert in lieu thereof the provisions of H.R. 9560, as passed, as follows:

That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1976".

AUTHORIZATION APPROVAL

SEC. 2. Funds appropriated before the date of enactment of this Act for expenditure during the fiscal year ending June 30, 1976, and the transition quarter ending September 30, 1976, under authority of the Federal Water Pollution Control Act, are hereby authorized for such purposes.

AUTHORIZATION EXTENSION

SEC. 3. (a) Section 104(u)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $2,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978,".

(b) Section 104(u)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by striking out "1975" and inserting in lieu thereof "1975, $1,000,000 for fiscal year 1977, and $1,500,000 for fiscal year 1978,".

(c) Section 106(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1256) is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, and $100,000,000 per fiscal year for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978.".

(d) Section 112(c) of the Federal Water Pollution Control Act (33 U.S.C. 1262) is amended by inserting "$6,000,000 for the fiscal year ending September 30, 1977, and $7,000,000 for the fiscal year ending September 30, 1978," immediately after "June 30, 1975,".

(e) Section 208(f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, and September 30, 1978.".

(f) Section 414(c)(2) of the Federal Water Pollution Control Act (34 U.S.C. 1324) is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof ", $150,000,000 for the fiscal year 1975; $50,000,000 for fiscal year 1977; and $60,000,000 for fiscal year 1978".

(g) Section 517 of the Federal Water Pollution Control Act (33 U.S.C. 1376) is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof ", $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, and $150,000,000 for the fiscal year ending September 30, 1978.".

SEWAGE COLLECTION SYSTEM GRANTS

SEC. 4. Section 202 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, in any case where the total of all grants made under section 201 for the same treatment works exceeds the actual construction costs for such treatment works such excess amount shall be a grant of the Federal share of the cost of construction of a sewage collection system if—

"(1) such sewage collection system was constructed as part of the same total waste treatment system as the treatment works for which such section 201 grants were approved, and

"(2) an application for assistance for the construction of such sewage collection system was filed in accordance with section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102) before all such section 201 grants were made and such section 702 grant could not be approved due to lack of funding under such section 702.

The total of all grants for sewage collection systems made under this subsection shall not exceed $2,800,000.".

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

SEC. 5. Section 203(a) of the Federal Water Pollution Control Act (33 U.S.C. 1283) is amended by adding at the end thereof the following new sentence: "In the case of a treatment works that has an estimated total cost of $1,000,000 or less (as approved by the Administrator) upon completion of an approved facility plan a single grant may be awarded for the combined Federal share of the cost of preparing construction drawings and specifications, and the building and erection of the treatment works.".

USER CHARGES

SEC. 6. Clause (A) of paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act (33 U.S.C. 1284) is amended—

(1) by striking out "proportionate share" and inserting in lieu thereof "proportionate share (except as otherwise provided in this paragraph)"; and

(2) by adding at the end of such paragraph (1) the following: "In any case where an applicant uses an ad valorem tax system and the Administrator determines such system results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total waste water loading of the treatment works by each such user class, and such applicant establishes surcharges which will insure that each industrial user will pay its proportionate share on the basis of volume, strength, and other relevant factors, then such ad valorem tax system and surcharges shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph.".

ALLOTMENT

SEC. 7. (a) The first sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act (33 U.S.C. 1285) is amended by striking out "June 30, 1972," and inserting in lieu thereof "June 30, 1972, and before September 30, 1976,".

(b) Such section 205 is further amended by adding at the end thereof the following new subsections:

"(c) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1976, shall be allotted by the Administrator on October 1 of the fiscal year for which authorized. Sums authorized for the fiscal years ending September 30, 1977 and September 30, 1978, shall be allotted in accordance with table 1 of Committee Print Number 94–39 of the Committee on Public Works and Transportation of the House of Representatives.

"(d) If the sums allotted to the States for a fiscal year are made subject to a limitation on obligation by an appropriation Act, such limitation shall apply to each State in proportion to its allotment. So much of any allotment not subject to such a limitation on obligation shall remain available for obligation for the fiscal year during which it can first be obligated and for the period of the next succeeding sixteen months, the remaining amount of the allotment shall remain available until expended. The amount of any allotment not subject to such a limitation on obligation which is not obligated by the end of such sixteen-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.".

REIMBURSEMENT AND ADVANCED CONSTRUCTION

SEC. 8. (a) Subsection (a) of section 206 of the Federal Water Pollution Control Act (33 U.S.C. 1286) is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(b) Subsection (e) of such section 206 is amended by striking out "$,600,000,000" and inserting in lieu thereof "$2,950,000,000".

(c) Notwithstanding section 206(c) of the Federal Water Pollution Control Act and section 2 of Public Law 93–207, in the case of publicly owned treatment works on which construction was initiated between July 1, 1972, and June 30, 1973 (both dates inclusive), applications for assistance under such section 206 shall be filed not later than the ninetieth day after the date of enactment of the Federal Water Pollution Control Act Amendments of 1976.

CONSTRUCTION GRANT AUTHORIZATIONS

SEC. 9. Section 207 of the Federal Water Pollution Control Act (33 U.S.C. 1287) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and for the fiscal year ending September 30, 1977, subject to such amounts as are provided in appropriation Acts, not to exceed $5,000,000,000 and for the fiscal years ending September 30, 1978, and September 30, 1979, subject to such amounts as are provided in appropriation Acts, not to exceed $6,000,000 per fiscal year.".

FEDERAL SHARE OF MANAGEMENT PLANNING PROCESS COSTS

SEC. 10. Section 208(f)(2) of the Federal Water Pollution Control Act (33 U.S.C. 2188) is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

CONTRACT AUTHORITY

SEC. 11. The second sentence of section 208 (f)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1288) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

NEW PROVISIONS

SEC. 12. Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end thereof the following new sections:

"CERTIFICATION

"SEC. 213. (a)(1) The Administrator may carry out any of his responsibilities for actions, determinations, or approvals under sections 201(g) (2) and (3), 203 (a) and (d), 204(a), (b)(1), and (b)(3), and 212(2)(B) of this Act with respect to projects or proposed projects for treatment works by accepting a certification by the State water pollution control agency of its performance of such responsibilities.

"(2) Nothing in this section shall affect or discharge any responsibility or obligation of the Administrator under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) The Administrator shall not accept any certification provided for in subsection (a) of this section unless the Administrator determines after public hearings that the State water pollution control agency has the authority, responsibility, and capability to take all of the actions, determinations, or approvals for which certification is submitted under subsection (a) of this section and the Administrator has determined that the State is following practices that conform to the Federal construction grant regulations under section 201 of this Act, including specifically that the State has the enforceable requirement that any person having a significant financial interest in the construction of treatment works will not be a member of any State board or body which processes an application for a grant under this title.

"(c) If the Administrator determines after public hearings that a State water pollution control agency, with respect to any requirement, condition, or limitation for which he has accepted a certification under subsection (a), fails to meet the requirements of this section, he shall suspend his acceptance of certification as to such requirement, condition, or limitation with respect to any project, or may suspend such acceptance with respect to all projects in such State, as he determines necessary, and during such suspension he shall be responsible for such requirement, condition, or limitation.

"(d) The Administrator shall conduct interim and final inspections and audits, and shall require such information, data, and reports as he determines necessary to carry out this section.

"(e)(1) The Administrator shall reserve an amount not to exceed 2 per centum of the allotment made to each State under section 205 on or after February 1, 1975. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (b) of section 205, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available, and any reserved amount at the request of the State, shall be added to the amounts last allotted to such State under section 205 and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"(2) The Administrator is authorized to grant to any State exercising, or proposing to exercise certification authority under this section, from amounts reserved to such State under this subsection, the reasonable costs, as determined by the Administrator, of carrying out such authority.

"(f) The Administrator shall promulgate such rules and regulations as may be necessary to carry out this section. The initial rules and regulations necessary to carry out this section shall be promulgated not later than the ninetieth day after date of enactment of this section.

"DETERMINATION OF PRIORITY

"SEC. 214. Notwithstanding any other provision of this Act, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-inflow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows.

"LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

"SEC. 215. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance the non-Federal share of the cost of any project for the construction of publicly owned treatment works which the Administrator has determined to be eligible for Federal financial assistance under this title.

"(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

"(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guaranty; and

"(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

Any loan, obligation, or participation therein with such terms and conditions as to yield a rate of return of more than one-half of 1 per centum above the current interest rate at which the Federal Financing Bank is making loans for comparable maturities shall be deemed, for purposes of paragraph (1) of this subsection, not to be obtainable on reasonable terms.

"(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guaranty and for the issuance of a commitment to make a guaranty.

"NON-FEDERAL SHARE WAIVER

"SEC. 216. (a) Notwithstanding any other provision of this title, the Administrator may waive any requirement that an applicant for a grant under section 201 of this title pay the non-Federal share of the costs of the project for which such grant application is made, if such applicant demonstrates to the satisfaction of the Administrator that it is unable to obtain financing in the private financial market or pursuant to section 215 of this title for the purpose of obtaining the non-Federal share.

"(b) Subsection (a) of this section shall only apply to grants made under section 201 of this Act after the date of enactment of this section.

"(c) Nothing in this section shall be construed to authorize the Administrator to reduce funds to a project on a State priority list.".

TIME REQUIREMENTS

SEC. 13. Section 301 of the Federal Water Pollution Control Act (33 U.S.C. 1311) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Administrator may modify the time for achieving the requirements of subsections (b)(1) (B) and (C) of this section for any publicly owned treatment works to extend such time beyond the dates specified in such paragraphs, if the Administrator determines that the construction of such treatment works necessary for the achievement of such requirements cannot be completed by the dates specified in such paragraphs.

"(2) No time modification granted by the Administrator under this subsection shall extend beyond July 1, 1982, except in the case of treatment works which the Administrator determines are based on innovative technology relating to the abatement and control of water pollution in which case time modifications may extend up to, but not beyond, July 1, 1983.

"(3) No time modification shall be granted under this subsection unless the applicant shall have first submitted to the Administrator, and the Administrator shall have approved, a schedule of compliance with the modified date. Failure to meet the approved schedule of compliance shall be a violation of this section and shall be subject to enforcement under section 309 in the same manner as any other violation of this section. The Administrator shall promulgate such rules and regulations as may be necessary to carry out this paragraph.

Any point source (other than a publicly owned treatment works) which has, either on the date a time modification is granted a publicly owned treatment works under paragraph (1) of this subsection or not later than the sixtieth day after the date such time modification is granted, a contract (enforceable against such point source) to discharge its effluent into such publicly owned treatment works, shall not be subject to the requirements of subsection (b)(1) (A) and (C) of this section until the date such treatment works must meet the requirements of subsections (b)(1) (B) and (C) of this section.".

STATE REPORTS

SEC. 14. Subsection (b) of section 305 of the Federal Water Pollution Control Act (33 U.S.C. 1315) is amended—

(1) by striking out "January 1, 1975, and shall bring up to date each year thereafter," in paragraph (1) and inserting in lieu thereof "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter,"; and

(2) by striking out "annually" in paragraph (2) and inserting in lieu thereof the following: "October 1, 1976, and biennially".

TOXIC AND PRETREATMENT STANDARDS

SEC. 15. (a) The first sentence of paragraph (2) of subsection (a) of section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317) is amended by striking out "to be held within thirty days".

(b) Paragraph (6) of subsection (a) of section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317) is amended by adding at the end thereof the following new sentence: "In any case where the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator shall establish the effective date of the effluent standard (or prohibition) for such category of sources at the earliest date which compliance can be feasibly attained by such sources, but in no case shall such date be more than three years after the date of promulgation.".

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 16. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in this natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable waters subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support fresh water vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches,

is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation.".

EMERGENCY FUND

SEC. 17. Section 504 of the Federal Water Pollution Control Act is amended by designating the initial subsection therein as subsection "(a)" and adding the following new subsections at the end thereof as follows:

"(b) There is hereby established a contingency fund to provide assistance for emergencies, including, but not limited to, those which present an imminent and substantive endangerment to the public health or welfare, those which require protection of persons where the endangerment is to the livelihood of such persons, and those resulting from natural and other disasters.

"(c) There is authorized to be appropriated not to exceed $5,000,000 to carry out subsection (b) of this section. The amounts appropriated under this subsection shall remain available until expended. There is authorized to be appropriated such sums annually as are necessary to maintain such fund at a $5,000,000 level.

"(d) The Administrator shall submit a report annually to each House of Congress on his activities in carrying out subsections (b) and (c) of this section.

"(e) This section shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal laws. Nothing contained in this subsection shall (1) affect any final action taken under such other Federal law, or (2) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.".

JUDICIAL REVIEW

SEC. 18. Subsection (b)(1) of section 509 of the Federal Water Pollution Control Act is amended by striking out "and (F) in issuing or denying any permit under section 402," and inserting in lieu thereof the following: "(F) in issuing or denying any permit under section 402, (G) in promulgating or revising guidelines for effluent limitations under section 304(b), and (H) in making any determination as to a program for State certification under section 213,".

RULE AND REGULATION REVIEW

SEC. 19. Title V of the Federal Water Pollution Control Act is amended by renumbering section 518 as section 519 and by inserting immediately after section 517 the following new section:

"RULE AND REGULATION REVIEW

"SEC. 518. (a) Any rule or regulation issued under authority of this Act after the date of enactment of this section may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Department or agency adopting same. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(b) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.".

SUNSHINE IN GOVERNMENT

SEC. 20. Section 501 of the Federal Water Pollution Control Act (33 U.S.C. 1361) is amended by adding at the end thereof the following new subsection:

"(g)(1) Each officer or employee of the Environmental Protection Agency who—

"(A) performs any function or duty under this Act; and

"(B) has any known financial interest in any person who (i) discharges pollutants from any point source, (ii) discharges oil, hazardous substances, or sewage from any vessel, (iii) discharges oil or hazardous substances from any onshore or offshore facility, (iv) is otherwise subject to regulation under this Act, or (v) is applying for or receiving financial assistance under this Act,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of enactment of this section—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection, shall be fined not more than $2,500 or imprisoned not more than one year, or both.".

Amend the title so as to read: "An act to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9560) was laid on the table.

GENERAL LEAVE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF H.R. 9560

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make technical corrections in numbers and punctuations and to correct other technical errors that might be discovered in the engrossment process of the bill H.R. 9560.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FOURTEENTH ANNUAL REPORT PERTAINING TO EMPLOYMENT AND TRAINING REQUIREMENTS, RESOURCES, AND UTILIZATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. McFALL) laid before the House the following message from the President of the United States; which was read and, without objection, together with the accompanying papers, referred to the Committee on Education and Labor and to the Committee on Veterans' Affairs:

To the Congress of the United States:

I am transmitting to the Congress the 14th annual report pertaining to employment and training requirements, resources, and utilization, as required by section 705(a) of the Comprehensive Employment and Training Act of 1973, as amended. This Employment and Training Report of the President also includes reports required by sections 209, 413(a), 705(b), and 705(d) of the same act, as well as a report on veterans services, as required by 38 U.S.C., section 2007(c).

GERALD R. FORD.

THE WHITE HOUSE, *June 3, 1976.*

SETTING THE RECORD STRAIGHT ON WHAT GORDON W. RULE STANDS FOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

Mr. BOB WILSON. Mr. Speaker, with further regard to Mr. Gordon W. Rule's somewhat unruly conduct in a speech yesterday before the Shipbuilder's Council of America, I think it prudent to point out more of the contradictions in his past positions as compared with his recent statements, as I did yesterday. I believe Mr. Rule was doing nothing more than talking to his audience in order to gain favor with that audience and would like to set the record straight on just what it is that Mr. Rule stands for:

ON HOW TO HANDLE CLAIMS

I have thought a lot about claims for various reasons and I do have some recommendations. Bear in mind that my philosophy on claims against the government, unilateral claims, submitted by—we are talking about shipbuilders now who come in years after—in some instances the ships have delivered—and say, you owe us $50 million, $100 million, I just want to say that I characterize that as an adversary proceeding. I don't think that is just another negotiation. I think that when a contractor comes in like that, unilaterally with five stacks of volumes prepared by so-called experts, I think that is an adversary procedure and I would treat it as such. And it is that feeling that makes me get to the point in my thinking where I say, these things should not be negotiated.

You negotiate new procurement. You do this because, in every new procurement, when a contractor gives you his proposal, there is a big grey area of costs that he wants, and you only sort out those grey areas by sitting at the table and negotiating them and then you determine how much you should pay for what it is you want.

But when a claimant comes in unilaterally for millions of dollars that we are now told are settled for an average of 37 percent of the claim, my philosophy is that the grey area which cannot be substantiated, those grey areas should be left for a board or a court to decide.

Now, there are people who don't feel that way obviously. The lawyers are not very prolitigation. Lawyers like to settle things. This is the only objection to—possible objection to Admiral Rickover's memorandum. I would be all in favor of turning them over to the lawyers if you had a hard-nosed staff of lawyers. If you had a bunch of pantywaists who wanted to settle everything and not go and slug it out at the ASBCA and do the hard work, I wouldn't be in favor of that.

I would suggest that we get these claims, we scrub them, we sit down with the contractor and go over all the areas so that he cannot say we have been arbitrary or capricious. We would discuss every possible point in the claim with them and then make our judgment as to what the claim is worth and we have no negotiations. We tell the contractor, here is our evaluation. You can take this and settle right now. If you don't, we will make a CO decision, a contracting officer's decision right now for that amount and you can appeal.

Now, that is—if I had carte blanche I think that is the way I would do it. (Joint Economic Committee, 1972, pp. 1486–1487)

ON NEGOTIATING CLAIMS

Now, when a contractor comes in with a claim that he unilaterally has prepared . . . I ought to sit down with you and see if it has any merit, and I ought to talk to you and see what facts you have got to justify your claim. But rather than, after having gone through this fact finding exercise, rather than, then starting to negotiate with you I ought to tell you, "OK, you have said I owe you a $100. Now, all the facts in this case tell me that I owe you $15," and that ought to be it. This is, I might say, the philosophy that Admiral Rickover believes in, that is what he did in that submarine contract with Litton. He determined how much we owed them and he said, "I will pay you that," and no negotiation. That is the way I think claims should be handled. (Joint Economic Committee, 1973, p. 1914)

ON GRUMMAN AND BUY-INS

Now, the question I have been asked is, "Well, Grumman says they expected to make up that reduction (in their bid price) by future business. They expected to get the space shuttle program, they had no idea that inflation would creep or gallop as much as it has done" and I have been asked, "Well, isn't there some merit to these contentions of Grumman?" And my answer is, absolutely not. These are big boys. They are not kids, they know how to bid on contracts. I am afraid they had the philosophy, as so many other companies had, "Get the contract and then you will get bailed-out," and I just am not persuaded by the fact that they are so naive that they can now expect the Government to bail them out of this contract. . . . (Joint Economic Committee, 1973, p. 1826)

ON PRIVATE ENTERPRISE AND BAIL-OUTS

Now, I want to make two, I want to put forward two thoughts on that. You may not remember, but Congress passed a law entitled Public Law 85–804, which provides a means for the Government, for want of a better term, bailing out or assisting defense contractors who get into trouble financially . . .

* * * * *

. . . Rather than permit the Government to continue to be soft on favorite contractors, I suggest we admit failure of our free enterprise system and proceed to nationalize or socialize certain industry segments. Certain contractors, in my opinion, are in effect asking for this. We ought to make up our mind, do we want free enterprise with its success and its failures, and by "failures," I mean bankruptcies. Do we want that kind of system or do we want something else.

Do we want a special privileged group of defense contractors who by their size and/or influence can get bailed out, which is most unfair to the majority of contractors in this country. As I see it, we have already moved to a quasiwelfare industry, certainly without having guts enough to tell the taxpayer free enterprise is out, and socialism is in. And I think we ought to give consideration to taking that route with some of those contractors. (Joint Economic Committee, 1973, pp. 1921–1922)

ON PERFORMANCE OF SOME DEFENSE CONTRACTS

. . . Everything I am going to say today is based on one fundamental point that I have in mind, and that is that I do not like to see the Navy get pushed around. There are two ways that the Navy can get pushed around. One is at sea, if we are weak and the other is at home, by large defense contractors who rarely, if ever, give us what we pay them to give us; namely, quality, on-time delivery, and reasonable cost, and I do not want to be pushed around and I do not want to see the Navy get pushed around by those contractors, and I have a very strong feeling that they are doing that. So, everything I am saying this morning is geared to that basic promise.

I would like to say a few words about the F-14, lot 5. I would like to very much congratulate Mr. Warner, Secretary of the Navy, and Admiral Kidd for the decision that they made about a week ago to exercise that option. We all know the result of their exercising that option; we know what Grumman has said, but I certainly congratulate those men for making that decision. It is a step in the right direction, and I hope they maintain that posture.

I hope that other companies who, that I know personally, have been standing in line waiting to see what we do on lot 5, I hope that they get a little bit of a message from that, and I hope that that attitude prevails on down through the Litton's and everybody else who has a contract and in some way want it reformed or want to get out of it. (Joint Economic Committee, 1973, p. 1323)

ON ENFORCEMENT OF LOSS CONTRACTS

I have long contended that Defense procurement would be sanitized by permitting Defense contractors to go into bankruptcy if they fail to meet their contractual commitments and obligations. The DOD would obtain our contracted for procurements if a company goes into bankruptcy and such action can result in needed management changes. We all know however, that the Lockheeds, Grummans, Northrops, et al., are sacred cows for the politicians and the Defense hierarchy with the result that corporate morality is all but forgotten.

These corporations who do business with the DOD on their terms are not even subjected to enlightened trade association disciplines in their industry. Even voluntary codes of ethics and fair trade practices are either non-existent or non-enforced and collectively they laugh at efforts to require them to be truly accountable for their spending of the taxpayers defense dollars. (Remarks of Gordon W. Rule at the Navy Procurement Officers' Seminar, Washington, D.C., 30 October 1975)

ON ADMIRAL RICKOVER

Three pleasant notes to include: . . .

* * * * *

(3) Last, but by no means least, the retention on active duty of Admiral Rickover who, no matter what anyone thinks of him, knows exactly what he is doing and does it well. (Remarks of Gordon W. Rule at the Navy Procurement Officers' Seminar, Washington, D.C., 30 October 1975)

ON CONTRACTOR MORALITY

I would like to ask you ladies and gentlemen at this point, if any of you believe that these Defense contractors who have admitted illegal campaign contributions in the United States and bribes, kickbacks, etc. abroad have a double standard and corporate morality which precludes them from improper and/or illegal practices in this country when trying to obtain Defense contracts. In short, do you believe for one minute that they have one corporate policy within the United States and another that takes effect the minute they leave our shores? I don't believe it and neither do you. The Northrop story shows it isn't so. (Remarks of Gordon W. Rule at the Navy Procurement Officers' Seminar, Washington, D.C., 30 October 1975)

ON THE GENEROSITY OF SHIPBUILDING ESCALATION PAYMENTS

Navy contracts today include labor and material escalation provisions, some of which even protect a contractor after his contract delivery dates, regardless of whose fault the late delivery may be. Additionally, defense contractors are asking—and getting—labor rate projections of up to 20% per year on the grounds that labor agreements are to be negotiated and coverage is therefore demanded in the contract for rate increases.

* * * * *

It really doesn't take a great brain to realize that when the labor unions know the extent to which the Government has protected the contractors against wage increases, there really won't be much hard bargaining at the negotiating table on the part of the protected contractors. (Remarks of Gordon W. Rule at the Navy Procurement Officers' Seminar, Washington, D.C., 30 October 1975)

ON THE SUCCESS OF THE FREE ENTERPRISE SYSTEM

Let me just say this, it is my considered opinion that our taxpayers defense dollars are being ripped off shamefully and until or unless this country reimposes wage and price controls—at least on the Defense sector—we, as a country, will continue to head downhill to disaster or to another form of Government than that which exists today. (Remarks of Gordon W. Rule at the Navy Procurement Officers' Seminar, Washington, D.C., 30 October 1975)

ON THE LOCKHEED BAILOUT AND ITS PRECEDENT

I think it is most unwise. I think from a procurement point of view it is most unwise. And I can tell you that there are other companies standing in line right now, and if we do this for Lockheed, we will have set a precedent that I don't think we will ever live down. (Joint Economic Committee, 1971, p. 1120)

ON GRUMMAN AND LOCKHEED

Grumman obtained that contract in a competitive climate. And they are big boys, and they knew what they were doing. And this is one of the areas that I think falls right in line back of Lockheed. If we start bailing Lockheed out, Grumman is going to be standing right in the wings, and I think it is time we held some of these people to some of these contracts. And if they lose money, it is just too bad. (Joint Economic Committee, 1971, p. 1127)

ON ENFORCING CONTRACTS

. . . I testified against the Lockheed loan because I thought it was a dangerous precedent, but I would just like to quote to you as one suggestion what Mr. Packard said just a couple of weeks ago when he got the Forrestal Award. He said: "What is the solution"—after describing the game playing that goes on between industry and the services—"what is the solution? We are going to have to stop this problem of people playing games with each other, games that will destroy us if we do not bring them to a halt." And here is the point I want to make.

"Let us take the case of the F-14. The only sensible course is to hold the contractor to his contract." And he never was more right in his life. . . . (Joint Economic Committee, 1972, p. 1462)

ON RESPONSIBILITY OF PARENT CORPORATION TO STAND BEHIND CONTRACTS IN ITS SHIPBUILDING DIVISION

I would like to make one more point in answer to your question why I advised Admiral Kidd not to sign this provisional payment. Avondale is a division of the Ogden Corp., a conglomerate with a lot of money. If they had simply said we are turning off the spigot, we are not going to finance Avondale any more, I think we should have gone after Ogden and made them put up the money rather than let them off the hook. (Joint Economic Committee, 1972, p. 1482)

ON SUBSTANTIATING CLAIMS

. . . But those claims have not gone up to my group yet. And they won't get through unless they are 100 percent legally entitled and factually supportable. (Joint Economic Committee, 1971, p. 1116)

ON REFUSING TO OVER-PAY CLAIMS

As I say, we will take care of these (claims) as expeditiously as we can, and certainly we won't pay out $1 more than can be shown to be merited. (Joint Economic Committee, 1969, p. 156)

BUSING IN OHIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.)

Mr. ASHBROOK. Mr. Speaker, in 1975 civil rights organizations filed suit in Washington, D.C., aimed at bringing about full enforcement of school desegregation laws across the United States, especially in the North and West, involving some 33 States. It was charged that many school districts were in noncompliance and that Government efforts to correct these situations left much to be desired.

On April 14 the junior Senator from Ohio stated in the CONGRESSIONAL RECORD that Ohio now had pending "seven major school desegregation lawsuits and roughly 30 additional desegregation investigations." It was also stated that the seven lawsuits involved over 400,000 students. One Ohio educator observed that this seems to be "the year of Ohio."

In Cleveland, for instance, a court decision is presently awaited which will determine whether there has been a constitutional violation of children's rights in the school system. If the court decision finds that there have indeed been violations, a busing plan may be formulated which could involve the massive relocation of children. As everyone knows, the court-ordered "remedies" give busing a top priority.

Cincinnati has perhaps the longest involvement in defending itself against charges of de jure segregation, having at one point appealed to the U.S. Supreme Court for relief only to be denied certiorari. Cincinatti officials will soon be back in court in another desegregated-related case.

In Columbus another desegregation case is now in the seventh week, with the plaintiffs having just ended their case with the Columbus school authorities now in the process of presenting their defense. While local individuals initiated the suit, the NAACP filed to intervene and have subsequently been made lead counsel.

On June 28 still another court case involving the issue of desegregation is scheduled to begin in Youngstown. As in the above cases, the residents of Youngstown could well face the prospect of a court-ordered busing solution if the Youngstown Board of Education is found guilty of de jure segregation.

In Dayton a court-imposed school desegregation plan has been handed down calling for a pairing of schools throughout the city. The pairing plan will include 44 of Dayton's 53 elementary schools, 4 of the 10 high schools, and would involve 12,000 grade-school students and 2,000 of the high school students.

In Toledo and Akron desegregation cases are in various stages of advancement.

As far back as 1964 I warned that attempts would be made to equate racial imbalance in schools to segregation and that the remedy proposed as a corrective measure would be busing. A number of us here in Congress have offered amendments to various bills and have proposed bills and amendments to eliminate this device which is a distortion of the very basic function of education to impart knowledge and discipline. In addition to legislation which would relieve the Federal courts of further consideration of desegregation cases—this is the appellate jurisdiction approach—I have submitted a constitutional amendment to eliminate the busing problem.

As the courts continue to resort to busing as a "remedy", the need for a remedy for the remedy will become increasingly apparent. The above-cited cases in Ohio, when finally resolved, may well be an excellent case in point.

Liberals favoring busing. They are social engineers and want to re-write everything in our country according to their own narrow, socialistic views. Union leaders favor busing even though rank and file members do not. Busing is the worst card game in American politics. Maybe the voter will wake up this year.

SEPARATE VIEWS ON THE DEFENSE APPROPRIATIONS BILL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 15 minutes.

Mr. **ADDABBO**. Mr. Speaker, I would hope that the membership would take time to read a copy of my separate views which will be part of the committee report of the defense appropriations bill for fiscal 1977 before the bill comes to the floor because I believe the House faces some very basic questions when we begin consideration of what is the most expensive defense budget in our Nation's history. It will be my intention when the bill gets to the floor to offer amendments to substantially reduce the level of spending.

I believe the statement speaks for itself, Mr. Speaker, and I would now insert these separate views in the Record in their entirety:

Separate Views of Hon. Joseph P. Addabbo

There may be a year in which Congress makes a true effort to control the burgeoning defense budget, but the recommendations of a majority of the Defense Appropriations Subcommittee indicate quite clearly that this will not be the year.

At a time when this Nation is at peace with its neighbors around the world, at a time when our Nation's potential adversaries are beset by their own internal domestic problems, at a time when our own domestic problems cry out for resolution, it is the almost certain intention of the Appropriations Committee to pass the most expensive defense budget in our Nation's history, shunting aside as inconsequential any and all proposals to seriously question whether what we are doing is either right, necessary or even practical.

It is for the record then that these separate views are offered. I shall attempt, as shall others, to moderate our spending binge with amendments offering spending cuts. These cuts are designed not to deprive this Nation of its ability to protect itself, as will be charged. They will not be offered as anything more than a forlorn hope that Congress will not agree to fund unquestioningly experimental programs not yet proved out, or move forward with programs which are as dubious as they are expensive. The amendments will not reduce our national defense capability or adversely affect our national security but will increase our domestic security.

What the Subcommittee has done this year, bolstered by the Congress' vote on the Budget Control Act, is yield to the political pressures raised during the Presidential primary races. We have long known that every defense budget proposal put to us contains a cushion designed to protect the military from anticipated Congressional cuts. The 1976 budget was cut by $7 billion and previous budgets by 4 to 5 percent. This year, we not only approved a highly inflated budget proposal nearly intact, we included the built in cushion and we added additional funds just in case all that was not enough.

Technically, we have voted a small cut, less than one per cent, but that "cut" is as deceiving as almost everything else about the budget is.

It is not unusual for Congress to appropriate far more money each year than even the Pentagon can spend. The Pentagon estimates it will have the highest unexpended balance in 20 years at the end of fiscal year 1977, a total of $58.3 billion. The Subcommittee rejected basic financing adjustments that would have saved the taxpayers $1 billion in the coming year without involving any specific program, line item or activity. There was no question of jeopardizing national security. The proposals would have transferred a minimal $400 million from a possible $2.5 billion of unobligated balances, part of which that will lapse in September. That money should be utilized to reduce the total new money required to fund the programs approved for fiscal year 1977.

Another reduction would come from correctly estimating the rate of inflation. By overestimating the rate of inflation—this year by well over a full per cent—a "free gift" of $400 million or more will go to the Pentagon. That money should be redesignated for specific programs, a move which would save the taxpayers $100 million. Last year's defense overestimated inflation by $2 billion.

When the Defense Appropriations Bill came to the Floor last year, we had made cuts totalling more than $7 billion and there still was a real growth in our Defense structure of $2 billion. The net result of this year's Subcommittee action was to approvc $105.7 billion for fiscal 1977 as compared to $90 billion for fiscal 1976. We cut only $820 million from the President's budget request, ending up with a budget increase of nearly $15 billion, of which inflation accounted for only $8 billion. This budget authority will permit the Pentagon to spend $13 million an hour, every hour of every day in fiscal year 1977.

The following chart shows the tremendous program increases within this budget—remembering that most domestic program appropriations computing inflation cost, have been cut or not increased. The Defense Department is the only Department permitted to budget in advance for inflation.

DEPARTMENT OF DEFENSE BUDGET, FINANCIAL SUMMARY BY APPROPRIATION CATEGORY

[In billions of dollars; fiscal years]

Appropriation title	Current dollars—total obligational authority				
	1974	1975	1976	1977	Increase 1974–77
Military personnel	$24.1	$24.9	$25.6	$25.5	$1.4
Retired pay	5.1	6.2	7.3	8.5	3.4
Operation and maintenance	23.9	26.2	28.9	32.3	8.4
Procurement	17.5	17.4	21.4	29.6	12.1
R.D.T. & E	8.2	8.6	9.5	10.9	2.7

I believe the following are some of the more obvious areas in reductions that could and should have been made without impairing our national defense.

B-1 BOMBER

Perhaps the single most blatant example of our flight from responsibility is inclusion of $948 million to initiate production of the B–1 Bomber. This will buy the first three bombers. The B–1 has long been a controversial plane. It is as yet unproven. Present testing will not be completed until late fall, and avionics testing will not be completed until 1979. Under the current schedule, 35 B–1 aircraft will be delivered without their defensive avionics equipment. I can foresee the possibility that the B–1 flight tests might uncover additional problems for the B–1. We are appropriating in this bill for tests which will cost hundreds of millions of dollars.

The fiscal year 1977 budget contains $948 million to complete the funding of the first three B–1 production bombers, plus $89 million in advance procurement funding for eight additional bombers in fiscal year 1978.

The General Accounting Office has pointed out that the B–1 entered full scale development in 1969. Seven years later, no specific and well defined cost, schedule and performance thresholds have been established for the B–1 program. Until appropriate and well defined thresholds are set out for the B–1 program, neither the Secretary of Defense, the President nor the Congress can objectively assess the probability of acquiring a mission-capable weapon system within fund and time limitations. We have already seen the initial operational capability date slip 38 months. Supersonic penetration speed is 27 percent slower than anticipated. As a matter of fact, the B–1 does not meet the development criteria in nine categories of requirements, including both the subsonic and supersonic missions.

We were told last year that the Air Force "may" test the primary mission profiles just prior to the production decision in November, 1976, "but we will not do extensive flight testing at that altitude until somewhat later." The Air Force was unable to provide the Committee with the B–1 test flight plans for the year. We were advised that the Air Force did not have such a flight test plan; that in general, flight testing is predicated on the results of the preceding flight.

The total cost of research and development of the B–1 will cost close to $4 billion. There is about $1.2 billion of the research and development program yet to be funded by Congress. It is not realistic to enter production on a program as important as the B–1 Bomber with over $1 billion worth of development and testing to be completed. Furthermore, no production aircraft should be funded until the subsonic and supersonic mission requirements have been fully tested and satisfactorily demonstrated. The present production schedule does not permit this to happen. In my opinion, the production decision should be delayed one year in order to complete more of the research and development program and adequately test the aircraft which now has a production unit cost of $72.8 million and a program unit cost of $87.8 million.

For the foregoing reasons, the $948 million budgeted to initiate production of three B–1 Bombers should be denied.

If this amendment is not approved I shall offer an amendment to the House to defer obligation of the production funds until February 1977. The Congress, I believe, should act to assure that expenditure of so much money does not come as a result of last minute political reaction. The new administration, be it whoever sits in the White House, should have the right to make a final determination on so important and expensive a matter without the immediate pressure of politics.

TRIDENT MISSILE

The fiscal year 1977 Navy budget contains $880 million for initial production of the Trident Missile, plus $253.3 million in advance procurement funding for a buy in fiscal year 1978.

At the time the Navy proposes to award a production contract for the Trident Missile, the first development flight test may not have been conducted. The Trident Missile is being developed by Lockheed Space Missiles Division, drawing on experience gained in the Poseidon Missile program. There is a major modification effort on-going at the present time to increase the reliability of the Poseidon Missile.

Trident is too important a program to manage carelessly. We must avoid the pitfalls of the past which tell us of the danger in prematurely entering into production before adequate testing is completed. About $1 billion of research and development funding, or almost one-third of the total RDT & E funding required, remains to be provided by Congress. There have been major test failures.

The Trident Missile has experienced premature detonations of its second stage motor. The Navy is "guardedly optimistic" that these problems have been identified. We need more than "guarded optimism" before we begin to spend over $6.6 billion in producing Trident I production missiles. And we need missile tests before anyone can decide whether or not we should enter production.

In the years I have been on the Defense Subcommittee, I have seen the results of prematurely entering production on weapon systems. It takes longer to field such weapons and at far greater cost than if we followed an orderly development and test program. At the same time, the Soviets will monitor our Trident Missile tests in much the same way they did our Poseidon Missile test program. If we experience early development problems, and in a research and development program we inevitably will, we are not fooling our adversaries. It is the American people that will be misled.

We talk about "fly-before-you-buy," of not buying weapons until they have been proven effective. In funding Trident production at this time we abandon fly-before-you-buy and embrace the costly and reckless course of buying now and testing later.

I strongly urge the deletion of $880 million for Trident Missile production. At the same time, I propose fully funding the research and development request and the $253.3 million in advance procurement funding.

MINUTEMAN III

It makes no sense militarily to spend $300 million this year to continue the Minuteman III production line as the Committee has recommended. We have 550 Minuteman III's and 450 Minuteman II's in silos, and sufficient numbers of additional Minuteman III missiles for contingencies and for operational testing to take us through 1988. The new M–X Advanced ICBM is scheduled to replace the Minuteman in the mid-1980's.

Buying additional Minuteman III missiles does not enhance our strategic deterrence posture. We cannot add to our land-based MIRV force without violating the Vladivostok limitation of 1,320 MIRV launchers. In addition to the 550 Minuteman III's already in silos, we have currently deployed 496 submarine-based Poseidon missiles with MIRV's. When the 10 Trident submarines enter the inventory, they will add 240 to the MIRV numbers, for an overall total of 1,286 MIRV launchers. That means only 34 additional Minuteman III's can be deployed and still remain within the 1,320 Vladivostok limit. Yet the Air Force must deploy Minuteman III's in groups of 50. This, of course, could be done now with well over 100 additional Minuteman III's in the inventory or on order and not in silos.

The front end of the Minuteman III production line began to close in July of last year. The Air Force has testified it would cost about $350 million to reopen the line once it shuts down. We have been spending close to that amount in each of the last several years merely to maintain an ongoing production line.

We have not been buying "SALT bargaining chips" these last several years because we are not increasing the number of Minuteman III's in silos. We do not impress the Soviet Union by merely buying Minuteman III missiles beyond our operational test requirements. We are not adding meaningful growth to our national defense; we are not buying "bargaining chips" for the SALT negotiating table; but we are wasting hard-earned tax revenues. It is time to stop this waste now.

The $300 million added to the budget to continue Minuteman III production cannot be justified. The Defense Department had originally recommended closing of the line.

OTHER PROCUREMENT

The "Other Procurement" appropriations of the Army, Navy, and Air Force provides for procurement of a wide variety of items, ranging from trucks and buses to munitions and electronic equipment. In just two years, since fiscal year 1975, these appropriations have increased by 35 percent, and the one year increase from fiscal year 1976 to fiscal year 1977 is nearly 20 percent. Some of this can be attributed to inflation, and part is necessary to catch-up in areas where procurements were postponed due to higher priorities in the Vietnam War era. However, much of the expansion in this procurement is in programs where research and testing has not been completed. More still is for increases in inventory objectives based on changes in requirements which have not been justified to the Congress. Additional increases result from expansion of many of the 1000 plus line items that make up the Other Procurement appropriations. Certain of these increases are necessary and desirable, but others can be safely postponed or eliminated without a serious impact on our defense posture. Because of this, I believe a reduction of one-half of the increase in the "Other Procurement" requests or $600 million could prudently be made. The Defense Department continually uses this Fund to reprogram to other programs often without congressional oversight.

PREMATURE PROCUREMENT

A number of other items budgeted in the procurement appropriations have been identified thus far as not requiring funding this year because they either are premature in their funding request due to lack of adequate testing and/or design, they should be slowed down because they are experiencing problems, or they are in fact not justified.

From my review of the budget, I have identified potential reductions amounting to $4,961.8 million in the procurement appropriations alone. These recommended reductions can be well documented.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The fiscal year 1977 budget requests about $10.9 billion for Research, Development Test, and Evaluation; an increase of $1.4 billion over the prior year appropriation. Of the increase, about $750 million is real program growth and the balance is for inflation. This significant increase is requested even though decreased funding levels are required for some major programs because procurement is being initiated. For example, the R&D funding of the Trident 1 missile has decreased by over $200 million, B–1 funding by $100 million, and AWACS by $78 million. Consideration could be given to reducing the real growth to a level that is approximately one-half of that requested.

UNOBLIGATED AND UNEXPENDED BALANCES

The Committee on Appropriations' recommendation proposes to increase defense spending at a more rapid rate than the Department can properly assimilate. It is estimated by the Defense Department that at the end of fiscal year 1981, some $2.8 billion which was appropriated in fiscal year 1974 and in prior years will remain unexpended. It would appear that with these funds available it is not necessary to appropriate all the new funds requested.

Earlier this year, when the Defense Subcommittee had under consideration the Committee report to the House Budget Committee on the fiscal year 1977 Concurrent Resolution, the subject of the availability of unobligated and unexpended balances was considered. At the time, the Department had presented its estimates of unobligated and unexpended balances that the Department would have at the start and end of fiscal 1977. The estimates are still current, as follows:

[In millions]

	Start of fiscal year 1977	End of fiscal year 1977	Increase
Unobligated balance	$9,626	$12,978	+$3,352
Unexpended balance	46,580	58,270	+11,690

GENERAL REDUCTIONS

I have proposed some possible specific reductions in the Defense budget. There are dozens of other questionable programs. However, this year with all the massive effort both in the Administration and outside to over estimate the real growth of the Russian military structure, I believe many efforts to make reasonable reductions will be fruitless.

The Budget for the Defense Department for fiscal year 1977 is not a true Defense Budget, but is instead a military establishment Budget inflated by political expediency. It provides for programs not essential to national defense. It violates the proven theory of "fly before you buy" in many instances.

A spending limitation cut would encourage the Department to give priority to true Defense need and to curtail those programs not essential at this time for the defense of the Nation.

A spending limitation would force the Department to use some of its unobligated funds thus giving the Congress greater control over the activities of the Department for we can only control funds appropriated this year. We have little or no control over the use of prior year funds.

LEGISLATION TO AMEND IRS CODE OF 1954

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Cotter) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I am introducing legislation today to place restrictions on companies that reprint official Internal Revenue Service publications for a profit.

The IRS distributes a number of publications to help taxpayers prepare their personal and business returns. These guides are usually available free of charge or at a nominal cost.

However, these publications, like most Government documents, are not protected under copyright law. As a result, many publishing firms have reprinted them and sell them in bookstores and newsstands for a substantially higher price than the government originals.

In the cases I have seen, the reprints are simply offset reproductions of the original guides. Not a word has been changed.

This is a profitable practice. The IRS does the research, writing, editing, design and typesetting of their publications, at the taxpayers' expense. Then, a publishing firm buys the photographic negatives at low cost. The firm only pays for the printing and distributing costs.

In one case, a company has reprinted a 93-page IRS Tax Audit Guide, recently made available to the public under the Freedom of Information Act. The same guide is easily available from the IRS for $1. The company sells the reprint for $6.95, an almost 600 percent markup. Of course, its advertising does not mention that the guide is available at low cost from the IRS.

Mr. Speaker, I have no objection to the right of private publishers to reprint official Government publications. I certainly have no objection to legitimate firms that make complex Internal Revenue material available to the public in cheaper and more convenient editions than the Government offers. But I do object to those firms that reprint tax guides for a higher price than the original, and fail to inform the taxpayer that these same guides can easily be obtained from the IRS.

My legislation will require all companies that reprint official IRS publications to indicate, both in their advertising and on the reprint cover, that the same publication is available from the Government. These companies also would have to indicate the cost of the original, so the taxpayer will have the information he needs to decide which publication he will purchase.

At this point, I would like to insert a copy of my legislation into the Record.

Finally, Mr. Speaker, I would like to congratulate David Horowitz, consumer ombudsman for NBC News, who first brought this case of profiteering to the attention of the public. It was thanks to Mr. Horowitz's efforts that I first became aware of the problem.

H.R. 14156

A bill to amend the Internal Revenue Code of 1954 to place certain restrictions on the sale and advertising of reprints of certain Federal tax publications

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part I of subchapter A of chapter 75 of the Internal Revenue Code of 1954 (relating to crimes) is amended by adding at the end thereof the following new section:

"Sec. 7217. Sale of Reprints of Federal Tax Publications.

"(a) Certain information required on reprints of federal tax publications.—It shall be unlawful for any person to sell, or offer to sell, any document which is a Federal tax publication reprint unless such document bears a statement containing the following information:

"(1) Substantially all of the material contained in such document consists of a copy (with only minor revisions) of documents available from the Federal Government.

"(2) The approximate cost (at the time such document is published) of obtaining the material contained in such document from the Federal Government.

Such statement shall be located in a conspicuous place on the front cover of the document and shall appear in conspicuous and legigible type in contrast with other material on the cover.

"(b) Certain information required to be contained in advertising.—It shall be unlawful to advertise (in any manner) the sale of any document which is a Federal tax publication reprint unless such advertising contains in a conspicuous manner the information described in paragraphs (1) and (2) of subsection (a).

"(c) Federal Tax Publication Reprint.—For purposes of this section, the term 'Federal tax publication reprint' means any document if substantially all of the material contained in such document consists of a copy (with only minor revisions) of one or more documents—

"(1) which are prepared by the Secretary or his delegate in connection with the administration of this title; and

"(2) which are made available by the Federal Government to the general public.

"(d) Exception.—Subsections (a) and (b) shall not apply with respect to any Federal tax publication reprint—

"(1) if such reprint is a public document offered for sale by the Federal Government or by any person selling such reprint under terms and conditions prescribed by the Federal Government; or

"(2) if such reprint is sold with one or more other items or documents which are not Federal tax publication reprints and such sale is in connection with a course of instruction in tax law.

"(e) Penalties.—Any person who is convicted of a violation of subsection (a) or (b) shall be fined not more than $100 for each such violation; except the maximum fine for any related series of violations shall not exceed $100,000."

(b) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7217. Sale of reprints of Federal tax publications."

Sec. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act; except that section 7217(a) of the Internal Revenue Code of 1954 (as added by this Act) shall only apply with respect to documents produced after such date of enactment.

FORMER MAYOR OF BOSTON SPEAKS AT STONEHILL COMMENCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Burke) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, recently I was invited to attend commencement exercises at Stonehill College in North Easton, Mass. My good friend, the former mayor of Boston, John Collins, who was the recipient of an honorary doctorate of law degree, was asked to deliver the commencement address. I was most impressed with what he had to say, and I am delighted to have the opportunity to share his thoughts with my colleagues.

The following is a brief biographical sketch of John Frederick Collins followed by his commencement address:

John F. Collins

The career of John Frederick Collins has been characterized by a remarkable blend of deep, constructive thought and vigorous purposeful action in his service of the public weal in the State of Massachusetts.

He was admitted to the Massachusetts Bar in 1941. The following year he enlisted in the Army as a private, where he served for four years and rose to the rank of Captain. He returned at the end of the war to the practice of law. But not for long. In 1947, he ran for the office of state representative, and won. In 1950, he was elected State Senator, and at the conclusion of his third term, he was elected a member of the Boston City Council. In 1957, he became the Registrar of Probate for Suffolk County, and in 1959, he was elected Mayor of Boston.

Under his administration, the tax rate, *mirabile dictu*, was stabilized, and the largest urban redevelopment project in the United States was planned, and the work begun. Historic buildings such as the Old State House, Faneuil Hall, the markets, warehouses and wharfs of the Old Boston were restored and refurbished. The strikingly modern buildings of the Kennedy Government Center took shape. And, set in its own plaza, amid brick terraces, splashing fountains and groves of shade trees, the New Boston City Hall arose—to become world-famous for its architectural beauty and dear to all Bostonians as the heart of their great city.

In 1968, after serving two terms as Mayor of Boston, he became Visiting Professor of Urban Affairs at the Massachusetts Institute of Technology where he now draws upon the rich and varied experiences of his long and distinguished career in public life to guide the studies of future generations of public servants and urban planners.

His concern for the common good has not diminished since he left public office, for he still finds time to serve on the governing boards of businesses, political and social organizations and institutions of higher learning. He is a member of the Visiting Committee of the Kennedy School of Government at Harvard University, and he is on the Steering Committee of the National Urban Coalition. He is Chairman of the Advisory Board for the Massachusetts Council of Organizations for the Handicapped, President of the Greater Boston Chamber of Commerce, and he has just recently been appointed Public Governor of the Boston Stock Exchange.

Yet, admirable as all these many achievements are, it is for his personal dedication to Stonehill that we are most grateful. He is Chairman of the Executive Steering Committee for the Development for the Seventies Program. He has recently been elected as Chairman of the Board of Trustees—the highest governing board of Stonehill College.

With gratitude and pride, Stonehill College bestows on John Frederick Collins, the degree of Doctor of Laws, Honoris Causa.

Remarks of John F. Collins

None of us controls totally the timing of our academic career. To be graduated in a Bicentennial Year however, suggests that perhaps God and your family have given to you special opportunities and particularly heavy responsibilities.

On our 200th birthday, Americans are looking back and looking forward, in a process which produces "tennis neck" and mixed emotions. We look back in wonder at the progress we have made from scattered settlements to the world's greatest democracy, the only stable democracy of this scale in all of human history. Our progress has been dramatic but our present posture is one of nervousness and uncertainty—admittedly we are just emerging from a traumatic and increasingly unpopular war, a humiliating Government scandal and a recession accompanied by degradation in our cities and near bankruptcy in at least a few of them.

One hundred years ago the situation following the administration of Grant was similar and in some respects worse. But our spirit was different . . . better . . . and much more optimistic.

It is not currently fashionable to remember the progress made in almost every field . . . in science . . . in civil rights . . . in health. . . . Today many concentrate on failure which they define as the inability to achieve Utopian heights. . . . To put it another way . . . society is being challenged to satisfy the individual demands of each aspirant to do his own thing, to be not bored and to achieve equality in an egalitarian society, whatever his or her equipment or level of effort.

The irony of today is that a new dogmatism has appeared and has been sold to a generation seductively wrapped and delivered as "do your own thing," appealing primarily to the gratification of the senses, it has become a style of life for young and old. Even the media has picked up the siren call and all segments of our society declare and embrace "the new freedom." As a result a subtle but profound shift has occurred in long-held societal values.

Commonly held beliefs concerning an individual's responsibility to his community and Government have come under attack. The "let it all hang out" philosophy of the 1960's has evolved and been transformed into a vast array of highly personal interpretations of dogmas advanced during this Nation's Vietnam and social unrest period.

In observance of America's Bicentennial is a good year to recall that the Founding Fathers learned and believed that the first duty of the good citizen was service to the Commonwealth. "Every man in a Republic" said Benjamin Rush "is a public property. His time and talents, his youth, his manhood, his old age, nay more, life, all belong to his country."

Because our Founding Fathers shared such common concerns about involvement in public life, they were able to forge a constitution that has remained viable to this day. The major difference between 1776 and 1976 may just be the loss of a shared sense of purpose and beliefs that anchored eighteenth-century society . . . There was a sense of objective morality to which people adhered even at a cost of personal suffering and sacrifice. There was an acceptance of moral responsibility for personal acts and lives; a willingness to accept personal discipline for a larger good; and finally a belief, expressed so eloquently by the eighteenth-century philosophers, of a vision of man, his origin, his nature and his destiny.

This is now in danger of being eroded and forgotten. Our frenetic lives and the violent history of the past three decades has taken its toll. In the context of a culture that glorifies the autonomy of the individual, we may in the process of pursuing that goal, lose sight of the duties and responsibilities that these very rights impose on each individual. Nothing is of greater significance to the welfare and vitality of this nation than to recapture the purpose and spirit of an earlier age and combine its goals with the new concerns of today's society. Only in this way will we be able to meet the challenge of the new opportunities. It is in this sense that the revolution of two hundred years ago has not ended.

The process continues and perhaps the time has come for a reassessment of national goals, and a willingness on the part of all segments of society to rally to the support of a new set of commonly held beliefs. These goals cannot and should not be utopian. Everything for everyone at once is not a goal; it is a snare and a delusion.

A dominant characteristic of our times is public loss of confidence in social institutions. Such lack of confidence has befallen religious organizations, business leadership, government, elementary and secondary schools, and higher education. The views and pronouncements of political leaders are not convincingly relevant to stresses being experienced by the public.

Corporate institutional advertising seems self-serving and lacks relevance to major issues of production, growth, employment, and prices. Editorials are superficial and short-range, and lack relevance to the deeper issues from which present socioeconomic problems arise. Education is fragmented and frozen in patterns that seem irrelevant for dealing with major social and economic questions.

In fact, matters are worse than a simple lack of relevance; many social institutions are following policies that cause more harm than good.

One of many examples of well-intended social action that has led to greater social disruption is described in the November 1975 issue of Fortune magazine in the article "How Government Helped Ruin the South Bronx". Consequences that become reversals of the original intent are there described: "After a quarter century of costly but misguided Government efforts, the big old cities of the U.S. remain pocked with slum areas. . . . The fires are only the most visible symptom of the complex cancer that is ravaging the South Bronx. Indeed, the area can be considered a textbook case of what may occur when incentives for individuals get hitched to what's wrong for society at large. So few criminals go to jail that crime clearly pays. Welfare handouts diminish the incentive to work and promote the break-up of families. Minimum wage laws foreclose private job opportunities for those with minimal skills. . . . Government systematically though inadvertently helped wreck its economic life".

But such a quotation inappropriately blames a faceless Government. Government is carried on by people, and where do these people come from? They come from institutions of higher education. Even more significantly, many advisors to Government on social programs come from faculties of educational institutions. They and most of our policymakers of the past quarter century were, with dedication and confidence, treating symptoms, not causes. In many cases the treatment not only failed to cure the disease but occasionally worsened the conditions of the patient.

Generally, social systems have not behaved as expected. Referring again to the article on destruction of the South Bronx, all actions taken by Government and advisors were with the best of intent. The hope was that a multiplicity of actions would lead to social and economic improvement. . . . But the reverse occurred.

When well intended action produces results opposite to expected consequences, the blame is usually placed on insufficient knowledge about the detailed structure and loose behavior within the system. This has led to massive efforts of data gathering and research on fragments of our socioeconomic system in a belief that more information about the parts is needed in order to understand the whole. I believe that such effort is not a first priority.

The mental models used by each of us in making decisions are inadequate for such complex systems as a city or a nation. No human can carry in his or her head a comprehensive model of such complexity.

Research at M.I.T. indicates that by taking available knowledge about policies and structure and organizing that knowledge into a computer model, it can be shown that our errors lie not in perceiving details of real systems but in anticipating what these details imply.

One avenue seems open for revealing correctly the dynamics of complex systems. Discussion and political compromise are not adequate. General analytic mathematical solutions are impossible. But computer simulation is possible for obtaining solutions to specific sets of assumptions. Simulation does not give general solutions ... it produces only a solution to one set of conditions at a time. But cost is low enough to allow explorations of a wide variety of assumptions about policies and structures. It is in fact a way to cast disparate fields into a common framework. It relates the past to the present and the present to the future. It allows one to anticipate future implications of present assumptions. It assists in sorting feasible futures from impossible utopias. It helps in reestablishing goals for the future toward which present effort can be constructively harnessed, system dynamics can provide a time perspective to integrate history, present and future into one continuum.

Progress can be made—it must be made—

The more explosive social problems have now moved to the top of our agenda—

Crime and violence terrify city dwellers and suburban residents alike—

New approaches, new attitudes are essential, but the vital ingredient is a new morality and to this Stonehill and you can make a significant contribution.

Colleges that are anchored in a religious faith are important to our society—

Steven Muller, president of Johns Hopkins University, put it this way—

"The separation of church and state was never meant to destroy organized religion—it is designed to avoid the control of society by one denomination and thus to preserve liberty and diversity of religion. Church related colleges and universities provide a foundation today when the inability to believe in anything corrodes so much of our common life."

George Washington, in his farewell address said "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports."

So the challenge is great for this third century. If we fail to respond, license will run rampant in the name of liberty, violence as a substitute for justice, the family unit will decline as an essential linchpin of society and our ability to defend freedom at home and abroad will degrade.

Such a future is unthinkable.

We can create a future worthy of those who preceded us if we therefore combine our God given intellect with new approaches, a concern for the rights of others and the common good and a return to a moral code which I believe Stonehill typifies—liberty and freedom will then be the result.

CAMPAIGN '76—WHAT ARE WE GOING TO DO ABOUT $1.10 PER GALLON GASOLINE IN 1979?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, one of the shocking oversights of the 1976 political debate is a neglect to discuss or propose meaningful solutions to the energy crisis, which continues to loom as an ominous threat to the American way of life. Our extraordinary consumption of oil continues unrestrained. In fact, it is one of the characteristics of being an American.

In 1976 the American people are engaged in a Bicentennial energy binge. We are driving, flying, motorboating, and snowmobiling as if this were the last season to be merry—and it very well may be. Not only our residential use of energy, but also industrial consumption of oil for manufactured goods and petroleum derivatives, such as fertilizer, continues as if there were no tomorrow.

Our domestic oil production has peaked out, yet we continue to consume ever increasing amounts of oil. There is only one place we can make up the difference—imports. We are now importing oil at a cost of $24 billion per year. Last year, our total consumption of oil—both imported and domestic—totalled over $47 billion, the equivalent of 30 percent of our gross national product.

One of the major reasons we watch our dependence on oil imports grow is our love affair with the automobile. It is true that the portion of large size automobiles purchased by the American public declined last year. It is also true that average auto efficiency has improved slightly from 1973.

But improved gasoline efficiency means little if Americans are driving more. There are over 100 million private automobiles in America today. While it may be true that these automobiles may be more efficient, there are danger signs that people are driving more and longer distances. Over the decade 1962–1973, average mileage per vehicle per year increased slightly from just over 9,000 miles in 1962 to about 10,000 miles per year in 1973. In 1974, the effects of higher gas prices depressed average mileage to about 9,000 miles per car. Now it appears that the trend is up again in 1975 and 1976.

Why is this data significant? Simply stated, gasoline consumption is the product of gasoline efficiency and mileage driven. A gasoline-efficient VW owner who drives 20,000 miles in a year at 26 miles per gallon consumes more gasoline than the owner of a gas-guzzling Oldsmobile who drives his 14-miles-per-gallon car only 10,000 miles.

What has happened to reduce our fuel consumption in travel? Practically nothing. Here and there roadbuilders are moving their concrete and steel into subways. But these systems, welcome as they are, clearly will not move very many people, very far, very soon.

A more serious cause of increased fuel consumption is the tendency of workers to live further and further from their place of work. In the Cleveland area, it is not uncommon for workers to live in Eastlake and work in Brookpark, 30 miles away. In Washington, there are commuters who travel from Reston, Va., to Fort Meade, Md., 46 miles away.

People certainly should have the freedom to live where they choose. However, it seems as though our people should be trying more vigorously to reduce the distance—not to mention the over-the-road tensions—between job and home. In most metropolitan areas there is suitable housing within a radius closer than 30 to 40 miles from a job. There is no substitute to living in close proximity to our work. We must all make a greater effort to bring this about.

Despite our living patterns—which will be slow to change—the certainty of increased costs for travel is guaranteed. The energy bill which passed the Congress last year rolled back the average price of domestic crude oil. The President is allowed, however, to increase prices at his discretion by 10 percent per year. Beyond that, Congress must consent. It now seems certain that the administration will ask Congress this year to increase the price of domestic oil well beyond this 10-percent discretionary limit.

The OPEC nations are also determined to increase prices of the oil we import. Their goal, as with any cartel, is to increase prices as much as possible without endangering the existence of the cartel. The price of oil has nowhere else to go but up, up, up.

These certain increases in the price of crude oil will translate directly into increased gasoline prices. In other words, gasoline prices this year and next can be expected to rise at least 10 percent and probably closer to 20 percent per year. That means that the gallon of regular gas which costs 62 cents now may cost as much as 89 cents a gallon in 1978. By the autumn of 1978, we will in all likelihood be buying our last gasoline at less than $1 a gallon. In 1979, all controls on domestic oil will be off—and domestic crude oil prices will rise to the level of foreign oil. Gasoline prices in this situation will be well over $1.10 per gallon and going up.

Of course, there is a possibility that the average hourly wage may keep pace with increases in gasoline prices. But if income or spending power does not rise that much—we may be in serious trouble. We do not need a computer to tell of the special burdens in heavy and unnecessary gasoline consumption.

For new car buyers, the implications of higher gas prices are enormous. For example, with a new car one may have the choice between one model with an efficiency rating of 22 miles per gallon and a larger, more inefficient model with a 14 miles-per-gallon rating. In 1979, with gasoline prices over $1 per gallon, the car buyer will be spending over $260 in additional gasoline costs with the larger car. In the first 4 years, the larger car could cost over $1,000 in additional gasoline alone, not to mention higher maintenance costs.

The oil price control laws were not enacted by Congress to lull the American people to complacency in the energy crisis. They were enacted to give the American people a chance to prepare and adjust to life styles which consume less energy. To those people of greater life expectancy—who expect to live in the eighties, nineties, and the new century, this planning for reduced energy consumption has become even more of a necessity. This adjustment does not mean that the *quality of our life* must suffer. Rather, conservation is the only way the quality of our life is certain to be extended.

Today, the purchaser of a home or a new car must include in his judgment the effects of $1.10 per gallon of gasoline within the next 4 years.

A. J. CASTELLANI TO BE HONORED FOR DISTINGUISHED SERVICE TO CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

Mr. LAFALCE. Mr. Speaker, on Saturday, June 5, 1976, Armand J. Castellani of Niagara Falls, N.Y., will receive the Michelangelo Award from Boys' Towns of Italy, Inc., for his distinguished service to children. Mr. Castellani is one of only 10 individuals throughout the world being honored with this award in 1976, and I cannot imagine anyone more deserving of the honor.

I would like to share with my colleagues the following news article which appeared in the Buffalo Courier-Express on Sunday, May 30, 1976. The article describes in some detail the extraordinary service Mr. Castellani has provided as the benefactors of hundreds of needy boys in Italy:

BOYS' CHARITY TO HONOR A. J. CASTELLANI FOR DISTINGUISHED SERVICE TO CHILDREN

(By Rita Smith)

Armand J. Castellani of Niagara Falls, father of 11 children and benefactor of hundreds of needy boys in Italy, will receive the Michelangelo Award given by Boys' Towns of Italy Inc. for "distinguished" service to children.

Mr. Castellani is one of 10 individuals throughout the world who are being honored with the award this year. He will be presented the award, an onyx and bronze statuette, at the annual "Ball of the Year" of the Western New York Chapter, Boys' Towns of Italy Inc., on Saturday evening in the Golden Ballroom of Hotel Statler Hilton.

The affair begins with cocktails at 6, followed by dinner at 7. Rt. Rev. Msgr. John Patrick Carroll-Abbing of Rome, Italy, founder and director of Boys' Towns, will be on hand for the award presentation.

Mr. Castellani is chairman of the board and chief executive officer of Niagara Frontier Service Inc., which includes Tops Markets, B-Kwik and Wilson Farm stores.

Homeless, needy boys from many countries and differing faiths are brought to the Italian Boys' Towns, located in and around Rome. They live in the towns, receive an education and training in a profession or skill so they can make worthwhile futures for themselves.

The nominating commission for the Michelangelo Award meets in Rome to decide the recipients. Its members cite individuals "of upright life, without distinction of race, nationality, social condition or religion, who have contrbuted in a truly outstanding fashion to the welfare of children and have also rendered notable service to the cause of the Boys' Towns of Italy."

In effect, emphasizes the commission, "they are persons who have manifested by their love for children and by their dedicated service, their faith in the universal Fatherhood of God, whereby all men are brothers."

The Michelangelo Award derives its name from a homeless, orphaned boy named Michelangelo, who Msgr. Carroll-Abbing met in Naples in 1944, when the Irish priest began his first boys' town. The youngster having the same first name as the immortal Florentine sculptor and artist, had been abandoned to the streets of Italy like countless others due to the ravages of World War II.

Msgr. Carroll-Abbing says, "By giving the name of Michelangelo to this prize to be conferred for service to children, especially to those less fortunate, it is intended to recognize the great spiritual, cultural and social talents latent in every child, talents which need the dedicated help of their elders if they are to come to light and to grow to maturity.

"He who sacrifices himself to give to less fortunate children, such as the little Michelangelo on the streets of Naples, a chance to achieve the maturity of their talents, becomes the instrument of Divine Providence by giving perhaps other Michelangelos to art and—more important still—by building upright and hardworking men who by their own life and activity, no matter how humble it may be, will contribute to their own welfare and to that of their children tomorrow (and) will contribute to the betterment of the human race."

Genial Mr. Castellani one recent afternoon leaned back in the comfortable chair behind the desk in his attractive office at 60 Dingens St., headquarters for the Western New York based food empire he heads. He talked enthusiastically about four obviously favorite subjects with him—his family, young people, the grocery business and art.

"I've been involved for the last dozen years with Boys' Towns," he commented, "because it's another youth activity and I take a lot of interest in youth activities. I have, since I started out years ago with the Niagara Falls Little League and the Niagara Falls Boys Club."

Mr. Castellani was one of the organizers and developers of that Little League. He's a great believer in providing worthwhile activities for young people.

Born in Italy, he came to the United States with his parents when he was 3-years-old. His family eventually settled in Niagara Falls.

"When I was a little fellow in the North end of Niagara Falls," he recalled, "sports activities always kept kids out of trouble. There was a lot of activity all the time. Nobody was involved in a police blotter or a drug bust."

He believes in Boys' Towns of Italy because "they prepare boys for life tomorrow. Life is ocmpetitive. If kids learn this when they are young they will learn to live with it when they get older. Boys' Towns are run like democracies and they have good, healthy leadership."

The food executive was introduced to Boys' Towns by Horace Gioia, president of Gioia Macaroni Co. Mr. Gioia is permanent Western New York chairman for Boys' Towns.

"Mr. Gioia has done a great job heading the Boys' Towns' committee. He's the guy who has done the greatest job."

Mr. Castellani refers to his 11 children as "very priceless." He has seven boys and four girls. The oldest is Robert, who is 33 and the youngest is 17-year-old Anne Cecile. Robert is an attorney for his father's business.

Besides Robert there are three other Castellani sons in the family food enterprises. The second oldest son, Larry, who is 30, is co-director of operations for Tops Markets. James and Alfred are also in the food business.

Mr. Castellani proudly noted, "We have a total of 87 stores now. We're in Buffalo, Niagara Falls, Lockport, Olean, we spread out to Syracuse, Rochester, Cortland, Auburn, Canandaigua, Geneva and Bradford, Pa. Our newest store opened north of Syracuse in Fulton two weeks ago."

When he or his staff hire young people to work in the stores, "We look for two primary factors," he reported, "desire and attitude, how bad they want to get ahead and their attitude to achieve it.

"Youth today are just as responsible and even brighter than the youth of the past. These young people we hire today are good. They get promoted fast, some of the young men become managers of stores in four to five years."

Mr. Castellani started out in his father's corner neighborhood grocery store in Niagara Falls when he was 16. He was manager at 17.

"I never had a high school education," he said. "I left school when I was 16. I'm not proud of that. Kids don't know the price you have to pay for that. The school of experience is a tougher school than the academic school.

"Trial and error are very expensive when you could learn the theories and know-how cheaper and easier in school. Going to school can save you an awful lot of time in the business world—it's a short cut to success."

Today one of the most successful executives in the food business, Mr. Castellani still feels "If I had gone to high school I'd be farther ahead today. The first 25 years of my business career were not too fruitful. I've been in the business 42 years."

Five of his children are married. The others are single. He and his wife, Eleanor, are extremely fond of their seven grandchildren.

"They're great," he declared.

Though he lacked a high school diploma, Mr. Castellani was able to attain a captain's rank in the U.S. Army during World War II. His business acumen and brain power were also recognized in 1964 when he received an honorary doctor of commercial science degree from Niagara University.

He is on the board of directors of the Buffalo Area Chamber of Commerce, the United Way of Buffalo & Erie County and the Philharmonic Orchestra Society.

Two years ago he had a heart attack. "It's slowed me down to a walk," he said goodnaturedly, adding, "But I still put in 40 hours a week."

As for retirement, "I've got a few more years to go" he said. "Then I'll have the art world to become more active in."

Collecting art, particularly by well-known contemporary artists, is his hobby.

"Art is not a rich man's hobby," he pointed out, "You can get very good lithographs for $25 today. There's a lot of good art around that isn't expensive."

So that other people in the community can become more interested in art or just add to their enjoyment of art, he was instrumental in Niagara Frontier Services opening two art galleries. One is the Brian Art Galleries in the Hilton Hotel in Niagara Falls. The other is in Tops Plaza, Transit and Maple, Amherst.

The Amherst one is currently celebrating its grand opening, featuring the works of Boulanger and Cossyro.

Tickets to the Boys' Town of Italy ball are $125 per couple and the affair is open to the public. It's formal. Anyone who wants tickets can call Mr. Gioia at 873-8600.

General chairmen are Mr. and Mrs. Burt P. Flickinger Jr. Associate chairmen are Mr. and Mrs. Ronald L. Offhaus.

CIA ABOUT TO DESTROY FILES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, I am deeply disturbed that we may be about to witness the destruction by the intelligence agencies of records of their misdeeds and blunders—making it impossible to evaluate those agencies' activities.

I insert in the Record below a letter released today by the minority leader of the Senate, Hugh Scott. The letter is dated June 2, 1976, and is from the Director of the Central Intelligence Agency, George Bush. Mr. Bush asks that the Senate leadership lift the present moratorium on the destruction of intelligence-related documents so that the CIA may destroy "records which were collected and maintained by the Agency and which were subject to investigation by the Rockefeller Commission and the (Senate) Select Committee."

The CIA's proposed destruction plans are so broad, that they would include the destruction not only of documents inspected by Select Intelligence Committee investigators "on loan" and returned to the CIA, but documents "subject to investigation" which in fact were never examined by congressional investigators.

The CIA has an additional self-interest in destroying these documents. A number of cases brought by civilians spied upon by the Army in the late sixties were thrown out of court for lack of evidence because the Defense Department had destroyed files in 1971. Similarly, CIA might avoid litigation by destroying the basis of potential suits.

I also insert a letter dated April 23, 1976, from The Deputy Secretary of Defense to Senator Church on this subject.

The Government Information and Individual Rights Subcommittee, which I chair, is presently considering my bill, H.R. 12039. This measure would require that those who were the subjects of such programs as the FBI's COINTELPRO, the CIA's CHAOS, FBI and CIA burglaries and mail openings, National Security Agency cable interceptions, and the Special Service Staff of the IRS be notified that they were subjects and have files, told of their rights under the Freedom of Information Act and the Privacy Act, and afforded the option of having the illegally gathered information destroyed.

George Bush, Director of the CIA, is well aware of our active consideration of this legislation, since he testified on it before the subcommittee only a few weeks ago. Mr. Bush, anxious to have the CIA's unlawful activities dead, buried, and forgotten as soon as possible, wants to destroy the records of such programs as CHAOS, mail opening, and burglaries without any notification to the subjects. Apparently fearful that Congress will perform its legislative functions under the Constitution and enact the notification legislation, Mr. Bush has asked Senators MANSFIELD and HUGH SCOTT to lift the moratorium on records destruction that was instituted when the Senate Select Committee on Intelligence began its investigation. Of course, Mr. Bush knows full well that if he goes ahead with his plans, a notification law will be moot as to the CIA, and the CIA's victims will never know of their status as such.

This attempted end run will, if successful, wholly subvert the purpose of H.R. 12039 and the entire legislative process. I might add that it will hardly do a great deal to restore public confidence in the CIA in particular or the executive branch in general.

Instead of destroying the evidence in the dead of night, the CIA should—for once—trust to the constitutional processes of this Nation and allow the elected representatives of the people to work their will. To do otherwise will only reinforce the popular image of the agency as a secret and lawless entity.

The text of Mr. Bush's letter to Senator SCOTT, the Defense Department letter, and a relevant article from the May issue of First Principles follow:

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., June 2, 1976.

Hon. HUGH SCOTT,
U.S. Senate, Office of the Minority Leader,
Washington, D.C.

DEAR MR. SCOTT: On January 27, 1975, following adoption of S. Res. 21 creating the Select Committee on Intelligence, you and Senator Mike Mansfield requested that the Central Intelligence Agency "not destroy, remove from [its] possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in section 2 of S. Res. 21."

In response to this request, the Agency placed in effect a complete moratorium on the destruction of records, including normal administrative records scheduled for routine destruction.

The purpose of this letter is to advise you that it is our intention to proceed with destruction of records, now that the Select Committee has completed its investigation and issued its final report. We have so advised Senator Church.

Along with the backlog of routine administrative records, the Agency will destroy records which were collected and maintained by the Agency and which were subject to investigation by the Rockefeller Commission and the Select Committee. The Agency is required to destroy much of this latter material by the Privacy Act of 1974 (P.L. 93-579) and by Executive Order 11905. Of course, all records destruction will be fully consistent with other applicable laws, Presidential directives, and the requirements of pending litigation and Justice Department investigations.

I trust you agree that this action is now necessary and appropriate, and I would appreciate your confirmation of this understanding.

I am sending a duplicate of this letter to Senator Mike Mansfield.

Sincerely,

GEORGE BUSH,
Director.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., April 23, 1976.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Last January 27, 1975, Senators Mansfield and Scott, in their capacities as Majority and Minority Leaders, wrote to the Secretary of Defense requesting that Department of Defense components not destroy, remove from their possession or control or otherwise dispose of any records which conceivably might relate to the subject matter of Senate Resolution 21, establishing the Senate Select Committee.

As you are aware, the Secretary of Defense immediately responded to this request by placing a strict moratorium on the destruction of a wide range of intelligence or intelligence related, counterintelligence and investigative records. This resulted, we believe, in the preservation of all essential records of interest to the Senate and House Select Committees. However, it has also resulted in our accumulation of a vast body of extraneous material and records which ordinarily would have been disposed of under normal records disposition schedules. For example, the moratorium has had the unfortunate result of investigative files on applicants for employment being retained in excess of the one year period ordinarily applied to such files when an applicant is not appointed. There are numerous other examples of various kinds of transitory material and temporary files being held until the moratorium is lifted.

Now that the Senate and House Select Committees have completed their fact-finding, we propose that the moratorium on the normal destruction of these intelligence and intelligence-related documents be ended.

It would be understood that no records relating to pending litigation, or to any outstanding requests for records from congressional committees, would be destroyed but rather that these records would in the normal course of business be preserved. On the other hand, we would return to prior procedures for the normal disposition and destruction of records which no longer have utility, or which have no archival value, under established records disposition schedules approved by the Archivist of the United States.

Regarding the materials provided to your Committee by the National Security Agency (NSA) on the so-called Watch List, I have instructed NSA to turn over to the Office of the Principal Deputy Assistant Secretary of Defense (Intelligence) all such materials still held by NSA. Consequently, I request that those Watch List materials which the Committee does not intend to retain be returned to the above office rather than to NSA.

A letter from Senators Mansfield and Scott rescinding their request of last January 27, 1975, would be deeply appreciated. We attach for your possible use a proposed joint declaration rescinding the request for the preservation of records, it being understood that certain essential and identified records would be preserved in any event.

Your consideration of this request will greatly assist us in the day-to-day operations of the Department of Defense.

Sincerely,

ROBERT ELLSWORTH.

Attachment.

Hon. DONALD RUMSFELD,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR SECRETARY RUMSFELD: Last January 27, 1975, we wrote your predecessor, Secretary Schlesinger, requesting the Department of Defense to impose an embargo on the destruction, removal, or other disposition of records relating to the inquiry to be made as a result of Senate Resolution 21, which created the Senate Select Committee to Study Intelligence Operations of the United States Government.

We are pleased that the Department responded promptly and affirmatively to our request at that time and that essential records have been preserved.

The important work of the Select Committee now being completed, it is appropriate that various elements of the Department of Defense end the moratorium on the destruction of intelligence or intelligence-related records, and that normal records disposition schedules and procedures be reinstated. It is understood that records which are of continuing interest to congressional committees, or those relating to pending litigation and other important records of archival value will be preserved.

Sincerely yours,

HUGH SCOTT,
Republican Leader.
MIKE MANSFIELD,
Majority Leader.

[From First Principles, May 1976]

ILLEGAL INTELLIGENCE PROGRAMS: NOTIFYING THE VICTIMS

(By Wendy Watanabe and Christine M. Marwick)

There is now an extensively documented record of illegal surveillance and harassment carried out by the intelligence community, yet many of the victims remain unaware that they were the subjects of such programs. As a step toward remedying the effects of its own programs, the intelligence community could notify the targets of its mail openings, disruption tactics, warrantless electronic surveillances, burglaries, and other discredited programs, and advise them that they have rights under existing laws—the Freedom of Information Act provides access to files, the Privacy Act allows the amending of inaccurate and irrevelant records, and, on the basis of what is learned under these acts, victims could consider suing for damages and additional release.

Given this situation, where does the government currently stand on the question of notification?

THE CHIEF EXECUTIVE: PRESIDENT FORD

The Office of the President is apparently uninterested in the question. On October 30, 1975, the American Civil Liberties Union, the Center for National Security Studies and five other organizations sent a joint letter to President Ford requesting that he take the initiative and notify those individuals who had been victims of programs and advise them of their rights in court.

President Ford has not yet responded to the letter, nor has he publicly discussed the issue of notification.

THE DEPARTMENT OF JUSTICE: ATTORNEY GENERAL LEVI

Attorney General Levi has been the first executive branch official to do something about the problem of notification. On April first, Levi announced the establishment of a special review committee to notify some subjects of COINTELPRO activities. Set up within the Justice Department's Office of Professional Responsibility, the "COINTELPRO Notification Program" includes the following policies:

Subjects of improper actions which may have caused actual harm should be notified; doubts should be resolved in favor of notification.

Those individuals who are already aware that they were subjects of COINTELPRO will not be notified.

In each case, the manner of notification should protect the subject's right to privacy.

Notification should be given as the work of the committee proceeds, without waiting for the entire review to be completed.

Where appropriate, the committee should refer matters to the Criminal or Civil Rights Division for disciplinary action.

No departure from these policies can be made without the express approval of the Attorney General.

CONGRESS: THE HOUSE

Rep. Bella Abzug, Chairwoman of the House Subcommittee on Government Information and Individual Rights, introduced a notice bill (H.R. 12039) on February 24, 1976 and has held hearings on the bill. In opening the hearings, she observed that the Department of Justice's decision to notify COINTELPRO victims is "far too narrow in scope and purpose"—COINTELPRO was only one of many documented programs which violated the rights of Americans. And while a notification program limited to COINTELPRO victims might be seen as an experiment, in itself it does nothing to respond to the problems of the victims of other extensive programs, such as the CIA's Operation CHAOS, illegal wiretaps, mail opening, or the IRS Special Services Staff. These latter programs are covered by the Abzug bill.

The Subcommittee took testimony from Director of Central Intelligence George Bush on April 28th, Bush opposed a notification program, maintaining that it would be impossible to identify and locate the people involved, and "simply unnecessary" because the volume of requests under the Freedom of Information and Privacy Acts indicates that the public is already aware of its right to access. But Bush did not deal with the problem that the records contain information on many people who would not have expected a CIA file on them, or who would hesitate to open a file under the FOI/PA when the agency may not have an investigatory file on them.

The May 11th testimony from IRS Commissioner Donald C. Alexander and Deputy Assistant Secretary of Defense David O. Cooke argued that the Privacy Act amendments requiring notification were impractical, expensive, time consuming, and in conflict with existing law. Cooke also faulted the amendments for being overboard—they would open investigative files to foreign nationals and "jeopardize our intelligence efforts."

Further hearings, from witnesses favoring rather opposing notification, are planned for June 3rd.

CONGRESS: THE SENATE

The Senate Select Committee on Intelligence Activities has also advised extending Attorney General Levi's COINTELPRO notification program, and recommended in Book II of its Final Report that the government take responsibility for notifying all targets of illegal intelligence programs:

"Recommendation 90. The Freedom of Information Act (5 U.S.C. 552(b) and the Federal Privacy Act (5 U.S.C. 552(a)) provide important mechanisms by which individuals can gain access to information on intelligence activity directed against them. The Domestic Intelligence Recommendations assume that these statutes will continue to be vigorously enforced. In addition, the Department of Justice should notify all readily identifiable targets of past illegal surveillance techniques, and all COINTELPRO victims, and third parties who had received anonymous COINTELPRO communications, of the nature of the activities directed against them, or the source of the anonymous communication to them." (Book II, p. 336)

CONCLUSION

Given what we now know about the programs of the intelligence agencies, it is a logical step for the government to assume responsibility and institute a program for accountability. Notifying the subjects of such programs is a beginning; no one should have to guess whether he or she was the object of discredited government programs.

SESQUICENTENNIAL AT ST. PAUL'S CATHEDRAL IN SYRACUSE

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, in this period of the Bicentennial of America's Revolution, we observe the many milestones which mark military conflict and success which gradually allowed the colonists to establish an independent nation. And while there was a separatist attitude toward the political form of the colonial relationship to the British monarch, there was an abiding affinity for many of the other institutional forms which were transplanted from Europe to the New World. Especially deeply ingrained in the American lifestyle and psyche were the traditions of an interdependent public and personal identity which was grounded in tolerance but bore expression within a religious framework brought from abroad.

The traditional spiritual values were freely and openly observed by any who shared them and protected from persecution by all who loved liberty.

It is that same spirit which today accounts for the religious pluralism of our country and, I feel, for the ecumenism which marks our society as unique among modern nations.

Recently, St. Paul's Episcopal Cathedral at Syracuse, N.Y., celebrated its sesquicentennial anniversary with great and solemn rites of rededication and joyful worship. As a major pillar of our community, St. Paul's has been a vital element in the spiritual tone and moral bearing of our citizenry. Even among those not members of its congregation, its influence was felt in the general conduct of business and society by those men and women of prominence who were affiliated with the church.

A news article by Peg Cram of the Syracuse Herald-Journal has outlined some of the background of this church and I would like to share some of it with you.

With the opening of the Erie Canal in 1825, Syracuse grew by leaps and bounds. Many new settlers were Episcopalian and became communicants of St. Paul's. Moses D. Burnet gave the land upon which the first St. Paul's was built. The second edifice was built at Warren and Fayette streets and dedicated July 6, 1842. The next move was to the present location at East Fayette and Montgomery streets. The new church of grey stone was finished in 1885.

The rectors of St. Paul's have been the Rev. Henry Hoswell Lockwood, who served for 32 years until his death in 1905; followed by the Rev. James E. Empringham until 1916; the Rev. Dr. Henry Harrison Hadley; the Rev. Franklin P. Bennett; the Rev. Dr. Harold L. Hutton, who served for 25 years, retiring last June. The ascendance of the church was recently marked by its designation as the cathedral church of the diocese under direction of the Rt. Rev. Ned Cole, Bishop of Central New York.

Today the cathedral is in the skillful hands of the Very Rev. William M. Hale, dean, and the leaders of Bishop Cole and the Rev. Dr. William George, canon of the cathedral.

As part of the commemorative program, the Very Reverend Harold C. N. Williams, Provost of Coventry Cathedral in England, delivered the homily and presented the Cross of Nails, a symbolic link of the Coventry congregation with that of St. Paul's.

I enclose the following record from the Syracuse Post Standard as written by Ramona Bowden, renowned religious reporter in central New York:

PRIEST EXTOLS ETERNAL TRUTHS

(By Ramona B. Bowden)

With magnificent pomp and pageantry, St. Paul's Episcopal Cathedral yesterday celebrated the sesquicentennial of its existence in this city.

Filled to capacity with members and clergy from all parts of the diocese, it was a Eucharistic service both impressive and inspiring.

With banners flying and trumpets blaring, the procession came down the center aisle, signifying the grandeur that has been a part of the Episcopal tradition for centuries.

The high point of the service was the presence of the Very Rev. Harold C. N. Williams, provost of Coventry Cathedral in England. Provost Williams was not only the homilist, but came especially to present the Cross of Nails, a symbolic plaque linking the cathedral with Episcopal dioceses around the world.

The provost explained that the original Cross of Nails was made from hand-forged 14th century nails found among the charred beams in the rubble of the medieval Cathedral of St. Michael in Coventry, which was destroyed by German incendiary bombs in 1940 during World War II.

"The cross was formed by a young patriot who held it over the blackened rubble to which the glorious Cathedral was reduced. Implying, whether consciously or not, that if one places the cross of Christ with all its hidden meaning of forgiveness and healing over the scenes of human destruction, it follows that those who observe its meaning are committed to work for a resurrection," he said.

"That declaration of crucifixion, forgiveness and resurrection is the central rhythm of Christian life in any circumstance. Its truth is unassailable," he said.

"The central truth of this Christian proclamation should be your meditation on your 150th anniversary," declared the priest.

The provost reminded his listeners of this chaotic world, noting that the future has never appeared in such apocalyptic patterns as now. It is a time to identify the patterns that endure, he declared, pointing out that all through the Bible there is written evidence of the heroic Jewish people who, because of their steadfast faith in God, have survived persecution, captivity and the threat of annihilation.

Jesus, he noted, seemed to many of the Jews to be the long-awaited Messiah, saying that at last history has been vindicated the prophecy was true, prompting the crowds to cry, "Hosannah to the Son of David, the One promised."

The provost also asked, "Is a man compromising his religious allegiance under pressure from the hard facts of life?

He noted that the hard facts of Jesus' day were very real—taxes, real crosses on the hill, and hanging corpses; they faced real tragedy, yet they were taught to believe in the unchanging mercy of God, he said.

"But under pressure from the hard facts of life, they found little discomfort in compromising religious truth with opportunism. So with a little demagogy and polemics, they could inspire the crowds to cry, 'Crucify Him. He's let us down.'

"How does this apply?" the provost asked.

"On Sunday we kneel in prayer in church, but on Monday we face the hard facts of life, economic and political advantage, the excuses we make because certain acts pay in social terms, when our uncompromising Christian integrity would not.

"Much of the character of the secular world is imposed by events, and simple folk like you and me seem impotent to do anything " he said.

"So what has the God of history of whom we are conscious as we pause after 150 years in the life of this church . . . what does this God have to say in this Babylonian confusion of tongues, in this boiling pot of hate, this arid desert of despair?" he asked.

Again he referred to the Jews surviving through centuries of efforts to exterminate them, yet through the centuries they never lost their identity, he said. Why? Because the devout Jew daily recites the prayer, "Hear, O, Israel, the Lord thy God is one, and thou shalt love Him with all thy heart." The Jew never lost his faith in the transcendence of God, he said.

"Throughout history God stands, unchanging, unchanged, holding out His never failing mercy," he said, noting the crucifixion of Jesus and the suffering of His followers against the power of the Roman Empire.

"Yet it is gone like flotsam on the tide of history. Those who were powerful are gone, but those who suffered and died live on in the great truths. He proclaimed truths about justice, mercy and forgiveness, peace and serenity of mind," the provost said.

"These truths have survived political corruption and human destructiveness, and they still shine," he declared.

"These truths still stand astride history as God does."

"It is for Christians to hold on to these truths in every level of life, so that those caught up in despair, soured by frustration or destroyed by hopelessness may regard the rock-like strength of our faith and say of us, 'Blessed is he who comes in the name of the Lord'."

AMERICAN RED CROSS GUAM AID CITED

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HANLEY. Mr. Speaker, Americans are widely regarded as among the most responsive people in the world when called upon to aid a neighbor in distress. This is especially true when the help is needed by our fellow Americans in distress. Well, we have such a situation right now. Out where "America's Day Begins" there is the ruin and devastation of nature's havoc—the storm-tossed remains of towns and villages which were leveled by Typhoon Pamela's rampage of the Island of Guam.

Guam has been a U.S. possession since 1898 and a territory since 1950. Its citizens are as American as any born in Syracuse, N.Y., or Los Angeles, Calif. Though an important element in the defense structure of U.S. forces in the South Pacific, Guam is also popular as an island vacation spot, often called the Gateway of Pacific Paradise.

The scene was far different when, for 17 hours, winds up to 190 miles per hour bent the palm trees almost to the ground. Sweeping waves and lashing rains washed away roads and utilities in the harbor and in the remotest valley. In between, the storm tore through almost 80 percent of the island's residential dwellings and severely damaged $100 million worth of military installations.

Miraculously no deaths have occurred from this storm and thanks to the efforts of the International and American Red Cross and the work of military personnel and other government agencies there is an emergency operation already in place and functioning. In fact, our colleague, A. B. WON PAT, informs me that a cleanup has begun and is progressing rapidly.

Of course, an effort to bring back the vitality and security which was the hallmark of Guam will require much more in the way of reconstruction and replacement than can be borne by the people of Guam alone. The estimates of damage place the needed economic infusion in the millions of dollars.

The American Red Cross last Thursday launched a $5 million emergency fund drive campaign to support its work on Guam and other islands stricken by the typhoon. Unfortunately, the disaster of Pamela comes at a time when there is a shortage of funds in the emergency funds of the Red Cross.

As was said by ARC President George M. Elsey:

> This year our citizens on Guam and other American territories in the Pacific need help from Americans on the U.S. Mainland.

It was the people of Guam who last year opened their hearts and hands to the 12,000 Indochinese refugees who fled the impending collapse of their nation. Now they are in need. We cannot fail them.

It is easy to forget a small island over 4,000 miles to the west of Hawaii. It has an oriental past and an island population which might too easily be regarded as alien to those of us on the continental mainland who have no direct experience with populations outside our parochial turf.

But, as I mentioned earlier, our people are a generous and responsive people. They can be counted on to come through for those fellow Americans in desperate need.

Public support for the American Red Cross effort to raise funds for emergency aid will be a perfect illustration of our sense of Bicentennial brotherhood and respect for the humble place of man in the world of nature.

PERSONAL STATEMENT

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD).

Mr. HANLEY. Mr. Speaker, I was compelled to be absent on Tuesday, June 1, 1976. Under consideration that day was legislation to authorize appropriations for fiscal year 1977, to carry out the functions of the Federal Energy Administration, FEA. I would, therefore, like for the record to show how I would have voted had I been present.

Rollcal vote No. 315. An amendment to H.R. 12169 to strike the authorization of $37.4 million for the Office of Conservation and Environment. I would have voted "yea."

Rollcall No. 316. An amendment to H.R. 12169 to prohibit the FEA from taking price and allocation decontrol steps as a separate action. I would have voted "yea."

Rollcall No. 317. An amendment to H.R. 12169 to provide for congressional review of rules and regulations that are likely to have a substantial impact on the economy. I would have voted "yea."

Rollcall No. 318. An amendment to H.R. 12169 to extend the life of the FEA for 18 months instead of 3 years. I would have voted "yea."

Rollcall No. 319. An amendment to H.R. 12169 to provide that any hearings that may develop regarding rules and regulations must be conducted in the geographic area where the complaint originates. I would have voted "yea."

Rollcall No. 320. Final passage of H.R. 12169 to authorize appropriations for fiscal 1977 to carry out the functions of the Federal Energy Administration. I would have voted "nay."

Obviously, Mr. Speaker, I was opposed to this legislation. The Federal Energy Administration was created to deal with the temporary problem of fuel allocation during the Arab oil embargo. Today we find ourselves far more dependent on foreign oil than we were at that time, yet the Federal Energy Administration continue to grow. When Congress created the FEA it mandated that it should terminate on June 30, 1976. It also required the President to propose, 6 months prior to that termination date, plans to transfer functions of the FEA to other Federal departments and agencies. Many of those agencies are duplicating FEA functions at the present time. Instead of making those proposals, the President has determined that the FEA should continue its existence. In effect what we are dealing with is the almost total impossibility of terminating the life of a Federal agency once it is created. The passage of this bill further convinces me of the desperate need for extensive regulatory reform, and I hope that this Congress will address itself to that problem without further delay.

THE THREAT TO DEMOCRATIC INSTITUTIONS IN URUGUAY: THE BORDABERRY MEMO—PART 1

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, as my colleagues may know, the Foreign Operations Subcommittee of the Appropriations Committee has adopted my amendment cutting off all military assistance to Uruguay. I have argued that the United States should not be assisting a regime which is so brutally repressive toward its own people, especially when that country faces no external threat, and when that country is of little strategic military value to the United States.

I believe that there needs to be greater understanding, both within Congress and around the country, of the tragic situation in Uruguay. Amnesty International has thoroughly researched and documented the degradation of this once strong democracy. There are 5,000 political prisoners in Uruguay, a country of 2.5 million people; torture has become systematic. I have previously inserted into the Congressional Record background *reports on Uruguay, which* I urge my colleagues to read.

During my examination of the situation in Uruguay, I was also provided with a copy of a memo sent to President Bordaberry, the titular head of Uruguay, to the military, which effectively runs the country. The source of this memo was the Mexican newspaper, Excelsior, whose editor, Julio Scherer Garcia, had traveled in Uruguay and had managed to obtain a copy of the memo. I am inserting the memo into the Congressional Record, in four parts, because I believe it irrefutably demonstrates that Uruguay is not a democracy nor will it soon return to its democratic traditions under the present regime. The memo, though difficult reading, is important as documentation of Uruguayan regime's vision of the future: A Uruguay devoid of democratic institutions and dominated by a repressive military.

I will also insert editorials from Excelsior concerning Uruguay, because they convey the gravity of the situation there. It is ironic that I am relying on a foreign newspaper for my information, but as U.S. newspapers have carried little if any news of Uruguay, I have had no choice. This is distressing to me because we have been funding the Uruguyan military in a campaign of torture which rivals that of the Chilean junta.

The first part of the Bordaberry memo, as printed in Excelsior and translated by Dr. C. C. Petraitis of the Library of Congress, follows:

Bordaberry and the Political Situation in Uruguay

(Source: "Excelsior", Mexico City, April 11, 1976)

This (problem) must be examined from two points of view: from the point of view of the general elections that have to be held in 1976 during the period foreseen by the laws in effect and from the point of view that these elections will be held in the future.

(1) There is no possibility for holding the elections in 1976. It could be argued against this decision by alleging that the tradition, the habits and the civil education of the Uruguyan people make it that a postponement of the elections would produce a negative impact on the public opinion. It could be equally alleged that the domestic and foreign opposition would be strengthened by the fact that the government does not hold the elections in circumstances that are regarded as normal.

These reasons which would, without any doubt, have some weight do not invalidate the initial decision: in fact, the holding of general elections is impractical in the present circumstances.

(a) As far as the first term (i.e. November 1976) is concerned, there could be no guarantee for an absolute freedom during the general elections, as long as certain citizens or segments of the population cannot be allowed to participate freely in the elections. This circumstance would oblige to make a general prohibition and it would be injust. Many people, comprising large segments of the population would see in such injustice a pretext for provoking violent reaction.

(b) In addition, it is evident that the political parties are not yet ready to come back in order to assume public functions. They were forced to withdraw, but they hope for a complete comeback to the previous situation with all its corruption and risks. It would be unreasonable to take lightly the efforts and sacrifices made so far.

HOLDING OF ELECTIONS IMPOSSIBLE

The preceeding considerations indicate the need for completion of the institutional process. That is, that any restrictions placed on persons or parties—after the Marxists have been excluded—would in reality have only a secondary effect on a system whose insufficiencies should be dealt with in depth.

(c) It appears that there is a need for more progress in material achievements, which would be interrupted by an electoral campaign in the traditional style, paralyzing the life of the country.

The progress in the economy would not lead to satisfactory results if it is interrupted by elections, risking delay of the progress for an indefinite time.

(d) Finally, the decisions of the citizens next November would inevitably implicate the Armed Forces.

They have supported the present political process for years to such a degree and got so involved in the economic and social leadership that appreciation of this leadership could not be isolated from the voting results.

On various occasions I expressed my ideas in a sense that the Armed Forces cannot afford to suffer a negative evaluation by the people to whom they belong, because—contrary to individuals or political parties—the Armed Forces are irreplaceable, and they act in defense of values that cannot be submitted to evaluation.

The arguments in favor of holding the elections, indicated previously, though having some weight, lead to consequences that, though they cannot be completely prevented, could nevertheless be attenuated, since the public opinion has been prepared to hear the announcement of this kind. The announcement would be of great importance especially if the citizens could feel the honesty of the proposals and understand clearly their implications, because these proposals are intended for the regulations of the future development of the political life in our country.

In brief: I came to the conclusion that it is neither possible nor appropriate to hold the general elections on the last Sunday of November 1976.

(2) But the decision concerning the holding of the elections goes much further in my opinion: if the public opinion is prepared to receive the announcement of postponement of the elections that have been foreseen for next November, without any doubt, they will ask themselves after such an announcement, about the date of the next elections. Exactly here, I think, all the system will be questioned and to avoid such a questioning we will be in a dilemma for some time to come, a dilemma similar to that we face today with regard to the elections next November.

The holding of the elections can be postponed for a one, two, three or five years, but once this delay has passed, what changes must take place in the country, in order to allow again the various trends of opinion to get organized for the conquest of power, that today rests with the Armed Forces and with the general consensus?

If we say today that there is no possibility of holding general elections, because the political parties do not merit our confidence to assume power, or that there is a need for more progress in the economy or that there is a continuously active danger of Communism, or that the Armed Forces cannot be evaluated by a popular vote, can we expect from . . . . [illegible] all these factors—which lead us to believe that the elections cannot be held—that the situation will differ in coming years? I think that these factors will not differ, and that most certainly, we will be faced, within two or three years, with a similar dilemma to that of today, and that it will be necessary to solve this problem. But it will be each time more difficult because each time we will have to tell the electorate that the elections are postponed or that they will not take place, their confidence in us will continue to erode progressively as to our seriousness and the honesty of our proposals.

I foresee that following this route the situation will lead us to something similar to what is happening in Argentina under the military government, where the lack of clear and simple definition reveals the institutional difficulties and the continuation of expectations.

Instead of an easy and smooth return to the previous system, the I.P.A.A. was intimidated and forced into a situation, that we know. In the case of Argentina, the situation is getting worse, because among the expectations for returning to the previous situation there looms the personality of General Perón with his enormous prestige.

In our case the situation is different, but the alternative for going back to the previous system will always be latent, slowing down the expectations. If the passing of time will make the people forget—as it is to be hoped—the old system's corruptions and defects, the public management will have to face, as it is normal, difficulties of every kind, this alternative will gather strength and will always act like a phantom for those who continue to live in the conditions of constitutional impreciseness for exercising their public duties.

It is not easy to define the regime that must replace the previous regime, but it is no less clear that it will be impossible to continue the administration along the lines of the present institutional arrangements in conformity with the law, but which are not implemented and pretending to extract from them the positive aspects without assuming the responsibilities that it implies.

I believe that the world is witnessing a profound institutional change, which does not allow to plainly and simply return to the previous situation not because of its corruption and defects—that could be atenuated through appropriate legislation; but due to its basic nature, which is inadequate to cope with realities of today.

THE PRESENCE OF MARXISM

The power emanates today in fact from the Armed Forces and not from the political parties. The government exercises it on these premises and is limited by a free society whose essential aspirations cannot be violated by any force. I do not see any reasons for thinking that this situation will have any important variations in the next years. The presence of Marxism in the world introduced an element that questions the legality of any political organization in existence in the Western World at present. The political parties do not constitute sufficient defense against this danger because they replace national objectives with party objectives in order to maintain and to defend their situation of power, which corrodes the country morally and materially, facilitating the advance of Marxism.

Ingenuously, they think today that they can be more leftist with impunity than the Communists themselves.

The political parties in making the conquest of power their main objective, create a situation that facilitate the activity to the Marxists because the conquest and preserving of power push them to demagogery and placing the party interests above national interests. The same happens when a political party is in opposition. Its action centers on impeding or hampering the functions of the party in power, in order to create conditions for replacing it. This fact restricts and inhibits the capacity of governing, what is doubly dangerous. On one side, due to the inability to govern efficiently, the activity of Communism is promoted and on the other side, since in our country the traditional political parties, in their blind flight, have blurred their ideological differences, it is legitimate to ask what difference of principle is there to separate them from each other? In reality, the experience shows that they only constitute trends which catalyze the ambition for power of the different members who in essence think the same. I wonder why have we to think that these conditions will change with the passing of time and if anybody can seriously affirm that the day when the President of the Republic and the Armed Forces decide to hold the elections, agreeing to transmit the power completely to those who triumph in the elections, the aspirants to the power will not launch a violent campaign using any means to prevail over their rival and to come to power and if this is not successful, then to use demagogery or to disregard national interests in order to stay in power.

Is it possible to concede at this stage that the elections and activities of the political parties—if limited by legal provisions—would impede such excesses? But then who would control whether these legal provisions are complied with? Would we admit that the parties themselves will take care of this? Of course not, and this leads us to think that such control on a permanent basis must be carried out by the Armed Forces.

In other words are the Armed Forces disposed to transfer the possibility of self-control to the political parties in 1976 or later expecting from them to comply with the legal provisions in order to prevent such excesses?

I don't think that they intend to submit themselves to self-control. In any case, it would be evident that the political parties would still retain power. The power is either transferred or is not, but it is impossible to transfer some of it and to retain some of it.

A PROFOUND CHANGE

Then, if the Armed Forces have to keep the power in fact, not for their own sake but for the preservation of the essential values of the nation, why not to admit it frankly and to establish a system in order to change men and even opinion trends in the management of public affairs, admitting some form of a direct participation to the electorate through voting, on condition that this does not endanger essential values.

This is very clear and I believe that it appears evident each time the situation of power is analyzed in detail. But I must also admit that this reasoning implies such a profound change that it cannot be exposed abruptly to public opinion without running the risk of traumatizing it or even worse to play the game of the Marists through political exploitation.

Since our own reasoning in this field has evolved, I believe that it is necessary also to give some time to those who honestly oppose us, especially the public opinion, so that their thinking can change. I think that the idea to assign the role of such great importance in the life of the nation to the Armed Forces on a permanent basis, could emerge as an element of divisiveness. Therefore, it is appropriate to allow some time to the military command to explain what they are all about.

(Translator's note: Several key words in the text are missing and this paragraph cannot be translated.)

But in addition we will listen to public opinion, while presenting this idea, that I am sure the majority will understand though it is not yet ready to accept it without explanation.

Thus, as the military command will have to struggle with its subordinates, so the President of the Republic will have to do the same with his Ministers, state councillors, the judiciary and the Universities, etc.

However, this must be done later. Today the dialogue is between the President of the Republic and the Armed Forces. They have to make it clear whether they accept the principal role that the President reserves for them. The President of the Republic is ready to show the way, doing all that is possible, but of course, he would not venture if the Armed Forces do not join him from the very beginning.

(Note.—Translated by Dr. C. C. Petraitis.)

"COAL SLURRY PIPELINE—5" INNOVATIVE RAIL HAULING OF COAL

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain, this can be found on page 15521 of the May 26 Record; the fact that this is transportation legislation not energy legislation, page 15878 of the May 27 Record; the railroad capability of handling the increased coal production, page 16079 the June 1 Record; and the effect of coal transportation on railroad economic viability, page 16246 of the June 2 Record.

Now today I want to discuss the topic of the railroads hauling of the coal.

Since under the rule—a 1 minute speech must be limited to 300 words—I am taking a special order to discuss the innovative rail hauling of coal.

The unit train concept is a relatively new one which represents a major step forward in terms of man's ability to move huge volumes of bulk commodities over long distances at low cost levels. This service is very expensive by any standard, notwithstanding the effects of inflation. As a result, remote coal supplies not heretofore economically useful have become a vital energy source.

By way of definition, "unit train" is a term applied to a set of equipment dedicated to a particular service. It may consist of 3 to 7 locomotives and 100 or more cars. It is its mode of operation which distinguishes the unit train from conventional rail service. It is designed to be loaded at one origin and runs uninterruptedly to a single destination. Like any well-run industrial process, the unit train operates continuously.

A key element is the use of modern high-speed loading and unloading facilities that function without the necessity to switch out separate cars. In short, the necessary operating efficiency for this high-cost equipment is attained by continuous movement, bypassing terminals, avoiding switching or any interference from other rail operations. Accordingly, unit trains stop only for fueling, crew changes, and inspections. Given these conditions, a unit train can make a 1,000-mile delivery and return to the mine for another load in as little as 4 days.

In the future the outlook for unit train operation may be even brighter. There is every reason to believe that unit train technology will produce still further improvements in productivity.

The evidence thus makes it clear that railroads are not on their last legs; modern rail technology is our best hope for the efficient utilization of coal at the largest possible number of locations. Surely we should not pass legislation which would impair this basic transportation resource—as would H.R. 1863.

THE U.S. MARINE CORPS AND ITS PROGRAMS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record.)

Mr. SIKES. Mr. Speaker, the U.S. Marine Corps, a great organization of proud achievements, has been the target of recent unfavorable publicity. This has dealt with recruiting and recruit training practices. Undoubtedly, some disturbing and unfortunate incidents have been brought to mind. They are to be regretted. However, before the current zeal for reform takes control of our emotions, let us try to rationalize the facts.

The first point is that the U.S. Marine Corps, over the past 200 years, has acquired an international reputation as a fearless and resolute fighting force. It would be a sad day for all of us if the name "Marine" ever ceased to inspire pride in our countrymen and in our allies and apprehension in any potential adversaries.

The second point is that the well-deserved reputation of the Marines is based upon twin realities: their unmatched performance in past combat and their continued readiness for any future combat they may face. This readiness stems from the firm discipline and the rigorous training that have been hallmarks of the Marine Corps for years.

Marine training is intended to prepare men to accomplish a mission, however difficult, and to survive in the process. It is a difficult achievement, but it is one which has been successfully accomplished and one which has stood the test of time.

At the heart of the training effort is the legendary 11-week process that transforms civilians into Marines. For most Americans who volunteer and qualify to enter the process, it marks the greatest challenge of their young lives. Roughly 9 out of 10 meet this challenge, and leave recruit training with new strength and maturity. The process does indeed work. A great volume of praise from the families of new Marines continues to bear this out. Sadly, the criticism from a very occasional unfortunate incident is given priority in the press and it drowns out the praise.

Being an organization of human beings, the Marine Corps does not always function with textbook consistency. This problem is not confined to the Marine Corps. Certainly it is not confined to U.S. military forces. The vigorous training given other military forces, particularly those in the iron curtain countries, is much more strenuous and exacting than that given the members of our own military forces. When unfortunate training incidents occur in those forces, no one ever hears about it.

This is not an excuse for the fact that infrequent abuses of authority occur in our own forces. My own discussions with leaders of the Marine Corps have convinced me that they have been the first to recognize that abuses such as those currently under scrutiny run counter to their prime objective of maintaining a truly combat-ready organization. They have been consistent, persistent, and adamant in their determination to uncover, punish, and eliminate such aberrations. Furthermore, they have—on their own—made major changes in the recruit training climate, designed to reduce to the vanishing point the potential for abuse. They have felt that these significant steps have been necessary to preserve the integrity of the recruit training system and the integrity of the Marine Corps as an institution.

The final point to keep in mind is that keeping this battle-tested military institution intact is vital to our national defense effort. Marine leaders have asked the Congress for little more than the privilege to serve the United States and to maintain the finest corps possible. They should not be denied that opportunity.

The Marine Corps has never failed us. I believe they never will.

CURBING OMB ABUSES

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am reintroducing, with cosponsors, legislation to restrain the de facto policymaking functions being exercised by the Office of Management and Budget by requiring submission of pre-OMB budget requests along with the President's budget, and requiring OMB personnel to appear and testify before the appropriate committees on their budgetary decisions.

In addition, my bill would require submission of pre-OMB budget requests (developed at lower levels within the various departments and agencies) along with the President's budget, so that committees would have available full information on agency needs.

My experience on the Science and Technology Committee reviewing the ERDA budget illustrates how OMB has effectively killed programs in the past. When the committee requested and received pre-OMB budget figures—developed at lower levels within ERDA—a comparison revealed that OMB had cut the requested solar budget by 31.5 percent, the conservation budget by 45 percent, and the nuclear budget by a mere 7.6 percent. The net effect was a clear emphasis on nuclear energy. The relative merits of such an emphasis are not at issue here, but what is important is OMB's ability to dictate policy through its grasp on the purse strings.

I believe that a central budget coordinating agency is essential to the administration of a complex government, but it is also essential that we in Congress have greater awareness of OMB's actions, so that we might properly assess its budgetary decisions. This is a nonpartisan bill which simply seeks to restore to the Congress its proper place in the budgetary process.

PRESENT USE OF SOLAR ENERGY FOR SPACE HEATING AND HOT WATER

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the Commonwealth of Massachusetts' Energy Policy Office has just published an excellent monograph titled, "The Use of Solar Energy for Space Heating and Hot Water." Among other things, the report concludes that solar heating systems are often economically feasible right now—at today's energy prices—for use in electrically heated buildings. The report makes numerous recommendations for the further implementation of solar heating, including the use of life-cycle cost analysis, greater use of solar heating by State buildings, passage of Federal subsidy legislation such as tax credits or low-cost loans, and appropriate State incentives legislation.

This report provides significant support to those of us in the Congress who have long been saying that solar heating is viable now and that the Government must do more to get it started. I would like to bring the summary of this report to the attention of my colleagues:

THE USE OF SOLAR ENERGY FOR SPACE HEATING AND HOT WATER: TECHNICAL DESCRIPTION, ECONOMIC FEASIBILITY, IMPLICATIONS FOR THE STATE

(By Henry Lee, Director)

SUMMARY

The combination of rising energy prices and dwindling energy reserves has induced a vigorous examination of the development and use of alternative energy sources. No source has received more favorable support than solar power. Congress has gone to great lengths to encourage solar energy, as witnessed by the passage of the Solar Research and Demonstration Act, and the recent enlargement of the Energy Research and Development Administration's budget for solar research. About $114 million dollars is now authorized for solar research. An an indication of interest at the state level, no proposed research institution in recent memory has received the competitive attention of all the fifty states as has the Solar Energy Research Institute (SERI).

Yet despite all of this attention, there is very little public understanding of the current and future economics of solar power. This situation should be remedied. Furthermore, there is no state publication that describes in a concise manner the present state of the art in the solar energy field. Finally, there is a definite need to formulate state programs and policies in this new and expanding field. This report is an attempt by the Massachusetts Energy Policy Office to fulfill these three needs.

Massachusetts consumers spend $1.4 billion per year for fuel oil to heat their homes, their buildings and their water. Thirty-five percent (or almost twice the national average) of the total energy consumption in this state is for space heating. Therefore, it is essential that the state actively explore alternatives to fossil fuels and ascertain the economic and technical feasibility of these alternatives.

Solar energy is already technically practicable for both space heating and hot water heating. At the same time the direct production of electricity via photovoltaic systems (i.e., generating electricity from sunlight) is still four to five years in the future, while solar cooling is proving feasible only in the southwestern regions of this country.

Therefore, this report deals almost exclusively with solar energy for space and water heating. Specifically, the report investigates several types of solar heating systems, including both built-in and retrofitted air and water systems. It examines solar power for space heating, for hot water heating, and for a combination of both uses.

It is the finding of this report that solar heating systems are often economically feasible at today's prices for use by electrically heated buildings. Solar heating system costs in excess of $25 per square foot of collector can be economically justified for combined electric space heating and hot water systems, and solar systems are now available below this price. Furthermore, the report argues that solar systems should be immediately considered for use by those commercial buildings which demand large amounts of hot water; specifically, schools, hospitals, housing projects, and apartment buildings. Solar heating systems can often meet the hot water needs of these facilities at lower prices than gas or oil hot water heating. Costs near $18 per square foot of collector or more could be economically justified for highly efficient equipment. Present-day prices for large systems are often below this "breakeven" point.

With the exception of hot water heating for commercial buildings, however, solar systems are rarely economically justified for buildings or homes utilizing natural gas or oil. However, as fuel prices continue to escalate and solar systems improve, this situation may change, especially for combination space and hot water systems.

Finally, the study points out that the economics of solar systems improve dramatically if one utilizes such systems in the construction of new homes. This economic advantage results from an architect's capability to design the interior space to take maximum advantage of sunlight and to install the necessary storage and ductwork to the design of the house. This opportunity is not available for retrofit installation. Solar energy can easily be used to supply at least 50 percent of the energy for new homes (obviously some housing sites are poorly oriented for such use, but many houses could use solar power).

The potential for solar energy seems virtually unlimited. With widespread adoption of solar power, Massachusetts citizens could cut their collective fuel bills by $120 million annually by 1985. Furthermore, solar energy has vast potential for new job opportunities, especially in the plumbing, construction and research and development areas. It is very difficult to put a figure on the job potential of solar energy, but it is safe to say that by 1985 more jobs could be available from solar power (directly or indirectly) than from offshore oil and new nuclear construction combined.

SUMMARY OF RECOMMENDATIONS

As a result of this analysis, the Massachusetts Energy Policy Office proposes nine recommendations for state action and six recommendations for federal action.

(1) The state should consider installation of solar equipment in selected state buildings, or in other institutions such as schools, where shown to be economically feasible.

(2) "Life-cycle" cost analysis should be mandated for selecting heating and hot water equipment for new state construction; where solar energy is least expensive, it should be used.

(3) Procedures should be established to allow property owners to obtain "solar easements" from neighbors, protecting their right to incident sunlight on their solar equipment.

(4) The state should mandate the consideration of a right to sunlight in any comprehensive plan, zoning, subdivision or other land use, so that homeowners can install roof-level solar collectors with sunlight unobstructed by buildings on surrounding lots.

(5) The state building code should have specific provisions for solar energy, allowing installation of collectors on roof or wall areas, and requiring that the installation be secure and weathertight.

(6) The state should make available information on solar energy to interested citizens and promote the organization of museum exhibits and public demonstrations of solar energy use.

(7) Existing state vocational training programs, such as manpower training, should include education in solar trade skills, especially plumbing.

(8) The state should assist in the organization of a state solar energy information center, although the organization may be privately staffed and funded.

(9) The state should continue the program of property tax abatements for solar energy use.

The above programs should prove effective stimuli to solar development, with little or no state expense. There are other programs which should effectively *promote* solar development, but appear to be most appropriate at the federal level. Recommended programs for federal consideration include the following:

(1) A federal subsidy program, such as low-cost loans, or income tax credits, should be considered, as it may succeed in promoting rapid solar development. Such a program should be short in duration.

(2) Federal standards and testing of solar equipment should be undertaken, to provide accurate information on quality and performance of solar equipment to potential users.

(3) A national mortgage guarantee program would be desirable to reduce the reluctance of lending institutions to providing mortgages covering solar equipment.

(4) Continuation of solar demonstration programs is recommended, to increase the visibility of solar use, and to prove feasibility. Increased emphasis should be placed on integrated projects to acquaint the construction industry with solar energy.

(5) The program of federally sponsored research in solar energy should be continued, with increased emphasis on low-cost processes that could find early implementation.

(6) Nationwide efforts should be made by the federal government through media to familiarize the public with solar energy systems.

It is felt that the combination of these federal programs with the proposed state activities in solar energy constitute an effective strategy for the large-scale use of solar energy in Massachusetts, which should result in reduced fuel expenses to the consumer, less reliance on foreign energy sources, less pollution, and a stronger state economy with more local jobs.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Fountain (at the request of Mr. O'Neill), for between 2 p.m. and 3 p.m., today, on account of a meeting at the White House.

Mr. Helstoski (at the request of Mr. O'Neill), for June 3 and 4, on account of official business.

Mr. Hicks (at the request of Mr. O'Neill), for today, on account of illness.

Mr. Milford (at the request of Mr. O'Neill), for today, on account of illness.

Mr. Frenzel, for until Monday, June 14, on account of official business.

Mr. Burgener (at the request of Mr. Rhodes), for today and the balance of the week, on account of attending the dedication of a geothermal test facility in Imperial County, Calif.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Martin) to revise and extend their remarks and include extraneous matter:)

Mr. Bob Wilson, for 5 minutes, today.

Mr. Ashbrook, for 10 minutes, today.

Mr. Burke of Florida, for 10 minutes, today.

(The following Members (at the request of Mr. Pattison of New York) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Addabbo, for 15 minutes, today.

Mr. Cotter, for 5 minutes, today.

Mr. Harris, for 10 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. LaFalce, for 30 minutes, today.

Mr. Bingham, for 5 minutes, today.

Ms. Abzug, for 15 minutes, today.

Mr. Alexander, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Martin) and to include extraneous matter:)

Mr. Robinson.

Mr. Myers of Indiana.

Mr. Findley in two instances.

Mr. Conte.

Mr. Collins of Texas in three instances.

Mr. Young of Florida.

Mr. Snyder.

Mr. Derwinski in two instances.

Mr. Fish.

Mr. du Pont in two instances.

Mr. Gilman.

Mr. Esch.

Mr. Cederberg.

Mr. Archer in two instances.

Mr. Mosher.

Mr. Buchanan.

Mr. Skubitz in three instances.

Mr. Duncan of Tennessee.

Mr. Heinz.

Mrs. Holt.

Mr. Whalen.

Mr. Ashbrook in four instances.

Mr. Abdnor in two instances.

Mr. Broyhill.

(The following Members (at the request of Mr. Pattison of New York) and to include extraneous material:)

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Waxman in two instances.

Mr. Mikva.

Mrs. Meyner.

Mr. Long of Maryland.

Mr. Richmond.

Mr. Patterson of California in five instances.

Mr. Rodino.

Mr. Harris.

Mr. Yatron.

Mr. Bingham in five instances.

Mr. Cotter.

Mr. Oberstar in 10 instances.

Mr. Young of Georgia.

Mr. Eilberg in two instances.

Mrs. Sullivan.

Mr. Dellums.

Mr. Burke of Massachusetts in two instances.

Mr. Holland in three instances.

Mr. Vanik.

Mr. Roe in three instances.

Mr. Wolff.

Mr. Rangel.

Mr. Ginn.

Mr. Early.

Mr. Hamilton.

Mr. Wirth.

Mr. Drinan in three instances.

Mr. Ottinger.

Mr. Gibbons.

Mr. McDonald.

Mr. Scheuer.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1872. An act to enlarge the boundary of the Cibola National Forest; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. PATTISON of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Friday, June 4, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

3426. A letter from the Secretary of the Army, transmitting the Army's "Year End Report–1975"; to the Committee on Armed Services.

3427. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3428. A letter from the Assistant Secretary of State for Economic and Business Affairs, transmitting a report on the administration of export control measures undertaken by COCOM countries, pursuant to section 302

(b) of the Mutual Defense Assistance Control Act of 1951, as amended (Battle Act) (22 U.S.C. 1613a(b)); to the Committee on International Relations.

3429. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, as amended, together with a list of the persons involved, pursuant to section 244(c) of the Act (8 U.S.C. 1254(c)); to the Committee on the Judiciary.

3430. A letter from the Secretary of Labor, transmitting the views of the Department of Labor on H.R. 9398, a bill to extend the authorization of the Public Works and Economic Development Act of 1965 for a 3-year period; to the Committee on Public Works and Transportation.

RECEIVED FROM THE COMPTROLLER GENERAL

3431. A letter from the Comptroller General of the United States, transmitting a report on the foreign military sales program; jointly, to the Committees on Government Operations, and International Relations.

3432. A letter from the Acting Comptroller General of the United States, transmitting a report on Federal fire safety requirements for nursing homes participating in medicare and medicaid; jointly, to the Committees on Government Operations, Ways and Means, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. Supplemental report on H.R. 10133. A bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes (Rept. No. 94–1156, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Supplemental report on H.R. 11868. A bill to amend section 602 of the Agricultural Act of 1954. (Rept. No. 94–1158, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Supplemental report on H.R. 10546. A bill to amend the act of June 22, 1948, as amended, to provide for the acquisition of additional lands, and for other purposes (Rept. No. 94–1171, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1254. A resolution providing for the consideration of H.R. 9719. A bill to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality (Rept. No. 94–1212). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

[*Submitted June 1, 1976*]

Referral of H.R. 12112. A bill to provide additional assistance to the Energy Research and Development Administration for the advancement of nonnuclear energy research, development, and demonstration to the Committees on Banking, Currency and Housing, and Interstate and Foreign Commerce, was extended for an additional period ending not later than June 18, 1976, and referred to the Committee on Ways and Means for a period ending not later than June 18, 1976, for concurrent consideration of such provisions of the bill as fall within the jurisdiction of that committee under rule X, clause 1(v).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN (for himself, Mr. RIEGLE, and Mrs. CHISHOLM):

H.R. 14152. A bill to amend title 18, United States Code, to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a nonprofit organization, and for other purposes; to the Committee on the Judiciary.

By Mr. BERGLAND:

H.R. 14153. A bill to amend the Railroad Retirement Act of 1974 to provide that amounts of excess earnings with which a social security benefit is charged shall not be used in making deductions from widows' benefits under the railroad retirement system; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI:

H.R. 14154. A bill to grant certain nationals of Italy and the spouses, children, and parents of such nationals status as permanent residents of the United States; to the Committee on the Judiciary.

By Mr. CARTER (for himself, Mr. HENDERSON, Mr. JAMES V. STANTON, Mr. GUYER, Mr. MOTTL, Mr. JONES of Tennessee, Mrs. LLOYD of Tennessee, Mr. ALEXANDER, Mr. HARRINGTON, Mr. DUNCAN of Tennessee, Mr. BEARD of Tennessee, Mr. ANDERSON of California, Mr. EVINS of Tennessee, and Mr. LUNDINE):

H.R. 14155. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. COTTER:

H.R. 14156. A bill to amend the Internal Revenue Code of 1954 to place certain restrictions on the sale and advertising of reprints of certain Federal tax publications; to the Committee on Ways and Means.

By Mr. DELANEY (for himself, Mr. DAN DANIEL, and Mr. BEARD of Rhode Island):

H.R. 14157. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or for his dependents; to the Committee on Ways and Means.

By Mr. DOWNING of Virginia:

H.R. 14158. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EILBERG:

H.R. 14159. A bill to assist States in collecting sales and use taxes on cigarettes by controlling all types of illegal transportation of cigarettes; to the Committee on the Judiciary.

By Mrs. FENWICK (for herself, Mr. BLANCHARD, Mr. BLOUIN, Mr. FORD of Tennessee, Mr. RIEGLE, and Mr. MARTIN):

H.R. 14160. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

By Mr. GUDE (for himself, Mr. BAUCUS, and Mr. SCHEUER):

H.R. 14161. A bill to require the payment of interest by Federal agencies on overdue contract payments, to amend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

By Mr. HARRIS:

H.R. 14162. A bill to establish the National Commission on Alternatives to Busing, and for other purposes; to the Committee on Education and Labor.

By Ms. KEYS:

H.R. 14163. A bill to amend the Internal Revenue Code of 1954 to permit an individual to deduct amounts paid by that individual for retirement savings for the benefit of his spouse; to the Committee on Ways and Means.

By Mr. KREBS (for himself, Mr. MCCLOSKEY, Mr. ANDERSON of California, Mr. REES, Mr. LLOYD of California, Mr. MOSS, Mr. CHARLES H. WILSON of California, Mr. RANGEL, Mr. REUSS, Mr. BADILLO, Mr. OTTINGER, Mr. CHARLES WILSON of Texas, Mr. STUDDS, Ms. ABZUG, Mr. DINGELL, Mr. DOMINICK V. DANIELS, Mr. ROE, Mr. ROONEY, and Mr. MOORHEAD of Pennsylvania):

H.R. 14164. A bill to enlarge the Sequoia National Park in the State of California by adding to such park the Mineral King Valley area, to provide for certain planning respecting the management of such addition, and for other purposes; jointly to the Committees on Merchant Marine and Fisheries and Interior and Insular Affairs.

By Mr. NIX:

H.R. 14165. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that any individual may elect to be exempt from coverage under the social security program; to the Committee on Ways and Means.

By Mr. YOUNG of Georgia:

H.R. 14166. A bill to repeal section 10 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

H.R. 14167. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on International Relations.

By Mr. BAUCUS (for himself, Mr. ABDNOR, Mr. ALEXANDER, Mr. BALDUS, Mr. BLOUIN, Mr. CHAPPELL, Mr. DAVIS, Mr. GUYER, Mr. HARKIN, Mr. HIGHTOWER, Mr. HOLLAND, Mr. HOWE, Mr. HUNGATE, and Mr. JENRETTE):

H.R. 14168. A bill to amend medicare and medicaid provisions as they relate to rural health care facilities; to the Committee on Ways and Means.

By Mr. BAUCUS (for himself, Mr. KRUEGER, Mr. LONG of Louisiana, Mr. LOTT, Mr. MCKAY, Mr. NOLAN, Mr. OBERSTAR, Mr. POAGE, Mr. SIMON, Mr. SISK, Mr. THONE, Mr. TRAXLER, and Mr. CHARLES WILSON of Texas):

H.R. 14169. A bill to amend medicare and medicaid provisions as they relate to rural health care facilities; to the Committee on Ways and Means.

By Mr. EDGAR (for himself, Mr. Thompson, Mr. Traxler, Mr. Zeferetti, Mr. Harrington, Mr. Ford of Michigan, Mr. Burke of Massachusetts, Mr. Quie, Mr. Litton, Mr. Badillo, Mr. Brodhead, Mr. Seiberling, and Mr. Richmond):

H.R. 14170. A bill to amend title 38 of the United States Code in order to extend under certain circumstances the delimiting period for completing veterans' education programs and to provide a teach-down period for veterans who have committed themselves to furthering their education; to the Committee on Veterans' Affairs.

By Mr. GREEN:

H.R. 14171. A bill to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 14172. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. KEYS:

H.R. 14173. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review and related activities authorized thereunder; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 14174. A bill to amend section 11 of the Interstate Commerce Act to provide terms and conditions governing the designation of the Chairman and Vice Chairman of the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. NOLAN:

H.R. 14175. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. Roe, Mr. Downey of New York, Mr. Rodino, Ms. Holtzman, Mr. D'Amours, Mr. Edwards of California, Mr. Baucus, Mr. Beard of Rhode Island, Mr. Fascell, Mr. Harrington, Mr. Fraser, Mr. Edgar, Mr. Blouin, Mr. Stark, Mr. Drinan, Ms. Chisholm, Mr. Mineta, Mr. Patterson of California, Mrs. Heckler of Massachusetts, Mr. Mitchell of Maryland, Mr. Neal, Mr. Hannaford, Mr. Badillo, and Mr. Breckinridge):

H.R. 14176. A bill to amend the Budget and Accounting Act, 1921, to require that all departmental budget requests made to the Office of Management and Budget with respect to any fiscal year be submitted to the Congress along with the President's budget for such year, and that officials of the Office of Management and Budget, when requested to do so by the appropriate committees of the Congress, testify before such committees on the President's budget and on such departmental budget requests; to the Committee on Government Operations.

By Mrs. SCHROEDER (for herself, Mr. Fithian, and Mr. Ryan):

H.R. 14177. A bill to abolish the Federal Energy Administration, to provide for the orderly reorganization of the energy functions of the Federal Government, and for other purposes; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 14178. A bill to establish National Historic Trails as a new category of trails within the National Trails System, to include the Iditarod Trail, Alaska, in the National Trails System as a National Historic Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEYSER:

H.J. Res. 972. Joint resolution proposing an amendment to the Constitution of the United States limiting the number of terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. RISENHOOVER:

H.J. Res. 973. Joint resolution to change the name of Birch Lake, Oklahoma, to John Dahl Lake; to the Committee on Public Works and Transportation.

By Mr. PRESSLER (for himself, Mr. Howe, and Mr. Matsunaga):

H. Con. Res. 649. Concurrent resolution expressing the sense of Congress that vocational education shall be treated equally with other education; jointly, to the Committees on Education and Labor, and Veterans' Affairs.

By Mr. MICHEL (for himself, Mr. Rhodes, Mr. Anderson of Illinois, Mr. Conable, Mr. Frey, Mr. Vander Jagt, Mr. Devine, Mr. Edwards of Alabama, Mr. Conte, Mr. Derwinski, Mr. Clancy, Mr. Brown of Ohio, Mr. Duncan of Tennessee, Mr. Steiger of Wisconsin, Mr. Wylie, Mr. McCollister, Mr. Frenzel, Mr. Skubitz, Mr. Robinson, Mr. O'Brien, Mrs. Fenwick, Mr. Moore, Mr. Schulze, Mr. Hagedorn, and Mr. Kindness):

H. Res. 1247. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. MICHEL (for himself, Mr. Broomfield, Mr. Bauman, Mr. Crane, Mr. Symms, Mr. Snyder, Mr. Martin, Mr. Findley, Mr. Pritchard, Mrs. Pettis, Mr. Winn, Mr. Kasten, Mrs. Holt, Mr. Robert W. Daniel, Jr., Mr. Goodling, Mr. Esch, Mr. Myers of Pennsylvania, Mr. Steelman, Mr. Shuster, Mr. Walsh, Mr. Sarasin, Mr. Cleveland, Mr. Cohen, Mr. Rousselot, and Mr. Lagomarsino):

H. Res. 1248. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. MICHEL (for himself, Mrs. Smith of Nebraska, Mr. Hyde, Mr. Taylor of Missouri, Mr. Talcott, Mr. Wiggins, Mr. McClory, Mr. Guyer, Mr. Kemp, Mr. Miller of Ohio, Mrs. Heckler of Massachusetts, Mr. Wampler, Mr. du Pont, Mr. Grassley, Mr. McCloskey, Mr. Hammerschmidt, Mr. Young of Florida, Mr. Erlenborn, Mr. Pressler, Mr. Cederberg, Mr. Madigan, Mr. Wydler, Mr. Archer, Mr. Treen, and Mr. Shriver):

H. Res. 1249. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. MICHEL (for himself, Mr. Thone, Mr. Buchanan, Mr. Lott, Mr. Heinz, Mr. Gude, Mr. Bafalis, Mr. Sebelius, Mr. Forsythe, Mr. Hillis, Mr. Kelly, Mr. Lent, Mr. Abdnor, Mr. Paul, Mr. Latta, Mr. Ketchum, Mr. Goldwater, Mr. Moorhead of California, Mr. Rinaldo, Mr. J. William Stanton, Mr. Jeffords, Mr. Dickinson, Mr. Emery, Mr. Whitehurst, and Mr. Railsback):

H. Res. 1250. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. MICHEL (for himself, Mr. Gilman, Mr. Fish, Mr. McDade, Mr. Jarman, Mr. Andrews of North Dakota, Mr. Broyhill, and Mr. Coughlin):

H. Res. 1251. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. PEYSER:

H. Res. 1252. Resolution to amend Rule X of the rules of the House of Representatives to prohibit any Member from serving as chairman of the same committee or subcommittee during more than three Congresses; to the Committee on Rules.

By Mr. PRESSLER (for himself, Mr. Dodd, and Mr. Matsunaga):

H. Res. 1253. Resolution to provide that individuals attending or teaching at vocational schools shall be eligible to serve as congressional interns in the House of Representatives; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

397. The SPEAKER presented a memorial of the Legislature of the State of California, relative to inclusion of owner-occupied mobile homes in the housing assistance payments program; to the Committee on Banking, Currency and Housing.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BERGLAND:

H.R. 14179. A bill for the relief of Dae Sung Ra; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H.R. 14180. A bill for the relief of Rosario A. Calvin; to the Committee on the Judiciary.

By Mr. LUNDINE:

H.R. 14181. A bill to authorize M. Sgt. Richard R. Rice, U.S. Army, retired, to accept employment with the Government of Saudi Arabia; to the Committee on International Relations.

By Mr. PERKINS:

H. Con. Res. 650. Concurrent resolution expressing the sense of Congress that Cadet Peter Burke receive a commission in the U.S. Army; to the Committee on Armed Services.

PETITIONS, ETC

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

483. By the SPEAKER: Petition of the Westchester County Board of Legislators,

White Plains, N.Y., relative to designation of the Washington-Rochambeau National Historic Route; to the Committee on Interior and Insular Affairs.

484. Also, petition of the Sixth Palau Legislature, Koror, Palau, Western Caroline Islands, Trust Territory of the Pacific Islands, relative to the creation of the Commonwealth of the Northern Mariana Islands, which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6218

By Mrs. BURKE of California:

Section 208 is amended to add a new section 30 to the Outer Continental Shelf Lands Act as follows:

"Sec. 30. The Secretary of the Interior shall take such affirmative action as he deems necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving, or participating in any activity conducted under, any lease, permit, right-of-way, or other Federal authorization granted or issued under this title. The Secretary of the Interior shall promulgate such rules as he deems necessary to carry out the purposes of this subsection and may enforce this subsection, and any rules promulgated under this subsection, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964."

By Mr. FISH:

Amendment No. 11: Keep current tract size unless larger size necessary:

On page 72, strike lines 6 through 9, and insert in lieu thereof the following:

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;"

By Mr. FORSYTHE:

Amendment No. 7: Perfecting amendment—list of regulations:

On page 59, lines 12 through 20, strike paragraphs (6), (7), and (8), and renumber succeeding paragraphs accordingly.

On page 60, line 3, after "gas", insert "other than by the United States Government".

Amendment No. 10: Permit small companies to joint bid for "Phillips Plan" shares:

Strike page 71, line 15, down through page 72, line 3, and insert in lieu thereof the following:

"(7). The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless more than one of the joint bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquified petroleum products."

Amendment No. 35: Conform royalty gas provision to rest of section:

On page 120, line 11, strike "the", and insert in lieu thereof "participation in any allocated or lottery".

By Mr. MILLER of California:

On page 74, line 9, strike "or extended", and on page 74, line 10, strike "or a lessee".

On page 74, line 11, strike "other leases" and insert "on all lands leased by such lessee pursuant to this Act."

Joint Federal-State leasing:

On page 75, line 8, after "which" insert "he concludes, in consultation with the Governor of the coastal state,". On page 75, lines 16–18, strike all after "terms" and insert "terms which shall be consistent with the provisions of this Act, applicable regulations and, to the maximum extent practicable, with the applicable laws of the coastal state. If the Governor declines the offer, or if the parties cannot agree to such terms within a reasonable period of time, the Secretary may lease the federally owned portion of such area in accordance with this Act."

By Mr. MURPHY of New York:

Amendment 1: Removal of "Coastal State" definition:

On page 46, lines 7 through 12, strike subsection (f), and renumber succeeding subsections accordingly.

Amendment 2: Safety regulations:

On page 55, strike out line 21 and all that follows through page 56, line 23, and insert in lieu thereof the following:

"(1) strike out all of subsection (e) and (f) insert in lieu thereof the following:

"'(e) the Secretary of the Department in which the Coast Guard is operating shall mark for the protection of navigation any installation referred to in subsection (a) whenever the owner has failed suitably to mark such island or structure in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.'

"(e) section 4 of the Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e) and (g) as subsection (b), (c), (d), and (e) respectively."

Amendment 3: Cancellation provisions:

On page 59, line 2, to page 59, line 4, strike all after "regulations" to "law" and insert the following:

"(A) shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee, and (B) shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable costs, including costs of compliance with all applicable regulations and operating orders, liability for clean-up or damages in the case of oil spill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement)."

Amendment 4: Deletion of unnecessary regulation mandates:

On page 59, lines 12 to 20, strike paragraphs 5(a) (6), (7), and (8) and renumber subsequent paragraphs accordingly.

Amendment 5: Subsurface storage:

On page 60, line 3, delete the semi-colon after "gas" and add "other than by the United States Government;"

Amendment 6: Lease period extension:

On page 72, lines 10 and 11, strike "be extended" and insert in lieu thereof "if the Secretary so provides in the terms of the lease, be subject to an extension".

Amendment 7: Emergency production:

On page 73, lines 5 through 11, delete paragraph (5) and renumber succeeding paragraphs accordingly.

Amendment 8: Due diligence:

On page 74, line 9, strike "or extended", and on page 74, line 10, strike "or a lessee".

Amendment 9: Requirement of EIS:

On page 109, lines 7, to page 109, line 9, strike from "in any" to "gas" and insert the following: "in any area or region of the outer Continental Shelf where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off Southern California outside the Santa Barbara Channel,"

Amendment 10: Revisions of D&P plan:

On page 112, line 13, strike out "or", and on line 15, after the comma, insert "or is otherwise not inconsistent with the provisions of this Act."

Amendment 11: Information confidentiality:

On page 115, lines 20 and 21, strike subparagraph (B) and insert a new subparagraph (B) as follows:

"(B)(i) The summary of data prepared by the Secretary pursuant to paragraph (b)(2) of this section; and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to paragraph (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to paragraph (b)(1) would unduly damage the competitive position of the lessee or permittee who provided to the Secretary the information which the Secretary had processed, analyzed and interpreted pursuant to paragraph (b)(1)."

Amendment 12: Safety reports:

On page 99, line 4, to page 99, line 9, strike all after "regulations" to the end of the subsection, and insert the following: "reported or alleged, the investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations."

Amendment 13: Safety violation cancellation:

On page 99, line 23, after the period after "violations", add the following sentence: "Cancellation of a lease pursuant to this subsection shall not entitle a lessee to any compensation."

Amendment 14: Regulatory authority:

On line 10, page 57, delete the period after provisions and insert "and the Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources in the outer Continental Shelf, and the protection of corrective rights therein."

Amendment 15: Leasing program consistency with CZMA:

On page 87, line 1, after "consistency", insert the words "to the maximum extent practicable."

Amendment 16: Date of leasing program:

On page 85, line 21, strike "or after June 30, 1977, whichever first occurs", and insert "and no later than a date 18 months following enactment of this section."

Amendment 17: Applicability of D&P plan requirement:

On page 196, line 18, to page 196, line 22, strike from "under" to "commenced" and insert the following: "or maintained under this Act in any region of the outer Continental Shelf where there has been no development of oil and gas prior to January 1, 1975, including the outer Continental Shelf region off Southern California outside the Santa Barbara Channel,"

Amendment 18: Principles for leasing program:

On page 82, line 3, after the word "which" insert the words "he determines.". On page 82, lines 9 and 10, strike the words "all of the." On page 83, line 14, after the word "states" and on page 83, line 17, after "et seq.)" insert the words: "Which have been specifically identified by the Governors of such states as relevant matters for the Secretary's consideration". On page 83, line 22, strike the word "has" and insert "will have."

Amendment 19: Completion of baseline studies:

On page 90, line 21, strike "in itself" and on line 22, insert after "Secretary" and before the period at the end of the sentence, the following: ", unless the Secretary in his discretion, shall find such failure to be an appropriate basis for such preclusion."

Amendment 20: D&P plan consistency:

On page 111, lines 2, 3, and 4, and again on lines 11 and 12, delete the phrase "or with any valid exercise of authority by the state involved or any political subdivision thereof."

Amendment 21: Disapproval of D&P plan:

On page 111, line 17, to page 111, line 25, strike from "If" to "lease.", and insert the following:

"If a plan is disapproved under clauses (A) or (B) of this paragraph, the lessee shall not be entitled to compensation because of such disapproval. If the plan is disapproved under clause (C) of this paragraph, the term of the lease shall be duly extended, and at any time within five years after said disapproval, the lessee may reapply for approval of the same of a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease, and the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations in operating waters, liability for clean-up or damages in the case of an oil spill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereupon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with expiration or development pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement). The Secretary may, at any time within the five year period, described in subparagraph (C), require the lessee to submit a plan of development and production for approval, disapproval or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall cancel such lease forthwith, without compensation, under the provisions of Section 5(c) of this Act."

Amendment 22: Buy and employ domestically:

Section 208 is amended to add a new section 29 to the Outer Continental Shelf Lands Act as follows:

"Sec. 29. Domestic Construction and Operation.—(a) Within six months of the date of enactment of this Section, the Secretary shall, by regulation, require that any vessel, rig, platform, or other vehicle or structure used more than one year after the date of enactment of this Section in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the outer Continental Shelf (1) unless specific contractual provisions in effect at the date of enactment of this Section provide to the contrary, be manned or crewed by citizens of the United States; and (2) if built or rebuilt more than one year after the date of enactment of this section, be built or rebuilt in the United States, be owned by citizens of the United States, be operated by citizens of the United States, and when required to be documented, be documented under the laws of the United States.

"(b) As used in this section, the terms "vessel", "documented under the laws of the United States", and "citizen of the United States" shall have the meanings assigned to them under the Shipping Act of 1916, sections 1 and 2, as amended, 46 U.S.C. 801 and 802."

Amendment No. 23:

Page 126, strike out lines 1 and 2 and insert in lieu thereof: "or other contrivance, whether or not self-propelled, which is operating in the waters other than the navigable waters of the United States (as the term navigable waters is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)) and which is transporting oil directly from an offshore facility.".

Amendment No. 24:

Page 124, strike out lines 12 through 17 and insert in lieu thereof the following: "going, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331 (a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));".

Section 208 is amended to add a new section 29 to the Outer Continental Shelf Lands Act as follows:

"Sec. 29. Domestic Construction and Operation.—(a) Within six months of the date of enactment of this Section, the Secretary shall by regulation, require that any vessel, rig, platform, or other vehicle or structure used more than one year after the date of enactment in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be manned or crewed by citizens of the United States, unless specific contractual provisions or national registry manning requirements in effect at the date of enactment provide to the contrary. The Secretary shall also by regulation require that any vessel, rig, platform, or other vehicle or structure used more than one year after the date of enactment in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf and built or rebuilt more than one year after the date of enactment of this Section (1) be built or rebuilt in the United States, (2) be owned by citizens of the United States, (3) be operated by citizens of the United States (4) be manned or crewed by citizens of the United States, and (5) when required to be documented, be documented under the laws of the United States;

"(b) As used in this Section, the terms "vessel", "documented under the laws of the United States", and "citizen of the United States" shall have the meanings assigned to them under the Shipping Act of 1916, sections 1 and 2, as amended, 46 U.S.C. 801 and 802."

By Mr. WIGGINS:

Amendment No. 6: Revision of environmental cancellation provision:

On page 58, strike all on line 18, down through page 59, line 4, and insert in lieu thereof the following:

"(2) for the cancellation of any lease by the Secretary, after affording the lessee opportunity for a hearing, if the Secretary finds that operations pursuant to such lease pose a serious and unacceptable threat of harm or damage, unanticipated in kind or degree by the Secretary at the time such lease was issued, arising from exceptional geologic conditions in the lease area, exceptional resource values in the marine or coastal environment or other exceptional circumstances, after considering, in light of the policies and purposes of this Act, the advantages of continuing such operations, except that—

"(A) such lease shall not be cancelled pursuant to this paragraph if (i) such threat of harm or damage will significantly decrease over time, (ii) it is probable that the development of new technology or further study will significantly lessen such threat of harm or damage within a reasonable period of time, (iii) there remains a portion of the lease area which may be safe and practical to explore and develop, or (iv) any environmental risks inherent in terminating all operations pursuant to such lease outweigh such threat of harm or damage,".

Amendment No. 13: Eliminate additional delays in notification procedures:

On page 74, line 4, after "information", insert "available to the Secretary".

Amendment No. 24: Strike "Citizen Attorney General" concept:

On page 100, line 3, strike "behalf—" and all that follows down through page 101, line 12, and insert in lieu thereof the following: "behalf against any Federal official, where there is alleged a failure of such official to perform any act or duty under this Act which is not discretionary, including the enforcement of any provision of this Act, any regulation promulgated under this Act, and the terms of any lease or permit issued or maintained pursuant to this Act.

"(2) No action may be commenced under paragraph (1) of this subsection—

"(A) prior to sixty days after the plaintiff has given notice of such action, in writing under oath, to the Federal official concerned, in such manner as such official shall by regulation prescribe, except that such action may be brought immediately after such notification in any case in which the failure to perform constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff; or

"(B) if the failure to perform involves enforcement as described in paragraph (1), and (i) the Federal official concerned has commenced and is diligently pursuing an".

Amendment No. 31: Perfect development plan consistency clause:

On page 111, lines 3 through 5, strike ", and with any valid exercise of authority by the State involved or any political subdivision thereof".

Amendment No. 30: Re environmental disapproval of development plans:

On page 111, strike all after the period on line 5, down through line 25, and insert in lieu thereof the following:

"The Secretary shall disapprove a plan only—

"(A) if operations proposed in such plan pose a threat of harm or damage as described in section 5(a)(2) of this Act, and it is not practical to modify such plan to reduce such threat to the extent that such plan, as modified, provides for environmentally safe operations, and is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of the lease; or

"(B) if the Secretary is not required to disapprove such plan under subparagraph (A) of this paragraph, and if any proposed activity to be conducted pursuant to such plan (i) is not in compliance with the requirements of this Act or any other applicable Federal Law, or (ii) is not, to the maximum extent practicable, consistent with the coastal zone management program of any affected State approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), and it is not practical to modify such plan to achieve such compliance and such consistency.

"If any plan is disapproved pursuant to clause (A) of this paragraph, the Secretary shall, whenever permitted under the regulations promulgated pursuant to section 5 (a) (2) of this Act, cancel the lease in accordance with such regulations."

By Mr. YOUNG of Alaska:

Page 123, line 9, *strike out* the closing quotation mark and the following period.

Page 123, immediately after line 9, insert the following new section:

"Sec. 29. Payments to States.—Notwithstanding any other provision of this Act, the Secretary shall pay to each coastal State an amount equal to 12½ per centum of the funds received by the Federal Government pursuant to any oil and gas lease issued or maintained under this Act for an area of the outer Continental Shelf lands which are adjacent to such State. Payments by the Secretary under this section shall be made at the end of each six-month period beginning after the date of enactment of this Act, and shall be based upon funds received by the Federal Government pursuant to this Act during such six-month period. For purposes of this section, the phrase 'the outer Continental Shelf lands which are adjacent to such State' has the meaning given such phrase under section 308(a) (2) of the Coastal Zone Management Act of 1972, as amended by section 401(3) of the Outer Continental Shelf Lands Act Amendments of 1976.".

H.R. 10210

By Mr. CORMAN:

Page 38, insert after line 3 the following:

Sec. 314. Federal Benefit Standard.

(a) General Rule.—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following new paragraph:

"(13) (A) the weekly benefit amount payable to any individual during any benefit year beginning on or after January 1, 1978, shall not be less than the lesser of—

"(i) 50 percent of such individual's average weekly wage; or

"(ii) the maximum weekly benefit amount payable to any individual under such State law; and

"(B) the maximum weekly benefit amount payable to any individual during any benefit year beginning on or after January 1, 1978, shall not be less than two-thirds of the statewide average weekly wage most recently computed before the beginning of such benefit year;".

(b) Definitions.—Section 3304 of such Code (relating to approval of State laws) is amended by adding at the end thereof the following new subsection:

"(g) Definitions for Application of Subsection (a) (13).—For purposes of this subsection and subsection (a) (13)—

"(1) Benefit year.—The term 'benefit year' means the benefit year as defined in the State law, except that such year shall not exceed 1 year.

"(2) Base period.—The term 'base period' means a period of 52 consecutive weeks, 1 year, or 4 consecutive calendar quarters (as designated by the State law) ending not earlier than 6 months before the beginning of the benefit year.

"(3) Average weekly wage.—The term 'average weekly wage' means, with respect to any individual—

"(A) in a State which computes individual weekly benefit amounts on the basis of high quarter wages, an amount equal to one-thirteenth of such individual's high quarter wages; or

"(B) in any other State, an amount equal to the quotient obtained by dividing the total amount of wages (determined without regard to any limitation on the amount of wages subject to contributions under the State law) paid to such individual during such individual's base period by the number of weeks in which he performed services in employment covered under such State law during such base period.

"(4) High quarter wages.—The term 'high quarter wages' means the amount of wages for services performed in employment covered under the State law paid to an individual in the quarter of his base period in which such wages were highest, determined without regard to any limitation on the amount of wages subject to contributions under such State law.

"(5) Statewide average weekly wage.—The term 'statewide average weekly wage' means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages (determined without regard to any limitation on the amount of wages subject to contributions under such State law) reported by employers as paid for services covered under such State law—

"(A) during the first 4 of the last 6 completed calendar quarters before the effective date of the computation, divided by a figure equal to 52 times the 12-month average of the number of employees in the pay period contained in the 12th day of each month during such 4 calendar quarters, as reported by such employers; or

"(B) if the State elects to have this subparagraph apply, during any 2 of the first 4 of the last 6 completed calendar quarters before the effective date of the computation, divided by a figure equal to 26 times the 6-month average of the number of employees in the pay period containing the 12th day of each month during such 2 calendar quarters, as reported by such employers.

"(6) Weekly benefit amount.—The term 'weekly benefit amount' means the amount of the compensation payable to any individual for any week of total unemployment."

(c) Effective Date.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years.

Page 1, line 5, strike out "1975" and insert "1976".

Page 3, line 1, strike out "January 1, 1979" and insert "January 1, 1980".

Page 3, beginning in line 7, strike out "January 1, 1979" and insert "January 1, 1980".

Page 3, line 13, strike out "January 1, 1979" and insert "January 1, 1980".

Page 3, line 20, strike out "December 31, 1976" and insert "December 31, 1977".

Page 5, line 24, strike out "December 31, 1976" and insert "December 31, 1977".

Page 6, line 14, strike out "December 31, 1976" and insert "December 31, 1977".

Page 10, line 3, strike out "December 31, 1976" and insert "December 31, 1977".

Page 12, line 8, strike out "January 1, 1979" and insert "January 1, 1980".

Page 13, line 21, strike out "1977" and insert "1978".

Page 13, line 22, strike out "December 31, 1976" and insert "December 31, 1977".

Page 18, line 6, after "shall take effect on" insert "the later of October 1, 1976, or".

Page 18, line 20, after "beginning on or after" insert "the later of October 1, 1976, or".

Page 19, beginning in line 18, strike out "January 1, 1977" and insert "January 1, 1978".

Page 19, line 23, strike out "January 1, 1977" and insert "January 1, 1978".

Page 21, line 9, strike out "July 1, 1977" and insert "July 1, 1978".

Page 21, beginning in line 10, strike out "July 1, 1977" and insert "July 1, 1978".

Page 21, line 12, strike out "January 1, 1977" and insert "January 1, 1978".

Page 21, beginning in line 13, strike out "July 1, 1977" and insert "July 1, 1978".

Page 24, line 17, strike out "1975" and insert "1976".

Page 24 line 20, strike out "1975" and insert "1976".

Page 26, line 21, strike out "1982" and insert "1983".

Page 26, line 22, strike out "1975" and insert "1976".

Page 27, line 22, strike out "March 1976" and insert "March 1977".

Page 28, line 13, strike out "December 31, 1976" and insert "December 31, 1977".

Page 28, line 16, strike out "December 31, 1975" and insert "December 31, 1976".

Page 30, line 19 strike out "January 1, 1978" and insert "January 1, 1979".

Page 30, line 23, strike out "January 1, 1978" and insert "January 1, 1979".

Page 32, beginning in line 15, strike out "July 1, 1976" and insert "July 1, 1977".

Page 34, line 20, strike out "the date of the enactment of this Act" and insert "September 30, 1976".

Page 37, line 10, strike out "1976" and insert "1977".

Page 37 line 15, strike out "1975" and insert "1976".

Page 37, line 21, strike out "1977" and insert "1978".

Page 43, beginning in line 9, strike out "January 1, 1978" and insert "January 1, 1979".

By Mr. FRENZEL:

(To the amendment offered by Mr. Corman.)

Add at the end of the matter proposed to be inserted the following:

Sec. 316. Denial of Unemployment Compensation to Individuals Who Refuse Offers of Suitable Work or Who Are Not Actively Seeking Work

(a) General Rule.—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (as amended by section 314) is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) except as provided in paragraphs (5) and (8)—

"(A) compensation shall not be payable to any individual for any week during the benefit year if during such week the individual is unemployed and—

"(i) fails to accept any offer of suitable work or to apply for any suitable work to which the individual was referred by the State agency, or

"(ii) fails to actively engage in seeking work; and

"(B) if an individual is denied compensation for any week of the benefit year by reason of a failure described in clause (i) or (ii) of subparagraph (A), the individual shall be ineligible to receive compensation for any week of the benefit year which begins during a period which—

"(i) begins with the week following the week in which such failure occurs, and

"(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being employed after such failure is not less than the product of 4 multiplied by the amount of the individual's weekly benefit amount for the benefit year;".

(b) Definitions.—Section 3304 of such Code is amended by adding at the end thereof the following new subsection:

"(h) Definitions for Application of Subsection (a) (14).—For purposes of subsection (a) (14)—

"(1) Suitable work.—The term 'suitable work' means, with respect to any individual—

"(A) any work for which the individual is reasonably fitted by training and experience; and

"(B) any work for which an individual lacks the required skills and training if, in connection with the job, the individual is provided with the necessary training to perform the work.

If the State agency determines that an individual's prospects for obtaining work in his or her customary occupation are poor, the determination of whether any work is suitable work for the individual shall be made without regard to whether the work involves lower pay or lesser skills than the individual's customary occupation.

"(2) Actively engaged in seeking work.—An individual shall be treated as actively engaged in seeking work during any week if—

"(A) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(B) the individual's provides tangible evidence to the State agency that he or she has engaged in such an effort during such week."

(c) Effective Date.—The amendments made by this section shall apply with respect to the certifications of States for 1978 and subsequent years, but only with respect to weeks of unemployment beginning after December 31, 1977.

By Mr. KETCHUM:

Page 10, strike out line 5 and all that follows down through line 22 on page 13.

Page 13, line 23, strike out "Sec. 116" and insert in lieu thereof "Sec. 115".

Page 20, strike out lines 7 through 18 and insert:

"(2) which are agricultural labor (as defined in section 3306(k) of the Internal Revenue Code of 1954) or domestic services referred to in section 3306(c)(2) of such Code (as in effect on the day before the date of the enactment of this Act) and are treated as employment (as defined in section 3306(c) of such Code) by reason of the amendments made by this Act."

Page 24, strike out line 10 and all that follows down through line 3 on page 26, and insert:

Sec. 122. Technical Amendment to Prior Transitional Rule for Nonprofit Organizations.

(a) In General.—Section 3303(f) of the Internal Revenue Code of 1954 (relating to transition to coverage of certain services) is amended by striking out "which elects, when such election first becomes available under the State law," and inserting in lieu thereof "which elects, before April 1, 1972,".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1970.

Page 36, strike out line 25 and all that follows down through line 3 on page 37 and insert:

(a) General Rule.—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following new paragraph:

"(13) no person shall be denied compensation under".

By Mr. PICKLE:

Page 26, line 10, strike out "$8,000" and insert in lieu thereof "$6,000".

By Mr. SISK:

Page 38, insert after line 3, the following:

Sec. 315. Denial of Unemployment Compensation to Athletes and Illegal Aliens.

(a) General Rule.—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by redesignating paragraph (13) as paragraph (15) and by inserting after paragraph (12) the following new paragraphs:

"(13) compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods);

"(14) compensation shall not be payable on the basis of services performed by an alien who was not lawfully admitted to the United States;"

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to certifications of States for 1978 and subsequent years.

By Mr. ULLMAN:

Page 2, line 23, strike out "$5,000" and insert in lieu thereof "$10,000".

Page 7, line 15, strike out "$5,000" and insert in lieu thereof "$10,000".

H.R. 13589

By Mr. GUDE:

Page 4, line 11, insert immediately after "(b)" the following: "and 150 copies of the exhibit described in subsection (c)".

H.R. 13601

By Mr. HEFNER:

Page 6, immediately after line 2, insert the following new section:

ENTERTAINMENT AND PROMOTIONAL EXPENSES

Sec. 7. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, within 90 days after the date of enactment of this subsection, establish guidelines to govern the expenditure of funds by the Corporation for entertainment and promotional expenses incurred by any officer or employee of the Corporation. Such guidelines shall include provisions prohibiting any expenditure by the Corporation to pay (1) the cost, in whole or in part, of membership in any private or social or athletic club incurred by any officer or employee of the Corporation, and (2) the cost of alcoholic beverages purchased by any such officer or employee for entertainment purposes and not for resale in the ordinary course of business.".

Renumber subsequent sections accordingly.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of June 2, 1976, page 16278.

HOUSE BILLS

H.R. 13654. May 10, 1976. Merchant Marine and Fisheries. Amends the Shipping Act of 1916 to provide that no common carrier by water subject to this Act shall submit to any agency of the United States rates or charges covering shipments of household goods, moving in whole or in part by water, in the foreign commerce of the United States, unless those rates or charges shall have been filed with the Federal Maritime Commission at least 30 days prior to the date of such submission.

H.R. 13655. May 10, 1976. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to establish a five-year program aimed at developing advanced automobile propulsion systems.

Requires the Administrator to take specified actions in furtherance of the purposes of this Act, including making contracts and grants for research and development with public and private agencies and persons and establishing a research, development, and demonstration program within the Administration.

Declares that Congress finds that the competence of the National Aeronautics and Space Administration in scientific and engineering systems should be applied toward the development of advanced automobile propulsion systems.

H.R. 13656. May 10, 1976. Education and Labor. Amends the Vocational Education Act of 1963 to require State boards receiving funds under such Act to use a portion of such funds for research into the areas of in-service training in vocational education program development and the recruitment of skilled craftsmen and technicians employed in the community into the vocational education teaching profession.

H.R. 13657. May 10, 1976. Education and Labor. Amends the Fair Labor Standards Act to permit employers to hire full-time students and teenagers at a rate less than the applicable minimum wage.

H.R. 13658. May 10, 1976. Judiciary. Requires that proceedings in U.S. district courts, in criminal and civil actions, be conducted bilingually where it is determined that a party to such proceedings does not understand the English language. Directs the Director of the Administrative Office of the United States Courts to determine and supply the personnel and facilities necessary to conduct such proceedings.

H.R. 13659. May 10, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13660. May 10, 1976. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to exclude as a potential addition to the National Wild and Scenic River System those headwaters and tributaries of the Piedra River, Colorado, which are on national forest lands.

H.R. 13661. May 10, 1976. Education and Labor. Amends the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees subject to the minimum wage provisions of the Act.

H.R. 13662. May 10, 1976. Ways and Means. Authorizes small corporate employers to establish a qualified trust or annuity plan, under the Internal Revenue Code, by complying with the alternative plan which prescribes minimum participation standards, minimum vesting standards, and minimum funding standards different from those presently applicable to qualifying trusts.

Allows an employer to take a tax deduction for contributions to an employees' trust or annuity in excess of the full amount of such contribution.

H.R. 13663. May 10. 1976. Public Works and Transportation; Interior and Insular Affairs. Terminates the authorization for the Tocks Island Reservoir project in New Jersey, New York, and Pennsylvania. Requires that property acquired by the Secretary of the Army pursuant to such authorization be transferred to the Secretary of the Interior for management by the National Park Service.

Requires relocation of a national highway to minimize adverse environmental impact on the area.

H.R. 13664. May 10, 1976. Government Operations: Rules. Abolishes certain Federal regulatory agencies unless, within the next three years: (1) the President recommends to Congress that any agency or agencies should not be abolished; (2) the relevant committee investigates and publishes a report on such agency; and (3) the Congress adopts a concurrent resolution disapproving the abolition of such agency or agencies.

Requires three year automatic abolition of existing agencies unless similar positive approval is given by the President and Congress.

Allows for the transfer of agency functions to the President or a successor agency with the continuation of the present rules and proceedings.

H.R. 13665. May 10, 1976. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to prohibit the issuance of solid waste management regulations with respect to the sale or distribution of beverage containers at Federal facilities.

H.R. 13666. May 10, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 13667. May 10, 1976. Small Business. Provides financial assistance to persons whose small businesses are displaced by Federal and federally assisted programs so that they are able to lease, rent or purchase replacement quarters.

H.R. 13668. May 10, 1976. Small Business. Amends the Small Business Act to allow the Small Business Administration to provide disaster loans to small businesses in areas which the Administrator declares to have been struck by impacted disasters.

H.R. 13669. May 10, 1976. Small Business. Amends the Small Business Act to increase the maximum Small Business Administration share on a business loan.

H.R. 13670. May 10, 1976. Small Business. Amends the Small Business Act to provide that a small business concern shall include a nonprofit organization the purpose of which is to provide economic benefit or valuable service to its members and which possesses such financial structure and prospects as would reasonably assure that it is able to meet financial obligations.

H.R. 13671. May 10, 1976. Small Business. Interstate and Foreign Commerce. Amends the Small Business Act to authorize loans by the Small Business Administration to certain small businesses in the petroleum and petrochemical industries.

Prohibits certain large petroleum refining companies from acquiring or controlling an interest in the marketing of petroleum or petroleum products.

H.R. 13672. May 10, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13673. May 10, 1976. Armed Services. Authorizes the President to sell one landing craft repair ship and one inshore patrol craft to the Government of the Republic of the Philippines.

H.R. 13674. May 10, 1976. Ways and Means. Amends the Tariff Schedules of the United States to lower the custom duty on vanadium pextoxide imported for processing into ferrovanadium.

H.R. 13675. May 10, 1976. Veterans' Affairs. Extends the period in which veterans may use their veterans' educational assistance.

EXTENSIONS OF REMARKS

DR. HARRY RONALD FISHMAN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. EILBERG. Mr. Speaker, Dr. Harry R. Fishman is retiring after 43 years as an inspirational teacher, dedicated educator, and humanitarian.

Dr. Fishman, who I have known personally for many years, has spent his life helping children and adults learn and to overcome physical handicaps as well as those limitations placed upon them unfairly by society.

Dr. Fishman was first recognized for his pioneer work in the field of corrective physical education. As a teacher in the Philadelphia school system, he devised over 50 pieces of therapeutic equipment which enabled boys and girls enrolled in the classes to improve or correct their functional disabilities.

His work in this field became nationally known and men and women in the field of education and medicine came to his school from all over the Nation and even from foreign countries to observe this new trend in corrective therapy.

Dr. Fishman was presented the Gold Medal Award by the National Podiatry Association for sharing his knowledge with the members of their profession. His success can be attested to by people who best could evaluate his contributions to the betterment of the health and welfare of the youth he served.

The City Council of Philadelphia:

RESOLUTION

Relative to the Outstanding Contributions to the Physical Welfare of Young People by Harry R. Fishman.

Whereas, Harry R. Fishman, of 906 Knorr Street, a Physical Education instructor at Fels Jr. High School, has gained national acclaim for his work in correcting functional disabilities in children; and

Whereas, Dr. Fishman has designed more than 50 devices to correct such weaknesses as round shoulders, flat feet, muscular and defective posture; and

Whereas, Harry R. Fishman has given these devices free of charge to the Philadelphia Public School System and to many hospitals and has offered to demonstrate the devices to physical education people in foreign lands who have inquired about the appliances; and

Whereas, Mr. Fishman has received citations from the University of Kentucky, University of Pennsylvania Hospital, Pennsylvania State University, the State of New York, Temple University and Wayne University, for "his advancement of scientific knowledge in remedial gymnastics"; and

Whereas, his contributions to the well-being of youth was the main topic at a recent session of the President's physical fitness program committee in Washington; therefore

Resolved, by the Council of the City of Philadelphia, that we hereby extend a public tribute, on behalf of all of the people of this committee, to Harry R. Fishman, a teacher who is devoting his life to the development of sound and strong bodies among our children and by so doing is bringing much praise upon himself, our public school system and the City of Philadelphia.

Resolved, that a suitable engrossed copy of this resolution be presented to Harry R. Fishman.

Certification: This is a true and correct copy of the original Resolution passed by the Council of the City of Philadelphia on the seventh day of February 1957.—James J. Tate, President of City Council.

The Northeast Junior Chamber of Commerce also lauded his efforts and presented him with their Man of the Year Award. The inscription on the plaque and scroll stated:

RESOLUTION N.E. CHAMBER OF COMMERCE

The N.E. Junior Chamber of Commerce is signally proud this year to honor Dr. Harry Ronald Fishman as its "Man of the Year" in recognition of his outstanding endeavors which have been aimed at improving the health and welfare of children, not only in the Northeast, but throughout the country.

He has pioneered in the field of remedial gymnastics to aid in the correction of pupils with functional disabilities. Inventor of more than 50 therapeutic devices to aid the treatment of these disorders, he has turned them over to schools, hospitals and clinics throughout the country as a public service.

The N.E. Junior Chamber of Commerce is proud to number Dr. Fishman as one of our rising community, and prouder still to cite him as "1956 Man of the Year".

Most noteworthy was a letter of commendation from then Governor Shaffer of Pennsylvania:

LETTER FROM GOVERNOR SHAFFER

DEAR DR. FISHMAN: Your outstanding work in the field of physical welfare for the children of your city deserves my congratulations.

It is my firm opinion that the children of Pennsylvania represent our greatest natural resource and to devote your life to the development of sound and strong bodies can mean nothing but a selfless devotion for the betterment of mankind.

Dr. Fishman's efforts in the field of civil rights were also exceptional. When he first began to coach swimming and gymnastics at the Bok Vocational School, black students had never tried out for these teams. Dr. Fishman encouraged the black students to try to make the teams, but he discovered that no swimming pool was available to blacks at that time.

Going about the city, he pleaded with various pool owners to permit his youngsters to make use of their facility. Finally, through the help of the local YMHA a pool was made available to the Bok team. For the first time, blacks and whites shared the swimming pool and competitive swimming with other school teams became a reality.

Another first was achieved by Dr. Fishman, when he was called upon by the school district of Philadelphia and the Crime Prevention Association to organize and conduct the school district's first community recreation center. It operated every evening from 7 until 10, and he opened its doors to members of the black community. The area around the school was predominately white and the resentment was bitter by people who did not share Dr. Fishman's desire to welcome blacks to the program. It was a known but subtle fact, that blacks at that time were being denied access to the local city recreation center within the vicinity. He fought off opposition to reject black children in the school and achieved his objective in making it a real asset to the community.

Again visitors flocked to the school to see a new and vital program which served both blacks and whites. It became a model for other centers which were established in the city.

In 1956, before a capacity crowd assembled in the school auditorium, Dr. Fishman became the first white man to receive an award from the local NAACP. It read in part:

> To Dr. Harry Ronald Fishman:
>
> A sincere friend of all youth and intelligent champion of their welfare, who has ably served as Principal of the FitzSimons Community Teen Center—a real contribution in the field of human relations.
>
> CHARLES A. SHORTER,
> *Executive Secretary,*
> *Local Branch NAACP.*

For 16 years Dr. Fishman served as principal of the center. He labored unceasingly to make it grow and to make its offerings available to as many teenagers as could possibly enter its doors. Its enrollment became so large, that the doors had to be closed early in the evening because of the vast number of boys and girls who came every night. Needless to say, it proved to be a haven for those who attended and enrichment of the lives of thousands was its by-product. Boys and girls no longer roamed the streets at night—they had a place to go.

Dr. Fishman's educational leadership was manifested once again when, in 1974, he became principal of the West Philadelphia Standard Evening High School. He took a school which was run down, in a community where people feared to venture upon the streets at night, and transformed it into a vital institution. Thousands of men and women, who were employed in the daytime, returned to school after Dr. Fishman hired a sound truck to travel through the community to personally exhort its people to come to the school and complete their education. The message got through, and men and women who had never received a high school diploma returned and completed their education. Others availed themselves of the school curricula to improve their job skills and improve their monetary earnings. The highest enrollment figures in the school's history attested to the success of Dr. Fishman's leadership.

Here at the school, Dr. Fishman labored for the rights of all people. It was through his efforts again, that for the first time in the history of the school's operation, that a woman was recognized as an outstanding student by the city's chamber of commerce. Prior to this, only men were so honored for being head of a family, gainfully employed in the daytime, and being an outstanding student.

The sentiments of the student body of the school can be attested to by a card presented to him upon his leaving the school for medical reasons:

> DEAR DR. FISHMAN: We are sad at the thought of your leaving and hope that you will get well and return again.
>
> The school remains, but the man who brought the breath of life within its walls will be missed.
>
> Your humanitarian leadership is reflected in symbol by the gold chain and emblem of Scorpio that the Students of West Philadelphia Standard Evening High School present to you.
>
> May it always be a reminder of the depth of feeling that we have for you and may it add to the lustre of the golden years that your future holds.
>
> MANDY ADDISON,
> *President of School Senate.*

Dr. Fishman served both at FitzSimons and then West Philadelphia Standard while still serving as vice principal of the Fels Junior High School. It was at Fels that his efforts in the remedial physical education field crested. His promotion to vice principal of the school did not diminish his efforts to help boys and girls physically as well as academically.

It was during the early years at Fels that he set up the first free rehabilitative clinic for foot and allied defects at the Cleveland College of Podiatry. It also was a model for other clinics that emulated his work in the field. One would be remiss if mention was not made that all the apparatus in the clinic was donated by Dr. Fishman at his expense.

It is noteworthy to record that he has been the recipient of over a hundred citations, degrees, and commendations, and I am proud to have been able to help to honor Dr. Fishman at this time.

PENSIONS FOR WORLD WAR I VETERANS: THE TIME TO ACT IS NOW

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ANDERSON of California. Mr. Speaker, on May 21, I filed with the Clerk of the House a motion in writing to discharge the Veterans' Affairs Committee from further consideration of H.R. 3616, the World War I Pension Act, a bill which I introduced 15 months ago.

I have taken this action because I believe that it is imperative that the full House of Representatives be afforded an opportunity to discuss and vote on World War I pension legislation as soon as possible.

H.R. 3616 would provide $150 a month pension for either the World War I veteran or his widow, without regard to any other source of income that he or she may have.

I recently presented testimony on this legislation which I would like to include at this time for the purpose of explaining the need for this legislation:

STATEMENT OF HON. GLENN M. ANDERSON

Thank you, Mr. Chairman, members of this committee. I appreciate this opportunity to present testimony in behalf of legislation which I have introduced relative to pensions for World War I veterans.

The bill, H.R. 3616, the "World War I Pension Act", would provide a $150 a month pension for either the World War I veteran or his widow.

Mr. Chairman, it has been 60 years since these Americans trooped off to Europe. It is easy for us to choose not to reflect on that part of our history, but I believe it is very beneficial and appropriate for us to recall the climate of those times.

When in April of 1917, the United States entered the war, Germany was winning. The United States was ill-prepared to declare war on Imperial Germany—the odds seemed hopeless. The French Army was demoralized and in the midst of mutiny. The British and the French were losing men not by battalions and regiments but by divisions, virtually by armies.

The young Americans who reported to the recruiting offices that year were not seeking adventure. They were convinced, that regardless of the cost, America had to enter the war—and they were well aware of what their part in such an effort would be.

They left this country to face the awesome trench warfare of the Western Front. Due largely to the valor of these men, the bolstered Allied forces began to experience victory after victory—we know the rest of this history.

What did a grateful nation provide to these valiant veterans? On the day of discharge we presented him with $60—a happily received sum in the day when a dollar had considerably greater buying power. Later, the Congress passed the Adjusted Service Compensation Act which provided the veterans with an average payment of $547.50. This total amount of $607.50 was his reward and "thanks" from the nation which he served.

In 1919, when most World War I veterans were discharged, there was no educational aid system. If there had been, the plight of these veterans might be quite different today, as the average educational level of World War I veterans is the sixth grade.

For a majority of these veterans, their education handicap prevented any large number of them from achieving even moderate economic success. Also, by 1935, when the Social Security system was created, World War I veterans were too old to have time to build up maximum benefits.

In 1919, the Government did not help the veteran find employment, as in the case of recent veterans. Nor were there veterans hospitals as there are today. The only assistance provided to these men was vocational rehabilitation for those disabled in the war.

Has this caused these men to be bitter—quite the contrary. I have always been impressed by the support which World War I veterans have provided for the granting of educational and other benefits to veterans of later wars. In spite of the meager show of gratitude by this nation to World War I veterans, they have always maintained the attitude that such benefits for later veterans have led to better citizenship and thus a better America.

The legislation which I propose—a $150 a month pension for either the World War I veteran or his widow—will not cost as much as simple arithmetic might indicate. Many veterans are receiving welfare payments, and this pension would permit many to cease drawing such benefits. I believe that it is a national disgrace that men who served this nation with such valor are now forced upon the welfare rolls.

My bill, H.R. 3616, will rapidly drop in annual cost to the government. In the meantime it will be a godsend to the 893,000 World War I veterans still alive and to the surviving widows of deceased veterans. I might add, that at the present time, only 340,873 of these veterans are receiving any kind of a veteran's pension.

The pension system that is in effect now is a type of welfare that is really beneath the dignity of those who have contributed so greatly to our nation. For example, a married veteran of World War I, whose annual income is $300 or less, is entitled to $186 a month pension maximum—$2,232 per year. No pension is payable to such a veteran whose annual income exceeds $4,500.

The veteran without dependents is eligible for a pension only if his annual income is less than $3,300. His maximum monthly pension, based on an annual income of less than $300, is $173—$2,076 per year.

Mr. Chairman, I maintain that the pension which I propose is not a special privilege, but rather, this legislation will serve to bring the Nation's treatment of World War I veterans to a point approaching equity with the benefits that veterans of later wars have received.

I thank you Mr. Chairman and members of this committee for allowing me this opportunity to share my strong views on this subject. I urge you to report the "World War I Pension Act" to the floor of the House as soon as possible.

RABBI ISRAEL M. GOLDMAN HONORED

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. LONG of Maryland. Mr. Speaker, on June 6, Rabbi Israel M. Goldman will celebrate with his many friends in Baltimore the 50th anniversary of his ordination to the rabbinate and mark his retirement after 28 years of service to the Shizuk Amuno Congregation in Baltimore.

The rabbi's remarkably varied interests throughout his career have encompassed not only a deep concern for the continuation of Jewish heritage and tradition, but interfaith understanding and cooperation and civil rights and individuals' welfare.

Rabbi Goldman has been nationally recognized for his pioneering work in the field of adult Jewish education, and has developed both materials and techniques to foster the Jewish tradition of lifelong study and learning. He was an early advocate of schools for adults as well as children as parts of congregational programs.

As a leader within the Jewish community, Rabbi Goldman has served with distinction as president for numerous organizations: The Baltimore Jewish Council, the Baltimore Board of Rabbis, the Baltimore Zionist District, the Jewish Historical Society of Maryland, and the Rabbinical Assembly of America.

As a leader in interfaith understanding, Rabbi Goldman cofounded and cochaired the Interfaith Council of Greater Baltimore, the first known instance in Maryland history in which the three predominant faiths joined to launch a practical program of social action for the entire community.

For 18 years, Rabbi Goldman served as vice chairman of the Maryland Commission on Human Relations, and chaired its Personnel Committee. He edited the published study of Baltimore intergroup relationships, "An American City in Transition."

Not only has Rabbi Goldman served actively in the rabbinate, and contributed generously of his time, energy, and knowledge to the community at large, he has been a scholar and author. Awarded a doctorate in Hebrew literature from the Jewish Theological Seminary, he has also been awarded honorary doctorates in divinity from the seminary and from Brown University. He has written "The Life and Times of Rabbi David Ibn Abi Zimra" and "Henry W. Schneeberger—His Role in American Judaism."

Prior to his service as rabbi for the Chizuk Amuno Congregation, Rabbi Goldman was founding rabbi for Temple Emanu-El, Providence, R.I., and served from 1940 to 1954 as the first director, National Academy for Adult Jewish Education, Jewish Theological Seminary.

As Rabbi Goldman retires from active service, my best wishes go with him for a pleasant and productive retirement. I know that his many friends will continue to count on his wisdom and experience in the years to come.

THE FEDERAL ENERGY ADMINISTRATION AND THE NEED FOR REGULATORY REFORM

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. MIKVA. Mr. Speaker, one of the rarest hybrids produced by the political process is an election year issue upon which both Democrats and Republicans agree. Among the many surprises of this election year, none has been quite so unexpected as the emergence of one of those rare hybrids under the generic name of regulatory reform.

The most popular, and I think wisest, of the reform proposals has been the "sunset" concept which establishes a definite date for termination of the operations of a Federal agency unless Congress and the President take certain prescribed steps to maintain the agency.

Unfortunately, the recent House decision to extend the life of the Federal Energy Administration indicates that while regulatory reform is a fine topic for a rousing campaign speech, it is considerably less popular when the opportunity to translate talk into action arises.

The Federal Energy Administration was created to respond to the emergency situation caused by the OPEC oil embargo. That embargo, at least for now, is over, but the FEA lives on to duplicate the functions of the 11 other Federal agencies and departments with jurisdiction over energy matters. This kind of inefficiency is at the heart of the calls for regulatory reform. Divisions and subdivisions of responsibility within and among Federal agencies not only wastes the efforts of dedicated agency employees, but also results in execessive confusion in the regulated industries. The continued existence of the FEA under the mandate of this bill impedes, rather than aids in the quest for solution to our energy problems.

The House has performed a disservice to the energy industry by not providing for an orderly transfer of FEA duties to other agencies. However, the failure of the House to measure up to the standard regulatory reform which the general business and consumer communities have come to expect and demand is an even greater disservice.

KOCH CLUB FLAG DAY PARADE AND CEREMONIES

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. BURKE of Massachusetts. Mr. Speaker, I am very proud to enter into the CONGRESSIONAL RECORD a description of this year's Koch Club Flag Day parade and ceremony. The Koch Club holds this parade and ceremony every year, and is one of the highlights of Quincy's calendar year.

The Koch Club has been in existence for 25 years, and it is fitting that this Bicentennial Year is also the silver anniversary of the Koch Club. The Koch Club has a record of community service which the city of Quincy is very proud of.

KOCH CLUB FLAG DAY PARADE AND CEREMONIES

The Koch Club of Quincy will sponsor its 25th Annual Flag Day Parade and Observance on Monday, June 14, 1976 starting at 6:15 P.M. with a parade stepping off from the Hancock Parking Area on McGrath Highway, proceeding onto Mechanic Street, onto Elm Street, onto Hancock Street and continue onto Southern Artery and into Veterans Memorial Stadium for the Flag Raising Ceremonies.

In commemoration of this event annually sponsored by the Koch Club of Quincy for the past quarter of a century, a flag flown over our nations capitol and presented to the organization by United States Congressman James A. Burke will be raised to open the Flag Day Observance at Veterans Memorial Stadium.

During these past twenty five years, the Koch Club of Quincy has continued to encourage its youth and community to recognize Flag Day with special significance.

On this year, the 200th Birthday of our Nation, the Koch Club of Quincy observes its 25th anniversary of sponsoring the Flag Day Parade and Observance by assembling the boys and girls of Quincy and the South Shore to pay tribute and honor to the flag of our country by setting aside a period of time during Flag Day for participation in ceremonies to properly recognize the importance of this day in our nations history.

To commemorate Quincy History along

the route, the parade will stop to pause at the Church of the Presidents while wreaths will be placed on the tombs of John Adams, Second President and his wife Abigail and John Quincy Adams, the Sixth President and his wife, Louisa Catherine.

The parade will again halt at the John F. Kennedy Health Center while a wreath is placed to honor the memory of the thirty fifth President of the United States and the only person ever conferred with honorary membership in the Koch Club.

Last, but not least, the parade will stop at the Dorothy Quincy House to recognize the first lady of Massachusetts, when her husband John Hancock was elected the first Governor of the Commonwealth.

In the period of the late sixties and early seventies when some felt it more popular to defy and abuse the flag, the Koch Club continued in its efforts to foster respect for our Flag, the symbol of our country's tradition of Liberty and Justice For All.

Each year at the Flag Day Parade, through the generosity of a number of donors, 18"x12" are distributed to each boy and girl participating in the parade for them to carry proudly in the line of march and keep as a memento following the event. It is hoped that involvement in this patriotic event by thousands of youths will instill a lasting impression and greater appreciation of their country's heritage and history.

First started in 1952 with 100 members of the Koch Club boys baseball and girls softball leagues marching through the streets of Norfolk Downs to Cavanagh Stadium in North Quincy for the Flag Raising Ceremonies, the numbers involved each year has continued to increase until the 1975 event last year included 2500 marchers each proudly displaying their new 50 star flags.

Lieutenant General George S. Patton was guest speaker on the 24th year and Captain Richard A. Stratton, U.S. Navy Commanding Officer, will address the participants and spectators at the 25th Observance on Monday, June 14, 1976.

Clergymen of each faith have been invited to attend the program and express prayers of thanksgiving to God for the blessings bestowed on our nation in freedom, abundance and national resources and ask guidance that we may share these gifts with our neighbors and brothers in need throughout our country and our world.

Mr. John C. Comer, Massachusetts State Commander of the American Legion, will be Honorary Marshall of the Parade and City Parade Coordinator Thomas M. McDonald, Past Commander of the Quincy Veterans Council and George F. Bryan Post V. F. W., will be Parade Marshall.

Mr. Richard J. Koch, Executive Director and Founder of the 28 year old Koch Club of Quincy, will be Master of Ceremonies of the Flag Day Parade and Stadium Exercises.

City and state dignitaries will be led by Mayor Joseph J. LaRaia, City Council President and State Senator Arthur H. Tobin, members of the Quincy City Council, School Committee and State Representatives. All appointed officials have been invited to attend and participate.

To climax the program, the Quincy Symphony Orchestra and Park and Recreation Board will jointly sponsor an hour long "Pope Concert" at the stadium at 8:30 P.M. to close out the evening.

Mr. Joseph E. Burke, Chairman of the Park and Recreation Board and Mr. Andrew T. Walsh, President of the Quincy Symphony Orchestra will participate in the evenings activities.

June 14, 1976 should provide an enjoyable evening of family entertainment with boys and girls marching as participants in a parade rather than spectators; parents and children joined together celebrating Flag Day in this our nation's Bi-Centennial Year.

DEFINITION OF PRESIDENTIAL RURAL POLICY

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. PRESSLER. Mr. Speaker, because I am from a rural-based economy district, I am very interested in how the persons who are running for the highest office in our country feel about the development of a comprehensive rural/smalltown/small business policy for the State. For this reason, I have written to the candidates for President to receive their views on what should be done for the forgotten people of the rural States and small towns. I include in the Record a copy of the letter that I sent to the candidates, and their answers as I receive them. I shall also send their replies to farm publications:

Washington, D.C., *May 26, 1976.*

Dear Presidential Candidates: I know that you are very busy with the primaries in many of the states, but as a member of the Congressional Rural Caucus and representing the rural-based economy state of South Dakota, I feel strongly about the development of a comprehensive rural/small town/small business policy. I am originally from a farm, and I grew up in a rural environment. In looking at the race for nominee for President in both political parties. I would like to ask you to answer the questions that follow in order to gain an idea of what directions you will be moving if you are elected President.

With some 30% of the American population living in towns of 10,000 or less or on farms, I feel that the "forgotten people" in the country are those who live and work in our rural areas and small towns. Conversations with people in my district indicate to me the concern of many people that the rural areas are not given much attention in Washington. For this reason, I feel the following questions are important to our state, and would ask that you return the answers to me:

1. What is your policy on international agricultural trade? What steps would you take to give agricultural imports/exports the same treatment our industrial exports receive? Would you use food as a foreign policy tool? Would you consider creating a "food cartel" against the Arab oil cartel?

2. Will you appoint a family farmer as your Secretary of Agriculture? In international trade agreements that affect agriculture, will the Agricultural Secretary be given the same negotiating power that the Secretary of State and the Treasury now enjoy?

3. What are your policies on rural/small town/small business development—specifically in the following areas:

(a) Business Development.
(b) Transportation (Airline, Railroads, and Trucking).
(c) Credit (FmHA, SBA, etc.).
(d) Conservation (Topsoil preservation, shelterbelts, etc.).
(e) Housing.
(f) Rural Water Systems.
(g) Estate Tax Revision.
(h) Rural Post Offices.

Upon receipt of your answers, I plan to have them printed in the *Congressional Record* and make them available to the news media.

Thank you for your assistance.

Sincerely,

Larry Pressler,
Member of Congress.

BURDEN OF FEDERAL GRANTS FALLS UNEVENLY ON STATES

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mrs. MEYNER. Mr. Speaker, now that the House of Representatives has finished its most pressing business of the day, I would like to call to the attention of this body a problem that affects New Jersey and several other States.

In this time of ever-tightening budgets, taxpayers everywhere are concerned that they get what they pay for. It is disconcerting, therefore, to learn that New Jersey residents have been shouldering an excessive share of the Federal tax burden for a number of years. In fiscal year 1975, for example, New Jersey received $1.5 billion in Federal grants-in-aid but paid more than $2 billion in Federal taxes. This means that taxpayers in New Jersey paid $1.36 for each dollar of Federal grant money in 1975.

Only five other States paid more for less benefits.

In an article that appeared in Monthly Tax Features, which is published by the Tax Foundation, Inc., a breakdown of receipts and outlays by States indicates that several States, notably those in the Southeast, benefit greatly at the expense of others.

Mr. Speaker, I urge all Members in this Chamber to take note of the following article and to seriously consider a more equitable tax burden/benefit ratio for all States:

Burden of Federal Grants Falls Unevenly on States

Federal grants-in-aid to state and local governments totaled $48.2 billion in fiscal 1975, the highest ever and up $3.6 billion from the 1974 grants of $44.6 billion.

The tax burden for such grants fell unevenly on taxpayers across the nation, ranging from 42 cents per dollar of grants in Alaska to $1.46 in Florida, according to calculations just completed by Tax Foundation.

Close behind Florida was Indiana, whose taxpayers had a burden of $1.41 per dollar of aid. Ohio paid $1.40, and Connecticut, Delaware, Illinois and New Jersey each paid $1.36.

Thirteen other states had a tax burden for grants greater than the grants they received. All the remaining states but two, and the District of Columbia, received more than they paid for. Arizona and Pennsylvania came out even.

Revenue sharing grants totaled $6.1 billion in Fiscal Year 1975.

The formula under which the tax burden is allocated to the states was developed by Tax Foundation in cooperation with other organizations. The method and bases for estimating the allocations have been in use for the past 13 years.

States that got the most for their money besides Alaska were New Mexico, which paid 50 cents, Mississippi, 52 cents, and South Dakota, 55 cents. The District of Columbia had a tax burden of only 28 cents for each dollar of aid.

New York, contrary to some opinions, also received a good deal on its grants from the Federal Government. Its burden was 83 cents per dollar of aid. New York led the nation, however, in the total amount of grants it received at $5.7 billion. Its tax burden for this aid was $4.7 billion.

California, on the other hand, was a loser. Its tax burden for grants was $5.3 billion, while it received only $4.9 billion in grants. California taxpayers bore nearly eleven percent of the total U.S. tax burden to fund grants. New York paid just under ten percent of the total.

Other states receiving substantial grants were Pennsylvania at $2.7 billion, Illinois and Texas with $2.2 billion, and Michigan, $2.1 billion. Florida received $1.3 billion in grants against a tax burden of $1.9 billion, four percent of the total.

The Tax Foundation formula for allocating tax burden is designed to show more accurately than the U.S. Treasury figures, where the tax dollars actually originate. U.S. Treasury figures show where taxes are collected. For example, tobacco taxes are collected in a few southern states, but the burden of the tax falls on smokers in all states.

FEDERAL GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS AND ESTIMATED TAX BURDEN OF FEDERAL GRANTS [1]—FISCAL YEAR 1975

State	Grants (millions)	Estimated tax burden for grants [2]	Tax burden per dollar of aid
Total	$48, 195. 5	$48, 195. 5	$1. 00
Alabama	809. 7	597. 6	. 74
Alaska	251. 0	106. 0	. 42
Arizona	458. 8	457. 9	1. 00
Arkansas	508. 6	332. 5	. 65
California	4, 892. 9	5, 267. 8	1. 08
Colorado	565. 1	568. 7	1. 01
Connecticut	672. 7	915. 7	1. 36
Delaware	120. 1	163. 9	1. 36
Florida	1, 316. 5	1, 918. 2	1. 44
Georgia	1, 176. 9	949. 4	. 81
Hawaii	246. 6	216. 9	. 88
Idaho	203. 9	154. 2	. 76
Illinois	2, 226. 1	3, 017. 0	1. 36
Indiana	805. 5	1, 137. 4	1. 41
Iowa	555. 6	592. 8	1. 07
Kansas	444. 0	496. 4	1. 12
Kentucky	832. 4	578. 3	. 69
Louisiana	878. 0	655. 5	. 75
Maine	291. 1	192. 8	. 66
Maryland	965. 1	1, 065. 1	1. 10
Massachusetts	1, 455. 9	1, 426. 6	. 98
Michigan	2, 112. 2	2, 236. 3	1. 06
Minnesota	899. 2	833. 8	. 93
Mississippi	632. 9	327. 7	. 52
Missouri	905. 9	978. 4	1. 08
Montana	221. 1	144. 6	. 65
Nebraska	337. 3	327. 7	. 97
Nevada	138. 1	159. 0	1. 15
New Hampshire	170. 7	178. 3	1. 04
New Jersey	1, 500. 4	2, 043. 5	1. 36
New Mexico	375. 4	188. 0	. 50
New York	5, 681. 7	4, 728. 0	. 83
North Carolina	1, 047. 7	1, 002. 5	. 96
North Dakota	169. 6	120. 5	. 71
Ohio	1, 787. 5	2, 496. 5	1. 40
Oklahoma	652. 9	496. 4	. 76
Oregon	558. 1	506. 1	. 91
Pennsylvania	2, 696. 2	2, 689. 3	1. 00
Rhode Island	248. 7	216. 9	. 87
South Carolina	572. 5	486. 8	. 85
South Dakota	211. 9	115. 7	. 55
Tennessee	887. 6	785. 6	. 89
Texas	2, 197. 5	2, 501. 3	1. 14
Utah	287. 9	212. 1	. 74
Vermont	154. 0	91. 6	. 59
Virginia	1, 002. 5	1, 084. 4	1. 08
Washington	780. 0	848. 2	1. 09
West Virginia	550. 9	308. 4	. 56
Wisconsin	918. 2	988. 0	1. 08
Wyoming	97. 9	86. 8	. 89
District of Columbia	722. 5	202. 4	. 28

[1] Excludes shared revenues; general revenue sharing and trust fund aids.

[2] The total burden for aid payments is assumed to equal aid payments.

FEA—UNNECESSARY FEDERAL BUREAUCRACY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ARCHER. Mr. Speaker, on June 1, 1976, the House passed H.R. 12169, a bill to authorize appropriations for the Federal Energy Administration. I voted against this measure.

The FEA has become another bureaucratic agency which has grown in size and in desire to further regulate our domestic energy industry. The increased involvement of the Federal Government in our energy policy will not assist our country in becoming self-sufficient in the energy field. Additional Federal controls hamper our domestic developments in the energy field and make us more dependent on foreign sources.

I wish to include in the RECORD excerpts from a column entitled "Federal Energy Office: A Costly Outrage" by Alan W. Bock—Anaheim Bulletin, May 19, 1976. Mr. Bock points out the defects in the FEA:

FEA—UNNECESSARY FEDERAL BUREAUCRACY

FEA has provided a case study of bureaucratic growth and abuse. It began as a "temporary" agency to meet a short-term emergency. It has grown to well over $100 million in budget and 3,400 in employees. The administration's bill to extend FEA for another three years calls for tripling the budget to $440 million.

FEA has spent more on press agentry and lobbying than most people can understand. It wanted to run television commercials which were so blatantly anti-Arab and noxious that the Madison Avenue flacks who had volunteered to help through the Advertising council were turned off and refused to continue. When you offend an ad-man's sense of decency you've done something. FEA then asked Congress for $20 million to do its own commercial advertising. FEA has more than 100 professional publicists with a $3.5 million budget now. They turned out more than 1,000 press releases in a few months and stored them in computers for instant retrieval. Aren't you glad you're paying for that?

Lobbying and press agentry are supposed to be forbidden to federal agencies. Fine points of law don't seem to bother FEA. Last Winter, though the Federal Power Commission clearly has regulatory authority over natural gas FEA coordinated a massive lobbying effort for deregulation and cranked out all kinds of nice booklets. That brought on some suits by taxpayers, which failed to stop distribution.

Later, FEA Administrator Frank Zarb wanted to expand into meddling with nuclear energy. He hired 20 new employees and asked Congress to come up with another $2 million. Congress rejected the request and ordered the new office abolished. The Wall Street Journal reported that Zarb abolished the NAME of his Office of Nuclear Affairs, but kept the newly-hired employees working on nuclear issues.

You'd think that FEA's efforts to deregulate some aspects of the petroleum industry would mean fewer FEA employees. (Well, maybe you're not so naive, either). Somehow FEA, under the "phased deregulation" process found a way to add an additional 600 employees to its army of regulators.

FEA, though the confusion, inhibition of the search for domestic energy, paperwork and imposition of artificial costs on energy, has been the best friend the OPEC oil cartel could have had. The longer we have FEA, the more dangerous our dependence on foreign oil is likely to grow.

The reasons for abolishing FEA are manifold.

RECOMMENDATIONS OF THE NEW YORK STATE FOOD STAMP COALITION

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. RICHMOND. Mr. Speaker, the New York State Food Stamp Coalition is comprised of concerned citizen groups whose objective is to insure that those with low incomes have a real opportunity to obtain adequate nutrition. Their efforts to end the administrative bottlenecks and inequities of the food stamp program are commendable.

Recently the conference met in Albany, N.Y., to discuss the current problems of food stamp reform. The following members who participated in the conference should be praised for their work. The resolutions adopted at the meeting blaze the trail toward true reform which provides sufficient food stamps without bureaucratic redtape, and with a recognition of the real needs of millions of Americans. I wholeheartedly endorse the recommendations of this conference, and trust that my colleagues will take a few moments to thoughtfully consider them:

NEW YORK FOOD STAMP CONFERENCE SPONSORS

Buffalo Hunger Task Force.

Capital Area Hunger Action Coalition.

Capital District Community Nutrition Advisory Committee.

Community Service Society.

Food Stamp Task Force (Community Action for Legal Services).

Hunger Task Force (Community Council of Greater New York).

Inter Community Center for Justice and Peace (NYC).

Legal Aid Society of Albany.

Monroe County Nutrition Task Force (Rochester).

National Association for the Advancement of Colored People (Saratoga Chapter).

National Organization of Women (New York Chapter).

New York State Association for Human Services.

New York State Catholic Conference.

New York State Council of Catholic Charities Directors.

New York State Council of Churches.

New York State Health and Welfare Coalition.

New York State Senior Action Council.

Nutrition Task Force (New York State Alliance of Community Action Programs).

Program Funding, Inc.

Rensselaer County Food Stamp Task Force.

Troy Area Labor Council, AFL–CIO.

United Methodist Church, Board of Global Ministries (Women's Division Central Conference).

Welfare Workers for Justice/WRO (NYC).

NEW YORK FOOD STAMP COALITION

In Albany, Wednesday, April 21, 1976, the conference of the New York State Food Stamp Coalition adopted the following recommendations for legislative reform as a result of the concern that the Food Stamp Program is in fact intended to guarantee a nutritionally adequate diet to all low income households:

I. The program should be made truly accessible to the neediest households by eliminating the purchase requirement:

A. The Purchase Requirement should be eliminated because:

1. Less than 50% of the persons with incomes below the OMB poverty level currently participate due to their inability to afford the cost of the stamps.

2. Elimination of the Purchase Requirement would reduce program administrative costs by $36 million annually.

3. It would reduce or eliminate vendor fraud, which currently exceeds $25 million.

B. If the Purchase Requirement is not eliminated, the cost of food stamps should be set at a level no higher than 25% of a household's net income.

II. The program should incorporate a system of deductions which allows for expenses of employment and a standard deduction which represents the actual expenses of recipient households:

A. Expenses of employment which must be deducted include mandatory payroll deductions, and the cost of maintaining employment (such as child care, transportation, etc.), so that working households are not penalized, but are provided with an incentive to seek and maintain employment.

B. The standard deduction must reflect the actual monthly household expenditures for necessities, provide for an additional deduction for households which contain an elderly member, and reflect the higher expenses of larger households.

C. The standard deduction must be updated semiannually to reflect changes in the cost of living.

D. Deductions should also be allowed for households which are the victims of casualties of disasters.

III. Income for eligibility and benefits must be based on the income which is currently available to a household and not past earnings:

A. The use of a retrospective accounting period would deny benefits to persons who are recently unemployed and persons with seasonal income.

B. Current income use would allow the program to meet the actual needs of households.

IV. The assets test currently in effect should be frozen until a study of the effects of proposed changes can be studied by Congress:

A. The Administration has proposed the adoption of the SSI assets test which would *eliminate* elderly homeowners and the temporarily unemployed from the program.

B. The SSI assets test would greatly increase administrative costs and create the potential for massive new program errors and inequities.

V. Administrative procedures must be simplified and not further complicated by costly and burdensome procedures such as countersigning food stamps, monthly income reporting and the use of photo I.D.S.:

A. The State of New York estimates that the above procedures would increase their administrative costs by as much as $50 million per year.

E. Maladministration of the above procedures would result in the denial or termination of benefits to thousands of poverty stricken households.

WHAT DO YOU THINK?

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. SNYDER. Mr. Speaker, I present for the interest of my colleagues, the results of my recent questionnaire, through which I polled the citizens of the Fourth District of Kentucky. Some 17,000 of my constituents responded to the questionnaire and I think the returns adequately demonstrate the views of the people in the district which I represent. Since the policy areas addressed are of national concern and are by no means local issues, the results may well be of interest to my fellow legislators.

The questionnaire was made up of two parts. In the first section respondents were requested to rank nine issues of current interest in order of importance. There was such a wide variance between the responses from different areas within the fourth district that I have listed the returns on the basis of counties, to avoid distortion. On the second section of the questionnaire, the respondents were asked to answer yes or no to a question of policy on a single issue. Throughout this section there was an amazing level of agreement throughout the district on practically every point. The only exception was the question on détente, upon which the votes were evenly split.

Although busing ranked as the most important issue, only in Jefferson County and neighboring Oldham County, and was ranked as a much less important issue in the counties which have not been closely affected by busing orders, I think it is worth noting that there was virtually unanimous opposition to busing throughout the district. Also noteworthy are the importance placed on crime by nearly all respondents and the solid agreement on the need for welfare reform, reduced Government spending, and mandatory minimum sentences. The results of the questionnaire follow:

ENCLOSURE A

QUESTIONNAIRE

(1) Of those listed below, which do you believe to be the most important issues facing the American public? (Please list in numerical order with "1" standing for the area of greatest concern and "10" the least.)

County	No. 1	No. 2	No. 3	No. 4	No. 5	No. 6	No. 7	No. 8	No. 9
Jefferson	Busing	Crime	Government spending.	Economy	Inflation	Government regulations.	Energy	Education	Environment.
Boone	Crime	Government spending.	Economy	Inflation	Government regulations.	Energy	Education	Busing	Do.
Kenton	do	Economy	Inflation	Government spending.	Energy	Government regulations.	do	do	Do.
Carrol	Government spending.	Inflation	Economy	Energy	Crime	do	Busing	Education	Do.
Gallatin	Crime	do	do	Government spending.	Energy	Busing	Government regulations.	do	Do.
Oldham	Busing	Crime	Inflation	do	Economy	Government regulations.	Energy	do	Do.
Trimble	Economy	Inflation	Government spending.	Crime	Energy	Busing	Government regulations.	do	Do.
Campbell	Crime	do	do	Economy	do	Government regulations.	Busing	do	Do.
Composite 4th district	Crime	Inflation	Government spending.	Economy	Busing	Government regulations.	Energy	Education	Environment.

[Please answer the following questions either yes or no]

	Yes	No	No response
2. Some experts believe that we must move to a balanced budget in order to control the rate of inflation. Do you agree with this view?	85.0	12.8	2.2
3. President Ford and others have proposed coupling a tax cut to a reduction in Federal spending. Would you favor a dollar-for-dollar reduction in Federal spending to equal the amount of any tax cut?	85.0	10.8	4.2
4. Should Congress impose a binding ceiling on the amount of Federal spending?	79.6	16.9	3.5
5. Do you support mandatory minimum sentences for crimes committed with a firearm?	88.7	8.7	2.6
6. Are you in favor of capital punishment?	85.5	11.7	2.8
7. Do you believe that the present welfare system is in need of reform?	98.5	.4	1.1
8. Would you favor a direct federal payment to persons in need rather than the current welfare system?	50.4	38.6	11.0
9. Do you support court-ordered busing as a means of achieving racial balance in our schools?	2.7	96.2	1.1
10. Would you be in favor of a constitutional amendment to prevent the court-ordered busing of school children?	90.3	9.0	.7
11. Do you think the United States should continue to pursue a policy of detente (a relaxation of tensions) with the Soviet Union?	47.8	46.0	6.2
12. Do you think the United States should re-evaluate its role in the United Nations?	91.2	5.7	3.1

AN EFFECTIVE GRAIN RESERVE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. FINDLEY. Mr. Speaker, I urge my colleagues to read the attached editorial from the Illinois "Farm Week," May 24, 1976. Many of my colleagues who have called for a grain reserve should recognize that we already have one. As the editorial points out, our grain reserve today is "held in reserve by farmers, their cooperatives, processors, and private traders instead of the Government."

It is in the hands of those who produce, the farmer. At the same time, contrary to the comments of critics, the United States has remained by far the dominant donor of aid to food deficit countries.

The article follows:

AN EFFECTIVE GRAIN RESERVE

You can count on it. Once the electioneering is over and Congress settles back down to business, the matter of grain reserves will probably be advanced.

Consumer activists will hail the idea of government-held grain reserves as a way to cheaper food and protection from hunger. The internationally-minded will assert that government grain reserves are necessary to continue Uncle Sam's role as the chief provider of food aid to hungry nations.

It was probably with that in mind that Secretary of Agriculture Earl Butz served up a few reminders the other day to those proponents of government supply management.

Just because the government doesn't have its finger in the pie certainly doesn't mean that the United States suddenly has no system of reserves, or that there is no cushion of grain stocks in this country, said Butz.

Butz pointed out that farmers are producing tremendous quantities of grains. The excess grain today is held in reserve by farmers, their cooperatives, processors, and private traders instead of the government.

The free enterprise system, Butz reminded guarantees an efficient system of private grain stocks because it provides individual opportunities for farmers to make a profit and a system based on cash incentives for farmers from the marketplace.

As an example of the way the price system makes adjustments quickly and automatically, the secretary pointed to the short feed grain crop in 1974 which occurred at the same time total world grain production was down.

Even with the resulting shifts in livestock production and marketing, consumers felt little impact of the grain shortage, Butz said.

The lack of government-held grain reserves certainly has not threatened our food aid to needy nations. The United States remains by far the dominant donor of aid to food deficit countries.

Even with the lessons learned about agriculture and the grain reserve policy in the last three years, there are strong pressures to return to the old, outmoded system of high price supports and government-held grain stocks, Secretary of Agriculture Butz noted.

Such a reversal would indeed be unfortunate not only for farmers but for all Americans, Butz believes. "The benefits we have seen from our current experience of minimal government interference in agriculture should convince every American of the values of the traditional free enterprise system," Secretary of Agriculture Butz concluded.

OUR ENDANGERED TRADITION

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. MYERS of Indiana. Mr. Speaker, a recent commentary in Field and Stream on the issue of gun control legislation deserves the attention of our colleagues as well as the American public in general. The article by E. B. Mann appears in the June issue and I commend it to all who have an interest in this important issue:

OUR ENDANGERED TRADITION

(By E. B. Mann)

Pro-gun people, already critical of President Ford's track record on firearms issues, are voicing mixed emotions over his State of the Union pronouncements. "The way to cut down on the criminal use of guns," the President said, "is not to take guns away from the law-abiding citizens but to impose mandatory sentences for crimes in which a gun is used, make it harder to obtain cheap guns for criminal purposes, and concentrate gun control enforcement in big crime areas."

If the President had stopped after the word "used," he would have earned the pro-gun vote. But what follows is sheer political gobbledygook. "Cheap" guns are no more dangerous in criminal hands than expensive ones, and the word "cheap" here can only be an echo of the clamor over those "Saturday night specials," which no one has yet been able to define. Similarly, the proposal to "concentrate enforcement in big crime areas" by adding "500 additional federal agents in the eleven largest high-crime areas" is not only utterly lacking in logic, it is also bad politics. High-crime areas are exactly the areas in which law-abiding people most desperately need guns for self-protection; and Americans, from colonial days forward, have had no love for, nor trust in, federal "gestapos"—a fear and distrust by no means lessened by the smash-in and shoot-'em-down tactics of the IRS Alcohol Tobacco & Firearms goon squads in their six-year-long failure to make a stupid law—the Gun Control Act of '68—effective in crime control. The ATF has already used that law as a ladder for empire-building and budget inflation, and it is at least reasonable to doubt that the thought of further expansion in that direction will win much favor with voters.

We wonder who is advising the President on these matters. Whoever they are, better advisors are available! We suggest that President Ford (and you, before you vote) write the Citizens Committee For The Right To Keep and Bear Arms (1721 DeSales St. N-W., Dept. FS, Suite 203, Washington, D.C. 20036) for a listing of the 115 Congressmen who have authorized the use of their names as members of the Advisory Council of that Committee.

That's right: 115 Senators and Representatives who are on record against anti-gun (and anti-hunting) legislation by casting their names, their prestige, and their personal efforts into the pro-gun, pro-hunting cause. A year ago, only thirteen members of Congress were enrolled on that Advisory Council (then newly formed). During 1975, the number rose to 115—an increase of over 750 percent, and growing. This is not enough to control either House, but these men can, and do, make it more difficult for the Kennedy-Conyers-Mikva-Javits-Bayh bloc to achieve their ends.

When you write the Citizens Committee, ask them for a list of the state and local organizations also dedicated to our cause. There are dozens of them, surely one or more in your area. Support them, too. Then, as the Ides of November approaches, get out and do some grassroots campaigning for the right candidates. If you, enough of you, do all these things, perhaps by 1977 we can sit back and enjoy our guns and our shooting sports with greater confidence in our rights under the Second Amendment.

Polls keep popping up in the news, and many of them show results remarkably dissimilar to those reported by the professional pollsters. U.S. Congressman Bill Wampler (R-Va.) recently polled his constituents with ten questions on national issues. The fact that two of those questions concerned guns and gun legislation is indicative of the importance with which these issues are regarded by many legislators. Wampler reports "nearly twenty thousand" replies to his mailing—a significantly greater number than the 1,519 that controlled the recent Harris poll. I quote the questions to enable you to decide whether they were "fair" or otherwise:

Do you favor the federal registration and licensing of handguns? To this 67 percent of the answering Virginians wrote "No."

Do you believe judges should be required to impose heavy prison sentences on criminals who use guns or other weapons to commit crimes? To this 95 percent of the answering Virginians voted "Yes."

Bill Wampler is one of the 115 Congressmen whose names appear on the Advisory Council of the Citizens Committee For the Right to Keep and Bear Arms.

Another member of the Citizens Committee Advisory Council, Representative John Ashbrook (R-Ohio), speaking before the House, read into the RECORD the statement of Los Angeles Police Chief Ed Davis that "The whole idea [that anti-handgun legislation would reduce murders and other gun-related crimes] is absurd. We have countless legal restrictions on guns now, but they don't prevent [would-be assassins and others] from receiving $50 fines or probation."

Ashbrook added his own comment that "If we really want to reduce gun-related crimes, all we have to do is to require judges to impose an additional penalty on those using guns in crime."

Justice Nathaniel Helman of the New York State Supreme Court ruled (December 1975) that New York City police have no right to ask a person to establish need when applying for permission to keep a pistol in their homes or places of business. (New York Times, 12/24/75)

This is a ruling New Yorkers should note and remember. It is a knockout blow to the Sullivan Law if the police can be forced to observe it. But it's a big "if!"

Divots from the TV weekly documentary, "60 Minutes": According to a criminologist introduced as "an authority," only one in thirteen serious offenders serve time at all; and "rehabilitation does not work, as is proved by the fact that two out of every three criminals are repeaters." The statistics are his, not mine.

So maybe we should go back to the old-fashioned idea of "crime and punishment," instead of the theory that the criminal is just a poor, underprivileged victim of our opulent society. At least the old way kept them off the streets for an appreciable period—a period during which they were no longer permitted to share in the vast profits—estimated to be "more than 40 billion dollars annually"—that crime takes out of our national economy.

Representative James H. Quillen (R.-Tenn.) is another Congressman whose name appears on the roll of the Citizens Committee Adivsory Council. In the October 22, 1975 issue of Illinois Wildlife, Congressman Quillen argued strongly against the provision in the proposed Criminal Justice Reform Act that would make it a federal crime for a citizen to shoot a nighttime prowler in the home. "If this piece of idiocy is enacted, the criminal element in this country will cheer. . . . Obviously, the police cannot protect citizens against every gunsel and thug bent on violence. . . . More gun control will only make life easier for the crooks while undermining the constitutional freedoms of citizens. . . . I am totally opposed to these proposals."

So the news is not all bad. But it is bad enough to warn all gun owners and shooting sportsmen that the time to get crackin' in pro-gun politics is now. Letters to lawmakers are fine, and they do help; but electing the right lawmaker is better.

SHOULD WE BREAK UP THE OIL COMPANIES?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ARCHER. Mr. Speaker, I am very concerned with an attempt to convince the American people that we need to break up the oil industry. If successful, this divestiture movement would be a serious blow to the efforts of our country to become self-sufficient in the energy field and would greatly increase the price of energy for the American consumer.

Fortunately, a number of newspapers throughout the country have looked at this issue and produced some thoughtful and informative editorials on the consequences of divestiture. I insert into the CONGRESSIONAL RECORD editorials from the Columbus Ledger of Columbus, Ga., April 8, 1976; the State Journal of Topeka, Kans., April 22, 1976; and the Lewiston Daily Sun of Lewiston, Maine, April 23, 1976. My colleagues should read these editorials carefully before this issue comes before the House of Representatives:

DISMEMBERMENT NO ANSWER

There are those in Congress who believe that by breaking up the major oil companies most of the problems concerning oil and gasoline will be solved.

A Senate subcommittee has approved a bill that would affect 18 of the top 20 oil companies operating in the United States.

The bill, sponsored by Sens. Birch Bayh and Philip A. Hart, would prohibit companies from both producing crude oil and refining or marketing it. Refiners would also be prohibited from directly operating any service stations they didn't already operate as of Jan. 1, 1976.

Several things are obvious if this oil breakup bill actually becomes law.

This legislation would reduce the capability of the oil industry to explore for new sources in the United States. In turn, it would cause the United States to become even more dependent on foreign oil.

The consumer would pick up the tab for increased costs of operating separated oil producing and oil refining systems.

W. T. Slick Jr., senior vice president of Exxon company, recently gave a Senate subcommittee an idea of what would happen if the dismemberment of these oil companies becomes a reality.

He said the move would increase unemployment and reverse the current trend of economic recovery. It also would reduce the nation's domestic energy supplies, increase international payments deficits and increase the cost of energy to consumers.

Congress should think twice before tampering with a system that has helped produce a standard of living unequaled in the world.

FACTS DON'T SUPPORT DIVESTITURE

A mass of legislation has been started through Congress with the stated intent to split up the nation's major oil companies into producing, pipeline transportation and refining-marketing segments, each independent of the others.

Advocates charge the oil companies with lack of competition and monopolistic practices, a charge the facts do not support. There are 10,000 oil-producing companies, about 130 refining companies, 100 interstate pipeline companies and about 300,000 gasoline retailers.

While concentration ratios in the oil industry range from 29 to 38 per cent for the largest four companies, in other lines of business ratios range from 30 to 92 per cent. Consider this: The four largest oil companies control 33 per cent ofthe U.S. refinery output; the four largest chewing gum companies control 86 per cent of the output; the four largest office machine firms control 81 per cent of the output of typewriters; the four top greeting card makers control 67 per cent of the greeting card output and the four leading light bulb makers control 91 per cent of the output of electric lamps.

The real question facing the nation is not whether the oil industry should be torn apart, but how it can most effectively meet our energy needs.

It takes money to develop alternative sources of energy in advance of the day when the oil wells literally run dry. A recently published directory lists several hundred organizations now working on proposals to develop solar energy. Among them, predictably, one finds oil companies busily at work. Solar energy will only be developed if there are economic advantages.

Shell Oil is one of the first. Several years ago Shell's Houston headquarters received a letter from a New York bank advising them a noted researcher in the solar energy field had developed a method of converting and storing energy from the sun. This was one among thousands of letters received.

Shell invested $3 million in the idea. Under new agreements, the oil company put in another $3.6 million.

This year, the company will market long-life solar energy modules for special uses in remote or mobile applications—similar to the use of flashlight batteries. So far, solar energy has not produced electricity in commercially marketable quantities for utility distribution lines.

The interesting fact is that only an oil company had the courage and resources to back this research. Dismemberment would have prevented it from doing so.

Congress should be wary of cutting off that source of energy development capital. Facts indicate it would do only harm.

BREAKING UP BIG OIL

A fixation on the part of the American public that bigness in business is bad is behind the current efforts to persuade Congress to break up the oil industry. Actually, bigness is essential in many fields and the oil industry is one of them.

Congress has before it a bill which would attack what is known as vertical integration in the oil industry, forcing the companies to limit their operations to one, but no more, of the four basic functions: Searching for and producing oil and natural gas; making products from oil; transporting the raw materials and products; and marketing petroleum products. The legislation would require Big Oil to divest itself of the assets and operations in other than a single function.

At first glance, it appears like a good way to cut Big Oil down to size. But the long range impact on the industry, the economy and the American consumers would be little short of disastrous.

Bigness is essential to the oil industry, with its massive financial requirements and huge facilities. Big Oil just could not do the job on a small scale. Divestiture would force smallness on the industry, in the name of more competition. But it would be at the cost of crippling an essential industry at a time when the U.S. is trying to become more self sufficient.

If Big Oil becomes the victim of divestiture, other large American industries likely will be next in line. There would be a serious threat to the survival of private competitive enterprise in this country.

Congress must move slowly and carefully, and in full recognition of the facts, not suspicions or misconceptions.

There is a need for better regulation of the oil industry. But there is a vast difference between controls and destruction.

A LOOK INTO THE WORLD OF THE EDUCATIONAL TESTING SERVICE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. BIAGGI. Mr. Speaker, in late March of this year, the Trenton, N.J. Times conducted a major series into the operations of the Educational Testing Service. The series was written by two staff members of the Times, J. Stryker Meyer and Jim Landers.

In recent years, there has been growing concerns registered among educators and students alike about the validity of the standardized tests which are conducted by the ETS for prospective students seeking admission into colleges and universities as well as medical schools, law schools.

The concerns have been triggered as a result of sharply dropping scores of students on these examinations.

The article I am inserting today discusses the Educational Testing Service as a company. The article shows the remarkable growth of the ETS in its 28-year history to such a point that it now provides tests for more than 5 million students as well as conducts research projects, provides financial aid services and a whole range of other programs and services. Their expansion can be seen in their financial situation. In the words of the authors "the corporation has grown from a small test development company with an operating budget under $2 million to a burgeoning, multifaceted testing/research industry that had a $58.5 million budget in 1975." The regular ETS staff has grown from a few hundred to nearly 2,000 employees.

I and several of my colleagues have been looking into various facets of the operations of the Educational Testing Service over the past several months. My attention has been focused on the administration of the law school admission test, and whether it is a reliable indicator of a student's ability to succeed in school. I have also been looking into how the Federal funds obtained annually by the ETS are used. Other investigations into the subject have focused on the maintenance of individual student records by the ETS and their relationship to the individual's right to privacy.

I am pleased to provide my colleagues with the benefit of this article. Subsequent articles from this series will follow in the near future.

The Trenton Times article entitled "The Company Under a Halo" now follows:

The Company Under a Halo

(By Jim Landers and J. Stryker Meyer)

(First of four parts)

In October 1969, at the height of the anti-war movement, Educational Testing Service put aside designing tests for a day to hold in-house workshops on the American presence in Indochina. It was an expression of corporate conscience.

Two years later, when the Navy's ROTC program asked the testing company to supply it with the names of scholarship applicants with superior test scores, an ETS employe sent the Navy 100,000 names of students who had performed dismally on ETS exams. It was an expression of individual conscience, according to one former company official, that ETS hastened to correct but later regarded with a certain amount of bemusement.

Those acts of protest seem long ago. But they reflected the current of moral passion that has run through ETS since it was created, a moral passion that has given it the image of a company with a halo.

ETS has been gathering the best and the brightest in the fields of testing and research for 28 years, providing them with the amenities of academia's Ivory Tower and turning them loose on the task of reforming education in America.

From its lowly beginnings on a Princeton street corner, ETS has grown into a nationwide company testing five million people each year and conducting research into the education of other millions.

The company is best known for its work with the College Entrance Examination Board; it writes the Scholastic Aptitude Test. But ETS has moved far beyond the examiner's role for would-be freshmen.

State and local governments throughout the country are agonizing over school finance reform, and ETS is there, testifying in courtrooms where judges strike down the property tax as a tool that denies equal educational opportunity.

School boards in Louisville, Detroit, Richmond and a host of other cities worry over formulas for successful school integration. ETS is there, studying communities across the country in an effort to define effective desegregation.

Colleges struggling to fill sparsely populated dormitories are wondering where to recruit, and ETS is there, providing these schools with information about prospective students from a data bank that includes the names of an estimated 15 million Americans.

And then there are the tests, hundreds of them, the examinations taken by millions of Americans each year at thousands of schools, universities and companies. For ETS these are the spearpoint of a lance aimed at barriers to equal opportunity in the United States. They are seen by the company and by admissions officers and personnel directors as objective yardsticks to use in reaching decisions about who gets into college, who gets a job, which students need remedial school work or special education.

If ETS could be summed up in a single word, from top executives to clerical workers, the company's 1,968 regular employes might well choose "service." They see themselves as the servants of American education. That service takes them out to fight the holy war for educational democracy, attacking barriers to learning and work that often have prevented the black, the poor, the disadvantaged and the scorned in society from realizing the American dream of unlimited opportunity.

But a growing number of critics, from outside professionals in the education community to students groping through three-hour exams, might choose another word for ETS: Power. The power of an organization that shapes national and local policy, that sways judges in their decisions, that stands like the mute doorman of fate before the gates of school and work deciding who shall get in, and who shall not. For the critics of ETS, the halo is tarnished; the company itself is the barrier to equal opportunity; power has been concentrated in the hands of a few men and women, whose professional accountability to society is ambiguous.

"Far too many educators appear to believe that standardized tests were constructed in heaven by God and His angels," said Norman R. Dixon, an associate professor of higher education at the University of Pittsburgh. "Yet, standardized tests have telling effects on the aspirations and opportunities of those who are powerless, poor, and insignificant to local, state and national governments."

There is ample evidence to support both views of ETS: there is service and there is power, merit and abuse, opportunity and obstruction in the workings of a nonprofit corporation with annual revenues now exceeding $58.5 million and a net income of more than $1.1 million.

ETS and the College Entrance Examination Board point with pride to a vast array of Cinderella stories that describe how disadvantaged youngsters, with no strong sense of self-esteem or ambition, took the Scholastic Aptitude Test in high school, scored well, were encouraged to go on to college and eventually found thriving careers in the American mainstream.

There are other stories to remind the listener of what the country was like before the tests came along.

"I can think of no better example of how standardized tests have changed America than Paul Robeson," the famous athlete, singer, actor and civil rights leader, said William H. Anghoff, executive director of college boards programs with ETS.

"Robeson's story is tragic. Here's a man who was born on Witherspoon Street, a brilliant man who was rejected by the school just up the street (Princeton University). He was Phil Beta Kappa at Rutgers, and a remarkably talented man, yet (in 1915) Princetin would not have him. If we had had a a different kind of selection system, like the SAT (Scholastic Aptitude Test), back then, things might have been very different."

The case of Robeson, a black presumably denied admission to the Ivy League because of his race, illustrates the high moral purpose of providing objective, color blind tools of measurement that ETS views as the cornerstone to its function in society.

But of late, the power of ETS and its tests has reached unprecedented proportions across the nation. It is a power transferred, with few sanctions guiding its use, to test administrators who have repeatedly abused it. It is a power under attack and investigation on at least seven different fronts, ranging from Ralph Nader's institutional gadflys to Congress. Principals, teachers, students, psychologists, politicians and professors are questioning the pervasive influence of standardized tests. Some have now called outright for their abolition.

The questions these people are asking focus on ETS at the flagship of the $170 million standardized testing industry. They have seen the tests abused, they have seen them challenged as biased and they have seen them work as profoundly defeating influences on the lives of students. And they see more of the same in the future if testing remains as deep in the fabric of American life as it is today.

Willard Wirtz, director of the National Manpower Institute in Washington, D.C., and former U.S. Secretary of Labor under Presidents Kennedy and Johnson, currently chairs a panel of experts investigating why the Scholastic Aptitude Test scores of millions of American high school students have been declining for 12 years. As part of that inquiry, Wirtz feels the panel must begin investigating the power of testing itself.

"The extent to which we are putting ourselves as a country at the mercy of a series of tests is a hell of a thing—and not a little disturbing," he said.

William W. Turnbull, the president of ETS, has been with the company since its birth. He acknowledges that the critics of testing and ETS are more numerous today than at any other time.

"Some of their criticisms are thoughtful, and others are not," he said. "It is roughly in proportion to the centrality testing has been achieving in our way of life."

ETS tests are now a major, and often central, part of the lives of 2.5 million elementary school children; 1.4 million high school students hoping to get into college; 319,000 college graduates hoping to earn higher degrees; and hundreds of thousands of people aspiring to careers in gynecology, teaching, the CIA, architecture, radiology, law, auto mechanics, stock brokerage and even professional golf.

For those taking the occupational tests, jobs often depend on the scores. ETS now writes tests used by professional licensing boards that determine who shall gain certification in fields such as dentisty, podiatry, psychiatry and nursing. Even policemen are now certified on the basis of ETS tests.

Examples of the abuse of these tests abound.

Consider Ralph Dungan, the state Chancellor of Higher Education. Faced with a perceived decline in student abilities, and an abundance of college graduates seeking jobs in fields already overcrowded, Dungan has called for the use of predetermined Scholastic Aptitude Test scores as minimum requirements to New Jersey's state colleges and universities.

Dungan proposes to use "cutoff scores." According to a memorandum he presented to the State Board of Higher Education, he would like to see cutoff scores—a minimum achievement level—applied either to individuals or to an entire class of students hoping to become freshmen.

According to various executives at ETS, Dungan's proposal would be an abuse of the test.

As ETS Executive Vice President Robert J. Solomon explained recently, cutoff scores can make the Scholastic Aptitude Test a barrier to educational opportunity.

"Narrow, technocratic approaches are bound to deny opportunity," he said. "The question of college admissions is not a testing issue, not even an educational issue—it's a social issue."

In the literature and guidelines explaining its tests, ETS repeatedly warns against the dangers of using only a student's test scores in making decisions. The only thing the Scholastic Aptitude Test has ever been shown to indicate is a student's grade performance in his first year of college; and even then, a high school record is a better forecast. Cutoff scores, Solomon said, when used with the Scholastic Aptitude Test may even be unconstitutional, "a violation of due process for the student."

ETS is often caught in the middle in situations of this kind. The public and its educators, demanding a means of accountability for the performance of students and teachers are making demands on tests that they were never intended to service. The resulting abuses have led to demands for abolition of the tests themselves.

ETS tests have been used in many parts of the country to deny thousands of school children, college candidates, teachers and others an equal chance at school and work.

Historically, test barriers have stood highest before those who come from the lower socio-economic backgrounds. They are imposed by test administrators who use test scores as their only guidance in making decisions that can have enormous consequences on an individual's life: scores that often have not been valid instruments, when taken in isolation, for assessing the abilities of people.

Elementary school youngsters in several states have been segregated into classes for the mentally retarded or slow learners classes solely on the basis of test scores.

Teachers in Virginia, Louisiana and North Carolina (primarily blacks) have been demoted, fired or refused work on the basis of invalidated cutoff scores for the National Teachers Examination, an ETS test that some of the company's own researchers have charged is biased against anyone not from a traditional, middle class background.

Law firms have made use of the ETS Law School Admissions Test in making hiring decisions, despite the company's protestations that the exam serves only as an indicator of a student's performance during the first year of legal studies—and not his work performance.

Mississippi has used the ETS Graduate Record Examination to deny educators, again primarily blacks, a chance to teach in state public schools.

All of these practices violate the intent for which ETS says the tests were designed, and courts have ruled most of them unconstitutional. Cutoff scores *are* a legal approach to hiring practices, ETS agrees reluctantly, but only if such uses have been proven through lengthy validity studies.

But test abuse constitutes only part of the concern critics have with ETS. A look at the complaints of test takers and others who use the companys' services, coupled with an examination of confidential ETS documents, shows the company acting by itself on occasion to create obstacles for those seeking entrance to the mainstream of American life.

More than 1,000 students applying to law schools in the 1970–71 school year were prevented from having their applications reviewed because of the inability of ETS to forward their college transcripts, according to current and former company employes.

The snafu was one of information overload. Acting at the request of one of the company's regular customers, the Law School Admissions Council, ETS designed the Law School Data Assembly Service. The program involves compiling transcripts, Law School Admissions Test scorces and grade averages of students hoping to get into law schools and forwarding these figures to the colleges.

According to an assessment of the difficulties encountered during the 1970–71 year contained in the company's confidential memos, ETS went into the project completely unprepared to handle the numbers of students who used the service (80,000 more than anticipated). The number of students who called in to complain about delays in the processing of their applications was 15,515.

"Lots of cases were handled as they came up to rectify complaints, and we went to bat for the students with the law schools on admissions deadlines," said John Winterbottom, the former head of ETS law programs who now serves as a special assistant to the company's president.

Winterbottom is skeptical about the figure of 1,000 students prevented from having their law school applications processed, but he conceded that the company never went back to come up with a figure of its own.

"As far as the students that fell through the cracks, they were just so botched up that we never heard about it," he said. "That was just a bad scene, no question about it."

Other complaints against ETS deal with the potential for abuse. These are mostly concerned with two issues: privacy and test bias.

Within the computers and microfilm libraries at the ETS site in Lawrence Township are the names of an estimated 15 million people. Several million of these (no one at the company is sure how many) are the names of students who participate in the ETS Student Search Service, a program contracted for by the College Entrance Examination Board on behalf of more than 1,000 colleges and universities that are looking for recruits.

Before the colleges are allowed to participate in the service, they must sign a pledge saying the information will be used only by them in their hunt for students. Yet, on three different occasions in the last four years, that pledge has been broken. The company refused to discuss these violations.

As for bias, contradictory reports swell the research literature. At the heart of the issue are the persistently lower scores of disadvantaged minority groups on ETS tests. The company's critics charge that the tests are written unfairly and discriminate against minorities. For its part, ETS points to a group of its own validity studies that show how the test results continue to predict the performance of students once they reach higher school years and college, and for testing job applicants, work performance. If there is a bias, ETS says, it is merely a reflection in the tests of a larger bias in society.

Many of these problems and potential problems are the result of failings by those who make use of ETS materials, others are, perhaps, better laid directly on the company's doorstep. ETS is aware of them all; its actions in dealing with them range from inertia to reform in the way it conducts its business.

"I think the only way you can get valid tests is if they serve as indicators for the country," said Turnbull. "There are those who charge that our indicators may be good for conservative institutions of higher education, but not for a McLuhanesque society. Certainly, this is no frivolous argument, but I'm not sure how you would set standards for a fast-changing society. Institutions are conservative. Insofar as we follow them with our measurements to service their needs, we are conservative."

Turnbull, Solomon and others with the company said in recent interviews that much more needs to be done to curb the abuses of standardized tests, including the possibility of licensing test administrators. Statements were also made about exploring directions in which the company itself should change.

"It can always be said that we're not doing enough, and some of it is constructive criticism," said Ronald Flaugher, a senior research psychologist at ETS. "Right now, the halo is slightly tarnished when it comes to our efforts at communicating proper test use."

Solomon, however, feels the critics miss the point when they accuse ETS of being irresponsible with its products.

"Tests are neutral tools by themselves. The question is how people use them," he said. "They can be used to close doors, and they can be used to open them."

ETS, its conscience stung and its halo titled, has begun to regroup, tacitly agreeing that testing carries much more power than the company initially felt itself capable of generating. The corporate self-portrait has expanded the definition of service to accommodate this power while insuring that the cause of educational democracy is not lost.

K. Patricia Cross, a senior research psychologist with the company's Berkeley office, sketched this picture of ETS in a paper delivered in 1973 before an audience of education writers and editors:

"Agencies such as ETS are shaped by, and in turn help to shape, the directions of educational innovation. . . . Professionals at ETS must play the role of educational statesmen and reformers by recognizing educationally sound ideas and helping to influence the development of the tools that would make possible their implementation. Our role as scientists and eduactional researchers is to understand the implications of data that extend the frontiers of knowledge about the educational process. And our role as soothsayers is to recognize, even before they articulate it, what colleges and students are going to want."

It is a remarkable guiding philosophy. How well it suits a company like ETS is a question being debated right now both within and without the nation's small community of test makers.

STATE DEATH TAXES: CHARITY BEGINS AT HOME?

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. VANIK. Mr. Speaker, the Ways and Means Committee is currently considering legislation to reform Federal estate and gift tax laws. During the committee's hearings last March on estate tax reform proposals, we listened to a long list of witnesses from all parts of the Union, ranging from Maine to California. By my count, witnesses from 29 States and the District of Columbia appeared before the committee to offer their versions of how these laws should be changed.

I certainly do not mean to imply that they should not have come before the committee, for I wholeheartedly support the committee's efforts for full discussion of the issues and due process. However, these deliberations call to mind the old adage, "Charity begins at home."

An examination of the State taxation laws that many States impose on estates and gifts leads one to wonder what efforts these individuals and lobbying groups are making to change their own State's laws. In many States, the lion's share of estate taxes for estates under, say, $150,000, which is no small estate, goes to State tax collectors.

The State of Maryland, for example, charges a flat 1 percent inheritance tax on money received from an estate. Spouses as well as adult children are allowed a specific exemption of $150 from this tax. This means that Maryland actually charges more for smaller estates than does the Federal Government. On an inheritance with a gross value of $60,000, Maryland levies a tax of $598.50. The Federal estate tax on this amount is zero. When a person inherits a spouse's estate worth $100,000, Maryland raises its tax to $998.50, but the Federal estate tax is still zero. It is not until the value of the estate rises to almost $150,000 that the Federal estate tax for a spouse rises to an amount greater than the Maryland inheritance tax. The Federal estate tax on a $150,000 estate is $1,650, and the Maryland tax is $1,498.50, or a difference of $151.50.

Mr. Speaker, time and again, the witnesses testifying before the committee stressed that they were after relief for the small farm, the small business, and the small individual. However, it appears that in cases such as Maryland's this relief could be first coming from the home State. In the case of a marital transfer, Federal estate taxes have no consequence until the estate reaches more than $120,000, thanks to the combined effects of the 50-percent marital deduction and the $60,000 specific exemption.

Ohio taxes on $60,000 estates that are transferred between spouses amount to $600 and to $1,310 for transfers to adult children. However, the specified $60,000 exemption permits freedom from Federal taxation for this size estate. A $100,000 estate is taxed at $1,700 for interspousal transfer in Ohio, but again, the Federal tax is zero. For estates transferred in their entirety to adult children or others, however, Federal estates do begin to rise at this level. The Ohio estate tax on a $100,000 estate that is transferred to an adult child amounts to $2,510, while the Federal tax on this estate amounts to $4,800, or nearly twice this amount. However, it should be noted, that this Federal tax amount does not include consideration of other estate tax loopholes that may be employed to escape paying Federal taxes, such as the generation-skipping trust, or other deductions for settlement and funeral-related expenses.

Pennsylvania taxes inheritance at a flat 6 percent and allows no specific exemption. This State's taxes are the highest of the States I examined. A $60,000 estate which is free from Federal taxation gets socked with $3,480 due in Pennsylvania inheritance taxes for interspousal transfer. Pennsylvania's death taxes appear to be among the highest in the Nation. A person who inherits his spouse's $150,000 estate must pay Pennsylvania $11,840 in estate taxes, or seven times the Federal estate tax of $1,650. Federal tax relief will do little to ease the problems of the widow or widower in Pennsylvania.

Mr. Speaker, the following table compares the amounts of Federal taxes that would be paid with the amounts of State taxes that would be paid on estates amounting to $60,000, $100,000, and $150,000. These sizes were chosen, since they represent the current level of the specific exemption, and two proposals for raising the specific exemption, respectively. Certainly, it must be agreed that estates over $100,000 are large by any standards. The sample of States used in this comparison were among the most heavily represented during the Ways and Means Committee's considerations of gift and estate tax reform, and represent a fair cross-section of death tax treatment by States. I would like to stress that the figures used in this table do not take into account other tax-saving devices such as the generation-skipping trust, charitable deductions, administrative expenses, or casualty or other losses. For the sake of simplicity and the ease of comparison, this table assumes that the entire estate has been transferred to the recipient named.

Mr. Speaker, it is only as estates approach a size of $150,000 that Federal estate taxes begin to really outdistance State death taxes. I believe that this should be kept in mind as the Ways and Means Committee and Congress consider proposals to ease further the gift and estate tax levels.

The comparison follows:

COMPARISON OF FEDERAL AND STATE DEATH TAXES

Size of gross estate	Amount of taxes paid						
	Federal	Maryland	Ohio	Pennsylvania	Massachusetts	Iowa	Nebraska
Transfer to spouse:							
$60,000	0	$598.50	$600	$3,480	$845	0	$500
$100,000	0	998.50	1,700	5,880	2,805	$425	900
$150,000	$1,650	1,498.50	3,400	11,840	5,815	2,575	1,400
Transfer to adult child:							
$60,000	0	598.50	1,310	3,480	1,490	1,375	500
$100,000	4,800	998.50	2,510	5,880	3,630	3,425	900
$150,000	[1] 17,500	1,498.50	4,480	11,840	6,835	6,775	1,400

[1] Includes $400 allowable tax credit for State death taxes paid.

CONGRESSIONAL STAFFER DENOUNCES 30 MEMBERS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. McDONALD. Mr. Speaker, it may interest those Members who joined with me in calling attention to the leftward course of events in Mexico to learn that they have been denounced in the Mexican press as kukluxklanescos—Klansmen—and "irresponsible slanderers" by a congressional staff member.

The source of the eight-column headline is William Leon Higgs, legislative assistant to Representative AUGUSTUS HAWKINS. A summary of Mr. Higgs' public activities, delicately omitting his congressional connection, can be found in the RECORD—September 10, 1975, page 28533. Mr. Higgs, who was disbarred after conviction for a serious morals offense against a boy, later rendered such sterling legal aid to the New Mexico radical, Reies Tijerina, that Tijerina received a 3-year prison term. Since then, Mr. Higgs has amused himself with CIA-baiting and other fashionable Communist Party-directed pastimes, such as the disarming of America—see RECORD, March 22, page 7726.

Since Mr. Higgs has chosen to thrust himself forward by providing the Mexican press with banner-headline denunciations of Members of Congress, calling them "irresponsible slanderers," he is once again asking for public exposure.

NEED FOR FEDERAL ESTATE TAX LAW CHANGES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ASHBROOK. Mr. Speaker, Federal estate tax laws are seriously outdated. The present estate tax exemption is $60,000. Previously I have introduced legislation which would have doubled the exemption, but inflation over the past half dozen years has made that increase too low. To remedy this situation I have introduced legislation (H.R. 12277) which would increase the exemption to $200,000.

The House Ways and Means Committee is currently considering legislation to change the estate tax laws. I am heartened to see recognition of the problems of farmers and small businessmen. The present $60,000 estate tax exemption has hit hard. For example, when a farmer has died, many families are unable to pay the high estate taxes. They are forced to sell the family farms.

I have also introduced H.R. 5131. It would, at the election of the executor, allow a farm estate to be assessed at its value for farming purposes. This is a valuable alternative to present tax policy of valuing land at its highest potential value.

Farmland should be assessed at its value as farmland. Computing the estate tax based on a nonfarm use often forces a family to sell the farm.

Action is needed on these proposals. Inflation has made current law seriously out of date. Present exemptions work against the best interests of the United States.

PATTERSON ASKS FOR HAYS RESIGNATION

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. PATTERSON of California. Mr. Speaker, I respectfully ask you and my colleagues to act in the best interest of the American people and the House of Representatives in urging Representative WAYNE HAYS to resign the chairmanship of both the House Administration Committee and the Democratic Congressional

Campaign Committee until the charges against him are resolved.

The alleged misuse of taxpayers' money that Hays has been accused of is a very serious matter. We must set our own House in order.

I commend the House Ethics Committee in its unanimous decision to "proceed immediately with a full investigation" of the charges against Congressman Hays. Public confidence in the integrity of Congress has been shaken and prompt action is needed to begin restoring that confidence.

The actual guilt or innocence of the parties involved is, of course, a matter to be decided by the House Ethics Committee and the Federal grand jury after their thorough investigations now underway are completed. However, in the interest of preserving the integrity of the House of Representatives, I feel it is our responsibility as Members of the House to insist that Representative Hays relinquish his authority as chairman of the two committees.

REVENUE-SHARING EXTENSION

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. MONTGOMERY. Mr. Speaker, within the last few days, I have had the opportunity to read rather thoroughly the legislation to extend the State and Local Fiscal Assistance Act of 1972 and the committee report accompanying this legislation. To say the least, I am quite disturbed with several of the amendments added in committee to a bill that started out as a simple extension of revenue sharing.

Before going further, let me explain that in 1972 I had very serious reservations about the entire concept of revenue sharing because of the lack of Federal moneys to be shared. However, since then I have seen evidence that the program is worthwhile and does provide a means for local government to meet its obligations to its citizens without the need to raise further revenues themselves. Under the 1972 legislation, we are, in simple terms, returning to the taxpayers of America the taxes they have paid to be used by their local elected officials for those projects to benefit the most people and with the least amount of Federal strings attached.

However, this noble concept has been completely reversed in H.R. 13367. Rather than keeping the Federal Government and its bureaucratic redtape out of the picture, the Committee on Government Operations, by rather narrow margins, has decreed that one Federal string after another will be attached to the revenue-sharing funds.

Mr. Speaker, I may be reading between the lines too much, but I have the very distinct impression that some members of the committee are trying to kill the revenue sharing program through crippling amendments since they know they cannot kill it outright through an up or down vote on the House floor. It appears that they are trying to make the revenue sharing program so unpalatable to local Government officials that they will no longer want to receive these badly needed funds.

As pointed out in dissenting views, efforts have surfaced to employ the revenue sharing concept as the vehicle for a variety of regulations and restrictions on the independence of local governing units. The original concept of revenue sharing was based on the reasonable belief that local governments, which are much closer to the citizens than the Federal bureaucracy, could better decide how to utilize tax revenues most wisely. There is no justification whatsoever for the Federal strings which are now attached to revenue sharing—strings which can only lead to greater Federal intervention in local affairs, and greater local dependence on the Federal bureaucracy. What is also unfortunate is that many of the smaller communities will have to spend an amount almost equal to the revenue sharing funds they receive in order to comply with the new rules and regulations which means they will not have a net increase in revenue.

Mr. Speaker, I would urge my colleagues to read H.R. 13367 and the accompanying committee report very carefully before it is brought to the House floor for consideration. I feel sure they will be just as alarmed as I am over the redtape and Federal strings that will be attached to revenue sharing if the bill in its present form is passed. I fully intend to support those amendments on the House floor which will remove these totally unnecessary and overly stringent regulations on local governmental units participating in the revenue sharing program. The bill in its present form is nothing more than a wolf in sheep's clothing that must be shorn of its unnecessary provisions if we are to prevent the wool being pulled over the eyes of the American people.

COMMERCE SHOULD VETO OIL TECHNOLOGY TRANSFER TO SOVIETS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ASHBROOK. Mr. Speaker, a short time ago I discussed Soviet efforts to gain American aid in developing their natural gas resources. Now they appear to be attempting to obtain about $2 billion worth of oil refinery equipment.

On a number of occasions I have discussed the Soviet need for American technology. Much of the advanced energy technology can only be obtained in the United States. Is this country now in the process of giving up its lead in energy technology to the Soviets?

So-called East-West trade has been largely a one-way street. The Soviets have gained needed technological advances often at little cost to themselves. From the world's largest truck plant on the Kama River to a ball bearing machine that has helped the Soviets in their missile building, the story is the same.

The article from the Baltimore Sun detailing the proposal states that the Secretary of Commerce has the power to veto this technology transfer. That is exactly what he should do.

At this point I include the text of the article "Soviet Seeks Oil Equipment Deal" from the Baltimore Sun:

Soviet Seeks Oil Equipment Deal

"Soviet oil specialists have approached American companies about putting together a deal for oil-refinery equipment potentially worth $2 billion.

"If the deal goes through, it will be the first sale since World War II of American oil-refining technology.

"Commerce Department officials, according to businessmen in Moscow, have warned that part of the deal may be jeopardized by government guidelines on the sale of materials affecting the strategic capability of the Soviet Union. The Soviet Union wants to buy eight basic machinery units for improving the quality of its oil.

"In two weeks, Western sources here said, the Soviet Ministry of Oil Refining will issue specifications and seek bids for the equipment. It hopes to have the units in operation by the end of the current five-year plan in 1980.

"Most of the money in the deal would be made by Europeans. Because the United States government does not subsidize financing for trade with the Soviet Union, the credits and construction are expected to come from Western Europe.

"The required technology, however, exists only in the United States, according to a local representative of an American engineering firm. As he outlined the deal, American companies would supply blueprints to the European manufacturers of the equipment. Then the American firms would supervise installation in existing Soviet refineries.

"Even this roundabout route would amount to selling American technology to the Soviet Union. The Commerce Department, acting from a set of policy guidelines, blocks those sales that it believes are harmful.

"In the past, these guidelines have included anything to do with oil refining.

"Negotiators for the Soviet deal have made preliminary inquiries to the Commerce Department, the American representative in Moscow said, and been told that sale of at least one of the units might violate the guidelines.

"He said the sale still might go through if an American company licensed the process to a European company, which would not be affected by the guidelines, and the European company then sold it to the Soviet Union."

PAUL FLACKS TO RECEIVE JUSTICE LOUIS D. BRANDEIS DISTINGUISHED SERVICE AWARD

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. WHALEN. Mr. Speaker, I am very pleased to learn that the 1976 recipient of the Justice Louis W. Brandeis Distinguished Service Award will be Paul Flacks, of Dayton, Ohio. This honor will be accorded Mr. Flacks on Sunday evening, June 6, 1976, at the Dayton District's American Zionist Fund Award Dinner.

Mr. Flacks is currently the national

director of public affairs for the ZOA. In this capacity, as in so many other undertakings, he has compiled an outstanding record.

Through the years Mr. Flacks and I have met frequently on legislative matters of mutual concern. While he states his views with passion and force, his positions invariably are buttressed by fact and logic. It is this dedication and articulateness which have made him such an effective spokesman for the Zionist cause. And, it is these qualities which have made him so deserving of the honor which is being bestowed upon him Sunday evening.

Mr. Speaker, I plan to join Mr. Flacks' many friends in paying tribute to him this weekend. He is without question an outstanding member of the Zionist Organization of America and one most deserving of praise for his efforts.

A COMPREHENSIVE AND LOCAL APPROACH TOWARD INSURING EQUAL EDUCATIONAL OPPORTUNITIES

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. HARRIS. Mr. Speaker, today I am introducing a bill which I believe will be the beginning of a constructive, comprehensive and local approach toward insuring equal educational opportunities. This bill would establish a 15-member commission to study alternatives to the forced busing of schoolchildren. It would not alter any current law. Rather, what it "says," is that it is time we sit down and take a thoughtful, long-range look at a variety of methods for effectively integrating our public schools. And it is time we use local people to develop local solutions.

The Commission on Alternatives to Busing would be composed of individuals who know educational problems first-hand: school administrators, teachers, parents of schoolage children, local elected officials and students. We have had our ivory-tower theorists for too long; it is time we asked those who live and work with youngsters and it is time we use their expertise. The bill directs the commission to prepare a study of alternatives to busing such as redrawing school zones, relocating buildings, restructuring curricula, and pairing and clustering. Additionally, the commission would be required to hold a national conference of parents, educators, local officials, students and others in order to compile opinions and recommendations on achieving equal educational opportunity. This study would then be transmitted to the Congress. It would give the Congress a firm, knowledgeable basis for formulating legislation that provides practical, sound solutions to this problem. The emphasis in this bill is at the local level—not directives from Washington or the courts. The commission would be encouraged to study and suggest ways local school people could develop long-range, comprehensive plans for achieving effective and positive desegregation.

Legislation of this type is needed for several reasons. No branch of the Federal Government has provided clear direction or meaningful assistance to local school officials to help them determine and implement the most effective, least disruptive and most educationally sound means for achieving desegregation. We have let the courts decide. The Congress has not given this issue a long hard look. Now and then an effort is made to enact an amendment to the Constitution or a knee-jerk attempt is made to tack an inappropriate rider on to something like a major energy bill. We, the Congress, have not done our part either. Political posturing is achieving nothing except feeding emotionalism.

The harms and benefits of busing are still very much in dispute. In fact, busing often is counterproductive in that it results in "resegregation." James Coleman notes that white parents often take their children out of schools where busing is mandated, thereby creating again, separate white and black schools. Also, I have heard that frequently when students are bused, they are put into academic tracks. Such ability grouping, however valid and useful, often creates segregation within a particular school.

In this day and age, no one questions the need to provide quality and equal educational opportunities. This is the law of the land and I believe it is widely accepted. However, people are tired of the Bostons and the Louisvilles. No one wants the strife and agony and disruptiveness that forced busing sometimes causes. I am convinced that we can provide equal educational opportunity to all in a humane and educationally sound way. This bill could lead the way and I urge my colleagues to join me in support.

A MORAL HERE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. STARK. Mr. Speaker, a constituent of mine has expressed the penultimate last word:

A MORAL HERE

Editor—A federal employee by the name of Elizabeth Ray is the subject of current attention.

Whether this lady was originally employed for her secretarial skills or for her more engrossing talents is a matter under debate. Undenied, however, is the fact that her congressional services—whatever they may have been—commanded a salary of $14,000 a year.

It is also undeniable that the Congress is currently debating legislation which would put into production a fleet of 144 B–1 bombers at a cost of $92 billion.

If the Congress in its wisdom decided to provide each of its 435 members with the same service Ms. Ray provided, the cost for a year would be a paltry $6,090,000. Since that body is not known to be miserly when it comes to its own perks, the bill would probably provide that the same service be accorded not only in Washington, D.C., but in the district as well. Add another $6,090,000. To pass the Senate the bill would have to satisfy equivalent Senatorial needs. Add $2,800,000 more for a grand total of $14,980,000—$15 million in round figures.

Then congressmen, being otherwise pleasantly diverted and having blunted their aggressive edge, would reject the $92 billion bomber bill. The result: at a cost of $15 million taxpayers would save $91,985,000,000.

Moral. Make love, not war.

HOWARD H. JEWEL.

OAKLAND.

HAZARDOUS PRODUCTS AND THE CHALLENGE OF LAWYERS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DRINAN. Mr. Speaker, I have the privilege today of inserting in the RECORD an excellent and distinctive article by Edward M. Swartz, Esq., of the Massachusetts Bar. Mr. Swartz is the author of the book "Hazardous Products Litigation" and is a former chairman of the Continuing Legal Education Division of the Association of Trial Lawyers of America. His article, "The Hazardous Products Plague," appears in the May 1976 issue of Trial magazine, the journal of the ATLA.

Mr. Swartz' article cites the astronomical incidence of product-related injuries and the horrendous suffering these injuries cause. Mr. Swartz asserts that lawyers must help to educate the public and must work to influence the Consumer Product Safety Commission and the National Bureau of Standards to act in the public interest, particularly when the public interest differs from the interest of industry.

Mr. Swartz' reasoning with respect to influencing the Consumer Product Safety Commission is particularly timely now. Although the Commission has thus far failed to fulfill its promise to radically increase the safety of products, the Senate last week confirmed a candidate of very questionable fitness, S. John Byington, to become a member of the Commission for 2½ years. Due to President Ford's intention to appoint Byington chairman, the Senate in effect confirmed Byington to head the Commission.

According to the Washignton Post of May 27, after the Senate vote Byington pledged a "vigorous attack on the many problems of consumer safety" and said, "I intend to demonstrate the Senate's confidence is well-placed."

If the Senate's confidence is indeed justified, the severe problems cited in Mr. Swartz' article will be alleviately by end of Mr. Byington's term. If the Senate's sanguinity is unfounded, however, it will be well for the private bar to pay special heed to Mr. Swartz' call to action.

The article follows:

THE HAZARDOUS PRODUCTS PLAGUE

(By Edward M. Swartz)

The number, the variety, and the severity of product-related injuries in the United States today are simply astonishing. Deaths from product-associated incidents are in the tens of thousands and injuries are in the millions. The dollar costs to our society of these tragedies are in the billions. The suffering is enormous, often excruciating, frequently unrelievable. This hazardous products plague pervades every home, every office, every factory in our nation. It threatens every farm. It lurks in every schoolroom and playground. It is ubiquitous, insidious, and pandemic. And it presents a direct and urgent challenge to the trial lawyers of America.

The challenge is threefold, and I believe that our response thus far has been excellent on one level, but insufficient on the other two. This article explores the threefold challenge, and suggests some ways of responding to its demands.

First, some facts and figures. The National Safety Council has estimated that more than 50,000 people die each year in non-automotive "accidents." Of these, at least 30,000 are killed in directly product-related incidents. At least 20 million people are so severely injured by products that they require treatment in hospital emergency rooms, while 27 million more are treated in doctors' offices or at home for less disabling product-associated injuries. And these incidents most often involve the people who are least able to defend themselves—children and the elderly. (The startling truth is that the *leading* cause of death among American children through age 14 is "accidental death," and that these accidents kill more of our young ones each year than do cancer, pneumonia, influenza, and congenital anomalies—the next leading causes of death among children—*combined*.)

PRODUCTS THAT CAN MAIM OR KILL

The variety of products involved in these injuries and deaths is astonishing. In my own trial practice, over the past decade, we have been called to represent people killed or injured by the following products, among others: drain cleaners, lawnmowers, ladders, floor wax, stools, color television sets, hair dryers, room vaporizers, refrigerators, electric ovens, vacuum cleaners, cooking oil, hair curlers, charcoal lighter fluid, paint remover, children's blankets and sleepwear, flammable clothing, glass doors, gas heating and hot water systems, gas stoves, soft drink cartons and bottles, automobile steering mechanisms, and tire-changing and tire-mounting equipment.

Also, slingshots, model cars, toy tops, air rifles, darts, model planes, swings, slides, swimming pools, snowmobiles, dune buggies, bicycles, boats, tents, sunglasses, parachutes and parachute harnesses, rifle cartridges, goalie masks, golf carts, football helmets, soap, laundry detergents, spray paint, peanut butter, canned foods, antibiotics, tranquilizing drugs, contraceptive foam, IUD's, and massage belts.

Also, slipcovers, safety matches, carpets, automobile seat belts, balloons, ski boots and bindings, spray deodorants, liniments, battery booster cables, charcoal briquets, tractors, snowblowers, catheters, altimeters, building nails, laboratory safety equipment, conveyor belts, bulldozers, gas masks, fire extinguishers, and kites.

And just as the variety of products is almost infinite, so are the injuries sustained quite often fearfully terrible. I have represented children who have had their flesh sizzled to the bone or chemically melted into soap by contact with burning synthetic fibers or splashing household cleaners made of caustic lye. A young father lived only long enough to tell his wife and children how much he wanted not to die, before the exquisitely painful burns he suffered when the family's hot water heater exploded claimed him forever. A young girl of great promise was decapitated when "safety" equipment in the research laboratory in which she was working blew up and fired large shards of glass across the room. The catalogue of these depressing and unnecessary tragedies is nearly endless.

THE ENORMOUS ECONOMIC TOLL

This maiming and killing by product involves extraordinary human and economic costs as well. In addition to the 47 million deaths and injuries a year, the enormous and sometimes unrelievable suffering, the shattered families, and the broken bodies and spirits, there are medical expenses involved which run into the millions of dollars, with millions more required for physical and psychological rehabilitation and therapy, and for the support of widows and orphans, and for the care of the disabled and dependent victims themselves. The 1974 National Safety Council dollar estimates of the economic consequences to society of "accidents" are staggering: $13 billion in present and future wage losses from death and permanent disability; $5.7 billion in medical and hospital fees and expenses; $7.4 billion in time lost because of accidents which do not permanently disable or kill. The total cost of these items comes to a round $33 billion!

With this background in mind, you can see why I have denominated the high and costly incidence of product-related injuries and deaths a "plague," and have spoken of the "challenge" which it presents. I see this challenge—as it relates to trial lawyers—as composed of three related elements.

First, there is the challenge with which all of us are conversant: the challenge to our skills, as attorneys on behalf of the victims of this plague, to gain for them, through the legal process, that "full, fair and reasonable compensation" to which they and their families are entitled as a matter of simple justice. The plaintiff's bar in hazardous products litigation does, on the whole, an excellent (and compassionate) job in representing individuals who have been harmed by dangerous products.

IMAGINATION AS A TOOL

Yet, if I were asked for one suggestion which could further improve our performance in this area, I would say this: we lawyers must constantly expand our range of vision and imagination. This very general principle translates into quite specific details in the handling of products liability cases. For instance, in most hazardous products litigation which is brought under a theory of negligence, the negligence which is pleaded often reduces to the proposition that the product was defectively manufactured or had a hidden hazard or didn't work the way it was supposed to.

But, there are much broader concepts of negligence which are often equally appropriate, and negligence in the labeling (failure to warn adequately, failure to instruct adequately), in the design of the containers (unstable bottles for caustic cleaners), in the advertising ("safe"), and so on, is also a fertile ground for liability.

This is especially true when there are several defendants in the case, one whose negligence is primary and obvious, others whose activities did in fact contribute to the ultimate injury but whose contributions *seem*, at first glance, relatively secondary. This can become critical when, for one reason or another, the primary defendant is unavoidable. (We had a case, for instance, in which a young mother was horribly burned from neck to knees when her flammable nightgown caught fire as she leaned into the family oven. Her second child, which she had been carrying for eight months, was stillborn a few days later. The nightgown had been completely consumed by the fire. She had no recollection of where or from whom she had bought it, and no memory of the maker's label in the gown itself. We sued the stove manufacturer for negligence in the design of the oven and recovered a quite substantial sum for the young mother.)

LAWYERS AS EDUCATORS

We have all been more or less effectively conditioned by the folklore that "accidents will happen" into the assumption, ordinarily unspoken and implicit, that when something terrible happens to us, it is usually either our own fault or just one of those things that make life a risky business at best. The assumption is false. In almost every instance of "accidental" injury, there is a discoverable human error which can be identified, assessed, and, where appropriate, sued upon. But, it sometimes takes imagination to perceive this. Most of the people who have been injured in "accidents" never think of getting a lawyer. They blame themselves, lick their wounds, and try to "take it like a man." This unfortunate state of affairs leads me to the second aspect of the threefold challenge which I think the hazardous products plague presents to trial lawyers: the challenge of public education.

Public education with respect to product safety has two complementary functions: on the one hand, we should all try constantly to become more aware of sound safety practices; and on the other hand, we should *also* be aware that when we have been hurt, we have a right to seek redress. The first function is carried on chiefly by those individuals and organizations charged with direct responsibility for safety education, although lawyers should participate in this. But the second function is one in which we trial lawyers especially should take an active part.

There are many ways in which we can do this and do it *more effectively* than we have done so far. One is by lecturing on safety *and* on the rights of injured consumers to school and community groups. Another is by writing on these topics for the popular press, including newspapers. A third is by lecturing to the bar itself and writing in legal periodicals, not only on the *principles* of effective hazardous products litigation, but also on the *possibilities* for effective litigation in situations where most lawyers, like most people, simply would not think a lawsuit was feasible or likely to be successful. There has been some heartening progress made of late in this last area, but much more needs to be done. And even when it is done more thoroughly, it will not suffice as a defense against hazardous products.

PUSHING THE GOVERNMENT

This suggests a third dimension to the challenge which the hazardous products plague presents. It is much more difficult. It is the challenge of using our professional skills and our personal qualities of persistence, persuasiveness, and logic to bring a truly effective governmental presence into the field of product safety. I am pessimistic about this because of my own experience, particularly in the field of toy safety.

There are four sets of players involved in the struggle to get the government genuinely and significantly working for product safety in an effort to reduce the deaths and to mitigate the severity of the injuries which these hazardous products so often cause: the government itself; the public, especially as the public are consumers of the products which kill and injure them; the manufacturing and distributing and retailing companies (and their marketing and advertising staffs); and, the independent professionals—doctors, teachers, engineers, and lawyers.

But, the government only moves when it is pushed, and the public is so amorphous and so dispersed that its push is felt only gently, if at all, by government. The manufacturers and their collaborators, however, are pushing, and pushing forcefully and cleverly. They know where the pressure points are, and they have their hands firmly on them. As for the independent professionals, we lawyers, like the doctors, the teachers and the engineers, have been so far largely ineffective in the battle to get the government working on the side of the public and not on the side of the manufacturers. The reasons for this are complicated and beyond the scope of this brief essay. But, what we can do now is, though difficult to execute, not so hard to sketch in principle.

First, we each should individually develop a personal expertise in the field of governmental regulation of product safety. This means acquiring a detailed familiarity with the specific provisions of the various state and federal acts, such as the Hazardous Substances Act, the Flammable Fabrics Act, and so on, as well as with the all-important regulations issued under these acts. It also means developing a working knowledge of the structure and the operations of such entities as the Consumer Product Safety Commission and the National Bureau of Standards.

LOBBYING THE CPSC

The CPSC has statutory authority to issue mandatory product standards and to have products which do not meet these standards removed from the market. The NBS promulgates "recommended" standards which, although voluntary, establish an effective level of safety compliance. Since these standards are critically important, it is also critically important that there be substantial consumer-oriented input into their formulation. But so far there has been relatively little consumer-oriented input and a great deal of manufacturer-oriented input. Moreover, the CPSC has opted for a philosophy of product safety regulation which puts the stress on long-range standards development and leaves it off short-range imminent-hazard enforcement.

This means that the agency's budgetary and personnel resources will be less available for the investigation and recall of dangerous products out in the field and more available for the quiet, barely-noticed work of developing standards back in the office. But this "barely-noticed work back in the office" is noticed thoroughly by the industry lobbies, whose very skillful agents are in frequent and effective contact with the people developing the standards which will set the level of product safety for probably years to come. Thus, the public is less protected in the short run and not very influential in the long run either.

Therefore, secondly we should organize ourselves as a profession so as to have a salutary and measurable impact on the process of standards development, as well as on the decisions, such as the decision to accentuate long-range work and de-emphasize enforcement. Most of us who are trial lawyers have a disinclination to get involved in tedious and arid arm-wrestling with bureaucracies. But, if we are going to get the government going in the right direction, we are going to have to do some of this and do it soon.

Thirdly, because of the specialized nature of our skills as trial lawyers and because of the nature of the skills of the legal profession as a whole, this organizational work must include a vigorous effort to establish some inter-disciplinary bodies which, far more than any or all of their separate constituent parts, can really contribute intelligently to product safety. A lawyer, for instance, can tell you whether a bill, as drafted, or a regulation, as proposed, will get done what its proponent intends should be done. But, he is rarely qualified to assess the technical engineering specifications which may be found in a complicated product safety regulation. The well-financed corporate lobbyist, however, draws on not only the legal, but also the technical and the public relations specialists in his company or his company's trade association. And, when he arrives at the agency with a proposal or an amendment, it is at least technically plausible and he can argue its merits from a background which is technically adequate.

TAKING DIRECT SAFETY ACTION

Fourthly, we should be alert to the possibilities which arise in our own watch over hazardous products. When an injured client comes to us in search of some monetary substitution for his lost eye or his dead child, we should not only give him as strong forceful representation as possible, but we should also see whether it is possible to take action directly and immediately against the product itself. We could, in appropriate instances, petition the CPSC to ban the product as an imminent hazard forthwith or to set emergency standards for the product at issue.

We can organize safety information committees which disseminate information about product injuries to local merchants and consumer groups. We can use the Freedom of Information Act to get information about product hazards and complaints out of the files of the CPSC and out to the public. And we can do as many other things in this area as our imaginations can suggest.

Let me note, not so incidentally, that all of these activities will inevitably make us better products liability lawyers for our clients, better able to handle their individual cases. Imaginatively developing new theories of liability for product injuries, more fully educating the public to its rights to redress for product injuries, and informing the bar of the less obvious possibilities for hazardous products litigation—all these contribute to a more favorable climate for these cases generally. Familiarity with governmental regulation of products (and product advertising) may equip us with additional bases for liability (failure to meet a standard, false advertising, deceptive warranty, etc.). Cooperation with other disciplines in working for product safety will give us a broader understanding of the products themselves and of their hazards as a foundation for suit, and a fuller notion of where and how to find experts for our own cases, as well as a certain basic familiarity with the technical language and fundamentals of several different sciences. We may then be better able to perceive unusual but valid causes of action and to penetrate technically inadequate defenses for our clients.

The hazardous products plague is abominable, and the challenge it offers is demanding. I have no doubt, however, that the trial lawyers of this nation can respond to that challenge and make great strides in the effort to eradicate the plague.

THE WAXMAN-MAGUIRE AMENDMENT AND THE CLEAN AIR ACT—III

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. WAXMAN. Mr. Speaker, proponents of the Dingell and Brodhead amendments on automobile emissions have claimed that going forward with meeting the full statutory standards would cause enormous increases in the price of new cars—to the detriment of the consumer and the recovery currently underway in Detroit.

I have long believed, however, that the auto industry has unfairly and unjustifiably singled out environmental and safety standards as the main cause of rising car prices. It seemed to me that inflation in materials, labor, and overhead was primarily responsible for the ever-higher cost of cars.

To gain some perspective on this controversy, I asked the Congressional Research Service to undertake a study of the historical impact of automobile emissions standards on the inflation in automobile prices with a view toward quantifying how much of the increased costs in car prices in recent years was due to the Clean Air Act's requirements, and how much to other factors. I also asked CRS to project the degree of automobile worker unemployment which might result if we proceeded to meet the statutory standards in 1980 or 1981.

The CRS study, "The Economics of Auto Emission Controls: An Historical Overview" throws grave doubt on the validity of the arguments being made on behalf of an extended freeze of the current emissions standards. In brief, the study's major conclusions were as follows:

First. Although automobile emission control requirements have increased automobile prices noticeably, these increases are relatively small in comparison to the costs of other options.

Second. The data and aggregate demand studies suggest that emission control-related cost increases are by no means the most significant factor affecting auto sales and employment.

Third. Although the auto industry contends that safety standards and pollution controls are major reasons for decreasing fuel economy, a study of the evidence does not lead to the conclusion that they are the primary cause of the increases in automobile weight—the most significant variable affecting fuel economy.

Fourth. Nor are they primarily responsible for the increases in car prices. Most of the price rises can be attributed to the purchase of numerous accessory, luxury, or power options.

Fifth. Even at the statutory standards, with the price increases that might result, industry analysts predict only a 1 percent reduction in new car sales. Meeting the California standards in 1978 would appear to have little potential for affecting production or employment.

The Waxman-Maguire amendment, in other words, would not adversely affect the growth or profitability of the auto manufacturers, or the job security of the automobile labor force. The CRS study leads one to conclude that pollution controls are being singled out as the fall guy for a whole host of other economic ills which have plagued the industry.

Following, for the benefit of my colleagues, are excerpts from the CRS study:

THE ECONOMICS OF AUTO EMISSION CONTROLS: AN HISTORICAL OVERVIEW

(By Joseph P. Biniek, Specialist, Environment and Natural Resources Policy Division, May 14, 1976)

SUMMARY

The report represents a partial study of the impact of implementing the Clean Air Act Amendments. It is partial in that it does not attempt to equate benefits with costs.

The data in this report suggest that emission control requirements do increase automobile prices noticeably; however, these increases are relatively small in comparison to the costs of other options. Studies by the National Academy of Sciences (NAS) show that current levels of control of 1.5 g/mi., 15 g/mi., 3.1 g/mi. for HC, CO, and NO_x, respectively have increased "sticker prices" by $78 to $123 for a six cylinder car. Industry testimony suggests that additional costs of $23 to $50 are required to move to a 0.9 g/mi., 9.0 g/mi., 2.0 g/mi. level for HC, CO and NO_x, respectively. Further reductions to 0.4 g/mi., 3.4 g/mi., 0.4 g/mi., HC, CO and NO_x, respectively, according to NAS, could result in sticker price increases of $273 to $377.

Increases or decreases in lifetime costs are considered by many to be a more meaningful basis for comparison. Such comparisons include sticker prices, fuel and maintenance. The NAS study suggests that a direct-fuel-injection, stratified charge engine could achieve 0.4 g/mi., 3.4 g/mi., 0.4 g/mi., HC, CO, NO_x levels with savings in fuel and maintenance. With this option, the overall impact of emission control could decrease discounted lifetime costs by $40 to $418 from current levels.

Sticker prices of cars have increased significantly from 1966 to 1976. For example, a Cadillac de Ville has increased about $3,000; a Buick Le Sabre about $2,100; Dodge Dart $1,100; Volkswagen Beetle $1,900; Chevy Nova $1,100, and so on.

In addition to base sticker price, power, luxury-comfort and other options add significantly to final purchase prices. Addition of an automatic transmission, power brakes, power steering, radio and air conditioning adds $900 to $1,000 to the base price. Vinyl tops and other options contribute additional upward price pressure.

The price elasticity for the demand for cars, according to Thomas Dyckman, is —0.6. This suggests that a 1 percent decrease in car prices could be expected to increase demand by 0.6 percent. Disposable income elasticity appears to be about 4.0.

Changes in price, income and inventories are not the entire story. Major changes in tastes, attitudes, credit terms and other factors, according to Dyckman, can be very important determinants of sales volume. Nevertheless the data and aggregate-demand studies suggest that emission control cost increases are by no means the most significant factor affecting auto sales and employment.

AUTOMOBILE SIZE AND PRICE

A common argument of the auto industry is that regulations for safety and pollution are major reasons for decreasing fuel economy. Furthermore, the industry contends that the required components are responsible for weight increases, directly or indirectly during the period 1971 to 1974.[4] The data in Table 1, Comparison of Selected Automobiles, does show substantial increases in weight and price during the period 1966–1976. However, there is no consistent pattern to the increases in prices or auto weights prior to or after 1971 that would allow one to conclude that safety or pollution control equipment were the primary cause of the increases in prices or weight. Nonetheless, the data indicate that nearly all cars increased their weight steadily during the decade. Price increases, however, have been more drastic. Figure 1 illustrates the change of auto prices in terms of the wholesale price index. This figure provides the reader with a graphic comparison of automobile prices with other commodities. Compared with the 1967 index of 100, the passenger car wholesale price index rose to 130.9 by February 1975. Fuels, iron and steel, and other commodities rose to significantly higher levels during the same period.

Footnotes at end of article.

The average year-to-year price changes on U.S. cars (Table 2) have fluctuated over the past two decades from decreases of $17 in 1962 to increases of $449 in 1975. Translated in percent change from previous year prices the range is—0.57 to 10.19 percent. The *Automotive News* reports:

FIGURE 1

AVERAGE ANNUAL WHOLESALE PRICE 1973—FEBRUARY 1975 (1967=100 PERCENT)

ANNUAL AVERAGE WHOLESALE PRICES, 1975

[In percent]

	1967	1973	February 1975
Passenger cars	100	115.4	130.9
Trucks	100	123.0	148.8
Iron and steel	100	136.2	200.5
Nonferrous metals	100	135.0	176.1
Rubber and plastic products	100	112.4	150.0
Chemical and allied products	100	110.0	178.1
Synthetic textile products	100	121.8	129.3
Metalworking machinery	100	125.2	167.1
Fuels and power	100	134.3	232.3
Average hourly earnings (SIC 371) motor vehicle manufacturing	100	153.5	173.0

It should not be inferred that high prices were the only reason for the horrendous sales figures in the early months of the 1975 model year, but prices were unquestionably a major factor.[5]

The base or sticker price presented in Table 1 provides only a partial basis for trend comparisons. The actual purchase price is determined by the numerous accessary, luxury, or power options offered to or desired by the purchaser.

POWER, LUXURY, AND ACCESSARY OPTIONS

Suggested retail prices provide only the base figure for determining the price of a car. Data in the *Automotive News* indicate that options and accessaries add significantly to the final purchase price of new cars. Options purchased by the average buyer increase the purchase price by $800 according to the *Los Angeles Times*.[6] Radios, bucket seats, vinyl tops, adjustable steering column and speed regulating devices are among the luxury-comfort options. About 85 percent of the cars were equipped with radios in 1967, about 92 percent in 1973 and 87 percent in 1975. Vinyl tops were purchased on 22 percent of the cars in 1967; this increased to 49 percent in 1973 and then decreased to 47 percent in 1974 and 1975. The growth of other luxury-comfort options from 1967–1975 are presented in Table 3.

In addition to the luxury-comfort options, power equipment are popular options on U.S. automobiles.

They include power brakes, air conditioning, power assisted seat adjustments, power steering and power assisted side and tailgate windows. As indicated in Table 4 power brakes, air conditioning and power steering are most popular and were included in 77, 72, and 90 percent of the cars respectively in 1975.

Power train options also influence the final price of an automobile. Of the 1975 cars, 92 percent had automatic transmission, 72 percent had V8 engines and 93 percent had disk brakes (Table 5). The purchase price of options, whether included as standard equipment or as "selected options," can account for significant increases in the consumers investment in a new car. For example, the purchase of an automatic transmission, power steering, power brakes, radio and air conditioning on a Chevy Nova would raise the price by about $1,000 (Table 6) in 1976 models. The same options in 1966 could be acquired for about $660.

A question that cannot be answered by secondary data is, how many of the options purchased are fostered by industry's predetermined inventories? In other words, how many people buy cars as they want them, versus how many buy "over equipped" cars in order to avoid "special order" delays?

EMISSION CONTROLS

No secondary data are available to establish an historical industry construction cost baseline. Nevertheless, a study by the California Institute of Technology provides some insight into the costs of various components, and the mark up to arrive at sticker prices. According to this study, emission controls account for $86 of the total cost of $1,321 for a subcompact 1972 car (Table 7).

Estimates of component costs of pollution control equipment are presented in Table 8. Since the costs are represented in 1972 dollars they do not represent current costs, nevertheless, they do provide a basis for comparison of emission control costs with other options. For example, the $86 emission control costs multiplied by 1.6 gives a sticker price of $137 for emission control, to which $22 for "tool up" costs must be added to bring the total cost to $159.

A more complete analysis of emission control hardware has been prepared by the National Academy of Sciences.[7] They estimate that "sticker prices" for emission controls could reach $392 for meeting statutory requirements in 1976. Table 9 presents increases by model years as well as cumulative price increases due to pollution control.

Table 10 presents a chronology of emission controls beginning with the PCV addition in 1966. The table reflects the interim standards and assumes complete compliance with the statutory standard by 1976. Since the chronology does not reflect suspension and current proposals under debate on emission controls, it might be useful to review them.

"Background.—The Clean Air Act Amendments of 1970 (Public Law 91–604) required manufacturers of new cars to clean up exhaust emissions by 90 percent from the allowable levels in effect for the 1970 model year. For two pollutants—hydrocarbons (HC) and carbon monoxide (CO)—this clean up was to be achieved by model year 1975. For the third pollutant—oxides of nitrogen (NO_X)—this was to be achieved by model year 1976.

SUMMARY OF THE AUTO EMISSION STANDARDS

[In grams per mile]

	HC	CO	NO_x
Uncontrolled cars (Pre-1968)	8.7	87.0	3.5
1974:[1] Federal standards	3.0	28.0	3.1
1975:[2]			
Federal 49—State standards	1.5	15.0	3.1
California	.9	9.0	2.0
1976:[3]			
Federal 49—Standards	1.5	15.0	3.1
California	.9	9.0	2.0
1977:[4] Federal 50—State standards	1.5	15.0	2.0
1978: Statutory standards	.41	3.4	.4
Administration bill:			
1977–81—50 State standards	.9	9.0	3.1
Post 1981—50 State standards	(5)	(5)	(5)
EPA proposal:			
1977–79	1.5	15.0	2.0
1980–81	.9	9.0	2.0

[1] Imposed administratively by EPA.

[2] Imposed by EPA as interim standards after suspension of statutory standards, except for California's HC and NO_x standards which were set by the State.

[3] Imposed by Congress in Public Law 93–319, except for California's NO_x standard, which was set by the State.

[4] Imposed by EPA as interim standards after suspension of statutory standards, except for NO_x standard which was imposed by Congress (Public Law 93–319).

[5] Administrative discretion.

"In the same Act, Congress authorized the Environmental Protection Agency (EPA) to grant a one-year delay of these standards. EPA later did grant a delay. Thus, the 1975 requirements for HC and CO were pushed back to 1976, and the 1976 requirement for NO_x was pushed back to 1977.

"When EPA granted this one-year delay, it set interim standards for 1975, as was required by law. One set of standards was set for the 49 States. A more stringent set was in effect for California in 1975. Neither was as stringent as the full 90 percent reduction requirements.

"In June 1974, Congress amended the Clean Air Act, by adopting the Energy Supply and Environmental Coordination Act (Public Law 93-319). That Act further delayed the new car emission standards. The 1975 interim standards prescribed by EPA were carried over through model year 1976. In addition, Congress authorized EPA to grant one more year's delay of the HC and CO standards through model year 1977. Finally, Congress postponed the full 90 percent NO_x reduction requirement until model year 1978.

"The March 5, 1975, decision of EPA has suspended the statutory HC and CO standards for that year equal to the 1975 49-State standards. The 1977 interim standards also apply to California. Although EPA found that catalytic converter technology was available to permit the statutory HC and CO standards to be met without undue fuel penalty or cost increases, due to emission of sulfuric acid mists. Until the extent of the risk could be accurately determined, the Agency concluded that it would be unwise to force application of this new technology on a nationwide basis."[8]

When the Administrator suspended the 1977 standard, he commented on the cost of achieving a standard of 0.9, 9.0, and 2.0 for HC, CO, and NO_x, respectively. He stated:

"There was somewhat more variation in estimates of auto price increases that might accompany attainment of the statutory emission standards than was the case for fuel economy. Still, the estimates were all in the same basic area with the auto companies once again tending to the pessimistic side.

"General Motors estimated that a sticker price increase of $130-$150 over present systems would result if a 'warm-up' converter were used and $35-$50 (with possible upward adjustment for catalyst change) if it were not. These figures were in 1975 dollars. GM App. 1-b-2, 4-b-4.

"Ford's estimate is likewise about $150, mostly for increased size and precious metal loading of the catalytic converter, though this was inflated by factoring in an inflation adjustment for 1977 which was estimated at 15 percent. F. App. I-C-2; Appendix 6 p. 7; Tr. 831-32.

"Chrysler was significantly higher at $260, C. App. IV-H-8, a figure adjusted to account for the effect of an estimated 20 percent total inflation by 1977, Tr. 152.

"These figures are at the high end of the range estimated by my technical staff, see Status Rept. p. 4-4, and significantly more than the estimate of the National Academy of Sciences, NAS Rept. p. 89. The National Academy, however, did not attempt to account for the use of 'start catalyst.'[9]

"There is even more agreement as to the impact of emission standards set at the current California levels. GM estimates that sticker price increase at about $23 over that of the current national system, GM App. I-C-2. That increase was set by Ford at $50 (presumably once again with an adjustment for inflation), F. App. I-C-2, by the NAS at about $40, see NAS Rept. p. 89, and by my own technical staff at about $40, Status Rept. p. 4-4. Chrysler did not provide an estimate.

"As for the suggestion that the standards be set at .9 g/mi. CO, and 3.1 g/mi. NO_x, the resulting price increase was described by Chrysler as 'nominal, an additional $10', Tr. 49 and by General Motors as $20 to $25, Tr. 313."[10]

ECONOMIC IMPACT OF CONTROLS

The suspension document also continued a terse appraisal of the economic impact of imposing more stringent standards. The Administrator stated:

"Both prices increases and reductions in fuel economy that might result from tighter emission standards could in theory be expected to affect new car sales adversely. However, a study by my staff indicates that even at statutory levels the impact on sales would be on the order of a 1 percent reduction."[11]

Other studies appear to confirm the Administrator's assessment. Professor Thomas R. Dyckman concludes that the disposable income elasticity appears to be about +4.0, while price seems to be inelastic at about −0.6. Changes in income, prices and car stocks, he states, is not the whole story. The state of the economy, major changes in tastes, attitudes, credit terms and other factors can be important.[12] His conclusion is based on numerous studies which are summarized below:

PRICE AND INCOME ELASTICITIES OF VARIOUS STATISTICAL DEMAND STUDIES[1]

Study	Elasticity	
	Price	Income
1. Suits [43]	−0.6	+4.2
2. Suits [44][2]	−.7	[3] +1.7
3. Equation (4)[2]	−.7	[3] −1.7
4. Subcommittee on Antitrust and Monopoly [52]:[1]		
Study No. III	−.6	+4.4
Study No. I	−.7	+4.1
Study No. II	−1.2	+3.9
5. Equation (5)[2]	−.8	+4.0
6. Nerlove [34]	−.9	+2.8
7. Chow [9]	−1.2	+3.6
8. Atkinson [2]	−1.4	+2.5
9. Roos and von Szeliski [41]	−1.5	[3] +1.5-2.5 [4] +2.5-3.8

[1] These studies are based upon Suits' model.

[2] The standard errors of the elasticity estimates in the present study may be compared to those of Suits' 1960 study. They are: for study items 2, 0.3, and 0.2, respectively for study items 3, 0.1 and 0.2; and for study items 5, 0.1, and 0.2.

[3] Supernumerary income.

[4] Disposable income estimate: given by Suits [43], p. 278.

Source: Dyckman, Thomas R., "An Aggregate-demand Model for Automobiles;" The Journal of Business, vol. XXXVIII, July 1965, p. 261.

In light of these studies, the price increases of $23 to $50 to move from 1.5 15, 3.1 g./mi., to .9, 9.0 and 2.0 g/mi. respectively for HC, CO, and NO_x appear to have little potential for affecting production or employment.

FOOTNOTES

[4] Ibid.

[5] *Automotive News*. 1976 Market Data Book Issue. April 28, 1976, p. 64.

[6] "Most GM Prices Top $4,000." *Los Angeles Times*. August 28, 1974. Part III, p. 11.

[7] U.S. Congress. Senate. Decision of the Administrator of the Environmental Protection Agency Regarding Suspension of the 1975 Auto Emission Standards. Hearings before the Subcommittee on Air and Water Pollution of the Committee on Public Works. 93rd Congress 1st Session. April 1973.

[8] U.S. Congress. House. Committee on Interstate and Foreign Commerce (Staff report) Clean Air Act Amendments—1975. Committee Print No. 5 94th Congress 1st Session March 1975.

[9] National Academy of Sciences. Report by the Committee on Motor Vehicle Emissions. November 1974. pp. 88-95.

[10] Application for Suspension of 1977 Motor Vehicle Emission Standards Decision of the Administrator. *Federal Register*. Vol. 40, No. 51. March 14, 1975, p. 11915.

[11] Federal Register, Ibid., p. 11915.

[12] Dyckman, Thomas R. An Aggregate-Demand Model for Automobiles. *The Journal of Business*. Vol. XXXVIII, July 1965.

SAUDI ARABIAN OFFER TO AID SOMALIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. HAMILTON. Mr. Speaker, in early May, James Akins, former U.S. Ambassador to Saudi Arabia, testified before Congress that the United States did not pursue a 1975 Saudi Arabian offer to finance military and economic aid programs to Somalia as a possible means of eliminating Soviet presence in Somalia.

I wrote the State Department asking for its reply to this assertion. The Department replied that it studied the Saudi Arabian offer but felt that on balance "we could not propose to undertake a major arms relationship with Somalia."

I enclose for the interest of my colleagues my letter of May 10 to the State Department, the Department's reply of May 21, and the Washington Post article of May 5 reporting on Ambassador Akins' testimony:

MAY 10, 1976.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I read with concern reports in the newspaper that the Department of State did not pursue a 1975 Saudi Arabian offer to finance military and economic aid programs to Somalia as a possible means of eliminating the Russian presence there and that the Department of State discouraged a Congressional visit to Saudia Arabia on a trip to Somalia to learn about the Soviet presence there.

I would like to know the particulars of this Saudi offer, when it was made, why it was not pursued, why the Congressional delegation was discouraged from visiting Saudi Arabia and why it is not in our interest to work with all states to diminish Soviet influence in the Horn of Africa.

I would appreciate an early reply to this letter and would also like to see any rebuttal to the statement former Ambassador James Akins made that the Department issued.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DEPARTMENT OF STATE,
Washington, D.C., May 21, 1976.

Hon. LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations, Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to respond to your letter of May 10 concerning newspaper reports that the Department of State did not pursue a 1975 Saudi Arabian offer to finance military and economic aid programs to Somalia as a possible means of eliminating the Russian presence there and that the Department of State discouraged a Congressional visit to Saudi Arabia on a trip to Somalia to learn about the Soviet presence there.

A suggestion by Saudi Arabia in May 1975 regarding possible collaboration in assisting Somalia received careful consideration in the Department. Insofar as military assistance was involved, any U.S. decision to ship large quantities of arms to Somalia would have entailed serious complications in our relations with friendly states in Africa bordering on Somalia, some of which were the object of Somali territorial claims. It would have gotten us deeply involved, for the first time, in arming both sides in a conflict in Africa, and would also have presented difficult financial problems. For these principal reasons we concluded that we could not propose to undertake a major arms relationship with Somalia, despite our continuing deep concern over the growing Soviet presence there.

We did, however, decide to offer to restore a modest economic aid program in Somalia, and informed Saudi Arabia—as well as Somalia—of that decision in September 1975.

As for the proposed visit by a Congressional delegation to Saudi Arabia in connection with its trip to Somalia in July 1975, an extensive search of Department records shows that the Department of State did not stand in the way of such a trip. It is possible that a misunderstanding may have grown out of preliminary conversations among officials arranging the logistics of the trip and that a conclusion was drawn that the Department did not favor it. In fact, the Department actually sought to arrange such a visit to Saudi Arabia. In the end the visit did not take place because of factors beyond the Department's control.

Sincerely yours,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

[From the Washington Post, May 5, 1976]

Saudi Offer of Aid Reported

(By Laurence Stern)

Former U.S. Ambassador to Saudi Arabia James Akins told a Senate subcommittee yesterday that the State Department turned a deaf ear last year to a Saudi government offer to finance military and economic aid programs to Somalia as a means of eliminating the Russian presence there.

Akins said he was informed by a State Department colleague that the reason he received no answer from Washington to the Saudi offer was that the Defense Department was pressing its case for development of a major U.S. naval base in the Indian Ocean on Diego Garcia island.

A powerful Pentagon argument to Congress on the Diego Garcia base last year was the growing threat of the Soviet presence in Somalia.

"This is the most dishonest thing I have heard in 30 years in Congress," exclaimed Sen. Stuart Symington (D-Mo.), who opposed the Indian Ocean base in the Senate Armed Services Committee.

"... The argument was used with great persuasion in Congress that since the Russians were in Somalia it was necessary to establish a base in Diego Garcia," he said.

Congress approved $13.8 million for a permanent naval base on the Indian Ocean island after a stormy battle over costs and increasing military rivalries in the region.

Subcommittee Chairman Frank Church (D-Idaho), after hearing Akins, said, "the circumstantial evidence certainly suggests a relationship between the desire of the Navy for the Diego Garcia base with a continuation of the Russian presence in Somalia to justify the base."

Akins said the Saudi offer was relayed to Washington through him because of the growing concern of the Saudi government over the Russian naval buildup in Somalia.

This concern, the former ambassador said, was stimulated by U.S. officials who made available to the Saudis photographs of Soviet naval facilities in Somalia. The Saudis, said Akins, "became very frightened."

The terms of the Saudi proposal which he reported to Washington, Akins said, was that the Saudis would provide some $15 million in economic support and for the supply of U.S. military aid to Somalia.

Akins said he had no idea whether the proposal was acceptable to the Somalis because it was stopped dead in Washington.

After Akins' testimony, Symington confronted Defense Secretary Donald Rumsfeld and Navy Secretary William Middendorf about the allegations, Reuters reported.

[Both denied knowledge of the reported Saudi offer. A State Department spokesman declined to comment on the testimony.]

Akins, a 22-year career Foreign Service veteran and specialist in Arab affairs, was dismissed as ambassador to Saudi Arabia last year in the wake of his differences with Secretary of State Henry A. Kissinger over dealings with the Saudi government and on oil policy questions. He is no longer in the Foreign Service.

In another revelation, Akins acknowledged in reply to a question that the State Department denied him permission to go to London in late 1974 in an effort to persuade Prince Fahd to agree to a large auction of Saudi oil—a move that would have moderated the steep climb in Persian Gulf oil prices.

Top Saudi government officials, Akins said, had asked him to intercede with Fahd who was under pressure by other oil-producing countries to call off the auction.

Akins testified under oath that his trip to see Fahd was vetoed by superiors in Washington on grounds that the State Department lacked travel funds for the Jidda-to-London journey and that his presence in London would be "too conspicuous."

On another matter, Akins said he was not aware of the use of Saudi Arabian arms agent Adhan Khashoggi as an intermediary in contacts between President Nixon and King Faisal during and after the 1973 Middle East war, as reported yesterday in The Washington Post.

Questioned about The Post article, Akins said: "I was not aware of any such communications and I don't believe they took place." If they had, he told the subcommittee, it would have been "highly irregular and improper."

However, he said that the Saudi defense minister, Prince Sultan, had confided to him that Khashoggi had boasted in Riyadh "that he got me removed (as ambassador) in reprisal for having blocked agent fees."

The former diplomat testified ruefully that "I still think it (Khashoggi's boast) is a joke, but I don't think it's as funny anymore."

PERSONAL EXPLANATION

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. du PONT. Mr. Speaker, I was absent in Delaware on Tuesday when the House voted on rollcalls Nos. 315 through 320. Had I been present, I would have voted as follows:

No. 315—"yes."
No. 316—"no."
No. 317—"yes."
No. 318—"yes."
No. 319—"yes."
No. 320—"yes."

WILLIAM DWIGHT, SR.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. CONTE. Mr. Speaker, I rise to mark the retirement of one of the giant figures of New England journalism. At the beginning of this year, William Dwight, Sr., ended his long and fruitful reign as publisher and editorial conscience of the Holyoke, Mass., Transcript-Telegram.

Bill Dwight's contributions to journalism and to his community have been enormous. These were best summarized in a special 1965 award to him during 50th anniversary ceremonies at the Columbia University Graduate School of Journalism. His citation read:

> You are that ideal, a publisher with real editorial background and one who has made extraordinary contributions to journalism over the years. Columbia's Graduate School of Journalism honors itself by honoring you today with this 50th Anniversary Medallion.

The Holyoke Transcript-Telegram, one of New England's foremost daily newspapers, was founded in 1883 by Bill Dwight's father, William G. Dwight. For more than 50 years, since he was a high school student, Bill Dwight has worked for this newspaper, where he steadily expanded its coverage and prestige.

Bill Dwight has always had a real reporter's sense of what will interest his readers, and whether it was an anniversary party or the annual Holyoke St. Patrick's Day parade, the Holyoke Transscript has covered it in its columns.

Following graduation from Princeton University, 1925, and the Columbia Graduate School of Journalism, 1926, Bill Dwight joined the staff of the Transcript-Telegram on a full-time basis. In 1930, following the death of his father, Bill Dwight became the paper's managing editor. In 1957, he became publisher.

Born into a newspaper heritage, Bill Dwight has proudly passed his family's legacy to his sons. William Dwight, Jr., has succeeded his father as publisher of the Holyoke Transcript-Telegram. And Donald Dwight, the former Lieutenant Governor of the Commonwealth of Massachusetts, was recently appointed the publisher of the Minneapolis Star-Tribune.

Bill Dwight also established a tremendous legacy of community service. He was active in politics as well as business, education, and journalism. As a political leader, Bill Dwight was elected as a member of the Holyoke Board of Aldermen, 1927–29, served as a Hampden county commissioner, 1946–48, and represented the First Congressional District at two Republican National Conventions, 1948 and 1964.

As a businessman, he served as a trustee of Northeast Utilities, the Holyoke Savings Bank, and the Holyoke Hospital. He is a past director of the Franklin County Trust Co. of Greenfield and the Phoenix Mutual Life Insurance Co.

In 1954–55, he served as chairman of the New England Governor's Textile Committee.

As an educator, he served as a trustee of Mount Holyoke College and Williston Academy.

And as a journalist, Bill Dwight has been a director of the Associated Press, publisher of three newspapers—Holyoke Transcript-Telegram, Greenfield, Mass. Recorder, and Concord, N.H., Monitor, and director of four other newspapers—Raleigh, N.C., News and Observer, Burlington, Vt., Free Press, Haverhill, Mass., Gazette, and Catskill, N.Y., Daily Mail. He has been elected president of the American Newspaper Publishers Association, 1956–58, and president of the New England Daily Newspaper Association, 1940–42. He has also served as a jurist for the Pulitzer Prize awards.

For his years of achievement and leadership, Bill Dwight is owed a great debt of gratitude by the people of Holyoke and the Connecticut River Valley.

I want to congratulate Bill and his lovely wife and partner in his endeavors, Dorothy. May they enjoy to the fullest the increased leisure that retirement will bring. At this point in the RECORD, I submit several articles concerning Bill Dwight:

[From the Holyoke Transcript]

WILLIAM DWIGHT RETIRING AS PUBLISHER OF TRANSCRIPT

William Dwight of 60 Lindor Heights, is retiring the end of the year as publisher of the Holyoke Transcript-Telegram.

At the same time he is relinquishing his positions as president and treasurer of the Holyoke Transcript-Telegram Publishing Co. Inc., and as president and treasurer of Holyoke Transcript Inc., parent firm of the Concord, N.H., Monitor.

William Dwight Jr. of 30 Cleveland St., editor of the Transcript-Telegram, succeeds him as publisher and at the same time takes over the two principal corporate positions in Holyoke Transcript-Telegram Publishing Co. Inc.

George W. Wilson of Concord, N.H., who succeeded Dwight as publisher of the Concord Monitor in July, 1974, has been elected president and treasurer of Holyoke Transcript Inc.

Larry D. Lewis of Farmington, Conn., who is a director of Holyoke Transcript Inc., has been elected a director of the Holyoke Transcript-Telegram Publishing Co. Inc.

Dwight is co-publisher of the Greenfield Record and is relinquishing that position.

These changes were effected at meetings of the boards of directors in Holyoke.

William Dwight will continue his association with the two local corporations as director and chairman of the two boards.

He has been with the Transcript-Telegram since his graduation from the Columbia School of Journalism in June, 1926. However, during his school days at Holyoke High and during the summers as an undergraduate at Princeton University he was with the Transcript sports department.

When he became a full time newspaperman in Holyoke 49 and a half years ago, there were two daily newspapers here—the Transcript and the Telegram. On Jan. 1, 1927, the Transcript bought the Telegram and merged it into the Transcript-Telegram.

In 1930, William G. Dwight, founder of the Daily Transcript in 1883 and father of William Dwight, died. At that time the latter became managing editor of the T-T succeeding his uncle, the late Arthur Ryan, who became business manager. The late Minnie R. Dwight, mother of William Dwight, became publisher and held that position until her death in July, 1957. At that time William Dwight was elected publisher.

Dwight has been active in the regional and national newspaper scene. He has served as president of the American Newspaper Publishers Association, chairman of the Newspaper Advertising Bureau, a director and vice president of the Associated Press and president of the New England Daily Newspaper Publishers Association.

His other newspaper interests have been as director of the Raleigh, N.C., News and Observer, Burlington, Vt., Free Press, Haverhill Gazette and Catskill, N.Y., Daily Mail. He has retired from the first three newspapers but continues on the board of the Catskill newspaper.

In 1943 he served as assistant administrative officer of the War Shipping Administration.

NORTHEAST TRUSTEE

He is a former trustee of Northeast Utilities, and the Holyoke Savings Bank. He is a past director of the Franklin County Trust Co. of Greenfield, and is a past trustee of Mount Holyoke College, Williston Academy and the Holyoke Hospital. He was also a director of Phoenix Mutual Life Insurance Co.

He represented Ward Five on the Holyoke Board of Aldermen in 1928 and 1929, and served as Hampden County Commissioner by appointment 1946-1948. Dwight was a delegate from the First Congressional District to Republican national conventions in 1948 and 1964.

He was born in Holyoke 72 years ago and feels the time is propitious for his retirement. He stressed to his associates that William Dwight Jr. and George W. Wilson are dedicated newspapermen who are prepared and equipped to assume the responsibilities of their new offices.

His son, William Dwight Jr. is president of the New England Daily Newspaper Publishers Association. This is the fourth father and son team to hold this position.

Mr. and Mrs. William Dwight are leaving for their winter home in Sarasota, Fla., this week. Mrs. Dwight is the former Dorothy Rathbun of Madison, N.J. They plan to spend the winter in Florida but will be in Holyoke for the choice seasons of the year—spring, summer and autumn.

THIRD GENERATION

William Dwight Jr., the new publisher and principal corporate officer of Holyoke Transcript-Telegram Publishing Corp., is the third generation of the Dwight family to operate Holyoke's daily newspaper.

He was born in Holyoke 46 years ago, attended the local public schools, Holyoke High School, Deerfield Academy and graduated from Princeton University in 1951. He served as an officer with the Marine Corps during the Korean War and was wounded in action.

He is a past president of the Greater Holyoke Chamber of Commerce and was a co-founder of Holyoke Inc. He is prominently identified with several social service agencies in the city. He served as administrative assistant to Congressman Silvio O. Conte from 1959 to 1961.

George W. Wilson, who assumes the principal corporation offices of Holyoke Transcript Inc., is a native of Scranton, Pa. He grew up in Aiken, S.C., graduated from Harvard College, and has worked as a reporter for the Washington Post and as an administrative aide to United States Senator Strom Thurmond of South Carolina. Wilson is married to the former Marily Dwight, daughter of Mr. and Mrs. Dwight Sr.

The retiring publisher and Mrs. Dwight have another son, Donald, for many years connected with the Transcript-Telegram, rising to associate publisher and who later became Lieutenant Governor of Massachusetts. He is now associate publisher of the Minneapolis (Minn.) Star Tribune.

[From the Holyoke Daily Transcript, Dec. 10, 1975]

NEWSPAPER AND COMMUNITY

One of the more difficult tasks is to write an encomium without its sounding like an obituary, or an overly simplistic tribute with words saying less (or more) than intended.

Such is the situation today as the Transcript-Telegram says goodbye to its mentor, its very essence, of the past thirty years.

William Dwight is stepping down from his position as editor and publisher of the newspaper he loves with all his heart and soul, and to which he has dedicated himself so completely as to, in fact, mold the paper to his personality, and his always active pursuit of excellence.

In so doing he has also dedicated himself to the community he loves. The pair—newspaper and community—go hand in hand, and that has been his conviction and philosophy as learned from his mother and father who brought the newspaper into being.

In a time when corporate structures tend to overcome the humanness of the individual it is not easy to see one of the few remaining practitioners of personal leadership give up his role. But that time has now come, and as must happen to all things, we shall be moving under new direction.

The newspaper, without William Dwight will never be the same. It will, however, strive to preserve the fine traditions and high standards he brought, and fought to insure. The Transcript-Telegram will remain, to the grestest extent possible, a monument to his devotion and that of his parents.

To that end his successors pledge themselves.

WILLIAM DWIGHT, Jr.

[From the Holyoke Transcript, Dec. 19, 1975]

THE END OF AN ERA

(By Ella Dicarlo)

The biggest change in the scene here at the T-T is, of course, that William Dwight Sr. has retired. Not only will it make a difference here, but in the community at large.

It's not that Bill Dwight, as some people imagine, wrote the Transcript single-handed, or made all the decisions, or even saw what went in until the paper came out. In fact, many a news item is blamed on the Dwights which really should be placed on other shoulders, despite what some folks, who don't know how a paper is put out, think.

Of course, I knew of Mr. Dwight long before I ever dreamed I'd some day be working for him. His name appeared in the news columns and was praised and castigated in the Safety Valve.

When I came to work at the T-T he welcomed me, but had very little to do with me as a reporter. It was when I became the wire editor that I got to know him very well.

Mr. Dwight, whatever else he might have been, was first and foremost a newspaperman. Naturally, one might say. But, no, there are people in the newspaper business who also have other interests. For Bill Dwight, the news was all. Everyone he met and everything he read turned into a story.

He had a great memory and also could zero in on what was essential in a story. And of course he knew the background of everybody and every business so that, being lazy reporters, we often went to him for the information we should have gotten from the files.

As the wire editor, I determined what went on the front page, and sometimes what I thought was the top news was not what he would think was top news and he'd let me know after the paper came out.

"What made you lead with that?" he'd ask, and I'd explain what led to that decision. Sometimes it would even be, "What the heck made you . . ." and that would take a bit longer in explaining.

FRONT PAGE NEWS

One time I decided to lead with the arrest of an army officer in the My Lai case at the same time former Mayor William Taupier announced he would run again. "What the heck . . ." said the Big Boss. And I said everybody knew Bill would run again, but that that had been the first time an army officer had been charged as in the My Lai case.

He accepted the decision (after all, the paper was already out) but wasn't so sure I knew what I was talking about. Luckily, the next morning, the New York Times, which has got to be the journalists' Bible, saved me by also running the My Lai story on top.

Other times I wasn't so lucky. For instance, when I began running the stock market reports on the jump page daily, all those numbers meant nothing to me. But I soon found out they meant a lot to the Boss.

"Don't you realize the market broke 900 yesterday?" he asked me as he noted I'd run the column with the conventional one-column head. He could have said it broke nine or 9,000 for all it meant to me, but I soon earned. When it broke 1,000, I was ready with a nice, big splashy headline.

Perhaps the most important thing he taught me was to learn to ask myself, "What are people talking about today?" There might have been a war going on across the world, but if we were deluged with rain or snow here, or if the thermometer soared to astronomic heights, that's what area people would be talking about and wanting to read about.

DISAGREEMENTS

Obviously, no two people think alike and no two editors would put out exactly the same kind of paper. Even editors on the same paper disagree on what is important and what isn't. What was happening out there in the business world was all new to me and so that I wouldn't neglect to provide information, Mr. Dwight busily clipped items from the Times to be put into the Transcript. And I learned to watch for such economic indicators on the wire.

He had other interests which kept us alert. Railroads interested him, world famous hotels, but mostly people. He knew something about everyone and if someone had ever stopped in Holyoke for any reason, he'd remember that and it would have to be inserted in a wire story that the famous John Doe, on his way to Washington, passed through Holyoke, pausing to have his car filled at Yoerg's garage. It gave the news a bit of a local slant.

It was his hand that placed many of the items in the Oracle column and on any trip of his he would meet people who became interesting items in the Oracle.

We're happy to have Bill Jr. at the helm now, but we're going to miss Bill Sr., although we're sure he'll pop in from time to time to straighten us out.

As for me, I'm sorry I missed that story about the Brazilian killer bees, Mr. Dwight, but I'm watching that stock market real closely. If it tops 900 again when I'm on, I'll be ready this time.

[From the Springfield (Mass.) Union, Dec. 11, 1975]

WILLIAM DWIGHT STEPPING DOWN AS TRANSCRIPT PUBLISHER

William Dwight, 72, publisher of the Holyoke Transcript-Telegram newspaper for the past 18 years, announced Wednesday he will retire from his post at the end of the year.

He also will relinquish his corporate positions as president and treasurer of the Holyoke Transcript-Telegram Publishing Co., Inc., and president and treasurer of Holyoke Transcript, Inc., parent firm of the Concord, N.H., Monitor newspaper.

Dwight is copublisher of the Greenfield Recorder and is giving up that position also.

Dwight's son, William Dwight Jr., 46, will become publisher of the Transcript-Telegram and assume the two principal corporate positions in the Transcript-Telegram Publishing Co.

Dwight attended Holyoke High School, Princeton University and Columbia School of Journalism. During the last 49 years he has worked as reporter, managing editor and publisher of the Transcript-Telegram.

He served as a Ward 5 alderman in 1928 and 1929 and as Hampden County Commissioner between 1946 and 1948.

THE EMERGENCY 911 TELEPHONE NUMBER MAKES PROGRESS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. YOUNG of Florida. Mr. Speaker, there recently appeared a listing in the CONGRESSIONAL RECORD of several States and communities which have adopted the "911" emergency telephone number—a common, easily remembered telephone number for citizens to use when requesting help in police, fire or medical emergencies.

Because of the importance of this concept, I first introduced a bill in the 92d Congress to require the Federal Communications Commission, which regulates phone companies, to set regulations to provide for a nationwide 911 emergency number system. I have subsequently reintroduced this bill in each Congress.

In the meantime, my home State of Florida is well on the way to becoming the first large State where 911 will be the statewide emergency telephone number for ambulance, police and fire services.

This accomplishment in Florida has been due—in large measure—to the effort of State Senator Richard J. Deeb, who serves my home county of Pinellas. And, because Senator Deeb has shared my concern, Pinellas County will have the new system in operation by July 1, 1977.

Mr. Speaker, the idea of a common number for emergencies is not a new one. As a matter of fact, the concept was introduced in England during the 1930's. Today in Europe, the number 999 is widely used as an emergency number.

It was not until 1957 that the concept of 911 began to gain favor in the United States—with the support of the International Association of Fire Chiefs. However, it was to be a decade later—in 1967—before the President's Commission on Law Enforcement was to make a recommendation for a nationwide common emergency number. The Federal Communications Commission added its endorsement to the recommendation.

Florida's surgence into the forefront in the 911 implementation effort will hopefully be the catalyst to encourage the other larger States—as well as the smaller ones—to adopt the 911 concept because in the event of a serious emergency, time can mean the difference between life and death. Too often now, precious moments are lost when people—under the stress of an emergency situation—stumble through the phone book trying to find the number for the police, or the fire department, or an ambulance service.

ITALIAN NATIONAL DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. RODINO. Mr. Speaker, I am very pleased to have this opportunity to pay special tribute to the Italian nation which is celebrating its 30th anniversary as a republic.

Though the past 30 years are a mere instant in the lifetime of this ancient society we know as Italy, they represent an important political transformation. In this, America's Bicentennial Year, we can look with pleasure on the democratic values that have taken hold in Italy. The same ideals of personal freedoms, liberty, and representation that Americans celebrate this year, Italians also proudly hail. It is gratifying to note that in 1976, when many academics and statesmen are speaking with foreboding of the emergence of totalitarian regimes as the only way to meet the demands of the modern state, the comparatively young republic of Italy remains firmly committed to its beliefs in political freedom.

The transformation of Italy in the past 30 years complements the history of a society which constitutes the genesis of Western civilization. After a 3,000 year history, Italy's new republic has retained the traditional Italian concern for human values and the search for knowledge.

The cultural contributions of the Italian people are too numerous to list, but names such as Da Vinci, Michelangelo, Titin, Verdi, and Puccini in the arts, and Galileo, Marconi, and Fermi in the sciences give an indication of the Italian dedication to improving human existence.

I am proud that during the past 200 years many Italians have made America their home, so that the rich Italian culture has become a part of American culture.

With gratitude, I honor the Italian republic and its great people. And in the spirit of friendship, I wish them a prosperous future.

TO CREATE A NATIONAL COMMISSION ON SOCIAL SECURITY

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. LEVITAS. Mr. Speaker, on March 6, 1975, I introduced a bill, House Joint Resolution 291, to create a National Commission on Social Security. I did so because I had come to the firm conclusion that our approach to the social security program must be thoroughly overhauled. I said at the time that there were too many warning signals which we could no longer afford to ignore.

The warning signals are getting louder and louder, and we still ignore them at our peril.

Unlike private employers, local and State governments can drop their memberships in social security after giving the Federal Government 2 years' notice. In the past 2 years, 138 local governments have relinquished their memberships; another 208 have said they intend to do so.

Now comes the 1976 annual report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. What does it say?

The trustees of the social security system, heretofore so sanguine about the inherent future strength of the program, have finally admitted that even under the most optimistic assumptions possible the trust funds will be exhausted by the early 1980's. Predicting even further into the future, the report states:

> The long-range actuarial cost estimates indicate that for every year in the future, under present law, the estimated expenditures will exceed the estimated income from taxes.

Put bluntly, this means the social security program is on shaky fiscal ground, unless something is done to change the present course.

The final paragraph of the trustee report conveys a sense of urgency to me:

> The Board also recommends that the development of additional plans to further strengthen the long-range financing of the old-age, survivors, and disability insurance program be given high priority.

At last, the official experts are admitting that something is wrong.

Mr. Speaker, my bill, House Joint Resolution 291, is an attempt to examine thoroughly our present social security program in all of its aspects and to examine viable alternatives to a system which many actuarial experts—not to say the vast bulk of a concerned public—believe is no longer *tolerable*, with high costs to the taxpayer and pitifully sparse benefits to the recipients.

Although this bill has received significant cosponsorship, no action has yet been taken by Congress. If the Members of Congress and other Federal employees had a stake in the social security program themselves, I frankly have no doubt that we would have had remedial action long ago.

Does not it seem strange that our social security system is good enough for most American workers to pay for but not good enough for the Members of Congress or other Federal employees to participate in? Because that is exactly the situation that prevails, and the American public is becoming increasingly aware of it.

The retired, disabled and widowed Americans are becoming fearful about the future of social security. We have an unbreakable commitment to them. To honor it, something must be done.

The President has proposed raising the regressive payroll tax. This is wrong. It creates more animosity by already overtaxed citizens and does not deal with the root problems of the social security system, as a National Commission would.

Young people, paying into social security, are cynically aware they will never see their benefits returned to them and they are demanding some new approaches. A National Commission will provide this.

Mr. Speaker, I plead for this Congress to get on with the job.

THE AMALGAMATED CLOTHING WORKERS OF AMERICA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. YATRON. Mr. Speaker. On June 2, it was my pleasure to attend a dinner given by the Pennsylvania Joint Board of the Amalgamated Clothing Workers of America. During the course of the evening, Mr. Peter J. Swoboda, the manager of the Pennsylvania Joint Board, read a letter which he received from one of the Amalgamated Clothing Workers' retired members, Mrs. Eleanor M. Fiala.

The Amalgamated Clothing Workers of America have made a continuing effort to help their members; and the following correspondence is a testimony of the tireless efforts of this organization.

The text follows:

ELEANOR M. FIALA,
2456 Market Street, Allentown, Pa.
18104, May 1, 1976.

PETER J. SWOBODA,
Pennsylvania Joint Board,
1720 Market Street,
Pottsville, Pa.

DEAR SIR: I received word from the New York office of the Amalgamated Retirement Fund that with the approval of the joint board my pension plan has been completed with a coverage of the 44 years of membership in the union and my employment at the Lehigh Valley Shirt Co. of Allentown, Pa.

I want to express my sincere thanks to the Penna. Joint Board officers and my local officers of Local 128 for their efforts on my behalf. A special thanks to my chairlady, Mrs. Anna Onkotz who gives a lot of her time and efforts for the welfare of the members who work at the Lehigh Valley Shirt Co.

The membership has come a long hard route since I was involved in the so called baby strike of the shirtworkers during the depression years beginning in 1931. I have the privilege of being a charter member of the shirtworkers local 28, Allentown, Pa.

My life was enriched with the honor and pleasure of having known Miss Jule Lesnick who later became Mrs. David Monas. Her efforts were tireless when it came to helping the shirtworkers. We walked the picket lines at 5 o'clock in the morning, rode on the back of trucks from one factory to another in Allentown, Northampton and Emmaus. We even spent some time at police court, and Jule was right at our side not only as our leader and organizer, but most of all as our friend. We owe her a lot.

I of all people should know in those early days, my weekly pays were very small sometimes only a dollar a week or a 1½ cents a doz. to learn. There wasn't any work in the industry so we had to settle for these conditions to learn a trade. We were happy when the union organizers came into our town to help us. They got us strike benefits which were more than we earned in the factory.

I must not forget the daily coffee and donuts they gave us at the union hall, because this was a treat in those days. We didn't have any money to buy them ourselves. Today it is taken for granted, a so-called coffee break.

All this was possible by other members in other places giving their dues and donations to help organize the sweatshops of the Lehigh Valley. These shops had moved out of New York City and took away the work at cheaper wages.

It took almost a year to get all the factories signed up, but I must be fair to my own employer, when the unions came to Allentown, they were one of the first to sign up in 1933.

Now through the growth of our union I will receive the security in my retirement of a substantial pension and life insurance for which I am very grateful.

I have a lot of sad and also happy memories of early days and receiving all these benefits made it all worthwhile.

To whom it may concern my sincere thanks.

The union is only as strong as its members made it. I hope the membership continues to grow and be strong, because without a union there will be nothing again.

I am not a very good letter writer but these words are from my heart.

Sincerely,

ELEANOR M. FIALA.

EDWARD WILLIAMS TRIBUTE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. OTTINGER. Mr. Speaker, on June 9, Edward Williams will be honored on the occasion of his retirement from the Robert Fulton School in Mount Vernon. I would like to take this time to share with my colleagues a few of Mr. Williams' many accomplishments.

Edward Williams attended Mount Vernon schools, gaining an outstanding reputation in a number of sports. His talents and skills were such that he won a football scholarship to New York University.

Prior to a career in education, Edward Williams chaired the Mount Vernon Recreation Commission Advisory Board, worked with the Children's Aid Society, and served in World War II; out of the service, Mr. Williams gave much of his time and energy to the rehabilitation of veterans who had been blinded during the war.

He began his teaching career back in Mount Vernon in 1956 at the Washington Junior High School. He later moved to Nichols Junior High School where he was an assistant principal up until the time he began his duties as principal of the Robert Fulton School.

I know the community will miss the leadership and counsel of Edward Williams. His contributions to the lives of countless Mount Vernon children will miss the leadership and counsel of Edward Williams. His contributions to the lives of countless Mount Vernon children will long be remembered. On June 9 it is only fitting, then, that students, parents, and teachers join together with others from the Mount Vernon community to express their appreciation and thanks.

INTRODUCTION OF A BILL TO ASSURE APPROPRIATE PARTICIPATION BY PROFESSIONAL REGISTERED NURSES IN PSRO'S

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mrs. KEYS. Mr. Speaker, it is most important that we support the basic principle of accountability of all health care practitioners to provide care which is of a high standard and which is available and accessible to all at a reasonable cost. The participation of the Federal Government in health care matters brings with it an increasing governmental concern about standards of practice and their implementation.

I support the concept that the government at all levels should provide mechanisms whereby professions can increase the effectiveness of their self-regulatory activities. The bill I am introducing today is one such mechanism. It simply provides professional registered nurses appropriate participation in the professional standards review organizations at all levels of government.

Physicians are already intimately involved in all levels of PSRO activities and also have been given authority for all decisionmaking relative to medical care. The same type of self-regulatory mechanism for other health professions is not clearly stated within the current provisions of the law. Attempts to rectify this lack of clarity within the law through regulations and policy manuals is not a satisfactory solution.

The law which provides for the structure and authority of PSRO has failed to clearly provide for an appropriate involvement and decisionmaking on the part of health professionals other than physicians. It is necessary to support the efforts of these health professionals to gain appropriate identification and involvement in PSRO and the regulations that govern its implementation.

As the largest professional group within the health field, with over 900,000 professional registered nurses engaged in active practice, nursing must be acknowledged as a vital component of the health care team and be accorded the appropriate rights and responsibilities as professional practitioners within this law.

Inasmuch as providers educated and practicing in professions other than nursing do not have the experience or educational background to effectively evaluate the necessity, appropriateness, and quality of nursing care, it follows that members of the nursing profession should be involved in decisions as to the quality of professional care/service, rendered by nurses.

My bill to amend the Social Security Act provides for the minimal changes in Public Law 92-603 to effect the rightful role of professional registered nurses in PSRO.

RESOLUTION OF THE LIBERAL PARTY OF NEW YORK STATE ON ICELAND

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. KOCH. Mr. Speaker, I have received the statement of the Liberal Party of New York State concerning the so-called cod war between Iceland and Great Britain which recently entered the cease-fire stage but has not yet been resolved.

I believe that the proposal of the Liberal Party of New York State to resolve this issue is well done and should be pursued by the parties involved. I urge that our colleagues read the statement that is appended:

LIBERAL PARTY STATEMENT CONCERNING ICELAND

It is an ugly sight to see a small, democratic, progressive nation relentlessly pushed to the edge of catastrophe by the intransigence of a larger neighbor.

The world is witnessing the spectacle of the might of the British Navy thrown against a country of some 200,000 population with no army, air force, or navy. If British force prevails, the small but historic nation of Iceland will be economically destroyed. Much as Great Britain deserves considerable sympathy regarding her current economic plight, Britain's arbitrary policy toward Iceland is unjust and unjustifiable.

Iceland, whose export economy is almost 80% dependent upon fish, has extended her fisheries water limits to 200 miles as an essential economic and conservation measure. Great Britain, refusing to recognize Iceland's action, has continued to send British fishing boats accompanied by British military craft into Icelandic fishing waters, precipitating what the international press condescendingly characterizes as "the cod war."

Consequently, Iceland has broken diplomatic relations with Great Britain, thus bringing into question the future of strategic NATO and American defense facilities in Iceland.

That such an extreme situation could come about highlights the urgent need for fair, practical, binding international agreement and regulation concerning both legal and commercial limits of offshore waters throughout the world. Such agreement and regulation must give appropriate priority to worldwide needs for, and conservation of, such vital commodities as oil, minerals, and fish. Such agreement and regulation likewise must protect the interests of nations such as Iceland that are dependent upon offshore resources.

Ironically, Great Britain, which has asserted her own 200-mile commercial water limits in order to claim newly discovered North Sea oil reserves, also may be dependent upon offshores resources in the near future.

The Liberal Party of New York State earnestly hopes that the current International Conference on the Law of the Sea, sponsored by the United Nations, will reach equitable agreement on the proper conservation and use of offshore resources throughout the world.

Meanwhile, until equitable international agreement is concluded and implemented, the Liberal Party of New York State calls upon the United States Department of State, as a matter of humanitarian justice, to take all possible action through established diplomatic channels to persuade Great Britain and all other nations to respect Iceland's 200-mile fisheries water limits.

BICENTENNIAL ESSAY BY MARC RESZEL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DERWINSKI. Mr. Speaker, an outstanding young man in my district, Marc Reszel, age 13, has written a Bicentennial essay which has already won him first prize in two levels of competition sponsored by the American Legion. He is now competing for the statewide award. I take pleasure in inserting his essay in the CONGRESSIONAL RECORD and commend him for his patriotism and scholarship. Marc is also the valedictorian of his graduating class at Highlands Junior High School in La Grange, Ill..

AMERICAN LEGION BICENTENNIAL THEME

(By Marc W. Reszel)

(Theme question: Group B—"What contributions have been made by whom, to make the United States of America the best country in which to live, since it declared independence July 4th, 1776?")

The greatest contribution in the last two hundred years is by far the Constitution. This document not only set up our unique form of Government but it gave the people their rights as American Citizens.

The major job of the Constitution was to create a new Government and that it did. Not only this, but it also stated the qualifications to hold a government office.

The three Government Branches set up by the Constitution are the Legislative, Executive and Judicial. The idea of a Legislative Branch was not new, but to have one house based on population and another based on equality to all States, was and is an excellent idea. The Executive Branch is headed by the President. In the late 1700's a President was a new idea, to prevent the government from being dominated by a king. The third is known as the Judicial Branch. This is the Court of Law system in America. This was not exactly a new idea but the Constitution assures all Citizens of a fair trial.

The other part of the question asks who made this contribution. Although it was written by our Forefathers the Constitution belongs to and protects each and every American.

H.R. 50: THE PRESS SPEAKS OUT AGAINST HUMPHREY-HAWKINS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ESCH. Mr. Speaker, during the past few months, the Nation's leading newspapers have begun to speak out on their concern over the potentially damaging impact of H.R. 50 on the American people, not only in terms of the possibility that H.R. 50 would bust the economy through ruinous inflation, but in the potential intrusion of an expanding government into all aspects of our lives. In addition, columnists and professionals have also cast serious doubts on the efficacy of H.R. 50. Some have even gone so far as to suggest that the bill was drafted by the editorial board of the National Lampoon.

These members of the fourth estate are quick to point out a sham when they see one. Such is the case of H.R. 50.

I am inserting for the RECORD a sampling of this commentary. Included is an editorial from the Washington Post which asked the rhetorical question as to whether it is possible to reach full employment simply by legislating it; an editorial from the Washington Star and a recent editorial from the Wall Street Journal.

In the event the Members of the House have not had an opportunity to review these editorials, I urge that they review what the leaders of the national press think about the so-called Full Employment and Balanced Growth Act.

The articles follow:

LEGISLATING JOBS

The question is whether the country can establish full employment, permanently and with stability, by enacting a law that requires it. The answer, as you probably suspected, is that it cannot—not without either a dangerous inflation or iron-clad wage controls. But that answer is mere economics, and economics is an offensively reasonable discipline with which the country periodically loses patience. This year is the thirtieth anniversary of the great Employment Act, passed partly in fear that the United States might slide back into the Depression, but partly in confidence that a better life was genuinely within reach. That Act set a goal and pointed the country toward it. But now, with the unemployment rate at 7.6 per cent, Congress is beginning to think about more drastic legislation. Support is gathering for the full employment bill drafted by Sen. Hubert H. Humphrey (D-Minn.) and Rep. Augustus F. Hawkins (D-Calif.).

The Humphrey-Hawkins bill would require the administration to get the unemployment rate for adults down to 3 per cent within four years. It does not define "adult," but the authors are inclined to include everyone over 18. Since unemployment is heaviest among the youngest workers, that would make the target much more difficult to meet. Even if the teen-agers are excluded from the rate, the bill would mandate unemployment at a level that, in the past 30 years, it has reached only during the wars in Korea and Vietnam.

This bill would take the extraordinary step of conferring on all adult Americans the right to "useful paid employment at fair rates of compensation." It would require the President to prepare federal programs to keep the rate down—programs of public service jobs, public works grants, state and local aid, manpower training, youth employment and community development. Federal ventures of this sort have existed for years, of course, but the bill envisions an expansion on a scale that cannot be easily predicted. How much would it cost? Mr. Humphrey hazarded a guess that creating 2 million jobs would require an outlay of about $25 million a year, although nearly half of it would be offset by higher taxes, and lower unemployment benefits.

But the inflationary pressure does not come mainly from the direct costs of public jobs. It comes from the effect of a tightening labor market on wage rates. Long before the adult unemployment rate fell as low as 3 per cent, wages would have started to creep upward at the dismaying pace as employers bid against each other for manpower. Even without the Humphrey-Hawkins bill, inflationary wage settlements may well turn into the most difficult economic issue with which the next President will have to deal. The most obvious defect of the bill is that it contains no recognition that this danger exists, let alone providing any safeguards. And yet, as the country has seen over the past two years, a high inflation rate itself contributes to unemployment.

The bill shows Sen. Humphrey at his best and worst. Not many men of his warmth and generosity of spirit have ever arrived in the top ranks of American politics. But part of that generosity is his inability to say no to his friends, and some of his best friends are the labor unions. Their opposition to any degree of wage control or even guidelines is adamant, and the senator cannot bring himself to disagree with them. President Ford can be counted upon to make the most of this defect. It would be ludicrous if this Republican administration, having led the country through the most severe price increases in its modern history, should now manage to persuade the voters that the Democrats are the party of inflation. But it is possible.

The point needs to be noted, not only because Mr. Humphrey may be a future candidate for the presidency, but because most of the current Democratic candidates have specifically endorsed the Humphrey-Hawkins bill. Rep. Morris Udall (D-Ariz.) has been citing it for some time in reply to economic questions. Sen. Henry Jackson (D-Wash.) endorsed it last week in New York. Former Gov. Jimmy Carter is studying it, his staff say, and he plans to take a stand on it within a few days.

Employment as a guaranteed and enforceable civil right is a noble concept. But if it doesn't look as though it can be made to work in practice, then what? Bishop James S. Rausch of the U.S. Catholic Conference described the responsibility accurately the other day before the Joint Economic Committee. "Behind the jumble of statistics and the rise and fall of economic indicators lie human lives and individual tragedies," he observed. ". . . What happens to a nation that begins to accept the notion that it cannot use the talents and labor of all its people?"

Working the unemployment rate back down to a tolerable figure will take time, unfortunately, and it may never be possible to hold it there as rigidly as the Humphrey-Hawkins bill envisions. But there are ways to speed up the very cautious progress that President Ford offers. The congressional budget committees are now at work revising the federal budget, for example, to increase growth without any significant penalty in inflation. The time has also come for the country to undertake wider experiments in public employment and training particularly for young people.

While the country cannot accomplish everything that it wants immediately, it has the capacity to do a great deal. Good policy does not get trapped in false choices between everything and nothing. Full employment remains the goal. If it cannot be achieved simply by passing a bill, it can be approached more rapidly and surely than the country now seems to be doing. This, surely, deserves to be a central issue of the presidential campaign.

HUMPHREY-HAWKINS

The House Education and Labor Committee's favorable party-line report on the Full Employment and Balanced Growth Act, better known as the Humphrey-Hawkins bill, may not carry us closer to the magic goal of "full employment." But it's well worth talking about.

Even Rep. Augustus Hawkins, a co-sponsor, concedes tht it's unlikely to clear Congress before November. Even if it got lucky, President Ford has targeted the bill for a veto almost surely sustainable.

So even those who profess to believe in it see this ultimate Santa Claus bill as a pretext for debate over the federal role in securing what the 1946 Employment Act calls "maximum" employment. Maximum employment, with price stability, is what everyone favors. But we're far from agreeing what it is or how to achieve it.

The novelty of the Humphrey-Hawkins approach is severalfold. The act would "require"—though that verb is open to all sorts of quibbles arising from the separation of powers—the President to key his budget policies to a goal of 3 per cent unemployment by 1980.

It would establish within the Department of Labor a "Full Employment Office" to backstop private employment with public jobs if the private sector failed to bring unemployment to 3 per cent. And finally, the bill would necessitate an undetermined but considerable amount of political manipulation of the monetary and interest-rate poliices of the Federal Reserve Board. "Some fellow in the (White House) basement," as Chairman Arthur Burns warned a couple of months ago, "might be making monetary policy." If that happens, we might be well advised to swap our wallets for wheelbarrows.

In some ways, Humphrey-Hawkins is a natural Democratic reflex to the somewhat fatalistic views of the President and his economists about the future of unemployment. It stands now at over 7 per cent and by their and other reckonings won't fall below 6 per cent in the near future. The bleak realism in the President's economic circle is catnip for opposition rhetoric.

Behind the rhetoric about 3 per cent unemployment, however, there are familiar philosophical, economic and institutional quandaries. Philosophically, one quandary is the scope of the federal government's role in the economy. Should it use tax incentives and other devices and rely on the dynamics of the private sector to supply new jobs? Or should it go into comprehensive economic planning?

Economically and instituitonally, the question is how full full employment can be without rekindling the double-digit inflation of the recent unhappy past, and without reducing independent policy-making agencies like the Fed to political puppets.

In Britain, where nearly every vital lever of the economy is under government control, the economy has been thoroughly botched. On the subject of Humphrey-Hawkins, then, British politicians who have recently proclaimed their disillusionment with an overweening public sector could presumably offer good advice.

Perhaps the chief practical problem with the Humphrey-Hawkins approach to "full employment" is that it takes slight account of what Dr. Seymour Wolfbein, formerly of the Bureau of Labor Statistics, calls the "fine print" of employment statistics.

We really need to understand unemployment's component parts. One striking example of its complexity, cited by Dr. Wolfbein in a recent interview with *Nation's Business*, is that "during the first 10 months of 1975 . . . the number of people out of work rose by 765,000 and the unemployment rate went up from 7.9 per cent of the labor force to 8.6 per cent. (But) in those same months employment rose by 485,000. What happened was that the size of the nation's labor force—people available for work—went up by 1.3 million in this period."

It follows from these interesting figures that projections of the increases in the size of the potential work force over the coming years are helpful; and in that sense, some "planning" would be in order. But we don't need an enormous "full employment" bureaucracy to do that simple job.

Perhaps the most telling fact Dr. Wolfbein cites is that between the end of World War II and 1975 some 30 million non-farm jobs were added to the economy—"the overwhelming proportion of them in the private sector despite the growth of public employment." And there were nine years in that quarter-century when average unemployment stood below 4 per cent.

These facts suggest several conclusions: That the current level of unemployment is abnormal, but given intelligent fiscal management will subside as the economy strengthens; that the private sector, properly stimulated by government policy, is sufficiently dynamic to provide the new jobs we need to keep unemployment within acceptable bounds, without ruinous inflation; and finally, that if public employment is to be used as a backstop for the private sector it can probably be arranged for without the elaborate bureaucratic apparatus contemplated in the Humphrey-Hawkins bill.

What we need from government, in short, is not a grandiose and single-minded four-year plan to reach an arbitrary low figure of unemployment at all costs, but selective programs tuned to the relief of special problems (e.g., teenage unemployment).

The Humphrey-Hawkins bill takes a one-dimensional, Johnny-one-note approach to economic planning, and seems geared to subordinate other important economic and institutional values to a magic figure of unemployment that may not be attainable. The best one can say of the legislation is that it's out of date, and that it seems likely to over-promise and under-deliver simplistic answers to complex problems.

THE NEW HUMPHREY-HAWKINS BILL

The new, revised version of the Humphrey-Hawkins bill that is now before Congress has only one virtue. It is not as bad as the old, unrevised version. Because political liberals have come to use "Humphrey-Hawkins" as a saliva test, congressional Democrats had to write a bill with that title that Jimmy Carter could swallow hard and support.

The old bill would have more or less made it illegal for the United States to have more than 3% adult unemployment in 18 months after the bill's enactment. An unemployed person could sue the government if he or she were not offered a satisfactory job and the federal courts would order one up. Senator Humphrey didn't drop this provision because he suddenly realized some people would find it mind-boggling, but because it "seemed to be putting the cart before the horse—providing a legal guarantee before we set up the job-creation mechanisms necessary to provide the jobs."

The new bill would set 3% as the adult unemployment goal within four years of enactment, and if the government could not attain that goal through the wise use of monetary and fiscal policy, it would have to hire the unemployed until it got to 3%. The "mechanism" that the bill embodies is essentially nothing more than a solemn directive to the President and the Federal Reserve to be wise and conduct the correct policies, even if they would rather be incorrect. If in this way the goal is attained on schedule, the cost of Humphrey-Hawkins would be a mere $50 million, the cost of hiring people to make sure wise policies are followed.

Except that we don't like to see $50 million wasted, it might be interesting to observe an experiment in legislated wisdom. Unfortunately, the bill doesn't explicitly state what constitutes wise policy. Presumably the President would be permitted to conform to its provisions by stating that drastic tax and spending cuts will produce economic expansion. Or the Fed could insist that monetary expansion produces higher interest rates and rates of inflation. This isn't what Senator Humphrey has in mind, for it isn't his brand of wisdom.

Because these ideological tensions remain the same, the bill would change nothing except that in the end the government would have to hire a lot of unemployed people, paying them by taxing those who are employed. This is the theoretical flaw in Humphrey-Hawkins, the erroneous assumption that if the government hires the unemployed, the unemployment rate will fall.

As the privately employed are taxed to finance public jobs for the unemployed, they themselves become unemployed. The more producers are taxed the less they will produce. Following Humphrey-Hawkins logic, New York City over a dozen years added nearly 150,000 public jobs. All along the way taxes rose, productivity fell and the unemployment rate climbed. In the same period federal spending went from $100 billion to $400 billion, and what has happened to the unempolyment rate?

Elsewhere on this page, Senator Taft of Ohio offers further critical commentary in this vein. If jobs are destroyed when taxes go up, isn't it reasonable to suppose that jobs are created when taxes go down? Perhaps a third version of Humphrey-Hawkins would incorporate and legislate this wisdom.

ECONOMIC STOCKPILES REVIEW

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mrs. SULLIVAN. Mr. Speaker, next week on Tuesday and Wednesday the 8th and 9th of June, the Joint Committee on Defense Production will hold hearings on the purpose and organization of economic stockpiles.

Recent and anticipated shortages of vital materials and commodities both in this country and abroad have led to proposals for economic stockpiles. Such stockpiles would be distinct from military or mobilization stockpiles in that they would serve the needs of the civilian economy in peacetime. It is hoped that they would help to smooth out supply and demand fluctuations and thus aid manufacturers and consumers.

Economic stockpiles could also play an important role in our international trade policy, providing reserves as a hedge against cartelization or forced price increases.

Before the Government embarks on a policy of economic stockpiling, however, it is important that we understand fully the potential advantages and disadvantages of such a course. We need to have an unambiguous understanding of the purpose or purposes of civilian materials reserves. And we must be sure that any such stockpiles or reserves are fully protected from possible abuses. Consistency of purpose and safeguards against self-serving pressures will be necessary for any economic stockpiling program to be credible with the American public.

It is to these questions which the Joint Committee's Subcommittee on Materials Availability hearings are addressed. We will be examining the variety of roles or objectives which have been suggested for economic or consumer stockpiles. And we will look at alternative ways of structuring stockpiles, so that we can be assured that they could fulfill these roles and objectives.

On Tuesday, June 8, the Joint Committee will hear testimony from: Mr. C. Fred Bergsten, senior fellow at the Brookings Institution; Mr. Jacob Clayman, secretary-treasurer, Industrial Union Department, AFL–CIO; Mr. Simon D. Strauss, chairman of the Minerals Availability Committee, American Mining Congress; and Mr. Timothy Stanley, president of the International Economic Policy Association.

On Wednesday, June 9, witnesses will include: Mr. Joseph Greenwald, Assistant Secretary of State for Economic and Business Affairs; Mr. Gerald L. Parsky, Assistant Secretary of the Treasury for International Affairs; Gen. Leslie W. Bray, Jr., Director, Federal Preparedness Agency; and Mr. Wililam N. Lawrence, formerly Chief, Stockpile Policy Division, Office of Emergency Preparedness.

Both days of hearings will be held in room 2222 of the Rayburn House Office Building and will begin at 10 a.m. each day.

HAVE YOU HAD YOUR SWINE FLU SHOT?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. HAMILTON. Mr. Speaker, I include my Washington report entitled, "Have you had your Swine Flu Shot?"

The article follows:

HAVE YOU HAD YOUR SWINE FLU SHOT?

Have you had your swine flu shot?

That question may become a part of your routine greeting to friends in the next six months.

The largest vaccination program ever attempted in American history has now been launched to vaccinate most of the people in the country against swine influenza to protect them against a public health threat that is potentially grave, but far from certain. The aim is to give as many Americans as will accept it a vaccination against swine influenza before the start of the flu season next winter.

The problem is that flu viruses seem to change from year to year and when a big change comes, as it does about once every decade, most people are unprotected against it. Many older citizens remember the epidemic of 1918–1919, which disrupted normal life in many parts of the United States, and during which 20 million people died in the world, more than 500,000 of them in the United States.

In February of this year the outbreak of a new type of flu, similar to one found in swine, was spotted among the recruits at Fort Dix, New Jersey by public health officials, an signalled to them that a new flu virus might be at hand. It quickly spread to 500 persons, and proved fatal to one of them. Soon thereafter, there began a dramatic race to produce a new flu vaccine to protect Americans from a virus against which they had no immunity. Working at top speed, the nation's virus specialists and the manufacturers of flu vaccine discovered and produced a new vaccine. After a series of meetings by our top public health officials, a recommendation was made to President Ford for an all-out nationwide effort to urge the American people to get flu shots to head off an outbreak of the new swine flu.

On the basis of the advice of these experts, the President recommended, and the Congress quickly approved, $135 million in emergency funding for the campaign. Most of the money will be spent to produce the vaccine. Another large part of it will go to the states to help them carry out programs of mass immunization.

Exactly how many people can be reached by the immunization campaign is unknown. One expert suggests that to be effective a campaign should reach 70% of the 215 million Americans. The only similar mass immunization campaign, conducted against polio in the 1960s, reached about 100 million people.

Immunization of those persons considered most vulnerable to influenza—the elderly, those with chronic health problems, and young children—may begin in July. In general, the operation of the immunization efforts will be left to the states under guidelines from the U.S. Center for Disease Control. No one will be required to receive a flu shot, but community immunization centers will be set up in schools and places of work. At such centers it is proposed that the vaccination be given free of charge. If one chooses, however, to have his private doctor administer the vaccination, he may have to pay a small fee for his doctor's time and service although no charge will be made for the vaccine itself.

Not everyone agrees with the immunization program. The critics ask these questions: Is it necessary? Is it safe? Will the drug companies make a huge profit? Is there enough money to do the job? Will the efforts be successful in preventing an epidemic?

The critics have raised the question of the safety of the vaccine, pointing out that any mass vaccination program is bound to have some ill effects on some Americans and that mass producing so quickly a new vaccine will create hazards. The public health experts who testified before the Congress countered this by saying that the vaccine is a conventional flue vaccine, backed by many years of experience, and that they expect no serious problems.

One concern of the Congress is that no one make windfall profits from the program. The legislation requires a tenfold increase in production of the vaccine and only a few firms in the country make it. The question of costs controls are not totally resolved, and the Congress will have to monitor the program carefully.

Some of the critics suggested keeping the vaccine in storage until there was evidence that the flu was spreading, but the experts said that the flu moves so fast that this storage approach would inevitably fail and the epidemic would outrun the program.

The decision to go ahead with the program of immunization was made quickly because the public health experts advised the President and the Congress that there was no time to waste. No one can be absolutely sure that the new flu virus would have produced an epidemic in the absence of the immunization campaign, and we may never know if this effort and expense were really necessary. Next winter the nation is bound to have the usual quota of sniffles, colds, sore throats and fevers. If that is all we have, perhaps we can claim success.

So the whole program is a gamble, but the Congress reasons that it is better to gamble with money than lives. Any major flu epidemic would cost thousands of lives and billions of dollars.

BIRMINGHAM NEWS CONCERNED ABOUT DEFENSE

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. BUCHANAN. Mr. Speaker, many of us in the Congress have been concerned that the United States maintain an adequate defense posture. The strength of our great Nation is basic to the future of the entire free world.

Our strength is the world's best hope for peace and, through the NATO and other alliances, we are helping to maintain the basic security of the free world. We must be first in strength in the world if the world itself is to be safe from war or tyranny.

There has been much debate in recent years concerning our actual military position as compared to that of the Soviet Union.

In this vein, I would call to the attention of my colleagues the following editorial of the Birmingham News, which is the leading newspaper in my congressional district and State. This newspaper has long been concerned with the problems of maintaining an adequate defense.

The editorial is based on a recent Birmingham speech by Dr. Leon Goure, director of Soviet Studies Center for Advanced International Studies at the University of Miami in Florida:

[From the Birmingham (Ala.) News, May 30, 1976]

WE ARE NO. 2 MILITARILY

Doubts this newspaper has had about President Ford's claim that the U.S. is "second to none" in its military capability were reinforced this week when the editorial board of The News discussed the issue with Dr. Leon Goure, director of Soviet Studies Center for Advanced International Studies, University of Miami, Fla.

Goure was born in Russia and lived in Germany and France before coming to the U.S. at the age of 18. He is fluent in Russian, French, German and English. He served in the U.S. Army Counterintelligence Corps in Europe during World War II, received his doctorate from Georgetown University and has served in a number of scholarly positions including being a senior staff member of the RAND Corp.

While in Birmingham this week, Goure addressed the Committee on Foreign Relations and the Rotary Club of Birmingham.

The message he brought was not particularly reassuring, but it represents a reality which should be faced.

"Concerning numbers," he said, "the present situation can be described quite simply: In terms of men in the armed forces, ready reserves and most major weapon categories, the Soviet Union is unquestionably ahead of the U.S."

The categories in which the Soviets lead the U.S. are:

Troops: 4.4 million vs. 2.1 million, plus superior Soviet combat ready reserves; ICBMs: 549 more than U.S.; SLBMs: 240 more by agreement; ballistic missile submarines: 73 vs. 41; army divisions: 168 vs. 16; armored divisions: 47 vs. 4; mechanized divisions: 113 vs. 4; airborne divisions: 8 vs. 1; tanks: 40,000 vs. 10,100; artillery: 17,000 vs. 2,100; anti-tank missiles: 6,000 vs. 2,400; cruisers: 33, 20 with surface to surface missiles, vs. 27, none with SSM; destroyers: 85, 20 with SSM, vs. 70, none with SSM; attack submarines: 253 vs. 73; submarine-carried cruise missiles: 300 vs. none; surface to surface missiles: 853 vs. 180; tactical aircraft: 350 more for Soviets; missile throw-weight and warhead size: range of submarine launched ballistic missiles (4,200 miles for Soviet Delta submarine vs. 2,000 miles for Polaris); strategic air defense: 10,000 surface to air missiles and 2,700 fighter aircraft vs. 330 SAMs and 396 fighters.

We are ahead in other categories:

Aircraft carriers: 21 vs. 3; the U.S. has a much larger naval aviation force, but the Soviet Navy has 480 long-range bombers vs. none for the U.S.; the U.S. has more heavy bombers (463 U.S. vs. 135 Soviet) but the U.S. has 434 fewer medium bombers; more tankers: 615 vs. 50; more nuclear warheads: 6,794 vs. 3,442, but U.S. warheads are small compared to Soviet warheads and the Soviets have 603 heavy ICBMs vs. 54 for the U.S.; more MIRVed warheads: 5,810 vs. 640; and more helicopters. We also believe we hold a qualitative advantage in aircraft, missile accuracy, submarines and long-range cruise missiles.

However, Goure pointed out, numbers do not tell the whole story.

"In assessing the balance," he said, "consideration must also be given to such factors as national will and social-political cohesion, psychological readiness of the troops and the people to face the threat of a nuclear war, the strength and effectiveness of alliances, differences in strategic doctrine, availability of overseas bases, the capability of industry rapidly to switch to war production and to survive nuclear strikes, the quality and level of investments in research and development, etc."

Perhaps an indication of the Soviet Union's commitment to building military power is the relative percentage of its GNP spent on defense, 11 to 13 per cent, vs. 5.7 per cent for the U.S.

Moreover, according to Goure, the Soviet Union has a completely different approach to its military posture than does the U.S. The U.S. bases its strategy on threatening the Soviet Union with "assured destruction" in retaliation for a Soviet first strike.

By contrast, Goure said, the aim of the Soviet Union "has been and remains to develop a war-fighting, war-survival and war-winning capability."

The Soviets intend not only to deter a U.S. attack but also to develop the capability of striking first at the U.S., destroying as much of the U.S. strategic force as possible, and then being able to survive whatever retaliation the U.S. could muster.

Goure pointed out that the Soviets have a large air defense system and that the country has been investing $1 billion a year in civil defense programs since 1955. By hardening industrial plants and dispersing them, plus protecting the civilian population with shelters and evacuations, the Soviets say their casualties may be kept to 4–7 per cent of the urban population or about 15 million people. That is less than they lost in World War II.

Thus, the Soviet policy is to nullify our strategy of "assured destruction."

If the Soviet Union perceives our nuclear threat as empty, then it is free to carry out its plans to extend its domination.

Goure said, "On the political side, the basic Soviet objective is to achieve such a power position that, to quote Brezhnev, 'no question of any importance in the world can be solved without our (Soviet) participation, without taking into account our economic and military might.' "

The Soviets equate military power with success in foreign policy and believe the more powerful they are the more successful they will be.

The Soviets today, Goure said, believe they hold the military advantage and hope they will be able to increase that superiority.

While the U.S. is able to deter an attack on itself by the Soviet Union, that does not mean that it has a credible capability to carry out U.S. foreign policy and prevent the Soviets from pursuing an expansionist policy.

"Detente" to the Soviets does not rule out their participation in what they call "national wars of liberation." Their concept of peaceful coexistence between the U.S. and the Soviet Union is when the U.S. stops trying to prevent the Soviets from carrying out their territorial ambitions.

As long as the military position of the U.S. continues to decline relative to that of the Soviet Union, we can only expect to see Russia pursue aggressive policies designed to achieve world domination.

We are No. 2—and we're not trying harder.

THE LITTLE RED SCHOOLHOUSE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. GILMAN. Mr. Speaker, I rise to bring to my colleagues attention a lasting tribute to our American Bicentennial and an important reminder of our proud past.

In the town of Newburgh in my 26th Congressional District of New York State, parents, students, teachers, the Lions Club, and other interested citizens banded together to recreate and retain a bit of our past. Thanks to hundreds of people and students a "Little Red Schoolhouse" was constructed on the grounds of the Meadow Hill School in the historic town of Newburgh.

It is a fitting reminder of our great past—a bit of Early Americana has been preserved.

On Friday, May 28, the Little Red Schoolhouse, which will be an impressive history less on for the students at the modern school just a few yards away, was dedicated.

It was a memorable afternoon for everyone involved in this colorful Bicentennial event. As Acting Principal Ronald Shapiro stated:

> Our satisfaction and personal gratification is knowing that we have involved a community; its citizens, its school and, most important, its children in a totally worthwhile project. We have taken a piece of our nation's past and built for the future.

I had the good fortune of taking part in the dedication ceremony and to tour this one-room schoolhouse. For a moment I had left the 20th century far behind and was back in the days when our fledgling Nation was just blossoming.

Here is a colorful, meaningful reminder of our history. The people of Newburgh, N.Y., have not lost sight of the true meaning of our Bicentennial.

At this point in the Record, Mr. Speaker, for the benefit of my colleagues, I would like to include the text of an article which appeared in our local newspaper, the Evening News, which describes the dedication of Meadow Hill's Little Red Schoolhouse:

SCHOOLHOUSE A SYMBOL

(By Ward Poche)

Town of Newburgh.—In a profound sense, Friday's dedication of the Little Red Schoolhouse of the Meadow Hill School was a dedication to a symbol of American education which Dr. Murray Cohen, board president, called the greatest good democracy has given to the world.

And in spite of the profoundness, it had to be defined as a fun day.

On 11-year-old Billy Vittorini, the poet, John Milton, might have written: "He also serves who only stands and waits."

Billy, a fifth grade pupil at the school, was the unsung hero of the ceremonies. He was the bell ringer.

While everyone was outside for the ceremonies Billy was inside (in the shade) waiting for his moment of glory which came at the end of the program. And he had another advantage—he could blow his bubble gum because he was out of sight.

It was an impressive day—the dedication of the structure built to commemorate the nation's 200th Birthday and dedicated on this Memorial Day weekend.

It was the day of which the school was—and could be—proud. They had come up with a sterling idea for the bicentennial and they had seen it through to completion.

For all speakers it was a time when "cooperation" could be cited and they did.

Town of Newburgh Supervisor Malone Bannan, mindful of the age of most of his audience, reminded the "boys and girls" to take advantage of the modern facilities they have because they will be the leaders of tomorrow. And he reminded them that the leaders of the past came from little red schoolhouses such as the one they had built.

School Superintendent Charles F. Disare got the biggest hand as former principal of the Meadow Hill School.

And Edward Schlissel, member of the school's guidance department, who has taken over the roll of school master of the Little Red Schoolhouse was also well received by the audience.

In the signing of the deed for the schoolhouse, with quills, he noted it was presented with several exceptions: it cannot be used for off-track betting, as the superintendent's greenhouse, as the new site for the City Club nor a lunchtime detention center.

James Patsalos, member of the board of education in signing, said it was accepted in the spirit in which it was given and praised Audeen Reilly of the Stewart Citizen who stepped out of her role as a reporter in an article to express her personal view of how great the project, the administration, the faculty, the students and the volunteers had been. He called it a positive approach at a time when the media is negative.

State Senator Richard Schermerhorn presented a state flag which had flown over Albany to the school and spoke as did Rep. Benjamin A. Gilman and Assemblyman Lawrence Herbst of the past and future.

Ronald F. Shapiro, acting principal of the school, and Ralph A. Pizzo, assistant principal, were praised for their dedication to the project and presented with unexpected plaques by the Parent-Teacher Organization. Shapiro said he was shocked and Pizzo, who had apparently been in on the Shapiro award, was not only shocked but "double crossed" because he hadn't wanted any fanfare.

The Town of Newburgh Lions Club made a $1,000 donation, in two $500 payments, toward the project with some apparent hard-sell by President Donald Van Buren who dipped into his own pocket for another $100 because he thought so much of the idea.

The school band was outstanding and they had their new blue blazers because of contributions of others to their special project.

That was the way it was under blue skies on Friday as Barbara Bernstein, president of the school's PTO suggested it is the time to "uproot the deep seated apathy which infects the nation because of war, political assassination and economic problems."

And while it was all going on Adam David, 5, and his friend ("We don't know how old he is!) somersaulted behind the bleachers without a care in the world."

EXPANDING FORT MACARTHUR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ANDERSON of California. Mr. Speaker, in April, the Defense Department announced their intention to study the possibility of closing down several military bases throughout the Nation as part of an "economy" move. It has been my contention that such actions must be considered very carefully, because they may have a serious effect on the communities that depend, at least partially, on those bases for support. In addition, they may well end up costing the military more money than they would if allowed to continue operations.

An example of this type of situation exists in southern California. Fort MacArthur, the last active Army base in an area with a population in excess of 11 million, has been in existence for over 80 years. Two years ago, the Army undertook a drastic reduction in fort operations, leaving only a small portion of the reservation still active, and declaring the rest of the base—over 310 acres—as surplus to Government needs.

San Pedro is still trying to adjust to the effect of that move. The community has responded well to the challenge, and a committee of citizens has worked long and hard to insure that the uses of the surplus land will be in the best interests of the people. Now, the Army—after assuring San Pedro residents that the fort would remain active—has announced the study that may very well conclude with the complete elimination of historic Fort MacArthur.

It is my strong belief that the closing of Fort MacArthur would be a serious mistake. In the long run, many dollars of taxpayers' money could be saved by consolidating many Los Angeles area Army activities onto the fort. Rent money in the millions of dollars could be saved annually by such a move.

In addition, the hardships imposed on employees of a military base must be considered in the total cost of a base shutdown. Many are forced to relocate long distances to resume their careers; the unlucky ones must seek new employment.

Recently, I received the following letter from Mr. Harold E. MacLeod, national vice president of the American Federation of Government Employees. As a representative of the civilian employees of Fort MacArthur, he is also vitally concerned about the future of the base. The letter details his position quite eloquently:

American Federation of
Government Employees,
Washington, D.C., May 11, 1976.

Hon. Congressman Glenn M. Anderson,
House Office Building,
Washington, D.C.

Dear Congressman Anderson: May I take this opportunity to express to you, our deep gratitude here in the 12th District of the

American Federation of Government Employees (California-Nevada) and to thank you for your undying efforts to assist us in saving Fort MacArthur.

Your May 3, 1976 letter to the Secretary of the Army has given me renewed hope that through many efforts such as yours, we may be able to bring an end to this most unsatisfactory problem.

It is beyond my comprehension to ever understand the reasoning behind such a move to close this most important base of operation on the West Coast.

We have attempted to point out the savings to the Army as well, and to think they continue to talk "close" rather than expand, is utterly ridiculous.

It is our prayer that somewhere a positive attitude will strike in the hearts and minds of those in power to make changes, and that proper evaluation shall be given prior to giving us the "ax".

Thank you again for your continued interest and for all you have done in our behalf.

Sincerely,

H. E. "MAC" MCLEOD,
National Vice President, 12th District AFGE.

REMARKS BY JAMES A. BURKE ON "THE PASSING OF CARL R. JOHNSON"

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. BURKE of Massachusetts. Mr. Speaker, the town of Braintree, Mass., which I represent, has lost an outstanding public servant. Carl R. Johnson, Jr. was a man who cared about his community. For over two decades he provided the citizens of Braintree with a quality of leadership that will be sadly missed. As a town clerk, State representative, selectman, and moderator he was surpassed by no man and equaled by few.

Carl Johnson's numerous contributions to the people he served were widespread. Residents from every walk of life seemed to benefit from the funds Carl secured for Swift's Beach as well as his continuous improvements in the clerks office. Perhaps his greatest donation was that of himself when he presided over the town meetings in a manner of fairness and impartiality that could only be exemplified by a man of Carl's stature and character.

He could call no man his enemy and his popularity amongst his peers was a direct result of the hard work and style that made him a leader. My admiration and respect for Carl had come through a close and personal friendship that had grown over the years. He was a giant among men and we shall all miss him.

The article follows:

[From the Braintree (Mass.) Star]

IN MEMORIAM

The Town of Braintree has lost a good and faithful friend. For over twenty years Carl Johnson dedicated his life to public service, to caring about his town and the people in it. His public career saw him hold office as Town Clerk, State Representative, Selectman, and Moderator.

His many contributions to helping people are too numerous to recount in detail but a small sample of his public service would include: Improvements in the Clerks Office, the construction of a vault to house the many priceless town documents, re-writing the election laws to bring greater participation in the election process, helping the unemployed find work, securing funds for Swift's Beach, appointing outstanding individuals to Town Boards and Committees, presiding at Town meeting with a fair and impartial hand and above all always acting on every issue before him with straightforward and simple integrity born of wisdom and experience.

In the late fifties and early sixties, this country experienced the height of excellence in public life personified by President Kennedy and his brothers. Carl Johnson was very much a part of this now sadly lost era. He was not only a friend and ally of the Kennedy's, he was a man who in his own right served in the style of excellence and self-sacrifice so characteristic of those years.

It has been said that "Politics is a profession; a serious one complicated and in its true sense, a noble one." We can accept this definition for Carl Johnson of politics.

We hope that his many achievements and the high regard in which he was held by all is a source of consolation to his family.

We shall all miss him.

[From the Patriot Ledger, May 3, 1976]

CARL JOHNSON JR. DIES; BRAINTREE, STATE OFFICIAL

BRAINTREE.—Carl R. Johnson Jr., 49, longtime public official for Braintree and Massachusetts, died Saturday at University Hospital in Boston after a long illness.

He was born in Weymouth and had lived in Braintree for many years. His home at 766 Washington St. is the oldest house in Braintree.

Mr. Johnson was presently the administrative assistant to the president of the Massachusetts Senate.

He had served for eight years as a state representative, for six years on the Braintree Board of Selectmen, for 13 years as town clerk, and formerly as a clerk for the state senate. He was also a former special assistant director of engineering and facilities for the Post Office Department.

Since 1969, he had served as town moderator. The town meeting scheduled for tonight will be adjourned in deference to Mr. Johnson.

An active member of the Democratic party, Mr. Johnson was a former member of the Democratic State Committee and former chairman of the Braintree Town Democratic Committee. He was a delegate in 1960 and 1964 to the Democratic National Convention, and secretary to the state conventions in 1962, 1964, 1966 and 1970.

He conducted Sen. Edward M. Kennedy's voter registration drive in 1962. In the same year, he was chairman of the credentials committee at the state Democratic Convention.

Sen. Kennedy offered his respects to Mr. Johnson's family yesterday at their home.

During World War II, Mr. Johnson served in the Navy on the USS Eversole in the South Pacific.

He was a member of the Braintree American Legion, the VFW, the Disabled American Veterans, the Braintree Knights of Columbus and the Massachusetts Legislative Association, the Braintree Housing Authority and a former member of the Braintree Fire department.

Members of the Knights of Columbus Council No. 1462 will assemble in the council chamber tomorrow at 7:30 p.m. before paying respects at the funeral home.

He was honored in 1972 in a tribute attended by 400 at the Sons of Italy Hall.

Son of the late Carl R. Johnson and Mrs. M. Leonie (Beauregard) Johnson, he is survived by his wife, Mrs. Beatrice T. (Woodford) Johnson; three sons, Braintree Selectman Carl R. Johnson III, C. Mark Johnson and Kevin M. Johnson, all of Braintree; three daughters, Mrs. Christine A. Shea of Randolph, Mrs. Karin T. Leao of Long Island, N.Y. and Miss Katherine M. Johnson of Braintree; a brother, Raymond A. Johnson of Norwell; a sister, Mrs. Anita L. Coleman of Wilbraham; and four grandchildren.

A funeral Mass will be celebrated Wednesday at 10 a.m. at St. Francis of Assisi Church. Burial will be in Blue Hill Cemetery. Visiting hours are tonight from 7 to 9 and tomorrow from 2 to 4 and 7 to 9 p.m. at Leo J. McMaster and Son Funeral Home, 86 Franklin St.

Donations in his memory may be made to the Boston University School of Medicine, Amyloid (Arthritis) Foundation, care of Dr. Martha Skinner, University Hospital, East Newton St., Boston, Mass.

[From the Boston Globe]

CARL JOHNSON, JR., 49; BRAINTREE POLITICAL FIGURE

Carl R. Johnson, Jr., 49, of 766 Washington St., Braintree, long active in Democratic politics and campaigns for President John F. Kennedy and Sen. Edward M. Kennedy, died late Saturday at University Hospital in Boston. He had suffered from arthritis for many years.

He was born in Weymouth and lived most of his life in Braintree. He attended Braintree High School and Boston University.

Mr. Johnson had been Braintree town moderator since 1969 and had been state representative from Braintree for eight years. He also had been the Braintree town clerk for 13 years and a selectman for six years.

He was a delegate to the national Democratic Convention in 1960 and 1964 and to the state Democratic Convention in 1962, 1964, 1966 and 1970.

Mr. Johnson had previously been special assistant to the director of engineering and special facilities in the Post Office department.

He conducted Sen. Edward M. Kennedy's voter registration drive in 1962 and afterward performed similar chores for the Democratic State Committee.

In 1962, he was chairman of the credentials committee at the state Democratic Convention.

Mr. Johnson served in the Navy during World War II in the South Pacific. He earlier was with the Braintree Fire Department. He once was a member of the Braintree Housing Authority.

He was a member of the VFW, American Legion, Knights of Columbus, and Massachusetts Legislators Assn.

He leaves his wife, Beatrice T. (Woodford); three sons, Carl R. 3d of Braintree, C. Mark and Kevin M. Johnson, all of Braintree; three daughters, Mrs. Christine A. Shea of Randolph, Mrs. Karin T. Leao of New York and Katherine M. Johnson of Braintree; a brother, Raymand A. of Norwell; a sister, Mrs. Anita L. Coleman of Wilbraham and four grandchildren.

A Mass will be said at 10 a.m. Wednesday in St. Francis of Assisi Church, Braintree. Burial will be in Blue Hill Cemtery.

Johnson—Carl R., Jr., former State Representative, Administrative Assistant to the President of the Senate and Braintree Town Moderator, May 1, husband of Beatrice T. (Woodford) Johnson, father of Carl R., III of Braintree, Mrs. James F. (Christine A.) Shea of Randoph, Mrs. Nelson (Karin T.) Leao of Long Island, N.Y., Katherine M., C. Mark and Kevin M. Johnson, all of home address. Also survived by 4 grandchildren. Brother of Mrs. Thomas H. (Anita L.) Coleman of Wilbraham and Raymond A. Johnson of Norwell. Funeral from the Leo J. McMaster and Son Funeral Home, 86 Franklin St., Braintree (Route 37), Wednesday, May 5 at 9 a.m. Followed by a Funeral Mass in St. Francis of Assisi Church at 10 a.m. Relatives and friends are respectfully invited to visit the Funeral Home Monday evening 7–9 p.m. and Tuesday afternoon and evening 2–4 and 7–9 p.m. Rather than flowers, the family sincerely wishes that remembrances be sent to Boston University School of Medicine, Amyloid (Arthritis) Research Foundation, care of Dr. Martha Skinner, University Hospital, East Newton St., Boston, Mass.

INJUSTICE IN THE SOVIET UNION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ASHBROOK. Mr. Speaker, on May 27, the British Broadcasting Co. presented a documentary entitled "KGB—The Soviet Secret Police." This excellent show was produced by Mischa Scorer, who traveled throughout the world talking to people with firsthand experience of the KGB, both victims and defectors. He traces in fascinating detail the history of the KGB and the way it operates inside the Soviet Union.

An interesting part of this production deals with the Soviet legal system. It points out the complete lack of justice in political cases. According to the show's commentary:

> All cases of a "special" or political nature are prepared by the KGB in conjunction with the State Prosecutor. Virtually all judges are Party members, defense counsel must have special clearance for such cases and the trials are rarely heard in public. It is not surprising that acquittals in political cases are almost unknown.

The show continues with an interview of Zigmas Butkus, a judge in the Soviet Union before he defected to the West in 1972. Following is the text of his experience of judges' relationships with the KGB:

Zigmas Butkus. Officially, they are not considered members of the KGB. But the KGB has its own representatives as in all organisations. They have direct links with the courts and I remember when I was a Judge we had personal contacts with the KGB people. And in certain cases they would drop in to my office and say: "In such and such a case the following had better be done". And you have to do it because you can't do anything else.

Mischa Scorer. Can you give me a specific instance of this?

Zigmas Butkus. Well, for example, last year a case was under investigation in Kaunus. The case of a Catholic priest called Zdebskis. I was in charge of the Kaunus Juridical Consultancy at the time, I was summoned to Party headquarters of one of the District Committees of the city of Kaunus and the First Secretary who knew me personally, said: "On my orders, and on those of the KGB, you must dismiss the barrister who has been retained to defend the priest. You will put our own man, a Party man, in his place, who will conduct the defence the way we want". I said that this would be difficult, that they had already paid the money but he said: "These are orders. That's all there is to it". Of course, I spoke to the barrister and explained it to him and told him he had better to drop the case of his own accord, and he left. And I appointed another barrister who just went through the motions.

Mischa Scorer. What if a judge has a conscience?

Zigmas Butkus.. Well then he has to go against his conscience because if he wants to go on working, he can't do anything else.

We might legitimately ask ourselves why the British Broadcasting Co. is the one investigating and reporting on KGB abuses in the Soviet Union. Where are the liberal American networks when it comes to such matters: Out selling détente?

MORE FUNDS FOR LEGAL SERVICES TO THE POOR

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DRINAN. Mr. Speaker, the appropriations bill for the Legal Services Corporation, which provides legal assistance for the poor, is scheduled for House action sometime in the middle of June. The amount approved by the Appropriations Committee—$110 million—is $30 million less than the request of the Corporation.

It should be noted that the funding level of the Federal legal services program has remained at the same level for the past several years. In part that is attributable to the attempts by the Nixon administration to dismantle the entire program. The battle to keep the program alive left little time to fight for increased funding.

The time has now arrived when the severe problem of underfunding must be addressed. "Equal justice under law," a fundamental precept of our society, has little meaning if persons cannot afford adequate legal services. An editorial in the June 2, 1976, issue of the New York Times speaks to these questions, which I am having reprinted here:

Funding Legal Services

The nation's commitment to law and order is to be tested soon in a Senate appropriations subcommittee as it considers what might otherwise appear to be a routine money bill. The measure is the appropriation bill for the new Legal Services Corporation, which is attempting to rescue the program from its present stagnation.

The concept of a public corporation that dispenses legal services was initially advanced by the Nixon Administration in 1971. For the next five years, the program received no funding increase at all. The practical effect was an inflation-induced 30 percent shrinkage of the program.

Under the leadership of its new president, Thomas Ehrlich, former dean of the Stanford University law school, the corporation is seeking sufficient funds to provide services throughout the country to people who, as the act specifies, "are otherwise unable to afford adequate legal counsel."

The corporation's budget request of $140 million is based on the fact that of the nation's 29 million poor people, only 17 million have any access to legal counsel at all and 10.5 million of those people have access at a ratio of less than one lawyer per 10,000 people. The ratio in the general population is 11.2 lawyers per every 10,000 people. The requested sum ($30 million more than the House voted) would enable the corporation to begin a program designed to achieve after four years a minimally adequate representational level of two lawyers for every 10,000 people throughout the poverty population.

No society can properly claim that it is governed by a system of law when millions of its citizens are denied access to the legal system because they are poor. Congress understood this principle when it enacted the program. It should now provide sufficient funds to make it a reality.

AGRICULTURAL/SMALL TOWN/SMALL BUSINESS POLICY

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. PRESSLER. Mr. Speaker, in response to a letter that I have written to the Presidential candidates regarding their agricultural/small town/small business policy, I have received the attached response from Ronald Reagan. I inserted it into the Congressional Record to give others an opportunity to read the response. I shall be inserting farm policy statements from other candidates as I receive them. I shall also supply the replies to farm publications.

The articles follow:

[Excerpts From Remarks by Ronald Reagan at Bell Farm, Bloomington, Ill., Jan. 22, 1976]

Bloomington, Ill.—America's farmers and ranchers demonstrate the genius of American productivity every day. Ten years ago, a single farm worker supplied enough food and fiber for 29 people. That's impressive, but today he supplies 56 people—nearly twice as many. Our farmers constitute one-tenth of one percent of the world's population but feed 25 percent.

Our food producing system is the envy—and the supplier—of the world. It has made it possible for the consumer—who paid more than 22 percent of his takehome pay for food 25 years ago—to pay only about 17½ percent this year. Yet only five percent of our population remains on our farms and ranches.

In the Soviet Union, by contrast, more than one-third of the people must work to produce food for themselves and the other two-thirds, and still they can't produce enough.

A hungry world looks to us for leadership in agricultural technology and production, and this will be the case for years to come, until the newer nations can increase their own output and, at the same time curb their exploding population growth.

In recent years our government's policy has been to tell the farmers to plant fence to fence and go into the open market to meet the world's demand. As a result, our agricultural exports this fiscal year should equal or surpass last year's $12.6 billion record. Our earnings from agricultural exports last year were nearly large enough to pay for all the foreign oil we imported in that period and were one of the few favorable items in our balance of trade.

Our level of exports is nearly four times what it was in the late Sixties. Without it, there would be a need for astronomical subsidies, and prices of all imports would have risen sharply.

Government policy should be to encourage full production without undue interference in the free-market process. But this hasn't been the case. By placing a sudden embargo on grain sales to the Soviet Union last September, Washington changed the rules in the middle of the game. That is no more fair in a government-to-farmer commitment than it would be in a business commitment or a football game.

Farmers tell me they believe the family farm can survive without any help or interference from Washington, and the great majority of farmers would rather rely on a free market. They know that this spirit of independence carries both risks and opportunities, but they are willing to take their chances. And isn't that the American way?

A famous citizen of Bloomington, the late Adlai Stevenson, said more than two decades ago, "Let us strive for big men, not big government." Those words are true today—truer than ever before.

Let Washington play by the rules it agreed to. If at some time in the future it decides that our long-range national interests dictate reduced trade with the Soviet Union—and not just agricultural trade—then the government should give our producers ample warning so they can find alternative markets without hardship.

I am skeptical though of proposals for a world grain reserve or a national grain reserve. These could too easily become mechanisms through which government could dump grain on the market and depress prices when they are high.

Two recent studies, one by the General Accounting Office and another by the U.S. Department of Agriculture, show that those countries which have imposed price controls, export embargoes and other restrictions on their farmers' and ranchers' profit opportunities, continually experience productivity problems.

Of course the Soviet Union and other communist nations provide the best examples of how not to go about agriculture, or much of anything else, for that matter.

Now the Soviet Union has a land mass larger than ours, with 250 million capable people. For nearly 60 years it has been free to implement—without interference—the principles of Karl Marx' socialism. We could be just like them, but it would take a little doing on our part.

We'd have to start by cutting our paychecks by 80 percent, move 33 million workers back to the farm, destroy 59 million television sets; tear up 14 out of 15 miles of highway; junk 19 out of 20 automobiles; tear up two-thirds of our railroad tracks; knock down 70 percent of our houses; rip out nine-tenths of our telephones; and then all we'd have to do is find a capitalist country that would sell us grain so we wouldn't starve!

Practically speaking, when it comes to agriculture, our free enterprise system can continue to play the key role in feeding the world, provided we keep its energy unleashed and we get maximum use of our known resources, our imagination and our common sense.

There are those in the United States who think we should feel guilt for having been inventive, productive and powerful. Some of them try to make us feel guilty or "sinful" for using animal-produced forms of protein, namely meat and dairy products. But misinformation, fads or emotionalism have no place in rational discussions of food policy.

The Guilt Lobby argues that the grain fed to livestock could be used more efficiently to alleviate worldwide starvation and malnutrition if it were consumed directly by humans.

What these critics overlook is the fact that cattle obtain most of their food from sources humans cannot use. Their forage must be converted by them to have food value for us. They are, in fact, four-legged protein factories. They are one of the most promising weapons in man's battle against hunger and one of man's most completely used products, both in food and essential nutrients and in a variety of byproducts.

(NOTE: Since Governor Reagan speaks from notes, there may be additions to, or changes in, the above text. He will, however, stand by the above quotes.)

* * * * *

RONALD REAGAN ON AGRICULTURE

Government policy should encourage full production without undue influence in the free market process. We cannot afford to use food as a weapon. It is not a finite commodity, like oil. New crops are produced each year and new technology continues to increase production levels. Our government policy in recent years has been to tell the farmer to plant from fence-to-fence and sell on the open market. But, it changed the rules in the middle of the game last September by putting a sudden embargo on further grain sales to the Soviet Union. By doing so, Washington simply encouraged the Russians to go elsewhere to buy 15 million tons of grain. Washington was not living up to its commitment to the nation's farmers. By not playing according to the rules that it had agreed to, it caused the farmers to lose sales of an estimated $2.2 billion or more.

Sales of agricultural products to the Soviet Union in recent years have been an important factor in making U.S. agriculture one of the most fully-employed and productive areas in the nation's economy. Our agricultural exports have shot up from $7.6 billion in 1971 to $22.6 in 1975, enhancing our balance of trade. Yet, only five percent of our population is engaged in agriculture. By comparison, more than one-third the population of the U.S.S.R. works on its farms. Several poor harvests in a row have made them increasingly dependent on grain from elsewhere. In buying grain from us, they are paying in U.S. dollars and they are getting them by selling large amounts of their gold on world markets. The sales have definitely been to our advantage.

George Meany went too far when he ordered longshoremen not to load vessels bound for the U.S.S.R. with grain last fall. I don't think Mr. Meany should be determining foreign policy for the United States, and I don't think most union members think so either. A recent national poll revealed that 65 percent of rank-and-file union members feel that their leaders have too much power, and that they should not use that power for political purposes.

Our government should encourage export sales, not only to the Soviet Union, but also to nations around the world willing and able to buy. A hungry world looks to us for leadership and technology in agricultural production, and will continue to do so for many years to come. Washington must not penalize the farmer for becoming more efficient and productive.

We must enable farmers and small businessmen to pass their estates on to their families without necessitating the liquidation of the enterprise.

The present estate tax schedule is far out of date. A person's spouse has only a $60,000 federal exemption. This figure has been used since 1942, when farm land and equipment was worth a fraction of its current value. Today, a farmer invests $20,000 in a single tractor, $45,000 in a combine, $5,000 to $10,000 in a plow and disc, plus the price of ground which can cost from $1,000 to $3,000 per acre. A new schedule is needed that will increase the inheritance tax exemption not only for farmers, but also small business in general, to more accurately reflect the current value of estates.

ADDITIONAL MATERIAL RELATING TO DEBATE ON SECURITY ASSISTANCE AMENDMENT FUNDS FOR REPUBLIC OF KOREA

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. MURPHY of New York. Mr. Speaker, I have just today received a telegram from the organization of Evangelist Billy Graham regarding his crusade throughout Korea, during which over 3.2 million people attended his religious meetings, including over 1.1 million at just a single meeting.

I believe this information adds substantially to the point which I have been making over the past few weeks regarding the fact that religious freedoms and social freedoms in South Korea are relatively unrestricted, contrary to allegations of a handful of our colleagues.

Mr. Speaker, I would like to insert the telegram in the RECORD to lend additional support to my arguments regarding aid to Korea—an argument which was substantially supported by the majority of the Congress in yesterday's vote.

The telegram follows:

Congressman JOHN M. MURPHY,
Washington, D.C.

Evangelist Billy Graham conducted an evangelistic crusade in Seoul, Korea, May 30 to June 3, 1973. There were 3,210,000 people in attendance during the five-day crusade with nearly 100,000 commitments to Christ. The closing Sunday meeting was unprecedented with one million, one hundred thousand in attendance.

GEORGE M. WILSON,
Executive Vice President, Billy Graham Evangelistic Association.

ANTHONY J. BRENNA: CHAIRMAN OF THE MILFORD REVOLUTIONARY BICENTENNIAL COMMISSION AND THE MAN BEHIND THE WORLD'S LARGEST BIRTHDAY CAKE

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. EARLY. Mr. Speaker, Mr. Anthony J. Brenna, chairman of the Revolutionary Bicentennial Commission in Milford, Mass., has earned the admiration of his coworkers and of the people of Milford for his tireless and diligent efforts on behalf of the town in all of the Bicentennial programs headed up by the commission.

Mr. Brenna's latest—and probably most fattening—project was the "First In the Nation Childrens Bicentennial Party," featuring a 5 ton, 30 feet high, 215.6 square foot birthday cake. Needless to say, the party guests, numbering over 1,000, thoroughly enjoyed themselves.

Mr. Brenna deserves a large amount of the credit for this possibly world record-breaking event for his imagination, his determination and his patience—not to mention his faith—and, it certainly paid off.

Anthony Brenna and the commission's next project: the "Largest Bicentennial Parade in the Commonwealth" is to take place on June 15, 1975.

Mr. Speaker, at this time I would like to place in the RECORD an article which appeared in the Milford Daily News entitled "The World's Tallest Cake." And, my personal thanks go out to Mr. Brenna for his hard work and his creative talents on behalf of Milford and the Revolutionary Bicentennial Commission.

The article follows:

THE WORLD'S TALLEST CAKE

The town of Milford has "Bicentennial cake fever."

It was a circus atmosphere this morning when the Bicentennial Commission unveiled its 30-foot, six-tier cake, which is supposed to break the Guiness Book of World Records mark.

After it took nearly two hours to assemble the three-section cake, a Boston television film crew began video taping a seven-minute segment to be shown on Channel 5 tomorrow morning.

With a crowd of about 1,000 jamming around the confectionery skyscraper, you had to wonder "who's working?"

The long morning began shortly after 6 a.m. when the Highway Department headed for Fino Field annex from the town barn on Central Street. It took three trips to move the 10,000 pound monster.

While the trucks crawled up East Main Street commuter traffic was slowed to a snail's pace. For early morning drivers it was an unusual way to wake up.

By 7:45 a.m. the first two sections of the cake were in place at the annex, between Fino Field and the Municipal pool. Slowly, a crane donated by the Consigli Construction Co. lifted the second two sections into place while the crowd gasped.

Sabatino Scafuto, the key man behind the creation, worked from the Fire Department's "cherry picker" as he guided the two-by-four frame into place.

A minor problem developed when the crew attempted to lower on the top two layers—the crane was slightly out of position and Scafuto was unable to complete the job. After moving the crane ahead (with the layers still suspended) the crisis passed. Shortly after 8:30 a.m. the world's tallest cake was in one piece.

The next scene was a bit hectic for Milford District Court Judge Francis J. Larkin.

Judge Larkin, who was dressed in a three-piece suit, was hoisted to the top of the cake with a tape to make the official measurement. Not counting the eagle, the cake measured exactly 30 feet, breaking the Guiness record by seven feet.

A number of town officials were in attendance to authenticate the height. Among them were Selectmen Emilio E. Diotalevi, John V. Fernandes, and Mrs. Marie J. Parente.

Other groups participating for the TV performance were the Milford Youth Militia and Milford High School Band. The taping was still going on late this morning.

FRAME EXPENSIVE

The Commission had hoped to make the frame in a home carpentry shop, but when the size of the cake became apparent the task was carried out at the highway barn.

Used to make the wooden frame was 1,000 feet of two-by-fours. Also 50 sheets of plywood, two-by-twos and two-by-eights. In order to support the weight, the frame had to be carefully built.

The only major concern was a 25-mile per hour wind blowing from the northwest. The construction of the frame allowed most of the air to pass through the cake, averting any disaster. When the crew began assembling the cake it was only 35 degrees.

A number of figures are being tossed around, but one seems certain about the actual cost. The lumber cost about $800. Anthony J. Brenna, chairman of the Bicentennial Commission, said the cake would cost the town under $1,000.

Scafuto said if he were to sell the cake retail, it would be worth as much as $12,000. It was estimated that about 500 man hours were need to complete the project. It took about three working days to piece the cake together and frost it.

Basically, the cake is red, white and blue, with flag decorations and jimmies. Red and white crepe paper is stretched around the entire cake with red, white and blue paper around the wooden beams. The cake is resting on flat bed trucks donated by the highway department National Guard.

Once the television taping is finished, the crew is expected to take the cake apart and transport it back to the highway dept. garage. Scafuto said the cake would be fresh for Sunday afternoon's party. "You won't even realize when it's been baked," said Scafuto. "We have used special ingredients."

The five other bakers are Norman Martell, Rick Auger, Nicholas Oliva, Bruce Blair, and Mario Scafuto.

Sunday's party will be held in downtown Milford from 1 to 4 p.m. In addition to the cake, children will receive free ice cream and lollipops. Eight booths will also be set up on Main Street.

PRIVY SQUAD FOR OSHA?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ABDNOR. Mr. Speaker, many of us pooh-poohed George Orwell's "1984" when it was written some years ago, but as that date draws nearer the specter of Big Brother hovering over every decision and act looms more and more into reality. Call it Big Brother, EPA, OSHA, or whatever, it cannot be denied that freedom of individual citizens to make everyday decisions concerning their livelihood and working conditions is being steadily eroded.

One of the most recent incursions is the ridiculous decision of the Occupational Safety and Health Administration in proposed standards for field sanitary facilities. The standards they hope to mandate across the land were published in the Federal Register on April 27, 1976. The public has been invited to comment on them until July 6, 1976.

Regulations for toilet facilities "within a 5-minute walk of each employee's place of work in the field," are prescribed and they are detailed right down to the toilet paper holder and the inside lock on the door "to insure privacy." Handwashing facilities are also required with signs, and the quality of water, towels, and soap specified.

Also included are provisions requiring availability of drinking water which "shall be dispensed either through the use of a drinking fountain equipped with an angled jet outlet, or a gravity water tap." Cooling of the water, drinking cups, and construction and maintenance of containers are specified together with a requirement "all containers, fountains. or other devices used for the storage or dispensing of drinking water shall be conspicuously marked 'drinking water.'"

As far as I can see this is another case of Government trying to apply blanket regulations to situations where they can not possibly work. It was just a few years ago that OSHA tried to regulate the number, size, and shape of toilets for all business firms including the smallest shop, and they finally had to back off to concentrate on industries with high safety hazards.

Now they are at it again, and this time they have decided to make a proposal designed for the fruit and vegetable fields of California apply to the vast grainfields and rangeland across the country—regardless of whether it is needed, practical or even feasible.

It takes little imagination to figure out how tough it will be to try and comply with regulations like these in areas where wheatfields are a quarter section or larger. The facilities would have to be placed either in the middle of nearly every field or have a mobile capability, neither of which makes any sense at all.

I am encouraging every farmer and rancher in South Dakota as well as farm organizations to join me in protesting this unnecessary bureaucratic nonsense. And even protesting is not going to be easy: OSHA has specifications on how this is to be done, too.

Ridiculous? That is an understatement. If California wants or needs such rules, that should be California's decision. For the rest of the Nation, the entire proposal: "Subpart I—General Environmental Controls, Section 1928.110 Field Sanitary Facilities," should be scrapped. Farmers have enough problems without the Government meddling in their toilets.

TRIBUTE TO GERRI AND MANNY ROHATINER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. WAXMAN. Mr. Speaker, it is my pleasure to join the Los Angeles community in paying tribute to Gerri and Manny Rohatiner at a concert to be held at the Scottish Rite Auditorium on Sunday, June 12, 1976.

This event is being sponsored by the National Conference of Synagogue Youth—NCSY—in honor of Mr. and Mrs. Rohatiner, who by their leadership in chairing a citywide banquet, the first major fundraising event for NCSY, helped establish a base of support for the organization's continued good work. Since that time, Manny has chaired the NCSY West Coast Youth Commission, and was recently elected to the vice presidency of the Union of Orthodox Jewish Congregations of America on the west coast, the official organization for the orthodox movement.

The NCSY is the youth arm of the orthodox movement. Manny and Gerri have dedicated many years of their lives with endless devotion, warmth and love, and a deep spiritual commitment to its growth on the west coast.

The Rohatiners have been actively engaged in various philanthropic endeavors within the Los Angeles Jewish community for the past 25 years. The United Jewish Appeal, the Guardians, B'nai B'rith, American Mizrachi Women, Young Musicians Foundation, City of Hope, Hillel Hebrew Academy, and Yavneh Hebrew Academy are just a few of the organizations that they have supported through the years.

Manny has also had an active political career for many years. He served as deputy for Supervisor Debs and found great satisfaction in helping people with their problems. He has actively supported many worthy candidates for public office.

Gerri and Manny Rohatiner are two very fine human beings and it is my pleasure to express to them and to my colleagues my commendation of them.

THE PRESIDENT'S CONCERN ABOUT CERTAIN PROVISIONS OF THE CLEAN AIR ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. BROYHILL. Mr. Speaker, in a matter of days this body will begin consideration of legislation which will have far-reaching effects on virtually every segment of our economy. I am speaking of the Clean Air Act Amendments of 1976.

Many of the Nation's policymakers—both in and out of Congress—have voiced concern about two particular sections of this bill: that which sets auto emission standards and that which prohibits significant deterioration of air quality. It has been a great help to us here that they have made their views known before we must make a final decision on this very complex bill. Their arguments have enabled all of us to know more thoroughly the many different aspects of the issues involved.

To that end, President Ford has expressed his reservations about the committee amendments dealing with auto emissions standards and significant deterioration.

In a letter to Chairman STAGGERS, Mr. Ford endorsed the Dingell-Broyhill amendment on auto emissions as striking the proper balance between energy, environmental, and economic needs. The President also stated that, because of potentially disastrous effects on unemployment and on energy development, he could not endorse the committee recommendations on significant deterioration. While applauding the committee's attempt to clarify this complex issue, he called for the Congress to amend the act to preclude application of all significant deterioration provisions until sufficient information concerning its final impact can be gathered.

Mr. Speaker, because some of my colleagues may not have seen the President's letter, I insert it in the RECORD at this point:

THE WHITE HOUSE,
Washington, May 28, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

LEGISLATIVE STATUS REPORT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DELLUMS. Mr. Speaker, periodically I enter into the RECORD a status report on legislation I have sponsored. Following is such a report covering all legislation I have sponsored so far during the 94th Congress:

LEGISLATIVE STATUS REPORT: JUNE 1976

AGRICULTURE

H.R. 6737 (Seiberling). Research funds for improved fertilizer and food production methods.

H.R. 9890 (Burke of Mass.): Distribution of seeds and plants for use in home gardens.

ARTS AND HUMANITIES

H.R. 2898 (Krueger): Establish folklife center in the Library of Congress. (Enacted as Public Law 94-201.)

H.R. 4030 (Whitehurst): Assistance to zoos and aquariums.

H.R. 11137 (Gude): Amends Dwight Eisenhower Bicentennial Civic Center Act.

H.C. Res. 97 (Bingham): Authorize bust or statue of Dr. Martin Luther King, Jr., to be placed in the Capitol. (Passed House; pending in Senate.)

H.R. 13522 (Brown): Establish a National Museum of Afro-American History.

ASIAN-AMERICAN AFFAIRS

H.R. 5548 (Anderson of Calif.): Cabinet Committee for Asian-American Affairs.

BUDGET

H.R. 7449 (Moorhead of Pa.): Intergovernmental Countercyclical Assistance Act. (Enacted as Title II, H.R. 5247; vetoed by President.)

H.R. 12007 (Metcalfe): Revenue Sharing Reform Act.

CHILD WELFARE

H.R. 2967 (Brademas): Comprehensive child care bill.

H.R. 3408 (Daniels): Youth Camp Safety Act. (Passed the House; pending in Senate.)

H.R. 5702 (Mitchell of Md.): Grants for pre-school education programs.

CIVIL LIBERTIES

H.R. 353 (Dellums): Amnesty. (Judiciary Subcommittee hearings held.)

H.R. 354 (Dellums): Gun control. (Judiciary Committee markup pending.)

H.R. 3235 (Goldwater): Comprehensive protection of constitutional rights of privacy.

H.R. 3337 (DuPont): Allows women in military academies. (Passed House as amendment to 1976 DOD authorization bill.)

H.R. 4134 (Drinan): Abolishes capital punishment.

H.R. 5129 (Abzug): Amends the Privacy Act of 1974 to allow individuals to correct personal files.

H.R. 5452 (Abzug): Gay Rights.

H.R. 8964 (Metcalfe): Permits suits against governments for civil rights violations.

H.R. 9451 (Spellman): Prevents housing discrimination on grounds of marital status.

H.R. 9666 (Harrington): Protects constitutional rights and liberties for disclosure of private communications.

H.R. 10093 (Bingham): Prohibits prior restraint.

H.R. 12504 (Kastenmeier): Criminal code reforms.

COMMERCE

H.R. 3229 (Frenzel): Accelerates capital formation through employee stock ownership.

H.R. 3352 (Seiberling): Mandatory interest on bank accounts. (Passed House; pending in Senate.)

H.R. 3823 (Addabbo): Aids small businesses affected by relocation.

H.R. 4318 (Patman of Texas): Audit of Federal Reserve Board.

H.R. 5524 (McFall): Price controls for concentrated industries.

H.R. 6833 (Mitchell of Md.): Places a moratorium on certain SBA loan repayments.

H.R. 10220 (Hughes): Removes oil import tariffs; establishes a maximum tariff for domestically produced crude oil.

H.R. 10329 (Mikva): Corrects franchise practice inequities. (Judiciary subcommittee hearings held.)

H.R. 13785 (Mitchell): Minority Enterprise Act.

CONGRESSIONAL REFORM

H.R. 1268 (Dellums): Congressional review of Executive agreements. (International Relations Committee hearings held.)

H.R. 3045 (Railsback): Public disclosure of lobbying. (Committee on Standards of Official Conduct hearings held.)

H.R. 9102 (Phillip Burton): Provides public financing of Congressional campaigns. (Defeated on floor as amendment to Federal Election Commission Reform bill.)

H.R. 11708 (Kastenmeier): Requires all candidates and federal officers to file financal statements.

H. Res. 442 (Stark): Additional staff for certain House members.

CONSUMER AFFAIRS

H.R. 352 (Dellums): Bans war toys.

H.R. 4149 (Ford of Tenn.): Requires all packages to have individual prices.

H.R. 10881 (St Germain): Aid and technical assistance to specialized credit sources.

DISTRICT OF COLUMBIA

H.J. Res. 432 (Fauntroy): Full District of Columbia representation in Congress. (House vote pending.)

H.R. 13467: (Rees): D.C. Pension reforms.

DRUGS

H.R. 5170 (Koch): Recall of unsafe drugs.

H.R. 6108 (Koch): Decriminalization of marijuana.

EDUCATION

H.R. 349 (Dellums): Grants to the Deganawidah-Quetzalcoatl University.

H.R. 2600 (Meeds): Comprehensive school health programs.

H.R. 8584 (Miller of Calif.): Authorizes nutrition education projects and programs.

EMPLOYMENT

H.R. 345 (Dellums): Eliminates employment discrimination on the basis of military discharge status.

H.R. 346 (Dellums): Extends Age Discrimination Act to states.

H.R. 1609 (Hawkins): Full Employment Act.

H.R. 2394 (Riegle): Puts price stability as the goal of 1946 Employment Act.

H.R. 6730 (Riegle): Unemployment compensation program extension.

H.R. 8567 (Burke of Calif.): Establishes service programs for displaced homemakers.

H.R. 11503 (Sullivan): Provides for loans to finance urgently needed state and local public facilities.

H.R. 12437 (Perkins): Opportunities and Industrialization centers job creation and training act.

ENERGY

H.R. 1768 (Green): Suspends power of the President to raise oil tariffs. (Passed Congress; vetoed.)

H.R. 6870 (Fish): Halts nuclear power plant license grants.

H.R. 8943 (Harrington): Prohibits oil company control of alternative energy sources.

H.R. 9181 (McCormack): Promotes electric vehicle studies.

H.R. 10824 (Drinan): Oil import fee preservation and consumer distribution.

H.R. 11768 (Allen): Permits electric utility lifeline rates (Commerce Subcommittee hearings held.)

H.R. 12090 (Fraser): Divestiture of oil interests in pipeline transportation.

H. Res. 1057 (Scheuer): Investigation of Transportation Secretary Coleman's Concorde decision.

ENVIRONMENT

H.R. 3246 (Jeffords): Returnable Beverage Container Act. (Interstate and Foreign Commerce Subcommittee hearings held.)

H.R. 4328 (Rogers): Ozone Protection Act.

H.R. 4386 (Brown of Calif.): Strengthening of Clean Air Act. (House vote pending.)

H.R. 8778 (Foley): Humane treatment of certain animals. (Passed House.)

H.R. 9218 (Fraser): Environmental Health Act.

H.R. 10586 (Anderson of Calif.): Discourages trap use on animals and birds. (Fisheries and Wildlife Subcommittee hearings held.)

H.R. 10756 (Studds): Compensation for oil pollution damages and cleanup costs. (Subcommittee on Coast Guard and Navigation hearings conducted.)

H.R. 11520 (Koch): Establishes Commission on the Humane Treatment of Animals.

H.R. 12087 (Fisher): Prohibits landing rights at Dulles International and Washington National Airports for supersonic aircraft.

H.R. 12475 (Melcher): Revised strip mining control bill.

H.R. 12661 (Taylor): Land and Water Conservation Act amendments.

H.R. 14027 (Mineta): Calls for establishment of jet noise standards.

H.J. Res. 539 (Bell): Imposes an embargo on the products of all foreign enterprises engaged in commercial whaling.

FOOD STAMPS

H.R. 6417 (Richmond): Food Stamp Program improvements.

H.R. 7695 (Harrington): Prohibits cuts in food stamps because of increases in monthly Social Security payments.

H.R. 12044 (Cornell): Reforms welfare, food stamp programs.

H.R. 12105 (Richmond): Prohibits new food stamp regulations from taking effect until Congress enacts new legislation.

H. Res. 45 (Peyser): Rescinds Administration's Food Stamp regulations. (Enacted as P.L. 94–4.)

FOREIGN AFFAIRS

H.R. 350 (Dellums): Indochina Peace Pledge Legislation.

H.R. 1845 (Fraser): Rhodesian chrome import ban. (Failed in House.)

H.R. 2438 (Findley): Development of land-grant type universities in developing nations.

H.R. 5162 (Drinan): Requires submission of reports to Congress on exports of arms and ammunition.

H.R. 6632 (Drinan): Increases Congressional oversight of foreign military arms sales.

H.R. 6937 (Fauntroy): U.S. participation in African Development Fund. (Banking, Currency and Housing Subcommittee hearings held.)

H.R. 7223 (Diggs): Bans transfer of nuclear materials to countries which have not ratified nuclear non-proliferation treaty.

H.R. 9462 (DeLugo): Virgin Islands Constitution. (Passed the House; pending in Senate Interior and Insular Affairs Committee.)

H.R. 10236 (Bingham): Repeals embargo on U.S. trade with North and South Vietnam.

H.R. 11012 (Fish): Provides for refusal of nonimmigrant visas in some instances.

H.C. Res. 191 (John Burton): Cuts off military aid to South Vietnam and Cambodia.

H.C. Res. 356 (Bingham): Disapproval of proposed sales to Jordan of Hawk missile and Vulcan anti-aircraft systems.

H.C. Res. 414 (Zablocki): Proposes international treaty to ban lethal chemical weapons.

H.J. Res. 535 (Ottinger): Renounces the first use of nuclear weapons. (Subcommittee hearings held)

H. Res. 28 (Gude): Seeks agreement with U.N. members on prohibition of weather modification activity as a weapon of war. (International Organizations Subcommittee hearings held.)

H. Res. 536 (Harrington): Directs the Secretary of State to furnish information to the House of Representatives concerning the *Mayaguez* incident. (Full International Relations Committee hearings held.)

H. Con Res. 356 (Bingham): Disapproves proposed sale of Hawk missiles and Vulcan anti-aircraft systems to Jordan.

GOVERNMENT OPERATIONS

H.R. 343 (Dellums): CIA Control Act.

H.R. 351 (Dellums): Continuing Congressional Oversight Act.

H.R. 355 (Dellums): Provides for receipt of testimony and information from Executive agencies and bodies.

H.R. 1267 (Dellums): CIA Disclosure Act.

H.R. 3000 (Clay): Hatch Act amendments. (Passed House; Senate vote pending.)

H.R. 3050 (Rosenthal): Conflict of interest of public servants.

H.R. 5007 (Drinan): Controls on impoundment.

H.R. 5300 (Mitchell of Md.): Establishes Federal Protective Service Police force within the General Services Administration.

H.R. 6026 (Fascell): Opens meetings of government agencies to the public.

H.R. 6939 (Gude): Procedures for location of post offices.

H.R. 8201 (Dellums): Bureaucratic Accountability Act.

H.R. 8388 (Kastenmeier): Code of accountability and liability for Government officials engaged in making and implementing national security policy. (Courts, Civil Liberties and Administrative Justice Subcommittee hearings held.)

H.R. 9201 (Carr): Prohibits Secretary of State from holding position of Assistant to the President for National Security Affairs.

H.R. 10853 (Cornell): Prohibits Congressional appointments to service academies.

H.R. 11338 (Simon): Requires arms control impact reports for international nuclear materials transfers.

H.R. 11786 (James V. Stanton): Establishes position of Special Assistant to the President for National Security Affairs.

H.R. 12292 (Rosenthal): Establishes an independent visa and naturalization agency.

H.R. 12315 (Ketchum): Benefits for state meat and poultry inspectors.

H. Con. Res. 138 (Mitchell of Md.): Appreciation to Frank Wills.

H. Res. 106 (Holtzman): Directs the President to provide information on CIA activities to the House Committee on the Judiciary.

H.J. Res. 959 (Badillo): Establish Office of Hispanic Affairs in various executive agencies.

HEALTH

H.R. 4155 (Fraser): Establishes emergency health benefits program for the unemployed. (Health and Environment Subcommittee hearings held; markup completed.)

H.R. 5265 (Mitchell of Md.): Establishes controls on the use of vitiligo.

H.R. 7345 (Pepper): Aid for graduate programs in geriatrics and gerontology.

H.R. 7364 (Koch): Assistance for geriatrics schools and departments.

H.R. 7367 (Koch): Continuing educational grants for geriatrics programs.

H.R. 7375 (Koch): Paramedical education assistance.

H.R. 12132 (Fauntroy): Extends for one year the District of Columbia Medical and Dental Manpower Act. (Awaiting presidential signature.)

H. Con. Res. 449 (Fraser): Calls for self-help aid increase to persons receiving inadequate nutrition.

HOLIDAYS

H.R. 1810 (Conyers): Designates the birthday of Martin Luther King, Jr. as a legal public holiday.

H.J. Res. 636 (Byron): Designated Sept. 14, 1975 as "National Saint Elizabeth Seton Day." (Enacted as Public Law 94–95.)

H.R. 692 (Myers of Ind.): Designates week of Thanksgiving "National Family Week."

HOUSING

H.R. 344 (Dellums): Defrays mortgage payments for the temporarily unemployed. (Enacted as Public Law 94–50.)

H.R. 6240 (Mitchell of Md.): Building of three million low income homes.

H.R. 8095 (Ashley): Provides emergency housing assistance.

H.R. 9526 (Badillo): Establishes pilot homestead programs in selected cities.

H.R. 12658 (Stokes): Repair program for urban dwellings.

H.R. 12699 (Stokes): V.A. program of aid for repair of urban dwellings.

LABOR

H.R. 5023 (Mitchell of Md.): Collective bargaining for postal employees. (Subcommittee hearings started.)

H.R. 5042 (Phillip Burton): Strikes on construction sites.

H.R. 7348 (Pepper): Prevents fining of employees for giving Congressional testimony.

H.R. 7552 (Clay): Equal treatment of craft and industrial workers. (Passed Congress; vetoed by President.)

H.R. 8612 (Charles H. Wilson of Calif.): Establishes postal arbitration board.

H.R. 10490 (Harris): Eliminates Presidential authority to offer alternative comparability pay plans for federal employees.

H.R. 13743 (Ryan): Prohibition of contractors firing strikers.

H.R. 13744 (Ryan): Establishes fact-finding panels in strikes involving government contractors.

LEGAL SERVICES/COURT REFORM

H.R. 2986 (Conyers): Grand Jury reform.

H.R. 8742 (Drinan): Provides reasonable attorney fees in civil and constitutional rights litigation. (Courts, Civil Liberties and Administrative Justice Subcommittee hearings held.)

H.R. 8743 (Drinan): Provides recovery of attorney fees as part of costs in certain civil action. (Courts, Civil Liberties and Administrative Justice Subcommittee hearings held.)

H.R. 10303 (Koch): Government payment of attorney fees to accused when not convicted.

H.R. 13658 (Dellums): Bi-lingual court proceedings in U.S. District Courts.

MILITARY AFFAIRS

H.R. 1820 (Dellums): Establishes the Office of Assistant Secretary of Defense for Equal Opportunity.

H.R. 2964 (Bennett): Regulate discharge certificate issuance.

H.R. 4220 (Moss): Jerry L. Pettis Memorial Veterans' Hospital.

H.R. 5413 (Ottinger): Prohibits production of binary nerve gas.

H.R. 5894 (Fraser): Increase in veterans' educational assistance. (Subcommittee hearings completed, bill reported to committee.)

H.R. 6261 (Holt): Assistance to states for veterans cemeteries.

H.R. 6890 (Schroeder): Alternative Defense Authorization Bill.

H.R. 7225 (Drinan): Repeals Selective Service Act.

H.R. 7848 (Hicks): Military Health Care Program amendments.

H.R. 14020 (Dellums): Requires Defense Department to retain civilian employment whenever possible.

PENAL REFORM

H.R. 2803 (Dellums): Omnibus Penal Reform Act.

H.R. 3603 (Mitchell of Md.): Limits use of prison inmates for medical research. (Courts, Civil Liberties and Administrative Justice Subcommittee hearings held.)

H.R. 1689 (Badillo): Prisoners' rights.

PUBLIC LANDS

H.R. 2241 (Pettis): Establishes conservation area in California desert.

H.R. 2620 (Stark): Feasibility of Ridgelands Park area.

H.R. 3510 (Udall): Land use planning. (Tabled by the Interior and Insular Affairs Committee.)

H.R. 6637 (O'Neill): Disposal of surplus government property. (Government Activities and Transportation Subcommittee hearings held.)

H.R. 6883 (Miller of Calif.): Enlarges Sequoia National Park.

H.R. 6898 (Bell): Santa Monica Mountains and Seashore National Park.

H.R. 7631 (Phillip Burton): Enlarges Redwood National Park.

H.R. 7819 (Krebs): Land use study of Kaiser Ridge in the Sierra National Forest. (Subcommittee on Public Lands hearings held.)

H.R. 10753 (Seiberling): Prohibits incompatible activities within any area of the national park system. (Similar S. 2371 reported from Interior Committee.)

H.R. 13280 (Krebs): Adding Mineral King to Sequoia Nat. Park.

H.J. Res. 154 (Dingell): Establishment of the Tule Elk National Wildlife Refuge. (Full Merchant Marine and Fisheries Committee hearings.)

SENIOR CITIZENS

H.R. 2396 (Riegle): Food Allowance for Older Americans Act.

H.R. 3601 (Mitchell of Md.): Provides for monthly consumer price indexing for older Americans.

H.R. 7255 (Pepper): Tax changes for nursing home expenses.

H.R. 7258 (Pepper): Assistance for provision of long-term care in rural areas.

H.R. 7261 (Pepper): Social Security funds for nursing homes.

H.R. 7264 (Pepper): Required MD visits to nursing homes.

H.R. 7267 (Pepper): Twenty-four hour professional care in nursing homes.

H.R. 7270 (Pepper): Handling of medication in nursing homes.

H.R. 7273 (Pepper): Medical directors for nursing homes.

H.R. 7276 (Pepper): Staff ratios in nursing homes.

H.R. 7279 (Pepper): Social services in nursing homes.

H.R. 7282 (Pepper): Admissions contracts for nursing homes.

H.R. 7285 (Pepper): Safety provisions in nursing homes.

H.R. 7288 (Pepper): Requirements for nursing homes.

H.R. 7291 (Pepper): Reporting of diseases in nursing homes.

H.R. 7294 (Pepper): Procedures for nursing home state plans.

H.R. 7297 (Pepper): Ratings of nursing homes.

H.R. 7300 (Pepper): Nursing home ombudsman program.

H.R. 7303 (Pepper): Inspector General for Health Administration.

H.R. 7306 (Pepper): No fees for referrals to nursing homes.

H.R. 7309 (Pepper): Controls for safety of nursing homes.

H.R. 7312 (Pepper): Outlaws bribe as means of getting in nursing homes.

H.R. 7315 (Pepper): Standards for long-term care facility personnel.

H.R. 7318 (Pepper): Nursing home payment form changes.

H.R. 7321 (Pepper): Increased federal inspection of nursing homes.

H.R. 7324 (Pepper): Increased federal funding of nursing home audits.

H.R. 7327 (Pepper): Inspections of nursing homes.

H.R. 7330 (Pepper): Class action suit for nursing home patients.

H.R. 7333 (Pepper): Financial incentives for nursing homes.

H.R. 7336 (Pepper): Construction loans for non-profit nursing homes.

H.R. 7339 (Pepper): Nursing homes in minority areas.

H.R. 7342 (Pepper): Aid to repair and renovate nursing homes.

H.R. 7357 (Koch): National Home Health Care Act.

H.R. 7361 (Koch): In-service training of nursing home personnel.

H.R. 7372 (Koch): Veteran training for paramedical programs in nursing homes.

H.R. 7378 (Koch): In-home care for elderly individuals.

H.R. 7384 (Koch): Training grants for nurse practitioners to provide primary health care in nursing homes.

H.R. 7385 (Koch): Demonstration projects for elderly care.

H.R. 7388 (Koch): Full disclosure of ownership interests of nursing homes.

H.R. 7391 (Koch): Improved audits of nursing homes.

H.J. Res. 970 (Downey): White House conference on aging.

H. Res. 493 (Koch): Action plan on nursing homes.

SOCIAL SECURITY

H.R. 3149 (Burke of Mass.): Social Security rate changes.

H.R. 3765 (Collins of Ill.): Provides cancer tests under Medicare.

H.R. 6333 (Koch): Cost-of-living increases in Social Security benefits.

H.R. 6769 (Holtzman): Cost-of-living and other benefit increases.

H.R. 6934 (Burke of Mass.): Allows blind to receive disability benefits.

H.R. 7138 (Ottinger): Special housing allowance for Social Security insurance.

H.R. 7252 (Pepper): Intermediate care services under Medicare.

H.R. 7696 (Harrington): No cut in Social Security insurance because of Social Security increases.

H.R. 11148 (Abzug): Increases Social Security reimbursements to states.

H.R. 11862 (Bedell): Increases Social Security base rate to $28,500.

SPORTS

H.R. 347 (Dellums): Athletic Safety Act.

H.R. 348 (Dellums): Athletic Care Act.

H.R. 2355 (Seiberling): Protects the civil and constitutional rights of professional athletes. (Commerce, Consumer and Monetary Affairs Subcommittee hearings held.)

TAXES

H.R. 1040 (Corman): Tax Equity Act.

H.R. 3447 (Mitchell of Md.): Tax exemption for the handicapped.

H.R. 4195 (Litton): Restricts use of income tax returns.

H.R. 4897 (Dellums): World Peace Tax Fund.

H.R. 6229 (Drinan): Denies tax deductions for oil company ads.

H.R. 9061 (Whitehurst): Allows deduction for public utility taxes.

H.R. 10086 (Moakley): Tax Justice Act.

TRANSPORTATION

H.R. 2149 (Karth): Terminates airlines mutual aid agreement.

WOMEN'S RIGHTS

H.R. 9013 (Wolff): Permits women admission to the Coast Guard Academy. (Subcommittee hearings started.)

H.R. 9061 (Adams): Credits women's service in telephone operating unit of U.S. Signal Corps.

H. Con. Res. 301 (Fraser): International Women's Year. (Passed the House.)

H.J. Res. 212 (Burke of Calif.): Study of the local, state and federal criminal justice systems as they affect women.

RECOGNITION OF THE NATIONAL SOCIETY DAUGHTERS OF THE BARONS OF RUNNYMEDE

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. CEDERBERG. Mr. Speaker, the United States certairly must express its gratitude to the British people for their generous Bicentennial gifts. The golden replica and the loan of the time-honored copy of the Magna Carta form a magnificent tribute to the American Bicentennial celebration. In expressing our gratitude it is important that we not overlook an American organization of women, whose ancestors played a large role in the history of the original document.

Historians still dispute over the exact location of the original location of the signing of the Magna Carta. Some maintain that the signing occurred on a grassy bank overlooking the Thames River, called Runnymede. Others contend that the actual signing took place on an island out in the Thames River. There is little debate however, over the date and the circumstances involved in this document.

In 1215, King John of England was faced with the rebellion of many of the English barons. When these barons marched on London, King John was forced to compromise with these feudal lords. King John met the barons on the outskirts of London and attempted a compromise. This compromise became the Magna Carta, or Great Charter.

The Magna Carta was an attempt to outline the specific powers granted to the King of England in feudalistic society. This document forced the King to consult the Great Council about any increases in taxation, authorized the right of all free men to have a trial by a jury of their peers, and made King John responsible to the laws of the land. The Magna Carta represents one of the first attempts to limit a monarchy in European history.

Included in the Magna Carta, in what has come to be known as section IX, this document called for the naming of 25 Sureties. These Sureties were to be chosen from the Barons of England and were to see to the enforcement of the charter. Anything done by the King or his administrators in violation of the charter, the Sureties would meet and decide on a suitable recourse. These Sureties were: William d'Albini—Lord of Belvoir Castle; Roger Bigod—Earl of Norfolk and Suffolk; Hugh Bigod—the Earl of Norfolk's heir; Henry de Bohum—Earl of Hertford; Richard de Clare—Earl of Hertford; Gilbert de Clare—Earl of Hertford's heir; John Fitz Robert—Lord of Warkworth Castle; William De Fortibus—Earl of Albemarle; Robert Fitz Walter—Lord of Dunmow Castle; William de Hardell—Mayor of London; William de Huntingfield—a feudal baron; John de Lacie—Lord of Halton Castle; William de Lanvalli—Lord of Stanway Castle; William Malet—sheriff of Somerset; Geoffrey de Mandeville—Earl of Essex; William Marshall—the Earl of Pembroke's heir; Roger de Montbegon—Lord of Horneby Castle; Richard de Montfichet—a feudal baron; William de Mowbray—Lord of Axholme Castle; Richard de Percy—a feudal baron, Saire de Quincey—Earl of Winchester; Robert de Roos—Lord of Hamlake Castle; Geoffrey de Say—a feudal baron; Robert de Vere—the Earl of Oxford's heir; Eustace de Vesci—Lord of Alnwick Castle. These men were responsible for the enforcement of the great charter.

Today in the United States, there is a group that remembers these individuals who had the courage to stand up to King John. This group, known as the National Society of the Daughters of the Barons of Runnymede, traces its ancestry back to those gallant men. The National Society of the Daughters of the Barons of Runnymede helps maintain the rich heritage of Anglo-American relations. In extending our thanks to the British people for their generosity in extending these precious gifts, we also recognize the descendants of the original 25 Sureties, or the National Society of the Daughters of the Barons of Runnymede, for the role that their ancestors played in the history of the Magna Carta.

POLISH CONSTITUTION DAY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. EILBERG. Mr. Speaker, on Sunday, May 2, 1976, I was privileged to attend the Polish Constitution Day gathering held at Independence Mall in Philadelphia. The occasion of this festive meeting was the 185th Anniversary Commemorative Exercise and Polish-American Youth Day. The program was sponsored by the Polish American Congress and the main speaker was Brig. Gen. Felix J. Zaniewski. General Zaniewski spoke eloquently of both his personal and the general experience of being a Polish-American and in serving the causes of liberty throughout the world. His remarks are most appropriate during this year of our Bicentennial and at this time I enter them into the RECORD:

SPEECH BY BRIG. GEN. FELIX J. ZANIEWSKI

Mr. Chairman, Councilman Zazyczny, members of the Polish-American Congress, friends, guests, Polish-American youth, and fellow Polish Americans:

Czuje Sie Wielce Zaszczycony Zaproszeniem by W. Okresie Dwuch-Setlecia Naszego kraju, wyrazic uczucia w Tej Dorocznej Uroczystosci Obchodu Konstytucji Trzeciego Maja.

It's a great privilege and honor for me to speak to you today at this hallowed place . . . hallowed by its location in Independence Hall—the symbol of liberty and freedom . . . hallowed by the day we celebrate—the 185th anniversary of the adoption of the Constitution of the third of May, 1791 . . . hallowed by the presence and participation of our Polish-American youth of greater Philadelphia, and hallowed most of all by your presence.

Patriots, citizens . . . representing two heroic nations with a tradition of freedom—the United States and Poland. I might add that, as a lawyer, this particular weekend means something additional to me, since yesterday was designated "Law Day, USA" by the President and Congress—to remind us of the importance that law has played in our lives as free citizens as we celebrate our Nation's Bicentennial.

As I tried to weave these separate threads—constitution and law day—Poland and the United States—the Bicentennial Year and Polish American patriotism—into some coherent pattern, it struck me that there was one . . . and that the common thread was liberty. A topic that we are all concerned with and one which I, as a member of the armed forces with a special obligation to protect that liberty, might be able to discuss with some degree of competency.

200 years ago, when Benjamin Franklin arrived in France to become our ambassador there, he wrote to a friend in America and noted, " 'Tis a common observation here that our cause is the cause of all mankind, and that we are fighting for their liberty in defending ours."

200 years later, our cause is still the cause of all mankind—or at least of all free men—and we are still fighting for their liberty in defending ours. If we were to let fall the banner of freedom and liberty, who would pick it up?—No other nation is capable.

So, on our shoulders rests the weight and honor of leadership in the defense of liberty. The burden is great—as it always has been—but if we fail or falter, then the cause of freedom would soon be in jeopardy.

The only thing necessary for the triumph of evil—and the loss of liberty—is for good men to do nothing. I think that many of you in the audience today remember what happened less than 30 years ago when the good men of the west were unable to do anything in the defense of Poland. In this nation today, there are far too many good men doing nothing. There is a mood of complacency; a feeling that we no longer have to work and fight to maintain what we have and what we are.

It is well that we recall now—on the commemoration of the 185th anniversary of the formation and adoption of the Polish constitution of May 3rd, 1791—some of the history and tradition that underscores Poland's and the Polish people's contribution to the cause of liberty.

In earlier centuries and up to about 1700, Poland was a leading country on the continent of Europe. But its fortunes gradually declined—the other surrounding countries were monarchies—they were imperialistic—so these external forces aided the gradual decline of Poland.

Despite this gradual and continual decline, the constitution of May 3 was adopted to stem the tide to decline and to attempt to rebuild the fortunes of the country. This constitution played a significant role in Poland's history from that day on. As an example, at the time, General Thaddeus Kosciousko gave the peasants full civil rights, which included owning thier own land. And, some 40 and 70 years later, in 1830 and 1860, the patriots who fought against Poland's enemies and in the uprisings, were fighting for a new Poland—the constitution of 1791 was their symbol—their banner. After the First World War, Poland regained its independence and that constitution of 1791 was the foundation of the new political order.

Two important factors played significant roles in the 1791 constitution. First, it was influenced by the American Revolution and the Declaration of Independence. Second, it was inspired and partially authored by Poles whose desire was to improve the position of the peasant and to unify the country from within. This unity has been revived from time to time, especially during the period between World War I and World War II—and the unity is seen today.

And, so, we commemorate again the adoption of the constitution of 1791—as Polish-Americans do each year around the country, and the world, to commemorate that hopeful time in Poland's history when all eyes and hearts looked to freedom and democracy—a time of hope, desire and enlightenment. The constitution of 1791 was to be the guiding light, and even today, it keeps alive that fire of unity which has burned for 185 years.

I am proud to share this day and time with you. There are those who try to hide or deny thier ethnic background. They object to references to the fact that they are Poles, or Germans, or Italians, and such. But this country of ours was formed and molded and developed by people such as these. All of us here have either come from other countries or our parents or grandparents have.

We are all Americans, but we all have come from varied ethnic backgrounds. Personally, I feel a sense of pride when people say to me: "Your name indicates that you are a Pole." Or, when people ask, "What kind of name is that?" I say: "It's Polish." It doesn't occur to me to object to being described as a Pole. I feel quite proud when people recognize .that I am a Pole because the Poles in this country of ours enjoy an excellent reputation as citizens and individuals.

Politically, Poles have been deeply concerned with our democratic process. They have been involved in politics since the early days of this country—Captain Marcin Krygier was elected co-burgomaster of New Amsterdam in 1653. He served a second term in 1655, and was elected again in 1661. In 1662, Olbracht Zaborowski was the first justice of the peace for upper Bergen County, New Jersey. And, today, we have many elected officials in Federal, State and city offices around the country. Poles have also been deeply involved as voters. To us, the democratic process is a way of life—Poles truly understand the meaning and value of liberty.

Socially, Poles are examples of sound and close knit families. The father is respected. The mother is revered and the children are taught honor, loyalty, dignity and integrity.

In economics, the Poles have contributed much to industry, commerce and agriculture in this country. One of the best recognized characteristics of a Pole is his ability and willingness to work hard.

Morally, Poles are honest and God-fearing. Polish-Americans seldom appear in the divorce columns or in crime and juvenile delinquency statistics. For us and our families, it is considered a disgrace to be involved in anything illegal or immoral or unethical.

We Poles are a close knit people, we gather together—we like to retain the old Polish customs and traditions, we like to speak our native language. And, those famous old Polish recipes and cooking will never be forgotten because they are handed down from mother to daughter.

We are deeply religious. We consider education an absolute necessity and have a high regard for talent.

We like to sing and dance. We love our native polka music and dance to it with light hearts and light feet. And, we shed a tear when we sing "Boze Cos Polske."

And, so, I'm proud of my own Polish background because of the kind of people we are. And I'm proud that you asked me to be here with you today.

But, there is another reason why I am proud of my Polish background—and we all should be proud—this is because we Polish-Americans can point with pride to the accomplishments of Polish-Americans in the history of our nation. The part they played in the development and the progress of this great country of ours. It surprises me somewhat that many of us are not aware of the contributions that Polish-Americans have made in all facets of American life and experience.

For instance, there is some basis for the belief that one of Columbus' crew was a Pole. It has been written that the name of this sailor was Francis Warnodowicz.

Authenticated history reveals that Polish settlers came to Virginia and settled in 1608. This was twelve years before the Pilgrims landed at Plymouth Rock. By the time the Pilgrims arrived, Poles had cleared land, built cabins and had dug wells.

Captain John Smith, who settled Jamestown, reported in his writings that his life was saved on one occasion by two Poles when he was ambushed by Indians.

Polish settlers drifted to New Amsterdam at the tip of Manhattan Island. One was Daniel Litscho, who participated in Governor Stuyvesant's expedition against the Swedes on the Delaware River. He was an influential burger and also the fire inspector in New Amsterdam. There were Polish teachers in New Amsterdam, John Rutkowski and Casimir Butkiewicz. Wojciech Adamkiewicz was a successful builder, and, as I mentioned, Marcin Krygier was elected co-burgomaster of New Amsterdam.

Polish pioneers participated in the French and Indian wars. Their names are on record.

Charles Blaszkowicz, a surveyor, surveyed the coast of New England and drew the first map of this territory. Two of his maps are in the British Museum in London.

A number of Poles assisted in our fight for freedom in the Revolution. At least a thousand names of unmistakably Polish origin are listed in the muster roles of the Continental Army. The contributions of two especially have been recorded indelibly in the history of this great Nation.

Thaddeus Kosciousko, born February 12, 1746. It is impossible to evaluate his share in the brilliant victory of the American forces near Saratoga, on the upper Hudson River on October 17, 1777. Kosciousko's choice of battlefields and his fortifications made a noteworthy contribution to this victory. Woodrow Wilson, in his "History of the American People," said:

"It was the gallant Polish patriot, Thaddeus Kosciousko, who had shown General Gates how to entrench himself upon Bemis Heights."

The Battle of Saratoga is considered the turning point of the American Revolution.

Kosciousko undertook the building of fortifications at West Point—the location today of the United States Military Academy. While there, he planted a flower garden in a secluded spot where he spent his spare moments. To this day it is known as "Kosciousko's garden"—it is a part of the lore of the corps of cadets.

He is considered the founder of West Point. When it was first resolved to found a training school for young men, Kosciousko urged that it should be placed at West Point. For his record with our forces, Congress awarded him the privilege of American citizenship, an annual pension and the rank of brigadier general, which he retained in the Polish service.

Casimir Pulaski, too, is recorded in history. Count Casimir Pulaski, a Polish patriot and revolutionary soldier, was the most romantic and professionally the most prominent. He came to the United States under the auspices of Dr. Franklin from Paris. Recognized for his brilliance with the cavalry, he gave John Hancock plans for the organization of a corps of volunteers. Pulaski was the first cavalry officer of the Republic and had been called "father of the American cavalry."

In September 1777, because of his prior heroic and outstanding service, particularly his actions at Brandywine, the Congress awarded Count Pulaski the rank of Brigadier General and command of all the American Cavalry forces. In 1779, rushing to the aid of American forces near Savannah, he was mortally wounded. He is remembered till this day by impressive parades each year in our larger cities, monuments erected to his memory, counties and cities named after him.

The contribution of the Poles is legion. During the Civil War, they served in the Union and Confederate armies. According to official records, Captain Thaddeus Strawinski was the first Confederate casualty. The first Union officer to die was Capt. Constantine Blandowski. Vladimir Krzyzanowski, first cousin of Frederick Chopin, recruited a regiment among all Poles of the Union. His regiment fought many battles and he was honorably discharged in Nashville, Tennessee. On October 1, 1885, at the time of the Civil War, there were 30,000 Polish-Americans. Seven thousand of them were in the military service.

Polish peasant pioneers established a great reputation also. The New Englanders of the Connecticut Valley speak in terms of highest praise of the industry—efficiency, thrift and prosperity of the Poles. Even Calvin Coolidge admitted once that it took the Polish immigrants to show the Yankees how to till the soil.

The reaction of the Polish-Americans in World War I was truly remarkable. Of the first 100,000 men to volunteer, about 40,000 were Poles. In the Nation at that time four percent of the population were Poles, but twelve percent of those who died for their country were of Polish descent.

Many, many, in fact over 900,000, Polish-Americans were involved in World War II. Five of them rose to the rank of General and the list of those who were recognized and decorated for bravery and valor is long indeed.

In Korea and Vietnam, Polish-Americans have done their share. As history has recorded, the love of democracy and freedom, pride in their country and strong sense of duty has made Polish-Americans always willing to contribute their share, even to laying down their lives for our country.

No recitation of the great Poles or Polish-Americans would be complete in this audience of "Lotnikow Polskich" (Polish Air Force pilots) without reference to the memory of Second Lieutenant Joseph Raymond Sarnoski, a Congressional Medal of Honor winner, who was killed in action in the Solomon Islands on June 16, 1943. Although not regularly scheduled to fly on that day, Lieutenant Sarnoski volunteered for the mission. His citation reads in part as follows—"When the mission was nearly completed, about twenty enemy fighters intercepted. At the nose guns, Lieutenant Sarnoski fought off the first attackers, making it possible for the pilot to finish the plotted course. When a coordinated frontal attack by the enemy extensively damaged his bomber, and seriously injured five of the crew, Lieutenant Sarnoski, though wounded, continued firing and shot down two enemy planes. A 20-mm. shell which burst in the nose of the bomber knocked him into the catwalk under the cockpit. With indomitable fighting spirit, he crawled back to his post and kept on firing until he collapsed on his guns. Lieutenant Sarnoski, by resolute defense of his aircraft at the price of his life, made possible the completion of a vitally important mission."

A contemporary Polish-American aviator is the top ranking living ace of all wars—Colonel Francis Stanley Gabreski, of Oil City, Pennsylvania. He knocked out 31 enemy planes in Europe before he was shot down on July 20, 1944, and held prisoner of war until May 1945. During the Korean action, he brought down another six and a half for a total of thirty-seven and a half. Some of you recall him as the liaison officer to the Polish Air Force in England from November 1942 to February 1943.

Parenthetically, three of us Polish-Americans serve as general officers within the Air Force today: Major General Edmund Rafalko of Stoughton, Mass., the Commander of the Oklahoma Air Logistics Center; Brigadier General Selectee John L. Piotrowski, of Detroit, Mich., Vice Commander of the Keesler Technical Training Center, Mississippi, and I. Two years ago, I succeeded Brigadier General Joseph E. Krysakowski of Bridgeport, Connecticut, as Staff Judge Advocate of Strategic Air Command when he retired. It could well be that major John Grablewski of Philadelphia might be an eventual successor to my job.

Poles have played important roles in other areas besides the military. Polish-Americans have become prominent in the professions, as physicians and lawyers, surgeons, etc.

There are educators, publishers, authors, engineers, composers, diplomats, poets and historians.

Casimir Funk, a Polish-American, discovered vitamins.

Stanislaw Vlam and Emil Konopenski were atomic scientists. They worked with Edward

Teller on the development of the atomic and hydrogen bombs.

Ignace Paderewski was not only a world famous pianist, but a great diplomat. He gave 167 recitals in his first American tour of six months. In March, 1902, he filled Carnegie Hall and the Metropolitan Opera House. His fame reached every land. He gave a benefit performance to raise money for a reminder of George Washington's inauguration in New York. The white marble arch that spans the entrance to Washington Square Park at the foot of Fifth Avenue is the result. His charity was known all over—unemployed musicians, veterans, American Legion fund and disabled veterans. He is buried in Arlington, along with Vladimir Krzyzanowski. Both of these men were related to Frederick Chopin.

Leopold Stokowski and Artur Rodzenski are well-known symphony conductors.

John Gronouski distinguished himself as postmaster general and U.S. Ambassador to Poland.

I could go on and on. In sports, there are too many to mention. Carl Yastremski, Stan Musial are only two of hundreds.

In college football, "all American honors" have been pinned on one or more Americans of Polish descent almost every year since 1927. Americans of Polish origin began to climb up the ladder of sports, to such an extent that at one point the "Fighting Irish" of Notre Dame had so many players with Polish names that Knute Rockne was asked how he picked his players. "It's a cinch," he answered with a grin, "when I can't pronounce 'em, they're good."

All these people gained fame in all fields of endeavor. They have brought tremendous credit to all of us Polish-Americans. But there are many whose names are not inscribed on the face of history. Those who came to this country as immigrants—who had to adjust to new situations—far different from their previous patterns. They were lonely, and separated and sometimes they despaired. But with their tenacity, moral and physical strength, they overcame many obstacles.

I speak of the Poles who furnished the manpower of this country—in the mines, the foundaries—my own father was an iron and brass-molder—on the farms. They are the carpenters, mechanics, those who worked in the stockyards. They also made great contributions to this country. Polish-Americans such as you who sit here.

These are the backbone of the country—the doers. These Polish-Americans deserve our utmost respect.

So, I am proud of my heritage, my ethnic background, my predecessors. And we should all be. With this background and our traditions, we can contribute to this great country of ours—towards its future. We can contribute greatly to freedom and liberty for all nations and nationalities. We have a potential for greater achievement. We Polish-Americans, as with our ethnic groups, share the ability to hold tightly to good human principles and to overcome the great problems which must be faced.

Today, as we commemorate the Bicentennial and the Constitution of May 3, 1791, let our constitutions be the guiding light to help us keep alive that fire of unity and liberty that has burned for 200 and 185 years.

"BUY NATIONAL" OCS AMENDMENT WOULD BACKFIRE

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. GIBBONS. Mr. Speaker, a rigid "buy only American-made products" floor amendment will be offered to the Outer Continental Shelf bill (H.R. 6218), which we are scheduled to take up tomorrow.

The facts show that such an amendment is completely unneeded and would result in far more harm than good for American workers and companies. I urge my colleagues to take a very critical look at this amendment. When this is done, I feel sure that Members will not want to give the approval of the House to such a proposal.

As I see it, the issue for the future of the oil rig industry in this country is not whether we can guarantee that every single OCS oil rig is American-made, but rather whether we can maintain for ourselves a healthy share of the strong future market for offshore oil rigs around the world. Much of this market will lie in foreign offshore areas.

Because of our technological superiority in this field and the productivity of American firms and workers, all forecasts indicate that we will be able to do this and that there may be more rather than fewer American jobs involved.

However, it is certain that we will not be able to achieve this goal if we provoke foreign countries into their own "buy national" legislation for offshore drilling. The oil rig industry and its workers have far more to lose than gain by an OCS "buy national" amendment.

Further, since trade restrictions have a tendency to spill over from one area of trade to another, retaliation against other U.S. exports and escalating trade restrictions in the world economy could well result from creation of this kind of trade restriction by the world's richest country. The victims here would be those workers and companies connected with our $108 billion in annual export business.

As we have learned the hard way, good and patriotic sounding proposals are not always what they seem to be. It is a little hard to judge the actual merits of a "buy national" OCS amendment, since the amendment has not been given any consideration at all by the ad hoc Select OCS Committee or by any other committee of the House. For this reason alone, it should not be approved by the House. Further, it exceeds the jurisdiction of the ad hoc committee, infringing on the jurisdiction of other committees.

Beyond this, all the information I have come across indicates that this amendment is worse than a pig in a poke—it is a real bombshell.

I would like to share with other Members what information I have been able to dig up on this issue. I think it brings the amendment into serious question and should make us very concerned about adopting such a proposal, especially in the absence of hard facts and full consideration of the very serious effects which are likely to result.

Included in this information is:

A Business Week article on the growing boom in offshore oil drilling.

A refutation of some of the arguments being used by supporters of a "buy national" amendment.

A "Dear Colleague" letter from several of us, which gives further reasons for opposing this amendment.

Letters from the Office of our Special Representative for Trade Negotiations and the Department of State which attest to the health of our domestic oil rig industry and point out the dangers for this industry and other export industries and workers if a "buy national" amendment for the OCS is adopted.

As the ad hoc committee has pointed out to us, there has been a good deal of "slippage" in the expected pace of oil drilling on the OCS and around the world. One result has been something of a surplus of completed offshore drilling rigs. However, the surplus is expected to end soon, as offshore drilling on the OCS, in the North Sea, and elsewhere around the world picks up. See Business Week article below, "The Oil Business Bubbles Again."

Supporters of a "buy national" OCS amendment are arguing that other countries have already taken steps to insure that offshore development on their coasts is carried out by their own nation's rigs and crews. Quite the contrary is true.

Although the United Kingdom intended to require the use of domestically produced equipment in offshore oil and gas development, those provisions of the United Kingdom's submarine pipelines bill which would have given such a requirement the force of law were rewritten before the bill was passed by Parliament. Currently the only inducement to "Buy British" is in the Offshore Operators Agreement, which calls on firms operating in British offshore areas to insure that British firms have a "full and fair" opportunity to compete for business in the offshore equipment market.

In other areas around the world, opposition to foreign involvement—U.S. involvement—in oil and gas production is easing. In the face of the prevailing high oil prices, Brazil, Argentina, Norway—north of 62 degree latitude, which was to be developed solely by Statoil, the Norwegian national oil company—Australia and others including the Democratic Republic of Vietnam have or are expected to ease restrictions on foreign involvement in their respective offshore areas.

Supporters of a "buy national" amendment have also circulated some figures which purport to show that oil rig orders at U.S. shipyards have declined drastically over the past several years. Since there is no source given for the figures and no further information on them, it is somewhat difficult to judge their validity. However, they do not seem to jibe with facts and figures which I have received from industry and Government energy experts about U.S. dominance of the industry here and abroad, including these figures:

U.S.-made products today account for about 90 percent of oil drilling equipment worldwide, with a value of $1.5 billion in sales in 1975.

U.S. services provided in connection with this equipment amounted to another $1.5 billion last year.

Fourty-four percent of U.S.-produced oil drilling equipment is exported, and these exports have been growing rapidly in recent years. Of 339 U.S.-made oil rigs operating, 113 are in U.S. waters and 226 are in foreign waters.

Employment in the industry reached record levels in 1975, as reported in the Commerce Department's U.S. Industrial Outlook—1976.

According to the same Commerce Department estimates, this is the outlook for 1985 for the industry:

> The expected growth in foreign exploratory activity during the next 10 years should assure a strong export market for U.S.-made equipment. U.S. exports of oilfield machinery are projected to reach $3.1 billion, increasing at a compound annual rate of 9.0 percent from the 1975 level. U.S. imports of this machinery are relatively insignificant and are expected to remain so.

Industry spokesmen estimate that by 1985 $8 billion of new capital oil drilling equipment will be needed in foreign countries; they expect that at least $5 billion of this amount will be produced in U.S. shipyards. This is true even though the economics of offshore petroleum equipment production dictate that some of the equipment, notably rigs and hulls, be built near the prospective drilling sites. Giant offshore oil rigs are clumsy and expensive to transport long distances. Transporting such a rig over long distances could cost from $1 million to $3 million. Although there may have been some decline in the percentage of U.S. sales of rigs because of this and because of shortages of steel tubing and pipes during 1974, there has been no decline in the absolute amount of U.S. sales. Also, the United States has a virtual monopoly on sales of highly sophisticated oil production equipment, including drilling bits.

Virtually all oil rigs on the U.S. Outer Continental Shelf today are American-made, owned and manned, and this is not expected to change much in the future. Some foreign-owned oil rigs are being made in U.S. shipyards. Finally, there has been talk of bringing at least some rigs made in the Far East to the OCS. However, this is not expected to be done to any extent as offshore drilling picks up in the area of Vietnam, Malaysia, Thailand, Australia, Indonesia, and the Philippines, and so forth.

Some further information on the proposed "buy national" OCS amendment follows:

FROM THE OFFICE OF HONORABLE SAM GIBBONS

(Reasons to oppose any "buy national" Floor amendment to Outer Continental Shelf bill (H.R. 6218 scheduled for Friday) (May be offered by Congressman MURPHY of New York).)

DEAR COLLEAGUE: A "buy national" Floor amendment may be offered to H.R. 6218. Such an amendment is needless, counterproductive and potentially very harmful to U.S. companies and workers. We ask you to join us in opposing this amendment, which would exclude from OCS oil drilling and production any oil rig, vessel or structure which was not wholly built in the United States, owned by U.S. citizens and operated by U.S. citizens. Here are some of our reasons for opposing it.

1. The United States dominates the oil drilling equipment industry here and abroad. OCS equipment and personnel are American. The amendment is unneeded, unwarranted and has not been justified. It was not discussed at all during the Ad Hoc Select OCS Committee's hearings and markup of H.R. 6218. Further, it exceeds the jurisdiction of the Committee, infringing on the jurisdiction of those committees which handle trade and investment matters.

In short, U.S. industry dominates this field already. As our Office of Special Representative for Trade Negotiations puts it: "The United States enjoys a substantial competitive advantage over other producers of similar equipment, as to price, quality and technology. In fact, we look to U.S. sales of this type of equipment, to other countries seeking to develop offshore sources of oil, to provide a major export market for U.S. manufacturers in the months and years ahead." Some foreign-made oil rigs may come to be used on the OCS, but it is also true that some U.S. companies are building oil rigs for foreign companies here in the U.S. 90% of oil drilling equipment used world-wide today is U.S. made.

2. Such a "buy national" requirement on private industry would put us in clear violation of our obligations under the GATT international trading laws. This would allow every other nation of the world to retaliate against our exports—not just U.S. oil rig exports, but also aerospace products, manufactured goods, farm products and the other exports which now account for more than $108 billion of income and jobs to us each year.

Ironically, with such a strong export market for U.S.-produced oil rigs, it is exactly those U.S. producers of oil rigs and their workers that could be hurt most if a "buy national" OCS amendment is adopted and similar "buy only national products" restrictions are implemented for North Sea offshore drilling and elsewhere. Thus far, vigorous U.S. diplomatic efforts have helped us to avoid such restrictions in, for instance, the North Sea.

Also, such a "buy national" amendment would needlessly violate our pledge in the International Energy Agency to avoid trade restrictions on energy and energy-producing equipment. The purpose of this pledge by the major oil consuming nations is to avoid delays and problems for IEA countries in making themselves more independent of OPEC oil.

To our credit, the United States has fewer unnecessary government restrictions on private companies than most countries do. At a time when we're trying to get rid of the needless restrictions we do have, it seems especially unwise to adopt new ones which are not justified by economic facts. A "buy national" OCS amendment would be such a restriction. Even worse, it invites retaliation against our profitable, job-producing export industries. It is not needed and almost certainly would result in much more harm than good for us. We ask you to join us in opposing this amendment.

Sincerely,

SAM GIBBONS,
BILL FRENZEL,
BARBER CONABLE,
ABNER MIKVA.

DEPARTMENT OF STATE,
Washington, D.C., May 25, 1976.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, House of Representatives.

DEAR MR. CHAIRMAN: The Department of State understands that a restrictive procurement amendment to H.R. 6218, The Outer Continental Shelf Lands Act amendments of 1976 bill, may be introduced shortly. The amendment provides that vessels, rigs, platforms and other contingencies involved in U.S. Outer Continental Shelf operations must be built, or rebuilt, in the United States; must be documented under the laws of the United States; and must be crewed by United States citizens. The Department of State submits the following comments in opposition to such an amendment for your consideration.

TRADE POLICY CONSIDERATIONS

The Department of State questions the need for this type of restrictive procurement amendment. According to information from the Petroleum Equipment Suppliers Association in Houston, U.S. manufacturers produce roughly 90% of the world's oil and gas production equipment (Standard Industrial Code (SIC) 3533). The Department of Commerce in U.S. Industrial Outlook—1976 forecasts that "the expected growth in foreign exploratory activity during the next 10 years should assure a strong export market for U.S.-made equipment. U.S. exports of oilfield machinery are projected to reach $3.1 billion, increasing at a compound annual rate of 9.0 percent from the 1975 level. U.S. imports of this machinery are relatively insignficant and are expected to remain so."

It is estimated by the Bureau of Domestic Commerce that in 1975 U.S. exports of these types of products represented 44% of total value of product shipments ($1.3 billion of $2.95 billion). Imports, however, have been negligible. These statistics indicate that the amendment cannot be justified on the basis of the needs of the industry.

The amendment conflicts with U.S. policy to seek elimination of non-tariff barriers to international trade, and could invite emulation at a considerable cost to U.S. exports. Other countries, particularly the U.K., Norway and Canada, may be induced to adopt similar policies at least with respect to like projects carried out in their territories. This would be serious, for example, in the case of U.S. sales of North Sea offshore equipment. There has been strong pressure in the U.K. for the U.K. offshore Operations Association (UKOOA) and the British government to develop purchasing procedures for oil companies operating in the U.K. sector of the North Sea, favorable to U.K. industry. The U.S. objected to this possibility and the UKOOA is now committed to provide British firms with only a "full and fair" opportunity to compete for business in the U.K. offshore market. British government estimates put British industry's share of the market at between 40–45%, but British analysts believe that an insistent "buy British" policy could increase this share to 70%. Thus, the U.S., as a major supplier of offshore extractive equipment and technology would stand to lose far more than it would gain by passage of this amendment.

The reaction could be much broader, affecting a whole range of trade issues, since it would be received by other countries as strong evidence of a shift by the U.S. towards increased protectionism as a general policy. There could be repercussions in the Multilateral Trade Negotiations (MTN) currently being held in Geneva, and certainly in the OECD where the U.S. and other industrialized countries have been engaged in an effort to develop an international government procurement code, with a view towards opening government markets to competitive international trade to the greatest extent possible.

Thus, the restrictive procurement amendment can only be damaging to the U.S. position in the development of a Code in the OECD as well as forthcoming work in the MTN to secure a fair and uniform approach to procurement which would benefit American exporters by opening up new markets.

The amendment is also contrary to the intention of Article III, Paragraph 4 of the General Agreement on Tariffs and Trade which states in part:

"The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of natural origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use."

Restrictive procurement requirements have been interpreted by courts in the U.S. to be a violation of GATT obligations.

ENERGY POLICY CONSIDERATIONS

Introduction of restrictive procurement provisions in the development of our Outer Continental Shelf mineral resources would seriously prejudice major elements of U.S. international energy policy. Since the emergence of the energy crisis in 1973, the U.S. has taken the lead among the industrialized countries in establishing an overall framework for energy cooperation. This has resulted in:

The formation of the 18 nation International Energy Agency (IEA);

The establishment in the IEA of an emergency program to counter the threat of another embargo; and

The adoption by the IEA of a program of long-term cooperation in conservation and the development of new energy resources to reduce our dependence on OPEC oil.

The long-term program recognizes that the national energy policies and reduced dependence efforts of the U.S. and other IEA countries can be significantly reinforced by multilateral cooperation in the development of new energy resources. Moreover, it represents a firm political commitment to energy cooperation as an essential part of our overall political, economic, and security cooperation. An integral part of this long-term program is a best efforts commitment by each country to avoid the introduction of new legislation which would prevent other IEA countries from receiving national treatment in the energy area. The introduction of the proposed procurement amendment would clearly be contrary to the spirit of this commitment. Its enactment as legislation would significantly reduce the credibility of the long-term program as part of our overall response to the energy crisis and erode the ability of the U.S. to continue to exercise leadership among the consuming countries.

In addition, if introduction of discriminatory provisions such as the proposed restrictive procurement amendment to this Act causes adoption of similar provisions by other IEA countries, it could slow significantly the development of new energy in IEA countries, thus prejudicing our basic interest in the accelerated development of all energy alternatives to OPEC oil.

For all of the foregoing reasons, the Department of State opposes the proposed restrictive procurement amendment to H.R. 6218 and hopes that, should it be introduced, it will be defeated.

Sincerely yours,
Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

[From the Business Week, May 24, 1976]

The Oil Business Bubbles Again

James P. Murphy, president of Houston-based Vaquero Petroleum Co., is unequivocal about the state of the oil business these days. "We've never had it so good," he declares.

Few oil company executives would interrupt their ever-ready tirades about the evils of government interference in their business to make such a glowing assessment. But there are clear signs that Murphy may be right. First-quarter profits were up across the board. According to Investors Management Sciences in Englewood, Colo., not one integrated oil company in the U.S. reported a profit downturn and only a few nonintegrated companies did. After two years of pitching and rolling in the wake of the Arab oil embargo, the price runups that followed, and the backwash that resulted, the oil industry seems headed once again into a period of stability

Business has unquestionably been bolstered by the revival in demand for oil products that started earlier this year and shows no sign of abating. Moreover, the Energy Policy & Conservation Act of 1975—better known as the omnibus energy bill—has eliminated much of the uncertainty about crude oil prices that had been paralyzing oil operations. Even the political climate is brightening for oilmen, who do not consider the three Presidential frontrunners, Gerald Ford, Ronald Reagan, and Jimmy Carter, antagonists of the industry.

THE NUMBERS

Profits dropped precipitously last year following the big gains in 1973 and 1974 caused by the sudden jump in crude-oil prices. According to a survey by the American Petroleum Institute, earnings of the 25 largest domestic oil companies plummeted 23.6% in 1975. But some of the first-quarter 1976 comebacks were spectacular. Sun's profits leaped 160%, Atlantic Richfield's 98%, Shell's 94%, Cities Service's 82%. Ashland registered a return on common equity of 18.5%, Exxon 16.1%, Standard of Indiana 16%.

Most of the companies note that the big first-quarter gains will not be followed by comparable advances during the rest of the year. Nevertheless, oil experts are optimistic, if somewhat cautious about 1976 profits. One analyst, Geoffrey Hertel of Rotan Mosle Inc., forecasts that industry earnings for the year will rise 15% to 25%. He suggests that oil company stocks may be a "haven for portfolio profits from other areas."

The optimism should linger as long as demand for oil products remains strong. Crimped by higher prices, the recession, and the nationwide campaign for conservation, demand fell 4% in the U.S. in 1974 and an additional 2% last year. But when the economy started picking up early this year, demand for oil grew quickly. It wound up 3.2% higher in the first quarter than in the first quarter of 1975. And Exxon has predicted that demand for the year will soar an impressive 9%.

The revival is being led by gasoline, which spurted ahead 6.3% in the first quarter and has accelerated even more in recent weeks. Prior to the embargo, increases of 7% a year were common. The big oil companies, however, are hesitant to voice much enthusiasm about a possible return to the gas-guzzling days of the 1960s. While runaway demand obviously boosts profitability in the short run, it raises the politically sensitive issue of conservation. And in the long run, it could leave the companies with virtually no leverage at all as they grow more dependent on increasingly nationalistic governments for crude supplies. At Shell's annual meeting last month, retiring President Harry Bridges told shareholders that he was disappointed in the sharp increase in gasoline demand. His personal solution: a 40¢ per gal, federal tax.

SPENDING PLANS

Further evidence that oil companies are expecting better times is an API report that indicates that 22 majors plan to spend a total of $25.3 billion in exploration and other new capital projects this year. That would work out to an increase of about 10% over 1975 and 16% over 1974. Exxon U.S.A. just revealed that it is planning to spend $2.5 billion in the U.S. this year, 25% more than it did in 1975. "We view the long-term outlook as optimistic," explains Randall Meyer, president of the company's domestic operation. Hughes Tool Co. is forecasting a surge in drilling activity during the last half of the year even though fewer rigs are now at work than at this time last year. "The issuance by the Federal Energy Administration of proposed price schedules for the next 36 months removes some uncertainty and provides a basis for planning," explains Hughes President James R. Lesch.

The price schedules came as a result of the new energy law. Although the law initially rolled back the average price of domestic crude oil and slapped controls on so-called new oil for the first time, it provided a mechanism by which the President could increase prices by as much as 10% a year. The FEA can also recommend that Congress approve an increase of higher than 10%, and the agency will hold hearings in June to examine this possibility.

Thus oilmen believe they have nowhere to go but up. Gulf Oil Corp. Chairman Jerry McAfee, for example, reckons that the new energy law will reduce his company's earnings by $10 million this year. But, he says, "as bad as these programs are for us, for our customers, and for the country as a whole, we at least now have the framework within which to plan our future." He points out that U.S. exploration budgets are essentially geared to the price of domestic crude that is expected to prevail when the new fields start producing, not to the current price. "Under the most recent FEA proposals, new oil will be in the range of $13 to $14 a bbl. by the time controls are scheduled to end in May, 1979," adds McAfee. "It will take at least that long to bring most new offshore discoveries into production."

ON CONTROLS

The new law also opens the possibility of ending controls on all refined products this year. Price controls and allocations for residual fuel oil will end on June 1. The FEA has now proposed that controls be lifted on middle distillates, which include home heating oil and diesel fuel, and it will consider decontrol of aviation fuel and gasoline later this year.

"The climate is beginning to stabilize," admits Leland W. Carter, president of Mitchell Energy & Development Corp., an independent producer. "The biggest problem now is natural gas." Like other producers, Carter was unhappy when proposed legislation to deregulate interstate gas prices failed to get through Congress earlier this year. But "next year I think we have an excellent chance—better than 50–50—of getting a phase-out of controls," he says.

Even though gas producers did not get deregulation this year, they did get somewhat higher prices. Rotan Mosle's Hertel thinks producers will realize an average of 55¢ per 1,000 cu. ft. for their gas this year, vs. 44.5¢ in 1975, and just 30.4¢ in 1974. "Even with the expected decline in production this year," he says, "the industry will wind up with $1.7 billion in additional revenues." And his estimate does not include the possibility that the Federal Power Commission may hike the price allowed for new gas, which is now set at 52¢ per 1,000 cu. ft. "We expect the FPC to review this price and come out with a new ceiling of at least 80¢ per 1,000 cu. ft.," Hertel says.

SOME DAMPERS

One factor that is still dampening enthusiasm among oilmen, however, is loss of the depletion allowance, which reduced the industry's cash flow last year by some $2 billion, according to Citibank's petroleum department. A sampling of companies that reported the impact of that loss showed an average 13% reduction in net income last year, the bank notes.

But a far bigger concern among oilmen is the lingering threat of divestiture. "While the trend in the Presidential race is encouraging," says the president of a major domestic company, "we see no indication that the bent of Congress will be changing."

As for the independents, they seem unfazed. "Divestiture would hure consumers because it would raise prices," contends one. "But," he adds, "the only people really worried about it are the managements of the big companies."

Deputy Special Representative
for Trade Negotiations,
Washington, D.C., May 12, 1976.

Hon. Al Ullman,
Chairman, Committee on Ways and Means,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Chairman: It has been brought to Ambassador Dent's and my attention that the Rules Committee is now considering an amended version of H.R. 6218, The Outer Continental Shelf Lands Act, reported by an ad hoc committee made up of Members of the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries. As amended, it would provide for a "Buy American" requirement on all U.S. purchases of off-shore oil rigging and drilling equipment.

I am writing to give you our personal views as trade negotiators of the serious adverse foreign trade consequences of enacting such a requirement.

In the first place, such a requirement is unnecessary. The United States enjoys a substantial competitive advantage over other producers of similar equipment, as to price, quality and technology. In fact, we look to U.S. sales of this type of equipment, to other countries seeking to develop off-shore sources of oil, to provide a major export market for U.S. manufacturers in the months and years ahead.

More important, to restrict our market to U.S. equipment would invite and surely result in our competing supplier nations following suit with "Buy National" restrictions on their markets. This could cost the United States many millions of dollars of potential export sales and thousands of U.S. jobs.

Further, we are engaged in a major effort in the multilateral trade negotiations in Geneva, over which your Committee has jurisdiction, to persuade other countries to open up their government procurement markets to U.S. competition. This hopefully will be done through negotiation of an international government procurement code which calls for open bids and awards on government purchase contracts.

For us to adopt the same kind of restriction that we are asking our trading partners to abandon would compromise and severely jeopardize our efforts at opening up markets for other U.S. goods and equipment.

When the detrimental effects of this amendment are fully considered, it becomes apparent that the proposed action is unwarranted and would be counterproductive to our own interests.

We would, of course, be pleased to discuss this matter further, and to answer any questions you or your colleagues may have.

With kindest regards.

Sincerely,

CLAYTON K. YEUTTER.

ALEXANDER LERNER

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. SCHEUER. Mr. Speaker, it is almost impossible for us to comprehend the harsh realities of Soviet life to which Russian applicants for emigration are subjected.

I submit for our colleagues the following brief résumé on Prof. Alexander Lerner and two letters, written by him, that need no comment:

ALEXANDER LERNER

Alexander Yakovlevich Lerner was born in 1913 in the city of Vinnitsa, Ukraine. Since 1931 he has lived in Moscow where, in 1936, he finished the Moscow Energy Institute. In 1939 he was awarded the academic degree of Candidate; in 1954 that of Doctor of Science, and in 1955 the academic title of Professor. His wife, Judith Abramovna Pearlman was born in 1916, and is a housewife. Two of their daughters together with many of their relatives were murdered by the Germans in 1941 when Vinnitsa was occupied by the Germans.

Until 1971 Prof. Lerner occupied a prominent position in Soviet society. He supervised a large department (more than 100 scientist colleagues) in the Institute of Problem Management of the Academy of Sciences of the U.S.S.R., which developed theories for managing large systems; worked as a regular professor at the Moscow physics-technical university; served as a member of the editorial staff of the Soviet Encyclopedia; was a member of the editorial collegium of the Journal "Automation and Telemechanics" and of the Cybernetics Council of the Presidium of the Academy of Sciences of the U.S.S.R. He was also Deputy Chairman of one of the committees of the International Federation of Automation Administrators (I.F.A.C.)

Prof. Lerner is the author of 168 scientific works; among them 12 books, many of which have been translated into English, German, French, Chinese, Japanese and other languages. He has presented scientific papers at Science Congresses, conferences and symposia in the U.S.A., Japan and almost all the countries of Europe.

Prof. Lerner's scientific accomplishments were concentrated in the following (areas): theory of automatic administration, theory of optimum administration, theory of administration of large systems, theory of method identification, the adaptation of mathematical formulae for solving medical problems, problems dealing with the construction of artificial hearts.

After he submitted a petition concerning his decision to leave for Israel, Prof. Lerner was dismissed from all his duties and removed from all the elected bodies. His 26 year old daughter Sophia was discharged from her position as mathematics researcher. She now lives in Israel with her husband and two daughters. His 31 year old son Vladimir an engineer in system analysis, has been discharged from his research activities; has not as yet been able to find employment in his specialty, and is compelled to work at unskilled, odd jobs.

[Translated from Russian]

AN OPEN LETTER TO ACADEMICIAN TRAPEZNIKOV, THE DIRECTOR OF THE INSTITUTE OF CONTROL PROBLEMS OF THE ACADEMY OF SCIENCES OF USSR

"It is not important in what country a scientific finding is made. It is important that it should be made and that it should be of benefit to the mankind."

Thus you stated publicly while staying in the USA as a head of a Soviet scientific delegation. The hyprocrisy of this statement had shocked me so deeply that I can not leave it unanswered.

How dare you make such pompous statements and pose as a humanist and a scientist standing above egotistic state interests after everything you had done to me and to a number of other scientific workers.

Was not it you who demanded to dimiss me from the reading of lectures at the Physical-Technical Institute because I had handed in the application to go to Israel? Was not it you who dismissed from the Institute of Control Problems my sons and my daughter for the same "crime"?

Was not it you who dismissed Yulia Shmukler and Grigory Pinus from the same institute because they received invitations from Israel?

If you really think that it is important to contribute to the conditions for scientific progress wherever it is happening—why did you write in the letter to the members of the Executive Committee of the International Federation of Automatic Control (IFAC) that my son and daughter should be thrown out from the post-graduate course as you do not want to train specialists in science for the State of Israel.

I would like to remind you of your statement saying you will do everything in your power to prevent me from leaving the USSR. And you fulfilled this promise supplying the KGB false data about my alleged knowledge of secret materials at the time when you knew better than anybody else that I have not been taking part in any secret works for many years. You know very well that for many years I am engaging in such open fields of cybernetics as the theory of discernment of shapes, the theory of large systems' control and mainly the solution of medical problems by using mathematical methods.

You are, in fact, showing solidarity with General Verein of the Ministry of Interior who had officially told me that the authorities prefer to let me rot in the Soviet Union rather than to let me work overseas.

Prof. ALEKSANDER LERNER.

THE MYTH OF MY POSSESSION OF SECRETS—ALEXANDER LERNER

It is now four and a half years that my wife Judith Perlman, my son Vladimir Lerner and I, Alexander Lerner, are being held in the USSR against our will, on the excuse of my, so-called, being privy to State secrets. This myth is based on false information received by the KGB from the academician VADIM TRAPEZNIK. Out of a feeling of vengeance, like that of a slave holder who is about to lose a useful slave, he deliberately submitted a distorted account of my being privy to secret experiments and the danger to the State of my being allowed to travel abroad. That this pretext for detaining our family is totally unjustified is sustained by the following uncontradictible, facts:

1. In the last 12 years I have not participated in any secret projects and confined myself to theoretical work in the area of economic administration and adaptation of mathematical methods to the solution of medical problems. My single work in the last few years, which has any practical relationship, dealt with metal supply. But my participation in this work was not only of a most exclusively theoretical nature, but also was actually a more detailed restatement of propositions formulated by tens of British specialists. Furthermore, everything which I knew in this field, I reported in detail at an international conference in Cleveland (USA) in July, 1968, and it was published in the journal "--------" No. 5, 1969.

2. My participation in one confidential project was discontinued 12 years ago. It has to do with optimum systems of administration. This work was declassified in 1963, was submitted to the I.G.A.S. Congress in London, and published in the U.S.S.R. in the Journal of Automatics and Telemechanics, No. 6, 1964, and in releases of the Congress abroad.

3. In the last decade of my activity in the Institute of Problem Management, I have many times been sent on missions abroad. And on each such occasion, the academician Trapenznikov reported to the KGB that I was not privy to any State secrets.

And so, the pretext of secrecy, on which is based the refusal to release me, is patently absurd. Even more absurd is this excuse for detaining my son who in his entire life has not had the slightest glimpse of secret documents or participation in secret activities.

Alexander Lerner, Professor. Moscow, March 30, 1976.